

START

Title: FEDERAL REGISTER.

Volume: 64 Issues: 53-61
PAGES: 13497-15632

Date: MARCH 19-31, 1999

UMI Number: 2575.00

Note: REEL: 5 OF 11
Includes:
JANUARY - MARCH LSA (LIST OF CFR SECTIONS AFFECTED)

3-19-99
Vol. 64

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

United Stat
Governmer
Printing Off
SUPERINTENDEN
OF DOCUMENTS
Washington, DC 2

OFFICIAL BUSIN
Penalty for private

3–19–99
Vol. 64 No. 53

federal register

Friday
March 19, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

3–19–99
Vol. 64 N
Pages 13497

OL
64
SS
53
MR
19
999
MI

ANN ARBOR MI 48106

3–19–99
Vol. 64 No. 53
Pages 13497–13662

federal register

Friday
March 19, 1999

Briefings on how to use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche — **202–512–1800**
Assistance with public subscriptions — **512–1806**
General online information — **202–512–1530; 1–888–293–6498**
Single copies/back copies:
Paper or fiche — **512–1800**
Assistance with public single copies — **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche — **523–5243**
Assistance with Federal agency subscriptions — **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: March 23, 1999 at 9:00 am.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Contents

Federal Register
Vol. 64, No. 53
Friday, March 19, 1999

Agency for Toxic Substances and Disease Registry
NOTICES
Grants and cooperative agreements; availability, etc.:
Childhood asthma and hazardous substances; research and development, 13583–13586

Agriculture Department
See Commodity Credit Corporation
See Rural Utilities Service
NOTICES
Emergency declarations:
Florida; citrus canker, 13540

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
Yountville, CA, 13511–13514

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Mercury PCS II, L.L.C., 13598–13600
National cooperative research notifications:
Atlantic Richfield Co., 13600–13601
CommerceNet Consortium, 13601–13602
Consortium for Integrated Intelligent Manufacturing, Planning and Execution, 13602
Digital Imaging Group, 13602
Financial Services Technology Consortium, Inc., 13602
Key Recovery Alliance, 13603
Microelectronics & Computer Technology Corp., 13603
Micro-Opto-Electro-Mechanical Systems, 13603
Minnesota Mining & Manufacturing Co., 13604
National Center for Manufacturing Sciences, Inc., 13604
National Transparent Optical Network Consortium, 13604
OBI Consortium, Inc., 13604–13605
Petroleum Environmental Research Forum, 13605
Rotorcraft Technology Association, Inc., 13605
Salutation Consortium, Inc., 13605–13606
Southwest Research Institute, 13606

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13541–13542

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Human Immunodeficiency Virus (HIV) Prevention Public Health Conference Support Program
Rescission, 13586

Coast Guard
RULES
Drawbridge operations:
California, 13514

Commerce Department
See Census Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See Technology Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Dominican Republic, 13548–13549

Commodity Credit Corporation
RULES
Loan and purchase programs:
Emergency livestock assistance, 13497–13501
NOTICES
Agricultural commodities available for donation overseas; types and quantities, 13540

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Chicago Mercantile Exchange—
S&P Euro Index and SP Euro Plus Index, 13549
Senior Executive Service:
Performance Review Board; membership, 13549

Defense Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13549–13550
Submission for OMB review; comment request, 13550
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 13550–13551
Meetings:
Domestic Advisory Panel on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children with Disabilities, 13551
Threat Reduction Advisory Committee, 13551
Wage Committee, 13551–13552

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
National Institute on Disability and Rehabilitation Research—
Disability and Rehabilitation Research Projects and Centers Program, 13631–13661
Postsecondary education—
Work-Colleges Program, 13552–13553

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 13607–13608

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Commercial light water reactor; tritium accelerator production; and tritium extraction facility, 13553

Environmental statements; notice of intent:
Phoenix, AZ; Public Service Co. of New Mexico; transmission line construction, 13553–13554
Grants and cooperative agreements; availability, etc.:
Emission Control Technologies for Fine Particulate Matter, Ozone, and Related Environmental Issues, 13554–13555
Meetings:
Environmental Management Site-Specific Advisory Board—
Savannah River Site, SC, 13555

Environmental Protection Agency
RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Oklahoma, 13517–13519
Air quality implementation plans; approval and promulgation; various States:
California, 13514–13517
PROPOSED RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Oklahoma, 13539
Air quality implementation plans; approval and promulgation; various States:
California, 13538–13539
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13573–13574
Committees; establishment, renewal, termination, etc.:
Microbial Disinfectants/Disinfection Byproducts Advisory Committee, 13574–13575
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 13575–13576
Weekly receipts, 13575
Grants and cooperative agreements; availability, etc.:
Regional pesticide environmental stewardship program, 13576–13577
Tribal Open Dump Cleanup Project, 13578
Meetings:
Air Quality Criteria for Particulate Matter; chapters review, 13578
Superfund; response and remedial actions, proposed settlements, etc.:
JC Pennco Site, TX, 13579
Superfund program:
Prospective purchaser agreements—
Phoenix Metals Site, WI, 13579

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness directives:
Agusta S.p.A., 13502–13504
Avions Pierre Robin, 13504
Airworthiness standards:
Model Deland Travelaire airplane; acceptance under primary category aircraft rule, 13501–13502
Gulf of Mexico high offshore airspace area, 13504–13506
Restricted areas, 13506
PROPOSED RULES
Airworthiness directives:
New Piper Aircraft, Inc., 13530–13531
NOTICES
Airport noise compatibility program:
Naples Municipal Airport, FL, 13625–13627
Exemption petitions; summary and disposition, 13627–13628

Federal Communications Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13579–13580
Reporting and recordkeeping requirements, 13580–13581
Submission for OMB review; comment request, 13581
Common carrier services:
Wireless telecommunications services—
Applications and pleadings; unified policy for dismissal and return, 13581–13582

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 13582

Federal Election Commission
NOTICES
Special elections; filing dates:
Louisiana, 13582–13583

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Frontera Generation L.P. et al., 13560–13562
LG&E Energy Marketing, Inc., et al., 13562–13564
Michigan Gas Exchange, L.L.C., et al., 13564–13565
Sempra Energy Trading Corp. et al., 13565–13567
UGI Power Supply, Inc., et al., 13567–13570
Hydroelectric applications, 13570–13573
Applications, hearings, determinations, etc.:
Eastern Shore Natural Gas Co., 13555–13556
Elwood Marketing, LLC, 13556
Energy East South Glens Falls, LLC, 13556
Florida Gas Transmission Co., 13556–13557
Granite State Gas Transmission, Inc., 13557
Harbor Cogeneration Co., 13557
Kaiser-Francis Oil Co., 13557–13558
Mid Louisiana Gas Co., 13558
Monmouth Energy, Inc., 13558–13559
Nevada Sun-Peak L.P., 13559
Northern Natural Gas Co., 13559
Storm Lake Power Partners II LLC, 13559–13560
Tapoco, Inc., 13560
Transcontinental Gas Pipe Line Corp., 13560

Federal Maritime Commission
NOTICES
Agreements filed, etc., 13583

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Doramectin, 13508–13509
Lincomycin hydrochloride soluble powder, 13508
Propofol injection, 13509–13510
Food additives:
Adjuvants, production aids, and sanitizers—
Phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-tert-butyl-4-methylphenyl)ester, 13506–13508
NOTICES
Food additive petition:
Ticona, 13586–13587

Reports and guidance documents; availability, etc.:
Center for Drug Evaluation and Research and Center for Biologics Evaluation Research; formal dispute resolution: appeals above Division level, 13587–13589
Mammography Quality Standards Act—
Final regulations document 1; compliance guidance, 13590–13591
Final regulations document 2; compliance guidance, 13589–13590
Prescription Drug User Fee Act products; formal meetings with sponsors and applicants; industry guidance, 13591–13594

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 13550–13551

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration

Housing and Urban Development Department
RULES
Public and Indian housing:
Public housing development rule; reporting and recordkeeping requirements, 13510–13511
PROPOSED RULES
Public and Indian Housing:
Capital Fund Negotiated Rulemaking Advisory Committee; intent to establish and meeting, 13533–13535
Section 8 Housing Certificate Fund Rule Negotiated Rulemaking Committee; intent to establish and meeting, 13531–13533
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13594–13596
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 13596

Immigration and Naturalization Service
NOTICES
Employment eligibility confirmation; pilot programs; expansion:
Nebraska, 13606

Interior Department
See Land Management Bureau
See Minerals Management Service

International Trade Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13542

Justice Department
See Antitrust Division
See Immigration and Naturalization Service

Labor Department
See Employment Standards Administration
See Labor Statistics Bureau

Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13608–13609

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
Utah, 13596
Public land orders:
Colorado, 13596–13597
Survey plat filings:
Utah, 13597–13598

Minerals Management Service
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
Documents incorporated by reference; update, 13535–13538

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 13550–13551

National Institute for Literacy
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13609–13610

National Institute of Standards and Technology
NOTICES
Meetings:
U.S.-European Commission Mutual Recognition Agreement—
EMC/Telecom Annexes conformity assessment bodies; public workshops, 13543

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico and and South Atlantic coastal migratory pelagic resources, 13528–13529
Pacific halibut, 13519–13528

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Entergy Operations, Inc., 13611–13612
Reports and guidance documents; availability, etc.:
Advanced vapor laser isotope system facility; license applications review; standard review plan, 13612–13613
Tank Waste Remediation System Privatization Project; license application review; standard review plan, 13613
Applications, hearings, determinations, etc.:
Energy Department, 13611
Southern California Edison Co., 13610

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Rate Commission
NOTICES
Domestic mail classifications and rates:
Nonletter-sized business reply mail; accounting methods, 13613–13617

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention.
See Food and Drug Administration

Rural Utilities Service
NOTICES
Electric loans:
Quarterly municipal interest rates, 13541

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange, Inc., 13620–13623
Applications, hearings, determinations, etc.:
Market Street Funds, Inc., et al., 13617–13619
Public utility holding company filings, 13619
Titan Pharmaceuticals, Inc., 13619–13620

State Department
RULES
Visas; nonimmigrant documentation:
Photograph requirement, 13510

Surface Transportation Board
NOTICES
Motor carriers:
Finance applications—
K.C. Irving, Ltd., et al., 13628–13629
Railroad services abandonment:
CSX Transportation, Inc., 13629–13630

Technology Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Experimental Program to Stimulate Competitive Technology, 13543–13548

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Trade Representative, Office of United States
NOTICES
United States-Israel Free Trade Area Implementation Act; qualifying industrial zone designations, 13623–13624

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Surface Transportation Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13624–13625

Treasury Department
See Alcohol, Tobacco and Firearms Bureau

Separate Parts In This Issue

Part II
Department of Education, 13631–13661

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PART

A cumulative
Reader Aids

7 CFR
1439.....
14 CFR
21.....
39 (2 docume
71.....
73.....
Proposed Rule
39.....
21 CFR
178.....
520.....
522 (2 docum
22 CFR
41.....
24 CFR
941.....
Proposed Rule
Ch. IX (2 documents)
27 CFR
9.....
30 CFR
Proposed Rule
250.....
33 CFR
117.....
40 CFR
52.....
62.....
Proposed Rule
52.....
62.....
50 CFR
300.....
622.....

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1439.....13497

14 CFR
21.....13501
39 (2 documents).....13502, 13504
71.....13504
73.....13506

Proposed Rules:
39.....13530

21 CFR
178.....13506
520.....13508
522 (2 documents).....13508, 13509

22 CFR
41.....13510

24 CFR
941.....13510

Proposed Rules:
Ch. IX (2 documents).....13531, 13533

27 CFR
9.....13511

30 CFR

Proposed Rules:
250.....13535

33 CFR
117.....13514

40 CFR
52.....13514
62.....13517

Proposed Rules:
52.....13538
62.....13539

50 CFR
300.....13519
622.....13528

Rules

This section of
contains regula
applicability an
are keyed to an
Federal Regula
50 titles pursua

The Code of Fe
the Superintend
new books are
REGISTER issu

DEPARTMEN

Commodity C

7 CFR Part 14

RIN 0560–AF 5

Livestock As

AGENCY: Com
USDA.

ACTION: Final

SUMMARY: Thi
current provis
emergency liv
regulations fo
provide new t
the Livestock
authorized in
Development,
Administratio
Appropriation
The LAP will
assistance for
livestock prod
1998, in coun
percent or gre
as a result of a
Assistance to
on the numbe
owned by the
producer's pe
The 1999 Act
program to $2
will not be de
for the progra

EFFECTIVE DAT
1999.

FOR FURTHER I
Dolores Painte

SUPPLEMENTAR

Executive Ord

This final ru
conformance
12866 and has
economically
has been revie
Management a

Rules and Regulations

Federal Register
Vol. 64, No. 53
Friday, March 19, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1439

RIN 0560–AF 58

Livestock Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the current provisions of regulations on emergency livestock assistance to delete regulations for obsolete programs and to provide new terms and conditions for the Livestock Assistance Program (LAP) authorized in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (1999 Act). The LAP will provide emergency feed assistance for losses suffered by livestock producers in calendar year 1998, in counties that have suffered a 40 percent or greater loss of normal grazing as a result of a natural disaster. Assistance to the producer will be based on the number of eligible livestock owned by the producer and the producer's percent of grazing losses. The 1999 Act limits expenditures of the program to $200 million. Payment rates will not be determined until a sign-up for the program is completed.

EFFECTIVE DATE: Effective March 17, 1999.

FOR FURTHER INFORMATION CONTACT: Dolores Painter, (202) 720–4642.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be economically significant and therefore has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act and Small Business Regulatory Enforcement Fairness Act

The LAP provisions contained in this rule are authorized by the 1999 Act (Pub. L. 105–277). Section 1133 of the 1999 Act provides that such rules shall be issued as soon as practicable and without regard to the provisions of: (1) the notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act"). Accordingly, the LAP regulations are being issued as a final regulation without a notice and comment period, and the forms and the collection of information do not require prior OMB approval.

In addition, this rule was determined to be Major under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Section 1133 of the 1999 Act provides that these regulations shall use the authority provided under section 808 of SBREFA that allows an agency to promulgate a rule at such time as it determines necessary, nothwithstanding the Congressional review required by Section 801 of SBREFA. It is hereby determined that to the extent such review would otherwise delay the implementation of this rule, such delay would be contrary to the public interest because of the need for expeditious implementation of the rule as expressed in the text of the 1999 Act. Accordingly, this rule is effective upon publication.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

This final rule revises 7 CFR part 1439 to delete obsolete programs and to set forth terms and conditions for a new program authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 05–277) (1999 Act).

As provided in the 1999 Act, livestock producers who suffered livestock feed losses as a result of natural disaster may apply for benefits to compensate for losses which occurred in calendar year 1998. As authorized, $200 million is made available for that purpose.

Benefits will be provided to eligible livestock producers only in those counties where a severe natural disaster occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs. A county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the 1998 calendar year, as a result of damage due to a natural disaster in order to be eligible; livestock producers in counties contiguous to an approved county are not eligible. A livestock producer in an approved county must have suffered at least a 40-percent loss of normal grazing for the producer's eligible livestock for a minimum of 3 consecutive months. Losses will only be compensable up to 80 percent of the total grazing available and the compensable loss will also not exceed a county maximum set by the local county committee. The program will be administered through the Deputy Administrator for Farm Programs of the Department's Farm Service Agency. Payments will be made according to a formula subject to funding and other limitations, including a per person payment limitation and a provision which precludes participation for persons whose gross revenue exceeds a specified amount. A final payment shall not exceed 50 percent of the eligible loss amount determined prior to applying a national factor, if applicable. The regulations provide that the rules of 7 CFR part 1400 will be used to make "person" determinations for these purposes.

In making provision for this program, 7 CFR part 1439 has been revised in order to remove obsolete provisions for previous programs. As before, the organization of part 1439 will continue to have one subpart for general provisions applicable to multiple programs, and then provide the details of particular programs in separate subparts. In addition, the rules provide that the regulations found at part 1439 of this title as of January 1, 1999, shall be applicable to all outstanding determinations with respect to any program previously codified at this part. The American Indian Livestock Feed Program which was codified in a subpart consisting of §§ 1439.901 through 1439.911 in part 1439 by publication of an Interim Rule in the November 27, 1988, **Federal Register** (63 FR 65524) remains in effect.

List of Subjects in 7 CFR Part 1439

Animal feeds, Disaster assistance, Livestock, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 1439 is amended as follows:

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for 7 CFR part 1439 is revised to read as follows:

Authority: 15 U.S.C. 714b and 714c; Sec. 1103, Pub. L. 105–277, 112 Stat. 2681.

2. Subpart—General Provisions is revised to read as follows:

Subpart—General Provisions

Sec.

1439.1 Applicability and general statement.
1439.2 Administration.
1439.3 Definitions.
1439.4 Liens and claims of creditors.
1439.5 Assignments of payments.
1439.6 Appeals.
1439.7 Misrepresentation, scheme or device.
1439.8 Refunds to CCC; joint and several liability.
1439.9 Cumulative liability.
1439.10 Benefits limitation.
1439.11 Gross revenue limitation.
1439.12 Maintenance of books and records.

Subpart—General Provisions

§ 1439.1 Applicability and general statement.

(a) The regulations in this part set forth the terms and conditions applicable to programs which may be made available to livestock producers under various statutory provisions. Unless otherwise specified, the regulations in this subpart shall apply to all programs operated under this part.

(b) The regulations in this part 1439 in effect prior to March 17, 1999. (See 7 CFR Parts 1200 to 1599, revised as of January 1, 1999) are applicable with respect to any emergency livestock assistance program which existed prior to March 17, 1999.

§ 1439.2 Administration.

(a) This part shall be administered by CCC through, and as delegated to the Deputy Administrator for Farm Programs under the general direction and supervision of the Executive Vice President, CCC. The program shall be carried out in the field by State and county committees of the Farm Service Agency of the U.S. Department of Agriculture.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation in this section to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee. The Deputy Administrator may waive or modify deadlines or other program requirements of this part to the extent that such a waiver or modification is otherwise permitted by law and is determined to be appropriate, serves the goals of the program and does not adversely affect the operation of the program.

§ 1439.3 Definitions.

The definitions set forth in this section shall be applicable to all subparts contained in this part unless otherwise noted, or the definitions conflict, in which case the definitions in the applicable subpart shall prevail.

Carrying capacity means the number of acres of pasture required to provide 15.7 pounds of feed grain equivalent per day for 1 animal unit during the period the pasture is normally grazed.

CCC means the Commodity Credit Corporation.

Deputy Administrator or DAFP means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

Equine animals used for food or in the production of food means horses, mules, and donkeys which are:

(1) Used commercially for human food;

(2) Maintained for commercial sale to processors of food for human consumption; or

(3) Used in the production of food and fiber on the owner's farm, such as draft horses, or cow ponies.

Executive Vice President means the Executive Vice President, CCC, or a designee of the Executive Vice President.

FSA means the Farm Service Agency.

Livestock producer means a person who is determined to receive 10 percent or more of the person's gross income, as determined by the Secretary, from the production of livestock and is:

(1) A citizen of, or legal resident alien in the United States; or

(2) A farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members,

stockholders, or partners who are citizens of, or legal resident aliens in the United States; any Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*); any Indian organization or entity chartered under the Indian Reorganization Act (25 U.S.C. 461 *et seq.*) or entity chartered under the Indián Reorganization Act; any tribal organization under the Indian Self-Determination and Education Assistance Act; and any economic enterprise under the Indian Financing Act of 1974 (25 U.S.C. 1451 *et seq.*).

Natural disaster means disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

Person means a person as determined according to part 1400 of this chapter.

Poultry means domesticated chickens, including egg-producing poultry, ducks, geese and turkeys.

Secretary means the Secretary of Agriculture or a designee of the Secretary.

Seeded small-grain forage crops means wheat, barley, oats, rye, and triticale.

State committee, State office, county committee, or county office, means the respective FSA committee or office.

United States means all fifty states of United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

§ 1439.4 Liens and claims of creditors.

Any payment or benefit or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government.

§ 1439.5 Assignments of payments.

Payments which are earned by a person under this part may be assigned in accordance with the provisions of part 1404 of this chapter and the applicable forms for assignments.

§ 1439.6 Appeals.

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at parts 780 and 11 of this title.

§ 1439.7 Misrepresentation, scheme or device.

A person shall be ineligible to receive assistance under any program under this part if with respect to such program it is determined by the State committee or the county committee or an official of FSA that such person has:

(a) Adopted any scheme or other device which tends to defeat the purpose of a program operated under this part;

(b) Made any fraudulent representation with respect to such program; or

(c) Misrepresented any fact affecting a program determination.

§ 1439.8 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons with a financial interest in the operation shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(c) Interest shall be applicable to refunds required of the livestock owner or other party receiving assistance or a payment if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available of the monies or benefits to be refunded. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the livestock owner.

(d) Interest determined in accordance with paragraph (c) of this section shall not be applicable to refunds required of the owner because of unintentional misaction on the part of the owner, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in part 1403 of this chapter.

(f) Persons who are a party to any program operated under this part must refund to CCC any excess payments made by CCC with respect to such program.

(g) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recomputed and any excess refunded with applicable interest.

§ 1439.9 Cumulative liability.

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

§ 1439.10 Benefits limitation.

The total amount of benefits that a person, as determined in accordance with part 1400 of this chapter, shall be entitled to receive under any subpart may not exceed $40,000 for any one loss or year.

§ 1439.11 Gross revenue limitation.

A person, as defined in part 1400 of this chapter, as applicable, who has annual gross revenue in excess of $2.5 million shall not be eligible to receive assistance under this part. For the purpose of this determination, annual gross revenue means:

(a) With respect to a person who receives more than 50 percent of such person's gross income from farming and ranching, the total gross revenue received from such operations; and

(b) With respect to a person who receives 50 percent or less of such person's gross income from farming and ranching, the total gross revenue from all sources.

§ 1439.12 Maintenance of books and records.

Livestock producers or any other individual or entity seeking or receiving assistance under this part shall maintain and retain financial books and records which will permit verification of all transactions with respect to the provisions of this part for at least 3 years, following the end of the calendar year in which assistance was provided, or for such additional period as CCC may request. An examination of such books and records by a duly authorized representative of the United States Government shall be permitted at any time during business hours.

3. The subparts consisting of §§ 1439.101 through 1439.104, 1439.201 and 1439.202, 1439.301 and 1439.302, 1439.401 through 1439.403, 1439.501

through 1439.504, 1439.601 and 1439.602, 1439.701 and 1439.702, and 1439.800 through 1439.810 are removed.

4. Subpart—1998 Livestock Assistance Program is added to read as follows:

Subpart—1998 Livestock Assistance Program

Sec.

1439.101 Applicability.
1439.102 Definitions.
1439.103 Application process.
1439.104 County committee determinations of general applicability.
1439.105 Loss criteria.
1439.106 Livestock producer eligibility.
1439.107 Calculation of assistance.
1439.108 Availability of funds.

Subpart—1998 Livestock Assistance Program

§ 1439.101 Applicability.

(a) This subpart sets forth the terms and conditions applicable to the Livestock Assistance Program authorized by Pub. L. 105–277, 112 Stat. 2681 (October 21, 1998). Benefits will be provided to eligible livestock producers in the United States but only in counties where a natural disaster occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs. A county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the 1998 calendar year, as a result of damage due to a natural disaster, as determined by the Deputy Administrator or a designee. Grazing losses must have occurred on native and improved pasture with permanent vegetative cover and other crops planted specifically for the sole purpose of providing grazing for livestock, but does not include seeded small grain forage crops.

(b) To be eligible for assistance under the program, a livestock producer's pastures in an eligible county must have suffered at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months. The percent of loss eligible for compensation shall not exceed the maximum percentage of grazing loss for the county as determined by the county committee. In addition, the producer will not be compensated for that part of any loss that would represent payment of a loss greater than 80 percent.

(c) Unless otherwise specified, a livestock producer is eligible to receive payments for the same loss under this subpart and other programs under this part.

§ 1439.102 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering this subpart. The definitions in § 1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart.

Application means the Form CCC–740, Livestock Assistance Program Application. The CCC–740 is available at county FSA offices.

LAP means the Livestock Assistance Program which is authorized by Section 1103 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105–277, 112 Stat. 2681 (October 21, 1998)) and authorized by this subpart, for grazing losses that occurred during calendar year 1998.

Livestock means beef and dairy cattle, buffalo and beefalo (when maintained on the same basis as beef cattle), sheep, goats, swine, and equine animals used commercially for human food or kept for the production of food or fiber on the owner's farm.

§ 1439.103 Application process.

(a) Livestock producers must submit a completed application prior to the close of business on March 31, 1999, or such other date as established by the Deputy Administrator. The application and any other supporting documentation shall be submitted to the county office with administrative authority over a producer's eligible grazing land or to the county office that maintains the farm records for the livestock producer.

(b) Livestock producers shall certify as to the accuracy of all the information contained in the application, and provide any other information to CCC that the County Office or Committee deems necessary to determine the livestock producer's eligibility.

§ 1439.104 County committee determinations of general applicability.

(a) County Committees shall determine whether due to natural disasters their county has suffered a forty percent loss affecting pasture and normal grazing crops for at least 3 consecutive months during calendar year 1998. In making this determination, County committee, using the best information available from sources including but not limited to: Extension Service; Natural Resources Conservation Service; the Palmer Drought Index; and general knowledge of local rainfall data, pasture losses, grazing livestock movement out of county, abnormal supplemental feeding practices for livestock on pasture, and liquidation of grazing livestock shall determine the percentage of grazing losses for pastures on a county wide basis. The county committee shall submit rainfall data, percentage of grazing losses for each general type of pasture, and the weighted average percentage of grazing loss for the county, with State Committee concurrence, to the Deputy Administrator on CCC–654. The maximum grazing losses the county committees shall submit on CCC–654 is 80 percent. These determinations shall be subject to review and approval of the Deputy Administrator. For purposes of this subpart, such counties are called "eligible counties."

(b) In each county, the county committee shall determine a LAP crop year. The LAP crop year shall be that period of time in a calendar year that begins with the date grazing of new growth pasture normally begins and ends on the date grazing without supplemental feeding normally ends in the county.

(c) In and for each eligible county, the county committee shall determine normal carrying capacities for each type of grazing or pasture during the LAP crop year. The normal carrying capacity for the LAP crop year shall be the normal carrying capacity the County Committee determines could be expected from pasture and normal grazing crops for livestock for the LAP crop year if a natural disaster had not diminished the production of these grazing crops.

(d) In each eligible county, the county committee shall determine the payment period for the county. The payment period for the county shall be the period of time during the county's LAP crop year where for 3 consecutive months during 1998, the carrying capacity for grazing land or pasture was reduced by forty percent or more from the normal carrying capacity.

§ 1439.105 Loss criteria.

(a) The grazing land for which a livestock producer requests benefits must be within the physical boundary of the eligible county. Livestock producers in unapproved counties contiguous to an eligible county will not receive benefits under this subpart.

(b) To be eligible for benefits under this subpart, a livestock producer in an eligible county must have suffered a loss of grazing production equivalent to at least a forty percent loss of normal carrying capacity for a minimum of 3 consecutive months.

(c) A producer shall certify each type of pasture and percentage of loss suffered by each type on the application. To establish the percentage of grazing loss, producers shall consider the amount of available grazing production during the LAP crop year,

whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal.

(d) The county committee shall determine the producer's grazing loss and shall consider the amount of available grazing production during the LAP crop year, whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal. The county committee shall request the producer to provide proof of loss of grazing production if the county committee determines the producer's certified loss exceeds other similarly situated livestock producers.

(e) The percentage of loss claimed by a livestock producer shall not exceed the maximum allowable percentage of grazing loss for the county as determined by the county committee according to § 1439.104(a). Livestock producers will not receive benefits under this subpart for any portion of their loss that exceeds 80 percent of normal carrying capacity.

(f) Conservation Reserve Program acres released for haying and/or grazing and seeded small grain forage crops shall not be used to calculate losses under this subpart.

§ 1439.106 Livestock producer eligibility.

(a) Only one livestock producer will be eligible for benefits under this subpart with respect to an individual animal.

(b) Only owners of livestock who themselves provide the pasture or grazing land, including cash leased pasture or grazing land, for the livestock may be considered as livestock producers eligible to apply for benefits under this subpart.

(c) An owner of livestock who uses another person to provide pasture or grazing land on a rate-of-gain basis is not considered to be the livestock producer eligible to apply for benefits under this subpart.

(d) An owner who pledges livestock as security for a loan shall be considered as the person eligible to apply for benefits under this subpart if all other requirements of this part are met. Livestock leased under a contractual agreement which has been in effect at least 3 months and establishes an interest for the lessee in such livestock shall be considered as being owned by the lessee.

(e) Livestock must have been owned for at least three months before becoming eligible for payment.

(f) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of §§ 1400.501 and 1400.502 of this chapter.

§ 1439.107 Calculation of assistance.

(a) The value of LAP assistance determined with respect to a livestock producer for each type and weight class of livestock owned or leased by such producer shall be the lesser of the amount of paragraph (b) of this section (the total value of lost feed needs for eligible livestock) or paragraph (c) of this section (the total value of lost eligible pasture), as calculated in this section.

(b) The total value of lost feed needs shall not exceed the amount obtained by multiplying:

(1) The number of days in the payment period the livestock are owned or, in the case of purchased livestock, meet the 3 month ownership requirement; by

(2) The number of pounds of corn per day, as established by CCC, that is determined necessary to provide the energy requirements established for the weight class and type of livestock; by

(3) The five-year national average market price for corn ($2.56 bushel or $.0457 per pound); by

(4) The number of eligible animals of each type and weight range of livestock owned or leased by the person; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee according to § 1439.105.

(c) The total value of lost eligible pasture shall not exceed the amounts for each type of pasture calculated by:

(1) Dividing the number of acres of each pasture type by the carrying capacity established for the pasture; and multiplying:

(2) The result of paragraph (c)(1) of this section for each pasture type; by

(3) $0.71771 ($0.0457 x 15.7); by

(4) The applicable number of days in the LAP payment period; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee according to § 1439.105.

(d) The final payment shall be the smaller of paragraph (b) of this section or paragraph (c) of this section multiplied by the national factor if required under § 1439.108. The final payment shall not exceed 50 percent of the smaller of paragraph (b) or (c) of this section determined prior to applying the national factor provided for in § 1439.108.

(e) Seeded small grain forage crops shall not be counted as grazing land under paragraph (c) of this section with respect to supporting eligible livestock.

(f) The number of equine animals that are used to calculate benefits under this subpart and in paragraph (a) of this section are limited to the number actually needed to produce food and fiber on the producer's farm or to breed horses and mules to be used to produce food and fiber on the owner's farm, and shall not include animals which are used for recreational purposes or are running wild or uncontrolled on land owned or leased by the owner.

§ 1439.108 Availability of funds.

In the event that the total amount of claims submitted under this subpart exceeds the $200 million appropriated for LAP, each payment shall be reduced by a uniform national percentage. Such payment reductions shall be after the imposition of applicable payment limitation provisions.

Signed at Washington, DC, on March 11, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–6429 Filed 3–17–99; 9:47 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

Existence of Airworthiness Design Standards for Acceptance Under the Primary Category Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of design standards.

SUMMARY: This document announces the availability of airworthiness design standards for acceptance of the Model Deland Travelaire airplane under the FAA's rules on designation of applicable regulations for primary category aircraft. A notice requesting comments on the design standards was published July 29, 1998, and the comment period closed August 28, 1998. No comments were received on the design standards.

DATES: The design standards are effective March 9, 1999.

ADDRESSES: Copies of the Department of Commerce Aeronautics Bulletin 7A, as amended October 1, 1934, and Transport Canada's TP10141E Ultralight (Sportplane) design standard may be obtained from the following: Small Airplace Directorate, Standards Office (ACE–110), Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Roger Chudy, Aerospace Engineer, Standards Office (ACE–112), Small Airplane Directorate, Aircraft Certification Service, FAA; telephone number (816) 426–6934, fax number (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Background

The "primary" category for aircraft was created specifically for the simple, low performance personal aircraft. Section 21.17(f) provides a means for applicants to propose airworthiness standards for their particular primary category aircraft. The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising the applicant's proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Accordingly, the applicant, Orlando Helicopter Airways, Inc., submitted a request to the FAA to include the Department of Commerce Aeronautics Bulletin 7A, as amended October 1, 1934, as the design standard for the unmodified airplane structure and Transport Canada's TP10141E Ultralight (Sportplane) design standard for all modifications. The Department of Commerce Aeronautics Bulletin 7A was used in the original certification in March 1928 of the Curtiss Travel Aire 2000; therefore, the FAA considers this standard as continuing to be valid for the unmodified parts of the Deland Travelaire.

On July 29, 1998, the **Federal Register** published an announcement of the proposed design standards and a request for comments. No comments were received to this proposal; therefore, this notice makes the design standards available for the Model Deland Travelaire airplane.

Citation

The authority citation for the airworthiness standards is as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44707, 44709, 44711, 44713, 44715, 45303.

Airworthiness Standards for Acceptance Under the Primary Category Rule

The FAA is requiring 500 hours of operational aviation service history of the derivative V8 engine/wood-propeller combination on an airplane rather than the 200 hours offered by the applicant. The applicant has agreed to this position, therefore, the certification basis for the Deland Travelaire will be the Primary Category Rule (part 21, § 21.24) with Department of Commerce Aeronautics Bulletin 7A, as amended October 1, 1934, as the design standard of the unmodified airplane structure and with Transport Canada's TP10141E Ultralight (Sportplane) Design Standard as the design standard for all modifications.

Compliance with the acoustical standards of the latest amendment to 14 CFR part 36 at the time of certification will be required.

Issued in Kansas City, Missouri on March 9, 1999.

Marvin Nuss,

Acting Manager, Small Airplane Directorate.

[FR Doc. 99–6755 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–10–AD; Amendment 39–11080; AD 99–03–10]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. (Agusta) Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 99–03–10 which was sent previously to all known U.S. owners and operators of Agusta Model A109E helicopters by individual letters. This AD requires, before further flight, inspections of the exhaust ejector locking system, clamp, and dampers for each engine. This AD also requires, at specified time intervals, verifying the torque of the metallic clamps and installing safety wire on the metallic clamps; inspecting and modifying the ejector saddles and the locking metallic clamps; and inspecting the metallic clamps, locking mechanisms, and dampers. This amendment is prompted by an inflight incident in which a metallic clamp which secured the left-hand engine exhaust ejector to the ejector saddle became detached and subsequently separated from the helicopter. The actions specified by this AD are intended to prevent loss of the metallic clamp or the engine exhaust ejector, which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter.

DATES: Effective April 5, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99–03–10, issued on January 28, 1998, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 5, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 18, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW–10-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The applicable service information may be obtained from Agusta S.p.A., 21017 Cascina Costa di Samarate (VA), Via Giovanni Agusta 520, telephone (0331) 229111, fax (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On January 28, 1999, the FAA issued Priority Letter AD 99–03–10, applicable to Agusta Model A109E helicopters, which requires, before further flight, inspections of the exhaust ejector to ejector saddle locking system, torque of the metallic clamp, and installation of safety wire and the metallic clamp at the bottom of the ejector saddle for each engine. The AD also requires, at specified time intervals, verifying the torque of the metallic clamps and

installing safety wire on the metallic clamps; inspecting and modifying the ejector saddles and the locking metallic clamps; and inspecting the metallic clamps, locking mechanisms, and dampers. That action was prompted by an inflight incident in which a metallic clamp which secured the left-hand engine exhaust ejector to the ejector saddle became detached and subsequently separated from the helicopter. This condition, if not corrected, could result in loss of the metallic clamp or the engine exhaust ejector, which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter.

The FAA has reviewed Agusta Bollettino Tecnico No. 109EP–3, dated December 22, 1998 (Technical Bulletin), which describes procedures for the inspection of both engine exhaust ejectors, dampers, and clamps, and modification of the ejector saddle on each engine.

Since the unsafe condition described is likely to exist or develop on other Agusta Model A109E helicopters of the same type design, the FAA issued Priority Letter AD 99–03–10 to prevent loss of the metallic clamp or the engine exhaust ejector, which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter. The AD requires, before further flight, inspections of the exhaust ejector to ejector saddle locking system, torque of the metallic clamp, and installation of safety wire and the metallic clamp at the bottom of the ejector saddle for each engine. The AD also requires verifying the torque of the metallic clamps and installing safety wire on the metallic clamps. Within the next 10 hours time-in-service (TIS), inspection and modification of the ejector saddles and the locking metallic clamps are required. Thereafter, at intervals not to exceed 25 hours TIS, inspecting the metallic clamps, locking mechanisms, and dampers is required. The actions are required to be accomplished in accordance with the Technical Bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, inspection of the exhaust ejector locking system, clamp torque, and dampers as well as installation of safety wire in the metallic clamp for each engine is required prior to further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on January 28, 1999 to all known U.S. owners and operators of Agusta Model A109E helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

There are minor changes in this published version of the priority letter AD that indicate the incorporated parts of the Technical Bulletin are contained in the "Compliance Instructions" section. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 4 helicopters of U.S. registry will be affected by this AD, that it will take approximately 0.5 work hour for the initial inspection, 2 work hours for the modification, and 0.5 work hour for each repetitive inspection, per helicopter, and the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,400 for the first year and $4,800 each year thereafter, assuming 1,000 hours TIS for each helicopter annually.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–SW–10–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g) 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–03–10 Agusta S.p.A.: Amendment 39–11080. Docket No. 99–SW–10–AD.

Applicability: Model A109E helicopters, serial numbers up to and including 11036, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the metallic clamp or the engine exhaust ejector which could result in damage to the main or tail rotor system and subsequent loss of control of the helicopter, accomplish the following for each engine:

(a) Prior to further flight, in accordance with Part I of the Compliance Instructions in Agusta Bollettino Tecnico No. 109EP–3, dated December 22, 1998 (Technical Bulletin), inspect the exhaust ejector to ejector saddle locking system, the dampers at the bottom of the ejector saddle, and the torque of the metallic clamp, and install safety wire on the metallic clamp. If any damage is found as a result of the inspection, accomplish Part II of the Compliance Instructions in the Technical Bulletin prior to further flight.

(b) Within the next 10 hours time-in-service (TIS), inspect the dampers and metallic clamps, and reposition and modify the ejector saddle and the locking metallic clamp in accordance with Part II of the Compliance Instructions in the Technical Bulletin.

(c) Thereafter, at intervals not to exceed 25 hours TIS, inspect the metallic clamp, locking mechanism, and dampers in accordance with Part III of the Compliance Instructions in the Technical Bulletin.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Directorate, Rotorcraft Standards Staff, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) The inspections and modification shall be done in accordance with Agusta Bollettino Tecnico No. 109EP–3, dated December 22, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta S.p.A., 21017 Cascina Costa di Samarate (VA), Via Giovanni Agusta 520, telephone (0331) 229111, fax (0331) 229605–222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 5, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99–03–10, issued January 28, 1999, which contained the requirements of this amendment.

(h) The subject of this AD is addressed in Registro Aeronautico Italiano (Italy) AD No. 98–465, dated December 24, 1998.

Issued in Fort Worth, Texas, on March 10, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–6556 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–78–AD; Amendment 39–11007; AD 99–02–15]

RIN 2120–AA64

Airworthiness Directives; Avions Pierre Robin Model R2160 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of Airworthiness Directive (AD) 99–02–15, which applies to certain Avions Pierre Robin Model R2160 airplanes. AD 99–02–15 requires repetitively inspecting the engine bearer for cracks, and replacing the engine bearer with a reinforced part either immediately or at a certain time period depending on whether cracks are found during the inspections. Replacing the engine bearer with a reinforced part terminates the repetitive inspection requirement. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified in this AD are intended to detect and correct cracks in the engine bearer, which could result in the engine separating from the airplane.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Karl M. Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with request for comments in the **Federal Register** on January 26, 1999 (64 FR 3817). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA anticipates that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received within the comment period, the regulation would become effective on March 29, 1999. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

Issued in Kansas City, Missouri, on March 11, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6713 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–24]

RIN 2120–AA66

Modification to the Gulf of Mexico High Offshore Airspace Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Gulf of Mexico High Offshore Airspace Area. Specifically, this action modifies the Gulf of Mexico High Offshore Airspace Area by extending the boundaries further east and south of the current location to the Houston Air Route Traffic Control Center (ARTCC) Flight Information Region/Control Area (FIR/CTA). The FAA is taking this action to

increase the vertical limits of the airspace area from Flight Level (FL) 280 up to and including FL 600. This action provides additional airspace in which domestic air traffic control (ATC) procedures may be used to separate and manage aircraft operations, and will enhance the efficient utilization of that airspace.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1993, the FAA published a final rule (58 FR 12128) which, in part, redesignated certain control areas over international waters as offshore airspace areas. The redesignations were necessary to comply with the Airspace Reclassification final rule issued on December 17, 1991 (56 FR 65638).

One of the areas affected by the March 2, 1993, final rule was the Gulf of Mexico Control Area. This area was divided vertically into two areas, the Gulf of Mexico High Offshore airspace area, and the Gulf of Mexico Low Offshore airspace area.

In June 1996 the FAA completed an evaluation of the airspace over the Gulf of Mexico. The evaluation was a combined effort with representatives from the FAA, Servicios a la Navegacion en El Espacio Aereo Mexicano, and other airspace users. The objective of the evaluation was, in part, to identify areas where air traffic services, air traffic operations, and utilization of airspace could be improved. One conclusion of this evaluation was the determination that system capacity would be enhanced by modifying ATC procedures used to control aircraft operations in the airspace over the Gulf of Mexico.

Currently, International Civil Aviation Organization (ICAO) oceanic ATC procedures are used to separate and manage aircraft operations that extent beyond the lateral boundary of the existing Gulf of Mexico High Offshore Airspace Area. Modifying the Gulf of Mexico High Offshore Airspace Area by extending the boundaries further east and south of the current location to the Houston ARTCC FIR/CTA, allows the application of domestic ATC separation procedures over a larger area. This action to modify the offshore airspace area will enhance system capacity and allow for more efficient utilization of that airspace.

On November 10, 1998, the FAA published a notice of proposed rulemaking to amend 14 CFR part 71 to modify the Gulf of Mexico High Offshore airspace area (63 FR 62975). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Gulf of Mexico High Offshore Airspace Area by extending the present airspace boundaries further east and south of the current location to the Houston ARTCC FIR/CTA. Additionally, this action increases the vertical limits of the airspace area from FL 280 up to and including FL 600. This modification will allow the application of domestic ATC separation procedures, in lieu of ICAO separation procedures, which will enhance system capacity and allow for more efficient utilization of that airspace.

Offshore airspace area designations are published in paragraph 2003 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The offshore airspace area designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter than will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this rule relates to navigable airspace outside the United States, this document is submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state owned aircraft are exempt from the International Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Because this amendment involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6007 Offshore Airspace Areas

* * * * *

Gulf of Mexico High [Revised]

That airspace extending upward from FL 280 to and including FL 600 bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines; bounded on the south from east to west by the shorelines; bounded on the south from east to west by the southern boundary of the Jacksonville ARTCC, Miami Oceanic CTA/FIR; Merida UTA/UIR, Houston CTA/FIR; Monterrey UTA/UIR, Houston CTA/FIR; to the point of beginning, and that airspace extending upward from 18,000 feet MSL to and including FL 280 bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines bounded on the south from east to west by the southern boundary of the Jacksonville ARTCC, Miami Oceanic CTA/FIR, Houston CTA/FIR and lat. 26°00'00" N.

* * * * *

Issued in Washington, DC, on March 15, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–6752 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 98–ASO–19]

RIN 2120–AA66

Amend Controlling and Using Agencies for Restricted Area R–2908, Pensacola, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action corrects the title of the controlling agency from "FAA, Pensacola RATCF," to "FAA, Pensacola TRACON," and changes the using agency from "Commander, Training Air Wing Six, Naval Air Station," to "U.S. Navy Flight Demonstration Squadron, Pensacola NAS, FL," for Restricted Area R–2908, Pensacola, FL.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 73 by correcting the title of the controlling agency and changing the using agency for Restricted Area R–2908, Pensacola, FL. This action corrects the title of the controlling agency from "FAA, Pensacola RATCF," to "FAA, Pensacola TRACON." The acronym "RATCF" (Radar Air Traffic Control Facility) applies to radar facilities operated by the U.S. Navy. The facility at Naval Air Station Pensacola is operated by the FAA, therefore, the FAA acronym "TRACON" (Terminal Radar Approach Control) is more appropriate. In addition, this action changes the using agency for R–2908 from "Commander, Training Air Wing Six, Naval Air Station, Pensacola, FL," to "U.S. Navy Flight Demonstration Squadron, Pensacola NAS, FL" to reflect the organization currently responsible for scheduling the airspace.

These administrative changes will not alter the boundaries, altitudes or time of designation of R–2908; therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.29 of part 73 was republished in FAA Order 7400.8F, dated October 27, 1998.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore; this regulation: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action is a minor administrative change to amend the names of the controlling and using agencies of an existing restricted area. There are no changes to the dimensions of the restricted area, or to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.29 [Amended]

2. § 73.29 is amended as follows:

* * * * *

R–2908 Pensacola, FL [Amended]

By removing "Controlling agency. FAA, Pensacola RATCF," and "Using agency. Commander, Training Air Wing Six, Naval Air Station, Pensacola, FL," and adding "Controlling agency. FAA, Pensacola TRACON," and "Using agency. U.S. Navy Flight Demonstration Squadron, Pensacola NAS, FL."

* * * * *

Issued in Washington, DC, on March 15, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–6751 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F–0213]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester as an antioxidant in polypropylene homopolymer and copolymers not to exceed 0.25 percent by weight of polypropylene homopolymer and copolymers. This action is in response to a petition filed by Asahi Denka Kogyo K.K.

DATES: The regulation is effective March 19, 1999; submit written objections and requests for a hearing by April 19, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–206), 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 9, 1997 (62 FR 31433), FDA announced that a petition (FAP 7B4542) had been filed by Asahi Denka Kogyo K.K., Shirahata 5–Chome, Urawa City; Saitama 366, Japan. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl) ester for use: (1) At levels not to exceed 0.25 percent by weight of olefin copolymers complying with § 177.1520 (21 CFR 177.1520) in contact with foods of types I, II, III, IV–B, VI–B, and VIII, as described in Table 1, and under conditions of use B through H, described in Table 2 of § 176.170(c) (21 CFR 176.170(c)), of this chapter, and with foods types IV–A, V, VI–A, VI–C, VII–A, and IX, under conditions of use C through G, as described in § 176.170(c), Tables 1 and 2, respectively; and (2) at levels not to exceed 0.10 percent by weight of either olefin copolymers or polypropylene complying with § 177.1520 which may be used in contact with foods of types IV–A, V, VI–C, VII–A, and IX, under conditions of use H, as described in § 176.170(c) of this chapter, Tables 1 and 2 respectively. When the petition was filed on June 9, 1997, it contained an environmental assessment (EA). In the notice of filing, the agency announced that it was placing the EA on display at the Dockets Management Branch for public review and comment. No comments were received.

Subsequent to filing of the petition, the petitioner requested that the petition be amended to permit use of the subject additive as an antioxidant in polypropylene homopolymer and copolymers, at a use level not to exceed 0.25 percent by weight, for all food types described in Table 1 under conditions of use B through H as described in Table 2 of § 176.170(c) of this chapter. Therefore, in a notice published in the **Federal Register** of August 28, 1998 (63 FR 46053), FDA announced that the filing notice of June 9, 1997, was amended to include the petitioned additive, phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl) ester for use as an antioxidant in polypropylene homopolymer and copolymers for all food types under conditions of use B through H.

In the amended filing notice of August 28, 1998, the agency incorrectly stated that it was placing the EA for the petition on display at the Dockets Management Branch for public review and comment. Instead, the original EA was maintained at the Dockets Management Branch. On October 15, 1998, the petitioner submitted a claim of categorical exclusion under new § 25.32(j) (21 CFR 25.32(i)), in accordance with the procedures in 21 CFR 25.15(a) and (d). Because the agency had not completed the review of an EA for the use of the subject additive that was described in the amended filing notice, the agency reviewed the claim of categorical exclusion under § 25.32(i) for this final rule.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) that the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under § 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before April 19, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for "phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl) ester" in item "1." under the heading "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

(b) * * *

* * * * *

Substances	Limitations
* * *	* * * *
Phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester (CAS Reg. No. 80693–00–1).	For use only: 1. At levels not to exceed 0.25 percent by weight of polypropylene homopolymer and copolymers complying with § 177.1520 of this chapter, for use with all food types described in table 1 of § 176.170(c) of this chapter only under conditions of use B through H described in table 2 of § 176.170(c) of this chapter.
* * *	* * * *

Dated: March 1, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–6667 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Lincomycin Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The ANADA provides for use of 40- and 80-gram packets and 32-ounce containers of lincomycin hydrochloride soluble powder to make medicated drinking water for swine for the treatment of dysentery (bloody scours) and broiler chickens for the control of necrotic enteritis.

EFFECTIVE DATE: March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767–1861, has filed ANADA 200–241 that provides for use of lincomycin hydrochloride soluble powder to make medicated drinking water for swine for the treatment of dysentery (bloody scours) and for broiler chickens for the control of necrotic enteritis caused by *Clostridium perfringens* susceptible to lincomycin. The ANADA provides for use of 40- and 80-gram packets and 32-ounce containers of product.

The ANADA is approved as a generic copy of Pharmacia & Upjohn's NADA 111–636, Lincomix® Soluble Powder. ANADA 200–241 is approved as of February 4, 1999, and the regulations are amended in 21 CFR 520.1263c to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm.1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1263c is amended by adding a sentence to the end of paragraph (a) and by revising paragraph (b) to read as follows:

§ 520.1263c Lincomycin hydrochloride soluble powder.

(a) *Specifications.* * * * The 40-gram measuring device contains lincomycin hydrochloride equivalent to 16 grams of lincomycin (the measuring device is packaged with a 32-ounce jar).

(b) *Sponsors.* Approval for use of 40- and 80-gram packet to Nos. 000009 and 017144 in § 510.600(c) of this chapter. Approval for use of 40- and 80-gram packet and 32-ounce jar to No. 051259 in § 510.600(c) of this chapter.

* * * * *

Dated: February 26, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–6671 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Doramectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer,

Inc. The supplemental NADA provides for extended use of doramectin in cattle for persistent control of nematodes including *Haemonchus placei* for 14 days after treatment.

EFFECTIVE DATE: March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Estella Z. Jones, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7575.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, filed supplemental NADA 141–061 that provides for subcutaneous and intramuscular use of Dectomax® (doramectin) 1 percent injectable solution in cattle to control infections and to protect from reinfection with *H. placei* for 14 days after treatment. The persistent use is in addition to the approved use in cattle for treatment and control of various gastrointestinal roundworms, lungworms, eyeworms, grubs, sucking lice, and mange mites, and to control infections and to protect from reinfection with *Cooperia oncophora* for 14 days, *Ostertagia ostertagi* for 21 days, and *Cooperia punctata*, *Oesophagostomum radiatum*, and *Dictyocaulus viviparus* for 28 days after treatment.

Supplemental NADA 141–061 is approved as of February 1, 1999, and the regulations are amended in 21 CFR 522.770(d)(1)(ii) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of data and information submitted to support approval of the supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning February 1, 1999, because the supplement contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplemental application and conducted or sponsored by the applicant. Exclusivity applies only to the added indication for use of doramectin injection to control infections and to protect cattle from reinfection with *H. placei* for 14 days after treatment.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.770 [Amended]

2. Section 522.770 *Doramectin* is amended in paragraph (d)(1)(ii) by adding after "*Cooperia oncophora*" the phrase "and *Haemonchus placei*".

Dated: February 26, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–6670 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Propofol Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for expanding the indications to include the use of propofol in cats.

EFFECTIVE DATE: March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1612.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., Union, NJ 07083, filed supplemental NADA 141–070 that provides for intravenous use in cats of Rapinovet Anesthetic Injection (each milliliter contains 10 milligrams of propofol). The product was previously approved for use in dogs. The drug is used as a single injection to provide general anesthesia for short procedures, for induction and maintenance of general anesthesia using incremental doses to affect, and for induction of general anesthesia where maintenance is provided by inhalant anesthetics. The drug is limited to use by or on the order of a licensed veterinarian. The supplemental NADA is approved as of January 14, 1999, and the regulations are amended in 21 CFR 522.2005 by revising paragraph (b) and by adding paragraph (c)(2) to reflect the approval. The basis of approval is provided in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act, this approval qualifies for a 3-year period of marketing exclusivity beginning January 14, 1999, because the supplement application contains substantial evidence of the effectiveness of the drug involved, or any studies of animal safety, required for the approval of the application and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the new species (cats) for which the supplemental application was approved.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 522.2005 is amended by revising paragraph (b) and by adding paragraph (c)(2) to read as follows:

§ 522.2005 Propofol injection.

* * * * *

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter for use as in paragraphs (c)(1) and (c)(2) of this section. See No. 000074 in § 510.600(c) of this chapter for use as in paragraph (c)(1) of this section.

(c) * * *

(2) *Cats.* (i) The drug is indicated for use as an anesthetic as follows: As a single injection to provide general anesthesia for short procedures, for induction and maintenance of general anesthesia using incremental doses to effect, and for induction of general anesthesia where maintenance is provided by inhalant anesthetics.

(ii) The drug is administered by intravenous injection as follows: For induction of general anesthesia without the use of preanesthetics the dosage is 8.0 to 13.2 milligrams per kilogram (3.6 to 6.0 milligrams per pound). For the maintenance of general anesthesia without the use of preanesthetics the dosage is 1.1 to 4.4 milligrams per kilogram (0.5 to 2.0 milligrams per pound). The use of preanesthetic medication reduces propofol dose requirements.

(iii) Adequate data concerning safe use of propofol in pregnant and breeding cats have not been obtained. Doses may need adjustment for geriatric or debilitated patients. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: February 23, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–6668 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 2992]

Bureau of Consular Affairs; Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Photograph Requirement

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: The Department has replaced the Burroughs visa with a machine-readable visa (MRV). Since the MRV displays a digitized photo of the visa recipient, the Department is amending the nonimmigrant visa regulations to require all applicants for nonimmigrant visas to present photographs. The regulations are also amended to allow photographs of persons wearing head coverings, provided that enough of the face is uncovered so as to establish identity.

EFFECTIVE DATE: March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Pam Chavez, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, 202–663–1206.

SUPPLEMENTARY INFORMATION: Effective April 1, 1994, the Department instructed all Foreign Service posts to cease issuing Burroughs visas, which were stamps placed in the passport. Foreign Service posts worldwide now issue only machine-readable visas (MRVs), a more technologically advanced and secure type of visa with a digitized photo of the applicant. The MRV is also inserted in the passport. The Department has, therefore, amended the regulations at 22 CFR 41.105(a)(3) to eliminate the waiver of photographs authorized in paragraphs (i), (ii) and (iii).

Final Rule

This rule is being promulgated as a final rule pursuant to the "good cause" provision of 5 U.S.C., sec. 553(b). Notice and comment serve no purpose in light of the fact that visas can no longer be issued without a photograph. This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. It is not a major rule. This rule imposes no reporting or recordkeeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act. This rule complies with requirements of E.O. 12988.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passport and visas.

In view of the foregoing 22 CFR part 41 is amended as follows:

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read as follows:

Authority: 8 U.S.C. 1104.

2. Revise paragraph (a)(3) of § 41.105 and remove the undesignated paragraph following it to read as follows:

§ 41.105 Supporting documents and fingerprinting.

(a) * * *

(3) *Photographs required.* Every applicant for a nonimmigrant visa must furnish a photograph in such numbers as the consular officer may require. Photographs must be a reasonable likeness, 1½ by 1½ inches in size, unmounted, and showing a full, front-face view of the applicant against a light background. At the discretion of the consular officer, head coverings may be permitted provided they do not interfere with the full, front-face view of the applicant. The applicant must sign (full name) on the reverse side of the photographs. The consular officer may use a previously submitted photograph, if he is satisfied that it bears a reasonable likeness to the applicant.

Dated: March 11, 1999.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 99–6796 Filed 3–18–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 941

[Docket No. FR–4443–F–05]

Public Housing Development Rule: Information Collection Approval Numbers

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule revises the chart in the public housing development regulations showing the numbers assigned by the Office of Management and Budget (OMB) approving information collections contained throughout those regulations. This revision is necessary to bring the chart in conformity with the actual approval numbers, and to assure that the

information collection approvals are accurately reflected in the codified regulations for 24 CFR part 941.

EFFECTIVE DATE: April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Mildred Hamman, Reports Liaison Officer, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4238, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–3642, ext. 4128. (This is not a toll-free number.) For persons with hearing or speech impairments, this number may be accessed by TTY through the Federal Information Relay Service, (800) 877–8339.

SUPPLEMENTARY INFORMATION:

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), HUD published two notices on October 26, 1998, announcing the effective dates of information collection approvals contained in the public housing development regulations, 24 CFR part 941 (63 FR 57134, 57135). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

The notices published in October 1998 announced the effectiveness of approval numbers for §§ 941.101, 941.205, 941.303, 941.606, and 941.610. These sections were listed in the chart contained in § 941.101(c) of OMB approval numbers for the entire part. The chart also listed approval numbers for other sections, §§ 941.301, 941.304, 941.402, and 941.404, for which no notice of effectiveness of the information collections has been published. This document serves as the notice that OMB has approved information collections contained in these provisions and to imbed the correct information concerning the actual approval numbers for the provisions throughout part 941 in § 941.101(c). In addition, this document removes the information collection approval statement from the one individual section in part 941 where it remained—§ 941.207.

There are three approval numbers assigned to the various information collections contained in part 941. The numbers and their respective expiration dates are as follows: 2577–0033 expiring on December 31, 2000; 2577–0036 expiring on July 31, 2000, and 2577–0039 expiring on April 30, 2000.

Justification for Final Rule

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1)

In this case, the changes being made to the rule are technical in nature, conforming the rule to the OMB approval actions that have already taken place. Therefore, prior public procedure is unnecessary.

Catalog

The Catalog of Federal Domestic Assistance number for the program affected by this rule is 14.850.

List of Subjects in 24 CFR Part 941

Grant programs—housing and community development, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, part 941 of title 24 of the Code of Federal Regulations is amended as follows:

PART 941—PUBLIC HOUSING DEVELOPMENT

1. The authority citation for part 941 continues to read as follows:

Authority: 42 U.S.C. 1437b, 1437c, 1437g, and 3535(d).

2. Paragraph (c) of § 941.101 is amended by revising the chart at the end of the paragraph to read as follows:

§ 941.101 Purpose and scope.

(c) * * *

Approval No.	Sections
2577–0033	941.207, 941.301, 941.303, 941.304, 941.606, 941.610
2577–0036	941.205, 941.404
2577–0039	941.402

§ 941.207 [Amended]

3. Section 941.207 is amended by removing the parenthetical phrase at the end of the section.

Dated: March 15, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–6794 Filed 3–18–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[TD ATF–410; RE: Notice No. 864]

RIN 1512–AA07

Yountville Viticultural Area (98R–28P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision will establish a viticultural area in Napa County, California, to be known as "Yountville." This viticultural area is the result of a petition submitted by the Yountville Appellation Committee.

DATES: This rule is effective May 18, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas B. Busey, Specialist, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, D.C. 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4.

These regulations allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9.

Section 4.25(e)(2), Title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale, and;

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF received a petition from Mr. Richard Mendelson, submitted on behalf of a number of wineries and grape growers in the Yountville area, proposing to establish a new viticultural area in Napa County, California to be known as "Yountville." The viticultural area is located entirely within the Napa Valley. It contains approximately 8260 acres, of which 3500 are planted to vineyards. The viticultural area was determined by extending the wine growing area from around the town of Yountville until it abuts the already established viticultural areas of Oakville on the north, Stags Leap District on the east, and Mt. Veeder on the west. On the south is an area called Oak Knoll which has petitioned to be considered a viticultural area.

Comments

On August 26, 1998, ATF published a notice of proposed rulemaking, Notice 864, in the **Federal Register**, soliciting comments on the proposed viticultural area. No comments were received.

Evidence That The Name of the Area is Locally or Nationally Known

An historical survey written by Charles Sullivan spells out the historical use of the name Yountville and vineyard plantings dating back to the late 1800's. Numerous references exist indicating the general use of the name "Yountville" to refer to the petitioned area. The petitioner included copies of title pages of various publications, guide and tour book references, public and private phone book listings and Federal and State agency maps, to illustrate the use of the name. For example, an ad for wine in the 1880's stresses the source of the grapes for the wine as "Yountville." Yountville is also prominently mentioned in James Halliday's Wine Atlas of California.

Historical or Current Evidence That the Boundaries of the Viticultural Area are as Specified in the Petition

The boundaries establish a grape growing area with an identifiable character, based on climate, topography, and historical tradition. The Yountville area boundaries were determined by extending the grape growing area from around the town itself until it abuts the already established viticultural areas of Oakville on the north, Stags Leap District on the east and Mt. Veeder on the west and an area called Oak Knoll on the south, which is currently under consideration to be recognized as a viticultural area. The boundaries of the area were determined by already existing AVA's and by the distinguishing physical features of the area. The boundary lines are accurately described using the features on the submitted U.S.G.S maps. In sum, the proposed boundaries encompass an area of remarkable uniformity with respect to soils, climate and existing AVA's.

The history of viticulture in the Napa Valley begins with George C. Yount. Yount first visited the Napa Valley in 1831. He was granted his Rancho Caymus on March 3, 1836. It amounted to approximately 11,000 acres and covered the valley and foothills from the Bale Slough in the north to a line which runs through the town of Yountville today. By the 1840's he had established a small vineyard. In 1855, he commissioned a surveyor to lay out the city. The new community was christened Sebastopol. In 1887, two years after Yount's death, the town was renamed in honor of its founder.

Evidence Relating To the Geographical Features (Climate, Soil, Elevation, Physical Features, Etc.) Which Distinguish Viticultural Features of the Area From Surrounding Areas

The geographical features of the viticultural area set it apart from the surrounding area in the Napa Valley and produce a unique microclimate. The distinguishing features of the viticultural area are the Napa River, the Napa Valley floor, the alluvial soils, the hills north of Yountville called the Yountville Mounts and the hills west of Yountville which form the western boundary of the Napa Valley.

The weather is specific to the Yountville area with cool marine air currents reaching the Yountville Mounts (northern border of the proposed area) and which form a weather barrier to further expansion of the fogs and winds. Also the soils which form the alluvial fan just across the southern boundary of the Yountville area can be seen to come from the Dry Creek watershed (see U.S.G.S. maps). The soils just north of the Yountville border come from the hills that form the western side of the area. The line along Ragatz Lane was selected to delineate the two areas. The soils between Yountville and Stags Leap District can be seen to differ north of the Yountville crossroad with the Rector canyon being the parent and the area between the Napa River and the Silverado Trail belonging to the hills immediately to the east.

The Yountville area, and specifically the area near and west of the town of Yountville, is one of the coolest vineyard regions of the Napa Valley viticultural area with long, cool growing season for grapevines. The Amerine and Winkler (1944) climate scheme rates this area as a Region II climate in a typical year, with a growing season degree-day totals of 2600 to 2900. This makes the area around the town of Yountville warmer than most of the Carneros viticultural area, but cooler than parts of Mt. Veeder and Oakville.

The Yountville area is unusual as a Napa Valley floor viticultural region in that it is not dominated geomorphically by large alluvial fans. It is most similar geologically to the Stags Leap District, which also is dominated by an old Napa River channel. However, the Yountville area is also geologically and geomorphologically distinct from the Stags Leap District, as Yountville was an area of intense coastal deposition along what must have been a nearshore current set up on the western side of the valley. The only similar coastal deposits found in the Napa Valley are in the Hagen Road area east of the City of Napa off Olive Hill Lane. Geomorphic deposits strongly influence soil types in the regions. Pronounced differences in soils are seen between Yountville, Oakville, the Stags Leap District, Mt. Veeder, and the proposed Oak Knoll viticultural area.

Boundaries

The boundaries of the Yountville viticultural area may be found on four U.S.G.S. Quadrangle (7.5 Minute Series) maps titled: Napa, CA (1951); Rutherford, CA (1951); Sonoma, CA (1951); and Yountville, CA (1951).

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, (44 U.S.C. 3507) and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from the region.

Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this executive order.

Drafting information

The principal author of this document is Thomas B. Busey, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27 Code of Federal Regulations, Part 9, American Viticultural Areas, is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.160 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.160 Yountville

(a) *Name.* The name of the viticultural area described in this section is "Yountville."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Yountville viticultural area are four 1:24,000 Scale U.S.G.S. topography maps. They are titled:

(1) Napa, CA 1951 photorevised 1980

(2) Rutherford, CA 1951 photorevised 1968

(3) Sonoma, CA 1951 photorevised 1980

(4) Yountville, CA 1951 photorevised 1968

(c) *Boundary.* The Yountville viticultural area is located in the State of California, entirely within the Napa Valley viticultural area. The boundaries of the Yountville viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps are as follows:

(1) Beginning on the Rutherford quadrangle map at the intersection of the 500 foot contour line with an unnamed stream known locally as Hopper Creek north of the center of Section 3, T6N, R5W, Mount Diablo Meridan (MDM);

(2) Then along the unnamed stream (Hopper Creek) southeasterly, and at the fork in Section 3, northeasterly along the stream to the point where the stream intersects with an unnamed dirt road in the northwest corner of Section 2, T6N, R5W, MDM;

(3) Then in a straight line to the light duty road to the immediate northeast in Section 2, then along the light duty road in a northeasterly direction to the point at which the road turns 90 degrees to the left;

(4) Then northerly along the light duty road 625 feet, then northeasterly (N 40° by 43′) in a straight line 1,350 feet, along the northern property line of Assessor's Parcel Number 27–380–08, to State Highway 29, then continuing in a straight line approximately 500 feet to the peak of the 320 plus foot hill along the western edge of the Yountville hills;

(5) Then east to the second 300 foot contour line, then along said contour line around the Yountville hills to the north to the point at which the 300 foot line exits the Rutherford quadrangle for the second time;

(6) Then, on the Yountville quadrangle map, in a straight line in a northeasterly direction approximately N34° by 30′ E approximately 1,000 feet to the 90 degree bend in the unimproved dirt road shown on the map, then along that road, which coincides with a fence line to the intersection of Conn Creek and Rector Creek;

(7) Then along Rector Creek to the northeast past Silverado Trail to the Rector Reservoir spillway entrance, then south approximately 100 feet to the 400 foot contour line, then southerly along the 400 foot contour line approximately 4200 feet to the intersection with a gully in section 30, T7N, R4W, MDM;

(8) Then southwesterly down the center of the gully approximately 800 feet to the medium duty road known as Silverado Trail, then southeasterly along the Silverado Trail approximately 590 feet to the medium duty road known locally Yountville Cross Road;

(9) Then southwesterly along the Yountville Cross Road (denoted as GRANT BDY on the map) approximately 4,700 feet to the main branch of the Napa River, then following the western boundary of the Stags Leap District viticultural area, first southerly down the center of the Napa River approximately 21,000 feet, then leaving the Napa River northeasterly in a straight line approximately 900 feet to the intersection of the Silverado Trail with an intermittent stream at the 60 foot contour line in T6N, R4W, MDM;

(10) Then along the Silverado Trail southerly approximately 3,200 feet, passing into the Napa quadrangle, to a point which is east of the confluence of Dry Creek with the Napa River; then west approximately 600 feet to said confluence; then northwesterly along Dry Creek approximately 3,500 feet, passing into the Yountville quadrangle to a fork in the creek; then northwesterly along the north fork of Dry Creek approximately 5,700 feet to the easterly end of the light duty road labeled Ragatz Lane;

(11) Then southwesterly along Ragatz Lane to the west side of State Highway 29, then southerly along Highway 29 by 982 feet to the easterly extension of the north line boundary of Napa County Assessor's parcel number 034–170–015, then along the north line of APN 034–170–015 and its extension westerly 3,550 feet to the dividing line Between R4W and R5W on the Napa quadrangle, then southwesterly approximately 1000 feet to the peak denoted as 564 (which is about 5,500 feet easterly of the northwest corner of the Napa quadrangle); then southwesterly approximately 4,000 feet to the peak northeast of the reservoir gauging station denoted as 835;

(12) Then southwesterly approximately 1,500 feet to the reservoir gauging station, then west to the 400 foot contour line on the west side of Dry Creek, then northwesterly along the 400

foot contour line to the point where the contour intersects the north line of Section 10. T6N. R5W, MDM, immediately adjacent to Dry Creek on the Rutherford, CA map;

(13) Then northwesterly along Dry Creek approximately 6,500 feet to BM503, then northeasterly approximately 3,000 feet to the peak denoted as 1478, then southeasterly approximately 2,300 feet to the beginning of the creek known locally as Hopper Creek, then southeasterly along Hopper Creek approximately 2,300 feet to the point of beginning.

Signed: February 2, 1999.

John W. Magaw,

Director.

Approved: February 16, 1999.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–6735 Filed 3–18–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–99–001]

Drawbridge Operation Regulations; Mokelumne River, CA–12 Highway Bridge at Mile 3.0 at East Isleton, Sacramento County, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: Notice is hereby given that the U.S. Coast Guard has issued a temporary deviation to regulations governing opening of the California Department of Transportation (Caltrans) swing bridge over the Mokelumne River at East Isleton, CA (the Mokelumne River Bridge). The deviation has two parts. The first part specified the bridge need not open for the passage of vessels from 8 a.m. March 22, 1999 to 5 p.m. March 24, 1999. The purpose of this part of the deviation is to allow Caltrans to repair the east-end bridge jack turnbuckle. The bridge cannot be opened during that work. The second part specified the bridge would open upon the following advance notice during the period from 5 p.m. March 24, 1999, through 5 p.m. April 2, 1999: During the hours between 9 a.m. and 5 p.m. daily, upon 30 minutes advance notice; at all other times upon at least 4 hours advance notice given to the drawtender at the Rio Vista Bridge over the Sacramento River, mile 12.8. The purpose of this part of the deviation is to enable Caltrans to test and make final adjustments and conduct other maintenance that does not require taking the bridge out of service. However, during that period, workers and equipment will be on the movable span, and advance notice is needed to clear the span for openings.

DATES: The deviation is effective from 8 a.m. March 22, 1999, through 5 p.m. April 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Olmes, Bridge Administrator, Eleventh Coast Guard District, Building 50–6, Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3515.

SUPPLEMENTARY INFORMATION: On February 24, 1999, Caltrans requested to close the bridge from 8 a.m. March 22, 1999 through 5 p.m. March 24, 1999, and to operate the bridge on 30 minute advance notice from 5 p.m. March 24, 1999 through 5 p.m. April 2, 1999. When the bridge is closed to navigation, the vertical clearance is 7.0 ft. (2.1 m) above Mean High Water, and is 10.5 ft. (3.2m) above Mean Lower Low Water, and the clearances may be further reduced due to high seasonal flows from winter rains. Alternate routes are available, and waterway traffic is minimal during the winter months. The Coast Guard has contacted the marinas immediately upstream and downstream of the bridge and commercial waterway operators, none of whom have any objection to the proposal. Delaying repairs until later in the year would impact a greater number of waterway users.

This deviation from the normal operating regulations in 33 CFR 117.175 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: March 12, 1999.

C.D. Wurster,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 99–6759 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0136a FRL–6239–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan and South Coast Air Quality Management Districts and San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definitions in Sacramento Metropolitan Air Quality Management (SMAQMD) Rule 101, San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 1020, and South Coast Air Quality Management District (SCAQMD) Rule 1302. The intended effect of approving this action is to incorporate changes to the definitions for clarity and consistency and to update the Exempt Compound list in SMAQMD, SJVUAPCD, and SCAQMD rules to be consistent with the revised federal and state VOC definitions.

DATES: This rule is effective on May 18, 1999 without further notice, unless EPA receives adverse comments by April 19, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Rd., Sacramento, CA 95826–3904

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg Ave., Fresno, CA 93726
South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1189.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: SMAQMD Rule 101, General Provisions and Definitions; SJVUAPCD Rule 1020, Definition; and South Coast Rule 1302, Definitions (New Source Review). These rules were submitted by the California Air Resources Board to EPA on October 27, 1998 (Sacramento); May 18, 1998 (San Joaquin); and March 10, 1998 (South Coast).

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included SMAQMD, SJVUAPCD, and SCAQMD. 43 FR 8964, 49 CFR 81.305. In response to Section 110(a) of the Act and other requirements, the SMAQMD, SJVUAPCD, and SCAQMD submitted many rules which EPA approved into the SIP.

On June 16, 1995 (60 FR 31633) EPA published a final rule excluding acetone from the definition of VOC. On February 7, 1996 (61 FR 4588) EPA published a final rule excluding perchloroethylene from the definition of VOC. On October 8, 1996 (61 FR 52848) EPA published a final rule excluding HFC 43–10mee and HCFC 225ca and cb from the definition of VOC. On April 9, 1998 (63 FR 17331) EPA published a final rule excluding methyl acetate from the definition of VOC. These compounds were determined to have negligible photochemical reactivity and thus, were added to the Agency's list of Exempt Compounds.

This document addresses EPA's direct-final action for SMAQMD Rule 101, General Provisions and Definitions; SJVUAPCD Rule 1020, Definitions; and SCAQMD Rule 1302, Definitions (New Source Review). These rules were adopted by SMAQMD on September 3, 1998; by SJVUAPCD on December 18, 1997; and by SCAQMD on June 13, 1997. These rules were submitted by the California Air Resources Board to EPA on October 27, 1998 (Sacramento); May 18, 1998 (San Joaquin); and March 10, 1998 (South Coast). These submitted rules were found to be complete on May 21, 1998 (South Coast); July 17, 1998 (Sacramento); and December 18, 1998 (San Joaquin), pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V [1] and is being finalized for approval into the SIP.

The following are EPA's summary and final action for these rules:

III. EPA Evaluation and Action

In determining the approvability of a rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.[2]

This administrative action is necessary to make the VOC definition in the SMAQMD, SJVUAPCD, and SCAQMD rules consistent with federal and state definitions of VOC. This action will result in more accurate assessment of ozone formation potential, will remove unnecessary control requirements and will assist States in avoiding exceedences of the ozone health standard by focusing control efforts on compounds which are actual ozone precursors.

SMAQMD Rule 101, General Provisions and Definitions, has been revised to update the definition of "Exempt Compounds". In addition, this amendment adds and/or revise the following definitions: Section 203, Emission Unit, Section 205, On-Site, and Section 209, Section.

SJVUAPCD Rule 1020, Definitions, is a new rule for the SJVUAPCD but will replace the SIP rules for Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare Counties. SJVUAPCD Rule, 1020 contains general definitions for terms used or referenced in various district rules. This new rule exempts ethane and acetone as volatile organic compounds because of recent EPA and ARB action, revises the definition of "San Joaquin Valley Air Basin" and "Central Kern County Fields" based on the recent California Air Resources Board realignment of air basin boundaries, and delete the definition of "Cyclic Well" to correct an inconsistency with a conflicting definition in Rule 4401 (Steam Enhanced Crude Oil Production Well Vents).

SCAQMD Rule 1302, Definitions (New Source Review), was submitted with amended South Coast Rule 102, Definition of Terms. Perchloroethylene is being added as a Group II Exempt Compound. The other three compounds are to be added to the list of Group I Exempt Compounds. The amendments will also allow the use of cyclic branched, or linear, completely methylated siloxanes (VMS) and parachlorobenzotrifluoride (PCBTF), currently listed as Group II Exempt Compounds, and perchloroethylene in operations regulated pursuant to Rules 1106.1, 1151, and 1171. In order to have a consistent VOC definition, the VOC definition in Rule 1302 is being removed and now refers to Rule 102 which was approved on (February 23, 1999, **Federal Register** pending). Thus, EPA is approving amended Rule 1302 into the SIP.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 18, 1999 without further notice unless the Agency receives adverse comments by April 19, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 18, 1999 and no further action will be taken on the proposed rule.

---

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[2] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by May 18, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(254)(i)(D)(3), (255)(i)(C), and (260)(i)(A) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(254) * * *

(i) * * *

(D) South Coast Air Quality Management District.

(*3*) Rule 1302, amended December 7, 1995.

* * * * *

(255) * * *

(i) * * *

(C) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 1020, amended December 18, 1997.

* * * * *

(260) New and amended regulations for the following APCDs were submitted on October 27, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 101, amended on September 3, 1998.

* * * * *

[FR Doc. 99–6650 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OK–18–1–7415a; FRL–6312–S]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving the section 111(d) Plan submitted by the Oklahoma Department of Environmental Quality (ODEQ) on December 18, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Municipal Solid Waste (MSW) Landfills . The EG require States to develop plans to reduce landfill gas emissions from all MSWs.

DATES: This direct final rule is effective on May 18, 1999, without further notice, unless we receive adverse comments by April 19, 1999. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address comments on this action to Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Oklahoma Department of Environmental Quality offices, 707 North Robinson Avenue, Oklahoma City, OK 73101–1677.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote at (214) 665–7219.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What action is being taken by EPA today?
II Why do we need to regulate MSW landfills emissions?
III. What is a State Plan?
IV. What does the Oklahoma State Plan contain?
V. Is my MSW landfill subject to these regulations?
VI. What steps do I need to take if my landfill is subject to these regulations?
VII. Administrative Requirements.

I. What Action Is Being Taken by EPA Today?

We are approving the Oklahoma State Plan, as submitted on December 18, 1998, for the control of landfill gas emissions from MSW landfills, except for those located in Indian Country. When we developed our New Source Performance Standard (NSPS) for MSW landfills, we also developed EG to control emissions from older MSW landfills. (See 61 FR 9905, March 12, 1996, and 63 FR 32743, June 16, 1998). The ODEQ developed a State Plan, as required by section 111(d) of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective May 18, 1999, unless by April 19, 1999, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action is effective May 18, 1999.

II. Why Do We Need To Regulate MSW Landfill Emissions?

Landfill gas contains a mixture of volatile organic compounds (VOCs), other hazardous air pollutants (HAPs), and methane. VOC emissions can contribute to ozone formation, which can cause adverse health effects to humans and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. We presented our concerns with the health and welfare effects of landfill gases in the preamble to our proposed Federal regulations (56 FR 24468, May 30, 1991).

III. What Is a State Plan?

Section 111(d) of the Act requires that "designated" pollutants controlled

under the NSPS must also be controlled at existing sources in the same source category. To ensure proper implementation of the requirements of section 111(d), we approved 40 CFR part 60, subpart B (40 FR 53340, November 17, 1975). Subpart B provides that, once an NSPS is promulgated, we then publish an EG applicable to the control of the same pollutant from designated (existing) facilities. States with designated facilities must then adopt a plan for the control of the pollutant.

IV. What Does the Oklahoma State Plan Contain?

The Oklahoma State Plan was reviewed for approval against the following criteria:

40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities*; and, 40 CFR part 60, 60.30c through 60.36c, *Subpart Cc—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.*

The evaluation of the Oklahoma State Plan indicates that it contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan, as authorized under the Title 27A of the Oklahoma Statutes, sections 2–2–101, 2–5–104 through 106, 2–2–106, 112, and 114. Copies of these Statutes were submitted as part of the State Plan, located in Appendix A.

2. An incorporation of the Federal regulations into OAC 252:100–47, *Control of Emissions from Existing Municipal Solid Waste Landfills.*

3. An inventory of approximately 82 landfills in Oklahoma subject to the EG. At least three exist that appear to be above both the design capacity and NMOC emission thresholds, and thus subject to the control requirements of the EG. Known designated facilities, with estimated design capacities, are listed in Appendices C and D;

4. Emission limits that are as stringent as the EG under OAC 252:100–47–7, *Emission Standards*;

5. A process to review gas collection system design plans (Appendix E);

6. A final compliance date 30 months after the date a designated facility reaches or exceeds 50 Mg of NMOC emissions annually (OAC 252:100–47–6(b));

7. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities, listed in OAC 252:100–47–8 through –13;

8. Records from the two public hearings in Appendix F; and

9. Provisions for progress reports to EPA.

V. Is My MSW Landfill Subject to These Regulations?

Any MSW landfill which began construction, reconstruction or modification before May 30, 1991, and has accepted waste at any time since November 8, 1987, is affected by the EG and the Oklahoma State Plan. If your facility meets these two criteria, your landfill is subject to these regulations.

VI. What Steps Do I Need To Take if my Landfill Is Subject to These Regulations?

- You must report your landfill's design capacity to the ODEQ within 90 days of the effective date of our approval of the Oklahoma State Plan.
- If your landfill has a design capacity above 2.5 million Mg, you must also estimate and report your annual NMOC emission rate to the ODEQ within the same 90-day timeframe.
- If your landfill has a design capacity below 2.5 million Mg, you have met all the requirements of the Oklahoma State Plan. However, if you modify your landfill and increase the design capacity above the 2.5 million Mg threshold, you must submit an amended design capacity report to the ODEQ within 90 days of the modification. You must also estimate and submit your annual NMOC emission rate to the ODEQ within 90 days of the modification. Your landfill will then be considered an NSPS source and subject to the requirements listed under 40 CFR part 60, subpart WWW.
- You must have a gas collection system installed and operating within 30 months of the date you project to be at or above the 50 Mg threshold.
- You must record and keep accurate records regarding site information and gas collection system operational data.

VIII. Administrative Requirements.

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from review under Executive Order 12866, entitled Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary

of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Pursuant to section 605(b) of the RFA, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This Federal action approves pre-existing requirements under Federal, State, or Local law and imposes no new requirements on any entity affected by this rule, including small entities. Therefore, these amendments will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: March 11, 1999.

William B. Hathaway,

Acting Regional Administrator, Region 6.

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

Subpart LL—Oklahoma

2. Section 62.9100 is amended by adding paragraph (b)(4) to read as follows:

§ 62.9100 Identification of plan.

* * * * *

(b) * * *

(4) Control of landfill gas emissions from existing municipal solid waste landfills, submitted by the Oklahoma Department of Environmental Quality on December 18, 1998.

* * * * *

3. Subpart LL is amended by adding a new § 62.9160 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.9160 Identification of sources.

The plan applies to existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, that accepted waste at any time since November 8, 1987, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

[FR Doc. 99–6777 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 990312074–9074–01; I.D. 010899B]

RIN 0648–AM35

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; annual management measures for Pacific halibut fisheries and approval of catch sharing plan.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The AA also announces the approval of modifications to the Catch Sharing Plan for Area 2A and implementing

regulations for 1999. These actions are intended to enhance the conservation of the Pacific halibut stock and are necessary to further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC).

DATES: Effective March 15, 1999.

ADDRESSES: NMFS Alaska Region, 709 West 9th St., P.O. Box 21668, Juneau, AK 99802–1668; or NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115–0070 (http://www.nwr.noaa.gov).

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228, or Yvonne deReynier, 206–526–6140.

SUPPLEMENTARY INFORMATION: The IPHC has promulgated regulations governing the Pacific halibut fishery in 1999, under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed in Washington, D.C., on March 29, 1979). The IPHC regulations have been approved by the Secretary of State of the United States under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k). Pursuant to regulations at 50 CFR 300.62, NMFS published the approved IPHC regulations setting forth the 1999 IPHC annual management measures in the **Federal Register** to provide notice of their effectiveness and to inform persons subject to the regulations of the restrictions and requirements.

The IPHC held its annual meeting on January 25–28, 1999, in Prince Rupert, British Columbia, and adopted regulations for 1999. The substantive changes to the previous IPHC regulations (63 FR 13000, March 17, 1998) include:

1. New catch limits for all areas;
2. Modifications to the vessel clearances for Area 4B. Non-local vessels fishing in Area 4B will continue to be required to obtain a clearance in person prior to fishing. Adak has been added as a location to obtain clearances for Area 4B; therefore, clearance prior to fishing in Area 4B can be obtained at either Nazan Bay on Atka Island or Adak. The clearance required at the completion of fishing in Area 4B must be obtained either in person or by VHF radio (no visual identification of the vessel is necessary);
3. Modification of the careful release regulation for consistency with NMFS regulations. All halibut caught and not retained must now be released outboard of the roller by one of the careful release methods;
4. Modification of the regulations on fishing in Area 4E to require the manager of an authorized community development quota (CDQ) organization that allows persons to harvest halibut in Area 4E CDQ fishery to report the total number and weight of undersized halibut to the IPHC. The report must include the methodology on how the data were collected and be received by IPHC prior to December 1, 1999; and
5. Establishment of opening dates for the Area 2A commercial directed fishery for halibut.

In addition, this action implements changes to the Catch Sharing Plan (Plan) for regulatory Area 2A. The PFMC developed the Plan under authority of the Halibut Act. Section 5 of the Halibut Act (16 U.S.C. 773c) gives the Secretary of Commerce (Secretary) general responsibility to carry out the Convention between the United States and Canada and authorizes the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the AA. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, NMFS requested the PFMC and NPFMC to allocate halibut catches should such allocation be necessary.

Catch Sharing Plan for Area 2A

The PFMC has prepared annual Plans since 1988 to allocate the halibut catch limit for Area 2A among treaty Indian, non-Indian commercial, and non-Indian sport fisheries in and off Washington, Oregon, and California. In 1995, NMFS implemented a long-term Plan recommended by the PFMC (60 FR 14651, March 20, 1995), which was revised in 1996 (61 FR 11337, March 20, 1996), 1997 (62 FR 12759, March 18, 1997), and 1998 (63 FR 13000, March 17, 1998). The Plan allocates 35 percent of the Area 2A total allowable catch (TAC) to Washington treaty Indian tribes in Subarea 2A–1, and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into two sectors; a directed (traditional longline) commercial fishery that is allocated 85 percent of the non-Indian commercial harvest, and 15 percent for harvests of halibut caught incidental to the salmon troll fishery. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53′18″ N. lat.), Oregon and California. The Plan also divides the sport fisheries into seven geographic areas each with separate allocations, seasons, and bag limits.

No vessel with a commercial license (directed or incidental) for halibut may be used in any sport fishery for halibut. No vessel with a charter license for halibut or that has been used to fish for halibut in sport fisheries may be used to fish in a commercial fishery for halibut in the same calendar year. A vessel may be licensed either to fish in the directed commercial fishery for halibut, or to land halibut incidentally to the salmon troll fishery, but not both.

For 1999, the PFMC recommended changes to the Plan to modify the Pacific halibut sport fisheries in Area 2A in 1999 and beyond, pursuant to recommendations from the Washington Department of Fish and Wildlife (WDFW) and the Oregon Department of Fish and Wildlife (ODFW). The purpose of the changes was to provide more sport season management flexibility, allowing greater access to halibut by anglers fishing from small boats, and increasing the likelihood that incidentally-caught halibut may be landed. The changes would also clarify commercial catch sharing language and would clarify halibut retention language for the portion of the Plan that addresses treaty Indian ceremonial and subsistence fisheries. For the Washington sport fisheries, the PFMC recommended modifying the boundaries of a sport fishing closed area within the Washington south coast subarea to better define the boundaries of a zone of halibut abundance. Further, the PFMC recommended restructuring the Washington south coast subarea sport fishery to allow landing from a small nearshore area on days that the offshore fishery is closed. For the Oregon sport fisheries, the PFMC recommended measures to allow the nearshore fishery south of Cape Falcon better access to its quota, measures to coordinate management of the Oregon sport fishery south of Humbug Mountain with management of the California sport fishery, and measures to set the bag limit for all sport fisheries south of Leadbetter Point, WA, at the first fish caught that is 32 inches (81.3 cm) or

greater in length. In addition to these recommendations for sport fisheries, the PFMC recommended clarifying current Plan language that describes the inseason division of the commercial quota between the directed fishery and incidental landings in the salmon troll fishery. NMFS, in consultation with treaty Indian tribes, has also recommended clarifying the current halibut retention language for treaty Indian ceremonial and subsistence fisheries. These clarifications to Plan language are housekeeping changes and do not change the intent of the Plan or the catch sharing divisions therein.

A complete description of the PFMC recommended changes to the Plan, notice of a draft Environmental Assessment and Regulatory Impact Review (EA/RIR), and proposed sport fishery management measures were published in the **Federal Register** on February 11, 1999 (64 FR 6869) with a request for public comments. No public comments were received on the proposed changes to the Plan or on the EA/RIR. Therefore, NMFS has approved the changes to the Plan as proposed, made a finding of no significant impact, and finalized the EA/RIR. Copies of the complete Plan for Area 2A as modified and the final EA/RIR are available from the NMFS Northwest Regional Office (see **ADDRESSES**).

In accordance with the Plan, the WDFW and ODFW held public workshops (after the IPHC set the Area 2A quota) on February 4 and 8, 1999, respectively, to develop recommendations on the opening dates and weekly structure of the sport fisheries. The WDFW and ODFW sent letters to NMFS advising on the outcome of the workshops and provided the following comments and recommendations on the opening dates and season structure for the sport fisheries.

Comment 1: WDFW recommended a May 27 through July 12 season, 5 days per week (closed Tuesday and Wednesday) for the Washington Inside Waters area sport fishery. The recommended number of fishing days is based on analysis of past harvest patterns in this fishery.

Response: NMFS agrees with the calculated number of fishing days necessary to achieve, but not exceed, the subquota for this area. The recommended season has been incorporated in the 1999 sport fishery measures.

Comment 2: WDFW recommended that the Washington North Coast area sport fishery be structured such that 15,000 lb (6,803.7 kg) of the subarea quota be reserved to provide for the second priority in the Plan—a July 1 season. The WDFW recommendation is for the sport fishery to open on May 1 and continue through June 30, or until 76,484 lb (34,691.7 kg) of the 91,484 lb (41,495.4 kg) quota are harvested. The fishery would reopen on July 1 and continue 5 days per week (closed Sunday and Monday) until the quota has been taken or through September 30, whichever occurs first.

Response: NMFS agrees and has incorporated these recommendations into the 1999 sport fishery measures.

Comment 3: WDFW recommended that the seasonal structure set forth in the Plan, including the changes described in the proposed rule (64 FR 6869, February 11, 1999) be implemented for the sport fisheries in the Washington South Coast and the Columbia River subareas.

Response: NMFS has structured the seasons for these subareas in accordance with the Plan.

Comment 4: ODFW recommended a 6-day season for the May opening in the Oregon Central Coast and South Coast subareas based on an analysis of past harvest rates that indicated an increasing annual trend in the sport fishery.

Response: NMFS has implemented a 6-day fixed season in May for these two subareas. The Plan stipulates that the number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas.

Comment 5: ODFW and some members of the public in attendance at the ODFW workshop recommended that if unharvested quota remains after the May fixed opening days in the Oregon Central and South Coast subareas, additional opening dates would be scheduled first for June 12, and then for June 11, and, if more quota remains, for June 10. Some members of the public recommended setting additional opening dates at June 11, June 12, and June 10, respectively.

Response: The Plan stipulates that "if sufficient catch remains for an additional day of fishing after the May season or the August season, openings will be provided if possible in May and August respectively. Potential additional open dates for both the May and August seasons will be announced preseason." Further, the Plan stipulates that "ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season." Since a 6-day May season would extend to late May (May 22), additional opening dates in May cannot be set that would provide the necessary 2-week timeframe for ODFW to estimate the catch during the fixed season. Therefore, NMFS agrees with the recommendation to set potential additional open dates in June. NMFS further agrees with the ODFW recommendation for scheduling additional opening dates for June 12, June 11, and June 10, respectively.

Comment 6: ODFW and the public in attendance at the ODFW workshop recommended a 1-day fixed season for the August fishery on August 6 based on an analysis of past harvest rates. ODFW further recommended a mid-July review of the (1) May all-depth harvest, and (2) catch projections for the inside 30-fathom curve fisheries with the intent that a determination be made as to whether Friday, August 6 and/or Saturday, August 7 will be open for all-depth fishing.

Response: The August fishery is scheduled for only 1 day of all-depth fishing on August 6 to ensure the quota is not exceeded. Inseason action may be taken to allow for additional all-depth fishing in accordance with the Plan if sufficient quota remains. If there is sufficient unharvested quota for a second day of all-depth fishing in August, the fishery would be open on August 7.

Comment 7: ODFW and some members of the public in attendance at the ODFW workshop recommended that, if unharvested quota remains after the August fixed opening day in the Oregon Central and South Coast subareas, additional opening dates would be scheduled for August 20 and, if more quota remains, for August 21. Some members of the public recommended setting additional opening dates for August 21 and, if more quota remains, for August 20.

Response: As stated above, the Plan states that potential additional open dates for both the May and August seasons will be announced preseason. NMFS agrees with the ODFW recommendation that, if there is sufficient unharvested quota for an additional day of all-depth fishing in August, that fishing would be scheduled for August 21, and then for August 20. Accordingly, NMFS has implemented sport fishing management measures in Area 2A based on recommendations from the states in accordance with the Plan.

The annual management measures that follow for the 1999 Pacific halibut fishery are identical to those recommended by the IPHC and approved by the Secretary of State, and include NMFS-approved domestic regulations that are necessary to implement the Plan in Area 2A.

1999 Pacific Halibut Fishery Regulations

1. Short Title

These regulations may be cited as the Pacific Halibut Fishery Regulations.

2. Interpretation

(1) In these Regulations,

(a) *authorized officer* means any State, Federal, or Provincial officer authorized to enforce these regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada's Department of Fisheries and Oceans (DFO), Alaska Division of Fish and Wildlife Protection (ADFWP), the United States Coast Guard (USCG), the Washington Department of Fish and Wildlife, and the Oregon State Police;

(b) *charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(c) *commercial fishing* means fishing the resulting catch of which either is or is intended to be sold or bartered;

(d) *Commission* means the International Pacific Halibut Commission;

(e) *daily bag limit* means the maximum number of halibut a person may take in any calendar day from Convention waters;

(f) *fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(g) *fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(h) *land*, with respect to halibut, means the offloading of halibut from the catching vessel;

(i) *license* means a halibut fishing license issued by the Commission pursuant to section 3;

(j) *maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea or internal waters of that Party;

(k) *operator*, with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(l) *overall length* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(m) *person* includes an individual, corporation, firm, or association;

(n) *regulatory area* means an area referred to in section 6;

(o) *setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

(p) *sport fishing* means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing;

(q) *tender* means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the National Ocean Service or the Canadian Hydrographic Service.

(3) In these Regulations all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

3. Licensing Vessels

(1) No person shall fish for halibut from a vessel, nor possess halibut on board a vessel, used either for commercial fishing or as a charter vessel in Area 2A unless the Commission has issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid only for either the directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 or the incidental catch fishery during the salmon troll fishery specified in paragraph (3) of section 8, but not both.

(5) A license issued in respect of a vessel referred to in paragraph (1) must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect of a vessel, without fee from its office in Seattle, Washington, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(7) A vessel operating in the directed commercial fishery in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 P.M. on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 P.M. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on "Application for Vessel License for the Halibut Fishery" form must be accurate.

(11) The "Application for Vessel License for the Halibut Fishery" form shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or re-documented.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

(15) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in title 15, Code of Federal Regulations, part 904.

4. Inseason Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) will not result in exceeding the catch limit established preseason for each regulatory area;

(b) is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(c) is consistent, to the maximum extent practicable, with any domestic catch sharing plans developed by the United States or Canadian governments.

(2) Inseason actions may include, but are not limited to, establishment or modification of the following:

(a) closed areas;

(b) fishing periods;

(c) fishing period limits;

(d) gear restrictions;

(e) recreational bag limits;

(f) size limits; or

(g) vessel clearances.

(3) Inseason changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce inseason actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, and Provincial fishery officials; and the media.

5. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(2) Sections 6 to 21 apply to commercial fishing for halibut.

(3) Section 7 applies to the Western Alaska Community Development Quota (CDQ) fishery in Area 4E.

(4) Section 22 applies to the United States treaty Indian tribal fishery in Area 2A–1.

(5) Section 23 applies to sport fishing for halibut.

(6) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

6. Regulatory Areas

The following areas shall be regulatory areas for the purposes of the Convention:

(1) Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′57″ N. lat., 136°38′18″ W. long.) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most

northerly point on Cape Aklek (57°41′15″ N. lat., 155°35′00″ W. long.) to Cape Ikolik (57°17′17″ N. lat., 154°47′18″ W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N. lat., 154°08′44″ W. long.), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N. lat., 164°20′00″ W. long.) and south of 54°49′00″ N. lat. in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00′00″ W. long. and south of 56°20′00″ N. lat.;

(7) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20′00″ N. lat.;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00′00″ W. long., south of 58°00′00″ N. lat., and west of 168°00′00″ W. long.;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00′00″ W. long.;

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00′00″ W. long., and south of 65°34′00″ N. lat.

7. Fishing in Regulatory Area 4E

(1) A person may retain halibut taken with setline gear in the Area 4E CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(2) The manager of a CDQ organization that authorizes persons to harvest halibut in the Area 4E CDQ fishery must report to the Commission the total number and weight of undersized halibut taken and retained by such persons pursuant to paragraph 7(1). This report, that shall include data and methodology used to collect the data, must be received by the Commission prior to December 1 of the year in which such halibut were harvested.

(3) Section 7 shall be effective until December 31, 1999.

8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed fishery south of 46°53′18″ N. lat. shall begin at 0800 hours and terminate at 1800 hours local time on July 7, July 21, August 18, September 1, September 15, and September 29, unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A. Vessels participating in the salmon troll fishery in Area 2A may retain halibut caught incidentally during authorized periods, in conformance with the annual salmon management measures announced in the **Federal Register**. The notice also will specify the ratio of halibut to salmon that may be retained during this fishery.

(4) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on March 15 and terminate at 1200 hours local time on November 15, unless the Commission specifies otherwise.

(5) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 15.

9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(6) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved under paragraph (6).

(9) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

10. Closed Area

All waters in the Bering Sea north of 55°00′00″ N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′00″ N. lat., 164°55′42″ W. long.) to a point at 56°20′00″ ' N. lat., 168°30′00″ W. long.; thence to a point at 58°21′25″ N. lat., 163°00′00″ W. long.; thence to Strogonof Point (56°53′18″ N. lat., 158°50′37″ W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00′00″ N. lat. and 54°49′00″ N. lat. are closed to commercial halibut fishing.

11. Catch Limits

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8 shall be limited to the weight expressed in pounds or metric tons shown in the following table:

Regulatory area	Catch limits	
	Pounds	Metric tons
2A	156,598.00	71.00
2B	12,100,000.00	5,487.50
2C	10,490,000.00	4,757.40
3A	24,670,000.00	11,188.20
3B	13,370,000.00	6,063.50
4A	4,240,000.00	1,922.90
4B	3,980,000.00	1,805.00
4C	2,030,000.00	920.60
4D	2,030,000.00	920.60
4E	390,000.00	176.90

(2) Notwithstanding paragraph (1) of this section, the catch limit in Area 2A shall be divided between a directed halibut fishery to operate south of 46°53′18″ N. lat. during the fishing periods set out in paragraph 2 of Section 8 and an incidental halibut catch fishery during the salmon troll fishery in Area 2A described in paragraph 3 of Section 8. Inseason actions to transfer catch between these fisheries may occur in conformance with the Catch Sharing Plan for Area 2A.

(a) The catch limit in the directed halibut fishery is 133,108 lb (60.4 mt).

(b) The catch limit in the incidental catch fishery during the salmon troll fishery is 23,490 lb (10.7 mt).

(3) The Commission shall determine and announce to the public the specific dates during which the directed fishery will be allowed in Area 2A and the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas assigned by Canada's Department of Fisheries and Oceans are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quotas and all Community Development Quotas issued by the National Marine Fisheries Service have been taken, or November 15, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10-hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(7) When under paragraphs (2), (3) or (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

12. Fishing Period Limits

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that

processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut on board said vessel and ensure that all halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

(a) the vessel's overall length in feet and associated length class;

(b) the average performance of all vessels within that class; and

(c) the remaining catch limit.

(6) Length classes are shown in the following table:

Overall length	Vessel class
1–25	A
26–30	B
31–35	C
36–40	D
41–45	E
46–50	F
51–55	G
56+	H

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

13. Size Limits

(1) No person shall take or possess any halibut that:

(a) with the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail; or

(b) with the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail.

(2) No person shall possess on board a vessel a halibut that has been mutilated, or otherwise disfigured in any manner that prevents the determination of whether the halibut complies with the size limits specified in this section, except that:

(a) this paragraph shall not prohibit the possession on board a vessel of halibut cheeks cut from halibut caught by persons authorized to process the halibut on board in accordance with NMFS regulations published at Title 50, Code of Federal Regulations, part 679; and

(b) no person shall possess a filleted halibut on board a vessel.

(3) No person on board a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

14. Careful Release of Halibut

All halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by

(a) hook straightening;

(b) cutting the gangion near the hook; or

(c) carefully removing the hook by twisting it from the halibut with a gaff.

15. Vessel Clearance in Area 4

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the unloading of any halibut caught in any of these areas, unless specifically exempted in paragraphs (9), (12), (13), (14), or (15).

(2) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Dutch Harbor or Akutan, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4C or 4D may be obtained only at St. Paul or St. George, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(5) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(6) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(7) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(8) Before unloading any halibut caught in Area 4C or 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(9) Any vessel operator who complies with the requirements in section 18 for possessing halibut on board a vessel that was caught in more than one regulatory area in Area 4 is exempt from the clearance requirements of paragraph (1) of this section, but must comply with the following requirements:

(a) the operator of the vessel must obtain a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the Areas in which the vessel will fish; and

(b) before unloading any halibut from Area 4, the vessel operator must obtain a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(10) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(11) No halibut shall be on board the vessel at the time of the clearances required prior to fishing in Area 4.

(12) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(13) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4C and lands its total annual halibut catch at a port within Area 4C is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Areas 4D and 4E and lands its total annual halibut catch at a port within Areas 4D, 4E, or the closed area defined in section 10, is exempt from the clearance requirements of paragraph (1).

16. Logs

(1) The operator of any U.S. vessel that has an overall length of 26 feet (7.9 meters) or greater shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the groundfish/Individual Fishing Quota (IFQ) daily fishing logbooks provided by NMFS, or Alaska hook-and-line logbook provided by Petersburg Vessels Owner Association, or Alaska Longline Fishermen's Association, or the logbook provided by IPHC.

(2) The log referred to in paragraph (1) shall be

(a) maintained on board the vessel;

(b) updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for five (5) days following offloading halibut.

(3) The log referred to in paragraph (1) does not apply to the incidental halibut fishery in Area 2A defined in paragraph (3) of section 8.

(4) The operator of any Canadian vessel shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the British Columbia Halibut Fishery logbook provide by DFO.

(5) The log referred to in paragraph (4) shall be:

(a) maintained on board the vessel;

(b) updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(e) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for five (5) days following offloading halibut; and

(f) mailed to the Department of Fisheries and Oceans (yellow copy) and IPHC (white copy) within seven days of offloading.

(6) The poundage of any halibut that is not sold, but is utilized by the vessel operator, his/her crew members, or any other person for personal use, shall be recorded in the vessel's log within 24-hours of offloading.

(7) No person shall make a false entry in a log referred to in this section.

17. Receipt and Possession of Halibut

(1) No person shall receive halibut from a United States vessel that does not have on board the license required by section 3.

(2) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading.

(3) A commercial fish processor or buyer in the United States who purchases or receives halibut directly from the owner or operator of a vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on State fish tickets or Federal catch reports the date, locality, name of vessel, Halibut Commission license number (for Area 2A), the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IFQs or fishing period limits; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(4) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date, locality, name of vessel, the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IVQs; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(5) No person shall make a false entry on a State fish ticket or a Federal catch or landing report referred to in paragraph (3) and (4).

(6) A copy of the fish tickets or catch reports referred to in paragraph (3) and (4) shall be:

(a) retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) open to inspection by an authorized officer or any authorized representative of the Commission.

(7) No person shall possess any halibut that he/she knows to have been taken in contravention of these Regulations.

(8) When halibut are delivered to other than a commercial fish processor the records required by paragraph (3) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (6).

(9) It shall be unlawful to enter a Halibut Commission license number on a State fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time on board a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in Regulatory Areas 2C, 3A, and 3B may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) has a NMFS-certified observer on board when required by NMFS regulations published at Title 50, Code of Federal Regulations, section 679.7(f)(4); and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) has a NMFS-certified observer on board the vessel when halibut caught in different regulatory areas are on board; and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(4) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel when in compliance with paragraph (3) and if halibut from Area 4 are on board the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B on board if in compliance with paragraph (2).

19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear.

(2) No person shall possess halibut taken with any gear other than hook and line gear.

(3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut.

(4) All setline or skate marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(a) the vessel's name;

(b) the vessel's state license number; or

(c) the vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be

(a) floating and visible on the surface of the water; and

(b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(8) No vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these regulations, a person may retain and possess, but not sell or barter halibut taken with trawl gear only as authorized by NMFS' Prohibited Species Donation regulations.

20. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported

at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut

(a) may be retained for personal use; or

(b) may be sold if it complies with the provisions of section 13, Size Limits.

21. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by the National Marine Fisheries Service and published in the **Federal Register**.

(2) Subarea 2A–1 includes all waters off the coast of Washington that are north of 46°53′18″ N. lat. and east of 125°44′00″ W. long., and all inland marine waters of Washington.

(3) Commercial fishing for halibut in subarea 2A–1 is permitted with hook and line gear from March 15 through November 15, or until 256,000 lb (116.1 metric tons) is taken, whichever occurs first.

(4) Ceremonial and subsistence fishing for halibut in subarea 2A–1 is permitted with hook and line gear from January 1 through December 31, and is estimated to take 10,000 lb (4.5 metric tons).

23. Sport Fishing for Halibut

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) In all waters off Alaska:

(a) the sport fishing season is from February 1 to December 31;

(b) the daily bag limit is two halibut of any size per day per person.

(3) In all waters off British Columbia:

(a) the sport fishing season is from February 1 to December 31;

(b) the daily bag limit is two halibut of any size per day per person.

(4) In all waters off California, Oregon, and Washington:

(a) the total allowable catch of halibut shall be limited to 180,804 pounds (82.0 metric tons) in waters off Washington and 156,598 pounds (71.0 metric tons) in waters off California and Oregon;

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in Section 24. All sport fishing in Area 2A (except for fish caught in the North Washington coast area and landed into Neah Bay) is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line from the lighthouse on Bonilla Point on Vancouver Island, British Columbia (48°35′44″ N. lat., 124°43′00″ W. long.) to the buoy adjacent to Duntze Rock (48°24′55″ N. lat., 124°44′50″ W. long.) to Tatoosh Island lighthouse (48°23′30″ N. lat., 124°44′00″ W. long.) to Cape Flattery (48°22′55″ N. lat., 124°43′42″ W. long.), there is no quota. This area is managed by setting a season that is projected to result in a catch of 52,623 lb (23.9 mt).

(A) The fishing season is May 27 through July 12, 5 days a week (Thursday through Monday).

(B) The daily bag limit is one halibut of any size per day per person.

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (47°31′42″ N. lat.), the quota for landings into ports in this area is 91,484 lb (41.5 mt). Landings into Neah Bay of halibut caught in this area will be governed by this paragraph.

(A) The fishing seasons are:

(*1*) Commencing May 1 and continuing 5 days a week (Tuesday through Saturday) until 76,484 lb (34.7 mt) are estimated to have been taken and the season is closed by the Commission, or until June 30, whichever occurs first.

(*2*) Commencing July 1 and continuing 5 days a week (Tuesday through Saturday) until the overall area quota of 91,484 lb (41.5 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A portion of this area about 19 nm (35 km) southwest of Cape Flattery is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 48°18′00″ N. lat., 125°11′00″ W. long.; 48°18′00″ N. lat., 124°59′00″ W. long.; 48°04′00″ N. lat., 125°11′00″ W. long.; and, 48°04′00″ N. lat., 124°59′00″ W. long.

(iii) In the area between the Queets River, WA and Leadbetter Point, WA (46°38′10″ N. lat.), the quota for landings into ports in this area is 32,081 lb (14.6 mt).

(A) The fishing season commences on May 2 and continues 5 days a week (Sunday through Thursday) in all waters, and commences on May 2 and continues 7 days a week in the area from Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long., until 31,081 lb (14.1 mt) are estimated to have been taken and the season is closed by the Commission. Immediately following this closure, the season reopens in the area from the Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long. and continues every day until 32,081 lb (14.6 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A portion of this area is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 47°19′00″ N. lat., 124°53′00″ W. long.; 47°19′00″ N. lat., 124°48′00″ W. long.; 47°16′00″ N. lat., 124°53′00″ W. long.; and, 47°16′00″ N. lat., 124°48′00″ W. long.

(iv) In the area between Leadbetter Point, WA and Cape Falcon, OR (45°46′00″ N. lat.), the quota for landings into ports in this area is 7,747 lb (3.5 mt).

(A) The fishing season commences on May 1, and continues every day through September 30, or until 7,747 lb (3.5 mt) are estimated to have been taken and the area is closed by the Commission, whichever occurs first.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(v) In the area off Oregon between Cape Falcon and the Siuslaw River at the Florence north jetty (44°01′08″ N. lat.), the quota for landings into ports in this area is 137,853 lb (62.5 mt).

(A) The fishing seasons are:

(*1*) The first season commences May 1 and continues every day through September 30, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600, or until 9,650 lb (4.4 mt) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(*2*) The second season is open on May 13, 14, 15, 20, 21, and 22. The projected catch for this season is 93,740 lb (42.5 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 12, then June 11, and then June 10. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on the additional dates unless the opening date is announced on the NMFS hotline.

(*3*) The third season is open on August 6 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 136,935 lb (62.1 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 6 and/or 7. If the harvest during this opening does not achieve the 136,935 lb (62.1 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be August 21, and then August 20. If a decision is made inseason to allow fishing on one or more of these dates, notice of the reopening date will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vi) In the area off Oregon between the Siuslaw River at the Florence north jetty and Humbug Mountain, Oregon (42°40′30″ N. lat.), the quota for landings into ports in this area is 10,915 lb (5.0 mt).

(A) The fishing seasons are:

(*1*) The first season commences May 1 and continues every day through September 30, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520,

18580, and 18600, or until 2,183 lb (1.0 mt) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(*2*) The second season is open on May 13, 14, 15, 20, 21, and 22. The projected catch for this season is 8,732 lb (4.0 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 12, then June 11, and then June 10. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on the additional dates unless the opening date is announced on the NMFS hotline.

(*3*) The third season is open on August 6 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 136,935 lb (62.1 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 6 and/or 7. If the harvest during this opening does not achieve the 136,935 lb (62.1 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be August 21, and then August 20. If a decision is made inseason to allow fishing on one or more of these dates, notice of the reopening date will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vii) In the area south of Humbug Mountain, Oregon (42°40′30″ N. lat.) and off the California coast, there is no quota. This area is managed on a season that is projected to result in a catch of less than 4,698 lb (2.1 mt).

(A) The fishing season will commence on May 1 and continue every day through September 30.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(c) The Commission shall determine and announce closing dates to the public for any area in which the subquotas in this Section are estimated to have been taken.

(d) When the Commission has determined that a subquota under paragraph (4)(b) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(5) Any minimum overall size limit promulgated under IPHC or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(6) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(7) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(8) The possession limit for halibut in the waters off the coast of British Columbia is three halibut.

(9) The possession limit for halibut in the waters off Washington, Oregon, and California is the same as the daily bag limit.

(10) The possession limit for halibut on land in Area 2A north of Cape Falcon, OR is two daily bag limits.

(11) The possession limit for halibut on land in Area 2A south of Cape Falcon, OR is one daily bag limit.

(12) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(13) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(14) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(15) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(16) The operator of a charter vessel shall be liable for any violations of these regulations committed by a passenger aboard said vessel.

24. Flexible inseason management provisions in Area 2A

(1) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), is authorized to modify regulations during the season after making the following determinations.

(A) The action is necessary to allow allocation objectives to be met.

(B) The action will not result in exceeding the catch limit for the area.

(C) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to a Washington sport subarea projected to have the fewest number of sport fishing days in the calendar year.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(A) Modification of sport fishing periods;

(B) Modification of sport fishing bag limits;

(C) Modification of sport fishing size limits; and

(D) Modification of sport fishing days per calendar week.

(3) Notice procedures.

(A) Actions taken under this section will be published in the **Federal Register**.

(B) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206–526–6667 or 800–662–9825 (May through September) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates.

(A) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the **Federal Register**, whichever is later.

(B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the **Federal Register**. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after of the action in the **Federal Register**.

(C) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.

25. Fishery election in Area 2A

(1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(a) The sport fishery under Section 23;

(b) The commercial directed fishery for halibut during the fishing period(s) established in Section 8; or

(c) The incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(2) No person shall fish for halibut in the sport fishery in Area 2A under Section 23 from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed halibut fishery in Area 2A during the fishing periods established in Section 8 from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(4) No person shall fish for halibut in the directed commercial halibut fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the directed commercial fishery during the fishing periods established in Section 8 for Area 2A or that is licensed to participate in the directed commercial fishery during the fishing periods established in Section 8 in Area 2A.

26. Previous Regulations Superseded

These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

Classification

IPHC Regulations

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, the notice-and-comment and delay-in-effective date requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this notice of the effectiveness and content of the IPHC regulations, *Jensen* v. *National Marine Fisheries Service*, 512 F.2d 1189 (9th Cir. 1975). Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

Catch Sharing Plan for Area 2A

An EA/RIR was prepared on the proposed changes to the Plan. NMFS has determined that the proposed changes to the Plan and the implementing management measures contained in and implemented by the IPHC regulations will not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

At the proposed rule stage, the Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities. No comments were received on this certification. Consequently, no regulatory flexibility analysis has been prepared.

This action has been determined to be not significant for purposes of E.O. 12866.

Because changes to the Catch Sharing Plan are clarifications of commercial catch sharing language and non-substantive adjustments to measures for the sport fishery to provide additional flexibility to anglers fishing for halibut, and are expected by the affected fisheries for the beginning of the 1999 season, the delay-in-effective-date requirement of the APA, 5 U.S.C. 553(d), is waived for good cause, as being unnecessary.

Authority: 16 U.S.C. 773–773k.

Dated: March 15, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–6661 Filed 3–15–99; 4:45 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 961204340–7087–02; I.D. 031599C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: Effective 12:01 a.m., local time, March 16, 1999, through June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the Florida west coast subzone of 1.17 million lb (0.53 million kg). That quota was further divided into two equal quotas of 585,000 lb (265,352 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(*2*), (63 FR 8353, February 19, 1998)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 585,000 lb (265,352 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the Florida west coast subzone was reached on March 15, 1999. Accordingly, the commercial fishery for king mackerel for such vessels in the Florida west coast subzone is closed effective 12:01 a.m., local time, March 16, 1999, through June 30, 1999, the end of the fishing year.

The Florida west coast subzone extends from 87°31'06" W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1999; and (2) 25°48' N. lat. (due west the Monroe/Collier County, FL, boundary) from April 1, 1999, through October 31, 1999.

NMFS previously determined that the commercial quota for king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on August 25, 1998 (63 FR 45186, August 25, 1998). Subsequently, NMFS determined that the commercial quota of king mackerel for vessels using run-around gillnets in the Florida west coast subzone of the eastern zone of the Gulf of Mexico was reached and closed that segment of the fishery on January 20, 1999 (64 FR 3650; January 25, 1999). Further, NMFS determined that the commercial quota of Gulf group king mackerel for vessels fishing in the Florida east coast subzone of the eastern zone of the Gulf of Mexico was reached and closed that segment of the fishery on March 13, 1999. Thus, with this closure, all commercial fisheries for Gulf group king mackerel in

the EEZ are closed from the U.S./Mexico border through the Florida east coast subzone through March 31, 1999, and through the Florida west coast subzone through June 30, 1999.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for Gulf group king mackerel in the EEZ in the closed zones or retain Gulf group king mackerel in or from the EEZ of the closed zones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 15, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Service.

[FR Doc. 99–6660 Filed 3–15–99; 4:45 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 53
Friday, March 19, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–01–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Model PA–46–350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain The New Piper Aircraft, Inc. (Piper) Model PA–46–350P airplanes. The proposed AD would require installing reinforcement plates to the wing forward and aft attach fittings. The proposed AD is the result of a report that sheet steel material that is below design strength standards could be utilized on the wing attach fittings on the Model PA–46–350P airplanes manufactured since January 1995. The actions specified by the proposed AD are intended to prevent structural failure of the wing attach fittings caused by the utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control.

DATES: Comments must be received on or before May 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–01–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William O. Herderich, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6084; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–01–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–01–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Piper has reported to the FAA a potential structural defect on certain Model PA–46–350P airplanes. The report was made based on Piper's obligation under section 21.3 of the Federal Aviation Regulations (14 CFR 21.3). This report indicates that sheet steel material that is below design strength standards could be utilized on the wing attach fittings on the Model PA–46–350P airplanes manufactured since January 1995.

Piper discovered the condition during development testing in which premature yielding of the sheet steel material occurred. After sending samples of the material to a lab for analysis, Piper learned that the sheet steel was subjected to an annealing process instead of a normalizing process. The design requirements of the wing forward and aft attach fittings are for the sheet steel to be normalized instead of annealed.

Piper received the annealed sheet steel material in early 1995. Those Model PA-–46–350P airplanes that were manufactured since January 1995 could utilize the annealed sheet steel wing attach fittings. The airplanes that were delivered since January 1995 incorporate serial numbers 4622191 through 4622200 and 4636001 through 4636175.

This condition, if not corrected, could lead to failure of the wing attach fittings caused by utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control.

Relevant Service Information

Piper has issued Service Bulletin No. 1027, dated November 19, 1998, which specifies installing reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766–656. This kit includes all the materials and procedures for accomplishing this installation.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to eliminate the unsafe condition previously referenced.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or

develop in other Piper Model PA–46–350P airplanes of the same type design manufactured since January 1995, the FAA is proposing AD action. The proposed AD would require installing reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766–656. Accomplishment of the proposed installation would be required in accordance with the instructions to the above-referenced kit, as referenced in Piper Service Bulletin No. 1027, dated November 19, 1998.

Cost Impact

The FAA estimates that 185 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 30 workhours per airplane to accomplish the proposed installation, and that the average labor rate is approximately $60 an hour. Piper will give warranty credit for parts on all affected aircraft. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $333,000, or $1,800 per airplane.

Piper has informed the FAA that parts have been distributed to accomplish the installation on 6 of the affected airplanes. Presuming that these parts were incorporated on 6 of the affected airplanes, this would reduce the cost impact of this AD by $10,800 from $333,000 to $322,200.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

The New Piper Aircraft, Inc.: Docket No. 99–CE–01–AD.

Applicability: Model PA–46–350P airplanes, serial numbers 4622191 through 4622200 and 4636001 through 4636175, certificated in any category.

Note 1: The affected serial numbers refer to airplanes that have been delivered since January 1995 and could have insufficient strength wing attach fittings installed. Airplanes manufactured after serial number 4636175 have this problem corrected prior to delivery.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the potential for failure of the wing attach fittings caused by the utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control of the airplane, accomplish the following:

(a) Install reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766–656. Accomplishment of the installation would be required in accordance with the instructions to the above-referenced kit, as referenced in Piper Service Bulletin No. 1027, dated November 19, 1998.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 11, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6716 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter IX

[Docket No. FR–4459–N–02]

Section 8 Housing Certificate Fund Rule; Notice of Intent To Establish a Negotiated Rulemaking Committee and Notice of First Meeting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of intent to establish a negotiated Rulemaking Advisory Committee and notice of first meeting.

SUMMARY: HUD is establishing a Negotiated Rulemaking Advisory Committee under the Federal Advisory Committee Act. The establishment of the committee is required by the Quality Housing and Work Responsibility Act of 1998, which requires issuance of regulations under the Negotiated Rulemaking Act of 1990. The purpose of the Committee is to discuss and negotiate a rule that would change the current method of distributing funds to public housing agencies (PHAs) funds for purposes of renewing assistance contracts in the tenant-based Section 8 program. The committee will consist of

persons representing stakeholder interests in the outcome of the rule. In accordance with 5 U.S.C. 564 (section 564 of the Negotiated Rulemaking Act of 1990), this document advises the public of the establishment of the committee; provides the public with information regarding the committee; solicits public comment on the proposed membership of the committee; and explains how persons may be nominated for membership on the committee.

DATES: *Comment due date:* April 19, 1999. HUD's tentative plan is to hold the first meeting of the committee on April 27 and 28, 1999.

ADDRESSES: HUD has not yet selected a site for the first committee meeting.

Interested persons are invited to submit comments regarding the committee and its proposed members to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Comments should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. The docket will be available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Dalzell, Senior Program Advisor, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4204, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1380 (this telephone number is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1998, the Congress enacted the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, 112 Stat. 2461) (the "Public Housing Reform Act"). The Public Housing Reform Act made significant changes to HUD's public and assisted housing programs. These changes include the addition of a new section 8(dd) to the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

The new section 8(dd) specifies the method to be used by HUD in calculating assistance provided to public housing agencies (PHAs) to renew Section 8 tenant-based rental and voucher contracts. Specifically, section 8(dd) directs HUD to establish an allocation baseline amount of assistance (budget authority) to cover the renewals, and to apply an inflation factor (based on local or regional factors) to the baseline. The new provision states as follows:

(dd) *Tenant-Based Contract Renewals.*—Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

Section 556(b) of the Public Housing Reform Act requires HUD to implement section 8(dd) through notice not later than December 31, 1998, and to issue final regulations on this subject that are developed through the negotiated rulemaking process no later than October 21, 1999. On December 30, 1998, HUD issued Public and Indian Housing (PIH) Notice 98–65, which advised PHAs on how HUD is calculating the amount of assistance available for purposes of Section 8 tenant-based rental certificate and voucher contract renewals. On February 18, 1999 (64 FR 8188), HUD published a notice in the **Federal Register** providing, for the benefit of the public, the contents of PIH Notice 98–65.

Under the allocation procedure described in PIH Notice 98–65, HUD has determined a baseline number of units for each PHA as of October 1, 1997 based on information that each PHA provided to HUD. HUD adjusts the baseline number of units to reflect any changes to the number of units allocated to a PHA since October 1, 1997 (such as the award of additional units through Notices of Funding Availability for Section 8 assistance). HUD then determines the actual per unit cost based on data provided by PHAs in their year end statements. HUD subsequently adjusts the per unit cost by applying an inflation factor. Ultimately, HUD multiplies the adjusted number of units by this adjusted cost per unit to determine a given PHA's allocation. While the amount varies among PHAs, the subsidies constitute a significant level of assistance to families served by a particular agency. For example, in 1999, HUD expects to distribute over $8 billion to PHAs to renew expiring tenant-based contracts in the Section 8 program.

II. Regulatory Negotiation

Negotiated rulemaking, or "neg-reg," is a relatively new process for HUD. The basic concept of neg-reg is to have the agency that is considering drafting a rule bring together representatives of affected interests for face-to-face negotiations that are open to the public. The give-and-take of the negotiation process is expected to foster constructive, creative and acceptable solutions to difficult problems.

In February 1999 HUD entered into a cooperative agreement with the Consensus Building Institute, Inc. (CBI) to obtain its assistance and expertise in convening and facilitating the negotiated rulemaking required by section 556 of the Public Housing Reform Act. CBI has begun the process of interviewing potential candidates that may be selected to serve on the negotiated rulemaking advisory committee. The current schedule calls for CBI to submit its convening report to HUD in early April of 1999.

III. Committee Membership

The CBI conveners consulted and interviewed 29 officials of various organizations that would be affected by the Section 8 funding allocation rule. The goal is to develop a committee whose membership reflects a balanced representation of interested organizations and individuals in terms of size, location, level and type of housing agency and special circumstances. After reviewing the recommendations of the CBI conveners, HUD has tentatively identified the following list of possible interests and parties. This list should be considered tentative, and the final list of participants may not include all of these parties. HUD will decide on the final list of participants, based upon comments on this document, as well as its own efforts to identify other entities having an interest in the outcome of this rulemaking.

- Housing Agencies
  1. Massachusetts Department of Housing and Community Development, Boston, MA
  2. New Jersey Department of Community Affairs, Trenton, NJ
  3. Southeastern Minnesota Multi-County Housing and Redevelopment Authority, Wabasha, MN
  4. Oklahoma Housing Finance Agency, Oklahoma City, OK
  5. Fort Worth Housing Authority, Fort Worth, TX
  6. Minneapolis Metropolitan Council Housing and Redevelopment Agency, Saint Paul, MN

7. Santa Cruz County Housing Authority, Santa Cruz, CA
8. Burlington Housing Authority, Burlington, VT
9. Michigan State Housing Development Authority, Lansing, MI
10. New York City Housing Authority, NYC, NY
11. Atlanta Housing Authority, Atlanta, GA
12. Panama City Housing Authority, Panama City, FL
13. Cincinnati Metropolitan Housing Authority, Cincinnati OH
14. Housing Authority of the City of Los Angeles, Los Angeles, CA

- Public Interest Groups
  1. Center on Budget and Policy Priorities, Washington, D.C.
  2. New Community Corporation, Newark, NJ
- National PHA Associations
  1. Public Housing Authority Directors Association (PHADA)
  2. National Association of Housing and Redevelopment Officials (NAHRO)
  3. Council of Large Public Housing Authorities (CLPHA)
  4. National Leased Housing Association (NLHA)
- Federal Government
  1. U.S. Department of Housing and Urban Development

HUD invites you to provide comments and suggestions on this tentative list of committee members. HUD does not believe that each potentially affected organization or individual must necessarily have its own representative. However, HUD must be satisfied that the group as a whole reflects a proper balance and mix of interests. Accordingly, the composition of the final list will likely be different from this tentative list. Negotiation sessions will be open to members of the public, so individuals and organizations that are not members of the committee may attend all sessions and communicate informally with members of the committee.

IV. Neighborhood and Community Based Groups

In particular, HUD welcomes and solicits expressions of interest or nominations from any groups or individuals that operate on behalf of the communities, neighborhoods, and special needs groups served by the tenant-based Section 8 program, and from organizations that represent local officials.

V. Requests for Representation

If you are interested in serving as a member of the committee or in nominating another person to serve as a member of the committee, you must submit a written nomination to HUD at the address listed in the **ADDRESSES** section of this document. Your nomination for membership on the committee must include:

(1) The name of your nominee and a description of the interests the nominee would represent;

(2) Evidence that your nominee is authorized to represent parties with the interests the nominee would represent;

(3) A written commitment that the nominee will actively participate in good faith in the development of the rule; and

(4) The reasons that the parties listed in this document do not adequately represent your interests.

HUD will determine, in consultation with the CBI conveners, whether a proposed member should be included in the makeup of the committee. HUD will make that decision based on whether a proposed member would be significantly affected by the proposed rule and whether the interest of the proposed member could be represented adequately by other members.

VI. Substantive Issues for Negotiation

The subject and scope of the rule to be considered is the development of a methodology for allocating funding to renew assistance contracts under the tenant-based Section 8 program, in accordance with the criteria described in section 556 of the Public Housing Reform Act.

VII. Final Notice Regarding Committee Establishment

After reviewing any comments on this Notice and any requests for representation, HUD will issue a final notice. That notice will announce the final composition of the Negotiated Rulemaking Advisory Committee and the firm date, time, and place of the initial meeting.

VIII. Tentative Schedule

At this time, HUD's tentative plan is to hold the first meeting of the committee on April 27 and 28, 1999. On April 27, 1999, the meeting is expected to start at 9:00 am and run until completion; on April 28, 1999, the meeting is expected to start at 9:00 am and run until approximately 3:00 pm. HUD has not yet selected a site for the meetings. The purpose of the meeting will be to orient members to the neg-reg process, to establish a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus, and to begin to address the issues. This meeting will be open to the public. In the event that the date and times of these meetings are changed, HUD will advise the public through a **Federal Register** notice.

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of future meetings will be published in the **Federal Register**.

Dated: March 16, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing

[FR Doc. 99–6852 Filed 3–18–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter IX

[Docket No. FR–4423–N–01]

Capital Fund Rule; Notice of Intent to Establish a Negotiated Rulemaking Committee and Notice of First Meeting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of intent to establish a Negotiated Rulemaking Advisory Committee and notice of first meeting.

SUMMARY: HUD is establishing a Negotiated Rulemaking Advisory Committee under the Federal Advisory Committee Act. The establishment of the committee is required by the Quality Housing and Work Opportunity Act of 1998, which requires issuance of regulations under the Negotiated Rulemaking Act of 1990. The purpose of the Committee is to discuss and negotiate a proposed rule that would change the current method of determining the allocation of capital funds to public housing agencies (PHAs). The Committee will consist of representatives with a definable stake in the outcome of a proposed rule. In accordance with 5 U.S.C. 564 (section 564 of the Negotiated Rulemaking Act of 1990), this document: advises the public of the establishment of the committee; provides the public with information regarding the committee; solicits public comment on the proposed membership of the committee; explains how persons may be nominated for membership on the committee; and solicits public comment on specific agenda items to be considered by the committee.

DATES: *Comment due date:* April 19, 1999. HUD's tentative plan is to hold the first meeting of the committee on

April 28–29, 1999. Additional committee meetings are tentatively scheduled for May 11–12 and May 25–26, 1999.

ADDRESSES: The tentative location for the first committee meeting is the U.S. Department of Housing and Urban Development, 451 Seventh St., SW, Washington, DC 20410.

Interested persons are invited to submit comments regarding the Committee and its proposed members to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Comments or any other communications submitted should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. The docket will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: William Flood, Director, Office of Capital Improvements, Public and Indian Housing, Room 4134, Department of Housing and Urban Development, 431 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1640 ext. 4185 (this telephone numbers is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD currently uses a formula approach called the Comprehensive Grant Program (CGP) to distribute capital funds to large public housing agencies (PHAs) (i.e. PHAs with 250 units or more) and a competitive program called the Comprehensive Improvement Assistance Program (CIAP) for small PHAs (i.e., PHAs with less than 250 units). A regulatory description of the CGP and CIAP can be found at 24 CFR part 968. Generally, the amount of capital funding received by a PHA is based on the number of units, type of units, condition of its units, cost of construction in the area and prior funding. While the amount can vary, it is the only source of capital funding that most PHAs receive to make major capital investments in its public housing stock. For example, in 1998, HUD distributed over $2.1 billion in capital funds for CGP and $307 million for CIAP to PHAs for 830 PHAs and over 900 PHAs respectively.

On October 21, 1998, the Congress enacted the Quality Housing and Work Responsibility Act of 1998 (Pub.L. 105–276, 112 Stat. 2461) (the "Public Housing Reform Act"). The Public Housing Reform Act makes extensive changes to HUD's public and assisted housing programs. These changes include the establishment of a Capital Fund for the purpose of making assistance available to PHAs for capital and management activities of public housing under Section 9(d) of the U.S. Housing Act of 1937, as amended. The assistance to be made available from that fund is to be determined using a formula developed through negotiated rule-making procedures. The effective date of the formula (the beginning date of the fiscal year for which PHAs will determine their capital eligibility using the new formula) is October 1, 1999. Accordingly, HUD hopes to publish a final rule that will take effect by October 1, 1999 to implement these statutory changes.

II. Regulatory Negotiation

Negotiated rulemaking, or "neg-reg," is a relatively new process for HUD. The basic concept of neg-reg is to have the agency that is considering drafting a rule bring together representatives of affected interests for face-to-face negotiations that are open to the public. The give-and-take of the negotiation process is expected to foster constructive, creative and acceptable solutions to difficult problems.

In anticipation of possible Congressional action, HUD entered into an interagency agreement in June 1998 with the Federal Mediation and Conciliation Service (FMCS) for convening and facilitation services associated with a negotiated rulemaking regarding a possible capital and operating fund proposed rule. FMCS met with HUD in November 1998 to discuss the use of its services for the capital fund. The meeting reached the conclusion that it was feasible to assemble the committee, and HUD would propose a list of individual PHAs and organizations that represented a wide range of interests willing and able to work within a consensus framework on a new Capital Fund formula.

III. Committee Membership

HUD has independent of the FMCS consulted with the industry groups, its field staff and chosen 26 persons to be named to represent various organizations that would be affected by the capital fund rule. Three national PHA associations—the Council of Large Public Housing Authorities (CLPHA), the National Association of Housing and Redevelopment Officials (NAHRO), and the Public Housing Authority Directors Association (PHADA) suggested executive directors of PHAs for committee membership that would reflect a balance among PHAs in terms of size and number of developments and units. The national associations also indicated a willingness to serve on the committee, as did the National Organization of African Americans in Housing (NOAAH). In addition, HUD consulted with groups concerned with issues relating to residents of public housing and identified four resident representatives to serve on the committee. Further, HUD has identified three committee participants from groups which have had less direct involvement in public housing programs in the past, but which can provide other valuable perspectives on the issues to be considered by the committee.

After reviewing the recommendations of the staff and industry groups, HUD has tentatively identified the following list of possible interests and parties.

- **Housing Agencies**
  1. Philadelphia Housing Authority
  2. Chicago Housing Authority
  3. Dallas Housing Authority
  4. Puerto Rico Housing Authority
  5. Seattle Housing Authority
  6. New York City Housing Authority
  7. Dayton Housing Authority
  8. Greensboro Housing Authority
  9. Jersey City Housing Authority
  10. San Diego Housing Authority
  11. Sanford (ME) Housing Authority
  12. Macon (GA) Housing Authority
  13. San Benito (TX) Housing Authority
  14. Sturgis (SD) Housing Authority
- Tenant Organizations
  1. New York City Public Housing Residents Alliance, Brooklyn, NY
  2. Guinotte Manor Tenant Association, Kansas City, MO
  3. Hillside Family Resource Center, Milwaukee, WI
  4. Mount Pleasant Estates Tenant Association, Newark, NJ
- National PHA Associations
  1. Public Housing Authority Directors Association (PHADA)
  2. National Association of Housing and Redevelopment Officials (NAHRO)
  3. Council of Large Public Housing Authorities (CLPHA)
  4. National Organization of African Americans in Housing (NOAAH)
- Other Groups
  1. National Housing Conference
  2. Conference of Mayors
  3. Fannie Mae
  4. National Low Income Housing Coalition
- Federal Government
  1. U.S. Department of Housing and

Urban Development

We invite you to give us comments and suggestions on this tentative list of committee members. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, we must be satisfied that the group as a whole reflects a proper balance and mix of interests. Accordingly, the composition of the final membership list may be different from this tentative membership list. Negotiation sessions will be open to members of the public, so individuals and organizations that are not members of the committee may attend all sessions and communicate informally with members of the committee. HUD may also invite a group of technical advisors to participate in Committee deliberations. This group may consist of non-profit and for-profit developers and other individuals who have had experience in mixed-finance development, the HOPE VI program, or other relevant experience.

IV. Requests for Representation

If you are interested in serving as a member of the committee or in nominating another person to serve as a member of the committee, you must submit a written nomination to HUD at the address listed in the **ADDRESSES** section of this document. Your nomination for membership on the committee must include:

(1) The name of your nominee and a description of the interests the nominee would represent;

(2) Evidence that your nominee is authorized to represent parties with the interests the nominee would represent;

(3) A written commitment that the nominee will actively participate in good faith in the development of the rule; and

(4) The reasons that the parties listed in this document do not adequately represent your interests.

HUD will determine, in consultation with the FMCS conveners, whether a proposed member should be included in the makeup of the committee. HUD will make that decision based on whether a proposed member would be significantly affected by the proposed rule and whether the interest of the proposed member could be represented adequately by other members.

V. Substantive Issues for Negotiation

The subject and scope of the proposed rule to be considered is the development of a capital fund formula for the purpose of determining the amount of assistance provided to PHAs for capital and management activities of public housing, which shall include a mechanism to reward performance. The issues considered by the negotiated rulemaking committee in the development of the formula will include determining the factors and weighting of those factors to be used in determining the formula allocation for each PHA (including those factors listed in Section 519 of the Public Housing Reform Act. HUD invites suggestions on specific agenda items to be considered by the negotiated rulemaking committee.

VI. Tentative Schedule

At this time, HUD's tentative plan is to hold the first meeting of the committee on April 28–29, 1999. On both days, the meeting is expected to run for the full day, starting at approximately 10:00 a.m. until completion. The tentative location for the first meeting is the U.S. Department of Housing and Urban Development, 451 Seventh St., SW, Washington, DC 20410. The purpose of the meeting will be to orient members to the neg-reg process, to establish a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus, and to begin to address the issues. This meeting will be open to the public.

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Additional committee meetings are tentatively scheduled for May 11–12 and May 25–26, 1999. Notices of future meetings will be published in the **Federal Register**.

VII. Final Notice Regarding Committee Establishment

After reviewing any comments on this Notice and any requests for representation, HUD will issue a final notice. That notice will announce the final composition of the Negotiated Rulemaking Advisory Committee and the firm date, time, and place of the initial meeting.

Dated: March 12, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–6720 Filed 3–18–99; 8:45 am]

BILLING CODE 4423–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC55

Update of Documents Incorporated by Reference

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS is proposing to update one document incorporated by reference and add one new document incorporated by reference in regulations governing oil and gas and sulphur operations in the Outer Continental Shelf (OCS). The new editions of these documents incorporated by reference will ensure that lessees use the best available and safest technologies while operating in the OCS. The proposed updated document is the Second Edition of the American Petroleum Institute's (API) Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2 (API RP 500). The proposed new document is the First Edition of the API's Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2 (API RP 505).

DATES: We will consider all comments we receive by June 17, 1999. We will begin reviewing comments then and may not fully consider comments we receive after June 17, 1999.

ADDRESSES: Mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. The Rules Processing Team's e-mail address is: rules.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: Joseph Levine, Chief, Operations Analysis Branch, at (703) 787–1032.

SUPPLEMENTARY INFORMATION: We use standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry for establishing requirements for activities in the OCS. This practice, known as incorporation by reference, allows us to incorporate the requirements of technical documents into the regulations without increasing the volume of the Code of Federal Regulations (CFR). We currently incorporate by reference 82 documents into the offshore operating regulations.

The regulations found at 1 CFR part 51 govern how we and other Federal agencies incorporate various documents by reference. Agencies can only incorporate by reference through publication in the **Federal Register**. Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to the specific edition or specific edition and supplement or addendum cited in the regulations.

This proposed rule will update the following document that is currently incorporated by reference into MMS regulations:

API RP 500, First Edition, June 1, 1991, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities.

We have reviewed this document and have determined that the new edition must be incorporated into the regulations to ensure the use of the best and safest technologies. In our initial review, which was mentioned in a July 9, 1998, **Federal Register** rule (63 FR 37066), we believed the difference between the two editions to be significant. Further review shows that the changes between the old and new editions are minor, but new material and additional chapters have been included. In addition, the old document is not readily available to the affected parties because it is out of date.

A summary of our review of the updated document is provided below: API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997.

In 1991, API merged its three area classification documents (RP 500A for refineries, RP 500B for production and drilling facilities, and RP 500C for transportation and pipeline facilities) into the first edition of RP 500.

The second edition has been revised using an API standard editorial format. It includes a higher level of detail and some new material regarding area classification drawings and sketches. Numerous real-world examples that were not previously addressed in the earlier edition are added, including some U.S. Coast Guard-regulated offshore facilities, paint storage areas, locations containing batteries, and others. Additional chapters specific to offshore facilities such as tension leg platforms, mobile offshore drilling units, and floating production storage and offloading systems are included.

The title of the document has been expanded to narrow the scope of the document to the traditional U.S.-style of location classification using Class and Division definitions. Reference to API RP 14C is also noted for offshore production and drilling operations.

A summary of our review of the new document is provided below: API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, First Edition, November 1997.

API recently released this document, and it contains guidance on classifying locations in accordance with international concepts of zones versus API RP 500's use of divisions. We are requesting public comment on the possible incorporation of this document into our regulations. The purpose of API RP 505 is not to replace API RP 500. Rather, incorporation of both documents into MMS regulations would allow the offshore structure to be designed and built, using either offshore electrical location classification method.

Procedural Matters

This is a very simple rule. The rule's purpose is to update one document that is currently incorporated by reference in the regulations and to add one additional document incorporated by reference. The differences between the newer document and the older document are very minor. The minor differences between the newer and older document will not cause a significant economic effect on any entity (small or large). Similarly, the addition of the new document, API RP 505, will not have a significant effect on any entity (small or large). Therefore, this regulation's impact on the entire industry is minor.

Public Comment Procedure

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

Takings Implication Assessment (E.O. 12630)

In accordance with E.O. 12630, this rule does not have significant Takings Implications.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The rule would have no significant economic impact because the documents do not contain any significant revisions that will cause lessees or operators to change their business practices. The documents will not require the retrofitting of any facilities. The documents may lead to minor changes in operating practices, but the associated costs will be very minor.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Clarity of This Regulation

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand.

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. You may also e-mail the comments to this address: exsec@ios.doi.gov.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

There are no information collection requirements associated with this rule.

Regulatory Flexibility Act

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Incorporation of the new document into MMS regulations would allow the offshore structure to be designed and built using either offshore electrical location classification method. Thus, incorporation of the new document will not impose new cost on the offshore oil and gas industry and may provide beneficial flexibility. The Department also determined that the indirect effects of this rule on small entities that provide support for offshore activities are small (in effect zero).

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The proposed rule will not cause any significant costs to lessees or operators. The only costs will be the purchase of the new documents and minor revisions to some operating procedures. The minor revisions to operating procedures may result in some minor costs or may actually result in minor costs savings.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded mandate on State, local, and tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: March 8, 1999.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR Part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. In § 250.101, the following document incorporated by reference in Table 1 in paragraph (e) is revised to read as follows:

§ 250.101 Documents incorporated by reference.

* * * * *

(e) * * *

Title of document	Incorporated by reference at
API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997, API Stock No. C50002.	§ 250.403(b); § 250.802(e)(4)(i); § 250.803 (b)(9)(i); § 250.1628(b)(3); (d)(4)(i); § 250.1629(b)(4)(i).

3. In § 250.101, the following document incorporated by reference is added to Table 1 in paragraph (e) in alphanumerical order.

§ 250.101 Documents incorporated by reference.

* * * * * * * * *

(e) * * *

Title of document	Incorporated by reference at
API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, First Edition, November 1997, API Stock No. C50501.	§ 250.403(b); § 250.802(e)(4)(i); § 250.803 (b)(9)(i); § 250.1628(b)(3); (d)(4)(i); § 250.1629(b)(4)(i).

* * * * *

4. In § 250.403, paragraph (b) is revised to read as follows:

§ 250.403 Electrical equipment.

* * * * *

(b) All areas must be classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities

Classified as Class I, Zone 0, Zone 1, and Zone 2.

* * * * *

5. In § 250.802, paragraph (e)(4)(i) introductory text is revised to read as follows:

§ 250.802 Design, installation, and operation of surface production-safety systems.

* * * * *

(e) * * *

(4) * * *

(i) A plan for each platform deck outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, and outlining areas in which potential ignition sources, other than electrical, are to be installed. The area outlined will include the following information:

* * * * *

6. In § 250.803, the last sentence of paragraph (b)(9)(i) is revised to read as follows:

§ 250.803 Additional production system requirements.

* * * * *

(b) * * *

(9) * * *

(i) * * * A classified area is any area classified Class I, Group D, Division 1 or 2, following the guidelines of API RP 500, or any area classified Class I, Zone 0, Zone 1, or Zone 2, following the guidelines of API RP 505.

* * * * *

7. In § 250.1628, paragraphs (b)(3) and (d)(4)(i) are revised to read as follows:

§ 250.1628 Design, installation, and operation of production systems.

* * * * *

(b) * * *

(3) Electrical system information including a plan of each platform deck, outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, and outlining areas in which potential ignition sources are to be installed;

* * * * *

(d) * * *

(4) * * *

(i) A plan of each platform deck, outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, and outlining areas in which potential ignition sources are to be installed;

* * * * *

8. In § 250.1629, the last sentence of paragraph (b)(4)(i) is revised to read as follows:

§ 250.1629 Additional production and fuel gas system requirements.

* * * * *

(b) * * *

(4) * * *

(i) * * * A classified area is any area classified Class I, Group D, Division 1 or 2, following the guidelines of API RP 500, or any area classified Class I, Zone 0, Zone 1, or Zone 2, following the guidelines of API RP 505.

* * * * *

[FR Doc. 99–6791 Filed 3–18–99; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0136b; FRL–6239–9]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan and South Coast Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definitions in Sacramento Metropolitan Air Quality Management (SMAQMD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD). The intended effect of approving this action is to incorporate changes to the definitions for clarity and consistency and to update the Exempt Compound list in SMAQMD, SJVUAPCD, and SCAQMD rules to be consistent with the revised federal and state VOC definitions.

The intended effect of proposing approval of this action is to incorporate changes to the definition of VOC and to update the Exempt Compound list in SMAQMD, SJVUAPCD, and SCAQMD rules to be consistent with the revised federal and state VOC definitions. EPA is proposing approval of these revisions to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by April 19, 1999.

ADDRESSES: Comments should be addressed to: Andrew Steckel, Chief, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Rd., Sacramento, CA 95826

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg Ave., Fresno, CA 93726

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office [Air-4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1189)

SUPPLEMENTARY INFORMATION: This document concerns Sacramento Metropolitan Air Quality Management Rule 101, General Provisions and Definitions, San Joaquin Valley Unified Air Pollution Control District Rule 1020, Definitions, and South Coast Air Quality Management District Rule 1302, Definitions (New Source Review). These rules were submitted by the California Air Resources Board to EPA on October 27, 1998 (Sacramento); May 18, 1998 (San Joaquin); and March 10, 1998 (South Coast). For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: March 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–6651 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OK–18–1–7415a; FRL–6312–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We propose to approve the section 111(d) Plan submitted by Oklahoma on December 18, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Municipal Solid Waste (MSW) Landfills. The EG require States to develop plans to collect landfill gas from large MSW landfills. In the final rules section of this **Federal Register**, we are approving the State Plan as a direct final rule without prior proposal because we view this as a noncontroversial amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in relation to this rule. If we receive adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please see the direct final rule located elsewhere in today's **Federal Register** for a detailed description of the Texas State Plan.

DATES: Comments on this action must be postmarked by April 19, 1999. If no adverse comments are received, then the direct final rule is effective on May 18, 1999.

ADDRESSES: You should address comments on this action to Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Oklahoma Department of Environmental Quality offices, 707 North Robinson Avenue, Oklahoma City, OK 73101–1677.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote at (214) 665–7219.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 11, 1999.

William B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 99–6778 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 64, No. 53
Friday, March 19, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 99–018–1]

Declaration of Emergency Because of Citrus Canker

A serious outbreak of citrus canker is occurring in Florida. Citrus canker is a plant disease that is harmful to citrus plants and citrus fruit. It spreads rapidly, producing premature fruit drop, and leaf, stem, and fruit lesions. While damaged fruit is safe to eat it has little or no market value. The only way to detect the disease is to visually survey for infected trees. Once infected trees are found, removal and destruction of the infected trees, usually by burning, is the only effective control measure. It is also necessary to quarantine infested areas to delay or stop the spread of the disease.

This infestation of citrus canker in Florida was first detected in 1995 and was initially limited to about 14 square miles near the Miami International Airport in Dade County. The infestation has spread both naturally, aided by tropical storms and tornadoes, and through the movement of infected and contaminated articles. There are now four areas in Florida affected with citrus canker: An area of approximately 500 square miles in Dade and Broward Counties; an area of about 60 square miles in Manatee County; two citrus groves in Collier County; and most recently, two commercial citrus groves and a number of residential properties in Hendry County.

Citrus canker poses a serious threat to citrus production in the State of Florida. Although, to date, the infestation has been generally limited to residential areas, the continued spread of the disease could affect Florida's commercial citrus producing areas, causing estimated losses of at least $200 million annually.

To eliminate this threat to Florida's most important industry, the State is conducting an eradication program. Since 1995, the State has spent approximately $21 million on survey, regulatory, and control activities. In addition, the Animal and Plant Health Inspection Service (APHIS) has spent approximately $6 million, mostly from its contingency fund, to provide technical assistance to the State and to carry out regulatory activities designed to prevent the spread of the disease.

Despite these efforts, however, the disease has continued to spread. The FY 1999 appropriations for APHIS do not contain adequate funding for effective assistance to Florida in efforts to control and eradicate citrus canker, nor does APHIS' FY 2000 budget request. Furthermore, redirecting funds within APHIS' existing budget would seriously impair its ongoing programs. Thus, additional resources are necessary to enable APHIS to continue to assist Florida in the control and eradication of citrus canker and to help avoid significant economic losses to the Nation's citrus industry.

Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. (7 U.S.C. 147b), I declare that there is an emergency that threatens the citrus industry of this country and hereby authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to the agencies or corporations of the United States Department of Agriculture to assist the State of Florida in controlling and eradicating citrus canker.

Before any funds authorized under this declaration are transferred, distributed, or applied to the citrus canker eradication effort, however, APHIS will conduct reviews and analyses that are applicable to any proposed actions, including reviews and analyses required under the National Environmental Policy Act, the Endangered Species Act, Executive Order 12898 of February 11, 1994—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and Executive Order 13045 of April 21, 1997—Protection of Children from Environmental Health Risks and Safety Risks, among others. Consistent with these requirements, the public will be provided ample opportunity for participation, notice of which will be published in the **Federal Register**.

Effective Date: This declaration of emergency shall become effective March 15, 1999.

Dan Glickman,
Secretary of Agriculture.

[FR Doc. 99–6771 Filed 3–18–99; 8:45 am]
BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Types and Quantities of Agricultural Commodities Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949, as Amended, in Fiscal Year 1999

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: On March 2, 1999, the President, Commodity Credit Corporation (CCC) determined that 20,000 metric tons of non-fortified nonfat dry milk in 25 kg domestic commercially-marked bags be made available for donation overseas under section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1999. This determination increases the amount of non-fortified nonfat dry milk available for donation overseas under section 416(b) during fiscal year 1999 to 29,500 metric tons.

In addition, the President, CCC, determined that 400,000 metric tons of wheat in CCC inventory as a result of marketing assistance loan forfeitures are available for donation overseas under section 416(b). The availability is in addition to and will complement the use of the 5,000,000 metrics tons of wheat currently being purchased under section 5(d) of the CCC Charter Act.

FOR FURTHER INFORMATION CONTACT: Ira Branson, Director, CCC Program Support Division, FAS, USDA, (202) 720–3573.

Dated: March 12, 1999.

Timothy J. Galvin,
Acting Vice President, Commodity Credit Corporation.

[FR Doc. 99–6717 Filed 3–18–99; 8:45 am]
BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the Second Quarter of 1999

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the second quarter of 1999.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the second calendar quarter of 1999.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning April 1, 1999, and ending June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, Room 0227–S, Stop 1524, 1400 Independence Avenue, SW, Washington, DC 20250–1500. Telephone: 202–720–1928. FAX: 202–690–2268. E-mail: CDotson@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the second calendar quarter of 1999 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the "Bond Buyer" for the four weeks prior to the third Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of "Municipal Market Data—General Obligation Yields" or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 1999 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based on the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.000 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the second calendar quarter of 1999.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2020 or later	5.000
2019	5.000
2018	5.000
2017	4.875
2016	4.875
2015	4.875
2014	4.750
2013	4.625
2012	4.625
2011	4.500
2010	4.375
2009	4.250
2008	4.250
2007	4.125
2006	4.000
2005	3.875
2004	3.875
2003	3.625
2002	3.375
2001	3.250
2000	3.000

Dated: March 12, 1999.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 99–6718 Filed 3–18–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Monthly Wholesale Trade Survey; Proposed Collection; Comment Request

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 18, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ronald Piencykoski, Bureau of the Census, Room 2626–FOB3, Washington, DC 20223–6500, at (301) 457–2779.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Monthly Wholesale Trade Survey provides the only continuous measure of monthly sales, end-of-month inventories, method of inventory valuation, and inventory/sales ratios in the United States by selected kinds of business for merchant wholesalers. The Bureau of Economic Analysis (BEA) uses this information to improve the inventory valuation adjustments applied to estimates of the Gross Domestic Product (GDP). The Bureau of Labor Statistics (BLS) uses the data as input to their Producer Price Indexes and in developing productivity measurements.

Estimates produced from the Monthly Wholesale Trade Survey are based on a probability sample. The sample design consists of one fixed panel where all cases are requested to report sales and inventories each month. We currently publish wholesale sales and inventory estimates on the Standard Industrial Classification (SIC) basis. Starting in the spring of 2001, we will publish on the North American Industry Classification System (NAICS) basis. The SIC definition of wholesale trade and the NAICS definition of wholesale trade are substantially different. The SIC defines wholesalers as establishments engaged in selling merchandise to other businesses. NAICS distinguishes wholesalers from retailers based on what the establishment does rather than to whom the establishment sells. Wholesalers are defined as those establishments that sell from offices or warehouses, usually in large quantities, advertise to businesses rather than to the general public, and generally have no walk-in traffic or formal displays. Businesses, formerly classified in wholesale trade, that sell to the general public are now classified as retail.

NAICS provides a better way to classify individual businesses, and will be widely adopted throughout both the public and private sectors. NAICS will change the information that is currently available with reclassifications, definitional changes, and movement of activities in or out of wholesale trade. NAICS is more relevant as it identifies more industries that contribute to today's growing economy. NAICS was developed by the United States, Canada,

and Mexico to produce comparable data among the NAFTA partners.

In addition to converting from the SIC to NAICS, the Monthly Wholesale Trade Survey will convert its monthly report form to a print-on demand system. This new system allows us to tailor the survey instrument to a specific industry. For example, it will print an additional instruction for a particular NAICS code. This system also reduces the time and cost of preparing mailout packages that contain unique variable data, while improving the look and quality of the products being produced.

II. Method of Collection

We collect this information by mail, fax, and telephone follow-up.

III. Data

OMB Number: 0607–0190.
Form Number: B–310 (97).
Type of Review: Regular Submission.
Affected Public: Wholesale firms in the United States.
Estimated Number of Respondents: 3,800.
Estimated Time Per Response: 7 minutes.
Estimated Total Annual Burden Hours: 5,320.
Estimated Total Annual Cost: The cost to the respondents for fiscal year 1999 is estimated to be $103,687 based on the mean hourly salary of $19.49 for accountants and auditors. ("Occupational Employment Statistics—Bureau of Labor Statistics 1997 National Occupational Employment and Wage Data Professional, Paraprofessional, and Technical Occupations," $19.49 represents the median hourly wage of the full-time wage and salary earnings of accountants and auditors). Information on mean wages and salaries can also be found at Internet site http://stats.bls.gov/oes/national/oes__prof.htm.
Respondent's Obligation: The collection of information is voluntary.
Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 15, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–6741 Filed 3–18–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Participation Agreement and Trade Mission Application; Proposed Collection; Comment Request

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (2) (A)).

DATES: Written comments must be submitted on or before May 18, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: John Klingelhut, U.S. & Foreign Commercial Service, Export Promotion Services, Room 2810, 14th & Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482–4403, and fax number: (202) 482–2526.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Participation Agreement and Trade Mission Application forms are the vehicles by which individual firms agree to participate in the Department of Commerce's (DOC) trade promotion program, identify the products or services they intend to sell or promote, and record their required participation fees. The DOC is revising questions on the current Form ITA–4008P–1, "Trade Mission Application," to clarify and refine the information it seeks to ensure the best possible selection of participants for trade missions.

II. Method of Collection

Form ITA–4008P–1 is sent by request to potential U.S. firms.

III. Data

OMB Number: 0625–0147.
Form Number: ITA–4008P–1.
Type of Review: Revision-Regular Submission.
Affected Public: Companies seeking to apply to participate in overseas Commerce Department trade missions.
Estimated Number of Respondents: 7,800.
Estimated Time Per Response: 45 minutes.
Estimated Total Annual Burden Hours: 2,738 hours.
Estimated Total Annual Costs: The estimated annual cost for this collection is $148,417.00 ($98,369.00 for respondents and $50,048.00 for federal government).

IV. Request for Comments

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 15, 1999.

Linda Engelmeier,

Department Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–6740 Filed 3–18–99; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of Two Public Workshops Regarding Conformity Assessment Bodies for the EMC/Telecom Annexes of the US/EC Mutual Recognition Agreement and Telecommunication Certification Bodies for the Federal Communication Commission

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend two half-day workshops regarding conformity assessment bodies for the EMC/Telecom Annexes of the US/EC Mutual Recognition Agreement and Telecommunication Certification Bodies for the Federal Communication Commission. The first half day workshop will be for the development of requirements for a sub-program under the National Voluntary Conformity Assessment System Evaluation (NVCASE) Program, which will satisfy the product testing and quality system registration requirements of the EMC/Telecom Annexes of the United States/European Commission Mutual Recognition Agreement (MRA).

The second half-day workshop will be devoted to the development of requirements for another sub-program for Telecommunication Certification Bodies (TCBs) under NVCASE program. This sub-program will satisfy the product testing and quality system registration requirements of the Federal Communication Commission.

NVCASE procedures require NIST to consult the public when establishing requirements to be applied in evaluations conducted within the scope of NVCASE programs. NIST, Federal Communication Commission (FCC) and European Commission (EC) personnel will participate in these workshops. There is no fee for the workshops; however, all attendees must register in advance with the EMC/Telecom/TCBs Workshop Coordinator no later than April 16, 1999.

DATES: The workshop for the EMC/Telcom Annexes will be held on April 28, 1999, from 9:00 a.m. to 12:00 p.m. The workshop for the Telecommunication Certification Bodies will be held from 1:00 p.m. to 4:00 p.m. on April 28, 1999.

ADDRESSES: Both workshops will be held at Department of Commerce Auditorium, Herbert C. Hoover Building, located at 14th Street and Constituion Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION: For further information, you may telephone (301) 975–5120. You may register for one or both workshops by E-mail at scp@nist.gov or by fax at (301) 975–5414. You may also register by U.S. mail addressed to EMC/Telecom/TCBs Workshop Coordinator, NIST, 100 Bureau Drive, Stop 2100, Gaithersburg, MD 20899–2100.

SUPPLEMENTARY INFORMATION: In accordance with Title 15 Part 286.2(b) of the Code of Federal Regulations, NIST has established these programs pursuant to a written direction from another Federal Agency, the Federal Communication Commission (FCC). The FCC, in its GED Docket No. 98–68, designated NIST as the entity with primary responsibility for accrediting Telecommunications Certification Bodies under the NVCASE program. NIST may directly accredit TCBs or may, in consultation with the Commission, designate additional accreditation bodies who will, in turn, accredit TCBs. The Commission will identify for NIST, for example, the specific types of tests that need to be done for telecommunications equipment and the types of measurements that should be done to demonstrate compliance with their rules; the processes that TCBs will use to obtain current and correct interpretations of rules or test procedures; and, the consultative activities requiring TCB participation. The Commission will provide public notice of the methods that NST will use to accredit TCBs consistent with the qualification criteria adopted.

The NVCASE regulations found at 15 CFR Part 286 require NIST to consult the public when establishing requirements to be applied in evaluations conducted within the scope of NVCASE programs. These programs under NVCASE will allow U.S. bodies to satisfy the conformity assessment requirements of the EMC/Telecom annexes of the US/EC Mutual Recognition Agreement and will also allow TCBs to satisfy the conformity assessment requirements of FCC.

The NVCASE public workshops will follow the European Commission training workshop, which is to be held on April 27, 1999, for Conformity Assessment Bodies in which EC personnel will outline the requirements of the EMC/Telecom Annexes of the MRA. Both workshops will be held at the same location. The text of the US/EC MRA for the EMC/Telecom sectoral annexes can be accessed on the Internet at http://www.iep.doc.gov/mra/mra.htm. NIST, FCC and EC personnel will participate in the EC training workshop.

Dated: March 15, 1999.

Raymond G. Kammer,

Director.

[FR Doc. 99–6772 Filed 3–18–99; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

Technology Administration

[Docket No. 990122027–9027–01]

RIN 0692–ZA02

Announcement of Availability of Funding for Competitions—Experimental Program To Stimulate Competitive Technology (EPSCoT)

AGENCY: Office of Technology Policy, Technology Administration, Commerce.

ACTION: Notice.

SUMMARY: The Technology Administration's Office of Technology Policy (OTP) announces the availability of funding for the following competition to be held in fiscal year 1999 under the Experimental Program to Stimulate Competitive Technology (EPSCoT). The EPSCoT will support technology-based economic growth in eligible states by promoting partnerships between state and local governments, universities, community colleges, non-profit organizations and the private sector. This notice provides general information for the competition planned for fiscal year 1999.

DATES: Complete applications for the Fiscal Year 1999 EPSCoT grant program must be mailed or hand-carried to the address indicated below and *received* by the Technology Administration no later than 5:00 P.M. EST, May 14, 1999. Postmark date is not sufficient. Applications which have been provided to a delivery service will be accepted for review *if the applicant can document that the application was provided to the delivery service by May 13, 1999 with delivery to the address listed below guaranteed prior to the closing date and time.* Applications will not be accepted via facsimile machine transmission or electronic mail.

ADDRESSES: U.S. Dept. of Commerce, Technology Administration, Attn: EPSCoT Director, Anita Balachandra, 1401 Constitution Avenue NW, HCHB Room 4418, Washington, DC 20230.

Note: Due to Departmental security policies, hand carried packages must be delivered to Rm 1874.

FOR FURTHER INFORMATION CONTACT: Anita Balachandra, Director of the Experimental Program to Stimulate Competitive Technology, Telephone: (202) 482–1320, Fax: (202) 219–8667, Email: *epscot@ta.doc.gov*.

Information on the EPSCoT is also available at: *http://www.ta.doc.gov/epscot*

For fax and email inquiries, please include a name, mailing address, and phone number.

SUPPLEMENTARY INFORMATION:

Authority

The statutory authority for the EPSCoT is the Technology Administration Act of 1998, codified at 15 U.S.C. 3704(f).

Catalog of Federal Domestic Assistance

The CFDA number is 11.614—Experimental Program to Stimulate Competitive Technology (EPSCoT)

Program Description

The Experimental Program to Stimulate Competitive Technology (EPSCoT) will support technology-based economic growth in eligible states by promoting partnerships among state and local governments, universities, community colleges, non-profit organizations and the private sector. Through these partnerships, EPSCoT seeks to support local efforts to:

- Build state-side institutional capacity to support technology commercialization
- Create the business climate that is conducive to technology development, deployment and diffusion

The EPSCoT will provide financial assistance in eligible states for activities that foster the growth of technology-oriented businesses.

The EPSCoT parallels the National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCoR). While EPSCoR's primary emphasis is improving the competitive performance of major research universities of these states, EPSCoT seeks to support state efforts to improve its commercial technology base.

Funding Availability

In fiscal year 1999,

- Approximately $2 million is available
- TA anticipates that between six and eight grants will be awarded
- Funding for multiple year awards will be contingent on the *achievement of annual milestones.*

Matching Funds Requirements

Grant recipients under this program are required to provide matching funds toward the total project cost

- For single-state proposals, TA will provide up to 50% of the total project cost
- For multi-state proposals, TA will provide up to 75% of the total project cost
- Applicants must document the capacity to supply matching funds
- Matching funds may be in the form of cash
- In-kind match may not exceed 25% of the total project cost
- If an applicant incurs any project costs prior to the start date negotiated at the time the award is made, it does so solely at its own risk of not being reimbursed by the government and it will not be allowable as "match."
- Federal funds (such as grants) generally may not be used as matching funds, except as provided by federal statute. For information about whether particular federal funds may be used as matching funds, the applicant should contact the federal agency that administers the funds in question.
- Information on administrative requirements for financial assistance can be found in 15 CFR Part 14 and 15 CFR Part 24, as applicable. Applicable cost principles are the following: OMB Circular A–87 for State, local, or Federally-recognized Indian tribal governments, OMB Circular A–122 for non-profit organizations, OMB Circular A–21 for educational institutions, and the Federal Acquisition Regulations, 48 CFR Part 31 for commercial organizations.

Type of Funding Instruments

- The funding instruments for awards under this program shall be grants and cooperative agreements.

Eligibility Criteria

By law, the program is open to "those states that have historically received less Federal R&D funds than a majority of the states." (15 U.S.C. 3704(f)) Listed below are the states that ranked lower than 26th in the distribution of Federal Research and Development funds between 1990–1996.[1]

Eligible organizations shall be headquartered in one of the following states: Alaska, Arkansas, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Utah, Vermont, West Virginia, Wisconsin, Wyoming and the Commonwealth of Puerto Rico.

Within these states, state, local, or Indian tribal governments, community colleges, universities, non-profit organizations, private (for-profit) organizations, technology business centers, business incubators, industry councils *or any combination of these entities* may submit proposals.

- TA shall not award more than one EPSCoT grant per grant round within a single state[2].
- Multi-state proposals do not count as projects submitted by an organization from a single state.
- Entities that are not headquartered in one of the eligible states, such as national or regional organizations or federal laboratories, may participate as partners, but may not serve as lead organizations.
- The lead organization is the organization to which funds will be disbursed—this is the organization that is listed in Box 5 of Standard Form 424.

Award Period

- Awards will be made for between 12 and 36 months
- Multiple year awards will be contingent on the *achievement of annual milestones.*

Proposal Format

Application Forms

A complete proposal will include the following *in the following order*:

- Standard Form 424, Application for Federal Assistance
- Executive Summary (125 words)
- Project Narrative (no more than 10 pages)
- Task-Based Budget Narrative
- Statement of Matching Funds
- Optional: Appendices, Timeliness, Letters of support
- Standard Form 424A
- Standard Form 424B: Assurances
- Standard Form CD–511: Certificates
- Standard Form LLL: Disclosure of Lobbying Activities (*if applicable*)
- *Upon selection for an award,* applicants will be required to submit a Standard Form CD–346

The total package may not exceed 30 pages, not including the standard forms.

Pagination

The pages of an EPSCoT application should be numbered consecutively, starting with the first page of the Project

[1] The ranking is based on the *average* Federal R&D investment over the years 1990–96.

[2] The Technology Administration reserves the right to make an exception in the event that an organization submits a single state proposal and that state is implicated in a multi-state proposal and both are final candidates for awards.

Narrative. Applicants may insert a Table of Contents after the Standard Form 424 and before the Project Narrative to assist reviewers in locating information.

Page Formats

The proposal should be typed, single-spaced, on 8½" × 11" paper. All text should be prepared using a font of no less than 12 point with margins of no less than one inch (1").

Total Number of Copies

TA requests that each applicant submit one (1) original singed proposal and two (2) copies. The copy with original signatures should clearly be marked "Original." Each duplicate should be clearly marked "Copy." The copy marked "Original" must be clipped with a binder clip. The two copies must each be stapled.

Signatures

Signatures are required in the following places in the application

- Bottom (box 18d) of Standard Form 424, Application for Federal Assistance
- Back page of Standard Form 424B, Assurances
- Bottom of back page of Standard Form CD–511, Certifications
- Bottom of Standard Form LLL, Disclosures of Lobbying Activities (*if applicable*)

Standard Forms 424, 424B, CD–511 and LLL should be signed by someone who is authorized to commit the applicant organization(s), such as the Chief Executive Officer, Chief Financial Officer, President, or Executive Director. Original signatures should be in blue ink so that the original proposal can be easily distinguished from the duplicate copies.

Page Limit

The total proposal must not exceed 30 pages, including a 125-word Executive Summary, 10-page Project Narrative, and Budget Narrative. The 30-page limit includes all text, tables, illustrations, maps, letters, references, résumés and supporting documents, and *excludes* the Standard Forms. Applicants are advised that appendices and Curriculum Vitae should be limited to professional experience that is *directly relevant to the proposed activity*.

Contact Information

Applicants must provide the following contact information on Standard Form 424:

- Legal name
- Complete mailing address
- Telephone number
- Fax number
- Name of a contact individual
- Electronic mail address, if any.

If any of this contact information changes after the application is submitted, the applicant must immediately notify EPSCoT in writing.

Narrative Elements

Each proposal must address the following: It is recommended that the project narrative be organized in these five sections.

(1) Project Definition

- Describe the proposed activity and how it was identified.
- Describe how the proposed activity will address a specific problem.
- Describe the appropriate stakeholders and partners and how they are engaged in this process.

(2) Project Impact

- Explain why the proposed activity is a good investment of Federal funds.
- Describe how the proposed activity represents an innovation in technology-based economic development.
- Describe the expected impact of the proposed activity.
- Describe how the proposed activity will be completed within the grant life, or become self-sustaining afterward.
- Demonstrate that the proposed activity is new to the state; EPSCoT will not subsidize the operating costs of existing activities.

(3) Engagement With the Private Sector

- Describe the engagement of small high-tech businesses.
- Describe how the proposed activity will improve the state's capacity to support small high-technology businesses.
- Demonstrate that the proposed activity responds to the needs of small high-tech businesses.

(4) Coordination Within and/or Among States

- Describe how the proposed activity relates to, or builds upon, the strategic plans developed for economic development, science and technology and NSF EPSCoR.
- Describe how collaborators were identified.
- Describe how the proposed activity supports or furthers the collaborators' missions.

(5) Project Feasibility

- Describe the qualifications of personnel.
- Describe how the project will be managed.
- Describe how decisions will be made between and among partners.
- Describe how funds will be allocated, given the project timeline and milestones. The budget should allow sufficient funds for evaluation, dissemination of results and participation in one meeting in Washington, DC.
- Demonstrate the ability to procure matching funds.
- Describe the quality of match: while in-kind contributions are allowable, preference will be given to those that are able to procure a cash match.
- Provide a task-based budget, relating project costs to specific tasks.

(6) Evaluation

- Describe the appropriate outcome-measures for the proposed activity
- Detail the timeline for the proposed activity, including specific milestones and tasks so that the benefits of the proposed activity are both measurable and severable.

Funding Priorities

EPSCoT is intended to strengthen the technological competitiveness of those states that have historically received less Federal R&D funds than a majority of the states. In order to have the greatest impact with limited funds, the program seeks to support the most innovative projects with the expectation that these projects will create new knowledge, develop successful institutional relationships, demonstrate new concepts that can be replicated, or develop concepts that can be sustained by other organizations at the end of the grant life. Similarly, applicants must demonstrate that they have made the maximum use of all available resources within the state.

Thus, EPSCoT's funding priorities are innovation and coordination within and/or among states. *EPSCoT funds are not intended for the construction of facilities, nor are they intended to subsidize an organization's operating costs.* EPSCoT is meant to assist states in their attempts to foster technology-based economic growth. A strategy for doing so should build on *local expertise and local resources*—those of the state government, research universities, community colleges, vocational schools, business community, finance community and any Federal resources the jurisdiction may have, such as national labs, manufacturing extension centers, or technology transfer centers. To this end, applicants must demonstrate that they are developing targeted and effective teaming arrangements among participating organizations.

The competition for EPSCoT awards is intense. Applications will undergo a

rigorous review and must be cost-share. They will be of a finite duration, ranging from 12 to 36 months. It is intended that EPSCoT projects will serve as models for other states.

Innovative Value of Project

Reviewers will be instructed to assess whether the proposed activity represents an innovation in technology-based economic development and whether the proposed activity is likely to improve the technological competitiveness of the state/region,

Coordination Within the State

Coordination within states is a principal priority of the EPSCoT. Multiple proposals from the same state will be scrutinized carefully, not only for redundancy, but also to determine whether the proposed activities will be carried out in isolation. Single proposals representing collaboration between stakeholders in a particular state will be reviewed more favorably.

Applicants are required to demonstrate familiarity with the strategic plans developed by the state's EPSCoR Committee, economic development agency and/or science & technology council. The proposed activity should be related to the stated priorities of these plans.

Applicants are required to specify whether they are applying for funds to improve the innovative capacity of the state, to facilitate cluster development within the state, or to undertake a planning activity. These designations are discussed below:

Improving the Innovative Capacity

Applicants may apply for EPSCoT funds in order to improve the state or region's innovative capacity.

Any such effort should begin with a solid analysis of the local economy and include an understanding of the industrial base, the existing network of services available to high-tech businesses and an assessment of any gaps in that network. A group of companies may seek to establish an entity that assists them to utilize existing resources more effectively or to provide a service that is currently not available. In either case, the objective should be to facilitate the growth of technology-oriented businesses.

Facilitating Cluster Development

The term "cluster" generally refers to a group of companies in related industries that are (1) geographically concentrated and (2) contributing to the wealth creation of the region in which they are concentrated. A state—or high technology council or other entity—may conduct a comprehensive analysis of the region's industrial base for the purpose of identifying budding clusters. When no single industry cluster is large enough to sustain an exclusive effort, companies, university researchers and public agencies might work together to address a problem that faces a group of companies in the region. Such an effort might involve developing a strategy that ties together the state's industrial base, universities and community colleges so that there are more local employment opportunities for graduates in science and technology fields.

Planning Grants

Applicants may apply for planning grants. A planning activity involving the research community, economic development agencies, private sector, science & technology councils, community colleges, and/or vocational schools, could lay the groundwork for a larger initiative. Such an effort would ideally build on previous efforts and integrate the complementary but distinct missions of the participating organizations toward common goals.

Multi-State Proposals

Recognizing that a regional economy may not always fit within the boundaries of one state, the Technology Administration will consider proposals for multi-state projects. The requirement of matching funds is reduced for multi-state proposals. Applicants are expected to demonstrate the proposed activity's importance to the stated economic development priorities of the participating states. Multi-state proposals will not be considered against each state's total.

Any of the activities described above could be launched on a regional scale. A group of high-technology industry councils could collaborate to develop resources in support of an emerging industry cluster. Applicants representing a group of states could work together to identify industry clusters and develop strategies to support those clusters. For example, such an initiative could improve technology access for micro-enterprises by harmonizing the technology licensing practices among the universities in participating states. A group of states could also cooperate to link and leverage their efforts in a specific area in order to provide a more seamless regional infrastructure.

Other Requirements

Each successful applicant will be required to travel to Washington and participate in a 2-day networking meeting. The purpose of this meeting is to brief the Technology Administration on the progress of the funded projects and to provide awardees with an opportunity to compare notes with one another.

In addition, awardees will be required to provide the Technology Administration with *quarterly* progress reports, consisting of a 1-2 page activity summary and a budget summary that relates to the project milestones. At the end of the grant period, a final project report is required before the final disbursement of funds. This report must explain the contribution of the funded activity to the state's competitiveness and measures of its success.

Evaluation Criteria

Proposals will be evaluated according to the following criteria:

(1) Project Definition (10 points)

Proposals will be evaluated on the clarity with which they

- Identify/define a specific problem or issue that the proposed activity is to address
- Identify stakeholders and partners
- Propose a solution—and specify the process for identifying this particular solution

(2) Project Impact (30 points)

Reviewers will be instructed to evaluate the degree to which the proposals:

- Explain why the proposed activity is a good investment of public funds.
- Demonstrate the greatest value per Federal dollar.
- Demonstrate that the proposed activity represents an *innovation* in technology-based economic development.
- Demonstrate that the proposed activity will have an *impact* on the state/region's industrial base.
- Address the needs of underserved areas.
- Demonstrate that the proposed activity will be completed within the grant life, or become self-sustaining afterward.

(3) Engagement With the Small High-Tech Business Community (202 points)

Proposals will be evaluated for the degree to which they:

- Demonstrate engagement of small high-tech businesses
- Demonstrate that the proposed activity does in fact increase the state/region's support of small high technology businesses
- Demonstrate that the proposed activity responds to the needs of small high tech businesses

(4) Coordination Within and/or Among States (20 points)

Proposals will be evaluated for the

- Degree to which they develop effective teaming arrangements between disparate organizations
- Degree to which the proposed activity builds upon the complementary missions of the partners
- Strength and diversity of support for the project within the state/region
- Partnerships involved—they must be clearly defined, mutually beneficial, and the commitments well documented
- Demonstrated understanding of the strategic plans developed by the state's EPSCoR committee, economic development agency and/or science and technology council. The proposed activity should relate to the stated priorities of these plans.

(5) Project Feasibility (10 points)

Proposals will be evaluated for the

- Adequacy of the personnel—their expertise and ability to carry out the proposed activity
- Capabilities of the applicant (lead) organization
- Clarity of the management plan, including the identification of partners and how decision-making responsibilities will be shared among he partners
- Clarity of the budget plan it should include a *task-based budget* that relates project costs to specific tasks and should be sufficiently detailed so that the relationship between budget items and milestones in the project narrative is clear
- Reasonableness of costs
- Demonstrated ability to provide or procure matching funds
- Quality of match: while in-kind contributions are allowabie, preference will be given to those that are able to provide a cash match

(6) Evaluation (10 points)

Each proposal must include a plan for evaluating the project and a plan for disseminating knowledge gained from the project. The evaluation plan must identify specific, quantifiable measurable outcomes of the proposed activity. *Outcomes should reflect benefits that are measurable on an annual basis.* The evaluation plan should include both quantitative and qualitative indicators and must identify specific evaluation methods. The evaluation plan should also capture the lessons learned during the project that will serve as pragmatic tips for others interested in replicating or adapting the project in other regions. Applications must include the qualifications of any proposed evaluators and sufficient funds in the budget to perform a thorough and useful evaluation of the project.

Finally, applicants must demonstrate a willingness to share information about their projects with interested parties, to host site visits, and to participate in demonstrations.

Selection Procedures

Each eligible application will first be reviewed by outside reviewers. Each reviewer will evaluate applications according to the *evaluation criteria* above. Each reviewer will make non-binding recommendations to a committee of Federal officials, chaired by the EPSCoT Director. This committee will prepare and present a set of recommended grant awards to the Selecting Official, the Under Secretary for Technology. The Committee's recommendations and the Under Secretary's review and approval will take into account the following:

- The evaluations of the outside reviewers,
- The evaluation criteria listed above,
- The degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes,
- The variety of the proposed activities,
- The availability of funds,
- The geographic distribution of the proposed grant awards, and
- The avoidance of redundancy and conflicts with the initiatives of other federal agencies

Intergovernmental Review

Applicants under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Additional Requirements

Federal Policies and Procedures

Recipients and subrecipients under the Experimental Program to Stimulate Competitive Technology (EPSCoT) shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Preaward Activities

Applicants (or their institutions) who incur any costs prior to the beginning of an award period do so solely at their own risk of not beging reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of TA to cover pre-award costs.

No Obligation for Future Funding

If an application is accepted for funding, TA has no obligationto provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of TA.

Deliquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(1) The deliquent account is paid in full,

(2) A negotiated repayment schedule is established and at least one payment is received, or

(3) Other arrangements satisfactory to DoC are made.

Name Check Reviews

All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's managment honesty or financial integrity.

Primary Application Certifications

All primary applicant institutions must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations must be provided;

(1) *Non-procurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Non-procurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug-Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(3) *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial

transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

(4) *Anti-Lobbying Disclosure.* Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

(5) *Lower-Tier Certifications.* Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512, is intended for the use of recipients and should not be transmitted to TA. SF–LLL submitted by any tier recipient or subrecipient should be submitted to TA in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Waiver Authority

It is the general intent of TA not to waive any of the provisions set forth in this Notice. However, under extraordinary circumstances and when it is in the best interests of the federal government, TA, upon its own initiative or when requested, may waive the provisions in this Notice. Waivers may only be granted for requirements that are discretionary and not mandated by statute. Any request for a waiver must set forth the extraordinary circumstances for the request and be included in the application or sent to the address provided in the **ADDRESSES** section above. The final determination will be made by the Selecting Official, the Under Secretary for Technology. TA will not consider a request to waive the application deadline for an application until the application has been received. In the event that this authority is exercised, the Under Secretary will sign a memorandum for the file setting forth the justification for the waiver.

Indirect Costs

No Federal funds will be authorized for Indirect Costs (IDC); however, an applicant may provide for IDC under their portion of Cost Sharing.

Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the DoC will reimburse the Recipient shall be the lesser of:

(a) The Federal share of the total allocable indirect costs of the award based on the negotiated rate with the cognizant Federal Agency as established by audit or negotiation; or

(b) The line item amount for the Federal share of indirect costs contained in the approved budget of the award.

Freedom of Information Act

Because of the high level of public interest in projects supported by the EPSCoT, the program anticipates receiving requests for copies of successful applications. Applicants are hereby notified that the applications they submit are subject to the Freedom of Information Act (FOIA). Applicants may identify sensitive information and label it "confidential" to assist TA in making disclosure determinations.

Purchase of American-Made Equipment and Products

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Paperwork Reduction Act

This Notice involves collections of information subject to the paperwork Reduction act (PRA), which have been approved by the Office of Management and Budget (OMB) under OMB Control Numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046. Notwithstanding any other provision of law no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection displays a current valid OMB control number.

Executive Order Statement

This funding notice was determined to be "not significant" for purposes of Executive Order 12866.

Gary R. Bachula,

Acting Under Secretary for Technology.

[FR Doc. 99–6719 Filed 3–18–99; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 12, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: March 23, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Upon a request from the Government of the Dominican Republic, the U.S. Government has agreed to increase the current Guaranteed Access Level for Categories 338/638 to 3,150,000 dozen.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 63297, published on November 12, 1998.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 12, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 5, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic

and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on March 23, 1999, you are directed to increase the Guaranteed Access Level for Categories 338/638 to 3,150,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–6725 Filed 3–18–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Mercantile Exchange for Designation as a Contract Market in S&P Euro Index Futures and Options and S&P Euro Plus Index Futures and Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed commodity futures and options contract.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in the Euro Index Futures and Options and as a contract market in S&P Euro Plus Index Futures and Options contracts. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov*. Reference should be made to the CME S&P Euro Index and Euro Plus Index futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Michael Penick of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (202) 418–5279. Facsimile number: (202) 418–5527. Electronic mail: *mpenick@cftc.gov*.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on March 12, 1999.

John R. Mielke,

Acting Director.

[FR Doc. 99–6662 Filed 3–18–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership Change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Services Reform Act of 1978, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairperson: Linda Ferren, Executive Director. Members: Susan G. Lee, Executive Assistant to the Chairperson; Daniel Waldman, General Counsel; John Mielke, Acting Director, Division of Economic Analysis; Geoffrey Aronow, Director, Division of Enforcement; I. Michael Greenberger, Director, Division of Trading and Markets.

DATES: This action will be effective on March 15, 1999.

ADDRESSES: Commodity Futures Trading Commission, Office of Human Resources, Three Lafayette Centre, Suite 4100, Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Marsha E. Scialdo, Director, Office of Human Resources, Commodity Futures Trading Commission, Three Lafayette Centre, Suite 4100, Washington, DC 20581, (202) 418–5003.

SUPPLEMENTARY INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, July 1, 1998.

Issued in Washington, DC on March 15, 1999.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 99–6792 Filed 3–18–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Technology, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense for Acquisition and Technology announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on

respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 18, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Standardization Program Office (DLSC–LM), 8725 John J. Kingman Road, Suite 2533, For Belvoir, VA 22060–6221, *Attn:* Ms. Karen Bond.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Defense Standardization Program Office, at (703) 767–6871.

Title, Associated Form, and OMB Number: Acquisition Management Systems and Data Requirements Control List (AMSDL); Numerous Forms; OMB Number 0704–0188.

Needs and Uses: The Acquisition Management Systems and Data Requirements Control List (AMSDL) is a list of data requirements used in Department of Defense (DoD) contracts. The information collected will be used by DoD personnel and other DoD contractors to support the design, test, manufacture, training, operation, and maintenance of procured items, including weapons systems critical to the national defense.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Annual Burden Hours: 52,628,400.

Number of Respondents: 886.

Responses per Respondent: 540.

Average Burden Per Response: 110 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Acquisition Management Systems and Data Requirements Control List (AMSDL) is a list of data requirements used in Department of Defense contracts. Information collection requests are contained in DoD contract actions for supplies, services, hardware, and software. This information is collected and used by DoD and its component Military Departments and Agencies to support the design, test, manufacture, training, operation, maintenance, and logistical support of procured items, including weapons systems. The collection of such data is essential to accomplishing the assigned mission of the Department of Defense. Failure to collect this information would have a detrimental effect on the DoD acquisition programs and the National Security.

Dated: March 5, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–6676 Filed 3–18–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Procurement Technical Assistance Cooperative Agreement Performance Agreement; DLA Form 1806; OMB Number 0704–0320.

Type of Request: Reinstatement.

Number of Respondents: 84.

Responses Per Respondent: 2.

Annual Responses: 168.

Average Burden Per Response: 8 hours.

Annual Burden Hours: 1,344.

Needs and Uses: The Defense Logistics Agency uses the report as the principal instrument for measuring, on a semi-annual basis, a cooperative agreement recipient's performance against the goals and objectives as established in their application for which the award was made. Cooperative agreements are awarded on a competitive basis. Past performance is a major evaluation factor for selecting programs to be funded each fiscal year. Past performance data is obtained from the performance report. The data is used to measure recipient accomplishments against goals and objectives set forth in the application. The reported data also provides budget information used to monitor the expenditure of DoD funds and to assure that the DoD/recipient share ratio established at award is maintained. Additionally, the information is used to identify programs that are experiencing difficulty to establish the need for assistance an the frequency of on-site reviews.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

Frequency: Semi-Annually.

Respondent's Obligation: Required to obtain or retain benefits.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 15, 1999.

Patricia L. Toppings,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–6675 Filed 3–18–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0044]

Submission for OMB Review; Comment Request Entitled Bid/Offer Acceptance Period

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Bid/Offer Acceptance Period. A request for public comments was published at 63 FR 71915, December 30, 1998. No comments were received.

DATES: Comments may be submitted on or before April 19, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC

20405. Please cite OMB Control No. 9000–0044, Bid/Offer Acceptance Period, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

Bid acceptance period is the period of time from receipt of bids that is available to the Government to award the contract. This acceptance period is normally established by the Government. However, the bidder may establish a longer acceptance period than the minimum acceptance period set by the Government by filling in the blank. There are instances when the Government is unable to award a contract within the acceptance period due to unforeseen complications. Rather than incur the costly expense of readvertising, the Government requests the bidders to extend their bids for a longer period of time.

These data are placed with the respective bids and placed in the contract file to become a matter of record.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* minute per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *308*; responses per respondent, *40*; total annual responses, *12,320*; preparation hours per response, *.017*; and total response burden hours, *209*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0044, Bid/Offer Acceptance Period, in all correspondence.

Dated: March 16, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–6762 Filed 3–18–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children With Disabilities

AGENCY: Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS), DoD.

ACTION: Notice.

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children with Disabilities is scheduled to be held from 8:00 a.m. to 3:00 p.m. on April 13–14, 1999. The meeting is open to the public and will be held in the board room at the Fort Knox Community Schools District Office, Crittenberger School, Building 4553 Dixie Highway, Fort Knox, Kentucky 40121. The purpose of the meeting is to: (1) Discuss the panel's responsibilities under the DAP Charter and Part 80 of title 32, Code of Federal Regulations; (2) review and comment on data and information provided by the Department of Defense Domestic Dependent Elementary and Secondary Schools; and (3) establish subcommittees as necessary. Persons desiring to attend the meeting or desiring to make oral presentations or submit written statements for consideration by the panel must contact Dr. David V. Burket at (703) 696–4354, extension 1455.

Dated: March 15, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–6672 Filed 3–18–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Threat Reduction Advisory Committee

AGENCY: Office of the Undersecretary of Defense (Acquisition and Technology), Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Threat Reduction Advisory Committee will meet in closed session on March 25th and 26th, 1999. The Committee advises the Under Secretary of Defense (Acquisition and Technology) on technology security, counterproliferation, chemical and biological defense, sustainment of the nuclear weapons stockpile, and other matters related to the Defense Threat Reduction Agency's mission.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended 5 U.S.C., Appendix II, it has been determined that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1998), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

DATES: Thursday, March 25, 1999 (8:00 a.m. to 4:00 p.m.) and Friday, March 26, 1999 (8:00 a.m. to 12:00 noon).

ADDRESSES: Room 3E869, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION: Contact Major Joseph D. Pierce, Defense Threat Reduction Agency/AS, 45045 Aviation Drive, Dulles, VA 20166–7517. Phone: (703) 810–4064.

Dated: March 15, 1999.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 99–6674 Filed 3–18–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on April 6, 1999, April 13, 1999, April 20, 1999, and April 27, 1999 at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing

to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: March 15, 1999.

L.M. Bynum,

Alternate OSD Federal REgister Liaison Officer, Department of Defense.

[FR Doc. 99–6673 Filed 3–18–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.033]

Office of Postsecondary Education; Federal Work-Study Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for filing the "Institutional Application and Agreement for Participation in the Work-Colleges Program."

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an eligible institution to apply for participation in the Work-Colleges Program and to apply for funding under that program for the 1999–2000 award year (July 1, 1999 through June 30, 2000) by submitting to the Secretary an "Institutional Application and Agreement for Participation in the Work-Colleges Program."

The Work-Colleges Program along with the Federal Work-Study Program and the Job Location and Development Program are known collectively as the Federal Work-Study programs. The Work-Colleges Program is authorized by part C of title IV of the Higher Education Act of 1965, as amended (HEA).

CLOSING DATE: To participate in the Work-Colleges Program and to apply for funds for that program for the 1999–2000 award year, an eligible institution must mail or hand-deliver its "Institutional Application and Agreement for Participation in the Work-Colleges Program" to the Department on or before April 23, 1999. The Department will not accept the form by facsimile transmission. The form must be submitted to the Institutional Financial Management Division at one of the addresses indicated below.

ADDRESSES: *Applications and Agreements Delivered by Mail.* An institutional application and agreement delivered by mail must be addressed to Mr. Richard Coppage, Work-Colleges Program, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington D.C. 20026–0781. An applicant must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education. An institution is encouraged to use certified or at least first class mail.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office.

If an institutional application and agreement is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

Institutions that submit an institutional application and agreement after the closing date of April 23, 1999, will not be considered for participation or funding under the Work-Colleges Program for award year 1999–2000.

Applications and Agreements Delivered by Hand. An institutional application and agreement delivered by hand must be taken to Mr. Richard Coppage, Work-Colleges Program, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Office of Student Financial Assistance, U.S. Department of Education, Room 4714, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. Hand-delivered institutional applications and agreements will be accepted between 8:00 a.m. and 4:30 p.m. (Eastern time) daily, except Saturdays, Sundays, and Federal holidays. An institutional application and agreement for the 1999–2000 award year that is delivered by hand will not be accepted after 4:30 p.m. on April 23, 1999.

SUPPLEMENTARY INFORMATION: Under the Work-Colleges Program, the Secretary allocates funds when available for that program to eligible institutions. The Secretary will not allocate funds under the Work-Colleges Program for award year 1999–2000 to any eligible institution unless the institution files its "Institutional Application and Agreement for Participation in the Work-Colleges Program" by the closing date.

To apply for participation and funding under the Work-Colleges Program, an institution must satisfy the definition of "work-college" in section 448(e) of the HEA. The term "work-college" under the HEA means an eligible institution that (1) is a public or private nonprofit institution with a commitment to community service; (2) has operated a comprehensive work-learning program for at least two years; (3) requires all resident students to participate in a comprehensive work-learning program and the provision of services as an integral part of the institution's educational program and as part of the institution's educational philosophy; and (4) provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole.

Applicable Regulations

The following regulations apply to the Work-Colleges Program:

(1) Student Assistance General Provisions, 34 CFR Part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR Part 673.

(3) Federal Work-Study Programs, 34 CFR Part 675.

(4) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.

(5) New Restrictions on Lobbying, 34 CFR Part 82.

(6) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.

(7) Drug-Free Schools and Campuses, 34 CFR Part 86.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Coppage, Work-Colleges Program, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington, D.C. 20026–0781. Telephone (202) 708–4694. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World

Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 42 U.S.C. 2756b.

Dated: March 16, 1999.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

[FR Doc. 99–6801 Filed 3–18–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Availability of the Commercial Light Water Reactor Final Environmental Impact Statement, the Accelerator Production of Tritium Final Environmental Impact Statement, and the Tritium Extraction Facility Final Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of three Final Environmental Impact Statements (EISs): (1) the Commercial Light Water Reactor (CLWR) EIS, DOE/EIS–0288; (2) the Accelerator Production of Tritium (APT) EIS, DOE/EIS–0270; and, (3) the Tritium Extraction Facility (TEF) EIS, DOE/EIS–0271. The CLWR EIS evaluates the environmental impacts associated with producing tritium at one or more of five commercial light water reactors operated by the Tennessee Valley Authority. The APT EIS evaluates the environmental impacts associated with constructing and operating a linear accelerator at the Savannah River Site, near Aiken, South Carolina, for the production of tritium. The TEF EIS evaluates the environmental impacts associated with the construction and operation of a tritium extraction facility, at the Savannah River Site, to extract tritium from commercial light water reactor targets and targets of similar design.

ADDRESSES: A copy of the CLWR Final EIS, or its Summary may be obtained by calling 1–800–776–2765, or writing to: Mr. Jay Rose, Office of Technical and Environmental Support, DP–45, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

A copy of the APT Final EIS, and/or the TEF Final EIS, or their Summaries may be obtained by calling 1–800–881–7292, or writing to: Andrew Grainger, U.S. Department of Energy, Savannah River Operations, Office, Building 742A, Room 122, Aiken, South Carolina 29802.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy 1000 Independence Avenue, SW, Washington DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) is responsible for providing the nation with nuclear weapons and ensuring those weapons remain safe and reliable. Tritium, a radioactive isotope of hydrogen, is an essential component of every weapon in the current and projected U.S. nuclear stockpile.

Unlike other nuclear materials used in nuclear weapons, tritium decays at a rate of 5.5 percent per year. Accordingly, as long as the nation relies on a nuclear deterrent, the tritium in each nuclear weapon must be replenished periodically.

At present, the U.S. nuclear weapons complex does not have the capability to produce the amounts of tritium that will be required to support the nation's future stockpile. In 1995, DOE prepared the Tritium Supply and Recycling Programmatic Environmental Impact Statement (PEIS). In that PEIS, DOE considered a range of reasonable alternatives for obtaining the required quantities of tritium. In the December 1995 Record of Decision for the Tritium Supply and Recycling PEIS, DOE decided to pursue a dual-track approach on the two most promising tritium-supply alternatives: (1) to initiate purchase of an existing commercial reactor (operating or partially complete) or irradiation services with an option to purchase the reactor for conversion to a defense facility; and (2) to design, build, and test critical components of an accelerator system for tritium production (the Savannah River Site was selected as the location for an accelerator, should one be built).

On December 22, 1998, Secretary Bill Richardson announced that commercial light water reactors will be the primary tritium supply technology. The Secretary designated the Watts Bar Unit 1 nuclear reactor near Spring City, Tennessee, and the Sequoyah Unit 1 and 2 nuclear reactors near Soddy-Daisy, Tennessee, as the preferred CLWRs for tritium production. Each of these reactors is operated by the Tennessee Valley Authority. In his December 22, 1998 announcement, the Secretary also designated the APT as the backup technology for tritium supply. As a backup, DOE will continue with developmental activities and preliminary design, but will not construct the accelerator. Finally, in selecting the CLWR as the primary tritium supply technology, the Secretary reaffirmed a prior decision that a new tritium extraction capability will be constructed and operated at the Savannah River Site.

The final CLWR Final EIS is a stand alone document, which incorporates comments on the draft CLWR EIS received from the public. Because there were only minor changes to the APT and TEF draft EISs, DOE will not prepare completely revised documents as final EISs. Rather, DOE finalized the EISs by reference to the draft EISs and have issued these documents as records of changes to the draft EIS. Persons desiring copies of the APT and TEF draft EISs should contact Mr. Grainger at the above address.

No sooner than 30 days after publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**, DOE intends to issue a consolidated Record of Decision to formalize the December programmatic announcement and complete project-specific decisions for the three EIS.

Signed in Washington, DC this 15th day of March 1999, for the United States Department of Energy.

Victor H. Reis,

Assistant Secretary for Defense Programs.

[FR Doc. 99–6776 Filed 3–18–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–197]

Notice Extending the Public Scoping Period Public Service Company of New Mexico

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) announces the extension of the scoping period for the environmental impact statement (EIS) that is being prepared in connection with an application for a Presidential permit filed by Public Service Company of New Mexico. An EIS is being prepared because DOE has determined that the issuance of the Presidential permit would constitute a major Federal action that may have a significant impact upon the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA).

DATES: The scoping period on the EIS is extended until April 14, 1999.

ADDRESSES: Written questions and comments should be submitted to: Mrs. Ellen Russell, NEPA Document Manager, Office of Fossil Energy (FE–27), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington DC 20585–0350; Telephone (202) 586–9624; Facsimile: 202–287–5736; or electronic mail at Ellen.Russell@hq.doe.gov.

For general information on the Department's NEPA process, please contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington DC 20585; Telephone: 202–586–4600; or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION: Public Service Company of New Mexico has applied to DOE for a Presidential permit to construct an electric transmission line across the U.S.-Mexico border. The proposed transmission line would originate at the Palo Verde Nuclear Generating Station Switchyard located west of Phoenix, Arizona, and extend to the town of Santa Ana in the Mexican State of Sonora. On February 12, 1999, DOE published a notice in the **Federal Register**, (64 FR 7173) announcing its intent to prepare an EIS and to conduct public scoping meetings in the vicinity of the proposed line. The public scoping period was to continue until March 15, 1999. To ensure that the public has ample opportunity to provide comments, DOE is extending until April 14, 1999, the period during which it will receive comments for consideration in establishing the scope and content of the EIS. DOE has separately notified interested and affected stakeholders of the change in dates. Comments received after April 14, 1999, will be considered to the extent practicable. Further information on this proceeding is contained in the previously published Notice of Intent.

Issued in Washington, DC, on March 15, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Fossil Energy.

[FR Doc. 99–6774 Filed 3–18–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice Inviting Financial Assistance Applications

AGENCY: U.S. Department of Energy (DOE), Federal Energy Technology Center (FETC).

ACTION: Notice inviting financial assistance applications.

SUMMARY: The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (cooperative agreements) for the program entitled "Emission Control Technologies for Fine Particulate Matter, Ozone, and Related Environmental Issues." Through this solicitation, FETC seeks to support applications in the following areas of interest: (1) Cost Effective and Efficient Control of Nitrogen Oxide Emissions from Coal-Fired Electric Utility Boilers, and (2) Cost Effective and Efficient Control of Fine Particulate Emissions from Coal-Fired Electric Utility Boilers. Applications will be subjected to a review by a DOE technical panel, and awards will be made to a limited number of applicants based on a scientific and engineering evaluation of the responses received to determine the relative merit of the approach taken in response to this offering by the DOE, and funding availability.

FOR FURTHER INFORMATION CONTACT: Thomas J. Gruber, U.S. Department of Energy, Federal Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh PA 15236–0940, Telephone: (412) 892–5897, FAX: (412) 892–6216, E-mail: gruber@fetc.doe.gov. The solicitation (available in both WordPerfect 6.1 and Portable Document Format (PDF)) will be released on DOE's FETC World Wide Web Server Internet System (http://www.fetc.doe.gov/business/solicit) on or about March 15, 1999.

SUPPLEMENTARY INFORMATION:

Title of Solicitation: "Emission Control Technology for Fine Particulate Matter, Ozone, and Related Environmental Issues."

Objectives: Through Program Solicitation No. DE–PS26–99FT40288, the Department of Energy seeks applications for innovative technical approaches to ensure the continued use of domestic fossil fuels (i.e. coal) as an environmentally sound component of the U.S. overall energy mix well into the next century. This solicitation is specifically aimed at the development and testing of emission control technologies, processes, and concepts that have a high probability of commercial success and that can cost-effectively and efficiently reduce the level of NO_x and fine particulate matter. This solicitation is limited to those technologies, processes, and concepts that are applicable to utility boilers that combust U.S. coals as the primary fuel and that are retrofittable to existing coal-based power systems.

Eligibility: Eligibility for participation in this Program Solicitation is considered to be full and open. All interested parties may apply. The solicitation will contain a complete description of the technical evaluation factors and relative importance of each factor.

Areas of Interest: The Department is interested in obtaining applications in the following areas of interest: (1) Cost Effective and Efficient Control of Nitrogen Oxide Emissions from Coal Fired Electric Utility Boilers. Within this area of interest are two technical topics: (a) Advanced Technologies and Systems, and (b) Field Testing and Optimization; and (2) Cost Effective and Efficient Control of Fine Particulate Emissions from Coal Fired Electric Utility Boilers. Within this second area of interest are two technical topics: (a) Primary PM Emissions Control, and (b) Acid Aerosols/Condensable Emissions Control.

Awards: DOE anticipates issuing financial assistance (cooperative agreements) for each project selected. DOE reserves the right to support or not support, with or without discussions, any or all applications received in whole or in part, and to determine how many awards may be made through the solicitation subject to funds available. Approximately $12 million of DOE funding is planned for this solicitation. The estimated funding by the DOE is planned to be $1 million to $2 million per award. Cost sharing by the applicant is required, and details of the cost sharing requirement are contained in the solicitation.

Solicitation Release Date: The Program Solicitation is expected to be ready for release on or about March 15, 1999. Applications must be prepared and submitted in accordance with the

instructions and forms contained in the Program Solicitation.

Richard D. Rogus,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 99–6775 Filed 3–18–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES AND TIMES: Monday, March 22, 1999: 6:00 p.m.–6:15 p.m.: Public Comment Session; 6:15 p.m.–7:15 p.m.: Budget Review—Stakeholder Q&A; 7:30 p.m.–9:00 p.m.: Individual Subcommittee Meetings. Tuesday, March 23, 1999: 8:30 a.m.–4:00 p.m.

ADDRESSES: All meetings will be held at: University of South Carolina—Aiken, Business & Education Building, 171 University Parkway, Aiken, South Carolina 29801.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Public Accountability Specialist, Environmental Restoration and Solid Waste Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Monday, March 22, 1999

6:00 p.m. Public comment session (5-minute rule)
6:15 p.m. Budget Review—Stakeholder Q&A
7:30 p.m. Issues-based subcommittee meetings
9:00 p.m. Adjourn

Tuesday, March 23, 1999

8:30 a.m. Approval of minutes, agency updates (~15 minutes)
Public comment session (5-minute rule) (~ 10 minutes)
DOE—Senior Manager Update (~ 30 minutes)
Dose reconstruction study (~ 45 minutes)
Presentation of issues matrix (~ 15 minutes)
Risk management & future use subcommittee report (~ 1 hour)
Facilitator update (~ 15 minutes)
12:00 p.m. Lunch Environmental remediation and waste management subcommittee report (~ 1¾ hours)
Nuclear materials management subcommittee (~ 15 minutes)
Administrative subcommittee report (~ 30 minutes)
—Membership elections
Executive committee recap (~ 10 minutes)
Outreach subcommittee report (~ 10 minutes)
Budget subcommittee report (~ 10 minutes)
Public comment session (5-minute rule) (~ 10 minutes)
4:00 p.m. Adjourn

If necessary, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, March 22, 1999.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on March 16, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–6773 Filed 3–18–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. TM99–7–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 5, 1999, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of April 1, 1999.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS and Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules SST and FSS. The costs of the above referenced storage services comprises the rates and charges payable under ESNG's Rate Schedules GSS, LSS and CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS, LSS and CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the

web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6709 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1465–000]

Elwood Marketing, LLC; Notice of Issuance of Order

March 15, 1999.

Elwood Marketing, LLC (Elwood), a power marketer, filed an application requesting Commission approval to sell capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, Elwood requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Elwood. On March 12, 1999, the Commission issued an Order Conditionally Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's March 12, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Elwood should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Elwood is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Elwood, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Elwood's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–6742 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1261–000]

Energy East South Glens Falls, LLC; Notice of Issuance of Order

March 15, 1999.

Energy East South Glens Falls, LLC (Applicant), an affiliate of New York State Electric & Gas Corporation, filed an application for Commission authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, the Applicant requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by the Applicant. On March 11, 1999, the Commission issued an Order Granting Waiver Of Notice And Conditionally Accepting For Filing Tariff For Market-Based Power Sales (Order), in the above-docketed proceeding.

The Commission's March 11, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Energy East South Glens Falls, LLC should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 285.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Energy East South Glens Falls, LLC is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Energy East South Glens Falls, LLC, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Energy East South Glens Falls, LLC's issuances of securities or assumptions of liabilities* * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–6744 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–4–34–001]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 5, 1999, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, effective April 1, 1999:

Substitute Twenty-Third Revised Sheet No. 8A.01

FGT states that on February 25, 1999 in Docket No. TM99–4–34–000 (February 25 Filing), tariff sheets were filed pursuant to Section 27 of the General Terms and Conditions of FGT's Tariff to establish a Fuel Reimbursement Charge Percentage of 2.76% and a Unit Fuel Surcharge of <$0.0050> per MMBtu. FGT states that it is making the instant filing to correct the maximum usage charge for FGT's Rate Schedule FTS–2 in conformance with the tariff changes being filed concurrently herewith as discussed below.

On September 24, 1997, the Commission issued an order approving FGT's Stipulation and Agreement of Settlement (Settlement) in Docket Nos. RP96–366, et al. resolving all issues in its rate proceeding. The Settlement

included, among other things, a provision for tiered rates for FGT's Rate Schedule FTS–2, with FGT's filed rate becoming effective March 1, 1997, and decreases to become effective March 1, 1999 and March 1, 2000. Tariff Sheet 8A.01, which reflects FGT's Rate Schedule FTS–2 rates, included the tiered Settlement rates for all three periods, but the decreased rates effective March 1, 1999 and March 1, 2000 were contained in a footnote.

FGT is filing concurrently herewith to move the reservation and usage rates that became effective March 1, 1999 from the footnote to the columns on Sheet No. 8A.01 reflecting the currently effective FTS–2 rates.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6708 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–4–4–001]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 10, 1999, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the substitute revised tariff sheets listed below for effectiveness on April 1, 1999:

Substitute Eighteenth Revised Sheet No. 21
Substitute Nineteenth Revised Sheet No. 22

According to Granite State, the substitute revised tariff sheets above supersede the revised tariff sheets it filed on March 1, 1999, to make effective the Power Cost Adjustment (PCA) surcharge applicable to its firm transportation services during the second quarter of 1999. Granite State states that there was an error in the March 1 filing in calculating the interest in deriving one of the components of the surcharge—the Reconcilable PCA factor. The correct calculation increases this factor to <$0.3923> which reduces the Total PCA surcharge for the second quarter to $0.9334, according to Granite State.

Granite State further states that copies of its filing have been served on its firm transportation customers and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6707 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1248–000]

Harbor Cogeneration Company; Notice of Issuance of Order

March 15, 1999.

Harbor Cogeneration Company (Harbor Cogen), a California general partnership, filed a proposed market-based rate schedule requesting Commission authorization to engage in the sale of electric energy and capacity, as well as certain ancillary services at market rates, and for certain waivers and authorizations. In particular, Harbor Cogen requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Harbor Cogen. On March 11, 1999, the Commission issued an Order Conditionally Accepting For Filing Proposed Rate-Schedule For Sales of Capacity, Energy And Ancillary Services At Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's March 11, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Harbor Cogen should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, Harbor Cogen is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Harbor Cogen, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Harbor Cogen's issuances of securities or assumptions or liabilities* * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–6745 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA99–13–000]

Kaiser-Francis Oil Company; Notice of Petition for Adjustment

March 15, 1999.

Take notice that on February 5, 1999, Kaiser-Francis Oil Company (Kaiser-

Francis) filed a petition for staff adjustment in the above-referenced docket, pursuant to section 502(c) of the Natural Gas Policy Act of 1978. Kaiser-Francis requests authorization to defer payment to KN Interstate Gas Transmission Co. (KNI) and to escrow certain portions of the remaining refunds allegedly due KNI. Kaiser-Francis' petition is on file with the Commission and open to public inspection.

Kaiser-Francis contends that it is substantially and adversely affected by the potential Kansas ad valorem tax refund requirement to KNI and that, although it cannot support a request for total refund relief under the Commission's September 10, 1997 refund order [80 FERC ¶61,264 (1997)] and January 28, 1998 order denying rehearing [82 FERC ¶61,058 (1998)], the refund obligation has a harsh impact on Kaiser-Francis. Kaiser-Francis adds that it did not become aware of KNI's refund claim until December 19, 1998. Therefore, Kaiser-Francis requests authorization to defer the payment of the principal and interest attributable to royalties until March 9, 2000. In addition Kaiser-Francis seeks authorization to escrow, in a federally-insured financial institution: (1) the amounts attributable to royalty refunds which have not been collected from the royalty owner (principal and interest); (2) interest on royalty amounts which have been recovered from the royalty owners (the principal of which has been refunded); and (3) interest on the total amount of refunds allegedly due (excluding royalties).

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of the publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.105 and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6710 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–6–001]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 10, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective March 11, 1999:

Substitute Fifth Revised Sheet No. 130

Mid Louisiana states that the primary purpose of the filing is to replace Fifth Revised Sheet 130 which was previously submitted with incorrect issued and effective dates.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of Section 154.207, Notice Requirements, (18 CFR 154.207) of the Commission's regulations and any additional requirement of the Regulations in order to permit the tendered tariff sheet to become effective March 11, 1999, as submitted.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc/fed/us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6702 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1293–000]

Monmouth Energy, Inc.; Notice of Issuance of Order

March 15, 1999.

Monmouth Energy, Inc. (Monmouth), a wholly-owned subsidiary of DQE Energy Services, Inc., filed a revised Power Purchase Agreement (PPA) between Monmouth and GPU Energy requesting Commission approval of the revised PPA, and for certain waivers and authorizations. In particular, Monmouth requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Monmouth. On March 12, 1999, the Commission issued an Order Accepting For Filing Proposed Revised Power Purchase Agreement, Directing Refunds, And Allowing Market-Based Rates For Uncommitted Energy (Order), in the above-docketed proceeding.

The Commission's March 12, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (F), (G), and (I):

(F) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Monmouth should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(G) Absent a request to be heard within the period set forth in Ordering Paragraph (F) above, Monmouth is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Monmouth, compatible with the public interest and reasonably necessary or appropriate for such purposes.

(I) The Commission reserves that right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Monmouth's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene

or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–6743 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–963–000]

Nevada Sun-Peak Limited Partnership; Notice of Issuance of Order

March 15, 1999.

Nevada Sun-Peak Limited Partnership (Sun-Peak), an exempt wholesale generator, submitted for filing as a market-based rate an amended and restated Power Purchase Agreement between Sun-Peak and Nevada Power Company. Sun-Peak also requested certain waivers and authorizations. In particular, Sun-Peak requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Sun-Peak. On March 10, 1999, the Commission issued an Order Rejecting Proposed Market-Based Rates, Accepting Power Purchase Agreement For Filing, And Granting Waivers (Order), in the above-docketed proceeding.

The Commission's March 10, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Sun-Peak should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Sun-Peak is hereby authorized to issue securities and assume obligations and liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Sun-Peak, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Sun-Peak's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–6747 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–000]

Northern Natural Gas Company; Notice of Informal Settlement Conference

March 15, 1999.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10:00 a.m. on Tuesday, March 23, 1999, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of drafting a settlement document in the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Sandra J. Delude at (202) 208–0583, Bob Keegan at (202) 208–0158, or Edith A. Gilmore at (202) 208–2158.

David P. Boergers,

Secretary.

[FR Doc. 99–6711 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1228–00]

Storm Lake Power Partners II LLC; Notice of Issuance of Order

March 15, 1999.

Storm Lake Power Partners II LLC (Storm Lake II), an affiliate of Portland General Electric Company, filed an application to engage in wholesale power sales at market-based rates pursuant to an Alternate Energy Production Electric Service Agreement (Purchase Power Agreement), and for certain waivers and authorizations. In particular, Storm Lake II requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Storm Lake II. On March 11, 1999, the Commission issued an Order Accepting For Filing Process Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's March 11, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Storm Lake II should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, Storm Lake II is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Storm Lake II, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of storm Lake's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 12, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–6746 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project 2169, NC/TN]

Tapoco, Inc.; Notice of Meeting on Initial Information Package and Project Site Visit for an Alternative Licensing Procedure

March 15, 1999.

The Commission's regulations allow applicants to prepare their own Environmental Assessment (EA) for hydropower projects and file it with the Federal Energy Regulatory Commission (Commission) along with their license application as part of an alternative licensing procedure (ALP).[1] On February 9, 1999, the Commission approved the use of an ALP in the preparation of the license application for Tapoco, Inc.'s (Tapoco) Tapoco Project, No. 2169. The 326.5-megawatt Tapoco (originally known as the Tallasee project) project is located on the Little Tennessee and its tributary, the Cheoah River, in Blount and Monroe Counties, Tennessee, and Graham and Swain Counties, North Carolina.

The ALP include provisions for the distribution of an initial information package (IIP), and for the cooperative scoping of environmental issues and information needs. Tapoco plans to distribute its IIP for the Tapoco Project on March 12, 1999 to the mailing list for this proceeding.

Public Meeting and Project Site Visit

Tapoco will hold an informational meeting and project site visit on April 13 and 14, 1999. The purpose of the meeting is to review the information presented in the IIP and to initiate the identification of areas of interest which should be addressed in the licensing and related Applicant Prepared Environmental Assessment (APEA) processes. The meeting portions of the two day agenda will be held at the Calderwood Service Building at the Calderwood Development of the Tapoco Project. The specifics of the agenda will be provided in the IIP.

[1] 81 FERC ¶ 61,103 (1997)

The site visit is intended to provide the opportunity for interested individuals to learn more about the project, its operations and the surrounding environment. Planned activities include facility tours, visits to public access sites, and tours of the project reservoirs and waterways.

Based on feedback received on the IIP and the project site visit, Tapoco will prepare a Scoping Document 1 (SD1) which will provide information on the scoping process, APEA schedule, background information, potential environmental issues, and proposed project alternatives. Additional meetings may be held in May and June to assist in the development of SD1.

Tapoco anticipates issuing SD1 during the third quarter of 1999. Upon issuance of SD1, Tapoco and the Commission will issue public notice of its availability and will hold a public scoping meeting(s) pursuant to the National Environmental Policy Act of 1969 (NEPA).

All interested individuals, organizations, and agencies are invited and encouraged to attend the information meeting on the IIP and project site visit and to assist in the identification of environmental issues that should be included in SD1.

For further information regarding the informational meeting and project site visit or to be added to the mailing list for the Tapoco ALP, please contact Ms. Sue Fugate of Tapoco at (423) 977–3321 or Ronald McKitrick of the Commission's staff at (770) 452–3778.

The IIP which includes the agenda may be viewed on the web at http://ww.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 99–6703 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–12–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

March 15, 1999.

Take notice that on March 10, 1999, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of refunds received from CNG Transmission Corporation (CNG).

On February 12, 1999, in accordance with Section 4 of its Rate Schedule LSS and Section 3 of its Rate Schedule GSS, Transco states that it refunded to its LSS and GSS customers $6,493,319.52 resulting from the estimated refund of CNG Transmission Corporation's Docket No. RP97–406, et al. The refund covers the period from January 1998 to December 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 22, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6701 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–90–000, et al.]

Frontera Generation Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

March 10, 1999.

Take notice that the following filings have been made with the Commission:

1. Frontera Generation Limited Partnership

[Docket No. EG99–90–000]

Take notice that on March 8, 1999, Frontera Generation Limited Partnership, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, filed with the Federal Energy Regulatory Commission, an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Frontera Generation Limited Partnership is a limited partnership, organized under the laws of the State of Delaware,. and engaged directly and exclusively in owning and operating the Frontera Generation Limited

Partnership electric generating facility (the Facility) to be located in Hidalgo County, Texas, and selling electric energy and related ancillary services at wholesale from the Facility. The Facility will consist of two combustion turbine generators and one steam turbine generator, with a combined nominal rating of approximately 500 MW, a metering station, and associated transmission interconnection components.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Orange and Rockland Utilities, Inc.; Consolidated Edison Company of New York, Inc.; Southern Energy NY–GEN, L.L.C.; Southern Energy Bowline, L.L.C.; Southern Energy Lovett, L.L.C.

[Docket No. EC99–46–000]

Take notice that on March 5, 1999, pursuant to Section 203 of the Federal Power Act, Orange and Rockland Utilities, Inc. (O&R), Consolidated Edison Company of New York, Inc. (Consolidated Edison), Southern Energy NY–GEN, L.L.C. (Southern Energy NY-GEN), Southern Energy Bowline, L.L.C. (Southern Energy Bowline) and Southern Energy Lovett, L.L.C. (Southern Energy Lovett) (Southern Energy NY–GEN, Southern Energy Bowline and Southern Energy Lovett are referred to collectively as the Southern Energy Parties), filed a joint Application seeking all authorizations from the Commission necessary for the completion of a series of transactions (Divestiture Transaction) pursuant to which O&R and Consolidated Edison will divest all units at the Bowline Generating Station, O&R's Lovett Generating Station, O&R's four small hydroelectric generating stations (Montaup Hydroelectric Station, Swinging Bridge Hydroelectric Station, Rio Hydroelectric Station, and Grahamsville Hydroelectric Station) and O&R's two gas turbine generating stations (Hillburn and Shoemaker Gas Turbine Generating Stations) through the sale of such assets to the Southern Energy Parties.

The Applicants have requested an effective date of April 15, 1999.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Arizona Public Service Company v. Idaho Power Company

[Docket No. EL99–44–000]

Take notice that on March 3, 1999, Arizona Public Service Company filed a complaint against Idaho Power Company and a request for expedited consideration.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. FirstEnergy Trading and Power Marketing, Inc.

[Docket No. ER99–1119–000]

Take notice that on March 5, 1999, FirstEnergy Trading and Power Marketing, Inc. tendered for filing its response to the Staff deficiency letter of February 2, 1999 in the above styled case. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Enjet, Inc.

[Docket No. ER99–2061–000]

Take notice that on March 4, 1999, Enjet, Inc. (Enjet) petitioned the Commission for acceptance of its Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain of the Commission's Regulations.

Enjet intends to engage in wholesale electric power and energy purchases and sales as a power marketer. Enjet is not in the business of generating or transmitting electric power.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Northeast Utilities Service Company

[Docket No. ER99–2062–000]

Take notice that on March 4, 1999, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company and Public Service Company of New Hampshire, tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's Regulations, a rate schedule change for sales of electric energy to Commonwealth Electric Company (CEC).

NUSCO states that a copy of this filing has been mailed to CEC.

NUSCO requests that the rate schedule change become effective on April 1, 1999.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Central Power and Light Company

[Docket No. ER99–2063–000]

Take notice that on March 4, 1999, Central Power and Light Company (CPL) filed an Interconnection Agreement between CPL and Magic Valley Generation, L.P. (Magic Valley).

CPL requests an effective date for the Interconnection Agreement of February 25, 1999. Accordingly, CPL requests waiver of the Commission's notice requirements.

CPL states that a copy of the filing was served on Magic Valley and the Public Utility Commission of Texas.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Central Maine Power Company

[Docket No. ER99–2064–000]

Take notice that on March 4, 1999, Central Maine Power Company (CMP) tendered for filing an Executed Service Agreement for sale of capacity and/or energy entered into with Constellation Power Source, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

CMP respectfully requests that the Service Agreement become effective as of March 1, 1999.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Smarr EMC

[Docket No. ER99–2065–000]

Take notice that on March 4, 1999, Smarr EMC tendered for filing an initial rate schedule pursuant to Section 205 of the Federal Power Act and Section 35.12 of the regulations of the Federal Energy Regulatory Commission.

This filing consists of the Power Purchase Agreements, dated November 1, 1998, between Smarr EMC and each of its 36 member distribution cooperatives (Members), pursuant to which Smarr EMC will sell power and/or energy to those Members.

Smarr requests that the rate scheduled become effective upon May 3, 1999.

Copies of the filing were served upon Altamaha Electric Membership Corporation, Amicalola Electric Membership Corporation, Canoochee Electric Membership Corporation, Carroll Electric Membership Corporation, Central Georgia Electric Membership Corporation, Coastal Electric Membership Corporation, Cobb Electric Membership Corporation, Colquitt Electric Membership Corporation, Coweta-Fayette Electric Membership Corporation, Excelsior

Electric Membership Corporation, Flint Electric Membership Corporation, Greystone Power Corporation, Habersham Electric Membership Corporation, Hart Electric Membership Corporation, Irwin Electric Membership Corporation, Jackson Electric Membership Corporation, Jefferson Energy Cooperative, Lamar Electric Membership Corporation, Little Ocmulgee Electric Membership Corporation, Middle Georgia Electric Membership Corporation, Ocmulgee Electric Membership Corporation, Oconee Electric Membership Corporation, Okefenoke Rural Electric Membership Corporation, Pataula Electric Membership Corporation, Planters Electric Membership Corporation, Rayle Electric Membership Corporation, Satilla Rural Electric Membership Corporation, Sawnee Electric Membership Corporation, Slash Pine Electric Membership Corporation, Snapping Shoals Electric Membership Corporation, Sumter Electric Membership Corporation, Tri-County Electric Membership Corporation, Troup Electric Membership Corporation, Upson Electric Membership Corporation, Walton Electric Membership Corporation, Washington Electric Membership Corporation (the 36 member cooperatives) and the Georgia Public Service Commission.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Virginia Electric and Power Company

[Docket No. ER99–2066–000]

Take notice that on March 5, 1999, Virginia Electric and Power Company (Virginia Power) tendered for filing the Service Agreement between Virginia Electric and Power Company and DukeSolutions, Inc. Under the Service Agreement, Virginia Power will provide services to DukeSolutions, Inc. under the terms of the Company's Revised Market-Based Rate Tariff designated as FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98–3771–000.

Virginia Power requests an effective date of March 5, 1999.

Copies of the filing were served upon DukeSolutions, Inc. the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER99–2067–000]

Take notice that on March 5, 1999, PJM Interconnection, L.L.C. tendered for filing an Executed Service Agreement for Firm Point-To-Point Transmission Service with Morgan Stanley Capital Group, Inc.

Copies of this filing were served upon Morgan Stanley Capital Group, Inc.

This Firm Point-To-Point Transmission Service Agreement will be in effect from June 1, 1999 to August 31, 2000.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PJM Interconnection, L.L.C.

[Docket No. ER99–2068–000]

Take notice that on March 5,1999, PJM Interconnection, L.L.C. tendered for filing an Executed Service Agreement For Network Integration Transmission Service.

The effective date for the service agreement is March 1, 1999.

A copy of this filing was served upon Citizen Power Sales.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Trident Energy Marketing, Inc.

[Docket No. ER99–2069–000]

Take notice that on March 5, 1999, Trident Energy Marketing, Inc. (Trident) petitioned the Commission for acceptance of Trident Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Trident intends to engage in wholesale electric power and energy purchases and sales as a marketer. Trident is not in the business of generating or transmitting electric power. Trident is a wholly owned subsidiary of Dahlen, Berg and Co., a Minneapolis based energy management services company engaged in the provision of energy consulting and energy management services.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Nevada Power Company

[Docket No. OA97–2–004]

Take notice that on March 4, 1999, Nevada Power Company submitted a filing on the information that is available to its wholesale merchant function employees on its shared Energy Management System, in response the Commission's December 18, 1998 Order on Rehearing and Clarification. 85 FERC ¶ 61,382 (1998).

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6698 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–45–000, et al.]

LG&E Energy Marketing, Inc. et al.; Electric Rate and Corporate Regulation Filings

March 9, 1999.

Take notice that the following filings have been made with the Commission:

1. LG&E Energy Marketing Inc.

[Docket No. EC99–45–000]

Take notice that on March 5, 1999, LG&E Energy Marketing Inc. (LEM) tendered for filing pursuant to Section 203 of the Federal Power Act, 16 U.S.C. § 824b (1994), and Part 33 of the Commission's regulations, 18 CFR Part 33, an Application requesting that the Commission approve the disposition of the rights and obligations under certain wholesale power sales agreements, and associated books and records, from LEM to four power marketers, namely Constellation Power Source, Inc., El Paso Energy Marketing Company, Southern Company Energy Marketing, L.P. and Avista Energy, Inc.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Sempra Energy KN Energy, Inc.

[Docket No. EC99–48–000]

Take notice that on March 9, 1999, Sempra Energy (Sempra) and KN Energy, Inc. (KN), on behalf of their respective public utility subsidiaries, tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 203 of the Federal Power Act (FPA), 16 U.S.C. 824b (1994), and Part 33 of the Commission's regulations, 18 CFR Part 33, an application for an order approving a proposed disposition of jurisdictional facilities, or in the alternative, a disclaimer of jurisdiction.

Sempra is a holding company whose principal subsidiaries are Southern California Gas Company, San Diego Gas & Electric Company, and Sempra Energy Trading Corp. KN's principal subsidiaries are Natural Gas Pipeline Company of America, KN Interstate Gas Transmission Company and MidCon Texas Operator, Inc. KN also engages in gathering and processing, and operates local gas distribution systems in Nebraska, Colorado and Wyoming. In addition, KN engages in natural gas marketing and has interests in four qualifying facilities under the Public Utility Regulatory Policies Act of 1978. Sempra and KN will combine their businesses through a stock-and-cash transaction, by virtue of which KN will become a wholly-owned subsidiary of Sempra.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Energy South Bay, LLC

[Docket No. EG99–88–000]

Take notice that on March 5, 1999, Duke Energy South Bay LLC (South Bay), with its principal place of business at 1290 Embarcadero Road, Morro Bay, California 93442, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. South Bay, a Delaware limited liability company, is a wholly-owned indirect subsidiary of Duke Energy Corporation. South Bay proposes to lease and operate a generating facility located in the State of California.

On March 4, 1999, the Public Utilities Commission of the Sate of California (CPUC) issued an opinion which concluded that allowing the facility to be an exempt wholesale generator within the meaning of PUHCA would benefit consumers, would be in the public interest, and would not violate California law. South Bay attached a copy of the CPUC opinion to its application.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. FPL Energy MH50, L.P.

[Docket No. EG99–89–000]

Take notice that on March 5, 1999, FPL Energy MH50, L.P., 700 Universe Boulevard, Juno Beach, Florida 33408–2683 (FPL Energy MH50) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

FPL Energy MH50, an indirect wholly-owned subsidiary of FPL Group, Inc., an exempt public utility holding company, is acquiring a gas-fired cogeneration facility located in Marcus Hook, Pennsylvania, with a capacity of approximately 45 MW.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Entergy Services, Inc.

[Docket Nos. ER99–519–001 and ER99–989–001 (Not consolidated)]

Take notice that on March 4, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered for filing an amended Capacity and Energy Letter Agreement between Entergy Services, Inc. and Sam Rayburn G&T Electric Cooperative, Inc. in compliance with the February 2, 1999 letter order of the Director of the Division of Rate Applications.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Rochester Gas and Electric Corporation

[Docket No. ER99–2047–000]

Take notice that on March 3, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Merchant Energy Group of the Americas, Inc., (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of RG&E's FERC Electric Rate Tariff, Original Volume No. 3 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–3553 (80 FERC ¶ 61,284 (1997)).

RG&E requests that the Commission grant waiver of the sixty (60) day notice provision, and accept this service agreement with an effective date of February 25, 1999.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Corporation

[Docket No. ER99–2055–000]

Take notice that on March 4, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 2 to the Participating Generator Agreement between the ISO and Wheelabrator Martell, Inc. (Wheelabrator Martell) for acceptance by the Commission. The ISO states that Amendment No. 2 includes an updated Schedule 1 which lists Wheelabrator Martell's generating units and their technical characteristics.

The ISO states that this filing has been served on all parties listed on the Service Lists in Docket Nos. ER98–2950–000 and ER98–4562–000.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Southwestern Electric Power Company

[Docket No. ER99–2059–000]

Take notice that on March 4, 1999, Southwestern Electric Power Company (SWEPCO) submitted for filing actuarial reports in support of the amounts to be collected in SWEPCO's 1998 actual and 1999 projected formula rates for post-employment benefits other than pensions as directed by the Statement of Financial Accounting Standard No. 106 (SFAS 106), issued by the Financial Accounting Standards Board, and the collection in formula rates of other post-employment benefits as directed by SFAS 112.

SWEPCO has served copies of the transmittal letter on all of its formula rate customers, the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas. SWEPCO will provide copies of the actuarial report to any customer or state commission upon request.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Electric Energy, Inc.

[Docket No. ER99–2074–000]

Take notice that on March 1, 1999, Electric Energy, Inc. tendered for filing a letter describing its compliance with the Commission's December 16, 1998 Order in North America Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (Docket No. EL98–52–000) (the NERC Order) under its current Electric Open Access Transmission Tariff and current operating practices.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Northern Indiana Public Service Company

[Docket No. ER99–2075–000]

Take notice that on March 1, 1999, Northern Indiana Public Service Company tendered for filing a letter describing its compliance with the Commission's December 16, 1998 Order in North America Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (Docket No. EL98–52–000) (the NERC Order) under its current Electric Open Access Transmission Tariff and current operating practices.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6697 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1156–001, et al.]

Michigan Gas Exchange, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

March 12, 1999.

Take notice that the following filings have been made with the Commission:

1. Michigan Gas Exchange, L.L.C.

[Docket No. ER99–1156–001]

Take notice that on March 8, 1999, Michigan Gas Exchange, L.L.C., tendered for filing notification of change in ownership status.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Lakewood Cogeneration Limited Partnership

[Docket No. ER99–1213–001]

Take notice that on March 8, 1999, Lakewood Cogeneration Limited Partnership (Lakewood), tendered for filing an amended Code of Conduct Regarding the Relationship between Lakewood Cogeneration Limited Partnership and Consumers Energy Company (Code of Conduct) in compliance with Ordering Paragraph A of the Commission's February 26, 1999, Order Conditionally Accepted for filing proposed market-based rates.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Lamar Power Partners, L.P.

[Docket No. ER99–2097–000]

Take notice that on March 8, 1999, Lamar Power Partners, L.P., tendered for filing notice name change.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Mid-Continent Area Power Pool

[Docket No. ER99–2098–000]

Take notice that on March 8, 1999, Mid-Continent Area Power Pool (MAPP) filed an informational filing in accordance with the Commission's Order, 76 FERC ¶ 61,261 at 62,335–36 (1996), stating that Ameren Service Company (Ameren), Illinois Power Company (Illinois Power), and Western Resources, Inc. (Western) are Power and Energy Market (PEM) Participants, with rights and obligations associated with use of the PEM schedules. Ameren, Illinois Power and Western are not MAPP Members.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Southwest Power Pool

[Docket No. ER99–2099–000]

Take notice that on March 8, 1999, Southwest Power Pool (SPP), tendered for filing five executed service agreements for loss compensation service under the SPP Tariff.

SPP requests an effective date of March 1, 1999, for each of these agreements.

Copies of this filing were served upon all signatories.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER99–2100–000]

Take notice that on March 9, 1999, Commonwealth Edison Company (ComEd), tendered for filing service agreements establishing Northern States Power Company (NSP), and West Penn Power d/b/a Allegheny Energy (AET) as customers under ComEd's FERC Electric Market-Based Rate Schedule for power sales.

ComEd requests an effective date of January 5, 1999, for the Service Agreement with NSP to coincide with the first day of service to NSP under this Agreement. ComEd requests and effective date of February 15, 1999, for the Service Agreement with AET, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing were served on NSP and AET.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PECO Energy Company

[Docket No. ER99–2101–000]

Take notice that on March 9, 1999, PECO Energy Company (PECO), tendered for filing a Service Agreement dated November 3, 1998 with TransCanada Power Marketing Ltd. (TCPM), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TCPM as a customer under the Tariff.

PECO requests an effective date of March 4, 1999, for the Service Agreement.

PECO states that copies of this filing have been supplied to TCPM and to the Pennsylvania Public Utility Commission.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Boston Edison Company

[Docket No. ER99–2102–000]

Take notice that on March 9, 1999, Boston Edison Company (Boston Edison), tendered for filing two service agreements between Boston Edison as the transmission provider and HQ Energy Services (U.S.) Inc., as the transmission customer. One service agreement provides for non-firm point-to-point transmission service; the other provides for firm point-to-point transmission service. Both services are to be provided under Boston Edison's Open-Access Transmission Tariff, FERC Volume No. 8.

Boston Edison requests an effective date of May 8, 1999.

Boston Edison states that copies of the filing have been served upon the affected customer and the Massachusetts Department of Telecommunications and Energy.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER99–2103–000]

Take notice that on March 9, 1999, Commonwealth Edison Company (ComEd), tendered for filing a revised Index of Customers reflecting name changes for current customers, Citizens Power Sales, renamed Citizens Power L.L.C. (CPL); AIG Trading Corporation, renamed Sempra Energy Trading Corp. (SETC); Vastar Power Marketing, Inc., Southern Company Energy Marketing L.P. (SCEM); Duke/Louis Dreyfus L.L.C., renamed Duke Energy Trading and Marketing, L.L.C. (DETM); Heartland Energy Services, Inc., renamed Cargill-Alliant, L.L.C. (CALT); Market Responsive Energy, Inc., renamed First Energy Trading & Power Marketing, Inc. (FETM); Noram Energy Services, renamed Reliant Energy Services, Inc. (RESI); and Plum Street Marketing, Inc., renamed Niagara Mohawk Energy (NME). The new names are now reflected as customers under the terms of ComEd's Power Sales and Reassignment of Transmission Rights Tariff PSRT–1 (PSRT–1 Tariff). The Commission has previously designated the PSRT–1 Tariff as FERC Electric Tariff, First Revised Volume No. 2.

ComEd requests an effective date of March 9, 1999, and accordingly seeks waiver of the Commission's notice requirements.

Copies of this filing were served on CPL, SETC, SCEM, DETM, CALT, FETM, RE and NME.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company

[Docket No. ER99–2104–000]

Take notice that on March 9, 1999, Commonwealth Edison Company (ComEd), tendered for filing a revised Firm Service Agreement with Wisconsin Electric Power Company (WEPCO), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of March 1, 1999, for the revised service agreement, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on Alliant.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. South Carolina Electric & Gas Company

[Docket No. ER99–2105–000]

Take notice that on March 9, 1999, South Carolina Electric & Gas Company (SCE&G), tendered for filing a service agreement establishing Tractebel Energy Marketing as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the date of filing. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Tractebel Energy Marketing and the South Carolina Public Service Commission.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Rochester Gas and Electric Corporation

[Docket No. ER99–2106–000]

Take notice that on March 9, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement between RG&E and the Delmarva Power & Light Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of March 2, 1999, for the Delmarva Power & Light Company Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6700 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–1691–022, et al.]

Sempra Energy Trading Corporation, et al.; Electric Rate and Corporate Regulation Filings

March 8, 1999.

Take notice that the following filings have been made with the Commission:

1. Sempra Energy Trading Corporation

[Docket No. ER94–1691–022]

Take notice that on March 2, 1999, Sempra Energy Trading Corporation (SET), tendered for filing notification that on February 21, 1999, the respective boards of directors of Sempra Energy (Sempra) (of which SET is a subsidiary) and of KN Energy, Inc. (KN), approved an agreement under which Sempra and KN will merge. The agreement is subject to the approval of the two companies' shareholders and of various regulatory authorities.

Comment date: March 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Enova Energy, Inc.

[Docket No. ER96–2372–014]

Take notice that on March 2, 1999, Enova Energy, Inc., tendered for filing in compliance with the Commission's September 9, 1996 Order, notification

that on February 21, 1999, the respective boards of directors of Sempra Energy (Sempra) (of which Enova Energy, Inc., is a indirect subsidiary) and of KN Energy, Inc. (KN), approved an agreement under which Sempra and KN will merge. The agreement is subject to the approval of the two companies' shareholders and of various regulatory authorities.

Comment date: March 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Cabrillo Power I LLC

[Docket No. ER99–1115–001]

Take notice that on March 3, 1999, Cabrillo Power I LLC tendered for filing its compliance filing in the above-captioned docket.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Cabrillo Power II LLC

[Docket No. ER99–1116–001]

Take notice that on March 3, 1999, Cabrillo Power II LLC tendered for filing its compliance filing in the above-captioned docket.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Energy Lovett, L.L.C.

[Docket No. ER99–2043–000]

Take notice that on March 3, 1999, Southern Energy Lovett, L.L.C. (Southern Lovett), tendered for filing an application requesting approval of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed Market Rate Tariff would authorize Southern Lovett to engage in wholesale sales of capacity and energy and ancillary services to eligible customers at market rates. In addition, Southern Lovett requests acceptance of a long term service agreement under its Market Rate Tariff.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Energy Bowline, L.L.C.

[Docket No. ER99–2044–000]

Take notice that on March 3, 1999, Southern Energy Bowline, L.L.C. (Southern Bowline), tendered for filing an application requesting approval of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed Market Rate Tariff would authorize Southern Bowline to engage in wholesale sales of capacity, energy and ancillary services to eligible customers at market rates. In addition, Southern Bowline requests acceptance of two long term service agreements under its Market Rate Tariff.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Energy NY–GEN, L.L.C.

[Docket No. ER99–2045–000]

Take notice that on March 3, 1999, Southern Energy NY–GEN, L.L.C. (Southern NY–GEN), tendered for filing an application requesting approval of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed Market Rate Tariff would authorize Southern NY–GEN to engage in wholesale sales of capacity and energy and ancillary services to eligible customers at market rates. In addition, Southern Lovett requests acceptance of a long term service agreement under its Market Rate Tariff.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Niagara Mohawk Power Corporation

[Docket No. ER99–2046–000]

Take notice that on March 3, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing Service Agreements for transmission and wholesale requirements service in conjunction with an electric retail access pilot program that was established by the New York Public Service Commission effective November 1, 1997. The Service Agreements for transmission services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 3; as modified by an Order of the Commission in this proceeding dated November 7, 1997. The Service Agreements for wholesale requirements services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 4; as modified by an Order of the Commission in this proceeding dated November 7, 1997. Niagara Mohawk's customer is Enserch Energy Services (New York), Inc.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Niagara Mohawk Power Corporation

[Docket No. ER99–2048–000]

Take notice that on March 3, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and National Fuel Resources, Inc., (NFR). This Transmission Service Agreement specifies that NFR has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and NFR to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for NFR as the parties may mutually agree.

Niagara Mohawk requests an effective date of February 25, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and NFR.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Fitchburg Gas and Electric Light Company

[Docket No. ER99–2049–000]

Take notice that on March 3, 1999, Fitchburg Gas and Electric Light Company (Fitchburg), tendered for filing a service agreement between Fitchburg and Constellation Power Source, Inc., for service under Fitchburg's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2463–000.

Fitchburg requests an effective date of February 18, 1999 for the service agreement.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power & Light Company

[Docket No. ER99–2050–000]

Take notice that on March 3, 1999, Florida Power & Light Company (FPL), tendered for filing: (a) a Cape Canaveral-Indian River #2—230 kV Interconnection Agreement between Florida Power & Light Company and Orlando Utilities Commission (OUC), and (b) a revised Exhibit A to the Contract for Interchange Service between Florida Power & Light Company and Orlando Utilities Commission. The revised Exhibit A to the Interchange Contract sets out the description of the new interconnection.

FPL proposes to make the Interconnection Agreement and the revised Exhibit A to the Interchange Contract effective April 15, 1999.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Carolina Power & Light Company

[Docket No. ER99–2051–000]

Take notice that on March 3, 1999, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements with OGE Energy Resources, Inc.; Central Virginia Electric Cooperative; and American Municipal Power—Ohio, Inc., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. These Service Agreements supersede the un-executed Agreements originally filed in Docket No. ER98–3385–000 and approved effective May 18, 1998.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. American Electric Power Service Corporation

[Docket No. ER99–2052–000]

Take notice that on March 3, 1999, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements for CLECo Corporation and H.Q. Energy Services (U.S.) Inc., both under the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after February 1, 1999.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Otter Tail Power Company

[Docket No. ER99–2057–000]

Take notice that on March 3, 1999, Otter Tail Power Company (OTP), tendered for filing a Service Agreement between OTP and Entergy Power Marketing Corp (Entergy Power). The Service Agreement allows Entergy Power to purchase capacity and/or energy under OTP's Coordination Sales Tariff.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Old Dominion Electric Cooperative

[Docket No. ES99–33–000]

Take notice that on March 2, 1999, Old Dominion Electric Cooperative tendered for filing an application, under Section 204 of the Federal Power Act, for authorization to issue and renew short-term debt including, without limitation, commercial paper, notes or other obligations, with a maturity of one year or less, to be issued from time to time, during the period from May 1, 1999 through April 30, 2001, in an amount of up to $118 million outstanding at any one time.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Southwest Power Pool

[Docket No. ER99–2058–000]

Take notice that on March 3, 1999, Southwest Power Pool (SPP), tendered for filing 51 executed service agreements for loss compensation service under the SPP Tariff.

SPP requests an effective date of March 1, 1999, for each of these agreements.

Copies of this filing were served upon all signatories.

Comment date: March 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6696 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–2715–011, et al.]

UGI Power Supply, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 11, 1999.

Take notice that the following filings have been made with the Commission:

1. UGI Power Supply, Inc.

[Docket No. ER96–2715–011]

Take notice that on March 5, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/ online/ rims.htm for viewing and downloading (call 202–208–2222 for assistance).

2. Howell Power Systems, Inc.; Energy Resource Management Corporation; Alternate Power Source, Inc.; The XERXE Group, Inc.

[Docket Nos. ER94–178–017; ER96–358–011; ER96–1145–010; and ER98–1823–004]

Take notice that on March 8, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the Internet at www.ferc.fed.us/ online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

3. Nevada Power Company

[Docket No. ER99–356–000]

Take notice that on March 8, 1999, Nevada Power Company filed supplemental information regarding the above-referenced matter.

Comment date: March 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Portland General Electric Company

[Docket No. ER99–2060–000]

Take notice that on March 4, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96–137–000), executed Service Agreements for Short-Term Firm Point to Point and Non-Firm Point-to-Point Transmission Service with Koch Energy Trading, Inc.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No.

PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective March 1, 1999.

A copy of this filing was caused to be served upon Koch Energy Trading, Inc., as noted in the filing letter.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. FirstEnergy System

[Docket No. ER99–2070–000]

Take notice that on March 5, 1999, FirstEnergy System filed a Service Agreement to provide Firm Point-to-Point Transmission Service for DukeSolutions, Inc., the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

FirstEnergy requests an effective date of March 3, 1999 for their service agreement.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. FirstEnergy System

[Docket No. ER99–2071–000]

Take notice that on March 5, 1999, FirstEnergy System filed a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for DukeSolutions, Inc., the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

FirstEnergy System requests that the effective date of their Service Agreement be March 3, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. FirstEnergy Corp. And Pennsylvania Power Company

[Docket No. ER99–2072–000]

Take notice that on March 5, 1999, FirstEnergy Corp. tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Network Integration Service and an Operating Agreement for the Network Integration Transmission Service under the Pennsylvania Electric Choice Program with DukeSolutions, Inc. pursuant to the FirstEnergy System Open Access Tariff. These agreements will enable the parties to obtain Network Integration Service under the Pennsylvania Electric Choice Program in accordance with the terms of the Tariff.

FirstEnergy Corp., and Pennsylvania Power Company request that the effective date of the Service Agreement be March 3, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Company

[Docket No. ER99–2073–000]

Take notice that on March 5, 1999, Southern California Edison Company (SCE) tendered for filing Amendment No. 2 to the Winter Power Sale Agreement between Southern California Edison and PacifiCorp.

The Amendment addresses revised pricing and scheduling terms of operating procedures necessarily modified to enable the Agreement to provide for use of certain CAISO and PX market prices in determining contract rates for energy and capacity function in the restructured California market for electricity.

To the extent necessary, SCE seeks waiver of the 60 day prior notice requirement and requests that the Commission make the Amendment effective one day after filing, which would be March 6, 1999.

Copies of this filing were served upon the Public Utilities Commission of the State California and all interested parties.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER99–2076–000]

Take notice that on March 8, 1999, Cinergy Services, Inc., acting as agent for and on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations two service agreements between Cinergy Services and Nordic Electric, L.L.C., for sales under Cinergy's market-based Power Sales Tariff.

Cinergy states that it has served copies of its filing upon Nordic Electric, L.L.C.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Energy Masters International, Inc.

[Docket No. ER99–2077–000]

Take notice that on March 5, 1999, Energy Masters International, Inc. (EMI) tendered for filing a proposed Notice of Cancellation of certain rate schedules on file with the Commission in order to cease its activities as a power marketer.

EMI has served copies of its Notice of Cancellation on counterparties under the affected rate schedules, and upon intervenors in Docket Nos. ER94–1402–000, ER95–974–000, ER94–1370–000, ER96–493–000, ER96–513–000, ER96–530–000, ER96–785–000, ER96–786–000, ER96–787–000, ER96–969–000, ER96–998–000, and ER97–3879–000.

EMI requests waiver of the Commission's regulations to permit its Notice of Cancellation to become effective on December 30, 1998.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of New Mexico

[Docket No. ER99–2078–000]

Take notice that on March 5, 1999, Public Service Company of New Mexico (PNM) submitted for filing an executed copy of Exhibit B Revision No. 1 to Contract No. 8–07–40–P0695 between PNM and Western Area Power Administration (Western) to correct an error in the maximum amounts of reserved transmission capacity, identified by "Point of Delivery", that PNM provides to Western to serve Western's individual customers.

PNM requests waiver of the Commission's notice requirements to permit Exhibit B Revision No. 1 to Contract No. 8–07–40–P0695 to be made effective retroactive to April 1, 1997.

Copies of the filing have been provided to Western and the New Mexico Public Regulation Commission. The filing is available for public inspection at PNM's offices in Albuquerque, New Mexico.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Reliant Energy Ormond Beach, L.L.C.

[Docket No. ER99–2079–000]

Take notice that on March 5, 1999, Reliant Energy Ormond Beach, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Ormond Beach, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff, Original Volume No. 2 of Ormond Beach Power Generation, L.L.C., effective February 8, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Reliant Energy Mandalay, L.L.C.

[Docket No. ER99–2080–000]

Take notice that on March 5, 1999, Reliant Energy Mandalay, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Mandalay, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff, Original Volume No. 2, of Ocean Vista Power Generation, L.L.C., effective February 8, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Reliant Energy Ellwood, L.L.C.

[Docket No. ER99–2081–000]

Take notice that on March 5, 1999, Reliant Energy Ellwood, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Ellwood, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff Original Volume No. 2, of Oeste Power Generation, L.L.C., effective February 8, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Reliant Energy Coolwater, L.L.C.

[Docket No. ER99–2082–000]

Take notice that on March 5, 1999, Reliant Energy Coolwater, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Coolwater, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff Original Volume No. 2, of Alta Power Generation, L.L.C., effective February 8, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Reliant Energy Etiwanda, L.L.C.

[Docket No. ER99–2083–000]

Take notice that on March 5, 1999, Reliant Energy Etiwanda, L.L.C. filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Etiwanda, L.L.C. is succeeding to the FERC Electric Rate Schedule No. 1, and to the FERC Electric Tariff Original Volume No. 2 of Mountain Vista Power Generation, L.L.C., effective February 8, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Orange and Rockland Utilities Inc.

[Docket No. ER99–2084–000]

Take notice that on March 25, 1999, Orange and Rockland Utilities, Inc. (O&R), tendered for filing a Continuing Site/Interconnection Agreement with Southern Energy NY-Gen, L.L.C. (Southern Energy NY-Gen). The Agreement is part of a larger Divestiture Transaction in which O&R will divest all of its electric generation facilities. Southern Energy NY-Gen concurs in the filing.

O&R has requested an effective date of April 15, 1999.

Comment date: March 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Cinergy Services, Inc.

[Docket No. ER99–2085–000]

Take notice that on March 8, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Merrill Lynch Capital Services, Inc., (MLCS).

Cinergy and MLCS are requesting an effective date of February 8, 1999.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER99–2086–000]

Take notice that on March 8, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Merrill Lynch Capital Services, Inc., (MLCS).

Cinergy and MLCS are requesting an effective date of February 8, 1999.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Consumers Energy Company

[Docket No. ER99–2087–000]

Take notice that on March 8, 1999, Consumers Energy Company (Consumers), tendered for filing executed service agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service with Cargill-Alliant LLC., both agreements were pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison) and have effective dates of March 3, 1999.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison and Cargill-Alliant LLC.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. PP&L, Inc.

[Docket No. ER99–2088–000]

Take notice that on March 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated February 25, 1999 with Select Energy, Inc. (Select), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Select as an eligible customer under the Tariff.

PP&L requests an effective date of March 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Select and to the Pennsylvania Public Utility Commission.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. PP&L, Inc.

[Docket No. ER99–2089–000]

Take notice that on March 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated March 1, 1999, with Great Bay Power Corporation (GBPC), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds GBPC as an eligible customer under the Tariff.

PP&L requests an effective date of March 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to GBPC and to the Pennsylvania Public Utility Commission.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Central Illinois Light Company

[Docket No. ER99–2090–000]

Take notice that on March 8, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Market Rate Power Sales Tariff reflecting a name change for one customer from American Energy Solutions, Inc., to American Energy Trading, Inc.

CILCO requested an effective date of March 5, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Central Illinois Light Company

[Docket No. ER99–2091–000]

Take notice that on March 8, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Coordination Sales Tariff reflecting a name change for one customer, from American Energy solutions, Inc., to American Energy Trading, Inc., one customer has asked CILCO to terminate their service agreement, Industrial Energy Applications, Inc.

CILCO requested an effective date of March 5, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Avista Corporation

[Docket No. ER99–2092–000]

Take notice that on March 8, 1999, Avista Corporation, tendered for filing, with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, an executed Mutual Netting Agreement for allowing arrangements of amounts which become due and owing to one Party to be set off against amounts which are due and owing to the other Party with Coral Power, LLC.

Avista Corporation requests waiver of the prior notice requirement and requests an effective date of March 1, 1999.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Avista Corporation

[Docket No. ER99–2093–000]

Take notice that on March 8, 1999, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, an executed Service Agreement and Certificate of Concurrence under Avista Corporation's FERC Electric Tariff First Revised Volume No. 10, with The Montana Power Company.

Avista Corporation requests waiver of the prior notice requirements and requests an effective date of March 1, 1999.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Pacific Gas and Electric Company

[Docket No. ER99–2094–000]

Take notice that on March 8, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing two Special Facilities Agreements between PG&E and Geysers Power Company, LLC (Geysers Power). These Special Facilities Agreements permit PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities including the cost of any alterations and additions. As detailed in the Special Facilities Agreements, PG&E proposes to charge Geysers Power a monthly Cost of Ownership Charge equal to the rate for transmission-level, utility-financed facilities in PG&E's currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC).

PG&E's currently effective rate of 1.141% for transmission-level, utility-financed Special Facilities is contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which was included in PG&E's October 23, 1996, filing in FERC Docket No. ER97–205–000 as Attachment 3.

PG&E has requested permission to use automatic rate adjustments whenever the CPUC authorizes a new Electric Rule 2, Cost of Ownership Rate for transmission-level, utility-financed Special Facilities but cap the rate at 1.49% per month.

Copies of this filing have been served upon Geysers Power and the CPUC.

Comment date: March 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Michael E. Rescoe, Bruce R. Worthington

[Docket Nos. ID–3247–002; and ID–3248–002]

Take notice that on March 8, 1999, PG&E Energy Services Corporation, with its principal place of business at 345 California Street, San Francisco, California, 94104, filed with the Federal Energy Regulatory Commission an application for authority to hold interlocking positions on behalf of Michael E. Rescoe and Bruce R. Worthington, under Section 305(b) of the Federal Power Act, 16 U.S.C. 725(b).

Comment date: April 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Pine Bluff Energy LLC

[Docket No. QF97–61–003]

Take notice that on March 4, 1999, Pine Bluff Energy LLC filed supplemental information to their application for certification of the Pine Bluff Energy Center as a qualifying cogeneration facility in response to a request from the commission staff to provide additional information regarding technical aspects of the cogeneration facility.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6699 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

March 15, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11648–000.

c. *Date Filed:* December 10, 1998.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Muskingum L&D #6 Hydroelectric Project.

f. *Location:* On the Muskingum River at river mile 40.2 in Morgan County, Ohio.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. Deadline for filing comments, motions to intervene, and protests: 60 days from the issuance date of this notice.

All comments, motions to intervene, protests, and competing applications already filed with the Commission for Project No. 11648 are part of the Commission's record and need not be refilled with the Commission.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would consist of the following facilities: (1) the existing 20-foot-high, 482-foot-long Muskingum Lock and Dam No. 6; (2) an existing 476-acre reservoir at normal pool elevation of 634.05 feet msl; (3) a new powerhouse on the tailrace side of the dam with a total installed capacity of 3,500 kW; (4) a new 12.7 or 14.7 kV transmission line; and (5) other appurtenances. The lock and dam is owned by the Ohio Department of Natural Resources, Division of Parks and Recreation.

Applicant estimates that the average annual generation would be 22,000 MWh and that the cost of the studies under the permit would be $1,000,000.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims/.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application.

Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A Preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bar in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–6704 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protests

March 15, 1999.

a. *Type of Application:* Preliminary Permit.
b. *Project No.:* P–11673–000.
c. *Date filed:* February 1, 1999.
d. *Applicant:* Universal Electric Power Corp.
e. *Name of Project:* Pike Island Lock and Dam Project.
f. *Location:* At the existing U.S. Army Corps of Engineers' Pike Island Lock and Dam on the Ohio River, near the Town of Wheeling, Ohio County, West Virginia.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).
h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp. 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.
i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us.
j. *Comment Date:* 60 days from the issuance date of this notice.
k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Pike Island Lock and Dam, and would consist of the following facilities: (1) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 39 megawatts; (2) a new 8,600-foot-long, 14.7-kilovolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 174 gigawatthours. The cost of the studies under the permit will not exceed $4,000,000.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.
m. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service or Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–6705 Filed 3–18–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protests

March 15, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11674–000.
c. *Dated filed:* February 1, 1999.
d. *Applicant:* Universal Electric Power Corp.
e. *Name of Project:* Berlin Dam Project.
f. *Location:* At the existing U.S. Army Corps of Engineers' Berlin Dam on the Mahoning River, near the Town of Pricetown, Portage Country, Ohio.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r)
h. *Applicant Contract:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp. 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.
i *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.lee@FERC.fed.us.
j. *Comment Date:* 69 days from the issuance date of this notice.
k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Berlin Dam, and would consist of the following facilities: (1) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 1.1 megawatts; (2) a new 150-foot-long, 14.7-kilovolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 7 gigawatthours. The cost of the studies under the permit will not exceed $600,000.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.
m. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development application desiring to file a competing development application must submit to the Commission, ón or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed wit the preparation of a deveop9ment application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,
Secretary.

[FR Doc. 99–6706 Filed 3–18–99; 8:45 am]
BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6312–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; EPA Office of Site Remediation Enforcement Program Evaluation ICR

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB):

EPA Office of Site Remediation Enforcement Program Evaluation ICR, EPA ICR Number 1890.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting

comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 16, 1999.

ADDRESSES: EPA Office of Site Remediation Enforcement, 401 M Street, SW (MC 2273A), Washington, DC 20460. Interested persons may obtain a copy of the ICR by contacting Jack Jojokian at this address or by calling (202) 564–6058 or by e-mailing jojokian.jack@epamail.epa.gov. Electronic access to the ICR is available at http://www.epa.gov/icr.

FOR FURTHER INFORMATION CONTACT: Jack Jojokian, (202) 564–6058, (202) 564–0074 (fax), jojokian.jack@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which have been parties at Superfund sites where Superfund administrative reforms have been tested or implemented.

Title: EPA Office of Site Remediation Enforcement Program Evaluation ICR, EPA ICR Number 1890.01.

Abstract: During the last 3–5 years, EPA's Office of Site Remediation Enforcement (OSRE), in conjunction with EPA's Office of Emergency and Remedial Response (OERR), has been implementing a series of Administrative Reforms in the Superfund program. These reforms are an effort to make Superfund a faster, fairer, and more efficient program for all parties involved. With 3–5 years of implementation past for a number of these reforms, OSRE is interested to learn how well these Administrative Reforms have worked and whether they have achieved their stated intentions in the eyes of the external stakeholders whom the reforms were intended to impact. The purpose of this ICR is to enable OSRE to collect data on the effectiveness of Superfund Administrative Reforms so that we can understand which of the reforms are most effective, as well as to obtain anecdotal and statistically valid information on the outcomes of the reforms.

With each of the information collections described in this ICR, OSRE will be measuring whether or not the Administrative Reform is meeting its intended goal, such as speeding site study and cleanup and reducing private party transaction costs. Typical goals of the Administrative Reforms include: increasing the efficiency of reaching settlements with parties at Superfund sites; reducing transaction costs for parties at Superfund sites; increasing the fairness of enforcement actions at Superfund sites; and facilitating the reuse of Superfund sites.

OSRE is planning to conduct program evaluations of up to 15 Superfund policies and Superfund reform initiatives. Eight of these reform initiatives are known and listed below. An additional seven program evaluations will take place as part of these information collections, but the exact topics are not known at this time. The eight known program evaluations are:

(1) Orphan Share Compensation
(2) Unilateral Administrative Order Administrative Reform
(3) Effective Oversight Management Administrative Reform
(4) Expedited Settlements Reform
(5) De Minimis Settlements
(6) PRP Response Costs and PRP Transaction Costs
(7) Reuse of Superfund and Brownfield Sites
(8) Disbursement of Response Costs to PRPs Performing Work from Special Accounts

Information will be collected through a series of mail, telephone, and on-line survey questionnaires. Responses to these information collection requests are voluntary and one-time efforts.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: This ICR has an estimated respondent burden of 27,132 hours and $594,333. EPA estimates that 9,520 respondents will participate, with an average respondent burden of 2.84 hours and $62.43. Responses will be one-time and voluntary, and no capital or start-up expenses will be required. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 11, 1999.

Jack Jojokian,

Program Planning and Evaluation Division, Office of Site Remediation Enforcement.

[FR Doc. 99–6779 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6312–3]

Microbial Disinfectants/Disinfection Byproducts Advisory Committee; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

SUMMARY: The Charter for the Environmental Protection Agency's (EPA) Microbial Disinfectants/ Disinfection Byproducts Advisory Committee (MDBPAC) will be renewed for an additional two-year period, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appl. section 9(c). MDBPAC is a necessary committee which is in the public interest. The purpose of MDBPAC is to provide advice and recommendations to the Administrator of EPA on issues associated with the development of regulations to address microorganisms and disinfectants/disinfection byproducts in public water supplies. It is determined that MDBPAC is in the public interest in connection with the performance of duties imposed on the Agency by law.

FOR FURTHER INFORMATION CONTACT: Inquiries may be directed to Martha Kucera, Designated Federal Officer, MDBPAC, U.S. EPA, (mail code 4607), 401 M Street, SW, Washington, DC 20460.

Dated: March 12, 1999.

J. Charles Fox,

Assistant Administrator, Office of Water.

[FR Doc. 99–6763 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6240–8]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements

Filed March 08, 1999 Through March 12, 1999

Pursuant to 40 CFR 1506.9

EIS No. 990071, DRAFT EIS, FHW, CT, CT 82/85/11 Corridor Transportation Improvements, Funding and COE Section 404 Permit, In the Towns of Salem, Montville, East Lyme and Waterford, CT, Due: May 07, 1999, Contact: Donald J. West (860) 659–6703.

EIS No. 990072, FINAL EIS, FHW, OR, Mount Hood Corridor Study, US 26 Rhododendron to OR–35 Junction, Improvements, Funding, Clackamas County, OR, Due: April 19, 1999, Contact: John H. Gernhauser (503) 399–5749.

EIS No. 990073, DRAFT EIS, AFS, AK, Luck Lake Timber Sales Project, Implementation, Tongass National Forest, Thorne Bay Ranger District, Prince of Wales Island, AK, Due: May 03, 1999, Contact: Steve Kimball (907) 828–3304.

EIS No. 990074, FINAL EIS, IBR, NV, Clark County Wetlands Park Master Plan, Construction and Operation, Erosion Control Structures in Las Vegas Wash, COE Section 404 Permit, Right-of-Way Permit and Endangered Species Act Section 4, Clark County, NV, Due: April 19, 1999, Contact: Del Kidd (702) 293–8698.

EIS No. 990075, FINAL EIS, COE, TX, Dallas Floodway Extension, Implementation, Trinity River Basin, Flood Damage Reduction and Environmental Restoration, Dallas County, TX, Due: April 19, 1999, Contact: Gene T. Rice, Jr. (817) 978–2110.

EIS No. 990076, DRAFT EIS, FHW, MS, Airport Parking/Mississippi 25 Connectors, Construction at Intersection of High Street/ Interstate 55 (I–55) in the City of Jackson, Hinds and Rankin Counties, MS, Due: April 30, 1999, Contact: Cecil W. Vick, Jr. (601) 965–4217.

EIS No. 990077, FINAL SUPPLEMENT, EPA, CA, International Wastewater Treatment Plant and South Bay Ocean Outfall, Preferred Alternative Selected the Completely Mixed Aerated (CMA) System at Hofer Site, Interim Operation, Tijuana River, San Diego, CA, Due: April 19, 1999, Contact: Elizabeth Borowiec (415) 744–1165.

EIS No. 990078, DRAFT EIS, FHW, WV, Coalfields Expressway Transportation Improvements, Funding, NPDES and COE Section 404 Permits, McDowell, Wyoming and Raleigh Counties, WV, Due: May 14, 1999, Contact: David E. Bender (304) 347–5928.

EIS No. 990079, DRAFT EIS, AFS, OR, Wolfmann Projects, Implementation, Blue River Landscape Strategy, Central Cascades Adaptive Management Area, Blue River Ranger District, Willamette National Forest, Lane County, OR, Due: May 03, 1999, Contact: Karen Geary (541) 822–3317.

EIS No. 990080, DRAFT SUPPLEMENT, BLM, CA, Imperial Project, Open-Pit Precious Metal Mining Operation Utilizing Heap Leach Processes, Updated Information, Plan of Operations, Right-of-Way, Conditional Use Permit, US COE Permit and Reclamation Plan Approvals, El Centro Resource Area, California Area District, Imperial County, CA, Due: May 19, 1999, Contact: Glen Miller (760) 337–4400.

EIS No. 990081, DRAFT EIS, UAF, LA, TX, NM, Realistic Bomber Training Initiative, Improve the B–52 and B–1 Aircrews Mission Training and Maximize Combat Training Time, Barksdale Air Force Base, La, NM and TX, Due: May 03, 1999, Contact: Major Brent Adams (915) 696–2863

EIS No. 990082, FINAL EIS, NOA, Atlantic Tunas, Swordfish and Sharks, Highly Migratory Species Fishery Management Plan, Due: April 19, 1999, Contact: Rebecca Lent (301) 713–2347.

Amended Notices

EIS No. 990068, FINAL EIS, DOE, SC, Accelerator for Production of Tritium at the Savannah River Site (DOE/EIS–0270), Site Specific, Construction and Operation, Aiken and Barnwell Counties, SC, Due: April 12, 1999, Contact: Andrew Grainger

Published FR–03–12–99

Correction to Title.

EIS No. 990069, FINAL EIS, DOE, SC, Tritium Extraction Facility TEF), Construction and Operation near the Center of Savannah River Site at H Area, (DOE/EIS–0271), Aiken and Barnwell Counties, SC, Due: April 12, 1999, Contact: Andrew R. Grainger (800) 881–7292.

Published FR–03–12–99

Correction to Title.

EIS No. 990070, FINAL EIS, DOE, TN, AL, Commercial Light Water Reactor for the Production of Tritium at one or more Facilities: Watt Bar 1. Spring City, TN; Sequoyah 1 and 2 Soddy Daisy, TN; Bellefonte Unit 1 and 2, Hollywood, AL, Approval of Permits and Licenses, (DOE/EIS–0288) TN and AL, Due: April 12, 1999, Contact: Jay Rose (202) 586–5484.

Published FR–03–12–99

Correction to Title.

Dated: March 16, 1999.

William D. Dickerson,

Director, Office of Federal Activities.

[FR Doc. 99–6803 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6240–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 22, 1999 Through February 26, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–COE–E34030–FL, Rating EC2, Programmatic EIS—Central and Southern Florida Multi-Purpose Project, Comprehensive Review Study, Everglades National Park, Orlando to Florida Bay, FL.

SUMMARY: EPA supports the restoration concept and encourages their proper implementation. EPA believes that improving water quantity delivery alone will not restore the Everglades and the South Florida ecosystem; instead, both water quantity and water quality components are needed to provide the clean water volumes

required for true natural system restoration. EPA encouraged the COE to include additional water quality features in the pending FPEIS and future optimization of water quality features. EPA expressed concerns regarding project uncertainties associated with the proposed aquifer recovery system funding and modeling.

ERP No. D–COE–K39055–AZ, Rating LO, Alamo Lake Reoperation and Ecosystem Restoration Feasibility Study, Implementation, Reoperation of Alma Dam on the Bill Williams River, La Paz and Mohave Counties, AZ.

SUMMARY: EPA had no objections to the project which would result in increased seasonal flows from Alamo Lake that should have positive effects on riparian habitat downstream.

ERP No. D–IBR–K39054–CA Rating EC2, Groundwater Replenishment System, Implementation to Repurifying Water from Orange County Water District (OCWD) Orange County Sanitation District (OCSD), Funding and COE Section 404 Permit, Orange County, CA.

SUMMARY: EPA supported the project which focuses on wastewater reuse and recycling, and supported the project benefit of postponing the need for an additional ocean outfall discharge pipe. EPA urged the project sponsors to continue to aggressively pursue other demand management measures. EPA expressed concerns and requested additional information regarding: (1) potential adverse effects on flood protection, (2) operation and effectiveness of the saltwater intrusion barrier, and (3) implementation and effectiveness monitoring.

Final EISs

ERP No. F–COE–C39010–NJ, Lower Cape May Meadows—Cape May Point Feasibility Study, Ecosystem Restoration, New Jersey Shore Protection Study, Cape May County, NJ.

SUMMARY: EPA expressed environmental concerns that implementation of multiple projects of the type (and other projects effecting the same resources) could result in adverse cumulative impacts. EPA suggested that a comprehensive cumulative impacts analysis be prepared for all of these projects prior to construction.

ERP No. F–COE–F35042–IN, Indiana Harbor and Canal Dredging and Confined Disposal Facility, Construction and Operation, Comprehensive Management Plan, East Chicago, Lake County, ID.

SUMMARY: The Final EIS has adequately resolved EPA's previous concerns. Therefore, EPA has no objections to the implementation of the proposed project.

ERP No. F–TVA–E39037–00, Shoreline Management Initiative: An Assessment of Residential Shoreline Development Impacts in the Tennessee Valley, Mainstream Tennessee River and Tributary Reservoirs in AL, KY, NC, TN, GA, MS and VA.

SUMMARY: EPA continues to have some environmental concerns due to the inherent nature of shoreline development relative to erosion, water quality, habitat loss, and induced (secondary) impacts associated with development.

ERP No. FS–COE–C32030–00, Arthur Kill Channel—Howland Hook Marine Terminal, Deepening and Realignment, Limited Reevaluation Report (LRR) Port of New York and New Jersey, NY and NJ.

SUMMARY: EPA does not anticipate that the proposed project would result in significant adverse environmental impacts and does not object to its implementation.

Dated: March 16, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–6804 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00453; FRL–6070–4]

Notice of Availability of Regional Environmental Stewardship Program Grants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of approximately $498 thousand in fiscal year 1999 grant/cooperative agreement funds under section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (the Act), for grants to States and all federally recognized Native American Tribes. The grant dollars are targeted at State and Tribal programs that address reduction of the risks associated with pesticide use in agricultural and non-agricultural settings in the United States. EPA's Office of Pesticide Programs is offering the following grant opportunities to interested and qualified parties.

DATES: In order to be considered for funding during the FY 99 award cycle, all applications must be received by the appropriate EPA regional office on or before May 3, 1999. EPA will make its award decisions by June 2, 1999.

FOR FURTHER INFORMATION CONTACT: Your EPA Regional Pesticide Environmental Stewardship Program Coordinator. Contact names for the coordinators are listed under Unit IV. of this document.

SUPPLEMENTARY INFORMATION:

I. Availability of FY'99 Funds

With this publication, EPA is announcing the availability of approximately $498 thousand in grant/cooperative agreement funds for FY'99. The Agency has delegated grant making authority to the EPA Regional Offices. Regional offices are responsible for the solicitation of interest, the screening of proposals, and the selection of projects. Grant guidance will be provided to all applicants along with any supplementary information the Regions may wish to provide. All applicants must address the criteria listed under Unit III.B. of this document. In addition, applicants may be required to meet any supplemental Regional criteria. Interested applicants should contact their Regional PESP coordinator listed under Unit IV. of this document for more information.

II. Eligible Applicants

In accordance with the Act ". . . Federal agencies, universities, or others as may be necessary to carry out the purposes of the act, . . ." are eligible to receive a grant; however, because of restrictions associated with the funds appropriated for this program, the eligible applicants are limited. Eligible applicants for purposes of funding under this grant program include the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State including State universities, and all federally recognized Native American Tribes. For convenience, the term "State" in this notice refers to all eligible applicants. Local governments, private universities, private nonprofit entities, private businesses, and individuals are not eligible. The organizations excluded from applying directly are encouraged to work with eligible applicants in developing proposals that include them as participants in the projects. Contact your EPA Regional PESP coordinator for assistance in identifying and contacting eligible applicants. EPA strongly encourages this type of cooperative arrangement.

III. Activities and Criteria

A. General

The goal of PESP is to reduce the risks associated with pesticide use in agricultural and non-agricultural settings in the United States. The purpose of the grant program is to support the establishment and expansion of Integrated Pest Management (IPM) as a tool to be used to accomplish the goals of PESP. The grant program is also designed to research alternative pest management practices, research and publish/demonstrate unique application techniques, research control methods for pest complexes, research and produce educational materials for better pest identification or management, and other activities that further the goals of PESP. EPA specifically seeks to build State and local IPM capacities or to evaluate the economic feasibility of new IPM approaches at the State level (i.e., innovative approaches and methodologies that use application or other strategies to reduce the risks associated with pesticide use). Funds awarded under the grant program should be used to support the Environmental Stewardship Program and its goal of reducing the risk/use of pesticides. State projects might focus on, for example:

- Researching the effectiveness of multimedia communication activities for, including but not limited to: promoting local IPM activities, providing technical assistance to pesticide users; collecting and analyzing data to target outreach and technical assistance opportunities; developing measures to determine and document progress in pollution prevention; and identifying regulatory and non-regulatory barriers or incentives to pollution prevention.
- Researching methods for establishing IPM as an environmental management priority, establishing prevention goals, developing strategies to meet those goals, and integrating the ethic within both governmental and non-governmental institutions of the State or region.
- Initiating research or other projects that test and support: innovative techniques for reducing pesticide risk or using pesticides in a way to reduce risk, innovative application techniques to reduce worker and environmental exposure, various approaches and methodologies to measure progress towards meeting the goal of 75% implementation of IPM by the year 2000.

A list of projects funded in FY'98 may be obtained from the internet at URL http://www.epa.gov/oppbppd1/PESP/grants.htm or from the Regional PESP coordinator listed under Unit IV. of this document.

B. Criteria

Proposals will be evaluated based on the following criteria:

1. Qualifications and experience of the applicant relative to the proposed project.
   - Does the applicant demonstrate experience in the field of the proposed activity?
   - Does the applicant have the properly trained staff, facilities, or infrastructure in place to conduct the project?
2. Consistency of applicant's proposed project with the risk reduction goals of the PESP.
3. Provision for a quantitative or qualitative evaluation of the project's success at achieving the stated goals.
   - Is the project designed in such a way that it is possible to measure and document the results quantitatively and qualitatively?
   - Does the applicant identify the method that will be used to measure and document the project's results quantitatively and qualitatively?
   - Will the project assess or suggest a means for measuring progress in reducing risk/use of pesticides in the United States?
4. Likelihood the project can be replicated to benefit other communities or the product may have broad utility to a widespread audience. Can this project, taking into account typical staff and financial restraints, be replicated by similar organizations in different locations to address the same or similar problem?

C. Program Management

Awards of FY'99 funds will be managed through the EPA Regional Offices.

D. Contacts

A generic request for proposal will be available on EPA's PESP web site on or before March 19, 1999 at http://www.epa.gov/oppbppd1/PESP/grants.htm. Interested applicants must also contact the appropriate EPA Regional PESP coordinator listed under Unit IV. of this document to obtain specific instructions, regional criteria, and guidance for submitting proposals.

IV. Regional Pesticide Environmental Stewardship Program Contacts

Region I: (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Robert Koethe, (CPT), 1 Congress St., Boston, MA 02203, Telephone: (617) 918–1535, koethe.robert@epamail.epa.gov

Region II: (New Jersey, New York, Puerto Rico, Virgin Islands), Audrey Moore, (MS-500), 2890 Woodbridge Ave., Edison, NJ 08837, Telephone: (732) 906–6809, moore.audrey@epamail.epa.gov

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), Lisa Donahue, (3WC32), 1650 Arch St., Philadelphia, PA 19103, Telephone: (215) 814–2062, donahue.lisa@epamail.epa.gov

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Lora Lee Schroeder, 12th Floor, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303–3104, Telephone: (404) 562–9015, schroeder.lora@epamail.epa.gov

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), David Macarus, (DT-8J), 77 West Jackson Blvd., Chicago, IL 60604, Telephone: (312) 353–5814, macarus.david@epamail.epa.gov

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Jerry Collins, (6PD-P), 1445 Ross Ave., 6th Floor, Suite 600, Dallas, TX 75202, Telephone: (214) 665–7562, collins.jerry@epamail.epa.gov

Region VII: (Iowa, Kansas, Missouri, Nebraska), Jamie Green, 726 Minnesota Ave., Kansas City, KS 66101, Telephone: (913) 551–5332, green.jamie@epamail.epa.gov

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Cindy Schaffer, (8P2-TX), 999 18th St., Suite 500, Denver, CO 80202–2466, Telephone: (303) 312–6417, schaffer.cindy@epamail.epa.gov

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam), Roccena Lawatch, (CMD4-3), 75 Hawthorne St., San Francisco, CA 94105, Telephone: (415) 744–1068, lawatch.roccena@epamail.epa.gov

Region X: (Alaska, Idaho, Oregon, Washington), Karl Arne, (ECO-084), 1200 Sixth Ave., Seattle, WA 98101, Telephone: (206) 553–2576, rne.karl@epamail.epa.gov

List of Subjects

Environmental protection.

Dated: March 12, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–6785 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6312–4]

Interagency Project To Clean Up Open Dumps on Tribal Lands: Request for Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The national Tribal Solid Waste Interagency Workgroup (Workgroup) is soliciting proposals for its Tribal Open Dump Cleanup Project (Cleanup Project). Approximately $1.6 million is available to fund selected proposals with the possibility of additional funds depending on the scope of the individual project. The Cleanup Project is intended to demonstrate the Federal government's ability to provide comprehensive solid waste management funding and technical support to tribes by assisting three to six tribes with the closure or upgrade of "high priority" waste disposal sites. In determining whether a site is high priority, the Workgroup will generally rely on the Indian Health Service's *1997 Report—Open Dumps on Indian Lands*. The Workgroup recognizes that an individual tribe may have information on high priority sites that are not included in the IHS Report. To address such sites, the Request for Proposals package includes criteria that allow a tribe to demonstrate that a site represents a serious threat to human health and the environment and should be considered high priority. The Workgroup plans to use information gathered from the Cleanup Project to devise a strategy to support further tribal efforts to address solid waste management needs.

The Tribal Solid Waste Interagency Workgroup was established in April 1998 to devise a Federal plan for helping tribes bring their waste disposal sites into compliance with the municipal solid waste landfill criteria (40 CFR part 258), i.e., closing or upgrading open dumps and planning for appropriate alternative disposal. Current workgroup members include representatives from EPA (Office of Solid Waste and Emergency Response, Office of Enforcement and Compliance Assurance, and American Indian Environmental Office), the Bureau of Indian Affairs, the Indian Health Service, the Federal Aviation Administration, the National Oceanic and Atmospheric Administration, the U.S. Geological Survey, and the Departments of Agriculture (Hazardous Waste Management Group and Rural Utilities Service) and Defense.

Criteria: Eligible recipients of assistance under the Cleanup Project include Federally recognized tribes, Alaska native villages, and multi-tribe 501(c)(3) organizations whose membership consists of Federally recognized tribes and/or Alaska native villages. Proposals should be no more than 10 pages in length, excluding supporting documentation. A full explanation of the submittal process, the qualifying requirements, and the criteria that will be used to evaluate proposals for this Cleanup Project may be found in the Request for Proposals package.

DATES: To be considered, proposals must be postmarked no later than April 23, 1999.

FOR FURTHER INFORMATION CONTACT: For copies of the Request for Proposals package, or, if you have questions regarding this request or the Tribal Solid Waste Interagency Workgroup, please contact your regional EPA office or EPA—Melanie Barger Garvey, 202–564–2579 or Beverly Goldblatt, 703–308–7278, IHS—Steve Aoyama, 301–443–1046, BIA—Jerry Gidner, 202–208–5696.

The Request for Proposals package may be downloaded from the Internet at <www.epa.gov/tribalmsw>. Click on "What's New."

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 99–6783 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6312–8]

Air Quality Criteria for Particulate Matter

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The National Center for Environmental Assessment of the U.S. Environmental Protection Agency (EPA) announces a public meeting to review draft chapters of a forthcoming EPA document entitled, *Air Quality Criteria for Particulate Matter*. This meeting will discuss the following topics as they pertain to particulate matter (PM) as an air pollutant: atmospheric chemistry, sources and emissions, concentrations in ambient air, exposure, epidemiology, dosimetry, toxicology, and controlled human exposure.

DATES: The meeting is open to the public and will be held April 6–9, 1999, from 8:30 a.m. to 5:00 p.m., daily. To accommodate seating for those parties interested in attending, please make reservations with Ms. Emily Lee at the U.S. Environmental Protection Agency, National Center for Environmental Assessment-RTP Office, MD–52, Research Triangle Park, NC 27711; telephone: 919–541–4169; facsimile: 919–541-5078; E-mail: lee.emily@epa.gov.

ADDRESSES: The meeting site is the Embassy Suites, 201 Harrison Oaks Blvd., Cary, NC 27513; phone 919–677–1840.

FOR FURTHER INFORMATION CONTACT: Dr. Dennis Kotchmar, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–4158; facsimile: 919–541–1818; E-mail: kotchmar.dennis@epa.gov.

SUPPLEMENTARY INFORMATION: The U.S. Environmental Protection Agency (EPA) is updating and revising, where appropriate, the EPA's *Air Quality Criteria for Particulate Matter* (PM). Sections 108 and 109 of the Clean Air Act require that the EPA carry out a periodic review and revision, where appropriate, of the criteria and the National Ambient Air Quality Standards (NAAQS) for the "criteria" air pollutants such as PM.

The Agency will consider the discussions at the April 6–9 meeting in further revisions of the draft chapters prior to their incorporation into an external review draft of the revised *Air Quality Criteria for Particulate Matter* and will release the draft document for public review and comment in July or August 1999. The Clean Air Scientific Advisory Committee (CASAC) will meet to review the external review draft document in November or December 1999. This meeting will be open to the public, and interested parties will have an opportunity to make statements. Through subsequent **Federal Register** notices, the EPA will keep the public informed of opportunities to comment on the first external review draft and to make statements at the CASAC review meeting.

Dated: March 15, 1999.

Arthur Payne,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 99–6781 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6312–2]

Proposed CERCLA Prospective Purchaser Agreement for the Phoenix Metals Site

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Proposal of CERCLA prospective purchaser agreement for the Phoenix Metals Site.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law 99–499, notice is hereby given that a proposed purchaser agreement ("PPA") for the Phoenix Metals Removal Action Site ("the Site") located in Baldwin, Wisconsin, has been executed by Brooks D. Ketchum d/b/a Custom Welding. The proposed PPA has been submitted to the Attorney General for approval.

The Site is located on approximately 4.8 acres of industrially zoned land. Rosen Metals, Inc., began processing spent automotive and industrial lead-acid batteries for their lead content at the Site in the 1970s. From January 1993 through September 1996, the Site was the subject of a Federally funded enforcement action, specifically, lead contaminated soil removal activities. Brooks D. Ketchum d/b/a Custom Welding, intends to purchase and redevelop the Site. The proposed PPA would require Brooks D. Ketchum d/b/a Custom Welding to pay the United States $6,000 to be applied toward response costs incurred by the United States. The Site is not on the National Priorities List, and no further response activities at the Site are anticipated at this time.

DATES: Comments on the proposed PPA must be received by EPA on or before April 19, 1999.

ADDRESSES: A copy of the proposed PPA is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Mary McAuliffe at (312) 886–6237, prior to visiting the Region 5 office.

Comments on the proposed PPA should be addressed to Mary McAuliffe, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code C–14J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mary McAuliffe at (312) 886-6237, of the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open for comments on the proposed PPA. Comments should be sent to the addressee identified in this document.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 99–6780 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6312–7]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act: J C Pennco

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the J C Pennco Superfund Site in San Antonio, Texas, with the following settling parties referenced in the Supplementary Information portion of this document.

The settlement requires the settling *major* parties to pay $479,000 to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to section 107 of CERCLA, 42 U.S.C. 9607,

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733.

DATES: Comments must be submitted on or before April 19, 1999.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A copy of the proposed settlement may be obtained from Dan Hochstetler, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–6569. Comments should reference the J C Pennco Superfund Site in San Antonio, Texas, and EPA Docket Number 06–5–98, and should be addressed to Dan Hochstetler at the address listed above.

FOR FURTHER INFORMATION CONTACT: Jim Costello, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–8045.

SUPPLEMENTARY INFORMATION:

Ashley Salvage Company, Inc.
The Coleman Company, Inc.
The Dee Howard Company
Defense Reutilization and Marketing Service
Fairchild Aircraft Incorporated
Fairchild Gen-Aero, Inc.
Senior Flexonics, Inc.
Via Metropolitan Transit Authority
Victor Service Center, Inc.

Dated: March 10, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 99–6782 Filed 3–18–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 10, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 18, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0885.

Title: Telephone Number Portability, CC Docket No. 95–116, Third Report and Order (Local Number Portability Worksheet and Recordkeeping Requirement).

Form Number: FCC Form 487.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 4,400.

Estimated Time Per Response: 1.74 hours (avg.).

Frequency of Response: Recordkeeping; Annual and on occasion reporting requirements.

Total Annual Burden: 7,675 hours.

Total Annual Cost: $2,257,000.

Needs and Uses: In the Third Report and Order issued in CC Docket No. 95–116, the Commission implements, for long-term number portability costs, the statutory requirement that all telecommunications carriers bear the costs of number portability on a competitively neutral basis, as set forth in Section 251(e)(2) of the Telecommunications Act of 1996. The Third Report and Order requires telecommunications carriers to provide the information about their international and regional end-user telecommunications revenues that will enable the regional database administrator to allocate the costs of the number portability regional databases in a competitively neutral manner. FCC Form 487, LNP Worksheet is designed to capture this information. The Third Report and Order requires incumbent local exchange carriers (LECs) to maintain records that detail both the nature and specific amount of these carrier-specific costs that are directly related to number portability, and those carrier-specific costs that are not directly related to number portability.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 99–6731 Filed 3–18–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

March 8, 1999.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0785.

Expiration Date: 09/30/99.

Title: Universal Service Worksheet.

Form No.: FCC Form 457.

Respondents: Business or other for profit.

Estimated Annual Burden: 5000 respondents; 13.69 hours per response (avg.); 68,450 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $4903.

Frequency of Response: Semi-annual; on occasion.

Description: The Telecommunications Act of 1996 (1996 Act) directed the Commission to initiate a rulemaking to reform our system of universal service so that universal service is preserved and advanced as markets move toward competition. To fulfill that mandate, on March 8, 1996, the Commission adopted a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 96–45 to implement the congressional directives set forth in section 254 of the Communications Act of 1934, as amended by the 1996 Act. Pursuant to section 254(a)(1), the NPRM also referred numerous issues related to universal service to a Federal-State Joint Board for recommended decision. On November 8, 1996, the Joint Board released a Recommended Decision in which it made recommendations to assist and counsel the Commission in the creation of effective universal service support mechanisms that would ensure that the goals of affordable, quality service and access to advanced services are met by means that enhance competition. On November 18, 1996, the Commission's Common Carrier Bureau released a Public Notice (DA 96–1891) seeking public comment on the issues addressed and recommendations made by the Joint Board in the Recommended Decision. On May 8, 1997, the Commission released the Report and Order on Universal Service in CC Docket No. 96–45 that established new federal universal service support mechanisms consistent with the universal service provisions of section 254. In the Second Order on Reconsideration in CC Docket Nos. 97–21, and 96–45, the Commission adopted the Worksheet. The Worksheet required universal service contributors to report as end-user telecommunications revenues any revenues derived from inside wiring maintenance. In the Sixth Order on Reconsideration, in CC Docket No. 96–45, the Commission reconsidered its decision in the Second Order on Reconsideration regarding inside wiring maintenance. The Commission concluded that the provision of inside wiring maintenance does not constitute telecommunications or a telecommunications service, and therefore revenues derived from inside wiring maintenance should not be included as end-user telecommunications revenues on the Worksheet. The Commission directed that carriers should adjust the 1998 full-year data reported on the Worksheet due on March 31, 1999 to reflect this change. Pursuant to the authority delegated under section 54.711(c) of the Commission's rules, the Common Carrier Bureau has updated the Worksheet so that revenues from inside wiring maintenance are no longer reported as end-user telecommunications revenues. Specifically, revenues from inside wiring maintenance formerly reported on Line (34) as end-user telecommunications revenues are now reported on Line (50) as non-telecommunications revenues. Contributors must use the revised Worksheet for their filings due on March 31, 1999. Copies of the revised Worksheet (February 1999 edition) and instructions may be downloaded from the Commission's forms Web Page, www.fcc.gov/formpage.html. Copies may also be obtained from the Universal Service Administrative Company at 973–560–4400. Obligation to respond: Mandatory.

OMB Control No.: 3060–0816.

Expiration Date: 08/31/99.

Title: Local Competition in the Local Exchange Telecommunications Services Report.

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 20 respondents; 26 hours per response (avg.); 5520 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; quarterly.

Description: The Telecommunications Act of 1996 (1996 Act) imposes obligations and responsibilities on telecommunications carriers, particularly incumbent local exchange carriers (LECs), that are primarily designed to open telecommunications markets to competitive entry, to promote universal service, and to lessen the need for government regulation of telecommunications. Pursuant to these overall goals, the statute directed the Commission to adopt regulations to implement specific statutory requirements, including regulations governing the provisions of interconnection of incumbent LEC facilities with new local exchange service competitors, and the competitive entry of Bell Operating Companies (BOCs) into previously prohibited interexchange and other services markets. As part of its responsibilities toward achieving the intent of the statute, the Commission must have adequate data at hand to evaluate the success of these efforts. Moreover, in section 706(b) of the 1996 Act, Congress directed the Commission to report to it on the pace of deployment of "advanced telecommunications capability"—broadband telecommunications services such as high-speed Internet access. The Commission adopted a Report (in CC Docket 98–146) on January 28, 1999, in which it formally undertook to issue annual reports detailing the status of broadband deployment. Gathering relevant data about broadband deployment is, therefore, essential if the Commission is to successfully accomplish this statutory requirement. Gathering information also is critical to the Commission's deregulatory agenda. Gathering data about the development of local competition and broadband deployment will help ensure that the Commission can properly evaluate the nature and impact of its existing regulation and, where appropriate, reduce or eliminate regulation. New sections 10 and 11 of the 1996 Act both require the Commission to undertake reviews of existing Commission regulations with a view towards their elimination, but both require that the Commission's analysis include an economic analysis of the state of competition among service providers. The Commission has designed a survey form to capture this information and is asking certain carriers to complete the survey form. Obligation to response: Voluntary.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 99–6728 Filed 3–18–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 15, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 19, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1–804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0804.

Title: Universal Service—Health Care Providers Universal Service Program.

Form Number(s): FCC 465, FCC 466, FCC 467, and FCC 468.

Type of Review: Extension of a currently approved collection.

Respondents: Not-for-profit institutions; and Businesses or other for-profit entities;.

Number of Respondents: 18,400.

Estimated Time per Response: 1.5 to 2.5 hours.

Frequency of Response: Recordkeeping; On occasion reporting requirements.

Total Annual Burden: 121,500 hours.

Total Annual Costs: $270,000.

Needs and Uses: The Commission adopted rules providing support for all telecommunications services, limited distance charges, and Internet access for all health care providers. Health care providers who want to participate in the universal service program must file the following forms. FCC Form 465 to request eligible services; FCC Form 466 to certify that the most cost effective method of providing the services has been requested; FCC Form 467 to confirm the receipt of the requested services; and FCC Form 468 to ensure that the proper amount of universal service support has been calculated. All the information is used to administer the universal service health care program.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 99–6730 Filed 3–18–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–385]

Unified Policy For Dismissing Applications and Pleadings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document released on February 24, 1999, under delegated authority, announced a unified policy regarding dismissing and returning applications and dismissing pleadings associated with applications. The policy is intended to promote: the correct filing of applications and pleadings associated with such applications, expedited processing of all wireless applications, and consistency in the treatment of all applications received by the Wireless Telecommunications Bureau.

EFFECTIVE DATE: May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Charlene Lagerwerff, Commercial Wireless Division, at (202) 418–1349 or Steve Linn, Private Wireless Division, at 717–338–2646.

SUPPLEMENTARY INFORMATION: This Public Notice released on February 24, 1999, is available for inspection and copying during normal business hours in the FCC Reference Center, 2025 M Street, NW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc. 1231 20th Street, NW, Washington DC 20036 (202) 857–3800.

The document is also available via the Internet at

http://www.fcc.gov/Bureaus/Wireless/Public_Notices/1999/da990385.wp
http://www.fcc.gov/Bureaus/Wireless/Public_Notices/1999/da990385.txt
http://www.fcc.gov/Bureaus/Wireless/Public_Notices/1999/da990385.pdf

Federal Communications Commission.

Steven E. Weingarten,

Chief, Commercial Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 99–6729 Filed 3–18–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:00 a.m. on Tuesday, March 23, 1999, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Reports of actions taken pursuant to authority delegated by the Board of Directors and summary and status reports.

Annual Alternative Dispute Resolution Report.

Memorandum and resolution re: Amendment to Appendix C of Part 325 (Market Risk) to Eliminate the Minimum Standard Specific Risk Capital Charge for Banks with Qualifying Internal Models.

Discussion Agenda:

Memorandum and resolution re: Recommendation concerning proposed amendments to Part 326 of FDIC's Rules and Regulations—Minimum Security Devices and Procedures and Bank Secrecy Act Compliance Program ("Know Your Customer").

Memorandum and resolution re: Final amendment to Part 330—Deposit Insurance Regulations; Joint Accounts and "Payable-on-Death" Accounts.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call(202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: March 16, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–6866 Filed 3–17–99; 10:51 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

[Notice 1999–6]

Filing Dates for the Louisiana Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Louisiana has scheduled a special election on May 1, 1999, to fill the U.S. House seat in the First Congressional District vacated by Congressman Robert Livingston. Under Louisiana law, a majority winner in a non-partisan special election is declared elected. Should no candidate achieve a majority vote, a Special Runoff Election will be held on May 29, 1999, between the top two vote-getters.

Committees participating in the Louisiana special elections are required to file pre-and post-election reports. Filing dates for these reports are affected by whether one or two elections are held.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Zarin, Information Division, 999 E Street, NW, Washington, DC 20463, Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates who participate in the Louisiana Special General and Special Runoff Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-General Report on April 19, 1999, with coverage dates from the close of the last report filed, or the day of the committee's first activity, whichever is later, through April 11, 1999; a Pre-Runoff Report on May 17, 1999, with coverage dates from April 12 through May 9, 1999; and a Post-Runoff Report on June 28, 1999, with coverage dates from May 10 through June 18, 1999.

All principal campaign committees of candidates in the Special General Election *only* and all other political committees not filing monthly which support candidates in the Special General Election shall file a 12-day Pre-General Report on April 19, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through April 11, and a Pre-General Report on June 1, with coverage dates from April 12 through May 21, 1999.

All political committees not filing monthly which support candidates in the Special Runoff *only* shall file a 12-day Pre-Runoff Report on May 17, with coverage dates from the last report filed or the date of the committee's first activity, whichever is later, through May 9, and a Post-Runoff Report on June 28, with coverage dates from May 10 through June 18, 1999.

CALENDAR OF REPORTING DATES FOR LOUISIANA SPECIAL ELECTION

Report	Close of books	Reg./Cert. mailing date [2]	Filing date
If Only the Special General is Held (05/01/99), Committees Must File:			
Pre-General	04/11/99	04/16/99	04/19/99
Post-General	05/21/99	[3] 06/01/99	[3] 06/01/99
If Two Elections Are Held, But a Committee is Involved Only in the Special General (05/01/99):			
Pre-General	04/11/99	04/16/99	04/19/99
Mid-Year	06/30/99	07/31/99	07/31/99
Committees Involved in the Special General (05/01/99) and Special Runoff (05/29/99) Must File:			
Pre-General	04/11/99	04/16/99	04/16/99
Pre-Runoff	05/09/99	05/14/99	05/17/99
Post-Runoff	06/18/99	06/28/99	06/28/99
Committees Involved Only in the Special Runoff (05/29/99) Must File:			
Pre-Runoff	05/09/99	05/14/99	05/17/99
Post-Runoff	06/18/99	06/28/99	06/28/99

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
[2] Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.
[3] The date has been adjusted because the computed date would have fallen on a federal holiday.

Dated: March 15, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–6663 Filed 3–18–99; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–011604–003.

Title: USA Conference.

Parties: Farrell Lines Incorporated; Sea-Land Service, Inc.

Synopsis: The proposed modification revises Articles 13 (Independent Action) and 14 (Service Contracts) of the Agreement to conform with the requirements of the Ocean Shipping Reform Act of 1998. The modification also reflects a prior and now effective modification to Article 3 (the resignation of A.P. Moller-Maersk), and makes reference to the Ocean Shipping Reform Act of 1998 under Article 4.

Agreement No.: 232–11655.

Title: MSC/Evergreen South America Slot Charter Agreement.

Parties: Evergreen Marine Corporation; Mediterranean Shipping Company.

Synopsis: The proposed Agreement authorizes the parties to charter space to one other and enter into related cooperative arrangements in the trades between U.S. East Coast and ports in Argentina, Brazil, Uruguay, Paraguay and Venezuela. The parties have requested expedited review.

Agreement No.: 207–011656.

Title: West Coast Express Joint Service Agreement.

Parties: Associated Transport Line, L.L.C. ("ATL"); G.G.E. Express Line L.L.C. ("GGE"); West Coast Express (the "Joint Service").

Synopsis: The proposed agreement would authorize the parties to establish a joint service, known as the West Coast Express, that will operate in the trade between United States Atlantic and Gulf Coast ports and points, and ports and points in Panama, Ecuador, Peru and Chile. The parties have requested expedited review.

Agreement No.: 224–201071.

Title: San Francisco Mexican Line Marine Terminal Agreement.

Parties: San Francisco Port Commission; Mexican Line Limited.

Synopsis: The proposed agreement provides for the non-exclusive use of a pier and runs through March 31, 2004.

Dated: March 16, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–6758 Filed 3–18–99; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 99059]

Childhood Asthma and Hazardous Substances Applied Research and Development; Notice of the Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to conduct research on the impact of hazardous substances on childhood asthma. This program addresses the "Healthy People 2000" priority area of Environmental Health.

The purpose of this program is to: (1) Use secondary data sources available for asthma and evaluate the contribution of environmental exposures to asthma morbidity among children, (2) provide generalizable scientific information about the association between hazardous substances and childhood asthma morbidity; and (3) develop a methodology which could serve as a useful model for other organizations when responding to questions concerning the health impact of air releases of hazardous substances.

B. Eligible Applicants

Assistance will be provided to official public health agencies of States or their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam,

the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian Tribal governments. State organizations, including State universities, State colleges, and State research institutions, must establish that they meet their respective State's legislature definition of a State entity or political subdivision to be considered to be an eligible applicant.

C. Availability of Funds

Approximately $185,000 may be available in FY 1999 to fund one or two awards. It is expected that the average award will be $100,000, ranging from $80,000 to $105,000. The award(s) are expected to begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates are subject to change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual services may be requested; however, the primary recipient of ATSDR funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with these funds, however, the equipment proposed should be appropriate and reasonable for the research activity to be conducted. Equipment may be acquired only when authorized and the application should provide a justification of need to acquire equipment, the description, and the cost of purchase versus lease. At the completion of the project, the equipment must be returned to ATSDR.

Funding Priorities

Priority will be given to the proposed project that is conducted in a community where a completed air pathway has already been established for one or more hazardous substances from a particular point source(s).

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for activities under 1. (Recipient Activities), and ATSDR will be responsible for the activities listed under 2. (ATSDR Activities).

1. Recipient Activities

a. Develop a research project which evaluates the contribution of environmental exposures, from a point source using secondary data. Provide scientific information concerning hazardous substances and childhood asthma and develop a model for others to address the health impact of hazardous substances.

b. Develop, field test, and revise data extraction instruments.

c. Conduct the activities. Analyze data and interpret findings.

d. Disseminate research results to community members, and publish in written format.

e. Provide evidence of collaborate efforts with the state health department on proposed and future community outreach activities.

f. Collaborate with ATSDR on these program activities, and meet annually to coordinate planned efforts and review progress.

2. ATSDR Activities

a. Provide scientific, epidemiologic, and environmental assistance.

b. Collaborate on the development of the protocol and evaluation of the data extraction instruments.

c. Collaborate with awardee(s) on data analysis and interpretation of findings.

d. Provide technical assistance to awardees (if more than one award is made) to ensure a sharing of information and methodologies, as appropriate.

e. Provide assistance for the dissemination of information to community members resulting from this project.

f. Facilitate an annual meeting between awardee(s) and ATSDR to coordinate planned efforts and review progress.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed so it is important to follow them in laying your program plan. The application must be developed in accordance with PHS Form 5161–1 (OMB) Number 0937–0189) information. The entire application, including appendices, should not exceed 50 pages and the Proposal Narrative section contained therein should not exceed 30 pages. Pages should be clearly numbered and a complete table of contents to the application and any appendices included. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, double-spaced, with unreduced type (font size 12 point) on 8½″ by 11″ paper, with at least 1″ margins, headers, and footers, and printed on one side only. Do not include any spiral or bound materials or pamphlets.

1. Title Page

The heading should include the title of cooperative agreement announcement, project title, organization, name and address, project director's name address and telephone number.

2. Abstract

A one page, singled-spaced, typed abstract must be submitted with the application. The heading should include the title of cooperative agreement announcement, project title, organization, name and address, project director and telephone number. This abstract should include a work plan identifying activities to be developed, activities to be completed, and a time-line for completion of these activities.

3. Application Narrative

The narrative of each application must address the evaluation component in addition to the following:

a. Briefly state the applicant's understanding of the need or problem to be addressed, the purpose, and goals over the 3 year period of the cooperative agreement.

b. Describe in detail the objectives and the methods to be used to achieve the objectives of the project. The objectives should be specific, time-phased, measurable, and achievable during each budget period. The objectives should directly relate to the program goals. Identify the steps to be taken in planning and implementing the objectives and the responsibilities of the applicant for carrying out the steps.

c. Provide the name, qualifications, and proposed time allocation of the Principal Investigator who will be responsible for administering the project. Describe staff, experience, facilities, equipment available for performance of this project, and other resources that define the applicant's capacity or potential to accomplish the requirements stated above. List the names (if known), qualifications, and time allocations of the existing professional staff to be assigned to (or recruited for) this project, the support staff available for performance of this project, and the available facilities including space.

d. Document the applicant's expertise, and extent of experience in the areas of

asthma, environmental health, and population-based epidemiologic studies.

e. Provide letters of support or other documentation demonstrating coordination with the state health department and all other agencies or organizations described as participating in the project.

f. Describe how the affected communities will be involved the proposed project.

g. Human Subjects: State whether or not Humans are subjects in this proposal. (See Human Subjects in the Evaluation Criteria and Other Requirements sections.)

h. Inclusion of women, ethnic, and racial groups: Describe how the CDC/ATSDR policy requirements will be met regarding the inclusion of women, ethnic, and racial groups in the proposed research. (See Women, Racial and Ethnic Minorities in the Evaluation Criteria and Other Requirements sections.)

4. Budget

Provide a detailed budget which indicates anticipated costs for personnel, equipment, travel, communications, supplies, postage, and the sources of funds to meet these needs. The applicant should be precise about the program purpose of each budget item. For contracts described within the application budget, applicants should name the contractor, if known; describe the services to be performed; and provide an itemized breakdown and justification for the estimated costs of the contract; the kinds of organizations or parties to be selected; the period of performance; and the method of selection. Place the budget narrative pages showing, in detail, how funds in each object class will be spent, directly behind form 424A. Do not put these pages in the body of the application. ATSDR may not approve or fund all proposed activities.

F. Submission and Deadline

Pre-Application Letter of Intent

In order to enable ATSDR to determine the level of interest in the program announcement, a non-binding letter-of-intent to apply is requested from potential applicants. The letter should be submitted to Lisa Garbarino, Grants Management Officer, Attn: Nelda Godfrey, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia, 30341–4146. It should be postmarked no later than May 17, 1999. The letter should identify program announcement number 99059, and name and phone number of contact person.

Application

The original and two copies of the application PHS Form 5161–1 must be submitted to Lisa Garbarino, Grants Management Officer, Attn: Nelda Y. Godfrey, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, Georgia, 30341–4146 on or before July 16, 1999. (By formal agreement, the CDC Procurement and Grants Office will act for and on behalf of ATSDR on this matter.)

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an objective review group appointed by ATSDR.

Review Criteria

1. Understanding of the Problem (10 percent) Responsiveness to the objectives of the cooperative agreement including:

a. The applicant's understanding of the problems related to community exposures to hazardous substances and concerns regarding morbidity from childhood asthma, and

b. Relevance of the proposed program to these and related problems.

2. Program Personnel (20 percent).

a. Applicant's technical experience and understanding (e.g. in the areas of asthma, environmental health, and population-based epidemiologic studies).

b. Qualifications and time allocation of the professional staff to be assigned to this project.

c. Extent to which the management staff and their working partners are clearly described.

3. Goals and Objectives (10 percent). The extent to which the proposed goals and objectives are clearly stated and measurable.

4. Study Design and Methods (30 percent).

a. Adequacy of the study design and methodology for accomplishing the stated goals and objectives.

b. The degree to which efficient and innovative approaches are proposed to address the problems.

c. The extent to which the applicant's plans and schedule proposed for accomplishing the activities to be carried out in this project are clearly stated, are realistic given the length of the funding period, and can be achieved within the proposed budget.

d. Adequacy of plan for recruitment and outreach for study participants including the process of establishing partnerships with community(ies), the state health department, and recognition of the mutual benefits.

5. Community Involvement and Dissemination of Results (20 percent).

Adequacy of plans to address community concerns and create lines of communication. Adequacy of methods to disseminate the study results to state and local public health officials, tribal governments, Indian Health Service, community residents, and to other concerned individuals and organizations.

6. Facilities and Resources (9 percent). The adequacy of the applicant's facilities, equipment, and other resources available for performance of this project.

7. Minority Populations (1 percent). The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research.

This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the desgin of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study pariticpants include the process of establishing partnerships with community (ies) and recognition of mutual benefits.

8. Human Subjects (Not scored).

Does the application adequately address the requirements of 45 CFR 46 for the protection of human subjects? _____ yes _____ no Comments: _____ A statement must address whether or not exempt from the Department of Health and Human

Services (DHHS) regulations. Are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (a) protections appear adequate, and there are no comments to make or concerns to raise, (b) protections appear adequate, but there are comments regarding the protocol, (c) protections appear inadequate and the Objective Review Group has concerns related to human subjects, or (d) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

9. Budget Justification (Not Scored) The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original and two copies of:

1. Semi-annual progress report (Attachment 2)

2. Financial Status Report (FSR) no more than 90 days after the end of the budget period

3. Final financial status report and performance report, no more than 90 days after the end of the project.

Send all reports to: Nelda Y. Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Cooperative Agreement Number: _____, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, Georgia 30341–4146.

The following additional requirements are applicable to this program. For complete description of each, see Attachment 1 in the application kit.

AR–1 Human Subjects Requirements

AR–2 Requirements of Inclusion of Women and Racial and Ethnic Minorities in Research

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2000

AR–17 Peer Review and Technical Reviews of Final

REPORTS OF HEALTH STUDIES—ATSDR

AR–18 ..	Cost Recovery—ATSDR.
AR–19 ..	Third Party Agreements—ATSDR.

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized in Sections 104(i)(1)(E) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604 (i)(l)(E) and (15)]. The Catalog of Federal Domestic Assistance number is 93.161.

J. Where To Obtain Additional Information

Please refer to Program Announcement 99059 when you request information. To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement Number of interest. If you have any questions after reviewing the contents of the application kit please contact: Nelda Y. Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, Georgia 30341–4146, Telephone (770) 488–2722, E-mail address: nag9@cdc.gov.

To obtain technical assistance, contact: Sherri Berger, Epidemiologist, Health Investigations Branch, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop E–31, Atlanta, Georgia 30333, Telephone: (404) 639–5149, E-mail address: sob8@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov.

Dated: March 12, 1999.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 99–6712 Filed 3–18–99; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99002]

Public Health Conference Support Cooperative Agreement; Program for Human Immunodeficiency Virus (HIV) Prevention; Notice of Availability of Funds

A notice announcing the availability of Fiscal Year 1999 funds for the Human Immunodeficiency Virus (HIV) Prevention Public Health Conference Support Program was published in the **Federal Register** on March 10, 1998, [Vol. 64 FR No.46, pages 11911–11914] [FR Doc. 99–5867]. The notice is rescinded in its entirety, due to lack of funds.

Dated: March 15, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–6734 Filed 3–18–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 99F–0461]

Ticona; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ticona has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyphenylene sulfone resins as articles or components of articles intended for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4644) has been filed by Ticona, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in Part 177 *Indirect Food*

Additives: Polymers (21 CFR 177) to provide for the safe use of polyphenylene sulfone resins as articles or components of articles intended for repeated use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: February 26, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–6750 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0297]

Draft Guidance for Industry on Formal Dispute Resolution; Appeals Above the Division Level; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Formal Dispute Resolution: Appeals Above the Division Level." This draft guidance is intended to provide guidance for industry on procedures that will be adopted by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for resolving scientific and procedural disputes that cannot be resolved at the division level.

DATES: Written comments on the draft guidance document may be submitted by May 18, 1999. General comments on agency guidance documents are welcome at any time. Submit written comments on the information collection provisions by April 19, 1999.

ADDRESSES: Copies of this draft guidance for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm" or "http://www.fda.gov/cber/guidelines.htm". Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, or FAX 888–CBERFAX or 301–827–3844. Send two self-addressed adhesive labels to assist the office in processing your request. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Patricia L. DeSantis, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400, or

Rebecca A. Devine, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Description of the Guidance

FDA is announcing the availability of a draft guidance for industry entitled "Formal Dispute Resolution: Appeals Above the Division Level." The draft guidance is intended to provide guidance for industry on procedures that will be adopted by CDER and CBER for resolving scientific and procedural disputes that cannot be resolved at the division level. This draft guidance describes procedures for formally appealing such disputes to the office or center level and for submitting information to assist agency officials in resolving the issue(s) presented.

FDA regulations § 10.75 (21 CFR 10.75) provide a mechanism for any interested person to obtain formal review of any agency decision by raising the matter with the supervisor of the employee who made the decision. If the issue is not resolved at the primary supervisory level, the interested person may request that the matter be reviewed at the next higher supervisory level. This process may continue through the agency's entire supervisory chain of command, through the centers to the Deputy Commissioner for Operations and then to the Commissioner. CDER and CBER regulations for dispute resolution during the investigational new drug (IND) process (§ 312.48 (21 CFR 312.48)) and the new drug application (NDA)/abbreviated new drug application (ANDA) process (§ 314.103 (21 CFR 314.103)) establish similar procedures for the resolution of scientific and procedural matters at the division level and subsequent formal review of decisions through center management.

On November 21, 1997, President Clinton signed into law the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Pub. L. 105–115). Section 404 of the Modernization Act creates new section 562 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bbb–1). Section 562 of the act provides that if, regarding an obligation concerning drugs or devices under the act or section 351 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262), there is a scientific dispute between the agency and a sponsor, applicant, or manufacturer, and no specific provision of the act or regulation provides a right of review of the matter in controversy, FDA shall, by regulation, establish a procedure under which such sponsor, applicant, or manufacturer may request a review of the controversy, including review by an advisory committee. Section 562 of the act further provides that such review of the controversy shall take place in a timely manner. In the **Federal Register** of November 18, 1998 (63 FR 63978), FDA amended § 10.75 to explicitly state that a sponsor, applicant, or manufacturer of a drug or device may request review of a scientific controversy by an appropriate advisory committee. In the preamble to the final rule, FDA stated that implementation of this provision would be undertaken by the individual FDA centers and would be described in guidance documents.

The Prescription Drug User Fee Act of 1992 (PDUFA) (Pub. L. 102–571) was reauthorized in November 1997 (PDUFA 2) as part of the Modernization Act. In conjunction with PDUFA 2, FDA agreed to specific performance goals (PDUFA goals) for activities associated with the development and review of products in human drug applications as defined in section 735(1) of the act (21 U.S.C. 379g(1)) (PDUFA products). The PDUFA goals are summarized in "PDUFA Reauthorization Performance Goals and Procedures," an enclosure to a letter dated November 12, 1997, from the Secretary of Health and Human Services, Donna E. Shalala, to Senator James M. Jeffords. The PDUFA goals for major dispute resolution describe specific timeframes for CDER and CBER response to formally appealed decisions regarding scientific or procedural matters concerning PDUFA products.

The policies and procedures described in this draft guidance document will implement agency

regulations, section 562 of the act, and the PDUFA goals for dispute resolution. Unless stated otherwise in the draft guidance, the document applies to PDUFA products and non-PDUFA products (e.g., generic drugs).

This draft Level 1 guidance is being issued consistent with FDA's "Good Guidance Practices" (62 FR 8961, February 27, 1997). It represents the agency's current thinking on formal dispute resolution in CDER and CBER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes, regulations, or both.

II. Comments

Interested persons may, on or before May 18, 1999, submit to the Dockets Management Branch (address above) written comments on the draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth below.

With respect to the following collection of information, FDA invites comment on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Draft Guidance for Industry on Formal Dispute Resolution: Appeals Above the Division Level.

Description: FDA is issuing a draft guidance on the process for formally resolving scientific and procedural disputes in CDER and CBER that cannot be resolved at the division level. The draft guidance describes procedures for formally appealing such disputes to the office or center level and for submitting information to assist center officials in resolving the issue(s) presented. The draft guidance provides information on how the agency will interpret and apply provisions of the existing regulations regarding internal agency review of decisions (§ 10.75) and dispute resolution during the IND process (§ 312.48) and the NDA/ANDA process (§ 314.103). In addition, the draft guidance provides information on how the agency will interpret and apply the specific PDUFA goals for major dispute resolution associated with the development and review of PDUFA products.

Existing regulations, which appear primarily in parts 10, 312, and 314 (21 CFR parts 10, 312, and 314), establish procedures for the resolution of scientific and procedural disputes between interested persons and the agency, CDER, and CBER. All agency decisions on such matters are based on information in the administrative file (§ 10.75(d)). In general, the information in an administrative file is collected under existing regulations in parts 312 (OMB Control No. 0910–0001), 314 (OMB Control No. 0910–0014), and part 601 (21 CFR part 601) (OMB Control No. 0910–0315), which specify the information that manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of drugs and biological products. This information is usually submitted as part of an IND, NDA, or biologics license application (BLA), or as a supplement to an approved application. While FDA already possesses in the administrative file the information that would form the basis of a decision on a matter in dispute resolution, the submission of particular information regarding the request itself and the data and information relied on by the requestor in the appeal would facilitate timely resolution of the dispute. The draft guidance describes the following collection of information not expressly specified under existing regulations: The submission of the request for dispute resolution as an amendment to the application for the underlying product, including the submission of supporting information with the request for dispute resolution.

Agency regulations (§§ 312.23(11)(d), 314.50, 314.94, and 601.2) state that information provided to the agency as part of an IND, NDA, ANDA, or BLA is to be submitted in triplicate and with an appropriate cover form. Form FDA 1571 must accompany submissions under IND's and Form FDA 356h must accompany submissions under NDA's, ANDA's, and BLA's. Both forms have valid OMB control numbers as follows: FDA Form 1571, OMB Control No. 0910–0014, expires December 31, 1999; and FDA Form 356h, OMB Control No. 0910–0338, expires April 30, 2000.

In the draft guidance document, CDER and CBER ask that a request for formal dispute resolution be submitted as an amendment to the application for the underlying product and that it be submitted to the agency in triplicate with the appropriate form attached, either Form FDA 1571 or Form FDA 356h. The agency recommends that a request be submitted as an amendment in this manner for two reasons: To ensure that each request is kept in the administrative file with the entire underlying application and to ensure that pertinent information about the request is entered into the appropriate tracking databases. Use of the information in the agency's tracking databases enables the appropriate agency official to monitor progress on the resolution of the dispute and to ensure that appropriate steps will be taken in a timely manner.

CDER and CBER have determined and the draft guidance recommends that the following information should be submitted to the appropriate center with each request for dispute resolution so that the Center may quickly and efficiently respond to the request:

- A brief but comprehensive statement of each issue to be resolved, including a description of the issue, the nature of the issue (i.e., scientific, procedural, or both), possible solutions based on information in the administrative file, whether informal dispute resolution was sought prior to the formal appeal, whether advisory committee review is sought, and the expected outcome;
- A statement identifying the review division/office that issued the original decision on the matter and, if applicable, the last agency official that attempted to formally resolve the matter;
- A list of documents in the administrative file, or additional copies of such documents, that are deemed

necessary for resolution of the issue(s); and

• A statement that the previous supervisory level has already had the opportunity to review all of the material relied on for dispute resolution. The information that the agency suggests submitting with a formal request for dispute resolution consists of: (1) Statements describing the issue from the perspective of the person with a dispute, (2) brief statements describing the history of the matter, and (3) documents previously submitted to FDA under an OMB approved collection of information (see previous discussion).

Based on FDA's experience with dispute resolution, the agency expects that most persons seeking formal dispute resolution will have gathered the materials listed previously when identifying the existence of a dispute with the agency. Consequently, FDA anticipates that the collection of information attributed solely to the guidance will be minimal.

Description of Respondents: A sponsor, applicant, or manufacturer of a drug or biologic product regulated by the agency under the act or section 351 of the PHS Act who requests formal resolution of a scientific or procedural dispute.

Burden Estimate: Table 1 of this document provides an estimate of the annual reporting burden for requests for dispute resolution. In fiscal year (FY) 1998, 39 sponsors and applicants (respondents) submitted requests for formal dispute resolution to CDER and 12 respondents submitted requests for formal dispute resolution to CBER. Although the procedures for requesting formal dispute resolution that are set forth in the draft guidance document were not in place in FY 1998, FDA estimates that the number of respondents who would submit requests for dispute resolution under the guidance would remain the same. The total annual responses are the total number of requests submitted to CDER and CBER in 1 year, including requests for dispute resolution that a single respondent submits more than one time. In FY 1998, CDER received approximately 49 requests and CBER received approximately 15 requests. The agency estimates that the total annual responses will remain the same, averaging to 1.26 responses per respondent. The hours per response is the estimated number of hours that a respondent would spend preparing the information to be submitted with a request for formal dispute resolution in accordance with this draft guidance, including the time it takes to gather and copy brief statements describing the issue from the perspective of the person with the dispute, brief statements describing the history of the matter, and supporting information that has already been submitted to the agency. Based on experience, FDA estimates that approximately 8 hours on average would be needed per response. Therefore, FDA estimates that 512 hours will be spent per year by respondents requesting formal dispute resolution under the guidance.

FDA invites comments on this analysis of information collection burdens.

TABLE 1.—Estimated Annual Reporting Burden[1]

Requests for Formal Dispute Resolution	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
CDER	39	1.26	49	8	392
CBER	12	1.25	15	8	120
Total					512

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

In compliance with section 3507(d) of the PRA (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this draft guidance to OMB for review. Interested persons are requested to send comments on this information collection by April 19, 1999, to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

Dated: March 15, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–6749 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0302]

Draft "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2." This draft guidance is neither final nor is it in effect at this time. The final regulations implementing the Mammography Quality Standards Act of 1992 (the MQSA) will become effective April 28, 1999, and will replace the interim regulations which, under the MQSA, currently regulate mammography facilities. The draft guidance document is intended to assist facilities and their personnel to meet the MQSA final regulations.

DATES: Written comments concerning this draft guidance must be received by June 17, 1999.

ADDRESS: See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance. Submit written requests for single copies on a 3.5" diskette of the draft guidance document entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Written comments concerning this draft guidance must be submitted to the Dockets Management Branch (HFA–

305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Charles A. Finder, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The MQSA was passed on October 27, 1992, to establish national quality standards for mammography. After October 1, 1994, the MQSA required all mammography facilities, except facilities of the U.S. Department of Veterans Affairs, to be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA. In the **Federal Register** of October 28, 1997 (62 FR 55852), FDA published the MQSA final regulations. The final regulations will become effective April 28, 1999, and will replace the interim regulations (58 FR 67558 and 58 FR 67565, December 21, 1993) which, under the MQSA, currently regulate mammography facilities. Development of this guidance document began in August 1998 and is based in part on discussions with, and input from, the National Mammography Quality Assurance Advisory Committee.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on the final regulations implementing the MQSA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2" via your fax machine, call the CDRH Facts–On–Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1498) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh". "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2" will be available at "http://www.fda.gov/cdrh/dmqrp.html".

IV. Comments

Interested persons may, on or before June 17, 1999, submit to Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–6665 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0697]

Compliance Guidance: The Mammography Quality Standards Act FinalRegulations Document #1; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1." The final regulations implementing the Mammography Quality Standards Act of 1992 (the MQSA) will become effective April 28, 1999, and will replace the interim regulations which, under the MQSA, currently regulate mammography facilities. The guidance is intended to assist facilities and their personnel to meet the MQSA final regulations.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the guidance entitled "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the SUPPLEMENTARY INFORMATION section for information on electronic access to the guidance.

Submit written comments on "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Charles A. Finder, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

FDA published a notice of availability of a draft of this guidance for public comment in the **Federal Register** of August 27, 1998 (63 FR 45828). The agency discussed the draft guidance

with a working group of the Conference of Radiation Control Program Directors in October 1998 and with the National Mammography Quality Assurance Advisory Committee in November 1998. The guidance has been modified from the original draft proposal to address public comments and to conform to the changes mandated by the Mammography Quality Standards Reauthorization Act (MQSRA) of 1998. The major changes include:

1. New guidance for patient communication of results to conform to MQSRA,
2. Reinstatement of the exemption from adverse finding after continuing experience requalification for interpreting physicians and extension to radiologic technologists,
3. Modification of the Automatic Exposure Control mode guidance so that it applies to those modes used clinically at the facility,
4. Revision of the repeat analysis guidance to be consistent with currently accepted practice,
5. Inclusion of the fact that FDA has proposed changes to the collimation requirements,
6. Clarification of what constitutes a major change to the film processor,
7. Further clarification as to what constitutes a "serious complaint",
8. Raising inspection finding levels for failure to have a standard operating procedure for infection control and handling consumer complaints, and
9. Raising inspection finding levels for failure to comply with manufacturer's recommendations when performing digital mammography.

II. Significance of Guidance

This guidance represents the agency's current thinking on the final regulations implementing the MQSA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance is issued as a level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1499) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1", device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh". The "Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #1" will be available at "http://www.fda.gov/cdrh/dmqrp.html".

IV. Comments

Interested persons may, at any time, submit to the contact person (address above) written comments regarding this guidance. Such comments will be considered when determining whether to amend the current guidance.

Dated: March 10, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–6666 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0296]

Draft Guidance for Industry on Formal Meetings with Sponsors and Applicants for PDUFA Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Formal Meetings with Sponsors and Applicants for PDUFA Products." This draft guidance document is intended to provide guidance to industry on procedures that will be adopted by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for formal meetings between the agency and sponsors or applicants concerning certain drug products.

DATES: Written comments on the draft guidance may be submitted by May 18, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of the draft guidance for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm" or "http://www.fda.gov/cber/guidelines.htm". Submit written requests for single copies of "Formal Meetings with Sponsors and Applicants for PDUFA Products" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, or FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments are to be identified with the docket number found in brackets in the heading of this document. After the comment period, comments may be submitted to the centers at the following addresses.

FOR FURTHER INFORMATION CONTACT:

Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400, or

Rebecca A. Devine, Center for Biologics Evaluation and Research (HFM–10), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Description of the Draft Guidance

FDA is announcing the availability of a draft guidance for industry entitled "Formal Meetings with Sponsors and Applicants for PDUFA Products." CDER and CBER participate in many meetings each year with sponsors of

investigations and applicants for marketing who seek guidance relating to the development and review of products in human drug applications as defined in section 735(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379g(1)) (the Prescription Drug User Fee Act (PDUFA) products). These meetings often represent critical points in the regulatory process. It is essential that FDA maintain procedures for the timely and effective conduct of such meetings.

Section 119(a) of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Pub. L. 105–115) amends section 505(b) of the act (21 U.S.C. 355(b)) and directs FDA to meet with sponsors and applicants, provided certain conditions are met, for the purpose of reaching agreement on the design and size of clinical trials intended to form the primary basis of an effectiveness claim in a new drug application (NDA) submitted under section 505(b) of the act or in a biologics license application (BLA) submitted under section 351 of the Public Health Service Act (42 U.S.C. 262) (21 U.S.C. 355(b)(4)(B)). Moreover, in conjunction with the reauthorization of PDUFA in November 1997, FDA agreed to specific performance goals for the management of meetings with sponsors and applicants for PDUFA products. The performance goals are summarized in an enclosure to a letter dated November 12, 1997, from Donna E. Shalala, Secretary of Health and Human Services, to Senator James M. Jeffords.

The procedures and policies described in this draft guidance document are designed to promote efficient, well-managed meetings between sponsors, applicants, and CDER or CBER. These procedures will implement section 119(a) of the Modernization Act and are consistent with the timeframes described in the performance goals.

FDA participates in formal meetings with various external constituents who seek guidance relating to the development or marketing of drug and biological products. This draft guidance document is the first of two guidances describing CDER's and CBER's procedures for formal meetings. FDA intends to issue additional guidance documents describing CDER's and CBER's procedures for formal meetings with sponsors and applicants for non-PDUFA products (including generic drug products) and for nonapplication related meetings with external constituents.

This draft Level 1 guidance document is being issued consistent with FDA's "Good Guidance Practices" (62 FR 8961, February 27, 1997). It represents the agency's current thinking on formal meetings with sponsors and applicants for PDUFA products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before May 18, 1999, submit to the Dockets Management Branch (address above) written comments on the draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

II. The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comment on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques and other forms of information technology, when appropriate.

Title: Draft Guidance for Industry on Formal Meetings with Sponsors and Applicants for PDUFA Products.

Description: FDA is issuing a draft guidance on the procedures for formal meetings between FDA and sponsors or applicants regarding the development and review of PDUFA products. The draft guidance describes procedures for requesting, scheduling, conducting, and documenting such formal meetings. The draft guidance provides information on how the agency will interpret and apply section 119(a) of the Modernization Act, specific PDUFA goals for the management of meetings associated with the review of human drug applications for PDUFA products, and provisions of existing regulations describing certain meetings (§§ 312.47 and 312.82 (21 CFR 312.47 and 312.82)).

The draft guidance describes two collections of information: The submission of a meeting request containing certain information and the submission of an information package in advance of the formal meeting. Agency regulations at § 312.47(b)(1)(ii), (b)(1)(iv), and (b)(2) describe information that should be submitted in support of a request for an End-of-Phase 2 meeting and a Pre–NDA meeting. The information collection provisions of § 312.47 have been approved by OMB (OMB Control No. 0910–0014). However, the draft guidance provides additional recommendations for submitting information to FDA in support of a meeting request. As a result, FDA is providing revised estimates in this notice.

A. Request for a Meeting

Under the draft guidance, a sponsor or applicant interested in meeting with CDER or CBER should submit a meeting request to the appropriate FDA component as an amendment to the underlying application.

FDA regulations (§§ 312.23, 314.50, and 601.2 (21 CFR 312.23, 314.50, and 601.2)) state that information provided to the agency as part of an IND, NDA, or BLA must be submitted in triplicate and with an appropriate cover form. Form FDA 1571 must accompany submissions under IND's and Form FDA 356h must accompany submissions under NDA's and BLA's. Both forms have valid OMB control numbers as follows: FDA Form 1571, OMB Control No. 0910–0014, expires December 31, 1999; and FDA Form 356h, OMB Control No. 0910–0338, expires April 30, 2000.

In the draft guidance document, CDER and CBER ask that a request for a formal meeting be submitted as an amendment to the application for the underlying product under the requirements of §§ 312.23, 314.50, and 601.2; therefore, requests should be submitted to the agency in triplicate with the appropriate form attached, either Form FDA 1571 or Form FDA 356h. The agency

recommends that a request be submitted in this manner for two reasons: (1) To ensure that each request is kept in the administrative file with the entire underlying application, and (2) to ensure that pertinent information about the request is entered into the appropriate tracking data bases. Use of the information in the agency's tracking data bases enables the agency to monitor progress on the activities attendant to scheduling and holding a formal meeting and to ensure that appropriate steps will be taken in a timely manner.

Under the draft guidance, the agency requests that sponsors and applicants include in meeting requests certain information about the proposed meeting. Such information includes:

- Information identifying and describing the product;
- The type of meeting being requested;
- A brief statement of the purpose of the meeting;
- A list of objectives and expected outcomes from the meeting;
- A preliminary proposed agenda;
- A draft list of questions to be raised at the meeting;
- A list of individuals who will represent the sponsor or applicant at the meeting;
- A list of agency staff requested to be in attendance;
- The approximate date that the information package will be sent to the agency; and
- Suggested dates and times for the meeting.

This information will be used by the agency to determine the utility of the meeting, to identify agency staff necessary to discuss proposed agenda items, and to schedule the meeting.

B. Information Package

A sponsor or applicant submitting an information package to the agency in advance of a formal meeting should provide summary information relevant to the product and supplementary information pertaining to any issue raised by the sponsor, applicant, or agency. The agency recommends that information packages generally include:

- Identifying information about the underlying product;
- A brief statement of the purpose of the meeting;
- A list of objectives and expected outcomes of the meeting;
- A proposed agenda for the meeting;
- A list of specific questions to be addressed at the meeting;
- A summary of clinical data that will be discussed (as appropriate);
- A summary of preclinical data that will be discussed (as appropriate); and
- Chemistry, manufacturing, and controls information that may be discussed (as appropriate).

The purpose of the information package is to provide agency staff the opportunity to adequately prepare for the meeting, including the review of relevant data concerning the product. Although FDA reviews similar information in the meeting request, the information package should provide updated data that reflect the most current and accurate information available to the sponsor or applicant. The agency finds that reviewing such information is critical to achieving a productive meeting.

The collection of information described in the draft guidance reflects the current and past practice of sponsors and applicants to submit meeting requests as amendments to IND's, NDA's, and BLA's and to submit background information prior to a scheduled meeting. Agency regulations currently permit such requests and recommend the submission of an information package before an End-of-Phase 2 meeting (§ 312.47(b)(1)(ii) and (b)(1)(iv)) and a Pre–NDA meeting (§ 312.47(b)(2)).

Description of Respondents: A sponsor or applicant for a drug or biologic product who requests a formal meeting with the agency regarding the development and review of a PDUFA product.

Burden Estimate: Table 1 of this document provides an estimate of the annual reporting burden for the submission of meeting requests and information packages under the guidance.

Request for a formal meeting. Based on data collected from the review divisions and offices within CDER and CBER, FDA estimates that in fiscal year (FY) 1998, 548 sponsors and applicants (respondents) requested formal meetings with CDER and 495 respondents requested formal meetings with CBER regarding the development and review of a PDUFA product. FDA anticipates that the potential number of respondents submitting meeting requests will remain the same, and therefore estimates that the total number of respondents will be 1,043. The agency further estimates that the total annual responses, i.e., the total number of meetings requested per year, will be 1,043, based on data collected from the offices within CDER and CBER. The hours per response, which is the estimated number of hours that a respondent would spend preparing the information to be submitted with a meeting request in accordance with the draft guidance, is estimated to be approximately 10 hours. Based on FDA's experience, the agency expects it will take respondents this amount of time to gather and copy brief statements about the product and a description of the purpose and details of the meeting. Therefore, the agency estimates that sponsors will use 10,430 hours per year requesting formal meetings with CDER and CBER regarding the development and review of PDUFA products.

Information package. Based on data collected from the review divisions and offices within CDER and CBER, FDA estimates that in FY 1998, CDER held 527 formal meetings and CBER held 415 formal meetings regarding the review of human drug applications as defined in section 735(1) of the act. FDA anticipates that the potential number of meetings will remain the same; thus, the agency estimates that total annual responses will be 942. As stated previously, it is the current practice for sponsors and applicants to submit information packages to the agency in advance of any such meeting. In FY 1998, 527 respondents submitted information packages to CDER and 415 respondents submitted information packages to CBER prior to the scheduled meetings. FDA anticipates that the potential number of respondents submitting an information package will remain the same; thus, the agency estimates that the total number of respondents will be 942. The hours per response, which is the estimated number of hours that a respondent would spend preparing the information package in accordance with this draft guidance, is estimated to be approximately 18 hours. Based on FDA's experience, the agency expects it will take respondents this amount of time to gather and copy brief statements about the product, a description of the details for the anticipated meeting, and data and information that generally would already have been compiled for submission to the agency. Therefore, the agency estimates that respondents will spend 16,856 hours per year submitting information packages to the agency prior to a formal meeting regarding the development and review of a PDUFA product.

As stated earlier, the draft guidance provides information on how the agency will interpret and apply section 119(a) of the Modernization Act, specific PDUFA goals for the management of meetings associated with the review of human drug applications for PDUFA products, and provisions of existing regulations describing certain meetings (§§ 312.47 and 312.82). The information collection provisions in § 312.47

concerning End-of-Phase 2 meetings and Pre–NDA meetings have been approved by OMB (OMB Control No. 0910–0014). These estimates provide for 100 respondents submitting 100 total annual responses at 24 hours per response, equalling 2,400 total burden hours. Therefore, FDA is subtracting these estimates from the estimates described previously for all formal meetings between FDA and sponsors or applicants regarding the development and review of PDUFA products. Specifically, the agency is subtracting in Table 1 of this document burden estimates for meeting requests and information packages for End-of-Phase 2 meetings and Pre–NDA meetings. This reduces the total estimated burden hours from 27,386 to 24,986.

FDA invites comments on this analysis of information collection burdens.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Meeting Requests and Information Packages	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Meeting Requests					
CDER	548	1	548	10	5,480
CBER	495	1	495	10	4,950
Total					10,430
Information Packages					
CDER	527	1	527	18	9,486
CBER	415	1	415	18	7,470
Total					16,956
Subtotal					27,386
Less 2,400 hours					24,986
TOTAL					24,986

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

In compliance with section 3507(d) of the PRA (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this draft guidance to OMB for review. Interested persons are requested to send comments on this information collection by April 19, 1999, to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

Dated: March 9, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–6748 Filed 3–18–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4442–N–07]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The soliciting public comments on the subject proposal.

DATES: Comments are due May 18, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Telephone (202) 708–1537. This is not a toll-free number. Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Ms. Karadbil.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of information to be collected; and (4) Minimize the burden of collection of information on those who are to respond; including through the use of appropriate technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of the Proposal: Notice of Funding Availability and Application Kit for the Hispanic-Serving Institutions Work Study Program (HSI–WSP).

Description of the need for the information and proposed use: The information is being collected to select grantees in this statutorily-created competitive grant program. The information is also being used to monitor the performance of grantees to ensure that they meet statutory and program goals and requirements.

Members of the affected public: Certain Hispanic-serving institutions of higher education: 40 applicants and 15 grantees.

Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response: Information pursuant to submitting applications will be submitted once. Information pursuant to grantee monitoring requirements will be submitted once a year.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application	40	40	40	1,600
Annual Reports	15	30	6	180
Final Reports	15	15	8	120
Recordkeeping	15	15	5	75
Total				1,975

Status of proposed information collection: OMB approved an emergency paperwork clearance for this information collection and assigned it OMB Control No. 2528–0182, expiration date March 31, 2000.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 12, 1999.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 99–6722 Filed 3–18–99; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4442–N–08]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments are due May 18, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Telephone (202) 708–1537. This is not a toll-free number. Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Ms. Karadbil.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of information to be collected; and (4) Minimize the burden of collection of information on those who are to respond; including through the use of appropriate technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of the Proposal: Notice of Funding Availability and Application Kit for the Community Development Work Study Program (CDWSP).

Description of the need for the information and proposed use: The information is being collected to select grantees in this statutorily-created competitive grant program. The information is also being used to monitor the performance of grantees to ensure that they meet statutory and program goals and requirements.

Members of the affected public: Institutions of higher education offering graduate degrees in community development fields: 60 applicants and 30 grantees.

Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours or response: Information pursuant to submitting applications will be submitted once. Information pursuant to grantee monitoring requirements will be submitted once a year.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application	60	60	40	2,400
Annual Reports	30	30	6	180
Final Reports	30	30	8	240
Record keeping	30	30	5	150
Total				2,970

Status of proposed information collection: OMB approved a paperwork clearance for this information collection and assigned it OMB Control No. 2528–0175, expiration date March 31, 1999.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 12, 1999.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 99–6723 Filed 3–18–99; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–11]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that additional properties have been determined suitable or unsuitable this week.

Dated: March 11, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–6340 Filed 3–18–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU–76195]

Notice of Coal Lease Offering by Sealed Bid; The Pines Tract

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155. Notice is hereby given that at 11:00 a.m., April 15, 1999, certain coal resources in lands hereinafter described in Sevier and Emery Counties, Utah will be offered for competitive lease by sealed bid of $100.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 437). *However, no bid will be accepted for less than fair market value as determined by the authorized officer.* A company or individual is limited to *one sealed bid.* If a company or individual submits two or more sealed bids for this tract, all of the company's or individual's bids will be rejected.

This lease is being offered for sale under the provisions set forth in the regulations for Leasing on Application at 43 CFR 3425.

The lease sale will be held in the Bureau of Land Management Conference Room, 324 South State Street, Suite 302, Salt Lake City, Utah, at 11:00 a.m. on April 15, 1999. At that time, the sealed bids will be opened and read. No bids received after 10:00 a.m., April 15, 1999, will be considered.

Coal Offered

The coal resources to be offered consist of all recoverable reserves available in the following described lands located in Sevier and Emery Counties, Utah, approximately 5 miles northwest of Emery, Utah on public land located in the Manti-LaSal National Forest:

T. 20 S., R. 5E., SLM, Utah
Sec. 35, S2NE, SENW, NESW, S2SW, SE;
Sec. 36, W2SW, SESW.
T. 21 S., R. 5E., SLM, Utah
Sec. 1, lots 3, 4, S2SW, SWSE;
Sec. 2, lots 1–4, S2S2;
Sec. 10, E2;
Sec. 11 through 14, all inclusive;
Sec. 15 E2;
Sec. 22, E2;
Sec. 23 and 24, all inclusive;
Sec. 25 N2, N2S2;
Sec. 26, N2, NESW, E2NWSW, SE.
T. 21 S., R. 6E., SLM, Utah
Sec. 19, lots 3, 4, E2SW;
Sec. 30, lots 1–3, E2NW, NESW.
Containing 7,171.66 acres.

The tract has one potentially minable coal seam, the Upper Hiawatha. The minable portions of the seam in this area are from 6 to 14 feet in thickness. This tract contains an estimated 60 million tons of recoverable high volatile C bituminous coal.

The estimated coal quality using averages of core samples on an as-received basis is:

11,539	BTU/lb.;
8.37	Percent moisture:
0.5	Percent sulphur;
8.78	Percent ash;
45.98	Percent fixed carbon;
36.87	Percent volatile matter.

(Totals do not equal 100% due to rounding)

Rental and Royalty

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods, and 8 percent of the value of coal mined by underground methods. The value of coal shall be determined in accordance with BLM Manual 3070.

Notice of Availability

Bidding instructions are included in the Detailed Statement of Lease Sale. A copy of the detailed statement and the proposed coal lease are available by mail at the Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155 or in the Public Room (Room 400), 324 South State Street, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in the Public Room (Room 400) of the Bureau of Land Management.

Douglas M. Koza,

Deputy State Director, Natural Resources.

[FR Doc. 99–6732 Filed 3–18–99; 8:45 am]

BILLING CODE 4310–D9–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–932–1430–01; COC–60316]

Public Land Order No. 7377; Withdrawal of Public Land for Unaweep Seep Research Natural Area; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 1,440 acres of public land from surface entry and mining for 20 years for the Bureau of Land Management to protect the Unaweep Seep Research Natural Area which includes riparian values and rare and endangered species. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not the mineral leasing laws, to protect fragile resource values in the Unaweep Seep Research Area:

Sixth Principal Meridian

T. 14 S., R. 103 W.,
  Sec. 32, E½NE¼SE¼ and SE¼SE¼;
  Sec. 33, W½NW¼SW¼ and NW¼SW¼SW¼.
T. 15 S., R. 103 W.,
  Sec. 2, lot 5 and SE¼NW¼SW¼;
  Sec. 3, SE¼SW¼, E½SE¼, E½NW¼SE¼, and SW¼SE¼;
  Sec. 4, SW¼SW¼SW¼;
  Sec. 5, lot 1, E½ 10 chains of lot 2, E½SW¼NE¼, N½SE¼NE¼, SW¼SE¼NE¼, NW¼NE¼SE¼, S½NE½SE, E½NW¼SE¼, NE¼SW¼SE¼, and SE¼SE¼;
  Sec. 8, E½NE¼NE¼;
  Sec. 9, SW¼SW¼NE¼, NW¼NW¼NW¼, S½NW¼NW¼, NW¼SW¼NW¼, E½SW¼NW¼, W½SE¼NW¼, SE¼SE¼NW¼, E½NE¼SW¼, NW¼NE¼SW¼, NE¼NE¼SE¼, S½NE¼SE¼, NW¼SE¼, NE¼SW¼SE¼, and SE¼SE¼;
  Sec. 10, N½N½NE¼, SW¼NW¼NE¼, NE¼NW¼, SE¼NW¼NW¼, NE¼SW¼NW¼, S½SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, NW¼NE¼SW¼, NW¼SW¼, N½SW¼SW¼, and SW¼SW¼SW¼;
  Sec. 15, NW¼NW¼NW¼;
  Sec. 16, E½NE¼, SE¼SW¼NE¼, NE¼NE¼SE¼, W½E½SE¼, and E½W½SE¼;
  Sec. 21, East 10 chains of lot 1 (excepting therefrom that portion within MS 3257), E½NE¼, E½NW¼NE¼, and NE¼SE¼.
  Sec. 22, West 10 chains of lot 1 (excepting therefrom that portion within MS 3257), and W½NW¼SW¼.

The area described contains 1,440 acres in Mesa County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 12, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–6739 Filed 3–18–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–941–1420–00–241A]

Filing of Plat of Survey

AGENCY: Bureau of Land Management, Utah, DOI.

ACTION: Notice.

SUMMARY: The following list of original cadastral survey plats was accepted by the Chief for Public Services and Land Records Section, Utah State Office, Bureau of Land Management on August 10, 1998. The following list of official documents was also transmitted by certified mail to the Director for the Denver Service Center (SC–675), Bureau of Land Management on August 10, 1998. The requested copies of microfilm for each survey group was received back from the Denver Service Center on October 28, 1998, and was put on file with the Information Access Center, Utah State Office, Bureau of Land Management.

Number	Group	Township	Meridian	Approved
[01]	[766]	[T20S R20E]	[SLM]	[98–05–05]
[02]	[766]	[T21S R20E]	[SLM]	[98–05–05]
[03]	[785]	[T11S R15E]	[SLM]	[98–03–13]
[04]	[785]	[T12S R15E]	[SLM]	[98–03–13]
[05]	[789][824]	[T20N R03E]	[SLM]	[97–12–24]
[06]	[789][824]	[T20N R03E]	[SLM]	[97–12–24]
[07]	[798]	[T36S R10W]	[SLM]	[98–03–18]
[08]	[801]	[T02N R01E]	[USM]	[98–03–18]
[09]	[809]	[T24S R07W]	[SLM]	[97–09–11]

UTAH CADASTRAL FIELD NOTES AND SURVEY PLATS

Number	Group	Township	Meridian	Approved
[10]	[832]	[T27S R23E]	[SLM]	[98–03–18]
[11]	[838]	[T23S R24E]	[SLM]	[98–03–18]
[12]	[839]	[T25S R23E]	[SLM]	[97–12–24]
[13]	[840]	[T28S R26E]	[SLM]	[97–12–24]
[14]	[842]	[T03S R04W]	[SLM]	[98–03–18]
[15]	[843]	[T29S R23E]	[SLM]	[97–12–24]
[16]	[846]	[T37S R23E]	[SLM]	[98–02–23]
[17]	[851]	[T10S R04W]	[SLM]	[98–03–18]
[18]	[852]	[T11S R04W]	[SLM]	[98–03–18]
[19]	[853]	[T13S R04W]	[SLM]	[98–03–18]
[20]	[854]	[T26S R07W]	[SLM]	[98–04–23]
[21]	[855]	[T28S R09W]	[SLM]	[98–04–23]
[22]	[857]	[T12S R02W]	[SLM]	[98–03–18]

UTAH CADASTRAL FIELD NOTES AND SURVEY PLATS—Continued

Number	Group	Township	Meridian	Approved
[23]	[858]	[T13S R01W]	[SLM]	[97–09–11]
[24]	[860]	[T14S R01W]	[SLM]	[98–03–18]
[25]	[870]	T41S R11W]	[SLM]	[97–11–07]
[26]	[875]	[T20S R25E]	[SLM]	[98–03–18]
[27]	[876]	[T43S R15W]	[SLM]	[98–03–18]
[28]	[877]	[T41S R13W]	[SLM]	[98–02–02]

AMENDED PROTRACTION DIAGRAMS

Number	Group	Township	Meridian	Approved
[29]	[P001]	[TOWNSHIP]	[INDEX]	[97–10–30]
[30]	[P002]	[T01N R20E]	[SLM]	[97–10–30]
[31]	[P003]	[T01S R20E]	[SLM]	[97–10–30]
[32]	[P004]	[T02S R20E]	[SLM]	[97–10–30]
[33]	[P005]	[T01N R21E]	[SLM]	[97–10–30]
[34]	[P006]	[T02N R21E]	[SLM]	[97–10–30]
[35]	[P007]	[TOWNSHIP]	[INDEX]	[97–10–30]
[36]	[P008]	[T01S R10E]	[SLM]	[97–10–30]
[37]	[P009]	[T01N R11E]	[SLM]	[97–10–30]
[38]	[P010]	[T01S R11E]	[SLM]	[97–10–30]
[39]	[P011]	[T01N R12E]	[SLM]	[97–10–30]
[40]	[P012]	[T01S R12E]	[SLM]	[97–10–30]
[41]	[P013]	[T01N R13E]	[SLM]	[97–10–30]
[42]	[P014]	[T01S R13E]	[SLM]	[97–10–30]
[43]	[P015]	[T01N R14E]	[SLM]	[97–10–30]
[44]	[P016]	[T02N R14E]	[SLM]	[97–10–30]
[45]	[P017]	[TOWNSHIP]	[INDEX]	[97–10–30]
[46]	[P018]	[T01N R15E]	[SLM]	[97–10–30]
[47]	[P019]	[T02N R15E]	[SLM]	[97–10–30]
[48]	[P020]	[T01N R16E]	[SLM]	[97–10–30]
[49]	[P021]	[T02N R16E]	[SLM]	[97–10–30]

UTAH CADASTRAL FIELD NOTES AND SURVEY PLATS

Number	Group	Township	Meridian	Approved
[50]	[P022]	[T01N R17E]	[SLM]	[97–10–30]
[51]	[P023]	[T02N R17E]	[SLM]	[97–10–30]
[52]	[P024]	[T01N R18E]	[SLM]	[97–10–30]
[53]	[P025]	[T02N R18E]	[SLM]	[97–10–30]
[54]	[P026]	[T01S R18E]	[SLM]	[97–10–30]
[55]	[P027]	[T02S R18E]	[SLM]	[97–10–30]
[56]	[P028]	[T03S R18E]	[SLM]	[97–10–30]
[57]	[P029]	[T01N R19E]	[SLM]	[97–10–30]
[58]	[P030]	[T01S R19E]	[SLM]	[97–10–30]
[59]	[P031]	[T02S R19E]	[SLM]	[97–10–30]

Dated: March 12, 1999.

Roger Zortman,

Deputy State Director, Operations.

[FR Doc. 99–6733 Filed 3–18–99; 8:45 am]

BILLING CODE 4310–D9–M

DEPARTMENT OF JUSTICE

Antitrust Division

Public Comments and Plaintiff's Responses; United States v. Mercury PCS II, L.L.C.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a public comment and plaintiff's response thereto has been filed with the United States District Court for the District of Columbia in *United States* v. *Mercury PCS II, L.L.C.*, Civil Case No. 98–2751 (PLF).

On November 10, 1998, the United States filed a civil antitrust complaint alleging that Mercury PCS II, L.L.C. ("Mercury) violated Section 1 of the Sherman Act, 15 U.S.C. 1. In its complaint, the plaintiff alleged that the defendant used coded bids during a Federal Communications Commission auction of radio spectrum licenses for personal communication services. The complaint further alleges that, through the use of these coded bids, the defendant reached an agreement to stop bidding against another bidder in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment, filed the same time as the Complaint, prohibits Mercury from entering into anticompetitive agreements and from using coded bids in future FCC auctions.

Public comment was invited within the statutory sixty-day comment period. One comment was received, and the response thereto, are hereby published in the **Federal Register** and filed with the Court. Copies of the comment and the response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh

Street, N.W., Washington, DC 20530 (telephone: (202) 514–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, DC 20001. Copies of these materials may be obtained on request and payment of a copying fee.

Rebecca P. Dick,

Director of Civil Non-Merger Enforcement Antitrust Division.

United States of America, Plaintiff, v. Mercury PCS II, L.L.C., Defendant. Civil Case No. 98–2751 (PLF).

Plaintiff's Response to Public Comment

I

Background

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act (the "APPA"), 15 U.S.C.A § 16(d), the United States files this response to the single public comment received regarding the proposed Final Judgment submitted for entry in this case.

Plaintiff filed a civil antitrust complaint on November 10, 1998, alleging that Mercury PCS II, L.L.C. ("Mercury) violated Section 1 of the Sherman Act, 15 U.S.C. 1. In its complaint, the plaintiff alleged that the defendant used coded bids during a Federal Communications Commission ("FCC") auction of radio spectrum licenses for personal communication services. The complaint further alleges that, through the use of these coded bids, the defendant reached an agreement to stop bidding against another bidder in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed Final Judgment, filed the same time as the complaint, prohibits Mercury from entering into anticompetitive agreements and from using coded bids in future FCC auctions. A competitive impact statement ("CIS") filed by the United States describes the complaint, the proposed Final Judgment, and the remedies available to private litigants who may have been injured by the alleged violation. The plaintiff and the defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA.

The APPA requires a sixty-day period of the submission of public comments on the proposed Final Judgment following publication of the proposed Final Judgment in the **Federal Register**. 15 U.S.C. 16(b). The proposed Final Judgment was published in the **Federal Register** on November 25, 1998; the comment period terminated on January 25, 1999. The United States received only on comment, from High Plains Wireless, L.P. ("High Plains").[1]

II

Response to the Public Comment

In its comment, High Plains states that the factual descriptions in the complaint and CIS do not distinguish between the conduct of Mercury and High Plains—the two parties to the alleged illegal agreement. High Plains claims it was a "victim of Mercury's scheme" and notes that High Plains notified the FCC about Mercury's use of BTA numbers in its bids for the Amarillo and Lubbock licenses shortly after it detected the message contained within Mercury's bids. High Plains requests that the plaintiff amend the complaint and CIS to reflect its role as a victim and a whistlé blower. High Plains' comment does not address the adequacy of the proposed Final Judgment.

The complaint properly alleges an illegal agreement between High Plains and Mercury—indeed High Plains does not dispute the allegations that establish the agreement.[2] And the complaint already distinguishes in a fundamental way between Mercury and High Plains—only Mercury is named as a defendant. The complaint also reflects the different conduct engaged in by each party, it alleges that Mercury actively solicited the agreement through repeated use of BTA numbers, while High Plains eventually assented to Mercury's offer by ceasing to bid in a market Mercury wanted. That High Plains immediately complained to the FCC about Mercury's use of BTA numbers is a matter of public record.[3] It is, however, irrelevant to the complaint against Mercury and for that reason was not included.

The sole concern of this Tunney Act proceeding is with the adequacy of the relief obtained to address the offense charged in the complaint. After careful consideration of the comment, the plaintiff concludes that High Plains' comment does not change its determination that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the complaint and is in the public interest. The relief obtained as to Mercury is fully adequate to address the complaint against that firm. The plaintiff will move the Court to enter the proposed Final Judgment after the public comment and this Response have been published in the **Federal Register**, as 15 U.S.C. § 16(d) requires.

Dated this 9th day of March, 1999.

Respectfully submitted,

Jill Ptacek,

J. Richard Doidge,

U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Suite 500, Washington, D.C. 20530, (202) 307–6607.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Plaintiff's Response to Public Comments, as well as the attached copy of the public comment received from Jonathan P. Graham on behalf of High Plains Wireless, L.P., to be served on counsel for the defendant by first class mail, postage prepaid, as the addresses set forth below.

Charles A. James, Esq.,

Jones, Day, Reavis & Pogue, Metropolitan Square, 1450 G Street, N.W., Washington, D.C. 20005.

Dated: March 9, 1999.

Jill Ptacek

Williams & Connolly

725 Twelfth Street, N.W., Washington, D.C. 20005–5901, (202) 434–5000, FAX (202) 434–5029

January 25, 1999.

By Hand

Mr. Roger W. Fones,

Chief, Transportation Energy and Agriculture Section, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530.

Dear Mr. Fones: We represent High Plains Wireless, L.P. ("High Plains"). Enclosed, pursuant to the Tunney Act, 15 U.S.C. § 16(b)–(h), please find the Comments of High Plains in connection with the antitrust complaint and competitive impact statement filed in *United States* v. *Mercury PCS II, L.L.C., CA No. 1:98CV02751 (D.D.C.).*

If you require any further information or have any questions, please write or call me at the address and number listed above.

Very truly yours,

Jonathan P. Graham

Comments of High Plains Wireless, L.P. on the Proposed Final Judgment in United States v. Mercury PCS II, L.L.C., CA No. 1:98CV02751

High Plains Wireless, L.P. ("High Plains") is a victim of the conduct engaged in by Mercury PCS II, L.L.C. ("Mercury") in *United States* v. *Mercury PCS II, L.L.C., CA No. 1:98CV02751 (D.D.C.).* Because the Complaint and

[1] The comment is attached. The United States plans to publish promptly the comment and this response in the **Federal Register**. The United States will provide the Court with a certificate of compliance with the requirements of the Tunney Act and file a motion for entry of the Final Judgment once publication takes place.

[2] *See United States* v. *Mercury PCS II, LLC* (Civil Case No. 98–2751 (PLF)), ¶¶ 19–21 (D.D.C.)(Complaint, filed November 10, 1998).

[3] *See, e.g.*, Notice of Apparent Liability for Forfeiture, FCC 97–388 (Rel. October 28, 1997)

Competitive Impact Statement do not provide all of the background facts necessary to understand High Plains' role in the matter and may harm High Plains by incorrectly suggesting that it willingly participated in an agreement to violate the antitrust laws, High Plains is making this Tunney Act submission. *See* 15 U.S.C. § 16(b)–(h). High Plains respectfully requests that the Department amend its Complaint, and make corresponding modifications in its Competitive Impact Statement, to reflect accurately High Plains' role in this matter.

High Plains is concerned that the Complaint and the Competitive Impact Statement filed by the Department of Justice neglect to explain fully the relevant circumstances. The Complaint alleges that Mercury and High Plains reached an agreement to refrain from bidding against one another for PCS licenses in certain markets in violation of Section 1 of the Sherman Act. *See* Complaint ¶¶ 3, 19, 20, 21. Similarly, the Competitive Impact Statement filed with the Court alleges that High Plains reached an agreement with Mercury to cease bidding on particular PCS licenses. *See* Competitive Impact Statement at 1–2, 6–8. Although it is accurate that Mercury threatened, through bid-signaling, to outbid High Plains for the Amarillo F block license, and that in order to confirm Mercury's intention, High Plains ceased bidding on the Lubbock F block license, the Complaint and Competitive Impact Statement fail to explain that High Plains (1) was the object of Mercury's improper conduct, (2) immediately reported Mercury's wrongdoing to the FCC, and (3) did not benefit from Mercury's misconduct. The Complaint and Competitive Impact Statement thus incorrectly suggest that High Plains was a willing participant in a violation of the antitrust laws of the United States.

Relevant Facts

From August 26, 1996 to January 14, 1997, both Mercury and High Plains participated in an auction conducted by the Federal Communications Commission ("FCC") of licenses to use certain broadband radio spectrum in the operation of personal communications services ("PCS"). The auction comprised numerous rounds of bidding. As stated in the Competitive Impact Statement, High Plains had been the high bidder for the Amarillo F Block license since Round 68 and continuing through round 120. High Plains was also bidding for the Lubbock F block license. Mercury, on the other hand, had shown no interest in the Amarillo market, but was an active participant in the bidding for the Lubbock F block license.

In round 117 of the auction, when only Mercury and High Plains were bidding, Mercury made the last three digits of its bid match the "BTA code" assigned to the Amarillo market ("013"), for which High Plains was then the high bidder. High Plains did not then understand that there was any connection between the Amarillo market and Mercury's bid amount for the Lubbock market containing the BTA code for Amarillo. High Plains continued bidding for the Lubbock F block license over the next three rounds. In round 121, Mercury for the first time placed a bid for the Amarillo F block license; its bid ended in the three digits that served as the BTA code for the Lubbock market ("264"). Still not understanding Mercury's intent, High Plains continued to bid for the Lubbock F block license. Mercury responded by making the message clearer—it placed bids ending in "013" in the Lubbock market in round 123, "264" in the Amarillo market in round 125, and "013" in the Lubbock market in round 127.

After the conclusion of round 127, High Plains realized that Mercury was signalling High Plains to stop its bidding in Lubbock. In order to test its theory that Mercury was signaling it through the use of BTA code numbers, High Plains stopped bidding for the F block license in Lubbock. The theory was confirmed when Mercury immediately ceased bidding for the F block license in Amarillo. As soon as High Plains' fears were confirmed, it immediately contacted the FCC by telephone on November 22 and 25, 1996 and followed up on November 26, 1996 by filing an Emergency Motion for Disqualification. That notification led to an investigation of Mercury's conduct by the FCC and to the FCC's referral of the matter to the Department of Justice.

Summary and Request for Amendment

In light of this history, we believe it is both inaccurate and unfair to describe the conduct of High Plains as if that conduct were no different that of Mercury. High Plains respectfully requests that the Complaint and Competitive Impact Statement be amended to reflect that the conduct and actions of Mercury and High Plains were significantly different. High Plains was the party that first brought this matter to the attention of the FCC. Because High Plains promptly reported and later filed a formal complaint with the FCC identifying the illegal conduct of Mercury. Mercury's misconduct was exposed. If the only facts about High Plains were those alleged in the Complaint, then presumably the United States would have pursued the same judicial course of action against High Plains that it followed against Mercury. Unfortunately, the *only* facts in the record are those alleged in the complaint; High Plains, the good citizen that observed and reported the crime, is condemned by association.

Having observed what it believed to be a violation of the FCC's rules and an apparent violation of Section 1 of the Sherman Act, High Plains was in the difficult position of no longer being completely free to pursue its own best interests and High Plains could not just ignore Mercury's misconduct. High Plains immediately reported Mercury's conduct to the FAA—the only thing it could have done in the circumstances to bring the improper conduct to a halt and to avoid being wrongly implicated in Mercury's scheme. Thus, we respectfully request that the Complaint and Competitive Impact Statement be amended to reflect that High Plains was a victim of Mercury's scheme, that High Plains promptly brought the scheme to the attention of the proper authorities, and that High Plains did not willingly participate in any agreement that violated the antitrust laws.

Respectfully submitted,

Williams & Connolly

Steven R. Kuney

Jonathan P. Graham

[FR Doc. 99–6677 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Atlantic Richfield Company ("ARCO"): LPG Blends Evaluation Test Program

Notice is hereby given that, on January 15, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Atlantic Richfield Company ("ARCO"): LPG Blends Evaluation Test has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to

Section 6(b) of the Act, the identities of the parties are Atlantic Richfield Company, Anaheim, CA; California Air Resources Board, Sacramento, CA; Engine Manufacturer's Association, Chicago, IL; Ford Motor Company, Dearborn, MI; National Propane Gas Association, Scottsdale, AZ; Natural Resources Canada—Canmet Energy Technology Centre, Ottawa, Ontario, CANADA; Propane Gas Association of Canada, Calgary, CANADA; Railroad Commission of Texas—Alternative Fuels Research & Education Division, Austin, TX; Shell Martinez Refining Company, Martinez, CA; The Adept Group, Inc., Los Angeles, CA; Tosco Refining Company, Martinez, CA; and Western Propane Gas Association, Sacramento, CA.

The California Air Resources Board ("ARB") approved a delay for a 5 percent propene limit on liquefied petroleum gases ("LPG") used as a motor vehicle fuel and directed ARB staff to investigate the feasibility of alternative specification of in-use motor vehicle LPG. An alternative may be adopted to the present ARB standard (based on equivalence of emissions, performance, and durability). ARB formed an LPG Task Group to direct the organization and implementation of the investigations. (LPG Task Group members are the parties identified above.) The Adept Group, Inc. serves as Project Manager.

The LPG Task Group and test program will determine if alternative specifications to proposed ARB standards for motor vehicle grade LPG will provide equivalent or better emissions, performance, and durability in existing engines. The task group and program will evaluate various LPG blends to determine if there are equivalent specifications that would address supply and distribution concerns for users and suppliers of LPG motor vehicles. The Blends Evaluation Test Program will include emissions testing, performance, combustion testing, and durability testing.

The parties plan to perform acts allowed by the National Cooperative Research and Production Act that would advance these goals.

Information regarding participation in the LPG Blends Evaluation Test Program may be obtained from Mr. Alex Sparatu, President, The Adept Group, Inc., 1575 Westwood Blvd., Suite 200, Los Angeles, CA 90024–5620.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6684 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Commercenet Consortium

Notice is hereby given that, on December 15, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CommerceNet Consortium (the "Consortium") has file written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Oracle Corporation, Redwood Shores, CA; and Cisco Systems, San Jose, CA joined the Consortium as Executive Sponsor members. Engage Technologies, Andover, MA; and American Express, New York, NY joined the Consortium as Portfolio members. FASTXchange, Inc., Marina del Rey, CA; SITI, Kista, SWEDEN; McCutchen, Doyle, Brown, and Enersen LLP, Palo Alto, CA; Inference Corporation, Novato, CA; and The Gap Inc., San Bruno, CA joined the Consortium as Core members. Also, AMP, Inc., Harrisburg, PA; NeoMedia Technologies, Inc., Fort Myers, FL; BAX Global Logistics/Logistics Advantage, Atlanta, GA; National Housewares Mfg. Assoc. NHMA, Rosemont, IL; SpaceWorks, Inc., Rockville, MD; WorldPoint, Honolulu, HI; SupplyWorks, Lexington, MA; Digital Island, San Francisco, CA; and GEIS, Rockville, MD have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on October 29, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6690 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Commercenet Consortium

Notice is hereby given that, on October 29, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CommerceNet Consortium (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, France Telecom, New York, NY; and Satcom Electronic Commerce Service, Osborne Park, WA have joined the Consortium as Portfolio members. American Century, Kansas City, MO has joined the Consortium as an Executive Sponsor member. American Management Systems, Inc., Fairfax, VA; and Ascend Communications, Inc., Alameda, CA has joined the Consortium as Corporate Sponsor members. ChannelPoint, Inc., Colorado Springs, CO; Electric Press, Inc., Reston, VA; Extol, Inc., Pottsville, PA; GlobeID, Paris, FRANCE; and Texas Dept. of Information Resources, Austin, TX have joined the Consortium as Core members. Also, First Chicago NBD, Chicago, IL; InterTrust Technologies Corp., Sunnyvale, CA; NetGrocer, New York, NY; and The Vision Factory, Scotts Valley, CA; and Internet Mall, Sausalito, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to

Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on October 2, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72329).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6691 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Integrated Intelligent Manufacturing, Planning and Execution (CIIMPLEX)

Notice is hereby given that, on January 19, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Consortium for Integrated Intelligent Manufacturing, Planning and Execution ("CIIMPLEX") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Boeing Company, Kent, WA has been added as a party to this venture. Also, The Haley Enterprise, Inc., Sewickley, PA; and Ingersoll-Rand Company, Woodcliff Lake, NJ have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Consortium for Integrated Intelligent Manufacturing, Planning and Execution ("CIIMPLEX") intends to file additional written notification disclosing all changes in membership.

On April 24, 1996, Consortium for Integrated Intelligent Manufacturing, Planning and Execution ("CIIMPLEX") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 15, 1996 (61 FR 24514).

The last notification was filed with the Department on February 3, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 30, 1998 (63 40741).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6683 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group

Notice is hereby given that, on December 16, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Digital Imaging Group has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Arriba Soft Corp., Emeryville, CA; G&A Imaging, Hull, PQ, CANADA; and Informix Software, Oakland, CA have been added as parties to this venture. Also, Adobe Systems Incorporated, San Jose, CA; GaiaTech, Inc., Millbrae, CA; and IBM, Armonk, NY have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Digital Imaging Group intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60530).

The last notification was filed with the Department on September 16, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6689 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on December 31, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Financial Services Technology Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Fidelity Investments, Irving, TX; and RACAL Security, Sunrise, FL have joined the Consortium as associate members. Federal Reserve Bank of Boston, Boston, MA; and Federal Reserve Bank of Chicago, Chicago, IL have joined the Consortium as advisory members. Also, @Work Technologies, New York, NY; Concept Five Technologies, Inc., Burlington, MA; Federal Home Loan Bank of Dallas, Irving, TX; Norwest, Minneapolis, MN; and American Express, New York, NY have been dropped as parties to this venture.

No other changes have been made in the membership of this venture. Membership in this venture remains open, and Financial Services Technology Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On October 21, 1993, Financial Services Technology Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on September 30, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72330).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6687 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Key Recovery Alliance

Notice is hereby given that, on December 9, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Key Recovery Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. the notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Commercial Crypto, Lexington, SC; Digital Link, Sunnyvale, CA; Platinum Technology, Vienna, VA; and Network Associates, Glenwood, MD have been added as parties to this venture. Also, Apple Computer, Inc., Cupertino, CA has been dropped as a party to this venture. Also, Intel Corporation, Hillsboro, OR and Sun Microsystems, Inc., Mountain View, CA were previously identified as Key Recovery Alliance members; however, this was an identification error.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Key Recovery Alliance intends to file additional written notification disclosing all changes in membership.

On October 20, 1997, Key Recovery Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 1998 (63 FR 10040).

The last notification was filed with the Department on July 23, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 2, 1998 (63 FR 58788).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6693 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Micro-Opto-Electro-Mechanical Systems

Notice is hereby given that, on December 29, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Micro-Opto-Electro-Mechanical Systems (MOEMS) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Maxim Integrated Products, Sunnyvale, CA; Microcosm Technologies, Inc., Raleigh, NC; Microscan Systems, Inc., Renton, WA; Optical Mircro-Machines, San Diego, CA; Standard Microsystems Corporation, Hauppauge, NY; and Xerox Corporation, Webster, NY. The nature and objectives of the venture are to develop a manufacturing process and manufacturing infrastructure for MOEMS and to overcome the barriers that limit the applications of low-cost MOEMS devices in commercial applications in telecommunications, data acquisition, and reprographics.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6679 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computers Technology Corporation ("MCC")

Notice is hereby given that, on March 18, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computer Technology Corporation ("MCC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Texas Instruments, Dallas, TX, has become a MCC shareholder. The Boeing Company, Seattle, WA; Hughes Research Lab (HRL, L.L.C.), Malibu, CA; and Hughes Electronics, El Segundo, CA have become associate members. Raytheon, Lexington, MA, recently acquired the Hughes Aircraft Company portion of GM Hughes and will become the MCC shareholder SAIC, San Diego, CA, recently merged with Bellcore and is in the process of obtaining Bellcore's share and will become the MCC shareholder. Ceridian Corporation has transferred its MCC share to General Dynamics, Falls Church, VA. BBN Corporation, Pacific Sierra Research Corporation, Eastman Chemical Company and Nationsbank have declined to rejoin MCC. Schlumberger, San Jose, CA; and VLSI, San Jose, CA are being listed as 1998 project participants.

Lucent, 3M, Nokia, Nortel, Intel, Motorola and Hewlett-Packard have joined the Low Cost Portables Project. Raytheon and Schlumberger have joined the Infosleuth II Project. Honeywell has joined the Quest Project. Motorola and Nokia have joined the ProReal Visual Prototyping Project. Raytheon has joined the Object Infrastructure Project. VLSI Technology has joined the Server and Network Technology project.

No other changes have been made in either the membership or planned activity of the group research project. membership in this group research project remains open, and MCC intends to file additional written notification disclosing all changes in membership.

On December 21, 1984, MCC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on October 8, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 8, 1998 (63 FR 17214).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6682 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Minnesota Mining and Manufacturing Company

Notice is hereby given that, on November 5, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Minnesota Mining and Manufacturing Company ("3M") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are 3M, St. Paul, MN; Honeywell Inc., Minneapolis, MN; RSoft, Inc., Ossining, NY; Precitech, Inc., Keene, NH; Coors Ceramics Company, Golden, CO; and CFR Research Corporation, Huntsville, AL. The nature and objectives of the venture are to establish the infrastructure to enable low cost manufacturing of wide parallel data links. This infrastructure encompasses ceramic-based connectors, heterogeneous integration of optoelectronic devices with Si CMOS electronics, built in "smart link" functionality which will ensure link performance while loosening manufacturing tolerances, and a modeling and simulation infrastructure which will allow rapid adaptation to new link configurations. The goal of use of such an approach to produce low cost cabling and standardized receiver/transmitter interconnections is to result in an industry standard system for massively parallel optical interconnects for circuit boards, compatible with existing chip attach techniques (e.g., wave soldering, etc.). Targets for a system include 36 multimode fiber wide links operating at a data rate of between 1–2 Gbps/fiber with costs comparable to copper.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6678 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc. ("NCMS")

Notice is hereby given that, on January 7, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Center for Manufacturing Sciences, Inc. ("NCMS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Corning, Inc., Corning, NY has been added as a party to this venture. Also, Dresser Instrument Division of Dresser Industries, Inc., Milford, CT has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences, Inc. ("NCMS") intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, National Center for Manufacturing Sciences, Inc. ("NCMS") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on May 8, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 8, 1998 (63 FR 33419).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 99–6680 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Transparent Optical Network Consortium

Notice is hereby given that, on November 17, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"). National Transparent Optical Network Consortium (NTONC) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are GST Telecom, Inc., Vancouver, WA; Lawrence Livermore National Laboratory, operated by the Regents of the University of California, Livermore, CA; Northern Telecom, Inc., McLean, VA; and Sprint Communication Companies L.P., Burlingame, CA. The nature and objectives of the venture are to engage in cooperative research in the area of high bandwith networking technologies to better understand the application of these technologies in the design, deployment and management of the next generation of Terabit per second networks, including without limitation prototype hardware and software deployment for the experimental demonstration of such networks.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6681 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OBI Consortium, Inc.

Notice is hereby given that, on December 1, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), OBI Consortium, Inc. ("Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Xerox Corporation, Webster, NY has been added as a party to this venture. Also, Requisite Technology, Boulder, CO; GE Global Services; Fairfield, CT; Hewlett Packard,

Roseville, CA; Affymax Research Institute, Santa Clara, CA; and Sempra Energy, Los Angeles, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

On September 10, 1997, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60531).

The last notification was filed with the Department on August 31, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72332).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6692 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 97–07 "Basic Principles and Control of Crude Oil Emulsion Formation—Part 4"

Notice is hereby given that, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum Project No. 97–07 "Basic Principles and Control of Crude Oil Emulsion Formation—Part 4" has filed written notifications with the Attorney General on February 3, 1998 and the Federal Trade Commission on November 17, 1998 disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are ARCO Petroleum Production Company, Anaheim, CA; BP America, Inc., Cleveland, OH; Chevron Petroleum Technology Company, La Habra, CA; Exxon Research & Engineering Company, Florham Park, NJ; Mobile Technology Company, Paulsboro, NJ; Nalco/Exxon Energy Chemicals, L.P., Sugar Land, TX; Texaco Group, Inc., Houston, TX; and Shell Oil Products Company, for itself and as an agent for Shell Oil Company, Houston, TX. The nature and objectives of the venture are to develop a fundamental understanding of the factors causing formation of stable crude oil/water emulsions, and methods for destabilizing them.

Participation in this project will remain open to interested persons and organizations until issuance of the final Project Report, which is presently anticipated to occur approximately eighteen (18) months after the date of publication of this Notice. The Participants intend to file additional written notification(s) disclosing all changes in membership of the group of participants in this Project. Information regarding participation in the Project may be obtained from Ms. Sheila Dubey, Shell Oil Products Company, Westhollow Technology Center, PO Box 1380, Houston, TX 77251–1380.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6688 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Rotorcraft Technology Association, Inc.

Notice is hereby given that, on January 7, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Rotorcraft Technology Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BF Goodrich, Aircraft Integrated Systems, Vergennes, VT; Endevco, San Juan Capistrano, CA; and Simula, Inc., Phoenix, AZ have joined RITA as Supporting Members. Georgia Institute of Technology—School of Aerospace Engineering, Atlanta, GA; Georgia Tech Research Institute, Smyrna, GA; Old Dominion University, Norfolk, VA; The Pennsylvania State University, University Park, PA; and University of Maryland, College Park, MD have been added as Associate Members to this venture. Also, one original member of RITA, The Boeing Company, acquired another original member, McDonnell Douglas Helicopter Co.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Rotorcraft Technology Association, Inc. intends to file additional written notification disclosing all changes in membership.

On September 28, 1995, Rotorcraft Technology Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 3, 1996 (61 FR 14817).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6685 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on November 16, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Integrated Systems, Inc., Sunnyvale, CA; and Eastman Kodak Corporation, Rochester, NY have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on August 21, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 2, 1998 (63 FR 58789).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6694 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute: Durability and Life Assessment of GTD–111 Buckets

Notice is hereby given that, on October 21, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute: Durability and Life Assessment of GTD–111 Buckets has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ESB Power Generation, Dublin, IRELAND has been added as a party to this venture. Also, ENRON Power Corporation, Laporte, TX has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Southwest Research Institute intends to file additional written notification disclosing all changes in membership.

On October 31, 1995, Southwest Research Institute filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 17, 1996 (61 FR 54222).

The last notification was filed with the Department on March 26, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 4, 1996 (61 FR 64371–64372).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–6686 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1967–98]

Expansion of the Basic Pilot Program to the State of Nebraska

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: In March 1999, the Immigration and Naturalization Service (Service) and the Social Security Administration (SSA) will begin offering the Basic Pilot to all employers in the state of Nebraska. The Basic Pilot is a free employment eligibility confirmation system operated by the Service and SSA to test a method of providing effective, nondiscriminatory employment eligibility verification. The Basic Pilot will allow participating employers to confirm the employment eligibility of their newly hired employees and help maintain a stable, legal work force. The Basic Pilot is currently being offered to all employers in the states of California, Florida, Illinois, New York, and Texas. This notice is to advise employers in the state of Nebraska that they may now elect to participate in the Basic Pilot. Nebraska has been chosen because the Service is conducting Operation Vanguard, an initiative for gaining and maintaining a legal work force in Nebraska, beginning with the meat packing/processing industry.

The Service published a notice in the **Federal Register** on September 15, 1997, at 62 FR 48309 describing pilot programs that are required by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). That notice provided requirements and guidance to employers that might be interested in volunteering to participate in one or more of three pilot programs being conducted by the Service and SSA. The pilots include: (1) The Basic Pilot; (2) the Citizen Attestation Pilot; and (3) the Machine-Readable Document Pilot.

DATES: There is no deadline for volunteering to participate in the Basic Pilot Program, but interested employers should contact the Service as soon as possible to maximize their opportunity to participate.

FOR FURTHER INFORMATION CONTACT: John E. Nahan, Immigration and Naturalization Service, SAVE Program, 425 I Street, NW., ULLICO Building, 4th Floor, Washington, DC 20536, Telephone (202) 514–2317.

SUPPLEMENTARY INFORMATION:

What Is the Basic Pilot Program?

The Basic Pilot is a free employment eligibility confirmation system operated by the Service and SSA to test a method of providing effective, nondiscriminatory employment eligibility verification. The Basic Pilot involves electronic verification checks of the SSA and INS databases, using an automated system to verify the employment authorization of all newly hired employees by using Social Security Numbers (SSNs) and alien registration numbers. Equipment needed for participation in this pilot is a personal computer, 486 or higher windows platform PC with a modem. The Basic Pilot started in November 1997, and can be tested for up to 4 years.

Who May Participate in the Basic Pilot Program?

The Basic Pilot program is being offered to all employers in the states of California, Florida, Illinois, Nebraska, New York, and Texas. Participation in the pilot is voluntary on the part of employers, except with regard to the Executive and Legislative Branches of the Federal Government and certain employers found to be in violation of the Immigration and Nationality Act in states where the pilot is being conducted.

How Does an Employer Sign up for Participation in the Basic Pilot Program?

All employers must enter into a Memorandum of Understanding (MOU) with SSA and the Service. To obtain the MOU or to request additional information about the Basic Pilot, you may submit your request by writing to the Immigration and Naturalization Service, 425 I Street, NW, ULLICO Building, 4th Floor, Washington, DC 20536, Attention: SAVE Program Branch, or you may fax your request to the SAVE Program at (202) 514–9981, or you may call the SAVE Program toll free at 1–888–464–4218.

Paperwork Reduction Act

The information collection requirement contained in the MOU will be resubmitted to the Office of Management and Budget (OMB) for reapproval under the provisions of the Paperwork Reduction Act.

Dated: March 12, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–6664 Filed 3–18–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction: General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276(a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Hampshire
- NH990001 (Mar. 12, 1999)
- NH990002 (Mar. 12, 1999)
- NH990003 (Mar. 12, 1999)

New Jersey
- NJ990002 (Mar. 12, 1999)
- NJ990003 (Mar. 12, 1999)
- NJ990004 (Mar. 12, 1999)

Volume II

Maryland
- MD990058 (Mar. 12, 1999)

Pennsylvania
- PA990004 (Mar. 12, 1999)
- PA990042 (Mar. 12, 1999)

Virginia
- VA990003 (Mar. 12, 1999)
- VA990014 (Mar. 12, 1999)
- VA990015 (Mar. 12, 1999)
- VA990018 (Mar. 12, 1999)
- VA990022 (Mar. 12, 1999)
- VA990023 (Mar. 12, 1999)
- VA990033 (Mar. 12, 1999)
- VA990034 (Mar. 12, 1999)
- VA990039 (Mar. 12, 1999)
- VA990046 (Mar. 12, 1999)
- VA990055 (Mar. 12, 1999)
- VA990064 (Mar. 12, 1999)
- VA990069 (Mar. 12, 1999)
- VA990080 (Mar. 12, 1999)
- VA990084 (Mar. 12, 1999)
- VA990085 (Mar. 12, 1999)
- VA990087 (Mar. 12, 1999)
- VA990088 (Mar. 12, 1999)

Volume III

None

Volume IV

Illinois
- IL990001 (Mar. 12, 1999)
- IL990002 (Mar. 12, 1999)
- IL990003 (Mar. 12, 1999)
- IL990004 (Mar. 12, 1999)
- IL990005 (Mar. 12, 1999)
- IL990006 (Mar. 12, 1999)
- IL990008 (Mar. 12, 1999)
- IL990009 (Mar. 12, 1999)
- IL990010 (Mar. 12, 1999)
- IL990012 (Mar. 12, 1999)
- IL990013 (Mar. 12, 1999)
- IL990014 (Mar. 12, 1999)
- IL990015 (Mar. 12, 1999)
- IL990016 (Mar. 12, 1999)
- IL990017 (Mar. 12, 1999)
- IL990019 (Mar. 12, 1999)
- IL990021 (Mar. 12, 1999)
- IL990022 (Mar. 12, 1999)
- IL990023 (Mar. 12, 1999)
- IL990024 (Mar. 12, 1999)
- IL990025 (Mar. 12, 1999)
- IL990026 (Mar. 12, 1999)
- IL990027 (Mar. 12, 1999)
- IL990028 (Mar. 12, 1999)
- IL990029 (Mar. 12, 1999)
- IL990030 (Mar. 12, 1999)
- IL990031 (Mar. 12, 1999)
- IL990032 (Mar. 12, 1999)
- IL990033 (Mar. 12, 1999)
- IL990034 (Mar. 12, 1999)
- IL990035 (Mar. 12, 1999)
- IL990036 (Mar. 12, 1999)
- IL990037 (Mar. 12, 1999)
- IL990038 (Mar. 12, 1999)
- IL990042 (Mar. 12, 1999)
- IL990043 (Mar. 12, 1999)
- IL990044 (Mar. 12, 1999)
- IL990045 (Mar. 12, 1999)
- IL990046 (Mar. 12, 1999)
- IL990048 (Mar. 12, 1999)
- IL990049 (Mar. 12, 1999)
- IL990050 (Mar. 12, 1999)
- IL990051 (Mar. 12, 1999)
- IL990052 (Mar. 12, 1999)
- IL990053 (Mar. 12, 1999)
- IL990054 (Mar. 12, 1999)
- IL990055 (Mar. 12, 1999)
- IL990056 (Mar. 12, 1999)
- IL990058 (Mar. 12, 1999)
- IL990060 (Mar. 12, 1999)
- IL990061 (Mar. 12, 1999)
- IL990062 (Mar. 12, 1999)
- IL990063 (Mar. 12, 1999)
- IL990064 (Mar. 12, 1999)
- IL990065 (Mar. 12, 1999)
- IL990066 (Mar. 12, 1999)
- IL990067 (Mar. 12, 1999)
- IL990068 (Mar. 12, 1999)
- IL990069 (Mar. 12, 1999)
- IL990070 (Mar. 12, 1999)

Volume V

Arkansas

AR990001 (Mar. 12, 1999)
AR990008 (Mar. 12, 1999)
AR990023 (Mar. 12, 1999)
Iowa
IA990031 (Mar. 12, 1999)
IA990037 (Mar. 12, 1999)

Volume VI

Alaska
AK990001 (Mar. 12, 1999)
AK990002 (Mar. 12, 1999]
AK990006 (Mar. 12, 1999)
Montana
MT990006 (Mar. 12, 1999)
Oregon
OR990001 (Mar. 12, 1999)
OR990004 (Mar. 12, 1999)
OR990017 (Mar. 12, 1999)
Washington
WA990001 (Mar. 12, 1999)
WA990005 (Mar. 12, 1999)
WA990008 (Mar. 12, 1999)

Volume VII

Arizona
AZ990002 (Mar. 12, 1999)
California
CA990030 (Mar. 12, 1999)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 11th day of March 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–6442 Filed 3–18–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general pubic and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Current Population Survey (CPS)." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Writen comments must be submitted to the office listed in the addressee section below on or before May 19, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The CPS has been the principal source of the official Government statistics on employment and unemployment for nearly 60 years. The labor force information gathered through the survey is of paramount importance in keeping track of the economic health of the Nation. The survey is the only source of data on total employment and unemployment, with the monthly unemployment rate obtained through this survey being regarded as one of the most important economic indicators. Moreover, the survey also yields data on the basic status and characteristics of persons not in the labor force. The CPS data are used monthly, in conjunction with data from other sources, to analyze the extent to which the various components of the American population are participating in the economic life of the Nation and with what success.

The labor force data gathered through the CPS are provided to users in the greatest detail possible, consistent with the demographic information obtained in the survey. In brief, the labor force data can be broken down by sex, age, race and ethnic origin, marital status, family composition, educational level, and various other characteristics. Through such breakdowns, one can focus on the employment situation of specific population groups as well as on the general trends in employment and unemployment. Information of this type can be obtained only through demographically-oriented surveys such as the CPS.

The basic CPS data also are used as an important platform to base the data derived from the various supplemental questions that are administered in conjunction with the survey. By coupling the basic data from the monthly survey with the special data from the supplements, one can get valuable insights on the behavior of American workers and on the social and economic health of their families.

There is wide interest in the monthly CPS data among Government

policymakers, legislators, outside economists, the media, and the general public. While the data from the CPS are used in conjunction with data from other surveys in assessing the economic health of the Nation, they are unique in various ways. They provide a measurement of total employment, including farm work, self-employment and unpaid family work, while the other surveys are generally restricted to the nonagricultural wage and salary sector. The CPS provides data on all jobseekers, and on all persons outside the labor force, while payroll-based surveys cannot, by definition, cover these sectors of the population. Finally, the CPS data on employment, unemployment, and on persons not in the labor force can be linked to the demographic characteristics of the many groups which make up the Nation's population, while the data from other surveys are usually devoid of demographic information.

II. Current Actions

There have been no changes since the last submission.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Current Population Survey (CPS).

OMB Number: 1220–0100.

Affected Public: Individuals or households.

Total Respondents: 48,000 per month.

Frequency: Monthly.

Total Responses: 576,000.

Average Time Per Response: 7 minutes.

Estimated Total Burden Hours: 67,200 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 16th day of March 1999.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–6790 Filed 3–18–99; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL INSTITUTE FOR LITERACY

Proposed Agency Information Collection Activities; Comment Request

AGENCY: National Institute for Literacy.

ACTION: Notice of information collection.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces an Information Collection Request (ICR) by the NIFL. the ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before April 19, 1999.

ADDRESSES: Submit written comments to: National Institute for Literacy, 800 Connecticut Avenue, NW., Suite 200, Washington, DC 20006, Attention: Sondra Stein. Copies of the complete ICR and accompanying appendixes may be obtained from the above address or by contacting Sondra Stein at (202) 632–1508. Comments may also be submitted electronically by sending electronic mail (e-mail) to: sstein@nifl.gov.

All written comments will be available for public inspection from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION:

Title

EFF Field-based Center(s) for Training, Technical Assistance and Materials Development

Abstract

The National Institute For Literacy (NIFL) was created by the National Literacy Act of 1991 to provide a national focal point for literacy activities and to facilitate the pooling of ideas and expertise across a fragmented field. NIFL is authorized to carry out a wide range of activities that will improve and expand the system for delivery of adult literacy services nationwide.

For the past four years, the NIFL has been working with a range of partners in states across the country to develop a customer-driven, standards-based, collaborative approach to adult literacy system reform. The Equipped for the Future (EFF) standards that have been developed through this effort define the critical skills and knowledge that enable adults to effectively carry out their responsibilities as workers, parents and family members, and citizens and community members. The standards have been developed and refined with the assistance of a broad cross section of literacy and basic skills programs, as well as with the advice and guidance of key stakeholders in the workforce development, family literacy, and civic participation movements in this country. By September of 1999 NIFL will have completed the major development work on the standards and will release a Users Guide designed to introduce key constituencies to the Standards and how they can be used for teaching and learning, program improvement, accountability, and system reform.

The EFF Field-based Center(s) for Training, Technical Assistance and Materials Development will work collaboratively and with National Institute for Literacy (NIFL) to assure the effective integration of EFF into on-going adult education, family literacy, welfare-to-work, skill standards voluntary partnerships, and other workforce development systems.

Burden Statement: The burden for this collection of information is estimated at 80 hours per response for the first year. This estimate includes the time needed to review instructions, complete the form, and review the collection of information. No more than three applicants will be awarded a three-year cooperative agreement grant. Each awardee will have an annual update of the application requiring an average of 40 hours per response for each continuation year.

Respondents: State, regional and national organizations, or consortia of such organizations.

Estimated Number of Respondents: 10.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 80 hours.

Frequency of Collection: One time. Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden to: Sondra Stein, National Institute for Literacy, 800 Connecticut Ave., NW., Suite 200, Washington, DC 20006.

Request for Comments: NIFL solicits comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. (ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information. (iii) Enhance the quality, utility, and clarity of the information to be collected. (iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, e.g., permitting electronic submission of responses.

Dated: March 15, 1999.

Andrew J. Hartman,

Director, NIFL.

[FR Doc. 99–6724 Filed 3–18–99; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company, et al. (the licensee) to withdraw its May 29, 1996, application for proposed amendments to Facility Operating License Nos. NPF–10 and NPF–15 for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The May 29, 1996, proposed change would have modified the technical specifications to revise the acceptance criteria for the Agastat time delays used in the engineered safety features load sequences.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on September 11, 1996 (61 FR 47981). However, by letter dated December 22, 1998, the licensee withdrew the amendments request.

For further details with respect to this action, see the application for amendments dated May 29, 1996, and the licensee's letter dated December 22, 1998, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 15th day of March 1999.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–6765 Filed 3–18–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company, et al. (the licensee) to withdraw its December 30, 1992, application for proposed amendments to Facility Operating License Nos. NPF–10 and NPF–15 for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The December 30, 1992, proposed change would have modified Technical Specification 3.3.3.1 to increase the required number of plant vent stack wide range noble gas radiation monitors from 1 to 2.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on March 3, 1993 (58 FR 12268). However, by letter dated April 27, 1995, the licensee withdrew the amendments request indicating that it had been superseded by the technical specification improvement program application dated December 30, 1993.

For further details with respect to this action, see the application for amendments dated December 30, 1992, and the licensee's letter dated April 27, 1995, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 15th day of March 1999.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–6766 Filed 3–18–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company, et al. (the licensee) to withdraw its March 1, 1993, application for proposed amendments to Facility Operating License Nos. NPF–10 and NPF–15 for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The March 1, 1993, proposed change would have modified Technical Specification 3.3.3.2 to redefine an operable incore detector string.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on July 7, 1993 (58 FR 36446). However, by letter dated April 27, 1995, the licensee withdrew the amendments request indicating that it had been superseded by the technical specification improvement program application dated December 30, 1993.

For further details with respect to this action, see the application for amendments dated March 1, 1993, and the licensee's letter dated April 27, 1995, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 15th day of March 1999.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–6768 Filed 3–18–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–9]

U.S. Department of Energy; Fort St. Vrain Independent Spent Fuel Storage Installation; Exemption

I

Pursuant to 10 CFR 72.50, the U.S. Department of Energy (DOE) has applied for the transfer of Materials License SNM–2504 which authorizes receipt and storage of spent nuclear fuel at an independent spent fuel storage installation (ISFSI) located at the site of the former Fort St. Vrain (FSV) nuclear generating station. The facility is located in Weld County, Colorado.

II

Pursuant to 10 CFR 20.2301, the Nuclear Regulatory Commission (NRC) may grant exemptions from the requirements of the regulations in 10 CFR Part 20 as it determines are authorized by law and will not result in undue hazard to life or property.

Section 20.1501(c) states in part that "All personnel dosimeters (except for direct and indirect reading pocket dosimeters used to measure the dose to the extremities) that require processing to determine the radiation dose....must be processed and evaluated by a dosimetry processor...(1) holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and (2) approved in this accreditation process for the type of radiation or radiations included in the NVLAP that most closely approximates the type of radiation or radiations for which the individual wearing the dosimetry is monitored."

III

By letter dated December 17, 1996, DOE submitted a request to transfer Materials License SNM–2504 for the FSV ISFSI from Public Service Company of Colorado, the current licensee, to DOE. DOE's request is currently under NRC staff review. The completion of this review and transfer of the license is anticipated in early 1999. As part of its license transfer application, DOE described how it planned to demonstrate compliance with applicable NRC regulations, including regulations in 10 CFR Part 20. In a December 10, 1997, supplement to its application, DOE requested an exemption, pursuant to 10 CFR 20.2301, from the requirements of 10 CFR 20.1501(c) described above. In its request for exemption, DOE requested that use of a DOE laboratory accreditation program (DOELAP) be authorized as an alternative to the requirement to use the NVLAP.

The NRC staff has examined both the NVLAP and DOELAP processes and standards. The two laboratory accreditation programs are based on similar criteria and standards. Both programs have incorporated similar test categories (types of radiation and energy levels), tolerance levels, bias, and performance criteria. The staff concluded that the DOELAP process is at least as stringent as the NVLAP process and concludes that, for the FSV ISFSI, the DOELAP is an acceptable alternative to the NVLAP process required by 10 CFR 20.1501(c).

IV

Accordingly, NRC has determined, in accordance with 10 CFR 20.2301, that this exemption is authorized by law and will not result in undue hazard to life or property. Therefore, NRC hereby grants DOE an exemption from the dosimetry processing accreditation requirements of 10 CFR 20.1501(c) as requested by DOE in its letters dated December 10, 1997, and December 9, 1998. The exemption granted herein applies only to the FSV ISFSI.

The documents related to this proposed action are available for public inspection and for copying at the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555. Pursuant to 10 CFR 51.32, NRC has determined that granting this exemption will have no significant impact on the quality of the human environment (64 FR 10330).

This exemption is effective upon transfer of Materials License SNM–2504 to the DOE.

Dated at Rockville, Maryland, this 12th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–6764 Filed 3–18–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–13]

Entergy Operations, Inc., Arkansas Nuclear One Power Plant; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.212(a)(2) and 72.214 to Entergy Operations, Inc. (Entergy). The requested exemption would allow Entergy to store burnable poison rod assemblies (BPRAs) in Ventilated Storage Cask–24 (VSC–24) systems at the Arkansas Nuclear One (ANO) Independent Spent Fuel Storage Installation (ISFSI).

Environmental Assessment (EA)

Identification of Proposed Action: By letter dated January 18, 1999, Entergy requested an exemption from the requirements of 10 CFR 72.214 to store BPRAs in VSC–24s at the ANO ISFSI. ANO is a general licensee, authorized by NRC to use spent fuel storage casks approved under 10 CFR Part 72, Subpart K. Furthermore, ANO is using the VSC–24 design approved by NRC under COC No. 1007 to store spent fuel at the ISFSI.

For the NRC to permit ANO to store BPRAs in the VSC–24s, the NRC, on its own initiative, must also grant ANO an exemption from the general license conditions of 10 CFR 72.212(a)(2). Section 72.212(a)(2) states that the general license for storage of spent fuel at power reactor sites is limited to storage of spent fuel in casks approved under the provisions in 10 CFR Part 72. By exempting ANO from both 10 CFR 72.214 and 72.212(a)(2), ANO will be authorized to use its general license to store spent fuel in casks approved under Part 72, as exempted, to allow storage of BPRAs. The proposed action before the Commission is whether to grant these exemptions under 10 CFR 72.7.

The ISFSI is located 6 miles west-northwest of Russellville, Arkansas, on the ANO Power Plant site. The ANO ISFSI is an existing facility constructed for interim dry storage of spent ANO nuclear fuel.

On December 30, 1998, the cask designer, Sierra Nuclear Corporation (SNC) (also known as Pacific Sierra Nuclear Associates), submitted a COC amendment request to NRC to address the storage of Babcock and Wilcox (B&W) 15x15 fuel with BPRAs. The NRC

staff has reviewed the application and determined that storing B&W 15x15 fuel with BPRAs in the VSC–24 would have minimal impact on the design basis and would not be inimical to public health and safety.

Need for the Proposed Action: ANO has lost full core offload reserves in the Unit 1 spent fuel pool. ANO Unit 1 is scheduled for a refueling outage in September 1999. Because the 10 CFR Part 72 rulemaking to amend the COC will not be completed prior to the date that ANO needs to begin loading the VSC–24s with fuel containing BPRAs, the staff requested Commission approval to grant this exemption based on the staff's technical review of information submitted by ANO and SNC.

Environmental Impacts of the Proposed Action: The potential environmental impact of using the VSC–24 system was initially presented in the EA for the Final Rule to add the VSC–24 to the list of approved spent fuel storage casks in 10 CFR 72.214 (58 FR 17948 (1993)). Furthermore, each general licensee must assess the environmental impacts of the specific ISFSI in accordance with the requirements of 10 CFR 72.212(b)(2)(iii). This section requires the general licensee to perform written evaluations to demonstrate compliance with the environmental requirements of 10 CFR 72.104, "Criteria for radioactive materials in effluents and direct radiation from an ISFSI or MRS [Monitored Retrievable Storage Installation]."

VSC–24s are designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an ISFSI include tornado winds and tornado generated missiles, design basis earthquake, design basis flood, accidental cask drop, lightning effects, fire, explosions, and other incidents.

Special cask design features include a double-closure welded steel multi-assembly sealed basket (MSB) made from SA–516 Gr 70 pressure vessel steel to contain the spent fuel. This MSB is up to 181-inches long, 62.5 inches in diameter, with 1.0-inch thick walls. The MSB is placed inside of a Ventilated Concrete Cask (VCC) and positioned for storage on the concrete ISFSI pad. The VCC is up to 213-inches long, 132 inches in diameter, and 31.75-inches thick. The VCC wall consists of a 1.75-inch thick steel inner liner surrounded by reinforced concrete and steel ducts for a passive ventilation system.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control. Without the loss of either containment, shielding, or criticality control, the risk to public health and safety is not compromised.

Storage of B&W 15x15 fuel containing BPRAs would increase the maximum potential cask dose rates by no more than 13 percent at any location on a loaded VSC–24 system. For a VSC–24 loaded with fuel containing BPRAs, the highest dose would be found at the top center of the cask. This dose was calculated to increase from 30 mrem/hr without BPRAs to 32.2 mrem/hr with BPRAs. The occupational exposure is not significantly increased and off-site dose rates remain well within the 10 CFR Part 20 limits. Therefore, the proposed action now under consideration would not change the potential environmental effects assessed in the initial rulemaking (58 FR 17948).

Therefore, the staff has determined that there is no reduction in the safety margin nor significant environmental impacts as a result of storing B&W 15x15 fuel with BPRAs in the VSC–24 system.

Alternative to the Proposed Action: The staff evaluated other alternatives involving removal of the BPRAs from the fuel assemblies and found that these alternatives produced a greater occupational exposure and an increased environmental impact as a result of handling the BPRAs separately as low-level waste. The alternative to the proposed action would be to deny approval of the exemption and, therefore, require ANO to disassemble and store the BPRAs as low-level waste in separate containers.

Agencies and Persons Consulted: On February 17, 1999, Bernard Bevill from the Division of Radiation Control and Emergency Management, Arkansas Department of Health, was contacted about the EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.212(a)(2) and 72.214 so that ANO may store B&W 15x15 fuel containing BPRAs in VSC–24s will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this exemption request, see the Entergy exemption request dated January 18, 1999, which is docketed under 10 CFR Part 72, Docket No 72–13. The exemption request is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC, 20555 and the Local Public Document Room located at Tomlinson Library, Arkansas Tech University, Russellville, AR, 72801.

Dated at Rockville, Maryland, this 12th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–6769 Filed 3–18–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1701]

Standard Review Plan for the Review of License Applications for the Advanced Vapor Laser Isotope System (AVLIS) Facility; Notice of Availability

AGENCY: Nuclear Regulatory Commission

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued draft NUREG–1701 entitled "Standard Review Plan for the Review of a License Application for the Advanced Vapor Laser Isotope System (AVLIS) Facility" for review and comment.

DATES: Submit comments by June 17, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. during Federal workdays.

Draft NUREG–1701 is available for inspection and copying for a fee at the NRC Public Document Room (PDR), 2120 L Street, NW, Washington, DC 20555–0001.

A free single copy of draft NUREG–1701, to the extent of supply, may be requested by writing to U. S. Nuclear Regulatory Commission, Distribution

Services, Washington, DC 20555–0001. Draft NUREG–1701 is available on the World Wide Web at http://www.nrc.gov/NRC/NUREGS/indexnum.html. Comments may be submitted by selecting the "comments" link on the main page for the draft NUREG.

FOR FURTHER INFORMATION CONTACT: For information regarding draft NUREG–1701 contact Amy Bryce, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–5848.

SUPPLEMENTARY INFORMATION: The NRC anticipates reviewing a license application for an AVLIS facility under 10 CFR Part 70, Domestic Licensing of Special Nuclear Material. The NRC is currently considering revisions to 10 CFR Part 70 and the associated standard review plan (SRP), draft NUREG–1520, "Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility," (see http://techconf.llnl.gov/cgi-bin/topics). To provide facility specific guidance for the review of a license application for an AVLIS facility, the NRC simultaneously developed NUREG–1701, "Standard Review Plan for the Review of a License Application for the Advanced Vapor Laser Isotope System (AVLIS) Facility." To the extent appropriate, draft NUREG–1701 will be revised to reflect NRC program changes to 10 CFR Part 70 and the accompanying SRP.

Dated at Rockville, Maryland, this 5th day of March 1999.

For the Nuclear Regulatory Commission.

Josephine Piccone,

Acting Deputy Director Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 99–6767 Filed 3–18–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1702]

Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization Project; Notice of Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued a draft NUREG–1702 entitled "Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization (TWRS–P) Project" for review and comment.

DATES: Submit comments by June 17, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm during Federal workdays.

Draft NUREG–1702 is available for inspection and copying for a fee at the NRC Public Document Room (PDR), 2120 L Street, NW, Washington, DC 20555–0001.

A free single copy of draft NUREG–1702, to the extent of supply, may be requested by writing to the U. S. Nuclear Regulatory Commission, Distribution Services, Washington, DC 20555–0001. Draft NUREG–1702 is available on the World Wide Web at *http:/www.nrc.gov/NRC/NUREGS/indexnum.html.* Comments may be submitted by selecting the "comments" link on the main page for the draft NUREG.

FOR FURTHER INFORMATION CONTACT: For further information regarding draft NUREG–1702 contact Michael Tokar, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7251.

SUPPLEMENTARY INFORMATION: The NRC anticipates reviewing a license application for a TWRS–P facility under 10 CFR Part 70, Domestic Licensing of Special Nuclear Material. The NRC is currently considering revisions to 10 CFR Part 70 and the associated standard review plan (SRP), draft NUREG–1520, "Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility," (see *http://techconf.llnl.gov/cgi-bin/topics).* To provide facility specific guidance for the review of a license application for a TWRS–P facility, the NRC simultaneously developed NUREG–1702, "Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization (TWRS–P) Project." To the extent appropriate, draft NUREG–1702 will be revised to reflect NRC program changes to 10 CFR Part 70 and the accompanying SRP.

Dated at Rockville, Maryland, this 4th day of March 1999.

For the Nuclear Regulatory Commission.

Josephine Piccone,

Acting Deputy Director, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 99–6770 Filed 3–18–99; 8:45 am]

BILLING CODE 7590–01–U

POSTAL RATE COMMISSION

[Docket Nos. MC99–1 and MC99–2; Order No. 1233]

Mail Classification Proceedings; (Authority: 39 U.S.C. 3623)

AGENCY: Postal Rate Commission.

ACTION: Notice of new cases affecting nonletter-sized business reply mail.

DATES: See **SUPPLEMENTARY INFORMATION** section for dates.

ADDRESSES: Send communications concerning this notice to the attention of Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001.

FOR MORE INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

SUPPLEMENTARY INFORMATION: On March 10, 1999, the Postal Service filed concurrent requests with the Commission for recommended decisions on proposed changes in the Domestic Mail Classification Schedule (DMCS). Both requests were filed pursuant to § 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*

The proposed changes affect certain nonletter-sized Business Reply Mail (BRM). They grow out of an ongoing, two-year experiment authorizing two alternatives to the traditional manual method of accounting for this type of mail. These alternatives are referred to as the "weight averaging" method and the "reverse manifest" method. The experiment was authorized as a result of Docket No. MC97–1. It began June 8, 1997 and expires June 7, 1999. See Order No. 1148 (December 18, 1996); 61 FR 67860–62 (December 24, 1996); PRC Op. MC97–1 (April 2, 1997); and Decision of the Governors of the United States Postal Service on the Commission's Recommended Decision (May 6, 1997).

The Service represents, in its two requests and related filings, that developments warrant making the experimental classification and fees permanent for the weight averaging accounting method, but not for the reverse manifest method. At the same time, the Service finds that certain technical and administrative issues

related to weight averaging have emerged, and it believes resolution is not possible prior to the experiment's scheduled expiration.

To avoid the disruption in operations and the increase in the per-piece service fee that would occur if the experimental authority expires before a permanent classification for weight averaged nonletter-size BRM can be approved, the Service suggests proceeding on dual procedural tracks. One track —Docket No. MC99–1—would allow expedited consideration of a temporary extension of the current classification and fees for qualifying weight-averaged BRM under the Commission's experimental rules. The Service asks that this proceeding be conducted pursuant to a Commission order authorizing settlement negotiations and incorporating certain procedures (and related deadlines) entailing action by the Commission or others. *See generally* Request of the United States Postal Service for a Recommended Decision on Renewal of Experimental Classification and Fees for Weight-Averaged Nonletter-Size Business Reply Mail (March 10, 1999). (Also cited here as Docket No. MC99–1.)

The other track—Docket No. MC99–2—would allow full exploration of costing and pricing issues associated with a permanent classification. These issues include the Service's proposal to eliminate the setup fee, which is an element of the current experiment, and to reduce the per-piece service fee and the monthly sampling/accounting fee. As in the current experiment, the proposed fees under the permanent classification would be assessed in addition to applicable First-Class or Priority Mail postage. *See generally* Request of the United States Postal Service for a Recommended Decision on Classification and Fees for Weight-Averaged Nonletter-size Business Reply Mail (March 10,1999). (Also cited here as Docket No. MC99–2). A summary comparison of fees under various options follows.

CURRENT AND PROPOSED FEES AVAILABLE TO NONLETTER-SIZE BRM

[Assuming Use of an Advance Deposit Account]

Classification	Per-piece fee (cents)	Monthly fee	Setup fee
Current Non-QBRM Mail	8	None	None
Current (and Docket No. MC99–1) Experimental Weight Averaged BRM	3	$3000	$3000
Proposed Permanent (Docket No. MC99–2) Weight Averaged BRM	1	$600	None

Source: Adapted from Docket No. MC99–2, USPS–T–4 at 14 (Table 1).

Effect of the instant requests on the experimental classification involving the reverse manifest accounting method. The Service is not requesting to continue or to make permanent the current experimental classification and fees for the reverse manifest accounting method. Factors contributing to this decision include the participation of only one mailer in the reverse manifesting test; this mailer's subsequent switch to the weight averaging method; the inability to confirm the viability of reverse manifesting (given that the mailer did not achieve the target level of accuracy for postage due estimates during the course of participation); and the inability of subsequent market research to locate any potential customers interested in a permanent classfication for this method. *See generally* USPS–T–4 (in Docket No. MC99–2) at 6–8, referencing USPS–T–2 (in the same docket) and USPS–T–1 in Docket No. MC97–1. In the absence of a separate filing, the experimental BRM classification and fees for reverse manifesting will expire June 7, 1999.

Part I. Nature and Scope of Docket No. MC99–1

In Docket No. MC99–1, the Service effectively seeks, for eligible nonletter-size BRM using the weight averaging accounting method, an extension of the current experimental classification and fees (in DMCS § 931) until implementation of the permanent classification and fees requested in the companion docket, or February 29, 2000, whichever occurs first. According to the Service, inclusion of a date certain as one of the terms of the proposed DMCS language reflects both the "extremely unlikely" prospect that resolution of Docket No. MC99–2 could take the full 10 months permitted and its interest in a smooth transition. March 10, 1999 Motion of the United States Postal Service for Waiver of Rule 67c(a)(1) at 3 ("Rule 67c motion").

The Service's Docket No. MC99–1 request includes five attachments. These consist of proposed changes to the DMCS; the certification required by Commission rule 54(p); audited financial statements; an index of testimony identifying witness Kiefer (USPS–T–1) as the sole witness in this proceeding; and a statement regarding compliance with (or requests for waiver of) provisions in Commission rules 54 and 64. Accompanying motions seek waiver of certain data requirements, the waiver of rule 67c(a)(1) referred to above, and authorization of settlement negotiations.

Experimental status. The Service says designation of its Docket No. MC99–1 request as an experimental change shows its interest in application of the Commission's expedited rules of practice and procedure (39 CFR §§ 3001.67–67d). Request I at 2. In support of the validity of invoking these rules, the Service notes that material issues in the original experiment were the subject of a full presentation by the Service in Docket No. MC97–1, and characterizes the proposal for renewal of the weight-averaging aspect of the experiment as modest. It also says the proposed treatment will ensure that renewal occurs in a manner that provides continuity for participating post office sites and BRM recipients. Id. at 4. The Service further notes that in the absence of the requested extension, the otherwise applicable BRM per-piece fee of 8 cents would have to be assessed during any interim between the expiration of the current experiment and the implementation of permanent fees. Id. at 4–5.

Motion for waiver of certain filing requirements. The Service requests waiver of 64(b)(3), 64(d) and 64(h), as well as provisions of rule 54 deemed applicable, either independently or through incorporation by reference in rules 64(d) and (h). Affected subsections include rule 54(b)(3), 54(d), 54(f)–(h), 54(i), 54 (j), 54(k) and 54(l)(ii). March 10, 1999 Motion of the United States Postal Service for Waiver of Certain Filing Requirements Incorporated in the Commission's Rules of Practice and Procedure (as revised March 12, 1999). (Also referred to here as "Filing Requirements Motion.") In support of

waiver, the Service cites the limited nature and applicability of the proposed DMCS change. In particular, it notes that the extension request does not entail a fundamental change in any classification or fee or establish a new special service. Moreover, the Service asserts that to the extent total cost-revenue relationships might be implicated by the requested extension, its proposal will not result in significant changes. Id. 2–5.

Motion for waiver of rule 67c(a)(1). Commission rule 67c(a)(1) requires that the Service file a plan describing plans to collect data related to the steps it will take during the requested temporary renewal phase of the experiment to achieve a level of readiness sufficient to implement a permanent classification and fees. Rule 67c Motion at 4. The Service contends that the limited purpose of its Docket No. MC99–1 request and the availability of detailed cost data in Docket No. MC99–2 concerning estimated costs associated with the proposed permanent classification and fees render this requirement unnecessary. Moreover, it notes that some of this work is already underway, and that efforts are being made to complete it expeditiously. Id. The Service also invokes the flexibility envisioned by the experimental rules as a reason for the Commission to grant the requested waiver.

Motion regarding settlement proceedings. The Service asks that the Commission establish procedural mechanisms designed to encourage settlement of Docket No. MC99–1, based upon a proposed Stipulation and Agreement. In support of this approach, the Service notes that the "very limited purpose and scope" of its Docket No. MC99–1 request is to extend the duration of the experimental classification and fees for weight-averaged nonletter-size BRM, and that the companion docket—MC99–2—provides an opportunity to fully explore costing and pricing issues related to a permanent classification and fees. March 10, 1999 Motion of the United States Postal Service to Establish Procedural Mechanisms Concerning Settlement at 1 (as revised March 12, 1999) ("Procedural Mechanisms Motion").

The Service notes that the purpose of the underlying request is to obtain authority to continue the experiment for a period long enough to ensure resolution of administrative and technical issues before implementation of any classification and fees resulting from Docket No. MC99–2. Procedural Mechanisms Motion at 2. Moreover, the Service says that it anticipates that any discovery in Docket No. MC99–1 related to the requested renewal might be relatively limited in duration and scope. It suggests that participants could initiate discovery, formally or otherwise, immediately upon intervention in the instant proceeding, and notes that this could allow them to decide what course to take in response to the proposed Stipulation and Agreement. Id. at 3. The Service states that in the interest of enhancing expedition, it intends to respond to any discovery and information requests related to its extension request within 7 calendar days of service. Id. at 3 (fn. 1).

Based on these representations, the Service moves that the Commission include eleven enumerated procedures in its formal public notice of this proceeding or, in the alternative, give notice that they have been proposed. The procedures (set out in Attachment A) relate to various rights and obligations of participants and the Commission, including summary adjudication. They address not only the prospect that the Stipulation and Agreement will be accepted without opposition, but also the possibility that it will be contested by some intervenors or otherwise not garner the Commission's approval through summary adjudication. The referenced provisions also effectively outline a proposed procedural schedule and many of the obligations of the Commission and participants.

The proposed stipulation and agreement. The stipulation and agreement the Service has submitted consists of two parts, an attachment, and signature pages. Part I reviews background details; part II contains 10 terms and conditions. Attachment A consists of proposed DMCS changes.

II. Nature and Scope of Docket No. MC99–2

The Service states that the Docket No. MC99–2 request seeks to make permanent the experimental classification currently authorized for weight-averaged nonletter-size BRM. It also says it seeks to establish applicable BRM accounting fees that more closely correspond to the costs of using this method and to improve service for participating BRM recipients. The filing includes six attachments, consisting of proposed changes to DMCS § 932; proposed changes to DMCS Fee Schedule 931; the certification required by Commission rule 54(p); audited financial statements; an index of testimony and exhibits for four witnesses; and a compliance statement (including references to requests for waiver) regarding submission of information called for in rules 54 and 64.

The direct testimony includes that of witnesses Shields (USPS–T–1), Ellard (USPS–T–2), Schenk (USPS–T–3), and Kiefer (USPS–T–4). Witness Shields addresses the field application of the weight-averaging accounting method for qualifying nonletter-size BRM. Witness Ellard sponsors and addresses the Service's market research. Witness Schenk addresses the costs of counting, rating and billing nonletter-size BRM using the weight averaging method, including a discussion of supporting software, a data collection effort, and a special cost study. Witness Kiefer discusses the underlying experiment and other matters related to establishment of a permanent classification for weight-averaged nonletter-size BRM.

A contemporaneous motion seeks protective conditions for one of witness Schenk's workpapers, which the Service filed *in camera* at the time it submitted its request. *See* March 10, 1999 Motion of the United States Postal Service Requesting Protective Conditions for Workpaper 1 of Witness Leslie Schenk. In support of its motion, the Service states that witness Schenk's cost estimates are based upon data that include the incoming BRM piece volumes received by three through-the-mail film processors who compete among themselves and against other firms in the film processing industry. It notes that witness Schenk's access to the data has been granted with the explicit understanding that such data would not be publicly disclosed and would not be disclosed to any competitor of BRM recipients. The Service asserts that without conditional access, it would not have been able to present the cost study supporting the permanent classification and fees. Id. at 2. Accordingly, the Service proposes that the same protective conditions applied in identical circumstances in Docket No. MC97–1 (or others approved by the Commission) apply here, and invites the attention of the Commission and others to P.O. Ruling MC97–1/1, Appendix C (January 24, 1997). The Service sets out the proposed conditions (consisting of 10 itemized provisions) and offers Postal Service counsel's assistance with arrangements for obtaining copies of the workpaper, upon the Commission's approval of the protective conditions. Id. at 2–5.

III. Commission Response to Matters Requiring Action at This Time

The Commission believes that the Service's proposed procedural approach to reconciling the impending expiration

of the Docket No. MC97–1 experiment with its interest in pursuing permanent status for eligible weight-averaged BRM has considerable merit. Substantive aspects of the requests and the accompanying motions warrant further evaluation, but the submissions as a whole provide a comprehensive assessment of the state of the current experiment, the procedural steps the Service believes should be taken, and the impact of the proposed changes. The Commission strongly encourages interested persons to promptly review the related filings in their entirety.

The Commission agrees to authorize settlement negotiations, as requested by the Service. However, it declines to make a blanket adoption of the actions the Service sets out in its Procedural Mechanisms motion at this time. These actions appear to adequately address potential procedural developments, but the Commission is interested in participants' observations on the advisability of certain deadlines that have been proposed. Therefore, the Commission grants the alternative relief the Service suggests by providing notice that these procedural steps and related dates have been proposed. Any objections to entry into the record of this proceeding all of the Service's pertinent Docket No. MC99–1 filings to date should be submitted by April 5, 1999, which is also the deadline for intervention. The relatively short period for intervention is justified by the limited number of mailers or others likely to be affected and the likelihood that potential intervenors (in both cases) are already participating in the ongoing experiment and have been made aware, on an informal basis, of the Service's intentions to file these requests.

Action on other Docket No. MC99–1 motions. In addition to seeking consideration of its request under the Commission's experimental rules, the Service moves for waiver of certain filing requirements (in rules 54 and 64) identified earlier in this order and of rule 67c(a)(1). Before ruling on the appropriateness of these requests, the Commission will consider participants' views. Comments (on any or all of these matters) are to be filed no later than April 5, 1999.

Actions in Docket No. MC99–2. The protective conditions the Service proposes for one of witness Schenk's workpapers were used successfully in Docket No. MC97–1. It therefore seems that there should be no objection to adopting the same approach in this case; however, the Commission will consider comments in opposition to the conditions the Service proposed if filed by April 5, 1999.

The Service has not proposed any procedural dates or alternative procedural mechanisms in Docket No. MC99–2. The Commission believes it might be useful to learn whether participants are interested in establishing any preliminary dates or discussing whether the request for permanent authority may also be a candidate for settlement. Comments addressing these topics shall be filed no later than April 5, 1999, and participants should be prepared to address these matters at the prehearing conference.

The Commission directs interested parties to file notices of intervention in this proceeding no later than April 5, 1999 which is also the deadline for filing such notices in Docket No. MC99–1.

Intervention in these proceedings. Anyone wishing to be heard in either or both cases is directed to file a written notice of intervention with Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street, NW, Suite 300, Washington, DC 20268–0001 no later than April 5, 1999. Notices should indicate whether an intervenor is seeking full or limited participation status. *See* 39 CFR §§ 3001.20 and 3001.20a.

Representation of the general public. In conformance with § 3624(a) of title 39, U.S. Code, the Commission designates Ted P. Gerarden, Director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in both proceedings. Pursuant to this designation, Mr. Gerarden will direct the activities of Commission personnel assigned to assist him and, upon request, supply their names for the record. Neither Mr. Gerarden nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and contemporaneous with, service on the Commission of the 24 copies required by section 10(c) of the Commission's rules of practice [39 CFR § 3001.10(c)].

It is ordered:

1. The Commission will sit en banc in both Docket No. MC99–1 and MC99–2.

2. Notices of intervention in Docket Nos. MC99–1 and MC99–2 shall be filed no later than April 5, 1999.

3. Ted P. Gerarden, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public in Docket Nos. MC99–1 and MC99–2.

4. The Postal Service and other participants are authorized to pursue settlement of the issues in Docket No. MC99–1 based on the Stipulation and Agreement the Service has filed.

5. Interested persons are placed on notice that the Service has proposed eleven procedures be taken in connection with settlement, including many that determine rights and obligations of the Commission and participants. (The referenced procedures are presented in Attachment A.)

6. Postal Service counsel may act as settlement coordinator in Docket No. MC99–1 or delegate this responsibility to another participant in the proceeding. The Commission shall be promptly notified if a delegation occurs.

7. The Service's Docket No. MC99–1 request (with associated attachments), the testimony filed with the request, and the Stipulation and Agreement shall be entered into the record of the Docket No. MC99–1 proceeding on April 6, 1999, if no objection to that procedure is filed with the Commission by April 5, 1999.

8. Comments on the appropriateness of considering Docket No. MC99–1 under Commission rules 67–67d relating to experiments shall be filed no later than April 5, 1999.

9. Answers to the Postal Service's March 10, 1999 motions referenced in the body of this order concerning waiver of certain filing requirements and waiver of rule 67c(a)(1) shall be filed no later than April 5, 1999.

10. In connection with Docket No. MC99–2, answers to the Postal Service March 10, 1999 motion requesting protective conditions for witness Schenk's workpaper 1 shall be filed no later than April 5, 1999.

11. Comments on the advisability of setting tentative procedural dates in Docket No. MC99–1 (other than for notices of intervention) shall be filed no later than April 5, 1999.

12. A prehearing conference for the consideration of procedural matters in both Docket No. MC99–1 and Docket No. MC99–2 shall be held in the hearing room of the Commission, 1333 H Street, NW, Washington, DC, on April 6, 1999, at 11:00 am. The hearing room will be open for the use of interested persons to discuss settlement of any and all issues in these cases on April 6, 1999, at 9:30 am.

13. The Secretary of the Commission shall arrange for publication of this order in the **Federal Register** in a manner consistent with applicable requirements.

Dated: March 16, 1999.

Margaret P. Crenshaw,

Secretary.

Attachment A—List of Procedures and Related Deadlines Proposed by Postal Service (in its March 10, 1999 Motion to Establish Procedural Mechanisms Concerning Settlement in Docket No. MC99–1)

(1) Enter the Postal Service's Request (with associated attachments), the testimony and exhibits filed with this Request, and the Stipulation and Agreement into the record in this docket;

(2) give parties until March 29, 1999, to intervene;

(3) give notice of a formal pre-hearing conference to be convened on March 30, 1999, at 11:00 a.m.;

(4) make the Commission hearing room available to the Postal Service and the participants on that date at 9:30 a.m. as the venue for an informal off-the-record meeting to discuss the proposed Stipulation and Agreement and related matters in advance of the pre-hearing conference;

(5) provide notice to intervenors that, if they wish to contest re-establishment of the experimental classifications and fees in the Postal Service's Request and the proposed Stipulation and Agreement, they must, by April 2, 1999, file a statement of their intention to do so. Any such statement should identify with specificity the classification and fees and other issues contested, and state whether the intervenor intends to offer evidence on any such classification, fees, and issues.

(6) If no such statements are filed, the record in this case shall be closed and the case submitted to the Commission for summary adjudication;

(7) If one or more such statements are filed, the filing parties shall have until April 9, 1999, to conduct discovery of the Postal Service;

(8) The same parties shall have until April 23, 1999, to submit testimony and/or pleadings seeking to establish either that, owing to the existence of genuine issues of material fact, the proceeding is not suited to summary adjudication or that the Stipulation and Agreement is arbitrary, capricious, or otherwise not in accordance with applicable law. Responsive pleadings by other parties shall be due on April 30, 1999. The record shall then be closed provisionally and the issues adjudicated by the Commission.

(9) If the Commission finds that there are no genuine issues of material fact, it will promptly notify the parties of such and indicate its intention to issue a Recommended Decision accepting the classification and fees proposed in the Request and the Stipulation and Agreement.

(10) If the Commission finds (a) that there are genuine issues of material fact that prevent summary adjudication, or (b) that there are no genuine issues of material fact, but that it declines to recommend renewal of the experimental classification and fees for weight-averaged nonletter-size BRM proposed in the Docket No. MC99–1 Request and the Stipulation and Agreement, then it shall promptly notify the parties, identifying the genuine issues of material fact or other reasons for declining to adopt the proposed classifications and fees, and immediately set an expedited schedule for such additional discovery and hearings which may be necessary for litigation of those matters. During that litigation period, any party to the Stipulation and Agreement may fully litigate the matters identified as disputed by the Commission, including discovery on the Postal Service with respect solely to those issues and presentations of testimony without withdrawing from the Stipulation and Agreement, provided that such party (a) continues to support a Commission recommendation of the classifications and fees proposed in the Postal Service's Request and (b) agrees to remain bound by the terms of the Stipulation and Agreement.

(11) If none of the actions by the Commission provided for in paragraphs 9 and 10 above have occurred by May 7, 1999,[1] any party to the Stipulation and Agreement may determine not to be bound further by that agreement and must provide written notice to all parties of this fact within three (3) business days of the above date. Any exercise of such right by one or more signatories shall not affect the operation of the Stipulation and Agreement as to other signatories.

[FR Doc. 99–6841 Filed 3–18–99; 8:45 am]

BILLING CODE 7710–12–P

[1] The Postal Service desires to allow adequate time for the Commission to take action under either paragraph 9 or 10, but is strongly in favor of expedited resolution of this docket. It is thus hoped that the Commission would be able to act prior to the suggested May 7, 1999, date.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release NO. 23738; 812–11274]

Market Street Funds, Inc. et al.; Notice of Application

March 12, 1999

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF THE APPLICATION: Market Street Funds, Inc. ("MSF"), on behalf of AllPro Large Cap Growth Portfolio, AllPro SmallCap Growth Portfolio, AllPro Large Cap Value Portfolio and AllPro Small Cap Value Portfolio (each a "Fund" and collectively, the "Funds"), and Provident mutual Investment Management Company ("PIMC"), request an order that would permit applicants to enter into and materially amend sub-advisory agreements without shareholder approval.

FILING DATE: The application was filed on August 26, 1998. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 6, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o David S. Goldstein, Esq., Sutherland, Asbill & Brennen, 1275 Pennsylvania Avenue, N.W., Washington, D.C. 20004–2415.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (telephone (202) 942–8090).

Applicants' Representations

1. MSF, a Maryland corporation, is registered under the Act as an open-end management investment company. MSF is currently comprised of eleven series, including the Funds, each of which has its own investment objectives, policies and restrictions.[1] The shares of the Funds serve or will serve as funding

[1] Applicants also request relief with respect to future series of MSF and all future registered open-end management investment companies that are (a) advised by PIMC or any entity controlling, controlled by, or under common control with PIMC, and (b) which operate in substantially the same manner as the Funds and comply with the terms and conditions contained in the application ("Future Funds"). MSF is the only existing investment company that currently intends to rely on the order.

vehicles for variable annuity contracts offered through separate accounts of the Provident Mutual Life Insurance Company ("PMLIC") or a subsidiary of PMLIC.

2. PIMC, a Pennsylvania corporation, serves as the investment adviser to the Funds, and is registered under the Investment Advisers Act of 1940 ("Advisers Act"). PIMC is an indirect wholly-owned subsidiary of PMLIC.

3. PIMC serves as investment adviser to the Funds pursuant to an investment advisory agreement between MSF and PIMC that was approved by the board of directors of MSF ("the "Board"), including a majority of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Directors"), and the shareholders of the Funds ("Management Agreement"). Under the Management Agreement, PIMC has overall general supervisory responsibility for the investment program of the Funds and recommends to the Board the selection of one or more subadvisers (each a "Subadviser" and collectively, "subadvisers") to provide one or more Funds with day-to-day portfolio management services ("Manager of Subadvisers Strategy"). Each Subadvisers is (or will be) an investment adviser registered under the Advisers Act and performs (or will perform) services pursuant to a written agreement with PIMC (the "Sub-Advisory Agreement"). Subadvisers' fees are (or will be) paid by PIMC out of its fees from the Funds at rates negotiated with the Subadvisers by PIMC.

4. PIMC has supervised subadvisers since 1991 and uses a Manager of Subadvisers Strategy for each of the Funds. PIMC makes qualitative evaluations of each subadviser's skills and demonstrated performance in managing assets under particular investment styles. PIMC recommends to the Board for selection those Subadvisers that have consistently distinguished themselves and demonstrated a high level of service and responsibility to investors. PIMC reviews, monitors and reports to the Board regarding the performance and procedures of the Subadvisers. PIMC may recommend to the Board reallocation of assets of a Fund among Subadvisers, if necessary, and PIMC also may recommend hiring additional Subadvisers or the termination of Subadvisers in appropriate circumstances.

5. Applicants request relief to permit PIMC to enter into and materially amend Sub-Advisory Agreements without shareholder approval.[2] The requested relief will not extend to a Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of MSF or PIMC, other than by reason of serving as a Subadviser to one or more of the Funds (an "Affiliated Subadviser").

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approved such matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) of the Act from section 15(a) of the Act and rule 18f–2 under the Act to permit them to enter into and materially amend Sub-Advisory Agreements without shareholder approval.

3. Applicants assert that under the Manager of Subadvisers Strategy, the Fund's investors will rely on PIMC to select and monitor one or more Subadvisers best suited to achieve a Fund's investment objectives. Therefore, applicants believe that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of Sub-Advisory Agreements would impose expenses and unnecessary delays on the Funds, and may preclude PIMC from promptly acting in a manner considered advisable by the Board. Applicants note that the Management Agreement between all Funds and PIMC will remain subject to section 15(a) of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. PIMC will provide management services to the Funds, including overall supervisory responsibility for the general management and investment of each Fund, and, subject to review and approval by the Fund's Board will (a) set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or a part of a Fund's assets; (c) when appropriate, allocate and reallocate a Fund's assets among multiple Subadvisers; (d) monitor and evaluate the investment performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with the relevant Fund's investment objectives, policies, and restrictions.

2. Before a Fund may rely on the order, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or in the case of a new Fund whose public shareholders (or variable contract owners through a separate account) purchase shares on the basis of a prospectus(es) containing the disclosure contemplated by Condition 4 below, by the sole initial shareholder(s) before the shares of such Fund are offered to the public (or the variable contract owners through a separate account).

3. Within 90 days of the hiring of any new Subadviser, PIMC will furnish shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, PMLIC or a subsidiary of PMLIC will furnish the unit holders of the sub-account) with respect to the appropriate Fund with an information statement about the new Subadviser or Subadvisory Agreement that would be included in a proxy statement. Such information will include any changes caused by the addition of a new Subadviser. To meet this condition, PIMC will provide shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, then by providing unitholders of the sub-account) with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

[2] The term "shareholder" includes variable life insurance policy and variable annuity contract owners that are unit holders of any separate account for which the Funds serve as a funding medium.

4. Any Fund relying on the requested relief will disclose in its prospectus the existence, substance and effect of any order granted pursuant to this application. In addition, any such Fund will hold itself out as employing the Manager of Subadvisers Strategy described in the application. The prospectus will prominently disclose that PIMC has ultimate responsibility to oversee the Subadvisers and recommend their hiring, termination, and replacement.

5. No director or officer of MSF or PIMC will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such director or officer) any interest in a Subadviser except for (a) ownership of interests in PIMC or any entity that controls, is controlled by, or is under common control with PIMC; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt securities of a publicly-traded company that is either a Subadviser or controls, is controlled by, or is under common control with a Subadviser.

6. No Fund will enter into a Subadvisory Agreement with an Affiliated Subadviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the Fund (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, then pursuant to voting instructions by the unitholders of the sub-account).

7. At all times, a majority of each Fund's Board will be persons who are Independent Directors, and the nomination of new or additional Independent Director will be at the discretion of the then-existing Independent Directors.

8. When a change of Subadviser is proposed for a Fund with an Affiliated Subadviser, the Fund's Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Fund's Board minutes, that such change of Subadviser is in the best interests of the Fund and its shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Fund and the unitholders of any sub-account) and that the change does not involve a conflict of interest from which PIMC or the Affiliated Subadviser derives an inappropriate advantage.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6786 Filed 3–18–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26990]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 12, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 5, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 5, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Eastern Edison Company (70–9453)

Eastern Edison Company ("EEC"), 110 Mulberry Street, Brockton, Massachusetts 02403, an electric utility subsidiary company of Eastern Utilities Associates, a registered holding company, has filed a declaration under section 12(b) of the Act and rules 45 and 54 under the Act.

EEC's electric utility subsidiary company, Montaup Electric Company ("MEC"), has entered into settlement agreements ("Agreements") with, among others, its state retail rate regulators, Massachusetts and Rhode Island.[1] Under the Agreements, MEC is divesting its generating assets and existing power purchase agreements ("Existing Power Contracts").

In conjunction with this divestiture, MEC has agreed to sell to Constellation Power Source, Inc. ("CPS"), a nonassociate company, under a Power Purchase and Sale Agreement ("Sale Agreement"), the economic benefits and performance obligations associaed with certain Existing Power Contracts, subject to MEC's continuing obligation to make certain payments under those Existing Power Contracts. In accordance with the Sale Agreement, EEC proposes to guarantee MEC's performance, and to pay CPS' expenses for enforcing its rights, under the Sale Agreement ("Guaranty").

EEC may be relieved of its obligations under the Guaranty if MEC either provides CPS with certain collateral or demonstrates that it meets certain creditworthiness criteria.

The Guaranty could be reinstated if MEC has not provided the collateral and fails to continue to meet the prescribed criteria.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6787 Filed 3–18–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Titan Pharmaceuticals, Inc., Units (consisting of 1 share of Common Stock, $.001 par value, and 1 Redeemable Class A Warrant)) File No. 1–13341

March 15, 1999.

Tital Pharmaceuticals, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (the "Units") from listing and registration on the Pacific Exchange, Inc. ("PCX" or "Exchange").

The reasons cited in the application for withdrawing the Units from listing and registration include the following:

[1] The Agreements were approved by the Federal Energy Regulatory Commission by orders dated August 8, 1997 in Docket Nos. ER97–2800–000, ER97–3127–000 and ER97–2338–000.

The Company's shares of Common Stock, $.001 par value ("Common Stock"); Redeemable Class A Warrants ("Warrants"); and Units are currently listed for trading on the PCX. In addition, the Company's Common Stock and Warrants are listed for trading on the American Stock Exchange LLC. The Units were originally issued in the Company's initial public offering. Immediately upon the effectiveness of the initial public offering, the components of the Units, *i.e.*, the Common Stock and Warrants, began trading separately. Currently, the Units may be assembled or disassembled without restriction. An investor may create a Unit by combining one share of Common Stock and one Warrant; conversely, a Unit may be split into one share of Common Stock and one Warrant. The Company believes that the Units do not now serve a significant market function, but instead lead to additional compliance costs, investor confusion, and create arbitrage opportunities that negatively impact the value of the Common Stock.

The Company has complied with the rules of the PCX by filing with the Exchange a certified copy of resolutions adopted by the Company's Board of Directors authorizing withdrawal of its Units from listing on the Exchange and by setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

The Exchange has informed the Company that is has no objection to the withdrawal of the Company's Units from listing on the Exchange.

Any interested person may, on or before April 5, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6789 Filed 3–18–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41168; File No. SR–NYSE–99–03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to NYSE Rule 431, "Margin Requirements"

March 12, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 27, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 431, "Margin Requirements," to: (1) expand the types of short options positions that will be considered "covered" and eligible for the cash account to include short positions that are components of certain limited risk spread strategies (box spreads, butterfly spreads, and debt and credit spreads); (2) allow an escrow agreement that conforms with NYSE standards to be utilized in lieu of the cash or cash equivalents required to carry short butterfly, box, and debit and credit spreads in the cash account; (3) reduce the required margin for butterfly and box spreads by recognizing butterfly and box spreads as strategies (rather than separate transactions) for purposes of margin treatment; (4) recognize various strategies involving stocks (or other underlying instruments) paired with long options, and reduce the required margin on such hedged stock positions; (5) permit the extension of credit on listed and over-the-counter ("OTC") options with over nine months until expiration; and (6) permit the extension of credit on certain long box spreads.

Copies of the proposed rule change are available at the NYSE and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange is proposing amendments to NYSE Rule 431 relating to margin treatment of options.

(2) Background

In April 1996, the Exchange established an NYSE Rule 431 Committee (the "Committee") to review the Exchange's margin requirements. The Committee consists of individuals representing different types of member organizations with divergent areas of expertise. The Committee has been reviewing all aspects of NYSE Rule 431 and making recommendations to the Exchange in view of the recent changes in federal margin regulations and changing industry conditions. The Committee created various subcommittees, including an Options Subcommittee ("Options Subcommittee"), to review specific areas of NYSE Rule 431, utilizing additional industry representatives that are knowledgeable in each area. The Options Subcommittee has reviewed and recommended changes to NYSE Rule 431 relating to margin treatment of options.

Some of the changes recommended by the Options Subcommittee reflect changes to Regulation T [2] of the Board of Governors of the Federal Reserve System ("FRB"). Regulation T governs the extension of credit by and to broker-dealers. Recent amendments to Regulation T that became effective on June 1, 1997, modified or deleted certain margin requirements regarding options transactions in favor of rules to be adopted by the options self-

[2] 12 CFR 220 *et seq.* The Board of Governors of the Federal Reserve System issued Regulation T pursuant to the Act.

regulatory organizations ("SROs"), subject to approval by the Commission.[3]

(3) Proposed Amendments to NYSE Rule 431

As described more fully below, the proposal amends NYSE Rule 431 to: (1) expand the types of positions that would be considered "covered" in a cash account, specifically, certain short positions that are components of limited risk spread strategies; (2) permit butterfly and box spreads to be recognized as strategies for purposes of margin treatment; (3) recognize various strategies involving stocks (or other underlying instruments) paired with long options and provide for lower maintenance margin requirements on such hedged stock positions; and (4) permit the extension of credit on certain long-term options and certain long box spreads.

(a) Cash Account Transactions. The NYSE notes that, pursuant to the recent amendments to Regulation T, certain limited risk spread strategies are eligible for the cash account. Accordingly, the NYSE proposes to amend NYSE Rule 431 to expand the types of limited risk options strategies that may be transacted in cash accounts, provided the risk is paid for in full. As described more fully below, NYSE Rule 431, as amended, will permit the following limited risk spread strategies in the cash account: (1) long and short box spreads; (2) long and short butterfly spreads; and (3) debit and credit spreads.

Under the proposal, only butterfly and box spreads comprised of cash-settled, European-style options will be eligible for the cash account. In addition, the butterfly and box spreads must meet the specifications contained in the definition section of the proposal (proposed NYSE Rule 431(f)(2)(C)).[4] For long butterfly spreads and long box spreads, the proposal will require full cash payment of any debt incurred when the long butterfly spread or long box spread strategy is established. According to the NYSE, full payment of the debt incurred to establish a long butterfly spread or a long box spread will cover any potential risk to the carrying broker-dealer.

The NYSE notes that short butterfly spreads generate a credit balance when established. However, if all of the options were exercised, a debit (loss) greater than the initial credit balance would accrue to the account. According to the NYSE, this debit or loss is quantifiable. Specifically, the NYSE states that the total risk potential in a short butterfly spread comprised of call options is the aggregate difference between the two lowest exercise prices. For a short butterfly spread comprised of put options, the total risk potential is the aggregate difference between the two highest exercise prices. Accordingly, to cover the risk to the carrying broker-dealer, the NYSE proposes to require a deposit in cash or cash equivalents equal to (1) the amount of the aggregate difference between the two lowest exercise prices for a short butterfly spread comprised of call options; and (2) the amount of the aggregate difference between the two highest exercise prices for a short butterfly spread comprised of put options. The net proceeds from the sale of the short option components may be applied to the required deposit. According to the NYSE, when the initial credit balance plus an amount equal to the difference between the initial credit and the total risk is held in the account in the form of cash or cash equivalents, the risk to the broker-dealer is covered.

The NYSE states that short box spreads[5] also generate a credit balance when they are established, but, unlike the butterfly spread, the credit is sufficient to cover the total debit (loss) that, in the case of the box spread, will accrue to the account if held to expiration. The credit must be retained in the account; therefore, the proposal would require that cash or cash equivalents covering the maximum risk, which is equal to the aggregate difference in the two exercise prices involved, be held or deposited.

The proposal also will replace the current provisions of NYSE Rule 431(f)(2)(M) that permit debit put spreads in a cash account with a provision allowing short European-style cash-settled stock index options or warrants in the cash account when the account holds a long position in an option or warrant with the same underlying index or component that is based on the same aggregate current underlying value, and provided that the long and short position expire concurrently,the long position is paid in full, and the account holds cash or cash equivalents of not less than the amount by which the aggregate exercise price of the long call or call warrant (or the short put or put warrant) exceeds the aggregate exercise price of the short call or call warrant (or the long put or put warrant). The next proceeds from the sale of the short position may be applied to this requirement.

Under the proposal, an escrow agreement that conforms with Exchange standards may be utilized in lieu of the cash or cash equivalents required to carry butterfly, box, and debit and credit spreads in the cash account.

(b) Margin Accounts. (i) Butterfly and Box Spreads. The Exchange's current rules do not provide consideration for the components of butterfly and box spreads in prescribing margin requirements.[6] The proposal will permit combination spread transactions in margin accounts where the risk associated with the transactions is identifiable. The NYSE states that under its current rules, a butterfly spread—a pairing of two standard spreads, one bullish and one bearish—requires the separate margining of each transaction. According to the NYSE, the current margin requirement does not recognize that the spreads offset each other with respect to risk. Under the proposal, the NYSE believes that investors will receive the benefit of lower margin requirements on bullish and bearish spreads because the individual spreads will be treated as a combined position with lower risk. The proposed initial and maintenance margin requirements for butterfly spreads are the same as the cash account requirements for butterfly spreads described above.[7]

---

[3] *See* FRB Docket No. R–0772 (April 26, 1996), 61 FR 20386 (May 6, 1996).

[4] Proposed NYSE Rule 431(f)(2)(C) defines a *butterfly spread* as an aggregation of positions in three series of either puts or calls all having the same underlying component or index, and time of expiration, and based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, which positions are structured as either: (A) a "long butterfly spread" in which two short options in the same series are offset by one long option with a higher exercise price and one long option with a lower exercise price, or (B) a "short butterfly spread" in which two long options in the same series offset one short option with a higher exercise price and one short option with a lower exercise price.

[5] Proposed NYSE Rule 431(f)(2)(C) defines a "box spread" as an aggregation of positions in a long call and short put with the same exercise price ("buy side") coupled with a long put and short call with the same exercise price ("sell side"), all of which have the same underlying component or index and time of expiration, and are based on the same aggregate current underlying value, and are structured as: (A) a "long box spread," in which the sell side exercise price exceeds the buy side exercise price or, (B) a "short box spread," in which the buy side exercise price exceeds the sell side exercise price.

[6] The proposed margin requirements for box spreads and butterfly spreads apply to options positions issued by a registered clearing agency or guaranteed by the carrying broker-dealer.

[7] Specifically, for a long butterfly spread, proposed NYSE Rule 431(f)(2)(G)(v) will require payment in full of the net debit. For a short butterfly spread, the proposal will require the deposit and maintenance of margin equal to at least the aggregate difference between the two lowest exercise prices for a short butterfly spread comprised of calls, or the aggregate difference between the two highest exercise prices for a short butterfly spread comprised of puts. The net

Continued

For a long box spread, the proposal requires margin equal to full payment of the net debit. For a short box spread, the proposed minimum initial and maintenance margin requirement is the aggregate difference between the exercise prices. The net proceeds from the sale of short option components may be applied to the margin requirement.

(ii) Hedged Strategies. Currently, the maintenance margin requirement for all securities "long" in a customer's account is 25% of the current market value of the securities.[8] For stocks trading at $5.00 per share or more, the current maintenance margin requirement for each stock "short" in a customer's account is 30% of the current market value of the stock.[9] The NYSE proposes to reduce the maintenance margin requirement for the components underlying options and stock index warrants when the components are held in conjunction with certain positions in the overlying option or warrant. Specifically, the proposal will reduce the maintenance margin requirement for component securities held in conjunction with the following hedged strategies: (1) Hedged puts (long stock/long put); (2) hedged calls (long call/short stock); (3) conversions; (4) reverse conversions; and (5) collars. The proposed maintenance margin requirements for these five hedged strategies are as follows:

(1) Long Stock/Long Put (Hedged Put)

Proposed margin requirement: 10% of the exercise price plus 100% of any amount by which the put is out-of-the-money, but no more than 25% of the long stock market value.

(2) Long Call/Short Stock (Hedged Call)

Proposed margin requirement: 10% of the call exercise price, plus 100% of any amount by which the call is out-of-the-money, but no more than 30% of the current market value of the short stock.

(3) Conversion (Long Stock/Long Put/Short Call)

Proposed margin requirement: 10% of the exercise price.

A conversion is a long stock position held in conjunction with a long put and a short call. The put and call must have the same expiration and exercise price. According to the NYSE, the long put/short call is essentially a synthetic short stock position which offsets the long stock, and the exercise price of the options acts as a predetermined sale price. The short call is covered by the long stock and the long put is a right to sell the stock at a predetermined price—the put exercise price. The NYSE states that, regardless of any decline in market value, the stock is, in effect, worth no less than the exercise price of the put.

(4) Reverse Conversion (Short Stock/Short Put/Long Call)

Proposed margin requirement: 10% of the exercise price plus any in the-money-amount for the put option.

The put and the call must have the same expiration and exercise price. According to the NYSE, the long call/short put is essentially a synthetic long stock position which offsets the short stock position. The exercise price of the options acts as a predetermined purchase (buy-in) price. The short put is covered by the short stock and the long call is a right to buy the stock (in this case closing the short position) at a predetermined price—the call exercise price. The NYSE states that, regardless of any rise in market value, the stock can be acquired for the call exercise price; in effect, the short position is valued at no more than the call exercise price.

(5) Collar (Long Stock/Long Put/Short Call)

Proposed margin requirement: The lesser of (1) 10% of the put exercise price plus 100% of any amount by which the put is out-of-the-money, or (2) 25% of the call exercise price.

A collar is a long stock position held in conjunction with a long put and short call. The put and the call must have the same expiration date. According to the NYSE, the difference between a collar and a conversion is that the exercise price of the put is lower than the exercise price of the call in the collar strategy. Therefore, the options do not constitute a pure synthetic short stock position.

(c) Loan Value for Long Term Options. According to NYSE, recent amendments to Regulation T permit loan value on options. However, the NYSE notes that the FRB deferred to the SROs to determine whether such loan value is appropriate as well as to identify specific options, prescribe criteria and actual requirements.

The Committee and the Options Subcommittee recommended that loan value be allowed only on long term options and warrants with time remaining to expiration exceeding nine months. Where the time remaining to expiration is nine months or less, there would be no loan value. The proposal applies different criteria to credit extensions for long term listed and OTC options and warrants.[10]

Specifically, for long listed equity options, stock index options, and stock index warrants with time remaining to expiration exceeding nine months, the proposed margin requirement will be 75% of the current market value of the option or warrant. Because the proposal requires initial and maintenance margin of not less than 75% of the current market value of a listed option or warrant, a broker-dealer would be able to lend up to 25% of the current market value of a listed option or warrant.

For long OTC equity options, index options, and stock index warrants with time remaining to expiration exceeding nine months, the proposed initial and maintenance margin requirement will be 75% of the in-the-money amount (or intrinsic value) plus 100% of the amount, if any, by which the current market value exceeds the in-the-money amount. In addition to having more than nine months to expiration, the OTC option or stock index warrant must be (1) in-the-money; (2) guaranteed by the carrying broker-dealer; and (3) American-style (*i.e.*, the option or stock index warrant may be exercised at any time up to the day before expiration).

(d) Extensions of Credit for Long Box Spreads Comprised of European-Style Options. The proposal also provides for the extension of credit on a long box spread comprised entirely of European-style options that are issued by a registered clearing agency or guaranteed by the carrying broker-dealer. For a long box spread comprised of options that satisfy these requirements, the proposed initial and maintenance margin requirement is 50% of the aggregate difference in the two exercise prices (buy and sell). According to the NYSE, this will produce a requirement slightly higher than 50% of the debit typically incurred. The proceeds from the sale of the short option components may be applied to this requirement. For margin equity purposes, the long box spread may be valued at an amount not to exceed 100% for the aggregate difference in the exercise prices.

(4) Statutory Basis

The NYSE believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which provides that the rules of the Exchange must be designed to promote just and equitable principles of trade

proceeds from the sale of the short option components may be applied to the margin requirement.

[8] *See* NYSE Rule 431(c)(2).

[9] *See* NYSE Rule 431(c)(3).

[10] Listed options are issued by the Options Clearing Corporation ("OCC"). OTC options are not issued by OCC. OTC options and warrants are not listed or traded on a registered national securities exchange or through the automated quotation system of a registered securities association.

and to protect the investing public. The NYSE believes that the proposed rule change also is consistent with the rules and regulations of the FRB because it is designed to prevent the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–99–03 and should be submitted by April 9, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6788 Filed 3–18–99; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

United States-Israel Free Trade Area Implementation Act; Designation of Qualifying Industrial Zones

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Under the United States-Israel Free Trade Area Implementation Act (the "FTA Act"), products of qualifying industrial zones encompassing portions of Israel and Jordan or Israel and Egypt are eligible to receive duty-free treatment. Effective upon publication of this notice, the United States Trade Representative, pursuant to authority delegated by the President, is designating the Israeli-Jordanian Gateway Projects Industrial Zone and an expanded Israeli-Jordanian Irbid Qualifying Industrial Zone as qualifying industrial zones under the FTA Act.

FOR FURTHER INFORMATION CONTACT: Madelyn Spirnak, Director for the Middle East and Mediterranean, (202) 395–3320, Office of USTR, 600 17th St., NW, Washington, DC 20508.

SUPPLEMENTARY INFORMATION: Pursuant to authority granted under Section 9 of the United States-Israel Free Trade Area Implementation Act of 1985, as amended (19 U.S.C. 2112 note), the President proclaimed certain tariff treatment for the West Bank, the Gaza Strip, and qualifying industrial zones (Proclamation 6955 of November 13, 1996 (61 FR 58761)). In particular, the President proclaimed modifications to general notes 3 and 8 of the Harmonized Tariff Schedule of the United States: (a) to provide duty-free treatment to qualifying articles that are the product of the West Bank or Gaza Strip or a qualifying industrial zone and are entered in accordance with the provisions of section 9 of the FTA Act; (b) to provide that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the United States-Israel Free Trade Area Agreement (the "Agreement") even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement; and (c) to provide that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and that the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

Section 9(e) of the FTA Act defines a "qualifying industrial zone" as an area that "(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt; (2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and (3) has been specified by the President as a qualifying industrial zone." In Proclamation 6955, the President delegated to the United States Trade Representative the authority to designate qualifying industrial zones.

In an agreement dated November 23, 1998, the Government of Israel and the Government of Jordan agreed to the creation of the Gateway Projects Industrial Zone, encompassing areas under the customs control of the respective Governments. The Government of Israel and the Government of Jordan further agreed that merchandise may enter the Gateway Industrial Zone without payment of duty or excise taxes. The Gateway Projects Industrial Zone accordingly meets the criteria under paragraphs 9(e) (1) and (2) of the FTA Act.

In an agreement dated November 16, 1997, the Government of Israel and the Government of Jordan agreed to the creation of the Irbid Qualifying Industrial Zone, encompassing areas under the customs control of the respective Governments. The Government of Israel and the Government of Jordan further agreed that merchandise may enter the Irbid Qualifying Industrial Zone without payment of duty or excise taxes. In a notice published on March 13, 1998 (63 FR 12572), the United States Trade Representative designated the Irbid Qualifying Industrial Zone as a qualifying industrial zone under section 9 of the FTA Act.

In an agreement dated November 23, 1998, the Government of Israel and the Government of Jordan agreed to an

[11] 17 CFR 200.30–3(a)(12).

expansion of the Irbid Qualifying Industrial Zone, as specified in maps accompanying that agreement. The expanded Irbid Qualifying Industrial Zone, like the original Irbid Qualifying Industrial Zone, encompasses areas under the customs control of the respective Governments. In addition, the Government of Israel and the Government of Jordan agreed that merchandise may enter the expanded Irbid Qualifying Industrial Zone without payment of duty or excise taxes. The expanded Irbid Qualifying Industrial Zone accordingly meets the criteria under paragraphs 9(e) (1) and (2) of the FTA Act.

Pursuant to the authority delegated by the President in Proclamation 6955, the United States Trade Representative hereby designates the Gateway Projects Industrial Zone and the expanded Irbid Qualifying Industrial Zone as qualifying industrial zones under section 9 of the FTA Act, effective upon the date of publication of this notice.

Dated: March 15, 1999.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 99–6793 Filed 3–18–99; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 7, 1998, (63 FR 67504) .

DATES: Comments must be submitted on or before April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Simulator Rule/14 CFR part 142, Certificated Training Centers.

OMB Control Number: 2120–0570.

Type of Request: Extension of currently approved collection.

Affected Public: Approximately 50 Businesses.

Abstract: To determine compliance, there is a need for airmen to maintain records of certain training and regency of experience. There is a need for training centers to maintain records of students trained, employee qualification and training, and training program approvals. Information is used to determine compliance with airmen certification and testing to ensure safety.

Annual Estimated Burden Hours: 6,000.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on March 15, 1999.

Vanester M. Williams,

Clearance Officer, Department of Transportation.

[FR Doc. 99–6760 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection(ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 4, 1999, [64 FR 203].

DATES: Comments must be submitted on or before April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Rebecca M. Boyd, Office of Financial Approvals, Maritime Administration, MAR–580, Room 8114, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone 202–366–5870 or FAX 202–366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Uniform Financial Reporting Requirements.

OMB Control Number: 2133–0005.

Type of Request: Extension of currently approved collection.

Affected Public: Vessel owners acquiring ships from MARAD on credit, companies chartering ships from MARAD, and companies having Title XI guarantee obligations.

Form(s): MA–172.

Abstract: The Uniform Financial Reporting Requirements are used as a basis for preparing and filing semiannual and annual financial statements with the Maritime Administration. Regulations requiring financial reports to the Maritime Administration are authorized by section 21, Shipping Act, 1916, as amended, and section 801, Merchant Marine Act, 1936, as amended. The collected information is necessary for MARAD to determine compliance with regulatory and contractual requirements.

Annual Estimated Burden Hours: 2,090

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection;

ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on March 15, 1999.

Vanester M. Williams,

Clearance Officer, Department of Transportation.

[FR Doc. 99–6761 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program Revision; Naples Municipal Airport, Naples, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program revision submitted by the City of Naples under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 3, 1998, the FAA determined that the noise exposure maps submitted by the City of Naples under part 150 were in compliance with applicable requirements. On March 2, 1999, the Administrator approved a revision to the Naples Municipal Airport noise compatibility program. The program measure in this revision was fully approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Naples Municipal Airport noise compatibility program revision is March 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812-6331, Extension 29, Documents reflecting this AFF action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program revision for Naples Municipal Airport, effective March 2, 1999.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure may submit to as the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The AFF does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an AFF decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

The City of Naples submitted to the FAA on March 6, 1998, revised noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study update conducted from October 23, 1997 through February 27, 1998. The Naples Municipal Airport revised noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 3, 1998. Notice of this determination was published in the **Federal Register.**

The Naples Municipal Airport study contains a proposed noise compatibility program revision comprised of an action designed for implementation by airport management between the date of approval and the year 2003. It was requested that FAA evaluate and approve this material as a noise compatibility program revision as described in section 104(b) of the Act. The FAA began its review of the program revision on September 3, 1998, and we required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program revision contained one (1) proposed action for noise mitigation on and off the airport The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program revision, therefore, was approved by the Administrator effective March 2, 1999.

Out right approval was granted for the one (1) specific program measure. The approval action was for the following program control:

Background

In February 1997, the Naples Airport Authority (NAA) submitted to the FAA an Update to the Part 150 Noise Compatibility Program (NCP) for Naples Municipal Airport (APF). The Update consisted of 15 measures, one of which would allow operations by Stage I aircraft (weighing less than 75,000) only between the hours of 7 a.m. to 10 p.m. The FAA approved the nighttime curfew and most of the other measures submitted by the airport sponsor. In March of 1998, the NAA submitted a second Update to its part 150 NCP. In that Update, the NAA proposed extending the current Stage I curfew to a full, 24-hour ban, thereby prohibiting the operation of any Stage I aircraft weighing less than 75,000 pounds at APF.

On September 18, 1998, the FAA published a notice in the **Federal Register** announcing that it would be reviewing the NCP submitted by Naples and requesting comments. 63 FR 49942. The FAA received one letter, from the National Business Aviation Association (NBAA), dated March 27, 1998. That letter indicated that it supplemented its earlier May 28, 1997, comments on the 1997 NCP for Naples, objecting to restrictions on Stage I aircraft operations. The March 27 letter summarized NBAA's earlier comments, objecting to the Stage I ban. As grounds for its objection, the NBAA argues that: (1) The terms of the 24-hour ban deprives public access on unfair and unreasonable terms, (2) the terms of the ban are unjustly discriminatory, and (3) the ban is preempted by federal law. in July of 1998, the NAA provided additional clarification through its consultant, Harris Miller Miller and Hanson, Inc. (HMMH), in response to issues raised during FAA's preliminary review. The analysis and July supplement include evidence of the noise benefit that will accrue to neighboring communities as a result of the ban, statistics on the number of Stage I aircraft operating nationally as well as the number operating at Naples, and information about the existence of other nearby airports available for use by Stage I operators.

Operational Measures

1. Extend Existing Nighttime Stage I Use Restrictions to 24 Hours

The Naples Airport Authority (NAA) requests that the FAA approve extension of the existing nighttime curfew on operations by Stage I aircraft (10 p.m. to 7 a.m.) to a 24 hour ban. "Emergency, medical, or government flights or other flights which are for the benefit of public health, safety, and welfare would be exempt from the ban." (NCP Update, February 1998; Amendment to NEM and NCP prepared by HMMH, Report 295500, July 24, 1998).

Approved. The NCP demonstrates that the recommended Stage I ban provides a noise benefit both in the short term and in the five year planning timeframes. in 1998, the Stage I ban is predicted to reduce the number of residential dwelling units within the 65 dB DNL from 184 to 77 dwelling units, and to remove 120 individuals from the 65 dB DNL contour. In 2003, the number of residences significantly impacted by noise would be reduced from 185 to 146, and the number of individuals impacted would be reduced by 156. In addition, the ban is reasonable because there are no Stage I aircraft based at the Airport and less than two operations per day are affected by the ban. There are seven companies operating Stage I aircraft at APF; two companies use the aircraft primarily for ambulance services, two other companies have alternate non Stage I aircraft they can utilize, two companies operating only Stage I aircraft offered no objection to the ban, and only one company indicated that the ban would impose an inconvenience but not a financial hardship. For those who do not own alternative aircraft, the impact will be minimal because there are two other airports located within 30 miles of the city of Naples that can accommodate the affected aircraft.

As a matter of policy, FAA does not consider the use of aircraft stage designations to be unjustly discriminatory per se. Moreover, the ban is not unjustly discriminatory because Stage I aircraft are the loudest type of aircraft operating at Naples.

The exemptions to further public health, safety, and welfare, which were applied in 1997 to the Stage I nighttime curfew, are being extended to this 24-hour ban. The FAA commented in September 1997 that the exception of emergency medical flights is a justifiable exception.

The ban on operations by Stage I aircraft weighing less than 75,000 pounds is not federally preempted because the scheme of federal regulation of Stage I aircraft is not so pervasive as to make reasonable the inference that FAA left no room for airport proprietors to supplement it. The FAA's interest in Stage I aircraft is not so dominant that the federal system should be assumed to preclude enforcement of local rules on the same subject, and because the goals of FAA regulation and obligations imposed by FAA do not reveal any purpose to preclude the exercise of State authority. *See Rice* versus *Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). See *Pacific Gas & Electric Co.* versus *State Energy Resources Conservation and Development Comm'n*, 461 U.S. 190, 203–204 (1983).

By stating its intent to conduct further study and actions as may be appropriate when it required the gradual elimination of operations by Stage I aircraft weighing more than 75,000 pounds, FAA did not intend or ordain complete preemption of regulations of operations by all Stage I aircraft. In the preamble of the final rule that phased out operations by Stage I aircraft weighing more than 75,000 pounds, FAA stated ". . . operating noise limits for turbojet airplanes weighing 75,000 pounds or less cannot be adopted in a manner consistent with the constraints in . . . the Act. However, the FAA is expanding is comprehensive analysis of the public impact of aircraft noise. As the results of this study become available over the next two years, FAA will undertake such actions as may be appropriate." 41 FR 56055 (December 23, 1976). Since 1976, the FAA has not conducted the contemplated study and has not undertaken further action, with the result that the use of such aircraft is being gradually eliminated through attrition. Although FAA Advisory Circular 150–5020–1, Airport Noise Compatibility Planning, dated August 5, 1983, and the 1976 Department of Transportation Aviation Noise Abatement Policy warn about conflicts between local airport rules and the federal scheme concerning deadlines for retrofit or replacement of Stage I aircraft, when these statements are read in context it is clear that the FAA is speaking only about Stage I aircraft weighing more than 75,000 pounds. These guidance documents are silent about Stage I aircraft weighing less than 75,000 pounds. Neither document clearly manifests FAA intent to supersede the exercise of proprietary power.

Given FAA's exercise of a detailed and supervisory role over Stage I aircraft weighing more than 75,000 pounds, FAA's silence in these circumstances should not be presumed to be or construed as a barrier to action by Naples Airport Authority to establish requirements as to the permissible level of noise created by Stage I aircraft weighing less than 75,000 pounds using its airport. Based upon the small number of such aircraft left in the total U.S. fleet, estimated by NAA's reported research as less than 50, FAA has determined that further action is not appropriate because there are no federal

concerns requiring national regulation. There do not appear to be any appreciable risks of disruption in traffic to and from airports or economic distress among carriers that require a federal policy to balance the goal of noise reduction with economic and technological difficulties.

Additionally, this is not a case where preemption results from actual conflict between state and federal law. As there is no federal requirement concerning the pace of elimination of operations by Stage I aircraft weighing less than 75,000 pounds, aircraft operators may comply with this local ban on such operations. Based upon the record before us, it does not appear that the Stage I ban at Naples Airport would stand as an obstacle to the accomplishment and execution of purposes and objectives of Congress and the FAA. The small number of such aircraft, the fact that none are based at or used by air carriers at the airport, and the role of Naples Airport indicate that the ban would impose a minimal burden on interstate commerce. Should impacts on air commerce occur which are unforeseeable at the time of this approval, or should the FAA receive significant new information such as that the exemptions are granted in an unjust manner, the FAA will reevaluate this determination upon receipt of new information to ascertain whether it still meets the standards for Part 150 approval.

This determination is set forth in detail in a Record of Approval endorsed by the Administrator on March 2, 1999. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the City of Naples.

Issued in Orlando, Florida on March 4, 1999.

W. Dean Stringer,

Manager, Orlando Airports District Office.

[FR Doc. 99–6738 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–5]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 11, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of $11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on March 16, 1999.

Donald P. Byrne,

Assistance Chief Counsel for Regulations.

Petitions For Exemption

Docket No.: 29401.

Petitioner: Hollingsead International, Inc.

Section of the FAR Affected: 14 CFR 25.855(a), 25.857(e), and 25.1447(c)(1).

Description of Relief Sought: To allow the installation of a groom station with palletized seating provisions for up to 16 supernumeraries in the aft portion of the main deck cargo compartment on an A300 series passenger to freighter conversion with a Class E cargo compartment.

Docket No.: 29422.

Petitioner: Gulfstream Aerospace Corporation.

Section of the FAR Affected: 14 CFR 43.9(a) (3) and (4), 145.59(a), and 145.61.

Description of Relief Sought: To permit Gulfstream authorized technicians and inspection personnel to permanently use electric signatures in lieu of physical signatures to satisfy the signature and recordkeeping requirements of 43.9(a) (3) and (4), 145.59(a), and 145.61.

Docket No.: 29466.

Petitioner: Bombardier Inc.

Section of the FAR Affected: 14 CFR 25.1435(b)(1).

Description of Relief Sought: In lieu of the requirements of 14 CFR § 25.1435(b)(1), for a complete hydraulic system proof pressure test on the airplane, Bombardier proposes to conduct a proof pressure test at the system relief pressure, 3750 psig, and component testing at 1.5 times operating pressure (4500 psig) per § 25.1435(a)(2).

Dispositions of Petitions

Docket No.: 29270.

Petitioner: The Boeing Company.

Section of the FAR Affected: 14 CFR 21.325(b)(3).

Description of Relief Sought/ Disposition: To permit Boeing Company to issue export airworthiness approvals for Class II and Class III products manufactured in Canada by Boeing Toronto, Ltd., as an approved supplier to Boeing under Boeing's production certificate No. 700. *Grant, 2/11/99, Exemption No. 6860*

Docket No.: 29409.

Petitioner: Bombardier Aerospace.

Section of the FAR Affected: 14 CFR 25.1435(b)(1).

Description of Relief Sought/ Disposition: To permit Bombardier Aerospace type certification of the Model DHC–8 Series 400. The type certification would be accomplished by conducting a proof pressure test of the hydraulic system at 3250 psig (the system relief pressure) per the proposed 25.1435(c)(3) and by component testing at 1.5 times the operating pressure (4500 psig) per the current 25.1435(a)(2). *Grant, 2/22/99, Exemption No. 6864*

[FR Doc. 99–6753 Filed 3–18–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–6]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions of exemption received and of disposition of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 11, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraph (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on March 16, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29042.
Petitioner: Schwartz Engineering Company.
Section of the FAR Affected: 14 CFR 25.807(d) & (f), 21.183(f), and 25.2(b).
Description of Relief Sought: Schwartz Engineering Company requests exemption from the requirements of 25.807(d)(7) of the FAR to permit more than 60 feet between exists on a privately operated B–757–200 interior arrangement that does not provide 60 feet or less between passenger emergency exits in the side of the fuselage.

Docket No.: 29433.
Petitioner: MSG Flight Operations, LLC and Piedmont Aviation Services d.b.a. Pace Airlines.
Sections of the FAR Affected: 14 CFR 125.11(c).
Description of Relief Sought: To permit MSG to operate and list a Boeing 737 aircraft (Registration No. N37NY, Serial No. 23976) on its part 125 operations specifications that also is listed on the 14 CFR 121 operations specifications of Pace Airlines.

Dispositions of Petitions

Docket No.: 29202.
Petitioner: The Boeing Commercial Airplane Group.
Section of the FAR Affected: 14 CFR 25.961(a)(5).
Description of Relief Sought/Disposition: To permit Boeing Commercial Airplane Group to be exempt from the fuel system hot weather operation requirements of 25.961(a)(5), for the fuel system of the Boeing Model 757–300 airplane, with the operational limitations incorporated into the Airplane Flight Manual as proposed by the petitioner *Grant, 2/24/99, Exemption No. 6867*

Docket No.: 29253.
Petitioner: The Boeing Commercial Airplane Group.
Section of the FAR Affected: 14 CFR 25.807(d)(7), 25.813(e), and 25.853(d).
Description of Relief Sought/Disposition: To permit Boeing Commercial Airplane Group exit to exit distances of greater than sixty feet, to allow installation of interior doors between passenger compartments, and to install interior materials that do not comply with heat release and smoke emissions requirements on the Boeing 737–700 IGW airplane. *Grant, 2/17/99, Exemption No. 6820A*

Docket No.: 29373.
Petitioner: Bridger Aviation Service, Inc..
Section of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Bridger Aviation Services, Inc. to operate its Maule M–6 235C aircraft (Registration No. N9207N, Serial No. 7513C) under part 135 without TSO–C112 (Mode S) transponder installed in that aircraft. *Grant, 3/5/99, Exemption No. 6871*

[FR Doc. 99–6754 Filed 3–18–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20944]

K.C. Irving, Limited and S.M.T. (Eastern), Limited—Control—Acadian Lines, Limited, Nova Charter Service Incorporated, S.M.T. (Eastern), Inc., and S.M.T. (Eastern), Limited

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: K.C. Irving, Limited (Irving), a noncarrier holding company that controls several motor passenger carriers, and its subsidiary, S.M.T. (Eastern), Limited (SMT Limited), a motor passenger carrier, filed an application under 49 U.S.C. 14303 for control of Acadian Lines Limited (Acadian), Nova Charter Service Incorporated (Nova), S.M.T. (Eastern), Inc. (SMT Inc.), and SMT Limited, all motor carriers of passengers or, in the case of SMT Inc., an entity that intends to become a motor carrier of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8.[1] The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by April 5, 1999. Applicants may file a reply by April 20, 1999. If no comments are filed by April 5, 1999, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20944 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K

[1] Revised procedures governing finance applications filed under 49 U.S.C. 14303 were adopted in *Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers*, STB Ex Parte No. 559 (STB served Sept. 1, 1998).

Street, N.W., Washington, DC 20423. In addition, send one copy of comments to applicants' representatives: William C. Evans and John R. Mietus, Jr., Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, 901 15th Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Irving and SMT Limited currently control several motor passenger carriers. In the application, Irving and SMT Limited,[2] in which Irving historically has held an interest and currently holds a controlling interest, state that SMT Limited assumed control of Acadian[3] and Nova[4] through a stock transaction that was consummated in December 1995. Applicants indicate that their failure to obtain approval for this common control was unintentional, and having discovered this unresolved control issue, Irving and SMT Limited now seek Board authority to control these carriers.

Irving and SMT Limited also seek Board authority to control SMT Inc.,[5] which intends to obtain the operating authority currently held by Royal Blue Tours, Inc. (Royal Blue)[6] through a transfer of authority to be requested from the Federal Highway Administration. The parties intend to place the stock of SMT Inc. in a voting trust to permit consummation of the transaction pending Board approval of the application.

Applicants state that granting the application will not result in any significant changes to carrier operations that are now being conducted and will not reduce competitive options available to the traveling public. They assert that each carrier occupies a distinct market niche, particularly with respect to their limited U.S. operations, and faces substantial competition from other bus companies, private vehicles and other modes of transportation.

Applicants also submit that granting the application will produce, or continue to produce, substantial benefits. In particular, applicants state that closer coordination of motorcoach fleets will permit the companies to deploy buses to meet consumer demands more effectively. Applicants add that the proposed transaction will not impact the employees of any of the carriers adversely.

Applicants certify that: (1) None of the carriers holds an unsatisfactory safety rating from the U.S. Department of Transportation;[7] (2) each carrier has sufficient liability insurance; (3) none of the carriers is domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicants' representatives.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.[8] The prior consummation of the transaction involving Acadian and Nova does not bar approval of the application under section 14303 if the evidence establishes that the transaction would be consistent with the public interest in other respects, and for the future. Approval is granted in such circumstances when the record contains strong affirmative evidence of public benefits to be derived from the resulting control, warranting the view that the public should not be penalized by being deprived of those benefits. Moreover, in this case, the record shows an absence of intent to flout the law or of a deliberate or planned violation.[9] *See Kenosha Auto Transport Corp.—Control*, 85 M.C.C. 731, 736 (1960).

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application.[10] If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on April 5, 1999, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: March 16, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–6802 Filed 3–18–99; 8:45 am]

BILLING CODE 4915–00–P

---

[2] SMT Limited is a New Brunswick corporation It holds federally issued operating authority in Docket No. MC–107078, allowing it to conduct passenger transportation over a regular route between Calais and Bangor, ME, and to conduct charter and special operations between certain U.S./Canada border crossings and certain points in the United States. SMT Limited operates a fleet of 31 coaches and employs 133.

[3] Acadian is a Nova Scotia corporation. It holds federally issued operating authority in Docket No. MC–204938, allowing it to conduct charter and special operations between points in the U.S. (except HI). Acadian operates a fleet of 15 coaches with approximately 70 employees.

[4] Nova is a Nova Scotia corporation. It holds federally issued operating authority in Docket No. MC–126280, allowing it to conduct charter and special operations between certain U.S./Canada border crossings and points in the U.S. (except AK and HI) and between points in the U.S. Nova operates a fleet of 23 coaches with about 30 employees.

[5] SMT Inc., a Delaware corporation, plans to obtain from Royal Blue interstate operating authority issued in Docket No. MC–220952. That authority allows Royal Blue to conduct charter and special operations between points in the U.S. (except HI). Royal Blue operates a fleet of 6 coaches.

[6] Royal Blue is a Florida corporation providing charter service primarily in Florida.

[7] Acadian, Nova, and SMT Limited hold satisfactory ratings and Royal Blue is unrated.

[8] The parties expect no change in the fixed charges associated with each of the carriers.

[9] Applicants recognize that they should have sought our approval sooner. Under these circumstances, the Board does not intend to pursue enforcement actions against applicants for the previous unauthorized common control.

[10] Under revised 49 CFR 1182.6(c), a procedural schedule will not be issued if we are able to dispose of opposition to the application on the basis of comments and the reply.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 571X)]

CSX Transportation, Inc.—Abandonment Exemption—in Saginaw County, MI

On March 1, 1999, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board

(Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 2.29-mile portion of its Detroit Service Lane, Dean Subdivision, between milepost CBE–7.80 and milepost CBE–10.09, in Paines, Saginaw County, MI. The line traverses U.S. Postal Service Zip Code 48609 and includes the station of Paines.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 18, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than April 8, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 571X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Charles M. Rosenberger, 500 Water Street-J150, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before April 8, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: March 11, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–6625 Filed 3–18–99; 8:45 am]

BILLING CODE 4915–00–P

federal register

Friday
March 19, 1999

Part II

Department of Education

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Year 1999-2000 for Certain Centers and Projects and Inviting Applications for New Awards Fiscal Year 1999; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Year 1999–2000 for Certain Centers and Projects

AGENCY: Department of Education.

ACTION: Notice of final funding priorities for Fiscal Years 1999–2000 for certain centers and projects.

SUMMARY: The Secretary announces funding priorities for two Rehabilitation Research and Training Centers (RRTCs) and two Disability and Rehabilitation Research Projects (DRRPs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1999–2000. The Secretary takes this action to focus research attention on areas of national need. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

EFFECTIVE DATE: These priorities take effect on April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna__Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: This notice contains final priorities under the Disability and Rehabilitation Research Projects and Centers Program for two RRTCs related to: Measuring rehabilitation outcomes; and rehabilitation of persons with disabilities from minority backgrounds. The notice also contains final priorities for two DRRPs related to: Dissemination of disability and rehabilitation research; and the international exchange of information and experts. The final priorities refer to NIDRR's Long-Range Plan (LRP). The LRP can be accessed on the World Wide Web at:

http://www.ed.gov/legislation/FedRegister/announcements/1998–4/102698a.html

These final priorities support the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764).

Note: This notice of final priorities does not solicit applications. A notice inviting applications is published elsewhere in this issue of the **Federal Register**.

Analysis of Comments and Changes

On January 4, 1999 the Secretary published a notice of proposed priorities in the **Federal Register** (64 FR 342). The Department of Education received 24 letters commenting on the notice of proposed priority by the deadline date. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under statutory authority—are not addressed.

Rehabilitation Research and Training Centers

Priority: Measuring Rehabilitation Outcomes

Comment: Three commenters indicated that the word "function" in the third required activity should be replaced by "outcomes" in order to broaden the scope of the RRTC's effort to identify relevant measurement gaps.

Discussion: NIDRR agrees that the wording of the third activity should be revised in order to ensure that the RRTC undertakes a broad effort to identify relevant measurement gaps.

Changes: The third activity has been revised by substituting "functional outcomes" for "function."

Comment: Health policymakers and analysts should be added to the target population of the fifth required activity.

Discussion: The fifth required activity targets payers, providers, and consumers as users of medical rehabilitation outcome data. Having addressed these three groups, an applicant could propose to target health policymakers and analysts. NIDRR has no basis to determine that all applicants should be required to target health policymakers and analysts.

Changes: None.

Comment: The priority requires the RRTC to address the effectiveness of medical rehabilitation services. One commenter suggested that in addition to addressing effectiveness, the RRTC should address the efficacy of medical rehabilitation services. A second commenter suggested that the RRTC address issues of cost-effectiveness.

Discussion: In regard to the first comment, an applicant could draw the distinction between efficacy and effectiveness and propose to pursue both lines of investigation. Similarly, in regard to the second comment, an applicant could propose to address cost-effectiveness as part of fulfilling the requirements of the priority. The peer review process will evaluate the merits of the proposals. NIDRR has no basis to require all applicants to address efficacy in addition to effectiveness, or to require all applicants to address issues of cost-effectiveness.

Changes: None.

Comment: The first required activity of the RRTC is to develop and test a theoretical model or models assessing long-term outcomes. The priority or the introduction should elaborate on the specific features that characterize a satisfactory theoretical model.

Discussion: NIDRR declines to identify the specific features that characterize a satisfactory theoretical model in order to provide applicants with as much discretion as possible. The peer review process will evaluate the merits of the theoretical model or models that applicants propose.

Changes: None.

Comment: The priority is silent on the RRTC's training program content.

Discussion: The training requirement for the RRTC is included in the general requirements that precede the priority.

Changes: None.

Comment: NIDRR should clarify whether the focus of the RRTC is to measure disability and enablement, or to measure rehabilitation effectiveness. If the focus is the latter, then changing the title of the RRTC to Measuring Rehabilitation Outcomes and Treatment Effectiveness would help clarify the issue.

Discussion: As stated in the introductory purpose statement, the focus of the RRTC is the effectiveness of medical rehabilitation services. NIDRR does not believe that it is necessary to change the title of the RRTC in order to provide further clarification.

Changes: None.

Comment: Five commenters asked NIDRR to clarify whether the RRTC should address both short-term and long-term outcomes.

Discussion: NIDRR expects the RRTC to evaluate and develop methods for measuring medical rehabilitation effectiveness in the short-term and create theoretical models that examine ways that long-term outcomes from medical rehabilitation can be assessed. NIDRR anticipates that models that examine long-term outcomes will address strategies to link treatment effectiveness and short-term outcomes as well as factors that may make those linkages difficult to achieve.

Changes: None.

Comment: The RRTC should address allied health services and community

supports in addition to medical rehabilitation services.

Discussion: NIDRR considers allied health services and community supports a part of medical rehabilitation services.

Changes: None.

Comment: The activities to develop a sequel to the Functional Independence Measure and evaluate the effectiveness of medical rehabilitation services should be pursued as separate projects because of the resources that will be required.

Discussion: NIDRR declines to separate out any of the priority's activities because all of the priority's activities are inter-related and conducting any of these activities as separate projects will diminish their impact.

Changes: None.

Comment: Two commenters suggested that the RRTC be required to address the role of assistive technology in the provision of medical rehabilitation services.

Discussion: NIDRR recognizes that assistive devices play a large and important role in the provision of medical rehabilitation services and their effectiveness. An applicant could propose to address the role of assistive technology. The peer review process will evaluate the merits of the proposals. NIDRR has no basis to require all applicants to address the role of assistive technology.

Changes: None.

Comment: In examining outcomes, the RRTC should focus on changes over time, independent of where, or for how long, the person has received services.

Discussion: An applicant could propose to carry out research that focuses on changes over time, independent of where or for how long the person has received services. The peer review process will evaluate the merits of the focus. NIDRR has no basis to require all applicants to focus on changes over time, independent of where or for how long the person has received services.

Changes: None.

Comment: NIDRR should clarify if the focus of the second required activity is the extent to which medical rehabilitation effectiveness is determinable at all, the extent to which it is determinable using functional measures, or the extent to which the impact of specific interventions is determinable.

Discussion: The second required activity requires the RRTC to investigate the extent to which the effectiveness of medical rehabilitation services can be determined by applying specific functional outcomes measures to specific rehabilitation interventions. The second required activity focuses on a combination of the commenter's second and third interpretations.

Changes: None.

Comment: NIDRR should clarify if a long-term perspective should be incorporated into the third required activity as it is with the first required activity.

Discussion: The third required activity does not refer specifically to long-term outcomes and, therefore, applicants have the discretion to propose to address the most appropriate and promising types of outcomes, including long-term outcomes.

Changes: None.

Comment: One commenter asked if NIDRR expects the RRTC's activities to include less traditional medical rehabilitation service consumers such as persons with mental illness, developmental disabilities, and elderly persons with disabilities. A second commenter asked if the NIDRR expected the target population to include only those persons with physical disabilities. A third commenter suggested that the target population be focused on persons with traumatic brain injuries, spinal cord injuries, multiple sclerosis, and Parkinson's disease.

Discussion: NIDRR expects the RRTC to address issues applicable to all consumers of medical rehabilitation services. To the extent that persons with specific disabilities (e.g., mental illness, developmental disabilities, Parkinson's disease) are consumers of medical rehabilitation services, the RRTC should include them in its activities. Applicants may propose to emphasize certain disabilities, and the peer review process will evaluate the merits of the emphasis.

Changes: None.

Comment: Does the second required activity apply to existing measures or measures that may be developed by the project?

Discussion: Applicants can use existing measures, measures developed by the project, or both, in carrying out the second required activity.

Changes: None.

Comment: Is the purpose of the second required activity to: (1) Evaluate the use of functional outcome measures exclusively in order to determine if they are a valid way to evaluate services, (2) investigate the limitations of functional outcome measures, or (3) compare different outcome measures? The commenter supported the third purpose.

Discussion: NIDRR defers to applicants to propose approaches to carrying out the required activities of a priority. In this particular instance, an applicant could propose to do one or more of the commenter's approaches to carry out the second activity's requirements. The peer review process will evaluate the merits of the proposals.

Changes: None.

Comment: The first and fifth required activities seem to suggest that NIDRR is interested in the RRTC engaging in work to develop a standardized set of outcome measures. This may not be possible to complete within five years, but the RRTC could make significant progress toward this goal. NIDRR should clarify its intent.

Discussion: The priority does not require the RRTC to undertake standardization activities. However, an applicant could propose to carry out standardization activities as part of fulfilling the requirement of the fourth activity. The peer review process will evaluate the merits of the proposal.

Changes: None.

Comment: The second required activity should be revised to require the RRTC to investigate the effectiveness of medical rehabilitation services by applying outcome measures to specific rehabilitation interventions.

Discussion: The second required activity focuses on the extent to which the effectiveness of medical rehabilitation services can be determined by applying specific functional outcomes measures to specific rehabilitation interventions. It is outside the size and scope of this RRTC to study the effectiveness of services in a field as broad as medical rehabilitation.

Changes: None.

Comment: Collaboration and cooperation between the RRTC and relevant non-profit national organizations should be emphasized.

Discussion: One of the general requirements applicable to the RRTC indicates that the RRTC must coordinate with other entities carrying out related research or training activities. No further requirements are necessary in order for the RRTC to coordinate with relevant non-profit national organizations.

Changes: None.

Priority: Rehabilitation of Persons with Disabilities from Minority Backgrounds

Comment: Clarification is needed in regard to whether the RRTC should focus on select disabilities, particularly those that are chronic (or likely to be chronic), and whether the RRTC should address the needs of adults and children.

Discussion: The purposes of this priority are to evaluate the rehabilitation

needs and improve rehabilitation outcomes of persons with disabilities from minority backgrounds. In their efforts to achieve these purposes, applicants have the discretion to propose to focus on selected disabilities, or types of disabilities (e.g., chronic). The peer review process will evaluate the merits of their focus.

Unless specified otherwise in the priority, NIDRR expects its projects and centers to address the needs of persons with disabilities from all age groups. Having addressed the needs of all age groups, applicants have the discretion to emphasize one or more age groups.

Changes: None.

Comment: The priority requires the RRTC to address too many groups of individuals from minority backgrounds, and as a result, the needs of Pacific Islanders may not receive sufficient attention. Two commenters urged NIDRR to establish an RRTC on the rehabilitation for Pacific Islanders in the Pacific Basin.

Discussion: In order to concentrate its support for RRTCs around particular broad themes or outcomes having national significance and reflecting large scale concerns and problems, NIDRR is not planning to support RRTCs that are geographically based. Currently, NIDRR supports RRTCs in areas such as employment policy, family policy, demographics, telerehabilitation, rural rehabilitation, and vocational rehabilitation systems that have the capacity to address rehabilitation research issues relevant to the Pacific Basin. NIDRR also supports projects that have a specific focus on the Pacific Basin, including an RRTC funded in FY 98 at the University of Hawaii, several State or territorial Technology Act projects, and the Region IX Disability and Business Technical Assistance Center. Finally, NIDRR's Field Initiated Project competition provides interested parties with an opportunity to carry out research or development activities specific to the Pacific Basin.

Changes: None.

Disability and Rehabilitation Research Projects

Priority: International Exchange of Information and Experts

Comment: The activities carried out by this project should be focused on the following areas: employment policy, independent living practice, issues pertaining specifically to women with disabilities, and the appropriate use of technology to assist persons with disabilities.

Discussion: An applicant could propose to focus on these four areas. The peer review process will evaluate the merits of the proposal. However, NIDRR prefers to provide applicants with the discretion to propose to focus on specific areas and has no basis to determine that all applicants should be required to focus on these areas.

Changes: None.

Comment: Two commenters suggested that participatory action research should be identified as a particularly desirable methodology in the priority. The second commenter also suggested that the project should emphasize increased awareness, interest, and participation in international opportunities by people with disabilities, and identify and evaluate best practices by people with disabilities, particularly in developing countries.

Discussion: NIDRR is a proponent of participatory action research. However, consistent with its approach to provide applicants with as much discretion as possible, NIDRR declines to require all applicants to promote participatory action research in this priority.

NIDRR encourages all of its grantees to involve persons with disabilities and, if appropriate their representatives, in all aspects of a grant's activities. The fourth required activity of the priority focuses on information on cultural perspectives, and NIDRR expects developing countries to be included in the project's activities.

Changes: None.

Comment: The first and second required activities should be revised to include development and technology transfer in the database of international rehabilitation research and as a topic at the research conferences.

Discussion: "International rehabilitation research" includes development and technology transfer. NIDRR prefers to provide applicants with the discretion to propose the content of the database and topics at the research conferences. The peer review process will evaluate the merits of the proposals.

Changes: None.

Comment: NIDRR should clarify the meaning of "improving rehabilitation services." For example, does it include assistive technology services and assistive devices, as well as medical rehabilitation and vocational rehabilitation?

Discussion: NIDRR expects that the project will approach and define rehabilitation services broadly, and prefers to provide applicants with the discretion to define the scope of rehabilitation services.

Changes: None.

Comment: Is the goal of the project to improve research and technical assistance on rehabilitation primarily with the U.S., outside the U.S., or both?

Discussion: The goal, as stated in the Introduction, is essentially to assist U.S. rehabilitation practitioners to improve the effectiveness of the services they provide.

Changes: None.

Comment: Who is the target audience for this project?

Discussion: The target audience is primarily researchers and practitioners.

Changes: None.

Comment: What criteria should be applied in selecting countries to include in the project's activities?

Discussion: The issue of selection for participation in the project relates much more to an individual's potential contribution than their country of origin. NIDRR expects that applicants will propose to include individuals from a number of foreign countries whose research and practical experience will contribute to fulfilling the purpose of the priority.

Changes: None.

Comment: What is the definition of research? For example, should the project focus on applied research, research and development, or clinical research?

Discussion: Research is classified and defined in NIDRR's regulations at § 350.5.

Changes: None.

Comment: Is the definition of disabilities limited to physical disabilities, sensory disabilities, cognitive disabilities, or psychological disabilities?

Discussion: An individual with a disability is defined in NIDRR's regulations at § 350.5.

Changes: None.

Comment: Does the exchange of experts need to be face-to-face, and if so what is the role of the project staff? Related to this question, if technical assistance experts visit other countries, is the goal to share information or provide technical assistance?

Discussion: The exchange of experts does not have to be face-to-face, and project staff will facilitate the exchange of information. In regard to whether the question of whether the technical assistance experts will share information or provide technical assistance, NIDRR does not draw as sharp a distinction between the two activities as the commenter suggests. NIDRR prefers to provide applicants with the discretion to propose the types of information exchange that the project's participants will undertake.

Changes: None.

Rehabilitation Research and Training Centers

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(b)(2)). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide that training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

Description of Rehabilitation Research and Training Centers

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated, integrated, and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, to alleviate or stabilize disabling conditions, and to promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

RRTCs disseminate materials in alternate formats to ensure that they are accessible to individuals with a range of disabling conditions.

NIDRR encourages all Centers to involve individuals with disabilities and individuals from minority backgrounds as recipients of research training, as well as clinical training.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

General Requirements

The following requirements apply to these RRTCs pursuant to these absolute priorities unless noted otherwise. An applicant's proposal to fulfill these proposed requirements will be assessed using applicable selection criteria in the peer review process.

Each RRTC must provide: (1) Training on research methodology and applied research experience; and (2) training on knowledge gained from the Center's research activities to persons with disabilities and their families, service providers, and other appropriate parties.

Each RRTC must develop and disseminate informational materials based on knowledge gained from the Center's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties.

Each RRTC must involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center.

The RRTC must conduct a state-of-the-science conference and publish a comprehensive report on the final outcomes of the conference. The report must be published in the fourth year of the grant.

The RRTC must coordinate with other entities carrying out related research or training activities.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary will fund under this competition only applications that meet one of these absolute priorities.

Priority 1: Measuring Rehabilitation Outcomes

Introduction

Chapter Four of NIDRR's proposed LRP (63 FR 57204) discusses issues in medical rehabilitation, including research on rehabilitation outcomes. There is a need to develop more effective outcomes measurement tools to determine the effectiveness, including the cost-effectiveness, of medical rehabilitation interventions and products. Chapter Seven of the proposed LRP (63 FR 57211) reviews the importance of documenting outcomes across service settings and programs. The proposed LRP identifies long-term outcomes, such as employment, community integration, and quality of life, as an important component of the new paradigm of disability that expands the focus of research from the individual to society and the environment. NIDRR expects this RRTC to integrate the new paradigm of disability in its research activities. The new paradigm maintains that disability is a product of an interaction between characteristics of the individual and characteristics of the natural, man-made, cultural, social environments.

Medical rehabilitation outcomes research has focused on function. NIDRR supported the development and application of the Functional Independence Measure (FIM), a criterion-referenced scale that has been widely accepted in inpatient rehabilitation settings. NIDRR also supported the development of the Craig Handicap Assessment and Reporting Technique that contains scales for assessing the World Health Organization dimensions of "handicap" (i.e., participation) and is currently being refined to measure cognitive components of disability.

While researchers have been able to demonstrate gain in function, as measured by instruments like the FIM, there is no conclusive evidence regarding the specific impact of therapeutic intervention on functional gain (Heinemann, A. et al., "Relation of Rehabilitation Intervention to Functional Outcome," *Final Technical*

Report, Center for Functional Assessment Research, University of Buffalo, pg. 11, 1998). In addition, medical rehabilitation providers are being asked to demonstrate the relationship between short-term functional gain and long-term outcomes for persons with disabilities (Wilkerson, D. and Johnston, M., "Clinical Program Monitoring Systems," in *Assessing Medical Rehabilitation Practices—The Promise of Outcomes Research*, pgs. 275–305, 1997).

In addition to the widespread use of the FIM as a measure of function, there are other commonly used measures. Also, there are multiple measures related to other types of outcomes, including quality of life, community integration, and consumer satisfaction. Providers, consumers, and other stakeholders have difficulty comparing outcomes because use of outcome measures across settings is not standardized (Wilkerson, D. and Johnston, M., ibid.).

Priority

The Secretary will establish an RRTC for the purpose of developing improved methods that assess the effectiveness of medical rehabilitation services. The RRTC must:

(1) Develop and test theoretical model or models assessing long-term outcomes as part of a system of evaluating medical rehabilitation effectiveness;

(2) Investigate the extent to which the effectiveness of medical rehabilitation services can be determined by applying functional outcomes measures to specific rehabilitation interventions;

(3) Identify gaps in existing measures of medical rehabilitation effectiveness, assessing not only the FIM's, but also other instruments' utility as a measure of the impact of therapeutic interventions on functional outcomes across rehabilitation settings;

(4) Revise or develop and test measures of medical rehabilitation effectiveness to address gaps identified by paragraph (3) above; and

(5) Evaluate and describe the uses of medical rehabilitation outcome data by payers, providers, and consumers.

In carrying out these purposes, the RRTC must coordinate with the RRTC on Health Care for Individuals with Disabilities—Issues in Managed Health Care, the National Center on Medical Rehabilitation Research, the Department of Veterans Affairs, and the Health Care Financing Administration.

Priority 2: Rehabilitation of Persons With Disabilities From Minority Backgrounds

Introduction

Chapter Two of NIDRR's proposed LRP (63 FR 57194) discusses and highlights methodological problems in the categorization and definition of disability, including identifying and measuring consequences of disability in minority populations. Disabilities in minority populations may be associated with factors such as health, poverty, family structure, environment, aging, substance abuse, chronic disease, and violence-related trauma in ways that are substantially different from non-minority populations. Chapter 3 of the proposed LRP identifies the need for minority populations research that provides information about employment factors, including identifying rehabilitation strategies that are based on knowledge about the characteristics of racial and ethnic minorities.

For the purpose of this priority, persons from minority backgrounds include one or more of the following minorities: Asian-Americans, Hispanics or Latinos, Black or African-Americans, and Native Hawaiians or other Pacific Islanders. American Indians and Alaskan Natives are not included as a target population for this RRTC because other NIDRR grants address their needs directly.

Priority

The Secretary will establish an RRTC on rehabilitation of persons with disabilities from minority backgrounds for the purpose of evaluating their rehabilitation needs and improving their rehabilitation outcomes. The RRTC must:

(1) Identify methodological problems in determining the rehabilitation needs of persons with disabilities from minority backgrounds, including subpopulations within these groups, and propose strategies to address these methodological problems;

(2) Based on paragraph (1), identify implications for rehabilitation research, training, policy development, and services;

(3) Assess the outcomes of rehabilitation for persons with disabilities from minority backgrounds, as measured by two or more variables (e.g., functional abilities, health and wellness, employment, and psychosocial status), and analyze the effects of minority status on rehabilitation outcomes; and

(4) Identify, develop, and evaluate rehabilitation methodologies, models and interventions for specific minorities in selected areas drawn from the NIDRR Research Agenda in Section Two of the proposed LRP.

In carrying out the purpose of the priority, the RRTC must:

- Include concepts of health self-assessment and consumer decision-making related to participation in the labor force; and
- Coordinate with the Centers for Disease Control and Prevention's Center on Minority Health.

Disability and Rehabilitation Research Projects

Authority for Disability and Rehabilitation Research Projects (DRRPs) is contained in section 204(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(a)). DRRPs carry out one or more of the following types of activities, as specified in 34 CFR 350.13—350.19: research, development, demonstration, training, dissemination, utilization, and technical assistance. Disability and Rehabilitation Research Projects develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition, DRRPs improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended.

Priority 3: Dissemination of Disability and Rehabilitation Research

Introduction

Chapter Eight of NIDRR's proposed LRP (63 FR 57213) describes the importance of effective knowledge dissemination and utilization (D&U). NIDRR proposes to establish a center that will serve as the cornerstone of NIDRR's D&U efforts by carrying out research on effective dissemination methodologies and providing technical assistance to all of NIDRR's grantees as well as to the wide array of consumers of disability research findings.

Priority

The Secretary will establish a DRRP for the purpose of increasing the usefulness of NIDRR-funded research findings. The National Center for the Dissemination of Disability Research must:

(1) Identify and evaluate effective methodologies for disseminating disability research to persons with disabilities and their families, service providers, policymakers, and other researchers;

(2) Provide technical assistance on D&U methodologies to all NIDRR grantees including, but not limited to, addressing cultural relevance, ensuring physical accessibility of information, and developing effective dissemination plans.

(3) Develop, implement, and evaluate a plan for collaboration among NIDRR projects that primarily disseminate information in order to enhance dissemination and avoid duplication of activities; and (4) Develop, implement, and evaluate methods that diverse public audiences can use to access NIDRR-funded research findings.

Priority 4: International Exchange of Information and Experts

Introduction

The Rehabilitation Act of 1973, as amended, provides NIDRR with the authority to exchange experts and technical assistance in field of rehabilitation of individuals with disabilities as well as conduct a program for international research and demonstration (Section 204 (b)(6)). Cooperative international research activities can offer new perspectives on solving rehabilitation problems, provide data for the evaluation of domestic programs, and assist U.S. rehabilitation practitioners to improve the effectiveness of the services they provide, especially for minority and immigrant populations.

Priority

The Secretary will establish a DRRP for the purpose of improving rehabilitation services by obtaining and disseminating information on international rehabilitation research and practices. The DRRP must:

(1) Develop and maintain a database of international rehabilitation research and make this database available to grantees supported by NIDRR, the Office of Special Education Programs, and the Rehabilitation Services Administration;

(2) Conduct rehabilitation research conferences involving participants from the U.S. and other countries;

(3) Conduct an international exchange of research and technical assistance experts between other countries and the United States; and (4) Disseminate information on cultural perspectives on rehabilitation to entities that provide rehabilitation or conduct rehabilitation research and training activities involving persons from foreign backgrounds.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133A, Disability and Rehabilitation Research Projects, and 84.133B, Rehabilitation Research and Training Centers)

Dated: March 15, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–6799 Filed 3–18–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133A and 84.133B]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under the Disability and Rehabilitation Research Project and Centers Program for Fiscal Year (FY) 1999

Note to applicants

This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

This program supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, and the program regulations 34 CFR part 350.

Program Title: Disability and Rehabilitation Research Project and Centers Program

CFDA Numbers: 84.133A and 84.133B

Purpose of Program: The purpose of the Disability and Rehabilitation Research Project and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition, the purpose of the Disability and Rehabilitation Research Project and Centers Program is to improve the effectiveness of services authorized under the Act.

Eligible Applicants: Parties eligible to apply for grants under this program are States, public or private agencies, including for-profit agencies, public or private organizations, including for-profit organizations, institutions of higher education, and Indian tribes and tribal organizations.

Program Authority: 29 U.S.C. 762.

APPLICATION NOTICE FOR FISCAL YEAR 1999 DISABILITY AND REHABILITATION RESEARCH PROJECTS, CFDA NO. 84–133A

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
Dissemination of Disability and Rehabilitation Research	May 3, 1999	1	$750,000	60
International Exchange of Information and Experts	May 3, 1999	1	$400,000	60

*Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Dissemination of Disability and Rehabilitation Research

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for a project on dissemination of disability and research under the Disability and Rehabilitation Research Project and Centers Program.

(a) Importance of the problem (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of one or more disabled populations (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of research activities* (4 points).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (2 points).

(ii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (2 points).

(d) *Design of demonstration activities* (13 points total).

(1) The Secretary considers the extent to which the design of demonstration activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed demonstration activities build on previous research, testing, or practices (3 points).

(ii) The extent to which the proposed demonstration activities include the use of proper methodological tools and theoretically sound procedures to determine the effectiveness of the strategy or approach (2 points).

(iii) The extent to which the proposed demonstration activities include innovative and effective strategies or approaches (4 points).

(iv) The extent to which the proposed demonstration activities are likely to contribute to current knowledge and practice and be a substantial addition to the state-of-the-art (2 points).

(v) The extent to which the proposed demonstration activities can be applied and replicated in other settings (2 points).

(e) *Design of dissemination activities* (13 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter (2 points); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (2 points).

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(iii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (2 points).

(iv) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (3 points).

(v) The extent to which the information to be disseminated will be accessible to individuals with disabilities (2 points).

(f) *Design of utilization activities* (12 points total).

(1) The Secretary considers the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices (4 points).

(ii) The extent to which the utilization strategies are likely to be effective (4 points).

(iii) The extent to which the information or technology is likely to be of use in other settings (4 points).

(g) *Design of technical assistance activities* (12 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (3 points).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (3 points).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (3 points).

(iv) The extent to which the technical assistance is accessible to individuals with disabilities (3 points).

(h) *Plan of operation* (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (3 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (3 points).

(i) *Collaboration* (3 points total).

(1) The Secretary considers the quality of collaboration.

In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (1 point).

(j) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(k) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(l) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority (1 point).

(m) *Adequacy and accessibility of resources* (4 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (2 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points total).

International Exchange of Information and Experts Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for a project on the international exchange of information and experts under the Disability and Rehabilitation Research Project and Centers Program.

(a) *Importance of the problem* (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of one or more disabled populations (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (12 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (6 points).

(ii) The extent to which the applicant's proposed activities are likely

to achieve the purposes of the absolute or competitive priority (6 points).

(c) *Design of dissemination activities* (23 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (7 points).

(ii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (7 points).

(iii) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (7 points).

(iv) The extent to which the information to be disseminated will be accessible to individuals with disabilities (2 points).

(d) *Design of utilization activities* (23 points total).

(1) The Secretary considers the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices (8 points).

(ii) The extent to which the utilization strategies are likely to be effective (8 points).

(iii) The extent to which the information or technology is likely to be of use in other settings (7 points).

(e) *Plan of operation* (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (3 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (3 points).

(f) *Collaboration* (3 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (1 point).

(g) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(h) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(i) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority (1 point).

(j) *Adequacy and accessibility of resources* (4 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (2 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points).

APPLICATION NOTICE FOR FISCAL YEAR 1999 REHABILITATION RESEARCH AND TRAINING CENTERS, CFDA NO.84–133B

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year) *	Project period (months)
Measuring Rehabilitation Outcomes	May 3, 1999	1	$700,000	60
Rehabilitation of Persons with Disabilities from Minority Backgrounds	May 3, 1999	1	600,000	60

* Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Rehabilitation Research and Training Centers

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for RRTCs on measuring rehabilitation outcomes and rehabilitation of persons with disabilities from minority backgrounds under the Disability and Rehabilitation Research Project and Centers Program.

(a) *Importance of the problem* (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of those who provide services to individuals with disabilities (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of research activities* (35 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (5 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art (5 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (5 points);

(C) Each sample population is appropriate and of sufficient size (5 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (5 points); and

(E) The data analysis methods are appropriate (5 points).

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (5 points).

(d) *Design of training activities* (11 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed training materials are likely to be effective, including consideration of their quality, clarity, and variety (2 points).

(ii) The extent to which the proposed training methods are of sufficient quality, intensity, and duration (2 points).

(iii) The extent to which the proposed training content—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If relevant, is based on new knowledge derived from research activities of the proposed project (1 point).

(iv) The extent to which the proposed training materials, methods, and content are appropriate to the trainees, including consideration of the skill level of the trainees and the subject matter of the materials (2 points).

(v) The extent to which the proposed training materials and methods are accessible to individuals with disabilities (1 point).

(vi) The extent to which the applicant is able to carry out the training activities, either directly or through another entity (2 points).

(e) *Design of dissemination activities* (8 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (1 point).

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(iii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (2 points).

(iv) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (1 point).

(v) The extent to which the information to be disseminated will be accessible to individuals with disabilities (1 point).

(f) *Design of technical assistance activities* (4 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (1 point).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (1 point).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (1 point).

(iv) The extent to which the technical assistance is accessible to individuals with disabilities (1 point).

(g) *Plan of operation* (4 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (2 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (2 points).

(h) *Collaboration* (2 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(i) *Adequacy and reasonableness of the budget* (3 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (1 point).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(j) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(k) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (1 point).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which the project staff includes outstanding scientists in the field (2 points).

(l) *Adequacy and accessibility of resources* (4 points).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (1 point).

(ii) The extent to which the applicant has appropriate access to clinical populations and organizations representing individuals with disabilities to support advanced clinical rehabilitation research (2 points).

(iii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (1 point).

Instructions for Application Narrative

The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

The Secretary strongly recommends the following:

(1) a one-page abstract;

(2) an Application Narrative (i.e., Part III that addresses the selection criteria that will be used by reviewers in evaluating individual proposals) of no more than *125 pages for RRTC applications* and *75 pages for Project applications*, double-spaced (no more than 3 lines per vertical inch) 8½ × 11″ pages (on one side only) with one inch margins (top, bottom, and sides). The application narrative page limit recommendation does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications; and

(3) a font no smaller than a 12-point font and an average character density no greater than 14 characters per inch.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

PART III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions. (NOTE: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature*. No grant may be awarded unless a completed application form has been received.

For Applications Contact: The Grants and Contracts Service Team (GCST), Department of Education, 600 Independence Avenue S.W., Switzer Building, 3317, Washington, DC 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, SW, room 3418, Switzer Building, Washington, DC 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna__Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

Dated: March 15, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

APPENDIX

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section. However, applicants are encouraged to submit an original and seven copies of each application in order to facilitate the peer review process and minimize copying errors.

Frequent Guestions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers.

It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the Allowable Indirect Cost Rate?

The limits on indirect costs vary according to the program and the type of application.

An applicant for an RRTC is limited to an indirect rate of 15%.

An applicant for a Disability and Rehabilitation Research Project should limit indirect charges to the organization's approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

6. Can Profitmaking Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only organizations are eligible to apply for grants under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

8. Can NIDRR Staff Advise me Whether my Project is of Interest to NIDRR or Likely to be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How do I Assure That my Application Will be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. How Soon After Submitting my Application Can I Find Out if it Will be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date.

Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR TO Find out If My Application is Being Funded?

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application is Successful, Can I Assume I Will Get The Requested Budget Amount In Subsequent Years?

No. Funding in subsequent years is subject to availability of funds and project performance.

13. Will All Approved Applications Be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name: _____

Address: _____

Organizational Unit

_____

City _____ State _____ County _____ ZIP Code + 4 _____ - _____

2. Applicant's D-U-N-S Number ☐☐☐☐☐☐☐☐☐

3. Catalog of Federal Domestic Assistance #: 8 4 ☐☐☐☐ → Title: _____

4. Project Director: _____

Address: _____

City _____ State _____ ZIP Code + 4 _____ - _____

Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

E-Mail Address: _____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No

(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*: _____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____

☐ No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates:

Start Date:	End Date:
___/___/_____	___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #: _____ *OR* b. Assurance of Compliance #: _____

c. IRB approval date: _____ { ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

d. E-Mail Address:

e. Signature of Authorized Representative | Date: ___/___/_____

REV. 1/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No" If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Previous Edition Usable **Authorized for Local Reproduction** **Standard Form 424B (Rev. 7-97)**
Prescribed by OMB Circular A-102

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

(Rev. 6-97) Back

1968 (16
onents or
nic rivers

ance with
t of 1966,
ation and
gical and
1 et seq.).

ection of
nd related

t of 1966
pertaining
d animals
ed by this

revention
se of lead-
residence

ncial and
Audit Act
"Audits of
ations."

all other
l policies

U.S. DEPARTMENT OF EDUCATION
BUDGET INFORMATION
NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0027, Washington, D.C. 20503.

Disability and Rehabilitation Research Projects (CFDA No. 84.133A) 34 CFR Part 350 Subpart B.

Rehabilitation Research and Training Center (CFDA No. 84.133B) 34 CFR Part 350 Subpart C.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such

conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Certification of Eligibility for Federal Assistance in Certain Programs

I understand that 34 CFR 75.60, 75.61, and 75.62 require that I make specific certifications of eligibility to the U.S. Department of Education as a condition of applying for Federal funds in certain programs and that these requirements are in addition to any other eligibility requirements that the U.S. Department of Education imposes under program regulations. Under 34 CFR 75.60 – 75.62:

I. I certify that

A. I do not owe a debt, or I am current in repaying a debt, or I am not in default (as that term is used at 34 CFR Part 668) on a debt:

1. To the Federal Government under a nonprocurement transaction (e.g., a previous loan, scholarship, grant, or cooperative agreement); or

2. For a fellowship, scholarship, stipend, discretionary grant, or loan in any program of the U.S. Department of Education that is subject to 34 CFR 75.60, 75.61, and 75.62, including:

- Federal Pell Grant Program (20 U.S.C. 1070a, et seq.);
- Federal Supplemental Educational Opportunity Grant (SEOG) Program (20 U.S.C. 1070(b), et seq.):
- State Student Incentive Grant Program (SSIG) 20 U.S.C. 1070c, et seq.);
- Federal Perkins Loan Program (20 U.S.C. 1087aa, et seq.);
- Income Contingent Direct Loan Demonstration Project (20 U.S.C. 1087a, note);
- Federal Stafford Loan Program, Federal Supplemental Loans for Students [SLS], Federal PLUS, or Federal Consolidation Loan Program (20 U.S.C. 1071, et seq.);
- Cuban Student Loan Program (20 U.S.C. 2601, et seq.);
- Robert C. Byrd Honors Scholarship Program (20 U.S.C. 1070d-31, et seq.);
- Jacob K. Javits Fellows Program (20 U.S.C. 1134h-1134l);
- Patricia Roberts Harris Fellowship Program (20 U.S.C. 1134d-1134g);
- Christa McAuliffe Fellowship Program (20 U.S.C. 1105-1105i);
- Bilingual Education Fellowship Program (20 U.S.C. 3221-3262);
- Rehabilitation Long-Term Training Program (29 U.S.C. 774(b));
- Paul Douglas Teacher Scholarship Program (20 U.S.C. 1104, et seq.);
- Law Enforcement Education Program (42 U.S.C. 3775);
- Indian Fellowship Program (29 U.S.C. 774(b));

OR

B. I have made arrangements satisfactory to the U.S. Department of Education to repay a debt as described in A.1. or A.2. (above) on which I had not been current in repaying or on which I was in default (as that term is used in 34 CFR Part 668).

II. I certify also that I have not been declared by a judge, as a condition of sentencing under section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862), ineligible to receive Federal assistance for the period of this requested funding.

I understand that providing a false certification to any of the statements above makes me liable for repayment to the U.S. Department of Education for funds received on the basis of this certification, for civil penalties, and for criminal prosecution under 18 U.S.C. 1001.

_____ _____

(Signature) (Date)

_____

(Typed or Printed Name)

Name or number of the USDE program under which this certification is being made: _____

ED 80-0016 (9/92)

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application ____ b. initial award c. post-award	**3. Report Type:** a. initial filing ____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime ____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable:* _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

[FR Doc. 99–6800 Filed 3–18–99; 8:45 am]
BILLING CODE 4000–01–C

Reader Aids

Federal Register

Vol. 64, No. 53

Friday, March 19, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202–523–5227
Laws	523–5227
Presidential Documents	
Executive orders and proclamations	523–5227
The United States Government Manual	523–5227
Other Services	
Electronic and on-line services (voice)	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (numbers, dates, etc.)	523–6641
TTY for the deaf-and-hard-of-hearing	523–5229

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100 1
10101–10204 2
10205–10386 3
10387–10554 4
10555–10918 5
10919–11372 8
11373–11754 9
11755–12078 10
12079–12238 11
12239–12742 12
12743–12880 15
12881–13062 16
13063–13310 17
13311–13496 18
13497–13662 19

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100 12881

Proclamations:

7168 10101
7169 10379
7170 10383
7171 10385
7172 11373
7173 12879

Executive Orders:

12170 (See Notice of March 10, 1999) 12239
12852 (Amended by EO 13114) 10099
12957 (See Notice of March 10, 1999) 12239
12959 (See Notice of March 10, 1999) 12239
13059 (See Notice of March 10, 1999) 12239
13114 10099

Administrative Orders:

Notice of March 10, 1999 12239

Presidential Determinations:

No. 99–15 of February 26, 1999 11319
No. 99–16 of March 4, 1999 13490

5 CFR

532 ..... 9905, 9906
2635 13063

7 CFR

3 11755
246 13311
360 12881
361 12881
782 12884
989 10919
1381 11755
1434 10923
1439 13497
1469 10929

Proposed Rules:

301 11392
915 13123
916 11346
917 11346
1065 13125
1301 12769
1823 10235
1956 10235

8 CFR

274a 11533

9 CFR

52 13064

Proposed Rules:

1 10400
3 10400
112 13365
113 10400
391 10402

10 CFR

708 12862

Proposed Rules:

21 12117
50 12117
54 12117
63 10405
70 13368
707 11819

11 CFR

Proposed Rules:

2 10405
4 10405
5 10405

12 CFR

3 10194
208 10194
225 10201
325 10194
567 10194
960 12079

Proposed Rules:

602 10954

14 CFR

21 13501
25 10740
39 ..... 9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504
71 ..... 10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504
73 ..... 12743, 13334, 13506
97 ..... 9912, 9914, 13334, 13336
204 12084
257 12838
258 12854
399 12838

Proposed Rules:

39 ..... 9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530
71 ..... 9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404

15 CFR

734 13338

740 .....
742 .....
752 .....
772 .....
774 108
806 .....

16 CFR

Proposed Rule

241 .....
256 .....
1213 .....
1500 .....
1513 .....
1615 .....
1616 .....
1630 .....
1631 .....
1632 .....

17 CFR

202 .....
228 .....
229 .....
230 110
239 .....
240 .....
242 .....
249 .....

Proposed Rule

210 .....
228 .....
230 .....
232 .....
239 .....
240 99

270 .....
274 .....

19 CFR

133 .....

Proposed Rule

4 .....
24 .....
146 .....

20 CFR

10 .....
404 .....

21 CFR

26 .....
50 .....
101 .....
177 .....
178 .....
201 .....
216 .....
330 .....
331 .....
341 .....
346 .....
355 .....
358 .....
369 .....
520 101
133
522 .....
556 101
558 130

701 .....
812 .....
874 .....

Proposed Rule

864 .....

740.....13338
742.....13338
752.....13338
772.....13338
774.....10852, 12744, 13338
806.....10387

16 CFR

Proposed Rules:
241.....13368
256.....13369
1213.....10245
1500.....10245
1513.....10245
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230.....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:
210.....10579
228.....10579
230.....12908
232.....12908
239.....11118, 12908
240.....9948, 10579, 11124, 12127, 12908
270.....12908
274.....12908

19 CFR

133.....11376

Proposed Rules:
4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404.....10103

21 CFR

26.....11376
50.....10942
101.....12886, 12887
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520.....10103, 10389, 13068, 13340, 13341, 13508
522.....13508, 13509
556.....10103, 13068, 13341
558.....13068, 13069, 13341, 13342
701.....13254
812.....10942
874.....10947

Proposed Rules:
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774

22 CFR

41.....13510
171.....10949

24 CFR

5.....13056
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:
Ch. IX.....13531; 13533
990.....12920

26 CFR

1.....10218, 11378
602.....10218

Proposed Rules:
1.....10262
20.....10964

27 CFR

9.....13511
13.....10949

28 CFR

Proposed Rules:
25.....10262
302.....11821
549.....10095

29 CFR

4044.....12745

30 CFR

256.....13343
914.....12890
934.....12896

Proposed Rules:
206.....12267
250.....13535
938.....12269

32 CFR

199.....11765

33 CFR

62.....10104
117.....10104, 13514
165.....11771, 12746
320.....11708
326.....11708
331.....11708

Proposed Rules:
117.....12795, 12797
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184

Proposed Rules:
303.....12674

36 CFR

61.....11736

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111.....10950, 12072

Proposed Rules:
111.....11402

40 CFR

52.....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514
58.....10389
60.....10105, 11536
62.....13075, 13517
63.....11536, 12762
80.....10366
81.....11775, 12002, 12005, 12257, 13146
82.....10374
93.....13476
136.....10391, 13053
180.....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:
Ch. 1.....10066
52.....9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538
60.....10119, 11555
62.....13539
63.....11555, 11560
81.....11822, 12025, 13383, 13384
94.....10596
97.....10118
136.....10596
271.....10121
372.....9957, 10597
435.....10266

42 CFR

Proposed Rules:
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277
498.....12277
1003.....12277

43 CFR

4.....13362

Proposed Rules:
428.....12141
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919
65.....11378, 11380, 11382, 11384
67.....11386, 11388

Proposed Rules:
67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303.....11802, 11810
304.....11802

Proposed Rules:
92.....10412
95.....10412
1224.....10872
2508.....10872

46 CFR

502.....9922
510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156

47 CFR

73.....9923, 12767, 12902, 12903
90.....10395

Proposed Rules:
1.....9960
2.....10266
73.....12922, 12923, 12924
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548

4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52 .....10531, 10535, 10538, 10545, 10548
53 .....10548, 00913, 12862
913.....12862
922.....12862
915.....12220
970.....12220, 12862
1806.....10571
1815.....10573
1819.....10571
1842.....10573
1852.....10571, 10573

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234

Proposed Rules:

192.....12147
350.....11414
571.....9961, 10604
572.....10965

50 CFR

17.....13116
216.....9925
285.....10576
300.....13519
600.....9932
622 .....13120, 13363, 13528
630.....12903
660.....9932, 12092
679 .....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122

Proposed Rules:

216.....9965
17.....12924
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648.....11431, 13392
660.....10439, 12279
678.....10438

REMINDERS
The items in th
editorially comp
to Federal Reg
Inclusion or ex
this list has no
significance.

**RULES GOIN
EFFECT MA**

**ENVIRONMEN
PROTECTION**
Air quality impl
plans; approv
promulgation
States:
Michigan; co
published

**HEALTH AND
SERVICES DE
Food and Dru
Administration**
Animal drugs,
related produ
New drug ap
Doramectin
19-99
Lincomycin
soluble p
publishe
Propofol in
publishe
Food additives:
Adjuvants, pr
and sanitiz
Phosphoro
neopenta
bis(2,6-d
methylph
publishe

**HEALTH AND
SERVICES DE
Health Care F
Administration**
Medicare:
Medicare+Ch
Establishm
publishe

STATE DEPAR
Visas; nonimmi
documentatio
Photograph r
published

**TRANSPORTA
DEPARTMENT
Federal Aviati
Administration**
Airworthiness d
British Aeros
12-31-98
New Piper A
published

**COMMENTS
WEEK**

**AGRICULTURE
DEPARTMENT
Agricultural Ma
Service**
Milk marketing

REMINDERS
The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 19, 1999

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Michigan; correction; published 2-17-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Doramectin; published 3-19-99
Lincomycin hydrochloride soluble powder; published 3-19-99
Propofol injection; published 3-19-99
Food additives:
Adjuvants, production aids, and sanitizers—
Phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-tert-butyl-4-methylphenyl)ester; published 3-19-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Medicare+Choice program—
Establishment; changes; published 2-17-99

STATE DEPARTMENT
Visas; nonimmigrant documentation:
Photograph requirements; published 3-19-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
British Aerospace; published 12-31-98
New Piper Aircraft, Inc.; published 3-3-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Milk marketing orders:
Nebraska-Western Iowa; comments due by 3-24-99; published 3-17-99

AGRICULTURE DEPARTMENT
Food Safety and Inspection Service
Meat and poultry inspection:
Beef products contaminated with Escherichia coli 0157:H7; agency policy; comments due by 3-22-99; published 1-19-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic salmon; comments due by 3-22-99; published 2-5-99
Northeast multispecies and monkfish; comments due by 3-23-99; published 1-22-99
Northeast multispecies and monkfish; comments due by 3-26-99; published 2-16-99
Northeast multispecies and monkfish; correction; comments due by 3-26-99; published 3-18-99

CONSUMER PRODUCT SAFETY COMMISSION
Flammable Fabrics Act:
Children's sleepwear (sizes 0-6X and 7-14); flammability standards—
Amendments revocation; comments due by 3-22-99; published 1-19-99

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Cost accounting standards post-award notification; comments due by 3-26-99; published 1-25-99
Option clause consistency; comments due by 3-23-99; published 1-22-99

ENVIRONMENTAL PROTECTION AGENCY
Acquisition regulations:
Service contracting; avoiding improper personal services relationships; comments due by 3-22-99; published 1-20-99
Air quality implementation plans; approval and promulgation; various States:
Delaware; comments due by 3-25-99; published 2-23-99
Illinois; comments due by 3-24-99; published 2-22-99
Maryland; comments due by 3-22-99; published 2-18-99
Clean Air Act:
Interstate ozone transport reduction—
Nitrogen oxides budget trading program; Section 126 petitions; findings of significant contribution and rulemaking; comments due by 3-26-99; published 3-2-99
State operating permits programs—
Wyoming; comments due by 3-24-99; published 2-22-99
Wyoming; comments due by 3-24-99; published 2-22-99
Hazardous waste program authorizations:
Massachusetts; comments due by 3-26-99; published 2-24-99
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Fenpropathrin; comments due by 3-22-99; published 1-20-99
Imidacloprid; comments due by 3-22-99; published 1-20-99
Propiconazole; comments due by 3-22-99; published 1-20-99
Tebufenozide; comments due by 3-23-99; published 1-22-99
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-22-99; published 1-19-99

FARM CREDIT ADMINISTRATION
Farm credit system:
Funding and fiscal affairs loan policies and operations, and funding operations—
Financial assistance to associations; comments due by 3-22-99; published 2-18-99

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Florida; comments due by 3-22-99; published 2-5-99
Montana; comments due by 3-22-99; published 2-5-99
Texas; comments due by 3-22-99; published 2-5-99
Wisconsin; comments due by 3-22-99; published 2-8-99

FEDERAL MARITIME COMMISSION
Tariffs and service contracts:
Carrier automated tariff systems; comments due by 3-23-99; published 3-8-99

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Cost accounting standards post-award notification; comments due by 3-26-99; published 1-25-99
Option clause consistency; comments due by 3-23-99; published 1-22-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Human drugs:
Antibiotic drug certification; regulations repealed; comments due by 3-22-99; published 1-5-99
Pharmacy compounding; bulk drug substances that may be used as ingredients; list; comments due by 3-23-99; published 1-7-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare and Medicaid:
Home health agencies—
Outcome and 2 assessment information set (OASIS) data; reporting as part of participation conditions; comments due by 3-26-99; published 1-25-99
Medicare program:
Ambulance services; coverage and payment policies; comments due by 3-26-99; published 1-25-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Public and Indian housing:
Public and Indian Housing Drug Elimination Program; formula allocation; comments due by 3-22-99; published 2-18-99

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:

Pecos pupfish; comments due by 3-26-99; published 2-24-99

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:

Federal marginal properties; accounting and auditing relief; comments due by 3-22-99; published 1-21-99

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Surface coal mining and reclamation operations:

Mining operations ownership and control; definitions, application and permit information requirements, permit eligibility, etc.; comments due by 3-25-99; published 2-23-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Cost accounting standards post-award notification; comments due by 3-26-99; published 1-25-99

Option clause consistency; comments due by 3-23-99; published 1-22-99

NUCLEAR REGULATORY COMMISSION

Production and utilization facilities; domestic licensing:

Electric utility industry; restructuring and economic deregulation; potential joint ownership liability; rulemaking petition; comments due by 3-22-99; published 1-5-99

Quality assurance programs; routine and administrative changes; comments due by 3-25-99; published 2-23-99

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

New Jersey; comments due by 3-22-99; published 2-18-99

Ports and waterways safety:

Atlantic Ocean adjacent to Cape Henlopen State Park, DE; safety zone; comments due by 3-25-99; published 2-8-99

TRANSPORTATION DEPARTMENT

Administrative practice and procedure:

Special services; fees and charges; comments due by 3-22-99; published 1-21-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Foreign air carrier operations; security programs; comments due by 3-23-99; published 11-23-98

Airworthiness directives:

Airbus; comments due by 3-22-99; published 2-19-99

Avions Pierre Robin; comments due by 3-26-99; published 3-2-99

Bell Helicopter Textron Canada; comments due by 3-22-99; published 1-19-99

British Aerospace; comments due by 3-22-99; published 2-18-99

Dornier; comments due by 3-23-99; published 2-26-99

General Electric Co.; comments due by 3-25-99; published 2-23-99

McDonnell Douglas; comments due by 3-22-99; published 1-19-99

Saab; comments due by 3-22-99; published 2-18-99

Schweizer Aircraft Corp.; comments due by 3-22-99; published 1-19-99

Class E airspace; comments due by 3-22-99; published 2-19-99

IFR altitudes; comments due by 3-25-99; published 2-19-99

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Right-of-way and environment:

Right-of-way program administration; comments due by 3-24-99; published 12-24-98

TREASURY DEPARTMENT

Internal Revenue Service

Estate and gift taxes:

Prior gifts valuation; adequate disclosure; comments due by 3-22-99; published 12-22-98

Income taxes:

Determining earned income credit eligibility; paid preparer due diligence requirements; comments due by 3-22-99; published 12-21-98

Intercompany obiligations; transfer or extinguishment of rights; comments due by 3-22-99; published 12-21-98

Retirement plans; increase in cash-out limit; comments due by 3-22-99; published 12-21-98

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

In the **List of Public Laws** printed in the *Federal Register* on March 17, 1999, H.R. 882, Public Law 106-2, was printed incorrectly. It should read as follows:

H.R. 882/P.L. 106–2

To nullify any reservation of funds during fiscal year 1999 for guaranteed loans under the Consolidated Farm and Rural Development Act for qualified beginning farmers or ranchers, and for other purposes (Mar. 15, 1999; 113 Stat. 5)

Last List March 11, 1998

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listproc@lucky.fed.gov** with the text message:

subscribe PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

IC LAWS

ills which
were
Office of the
for inclusion
Public

blic Laws
deral Register
99, H.R. 882,
, was printed
uld read as

6–2
servation of
al year 1999
ans under
Farm and
nt Act for
g farmers or
other
5, 1999; 113

11, 1998

Electronic
ervice

electronic mail
ce of newly
aws. To
E-mail to
fed.gov with
e:

LAWS-L Your

ce is strictly
ation of new
text of laws
through this
annot respond
ies sent to

Would you like to know. . .

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

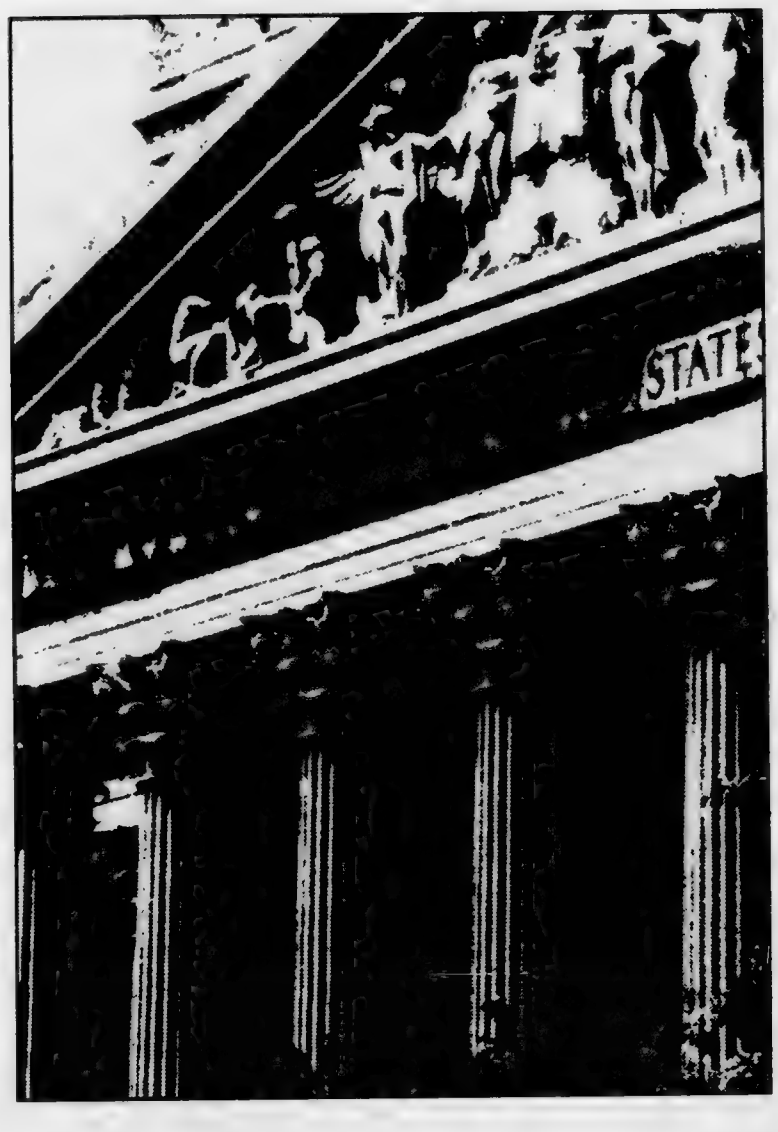
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.

_____ **Federal Register Index** (FRUS) $25 per year.

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFR SMITH212J                      DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFRDO SMITH212J                    DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐

☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.



Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR)
- ☐ One year at $220 each
- ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7)
- ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

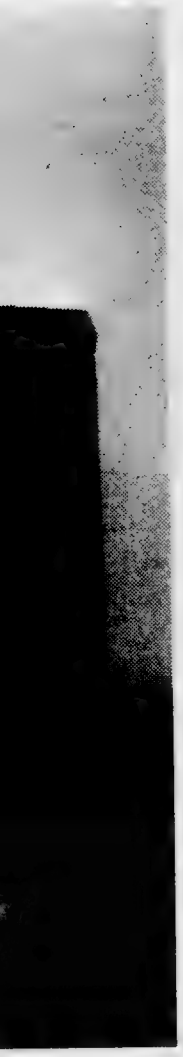
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature

11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



MasterCard VISA
202) 512–2250
202) 512–1800

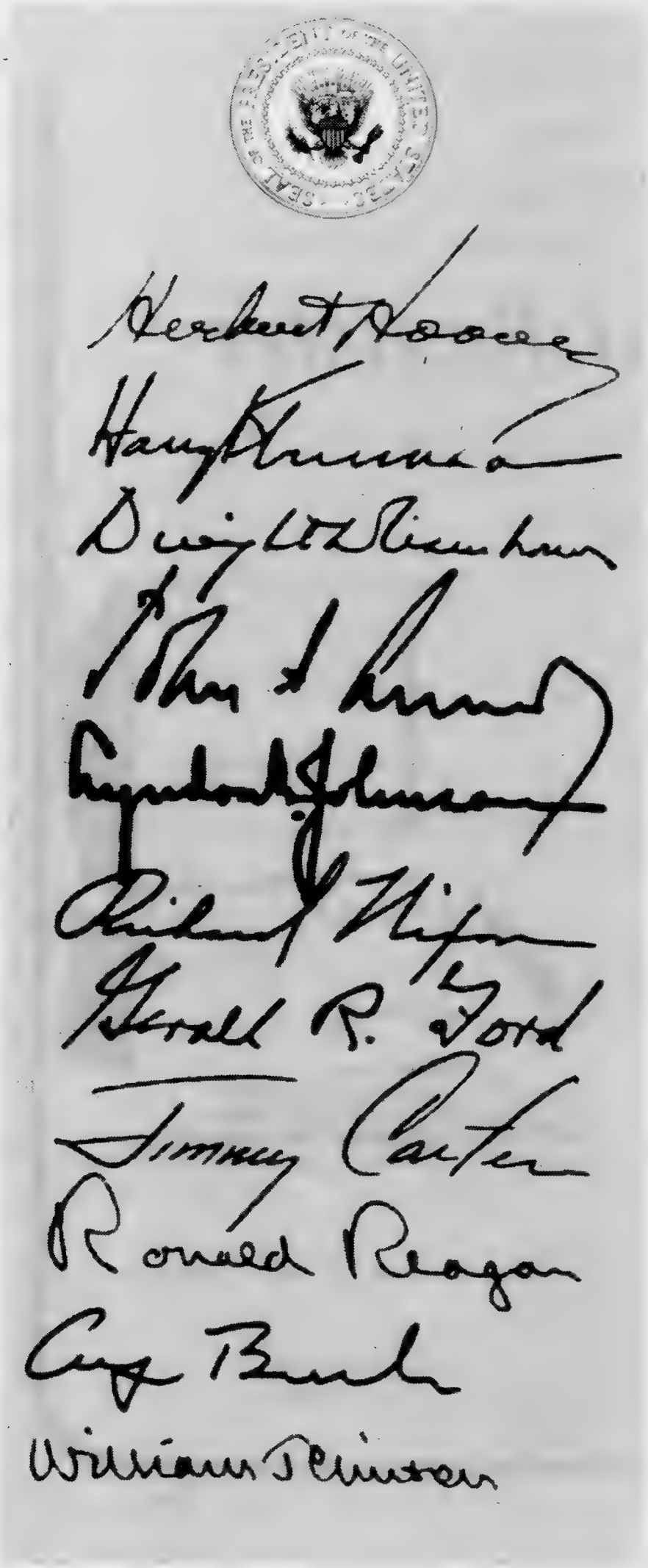
to change.

Documents
-

Thank you for your order!

11/3

5250–7954



Public Papers of the Presidents of the United States

William J. Clinton

1993
(Book I) $51.00

1993
(Book II) $51.00

1994
(Book I) $56.00

1994
(Book II) $52.00

1995
(Book I) $60.00

1995
(Book II) $65.00

1996
(Book I) $66.00

1996
(Book II) $72.00

1997
(Book I) $69.00

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev. 4/1999)

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

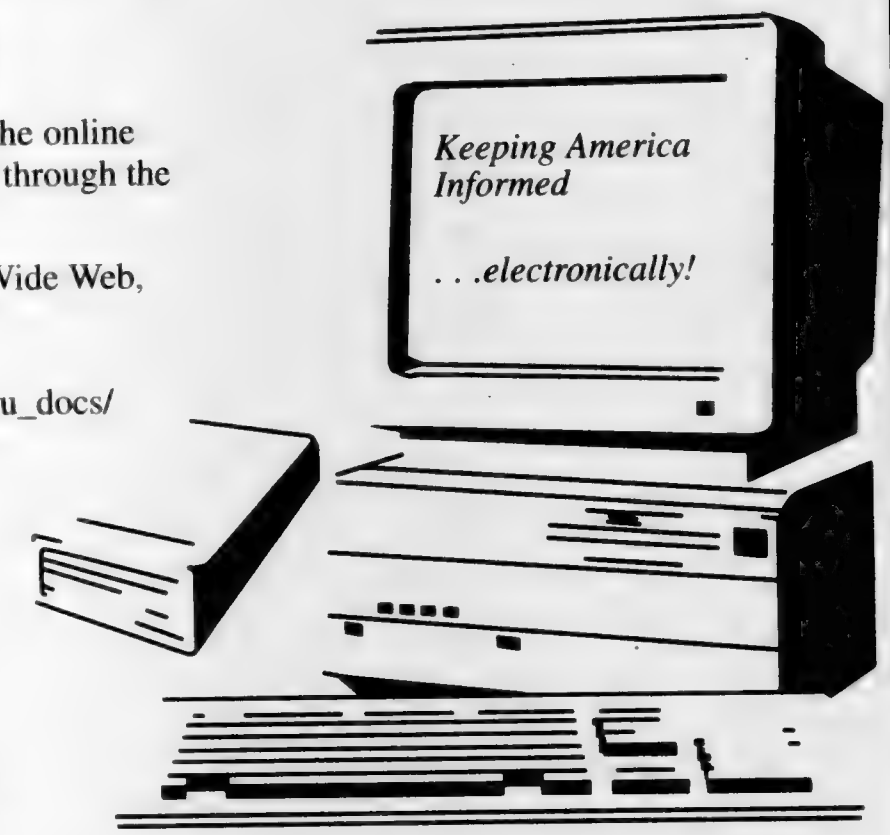
Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).



You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 11/3)



UMI
OL
64
SS
53
MR
19
999
UMI



Printed on recycled paper

OL
64
SS
54
MR
22
99
MI

3-22-99
Vol. 64 N

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

United Sta
Governme
Printing Of
SUPERINTENDE
OF DOCUMENT
Washington, DC

OFFICIAL BUSIN
Penalty for privat

3–22–99
Vol. 64 No. 54

federal register

Monday
March 22, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

3–22–99
Vol. 64 N
Pages 13663

3–22–99
Vol. 64 No. 54
Pages 13663–13880

federal register

Monday
March 22, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche — **202–512–1800**

Assistance with public subscriptions — **512–1806**

General online information — **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche — **512–1800**

Assistance with public single copies — **512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche — **523–5243**

Assistance with Federal agency subscriptions — **523–5243**

Contents

Federal Register

Vol. 64, No. 54

Monday, March 22, 1999

African Development Foundation
NOTICES
Meetings; Sunshine Act, 13763

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service

Alcohol, Tobacco and Firearms Bureau
RULES
Organization, functions, and authority delegations:
Appropriate ATF officers, 13682–13686
NOTICES
Organization, functions, and authority delegations:
Subordinate ATF officers, 13846–13850

Animal and Plant Health Inspection Service
PROPOSED RULES
Interstate transportation of animals and animal products (quarantine):
Johne's disease in domestic animals, 13726–13732

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
Americans with Disabilities Act; implementation:
Outdoor Developed Areas Accessibility Guidelines Regulatory Negotiation Committee—
Meetings, 13752–13753

Army Department
See Engineers Corps
NOTICES
Medal of Honor award recommendation for Theodore Roosevelt; information request, 13781–13782

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Coast Guard
PROPOSED RULES
Pollution:
Hazardous substances; tank vessel response plans, 13734–13752

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 13767–13768

Consumer Product Safety Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request; correction, 13854

Customs Service
RULES
Organization, functions, and authority delegations:
Organizational structure; technical corrections, 13673–13677

Defense Department
See Army Department
See Engineers Corps
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13781

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13788
Grants and cooperative agreements; availability, etc.:
Postsecondary education—
Teacher Quality Enhancement Grants for States and Partnerships Program, 13789

Employment and Training Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Job Training Partnership Act—
Title III dislocated workers; employment and training assistance programs; State allotments, 13819–13821

Employment Standards Administration
See Wage and Hour Division
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13821–13822

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Savannah River Site, SC—
Pond B dam repair project; correction, 13854
Meetings:
Environmental Management Site-Specific Advisory Board—
Los Alamos National Laboratory, NM, 13790
Oak Ridge Reservation, TN, 13789–13790

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Nationwide Permit Program; scoping meetings, 13782
Meetings:
Coastal Engineering Research Board, 13782–13783
Reports and guidance documents; availability, etc.:
Regulatory guidance letters, 13783–13788

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Delaware, 13753–13756

NOTICES
Toxic and hazardous substances control:
Premanufacture notices receipts, 13792–13795

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 13795–13796

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 13669–13671
CFM International, 13667–13669
Class D and Class E airspace, 13671–13672
Class E airspace, 13672–13673
PROPOSED RULES
Air carrier certification and operations:
Foreign air carrier operations; security programs, 13879–13880
Airworthiness directives:
Robinson Helicopter Co., 13732–13734
NOTICES
Passenger facility charges; applications, etc.:
Bush Field Airport, GA, 13840–13841
Charlottesville-Albemarle Airport, VA, 13841
Jackson County Airport Authority, OR, et al., 13841–13843

Federal Communications Commission
RULES
Common carrier services:
Telecommunications Act of 1996; implementation—
Pay telephone reclassification and compensation; reconsideration petition, 13701–13719
Radio stations; table of assignments:
Massachusetts, 13722–13723
Montana, 13723
North Carolina, 13721–13722
Oklahoma, 13723
Oklahoma and Texas, 13720
Texas, 13720–13722
Various States, 13721
Wisconsin, 13719–13720
PROPOSED RULES
Radio stations; table of assignments:
Mississippi, 13757
North Carolina, 13756–13757
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13796
Meetings; Sunshine Act, 13796
Rulemaking proceedings; petitions filed, granted, denied, etc., 13796–13797

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
California, 13797
Illinois, 13797
Michigan, 13797
New York, 13797–13798
Wyoming, 13798

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Mid Louisiana Gas Co., 13790–13791
Questar Southern Trails Pipeline Co., 13791–13792
Wyoming Interstate Co., Ltd., 13792

Federal Highway Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13843

Federal Maritime Commission
NOTICES
Agreements filed, etc., 13798

Federal Procurement Policy Office
NOTICES
Acquisition regulations:
Alternative and innovative procurement procedures; NRC's test plan, 13823–13825

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 13798–13799
Formations, acquisitions, and mergers, 13799
Permissible nonbanking activities, 13799
Federal Reserve bank services:
Net settlement entries processed through enhanced settlement service; daylight overdrafts measurement procedures modification, 13799–13800

Federal Retirement Thrift Investment Board
PROPOSED RULES
Thrift savings plan:
Funds withdrawal; methods, 13725–13726

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Oxytetracycline hydrochloride soluble powder, 13678–13679
Tilmicosin, 13679
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13801–13802
Human drugs:
New drug applications—
Single-entity coronary vasodilators containing isosorbide dinitrate; approval withdrawal; hearing, 13802–13804
Meetings:
FDA Modernization; stakeholders meeting and interactive satellite teleconference, 13804–13806

Forest Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13763–13764
Appealable decisions; legal notice:
Rocky Mountain Region, 13764–13766
Environmental statements; notice of intent:
Tongass National Forest, AK, 13766–13767

General Services Administration
RULES
Foreign gifts and decorations; utilization, donation, and disposal:
Minimal value reporting requirements, 13700–13701

Health and Human Services Department
See Food and Drug Administration

See Health Resources and Services Administration
See Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
National Bioethics Advisory Commission, 13800–13801

Health Resources and Services Administration
NOTICES
Meetings:
Graduate Medical Education Council, 13806

Interior Department
See Land Management Bureau
See Minerals Management Service
See National Park Service
NOTICES
Privacy Act:
Systems of records, 13808–138010

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13851–13852

International Trade Administration
NOTICES
Antidumping:
Aperture masks from—
Japan and South Korea, 13768–13771
Sebacic acid from—
China, 13771
Stainless steel bar from—
India, 13771–13777
Export trade certificates of review, 13777
Meetings:
Exporters' Textile Advisory Committee, 13777

Justice Department
See Justice Programs Office
RULES
Executive Office for Immigration Review:
Aliens who are nationals of Guatemala, El Salvador, and former Soviet bloc countries; deportation suspension and removal cancellation; motion to reopen, 13663–13667
Radiation Exposure Compensation Act; claims:
Evidentiary requirements; definitions and number of times claims may be filed, 13686–13700
NOTICES
Grants and cooperative agreements; availability, etc.:
Immigration related employment discrimination public education program, 13814–13817

Justice Programs Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13817–13819

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Occupational Safety and Health Administration
See Wage and Hour Division

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Nevada, 13810–13811

Management and Budget Office
See Federal Procurement Policy Office

Minerals Management Service
PROPOSED RULES
Royalty management:
Federal marginal properties; accounting and auditing relief, 13734
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
Civil monetary penalties paid January 1-December 31, 1998; list, 13811–13814

National Highway Traffic Safety Administration
PROPOSED RULES
Importation of vehicles and equipment subject to Federal safety, bumper, and theft prevention standards:
Show or display; limited conditions for exemption from compliance standards, 13757–13762
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Dailey Body Co., 13843–13844
TarasPort Trailers, Inc., 13844–13845

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Fishery cooperatives, 13723–13724
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13777–13778
Marine mammals:
Incidental taking: authorization letters, etc.—
BP Exploration (Alaska) Inc.; Beaufort Sea, AK; offshore oil platform construction, 13778–13780
Permits:
Marine mammals, 13780–13781

National Park Service
NOTICES
Environmental statements; availability, etc.:
Isle Royale National Park, MI; correction, 13814
National Register of Historic Places:
Pending nominations, 13814

Nuclear Regulatory Commission
NOTICES
Decommissioning plans; sites:
Safety Light Corp. Site, Bloomsburg, PA, 13825–13826
Environmental statements; availability, etc.:
Energy Department, Idaho Operations Office, 13826–13830
Manhattan College Zero Power Reactor, 13830–13831
Meetings:
Reactor Safeguards Advisory Committee, 13831–13832
Regulatory guides; issuance, availability, and withdrawal, 13832–13833
Senior Executive Service:
Performance Review Boards; membership, 13833–13834

Occupational Safety and Health Administration
RULES
Safety and health standards:
Methylene chloride; CFR correction, 13700

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration
See Substance Abuse and Mental Health Services Administration

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
Hazardous liquid transportation—
Liquefied compressed gases; transportation and unloading, 13855–13878

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 13835–13836
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 13836–13837
Municipal Securities Rulemaking Board, 13837–13838
New York Stock Exchange, Inc., 13838–13839
Applications, hearings, determinations, etc.:
FirstLink Communications, Inc., 13834
TCW Galileo Funds, Inc., et al., 13834–13835

Small Business Administration
RULES
Disaster loan program:
Streamlining and clarification; correction, 13667

Social Security Administration
RULES
Social security benefits and supplemental security income:
Aged, blind, and disabled and Federal old age, survivors, and disability insurance—
Prehearing proceedings and decisions; attorney advisors authority; extension, 13677–13678
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13839–13840

State Department
RULES
International traffic in arms regulations:
Commercial communications satellite control on U.S. Munitions List, 13679–13681
NOTICES
Foreign Operations, Export Financing, and Related Programs Appropriations Act:
Bosnia and Herzegovina; U.S. position on proposed credit facility of European Bank for Reconstruction and Development, 13840

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13806–13808

Surface Transportation Board
NOTICES
Meetings; Sunshine Act, 13845

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 13840

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Customs Service
See Internal Revenue Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13845–13846

United States Information Agency
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13852

Veterans Affairs Department
NOTICES
Meetings:
Environmental Hazards Advisory Committee, 13852–13853

Wage and Hour Division
NOTICES
American Samoa; special industry committee for all industries; appointment, convention, and hearing, 13822–13823

Separate Parts In This Issue

Part II
Department of Transportation, Research and Special Programs Administration, 13855–13878

Part III
Department of Transportation, Federal Aviation Administration, 13879–13880

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS

A cumulative
Reader Aids s

5 CFR
Proposed Rule
1650

8 CFR
3

9 CFR
Proposed Rule
71
80

13 CFR
123

14 CFR
39 (2 docume

71 (2 docume

Proposed Rule
39
129

19 CFR
Ch. I

20 CFR
404
416

21 CFR
520
556
558

22 CFR
121
124

27 CFR
24

28 CFR
79

29 CFR
1910

30 CFR
Proposed Rule
204

33 CFR
Proposed Rule
155

36 CFR
Proposed Rule
1190
1191

40 CFR
Proposed Rule
52

41 CFR
101-49

47 CFR
64
73 (9 docume
13720, 137
Proposed Rule
73 (2 docume

49 CFR
Proposed Rule
171
173
177
178
180

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Proposed Rules:
1650.....13725

8 CFR
3.....13663

9 CFR
Proposed Rules:
71.....13726
80.....13726

13 CFR
123.....13667

14 CFR
39 (2 documents).....13667, 13669
71 (2 documents).....13671, 13672
Proposed Rules:
39.....13732
129.....13880

19 CFR
Ch. I.....13673

20 CFR
404.....13677
416.....13677

21 CFR
520.....13678
556.....13679
558.....13679

22 CFR
121.....13679
124.....13679

27 CFR
24.....13682

28 CFR
79.....13686

29 CFR
1910.....13700

30 CFR
Proposed Rules:
204.....13734

33 CFR
Proposed Rules:
155.....13734

36 CFR
Proposed Rules:
1190.....13752
1191.....13752

40 CFR
Proposed Rules:
52.....13753

41 CFR
101-49.....13700

47 CFR
64.....13701
73 (9 documents).....13719, 13720, 13721, 13722, 13729
Proposed Rules:
73 (2 documents).....13756, 13757

49 CFR
Proposed Rules:
171.....13856
173.....13856
177.....13856
178.....13856
180.....13856
591.....13757

50 CFR
679.....13723

Rules

This section of
contains regula
applicability and
are keyed to ar
Federal Regula
50 titles pursua

The Code of Fe
the Superintend
new books are
REGISTER issu

DEPARTMEN

8 CFR Part 3

[EOIR No. 121F

RIN 1125–AA2

**Motion To Re
Deportation a
Removal**

AGENCY: Exec
Immigration
ACTION: Final

SUMMARY: Thi
regulations of
Immigration
extending the
of an applicat
deportation a
cancellation o
documentatio
reopen filed p
of the Nicarag
Central Amer

DATES: *Effecti*
effective Marc

FOR FURTHER
Margaret M. P
Executive Off
Review, Suite
Falls Church,
(703) 305–047

SUPPLEMENTA
amends and a
interim rule p
on June 11, 19
amended 8 CF
a special proc
adjudication o
apply for susp
cancellation o
203 of the Nic
Central Ameri
105–100; 111
(NACARA). T
on November
309 of the Ille
and Immigran
1996 (Pub. L.

Rules and Regulations

Federal Register
Vol. 64, No. 54
Monday, March 22, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

8 CFR Part 3

[EOIR No. 121F; AG Order No. 2214–99]

RIN 1125–AA23

Motion To Reopen: Suspension of Deportation and Cancellation of Removal

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) by extending the time period for the filing of an application of suspension of deportation and special rule cancellation of removal and all of the documentation supporting a motion to reopen filed pursuant to section 203(c) of the Nicaraguan Adjustment and Central American Relief Act.

DATES: *Effective date:* This final rule is effective March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305–0470.

SUPPLEMENTARY INFORMATION: This rule amends and adopts in final form an interim rule published at 63 FR 31890 on June 11, 1998. That interim rule amended 8 CFR Part 3 by establishing a special procedure for the filing and adjudication of motions to reopen to apply for suspension of deportation and cancellation of removal under section 203 of the Nicaraguan Adjustment and Central American Relief Act (Pub. L. 105–100; 111 Stat. 2160, 2193) (NACARA). That Act, signed into law on November 19, 1997, amended section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Pub. L. 104–208; 110 Stat. 3009–625) (IIRIRA). This rule makes two changes to the interim rule. First, the final rule extends the February 8, 1999 deadline to submit the application for suspension of deportation or special rule cancellation of removal and all of the supporting documentation in support of the NACARA motion to reopen. Second, the final rule addresses certain eligibility problems for a dependent with a final order of deportation or removal who is unable to complete his or her motion to reopen until the principal alien is granted relief.

Background

Section 203 of NACARA provides special rules regarding applications for suspension of deportation and cancellation of removal by certain aliens. These aliens include Guatemalan, Salvadoran, and certain former Soviet bloc nationals described in section 309(c)(5)(C)(i) of IIRIRA, as amended by section 203 of NACARA.

On November 24, 1998, the Department of Justice published a proposed regulation implementing section 203 of NACARA that would permit certain aliens eligible for relief under section 203 of NACARA to submit to the INS applications for suspension of deportation or special rule cancellation of removal. Such applications will be adjudicated by asylum officers. In certain cases, aliens currently in immigration court proceedings would be given the opportunity to move for administrative closure of their cases in order to apply for relief before the INS. The period for public comment on the section 203 rule closed on January 25, 1999, and the Department will publish a rule implementing section 203 of NACARA after review and consideration of all comments. Several provisions within the proposed rule are likely to affect immigration court proceedings with respect to NACARA motions to reopen; these provisions are discussed where relevant in the following sections.

Section 203(c) of NACARA also amended section 309 of IIRIRA by creating a provision for eligible aliens who have already received a final order of deportation or removal to file a motion to reopen in order to obtain the benefits of NACARA. Section 309(g) of IIRIRA, as amended, permits aliens with final orders of deportation or removal who have become eligible for cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of NACARA to file one motion to reopen removal or deportation proceedings to apply for such relief, without regard to the limitations imposed by law on motions to reopen. That provision further required the Attorney General to designate a specific time period for filing such motions to reopen under NACARA beginning no later than 60 days after the date of enactment of NACARA and extending for a period not to exceed 240 days.

Accordingly, on January 15, 1998, the Attorney General signed a notice that designated from January 16, 1998, to September 11, 1998, as the time period for filing NACARA motions to reopen. *See* 63 FR 3154 (Jan. 21, 1998). That notice waived the filing fee for motions to reopen filed pursuant to NACARA, but did not disturb any other regulatory provisions with respect to the filing or adjudication of motions to reopen.

The Interim Motion To Reopen Rule

The interim published on June 11, 1998, addressed the specific filing process for NACARA motions to reopen in two ways. First, it clarified who can file a motion to reopen pursuant to section 309(g) of IIRIRA, as amended by section 203(c) of NACARA, by defining who has become eligible for "special rule" cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of NACARA. Second, it permitted any alien who is moving to reopen pursuant to section 309(g) of IIRIRA, as amended by section 203(c) of NACARA, to file an abbreviated motion to reopen initially, without also including a suspension or cancellation application and supporting documents. This two-tiered procedure departs from the general requirement that a motion to reopen must be accompanied by the appropriate application for relief and supporting documents at the time of filing. The interim rule provided that aliens who had filed a motion to reopen by September 11, 1998, must submit an application for suspension of deportation or special rule cancellation of removal and all other supporting evidence and arguments in favor of reopening no later than February 8,

1999, in order to complete the motion to reopen.

The Final Rule

This final NACARA motion to reopen rule amends two aspects of the interim NACARA motion to reopen rule based on consideration of public comments, as well as the Department's review of the process during the interim rule period.

First, the final rule extends the February 8, 1999 deadline to submit the application for suspension of deportation or special rule cancellation of removal and all of the supporting documentation in support of the NACARA motion to reopen. An alien who timely filed the abbreviated NACARA motion to reopen will have 150 days from the effective date of the rule implementing section 203 of NACARA to complete the motion by submitting the application for suspension of deportation or special rule cancellation of removal accompanied by any supporting evidence.

Second, the final motion to reopen rule and addresses certain eligibility problems for a dependent with a final order of deportation or removal who is unable to complete his or her motion to reopen until the principal alien is granted relief. The final rule continues to require a dependent to meet NACARA motion to reopen filing deadlines, however, it now enables the dependent to reopen his or her case upon a showing that he or she is *prima facie* eligible for suspension of deportation or special rule cancellation of removal pursuant to NACARA. *Prima facie* eligibility requires that the dependent show he or she meets the statutory requirements for suspension of deportation or special rule cancellation of removal relief and requires proof that the principal has applied for NACARA relief.

The Department received sixteen comments following publication of the interim rule. The sixteen comments contained six themes, all of which are addressed below.

September 11, 1998 Deadline

Fourteen commenters suggested that the September 11, 1998 deadline for submitting motions to reopen should be extended to account for the size of the affected population, the difficulty of verifying the existence of many final orders issued prior to 1989, and the lagtime between announcing the designated period and publication of the interim rule.

Section 203(c) of NACARA directed the Attorney General to designate a time period up to 240 days in which an eligible alien could file a NACARA motion to reopen without regard to the time limits generally imposed by statute or regulation. Section 203(c) also required that the Attorney General designated such a period beginning no later that 60 days after the passage of NACARA. Consequently, the Attorney General designated the period from January 16, 1998, to September 11, 1998, as the statutory period in which a NACARA motion to reopen could be filed. The period for filing motions to reopen was set by Congress and, accordingly, cannot be extended by rule.

The Department recognized, however, that it would be difficult for many individuals to complete their applications for relief within that time frame. The Department sought to address this apparent difficulty by permitting applicants to file an abbreviated motion to reopen that could be supplemented with a full application no later than February 8, 1999. *See* 63 FR 31890 (June 11, 1998). This final rule further extends the time for filing the application and accompanying material in support of the motion to reopen. Any alien who filed an abbreviated NACARA motion to reopen by September 11, 1998, under section 203 of NACARA will receive the benefit of this rule.

The Department continues to believe that this two-step approach adequately addresses the concerns raised regarding the initial filing deadline, while adhering to the statute.

The expiration of the special NACARA filing period, however, does not preclude individuals who believe they are eligible for relief under NACARA from seeking to reopen their final orders under the standard rules governing motions to reopen. The INS will consider on a case by case basis whether to join in a motion to reopen raised by an otherwise eligible applicant who has missed the statutory deadline. *See* 8 CFR 3.23(b)(4)(iv).

February 8, 1999 Deadline

Fourteen commenters stated that the February 8, 1999 deadline for submitting the application and supporting documentation should be extended for those aliens with outstanding Freedom of Information Act (FOIA) requests. They argue that applicants will not have enough information and may be missing critical information contained in the FOIA documentation to determine whether they should complete the motion to reopen. Most commenters stated that the deadline should be extended until 60 after the alien receives the Department's final response to a FOIA request.

The existence of a pending FOIA request would not, of itself, suffice to extend the filing deadline. However, the Department recognizes that much time has elapsed since some of the orders were issued, and it may be difficult to obtain the information necessary to complete in application.

Moreover, the Department recognizes that some of the individuals who have filed motions to reopen under NACARA may want to file under the new program at the INS. Many aliens are eligible to have their applications reviewed by asylum officers, as described in the proposed rule implementing section 203 of NACARA, published on November 24, 1998. *See* 63 FR 64895. Under the section 203 proposed rule, which establishes the procedure to apply for suspension of deportation or special rule cancellation of removal for aliens defined as NACARA-eligible, applications submitted to the INS must be filed on proposed Form I–881. The Form I–881 will not become available to the public until the effective date of the rule implementing section 203 of NACARA. In order to minimize the number of forms an alien must submit, the Department believes that it is reasonable to extend the February 8, 1999 deadline for NACARA motions to reopen so that applicants need only submit the Form I–881.

Thus, the final rule permits an applicant to submit his or her application and accompanying documents no later than 150 days after the rule implementing section 203 of NACARA becomes effective. This extension will permit applicants who properly filed the abbreviated NACARA motion to reopen by September 11, 1998, to submit the Form I–881 to complete their motion to reopen. The extension will also permit certain NACARA-eligible applicants to establish that their NACARA-eligible parent or spouse has applied for relief under section 203 of NACARA, as discussed below.

Dependents Under NACARA Section 203

Fourteen commenters expressed concern that the interim regulation did not acknowledge the eligibility problems faced by certain family members of NACARA-eligible aliens. Although NACARA extends eligibility to the spouse, child, or unmarried son or unmarried daughter over the age of 21 (dependent) of persons described in section 203 of NACARA, such dependents are not eligible for suspension of deportation or special rule cancellation of removal until the designated parent or spouse (principal)

has received a grant of suspension of deportation or special rule cancellation of removal. Consequently, even if a NACARA dependent completes his or her motion to reopen by submitting an application and accompanying documents, the dependent is not eligible for relief unless and until the principal is first granted relief. Commenters noted that the applications of the vast majority of NACARA principals would not have been adjudicated as of the February 8, 1999 deadline established by the interim rule. Therefore, they suggested that the final rule permit immigration judges to grant motions to reopen for NACARA dependents regardless of the application status of the principal applicant.

The Department recognizes that many NACARA dependents who were required to file motions to reopen by September 11, 1998, would not yet know the results of the principal's application at the time of the deadline for completing their application for suspension of deportation or special rule cancellation of removal. The Department has identified a similar problem with respect to NACARA dependents who are presently in deportation or removal proceedings. The proposed rule implementing section 203 permits the Immigration Court to administratively close the dependent's case to allow the dependent to submit an application for suspension of deportation or special rule cancellation of removal with the Service if (1) the dependent has a NACARA-eligible relative who has submitted an application for such relief with the Service, and (2) the dependent appears otherwise eligible for discretionary relief under section 203 of NACARA. The Board may also administratively close or continue the dependent's appeal to permit the dependent to submit to INS an application for suspension of deportation or special rule cancellation of removal.

Unlike dependents currently in proceedings, dependents previously ordered deported must have their cases reopened before they can apply for NACARA relief. The proposed rule implementing section 203 of NACARA does not address how the Department interprets the statute with regard to a dependent who has already been ordered deported or removed. To address the problem within the context of motions to reopen, the Department has decided to modify the final rule with respect to dependents. The dependent must comply with the deadline for filing the application and supporting documentation. However, the dependent's case shall be reopened if the immigration judge finds that the dependent is *prima facie* eligible for suspension or cancellation relief and if the dependent submits proof that the principal alien has applied and is *prima facie* eligible for NACARA relief. Once the dependent's case is reopened the dependent will be subject to the same procedures established in the section 203 rule for dependents in proceedings.

Waiver of Substantive Bars to Relief

Fourteen commenters stated the interim regulations impose improper limitations to NACARA eligibility, and that it was the intent of Congress to waive all limitations on eligibility for relief, except the bar for aggravated felons.

The statute states, "notwithstanding any limitation imposed by law on motions to reopen removal or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony) * * * any alien who has become eligible for cancellation of removal or suspension of deportation as a result of the amendments * * * may file one motion to reopen." *See* action 203(c) of NACARA. The Department interprets this language to refer only to the time and number limitations on motions to reopen. Section 203(c) dealt only with those procedural aspects of *filing* a motion to reopen and did not alter the substantive requirements for *granting* a motion to reopen. Moreover, the requirement that an applicant establish *prima facie* eligibility for relief (in this case, suspension of deportation or special rule cancellation of removal) is a prerequisite for the granting of all motions to reopen. The statutory language that states the alien must have "become eligible" for suspension or cancellation as a result of NACARA requires that the alien be *prima facie* eligible for such relief. NACARA did not alter the requirement that there must be a showing of *prima facie* eligibility for the relief sought.

In order to be *prima facie* eligible for suspension of deportation or special rule cancellation of removal, the alien must not be subject to any statutory bars to such relief. Section 240A(c) of the INA, and section 244(f) of the INA as it existed prior to April 1, 1997, describe those aliens who are ineligible for suspension of deportation or cancellation of removal. For example, aliens who failed to depart voluntarily after receiving oral and written notice of the consequences of failing to depart and those who failed to appear for their hearings after receiving the required oral and written notices are statutorily barred from suspension of deportation or cancellation of removal. Thus, aliens statutorily barred from relief have no basis to reopen their cases.

Statutory bars to eligibility for suspension of deportation or cancellation of removal are not waived by the provisions of NACARA. The Attorney General has no authority to waive these statutory bars in the cases where they apply. Therefore, because those aliens subject to statutory bars to eligibility did not "become eligible" under NACARA, those additional bars to relief besides the aggravated felony bar are properly incorporated in 8 CFR section 3.43.

Requirement to State Ineligibility Pursuant to IIRIRA Section 309(c)(5)

Section 3.43(c) of the interim NACARA motion to reopen rule requires an alien seeking to reopen under NACARA to establish that he or she is (i) *prima facie* eligible for suspension or deportation or special rule cancellation of removal under NACARA; (ii) was or would be ineligible for relief but for the passage of NACARA; (iii) has not been convicted at any time of an aggravated felony; and (iv) falls within one of the six classes described elsewhere in the regulation. Many commenters objected to the second requirement, arguing that individuals should not be required to state a lack of eligibility but for NACARA. Commenters suggested that this requirement exceeded the scope of the statute and was unduly burdensome.

The second requirement arises from the Department's determination, based on the specific language in section 203(c), that only those persons who have "become eligible" for relief under NACARA are entitled to submit a motion to reopen under section 203(c). This analysis, discussed at length in the supplementary information accompanying the interim rule, requires a determination at the time the motion to reopen is considered that an individual actually became eligible for relief as a result of NACARA. *See* 63 FR 31890, 31891–92. To facilitate this determination, the Department has requested that the initial motion include some indication that the alien was ineligible for relief at the time of his or her immigration proceedings and subsequently became eligible for relief as a result of NACARA.

Such a showing results in a minimal burden. For instance, in many cases, an alien seeking to reopen his or her case would have been ineligible for relief as a result of the "stop-time rule," discussed previously in the supplementary information in the

interim rule. *See also, Matter of NJB,* Interim Decision 3309 (BIA 1997), *vacated by* the Attorney General on July 10, 1998. In those cases, the Department anticipates that information regarding the date of entry and the date the charging document was issued would establish that the individual was otherwise ineligible for relief, but for NACARA. Consequently, the showing necessary to meet this requirement will generally be minimal and will expedite the adjudicative process.

Adjudication of Motions To Reopen Filed Under NACARA Section 203

Finally, thirteen commenters stated that all persons eligible to file a motion to reopen were entitled to have their cases reopened. The commenters suggest that Immigration Judges should not be allowed to deny the motion to reopen at the outset without a hearing on the merits of the applicant's suspension or cancellation claim. Those commenting seek to avoid denial of inadequate motions prepared in a short time frame. They also argue the complicated requirements of a NACARA motion to reopen may be too difficult for *pro se* aliens.

The passage of NACARA did not alter the general procedures for filing and considering motions to reopen. It made special provisions to permit a certain group of people who would otherwise be prevented by statute and regulation to submit a motion to reopen. Nothing in section 203(c) indicates that Congress intended for all such motions to be automatically granted.

Congress has the power to affect motions practice, and in fact has done so. In enacting IIRIRA in 1996, Congress statutorily codified EOIR's regulatory 90 day time limit on motions to reopen. Congress, when it passed NACARA, gave no guidance, nor did it amend procedural matters for motions to reopen before EOIR, except to set a statutory deadline to file motions to reopen under section 203 of NACARA. It could have made additional changes, other than lifting the one-time filing rule, but it did not. Accordingly, there is no reason to believe that Congress intended to treat differently those existing procedural matters on motions to reopen. Therefore, it is the obligation of the Immigration Court to comply with the existing regulations and assess *prima facie* eligibility under NACARA prior to granting a motion to reopen.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects individual aliens, not small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Reinforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Attorney General has determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f) and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988: Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 8 CFR Part 3

Administrative practice and procedure, Immigration, Organization and functions (Government agencies).

Accordingly, part 3 of chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.. 1103, 1252 note, 1252b, 1324b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Public Law 105–100.

2. Section 3.43 is amended by:
a. Revising paragraph (b)(4)(v);
b. Revising paragraph (b)(4)(vi);
c. Revising paragraph (c)(2), and
d. Adding paragraph (c)(3) to read as follows:

§ 3.43 Motion to reopen of suspension of deportation and cancellation of removal pursuant to section 203(c) of the Nicaraguan Adjustment and Central American Relief Act (NACARA).

* * * * *

(b)(4) * * *

(v) The spouse or child of a person who is described in paragraphs (b)(4)(i) through (b)(4)(iv) of this section and such person is *prima facie* eligible for and has applied for suspension of deportation or special rule cancellation of removal under section 203 of NACARA.

(vi) An unmarried son or daughter of a person who is described in paragraph (b)(4)(i) through (b)(4)(iv) of this section and such person is *prima facie* eligible for and has applied for suspension of deportation or special rule cancellation of removal under section 203 of NACARA. If the son or daughter is 21 years of or older, the son or daughter must have entered the United States on or before October 1, 1990.

(c) * * *

(2) A motion to reopen filed pursuant to paragraph (c)(1) shall be considered complete at the time of submission of an application for suspension of deportation or special rule cancellation of removal and accompanying documents. Such application must be submitted no later than 150 days after the effective date of the rule implementing section 203 of NACARA. Aliens described in paragraph (b)(4)(v) or (b)(4)(vi) of this section must include, as part of their submission, proof that their parent or spouse is *prima facie* eligible and has applied for relief under section 203 of NACARA.

(3) The Service shall have 45 days from the date the alien serves the

Immigration Court with either the EOIR Form 40 or the Form I–881 application for suspension of deportation or special rule cancellation of removal to respond to that completed motion. If the alien fails to submit the required application within 150 days after the effective date of the rule implementing section 203 of NACARA, the motion will be denied as abandoned.

Dated: March 4, 1999.

Eric H. Holder, Jr.,

Deputy Attorney General.

[FR Doc. 99–6633 Filed 3–19–99; 8:45 am]

BILLING CODE 4410–30–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loan Program; Correction

AGENCY: Small Business Administration (SBA).

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final regulation published in the **Federal Register** on January 31, 1996, 61 FR 3304, concerning the SBA's disaster regulations. This regulation is contained in § 123.3 of volume 13 of the Code of Federal Regulations. Under the disaster regulations, a State Governor must make certification of economic injury within 120 days of the physical disaster. This correction reinstates a provision which gives the SBA Administrator authority, in cases of undue hardship, to accept a Governor's certification more than 120 days after the disaster.

DATES: Effective March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Herbert L. Mitchell, 202–205–6734.

SUPPLEMENTARY INFORMATION: Under SBA's disaster regulations, a State Governor may certify to the SBA that small businesses suffered substantial economic injury as a result of a disaster in the State. The Governor must submit such certification to the local SBA disaster office within 120 days of the disaster. That office evaluates the request and makes its recommendation to SBA's Headquarters office. The SBA Administrator takes final action and decides whether to make an economic injury disaster declaration. Under disaster regulations prior to 1996, the SBA Administrator had authority, in cases of undue hardship, to accept a Governor's certification after the 120-day period had elapsed. When SBA revised its regulations in 1996, it inadvertently omitted this provision from 13 CFR 123.3 (formerly § 123.23(c) prior to 1996). This correction reinstates the SBA Administrator's authority to accept a Governor's certification after 120 days.

Before a Governor submits a request for SBA to declare an economic injury, the affected small businesses in the community must prepare and submit documentation with respect to the economic injuries they have incurred as a result of a disaster in the State. There are times when the paperwork is delayed in getting to the State Governor, with the result that the Governor's request to SBA arrives more than 120 days after the disaster incident. Thus, the SBA Administrator needs authority to accept late requests from a governor to protect small businesses. This technical correction will allow the SBA Administrator to act so that small businesses would not suffer undue economic hardship.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C., et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch 35)

SBA certifies that this correction does not constitute a significant rule within the meaning of Executive Order 12866, since it is not likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA certifies that this correction will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* SBA certifies that this correction does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

For purposes of Executive Order 12612, SBA certifies that this proposed rule has no federalism implications warranting preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this correction is drafted, to the extent practicable, to comply with the standards set forth in section 2 of that Order.

List of Subjects in 13 CFR Part 123

Disaster assistance, loan programs-businesses, small businesses.

For the reasons set forth in the above preamble, SBA amends 13 CFR part 123 as follows:

PART 123—DISASTER LOAN PROGRAM

1. The authority citation for part 123 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(b), 636(c) and 636(f); Pub. L. 102–395, 106 Stat. 1828, 1864; and Pub. L. 103–75, 107 Stat. 739.

2. Amend § 123.3 by adding a new sentence at the end of paragraph (a)(4) to read as follows:

§ 123.3 How are disaster declarations made?

(a) * * *

(4) * * * The Administrator may, in a case of undue hardship, accept such request after 120 days have expired.

* * * * *

Dated: March 16, 1999.

Fred Hochberg,

Deputy Administrator

[FR Doc. 99–6856 Filed 3–19–99; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–56–AD; Amendment 39–11079; AD 99–06–16]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–5 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CFM International CFM56–5 series turbofan engines, that reduces the low cycle fatigue (LCF) retirement lives for certain high pressure turbine rotor (HPTR) front air seals, and provides a drawdown schedule for those affected parts with reduced LCF retirement lives. This amendment is prompted by results of a refined life analysis performed by the manufacturer that revealed minimum calculated LCF lives significantly lower than the published LCF retirement lives. The actions specified by this AD are intended to prevent a LCF failure of the HPTR front air seal, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective April 21, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director

of the Federal Register as of April 21, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7138; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to CFM International CFM56–5 series turbofan engines was published in the **Federal Register** on September 18, 1998 (63 FR 49879). That action proposed to require reducing the low cycle fatigue (LCF) retirement lives for certain high pressure turbine rotor (HPTR) front air seals, and provide a drawdown schedule for those affected parts with reduced LCF retirement lives in accordance with CFM International CFM56–5 Service Bulletin No. 72–541, dated July 27, 1998.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that the total cost impact of the proposed AD on the industry will be greater than that presented in the proposed AD's economic analysis. This commenter states that numerous engines currently in their fleet, and engines to be delivered in 1999, will require premature removal due to the life reduction of the HPTR front air seal. The commenter further states that engines prematurely removed will still have serviceable life remaining at the time of removal. The FAA does not concur. The proposed AD's economic analysis already accounts for the cost impact associated with a premature removal of the HPTR front air seal due to the life reduction. Therefore, the FAA has determined that there is no need to revise the cost impact section of the AD.

One commenter supports the AD as proposed.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 863 engines of the affected design in the worldwide fleet. The FAA estimates that 131 engines installed on aircraft of U.S. registry would be affected by this AD, and that it will not take any additional work hours per engine to accomplish the required actions. Assuming that the parts cost is proportional to the reduction of the LCF retirement lives, the required parts would cost approximately $14,000 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,834,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–06–16 CFM International: Amendment 39–11079. Docket 98–ANE–56–AD.

Applicability: CFM International CFM56–5 series turbofan engines installed on, but not limited to, Airbus A319 and A320 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a low cycle fatigue failure of the high pressure turbine rotor (HPTR) front air seal, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Remove from service CFM International CFM56–5–A1 and -5–A1/F HPTR front air seals, Part Number (P/N) 1319M11P06, 1319M11P07, 1319M11P08, and 1319M11P09, and CFM56–5–A1 HPTR front air seals, P/N 1319M11P05, and replace with a serviceable part, in accordance with CFM56–5 Service Bulletin (SB) No. 72–541, dated July 27, 1998, as follows:

(1) For seals that have accumulated less than 4,000 cycles since new (CSN) on the effective date of this AD, remove the seal from service prior to accumulating 11,000 CSN.

(2) For seals that have accumulated 4,000 CSN or more, but less than 11,000 CSN on the effective date of this AD, accomplish the following:

(i) For engines that have an engine shop visit (ESV) prior to the seal accumulating 11,000 CSN, remove the seal from service prior to the seal accumulating 11,000 CSN.

(ii) For engines that do not have an ESV prior to the seal accumulating 11,000 CSN, remove the seal from service prior to the seal accumulating 7,000 cycles in service (CIS) after the effective date of this AD, or prior to the seal accumulating 15,300 CSN, whichever occurs first.

(3) For seals that have accumulated 11,000 CSN or more on the effective date of this AD, remove the seal from service at the next ESV, or prior to the seal accumulating 15,300 CSN, whichever occurs first.

(b) Remove from service CFM International CFM56–5A3 HPTR front air seals, P/N 1319M11P06, 1319M11P07, 1319M11P08, and 1319M11P09, and replace with a serviceable part, in accordance with CFM56–

5 SB No. 72–541, dated July 27, 1998, as follows:

(1) For seals that have accumulated less than 3,000 CSN on the effective date of this AD, remove the seal from service prior to accumulating 7,700 CSN.

(2) For seals that have accumulated 3,000 CSN or more, but less than 7,700 CSN on the effective date of this AD, accomplish the following:

(i) For engines that have an ESV prior to the seal accumulating 7,700 CSN, remove the seal from service prior to the seal accumulating 7,700 CSN.

(ii) For engines that do not have an ESV prior to the seal accumulating 7,700 CSN after the effective date of the AD, remove the seal from service prior to the seal accumulating 4,700 CIS after the effective date of this AD, or prior to the seal accumulating 13,000 CSN, whichever occurs first.

(3) For seals that have accumulated 7,700 CSN or more on the effective date of this AD, remove the seal from service at the next ESV, or prior to the seal accumulating 13,000 CSN, whichever occurs first.

(c) For CFM56–5A4, –5A4/F, –5A5, and –5A5/F HPTR front air seals, P/N 1319M11P05, 1319M11P06, 1319M11P07, 1319M11P08, and 1319M11P09, that have previously operated in CFM56–5–A1, –5–A1/F, or –5A3 engine models, recalculate the HPTR front air seal total cycles remaining using 11,000 cycles for the CFM56–5–A1 and CFM56–5–A1/F engine models, and 7,700 cycles for the CFM56–5A3 engine model, in accordance with CFM56–5 SB No. 72–541, dated July 27, 1998, within 750 CIS after the effective date of this AD.

Note 2: The current HPTR front air seal retirement life for the CFM56–5A4, –5A4/F, –5A5, and –5A5/F engine models is 9,100 cycles, and is not affected by this AD.

Note 3: For additional information on recalculating the HPTR front air seal total cycles remaining see Chapter 05, Section 05–11–00, of the CFM56–5 series Engine Shop Manual, CFMI–TP.SM.7.

(d) This AD establishes new LCF retirement lives of 11,000 cycles for CFM56–5–A1 and –5–A1/F HPTR front air seals, and 7,700 cycles for CFM56–5A3 HPTR front air seals, which is published in Chapter 05, Section 05–11–03, of the CFM56–5 series Engine Shop Manual, CFMI–TP.SM.7. The following conditions also apply:

(1) Except as provided in paragraph (g) of this AD, no alternative retirement lives may be approved for the CFM56–5–A1, –5–A1/F, and –5A3 HPTR front air seals.

(2) After the effective date of this AD, no CFM56–5–A1 and –5–A1/F HPTR front air seals may be installed or reinstalled on an engine if the seals have accumulated more than 11,000 CSN.

(3) After the effective date of this AD, no CFM56–5A3 HPTR front air seals may be installed or reinstalled on an engine if the seals have accumulated more than 7,700 CSN.

(e) For the purpose of this AD, an "engine shop visit" is defined as the induction of an engine into the shop for maintenance involving the separation of any major mating engine flanges, or the removal of a disk or spool, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(f) For the purpose of this AD, a "serviceable part" is defined as one that has not exceeded its respective new retirement life as set out in this AD.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(i) The actions required by this AD shall be done in accordance with the following CFM International SB:

Document No.	Pages	Date
CFM56–5 SB No. 72–541	1–8	July 27, 1998.
Total Pages: 8.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW, suite 700, Washington, DC.

(j) This amendment becomes effective on April 21, 1999.

Issued in Burlington, Massachusetts, on March 11, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–6555 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–171–AD; Amendment 39–11082; AD 99–06–18]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, –400D, and –400F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–400, –400D, and –400F series airplanes, that requires modification of the P212 and P213 panels of the cabin pressure control system. For certain airplanes, this amendment also requires modification of the P5, P6, and P7 panels, and the W4701, W4703, and W4908 wire bundles, as applicable. This amendment is prompted by a report of in-flight loss of cabin pressurization control due to a single failure of the auxiliary power unit (APU) battery. The actions specified by this AD are intended to prevent loss of control of the cabin pressurization system, which could result in rapid depressurization of the airplane. Such rapid depressurization could result in deleterious physiological effects on the passengers and crew; and airplane diversions, which represent an increased risk to the airplane, passengers, and crew.

DATES: Effective April 26, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 26, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules

Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Clayton R. Morris, Jr., Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2794; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–400, –400D, and –400F series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on May 12, 1998 (63 FR 26100). That action proposed to require modification of the P212 and P213 panels of the cabin pressure control system. For certain airplanes, that action also proposed to require modification of the P5, P6, and P7 panels, and the W4701, W4703, and W4908 wire bundles, as applicable.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule. Another commenter offers no comments to the proposed rule, because it does not own or operate the subject airplanes.

Requests To Extend Compliance Time

One commenter requests that the FAA extend the proposed compliance time for the modification from 180 days after the effective date of this AD to 18 months after the effective date of this AD, to reduce the impact on its operations and the cost associated with accomplishment of the proposed actions. The commenter states that the proposed 180-day compliance time would make it necessary to schedule approximately five of its airplanes for special maintenance visits, which the commenter estimates would cost $60,000 per airplane. The commenter states that an 18-month compliance time would allow the modifications proposed in the supplemental NPRM to be accomplished during a regularly scheduled "C" check.

The FAA partially concurs with the commenter's request to extend the compliance time. The FAA has determined that the compliance time may be extended somewhat. The FAA finds that extending the compliance time from 180 days after the effective date of this AD to 12 months after the effective date of this AD will not adversely affect safety and will allow the modifications to be performed, in the majority of cases, during a regularly scheduled maintenance visit. Therefore, paragraphs (a) and (b) of the final rule have been revised to specify a compliance time of 12 months after the effective date of this AD. However, with regard to the commenter's cost estimate, the FAA points out that operators may take advantage of special maintenance visits to accomplish other deferred maintenance tasks, which would reduce the time necessary to accomplish those deferred tasks during regularly scheduled checks. The commenter's estimate of additional costs associated with special visits does not take this into account.

Another commenter also requests that the FAA extend the proposed compliance time for accomplishment of the actions to 18 months after the effective date of this AD. The commenter states that Boeing Service Bulletin 747–21–2268 should be accomplished prior to the accomplishment of Boeing Alert Service Bulletin 747–21A2381, dated June 27, 1996 (which was referenced as an appropriate source of service information in the supplemental NPRM). The commenter states that Boeing Alert Service Bulletin 747–21A2381 can be accomplished within the 180-day compliance time proposed in the supplemental NPRM only if Boeing Service Bulletin 747–21–2268 has already been accomplished. The commenter requests that the compliance time be extended to provide for accomplishment of both Boeing Service Bulletin 747–21–2268 and Boeing Alert Service Bulletin 747–21A2381.

The FAA does not concur that Boeing Service Bulletin 747–21–2268 must be accomplished prior to accomplishment of Boeing Alert Service Bulletin 747–21A2381. The FAA has determined that Boeing Alert Service Bulletin 747–21A2381 provides specific instructions on how to accomplish the actions specified in the alert service bulletin both with and without prior incorporation of the actions specified in Boeing Service Bulletin 747–21–2268. In addition, the FAA does not require accomplishment of Boeing Service Bulletin 747–21–2268. Therefore, the FAA finds that it is not necessary to extend the compliance time to allow for accomplishment of Boeing Service Bulletin 747–21–2268. However, as stated previously, the compliance time for the actions required by this final rule has been extended to 12 months after the effective date of this AD to allow for accomplishment of the required actions during regularly scheduled maintenance visits.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 351 Model 747–400, –400D, and –400F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 43 airplanes of U.S. registry will be affected by this AD.

For all airplanes, it will take approximately 8 work hours per airplane to accomplish the required modification of the P212 and P213 panels, at an average labor rate of $60 per work hour. Required parts will cost approximately $389 per airplane. Based on these figures, the cost impact of this modification required by this AD on U.S. operators is estimated to be $37,367, or $869 per airplane.

For certain airplanes, it will take approximately 47 work hours per airplane to accomplish the required modification of the P5, P6, and P7 panels, and the W4701, W4703, and W4908 wire bundles, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,529 per airplane. Based on these figures, the cost impact of this modification required by this AD on U.S. operators is estimated to be $4,349 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–06–18 Boeing: Amendment 39–11082. Docket 96–NM–171–AD.

Applicability: Model 747–400, –400D, and –400F series airplanes; as identified in Boeing Alert Service Bulletin 747–21A2381, dated June 27, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of control of the cabin pressurization system, which could result in rapid depressurization of the airplane and consequent deleterious physiological effects on the passengers and crew; and airplane diversions, which represent an increased risk to the airplane, passengers, and crew, accomplish the following:

(a) Within 12 months after the effective date of this AD: Modify the P212 and P213 panels of the cabin pressure control system as specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 747–21A2381, dated June 27, 1996.

(1) For Groups 1 through 7 airplanes, as identified in the alert service bulletin: Change the wiring in the P212 and P213 panels; replace the existing two-pole relays with new four-pole relays; and perform a test of both panels.

(2) For Group 8 airplanes, as identified in the alert service bulletin: Change the wiring in the P212 panel; replace the existing two-pole relays with new four-pole relays; replace the existing P213 panel with a new P213 panel; and perform a test of both panels.

(b) For airplanes having line positions 696 through 1021 inclusive: Within 12 months after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2), as applicable, of this AD; in accordance with Boeing Service Bulletin 747–24–2193, dated January 26, 1995; as revised by Notices of Status Change (NSC) 747–24–2193 NSC 1, dated April 13, 1995, 747–24–2193 NSC 2, dated October 5, 1995, 747–24–2193 NSC 3, dated November 22, 1995, 747–24–2193 NSC 4, dated December 21, 1995, 747–24–2193 NSC 5, dated May 2, 1996, and 747–24–2193 NSC 6, dated March 13, 1997; or Alert Service Bulletin 747–24A2193, Revision 1, dated June 19, 1997.

(1) For all airplanes: Modify the wiring of the P5, P6, and P7 panels; modify the wiring in the W4701 and W4908 wire bundles; and install diodes in the P6 panel.

(2) For Groups 1 and 2 airplanes identified in paragraph I. of the Accomplishment Instructions of the service bulletin or alert service bulletin: Modify the wiring in the W4703 wire bundle.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–21A2381, dated June 27, 1996; and Boeing Service Bulletin 747–24–2193, dated January 26, 1995; as revised by Notices of Status Change (NSC) 747–24–2193 NSC 1, dated April 13, 1995, 747–24–2193 NSC 2, dated October 5, 1995, 747–24–2193 NSC 3, dated November 22, 1995, 747–24–2193 NSC 4, dated December 21, 1995, 747–24–2193 NSC 5, dated May 2, 1996, and 747–24–2193 NSC 6, dated March 13, 1997; or Boeing Alert Service Bulletin 747–24A2193, Revision 1, dated June 19, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 26, 1999.

Issued in Renton, Washington, on March 12, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6714 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANM–19]

Establishment of Class D Airspace and Modification of Class E Airspace; Bozeman, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D surface airspace and modifies Class E surface airspace at Gallatin Field, Bozeman, MT. The Class D surface area is established to accommodate the procedures associated with the operation of a new Airport Traffic Control Tower (ATCT) at the airport. The modification of the Class E surface area amends the effective hours from continuous to part-time, the effective hours coinciding with the hours that the tower is closed. The effect of this action is to clarify when two-way radio communication with the ATCT is required and to provide adequate Class D airspace for procedures when the tower is open.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 98–ANM–19, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On January 8, 1999, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by establishing a Class D surface area and by modifying the Bozeman, MT, Class E surface area (64 FR 1142). This establishment of the Class E surface area provides the airspace necessary to allow terminal operations when the ATCT is in operation. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class D surface airspace areas and Class E surface airspace areas are published in paragraph 5000 and paragraph 6002, respectively, of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class D airspace at Bozeman, MT, by providing a Class D surface area in conjunction with a new ATCT. This action also modifies the Class E surface area by amending the effective hours to coincide with the hours that the ATCT is closed. The intended effect of this proposal is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations at Gallatin Field between the terminal and en route transition stages. The intended effect of this rule is to clarify when two-way radio communication with the ATCT is required.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 5000 General

ANM MT D Bozeman, MT [New]

Bozeman, Gallatin Field, MT
(Lat. 45°46'37" N, long. 111°09'11" W)
Bozeman ILS Localizer
(Lat. 45°46'01" N, long. 111°08'13" W)

Within a 4.4-mile radius of Gallatin Field, and within 3 miles each side of the Bozeman ILS northwest localizer course extending from the 4.4-mile radius to 14 miles northwest of Gallatin Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

ANM MT E2 Bozeman, MT [Revised]

Bozeman, Gallatin Field, MT
(Lat. 45°46'37" N, long. 111°09'11" W)
Bozeman ILS Localizer
(Lat. 45°46'01"N, long. 111°08'13"W)

Within a 4.4-mile radius of Gallatin Field, and within 3 miles each side of the Bozeman ILS northwest localizer course extending from the 4.4-mile radius to 14 miles northwest of Gallatin Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on March 10, 1999.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99–6939 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–34]

Revocation of Class E Airspace, Revision of Class D Airspace; Torrance, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; delay of effective date.

SUMMARY: This document gives notice of the delayed effective date of a direct final rule which revokes the Class E airspace arrival extensions and revises the Class D airspace area for Torrance Municipal Airport, CA.

DATES: The direct final rule published in 64 FR 3206 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Branch, AWP–520.10, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (301) 725–6613.

SUPPLEMENTARY INFORMATION: On January 21, 1999, the FAA published in the **Federal Register** a direct final rule; request for comments which revokes the Class E airspace arrival extensions and revises the Class D airspace area for Torrance Municipal Airport, Torrance, CA. (FR Document 99–1355, 64 FR 3206, Airspace Docket No. 98–AWP–34).

The intended effect of this action is to incorporate the Class E airspace arrival extensions (E4) into the Class D airspace area associated with Torrance Municipal Airport and lower the ceiling of the reconfigured Class D airspace area to 2,400 feet Mean Sea Level (MSL). An airspace review and analysis of Torrance has made this action necessary. In accordance with FAA Order 7400.2D, Procedures for Handling Airspace Matters, if the length of an arrival extension is less than 2 miles from the surface area, it shall remain a part of the basic surface area. This is the case at Torrance Municipal Airport. The existing Class E airspace for Torrance was published and charted in error as

an arrival extension and should be a part of the Class D surface area. The revised altitude of 2,400 feet MSL will provide aircraft the opportunity to operate over Torrance Class D airspace at 2,500 feet MSL and above without having to obtain permission from Torrance Airport Traffic Control Tower. This is a commonly used altitude in this area for aircraft flying off shore to avoid the Los Angeles Class B airspace FAA. Class D airspace areas are published in Paragraph 5000 and Class E4 airspace areas are published in Paragraph 6004 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be subsequently removed from this order. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 25, 1999.

No adverse comments were received, and thus this document gives notice that this direct final rule will become effective on the revised date of May 20, 1999.

Issued in Los Angeles, California on March 5, 1999.

Ronald J. Popper,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 99–6941 Filed 3–19–99 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Chapter I

[T.D. 99–27]

RIN 1515–AB84

Technical Corrections Regarding Customs Organization

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document makes final, with certain technical corrections, the interim amendments to the Customs Regulations that reflected Customs new organizational structure. The changes are nonsubstantive or merely procedural in nature.

EFFECTIVE DATE: These changes are effective March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Entry and Carrier Rulings Branch, Office of Regulations and Rulings (202) 927–2077, or Gregory R. Vilders, Regulations Branch, Office of Regulations and Rulings (202) 927–2340.

SUPPLEMENTARY INFORMATION:

Background

On September 27, 1995, Customs published interim regulations in the **Federal Register** (T.D. 95–77 at 60 FR 50008 and T.D. 95–78 at 60 FR 50020) to implement its new field organization, effective for fiscal year 1996. Because the regulations concerned matters related to agency management and personnel, notice, public procedure, and a delayed effective date were not necessary, and the regulations became effective on October 1, 1995. Even though notice and public procedure were not required, Customs did solicit comments on the interim regulations. The comment period closed November 27, 1995. Only one comment was received, which addressed a very narrow issue concerning brokers' permits. The comment received and Customs response are set forth below.

Discussion of Comment

Comment: The one comment received questioned why Customs stated in the BACKGROUND portion of the interim regulations (T.D. 95–77) that it was eliminating, for the most part, districts and regions from its field organization to place more emphasis on field operations, and then retained this distinction for purposes of brokers' permits. The commenter urged that the 20 Customs Management Centers' geographical boundaries be adopted as the basis for issuing broker permits, rather than use the Service Port boundaries. The commenter objected to the continued use of the terms "district" and "region" for the limited purposes of regulating the permitting of customs brokers (part 111 of the Customs Regulations) and carriers, cartmen, and lightermen (part 112 of the Customs Regulations), as not being within the spirit of Customs reorganization or the National Performance Review.

Customs Response: Customs does not agree with this assessment. As more fully stated in the BACKGROUND portion of the interim regulations, districts and regions will still exist as geographical descriptions for limited purposes such as for broker permits and certain cartage and lighterage purposes. In the case of brokers, Customs decided to preserve the district permit and region waiver procedures because these procedures are mandated by statute (*see*, 19 U.S.C. 1641). Also, during the course of the reorganization, Customs consulted with the Customs brokerage industry and was informed that the industry's preference, in the short-term, was to retain the current scheme until it had time to assess the effects of both the new field structure and the automation initiatives made pursuant to the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act (provisions pertaining to the National Customs Automation Program are at 19 U.S.C. 1411). Customs believes that its consultation with the Customs brokerage industry was in the spirit of Customs reorganization and the National Performance Review. Accordingly, at this time no further change to the Customs Regulations is made based on the comment received.

Changes to Interim Regulations

In reviewing the interim regulations, Customs finds that further changes to 95 sections of the regulations must be made to correct grammatical and nomenclature errors. Following is a summary of those changes.

Further nomenclature changes are made to more than 80 sections and Appendices: §§ 4.14, 4.80a, 4.80b, 10.5, 10.37, 10.39, 12.8, 12.39, 18.8, 18.21, 101.3, 103.0, 103.1, 103.5, 103.7, 103.9, 103.31, 111.13, 111.19, 111.95, 111.96, 113.14, 113.15, 113.38, 113.39, 115.11, 115.13, 115.30, 115.40, 115.51, 115.65, 122.14, 122.165, 122.176, 125.42, 132.14, 133.2, 133.12, 133.32, 134.54, 145.4, 146.2, 146.4, 146.6, 146.83, 162.32, 162.42, 162.44 through 162.50, 162.52, 162.64, 162.65, 162.71, 162.72, 162.74 through 162.79, 162.79b, 171.12, 171.15, 171.21 through 171.23, 171.31, 171.33, and 171.52, Appendices A–C to Part 171, §§ 172.2, 172.12, 172.21, 172.22, 172.31, 172.33, 175.25, 177.2, and 177.26. These changes, for the most part, continue the conversion of "district director" to "port director" or to "Fines, Penalties, and Forfeitures Officer", replace an obsolete term ("collector") with "port director", replace the Office of Inspection and Control with the Office of Field Operations, and further inform the public of responsible offices and personnel, e.g., "Disclosure Law Officer" for Regulations and Disclosure Law Branch. Since publication of the

interim regulations, Customs Headquarters has been relocated from 1301 Constitution Avenue to 1300 Pennsylvania Avenue in Washington, D.C. Accordingly, this street address change is made to the 19 sections where a writing address is provided. The change to the ports-of-entry listing at § 101.3 entails moving the listing for "Longview" from Oregon to Washington, which is where the port is physically located. Also, a change is made to § 103.1 to show the correct street address for the Boston reading room facility where public documents are maintained.

Grammatical changes to make the text read more clearly are made to 9 sections: §§ 4.41, 10.172, 19.2, 19.3, 19.40, 24.4, 24.36, 101.0, and 101.4. Most of these changes are in the form of substituting prepositional phrases, *i.e.*, replacing "in" with "at" or removing redundant references to port directors at ports.

Inapplicability of the Delayed Effective Date Requirement, the Regulatory Flexibility Act, and Executive Order 12866

Inasmuch as these amendments merely advise the public of Customs field and Headquarters organization, and make certain technical corrections to the organization that is currently in place under interim regulations, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(2) and (3) for dispensing with the requirement for a delayed effective date. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Drafting Information. The principal author of this document was Gregory R. Vilders, Attorney, Office of Regulations and Rulings, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Foreign trade statistics, Imports, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

19 CFR Part 132

Agriculture and agricultural products, Customs duties and inspection, Quotas.

19 CFR Part 146

Customs duties and inspection, Entry, Foreign trade zones, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

As discussed in the preamble and under the authority of 19 U.S.C. 66 and 1624, the interim rule amending 19 CFR parts 4, 19, 24, 101, 103, 111, 112, 113, 118, 122, 127, 141, 142, 146, and 174 of the Customs Regulations (19 CFR 4, 19, 24, 101, 103, 111, 112, 113, 118, 122, 127, 141, 142, 146, and 174), published on September 27, 1995, in the **Federal Register** at 60 FR 50008, and the interim rule amending chapter I of the Customs Regulations (19 CFR chapter I) published on September 27, 1995, in the **Federal Register** at 60 FR 50020, are adopted as final with the following changes:

PART 101—GENERAL PROVISIONS

1. The authority citation for part 101 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 101.3 [Amended]

2. Section 101.3(b)(1) is amended by removing the entry for "Longview" under the state of Oregon and adding it, in appropriate alphabetical order, under the state of Washington.

§ 101.4 [Amended]

3. In § 101.4(d), the last sentence is amended by removing the words "in a port" and adding the word "local" before the words "port director".

PART 132—QUOTAS

1. The general authority citation for part 132 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

* * * * *

§ 132.14 [Amended]

2. In § 132.14(a)(4):

a. The introductory text of paragraph (a)(4)(i) is amended by removing the words ", the port director";

b. Paragraph (a)(4)(i)(A) is amended by removing the word "May" and adding, in its place, the words "The port director may" and by removing the comma at the end and adding, in its place, a semicolon;

c. Paragraph (a)(4)(i)(B) is amended by removing the word "Shall" and adding, in its place, the words "The port director shall" and by removing the word ", and" at the end and adding, in its place, a semicolon;

d. Paragraph (a)(4)(i)(C) is amended by removing the word "May" and adding, in its place, the words "The port director may" and by removing the period at the end and adding, in its place, a semicolon followed by the word "and";

e. The introductory text of paragraph (a)(4)(ii) is amended by removing the words ", the port director";

f. Paragraph (a)(4)(ii)(A) is amended by removing the word "Shall" and adding, in its place, the words "The port director shall" and by removing the word ", and" at the end and adding, in its place, a semicolon; and

g. Paragraph (a)(4)(ii)(B) is amended by removing the word "May" and adding, in its place, the words "The port director may" and by removing the period at the end and adding, in its place, a semicolon followed by the word "and".

PART 146—FOREIGN TRADE ZONES

1. The authority citation for part 146 continues to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624.

2. Section 146.1(b) is amended by removing the numerical designation for each paragraph, alphabetizing the 23 existing entries, and by adding, in appropriate alphabetical order, the following definition:

§ 146.1 Definitions.

* * * * *

(b) * * *

Port Director. For those foreign trade zones located within the geographical limits of a port of entry, the term "port director" means the director of that port of entry. For those foreign trade zones located outside the geographical limits of a port of entry, the term "port director" means the director of the port of entry geographically nearest to where the foreign trade zone is located.

* * * * *

3. In the list below, for each section indicated in the left column, remove the words indicated in the middle column from wherever they appear in the section, and add, in their place, the words indicated in the right column; when there are no replacement words, the "Add" column will be blank:

Section	Remove	Add
4.14(b)(2)(ii), (d)(1)(v), and (d)(2)(iii)	Entry and Carrier Rulings	Entry Procedures and Carriers
4.41(b) and (c)	in which	where
4.80a(d)	Entry and Carrier Rulings	Entry Procedures and Carriers
4.80b(b)	Entry and Carrier Rulings	Entry Procedures and Carriers
10.5 heading	district director's	port director's
10.37 third sentence	Tariff Classification Appeals	Commercial Rulings
10.37 fourth sentence	the port directors	a Fines, Penalties, and Forfeitures Officer's
10.39(d)(1) first sentence, and (e) second sentence.	port director	Fines, Penalties, and Forfeitures Officer
10.39(d)(1) second sentence, (e) introductory text, (e)(1)–(3), and (f).	Fines, Penalties, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
10.172	port director	the port director
12.8(b)	port director	Fines, Penalties, and Forfeitures Officer
12.39(b)(4)	the district directors	port directors
18.8(d) and (e)(2) last sentence	Fines, Penalties, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
18.21(c)	collector	port director
19.2(a)	port director wherein	director of the port nearest to where
19.3(a)	at a port	
	in which	nearest to where
19.40(b) first sentence	at a port	
	in which the facility is located	in which the facility is located, or if not within a port's limits, nearest to where the facility is located
24.4(h)(2) and (3)	in any port	at any port
24.36(e)(2)	in the same	at the same
101.0	and of	and
101.4(a) and (b)	in which such station or place is located	under whose jurisdiction the station or place falls
103.0	a disclosure law officer, the director of a service port, or the local public information officer.	the appropriate field officer
103.1	1301 Constitution	1300 Pennsylvania
	Boston, 100 Summer Street, Suite 1819, Boston, Massachusetts 02110.	Boston, 10 Causeway Street, Boston, Massachusetts 02222
103.5(d)	1301 Constitution	1300 Pennsylvania
103.5(d)(2) heading	Service ports	Field offices
103.5(d)(2)	at which	, or if the records concern the Office of Investigations, the special agent in charge, where
103.7(a)	1301 Constitution	1300 Pennsylvania
103.9(b)	1301 Constitution	1300 Pennsylvania
103.31(d)(1)(iii)	1301 Constitution	1300 Pennsylvania
103.31(d)(1)(iv)	Regulations and Disclosure Law Branch	Disclosure Law Officer
103.31(d)(2)(iii)	1301 Constitution	1300 Pennsylvania
111.13(b)	at each district office	
111.19(d)	Trade Compliance Division	Office of Field Operations
111.95	Fines, Penalties, and Forfeiture Officer or other Customs Service.	Fines, Penalties, and Forfeitures Officer
111.96(c)	at each port in which a broker has a permit to do business.	at the port through which the broker was granted the permit
113.14	Tariff Classification Appeals	International Trade Compliance
113.15	Tariff Classification Appeals	International Trade Compliance
113.38(c)(1)	Tariff Classification Appeals	International Trade Compliance
113.38(c)(4)	Commercial Rulings	International Trade Compliance
113.39 introductory text, (a), and (a)(5).	port director	port director or Fines, Penalties, and Forfeitures Officer
113.39(a) introductory text	Tariff Classification Appeals	International Trade Compliance
113.39(b)	district director and regional commissioner	port director and Fines, Penalties, and Forfeitures Officer
	Commercial Rulings	International Trade Compliance
115.11(b)	Inspection and Control, 1301 Constitution	Field Operations, 1300 Pennsylvania
115.13 introductory text	Inspection and Control, 1301 Constitution	Field Operations, 1300 Pennsylvania
115.30	Inspection and Control, 1301 Constitution	Field Operations, 1300 Pennsylvania
115.40	Inspection and Control, 1301 Constitution	Field Operations, 1300 Pennsylvania
115.51	Inspection and Control, 1301 Constitution	Field Operations, 1300 Pennsylvania
115.65	Inspection and Control, 1301 Constitution	Field Operations, 1300 Pennsylvania
122.14(a)(1)	regional commissioner, or his representative, of the region in.	director of the port, or his representative, at the port nearest to
122.165(b)	Entry and Carrier Rulings	Entry Procedures and Carriers
122.176(c) and (d)	Inspection and Control	Field Operations
125.42	Fines, Penalties, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
132.14(a)(4)(i)(D) and (a)(4)(ii)(C)	port director	Fines, Penalties, and Forfeitures Officer
133.2 introductory text	1301 Constitution	1300 Pennsylvania
133.12 introductory text	1301 Constitution	1300 Pennsylvania
133.32 introductory text	1301 Constitution	1300 Pennsylvania
134.54(b) and (c)	Fines, Penalties, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
145.4(b) and (d)	Fines, Penalties, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer

Section	Remove	Add
146.2	port director where the zone is located	appropriate port director
146.4(h)	port limits	district boundaries
146.6(a) first sentence	geographically nearest to where the zone is located	
146.83(a)	Tariff Classification Appeals	International Trade Compliance
162.32(a) and (c)	port director	Fines, Penalties, and Forfeitures Officer
162.42	port director	Fines, Penalties, and Forfeitures Officer
162.44(a)	director of	Fines, Penalties, and Forfeitures Officer having jurisdiction at
162.44(b)(1), (b)(1)(ii), (b)(2), and (c)	port director	Fines, Penalties, and Forfeitures Officer
162.45(a)(3) and (4) and (c)	port director	Fines, Penalties, and Forfeitures Officer
162.45(b)(1)	in the Customs district and the judicial district in which.	circulated at the Customs port and in the judicial district where
162.45(b)(2)	and in the customhouse at the headquarters port for the Customs district	
162.45a	port director	Fines, Penalties, and Forfeitures Officer
162.46(c)(1)	port director	Fines, Penalties, and Forfeitures Officer
162.46(d)	port director	Fines, Penalties, and Forfeitures Officer
162.47(a), (d), and (e)	port director	Fines, Penalties, and Forfeitures Officer
162.48(a)	port director	Fines, Penalties, and Forfeitures Officer
162.49(a)	port director	Fines, Penalties, and Forfeitures Officer
162.50(a)	port director	Fines, Penalties, and Forfeitures Officer
162.50(b) heading	districts	ports
162.50(b)	in another Customs district	at another port
	in such other district	at such other port
162.52(b)(2)	port director	Fines, Penalties, and Forfeitures Officer
162.52(b)(4)	port director	Fines, Penalties, and Forfeitures Officer
162.64	director of the port	Fines, Penalties, and Forfeitures Officer having jurisdiction
162.65(c), (d), (e) introductory text, and (e)(1).	port director	Fines, Penalties, and Forfeitures Officer
162.71(e)(4)	port director	Fines, Penalties, and Forfeitures Officer
162.72(a)	port director	Fines, Penalties, and Forfeitures Officer
162.74(a)(2)	Fines, Penalties and Forfeitures Officer	Fines, Penalties, and Forfeitures Officer
	Fines, Penalties and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
162.74(b), (c), (e), and (f)	Fines, Penalties and Forfeitures Officer	Fines, Penalties, and Forfeitures Officer
162.75(c), (d)(1), (d)(2) introductory text, (d)(2)(i), and (d)(3).	port director	Fines, Penalties, and Forfeitures Officer
162.76(a)	port director	Fines, Penalties, and Forfeitures Officer
162.77(a)	port director	Fines, Penalties, and Forfeitures Officer
162.78(a), (b), and (d)	port director	Fines, Penalties, and Forfeitures Officer
162.79(a) and (b)(1)	port director	Fines, Penalties, and Forfeitures Officer
162.79b	port director	Fines, Penalties, and Forfeitures Officer
171.12(a) and (e)	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
171.15(a) introductory text	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
171.15(a)(4)	1301 Constitution	1300 Pennsylvania
171.15(a)(4) and (7)	Fines, Penalties and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
171.21 heading and text	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
171.22 heading and text	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
171.23	1301 Constitution	1300 Pennsylvania
171.31	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
171.33(a) introductory text, (b)(1) heading and text, (b)(2), and (c).	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
171.52(d)	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
Part 171 Appendix A: III, 9	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
Part 171 Appendix B: (D)(1), (5), and (6).	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
Part 171 Appendix B: (D)(6)	Fines, Penalty, and Forfeiture Officer's	Fines, Penalties, and Forfeitures Officer's
Part 171 Appendix C: I.A., I.D. and Note to I.D..	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
Part 171 Appendix C: I.D. Note and I.G.	Director, International Trade Compliance Division	Chief, Penalties Branch, Customs Headquarters
Part 171 Appendix C: I.E.	Trade Operations	Trade Compliance
	Regulatory Procedures and Penalties	International Trade Compliance
Part 171 Appendix C: I.G.	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
Part 171 Appendix C: XIII	Field Operations Division, Office of Trade Operations.	Office of Trade Compliance at Headquarters
172.2	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
172.12(a)	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
172.12(b)(1)	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
172.21 heading	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
172.21	port director	Fines, Penalties, and Forfeitures Officer
172.22 heading, (b)(3) introductory text, (b)(3)(ii), (d)(2) and (4).	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
172.22(a)	Fines, Penalty, and Forfeiture Officers	Fines, Penalties, and Forfeitures Officers

Section	Remove	Add
172.31(a)	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
172.33(a) introductory text, (b)(1) heading and text, (b)(1)(ii), (b)(2), and (c)(1).	Fines, Penalty, and Forfeiture Officer	Fines, Penalties, and Forfeitures Officer
175.25(c)	district director	port director
177.2(b)(2)(ii)(C)	Tariff Classification Appeals	Commercial Rulings
177.26	1301 Constitution	1300 Pennsylvania

Raymond W. Kelley,
Commissioner of Customs.

Approved: February 17, 1999.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–6639 Filed 3–19–99; 8:45 am]

BILLING CODE 4820–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960–AF01

Administrative Review Process; Prehearing Proceedings and Decisions by Attorney Advisors; Extension of Expiration Date

AGENCY: Social Security Administration.

ACTION: Final Rules.

SUMMARY: These final rules extend the time period set out in our regulations during which attorney advisors in our Office of Hearings and Appeals (OHA) may conduct certain prehearing proceedings and, where the documentary record developed as a result of these proceedings warrants, issue decisions that are wholly favorable to the parties to the hearing in claims for Social Security or Supplemental Security Income (SSI) benefits based on disability. We are extending the date at which these rules will no longer be effective from April 1, 1999, until April 1, 2000. We are making no other changes to the rules.

EFFECTIVE DATE: These rules are effective March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Office of Process and Innovation Management, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–6243 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: On June 30, 1995, in an action undertaken to reduce the record numbers of requests for an administrative law judge (ALJ) hearing pending in our OHA hearing offices, we published final rules in the **Federal Register** (60 FR 34126) that authorize OHA's attorney advisors to conduct certain prehearing proceedings and, if a decision that is wholly favorable to the parties to the hearing may be issued at the completion of these proceedings, to issue such a decision. These regulations, which are codified at 20 CFR §§ 404.942 and 416.1442, included a provision stating that the rules would no longer be effective on June 30, 1997, unless the Commissioner of Social Security extended the expiration date of the provisions by publication of a final rule in the **Federal Register**. We subsequently published final rules in the **Federal Register** on June 30, 1997 (62 FR 35073), and June 30, 1998 (63 FR 35515), extending the date on which §§ 404.942 and 416.1442 would no longer be effective to July 1, 1998, and then to April 1, 1999.

In order to continue to maximize our ability to meet our hearing production goals, we have decided to extend the date on which these rules will no longer be effective from April 1, 1999, to April 1, 2000. The final rules amend the sunset provision in §§ 404.942 and 416.1442 (which expressly provides for extending the expiration date of those sections) to provide that the provisions authorizing prehearing proceedings and decisions by attorney advisors will no longer be effective on April 1, 2000, unless the provisions are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because these rules only extend the date on which the regulatory provisions concerning prehearing proceedings and decisions by attorney advisors will no longer be effective. These rules make no substantive change to those provisions. The current regulations expressly provide that the provisions may be extended. Therefore, opportunity for prior comment is unnecessary, and we are issuing these regulations as final rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the provisions on prehearing proceedings and decisions by attorney advisors. However, without a timely extension of the expiration date for these provisions, we will lack regulatory authority beginning April 1, 1999, to have OHA attorney advisors conduct certain prehearing proceedings and issue fully favorable decisions where appropriate under the rules. In order to provide for an uninterrupted continuance of that authority for the additional period we believe appropriate, and to ensure that we retain the ability to manage the hearings process appropriately, we find that it is in the public interest to make these rules effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, the rules are not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: March 11, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J is amended as follows:

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

2. Section 404.942 is amended by revising paragraph (g), to read as follows:

§ 404.942 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on April 1, 2000, unless they are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N is amended as follows:

1. The authority citation for subpart N continues to read as follows:

Authority: Sec. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); 31 U.S.C. 3720A.

2. Section 416.1442 is amended by revising paragraph (g), to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on April 1, 2000, unless they are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

[FR Doc. 99–6880 Filed 3–19–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental abbreviated new animal drug applications (ANADA's) filed by PennField Oil Co. The ANADA's provide for a zero-day withdrawal period for use of oxytetracycline hydrochloride (OTC HCl) soluble powder in the drinking water of turkeys and for an additional package size.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0212.

SUPPLEMENTARY INFORMATION: Pennfield Oil Co., 14040 Industrial Rd., Omaha, NE 68144, filed two supplements to ANADA 200–026. One supplement provides for a zero-day withdrawal period for turkeys using PennField Oil Co.'s Oxytetracycline HCl–343 (oxytetracycline hydrochloride) treated drinking water. The other supplement provides for use of a package containing 512 grams of OTC HCl per 23.9 ounces of soluble powder for making medicated drinking water for cattle, swine, sheep, chickens, and turkeys. The medicated drinking water is used for the control and treatment of bacterial infections caused by oxytetracycline susceptible organisms.

The supplemental ANADA's are approved as of February 5, 1999, and 21 CFR 520.1660d(a)(8) and (d)(1)(ii) are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1660d is amended in paragraphs (a)(8), (d)(1)(ii)(A)(*3*), (d)(1)(ii)(B)(*3*), and (d)(1)(ii)(C)(*3*) by adding a sentence to the end of each paragraph to read as follows:

§ 520.1660d Oxytetracycline hydrochloride soluble powder.

(a) * * *

(8) * * * Each 677.5-gram packet (23.9 ounce) contains 512 grams of OTC HCl.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(A) * * *

(*3*) * * * Zero-day withdrawal for those products sponsored by No. 053389.

(B) * * *

(*3*) * * * Zero-day withdrawal for those products sponsored by No. 053389.

(C) * * *

(*3*) * * * Zero-day withdrawal for those products sponsored by No. 053389.

* * * * *

Dated: February 26, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–6807 Filed 3–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

New Animal Drugs for Use in Animal Feeds; Tilmicosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health, A Division of Eli Lilly & Co. The supplemental NADA for veterinary prescription use of tilmicosin Type C medicated swine feeds under a veterinary feed directive (VFD) provides a revised limitation to prevent accidental access by horses. Also, FDA amends the regulation to provide a swine muscle tolerance and an acceptable daily intake (ADI).

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7570.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, is sponsor of NADA 141–064 that provides for the use of Pulmotil® (tilmicosin) Type A medicated article to make Type B and Type C medicated swine feeds for control of swine respiratory disease. The drug is limited to use by or on the order of a licensed veterinarian under an approved VFD. The firm filed a supplemental NADA that provided for a revised limitation to prevent accidental access by horses. Also, FDA reviewed the information in the application and revised the regulation to provide an ADI and a swine muscle tolerance. The supplemental NADA is approved as of February 2, 1999, and the regulations in 21 CFR 556.735 and 558.618 are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 556

Animal drugs, Food.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

2. Section 556.735 is revised to read as follows:

§ 556.735 Tilmicosin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of tilmicosin is 25 micrograms per kilogram of body weight per day.

(b) *Tolerances*—(1) *Cattle.* A tolerance is established for residues of parent tilmicosin (marker residue) in liver (target tissue) at 1.2 parts per million (ppm).

(2) *Swine.* A tolerance is established for residues of parent tilmicosin (marker residue) in liver (target tissue) at 7.5 ppm and in muscle at 0.1 ppm.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

4. Section 558.618 is amended in paragraph (d)(3) by adding a new sentence after the second sentence to read as follows:

§ 558.618 Tilmicosin

* * * * *

(d) * * *

(3) * * * Do not allow horses or other equine access to feeds containing tilmicosin. * * *

* * * * *

Dated: February 26, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–6669 Filed 3–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

22 CFR Parts 121 and 124

[Public Notice 3011]

Amendments to the International Traffic in Arms Regulations (ITAR): Control of Commercial Communications Satellites on the United States Munitions List

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) by re-designating on the U.S. Munitions List (USML) commercial communications satellites.

EFFECTIVE DATE: March 15, 1999.

FOR FURTHER INFORMATION CONTACT: William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State, Telephone (703) 812–2564 or FAX (703) 875–6647 ATTN: Regulatory Change, Commercial Communications Satellites.

SUPPLEMENTARY INFORMATION: On October 17, 1998, the President signed Public Law 105–261, The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. This Act requires that, inter alia, effective March 15, 1999, communications satellites and related items (as defined in the Act) be controlled on the U.S. Munitions List, except with respect to export licenses for such satellites issued by the Department of Commerce before March 15, 1999 and export license applications

made under the Export Administration Regulations before March 15, 1999.

This coverage by the U.S. Munitions List does not extend to NASA's International Space Station, which remains subject to the Commerce Control List as set forth in 59 Fed. Regis. 47799 (1994).

Importantly, however, this rule change does provide for U.S. Munitions List coverage for all other spacecraft, including all satellites, and all spacecraft technical data, as well as all components, accessories, attachments, and related technical assistance, including, without exception, all launch support activities (e.g., technical data provided to the launch provider on form, fit, function, mass, electrical, mechanical, dynamic, environmental, telemetry, safety, facility, launch pad access, and launch parameters, as well as interfaces for mating and parameters for launch). The Office of Defense Trade Controls will be contacting U.S. persons individually who have received commodity jurisdiction determinations in the past that are affected by this rule change.

Consistent with Public Law 105–261, special export controls are detailed for the launch of U.S.-origin satellites and components from or by nationals of countries other than NATO (i.e., Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom and the United States) or major non-NATO allies (i.e. Australia, Egypt, Israel, Japan, Republic of Korea, New Zealand, Jordan, and Argentina). The mandatory munitions licensing requirement of Public Law 105–261 for launch failure investigations and analyses is also elaborated, though such requirement has long existed in the ITAR. The Office of Defense Trade Controls generally will require a technical assistance agreement for the launch of U.S.-origin satellites and components from or by nationals of countries other than NATO or major non-NATO allies. Similarly, the Office of Defense Trade Controls generally will not authorize use of exemptions (e.g., § 124.3 and § 125.4(b)(2)) for shipments of unclassified technical data in furtherance of a technical assistance agreement in these circumstances unless the applicant has established a computerized document control and archive system for all such technical data and made provision for remote on-line access to the system by the Departments of State and Defense.

In carrying out this directive, Part 121 of Categories XIII and XV of the U.S. Munitions List (Part 121), and Part 124 concerning agreements and other defense services are amended.

This amendment involves a foreign affairs function of the United States, and therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is also exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This amendment has been found to be a minor rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996, P.L. 104–121. It does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory Change, Communications Satellites and Related Items, Room 200, SA–6, Washington, D.C. 2052–0602.

List of Subjects

22 CFR Part 121

Arms and Munitions, Exports.

22 CFR Part 124

Arms and Munitions, Exports, Technical assistance.

Accordingly, for the reasons set forth above, Title 22, Chapter 1, subchapter M, is amended, as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for Part 121 is revised to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105–261.

2. In section 121.1, Category XIII is amended by revising paragraph (b)(1) and by removing (b)(1)(i), and Category XV is amended by revising paragraphs (a) and (b); removing paragraph (c); redesignating paragraph (d) as paragraph (c); redesignating paragraph (b)(5) as (d) and paragraphs (f)(5) (i) through (v) as (d)(1) through (5); revising newly designated paragraph (d) introductory text; revising paragraph (e) and (f); and removing paragraph (g), to read as follows:

§ 121.1 General—The United States Munitions List.

* * * * *

Category XIII—Auxiliary Military Equipment

* * * * *

(b) * * *

(1) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components or software with the capability of maintaining secrecy or confidentiality of information or information systems, including equipment and software for tracking, telemetry and control (TT&C) encryption and decryption.

Category XV—Space Systems and Associated Equipment

* (a) Spacecraft, including communications satellites, remote sensing satellites, scientific satellites, research satellites, navigation satellites, experimental and multi-mission satellites.

***Note to paragraph (a):** Commercial communications satellites, scientific satellites, research satellites and experimental satellites are designated as SME only when the equipment is intended for use by the armed forces of any foreign country.

(b) Ground control stations for telemetry, tracking and control of spacecraft or satellites, or employing any of the cryptographic items controlled under category XIII of this subchapter.

* * * * *

(d) Radiation-hardened microelectronic circuits that meet or exceed all five of the following characteristics:

* * * * *

(e) All specifically designed or modified systems, components, parts, accessories, attachments, and associated equipment for the articles in this category, including the articles identified in § 1516 of Public Law 105–261: satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines (see also categories IV and V).

(f) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the articles enumerated in paragraphs (a) through (e) of this category, as well as detailed design, development, manufacturing or production data for all spacecraft and specifically designed or modified components for all spacecraft systems. This paragraph includes all technical data, without exception, for all launch support activities (e.g., technical data provided to the launch provider on form, fit, function, mass, electrical, mechanical, dynamic, environmental, telemetry, safety, facility, launch pad access, and launch parameters, as well as interfaces for mating and parameters

for launch.) (See § 124.1 for the requirements for technical assistance agreements before defense services may be furnished even when all the information relied upon by the U.S. person in performing the defense service is in the public domain or is otherwise exempt from the licensing requirements of this subchapter.) Technical data directly related to the manufacture or production of any article enumerated elsewhere in this category that is designated as Significant Military Equipment (SME) shall itself be designated SME. Further, technical data directly related to the manufacture or production of all spacecraft, notwithstanding the nature of the intended end use (e.g., even where the hardware is not SME), is designated SME.

Note to paragraph (f): The special export controls contained in § 124.15 of this subchapter are always required before a U.S. person may participate in a launch failure investigation or analysis and before the export of any article or defense service in this category for launch in, or by nationals of, a country that is not a member of the North Atlantic Treaty Organization or a major non-NATO ally of the United States. Such special export controls also may be imposed with respect to any destination as deemed appropriate in furtherance of the security and foreign policy of the United States.

PART 124—AGREEMENTS, OFF-SHORE PROCURMENT AND OTHER DEFENSE SERVICES

3. The authority citation for Part 124 is revised to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105–261.

4. Section 124.15 is revised to read as follows:

§ 124.15 Special Export Controls for Defense Articles and Defense Services Controlled under Category XV: Space Systems and Space Launches.

(a) The export of any satellite or related item (see § 121.1, Category XV(a) and (e)) or any defense service controlled by this subchapter associated with the launch in, or by nationals of, a country that is not a member of the North Atlantic Treaty Organization or a major non-NATO ally of the United States always requires special exports controls, in addition to other export controls required by this subchapter, as follows:

(1) All licenses and other requests for approval require a technology transfer control plan (TTCP) approved by the Department of Defense and an encryption technology control plan approved by the National Security Agency. Drafts reflecting advance discussions with both agencies must accompany submission of the license application or proposed technical assistance agreement, and the letter of transmittal required in § 124.12 must identify the U.S. Government officials familiar with the preparation of the draft TTCPs. The TTCP must require any U.S. person or entity involved in the export to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity that is a party to the export and require such U.S. person or entity to certify that it has complied with this notification requirement within 30 days after launch.

(2) The U.S. person must make arrangements with the Department of Defense for monitoring. The costs of such monitoring services must be fully reimbursed to the Department of Defense by the U.S. person receiving such services. The letter of transmittal required under § 124.12 must also state that such reimbursement arrangements have been made with the Department of Defense and identify the specific Department of Defense official with whom these arrangements have been made. As required by Public Law 105–261, such monitoring will cover, but not be limited to—

(i) Technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

(ii) Satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

(iii) Activities relating to launch failure, delay, or cancellation, including post-launch failure investigations or analyses with regard to either the launcher or the satellite; and

(iv) All other aspects of the launch.

(b) Mandatory licenses for launch failure (crash) investigations or analyses: In the event of a failure of a launch from a foreign country (including a post liftoff failure to reach proper orbit)—

(1) The activities of U.S. persons or entities in connection with any subsequent investigation or analysis of the failure continue to be subject to the controls established under section 38 of the Arms Export Control Act, including the requirements under this subchapter for express approval prior to participation in such investigations or analyses, regardless of whether a license was issued under this subchapter for the initial export of the satellite or satellite component;

(2) Officials of the Department of Defense must monitor all activities associated with the investigation or analyses to insure against unauthorized transfer of technical data or services and U.S. persons must follow the procedures set forth in paragraphs (a)(1) and (a)(2) of this Category.

(c) Although Public Law 105–261 does not require the application of special export controls for the launch of U.S.-origin satellites and components from or by nationals of countries that are members of NATO or major non-NATO allies, such export controls may nonetheless be applied, in addition to any other export controls required under this subchapter, as appropriate in furtherance of the security and foreign policy of the United States. Further, the export of any article or defense service controlled under this subchapter to any destination may also require that the special export controls identified in paragraphs (a)(1) and (a)(2) of this category be applied in furtherance of the security and foreign policy of the United States.

(d) Mandatory licenses for exports to insurance providers and underwriters: None of the exemptions or sub-licensing provisions available in this subchapter may be used for the export of technical data in order to obtain or satisfy insurance requirements. Such exports are always subject to the prior approval and re-transfer requirements of sections 3 and 38 of the Arms Export Control Act, as applied by relevant provisions of this subchapter.

Dated: March 11, 1999.

John D. Holum,

Acting Under Secretary of State for Arms Control and International Security Affairs and Director, U.S. Arms Control and Disarmament Agency, Department of State.

[FR Doc. 99–6797 Filed 3–19–99; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 24

[T.D. ATF–409]

RIN 1512–AB87

Delegation of Authority

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: Authority delegation. This final rule places most ATF authorities contained in part 24, title 27 Code of Federal Regulations (CFR), with the "appropriate ATF officer" and requires that persons file documents required by part 24, title 27 Code of Federal Regulations (CFR), with the "appropriate ATF officer" or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.5 is being published. Through this order, the Director has delegated most of the authorities in 27 CFR part 24 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Revenue Operations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202–927–8220).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120–01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC). The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 24 that were previously delegated and places those authorities with the "appropriate ATF officer." Most of the authorities of the Director that were not previously delegated are also placed with the "appropriate ATF officer." Along with this final rule, ATF is publishing ATF Order 1130.5, Delegation Order—Delegation of the Director's Authorities in part 24, Wine, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in part 24 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends part 24 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the "appropriate ATF officer" identified in ATF Order 1130.5. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to Subpart C—Administrative and Miscellaneous Provisions of 27 CFR part 24. Specifically, a new § 24:19 is added to recognize the authority of the Director to delegate regulatory authorities in part 24 and to identify ATF Order 1130.5 as the instrument reflecting such delegations. Also, § 24.20 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF intends to make similar changes in delegations to all other parts of Title 27 of the Code of Federal Regulations through separate rulemakings. By amending the regulations part by part, rather than in one large rulemaking document and ATF Order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division,

Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 24—WINE

Paragraph 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 24.3 [Removed]

Par. 2. Section 24.3 is removed.

Par. 3. Section 24.10 is amended by removing the definitions of "Area supervisor", "ATF Officer", "Region", and "Regional director (compliance)" and by adding a new definition of "Appropriate ATF officer" to read as follows:

§ 24.10 Meaning of terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.5, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 24—Wine.

* * * * *

Par. 4. In Subpart C—Administrative and Miscellaneous Provisions, the undesignated center heading of "Authorities of the Director" is amended by removing the words "of the Director".

Par. 5. A new § 24.19 is added in Subpart C after the undesignated center heading of "Authorities", to read as follows:

§ 24.19 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 24 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.5, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 24—Wine. ATF delegation orders, such as ATF Order 1130.5, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

§§ 24.20, 24.21, 24.22, 24.87, 24.127, 24.245, 24.246, 24.247, 24.248, 24.249, and 24.250 [Amended]

Par. 6. In part 24 remove the words "Director" each place it appears and add, in substitution, the words "appropriate ATF officer" in the following places:

(a) Section 24.20(a);
(b) Section 24.21(a) introductory text, and (c);
(c) Section 24.22(a) introductory text, and (b);
(d) Section 24.87;
(e) Section 24.127;
(f) Section 24.245;
(g) Section 24.246(a)(1);
(h) Section 24.247;
(i) Section 24.248;
(j) Section 24.249(a); and (k) Section 24.250(b)(9).

Par. 7. Section 24.20 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 24.20 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

* * * * *

§§ 24.21, 24.26, 24.27, 24.28, 24.29, 24.30, 24.31, 24.32, 24.52, 24.60, 24.62, 24.65, 24.66, 24.69, 24.70, 24.77, 24.91, 24.96, 24.105, 24.107, 24.108, 24.110, 24.111, 24.115, 24.116, 24.120, 24.123, 24.124, 24.125, 24.135, 24.137, 24.140, 24.141, 24.150, 25.154, 25.155, 24.157, 24.159, 24.165, 24.166, 24.167, 24.169, 24.170, 24.183, 24.191, 24.231, 24.236, 24.242, 24.249, 24.260, 24.265, 24.272, 24.273, 24.276, 24.278, 24.279, 24.296, 24.300 and 24.313 [Amended]

Par. 8. Part 24 is further amended by removing the words "regional director (compliance)" each place it appears and adding, in substitution, the words "appropriate ATF officer" in the following places:

(a) Section 24.21(b);
(b) Section 24.26;
(c) Section 24.27;
(d) Section 24.28;
(e) Section 24.29;
(f) Section 24.30;
(g) Section 24.31;
(h) Section 24.32;
(i) Section 24.52(a);
(j) Section 24.60;
(k) Section 24.62;
(l) Section 24.65(a) introductory text, (b) introductory text, and (c) introductory text;
(m) Section 24.66(a);
(n) Section 24.69(b);
(o) Section 24.70;
(p) Section 24.77(c), (d) and (e);
(q) Section 24.91(c);
(r) Section 24.96(a);
(s) Section 24.105;
(t) Section 24.107;
(u) Section 24.108;
(v) Section 24.110(c)(1);
(w) Section 24.111;
(x) Section 24.115;
(y) Section 24.116;
(z) Section 24.120;
(aa) Section 24.123;
(bb) Section 24.124;
(cc) Section 24.125(c);
(dd) Section 24.135(b)(4), (c), (d) and (e);
(ee) Section 24.137(a), (b)(3) and (c);
(ff) Section 24.140(a) and (b)(3);
(gg) Section 24.141;
(hh) Section 24.150;
(ii) Section 24.154;
(jj) Section 24.155 (a), introductory text and (b);
(kk) Section 24.157;
(ll) Section 24.159;
(mm) Section 24.165;
(nn) Section 24.166;
(oo) Section 24.167(a);
(pp) Section 24.169;
(qq) Section 24.170(a) and (b);
(rr) Section 24.183;
(ss) Section 24.191;
(tt) Section 24.231;
(uu) Section 24.236;
(vv) Section 24.242 (a), introductory text, (b), (c)(1), introductory text, and (c)(2);
(ww) Section 24.249(c);
(xx) Section 24.260;
(yy) Section 24.265;
(zz) Section 24.272(b)(3) and (e);
(aaa) Section 24.273(b);
(bbb) Section 24.276;
(ccc) Section 24.278(h);
(ddd) Section 24.279(a);
(eee) Section 24.296(a) and (b);
(fff) Section 24.300(d); and
(ggg) Section 24.313, introductory text.

Par. 9. In Subpart C-Administrative and Miscellaneous Provisions, the undesignated center headings of "Authorities of the Regional Director (Compliance)" and "Authorities of ATF Officers" are removed.

§ 24.22 [Amended]

Par. 10. Paragraph (b) of § 24.22 is amended by removing the words "the regional director (compliance) for transmittal to".

Par. 11. Paragraph (c) of § 24.22 is amended by removing the phrase "the regional director (compliance), or the Director" and adding, in substitution, the phrase "appropriate ATF officer".

§§ 24.36, 24.230 and 24.235 [Amended]

Par. 12. Section 24.36, § 24.230, and paragraph (b) of § 24.235 are amended by removing the words "area supervisor" and adding, in substitution, the words "appropriate ATF officer".

Par. 13. Section 24.25 is revised to read as follows:

§ 24.25 Emergency variations from requirements.

(a) *General.* The appropriate ATF officer may approve construction, equipment, and methods of operation other than as specified in this part, when in the judgment of such officer an emergency exists, the proposed variations from the specified requirements are necessary, and the proposed variations:

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provisions of law.

(b) *Application.* The proprietor must submit a written application to the appropriate ATF officer within 24 hours of any temporary approval granted under paragraph (c) of this section, which describes the proposed variation, and sets forth the reasons therefor.

(c) *Temporary Approval.* The proprietor who desires to employ an emergency variation from requirements must contact the appropriate ATF officer and request temporary approval until the written application, required by paragraph (b) of this section, is acted upon. The appropriate ATF officer will be a subordinate of the ATF officer designated in paragraph (a) of this section. Where the emergency threatens life or property, the proprietor may take immediate action to correct the situation without prior notification; however, the proprietor must promptly contact the appropriate ATF officer and file with that officer a report concerning the emergency and the action taken to correct the situation.

(d) *Conditions.* The proprietor must, during the period of variation from requirements granted under this section, comply with the terms of the approved application. A failure to comply in good faith with any procedures, conditions, and limitations will automatically terminate the authority for a variation. Upon termination of the variation, the proprietor must fully comply with requirements of regulations for which the variation was authorized. Authority for any variation may be withdrawn whenever in the judgment of the appropriate ATF officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the variation.

§§ 24.30, 24.35, 24.37, 24.40, 24.54, 24.77, 24.91, 24.117, 24.259, 24.291, 24.293, 24.300 and 24.304 [Amended]

Par. 14. Part 24 is further amended by adding the word "appropriate" before the words "ATF officer" each place it appears in the following places:

(a) Section 24.30;
(b) Section 24.35;
(c) Section 24.37;
(d) Section 24.40;
(e) Section 24.54(c);
(f) Section 24.77(d);
(g) Section 24.91, introductory text;
(h) Section 24.117;
(i) Section 24.259(c);
(j) Section 24.291(c);
(k) Section 24.293(b);
(l) Section 24.300(b) and (e)(3); and
(m) Section 24.304(a).

§ 24.31 [Amended]

Par. 15. Section 24.31 is amended by removing the phrase "a designated", and in substitution, adding the phrase "an appropriate".

Par. 16. Section 24.41 is revised to read as follows:

§ 24.41 Office facilities.

The appropriate ATF officer may require the proprietor to furnish temporarily a suitable work area, desk and equipment necessary for the use of appropriate ATF officers in performing Government duties whether or not such office space is located at the specific premises where regulated operations occur or at corporate business offices where no regulated activity occurs. Such office facilities will be subject to approval by the appropriate ATF officer.

§ 24.52 [Amended]

Par. 16. The second sentence of paragraph (b) of § 24.52 is amended by removing the words "regional director (compliance) of the region in which the bonded wine premises or taxpaid wine bottling house is located" and adding, in substitution, the phrase "appropriate ATF officer".

Par. 17. The first, fifth and sixth sentences of paragraph (b) of § 24.77 are revised to read as follows:

§ 24.77 Experimental wine.

* * * * *

(b) *Qualification.* An institution that wants to conduct experimental wine operations must apply in letter form to the appropriate ATF officer. * * * The applicant must, when required by the appropriate ATF officer, furnish as part of the application, additional information that may be necessary to determine whether the application should be approved. Operations may not begin until authorized by the appropriate ATF officer.

* * * * *

Par. 19. The second and last sentences of § 24.80 are revised to read as follows:

§ 24.80 General.

* * * The formula must be prepared and filed on ATF F 5120.29, Formula and Process for Wine, in accordance with the instructions on the form.* * * Except for research, development, and testing, no special natural wine, agricultural wine, or, if required to be covered by an approved formula, wine other than standard wine may be produced prior to approval by the appropriate ATF officer of a formula covering each ingredient and process (if the process requires approval) used in the production of the product.

* * * * *

Par. 20. The third and sixth sentences of § 24.81 are revised as follows:

§ 24.81 Filing of formulas.

* * * After a change in formula is approved, the original formula must be surrendered to the appropriate ATF officer. * * * The appropriate ATF officer may at any time require the proprietor to file a statement of process in addition to that required by the ATF F 5120.29 or any other data to determine whether the formula should be approved or the approval continued.

* * * * *

§ 24.82 [Amended]

Par. 21. The fourth sentence of § 24.82 is amended by removing the words "Director or the regional director (compliance)" and adding, in substitution, the words "appropriate ATF officer".

§ 24.100 [Amended]

Par. 22. Section 24.100 and the introductory text of paragraph (g) of § 24.300 are amended to remove the phrase "to the regional director (compliance)".

§ 24.101 [Amended]

Par. 23. The first and second sentences of paragraph (a) of § 24.101

are amended to remove the phrase "with the regional director (compliance)" and in the first sentence only add, in substitution, the phrase "as provided in § 24.105".

Par. 24. Section 24.103 is revised to read as follows:

§ 24.103 Other operations.

Upon the specific approval of the appropriate ATF officer, other operations not provided for in this part may be conducted on wine premises. Authority to conduct other operations may be obtained by submitting an application to the appropriate ATF officer. The application must specifically describe the operation to be conducted and the wine premises and equipment to be used. An appropriate ATF officer may make any inquiry necessary to determine whether the conduct of other operations on wine premises would jeopardize the revenue, conflict with wine operations, or be contrary to law. Other operations authorized under this section will be conducted in accordance with the conditions, limitations, procedures, and terms stated in the approved application. Authority to conduct other operations may be withdrawn whenever the appropriate ATF officer determines the conduct of the other operations on wine premises jeopardizes the revenue, conflicts with wine operations, or is contrary to law.

§§ 24.106, 24.114, 24.135, and 24.137 [Amended]

Par. 25. The fourth sentence of § 24.106, the second and third sentences of § 24.114, the introductory text of paragraph (b) of § 24.135 and paragraph (b) of § 24.137 are amended to remove the phrase "with the regional director (compliance)".

§ 24.109 [Amended]

Par. 26. The second sentence of paragraph (k) of § 24.109 is amended by removing the words "regional director (compliance) of any ATF region" and adding, in substitution, the phrase "appropriate ATF officer" and the fourth and fifth sentences are amended by removing the words "regional director (compliance)" and by adding, in substitution, the phrase "appropriate ATF officer".

Par. 27. Paragraph (d) of § 24.110 is revised to read as follows:

§ 24.110 Organizational Documents.

* * * * *

(d) *Availability of additional corporate documents.* The originals of documents required to be submitted under this section and additional documents that may be required by the appropriate ATF officer (such as articles of incorporation, bylaws, and any certificate issued by a State authorizing operations) must be made available to any appropriate ATF officer upon request.

* * * * *

§ 24.116 [Amended]

Par. 28. The last sentence of § 24.116 is amended to remove the words "regional director" and adding, in substitution, the phrase "appropriate ATF officer".

§ 24.131 [Amended]

Par. 29. Section 24.131 is amended to remove the words "regional director (compliance) through the area supervisor" from the first sentence and the words "regional director (compliance)" from the third sentence and adding in both sentences, in substitution, the phrase "appropriate ATF officer".

Par. 30. The first and second sentences of § 24.145 are revised to read as follows:

§ 24.145 General requirements.

Each person required to file a bond or consent of surety under this part must prepare, execute and submit the bond or consent of surety on the prescribed form in accordance with this part and the instructions printed on the form. A person may not commence or continue any business or operation relating to wine until all bonds and consents of surety required under this part with respect to the business or operation have been approved by the appropriate ATF officer.* * *

§24.201 [Amended]

Par. 31. The first sentence of § 24.201 is amended by removing the phrase "from the Director" and adding, in substitution, the word "an".

§ 24.211 [Amended]

Par. 32. The second sentence of § 24.211 is amended by removing the words "with the Director".

Par. 33. Paragraph (b) of § 24.249 is revised to read as follows:

§ 24.249 Experimentation with new treating material or process.

* * * * *

(b) *Application.* The proprietor who wants to conduct experimentation must file an application with the appropriate ATF officer setting forth in detail the experimentation to be conducted and the facilities and equipment to be used. The proposed experimentation must not be conducted until the appropriate ATF officer has determined that the conduct of such experimentation must not jeopardize the revenue, conflict with wine operations, or be contrary to law, and has approved the application.

* * * * *

§ 24.250 [Amended]

Par. 34. Paragraph (a) of § 24.250 is amended by removing the following phrase "regional director (compliance) of the region in which the bonded wine premises is located" and adding, in substitution, the phrase "appropriate ATF officer".

§ 24.250 [Amended]

Par. 35. Paragraph (c) of § 24.250 is revised by removing the word "Director" in the first sentence and, in substitution, adding the phrase "appropriate ATF officer", and removing the last two sentences.

Par. 36. Paragraph (d) of § 24.250 is revised to read as follows:

§ 24.250 Application for use of new treating material or process.

* * * * *

(d) *Processing of application.* After evaluation of the data submitted with the application, the appropriate ATF officer will make a decision regarding the acceptability of the proposed treatment in good commercial practice. The appropriate ATF officer will notify the proprietor of the approval or disapproval of the application.

* * * * *

§24.267 [Amended]

Par. 37. Section 24.267 is amended by removing the words "regional director (compliance) or nearest designated" and adding, in substitution, the word "appropriate".

Par. 38. The text of 24.268 is revised to read as follows:

§ 24.268 Losses by fire or other casualty.

The proprietor must immediately report any loss by theft, fire or other casualty, or any other extraordinary or unusual loss to the appropriate ATF officer. If required by the appropriate ATF officer, the proprietor must file a claim under the provisions of § 24.65. The volume of wine loss must be reported on ATF F 5120.17 for the reporting period during which the loss occurred.

* * * * *

§ 24.272 [Amended]

Par. 39. Paragraph (b)(1) of § 24.272 is amended by removing the words "regional director (compliance) of each ATF region in which taxes are paid" and adding, in substitution, the words "appropriate ATF officer".

Par. 40. Paragraph (a) of § 24.294 is revised to read as follows:

§ 24.294 Destruction of Wine.

(a) *General.* Wine on bonded wine premises may be destroyed on or off wine premises by the proprietor without payment of tax. A proprietor who wants to destroy wine on or off wine premises must file with the appropriate ATF officer an application stating the kind, alcohol content, and approximate volume of wine to be destroyed, where the wine is to be destroyed, and the reason for destruction. Wine to be destroyed must be inspected, and the destruction supervised, by an appropriate ATF officer unless the appropriate ATF officer authorizes the proprietor to destroy the wine without inspection and supervision. The wine must not be destroyed until the proprietor has received authority from the appropriate ATF officer.

Par. 41. The third sentence of paragraph (a) introductory text, of § 24.300 is amended by removing the phrase "submitted to the regional director (compliance)".

Par. 42. § 24.300, paragraph (c) and the third and fifth sentences of paragraph (g)(2) are revised to read as follows:

§ 24.300 General.

* * * * *

(c) *Prescribed forms.* All reports required by this part must be submitted on forms prescribed by § 24.20. Entries will be made as indicated by the headings of the columns and lines, and as required by the instructions for the form. Report forms are furnished free of cost.

* * * * *

(g) *ATF F 5120.17, Report of bonded wine premises operations.* * * *

(2) * * * A proprietor who is commencing operations during a calendar year and expects to meet these criteria may use a letter notice to the appropriate ATF officer, and file an annual ATF F 5120.17 for the remaining portion of the calendar year. * * * If there is a jeopardy to the revenue, the appropriate ATF officer may at any time require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly.

* * * * *

Signed: December 9, 1998.

John W. Magaw,

Director.

Approved: February 9, 1999.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–6736 Filed 3–19–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF JUSTICE

28 CFR Part 79

[A.G. Order No. 2213–99]

RIN 1105–AA49

Radiation Exposure Compensation Act: Evidentiary Requirements; Definitions; and Number of Times Claims May Be Filed

AGENCY: Civil Division, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice ("the Department") amends its existing regulations implementing the Radiation Exposure Compensation Act to: allow claimants to submit affidavits or declarations in support of a claim to establish smoking and alcohol consumption histories where no other records exist; allow the use of pathology reports of tissue biopsies as additional means by which claimants can present evidence of a compensable non-malignant respiratory disease; amend the definitions of "smoker" and "non-smoker"; include *in situ* lung cancers under the definition of primary cancers of the lung; and allow claimants who have filed claims prior to the implementation of these regulations and have been denied compensation to file another three times.

DATES: Effective date: April 21, 1999. This final rule will apply to all claims pending with the Radiation Exposure Compensation Act Program ("RECA Program") as of this date.

FOR FURTHER INFORMATION CONTACT: Gerard W. Fischer (Assistant Director), (202) 616–4090, and Lori Beg (Attorney), (202) 616–4377, U.S. Department of Justice, Civil Division, P.O. Box 146, Ben Franklin Station, Washington, D.C. 20044–0146.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1997, the Attorney General published a notice of proposed rulemaking in the **Federal Register**, 62 FR 28393 (1997), setting forth proposed amendments to the regulations implementing the Radiation Exposure Compensation Act, Pub. L. 101–426, 104 Stat. 920 (1990) (codified as amended at 42 U.S.C. 2210 note) ("RECA" or "Act"). Comments were received over a period of 30 days ending on July 22, 1997. In response to several requests from the public for additional time, the comment period was reopened on August 29, 1997, for an additional 30-day period ending on September 29, 1997. The Department of Justice received 31 letters, each containing one or more comments regarding the proposed amendments. Commenters included both interested individuals and organizations. Most of the comments were positive, applauding the proposed changes and encouraging their swift implementation.

The Department carefully reviewed all of the comments, several of which resulted in changes to the proposed rule. Specifically, the final rule will not introduce standards for the use of high resolution computed tomography ("HRCT") reports, which were included in § 79.36(a)(ii)(A)(2) of the proposed rule. The Department received many substantive comments on the proposed use of HRCT reports as a means by which claimants can present evidence of a compensable non-malignant respiratory disease. In order to respond to those comments, the Department engaged in extensive research and consultation. Presently, there is no consensus in the medical community for standardized criteria for the use of HRCT reports in the diagnosis of non-malignant respiratory diseases. Accordingly, as soon as the Department, in consultation with its designated medical and scientific experts, is able to identify recognized standards for the use of HRCT reports, the Department will implement appropriate regulations.

Furthermore, the final rule amends the definitions of "heavy smoker" and "smoker" to exclude, and the definition of "non-smoker" to include, claimants who stopped smoking at least fifteen years prior to the date of diagnosis of disease. These definitions apply to claimants diagnosed with a compensable non-malignant respiratory disease as well as those diagnosed with lung cancer, as originally proposed. The Department is convinced that the evidence supports this approach.

Discussion of Changes and Comments

Following are summaries and discussions of the comments, which have been grouped together according to their similarity. Minor or technical issues are not discussed.

In some cases, commenters suggested that the Department incorporate certain regulatory provisions that would modify statutory requirements relating to the criteria for compensation. Section 5 of the RECA authorizes claims only by individuals employed in uranium mines in particular states. Accordingly, the implementing regulations limit compensation to individuals employed in uranium mines in those states and exclude those individuals employed in uranium mines elsewhere as well as those individuals employed in uranium

milling or processing, involved in mining other types of ore, and simply residing in a community where uranium mining was conducted. *See* 28 CFR 79.30–32. In addition, section 5 of the RECA sets forth specified compensable diseases and ties compensation to the level of radiation exposure, age at incidence of disease onset, and smoker status. The implementing regulations reflect the statutory limitations. *See* 28 CFR 79.32(c)(1)–(2). Stated simply, the Department cannot modify a statute by regulation. Rather, the legislative process must react to these concerns.

One commenter suggested that the Department hold public meetings to discuss the proposed regulatory changes, which the Assistant Director for the Radiation Exposure Compensation Program, Gerard W. Fischer, and others from the Department have done. The Program held meetings in several locations in New Mexico and Utah, including the Navajo Reservation, in order to present the proposed regulatory changes and discuss their implementation with individuals in the affected communities.

Several commenters asked the Department to render an opinion on whether certain records or references in records would satisfy the eligibility criteria in a hypothetical or individual case. The Department, however, is unable to render any opinion without reviewing an actual claim and evaluating the documentation provided in support of that claim.

Subpart A—General

Section 79.2 General Definitions

Section 79.2(e) Contemporaneous Record. One commenter requested clarification of the term "contemporaneous records." Existing regulations define the term to include those records that were created when the described events occurred. In some instances, the dates of records may not coincide precisely with the dates when actions took place. For example, a claimant's employment summary contained in a mining company archive may be used to clarify periods of employment prior to the date of the summary. In such instances, we will determine whether the records were created within a sufficient time of the relevant period to be considered contemporaneous. The Department relies on contemporaneous records because of their inherent reliability and trustworthiness.

Section 79.4 Burden of proof, production of documents, presumptions, and affidavits

Section 79.4(a) Production of documents. Several commenters suggested that contemporaneous records do not exist to establish complete employment histories for underground uranium miners, particularly for those miners who worked in small mining operations. This issue was addressed in connection with the original regulations, and that discussion still applies. *See* 57 FR 12430 (1992). That is, we have seen no evidence to support the assertion that contemporaneous records do not exist. Our experience reveals that available social security records are accurate and comprehensive. Thus, where records from employers are not available from company archives, social security records will sufficiently document an individual's employment history. In the very few cases where claimants worked for companies that failed to report earnings, claimants can provide federal or state income tax records. Moreover, numerous sources, such as the National Institute for Occupational Safety and Health ("NIOSH"), the University of New Mexico School of Medicine, the Colorado Bureau of Mines, and numerous mining companies have contemporaneous records to establish individual mining histories. In cases where claimants independently operated small mines and failed to earn a sufficient income to report to federal or state agencies, Atomic Energy Commission shipping records will reflect the name of the mine operators, which may often be used to establish exposure.

One commenter noted that various contemporaneous records, including mine operator records and old medical records from country doctors, have been stored in remote areas and that the Department should collect and maintain such records. The Department currently maintains extensive records from various mining resources, including the Public Health Service Study of Uranium Miners, NIOSH, the Atomic Energy Commission, the Colorado Bureau of Mines, and Utah Mine Inspection Reports. The Department also has access to records from St. Mary's Hospital, the University of New Mexico School of Medicine, and the Colorado Tumor Registry, all of which maintain radon exposure information. The Department also has accessed records from various private entities. Although it cannot collect and store records from private companies, the Department will do all that it can to urge still-existing private companies to make their records available to the public. The Department attempts to identify records held by various public and private organizations and makes such information known to claimants. Additionally, if it is known to the Department that specific records are likely to be destroyed, we attempt to locate organizations that may be interested in maintaining those records and making them available to claimants. However, the RECA Program was not designed, nor is it equipped, to gather and maintain large quantities of records.

Section 79.4(c) Affidavits. One commenter inquired as to the form an affidavit must take and the level of specificity required. Because the information contained in an affidavit will depend on the specific facts of each case, it is impossible to precisely define the amount of detail necessary to establish any element of compensation.

Other commenters suggested that affidavits should be accepted on any and all relevant issues, and one commenter added that affidavits should be accepted to establish eligibility criteria without records to support the assertions contained therein. The Department, however, has purposefully limited the use of affidavits. In the experience of the RECA Program to date, affidavits are unnecessary in most cases. Determinations of eligibility based on documentation increase the integrity of the process, limit transactional costs, and minimize the potential for fraud. Despite complaints to the contrary, we have found that there is an enormous body of reliable contemporaneous records that can be used to establish eligibility requirements. Contemporaneous records are inherently more reliable than affidavits.

Several commenters suggested that the Department should accept affidavits from individuals other than claimants, i.e., co-workers, friends, neighbors, and extended family members, to establish eligibility criteria for downwind presence or uranium mining employment. One commenter recommended that "non-claimant" affidavits should be allowed to establish all eligibility criteria. The Department, however, must limit the submission of affidavits to those individuals who are best situated to supply the information. Because of the risk that such affidavits may not provide information that is based on personal knowledge, the Department has placed reasonable restrictions on the submission of affidavits in an effort to ensure their reliability. Accordingly, affidavits may be submitted only by the claimant or the eligible surviving beneficiary.

The final rule provides that affidavits will be accepted for the following purposes: (1) to prove eligibility of family members as set forth in the regulations at § 79.51(e), (f), (g), (h), or (i); (2) to acknowledge other compensation received as set forth in § 79.55(c) or (d); (3) to prove smoking and/or drinking history and/or age at diagnosis as set forth in § 79.27(d) and § 79.37(d); (4) to prove the amount of coffee consumed as set forth in § 79.27(e); or (5) to establish mining information as set forth in § 79.33(b)(2).

One commenter proposed that affidavits be permitted to establish an individual's physical presence in a designated affected downwind area where former employers are no longer in existence or records have been destroyed, and where such employment is not documented in Social Security earnings records. The commenter urged that such declarations would be admissible in a court of law. Our experience has shown that a multitude of records are available to establish presence in downwind areas. The absence of records from one particular source will not necessarily preclude a claimant from establishing such presence. The RECA Program accepts records created by government entities, educational institutions, utility services, libraries, historical societies, religious organizations, businesses, associations, and medical institutions to establish the physical presence criteria under 28 CFR 79.13. Additionally, in response to related comments to the initial regulations, the Department added contemporaneous postcards and certain postal stamped envelopes to the expansive list of acceptable records. See 57 FR 12430 (1992). Affidavits submitted in lieu of contemporaneous records, on the other hand, do not contain the same level of trustworthiness and cannot be relied upon to prove physical presence, a basic criterion for compensation under the downwinder program. The RECA Program represents Congress's attempt to create an inexpensive, expeditious, easy-to-administer, and non-adversarial scheme to compensate qualifying claimants. Expanding the role of affidavits in the compensation process would necessarily require staffing increases, alter the nature of the Program, and frustrate the purposes that Congress sought to achieve.

Subpart B—Eligibility Criteria for Claims Relating to Childhood Leukemia

Section 79.12 Criteria for Eligibility

One commenter suggested that the downwinder provisions of the regulations be amended to provide compensation for individuals who were "in utero" during the designated time periods and later developed leukemia. The Act as well as the current regulations are silent on the issue of whether a fetus constitutes an "individual" for purposes of eligibility. Accordingly, the Department will rely on judicial interpretation in addition to legislative intent in making its determination should it be faced with such a situation.

Subpart C—Eligibility Criteria for Claims Relating to Certain Specified Diseases

Section 79.22 Criteria for Eligibility

One commenter suggested that the downwinder provisions of the regulations be amended to provide compensation for individuals who were "in utero" during the designated time periods and later contracted any of the specified compensable diseases. The discussion of this comment at § 79.12 applies to this section of the regulations.

Subpart D—Uranium Miners

Section 79.31 Definitions

Section 79.31(e) Non-smoker. One commenter suggested that the Department revise the definition of non-smoker to include Native American Indians who smoked only for ceremonial purposes, even if they did so within 15 years of diagnosis of lung cancer. The Department evaluates each case independently in order to determine whether an individual has shown by a preponderance of the evidence that the eligibility criteria are established. In cases where an individual presents documentation referencing his or her prior smoking history, the Department will carefully evaluate such references on a case-by-case basis. In addition, most medical histories that describe smoking status reference the extent of smoking in relation to "pack" of cigarettes and "portions" used. Finally, the only type of smoking that is relevant under the regulations is cigarette smoking. Pipe smoking, or any other type of smoking, is not relevant to the RECA Program. The existing regulations specify that "smoking" "does not include the use of cigars or pipe tobacco, or any tobacco products that are used without being lighted." 28 CFR 79.21(d).

Several commenters proposed revising the definition of non-smoker to include former smokers who developed a compensable non-malignant respiratory disease. The Department's designated experts at NIOSH have advised that former smokers who develop one of the compensable non-malignant respiratory diseases could be considered non-smokers for purposes of establishing the eligibility criteria. The NIOSH experts advise that this is especially true if the individual stopped smoking many years prior to the diagnosis of a restrictive non-malignant respiratory disease. Further, it is the opinion of the NIOSH experts that, based on available existing medical data, it is reasonable to treat an individual diagnosed with a compensable non-malignant respiratory disease as a non-smoker where the individual stopped smoking at least 15 years prior to diagnosis. We have decided to accept the recommendation of commenters to extend the applicability of the definition of "non-smoker" to individuals who stopped smoking at least 15 years prior to being diagnosed with a compensable non-malignant respiratory disease.

Section 79.31 (f) Smoker. The Department currently defines a smoker as an individual who smoked at least "one (1) pack year" of cigarette products. Several commenters suggested that the Department should increase the number of pack years required for an individual to be treated as a smoker. Existing regulations define a pack year as "an average of 20 cigarettes per day for one year." 28 CFR 79.21(d). A more detailed discussion of this definition was offered in connection with Department's current implementing regulations. See 57 FR 12431 (1992). However, in light of the suggested change, we reviewed the relevant literature and consulted with numerous experts from the National Cancer Institute. We were advised that most epidemiological studies define a "smoker" as one who smoked one cigarette per day for one year, far less than the one pack year of cigarette smoking presently used in the RECA Program and set forth in the regulations. Many of the experts we consulted consider our current working definition very lenient and recommend against liberalizing it further.

Section 79.31 (g) Onset or Incidence. One commentator noted that the "date of diagnosis" or "initial diagnosis" is not always clear from the medical records. With respect to uranium miners, the date of diagnosis is relevant only in relation to the issue of smoking status. A claimant's smoking status must be established by providing all medical records, as specified in 28 CFR 79.37(a), that were created six months prior to, and six months after, the initial date of diagnosis of a compensable disease. When the date of diagnosis is relevant, the RECA Program reviews the medical

records to establish the initial date of diagnosis of a compensable disease. If any records suggest an earlier date of diagnosis, we will request medical records from the time of the earlier date of diagnosis to resolve the question. In all cases, the RECA Program will assist claimants in obtaining these additional records.

Section 79.31(h) Primary Lung Cancer. One commenter requested that the Department provide a definition for "*in situ*" lung cancer. "*In situ*" lung cancer means that the cancerous cells have not left the tissue compartment of origin. It is a term of medical art that sometimes appears in claimants' medical records. In order to make it clear that such a term does not disqualify a claimant, the final rule includes it in the general definition of lung cancer.

Section 79.31(j) Fibrosis of the Lung or Pulmonary Fibrosis. One commenter requested that the Department provide more detailed descriptions of the types of medical evidence that would be considered a diagnosis of pulmonary fibrosis for deceased miners. Because of the many types of evidence that can satisfy this condition, providing a list of all conditions that describe the existence of pulmonary fibrosis is impossible. The regulations presently identify specific records and results required for living miners. However, cases involving deceased miners, where recent x-rays are not available, often require a thorough analysis by a medical expert who is qualified to evaluate a multitude of findings and determine by a preponderance of the evidence whether a claimant contracted a compensable disease. Since the evidence is different in each case, identifying every qualifying condition is not feasible.

Section 79.33 Proof of Employment in a uranium mine. Several commenters suggested that contemporaneous records do not exist to establish complete employment histories for underground uranium miners, particularly for those who worked in small mining operations. This issue was addressed in the original regulations, and the discussion offered in connection with those regulations still applies. That is, we have seen no evidence to support the assertion that contemporaneous records do not exist. Our experience reveals that social security records are accurate and comprehensive. In the very few cases where claimants worked for companies that failed to report earnings, claimants can provide federal or state income tax records. Moreover, numerous sources, such as NIOSH, the University of New Mexico School of Medicine, the Colorado Bureau of Mines, and numerous mining companies, have contemporaneous records to establish individual mining histories. In cases where claimants independently operated small mines and failed to earn a sufficient income to report to federal or state agencies, Atomic Energy Commission shipping records will reflect the name of the operators, which may often be used to establish exposure.

Section 79.34 Proof of working level month exposure to radiation. One commenter noted concern that it is not possible to determine accurate radiation exposure levels in small mines because of the lack of readings taken from those mines. The commenter asserted that readings were taken only in the larger mines, where better ventilation systems were presumably employed. The NIOSH records used by the Department, however, do include exposure readings from many small mines. Moreover, the readings taken from the larger mines do not necessarily reflect lower exposure readings. In instances where exposure levels are unavailable for a particular mine, the regulations allow the RECA Program to use readings from other mines in the same geographical area, which typically include readings from mines of various sizes.

Another commenter expressed concern that radiation exposure measurements were taken from areas of the mine where the working levels were lower and, therefore, the readings do not accurately reflect exposure for purposes of calculating working level months. This issue was discussed in connection with the original regulations and that discussion still applies. See 57 FR 12432 (1992). Principally, Congress was aware that there were variations in the measurement of working levels in the mines but chose to set defined minimum levels based on the measurement data that existed. We must presume that those minimum levels set by Congress take into account the problems associated with the collection of the data. Moreover, there is simply no method of calculation that would result in total accuracy. Working level measurements varied widely within each mine in terms of time and location. We have found no evidence, however, that suggests that readings were taken only in areas where working levels were low. To the contrary, the numerous higher-level exposure readings included in the NIOSH database indicate that this was not the practice.

One commenter noted that there is limited exposure data from small mining operations because NIOSH did not conduct radiation measurements until the mid-1960s, although uranium mining began twenty years earlier. The Department has access to Public Health Service records, which provide radiation exposure measurements that were recorded as early as 1950. To determine the exposure levels for 1947 through 1949, the Department applies the methodology outlined in the current regulations at 28 CFR 79.34(g)(2).

Section 79.36 Proof of non-malignant respiratory disease

Section 79.36(d)(1)(ii)(2) High resolution computed tomography scans and interpretation. There were several substantive comments regarding medical standards for the use of HRCT reports in diagnosing non-malignant respiratory diseases. Commenters included leading thoracic practitioners from major medical teaching facilities around the country. Their concerns specifically addressed such issues as scanner setting technique, use of non-conforming nomenclature, the lack of training in interpreting HRCT reports that is provided by most accredited radiology residency programs, and the absence of standardized testing protocols. While the Department sought out scientists in the medical community who had experience and expertise in the area to initially develop the proposed HRCT evaluation criteria, "recognized" standards by which to use HRCT reports to diagnose pulmonary fibrosis and the other compensable non-malignant respiratory diseases are still not available. The Department has determined, therefore, that it would be premature at this time to implement the use of HRCT reports as a diagnostic tool. As soon as recognized standards for evaluating HRCT reports develop, the Department will introduce appropriate regulations.

79.36(d)(1)(ii)(B)(1) Pulmonary function tests. One commenter stated that the pulmonary function test ("PFT") requirements are arbitrary and too stringent. The existing regulations defined pulmonary impairment as either a forced expiratory volume in one second ("FEV1") or forced vital capacity ("FVC") result less than or equal to 75% of the predicted value. In the amending regulations, the Department proposed to liberalize this definition in accordance with the recommendations of the American Thoracic Society. In the final rule, pulmonary impairment is defined as FEV1 or FVC less than or equal to 80% of the predicted value.

Another commenter suggested that the Department adopt ethnic-specific PFT standards for Native Americans. The Department has declined to adopt this recommendation for several reasons. First, there is insufficient

statistical confidence in the data obtained in the limited studies on this issue. To incorporate such a distinction at this time into a legal compensation scheme would be premature. Second, the Department will not adopt standards that might adversely discriminate against any one particular community. Third, acceptable PFT standards do not exist for each ethnic group within the subject population. Finally, the current regulations provide an alternative means by which to establish functional impairment, namely, arterial blood-gas ("ABG") studies. Any inadequacies that may exist in the PFT standards can be avoided entirely with an ABG study, which is unaffected by physiological differences among ethnic groups.

79.36(d)(1)(ii)(B)(2) Arterial blood-gas studies. Another commenter sought clarification on the interpretation of arterial blood gas ("ABG") studies when results fall between the values set forth in the tables in appendix B of the implementing regulations. When reported pCO_2 results fall between values listed in those tables, the Department will interpolate the corresponding qualifying pO_2 value.

One commenter indicated that the Department should create new tables reflecting lower pO_2 values as altitude increases and including separate pO_2 values for every 1,000 feet above sea level. The Department consulted with its designated experts at NIOSH and requested that they study the existing ABG tables, specifically focusing their inquiry on the effects of revising the ABG tables to reflect impairment values broken down by 1,000 feet increments. The NIOSH experts advised that specifying impairment levels (reflected by pO_2 and pCO_2 values) for every 1,000 feet change in elevation would actually disqualify many claimants from compensation. The ABG tables as they now exist, providing impairment values broken down into only two altitude categories, are quite generous. Narrowing the altitude intervals would decrease, rather than increase, a claimant's chance of satisfying the impairment requirements.

Section 79.36(e) Medical review. One commenter asserted that medical review of HRCT reports and "B" reader interpretations of chest x-rays by medical consultants is burdensome and not in accordance with the spirit of the Act. Section 6(b)(2) of the Act, however, specifically designates the NIOSH as a source for consultation when deemed necessary in making medical determinations. Given the highly technical nature of many of the eligibility criteria, expert opinions and guidance are necessary to resolve many claims. As the Department administers a compensation program for eligible individuals, it is in the public interest to subject claims to appropriate scrutiny.

Section 79.37 Proof of smoking, nonsmoking, and age. Several commenters argued that affidavits should be accepted to establish smoking status when medical records are silent, incomplete, or reflect unclear or conflicting information regarding an individual's smoking history. In order to prove a history of non-smoking, the Department requires certain medical documentation created within the period six months before and six months after the date of diagnosis of a compensable disease. The final rule, however, seeks to liberalize the proof requirement by allowing claimants to submit affidavits regarding smoking history in the event that the required medical records no longer exist, or fail to contain information pertaining to the claimant's smoking history.

Subpart F—Procedures

Section 79.51 Filing of Claims

One commenter requested clarification of the number of times a claim may be filed, and how the revised regulations would affect the limitations on filing. A related comment suggested that we apply the revised regulations to pending claims rather than requiring claimants to re-file for consideration under those regulations. We concur with this suggestion. The final rule allows claimants who filed claims prior to the rule's implementation and were denied compensation to file another three times. Moreover, the revised regulations will apply to all claims pending as of April 21, 1999, the date the final rule becomes effective, regardless of when those claims were filed.

Certifications and Determinations

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule affects only individuals filing claims under the RECA. Therefore, this rule does not have a significant economic impact on a substantial number of small entities, as that term is defined in 5 U.S.C. 601(6). This rule, however, is a significant regulatory action under Executive Order 12866 and, accordingly, has been reviewed by the Office of Management and Budget. The rule is not a major rule as defined by 5 U.S.C. 804(2) nor is it a rule having federalism implications warranting assessment in accordance with section 6 of Executive Order 12612. In addition, this rule is in full compliance with the Paperwork Reduction Act.

List of Subjects in 28 CFR Part 79

Administrative practice and procedure, Authority delegations (Government agencies), Cancer, Claims, Radiation Exposure Compensation Act, Radioactive materials, Reporting and recordkeeping requirements, Underground mining, Uranium.

Accordingly, part 79 of chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 79—CLAIMS UNDER THE RADIATION EXPOSURE COMPENSATION ACT

1. The authority citation for part 79 continues to read as follows:

Authority: Sec. 6(b) and (j), Pub.L. 101–426, 104 Stat. 920 (42 U.S.C. § 2210 note).

2. Section 79.4(c) is amended by redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5), adding a new paragraph (c)(3) and revising paragraphs (c)(1) and (c)(2) and new paragraphs (c)(4) and (c)(5) as follows:

§ 79.4 Burden of proof, production of documents, presumptions, and affidavits.

* * * * *

(c) * * *

(1) Eligibility of family members as set forth in § 79.51(e), (f), (g), (h), or (i);

(2) Other compensation received as set forth in § 79.55(c) or (d);

(3) Smoking and/or drinking history and/or age at diagnosis as set forth in § 79.27(d) and § 79.37(d);

(4) The amount of coffee consumed as set forth in § 79.27(e); or

(5) Mining information as set forth in § 79.33(b)(2).

3. Section 79.5 is amended by adding paragraph (c) to read as follows:

§ 79.5 Requirements for written medical documentation, contemporaneous records, and other records or documents.

* * * * *

(c) To establish eligibility the claimant or eligible surviving beneficiary may be required to provide, where appropriate, additional contemporaneous records to the extent they exist or an authorization to release additional contemporaneous records or a statement by the custodian(s) of the records certifying that the requested record(s) no longer exist. Nothing in the regulations in this section shall be construed to limit the Assistant Director's ability to require additional documentation.

4. In § 79.21, paragraph (d) is amended by adding one new sentence

after the second sentence to read as follows:

§ 79.21 Definitions.

* * * * *

(d) * * * The term excludes an individual who smoked more than 20 pack years, but who can establish in accordance with § 79.27 that he or she stopped smoking at least fifteen (15) years prior to the diagnosis of primary cancer of the esophagus, pharynx, or pancreas, and did not resume smoking at any time thereafter.

* * * * *

5. Section 79.27 is amended by revising the heading, re-designating paragraph (c) as new paragraph (e), adding new paragraphs (c) and (d), and revising paragraphs (a) and (b), to read as follows:

§ 79.27 Proof of no heavy smoking, no heavy drinking, no heavy coffee drinking and no indication of the presence of hepatitis B and cirrhosis.

(a)(1) If the claimant or eligible surviving beneficiary is claiming eligibility under this subpart for primary cancer of the esophagus, pharynx, pancreas, or liver, the claimant or eligible surviving beneficiary must submit, in addition to proof of the disease, all medical records listed below from any hospital, medical facility, or health care provider that were created within the period six (6) months before and six (6) months after the date of diagnosis of primary cancer of the esophagus, pharynx, pancreas, or liver:

(i) All history and physical examination reports;

(ii) All operative and consultation reports;

(iii) All pathology reports; and

(iv) All physician, hospital, and health care facility admission and discharge summaries.

(2) In the event that any of the records in paragraph (a)(1) of this section no longer exist, the claimant or eligible surviving beneficiary must submit a certified statement by the custodian(s) of those records to that effect.

(b) If the medical records listed in paragraph (a) of this section, or information possessed by the state cancer or tumor registries, reflects that the claimant was a heavy smoker or a heavy drinker or indicates the presence of hepatitis B and/or cirrhosis, the Radiation Exposure Compensation Unit will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit other written medical documentation or contemporaneous records in accordance with § 79.52(b) to establish that the claimant was not a heavy smoker or heavy drinker or that there was no indication of hepatitis B and/or cirrhosis.

(c) The Program may also require that the claimant or eligible surviving beneficiary provide additional medical records or other contemporaneous records and/or an authorization to release such additional medical and contemporaneous records as may be needed to make a determination regarding the indication of the presence of hepatitis B and/or cirrhosis and the claimant's history of smoking and alcohol consumption.

(d) If the custodian(s) of the records listed in paragraph (a) of this section and the records requested in accordance with paragraph (c) of this section certifies that a claimant's records no longer exist, and if the state cancer or tumor registries do not contain information concerning the claimant's history of smoking or alcohol-consumption, the Assistant Director may require that the claimant or eligible surviving beneficiary submit an affidavit (or declaration) made under penalty of perjury detailing the histories or lack thereof and, if the affiant (or declarant) is the eligible surviving beneficiary, the basis for such knowledge. This affidavit (or declaration) will be considered by the Assistant Director in making a determination concerning the claimant's history of smoking and alcohol consumption.

(e) * * *

6. Section 79.31 is amended by revising paragraphs (e) and (f) and the second sentence of paragraph (h), to read as follows:

§ 79.31 Definitions.

* * * * *

(e) *Non-smoker* means an individual who never smoked tobacco cigarette products or who smoked less than the amount defined in paragraph (f) of this section and includes an individual who smoked at least one (1) pack year but whose acceptable documentation as set forth in § 79.37 establishes that he or she stopped smoking at least fifteen (15) years prior to the diagnosis of primary cancer of the lung, pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to fibrosis of the lung, or moderate or severe silicosis or pneumoconiosis, and that he or she did not resume smoking at any time thereafter.

(f) *Smoker* means an individual who has smoked at least one (1) pack year of cigarette products, and who is not deemed a non-smoker by virtue of paragraph (e) of this section.

* * * * *

(h) * * * The term includes cancers *in situ*.

* * * * *

8. Section 79.36 is amended by revising the first sentence of paragraph (a), revising paragraph (d)(1)(ii), and adding new paragraph (e) to read as follows:

§ 79.36 Proof of non-malignant respiratory disease.

(a) Written medical documentation is required in all cases to prove that the claimant developed a non-malignant respiratory disease. * * *

* * * * *

(d) * * *

(1) * * *

(i) * * *

(ii) If the claimant is alive, (A) One of the following:

(*1*) *Chest x-rays and two "B" reader interpretations.* A chest x-ray administered in accordance with standard techniques on full size film at quality 1 or 2, and interpretative reports of the x-ray by two certified "B" readers classifying the existence of fibrosis of category 1/0 or higher according to the ILO 1980, or subsequent revisions; or

(*2*) *Pathology reports of tissue biopsies.* A pathology report of a tissue biopsy, but only if performed for medically justified reasons; and

(B) One or more of the following:

(*1*) *Pulmonary function tests.* Pulmonary function tests consisting of three tracings recording the results of the forced expiratory volume in one second (FEV1) and the forced vital capacity (FVC) administered and reported in accordance with the Standardization of Spirometry—1987 Update by the American Thoracic Society, and reflecting values for FEV1 or FVC that are less than or equal to 80% of the predicted value for an individual of the claimant's age, sex, and height, as set forth in the Tables in Appendix A; or

(*2*) *Arterial blood-gas studies.* An arterial blood-gas study administered at rest in a sitting position, or an exercise arterial blood-gas test, reflecting values equal to or less than the values set forth in the Tables in Appendix B of this part.

* * * * *

(e) The Radiation Exposure Compensation Unit may seek qualified medical review of "B" reader interpretations or pathology reports of tissue biopsies submitted by a claimant or eligible surviving beneficiary or obtain additional "B" reader interpretations or pathology reports of tissue biopsies at any time to ensure that appropriate weight is given to this evidence and to guarantee uniformity

and reliability. This review may include obtaining additional chest x-ray interpretations and additional pathology reports of tissue biopsies.

9. Section 79.37 is amended by revising the section heading, revising paragraphs (a) and (b), and adding new paragraphs (c) and (d) to read as follows:

§ 79.37 Proof of non-smoker and diagnosis prior to age 45.

(a)(1) In order to prove a history of non-smoking for purposes of § 79.32(c)(1), and/or diagnosis of a compensable disease prior to age 45 for purposes of § 79.32(c)(2)(i), the claimant or eligible surviving beneficiary must submit all medical records listed in this paragraph (a)(1) from any hospital, medical facility, or health care provider that were created within the period six (6) months before and six (6) months after the date of diagnosis of primary lung cancer or a compensable nonmalignant respiratory disease:

(i) All history and physical examination reports;

(ii) All operative and consultation reports;

(iii) All pathology reports;

(iv) All physician, hospital, and health care facility admission and discharge summaries.

(2) In the event that any of the records in paragraph (a)(1) no longer exist, the claimant or eligible surviving beneficiary must submit a certified statement by the custodian(s) of those records to that effect.

(b) If, after a review of the records listed in paragraph (a) of this section, and/or the information possessed by the PHS, NIOSH, state cancer or tumor registries, state authorities, or the custodian of a federally supported health-related study, the Assistant Director finds that the claimant was a smoker, and/or that the claimant was diagnosed with a compensable disease after age 45, the Unit will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit other written medical documentation in accordance with § 79.52(b) to establish that the claimant was a non-smoker and/or was diagnosed with a compensable disease prior to age 45.

(c) The Unit may also require that the claimant or eligible surviving beneficiary provide additional medical records or other contemporaneous records and/or an authorization to release such additional medical and contemporaneous records as may be needed to make a determination regarding the claimant's smoking history and/or age at diagnosis with a compensable disease.

(d) If the custodian(s) of the records listed in paragraph (a) of this section and the records requested in accordance with paragraph (c) of this section certifies that a claimant's records no longer exist, and information possessed by the PHS, NIOSH, state cancer or tumor registries, state authorities, or the custodian of a federally supported health-related study do not contain information pertaining to the claimant's smoking history, the Assistant Director may require that the claimant or eligible surviving beneficiary submit an affidavit (or declaration) made under penalty of perjury detailing the claimant's smoking history or lack thereof and, if the affiant (or declarant) is the eligible surviving beneficiary, the basis for such knowledge. This affidavit (or declaration) will be considered by the Assistant Director in making a determination concerning the claimant's history of smoking.

10. In § 79.51, paragraph (j) is amended by revising paragraphs (j)(3) and (j)(4), adding paragraph (j)(5) and adding a sentence at the end of the concluding text to read as follows:

§ 79.51 Filing of claims.

* * * * *

(j) * * *

(3) Onsite participation in a nuclear test,

(4) Exposure to a defined minimum level of radiation in a uranium mine or mines during a designated time period, or

(5) The identity of the claimant and/or surviving beneficiary.

* * * Claims filed prior to April 21, 1999 will not be included in determining the number of claims filed.

11. In § 79.55, paragraphs (d)(1)(i) and (d)(1)(ii) are revised to read as follows:

§ 79.55 Procedures for payment of claims.

* * * * *

(d) * * *

(1) * * *

(i) Any disability payments or compensation benefits paid to the claimant and his/her dependents while the claimant is alive; and

(ii) Any Dependency and Indemnity Compensation payments made to survivors due to death related to the illness for which the claim under the Act is submitted.

* * * * *

12. Appendix A to Part 79 is revised to read as follows:

Appendix A to Part 79—Pulmonary Function Tables

TABLE 1.—MALES FVC

[80% of Predicted; Knudson 1983]

Ht.	Age										
	35	37	39	41	43	45	47	49	51	53	55
56.0	1.74	1.70	1.65	1.60	1.55	1.51	1.46	1.41	1.36	1.32	1.27
56.5	1.83	1.78	1.73	1.69	1.64	1.59	1.54	1.50	1.45	1.40	1.35
57.0	1.92	1.87	1.82	1.77	1.72	1.68	1.63	1.58	1.53	1.49	1.44
57.5	2.00	1.95	1.91	1.86	1.81	1.76	1.72	1.67	1.62	1.57	1.52
58.0	2.09	2.04	1.99	1.94	1.90	1.85	1.80	1.75	1.71	1.66	1.61
58.5	2.17	2.13	2.08	2.03	1.98	1.93	1.89	1.84	1.79	1.74	1.70
59.0	2.26	2.21	2.16	2.12	2.07	2.02	1.97	1.92	1.88	1.83	1.78
59.5	2.34	2.30	2.25	2.20	2.15	2.11	2.06	2.01	1.96	1.92	1.87
60.0	2.43	2.38	2.33	2.29	2.24	2.19	2.14	2.10	2.05	2.00	1.95
60.5	2.52	2.47	2.42	2.37	2.33	2.28	2.23	2.18	2.13	2.09	2.04
61.0	2.60	2.55	2.51	2.46	2.41	2.36	2.32	2.27	2.22	2.17	2.12
61.5	2.69	2.64	2.59	2.54	2.50	2.45	2.40	2.35	2.31	2.26	2.21
62.0	2.77	2.73	2.68	2.63	2.58	2.53	2.49	2.44	2.39	2.34	2.30
62.5	2.86	2.81	2.76	2.72	2.67	2.62	2.57	2.53	2.48	2.43	2.38
63.0	2.94	2.90	2.85	2.80	2.75	2.71	2.66	2.61	2.56	2.52	2.47
63.5	3.03	2.98	2.94	2.89	2.84	2.79	2.74	2.70	2.65	2.60	2.55
64.0	3.12	3.07	3.02	2.97	2.93	2.88	2.83	2.78	2.73	2.69	2.64
64.5	3.20	3.15	3.11	3.06	3.01	2.96	2.92	2.87	2.82	2.77	2.73
65.0											
65.5											
66.0											
66.5											
67.0											
67.5											
68.0											
68.5											
69.0											
69.5											
70.0											
70.5											
71.0											
71.5											
72.0											
72.5											
73.0											
73.5											
74.0											
74.5											
75.0											
75.5											
76.0											
76.5											
77.0											
77.5											
78.0											
78.5											
79.0											
79.5											
80.0											
80.5											
81.0											
81.5											
82.0											
82.5											
83.0											
83.5											
84.0											
84.5											
85.0											

TABLE 1.—MALES FVC—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age										
	35	37	39	41	43	45	47	49	51	53	55
65.0	3.29	3.24	3.19	3.14	3.10	3.05	3.00	2.95	2.91	2.86	2.81
65.5	3.37	3.33	3.28	3.23	3.18	3.14	3.09	3.04	2.99	2.94	2.90
66.0	3.46	3.41	3.36	3.32	3.27	3.22	3.17	3.13	3.08	3.03	2.98
66.5	3.54	3.50	3.45	3.40	3.35	3.31	3.26	3.21	3.16	3.12	3.07
67.0	3.63	3.58	3.54	3.49	3.44	3.39	3.34	3.30	3.25	3.20	3.15
67.5	3.72	3.67	3.62	3.57	3.53	3.48	3.43	3.38	3.34	3.29	3.24
68.0	3.80	3.75	3.71	3.66	3.61	3.56	3.52	3.47	3.42	3.37	3.33
68.5	3.89	3.84	3.79	3.74	3.70	3.65	3.60	3.55	3.51	3.46	3.41
69.0	3.97	3.93	3.88	3.83	3.78	3.74	3.69	3.64	3.59	3.54	3.50
69.5	4.06	4.01	3.96	3.92	3.87	3.82	3.77	3.73	3.68	3.63	3.58
70.0	4.15	4.10	4.05	4.00	3.95	3.91	3.86	3.81	3.76	3.72	3.67
70.5	4.23	4.18	4.14	4.09	4.04	3.99	3.94	3.90	3.85	3.80	3.75
71.0	4.32	4.27	4.22	4.17	4.13	4.08	4.03	3.98	3.94	3.89	3.84
71.5	4.40	4.35	4.31	4.26	4.21	4.16	4.12	4.07	4.02	3.97	3.93
72.0	4.49	4.44	4.39	4.35	4.30	4.25	4.20	4.15	4.11	4.06	4.01
72.5	4.57	4.53	4.48	4.43	4.38	4.34	4.29	4.24	4.19	4.14	4.10
73.0	4.66	4.61	4.56	4.52	4.47	4.42	4.37	4.33	4.28	4.23	4.18
73.5	4.75	4.70	4.65	4.60	4.55	4.51	4.46	4.41	4.36	4.32	4.27
74.0	4.83	4.78	4.74	4.69	4.64	4.59	4.55	4.50	4.45	4.40	4.35
74.5	4.92	4.87	4.82	4.77	4.73	4.68	4.63	4.58	4.54	4.49	4.44
75.0	5.00	4.96	4.91	4.86	4.81	4.76	4.72	4.67	4.62	4.57	4.53
75.5	5.09	5.04	4.99	4.95	4.90	4.85	4.80	4.75	4.71	4.66	4.61
76.0	5.17	5.13	5.08	5.03	4.98	4.94	4.89	4.84	4.79	4.75	4.70
76.5	5.26	5.21	5.16	5.12	5.07	5.02	4.97	4.93	4.88	4.83	4.78
77.0	5.35	5.30	5.25	5.20	5.16	5.11	5.06	5.01	4.96	4.92	4.87
77.5	5.43	5.38	5.34	5.29	5.24	5.19	5.15	5.10	5.05	5.00	4.95
78.0	5.52	5.47	5.42	5.37	5.33	5.28	5.23	5.18	5.14	5.09	5.04
78.5	5.60	5.56	5.51	5.46	5.41	5.36	5.32	5.27	5.22	5.17	5.13
79.0	5.69	5.64	5.59	5.55	5.50	5.45	5.40	5.35	5.31	5.26	5.21
79.5	5.77	5.73	5.68	5.63	5.58	5.54	5.49	5.44	5.39	5.35	5.30
80.0	5.86	5.81	5.76	5.72	5.67	5.62	5.57	5.53	5.48	5.43	5.38
80.5	5.95	5.90	5.85	5.80	5.76	5.71	5.66	5.61	5.56	5.52	5.47
81.0	6.03	5.98	5.94	5.89	5.84	5.79	5.75	5.70	5.65	5.60	5.55
81.5	6.12	6.07	6.02	5.97	5.93	5.88	5.83	5.78	5.74	5.69	5.64
82.0	6.20	6.16	6.11	6.06	6.01	5.96	5.92	5.87	5.82	5.77	5.73
82.5	6.29	6.24	6.19	6.15	6.10	6.05	6.00	5.96	5.91	5.86	5.81
83.0	6.37	6.33	6.28	6.23	6.18	6.14	6.09	6.04	5.99	5.95	5.90
83.5	6.46	6.41	6.37	6.32	6.27	6.22	6.17	6.13	6.08	6.03	5.98
84.0	6.55	6.50	6.45	6.40	6.36	6.31	6.26	6.21	6.16	6.12	6.07
84.5	6.63	6.58	6.54	6.49	6.44	6.39	6.35	6.30	6.25	6.20	6.16
85.0	6.72	6.67	6.62	6.57	6.53	6.48	6.43	6.38	6.34	6.29	6.24

TABLE 1A.—MALES FVC

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
56.0	1.22	1.17	1.12	1.08	1.03	0.98	0.93	0.89	0.84	0.79
56.5	1.31	1.26	1.21	1.16	1.11	1.07	1.02	0.97	0.92	0.88
57.0	1.39	1.34	1.30	1.25	1.20	1.15	1.11	1.06	1.01	0.96
57.5	1.48	1.43	1.38	1.33	1.29	1.24	1.19	1.14	1.10	1.05
58.0	1.56	1.52	1.47	1.42	1.37	1.32	1.28	1.23	1.18	1.13
58.5	1.65	1.60	1.55	1.51	1.46	1.41	1.36	1.31	1.27	1.22
59.0	1.73	1.69	1.64	1.59	1.54	1.50	1.45	1.40	1.35	1.31
59.5	1.82	1.77	1.72	1.68	1.63	1.58	1.53	1.49	1.44	1.39
60.0	1.91	1.86	1.81	1.76	1.72	1.67	1.62	1.57	1.52	1.48
60.5	1.99	1.94	1.90	1.85	1.80	1.75	1.71	1.66	1.61	1.56
61.0	2.08	2.03	1.98	1.93	1.89	1.84	1.79	1.74	1.70	1.65
61.5	2.16	2.12	2.07	2.02	1.97	1.92	1.88	1.83	1.78	1.73
62.0	2.25	2.20	2.15	2.11	2.06	2.01	1.96	1.91	1.87	1.82
62.5	2.33	2.29	2.24	2.19	2.14	2.10	2.05	2.00	1.95	1.91
63.0	2.42	2.37	2.32	2.28	2.23	2.18	2.13	2.09	2.04	1.99
63.5	2.51	2.46	2.41	2.36	2.32	2.27	2.22	2.17	2.12	2.08
64.0	2.59	2.54	2.50	2.45	2.40	2.35	2.31	2.26	2.21	2.16
64.5	2.68	2.63	2.58	2.53	2.49	2.44	2.39	2.34	2.30	2.25
65.0	2.76	2.72	2.67	2.62	2.57	2.52	2.48	2.43	2.38	2.33

TABLE 1A.—MALES FVC—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
65.5	2.85	2.80	2.75	2.71	2.66	2.61	2.56	2.52	2.47	2.42
66.0	2.93	2.89	2.84	2.79	2.74	2.70	2.65	2.60	2.55	2.51
66.5	3.02	2.97	2.93	2.88	2.83	2.78	2.73	2.69	2.64	2.59
67.0	3.11	3.06	3.01	2.96	2.92	2.87	2.82	2.77	2.72	2.68
67.5	3.19	3.14	3.10	3.05	3.00	2.95	2.91	2.86	2.81	2.76
68.0	3.28	3.23	3.18	3.13	3.09	3.04	2.99	2.94	2.90	2.85
68.5	3.36	3.32	3.27	3.22	3.17	3.13	3.08	3.03	2.98	2.93
69.0	3.45	3.40	3.35	3.31	3.26	3.21	3.16	3.12	3.07	3.02
69.5	3.53	3.49	3.44	3.39	3.34	3.30	3.25	3.20	3.15	3.11
70.0	3.62	3.57	3.53	3.48	3.43	3.38	3.33	3.29	3.24	3.19
70.5	3.71	3.66	3.61	3.56	3.52	3.47	3.42	3.37	3.33	3.28
71.0	3.79	3.74	3.70	3.65	3.60	3.55	3.51	3.46	3.41	3.36
71.5	3.88	3.83	3.78	3.73	3.69	3.64	3.59	3.54	3.50	3.45
72.0	3.96	3.92	3.87	3.82	3.77	3.73	3.68	3.63	3.58	3.53
72.5	4.05	4.00	3.95	3.91	3.86	3.81	3.76	3.72	3.67	3.62
73.0	4.14	4.09	4.04	3.99	3.94	3.90	3.85	3.80	3.75	3.71
73.5	4.22	4.17	4.13	4.08	4.03	3.98	3.93	3.89	3.84	3.79
74.0	4.31	4.26	4.21	4.16	4.12	4.07	4.02	3.97	3.93	3.88
74.5	4.39	4.34	4.30	4.25	4.20	4.15	4.11	4.06	4.01	3.96
75.0	4.48	4.43	4.38	4.34	4.29	4.24	4.19	4.14	4.10	4.05
75.5	4.56	4.52	4.47	4.42	4.37	4.33	4.28	4.23	4.18	4.13
76.0	4.65	4.60	4.55	4.51	4.46	4.41	4.36	4.32	4.27	4.22
76.5	4.74	4.69	4.64	4.59	4.54	4.50	4.45	4.40	4.35	4.31
77.0	4.82	4.77	4.73	4.68	4.63	4.58	4.54	4.49	4.44	4.39
77.5	4.91	4.86	4.81	4.76	4.72	4.67	4.62	4.57	4.53	4.48
78.0	4.99	4.95	4.90	4.85	4.80	4.75	4.71	4.66	4.61	4.56
78.5	5.08	5.03	4.98	4.94	4.89	4.84	4.79	4.74	4.70	4.65
79.0	5.16	5.12	5.07	5.02	4.97	4.93	4.88	4.83	4.78	4.74
79.5	5.25	5.20	5.15	5.11	5.06	5.01	4.96	4.92	4.87	4.82
80.0	5.34	5.29	5.24	5.19	5.15	5.10	5.05	5.00	4.95	4.91
80.5	5.42	5.37	5.33	5.28	5.23	5.18	5.14	5.09	5.04	4.99
81.0	5.51	5.46	5.41	5.36	5.32	5.27	5.22	5.17	5.13	5.08
81.5	5.59	5.55	5.50	5.45	5.40	5.35	5.31	5.26	5.21	5.16
82.0	5.68	5.63	5.58	5.54	5.49	5.44	5.39	5.34	5.30	5.25
82.5	5.76	5.72	5.67	5.62	5.57	5.53	5.48	5.43	5.38	5.34
83.0	5.85	5.80	5.75	5.71	5.66	5.61	5.56	5.52	5.47	5.42
83.5	5.94	5.89	5.84	5.79	5.75	5.70	5.65	5.60	5.55	5.51
84.0	6.02	5.97	5.93	5.88	5.83	5.78	5.74	5.69	5.64	5.59
84.5	6.11	6.06	6.01	5.96	5.92	5.87	5.82	5.77	5.73	5.68
85.0	6.19	6.15	6.10	6.05	6.00	5.95	5.91	5.86	5.81	5.76

TABLE 2.—MALES FEV1

[80% of Predicted; Knudson 1983]

Ht.	Age										
	35	37	39	41	43	45	47	49	51	53	55
56.0	1.54	1.49	1.44	1.40	1.35	1.30	1.26	1.21	1.16	1.12	1.07
56.5	1.61	1.56	1.51	1.47	1.42	1.37	1.33	1.28	1.23	1.18	1.14
57.0	1.67	1.63	1.58	1.53	1.49	1.44	1.39	1.35	1.30	1.25	1.21
57.5	1.74	1.69	1.65	1.60	1.55	1.51	1.46	1.41	1.37	1.32	1.27
58.0	1.81	1.76	1.71	1.67	1.62	1.57	1.53	1.48	1.43	1.39	1.34
58.5	1.88	1.83	1.78	1.74	1.69	1.64	1.60	1.55	1.50	1.46	1.41
59.0	1.94	1.90	1.85	1.80	1.76	1.71	1.66	1.62	1.57	1.52	1.48
59.5	2.01	1.96	1.92	1.87	1.82	1.78	1.73	1.68	1.64	1.59	1.54
60.0	2.08	2.03	1.98	1.94	1.89	1.84	1.80	1.75	1.70	1.66	1.61
60.5	2.15	2.10	2.05	2.01	1.96	1.91	1.87	1.82	1.77	1.73	1.68
61.0	2.21	2.17	2.12	2.07	2.03	1.98	1.93	1.89	1.84	1.79	1.75
61.5	2.28	2.23	2.19	2.14	2.09	2.05	2.00	1.95	1.91	1.86	1.81
62.0	2.35	2.30	2.26	2.21	2.16	2.11	2.07	2.02	1.97	1.93	1.88
62.5	2.42	2.37	2.32	2.28	2.23	2.18	2.14	2.09	2.04	2.00	1.95
63.0	2.48	2.44	2.39	2.34	2.30	2.25	2.20	2.16	2.11	2.06	2.02
63.5	2.55	2.50	2.46	2.41	2.36	2.32	2.27	2.22	2.18	2.13	2.08
64.0	2.62	2.57	2.53	2.48	2.43	2.39	2.34	2.29	2.25	2.20	2.15
64.5	2.69	2.64	2.59	2.55	2.50	2.45	2.41	2.36	2.31	2.27	2.22
65.0	2.75	2.71	2.66	2.61	2.57	2.52	2.47	2.43	2.38	2.33	2.29
65.5	2.82	2.77	2.73	2.68	2.63	2.59	2.54	2.49	2.45	2.40	2.35

TABLE 2.—MALES FEV1—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age										
	35	37	39	41	43	45	47	49	51	53	55
66.0	2.89	2.84	2.80	2.75	2.70	2.66	2.61	2.56	2.52	2.47	2.42
66.5	2.96	2.91	2.86	2.82	2.77	2.72	2.68	2.63	2.58	2.54	2.49
67.0	3.02	2.98	2.93	2.88	2.84	2.79	2.74	2.70	2.65	2.60	2.56
67.5	3.09	3.05	3.00	2.95	2.90	2.86	2.81	2.76	2.72	2.67	2.62
68.0	3.16	3.11	3.07	3.02	2.97	2.93	2.88	2.83	2.79	2.74	2.69
68.5	3.23	3.18	3.13	3.09	3.04	2.99	2.95	2.90	2.85	2.81	2.76
69.0	3.29	3.25	3.20	3.15	3.11	3.06	3.01	2.97	2.92	2.87	2.83
69.5	3.36	3.32	3.27	3.22	3.18	3.13	3.08	3.03	2.99	2.94	2.89
70.0	3.43	3.38	3.34	3.29	3.24	3.20	3.15	3.10	3.06	3.01	2.96
70.5	3.50	3.45	3.40	3.36	3.31	3.26	3.22	3.17	3.12	3.08	3.03
71.0	3.56	3.52	3.47	3.42	3.38	3.33	3.28	3.24	3.19	3.14	3.10
71.5	3.63	3.59	3.54	3.49	3.45	3.40	3.35	3.31	3.26	3.21	3.17
72.0	3.70	3.65	3.61	3.56	3.51	3.47	3.42	3.37	3.33	3.28	3.23
72.5	3.77	3.72	3.67	3.63	3.58	3.53	3.49	3.44	3.39	3.35	3.30
73.0	3.83	3.79	3.74	3.69	3.65	3.60	3.55	3.51	3.46	3.41	3.37
73.5	3.90	3.86	3.81	3.76	3.72	3.67	3.62	3.58	3.53	3.48	3.44
74.0	3.97	3.92	3.88	3.83	3.78	3.74	3.69	3.64	3.60	3.55	3.50
74.5	4.04	3.99	3.94	3.90	3.85	3.80	3.76	3.71	3.66	3.62	3.57
75.0	4.11	4.06	4.01	3.97	3.92	3.87	3.82	3.78	3.73	3.68	3.64
75.5	4.17	4.13	4.08	4.03	3.99	3.94	3.89	3.85	3.80	3.75	3.71
76.0	4.24	4.19	4.15	4.10	4.05	4.01	3.96	3.91	3.87	3.82	3.77
76.5	4.31	4.26	4.21	4.17	4.12	4.07	4.03	3.98	3.93	3.89	3.84
77.0	4.38	4.33	4.28	4.24	4.19	4.14	4.10	4.05	4.00	3.96	3.91
77.5	4.44	4.40	4.35	4.30	4.26	4.21	4.16	4.12	4.07	4.02	3.98
78.0	4.51	4.46	4.42	4.37	4.32	4.28	4.23	4.18	4.14	4.09	4.04
78.5	4.58	4.53	4.48	4.44	4.39	4.34	4.30	4.25	4.20	4.16	4.11
79.0	4.65	4.60	4.55	4.51	4.46	4.41	4.37	4.32	4.27	4.23	4.18
79.5	4.71	4.67	4.62	4.57	4.53	4.48	4.43	4.39	4.34	4.29	4.25
80.0	4.78	4.73	4.69	4.64	4.59	4.55	4.50	4.45	4.41	4.36	4.31
80.5	4.85	4.80	4.76	4.71	4.66	4.61	4.57	4.52	4.47	4.43	4.38
81.0	4.92	4.87	4.82	4.78	4.73	4.68	4.64	4.59	4.54	4.50	4.45
81.5	4.98	4.94	4.89	4.84	4.80	4.75	4.70	4.66	4.61	4.56	4.52
82.0	5.05	5.00	4.96	4.91	4.86	4.82	4.77	4.72	4.68	4.63	4.58
82.5	5.12	5.07	5.03	4.98	4.93	4.89	4.84	4.79	4.74	4.70	4.65
83.0	5.19	5.14	5.09	5.05	5.00	4.95	4.91	4.86	4.81	4.77	4.72
83.5	5.25	5.21	5.16	5.11	5.07	5.02	4.97	4.93	4.88	4.83	4.79
84.0	5.32	5.27	5.23	5.18	5.13	5.09	5.04	4.99	4.95	4.90	4.85
84.5	5.39	5.34	5.30	5.25	5.20	5.16	5.11	5.06	5.02	4.97	4.92
85.0	5.46	5.41	5.36	5.32	5.27	5.22	5.18	5.13	5.08	5.04	4.99

TABLE 2A.—MALES FEV1

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
56.0	1.02	0.98	0.93	0.88	0.84	0.79	0.74	0.70	0.65	0.60
56.5	1.09	1.04	1.00	0.95	0.90	0.86	0.81	0.76	0.72	0.67
57.0	1.16	1.11	1.07	1.02	0.97	0.93	0.88	0.83	0.79	0.74
57.5	1.23	1.18	1.13	1.09	1.04	0.99	0.95	0.90	0.85	0.81
58.0	1.29	1.25	1.20	1.15	1.11	1.06	1.01	0.97	0.92	0.87
58.5	1.36	1.31	1.27	1.22	1.17	1.13	1.08	1.03	0.99	0.94
59.0	1.43	1.38	1.34	1.29	1.24	1.20	1.15	1.10	1.06	1.01
59.5	1.50	1.45	1.40	1.36	1.31	1.26	1.22	1.17	1.12	1.08
60.0	1.56	1.52	1.47	1.42	1.38	1.33	1.28	1.24	1.19	1.14
60.5	1.63	1.59	1.54	1.49	1.45	1.40	1.35	1.30	1.26	1.21
61.0	1.70	1.65	1.62	1.56	1.51	1.47	1.42	1.37	1.33	1.28
61.5	1.77	1.72	1.67	1.63	1.58	1.53	1.49	1.44	1.39	1.35
62.0	1.83	1.79	1.74	1.69	1.65	1.60	1.55	1.51	1.46	1.41
62.5	1.90	1.86	1.81	1.76	1.72	1.67	1.62	1.58	1.53	1.48
63.0	1.97	1.92	1.88	1.83	1.78	1.74	1.69	1.64	1.60	1.55
63.5	2.04	1.99	1.94	1.90	1.85	1.80	1.76	1.71	1.66	1.62
64.0	2.10	2.06	2.01	1.96	1.92	1.87	1.82	1.78	1.73	1.68
64.5	2.17	2.13	2.08	2.03	1.99	1.94	1.89	1.85	1.80	1.75
65.0	2.24	2.19	2.15	2.10	2.05	2.01	1.96	1.91	1.87	1.82
65.5	2.31	2.26	2.21	2.17	2.12	2.07	2.03	1.98	1.93	1.89
66.0	2.38	2.33	2.28	2.24	2.19	2.14	2.09	2.05	2.00	1.95

TABLE 2A.—MALES FEV1—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
66.5	2.44	2.40	2.35	2.30	2.26	2.21	2.16	2.12	2.07	2.02
67.0	2.51	2.46	2.42	2.37	2.32	2.28	2.23	2.18	2.14	2.09
67.5	2.58	2.53	2.48	2.44	2.39	2.34	2.30	2.25	2.20	2.16
68.0	2.65	2.60	2.55	2.51	2.46	2.41	2.37	2.32	2.27	2.22
68.5	2.71	2.67	2.62	2.57	2.53	2.48	2.43	2.39	2.34	2.29
69.0	2.78	2.73	2.69	2.64	2.59	2.55	2.50	2.45	2.41	2.36
69.5	2.85	2.80	2.75	2.71	2.66	2.61	2.57	2.52	2.47	2.43
70.0	2.92	2.87	2.82	2.78	2.73	2.68	2.64	2.59	2.54	2.50
70.5	2.98	2.94	2.89	2.84	2.80	2.75	2.70	2.66	2.61	2.56
71.0	3.05	3.00	2.96	2.91	2.86	2.82	2.77	2.72	2.68	2.63
71.5	3.12	3.07	3.02	2.98	2.93	2.88	2.84	2.79	2.74	2.70
72.0	3.19	3.14	3.09	3.05	3.00	2.95	2.91	2.86	2.81	2.77
72.5	3.25	3.21	3.16	3.11	3.07	3.02	2.97	2.93	2.88	2.83
73.0	3.32	3.27	3.23	3.18	3.13	3.09	3.04	2.99	2.95	2.90
73.5	3.39	3.34	3.30	3.25	3.20	3.16	3.11	3.06	3.01	2.97
74.0	3.46	3.41	3.36	3.32	3.27	3.22	3.18	3.13	3.08	3.04
74.5	3.52	3.48	3.43	3.38	3.34	3.29	3.24	3.20	3.15	3.10
75.0	3.59	3.54	3.50	3.45	3.40	3.36	3.31	3.26	3.22	3.17
75.5	3.66	3.61	3.57	3.52	3.47	3.43	3.38	3.33	3.29	3.24
76.0	3.73	3.68	3.63	3.59	3.54	3.49	3.45	3.40	3.35	3.31
76.5	3.79	3.75	3.70	3.65	3.61	3.56	3.51	3.47	3.42	3.37
77.0	3.86	3.81	3.77	3.72	3.67	3.63	3.58	3.53	3.49	3.44
77.5	3.93	3.88	3.84	3.79	3.74	3.70	3.65	3.60	3.56	3.51
78.0	4.00	3.95	3.90	3.86	3.81	3.76	3.72	3.67	3.62	3.58
78.5	4.06	4.02	3.97	3.92	3.88	3.83	3.78	3.74	3.69	3.64
79.0	4.13	4.09	4.04	3.99	3.94	3.90	3.85	3.80	3.76	3.71
79.5	4.20	4.15	4.11	4.06	4.01	3.97	3.92	3.87	3.83	3.78
80.0	4.27	4.22	4.17	4.13	4.08	4.03	3.99	3.94	3.89	3.85
80.5	4.33	4.29	4.24	4.19	4.15	4.10	4.05	4.01	3.96	3.91
81.0	4.40	4.36	4.31	4.26	4.22	4.17	4.12	4.08	4.03	3.98
81.5	4.47	4.42	4.38	4.33	4.28	4.24	4.19	4.14	4.10	4.05
82.0	4.54	4.49	4.44	4.40	4.35	4.30	4.26	4.21	4.16	4.12
82.5	4.60	4.56	4.51	4.46	4.42	4.37	4.32	4.28	4.23	4.18
83.0	4.67	4.63	4.58	4.53	4.49	4.44	4.39	4.35	4.30	4.25
83.5	4.74	4.69	4.65	4.60	4.55	4.51	4.46	4.41	4.37	4.32
84.0	4.81	4.76	4.71	4.67	4.62	4.57	4.53	4.48	4.43	4.39
84.5	4.88	4.83	4.78	4.73	4.69	4.64	4.59	4.55	4.50	4.45
85.0	4.94	4.90	4.85	4.80	4.76	4.71	4.66	4.62	4.57	4.52

TABLE 3.—Females FVC

[80% of Predicted; Knudson 1983]

Ht.	Age									
	35	37	39	41	43	45	47	49	51	53	55
52.0	1.66	1.64	1.61	1.58	1.55	1.53	1.50	1.47	1.45	1.42	1.39
52.5	1.71	1.68	1.65	1.63	1.60	1.57	1.55	1.52	1.49	1.46	1.44
53.0	1.75	1.73	1.70	1.67	1.64	1.62	1.59	1.56	1.54	1.51	1.48
53.5	1.80	1.77	1.74	1.72	1.69	1.66	1.64	1.61	1.58	1.55	1.53
54.0	1.84	1.82	1.79	1.76	1.73	1.71	1.68	1.65	1.63	1.60	1.57
54.5	1.89	1.86	1.83	1.81	1.78	1.75	1.73	1.70	1.67	1.64	1.62
55.0	1.93	1.91	1.88	1.85	1.83	1.80	1.77	1.74	1.72	1.69	1.66
55.5	1.98	1.95	1.92	1.90	1.87	1.84	1.82	1.79	1.76	1.73	1.71
56.0	2.02	2.00	1.97	1.94	1.92	1.89	1.86	1.83	1.81	1.78	1.75
56.5	2.07	2.04	2.01	1.99	1.96	1.93	1.91	1.88	1.85	1.83	1.80
57.0	2.11	2.09	2.06	2.03	2.01	1.98	1.95	1.92	1.90	1.87	1.84
57.5	2.16	2.13	2.10	2.08	2.05	2.02	2.00	1.97	1.94	1.92	1.89
58.0	2.20	2.18	2.15	2.12	2.10	2.07	2.04	2.01	1.99	1.96	1.93
58.5	2.25	2.22	2.18	2.16	2.14	2.11	2.09	2.06	2.03	2.01	1.98
59.0	2.29	2.27	2.24	2.21	2.19	2.16	2.13	2.10	2.08	2.05	2.02
59.5	2.34	2.31	2.29	2.26	2.23	2.20	2.18	2.15	2.12	2.10	2.07
60.0	2.38	2.36	2.33	2.30	2.28	2.25	2.22	2.20	2.17	2.14	2.11
60.5	2.43	2.40	2.38	2.35	2.32	2.29	2.27	2.24	2.21	2.19	2.16
61.0	2.47	2.45	2.42	2.39	2.37	2.34	2.31	2.29	2.26	2.23	2.20
61.5	2.52	2.49	2.47	2.44	2.41	2.38	2.36	2.33	2.30	2.28	2.25
62.0	2.56	2.54	2.51	2.48	2.46	2.43	2.40	2.38	2.35	2.32	2.29
62.5	2.61	2.58	2.56	2.53	2.50	2.47	2.45	2.42	2.39	2.37	2.34

TABLE 3.—Females FVC—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age										
	35	37	39	41	43	45	47	49	51	53	55
63.0	2.65	2.63	2.60	2.57	2.55	2.52	2.49	2.47	2.44	2.41	2.38
63.5	2.70	2.67	2.65	2.62	2.59	2.56	2.54	2.51	2.48	2.46	2.43
64.0	2.75	2.72	2.69	2.66	2.64	2.61	2.58	2.56	2.53	2.50	2.47
64.5	2.79	2.76	2.74	2.71	2.68	2.66	2.63	2.60	2.57	2.55	2.52
65.0	2.84	2.81	2.78	2.75	2.73	2.70	2.67	2.65	2.62	2.59	2.56
65.5	2.88	2.85	2.83	2.80	2.77	2.75	2.72	2.69	2.66	2.64	2.61
66.0	2.93	2.90	2.87	2.84	2.82	2.79	2.76	2.74	2.71	2.68	2.66
66.5	2.97	2.94	2.92	2.89	2.86	2.84	2.81	2.78	2.75	2.73	2.70
67.0	3.02	2.99	2.96	2.93	2.91	2.88	2.85	2.83	2.80	2.77	2.75
67.5	3.06	3.03	3.01	2.98	2.95	2.93	2.90	2.87	2.84	2.82	2.79
68.0	3.11	3.08	3.05	3.02	3.00	2.97	2.94	2.92	2.89	2.86	2.84
68.5	3.15	3.12	3.10	3.07	3.04	3.02	2.99	2.96	2.93	2.91	2.88
69.0	3.20	3.17	3.14	3.12	3.09	3.06	3.03	3.01	2.98	2.95	2.93
69.5	3.24	3.21	3.19	3.16	3.13	3.11	3.08	3.05	3.03	3.00	2.97
70.0	3.29	3.26	3.23	3.21	3.18	3.15	3.12	3.10	3.07	3.04	3.02
70.5	3.33	3.30	3.28	3.25	3.22	3.20	3.17	3.14	3.12	3.09	3.06
71.0	3.38	3.35	3.32	3.30	3.27	3.24	3.21	3.19	3.16	3.13	3.11
71.5	3.42	3.39	3.37	3.34	3.31	3.29	3.26	3.23	3.21	3.18	3.15
72.0	3.47	3.44	3.41	3.39	3.36	3.33	3.30	3.28	3.25	3.22	3.20
72.5	3.51	3.49	3.46	3.43	3.40	3.38	3.35	3.32	3.30	3.27	3.24
73.0	3.56	3.53	3.50	3.48	3.45	3.42	3.39	3.37	3.34	3.31	3.29
73.5	3.60	3.58	3.55	3.52	3.49	3.47	3.44	3.41	3.39	3.36	3.33
74.0	3.65	3.62	3.59	3.57	3.54	3.51	3.49	3.46	3.43	3.40	3.38
74.5	3.69	3.67	3.64	3.61	3.58	3.56	3.53	3.50	3.48	3.45	3.42
75.0	3.74	3.71	3.68	3.66	3.63	3.60	3.58	3.55	3.52	3.49	3.47
75.5	3.78	3.76	3.73	3.70	3.67	3.65	3.62	3.59	3.57	3.54	3.51
76.0	3.83	3.80	3.77	3.75	3.72	3.69	3.67	3.64	3.61	3.58	3.56
76.5	3.87	3.85	3.82	3.79	3.76	3.74	3.71	3.68	3.66	3.63	3.60
77.0	3.92	3.89	3.86	3.84	3.81	3.78	3.76	3.73	3.70	3.67	3.65
77.5	3.96	3.94	3.91	3.88	3.85	3.83	3.80	3.77	3.75	3.72	3.69
78.0	4.01	3.98	3.95	3.93	3.90	3.87	3.85	3.82	3.79	3.76	3.74
78.5	4.05	4.03	4.00	3.97	3.95	3.92	3.89	3.86	3.84	3.81	3.78
79.0	4.10	4.07	4.04	4.02	3.99	3.96	3.94	3.91	3.88	3.86	3.83
79.5	4.14	4.12	4.09	4.06	4.04	4.01	3.98	3.95	3.93	3.90	3.87
80.0	4.19	4.16	4.13	4.11	4.08	4.05	4.03	4.00	3.97	3.95	3.92
80.5	4.23	4.21	4.18	4.15	4.13	4.10	4.07	4.04	4.02	3.99	3.96
81.0	4.28	4.25	4.22	4.20	4.17	4.14	4.12	4.09	4.06	4.04	4.01

TABLE 3A.—FEMALES FVC

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
52.0	1.37	1.34	1.31	1.28	1.26	1.23	1.20	1.47	1.43	1.38
52.5	1.41	1.38	1.36	1.33	1.30	1.27	1.25	1.51	1.46	1.41
53.0	1.46	1.43	1.40	1.37	1.35	1.32	1.29	1.54	1.49	1.44
53.5	1.50	1.47	1.45	1.42	1.39	1.37	1.34	1.57	1.52	1.48
54.0	1.55	1.52	1.49	1.46	1.44	1.41	1.38	1.60	1.55	1.51
54.5	1.59	1.56	1.54	1.51	1.48	1.46	1.43	1.63	1.59	1.54
55.0	1.64	1.61	1.58	1.55	1.53	1.50	1.47	1.67	1.62	1.57
55.5	1.68	1.65	1.63	1.60	1.57	1.55	1.52	1.70	1.65	1.60
56.0	1.73	1.70	1.67	1.64	1.62	1.59	1.56	1.73	1.68	1.63
56.5	1.77	1.74	1.72	1.69	1.66	1.64	1.61	1.76	1.71	1.67
57.0	1.82	1.79	1.76	1.74	1.71	1.68	1.65	1.79	1.75	1.70
57.5	1.86	1.83	1.81	1.78	1.75	1.73	1.70	1.82	1.78	1.73
58.0	1.91	1.88	1.85	1.83	1.80	1.77	1.74	1.86	1.81	1.76
58.5	1.95	1.92	1.90	1.87	1.84	1.82	1.79	1.89	1.84	1.79
59.0	2.00	1.97	1.94	1.92	1.89	1.86	1.83	1.92	1.87	1.83
59.5	2.04	2.01	1.99	1.96	1.93	1.91	1.88	1.95	1.90	1.86
60.0	2.09	2.06	2.03	2.01	1.98	1.95	1.92	1.98	1.94	1.89
60.5	2.13	2.10	2.08	2.05	2.02	2.00	1.97	2.02	1.97	1.92
61.0	2.18	2.15	2.12	2.10	2.07	2.04	2.01	2.05	2.00	1.95
61.5	2.22	2.20	2.17	2.14	2.11	2.09	2.06	2.08	2.03	1.98
62.0	2.27	2.24	2.21	2.19	2.16	2.13	2.11	2.11	2.06	2.02
62.5	2.31	2.29	2.26	2.23	2.20	2.18	2.15	2.14	2.10	2.05
63.0	2.36	2.33	2.30	2.28	2.25	2.22	2.20	2.17	2.13	2.08

TABLE 3A.—FEMALES FVC—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
63.5	2.40	2.38	2.35	2.32	2.29	2.27	2.24	2.21	2.16	2.11
64.0	2.45	2.42	2.39	2.37	2.34	2.31	2.29	2.24	2.19	2.14
64.5	2.49	2.47	2.44	2.41	2.38	2.36	2.33	2.27	2.22	2.18
65.0	2.54	2.51	2.48	2.46	2.43	2.40	2.38	2.30	2.25	2.21
65.5	2.58	2.56	2.53	2.50	2.47	2.45	2.42	2.33	2.29	2.24
66.0	2.63	2.60	2.57	2.55	2.52	2.49	2.47	2.37	2.32	2.27
66.5	2.67	2.65	2.62	2.59	2.57	2.54	2.51	2.40	2.35	2.30
67.0	2.72	2.69	2.66	2.64	2.61	2.58	2.56	2.43	2.38	2.33
67.5	2.76	2.74	2.71	2.68	2.66	2.63	2.60	2.46	2.41	2.37
68.0	2.81	2.78	2.75	2.73	2.70	2.67	2.65	2.49	2.45	2.40
68.5	2.85	2.83	2.80	2.77	2.75	2.72	2.69	2.52	2.48	2.43
69.0	2.90	2.87	2.84	2.82	2.79	2.76	2.74	2.56	2.51	2.46
69.5	2.94	2.92	2.89	2.86	2.84	2.81	2.78	2.59	2.54	2.49
70.0	2.99	2.96	2.93	2.91	2.88	2.85	2.83	2.62	2.57	2.52
70.5	3.03	3.01	2.98	2.95	2.93	2.90	2.87	2.65	2.60	2.56
71.0	3.08	3.05	3.03	3.00	2.97	2.94	2.92	2.68	2.64	2.59
71.5	3.12	3.10	3.07	3.04	3.02	2.99	2.96	2.72	2.67	2.62
72.0	3.17	3.14	3.12	3.09	3.06	3.03	3.01	2.75	2.70	2.65
72.5	3.21	3.19	3.16	3.13	3.11	3.08	3.05	2.78	2.73	2.68
73.0	3.26	3.23	3.21	3.18	3.15	3.12	3.10	2.81	2.76	2.72
73.5	3.30	3.28	3.25	3.22	3.20	3.17	3.14	2.84	2.79	2.75
74.0	3.35	3.32	3.30	3.27	3.24	3.21	3.19	2.87	2.83	2.78
74.5	3.40	3.37	3.34	3.31	3.29	3.26	3.23	2.91	2.86	2.81
75.0	3.44	3.41	3.39	3.36	3.33	3.30	3.28	2.94	2.89	2.84
75.5	3.49	3.46	3.43	3.40	3.38	3.35	3.32	2.97	2.92	2.87
76.0	3.53	3.50	3.48	3.45	3.42	3.40	3.37	3.00	2.95	2.91
76.5	3.58	3.55	3.52	3.49	3.47	3.44	3.41	3.03	2.99	2.94
77.0	3.62	3.59	3.57	3.54	3.51	3.49	3.46	3.06	3.02	2.97
77.5	3.67	3.64	3.61	3.58	3.56	3.53	3.50	3.10	3.05	3.00
78.0	3.71	3.68	3.66	3.63	3.60	3.58	3.55	3.13	3.08	3.03
78.5	3.76	3.73	3.70	3.67	3.65	3.62	3.59	3.16	3.11	3.07
79.0	3.80	3.77	3.75	3.72	3.69	3.67	3.64	3.19	3.14	3.10
79.5	3.85	3.82	3.79	3.77	3.74	3.71	3.68	3.22	3.18	3.13
80.0	3.89	3.86	3.84	3.81	3.78	3.76	3.73	3.26	3.21	3.16
80.5	3.94	3.91	3.88	3.86	3.83	3.80	3.77	3.29	3.24	3.19
81.0	3.98	3.95	3.93	3.90	3.87	3.85	3.82	3.32	3.27	3.22

TABLE 4.—FEMALES FEV1

[80% of Predicted; Knudson 1983]

Ht.	Age									
	35	37	39	41	43	45	47	49	51	53	55
52.0	1.52	1.49	1.46	1.43	1.40	1.37	1.34	1.31	1.28	1.25	1.22
52.5	1.55	1.52	1.49	1.46	1.43	1.40	1.37	1.34	1.31	1.28	1.25
53.0	1.59	1.56	1.53	1.50	1.47	1.43	1.40	1.37	1.34	1.31	1.28
53.5	1.62	1.59	1.56	1.53	1.50	1.47	1.44	1.41	1.38	1.35	1.32
54.0	1.65	1.62	1.59	1.56	1.53	1.50	1.47	1.44	1.41	1.38	1.35
54.5	1.69	1.66	1.63	1.60	1.57	1.54	1.51	1.48	1.44	1.41	1.38
55.0	1.72	1.69	1.66	1.63	1.60	1.57	1.54	1.51	1.48	1.45	1.42
55.5	1.76	1.72	1.69	1.66	1.63	1.60	1.57	1.54	1.51	1.48	1.45
56.0	1.79	1.76	1.73	1.70	1.67	1.64	1.61	1.58	1.55	1.52	1.49
56.5	1.82	1.79	1.76	1.73	1.70	1.67	1.64	1.61	1.58	1.55	1.52
57.0	1.86	1.83	1.80	1.77	1.73	1.70	1.67	1.64	1.61	1.58	1.55
57.5	1.89	1.86	1.83	1.80	1.77	1.74	1.71	1.68	1.65	1.62	1.59
58.0	1.92	1.89	1.86	1.83	1.80	1.77	1.74	1.71	1.68	1.65	1.62
58.5	1.96	1.93	1.90	1.87	1.84	1.81	1.78	1.74	1.71	1.68	1.65
59.0	1.99	1.96	1.93	1.90	1.87	1.84	1.81	1.78	1.75	1.72	1.69
59.5	2.03	1.99	1.96	1.93	1.90	1.87	1.84	1.81	1.78	1.75	1.72
60.0	2.06	2.03	2.00	1.97	1.94	1.91	1.88	1.85	1.82	1.79	1.75
60.5	2.09	2.06	2.03	2.00	1.97	1.94	1.91	1.88	1.85	1.82	1.79
61.0	2.13	2.10	2.07	2.04	2.00	1.97	1.94	1.91	1.88	1.85	1.82
61.5	2.16	2.13	2.10	2.07	2.04	2.01	1.98	1.95	1.92	1.89	1.86
62.0	2.19	2.16	2.13	2.10	2.07	2.04	2.01	1.98	1.95	1.92	1.89
62.5	2.23	2.20	2.17	2.14	2.11	2.08	2.05	2.01	1.98	1.95	1.92
63.0	2.26	2.23	2.20	2.17	2.14	2.11	2.08	2.05	2.02	1.99	1.96
63.5	2.30	2.26	2.23	2.20	2.17	2.14	2.11	2.08	2.05	2.02	1.99

TABLE 4.—FEMALES FEV1—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age										
	35	37	39	41	43	45	47	49	51	53	55
64.0	2.33	2.30	2.27	2.24	2.21	2.18	2.15	2.12	2.09	2.06	2.02
64.5	2.36	2.33	2.30	2.27	2.24	2.21	2.18	2.15	2.12	2.09	2.06
65.0	2.40	2.37	2.34	2.31	2.27	2.24	2.21	2.18	2.15	2.12	2.09
65.5	2.43	2.40	2.37	2.34	2.31	2.28	2.25	2.22	2.19	2.16	2.13
66.0	2.46	2.43	2.40	2.37	2.34	2.31	2.28	2.25	2.22	2.19	2.16
66.5	2.50	2.47	2.44	2.41	2.38	2.35	2.32	2.28	2.25	2.22	2.19
67.0	2.53	2.50	2.47	2.44	2.41	2.38	2.35	2.32	2.29	2.26	2.23
67.5	2.56	2.53	2.50	2.47	2.44	2.41	2.38	2.35	2.32	2.29	2.26
68.0	2.60	2.57	2.54	2.51	2.48	2.45	2.42	2.39	2.36	2.33	2.29
68.5	2.63	2.60	2.57	2.54	2.51	2.48	2.45	2.42	2.39	2.36	2.33
69.0	2.67	2.64	2.61	2.57	2.54	2.51	2.48	2.45	2.42	2.39	2.36
69.5	2.70	2.67	2.64	2.61	2.58	2.55	2.52	2.49	2.46	2.43	2.40
70.0	2.73	2.70	2.67	2.64	2.61	2.58	2.55	2.52	2.49	2.46	2.43
70.5	2.77	2.74	2.71	2.68	2.65	2.62	2.58	2.55	2.52	2.49	2.46
71.0	2.80	2.77	2.74	2.71	2.68	2.65	2.62	2.59	2.56	2.53	2.50
71.5	2.83	2.80	2.77	2.74	2.71	2.68	2.65	2.62	2.59	2.56	2.53
72.0	2.87	2.84	2.81	2.78	2.75	2.72	2.69	2.66	2.63	2.59	2.56
72.5	2.90	2.87	2.84	2.81	2.78	2.75	2.72	2.69	2.66	2.63	2.60
73.0	2.94	2.91	2.88	2.84	2.81	2.78	2.75	2.72	2.69	2.66	2.63
73.5	2.97	2.94	2.91	2.88	2.85	2.82	2.79	2.76	2.73	2.70	2.67
74.0	3.00	2.97	2.94	2.91	2.88	2.85	2.82	2.79	2.76	2.73	2.70
74.5	3.04	3.01	2.98	2.95	2.92	2.89	2.85	2.82	2.79	2.76	2.73
75.0	3.07	3.04	3.01	2.98	2.95	2.92	2.89	2.86	2.83	2.80	2.77
75.5	3.10	3.07	3.04	3.01	2.98	2.95	2.92	2.89	2.86	2.83	2.80
76.0	3.14	3.11	3.08	3.05	3.02	2.99	2.96	2.93	2.90	2.86	2.83
76.5	3.17	3.14	3.11	3.08	3.05	3.02	2.99	2.96	2.93	2.90	2.87
77.0	3.21	3.18	3.15	3.11	3.08	3.05	3.02	2.99	2.96	2.93	2.90
77.5	3.24	3.21	3.18	3.15	3.12	3.09	3.06	3.03	3.00	2.97	2.94
78.0	3.27	3.24	3.21	3.18	3.15	3.12	3.09	3.06	3.03	3.00	2.97
78.5	3.31	3.28	3.25	3.22	3.19	3.15	3.12	3.09	3.06	3.03	3.00
79.0	3.34	3.31	3.28	3.25	3.22	3.19	3.16	3.13	3.10	3.07	3.04
79.5	3.37	3.34	3.31	3.28	3.25	3.22	3.19	3.16	3.13	3.10	3.07
80.0	3.41	3.38	3.35	3.32	3.29	3.26	3.23	3.20	3.16	3.13	3.10
80.5	3.44	3.41	3.38	3.35	3.32	3.29	3.26	3.23	3.20	3.17	3.14
81.0	3.48	3.45	3.41	3.38	3.35	3.32	3.29	3.26	3.23	3.20	3.17

TABLE 4A.—FEMALES FEV1

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
52.0	1.18	1.15	1.12	1.09	1.06	1.03	1.00	1.38	1.32	1.25
52.5	1.22	1.19	1.16	1.13	1.10	1.07	1.04	1.39	1.33	1.27
53.0	1.25	1.22	1.19	1.16	1.13	1.10	1.07	1.41	1.34	1.28
53.5	1.29	1.26	1.23	1.19	1.16	1.13	1.10	1.42	1.36	1.30
54.0	1.32	1.29	1.26	1.23	1.20	1.17	1.14	1.44	1.37	1.31
54.5	1.35	1.32	1.29	1.26	1.23	1.20	1.17	1.45	1.39	1.32
55.0	1.39	1.36	1.33	1.30	1.27	1.24	1.20	1.47	1.40	1.34
55.5	1.42	1.39	1.36	1.33	1.30	1.27	1.24	1.48	1.42	1.35
56.0	1.45	1.42	1.39	1.36	1.33	1.30	1.27	1.50	1.43	1.37
56.5	1.49	1.46	1.43	1.40	1.37	1.34	1.31	1.51	1.45	1.38
57.0	1.52	1.49	1.46	1.43	1.40	1.37	1.34	1.52	1.46	1.40
57.5	1.56	1.53	1.50	1.46	1.43	1.40	1.37	1.54	1.48	1.41
58.0	1.59	1.56	1.53	1.50	1.47	1.44	1.41	1.55	1.49	1.43
58.5	1.62	1.59	1.56	1.53	1.50	1.47	1.44	1.57	1.50	1.44
59.0	1.66	1.63	1.60	1.57	1.54	1.51	1.47	1.58	1.52	1.46
59.5	1.69	1.66	1.63	1.60	1.57	1.54	1.51	1.60	1.53	1.47
60.0	1.72	1.69	1.66	1.63	1.60	1.57	1.54	1.61	1.55	1.48
60.5	1.76	1.73	1.70	1.67	1.64	1.61	1.58	1.63	1.56	1.50
61.0	1.79	1.76	1.73	1.70	1.67	1.64	1.61	1.64	1.58	1.51
61.5	1.83	1.80	1.76	1.73	1.70	1.67	1.64	1.66	1.59	1.53
62.0	1.86	1.83	1.80	1.77	1.74	1.71	1.68	1.67	1.61	1.54
62.5	1.89	1.86	1.83	1.80	1.77	1.74	1.71	1.68	1.62	1.56
63.0	1.93	1.90	1.87	1.84	1.81	1.77	1.74	1.70	1.64	1.57
63.5	1.96	1.93	1.90	1.87	1.84	1.81	1.78	1.71	1.65	1.59
64.0	1.99	1.96	1.93	1.90	1.87	1.84	1.81	1.73	1.66	1.60

TABLE 4A.—FEMALES FEV1—Continued

[80% of Predicted; Knudson 1983]

Ht.	Age									
	57	59	61	63	65	67	69	71	73	75
64.5	2.03	2.00	1.97	1.94	1.91	1.88	1.85	1.74	1.68	1.62
65.0	2.06	2.03	2.00	1.97	1.94	1.91	1.88	1.76	1.69	1.63
65.5	2.10	2.07	2.03	2.00	1.97	1.94	1.91	1.77	1.71	1.64
66.0	2.13	2.10	2.07	2.04	2.01	1.98	1.95	1.79	1.72	1.66
66.5	2.16	2.13	2.10	2.07	2.04	2.01	1.98	1.80	1.74	1.67
67.0	2.20	2.17	2.14	2.11	2.08	2.04	2.01	1.82	1.75	1.69
67.5	2.23	2.20	2.17	2.14	2.11	2.08	2.05	1.83	1.77	1.70
68.0	2.26	2.23	2.20	2.17	2.14	2.11	2.08	1.84	1.78	1.72
68.5	2.30	2.27	2.24	2.21	2.18	2.15	2.12	1.86	1.80	1.73
69.0	2.33	2.30	2.27	2.24	2.21	2.18	2.15	1.87	1.81	1.75
69.5	2.37	2.34	2.30	2.27	2.24	2.21	2.18	1.89	1.82	1.76
70.0	2.40	2.37	2.34	2.31	2.28	2.25	2.22	1.90	1.84	1.78
70.5	2.43	2.40	2.37	2.34	2.31	2.28	2.25	1.92	1.85	1.79
71.0	2.47	2.44	2.41	2.38	2.35	2.31	2.28	1.93	1.87	1.80
71.5	2.50	2.47	2.44	2.41	2.38	2.35	2.32	1.95	1.88	1.82
72.0	2.53	2.50	2.47	2.44	2.41	2.38	2.35	1.96	1.90	1.83
72.5	2.57	2.54	2.51	2.48	2.45	2.42	2.39	1.97	1.91	1.85
73.0	2.60	2.57	2.54	2.51	2.48	2.45	2.42	1.99	1.93	1.86
73.5	2.64	2.60	2.57	2.54	2.51	2.48	2.45	2.00	1.94	1.88
74.0	2.67	2.64	2.61	2.58	2.55	2.52	2.49	2.02	1.95	1.89
74.5	2.70	2.67	2.64	2.61	2.58	2.55	2.52	2.03	1.97	1.91
75.0	2.74	2.71	2.68	2.65	2.61	2.58	2.55	2.05	1.98	1.92
75.5	2.77	2.74	2.71	2.68	2.65	2.62	2.59	2.06	2.00	1.93
76.0	2.80	2.77	2.74	2.71	2.68	2.65	2.62	2.08	2.01	1.95
76.5	2.84	2.81	2.78	2.75	2.72	2.69	2.66	2.09	2.03	1.96
77.0	2.87	2.84	2.81	2.78	2.75	2.72	2.69	2.11	2.04	1.98
77.5	2.91	2.87	2.84	2.81	2.78	2.75	2.72	2.12	2.06	1.99
78.0	2.94	2.91	2.88	2.85	2.82	2.79	2.76	2.13	2.07	2.01
78.5	2.97	2.94	2.91	2.88	2.85	2.82	2.79	2.15	2.09	2.02
79.0	3.01	2.98	2.95	2.92	2.88	2.85	2.82	2.16	2.10	2.04
79.5	3.04	3.01	2.98	2.95	2.92	2.89	2.86	2.18	2.11	2.05
80.0	3.07	3.04	3.01	2.98	2.95	2.92	2.89	2.19	2.13	2.07
80.5	3.11	3.08	3.05	3.02	2.99	2.96	2.93	2.21	2.14	2.08
81.0	3.14	3.11	3.08	3.05	3.02	2.99	2.96	2.22	2.16	2.09

Dated: March 11, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–6524 Filed 3–19–99; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Safety and Health Standards

CFR Correction

In Title 29 of the Code of Federal Regulations, parts 1910.1000 to End, revised as of July 1, 1998, § 1910.1052 is corrected by removing the second paragraph (g) appearing on pages 436 and 437.

[FR Doc. 99–55510 Filed 3–19–99; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–49

[FPMR Amdt. H–202]

RIN 3090–AG97

Change in Consumer Price Index Minimal Value

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: Pub. L. 95–105 requires that at 3-year intervals following January 1, 1981, minimal value be redefined by the Administrator of General Services, after consultation with the Secretary of State, to reflect changes in the Consumer Price Index for the immediately preceding 3-year period. The required consultation has been completed and the minimal value has been increased to mean $260 or less as of January 1, 1999.

EFFECTIVE DATE: This final rule is effective January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Caswell, Director, Personal Property Management Policy Division (202–501–3846).

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

The General Services Administration (GSA) has determined that this is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

B. Regulatory Flexibility Act

This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501–3520.

D. Small Business Regulatory Enforcement Reform Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of subjects in 41 CFR part 101–49

Government property management, Excess government property.

For the reasons set forth in the preamble, 41 CFR part 101–49 is amended as follows:

PART 101–49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

1. The authority citation for part 101–49 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

2. Section 101–49.001–5 is amended by revising the introductory text to read as follows:

§ 101–49.001–5 Minimal value.

Minimal value means a retail value in the United States at the time of acceptance of $260 or less, except that:

* * * * *

Dated: March 15, 1999.

David J. Barram,

Administrator of General Services.

[FR Doc. 99–6936 Filed 3–19–99; 8:45 am]

BILLING CODE 6820–34–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 96–128; FCC 99–7]

Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission

ACTION: Final rule; Petition for Reconsideration.

SUMMARY: This order implements pay phone compensation provisions of section 276 of the Telecommications Act of 1996. This Order responds to an order of the U.S. Court of Appeals for the DC. Circuit, which remanded certain compensation rules adopted by the Federal Communications Commission in the Second Report Order in CC Docket No. 96–128, FCC No. 97–371, 62 FR 58659 (October 30, 1997). This Order reduces from $.284 to $.240 the default per-call compensation that is owed by long distance carriers to pay phone providers for compensable calls originating from pay phones. This Order also addresses other issues relating to the Commission's rules implementing the pay phone provisions of the Telecommunications Act of 1996.

DATES: Effective April 21, 1999.

FOR FURTHER INFORMATION CONTACT: Glenn Reynolds, Enforcement Division, Common Carrier Bureau. (202) 418–0960.

SUPPLEMENTARY INFORMATION:

This is a summary of the Commission's Third Report and Order and Order on Reconsideration of the Second Report and Order (Third Report and Order) in CC Docket No. 96–128, adopted on January 28, 1999, and released on February 4, 1999. The full text of the Third Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington DC. The complete text of this decision may also be downloaded from the FCC's website, www.fcc.gov. The complete text may be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street NW, Washington DC. 20036, (202) 857–3800.

I. Introduction

1. In this proceeding, we continue our efforts to implement the requirements of section 276 of the Telecommunications Act of 1996 ("the 1996 Act"). Section 276 directs us to promulgate regulations that will achieve three basic policy objectives with respect to the provision of payphone services: (1) promoting a competitive payphone market; (2) ensuring the widespread deployment of payphones for the benefit of the general public; and (3) ensuring that providers of payphone services receive fair compensation for every call made using their payphones. The overarching goals of the 1996 Act further instruct us to establish these regulations in a pro-competitive, deregulatory framework that will open up telecommunications services to competitive forces nationwide. In this Order, we also respond specifically to issues remanded to us by the Court upon its review of the Commission's previous order.

A. The Commission's Prior Orders

2. In the prior orders in this proceeding, the Commission has fulfilled much of the congressional mandate embodied in section 276 by creating the structural groundwork necessary for competition to flourish in the provision of payphone services. *See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96–128, Notice of Proposed Rulemaking, 61 FR 31481 (June 20, 1996) (*NPRM*); Report and Order, 61 FR 52307 (October 7, 1996) (*First Report and Order*); Order on Reconsideration, 61 FR 65341 (December 12, 1996) (*First Report and Order on Reconsideration*) (together the *First Report and Order* and the *First Report and Order on Reconsideration* are referred to as the *Payphone Orders*). The *Payphone Orders* were affirmed in part and vacated in part. *See Illinois Public Telecomm. Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997) (*Illinois Public Telecomm.*). The Commission addressed the issues remanded by *Illinois Public Telecomm.* in the Second Report and Order, 62 FR 58659 (October 30, 1997) (*Second Report and Order*). The Second Report and Order was also appealed. On appeal, the Court remanded certain issues to the Commission. *See MCI Telecomm. Corp. et al. v. FCC*, 143 F.3d 606 (D.C. Cir. 1998) (*MCI v. FCC*). In addition to responding to those issues remanded by the Court, this Order also addresses issues raised by parties that petitioned us to reconsider various decisions made in the Second Report and Order.

3. Specifically, the Commission has eliminated implicit subsidies to payphones provided by local exchange carriers (LECs) that gave such companies an unfair competitive advantage compared to non-LEC payphone providers. Similarly, the Commission established non-structural safeguards to prevent Bell Operating Companies (BOCs) from discriminating in favor of their own payphones in the provision of local service, as well as other measures designed to place all providers of payphone services on an equal competitive footing. The Commission also deregulated the local coin rate for payphone calls to allow the competitive marketplace to set fair compensation for such calls. None of these actions is implicated by the steps we take in the instant order.

4. The Commission has adopted two prior orders aimed at balancing the policy objectives identified above. In these prior orders, the Commission gave primary importance to Congress's objective of establishing a market-based, deregulatory mechanism for payphone compensation, as required both in section 276 and the generally pro-competitive goals of the 1996 Act. The Commission recognized, however, that various statutory, technological, and economic factors inhibited the development of a fully deregulated means of providing fair compensation

for certain types of calls broadly referred to as "dial-around" calls for which payphone owners were largely uncompensated prior to the 1996 Act. Indeed, the Telephone Operator Consumer Services Improvement Act (TOCSIA) limits the ability of payphone service providers (PSPs) to negotiate with interexchange carriers (IXCs) fair compensation for dial-around calls. Unlike other aspects of payphone service, such as the local coin rate, the Commission accordingly found it necessary to adopt a more regulatory approach to ensuring that PSPs are fairly compensated for these types of calls.

5. By way of explanation, there are typically three types of calls made from payphones: local calls; long distance calls using the long distance carrier selected by the payphone owner (referred to as the "presubscribed carrier"); and so-called "dial-around" calls, where the caller makes a long distance call using a long distance carrier other than the payphone's presubscribed long distance carrier.

6. Payphone owners receive direct payment for providing the first two categories of calls. For example, a caller making a local call deposits coins (typically $.35) and is connected to the called party. That $.35 is paid directly to the payphone owner. A caller making long distance calls using the payphone's presubscribed long distance carrier dials the long distance number, and the payphone owner typically receives payment through its presubscribed carrier.

7. The third category, referred to as "dial-around" calls, consists of long distance calls that utilize a long distance carrier other than the payphone's presubscribed carrier. Generally, there are two types of dial-around calls. The first type is where a caller uses a code to access his preferred long distance carrier to make a long distance call, e.g., "1/800/CALL–AT&T" or "10–10–321." The second type of dial-around calls are known as "toll-free" calls, such as 1/800–FLOWERS. In this type of call, the flower company will pay (or "subscribes" to) a long distance carrier for a toll-free number that its customers can use to make long distance calls to the company. Similar to the caller who uses 1/800–CALL–ATT, the flower customer calling from a payphone is making a long distance call using a carrier other than the payphone's presubscribed long distance carrier. This Order addresses the question of how payphone owners should be compensated for "dial around" calls made from their payphones.

8. In its prior two orders, the Commission established a phased-in compensation mechanism to satisfy the statutory mandate to ensure that payphone owners are "fairly" compensated for these dial-around calls. The first phase of the compensation mechanism established a specific, per-call default compensation amount to be paid to a PSP to cover the cost of an access-code call or toll-free subscriber call in the absence of a negotiated agreement between the PSP and the carrier handling the call. In the Second Report and Order, the Commission calculated this default amount using what might be described as a "top-down" approach. That is, the Commission used the typical deregulated coin rate of $.35 as a starting point and subtracted net avoided cost differences between the provision of these coin calls and the provision of "dial-around" or compensable calls. The second phase used the same "top-down" methodology to determine a default amount but allowed the "starting point" to vary with the deregulated coin price at each individual payphone.

9. As detailed below, both of the Commission's orders establishing a mechanism for setting "fair compensation" for access code and toll-free calls were appealed. While upholding most of the other market-opening undertakings described above, the Court in both instances found fault with the Commission's efforts to tie "fair compensation" for these dial-around or compensable calls to the deregulated prices charged by PSPs for local coin calls. In particular, the Court, in its second remand order, found that the Commission failed to adequately articulate why the price of a local call is an appropriate starting point for deriving a regulated default price for "dial-around" or compensable calls. The Commission's main rationale for this approach was that it could be viewed as being fair in the sense that the margin between price and incremental cost would be the same for all types of calls. Thus all types of calls could be viewed as making the same contribution to covering joint and common costs. Thus our justification for choosing $.35 as a starting point was simply that it could be viewed as producing a "fair" result.

B. The 1996 Act and Market Constraints

10. In this Order, we must reevaluate the appropriate means by which to achieve the basic policy objectives expressly set out in section 276. In setting a default compensation amount, the present realizing any of these goals individually will not be the optimal means of satisfying one or more of the other goals. For example, the market for payphone services is characterized by increasing competitive pressures due, in part, to the market-opening directives of our previous orders in this proceeding. Additional pressures have arisen from payphone-market substitutes, i.e., the rapidly growing availability of Personal Communications Service (PCS) and cellular technology, which provides some consumers with an economic alternative to payphones. In a competitive payphone market, these factors certainly may lead to a reduction in the deployment of payphones in some areas, particularly in low-volume locations. Moreover, the number of payphones deployed across the country is inexorably related to our determination of a fair compensation amount, as we are directed to do by Congress. Simply stated, a higher default compensation amount will lead to the deployment of more payphones, and a lower default compensation amount will lead to fewer payphones, irrespective of which rate represents "fair compensation." Another example arises from the Congressional mandate that the Commission's compensation methodology be established on a "per call" basis. Because the overwhelming majority of a payphone's costs are fixed, a per call compensation plan results in the following anomaly: A payphone with a low number of calls, e.g., in a rural area where few calls are made from the phone, will just barely recover its costs. Under the same plan, a payphone with a high number of calls, e.g., a payphone in a busy bus station, will recover much more than its costs.

11. We place great weight on Congress's directive to ensure that payphones remain widely deployed and available to the public at large, in part, because we believe that, if we fail to adequately compensate payphone owners for dial-around or compensable calls, the first payphones likely to be eliminated are those payphones located where consumers have the fewest real alternatives, such as in rural areas that generate relatively fewer payphone calls and inner-city areas with low residential subscription rates. We also give primary importance to Congress's objective of widespread deployment because the public benefits from widespread deployment. Furthermore, the accomplishment of the remaining objectives necessarily flow from widespread deployment, e.g., to ensure widespread deployment, there must be fair compensation.

12. After considering the record before us and the opinions of the Court,

we conclude that the existing statutory, technological, and economic constraints identified in the Commission's prior orders prevent us at this time from relying upon deregulation to determine fair compensation for access-code and toll-free subscriber calls. Nothing in the record before us persuades us that we should reconsider our characterization of the competitiveness of the payphone market in the *First Report and Order*.

13. In contrast to the provision of local coin call service, however, the provision of access-code and toll-free call service is subject to statutory and technological restrictions that presently inhibit the ability of the parties to the transaction to reach a mutually agreeable price, or, alternatively, to decline to transact. In particular, Congress previously mandated in section 226 of the Act that PSPs must provide to consumers using their payphones access to all IXCs. As a result, PSPs have minimal leverage to negotiate with these IXCs for a fair compensation amount for delivering calls to the IXCs' networks. Indeed, this concern was one of the fundamental reasons why Congress adopted the compensation provisions of section 276. In its previous orders, the Commission sought to overcome this lack of bargaining power by establishing a system where the IXC could choose to "block," or not accept, calls if it determined that the price being demanded by the PSP was more than the IXC was willing to pay. We conclude in this Order, however, that the present ability of carriers to block is not sufficiently developed to ensure that allowing the default rate to float with the PSP's local coin rate will necessarily result in a compensation level that is "fair," as contemplated by the statute.

C. Summary of Our Actions in this Order

14. In this Order, we switch from the top-down methodology of our prior orders to a "bottom-up" methodology to establish the default per-call compensation amount that shall be paid to PSPs for compensable calls that are not otherwise compensated. We refer to the compensation amount as a "default amount" to emphasize that it applies only in the absence of some other price that may be negotiated between the payphone owner and the carrier. Pursuant to the bottom-up methodology adopted in this Order, we calculate an average fully distributed cost for each type of call such that the default price for each type of call is set equal to the fully distributed cost of that type of call. We call this a "bottom-up" approach to connote the idea that the price of dial-around or compensable calls is calculated by "building-up" from a starting point of zero using costs, instead of "building-down" from a starting point of the price of coin calls using avoided costs. In our explanation of the shift to a bottom-up methodology, we respond to the concerns of the Court in MCI v. FCC, which remanded the Commission's Second Report and Order.

15. We adjust the default per-call compensation amount for dial-around or compensable calls from $.284 to $.24. We make this adjustment both as a result of the new methodology we adopt and as a result of our resolution of the petitions for reconsideration of the Second Report and Order. Indeed, as detailed below, this reduction in the default amount is more the result of new, more accurate cost data submitted in connection with the petitions for reconsideration than due to the switch from a top-down to bottom-up calculation. In reaching the revised default amount, we consider the cost data submitted (1) for the Second Report and Order; (2) in connection with the petitions for reconsideration of the Second Report and Order; and (3) in response to our *Public Notice*. Also, we reconsider our treatment of the costs associated with the provision of compensable calls from payphones. The more-developed record assures us that our current calculation of a default compensation amount more accurately reflects the costs of providing payphone service than our previous efforts.

16. Because our bottom-up methodology assures fair compensation for the overwhelming majority of payphones, we conclude that the per-call compensation methodology that we adopt in this Order will not negatively affect the current deployment of payphones and thus will promote Congress's goal of widespread deployment of payphones. In particular, by using a "marginal" payphone location for purposes of calculating the default compensation amount, we have sought in this Order to ensure the continued deployment of existing payphones to the greatest practical extent. Furthermore, nothing in our Order affects or jeopardizes the states' ability to ensure that public interest payphone programs are viable and supported in an equitable and fair fashion. We therefore conclude that the per-call compensation methodology adopted herein is the best option available to implement section 276(b)(2) of the Act in light of existing technological, statutory, and economic constraints.

17. We believe that targeted call blocking ultimately will play a significant role in bridging the gap between Congress's and the Commission's goal of a deregulatory solution and the present state of payphone telephony. Should the parties that are the principal economic beneficiaries of the payphone market—the payphone providers, the IXCs, and the subscribers to toll-free lines—be unable or unwilling to resolve the technological issues regarding targeted call blocking, then their inaction may require us to move to a more regulatory approach. If, however, the parties are able to resolve these technological issues surrounding the availability of targeted call blocking, we believe that a move to a more market-based approach that would comply with both statutory obligations and the Court's concerns is foreseeable. We note that IXCs currently possess the technology and receive the coding digits necessary to implement a targeted call blocking mechanism.

18. Until such time, we will monitor the development of call blocking technology and act to ensure that the interests of the public as payphone users are adequately addressed. We emphasize that our finding concerning the current limitations of call blocking technology only restricts our ability to rely upon a carrier-pays system in which different payphones may charge different compensation amounts, such as would be the case in the final phase of the compensation mechanism established in the Commission's previous orders. As stated in those orders, the adoption of a fixed default compensation amount, as we do in this Order, is designed in part to address the existing technological limitations relating to call-blocking.

19. As of 30 days after publication of this Order in the **Federal Register**, IXCs must compensate PSPs the default per-call compensation amount for all compensable payphone calls not otherwise compensated pursuant to contract. For purposes of this Order, a compensable call includes toll-free calls, access-code calls, certain 0+, and certain inmate calls. The default per-call compensation amount shall be applicable through at least January 31, 2002. We anticipate that, by this time, the parties will have had the opportunity to resolve the impediments that currently inhibit the ability of payphone owners and carriers to negotiate fair compensation for dial-around calls. If, by January 31, 2002, parties have not invested the time, capital, and effort necessary to remove these technological impediments, or we determine that other impediments to a market-based resolution continue to exist, the parties may petition the

Commission regarding the default compensation amount, related issues pursuant to technological advances, and the expected resultant market changes. Barring an unforeseen change in the market or in the relevant technology, we will look with disfavor upon any petition requesting that we modify, before January 31, 2002, either the compensation amount or compensation mechanism. We find that it will require a significant amount of time for IXCs to fully implement and deploy the necessary technologies and that it is important to provide stability to the parties, the public, and the market concerning the amount of per-call compensation.

II. Discussion

A. Remand Issues

20. In this section, we respond to the Court's remand of the Commission's Second Report and Order. We explain our basis for deciding on the appropriate compensation methodology, in light of the statutory requirements of the Act, the underlying economic structure of payphone telephony, current technological constraints, and the Court's findings in MCI v. FCC.

21. We first define the scope of our compensation methodology by specifically identifying the calls that are compensable under our rules. We then explain the factors that guide our selection of a compensation methodology. Specifically, we define, for purposes of this Order, "fair compensation" in terms of the economic constructs of payphone telephony. Applying our definition of fair compensation within the confines of the Act's directives and the Court's findings in MCI v. FCC, we decline to adopt, for now, a top-down methodology to calculate the default compensation amount that uses the deregulated local coin rate as the starting point.

22. We then explain our return to the Commission's initial view that a bottom-up methodology should be used to establish a default compensation amount. We explain our finding that a bottom-up methodology is currently the most equitable means of ensuring fair compensation for PSPs in light of the very real statutory, technological, and economic constraints within which we must make our decision. We emphasize again that our preference would be to rely on a fully deregulated solution for setting compensation for coinless payphone calls. As we explain, however, we conclude that there is no such solution available to us that is workable at this time. Accordingly, we examine the most appropriate methodology for calculating the cost of providing the service. We conclude that a bottom-up cost calculation is most reliable in light of the Court's concerns in MCI v. FCC and our reexamination of the manner in which PSPs allocate joint and common costs between local coin calls and compensable calls. Finally, we set forth the manner in which we apply our bottom-up approach to establish a fair default compensation amount.

1. Definition of Compensable Call

23. As an initial matter, we specify the types of calls for which PSPs may receive the default per-call compensation amount that we establish in this Order. "Compensable calls" for purposes of this Order are calls from payphones for which the payphone owner cannot receive compensation from another source.

24. Section 276 specifically provides that PSPs are not entitled to compensation for 911 emergency and TRS calls. Consequently, when entering the payphone business, PSPs assume the legal obligation of allowing 911 emergency and TRS calls to be made from their payphones without receiving per-call compensation. The term "compensable call" applies, as does this rulemaking proceeding, to intrastate as well as interstate calls, by virtue of specific provisions of section 276(b)(1)(A).

25. Specifically, we establish for purposes of this Order that the term "compensable call" includes: (1) access-code calls; (2) toll-free calls; (3) certain 0+ calls (e.g., 0+ calls made from a payphone where the PSP serve as an aggregator); (4) certain 0-calls (e.g., 0- calls in states that, with FCC permission, prohibit blocking of such calls); (5) certain inmate calls; and (6) certain toll-free Government Emergency Telecommunications Systems (GETS) 710 calls. "Compensable calls," in the context of this Order, do not include: (1) coin calls or other calls, such as directory assistance calls, for which the payphone provider can otherwise charge; (2) presubscribed 0+ calls; and (3) 0-calls in states that do not prohibit blocking of 0-calls. We reiterate that, for purposes of this Order, calls that receive compensation from some other source, e.g., as part of an individual contract between a PSP and an IXC, are not entitled to per-call compensation under this Order.

2. Definition of Fair Compensation

26. In relevant part, section 276(b)(1)(A) requires that PSPs be "fairly compensated for each and every completed * * * call." Neither the statute nor the legislative history makes clear, however, what Congress meant by the phrase "fairly compensated." At the same time, section 276(b)(1) directs the Commission to achieve this goal in a manner that will "promote competition among PSPs and promote the widespread deployment of payphone services to the benefit of the general public." The legislative history again provides little guidance. It would appear, however, that section 276 was enacted, in part, in recognition of the limitation on the ability of PSPs and carriers to negotiate a mutually agreeable amount as a result of TOCSIA's prohibition on barring IXC-access calls by PSPs.

27. In light of the above, we find that PSPs will be fairly compensated if, at a minimum, we: (1) balance the interest of PSPs and those parties that will ultimately pay the default compensation amount; and (2) ensure that the default compensation amount is sufficient to support the continued widespread availability of payphones for use by consumers.

28. We recognize that, because most payphone costs are fixed and each type of call has a relatively small marginal cost, a wide range of compensation amounts may be considered "fair." As we discussed above, the vast majority of the costs of providing payphone service are fixed and common costs, and there is no one economically correct way to allocate such costs among the different types of calls that may be made from a payphone. Economic theory does suggest, however, that the costs of one service should not be cross-subsidized by another service. That is, consumers making one type of call, such as a local coin call, should not pay a higher amount to subsidize consumers that make other types of calls, such as dial-around or toll-free calls. In order to avoid a cross-subsidy between two such services that are provided over a common facility, each service must recover at least its incremental cost, and neither service should recover more than its stand-alone cost. Within these parameters, many different compensation amounts may be considered fair.

29. In its prior orders, the Commission defined "fair compensation" as the amount to which a willing seller (i.e., PSP) and a willing buyer (i.e., customer, or IXC) would agree to pay for the completion of a payphone call. In the Second Report and Order, the Commission, in establishing a default compensation amount, found that fair compensation required that dial-around calls contribute a proportionate share of the common costs of payphone service. We

continue to believe that this is an essential element of our determination of "fair compensation" in this context. We find that any other approach would unfairly require one segment of payphone users to disproportionately support the availability of payphones to the benefit of another segment of payphone users. Such subsidies distort competition and appear inconsistent with Congress's directive to eliminate other types of subsidies. The default compensation amount that we establish below seeks to ensure that the current number of payphones is maintained.

30. In light of the above considerations, we conclude that the default per-call compensation amount we establish should ensure that each call at a marginal payphone location recovers the marginal cost of that call plus a proportionate share of the joint and common costs of providing the payphone. We find such an approach satisfies the first condition set forth above of providing a per-call amount that is fair to both payphone owners and the beneficiaries of these calls (e.g., IXCs and toll-free subscribers). We believe that the $.24 compensation amount is fair, because it will allow PSPs to recover more than the marginal cost of providing payphone service for dial-around calls and thus contribute to the common costs of the payphone. We also find that basing this calculation on the marginal payphone location satisfies Congress's directive that we ensure the widespread deployment of payphones. As opposed to a calculation based on the average payphone location, use of a marginal payphone location should promote the continued existence of the vast majority of payphones. Thus, payphone owners will benefit because they will receive the compensation necessary to profitably provide service. Consumers and long distance carriers will benefit because payphones will remain widespread, which will ensure that consumers have ready access to make payphone calls using the long distance carrier of their choice.

3. Reconsideration of the Second Report and Order's Top-Down Methodology

31. In this section, we explain the Second Report and Order's compensation methodology that the Court remanded in MCI v. FCC and the manner in which the statutory constraints associated with TOCSIA and technological constraints limiting the availability of targeted call blocking affect the viability of such a compensation methodology. In light of these constraints, and mindful of the Court's findings in MCI v. FCC, we find that a compensation methodology based on the market rate for local coin calls currently will not ensure fair compensation for coinless calls from payphones. Additionally, upon reconsideration, we find that our prior assumption regarding recovery of joint and common costs was incorrect. This incorrect assumption undermines an important basis for a top-down methodology for determining the cost to PSPs of providing coinless calls, because such a methodology assigns an equal proportion of joint and common costs to both types of calls. Therefore, upon reconsideration, we conclude that a bottom-up approach is more appropriate than the top-down approach adopted in the Commission's previous orders, in which the Commission set the compensation amount for coinless calls from each payphone according to that payphone's deregulated local coin call rate. Although we do not adopt a top-down approach for calculating the compensation amount for coinless calls, we use a top-down calculation to test the reasonableness of our bottom-up calculation.

32. In the Second Report and Order, the Commission established a two-phase compensation system. Under the first phase, PSPs would receive, for a two-year period ending in October 1999, a default compensation amount of $.284 for each compensable call, absent an agreement between the PSP and IXC on a different rate. The Commission arrived at this figure by using a top-down approach for determining the costs to the PSP of making available coinless calls from their payphone. The Commission's top-down approach started with what the Commission determined was the most prevalent price of a deregulated local coin call (i.e., $.35). From this starting point, and consistent with the Commission's understanding of the Court's statements in *Illinois Public Telecomm.*, the Commission subtracted the costs of providing coin calls that are not incurred for providing coinless calls, an amount calculated to be $.066. Thus, for two years, an IXC would be required to pay the PSP $.284 for every compensable call.

33. The Second Report and Order required that, after October 1999, compensation for dial-around calls would be established by subtracting the net avoided costs of the dial-around call ($.066) from the deregulated local coin price charged by each payphone. Thus, under the second phase of the compensation system, compensation to PSPs for compensable calls would vary in relation to the local coin call price of the payphone being used.

34. In MCI v. FCC, the Court concluded that the Commission failed to adequately explain the underlying premise for the top-down approach in setting a default compensation amount. Specifically, the Court found that the Commission did not explain "why a market-based rate for coinless calls could be derived by subtracting costs from a rate charged for coin calls." The Court found that if "costs and rates depend on different factors, as they sometimes do, then [the Commission's] procedure would resemble subtracting apples from oranges." The Court posited that the Commission's conclusion might have depended on the premise that the market rate for coin calls generally reflects the cost of coin calls. Although the Court reasoned that such a premise could hold true in a competitive market in which costs and rates converge, the Court found that the Commission failed to explain its reliance on such a premise. The Court also cited the Commission's *First Report and Order*, in which, according to the Court, the Commission acknowledged that the coin call rate might potentially diverge from the cost of coin calls. Based on the finding that the Commission failed to adequately explain why the market-based method did not equate to "subtracting apples from oranges," the Court remanded the matter to the Commission.

a. TOCSIA and Targeted Call Blocking.

35. Because of TOCSIA and the present lack of targeted call blocking, we conclude that the compensation system established in the Second Report and Order is currently unworkable. First, under TOCSIA, the PSP (or seller) must connect (or sell) all calls to the IXC. Under the Commission's prior approach, and after the two-year phase-in period, each PSP would be allowed to set the price for compensable calls at whatever level it chose by raising or lowering the local coin rate at a particular payphone. Accordingly, the PSP would be able to receive a greater compensation amount by raising the local coin price. At a minimum, this relationship creates a non-cost based incentive on the part of the PSPs to raise the local coin rate from a payphone, not to make more money from coin calls but to increase the level of compensation from dial-around calls. In most instances, we believe that the ability of a PSP to raise its local rate in this manner will be constrained by competitive forces. As the Court pointed out, however, we also have previously recognized that locational monopolies allow PSPs to set some payphones' rates above cost. Additionally, where a

payphone generates few local coin calls relative to the number of coinless calls, e.g., a payphone located in an airport, linking the coinless rate to the coin rate potentially could create instances where a PSP seeks to maximize its total revenue by raising the local coin rate, even if doing so deterred customers from making coin calls. In this situation, a PSP may be able to more than offset lost revenues from local coin calls with the compensation it would receive from coinless calls.

36. Second, because the IXCs' current call-blocking technology only allows for an all-or-nothing approach to blocking dial-around calls from a payphone, the IXC (or buyer) is unable to choose whether or not to accept (or buy) a particular call. In other words, the IXC must either buy every call from every payphone, regardless of the amount it must compensate the PSP for the calls, or buy no payphone calls at all. In this scenario—where the seller must sell and the buyer must buy every call or none at all—market forces are rendered ineffective as a means of achieving an efficient price. We therefore conclude that a default compensation amount that varies according to the deregulated local coin price does not ensure a fair compensation level, unless carriers have some ability to reject a call based upon the compensation amount for that call. Parties contend that such call blocking technology presently is not readily available in the network and will take some time for carriers to implement.

37. In providing for a default compensation amount that was allowed to vary according to the deregulated local coin price, the Commission stated that, under deregulation, competitive pressures would constrain the amount PSPs could charge consumers for such calls. Similarly, in an unrestricted market where IXCs compensate payphone owners based on an amount that varies according to the local coin price, IXCs ideally should be able to decline calls from payphones they believe to be excessively priced. Without targeted call blocking, however, IXCs cannot do this. All-or-nothing call blocking may provide some downward pressure on high dial-around prices charged by PSPs, but it is insufficient to reach a wholly competitive outcome under the circumstances surrounding the Commission's previous compensation mechanism.

38. We note that the lack of targeted call blocking is a temporary phenomenon. The overwhelming majority of payphones are, or soon will be, on payphone lines that transmit the appropriate coding digits, as required in the Commission's prior orders in this proceeding. Therefore, the ability to develop targeted call blocking technology rests largely with the IXCs. We strongly encourage the IXCs to develop targeted call blocking. Targeted call blocking is an essential element to an IXC's ability to negotiate with PSPs in a true market setting.

39. As we stated above, we are aware that targeted call blocking is not the only problem that must be resolved in order to move to a deregulated resolution. Targeted call blocking is, however, a critical element to real-time, wide-spread negotiations between payphone owners and carriers. It is the threat that a PSP may have its dial-around calls blocked that brings PSPs and IXCs into equal bargaining positions. Because it is in the interests of both the PSP and the IXC to negotiate a mutually acceptable compensation amount, we do not desire, nor do we foresee the need for, the widespread use of targeted call blocking once the technology is implemented and deployed. We also note that, although the default compensation amount that we establish in this Order is reasonable and fair to all parties, an IXC that finds the default compensation amount to be excessive may help remedy that situation by developing targeted call blocking capability.

b. Recovery of Joint and Common Costs.

40. In establishing a compensation amount based on the price of a local call, the Commission in the Second Report and Order sought to equalize the contribution that each call made to the joint and common costs of each call. In adopting a top-down derivation of the coinless default compensation amount based on the price of a local coin call, the Commission assumed that PSPs set prices so that each type of call contributes an equal amount to joint and common costs. Upon reconsideration, and based upon the additional information in the record, we reassess the Commission's prior assumption regarding recovery of joint and common costs, finding that our assumption is not necessarily valid. This reassessment undermines an important basis for the Commission's top-down methodology.

41. We find insufficient evidence in the record to ascertain the method by which PSPs set prices for a various types of calls in order to recover the common costs of providing payphone service. The error in the Commission's assumption that each call contributes equally to joint and common costs may be demonstrated by examining the revenue that PSPs receive for 0+ and 1+ calls. Although coinless calls (such as 0+ calls) cost less than coin calls, some PSPs receive more than $.70 per 0+ call. This is more than twice as much as the prevailing $.35 local coin price. Also, the RBOC Coalition states that for many payphones, the 1+ sent-paid charges (i.e., the coin price for a long distance call) exceeds basic long distance charges by an average of $1.45 per call. Clearly, some PSPs do not price their calls such that each call makes an equal contribution to joint and common costs. Therefore, if our goal is to price dial-around calls such that they make a proportionate contribution to joint and common costs, we cannot do so by basing their price on the local coin calling price, because we do not know how individual PSPs price local coin calls in relation to the recovery of joint and common costs. Therefore, upon reconsideration, we find unreliable the assumption that PSPs set prices so that each call recovers an equal amount of joint and common costs.

c. MCI v. FCC.

42. Finally, in light of the Court's concerns regarding whether a market-based rate for coinless calls could be derived by subtracting costs from a rate charged for coin calls, we find that a top-down approach is unsuitable at present for setting default compensation. By using a bottom-up approach, we resolve the Court's concerns, because we focus on the costs of a dial-around call, rather than attempting to compare the rate and costs of a local coin call to the cost of a dial-around call. The Court's concerns in *MCI* v. *FCC* and the other factors discussed in this section persuade us that, at this time, a bottom-up compensation methodology is more appropriate than a top-down methodology.

5. Selection of a Bottom-Up Methodology

43. In light of existing technological, statutory, and economic constraints, we find that the most appropriate mechanism for establishing fair compensation is a bottom-up approach. We recognize that such a compensation mechanism does not replicate the price that the market would set for each and every call from a payphone, which, in an ideal setting, would be our preferred outcome. Under the constraints detailed previously, however, we conclude that a bottom-up approach will best comply with the statutory directive of ensuring the widespread deployment of payphones in a manner that is consistent with our definition of fair compensation.

44. In establishing a bottom-up approach, we considered three standard

economic approaches to setting prices, in addition to our review of the top-down methodology used in the *Second Report and Order*: (1) marginal cost pricing; (2) the RBOC Coalition's Ramsey's-style pricing; and (3) fully distributed cost coverage. As explained in Section IV.B. of the Order, we find that a fully distributed cost-coverage approach best fulfills our statutory directives within the economic, technological, and statutory constraints that currently exist. Specifically, we find that a fully distributed cost-coverage approach that determines cost by working from the bottom up will comport with statutory directives and satisfy the Court's concerns raised in *MCI* v. *FCC*. Furthermore, we find that, in keeping with Commission precedent arising from our implementation of the 1996 Act, payphone costs will be calculated on a forward-looking basis. Thus, in setting a default compensation amount using a fully distributed cost-coverage approach (our "bottom-up" methodology), we examine the costs of a new payphone operation installing new payphones.

45. As explained above, we find that "fair compensation" means that the marginal cost of compensable calls, plus an appropriate amount of the joint and common costs of the payphone operation, will be recovered for each compensable call. We conclude that a bottom-up methodology will provide fair compensation consistent with this standard. Thus, rather than focusing on the cost of adding one additional payphone to an operation, we instead examine the total costs of a payphone operation and distribute those costs across all of the payphones in that operation. We find that this approach results in a compensation amount that is fair to both payphone owners and the beneficiaries of these calls. We also conclude that establishing a compensation amount that allows a PSP to recover its costs will promote the continued existence of the vast majority of payphones presently deployed, thereby satisfying what we consider to be Congress's primary directive that we ensure the widespread deployment of payphones.

46. In this Order, we consider a cost to be "joint and common" if the amount of the cost does not vary with respect to the mixture of calls at the payphone. For example, the cost of a payphone's enclosure does not change due to an increase in the number of coin calls relative to coinless calls, or vice versa. We conclude, therefore, that the enclosure is a joint and common cost, and we attribute the enclosure costs to all types of calls. We attribute costs that are not joint and common to the type of call associated with that cost. For example, as the number of coin calls from a payphone increases, the coin collection costs also will rise due to the higher frequency of coin collection trips. We therefore attribute coin collection costs solely to coin calls.

47. As discussed above, we find that the use of a bottom-up approach also resolves the concern that PSPs do not necessarily price their various services such that each call recovers an equal share of joint and common costs. In the Second Report and Order, the Commission's goal was to set a compensation amount that would allow each call to recover its share of joint and common costs. The top-down approach, which subtracted the avoided costs of a compensable call from the price of the local coin call, assumed that each call would contribute equally to the joint and common cost. As explained above, we find that this assumption is not necessarily reliable, based on the manner in which PSPs price various calls. Under our bottom-up approach, however, that problem no longer is at issue. Under the bottom-up approach, we use the total monthly joint and common costs of the payphone operation and divide these costs by the total monthly number of calls from a marginal payphone location. This results in a per-call share of the joint and common costs. Thus, a bottom-up approach alleviates the problem of how to ensure that each call has the opportunity to recover its share of joint and common costs.

48. Our bottom-up approach also avoids the impact of the technological restrictions discussed previously that undermine our previous approach of allowing the default rate to change with the deregulated coin rate of each payphone. As explained above, in the bottom-up system we adopt herein, we have set a single amount for compensation, which we find fair and compensatory. IXCs do not need the ability to block calls from payphones based on a varying compensation amount because all payphones will use the same compensation amount, absent an agreement between the parties for some different level of compensation. Finally, our bottom-up approach alleviates the Court's concerns in MCI v. FCC stemming from the Commission's use of the local coin price as the starting point of compensation for dial-around calls. Under the bottom-up approach, we do not use the local coin price to determine the costs associated with a compensable call. Thus, we do not run afoul of the Court's concern that the Commission was "subtracting apples from oranges." Rather, we determine, each of the costs of the dial-around call and add them together, from the bottom up, to determine the per-call compensation amount.

49. Our default compensation amount is calculated to allow the payphone owner the opportunity to recover a proportionate share of joint and common costs associated with dial-around calls. Payphone owners may, of course, determine that contracting with IXCs to receive a lower amount will attract more dial-around traffic and thus increase their profits. Payphone owners also have the opportunity to set their own prices for non-compensable calls, e.g., coin calls and presubscribed calls, and may set the price for each type of call so that it covers the marginal cost plus a proportionate share of joint and common costs. This would allow a payphone in a marginal location the opportunity to recover all of its costs. Of course, a payphone owner may dismiss this pricing strategy in favor of an alternative strategy that may prove to be more profitable.

50. We note that our approach is not designed to make every payphone profitable. Payphones with sufficiently low call volumes or sufficiently high costs will not be profitable, regardless of the compensation amount we establish. We discuss in Section III.B.3.b. of the Order our selection of a marginal payphone location and our calculation of the number of calls from that location, important components of our calculation of the compensation amount.

51. Certain petitioners argue that we should use a marginal cost pricing approach, in which prices are set by considering the cost of producing one additional good. Others argue that we should use a Ramsey's-style pricing approach. We find that marginal cost pricing and the RBOC Coalition's Ramsey's-style pricing are ineffective in complying with our statutory goals. As explained elsewhere, however, we conclude that basing our determination of fair compensation on the marginal payphone is the approach most consistent with the statutory directive of ensuring widespread deployment of payphones.

52. Specifically, we reject marginal cost pricing for the same reasons given by the Commission in the *First Report and Order* and alluded to in Section III of the Order. That is, a purely incremental cost standard for dial-around calls would undercompensate PSPs for dial-around calls, because it would prevent PSPs from recovering a reasonable share of joint and common costs from those calls. Thus, the revenue

that would have been received from these calls would be subsidized by revenue from other types of calls, which, in and of itself, contradicts Congress's directive to eliminate subsidies and also distorts competition. Our bottom-up approach, however, adequately considers and accounts for the dial-around call's share of the joint and common costs. In Section III.B.2.c. of the Order, we reject the RBOC Coalition's version of Ramsey's-style pricing, in part, because the pricing methodology is extremely sensitive to small changes in input estimates. Furthermore, we find unreliable the input estimates provided by the RBOC Coalition.

6. Conclusions and Response to the Court

53. We conclude, for the reasons stated above and elsewhere in this Order, that a bottom-up methodology is the most appropriate means for establishing a default compensation amount at this time. We also conclude that our selection of a bottom-up methodology reasonably resolves the Court's concerns, as expressed in *MCI* v. *FCC*. As the Court indicated, a market-based rate may be an appropriate method at some point in the future. When the time is appropriate, we will consider revisiting this issue.

C. Reconsideration Issues

54. In this section, we address petitioners' arguments in support of, and in opposition to, various methodologies for determining the default compensation amount. In addition to the bottom-up methodology described above, we set the default compensation amount.

1. Alternative Compensation Methodologies

55. In this Section, we address alternative compensation mechanisms put forth by commenters that were not discussed above in connection with the Court's remand.

a. Duration Methodology.

56. Several commenters argue that the compensation amount for a toll-free call should be based on the duration of the call. We are not convinced by the record evidence that the marginal costs of a relatively shorter dial-around call are significantly different than those of a longer call. Although the line charge for some coin calls may vary depending on the length of the call, dial-around calls do not incur any additional line charge, regardless of their length. Indeed, as we have discussed, because most payphone costs are fixed, they do not vary with the length of the call. Nor are we convinced that longer calls cause a significant amount of additional wear and tear on a payphone. Consistent with the Commission's determination in the Second Report and Order, we decline to make an adjustment for opportunity costs of a dial-around call because we conclude that it is unlikely that the revenue from another call will be lost. In the Second Report and Order, the Commission concluded that compensating PSPs for opportunity costs was not necessary because the evidence demonstrates that dial-around calls only occupy 1.8 percent of available payphone usage time. In this Order, we decline to consider location rents as a cost of a dial-around call. Even if we were to consider including compensating PSPs in connection with location rents, the amount of rent would not vary with the duration of a phone call because the amount of payphone revenue would not change.

57. Furthermore, we are persuaded that a duration-based methodology would result in added expense, delay, and confusion. Several complaints have already been filed with the Commission regarding payment of payphone compensation. We believe the establishment of a duration-based methodology would result in the filing of even more complaints, thereby exacerbating, rather than resolving, the current situation.

58. Even if we based the compensation amount on the duration of a call, we could not cap the compensation amount at $.285 or any other amount, because it would not fully compensate PSPs. Assuming the default amount were set at $.285, PSPs receiving less than $.285 for short calls must receive more than $.285 for longer calls in order for the PSP to be fully compensated. We therefore decline to alter the payphone compensation mechanism to reflect the duration of the call. We note, however, that IXCs and LECs are free to use measured service compensation in their contracts, if they so choose.

b. RBOC Coalition's Ramsey's-Style Pricing Methodology.

59. We again decline to adopt the RBOC Coalition's elasticities methodology. Our objection is not that elasticities and marginal costs cannot be taken into account in setting product prices, especially in an industry with high fixed and common costs. Rather, we find that we do not have sufficiently accurate information in the record to use elasticities and marginal costs in this particular case. We also conclude that, for purposes of setting dial-around per-call compensation, the RBOC Coalition's proffered methodology results in prices that are unreliable. Specifically, the RBOC Coalition's methodology is highly sensitive to estimated values of elasticities and marginal costs. In conjunction with the RBOC Coalition's highly speculative estimates of the elasticities and marginal costs at issue, we find that the resulting "suggested price" is widely variant and thus of little practical value in establishing a reasonable compensation figure. Simply put, the RBOC Coalition's methodology gives wildly divergent answers when the inputs are changed even slightly, and we find such variance unacceptable given the unreliability of the information we have for input data.

c. Bellwether Compensation.

60. Sprint argues that we should identify the most efficient carrier and base the dial-around compensation amount on that carrier's costs, i.e., the so-called "bellwether" approach. We decline to adopt a bellwether approach because there is insufficient information on the record to conclude that the cost differences among PSPs with data on the record are due to differences in efficiency. All of the parties that submitted data on the record operate payphones in multiple areas and in multiple states. Each region of the country experiences different costs. For example, payphones in dry climates require less protection from rain than payphones in wetter climates. Therefore, a PSP in a more arid region could install a less protective and thus cheaper enclosure than a PSP in a wetter region. Clearly, a PSP in the wetter region should not be deemed less efficient because it needs to invest in a more expensive enclosure. Similarly, we find that regional differences in labor costs and telephone line expenses would affect the cost of a payphone operation. Sprint did not provide any justification showing that any party was more efficient than another.

d. Caller-Pays Methodology.

61. Under a caller-pays compensation methodology, the calling party would pay for dial-around calls by depositing coins or using a credit card. The caller-pays compensation mechanism is a variation of the set use fee compensation mechanism. Under the set use fee compensation mechanism, the IXC imposes a charge on the caller, collects payment from the caller, and remits that money to the PSP. In the *First Report and Order*, the Commission rejected the caller-pays approach and the set use fee approach on similar grounds. Despite some parties' requests,

we decline to adopt a caller-pays compensation methodology at this time.

62. We expect IXCs to develop the technology necessary to employ targeted call blocking, which will allow them to block calls from PSPs that they find to be excessively priced. With the bargaining power afforded to them by the ability to block calls, we are hopeful that IXCs will negotiate privately with PSPs for fair and mutually agreeable compensation amounts. Our preference is for IXCs and PSPs ultimately to enter into privately negotiated agreements establishing compensation amounts for dial-around calls. Although some economists would argue that a caller-pays methodology forms the basis for the purest market-based approach, we find that the statutory language and legislative history indicate Congress's disapproval of a caller-pays methodology. We therefore conclude that we should monitor the advancement of call blocking technology and any accompanying marketplace developments before reconsidering a caller-pays compensation approach.

63. We also note that some parties urge us to adopt a "modified caller-pays plan." Under a modified caller-pays plan, entities subscribing to a toll-free number would have three options for handling calls made from payphones. First, the subscriber could elect to accept calls from payphones and pay the charges associated with those calls that are passed through to it by the IXC. Second, the subscriber could block all calls from payphones, eliminating the need for compensation to the PSP. Third, the subscriber could elect to use a special "area code" (i.e., 8XX, instead of "800" or "877" codes) that would enable it to block incoming payphone calls that callers chose not to pay for with coins or a credit card. For the reasons provided above for not instituting a mandatory caller-pays system, we also decline in this proceeding to impose the modified caller-pays or 8XX plan. We note that a modified caller-pays plan is the subject of a petition for rulemaking filed by AirTouch and that the Commission may examine the issue further if that petition is granted.

e. Requests for Exemptions from Compensation.

64. Several petitioners assert that certain types of calls, such as "help line" or paging calls, should be exempt from per-call compensation charges. Other petitioners urge us to exempt from compensation requirements payphone calls to 800 hotlines and Electronic Benefit Transfer ("EBT") services. Specifically, these parties request that we either waive the per-call compensation amount or establish an 8XX number for non-profit organizations. We find that Congress clearly instructed us in Section 276 to ensure compensation for "each and every" call from a payphone. Congress explicitly exempted only two types of calls: emergency calls (911) and TRS calls. Because Congress did not provide for any other exceptions, we cannot grant an exception for these types of calls. Even if Congress permitted us to grant an exception for EBT calls, we are unconvinced that we should do so. We understand that when a caller is placing an EBT call, the buyer of that call will be the government. This is insufficient justification, however, to deny payphone owners compensation for the use of their payphone. We are confident that our default compensation amount is fair to all parties involved. In receiving compensation, payphone owners will benefit from their decision to place their payphone where consumers benefit from using it. In addition, carriers will pay no more than a proportionate share of the payphone's joint and common costs.

65. We also decline requests to artificially raise the local coin calling rate or to re-regulate payphone prices so that calls like EBT calls can be made for free or at a reduced price. We understand that because of our default compensation amount, government agencies will ultimately spend more money to disburse benefits. Under Citicorp's proposal to raise the local coin calling price, however, consumers will still pay for those calls, albeit in a different form. Under Citicorp's proposal for free or reduced-price EBT calls, PSPs would not receive the extra compensation from EBT traffic and therefore would have no economic incentive to locate payphones according to the needs of EBT callers. Any such scheme also would involve creating a subsidy, an option that Congress specifically eliminated in the 1996 Act.

66. We note that APCC states that some PSPs would be willing to reduce the amount of per-call compensation if they find evidence that IXCs do the same. We encourage those parties with budgetary concerns to meet with the IXCs and PSPs to reach a voluntary agreement regarding per-call compensation.

2. Cost Calculation

67. In this section, we address challenges to three aspects of the Commission's calculation in the Second Report and Order of the cost of a dial-around call. Petitioners challenge the accuracy of the various sources of cost data on which we relied in determining the cost of a dial-around call. Petitioners challenge our choice of a marginal payphone location in establishing certain per-call costs. Finally, petitioners argue that various components of our cost calculation were either improperly allowed, improperly disallowed, or improperly calculated.

a. Source of Cost Data.

68. In this section, we address issues raised concerning the cost data discussed in the Second Report and Order. We also examine the cost data submitted in response to our *Public Notice* and in petitions for reconsideration. Petitioners raise concerns regarding five sources of cost data. First, petitioners argue that, in the Second Report and Order, the Commission relied too heavily on data from independent PSPs. Second, parties claim that NYNEX's cost studies show that NYNEX's average cost of a coin call is less than $.25, implying that the compensation amount also should be less than $.25. Third, parties claim that, in the Second Report and Order, the Commission ignored Sprint's cost data. Fourth, AT&T submitted data from SBC that purportedly shows that, in using a LEC's costs, the per-call compensation amount should be less than $.25. Fifth, MCI submitted a cost study purporting that the average cost of a dial-around call is significantly less than the Commission estimated. We address each of these issues separately.

69. *Reliance on APCC and Independent PSP data.* When calculating the average cost of a dial-around call in the Second Report and Order, the Commission relied on data that it concluded was reliable. In its petition for reconsideration, AT&T asserts that the Second Report and Order generally overstates the costs of payphone calls, because the Commission relied too heavily on cost data submitted by APCC and other independent payphone providers. AT&T further states that most payphones are operated by LECs, not independent payphone owners. In the Second Report and Order, the Commission relied solely on APCC data only when determining the number of calls made from a payphone in a marginal location. In this Order, however, we do not rely on that calculation. We therefore need not address AT&T's arguments regarding the use of APCC data.

70. *NYNEX cost studies for Massachusetts and New York State.* Before the Commission issued the Second Report and Order, Sprint petitioned the Commission to require

NYNEX to distribute to all parties of record a copy of the confidential Massachusetts DPUC study, which concludes that the cost of a coin call is $.167. The Commission denied Sprint's petition. AT&T contends that the Massachusetts DPUC study supports a per-call dial-around price of less than $.167. AT&T suggests that the LECs failed to supply cost data because such data would militate in favor of establishing a compensation amount that is less than an amount that would benefit the LECs.

71. On July 10, 1998, the New York Public Service Commission (PSC) filed comments showing that, in a study conducted in New York, Bell Atlantic's average cost of a coin call is less than $.25. Several parties cite this study in support of AT&T's contention that, due to lower costs experienced by LECs, the default, per-call compensation amount should be less than $.25. We believe that, when taking into account all the appropriate costs, the average cost of making a coin call in New York is likely to be higher than the $.25 that the New York PSC reported.

72. *Sprint data.* In the Second Report and Order, the Commission did not rely heavily on Sprint cost data. AT&T alleges that the Commission failed to adequately consider Sprint's cost data. We conclude that the Sprint data are unreliable. First, Sprint's return and depreciation estimates appear to be based on embedded costs, not forward-looking costs. This is significant in assessing the reliability of Sprint's data, because embedded costs do not necessarily reflect the economic cost of establishing a current operation. Specifically, Sprint's cost study suggests that it can recoup the value of a payphone by recovering $6.98 each month for five years. Thus, based on Sprint's data, a Sprint payphone, including pedestal, enclosure, and installation, costs $418.80. The evidence on the record, however, demonstrates that a newly installed coin payphone unit costs more than $2,300. Clearly, Sprint's asset return requirement is too low.

73. Second, we find appropriate our decision in the Second Report and Order to not rely on Sprint's estimate for Sales, General and Administration (SG&A) costs (i.e., overhead costs). Sprint reported that its SG&A costs are only $8.51 per payphone per month. This is almost 70 percent less than a large PSP's SG&A cost and nearly 50 percent less than SBC's SG&A estimate of $16.52. In light of the contrary record evidence, and given our experience regulating telecommunications companies, including payphone operators, we find that Sprint's SG&A estimate does not reasonably represent the costs of a stand-alone payphone company. For this reason, we find that the Commission properly exercised its discretion and did not rely on Sprint's estimate of SG&A costs. We note that, although the Commission did not fully explain its reasoning in the Second Report and Order, we believe the Commission's decision was nonetheless correct. Furthermore, for these same reasons, we conclude that we should not rely on Sprint's costs in this Order.

74. *SBC data* (as submitted by AT&T). In its petition for reconsideration, AT&T submits a new cost study, called Project Quintet, that SBC performed to facilitate the possible sale of its payphone operations. AT&T argues that the Project Quintet data demonstrate that the average cost of a coin call is $.195. SBC states that the costs enumerated in Project Quintet were incomplete and did not account for several costs of a payphone operation, including legal support and rent. The RBOC Coalition submitted supplemental information regarding maintenance and SG&A costs. AT&T believes that the Project Quintet data are sufficient to estimate SBC's payphone costs and do not require modification.

75. We note that the Project Quintet data that AT&T submitted does not include line items for legal support, rent, advertising, or other similar costs. We therefore concur with SBC that those costs were not included in the data submitted by AT&T. We find, however, that the Project Quintet data, as supplemented by SBC, provides some assistance to our determination of a fair default compensation amount. Although the capital costs derived from the Project Quintet data are unusable because they are based on embedded costs, we conclude that the SG&A and maintenance costs, as supplied by SBC, are reliable.

76. *MCI data.* In response to our *Public Notice*, MCI submitted a payphone cost study suggesting that the average cost of a coin call is $.16, and the average cost of a coinless call is $.12. Upon review, we conclude that MCI's cost study is unreliable for four reasons. First, the cost study is based on a hypothetical business model. Because payphones serve a wide variety of locations, including outdoor locations, we find that the capital cost data from actual payphone operations will better reflect a PSPs actual costs. Second, MCI's SG&A estimate is based on multiplying the capital investment by 10.4 percent. This 10.4 percentage was arrived at by examining AT&T's overhead costs. AT&T is primarily a long distance company, not a payphone operator. We find that MCI failed to adequately explain why a payphone operator's overhead costs should bear the same relationship to capital as AT&T's. We thus find unreliable MCI's percentage of 10.4 for estimating overhead costs. Furthermore, MCI multiplies its overhead factor by an amount of capital that we find to be too low, resulting in an SG&A estimate that consequently is too low. We thus conclude that MCI's SG&A cost estimate is unreliable.

77. Third, we find that MCI's cost study is incomplete. For example, MCI did not include any cost estimates for trucks, replacement parts, and other items. We find that these costs are required, however, for a payphone operation. Also, MCI estimated the monthly telephone expenses, in part, by using the 1996 ARMIS reports, using line items USOA 2315 and 6315 (public telephone equipment), but did not account for the payphone costs included in accounts 6533 and 6534. For these reasons, we conclude that MCI's cost study is unreliable.

78. *LEC payphone data versus non-LEC payphone data.* Several parties contend that LEC payphones are more efficient than non-LEC payphones. Parties point to NYNEX cost studies that allegedly show that NYNEX experienced lower costs than non-LEC PSPs. As we state above, we are unable to verify the validity of some of this third-party information. Also, some of the third-party data appears to be unreliable on its face. Also, the RBOC Coalition states that the NYNEX studies do not include all payphone costs. Thus, we find that, before using third-party information, such information must be verified.

79. We conclude, however, that much of the data submitted by the independent PSPs reliably reflect the costs of a stand-alone payphone operation. First, as the Commission noted in the Second Report and Order, the independent PSPs' data are consistent with their Securities and Exchange Commission (SEC) forms 10K, which must be certified to by an officer of the company. Further, these data are based on their own, actual payphone operations. In certain instances, where we could not use a particular cost element because it did not accurately measure the cost we were examining, the RBOC Coalition and PSPs submitted supplemental data that convinced us of the data's reliability. In addition, in response to our request, the RBOC Coalition supplied data for payphone line costs and FLEX ANI cost recovery tariffs. We find the payphone line cost

data and FLEX ANI data to be reliable, because the cost estimates were largely taken from tariffs, with the remaining figures provided with sufficient documentation to convince us they are correct.

b. Use of Marginal Payphone Location.

80. To establish a per-call default compensation amount based on the costs of a payphone operation, the cost of that operation must be divided by a particular number of calls. In the Second Report and Order, we concluded that we should use the number of calls at the marginal payphone location. A marginal payphone location is a location where the payphone operator is able to just recoup its costs, including earning a normal rate of return on the asset, but is unable to make payments to the location owner. The Commission determined that when the 1996 Act was passed and payphones were receiving dial-around compensation on a per-phone basis, the marginal payphone location experienced 542 calls per month.

81. We reaffirm that use of the marginal payphone location is necessary to fairly compensate PSPs and ensure the widespread deployment of payphones in compliance with the mandates of section 276. We find that basing the default compensation amount on an average payphone location would cause many payphones with less-than-average call volumes to become unprofitable. We note that many states examining the payphone market have concluded that there are a sufficient number of payphones and thus a public interest payphone program is unnecessary at this time. We conclude that, if we were to base the default compensation amount on the average payphone location, many payphones would become unprofitable and exit the industry. We therefore conclude that we should use the marginal payphone location when establishing the default compensation amount. Because it assures fair compensation for the overwhelming majority of payphones, we conclude that the methodology we adopt in this Order will not negatively affect the current deployment of payphones and thus is consistent with Congress's goal of widespread deployment of payphones.

82. MCI asserts that use of a marginal payphone location suffers from a "circularity" problem because the number of calls at a marginal payphone location is affected by the compensation amount. Thus, an increase in the per call compensation amount means that a payphone needs fewer calls to break even. The "circle" thus consists of call volume being a function of compensation, and compensation being a function of call volume. Although MCI argues that this circularity undermines the use of a marginal location, this same concern applies equally to the use of an average location, or for that matter any volume level the Commission could choose as a rational starting point for its analysis. This is true because the problem does not arise from the selection of average versus marginal payphone locations, but rather is inherent in the use of a per-call compensation scheme, as mandated by the statute. As the default amount increases, more low volume payphones become profitable; as default amount decreases, more payphones become unprofitable and are likely to be taken out of service.

83. The concern identified by MCI requires us first to deduce an appropriate level of payphone deployment, in order to calculate a "fair" compensation amount. Based on the evidence in the record, we have concluded that the current approximate level of deployment most appropriately satisfies Congress's stated goal of promoting widespread deployment of payphones to the benefit of the general public. This conclusion is supported by the filings of several states that have studied the payphone markets in their respective jurisdictions and concluded that the current deployment of payphones is adequately meeting the needs of the public. Realizing that many payphones with below average call volumes will disappear if we use the average payphone location to establish a default compensation amount, we instead conclude that the use of marginal payphone location best satisfies Congress's goal of widespread deployment by ensuring the profitability of most existing payphones.

84. In the *Second Report and Order*, the Commission determined that a payphone in a location where it originates 542 calls per month would earn just enough revenue to recover its costs, but not enough to pay the premises owner a commission. This number was derived using data largely collected in 1996. After those data were collected, the price of local coin calls was deregulated and payphone owners began receiving per-call compensation. Because payphone owners may now receive per-call compensation, payphones can be sustained with fewer calls being made. Before the establishment of per-call compensation, payphones required an artificially high number of calls to be profitable. We thus conclude that we should re-estimate the number of calls at a marginal payphone location to account for the effects of deregulation of the local coin call and per-call compensation.

85. In order to determine the number of calls at a marginal location, we consider three basic scenarios. In the first scenario, a premises owner is willing to pay its LEC PSP to install a payphone on its property, even though the payphone does not generate sufficient revenue to pay for itself. In the second scenario, the payphone on the premises owner's property generates sufficient revenue to pay for itself. This premises owner need not pay the LEC PSP for the operation of the payphone, but the LEC PSP may not generate enough revenue from the payphone operation to pay the premises owner a location payment. In the third scenario, the payphone generates revenue sufficient for the premises owner to require the LEC PSP to pay a location rent.

86. We asked the RBOC Coalition to submit: (1) the number of payphone calls that must be placed in order for the premises owner to not have to pay the LEC PSP for the payphone; and (2) the number of payphone calls that must be placed in order for the LEC PSP to begin paying a location payment to the premises owner. The RBOC Coalition found that, on average, if the payphone had 414 calls per month, the premises owner would not have to pay for the payphone. The RBOC Coalition states that it does not base these decisions on call counts, but on daily revenues, or margins. The RBOC Coalition estimated the call counts from their revenue or margin requirements. We find this to be acceptable, because call counts correlate to revenues. The RBOC Coalition also found that, on average, the LEC PSP would have to pay location rents to a premises owner that had a payphone with 464 calls or more per month. The midpoint between these two numbers is 439. The RBOC Coalition notes that its member-LECs do not decide to pay a location payment or require payment from the premises owner based solely on monthly call volume, but also consider the mixture of call-types and upkeep costs of the payphone. Because we are examining costs of all payphones, we find that the average call volume that the RBOC Coalition reported for these two locations is reasonable and appropriate. We further conclude that we will use in our calculation of the default compensation amount the midpoint between 414 and 464, i.e., 439.

87. MCI alternatively argues that the cost of the payphone that a PSP installs will be related to the call volume at that location. MCI suggests that a PSP

operating in a marginal payphone location may install a less expensive payphone unit than a PSP operating in an average payphone location. MCI therefore concludes that if we use the average cost of a payphone location, we should use the call volume from the average payphone location.

88. Payphone unit requirements vary from site to site. Accordingly, the costs of operating payphones at differing locations also vary. We believe it is theoretically possible that some payphone elements commonly used at high volume locations, such as a pedestal or enclosure, will not be used at marginal payphone locations. There is nothing in the record, however, indicating the extent to which this might be true. MCI's assertion that low volume locations use less expensive payphone units is unsupported by evidence from its own or any other payphone operation. If, as MCI suggests, a payphone in a marginal payphone location can operate successfully without some payphone elements, such as a pedestal or enclosure, it is unclear why a PSP at an average location would install these elements. Furthermore, other costs, such as increased maintenance costs, may be incurred when a PSP declines to install these same elements. For example, pedestals and enclosures provide some protection for a payphone. We find it plausible that a payphone without these elements would require greater maintenance costs. MCI's rationale, however, makes no allocation for these additional costs. Because we are establishing a compensation amount for all payphones, we use the average cost of a typical PSP. For the reasons stated previously, however, we do not use the average call volume. In sum, there is no support in the record for MCI's assertion that the fixed costs at a marginal payphone location will be significantly different from the fixed costs at an average payphone location.

89. Finally, in light of MCI's concern, we verify that a marginal location can support an average payphone. We conclude that the costs of the average payphone nearly matches the monthly revenue from a marginal payphone. We explain the basis of our conclusion below.

90. The RBOC Coalition states that its average payphone has 478 payphone calls per month. The RBOC Coalition also states that these 478 calls consist of: 155 dial-around calls per month, 280 local coin calls per month, and 43 other calls per month. We assume that two thirds of the 43 "other" calls (i.e., 29 calls) are operator-assisted calls (e.g., 0+, 0-, 00-calls) and that the remaining one third (i.e., 14 calls) are coin calls, such as directory assistance and 1+ calls. Thus, we conclude that 61.5 percent of the average RBOC payphone's calls are coin calls; 32.4 percent of the payphone's calls are dial-around calls; and the remaining calls 6.0 percent of calls are operator assisted calls.

91. Next, we determine that the monthly costs of a coin payphone in a marginal payphone location is $140.17. We reach this figure by adding the monthly joint and common costs of $101.29 to the coin-related costs of $38.87. The monthly coin-related costs are comprised of the monthly cost of the coin mechanism, the monthly termination charges, and the monthly coin collection costs.

92. Assuming that a payphone receives $.35 for each of the 270 coin calls at a marginal location, $.231 for each dial-around call (the amount before interest for the four month delay) for each of the 142 dial-around calls at a marginal payphone location, and $.50 per call for each of the 26 operator assisted calls at a marginal payphone location, the payphone would generate $140.30 in revenue. Thus, we find that the marginal payphone location can support the costs of a typical payphone. We therefore find MCI's argument unconvincing.

c. Location Rents.

93. In the Second Report and Order, the Commission calculated an estimate of the avoided cost of a dial-around call by dividing the joint and common costs by the number of calls at a marginal payphone location. Because the marginal payphone location cannot generate revenue sufficient to pay the premises owner a location rent, the Commission concluded that location rents should not be included in the costs covered by a payphone at a marginal location. The Commission declined to include location rents, believing that a payphone at a marginal location should generate revenue sufficient to cover only the payphone's installation and upkeep, plus a reasonable return on investment.

94. It is axiomatic that, at a marginal payphone location, the payphone earns just enough revenue to warrant its placement, but not enough to pay anything to the premises owner. We further find that a marginal payphone location is a viable payphone location, because the payphone provides increased value to the premises. Many premises owners find payphones to be sufficiently valuable to warrant paying for the installation of a payphone where a payphone would not otherwise exist. The Project Quintet data shows that SBC estimated that 14 percent of its payphones are semi-public payphones. These are payphones that the premises owner pays the LEC to install and operate, because the payphone location does not generate enough traffic to support a payphone. We therefore decline to reconsider the Commission's determination in the *Second Report and Order* to not include location rents in our cost calculation. We note that if we were to consider rental payments, we would have to use a higher number of calls than the marginal payphone location.

d. Coin Mechanism.

95. In the Second Report and Order, the Commission determined that the per-call cost of the coin mechanism was $.031. PSPs argue that the cost of a coin mechanism should not have been deducted, because the cost cannot be avoided. On reconsideration, we reaffirm our treatment of the payphone coin mechanism in the Second Report and Order. We find the actual deployment of numerous coinless payphones is convincing evidence that undermines the assertion that such payphones are not economically viable. Even the RBOC Coalition apparently admits that more than 20,000 of its members' payphones are coinless. While the record does not appear to include similar data for independent PSPs, we would expect that, given the historic differences in the manner in which RBOCs and independent payphone owners have deployed their payphones, the percentage of coinless payphones deployed by independent PSPs is even higher that the RBOC Coalition members. This conclusion is consistent with reports that nearly six percent of all installed payphones in 1997 were coinless. Moreover, the RBOC data and this latter information reflect industry deployment as of year end 1997, at which time per call dial-around compensation had only recently been implemented. Needless to say, the availability of dial-around compensation greatly increases the economic viability of coinless payphones. Such viability should be even further enhanced by the continuing (and apparently rapid) growth of dial-around calls and simultaneous decrease in the number of coin calls. Indeed, as the percentage of dial-around calls increases relative to all calls from payphones, the coin mechanism becomes increasingly unnecessary. In fact, a coin mechanism is likely to be installed only where the coin traffic warrants the expense. For these reasons we are convinced that the

previous treatment of the payphone coin mechanism is correct.

96. We also find that the Commission correctly found that a typical coinless payphone without a coin mechanism is similar to the 11A-type payphone. We further conclude that it is proper for us to use the cost of a 11A-type payphone in our current calculations underlying our default compensation amount. AT&T states that it has operated the 11A-type payphone in outdoor locations for many years and that it has a useful life of 10 years. We find that, based on AT&T's evidence and our own expertise, the 11A-type payphone would be materially similar to the coinless payphone that PSPs would purchase today.

e. Bad Debt.

97. In the Second Report and Order, the Commission found insufficient information on the record to account for the costs relating to bad debt. We conclude that the recent history of per-call compensation payments is not an accurate guide for future levels of bad debt. We do not know the percentage of uncollected per-call compensation that is due to billing errors of the PSPs, as opposed to unscrupulous carriers. We also note that the RBOC Coalition asks us to clarify our rules regarding the entity that is required to pay per-call compensation. Although we were unable to generate a sufficient record on this question before issuing this Order, parties may file a petition for clarification on this issue. It appears that if we were to grant such a petition, uncollectibles would be significantly reduced. An additional reason why we decline to establish a cost element for bad debt is that, in doing so, PSPs that ultimately recover their uncollectibles from delinquent carriers would then double-recover: once from the debtor and once from the consumer, i.e., through the cost element included in the compensation amount. Furthermore, as discussed below, we ensure that PSPs will receive interest on late payments for as long as such payments are overdue. For these reasons, we find that it would be unwise to establish a cost element for bad debt at this time. We note that, in a forthcoming order, we will determine the amount that IXCs owe PSPs for the period before October 7, 1997 and the way in which IXCs may recover overpayments that result from the default compensation amount established herein. If a petition for clarification is resolved prior to the adoption of our order addressing IXCs payments prior to October, 1997, we may visit the issue of uncollectibles in that order.

f. Dial-Around Collection Costs.

98. In the Second Report and Order, the Commission found insufficient information on the record to adjust the default compensation amount to account for billing and collection costs. On reconsideration, we find that the Commission's treatment of billing expenses was appropriate. We are still faced with insufficient information on the record to determine the extent to which administration costs vary when the number of coinless calls increases relative to coin calls. Given that both types of calls utilize specialized positions within a company, we find it fair to assume that the amount that coin-related SG&A positions contribute to SG&A expenses approximate the same expense that billing and collection positions contribute to SG&A. Finally, we find unpersuasive the RBOC Coalition's argument concerning the need for additional employees to perform duties related to administering per-call dial-around compensation. We note that, if the RBOC Coalition members were just now receiving compensation for local coin calls, as they are for dial-around calls, the RBOC Coalition also would be in the process of hiring employees for coin-related positions.

g. Components of the Cost Calculation.

(1) Payphone Capital Expense.

99. In the Second Report and Order, the Commission recognized the need for a PSP to recover depreciation costs and earn a return on its investment. The Commission concluded in the Second Report and Order that the record did not provide sufficient detail regarding the cost of capital. The Commission therefore estimated capital costs by examining the 1996 SEC form 10-K data for two non-LEC PSPs, CCI and Peoples Telephone. The Commission concluded that the amount of capital per new payphone, including the coin mechanism, was between $2,799 and $3,234. Upon reconsideration, we find that the cost of capital used in the Second Report and Order included some costs that are not necessary to run a payphone operation. Accordingly, we recalculate the cost of capital.

100. In the Second Report and Order, the Commission used the highest federal tax rate of 34 percent when calculating the levelized monthly payments that represent the monthly cost of an installed payphone. Although no party explicitly petitioned us for reconsideration on the tax rate, the record demonstrates that MCI used a tax rate of 39.25 percent in its payphone cost study, which accounted for state and local taxes, in addition to federal taxes. Upon reconsideration, we find that the Commission should have included state and local taxes in its calculation. Thus, we now use a tax rate of 39.25 percent to calculate the monthly payments that a payphone owner would make to pay for a payphone.

101. A working payphone unit consists of a payphone, enclosure, pedestal, associated spare parts, and other associated capital costs. We find above that the coin mechanism is not a joint and common cost. Because there is no credible information on the record indicating that the remainder of the costs associated with a payphone vary as the number of coin calls increases relative to coinless calls, however, we find that the remainder of the payphone unit is a joint and common cost. We estimate the capital cost of a payphone in three steps. We estimate the cost of a coinless payphone. We then estimate the cost of the rest of the payphone unit (e.g., the enclosure, pedestal, installation, and the associated parts) using data submitted by Davel and Peoples Telephone. We then calculate the monthly payments that would cover the costs of the payphone unit over a 10-year period, including taxes and interest. This payment is analogous to a mortgage payment, except that taxes are included in the calculation.

102. We conclude above that a coinless payphone is similar to the 11A-type payphone. AT&T states that the cost of a 11A-type coinless payphone is $225. The median estimates provided by Peoples Telephone and Davel for the remainder of the payphone unit (e.g., the enclosure, pedestal, installation, and the associated parts) is $1,362.50. Consistent with the Commission's determination in the Second Report and Order, we agree with AT&T that we should subtract the $60 of installation costs that are associated with the coin mechanism. We thus conclude that a coinless payphone unit costs $1,527.50. We find that $1,527.50 in capital costs amounts to a monthly payment of $28.04. We arrive at the $28.04 monthly figure by determining the monthly payments necessary to depreciate the $1,527.50 investment over ten years, while earning a return of 11.25 percent on net investment, and allowing for federal, state and local taxes at a rate of 39.25 percent.

(2) Line Charge Costs.

103. In the Second Report and Order, the Commission noted that PSPs pay LECs for payphone lines under a variety of tariffs that range from measured rates (e.g., per message or per minute) to flat,

monthly (i.e., unmeasured) rates. The Commission concluded that the average line cost for a coinless call ranged from $.065 to $.075 per call. The Commission calculated this cost by subtracting the average per-call measured service charges from the average line cost data reported by PSPs. AT&T avers that instead of subtracting the average measured service charge for all payphones, the Commission should have subtracted the average measured service charges for those phones that actually paid measured service charges. The RBOC Coalition argues that the Commission overstated the line savings of a coinless call.

104. In the *Second Report and Order*, the Commission found the data in the record to be insufficient to distinguish among these different types of costs. The RBOC Coalition subsequently submitted evidence demonstrating the correct calculation of the joint and common cost of the payphone line. In its calculation, the RBOC Coalition used the monthly line charge where only unlimited service was available, the fixed monthly charge where only measured service was available, and the fixed monthly charge associated with measured service where the PSP had the choice of unlimited service or measured service. The RBOC Coalition calculated a weighted average joint and common line cost based on the total number of payphones, including both BOC and independent payphones, in each member's territory. The national average joint and common line cost is $33.65.

(3) Maintenance Costs.

105. In the Second Report and Order, the Commission treated maintenance as a joint and common expense, but treated coin collection costs as attributable to coin calls. Upon reconsideration, we conclude that the Commission properly assigned maintenance costs as joint and common. Much of a payphone's maintenance is performed during regularly scheduled visits, meaning a technician will visit a payphone whether or not the payphone requires immediate maintenance. To the extent that maintenance is performed on a periodic basis, maintenance costs will change very little in response to an increasing number of coin calls. We conclude, therefore, that maintenance costs are properly designated as joint and common. In the Second Report and Order, the Commission found that maintenance costs, other than coin collection costs, ranged from $21.68 to $27.10 per month.

106. We find that the new SBC maintenance data submitted by the RBOC Coalition reasonably reflects the maintenance costs of SBC and probably other RBOCs, as well. We therefore create a weighted average of the SBC data and the Peoples Telephone data. We use the Peoples Telephone data to estimate the maintenance costs of a large non-LEC PSP, because it was the only data consisting of monthly cost figures that was submitted by a PSP. In addition, we find that the Peoples Telephone data provides the most detail regarding the number of maintenance visits and the portion of those visits that were strictly coin-related.

107. SBC estimates that monthly per-phone maintenance costs amount to $24.37. Peoples Telephone reports that maintenance costs amount to $41.66. Because most payphones are RBOC payphones, we calculate the weighted average as $30.49 per month. Peoples Telephone reports that 38 percent of its maintenance visits were strictly coin related. We therefore subtracted 38 percent of $30.49 ($11.59) to reflect coin collection costs and costs associated with maintenance of coin payphones. We thus conclude that a payphone owner spends $18.90 per payphone per month for maintenance.

(4) Sales, General, and Administrative Costs.

108. Payphone owners incur overhead costs, such as legal fees, administrative costs, salaries, and management costs, all commonly referred to as Sales, General, and Administrative (SG&A) costs. As the proportion of coin calls increases relative to coinless calls, some employees in the payphone company likely will assume more duties related to coin calls, rather than coinless calls. We find no credible evidence in the record that total SG&A costs change as the number of coin calls increases relative to coinless calls. We therefore conclude that SG&A is a joint and common cost that should be attributed to all types of calls.

109. In the Second Report and Order, the Commission concluded that per-call SG&A costs ranged from $28.80 to $29.27. Newly submitted data suggests that SG&A costs are lower, however. We find that the new SBC cost data, as supplemented by the RBOC Coalition, provides a reasonable estimate of the maintenance costs of an RBOC payphone operation. We also find that the Peoples Telephone data represents a reasonable estimate of a non-LEC payphone operation. The new data suggests that, on a per-phone, per-month basis, SG&A costs amount to $16.52 for RBOCs. In its comments submitted in 1997, Peoples Telephone suggested that SG&A amounted to $25.27. In the Second Report and Order, the Commission added $4.02 to SG&A costs to account for bad debt. Because we consider bad debt elsewhere in this Order, we do not add here the bad debt costs provided by Peoples Telephone. Because there are more RBOC Coalition payphones than independent payphones, we calculate a weighted average SG&A cost of $19.62 per month.

(5) Coding Digit Costs (FLEX ANI Costs).

110. In the Second Report and Order, the Commission added $.01 per call to the compensation amount to reflect the costs that PSPs must pay LECs for the implementation of FLEX ANI, a coding digit technology that allows IXCs to identify payphone-originated calls for per-call compensation purposes. Under the market-based methodology, the Commission determined that charges that recover FLEX ANI costs were joint and common costs attributed to all types of calls.

111. We based the $.01 FLEX ANI cost estimate, in part, on evidence filed by USTA, in which it stated that the costs associated with LECs providing coding digits would be $600 million. Subsequent to the adoption and release of the Second Report and Order, USTA filed a revised coding digit estimated cost of $61.2 million, prompting some parties to petition for reconsideration of our FLEX ANI cost estimate. In addition to the updated USTA information, many LECs have since filed their actual FLEX ANI tariffs, which establish with specificity the costs to be recovered in relation to FLEX ANI. In light of this new information, several parties have filed petitions requesting that our decision reflect the revised coding digit cost estimates.

112. Upon reconsideration, we find that our treatment of the coding digit costs in the Second Report and Order was correct. The coding digit rate element that LECs apply to each payphone line to recover the costs of FLEX ANI is not conditional on the amount of, or even the presence of, dial-around traffic. Most PSPs are required by state law to install payphones on payphone lines, where they are subject to the FLEX ANI cost recovery tariff. We therefore conclude that the coding digit rate element is an unavoidable cost of operating a payphone that does not vary as the number of coin calls increases relative to coinless calls. As such, we find that FLEX ANI costs are joint and common and should be attributed to all calls.

113. We adjust the default compensation amount to reflect the updated USTA coding digit cost estimate and the recently filed FLEX ANI tariffs. We find that the average

payphone owner would pay $1.08 per payphone line for 36 months because of FLEX ANI. We describe our calculation here. Pursuant to the *Coding Digit Waiver Order*, 63 FR 20534 (April 27, 1998), LECs may account for the recovery of the cost of implementing FLEX ANI over a variable length of time. The RBOC Coalition submitted data showing that several RBOCs chose to recover their FLEX ANI costs over a 24-month-period, while BellSouth chose to recover its costs over a 12-month-period. Because this Order establishes a three-year-period for default compensation payments, we find that the amount PSPs are paid for FLEX ANI should be calculated as if the RBOCs tariffed the FLEX ANI cost-recovery element for 36 months.

114. Using the data that the RBOC Coalition submitted, we calculate the present value of the payments that a payphone owner in each RBOC territory would pay. We then calculate the amount that a PSP would pay over a 36-month-period while maintaining the same present value of payments. We then calculate the weighted average of these payments based on the total number of payphones, including BOC and non-BOC payphones, in each BOC's territory. We conclude that the average PSP would pay $1.08 per month for 36 months, if that were how the LECs had decided to tariff their coding digit cost recovery elements.

(6) Interest.

115. In the Second Report and Order, the Commission found that, because payments are made several months after the dial-around call is made, PSPs should receive three months of interest calculated at 11.25 percent annually. The RBOC Coalition argues that although the Commission provided for three months of interest in the Second Report and Order, dial-around payments are actually made an average of at least four months after the call is completed. The RBOC Coalition therefore asks that we adjust our findings to reflect this difference.

116. We find that firms that expect a one-month delay before receiving payment will price their goods accordingly, with the interest already built into the quoted price. The calculations so far have not considered a built-in 30-day delay in payment. Further, at the time the *Second Report and Order* was released, the Commission anticipated a three-month delay, not a four-month delay, in receiving payments. In light of the average delay in payments of four months, we conclude that we should add to the compensation amount a total of four months of interest at 11.25 percent per year. The above default price will therefore be raised by $.009 to reflect four months of interest on the base amount of $.231. If IXCs are late in making their payments to PSPs, interest on the principal will continue to accrue at 11.25 percent per year.

(7) Marginal Cost of a Payphone Call.

117. As stated earlier, our pricing strategy seeks to establish a default amount for dial-around calls so that the calls recover their marginal cost plus a share of joint and common costs. There is no credible evidence on the record indicating that the process of picking up a handset and dialing numbers imparts any measurable costs to the PSP. To the extent that these costs exist, we find that they would be insignificant on a per call basis and are already accounted for in the depreciation and maintenance costs outlined above. We therefore conclude that we do not need to add an element for the marginal cost of a dial-around call.

(8) Default Compensation Amount.

118. The new default price for compensable calls is $.24. We arrived at this amount by adding the joint and common costs and dividing the sum of the joint and common costs by the number of calls at a marginal location. We then add to this number four months of interest at 11.25 percent. These calculations result in a default compensation amount of $.24.

(9) Top-down Calculation. 119. Although we decline in the Order to adopt a top-down methodology, we have performed a top-down calculation to validate that our bottom-up methodology is reasonable. Similarly, the Commission in the *Second Report and Order* undertook a bottom-up calculation to validate the reasonableness of a top-down methodology. In performing this calculation, we start with what commenters agree is the predominant local coin calling price in the United States, $.35. We subtract from this amount the cost of the coin mechanism, termination charges, and coin collection charges.

120. We find that the installation of a coin mechanism costs a PSP $17.02 per month. Dividing $17.02 by the 318 coin calls made at an average payphone location, we conclude that we would subtract $.054 for the coin mechanism. We would also subtract $.038 for local termination charges, and subtract $.036 for coin collection charges. We do not include coding digit cost recovery charges here because most PSPs are now paying these charges. Further, because FLEX ANI costs are joint and common, they are already reflected in the $.35 starting price. We thus conclude that, under this approach, the default amount, before interest, would be $.222. To this amount, we would add $.008 for interest, resulting in a total of $.23. Thus, using the same data with a top-down methodology, the default amount is within a penny of the default amount arrived at under our bottom-up approach. We believe this similarity supports the reasonableness of the default compensation amount we adopt in this Order.

121. In the Second Report and Order, the Commission concluded that a top-down approach yielded a default compensation amount of $.284 and the bottom-up approach yielded a default amount of $.264. We now conclude that a bottom-up approach yields a default amount of $.24, and a top-down approach yields a compensation amount of $.23. These differences arise from our use of the more accurate data submitted in conjunction with the petitions for review of the *Second Report and Order*. For instance, in the *Second Report and Order*, the Commission estimated that the capital cost of a coin payphone was between $2,799 and $3,234. In this Order, we estimate that the capital cost is between $2,387 and $2,523, based on the filings by PSPs. We also received better data regarding the average termination costs that a PSP incurs, from which we conclude that the proper estimate should be $.038, instead of $.0275. We also amend our estimate of maintenance costs, based on new LEC data. We also lower our estimate of FLEX ANI costs from $.01 to $.002, based on actual tariffs filed by RBOCs. Based on this new data and our decision to use a bottom-up approach, we conclude that the default compensation amount will be $.24.

3. Compensation for October 7, 1997 to Present

122. In deciding to remand, rather than vacate, the Second Report and Order, the Court explained that its decision was based, in part, on "the clear understanding that if and when on remand the Commission establishes some different rate of fair compensation for coinless payphone calls, the Commission may order payphone service providers to refund to their customers any excess charges for coinless calls collected pursuant to the current [$.284] rate." The Court noted that the Commission has authority to order such refunds pursuant to section 4(1) of the Act, which authorizes the Commission to take such actions "as may be necessary in the execution of its

functions," as well as pursuant to the provisions of section 276, which directs the Commission to "take all actions necessary to promulgate regulations to insure fair compensation."

123. We conclude that the current default compensation amount should apply, subject to the following minor adjustment, retroactively to the period between October 7, 1997 and the effective date of this Order (the October 1997 period). This Order, which sets a default compensation amount of $.24, establishes a cost element of $.002 to compensate PSPs for each dial-around call's share of FLEX ANI costs. As explained above, we find that, over the next three years, the $.002 cost element will fully compensate PSPs for each dial-around call's share of FLEX ANI costs. Therefore, in calculating the default compensation amount for the October 1997 period, we deduct the $.002 cost element from the default compensation amount established in this order. Thus, the default compensation amount for the October 1997 period, is $.238.

4. Method of IXC Overpayment Recovery

124. As noted above, PSPs will be obligated to refund overpayments for the October 1997 period. In addition, in an upcoming order, we will address the compensation amount for the period between November 7, 1996 and October 6, 1997 (Interim Period). In establishing a compensation amount for the Interim Period, we anticipate using as a starting point the default compensation amount established herein. We also anticipate adjusting the default compensation amount for the Interim Period to account for FLEX ANI costs and interest. The upcoming order also will address the method that IXCs should use to calculate payments owed PSPs.

125. This Order reduces the per-call compensation amount established in the Second Report and Order for the period of October 7, 1997 to the effective date of this Order. Accordingly, we address the way that IXCs which have made payments consistent with our prior order may recover this overpayment. We note that, because most IXCs already have collected money from their customers to cover the cost of compensating PSPs, the IXCs will not be substantially harmed by a delay in recovering their overpayment. At the same time, PSPs may be severely harmed if they are required to immediately refund substantial overpayment amounts to the IXCs. Indeed, most PSPs have not yet received the majority of their payments for the Interim Period and do not necessarily have the resources to issue refunds to the IXCs. We therefore conclude that IXCs may recover their overpayments to the PSPs at the same time as the PSPs receive payment from the IXCs for the Interim Period. In other words, when an IXC calculates the amount owed to each PSP for the Interim Period, it should deduct from that amount any overpayment that it made to that PSP. Just as IXCs will be required to compensate PSPs for interest on the money due the PSPs for the Interim Period, IXCs will be allowed to recoup interest for overpayments to the PSPs for the October 1997 Period. The same rate of interest shall apply for both the Interim Period and October 1997 Period. In the event that the amount the IXC overpaid is larger than the amount it owes to the PSP for the Interim Period, the IXC may deduct the remaining overpayment from future payments to PSPs.

126. We also note that IXCs have recovered from their customers the cost of compensating PSPs at a rate of $.284 per call. Although we do not require IXCs to issue refunds to their customers, we believe that doing so would serve the public interest. We therefore encourage IXCs to issue refunds to their customers and to notify their customers of any such refunds. We also encourage IXCs to publicly disclose the manner in which they utilize any such refunds from PSPs.

V. Procedural Matters

A. Final Paperwork Reduction Act Analysis

127. The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Pub. L. 104–13 and does not contain new and/or modified information collections subject to Office of Management and Budget review.

B. Supplemental Final Regulatory Flexibility Analysis

128. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM*. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. The Commission conducted a Final Regulatory Flexibility Analysis (FRFA) in the *Second Report and Order*. The Commission's Supplemental Final Regulatory Flexibility Analysis (SFRFA) in this Order conforms to the RFA.

1. Need for, and Objectives of, the Reconsideration of the Second Report and Order

129. The objective of the rules adopted in this *Reconsideration of the Second Report and Order* is "to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public." In this order, we adjust the per-call default rate for coinless calls that the Commission set in the Second Report and Order. We adjust the rate from $0.284 to $0.24, making the difference between the market-based local coin rate and the coinless per-call default rate $0.11, instead of $0.066. In doing so, the Commission is mindful of the balance that Congress struck between this goal of bringing the benefits of competition to consumers and its concern for the impact of the 1996 Telecommunications Act on small businesses.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

130. We received no comments in direct response to the FRFA in the *Second Report and Order*. In the IRFA, the Commission solicited comment on alternatives to our proposed rules that would minimize the potential impact on small entities, consistent with the objectives of this proceeding. At that time, the Commission received one comment on the potential impact on small business entities, which the Commission addressed in the FRFA in the Second Report and Order and considered in promulgating the rules in the Second Report and Order. We believe that our rules, as adopted in the Second Report and Order, and as modified in this Order increase the efficiency of, and minimize the burdens of, the compensation scheme to the benefit of all parties, including small entities.

3. Description and Estimate of the Number of Small Entities to which Rules Will Apply

131. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) is

independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-sprofit enterprise which is independently owned and operated and is not dominant in its field." As of 1992, there were approximately 275,800 small organizations nationwide. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,000 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns, of which 37,566 (96 percent) have populations of fewer than 50,000. The Census Bureau estimates that this ratio is basically accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rule change.

a. Common Carrier Services and Related Entities.

132. The most reliable source of information regarding the total numbers of certain common carriers and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the TRS. According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

133. The SBA has designated companies engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" as small businesses if they employ no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

134. Although some incumbent local exchange carriers (ILECs) may have no more than 1,500 employees, we do not believe that such entities should be considered small entities within the meaning of the RFA. These ILECs are either dominant in their field of operations or are not independently owned and operated. Therefore, by definition, they are not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, we will separately consider small ILECs within this analysis. We will use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns."

135. Total Number of Telephone Companies Affected. The U.S. Bureau of the Census ("Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications services providers, covered specialized mobile radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the rule change.

136. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies, except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by the rule change.

137. Local Exchange Carriers. Neither the Commission nor the SBA has defined small local exchange carriers (LECs). The best available definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees. Thus, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small ILECs that may be affected by the rule change.

138. Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 143 carriers reported that they were engaged in the provision of interexchange services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees. Thus, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by the rule changes herein.

139. Competitive Access Providers. Neither the Commission nor the SBA has developed a definition of small

entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 109 carriers reported that they were engaged in the provision of competitive access services. We do not have data specifying the number of these carriers that are not independently owned and operated or that have more than 1,500 employees. Thus, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 109 small entity CAPs that may be affected by the rule changes herein.

140. Operator Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 27 carriers reported that they were engaged in the provision of operator services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 27 small entity operator service providers that may be affected by the rule changes herein.

141. Pay Telephone Operators. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 441 carriers reported that they were engaged in the provision of pay telephone services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 441 small entity pay telephone operators that may be affected by the rule changes herein.

142. Resellers (including debit card providers). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 339 reported that they were engaged in the resale of telephone service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by the rule changes herein.

143. Toll Free Service Subscribers. We voluntarily describe here toll free service subscribers, even though they are not affected by the rules adopted herein such that they are within the scope of our regulatory flexibilty analysis. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to toll free service subscribers. The most reliable source of information regarding the number of 800 service subscribers appears to be data the Commission collects on the toll free numbers in use. According to our most recent data, 6,987,063 800 numbers were in use at the end of 1995. Similarly, the most reliable source of information regarding the number of 888 service subscribers appears to be data the Commission collects on the 888 numbers in use. According to our most recent data, 2,014,059 888 numbers had been assigned at the end of 1996. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 6,987,063 small entity 800 subscribers and fewer than 2,014,059 small entity 888 subscribers that may be affected by the rule changes herein. In response to the Consumer-Business Coalition's concerns about the effect that the compensation amount will have on small businesses that subscribe to toll free numbers, we find that small businesses that subscribe to toll free numbers are likely to benefit by our reduction of the compensation amount in this Order. In this Order, we reduce to $.24 the compensation amount that must be paid to payphone service providers for compensable calls.

b. Wireless and Commercial Mobile Service. 144. Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

145. Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

146. Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

147. This Order results in no additional filing requirements.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

148. In the Second Report and Order, we addressed steps taken to minimize the economic impact on small entities. In particular, we addressed the potential economic impact on small businesses

and small incumbent LECs from (1) the amount of compensation paid to PSPs, and (2) the administration of per-call compensation.

149. In this Order, we adjust the per-call default compensation amount from $0.284 to $.24. This downward adjustment means that PSPs, many of whom may be small business entities, will receive less call revenue from coinless calls than they might have received under the Second Report and Order. However, by this action, we ensure that PSPs are more likely receive "fair compensation" for subscriber 800 and access code calls. This measure also helps PSPs receive fair compensation for each and every completed call made from a payphone, as required by the Act.

150. The downward adjustment also means that IXCs, some of which may be small businesses, will have lower per-call payphone expenses than they would have under the Second Report and Order. Since many IXCs pass on this expense directly to their 800 subscribers, many of which are small businesses, the downward adjustment means that these entities will experience lower 800 subscriber expenses.

151. Like the comments to the Second Report and Order, several parties commented on alternatives to a market-based default rate, and on alternatives to the approach selected by the Commission in which IXCs are obligated to compensate PSPs for dial-around calls. The Commission has responded to these comments.

152. Some of these commenters also charge that the Commission's approach is significantly increasing the cost of the many small businesses and public interest "hot lines" that depend on affordable 800 call rates. Our rules do not require IXCs to pass on the expense of payphone dial-around call compensation, but neither do our rules prohibit this. The Commission rejected proposals that IXCs be restricted from passing on the per-call costs to at least some 800 subscribers. We reiterate that IXCs should be given maximum flexibility to determine what, if any, per-call costs are passed on to their 800 subscribers.

153. Report to Congress. The Commission will send a copy of this Order, including this SFRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). A copy of this Order and SFRFA, or summary thereof, will be published in the **Federal Register**, *see* 5 U.S.C. 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Conclusion

154. We conclude that the default price for coinless calls should be adjusted from $.284 to $.24. In addition, we note that PSPs will not be compensated for 911 and TRS calls.

155. In setting the default compensation amount, we shift to a cost-based method from the market-based method used in the Second Report and Order because of technological impediments that currently inhibit the market as well as the present unreliability of certain assumptions underlying the market-based method. In setting the cost-based default amount, we incorporated our reconsideration of our prior treatment of certain payphone costs as well as our examination of new estimates of payphone costs submitted as part of this proceeding.

156. The $.24 default price will be the price that, beginning thirty days after this order is published in the **Federal Register**, IXCs must compensate PSPs for all coinless payphone calls not otherwise compensated pursuant to contract, or advance consumer payment, including subscriber 800 and access code calls, certain 0+ and certain inmate calls. The $.24 price will serve as the default per-call compensation price for coinless payphone calls through January 31, 2002. At the conclusion of the three year period, if parties have not invested the time, capital, and effort necessary to move these issues to a market-based resolution, parties may petition the Commission regarding the default amount, related issues pursuant to technological advances, and the expected resultant market changes.

157. We conclude that the default price, adjusted for certain items, should be effective retroactive to October 7, 1997, and that IXCs will recover their overpayments to PSPs by deducting the amount of their overpayments, along with interest, from the payments the IXCs will make to PSPs for calls made during the November 7, 1996 to October 6, 1997 period.

VII. Ordering Clauses

158. Accordingly, pursuant to authority contained in Sections 1, 4, 201–205, 226, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 215, 218, 219, 220, 226, and 276, *it is ordered* that the policies, rules, and requirements set forth herein *are adopted*.

159. *It is further ordered* that this order is effective April 21, 1999.

160. *It is further Ordered*, that 47 CFR Part 64 is amended as set forth in Appendix A, effective April 21, 1999.

161. *It is further Ordered* that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Third Report and Order* and *Order on Reconsideration of the Second Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

162. *It is further Ordered* that the July 14, 1998 Motion of Telecommunications Resellers Association to accept late-filed pleading *is granted*.

List of Subjects in 47 CFR Part 64

Communications common carriers, Operator service access, Payphone compensation, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended: 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 276, 48 Stat. 1070, as amended; 47 U.S.C. 201, 218, 226, 228, 276 unless otherwise noted.

2. Amend § 64.1300 by removing paragraph (d) and by revising paragraph (c) to read as follows:

§ 64.1300 Payphone compensation obligation.

* * * * *

(c) In the absence of an agreement as required by paragraph (a) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of $.24.

[FR Doc. 99–6944 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–234; RM–9324]

Radio Broadcasting Services; Augusta, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 268C3 to Augusta, Wisconsin, in response to a petition filed by L. Topaz Enterprises, Inc. *See* 63 FR 71412, December 28, 1998. The coordinates for Channel 268C3 at Augusta, Wisconsin, are 44–40–11 NL and 90–57–55 WL. There is a site restriction 12.3 kilometers (7.7 miles) east of the community. With this action, this proceeding is terminated. A filing window for Channel 268C3 at Augusta, Wisconsin, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addresed by the Commission in a subsequent order.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–234, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Augusta, Channel 268C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6869 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–50, MM Docket No. 98–75; RM–9247, RM–9264]

Radio Broadcasting Services; Healdton and Pauls Valley, OK and Krum, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, in a consolidated proceeding, substitutes Channel 229C3 for Channel 229C2 at Healdton, OK, reallots Channel 229C3 from Healdton to Krum, TX, as the community's first local aural transmission service, and modifies the license of Station KICM accordingly, at the request of AM & PM Broadcasters, LLC. *See* 63 FR 19699, April 21, 1998. At the request of AM & PM Communications, LLC, the Commission reallots Channel 249C3 from Pauls Valley, OK to Healdton, OK, as the community's first local aural transmission service. *See* 63 FR 34622, June 25, 1998. Channel 229C3 can be allotted to Krum with a site restriction of 22.3 kilometers (13.9 miles) northeast, at coordinates 33–26–34 NL; 97–08–08 WL, to accommodate petitioner's desired transmitter site. Channel 249C3 can be allotted to Healdton with a site restriction of 6.6 kilometers (4.1 miles) north, at coordinates 34–17–28 NL; 97–29–23 WL, to accommodate petitioner's desired transmitter site. With this action, this proceeding is terminated.

DATES: Effective April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 98–50, 98–75, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 229C2 and adding Channel 249C3 at Healdton and removing Channel 249C3 at Pauls Valley.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Krum, Channel 229C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6870 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–236; RM–9344]

Radio Broadcasting Services; Knox City, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 297A to Knox City, Texas, in response to a petition filed by Alalatex Broadcasters. *See* 63 FR 71412, December 28, 1998. The coordinates for Channel 297A at Knox City, Texas, are 33–25–03 NL and 99–40–16 WL. With this action, this proceeding is terminated. A filing window for Channel 297A at Knox City, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addresed by the Commission in a subsequent order.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–236, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th

Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Knox City, Channel 297A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6871 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted February 24, 1999, and released March 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 290C3 and adding Channel 290C2 at Paradise Valley.

3. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 295A and adding Channel 295C3 at Gurdon.[1]

4. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 280C1 and adding Channel 280C2 at Pueblo West.[2]

5. Section 73.202(b), the Table of FM Allotments under Georgia is amended by removing Channel 298A and adding Channel 298C3 at Roswell.

6. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by removing Channel 231A and adding Channel 233A at Loogootee.

7. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 289A and adding Channel 289C3 at Manchester.

8. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 258A and adding Channel 257C3 at Ruston.

9. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 270A and adding Channel 270C2 at Negaunee.

10. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 232A and adding Channel 232C3 at Corinth.

11. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 266A and adding Channel 266C3 at White Rock.

12. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by removing Channel 280A and adding Channel 281C1 at Tioga.

13. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 276C3 and adding Channel 276C2 at Enid.

14. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 237C3 and adding Channel 237A at Baker.

15. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by removing Channel 240A and adding Channel 239A at Lewistown.

16. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 276A and adding Channel 276C1 at Ballinger, removing Channel 292C3 and adding Channel 292C2 at Hereford, removing Channel 239A and adding Channel 239C3 at Jourdanton and removing Channel 276A and adding Channel 276C3 at Pittsburg.

17. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 286C2 and adding Channel 286C at Tremonton.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6874 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–149; RM–9331]

Radio Broadcasting Services; Long Beach and Shallotte, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Morfield, L.L.C., reallots Channel 252C3 from Shallotte to Long Beach, NC, as the community's first local aural service, and modifies the construction permit of Station WAZO(FM) to specify Long Beach instead of Shallotte as its community of license. See 63 FR 44600, August 20, 1998. Channel 252C3 can be allotted to Long Beach in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.6 kilometers (7.2 miles) east, at coordinates 33–56–49 NL; 78–

[1] The *Report and Order* in MM docket 98–40, substituted Channel 295A for Channel 224A at Gurdon, Arkansas, and modified the construction permit for Station KYXK to specify operation on Channel 295A. *See* 63 FR 36191, July 2, 1998.

[2] The *Report and Order* in MM Docket No. 96–232 substituted Channel 280C1 for Channel 283C2 at Pueblo, Colorado, and reallotted Channel 280C1 from Pueblo, Colorado, to Pueblo West, Colorado. *See* 63 FR 3832, January 27, 1998.

00–04 WL, to accommodate petitioner's desired transmitter site. With this action, this proceeding is terminated.

DATES: Effective April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–149, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 252C3 at Shallotte and adding Long Beach, Channel 252C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6875 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–165; RM–9322]

Radio Broadcasting Services; Refugio, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 263A to Refugio, Texas, in response to a petition filed by WAB Broadcasting. See 63 FR 49683, September 17, 1998. The coordinates for Channel 263A at Refugio are 28–21–00 NL and 97–16–30 WL. There is a site restriction 5 kilometers (3.1 miles) north of the community. Since Refugio is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican Government has been obtained for this allotment. With this action, this proceeding is terminated. A filing window for Channel 263A at Refugio will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–165, adopted March 3, 1999, and released March 12, 1999. The full test of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1219 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 263A at Refugio.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6876 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–235; RM–9379]

Radio Broadcasting Services; West Tisbury, MA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 282A to West Tisbury, Massachusetts, in response to a petition filed by Oasis Financial Corporation. See 63 FR 71413, December 28, 1998. The coordinates for Channel 282A at West Tisbury are 41–22–52 NL and 70–40–30 WL. With this action, this proceeding is terminated. A filing window for Channel 282A at West Tisbury will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addresed by the Commission in a subsequent order.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–235, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Massachusetts, is adding West Tisbury, Channel 282A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6877 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–233; RM–9316]

Radio Broadcasting Services; Manhattan, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 289A to Manhattan, Montana, in response to a petition filed by Manhattan Broadcasting Company. *See* 63 FR 71413, December 28, 1998. The coordinates for Channel 289A at Manhattan, Montana, are 45–51–12 NL and 111–19–42 WL. With this action, this proceeding is terminated. A filing window for Channel 289A at Manhattan, Montana, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addresed by the Commission in a subsequent order.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–233, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Manhattan, Channel 289A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6878 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–70; RM–9276]

Radio Broadcasting Services; Clinton and Okarche, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Tyler Broadcasting Corporation, substitutes Channel 294C2 for Channel 294C1 at Clinton, OK, reallots Channel 294C2 to Okarche, OK, as the community's first local aural service and modifies Station KCLI–FM's license to specify Okarche instead of Clinton as its community of license. *See* 63 FR 36387, July 6, 1998. Channel 294C2 can be allotted to Okarche in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.7 miles) east, at coordinates 35–43–08 North Latitude; 98–00–09 West Longitude, to accommodate petitioner's desired transmitter site. With this action, this proceeding is terminated.

DATES: Effective April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–70, adopted February 24, 1999, and released March 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 295C1 at Clinton and by adding Okarche, Channel 294C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6879 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 031599A]

Fisheries of the Exclusive Economic Zone Off Alaska; Fishery Cooperatives

AGENCY: National Marine Fisheries Service (NMFS); National Oceanic and Atmospheric Administration (NOAA); Commerce.

ACTION: Final rule; notice of availability of fishery cooperative contracts.

SUMMARY: NMFS announces the availability of two fishery cooperative contracts under the American Fisheries Act (AFA). The Pollock Conservation Cooperative and the Offshore Pollock Catcher Cooperative filed membership agreements (agreements) with the North Pacific Fishery Management Council (Council) and the Secretary of Commerce (Secretary) under section 210(a) of the AFA. This notification is intended to promote public awareness of the agreements and is necessary to comply with the AFA requirement to make public information about the agreements.

ADDRESSES: Copies of the Agreement may be requested in writing from (1) Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Sustainable Fisheries Division, Alaska Region, NMFS, 709 West 9th Street, Room 401, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori Gravel, or from (2) Clarence Pautzke, Executive Director, North Pacific Fishery Management

Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907–586–7228.

SUPPLEMENTARY INFORMATION: Section 210 of the AFA specifically provides for fishery cooperatives under section 1 of 15 U.S.C. 521 *et seq.* (June 25, 1934), for purposes of harvesting and processing pollock (*Theragra chalcogramma*) caught in the Bering Sea and Aleutian Islands area. Any contract implementing a fishery cooperative under this authority is required to meet certain minimal criteria (section 210(a)(1)). These criteria include filing the contract, and any material modifications to the contract, with the Council and the Secretary not less than 30 days prior to the start of fishing under the contract. Additional criteria include public disclosure of certain information about the contract or the fishery cooperative and its harvest. Specifically, the Council and the Secretary are required to make available to the public information they deem appropriate but which at a minimum will include:

1. A list of the parties to the contract, a list of the vessels involved, and the amount of pollock and other fish to be harvested by each party to the contract; and

2. The harvest by vessels under the cooperative contract of all species (including bycatch) in the directed pollock fishery on a vessel-by-vessel basis.

Both agreements were filed or submitted to the Chairman of the Council and the Secretary on December 20, 1998. On January 20, 1999, the Council and NMFS received copies of a "housekeeping" amendment to the Offshore Pollock Catcher Cooperative membership agreement. The Pollock Conservation Cooperative membership agreement lists nine members, the percentage of the annual directed pollock fishery allowance for each member, and 20 participating vessels. The 20 listed vessels are the same catcher/processors listed at section 208(e) of the AFA. The Offshore Pollock Catcher Cooperative membership agreement lists seven members, the percentage of the annual directed pollock fishery allowance for each member, and the seven participating catcher vessels named at section 208(b) of the AFA.

NMFS announces the availability of both agreements (see **ADDRESSES**). Both agreements and the amendment were made available to the public during the Council meetings February 1 through 8, 1999. The actual harvest of each vessel operating under each agreement will be made available at the conclusion of the fishing year.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 16, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–6925 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–22–F

Propo

This section contains noti issuance of r purpose of th persons an o rule making p rules.

FEDERAL INVESTME

5 CFR Part

Methods o the Thrift S

AGENCY: Fe Investment

ACTION: Pro comments.

SUMMARY: T Federal Ret Board (Boa amendmen regulations amendmen withdraw h (TSP) accou account wi will be rest complies w requiremen

DATES: Com or before M

ADDRESSES: Patrick J. Fe Thrift Inves N.W., Wash

FOR FURTHE Patrick J. Fe

SUPPLEMENT administers established Retirement (FERSA), P The provisi codified pri VII of Chap States Code deferred ret Federal emp cash or defe established Internal Rev participant' trust for the 8437(g).

The dead withdraw o her account 8433. Unde

Proposed Rules

Federal Register
Vol. 64, No. 54
Monday, March 22, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Methods of Withdrawing Funds From the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a proposed amendment to the Board's withdrawal regulations. Under the proposed amendment, if a participant does not withdraw his or her Thrift Savings Plan (TSP) account in a timely manner, the account will be forfeited. The account will be restored if the participant complies with the withdrawal requirements.

DATES: Comments must be received on or before May 21, 1999.

ADDRESSES: Comments may be sent to Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest, (202) 942–1662.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514. The provisions governing the TSP are codified primarily in subchapters III and VII of Chapter 84 of Title 5, United States Code (1994). The TSP is a tax-deferred retirement savings plan for Federal employees which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. Sums in a participant's TSP account are held in trust for the participant. 5 U.S.C. 8437(g).

The deadline for a participant to withdraw or begin withdrawing his or her account is governed by 5 U.S.C. 8433. Under section 8433(f), this deadline is April 1 of the year following the later of the year in which the participant turns age 70½ or the year in which the participant separates from Government employment.

Final regulations governing the deadline for withdrawing a TSP account were published in the **Federal Register** on September 18, 1997 (62 FR 49113). These regulations do not address the action the Board will take if a participant fails to comply with the withdrawal deadline.

Under the proposed amendment, whenever a participant does not comply with the withdrawal deadline, the Board will transfer all of the funds in his or her account to the Government Securities Investment Fund (G Fund) that are not already invested in that Fund. The participant will be sent a notice of this action and informed that the account will be declared abandoned and forfeited unless the participant takes the appropriate withdrawal action within 90 days of the date of notice. Forfeiture is necessary because participants who have not taken timely action to withdraw their accounts are no longer eligible to have a TSP account.

If, at a later time, a participant reclaims the TSP account and a proper withdrawal election has been received, the Board will restore the funds to the account and authorize the withdrawal. The amount the participant may withdraw is the amount of funds in the account at the time the Board declared it to be abandoned and forfeited. No earnings will be paid on these funds during the forfeiture period.

If the participant reclaims the account balance, but decides not to take a lump sum or monthly payments withdrawal, the Board will purchase an annuity for the participant after it has received the necessary information from him or her. The option of electing an annuity is not available for TSP accounts of $3,500 or less. Those accounts will be paid in accordance with § 1650.22.

Regulatory Flexibility Act

I certify that this amendment will not have a significant economic impact on a substantial number of small entities. It will affect only TSP participants and beneficiaries.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104–4, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments, and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by any State, local, and tribal governments in the aggregate, or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

List of Subjects in 5 CFR Part 1650

Employee benefit plans, Government employees, Pensions, Retirement.

Dated: March 12, 1999.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, part 1650 of chapter VI of title 5 of the Code of Federal Regulations is amended as follows:

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

1. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

2. Section 1650.15 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 1650.15 Required withdrawal date.

* * * * *

(c) In the event that a participant does not withdraw his or her account or begin receiving payments in accordance with paragraph (a) of this section, the Board will transfer all of the funds in the participant's account not already invested in the Government Securities Investment Fund (G Fund) to that Fund. A notice of this action will be sent to the participant with a warning that his or her account will be declared abandoned and forfeited unless the participant comes into compliance with paragraph (a) of this section within 90 days of the date of the notice.

(d) If the participant does not take the appropriate withdrawal action within

the 90 day period provided in paragraph (c) of this section, the Board will purchase an annuity for the participant after the following steps have been taken:

(1) The account has been declared abandoned and the funds in the account have been forfeited;

(2) A notice of this action has been sent to the participant;

(3) The participant reclaims the account balance that was abandoned, but decides against a withdrawal pursuant to §§ 1650.10 or 1650.11; and

(4) The participant provides the information that the Board needs to purchase an annuity pursuant to § 1650.12.

[FR Doc. 99–6757 Filed 3–19–99; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71 and 80

[Docket No. 98–037–1]

Johne's Disease in Domestic Animals; Interstate Movement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing several changes to the regulations regarding the interstate movement of domestic animals that have reacted to a test for paratuberculosis. First, we are proposing to replace all references to "paratuberculosis" with references to "Johne's disease" to reflect a change in nomenclature. Second, we are proposing to identify an official test for the detection of Johne's disease in domestic animals. Third, we are proposing to allow sexually intact animals that are positive to the official Johne's disease test to be moved interstate for the collection of germ plasm. Fourth, we are proposing to amend the requirements for moving animals interstate. These actions would update the regulations and remove restrictions on the interstate movement of animals that are positive to an official Johne's disease test that do not appear necessary to prevent the interstate spread of Johne's disease.

DATES: Consideration will be given only to comments received on or before May 21, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–037–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–037–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph S. VanTiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–7716.

SUPPLEMENTARY INFORMATION:

Background

Paratuberculosis, also known as Johne's disease, is a disease caused by *Mycobacterium paratuberculosis*. This disease primarily affects cattle, sheep, goats, and other domestic, exotic, and wild ruminants. Paratuberculosis is a chronic and contagious enteritis that results in progressive wasting and eventual death. Clinical signs are rarely evident until 2 or 3 years after the initial infection, which usually occurs soon after birth. The organism is shed in large numbers in the feces of infected animals, and infection can be acquired by ingestion of organisms from contaminated food and water sources. The organism can also be present in colostrum and milk of infected cows. The disease is nearly always introduced into a clean herd by an infected animal that does not show symptoms of the disease. Our regulations are intended to control the interstate spread of the disease in the United States.

The regulations in subchapter C of chapter I, title 9, Code of Federal Regulations, govern the interstate movement of animals to prevent the dissemination of livestock and poultry diseases in the United States. Parts 71 and 80 (referred to below as the regulations) are included in subchapter C. Part 71 relates to the interstate transportation of animals, poultry, and animal products. Part 80 pertains to the interstate movement of domestic animals that are paratuberculosis reactors. A paratuberculosis reactor is a domestic animal that has reacted to a test recognized by the Secretary of Agriculture for paratuberculosis.

In this document, we are proposing several changes to the regulations regarding the interstate movement of domestic animals affected with paratuberculosis.

Paratuberculosis

We are proposing to amend the regulations in parts 71 and 80 by replacing all references to "paratuberculosis" with references to "Johne's disease" to reflect a change in nomenclature. Since the regulations were first promulgated, accepted veterinary medical terminology has changed. Paratuberculosis is now generally referred to as Johne's disease. In this proposed rule, we will use the term "Johne's disease" when referring to "paratuberculosis," as appropriate.

Definitions (§ 80.1)

The proposed changes to part 80 of the regulations would make it necessary for us to add definitions in § 80.1 for several terms used in the proposed regulations. We are proposing to add definitions for *Administrator, Animal and Plant Health Inspection Service (APHIS), APHIS representative, approved livestock facility, area veterinarian in charge, official eartag, owner-shipper statement, permit, premises identification number, premises of origin, recognized slaughtering establishment, State animal health official,* and *State representative*.

We are also proposing to add three definitions that are not currently defined or used elsewhere in subchapter C. *Germ plasm* would be defined as semen, embryos or ova. *Johne's disease* would be defined as an infectious and communicable disease that primarily affects cattle, sheep, goats, and other domestic, exotic, and wild ruminants, also known as paratuberculosis, caused by *Mycobacterium paratuberculosis*. The proposed definition for *official Johne's disease test*, the third definition we would add, is discussed later in this document.

We are also proposing to update the definitions of *accredited veterinarian, moved,* and *State* in § 80.1 to make them consistent with the definitions of these terms found in other parts of chapter I, title 9, Code of Federal Regulations.

We are also proposing to remove several terms from § 80.1 that would no longer be used in part 80. Specifically, we would remove the terms *paratuberculosis, Federal inspector, person, specifically approved stockyard,* and *State inspector*. As explained earlier, *paratuberculosis* would be replaced by *Johne's disease*. *Federal inspector* would be replaced by *APHIS representative; person* would no longer be used; *specifically approved stockyard* would be replaced with *approved*

livestock facility; and *State inspector* would be replaced by *State representative.*

In addition, we are proposing to amend § 80.1 by removing the paragraph designations and placing all definitions in alphabetical order.

Official Johne's Disease Test

We are proposing to identify an official test for the detection of domestic animals that are infected with *M. paratuberculosis.* Currently, part 80 restricts the interstate movement of domestic animals that have reacted to a test for Johne's disease. However, the regulations do not identify a specific test. As a consequence, State and Federal diagnostic laboratories have used various diagnostic tests to diagnose Johne's disease in animals.

There are a number of tests currently used to diagnose Johne's disease. Antibody detection tests, such as the enzyme-linked immunosorbent assay, agar gel immunodiffusion, and complement fixation, detect the presence of antibodies to *M. paratuberculosis* in serum samples. Organism detection tests, such as fecal culture or polymerase chain reaction (PCR), detect the presence of the *M. paratuberculosis* organism in fecal samples. Most antibody detection tests are more rapid or less expensive than organism detection tests. However, at this time, we believe that an organism detection test would be the most specific and most reliable index of infection in live animals.

We are, therefore, proposing to amend § 80.1 to add a definition for the term *official Johne's disease test.* An organism detection test would be the official Johne's disease test. We would require the test to be conducted in an approved laboratory [1]. The Administrator of the Animal and Plant Health Inspection Service (APHIS) would approve a laboratory to conduct the official Johne's disease test after determining that the laboratory meets the check test proficiency requirements prescribed by the National Veterinary Services Laboratories. Approval would continue as long as such check test proficiency requirements are met on an annual basis. If the laboratory fails to pass the check test proficiency requirements, the laboratory would be removed from the list of approved laboratories for the type of test that it failed. For example, if a laboratory is approved for performing fecal culture and PCR testing, but during the annual recheck of its proficiency, the laboratory passed the fecal culture check test proficiency requirements and failed the PCR check test proficiency requirements, the laboratory would remain on the approved list of laboratories for the fecal culture test but would be removed from the approved list of laboratories for PCR.

We would refer to animals identified as having Johne's disease on the basis of an organism detection test as animals "positive to the official Johne's disease test," rather than as "reactors." An animal that reacts to a test can either be infected with the organism being detected or show a reaction due to the presence of an element in the test sample collected from the animal that is cross reacting in the test. For some diagnostic tests, "reactor" is an appropriate term because some of these tests detect the presence of antibody against an organism. An animal may have antibodies to other organisms that cross-react with antigens in the test, and the result may appear as a reaction. However, the organism detection test will detect the presence of the M. *paratuberculosis* organism; therefore, "positive to" is a more appropriate term than "reactor."

Interstate Movement of Domestic Animals Positive to the Official Johne's Disease Test

Currently, § 80.4 provides that cattle and other domestic animals that have reacted to a test for Johne's disease may only be moved interstate to a recognized slaughtering establishment or to a specifically approved stockyard for sale to a recognized slaughter establishment. Prior to movement, cattle and other domestic animals must be identified with an approved metal eartag that is attached to their left ear and bears a serial number and the inscription, "U.S. Reactor," or a similar State reactor tag. Cattle must also be: (1) Branded with the letter "J" on their left hip near the tailhead; or (2) accompanied directly to slaughter by an APHIS or State representative; or (3) moved in vehicles closed with official seals that are applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

We are proposing a number of changes to § 80.4 regarding the interstate movement of animals. First, we are proposing to require the use of an official eartag to identify animals that are positive to the official Johne's disease test and remove the requirement for a "U.S. Reactor" inscribed eartag. We believe that it is sufficient to identify these animals with an official eartag, since an official eartag can be used to trace the animals to their premises of origin, even if they are separated from their accompanying documentation.

Second, we are proposing to remove the requirement that cattle be branded, accompanied by an APHIS or State representative, or transported in sealed vehicles. When § 80.4 of the regulations was promulgated, Johne's disease was an emerging disease in the United States, and measures were instituted to clearly identify infected animals. We believe that it is no longer necessary to require measures, such as branding, that overtly identify cattle as infected with M. *paratuberculosis.* Also, herd owners must often wait 1 to 5 days for APHIS or State personnel to be available to brand the animals, seal the trucks, or accompany the shipment of animals to their destination. By removing these requirements, herd owners would be able to remove infected animals from their premises sooner and decrease the possibility of these animals infecting other animals on the premises.

Third, we are proposing to remove the requirement that cattle and other domestic animals that are reactors to a test for Johne's disease be accompanied by a certificate issued by a Federal or State inspector or an accredited veterinarian in accordance with § 80.9. Currently, the certificate must show: (1) The animals have reacted to the test; (2) the reactor tag number for each animal, the owner, and the date tested; (3) the authorization for movement; (4) the destination; and (5) the purpose for movement. Instead of a certificate, we propose to require that an owner-shipper statement accompany animals that are positive to the official Johne's disease test. Unlike a certificate, an owner-shipper statement can be completed by the owner or shipper of the animals. This would enable herd owners to ship animals sooner than they could if they had to wait for government personnel to issue a certificate. The owner-shipper statement would be required for the interstate movement to slaughter of animals that are positive to the official Johne's disease test. We would require the owner-shipper statement to provide: (1) The number of animals to be moved; (2) the official eartag number of each animal; (3) the species of the animals; (4) the points of origin and destination; (5) the consignor and consignee; (6) a statement that the animals are positive to the official Johne's disease test; and (7) any additional information required by part 80.

[1] A list of currently approved laboratories and the requirements for approval are available from the Diagnostic Bacteriology Laboratory, National Veterinary Services Laboratories, P.O. Box 844, Ames, Iowa 50010.

Finally, we are proposing to allow sexually intact animals that are positive to the official Johne's disease test to be moved interstate for the collection of germ plasm under certain conditions.

Johne's disease primarily affects the intestinal system of infected animals. The primary mode of transmission is the shedding of the organism in feces. Animals become infected when they ingest contaminated food or water. The agent can also be shed in milk or colostrum of some infected cows, and calves may become infected by ingesting this milk and/or colostrum. Although Johne's disease is not primarily recognized as a sexually transmitted disease, the organism has been isolated from the genitalia and semen of infected bulls and the uterine washings of infected cows. The role that herd bulls used in natural service play in the spread of infection is unknown, and the risk from infected semen used for artificial insemination is considered minimal. Research has shown that calves born to infected cows can become infected in utero; however, it is unknown at what stage this occurs. The *M. paratuberculosis* organism can adhere to embryos in vitro but can be removed with trypsin washing techniques following the International Embryo Transfer Association collection and treatment protocols. Embryo transfer from infected cows has rarely resulted in infected calves and is not known to have caused infection in the recipient cow. (Embryo transfer is the removal of embryos from the uterus of their dam (the donor) and transferring them to the uterus of other females (recipients) for development to term.)

Currently, animals that react to a test for Johne's disease may not be moved interstate for either natural breeding or germ plasm collection. The transmission of infection from these animals via semen or embryos is not considered a significant risk. By allowing the interstate movement of positive animals for the collection of germ plasm, we would allow herd owners to salvage valuable genetics and continue the animal's lineage.

We would provide herd owners with the option of having the animals returned to the premises of origin after the collection of germ plasm. These animals could then be maintained in a manner to prevent the spread of infection via manure. However, if the animals are not returned to their premises of origin after the collection of germ plasm, we would require these animals to be moved directly to a recognized slaughtering establishment or to an approved livestock facility for sale to a recognized slaughtering establishment.

We are proposing to require that animals moved interstate for the collection of germ plasm be transported under permit. The permit would be an official document (Veterinary Services Form 1–27, Permit for Movement of Restricted Animals, or a State form that contains the same information but not a "permit for entry") issued at the point of origin by an APHIS or State representative or accredited veterinarian for the interstate movement of the animals. The permit would have to indicate: (1) The number of animals to be moved; (2) the purpose of the movement; (3) a statement that the animals are positive to the official Johne's disease test; (4) the official eartag number of each animal; (5) the animals' breed and sex; (6) the name of the owner of the animals; (7) the points of origin and destination; (8) the consignor and consignee; and (9) the transportation vehicle number or other identification number. We would require a permit to ensure that APHIS or State officials are aware of the interstate movement of the animals for purposes other than slaughter. We would also require the movement to be agreed upon by the area veterinarian in charge and the State animal health official of the States of origin and destination. In addition, for the return of animals to the premises of origin from the site of the collection of germ plasm, we would require a new permit. The issuance of a new permit would help ensure that the State officials are aware of the return of the animals to the premises of origin. However, if the animals are to be transported directly to a recognized slaughtering establishment or to an approved livestock facility for sale to a recognized slaughtering establishment after the collection of germ plasm, their movement would require an owner-shipper statement as previously described.

Related Changes

Currently, § 71.3(c)(1) allows domestic animals that have reacted to a test for brucellosis or paratuberculosis to be moved interstate in accordance with the provisions of parts 78 and 80, respectively. For clarity, we believe that brucellosis and Johne's disease should be addressed in separate paragraphs. We are proposing to remove all references to paratuberculosis in paragraph (c)(1) and add a new paragraph to address Johne's disease. The new paragraph would provide that domestic animals that are positive to the official Johne's disease test, but are not affected with any other disease referred to in § 71.2 and are not tick infested, may be moved interstate in accordance with part 80.

In addition, paragraph (c)(1) refers to domestic animals that have reacted to a test recognized by the Secretary of Agriculture for brucellosis. For consistency with the terminology used in part 78, we are proposing to amend paragraph (c)(1) to refer to domestic animals that have reacted to an official test for brucellosis.

Currently, § 80.3 provides that domestic animals affected with Johne's disease may not be moved interstate except in compliance with the regulations in part 80. We are proposing to amend § 80.3 to replace the term "affected" with "positive to the official Johne's disease test."

Currently, § 80.8 provides that domestic animals that are paratuberculosis reactors cannot be moved interstate in a vehicle that contains healthy animals susceptible to Johne's disease unless all of the animals are for immediate slaughter or the reactors are kept separated from the other animals by a partition that is securely affixed to the sides of the vehicle. We are proposing to require that the partition also prevent the transfer of fecal matter from the infected animals to the healthy animals in the vehicle.

Provisions We Propose To Remove From Part 80

Section 80.2 of the regulations states that on June 5, 1952, the Secretary of Agriculture issued a notice that paratuberculosis exists in Puerto Rico and all but six States of the United States. This historical information is superfluous. Therefore, we believe that this section is no longer necessary and propose to remove § 80.2 in its entirety.

Section 80.5 of the regulations sets forth conditions for the interstate shipment of purebred animals that have been moved interstate for breeding purposes and, subsequent to the movement, reacted to a test for paratuberculosis. Section 80.5 provides that these animals may be shipped to their point of origin, for purposes other than immediate slaughter, in accordance with §§ 80.5 and 80.4 (a) and (b). Section 80.5 also provides that, after their return to the point of origin, these animals cannot be moved interstate again except for immediate slaughter. As stated previously, we are proposing to amend § 80.4 to allow animals that are positive to the official Johne's disease test to be moved interstate either for slaughter or for the collection of germ plasm. If these proposed changes are finalized, § 80.5 will no longer be

necessary. Therefore, we are proposing to remove 80.5 from the regulations.

Section 80.6 of the regulations requires all records that accompany paratuberculosis reactors interstate to be marked with the words, "Paratuberculosis Reactors" and a statement that the vehicles used to transport the animals must be cleaned and disinfected. The applicable records are waybills, conductor's manifests, switch orders, vehicle interchange records, etc. As previously indicated in this document, we are proposing to require an owner-shipper statement with each interstate shipment of positive animals for slaughter purposes and a permit for each interstate shipment of positive animals for the collection of germ plasm and, if applicable, return to the premises of origin. We would require the owner-shipper statement and the permit to indicate that the animals are positive to the official Johne's disease test. The owner-shipper statement would accompany the animals to slaughter, and a permit would accompany animals to the destination for the collection of germ plasm and on return to the premises of origin after the collection of germ plasm. Under these circumstances, we believe that marking other records would be unnecessary. Therefore, we are proposing to remove 80.6 from the regulations.

Section 80.7 of the regulations requires cleaning and disinfecting of all vehicles used to transport paratuberculosis reactors interstate. Section 80.7 requires that cleaning and disinfecting be done in accordance with §§ 71.6, 71.7, 71.10, and 71.11. Section 80.7 also provides for the movement of vehicles if APHIS officials are not present to supervise their cleaning and disinfection. Because these same requirements are clearly spelled out in §§ 71.6 through 71.11, we are proposing to remove § 80.7 from the regulations. We propose to add a provision to § 80.3 that states that means of conveyance used to transport animals positive to the official Johne's disease test must be cleaned and disinfected in accordance with § 71.6, and that facilities in which the animals were maintained must be cleaned and disinfected in accordance with § 71.7.

Section 80.9 of the regulations tells how certificates that accompany animals moved interstate must be handled. In short, § 80.9 contains the provisions for delivery of the certificate to the transportation agency or consignee, as the case may be. Since we are proposing to require the use of an owner-shipper statement and permit, under specified circumstances, with each interstate shipment of animals, rather than a certificate, we are proposing to remove § 80.9 from the regulations.

Based on the proposed removal of current §§ 80.2, 80.5, 80.6, 80.7, and 80.9, we would redesignate remaining sections §§ 80.3, 80.4, and 80.8 as §§ 80.2, 80.3, and 80.4, respectively.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would relieve some restrictions on the interstate movement of domestic animals that are positive to the official Johne's disease test. Currently, animals that are reactors to a test for Johne's disease may be moved interstate for slaughter only. This proposed rule would, among other things, make it easier to move positive animals interstate to slaughter and would allow the interstate movement of sexually intact positive animals for the collection of germ plasm under certain conditions, and where applicable, the return to the premises of origin.

However, we do not anticipate that these changes will have a significant economic impact on small entities. Currently, animals that are moved interstate to slaughter under the regulations must bear an eartag with a serial number and the inscription "U.S. Reactor" and be transported with a certificate. In addition, cattle must be branded with the letter "J" on their left hip, accompanied directly to slaughter by an APHIS or State representative, or moved in vehicles closed with official seals. We are proposing to remove these requirements and simply require positive animals moving interstate to slaughter to bear an official eartag and be shipped with an owner-shipper statement. There are no direct costs related to these requirements, so herd owners would not experience a savings from the removal of these requirements. However, this proposed rule would expedite the movement of animals by 1 to 5 days because herd owners would not have to wait to obtain the services of an APHIS or State representative prior to the interstate movement of their animals to slaughter. This may result in some small savings to herd owners.

Our proposal to allow herd owners to move positive animals interstate for the collection of germ plasm, prior to slaughter, would provide the herd owners the opportunity to profit from the continued use of their most expensive and productive animals even after they have been slaughtered by using the germ plasm in their breeding program to continue the animals' lineage. In addition, this proposal would allow herd owners to have these animals returned to the premises of origin after the collection of germ plasm, if the owner so chooses.

In a recent study, APHIS examined the cost of Johne's disease on U.S. dairy cattle producers.[2] The study found that infected herds with at least 10 percent of the culled cows showing clinical signs of Johne's disease had an average cost to producers of $227 for each cow in the herd per year. Therefore, the cost for a 100 cow dairy with at least 10 percent of culled cows showing clinical disease signs of Johne's disease would be approximately $22,700 per year. By amending the regulations, we may be able to strengthen detection and control of Johne's disease, which should reduce the producers' Johne's disease-related costs. However, the reduction in disease-related costs is not likely to be significant.

We anticipate that this proposed rule would affect primarily U.S. dairy cattle producers. In 1997, there were 116,680 dairy herds or farms in the United States. We estimate that about 22 percent (25,670 herds) of the U.S. dairy herds are affected with Johne's disease. The Small Business Administration (SBA) considers a dairy farm a small entity if its annual receipts are $0.5 million or less. According to the 1992 Census of Agriculture, 95 percent of dairy producers are considered small entities under SBA guidelines. This proposed rule should have a favorable economic impact on dairy cattle producers. However, for most producers, the impact may be insignificant. This is because on a per head basis, only about 10 percent of the cattle will test positive and not all positive animals are likely to be moved interstate for slaughter or the collection of germ plasm.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and

[2] See *Johne's disease on U.S. Dairy Operations*, National Animal Health Monitoring System, Dairy 1996, October, 1997.

regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98–037–1. Please send a copy of your comments to: (1) Docket No. 98–037–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 2073–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the regulations regarding the interstate movement of domestic animals that have reacted to a test for paratuberculosis. This proposed rule would identify an official test for the detection of Johne's disease in domestic animals. In addition, this proposed rule would amend the requirements for moving animals interstate and would allow sexually intact animals that are positive to the official Johne's disease test to be moved interstate for the collection of germ plasm. According to this proposed rule, an owner-shipper statement would be required for the interstate movement of domestic animals for slaughter purposes, and a permit would be required for the interstate movement of domestic animals for the collection of germ plasm and, if applicable, return to the premises of origin.

The owner-shipper statement and permit are considered information collection activities. We are asking OMB to approve these information collection activities in connection with our efforts to ensure that animals affected with Johne's disease are moved interstate with negligible risk of spreading disease to other animals. We are soliciting comments from the public (as well as affected agencies) concerning these proposed information collection activities. We need these comments to help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.)

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.04 hours per response.

Respondents: Herd owners, shippers, State representatives.

Estimated annual number of respondents: 250.

Estimated annual number of responses per respondent: 1.3.

Estimated annual number of responses: 325.

Estimated total annual burden on respondents: 13 hours.

(Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects

9 CFR Part 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 80

Animal diseases, Livestock, Transportation.

Accordingly, we propose to amend 9 CFR parts 71 and 80 as follows:

PART 71—GENERAL PROVISIONS

1. The authority citation for part 71 would continue to read as follows:

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 71.3 would be amended as follows:

a. In paragraph (a), by removing the word "paratuberculosis" and replacing it with the words "Johne's disease".

b. By revising paragraph (c)(1) to read as set forth below.

c. By redesignating paragraphs (c)(2), (c)(3), and (c)(4) as paragraphs (c)(3), (c)(4), and (c)(5), respectively, and adding new paragraph (c)(2) to read as set forth below.

§ 71.3 Interstate movement of diseased animals and poultry generally prohibited.

* * * * *

(c) * * *

(1) Domestic animals that have reacted to an official test for brucellosis, are not affected with any other disease referred to in this section, and are not tick infested, may be moved interstate in accordance with part 78 of this chapter.

(2) Domestic animals that are positive to the official Johne's disease test, are not affected with any other disease referred to in this section, and are not tick infested, may be moved interstate in accordance with part 80 of this chapter.

* * * * *

3. Part 80, including the title of the part, would be revised to read as follows:

PART 80—JOHNE'S DISEASE IN DOMESTIC ANIMALS

Sec.

80.1 Definitions.
80.2 General restrictions.
80.3 Movement of domestic animals that are positive to the official Johne's disease test.
80.4 Segregation of animals positive to the official Johne's disease test during interstate movement.

Authority: 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, and 125; 7 CFR 2.22, 2.80, and 371.2(d).

§ 80.1 Definitions.

Accredited veterinarian.[1] A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this chapter to

[1] The provisions of subchapters B, C, and D of this chapter authorize Federal and State veterinarians and accredited veterinarians to perform specified functions. Full-time Federal (including military) and State employed veterinarians are authorized to perform such functions, pursuant to delegation of authority by the Administrator or cooperative agreements without specific accreditation under the provisions of subchapter J.

perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

APHIS. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Approved livestock facility. A stockyard, livestock market, buying station, concentration point, or any other premises that has been approved under § 71.20 of this chapter.

Area veterinarian in charge. An APHIS veterinarian authorized by the Administrator to supervise and manage the animal health work of APHIS in a specified area of the United States.

Germ plasm. Semen, embryos, or ova.

Interstate. From one State into or through any other State.

Johne's disease. An infectious and communicable disease that primarily affects cattle, sheep, goats, and other domestic, exotic, and wild ruminants, also known as paratuberculosis, caused by *Mycobacterium paratuberculosis.*

Moved. Shipped, transported, delivered, or received for movement, or otherwise aided, induced, or caused to be moved.

Official eartag. An identification eartag approved by APHIS as being tamper-resistant and providing unique identification for each animal. An official eartag may conform to the alpha-numeric National Uniform Eartagging System, or it may bear a valid premises identification number that is used in conjunction with the producer's livestock production numbering system to provide a unique identification number.

Official Johne's disease test. An organism detection test approved by the Administrator and conducted in a laboratory approved by the Administrator.[2]

Owner-shipper statement. A statement signed by the owner or shipper of animals, which states: The number of animals to be moved, the official eartag number of each animal, the species of the animals, points of origin and destination, the consignor and consignee, a statement that the animals are positive to the official Johne's disease test, and any additional information required by this part.

Permit. An official document (VS Form 1–27 or a State form that contains the same information but not a "permit for entry") issued by an APHIS representative, State representative, or accredited veterinarian at the point of origin of a shipment to be moved in accordance with this part, which states: The number of animals to be moved, the purpose of the movement, the animals are positive to the official Johne's disease test, the official eartag number of each animal, the animals' breed and sex, the name of the owner of the animals, the points of origin and destination, the consignor and consignee, and the transportation vehicle number or other identification number.

Premises identification number. A unique number assigned by the State animal health official to a livestock production unit that is, in the judgment of the State animal health official or area veterinarian in charge, epidemiologically distinct from other livestock production units. A premises identification number shall consist of the State's two-letter postal abbreviation followed by the premises' assigned number. A premises identification number may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal.

Premises of origin. The farm or other premises where the animals intended for interstate movement are being raised, assembled, or both, immediately before the interstate movement.

Recognized slaughtering establishment. A slaughtering establishment[3] operating under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State inspected slaughtering establishment.

State. Any of the 50 States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the District of Columbia, and any territories and possessions of the United States.

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health work by a State or political subdivision of a State, and who is authorized by the State or political subdivision to perform tasks required by this part.

§ 80.2 General restrictions.

Domestic animals that are positive to the official Johne's disease test may not be moved interstate except in compliance with this part.

§ 80.3 Movement of domestic animals that are positive to the official Johne's disease test.

(a) *Movement of domestic animals for slaughter.* Domestic animals that are positive to the official Johnes disease test may be moved interstate for slaughter if:

(1) The animals are moved directly to a recognized slaughtering establishment or to an approved livestock facility for sale to a recognized slaughtering establishment;

(2) An owner-shipper statement that identifies the animals as positive to the official Johne's disease test accompanies the animals during the movement and is delivered to the consignee;

(3) Each animal bears an official eartag; and

(4) The animals are moved to the destination in one continuous movement without unloading.

(b) *Movement of domestic animals for collection of germ plasm.* Sexually intact domestic animals that are positive to the official Johne's disease test may be moved interstate for collection of germ plasm if:

(1) The movement of the animals is agreed upon by the area veterinarian in charge and the State animal health official in both the State of origin and the State of destination;

(2) A permit that identifies the animals as positive to the official Johne's disease test accompanies the animals during movement and is delivered to the consignee;

(3) Each animal bears an official eartag; and

(4) The animals are returned, under permit, to the premises of origin after the collection of germ plasm or the animals are moved directly to a recognized slaughtering establishment or to an approved livestock facility for sale to a recognized slaughter establishment after the collection of germ plasm in accordance with paragraph (a) of this section.

(c) *Cleaning and disinfecting.* Each means of conveyance used to transport the animals must be cleaned and disinfected in accordance with § 71.6 of this chapter. The facilities in which the animals were maintained must be cleaned and disinfected in accordance with § 71.7 of this chapter.

---

[2] A list of currently approved laboratories and the requirements for obtaining approval are available from the Diagnostic Bacteriology Laboratory, National Veterinary Services Laboratories, P.O. Box 844, Ames, Iowa 50010. The Administrator will approve laboratories to conduct the official Johne's disease test only after determining that the laboratory meets the check test proficiency requirements prescribed by the National Veterinary Services Laboratories. Approval will continue as long as such check test proficiency requirements are met on an annual basis.

[3] A list or recognized slaughtering establishments in any State may be obtained from an APHIS representative, the State animal health official, or a State representative.

§ 80.4 Segregation of animals positive to the official Johne's disease test during interstate movement.

Animals that are positive to the official Johne's disease test may not be moved interstate in a railroad car, boat, truck, or other vehicle containing healthy animals susceptible to Johne's disease unless all of the animals are for immediate slaughter, or unless the positive animals are kept separate from the other animals by a partition that is securely affixed to the sides of the vehicle and prevents the transfer of fecal matter from the animals positive to the official Johne's disease test to the healthy animals in the vehicle.

Done in Washington, DC, this 16th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–6893 Filed 3–19–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–71–AD]

Airworthiness Directives; Robinson Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to Robinson Model R44 helicopters. The AD would require installing a shutoff clamp on the auxiliary fuel tank sump drain tube (drain tube) and a placard decal to alert operators as to the proper use of the auxiliary fuel tank drain. This proposal is prompted by a report of fuel leaking from a drain tube opening in the area of the horizontal and vertical firewalls. The actions specified by the proposed AD are intended to prevent fuel leaks from the drain tube that could cause a fire and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before May 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–71–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5265; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–71–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–71–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

A Malfunction or Defect Report, FAA Form 8010–4, sent to the FAA by an operator, stated that the sump drain tube leaked fuel that accumulated at the junction of the horizontal and vertical firewalls creating a fire hazard. An investigation indicated that a leaky fuel drain valve may allow fuel to accumulate in the engine compartment. This accumulation of fuel creates an unsafe condition. This AD would correct the unsafe condition by requiring installation of a shutoff clamp on the drain tube to prevent fuel leakage and a placard decal to alert operators as to the proper use of the auxiliary fuel tank drain.

The FAA has reviewed Robinson Helicopter Company Service Bulletin SB–30, dated October 28, 1998 (SB). The SB describes procedures for adding a shutoff clamp to the drain tube as a redundant seal when the drain tube is stowed and a placard decal to alert operators as to the proper use of the auxiliary tank drain.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson Helicopter Company Model R44 helicopters of the same type design, the proposed AD would require installing a shutoff clamp to the drain tube to prevent fuel leakage and a placard decal to alert operators as to the proper use of the auxiliary fuel tank drain. These actions are intended to prevent a fire that could cause loss of control of the helicopter.

The FAA estimates that 200 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer has indicated that each operator will be provided the part at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $12,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the

location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Robinson Helicopter Company: Docket No. 98–SW–71–AD.

Applicability: Model R44 helicopters, Serial Numbers 0002 through 0529 except 0440, 0485, 0512, 0515, 0519, 0526, 0527, and 0528, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Within 100 hours time-in-service or 3 calendar months, whichever occurs first.

To prevent fuel leaks from the auxiliary fuel tank sump drain, which could cause a fire and subsequent loss of control of the helicopter, accomplish the following:

(a) Install a shutoff clamp, part number (P/N) D663–1 by sliding it onto the auxiliary fuel tank sump drain tube P/N A729–7 as shown in Figure 1.

(b) Install placard decal P/N A654–93 as shown in Figure 1.

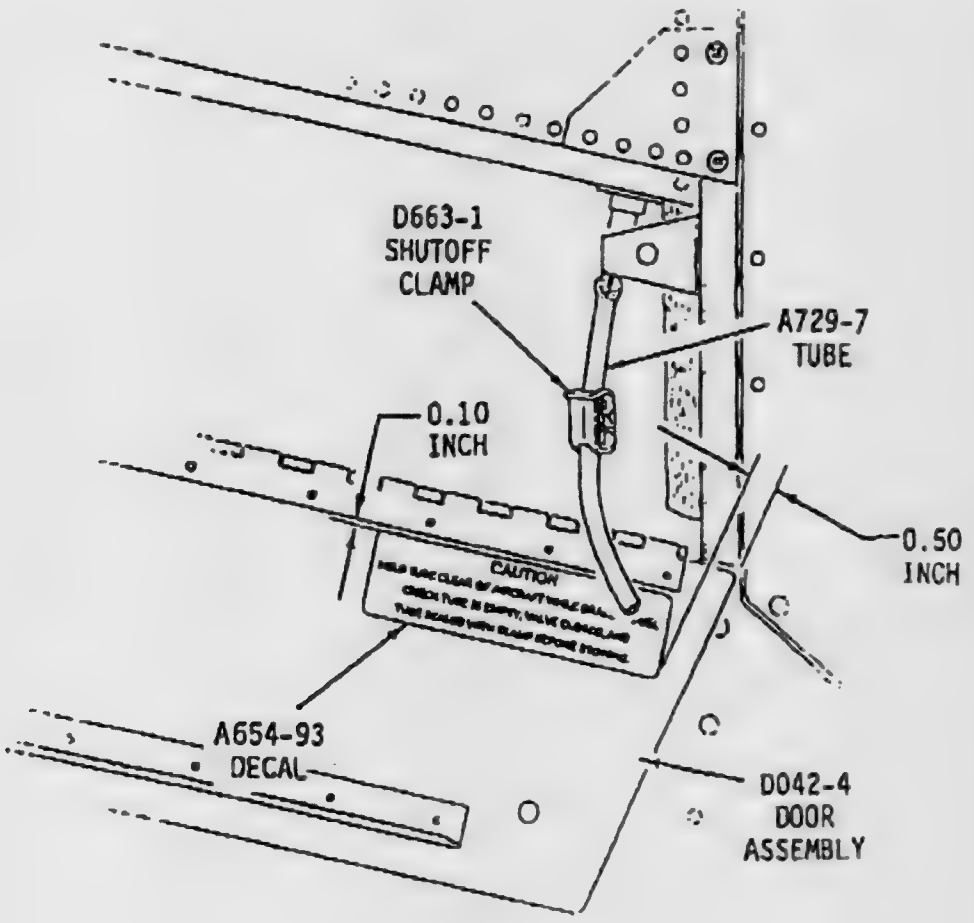


Figure 1

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an FAA Principal maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on March 10, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–6557 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 204

RIN 1010–AC30

Accounting Relief for Marginal Properties

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule; notice of extension of public comment period.

SUMMARY: The Minerals Management Service hereby gives notice that it is extending the public comment period on a notice of proposed rule, which was published in the **Federal Register** on January 21, 1999, (64 FR 3360). The proposed rule would implement legislation for Federal oil and gas leases. The new regulations would explain to lessees and their designees how to obtain accounting and auditing relief for Federal marginal properties. In response to requests for additional time, MMS will extend the comment period from March 22, 1999, to April 21, 1999.

DATES: Comments must be submitted on or before April 21, 1999.

ADDRESSES: Written comments, suggestions, or objections regarding this proposed amendment should be sent to the following addresses:

E-mail address is: RMP.comments@mms.gov.

For comments sent via the U.S. Postal Service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165.

For comments via courier or overnight delivery service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, MS 3021, Building 85, Denver Federal Center, Room A–212, Denver, Colorado 80225–0165.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, phone (303) 231–3432, FAX (303) 231–3385, e-Mail David__Guzy@mms.gov.

Dated: March 18, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–7060 Filed 3–19–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[USCG–1998–4354]

RIN 2115–AE88

Tank Vessel Response Plans for Hazardous Substances

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes regulations that would require response plans for certain tank vessels operating on the navigable waters of the United States that could reasonably be expected to cause substantial or significant and substantial harm to the environment by discharging a hazardous substance. These regulations are mandated by the Oil Pollution Act of 1990 (OPA 90), which requires the President to issue regulations requiring the preparation of hazardous substance response plans. The primary purpose of requiring response plans is to minimize the impact of a discharge of hazardous substances into the navigable waters of the United States.

DATES: Comments must reach the Coast Guard on or before June 21, 1999. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before June 21, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility, [USCG–1998–4354], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401 located on the Plaza Level of the Nassif Building at the same address, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble other than material proposed for incorporation by reference, will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same address, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

The material proposed for incorporation by reference is available for inspection at room 2100, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 9:00 a.m. and 2:30 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–6716.

FOR FURTHER INFORMATION CONTACT: CDR John Weber, Office of Response (G–MOR), (202) 267–6716; e-mail: Jweber@comdt.uscg.mil or LT Michael Roldan, Office of Standards Evaluation and Development (G-MSR), 202–267–0756; e-mail: mroldan@comdt.uscg.mil. Telephones are equipped to record messages on a 24-hour basis. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (USCG–1998–4354), and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES.** Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans to hold public meetings regarding this proposed rulemaking. We will announce the dates and times for the meetings in a later notice in the **Federal Register**. You may request a public meeting by submitting a comment requesting one to the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial.

Background and Purpose

The Clean Water Act (CWA) [33 U.S.C. 1321(j)(5)], as amended by section 4202(a)(6) of OPA 90, requires owners or operators of tank vessels, offshore facilities, and onshore facilities that could reasonably be expected to cause substantial or significant and substantial harm to the environment to prepare and submit plans for responding to the maximum extent practicable, to a worst case discharge, or a substantial threat of such a discharge, of oil or a hazardous substance into or on navigable waters, adjoining shorelines, or the exclusive economic zone. The Final Rule for oil spill response plans for vessels was published on January 12, 1996 [61 FR 1052]. The Final Rule for oil spill response plans for facilities was published on February 29, 1996 [61 FR 7890]. This proposed rulemaking addresses OPA 90 response planning requirements for tank vessels carrying hazardous substances. A separate rulemaking will propose regulations for facilities.

Regulatory History

Advance Notice of Proposed Rulemaking

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) addressing vessel and facility response plans for hazardous substances in the **Federal Register** on May 3, 1996 (61 FR 20084). The ANPRM discussed the background, statutory requirements of section 311(j) of the CWA, and possible regulatory approaches. In addition, the ANPRM raised 96 questions for public comment. The Coast Guard received 42 comment letters replying to the ANPRM. All comment letters were considered in developing this NPRM.

Public Meetings

The Coast Guard conducted public meetings on July 30, 1996, in Washington, DC, and August 5, 1996, in Houston, TX. The Coast Guard considered comments made during these meetings.

Response Plan Workshop

In addition to accepting written comments concerning the development of regulations for vessel response plans for hazardous substances, a workshop and meeting were held in Houston, TX, on February 26 and 27, 1997. The workshop engaged various stakeholders in issues that had been identified as significant in response to the ANPRM. Approximately 120 persons participated in the workshop.

The workshop focused on four specific issues identified in advance by the Coast Guard. These issues were: (1) Role and Contents of First Responders' Guides; (2) Role and Capabilities of Decision Support Systems; (3) Chemical Removal Technology; and (4) Public Responder versus Private Responder Issues. While drafting this NPRM, the Coast Guard considered recommendations from the workshop. A summary of the proceedings of the workshop is available for review and copying in the public docket as described under **ADDRESSES.**

Advisory Committee

The Chemical Transportation Advisory Committee (CTAC) formed the Hazardous Substances Response Plan Subcommittee. This subcommittee developed and recommended hazardous substance response plan criteria for the Coast Guard's consideration in developing requirements for OPA 90-mandated response plans. In addition to the formation of a Steering Committee, the subcommittee established the following working groups to address appropriate aspects of response planning: Fate and Effects, Response Resources and Methodology, and Planning Process. Based on work done by the groups, the CTAC subcommittee delivered a report containing findings and recommendations. Input from the committee was used in the development of this NPRM.

Discussion of Proposed Rule

1. General

In response to public comment and recommendations from the Chemical Transportation Advisory Committee, the Coast Guard established several principles to guide the development of this proposed rule. These principles specify that—

a. The response plans should address human health which, as the primary concern, includes the general public, vessel crew, and responders;

b. The regulations should recognize and promote existing industry best practices;

c. The regulations should allow for flexibility in plan development to accommodate other existing practices that are effective;

d. The Coast Guard should avoid developing prescriptive "one size fits all" regulations;

e. The Coast Guard should avoid duplicating existing federal regulations;

f. The Coast Guard should maximize consistency with international standards;

g. The regulations should reflect the differences in planning requirements between oil and hazardous substances, specifically as they relate to recoverability and risk of exposure; and

h. The regulations should facilitate amending existing oil response plans to meet requirements for hazardous substances under OPA.

A fundamental underpinning of these proposed regulations is that, for hazardous substance discharges, the availability of information and expertise is essential to support response decision-making, while the mobilization of containment and collection equipment will be feasible only as conditions allow. For oil response planning, some portion of the spilled product may be recoverable through containment and collection. The amount recovered is largely a function of how rapidly response equipment can be deployed. For hazardous substances, containment and collection may be viable for certain chemicals, depending on environmental conditions and safety considerations. Limitations on containment and collection are also imposed by the compatibility of equipment with the hazardous substance in question. The most effective mitigation strategy may be to control the source of the discharge, not contain and collect the hazardous substance. The Coast Guard prefers to foster a "quickly assess the risk and respond accordingly", instead of a "rush in to contain and collect the product" philosophy.

For the reasons previously described, these proposed regulations contain requirements that ensure access to certain information and equipment during a response, and the availability of appropriate technical expertise as necessary. The Coast Guard intends that owners/operators will, through good business practice, identify and perform the most appropriate response strategies.

2. Consistency With International Standards

The International Maritime Organization (IMO) is developing chemical response planning requirements to augment existing oil response planning requirements. Current international standards encompass several hundred chemicals, many of which are outside the Coast Guard's statutory authority in developing hazardous substance response planning regulations. The IMO has a subcommittee on international standards for hazardous material response. The Coast Guard has worked with this subcommittee to ensure our regulations are consistent with international standards.

3. Summary of Proposed Requirements

Following is a discussion of sections contained in the proposed rule.

Section 155.3015 indicates who must comply with these regulations. It applies to owners and operators of tank vessels that carry hazardous substances in bulk as cargo or cargo residue. Tank vessels include both tankers and tank barges that carry any hazardous substance. The term "bulk" means that a hazardous substance is carried in an integral tank, or is transferred into a marine portable tank while on the vessel. These regulations would not apply to packaged or containerized hazardous substances.

The Oil Pollution Act of 1990 amended the Clean Water Act (CWA) with respect to oil and hazardous substances. Accordingly, the determination of what substances are hazardous substances is made under the CWA. The complete list of CWA hazardous substances can be found in 40 CFR 116.4. These regulations would also apply to isomers and hydrates, as well as any solutions and mixtures of 10% or more, by weight.

Some comments made during public meetings and in response to the Advance Notice of Proposed Rulemaking (ANPRM) (61 FR 20084; May 3, 1996) encouraged the Coast Guard to expand the applicability of these regulations beyond the CWA hazardous substances carried in bulk. For the reasons described previously, OPA 90 and the CWA, as amended, prevent the Coast Guard from doing this. However, we ensured response plans contained tools to mitigate incidents involving hazardous substances, including those substances not covered under these regulations.

Section 155.3020 includes definitions that apply to the subpart. Many of the definitions listed mirror those used in oil spill response planning regulations contained in 33 CFR 155. We added or modified some definitions to make them applicable to hazardous substance response activities or to improve their clarity.

Section 155.3021 discusses how a plan-holder can "ensure the availability of response resources by contract or other approved means." These provisions are essentially unchanged from oil response plan regulations, although the plan-holder must ensure appropriate resources are available.

Section 155.3022 contains the requirement to designate a Qualified Individual (QI) and alternate QI in the plan. As prescribed by OPA 90, a QI must have full authority to implement all response actions necessary to minimize or mitigate damage to public health, the environment, and public and private property. A QI must be able to immediately and continuously communicate with the appropriate federal official and response resource providers, as needed. It is not assumed that a QI for oil spill response will necessarily be an appropriate QI for hazardous substance discharges.

Several comments to the ANPRM and public meetings have indicated that under the oil response planning regulations, some QI's do nothing more than obligate funds. These comments suggest that the role of the QI does not include involvement in decisions relating to a response and therefore, the QI does not need to have any understanding of incident response. This is not the Coast Guard's expectation of a QI.

The Coast Guard understands that Congress intended for a "qualified individual" to have basic qualifications that demonstrate an ability to coordinate, with full authority from the plan-holder, a response to an incident. Early in a response, when the risks are often greatest, the QI may independently make decisions that could impact the overall response. For example, a plan may identify a list of contractors that provide particular response services. Without a basic knowledge of chemical response, a QI may not know which resource provider to contact or be able to characterize the nature of the incident to responders. This knowledge may not be as critical for oil spills, where response options are more standardized, and the immediate threat to human health is not as prevalent. It is critical that QI's are properly trained by establishing a minimum standard training requirement.

To build on an existing standard that is widely accepted and demonstrates the appropriate skill set, the proposed regulations require QI's to meet the requirements of an incident commander under the OSHA hazardous waste operations and emergency response provisions in 29 CFR 1910.120(q)(6)(v). Qualifications are further described in emergency response training guidance for incident commanders contained in Appendix E to § 1910.120. Furthermore, this standard is consistent with the Environmental Protection Agency's expectation of a QI under its facility response plans for oil.

The OSHA training requirement for incident commanders is a minimum qualification, not an absolute measure of expertise in and of itself. Plans require designating each QI in writing, and indicate that the QI is familiar with the response plan and has full authority to implement actions to contain, remove, or otherwise minimize or mitigate damage to the public health, the environment, and public property. Owners or operators should ensure that their QI's training and experience are adequate to carry out designated responsibilities.

The Coast Guard welcomes comments regarding the recognition of other standards or certifications that demonstrate a working knowledge of hazardous substance response that is adequate for the responsibilities contained in these regulations.

At the time of the discharge, a responsible member of the vessel's crew becomes the incident commander and initiates notification and shipboard mitigation procedures, if appropriate. When that vessel crew member notifies the QI of the hazardous substance discharge, the QI may assume the role of incident commander. The individuals acting as incident commander may change as an incident progresses, particularly if the duration of the event is prolonged.

Section 155.3026 describes the actions that could be taken to receive authorization to carry hazardous substances after submitting a plan to the Coast Guard, but before it has been approved. These proposed requirements mirror those currently required for oil spill response plans.

Section 155.3030 contains requirements that pertain to the format and contents of response plans. These requirements are very similar to those contained in vessel oil spill response plans regulations.

Because response plans must be consistent with the National Contingency Plan and appropriate Area Contingency Plans (ACPs), some members of the public suggested that the Coast Guard refrain from developing these regulations prior to November 1998, when ACPs must be updated to include hazardous materials response planning. In consideration of this request, the Coast Guard has concluded that the development of regulatory requirements prior to the final ACP updates would be acceptable, but plans approved prior to the issuance of an updated ACP would be grandfathered until the next required review. The Coast Guard will accept plans written using the Integrated Contingency Plan (ICP) Guidance provided the plan meets all of our proposed requirements. The ICP was published in the **Federal Register** on June 5, 1996 (61 FR 28642).

Section 155.3031 provides plan-holders with the flexibility of modifying existing oil spill response plans with

additional information that meets hazardous substance response-specific requirements.

Section 155.3035 describes the required contents of a response plan. Some of the requirements mirror those found in the oil spill response planning regulations; some do not. The following is a discussion of some of the proposed requirements that would deviate substantially from existing oil spill response plan provisions.

Paragraph (b) requires a description of the methods used to make notifications, as well as a list of those individuals and organizations required to be notified. Due to the nature of tank vessel operations, the proximity to human populations, and the potential for exposure following a discharge, plans must include notifications to local public response organizations so they may initiate established response procedures and discharge notifications.

Paragraph (b)(4) requires that the incident commander, notified in accordance with paragraph (b)(3)(ii), must have the capability of arriving at the incident command post, if established, or at the immediate vicinity of the incident, within a reasonable time-frame. The Coast Guard intends that a "reasonable time-frame" should reflect the critical factors relevant to the incident and typically may be no more than 2 hours from notification. Current industry practices indicate that private response organizations have established networks of personnel that fulfill the roles of the qualified individual and incident commander. The specific time frame may be influenced by the nature of the discharge, proximity to population centers, weather conditions or other factors.

Provisions contained in paragraph (c) of this section would call for plan-holders to develop a risk-based decision support process. Public commenters suggested that the use of automated "decision support systems" or "expert systems" may be an effective tool for use in determining response strategies. The proposed requirement is intended to provide a tool to be used by responders to ensure thorough consideration of risk factors that may influence response activities. This includes a description of processes which will be used to identify, evaluate, control, and communicate risk presented by the hazardous substance discharge. This requirement could be met through a decision tree, flow diagram, automated system, or any other method that contains the required components.

The provisions in paragraph (e)(4) require that plans describe the organizational structure that will be used to manage response operations. This structure must outline the roles and responsibilities of the specific functional areas contained in the National Interagency Incident Management System (NIIMS) Incident Command System (ICS). This organizational structure, to include functional area roles and responsibilities, is described in the U.S. Coast Guard Field Operations Guide (ICS–OS–420–1). This document can be requested by contacting the U.S. Coast Guard Headquarters (G–MOR–3), 2100 Second Street SW., Washington, DC 20593–0001, or obtained electronically via Internet URL http://www.uscg.mil/hq/g-m/nmc/response/fog/fog.htm.

Paragraph (e)(4)(i) contains a provision that requires an understanding of the unified command. Briefly summarized, the unified command consists of a Federal On Scene Coordinator (Federal OSC), State On Scene Coordinator (SOSC), local emergency coordinator, and responsible party's incident commander, who direct and oversee all public and private resources dedicated to the response. Unified command members are expected to establish joint control over an incident, and develop mutually-agreeable response strategies. If the unified command cannot develop mutually agreeable response strategies, or if the Federal OSC believes that the responsible party's actions are unsatisfactory, the Federal OSC may assume overall control of the response. This action is normally used as a last resort when the responsible party is uncooperative with federal and state representatives.

Paragraph (e)(4)(i) requires that each plan describe the key roles and responsibilities of the incident commander, defined in the proposed regulations as the designated representative of the responsible party in the unified command. This individual may be the QI.

Paragraph (e)(4)(iv) requires that each plan describe how the responsible party will liaison with local public response organizations following a hazardous substance discharge. Although OPA 90 explicitly requires the availability of private resources to respond to these discharges, local responders, such as firefighters and hazardous materials response teams, will probably respond as well. This requirement recognizes the benefits gained by ensuring an effective liaison between the responsible party and these response organizations.

Paragraph (e)(6) contains requirements to have the capability to rapidly integrate the following types of expertise into the spill management team: product specialist, toxicologist, certified marine chemist, chemist or chemical engineer, and certified industrial hygienist (CIH). The need for these areas of specialty will be dictated by each discharge scenario; however, the response to such a discharge will be more effectively executed if this expertise is available to advise the unified command. Therefore, these specialties must be accessible.

Paragraph (g) describes exercise procedures for hazardous substance response. The proposed requirements are identical to those requirements contained in oil spill response plan regulations, except that plan-holders now conducting oil spill exercises would be allowed to replace between 25 and 75 percent of oil spill exercises with hazardous substance exercises. The percentage would be determined by the plan-holder, and should reflect the relative quantities of oil and hazardous substance cargo carried by the company.

Paragraph (h) "Geographic specific appendix for each COTP zone in which your vessel operates", identifies the operating area(s) within a particular COTP zone in which the vessel will operate. This would not restrict the vessel from operating in the entire zone, however. Additional information found in this appendix would identify response resources that are either listed or ensured by "contract or other approved means" that would respond to a hazardous discharge in the identified operating area.

The determining factors as to whether equipment must be contracted or not relates to the probability of its use following a worst case discharge. It is likely that personal protective equipment, monitoring equipment, and dispersion modeling would be necessary to assess the potential risks and develop response strategies. Unlike oil spills, where containment and collection strategies are standard, many hazardous substances, once discharged, cannot be contained or collected. The first priority for these discharges would be to ensure that peoples' exposure to the hazardous substances is minimized. The proposed equipment requirements are designed to do this.

For hazardous substances that can be contained and collected (e.g., those that are not highly soluble or reactive in water), paragraph (h) proposes that containment and collection equipment be listed in the plan so it could be quickly mobilized when needed. The equipment is not required to be ensured available by contract or other approved means because the probability of its use is limited, and factors influencing a

potential discharge create an almost limitless number of response scenarios. Therefore, the Coast Guard could not assume that the equipment will be needed.

Equipment that must be identified in the plan would correspond to two hazardous substance categories describing behavior following a discharge: "sinkers" and "floaters."

"Sinkers" are those hazardous substances whose physical and chemical properties, following a discharge into water, result in a substance in the water that does not float, react chemically with water, rapidly vaporize, or rapidly dissolve. Under ambient conditions, these chemicals have a solubility of less than .01 percent, specific gravity greater than 1.0, and a vapor pressure less than 1 psig.

"Floaters" are those hazardous substances whose physical and chemical properties, following a discharge into water, result in a substance on the water surface that does not rapidly sink, react chemically with water, vaporize, or dissolve. Under ambient conditions, these hazardous substances have a solubility of less than .01 percent, a specific gravity less than 1.0, and a vapor pressure less than 1 psig.

Neither a "sinker" or "floater" designation is intended to include hazardous substances that are highly reactive in water, and therefore could not be reasonably contained or collected under any conditions. Hazardous substances that do not fall into either of these categories would not be covered by the requirements of §§ 155.3035(h)(3) and (4).

Requirements that pertain to lightering, marine salvage, and firefighting would also be contained in paragraph (h). Lightering requirements would be consistent with the existing requirements for oil spill response plans. Based on comments made during the August 5, 1997 Marine Salvage and Firefighting Workshop, salvage and firefighting requirements are different from those contained in oil spill response planning regulations. The requirement to have the capability of bringing salvage and firefighting resources on-scene within 24 hours would not imply that all equipment must be on-scene within 24 hours. "Salvage resources" and "firefighting resources" include the necessary people and equipment that could evaluate and recommend appropriate salvage or firefighting strategies.

On February 12, 1998, the Coast Guard published a final rule (63 FR 7069) suspending, until February 12, 2001, deployment of salvage and firefighting equipment requirements in oil spill response plans. This suspension addressed public confusion regarding the correct interpretation of the phrase "equipment and expertise" and debate over the 24-hour-response time requirement. The Coast Guard is currently reviewing the salvage and marine firefighting capabilities within the United States and its territories. Results from this analysis may change our proposed salvage and firefighting requirements for vessels carrying hazardous substances. Any changes to our proposed salvage and firefighting requirements would be issued in either a Supplemental Notice of Proposed Rulemaking to this proposal or a separate Notice of Proposed Rulemaking addressing salvage and firefighting requirements for both oil and hazardous substance response plans.

Paragraph (j) would require the inclusion of hazardous-substance-specific information in each plan. The types of information would include cautionary response considerations, health hazards, fire hazards, chemical reactivity, water pollution, shipping information, hazard classifications, and physical and chemical properties.

Hazardous-substance-specific information required in the proposed rule is essentially the same information that is contained in the Chemical Hazards Response Information System (CHRIS). CHRIS is being expanded to include more chemicals, as well as improvements in format, content, and capabilities. It has historically functioned as a widely-accepted source of chemical-specific information for use by responders and response plan developers.

Because CHRIS is one of many tools that responders could use in planning for and during an actual response, and because responders and response planners need the flexibility to choose their own response tools, the Coast Guard does not propose to codify the use of the CHRIS manual.

Unlike previous versions of CHRIS, which were available only as hard-copy manuals, the new version will be available in hard-copy, electronic, and Internet formats. The revised CHRIS will afford users flexibility to tailor the system to meet specific needs. The electronic version will reside in a searchable database that allows for customized queries. Comments on how to further improve CHRIS are welcome and may be forwarded to the location listed under **ADDRESSES.** The Coast Guard intends that CHRIS will be available prior to the publication of a final rule on hazardous substance response plans.

Section 155.3055 calls for plan-holders to conduct their own evaluations of response resource providers named in response plans. These evaluations would cover both equipment adequacy and competency of personnel resources. The plan-holder must provide written certification of this evaluation, signed by the owner or operator.

The Coast Guard will consider adopting privately-sponsored programs that establish a standard that assures adequate capabilities of resource providers exist in order to meet plan requirements. The development of such a program will reduce the burden on owners or operators of conducting individual provider evaluations and is encouraged.

Vessel response plans are "self-certifying" in nature, as provided for by 33 CFR 155.3055 and 3065(a)(3). The scope of these certification statements includes the assurance that the response resources required by the applicable subparts have been ensured available through contract or other approved means. As such, it should be noted that any knowingly fraudulent statements or misrepresentations regarding contracted resources within the plan can result in an owner or operator being criminally prosecuted under 18 USC 1001, which, upon conviction, carries criminal penalties of a fine, up to five years of imprisonment, or both.

Incorporation by Reference

Material that would be incorporated by reference is listed in § 155.140. The material is available for inspection where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in § 155.140.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Assessment

Due to substantial public interest, this proposal is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget. Although the proposed rule is not economically significant, section 6(a)(3) of that order requires an assessment of potential costs and benefits. The proposed rule is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). A draft Assessment has been prepared and is available in the docket for inspection or

copying where indicated under **ADDRESSES.**

The Coast Guard does not anticipate that the proposed rule will result in a significant economic burden on regulated entities. These proposed regulations are expected to impact only those vessel owner/operators that must comply with any new requirements. The Coast Guard will also incur costs related to plan review and approval.

Benefits are anticipated to result from an increased level of preparedness and efficiency in conducting response operations. Anticipated benefits from these regulations include averted pollution, a reduction in injuries and property damage associated with hazardous substance discharges, the avoidance of costs incurred by both public and private entities directly involved in response operations, and reduction of impacts on populations located in the vicinity of such discharges.

As many as 560 U.S. and foreign flag tankers and 1907 tank barges carry bulk chemicals in U.S. waters. These figures represent vessel ownership by an estimated 367 tanker and 182 barge companies. While all of these vessels do not carry the specific hazardous substances covered under these regulations, the analysis uses the conservative assumption that all of these vessels will be impacted by the regulations.

In determining the costs and benefits of the proposed regulations, the draft regulatory assessment for this proposed rule considered the following potential regulatory components:

1. The Coast Guard will take no action beyond existing regulations.

2. Regulations will require the submission of response plans containing information regarding qualified individuals, training, exercises, hazardous substance characteristics, notification procedures, and other crew procedures. This is identified as component A in the Regulatory Assessment.

3. The availability of a "first responders guide" and the development of a "decision support system" will be a voluntary measure not mandated by the regulations. Based on industry feedback, we expect compliance with these voluntary measures to be at or near 100 percent. This is identified as component B in the Regulatory Assessment.

First responders guides are concise instructions or handbooks that would be immediately available to personnel most likely to be at risk in the event of a hazardous substance discharge, and therefore most likely to take immediate actions. The level of detail in these guides would be determined by each vessel owner or operator, and each company's expectation of the crew members in the event of a discharge. It is intended that the guides would be as specific as possible, and not include generic guidelines that allow for broad interpretation by those expected to use them.

Decision support systems are tools that responders can use to analyze risks associated with a hazardous substance discharge, and that assist in making decisions related to identifying and evaluating response strategies. Such systems could be automated, manual or human-based.

4. The preferred regulatory approach includes components A and B, plus requiring companies to contract for spill response equipment and having deployment drills. Regulations will essentially mirror requirements for vessel response plans for oil now found in 33 CFR 155 by requiring contracted containment and removal equipment to respond to hazardous substance discharges. This approach, designated as Alternative 1 in the Regulatory Assessment, is reflected in this proposed rule.

Cost-Effectiveness Summary

The measures included in the selected regulatory alternative are expected to yield a net cost-effectiveness of about $13,254 per barrel of hazardous substance spillage averted. This cost-effectiveness value is expressed in 1997 dollars and is a ten-year quantifiable present value (PV). The cost of the proposed rule is approximately $58.6 million, while its benefits are approximately 4000 barrels of pollution averted, and approximately $5.3 million in avoided costs. Subtracting the avoided costs of the proposed rule from its total cost yields a net rule cost of about $53.3 million. Dividing this net cost by about 4,000 barrels yields the net cost-effectiveness ratio of $13,254. This procedure allows us to compare pollution and property damage benefits together.

The total first-year cost of these new requirements to industry is estimated to be a maximum of $12.9 million. The recurring costs are estimated to be a maximum $8.3 million per year.

The estimated cost for component A only is $32.5 million. Its benefits include 2,432 barrels of avoided pollution and $3.2 million of damages averted. Its net cost-effectiveness is $12,037 per barrel unspilled.

The marginal cost for the additional measures contained in component B not included in component A is $3.8 million. Marginal benefits include 651 barrels of avoided pollution and $0.9 million of damages averted. The marginal net cost effectiveness of these additional measures is $4,506 per barrel unspilled.

The marginal cost for the additional measures contained in Alternative 1 not included in component B is $22.3 million. Marginal benefits include 935 barrels of avoided pollution and $1.2 million of damages averted. The marginal net cost effectiveness of these additional measures is $22,520 per barrel unspilled.

Non-quantified benefits could further decrease the cost per barrel of pollution averted. The most significant non-quantifiable benefit is the usefulness of response plans in many chemical discharge scenarios, not just those involving a worst case discharge of bulk Clean Water Act hazardous substances. History shows that, while only a limited number of "worst case discharges" of Clean Water Act hazardous substances have occurred in recent years, hundreds of discharges involving other chemicals, and in smaller quantities, have occurred. Response to these discharges would also have been enhanced if response plans had been developed.

A. Costs

The 10-year PV cost of the proposed rule is approximately $58.6 million. Costs associated with these proposed regulations are the development of the actual hazardous substance response plans, as well as the costs of operating in compliance with the plan. In calculating costs, the Coast Guard used the estimate that 80% of companies owning/operating tank vessels covered by these regulations are currently holding oil response plans required by 33 CFR 155 Subpart D, and will modify or add to these existing plans rather than develop entirely new plans. Consequently, these companies have been credited with partial compliance with these proposed regulations. To the extent possible, costs reflect input from a range of industry sectors that will be directly or indirectly impacted by these regulations. Unless otherwise specified, "total cost" reflects the aggregate cost to the entire industry impacted by these proposed regulations. The Regulatory Assessment, prepared for this regulatory project, has broken down costs by components. The components and their costs are:

Baseline. The Coast Guard will take no action beyond existing regulations. By passing OPA 90, Congress indicated a preference for a statutory solution to oil and hazardous substance response planning rather than a "free market"

solution. Given that OPA 90 has been enacted, "no action" is essentially not a feasible alternative.

Component A. The Coast Guard will require that response plans be developed for all vessels and facilities engaged in the handling, transfer, or storage of any of the regulated hazardous substances covered by the regulations. The plans will include—

- General site information;
- Consistency with associated national and area planning requirements;
- Designation of a qualified individual with the authority to activate spill response resources;
- Contact lists;
- Training and drills;
- Submission of plans; and
- Periodic updates as associated changes may occur.

Component B. Component B includes cost from the measures in component A, plus the costs from the following two measures—

- First Responders Guides, or handbooks that provide instructions for initial response; and

Subject matter experts and a Decision Support System incorporating expert knowledge to assist in responding to a spill and assessing the risk to the surrounding areas.

Alternative 1. Alternative 1 captures what is mandated by statute. In addition to components A and B, companies will be required to contract for spill response capabilities and have equipment deployment drills. This requirement will mirror that required in the oil response plan regulations but will be applied only to those substances that display oil-like characteristics (i.e., those that float on water).

B. Benefits

Based on the preferred alternative and assuming a 10-year PV, the amount of pollution averted is estimated at 4,000 barrels, while the avoided costs are estimated to be about $5.3 million. Anticipated benefits from these regulations include averted pollution, a reduction in injuries and property damage associated with hazardous substance discharges, the avoidance of costs incurred by both public and private entities directly involved in response operations, and reduction of impacts on populations located in the vicinity of such discharges.

The degree to which response operations would be improved was estimated by interviewing 11 subject matter experts that have been directly involved with responding to hazardous substance discharges. These individuals represent vessel owners or operators, local hazardous material response teams, U.S. Coast Guard Federal On-Scene Coordinators and Marine Safety Offices, and the U.S. Environmental Protection Agency.

Each interviewee was asked to estimate the level of effectiveness for each regulatory component. These estimates, ranging from minimal to significant impact on the efficiency of response operations, were averaged to develop an overall "percent efficiency". This in turn reflects the percent to which costs of a response would be reduced and the amount of pollution that could be averted.

An indirect benefit applies to chemical release incidents not covered under these regulations. These regulations apply to worst case discharges and the threat of such discharges. In reality, the vast majority of these incidents occur during transfer operations and are not worst case discharges, and frequently involve chemicals not carried in bulk or not covered by these regulations. Realizing that the benefit of the plans would be limited if they could be applied only to worst case discharges involving specific bulk hazardous substance cargoes, the Coast Guard designed these regulations with enough flexibility to be useful in guiding a wider range of chemical responses.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small business and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

These regulations are not expected to significantly impact small businesses. No comments were made during two public meetings, one workshop, and in response to an ANPRM, that expressed concerns about impacts on small entities. The Coast Guard further contacted trade associations representing small businesses in the chemical transportation industry and received no indications that these regulations would adversely impact small entities. In total the draft Small Entity Assessment estimates that a maximum of 11 tank barge owners and no tank ship owners are small entities and could be affected by these regulations.

Excluded from these proposed regulations are public vessels, vessels of opportunity, and fishing or fishing tender vessels of not more than 750 gross tons. The regulations also contain several provisions giving affected small businesses flexibility in complying with the requirements. The proposed regulations provide allowances to modify existing response plans and to take advantage of participation in industry cooperatives. Additionally, the Coast Guard is updating and making CHRIS available, which would essentially provide impacted parties with the hazardous-substance-specific information required in the regulations. For any company that believes it will be significantly impacted, the regulations allow the company to request further flexibility in complying with the requirements.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact the Project Development Division (G–MSR–2) at 202–267–0756.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5

CFR 1320.3(c), "collection of information" includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Tank Vessel Response Plans and Response Equipment for Hazardous Substances.

Summary of the Collection of Information: The Coast Guard has prepared and will seek approval for this collection of information under a consolidated collection which applies to these proposed regulations, proposed regulations for Facility Hazardous Substance Response Plans as well as existing regulations for Vessel and Facility Oil Response Plans. This proposal contains collection of information requirements in §§ 155.3022 (What are the requirements for qualified individuals and alternate qualified individuals and what authority do they have?); 155.3025 (When may I engage in hazardous substance operations?); 155.3026 (How do I obtain an interim operating authorization or a one-time authorization?); 155.3030 (What is the general format of a response plan?); 155.3031 (May I augment my vessel response plan for oil with hazardous substance response information?); 155.3032 (How many copies of the plan must I have, and where must they be maintained?); 155.3035 (What are the required contents of each section of the plan?); 155.3055 (How must I certify that my response resource providers are capable of meeting plan requirements?); 155.3065 (What are the procedures for plan submission and receiving approval?); 155.3066 (What are the procedures for submitting a request for acceptance of alternative planning criteria?); and 155.3070 (What are the procedures for plan review, revision, resubmission, and appeal?).

Need for Information: This information is necessary to ensure that vessels carrying hazardous substances in bulk as cargo or cargo residue entering and operating in U.S. waters are adequately prepared to respond to a hazardous substance discharge.

Proposed Use of Information: In part, the purpose of the OPA 90 amendments to section 311 of the FWPCA is to reduce the number of hazardous substance spills and to minimize the impact of the hazardous substance spills when they occur in U.S. waters. Without the proposed requirements for vessel response plans, it is possible that some operators will not maintain the necessary internal resources (effective planning, training, drilling, etc.) or external resources (adequate shore-based response capability) to meet the requirements of these proposed regulations. The proposed collection of information requirements help ensure and monitor, through the submission and recurring update of response plans, that vessels entering and operating in U.S. waters have appropriate response plans and shore-based response resources.

Submission of vessel response plans to the U. S. Coast Guard for approval, the onboard verification of an approved plan during routine boarding procedures, and the maintenance of training and drill records is believed to be the best way to ensure compliance.

Description of the Respondents: Owners and operators of tank vessels carrying hazardous substances in bulk as cargo or cargo residue while entering or operating in U.S. waters.

Number of Respondents: 659.

Frequency of Response: Response plan submitted every 5 years; notice of reviews completed annually; updates as necessary.

Burden of Response: A one-time burden of 45,960 hours for reporting and an annual recordkeeping burden of 4,600 hours.

Estimated Total Annual Burden: One-time reporting burden of 69.7 hours and an annual recordkeeping burden of 6.9 hours.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Coast Guard has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information. The Coast Guard solicits public comment on the proposed collection of information to (1) evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information would have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to respond, as by allowing the submittal of responses by electronic means or the use of other forms of information technology.

Persons submitting comments on the collection of information should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES** by the date under **DATES**.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Before the requirements for this collection of information become effective, the Coast Guard will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

The Coast Guard has analyzed this proposed rule according to the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that preparation of an Environmental Impact Statement is not necessary. A draft Environmental Assessment and a draft Finding of No Significant Impact are available in the docket for inspection or copying where indicated under **ADDRESSES.**

The draft Environmental Assessment indicates that these regulations could be expected to result in a positive impact on the environment through the avoidance of adverse impacts following a hazardous substance discharge. The assessment analyzed the range of environmental impacts associated with several potential regulatory strategies considered by the Coast Guard, with a "no action" option as a baseline. A "no action" regulatory action would essentially result in no impact on the environment. Other regulatory options considered would result in positive impacts by averting pollution.

Estimates of pollution averted were established through interviews with individuals having substantial experience in the area of chemical response. No aspects of these regulations would be expected to result in adverse impacts on the environment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory approaches for proposed and final rules that contain Federal mandates. A "Federal mandate" is a new or

additional enforceable duty, imposed on any State, local or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This rule does not impose Federal mandates on any State, local or tribal governments or the private sector.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this notice of proposed rulemaking (NPRM) and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This NPRM will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This NPRM will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This NPRM meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This NPRM is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects 33 CFR Part 155

Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 155 as follows:

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

1. The authority citation for part 155 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715; sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§§ 155.100–155.130, 155.350–155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) also issued under 33 U.S.C. 1903(b); and §§ 155.1110–155.1150 also issued 33 U.S.C. 2735.

2. In § 155.140(b), add, in alphabetical order to the organization referenced, the following standard:

§ 155.140 Incorporation by reference.

* * * * *

(b) * * *

International Maritime Organization (IMO)

* * * * *

Resolution A.648(16), General Principles for Ship Reporting System and Ship Reporting Requirements October 19, 1989 .....155.3035

* * * * *

3. Revise the heading to subpart D to read as follows:

Subpart D—Response Plans for Oil

4. Add subpart H, consisting of §§ 155.3010 through 155.3070, to read as follows:

Subpart H—Response Plans for Hazardous Substances

Sec.

155.3010 What is the purpose of this subpart?
155.3015 Who must follow this subpart?
155.3020 What definitions apply to this subpart?
155.3021 What is a "contract or other approved means"?
155.3022 What are the requirements for qualified individuals and alternate qualified individuals and what authority do they have?
155.3025 When may I engage in hazardous substance operations?
155.3026 How do I obtain an interim operating authorization or a one-time authorization?
155.3030 What is the general format of a response plan?
155.3031 May I augment my vessel response plan for oil with hazardous substance response information?
155.3032 How many copies of the plan must I have, and where must they be maintained?
155.3035 What are the required contents of each section of the plan?
155.3050 What are the operating criteria that apply to response resource equipment?
155.3055 How must I certify that my response resource providers are capable of meeting plan requirements?
155.3065 What are the procedures for plan submission and receiving approval?
155.3066 What are the procedures for submitting a request for acceptance of alternative planning criteria?
155.3067 How do I submit an appeal if my response plan is not approved?
155.3070 What are the procedures for plan review, revision, resubmission, and appeal?

Subpart H—Response Plans for Hazardous Substances

§ 155.3010 What is the purpose of this subpart?

The purpose of this subpart is to establish requirements for hazardous substance response plans for certain vessels. The planning criteria in this subpart are intended for use in response plan development and the identification of necessary resources. The development of a response plan prepares the vessel owner or operator and the vessel's crew to respond to a hazardous substance discharge. The specific criteria for response resources and their arrival times are not performance standards. They are planning criteria based on a set of assumptions that may not exist during an actual hazardous substance discharge incident.(3)

§ 155.3015 Who must follow this subpart?

(a) You must follow this subpart if you are an owner or operator of a tank vessel that carries any bulk hazardous substance as cargo or cargo residue. This includes any hazardous substance, its isomers and hydrates, as well as any mixtures and solutions that contain 10% or more hazardous substance, by weight.

(b) You are not required to follow this subpart if you own or operate any of the following:

(1) Public vessels and vessels deemed public vessels;

(2) A vessel that, although constructed or adapted to carry hazardous substances in bulk as cargo or cargo residue, is not storing or carrying hazardous substances in bulk as cargo or cargo residue;

(3) A dedicated response vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material, when conducting hazardous substance response operations;

(4) A vessel of opportunity that—

(i) Conducts response activities in a response area; and (ii) Does not conduct hazardous substance operations except when involved in response activities;

(5) An offshore supply vessel as defined in 46 U.S.C. 2101;

(6) A fishing or fishing tender vessel as defined in 46 U.S.C. 2101 up to 750 gross tons when operating as such;

(7) A foreign flag vessel engaged in innocent passage.

(c) If you own or operate a vessel that must follow this subpart, but are not operating within the navigable waters or the exclusive economic zone (EEZ) of the United States, then you must meet all requirements of this subpart except:

(1) You do not have to identify and ensure the availability of response resources, including the spill management team;

(2) You do not have to provide the geographic-specific appendices required in § 155.3035(j);

(3) You do not have to designate a qualified individual and alternate qualified individual as required in § 155.3022.

§ 155.3020 What definitions apply to this subpart?

As used in this subpart:

Adverse weather means the hydrographic, meteorological, and other environmental conditions that magnify the risk of adverse impact to human health and the environment when a hazardous substance is discharged, and must be considered when identifying response resources in a response plan.

Bulk means any volume of a hazardous substance carried in an integral cargo tank of a vessel, and any volume of a hazardous substance transferred to or from a marine portable tank or independent tank while on board a vessel.

Captain of the Port (COTP) Zone means a zone specified in 33 CFR part 3 and, for coastal ports, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ).

Dedicated response vessel means a vessel that is designated as an oil spill response vessel in its certificate of inspection, or that is adapted to respond to a discharge of oil or a hazardous substance. Response activities in which such vessels may engage include discharge recovery and transport; tank vessel escorting; deployment of response equipment, supplies, and personnel; and discharge response training, testing, exercises and research.

Exclusive economic zone (EEZ) means the zone contiguous to the territorial sea of the United States extending up to 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Federal On-scene coordinator (Federal OSC) means the Federal official pre-designated by the Coast Guard or Environmental Protection Agency (EPA) to coordinate and direct response efforts at the scene of a hazardous substance discharge, as prescribed in the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan (NCP)) published in 40 CFR part 300.

Floater means any hazardous substance whose physical and chemical properties, when discharged into water, result in a substance on the water surface that does not rapidly sink, react chemically with water, vaporize, or dissolve.

Great Lakes means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far as Saint Regis, and adjacent port areas.

Hazardous substance means any chemical that is listed in 40 CFR 116.4.

Hazardous substance operations means the storing, transferring, handling, transporting, or lightering of a hazardous substance in bulk in areas subject to the jurisdiction of the United States.

Inland area means either the area shoreward of the boundary lines defined in 46 CFR part 7 or, in the Gulf of Mexico, the area shoreward of the lines of demarcation (COLREG lines) as defined in 33 CFR 80.740 through 80.850. The Great Lakes are not included in the inland area.

Interim operating authorization means authorization granted by the Coast Guard for a vessel to handle, store, transport, transfer, or lighter a hazardous substance without having an approved plan.

Lightering or lightering operation means the transfer of a hazardous substance in bulk from one vessel to another, and includes all phases of the operation from the mooring of the vessel to the departure of the service vessel from the vessel lightered, except when the cargo is intended only for use as ship's stores aboard the receiving vessel.

Nearshore area means either the area extending seaward 12 miles from the boundary lines defined in 46 CFR part 7, or, in the Gulf of Mexico, the area extending seaward 12 miles from the lines of demarcation (COLREG lines) as defined in 33 CFR 80.740 through 80.850.

Offshore area means the area from the outer boundary of the nearshore area seaward 38 nautical miles.

Open ocean area means the area from the outer boundary of the offshore area to the seaward boundary of the exclusive economic zone.

Operating area means any of the following: Rivers and canals, Great Lakes, Inland area, Nearshore area, Offshore area, or Open ocean area.

Operator means the owner, demise charterer, or contractor who operates or is responsible for the operation of a vessel. For the purposes of this subpart only, the operator of a towing vessel is not, per se, considered the operator of a vessel being towed.

Owner or vessel owner means any person holding legal or equitable title to a vessel unless this person holds the title solely as security and not as the owner. It also means the person(s) whose name(s) appears on a vessel's Certificate of Documentation. If the name of a president or secretary of an incorporated company is on the certificate, then the company is the owner.

Personal protective equipment (PPE) means equipment that meets the requirements contained in 29 CFR 1910.120.

Public vessel means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision of the United States, or by a foreign nation, except when engaged in commerce.

Response activity means any actions necessary to minimize or mitigate damage to human health, the environment, or property.

Response area means the area designated by the Federal On-Scene Coordinator in which response activities are occurring.

Response resources means the personnel, equipment, supplies, and other capabilities necessary to perform activities identified in a response plan.

Response resources provider means an entity that provides response personnel, equipment, supplies, and other capabilities necessary to perform activities identified in a response plan.

Rivers and canals means bodies of water confined within the inland area. These include the Intracoastal Waterways and other waterways artificially created for navigation having a project depth of 12 feet or less.

Sinker means any hazardous substance whose physical and chemical properties, when discharged into water, result in a substance in the water that does not float, react chemically with water, rapidly vaporize, or rapidly dissolve.

Spill management team (SMT) means the personnel identified in a response plan who staff the organizational structure that manages response plan implementation. The term Incident Management Team may also be used.

Tank barge means a non-self-propelled tank vessel.

Tank vessel means a vessel that is constructed or adapted to carry, or that

carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(1) Is a vessel of the United States;

(2) Operates on the navigable waters of the United States; or

(3) Transfers a hazardous substance in a place subject to the jurisdiction of the United States.

Tanker means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

Vessel crew means:

(1) For tankers—those persons required by a Certificate of Inspection or other official manning document to be on board;

(2) For tank barges—those persons manning both the tank barge and the towing vessel.

Vessel deemed public vessel means any motorboat or yacht, while assigned to authorized Coast Guard duty.

Vessel of opportunity means a vessel that, because of its availability and geographic location, becomes involved in a response to an oil or hazardous substance incident.

Vessels carrying hazardous substances as cargo means all vessels carrying hazardous substances in bulk as cargo or cargo residue, except for dedicated response vessels.

Worst case discharge means a discharge of a vessel's entire hazardous substance cargo during adverse weather.

§ 155.3021 What is a "contract or other approved means"?

A "contract or other approved means" is any of the following methods used to meet the requirements contained in § 155.3035:

(a) A written contract with a response resources provider;

(b) A written certification that the personnel, equipment, and capabilities required by your response plan are available and are under your control;

(c) You have an active membership in a local or regional response resources provider;

(d) You have a document such as a letter, memorandum, or other form of written consent that specifies the agreement you have with a response resources provider and that the provider is capable of and intends to commit to meet your plan requirements. This document must give permission for the Coast Guard to verify the identified response resources and their capabilities through tests, inspections, and exercises;

(e) You have found another way you can comply with the requirements of this section and it is approved by Commandant (G–MOR).

§ 155.3022 What are the requirements for qualified individuals (QI) and alternate qualified individuals and what authority do they have?

(a) You must designate a QI and at least one alternate QI in your response plan. You may designate a third party organization to fulfill the role of the QI and alternate QI. The organization must identify a QI and at least one alternate QI. These individuals must be available on a 24-hour basis.

(b) Qualified individuals and alternates must—

(1) Speak fluent English;

(2) Be located in the United States, except your QI or alternate QI may be located in Canada while your Canadian flag vessel is operating on the Great Lakes or the Strait of Juan de Fuca and Puget Sound, WA;

(3) Be familiar with the implementation of your plan;

(4) Meet the training requirements contained in 29 CFR 1910.120(q)(6)(v), to include the capabilities contained in Appendix E, 29 CFR 1910.120, in the section entitled "Suggested Training Curriculum Guidelines", in paragraph C.b.(5) entitled "Incident commander."

(c) You must designate each QI and alternate QI in writing. In your designation document you must specify that the QI—

(1) Has full authority to implement actions to contain, remove, or otherwise minimize or mitigate damage to the public health, the environment, and public property;

(2) Is able to immediately and continuously communicate with the Federal OSC and persons providing resources and equipment, as needed;

(3) Is authorized to contracting and obligate funds to carry out response activities; and

(4) Is adequately trained and experienced to carry out the responsibilities of the QI.

(d) The qualified individual's liability is covered in 33 U.S.C. 1321(c)(4).

(e) As soon as is practicable after a discharge or incident resulting in a substantial threat of a discharge, the QI will provide the Federal OSC with the name of the individual who will direct response activities and act as the owner or operator's incident commander, if other than the QI.

§ 155.3025 When may I engage in hazardous substance operations?

(a) If you submit a plan prior to [6 months after publication of Final Rule], you may conduct hazardous substance operations pending receipt of interim operating authorization. These operations must be conducted in accordance with your plan.

(b) If you are awaiting approval of a submitted plan and have received interim operating authorization from the Coast Guard, then you may conduct hazardous substance operations for up to two years after the date your plan was submitted, and if your vessel is fully certificated for its intended service.

(c) If you have an approved plan, and your vessel is fully certificated for its intended service, then your vessel may engage in hazardous substance operations.

(d) Your vessel may not conduct hazardous substance operations if—

(1) You have not submitted a plan to the Coast Guard prior to [6 months after publication of Final Rule];

(2) The Coast Guard determines that the response resources referenced in your plan do not substantially meet the requirements of this subpart;

(3) The contracts or agreements cited in your plan have lapsed or are otherwise no longer valid;

(4) You are not operating in accordance with your plan;

(5) The interim operating authorization under paragraph (b) of this section has expired; or

(6) The plan's approval has expired.

§ 155.3026 How do I obtain an interim operating authorization or a one-time authorization?

(a) To obtain an interim operating authorization, you must submit a written request to Commandant (G–MOR) certifying that you have identified and ensured available, by contract or other approved means, the private response resources necessary to respond to a worst case hazardous substance discharge or substantial threat of such a discharge. The interim operating authorization will allow you to conduct hazardous substance operations only in the geographic area covered by your plan.

(b) If you would like your vessel to conduct hazardous substance operations in a geographic area not covered by your plan, then you must get a one-time authorization from the applicable COTP to do so.

(c) To receive a one-time authorization you must submit a written request to the applicable COTP certifying that you have—

(1) An approved hazardous substance response plan or interim operating authorization aboard the vessel(except for the applicable geographic specific appendix);

(2) Given the name of the QI to the master of the vessel and the COTP; and

(3) Identified and ensured available, by contract or other approved means, the private response resources necessary

to respond to a worst case discharge or substantial threat of such a discharge in the area in which you seek to have the vessel operate.

§ 155.3030 What is the general format of a response plan?

(a) Your response plan must—

(1) Identify and cover all geographic areas of the United States where your vessel will conduct hazardous substance operations;

(2) Be written in English and the languages understood by crew members with responsibilities under the plan;

(3) Have the following sections:

(i) General information;

(ii) Notification procedures and list of contacts;

(iii) Risk based decision support process;

(iv) Shipboard mitigation procedures;

(v) Shore-based response organization;

(vi) Training procedures;

(vii) Exercise procedures;

(viii) Geographic—specific appendix for each COTP zone where your vessel(s) operates;

(ix) Vessel(s)—specific appendix for each vessel covered by the plan;

(x) An appendix for each hazardous substance aboard the vessel; and

(4) Have an on-board notification checklist and emergency procedures (tank barges only).

(b) Your response plan must be divided into the sections described in paragraph (a)(3) of this section unless your plan is supplemented by a cross-reference table showing the location of required information.

(c) Your plan must be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and the Area Contingency Plan (ACP) in effect six months prior to the submission of your plan.

§ 155.3031 May I augment my vessel response plan for oil with hazardous substance response information?

Yes, you may augment your existing vessel response plan for oil with requirements that are specific to this subpart.

§ 155.3032 How many copies of the plan must I have, and where must they be maintained?

(a) You must maintain a current copy of the complete plan. You must provide a copy to each qualified individual and alternate.

(b) A copy of the following plan sections must be maintained on board your vessel:

Type of tank vessel	Required plan sections	Approval letter (Notarized copy authorized)
Tanker	§ 155.3030(a)(3)(i)–(iv) and (viii)–(x)	Yes.
Tank Barge	§ 155.3030(a)(3)(x), (4)	Yes.

§ 155.3035 What are the required contents of each section of the plan?

(a) *General information.* This section of the plan must include all of the following:

(1) A list of vessels covered by the plan;

(2) A list of COTP zones in which the vessel intends to conduct hazardous substance operations;

(3) A table of contents or index of sufficient detail to permit any user to find a specific section of the plan; and

(4) A "Record of Changes" page to record information on plan reviews, updates, or revisions.

(b) *Notification procedures and list of contacts.* This section of the plan must include notification or contact information. If the notifications vary due to vessel location, persons to be notified may be listed in a geographic-specific appendix. This section of the plan must also provide all of the following:

(1) The primary and secondary communication methods to be used in making notifications;

(2) A checklist showing all notifications required by MARPOL 73/78, 33 CFR part 153, and any appropriate State and designated local authorities. This checklist must include 24-hour telephone numbers or other notification methods and the information required for those notifications. The checklist must also specify notifications to be made by shipboard personnel and shore-based personnel;

(3) The procedures for notifying all of the following:

(i) Qualified individual and alternate;

(ii) Incident commander (if other than the QI);

(iii) Vessel owner or operator;

(iv) Vessel's local agent;

(v) Person(s) able to assess a vessel's seaworthiness; and

(vi) Transfer facility (if applicable);

(4) The incident commander must have the capability of arriving at the incident command post, if established, or at the immediate vicinity of the incident within a reasonable time-frame; and

(5) Information that must be provided in initial and follow-up notifications is:

BILLING CODE 4910–14–P

(i) Initial notification information.
(A) Tank vessel name, country of registry, call sign, and official number;
(B) Towing vessel name;
(C) Date and time of incident;
(D) Location of the incident;
(E) Course, speed, and intended track of vessel;
(F) Radio stations and frequencies guarded;
(G) Date and time of next report;
(H) Names and quantities of hazardous substances on board;
(I) Nature and detail of defects, deficiencies, and damage (e.g. grounding, collision, hull failure, etc.);
(J) Details of pollution, including estimate of the quantity of hazardous substance discharged or whether a threat of discharge exists;
(K) Weather/sea conditions on scene;
(L) Tank vessel size and type;
(M) Actions taken or planned by persons on scene;
(N) Current conditions of vessel;
(O) Number of crew and details of injuries; and
(P) Other appropriate information.

(ii) Follow-up notification information.
(A) Additional details on cargo on board;
(B) Additional details on the condition of the tank vessel and ability to transfer cargo, ballast, and fuel;
(C) Additional details on the quantity, extent, movement and fate and effect of the pollution and whether discharge is continuing;
(D) Any changes in on scene weather or sea conditions;
(E) Actions being taken with regard to the discharge and the movement of the tank vessel; and
(F) Other appropriate information essential for the protection of human populations and the marine environment.

Note to paragraph (b)(5): For tankers, the initial notification may be submitted in accordance with IMO Resolution A.648(16) "General Principles for Ship Reporting Systems and Ship Reporting Requirements" which is available through COMDT (G-MSO-4), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

BILLING CODE 4910-14-C

(c) *Risk based decision support processes.* This section of your plan must outline processes which will help responders make decisions relating to the identification, evaluation, and control of risks to human health and the environment following a hazardous substance discharge. These outlined processes do not need to be scenario specific, but can be generic in nature. This section of the plan may take the form of a decision tree, an automated decision support system, or any other format that meets the elements described in this paragraph. As a minimum, the process must include all of the following:

(1) *Risk identification* which describes the process which will be used to determine the extent and route of hazardous substance exposure to humans and the environment;

(2) *Risk evaluation* which describes the process which will be used to establish relative degrees of risk and prioritizing risks;

(3) *Risk control* which describes the process which will be used to determine which response methods are feasible to eliminate or reduce impacts of the hazardous substance discharge on humans and the environment likely to be exposed; and

(4) *Risk communication* which describes the process which will be used to communicate information resulting from paragraphs (c)(1), (2), and (3) of this section to parties internal and external to response activities.

(d) *Shipboard mitigation procedures.* This section of your plan must contain prioritized procedures necessary to protect the vessel's crew, and mitigate, control or prevent the discharge of a hazardous substance. Paragraphs (d)(1) through (4) of this section include the requirements for shipboard mitigation procedures.

(1) All plans must include procedures for—

(i) Crew safety, and if applicable, the use of personal protective equipment;

(ii) Crew responsibilities by job title;

(iii) Crew actions while conducting internal or external cargo transfers during a transfer system leak, overflow, or a suspected cargo tank or hull leak;

(iv) Crew actions during casualties or emergencies which include grounding or stranding, collision, explosion or fire (or both), hull failure, excessive list, or equipment failure such as main propulsion, steering gear, etc.;

(v) Internal or tank to tank transfers of cargo in an emergency (if applicable to type of vessel);

(vi) Emergency ship-to-ship cargo transfers. (Procedures must be consistent with the vessel's transfer procedures, lightering plan, and safety considerations.);

(vii) Arrangements for emergency towing, to include rigging requirements and operating procedures of any emergency towing equipment; and

(viii) The vessel crew to gather information that must be provided to shore-based personnel who will conduct damage stability and hull stress assessments.

(2) If your crew will engage in shipboard mitigation measures, then include:

(i) The identification and description of the activities that the crew has been trained in and are qualified to do when the crew does not have shore-based support.

(ii) Crew responsibilities to mitigate a hazardous substance discharge. You must include procedures for use of vessel equipment and personal protective equipment carried on board.

(3) If your crew will initiate a shore-based response (beyond required notifications), then include crew responsibilities to initiate a shore-based response, and the crew's supervision responsibilities of the shore-based response resources.

(4) If your crew will conduct air sampling/monitoring or water sampling/monitoring, then include crew responsibilities for recordkeeping and sampling of spilled hazardous substances, personal protective equipment requirements, and safety procedures during the sampling/monitoring operation.

(e) *Shore-based response organization.* This section of your plan must include the following:

(1) The authority and responsibilities of the qualified individual. The authority must allow for immediate and continuous communication with the Federal OSC and notification/activation of the hazardous substance response resource provider(s).

(2) Procedures for transferring the responsibility for direction of response activities from the vessel crew to the qualified individual or incident commander, if other than the QI.

(3) Procedures for coordinating all response actions with the Federal OSC who oversees or directs those actions.

(4) The organizational structure to be used to manage response actions. This structure must outline the key roles and responsibilities of the following functional areas:

(i) Command and control (incident commander);

(ii) Public information;

(iii) Safety;

(iv) Liaison with government agencies and other agencies as appropriate;

(v) Response operations;

(vi) Planning;

(vii) Logistics support; and

(viii) Finance.

(5) You must list the responsibilities, duties, and functional job descriptions for each position of the spill management team that is part of the organizational structure described in paragraph (e)(4) of this section.

(6) You must list individuals with the following specific technical specialties that are available on a 24 hour-a-day basis for integration into the spill management team, as needed:

(i) Product specialist;

(ii) Toxicologist;

(iii) Certified marine chemist;

(iv) Chemist or chemical engineer; and

(v) Certified industrial hygienist.

(7) You will satisfy the requirements of paragraphs (e) (1) through (5) of this section if you design your spill management team in accordance with the U.S. Coast Guard adopted National Inter-agency Incident Management System (NIIMS) Incident Command System (ICS).

(f) *Training.* (1) You must identify the training required for personnel having responsibilities under the response plan.

(2) You must differentiate between that training provided to vessel personnel and shore-based personnel.

(3) You must document the training of your personnel and make your training records available when requested by the Coast Guard. This applies to both initial and refresher training, as applicable. Records must be maintained for 3 years following completion of training.

(4) Nothing in this paragraph (f) relieves you from the responsibility to ensure that private shore-based response personnel are trained to meet the Occupational Safety and Health Administration (OSHA) standards for emergency response operations in 29 CFR 1910.120.

(5) This paragraph (f) does not apply to the individuals listed in paragraph (e)(6) of this section.

(g) *Exercise procedures.* This section of the plan addresses your exercise program. These exercises should help to ensure that your plan will function in an emergency. Your exercise program must detail the types of exercises, frequencies, scopes, objectives, and the scheme for exercising your entire response plan every three years. You must include announced and unannounced exercises in your plan.

(1) Minimum exercise requirements are:

Exercise type	Frequency	Comments
(i) Qualified individual notification	Quarterly.	
(ii) Emergency procedures	Quarterly	See note.
(iii) Spill management team tabletop	Annually	In a 3-year period, one exercise must include a worst case discharge scenario for hazardous substances. See note.
(iv) Response resource provider equipment deployment.	Annually	See note.
(v) Entire response plan	Every 3 years	You must design your exercise program so that every component of the plan is exercised at least once every 3 years. You may exercise the components all at once. The components may be exercised via the required exercises or via an area exercise.

Note to paragraph (g)(1) table: One of these exercises must be unannounced in the three year exercise cycle.

(2) You must participate in unannounced exercises, as directed by the COTP. The objectives of these exercises are to verify the ability and evaluate the performance of shipboard personnel in fulfilling their emergency-related responsibilities under the plan. These exercises will be limited to four per area per year. After participating in an unannounced exercise, you will not be required to participate in another unannounced exercise for at least 3 years from the date of the exercise.

(3) You must participate in area exercises as directed by the Federal OSC. The area exercises will involve those actions necessary to respond to the spill scenario developed by the exercise design team, of which you will be a member. After participating in an area exercise, you will not be required to participate in another area exercise for at least 6 years.

(4) You must maintain adequate exercise records as follows:

(i) Records of the qualified individual notification exercises and the emergency procedures exercises must be maintained on the vessel. You may document these exercises in the ship's log or in a separate exercise log.

(ii) Exercise records must be maintained and available to the Coast Guard for 3 years following completion of the exercises.

(5) For holders of approved oil response plans augmented for hazardous substances, oil and hazardous substances exercises are interchangeable. However, a minimum of 25 percent to a maximum of 75 percent of all exercises must be for hazardous substances.

(6) You may satisfy the exercise response plan requirements by complying with the National Preparedness for Response Exercise Program (PREP) Guidelines issued by Commandant (G–MOR). These guidelines are available from the United States Government Printing Office, North Capitol and H Sts., NW., Washington, DC 20402.

(h) *Geographic-specific appendix for each COTP zone in which your vessel(s) operates.* This section of your plan must include a geographic-specific appendix for each COTP zone where your vessel intends to conduct hazardous substance operations.

(1) Each appendix must identify the geographic area(s) within each COTP zone where your vessel intends to operate.

(2) For each COTP zone, you must ensure available, through contract or other approved means, the following response resources to be on-scene within the time-frames indicated from the detection of the discharge and the 24-hour point of contact for the provider of each resource. (NOTE: The response resources contained in paragraphs (h)(2)(i)–(iv) of this section are required when operating in the inland, river and canal, and Great Lakes operating areas.)

(i) Air monitoring in accordance with 29 CFR 1910.120—2 hours.

(ii) Water sampling—2 hours.

(iii) Personal protective equipment—2 hours.

(iv) Modeling capabilities available to include dispersion modeling (water and air)—2 hours.

(v) Lightering resources capable of providing the following equipment and services at your vessel's location within the prescribed time-frame:

If your lightering resource must provide the following equipment and/or services * * *	And your vessel is located in one of the areas listed, then the equipment and/or services must be at your vessel's location within the time-frame indicated:
(A) Lightering equipment (see note):	
(*1*) Fendering equipment	Inland, nearshore and Great Lakes waters—12 hours. Offshore waters and Rivers and canals—18 hours. Open ocean waters—36 hours.
(*2*) Portable pumps and ancillary equipment necessary to offload vessel's cargo tank in 24 hours of continuous operation.	The same as (A)(*1*) above.
(*3*) Transfer hoses and connection equipment	The same as (A)(*1*) above.
(B) Access to lightering specialists and mooring masters	Any operating area—24 hours.
(C) Access to barge brokers or other entities that can assist in identifying available barges that can be used as lightering vessels.	Any operating area—24 hours.

Note to paragraph (h)(2)(v) table: For tankers the equipment must be onboard.

(vi) Marine firefighting resources with equipment that have the capability to be on-scene within 24 hours.

(vii) Salvage resources that can respond within 24 hours and have the capability to access the necessary salvage equipment.

(3)(i) If you transport a hazardous substance that exhibits the characteristics of a "floater", then you must list the following response

resources capable of being on-scene within 24 hours of detection of the discharge and the 24-hour point of contact for the provider of each resource:

(A) Sorbent and containment boom;

(B) Recovery devices; and

(C) 10,000 feet of inland boom for shoreline protection operations.

(ii) Resources listed in oil response plans will meet the requirement of paragraph (h)(3)(i) of this section.

(4) If you transport a hazardous substance that exhibits the characteristics of a "sinker", then you must list the following response resources capable of being on-scene within 24 hours of detection of the discharge and the 24-hour point of contact for the provider of each resource:

(i) Sorbent boom, containment boom, silt curtains, or other equipment to contain hazardous substances that may remain floating on the surface or to reduce spreading on the bottom;

(ii) Dredges, pumps, or other equipment necessary to recover hazardous substances from the bottom and shoreline;

(iii) Chemical detection devices, such as sonar or sampling equipment; and

(iv) In situ treatment equipment as deemed appropriate by the plan-holder.

(5) The listed response resource providers must meet the equipment criteria contained in § 155.3050. Response resource providers must provide trained personnel to operate equipment, and staff their organization and the spill management team for the first 7 days of the response.

(i) *Vessel(s)-specific appendix for each vessel covered by the plan.* This section of the plan must include:

Required information (where applicable)	Comments
(1) Vessel's name, Country of registry, Call sign, Official number, International Maritime Organization (IMO) international number.	If the plan covers multiple vessels, then this information must be provided for each vessel.
(2) List of the vessel's principal characteristics	See note.
(3) Capacities of all cargo, fuel, lube oil, ballast, and fresh water tanks	See note.
(4) Diagrams showing locations of all tanks Vessel plans and information:	Can be maintained separately aboard the vessel provided the response plan identifies location. See note.
(i) General arrangement plan.	
(ii) Midships section.	
(iii) Cargo and fuel piping diagrams and pumping plan.	
(iv) Cargo and fuel storage plan.	
(5) Location of all equipment and fittings used to perform transfers and lightering.	See note.
(6) Location of equipment and personal protective equipment carried to mitigate a hazardous substance discharge.	See note.
(7) Damage stability data: Locations of plans to perform salvage, stability, and hull stress assessments. These include the general arrangement plan, midship section plan, lines plan or table of offsets, tank tables, load line assignment, and lightship characteristics.	You must maintain a copy of these plans ashore. The vessel's owner or operator or the vessel's classification society may maintain these plans unless you have arranged for a shore-based damage stability and residual strength calculation program with your vessel's baseline strength and stability characteristics pre-entered. If the computerized damage stability calculation program is utilized, then you must provide in the plan the shore location and 24-hour access procedures of the calculation program.

Note to paragraph (i) table: Because many of the tank vessels covered by a response plan may be of the same design, you do not need to repeat this information provided the plan identifies the tank vessels to which the same information applies.

(j) *Hazardous substance specific appendix.* This section of the plan must include a separate appendix for each hazardous substance cargo on board your vessel. The following table represents the types of information which must be included, if pertinent:

Information categories	Types of information
(1) NAME OF HAZARDOUS SUBSTANCE	Common Chemical Name, Synonym(s), and Trade Name(s)
(2) CAUTIONARY RESPONSE INFORMATION	First Response Activities for Fire, Exposure, and Water Pollution
	Physical Description
	Telephone Number for Medical Treatment
(3) CHEMICAL DESIGNATIONS	CAS Registry Number.
	CG Compatibility Class.
	DOT ID No.
	Formula.
	IMO/UN Designation.
	NAERG Guide Number.
	Standard International Trade Classification.
(4) HEALTH HAZARDS	Chronic Toxicity.
	EPS AEGL.
	IDLH Value.
	Irritant Characteristics (Liquid, solid, or vapor (gas)).
	Odor threshold.
	OSHA PEL–CEILING.
	OSHA PEL–STEL.
	OSHA PEL–TWA.
	PPE.
	Symptoms Following Exposure.
	TLC–Ceiling.
	TLV–STEL.
	TLV–TWA.
	Toxicity by ingestion.

Information categories	Types of information
(5) FIRE HAZARDS	Toxicity by inhalation. Treatment of exposure. Adiabatic Flame Temperature. Behavior in Fire. Burning Rate. Electrical Hazard. Fire Extinguishing Agents. Fire Extinguishing Agents Not to be Used. Flame Temperature. Flammable Limits in Air. Flash Point. Ignition Temperature. Minimum Oxygen Concentration for Combustion (MOCC). Molar Ratio. Special Hazards of Combustion Products. Stoichiometric Air to Fuel Ratio.
(6) CHEMICAL REACTIVITY	Inhibitor of Polymerization. Neutralizing Agents for Acids and Caustics. Polymerization. Reactivity with Common Materials. Reactivity with Water. Stability During Transport.
(7) WATER POLLUTION	Aquatic Toxicity. Biochemical Oxygen Demand (BOD). Food Chain Concentration Potential. GESAMP Hazard Profile. Waterfowl Toxicity.
(8) SHIPPING INFORMATION:	Barge Hull Type Grades of Purity. IMO Pollution Category. Inert Atmosphere. Ship Type. Storage Temperature. Venting.
(9) HAZARD CLASSIFICATIONS	49 CFR Category. 49 CFR Class. 49 CFR Package Group. EPA FWPCA List. EPA Pollution Category. EPA Reportable Quantity. Marine Pollutant. NFPA Hazard Classification. RCRA Waste Number.
(10) PHYSICAL AND CHEMICAL PROPERTIES.	Boiling Point at 1 atm. Critical Pressure. Critical Temperature. Freezing Point. Heat of Combustion. Heat of Decomposition. Heat of Fusion of Polymerization. Heat of Solution. Latent Heat of Vaporization. Limiting Value. Liquid Surface Tension. Liquid Water Interfacial Tension. Molecular Weight. Physical State. Ratio of Specific heats of Vapor (Gas). Reid Vapor Pressure Heat. Specific Gravity. Vapor (Gas) Specific Gravity.

(k) *On board notification checklist and emergency procedures (for tank barges only).* The checklist and emergency procedures must include—

(1) The telephone number of the National Response Center;

(2) The name of a QI and one alternate QI and the procedures to contact them on a 24-hour basis;

(3) The name and address of the vessel's owner or operator and the procedures for contacting the owner or operator on a 24-hour basis;

(4) The list of information to be provided in the notification by the reporting personnel;

(5) A statement of responsibilities and actions to be taken by reporting personnel after a hazardous substance discharge or substantial threat of one;

(6) A list of responsibilities of the crew; and (7) A statement addressing the crew's safety and personal protective equipment needs.

§ 155.3050 What are the operating criteria that apply to response resource equipment?

(a) If you conduct hazardous substance operations with substances that have the characteristics of a "floater" or "sinker", then the containment boom and recovery devices listed under § 155.3035(h)(3) and (4) must meet the following criteria:

(1) Table 1 must be used to identify appropriate hazardous substance recovery devices in the response plan. These criteria reflect conditions used for planning purposes to select mechanical response equipment. They are not conditions that would limit response actions or affect a vessel's normal operations. Table 1 follows:

TABLE 1.—RESPONSE RESOURCE OPERATING CRITERIA HAZARDOUS SUBSTANCE RECOVERY DEVICES

Operating area	Significant wave height [1] (in feet)	Sea state
Rivers and Canals	≤1	1
Inland	≤3	2
Great Lakes	≤4	2–3
Nearshore, Offshore, Open Ocean	≤6	3–4

BOOM

Boom	Use			
	Rivers and canals	Inland	Great Lakes	Nearshore, offshore, open ocean
Significant Wave Height	≤1	≤3	≤4	≤6
Sea State	1	2	2–3	3–4
Boom Height—in (draft plus freeboard)	6–18	18–24	18–24	≥24
Reserve Buoyancy to Weight Ratio	2:1	2:1	2:1	3:1 to 4:1
Total Tensile Strength—lbs	4,500	15–20,000	15–20,000	≥20,000
Skirt Fabric Tensile Strength—lbs	200	300	300	500
Skirt Fabric Tear Strength—lbs	100	100	100	125

[1] Recovery devices and boom must be at least capable of operating in wave heights up to and including the values listed in Table 1 for each operating area.

(2) When evaluating operability of response equipment you must consider limitations identified in the Area Contingency Plans for the COTP zones in which your vessel operates, including —

(i) Ice conditions;

(ii) Debris;

(iii) Temperature ranges;

(iv) Weather-related visibility.

(b) The COTP may reclassify a specific body of water or location within the COTP zone. Any reclassifications will be listed in the Area Contingency Plan. Reclassifications may be to—

(1) A more stringent operating area if the prevailing wave conditions exceed the significant wave height criteria during more than 35 percent of the year; or

(2) A less stringent operating area if the prevailing wave conditions do not exceed the significant wave height criteria for the less stringent operating area during more than 35 percent of the year.

(c) Response equipment must—

(1) Meet or exceed the criteria listed in table 1 of (a)(1) of this section;

(2) Be capable of functioning in the applicable operating area;

(3) Be appropriate for the hazardous substance carried; and

(4) Be periodically inspected and maintained in accordance with manufacturer's recommendations and best commercial practices. All inspections and maintenance must be documented and these records must be maintained for 3 years.

§ 155.3055 How must I certify that my response resources providers are capable of meeting plan requirements?

(a) Your plan must include the original written certification of the following:

(1) You have evaluated the risks associated with the worst case discharge of a hazardous substance you carry;

(2) You have contracted or listed, as appropriate, the resources that you have determined are necessary to effectively respond to a worst case hazardous substance discharge or threat of such discharge, and that the response resource providers you listed in your plan have acknowledged being listed;

(3) You have determined that the technical expertise of the response providers is adequate to carry out the planned response requirements.

(b) This certification must be signed by the owner or operator of the vessel.

§ 155.3065 What are the procedures for plan submission and receiving approval?

(a) You must submit your plan to Commandant (G–MOR), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. Your plan must—

(1) Be complete and in English;

(2) Be submitted at least 60 days before your vessel intends to perform hazardous substance operations;

(3) Include a statement certifying that your plan meets the requirements of this subpart; and

(4) Include a statement noting the plan covers either manned or unmanned vessels.

(b) If your plan is approved, then the Coast Guard will send you an approval letter. Your plan will be valid for up to 5 years from the date the plan was submitted.

(c) If your plan is reviewed and not approved, then you will receive written notification of your plan's deficiencies. You must submit a revised plan or the corrected portions within the time period specified in the Coast Guard's notice.

(d) If you have received interim operating authorization per § 155.3026,

then the provisions of § 155.3070(c), (d), and (f) apply.

§ 155.3066 What are the procedures for submitting a request for acceptance of alternative planning criteria?

If you believe that national planning criteria contained elsewhere in this part are not applicable to your vessel for the areas in which you wish to operate, then you may request the Coast Guard to accept alternative planning criteria. Your request must be made 90 days before your vessel operates under the proposed alternative, and must be forwarded via the COTP of the geographic area(s) affected.

§ 155.3067 How do I submit an appeal if my response plan is not approved?

If you have been notified that your plan is not approved, then you have 21 days following notification to submit a written appeal of the Coast Guard's decision. Your appeal must be submitted to Commandant (G–M), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

§ 155.3070 What are the procedures for plan review, revision, resubmission, and appeal?

(a) You must review your plan—

(1) Annually within one month of the anniversary date of the Coast Guard's approval of your plan; and

(2) After a drill or hazardous substance discharge to evaluate and validate the plan's effectiveness.

(b) After review of your plan, you must submit any amendments or revisions to the Coast Guard for information or approval. A cover page that provides a summary of the changes and the pages affected must be included with the revisions. The revised pages must be annotated with the revision number and effective date of the revision. You must note on the record of changes page what changes were made and the date they were made. You must also note the completion of the annual review on the record of changes page.

(c) You must submit revisions or amendments to your plan whenever any of the following occur:

(1) A change in the owner or operator if that person is not the one who provided the certifying statement required by § 155.3055(a) or § 155.3065(a);

(2) A change in your vessel's operating area that is not covered by your plan. Your vessel may operate in this new area once you have received confirmation from the Coast Guard that you have submitted a new geographic-specific appendix for approval and the certification required in § 155.3026(a);

(3) A significant change in your vessel's configuration that affects the information in your response plan;

(4) A change in the cargo your vessel carries, except when you are authorized by the COTP to carry this cargo as a result of assisting in a discharge response activity;

(5) A change in response resources required by § 155.3050;

(6) A significant change in your vessel's emergency response procedures;

(7) A change in the qualified individual or alternate;

(8) The addition of a vessel to your plan. You must submit the vessel-specific appendix and certification required in § 155.3026(a); or

(9) Any other changes that affect the implementation of the plan.

(d) At least 30 days in advance of hazardous substance operations, you must submit any revisions or amendments identified in paragraph (c) of this section. You must submit certification as required by § 155.3055(a) or § 155.3065(a) with the revisions or amendments.

(e) You must resubmit your entire plan to the Coast Guard for approval—

(1) Six months before the end of the current approval period identified in § 155.3065(b); and

(2) When the owner or operator changes, if that owner or operator provided the certifying statement required by § 155.3065(a) a new certifying statement must be submitted.

(f) The Coast Guard may require you to revise your response plan if it is determined that your plan does not meet the requirements of this subpart. The Coast Guard will provide to you written notification of any deficiencies and any operating restrictions. Deficiencies must be corrected and submitted for acceptance within the specified timeframe provided by the Coast Guard or your plan will be declared invalid. If you conduct any hazardous substance operations after your plan has been declared invalid, then you will be in violation of the Clean Water Act (CWA) (33 U.S.C. 1321(j)(5)(E)).

(g) If you disagree with a deficiency determination, you may submit a petition for reconsideration to Commandant (G–M), U. S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, within the time period required for compliance or within 7 days from the date of receipt of the Coast Guard notice of a deficiency determination, whichever is less. After considering all relevant material presented, the Coast Guard will notify you in writing of the final decision.

(1) Unless you petition for reconsideration of the Coast Guard's decision, you must correct the response plan deficiencies within the period specified in the Coast Guard's initial determination.

(2) If you petition the Coast Guard for reconsideration, the effective date of the Coast Guard notice of deficiency determination may be delayed pending their decision. Petitions to the Coast Guard must be submitted in writing, via the Coast Guard official who issued the requirement to amend the response plan, within 7 days of receipt of the notice.

(h) You must advise the Coast Guard and all other holders of the response plan of any revisions to personnel and telephone numbers and provide a copy of these revisions. Amendments to personnel and telephone number lists included in the response plan do not require prior Coast Guard approval, except as required in paragraph (c) of this section.

Dated: February 16, 1999.

James M. Loy,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 99–4697 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–14–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Outdoor Developed Areas; Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Regulatory negotiation committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public.

DATES: The committee will meet from Tuesday, April 27,1999, to Friday, April 30, 1999, 8:30 a.m. to 5:00 p.m. each day.

ADDRESSES: The committee will meet at the National Highway Institute, Training

and Conference Center, 4600 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request. This document is also available on the Board's web site (http://www.access-board.gov/rules/outdoor.htm).

SUPPLEMENTARY INFORMATION: In June 1997, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. (62 FR 30546, June 4, 1997). The committee will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by April 9, 1999, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 99–6924 Filed 3–19–99; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE011/021–1031; FRL–6313–1]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Reasonably Available Control Technology Requirements for Nitrogen Oxide Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing conditional limited approval of a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision requires major sources of nitrogen oxides (NO_X) in the State of Delaware to implement reasonably available control technology (RACT). The intended effect of this action is to propose conditional limited approval of Delaware regulation for imposing RACT on major sources of NO_X.

DATES: Comments must be received on or before April 21, 1999.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M. Street, S.W., Washington, D.C. 20460; and Delaware Department of Natural Resources & Environmental Control, Richardson & Robins, 89 Kings Highway, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, at the EPA Region III address above, or via e-mail at quinto.rose@epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address in accordance with the procedures provided above.

SUPPLEMENTARY INFORMATION: On January 11, 1993, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted Regulation No. 12 CONTROL OF NITROGEN OXIDE EMISSIONS as a revision to its SIP. On November 26, 1993 (58 FR 62307), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Delaware. The NPR proposed limited approval/limited disapproval of Regulation No. 12 pertaining to the control of NO_X emissions at major sources in the state. On January 20, 1994, DNREC submitted a SIP revision which amended Regulation No. 12. EPA is hereby withdrawing the NPR published on November 26, 1993 and reproposing conditional limited approval of this Delaware SIP revision. This action is being taken under Section 110 of the Clean Air Act (CAA).

I. Background

Pursuant to Part D, Sections 182 and 184 of the CAA, RACT is to be implemented at all major NO_X sources by no later than May 31, 1995. A major source of NO_X is defined by the classification of the ozone nonattainment area in which it is located and/or whether it is located in the ozone transport region (OTR) established by the CAA. The entire State of Delaware is located in the OTR, and RACT applies statewide. New Castle and Kent Counties are part of the Philadelphia-Wilmington-Trenton ozone nonattainment area which is classified as severe. For New Castle and Kent Counties, CAA Section 182 defines all stationary sources with the potential to emit 25 tons per year (TPY) or more of NO_X as major and requires that RACT be implemented at such sources by no later than May 31, 1995. For Sussex County, CAA Section 184 defines all stationary sources with the potential to emit 100 TPY or more of NO_X as major and requires that RACT be implemented at such sources by no later than May 31, 1995.

II. Description of the Delaware Regulation No. 12 Imposing RACT on Major Sources of NO_X

NO_X Emission Standards Requirements

Delaware Regulation No. 12, Section 3.2 contains specific emission limits for fuel burning equipment with a rated heat capacity of 100 million BTU (MMBTU) per hour or greater. Gas fired face and tangential units are required to meet an emission limit of 0.20 lbs of NO_X/MMBTU input. Oil or gas fired face and tangential units are required to meet an emission limit of 0.25 lbs of NO_X/MMBTU input. Oil or gas fired cyclones are required to meet an emission limit of 0.43 lbs of NO_X/MMBTU input. Dry bottom coal fired face and tangential units are required to meet an emission limit of 0.38 lbs of NO_X/MMBTU input. Dry bottom coal fired stokers are required to meet an emission limit of 0.40 lbs of NO_X/MMBTU input. These numerical emission limits are supported by data gathered by the State and Territorial Air Pollution Program Administrators (STAPPA) and Association of Local Air Pollution Control Officials (ALAPCO).

All emission limits are required to be met on a 24-hour rolling averaging period. For sources with a rated heat input capacity of 250 MMBTU/hr or more compliance shall be determined using continuous emission monitoring systems (CEMs) approved by DNREC. For sources with a rated heat input of greater than 150 MMBTU/hr but less than 250 MMBTU/hr compliance shall be determined using continuous emission monitoring systems (CEMs) approved by DNREC, or by an enhanced monitoring program approved by DNREC which identifies and correlates various operating parameters with NO_X emission levels thorough source testing. These parameters will be used as surrogates to monitor NO_X emissions.

Periodic source testing will be required to verify the validity of these surrogate parameters.

Regulation No. 12, Section 3.5 also contains specific emission limits for gas turbines. The emission limit for gas fired simple or combined cycle gas turbines, corrected to 15% oxygen, is 42 parts per million (ppm). The emission limit for liquid fired simple or combined cycle gas turbines, corrected to 15% oxygen, is 88 ppm. Both emission standards require compliance to be demonstrated using a one hour averaging period based on CEM or an alternative method approved by DNREC and EPA.

NO_X Technology Standards Requirements

Regulation No. 12, Section 3.2 also includes control technology provisions for fuel burning equipment with a rated heat input capacity of 100 MMBTU/hr or greater, existing fuel burning equipment shall be presumed to be RACT if the owner or operator demonstrates that emission limitations specified in Section 3.2 (and described above) can be met. If the owner or operator does not make this demonstration, RACT shall be installed to meet the specified emission limits of Section 3.2. RACT for such sources will consist of combustion modification technology including either low NO_X burner technology with low excess air (including Over Fire Air if technically feasible), or flue gas recirculation with low excess air. Regulation No. 12, in Section 3.3, requires that emissions from fuel burning equipment with a rated capacity of 50 MMBTU/hr or greater shall not exceed those achieved by installation of either low NO_X burner technology with low excess air, or an equivalent control technology approved by DNREC and EPA. Section 3.3 requires emissions from fuel burning equipment with a rated capacity of less than 50 MMBTU/hr shall not exceed those achieved through an annual tune up performed by a qualified personnel. A log must be maintained of the tune ups performed on each unit.

Regulation No. 12, Section 3.4 requires stationary internal combustion engines to limit their emissions to no more than those emitted using pre-ignition chamber combustion (also referred to as clean burn technology) for gas fired units and those emitted when using lean burn technology for diesel fired units, or equivalent control technology approved by DNREC and EPA.

In Section 3.6, seasonal fuel switching shall be considered RACT for sources opting to switch to a lower NO_X emitting fuel. Fuel switching is limited to the use of natural gas, liquid petroleum gas (LPG), or distillate oil.

Case-by-Case RACT Requirements

Regulation No. 12, Section 3.8 covers all other major sources of NO_X (i.e., those not subject to Sections 3.2, 3.3, 3.4, 3.5, or 3.6). These sources are to notify DNREC of their subject status, submit a proposal as what constitutes RACT, including technical and economic support documentation, and provide a schedule acceptable to DNREC for implementing RACT. The schedule for implementation of RACT must be by no later than May 31, 1995, and must include interim dates for the issuance of purchase orders, start and completion of modifications, and completion of compliance testing. The notification to DNREC, submittal of a RACT proposal and schedule must be made no later than November 15, 1993. DNREC will issue permits to these sources imposing RACT. Section 5 of Regulation No. 12 entitled, Alternative and Equivalent RACT Determination, also applies to these sources covered by Section 3.8. It specifies that DNREC will submit the RACT determinations made for such sources to EPA for approval as SIP revisions.

Exempted Sources

Under Section 4 of Regulation No. 12, the following source types and sizes are exempt from RACT requirements:

(1) Any fuel burning equipment used exclusively for providing residential comfort and hot water.

(2) Any incinerator or thermal/catalytic oxidizer used exclusively for pollution control.

(3) Any fuel burning equipment with a rated heat input capacity of less than 15 MMBTU/hour.

(4) Any stationary internal combustion engine with a rated capacity of less than 450 hp.

(5) Any source operating during the time period from the month of November to the end of March and operating with a capacity factor of 5% or less from April 1 to October 31.

(6) Any fuel burning equipment, gas turbine, or internal combustion engine with an annual capacity factor of less than 5%.

Alternative and Equivalent RACT Requirements

Section 5 of Regulation No. 12 is entitled Alternative and Equivalent RACT Determinations. It requires that any RACT determinations made under Section 3.8, and any other alternative or equivalent RACT measures (emission limits or technology requirements) determined under Sections 3.2, 3.3, 3.4, or 3.5, must be submitted by DNREC to EPA and approved as a SIP revisions. Section 5 also includes a specific provision to allow an owner or operator with more than one installation subject to Regulation No. 12 to use an alternative method of achieving an overall source-wide NO_X emission reduction that is equivalent to the NO_X emission reduction which would be achieved if each individual unit complied with the RACT standards in Section 3.

Compliance Certification, Record Keeping and Reporting Requirements

Section 7 specifies the compliance certification, record keeping and reporting requirements for NO_X sources subject to Regulation No. 12. Section 7.4 requires that applicable CEMS and associated data collection meet 40 CFR, Part 60, Appendix F. It also requires that source stack testing be conducted in accordance with test methods approved by DNREC and EPA.

III. EPA's Evaluation of Regulation No. 12 Imposing RACT for Major Sources of NO_X

EPA is proposing to approve the emission and control technology standards required by Delaware Regulation No. 12 as RACT for fuel burning sources. In the November 26, 1993 limited/limited disapproval of Regulation No. 12, EPA specifically disapproved the exemptions listed at Section 4. Since proposing limited approval/limited disapproval of Regulation No. 12, EPA has reevaluated its position since control requirements at very small units, such as those exempted by Section 4, are generally not reasonable considering technological and economic feasibility. A fuller explanation of this decision is given in the TSD for this proposed rulemaking. In light of this reevaluation, EPA no longer has the basis to propose disapproval of Regulation No. 12 based on the Section 4 exemptions.

However, Regulation No. 12 does not include specific emission limitations or control technology requirements as RACT for other major sources of NO_X in Delaware. Rather, Regulation No. 12 contains procedures for RACT to be imposed on non-fuel burning sources on a case-by-case basis as alternative RACT determinations from the specific RACT requirements for fuel burning sources. These sources are not subject to specific, "up-front" (i.e. immediately ascertainable) emission limitations. Instead, the regulations establish a process for the State to review and approve individual RACT emission

limitations proposed by the sources, which are then to be submitted to EPA as SIP revisions.

The CAA requires states to implement RACT on all major stationary sources. Process-oriented generic regulations, such as this, which do not include specific and ascertainable emission limitations for all major sources, do not by themselves provide standards for EPA to approve or disapprove as satisfying the definition of RACT. Therefore, the CAA's RACT requirements are satisfied only after the specific limitations imposed by the State on its major sources has been submitted to EPA as SIP revisions and approved by EPA as RACT for the subject sources.

In a November 7, 1996 policy memo from Sally Shaver, Director, Air Quality Strategies and Standards Division of OAQPS, EPA issued a guidance for approving state generic RACT regulations, like Delaware's, provided certain criteria are met. This guidance does not exempt any major source from RACT requirements but instead provides a de minimis deferral of RACT only for the purposes of approving the state's generic RACT regulation. The de minimis deferral level is determined by using the 1990 NO_X emissions, excluding the utility boiler NO_X emissions. The remaining 1990 non-utility boiler emissions are then compared with the amount of non-utility NO_X emissions that have yet to have RACT approved into the SIP. Generally, EPA expects that all utility boiler RACTs will be approved prior to application of this de minimis deferral policy and possible conversion of the generic RACT conditional approval to full approval. EPA does not expect to defer more than 5% of the emissions calculated in this manner in order to fully approve Delaware's generic NO_X RACT regulation. In accordance with the November 1996 policy, EPA is requiring that all utility boiler RACT determinations be approved into the SIP before the limited approval can be converted to full approval. Full approval of a generic RACT regulation under this policy does not change the State's statutory obligation to implement RACT for all major sources. No major NO_X source is being exempted from RACT requirements through this policy or today's rulemaking.

Because EPA has not received SIP revisions of source-specific RACT determinations for all major sources of NO_X subject to RACT under the CAA, EPA can at best, according to the November 7, 1996 policy memorandum, propose conditional limited approval of the NO_X generic rule. In support of this proposed rulemaking, the State committed in a letter dated August 18, 1998 to submit, as SIP revisions, the case-by-case RACT determinations made under Section 5 of Regulation No. 12 within 12 months of EPA's final conditional approval of the generic rule. For this reason, EPA is proposing conditional limited approval of Regulation No. 12 as explained below.

Conditional Approval

EPA is proposing conditional limited approval of Delaware's NO_X RACT regulation. The proposed conditional approval is based upon DNREC's commitment to submit all the source-specific RACT determinations made under Section 5 of Regulation No. 12 as SIP revisions by a date certain that is no later than 12 months after the effective date of EPA's final conditional approval of Regulation No. 12. Therefore, to fulfill the condition of this approval, DNREC must, by no later than 12 months after the effective date of EPA's final conditional approval of this NO_X RACT regulation, certify that it has submitted all required case-by-case RACT determinations for all currently known subject sources. Once EPA has determined that Delaware has satisfied this condition, EPA shall remove the conditional nature of its approval and Regulation No. 12 will at that time retain limited approval status. Should Delaware fail to meet the condition as specified above, the final conditional limited approval of the Delaware Regulation No. 12 shall convert to a disapproval.

Limited Approval

EPA is also proposing limited approval of Regulation No. 12 on the basis that it strengthens the Delaware SIP. Once EPA has approved all of the case-by-case RACT determinations submitted by DNREC in fulfillment of the conditional approval described above, the limited approval will convert to a full approval.

EPA is soliciting public comments on the issues discussed in this notice. These comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

EPA is proposing conditional limited approval of Delaware Regulation No. 12 imposing RACT on major sources of NO_X, submitted on January 11, 1993 and January 20, 1994. EPA is proposing conditional limited approval of this SIP revision based upon the commitment made by DNREC to submit of all the case-by-case RACT determinations made under Section 5 of Regulation No. 12 for all subject within one year of the effective date of the final conditional limited approval of Regulation No. 12. Within one year of the effective date of the final conditional limited approval of Regulation No. 12, DNREC must provide a written statement certifying to EPA that to the best of its knowledge, it has submitted all of the SIP revisions described above.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997),

applies to any rule that EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health and safest risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E. O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on substantial number of small entities because SIP approvals under section 110 and 301, and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that this action will not have a significant impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). If conditional approval is converted to disapproval under section 110(k), based on the state's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new federal requirement. Therefore, EPA certifies that this proposed disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action to propose conditional limited approval of Delaware Regulation No. 12 for NO_X RACT proposes to approve pre-existing requirements under state or local law, and imposes no new requirements. Accordingly no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 11, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 99–6899 Filed 3–19–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–152; RM–9338]

Radio Broadcasting Services; Avon, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: The Commission denies the request of Avon Broadcasting Company to allot Channel 294A to Avon, NC, as its first local aural service, finding that, based on the information provided, it is not a "community" for allotment purposes. *See* 63 FR 45213, August 25, 1998. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–152, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6872 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–74; RM–9367]

Radio Broadcasting Services; Bay Springs and Ellisville, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Blakeney Communications, Inc., licensee of Station WZKW(FM), Channel 232C2, Bay Springs, Mississippi, requesting the reallotment of Channel 232C2 to Ellisville, Mississippi, as that community's first locally competitive aural transmission service, and modification of its authorization accordingly. Coordinates used for Channel 232C2 at Ellisville, Mississippi, are 31–33–25 NL and 89–28–42 WL.

DATES: Comments must be filed on or before May 3, 1999, and reply comments on or before May 18, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Frank R. Jazzo, and Anne Goodwin Crump, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, Eleventh Floor, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–74, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6873 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 591

RIN 2127–AH45

[Docket No. 99–NHTSA–5240]

Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend NHTSA's importation regulations to implement a recent statutory amendment that adds "show or display" to the special limited purposes for which vehicles or equipment items may be imported without having to comply with the Federal motor vehicle safety standards (FMVSS). Under the amendments we are proposing, a person who wants to import a vehicle or equipment item for "show or display" would have to persuade us that the vehicle or equipment item is of such historical or technological significance that it is worthy of being shown or displayed in this country even though it would be difficult or impossible to be brought into compliance with the FMVSS. We intend this provision to accommodate primarily individuals wishing to import an example of a make or model of a vehicle which its manufacturer never sold in the United States and which therefore has no counterpart that was certified to conform to the FMVSS.

We propose to allow limited use on the public roads of vehicles imported for "show or display." Before entry, an importer would describe the intended on-road use of the vehicle and affirm that the vehicle would not be used on the public roads more than 500 miles in any 12-month period. The importer would be required to provide an annual mileage statement to the agency during the first five years after entry.

Pursuant to the recent statutory amendment, we are also allowing owners of vehicles already imported into the United States under other exemptions to apply to us for a change in the terms and conditions under which we permitted their vehicles to be imported. The opportunity to apply for such a change is statutorily limited to the period of 6 months after the effective date of the final rule.

DATES: *Comment due date:* Comments are due on the proposed rule May 6, 1999. *Effective date:* The final rule would be effective 45 days after its publication in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number indicated above and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.)

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION:

1. Background of this Rulemaking Action

A. The 1968 Importation Regulation

Under § 12.80(b)(1)(vii) of the agency's original importation regulation, 19 CFR 12.80, effective January 10, 1968, a person could import motor vehicles or motor vehicle equipment not manufactured to conform to the Federal motor vehicle safety standards (FMVSS) if the person declared that:

> The importer or consignee is importing such vehicle or equipment item solely for the purpose of show, test, experiment, competition, repairs, or alterations and that such vehicle or equipment item will not be sold or licensed for use on the public roads.

This regulation allowed importations of nonconforming vehicles or equipment items for "show" until it was superseded on January 31, 1990.

B. The 1990 Importation Regulation

On October 31, 1988, the Imported Vehicle Safety Compliance Act of 1988 (Pub. L. 100–562)("Safety Compliance

Act") was enacted. Its provisions became effective January 31, 1990. The Safety Compliance Act provided that nonconforming vehicles at least 25 years old could be imported without having to bring them into conformance with the Federal motor vehicle safety standards. Nonconforming vehicles less than 25 years old could also be imported without the need to conform them "upon such terms and conditions as (NHTSA) may find necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events."

The Safety Compliance Act made no mention of several purposes that had been specified in 19 CFR 12.80(b)(2)(vii), i.e., "show," "repairs," and "alterations." This omission ended the ability of persons to import nonconforming vehicles specifically for show purposes. In our proposal to implement the Safety Compliance Act (the final rule was published on September 28, 1989 (54 FR 40069)), we sought to minimize the effect of the omission by noting that:

> Manufacturers who have imported nonconforming products for display at auto shows to gauge public reaction to new styling or engineering features will not be precluded from declaring that such importation is for "research" or "demonstrations." And museums will be able to bring in nonconforming vehicles under the 25-year exception.
>
> (54 FR 17772 at 17776, April 25, 1989)

C. The 1993 Importation Regulation

Noting a growing desire to import vehicles less than 25 years old for show purposes, we proposed in 1992 to allow limited further relief. In our proposal published on January 17, 1992 (57 FR 2071, at 2072), we noted that we had

> adopted and maintained a conservative attitude towards entities other than original vehicle * * * manufacturers who wish to import nonconforming vehicles for display. In short, under the 1988 Amendments, it has refused to allow them.

As a means of affording partial relief for museums, we tentatively decided that we could interpret the word "studies" in the Safety Compliance Act to allow a static display

> of a vehicle * * * (where display) could form a basis for the acquisition of knowledge if that vehicle or equipment item were of historical or technological significance. Therefore, the agency has tentatively concluded that it may be in the public interest to admit vehicles whose age is less than 25 years if their importation can be demonstrated to enhance the acquisition and application of knowledge, that is to say, they merit admission because they are of historical or technological interest.
>
> (Ibid.)

We believed that this purpose could be best achieved by allowing entities, such as museums, that are recognized as tax-exempt entities under 26 U.S.C. 501(c)(3) or 509 by the Internal Revenue Service to import nonconforming vehicles for "study." We did not include individuals in this proposal.

We amended part 591 on March 8, 1993, to allow tax-exempt entities to import nonconforming vehicles or equipment less than 25 years old upon demonstrating to us that the vehicles or equipment items were of historical or technological significance (58 FR 12905). Consistent with prior regulatory provisions, the amendment prohibited on-road use of these vehicles.

D. The 1994 Recodification of the Importation Authority

On July 5, 1994, the Safety Act and the Safety Compliance Act were repealed and reenacted without substantive change as 49 U.S.C. Chapter 301—*Motor Vehicle Safety*. The importation exemption provisions of 15 U.S.C. 1397(j) were recodified as 49 U.S.C. 30114 "*Special Exemptions*." Sec. 30114 was slightly reworded to permit importation of nonconforming vehicles or equipment items imported for "research, investigations, demonstrations, training, or competitive racing events." The word "studies" was omitted as being included in "research." See H.R. Rep. 103–180, 103rd Cong., 1st Sess., at 59. Because the recodification statute indicated that it should not be construed as making any substantive changes, we did not amend part 591 to reflect the omission and have continued to authorize importations of noncompliant vehicles for "studies."

E. The 1998 Amendment

Section 7107(a) of Pub. L. 105–178, which was enacted on June 9, 1998, amended section 30114 by adding "show, or display" to the special purposes set forth in that section. As the Conference Report on the Transportation Equity Act for the 21st Century explained:

> Section 7107 reinstates NHTSA's authority to exempt certain motor vehicles imported for the purpose of show or display from certain applicable motor vehicle safety standards. Such authority was unintentionally deleted when title 49, United States Code was recodified in 1988.
>
> (H. Report 105–550, p. 523)

(We note that the deletion of "show" resulted from the 1988 amendments to the importation authority, rather than from the 1994 recodification, which deleted "studies").

2. Amendments Proposed to 49 CFR Part 591 that would Implement Congress' Amendment of Section 30114

A. Section 591.5, Declarations required for importation

As amended, Section 30114 now reads: The Secretary of Transportation may exempt a motor vehicle or item of motor vehicle equipment from section 30112(a) of this title on terms the Secretary decides are necessary for research, investigations, demonstrations, training, competitive racing events, show or display.

Currently, 49 CFR 591.5(j)(1) implements 49 U.S.C. 30114 by specifying requirements for importation of nonconforming vehicles or equipment for purposes of research, investigations, studies, demonstrations or training, and competitive racing events. In view of the intent of Congress at the time of recodification to include the word "studies" in the word "research," as previously discussed, we would revise § 591.5(j)(1)(iii) to substitute the term "show or display" for "studies." We deem the term "studies" covered by the word "research" and subject to the same terms and conditions imposed on vehicles imported for purposes of "research."

B. Section 591.6, Documents accompanying declarations

We recognize two types of importers under § 591.5(j): One that has received written permission from us to import a vehicle under its provisions (§ 591.5(j)(2)(i)); and one that is an original manufacturer of motor vehicles (or its wholly-owned subsidiary) and that certifies that its products comply with the Federal motor vehicle safety standards (§ 591.5(j)(2)(ii)).

Section 591.6(f) specifies the procedure for an importer who wishes to obtain written permission from us to import a vehicle or equipment item under § 591.5(j)(2)(i). Section 591.6(f)(1) requires all such requests to contain information sufficient to identify the vehicle or equipment and the specific purpose of importation, which must include a discussion of the use to be made of the vehicle or equipment. With respect to any such vehicle to be imported for research, investigations, demonstrations or training (but not for studies), if use on the public roads is to be an integral part of the purpose of importation, the statement must request permission for use on the public roads, describing the purpose that makes such use necessary and stating the estimated period of time during which use of the public roads is necessary. The request must also state the intended means of

final disposition (and disposition date) of the vehicle or equipment after completion of the purpose for which it is imported.

After review, we have decided that it is appropriate to retain this requirement in implementing the new statutory provision but we would amend § 591.6(f)(1) to clarify that it pertains to importations other than those for show or display, which would now be covered by § 591.6(f)(2).

Currently, if a § 591.5(j)(2)(i) importer wishes to import a vehicle or equipment for "studies," the importer's written request:

> shall explain why the vehicle or equipment item is of historical or technological interest, and describe the studies for which importation is sought. The importer, if other than the National Museum of History and Technology, Smithsonian Institution, shall also provide a copy of the Determination Letter from the Internal Revenue Service approving the importer's status as a tax-exempt corporation or foundation under section 501(c)(3) or section 509, respectively, of the Internal Revenue Code. The time between the date of the Letter and the date of the importer's written request to the Administrator shall be not less than 5 years. The importer shall also provide a statement that it shall not sell, or transfer possession of, or title to, the vehicle, or license it for use, or operate it on the public roads, until the vehicle is not less than 25 years old.

We have concluded that the statutory amendment providing authority to admit vehicles or equipment for show or display, without any qualification on the eligibility of the importer, means that tax-exempt entities as well as individual importers may import vehicles for show or display. For this reason, there appears to be no further need to maintain an exemption for studies. Accordingly, we would amend the regulation to delete the provisions expressly relating to importations for studies. As noted, importations for "studies" are essentially those of importations for "research."

One of the terms and conditions of the allowance of importation for "studies" was that the vehicle not be licensed for use or operated on the public roads. We have reviewed this restriction in view of our new authority to allow importation for "show or display," and have tentatively concluded that limited on-road use should be allowed, pursuant to our permission. We believe that the historical and technological significance of a vehicle may be maintained by its limited use of the public roads on an occasional basis in order to ensure that its engine, braking, lighting, and other dynamic systems remain in good working order, in short, so that it may be preserved. Another appropriate use of such a vehicle on the public roads would be to allow it to travel to and from nearby displays of automobiles of similar significance, so that its significance could be appreciated by a greater number of people than were it restricted to off-road use. We have tentatively decided that on-road use of these nonconforming vehicles should be limited to a maximum of 500 miles per year. There is no limit, of course, on the distance that such vehicles may be trailered in order to show or display them.

Consistent with the previous exemption for "studies," we have decided that a person who wishes to import a vehicle for show or display ought to establish that the vehicle is one of historical or technological interest. This criterion has existed for many years, beginning with the previous "show" exemption, and continuing with the one for "studies."

Our most detailed discussion of the criterion of historical and technical interest was contained in a letter of July 12, 1983, to Richard London. Mr. London asked about the acceptability of importing a Mercedes-Benz 280SL which would be trailered to various auto meets, and which would not be licensed for use or used on the public roads. We advised Mr. Gordon that:

> The agency considers several factors in determining whether to accept a declaration that a vehicle is imported solely for "show." One of these is the nature of the vehicle itself. If it is a unique machine generally considered to be of technological or historical significance, it is more likely to be admitted under the exception than if it were a mass-produced vehicle similar to many that were manufactured to conform to the Federal motor vehicle safety standards. The smaller the production run, the greater the likelihood that it will be considered to be unique. Mechanical components that differ substantially from those commonly in use at the time of manufacturer are evidence of its technological significance. Association with historical personages that would create a desire in the public to see the car is also considered relevant in the agency's interpretation of the word "show."

Examples of vehicles that might qualify under this exemption are high technology vehicles such as the McLaren F1, or certain types of Porsches or Ferraris that were never, in the first instance, sold in the United States. We might consider a vehicle owned by the Pope or the Queen of England to be a vehicle of historical significance.

We went on to explain to Mr. London that:

> In interpreting the word "show" and thereby exercising its discretion whether to allow importation of nonconforming motor vehicles for this purpose, the agency must balance the harm to the public likely to occur through use of the vehicle on the public roads, with the benefit to the public of importation of nonconforming vehicle for show purposes. * * * [t]he agency believes it is less likely that a rare or unique vehicle, part of a collection available to the public will be sold for use on the public roads than a vehicle such as the 1968–72 Mercedes 280SL that has been imported in numerous quantities as a conforming motor vehicle.

This explanation clearly demonstrated our view that nonconforming analogues of certified vehicles sold in the United States were not very likely to be considered of historical or technological significance.

In any event, use on the public roads will not be a matter of right for vehicles imported for "show or display," but subject to such terms and conditions as may be established at the time of entry. In some cases where there are safety concerns, we may refuse to authorize on-road use of a particular vehicle. In order to ensure that any on-road use is limited, we are proposing that the prospective importer, in his or her request letter, describe the purposes for which on-road use is deemed required together with an affirmation that the vehicle will not be driven on the public roads more than 500 miles in any 12-month period beginning as of the date of its importation. The affirmation would be confirmed by the importer's submittal of an annual notarized mileage statement for the vehicle on the anniversary date of its importation, for the first five years after it is imported. In addition, the prospective importer would have to state in his or her letter of request that the vehicle would not be used on the public roads unless it met the requirements of the Environmental Protection Agency.

The current regulation also restricts sale and transfer of possession of a vehicle imported for "studies" until it is 25 years old. While this restriction might not be burdensome to a museum, the agency recognizes that there are circumstances such as the death of an importer where a sale or transfer of a vehicle imported for "show or display" must occur before it is 25 years old. To fully implement its new authority to allow importation for "show or display," the agency proposes to modify this restriction, and allow sale or transfer of a vehicle imported for "show or display" upon approval by the Administrator.

Accordingly, we propose to revise § 591.6(f)(2) to require that a prospective importer:

> shall explain why the vehicle or equipment item is of historical or technological interest. The importer shall also provide a statement that, until the vehicle is not less than 25

years old, (s)he shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize. If the importer wishes to operate the vehicle on the public roads, the request to the Administrator shall include a description of the purposes for which (s)he wishes to use it on the public roads, an affirmation that the vehicle will not be operated on the public roads for more than 500 miles in any 12-month period, and a statement that the vehicle will not be used on the public roads unless it is in compliance with the regulations of the Environmental Protection Agency. Finally, the request shall also include a statement that the importer will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the importation of the vehicle, which shall be provided not later than 10 days after each such anniversary date. The request shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW., Washington, DC 20590).

Failure to file a mileage statement will be regarded as a violation of the terms of entry, for which a civil penalty may be imposed.

C. Section 591.7, Restrictions on importations

Until now, all importations under § 591.5(j)(1) have been "for a temporary period," requiring a U.S. Customs Service Temporary Importation Bond (TIB). Under § 591.7(a), the TIB requires that vehicles which it covers shall not remain in the United States for a period that exceeds 3 years from the date of entry. However, under § 591.7(b), if the importer decides to liquidate the bond, it may apply to us for permission to keep the vehicle in the country for an additional period of time not to exceed 5 years from the date of entry, unless further written permission has been obtained from us. Such written permission, after 5 years, can result in an "importation for a temporary period" becoming a permanent one. This regulatory scheme has caused uncertainty as to whether we permit permanent importations under § 591.5(j).

Because we do permit permanent importations under § 591.5(j), we believe that we should clarify this point and simplify this process to allow a permanent importation ab initio, if an importer chooses to pay duty upon entry of the vehicle, rather than treating the entry as a "temporary" one, requiring a TIB and subsequent letters of permission. Amendments of this nature would not affect the existing right under § 591.5(j)(1) to import vehicles on a temporary basis with a TIB for those importers who wish to choose this option.

Another restriction is imposed by § 591.7(c). If the importer has brought a vehicle into the United States pursuant to § 591.5(j)(2)(i), § 591.7(c) requires the importer to retain title to and possession of it, forbids its leasing, and allows its use on the public roads only if written permission has been granted by the Administrator pursuant to § 591.6(f)(1) (covering importations for research, investigations, demonstrations or training but not studies or competitive racing events).

The restriction of § 591.7(c) implements the statement that an importer is required to make as part of the request letter. Given the fact that limited on-road use is being permitted for importations for "show or display," we propose to amend § 591.7(c) to allow limited on-road use of all vehicles imported under § 591.5(j)(2)(i) "under such terms and conditions as the Administrator may authorize in writing." We would also amend the first sentence of § 591.7(c) to conform to the statement that an importer gives under § 591.6(f)(2), and imposing affirmative obligations not to sell or transfer the vehicle, or license it or operate it on the public roads except upon written approval by the Administrator in place of the presently existing absolute prohibition.

Section 591.7(d) specifically provides that any violation of a term or condition that we impose "in a letter authorizing importation or on-road use under § 591.5(j) shall be considered a violation" of the Safety Act for which a civil penalty may be imposed. Retention of this requirement is needed for enforcement purposes. However, the statutory reference in § 591.7(d) to 15 U.S.C. 1397(a)(1)(A) would be changed to 49 U.S.C. 30112(a) to reflect the recodification.

Section 591.7(e) prohibits the importation for "studies" by any person not recognized as a tax-exempt entity by the Internal Revenue Service for not less than 5 years before the date of its written request. Because we intend to incorporate the "studies" exemption into the exemption for "research" where this restriction does not exist, this section would be moot. Section 591.7(e), therefore, would be removed. A new subsection (e) would replace it, to implement the statutory directive of section 7107(b) of Pub. L. 105–178 discussed below.

3. Seeking Exemptions Under Section 30114 for Vehicles in the United States at the time the Amendment was Enacted.

Section 7107(b) of Pub. L. 105–178 provides that: (b) TRANSITION RULE—A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect.

We interpret section 7017(b) as authorizing owners of vehicles imported under § 591.5(j) before June 9, 1998, to apply to the Administrator for a change in the terms and conditions under which the vehicle was admitted so that engaging in an act contrary to those original terms and conditions will not be held to be a violation. If the change requested is an importation for show or display, the request shall also include a statement that the owner will provide the annual mileage statement required of de novo importers for show or display by § 591.6(j)(2). We therefore propose to revise § 591.7(d) and (e) to read as follows:

(d) Any violation of a term or condition imposed by the Administrator in a letter authorizing importation or on-road use under § 591.5(j), including the failure to provide an annual mileage statement, shall be considered a violation of 49 U.S.C. 30112(a) for which a civil penalty may be imposed. With respect to importations under § 591.6(f)(2), if the importer's annual mileage statement shows that the vehicle has been used on the public roads for more than 500 miles in any 12-month period, the Administrator may tentatively conclude that a term of entry has been violated but shall make no final conclusion until the importer has been afforded an opportunity to present data, views, and arguments as to why there is no violation or why a penalty should not be imposed.

(e) The owner of a vehicle located in the United States on June 9, 1998, which the owner had imported pursuant to § 591.5(j), may apply to the Administrator on or before [enter date that is six months after publication date of the rule] for a change in any such term or condition contained in the Administrator's letter. If the owner requests a change to importation for show or display, the request shall provide the current mileage of the vehicle and include a statement that the owner will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the request for the change, which shall be provided not later than 10 days after such anniversary date. All requests for change shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

4. Effective Date

The final rule would be effective 45 days after its publication in the **Federal Register**.

5. Rulemaking Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice has not been reviewed under E.O. 12866. After considering the impacts of this rulemaking action, NHTSA has determined that the action is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The only substantive change that this proposed rule would make is to add an additional justification for importing motor vehicles without the need to comply with the Federal motor vehicle safety standards, and to require their importers to submit substantiating information similar to that already required for similar importations (see discussion below on Paperwork Reduction Act). The impacts are so minimal as not to warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act. For the reasons discussed above under E.O. 12866 and the DOT Policies and Procedures, I certify that this action will not have a significant economic impact upon "a substantial number of small entities." The addition of an option to import a vehicle for "show or display" without the need to conform it relieves a previously existing restriction. Because the agency has permitted manufacturers of motor vehicles to import vehicles for purposes similar to "show or display" in the past, NHTSA believes that virtually all who wish to import a vehicle for "show or display" will be individuals. Individuals are not "small entities." Governmental jurisdictions will be affected only to the extent that they must decide whether local laws permit the operation on local public roads of motor vehicles imported for show or display that do not conform to all applicable Federal motor vehicle safety standards, and this decision would not have a significant economic impact.

C. Executive Order 12612 (Federalism)

The agency has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported will not vary significantly from that existing before the promulgation of this rule.

E. Civil Justice Reform

This final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. A procedure is set forth in 49 U.S.C. 30161 for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

The procedures in this rule to permit importation of motor vehicles and equipment not originally manufactured for the U.S. market include information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The original information collection requirements of part 591 were approved by the OMB pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). NHTSA believes that the existing clearance covers a final rule that would be based on implementing a statutory amendment, and has not sought a new or expanded clearance. This collection of information has been assigned OMB Control No. 2127–0002 ("Motor Vehicle Information").

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this final rule will not have an effect of $100 million; no Unfunded Mandates assessment has been prepared.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 591

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 591 would be amended as follows:

PART 591—IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL SAFETY, BUMPER, AND THEFT PREVENTION STANDARDS

1. The authority citation for part 591 would be revised to read as follows:

Authority: Pub. L. 100–562, Pub. L. 105–178, 49 U.S.C. 322(a), 30117; delegations of authority at 49 CFR 1.50 and 501.8.

2. Section 591.5 would be amended by paragraph (j)(1) to read as follows:

§ 591.5 Declarations required for importation.

* * * * *

(j)(1) The vehicle or equipment item does not conform with all applicable Federal motor vehicle safety and bumper standards, but is being imported solely for the purpose of:

(i) research;
(ii) investigations;
(iii) show or display;
(iv) demonstrations or training; or
(v) competitive racing events;

* * * * *

3. Section 591.6(f)(1) and (2) would be revised to read as follows:

§ 591.6 Documents accompanying declarations.

* * * * *

(f) * * *

(1) A declaration made pursuant to § 591.5(j)(1)(i), (ii), or (iv) and § 591.5(j)(2)(i) shall be accompanied by a letter from the Administrator authorizing importation pursuant to these sections. Any person seeking to import a motor vehicle or motor vehicle equipment pursuant to these sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle or equipment, its make, model, model year or date of manufacture, VIN if a motor vehicle, and the specific purpose(s) of importation. The discussion of purpose(s) shall include a description of the use to be made of the vehicle or equipment. If use on the public roads is an integral part of the purpose for which the vehicle or equipment is imported, the statement shall request permission for use on the public roads, describing the purpose which makes such use necessary, and stating the estimated period of time during which use of the vehicle or equipment on the public roads is necessary. The request shall also state the intended means of final disposition, and disposition date, of the vehicle or equipment after completion of the purposes for which it is imported. The request shall be addressed to Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

(2) A declaration made pursuant to §§ 591.5(j)(1)(iii) and 591.5(j)(2)(i) shall be accompanied by a letter from the Administrator authorizing importation pursuant to these sections. Any person seeking to import a motor vehicle pursuant to those sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle, its make, model, model year or date of manufacture, and VIN. The importer's written request to the Administrator shall explain why the vehicle or equipment item is of historical or technological interest. The importer shall also provide a statement that, until the vehicle is not less than 25 years old, (s)he shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize. If the importer wishes to operate the vehicle on the public roads, the request to the Administrator shall include a description of the purposes for which (s)he wishes to use it on the public roads, an affirmation that the vehicle will not be operated on the public roads more than 500 miles in any 12-month period, and a statement that the vehicle will not be used on the public roads unless it is in compliance with the regulations of the Environmental Protection Agency. Finally, the request shall also include a statement that the importer will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the importation of the vehicle, which shall be provided not later than 10 days after each such anniversary date. The request shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

4. Section 591.7 would be amended by revising the first sentence of paragraph (c) and by revising paragraphs (d) and (e) to read as follows:

§ 591.7 Restrictions on importation

* * * * *

(c) An importer of a vehicle which has entered the United States under a declaration made pursuant to § 591.5(j)(2)(i) shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize in writing.

* * *

(d) Any violation of a term or condition imposed by the Administrator in a letter authorizing importation or on-road use under § 591.5(j), including the failure to provide an annual mileage statement, shall be considered a violation of 49 U.S.C. 30112(a) for which a civil penalty may be imposed. With respect to importations under Sec. 591.6(f)(2), if the importer's annual mileage statement shows that the vehicle has been used on the public roads for more than 500 miles in any 12-month period, the Administrator may tentatively conclude that a term of entry has been violated but shall make no final conclusion until the importer has been afforded an opportunity to present data, views, and arguments as to why there is no violation or why a penalty should not be imposed.

(e) The owner of a vehicle located in the United States on June 9, 1998, which the owner had imported pursuant to § 591.5(j), may apply to the Administrator on or before [enter date that is six months after publication date of the rule] for a change in any such term or condition contained in the Administrator's letter. If the owner requests a change to importation for show or display, the request shall provide the current mileage of the vehicle and include a statement that the owner will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the request for the change, which shall be provided not later than 10 days after such anniversary date. All requests for change shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

Issued on: March 16, 1999.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 99–6847 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 64, No. 54
Monday, March 22, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AFRICAN DEVELOPMENT FOUNDATION

Sunshine Act Meeting; Board of Directors

TIME: 1:00–5:00 p.m.
PLACE: ADF Headquarters.
DATE: Wednesday, 24 March 1999.
STATUS: Open.

Agenda

1:00 p.m.
Chairman's Report
1:30 p.m.
President's Report
New Business
5:00 p.m.
Adjournment

If you have any questions or comments, please direct them to Dick Day, Coordinator, Office of Policy, Planning and Outreach, who can be reached at (202) 673–3916.

William R. Ford,
President.

[FR Doc. 99–7019 Filed 3–18–99; 10:55 am]
BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Baseline and Trend Information on Wilderness Use and Users

AGENCY: Forest Service, USDA.
ACTION: Extension of an information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to request extension of a currently approved information collection. This information collection has been used to collect data about wilderness recreation users in the United States, since 1990. The information is necessary to help the Forest Service and other Federal wilderness management agencies meet the needs and expectations of visitors, who look to the National Wilderness Preservation System for recreational experiences that are dependent upon natural wilderness conditions away from human development and devoid of crowds. Respondents will be visitors, or potential visitors, to the National Wilderness Preservation System.

DATES: Comments must be received in writing on or before May 21, 1999.

ADDRESSES: All comments should be addressed to Alan Watson, Aldo Leopold Wilderness Research Institute, Forest Service, USDA, P.O. Box 8089, Missoula, Montana 59807 or email awatson/rmrs_missoula@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Alan Watson, Aldo Leopold Wilderness Research Institute, (406) 542–4197.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection to be extended:

Title: Baseline and Trend Information on Wilderness Use and Users.

OMB Number: 0596–0108.

Expiration Date of Approval: May 31, 1999.

Type of Request: Extension of a currently approved information collection.

Abstract: The Wilderness Act of 1964 directs that the National Wilderness Preservation System (System) be managed to protect natural wilderness conditions and to provide outstanding opportunities for the public to find solitude or primitive and unconfined types of recreational experiences.

To meet the requirements of The Wilderness Act of 1964 and to help the Forest Service enhance visitors' recreational experiences, the agency monitors trends of visitor recreational activities. Forest Service personnel also want to ensure that visitors' recreational activities do not harm the natural resources of the National Wilderness Preservation System. The agency is expanding the scope of the survey to include wilderness areas about which the agency has little information in regard to visitor recreational trends. Data from this information collection will be maintained at the interagency (Agriculture and Interior) Aldo Leopold Wilderness Research Institute in Missoula, Montana.

The Forest Service will use information from this collection: (1) to establish visitor recreational use baselines; (2) to monitor visitor recreational use trends; (3) to gain an understanding of how the agency's management of the National Wilderness Preservation System influences a visitor's wilderness experience; and (4) to help understand how to educate visitors, so they may enjoy their wilderness experience without leaving permanent reminders of their visits, such as damaged vegetation, litter, and polluted streams. The information also will be used for planning management direction for various wilderness areas managed by the agencies in the Departments of Agriculture and Interior.

Respondents will be visitors, or potential visitors, to the National Wilderness Preservation System. Forest Service personnel will conduct face-to-face, on-site interviews with visitors as they enter the System or will send mailback survey forms to visitors at their homes, using addresses that visitors provide when visiting the System. Forest Service personnel will contact visitors at nonwilderness sites to ask if they have plans to visit the System. When unable to conduct face-to-face interviews with potential visitors, the agency will send mailback survey forms to the homes of those who visited nonwilderness areas, using addresses provided by them as they entered the nonwilderness sites. In some cases, the agency forms will be made available on a self-service basis to visitors in trailhead displays.

Respondents will be asked questions that include how many times they visit, when they plan their next visit, or if they plan to visit at all. Respondents will be asked, when visiting, if they come in groups, and, if so, the size of those groups. Respondents will be asked how long they stay when visiting? Do they use equipment, such as stoves, or use wood for fires while visiting, and do they have preferences for social conditions? For example, do they like or will they accept crowded conditions, such as crowded camping areas, designed to limit negative effects to the natural resources, such as soil compaction, damage to tree roots, and negative impacts to water quality? Do respondents support various wilderness management strategies, such as limiting visitor use of wilderness areas to lessen negative effects to the wilderness environment? Do they support

separating uses, such as designating some campsites for use only by groups with pack animals, to avoid conflict? Data collected in this information collection is not available from other sources.

Estimate of Burden: 15 minutes.

Type of Respondents: Visitors or potential visitors to the National Wilderness Preservation System.

Estimated Number of Respondents: 3000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 750 hours.

Comment Is Invited

Comments are invited on (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including name and address when provided, will be summarized and included in the request for Office of Management and Budget approval. All comments also will become a matter of public record.

Dated: March 16, 1999.

Robert Lewis, Jr.,

Deputy Chief for Research & Development.

[FR Doc. 99–6931 Filed 3–19–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rocky Mountain Region: Colorado, Kansas, Nebraska, South Dakota, Eastern Wyoming; Legal Notice of the Opportunity to Comment on Certain Proposed Actions and of Decisions Subject to Notice and Comment

AGENCY: Forest Service, USDA.

ACTION: Notice; Newspapers for legal notices.

SUMMARY: This is a list of those newspapers that will be used to publish notice of all decisions which are subject to appeal under 36 CFR 217, notice of the opportunity to comment on certain proposed actions pursuant to 36 CFR 215.5, and notice of decisions subject to appeal under the general provisions of 36 CFR 215. As required at 36 CFR 215.5 and 215.9, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to public notice and comment and administrative appeal. Newspaper publications of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

EFFECTIVE DATE: Use of these newspapers for purposes of publishing the notices required under the provisions of 36 CFR 215 shall begin November 30, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Momper, Regional Appeals and Litigation Coordinator, Rocky Mountain Region, Box 15127, Lakewood, Colorado 80225, Area Code 303–275–5161.

SUPPLEMENTARY INFORMATION: Responsible Officials in the Rocky Mountain Region shall give notice of the opportunity to comment on certain proposed actions and of decisions subject to appeal pursuant to 36 CFR part 215 in the following newspapers which are listed by Forest Service unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. The day after the publication of the public notice in the primary newspaper shall be the first day of the appeal filing period.

Decisions by the Regional Forester

The Denver Post, published daily in Denver, Denver County, Colorado, for decisions affecting National Forest System lands in the States of Colorado, Nebraska, Kansas, and eastern Wyoming and for any decision of Region-wide impact. In addition, notice of decisions made by the Regional Forester will also be published in the *Rocky Mountain News*, published daily in Denver, Denver County, Colorado, Notice of decisions affecting National Forest System lands in the State of South Dakota will also be published in *The Rapid City Journal* published daily in Rapid City, Pennington County, South Dakota. For those decisions affecting a particular unit, the newspaper specific to that unit will be used.

Arapaho and Roosevelt National Forests, Colorado

Forest Supervisor Decisions

The Denver Post, published daily in Denver, Denver County, Colorado.

District Ranger Decisions

Redfeather and Estes-Poudre Districts: *Coloradoan*, published daily in Fort Collins, Larimer County, Colorado.

Pawnee District: *Greeley Tribute*, published daily in Greely, Weld County, Colorado.

Boulder District: *Boulder Daily Camera*, published daily in Boulder, Boulder County, Colorado.

Clear Creek District: *Clear Creek Courant*, published weekly in Idaho Springs, Clear Creek County, Colorado.

Sulphur District: *Granby Sky High News*, published daily in Granby, Grand County, Colorado.

Grand Mesa, Uncompahgre and Gunnison National Forests, Colorado

Forest Supervisor Decisions

Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

District Ranger Decisions

Collbran and Grand Junction Districts: *Grand Junction Daily Sentinel*, published daily in Grand Junction, Mesa County, Colorado.

Paonia District: *Delta County Independent* published weekly in Delta, Delta County, Colorado.

Cebolla and Taylor River Districts: *Gunnison County Times*, published weekly in Gunnison, Gunnison County, Colorado.

Norwood District: *Telluride Daily Planet*, published daily in Telluride, San Miguel County, Colorado.

Ouray District: *Montrose Daily Press*, published daily in Montrose, Montrose County, Colorado.

Pike and San Isabel National Forests

Forest Supervisor Decisions

Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

District Ranger Decisions

San Carlos District: *Pueblo Chieftain*, published daily in Pueblo, Pueblo County, Colorado.

Comanche District: *Plainsman Herald*, published weekly in Springfield, Baca County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *La Junta Tribune Democrat*, published daily in La Junta, Otero County, Colorado, and in the *Ark Valley Journal*, published weekly in La Junta, Otero County, Colorado.

Cimarron District: Tri-State News, published weekly in Elkhart, Morton County, Kansas.

South Platte District: Daily News Press, published daily in Castle Rock, Douglas County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *High Timber Times*, published weekly in Conifer, Jefferson County, Colorado, and in the *Fairplay Flume*, published weekly in Fairplay, Park County, Colorado.

Leadville District: Herald Democrat, published weekly in Leadville, Lake County, Colorado.

Salida District: *The Mountain Mail*, published daily in Salida, Chaffee County, Colorado.

South Park District: *Fairplay Flume*, published weekly in Fairplay, Park County, Colorado.

Pikes Peak District: *Gazette Telegraph*, published daily in Colorado Springs, El Paso County, Colorado.

Rio Grande National Forest, Colorado

Forest Supervisor Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

District Ranger Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

Routt National Forest, Colorado

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will also be used.

District Ranger Decisions

Hahns Peak-Bears Ears District: *Steamboat Pilot*, published weekly in Steamboat Springs, Routt County Colorado is the newspaper of record for decision made by the hans peak bears ears District Ranger. Additional notice to inform local communities about decision made by the District Ranger will also be placed in the *Hayden Valley Press*, published weekly in Hayden, Routt County, Colorado and in the *Northwest Colorado Daily Press*, published daily in Craig, Moffat County, Colorado.

Yampa and District: *Steamboat Pilot*, published weekly in Steamboat Springs, Routt County, Colorado.

Middle Park District: North Park District: *Jackson County Star*, published weekly in Walden, Jackson County, Colorado.

San Juan National Forest, Colorado

Forest Supervisors Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

District Ranger Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

White River National Forest, Colorado

Forest Supervisor Decisions

The Glenwood Post, published Monday through Saturday in Glenwood Springs, Garfield County, Colorado.

District Ranger Decisions

Aspen District: *Aspen Times*, published weekly in Aspen, Pitkin County, Colorado.

Blanco District: *Meeker Herald*, published weekly in Meeker, Rio Blanco County, Colorado.

Dillon District: *Summit Daily News*, published daily in Frisco, Summit County, Colorado.

Eagle District: *Eagle Valley Enterprise*, published weekly in Eagle, Eagle County, Colorado.

Holy Cross District: *Vail Trail*, published weekly in Vail, Eagle County, Colorado.

Rifle District: *Citizen Telegram*, published weekly in Rifle, Garfield County, Colorado.

Sopris District: Valley Journal, published weekly in Carbondale, Garfield County, Colorado.

Nebraska National Forest, Nebraska

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota for decisions affecting National Forest System lands in the State of South Dakota.

The Omaha World Herald, published daily in Omaha, Douglas County, Nebraska for decisions affecting National Forest System lands in the State of Nebraska.

District Ranger Decisions

Bassey District: *The North Platte Telegraph*, published daily in North Platte, Lincoln County, Nebraska.

Pine Ridge District: *The Chadron Record*, published weekly in Chadron, Dawes County, Nebraska.

Samuel R. McKelvie National Forest: *The Valentine Midland News*, published weekly in Valentine, Cherry County, Nebraska.

Fall River and Wall Districts, Buffalo Gap National Grassland: *The Rapid City Journal*, published daily in Rapid City, Pennington County, South Dakota.

Fall River and Wall Districts: *The Rapid City Journal*. published daily in the Rapid City, Pennington County, South Dakota.

Fort Pierre National Grassland: *The Capitol Journal*, published Monday thru Friday in Pierre, Hughes County, South Dakota.

Black Hills National Forest, South Dakota and Eastern Wyoming

Forest Supervisor Decision

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

District Ranger Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Bighorn National Forest, Wyoming

Forest Supervisor Decisions

Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming.

In addition, for decisions affecting an individual district(s), the local district(s) newspaper will be used (see listing below).

District Ranger Decisions

Tongue District: *Sheridan Press*, published daily in Sheridan, Sheridan County, Wyoming.

Buffalo District: *Buffalo Bulletin*, published weekly in Buffalo, Johnson County, Wyoming.

Medicine Wheel District: *Lovell Chronicle*, published weekly in Lovell, Big Horn County, Wyoming.

Tensleep District: *Northern Wyoming Daily News*, published daily in Worland, Washakie County, Wyoming.

Painstrock District: *Greybull Standard*, published weekly in Greybull, Big Horn County, Wyoming.

Medicine Bow National Forest, Wyoming

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

District Ranger Decisions

Laramie District: *Laramie Daily Boomerang*, published daily in Laramie, Albany County, Wyoming.

Douglas District: *Casper Star-Tribune*, published daily in Casper, Natrona County, Wyoming.

Brush Creek and Hayden Districts: *Rawlins Daily Times*, published daily in Rawlins, Carbon County, Wyoming.

Shoshone National Forest, Wyoming

Forest Supervisor Decision

Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

District Ranger Decisions

Clarks Fork District: *Powell Tribune,* published twice weekly in Powell, Park County, Wyoming.

Wapiti and Greybull Districts: *Cody Enterprise,* published twice weekly in Cody, Park County, Wyoming.

Wind River District: *The Dubois Frontier,* published weekly in Dubois, Teton County, Wyoming.

Lander District: *Wyoming State Journal,* published twice weekly in lander, Fremont County, Wyoming.

Dated: March 15, 1999.

Tom L. Thompson,

Deputy Regional Forester.

[FR Doc. 99–6864 Filed 3–19–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Intent To Prepare an Environmental Impact Statement for the Threemile Timber Harvest

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to provide timber for the Tongass National Forest timber sale program. The Record of Decision will disclose how the Forest Service has decided to provide harvest units, roads, and associated timber harvesting facilities. The proposed action is to harvest timber on approximately 2300 acres including both clearcut with reserves and overstory removal harvest methods. This would entail harvest of an estimated 48 million board feet of timber. Approximately 33 miles of new roads would be built, as well as a new log transfer facility at No Name Bay.

A range of alternatives responsive to significant issues will be developed including a no-action alternative. The proposed timber harvest is located in the Tongass National Forest, Petersburg Ranger District, on Kuiu Island, Alaska, within Value Comparison Units 416, 417, 418, 419 and the east side of VCU 420. The *Tongass Land and Resource Management Plan* (1997) provides the overall guidance (land use designations, goals, objectives, management prescriptions, standards and guidelines) to achieve the desired future condition for the area in which this project is proposed. The Forest Plan allocates portions of the project area into four management prescriptions: Timber Production, Modified Landscape, Semi-Remote Recreation, and Old-growth Habitat Land Use Designations.

DATES: For the Forest Service to best use the scoping input, comments should be received by May 1, 1999; however, scoping comments will be accepted at any time.

ADDRESSES: Please send written comments to Petersburg Ranger District; Tongass National Forest; Attn: Threemile Timber Harvest EIS; P.O. Box 1328, Petersburg, AK, 99833.

FOR FURTHER INFORMATION CONTRACT: Questions about the proposal and EIS should be directed to Everett Kissinger, Interdisciplinary Team Leader, P.O. Box 309, Petersburg, AK, 99833, phone (907) 772–3841.

SUPPLEMENTARY INFORMATION: Public participation will be part of the planning process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies, and from individuals and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) Identification of potential issues; (2) identification of issues to be analyzed in depth; and, (3) elimination of insignificant issues or those which have been covered by a previous enviromental review. Written scoping comments will be solicited through a scoping package sent to a project mailing list. For the Forest Service to best use the scoping input, comments should be received by May 1, 1999; however, scoping comments will be accepted at any time. Tentative issues identified for analysis in the EIS include subsistence, wildlife habitat, road development and access management, and timber sale economics and timber supply. Based on the results of scoping and the resource capabilities within the project area, alternatives including a no-action alternative will be developed for a Draft Environmental Impact Statement (Draft EIS). The Draft EIS is projected to be filed with the Environmental Protection Agency (EPA) in September 1999. Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), are planned during the comment period on the Draft EIS. The Final EIS is anticipated by March, 2000.

The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes a notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.*v. *NRDC,* 435 U.S. 519, 553, (1978). Environmental objections that could have been raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific areas with the project areas or specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision

regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days.

Permits: Those required for implementation include the following:

1. U.S. Army Corps of Engineers
   —Approval of discharge of dredged or fill material into the waters of the United States under Section 404 of the Clean Water Act;
   —Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899;
2. Environmental Protection Agency
   —National Pollutant Discharge Elimination System (402) Permit;
   —Review Spill Prevention Control and Countermeasure Plan;
3. State of Alaska, Department of Natural Resources
   —Tideland Permit and Lease or Easement;
4. State of Alaska, Department of Environmental Conservation
   —Solid Waste Disposal Permit;
   —Certification of Compliance with Alaska Water Quality Standards (401 Certification)
5. State of Alaska, Division of Governmental Coordination
   —Coastal Zone Consistency Determination concurrence

Responsible Official

Carol J. Jorgensen, Assistant Forest Supervisor, Tongass National Forest, P.O. Box 309, Petersburg, AK 99833, is the responsible official. The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: March 8, 1999.

Carol J. Jorgensen.

Assistant Forest Supervisor.

[FR Doc. 99–6914 Filed 3–19–99; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 21, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Impulse Merchandising Program (IMP)
Party Items
M.R. 1500—2000
Cooking Utensils
M.R. 1550
Health and Beauty Aids
M.R. 1600
Cleaning Aids
M.R. 1650
Pet Items
M.R. 1700
Baby Items
M.R. 1750
Children Items
M.R. 1800
Household Items
M.R. 1850
NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina
Tool, McLeod
4210–00–203–3512
NPA: Mississippi Industries for the Blind, Jackson, Mississippi at its facility in Meridian, Mississippi
Vegetable Oil
8945–00–NSH–0001
NPA: Advocacy and Resources Corporation (ARC), Cookeville, Tennessee

Services

Commissary Shelf Stocking, Custodial and Warehousing
Fairchild Air Force Base, Washington
NPA: Pre-Vocational Training Center, Spokane, Washington

Janitorial/Custodial

MG William Weigel USARC, Edison, New Jersey
NPA: Edison Sheltered Workshop, Inc., Edison, New Jersey

Janitorial/Custodial

Wheeling Courthouse, 12th and Chaplin Streets, Wheeling, West Virginia
NPA: Russell Nesbitt Services, Inc., Wheeling, West Virginia
Operation of Postal Service Center, Davis-Monthan Air Force Base, Arizona
NPA: Catholic Community Services of Southern Arizona, Tucson, Arizona

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Starter Rope, Engine 2990–00–961–3692
2990–00–972–7950

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–6810 Filed 3–19–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 21, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 30, 1998, January 22 and 29, and February 5, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 FR 65746 and 64 FR 3483, 4638 and 5764) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Cap, Combat Camouflage
8415–01–134–3175
8415–01–134–3176
8415–01–134–3177
8415–01–134–3178
8415–01–134–3179
8415–01–134–3180
8415–01–084–1683
8415–01–084–1684
8415–01–084–1685
8415–01–084–1686
8415–01–084–1687
8415–01–084–1688
(Remaining Government Requirements)

Insignia, Embroidered
8455–01–388–8485

Services

Commissary Shelf Stocking, Custodial and Warehousing
Fallon Naval Air Station, Fallon, Nevada
Grounds Maintenance
BRECC, 3900 Loch Raven Boulevard, Baltimore, Maryland

Janitorial/Custodial

Department of Veterans Affairs Lompoc Clinic, 1111 East Ocean Avenue, Lompoc, California

Janitorial/Custodial

Veterans Affairs Primary Care Clinic, 145 Falmouth Road, Hyannis, Massachusetts

Janitorial/Grounds Maintenance

VA Northern California Health Care System, Mare Island Outpatient Clinic, Vallejo, California

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–6811 Filed 3–19–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–848, A–580–838]

Initiation of Antidumping Duty Investigations: Certain Aperture Masks From Japan and South Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Ross, at (202) 482–4794, or Thomas Schauer, at (202) 482–4852; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to Department of Commerce ("Department") regulations refer to the regulations codified at 19 CFR Part 351 (1998).

The Petitions

On February 24, 1999, the Department received petitions filed in proper form by BMC Industries, Inc. ("BMC," referred to hereafter as "the petitioner"). The petitioner filed supplemental information to the petitions on March 8, 12, and 16, 1999.

The petitioner alleges that imports of certain aperture masks from Japan and South Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The Department finds that the petitioner has standing to file the petitions because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigations it is requesting the Department to initiate. See "Determination of Industry Support for the Petitions" below.

Scope of Investigations

For purposes of these investigations, the products covered consist of all aperture masks (also known as "shadow

masks") made from aluminum-killed, open-coil annealed steel (decarburized) (known generally as "AK steel") for color picture tubes ("CPTs") used in television sets. AK steel includes the following types of steel: low carbon, AF (annealing-free) steel, AK type A steel (commonly referred to as AKM steel), AK type B steel, and general AK steel. The aperture masks covered by the scope generally have a vertical pitch (distance between the centers of two apertures) of greater than .28mm. Specifically excluded from the scope are the following products: (1) aperture masks made from FeNi 36 alloy (whether sold under the brand names Invar, Inovar or LLTE); (2) aperture masks that have a vertical pitch of less than .28 mm that are generally used for color display tubes ("CDTs") used in computer monitors; and (3) grille masks (a grille mask replaces the slots in an aperture mask with an array of finely tensioned vertical wires).

The merchandise subject to these investigations is classifiable under 8540.91.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

During our review of the petitions, we discussed the scope with the petitioner to ensure that the scope accurately reflects the merchandise for which the domestic industry is seeking relief. Moreover, as we discussed in the preamble to the Department's regulations (62 FR at 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by April 5, 1999. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petitions

Section 732(c)(4)(A) of the Act requires that the Department determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets this minimum requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product, and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Under section 732(c)(4)(D) of the Act, if the petitioner(s) account for more than 50 percent of the total production of the domestic like product, the Department is not required to poll the industry to determine the extent of industry support.

To determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The ITC, which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. However, while both the Department and the ITC must apply the same statutory definition of domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the like-product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petitions, and as clarified by the March 8 and 12, 1999, supplements to the petitions, is the single product defined in the "Scope of Investigation" section, above. No party has commented on the petitions" definition of domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. The Department, therefore, has adopted this definition of the domestic like product.

With respect to the above-cited industry-support requirements, the Department has determined that the petitions and supplemental information contained adequate evidence of sufficient industry support. See Initiation Checklist, dated March 16, 1999 (public document on file in the Central Records Unit of the Department of Commerce, Room B–099). Additionally, no person who would qualify as an interested party pursuant to sections 771(A), (C), (D), (E), or (F) of the Act has expressed on the record opposition to the petitions. Information currently on the record indicates that the producer who supports the petitions accounts for 100 percent of the production of the domestic like product. Accordingly, the Department determines that these petitions are filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The petitioner identified three Japanese producers and one South Korean producer in its less-than-fair-value allegations. The Japanese producers are Dai Nippon Printing Co., Ltd. ("DNP"), Dainippon Screen Manufacturing Company, Ltd. ("DNS"), and Toppan Printing Co., Ltd. ("Toppan"). The South Korean producer is LG Micron Ltd. ("LGM"). The petitioner determined export prices for each of these producers based on price quotes obtained by the petitioner's sales personnel in the ordinary course of business. These price quotes are for various sizes of the aperture masks covered by the scope of the petitions. The petitioner provided trip reports and an affidavit from a BMC sales representative to support the validity of the price quotes. All U.S. price quotes were denominated in U.S. dollars and, where appropriate, the petitioner made adjustments for movement expenses. Our review of the petitioner's calculation of export prices did not indicate the need to make changes to those prices.

With respect to normal value for Japan, the petitioner could not find data regarding Japanese home market prices. Moreover, the petitioner alleges that the volume of Japanese domestic sales of in-scope merchandise is insufficient to form a basis for normal value. In support of its claims that pricing information is unavailable and that the Japanese domestic market is not viable, the petitioner provided an affidavit from a responsible BMC sales representative. The affidavit documents the employee's efforts to uncover pricing information and indicates that most of the aperture

[1] See *Algoma Steel Corp., Ltd.* v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); High *Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

masks sold in Japan are types specifically excluded from the scope of the petitions (*e.g.*, aperture masks made from Invar). Lacking pricing information for sales of the foreign like product in the Japanese market, the petitioner turned to third-country sales as the basis for normal value in accordance with section 773(a)(1)(C) of the Act. However, as described in more detail below, the petitioner provided information in the petitions demonstrating reasonable grounds to believe or suspect that sales of certain aperture masks from Japan to third-country markets were made at prices below the cost of production (*i.e.*, the sum of the cost of materials and fabrication (*i.e.*, COM), selling, general and administrative ("SG&A") expenses, and packing), within the meaning of section 773(b) of the Act. The petitioner therefore concluded that sales from Japan to third countries cannot serve as the basis for normal value. Furthermore, the petitioner requested that the Department conduct a countrywide investigation of sales below cost for third-country market sales from Japan.

With respect to normal value for South Korea, the petitioner stated that it believes that the volume of South Korean home market sales is sufficient to form a basis for normal value. The petitioner also provided information in the petitions demonstrating reasonable grounds to believe or suspect that sales of certain aperture masks in South Korea were made at prices below the cost of production, within the meaning of section 773(b) of the Act. The petitioner therefore concluded that sales in the South Korean home market cannot serve as the basis for normal value. Furthermore, the petitioner requested that the Department conduct a countrywide investigation of sales below cost for home market sales in South Korea.

To support its allegations that prices from Japan to third-country markets and prices in the South Korean home market are below the cost of production, the petitioner compared price quotes for each of the identified producers to each company's cost of production. The petitioner calculated the COM and packing components of the cost of production based on its own production experience with adjustments for known differences in costs incurred in the United States and costs incurred in Japan and South Korea. It derived company-specific SG&A expenses for the Japanese producers using each company's financial statements. For LGM, the South Korean producer of certain aperture masks, the petitioner said it was not able to obtain a financial statement for the calculation of SG&A expenses. However, since the petitioner could obtain the financial statements of LGM's parent company, LG Electronics, it calculated SG&A based on the financial statements of LG Electronics. We reviewed the cost-of-production calculations and accepted the underlying cost data contained in the petitions, as revised and/or supplemented by the March 8, 12, and 16, 1999, submissions.

We compared the cost-of-production data supplied in the petitions to the corresponding Japanese producers' third-country prices and the South Korean producer's home market prices. We found that the prices in every instance were below the cost of production. Thus, for both Japan and South Korea, these findings constitute "reasonable grounds to believe or suspect" that sales of the foreign like product were made below their respective cost of production within the meaning of section 773(b)(2)(A)(i) of the Act. See "Initiation of Cost Investigation," below.

Since the petitioner found that the third-country prices of the Japanese producers and the home market prices of the South Korean producer were below the cost of production, the petitioner based normal value on constructed value. The petitioner calculated constructed value by adding profit to the figures that it used to compute the cost of production. It based profit on the same financial statements it used for the calculation of SG&A expenses. We reviewed the calculation of constructed value and accepted the underlying cost data contained in the petitions, as revised and/or supplemented by the March 8, 12, and 16, 1999, submissions.

Fair Value Comparison

Based on the data provided by the petitioner, we find that there is reason to believe that imports of certain aperture masks from Japan and South Korea are being, or are likely to be, sold at less than fair value.

The margin calculations in the petitions, as revised in the March 16, 1999, supplement to the petitions, indicate dumping margins ranging from 3.77 to 85.34 percent for certain aperture masks from Japan and a dumping margin of 10.61 percent for certain aperture masks from South Korea.

If it becomes necessary at a later date to consider the petitions as a source of facts available under section 776 of the Act, we may review and, if necessary, revise the margin calculations.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of imports of the subject merchandise sold at less than normal value. The petitioner explained that the industry's injured condition is evident in declining trends in capacity utilization, income growth, and profits. The allegations of injury and causation are supported by relevant evidence including lost sales and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and they meet the statutory requirements for initiation. See Initiation Checklist, dated March 16, 1999.

Initiation of Antidumping Investigations

We have examined the petitions on certain aperture masks from Japan and South Korea and have found that they meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of certain aperture masks from Japan and South Korea are being, or are likely to be, sold in the United States at less than fair value.

Our preliminary determinations will be issued by August 3, 1999, unless the deadline for the determinations is extended.

Initiation of Cost Investigation

As explained above, the Department has found that there are "reasonable grounds to believe or suspect" that sales of certain aperture masks in the comparison markets for Japan and South Korea were made below their respective cost of production within the meaning of section 773(b)(2)(A)(i) of the Act. Therefore, we are initiating countrywide sales-below-cost investigations with respect to certain aperture masks from Japan and South Korea.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, copies of public versions of the petitions have been provided to the representatives of the Governments of Japan and South Korea.

International Trade Commission Notification

We have notified the ITC of our initiation of these investigations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by April 12, 1999, whether there is a reasonable indication that imports of certain aperture masks from Japan and South Korea are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in termination of the investigations; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i) of the Act.

Dated: March 16, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–6934 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–825]

Sebacic Acid From the People's Republic of China: Postponement of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limits for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce is extending by 120 days the time limit of the preliminary results of the antidumping duty administrative review of the antidumping duty order on sebacic acid from the People's Republic of China (PRC) covering the period July 1, 1997, through June 30, 1998, since it is not practicable to complete this review within the time limits mandated by the Tariff Act of 1930, as amended.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim, at (202) 482–2613; or John Maloney, at (202) 482–1503, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Postponement of Preliminary Results of Review: Section 751(a)(3)(A) of the Act requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, section 751(a)(3)(A) of the Act provides that, when it is not practicable to complete the review within the specified time period, the Department may extend the time period for completing the preliminary results by 120 days. We determine that it is not practicable to complete the preliminary results of this review within the original time frame. *See* Decision Memorandum from Holly A. Kuga, Acting Deputy Assistant Secretary, to Robert S. LaRussa, Assistant Secretary. Accordingly, the deadline for issuing the preliminary results of this review is now due no later than July 31, 1999. In accordance with section 751(a)(3)(A) of the Act, we plan to issue the final results of this administrative review within 120 days after publication of the preliminary results.

Dated: March 12, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 99–6832 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review and New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of 1997–1998 antidumping duty administrative review and new shipper review of stainless steel bar from India.

SUMMARY: On November 12, 1998, the Department of Commerce published the preliminary results of antidumping duty administrative review and new shipper review of the antidumping duty order on stainless steel bar from India. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have made certain changes for the final results.

These reviews cover five producers/exporters of stainless steel bar to the United States during the period February 1, 1997, through January 31, 1998.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Zak Smith, James Breeden, or Stephanie Hoffman, Import Administration, AD/CVD Enforcement Group I, Office 1, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–0189, 482–1174, or 482–4198, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, all references to the Department of Commerce's ("the Department's") regulations are to 19 CFR Part 351 (April 1998).

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1998, the Department published the preliminary results of administrative review and new shipper review of the antidumping duty order on stainless steel bar from India (63 FR 63288) ("preliminary results"). The manufacturers/exporters in this administrative review are Bhansali Bright Bars Pvt. Ltd. ("Bhansali") and Venus Wire Industries Limited ("Venus"). The manufacturers/exporters in this new shipper review are Sindia Steels Limited ("Sindia"), Chandan Steel Limited ("Chandan"), and Madhya Pradesh Iron & Steel Company ("Madhya"). We received a case brief from Madhya on December 18, 1998. We received case and rebuttal briefs from the petitioners [1] and the other respondents in February.

Scope of the Review

Imports covered by these reviews are shipments of stainless steel bar ("SSB"). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or

[1] Al Tech Specialty Steel Corp., Carpenter Technology Corp., Crucible Specialty Metals Division, Crucible Materials Corp., Electroalloy Corp., Republic Engineered Steels, Slater Steels Corp., Talley Metals Technology, Inc. and the United Steelworkers of America (AFL-CIO/CLC).

other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (i.e., cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Comparisons

We calculated export price and normal value based on the same methodology used in the preliminary results, with the following exceptions:

With respect to Bhansali, we conducted a cost investigation as discussed in the *Cost of Production Analysis* section, below. Also, we adjusted Bhansali's raw material inputs and scrap offset based on differences in the production processes used by Bhansali in the production of SSB (*see* Comment 5, below).

Cost of Production Analysis

Based on a cost allegation presented by the petitioners, the Department found reasonable grounds to believe or suspect that sales by Bhansali in the home market were made at prices below their respective costs of production ("COP"). As a result, on October 30, 1998, the Department initiated an investigation to determine whether Bhansali made home market sales during the period of review ("POR") at prices below its COP, within the meaning of section 773(b) of the Act.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of the cost of materials, fabrication, selling, general and administrative expenses, and packing costs.

B. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product are made at prices below the COP, we do not disregard any below-cost sales of that product because the below-cost sales were not made in "substantial quantities." However, where 20 percent or more of a respondent's sales of a given product are made at prices below the COP, we disregard the below-cost sales because such sales are being made within an extended period of time in "substantial quantities" (*see* sections 773(b)(2)(B) and (C) of the Act) and because, based on comparisons of price to weighted-average COPs for the POR, we determine that the below-cost sales of the product are at prices which would not permit recovery of all costs within a reasonable period of time (*see* section 773(b)(2)(D) of the Act).

We found that Bhansali made home market sales at below COP prices within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

Interested Party Comments

In accordance with 19 CFR 351.309, we invited interested parties to comment on our preliminary results. We received written comments from the respondents and the petitioners and rebuttal comments from Bhansali, Venus, Sindia, and Madhya.

Comment 1: Treatment of Alleged Below-Cost Sales as Outside the Ordinary Course of Trade

The petitioners state that the Department should exclude from its analysis certain third country sales made by Sindia and Venus that are allegedly below cost and, thus, outside the ordinary course of trade. They assert that by including such below-cost sales in the preliminary results, the Department erroneously made a negative determination of dumping. Furthermore, the petitioners argue that a cost allegation is not necessary because both Sindia and Venus submitted cost data that indicates that certain third country market sales were made below the cost of production. To correct this alleged error, the petitioners argue that the Department should exclude those below-cost sales from its analysis for the final determination.

Specifically, the petitioners argue that section 771(15) of the Act states that below-cost sales are outside the ordinary course of trade and, thus, should be excluded from the Department's analysis. The petitioners cite to *Mechanical Transfer Presses from Japan; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Administrative Order in Part*, 63 FR 37331 (July 10, 1998) (*"Mechanical Transfer Presses"*) and *Mitsubishi Heavy Industries, Ltd.* v. *U.S.*, Slip Op. 98–82 (June 23, 1998) (*"Mitsubishi* v. *U.S."*) to support their argument. According to the petitioners, in *Mechanical Transfer Presses*, the Department did not include sales that were found to be below the cost of production when calculating constructed value ("CV") profit, even though no formal cost investigation was initiated. In *Mitsubishi* v. *U.S.*, the Court of International Trade ("CIT") upheld the Department's decision to exclude below-cost sales in the calculation of selling, general, and administrative expenses ("SG&A") and profit, even though no below-cost investigation was conducted. Furthermore, the petitioners argue that, even if sales are not excluded on the basis of being made below cost, they are still outside the ordinary course of trade because they were made at aberrationally low prices.

The respondents, Venus and Sindia, argue that the cases the petitioners rely upon are distinguishable from the present case. The respondents note that, in the investigation underlying *Mitsubishi* v. *U.S.*, the petitioner provided a timely allegation of sales made below cost, whereas, in the present case, the petitioners failed to make a timely allegation (*see Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan*, 61 FR 38139 (July 23, 1996) ("LNPP").

The respondents also note that the two cases cited by the petitioners involved complex products and that the Department based normal value on CV. Thus, despite the lack of a formal cost investigation, the Department conducted an informal cost investigation. According to the respondents, the products included in this antidumping duty order are not complex in nature and there has not been a suggestion that CV should be used for normal value when price-to-price comparisons exist. Therefore, it is not necessary for the Department to self-initiate a sales below-cost investigation. Furthermore, the respondents note that in *Mechanical Transfer Presses* the Department had found below-cost sales in a prior review and, thus, had reason

to believe that there were below-cost sales in the current review. Again, the respondents note that they have never been found to have made sales below cost and, thus, any comparison to *Mechanical Transfer Presses* is inappropriate.

Lastly, the respondents argue that, in the present case, the Department can only conduct a meaningful cost analysis if the respondents submit a response to Section D (Cost of Production and Constructed Value) of the original questionnaire. Barring such a response, the respondents argue that the Department cannot determine whether a respondent would be able to recover costs over an extended period of time on the sales in question.

Department's Position: We disagree that these alleged below-cost sales should be disregarded as outside the ordinary course of trade. Contrary to the petitioners' assertion, the Act explicitly provides that *sales disregarded pursuant to a cost investigation* are outside the ordinary course of trade (*see* section 771(15) of the Act). In a cost investigation, the Department not only considers whether sales are below cost but also whether the below-cost sales are in substantial quantities within an extended period of time and are not at prices which permit the recovery of all costs within a reasonable period of time. As the Department stated in the preamble to its regulations:

> The statutory definition of ordinary course of trade * * * provides that only those below-cost sales that are "disregarded under section 773(b)(1)" of the Act are automatically considered to be outside the ordinary course of trade. In other words, the fact that sales of the foreign like product are below cost does not automatically trigger their exclusion. Instead, such sales must have been disregarded under the cost test before the Department will exclude them. * * *

See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27359 (May 19, 1997) (*"Final Rule"*).

We note that under the old law (i.e., prior to the amendments made to the Act by the URAA), the Department's practice was not to exclude below cost sales as outside the ordinary course of trade, regardless of the results of the cost test. *See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Thailand; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order*, 61 FR 33711, 33712 (June 28, 1996) (In calculating CV profit, we stated that we were rejecting petitioner's "suggestion that below-cost sales are per se outside the ordinary course of trade); *Antifriction Bearings from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom*, 58 FR 39729 (July 26, 1993) (same); *cf. Certain Fresh Cut Flowers from Ecuador, 52 FR 2128 (January 20, 1987) (We rejected petitioner's argument from its case brief that home market sales should be disregarded as below cost by characterizing it as an untimely cost allegation). This practice was upheld by the CIT. See The Torrington Co.* v. *United States*, 960 F. Supp. 339, 343 (CIT 1997).

This is in contrast to the new law, which provides explicitly that sales that fail the cost test (i.e., those "disregarded under section 773(b)(1)" of the Act) are outside the ordinary course of trade. The Act does not provide for automatic exclusion of a sale simply because it is below cost. Therefore, consistent with the explicit requirements of the post-URAA Act and the Department's long-standing practice, we will not automatically exclude any of Venus' or Sindia's allegedly below cost sales as outside the ordinary course of trade as none of them have been disregarded pursuant to a cost investigation.

Furthermore, in *FAG (U.K.) Ltd.* v. *United States*, 24 F. Supp. 2d 297 (CIT 1998), the CIT stated that we may not initiate a cost investigation without "reasonable grounds to believe or suspect" that sales were made below the cost of production. According to the CIT, reasonable grounds may include (1) a sufficient allegation of below cost sales made by the petitioner; or (2) below cost sales disregarded in the previous review.

In the present case, the petitioners did not make a timely below-cost allegation and we have not found below-cost sales made by these companies in a previous review. Indeed, the only "reasonable grounds" we would have to initiate a cost investigation would be the petitioners' argument that the difference in merchandise ("difmer") cost data indicates that the respondents have made sales below cost. However, this type of data is precisely the type of data that the petitioners could have used to construct a cost allegation (*see Final Rule*, at 62 FR 27335–273336). While the Department may consider whether this data, included as part of a cost allegation, provides reasonable grounds to initiate a formal cost investigation, to do so here would circumvent the rule that the petitioners bring a below-cost allegation within 20 days after the respondent files its comparison market questionnaire response. *See* 19 CFR 351.301(d)(2). Therefore, because we did not receive a timely below-cost allegation, and because we have not disregarded sales from the respondents as a result of a cost test in the most recent prior review, we find that we do not have reasonable grounds to begin a cost investigation. Thus, as only below-cost sales disregarded pursuant to a cost investigation may be disregarded as outside the ordinary course of trade, and we are not conducting a cost investigation, none of the respondents' alleged below-cost sales can be found to be outside the ordinary course of trade based solely on their below-cost status. As discussed in the next paragraph, the Department may make exceptions under certain unique circumstances. However, no such circumstances are present in this case.

The respondents are correct in stating that both *LNPP* and *Mechanical Transfer Presses* are distinguishable from the present case. Specifically, while we indicated that in certain situations we do have the authority to disregard below-cost sales absent a formal cost investigation, we also explained that our *normal practice* is to initiate a formal cost investigation before excluding below-cost sales as outside the ordinary course of trade. We explained that the "unique circumstances" of the cases required us to perform a cost analysis even though we did not formally initiate a cost investigation. In both cases, we found that the particular market situation did not permit proper price-to-price comparisons and, therefore, normal value was based on CV. When receiving the cost information for each sale, we were readily able to determine that certain sales were below cost and, thus, when calculating CV profit, we excluded those sales that would have been disregarded, had a formal cost test been conducted, as outside the ordinary course of trade. This review is in no way comparable to these cases, as we do not consider each sale to involve a separate model and, thus, extensive CV information has not been provided as a basis for normal value.

The argument that we should exclude sales that are outside the ordinary course of trade because they were made at aberrationally low prices is in effect an argument that below-cost sales should be excluded. The petitioners are making the same argument from a different angle. We have addressed it through our discussion of the alleged below-cost sales.

Therefore, as discussed above, and in accordance with the Act and our practice, we are not disregarding alleged below-cost sales made by Sindia and Venus in third country markets as outside the ordinary course of trade

without having disregarded those sales pursuant to a formal cost investigation.

Comment 2: Acceptance of Untimely Response

Madhya argues that the Department should accept its response to Section D (Cost of Production and Constructed Value) of the original questionnaire and to the Department's supplemental questionnaire, despite the Department's rejection of the response as untimely. While Madhya does not deny the fact that its response was untimely, it notes that it had communication difficulties with its counsel and believed that upon sending its submission, the response would be received by the deadline. Madhya also argues that its untimely submission did not impede the review, especially as the Department had a significant amount of time to complete the review as evidenced by the continued review and issuance of supplemental questions to Bhansali after the preliminary results. Thus, Madhya states that the new shipper review should proceed.

The petitioners argue that by failing to meet the Department's deadlines, Madhya voluntarily terminated its participation in this review and that the Department properly rejected Madhya's submission.

Department's Position: Section 351.302 of our regulations, among other things, explicitly sets forth the procedures for requesting an extension of time, the manner in which the Department will extend a deadline, and the circumstances by which we will return untimely submissions. Madhya was aware of these requirements, as they asked for several extensions throughout the proceeding. In fact, in this particular instance Madhya asked for three extensions. We granted the first two but denied the last request, because we did not receive an adequate explanation or reasoning as to why the extension was needed. Nonetheless, Madhya submitted its responses on September 17, 1998. However, because Madhya failed to meet an already extended deadline and provided no explanation as to why it did not meet the extended deadline, we rejected its response as untimely. Section 351.302(d) of our regulations states that unless the Secretary extends the time for submission, "the Secretary will not consider or retain in the official record of the proceeding: (i) Untimely filed factual information. * * *" While it may be true that Madhya had difficulties communicating with its counsel, that Madhya intended to respond in a timely manner, and that we had the administrative resources and time to conduct a full review, such argumentation and statements do not change the fact that Madhya missed the deadline to file its submission and that, in accordance with our regulations, we properly rejected and have not considered Madhya's untimely submission.

Comment 3: Application of Facts Available

Madhya argues that, because it has been cooperative and has not impeded the review, the application of adverse facts available against it in the preliminary results was inappropriate. Madhya cites *AK Steel Corp.* v. *U.S.*, 988 F. Supp. 594, 605 (CIT 1997) in support of its proposition that adverse facts available may only be imposed if the Department finds that a review has been impeded. With respect to the petitioners' contention that the Department should use the most adverse facts available, Madhya argues that the Department does not impose most adverse facts available when the circumstances are such that the respondent requested a review, the petitioner did not request a review, and when the respondent submitted responses to Department questionnaires (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews*, 57 FR 28360, 28391 (June 24, 1992).

Although the petitioners agree with the Department's use of adverse facts available in the preliminary results and our determination that Madhya was uncooperative, they disagree with our use of the "all others" rate established in the less-than-fair-value ("LTFV") investigation as the adverse facts available rate. They argue that assigning Madhya this rate rewards the company for its failure to supply requested information because the "all others" rate is not the highest adverse rate. Thus, the petitioners state that the Department should assign the highest rate available for any respondent in the LTFV investigation, which was 21.02 percent applied to Mukand Ltd.

Department's Position: As noted in our preliminary results, Madhya failed to submit its questionnaire responses on time and failed to provide adequate reasons for its delays. Thus, we preliminarily determined that Madhya failed to cooperate to the best of its ability to comply with a request for information under section 776(b) of the Act. The respondent's contention that we may only use adverse facts available when a review has been impeded does not comport with the plain language of the statute, which states, "If the administering authority * * * finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority * * *, the administering authority * * * may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." *See* section 776(b) of the Act. There is no suggestion in the statute or in our regulations that the measurement of whether a party has not acted to the best of its ability depends on whether the review has been impeded.

Thus, the issue is not whether Madhya impeded our review process, but rather if it failed to cooperate to the best of its ability. We gave Madhya ample opportunity to submit the information requested. However, instead of submitting the information by the third established deadline, its counsel requested yet another extension of the time limit because counsel had not yet heard from Madhya. Based on the above, Madhya failed to submit information in a timely manner. Consequently, the Department determined that Madhya did not cooperate to the best of its ability.

With regard to the petitioners' argument that we should apply the LTFV's highest rate as adverse facts available, we note that the statute and regulations provide us with discretion when selecting an adverse rate. Above all, the decision on appropriate adverse facts available must be made on a case-by-case basis. In selecting a margin which would appropriately reflect our decision to use adverse facts available for Madhya, we have taken into consideration the fact that, as a first-time respondent, its ability to comply with our requests for information could be distinguished from, for example, the ability of a more experienced company. We also note that Madhya did make some effort to respond to our requests for information. *See Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53291–53292 (October 14, 1997) (in which we examined the efforts the respondent made to comply with requests for information, the respondent's relative experience, and the relative levels of available calculated margins when selecting the appropriate adverse facts available margin).

In selecting a margin which would appropriately reflect our decision to use adverse facts available for Madhya, we examined the rates applicable to SSB from India throughout the course of the

proceeding. Also, in accordance with the Statement of Administrative Action ("SAA"), we considered the extent to which Madhya may benefit from its own lack of cooperation in determining whether the use of the 12.45 percent rate is sufficiently adverse under the circumstances of this case. *See* SAA, H. DOC No. 316, vol.1, 103d Cong., 2d Sess., at 870 (1994). Given Madhya's level of participation in this segment of the proceeding, we determine that this rate is sufficiently adverse to encourage full cooperation in future segments of the proceeding. Therefore, as adverse facts available, we are continuing to use a rate of 12.45 percent, which reflects the "all others" rate from the LTFV investigation and is the rate which applied to Madhya prior to this review.

Comment 4: Duty Drawback

The petitioners support the Department's preliminary determination that the respondents did not meet the Department's criteria for an upward adjustment to export price. The petitioners maintain that the respondents' use of duty drawback fails the Department's two-part test for drawback claims because the respondent did not provide documentation establishing: (1) A direct link between the duties imposed and those rebated, and (2) that the company imported a sufficient amount of raw materials to account for the drawback received.

The petitioners also argue that because the respondents have failed to document that there were sufficient imports to account for the drawback claimed, the Department should not offset the respondents' material costs by the claimed duty drawback amounts. Specifically, the petitioners note that, given the lack of documentation, the Department has no way of ensuring that imported inputs were used in the production of SSB and, thus, any adjustment to material input costs may exceed the amount of import duties paid.

The respondents argue that even if the Department does not grant an upward adjustment to the U.S. price for duty drawback, an adjustment should be made to reduce material costs. The respondents argue that the standards for evaluating the two different adjustments are not the same and that the Department has accepted the offset to material costs in past segments of this proceeding.

Department's Position: When evaluating a duty drawback program, we consider whether the import duty and duty drawback are directly linked to, and dependent upon, one another and whether the company claiming the adjustment can show that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product (*see Certain Welded Carbon Standard Steel Pipes and Tubes from India*, 62 FR 47632, 47634 (September 10, 1997)).

None of the respondents have provided adequate documentation establishing a sufficient link between import duties paid and duty drawbacks generally received under the program. Moreover, there is no indication that any of the respondents imported inputs in sufficient quantities to account for rebates received under the program. In fact, Sindia stated that it did not import any goods under the credit it reported but instead transferred this credit to other parties. Venus stated that it is not possible to establish the link between import duties paid and duty drawbacks generally received because it often transferred its duty drawback license to other companies. Accordingly, as in the preliminary results, no adjustment to the U.S. price for duty drawback has been made.

As CV is not the basis for normal value, we have not offset material costs.

Comment 5: Application of Facts Available for Bhansali

The petitioners argue that Bhansali did not properly revise its methodology to account for the two different production processes it uses to make SSB and, therefore, the Department should rely on facts available for Bhansali. The petitioners allege that Bhansali has significantly impeded the proceeding by not supplying this information. Specifically, the petitioners argue that Bhansali has failed to account for the different yield losses between the two production processes. The petitioners argue that Bhansali's failure to provide a complete and accurate response prevents the Department from accurately determining whether Bhansali's comparison market sales were below the cost of production and in substantial quantities. Moreover, the petitioners argue that Bhansali is attempting to control the review process through the submission of piecemeal information. Thus, Bhansali should receive the "all others" rate from the LTFV investigation. The petitioners cite *Pistachio Group of the Association of Food Industries* v. *United States*, 671 F. Supp. 31, 40 (CIT 1987) and *Atlantic Sugar, Ltd.* v. *United States*, 744 F. 2d. 1556, 1560 (CIT 1997) in support of their argument.

Bhansali counters that it has responded to the Department's request to identify and quantify the differences between the two processes to the best of its ability. With respect to the yield loss ratio, the respondent argues that it does not track actual processing yield or losses in the production cycle in its accounting records and, therefore, it has reported the ratio it uses in its internal cost accounting and which it believes is the standard yield loss ratio for the industry. Furthermore, the respondent contends that the petitioners have not presented any evidence substantiating their argument that yield losses differ among the two production processes.

Department's Position: After reviewing the petitioners' concerns regarding Bhansali's methodology for calculating the yield loss for its respective production processes, we found it necessary to seek additional information in order to ensure that our calculations are as accurate as possible. Therefore, we allowed interested parties the opportunity to submit information with respect to Bhansali's yield loss ratio. In response to our request, the petitioners submitted an affidavit from a domestic producer of SSB attesting to the various yield losses applicable to the different production processes used by the respondent. Bhansali was unable to provide information supporting the number used in its calculations on a process-specific basis. Thus, for purposes of the final results, as facts available, we are adjusting Bhansali's raw material inputs based on the information submitted by the petitioners. In addition, because the production processes in question generate different amounts of scrap, we are also adjusting the scrap offset to account for the change in the yield loss.

We determine that, in accordance with section 776(a) of the Act, the use of facts available is appropriate because the necessary information on yield loss ratios was not available on the record. Specifically, while Bhansali did provide an estimated yield loss ratio it uses in its internal cost accounting in its normal course of business, it failed to provide information demonstrating how this estimate corresponds to actual yield loss attributable to the different processes it uses to produce SSB. Therefore, we find Bhansali's yield loss estimate does not reasonably reflect its differences in costs. Thus, when calculating the appropriate COP for each sale we applied, as facts available, a yield loss ratio that more reasonably conformed to the particular process used to produce the merchandise in question.

Comment 6: General and Administrative ("G&A") and Interest Calculations

The petitioners argue that Bhansali's reported calculations of G&A and

interest expenses are not based on its audited financial statements. The petitioners assert that it is the Department's long-standing policy to calculate the G&A and interest expense ratios based on the full-year G&A expense and net interest expense as reported in the audited financial statements that most closely corresponds to the POR. *See Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand*, 60 FR 29553, 29565 (June 5, 1995). Therefore, the Department should reject Bhansali's reported G&A and interest expenses and use the ratios that the petitioners calculated based on Bhansali's audited financial statements.

The respondent argues that by including the total amount of interest expense listed in its financial statements, the petitioners are double-counting interest expense. The respondent contends all financial expenses have been accounted for in its sales databases and, therefore, should be excluded from the calculation of the interest expense ratio. Furthermore, the respondent notes that the petitioners have included in their calculation the line item "bank charges, commission and interest." The respondent argues that these expenses are also sale specific and should not be included in the calculation of interest expense.

The respondent further argues that the petitioners' calculation of the G&A expense ratio is erroneous because it double-counts depreciation expenses. The respondent notes that it included all depreciation expenses in the fixed overhead field. Therefore, Fixed overhead should be reduced by the amount of depreciation expenses allocated to G&A.

The respondent also notes that the petitioners included an amount for the employer's contribution in its calculation of the G&A ratio. This expense was already included in the direct labor field.

Department's Position: It is our standard practice to rely on a company's audited financial statements in calculating the G&A and interest expense ratios. Thus, we have recalculated the G&A and interest ratios using the profit and loss figures from the fiscal year that most closely corresponds to the POR. With respect to the calculation of the interest ratio, we included the total amount of interest expense listed in Bhansali's financial statements because we were unable to reconcile this amount to its specific sales. However, we did not include "bank charges, commission and interest" in this calculation, as the petitioners did, because the respondent reported these expenses in its sales listing. In addition, we did not include depreciation expenses or the employer's contribution in our calculation of the G&A ratio because the respondent accounted for these expenses in the fixed overhead and direct labor fields, respectively.

Comment 7: Scrap Sales

The petitioners allege that Bhansali's reported scrap income offset is overstated because it includes scrap sales outside the POR. Therefore, this figure should be adjusted downward.

The respondent argues that its calculation of scrap income offset is based on its most recently completed fiscal year and allocated to total raw materials consumed over the same period. The respondent further argues that its methodology represents a reasonable lag between production and scrap sales.

Department's Position: It is our standard practice to allow a company to report COP and CV figures based on its fiscal year if the company's fiscal year ends within three months of the POR. Given that Bhansali's most recently completed fiscal year ends two months after the POR, we find that the respondent's methodology for calculating the scrap income offset is reasonable.

Final Results of Review

As a result of these reviews, we find that the following margins exist for the period February 1, 1997, through January 31, 1998.

Manufacturer/Exporter	Margin (percent)
Bhansali	0.00
Venus	0.23
Sindia	0.19
Chandan	0.00
Madhya	12.45

Parties to the proceeding may request disclosure within five days after the date of announcement or, if there is no public announcement, within five days after the date of publication of this notice. *See* 19 CFR 351.224. The results of these reviews shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the reviews and for future deposits of estimated duties for the manufacturers/exporters subject to these reviews. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total value of those sales examined. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review and new shipper review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates established in the final results of these reviews; (2) for companies not covered in these reviews, but covered in previous reviews or the LTFV investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the most recent rate established for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these reviews or any previous review or the original investigation, the cash deposit rate will be the "all others" rate of 12.45 percent established in the LTFV investigation (59 FR 66915, December 28, 1994).

These deposit requirements will remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This administrative review and new shipper review and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i)(1) of the Act.

Dated: March 12, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–6831 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of initiation of process to revoke export trade certificate of review No. 88–00001.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Illinois World Trade Center Association doing business as EXILL Trading Company. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to Illinois World Trade Center Association doing business as EXILL Trading Company.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on April 28, 1988 to Illinois World Trade Center Association doing business as EXILL Trading Company.

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§§ 325.14(a) and (b) of the Regulations). Failure to submit a complete annual report may be the basis for revocation. (§§ 325.10(a) and 325.14(c) of the Regulations).

The Department of Commerce sent to Illinois World Trade Center Association doing business as EXILL Trading Company on April 18, 1998, a letter containing annual report questions with a reminder that its annual report was due on June 12, 1998. Additional reminders were sent on July 9, 1998, and on September 30, 1998. The Department has received no written response to any of these letters.

On March 16, 1999, and in accordance with § 325.10(c)(1) of the Regulations, a letter was sent by certified mail to notify Illinois World Trade Center Association doing business as EXILL Trading Company that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with § 325.10(c)(2) of the regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (§ 325.10(c)(2) of the regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (§ 325.10(c)(3) of the regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (§ 325.10(c)(4) of the regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (§§ 325.10(c)(4) and 325.11 of the regulations).

Dated: March 16, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–6843 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Notice of Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on March 30, 1999. The meeting will be from 2 p.m. to 4 p.m. in the Main Conference Room on the sixth floor at the office of Milliken & Company, 1045 6th Avenue, New York, New York.

The Committee provides advice and guidance to Department officials on the identification and surmounting of barriers to the expansion of textile exports, and on methods of encouraging textile firms to participate in export expansion.

The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact William Dawson (202/482-5155).

Dated: March 16, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–6867 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031699A]

Dealer and Interview Family of Form - Southeast Region

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 21, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John Poffenberger, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149 (305–361–4263).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Southeast Fisheries Science Center, NMFS is proposing to implement a procedural change in the existing reporting requirements under 50 CFR 622.5. This change would implement the use of an Interactive Voice Response (IVR) system to monitor Federally-permitted dealer purchases of quota-managed species. The IVR system uses a toll-free number that the dealers would call to report summary of purchases, enabling NMFS to determine when domestic harvest limits have been reached. Reports through the IVR system would need to be submitted within three days of the end of the reporting week.

Species that would be subject to IVR reporting include king and Spanish mackerel, snowy grouper, golden tilefish, greater amberjack and red snapper. Following a review of public comments received in response to this announcement, it is planned that only king mackerel dealers will be asked to participate in the developmental stage of the implementation.

II. Method of Collection

Mandatory dealer reporting via interactive voice response system.

III. Data

OMB Number: 0648–0013
Form Number: N/A
Type of Review: Regular submission
Affected Public: Business or other for-profit (seafood dealers)
Estimated Number of Respondents: 452
Estimated Time Per Response: 8 minutes
Estimated Total Annual Burden Hours: 1,072
Estimated Total Annual Cost to Public: $10,720

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 12, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–6819 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092898C]

Small Takes of Marine Mammals Incidental to Specified Activities; Construction of an Offshore Platform in the Beaufort Sea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of an interim incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of ringed seals by harassment incidental to construction of ice roads at the Northstar Development in the Beaufort Sea in state waters has been issued to BP Exploration (Alaska) Inc, 900 East Benson Boulevard, Anchorage, AK 99519 (BPXA).

DATES: This authorization is effective from March 15, 1999, through May 15, 1999, or until superseded by another IHA, whichever is earlier.

ADDRESSES: The application, authorization, and environmental assessment (EA) are available by writing to the Acting Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here.

A copy of the 8–volume final environmental impact statement (FEIS) or any of its separate volumes may be obtained upon written request from Mr. Tim Jennings, U.S. Army Corps of Engineers (Corps), Alaska District, Regulatory Branch, P.O. Box 898, Anchorage, AK 99506–0898. The Corps requests that reviewers request only those volumes that are necessary for review.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, Brad Smith, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 10, 1996 (61 FR 15884), NMFS published an interim rule establishing, among other things, procedures for issuing IHAs under section 101(a)(5)(D) of the MMPA for activities in Arctic waters. For additional information on the procedures to be followed for this authorization, please refer to that document.

Summary of Request

On August 14, 1998, NMFS received an application from BPXA requesting a 1-year authorization for the harassment of small numbers of several species of marine mammals incidental to construction of the Northstar development in the Alaskan Beaufort Sea. While a brief description of the

proposed activity is provided here, a more detailed description of the activity and the expected impact on marine mammals can be found in the application and FEIS, which are available upon request (see ADDRESSES).

BPXA proposes to produce crude oil from the Northstar Unit, which is located between 2 and 8 miles (mi)(3.2 and 12.9 kilometers (km)) offshore from Pt. Storkersen, AK. This unit is adjacent to the Prudhoe Bay industrial complex and is approximately 54 mi (87 km) northeast of Nuiqsut, a Native Alaskan community. During the period of the proposed authorization, the construction activity, proposed by BPXA in their application, was to include the construction of three ice roads: a first one from either West Dock or Pt. McIntyre to a gravel mine site, a second from a gravel mine site to Seal Island, and a third from the shore crossing of the pipeline following the pipeline route to Seal Island; the construction of a gravel island work surface for drilling and oil production facilities; and two pipelines, one to transport crude oil and one for gas for field injection. However, due in part to a delay in completion of the FEIS by the Corps on this action, BPXA notified NMFS, during the public comment period, that construction at Northstar would require 2 years instead of the 1 year originally proposed.

In order to avoid losing an entire year of development at Northstar, BPXA has determined that it may legally construct the ice road prior to the release of the FEIS because ice road construction and operation do not require a permit from the Corps under either section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) or section 404 of the Federal Water Pollution Control Act of 1972 as amended (33 U.S.C. 1344). Accordingly, BPXA has requested NMFS to issue an interim IHA in order to authorize the incidental harassment of ringed seals during ice road construction, maintenance, and operation this winter and spring. Additional work described previously in this document will not be authorized prior to completion of the Corp's process under the National Environmental Policy Act (NEPA).

Comments and Responses

A notice of receipt of BPXA's application and NMFS' proposed authorization was published on October 26, 1998 (63 FR 57096), and a 30-day public comment period was provided on the application and proposed authorization. During the comment period, comments regarding this application were received from the Marine Mammal Commission, the Alaska Eskimo Whaling Commission, the North Slope Borough, BPXA, the Seattle Audubon Society, and Greenpeace Alaska on behalf of several Alaskan environmental organizations. The concerns and recommendations made by these organizations have been given full consideration by NMFS in making its determination on whether to issue an Interim IHA. NMFS' response to all comments will be addressed in a future **Federal Register** document regarding issuance of a full 1-year IHA.

Description of the Action

Ice road construction is taking place during the 1998/99 winter. Ice roads constructed inside the barrier islands will be bottom-fast while ice roads offshore will be on artificially thickened floating ice. Island construction will be at the location of the existing man-made Seal Island. From January through March 1999, BPXA will construct only the ice road from the gravel mine site to Seal Island. The main ice road will be supplemented with an alternate ice road. The alternate ice road will be oriented parallel, approximately 1,200 ft (366 m) west of the main ice road from the gravel reload area to Seal Island. The alternate ice road is necessary to continue gravel hauling during maintenance and repair of the main ice road.

It is estimated that approximately 16,800 large-volume haul trips between the onshore mine site and a reload area in the vicinity of Egg Island and 28,500 lighter dump truck trips from Egg Island to Seal Island will be necessary to transport construction gravel to Seal Island. An additional 300 truck trips will be necessary to transport concrete-mat slope protection materials to the island.

Potential Effects on Marine Mammals

In winter and spring, ice road construction, travel, and activities are expected to displace some ringed seals along the ice road corridor. It is expected that the noise and general human activity early in the season will displace female seals away from activity areas that could negatively affect the female and young if birth lairs were constructed in or near the road corridor.

Effects of Activities on Subsistence Needs

The only marine mammal species expected to be affected by the construction, maintenance, and operation of the ice roads will be the ringed seal. While Northstar activity has some potential to influence subsistence seal hunting activities, the most important sealing area for Nuiqsut hunters is off the Colville Delta, extending as far west as Fish Creek and as far east as Pingok Island. Pingok Island is about 24 km (15 mi) west of Northstar. However, since the peak season for seal hunting is during the summer months (although some hunting is conducted on the landfast ice in late spring), there is no evidence that ice road construction will have an unmitigable adverse impact on the subsistence needs for marine mammals.

Mitigation

In order to protect ringed seals from harassment, injury or mortality during construction of the ice road prior to issuance of the requested Interim IHA, BPXA voluntarily conducted a pre-construction marine mammal survey and site inspection 600 ft (183 m) on both sides from the center of the ice road corridor from south of Egg Island to Seal Island using five biologists and two Inupiat seal hunters. This survey indicated that no seals were inhabiting the ice road corridor.

Mitigation measures have been proposed by BPXA to reduce harassment takes to the lowest level practicable. Those mitigation requirements, which have been incorporated into the IHA, include: (1) Begin winter construction activities prior to female ringed seals establishing the birthing lair in late March to early April in order to displace seals away from activities that could negatively affect the female and young, and (2) Survey any undisturbed (unsurveyed) area(s) to identify and avoid ringed seal lairs by a minimum of 50 m (164 ft), if construction activities are initiated in previously undisturbed areas after March 20.

Monitoring

Monitoring will employ both marine mammal observations and acoustics measurements and recordings. During the ice-covered season, BPXA proposes to continue an ongoing (since the spring, 1997) Before-After/Control-Impact (BA/CI) Study on the distribution and abundance of ringed seals in relation to development of the offshore oil and gas resources in the central Beaufort Sea. Collection and analysis of data before and after construction are expected to provide a reliable method for assessing the impact of oil and gas activities on ringed seal distribution in the Northstar construction area.

Other winter/spring monitoring will include (1) on-ice searches for ringed seal lairs in areas where ice-road construction starts after mid-March, (2)

late winter aerial survey and assessment of abandonment rates for seal holes, and (3) acoustic measurements of gravel hauling and new ice-road construction sounds.

While the monitoring plan has been reviewed by NMFS biologists, NMFS has determined that independent peer review is not warranted for the on-ice portion of the plan. This work has been underway since the 1997/98 winter and will continue for several year. On-ice monitoring was reviewed in general during the May, 1998 peer-review workshop held in Seattle, WA and recommendations made at that workshop are reflected in this monitoring plan. NMFS expects however, that the open-water season monitoring plan will be reviewed next spring at the annual peer-review workshop held in Seattle.

Reporting

BPXA will provide an initial report on 1999 activities to NMFS within 90 days after the ice roads are no longer usable or spring aerial surveys are completed, whichever is later. This report will provide summaries of the dates and locations of construction activities, details of marine mammal sightings, and estimates of the amount and nature of marine mammal takes.

A draft final technical report will be submitted to NMFS by April 1, 2000. The final technical report will contain a full description of the methods, results, and interpretation of all monitoring tasks. The draft final report will be subject to peer review before being finalized by BPXA.

NEPA

On February 5, 1999 (64 FR 5789), the Environmental Protection Agency noted the availability for public review and comment, an FEIS prepared by the Corps under NEPA on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until March 8, 1999. NMFS is a cooperating agency, as defined by the Council on Environmental Quality regulations (40 CFR 1501.6), in the preparation of this document.

Because ice road construction does not require a permit from the Corps under either section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) or section 404 of the Federal Water Pollution Control Act of 1972 as amended (33 U.S.C. 1344), BPXA has determined that it may legally construct the ice road prior to release of the FEIS. In addition, because ice roads are temporary structures that will disappear in late spring, NMFS has determined that there will not be an irreversible commitment of resources under NEPA.

In conjunction with the request from BPXA for an interim IHA, an EA has been prepared that addresses the impacts on the human environment from issuance of the authorization and the alternatives to the issuance of an Interim IHA. As a result of the findings made in the EA, NMFS has concluded that the implementation of either the preferred alternative or of other identified alternatives would not have a significant impact on the human environment. As a result of that finding, a DEIS will not be prepared on this action. A copy of the EA is available upon request (see **ADDRESSES**).

Consultation

Under section 7 of the Endangered Species Act (ESA), NMFS will complete formal consultation with the Corps on the Beaufort Sea oil and gas development project at Northstar. NMFS will also consult with itself on the issuance of an incidental harassment authorization for this activity. If an authorization to incidentally harass listed marine mammals is issued under the MMPA, NMFS will issue an Incidental Take Statement under section 7 of the ESA for listed marine mammals. The Interim IHA, however, will not result in taking any listed marine mammals.

Conclusions

NMFS has determined that the impact of constructing ice roads at the Northstar Development in the U.S. Beaufort Sea will result, at worst, in a temporary modification in behavior by ringed seals. During the ice-covered season, ringed seals in the vicinity of the ice roads may be incidentally harassed due to the noise created by construction and may also be subject to displacement from lairs and/or breathing holes due to construction of ice roads and to transportation activities on that road. However, NMFS concludes that this harassment and possible displacement have been significantly mitigated due to BPXA on-ice surveys described previously. While behavioral modifications may be made by ringed seals to avoid the resultant noise, this behavioral change is expected to have no more than a negligible impact on a few individual animals. As cetaceans and species of seals other than ringed seals will not be in the area during the ice-covered season, they will not be affected. In addition, no take by injury and/or death is anticipated. No rookeries, areas of concentrated mating or feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

While ice road construction at Northstar has some potential to influence seal hunting activities by residents of Nuiqsut, NMFS believes that ice road construction at Northstar will not have an unmitigable adverse impact on the availability of ringed seals for subsistence uses.

Since NMFS is assured that the taking would (1) result in no more than the incidental harassment (as defined by the MMPA Amendments of 1994) of small numbers of ringed seals, (2) have only a negligible impact on this stock, (3) have only an unmitigable adverse impact on the availability of this stock for subsistence uses, and (4) result in the least practicable impact on the stock, NMFS has determined that the requirements of section 101(a)(5)(D) of the MMPA have been met and that the authorization can be issued.

Authorization

Accordingly, NMFS has issued an Interim IHA to BPXA for the taking of ringed seals incidental to the construction, maintenance, and operation of ice roads at Northstar during the 1999 on-ice season provided the mitigation, monitoring, and reporting requirements described in the authorization are undertaken.

Dated: March 15, 1999.

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–6818 Filed 3–19–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031699B]

Marine Mammals; File No. 782–1355

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Douglas P. DeMaster, Director, National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070, has requested an amendment to scientific research Permit No. 782–1355.

DATES: Written or telefaxed comments must be received on or before April 21, 1999.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, National Marine Fisheries Service, NOAA, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 782–1355, issued on July 15, 1997 (62 FR 39826) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 782–1355 authorizes the permit holder to take Pacific Harbor seals (*Phoca vitulina*) in the following manner: harass during census flights; capture, restrain, measure (weight length, girth), sample (flipper punch, vibrissa, blood, blubber/muscle biopsy, ultra sound, enema), radio tag, flipper tag, and release 500 animals; and incidentally harass up to 2500 during the conduct of these activities, and during collection of scat samples from haulouts. The permit holder requests authorization to: conduct the above activities on ringed seals (*Phoca hispida*); and harass ringed seals, bearded seals (*Erignathus barbatus*), ribbon seals (*Phoca fasciata*), and spotted seals (*Phoca largha*) during aerial stock assessments.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 16, 1999.

Jeannie Drevenak,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–6926 Filed 3–19–99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Industrial Capabilities Questionnaire; DD Form 2737; OMB Number 0704–0377.

Type of Request: Reinstatement.

Number of Respondents: 12,800.

Responses per Respondent: 1.

Annual Responses: 12,800.

Average Burden per Response: 12 hours.

Annual Burden Hours: 153,600.

Needs and Uses: As part of its responsibilities to facilitate a diverse, responsive, and competitive industrial base, the Department of Defense (DoD) requires accurate, pertinent, and up to date information as to industry's ability to satisfy defense needs. The industrial Capabilities Questionnaire will be used by all Services and the Defense Logistics Agency to gather business, industrial capability (employment, skills, facilities, equipment, processes, and technologies), and manufactured end item information to conduct required industrial assessments and to support DoD strategic planning and decisions. Respondents are industry professionals who provide information to the requesting DoD agency on the industrial capabilities associated with the subject facility being reviewed. The DoD agencies are directed to solicit only those data elements within this form necessary to conduct the particular planing or assessment task at hand. This approach is used to minimize the burden for data requests on industry and limit the retention of in-house data to that essential to supporting defense decisions and plans. A significant portion of this information will be collected electronically and, with appropriate measures to protect sensitive data, will be made available to authorized users in the Department to support a wide variety of industrial capability analysis. These analyses are used to support cost effective acquisition of defense systems and key troop support/consumable items, assess the implications of changes in defense spending on industry, development of responsive logistics support efforts, and industrial preparedness planning and readiness analysis. The lack of accurate, current, and relevant industry capability information will adversely impact the integrity of the Department's decision and planning efforts.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations of the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 16, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–6823 Filed 3–19–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Invites Public Submissions for Medal of Honor Award Recommendation for Theodore Roosevelt

AGENCY: Army, DoD.

ACTION: Notice (Request for Public Comments).

SUMMARY: Beginning on April 1 and ending on May 31, 1999, the U.S. Army invites the public to submit information about Theodore Roosevelt's battlefield courage in the attack on San Juan

Heights during the Spanish-American War.

DATES: Comments must reach the Center of Military History no later than May 31, 1999.

ADDRESSES: Persons interested in providing their written comments may submit them to: Roosevelt MOH Panel, U.S. Army Center of Military History, 103 Third Avenue, Building 35, Fort Lesley J. McNair, DC 20319–5058. Public submissions received after May 31, 1999 will not be considered.

FOR FURTHER INFORMATION CONTACT: Dr. Graham A. Cosmas, (202) 685–2065, or e-mail to cosmaga@hqda.army.mil .

SUPPLEMENTARY INFORMATION: This announces the invitation of public submissions of information about Theodore Roosevelt's battlefield courage in the attack on San Juan Heights during the Spanish-American War. Public comment will be accepted by the U.S. Army Center of Military History beginning on April 1, 1999 and ending on May 31, 1999.

The U.S. Army is reviewing then-Colonel Roosevelt's record of valor in the Spanish-American War at the request of Congress. The 60-day public comment period is part of the Army's effort to comply with congressional intent with regard to Pub. L. 105–371, which is a bill authorizing and requesting the President to award the Congressional Medal of Honor posthumously to Theodore Roosevelt.

An independent panel of historians will review the public submissions and then provide a formal report of Roosevelt's valor. Following the review process, the Army will advise the President on whether Roosevelt should be awarded the Medal of Honor.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–6923 Filed 3–19–99; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers; Scoping Meetings for Nationwide Permit Program Programmatic Environmental Impact Statement

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of Intent and request for comments.

SUMMARY: The Corps is initiating a Programmatic Environmental Impact Statement (PEIS) for the entire Nationwide Permit Program (NWP) to be completed by December 2000. The overall purpose of the PEIS is to review and evaluate the NWP program as a whole, to ensure that the NWP program authorizes only those activities with minimal individual and cumulative adverse environmental effects on the aquatic environment. This notice is intended to provide other Federal agencies, States, Tribes and the public the opportunity to participate in the scoping of the PEIS. The Corps will hold three meetings to solicit comments on the scope of the PEIS. Comments may be submitted in person at the meeting or in writing to the address given below.

DATES: Written comments must be submitted on or before June 4, 1999.

The meeting dates are:

1. May 4, 1999, at 1:00–5:00 p.m. and 7:00–10:00 p.m., Sacramento, CA.
2. May 6, 1999, at 1:00–5:00 p.m. and 7:00–10:00 p.m., Fort Worth, TX.
3. May 24, 1999, at 1:00–5:00 p.m., Washington, D.C.

ADDRESSES:

The meeting locations are:

1. Sacramento—Clarion Hotel, 700 Sixteenth Street, Sacramento, CA, 95814
2. Fort Worth (downtown)—Fritz G. Lanham Federal Building (Taylor Street Entrance, 1st floor), 819 Taylor Street, Fort Worth, TX 76102
3. Washington, DC—National Guard Association Building, One Massachusetts Avenue, NW, Washington, DC 20001.

Send written comments to Mr. Robert Brumbaugh, CEWRC–IWR–P, Casey Building, 7701 Telegraph Road, Alexandria, Virginia 22315–3868.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brumbaugh, CEWRC–IWR–P, at (703) 428–6370.

SUPPLEMENTARY INFORMATION: On July 1, 1998, the Corps published a Notice document (63 FR 36040, July 1, 1998) containing a proposal to issue 6 new NWPs and modify 6 existing NWPs to replace NWP 26. Further modifications were proposed on October 14, 1998 (63 FR 55095, October 14, 1998) which included withdrawing one of the proposed NWPs, the addition of restrictions on the use of certain NWPs, and extending the NWP process and the expiration of NWP 26 to September 15, 1999. On June 23, 1998, the Corps issued a Finding of No Significant Impact for the NWP program which states that the NWP program does not have significant effects on the quality of the human environment and therefore the preparation of an EIS is not required by NEPA.

Although the Corps determined that an EIS was not required by NEPA, it announced in the July 1, 1998 Notice document (63 FR 36040, July 1, 1998) that it would prepare a PEIS for the entire NWP program. The overall purpose of the PEIS is to review and evaluate the NWP program as a whole, to ensure that the NWP program authorizes only those activities with minimal individual and cumulative adverse effects on the aquatic environment. The PEIS will provide a programmatic comprehensive and structured review of the effects of the NWP program on the environment. The intent of the PEIS is to evaluate the procedures and process associated with the NWP program and not to examine impacts associated with individual NWP authorizations.

Some of the issues to be addressed in the PEIS include the following: programmatic and procedural alternatives to be evaluated; procedures to evaluate and ensure minimal effects; procedures to ensure protection of endangered species and historic and cultural resources; and evaluation and analysis of costs to the regulated public (including administrative, opportunity and delay costs) and benefits to the public (including navigation, water quality, wetlands, and other public interest benefits).

The scoping meeting will focus on identifying programmatic and procedural alternatives (e.g., combination of Regional General Permits and NWPs), methods of collecting and analyzing NWP data, and other substantial environmental issues to be addressed in the PEIS.

The Corps expects to complete preparation of the Draft PEIS by August 2000. The Final PEIS will be completed by December 2000. Public meetings to present preliminary study findings are planned to be held prior to publication of the Draft PEIS.

Dated: March 17, 1999.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 99–6891 Filed 3–19–99; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Coastal Engineering Research Board (CERB)

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB).

Date of Meeting: April 14–16, 1999.

Place: The Ilikai Hotel, Honolulu, Hawaii.

Time: 8:30 a.m. to 4:30 p.m. (April 14, 1999); 9:00 a.m. to 10:45 a.m. (April 15, 1999); 9:00 a.m. to 12:00 p.m. (April 16, 1999).

FOR FURTHER INFORMATION CONTACT: Inquiries and notice of intent to attend the meeting may be addressed to Colonel Robin R. Cababa, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199.

SUPPLEMENTARY INFORMATION:

Proposed Agenda: The theme of the meeting is Military Applications of Coastal Engineering. The session on April 14 will consist of a review of CERB business, presentations pertaining to the theme, such as Examples of Past Contributions, Rapidly Installed Breakwater System/Logistics-Over-the-Shore (LOTS), Operations and Research Needs, Office of Naval Research Program, Military Applications of Civil Works Modeling Capabilities, Military Applications of Airborne Lidar Bathymetry, and Naval LOTS Program. Presentations will also include the Iwakuni Air Field Project and the Alaska District Coastal Projects. On the morning of April 15, the presentations include Summary of Marine Board Study on Coastal Engineering Research and Education Needs, Honolulu Coastal projects, Island harbors, New Directions in Coastal Research Needs, and Field Trip overview. The afternoon is devoted to a field trip to the Kaneohe Marine Corps Base for a beach invasion demonstration. On the morning of April 16, presentations include Future Direction of Corps' Shore Protection Program, Geographic Distribution of Coastal Engineering Projects, Hurricane Evacuation Studies for the Islands, and Disaster Related Issues on the Islands.

This meeting is open to the public; participation by the public is scheduled for 11:15 a.m. on April 16.

The entire meeting is open to the public, but since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Robin R. Cababa,

Colonel, Corps of Engineers, Executive Secretary.

[FR Doc. 99–6922 Filed 3–19–99; 8:45 am]

BILLING CODE 3710–PU–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Regulatory Guidance Letters Issued by the Corps of Engineers

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide current Regulatory Guidance Letters (RGLs) to all interested parties. RGLs are used by the U.S. Army Corps of Engineers Headquarters as a means to transmit guidance on the permit program (33 CFR parts 320–330) to its division and district commanders. Each future RGL will be published in the Notice Section of the **Federal Register** as a means to insure the widest dissemination of this information while reducing costs to the Federal Government. The Corps no longer maintains a mailing list to furnish copies of the RGLs to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Smith, Regulatory Branch, Office of the Chief of Engineers at (202) 761–0201.

SUPPLEMENTARY INFORMATION: RGLs were developed by the Corps as a system to organize and track written guidance issued to its field agencies. RGLs are normally issued as a result of evolving policy; judicial decisions and changes to the Corps regulations or another agency's regulations which affect the permit program. RGLs are used only to interpret or clarify existing Regulatory Program policy, but do provide mandatory guidance to Corps district offices. RGLs are sequentially numbered and expire on a specified date. However, unless superseded by specific provisions of subsequently issued regulations or RGLs, the guidance provided in RGLs generally remains valid after the expiration date. The Corps incorporates most of the guidance provided by RGLs whenever it revises its permit regulations. We are hereby publishing all *current* RGLs, beginning with RGL 94–1 and ending with RGL 96–2. RGLs 92–1, 92–3, and 92–5 expired on December 31, 1997, and RGL 93–1 and 93–2 expired on December 31, 1998. All five RGLs have been removed from this publication. We will continue to publish each RGL in the Notice Section of the **Federal Register** upon issuance and in early 2000, we will again publish the complete list of all current RGLs.

Dated: March 17, 1999.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL 94–1)

Issued: May 23, 1994, EXPIRES: December 31, 1999.

Subject: Expiration of Geographic Jurisdictional Determinations.

1. Regulatory Guidance Letter (RGL) 90–6, Subject: "Expiration Dates for Wetlands Jurisdictional Delineations" is extended until December 31, 1999, subject to the following revisions.

2. This guidance should be applied to all jurisdictional determinations for all waters of the United States made pursuant to section 10 of the Rivers and Harbors Act of 1899, section 404 of the Clean Water Act, and section 103 of the Marine Protection Research and Sanctuaries Act of 1972.

3. To be consistent with paragraph IV.A. of the January 6, 1994, interagency Memorandum of Agreement Concerning the Delineation of Wetlands for Purposes of section 404 of the Clean Water Act and subtitle B of the Food Security Act, all U.S. Army Corps of Engineers geographic jurisdictional determinations shall be in writing and normally remain valid for a period of five years. The Corps letter (see paragraph 4.(d) of RGL 90–6) should include a statement that the jurisdictional determination is valid for a period of five years from the date of the letter unless new information warrants revision of the determination before the expiration date.

4. For wetland jurisdictional delineations the "effective date of this RGL" referred to in paragraphs 4 and 5 of RGL 90–6 was and remains August 14, 1990. For jurisdictional determinations, other than wetlands jurisdictional delineations, the "effective date of this RGL" referred to in paragraphs 4 and 5 of RGL 90–6 will be the date of this RGL.

5. Previous Corps written jurisdictional determinations, including wetland jurisdictional delineations, with a validity period of three years remain valid for the stated period of three years. The district engineer is not required to issue new letters to extend such period from three years to a total of five years. However, if requested to do so, the district engineer will normally extend the three year period to a total of five years unless new information warrants a new jurisdictional determination.

6. Districts are not required to issue a public notice on this guidance but may do so at their discretion.

7. This guidance expires on December 31, 1999 unless sooner revised or rescinded.

For the Director of Civil Works.

John P. Elmore, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL 94–2)

Issued: August 17, 1994, EXPIRES: December 31, 1999.

Subject: Superfund Projects.

1. Regulatory Guidance Letter (RGL) 85–07, subject: "Superfund Projects" is hereby reissued (copy enclosed).

2. This RGL was previously extended by RGL 89–2. Although the extension expired, RGL 85–07 has continued to be U.S. Army Corps of Engineers policy.

3. This guidance expires December 31, 1999 unless sooner revised or rescinded.

For the Director of Civil Works.

John P. Elmore, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL 95–1)

Issued: March 31, 1995, EXPIRES: December 31, 2000.

Subject: Guidance on Individual Permit Flexibility for Small Landowners.

1. Enclosed is a memorandum for the field signed by the Acting Assistant Secretary of the Army (Civil Works) and the Environmental Protection Agency dated March 6, 1995. This memorandum provides guidance on flexibility that the U.S. Army Corps of Engineers should apply when making determinations of compliance with the section 404(b)(1) Guidelines with regard to the alternatives analysis.

2. This memorandum should be implemented immediately. It constitutes an important aspect of the President's Plan for protecting the Nation's wetlands, "Protecting America's Wetlands: A Fair, Flexible, and Effective Approach" (published on August 24, 1993).

3. This guidance expires on December 31, 2000 unless sooner revised or rescinded.

For the Director of Civil Works.

Daniel R. Burns, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

United States Environmental Protection Agency, Office of Water, Washington, DC 20460

United States Department of the Army, Office of the Assistant Secretary, Washington, DC 20310–0103

Memorandum for the Field

March 6, 1995.

Subject: Individual Permit Flexibility for Small Landowners.

In order to clearly affirm the flexibility afforded to small landowners under section 404 of the Clean Water Act, this policy clarifies that for discharges of dredged or fill material affecting up to two acres of non-tidal wetlands for the construction or expansion of a home or farm building, or expansion of a small business, it is presumed that alternatives located on property not currently owned by the applicant are not practicable under the section 404(b)(1) Guidelines.

Specifically, for those activities involving discharges of dredged or fill material affecting up to two acres into jurisdictional wetlands for:

(1) The construction or expansion of a single family home and attendant features, such as a driveway, garage, storage shed, or septic field;

(2) The construction or expansion of a barn or other farm building; or

(3) The expansion of a small business facility;

which are not otherwise covered by a general permit, it is presumed that alternatives located on property not currently owned by the applicant are not practicable under the section 404(b)(1) Guidelines. The Guidelines' requirements to appropriately and practicably minimize and compensate for any adverse environmental impacts of such activities remain.

Discussion

The Clean Water Act Section 404 regulatory program provides that the Army Corps of Engineers evaluate permit applications for the discharge of dredged or fill material into waters of the U.S., including wetlands, in accordance with regulatory requirements of the section 404(b)(1) Guidelines (Guidelines). The Guidelines are substantive environmental criteria used in evaluating discharges of dredged or fill material.

The Section 404(b)(1) Guidelines establish a mitigation sequence that provides a sound framework to ensure that the environmental impacts of permitted actions are acceptable. Under this framework, there is a three-step sequence for mitigating potential adverse impacts to the aquatic environment associated with a proposed discharge—first avoidance, then minimization, and lastly compensation for unavoidable impacts to aquatic resources.

The Guidelines' mitigation sequence is designed to establish a consistent approach to be used in ensuring that all practicable measures have been taken to reduce potential adverse impacts associated with proposed projects in wetlands and other aquatic systems. The Guidelines define the term "practicable" as "available and capable of being done [by the applicant] after taking into consideration cost, existing technology, and logistics in light of overall project purposes" (40 CFR 230.3(q)). The first step in the sequence requires the evaluation of potential alternative sites under § 230.10(a) of the Guidelines, to locate the proposed project so that aquatic impacts are avoided to the extent practicable.

This policy statement clarifies that, for the purposes of the alternatives analysis, it is presumed that practicable alternatives are limited to property owned by the permit applicant in circumstances involving certain small projects affecting less than two acres of non-tidal wetlands. This presumption is consistent with the practicability considerations required under the Guidelines and reflects the nature of the projects to which the presumption applies—specifically, the construction or expansion of a single family home and attendant features, the construction or expansion of a barn or other farm building, or the expansion of a business. For such small projects that would solely expand an existing structure, the basic project purpose is so tied to the existing structures owned by the applicant, that it would be highly unusual that the project could be practicably located on other sites not owned by the applicant. In these cases, such as construction of driveways, garages, or storage sheds, or with home and barn additions, proximity to the existing structure is typically a fundamental aspect of the project purpose.

In the evaluation of potential practicable alternatives, the Guidelines do not exclude the consideration of sites that, while not currently owned by the permit applicant, could reasonably be obtained to satisfy the project purpose. However, it is the experience of the Army Corps of Engineers and EPA that areas not currently owned by the applicant have, in the great majority of circumstances, not been determined to be practicable alternatives in cases involving the small landowner activities described above. Cost, availability, and logistical and capability considerations inherent in the determination of practicability under the Guidelines have been the basis for this conclusion by the agencies.

The agencies recognize that the presumption characterized in this policy statement may be rebutted in certain circumstances. For example, a more thorough review of practicable alternatives would be warranted for individual sites comprising a subdivision of homes, if following issuance of this policy statement, a real estate developer subdivided a large, contiguous wetlands parcel into numerous parcels. In addition, the presumption is applicable to the expansion of existing small business facilities. Small businesses are typically confined to only one location and with economic and logistical limitations that generally preclude the availability of practicable alternative locations to meet their expansion needs. Conversely, larger businesses with multiple locations and greater resources are expected to consider opportunities to practicably avoid adverse aquatic impacts by evaluating off-site alternatives.

Finally, it is important to note that this presumption of practicable alternatives is intended to apply to the individual permit process. Alternatives are not evaluated for activities covered by general permits. Many activities related to the construction or expansion of a home, farm, or business, are already covered by a general permit. In addition, in conjunction with the issuance of this policy statement, a nationwide general permit authorizing discharges related to single family residential development is being proposed and will be available for public comment.

If you have any questions regarding this memorandum, please contact Gregory Peck of EPA's Wetlands Division at (202) 260–8794

or Michael Davis of the Corps of Engineer's Regulatory Branch at (202) 272–0199.

Robert Perciasepe

Assistant Administrator for Water, U.S. Environmental Protection Agency.

John Zirschky,

Acting Assistant Secretary of the Army (Civil Works).

Regulatory Guidance Letter (RGL 96–1)

Issued: November 5, 1996, Expires: December 31, 2001.

Subject: Use of Nationwide Permit Number 23 for U.S. Coast Guard Categorical Exclusions.

1. We have concurred with the categorical exclusions (CE) enclosure submitted by the United States Coast Guard (Coast Guard) pursuant to the subject nationwide permit number 23 at 33 CFR part 330, including a notification requirement for CE numbers (6) and (8). The U.S. Army Corps of Engineers published the Coast Guard CEs in 61 FR 18573, April 26, 1996, for comment regarding the applicability of nationwide permit number 23 for those activities requiring Department of the Army authorization. This Regulatory Guidance Letter supersedes the Coast Guard CEs previously approved under nationwide permit number 23 in accordance with Regulatory Guidance Letter 83–5, dated April 18, 1983.

2. The Corps has conditioned the nationwide permit to require notification to the appropriate Corps office prior to beginning work under Coast Guard CE number (6) to address potential impacts to wetlands (notification is only required to the Corps for projects where wetland impacts are proposed) and number (8) to address potential impacts/encroachment on Federal navigation projects. The District Engineer will review the notification and will either verify whether the activity meets the terms and conditions of nationwide permit 23, will require evaluation under standard permit procedures, or that additional conditioning of the activity is necessary to ensure that no unacceptable adverse effects will result to wetlands for projects under CE number (8). Authorization of the Coast Guard CEs does not restrict the Division or District Engineers' authorities to exercise discretionary authority, or the Corps modification, suspension, or revocation procedures. Development of local procedures to streamline coordination is encouraged where a Corps division or district further conditions the nationwide permit to require a notification for additional activities.

3. It should be noted that the Coast Guard provided a complete listing of CEs, including many that do not require Department of the Army authorization. However, to reduce confusion when referencing the CE number, we have included all Coast Guard CEs in the enclosure.

4. This guidance expires December 31, 2001 unless sooner revised or rescinded.

For the Director of Civil Works.

Daniel R. Burns, P.E.,

Chief, Operations, Construction, and Readiness Division, Directorate of Civil Works.

U.S. Coast Guard Categorical Exclusion List

The following is a consolidated list prepared from the U.S. Coast Guard **Federal Register** notices (59 FR 38654, July 29, 1994, 60 FR 32197, June 20, 1995, and 61 FR 13563, March 27, 1996). The list does not include the procedures the U.S. Coast Guard must follow to determine whether certain activities qualify for a categorical exclusion. Notification to the U.S. Army Corps of Engineers is required prior to initiation of work for activities conducted under numbers (6) (notification is only required to the Corps for projects when wetland impacts are proposed) and number (8).

1. Routine personnel, fiscal, and administrative activities, actions, procedures, and policies which clearly do not have any environmental impacts, such as military and civilian personnel recruiting, processing, paying, and record keeping.

2. Routine procurement activities and actions for goods and services, including office supplies, equipment, mobile assets, and utility services for routine administration, operation, and maintenance.

3. Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an existing approved disposal site.

4. Routine repair, renovation, and maintenance actions on aircraft and vessels.

5. Routine repair and maintenance of buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, or an impact on a historically significant element or settings.

6. Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, a historically significant element, or historically significant setting. (When wetland impacts are proposed, notification is required to the appropriate office of U.S. Army Corps of Engineers prior to initiation of work.)

7. Routine repair and maintenance to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables.

8. Minor renovations and additions to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables, which do not require special, site-specific regulatory permits. (Notification is required to the appropriate office of U.S. Army Corps of Engineers prior to initiation of work.)

9. Routine grounds maintenance and activities at units and facilities. Examples include localized pest management actions and actions to maintain improved grounds (such as landscaping, lawn care, and minor erosion control measures) that are conducted in accordance with applicable Federal, State, and local directives.

10. Installation of devices to protect human or animal life, such as raptor electrocution prevention devices, fencing to restrict wildlife movement on to airfields, and fencing and grating to prevent accidental entry to hazardous areas.

11. New construction on heavily developed portions of Coast Guard property, when construction, use, and operation will comply with regulatory requirements and constraints.

12. Decisions to decommission equipment or temporarily discontinue use of facilities or equipment. This does not preclude the need to review decommissioning under Section 106 of the National Historic Preservation Act.

13. Demolition or disposal actions that involve buildings or structures when conducted in accordance with regulations applying to removal of asbestos, PCB's, and other hazardous materials, or disposal actions mandated by Congress. In addition, if the building or structure is listed, or eligible for listing, in the National Register of Historic Places, then compliance with Section 106 of the National Historic Preservation Act is required.

14. Outleasing of historic lighthouse properties as outlined in the Programmatic Memorandum of Agreement between the Coast Guard, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers.

15. Transfer of real property from the Coast Guard to the General Services Administration, Department of the Interior, and other Federal departments and agencies, or as mandated by Congress; and the granting of leases, permits, and easements where there is no substantial change in use of the property.

16. Renewals and minor amendments of existing real estate licenses or grants for use of government-owned real property where prior environmental review has determined that no significant environmental effects would occur.

17. New grants or renewal of existing grants of license, easements, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles; for such existing rights-of-way as electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and irrigation facilities; and for similar utility and transportation uses.

18. Defense preparedness training and exercises conducted on other than Coast Guard property, where the lead agency or department is not Coast Guard or Department of Transportation and the lead agency or department has completed its NEPA analysis and documentation requirements.

19. Defense preparedness training and exercise conducted on Coast Guard property that do not involve undeveloped property or increase noise levels over adjacent property and that involve a limited number of personnel, such as exercises involving primarily electric simulation or command post personnel.

20. Simulated exercises, including tactical and logistical exercises that involve small numbers of personnel.

21. Training of an administrative or classroom nature.

22. Operations to carry out maritime safety, maritime law enforcement, search and rescue, domestic ice breaking, and oil or hazardous substance removal programs.

23. Actions performed as a part of Coast Guard operations and the Aids to Navigation Program to carry out statutory authority in the area of establishment of floating and minor fixed aids to navigation, except electronic sound signals.

24. Routine movement of personnel and equipment, and the routine movement, handling, and distribution of nonhazardous materials and wastes in accordance with applicable regulations.

25. Coast Guard participation in disaster relief efforts under the guidance or leadership of another Federal agency that has taken responsibility for NEPA compliance.

26. Data gathering, information gathering, and studies that involve no physical change to the environment. Examples include topographic surveys, bird counts, wetland mapping, and other inventories.

27. Natural and cultural resource management and research activities that are in accordance with interagency agreements and which are designed to improve or upgrade the Coast Guard's ability to manage those resources.

28. Contracts for activities conducted at established laboratories and facilities, to include contractor-operated laboratories and facilities, on Coast Guard-owned property where all airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, State, and local laws and regulations.

29. Approval of recreational activities (such as Coast Guard unit picnic) which do not involve significant physical alteration of the environment, increase disturbance by humans of sensitive natural habitats, or disturbance of historic properties, and which do not occur in, or adjacent to, areas inhabited by threatened or endangered species.

30. Review of documents, such as studies, reports, and analyses, prepared for legislative proposals that did not originate in DOT and that relate to matters that are not the primary responsibility of the Coast Guard.

31. Planning and technical studies which do not contain recommendations for authorization or funding for future construction, but may recommend further study. This includes engineering efforts or environmental studies undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed and does not exclude consideration of environmental matters in the studies.

32. Bridge Administration Program actions which can be described as one of the following:

(a) Modification or replacement of an existing bridge on essentially the same alignment or location. Excluded are bridges with historic significance or bridges providing access to undeveloped barrier islands and beaches. (Approach fills regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act will require a separate individual or general permit.)

(b) Construction of pipeline bridges for transporting potable water.

(c) Construction of pedestrian, bicycle, or equestrian bridges and stream gauging cableways used to transport people.

(d) Temporary replacement of a bridge immediately after a natural disaster or a catastrophic failure for reasons of public safety, health, or welfare.

(e) Promulgation of operating regulations or procedures for drawbridges.

(f) Identification of advance approval waterways under 33 CFR 115.70.

(g) Any Bridge Program action which is classified as a CE by another Department of Transportation agency acting as lead agency for such action.

34. Preparation of guidance documents that implement, without substantive change, the applicable Commandant Instruction or other Federal agency regulations, procedures, manuals, and other guidance documents.

(a) Regulations which are editorial or procedural, such as those updating addresses or establishing application procedures.

(b) Regulations concerning internal agency functions or organization or personnel administration, such as funding, establishing Captain of the Port boundaries, or delegating authority.

(c) Regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel.

(d) Regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.

(e) Regulations concerning equipment approval and carriage requirements.

(f) Regulations establishing, disestablishing, or changing the size of Special Anchorage Areas or anchorage grounds.

(g) Regulations establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones.

(h) Special local regulations issued in conjunction with a regatta or marine parade; provided that, if a permit is required, the environmental analysis conducted for the permit included an analysis of the impact of the regulations.

(I) Regulations in aid of navigation, such as those concerning rules of the road, International Regulations for the Prevention of Collisions at Sea (COLREGS), bridge-to-bridge communication, vessel traffic services, and marking of navigation systems.

35. Approvals of regatta and marine event permits for the following events:

(a) Events that are not located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government. For example, environmentally sensitive areas may include such areas as critical habitats or migration routes for endangered or threatened species or important fish or shellfish nursery areas.

(b) Events that are located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government and for which the Coast Guard determines, based on consultation with the Government agency, that the event will not significantly affect the environmentally sensitive area.

Regulatory Guidance Letter (RGL 96–02)

Issued: December 12, 1996, Expires: December 31, 2001.

Subject: Applicability of Exemptions under Section 404(f) to "Deep-Ripping" Activities in Wetlands.

1. Enclosed is a memorandum to the field jointly signed by the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers. The memorandum provides guidance clarifying when "deep-ripping" activities within wetlands require Department of the Army authorization.

2. This guidance expires December 31, 2001, unless sooner revives or rescinded.

For the Director of Civil Works.

Daniel R. Burns, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Department of the Army, U.S. Army Corps of Engineers, United States Environmental Protection Agency

Memorandum to the Field

December 12, 1996.

Subject: Applicability of Exemptions under Section 404(f) to "Deep-Ripping" Activities in Wetlands.

Purpose: The purpose of this memorandum is to clarify the applicability of exemptions provided under Section 404(f) of the Clean Water Act (CWA) to discharges associated with "deep-ripping" and related activities in wetlands.[1]

[1] As this guidance addresses primarily agricultural-related activities, characterizations of such practices have been developed in consultation with experts at the U.S. Department of Agriculture (USDA), Natural Resources Conservation Service.

Background

1. Section 404(f)(1) of the CWA exempts from the permit requirement certain discharges associated with normal farming, forestry, and ranching practices in waters of the United States, including wetlands. Discharges into waters subject to the Act associated with farming, forestry, and ranching practices identified under Section 404(f)(1) do not require a permit except as provided under Section 40.4(f)(2).

2. Section 404(f)(1) does not provide a total automatic exemption for all activities related to agricultural silvicultural or ranching practices. Rather, Section 404(f)(1) exempts only those activities specifically identified in paragraphs (A) through (F), and "other activities of essentially the same character as named" (44 FR 34264). For example, Section 404(f)(1)(A) lists discharges of dredged or fill material from "normal farming, silviculture and ranching activities, such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices."

3. Section 404(f)(1)(A) is limited to activities that are part of an "established (i.e.,

ongoing) farming, silviculture, or ranching operation." This "established" requirement is intended to reconcile the dual intent reflected in the legislative history that although Section 40.4 should not unnecessarily restrict farming, forestry, or ranching from continuing at a particular site, discharge activities which could destroy wetlands or other waters should be subject to regulation.

4. EPA and Corps regulations (40 CFR part 230 and 33 CFR part 320) and preamble define in some detail the specific "normal" activities fisted in Section 404(f)(1)(A). Three points may be useful in the current context:

a. As explained in the preamble to the 1979 proposed regulations, the words "such as" have been consistently interpreted as restricting the section "to the activities named in the statute and other activities of essentially the same character as named," and "preclude the extension of the exemption * * * to activities that are unlike those named." (44 FR 34264).

b. Plowing is specifically defined in the regulations not to include the redistribution of surface material in a manner which converts wetlands areas to uplands (See 40 CFR 233.35(a)(1)(iii)(D)).

c. Discharges associated with activities that establish an agricultural operation in wetlands where previously ranching had been conducted, represents a "change in use" within the meaning of Section 404(f)(2). Similarly, discharges that establish forestry practices in wetlands historically subject to agriculture also represent a change in use of the site (See 40 CFR 233.35(c)).

5. The statute includes a provision at Section 404(f)(2) that "recaptures" or reestablishes the permit requirement for those otherwise exempt discharges which:

a. Convert an area of the waters of the U.S. to a new use, and

b. Impair the flow or circulation of waters of the U.S. or reduce the reach of waters of the U.S.

Conversion of an area of waters of the U.S. to uplands triggers both provisions (a) and (b) above. Thus, at a minimum any otherwise exempt discharge that results in the conversion of waters of the U.S. to upland is recaptured under Section 404(f)(2) and requires a permit. It should be noted that in order to trigger the recapture provisions of Section 404(f)(2), the discharges themselves need not be the sole cause of the destruction of the wetland or other change in use or sole cause of the reduction or impairment of reach, flow, or circulation of waters of the U.S. Rather, the discharges need only be "incidental to" or "part of" an activity which is intended to or will forseeably bring about that result. Thus, in applying Section 404(f)(2), one must consider discharges in context, rather than isolation.

Issue

1. Questions have been raised involving "deep-ripping" and related activities in wetlands and whether discharges associated with these actions fall within the exemptions at Section 404(f)(1)(A). In addition, the issue has been raised whether, if such activities fall within the exemption, they would be recaptured under Section 404(f)(2).

2. "Deep-ripping" is defined as the mechanical manipulation of the soil to break up or pierce highly compacted, impermeable or slowly permeable subsurface soil layers, or other similar kinds of restrictive soil layers. These practices are typically used to break up these subsoil layers (e.g., impermeable soil layer, hardpan) as part of the initial preparation of the soil to establish an agricultural or silvicultural operation. Deep-ripping and related activities are also used in established farming operations to break up highly compacted soil. Although deep-ripping and related activities may be required more than once, the activity is typically not an annual practice. Deep-ripping and related activities are undertaken to improve site drainage and facilitate deep root growth, and often occur to depths greater than 16 inches and, in some cases, exceeding 4 feet below the surface. As such it requires the use of heavy equipment, including bulldozers, equipped with ripper-blades, shanks, or chisels often several feet in length. Deep-ripping and related activities involve extending the blades to appropriate depths and dragging them through the soil to break up the restrictive layer.

3. Conversely, plowing is defined in EPA and Corps regulations (40 CFR part 230 and 33 CFR part 320) as "all forms of primary tillage * * * used * * * for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops" (40 CFR 232.3(d)(4)). As a general matter, normal plowing activities involve the annual or at least regular, preparation of soil prior to seeding or other planting activities. According to USDA, plowing generally involves the use of a blade, chisel or series of blades, chisels, or discs, usually 8–10 inches in length pulled behind a farm vehicle to prepare the soil for the planting of annual crops or to support an ongoing farming practice. Plowing is commonly used to break up the surface of the soil to maintain soil tilth and to facilitate infiltration throughout the upper root zone.

Discussion

1. Plowing in wetlands is exempt from regulation consistent with the following circumstances:

a. It is conducted as part of an ongoing, established Agricultural, silvicultural or ranching operation; and

b. The activity is consistent with the definition of plowing in EPA and Corps regulations (40 CFR part 230 and 33 CFR part 320); and

c. The plowing is not incidental to an activity that results in the immediate or gradual conversion of wetlands to non-waters.

2. Deep-ripping and related activities are distinguishable from plowing and similar practices (e.g., discing, harrowing) with regard to the purposes and circumstances under which it is conducted, the nature of the equipment that is used, and its effect, including in particular the impacts to the hydrology of the site.

a. Deep-ripping and related activities are commonly conducted to depths exceeding 16 inches, and as deep as 6–8 feet below the soil surface to break restrictive soil layers and improve water drainage at sites that have not supported deeper rooting crops. Plowing depths, according to USDA, rarely exceed one foot into the soil and not deeper than 16 inches without the use of special equipment involving special circumstances. As such, deep-ripping and related activities typically involve the use of special equipment, including heavy mechanized equipment and bulldozers, equipped with elongated ripping blades, shanks, or chisels often several feet in length. Moreover, while plowing is generally associated with ongoing operations, deep-ripping and related activities are typically conducted to prepare a site for establishing crops not previously planted at the site. Although deep-ripping may have to be redone at regular intervals in some circumstances to maintain proper soil drainage, the activity is typically not an annual or routine practice.

b. Frequently, deep-ripping and related activities are conducted as a preliminary step for converting a "natural" system or for preparing rangeland for a new use such as farming or silviculture. In those instances, deep ripping and related activities are often required to break up naturally-occurring impermeable or slowly permeable subsurface soil layers to facilitate proper root growth. For example, for certain depressional wetlands types such as vernal pools, the silica-cemented hardpan (durapan) or other restrictive layer traps precipitation and seasonal runoff creating ponding and saturation conditions at the soil surface. The presence of these impermeable or slowly permeable subsoil layers is essential to support the hydrology of the system. Once these layers are disturbed by activities such as deep-ripping, the hydrology of the system is disturbed and the wetland is often destroyed.

c. In contrast, there are other circumstances where activities such as deep-ripping and related activities are a standard practice of an established on-going farming operation. For example, in parts of the Southeast, where there are deep soils having a high clay content, mechanized farming practices can lead to the compaction of the soil below the sod surface. It may be necessary to break up, on a regular although not annual basis, these restrictive layers in order to allow for normal root development and infiltration. Such activities may require special equipment and can sometimes occur to depths greater than 16 inches. However, because of particular physical conditions, including the presence of a water table at or near the surface for part of the growing season, the activity typically does not have the effect of impairing the hydrology of the system or otherwise altering the wetland characteristics of the site.

Conclusion

1. When deep-ripping and related activities are undertaken as part of an established ongoing agricultural silvicultural or ranching operation, to break up compacted soil layers and where the hydrology of the site will not be altered such that it would result in conversion of waters of the U.S. to upland, such activities are exempt under Section 404(f)(1)(A).

2. Deep-ripping and related activities in wetlands are not part of a normal ongoing

activity, and therefore not exempt, when such practices are conducted in association with efforts to establish for the first time (or when a previously established operation was abandoned) an agricultural silvicultural or ranching operation. In addition, deep-ripping and related activities are not exempt in circumstances where such practices would trigger the "recapture" provision of Section 404(f)(2):

(a) Deep-ripping to establish a farming operation at a site where a ranching or forestry operation was in place is a change in use of such a site. Deep-ripping and related activities that also have the effect of altering or removing the wetland hydrology of the site would trigger Section 404(f)(2) and such ripping would require a permit.

(b) Deep-ripping a site that has the effect of converting wetlands to non-waters would also trigger Section 404(f)(2) and such ripping would require a permit.

3. It is the agencies' experience that certain wetland types are particularly vulnerable to hydrological alteration as a result of deep-ripping and related activities. Depressional wetland systems such as prairie potholes, vernal pools and playas whose hydrology is critically dependent upon the presence of an impermeable or slowly permeable subsoil layer are particularly sensitive to disturbance or alteration of this subsoil layer. Based upon this experience, the agencies have concluded that, as a general matter, deep-ripping and similar practices, consistent with the descriptions above, conducted in prairie potholes, vernal pools, playas, and similar depressions wetlands destroy the hydrological integrity of these wetlands. In these circumstances, deep-ripping in prairie potholes, vernal pools, and playas is recaptured under Section 404(f)(2) and requires a permit under the Clean Water Act.

Robert H. Wayland III,

Director, Office of Wetlands, and Watersheds, U.S. Envionmental Protection Agency.

Daniel R. Burns, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works, U.S. Army Corps of Engineers.

[FR Doc. 99–6892 Filed 3–19–99; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 21, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat—Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 16, 1999.

Joseph Schubart,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Upward Bound, Upward Bound Math/Science, and Veterans Upward Bound Programs Annual Performance Report.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 810.

Burden Hours: 4,680.

Abstract: Upward Bound grantees must annually submit this report so the Department can evaluate the performance of grantees prior to awarding continuation grants and to assess a grantee's prior experience at the end of each budget period. The Department will also aggregate the data to provide descriptive information impact.

This performance report replaces the EDGAR based collection the Department has been receiving.

Office of the Under Secretary

Type of Review: New.

Title: Study of State Agency Activities Under Title I, Part D of Elementary and Secondary Education Act, as Amended.

Frequency: One-time only..

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 100.

Burden Hours: 100.

Abstract: ED requires nationally representative information on the Title I, Part D, Subpart 1 program, as reauthorized by the Improving America's Schools Act of 1994, to develop a descriptive profile useful in ongoing program improvement efforts and in updating performance indicators for the program in compliance with the Government Performance and Results Act of 1993. ED will collect data from the universe of state agencies with administrative responsibility for the program through a mail survey. Respondent agencies will include State Educational Agencies, Departments of Corrections, Youth Services Agencies, Correctional School Districts, and other state agencies.

[FR Doc. 99–6844 Filed 3–19–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Teacher Quality Enhancement Grants for States and Partnerships Program

AGENCY: Office of Postsecondary Education; Department of Education.

ACTION: Notice inviting individuals to serve as field readers.

SUMMARY: The Office of Higher Education Programs invites interested individuals to apply to serve as field readers evaluating grant applications submitted for funding in fiscal year 1999 for the Teacher Quality Enhancement Grants for States and Partnerships Program. This program includes three new competitive grant programs that, together, are intended to improve teacher quality in America by effectively addressing the Nation's need to recruit and prepare teachers who have the skills and content knowledge needed to teach all children to high academic standards. The three programs include—State Grants to support the implementation of comprehensive statewide reforms to improve teacher quality, Partnership Grants to bring about fundamental change and improvement in traditional teacher education programs, and Teacher Recruitment Grants to reduce shortages of qualified teachers in high-need school districts.

DATES: Any individual interested in serving as a field reader should mail or fax two copies of his or her resume to the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than April 2, 1999, indicating the program in which he or she is interested in serving as a field reader. Résumés should not exceed two pages.

Duties and Compensation of Field Readers: Field readers will review applications according to the applicable published selection criteria. Each field reader will serve for a period of approximately five days. Each field reader who is selected will receive compensation for certain travel expenses and an honorarium.

Field Reader Qualifications: The Department is seeking experienced and knowledgeable professionals who collectively can review program applications from a variety of perspectives on what is needed to successfully prepare highly competent K–12 teachers. In this regard, the Department seeks the help of interested professionals with expertise in one or more of the following areas:

- State reforms in K–12 education, and teacher licensing, certification, and testing of teachers.
- The accreditation of teacher preparation programs, and how these programs can provide prospective teachers with both strong teaching skills and academic content in the areas in which they will teach.
- The teaching needs of K–12 school districts, and particularly those with schools in high-poverty areas or that face large teacher shortages.
- The support that new teachers need in their first few years of teaching.
- Activities that can foster strong working relationships between teacher preparation programs and the school districts and schools in which teaching graduates will teach.
- The particular teaching needs of high-need school districts.
- Management and governance issues related to the development and sustainability of partnerships among teacher preparation programs, schools of arts and sciences, and high-need school districts.
- Other issues related to teacher licensure, certification, preparation, and recruitment that must be addressed if new teachers are to be able to enable all of their students to achieve high academic standards.

Prospective field readers may come from State agencies, institutions of higher education, local K–12 school districts, private organizations, community service agencies, and other entities. Each field reader must have the expertise necessary to assess accurately the quality of a program application on the basis of the applicable selection criteria. Application packages for prospective applicants that include the program selection criteria may be accessed at the following Internet site: http://www.ed.gov/offices/OPE/heatqp/index.html.

FOR FURTHER INFORMATION CONTACT: Dr. Louis Venuto, Teacher Quality Enhancement Program, Post Office Box 23764, Washington, D.C. 20026–3764. Telephone: (202) 708–8847. Inquiries may be sent by e-mail to Louis__Venuto@ed.gov or by fax to (202) 708–9272. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1021 *et seq.*

Dated: March 17, 1999.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 99–6935 Filed 3–19–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, April 7, 1999, 6:00 p.m.–9:30 p.m.

ADDRESSES: Garden Plaza, 215 S. Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Marianne Heiskell, Federal Coordinator/Ex-Officio Officer, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, (423) 576–0314.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: A presentation entitled "Real Estate Land Actions at Oak Ridge Operations" will be given by Ms. Katy Kates, DOE Oak Ridge Operations Realty Officer.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Marianne Heiskell at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Marianne Heiskell, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (423) 576–0314.

Issued at Washington, DC on March 16, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–6912 Filed 3–19–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, April 28, 1999:

3:00 p.m.–5:00 p.m. (Monitoring and Surveillance Workshop)

6:00 p.m.–9:00 p.m. (Board Meeting)

6:30 p.m. to 7:00 p.m. (Public Comment Session)

ADDRESSES: Plaza Hotel, 230 Plaza, Las Vegas, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Northern New Mexico Citizens' Advisory Board, Los Alamos National Laboratory, 528 35th Street, Los Alamos, New Mexico 87544, (505) 665–5048.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Public comment (6:30–7:00 p.m.).
2. Special report on the canyons in Los Alamos county.
3. Committee reports.
4. Other Board business will be conducted as necessary.

Public Participation: The meeting is open to the public. The public may file written statements with the Committee, either before or after the meeting. A sign-up sheet will also be available at the door of the meeting room to indicate a request to address the Board. Individuals who wish to make oral presentations, other than during the public comment period, should contact Ms. Ann DuBois at (505) 665–5048 five (5) business days prior to the meeting to request that the Board consider the item for inclusion at this or a future meeting. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Ms. M.J. Byrne, Deputy Designated Federal Officer, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on March 16, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–6913 Filed 3–19–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–151–007]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 1999.

Take notice that on March 10, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with an effective date of November 1, 1997:

Second Revised Sheet No. 17
Third Revised Sheet No. 23
Third Revised Sheet No. 28
Second Revised Sheet No. 34
Second Revised Sheet No. 39
Third Revised Sheet No. 80
Fourth Revised Sheet No. 81
Fourth Revised Sheet No. 97
First Revised Sheet No. 107
First Revised Sheet No. 108
Second Revised Sheet No. 143
Second Revised Sheet No. 145
Third Revised Sheet No. 154
Fourth Revised Sheet No. 155
Second Revised Sheet No. 157
First Revised Sheet No. 158
First Revised Sheet No. 159
First Revised Sheet No. 160

Mid Louisiana states that the purpose of this filing is to tender, formally for filing, those sheets which were submitted and approved in Docket No. RP97–151–002 as "PRO FORMA" sheets by Commission letter order dated July 15, 1997. Mid Louisiana's compliance filing, filed October 27, 1997 in docket number RP97–151–006 re-submitted only those sheets requiring revisions from the original submission. Mid Louisiana misinterpreted the July 15, 1997 order and therefore did not re-file the above referenced sheets sans the "pro-forma" designation. This filing is made for record-keeping and pagination purposes, only and has no practical effect on the stated content, policies or procedures set forth in Mid Louisiana's tariff since Mid Louisiana has been operating under the approved provisions of the RP97–151–002 order and its Pro-Forma provisions since November 1, 1997.

Pursuant to section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectively requests waiver of Section 154.207, Notice Requirements and any other requirement of the Regulations in order to permit the tendered tariff sheet to become retroactively effective November 1, 1997, as submitted.

Any person desiring to protest this filing should file a protest with the

Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6838 Filed 3–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP99–163–000, CP99–165–000 and CP99–166–000]

Questar Southern Trails Pipeline Company; Notice of Application

March 16, 1999.

Take notice that on January 19, 1999, as amended on March 5, 1999, Questar Southern Trails Pipeline Company (Southern Trails), 180 East 100 South, Salt Lake City, Utah 84111, filed in Docket No. CP99–163–000, an application pursuant to 18 CFR Part 157, Subpart E-Optional Certificate and Abandonment Procedures for New Service Under Section 7(c) of the Natural Gas Act requesting certificate authority to (1) acquire 693 miles of 12-inch, 16-inch, and 22-inch diameter crude-oil pipeline and related facilities, located in New Mexico, Utah, Arizona and California, from Questar Line 90 Company (Line 90 Company), a Questar Pipeline Company (Questar) subsidiary, (2) convert and operate the acquired facilities to provide natural-gas transportation service and (3) construct and operate (a) seven compressor stations and (b) eight miles of pipeline replacements, 10 miles of pipeline realignments and 58 miles of pipeline extensions to provide new, open-access transportation of natural gas through the acquired facilities, as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http:/// www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Southern Trails also requests a preliminary determination on non-environmental issues in Docket No. CP99–163–000. Further, in Docket No. CP99–165–000, Southern Trails seeks a blanket certificate pursuant to Subpart G of Part 284 of the Commission's Regulations in order to provide open access transportation of natural gas for others. Finally, in Docket No. CP99–166–000, Southern Trails requests a blanket certificate pursuant to Subpart F of Part 157 of the Commission's Regulations in order to perform certain routine activities and operations.

In accordance with the Optional Certificate regulations, Southern Trails states that (a) it is an "eligible applicant", as defined in 18 CFR Section 157.101(b)(1); (b) it proposes to provide "new service", as defined in 18 CFR Section 157.101(2); and (c) all facilities proposed to be acquired and constructed will be used solely to provide new service pursuant to 18 CFR Section 157.101(3). Additionally, Southern Trails agrees to comply with all the terms and conditions specified in 18 CFR Section 157.103 and represents that all required exhibits, including an environmental report (Exhibit Z–2-Environmental Data), comprising 12 Resource Reports addressing the issues appearing in 18 CFR Part 380, as well as a complete Pro Forma Tariff (Exhibit P, Tariff) are included in the application. Furthermore, Southern Trails explains that, it has requested issuance of a blanket transportation certificate under 18 CFR Section 284.221. Further, Southern Trails states that is has served a copy of its application on local distribution companies in whose service territory Southern Trails will be located and the local distribution companies' appropriate state regulatory agencies.

Southern Trails states that on October 23, 1998, Line 90 Company and ARCO Pipe Line Company (ARCO) signed an asset-purchase agreement transferring ownership of certain crude-oil facilities, namely ARCO's Lines 90, 91, and 92 and associated equipment. The acquired facilities, it is stated, extend from the Four Corners region of Utah and New Mexico to Long Beach, California. It is explained that Line 90 (592 miles of 16-inch diameter pipeline), Line 91 (18 miles of 16-inch diameter pipeline), Line 91 (80 miles of 12-inch and three miles of 22-inch diameter pipeline), 12 pump-station sites, on oil metering delivery site, two area offices, vehicles and related facilities and properties were sold to Line 90 Company for $38,000,000.

Southern Trails explains that not all of the crude-oil facilities acquired from ARCO are useful to transport natural gas. Southern Trails explains that Line 90 Company intends to salvage or otherwise dispose of certain oil-related facilities, not useful for natural-gas service, to outside parties. (These facilities may include oil storage tanks, spare parts and other facilities or equipment that are not integrated with the main lines to be converted to natural gas service.) Southern Trails states that any net proceeds from this activity will reduce the acquisition cost to Southern Trails and the rates for prospective customers.

In the instant application, Southern Trails states that it seeks approval to acquire certain portions of the above-described crude-oil pipeline facilities from Line 90 Company and convert and operate those pipeline facilities to provide natural gas service. Southern Trails further states that it also seeks authorization to install (a) approximately eight miles of 16-inch diameter pipeline replacements, (b) approximately 10 miles of 16-inch diameter pipeline realignments, (c) approximately 58 miles of 22-inch and 20-inch diameter pipeline extensions, (d) seven new compressor stations totaling 18,356 brake horsepower of reciprocating compression, with all but one station being installed at existing pump-station sites, (e) one potential gas-plant receipt point to receive natural gas from El Paso Field Services' Chaco Plant in San Juan County, New Mexico, (f) six potential interstate pipeline interconnects, two each with El Paso Natural Gas at Blanco, New Mexico, and Topock, Arizona, and Transwestern Pipeline Company at Blanco and north of Needles, California, and one each with TransColorado Gas Transmission Company at Blanco and Mojave Pipeline Company at Topock, Arizona (g) three potential local distribution company interconnects, one each with Southwest Gas near Southern Trails' proposed Mojave Valley Compressor Station and Pacific Gas & Electric Company and Southern California Gas Company at Topock, (h) five anticipated end-use delivery points, one to ARCO's Long Beach, California, Refinery Complex and four to the Navajo Tribal Utility Authority and (i) approximately 50 block valves and related ancilliary facilities. It is stated that the total estimated cost of the project is approximately $155,000,000.

Southern Trails explains that as a result of its acquiring 693 miles of existing crude-oil pipeline and related equipment, it will be able to operate a 751-mile pipeline with pipeline replacement, realignment and extension activities that only involve

approximately 75.4 miles of new pipeline construction or about 10% of the pipeline's overall 751-mile length. Moreover, it is stated, six of the seven new compressor stations will be installed at existing pump-station sites. Nevertheless, Southern Trails states that it has embarked on the process of retaining a third-party contractor to prepare an Environmental Impact Statement/Environmental Impact Report for the project to meet both National Environmental Policy Act and California Environmental Quality Act requirements, with the FERC acting as lead agency for environmental review.

Southern Trails states that, between September 8 and October 8, 1998, it held an open season to determine the demand for Southern Trails' capacity. It explains that, during this open season, 15 companies submitted 22 bids totaling 810,000 Dth per day of demand. After review of the bids, Southern Trails explains that it is finalizing service agreements with certain parties for all or most of the capacity of the pipeline system.

Southern Trails seeks authority to provide open-access transportation service in accordance with tariff sheets that are submitted with its application. Southern Trails states that the proposed tariff includes (1) Rate Schedules FT (firm transportation service) and IT (interruptible transportation service) for both the East (Blanco/Chaco to Topock) and West (Topock to Long Beach) Zones; (2) General Terms and Conditions that delineate the specific operating procedures to be followed by Southern Trails and its customers: (3) maximum and minimum zone rates based on the Commission's straight fixed-variable rate design and a provision for negotiated rates consistent with the Commission's recourse-rate policy; and (4) forms of service agreements applicable to service provided under these rate schedules. Southern Trails specifies that the maximum $11.46084 reservation rates, $0.00967 usage rates and $0.38647 interruptible rates are proposed to apply to transportation service provided by Southern Trails in the East and West Zones.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before April 6, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that granting the certificates is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern Trails to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–6839 Filed 3–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–102–000]

Wyoming Interstate Company, Ltd.; Notice of Site Visit

March 16, 1999.

On April 7 and 8, 1999, the Office of Pipeline Regulation (OPR) staff will conduct an inspection of the pipeline route proposed by Wyoming Interstate Company, Ltd. (WIC) for the Medicine Bow Lateral Project. The inspection will begin from at the southern terminus of the project on the morning of April 7, 1999, and proceed northward along the proposed pipeline route through Weld County, Colorado and Laramie and Platte Counties, Wyoming. On April 8, 1999, the inspection will begin near Wheatland, Wyoming, at about 9:00 a.m., and continue northward along the proposed pipeline route in Platte and Converse Counties, Wyoming. Representatives of WIC will accompany the OPR staff.

All parties may attend. Anyone interested in participating in the site visit must provide their own transportation.

For further information, please contact Paul McKee of the Commission's Office of External Affairs at (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 99–6840 Filed 3–19–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51924; FRL–6068–9]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from February 1, to February 12, 1999.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51924]" and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51924]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under "SUPPLEMENTARY INFORMATION" of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number "[OPPTS–51924]" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 3 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; TME's received; and (III) Notices of Commencement to manufacture/import.

I. 36 Premanufacture Notices Received From: 02/01/99 to 02/12/99

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0445	02/01/99	05/02/99	Shin-etsu Silicones of America, Inc	(S) Ingredient for emulsified silicone resin coating agent	(S) 2,5-furandione, reaction products with et. alc. and 3-(triethoxysilyl)-1-propanamine*
P–99–0446	02/02/99	05/03/99	CBI	(G) Raw material used in the formulation of uv industrial coatings for wood and plastics	(G) Polyester urethane vinyl ether
P–99–0447	02/02/99	05/03/99	Eastman Kodak Company	(G) Chemical intermediate, destructive use	(G) Substituted heterocyclic benzoic acid
P–99–0448	02/02/99	05/03/99	Nichiha USA, Inc	(S) Sealant for exterior walls and sizing boards	(G) Isocyanate-terminated urethane prepolymer
P–99–0449	02/02/99	05/03/99	Nichiha USA, Inc	(G) Primer for construction sealant	(G) Isocyanate modified polymer
P–99–0451	02/02/99	05/03/99	CIBA Specialty Chemicals Corporation / Colors Division	(S) Reactive dye for cellulose; scarlet and black	(G) Naphthalenesulfonic acid, -amino-hydroxy-, coupled with diazotized 2-[(aminophenyl)sulfonyl]ethyl hydrogen sulfate and diazotized amino-[[2-(sulfooxy)ethyl]sulfonyl]benzenesulfonic acid, potassium sodium salts
P–99–0452	02/02/99	05/04/99	Eastman Kodak Company	(G) Contained use in an article	(G) Heterocyclic substituted heterocyclic benzoic acid salt
P–99–0453	02/04/99	05/05/99	CBI	(G) Building materials coating resin	(G) Amino-formaldehyde-polyol polymer
P–99–0454	02/03/99	05/04/99	PFW Aroma Chemicals USA	(S) Fragrance oil in detergent, fabric softener and household cleaners; fragrances oil in soaps, hair care, bath and shower and personal care; fragrance oil in fine perfumes; fragrance oil in air fresheners, candles, potpourri	(S) Benzene, [2-(cyclopentyloxy)ethyl]-*
P–99–0455	02/04/99	05/05/99	Vianova Resins Incorporated	(G) Paint additive	(G) Water soluble alkyd resin
P–99–0456	02/03/99	05/04/99	Percy International Ltd.	(S) Catalyst for moisture-curing, polyurethane membranes	(S) Carbamic acid, 1,6-hexanediylbis-, bis[2-[2-(1-ethylpentyl)-3-oxazolidinyl] ethyl] ester*
P–99–0457	02/05/99	05/06/99	CBI	(G) Coating component	(G) Polymer of styrene and mixed acrylates
P–99–0458	02/03/99	05/04/99	CBI	(S) Resin for coatings	(G) Hydrocarbon resin
P–99–0459	02/05/99	05/06/99	Percy International Ltd.	(S) Moisture-curing sealant	(S) Oxirane, methyl-, polymer with alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1′-methylenebis[4-isocyanatobenzene] and oxirane*
P–99–0460	02/05/99	05/06/99	CBI	(G) Plasticizer	(G) Phtalic anhydride, polymer with diethyleneglycol aliphatic alcohol ester
P–99–0461	02/09/99	05/10/99	Dow Corning Corporation	(S) Water repellent for masonary	(S) Silicic acid, sodium salt, reaction products with clorotrimethylsilane, iso-pr alc. and triethoxyoctylsilane*
P–99–0462	02/10/99	05/11/99	CBI	(S) Polyester polyol resin; poly urethane	(G) Diethyl pentandiol
P–99–0463	02/08/99	05/09/99	Hercules Incorporated	(G) Papermaking additive	(G) Glyoxalated amphoteric polyacrylamide
P–99–0464	02/08/99	05/09/99	CBI	(G) Open, non-dispersive use	(G) Polyester-polyamide block copolymer
P–99–0466	02/08/99	05/09/99	CBI	(G) Open, non-dispersive use	(G) Polyester-polyamide block copolymer
P–99–0467	02/08/99	05/09/99	Henkel Corporation	(G) Active energy curable compounds	(G) Acrylated epoxy monomer
P–99–0468	02/08/99	05/09/99	CBI	(G) Cleaning agent	(G) Fatty alcohol alkoxylate
P–99–0469	02/10/99	05/11/99	KOSA	(S) Reactant in manufacture of rigid polyurethane foam	(G) Aromatic polyester polyol
P–99–0470	02/09/99	05/10/99	CBI	(G) Open, non-dispersive use	(G) Substituted sulfonaphthalenylazo substituted phenylazo substituted phenyl, salt
P–99–0471	02/10/99	05/11/99	The Dow Chemical Company	(S) Injection molded automotive exterior trim	(S) Hexanedioic acid, polymer with 1,4-butanediol, 1,1′-methylenebis [isocyanatobenzene], methyloxirane and oxirane, 2-(2-butoxyethoxy)ethyl ester*

Case No.

P–99–0472
P–99–0473
P–99–0474
P–99–0479
P–99–0480
P–99–0481
P–99–0482
P–99–0484
P–99–0485
P–99–0486
P–99–0487

Case No.

T–99–0001

Case No.

P–91–0074
P–98–0318
P–98–0469
P–98–0537
P–98–0608
P–98–1024
P–98–1064
P–99–0071

Environm
Premanufac

Dated: Mar

Oscar Morale

Acting Direct
Division, Offi
Toxics.

[FR Doc. 99–6

BILLING CODE 6

I. 36 Premanufacture Notices Received From: 02/01/99 to 02/12/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0472	02/11/99	05/12/99	CBI	(S) Intermediate for detergent fuel additive	(G) Polyalkenylalkylphenol
P–99–0473	02/11/99	05/12/99	CBI	(G) Open, non-dispersive (reaction aid)	(G) Styrene divinylbenzene copolymer
P–99–0474	02/11/99	05/12/99	CBI	(G) Open, non-dispersive use	(G) Styrene-acrylic polymer
P–99–0479	02/12/99	05/13/99	CBI	(S) Leather dyeing	(G) Polysubstituted bis phenylazonapthalene disulfonic acid
P–99–0480	02/12/99	05/13/99	CBI	(G) Printing resin	(G) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with 1,3-bis (1-isocyanato-1-methylethyl) benzene, diamine, alpha-hydro-omega-hydroxypoly (oxy-1,4-butanediyl) and 2-methyl-1,3-propanediol, ammonium salt, polyethylene-polypropylene glycol 2-aminopropyl me ether blocked*
P–99–0481	02/12/99	05/13/99	CBI	(G) Extractant modifier	(G) Mixed diester
P–99–0482	02/12/99	05/13/99	CBI	(G) Process aid	(G) Organometallic intermediate
P–99–0484	02/12/99	05/13/99	H. B. Fuller Company	(S) Bottle label adhesive	(G) Polyacrylate polymer, potassium salt
P–99–0485	02/12/99	05/13/99	H. B. Fuller Company	(S) Bottle label adhesive	(G) Polyacrylate, sodium salt
P–99–0486	02/12/99	05/13/99	H. B. Fuller Company	(S) Bottle label adhesive	(G) Polyacrylate, lithium salt
P–99–0487	02/12/99	05/13/99	H. B. Fuller Company	(S) Bottle label adhesive	(G) Polyacrylate, triethanolamine salt

II. 1 Test Marketing Exemption Notices Received From: 02/01/99 to 02/12/99

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–99–0001	02/02/99	03/19/99	Reichhold, Inc.	(S) See attached test marketing plan	(G) Acrylic modified polyurethane polymer

III. 8 Notices of Commencement Received From: 02/01/99 to 02/12/99

Case No.	Received Date	Commencement/Import Date	Chemical
P–91–0074	02/02/99	01/22/99	(G) Propenoate-terminated alkyl substituted silyl ester
P–98–0318	02/03/99	01/21/99	(G) Substituted cyclic olifin
P–98–0469	02/02/99	01/07/99	(S) Poly[oxy(methyl-1,2-ethanediyl)],.alpha.-[2-(trimethylammonio)ethyl]-.omega.-hydroxy-, chloride*
P–98–0537	02/02/99	01/26/99	(G) Substituted naphthalene disulfonic acid
P–98–0608	02/01/99	01/12/99	(G) Derivatized tetrasubstituted alkane
P–98–1024	02/02/99	01/12/99	(G) Acrylic copolymer
P–98–1064	02/03/99	01/15/99	(G) Modified polyurethane
P–99–0071	02/02/99	01/25/99	(G) Polyamide

Environmental protection, Premanufacture notices.

Dated: March 9, 1999.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 99–6898 Filed 3–19–99; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at Dallas Renaissance in Dallas, Texas, on March 23, 1999, from 2:00 p.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Vivian L. Portis, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Dallas Renaissance, 2222 Stemmons Freeway, Dallas, Texas 75207.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board

meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes
—February 2, 1998 (Open and Closed)
B. New Business
—Regulation
—Compensation of Board Members [12 CFR Parts 611 and 620] (Final)

Dated: March 17, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 99–6974 Filed 3–17–99; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 10, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 21, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0856.

Title: Universal Service—School and Libraries Universal Service Program Reimbursement Forms.

Form Number(s): FCC 472, FCC 473, and FCC 474.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 61,800.

Estimated Time per Response: 1.0 to 1.5 hours.

Frequency of Response: Recordkeeping. Annually and on occasion reporting requirements. Third party disclosure.

Total Annual Burden: 88,050 hours.

Total Annual Costs: None.

Needs and Uses: The Commission adopted rules providing for all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. The Telecommunications Act of 1996 comtemplates that discounts on eligible services shall be provided to schools and libraries, and that service providers shall seek reimbursement for the amount of the discounts. FCC Forms 473 and 474 facilitate the reimbursement process. FCC Form 472 allows providers to confirm that they are actually providing the discounted services to eligible entities.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 99–6833 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

March 18, 1999.

Deletion of Agenda Item From March 18th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the March 18, 1999, Open Meeting and previously listed in the Commission's Notice of March 11, 1999. This item was adopted by circulation.

ITEM NO: 3.

BUREAU: Common Carrier.

SUBJECT:

Title: Federal-State Joint Board on Universal Service (CC Docket No. 96–45).

Summary: The Commission will consider action concerning: (1) the limited exemption from competitive bidding for the 1998–99 funding year in the schools and libraries and rural health care universal service support mechanisms; and (2) the period during which schools and libraries may apply discounts for nonrecurring services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7039 Filed 3–18–99; 12:10 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2321]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

March 15, 1999.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW, Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by April 6, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5–38.5 GHz, 40.5–41.5 GHz, and 48.2–50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in the 40.5–42.5 GHz Frequency Band; Allocation of Spectrum in the 46.9–47.0 GHz Frequency Band For Wireless Services; and Allocation of Spectrum in the 37.0–38.0 GHz and 40.0–40.5 GHz for Government Operations (IB Docket No. 97–95, RM–8811).

Number of Petitions Filed: 3.

Subject: Federal-State Joint Board on Universal Service (CC Docket No. 96–45).

Number of Petitions Filed: 2.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 99–6835 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1267–DR]

(California); Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1267–DR), dated February 9, 1999, and related determinations.

EFFECTIVE DATE: February 24, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California is hereby amended to include the Mortgage and Rental Assistance program under Section 408(b) of the Stafford Act in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1999:

Mortgage and Rental Assistance program under Section 408(b) of the Stafford Act for the counties of Fresno, Kern, Kings, Madera, Monterey, and Tulare (already designated for Disaster Unemployment Assistance).

Mortgage and Rental Assistance program under Section 408(b) of the Stafford Act and Disaster Unemployment Assistance for Merced County.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program).

James L. Witt,

Director.

[FR Doc. 99–6886 Filed 3–19–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3134–EM]

Illinois; Amendment No. 5 to Notice of an Emergency

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Illinois, (FEMA–3134–EM), dated January 8, 1999, and related determinations.

EFFECTIVE DATE: February 26, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Illinois, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 8, 1999:

Christian County for reimbursement for emergency protective measures, Category B, under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program).

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–6888 Filed 3–19–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3137–EM]

Michigan; Amendment No. 4 to Notice of an Emergency

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Michigan, (FEMA–3137-EM), dated January 27, 1999, and related determinations.

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Michigan, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 27, 1999:

Monroe County for reimbursement for emergency protective measures under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–6890 Filed 3–19–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3136–EM]

New York; Amendment No. 4 to the Notice of an Emergency

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of New York, (FEMA–3136–EM), dated January 15, 1999, and related determinations.

EFFECTIVE DATE: March 8, 1999

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of New York, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 15, 1999:

St. Lawrence County for reimbursement for emergency protective measures under the

Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–6889 Filed 3–19–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1268–DR]

Wyoming; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Wyoming (FEMA–1268–DR), dated February 17, 1999, and related determinations.

EFFECTIVE DATE: February 17, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 17, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Wyoming, resulting from a severe winter storm on October 5–9, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Wyoming.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Steve L. Olsen of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Wyoming to have been affected adversely by this declared major disaster:

Niobrara County for Public Assistance.

All counties within the State of Wyoming are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 99–6887 Filed 3–19–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–009548–051
Title: United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference
Parties:
Farrell Lines, Inc.
Waterman Steamship Corporation
Synopsis: The proposed amendment would reduce the notice period required to take independent action from 10 days to 72 hours. It would also permit the parties to enter into individual service contracts and adopt voluntary guidelines with respect to individual service contracts.

Agreement No.: 202–010714–028
Title: Trans-Atlantic American Flag Liner Operators
Parties:
American President Lines Ltd.
Lykes Lines Limited, LLC
Sea-Land Service, Inc.
Synopsis: The proposed amendment would revise the Agreement's tariff, independent action, and service contract provisions, as well as other miscellaneous provisions to conform to the requirements of the Ocean Shipping Reform Act of 1998. It also deletes authorities related to European inland transport services.

Dated: March 17, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–6881 Filed 3–19–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 5, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Alton Brooks Mitchell, II, Bowling Green, Kentucky; Steven Barnard Catron, Bowling Green, Kentucky; John Ben Holland, Bowling Green, Kentucky; Lester Key, Franklin, Kentucky; C. Peter Mahurin, Bowling Green, Kentucky; E. Suzanne Vitale, Bowling Green,

Kentucky (a group acting in concert) to acquire an aggregate 50 percent of the voting shares on a pro forma basis of Ohio County Bancshares, Inc., Beaver Dam, Kentucky, and thereby indirectly acquire Beaver Dam Deposit Bank, Beaver Dam, Kentucky.

Board of Governors of the Federal Reserve System, March 16, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6826 Filed 3–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 16, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. New Commerce BanCorp, Greenville, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of New Commerce Bank, N.A., Simpsonville, South Carolina (in organization).

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Rich Land Bancorp, Inc., Olney, Illinois; to acquire 100 percent of the voting shares of Cisne State Bank, Cisne, Illinois.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Ideal Bancshares, Inc., West Fargo, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Goodrich, Goodrich, North Dakota.

Board of Governors of the Federal Reserve System, March 16, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6827 Filed 3–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. BankBoston Corporation, Boston, Massachusetts; The Bank of New York Company, Inc., New York, New York; The Chase Manhattan Corporation, New York, New York; Comerica Incorporated, Detroit, Michigan; First Union Corporation, Charlotte, North Carolina; Fleet Financial Group, Inc., Boston, Massachusetts; HSBC Holdings plc, London, England; HSBC Holdings BV, Amsterdam, Netherlands; HSBC Americas, Inc., Buffalo, New York; The Royal Bank of Scotland Group, plc, Edinburgh, United Kingdom; The Royal Bank of Scotland plc, Edinburgh, United Kingdom; Citizens Financial Group, Inc., Providence, Rhode Island; and Summit Bancorp, Princeton, New Jersey; to acquire for NYCE Corporation, Woodcliff Lake, New Jersey (NYCE), all the stock of Magic Line, Inc., Dearborn, Michigan, and the subsequent merger of Magic Line, Inc., with and into NYCE Midwest, Inc., a wholly-owned subsidiary of NYCE, and thereby engage in the following data processing and check verification activities including network services, EFT processing, and remote branching services, pursuant to §§ 225.28(b)(14) and (b)(2)(iii) of Regulation Y. See also, *The Bank of New York Company, Inc*, 80 Fed. Res. Bull. 1107 (1994); *Banc One Corporation*, 81 Fed. Res. Bull. 491 (1995); and *Barnett Banks, Inc*, 83 Fed. Res. Bull. 131 (1996).

Board of Governors of the Federal Reserve System, March 16, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6825 Filed 3–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

[Docket No. R–1035]

Policy Statement on Payments System Risk; Modification to the Procedures for Measuring Daylight Overdrafts for Net Settlement Entries Processed Through the Enhanced Settlement Service

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: The Board has modified the daylight overdraft posting rules to include the posting time for settlement entries processed through the enhanced settlement service. Also, the footnote numbering scheme will be changed to eliminate the duplication of footnote reference numbers and allow for continuous footnote numbering.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Myriam Payne, Manager (202/452–

3219), or Stacy Panigay, Financial Services Analyst (202/452–2934), Division of Reserve Bank Operations and Payment Systems; for the hearing impaired only: Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

When the Board modified the Payments System Risk Reduction policies in 1992 (57 FR 47093, October 14, 1992), it adopted a set of posting rules which comprise a schedule for the intraday timing of debits and credits to institutions Federal Reserve accounts for different types of payments. The implementation of these rules along with the imposition of fees for daylight overdrafts were part of the Board's program to induce behavioral changes to control risk and increase efficiency in the payments system. In accordance with the posting rules adopted in 1992, net settlement entries currently are posted throughout the business day after the settlement entries are received by the Reserve Banks.

Analysis of Federal Reserve Net Settlement Services

Currently the Federal Reserve offers two types of net settlement services, the settlement sheet service and the Fedwire-based service. In the traditional settlement sheet service, the settlement entries are posted throughout the business day on the next clock hour approximately one hour after settlement data are received by the Reserve Banks. The Reserve Banks, however, do not provide settlement finality until the business day after the settlement day. The Reserve Banks reserve the right to reverse settlement debits and credits if a participant is unable to cover its settlement debit.

Settlement entries from the Fedwire-based service are posted as they are processed. In the Fedwire-based service, individual participants with net debit positions send Fedwire funds transfers to a settlement account at a designated Reserve Bank. Once funds transfers have been received into the settlement account to cover all net debits, the clearing arrangement's agent sends Fedwire funds transfers from the settlement account to the accounts of participants in net credit positions. Under normal circumstances, this process is completed on the settlement day. Because the service uses Fedwire funds transfers, settlement payments are final and irrevocable on the settlement day.

In 1998, the Board approved an enhanced settlement service that combines and improves selected features from the Reserve Banks' existing net settlement services and may be used for either gross or net multilateral settlements. The service is fully automated and provides finality of settlement intraday on the settlement day to participants in clearing arrangements using the service. In addition, the enhanced service enables the Reserve Banks to manage and limit risk by incorporating risk controls that are as robust as those used currently in the Fedwire-based net settlement service. Settlement entries processed by the enhanced settlement service will be posted on a flow basis as they are processed and are final and irrevocable. Unlike participants using the Fedwire-based service, participants using the enhanced settlement service do not have to rely on the initiation of individual Fedwire funds transfers to conduct settlement. This feature reduces the logistical complexity for certain clearing arrangements.

The Federal Reserve expects most clearing arrangements using its net settlement services to migrate to the enhanced settlement service. At the end of 2001, the settlement sheet service will no longer be offered; clearing arrangements using the settlement sheet service that want to continue settling through the Federal Reserve will have to migrate to the enhanced settlement service. The Fedwire-based service will be available so long as there is reasonable demand for the service.

Policy Statement on Payments System Risk

The Federal Reserve System Policy Statement on Payment System Risk is amended by removing reserved footnote 3; by renumbering footnotes 1 through 4 under the headings "I. Federal Reserve Policy," "Modified Procedures for Measuring Daylight Overdrafts" as footnotes 3 through 6 and revising redesignated footnote 4 to read as follows; and by renumbering remaining footnotes 4 through 24 as footnotes 7 through 29.

I. Federal Reserve Policy

A. Daylight Overdraft Definition

* * * * *

Modified Procedures for Measuring Daylight Overdrafts [3]

* * * * *

Post Throughout Business Day:

* * * * *

+/− Fedwire funds transfer
+/− Fedwire book-entry securities transfers

* * * *

+/− Net settlement entries [4]

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 16, 1999.

Jennifer Johnson,

Secretary of the Board.

[FR Doc. 99–6865 Filed 3–19–99; 8:45 am]

BILLING CODE 6210–01–P

[4] Settlement entries from the "settlement-sheet" service will be posted on the next clock hour approximately one hour after settlement data are received by the Reserve Banks. The settlement-sheet service will be discontinued by year-end 2001. Settlement entries from the enhanced settlement service will be posted on a flow basis as they are processed.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will address (1) research involving human embryonic stem cells, (2) the use of human biological materials in research and (3) ethical and regulatory issues in research sponsored or conducted by the U.S. in other countries. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on April 16, 1999 from 11:30 am to 12 noon.

Dates/times	Location
April 15, 1999 ..... 1:00 am–5:00 pm	East Jefferson Ballroom. Omni Charlottesville Hotel 235 West Main Street, Charlottesville, Virginia 22182.
April 16, 1999 8:00 am–5:00 pm.	Same Location as Above.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the

availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below and as soon as possible at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: March 15, 1999.

Eric M. Meslin,

Executive Director, National Bioethics Advisory Commission.

[FR Doc. 99–6901 Filed 3–19–99; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0462]

Agency Emergency Processing Request Under OMB Review; Collection; Survey of Manufacturers, Distributors, Repackagers, and Other Drug Distribution Facilities for Year 2000 Compliance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The proposed collection of information concerns a survey of manufacturers, distributors, repackagers, and other drug distribution facilities of Year 2000 compliance. The list of the Year 2000 compliant facilities will be made available to the public via the World Wide Web. FDA is requesting OMB approval within 9 days of receipt of this submission.

DATES: Submit written comments on the collection of information by April 12, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Section 705(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 375(b)) permits the Secretary of Health and Human Services (the Secretary) to disseminate information regarding food, drugs, devices, and cosmetics in situations involving in the opinion of the Secretary imminent danger to health, or gross deception of the consumer. FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA (44 U.S.C. 3507(j)) and 5 CFR 1320.13. FDA is requesting certain information, i.e., manufacturer, drug distribution, etc., immediately to allow health care facilities and others to assess their vulnerability to Year 2000 problems and to make corrective actions, if necessary, well in advance of January 1, 2000. The potential existence of Year 2000 problems in the drug industry, could pose potentially serious health and safety consequences. The use of normal clearance procedures would prolong the time needed to assess Year 2000 compliance by regulated industry.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Survey of Drug Manufacturers, Distributors, and Repackagers, and Other Drug Distribution Facilities for Year 2000 Compliance

Facilities will be asked to provide a status on their Year 2000 readiness. They will also be asked if they have contingency plans. The survey will also ask if they have tested, verified, and certified their systems. The request will also ask for a single point of contact at the manufacturer to discuss information.

The manufacturer will be able to provide facsimile, electronic, or paper copy of the information to FDA for inclusion in the web site data base. Government agencies, as well as health care facilities and the general public, will have access to the web site to be able to assess their vulnerability to Year 2000 problems and to take corrective actions, if necessary, in advance of January 1, 2000. The posting of information on compliant facilities is designed to provide health care facilities with a positive statement as to the status of compliant firms.

Respondents: Manufacturers, distributors, repackagers, and others in the distribution chain of drug products.

FDA estimates the burden of this collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
4,000	1	4,000	18	72,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA mailing lists were used to estimate the number of firms who would be subject to this collection. FDA estimates that it will take firms an average of 18 hours to collect, prepare, and submit the requested information. These estimates include allowance for variance in the number to be reported by a manufacturer.

Dated: March 15, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–6882 Filed 3–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N–0240; DESI 1786]

Certain Single–Entity Coronary Vasodilators Containing Isosorbide Dinitrate; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is proposing to withdraw approval of 25 abbreviated new drug applications (ANDA's) for certain single-entity coronary vasodilator drug products containing isosorbide dinitrate. FDA is offering the holders of the applications an opportunity for a hearing on the proposal. The basis for the proposal is that the sponsors of these products have failed to submit acceptable data on bioavailability and bioequivalence.

DATES: Requests for a hearing are due by April 21, 1999; data and information in support of hearing requests are due by May 21, 1999.

ADDRESSES: A request for hearing, supporting data, and other comments are to be identified with Docket No. 77N–0240 and submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857.

Comments in response to this notice, identified with the reference number DESI 1786 and a request for applicability of this notice to a specific product, should be directed to the Division of Prescription Drug Compliance and Surveillance (HFD–330), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice (DESI 1786) published in the **Federal Register** of February 25, 1972 (37 FR 4001), FDA announced its evaluation of reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group on certain coronary vasodilator drugs. FDA classified isosorbide dinitrate drug products as: Probably effective for the treatment and prevention of anginal attacks when administered sublingually, and possibly effective for their labeled indications relating to the management, prophylaxis, or treatment of anginal attacks when administered orally.

In notices published in the **Federal Register** of December 14, 1972 (37 FR 26623), July 11, 1973 (38 FR 18477), August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), FDA temporarily exempted certain single-entity coronary vasodilators, including isosorbide dinitrate, from the time limits established for the Drug Efficacy Study Implementation (DESI) program. The notices established conditions for marketing these products and identical, similar, or related products § 310.6 (21 CFR 310.6) whether or not they had been marketed and whether or not they were subjects of approved new drug applications (NDA's). FDA required manufacturers and distributors to have ANDA's (conditionally approved, pending the results of ongoing studies) to market a product not the subject of NDA's. If at least one drug sponsor was conducting clinical studies on a chemical entity, FDA permitted the marketing of all firms' products containing the same chemical entity in a similar dosage form, provided each product met the other conditions. Not all sponsors, therefore, were required to conduct clinical studies. Because bioavailability is specific for an individual product, however, FDA required each firm to conduct a bioavailability study on its own product.

In a notice published in the **Federal Register** of August 3, 1984 (49 FR 31151), after completing its review of the clinical studies submitted for single-entity isosorbide dinitrate, FDA announced its conclusions that these drugs are effective. The notice set forth the marketing and labeling conditions for the products. Additionally, FDA required the submission of supplements providing acceptable in vitro dissolution tests and in vivo bioavailability/bioequivalence studies. The August 3, 1984, notice stated that supplements not fully approved within 1 year would be subject to proceedings to withdraw the previous approval and to remove the products from the market. This deadline was extended to June 26, 1987, in a notice published in the **Federal Register** of December 26, 1985 (50 FR 52856).

The sponsors of the drug products listed in section II of this document are not in compliance with the notices of August 3, 1984, and December 26, 1985, in that they either have not submitted any bioavailability/bioequivalence data or have not submitted additional data on incomplete or inadequate studies. Accordingly, this notice reclassifies the products listed in section II of this document as lacking substantial evidence of effectiveness, proposes to withdraw approval of the applications, and offers an opportunity for a hearing on the proposal.

II. ANDA'S Subject to This Notice

1. ANDA 85–783; Isordil Chewable Tablets containing 10 milligrams (mg) of isosorbide dinitrate per tablet; Wyeth–Ayerst Laboratories (formerly held by Ives Laboratories, Inc.), P.O. Box 8299, Philadelphia, PA 19101.

2. ANDA 86–045; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726.

3. ANDA 86–186; Isosorbide Dinitrate (controlled release, colored) Capsules containing 40 mg of the drug per capsule; Eon Labs Manufacturing, Inc. (formerly held by The Vitarine Co., Inc.), 227–15 North Conduit Ave., Laurelton, NY 11413.

4. ANDA 86–191; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Bolar.

5. ANDA 86–224; Isosorbide Dinitrate (controlled release) Tablets containing 40 mg of the drug per tablet; Geneva Pharmaceuticals, Inc.(formerly held by Cord Laboratories, Inc.), 2555 West Midway Blvd., P.O. Box 446, Broomfield, CO 80038–0446.

6. ANDA 86–362; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Bolar.

7. ANDA 86–388; Sorbitrate (chewable) Tablets containing 10 mg of isosorbide dinitrate per tablet; Zeneca Pharmaceuticals, 1800 Concord Pike, Wilmington, DE 19897.

8. ANDA 86–788; Isosorbide Dinitrate (controlled release, green) Tablets containing 40 mg of the drug per tablet; Forest Laboratories, Inc., 919 Third Ave., New York, NY 10022.

9. ANDA 86–790; Isosorbide Dinitrate (controlled release, yellow) Tablets containing 40 mg of the drug per tablet; Forest.

10. ANDA 87–314; Isosorbide Dinitrate (chewable) Tablets containing 10 mg of the drug per tablet; D. M. Graham Laboratories, Inc., 58 Pearl St., P.O. Box P, Hobart, NY 13788.

11. ANDA 87–414; Isosorbide Dinitrate (controlled release scarlet/clear) Capsules containing 40 mg of the drug per capsule; Eon Labs.

12. ANDA 87–461; Isosorbide Dinitrate (controlled release orange/clear) Capsules containing 40 mg of the drug per capsule; Eon Labs.

13. ANDA 87–477; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Ascot Hospital Pharmaceuticals, Inc., 8055 North Ridgeway Ave., Skokie, IL 60076.

14. ANDA 87–482; Isosorbide Dinitrate (controlled release) Tablets containing 40 mg of the drug per tablet; Ascot.

15. ANDA 87–507; Isosorbide Dinitrate (controlled release white/amethyst) Capsules containing 40 mg of the drug per capsule; Eon Labs.

16. ANDA 87–558; Isosorbide Dinitrate (controlled release) Tablets containing 40 mg of the drug per tablet; Par Pharmaceutical, Inc., One Ram Ridge Rd., Spring Valley, NY 10977.

17. ANDA 87–680; Isosorbide Dinitrate (controlled release white/clear) Capsules containing 40 mg of the drug; Eon Labs.

18. ANDA 87–694; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Vangard Labs, Inc., P.O. Box 1268, Glasgow, KY 42142–1268.

19. ANDA 87–700; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Vangard.

20. ANDA 88–074; Sorbitrate Tablets containing 20 mg of isosorbide dinitrate per tablet; Zeneca.

21. ANDA 88–428; Isosorbide Dinitrate (controlled release) Tablets containing 20 mg of the drug per tablet; Forest.

22. ANDA 88–589; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Barr Laboratories, Inc., Two Quaker Rd., P. O. Box 2900, Pomona, NY 10970–0519.

23. ANDA 88–590; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Barr.

24. ANDA 88–591; Isosorbide Dinitrate Tablets containing 20 mg of the drug per tablet; Barr.

25. ANDA 88–592; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Barr.

III. Notice of Opportunity for a Hearing

On the basis of all available data and information, the Director of the Center for Drug Evaluation and Research is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355), 21 CFR 314.126, and 21 CFR part 320 that demonstrates effectiveness (i.e., bioavailability/bioequivalence) of the drugs that are in compliance with the conditions established for continued marketing.

Therefore, notice is given to the holders of the ANDA's listed previously and to a ll other interested persons that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the act withdrawing approval of the applications and all amendments and supplements thereto on the ground that new information before her with respect to the drug products, evaluated together with the evidence available to her when the applications were approved, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the applications specifically named in section II of the document, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product, not the subject of an approved application, that is identical, related, or similar to a drug product named previously, as defined in § 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that they manufacture or distribute. Such persons may request an opinion on the applicability of this notice to a specific drug product by writing to the Division of Prescription Drug Compliance and Surveillance (address given above).

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6); e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act and the regulations issued under it (21 CFR parts 310 and 314), an applicant and all other persons subject to this notice are hereby given an opportunity for hearing to show why approval of the applications should not be withdrawn.

An applicant or any other person subject to this notice who decides to seek a hearing shall file: (1) On or before April 21, 1999, a written notice of appearance and request for hearing, and (2) on or before May 21, 1999, the data, information, and analyses relied on to demonstrate that there is a genuine issue of material fact to justify a hearing, as specified in § 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, a notice of appearance and request for a hearing, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in §§ 314.151 and 314.200 and in 21 CFR part 12.

The failure of an applicant or any other person subject to this notice to file a timely written notice of appearance and request for hearing, as required by § 314.200, constitutes an election by that person not to use the opportunity for a hearing concerning the action proposed and a waiver of any contentions concerning the legal status of that person's drug product(s). Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions under this notice of opportunity for a hearing are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18

U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505 (21 U.S.C. 355)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82).

Dated: March 3, 1999.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 99–6808 Filed 3–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0386]

Talking With Stakeholders About FDA Modernization; Notice of Meetings and Teleconference

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meetings and teleconference.

SUMMARY: The Food and Drug Administration (FDA) is announcing public meetings and an interactive satellite teleconference entitled "Talking With Stakeholders About FDA Modernization." The purpose of the meeting is to discuss the agency's progress in implementing the FDA Modernization Act (FDAMA) and to seek additional input on specific FDAMA performance targets.

DATES: The meetings and teleconference will be held on April 28, 1999. The deadlines for speaker registration and attendance registration are April 9, 1999, and April 16, 1999, respectively. Stakeholders interested in being a member of the studio audience should indicate their interest by April 15, 1999. Comments may be submitted by May 14, 1999. For additional information regarding registration, the meetings, and teleconference, see Table 1 in section III of this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, e-mail "FDADockets@bangate.fda.gov", or via the FDA web site "http://www.fda.gov".

FOR FURTHER INFORMATION CONTACT: Carrie Smith Hanley, Office of External Affairs (HF–60), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3365, FAX: 301–594–0113, e-mail: "chanley@oc.fda.gov".

SUPPLEMENTARY INFORMATION:

I. Background

Section 406(b) of FDAMA (21 U.S.C. 393(f) and (g)) requires the agency: To consult with its external stakeholders as it moves forward to modernize the agency; to develop a plan, based on input from stakeholders, for complying with the agency's obligations under the Federal Food, Drug, and Cosmetic Act (the act); and to periodically revisit the plan in consultation with stakeholders to make appropriate adjustments. As a culmination of these requirements, FDA will issue a performance report to Congress at the end of the 1999 calendar year.

A summary of the agency's responses to each obligation follows.

A. Consult With External Stakeholders

To respond to the first requirement of section 406(b) of FDAMA, the agency held a series of well attended public meetings last summer to obtain stakeholder views on how FDA can best meet its statutory obligations. Stakeholders offered a wealth of productive suggestions, many of which reflect their desire for greater involvement in FDA's work by contributing to the agency's future strategies and for receiving clear and timely information about the agency's processes and new regulated products.

B. Develop a Plan That Reflects Stakeholders Views

FDA listened carefully to its stakeholders and used their contributions to guide the development of a plan for complying with its obligations under FDAMA, as well as responding to the public's expectations. In the **Federal Register** of November 24, 1998 (63 FR 65000), the agency published the "FDA Plan for Statutory Compliance" (see FDA's web site, "http://www.fda.gov/oc/fdama/fdamapln"). This plan provides a broad, agency wide strategic framework and specific performance goals for the current fiscal year (1999) that will allow FDA to act on stakeholder recommendations as well as allow the agency to meet its statutory obligations. The strategic framework outlines six broad directions: Strengthening the science base, closely collaborating with stakeholders, establishing risk-based priorities, adopting a systems approach, continuing to reengineer FDA processes, and capitalizing on information technology. The plan describes how the agency is already implementing many strategies in new and creative ways within each of these broad directions.

C. Periodically Revisit the Plan in Consultation with Stakeholders

FDA is now preparing to revisit the 406(b) plan as part of a formal consultation with its stakeholders on April 28, 1999. The agency would like to receive input from stakeholders on the elements of the plan that have been implemented thus far and obtain additional suggestions on how the agency can continue to improve its modernization efforts. FDA specifically wants input on how to: (1) Strengthen its science base and (2) improve its communication processes. To help focus the discussion at the April 28, 1999, meeting, FDA has designed five questions that address these two concerns. As stakeholders respond to these questions, it may be useful to review the "FDA Plan for Statutory Compliance" which outlines the agency's current and proposed activities in these two areas. FDA requests that stakeholders address the five questions below in their oral and/or written views:

1. Science based decisions are made throughout the life span of products from initial research, development and testing, through production, marketing, and consumption. These decisions require the best science to identify, evaluate, and balance product risks and benefits. It is crucial that FDA, in collaboration with product sponsors, develop a shared understanding of new science and technologies and their effect throughout a product's life span.

What actions do you propose the agency take to expand FDA's capability to incorporate state-of-the-art science into its risk-based decisionmaking?

2. As the agency attempts to meet its public health responsibilities, the speed of discovery results in an avalanche of new information from government, academic, and industry scientists.

What actions do you propose to facilitate the exchange and integration of scientific information to better enable FDA to meet its public health responsibilities throughout a product's lifecycle?

3. Most products in the American marketplace, especially medical ones, have two facets. On one side they benefit users and often improve lives. They are, however, rarely without risk, and their use can result in known and unknown side effects. Consumers must weigh benefits and risks before using these products, oftentimes with incomplete information.

What actions do you propose for educating the public about the concept

of balancing risks against benefits in public health decisionmaking?

4. The agency stated in the "FDA Plan for Statutory Compliance" that inflation has eroded real assets that can be applied to meet its public health mission while Congress has increased its responsibilities.

Because the agency must allocate its limited resources to achieve the greatest impact, what actions do you propose to enable FDA and its product centers to focus resources on areas of greatest risk to the public health?

5. FDAMA requires the agency to continue to meet with stakeholders on key issues. Meetings have ranged from explaining the positions of the agency on particular issues to working with sponsors on product applications. Historically, these interactions have benefited both stakeholders, through better knowledge of FDA, and the agency, by leading to positive changes in its operations.

Because the agency wants to assure that its stakeholders are aware of and participate in its modernization activities, what additional actions do you propose for enhancing communication processes that allow for ongoing feedback and/or evaluation of our modernization efforts?

II. Comments

Stakeholders are encouraged to submit their responses in advance of the April 28, 1999, meeting. Written comments should be identified with docket number 99N–0386 and submitted to the Dockets Management Branch (address above). In order to promote a variety of responses, stakeholders are encouraged to state a proposed action as a separate concise statement followed by a written explanation of its meaning.

III. Scheduled Meetings

Open public meetings with stakeholders will be held in several locations throughout the country. These meetings will provide down-link interactive viewing sites for the live satellite teleconference and also provide an opportunity for formal presentations to FDA's senior managers at the local meetings. The teleconference will feature Jane E. Henney, Commissioner of Food and Drugs, and Linda A. Suydam, Associate Commissioner for Strategic Management, who will be talking with stakeholders during the live satellite teleconference. These meetings are open to all stakeholders and will be co-hosted by FDA's field offices and centers, and they will focus on the specific product center listed in the first column of Table 1 of this document. The scheduled time of meetings, as listed in Table 1 of this document, includes the time devoted to the live satellite teleconference broadcast, as well as a period of time for presentations and/or discussion of the questions listed in section I.C of this document.

TABLE 1

Center/City Registration	Location/Address	Scheduled Time Of Meeting	Speaker Registration Contact	Attendance Contact
Center for Drug Evaluation and Research, Philadelphia, PA	Temple University, Main Campus, Ritter Hall, Kiva Auditorium, 130 Cecil B. Moore Ave., Philadelphia, PA	12:30 p.m. to 6 p.m. Eastern Time	Marcia Trenter, Phone: 301–827–1492, Fax: 301–827–3056, Email: Trenterm@cder.fda.gov	Anitra Brown-Reed, Phone: 215–597–4390 ext. 4202, Fax: 215–597–4660, Email: Abrown2@ora.fda.gov
Center for Biologics Evaluation and Research, Boston, MA	Boston University, School of Medicine, 715 Albany St., Boston, MA	9:30 a.m. to 3 p.m. Eastern Time	Lorrie Harrison, Phone: 301–827–5546, Fax: 301–827–3079, Email: Harrison@cber.fda.gov	Lorrie Harrison, Phone: 301–827–5546, Fax: 301–827–3079, Email: Harrison@cber.fda.gov
Center for Biologics Evaluation and Research, San Francisco, CA	South San Francisco Conference Ctr., 255 South Airport Blvd., South San Francisco, CA	9:30 a.m. to 3 p.m. Pacific Time	Lorrie Harrison, Phone: 301–827–5546, Fax: 301–827–3079, Email: Harrison@cber.fda.gov	Lorrie Harrison, Phone: 301–827–5546, Fax: 301–827–3079, Email: Harrison@cber.fda.gov
Center for Food Safety and Applied Nutrition, Chicago, IL	Ralph Metcalfe Federal Bldg., 77 West Jackson Blvd., Morrison Conference Room, Chicago, IL	12 Noon to 4:30 p.m. Central Time	Marquita Steadman, Phone: 301–827–6735, Fax: 301–480–5730, Email: msteadman@bangate.fda.gov	Kimberly Phillips, Phone: 312–353–7126 ext. 193, Fax: 312–886–3280, Email: Kphillip@ora.fda.gov
Center for Veterinary Medicine, Overland Park, KS	Johnson County Community College, Bldg. CE, rm. 211, 12345 College Blvd., (Kansas City, KS) (111th & Quivera), Overland Park, Kansas (Kansas City, KS)	11:30 a.m. to 5 p.m. Central Time	Linda Grassie, Phone: 301–827–6513, Fax: 301–594–1831, Email: Lgrassie@bangate.fda.gov	Linda Grassie, Phone: 301–827–6513, Fax: 301–594–1831, Email: Lgrassie@bangate.fda.gov
Center for Devices and Radiological Health, San Diego, CA	Scripps Research Institute, Shepherd Great Hall, Schaetzle Education Center, Scripps Memorial Hospital, 9890 Genesee Ave., La Jolla, CA, (San Diego)	9:45 a.m. to 4 p.m. Pacific Time	Ron Jans, Phone: 301–827–0048, Fax: 301–443–8810, Email: Rsj@cdrh.fda.gov	Ron Jans, Phone: 301–827–0048, Fax: 301–443–8810, Email: Rsj@cdrh.fda.gov

TABLE 1—Continued

Center/City Registration	Location/Address	Scheduled Time Of Meeting	Speaker Registration Contact	Attendance Contact
Office of Regulatory Affairs, Atlanta, GA	Food and Drug Administration, 60 Eighth St., N.E. Atlanta, GA	12 noon to 5 p.m. Eastern Time	Joann Pittman, Phone: 404–253–1272, Fax: 404–253–1202, Email: jpittman@ora.fda.gov	Joann Pittman, Phone: 404–253–1272, Fax: 404–253–1202, Email: jpittman@ora.fda.gov
FDA General, Washington, DC	United States Department of Agriculture, Jefferson Auditorium (West Wing), 14th and Independence Ave., SW., Washington, DC	12:30 p.m. to 5:30 p.m. Eastern Time	Mary Gross, Phone: 301–827–3364, Fax: 301–594–0113, Email: mgross@oc.fda.gov	Russell Campbell, Phone: 301–827–4413, Fax: 301–443–9767, Email: rcampbe2@oc.fda.gov

A separate FDAMA section on the FDA web site will provide current information about these public meetings. It is highly recommended that individuals who wish to participate at these public meetings plan to attend the entire session. Each public meeting will include an opportunity for an open comment session where attendees can express their views.

The interactive satellite teleconference is a C-Band broadcast with the following coordinates: satellite GE–2, 85 West, Transponder 3, frequency 3760 MHz Vertical. Test signal begins at 12 noon Eastern Time. The satellite teleconference will begin promptly at 1 p.m. Eastern Time and end no later than 3:30 p.m. Eastern Time. Limited seating will be available for a live studio audience at the broadcast studio in Gaithersburg, MD. Individuals representing broad interest groups are invited to participate in the studio audience. A balanced representation of FDA stakeholders will be selected. Stakeholders who are interested in participating in the broadcast as a member of the studio audience should indicate their interest by April 15, 1999, to Carrie Smith Hanley, Office of External Affairs at the phone, fax or e-mail address listed in the section of this document entitled "**For Further Information Contact**".

IV. Registration and Requests for Oral Presentations

All participants should send registration information (including name, title, firm name, address, telephone and fax number) to the appropriate "attendance registration" contact person listed in section III of this document by April 16, 1999. If you need special accommodations due to a disability, please indicate such at the time of registration.

Participants who wish to make a formal oral presentation should register with the appropriate contact for "speaker registration" identified by meeting in section III of this document by April 9, 1999. Formal oral presentations will not be made at the studio. Stakeholders wishing to make presentations should make their wishes known to the appropriate individuals listed in section III of this document.

V. Transcripts

Transcripts of the meetings (from each site listed in section III of this document) may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. The transcript of the meeting will be available for public examination at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday, as well as on the FDA web site "http://www.fda.gov".

Dated: March 17, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7038 Filed 3–18–99; 11:48 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1999:

Name: Council on Graduate Medical Education.

Date and Time: April 14, 1999, 8:30 a.m.—5:15 p.m. April 15, 1999, 8:30 a.m.—12 p.m.

Place: Washington Plaza, 10 Thomas Circle, N.W., Massachusetts Avenue & 14th Street, Washington, D.C.

This meeting is open to the public.

Agenda: The agenda will include: Welcome and opening comments from the Administrator, Health Resources and Services Administration, the Associate Administrator for Health Professions and the Acting Executive Secretary of COGME; a panel on Ambulatory Settings, the Changing Environment, and Accreditation and Certification in GME; a panel on GME Physician Workforce Assessment Activities; and a panel on The Physician Public Health Workforce. The Council will hear the reports of its work groups on Ambulatory Programs and Financing, and Physician Workforce. The Council will also hear an update on Legislative Proposals and Activities. It will discuss the COGME 15th Report outline and its future direction.

Anyone requiring information regarding the subject should contact Stanford M. Bastacky, D.M.D., M.H.S.A., Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda items are subject to change as priorities dictate.

Dated: March 16, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–6809 Filed 3–19–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health

Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: State Treatment Outcomes and Performance Pilot Studies Enhancement (TOPPS II)—New—The Center for Substance Abuse Treatment (CSAT) will develop a standardized approach that systematically measures the treatment outcomes of clients as they progress through State substance abuse treatment systems funded by the Substance Abuse Prevention and Treatment Block Grant (SAPT BG). The goal underlying TOPPS II is to enable Single State Authorities (SSAs) to collect information on SAPT BG funded treatment services and to monitor common substance abuse treatment effectiveness data measures across various State management information systems (MISs). The TOPPS II program supports initiatives to design or enhance State MISs or outcomes monitoring systems (OMS) which assess treatment outcomes measures and costs for providing treatment services. Nineteen SSAs are planning to conduct and pilot test studies of specific components of substance abuse treatment systems by incorporating common data measures across all nineteen States on an inter-State (i.e., with the States acting mutually together) basis. The TOPPS II study furthers the work begun by CSAT under TOPPS I. Ten of the nineteen TOPPS II States had received TOPPS I funding. Most of these States are now using the treatment outcomes assessment instruments developed during the TOPPS I project. All such instruments received OMB approval (OMB control number 0930–0182).

During TOPPS II initial project implementation, a consensus-derived core data set has been designed to identify key performance measures in two domains: Effectiveness and efficiency. Within these domains, data will be collected that will permit States and CSAT to assess client outcomes (improvement) for indicators such as confinement in a controlled environment, frequency of overnight hospitalizations and emergency room visits, pregnancy status, child care responsibilities, employment patterns, participation in vocational training or educational programs, arrests, living arrangements, and drug use patterns. These data will be collected through completion of the client-oriented core data set.

The inter-State evaluation design for TOPPS II participants will be a pre-test/post-test design that collects standardized data at client intake, discharge, and again at follow-up. This time frame is necessary to allow treatment providers the opportunity to assess the complex causal links between program processes and client outcomes and to monitor common substance abuse treatment effectiveness data measures across various State MISs. In addition, all State-specific designs will incorporate measures of client satisfaction at selected intervals, which is essential to the assessing the quality, efficiency and efficacy of services.

This initiative is crucial to support CSAT in developing State substance abuse treatment accountability measures. The inter-State data base will incorporate standardized outcome measures which will be voluntarily reported on by States in their Fiscal Year 2000 SAPT BG applications. It will also comply with GPRA reporting requirements to establish measurable performance goals for SAPT BG recipients. Through these efforts, TOPPS II will contribute to the future development of a standardized national approach that measures the effectiveness and efficiency of public substance abuse treatment system. The estimated annualized burden for TOPPS II core data set collection for the inter-State evaluation design, over the next three years is presented below.

THREE-YEAR REPORTING BURDEN

State and study	Number of respondents	Number of responses/respondent	Total responses	Hours per response	Total hour burden
Arizona:					
TOPPS II Core Data Elements	600	4	2,400	0.17	408
Client Satisfaction	600	1	600	0.08	48
Arkansas:					
TOPPS II Core Data Elements	1,125	3	3,375	0.17	574
Client Satisfaction	1,125	1	1,125	0.08	90
California:					
TOPPS II Core Data Elements	2,700	3	8,100	0.17	1,377
Client Satisfaction	2,700	1	2,700	0.08	216
Connecticut:					
TOPPS II Core Data Elements	240	3	720	0.17	122
Client Satisfaction	240	1	240	0.08	19
Illinois:					
TOPPS II Core Data Elements	2,000	3	6,000	0.17	1,020
Client Satisfaction	2,000	1	2,000	0.08	160
Iowa:					
TOPPS Core Data Elements	500	3	1,500	0.17	255
Client Satisfaction	500	1	500	0.08	40
Kentucky:					
TOPPS II Core Data Elements	600	3	1,800	0.17	306
Client Satisfaction	600	1	600	0.08	48
Maryland:					
Client Satisfaction	5,100	1	5,100	0.08	408
Massachusetts:					

THREE-YEAR REPORTING BURDEN—Continued

State and study	Number of respondents	Number of responses/respondent	Total responses	Hours per response	Total hour burden
TOPPS II Core Data Elements	1,532	3	4,596	0.17	781
Client Satisfaction	1,532	1	1,532	0.08	123
Missouri:					
TOPPS Core Data	500	3	1,500	0.17	255
Client Satisfaction	500	1	500	0.08	40
New Jersey:					
TOPPS II Core Data Elements	1,200	3	3,600	0.17	612
Client Satisfaction	1,200	1	1,200	0.08	96
New Hampshire:					
TOPPS II Core Data Elements	657	3	1971	0.17	335
Client Satisfaction	657	1	657	0.08	53
New York:					
TOPPS II Core Data Elements	1,875	3	5,625	0.17	956
Client Satisfaction	1,875	1	1,875	0.08	150
Oklahoma:					
Client Satisfaction	8,400	1	8,400	0.08	672
Rhode Island:					
TOPPS II Core Data Elements	1,200	3	3,600	0.17	612
Client Satisfaction	1,200	1	1,200	0.08	96
Texas:					
TOPPS II Core Data Elements	1,750	3	5,250	0.17	893
Client Satisfaction	1,750	1	1,750	0.08	140
Utah:					
TOPPS II Core Data Elements	1,050	3	3,150	0.17	536
Client Satisfaction	1,050	1	1,050	0.08	84
Virginia:					
TOPPS II Core Data Elements	1,600	3	4,800	0.17	816
Client Satisfaction	1,600	1	1,600	0.08	128
Washington:					
Client Satisfaction	32,000	1	32,00	0.08	2560
Total 3-Year Burden					15,029
Annualized Burden					5,010

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 16, 1999

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–6863 Filed 3–19–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974: As Amended; Revisions to the Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of record notice, OS–01, "Computerized ID Security System." The revisions will update the addresses for the System Locations and System Manager.

EFFECTIVE DATE: These actions will be effective on March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Security Manager, Physical Security Office, Division of Employee and Public Services, National Business Center, MS–1366, 1849 C Street NW, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: In this notice, the Department of the Interior is amending OS–01, "Computerized ID Security System," to update and more accurately identify the addresses of the System Locations and the System Manager. Accordingly, the Department of the Interior proposes to amend the "Computerized ID Security System," OS–01 in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/OS–01

SYSTEM NAME:

Computerized ID Security System—Interior, OS–01

SYSTEM LOCATION:

(1) Data covered by this system is maintained in the following location: U.S. Department of the Interior, Office of the Secretary, National Business Center, Division of Employee and Public Services, Physical Security Office, Room 1229, Main Interior Building, 1849 C Street NW, Washington, DC 20240.

(2) Security access to data covered by this system is available at all locations within the vicinity of the Main Interior Building and the South Interior Building complex where staffed guard stations are established.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have had access to the Main and South Interior Buildings. These include, but are not limited to, the following groups: Current agency employees, former agency employees, agency contractors, persons authorized to perform or to use services provided in the Main and South Interior Buildings (e.g., Department of the Interior Federal Credit Union, Interior Recreation Association Fitness Center, etc.), volunteers and visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on current agency employees, former agency employees, and agency contractors include the following data fields: Name, Social Security number, date of birth, signature, image (photograph), hair color, eye color, height, weight, organization/office of assignment, telephone number of emergency contact (optional/voluntary data field), date of entry, time of entry, time of exit, security access category, number of ID security cards issued, ID security card issue date, ID security card expiration date, and ID security card serial number. Records maintained on all other individuals covered by the system include the following data fields: Name, Social Security number (or one of the following: Drivers License number, "Green Card" number, Visa number, or other ID number), U.S. Citizenship (yes or no/logical data field), date of entry, time of entry, time of exit, purpose for entry, agency point of contact, security access category, number of ID security cards issued, ID security card issue date, ID security card expiration data, and ID security card serial number.

AUTHROITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Presidential Memorandum on Upgrading Security at Federal Facilities, June 28, 1995.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purposes of the system are:

(1) To ensure the safety and security of the Main and South Interior Buildings and their occupants.

(2) To verify that all persons entering the buildings are authorized to enter them.

(3) To track and control ID security cards issued to persons entering the buildings.

Disclosures outside the Department of the Interior may be made:

(1) To security service companies that provide monitoring and maintenance support for the system.

(2) To the Federal Protective Service and appropriate Federal, State and local law enforcement agencies to investigate emergency response situations or to investigate and prosecute the violation of law, statute, rule, regulation, order or license.

(3) To the U.S. Department of Justice or to a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

(4) To a congressional office in connection with an inquiry an individual covered by the system has made to the congressional office.

(5) To representatives of the General Services Administration or the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2903 and 2904.

Note: Disclosures within the Department of the Interior of data pertaining to date and time of entry and exit of an agency employee may not be made to supervisors, managers or any other persons (other than the individual to whom the information applies) to verify employee time and attendance record for personnel actions because 5 U.S.C. 6106 prohibits Federal Executive agencies (other than the Bureau of Engraving and Printing) from using a recording clock within the District of Columbia, unless used as a part of a flexible schedule program under 5 U.S.C. 6120 et seq.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in computerized form on a non-removable hard disk. Record backups are stored on removable diskettes and/or tapes.

RETRIEVABILITY:

Records are retrievable by name, Social Security number, other ID number, image (photograph), organization/office of assignment, agency point of contact, security access, category, date of entry, time of entry, time of exit, ID security card issue date, ID security card expiration date, and ID security card serial number.

SAFEGUARDS:

The computer on which records are stored is located in an office that is secured by an alarm system and off-master key access. The computer itself is key-locked and access to the system is password-protected. Access granted to individuals at guard stations is password-protected; each person granted access to the system at guard stations must be individually authorized to use the system. A Privacy Act Warning Notice appears on the monitor screen when records containing information on individuals are first displayed. Back up diskettes/tapes are stored in a locked and controlled room in a secure, off-site location.

RETENTION AND DISPOSAL:

Records relating to persons covered by the system are retained in accordance with General Records Schedule 18, Item No. 17. Unless retained for specific, ongoing security investigations:

(1) Records relating to individuals other than employees are destroyed two years after ID security card expiration date.

(2) Records relating to date and time of entry and exit of employees are destroyed two years after date of entry and exit.

(3) All other records relating to employees are destroyed two years after ID security card expiration date.

SYSTEM MANAGER(S) AND ADDRESS:

Security Manager, Physical Security Office, Division of Employee and Public Services, National Business Center, MS–1366, 1849 C Street NW, Washington, DC 20240.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the Security Manager. The request must be in writing and signed by the requester. (See 43 CFR 2.60).

RECORDS ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the Security Manager. The request must be in writing and signed by the requester. (See 43 CFR 2.63.)

CONTESTING RECORDS PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the Security Manager. The request must be in writing and signed by the requester. (See 43 CFR 2.71.)

RECORD SOURCE CATEGORIES:

Individuals covered by the system, supervisors and designated approving officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–6883 Filed 3–19–99; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Office of Aircraft Services

Privacy Act of 1974: As Amended; Revisions to the Existing System of Records

AGENCY: Office of Aircraft Services, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of Aircraft Services is issuing public notice of its intent to modify an existing Privacy Act system of records notice, AAS–97, "Pilot Flight Time Report." The revisions will update the name and number of the system and the addresses for the System Locations and System Managers.

EFFECTIVE DATE: These actions will be effective on March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Aircraft Services, 2350 W. Robinson Road, Boise, Idaho 83705–5355.

SUPPLEMENTARY INFORMATION: The Office of Aircraft Services is amending AAS–97 (identified also as OS–97), "Pilot Flight Time Report," to more accurately identify and describe the system of records and to update and more accurately identify the addresses of the System Locations and the Systems Managers in the national headquarters and regional office. Accordingly, the Office of Aircraft Services proposes to amend the "Pilot Flight Time Report," AAS–97, notice in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/OAS–01

SYSTEM NAME:

Official Pilot Folder—Interior, OAS–01

SYSTEM LOCATION:

(1) National headquarters: Office of Aircraft Services, Financial and Information Management, 2350 W. Robinson Road, Boise, Idaho 83705.

(2) Regional office: Office of Aircraft Services, Alaska Regional Office, 4837 Aircraft Drive, Anchorage, Alaska 95502–1052.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional, dual-function and incidental pilots employed by Department of the Interior bureaus and offices.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

The system contains information relative to certificates, qualifications, experience levels, currency and proficiency of pilots.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the system are:

(1) To determine pilot qualifications.

(2) To monitor compliance with Office of Aircraft Services directives and Federal Aviation Regulations.

Disclosure outside the Department of the Interior may be made:

(1) To the U.S. Department of Justice or to a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

(2) Of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

(3) To a Federal agency which has requested information relevant or necessary to the hiring or retention of an employee, or issuance of a security clearance, license, pilot qualification card, grant or other benefit.

(4) To Federal, State, local agencies or commercial business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of as security clearance, license, pilot qualification card, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in manual and automated form.

RETRIEVABILITY:

Records may be retrieved by Social Security number, name, agency or location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Records are maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained in accordance with approved records retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

(1) National headquarters: Director, Office of Aircraft Services, 2350 W. Robinson Road, Boise, Idaho 83705.

(2) Regional office: Regional Director, Alaska Regional Office, Office of Aircraft Services, 4837 Aircraft Drive, Anchorage, Alaska 95502–1052.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager. The request must be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies and from Office of Aircraft Services records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–6884 Filed 3–19–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Exchange Proposal; Proposed Exchange of Lands in Elko, Eureka, and Humboldt Counties, Nevada N–59716

United States Department of the Interior, Bureau of Land Management, Elko District, 3900 E. Idaho St., Elko, Nevada 89801.

Notice is hereby given that the Bureau of Land Management is considering a proposal to exchange land pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended. The exchange has been proposed by Newmont Gold Company.

Newmont Gold Company has proposed to exchange to the United States the following described private land or interest in land:

Mount Diablo M

T. 31 N., R. 51 E
Section 3, tha
a line paral
Northweste
Central Pac
Railroad as
Section 9, tha
parallel wi
Northerly o
Pacific Rai
now constr
T. 32 N., R. 54 E
Section 1, Al
less three p
Section 11, A
T. 33 N., R. 54 E
Section 13, T
center of th
of the Hum
Section 23, A
Section 25, A
Section 27, A
Section 35, A
T. 33 N., R. 55 E
Section 19, A
T. 41 N., R. 57 E
Section 22, S
W½SE¼;
Section 27, W
T. 43 N., R. 57 E
Section 2, SE
Section 11, N
Section 14, W
Section 15, E
Section 22, E
Section 23, N
SE¼SW¼
Section 26, W
E½NW¼.
Comprising

In exchang
transfer title
value, as dete
accordance w
in 43 CFR 22
described po

Mount Diablo

T. 39 N., R. 43
Section 5, A
Section 8, A
No. 27–96
Section 9, W
Section 17, I
Section 32, S
S½SE¼S
S½SW¼S
T. 36 N., R. 50
Section 21, S
T. 33 N., R. 51
Section 12, A
Section 14, A
T. 34 N., R. 51
Section 16, A
Section 20, A
Section 22, W
T. 35 N., R. 51
Section 30, I
T. 32 N., R. 52
Section 25, A
T. 33 N., R. 52
Section 5, lo
SW¼NW
SE¼SE¼

Mount Diablo Meridian, Nevada

T. 31 N., R. 51 E.,
Section 3, that part lying Northwesterly of a line parallel with and 200 feet distant Northwesterly from the center line of Central Pacific Railways Company's Railroad as now constructed;
Section 9, that part of SE¼ North of a line parallel with and 100 feet distant Northerly of central line of Western Pacific Railways Company's railroad as now constructed.
T. 32 N., R. 54 E.,
Section 1, All (lot 1 thru 4, S½N½, S½), less three parcels;
Section 11, All; Section 15, All.
T. 33 N., R. 54 E.,
Section 13, That portion lying west of the center of the channel of the South Fork of the Humboldt River;
Section 23, All, less two parcels;
Section 25, All, less one parcel;
Section 27, All, less one parcel;
Section 35, All.
T. 33 N., R. 55 E.,
Section 19, All.
T. 41 N., R. 57 E.,
Section 22, SE¼NW¼, E½SW¼, W½SE¼;
Section 27, W½NE¼, E½NW¼, N½SE¼.
T. 43 N., R. 57 E.,
Section 2, SE¼SE¼;
Section 11, NE¼, E½W½, N½SE¼;
Section 14, W½, N½SE¼;
Section 15, E½E½, SW¼SE¼;
Section 22, E½NE¼;
Section 23, NW¼NE¼, NW¼, N½SW¼, SE¼SW¼, SW¼SE¼;
Section 26, W½NE¼, SE¼NE¼, E½NW¼.

Comprising 7,795 acres, more or less.

In exchange, the United States would transfer title to an acreage of equal value, as determined by appraisal and in accordance with the procedures found in 43 CFR 2201.6, from the following described pool of public land:

Mount Diablo Meridian, Nevada

T. 39 N., R. 43 E.,
Section 5, All;
Section 8, All, less and excepting Patent No. 27–96–0036;
Section 9, W½;
Section 17, N½;
Section 32, S½SW¼SW¼SW¼, S½SE¼SW¼SW¼, S½SW¼SE¼SW¼.
T. 36 N., R. 50 E.,
Section 21, SW¼.
T. 33 N., R. 51 E.,
Section 12, All;
Section 14, All.
T. 34 N., R. 51 E.,
Section 16, All;
Section 20, All;
Section 22, W½, SW¼SE¼.
T. 35 N., R. 51 E.,
Section 30, E½.
T. 32 N., R. 52 E.,
Section 25, All.
T. 33 N., R. 52 E.,
Section 5, lot 4 (a portion thereof), SW¼NW¼, SW¼, SW¼SE¼, SE¼SE¼ (a portion thereof);
Section 8, All;
Section 18, All.
T. 32 N., R. 53 E.,
Section 21, All;
Section 23, All;
Section 25, W½;
Section 26, All;
Section 29, S½; Section 31, lot 1 thru 18, NE¼, N½SE¼; Section 35, lot 1 thru 4, N½, N½S½.

Comprising 11,611.57 acres, more or less.

Subject to valid existing rights, the public land identified above has been segregated from appropriation under the public land laws and mineral laws.

In accordance with 43 CFR 4110.4–2(b), this Notice of Exchange Proposal constitutes 2 years' prior notification to grazing permittees affected by this action. Completion of the exchange may result in adjustments to the permitted use on public lands within the following grazing allotments:

Bullhead;
Leppy Hills;
UT/NV #1 North;
Pilot;
East Big Springs;
West Big Springs.

More detailed information concerning the proposed exchange may be obtained from Robert Marchio, Bureau of Land Management, Elko District, 3900 E. Idaho St., Elko, Nevada 89801, (702) 753–0200.

Interested parties may submit comments concerning the proposed exchange including notification of any liens, encumbrances, or other claims relating to the lands being considered for exchange to the Field Manager, Elko District, at the above address. In order to be considered in the environmental analysis of the proposed exchange, comments must be in writing to the Field Manager and postmarked or delivered within 45 days of initial publication of this notice.

Dated: March 9, 1999.

Helen Hankins,

Field Manager.

[FR Doc. 99–6837 Filed 3–19–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Civil Penalties

AGENCY: Minerals Management Service (MMS).

ACTION: Notice Summarizing OCS Civil Penalties Paid, January 1, 1998—December 31, 1998.

SUMMARY: This notice provides a listing of civil penalties paid January 1, 1998, through December 31, 1998, for violations of the OCS Lands Act. The goal of the MMS OCS Civil Penalties Program is to ensure safe and clean operations on the OCS. Through the pursuit, assessment, and collection of civil penalties and referrals for the consideration of criminal penalties, we designed the program to encourage compliance with OCS statutes and regulations. The purpose of publishing the penalties summary is to provide information to the public on violations of special concern in OCS operations and to provide an additional incentive for safe and environmentally sound operations.

FOR FURTHER INFORMATION CONTACT: Greg Gould, Program Coordinator, at (703) 787–1591.

SUPPLEMENTARY INFORMATION: The Oil Pollution Act (OPA 90) strengthened section 24 of the OCS Lands Act Amendments of 1978. Subtitle B of OPA 90, titled "Penalties," increased the amount of the civil penalty from a maximum of $10,000 to a maximum of $20,000 per violation for each day of noncompliance. More important, in cases where a failure to comply with applicable regulations constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life); property; any mineral deposit; or the marine, coastal, or human environment; OPA 90 provided the Secretary of the Interior (Secretary) with the authority to assess a civil penalty without regard to the requirement of expiration of a period of time allowed for corrective action.

On August 8, 1997, we published new regulations implementing the civil penalty provisions of the OCS Lands Act. Written in "plain language," the new question-and-answer format provides a better understanding of the OCS civil penalty process. In addition, the provisions of OPA 90 require the Secretary to adjust the maximum civil penalty to reflect any increases in the Consumer Price Index. The new rule increased the maximum civil penalty to $25,000 per day, per violation.

Between August 18, 1990, and December 31, 1998, we initiated 250 civil penalty reviews, assessed 151 civil penalties, and collected $2,678,020 in fines. We dismissed 24 cases, and 75 are under review.

On September 1, 1997, the Associate Director for Offshore Minerals Management issued a notice informing lessees and operators of Federal oil, gas, and sulphur leases on the OCS that we will publish an annual summary of OCS civil penalties paid. The annual

summary will highlight the identity of the party, the regulation violated, and the amount paid. The following table provides a listing of the penalties paid between January 1, 1998, and December 31, 1998. Please note, we published a direct final rule (5/29/98, 63 FR 29477) that renumbers each section in 30 CFR part 250. The regulations cited in the table are the citation numbers that were current at the time of the violation and do not reflect the redesignation.

A quarterly update of this list, along with additional information related to the renumbering of the regulations, is posted on the MMS worldwide web home page, http://www.mms.gov.

OCS CIVIL PENALTIES PAID—CALENDAR YEAR 1998

Operator name and case No.	Violation summary and violation date(s)	Penalty paid and date paid	Regulation(s) violated 30 CFR
Exxon Corp, PAC–96–01.	The failure to close pig launcher drain valves allowed oil to flow into the Pacific Ocean. 5/1/96.	$25,000 3/24/98	250.40(a)
Union Pacific Resource, GOM–96–37.	Sump Pump found to be inoperable; pressure safety high level (PSHL) for the sump pump bypassed; PSHL for the platform fuel gas filter bypassed. 5/7/95.	$9,000 1/14/98	250.123(c)(1), 250.40(b)(4)
Shell Offshore Inc, GOM–97–05.	The gas and fire detection systems for three platforms were not tested within the required timeframes. 02/26/96–02/27/96.	$18,000 2/12/98	250.124(a)(8)
Shell Offshore Inc, GOM–97–06A.	A breaker used to conduct an emergency shut down (ESD) test had a bad transformer. On numerous occasions when the ESD test was performed, the operator would have to excite the transformer by pulling a 480 volt cable out of the breaker and then be repowered with the 480 volt cable removed. The operator would then stab the 480 volt cable back into the breaker causing an arc. 05/27/96–07/10/96.	$75,0000 5/07/98	250.20(a)
SOCO Offshore Inc, GOM–97–07.	Burner safety low for heater treater inoperable. 07/30/96–11/12/96	$40,000 04/16/98	250.122(b)
CNG Producing Company, GOM–97–08.	Wells A–2, A–4, A–9, A–10, and A–14 surface controlled subsurface safety valves (SCSSV) were bypassed with the wells hydraulic control lines isolation vales closed. The wells were not attended or flagged. 11/03/96–11/04/96.	$40,000 05/19/98	250.123(c)(1)
Conoco Inc, GOM–97–13.	ESD was bypassed on Subsea Well No. 5. 09/20/95	$5,000 01/26/98	250.20(a) 250.53(c)
Union Pacific Resource, GOM–97–15.	The level safety high (LSH) and level safety low (LSL) were bypassed on the fuel gas scrubber. 12/10/96.	$5,000 02/18/98	250.123(c)(1)
Phillips Petroleum Company, GOM–97–17.	Multiple safety devices were not tested within the required time frame. 11/20/96	$72,500 03/26/98	250.124(a)(3)(i), 250.124 (a)(3)(ii), 250.124(a) (4), 250.124(a) (5), 250.124(a) (10)
Century Offshore Management, GOM–97–18.	The total safety system shutdown, the performax, and the LSH on the skimmer sump tank were bypassed. 01/16/97–01/19/97.	$66,000 01/15/98	250.123(c)(1)
Walter Oil & Gas Corp, GOM–97–19.	Well A–1 hydraulic control line to SCSSV closed and not flagged or monitored. 02/12/97.	$5,000 02/18/98	250.123(c)(1)
Walter Oil & Gas Corp, GOM–97–25.	Multiple safety devices were bypassed on the pipeline pumps, oil surge tank, and sump tank. 03/22/97.	$17,000 06/23/98	250.123(c)(1)
Shell Offshore Inc, GOM–97–28.	A flash fire occurred when using a standard electric drill to drill holes in the floatation cell. 06/08/97.	$12,000 06/04/98	250.123(b)(10)
Chevron USA Inc, GOM–97–29.	There was not an operable firewater system or approved chemical firefighting system on the platform. 07/3/96–07/29/96.	$162,000 02/23/98	250.123(b)(8)(i)
Conoco Inc, GOM–97–31.	There were 2 openings on the production deck where grating had been removed. There were no barricades or flagging indicating the holes; there was no one monitoring the hole. 05/08/97.	$5,000 05/27/98	250.20(a)
Chevron USA Inc, GOM–97–32.	During the positioning of a lift barge, the legs of the barge ruptured a high pressure gas pipeline. The pipelines were not marked nor was the captain of the vessel made aware of the pipelines location. 02/02/97.	$10,000 06/04/98	250.20(a)
Chevron USA Inc, GOM–97–33.	ESD stations were bypassed at the supply control panel. ESD station switches in the wellbay, compressor, blowcase, and +10-foot deck level areas did not activate the ESD. 09/06/96.	$10,000 04/02/98	250.123(c)(1)
Taylor Energy Company, GOM–97–34.	SCSSV was blocked out of service on Well E–17; tubing plug was not tested within the required time period for Well E–5. 07/03/96.	$6,500 05/15/98	250.123(c)(1), 250.124(a)(1)(iii)
Chevron USA Inc, GOM–97–36.	An employee was injured when he fell through open grating with no barrier. 03/13/97.	$15,000 03/4/98	250.20(a)
Chevron USA Inc, GOM–97–38.	Two workers did not have fall protection secured while working near an open hole. 02/05/97.	$10,000 05/06/98	250.20(a)
Coastal Oil & Gas Corp, GOM–97–41.	Numerous safety devices blocked out of service at the main control panel. 04/2/97.	$135,000 08/3/98	250.123(c)(1)
Shell Offshore Inc, GOM–97–42.	The gas and fire detection systems were not tested within the required timeframes. 06/24/97.	$10,000 06/15/98	250.124(a)(8)
Walter Oil & Gas Corp, GOM–97–44.	The LSL sensor for the Compressor Suction Scrubber failed to operate. The adjustment screw was set in such a manner that the sensor would not activate (bypassed). 06/01/97.	$10,000 06/11/98	250.123(b)(7)(i)
Ocean Energy Inc, GOM–97–45.	A pollution incident occurred because the shutdown relay on floatation cell was blocked out of service (bypassed). 03/4/97.	$15,000 10/9/98	250.40(a), 250.123(c)(1)

OCS CIVIL PENALTIES PAID—CALENDAR YEAR 1998—Continued

Operator name and case No.	Violation summary and violation date(s)	Penalty paid and date paid	Regulation(s) violated 30 CFR
Norcen Explorer Inc, GOM–97–46.	Safety devices on 7 vessels were found bypassed. Pollution occurred when the LSH on the bad oil tank was bypassed. Well A–10 produced for 32 days without a subsurface safety valve. 01/14/97—06/29/97.	$103,200, 12/29/98	250.40(a), 250.121(e)(3), 250.123(c)(1)
Ocean Energy Inc, GOM–97–48.	Three open holes were not properly barricaded or flagged. 06/19/97	$15,000 07/09/98	250.20(a)
Burlington Resources, GOM–97–49.	LSH on Vent Scrubber was inoperable. 07/09/97	$5,000 05/05/98	250.123(c)(1)
Panaco Inc, GOM–97–50.	Platform sump system was inoperable; sump tank LSH was not tested within the required time period. 04/25/96.	$64,000 08/6/98	250.40(b)(4), 250.122(b)
Apache Corporation, GOM–97–51.	The safety system for the compressor was bypassed at the master panel. 03/12/96.	$8,000 08/19/98	250.123(c)(1)
Conoco Inc, GOM–97–52.	LSH for the platform sump tank was bypassed. 02/22/97	$8,000 05/18/98	250.123(c)(1)
Callon Petroleum Oper, GOM–97–54.	SCSSV for Well A–1 was bypassed at the wellhead; isolation valve was closed during testing and remained closed for 2 days until discovered during inspection. 07/10/97–07/11/97.	$10,000 05/06/98	250.123(c)(1)
Seneca Resources Corp, GOM–97–58.	The SCSSV was detected in the by-pass mode for Well E016. 02/03/97	$6,000 06/22/98	250.123(c)(1)
Marathon Oil Company, GOM–97–59.	The air supply valves to the air pumps that operate the blowout preventer accumulator charging system were detected in the by-passed position during the inspection. 07/18/97–07/25/97.	$26,000 06/04/98	250.56(d)(2)
Norcen Explorer Inc, GOM–97–60.	PSHL bypassed on Well 16 A; SCSSV bypassed on Well 32. 09/07/97	$12,000 04/17/98	250.123(c)(1), 250.123(c)(4)
Nuevo Energy Company, PAC–98–01.	Failure to have a qualified crane operator, exceeding dynamic rating for crane, and failure to prevent pollution. 01/15/98.	$35,000 07/30/98	250.20(a), 250.20(c), 250.40(a)
Conoco Inc, GOM–98–02.	When Plug and Abandon operations were being conducted, a small fire flashed from a pneumatic saw that was being powered by instrument gas to cut casing. The fire burned an employee standing next to the operator of the saw. 08/06/97.	$9,000 05/18/98	250.20(a)&(b)
Nuevo Energy Company, PAC–98–02.	Failure to perform pre-use inspection on a crane. 04/4/98	$18,000 09/10/98	250.20(c)
Taylor Energy Company, GOM–98–03.	Taylor did not test the safety devices within the required 6-week interval. 08/20/97.	$7,000 03/19/98	250.124(a)(3), 250.124(a)(5), 250.124(a)(6), 250.20 (a)&(b)
Panaco Inc, GOM–98–05.	The fire watch did not have a portable gas detector while conducting welding operations. Production equipment within 35 feet of the welding did not have flame-proof covers. The platform sump's LSH was pinned out of service. 08/18/97—09/02/97.	$15,000 06/05/98	250.52(a)(4), 250.52(d)(2), 250.123(c)(1)
Ocean Energy Inc, GOM–98–06.	The hydraulic line for Well 9 was found isolated in the hydraulic panel (manual override) in a closed position. The valve was not flagged or being monitored. 07/21/97.	$6,000 06/12/98	250.123(c)(1)
Shell Deepwater Development, GOM–98–07.	An employee was observed working near an unflagged open hole that did not have a barrier around it. The employee was not wearing full protection gear. 09/19/97.	$15,000 09/1/98	250.20(a)(b)
Samedan Oil Corporation, GOM–98–08.	The PSHL was locked in open position, no fire detection system, pressure safety element set higher than allowed, and the LSH was bypassed. 08/10/96—10/8/96.	$24,000 07/8/98	250.123(b)(1)(i), 250.123(b)(9), 250.123(c), 250.123(c)(1)
Gulfstar Energy Inc, GOM–98–09.	Failure to test pressure safety valves. 03/15/96—01/15/97	$15,000 07/17/98	250.124(a)(2)
Aviva America Inc, GOM–98–16.	The SCSSV was found bypassed for 6 wells. 12/18/97	$42,000 09/10/98	250.123(c)(1)
OXY USA Inc, GOM–98–18.	Rig personnel were working in a hazardous area without wearing full protection gear. 09/18/97.	5,00 06/22/98	250.20(a)
Ocean Energy Inc, GOM–98–24.	The hydraulic line for well 11-D ball valve (SCSSV) found isolated at the tree. Valve was not flagged or being monitored. 07/21/97.	$6,000 12/21/98	250.123(c)(1)
Chevron USA Inc, GOM–98–25.	ESD system remote on the boat landing was bypassed. 11/24/97	$15,000 06/09/98	250.123(c)(1)
Chevron USA Inc, GOM–98–32.	An injury occurred when the break-out tong was rigged up and used without hanging the tong off from an air hoist line and without securing the tong with a snub line. 11/11/97.	$23,000 06/17/98	250.20(a)
Unocal Exploration Corp, GOM–98–33.	The LSH on the sump was bypassed. 09/27/97	$3,000 09/15/98	250.40(a), 250.123(c)(1)
Flextrend Development, GOM–98–34.	The SCSSV was bypassed for Wells A–2, A–4, and A–5. 11/16/97—11/17/97	$24,000 08/12/98	250.123(c)(1)

Total Penalties Paid 1/1/98–12/31/98; 50 Cases: $1,297,200

Dated: March 16, 1999.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 99–6868 Filed 3–19–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final General Management Plan/ Environmental Impact Statement for Isle Royale National Park, Keweenaw County, MI

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The National Park Service published a notice in the **Federal Register** of November 3, 1998, (63 FR 59328) concerning the availability of the Final General Management Plan and Final Environmental Impact Statement (GMP/EIS) for Isle Royale National Park. The Environmental Protection Agency's notice of availability for this document appeared in the **Federal Register** dated November 6, 1998 (63 FR 59988). The Final EIS circulated in association with these notices inadvertently did not include the cover sheet as required by 40 CFR 1502.11. The omission may have resulted in lack of clarity about where to send comments or about the due date for those comments. Accordingly, the National Park Service is reannouncing the availability of the Final GMP/EIS, and is reinitiating the no action period for review of the EIS as required by 40 CFR 1506.10(a)(2).

DATES: The required no action period for review of the Final GMP/EIS will end 30 days after the Environmental Protection Agency has again listed the availability of the document (with cover sheet) in the **Federal Register**. A record of decision will follow the no action period.

FOR FURTHER INFORMATION CONTACT: Superintendent, Isle Royale National Park, 800 E. Lakeshore Drive, Houghton, Michigan 49931 or telephone: 906–482–0984.

SUPPLEMENTARY INFORMATION: No changes have been made to the Final GMP/EIS since originally made available on November 3, 1998. Only a cover sheet has been added to the document. The Final GMP/EIS presents five alternatives for future management of Isle Royale National Park. The draft plan was on review in April and May 1998. This final plan incorporates comments made during that public review.

Copies of the Final GMP/EIS are available at the following locations: Office of Public Affairs, National Park Service, 1849 C Street, NW, Washington, D.C. 20013; Department of Interior Natural Resource Library, 1849 C Street, NW, Washington, D.C. 20013; National Park Service, Midwest Regional Office,1709 Jackson Street, Omaha, Nebraska 68102; and Isle Royale National Park, 800 E. Lakeshore Drive, Houghton, Michigan 49931. A copy of the document can also be viewed via the Internet at: www.nps.gov/planning/isro/fgmp/fgmp.htm.

Dated: March 12, 1999.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 99–6842 Filed 3–19–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 13, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by April 6, 1999.

Carol D. Shull,

Keeper of the National Register.

CONNECTICUT

Fairfield County

Shambaugh House, 12 Old Hill Rd., Westport, 99000432

New London County

Jail Hill Historic District, Roughly along Cedar, School, Fountain, Happy, and John Sts., Norwich, 99000431

MICHIGAN

Washtenaw County

Main Street Historic District, 3–153 E. Main, 1–41 W. Main, and 8 Park Lane, Milan, 99000434

Wayne County

Kingston Arms Apartments, 296 E. Grand Blvd., Detroit, 99000433

Saint Paul Manor Apartments, 356 E. Grand Blvd., Detroit, 99000435

NORTH CAROLINA

Gaston County

Robinson—Gardner Building, 173–175 W. Main Ave., Gastonia, 99000436

Henderson County

Bryn Avon, Jct. of River Rd. and Mallett Rd., Etowah vicinity, 99000437

WASHINGTON

Thurston County

Allen—Beals House (Women's History in Olympia MPS) 726 S. Percival, Olympia, 99000438

Kearney House—YWCA Clubhouse (Women's History in Olympia MPS), 220 E. Union, Olympia, 99000439

WISCONSIN

Shawano County

Shawano Main Street Historic District, Roughly including E. Division St. and S. Main St., Shawano, 99000440

[FR Doc. 99–6855 Filed 3–19–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Civil Rights Division; Office of Special Counsel for Immigration Related Unfair Employment Practices; Immigration Related Employment Discrimination; Public Education Grants

AGENCY: Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) announces the availability of funds for grants to conduct public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the antidiscrimination provisions of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b.

It is anticipated that a number of grants will be competitively awarded to applicants who can demonstrate a capacity to design and successfully implement public education campaigns to combat immigration related employment discrimination. Grants will range in size from $40,000 to $100,000.

OSC will accept proposals from applicants who have access to potential victims of discrimination or whose experience qualifies them to educate workers, employers and the general public about the antidiscrimination provisions of the INA. OSC welcomes proposals from diverse nonprofit

organizations such as local, regional or national ethnic and immigrants' rights advocacy organizations, trade associations, industry groups, professional organizations, or other nonprofit entities, including state and local government agencies, providing information services to potential victims of discrimination and/or employers.

APPLICATION DUE DATE: May 6, 1999.

FOR FURTHER INFORMATION CONTACT: Patita McEvoy, Public Affairs Specialist, Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave., N.W., Suite 9000, P.O. Box 27728, Washington, D.C. 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD) for the hearing impaired). OSC's e-mail address is osc.crt@usdoj.gov.

SUPPLEMENTARY INFORMATION: The Office of Special Counsel for Immigration Related Unfair Employment Practices of the Civil Rights Division of the Department of Justice announces the availability of funds to conduct cost-effective public education programs concerning the antidiscrimination provisions of INA. Funds will be awarded to selected applicants who propose cost-effective ways of educating employers, workers covered by this statute, and/or the general public.

Background

The Immigration and Nationality Act makes knowingly hiring unauthorized workers unlawful, and requires employers to verify the identity and work authorization of all new employees. Employers who violate this law are subject to sanctions, including fines and possible criminal prosecution.

The INA also prohibits employers of four or more employees from discriminating on the basis of citizenship status or national origin in hiring, firing, recruitment or referral for a fee, and prohibits employers from engaging in document abuse in the employment eligibility verification process.

U.S. citizens and certain classes of work authorized individuals are protected from *citizenship status discrimination*. Protected non-citizens include:

- Temporary Residents;
- Legal Permanent Residents;
- Refugees;
- Asylees.

Citizens and *all* work authorized individuals are protected from *discrimination on the basis of national origin*. However, this prohibition applies only to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees remain under the jurisdiction of the Equal Employment Opportunity Commission pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 200e, *et seq.*

In addition, under the *document abuse provision* of the law, employers must accept all forms of work authorization and proof of identify allowed by the Immigration and Naturalization Service (INS) for completion of the Employment Eligibility Verification (I–9) Form. Employers may not prefer or require one form of documentation over another for hiring purposes. Requiring more or specific documents to prove identity and work authorization may constitute document abuse.

On October 1, 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). IIRIRA expands the existing electronic employment eligibility pilot programs being carried out by the INS, and will reduce the number of documents that employers can accept to verify an individual's work eligibility. These changes are expected to be phased in over the next year.

OSC is responsible for receiving and investigating discrimination charges and, when appropriate, filing complaints with specially designated administrative law judges. OSC also initiates independent investigations of possible immigration related job discrimination.

While OSC has established a record of vigorous enforcement, studies by the U.S. General Accounting Office and other sources have shown that there is an extensive lack of knowledge on the part of protected individuals and employers about the antidiscrimination provisions of the INA. Enforcement cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

Purpose

OSC seeks to educate both workers and employers about their rights and responsibilities under the antidiscrimination provisions of INA. Because previous grantees have developed a wealth of materials (e.g., brochures, posters, booklets, information packets, and videos) to educate these groups, OSC has determined that the main focus of the program should be on the *actual delivery* of these materials to educate further both potential victims and employers. OSC seeks proposals that will use *existing materials* effectively to educate large numbers of workers or employers about exercising their rights or fulfilling their obligations under the antidiscrimination provisions. OSC will, of course, consider any proposal that articulates and substantiates other creative means of reaching these populations.

Program Description

The program is designed to develop and implement cost-effective approaches to educate potential victims of employment discrimination about their rights and to educate employers about their responsibilities under INA's antidiscrimination provisions. *Applications may propose to educate potential victims only, employers only, or both in a single campaign.* Program budgets must include the travel, lodging and other expenses necessary for up to two program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, D.C. at the beginning of the grant period (late Autumn). Proposals should outline the following key elements of the program:

Part I: Targeted Population

The educational efforts under the grant should be directed to (1) work-authorized non-citizens who are protected individuals, since this group especially vulnerable to employment discrimination; (2) those citizens who are most likely to become victims of employment discrimination; and/or to (3) employers. The proposals should define the characteristics of the work authorized population or the employer group(s) targeted for the educational campaign, and the applicant's qualifications to reach credibly and effectively large segments of the campaign targets.

The proposals should also detail the reasons for targeting each group of protected individuals or employers by describing particular needs or other factors to support the selection. In defining the campaign targets and supporting the reasons for the selection, applicants may use studies, surveys, or any other sources of information of generally accepted reliability.

Part II: Campaign Strategy

We encourage applicants to devise effective and creative means of public education and information dissemination that are specifically designed to reach the widest possible targeted audience. Those applicants proposing educational campaigns addressing potential victims of discrimination should keep in mind that some of the traditional methods of

public communication may be less than optimal for educating members of national or linguistic groups that have limited community-based support and communication networks.

Some grantees who are conducting citizenship campaigns, have, in the past, combined those efforts and resources with the INA antidiscrimination education campaigns in order to maximize the scope and breadth of the project and to reach a larger number of individuals in the targeted population. If an applicant proposes to combine these efforts, please discuss how the programs will interact and how the budgets will be administered.

Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively contribute to the overall objective of cost-effective dissemination of useful and accurate information to a wide audience of protected individuals or employers. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

Since there presently exists a wealth of materials for use in educating the public, applicants should include in their budget proposals the costs for distribution of materials received from OSC or from current/past OSC grantees.

To the extent that applicants believe the development of original materials particularly suited to their campaign is necessary, their proposal should articulate in detail the circumstances requiring the development of such materials. All such materials must be approved by OSC prior to production to ensure legal accuracy and proper emphasis. Proposed revisions/translations of OSC-approved materials must also be submitted for clearance. All information distributed should also identify OSC as a source of assistance, information and action, and include the correct address and telephone numbers of OSC, (including the toll-free numbers, TDD numbers) and OSC e-mail and Internet addresses.

Part III: Evaluation of the Strategy

One of the central goals of this program is determining what public education strategies are most effective and thus, should be included in future public education efforts. Therefore, it is crucial that the methods of evaluating the campaign strategy and public education materials and their results be carefully detailed. A full evaluation of a project's effectiveness is due within 60 days of the conclusion of a campaign. Interim evaluation/activity reports are due at least quarterly, or more frequently as needed throughout the grant year.

Selection Criteria

The final selection of grantees for award will be made by the Special Counsel for Immigration Related Unfair Employment Practices.

A panel made up of OSC staff will review and rate the applications and make recommendations to the Special Counsel regarding funding. The panel's results are advisory in nature and not binding on the Special Counsel. *Letters of support, endorsement, or recommendation are not part of the grant application process and will not be considered.*

In determining which applications to fund, OSC will consider the following (based on a one-hundred point scale)

1. Program Design (50 points)

Sound program design and cost-effective strategies for educating the targeted population are imperative. Consequently, areas that will be closely examined include the following:

a. Evidence of in-depth knowledge of the goals and objectives of the project. (15 points)

b. Selection and definition of the target group(s) for the campaign, and the factors that support the selection, including special needs, and the applicant's qualifications to reach effectively the target. (10 points)

c. A cost-effective campaign strategy for educating targeted employers and/or members of the protected class, with a justification for the choice of strategy, including the degree to which the campaign has prevented immigration related unfair employment practices and has reached individuals with such claims. (15 points)

d. The evaluation methods proposed by the applicant to measure the effectiveness of he campaign and their precision in indicating to what degree the campaign is successful. (10 points)

2. Administrative Capability (20 points)

Proposals will be rated in terms of the capability of the applicant to implement the targeting, public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results. (10 points)

b. Evidence that the applicant can implement the campaign, and complete the evaluation component within the time lines provided.

Note: OSC's experience during previous grant cycles has shown that a number of applicants choose to apply as a consortium of individual entities; or, if applying individually, propose the use of subcontractors to undertake certain limited functions. It is essential that these applicants demonstrate the proven management capability and experience to ensure that, as lead agency, they will be directly accountable for the successful implementation, completion, and evaluation of the project. (10 points)

3. Staff Capability (10 points)

Applications will be evaluated in terms of the degree to which:

a. The duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (5 points)

Note: If the grant project manager or other member of the professional staff is to be hired later as part of the grant, or should there be any change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time.

4. Previous Experience (20 points)

The proposals will be evaluated on the degree to which the applicant demonstrates that it has successfully carried out programs or work of a similar nature in the past.

Eligible Applicants

This grant competition is open to nonprofit organizations and state and local government agencies.

Grant Period and Award Amount

It is anticipated that several grants will be awarded and will range in size from $40,000 to $100,000.

Publication of this announcement does not require OSC to award any specific number of grants, or to obligate all or any part of available funds. The period of performance will be twelve months from the date of the grant award, in most cases beginning October 1, 1999.

Application Deadline

All applications must be received by 6:00 PM EDT, May 6, 1999 at the Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, 1425 New York Ave., N.W., Suite 9000, P.O. Box 27728, Washington, D.C. 20038–7728. If sent by regular first-class mail, please use the P.O. Box; if using Federal Express or priority mail, use the street address. *Applications may not be submitted via facsimile machine.*

Application Requirements

Applicants should submit an original and two (2) copies of their completed proposal by the deadline established above. All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424) and Budget Information (Standard Form 424A).

2. OJP Form 4061/6 (Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements).

3. A Standard Form LLL (Disclosure Form to Report Lobbying).

4. An abstract of the full proposal, not to exceed one page.

5. A program narrative of not more than fifteen (15) double-spaced typed pages which includes the following:

a. A clear statement describing the approach and strategy to be utilized to complete the tasks identified in the program description;

b. A clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetables for completion;

c. The proposed staffing plan (NOTE: If the grant project manager or other professional staff member is to be hired later as part of the grant, or should there be a change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time); and

d. Description of how the project will be evaluated.

6. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the cognizant Federal agency must accompany the budget. NOTE: Program budgets must include the travel, lodging and other expenses necessary for not more than two program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, DC at the beginning of the grant period (late Autumn).

7. OJP Form 7120/1 (Accounting System and Financial Capability Questionnaire).

8. Copies of resumes of the professional staff proposed in the budget.

9. Detailed technical materials that support or supplement the description of the proposed effort should be included in the appendix.

In order to facilitate handling, please do not use covers, binders or tabs.

Application forms may be obtained by writing or telephoning: Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 27728, Washington, DC 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). This announcement will also appear on the World Wide Web at www.usdoj.gov/crt/osc/

Dated: March 17, 1999.

John D. Trasviña,

Special Counsel, Office of Special Counsel for Immigration, Related Unfair Employment Practices.

[FR Doc. 99–6921 Filed 3–19–99; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; (reinstatement, without change, of a previously approved collection for which approval has expired); Claim for death benefits.

The Department of Justice, Office of Justice Programs, Bureau of Justice Programs, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on September 30, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until [April 21, 1999]. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsmile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via fascimile to (202) 514–1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement of collection for which OMB Clearance has expired.

(2) *The title of the form/collection:* Claim for Death Benefits.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 3650/5, Bureau of Justice Assistance, Office of Justice Assistance, Office of Justice Assistance, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal, State and Local agencies. This data collection will gather information to determine the eligibility of Claim for Death Benefits for the repayment of determine the eligibility of Claim for Death Benefits for the payment of benefits.

Other: National public membership organizations.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 320 respondents will complete a 1.2 hours per respondents will complete a 1.2 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the nominations is 384 the annual burden hours. If additional information is required contact: Mr. Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC

20530, or via facsmile at (202) 514–1534.

Dated: March 16, 1999.

Robert B. Briggs,

Department Deputy Clearance Office, United States Department of Justice.

[FR Doc. 99–6928 Filed 3–19–99; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request

ACTION: Notice of information collection under review; (Reinstatement, without change, of a previously approved collection for which approval has expired); Federal Law Enforcement Dependents Assistance.

The Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below.

This proposal information collection was previously published in the **Federal Register** on October 5, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until April 21, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Federal Law Enforcement Dependents Assistance.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1240/20 (9–97), Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Children and spouses of Federal civilian law enforcement officers who were killed or permanently and totally disabled in the line of duty and are seeking financial assistance for the purpose of higher education.

Other: None. This program is administered under the authority of 42 U.S.C. 3796 et. seq. to provide financial assistance in the form of awards to the children and spouses of Federal civilian law enforcement officers whose death or permanent and total disabilities in the line of duty resulted in the payment of benefits under the Public Safety Officers' Benefits (PSOB) Program. The Application Form will be completed by each eligible applicant and will provide information regarding educational experience, educational goals, and estimated cost of educational plan for verification and award processing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 50 responses annually at 2 hours per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* ((100)) annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facasimile at (202) 514–1534.

Dated: March 16, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–6929 Filed 3–19–99; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (Reinstatement, without change, of a previously approved collection for which approval has expired) Report of Public Safety Officers'.

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 5, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until April 21, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement of collection for which OMB Clearance has expired.

(2) *The title of the form/collection:* Report of Public Safety Officers' Death

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 3650/6, Bureau of Justice Assistance, Office of Justice Assistance, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal, State and Local agencies. This data collection will gather information to determine the eligibility of Report of Public Safety Officers' Death for the payment of benefits.

Other: National public membership organizations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 320 respondents will complete a 2.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the nominations is 384 the annual burden hours. If additional information is required contact: Mr. Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: March 16, 1999.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 99–6930 Filed 3–19–99; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Employment and Training Assistance for Dislocated Workers; Reallotment of Title III Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information the Job Training Partnership Act Title III (Employment and Training Assistance for Dislocated Workers) funds identified by States for reallotment, and the amount to be reallotted to eligible States.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Holl, Office of Worker Retraining and Adjustment Programs, Employment and Training Administration, Department of Labor, Room N–5426, 200 Constitution Avenue NW., Washington, D.C. 20210. Telephone: 202–219–5577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to Title III of the Job Training Partnership Act (JTPA or the Act), as amended by the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), the Secretary of Labor (Secretary) is required to recapture funds from States identified pursuant to section 303(b) of the Act, and reallot such funds by a Notice of Obligation (NOO) adjustment to current year funds to "eligible States" and "eligible high unemployment States", as set forth in section 303(a), (b), and (c) of JTPA. 29 U.S.C. 1653. The basic reallotment process was described in Training and Employment Guidance Letter No. 4–88, dated November 25, 1988, Subject: Reallotment and Reallocation of Funds under Title III of the Job Training Partnership Act (JTPA), as amended, 53 FR 43737 (December 2, 1988). The reallotment process for Program Year (PY) 1997 funds was described in Training and Employment Guidance Letter No. 6–97, dated April 14, 1998, Subject: Reallotment of Job Training Partnership Act (JTPA) Title III Formula-Allotted Funds.

NOO adjustments to the PY 1998 (July 1, 1998-June 30, 1999) formula allotments are being issued based on expenditures reported to the Secretary by the States, as required by the recapture and reallotment provisions at Section 303 of JTPA. 29 U.S.C. 1653.

Excess funds are recaptured from PY 1998 formula allotments, and are distributed by formula to eligible States and eligible high unemployment States, resulting in either an upward or downward adjustment to every State's PY 1998 allotment.

Unemployment Data

The unemployment data used in the formula for reallotments, relative numbers of unemployed and relative numbers of excess unemployed, were for the October 1997 through September 1998 period. Long-term unemployment data used were for calendar year 1997. The determination of "eligible high unemployment States" for the reallotment of excess unexpended funds was also based on unemployment data for the period October 1997 through September 1998, with all average unemployment rates rounded to the nearest tenth of one percent. The unemployment data were provided by the Bureau of Labor Statistics, based upon the Current Population Survey.

The table below displays the distribution of the net changes to PY 1998 formula allotments.

BILLING CODE 4510–30–M

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
PY 1998 JTPA Title III Reallotment to States

	COL 1	COL 2	COL 3	COL 4	COL 5	COL 6
Alabama	4.1	0	48,683	0	15,948	15,948
Alaska	6.4	0	25,766	25,766	8,441	34,207
Arizona	4.1	0	40,411	0	13,238	13,238
Arkansas	5.1	0	46,473	46,473	15,224	61,697
California	5.9	0	1,076,614	1,076,614	352,691	1,429,305
Colorado	3.2	0	28,068	0	9,195	9,195
Connecticut	4.0	0	43,619	0	14,289	14,289
Delaware	3.6	0	7,450	0	2,440	2,440
District of Columbia	8.5	1,036,152	0	0	0	(1,036,152)
Florida	4.5	3,463,323	0	0	0	(3,463,323)
Georgia	4.1	0	74,613	0	24,443	24,443
Hawaii	5.8	0	39,231	39,231	12,852	52,083
Idaho	5.0	0	21,976	21,976	7,199	29,175
Illinois	4.5	0	146,079	0	47,854	47,854
Indiana	3.1	0	43,063	0	14,107	14,107
Iowa	2.6	0	19,822	0	6,494	6,494
Kansas	3.6	0	21,998	0	7,206	7,206
Kentucky	4.4	0	43,360	0	14,204	14,204
Louisiana	5.5	49	0	0	0	(49)
Maine	4.6	0	17,595	0	5,764	5,764
Maryland	4.7	0	84,926	84,926	27,821	112,747
Massachusetts	3.5	0	57,977	0	18,993	18,993
Michigan	3.8	0	92,000	0	30,138	30,138
Minnesota	2.7	0	36,518	0	11,963	11,963
Mississippi	5.3	0	60,431	60,431	19,797	80,228
Missouri	4.1	0	59,659	0	19,544	19,544
Montana	5.3	0	20,820	20,820	6,820	27,640
Nebraska	2.0	0	8,600	0	2,817	2,817
Nevada	4.3	0	16,842	0	5,517	5,517
New Hampshire	2.7	0	6,822	0	2,235	2,235
New Jersey	4.9	0	155,387	155,387	50,904	206,291
New Mexico	6.3	0	61,451	61,451	20,131	81,582
New York	5.8	0	603,176	603,176	197,596	800,772
North Carolina	3.5	0	61,814	0	20,250	20,250
North Dakota	2.1	0	3,407	0	1,116	1,116
Ohio	4.3	0	121,204	0	39,705	39,705
Oklahoma	3.9	0	29,629	0	9,706	9,706
Oregon	5.3	0	75,379	75,379	24,693	100,072
Pennsylvania	4.6	0	157,077	0	51,457	51,457
Puerto Rico	13.5	0	348,657	348,657	114,217	462,874
Rhode Island	4.8	0	16,509	16,509	5,408	21,917
South Carolina	3.4	0	35,139	0	11,511	11,511
South Dakota	2.7	0	4,250	0	1,392	1,392
Tennessee	4.5	0	60,795	0	19,916	19,916
Texas	4.9	0	320,299	320,299	104,928	425,227
Utah	3.1	0	13,911	0	4,557	4,557
Vermont	3.5	0	5,990	0	1,962	1,962
Virginia	3.2	0	59,716	0	19,562	19,562
Washington	4.5	0	59,886	0	19,618	19,618
West Virginia	6.6	0	68,424	68,424	22,415	90,839
Wisconsin	3.1	0	42,823	0	14,028	14,028
Wyoming	4.4	0	5,185	0	1,699	1,699
NATIONAL TOTAL	4.6	4,499,524	4,499,524	3,025,519	1,474,005	0

COLUMN 1	Unemployment rate for 12 month period
COLUMN 2	Amount of funds subject to recapture
COLUMN 3	Initial distribution of total recaptured dollars among all "eligible" States
COLUMN 4	Step 1: For "eligible high unemployment" States, amount equal to Column 3
COLUMN 5	Step 2: Remaining dollars distributed to all "eligible" States
COLUMN 6	Total: Column 4 (Step 1) + Column 5 (Step 2) less Column 2 (recaptured amount)

BILLING CODE 4510-30-C

Explanation of Table

Column 1: This column shows each State's unemployment rate for the twelve months ending September 1998.

Column 2: This column shows the amount of excess funds which are subject to recapture. PY 1998 funds in an amount equal to the excess of funds identified will be recaptured from such State and distributed as discussed below.

Column 3: This column shows total excess funds initially distributed among all "eligible States" by applying the regular Title III formula. "Eligible States" are those with unexpended PY 1997 funds at or below the level of 20 percent of their PY 1997 formula allotments as described above.

Column 4: Eligible States with unemployment rates higher than the national average, which was 4.6 percent for the 12-month period, are "eligible high unemployment States." These eligible high unemployment States received amounts equal to their share of the excess funds (the amounts shown in column 3) according to the regular Title III formula. This is Step 1 of the reallotment process. These amounts are shown in column 4 and total $3,025,519.

Column 5: The sum of the remaining shares of available funds ($1,474,005) is distributed among all eligible States, again using the regular Title III allotment formula. This is Step 2 of the reallotment process. These amounts are shown in column 5.

Column 6: Net changes in PY 1998 formula allotment are presented. This column represents the decreases in Title III funds shown in column 2, and the increases in Title III funds shown in columns 4 and 5. NOOs in the amounts shown in column 6 are being issued to the States listed.

Equitable Procedures

Pursuant to section 303(d) of the Act, Governors of States required to make funds available for reallotment shall prescribe equitable procedures for making funds available from the State and substate grantees. 29 U.S.C. 1653(d).

Distribution of Funds

Funds are being reallotted by the Secretary in accordance with section 303(a), (b), and (c) of the Act, using the factors described in section 302(b) of the Act. 29 U.S.C. 1652(b) and 1653(a), (b), and (c). Distribution within States of funds allotted to States shall be in accordance with section 302(c) and (d) of the Act (29 U.S.C. 1652(c) and (d)), and the JTPA regulation at 20 CFR 631.12(d).

Signed at Washington, D.C., this 5th day of March, 1999.

Raymond Bramucci,

Assistant Secretary of Labor.

[FR Doc. 99–6859 Filed 3–19–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the the following proposed extension collections: (1) Regulations, 29 CFR Part 825, The Family and Medical Leave Act of 1993; and (2) Notice of Recurrence of Disability and Claim for Continuance of Pay/Compensation (Form CA–2a). A copy of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before May 25, 1999. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Ms. Patricial A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

Regulations, 29 CFR Part 825, The Family and Medical Leave Act of 1993 (WH–380 and WH–381)

I. Background

The Family and Medical Leave Act of 1993 (FMLA) requires private section employers of 50 or more employees, and public agencies, to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Records are required so that the Department of Labor can determine employer compliance with FMLA.

II. Current Actions

The Department of Labor seeks an extension of approval to collect this information in order to carry out its statutory obligation under FMLA to investigate and ensure employer compliance with the Act.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: 29 CFR Part 825, The Family and Medical Leave Act of 1993.

OMB Number: 1215–0181.

Agency Number: WH–380 and WH–381.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal government.

Total Respondents: 3.9 million.

Frequency: Recordkeeping; Reporting on occasion.

Total Responses: 9.1425 million.

Time per Response: 1 minute to 10 minutes.

Estimated Total Burden Hours: 645,625.

Total Burden Cost (capital/startup): $ 0.

Total Burden Cost (operating/maintenance): $ 0.

Notice of Recurrence of Disability and Claim for Continuation of Pay/Compensation (CA–2a)

I. Background

The CA–2a is a form used by current, or occasionally former Federal

employees, to claim wage loss or medical treatment resulting from a recurrence of a work-related injury while Federally employed. The form is required of the public, and thus subject to the Paperwork Reduction Act of 1995, in cases where the claimant has left Federal employment at the time of a claimed recurrence. The information is necessary to ensure accurate benefit payments.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to determine whether a claimant has suffered a recurrence of disability related to an accepted injury, and, if so, the amount of benefits payable.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Notice of Recurrence of Disability and Claim for continuation Pay/Compensation.
OMB Number: 1215–0167.
Agency Number: CA–2a.
Affected Public: Individuals or households.
Total Respondents: 550.
Frequency: As needed.
Total Responses: 550.
Average Time per Response: 30 minutes.
Estimated Total Burden Hours: 275.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $198.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 16, 1999.

Eleanor Smith,

Deputy Director, Office of Management, Administration and Planning Employment Standards Administration.

[FR Doc. 99–6860 Filed 3–19–99; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order No. 664]

Special Industry Committee for All Industries in American Samoa; Appointment; Convention; Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act (FLSA) of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004) and 29 CFR Part 511, I hereby appoint special Industry Committee No. 23 for American Samoa.

2. Pursuant to sections 5, 6(a)(3) and 8 of FLSA, as amended (29 U.S.C. 205, 206(a)(3), and 208), reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR Part 511, I hereby:

(a) Convene the above-appointed industry committee;

(b) Refer to the industry committee the question of the minimum rate or rates for all industries in American Samoa to be paid under section 6(a)(3) of the FLSA, as amended; and,

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industries, and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the FLSA.

The committee shall meet in executive session to commence its investigation at 9:00 a.m. and begin its public hearing at 11:00 a.m. on June 7, 1999, in Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rate prescribed by section 6(a) or 6(b) of the FLSA, as amended by the Fair Labor Standards Amendments of 1996, of $5.15 an hour effective September 1, 1997.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industries that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industries, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR Part 511.10, that will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following:

(a) Competitive conditions as affected by transportation, living, and production costs;

(b) Wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(c) Wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information that has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Upon request, the Wage and Hour Division will mail copies to interested persons who make written request to the Wage and Hour Division. To facilitate mailing, such persons should make advance written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The provisions of Title 29, Code of Federal Regulations, Part 511, will govern the procedure of this industry committee. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a pre-hearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Each pre-

hearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 15, 1999. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC this 16th day of March 1999.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 99–6861 Filed 3–19–99; 8:45 am]

BILLING CODE 4510–27–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Test Plan of Nuclear Regulatory Commission Pursuant to the Federal Acquisition Streamlining Act of 1994

AGENCY: Office of Federal Procurement Policy (OFPP), OMB.

ACTION: Notice of test plan submitted by the Nuclear Regulatory Commission (NRC) under the authority of section 5061 of the Federal Acquisition Streamlining Act of 1994 (FASA).

SUMMARY: Section 5061 of FASA allows the Administrator of OFPP to test alternative and innovative procurement procedures at up to six agencies. The total estimated life cycle cost for each test may not exceed $100,000,000. NRC has submitted a plan pursuant to section 5061 to test a focused source selection procedure. The test entails a phased process beginning with a streamlined procedure for identifying the most competitive sources, followed by a proposal development and evaluation effort involving the three most promising sources. NRC's test further involves an intense negotiation process where efforts to reach agreement are prioritized based on the strength of the offerors' proposals.

Widespread public notice will be provided to announce each acquisition conducted pursuant to this test. All interested parties will be permitted to participate in the initial phase of any such acquisition. Each contract awarded pursuant to this test will not exceed $5 million in total value.

EFFECTIVE DATE: The test will begin on December 17, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Hopkins, Contract Policy Analyst, Division of Contracts and Property Management, U.S. Nuclear Regulatory Commission, Mail Stop T7I2, Washington, DC 20555; E-Mail: sbh@nrc.gov; Telephone: 301–415–6514.

SUPPLEMENTARY INFORMATION: OFPP has authority under FASA section 5061 to conduct additional test programs. Agencies interested in participating in a test program should contact Mr. Nathan Tash, Deputy Associate Administrator for Procurement Innovation, Office of Federal Procurement Policy, 725 17th Street, NW, Washington, DC 20503; E-Mail: ntash@omb.eop.gov; Telephone: 202–395–6167.

Dated: March 15, 1999.

Deidre A. Lee,

Administrator.

Attachment

U.S. Nuclear Regulatory Commission Innovation Test Plan for Focused Source Selection Procedures (Federal Acquisition Streamlining Act Section 5061)

I. Summary of the Test

The Nuclear Regulatory Commission (NRC) proposes to test a focused source selection procedure under the FASA test authority. The procedure has three primary components. The first component entails a streamlined process for obtaining comments through the Internet on draft statements of work and identifying the most promising interested sources. The second involves a proposal development and evaluation effort involving the three most highly rated sources. The third component involves an intense negotiation process where the focus is prioritized based on the ranking of the offerors. The efficiency of many of these processes will be further enhanced through the use of electronic commerce (EC).

For selected acquisitions, NRC will solicit capability statements from all interested sources and then request full proposals only from the three sources rated most highly based on the capability statements. NRC will employ the Internet to issue notices, draft statements of work (SOW) and requests for proposals, as well as to receive responses from offerors that can provide such electronically. NRC will negotiate solely with the highest ranked offeror and will conduct negotiations with the second ranked offeror only if agreement cannot be reached with the highest ranked offeror. Similarly, negotiations with the third ranked offeror will take place only if agreement cannot be reached with either of the two higher ranked offerors. To maintain competitive pressure, NRC would reserve the right to reopen negotiations with any of the three offerors after having tried to negotiate a contract with each of them.

By initiating competitions without the submission of formal proposals, NRC believes it will be able to reduce the burden (both on the government and interested sources) typically assoicated with initially determining which sources are the most competitive. Because the down select would be mandatory, NRC believes this initial screening process will be more effective than the advisory, multi-step process currently authorized by FAR Part 15. NRC further believes that the three sources selected to compete further will have a strong incentive to perform "due diligence" to learn about agency needs, to develop more innovative high value solutions that can better fit with those needs, and to offer stronger proposals.

NRC appreciates the benefits of competition generated by simultaneous negotiations among the most highly rated offerors. At the same time, NRC believes it may also be possible to obtain good deals more efficiently and effectively by prioritizing the focus of its negotiation efforts based on the ranking of these offerors. In most cases, NRC anticipates that it will be able to reach agreement with the top ranked offeror without having to undertake further effort. The test will offer NRC an opportunity to examine if and when negotiating in a successive (versus simultaneous) manner may result in an effective use of those resources dedicated to contract negotiations.

II. Scope of the Test

The Division of Contracts and Property Management, Headquarters, NRC will use focused source selection techniques to procure goods and services, in the NRC's administrative program area. NRC decided to focus on the administrative program area because NRC has not had the same level of success applying existing streamlining measures to administrative service requirements as it has to other program areas.

NRC will review procurement plans for Fiscal Year 2000 to determine which procurements may be candidates for use of the innovation. Among the considerations NRC will use in selecting procurements for the test, NRC will consider the complexity of procurements and whether they involve high proposal preparation cost that discourage capable sources from participating. A project team of procurement policy and operations staff from the Division of Contracts and Property Management (DCPM), including those who participated in the development of the innovation, will

make the initial review. Those procurements which are recommended for the test program will be discussed in early planning meetings with representatives from contracting, the requiring technical offices, budget, and the NRC's Office of Small Business and Civil Rights. The contracting officer will make the final selection of the procurements for the test program.

III. Acquisition Strategy for the Test (Including a Description of (a) How Procedures Under the Test Will Differ From Those Currently Used and (b) the Activities Anticipated in the Various Phases of the Acquisition Cycle Affected by the Test—e.g., Acquisition Planning, Presolicitation, Solicitation, Evaluation, Award, Administration)

• Soliciting and Making an Initial Assessment of Interested Sources

Current process. Today, NRC publicizes notices of contracting opportunities in the Commerce Business Daily (CBD) and invites interested sources to obtain solicitations and submit proposals. Offeror submissions, which include full cost and technical proposals, are then evaluated by NRC to determine initially which sources are the most competitive. For acquisitions of non-commercial administrative services (e.g., research and development services), solicitations are issued after a waiting period of 15 days. If the acquisition is in excess of the simplified acquisition threshold, the solicitation will provide a response time of not less than 30 days.

NRC has come to realize that there is great time and cost involved in making an initial assessment of leading contenders based on full cost and technical proposals. The multi-step selection process set forth in the revised FAR Part 15 provides a helpful means for agencies to reduce the burden associated with conducting initial screenings (i.e., by requiring interested sources to limit their initial submission to information on capabilities, experience, past performance, and any additional area specified by the contracting officer). However, Part 15 still permits a less competitive source to require the agency to review a full proposal. This can be burdensome and inefficient (for both parties).

Test process. Under the test, the NRC will still provide widespread notice of its contracting opportunities. NRC will issue an abbreviated notice with basic information about the planned procurement, make available a draft SOW, request interested parties to provide capability statements (e.g., past performance information and resumes) and invite comments on the draft SOW. The posting will include simplified criteria to be used by NRC to evaluate responses.

Specifically, interested parties will be required to provide the following information:

(1) Name and address of company.
(2) Name, title, Internet address, telephone and fax numbers of person providing information, and person authorizing submission of information for the firm.
(3) EIN/TIN number.
(4) Qualifications of proposed personnel.
(5) List of (usually up to five) contracts performed by the organizational unit of the firm/individual which is proposed to perform the subject work for the NRC that are relevant to the proposed NRC work. Interested parties will be asked to include:
   a. contract number
   b. brief description of the project
   c. two contacts at the organization which awarded each contract
(6) Conceptual approach to performing the work.
(7) Additional information as necessary (e.g., conflict of interest, type of software license).

Interested parties will be informed that their total response excluding qualifications of proposed personnel, must not exceed text which would fill five 8½x11 inch pages in WordPerfect or ASCII, in no smaller than 10-point print. Oral presentations may be used in lieu of written responses.

Because less detailed information is being sought, NRC will permit response times as few as 15 days (rather than the 30 days typically required for non-commercial goods and services above the SAT). A longer period may be authorized by the NRC contracting officer, if warranted.

NRC will score each response based upon an evaluation of past experience of the firm and proposed personnel in performing the same or similar work. Only the three top ranked responses will be permitted to proceed further in the competition. Those excluded from further participation will save the wasted effort of developing proposals that would not likely be selected. This process also should encourage more participation by firms that have successfully performed in the private sector, but because of the high cost, have not previously chosen to compete for government contracts. NRC will save the time spent evaluating detailed proposals when a simpler submission could effectively permit the government to select those sources that are likely to submit the most competitive offers.

NRC recognizes the growing benefit EC offers to improve the ease, efficiency, and effectiveness of interactions between NRC and its vendors.

Like other agencies, NRC has been making its notices of open market contract opportunities above $25,000, that would otherwise be published in the paper version of the CBD, available to the public free-of-charge through "CBDNet." Under the test, NRC will make its abbreviated notices available through CBDNet. In addition, simultaneous to the publication of these notices, NRC will post the draft SOW on the "Contracting with the NRC" Internet site. This posting will include a "Summary Sheet for Solicitations" with basic information about the planned procurement and criteria for evaluating offeror's capabilities. (As a general matter, the Internet site will provide "help and information" including an explanation of the test procedures and a glossary of terms.) Interested firms will be invited to submit responses via the Internet, facsimile or in hard copy. Because interested parties will be able to access a draft SOW electronically through the NRC's Internet homepage at the same time the CBDNet notice is posted, the 15-day waiting period described above will be eliminated.

NRC is aware that a pilot effort is under way to test an electronic posting system (EPS) that would distribute acquisition-related information to industry more quickly and economically. That system is designed to permit buyers to post solicitations and other pertinent information, in addition to notices, directly to the Internet, thus giving sellers access to this information through a single, government-wide point of entry. NRC will consider migrating to EPS during the test if it determines that EPS is capable of providing efficient and effective access to acquisition-related information.

• Issuance of Request for Proposals (RFPs), Proposal Submission, and Evaluation

Current process. As noted above, all interested sources are offered an opportunity to submit cost and technical proposals. This is also true under the advisory, multi-step process currently authorized by FAR Part 15.

Test process. Only the three top ranked respondents will be provided an RFP (which will include the final SOW and all applicable terms and conditions). The RFP will give each of these firms an opportunity to submit a technical and cost proposal. The NRC

will score and rank these three responses using the evaluation criteria that were included in the initial posting on the Internet.

Because only three sources will be offered the opportunity to submit proposals, NRC believes these scores will have a strong incentive to perform "due diligence" to work with NRC's integrated product team, end-users, and others to learn about agency needs, to more effectively and efficiently develop high value solutions that can better fit with those needs, and to offer stronger proposals.

• Negotiation and Award

Current process. Currently, if discussions are to be conducted, a competitive range is established comprised of all of the most highly rated proposals. Discussions are conducted by the contracting officer with each offeror within the competitive range. The discussions are tailored to each offeror's proposal.

Test process. NRC will negotiate with the offeror ranked highest based on an integrated cost/technical assessment. If both parties are unable to reach agreement, NRC may end negotiations with that firm and begin negotiations with the next highest ranked firm. The NRC may re-open negotiations with one or more firms if agreement cannot be reached with one of the next highest ranked firms. If agreement cannot be reached with any of the three firms, the solicitation will be canceled.

NRC recognizes that the recent rewrite of FAR Part 15 will better focus the government's resources on obtaining the best value through a more intensive negotiation process with those that are the most highly rated. However, NRC believes it may also be possible to obtain good deals by focusing its negotiation efforts on one offeror at a time, beginning with the highest technically qualified offeror—trying to reach agreement with that offeror. To maintain competitive pressure, NRC would reserve the right to reopen negotiations with any of the three offerors after having tried to negotiate a contract with each of them. If agreement can be reached with the top ranked offeror without having to undertake further negotiation, as NRC anticipate will often be the case, NRC believes it may save time and administrative expense in the negotiation process without sacrifices to the value received under the contract. The test will offer NRC an opportunity to examine if and when negotiating in this successive (versus simultaneous) manner may hold benefit. For comparative purposes, NRC may also conduct, where appropriate, simultaneous discussions with the three highest ranked offerors for selected procurements.

IV. Test Objectives and Metrics

NRC expects to achieve time savings, cost savings, and increased customer satisfaction through use of its focused source selection procedures.

Time savings. Time savings will be measured by comparing overall procurement acquisition lead times (i.e., the time that elapses from the point when the procurement request is received in the procurement office to the time of award) experienced prior to the test versus under the test for similarly scoped acquisitions. If practicable, NRC will attempt to identify time savings associated with key phases of the test (e.g., identification of the three top ranked offerors, conduct of negotiations).

Cost savings. Value received under contracts awarded under the test will be compared to the value received under similarly scoped contracts awarded prior to commencement of the test. Where a close match does not exist, a comparison of individual categories of work and cost elements will be made where feasible.

Customer satisfaction. A customer service survey will be used to measure customers' (i.e., program offices') satisfaction. NRC is currently developing a survey for general use. This survey will be reviewed to determine if it is suitable for the test or needs to be modified. In addition, NRC will survey participating organizations to obtain their feedback.

Small business participation. Participation by small businesses in test procurements will be compared with small business participation in similar procurements conducted prior to the test innovation. Participation will be measured by evaluating the value of prime contract awards.

V. A List of Regulations, Including Those Required by Law, for Which a Waiver is Necessary for the Successful Completion of the Test Program

NRC seeks to waive the following regulatory requirements.

1. For those cases where non-commercial contracts will result, the time standards set forth in Federal Acquisition Regulation (FAR) 5.203, which implements the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(3)) and the Small Business Act (15 U.S.C. 637(e)(3)) in order to waive the 15-day period and structure a process which allows for flexible deadlines for preparation and submission of materials by interested parties.

2. FAR 5.207(c)(2)(xv), which implements the Office of Federal Procurement Policy Act (41 U.S.C. 416(b)(4)) and the Small Business Act (15 U.S.C. 637(f)(4)) which requires that Commerce Business Daily notices include a statement that, "all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency."

3. FAR 6.003, which defines "full and open competition" to mean that all responsible sources are permitted to compete, implementing the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)), and FAR 6.101, implementing the policy of full and open competition set forth in the Federal Property and Administrative Procedures Act (41 U.S.C. 253).

4. FAR 15.306(d), which requires negotiations with all offerors in the competitive range implementing the Federal Property and Administrative Procedures Act (41 U.S.C. 253b(d)(1)(A)).

5. FAR 15.306(c) which effectively requires consideration of cost in making down select decisions.

VI. Anticipated Impact on Small Businesses, Particularly Small Disadvantaged Businesses (Including a Description of Actions To Be Taken To Mitigate Any Anticipated Negative Impacts)

Small businesses may better be able to compete because they will have an opportunity to comment on the SOW, and they will not have to expend large amounts of resources to determine if they are among the three most highly ranked offerors. The NRC will continue to set aside procurements exclusively for small businesses when conditions permit after consultation with the NRC Office of Small and Disadvantaged Business Utilization.

[FR Doc. 99–6854 Filed 3–19–99; 8:45 am]
BILLING CODE 3110–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No.: 030–05980]

Consideration of License Amendment for Decommissioning the Safety Light Corporation Site in Bloomsburg, PA, and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of license amendment for decommissioning the Safety Light Corporation Site in Bloomsburg, Pennsylvania, and Opportunity for a Hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission is considering issuance of a license amendment to Nuclear Materials License No. 37–00030–02, issued to Safety Light Corporation, to authorize decommissioning of facilities, equipment, and land at the Bloomsburg site which were utilized for previous operations involving radioactive material.

FOR FURTHER INFORMATION CONTACT: James Kottan, Nuclear Regulatory Commission, Region I, King of Prussia, PA 19406–1415, telephone 610–337–5214.

SUPPLEMENTARY INFORMATION: On November 5,1998, the licensee submitted a site decommissioning plan (SDP) to NRC for review that summarized the decommissioning activities that will be undertaken to remediate the buildings, soil, and underground silos contaminated with radioactive material from past operations. The NRC staff is reviewing the SDP and is considering approval of task-specific amendments to the license which would authorize conduct of limited site decommissioning and decontamination to achieve a systematic reduction of the radioactive source term. Safety Light Corporation has two licenses for the Bloomsburg site. Licensee No. 37–00030–02 authorizes possession and use of byproduct material for site characterization and decommissioning of facilities, equipment, and land from past operations. License No. 37–00030–08 authorizes manufacture of certain devices containing tritium as well as research and development activities. Because the licensee is currently conducting operations at the site under License No. 37–00030–08, SLC is not requesting license termination nor release of the site for unrestricted use.

The NRC will require the licensee to remediate the Bloomsburg facility to meet NRC's decommissioning criteria, and during the decommissioning activities, to maintain effluents and doses within NRC requirements and as low as reasonably achievable.

Prior to approving the license amendments to implement the SDP, NRC will have made findings required by the Atomic Energy Act of 1954 as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report. Approval of the SDP will be documented in an amendment to License No. 37–00030–02.

The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings", of NRC's rules and practices for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary, either:

1. By delivery to the Docketing and Service Branch of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's area of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally, or by mail to:

1. The applicant, Safety Light Corporation, 4150–A Old Berwick Road, Bloomsburg, PA 17815 Attention: Mr. Larry Harmon; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the SDP is available for inspection at the NRC's Public Document Room, 2120 L Street NW, Washington, DC 20555, or at NRC's Region I offices located at 475 Allendale Road, King of Prussia, PA. Persons desiring to review documents at the Region I Office should call Ms. Sheryl Villar at (610) 337–5239 several days in advance to assure that the documents will be readily available for review.

Dated at King of Prussia, Pennsylvania, this 10th day of March 1999.

For the Nuclear Regulatory Commission.

George Pangburn,

Director, Division of Nuclear Materials Safety, Region I.

[FR Doc. 99–6908 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–20]

U.S. Department of Energy, Idaho Operations Office; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Regulatory Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of exemptions, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.82(e) and 72.124(b) to the U.S. Department of Energy, Idaho Operations Office (DOE–ID or applicant). Exemption from 10 CFR 72.82(e) would release DOE–ID from the requirements to submit a preoperational test acceptance criteria and test report prior to the receipt of spent fuel at its proposed Independent Spent Fuel Storage Installation (ISFSI). Exemption from 10 CFR 72.124(b) would provide relief to DOE–ID from the requirement to verify the continued efficacy of neutron absorbing materials. The proposed ISFSI is to be located at the Idaho National Engineering and Environmental Laboratory (INEEL), within the Idaho Nuclear Technology and Engineering Center (INTEC) site in Scoville, Idaho . The proposed ISFSI would store the spent nuclear fuel debris created as a result of the Three Mile Island Unit 2 (TMI–2) accident.

Environmental Assessment (EA)

Identification of Proposed Action

The applicant is seeking Commission approval to construct and operate an ISFSI at INTEC. INTEC is an existing facility initially constructed to both store and reprocess spent fuel and high-level waste possessed by DOE. Pursuant to 10 CFR part 72, DOE–ID submitted an application, including a Safety Analysis Report (SAR), for the ISFSI by letter

dated October 31, 1996, as supplemented. NRC staff is currently performing a review of that application. On February 12, 1999, DOE–ID requested an exemption from the requirement of 10 GFR 72.82(e) to submit a report of the preoperational test acceptance criteria and test results at least 30 days prior to the receipt of spent fuel or high-level radioactive waste. The staff is considering granting DOE–ID's request.

On its own initiative, the staff is also considering issuance of an exemption from the requirement of 10 CFR 72.124(b) which states: "When practicable the design of an ISFSI or MRS must be based on favorable geometry, permanently fixed neutron absorbing materials (poisons), or both. Where solid neutron absorbing materials are used, the design shall provide for positive means to verify their continued efficacy." Specifically, the staff is considering granting an exemption from the requirement to provide positive means of verifying the continued efficacy of neutron absorbing materials.

The proposed action before the Commission is whether to grant these two exemptions pursuant to 10 CFR 72.7.

Need for the Proposed Action

The applicant is preparing to build and operate the TMI–2 ISFSI as described in its application and SAR, subject to approval of the pending licensing application. The exemption from 10 CFR 72.82(e) is necessary because DOE is preparing to transfer the spent nuclear fuel from its current location at the Test Area North (TAN) facility to the INTEC facility, immediately following the completion of the preoperational testing.

The exemption from 10 CFR 72.124(b) is necessary because, while this requirement is appropriate for wet spent fuel storage systems, it is not appropriate for dry spent fuel storage systems such as the one DOE–ID plans to use for storage of the TMI–2 fuel debris. Periodic verification of neutron poison effectiveness is neither necessary nor practical for these casks.

Environmental Impacts of the Proposed Action

Section 72.82(e) currently requires that a Part 72 licensee submit to NRC a report of preoperational test acceptance criteria and test results at least 30 days before the receipt of spent fuel into an ISFSI. As part of the review of the applicant's SAR, the staff determined that the scope of the preoperational testing was adequately described. In addition, the staff will be on site during the preoperational testing to both observe and conduct inspections. This allows the staff to conduct a direct observation and independent evaluation as to whether the applicant has developed, implemented, and evaluated preoperational testing activities. Therefore, the reports required by 10 CFR 72.82(e) are not necessary to provide a hold-period for NRC staff review. Further, on September 14, 1998, the Commission issued a proposed rule (63 FR 49046) to eliminate 10 CFR 72.82(e). Applicants for a license are currently required to submit information on a preoperational test program as part of an SAR. The Commission's current practice is to maintain an extensive oversight (i.e., inspection) presence during the preoperational testing phase of the ISFSI; reviewing the acceptance criteria, preoperational test, and test results as they occur. In the proposed rule, the Commission states that it believes neither the report nor the 30-day hold period are needed for regulatory purposes and taking this action will relieve licensees from an unnecessary regulatory burden. A final rule to remove this regulation has not yet been issued by the Commission.

Section 72.124(b) currently requires that where the design of an ISFSI uses solid neutron absorbing material as a method of criticality control, the design of the ISFSI shall provide a positive means to verify the continued efficacy of the absorbing material. On June 9, 1998, the Commission issued a proposed rule (63 FR 31364) to revise 10 CFR 72.124(b). The Commission proposed that for dry spent fuel storage systems, the continued efficacy of neutron absorbing material may be confirmed by a demonstration and analysis before use, showing that significant degradation of the material cannot occur over the life of the facility. The Commission stated in the proposed rule that the potentially corrosive environment under wet storage conditions is not present in dry storage systems because an inert environment is maintained. Under these conditions, there is no mechanism to significantly degrade the neutron absorbing material. Consequently, a positive means for verifying the continued efficacy of the material is not required. A final rule to revise this regulation has not yet been issued by the Commission.

The review of the applicant's SAR showed that credit was taken for only 75% of the original neutron absorbing material being present and that the neutron flux produced by the spent nuclear fuel would deplete only a small percentage of neutron absorbing material during several thousand years of exposure; a time period that is well beyond the expected life of this facility. The neutron absorbing material (poison) is in a form that exposure to the ambient atmosphere of the DSC interior will not cause a significant deterioration of the structural properties of the material over the expected life of the facility.

Alternative to the Proposed Action

Since there are no significant environmental impacts associated with either of the proposed actions, any alternatives with equal or greater environmental impacts are not evaluated. The alternative to the proposed actions would be to: (a) Deny approval of the 10 CFR 72.82(e) exemption, and require the report of preoperational test acceptance criteria and test results at least 30 days before the receipt of spent fuel into an ISFSI and (b) deny approval of the 10 CFR 72.124(b) exemption and, therefore, not allow elimination of the requirement to verify the continued efficacy of neutron absorbing materials. These alternatives would have the same or greater environmental impacts.

Agencies and Persons Consulted

On March 1, 1999, Mr. Alan Merritt of the State of Idaho, INEEL Oversight Program, was contacted about the EA for the proposed actions and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed actions have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting exemptions from 10 CFR 72.82(e) and 10 CFR 72.124(b) will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

This application was docketed under 10 CFR part 72, Docket 72–20. For further details with respect to this action, see the application for an ISFSI license dated October 31, 1996, as supplemented, and the request for exemption dated February 12, 1999, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555 and at the Local Public Document Room at the INEEL Technical Library, 1776 Science Center Drive, Idaho Falls, ID 83402.

Dated at Rockville, Maryland, this 13th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–6905 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–20]

Department of Energy, Idaho Operations Office; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Regulatory Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.102(f)(1) to the U.S. Department of Energy, Idaho Operations Office (DOE–ID or applicant). Exemption from 10 CFR 72.102(f)(1) would relieve DOE-ID from the requirements to use a design earthquake (DE) ground motion equivalent to that of a safe shutdown earthquake (SSE) for a nuclear power plant, as evaluated by the methods of Appendix A of Part 100 for its proposed Independent Spent Fuel Storage Installation (ISFSI). The proposed ISFSI is to be located at the Idaho National Engineering and Environmental Laboratory (INEEL), within the Idaho Nuclear Technology and Engineering Center (INTEC) site in Scoville, Idaho. The proposed ISFSI would store the spent nuclear fuel debris created as a result of the Three Mile Island Unit 2 (TMI–2) accident.

Environmental Assessment (EA)

Identification of Proposed Action

The applicant is seeking Commission approval to construct and operate an ISFSI at INTEC. INTEC is an existing facility initially constructed to both store and reprocess spent fuel and high-level waste possessed by DOE. Pursuant to 10 CFR part 72, DOE–ID submitted an application, including a Safety Analysis Report (SAR), for the ISFSI, by letter dated October 31, 1996, as supplemented. NRC staff is currently performing a review of that application. On September 15, 1997, DOE–ID requested an exemption from the requirement of 10 CFR 72.102(f)(1) which states: "For sites that have been evaluated under the criteria of appendix A of 10 CFR part 100, the design earthquake (DE) must be equivalent to the safe shutdown earthquake (SSE) for a nuclear power plant." In this context, "DE" and "SSE" refer to the design peak ground acceleration (PGA), with an appropriate response spectrum, caused by the largest credible earthquake. The most recent deterministic seismic hazard analysis for the ISFSI site, completed in accordance with appendix A of part 100, yields a DE of 0.56 g PGA. However, DOE–ID proposes a DE with a 0.36 g PGA as an adequately conservative seismic design for the ISFSI.

The staff is considering granting the requested exemption from 10 CFR 72.102(f)(1).

Need for the Proposed Action

The applicant is preparing to build and operate the TMI–2 ISFSI as described in its application and SAR, subject to approval of the pending licensing application. Specifically, DOE is concerned with designing low risk facilities, such as an ISFSI, to the requirements of 10 CFR part 100, appendix A, as it would set precedent that appears to be unnecessary, technically inappropriate, and potentially unattainable throughout the DOE complex. The DOE–ID seismic hazard analysis meeting the requirement of 10 CFR 72.102(f)(1) yields a DE of 0.56 g PGA, with an appropriate response spectrum, for the ISFSI site. DOE–ID proposes a DE of 0.36 g PGA, with an appropriate response spectrum. DOE–ID justifies this value with a site-specific radiological risk analysis.

In response to DOE's September 15, 1997, letter requesting this exemption, the staff prepared a safety evaluation report which was forwarded to the Commission as an attachment to SECY–98–071 (April 8, 1998). In that paper, the staff recognized that although 10 CFR part 72 does not currently allow PSHA e.g., "risk-based," as an acceptable methodology for deriving a DE for an ISFSI, the PSHA results are being accepted by NRC in other licensing actions. The PSHA method is acceptable for nuclear power plants under the January 1997 revisions to 10 CFR parts 50 and 100. Furthermore, NRC has accepted the PSHA method for the design and performance assessment for the proposed high-level waste repository at Yucca Mountain. On May 20, 1998, the Commission informed the staff that it did not object to the proposed exemption.

A complete safety evaluation is available as part of SECY–98–071. In summary, it found that when 10 CFR part 72 was first promulgated in 1980, ISFSIs were largely envisioned to be either spent fuel pools or single, massive dry storage structures. Given the potential accident scenarios, a DE equivalent to a nuclear power plant SSE seemed appropriate for these facilities. Furthermore, for ISFSIs to be located at a nuclear power plant, the DE value was readily available without additional site characterization work, save the geotechnical investigation at the specific ISFSI location. However, an ISFSI storing spent fuel in dry casks or canisters is inherently less hazardous and less vulnerable to earthquake-initiated accidents than an operating nuclear power plant. NRC recognized this in the initial part 72, "Statements of Consideration," and stated that the DE for cask and canister technology need not be as high as a nuclear power plant SSE: "For ISFSIs which do not involve massive structures, such as dry storage casks and canisters, the required design earthquake will be determined on a case-by-case basis until more experience is gained with licensing these types of units." The staff believes that this experience has been gained over the past 13 years of ISFSI operations.

Environmental Impacts of the Proposed Action

The "Final Environmental Impact Statement (FEIS) for the Construction and Operation of the TMI–2 Independent Spent Fuel Storage Installation," NUREG–1626 (March 1998), considered the potential environmental impacts of licensing this facility, including potential accidents during storage. A description of the potential accidents during storage is provided in Section 4.1.2.7.3 of NUREG–1626.

An ISFSI is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-caused events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an ISFSI include tornado winds and tornado generated missiles, design basis earthquakes, design basis floods, accidental cask drops, lightning effects, fires, explosions, and other incidents.

Special ISFSI design features include using nonflammable materials, providing a horizontal storage module with walls and a roof of structural steel and reinforced concrete (approximately 2.5 feet (0.76 meter) thick) to house a dry-shielded steel canister, and a passive ventilation system. Considering the specific design requirements for each accident condition, the design of the ISFSI would prevent loss of

containment, shielding, or criticality control.

The bounding consequences of a major seismic event at an ISFSI using the NUHOMS system technology are limited by a canister drop onto the concrete pad, although this would occur only at a ground motion well above the proposed 0.36 g PGA design value, as detailed in Section 8.2.3.2 of the TMI–2 ISFSI SAR. The casks and canisters are designed to withstand such events with no release of radioactive material. The effects of a NUHOMS canister drop are analyzed in Section 8.2.5.2 of the SAR. In addition, analysis of beyond-design basis accidents leading to cask or canister rupture estimate off-site doses well below the 0.05 Sv (5 rem) whole body dose limit of 10 CFR 72.106(b). In a letter dated July 19, 1996, DOE–ID presented a conservative analysis of off-site doses resulting from a beyond-design basis accident. In this hypothetical accident, for which neither DOE–ID nor the staff has identified a credible mechanism, both a NUHOMS dry shielded canister and one of the 12 inner core debris canisters are assumed to fail, allowing unmitigated dispersal of the contents. The calculated off-site dose from such an accident is 0.75 mSv (75 mrem), well below the 0.05 Sv (5 rem) siting evaluation factor of 10 CFR 72.106(b).

DOE–ID has completed both a Deterministic Seismic Hazard Analysis (DSHA) (Appendix A of Part 100) and PSHA (10 CFR 100.23) for the ISFSI site. The staff has evaluated these analyses and finds the resultant values acceptable: 0.56 g PGA for an SSE by the deterministic method and 0.30 g PGA mean ground motion with a 2000-year return period by the probabilistic method. The staff finds acceptable the risk-graded approach to seismic hazard characterization and design in DOE Standard 1020, which is similar to the risk-graded approach of using the 2000-year return period mean ground motion as the DE is adequately conservative. Moreover, the expected life span of the ISFSI, 20 years with the possibility of renewal, per 10 CFR 72.42, justifies use of this ground motion as the DE. The DE proposed by DOE–ID for the ISFSI, 0.36 g PGA with an appropriate response spectrum exceeds the 0.30 g PGA value for the 2000-year return period mean ground motion. Therefore, the staff concludes that granting the requested exemption from 10 CFR 72.102(f)(1) will maintain an adequate design margin for seismic events and will not be inimical to public health and safety.

Alternatives to the Proposed Action

Since there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 72.102(f)(1) exemption and require that DOE design the facility to withstand the effects of a higher PGA. This alternative would have no significant environmental impact as well.

Agencies and Persons Consulted

On March 1, 1999, Mr. Alan Merritt from the State of Idaho, INEEL Oversight Program, was contacted about the EA for the proposed action and had no concerns.

Finding of no Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.102(f)(1), given the absence of radiological consequences from any credible seismic event, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

The staff finds acceptable the risk-graded approach to seismic hazard characterization and design in DOE Standard 1020, which is similar to the risk-graded approach to design basis events in 10 CFR part 60. Given the absence of radiological consequences from any credible seismic event, the staff finds that the DOE Standard 1020 risk-graded approach of using the 2000-year return period mean ground motion as the DE is adequately conservative. Moreover, the expected life span of the ISFSI, 20 years with the possibility of renewal, per 10 CFR 72.42, justifies use of this ground motion as the DE. The DE proposed by DOE–ID for the ISFSI, 0.36 g PGA with an appropriate response spectrum, exceeds the 0.30 g PGA value for the 2000-year return period mean ground motion. Therefore, the staff concludes that granting the requested exemption from 10 CFR 72.102(f)(1) will maintain an adequate design margin for seismic events and will not be inimical to public health and safety.

This application was docketed under 10 CFR part 72, Docket 72–20. For further details with respect to this action, see the application for an ISFSI license dated October 31, 1996, and the request for exemption dated September 15, 1997, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555 and the Local Public Document Room at the INEEL Technical Library, 1776 Science Center Drive, Idaho Falls, ID 83402.

Dated at Rockville, Maryland, this 13th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–6909 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–20]

Department of Energy, Idaho Operations Office; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemptions From Certain Regulatory Requirements of 10 CFR Part 10

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 20.2301, from the requirements of 10 CFR 20.1501(c) to the U.S. Department of Energy, Idaho Operations Office (DOE–ID or applicant). Exemption from 10 CFR 20.1501(c) would allow DOE–ID to use a DOE Laboratory Accreditation Program process for personnel dosimetry at its proposed Independent Spent Fuel Storage Installation (ISFSI). The proposed ISFSI is to be located at the Idaho National Engineering and Environmental Laboratory (INEEL), within the Idaho Nuclear Technology Engineering Center (INTEC) site in Scoville, Idaho. The proposed ISFSI would store the spent nuclear fuel debris created as a result of the Three Mile Island Unit 2 (TMI–2) accident.

Environmental Assessment (EA)

Identification of Proposed Action: The applicant is seeking Commission approval to construct and operate an ISFSI at INTEC. INTEC is an existing facility initially constructed to both store and reprocess spent fuel and high-level waste processed by DOE. Pursuant to 10 CFR Part 72, DOE–ID submitted an application, including a Safety Analysis Report (SAR), for the ISFSI by letter dated October 31, 1996, as supplemented. NRC staff is currently performing a review of that application. On December 18, 1998, DOE–ID

requested an exemption from the requirements of 10 CFR 20.1501(c) which state in part that "All personnel dosimeters * * * that require processing * * * must be processed and evaluated by a dosimetry processor * * * (1) Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology * * *" Specifically, the applicant proposes allowing the DOE Laboratory Accreditation Program (DOELAP) as an approved alternative.

Need for the Proposed Action: The applicant is preparing to build and operate the TMI–2 ISFSI as described in its application and SAR, subject to approval of the pending license application. The applicant is implementing programs and procedures necessary to operate the ISFSI and seeks to have those programs make efficient use of resources. One of the programs developed by DOE is the capability to monitor personnel occupational radioactive dose for routine and non-routine activities at the TMI–2 ISFSI. Personnel dosimetry requires processing by a qualified processing facility. DOE prefers to use a processing organization that currently processes dosimetry for the INEEL. That processor is accredited under the DOELAP, rather than under the NVLAP. To support the efficient use of resources, DOE has requested to use the DOELAP for processing personnel dosimetry associated with the TMI–2 ISFSI.

Environmental Impacts of the Proposed Action The staff has examined both the NVLAP and DOELAP processes and standards. Both the NVLAP and DOELAP have similar requirements in that they incorporate similar test categories (type of radiation and energy levels), tolerance levels, bias, and performance criteria. The staff concludes that the DOELAP process is at least as stringent as the NVLAP process and further concludes that, for the TMI–2 ISFSI, the DOELAP process is an acceptable alternative to the NVLAP process required by 10 CFR 20.1501(c). The "Final Environmental Impact Statement (FEIS) for the Construction and Operation of the TMI–2 Independent Spent Fuel Storage Installation," NUREG–1626 (March 1998), considered the potential environmental impacts of licensing this facility. The proposed action now under consideration would not change the potential environmental effects assessed in the FEIS. Specifically, there are no environmental impacts associated with the accreditation.

Alternative to the Proposed Action: Since there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impacts are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 20.1501(c) exemption and, therefore, not allow use of the DOELAP. This alternative would have no significant environmental impact as well.

Agencies and Persons Consulted: On March 1, 1999, Mr. Alan Merritt of the State of Idaho, INEEL Oversight Program, was contacted about the EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 20.1501(c) so that DOE–ID may use the DOELAP, rather than the NVLAP, as required by existing regulations, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR part 72, Docket 72–20. For further details with respect to this action, see the application for an ISFSI license dated October 31, 1996, and the request for exemption dated December 18, 1998, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555 and the Local Public Document Room at the INEEL Technical Library, 1776 Science Center Drive, Idaho Falls, ID 83402.

Dated at Rockville, Maryland, this 13th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–6911 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–199]

Manhattan College; Zero Power Reactor Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of a license amendment to Facility Operating License No. R–94, issued to Manhattan College (the licensee) that would allow decommissioning of the Manhattan College Zero Power Reactor (MCZPR) located in the Riverdale section of the borough of the Bronx, New York City.

Environmental Assessment

Identification of the Proposed Action

The MCZPR is located on the Manhattan College campus on the first and second floors of the Leo Engineering Building. The Leo Engineering Building provides classrooms, laboratories, library, and computer facilities for an estimated 1800 students at any one time. The Nuclear Engineering Facility is designed for isolation from the rest of the engineering building.

The MCZPR is a very low power research reactor (100 milliwatts), and was in operation from 1964 until 1996, when it was shut down and defueled. There have been no instances of significant contamination during the operating lifetime of the reactor.

The licensee submitted a decommissioning plan in accordance with 10 CFR 50.82(b) on December 18, 1997, as supplemented on July 21, October 29, November 10, 1998 and January 6, 1999. Decommissioning, as described in the plan, will consist of transferring licensed radioactive equipment and material from the site, and decontamination of the facility to meet unrestricted release criteria (this is also called the DECON option). After the Commission verifies that the release criteria have been met, the reactor license will be terminated. The licensee submitted an Environmental Report on July 21, 1998, (Section 8) which was supplemented on January 6, 1999, that addresses the estimated environmental impacts resulting from decommissioning the MCZPR.

A "Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action to Decommission Manhattan College Zero Power Research Reactor" was published in the **Federal Register** on February 12, 1999, (64 FR 7214) and in the Bronx Press Review on February 11, 1999. There were no comments.

Need for the Proposed Action

The proposed action is necessary because of Manhattan College's 1997 decision to cease operations permanently. As specified in 10 CFR 50.82, any licensee may apply to the NRC for authority to surrender a license

voluntarily and to decommission the affected facility. Further, 10 CFR 51.53(d) stipulates that each applicant for a license amendment to authorize decommissioning of a production or utilization facility shall submit with its application an environmental report that reflects any new information or significant environmental change associated with the proposed decommissioning activities. Manhattan College is planning to use the area that would be released for unrestricted use for other academic purposes.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the radiological effects of the decommissioning will be minimal because the radiation levels of the fuel are very low (less than 2 mrem/hr on contact at removal from the core) due to low burnup. As noted in Section 3.1.3 (July 21, 1998, submittal), the collective dose to all on site workers of the entire decommissioning program is estimated to be less than one person-rem. There is no estimated exposure to the public from the proposed action and there are no postulated accident scenarios that could release radioactive material outside the facility.

Occupational and public exposure may result from transportation of the fuel to Oak Ridge and a plutonium-beryllium (PuBe) neutron source to Los Alamos. The occupational transportation radiological impact is estimated to be 2.4 person-rem. The general public is estimated to receive 1.8 person-rem from transportation. Over 90 percent of this exposure is due to the shipment of the PuBe source to Los Alamos. All shipments are of sealed solid material unlikely to be dispersed under accident conditions. Shipment will be in compliance with all applicable NRC and DOT regulations and subject to physical security and safeguards oversight.

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the MCZPR, the Commission has determined that the proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

The three alternatives to the proposed action for the MCZPR are: SAFSTOR, ENTOMB, and no action. SAFSTOR is the alternative in which the nuclear facility is placed and maintained in a condition that allows the nuclear facility to be safely stored and subsequently decontaminated (deferred decontamination) to levels that permit release for unrestricted use. ENTOMB is the alternative in which radioactive contaminants are encased in a structurally long-lived material, such as concrete, the entombed structure is appropriately maintained and continued surveillance is carried out until the radioactivity decays to a level permitting release of the property for unrestricted use. The no action alternative would leave the facility in its present configuration. However, the regulations in 10 CFR 50.82(b) only allow a limited time for this condition to exist.

Manhattan College has determined that the proposed action (DECON) is the most efficient use of the existing facility, since it wants to use the space that will become available for other academic purposes. The SAFSTOR, ENTOMB or no action alternatives would entail continued surveillance and physical security measures to be in place and continued monitoring by college personnel.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Environmental Assessment prepared for the renewal of Manhattan College's license in March 1985.

Agencies and Persons Contacted

In accordance with its stated policy, on December 14, 1998, the staff consulted with the New York State official, Barbara Youngberg of the Department of Environmental Conservation, regarding the environmental impact of the proposed action. The state official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 18, 1997, as supplemented by letters dated July 21 and October 29, November 10, 1998 and January 6, 1999, which are available for public inspection at the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 16th day of March 1999.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 99–6910 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Joint Meeting of the ACRS Subcommittees on Reliability and Probabilistic Risk Assessment and on Regulatory Policies and Practices

The ACRS Subcommittees on Reliability and Probabilistic Risk Assessment and on Regulatory Policies and Practices will hold a joint meeting on April 7, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 7, 1999—8:30 a.m. until 12:00 Noon.

The Subcommittees will discuss the staff's proposed approach for revising the Commission's Safety Goal Policy Statement. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions

of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m.(EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: March 16, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–6902 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 6, 1999, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, April 6, 1999—1:00 p.m. until the conclusion of business.

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the status of appointment of a new member to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415-7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: March 15, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–6903 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1076 (which should be mentioned in all correspondence concerning this draft guide), is a proposed Revision 1 of Regulatory Guide 1.54 and is titled "Service Level I, II, and III Protective Coatings Applied to Nuclear Power Plants." This proposed revision is being developed to update the NRC's guidance on the selection, qualification, application, and maintenance of protective coatings in nuclear power plants by endorsing the current versions of multiple consensus standards developed by the American Society for Testing and Materials.

The draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by July 30, 1999.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov. For information about the draft guide and the related documents, contact Mr. A.W. Serkiz, (301) 415–6563; e-mail AWS@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax

to (301) 415–2289, or by e-mail to <DISTRIBUTION@NRC.GOV>. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 4th day of March 1999.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 99–6906 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1083 (which should be mentioned in all correspondence concerning this draft guide), is "Content of the Updated Final Safety Analysis Report in Accordance with 10 CFR 50.71(e)." The guide will be in Division 1, "Power Reactors," of the Regulatory Guide Series. This regulatory guide is being developed to provide guidance to licensees to ensure that Updated Final Safety Analysis Reports are updated to reflect changes to the design bases and to reflect the effects of other analyses performed since the original licensing.

During its review of NEI 98–03, "Guidelines for Updating Final Safety Analysis Reports" (October 1998), the staff noticed that the voluntary guidance in Appendix A to NEI 98–03 could be interpreted to allow the removal of all information that is not required to be incorporated into an updated FSAR (UFSAR), regardless of whether that information is associated with risk-significant structures, systems, and components (SSCs). This could occur for SSCs that are not (1) addressed by technical specifications, (2) necessary for the facility to meet its design basis or safety analyses, (3) part of the UFSAR description, as defined in Section 3.7 of NEI 98–03, or (4) otherwise required to be incorporated into the UFSAR in accordance with 10 CFR 50.34(b), 10 CFR 50.71(e), or other NRC requirements including license conditions and orders.

The staff's concern is that the removal of this information was intended by neither the proposed generic letter nor NEI 98–03. The staff is proposing that a statement such as the following be incorporated into Appendix A of NEI 98–03, most likely as a fourth bullet in Section A2, "Controlling Modifications to the Updated FSAR."

It is the intent of this guideline to help licensees remove unimportant information from UFSARs such as excessive detail, obsolete information, or redundant information. This guideline is not intended to be used to remove information from UFSARs regarding SSCs that insights from operating experience or probabilistic risk assessments would indicate are risk significant.

It should be understood that this limitation is voluntary; i.e., licensees who choose to take out information regarding risk-significant SSCs would be free to do so, absent an order or other legally binding requirement (e.g., a rule) directing the licensee not to remove the information.

The staff is specifically requesting comments on the above language and on the appropriateness of retaining information associated with risk-significant SSCs in UFSARs, even when a specific requirement to do so does not exist.

The draft guide has not received complete staff review or approval and does not represent an official NRC staff position.

Public comments are being solicited on Draft Regulatory Guide DG–1083. Comments may be accompanied by additional relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by April 30, 1999.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://ruleforum.llnl.gov/cgi-bin/library?source = *&library = rg__lib&file = *). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov. For information about the draft guide and the related documents, contact Mr. T.A. Bergman, (301) 415–1021, e-mail TAB@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax to (301)415–2289; or by email to <DISTRIBUTION@NRC.GOV>. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 4th day of March 1999.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 99–6907 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Appointments to Performance Review Boards for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Boards for Senior Executive Service.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has announced the following appointments to the NRC Performance Review Boards.

The following individuals are appointed as members of the NRC Performance Review Board (PRB) responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives:

Patricia G. Norry, Deputy Executive Director for Management Services

Stephen G. Burns, Deputy General Counsel, Office of the General Counsel
Guy P. Caputo, Director, Office of Investigations
Samuel J. Collins, Director, Office of Nuclear Reactor Regulation
Margaret Federline, Deputy Director, Office of Nuclear Regulatory Research
Jesse L. Funches, Chief Financial Officer
Anthony J. Galante, Chief Information Officer
Hubert J. Miller, Regional Administrator, Region I
Malcolm R. Knapp, Deputy Director for Regulatory Effectiveness
Carl J. Paperiello, Director, Office of Nuclear Material Safety and Safeguards
Roy P. Zimmerman, Deputy Director, Office of Nuclear Reactor Regulation

The following individuals will serve as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

Karen D. Cyr, General Counsel, Office of the General Counsel
Frank J. Miraglia, Jr., Deputy Executive Director for Regulatory Programs
Ashok C. Thadani, Director, Office of Nuclear Regulatory Research

All appointments are made pursuant to section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Swanson, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–7530.

Dated at Rockville, Maryland, this 15th day of March 1999.

For the U.S. Nuclear Regulatory Commission.

Carolyn J. Swanson,

Secretary, Executive Resources Board.

[FR Doc. 99–6904 Filed 3–19–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (FirstLink Communications, Inc., Common Stock, No Par Value, and Common Stock Purchase Warrants) File No. 1–14271

March 16, 1999.

FirstLink Communications, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d22(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities of the Company have been listed for trading on the BSE and since July 27, 1998, pursuant to a Registration Statement on Form SB–2 which became effective on said date, on the Nasdaq SmallCap Market.

On February 18, 1999, the Company's Securities were suspended from trading on the BSE due to the Company's failing to meet the Exchange's minimum beneficial shareholder requirement with respect to the Common Stock of 600 beneficial shareholders.

The Company has complied with the rules of the BSE by filing with the Exchange a certified copy of the resolution adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the BSE and by setting forth in detail to the Exchange the reasons for the proposed withdrawal and the facts in support thereof. In making the decision to withdraw its Securities from listing on the BSE, the Company considered the minimum beneficial shareholder requirements of the Exchange and, based on a cost/benefit analysis, has decided not to rectify the situation.

The Exchange has informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the BSE.

The Company's application relates solely to the withdrawal from listing of the Securities from the BSE and shall have no effect upon the continued listing of the Securities on the Nasdaq SmallCap Market.

Any interested person may, on or before, April 6, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6915 Filed 3–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23739; 812–11298]

TCAW Galileo Funds, Inc., et al.; Notice of Application

March 16, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1)(G)(i)(II) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a fund of funds relying on section 12(d)(1)(G) of the Act to invest directly in certain equity securities.

APPLICANTS: TCW Galileo Funds, Inc. ("Company"), on behalf of its series TCW Galileo International Equities Fund ("International Fund"), and TCW Funds Management, Inc. ("Adviser").

FILING DATES: The application was filed on September 8, 1998 and amended on January 6, 1999 and March 12, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 8, 1999 and should be accompanied by proof of service on the applicants in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicant, c/o Phillip K. Holl, TCW Funds Management, Inc., 865 South Figueroa Street, Suite 1800, Los Angeles, CA 90017.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada,

Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Company, a Maryland corporation, is registered under the Act as an open-end management investment company. The Company currently is comprised of twenty-one series, including the International Fund. The Adviser, a California corporation, is registered under the Investment Advisers Act of 1940 and is investment adviser to each series of the Company. The Adviser is a wholly-owned subsidiary of The TCW Group, Inc.

2. The International Fund is a fund of funds relying on section 12(d)(1)(G) of the Act. The International Fund's investment objective is long-term capital appreciation through the allocation of assets, within predetermined percentage ranges approved by the board of directors of the Company ("Board"), including a majority of the directors who are not interested persons, as defined in section 2(a)(19) of the Act ("Independent Directors"), among the Company's other separate series (or any new series) which, except for a money market fund, invest in foreign securities (Underlying Funds"). Applicants request relief to permit the International Funds to invest directly in equity securities of companies located in Australia and New Zealand ("Australia and New Zealand Securities"). No Underlying Funds invest in Australia or New Zealand Securities and applicants state shareholders of the International Fund would be disadvantaged if the International Fund could not diversify and capture any performance benefit in these markets.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities (i) represent more than 3% of the acquired company's outstanding voting stock; (ii) more than 5% of the acquiring company's total assets; or (iii) if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will (i) cause the acquiring company to own more than 3% of the acquired company's voting stock, or (ii) cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (a) the acquiring company and the acquired company are part of the same group of investment companies; (b) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities; and short-term paper; (c) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) of the Act or section 22(c) of the Act by a securities association registered under section 15A of the Securities Exchange Act of 1934 or the Commission; and (d) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G). Applicants believe that the proposed arrangement would comply with the provisions of section 12(d)(1)(G), except for the fact that the International Fund would like the flexibility to invest a portion of its assets directly in Australia and New Zealand Securities.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt, conditionally or unconditionally, persons or transactions from the provisions of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants believe that permitting the International Fund to invest in Australia and New Zealand Securities as described in the application would not raise any of the concerns that the requirements of section 12(d)(1)(G) were designed to address.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions.

1. Before approving any advisory contract under section 15 of the Act, the Board, on behalf of the International Fund, including a majority of the Independent Directors, will find that the advisory fees, if any, charged under such contract are based on services provided that are in addition to, rather than duplicative of, services that are provided under any Underlying Fund's advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the International Fund.

2. Applicants will comply with all of the provisions of section 12(d)(1)(G) of the Act, except for section 12(d)(1)(G)(i)(II) to the extent that it restricts the International Fund from investing in securities as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6918 Filed 3–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of March 22, 1999.

A closed meeting will be held on Thursday, March 25, 1999, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Carey, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, March 25, 1999, at 2:30 p.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: March 18, 1999.

Johathan G. Katz,

Secretary.

[FR Doc. 99–7062 Filed 3–18–99; 12:22 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41164; File No. SR–Amex–99–01]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the American Stock Exchange LLC Relating to Reductions in Airline, Natural Gas, Pharmaceutical and Securities Broker-Dealer Indices Values

March 12, 1999.

I. Introduction

On January 6, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to reduce the index values for the Airlines, Natural Gas, Pharmaceutical and Securities Broker/Dealer Indices.

The proposed rule change was published for comment in the **Federal Register** on February 9, 1999.[3] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The Commission granted the Exchange approval to list and trade options on the Airline Index on December 12, 1994,[4] the Natural Gas Index on March 7, 1994,[5] the Pharmaceutical Index on June 18, 1992,[6] and the Securities Broker/Dealer Index on March 15, 1994.[7] Initially, the aggregate value of the stocks contained in the Indices was reduced by divisors to establish index benchmark values of 200 in the Airline Index and Pharmaceutical Index and 300 in the Natural Gas Index and Securities Broker/Dealer Index. As of December 16, 1998, the index values were as follows: Airline Index—275, Pharmaceutical—742, Natural Gas Index—216, and Securities Broker/Dealer Index—464.[8]

In the case of the Airline, Pharmaceutical and Securities Broker/Dealer Indices, the Exchange believes that as a consequence of the rising values of the Indices, premium levels for options on the Indices have also risen. According to the Exchange, these higher premium levels have been cited as the principal factor that has discouraged retail investors and some market professionals from trading those index options. In addition, in the case of the Natural Gas Index the Exchange represents that its membership has indicated that indices with values between 100 and 200 tend to promote increased liquidity in the overlying options. As a result, the Exchange is proposing to decrease the Indices by one-half of their present values.

To decrease the values of the Indices, the Exchange will double the divisor used in calculating the Indices. The Amex proposes no other changes to the components of the Indices, their methods of calculation (other than the change in the divisor), expiration style of the options or any other Index specification.

The Amex believes that lower value Indices will result in substantial lowering of the dollar values of options premiums for options contracts on the Airline, Natural Gas, Pharmaceutical, and Securities Broker/Dealer Indices. The Exchange plans to adjust outstanding series similar to the manner in which equity options are adjusted for a 2-for-1 stock split. On the effective date of the split "ex-date," the number of outstanding options contracts on the Indices will be doubled and the associated strike prices halved.

Position and Exercise Limits

Currently, position and exercise limits for the Indices are as follows: Airline—15,000 contracts; Natural Gas—15,000 contracts; Pharmaceutical—12,000 contracts; and Securities Broker/Dealer—15,000. The Exchange proposes to double the position and exercise limits to 30,000, 30,000, 24,000, and 30,000 contracts respectively, on the same side of the market. This change will be made simultaneously with the proposed reduction of the Indices' values and the doubling of the number of contracts.

Because the new position and exercise limits will be equivalent to the Indices' present limits, the Exchange believes there is no additional potential for manipulation of the Indices or the underlying securities. Further, an investor who is currently at the 12,000 or 15,000 contract limit will, as a result of the Index value reductions, automatically hold 24,000 or 30,000 contracts to correspond with the lowered Index values. These increased position and exercise limits will revert to the original limits at the expiration of the furthest expiration month for non-LEAPs as established on the date of the split.[9]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b).[10] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[11] requirements in that the proposed reduction in value of the Indices and the associated temporary increases in the position and exercise limits should remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.[12]

By reducing the value of the Indices, the Commission believes that a broader range of investors will be provided with a means to hedge their exposure to the market risk associated with the stocks underlying the Indices. Similarly, the Commission believes that reducing the value of the Indices may attract additional investors, thus creating a more active and liquid trading market.

The Commission also believes that Amex's proposed adjustments to its position and exercise limits applicable to the Indices are appropriate and consistent with the Act. In particular, the Commission believes that the temporary doubling of the position and exercise limits is reasonable in light of the fact that the size of the options contracts on the Indices will be halved and that, as a result, the number of

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41010 (February 1, 1999), 64 FR 6404 (February 9, 1999).

[4] Securities Exchange Act Release No. 35084 (December 12, 1994), 59 FR 65419 (December 19, 1994).

[5] Securities Exchange Act Release No. 33720 (March 7, 1994), 59 FR 11630 (March 11, 1994).

[6] Securities Exchange Act Release No. 30830 (June 18, 1992), 57 FR 28221 (June 24, 1992).

[7] Securities Exchange Act Release No. 33766 (March 15, 1994), 59 FR 13518 (March 22, 1994).

[8] On May 1, 1998, the Commission granted the Exchange approval to split the Airline Index in half. *See* Securities Exchange Act Release No. 39941 (May 1, 1998), 63 FR 25251 (May 7, 1998). On March 20, 1998, the Commission granted the Exchange approval to split the Securities Broker/Dealer Index in half. *See* Securities Exchange Act Release No. 39775 (March 20, 1998), 63 FR 14741 (March 26, 1998).

[9] *See* note 13 *infra*.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

outstanding options contracts an investor holds will be doubled. The temporary doubling of the position and exercise limits, therefore, will ensure that investors will not potentially be in violation of the lower existing position and exercise limits while permitting market participants to maintain, after the split of the Indices, their current level of investment in the Airline, Natural Gas, Pharmaceutical, and Securities Broker/Dealer Index option contracts. As noted above, the increased position and exercise limits of 24,000 and 30,000 contracts will revert to their original limits of 12,000 and 15,000 contracts at the expiration of the furthest expiration month for non-LEAPs as established on the date of the split.[13]

The Commission further believes that doubling the Airline, Natural Gas, Pharmaceutical, and Securities Broker/Dealer Indices' divisors will not have an adverse market impact on the trading in these options. After the split, the Indices will continue to be composed of the same stocks with the same weighings and will be calculated in the same manner, except for the proposed change in the divisors. The Commission notes that the Amex's surveillance procedures will also remain the same.

Finally, the Commission notes that, before implementing the proposed changes, the Exchange will provide reasonable advance notice of the proposed changes to the Indices to its membership.[14] From experience, the Commission finds that reasonable notice may include the Exchange providing notice to its membership at least two weeks prior to the implementation of the proposed changes to the values of the Indices and the resulting adjustments to the outstanding options, issuing a second notice to its members just prior to implementing the Index reductions setting forth the new divisor and other relevant information, and issuing a circular to its members at least one month prior to the expiration of the furthest non-LEAP options on the Indices reminding its member firms that the respective position and exercise limits will revert to their original levels. Although not exclusive, the Commission believes that these proposed time frames should allow for adequate notice to be provided to the holders of all open positions in options on the Airline, Natural Gas, Pharmaceutical, and Securities Broker/Dealer Indices and other market participants.

[13] According to the Amex, December 1999 will be the furthest expiration months for non-LEAPs on the Indices, for purposes of the reversion of position and exercise limits to their original levels. Per telephone conversation between Scott Van Hatten, Legal Counsel, Amex, and Marianne Duffy, Division of Market Regulation, SEC, on January 28, 1999.

[14] *Id.* and telephone conversation between Scott Van Hatten, Legal Counsel, Amex, and Heather Traeger, Division of Market Regulation, SEC, on March 11, 1999.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–Amex–99–01) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6917 Filed 3–19–99; 8:45 am]

BILLING CODE 8010–01–M

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41170; File No. SR–MSRB–99–1]

March 15, 1999.

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G–38 on Consultants

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 4, 1999, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–99–1) as described in Items I, II, and III below, which Items have been prepared by the Board. The MSRB has designated this proposal as one constituting a stated policy, practice or interpretation with respect to the enforcement of an existing rule under Section 19(b)(3)[3] of the Act which renders the proposal effective upon receipt of the filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a notice of interpretation concerning Rule G–38 on consultants. The text of the proposed rule change is as follows in italics.

* * * * *

Rule G–38 Question and Answer Agreement to Jointly Seek Underwriting Assignments

Q: Dealer Firm A and Dealer Firm B have entered into an agreement to jointly seek underwriting assignments. As part of this agreement, the two dealers shave jointly submitted proposals to issuers. Dealer Firm A ultimately is selected to underwrite a negotiated sale of a primary offering of municipal securities (i.e., "municipal securities business" as defined in Rule G–37). Dealer Firm B will not act as an underwriter on this offering but will assist Dealer Firm A in structuring the transaction. Dealer Firm A will compensate Dealer Firm B for the work it provides on the transaction. Is Dealer Firm B a consultant to Dealer Firm A pursuant to Rule G–38, on consultants?

A. Yes. Dealer Firm B is a consultant to Dealer Firm A because, pursuant to the definition of consultant in Rule G–38(a)(i), Dealer Firm B is: (1) used by Dealer Firm A to obtain municipal securities business, (2) through direct or indirect communication with an issuer on behalf of Dealer Firm A, and (3) the communication is undertaken by Dealer Firm B in exchange for, or with the understanding of receiving, payment from Dealer Firm A. Moreover, Dealer Firm B is not exempt from the definition of consultant since it is not a municipal finance professional, and its sole basis of compensation is not the actual provision of legal, accounting or engineering advice, services or assistance. In addition, the Board believes that, even though Dealer Firm B is providing substantive work on the transaction, any dealer used by another dealer (other than a member of the syndicate) to assist in obtaining or retaining municipal securities business is acting as a consultant pursuant to Rule G–38.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR. 240.19b–4.

[3] 15 U.S.C. 78s(b)(3).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On January 17, 1996, the Commission approved Board Rule G–38, on consultants.[4] The Board adopted the rule because it was concerned about dealers' increasing use of consultants to obtain or retain municipal securities business, notwithstanding the requirements of: (i) Rule G–37 concerning political contributions and prohibitions on municipal securities business; (ii) Rule G–20 concerning gifts and gratuities; and (iii) Rule G–17 concerning fair dealing. Rule G–38 requires dealers to disclose information about their consultant arrangements to issuers and the public. Recently, the Board received an inquiry from a dealer concerning the application of Rule G–38 to instances in which dealers have entered into agreements to jointly seek underwriting assignments. The Board has determined to publish this fourth notice of interpretation [5] which sets forth, in question-and-answer format, to provide general guidance on Rule G–38 and to assist the municipal securities industry, and, in particular, brokers, dealers, and municipal securities dealers in understanding and complying with Rule G–38. The Board will continue to monitor the application of Rule G–38, and, from time to time, will publish additional notices of interpretations, as necessary.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C)[6] of the Act, which provides, among other things, that the rules of the Board shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers, and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board and, therefore, has become effective pursuant to Section 19(b)(3)(A)[7] of the Act, and subparagraph (f) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–99–1 and should be submitted by April 12, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6830 Filed 3–19–99; 8:45 am]

BILLING CODE 8010–01–M

---

[4] Securities Exchange Act Release No. 36727 (January 17, 1996), 61 FR 1955 (January 24, 1996). The rule became effective on March 18, 1996.

[5] *See* Securities Exchange Act Release No. 36950 (March 11, 1996), 61 FR 10828 (March 15, 1996), *MSRB Reports*, Vol. 16, No. 2 (June 1996) at 3–5; Securities Exchange Act Release No. 37997 (November 29, 1996), 61 FR 64781 (December 6, 1996), *MSRB Reports*, Vol. 17, No. 1 (January 1997) at 15; and Securities Exchange Act Release No. 40499 (September 29, 1998), 63 FR 53739 (October 6, 1998), *MSRB Reports*, Vol. 18, No. 2 (August 1998) at 13. *See also MSRB Manual* (CCH) at paragraph 3686.

[6] 15 U.S.C. 78o–4(b)(2)(C).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41171; File No. SY–NYSE–99–8]

Self-Regulatory Organization; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Continuing Annual Listing Fees

March 15, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 16, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the NYSE. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Paragraph 902.02(C) of the Exchange's Listed Company Manual ("Manual") contains the schedule of current continuing annual listing fees for NYSE-listed companies. The Exchange proposes to amend Paragraph 902.02(c) of the Manual.Paragraph 902.02(C) currently establishes a maximum continuing annual listing fee of $500,000 for each issue (*i.e.*, security) listed by an issuer. The NYSE proposes to amend Paragraph 902.02(C) to apply a $500,000 cap to all securities listed by an issuer, other than derivative products, fixed-income products, and closed-end funds. The Exchange seeks accelerated approval of the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

amendment to Paragraph 902.02(C) of the Manual.

The text of the proposed rule change is available at the Office of the Secretary, NYSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The proposed rule change amends the listed company fee schedule, set forth in Paragraph 902.02 of the Manual, as it applies to continuing annual listing fees. Specifically, the Exchange seeks to amend the current capped fee structure, whereby the continuing annual listing fee for each issue (*i.e.*, security) is capped at $500,000. Under the proposal, the $500,000 cap will apply to all issues combined for each issuer. Thus, in computing the continuing annual listing fee for a particular issuer, the Exchange will sum up the fees for each class (or series) of security for a listed company and cap the feed for the issuer at $500,000. For purposes of this calculation, derivative products and fixed-income products will not be subject to the $500,000 cap and will continue to be billed separately, above and beyond the cap. In addition, closed-end funds will continue to be treated separately.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(4)[3] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6 of the Act.[4] More specifically, the Commission believes that the reduction in continuing annual listing fees is consistent with Section 6(b)(4) of the Act,[5] which requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities.[6] The Commission believes that the proposal may ease the financial burden for NYSE-listed companies that list multiple issues on the Exchange, thus facilitating capital formation and furthering competition among the Exchange and other market centers.

The Commission finds good cause for approving the proposal prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval will permit Exchange-listed issuers to take advantage of the Exchange's reduction in continuing annual listing fees. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) and Section 19(b)(2) of the Act, to grant accelerated approval to the proposal.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–8 and should be submitted by April 12, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSE–99–8) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6916 Filed 3–19–99; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b)(4).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation, 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Emergency Review Request and Proposed Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is requesting emergency consideration from OMB by March 29, 1999 of the information collection listed below.

Disability Update Report—0960–0511. The Social Security Act requires a periodic review of the disabled status of recipients whose benefits are based on disability to determine whether they continue to be eligible for these benefits. SSA uses the information collected on the SSA–455 to identify those beneficiaries who have medically improved and/or returned to work and have substantial earnings, and to decide whether a full medical continuing disability review should be conducted or deferred to a later date. The respondents are recipients of

supplemental security income and/or social security disability benefits.

Number of Respondents: 900,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 225,000 hours.

In addition, SSA will submit this collection for approval under the normal OMB clearance process. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Comments should be directed to the OMB Desk Officer and the SSA Reports Clearance Officer at the addresses listed below. You can obtain a copy of the collection instrument and/or OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him. Comments will be most useful if received within 60 days from the date of this notice.

(SSA Address)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

(OMB Address)

Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

Dated: March 16, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–6822 Filed 3–19–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 3012]

Determination on U.S. Position on Proposed Credit Facility of EBRD to Bosnia and Herzegovina

Pursuant to the authority vested in me by section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as enacted in Public Law 105–277 ("FOAA"), I hereby waive the application of Section 570 of the FOAA with regard to the U.S. position on proposed credit programs of the European Bank for Reconstruction and Development in Bosnia and Herzegovina.

The U.S. representative may vote in favor of a proposed EBRD credit line facility to banks in Bosnia and Herzegovina and a capital investment in the Microenterprise Bank (MB).

I hereby determine that these programs would directly support the implementation of the Dayton Agreement and its Annexes.

This Determination shall be published in the **Federal Register**.

Dated: March 9, 1999.

Madeline Albright,

Secretary of State.

[FR Doc. 99–6927 Filed 3–19–99; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending March 12, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Secs. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–5221.

Date Filed: March 12, 1999.

Parties: Members of the International Air Transport Association.

Subject: PTC2 ME–AFR 0026 dated 12 March 1999, mail Vote 988—TC2 Middle East-Africa Expedited Resolution 010b, intended effective dates: 1 April/1 May 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–6858 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application and Use the Revenue From a Passenger Facility Charge (PFC) at Bush Field Airport, Augusta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Bush Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 21, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Federal Aviation Administration, DOT, 1701 Columbia Avenue, Suite 2–260, College Park, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Albert McDill, Executive Director of the Public Agency at the following address: Augusta Aviation Commission, 1501 Aviation Way, Augusta, GA 30906.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Public Agency under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Gaetan, Program Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, GA 30337–2747, Phone: (404) 305–7148. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application impose and use the revenue from a PFC at Bush Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 15, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by Augusta Aviation Commission was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 25, 1999.

The following is a brief overview of the application.

PFC Application No.: 99–01–C–00–AGS.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1999.

Proposed charge expiration date: September 1, 2026.

Total estimated PFC revenue: $29,169,803.00.

Brief description of proposed project(s): Impose & Use Terminal Construction/Rehabilitation.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: ATCO filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Public Agency.

Issued in College Park, Georgia on March 15, 1999.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 99–6938 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (99–22–00–CHO) To Impose and Use a Passenger Facility Charge (PFC) at Charlottesville-Albemarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Charlottesville-Albemarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 21, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Art Winder, Project Manager, Washington, Airports District Office, 23724 Air Freight Lane, Cargo 5 Bldg., 2nd Fl. Dulles, VA 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bryan Elliott, Executive Director, Charlottesville-Albemarle Airport Authority at the following address: 201 Bowen Loop, Charlottesville, Virginia 22911.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albemarle Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Art Winder, Project Manager, Washington, Airports District Office, 23723 Air Freight Lane, Cargo 5 Building, 2nd Floor, Dulles, VA 20166, (703) 661–1363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Charlottesville-Albemarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 8, 1999, the FAA determined that the application to impose and use a PFC submitted by the Charlottesville-Albemarle Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 6, 1999. The following is a brief overview of the application.

Application number: 99–12–C–00–CHO.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 2004.

Proposed charge expiration date: June 1, 2004.

Total estimated PFC revenue: $160,000.

Brief description of proposed projects:

—Air Carrier Terminal Building Refurbishment

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Foreign carriers ticketing passengers through the Charlottsville-Albermarle Airport and Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, #111, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albermarle Airport Authority.

Issued in Jamaica, New York, on March 1, 1999.

Kenneth Kroll,

AIP/PFC Team Leader, AEA–610, Eastern Region.

[FR Doc. 99–6937 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In February 1999, there were five applications approved. Additionally, six approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of section 158.29.

PFC Applications Approved

Public Agency: Jackson County Airport Authority, Medford, Oregon.

Application Number: 99–05–C–00–MFR.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,583,000.

Earliest Charge Effective Date: June 1, 2003.

Estimated Charge Expiration Date: February 1, 2006.

Class of Air Carriers Not Required To Collect PFC's: Operations by air taxi/commercial operators when enplaning revenue passengers in limited, irregular, special service air taxi/commercial operations such as air ambulance services, student instruction, non-stop sightseeing flights that begin and end at the airport and are conducted within a 25-mile radius of the airport, and other similar limited, irregular, special service operations by such air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than1 percent of the

total annual enplanements at Rogue Valley International—Medford Airport.

Brief Description of Projects Approved for Collection and Use:

Runway lighting.
Airport emergency generator.
Runway 14/32 rehabilitation.
Security access system.

Decision Date: February 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

Public Agency: Milwaukee County, Milwaukee, Wisconsin.

Application Number: 99–04–U–00–MKE.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $2,665,000.

Charge Effective Date: May 1, 1995.

Estimated Charge Expiration Date: June 1, 2004.

Class of Air Carriers not Required To Collect PFC'S: No change from previous decision.

Brief Description of Projects Approved for Use: Storm water and deicing system design and construction phase III; Runway 7L/24R extension.

Decision Date: February 9, 1999.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Minneapolis Airports District Office, (612) 713–4363.

Public Agency: Clearfield-Jefferson Counties Regional Airport Authority, Falls Creek, Pennsylvania.

Application Number: 99–3–C–00–DUJ.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $172,710.

Earliest Charge Effective Date: March 1, 2000.

Estimated Charge Expiration Date: June 1, 2003.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less then 1 percent of the total annual enplanements at Dubois-Jefferson County Airport.

Brief Description of Projects Approved for Collection and Use:

Airport beacon
Terminal building expansion and modifications
Runway, taxiway, and apron overlays
PFC application and administration

Brief Description of Projects Approved for Collection Only: Cargo apron expansion.

Decision Date: February 12, 1999.

FOR FURTHER INFORMATION CONTACT: John Carter, Harrisburg Airports District Office, (717) 730–2836.

Public Agency: Friedman Memorial Airport Association, Hailey, Idaho.

Application Number: 99–04–C–00–SUN.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,085,105.

Earliest Charge Effective Date: June 1, 1999.

Estimated Charge Expiration Date: April 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: Part 135 air taxi/commercial operators who conduct operations in air commerce carrying persons for compensation or hire, in aircraft with a seating capacity of 10 or less.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Friedman Memorial Airport.

Brief Description of Project Approved for Collection and Use: Upgrade airport object free area and obstacle free zone to standards.

Brief Description of Project Approved for Use: Upgrade runway safety area.

Decision Date: February 23, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

Public Agency: Wood County Airport Authority, Parkersburg, West Virginia.

Application Number: 99–01–C–00–PKB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $305,491.

Earliest Charge Effective Date: May 1, 1999.

Estimated Charge Expiration Date: August 1, 2002.

Classes of Air Carriers Not Required To Collect PFC's: (1) Carriers operating under Part 135, (2) carriers operating under Part 91, (3) and any unscheduled carriers operating under Part 121.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each of the approved classes accounts for less than 1 percent of the total annual enplanements at Wood County Airport.

Brief Description of Projects Approved for Collection and Use:

Landslide repair on safety area adjacent to taxiway.
Runway 3/21 rehabilitation.
Runway 10/28 rehabilitation.

Decision Date: February 24, 1999.

FOR FURTHER INFORMATION CONTACT: Elonza Turner, Beckley Airports Field Office, (304) 252–6216.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
97–05–I–01–PLN, Pellston, MI	01/27/99	$17,500	$16,250	09/01/97	09/01/97
98–07–I–01–PLN, Pellston, MI	01/27/99	115,360	107,510	01/01/03	09/01/02
98–01–C–02–LLB, Lubbock, TX	01/28/99	11,187,305	11,564,767	04/01/00	04/01/00
96–02–C–02–CIC, Chico, CA	02/03/99	88,550	95,600	09/01/98	09/01/98
92–01–C–02–PIB, Moselle, MS	02/09/99	152,639	153,636	12/01/98	12/01/98
92–01–C–06–SJC, San Jose, CA	02/12/99	54,361,826	71,744,826	02/01/01	10/01/01

Issued in Washington, DC on March 16, 1999.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 99–6940 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–99–5219]

Notice of Request for Clearance of a New Information Collection: National Ferry Study

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget's (OMB) approval for a new information collection related to the Nation's ferry operations. The information to be collected will be used to: (1) Inventory existing ferry operations; (2) determine the potential for new ferry routes; (3) determine the potential for alternative fuel ferries; and (4) determine the potential for high speed ferries.

DATES: Comments must be submitted on or before May 21, 1999.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Gorman, (202) 366–5001, Office of Intermodal and Statewide Planning, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. Office hours are from 7:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: National Ferry Study.

Background: The Transportation Equity Act for the 21st Century (TEA–21), section 1207(c), directs the Secretary of Transportation to conduct a study of ferry transportation in the United States and its possessions. The FHWA's Office of Intermodal and Statewide Planning will conduct a survey of approximately 250 operators of existing ferry services to identify: (1) The existing ferry operations including the location and routes served; (2) the source and amount, if any, of funds derived from Federal, State, or local governments supporting ferry construction or operations; (3) the potential domestic ferry routes in the United States and its possessions and to develop information on those routes; and (4) the potential for use of high speed ferry services and alternative-fueled ferry services. The information will be collected by telephone from approximately 250 operators of ferry services. Before the telephone surveys begin, the Passenger Vessel Association and the American Association of State Highway and Transportation Officials will mail letters to their respective members advising them of the purpose of the survey and encouraging their participation. The survey will request the respondents to provide information such as: (1) The points served; (2) the amount and source of Federal, State, and/or local funds used in the past three years; (3) the type of ownership; (4) the number of passengers and vehicles carried in the past year; (5) any new routes expected to be added within the next five years; and (6) the highways that are connected by the ferries.

Respondents: The respondents to the survey will be 250 operators of existing ferry services in the United States.

Estimated Average Burden per Response: The estimated average burden per response is 20 minutes.

Estimated Total Annual Burden: The estimated total annual burden is 83 hours.

Frequency: This is a one-time survey.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic Access: Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Authority: The Transportation Equity Act for the 21st Century, (Pub. L. 105–178), section 1207(c); and 49 CFR 1.48.

Issued on: March 15, 1999.

Michael J. Vecchietti,

Director, Office of Information and Management Services.

[FR Doc. 99–6848 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 99–5287; Notice 1]

Dailey Body Company; Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 121

We are asking comments from the public on the application by Dailey Body Company of Oakland, California, that five trailers be exempted from Motor Vehicle Safety Standard No. 121 *Air Brake Systems.* The statutory basis for this request is that "compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard." 49 U.S.C. 30113.

We are publishing this notice of receipt of the application in accordance with our regulations on temporary exemptions. This does not represent any judgment by us about the merits of the application.

The discussion below is based upon the information that Dailey provided in its application.

Why Dailey Needs an Exemption

Dailey is requesting an exemption for five "special reel hauling" trailers that it was unable to complete before March 1, 1998, because of changes requested by its customer, Pacific Gas & Electric Co., (PG&E) during construction of the trailers. On March 1, 1998, an amendment to Federal Motor Vehicle Safety Standard No. 121 *Air Brake*

Systems became effective, requiring these trailers to be equipped with an anti-lock brake system. According to the company, there is no after market kit available to convert the air-over-hydraulic brake system to meet the new requirements of S5.1.6.

Why Compliance Would Cause Dailey Substantial Economic Hardship

Since there is no aftermarket kit available to convert the trailers to a conforming brake system, Dailey would be unable to sell them absent an exemption. It has $250,000 of its operating capital tied up in the trailers, and would have to absorb the loss. This figure is almost equal to its combined net income for the years 1996 and 1997, $252,519.

How Dailey Tried in Good Faith to Comply With Standard No. 121

Dailey's total trailer production in the 12-month period preceding the filing of its application was 43. It was also the final-stage manufacturer and certifier of 938 "chassis with bodies." Other than the five trailers for which it requests exemption, its trailers manufactured since March 1, 1998, comply with Standard No. 121.

Why an Exemption for Dailey Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

Dailey believes that it would be in the public interest "to keep from imposing a hardship, that could adversely affect employment, on a company that has been successfully building truck body equipment for over 50 years." Because only five trailers will be exempted, the risk to the public will be small. The trailers were manufactured to conform with regulations that existed at the time production was scheduled.

How To Comment on Dailey's Application

We invite written comments on Dailey's application. Please send them in two copies, referring to the docket and notice number, to: Docket Management, National Highway Traffic Safety Administration, room PL–401, 400 Seventh Street, SW, Washington, DC 20590. We shall consider all comments received before the close of business on the comment closing date below. Comments will be available for examination in the docket at the above address both before and after that date, between the hours of 10 a.m. and 5 p.m. To the extent possible, we will also consider comments filed after the closing date. When the Administrator has made a decision, we shall publish it in the **Federal Register**.

Comment closing date: April 21, 1999.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on: March 16, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–6845 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–4966; Notice 2]

TarasPort Trailers, Inc.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

We are granting the application by TarasPort Trailers, Inc., of Sweetwater, Tennessee, for a temporary exemption from Motor Vehicle Safety Standard No. 224 *Rear Impact Protection*, as provided by 49 CFR part 555, finding that "compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard." Sec. 555.6(a).

On January 13, 1999, we published a notice inviting comment on TarasPort's application (64 FR 2273). The salient points of the application are set out below.

Why TarasPort Needs a Temporary Exemption

Located in the Sweetwater Industrial Park in Monroe County, Tennessee, TarasPort has manufactured trailers since April 1988. Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 Kg or more be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards*. TarasPort manufactured a total of 237 trailers in 1997, including "two models of drop decks equipped with rear deck extenders." The extenders deploy in 1-foot increments, up to 3 feet, from the rear of the trailer. S5.1.3 of Standard No. 224 requires that the horizontal member of the rear impact guard must be as close as practicable to the rear extremity of the vehicle, but in no case farther than 305 mm. from it. TarasPort had asked NHTSA to exclude its two trailer models as "special purpose vehicles," but we denied its request. We also determined that the trailers' rear extremity, with the extenders deployed "would be the rearmost surface on the extenders themselves." In order to meet S5.1.3, TarasPort must redesign these models so that the rear face of the horizontal member of the guard will never be more than 305 mm forward of the rearmost surface on the extenders, when the extenders are in any position in which they can be placed when in transit. It has asked for a 2-year exemption in order to do so.

Why Compliance Would Cause TarasPort Substantial Economic Hardship

TarasPort employs 16 people, including its two working owners. An increasing amount of its sales is comprised of the two extended-deck trailers, from 55% in 1997 to 63% in the first two quarters of 1998. Using its existing staff, the company estimates that it needs 18 to 24 months of design and testing to bring the trailers into compliance with S5.1.3, and that the modifications required will cost $1800 to $2000 per trailer.

If the application is denied, TarasPort would have to discontinue production for 18 to 24 months, or hire an engineering consulting firm to possibly reduce that time, at a fee of $80 to $120 an hour. It would be forced to lay off a majority of its employees, and it would lose the market and established customer base that it has achieved as a niche producer over the 10 years of its existence.

According to its financial statements, TarasPort has had a small net income in each of its past three fiscal years, though the income each year has been substantially less than the year before. The net income for 1997 was $87,030.

How TarasPort Has Tried To Comply With the Standard in Good Faith

Most of TarasPort's trailers have low deck heights and rear ramp compartments "which only compound rear impact compliance problems." Nevertheless, the company was able to bring its designs into compliance by Standard No. 224's effective date, with the exception of the two extender designs. These trailers comply when the extenders are not in use. The company tested mounting the guard directly on the extenders "so it would move out and thus comply," but found that this method of mounting "would not absorb the level of energy" required by Standard No. 223. TarasPort hoped that we would consider the extenders to be load overhang or exempt as a special purpose vehicle, but we denied this request on May 22, 1998.

Why Exempting TarasPort Would Be Consistent With the Public Interest and Objectives of Motor Vehicle Safety

A denial would adversely affect the company's employees, customers, and the local economy in Monroe County. TarasPort argued that the motor vehicle safety standards

were created with the general public's well being in mind. Assisting our company to comply to those standards only insures public safety. Compliance rather than enforcement is consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

Comments Filed in Response to the Application Notice

No comments were filed in response to the notice published on January 13, 1999.

Discussion of TarasPort's Application

When TarasPort learned in May 1998 that its two trailer models would have to comply with Standard No. 224, it filed its application for exemption with us the following month. Because we needed to resolve TarasPort's requests for confidentiality, we were unable to move forward with its exemption request until January 1999. Accordingly, we must assume that the company has been experiencing the hardships foreseen in its application.

These hardships are loss of income from reduced production, and the possible layoff of some of its 16 employees as a result. The company's application indicated that it would find it more economical to engineer a solution in-house over an 18 to 24 month time period than to commit it to an engineering firm for a costly solution in something less than that time. The company's net income has been decreasing in each of its three past fiscal years, and presumptively did so in 1998 when it suspended production of its two models of drop deck trailers equipped with rear deck extenders. We believe that TarasPort has demonstrated that requiring immediate compliance would cause it substantial economic hardship.

We note that TarasPort, in spite of limited resources, was able to bring all its other trailers into conformity with Standard No. 224 by its effective date. We believe that the company has therefore made a good faith effort to comply with the standard.

TarasPort contributes to its local economy, even though it is a small business. It is in the public interest to encourage small businesses which add diversity to the marketplace. The temporary exemption of a small number of trailers from the underride standard will not have a significant negative effect upon safety.

As of the end of June 1998, the company estimated that it would need 18 to 24 months to comply with the standard. This indicates that the company believes it can achieve compliance between January 1 and July 1, 2000. We are therefore giving it an exemption until July 1, 2000.

The Administrator's Findings

On the basis of the arguments and discussions above, I find that providing TarasPort an exemption from Standard No. 224 is consistent with the public interest and the objectives of 49 U.S.C. Chapter 301—Motor Vehicle Safety, and that compliance with Standard No. 224 would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

NHTSA Temporary Exemption No. 99–2

TarasPort Trailers, Inc., is hereby granted NHTSA Temporary Exemption No. 99–2, from 49 CFR 571.224 Standard No. 224 Rear Impact Protection, expiring July 1, 2000. This exemption is restricted to drop deck trailers equipped with rear deck extenders.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

Issued on: March 16, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–6846 Filed 3–19–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Sunshine Act Meeting

Ex Parte No. 333—Meetings of the Board

TIME & DATE: 10:00 a.m. Thursday, March 25, 1999.

PLACE: Hearing Room, Surface Transportation Board 1925 K Street, NW, Washington, DC 20423.

STATUS: The Board will meet to discuss among themselves the agenda item listed below. Although the conference is open for public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED: Finance Docket No. 33556, Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated— control— Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad and Finance Docket No. 33556 (Sub-No. 1), Canadian National Railway Company, Illinois Central Railroad Company, The Kansas City Southern Railway Company, and Gateway Western Railway Company—Terminal Trackage Rights—Union Pacific Railroad Company and Norfolk & Western Railway Company.

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Office of Congressional and Public Services, Telephone: (202) 565–1594, TDD: (202) 565–1695.

Dated: March 18, 1999.

Vernon A. Williams,

Secretary.

[FR Doc. 99–7113 Filed 3–18–99; 3:15 pm]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 9, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 21, 1999, to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0068.

Form Number: Customs Form 28.

Type of Review: Extension.

Title: Request for Information.

Description: Customs Form 28 is used by Customs personnel to request additional information from importers when the invoice or other documentation provide insufficient information for Customs to carry out its responsibilities to protect revenues.

Respondents: Business or other for-profit, Individuals or households. Not-for-profit institutions, Federal Government.

Estimated Number of Respondents: 60,000.

Estimated Burden Hours Per Respondent: 33 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 30,000 hours.

OMB Number: 1515–0208.

Form Number: None.

Type of Review: Extension.

Title: NAFTA Duty Deferral.

Description: The North American Free Trade Agreement Duty Deferral Program prescribe the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-referral program for exportation to another NAFTA country.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Federal Government.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 400 hours.

OMB Number: 1515–0220.

Form Number: None.

Type of Review: Extension.

Title: Lay Order Period—General Order Merchandise.

Description: This collection is required to ensure that the operator of an arriving carrier, or transfer agency shall notify a bonded warehouse proprietor of the presence of merchandise that has remained at the place of arrival or unlading without entry beyond the time period provided for by regulation.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 300.

Estimated Burden Hours Per Respondent: 15 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 7,500 hours.

Clearance Officer: J. Edgar Nichols, (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–6932 Filed 3–19–99; 8:45 am]

BILLING CODE 4820–02–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 16, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 21, 1999, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1629.

Form Number: IRS Form 8867.

Type of Review: Extension.

Title: Paid Preparer's Earned Income Credit Checklist.

Description: Form 8867 helps preparers meet the due diligence requirements of Code section 6695(g), which was added by section 1085(a)(2) of the Taxpayer Relief Act of 1997. Paid preparers of Federal income tax returns or claims for refund involving the earned income credit (EIC) must meet the due diligence requirements in determining if the taxpayer is eligible for the EIC and the amount of the credit. Failure to do so could result in a $100 penalty for each failure. Completion of Form 8867 is one of the due diligence requirements.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 1,100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—13 min.
Learning about the law or the form—8 min.
Preparing the form—21 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 9,372,661 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 99–6933 Filed 3–19–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Order ATF O 1130.5]

Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 24, Wine

1. *Purpose.* This order delegates certain authorities of the Director to subordinate ATF officers and prescribes the subordinate ATF officers with whom persons file documents which are not ATF forms.

2. *Cancellation.* ATF O 1100.78B, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR part 240, Wine, dated 4/30/84, and ATF O 1100.97A, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR part 231, Taxpaid Wine Bottling Houses, dated 4/5/84, are canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to wine. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120–1 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR Part 24 to subordinate officers. Also, this ATF order prescribes the subordinate officers with whom applications, notices, and reports required by 27 CFR part 24, which are not ATF forms, are filed. The attached table identifies the regulatory sections, documents and authorized ATF officers. The authorities in the table may not be redelegated. An ATF organization chart showing the directorates involved in this delegation order has been attached.

John W. Magaw,

Director.

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED AND AUTHORIZED ATF OFFICIALS

Regulatory section	Officer(s) authorized to act or receive document
§ 24.20(a)	Chief, Regulations Division.
§ 24.21	Chief, Regulations Division.
§ 24.22(a)	Chief, Regulations Division. If the alternate method does not affect an ATF approved formula, or import or export recordkeeping, Chief, National Revenue Center (NRC) may act upon the same alternate method that has been approved by the Chief, Regulations Division.
§ 24.22(b)	Chief, Regulations Division, or Chief, NRC.
§ 24.22(c)	Chief, Regulations Division. If the alternate method does not affect an ATF approved formula, or import or export recordkeeping, Chief, National Revenue Center (NRC) may act upon the same alternate method that has been approved by the Chief, Regulations Division.
§ 24.25(a)	Director of Industry Operations.
§ 24.25(b)	Director of Industry Operations.
§ 24.25(c)	Area Supervisor.
§ 24.25(d)	Director of Industry Operations.
§ 24.26	Section Chief, NRC, to approve (by affixing the signature of the Director) applications, qualifying documents and any other documents required by or filed under this part, upon the recommendation of the Area Supervisor; and to approve claims of more than $5,000 for remission, abatement, credit, or refund of tax.
§ 24.26	Chief, Technical Services, to approve (by affixing the signature of the Director) applications, qualifying documents and any other documents required by or filed under this part, upon the recommendation of the Area Supervisor; and to approve claims of more than $5,000 for remission, abatement, credit, or refund of tax other than special occupational tax.
§ 24.26	Unit Supervisor, NRC, to approve (by affixing the signature of the Director) claims of $5,000 or less for remission, abatement, credit, or refund of tax.
§ 24.26	Technical Section Supervisor to approve (by affixing the signature of the Director) claims of more than $5,000 for remission, abatement, credit, or refund of tax other than special occupational tax.
§ 24.27	Area Supervisor.
§ 24.28	Area Supervisor.
§ 24.29	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§ 24.30	Director of Industry Operations to require that operations be supervised by any number of ATF inspectors.
§ 24.31	Area Supervisor to require submission to an inspector; or Unit Supervisor, NRC, or Technical Section Supervisor to require submission to a specialist, copies of prescribed transaction forms, records, reports, or source records.
§ 24.32	Area Supervisor.
§ 24.35	Inspector, Special Agent or Specialist.
§ 24.36	Area Supervisor.
§ 24.37	Inspector, Special Agent or Specialist.
§ 24.40	Inspector, Special Agent or Specialist.
§ 24.41	Area Supervisor to require office facilities for use of Inspector, Special Agent or Specialist.
§ 24.52(a) and (b)	Section Chief, NRC, or Chief, Technical Services.
§ 24.54(c)	Inspector, Special Agent or Specialist.
§ 24.60	Area Supervisor, Section Chief, NRC, or Chief, Technical Services.
§ 24.62	Section Chief, NRC, or Chief, Technical Services to notify the proprietor of a proposed tax assessment of more than $5,000 and to take immediate jeopardy assessment action pursuant to 26 U.S.C. 6861.
§ 24.62	Unit Supervisor, NRC to notify the proprietor of a proposed tax assessment of $5,000 or less.
§ 24.62	Technical Section Supervisor to notify the proprietor of a proposed tax assessment of $5,000 or less other than special occupational tax.
§ 24.65(a), (b) and (c)	Section Chief, NRC, or Chief, Technical Services.
§ 24.66(a)	Section Chief, NRC, or Chief, Technical Services.
§ 24.69(b)	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§ 24.70	Section Chief, NRC, or Chief, Technical Services to notify a claimant of an allowance of a tax credit of more than $5,000.
§ 24.70	Unit Supervisor, NRC, to notify a claimant of an allowance of a tax credit of $5,000 or less.
§ 24.70	Technical Section Supervisor to notify a claimant of an allowance of a tax credit of $5,000 or less for other than special occupational tax.
§ 24.77(b)	Section Chief, NRC, or Chief, Technical Services to receive application to conduct experimental wine operations and to approve (by affixing the signature of the Director) upon the recommendation of the Area Supervisor, such an application.
§ 24.77(b)	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor to require as part of the application, additional information as may be necessary to determine whether the application should be approved.
§ 24.77(c)	Section Chief, NRC, or Chief, Technical Services to receive application to procure wine spirits for an experimental winery and to approve such application, upon the recommendation of the Area Supervisor.
§ 24.77(d)	Inspector, Special Agent or Specialist to examine qualifying documents, applications, disposition and other required records.
§ 24.77(d)	Area Supervisor to require reports concerning wine or wine spirits.
§ 24.77(e)	Area Supervisor.
§ 24.80	Specialist, Formula and Processing Section.
§ 24.81	Chief, Formula and Processing Section, to receive superceded formula.
§ 24.81	Chief, Formula and Processing Section, or Area Supervisor to require a proprietor to file a statement of process, in addition to the requirements of ATF F 5120.29, or any other data to determine whether the formula should be approved or whether the approval should be continued.
§ 24.82	Chief, Formula and Processing Section, or Area Supervisor.

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED AND AUTHORIZED ATF OFFICIALS—Continued

Regulatory section	Officer(s) authorized to act or receive document
§24.87	Chief, Alcohol and Tobacco Laboratory.
§24.91	Inspector, Special Agent or Specialist.
§24.91(c)	Section Chief, NRC, or Chief, Technical Services, to receive application to convey wine or spirits between different portions of the same bonded premises and to approve (by affixing the signature of the Director) such application, upon the recommendation of the Area Supervisor.
§24.96(a)	Area Supervisor.
§24.103	Section Chief, NRC, or Chief, Technical Services to receive application to conduct other operations and to approve (by affixing the signature of the Director) such application, upon the recommendation of the Area Supervisor or to withdraw such authorization for, the conduct of other operations on wine premises, upon the recommendation of the Area Supervisor; and Area Supervisor to make inquiries as necessary.
§24.105	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§24.107	Unit Supervisor, NRC, or Technical Section Supervisor.
§24.108	Section Chief, NRC, or Chief, Technical Services.
§24.109(k)	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§24.110(c)(1)	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§24.110(d)	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor to require additional documents.
§24.110(d)	Inspector, Special Agent or Specialist to request examination of documents.
§24.111	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§24.115	Unit Supervisor, NRC, or Technical Section Supervisor.
§24.116	Section Chief, NRC, or Chief, Technical Services.
§24.117	Inspector, Special Agent or Specialist.
§24.120	Section Chief, NRC, or Chief, Technical Services.
§24.123	Section Chief, NRC, or Chief, Technical Services.
§24.124	Section Chief, NRC, or Chief, Technical Services, as recommended by Area Supervisor.
§24.125	Section Chief, NRC, or Chief, Technical Services.
§24.127	Specialist, Formula and Processing Section.
§24.131	Section Chief, NRC, or Chief, Technical Services to receive proprietor's notice of change in building construction or use of premises.
§24.131	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor to require immediate amendment of ATF F 5120.25 for a change in building construction and use of premises.
§24.135(b)	Section Chief, NRC, or Chief, Technical Services to receive qualifying documents to alternate bonded wine premises as taxpaid wine bottling house premises or taxpaid wine premises, or other premises.
§24.135(b)(4)	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor to require any other document or additional information for premises alternation.
§24.135(c) and (e)	Section Chief, NRC, or Chief, Technical Services, upon the recommendation of the Area Supervisor, to approve alternation of wine premises; to approve alternate methods of identifying wine prior to alternation of wine premises; and to withdraw authorization for the alternation of premises.
§24.135(d)	Area Supervisor.
§24.137(a) and (c)	Section Chief, NRC, or Chief, Technical Services to approve alternate use of the wine premises purposes (by affixing the signature of the Director) upon the recommendation of the Area Supervisor.
§24.137(b)(3)	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§24.140	Section Chief, NRC, or Chief, Technical Services.
§24.141	Section Chief, NRC, or Chief, Technical Services.
§24.145	Section Chief, NRC, or Chief, Technical Services.
§24.150	Unit Supervisor, NRC, or Technical Section Supervisor.
§24.154	Area Supervisor, Unit Supervisor, NRC, or Technical Section Supervisor.
§24.155	Section Chief, NRC, or Chief, Technical Services.
§24.157	Section Chief, NRC, or Chief, Technical Services.
§24.159	Section Chief, NRC, or Chief, Technical Services.
§24.165	Area Supervisor.
§24.166	Area Supervisor.
§24.167	Area Supervisor.
§24.169	Area Supervisor.
§24.170(a)	Area Supervisor.
§24.170(b)	Area Supervisor.
§24.183	Area Supervisor.
§24.191	Area Supervisor.
§24.230	Area Supervisor.
§24.231	Area Supervisor.
§24.235(b)	Area Supervisor.
§24.236	Area Supervisor.
§24.242	Chief, Regulations Division.
§24.245	Chief, Formula and Processing Section.
§24.246(a)(1)	Assistant Director (Alcohol and Tobacco).
§24.247	Assistant Director (Alcohol and Tobacco).
§24.248	Assistant Director (Alcohol and Tobacco).
§24.249(a) and (b)	Chief, Regulations Division.
§24.249(c)	Area Supervisor.
§24.250(a), (b)(9), (c) and (d)	Chief, Regulations Division.
§24.259(c)	Inspector, Special Agent or Specialist.
§24.260	Section Chief, NRC, or Chief, Technical Services.
§24.265	Area Supervisor.

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED AND AUTHORIZED ATF OFFICIALS—Continued

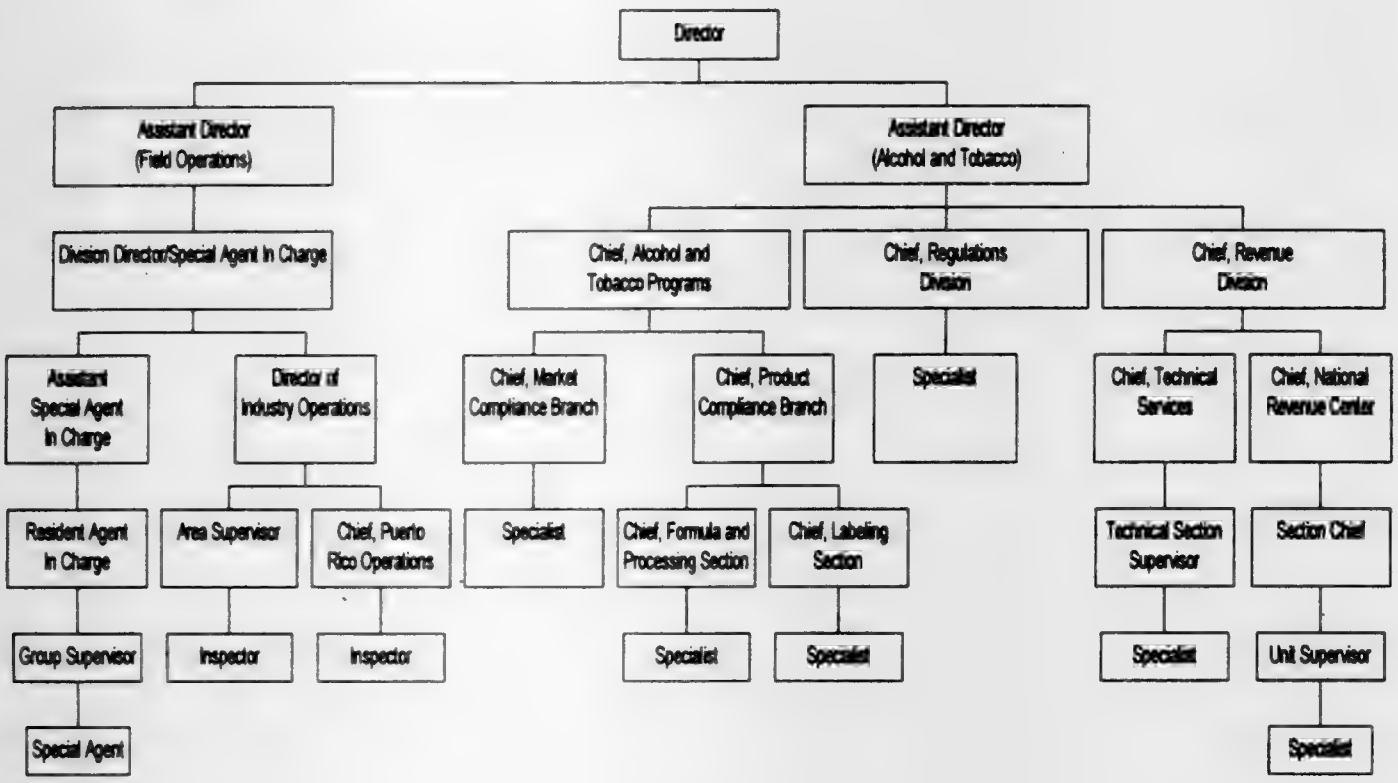
Regulatory section	Officer(s) authorized to act or receive document
§24.267	Area Supervisor.
§24.268	Area Supervisor.
§24.272(b)	Section Chief, NRC, or Chief, Technical Services.
§24.272(e)	Unit Supervisor, NRC, or Technical Section Supervisor.
§24.273(b)	Section Chief, NRC, or Chief, Technical Services.
§24.276	Section Chief, NRC, or Chief, Technical Services.
§24.278(h)	Section Chief, NRC, or Chief, Technical Services.
§24.279(a)	Unit Supervisor, NRC, or Technical Section Supervisor.
§24.291(c)	Inspector, Special Agent or Specialist.
§24.293(b)	Inspector, Special Agent or Specialist.
§24.294(a)	Inspector, Special Agent or Specialist to supervise destruction of wine; and Area Supervisor to receive and authorize application to destroy wine.
§24.296(a)	Area Supervisor.
§24.296(b)	Chief, Regulations Division.
§24.297(g)	Area Supervisor, Section Chief, NRC, or Chief, Technical Services.
§24.298(a)	Area Supervisor, Section Chief, NRC, or Chief, Technical Services.
§24.300(b)	Inspector, Special Agent or Specialist.
§24.300(d)	Director of Industry Operations.
§24.300(e)(3)	Inspector, Special Agent or Specialist.
§24.300(g)(2)	Section Chief, NRC, or Chief, Technical Services, to receive notice to file an annual ATF F 5120.17 for the remaining portion of the calendar year.
§24.300(g)(2)	Area Supervisor, Section Chief, NRC, or Chief, Technical Services to require monthly filing of a report of bonded wine premises operations for any proprietor otherwise eligible for annual filing.
§24.304	Inspector, Special Agent or Specialist.
§24.313	Section Chief, NRC, or Chief, Technical Services.

BILLING CODE 4810–31–P

ATF O 1130.5

Table of Authorities, Documents to Be Filed and Authorized ATF Officials

ATF Organization



This is not a complete organizational chart of ATF

[FR Doc. 99–6853 Filed 3–19–99; 8:45 am]
BILLING CODE 4810–31–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209673–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–209673–93 (TD 8700), Mark to Market for Dealers in Securities (§§ 1.475(b)–4, and 1.475(c)–1).

DATES: Written comments should be received on or before May 21, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Mark to Market for Dealers in Securities.

OMB Number: 1545–1496.

Regulation Project Number: REG–209673–93.

Abstract: Under section 1.475(b)–4, the information required to be recorded is required by the IRS to determine whether exemption from mark-to-market treatment is properly claimed, and will be used to make that determination upon audit of taxpayers' books and records. Also, under section 1.475(c)–1(a)(3)(iii), the information is necessary for the Service to determine whether a consolidated group has elected to disregard inter-member transactions in determining a member's status as a dealer in securities.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,400.

Estimated Time Per Respondents: 52 minutes.

Estimated Total Annual Burden Hours: 2,950.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 15, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–6820 Filed 3–19–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–62–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final and temporary regulations, IA–62–91 (TD 8482), Capitalization and Inclusion in Inventory of Certain Costs, (Regulation § 1.263A).

DATES: Written comments should be received on or before May 21, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Capitalization and Inclusion in Inventory of Certain Costs.

OMB Number: 1545–0987.

Regulation Project Number: IA–62–91.

Abstract: The requirements are necessary to determine whether taxpayers comply with the cost allocation rules of Internal Revenue Code section 263A and with the requirements for changing their methods of accounting. The information will be used to verify taxpayers' changes in methods of accounting.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: The estimated annual reporting and recordkeeping burden per respondent varies from 1 hour to 9 hours, depending on individual circumstances.

Estimated Total Annual Burden Hours: 100,000 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may

become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 11, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–6821 Filed 3–19–99; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

Proposed Collection; Comment Request

SUMMARY: The United States Information Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on an information collection requirement concerning the public use forms entitled "Exchange Visitor Program Application", and "Update of Information on Exchange Visitor Program", under OMB control number 3116–0210. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden on the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/AOL, 301 Fourth Street, S.W., Washington, D.C. 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503.

DATES: Comments are due on or before May 21, 1999.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs, of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: The Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/AOL, 301 Fourth Street, S.W., Washington, D.C. 20547, internet address: JGiovett@USIA.GOV, telephone: (202) 619–4408; and for OMB review: Mr. Jeff Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503, Telephone (202) 395–5871.

SUPPLEMENTARY INFORMATION: The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency (USIA) under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Public law 87–256 and 22 CFR Part 514, Exchange Visitor Program; Final Rule as amended. Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0210) is estimated to average sixty (60) minutes per response for the IAP–37 and twenty (20) minutes per response for the IAP–87, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. For the IAP–37, responses are voluntary and respondents are requested to respond annually. For the IAP–87, responses are mandatory and respondents are requested to respond on an as needed basis.

Current Action: USIA is requesting a three-year extension of the currently approved information collection under OMB control number 3116–0210 which expires June 30, 1999.

Title(s): "Exchange Visitor Program Application", and "Update of Information on Exchange Visitor Program Sponsor".

Form Numbers: IAP–37, IAP–87.

Abstract: Under the requirements of 22 CFR Part 514, Exchange Visitor Program; Final Rule as amended and the Mutual Educational and Cultural Exchange Act of 1961, USIA has been delegated the authority to designate Sponsors for the Exchange Visitor Program for U.S. Government agencies, public and private educational and cultural exchange. The purpose of the exchange visitor program is intended to promote interchanges of persons engaged in Education, Arts, Sciences and to promote mutual understanding between the people of the U.S. and other countries. The USIA IAP–37 form is used when organizations wishing to sponsor exchange visitors from abroad apply to USIA for a designation that will permit them to function as sponsors. The USIA IAP–87 form is used by the Exchange Visitor Sponsors to change the name of their institution and/or organization, the names of the personnel involved, addresses, or telephone numbers. The forms is also used to order a supply of additional IAP forms, code books, or to cancel the program.

Proposed Frequency of Responses

No. of Respondents—1,550.

Recordkeeping Hours—1.20.

Total Annual Burden—1,000.

Dated: March 16, 1999.

Rose Royal,

Federal Register Liaison.

[FR Doc. 99–6812 Filed 3–19–99; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92–463 that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held on Wednesday and Thursday, May 19–20, 1999, in room 230 of VA Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on both days.

The purpose of the meeting is to review information relating to the health effects of exposure to ionizing radiation. The major items on the agenda for both days will be discussions and analyses of medical and scientific papers concerning the health effects of exposure to ionizing radiation. On the basis of their analyses and discussions, the Committee may make recommendations to the Secretary concerning diseases that are the result of exposure to ionizing radiation. The agenda for the second day will include planning future Committee activities and assignment of tasks among the members.

The meeting is open to the public on both days. Those who wish to attend or submit written questions or prepared statements for review by the Committee should contact Ersie Farber-Collins of the Department of Veterans Affairs, Compensation and Pension Service, 810 Vermont Avenue, N.W., Washington, DC 20420, by May 12, 1999. Ms. Farber-Collins may also be reached at 202–273–7268.

Dated: March 12, 1999.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 99–6857 Filed 3–19–99; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 64, No. 54

Monday, March 22, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Mouthing Behavior Study; Comment Request

Correction

In notice document 99–5980 beginning on page 12153, in the issue of Thursday, March 11, 1999, make the following correction:

On page 12153, in the second column, under the heading **DATES:**, in the third line, "June 9, 1999" should read "May 10, 1999".

[FR Doc. C9–5980 Filed 3–19–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Floodplain and Wetlands Involvement Notification for the Pond B Dam Repair Project at the Savannah River Site (SRS)

Correction

In notice document 99–3653 beginning on page 7636 in the issue of Tuesday, February 16, 1999, make the following corrections:

1. On page 7636, in the second column, under **ADDRESSES**, in the third line "Andrew R. Grainer" should read "Andrew R. Grainger".

2. On the same page, in the third column, in the third complete paragraph, five lines from the bottom "previous" should read "pervious".

3. On page 7637, in the first complete paragraph, starting seven lines from the bottom "(EA) being prepared for the proposed action in accordance with the requirements" was mistakenly repeated.

[FR Doc. C9–3653 Filed 3–19–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Monday
March 22, 1999

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171, 173, 177, 178, 180

Hazardous Materials; Revision to Regulations Governing Transportation and Unloading of Liquefied Compressed Gases; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173, 177, 178, 180

[Docket No. RSPA–97–2718 (HM–225A)]

RIN 2137–AD07

Hazardous Materials: Revision to Regulations Governing Transportation and Unloading of Liquefied Compressed Gases

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA is proposing revisions to regulations applicable to the transportation and unloading of liquefied compressed gases. The revisions include new inspection, maintenance, and testing requirements for cargo tank discharge systems, including delivery hose assemblies, and revised attendance requirements applicable to liquefied petroleum gas and anhydrous ammonia to take account of certain unique operating characteristics. The proposed attendance requirements provide a greater level of confidence that a qualified person attending the unloading operation can quickly identify and stop an unintentional release. Further, RSPA is proposing revised requirements for cargo tank emergency discharge control equipment to provide a clear performance standard for passive emergency discharge control equipment that shuts down unloading operations without human intervention. The revised requirements also provide for a remote capability for certain cargo tanks to enable a person attending the unloading operation to shut off the flow of product when away from the motor vehicle during delivery. RSPA is proposing a two-year period for development and testing of emergency discharge control technology. After two years, the proposal would require newly manufactured MC 331 cargo tank motor vehicles to be equipped with emergency discharge control equipment that complies with the proposed performance standards; MC 330, MC 331 and certain nonspecification cargo tank motor vehicles already in service would be retrofitted at their first scheduled pressure test after the two-year period. These proposals are intended to reduce the risk of an unintentional release of a liquefied compressed gas during unloading, assure prompt detection and control of an unintentional release, and make the regulatory requirements easier to understand and comply with.

DATES: Submit comments on or before April 21, 1999.

ADDRESSES: Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. Identify the docket number RSPA–97–2718 at the beginning of your comments and submit two copies. If you want to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. Comments also may be submitted by e-mail to rules@rspa.dot.gov.

The Dockets Management System is located on the Plaza Level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. In addition, you can review comments by accessing the docket management system through the DOT home page (http://dms.dot.gov).

FOR FURTHER INFORMATION CONTACT: Jennifer Karim or Susan Gorsky, Office of Hazardous Materials Standards, Research and Special Programs Administration, (202) 366–8553; or Nancy Machado, Office of the Chief Counsel, Research and Special Programs Administration, (202) 366–4400.

SUPPLEMENTARY INFORMATION:

List of Topics

I. Background
II. Negotiated Rulemaking Committee and its Activities
III. Statement of the Issues
IV. Proposed Revisions
A. Prevention
B. Identification
C. Mitigation
D. Implementation Schedule
E. Miscellaneous
F. Section-by-Section Review
V. Regulatory Analyses and Notices

I. Background

On December 13, 1996 (61 FR 65480), the Research and Special Programs Administration (RSPA, "we") and the Federal Highway Administration (FHWA) published advisory guidance on emergency discharge control systems on MC 330, MC 331 and certain nonspecification cargo tanks used to transport liquefied compressed gases. This followed an incident involving the unintentional release of propane from an MC 331 cargo tank motor vehicle during unloading.

On February 19, 1997 (RSPA–97–2133 (HM–225), 62 FR 7638), RSPA adopted an interim final rule establishing certain temporary alternative regulations under which cargo tanks could remain in service while RSPA and FHWA evaluated this incident and other situations in which liquefied compressed gases were released unintentionally from cargo tanks during unloading operations. In particular, the interim final rule amended the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) by establishing a new § 171.5, which set forth conditions under which affected cargo tanks, without certification and demonstrated performance of their emergency discharge control systems, could continue in service.

On August 18, 1997 (62 FR 44038), RSPA published a final rule and responded to petitions for reconsideration of the interim final rule. The final rule reiterated most of the elements of the interim final rule and extended it as a continuing temporary regulation.

Also on August 18, 1997 (62 FR 44059), RSPA published an advance notice of proposed rulemaking (ANPRM) in Docket No. RSPA–97–2718 (HM–225A). This ANPRM solicited public comment on a series of specific topics. RSPA received more than 150 comments addressing federal agency jurisdiction; active and passive emergency discharge control systems; suggestions for modification of cargo tank discharge systems; hoses, hose assemblies, and hose management; and vehicle attendance requirements.

On September 19, 1997 (62 FR 49171), RSPA issued additional advisory guidance in Docket No. RSPA–97–2133 (HM–225), in response to a petition for reconsideration and a request for clarification.

On December 10, 1997 (62 FR 65187), RSPA published a second final rule that made changes to the August 18, 1997, final rule, responded to petitions for reconsideration, and made certain corrections and clarifications.

On June 4, 1998 (63 FR 30572), RSPA proposed to establish a negotiated rulemaking committee under Docket RSPA–97–2718 (HM–225A) and announced a public meeting to discuss that proposal. The negotiated rulemaking process is defined in 5 U.S.C. 561 *et seq.*

The above-referenced rulemaking documents contain a thorough discussion of the issues that led to issuance of the temporary regulation in § 171.5, and to establishment of a negotiated rulemaking committee to develop recommendations for changes to the applicable regulations. These prior rulemaking publications and the

public comments on them (see RSPA–97–2133) are hereby incorporated into this docket by reference.

II. Negotiated Rulemaking Committee and its Activities

On July 16,1998 (63 FR 38456), RSPA established a negotiated rulemaking committee (the Committee) to develop recommendations for alternative safety standards for preventing and mitigating unintentional releases of liquefied compressed gases during the unloading of cargo tank motor vehicles.

In a negotiated rulemaking, representatives of interests affected by a regulation meet to discuss the safety issues and to identify potential solutions. The group attempts to reach consensus on a proposed solution and prepares a recommendation for a notice of proposed rulemaking to be made by the agency. This process is intended to give parties the opportunity to find creative solutions, improve the information data base for decisions, produce more acceptable rules, enhance compliance, and reduce the likelihood of court challenges.

For this rulemaking, in addition to the Department of Transportation (DOT), the Committee consists of persons who represent the interests affected by this rulemaking, including businesses that transport and deliver liquefied petroleum gases, anhydrous ammonia and other liquefied compressed gases; manufacturers and operators of cargo tanks and vehicle components; and state and local public safety and emergency response agencies. Particular care was taken to identify any unique interests that were determined to be significantly affected by the proposed rule and ensure that they were fully represented on the Committee.

The members of the Committee are:

1. Department of Transportation—Edward Mazzullo, Research and Special Programs Administration
2. National Propane Gas Association—Charles Revere, Revere Gas and Appliance
3. The Fertilizer Institute—Charles Rosas, Farmland Industries
4. National Tank Truck Carriers—Clifford Harvison
5. Compressed Gas Association—Ronald McGrath
6. National Fire Protection Association—Theodore Lemoff
7. Propane Distribution (Small)—Mike Gorham, Northwest Gas, and Lin Johnson, Lin's Propane
8. Propane Distribution (Large)—Russell Rupp, Suburban Propane, and Ken Faulhaber, Ferrellgas
9. Anhydrous Ammonia/Dual Use Anhydrous Ammonia-Propane (Small)—Charles Whittington, Grammar Industries
10. Anhydrous Ammonia/Dual Use Anhydrous Ammonia-Propane (Large)—Jean Trobec and Cliff Shoettmer, Growmark; and Jim York and Tom Stene, National Private Truck Council
11. State Safety Enforcement Agencies—Steve Hermann, Cooperative Hazardous Materials Enforcement Development (COHMED), and Eric Adair, Commercial Vehicle Safety Alliance (CVSA)
12. State Safety Regulatory Agencies—Vicki O'Neill, Bureau of Liquefied Petroleum Gas Inspections/Florida Department of Agriculture and Consumer Services, and Ronny Coleman, California State Fire Marshal
13. State/Local Emergency Response Agencies and Fire Services—Ronald Dykes, International Association of Fire Chiefs
14. Cargo Tank Manufacturers (Transports)—Mike Pitts, Mississippi Tank
15. Cargo Tank Manufacturers (Bobtails)—David Auxier, Bulk Tank and Transport
16. Technology—Jim Griffin, Fisher Controls

The Committee was chaired by Philip J. Harter, Esq., a trained facilitator. The role of the facilitator was to apply proven consensus building techniques to the negotiations. The facilitator was not involved with the substantive development of the standard. Rather, his role was to: (1) chair the meetings of the committee in an impartial manner; (2) impartially assist the members of the committee in conducting discussions and negotiations; (3) act as disclosure officer for committee records under the Freedom of information Act (FOIA); and (4) keep minutes of all committee meetings in accordance with the Federal Advisory Committee Act (FACA) requirements.

In some instances, work groups were formed around particular issues, and certain members were identified as spokespersons for these groups.

Interested parties who were not selected to membership on the Committee were provided an opportunity to contribute to the negotiated rulemaking effort in the following ways:

- They were provided with the minutes of Committee meetings and could submit written comments to the Committee as appropriate.
- They could attend the Committee meetings, which were open to the public, caucus with the Committee member representing their interest on the Committee, and were provided opportunities to address the Committee as time permitted.
- They could participate in the workgroups established by the Committee. These informal workgroups were used to assist in addressing various technical matters (e.g., developing standards for an emergency discharge control system or verifying certain engineering procedures, or commenting on particular matters before the Committee) to facilitate Committee deliberations. They also assisted in drafting regulatory text. The workgroups were made up of Committee members and other parties who had expertise or a particular interest in the technical matter(s) being discussed.

The Committee met in plenary and working sessions on six occasions. Among the materials considered by the Committee in developing the proposals in this NPRM are the prior rulemaking actions in RSPA–97–2133, public comments filed in response to those actions, information provided by regulatory and enforcement officials, and incident data. The Committee agrees that the costs imposed by the proposed rule will be off-set by the benefits. The Committee had no role in preparing DOT's "Preliminary Regulatory Evaluation" or "Environmental Assessment" and did not consider them in its deliberations.

III. Statement of the Issues

The goal of all parties to this negotiated rulemaking was to enhance safety in transportation through improvements in the regulations governing the unloading of liquefied compressed gases from MC 330, MC 331, and certain nonspecification cargo tanks. Concerns with emergency discharge control on certain of these cargo tanks were identified in 1996. RSPA issued the temporary regulation in § 171.5 of the HMR to address these concerns as related to the unloading of liquefied compressed gases because information and data gathered during the rulemaking process indicated that the problems were not limited to specific materials or specific cargo tank configurations.

The Committee focused its discussions, analyses, and recommendations on liquefied petroleum gases (LPG) and anhydrous ammonia. These are the liquefied compressed gases that are most commonly transported in cargo tanks; as a result, LPG and anhydrous ammonia are the materials most frequently involved in unintentional releases during unloading. However, the

Department intends to address safety issues related to unloading of all liquefied compressed gases in a single proposed rule to the extent feasible and practicable. Accordingly, we propose to adopt the Committee's recommendations for all liquefied compressed gases that present risks similar to or more serious than those presented by LPG and anhydrous ammonia. The issues identified by the Committee apply equally to compressed gases with poison inhalation hazards, refrigerant gases, and compressed gases that present risks similar to those of LPG and anhydrous ammonia. The safety benefits that will be realized from this proposed rule justify a broad rulemaking approach.

As one of its first activities, the Committee examined incident reports of unintentional releases of LPG, anhydrous ammonia, and sulfur dioxide during unloading operations. The data included incidents reported to RSPA as required by §§ 171.15 and 171.16 of the HMR and other incidents not required to be reported to RSPA that were identified through reports from DOT field office staff, industry representatives, and newspapers. The Committee identified 70 incidents that occurred from 1990 to 1998 and analyzed them to determine how the current regulations applicable to unloading could be improved.

More than 54 percent of the incidents resulted in unintentional releases from hoses and hose fittings. Another 37 percent involved releases that originated from equipment on the cargo tank motor vehicle itself, including pump seals, swivel joints, pump flanges, and piping and related fittings such as gauges, filters, and flex connectors. Many of these incidents appeared to result from problems with maintenance, installation, or mechanical damage rather than design flaws. Based on this information, the Committee concluded that improved inspection and maintenance programs for delivery hose assemblies and other discharge system components would prevent many incidents and, thus, would improve the safety of cargo tank unloading operations.

However, the Committee also concluded that additional safety enhancements are possible. Thus, the Committee agreed to consider alternative approaches for identifying the occurrence of unintentional releases and reducing their severity by determining which methods or combination of methods provide the most cost-effective means for controlling unintentional releases during cargo tank unloading operations. The Committee heard presentations from manufacturers of a variety of systems designed to shut down cargo tank unloading operations automatically (without the need for human intervention) or by means of off-truck remote shut-off devices.

Based on its discussion and findings, the Committee recommended a program combining measures to prevent unintentional releases during unloading operations with measures that will assure quick identification of releases and effective mitigation. Therefore, we are proposing revisions in these areas:

- Prevention—new inspection, maintenance, and testing requirements for discharge systems, including delivery hose assemblies, on cargo tanks transporting liquefied compressed gases.
- Identification—revised attendance requirements for monitoring unloading operations of LPG and anhydrous ammonia to take account of certain unique operating characteristics while assuring that the person attending the unloading operation can quickly determine if an unintentional release occurs.
- Mitigation—revised requirements for emergency discharge control equipment on certain cargo tanks in liquefied compressed gas service to provide a clearer performance standard for equipment that shuts down unloading operations without human intervention and to provide for an off-truck remote capability for certain cargo tanks to enable a qualified person attending the unloading operation to shut off the flow of product from wherever he may need to be during the delivery. The new requirements vary according to the degree of risk involved with the transportation of specific liquefied compressed gases.

IV. Proposed Revisions

A. Prevention

The Committee recommends and we are proposing the following measures to prevent unintentional releases during unloading of liquefied compressed gases:

- A hose management program, including post-delivery safety checks of hoses and hose assemblies.
- A new inspection and maintenance program for on-truck components of a cargo tank's discharge system.
- A visual check of the discharge system and its components prior to each unloading.

Hose Management Program

The Committee conducted an in-depth analysis of the incident data for liquefied compressed gas spills during unloading. The data indicate that failure of hoses and piping components is the cause of the majority of unloading incidents. In addition, the data show that relatively minor leaks can result in major consequences if a liquefied flammable gas is ignited. For these reasons, the Committee decided that any rule it recommended should contain provisions focused on preventing incidents.

Supporting this position is research conducted by Pennsylvania State University's Transportation Institute (PSUTI) under contract with The Fertilizer Institute. PSUTI analyzed the risks involved in deliveries of anhydrous ammonia and the most cost effective way of mitigating those risks. The PSUTI study identified a hose management program as the most cost-effective method of mitigating risks associated with unloading anhydrous ammonia.

The majority of the incidents examined by the Committee involved leaks from hoses or failures of hose couplings. An incident in Sanford, North Carolina, in September of 1996 provides an example. In that case, the hose couplings of a newly assembled delivery hose assembly disconnected from the hose when subjected to delivery pressures. Less severe hose failures are more frequent and generally occur as a result of cuts and gouges to hoses that have experienced rough handling, such as being dragged across uneven ground or over rough structures during deliveries.

For the reasons outlined above, we are proposing a hose management program for liquid hoses carried on cargo tanks that transport liquefied compressed gases. Although the accident data and analysis focused on unloading operations involving LPG and anhydrous ammonia, the preventive measures we are proposing are equally applicable to unloading operations for all liquefied compressed gases. The proposed program includes tests of new and repaired hose assemblies; safety checks of hoses after each unloading; monthly and annual hose assembly inspections; and specific rejection criteria.

The hose management program would apply to delivery hose assemblies on cargo tank motor vehicles used to transport liquefied compressed gases. For purposes of this rule, a "delivery hose assembly" is defined as a liquid delivery hose and its attached couplings. During Committee deliberations, certain Committee members described instances in the field when it is necessary to attach "adapters" to the end of a delivery hose assembly to unload product from the

cargo tank into the receiving container. Because these adapters are not regularly attached to the liquid delivery hose and its couplings, they are not considered part of the delivery hose assembly for purposes of the hose management program.

The hose management program would require an operator to remove and replace damaged hose sections and to correct any defects discovered in hoses or hose assemblies. The operator would be required to pressure test a repaired hose at a minimum of 120 percent of the maximum working pressure of the hose before placing it back in service. A pressure test would not be required if the operator corrected defects such as replacing or tightening loose or missing bolts or fastenings on bolted hose assembly couplings provided no slipping of the coupling has occurred.

The annual hose inspection would be conducted by a Registered Inspector as part of the leakage test procedures already required by the HMR, making updating of registration unnecessary. For hoses not permanently attached to the cargo tank motor vehicle, the annual hose test would not necessarily have to be done by the same Registered Inspector or at the same time as the leakage test for the cargo tank motor vehicle.

Discharge System Inspection and Maintenance

Another area of emphasis identified by the Committee with respect to prevention of incidents during unloading was targeted at leaks from piping systems—defined by the Committee to include any component other than the delivery hose assembly that contains product during unloading. Again, the incident data indicate that leaks from piping components during unloading are a cause of a significant proportion of the reported incidents. The Committee heard presentations from two pump manufacturers about how pumps function and how they should be maintained. The Committee also investigated meters and other piping components.

Because of the incident data and the constant wear on piping components, the Committee recommends and we are proposing to institute a program of inspections and tests for piping systems in cargo tanks that transport liquefied compressed gases. The inspection and testing program is similar to the program recommended for hoses. Piping system inspections and tests would include monthly checks of internal self-closing stop valves for closure, testing of linkages designed to close internal self-closing stop valves during emergencies, visual inspections of all piping system components, and rejection criteria for piping system components.

Pre-Delivery Safety Check

As an additional means to prevent unintentional releases from cargo tank delivery hose assemblies and piping, the Committee recommends and we are proposing that the person unloading liquefied compressed gases from a cargo tank visually check those components of the discharge system that are readily observed during the normal course of unloading. This check would be done before each delivery after the pressure in the discharge system reaches equilibrium with the pressure in the cargo tank. This check should assure that all connections are secure and that each component of the discharge system, including delivery hose assemblies and piping, is of sound quality and free of defects detectable through visual observation and audio awareness.

B. Identification

The Committee recommends and we are proposing new attendance provisions applicable to unloading of LPG and anhydrous ammonia. The attendance provisions in § 177.834(i), which we are proposing to revise for clarity and consistency, will apply to all other cargo tank loading and unloading operations. We are proposing the following changes:

- A definition for "metered delivery service."
- Revised regulations for monitoring the unloading operations of LPG and anhydrous ammonia in metered delivery service.
- Revised regulations for monitoring the unloading operations of liquefied compressed gases.

Definition for "Metered Delivery Service"

The Committee recommends that the attendance requirements in the HMR take account of the differences in design and configuration of cargo tank motor vehicles delivering LPG and anhydrous ammonia. Unloading of LPG and anhydrous ammonia from large-capacity cargo tanks through large-diameter delivery hoses involves the transfer of thousands of gallons of product into large storage containers at a rate of 200-400 gallons per minute. Typically, the vehicle is unloaded through a short delivery hose (less than 25 feet). [NOTE: As an aid to the reader, units of measure in this preamble are expressed in U.S. standard or customary units. In the regulatory text, consistent with the requirements of § 171.10 of the HMR, they are expressed using the International System of Units ("SI" or metric) as the regulatory standard, followed in parentheses by the U.S. standard unit.] Cargo tank motor vehicles that unload LPG or anhydrous ammonia through small-diameter delivery hoses differ in design and operation. These vehicles are used almost exclusively for deliveries in which small volumes of product are transferred to small storage containers at metered flow rates much lower than those used in other unloading operations. The average delivery for these vehicles involves the transfer of fewer than 170 gallons of product at a rate of 40–60 gallons per minute through a delivery hose that commonly ranges from 100 to 150 feet in length.

To account for these differences, we are proposing to define a new term—"metered delivery service." The proposed definition for "metered delivery service" is an unloading operation conducted at a metered flow rate of 100 gallons per minute or less through an attached delivery hose with a nominal inside diameter of 1.25 inches or less.

Monitoring Unloading Operations for Metered Delivery Service

By far the most common unloading scenario for cargo tank motor vehicles in metered delivery service is the delivery of propane for heating and cooking by households and small businesses, and for light industrial applications. In these settings, the vehicle is typically positioned in the customer's driveway, farm lane, or parking area, and the customer's storage container is located to the side or rear of the facility. The storage container may be located more than 25 feet from the nearest point of vehicle access, and can be up to 150 feet away in extreme cases. Fences, buildings, vegetation, or other obstructions may make it impossible to maintain an unobstructed view of the cargo tank from the position of the storage container.

The delivery hose on a cargo tank motor vehicle in metered delivery service remains attached and full of product during transit. It is equipped with a hose end valve that the attendant opens and closes to start and stop the flow of product into a customer container in the course of each delivery. As a result, an attendant located at the receiving container has a ready means to shut off the flow of gas in the event of a leak at the connection to the receiving container. An attendant located at the vehicle end of the system could respond to such a leak by closing the vehicle's internal self-closing stop valve, but

product in the downstream piping and hose could still continue to escape until the hose empties. Attendance at the position of the receiving container has the advantage of facilitating more effective mitigation of releases at the connection to the receiving container through use of the hose end valve.

Attendance at the receiving container also addresses safety concerns about overfilling. The primary tool used to ensure against overfilling is a fixed maximum liquid level gauge mounted on customer containers. Propane industry safety procedures emphasize the need for close attendance of receiving containers to ensure that this gauge is monitored as necessary to prevent overfilling.

While these considerations favor attendance at receiving containers, attendance at the vehicle end of the unloading system can effectively ensure prompt mitigation of releases from hose assemblies, piping, pump seals, or other components of the unloading system through closure of the internal self-closing stop valve. A requirement for attendance at one end of the unloading system to the exclusion of the other would thus be inappropriate. Therefore, the Committee agreed that the attendant should monitor both ends of the delivery system. Because of concerns about potential cost and other factors, the Committee agreed that using two persons to monitor unloading operations is not a viable option.

The Committee recommends and we are proposing that the qualified person attending the unloading operation remain within 150 feet of the cargo tank and within 25 feet of the delivery hose throughout the unloading operation. In addition, the qualified person must observe the cargo tank, the receiving container, and the delivery hose at least once every five minutes during unloading operations that take more than five minutes to complete. For purposes of this requirement, the qualified person would not be required to be in position to view the entire length of the delivery hose.

This proposed requirement should assure that leaks are detected before a substantial release occurs. Many of the releases that occur during metered delivery operations occur in close proximity to the attendant and are thus detected immediately. In any event, substantial releases would usually be evident to the attendant at any point along the delivery hose, whether or not such releases occur close to the attendant or within the attendant's field of view. Indeed, industry experience has been that substantial leaks during unloading are typically detected first by sound rather than by sight, regardless of the position of the attendant relative to the cargo tank or the source of the leak. Large ruptures and similar mechanical failures are accompanied by loud pops or bangs, followed by the hiss of escaping gas, both of which should be audible at a significant distance in most environments. Even small releases can cause changes in pump sound or vibration, or oscillation in the delivery hose that are detectable by an experienced qualified person located within 25 feet of the delivery hose.

Monitoring Unloading Operations for Other Than Metered Delivery Service

For a cargo tank in other than metered delivery service, as well as for all cargo tanks in LPG and anhydrous ammonia service, a manual emergency discharge control system is located on or within the cargo tank itself. Any releases that occur during unloading are detectable from the position of the cargo tank because of the short delivery hose used; therefore, safety considerations favor attendance from that position. Thus, for unloading of anhydrous ammonia and LPG in other than metered delivery service, and for other liquefied compressed gases in all types of service, we propose that the qualified person attending the unloading operation must be positioned within 25 feet of the cargo tank during unloading. The qualified person must maintain an unobstructed view of the cargo tank and the delivery hose to the maximum extent possible during unloading, except during short periods when it is necessary to activate controls or monitor the receiving tank. For purposes of this "unobstructed view" requirement, the qualified person would not be required to be in position to view the entire length of the delivery hose.

Monitoring Unloading Operations for Dual Service Vehicles

Where cargo tank motor vehicles in anhydrous ammonia or LPG service are equipped to unload with both small diameter delivery hoses (1.25 inch nominal inside diameter or less) and larger diameter delivery hoses, the proposed requirements for attending unloading operations for metered delivery service would apply when such vehicles are being used to transfer product at a metered flow rate of 100 gallons per minute or less through the small diameter hose. The attendance requirements applicable to unloading operations for other than metered delivery service would apply at all other times.

Taken together, the Committee believes that the proposed attendance requirements will provide the flexibility necessary to accommodate the need to ensure that both ends of the unloading system can be monitored effectively and, in combination with new inspection and emergency discharge control requirements also being proposed, will provide greater safety benefits on a cost-effective basis.

C. Mitigation

The Committee considered alternatives to the current regulatory requirements for emergency discharge control with a view towards assessing their effectiveness and the need for modifications. The Committee recommends, and we are proposing, the following revisions to the current requirements for equipment designed to minimize the consequences of an unintentional release of a liquefied compressed gas:

- Modification of the performance standard for a passive means to shut down unloading—that is, one that operates without human intervention.
- Modification of the current requirements for emergency discharge control equipment on cargo tanks transporting liquefied compressed gases to account for varying degrees of risk presented by specific materials.
- New requirements for design and certification of emergency discharge control equipment.
- A new requirement that all internal self-closing stop valves on MC 330 and MC 331 cargo tanks and nonspecification cargo tanks authorized by § 173.315(k) with water capacities less than or equal to 3,500 gallons be equipped with a fusible element. Fusible elements are currently required on cargo tanks with capacities greater than 3,500 water gallons.
- A requirement for unloading operating procedures to be maintained on cargo tank motor vehicles.

Modification of the Performance Standard for Passive Means To Shut Down Unloading

A "passive" means to shut down unloading when a leak is detected is one that operates automatically, that is, without human intervention. The current regulation at § 178.337–11(a)(1)(i) of the HMR requires that "each internal self-closing stop valve or excess flow valve must automatically close if any of its attachments are sheared off or if any attached hoses or piping are separated." It was reported to the Committee that § 178.337–11(a)(1)(i) has been a source of confusion since it was amended in 1989. This section might be read as requiring an excess flow valve or an internal self-closing

stop valve with an integral excess flow valve or feature to close automatically at any time if any attachments were sheared off or attached hoses or piping were separated regardless of the rate of flow of product through the valve. An excess flow valve is only required to close if its flow rating as established by the original manufacturer is exceeded. The Committee recommends and we are proposing clarifying the current regulations to accurately reflect an excess flow valve's performance capabilities. The clarification appears in proposed § 178.337–8(a)(4)(iv).

None of the unloading incidents examined by the Committee involve complete separations of piping. Indeed, incidents involving piping and other discharge system components on the cargo tank itself usually involve relatively small leaks or releases. Because complete separations of piping during cargo tank unloading operations are unlikely to occur, the Committee concluded that RSPA should modify the current performance standard for passive shut-down. We are therefore proposing that, when required by regulation, a passive means to shut off the flow of product will be defined as one that is designed to shut off the flow of product without the need for human intervention in the event of an unintentional release caused by a complete hose separation.

With respect to shearing off of piping, the requirement for automatic shut-down in the event of a complete pipe separation would be modified to apply only to shearing off of piping directly attached to an excess flow valve or an internal self-closing stop valve with an integral excess flow valve or feature. The proposed modification would require the valve to close automatically when any piping mounted directly on the valve is sheared off at a point before the first valve, pump, or fitting downstream from the excess flow valve or feature if the flow of product reaches the rated flow of gas or liquid specified by the original valve manufacturer. The current requirement for installation of additional downstream excess flow valves if branching or other restrictions reduce the flow rating to less than that of the excess flow valve at the cargo tank has been eliminated.

Modification of Requirements for Emergency Discharge Control Equipment

The Committee considered two types of emergency discharge control equipment: (1) passive means to shut down unloading, and (2) off-truck remote shut-off equipment that can be activated by a person attending an unloading operation at a distance from the cargo tank. The Committee also discussed different cargo tank motor vehicle configurations and capacities with a view towards determining the most appropriate equipment for each configuration and operating situation.

a. *Passive shut-down.* For cargo tanks transporting LPG and anhydrous ammonia in other than metered delivery service, the Committee agreed that a requirement for a means to shut off the flow of product without human intervention in the event of a complete liquid hose separation is justified because of higher flow rates during unloading and the relatively low projected cost of technology currently being developed. The Committee therefore recommends that each MC 330 and MC 331 cargo tank intended for transportation of LPG or anhydrous ammonia in other than metered delivery service must be equipped with a passive means to shut down unloading that is designed to shut off the flow of product in the event of unintentional releases resulting from complete liquid hose separations only.

The Committee discussed at length the timeframe within which the passive means should operate. The Committee agreed that the regulation should require shut down of unloading within a specified timeframe. Most of the technology currently being developed is designed to shut off the flow of product within 10 seconds. However, the Committee was concerned that none of this technology has been operationally tested with liquefied compressed gases. The Committee was also concerned that the characteristics of specific materials could make it difficult to shut down unloading immediately. For this reason, the Committee recommends that a passive means to shut off the flow of product must operate without human intervention within 20 seconds of an unintentional release caused by a complete liquid hose separation. We encourage the industry to develop technology that operates effectively and reliably in a shorter amount of time. Faster shut-down means that serious consequences resulting from unintentional releases are less likely.

We believe that the safety benefits of a passive means to shut down unloading justify its use on cargo tanks that transport Division 2.3 materials—gases that are poisonous by inhalation. An unintentional release of a Division 2.3 material can have devastating consequences if it is not controlled quickly. In addition, we believe that materials transported in other than metered delivery service that present the same hazards as LPG and anhydrous ammonia should be transported in cargo tanks with a passive shut-down capability. The concerns about high flow rates during unloading apply equally to these materials as to LPG and anhydrous ammonia. Thus, we propose to adopt the Committee's recommendation for passive shut-down to require that all shipments of gas poisonous by inhalation (Division 2.3 materials), and shipments in other than metered delivery service of non-flammable compressed gas (Division 2.2 materials) with a subsidiary hazard, flammable gas (Division 2.1 materials), and anhydrous ammonia must be transported in cargo tanks equipped with a means to shut off the flow of product without human intervention within 20 seconds of an unintentional release caused by a complete liquid hose separation.

In many instances, the equipment utilized to meet the proposed requirement for passive shut-down may be contained in the delivery hose assembly. The Committee heard from at least two vendors that have developed passive shut-down technology based on specially equipped delivery hose assemblies.

We are aware that a number of owners or operators of facilities receiving liquefied compressed gases from cargo tank motor vehicles require, as a condition of unloading, that the cargo tank operator utilize the facility's hose assembly for the unloading operation. In most cases, such facility hoses are subject to standards of the Occupational Safety and Health Administration (OSHA) of the Department of Labor and/or state requirements that are consistent with the recommendations of the National Fire Protection Association (NFPA).

For those situations where a facility requires the use of its own hose assembly for unloading and the cargo tank operator relies on a specially fitted delivery hose to comply with the requirement for passive emergency shut-down, the Committee recommends and we are proposing to permit unloading provided two conditions are met. First, the qualified person monitoring the unloading operation must remain within arm's reach of the mechanical means of closure for the internal self-closing stop valve throughout the unloading operation except for short periods when it is necessary to activate controls or monitor the receiving container. Second, the qualified person monitoring the unloading operation must visually examine the facility hose for obvious defects prior to beginning unloading.

b. *Off-truck remote shut-offs.* For cargo tanks transporting LPG and anhydrous ammonia in metered delivery service, the Committee agreed that a passive shut-down capability is not justified in terms of costs versus benefits. These cargo tanks deliver LPG or anhydrous ammonia through small diameter hoses at low flow rates. Delivery times commonly average 3–5 minutes. The discharge rate serves as a limiting factor on risk—over a period of seconds or even minutes, the average amount of product released in an incident will be relatively small.

At the same time, however, the Committee agreed that the qualified person attending the unloading of a cargo tank in metered delivery service must be able to quickly mitigate an unintentional release to prevent significant consequences. Thus, the Committee recommends that a cargo tank motor vehicle in metered delivery service for LPG or anhydrous ammonia must be equipped with an off-truck remote means to close the internal self-closing stop valve and shut off all motive and auxiliary power equipment when activated by a qualified person attending the unloading of the cargo tank motor vehicle. The off-truck remote must be capable of activation from any place the qualified person may need to be during the unloading operation. The activation device must not be capable of reopening the internal self-closing stop valve once it has been closed in an emergency; this is to assure that an operator cannot unintentionally restart the flow of product with the off-truck remote during an emergency.

The Committee recognizes that even reliable, well-designed wireless transmitter/receiver systems cannot be expected to function in every circumstance. In a small percentage of cases, signal interference may require the attendant to change position before such a system will function. In a very small number of cases, unusual site conditions may make it impossible to operate such a system at all. The latter could occur where signal interference is particularly severe (e.g., at a radio tower) or where the use of a wireless transmitter is prohibited (e.g., at a construction site where blasting operations are being conducted). Under the proposed rule, such limitations would be considered acceptable. The Committee recognizes that some deliveries will be made under conditions where an otherwise operable wireless transmitter/receiver system cannot be used or might not function and believes that the other safety features of this proposed rule should be considered sufficient in such cases. Accordingly, the proposed rule would not prohibit deliveries in such circumstances.

The Committee did not want to limit operators of cargo tanks to a single type of off-truck remote shut-off technology. While most include radio frequency devices, the Committee is aware of at least one off-truck remote shut-off device that is located at the end of a specially configured delivery hose. This technology increases the abrasion-resistance of a hose, thereby reducing the potential for hose failures, and has the added feature of shutting down the flow of product without human intervention in the event of either a delivery hose leak or a complete separation of the delivery hose. Where the proposed regulation includes a requirement for the qualified person to carry the off-truck remote activation device at all times during the unloading process, there is an exception for a system that places the remote shut-down device at the end of the delivery hose and that also includes an automatic shut-down feature that reacts to both hose leaks and complete hose separations.

There are several important safety benefits associated with an off-truck remote shut-off capability. In the event of an unintentional release, the qualified person will be able to quickly close the internal self-closing stop valve, thereby minimizing the amount of product released. The qualified person will also be able to quickly shut off the vehicle's engine and thus eliminate a possible ignition source. Further, the qualified person will not be placed in harm's way by having to approach the vehicle during an incident when it may be enveloped in vapors of released product or engulfed in flames if there is a fire at the point of release. These safety benefits are so significant that we are adopting the Committee's recommendation to require that each cargo tank in metered delivery service transporting a non-flammable compressed gas (Division 2.2 material) with a subsidiary hazard, a flammable gas (Division 2.1 material), or anhydrous ammonia have an off-truck remote shut-off capability designed in accordance with the Committee's recommendation.

c. *Cargo tank size and emergency discharge control.* The size of cargo tanks that transport LPG or anhydrous ammonia in metered delivery service varies. Most have a water capacity of 3,500 gallons or less. However, we know of between 150 and 170 cargo tanks transporting LPG and anhydrous ammonia in metered delivery service with capacities greater than 3,500 gallons. The Committee discussed whether larger capacity vehicles in metered delivery service present increased risks to life, health, property, or the environment. RSPA believes that the capacity of a cargo tank could have a significant effect on the worst-case consequences of an incident, particularly where the qualified person's view of the vehicle is obstructed or obscured. To address RSPA's concerns, the Committee agreed that cargo tanks with capacities greater than 3,500 water gallons transporting LPG and anhydrous ammonia in metered delivery service must, for obstructed view deliveries, in addition to an off-truck remote shut-off capability, have either: (1) a passive shut-down capability to shut off the flow of product without human intervention within 20 seconds of an unintentional release caused by a complete hose separation, or (2) a means to automatically shut off the flow of product unless prompted at least once every five minutes during the unloading operation by the person attending the unloading operation (e.g., an off-truck remote shut-off capability with a query feature). These types of emergency discharge control will assure that the unloading operation will shut down even if the qualified person is incapacitated.

Here again, we believe that the safety issues apply equally to certain cargo tanks transporting other liquefied compressed gases in metered delivery service with hazards similar to LPG and anhydrous ammonia. Thus, we are proposing that the Committee's recommendation be adopted for all non-flammable compressed gases (Division 2.2 materials) with a subsidiary hazard, flammable gases (Division 2.1 materials), and anhydrous ammonia in metered delivery service in cargo tanks with capacities greater than 3,500 water gallons.

The following table summarizes our proposal for emergency discharge control equipment on cargo tanks transporting liquefied compressed gases:

Material	Cargo tank capacity	Delivery service	New required emergency discharge control equipment
1. Division 2.2 materials with no subsidiary hazard, excluding anhydrous ammonia.	All	All	None.
2. Division 2.3 materials	All	All	Passive shut-down capability.
3. a. Division 2.2 materials with a subsidiary hazard and anhydrous ammonia.	All	Other than metered delivery service.	Passive shut-down capability.
b. Division 2.1 materials.			
4. a. Division 2.2 materials with a subsidiary hazard and anhydrous ammonia.	3,500 water gallons or less.	Metered delivery service.	Off-truck remote shut-down capability.
b. Division 2.1 materials.			
5. a. Division 2.2 materials with a subsidiary hazard and anhydrous ammonia.	Greater than 3,500 water gallons.	Metered delivery service.	Off-truck remote shut-down capability and
b. Division 2.1 materials in cargo tanks.			For obstructed view deliveries where permitted by the regulations, an off-truck remote with a query feature OR passive shut-down capability.

We believe that passive shut-down and off-truck remote technology provides such important safety benefits that all cargo tanks transporting liquefied compressed gases except for Division 2.2 materials with no subsidiary hazard (excluding anhydrous ammonia) should be equipped with one or the other, depending on the type of service in which they operate. The risks presented by Division 2.2 materials with no subsidiary hazard are not sufficient to justify either a passive shut-down capability or an off-truck remote shut-off capability. Accordingly, we are proposing that MC 330 and MC 331 specification cargo tank motor vehicles and nonspecification cargo tank motor vehicles authorized under § 173.315(k) of the HMR currently in operation should be equipped in accordance with the above table. The timing of the retrofit is discussed in detail under "Implementation Schedule" below.

Design and Certification of Emergency Discharge Control Equipment

We are also proposing specific requirements for certifying the design and installation of emergency discharge control equipment. For off-truck remote shut-off equipment, our proposal would require that it be installed under the supervision of a Registered Inspector, who would certify that it was installed according to the manufacturer's specifications. For passive shut-down equipment, we propose that its design must be certified by a Design Certifying Engineer and its installation must be supervised by a Registered Inspector. Separate certification of emergency discharge control equipment will allow a manufacturer of an MC 331 cargo tank to build and certify a cargo tank without installing an emergency discharge control system. The Committee was concerned that the requirement for emergency discharge control is dependent on the type of service in which the tank is operated, and that the manufacturer cannot be expected to know how it will be operated at the time of manufacture. The Committee was also concerned that cargo tank manufacturers may not have the specialized expertise necessary to install and certify the performance of the emergency discharge control technology currently being developed.

Some operators of cargo tank motor vehicles currently in operation believe that their passive shut-down systems meet the performance requirements contained in this proposed regulation. The Committee believes that operators should assure that any such systems comply with the new performance standard. Accordingly, the Committee recommends and we are proposing that any passive shut-down systems installed on cargo tank motor vehicles prior to implementation of the proposed regulation must be certified by a Design Certifying Engineer.

The manufacturers of internal self-closing stop valves with an integral excess flow valve or feature participating as members of the Committee advised the Committee that, in addition to restrictions in downstream piping caused by pumps, other variables may make such a valve unsuitable to serve as a means of passive shut-down. Such variables include other restrictions incorporated in the discharge system (due to pipe and hose dimensions, branching, elbows, reductions in pipe diameter, or other in-line valves or fittings), low operating pressures as a result of ambient temperatures, or a partially closed valve downstream from the excess flow valve, all of which restrict the rate of flow through the excess flow valve. In addition, they noted that operating conditions will also produce different flow rates affecting activation of the valve for different liquefied compressed gases because the properties vary from one gas to another. They advised the Committee that such variables may prevent activation of the excess flow valve in the event of a complete hose separation.

Fusible Elements

The Committee also discussed the safety benefits of fusible elements, which provide a heat-activated means for closing a valve. Fusible elements melt when subjected to sufficiently high temperatures, thereby effecting closure of the valve to which they are affixed. The HMR currently require installation of on-truck remote closures with a means of thermal activation on MC–331 cargo tanks with capacities greater than 3,500 gallons. The Committee agreed and we are proposing that internal self-closing stop valves be equipped with a means of thermal activation on all MC 330, MC 331, and nonspecification cargo tanks authorized under § 173.315(k) that are not currently so equipped.

Operating Procedures

We are proposing that operators of cargo tank motor vehicles in liquefied compressed gas service carry operating procedures applicable to unloading operations on or within the cargo tank motor vehicle. The operating procedures should include all information relevant to the vehicle's emergency discharge control equipment, including the type installed on the vehicle and, for passive systems, the parameters within which it is designed to operate. This will help to assure that a qualified person attending a cargo tank unloading operation is familiar with and understands the features of the cargo tank motor vehicle's emergency discharge control equipment and how it operates.

D. Implementation Schedule

The Committee discussed implementation issues in detail and

agreed on the following implementation schedule outline in the following table for the new requirements proposed in this NPRM. [The dates noted assume that the final rule will be effective on July 1, 1999.]

Section	Compliance date
1. New emergency discharge control equipment	
a. § 173.315(k)(6)—Authority for nonspecification cargo tank motor vehicles to cross state lines to travel to and from qualified assembly, repair, or requalification facility.	July 1, 1999.
b. § 173.315(n)(2)—For cargo tanks in other than metered delivery service and for cargo tanks transporting Division 2.3 materials, a means to automatically shut off the flow of product without the need for human intervention within 20 seconds of an unintentional release caused by complete hose separation.	July 1, 2001, for newly manufactured cargo tanks. Beginning July 1, 2001, cargo tanks currently in service begin retrofit at pressure testing interval.
c. § 173.315(n)(3)—For cargo tanks in metered delivery service with capacity of 3,500 water gallons or less, a means to enable the operator to stop the delivery from any location he may need to be during unloading.	July 1, 2001, for newly manufactured cargo tanks. Beginning July 1, 2001, cargo tanks currently in service begin retrofit at pressure testing interval.
d. § 173.315(n)(3) and (4), § 177.840(p)(2)(ii)—For cargo tanks in metered delivery service with capacity greater than 3,500 water gallons, a means to enable the operator to stop the delivery from any location he may need to be during unloading AND for obstructed view deliveries either a passive shut-down capability OR a means to shut down the unloading operation unless prompted by the operator at least once every five minutes.	July 1, 2001, for newly manufactured cargo tanks. Beginning July 1, 2001, cargo tanks currently in service begin retrofit at pressure testing interval or before July 1, 2003, whichever is earlier.
e. § 173.315(p), § 178.337–8(a)(4)—fusible elements on cargo tanks with capacities less than or equal to 3,500 water gallons.	July 1, 1999, for newly manufactured cargo tanks. Beginning July 1, 1999, cargo tanks currently in service begin retrofit at leakage test interval.
2. Unloading procedures	
a. § 177.840(l)—written operating procedures for unloading operations	January 1, 2000.
b. § 177.840(m)—pre-transfer check of discharge system	July 1, 1999.
c. § 177.840(n)—shut down of unloading in the event of an emergency	July 1, 1999.
d. § 177.840(o)—daily test of activation device for cargo tank motor vehicles equipped with off-truck remote shut-off systems.	July 1, 1999.
e. § 177.840(p)—unloading procedures and attendance requirements for LPG and anhydrous ammonia in metered delivery service.	July 1, 1999.
f. § 177.840(q)—unloading procedures and attendance requirements for LPG and anhydrous ammonia in other than metered delivery service.	July 1, 1999.
3. Discharge system inspection and maintenance program for cargo tanks transporting liquefied compressed gases.	
a. § 180.407(h)—annual inspection of discharge system by Registered Inspector	The first leakage test after July 1, 2000.
b. § 180.416(b)—hose assembly marking	July 1, 2000.
c. § 180.416(c)—post-delivery hose check	July 1, 1999.
d. § 180.416(d)—monthly discharge system inspections and tests	July 1, 1999.
e. § 180.416(f)—pressure tests for new/repaired hose assemblies	July 1, 1999.
f. § 180.416(g)—discharge system rejection criteria	July 1, 1999.
g. § 180.407(h)(4); § 180.416(d)(5), (f)(3)—recordkeeping for inspections and tests	July 1, 2000.

Voluntary compliance would be authorized within 30 days of publication of the final rule in the **Federal Register**, providing parties and the agency time to file and respond to any petitions for reconsideration. New or amended sections not specifically referenced in the table would become effective on July 1, 1999.

The Committee agreed that the new discharge system inspection and maintenance requirements and the revised attendance provisions applicable to unloading of LPG and anhydrous ammonia should become effective [effective date of final rule]. However, the Committee believes that the final rule should allow time for development and testing of new technologies to meet the requirements for passive and off-truck remote shut-off capability. The Committee recommends

and we are proposing a two-year period for this purpose.

The Committee is not aware of any passive shut-off technology currently installed and functioning on vehicles in liquefied compressed gas service that is sufficiently tested and proven to meet the proposed new standards. Although several types have been developed and tested on a limited basis, none has been subjected to widespread testing under all operating conditions. Allowing a two-year development period will give industry sufficient time to install prototype designs on cargo tanks, operate the tanks for a year while conducting testing, make refinements to the technology as necessary, and operate the tanks for another year to test the refinements. In-use testing under actual winter-delivery conditions—including exposure to road salt, ice, damp weather conditions, and geographical variations—is essential. Testing the technology over more than one year should result in better, more reliable systems.

The argument above for development of passive shut-off technology over two years to ensure reliable functioning in all conditions is also applicable to off-truck remote shut-off technology. Industry has been installing and testing a number of different radio-frequency devices. Testing has shown that some of these devices were inadequate. Further, some in the industry have discovered that installation of these devices can affect other cargo tank systems, resulting in unwanted or even unsafe conditions while the vehicle is in operation. The importance of a trial-and-development period is underscored by the experience of companies that have installed off-truck remote shut-off systems. Some of these have had to be discarded because of problems with reliability, range, transmission/receiving antennas, and battery life; maintenance difficulties; and inability to operate through obstructions.

Another factor arguing in favor of a two-year development period is that the industry needs time to develop standards for installing off-truck remote shut-off equipment on cargo tank motor vehicles. There are a variety of different make and model vehicles with differing ignition, computer, and electrical systems—all of which can affect installation of an off-truck remote shut-off device. The actual installation can take from half-a-day to two days depending on the installer's familiarity with the type of vehicle. A two-year development period will provide industry time to develop installation procedures for all different types of vehicles.

The Committee also recommends that operators be permitted to retrofit vehicles with the new safety equipment over a five-year period on a schedule consistent with a cargo tank's five-year pressure retest cycle. This schedule saves the industry the cost of taking a vehicle out of service more than once during the five-year period, avoids conflicts with the peak periods of use for cargo tanks in LPG and anhydrous ammonia service, and provides a standard for implementation of this rule that can be checked easily during roadside inspections. No MC 330, MC 331, or nonspecification cargo tank used to transport liquefied compressed gases would be permitted to operate after its first pressure testing interval occurring after [two years after the effective date of the final rule] unless it is equipped with appropriate emergency discharge control equipment. All equipment retrofits would be completed by [seven years after the effective date of the final rule].

Given the rates at which cargo tank motor vehicles are rechassised and requalified, the Committee estimates that over half of all cargo tank motor vehicles subject to the proposed retrofit requirements will be equipped within the first two years after the two-year development period. About 90 percent of affected vehicles will be equipped by the end of the fourth year.

The Committee also recommends and we are proposing that cargo tanks authorized under § 173.315(k) of the HMR, which are currently limited to intrastate operations, should be permitted to cross state lines for the purpose of traveling to and from a qualified assembly, repair, maintenance, or requalification facility. The cargo tank need not be cleaned and purged, but it may not contain liquefied petroleum gas in excess of five percent of the water capacity of the cargo tank. Vehicles supplied with engine fuel from the cargo tank would be permitted to carry sufficient fuel for the trip to or from the facility.

The Committee took note of the fact that, beginning in the spring of 1997, several operators of cargo tanks transporting liquefied compressed gases installed off-truck remote shut-off devices in efforts to address RSPA's concern over emergency discharge control. The Committee agreed that companies that installed off-truck remote shut-offs designed to close the internal self-closing stop valve from a distance of at least 150 feet should not be required to retrofit their vehicles to meet the requirements for off-truck remote shut-off devices being proposed here. Thus, the Committee recommends and we are proposing that cargo tank motor vehicles in metered delivery service, with capacities less than or equal to 3,500 gallons, that are equipped with off-truck remote shut-offs that close the internal self-closing stop valve will not be subject to the retrofit requirements if the systems were installed prior to [one year after effective date of final rule]. When a system reaches the end of its useful life, a replacement system would be required to conform to the new requirements proposed in this NPRM.

Because of RSPA's concern about the potential risk involved with larger capacity cargo tanks, the Committee agreed and we are proposing that cargo tank motor vehicles in metered delivery service with capacities greater than 3,500 water gallons must have an off-truck remote shut-off capability to shut the internal self-closing stop valve or other primary means of closure and shut down all motive and auxiliary power by [four years after effective date of final rule], whether or not they are due to be requalified at that time and whether or not they are already equipped with off-truck remote shut-off devices that close the internal self-closing stop valve. When such vehicles are used to make deliveries where the qualified person monitoring the unloading operation cannot maintain an unobstructed view of the cargo tank, the vehicles must have either a passive shut-down capability or a query feature as proposed above by [four years after effective date of final rule].

We anticipate that periodic progress reviews will be needed during the two-year development and testing cycle for emergency discharge control technology. These reviews would help foster communication between industry and government and function as a catalyst for critical development and testing needs that may occur.

We plan to work in partnership with the industry to assure widespread dissemination of information on the development and testing of emergency discharge control technology. We envision that this effort will parallel training and research conducted by organizations such as the Propane Education and Research Council, the National Propane Gas Association, the Fertilizer Institute, and the Compressed Gas Association. Key elements of the progress review and study may include: (1) surveying and cataloging industry efforts; (2) identification and communication of successes and problems; (3) monitoring or performing critical research and development; and (4) testing. We will also explore possible sponsorship of technology exchange

forums to highlight the state of technology development and implementation.

E. Miscellaneous

In addition to the proposals outlined above, we are proposing revisions to the current specification for MC 331 cargo tanks to accommodate new requirements for hose assembly testing, emergency discharge control, excess flow valves, and thermal means of closing an internal self-closing stop valve. Several members of the Committee also suggested that the MC 331 cargo tank specification should be clarified and simplified. This is particularly important with the introduction of new terminology and the need to differentiate types of discharge control. To accomplish this, the Committee agreed to revisions to the current specification, described in more detail in the section-by-section review below, that would add several defining terms and place all requirements for outlets, inlets, and openings in a single section.

F. Section-by-Section Review

Part 171

Section 171.5. The provisions initially adopted as a temporary measure would be removed. Through the amendments proposed in this notice, these temporary measures would no longer be necessary.

Section 171.7. We propose to revise the incorporations by reference to reflect the most recent publication of The Chlorine Institute.

Section 171.8. We propose to add a new definition for "metered delivery service."

Part 173

Section 173.315. Paragraph (k) sets forth requirements that must be met for use of nonspecification cargo tanks to transport LPG. Paragraph (k)(4) currently requires that such cargo tanks conform to the requirements of Pamphlet 58 of the National Fire Protection Association. We are proposing to include an exception from this requirement where the provisions of Pamphlet 58 are inconsistent with Parts 178 and 180 of the HMR. We also propose to permit such tanks to cross state lines to travel to and from a qualified assembly, repair, maintenance, or requalification facility under certain conditions. Finally, we propose to rewrite paragraph (k) for clarity.

We are proposing to revise paragraph (n) to add requirements for emergency discharge control equipment on cargo tanks transporting liquefied compressed gases. We concluded that the emergency discharge control equipment design and certification requirements should not be included with the MC 331 cargo tank specification in Part 178 of the HMR. The new requirements are material-specific depending on the degree of risk associated with specific classes of liquefied compressed gases. The MC 331 cargo tank specification in Part 178 sets forth requirements for all MC 331 cargo tanks that apply irrespective of the specific material transported in the tank. For these reasons, we have placed the new emergency discharge control requirements in Part 173, which sets forth general requirements for shipments and packagings.

Proposed paragraph (n)(1) includes a table that shows the subparagraphs of proposed paragraph (n) where emergency discharge control requirements applicable to specific liquefied compressed gases are located.

Proposed paragraph (n)(2) describes the emergency discharge control equipment that will be required on cargo tanks used to transport liquefied compressed gases in other than metered delivery service and requirements for installation and certification. Proposed paragraph (n)(2)(ii) would require the design for equipment to be certified by a Design Certifying Engineer. The certification would be required to consider any specifications of the original component manufacturer and would explain how the passive means to shut off the flow of product operates. This certification is separate from the certification required for an MC 331 cargo tank motor vehicle under § 178.337–18. Proposed paragraph (n)(2)(iii) would require installation under the supervision of a Registered Inspector except for equipment, such as a delivery hose assembly, that is installed and removed as part of regular operations.

Proposed paragraphs (n)(3) and (n)(4) describe the emergency discharge control equipment that would be required on cargo tanks transporting liquefied compressed gases in metered delivery service, including requirements for installation and certification. Proposed paragraph (n)(5) shows the dates by which cargo tanks used for transporting liquefied compressed gases must come into compliance with the new emergency discharge control equipment requirements.

We are also proposing to add paragraph (p) to require each specification MC 330, MC 331, and nonspecification cargo tank authorized under § 173.315(k) to conform to the new requirements for fusible elements.

Part 177

Section 177.834. We propose to revise paragraph (i)(3), which currently covers attendance requirements for loading and unloading of all cargo tank motor vehicles, to reference the new provisions in § 177.840 that set forth attendance procedures specifically applicable to unloading of LPG and anhydrous ammonia. In addition, we are revising this paragraph to clarify that the person monitoring the unloading operation must be alert and have an unobstructed view of the cargo tank and the delivery hose to the maximum extent practicable. We propose to remove paragraph (i)(5) for clarity.

Section 177.840. We propose to add several new provisions concerning unloading procedures for liquefied compressed gases. Paragraph (l) would require that each operator of a cargo tank motor vehicle transporting a liquefied compressed gas carry a written operating procedure for all delivery operations on the cargo tank motor vehicle. The operating procedure would describe the vehicle's emergency discharge control features and, for passive systems, set forth the parameters within which they are designed to function. If the cargo tank motor vehicle relies on a specially equipped delivery hose to meet the requirements of § 173.315(n)(2), the procedure would describe the conditions under which use of a facility-provided hose for unloading is authorized.

We propose to add paragraph (m) to require that, before each transfer from a cargo tank motor vehicle containing a liquefied compressed gas, the qualified person unloading the cargo tank must check those components of the discharge system that are readily observed during the normal course of unloading after the pressure in the discharge system has reached at least equilibrium with the pressure in the cargo tank. The qualified person would determine that each component is of sound quality and without obvious defects detectable through visual observation and audio awareness. The qualified person would also assure that all connections are secure. This paragraph would also prohibit an operator from unloading a liquefied compressed gas if the discharge system has any of the defects listed in proposed § 180.416(g).

Paragraph (n) would require the qualified person to promptly shut the internal self-closing stop valve or other primary means of closure and shut down all motive and auxiliary power equipment in the event of an unintentional release during unloading.

Paragraph (o) would require that operators of cargo tank motor vehicles with an off-truck remote shut-off capability successfully test the activation device within 18 hours prior to the first delivery of each day. The person conducting the test must be at least 150 feet from the cargo tank and may have the cargo tank in his line of sight. A test at this distance should help to assure that the activation device will function at the maximum distance permitted for a qualified person attending an unloading operation.

Paragraphs (p) and (q) provide proposed attendance requirements for unloading LPG and anhydrous ammonia. For cargo tank motor vehicles in metered delivery service, paragraph (p) would require that a qualified person must remain within 150 feet of the cargo tank motor vehicle and within 25 feet of the delivery hose and must observe both the cargo tank and the receiving container at least once every five minutes while the internal self-closing stop valve is open. Proposed paragraph (p)(2) sets forth attendance requirements for unloading LPG and anhydrous ammonia from cargo tank motor vehicles with capacities greater than 3,500 gallons.

Paragraph (q) proposes revised attendance requirements for cargo tank motor vehicles unloading LPG or anhydrous ammonia in other than metered delivery service. For these vehicles, the qualified person must remain within 25 feet of the cargo tank throughout the unloading operation and must maintain an unobstructed view of the cargo tank except when activating controls or monitoring the receiving container for brief periods.

Paragraph (r) proposes conditions under which cargo tanks equipped with emergency discharge control equipment that is part of the delivery hose may be unloaded using facility-provided hoses.

Proposed paragraph (s) would require that, for a cargo tank with an off-truck remote shut-off, the qualified person must be in possession of the activation device at all times during the unloading operation. This paragraph includes an exception from this requirement if the activation device is part of a system that will shut off the unloading operation without human intervention in the event of a leak or separation of the delivery hose.

Proposed paragraph (t) would require that, until a cargo tank motor vehicle unloading liquefied compressed gases in other than metered delivery service is equipped with a passive means to shut down unloading, the qualified person attending the unloading operation must remain within arm's reach of a means to shut down the unloading operation except for short periods to activate controls or monitor the receiving container.

Proposed paragraph (u) would require that chlorine be unloaded from cargo tanks in accordance with procedures set forth in section 3 of Pamphlet 57 published by the Chlorine Institute. This proposal responds to comments received under Docket HM–225.

Part 178

Section 178.337–1. We are proposing to add a new paragraph (g) that would define "emergency discharge control," "excess flow valve, integral excess flow valve or excess flow feature," "internal self-closing stop valve," and "primary discharge control system."

Section 178.337–8. We are proposing to retitle and rewrite this section to place all of the requirements related to MC 331 cargo tank openings, inlets, and outlets in one section. Paragraph (a)(1) would be rewritten for clarity. Paragraph (a)(2) would be revised to indicate the specific cargo tank openings that must be closed with a plug, cap, or bolted flange.

Paragraph (a)(3) would be added to describe requirements for product inlet openings, including vapor return lines, and to move applicable requirements concerning installation and materials of construction from §§ 178.337–11(a)(1)(ii) and 178.337–11(a)(1)(iii).

Paragraph (a)(4) would be added to describe requirements for liquid and vapor discharge outlets. This paragraph also specifies performance requirements for thermal remote actuators and for linkages between closures and remote actuators currently in § 178.337–11(a)(2). All cargo tanks, except for those used to transport chlorine, carbon dioxide, refrigerated liquid, and certain cargo tanks certified before January 1, 1995, would be required to have a primary discharge control system consisting of an internal self-closing stop valve with an on-truck remote means of closure that operates by both manual and thermal means. This paragraph would thus implement the Committee's recommendation that all MC 331 cargo tanks, regardless of their capacities, must be equipped with fusible elements.

Proposed paragraph (a)(4)(i) would incorporate requirements for remote closures on cargo tanks greater than 3,500 gallons water capacity. These requirements are currently in § 178.337–11(a)(2)(i). Paragraph (a)(4)(ii) would incorporate requirements currently in § 178.337–11(a)(2)(ii) for remote closures on cargo tanks with water capacities of 3,500 gallons water capacity or less. This paragraph includes a new requirement for a remote means of closure that operates by thermal means. Proposed paragraph (a)(4)(iii) would move applicable requirements concerning installation and materials of construction for internal self-closing stop valves from §§ 178.337–11(a)(1)(ii) and (a)(1)(iii). Proposed paragraph (a)(4)(iv) would clarify performance requirements for excess flow valves, integral excess flow valves, and excess flow features. Proposed paragraph (a)(4)(v) would permit an integral excess flow valve or the excess flow feature of an internal self-closing stop valve to be designed with a bypass and would specify bypass requirements currently found in § 178.337–11(a)(1)(vi). Proposed paragraph (a)(4)(vi) would specify construction requirements for internal self-closing stop valves currently located in § 178.337–11(a)(1)(ii).

Proposed paragraph (a)(5) would move exceptions from the requirement for a primary discharge control system from § 178.337–11(a)(2) and (c). Proposed paragraph (a)(6) would move requirements for shut-off valves from § 178.337–11(b). Proposed paragraph (a)(7) would permit an excess flow valve to be designed with a bypass for equalization of pressure.

Proposed paragraph (b) moves and updates requirements applicable to chlorine cargo tanks from § 178.337–11(a)(4). Proposed paragraph (c) moves and restates the current exception from the requirement for an internal self-closing stop valve for cargo tanks that transport carbon dioxide, refrigerated liquid, currently in § 178.337–11(a)(3).

Section 178.337–9. We propose to revise paragraph (b)(6) to move the hose testing requirements to a new paragraph (b)(7), which would require that hose assemblers mark each hose assembly with a unique identifier and test the hose assembly in accordance with the new testing requirements proposed in § 180.416(f). Current paragraph (b)(7) would be redesignated as (b)(8) and updated to incorporate the most recent publications of The Chlorine Institute. This proposal responds to comments received to Docket HM–225. In addition, we are modifying paragraph (c) of this section to allow for a product inlet to be marked as "spray-fill" or "vapor." This is a common industry practice that addresses safety concerns about ensuring that loading and unloading lines are correctly connected. The proposed revision should clarify any confusion among enforcement personnel about whether this practice is permitted.

Section 178.337–11. We are proposing a new paragraph (a) to require that liquid discharge lines in MC 331 cargo tanks must be fitted with emergency discharge control equipment as specified by product and service in § 173.315(n). This paragraph would also note that performance and certification requirements for emergency discharge control equipment are specified in § 173.315(n) and are not considered to be part of the MC 331 cargo tank motor vehicle certification. In addition, we propose to redesignate paragraph (a) as paragraph (b) and modify redesignated paragraph (b)(1)(v) to accurately reflect the performance capabilities of excess flow valves.

Proposed paragraph (b) restates the exception from emergency discharge control requirements in current paragraph (c)(3) of this section.

Current paragraphs (a)(1)(ii), (iii), (iv), and (vi) would be relocated to § 178.337–8. Current paragraph (a)(1)(v) would be removed. Current paragraphs (a)(2), (a)(2)(i) and (ii), (a)(3), and (a)(4) and current paragraph (b) would be moved to § 178.337–8.

Part 180

Section 180.403. We propose to add a definition for "delivery hose assembly" and for "piping systems." In addition, we propose to revise the current definition for "modification" to specify that a change in the design of the passive shut-down capability of the emergency discharge control equipment would be considered a modification. This would make a modification of this equipment subject to certification by a Design Certifying Engineer under § 180.413(d).

Section 180.405. We propose to revise this section to incorporate the retrofit requirements for MC 330, MC 331, and nonspecification cargo tank motor vehicles authorized under § 173.315(k). For both passive shut-down and off-truck remote equipment, a cargo tank motor vehicle must be retrofitted by the date of its first scheduled pressure test two years after the effective date of the final rule. For a cargo tank of greater than 3,500 gallons capacity operating in metered delivery service, we propose to allow two years to accomplish the required retrofit; thus, retrofits must be completed no later than four years after the effective date of the final rule or by the cargo tank's first scheduled pressure test two years after the effective date of the final rule, whichever is earlier. For fusible elements, a cargo tank must be retrofitted by the date of its first scheduled leakage test after the effective date of the final rule.

Section 180.407. We are proposing to revise paragraph (h) of this section to authorize a "meter creep" test for checking the leak tightness of an internal self-closing stop valve and to add a requirement that delivery hose assemblies and piping systems of MC 330, MC 331, and nonspecification cargo tanks authorized under § 173.315(k) must be visually inspected while under leakage test pressure. Delivery hose assemblies that are not permanently attached to the cargo tank motor vehicle may be inspected separately from the cargo tank motor vehicle. This paragraph also proposes recordkeeping requirements related to the leakage test.

Section 180.416. We are proposing to add a new section to incorporate the new delivery hose assembly and piping system inspection and maintenance program for cargo tank motor vehicles transporting LPG and anhydrous ammonia. The new section includes requirements for marking delivery hose assemblies, post-delivery hose checks, monthly inspections and tests, annual inspections and tests, and testing new and repaired delivery hose assemblies. The section also includes recordkeeping requirements and rejection criteria for both delivery hose assemblies and discharge system piping.

Appendices to Part 180. We propose to add Appendices A and B to Part 180. Appendix A would outline acceptable methods for conducting periodic tests to assure that the linkages connecting an internal self-closing stop valve to its remote actuators on a cargo tank in other than metered delivery service will move freely when activated by the operator. Appendix B would outline acceptable leakage tests, including the "meter creep test," for an internal self-closing stop valve on a cargo tank in metered delivery service.

V. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866. The rule is considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034) because of public interest. A preliminary regulatory evaluation is available for review in the docket.

B. Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). Federal hazardous materials transportation law, 49 U.S.C. 5701–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) The designation, description, and classification of hazardous material;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(iii) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

(v) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subjects under items (i) through (v) above and, if adopted, would preempt state, local, or Indian tribe requirements not meeting the "substantively the same" standard. Federal hazardous materials transportation law provides at § 5125(b)(2) that if RSPA issues a regulation concerning any of the covered subjects RSPA must determine and publish in the **Federal Register** the effective date of federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted. RSPA proposes that the effective date of federal preemption for these requirements be 90 days after a final rule is issued in this rulemaking.

C. Executive Order 13084

This proposed rule has not been analyzed in accordance with the principles and criteria in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because revised rules and regulations resulting from this NPRM are not expected to significantly or uniquely affect communities of Indian tribal governments, the funding and consultation requirements of this Executive Order do not apply. Nevertheless, this NPRM specifically requests comments from affected persons, including Indian tribal governments, as to its potential impact.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. Based on the assessment in the preliminary regulatory evaluation, I hereby certify that the proposed rule would not have a significant economic impact on a substantial number of small businesses.

Need for the proposed rule. The goal of the proposed regulations is to enhance transportation safety by improving the regulations governing the unloading of liquefied compressed gases from MC 330, MC 331 and certain nonspecification cargo tanks. Concerns about emergency discharge control on some of these cargo tanks were identified following an incident in 1996. In 1997, RSPA adopted an interim final rule establishing certain temporary regulations under which cargo tanks could remain in service while RSPA evaluated this incident and other situations in which liquefied compressed gases were released unintentionally from cargo tanks during unloading operations. The interim final rule expires July 1, 1999. The proposals in this NPRM are intended to replace the provisions of the interim final rule with a comprehensive safety program intended to reduce the risk of an unintentional release of a liquefied compressed gas during unloading, assure prompt detection and control of an unintentional release, and make the regulatory requirements easier to understand and comply with.

Objectives and legal basis for the proposed rule. As indicated above and in previous rulemakings under Docket HM–225 (RSPA–97–2133), the goal of this rulemaking is to enhance safety in transportation through improvements in the regulations governing the unloading of liquefied compressed gases from MC 330, MC 331, and certain nonspecification cargo tanks. Federal hazardous materials transportation law (49 U.S.C. 5101 *et seq.*) directs the Secretary of Transportation to prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. Section 5103(b) specifies that the regulations shall apply to persons transporting hazardous materials in commerce; causing hazardous materials to be transported in commerce; or manufacturing, marking, maintaining, reconditioning, repairing, or testing a packaging or container that is represented, marked, certified, or sold by such persons as qualified for use in transporting hazardous materials in commerce.

Identification of potentially affected small entities. Unless alternative definitions have been established by the agency in consultation with the Small Business Administration, the definition of "small business" has the same meaning as under the Small Business Act. Therefore, since no such special definition has been established, RSPA employs the thresholds (published in 13 *CFR* 121.201) of 100 employees for wholesale trade in general and $5,000,000 annual sales for retail trade in general.

1. Liquefied petroleum gas dealers constitute the principal type of business on which new costs for compliance will be imposed by this rule. Using the Small Business Administration definitions and the latest (1992) available *Census of Retail Trade*, it appears that over 95 percent of retail liquefied petroleum gas dealers must be considered small businesses for purposes of the Regulatory Flexibility Act. In the 1992 Census, they accounted for over 50 percent of business locations and almost 43 percent of annual sales. Unpublished 1992 *Census of Wholesale Trade* figures provided to RSPA by the U.S. Bureau of the Census indicate that over 95 percent of merchant wholesalers of liquefied petroleum gas must be considered small businesses; they account for approximately 40 percent of annual sales and over 50 percent of business locations.

In addition to liquefied petroleum gas dealers, shippers and transporters of liquefied compressed gases such as anhydrous ammonia, chlorine and other materials classified as poisonous by inhalation, and refrigerant gases would incur new compliance costs associated with the proposed rule. The Small Business Administration threshold for manufacturers of industrial gases (SIC 2813) is 1,000 employees, as is the threshold established for manufacturers of nitrogenous fertilizers (SIC 2873). For motor freight transportation and warehousing (Major Group 42), the threshold is annual revenues of $18.5 million. Using these criteria, RSPA estimates that at least 90 percent of shippers and transporters of liquefied compressed gases, in bulk, are small businesses.

Shippers and transporters of liquefied compressed gases would incur compliance costs in the amounts outlined in the preliminary regulatory evaluation for implementation of hose management and discharge system inspection and maintenance programs, installation of new emergency discharge control equipment on cargo tanks, and for revised unloading procedures. For a small propane marketer that operates three smaller cargo tank motor vehicles used in local retail deliveries of propane, RSPA estimates an increased cost of operation of $804 per year, including increased recordkeeping costs. If such a propane marketer delivers 400,000 gallons of propane per year (800 deliveries per cargo tank motor vehicle at an average rate of 166 gallons per delivery) the annual increase per gallon of product sold is $0.00201. RSPA fully anticipates that this additional cost of operation would be passed along to the consumer. On a typical delivery of 166 gallons of propane, the additional charge attributed to new requirements proposed in this rule come to $0.33. Considering that the national average residential price of propane on January 18, 1999 was $0.890 per gallon, RSPA determined that there would be no significant economic impact, in terms of lost sales or otherwise, on a small propane marketer that increases the price of residential propane to $0.892 per gallon.

2. Besides shippers and transporters of liquefied compressed gases, cargo tank assembly, repair, or requalification facilities will also incur compliance costs associated with the proposed rule that requires installation of certain equipment on the cargo tank must be examined by a Registered Inspector. For these entities, the Small Business Administration threshold is 1,000 employees (SIC 3795). There are about 150 assembly, repair, or requalification facilities currently registered with RSPA to handle MC 331 cargo tanks. RSPA estimates that at least 90 percent of these entities are small businesses. Under the proposed rule, assembly, repair, and requalification facilities will incur compliance costs associated with certifying the installation of emergency discharge control equipment. Each of those facilities has filed a self-certified registration statement with RSPA and must re-register every 6 years. Under its current OMB approval (2137-0014), RSPA estimated that the time required to prepare and file an initial registration statement with RSPA is 20 minutes, and re-registrations require 15 minutes, at an average cost of $20 per hour. Over a six-year period, the annual cost is little more than $1. Here again, RSPA determined that there would be no significant economic impact on any small facility that would need to file a registration statement in the future.

Related federal rules and regulations. The Department of Labor's Occupational

Safety and Health Administration (OSHA) issues regulations related to safe handling, including containment and transfer operations, of hazardous materials, including liquefied compressed gases, in the workplace. These regulations are codified at 29 CFR Part 1910. Where both agencies have issued rules related to specific materials or operations, the OSHA rules defer to the RSPA regulations.

Alternate proposals for small businesses. The Regulatory Flexibility Act suggests that it may be possible to establish exceptions and differing compliance standards for small business and still meet the objectives of the applicable regulatory statutes. However, given the importance of small business, as defined for purposes of the Regulatory Flexibility Act, in liquefied compressed gas distribution and especially in its retail sector, RSPA believes that it would not be possible to establish such differing standards and still accomplish the objectives of federal hazardous materials transportation law.

While certain regulatory actions may affect the competitive situation of an industry by imposing relatively greater burdens on small-scale than on large-scale enterprises, RSPA does not believe that this will be the case with the proposed rule. The principal types of compliance expenditures effectively required by the proposed rule are new requirements for discharge system inspection and maintenance and new requirements for emergency discharge control equipment. These expenditures are imposed on each vehicle, whether operated within a large or a small fleet.

At the same time, RSPA notes that the proposed rules were developed under the assumption that small businesses comprise an overwhelming majority of entities that would be compelled to comply. The NPRM was developed through a negotiated rulemaking process by a committee that included representatives of the interests affected by the regulations, including businesses that transport and deliver liquefied petroleum gases, anhydrous ammonia and other liquefied compressed gases; manufacturers and operators of cargo tanks and vehicle components; and state and local public safety and emergency response agencies. Many of the committee members represented small businesses. In developing the proposed rules, the negotiated rulemaking committee considered each requirement and agreed that the overall safety benefits of the proposed regulations justify the compliance costs that the regulated industry will incur.

RSPA is proposing a two-year period for development and testing of new technologies for emergency discharge control and plans to provide support for development and testing of such technology in a cooperative effort with industry. RSPA anticipates that this effort will parallel training and research conducted by organizations such as the Propane Education and Research Council, the National Propane Gas Association, The Fertilizer Institute, and the Compressed Gas Association. Key elements of the progress review and study may include: (1) surveying and cataloging industry efforts; (2) identification and communication of successes and problems; (3) monitoring or performing critical research and development; and (4) testing.

Further, to minimize the compliance burden, RSPA is proposing a five-year retrofit period for installation of new emergency discharge control equipment on a schedule consistent with a cargo tank's five-year pressure retest date. This schedule saves the industry the cost of taking a vehicle out of service more than once during the five-year period and avoids conflicts with the peak periods of use of cargo tanks in liquefied petroleum gas and anhydrous ammonia service.

Moreover, RSPA recognizes that, beginning in the spring of 1997, several operators of cargo tanks transporting liquefied compressed gases installed off-truck remote control devices in an effort to address RSPA's concern over emergency discharge control. Companies that installed off-truck remote shut-offs designed to close the internal self-closing stop valve should not be required to retrofit their vehicles to meet the requirements for off-truck remote shut-off devices being proposed here. Thus, RSPA is proposing that cargo tank motor vehicles that are equipped with off-truck remote shut-off devices that close the internal self-closing stop valve will not be subject to the retrofit requirements if the systems were installed prior to one year after the effective date of the final rule.

In addition, RSPA is proposing that nonspecification cargo tanks authorized for liquefied petroleum gas service under § 173.315(k) of the Hazardous Materials Regulations, which are limited to intrastate operations, be permitted to cross state lines for the purpose of traveling to or from a qualified assembly, repair, maintenance, or requalification facility. This will save operators the cost of traveling to a facility within the state in which they operate when there is a closer facility in a neighboring state.

Conclusion. RSPA has determined that the cost of complying with the proposed requirements, including proposed new recordkeeping requirements, should not significantly affect the cost of transporting and delivering liquefied compressed gases. Based on this initial analysis, RSPA believes that the proposed rules will not impose a substantial economic burden on a significant number of small businesses or other small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. RSPA has a current information collection approval under OMB No. 2137–0595, Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service, which expires July 1, 1999, with 8,300 burden hours and an annual cost of $85,000. RSPA believes that this proposed rule may result in an increase in annual burden hours and costs. If these proposals are finalized, RSPA will revise the current approval and resubmit it to OMB for extension and re-approval.

Section 1320.8(d), Title 5, Code of Federal Regulations, requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This proposal identifies information collection that RSPA may submit to OMB for extension and re-approval based on the requirements in this proposed rule. RSPA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in this proposed rule since the information collection was last approved. RSPA estimates that the total information collection and recordkeeping burden for transportation and unloading of cargo tank motor vehicles in liquefied compressed gas service requirements would be revised as follows:

OMB No.: 2137–0595.
Number of Respondents: 6,958.
Total Annual Responses: 920,530.
Total Annual Burden Hours: 200,615.
Total Annual Burden Cost: $2,621,141.
One Time Annual Start Up Burden Hours: 14,490.
One Time Annual Start Up Cost: $161,615.
Total Responses for First Year: 990,563.
Total Annual Burden Hours for First Year: 215,105.
Total Annual Burden Cost for First Year: $2,782,756.

RSPA specifically requests comments on the information collection and recordkeeping burdens associated with

developing, implementing, and maintaining these requirements for transportation and unloading of cargo tank motor vehicles in liquefied compressed gas service under this proposed rule.

Requests for a copy of the information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

Written comments should be addressed to the Dockets Management System as identified in the **ADDRESSES** section of this rulemaking. Comments should be received prior to the close of comment period identified in the **DATES** section of this rulemaking.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. If these proposed requirements are adopted in a final rule, RSPA will submit the revised information collection and recordkeeping requirements to the Office of Management and Budget for approval.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN containing in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This proposed rule imposes no mandates and thus does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995.

H. Impact on Business Processes and Computer Systems

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize "double zero" not as 2000 but as 1900. This glitch, the Year 2000 problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, federal agencies are reaching out to increase awareness of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 problem.

This proposed rule does not propose business process changes or require modifications to computer systems. Because this proposed rule apparently does not affect organizations' ability to respond to the Year 2000 problem, we do not intend to delay the effectiveness of the proposed requirements.

I. Environmental Assessment

RSPA finds that there are no significant environmental impacts associated with proposed regulations resulting from the negotiated rulemaking to develop safety standards for preventing and mitigating unintentional releases during the unloading of cargo tank motor vehicles in liquefied compressed gas service. A copy of the environmental assessment has been placed in the public docket for this rulemaking.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR Parts 171, 173, 177, 178, and 180 as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 171.5 [Removed]

2. Section 171.5 would be removed.

3. In § 171.7, in the table in paragraph (a)(3), a new entry would be added in alphanumeric sequence, under the Chlorine Institute, Inc., to read as follows:

§ 171.7 Reference material.

(a) * * *

(3) *Table of material incorporated by reference.* * * *

Source and name of material	49 CFR reference
* * * * * * *	
Chlorine Institute, Inc.	
* * * * * * *	
Section 3, Pamphlet 57, Emergency Shut-Off Systems for Bulk Transfer of Chlorine	177.840
* * * * * * *	

4. In § 171.7, in the table in paragraph (a)(3), the following changes would be made:

a. Under "Chlorine Institute, Inc.," for the entry "Standard Chlorine Angle Valve Assembly," the wording "104–6, December 1, 1982" would be revised to read "104–8, July 1, 1993."

b. Under "Chlorine Institute, Inc.," for the entry "Excess Flow Valve with Removable Seat," the wording "101–6, September 1, 1973" would be revised to read "101–7, July 1, 1993" and, in column 2, the reference "178.337–11" would be revised to read "178.337–8."

c. Under "Chlorine Institute, Inc.," for the entry "Excess Flow Valve with Removable Basket," the wording "106–5, September 1, 1973" would be revised to read "106–6, July 1, 1993" and, in column 2, the reference "178.337–11" would be revised to read "178.337–8."

5. In § 171.8, the following definition would be added in alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Metered delivery service means a cargo tank unloading operation conducted at a metered flow rate of 378.5 liters (100 gallons) per minute or less through an attached delivery hose with a nominal inside diameter of 3.175 centimeters (1¼ inches) or less.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45 and 1.53.

7. In § 173.315, paragraphs (k) and (n) would be revised and paragraph (p) would be added to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

* * * * *

(k) A nonspecification cargo tank meeting, and marked in conformance with, the edition of the ASME Code in effect when it was fabricated may be used for the transportation of liquefied petroleum gas provided it meets all of the following conditions:

(1) It must have a minimum design pressure no lower than 250 psig.

(2) It must have a capacity of 13,247.5 liters (3,500 water gallons) or less.

(3) It must have been manufactured in conformance with the ASME Code prior to January 1, 1981, according to its ASME name plate and manufacturer's data report.

(4) It must conform to applicable provisions of NFPA Pamphlet 58, except to the extent that provisions of Pamphlet 58 are inconsistent with requirements in parts 178 and 180 of this subchapter.

(5) It must be inspected, tested, and equipped in accordance with subpart E of part 180 of this subchapter as specified for MC 331 cargo tanks.

(6) Except as provided in this paragraph (k), it must be operated exclusively in intrastate commerce, including its operation by a motor carrier otherwise engaged in interstate commerce, in a state where its operation was permitted by law (not including the incorporation of this subchapter) prior to January 1, 1981. A cargo tank motor vehicle operating under authority of this section may cross state lines to travel to and from a qualified assembly, repair, maintenance, or requalification facility. The cargo tank need not be cleaned and purged, but it may not contain liquefied petroleum gas in excess of five percent of the water capacity of the cargo tank. If the vehicle engine is supplied fuel from the cargo tank, enough fuel in excess of five percent of the cargo tank's water capacity may be carried for the trip to or from the facility.

(7) It must have been used to transport liquefied petroleum gas prior to January 1, 1981.

(8) It must be operated in conformance with all other requirements of this subchapter.

* * * * *

(n) *Emergency discharge control for cargo tanks in liquefied compressed gas service*—(1) Required emergency discharge control equipment. Each cargo tank in liquefied compressed gas service must have an emergency discharge control capability as specified in the following table:

§ 173.315(n)(1)(*)	Material	Delivery service	Required emergency discharge control capability
(i)	Division 2.2 materials with no subsidiary hazard, excluding anhydrous ammonia.	All	None.
(ii)	Division 2.3 materials	All	Paragraph (n)(2) of this section.
(iii)	Division 2.2 materials with a subsidiary hazard, Division 2.1 materials, and anhydrous ammonia.	Other than metered delivery service.	Paragraph (n)(2) of this section.
(iv)	Division 2.2 materials with a subsidiary hazard, Division 2.1 materials, and anhydrous ammonia in a cargo tank with a capacity of 13,247.5 liters (3,500 water gallons) or less.	Metered delivery service.	Paragraph (n)(3) of this section.
(v) Division 2.2 materials with a subsidiary hazard, Division 2.1 materials, and anhydrous ammonia in a cargo tank with a capacity greater than 13,247.5 liters (3,500 water gallons).	Metered delivery service	Paragraph (n)(3) of this section, and, for obstructed view deliveries where permitted by § 177.840(p) of this subchapter, paragraphs (n)(3) or (n)(4) of this section..	

(2) *Cargo tank motor vehicles in other than metered delivery service.* A cargo tank motor vehicle in other than metered delivery service must have a means to automatically shut off the flow of product without the need for human intervention within 20 seconds of an unintentional release caused by a complete separation of a liquid delivery hose (passive shut-down capability).

(i) Designed flow of product through a bypass in the valve is acceptable when authorized by this subchapter.

(ii) The design for the means to automatically shut off product flow must be certified by a Design Certifying Engineer. The certification must consider any specifications of the original component manufacturer and must explain how the passive means to shut off the flow of product operates. It must also outline the parameters (e.g., temperature, pressure, types of product) within which the passive means to shut off the flow of product is designed to operate. All components of the discharge system that are integral to the design must be included in the certification. A copy of the design certification must be provided to the

owner of the cargo tank on which the equipment will be installed.

(iii) Installation must be performed under the supervision of a Registered Inspector unless the equipment is installed and removed as part of regular operation (e.g., a hose). The Registered Inspector must certify that the equipment is installed and tested, if possible without destruction of the equipment, in accordance with the Design Certifying Engineer's certification. The Registered Inspector must provide the certification to the owner of the cargo tank motor vehicle.

(3) *Cargo tanks in metered delivery service.* When required by the table in paragraph (n)(1) of this section, a cargo tank motor vehicle must have an off-truck remote means to close the internal self-closing stop valve and shut off all motive and auxiliary power equipment upon activation by a qualified person attending the unloading of the cargo tank motor vehicle (off-truck remote shut-off). It must function reliably at a distance of 45.72 meters (150 feet). The off-truck remote shut-off activation device must not be capable of reopening the internal self-closing stop valve after emergency activation.

(i) The emergency discharge control equipment must be installed under the supervision of a Registered Inspector. Each wireless transmitter/receiver must be tested to demonstrate that it will close the internal self-closing stop valve and shut off all motive and auxiliary power equipment at a distance of 91.44 meters (300 feet) under optimum conditions. Emergency discharge control equipment that does not employ a wireless transmitter/receiver must be tested to demonstrate its functioning at the maximum length of the delivery hose.

(ii) The Registered Inspector must certify that the remote control equipment is installed in accordance with the original component manufacturer's specifications and is tested in accordance with paragraph (n)(3)(i) of this section. The Registered Inspector must provide the owner of the cargo tank with this certification.

(4) *Query systems.* When a transmitter/receiver system is used to satisfy the requirements of paragraph (n)(1)(v) of this section, it must close the internal self-closing stop valve and shut off all motive and auxiliary power equipment unless the qualified person attending the unloading operation prevents it from doing so at least once every five minutes. Testing and certification must be as specified in paragraph (n)(3) of this section.

(5) *Compliance dates.* (i) Each specification MC 331 cargo tank motor vehicle with a certificate of construction issued two or more years after [the effective date of the final rule] must have an appropriate emergency discharge control capability as specified in this paragraph (n).

(ii) No MC 330, MC 331, or nonspecification cargo tank motor vehicle authorized under paragraph (k) of this section may be operated unless it has an appropriate emergency discharge control capability as specified in this paragraph (n) no later than the date of its first scheduled pressure retest required after [two years after the effective date of the final rule]. No MC 330, MC 331 or nonspecification cargo tank motor vehicle authorized under paragraph (k) of this section may be operated after [seven years after the effective date of the final rule] unless it has been equipped with emergency discharge control equipment as specified in this paragraph (n).

(iii) No MC 330, MC 331, or nonspecification cargo tank motor vehicle authorized under paragraph (k) of this section, with a capacity over 13,247.5 liters (3,500 gallons) used in metered delivery service may be operated unless it has an appropriate emergency discharge control capability as specified in this paragraph (n) no later than [four years after the effective date of the final rule].

* * * * *

(p) *Fusible elements.* Each MC 330, MC 331, or nonspecification cargo tank authorized under paragraph (k) of this section must have a thermal means of closure for each internal self-closing stop valve as specified in § 178.337–8(a)(4) of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

8. The authority citation for part 177 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

9. In § 177.834, paragraph (i)(5) would be removed and paragraph (i)(3) would be revised to read as follows:

§ 177.834 General requirements.

* * * * *

(i) Attendance requirements. * * *

(3) Except for unloading operations subject to §§ 177.840(p) or (q), a qualified person "attends" the loading or unloading of a cargo tank if, throughout the process, he is alert and is within 7.62 meters (25 feet) of the cargo tank. The qualified person attending the unloading of a cargo tank must have an unobstructed view of the cargo tank and delivery hose to the maximum extent practicable during the unloading operation.

* * * * *

10. In § 177.840, paragraphs (l) through (u) would be added to read as follows:

§ 177.840 Class 2 (gases) materials.

* * * * *

(l) *Operating procedure.* Six months after effective date of final rule, each operator of a cargo tank motor vehicle transporting a liquefied compressed gas must carry on or within the cargo tank motor vehicle written emergency discharge control procedures for all delivery operations. The procedures must describe the cargo tank motor vehicle's emergency discharge control features and, for a passive shut-down capability, the parameters within which they are designed to function. The procedures must describe the process to be followed if using a facility-provided hose for unloading when the cargo tank motor vehicle has a specially equipped delivery hose assembly to meet the requirements of § 173.315(n)(2) of this subchapter.

(m) *Cargo tank safety check.* Before unloading from a cargo tank motor vehicle containing a liquefied compressed gas, the qualified person performing the function must check those components of the discharge system, including delivery hose assemblies and piping, that are readily observed during the normal course of unloading to assure that they are of sound quality, without obvious defects detectable through visual observation and audio awareness, and that connections are secure. This check must be made after the pressure in the discharge system has reached at least equilibrium with the pressure in the cargo tank. Operators need not use instruments or take extraordinary actions to check components not readily visible. No operator may unload liquefied compressed gases from a cargo tank motor vehicle with a delivery hose assembly found to have any condition identified in § 180.416 (g)(1) of this subchapter or with piping systems found to have any condition identified in § 180.416 (g)(2) of this subchapter.

(n) *Emergency shut down.* If there is an unintentional release of product to the environment during unloading of a liquefied compressed gas, the qualified person unloading the cargo tank motor vehicle must promptly shut the internal self-closing stop valve or other primary means of closure and shut down all motive and auxiliary power equipment.

(o) *Daily test of off-truck remote shut-off activation device.* For a cargo tank motor vehicle equipped with an off-

truck remote means to close the internal self-closing stop valve and shut off all motive and auxiliary power equipment, an operator must successfully test the activation device within 18 hours prior to the first delivery of each day. For a wireless transmitter/receiver, the person conducting the test must be at least 45.72 meters (150 feet) from the cargo tank and may have the cargo tank in his line of sight.

(p) *Unloading procedures for liquefied petroleum gas and anhydrous ammonia in metered delivery service.* An operator must use the following procedures for unloading liquefied petroleum gas or anhydrous ammonia from a cargo tank motor vehicle in metered delivery service:

(1) For a cargo tank with a capacity of 13,247.5 liters (3,500 water gallons) or less, excluding delivery hose and piping, the qualified person attending the unloading operation must remain within 45.72 meters (150 feet) of the cargo tank and 7.62 meters (25 feet) of the delivery hose and must observe both the cargo tank and the receiving container at least once every five minutes when the internal self-closing stop valve is open during unloading operations that take more than five minutes to complete.

(2) For a cargo tank with a capacity greater than 13,247.5 liters (3,500 water gallons), excluding delivery hose and piping, the qualified person attending the unloading operation must remain within 45.72 meters (150 feet) of the cargo tank and 7.62 meters (25 feet) of the delivery hose when the internal self-closing stop valve is open.

(i) Except as provided in paragraph (p)(2)(ii) of this section, the qualified person attending the unloading operation must have an unobstructed view of the cargo tank and delivery hose to the maximum extent practicable, except during short periods when it is necessary to activate controls or monitor the receiving container.

(ii) For deliveries where the qualified person attending the unloading operation cannot maintain an unobstructed view of the cargo tank, when the internal self-closing stop valve is open, the qualified person must observe both the cargo tank and the receiving container at least once every five minutes during unloading operations that take more than five minutes to complete. In addition, by the compliance dates specified in §§ 173.315(n)(5) and 180.405(m)(3) of this subchapter, the cargo tank motor vehicle must have an emergency discharge control capability that meets the requirements of § 173.315(n)(2) or § 173.315(n)(4) of this subchapter.

(q) *Unloading procedures for liquefied petroleum gas and anhydrous ammonia in other than metered delivery service.* An operator must use the following procedures for unloading liquefied petroleum gas or anhydrous ammonia from a cargo tank motor vehicle in other than metered delivery service:

(1) The qualified person attending the unloading operation must remain within 7.62 meters (25 feet) of the cargo tank when the internal self-closing stop valve is open.

(2) The qualified person attending the unloading operation must have an unobstructed view of the cargo tank and delivery hose to the maximum extent practicable, except during short periods when it is necessary to activate controls or monitor the receiving container.

(r) *Unloading using facility-provided hoses.* A cargo tank motor vehicle equipped with a specially designed delivery hose assembly to meet the requirements of § 173.315(n)(2) of this subchapter may be unloaded using a delivery hose assembly provided by the receiving facility under the following conditions:

(1) The qualified person monitoring unloading must visually examine the facility hose assembly for obvious defects prior to its use in the unloading operation.

(2) The qualified person monitoring unloading must remain within arm's reach of the mechanical means of closure for the internal self-closing stop valve when the internal self-closing stop valve is open except for short periods when it is necessary to activate controls or monitor the receiving container.

(s) *Off-truck remote shut-off activation device.* For a cargo tank motor vehicle with an off-truck remote control shut-off capability as required by §§ 173.315(n)(3) or (n)(4) of this subchapter, the qualified person attending the unloading operation must be in possession of the activation device at all times during the unloading process. This requirement does not apply if the activation device is part of a system that will shut off the unloading operation without human intervention in the event of a leak or separation in the hose.

(t) *Unloading without appropriate emergency discharge control equipment.* Until a cargo tank is equipped with emergency discharge control equipment in conformance with §§ 173.315(n)(2) and 180.405(m)(1) of this subchapter, the qualified person attending the unloading operation must remain within arm's reach of a means to close the internal self-closing stop valve except during short periods when the qualified person must activate controls or monitor the receiving container.

(u) *Unloading of chlorine cargo tanks.* Unloading of chlorine from a cargo tank must be performed in compliance with Section 3 of Pamphlet 57, Emergency Shut-off Systems for Bulk Transfer of Chlorine, of the Chlorine Institute.

PART 178—SPECIFICATIONS FOR PACKAGINGS

11. The authority citation for part 178 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

12. In § 178.337–1, new paragraph (g) would be added to read as follows:

§ 178.337–1 General requirements.

* * * * *

(g) *Definitions.* The following definitions apply to §§ 178.337–1 through 178.337–18:

Emergency discharge control means the ability to stop a cargo tank unloading operation in the event of an unintentional release. Emergency discharge control can utilize passive or off-truck remote means to stop the unloading operation. A passive means of emergency discharge control automatically shuts off the flow of product without the need for human intervention within 20 seconds of an unintentional release caused by a complete separation of the liquid delivery hose. An off-truck remote means of emergency discharge control permits a qualified person attending the unloading operation to close the cargo tank's internal self-closing stop valve and shut off all motive and auxiliary power equipment at a distance from the cargo tank motor vehicle.

Excess flow valve, integral excess flow valve, or excess flow feature means a component that will close automatically if the flow rate of a gas or liquid through the component reaches or exceeds the rated flow of gas or liquid specified by the original valve manufacturer when piping mounted directly on the valve is sheared off before the first valve, pump, or fitting downstream from the valve.

Internal self-closing stop valve means the primary shut off valve installed at a product discharge outlet of a cargo tank.

Primary discharge control system means a primary shut-off installed at a product discharge outlet of a cargo tank consisting of an internal self-closing stop valve that may include an integral excess flow valve or an excess flow feature, together with linkages that must be installed between the valve and remote actuator to provide manual and thermal on-truck remote means of closure.

13. Section 178.337–8 would be revised to read as follows:

§ 178.337–8 Openings, inlets, and outlets.

(a) *Outlets generally.* (1) An opening must be provided on each cargo tank used for the transportation of liquefied materials to permit complete drainage.

(2) Except for gauging devices, thermometer wells, pressure relief valves, manhole openings, product inlet openings, and product discharge openings, each opening in a cargo tank must be closed with a plug, cap, or bolted flange.

(3) Each product inlet opening, including vapor return lines, must be fitted with a back flow check valve located inside the cargo tank or inside a welded nozzle that is an integral part of the cargo tank. The valve seat must be located inside the cargo tank or within 2.54 centimeters (one inch) of the external face of the welded flange. Damage to parts exterior to the cargo tank or mating flange must not prevent effective seating of the valve. All parts of a valve inside a cargo tank or welded flange must be made of material that will not corrode or deteriorate in the presence of the lading.

(4) Except as provided in paragraphs (a)(5), (b), and (c) of this section, each liquid or vapor discharge outlet must be fitted with a primary discharge control system as defined in § 178.337–1(g). Thermal remote operators must activate at a temperature of 121.11°C (250 °F) or less. Linkages between closures and remote operators must be corrosion resistant and effective in all types of environmental conditions incident to discharging of product.

(i) On a cargo tank over 13,247.5 liters (3,500 gallons) water capacity, thermal and mechanical means of remote closure must be installed at the ends of the cargo tank in at least two diagonally opposite locations. If the loading/unloading connection at the cargo tank is not in the general vicinity of one of the two locations specified above, additional means of thermal remote closure must be installed so that heat from a fire in the loading/unloading connection area or the discharge pump will activate the primary discharge control system. The loading/unloading connection area is where hoses or hose reels are connected to the permanent metal piping.

(ii) On a cargo tank of 13,247.5 liters (3,500 gallons) water capacity or less, a thermal means of remote closure must be installed at or near the internal self-closing stop valve. A mechanical means of remote closure must be installed on the end of the cargo tank furthest away from the loading/unloading connection area. The loading/unloading connection area is where hoses or hose reels are connected to the permanent metal piping. Linkages between closures and remote operators must be corrosion resistant and effective in all types of environmental conditions incident to discharge of product.

(iii) All parts of a valve inside a cargo tank or within a welded flange must be made of material that will not corrode or deteriorate in the presence of the lading.

(iv) An excess flow valve, integral excess flow valve, or excess flow feature must close if the flow reaches the rated flow of a gas or liquid specified by the original valve manufacturer when piping mounted directly on the valve is sheared off before the first valve, pump, or fitting downstream from the excess flow valve, integral excess flow valve, or excess flow feature.

(v) An integral excess flow valve or the excess flow feature of an internal self-closing stop valve may be designed with a bypass, not to exceed 0.1016 centimeters (0.040 inch) diameter opening, to allow equalization of pressure.

(vi) The internal self-closing stop valve must be designed so that the self-stored energy source and the valve seat are located inside the cargo tank or within 2.54 centimeters (one inch) of the external face of the welded flange. Damage to parts exterior to the cargo tank or mating flange must not prevent effective seating of the valve.

(5) A primary discharge control system is not required on the following:

(i) A vapor or liquid discharge opening of less than 1¼ NPT equipped with an excess flow valve together with a manually operated external stop valve in place of an internal self-closing stop valve.

(ii) An engine fuel line on a truck-mounted cargo tank of not more than ¾ NPT equipped with a valve having an integral excess flow valve or feature.

(iii) A cargo tank motor vehicle certified before January 1, 1995, unless intended for use to transport a flammable liquid, flammable gas, hydrogen chloride, refrigerated liquid, or anhydrous ammonia.

(6) In addition to the internal self-closing stop valve, each filling and discharge line must be fitted with a stop valve located in the line between the internal self-closing stop valve and the hose connection. A single, so-called "stop-check" or excess flow valve may not be used to satisfy this requirement.

(7) An excess flow valve may be designed with a bypass, not to exceed a 0.1016 centimeter (0.040 inch) diameter opening, to allow equalization of pressure.

(b) *Discharge outlets on chlorine tanks.* Discharge outlets on cargo tanks used to transport chlorine must meet the requirements of § 178.337–1(c)(2) and must be fitted with an internal excess flow valve. In addition to the internal excess flow valve, discharge outlets must be equipped with an external stop valve (angle valve). Excess flow valves must conform to the standards of The Chlorine Institute, Inc., as follows:

(1) A valve conforming to Drawing 101–7, dated July 1993, must be installed under each liquid angle valve.

(2) A valve conforming to Drawing 106–6, dated July 1993, must be installed under each gas angle valve.

(c) *Discharge outlets on carbon dioxide, refrigerated liquid, cargo tanks.* A discharge outlet on a cargo tank used to transport carbon dioxide, refrigerated liquid is not required to be fitted with an internal self-closing stop valve.

14. In § 178.337–9, paragraph (b)(6) would be revised, paragraph (b)(7) would be redesignated as paragraph (b)(8) and revised, a new paragraph (b)(7) would be added, and paragraph (c) would be revised to read as follows:

§ 178.337–9 Pressure relief devices, piping, valves, hoses, and fittings.

* * * * *

(b) *Piping, valves, hose, and fittings.*

* * *

(6) Cargo tank manufacturers and fabricators must demonstrate that all piping, valves, and fittings on a cargo tank are free from leaks. To meet this requirement, the piping, valves, and fittings must be tested after installation at not less than 80 percent of the design pressure marked on the cargo tank.

(7) A hose assembler must:

(i) Permanently mark each hose assembly with a unique identification number.

(ii) Demonstrate that each hose assembly is free from leaks by performing the tests and inspections in § 180.416(f) of this subchapter.

(iii) Mark each hose assembly with the month and year of its original pressure test.

(8) *Chlorine cargo tanks.* Angle valves on cargo tanks intended for chlorine service must conform to Drawing 104–8, dated July 1993, in the standards of The Chlorine Institute. Before installation, each angle valve must be tested for leakage at not less than 225 psig using dry air or inert gas.

(c) *Marking inlets and outlets.* Except for safety relief valves, all cargo tank inlets and outlets must be marked "liquid" to designate that it communicates with liquid when the

cargo tank is filled to the maximum permitted filling density, or "vapor" or "spray-fill" to indicate a filling line that communicates with vapor when the cargo tank is filled to the maximum permitted filling density.

* * * * *

15. Section 178.337–11 would be revised to read as follows:

§ 178.337–11 Emergency discharge control.

(a) *Emergency discharge control equipment.* Emergency discharge control equipment must be installed in a liquid discharge line as specified by product and service in § 173.315(n) of this subchapter. The performance and certification requirements for emergency discharge control equipment are specified in § 173.315(n) of this subchapter and are not a part of the cargo tank motor vehicle certification made under this specification.

(b) *Engine fuel lines.* On a truck-mounted cargo tank, emergency discharge control equipment is not required on an engine fuel line of not more than 3/4 NPT equipped with a valve having an integral excess flow valve or feature.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

16. The authority citation for part 180 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR part 1.53.

17. In § 180.403, the introductory text for the definition "Modification" would be revised, and definitions for "Delivery hose assembly" and "Piping system" would be added in alphabetical order to read as follows:

§ 180.403 Definitions.

* * * * *

Delivery hose assembly means a liquid delivery hose and its attached couplings.

* * * * *

Modification means any change to the original design and construction of a cargo tank or a cargo tank motor vehicle that affects its structural integrity or lading retention capability including changes to equipment certified as part of an emergency discharge control system required by § 173.315(n)(2) of this subchapter. Any modification that involves welding on the cargo tank wall must also meet all requirements for "Repair" as defined in this section. Excluded from this category are the following:

* * * * *

Piping system means any component of a cargo tank delivery system, other than a delivery hose assembly, that contains product during loading or unloading.

* * * * *

18. In § 180.405, paragraphs (m) and (n) would be added to read as follows:

§ 180.405 Qualification of cargo tanks.

* * * * *

(m) *Specification MC 330, MC 331 cargo tank motor vehicles, and nonspecification cargo tank motor vehicles conforming to § 173.315(k) of this subchapter, intended for use in the transportation of liquefied compressed gases.*

(1) No later than the date of its first scheduled pressure test after [two years after the effective date of the final rule], each specification MC 330 and MC 331 cargo tank motor vehicle, and each nonspecification cargo tank motor vehicle conforming to § 173.315(k) of this subchapter, marked and certified before [two years after the effective date of the final rule], that is used to transport a Division 2.1 material, a Division 2.2 material with a subsidiary hazard, a Division 2.3 material, or anhydrous ammonia must have an emergency discharge control capability as specified in § 173.315(n) of this subchapter. Each passive shut-off system installed prior to [two years after the effective date of the final rule] must be certified by a Design Certifying Engineer that it meets the requirements of § 173.315(n)(2) of this subchapter.

(2) The requirement in paragraph (m)(1) of this section does not apply to a cargo tank equal to or less than 13,247.5 liters (3,500 gallons) water capacity transporting a Division 2.1 material, a Division 2.2 material with a subsidiary hazard, or anhydrous ammonia in metered delivery service equipped with an off-truck remote shut-off device that was installed prior to [one year after the effective date of the final rule]. The device must be capable of stopping the transfer of lading by operation of a transmitter carried by a qualified person attending unloading of the cargo tank. The device is subject to the requirement in § 177.840(o) of this subchapter for a daily test at 45.72 meters (150 feet).

(3) Each specification MC 330 and MC 331 cargo tank of greater than 13,247.5 liters (3,500 gallons) water capacity transporting a Division 2.1 material, a Division 2.2 material with a subsidiary hazard, or anhydrous ammonia in metered delivery service, marked and certified before [the effective date of final rule], must have an emergency discharge control capability as specified in §§ 173.315(n) and 177.840 of this subchapter no later than the date of its first scheduled pressure test after [two years after the effective date of the final rule or four years after the effective date of the final rule], whichever is earlier.

(n) *Thermal activation.* No later than the date of its first scheduled leakage test after [the effective date of final rule], each specification MC 330 or MC 331 cargo tank motor vehicle and each nonspecification cargo tank motor vehicle conforming to § 173.315(k) of this subchapter, marked and certified before [the effective date of final rule], that is used to transport a liquefied compressed gas, other than carbon dioxide and chlorine, that has a water capacity of 13,247.5 liters (3,500 gallons) or less must be equipped with a means of thermal activation for the internal self-closing stop valve as specified in § 178.337–8(a)(4) of this subchapter.

19. In § 180.407, paragraph (h)(1)(iii) would be added, existing paragraphs (h)(4) through (h)(8) would be redesignated as paragraphs (h)(5) through (h)(9), respectively, and a new paragraph (h)(4) would be added to read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

* * * * *

(h) *Leakage test.* (1) * * *

(iii) An operator of a specification MC 330 or MC 331 cargo tank, and a nonspecification cargo tank authorized under § 173.315(k) of this subchapter, equipped with a meter may check leak tightness of the internal self-closing stop valve by conducting a meter creep test. (See Appendix B to this part.)

* * * * *

(4) Registered Inspectors of specification MC 330 and MC 331 cargo tanks, and nonspecification cargo tanks authorized under § 173.315(k) of this subchapter must visually inspect the delivery hose assembly and piping system while the assembly is under leakage test pressure utilizing the rejection criteria listed in § 180.416(g). Delivery hose assemblies not permanently attached to the cargo tank motor vehicle may be inspected separately from the cargo tank motor vehicle. In addition to a written record of the inspection prepared in accordance with § 180.417(b), the Registered Inspector conducting the hose test must note the hose identification number, the date of the original hose assembly test, and the condition of the hose assembly and piping system tested.

* * * * *

20. Section 180.416 would be added to read as follows:

§ 180.416 Discharge system inspection and maintenance program for cargo tanks transporting liquefied compressed gases.

(a) *Applicability.* This section is applicable to an operator using specification MC 330, MC 331, and nonspecification cargo tanks authorized under § 173.315(k) of this subchapter for transportation of liquefied compressed gases other than carbon dioxide. Paragraphs (b), (c), (d)(1), (d)(5), (e), (f), and (g)(1) of this section, applicable to delivery hoses, apply only to hoses installed or carried on the cargo tank.

(b) *Hose identification.* [One year after the effective date of the final rule], the operator must assure that each delivery hose assembly is permanently marked with a unique identification number and maximum working pressure.

(c) *Post-delivery hose check.* After each unloading, the operator must visually check that portion of the delivery hose assembly deployed during the unloading.

(d) *Monthly inspections and tests.* (1) The operator must visually inspect each delivery hose assembly at least once each month the delivery hose assembly is in service.

(2) The operator must visually inspect the piping system at least once each month the cargo tank is in service. The inspection must include fusible elements and all components of the piping system, including bolts, connections, and seals.

(3) At least once each month a cargo tank is in service, the operator must actuate all emergency discharge control devices designed to close the internal self-closing stop valve to assure that all linkages operate as designed. Appendix A to this part outlines acceptable procedures that may be used for this test.

(4) The operator of a cargo tank must check the internal self-closing stop valve in the liquid discharge opening for leakage through the valve at least once each month the cargo tank is in service. On cargo tanks equipped with a meter, the meter creep test as outlined in Appendix B to this part or a test providing equivalent accuracy is acceptable. For cargo tanks that are not equipped with a meter, Appendix B to this part outlines one acceptable method that may be used to check internal self-closing stop valves for closure.

(5) The operator must note each inspection in a record. That record must include the inspection date, the name of the person performing the inspection, the hose assembly identification number, the company name, the date the hose was assembled and tested, and an indication that the delivery hose and piping system passed or failed the tests and inspections.

(e) *Annual hose leakage test.* The owner of a hose assembly that is not permanently attached to a cargo tank motor vehicle must ensure that the hose is annually tested in accordance with § 180.407(h)(4).

(f) *New or repaired delivery hose assemblies.* Each operator of a cargo tank must ensure each new and repaired hose assembly is tested at a minimum of 120 percent of the hose maximum working pressure.

(1) The operator must visually examine the delivery hose assembly while it is under pressure.

(2) Upon successful completion of the pressure test and inspection, the operator must assure that the delivery hose assembly is permanently marked with the month and year of the test.

(3) The operator must complete a record documenting the test and inspection, including the date, the signature of the inspector, the hose owner, the hose identification number, the date of original hose assembly and test, notes of any defects observed and repairs made, and an indication that the delivery hose passed or failed the tests and inspections.

(g) *Rejection criteria.* (1) No operator may use a delivery hose assembly determined to have any condition identified below for unloading liquefied compressed gases. An operator may remove and replace damaged sections or correct defects discovered. Repaired hoses may be placed back in service if retested successfully in accordance with paragraph (f) of this section.

(i) Damage to the hose cover that exposes the reinforcement.

(ii) Wire braid reinforcement that has been kinked or flattened so as to permanently deform the wire braid.

(iii) Soft spots when not under pressure, bulging under pressure, or loose outer covering.

(iv) Damaged, slipping, or excessively worn hose couplings.

(v) Loose or missing bolts or fastenings on bolted hose coupling assemblies.

(2) No operator may use a cargo tank with a piping system found to have any condition identified below for unloading liquefied compressed gases.

(i) Any external leak identifiable without the use of instruments.

(ii) Bolts that are loose, missing, or severely corroded.

(iii) Manual stop valves that will not actuate.

(iv) Rubber hose flexible connectors with any condition outlined in paragraph (g)(1) of this section.

(v) Stainless steel flexible connectors with damaged reinforcement braid.

(vi) Internal self-closing stop valves that fail to close or that permit leakage through the valve detectable without the use of instruments.

(vii) Pipes or joints that are severely corroded.

21. In § 180.417, paragraph (a)(1) would be revised to read as follows:

§ 180.417 Reporting and record retention requirements.

(a) *Vehicle certification.* (1) Each owner of a specification cargo tank must retain the manufacturer's certificate, the manufacturer's ASME U1A data report, where applicable, and related papers certifying that the specification cargo tank identified in the documents was manufactured and tested in accordance with the applicable specification. This would include any certification of emergency discharge control systems required by § 173.315(n) of this subchapter or § 180.405(m). The owner must retain the documents throughout his ownership of the specification cargo tank and for one year thereafter. In the event of a change in ownership, the prior owner must retain non-fading photo copies of these documents for one year.

* * * * *

22. Appendices A and B would be added to Part 180 to read as follows:

Appendix A to Part 180—Internal Self-closing Stop Valve Emergency Closure Test for Liquefied Compressed Gases

1. In performing this test, all internal self-closing stop valves must be opened. Each emergency discharge control remote actuator (on-truck and off-truck) must be operated to ensure that each internal self-closing stop valve's lever, piston, or other valve indicator has moved to the closed position.

2. On pump-actuated pressure differential internal valves, the three-way toggle valve handle or its cable attachment must be activated to verify that the toggle handle moves to the horizontal position.

Appendix B to Part 180— Acceptable Internal Self-closing Stop Valve Leakage Tests for Cargo Tanks Transporting Liquefied Compressed Gases

For internal self-closing stop valve leakage testing, leakage is defined as any leakage through the internal self-closing valve or to the atmosphere that is detectable when the valve is in the closed position. On some valves this will require the closure of the pressure by-pass port.

(a) *Meter Creep Test.*

1. An operator of a cargo tank equipped with a certified meter may check the internal self-closing stop valve for leakage through the valve seat using the meter as a flow measurement indicator. The test is initiated

by starting the delivery process or returning product to the cargo tank through the delivery system at normal pump operating conditions. This may be performed at an idle. After the flow is established, the operator closes the internal self-closing stop valve and monitors the meter flow. The meter flow must stop within 30 seconds with no meter creep within 5 seconds after the meter stops.

2. On pump-actuated pressure differential internal self-closing stop valves, the valve must be closed with the remote actuator to assure that it is functioning. On other types of internal self-closing stop valves, the valve(s) may be closed using either the normal valve control or the discharge control system (e.g., remote).

3. For the purposes of this section, a "certified meter" is any meter that has undergone an annual certification by a local or state approved certification process for the material(s) being metered. The certification must be within the previous 12-month period to meet the monthly test criteria, or within the past 60 days for the annual leakage test prescribed in § 180.407(h).

4. Rejection criteria: Any detectable meter creep within the first five seconds after initial meter stoppage.

(b) *Internal Self-Closing Stop Valve Test.*

An operator of a cargo tank that is not equipped with a certified meter may check the internal self-closing stop valve(s) for leakage as follows:

1. The internal self-closing stop valve must be in the closed position.

2. All of the material in the downstream piping must be evacuated, and the piping must be returned to atmospheric temperature and pressure.

3. The outlet must be monitored for 30 seconds for detectable leakage.

4. Rejection criteria. Any detectable leakage is considered unacceptable.

Issued in Washington, DC on March 17, 1999, under authority delegated in 49 CFR Part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 99–6885 Filed 3–17–99; 2:03 pm]

BILLING CODE 4910–60–P

Federal Register

Monday
March 22, 1999

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 129
Security Programs of Foreign Air Carriers; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 129

[Docket No. FAA–1998–4758; Notice No. 98–17]

RIN 2120–AG13

Security Programs of Foreign Air Carriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The FAA announces an extension of the comment period for an additional 60 days on the Notice of Proposed Rulemaking (NPRM; No. 98–17), which was published in the **Federal Register** on November 23, 1998 (63 FR 64764). In that NPRM, the FAA invites public comments on amending the existing airplane operator security rules for foreign air carriers and foreign operators of U.S. registered aircraft. The comment period is being extended in response to requests received from the British government and Air Canada to provide additional time to review the transcript of the public meeting held on February 24, 1999, in Washington, DC. The extension of the comment period also is being granted in response to comments made at the public meeting by commenters who requested additional time to prepare cost estimates for the NPRM.

DATES: Comments must be received on or before May 24, 1999.

ADDRESSES: Comments on Notice 98–17 should be submitted in duplicate to: U.S. Department of Transportation Dockets, Docket No. FAA–1998–4758, 400 Seventh Street, SW, Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following internet address: 9-NPRM-CMTS@faa.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

Comments that include or reference national security information or sensitive security information should not be submitted to the public docket. These comments should be sent to the following address in a manner consistent with applicable requirements and procedures for safeguarding sensitive security information (questions on these procedures may be directed to Moira A. Lozada, see **FOR FURTHER INFORMATION CONTACT**) Federal Aviation Administration, Office of the Civil Aviation Security Operations, Attention: FAA Security Control Point, Docket No. FAA–1998–4758, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Moira A. Lozada, Office of Civil Aviation Security Policy and Planning, Civil Aviation Security Division (ACP–100), Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591; telephone (202) 267–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the rulemaking proposed in Notice 98–17 by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates.

Comments should identify the regulatory docket or notice number and be submitted in duplicate to the Rules Docket (see **ADDRESSES**). All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this document may be changed in response to comments received. Comments received on this proposal will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. However, the Assistant Administrator has determined that air carrier security programs required by parts 108 and 129 contain sensitive security information. As such, the availability of information pertaining to airport security programs is governed by 14 CFR Part 191 (Withholding Security Information from Disclosure Under the Air Transportation Security Act of 1974).

A report summarizing each substantive pubic contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must include a self-addressed, stamped postcard on which the following statement is made: "Comments to the Docket No. FAA–1998–4758." The postcard will be date-stamped and mailed to the commenter.

Persons interested in obtaining a copy of the Security Programs of Foreign Air Carriers proposed rule should contact Elizabeth Allen at the address or telephone number provided in **FOR FURTHER INFORMATION CONTACT.**

Internet users may reach the FAA's webpage at http://www.faa.gov or the Federal Register's webpage at http://www.access.gpo.gov/su_docs to access recently published rulemaking documents.

An electronic copy of these documents may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: (703) 321–3339) or the Federal Register's electronic bulletin board service (Telephone: (202) 512–1661).

The closing date for comments on this proposal is May 24, 1999.

Background

The FAA will extend the comment period for Security Programs of Foreign Air Carriers to provide additional time for interested parties to comment on the proposal. This extension is being granted in response to requests from the international community to allow more time to review the transcript of the public meeting held on February 24, 1999, and to prepare cost estimates for the NPRM.

Extension of Comment Period

The FAA has reviewed the requests for consideration of an extended comment period for Notice 98–17 and determined that an extension would be in the public interest and that good cause exists for taking this action. Accordingly, the comment period for Notice 98–17 is extended for an additional sixty days, as identified under the caption **DATES**.

Issued in Washington, DC on March 18, 1999.

Quinten Johnson,

Acting Director, Office of Civil Aviation Security Policy and Planning.

[FR Doc. 99–6919 Filed 3–17–99; 3:16 pm]

BILLING CODE 4910–13–M

Reader Aids

Federal Register

Vol. 64, No. 54

Monday, March 22, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100 12881

Proclamations:

7168 10101
7169 10379
7170 10383
7171 10385
7172 11373
7173 12879

Executive Orders:

12170 (See Notice of March 10, 1999) 12239
12852 (Amended by EO 13114) 10099
12957 (See Notice of March 10, 1999) 12239
12959 (See Notice of March 10, 1999) 12239
13059 (See Notice of March 10, 1999) 12239
13114 10099

Administrative Orders:

Notice of March 10, 1999 12239

Presidential Determinations:

No. 99–15 of February 26, 1999 11319
No. 99–16 of March 4, 1999 13490

5 CFR

532 ..... 9905, 9906
2635 13063

Proposed Rules:

1650 13725

7 CFR

3 11755
246 13311
360 12881
361 12881
782 12884
989 10919
1381 11755
1434 10923
1439 13497
1469 10929

Proposed Rules:

301 11392
915 13123
916 11346
917 11346
1065 13125
1301 12769
1823 10235
1956 10235

8 CFR

3 13663
274a 11533

9 CFR

52 13064

Proposed Rules:

1 10400
3 10400
71 13726
80 13726
112 13365
113 10400
391 10402

10 CFR

708 12862

Proposed Rules:

21 12117
50 12117
54 12117
63 10405
70 13368
707 11819

11 CFR

Proposed Rules:

2 10405
4 10405
5 10405

12 CFR

3 10194
208 10194
225 10201
325 10194
567 10194
960 12079

Proposed Rules:

602 10954

13 CFR

123 13667

14 CFR

21 13501
25 10740
39 ..... 9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504, 13667, 13669
71 ..... 10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672
73 ..... 12743, 13334, 13506
97 ..... 9912, 9914, 13334, 13336
204 12084
257 12838
258 12854
399 12838

Proposed Rules:

39 ..... 9939, 10237, 10578, 10959, 11401, 12770, 12772,

13530, 13732
71 .....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
752.....13338
772.....13338
774 .....10852, 12744, 13338
806.....10387

16 CFR

Proposed Rules:
241.....13368
256.....13369
1213.....10245
1500.....10245
1513.....10245
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230 .....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:
210.....10579
228.....10579
230.....12908
232.....12908
239.....11118, 12908
240 .....9948, 10579, 11124, 12127, 12908
270.....12908
274.....12908

19 CFR

Ch. I.....13673
133.....11376

Proposed Rules:
4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404.....10103, 13677
416.....13677

21 CFR

26.....11376
50.....10942
101.....12886, 12887
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520 .....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556 .....10103, 13068, 13341, 13679
558 .....13068, 13069, 13341, 13342, 13679
701.....13254
812.....10942
874.....10947

Proposed Rules:
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:
Ch. IX 13531, 13533
990.....12920

26 CFR

1.....10218, 11378
602.....10218

Proposed Rules:
1.....10262
20.....10964

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686

Proposed Rules:
25.....10262
302.....11821
549.....10095

29 CFR

1910.....13700
4044.....12745

30 CFR

256.....13343
914.....12890
934.....12896

Proposed Rules:
204.....13734
206.....12267
250.....13535
938.....12269

32 CFR

199.....11765

33 CFR

62.....10104
117.....10104, 13514
165.....11771, 12746
320.....11708
326.....11708
331.....11708

Proposed Rules:
117.....12795, 12797
155.....13734
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184

Proposed Rules:
303.....12674

36 CFR

61.....11736

Proposed Rules:
1190.....13752
1091.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111.....10950, 12072

Proposed Rules:
111.....11402

40 CFR

52 .....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514
58.....10389
60.....10105, 11536
62.....13075, 13517
63.....11536, 12762
80.....10366
81 .....11775, 12002, 12005, 12257, 13146
82.....10374
93.....13476
136.....10391, 13053
180 .....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:
Ch. 1 10066
52 ...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753
60.....10119, 11555
62.....13539
63.....11555, 11560
81 .....11822, 12025, 13383, 13384
94.....10596
97.....10118
136.....10596
271.....10121
372.....9957, 10597
435.....10266

41 CFR

101–49.....13700

42 CFR

Proposed Rules:
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277
498.....12277
1003.....12277

43 CFR

4.....13362

Proposed Rules:
428.....12141
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919
65 .....11378, 11380, 11382, 11384
67.....11386, 11388

Proposed Rules:
67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303.....11802, 11810
304.....11802

Proposed Rules:
92.....10412
95.....10412
1224.....10872
2508.....10872

46 CFR

502.....9922

510.....
514.....
515.....
520.....
530.....
535.....
545.....
565.....
571.....
572.....
583.....

47 CFR

64.....
73 99
12903, 137

90.....
Proposed Rule
1.....
2.....
73 129

95.....

48 CFR

Ch. 1.....
1.....

510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156

47 CFR

64.....13701
73 .....9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729
90.....10395

Proposed Rules:

1.....9960
2.....10266
73 .....12922, 12923, 12924, 13756, 13757
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548
4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52 .....10531, 10535, 10538, 10545, 10548
53 .....10548, 10913, 12862
913.....12862
922.....12862
915.....12220
970.....12220, 12862
1806.....10571
1815.....10573
1819.....10571
1842.....10573
1852.....10571, 10573

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234

Proposed Rules:

171.....13856
173.....13856
177.....13856
178.....13856
180.....13856
192.....12147
350.....11414
571.....9961, 10604
572.....10965
591.....13757

50 CFR

17.....13116
216.....9925
285.....10576
300.....13519
600.....9932
622 .....13120, 13363, 13528
630.....12903
660.....9932, 12092
679 .....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723

Proposed Rules:

216.....9965
17.....12924
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648.....11431, 13392
660.....10439, 12279
678.....10438

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 22, 1999

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Northeastern United States fisheries and American lobster—
Vessels issued limited access Federal fishery permits; regulatory consistency in permit provisions; published 2-19-99

ENVIRONMENTAL PROTECTION AGENCY
Air programs:
Ambient air quality surveillance—
Washington and Oregon; ozone monitoring season modification; published 1-20-99
Air quality implementation plans; approval and promulgation; various States:
California; published 1-21-99
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Utah; published 1-21-99
Clean Air Act:
Federal operating permits program; Indian country policy; published 2-19-99

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Arizona et al.; published 3-22-99
Washington et al.; published 2-17-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Oxytetracycline hydrochloride soluble powder; published 3-22-99
Tilmicosin; published 3-22-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Public and Indian housing:
Public housing agency plans; published 2-18-99

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
Overseas Private Investment Corporation
Administrative provisions:
Legal proceedings; production of nonpublic records and testimony of OPIC employees; published 2-19-99

JUSTICE DEPARTMENT
Immigration and Naturalization Service
Nationality:
Educational requirements for naturalization—
Exceptions due to physical or developmental disability or mental impairment; published 2-18-99
United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; implementation:
Protection from torture; claim procedures; published 2-19-99

JUSTICE DEPARTMENT
Executive Office for Immigration Review:
Aliens who are nationals of Guatemala, El Salvador, and former Soviet bloc countries; deportation suspension and removal cancellation; motion to reopen; published 3-22-99

SMALL BUSINESS ADMINISTRATION
Disaster loan programs:
Streamlining and clarification; published 3-22-99

SOCIAL SECURITY ADMINISTRATION
Supplemental security income:
Aged, blind, and disabled—
Prehearing proceedings and decisions; attorney advisors authority; extension; published 3-22-99

TRANSPORTATION DEPARTMENT
Coast Guard
Ports and waterways safety:
Cleveland Harbor, OH; regulated navigation area; published 2-18-99
Regattas and marine parades:
Greenwood Lake Powerboat Classic; published 2-18-99

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcohol; viticultural area designations:
San Francisco Bay, CA; published 1-20-99
Organization, functions, and authority delegations:
Appropriate ATF officers; published 3-22-99

TREASURY DEPARTMENT
Customs Service
Organization, functions, and authority delegations:
Organizational structure—
Technical corrections; published 3-22-99¶

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Nectarines and peaches grown in—
California; comments due by 3-29-99; published 3-8-99
Olives grown in—
California; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Animal welfare:
Rats and mice bred for use in research and birds; definition as animals; rulemaking petition; comments due by 3-29-99; published 1-28-99
Plant-related quarantine, domestic:
Citrus canker; comments due by 4-2-99; published 2-1-99
Plant-related quarantine, foreign:
Cut flowers; importation; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT
Farm Service Agency
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Business-Cooperative Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Housing Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Utilities Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic coastal fisheries—
Atlantic sturgeon; comments due by 3-29-99; published 2-26-99
Northeastern United States fisheries—
Summer flounder, et al.; comments due by 3-29-99; published 1-27-99
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish; comments due by 3-29-99; published 2-10-99
West Coast States and Western Pacific Fisheries—
West Coast Salmon; comments due by 3-29-99; published 1-27-99
International fisheries regulations:
Pacific tuna; conservation and management measures; comments due by 3-29-99; published 2-25-99
Marine mammals:
Incidental taking—
BP Exploration; Beaufort Sea; offshore oil and gas platform construction and operation; comments due by 3-31-99; published 3-1-99

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
Federal claims collection; comments due by 3-29-99; published 1-28-99

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Conforming late offer treatment; comments due by 3-29-99; published 1-27-99
Interest and other financial costs; comments due by 3-30-99; published 1-29-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution; standards of performance for new stationary sources:
Steel plants; electric arc furnaces; comments due by 4-1-99; published 3-2-99
Air programs:
Fuels and fuel additives—
Methylcyclopentadienyl manganese tricarbonyl (MMT); Alternative Tier 2 health and exposure testing requirements; comments due by 3-30-99; published 2-9-99
Stratospheric ozone protection—
Montreal Protocol adjustment for 1999 interim reduction in Class I, Group VI controlled substances; comments due by 3-29-99; published 2-25-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 3-31-99; published 3-1-99
District of Columbia; comments due by 3-29-99; published 2-25-99
Louisiana; comments due by 3-29-99; published 2-25-99
Missouri; comments due by 3-29-99; published 2-26-99
New Jersey; comments due by 3-31-99; published 3-1-99
Hazardous waste program authorizations:
Michigan; comments due by 4-1-99; published 3-2-99
Wyoming; comments due by 3-29-99; published 2-25-99
Hazardous waste:
Lead-based paint debris; toxicity characteristic rule; temporary suspension; comments due by 4-2-99; published 2-12-99
Waste water treatment sludges from metal finishing industry; 180-day accumulation time; comments due by 4-2-99; published 2-1-99
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Azoxystrobin; comments due by 3-30-99; published 1-29-99
Fenbuconazole; comments due by 3-30-99; published 1-29-99
Lambda-cyhalothrin; comments due by 3-30-99; published 1-29-99
Toxic substances:
Lead-based paint activities—
Lead-based paint debris; management and disposal; comments due by 4-2-99; published 2-12-99

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Colorado; comments due by 3-29-99; published 2-17-99
Idaho; comments due by 3-29-99; published 2-17-99
Kansas; comments due by 3-29-99; published 2-17-99
Louisiana; comments due by 3-29-99; published 2-17-99
New Hampshire; comments due by 3-29-99; published 2-17-99
New York; comments due by 3-29-99; published 2-17-99
North Dakota; comments due by 3-29-99; published 2-17-99
Oregon; comments due by 3-29-99; published 2-17-99
Wisconsin; comments due by 3-29-99; published 2-17-99
Television broadcasting:
Digital Television Service Industry Coordination Committee; establishment; comments due by 3-29-99; published 2-9-99
Television stations; table of assignments:
Arkansas; comments due by 3-29-99; published 2-17-99

GENERAL SERVICES ADMINISTRATION
Acquisition regulations:
Federal Supply Service multiple award schedule contracts; streamlining administration and clarifying marking requirements; comments due by 4-2-99; published 2-1-99
Federal Acquisition Regulation (FAR):
Conforming late offer treatment; comments due by 3-29-99; published 1-27-99
Interest and other financial costs; comments due by 3-30-99; published 1-29-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Food labeling—
Dietary supplements; nutrition labeling on a 'per day' basis; comments due by 3-29-99; published 1-12-99

INTERIOR DEPARTMENT
Land Management Bureau
Minerals management:
Oil and gas leasing—
Performance standards in lieu of current prescriptive requirements; comments due by 4-2-99; published 12-3-98

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Findings on petitions, etc.—
Vermillion darter; comments due by 3-29-99; published 1-26-99
Santa Ana sucker; comments due by 3-29-99; published 1-26-99

JUSTICE DEPARTMENT
Immigration and Naturalization Service
Immigration:
Aliens—
Temporary protected status; employment authorization fee requirements, etc.; comments due by 4-2-99; published 2-1-99

JUSTICE DEPARTMENT
Parole Commission
Federal prisoners; paroling and releasing, etc.:
District of Columbia Code; prisoners serving sentences; comments due by 3-31-99; published 2-4-99

LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Employee Retirement Income Security Act:
Employee pension and welfare benefit plans; recordkeeping and disclosure requirements; use of electronic media; comments due by 3-29-99; published 1-28-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Conforming late offer treatment; comments due by 3-29-99; published 1-27-99
Interest and other financial costs; comments due by 3-30-99; published 1-29-99

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Truth in Savings Act—
Fee disclosure, dividend rates, annual percentage yield et al.; comments due by 3-29-99; published 12-29-98

NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list addition; comments due by 3-29-99; published 1-11-99

SECURITIES AND EXCHANGE COMMISSION
Securities:
Sweden; securities exemption for purposes of trading futures contracts; comments due by 3-31-99; published 3-1-99

TRANSPORTATION DEPARTMENT
Coast Guard
Anchorage regulations:
Florida; comments due by 3-29-99; published 1-26-99
Boating safety:
Numbering undocumented vessels in Alaska; fee increase; comments due by 4-2-99; published 2-1-99
Regattas and marine parades:
Fleet's Albany Riverfest; comments due by 4-2-99; published 2-1-99
Hudson Valley Triathlon; comments due by 4-2-99; published 2-1-99
Tank vessels:
Tank barges; emergency control measures;

comments due by 3-30-99; published 12-30-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 3-30-99; published 2-23-99

Bell Helicopter Textron, Inc.; comments due by 3-29-99; published 1-26-99

Boeing; comments due by 3-29-99; published 2-10-99

Hartzell Propeller Inc.; comments due by 3-29-99; published 1-27-99

McDonnell Douglas; comments due by 3-29-99; published 1-28-99

Class E airspace; comments due by 3-29-99; published 2-12-99

Class E airspace; correction; comments due by 3-29-99; published 2-19-99

TRANSPORTATION DEPARTMENT

Maritime Administration

Cargo preference—U.S.-flag commercial vessels:

Carriage of agricultural exports; comments due by 3-29-99; published 1-28-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Anthropomorphic test devices:

Occupant crash protection—Hybrid III test dummies; 3-year-old child dummy; design and performance specifications; comments due by 3-29-99; published 1-28-99

Motor vehicle safety standards:

Occupant crash protection—Child restraint systems; Federal regulatory review; comments due by 4-2-99; published 2-1-99

Vehicle certification—Altered vehicles; certification labels contents requirements; comments due by 3-29-99; published 2-11-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Tax return preparers' signatures; retention; comments due by 3-31-99; published 12-31-98

TREASURY DEPARTMENT

United States Mint

Exchange of paper currency and coin:

Melting discontinuance and substitution of mechanical means to destroy mutilated coins; comments due by 3-29-99; published 1-27-99

VETERANS AFFAIRS DEPARTMENT

Acquisition regulations:

Tax-free tobacco products; comments due by 3-30-99; published 1-29-99

CFR CHECK

This checklist, published wee numbers, price

An asterisk (*) week and whic Office.

A checklist of also appears i Affected), whic

The CFR is av Office's GPO index.html. Fo Support Team

The annual ra $951.00 dome

Mail orders to P.O. Box 371 accompanied Account, VISA telephoned to 512–1800 fro charge orders

Title	
1, 2 (2 Reserv	
3 (1997 Comp and Parts 1 101)	
4	
5 Parts:	
1–699	
700–1199	
1200–End, 6 (6 Reserved)	
7 Parts:	
*1–26	
*27–52	
*53–209	
210–299	
300–399	
400–699	
700–899	
900–999	
1000–1199	
1200–1599	
1600–1899	
1900–1939	
1940–1949	
1950–1999	
2000–End	
8	
9 Parts:	
1–199	
200–End	
10 Parts:	
0–50	
51–199	
200–499	
500–End	
11	
12 Parts:	
*1–199	
*200–219	
*220–299	
300–499	
500–599	
600–End	
13	

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1998
3 (1997 Compilation and Parts 100 and 101)	(869–034–00002–9)	19.00	[1] Jan. 1, 1998
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1998
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–034–00005–3)	26.00	Jan. 1, 1998
1200–End, 6 (6 Reserved)	(869–034–00006–1)	39.00	Jan. 1, 1998
7 Parts:			
*1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
*27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
*53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–034–00010–0)	44.00	Jan. 1, 1998
300–399	(869–034–00011–8)	24.00	Jan. 1, 1998
400–699	(869–034–00012–6)	33.00	Jan. 1, 1998
700–899	(869–034–00013–4)	30.00	Jan. 1, 1998
900–999	(869–034–00014–2)	39.00	Jan. 1, 1998
1000–1199	(869–034–00015–1)	44.00	Jan. 1, 1998
1200–1599	(869–034–00016–9)	34.00	Jan. 1, 1998
1600–1899	(869–034–00017–7)	58.00	Jan. 1, 1998
1900–1939	(869–034–00018–5)	18.00	Jan. 1, 1998
1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–034–00029–1)	19.00	Jan. 1, 1998
12 Parts:			
*1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
*200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
*220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
500–599	(869–034–00034–7)	24.00	Jan. 1, 1998
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
*1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998
16 Parts:			
0–999	(869–034–00045–2)	30.00	Jan. 1, 1998
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0-1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441–1.500	(869-034-00082-7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
200-End	(869-034-00097-5)	17.00	[6] Apr. 1, 1998
28 Parts:			
0-42	(869-034-00098-3)	36.00	July 1, 1998
43-end	(869-034-00099-1)	30.00	July 1, 1998
29 Parts:			
0-99	(869-034-00100-9)	26.00	July 1, 1998
100-499	(869-034-00101-7)	12.00	July 1, 1998
500-899	(869-034-00102-5)	40.00	July 1, 1998
900-1899	(869-034-00103-3)	20.00	July 1, 1998
1900-1910 (§§ 1900 to 1910.999)	(869-034-00104-1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869-034-00105-0)	27.00	July 1, 1998
1911-1925	(869-034-00106-8)	17.00	July 1, 1998
1926	(869-034-00107-6)	30.00	July 1, 1998
1927-End	(869-034-00108-4)	41.00	July 1, 1998
30 Parts:			
1-199	(869-034-00109-2)	33.00	July 1, 1998
200-699	(869-034-00110-6)	29.00	July 1, 1998
700-End	(869-034-00111-4)	33.00	July 1, 1998
31 Parts:			
0-199	(869-034-00112-2)	20.00	July 1, 1998
200-End	(869-034-00113-1)	46.00	July 1, 1998
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-034-00114-9)	47.00	July 1, 1998
191-399	(869-034-00115-7)	51.00	July 1, 1998
400-629	(869-034-00116-5)	33.00	July 1, 1998
630-699	(869-034-00117-3)	22.00	[4] July 1, 1998
700-799	(869-034-00118-1)	26.00	July 1, 1998
800-End	(869-034-00119-0)	27.00	July 1, 1998
33 Parts:			
1-124	(869-034-00120-3)	29.00	July 1, 1998
125-199	(869-034-00121-1)	38.00	July 1, 1998
200-End	(869-034-00122-0)	30.00	July 1, 1998
34 Parts:			
1-299	(869-034-00123-8)	27.00	July 1, 1998
300-399	(869-034-00124-6)	25.00	July 1, 1998
400-End	(869-034-00125-4)	44.00	July 1, 1998
35	(869-034-00126-2)	14.00	July 1, 1998
36 Parts			
1-199	(869-034-00127-1)	20.00	July 1, 1998
200-299	(869-034-00128-9)	21.00	July 1, 1998
300-End	(869-034-00129-7)	35.00	July 1, 1998
37	(869-034-00130-1)	27.00	July 1, 1998
38 Parts:			
0-17	(869-034-00131-9)	34.00	July 1, 1998
18-End	(869-034-00132-7)	39.00	July 1, 1998
39	(869-034-00133-5)	23.00	July 1, 1998
40 Parts:			
1-49	(869-034-00134-3)	31.00	July 1, 1998
50-51	(869-034-00135-1)	24.00	July 1, 1998
52 (52.01-52.1018)	(869-034-00136-0)	28.00	July 1, 1998
52 (52.1019-End)	(869-034-00137-8)	33.00	July 1, 1998
53-59	(869-034-00138-6)	17.00	July 1, 1998
60	(869-034-00139-4)	53.00	July 1, 1998
61-62	(869-034-00140-8)	18.00	July 1, 1998
63	(869-034-00141-6)	57.00	July 1, 1998
64-71	(869-034-00142-4)	11.00	July 1, 1998
72-80	(869-034-00143-2)	36.00	July 1, 1998
81-85	(869-034-00144-1)	31.00	July 1, 1998
86	(869-034-00144-9)	53.00	July 1, 1998
87-135	(869-034-00146-7)	47.00	July 1, 1998
136-149	(869-034-00147-5)	37.00	July 1, 1998
150-189	(869-034-00148-3)	34.00	July 1, 1998
190-259	(869-034-00149-1)	23.00	July 1, 1998
260-265	(869-034-00150-9)	29.00	July 1, 1998
266-299	(869-034-00151-3)	33.00	July 1, 1998
300-399	(869-034-00152-1)	26.00	July 1, 1998
400-424	(869-034-00153-0)	33.00	July 1, 1998
425-699	(869-034-00154-8)	42.00	July 1, 1998
700-789	(869-034-00155-6)	41.00	July 1, 1998
790-End	(869-034-00156-4)	22.00	July 1, 1998
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-034-00157-2)	13.00	July 1, 1998
101	(869-034-00158-1)	37.00	July 1, 1998
102-200	(869-034-00158-9)	15.00	July 1, 1998
201-End	(869-034-00160-2)	13.00	July 1, 1998
42 Parts:			
1-399	(869-034-00161-1)	34.00	Oct. 1, 1998
400-429	(869-034-00162-9)	41.00	Oct. 1, 1998
430-End	(869-034-00163-7)	51.00	Oct. 1, 1998
43 Parts:			
1-999	(869-034-00164-5)	30.00	Oct. 1, 1998
1000-end	(869-034-00165-3)	48.00	Oct. 1, 1998
44	(869-034-00166-1)	48.00	Oct. 1, 1998
45 Parts:			
1-199	(869-034-00167-0)	30.00	Oct. 1, 1998
200-499	(869-034-00168-8)	18.00	Oct. 1, 1998
500-1199	(869-034-00169-6)	29.00	Oct. 1, 1998
1200-End	(869-034-00170-0)	39.00	Oct. 1, 1998
46 Parts:			
1-40	(869-034-00171-8)	26.00	Oct. 1, 1998
41-69	(869-034-00172-6)	21.00	Oct. 1, 1998
70-89	(869-034-00173-4)	8.00	Oct. 1, 1998
90-139	(869-034-00174-2)	26.00	Oct. 1, 1998
140-155	(869-034-00175-1)	14.00	Oct. 1, 1998
156-165	(869-034-00176-9)	19.00	Oct. 1, 1998
166-199	(869-034-00177-7)	25.00	Oct. 1, 1998
200-499	(869-034-00178-5)	22.00	Oct. 1, 1998
500-End	(869-034-00179-3)	16.00	Oct. 1, 1998
47 Parts:			
0-19	(869-034-00180-7)	36.00	Oct. 1, 1998
20-39	(869-034-00181-5)	27.00	Oct. 1, 1998
40-69	(869-034-00182-3)	24.00	Oct. 1, 1998
70-79	(869-034-00183-1)	37.00	Oct. 1, 1998
80-End	(869-034-00184-0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1-51)	(869-034-00185-8)	51.00	Oct. 1, 1998
1 (Parts 52-99)	(869-034-00186-6)	29.00	Oct. 1, 1998
2 (Parts 201-299)	(869-034-00187-4)	34.00	Oct. 1, 1998
3-6	(869-034-00188-2)	29.00	Oct. 1, 1998
7-14	(869-034-00189-1)	32.00	Oct. 1, 1998
15-28	(869-034-00190-4)	33.00	Oct. 1, 1998
29-End	(869-034-00191-2)	24.00	Oct. 1, 1998
49 Parts:			
1-99	(869-034-00192-1)	31.00	Oct. 1, 1998
100-185	(869-034-00193-9)	50.00	Oct. 1, 1998
186-199	(869-034-00194-7)	11.00	Oct. 1, 1998
200-399	(869-034-00195-5)	46.00	Oct. 1, 1998
400-999	(869-034-00196-3)	54.00	Oct. 1, 1998
1000-1199	(869-034-00197-1)	17.00	Oct. 1, 1998
1200-End	(869-034-00198-0)	13.00	Oct. 1, 1998
50 Parts:			
1-199	(869-034-00199-8)	42.00	Oct. 1, 1998
200-599	(869-034-00200-5)	22.00	Oct. 1, 1998
600-End	(869-034-00201-3)	33.00	Oct. 1, 1998

Title

CFR Index and Aids .....

Complete 199

Microfiche CF
Subscription
Individual c
Complete s
Complete s

[1] Because Tit should be retain

[2] The July 1, Parts 1-39 incl in Parts 1-39, c those parts.

[3] The July 1, for Chapters in Chapters 1 1984 containing

[4] No amendi 1, 1997 to Jun

[5] No amendr 1, 1997 throug 1, 1997 should b

[6] No amendi 1, 1997, throug should be retai

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869-034-00049-6)	46.00	Jan. 1, 1998
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

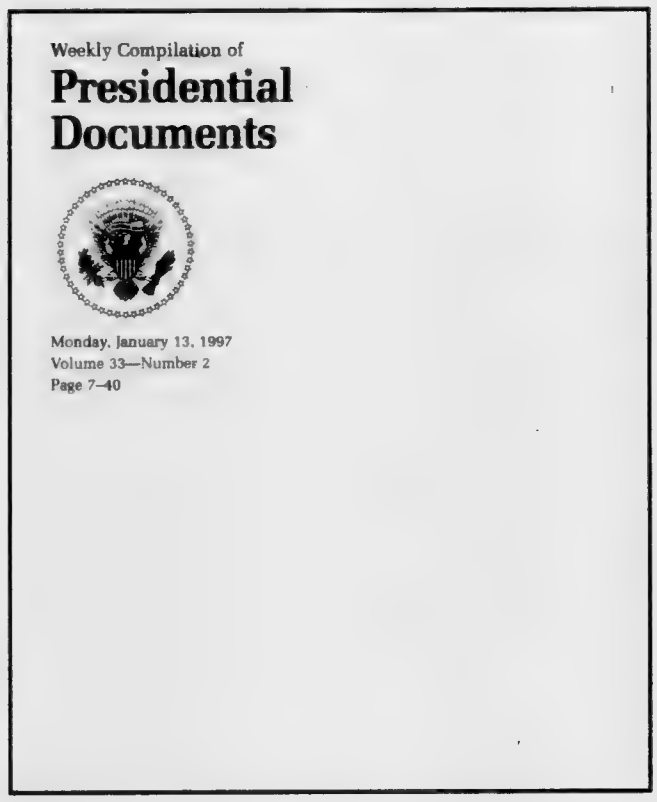
[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.

Revision Date
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
Oct. 1, 1998
Oct. 1, 1998
Oct.

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy! MasterCard VISA

Order Processing Code:
*** 5420**

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

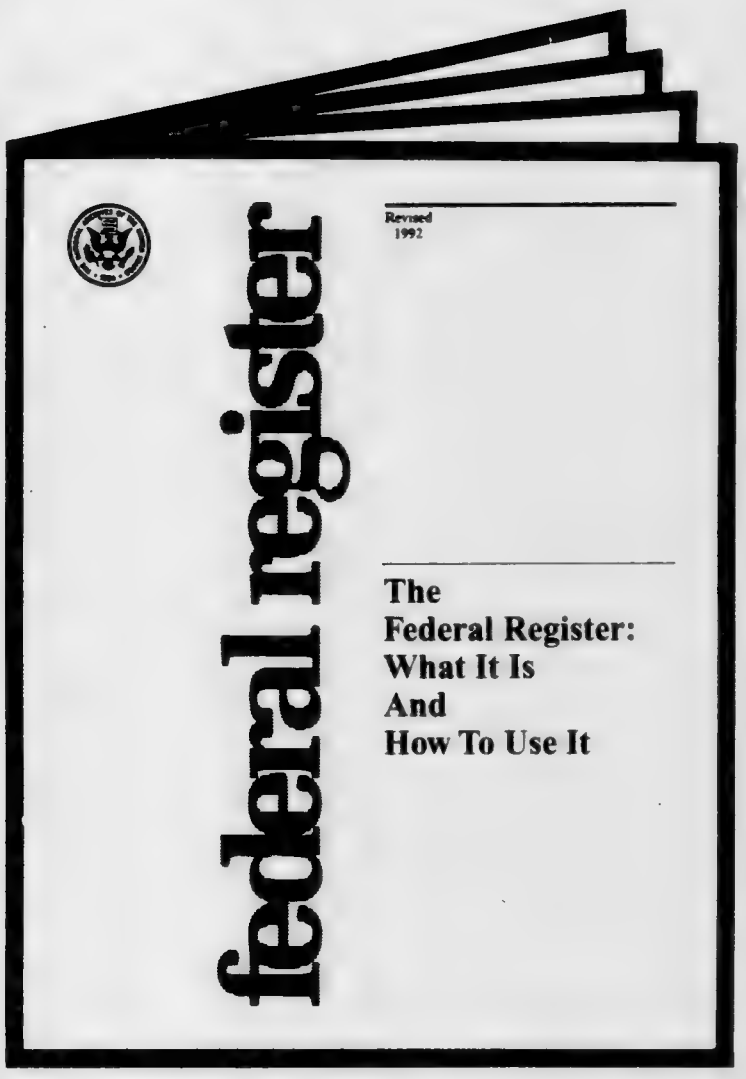
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a simple research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

Order Processing Code:
*** 6173**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ copies of **The Federal Register – What it is and Hot To Use It,** at $7.00 per copy. Stock No. 069–000–00044–4.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature (Rev 11/3)

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Would you like to know. . .

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

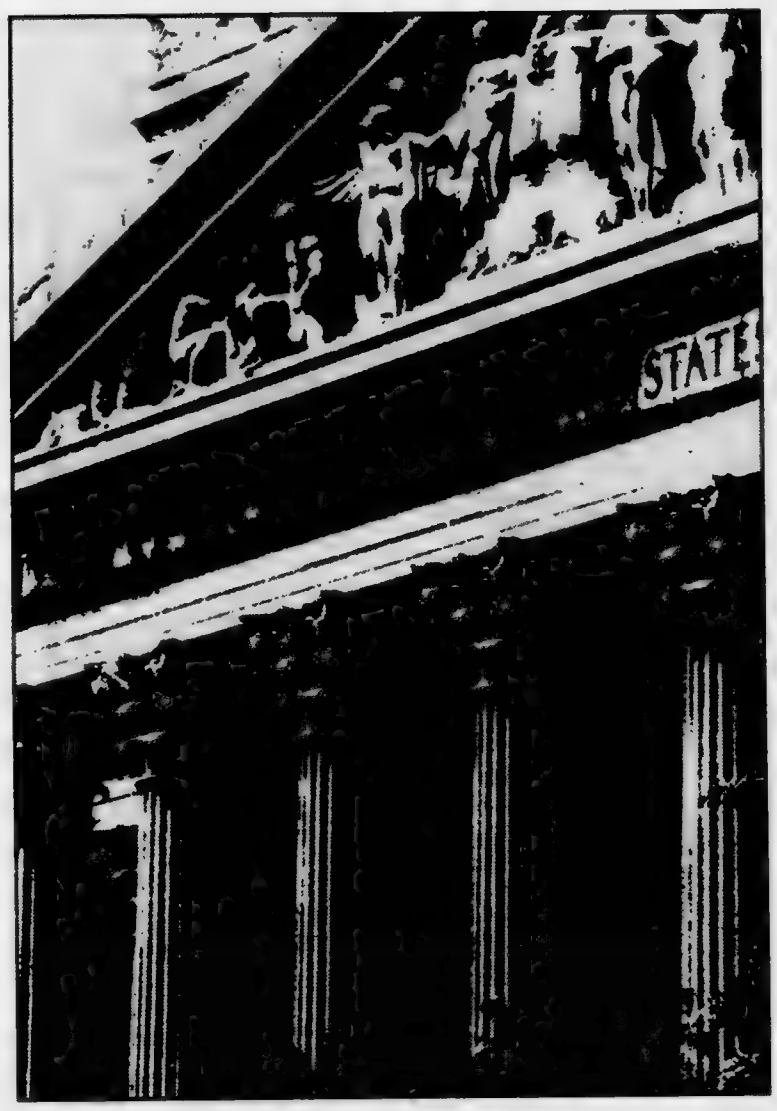
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.

_____ **Federal Register Index** (FRUS) $25 per year.

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFR SMITH212J                    DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFRDO SMITH212J                  DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register,** *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

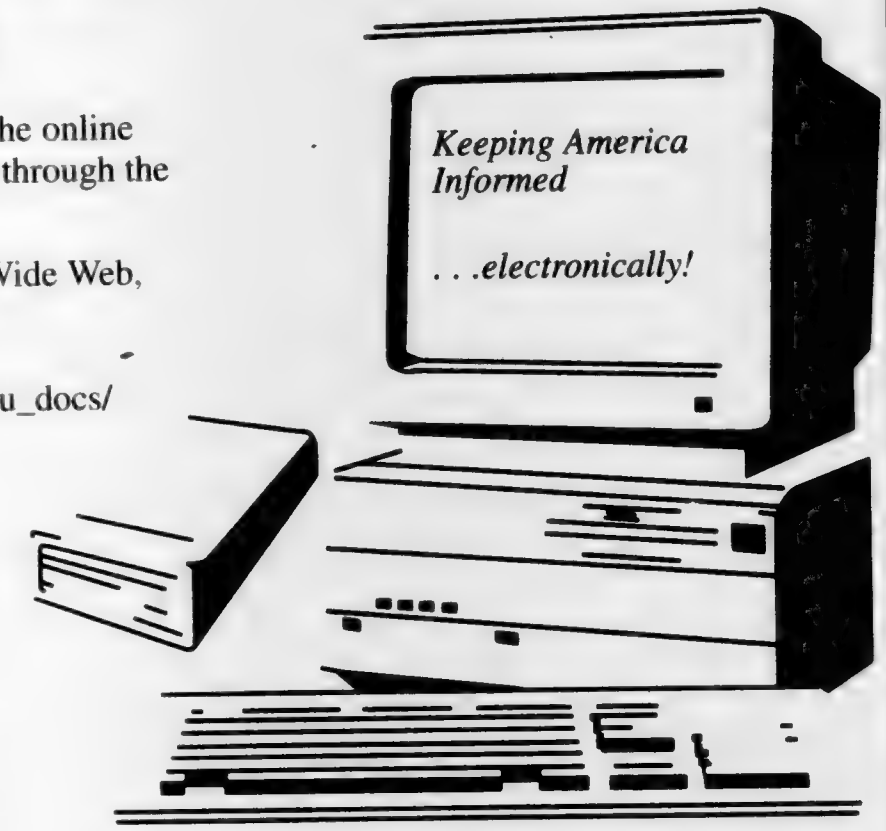
Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).



You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 11/3)





Printed on recycled paper

OL
64
SS
55
MR
23
99
MI

3-23-99
Vol. 64

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

United State
Governmen
Printing Offi
SUPERINTENDEN
OF DOCUMENTS
Washington, DC 20

OFFICIAL BUSINE
Penalty for private

3-23-99
Vol. 64 No. 55

Federal Register

Tuesday
March 23, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

MI
DL
64
SS
55
MR
23
99
MI

3–23–99
Vol. 64 N
Pages 13881

3–23–99
Vol. 64 No. 55
Pages 13881–14096

federal register

Tuesday
March 23, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche 202–512–1800
Assistance with public subscriptions 512–1806
General online information 202–512–1530; 1–888–293–6498
Single copies/back copies:
Paper or fiche 512–1800
Assistance with public single copies 512–1803
FEDERAL AGENCIES
Subscriptions:
Paper or fiche 523–5243
Assistance with Federal agency subscriptions 523–5243

Conte

Agriculture
See Animal
See Forest S
See Rural Bu

Animal and
NOTICES
Environmen
Nonregula
AgrEvo
139

Army Depar
NOTICES
Privacy Act:
Systems o

Centers for
NOTICES
Smokeless to
package
14085–1

Civil Rights
NOTICES
Meetings:
Crisis of y
consu
Meetings; St
Iowa, 1396
New Hamp

Coast Guard
RULES
Ports and wa
Inner Harb
Regattas and
Crawford
Safety at S

Commerce D
See Internati
See National

Customs Se
NOTICES
Agency infor
Proposed c

Defense Dep
See Army De
See Defense
RULES
Civilian heal
(CHAMP
TRICARE
NOTICES
Meetings:
Overseas D
13972

Contents

Federal Register

Vol. 64, No. 55

Tuesday, March 23, 1999

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Business-Cooperative Service

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
Nonregulated status determinations—
AgrEvo USA Co.; genetically engineered corn, 13959–13960

Army Department
NOTICES
Privacy Act:
Systems of records, 13972–13974

Centers for Disease Control and Prevention
NOTICES
Smokeless tobacco products manufactured, imported, or packaged in U.S.; nicotine measuring standards, 14085–14096

Civil Rights Commission
NOTICES
Meetings:
Crisis of young African-American males in inner cities; consultation proceeding, 13961–13962
Meetings; State advisory committees:
Iowa, 13962
New Hampshire, 13962

Coast Guard
RULES
Ports and waterways safety:
Inner Harbor, Baltimore, MD; safety zone, 13915–13916
Regattas and marine parades:
Crawford Bay Crew Classic, 13913–13914
Safety at Sea Seminar, 13914–13915

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Customs Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14045–14048

Defense Department
See Army Department
See Defense Logistics Agency
RULES
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE Prime enrollment procedures, 13912–13913
NOTICES
Meetings:
Overseas Dependents' Schools National Advisory Panel, 13972

Defense Logistics Agency
NOTICES
Privacy Act:
Computer matching programs, 13974–13976

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13976
Submission for OMB review; comment request, 13976–13977
Committees; establishment, renewal, termination, etc.:
National Commission on Mathematics and Science Teaching for 21st Century, 13977

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Atmospheric Radiation Measurement Program, 13977–13979
Meetings:
Environmental Management Site-Specific Advisory Board—
Monticello Site, UT, 13979

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California
CFR correction, 13916
NOTICES
Meetings:
Analysis of pollutants in environment; annual conference, 13993–13994
Gulf of Mexico Program Habitat Focus Team, 13994
Reports and guidance documents; availability, etc.:
Waste research strategy, 13994–13995

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 13884–13886
Empresa Brasileira de Aeronautica S.A., 13892–13894
Eurocopter France, 13886–13889
McDonnell Douglas, 13890–13892
Pilatus Aircraft Ltd., 13882–13883
Sikorsky, 13889–13890
PROPOSED RULES
Airworthiness directives:
McDonnell Douglas, 13936–13938
New Piper Aircraft, Inc., 13934–13936
Pratt & Whitney, 13932–13934
Class E airspace, 13938–13939

Federal Communications Commission
RULES
Common carrier services:
Telegraph and telephone franks; CFR part removed, 13916

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Cincinnati Gas & Electric Co. et al., 13984–13986
PacifiCorp et al., 13986–13988
Hydroelectric applications, 13988–13989
Natural Gas Policy Act:
Interstate natural gas pipelines—
Business practice standards, 13989–13990
Applications, hearings, determinations, etc.:
Boston Edison Co., 13979–13980
Colorado Interstate Gas Co., 13980
Green Wolf Oil Co., 13980–13981
Northern Natural Gas Co., 13981
San Diego Gas & Electric Co., 13981–13982
Southern California Edison Co., 13982
Southern Natural Gas Co., 13982–13983
Williams Gas Pipelines Central, Inc., 13983–13984

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Summit County, CO, 14038–14039

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 14010

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Blue Grass Railroad Museum, Inc., 14039
Indiana Harbor Belt Railroad Co., 14039
Oil Creek & Titusville Lines, 14040
Traffic control systems; discontinuance or modification:
CSX Transportation, Inc., 14040–14042
CSX Transportation, Inc., et al., 14040–14041
Delray Connecting Railroad Co., 14042–14043
Duluth, Missabe & Iron Range Railway Co., 14043
Union Pacific Railroad Co., 14043–14044

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 13995
Formations, acquisitions, and mergers, 13995, 13996
Meetings; Sunshine Act, 13996

Federal Retirement Thrift Investment Board
PROPOSED RULES
Thrift savings plan:
Eligibility; expansion and continuation, 13924–13932

Food and Drug Administration
NOTICES
Memorandums of understanding:
Interstate distribution of compounded drug products, 13997

Forest Service
NOTICES
Meetings:
Willamette Provincial Advisory Committee, 13960

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See National Institutes of Health
See Public Health Service
See Substance Abuse and Mental Health Services Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Vital and Health Statistics National Committee, 13996–13997
Grants and cooperative agreements; availability, etc.:
Family Planning Nurse Practitioner and Specialty Training Program, 14079–14083

Health Care Financing Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13997–13998
Medicare:
Medicare Coordinated Care Demonstration; best practices of coordinated care; information request, 13998–13999

Health Resources and Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 13999–14000
Organization, functions, and authority delegations:
Field Directors, 14000

Hearings and Appeals Office, Energy Department
NOTICES
Decisions and orders, 13990–13993

Immigration and Naturalization Service
RULES
United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; implementation:
Protection from torture; claim procedures Correction, 13881

Indian Affairs Bureau
RULES
Codification errors; technical corrections, 13894–13897

Interior Department
See Indian Affairs Bureau
See Land Management Bureau

Internal Revenue Service
PROPOSED RULES
Income taxes:
Passive foreign investment companies—
Marketable stock; definition; correction, 13939
Income taxes, etc.:
Federal deposits; electronic funds transfers, 13940–13942

International Trade Administration
NOTICES
Antidumping:
Oil country tubular goods from—
Mexico, 13962–13970

Grants and cooperative agreements; availability, etc.:
Special American Business Internship Training Program, 13970
Meetings:
President's Export Council, 13970

International Trade Commission
NOTICES
Meetings; Sunshine Act, 14010

Justice Department
See Immigration and Naturalization Service

Labor Department
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
Gila Box Riparian National Conservation Area Advisory Committee, 14007
Resource Advisory Councils, 14007–14008
San Pedro Riparian National Conservation Area Advisory Committee, 14008
Resource management plans, etc.:
Potter County, TX, 14009
Washington County, UT, 14009–14010
Survey plat filings:
Illinois, 14010

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Occupant crash protection—
Biomechanical performance criteria; technical workshop, 13947–13948
NOTICES
Motor vehicle theft prevention standards; exemption petitions, etc.:
Nissan North America, Inc., 14044–14045

National Institutes of Health
NOTICES
Inventions, Government-owned; availability for licensing, 14000–14001
Meetings:
Hematopoietic cell transplant network, 14001–14002
National Cancer Institute, 14002
National Center for Research Resources, 14002–14003
National Eye Institute, 14003
National Institute of Diabetes and Digestive and Kidney Diseases, 14004
National Institute of Environmental Health Sciences, 14003
National Institute of Mental Health, 14003–14004
National Institute on Drug Abuse, 14004
National Library of Medicine, 14005
Scientific Review Center, 14005–14006

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Regulations consolidation, 14051–14077
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Northeast multispecies, 13952–13958
NOTICES
Meetings:
Pacific Fishery Management Council, 13970–13971
Western Pacific Fishery Management Council, 13971–13972

National Science Foundation
NOTICES
Meetings:
Advanced Networking Infrastructure Research Special Emphasis Panel, 14010–14011
Anthropological and Geographic Sciences Advisory Panel, 14011
Computer and Computation Research Special Emphasis Panel, 14011
Engineering Education and Centers Special Emphasis Panel, 14011
Physics Special Emphasis Panel, 14011–14012

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Southern Nuclear Operating Co., Inc., et al., 14017–14018
Wolf Creek Nuclear Operating Corp., 14018–14019
Meetings:
Reactor Oversight Process Pilot Program; workshop, 14019–14020
Meetings; Sunshine Act, 14020
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 14012
Northeast Nuclear Energy Co. et al., 14012–14017

Occupational Safety and Health Administration
RULES
Safety and health standards:
Dipping and coating operations (dip tanks), 13897–13912

Office of United States Trade Representative
See Trade Representative, Office of United States

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Reports and guidance documents; availability, etc.:
Murine local lymph node assay; test method for assessing allergic contact dermatitis potential of chemicals/compounds (NIEHS), 14006–14007

Railroad Retirement Board
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14020–14021
Submission for OMB review; comment request, 14021

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
Incident reporting requirements and Detailed Hazardous Materials Incident Report form; revision, 13943–13947

Rural Business-Cooperative Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 13960–13961
Loan guarantee authority; maximum portion available, 13961

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14021–14023
Investment Company Act of 1940:
Shares substitution applications—
Protective Life Insurance Co. et al., 14028–14032
Self-regulatory organizations; proposed rule changes:
Chicago Stock Exchange, Inc., 14032–14034
National Association of Securities Dealers, Inc., 14034–14036
Philadelphia Stock Exchange, Inc., 14036–14037
Applications, hearings, determinations, etc.:
Brinson Funds et al., 14023–14024
Western Reserve Life Assurance Co. of Ohio et al., 14024–14028

State Department
NOTICES
Meetings:
Overseas Presence Advisory Panel, 14037

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Women's Services Advisory Committee, 14007

Surface Transportation Board
NOTICES
Railroad services abandonment:
Norfolk Southern Railway Co., 14045

Trade Representative, Office of United States
NOTICES
World Trade Organization:
Dispute settlement panel establishment requests—
Trade Act of 1974; inconsistency with U.S.'s obligations, 14037–14038

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
See Surface Transportation Board
See Transportation Statistics Bureau

Transportation Statistics Bureau
RULES
ICC Termination Act; implementation:
Motor carriers of property and household goods; reporting requirements, 13916–13923
PROPOSED RULES
ICC Termination Act; implementation:
Motor carriers of property and household goods; reporting requirements, 13948–13952

Treasury Department
See Customs Service
See Internal Revenue Service

United States Information Agency
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14048–14049

Separate Parts In This Issue

Part II
Department of Commerce, National Oceanic and Atmospheric Administration, 14051–14077

Part III
Department of Health and Human Services, 14079–14083

Part IV
Department of Health and Human Services, Centers for Disease Conntrol, 14085–14096

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS

A cumulative li
Reader Aids s

5 CFR
Proposed Rules
1620

8 CFR
3
103
208
235
238
240
241
253
507

14 CFR
39 (6 documer
13884, 138

Proposed Rules
39 (3 documer

71

15 CFR
902

25 CFR
31
39
111
112
115
140
151
152
160
162
226
256
273
275
276

26 CFR
Proposed Rules
1 (2 document

20
25
31
40

29 CFR
1910

32 CFR
199

33 CFR
100 (2 docume

165

40 CFR
52

47 CFR
41

49 CFR
1420
Proposed Rules
171
571
585
587
595
1420

50 CFR
217
220

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Proposed Rules:
1620.....13924

8 CFR
3.....13881
103.....13881
208.....13881
235.....13881
238.....13881
240.....13881
241.....13881
253.....13881
507.....13881

14 CFR
39 (6 documents) 13882, 13884, 13886, 13889, 13890, 13892

Proposed Rules:
39 (3 documents) 13932, 13934, 13936
71.....13938

15 CFR
902.....14052

25 CFR
31.....13894
39.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR
Proposed Rules:
1 (2 documents) 13939, 13940
20.....13940
25.....13940
31.....13940
40.....13940

29 CFR
1910.....13897

32 CFR
199.....13912

33 CFR
100 (2 documents) 13913, 13914
165.....13915

40 CFR
52.....13916

47 CFR
41.....13916

49 CFR
1420.....13916

Proposed Rules:
171.....13943
571.....13947
585.....13947
587.....13947
595.....13947
1420.....13948

50 CFR
217.....14052
220.....14052
221.....14052
222.....14052
223.....14052
224.....14052
225.....14052
226.....14052
227.....14052
648.....14052
679.....14052
697.....14052

Proposed Rules:
648.....13952

This section of t
contains regulat
applicability and
are keyed to an
Federal Regulat
50 titles pursua

The Code of Fe
the Superintend
new books are
REGISTER issu

DEPARTMEN

Immigration a

8 CFR Parts 3
241, 253, and

[INS No. 1976–

RIN 1115–AF3

Regulations C
Convention A

AGENCY: Imm
Service, and
Immigration

ACTION: Corre

SUMMARY: Thi
corrections to
published Fri
64 FR 8477, r
Against Tortu

EFFECTIVE DAT

FOR FURTHER
For matters re
and Naturaliz
Lay, 425 I Str
20536, teleph
2895. For mat
Executive Off
Review: Marg
Counsel, Exec
Immigration
Leesburg Pike
22041, teleph
0470 (not a to

SUPPLEMENTA

Background

The interim
subject of thes
Department o
establishing p
claim for prot
directed by th
and Restructu
2242 of that A
appropriate a
regulations to
obligations u

Rules and Regulations

Federal Register
Vol. 64, No. 55
Tuesday, March 23, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 3, 103, 208, 235, 238, 240, 241, 253, and 507

[INS No. 1976–99; AG Order No. 2207–99]

RIN 1115–AF39

Regulations Concerning the Convention Against Torture

AGENCY: Immigration and Naturalization Service, and Executive Office for Immigration Review, Justice.

ACTION: Correction to interim rule.

SUMMARY: This document contains corrections to the interim regulation, published Friday, February 19, 1999 at 64 FR 8477, relating to the Convention Against Torture.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: For matters relating to the Immigration and Naturalization Service: Dorothea Lay, 425 I Street, NW, Washington, DC 20536, telephone number (202) 514–2895. For matters relating to the Executive Office for Immigration Review: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone number (703) 305–0470 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

The interim regulation that is the subject of these corrections amends Department of Justice regulations by establishing procedures for raising a claim for protection from torture, as directed by the Foreign Affairs Reform and Restructuring Act of 1998. Section 2242 of that Act requires the heads of appropriate agencies to prescribe regulations to implement United States obligations under the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention Against Torture). Under Article 3 of the Convention Against Torture, the United States has agreed not to "expel, return ("refouler") or extradite" a person to another state where he or she would be tortured. The interim rule establishes procedures for ensuring compliance with Article 3 with respect to removal of aliens from the United States by integrating Convention Against Torture requests, as far as possible, into existing removal procedures.

Need for Correction

As published, the interim regulation contains errors which may prove to be misleading and are in need of clarification. First, this correction deletes the phrase in § 208.4(b)(2) that permits an alien whose case has been referred to the asylum office for purposes of conducting a reasonable fear determination to file a Form I–589, Application for Asylum and for Withholding of Removal, with an asylum office. This provision is being removed, because aliens who are referred for a reasonable fear screening will not be required to file such an application for purposes of the screening. An alien referred for a reasonable fear screening will only be required to file an application (Form I–589) if an asylum officer finds that the alien has a reasonable fear of persecution or torture. In such cases, the alien will be required to file an application with the immigration judge to apply for withholding of removal or deferral of removal, after he or she has been referred to an immigration judge.

Second, this correction clarifies the language in § 208.18(b)(2) of the interim rule which provides an opportunity to file a motion to reopen "to seek" protection under Article 3 of the Convention Against Torture for aliens who were ordered removed or whose removal orders became final prior to March 22, 1999. The phrase "to seek" needs to be changed to "for the sole purpose of seeking" in order to clarify that the reason the Department afforded the opportunity for such a motion in the interim rule was only to allow eligible aliens to move to reopen to seek protection under Article 3, and not to seek any other form of protection or relief.

Third, this correction moves the language in § 208.31(e) of the interim rule, which places a 10-day time limit on hearings before immigration judges to consider only the claim for withholding/protection against torture, to § 208.31(g). The 10-day time limit was inadvertently placed in § 208.31(e). Consistent with its intent to model the "reasonable fear" screening process on the "credible fear" screening process, the Department's intent was to place the 10-day time limit on immigration judge reviews of asylum officer "no reasonable fear" determinations in § 208.31(g). This is analogous to the 7-day time limit placed on immigration judge reviews of asylum officer "no credible fear" determinations.

Corrections

§ 208.4 [Corrected]

1. On page 8488, in the first column, in § 208.4(b)(2), the phrase "or in the case of an alien whose case has been referred to the asylum office for purposes of conducting a reasonable fear determination under § 208.31 of this part" is removed.

§ 208.18 [Corrected]

2. On page 8491, in the first column, in § 208.18(b)(2), line 7, the phrase "to seek" should read "for the sole purpose of seeking".

§ 208.31 [Corrected]

3. On page 8493, in the third column, in § 208.31(e), lines 12 and 13, remove the phrase "within 10 days of the issuance of the I–863".

4. On page 8493, in the third column, in § 208.31(g), line 15, add a new sentence "In the absence of exceptional circumstances, such review shall be conducted by the immigration judge within 10 days of the filing of the Form I–863 with the immigration court." immediately before the last sentence in the introductory text.

Dated: March 17, 1999.

Rosemary Hart,

Federal Register Liaison Officer.

[FR Doc. 99–7020 Filed 3–22–99; 8:45 am]

BILLING CODE 4410–10–M; 4410–30–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–03–AD; Amendment 39–11081; AD 99–06–17]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD requires installing a support bracket and a cut-out relay for the second generator control unit. This AD also requires making all the wiring additions and adjustments necessary for the above-referenced installations. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified in this AD are intended to prevent damage to electrical components because incorrectly connected cables or broken or damaged wires cause excessive voltages to the second generator, which could result in loss of electrical power during any phase of flight.

DATES: Effective June 16, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 16, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–03–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 62 33; facsimile: +41 41 610 33 51. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–03–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA of Switzerland reports three occurrences where the cables behind the second generator were incorrectly connected. In the above-referenced incidents, the over-voltage protection did not automatically disconnect the second generator from the electrical system when excessive voltage was experienced.

This condition, if not corrected in a timely manner, could result in electrical component damage and loss of electrical power during any phase of flight.

Relevant Service Information

Pilatus has issued Service Bulletin No. 24–009, dated September 23, 1998, which specifies procedures for installing a support bracket and a cut-out relay for the second generator control unit, and making all the wiring additions and adjustments necessary for the above-referenced installations. Modification Kit No. 500.50.12.171 includes the parts necessary to accomplish this installation and modification.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 98–537, dated December 29, 1998, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus PC–12 and PC–12/45 airplanes of the same type design registered in the United States, the FAA is issuing an AD. This AD requires installing a support bracket and a cut-out relay for the second generator control unit. This AD also requires making all the wiring additions and adjustments necessary for the above-referenced installations. Accomplishment of the actions of this AD would be required in accordance with the previously referenced service bulletin.

Cost Impact

The FAA estimates that 50 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 per work hour. The manufacture will provide parts to owners/operators of the affected airplanes at no cost. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $24,000, or $480 per airplane.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. The requirements of this direct final rule address an unsafe condition identified by a foreign civil airworthiness authority and do not impose a significant burden on affected operators. In accordance with Section 11.17 of the Federal Aviation Regulations (14 CFR 11.17) unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and

a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–03–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–06–17 Pilatus Aircraft LTD.: Amendment 39–11081; 99–06–18 Docket No. 99–CE–03–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, manufacturer serial numbers (MSN) 101 through MSN 180, certificated in any category.

Note 1: The installations and modifications required by this AD will be incorporated at the factory on Models PC–12 and PC–12/45 airplanes beginning with MSN 181.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

Note 3: The compliance time of this AD differs from that specified in Pilatus Service Bulletin No. 24–009, dated September 23, 1998, and in Swiss AD HB 98–537, dated December 29, 1998. This AD takes precedence over any other information on airplanes registered for operation in the United States.

To prevent damage to electrical components because incorrectly connected cables or broken or damaged wires cause excessive voltages to the second generator, which could result in loss of electrical power during any phase of flight, accomplish the following:

(a) Install a support bracket and a cut-out relay for the second generator control unit, and make all the wiring additions and adjustments necessary for the above-referenced installations. Modification Kit No. 500.50.12.171 includes the parts necessary to accomplish this installation and modification. Perform these actions in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 24–009, dated September 23, 1998.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be used if approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) The installation and modification required by this AD shall be done in accordance with Pilatus Service Bulletin No. 24–009, dated September 23, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Swiss AD HB 98–537, dated December 29, 1998.

(e) This amendment becomes effective on June 16, 1999.

Issued in Kansas City, Missouri, on March 11, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6715 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–296–AD; Amendment 39–11085; AD 99–07–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires repetitive inspections to detect cracks in the edge frame web and doubler of the number 1 main entry door cutout; and repair, if necessary. This AD also provides for optional terminating action for the repetitive inspections. This amendment is prompted by reports indicating that fatigue cracks were found in the edge frame web and doubler at the door stop number 1 of the number 1 main entry door cutout. The actions specified by this AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the airplane.

DATES: Effective April 27, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 27, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on July 15, 1998 (63 FR 38118). That action proposed to require repetitive inspections to detect cracks in the edge frame web and doubler of the number 1 main entry door cutout; and repair, if necessary. That action also proposed to provide for optional terminating action for the repetitive inspections.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed Rule

Two commenters support the proposed rule.

Request to Re-Evaluate Repetitive Inspection Intervals

One commenter requests that the FAA re-evaluate the repetitive inspection intervals of the proposed AD. The commenter suggests that the FAA give consideration to the expected crack growth rate, so that there is full confidence that crack detection will occur before the cracks are able to cause a rapid decompression failure. The commenter states that the reports discussed in the Discussion section of the proposed AD indicate that in-service loads on the frame are significantly different from those experienced in testing. This difference could be due to repeated door operations, flight loads, and exposure to various other environmental stresses.

The FAA does not concur with the commenter's request to re-evaluate the repetitive inspection intervals. The FAA based the inspection threshold and repetitive inspection intervals upon physical analysis that determined the crack growth rate of the cracked structure, as well as on damage tolerance and residual strength analytical methods that provide conservative predications. The FAA has confidence that accomplishment of the inspection at the defined thresholds and repetitive intervals will provide an acceptable level of safety for the affected airplanes. The FAA considered not only those safety issues in developing an appropriate compliance time for this action, but the recommendations of the manufacturer, the availability of any necessary repair parts, and the practical aspect of accomplishing the required inspection within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. Therefore, the FAA finds that no change to the final rule is necessary.

Request to Clarify Differential Pressure Adjustment Factor

One commenter states that flight cycles below 2.0 pounds per square inch (psi) differential pressure should not be counted when determining the number of flight cycles on an airplane. Boeing provided substantiating data that showed flight cycles accumulated at less than 2.0 psi cabin differential pressure has an insignificant effect on fatigue life of the subject structure. From this comment, the FAA infers that the commenter is requesting that a NOTE be added to paragraph (a) of the AD to clarify this point. The FAA concurs. Based on the manufacturer's substantiating data, the FAA has determined that for this specific structure the effect of cabin differential pressure at or below 2.0 psi is insignificant. Therefore, for the purposes of this AD, the cabin differential pressure cycles at or below 2.0 psi may be discounted from the total number of flight cycles of the airplane. The FAA has added a new NOTE to the final rule to clarify this point.

Explanation of Additional Change

The FAA has revised paragraph (c) of the final rule to allow repair of any crack in the subject area to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 685 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 211 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that 191 airplanes are equipped with a number 1 main entry door on both the left and right sides (Group 1 airplanes), that it will take approximately 2 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the

inspection required by this AD on U.S. operators of these airplanes is estimated to be $22,920, or $120 per airplane, per inspection cycle.

The FAA estimates that 20 airplanes are equipped with a number 1 main entry door on the left side only (Group 2 airplanes), that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators of these airplanes is estimated to be $1,200, or $60 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator of Group 1 airplanes elect to accomplish the optional terminating action that is provided by this AD action, it would take approximately 40 work hours to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this optional terminating action would be $2,400 per airplane.

Should an operator of Group 2 airplanes elect to accomplish the optional terminating action that is provided by this AD action, it would take approximately 20 work hours to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this optional terminating action would be $1,200 per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–07–03 Boeing: Amendment 39–11085. Docket 97–NM–296–AD.

Applicability: Model 747 series airplanes, line numbers 1 through 685 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the edge frame web and doubler of the number 1 main entry door cutout, which could result in rapid decompression of the airplane, accomplish the following:

Inspection

(a) Perform a high frequency eddy current (HFEC) (pencil probe eddy current) inspection to detect cracks in both the aft side of the lower edge frame web and the forward side of the edge frame web doubler at station 488, between stringers 25 and 26 (door stop number 1), of the number 1 main entry door cutout; in accordance with Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997; at the time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, as applicable. For Group 1 airplanes (as identified in the alert service bulletin), the inspection shall be accomplished on both the left and right sides of the airplane. For Group 2 airplanes (as identified in the alert service bulletin), the inspection shall be accomplished only on the left side of the airplane.

Note 2: For the purposes of this AD, it is not necessary to count flight cycles accumulated at 2.0 pounds per square inch (psi) or less cabin differential pressure.

(1) For airplanes that have accumulated less than 16,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 16,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 16,000 or more total flight cycles but less than 20,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 21,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs first.

(3) For airplanes that have accumulated 20,000 or more total flight cycles but less than 25,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 25,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs first.

(4) For airplanes that have accumulated 25,000 or more total flight cycles as of the effective date of this AD: Inspect within 500 flight cycles after the effective date of this AD.

Repetitive Inspections

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, repeat the HFEC inspection thereafter at intervals not to exceed 3,000 flight cycles.

Corrective Action

(c) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office (ACO), to make such findings.

Note 3: The alert service bulletin emphasizes the importance of performing an open hole HFEC inspection of the inner chord of the frame within 6.0 inches of the web or doubler crack (as applicable), if the inner chord of the frame is not replaced concurrently with the web and doubler repair.

Optional Terminating Repair/Modification

(d) Accomplishment of the repair or preventative modification specified in Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997, constitutes terminating action for the repetitive inspection requirements of this AD for that repaired/modified edge frame web and doubler.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that

provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraphs (c) and (d) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on April 27, 1999.

Issued in Renton, Washington, on March 15, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6828 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–46–AD; Amendment 39–11084; AD 99–07–02]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters and Model SA 330F, G, and J Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Eurocopter France Model AS 332C, L, L1, and L2 helicopters and Model SA 330F, G, and J helicopters. This action requires inspecting the position and bonding of the main rotor blade (blade) leading edge stainless steel protective strips (strips) that were replaced by C.T.I. Dallas. This amendment is prompted by the discovery of a strip that was both mislocated and improperly bonded. The strip had been replaced by C.T.I. Dallas. This condition, if not corrected, could result in failure of the blade and subsequent loss of control of the helicopter.

DATES: Effective April 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–46–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mike Mathias, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, has notified the FAA that an unsafe condition may exist on Eurocopter France Model AS 332C, L, L1, and L2 helicopters and Model SA 330F, G, and J helicopters. The DGAC advises that, upon examination of a blade that had been repaired by C.T.I. Dallas, anomalies were found in both the installation and the bonding of the strip that could affect aircraft safety.

Eurocopter France has issued Eurocopter France SA 330 Service Bulletin No. 05.85 and Eurocopter France AS 332 Service Bulletin No. 05.00.43, both dated August 27, 1997, which specify checking the position and bonding of the blade strips. The DGAC classified these service bulletins as mandatory and issued AD 97–293–078(AB) and AD 97–292–064(AB), both dated October 8, 1997, in order to assure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The FAA estimates that 5 helicopters will be affected by this AD, that it will take approximately 0.4 work hours to accomplish the initial inspection, 2 work hours to accomplish each of 100 repetitive inspections of each helicopter, and 4 work hours to replace each blade, and that the average labor rate is $60 per work hour. Required parts will cost approximately $25,000 per rotor blade. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $85,360, assuming one blade on one helicopter is replaced and that there will be a total of 100 repetitive inspections required on each helicopter by this AD.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model AS 332C, L, L1, and L2 helicopters and Model SA 330F, G, and J helicopters of the same type designs registered in the United States, this AD is being issued to prevent failure of the blade and subsequent loss of control of the helicopter. This AD requires, within 10 hours time-in-service (TIS), inspecting strips that were replaced by C.T.I. Dallas for correct position. If the inspection indicates an incorrectly-positioned strip, the blade must be removed and replaced with an airworthy blade. This AD also requires, within 100 hours TIS, and thereafter at intervals not to exceed 100 hours TIS, inspecting the strips for proper bonding. The actions are required to be accomplished in accordance with the service bulletins described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, inspecting the position and bonding of the strips is required prior to further flight, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by

submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–46–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–07–02 Eurocopter France: Amendment 39–11084. Docket No. 98–SW–46–AD.

Applicability: Model SA 330F, G, and J helicopters, with main rotor blades, part number (P/N) 330A11–0020 (all dash numbers), P/N 330A11–0022 (all dash numbers), or P/N 330A11–0027 (all dash numbers), installed, and Model AS 332C, L, L1, and L2 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect a mislocated or improperly bonded main rotor blade (blade) leading edge stainless steel protective strip (strip), which could result in failure of the blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS):

(1) Determine from helicopter records or log cards if the blade strips were replaced by C.T.I. Dallas. The helicopter records or log cards will have "CTID" stamped on them if C.T.I. Dallas replaced the strips. Blades with strips that were not replaced by C.T.I. Dallas need not comply with the remaining paragraphs of this AD.

(2) Inspect the blade strips for correct positioning on each main rotor blade by measuring the distance from the tip cap-blade junction as shown in Figure 1. This distance must be 2228 mm plus or minus 15 mm (87.7 inches plus or minus 0.6 inch). If the strip is incorrectly positioned, remove the blade and replace it with an airworthy blade within 100 hours TIS (see Figure 1).

BILLING CODE 4910–13–U

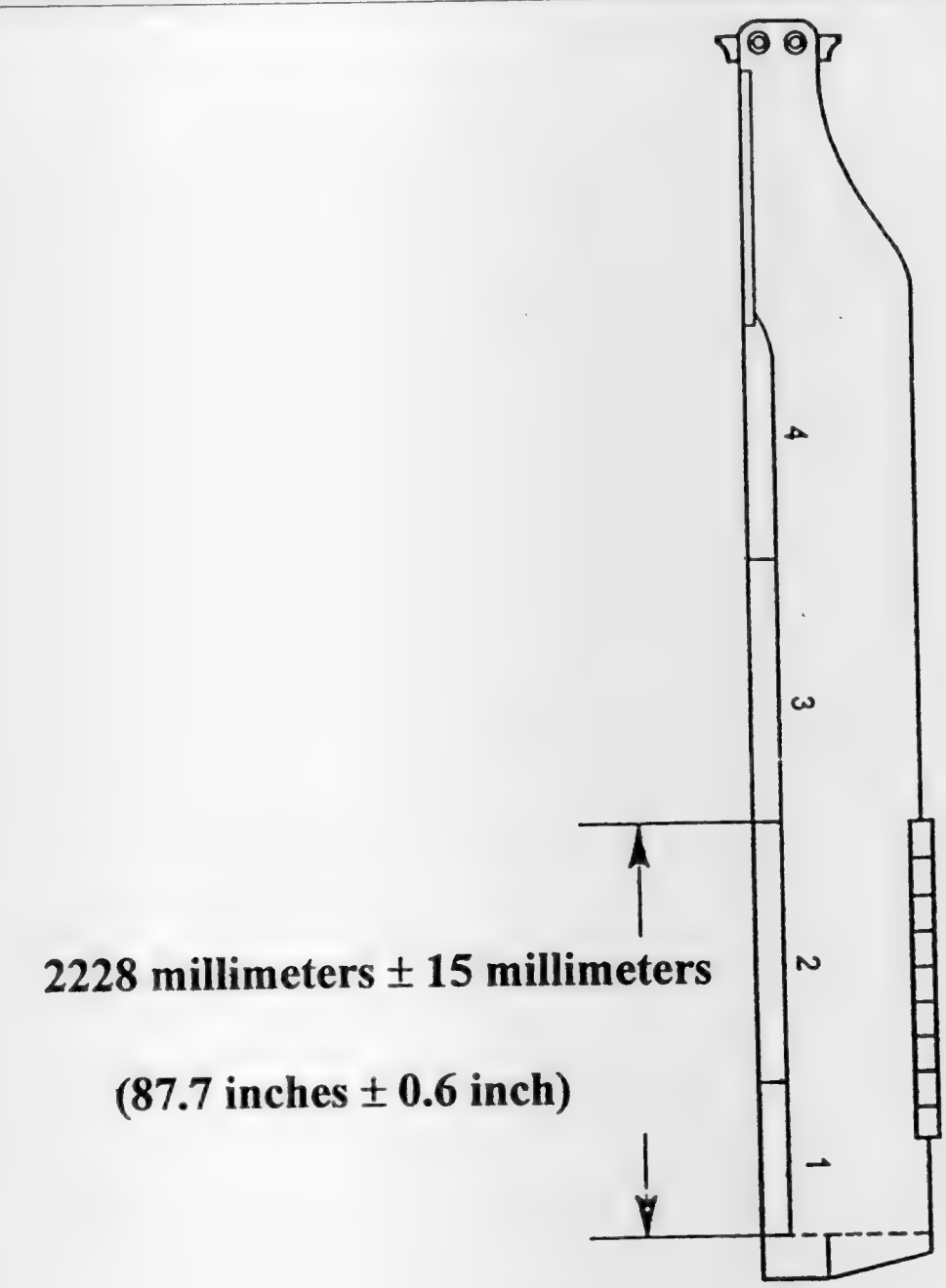


Figure 1

BILLING CODE 4910–13–C

(b) Within 100 hours TIS, and thereafter at intervals not to exceed 100 hours TIS, inspect the strips for correct bonding using a bonding check by sound (tapping test). If a defect is found that is outside the tolerance limits, remove the blade and replace it with an airworthy blade.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on April 7, 1999.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 97–293–078(AB) and AD 97–292–064(AB), both dated October 8, 1997.

Issued in Fort Worth, Texas, on March 12, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–6976 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–22–AD; Amendment 39–11083; AD 99–07–01]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing priority letter airworthiness directive (AD), applicable to Sikorsky Model S–76C helicopters, that currently requires, before further flight, inserting new operating limitations and performance data into the Rotorcraft Flight Manual (RFM) which require lower allowable gross weights for certain operational conditions. This amendment requires the same actions as the priority letter AD, but updates the previously referenced RFM's. This amendment is prompted by the discovery that the RFM's referenced in the priority letter AD have been revised. The actions specified by this AD are intended to provide the correct RFM references and to prevent an inability to achieve the published One-Engine-Inoperative (OEI) performance and subsequent loss of control of the helicopter.

DATES: Effective April 7, 1999. Comments for inclusion in the Rules Docket must be received on or before May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–22–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Wayne Gaulzetti, Aerospace Engineer, FAA, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On February 18, 1999, the FAA issued AD 99–05–01, Docket No. 99–SW–18–AD, to require, before further flight, inserting new operating limitations and performance data into the RFM which require lower allowable gross weights for certain operational conditions. That action was prompted by an incident in which the design of the engine Hydromechanical Unit (HMU) prevented the fuel metering valve from delivering the fuel flow required to obtain 30-second OEI performance. That condition, if not corrected, could result in an inability to achieve the published OEI performance and subsequent loss of the helicopter.

Since the issuance of that AD, the FAA has discovered that the RFM's referenced in the priority letter AD have been revised. The FAA is superseding the priority letter AD to eliminate any confusion that may arise from referencing RFM's that have been revised.

Since an unsafe condition has been identified that is likely to exist or develop on other Sikorsky Model S–76C helicopters of the same type design, this AD supersedes AD 99–05–01 to require, before further flight, inserting new operating limitations and performance data into the RFM which require lower allowable gross weights for certain operational conditions. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, inserting new operating limitations and performance data into the RFM is required prior to further flight and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 17 helicopters will be affected by this proposed AD, that it will take approximately 0.5 work hour to insert the pages into the RFM, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $510.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–SW–22–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD), Amendment 39–11083, to read as follows:

AD 99–07–01 Sikorsky Aircraft Corporation: Amendment 39–11083. Docket No. 99–SW–22–AD. Supersedes Priority Letter AD 99–05–01, Docket No. 99–SW–18–AD.

Applicability: Model S–76C helicopters, with Turbomeca Arriel 2S1 engines with an engine Hydromechanical Unit (HMU), part number 0.292.92.822.0, 0.292.92.808.0, 0.292.92.813.0, or 0.292.92.828.0, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required before further flight, unless accomplished previously.

To prevent an inability to achieve the published One-Engine Inoperative performance and subsequent loss of the helicopter, accomplish the following:

(a) Insert the following into the Operating Limitations section and Performance Data section, as appropriate, of Rotorcraft Flight Manual (RFM) SA 4047–76C–10:

RFM (Basic), original approval date June 19, 1996, Revision 7, dated February 1, 1999;

RFM Supplement No. 8, original approval date August 28, 1997, Revision 1, dated February 1, 1999; and

RFM Supplement No. 9, original approval date August 28, 1997, Revision 1, dated February 1, 1999.

(b) This AD revises the Operating Limitations section and Performance Data section of the RFM by requiring lower allowable gross weights for certain operational conditions.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on April 7, 1999.

Issued in Fort Worth, Texas, on March 12, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–6977 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–203–AD; Amendment 39–11086; AD 98–13–35 R1]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This amendment corrects information in an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes, that currently requires repetitive high frequency eddy current inspections of certain areas of the fuselage to detect cracks of the skin and/or longeron, and various follow-on actions. That AD also requires installation of a preventative modification, which terminates the repetitive inspections. The actions specified in that AD are intended to prevent fatigue cracks, which could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane. This amendment corrects the requirements of the current AD by indicating the specific area in which the subject inspection must be conducted. This amendment is prompted by communication received from the manufacturer that the current requirements of the AD are different than the service information referenced as the appropriate service information in the current AD.

EFFECTIVE DATE: July 30, 1998.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5237; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On June 17, 1998, the FAA issued AD 98–13–35, amendment 39–10626 (63 FR 34585, June 25, 1998), which is applicable to certain McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes. That AD requires repetitive high frequency eddy current inspections of certain areas of the

fuselage to detect cracks of the skin and/or longeron, and various follow-on actions. That AD also requires installation of a preventative modification, which terminates the repetitive inspections. That action was prompted by reports indicating that, due to material fatigue caused by installation preload and cabin pressurization cycles, fatigue cracks were found in the skin and longerons of the fuselage. The actions required by that AD are intended to prevent such fatigue cracks, which could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 98–13–35, the FAA has received information from the manufacturer that the specified area of the initial inspection requirements of paragraph (a) of that AD differs from the service information provided in McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993 (cited in the AD as the appropriate source of service information for accomplishment of the required actions).

The FAA's intent in AD 98–13–35 was to require the actions described in McDonnell Douglas DC–9 Service Bulletin 53–235. In order to prevent operators from misinterpreting the specific area of the initial inspection, the FAA finds that the inspection requirements of paragraph (a) must be revised to specify inspection only of the fuselage, in lieu of the fuselage skin and/or longeron. Accordingly, this action revises paragraph (a) of the existing AD to remove reference to inspection of the longeron and to limit the area that is subject to the inspection (skin between stations Y=160.000 and Y=218.000; skin at the longeron attachments).

Action is taken herein to clarify and correct these requirements of AD 98–13–35 and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The final rule is being reprinted in its entirety for the convenience of affected operators. The effective date remains July 30, 1998.

Since this action only clarifies and corrects a current requirement, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10626 (63 FR 34585, June 25, 1998), and by adding a new airworthiness directive (AD), amendment 39–11086, to read as follows:

98–13–35 R1 McDonnell Douglas: Amendment 39–11086. Docket 96–NM–203–AD. Revises AD 98–13–35, Amendment 39–10626.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), –82 (MD–82), –83 (MD–83), and –87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracks in the skin and longerons of the fuselage, which could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane, accomplish the following:

(a) Perform a high frequency eddy current (HFEC) inspection of the external areas of the fuselage to detect cracks of the skin between stations Y=160.000 and Y=218.000, and of the skin at the longeron attachments between stations Y=160.000 and Y=180.000, longeron 4 left and longeron 5 left, in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235 dated September 15, 1993. Perform the inspection at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

Note 2: Where there are differences between this AD and the referenced service bulletin, the AD prevails.

(1) For airplanes other than those identified in paragraph (a)(2) of this AD: Inspect prior to the accumulation of 30,000 total landings, or within 8,000 landings after the effective date of this AD, whichever occurs later.

(2) For airplanes that have been inspected previously in accordance with Task C46–53300 of the Corrosion Prevention and Control Program (CPCP), as required by AD 92–22–8–R1, amendment 39–8591, within 6,000 flight cycles prior to the effective date of this AD: Inspect within 12,000 landings after the effective date of this AD.

(b) *Condition 1 (No Cracks).* If no crack is detected during any inspection required by this AD, accomplish either paragraph (b)(1) or (b)(2) of this AD, in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993.

(1) *Condition 1, Option I (Repetitive Inspection).* Repeat the HFEC inspection required by paragraph (a) of this AD, and the aided visual inspection specified in paragraph 2.E. of the Accomplishment Instructions of the service bulletin, at intervals not to exceed 10,000 landings.

(2) *Condition 1, Option II (Terminating Action Modification).* Accomplish the preventative modification installation of clips and doublers between stations Y=160.000 and Y=218.000, in accordance with the service bulletin. Accomplishment of the modification constitutes terminating action for the repetitive inspection requirements of this AD.

(c) *Condition 2 (Skin Cracks).* If any skin crack is detected during any inspection required by this AD, prior to further flight, repair it in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. After repair, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(d) *Condition 3 (Longeron Cracks).* If any longeron crack is detected during any inspection required by this AD, prior to further flight, repair it in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. After repair, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(e) Prior to the accumulation of 100,000 total landings, or within 4 years after the effective date of this AD, whichever occurs later, accomplish the preventative modification specified in paragraph 2.J. of the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. Accomplishment of the modification constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los

Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) The effective date of this amendment remains July 30, 1998.

Issued in Renton, Washington, on March 16, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6980 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–33–AD; Amendment 39–11087; AD 99–05–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 99–05–04 that was sent previously to all known U.S. owners and operators of all EMBRAER Model EMB–145 series airplanes by individual notices.

This AD requires repetitive inspections to detect cracking or failure of the rod ends of the aileron power control actuator (PCA), and corrective actions, if necessary. This action is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct cracking or failure of the rod ends of the aileron PCA, which could result in reduced controllability of the airplane.

DATES: Effective March 29, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–05–04, issued February 19, 1999, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 29, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 22, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–33–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6076; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: On February 19, 1999, the FAA issued emergency AD 99–05–04, which is applicable to all EMBRAER Model EMB–145 series airplanes.

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on all EMBRAER Model EMB–145 series airplanes. The DAC advises that rod ends of the aileron power control actuator (PCA) failed on two airplanes. One rod end cracked and failed at the aileron connection point, and one at the wing connection point. Such failure of the rod ends of the aileron PCA, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

EMBRAER has issued Alert Service Bulletin 145–27-A054, Change 01, dated February 17, 1999, which describes procedures for repetitive detailed visual inspections to detect cracking or failure of the rod ends of the PCA at the aileron and wing connection points, and corrective actions, if necessary. The DAC classified this alert service bulletin as mandatory and issued Brazilian airworthiness directive 1999–02–01R1, dated February 18, 1999, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 99–05–04 to detect and correct cracking or failure of the rod ends of the aileron PCA, which could result in reduced controllability of the airplane. The AD requires repetitive detailed visual inspections to detect cracking or failure of the rod ends of the aileron PCA, and corrective actions, if necessary. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on February 19, 1999, to all known U.S. owners and operators of all EMBRAER Model EMB–145 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to

section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–33–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–05–04 Empresa Brasileira De Aeronautica S.A. (EMBRAER): Amendment 39–11087. Docket 99–NM–33–AD.

Applicability: All Model EMB–145 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking or failure of the rod ends of the aileron power control actuator (PCA), which could result in reduced controllability of the airplane, accomplish the following:

Initial and Repetitive Inspections

(a) Within 24 hours (1 day) after the effective date of this AD, perform a detailed visual inspection to detect cracking or failure of the rod ends of the PCA at the aileron and wing connection points, in accordance with EMBRAER Alert Service Bulletin 145–27–A054, Change 01, dated February 17, 1999. Repeat the inspection in accordance with the alert service bulletin thereafter at intervals not to exceed 3 days or 25 flight hours, whichever occurs later.

Corrective Actions

(b) If any cracked or failed rod end is detected during any inspection performed in accordance with paragraph (a) of this AD, prior to further flight, replace the aileron PCA with a new part having the same part number, in accordance with EMBRAER Alert Service Bulletin 145–27–A054, Change 01, dated February 17, 1999.

Reporting Requirement

(c) Within 10 days after the replacement of any aileron PCA in accordance with paragraph (b) of this AD, submit a report of the cracked or failed rod end to the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; fax (770) 703–6097. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with EMBRAER Alert Service Bulletin 145–27–A054, Change 01, dated February 17, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 1999–02–01R1, dated February 18, 1999.

(g) This amendment becomes effective on March 29, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–05–04, issued February 19, 1999, which contained the requirements of this amendment.

Issued in Renton, Washington, on March 16, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6981 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 31, 39, 111, 112, 115, 140, 151, 152, 160, 162, 226, 256, 273, 275 and 276

RIN 1076–AD88

Correction of Codification Errors in 25 CFR

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Technical correction.

SUMMARY: The Bureau of Indian Affairs is publishing this rule at the request of the Office of the Federal Register to correct several technical errors at various locations in 25 CFR. The errors include incorrect cross references and incorrect paragraph designations. None of the corrections will affect the substance of any provision in 25 CFR.

EFFECTIVE DATE: This rule is effective on March 23, 1999.

ADDRESSES: Mail comments to Laura Cloud, Bureau of Indian Affairs, 1849 C Street NW, MS 4657–MIB, Washington, D.C. 20240. Comments may be hand delivered to the same address from 9:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Strylowski, Office of Regulatory Affairs, at 202–208–3071 or e-mail john__strylowski@ios.doi.gov.

SUPPLEMENTARY INFORMATION: The Office of the Federal Register has asked the Department of the Interior to correct technical errors at various locations in 25 CFR. These errors are of three kinds. First, there are errors in designating paragraphs (for example, a section may have more than one paragraph designated as "(g)"). Second, there are erroneous cross references. For example, there are currently several citations in 25 CFR to parts 174 and 261, both of which have been removed from 25 CFR. Finally, two previous corrections to part 226 were incorrectly worded, resulting in changes not being made. The affected sections are §§ 226.21(f) and 226.25(b). BIA published corrections to these sections in a final rule on August 14, 1990, at 55 FR 33112. The Office of the Federal Register has inserted editorial notes into 25 CFR to explain the corrections that BIA requested and the reasons that they could not be made. The document we are publishing today will ensure that the corrections are made properly so that the Office of the Federal Register can remove the editorial notes.

In order to make some of the changes, we have had to rewrite small portions of the text. An example of this is the definition of the term "standard housing" in § 256.2. The rewrite was necessary in this case because in order to change the designations within the definition we had to change the original wording. We have carefully reworded each rewrite to preserve the original meaning.

Because these changes are technical and do not affect the substance of 25 CFR, we are publishing this rule as a final rule with no opportunity for public comment. We are doing this in accordance with the provisions of 5 U.S.C. 553(b)(3)(B), which provides that an agency need not publish a proposed rule if it finds that doing so would be "impracticable, unnecessary, and contrary to the public interest." Since delaying the effective date of these corrections through use of the normal rulemaking process would be contrary to the public interest, we are publishing these changes as a final rule.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because it makes technical changes that do not affect the substance of the rules there is no economic effect at all, other than to improve the utility of the rules for users.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (1 U.S.C. 1531, *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications.

Federalism (E.O. 12612)

In accordance with Executive Order 12630, the rule does not have significant takings implications.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

List of Subjects

25 CFR Parts 31, 39, 273, 275, and 276

Indians, Indians—education.

25 CFR Parts 111, 112, and 115

Indians, Indians—claims.

25 CFR Part 140

Indians, Indians—business and finance.

25 CFR Parts 151, 152, 162, and 226

Indians, Indians—lands.

25 CFR Part 160

Indians, Indians—law.

25 CFR Part 256

Indians, Housing, Home improvement, Low and moderate income housing.

Dated: March 9, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

For the reasons set out in the preamble, 25 CFR parts 31, 39, 111, 112, 115, 140, 151, 152, 160, 162, 226, 256, 273, 275 and 276 are amended as follows:

PART 31—FEDERAL SCHOOLS FOR INDIANS

1. The authority for part 31 continues to read as follows:

Authority: Sec. 1, 41 Stat. 410; 25 U.S.C. 282, unless otherwise noted.

§ 31.4 [Amended]

2. In the cross references at the end of § 31.4, "§§ 11.65 and 11.66" is revised to read "§ 11.424."

PART 39—THE INDIAN SCHOOL EQUALIZATION PROGRAM

3. The authority for part 39 continues to read as follows:

Authority: 25 U.S.C. 13; 25 U.S.C. 2008.

§ 39.22 [Amended]

4. In § 39.22(b), the words "part 271" are revised to read "part 900."

§ 39.31 [Amended]

5. In § 39.31(b), the words "part 271" are revised to read "part 900" both places they appear.

§ 39.53 [Amended]

6. In § 39.53(b), the words "part 271" are revised to read "part 900."

§ 39.54 [Amended]

7. In § 39.54(b), the words "part 271" are revised to read "part 900."

PART 111—ANNUITY AND OTHER PER CAPITA PAYMENTS

8. The authority for part 111 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 111.1 [Amended]

9. In the cross references at the end of § 111.1, "§§ 11.30 through 11.32(c)" is revised to read "subpart G of part 11."

PART 112—REGULATIONS FOR PRO RATA SHARES OF TRIBAL FUNDS

10. The authority for part 112 continues to read as follows:

Authority: Sec. 2, 34 Stat. 1221, as amended; 25 U.S.C. 121.

11. In the cross references following the table of contents to part 112, "§§ 11.30 through 11.32" is revised to read "subpart G of part 11."

PART 115—INDIVIDUAL INDIAN MONEY ACCOUNTS

12. The authority for part 115 continues to read as follows:

Authority: R.S. 441, as amended, R.S. 463, R.S. 465; 5 U.S.C. 301; 25 U.S.C. 2, 9; 43 U.S.C. 1457.

§ 115.9 [Amended]

13. In the cross references at the end of § 115.9, "§§ 11.26" is revised to read "§ 11.208."

PART 140—LICENSED INDIAN TRADERS

14. The authority for part 140 continues to read as follows:

Authority: Sec. 5, 19 Stat. 200, Sec. 1, 31 Stat. 1066 as amended; 25 U.S.C. 261, 262; 94 Stat. 544, 18 U.S.C. 437; 25 U.S.C. 2 and 9, and 5 U.S.C. 301, unless otherwise noted.

15. The cross reference following § 140.25 is revised to read as follows:

§ 140.25 Trade in antiquities prohibited.

* * * * *

CROSS REFERENCES: For regulations pertaining to archaeological resources, see part 262 of this chapter. For regulations of the Bureau of Land Management regarding antiquities, see 43 CFR part 3.

PART 151—LAND ACQUISITIONS

16. The authority for part 151 continues to read as follows:

Authority: R.S. 161: 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967 as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530, 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d–10, 1466, 1495, and other authorizing acts.

§ 151 [Amended]

17. In the cross references following the table of contents for part 151, the words "part 272" are revised to read "part 900."

§ 151.15 [Amended]

18. In § 151.15(a) "§ 151.11(2)(c)" is revised to read "§ 151.11(c)."

PART 152—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

19. The authority for part 152 continues to read as follows:

Authority: R.S. 161: 5 U.S.C. 301. Interpret or apply Sec. 7, 32 Stat. 275, 34 Stat. 1018, Sec. 1, 35 Stat. 444, Sec. 1 and 2, 36 Stat. 855, as amended, 856, as amended, Sec. 17, 39 Stat. 127, 40 Stat. 579, 62 Stat. 236, Sec. 2, 40 stat. 606, 68 Stat. 358, 69 Stat. 666: 25 U.S.C. 378, 379, 405, 404, 372, 373, 483, 355, unless otherwise noted.

§ 152 [Amended]

20. In the cross references following the table of contents for part 152, "§§ 11.30 through 11.32C" is revised to read "subpart G of part 11."

PART 160—INCLUSION OF LIENS IN ALL PATENTS AND INSTRUMENTS EXECUTED

21. The authority for part 160 continues to read as follows:

Authority: Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385.

§ 160.1 [Amended]

22. In the cross references at the end of § 160.1, "parts 174, 134, and 137" is revised to read "parts 134 and 137."

PART 162—LEASING AND PERMITTING

23. The authority for part 162 continues to read as follows:

Authority: 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2 and 9. Interpret or apply Sec. 3, 26 Stat. 795, Sec. 1, 28 Stat. 305, secs. 1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, Sec. 4, 36 Stat. 856, Sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, Sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, Sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, Sec. 55, 49 Stat. 781, Sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 6, 64 Stat. 470, 69 Stat. 539, 540, 72 Stat. 968; 25 U.S.C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403, 403a, 403b, 403c, 413, 415, 415a, 415b, 415c, 415d, 477, 635.

§ 162.13 [Amended]

24. In § 162.13(a), "Except as provided in part 174 of this chapter, any lease covering" is revised to read "Any lease covering."

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

25. The authority for part 226 continues to read as follows:

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 2(a), 92 Stat. 1660.

§ 226.21 [Amended]

26. In § 226.21, the second sentence of paragraph (f) is revised to read as follows:

§ 226.21 Procedure for settlement of damages claimed.

* * * * *

(f) * * * The decision shall be in writing and shall be served forthwith upon the parties in interest.* * *

* * * * *

§ 226.25 [Amended]

27. In § 226.25, paragraph (b) is revised to read as follows:

§ 226.25 Gas well drilled by oil lessees and vice versa.

* * * * *

(b) Oil well to be turned over to oil lessee. If the gas lessee drills an oil well, he/she must immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the superintendent.

(1) If the oil lessee does not, within 45 days after receipt of notice and cost of drilling, elect to take over the well, he/she must immediately notify the gas lessee. From that point, the superintendent must approve the disposition of the well, and any gas produced from it.

(2) If the oil lessee chooses to take over the well, he/she must pay to the gas lessee:

(i) The cost of drilling the well, including all damages paid; and

(ii) The cost in place of casing and other equipment.

(3) If the oil lessee and the gas lessee cannot agree on the cost of the well, the superintendent will apportion the cost between the oil and gas lessees. If the lessees do not accept the apportionment, the oil or gas lessee who drilled the well must plug the well.

* * * * *

PART 256—HOUSING IMPROVEMENT PROGRAM

28. The authority for part 256 continues to read as follows:

Authority: 42 Stat. 208. (25 U.S.C. 13).

§ 256.2 [Amended]

29. In § 256.2, the definition of "Service housing office is removed," the definition of "Servicing housing office" is added, and the definition of "Standard Housing" is revised to read as follows:

§ 256.2 Definitions.

* * * * *

Servicing housing office means the tribal housing office or bureau housing assistance office administering the Housing Improvement Program in the service area in which the applicant resides.

Standard Housing means a dwelling that is decent, safe, and sanitary.

(1) Except as provided in paragraph (2) of this definition, standard housing must meet each of the following conditions:

(i) General construction must conform to applicable tribal, county, State, or national codes and to appropriate building standards for the region;

(ii) The heating system must have the capacity to maintain a minimum temperature of 70 degrees in the dwelling during the coldest weather in the area;

(iii) The heating system must be safe to operate and maintain and deliver a uniform heat distribution;

(iv) The plumbing system must include a properly installed system of piping and fixtures;

(v) The electrical system must include wiring and equipment properly installed to safely supply electrical energy for lighting and appliance operation;

(vi) Occupants per dwelling must not exceed these limits:

(A) Two bedroom dwelling: Up to four persons;

(B) Three-bedroom dwelling: Up to seven persons;

(C) Four-bedroom dwelling: Adequate for all but the very largest families;

(vii) The first bedroom must have at least 120 sq. ft. of floor space and additional bedrooms have at least 100 sq. ft. of floor space each;

(viii) The house site must provide economical access to utilities and must be easy to enter and leave; and

(ix) Aesthetics and access to school bus routes must be considered.

(2) The following exceptions apply to the standards in paragraph (1) of this definition:

(i) If access to a particular utility is not available and there is no prospect of access becoming available, then the standard relating to that utility does not apply; and

(ii) In regions of severe climate, the size of the house may be reduced to meet the region's applicable building standards.

* * * * *

30. In § 256.6, paragraph (e) is revised to read as follows:

§ 256.6 Am I eligible for the Housing Improvement Program?

* * * * *

(e) You meet the ownership requirements for the assistance needed, as defined in § 256.8, § 256.9, or § 256.10;

* * * * *

PART 273—EDUCATION CONTRACTS UNDER JOHNSON-O'MALLEY ACT

31. The authority for part 273 continues to read as follows:

Authority: Secs. 201–203, Pub. L. 93–638, 88 Stat. 2203, 2213–2214 (25 U.S.C. 455–457), unless otherwise noted.

§ 273.1 [Amended]

32. In § 273.1(c), the words "part 271" are revised to read "part 900."

PART 275—STAFFING

33. The authority for part 275 continues to read as follows:

Authority: Sec. 502, Pub. L. 91–648, 84 Stat. 1909, 1925 (42 U.S.C. 4762); Sec. 105, Pub. L. 93–638, 88 Stat. 2203, 2208–2210 (25 U.S.C. 450i); 26 U.S.C. 48.

§ 275.3 [Amended]

34. In § 275.3(b), the words "part 271" are revised to read "part 900."

PART 276—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

35. The authority for part 276 continues to read as follows:

Authority: 34 CFR 256; sec. 104, Pub. L. 93–638, 88 Stat. 2203, 2207 (25 U.S.C. 450h).

§ 276.11 [Amended]

36. In § 276.11, in paragraphs (b) introductory text, (b)(1), and (c) introductory text, the words "part 272" are revised to read "part 900."

[FR Doc. 99–6695 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–022]

RIN 1218–AB55

Dipping and Coating Operations

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: OSHA's standards for dipping and coating operations, codified at sections 1910.108 and 1910.94(d), are designed to protect employees from fire, explosion, and other hazards associated with these operations. On April 7, 1998 (63 FR 16918), OSHA published proposed revisions to these standards in the **Federal Register**. The Federal Register announcement requested comments on the proposed rule, as well as on three major issues identified by OSHA. Based on these comments and other considerations, the Agency has developed the final standard to accomplish several goals: To rewrite the former standards in plain language; to consolidate the former requirements in sequential sections (sections 1910.122 through 1910.126 in subpart H of part 1910); and to update the former standards to increase the compliance options available to employers. In addition to achieving these goals, OSHA concludes that the final rule being published today will enhance employee protection by making it more understandable and useful to employers and employees and more flexible and performance-oriented than the former rules. The final rule accomplishes these goals without increasing the regulatory burden of employers or reducing employee protection.

DATES: The final rule becomes effective April 22, 1999. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register as of April 22, 1999.

ADDRESSES: In accordance with 28 U.S.C. 2112(a), the Agency designates the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor of Labor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210 to receive petitions for review of the final rule.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Friedman, Director, Office of Public Affairs, Room N–3647, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–1999. For additional copies of this Federal Register notice contact: OSHA, Office of Publications, U.S. Department of Labor, Room N–3101, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–1888. Electronic copies of this Federal Register notice, as well as news releases, fact sheets, and other relevant documents, can be obtained from OSHA's web page on the Internet at http://www.OSHA.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In May 1995, President Clinton asked all Federal regulatory agencies to review their regulations to determine if they were inconsistent, duplicative, outdated, or in need of being rewritten in plain language. In response, OSHA conducted a line-by-line review of its standards, and committed the Agency to eliminating those found to be unnecessary, duplicative, or inconsistent and to rewriting those found to be complex and outdated. The Agency's dip-tank standards were identified by that review as needing clarification.

OSHA chose to rewrite these standards in plain language because dip tanks pose serious hazards to employees engaged in dipping and coating operations. There are hundreds of thousands of dip tanks in America. Wherever metals are coated, furniture is stripped and refinished, automobiles are repaired, aircraft are maintained, and leather is tanned, dip tanks are an essential part of the process. The liquids used to perform these operations are often dangerous, both from a safety and health standpoint. These liquids include flammable substances such as acetone, corrosive materials such as cyanide acids and chromic acids, and chronic toxins such as perchloroethylene and methylene chloride. Most facilities with dip tanks are small: OSHA estimates that the majority of these facilities have fewer than 20 employees. Industries with large numbers of dip tanks include automobile manufacturing, electronic manufacturing, electroplating, defense, transportation equipment, computer manufacturing, automobile repair, paint stripping, and other service industries.

The final rule does not change the technical substance of the former standards or alter the regulatory obligations placed on employers or the safety and health protections provided to employees. OSHA believes, moreover, that the performance-oriented language of the final rule will facilitate compliance because it gives employers more compliance options than they had under the former standards.

II. Summary and Explanation of the Final Rule

This section consists of five parts. Part 1 summarizes the comments received by OSHA on the three issues raised in the proposal. The issues are listed together, followed by the comments on each issue and OSHA's responses. The second part summarizes the comments on specific paragraphs of the proposal, as well as OSHA's discussion of the comments. In the third part, OSHA responds to general comments made about the rulemaking, while the fourth part describes technical and editorial revisions made by OSHA to the final regulatory text. Part 5 consists of tables that compare provisions of the former and final rules.

Note that OSHA has redesignated the section numbers in the final rule as 1910.122 through 1910.126, instead of 1910.121 through 1910.125, as proposed. This revision is explained more fully in Part 4, paragraph a.

Part 1

OSHA received the following comments on the three issues raised in the proposal.

(a) *The first issue,* which addressed whether the plain-language version of the final rule reduces employee protections or increases employer burden when compared with the former standards, received only one comment (Ex. 4–13). This commenter stated that the plain-language version improved employee protection because the performance-oriented language would "accommodate technical advancement in industries impacted by the standard." This comment substantiates the Agency's finding that the proposed standard "will enhance employee protection by * * * providing additional compliance flexibility to employers." (63 FR 16918)

(b) *The second issue,* which concerned commenters' preference for the traditional format or question-and-

answer format (both of which were proposed), elicited five comments. One commenter (Ex. 4–6) had no preference, stating that "either plain language alternative format * * * [is] acceptable and more user friendly than the current standard." Another commenter (Ex. 4–7) preferred the traditional format but provided no rationale for this preference. Three commenters (Exs. 4–3, 4–5, and 4–13) preferred the traditional format on the grounds that it simplified the regulatory text and made it easy to follow. One of these commenters (Ex. 4–5) noted that the paragraph headings in the traditional format are "informative and useful; they should make it easier [to find information quickly]." Another commenter (Ex. 4–12) objected to the question-and-answer format because it is "redundant and more time consuming to review," adding that locating a specific requirement depends too much on the reader's asking of the correct question. Additionally, this commenter stated that existing training programs "are built around the traditional format, and a change of format would require a more comprehensive approach than proposed here." One commenter (Ex. 4–8) favored the question-and-answer format because the simple paragraphs are "devoted to a single, unified topic" and "are more 'user friendly' and thus will be more easily understood."

Existing Federal policy favors the use, when appropriate, of the question-and-answer format and personal pronouns to enhance understandability and directness. Based on a recent memorandum from President Clinton (Presidential Memorandum for the Heads of Executive Departments and Agencies, June 1, 1998) and additional guidance received from the National Partnership for Reinventing Government (Vice Presidential Memorandum to the Heads of Executive Departments and Agencies, July 29, 1998), OSHA decided that the final rule will follow the question-and-answer plain-language format. To address commenters' concerns (Exs. 4–3, 4–5, and 4–13), OSHA removed proposed sentences that were repeated in both the question and answer to the question, shortened the questions, and made them specific to the topic of the provision.

(c) *The third issue* raised in the proposal asked whether provisions of the former dip-tank standards should be updated. Only one comment (Ex. 4–12) was received on this topic, and this commenter stated that there was no need to update the standards further. The Agency, therefore, concludes that no further updating of the dip-tank standards is necessary at this time.

Part 2

OSHA received the following comments on specific proposed paragraphs.

Proposed paragraphs 1910.122(a) and (b) (final paragraphs 1910.123(a) and (b)), which addressed the scope of the rule, received one comment (Ex. 4–4). This commenter stated that the two paragraphs should be combined because "[s]eparating them serves no purpose." OSHA has not combined paragraphs (a) and (b) in the final rule because the Agency believes it is appropriate to separate provisions establishing the final rule's applicability from those providing examples of covered operations.

Four commenters (Exs. 4–6, 4–7, 4–9, and 4–11) were concerned that the scope of the proposed rule had been enlarged over that of the former standards because the proposal used the phrase "liquid other than water." For example, one commenter (Ex. 4–6) interpreted this phrase as including, for example, water-based materials. According to this commenter, "the hazard associated with materials having high flash points (e.g. greater than 140 or 200 degrees Fahrenheit; Class II or Class IIIA liquids), and low toxicity, do [sic] not appear to warrant inclusion in this type of a standard. This can include numerous water-based materials that can be used for cleaning, coating or treating."

Another commenter (Ex. 4–7) argued that the scope of the proposed rule was broader than that of the former standard because the hazard assessment required by paragraph (d)(2) of former section 1910.94 had been removed and "[w]ithout a hazard assessment the proposed rule's coverage would significantly expand and add burdensome requirements where there is little hazard." Another commenter (Ex. 4–9) stated, "Logically, the proposed rule should [require employers to] assess the severity and exposure to a hazard based on existing OSHA requirements (Z table). Then if the hazard or exposure warranted employee protection, the proposed rules would be required."

The major concern of these commenters was that the scope of the rule had been broadened beyond that of former sections 1910.94(d) and 1910.108. In situations where the ventilation requirements of former paragraph 1910.94(d) did not apply (because employers were using cleaning solutions such as soap and water in their dip tanks), the commenters assumed that the training, personal-protection, hygiene-facilities, physical-examination, and first-aid requirements also did not apply. This assumption is not correct. Under the former rule (1910.94(d)(2)) and the final rule (1910.124(b)), even if a dipping or coating operation is exempt from the ventilation requirements, it may still be covered by other provisions, depending on the characteristics of the operation. For example, the hygiene facilities provision of the final rule applies when employees are exposed to "liquids that may burn, irritate, or otherwise harm their skin"; this clarification is explained below in OSHA's response to the comments on proposed paragraph 1910.123(g). Similarly, the physical-examination and first-aid requirements also apply when specific conditions exist (see the discussion of paragraph 1910.123(h) below). As discussed below, these provisions are no broader in scope in the final rule than they were before.

In addition, the final rule cross-references the personal-protective equipment (PPE) requirements of subpart I, instead of including them in the rule. The effect of this change, which is described in connection with the discussion below of paragraphs 1910.123(e) and (f), is that the final rule's PPE requirements will only be triggered when the contents of the dip tank warrant use of PPE.

Proposed paragraph 1910.122(d) (final paragraph 1910.123(d)) defined "approved" to mean that the "equipment is listed or approved by a nationally recognized testing laboratory as defined by § 1910.7." One commenter (Ex. 4–4) recommended that the definition be revised to "allow equipment and systems that can be shown to meet a recognized design standard." OSHA has not adopted this suggestion because 29 CFR 1910.7 ensures that a nationally recognized testing laboratory (NRTL) has evaluated approved equipment and found it to be safe.

In defining the term "approved," OSHA refers to section 1910.7 because it permits uniform and high-quality evaluation of health and safety equipment required by OSHA standards. OSHA has recognized many NRTLs under 29 CFR 1910.7 to provide equipment manufacturers with testing services; a list of these laboratories can be obtained from OSHA's Technical Support Directorate. In addition, this commenter is recommending a substantive revision to the former standards that OSHA has not considered, and which, therefore, is beyond the scope of this rulemaking.

Proposed paragraph 1910.122(d) (final paragraph 1910.123(d)) defined

"combustible liquid" as "a liquid having a flash point of 100° F (37.8° C) or above." One commenter (Ex. 4–1) recommended that "[t]he * * * definition should be expanded to state 'but less than 200° F,'" and another commenter (Ex. 4–7) stated that Class III liquids should not be covered and Class II liquids should be defined as having "a flash point above * * * 100 degrees Fahrenheit and below 140 degrees Fahrenheit."

OSHA has retained the proposed definition of "combustible liquids" in the final rule because it is consistent with the definition of such liquids in section 1910.106(a) (as well as NFPA 34–1995); in addition, the regulated community has considerable experience using this definition when managing flammable and combustible liquids. However, the Agency also has added a statement at the beginning of section 1910.125 of the final rule excepting combustible liquids with flashpoints of 200° F or above from the rule unless the liquid is heated as part of the dipping or coating operation or a heated object is placed in an unheated liquid having such a flashpoint. This exception, which responds to the comments on this provision, is warranted because no combustible or explosive vapors are produced under these conditions.

Proposed paragraph 1910.122(d) (final paragraph 1910.123(d)) defined "dip tank" as "a tank, vat, or container that holds liquids used for dipping or coating operations. In dipping or coating operations, an object may be immersed totally or partially in a dip tank, or held in the vapor above the dip tank." There were four comments on this definition (Exs. 4–1, 4–6, 4–7, and 4–10). One commenter (Ex. 4–1) observed that objects are often held "within the vapor layer, which is above the liquid level and below the condensing coils *within* the tank." OSHA agrees with this commenter and, in the final rule, revised the last part of the second sentence of the definition to read "or suspended in a vapor coming from the dip tank."

This commenter (Ex. 4–1) also noted that OSHA Instruction STD 1–5.5 states that parts-washing sinks are not dip tanks. Other commenters (Exs. 4–6, 4–7, and 4–10) argued that containers having a capacity or surface area below a specific level (e.g., 60 gallons or 25 square feet) should not be covered by the definition.

The proposed definition of "dip tank" was adopted from those in former paragraphs 1910.94(d)(1)(i) and 1910.108(a)(1), which contained no exceptions based on the dip tank's type, capacity, or surface area. Therefore, all containers, regardless of capacity or surface area, are covered by the applicable requirements of the final rule; to exempt some tanks based on these considerations would diminish the protections provided to employees by the final rule. The Agency also notes that OSHA Instruction STD 1–5.5, which was published in 1978, pertained to parts-washing tanks that were supplied with drains. The use of such tanks is no longer permitted by Environmental Protection Agency rules, which prohibit the draining of flammable or combustible liquids into sewer systems or ground-water reservoirs. Consequently, OSHA will soon issue a directive canceling STD 1–5.5.

Another commenter (Ex. 4–7) recommended that "OSHA should use [its] existing definition [of dip tanks] in 29 CFR 1910.108(a)(1)." In response, OSHA notes that the definition of "dip tank" in former paragraph 1910.108(a)(1) covered only flammable and combustible liquids, while other liquids were covered by the definition in former paragraph 1910.94(d)(1)(i). The final standard's definition of dip tank combines the coverage and operations addressed by the definitions in both sections 1910.94(d) and 1910.108.

Proposed paragraph 1910.122(d) (final paragraph 1910.123(d)) defined "vapor area" as "any space containing dipping or coating operations, its drain boards, and associated drying or conveying equipment." Four commenters (Exs. 4–1, 4–2, 4–4, and 4–7) stated that the definition was vague and should be revised to "provide an objective and simple test to determine the boundaries of a 'vapor area' so that employers complying with the standard can clearly establish the point in their operations at which such precautions as explosion-proof or intrinsically electrical equipment must be used" (Ex. 4–2). A second commenter (Ex. 4–4) stated that "[t]he definition [of vapor area] should include any associated equipment that might operate above 25% of the LFL, as is the case in NFPA 34's definition in Section 1–6." This commenter also recommended that OSHA adopt the definition of "vapor source" from section 1–6 of NFPA 34–1995. Finally, a third commenter (Ex. 4–7) urged OSHA to "consider adding 'or hazardous concentrations of vapors' [to the definition] so that this encompasses both [former] regulations."

OSHA agrees with these commenters that the definition of "vapor area" in the final rule should be more specific. Consequently, the Agency revised the definition to include areas in which the concentration of flammable vapors exceeds 25% of the LFL. The revised definition, therefore, is consistent with the phrase "dangerous quantities" in the definition of "vapor area" in former paragraph 1910.108(a)(2). However, OSHA sees no need to adopt a definition for "vapor source" because this term is not used in the regulatory text.

Proposed paragraph 1910.123(a) (final paragraph 1910.124(a)), which addressed the construction requirements for dip tanks and would have required the tank and its drain boards to be able "to withstand any expected load," received only one comment (Ex. 4–7): "A more concise wording would read 'Dip tanks must be constructed for their intended service.'" The Agency interprets the phrase "to withstand any expected load" in the standard as referring to the strength of the dip tank. The term "service" in the commenter's recommended language appears to address the usefulness of a dip tank, not its strength. Therefore, OSHA is not adopting this commenter's suggestion.

Proposed paragraph 1910.123(b) (final paragraph 1910.124(b)), which specified the requirements for adequate ventilation, elicited only the following comment (Ex. 4–4): "NFPA 34 Section 5–2 is more definitive [than the parallel provision in the proposed rule] in that it sets a performance requirement for the ventilation system to limit the extent of the vapor area to not more than 5 feet beyond the vapor source, as defined in NFPA 34." OSHA believes that, for optimal employee protection and consistency with the requirements of former paragraphs 1910.94(d)(3) and 1910.108(b)(1), no area above the dip tank may have a concentration greater than 25% of the lower flammable limit for the substance in the tank. Additionally, paragraph 1910.124(b)(4) of the final standard states, as did the proposal, that the employer who complies with NFPA 34–1995 also meets the mechanical-ventilation requirements of the OSHA standard.

Proposed paragraph 1910.123(b)(2) (final paragraph 1910.124(b)(3)), which concerned tank covers and materials that may be used as alternatives to ventilation in some circumstances, elicited only one comment. This commenter (Ex. 4–4) stated that "[w]hile a tank cover will reduce ignitable vapors, it can be argued that the floating beads [allowed by the standard to replace or supplement ventilation in some cases] will increase the surface area from which vapors can evolve." According to the final rule, however, tank covers or floating materials

(including floating beads) cannot be used when these controls do not "maintain the airborne concentrations of the hazardous material and the worker's exposure below the limits specified in paragraphs (b)(1) and (b)(2) of this section." OSHA, therefore, believes that this commenter's concern has been addressed by this revision to the final rule.

Proposed paragraph 1910.123(b)(3) (final paragraph 1910.124(b)(4)), which contained ventilation specifications, elicited only one comment (Ex. 4–4); this commenter urged OSHA to adopt the ventilation design and installation requirements in NFPA 91. OSHA reviewed the most recent NFPA 91 consensus standard and believes that it is a useful reference for constructing and installing ventilation systems; unlike the references specified in final paragraph 1910.124(b)(4), however, NFPA 91 does not contain the information necessary to determine the volumes and flow rates necessary to remove vapor hazards from the workplace.

Proposed paragraph 1910.123(b)(4) (final paragraph 1910.124(b)(5)), which addressed mechanical ventilation, received only one comment (Ex. 4–7). This commenter stated that this paragraph does not allow employers to use dilution (non-mechanical) ventilation to control low-level exposures to airborne contaminants. This is a misinterpretation of proposed paragraph 1910.123(b)(4), however, because that paragraph does not require that mechanical ventilation be used, only that it "draw the flow of air into a hood or exhaust duct" when it *is* used. Therefore, non-mechanical dilution ventilation (e.g., open windows and doors) can be used when it meets the specifications of final paragraphs 1910.124(b)(1) and (b)(2).

Proposed paragraph 1910.123(c)(2)(i) (final paragraph 1910.124(c)(2)(i)), which specified that recirculated exhaust air be free of solid particulates, was the subject of a comment (Ex. 4–7) that stated "this requirement is unnecessary unless the particulate poses a health or fire hazard." OSHA agrees that this requirement applies only to particulates that pose health and fire hazards to employees, and has revised the final provision accordingly.

Proposed paragraph 1910.123(c)(3)(iii), which required that the flow rate of make-up air be measured when an exhaust hood is installed, elicited two comments (Exs. 4–3 and 4–10). The first commenter (Ex. 4–3) endorsed the proposed revision because it would improve compliance, while the second commenter (Ex. 4–10) noted, "[For small operations, t]here [may be] numerous exhausts and numerous sources of make-up air. In these cases the flow rate of make up air can not be measured."

OSHA has decided that this provision is redundant with the requirements of final paragraph 1910.124(d)(1), which requires that the correct airflow be evaluated and maintained to ensure that the volume of outside air is at least 90 percent of the volume of the exhaust air. Therefore, the paragraph as proposed is not included in the final rule.

Proposed paragraph 1910.123(d) (final paragraph 1910.124(e)), which addressed employee entry into dip tanks, received only one comment (Ex. 4–7). This commenter asked whether the permit requirements of OSHA's Permit-Required Confined Spaces standard (29 CFR 1910.146) will apply to dip tanks because that standard defines confined-space entry as "breaking the plane of the confined space with any part of the body." This commenter observed that "[i]n dipping and coating operations employees may be required to break the plane of the tank to dip or coat parts."

According to paragraph (b) of 29 CFR 1910.146, a permit-required confined space must be "large enough and so configured that an employee can bodily enter and perform assigned work," have "limited or restricted means for entry or exit," and not be "designed for continuous employee occupancy." In response to this commenter, OSHA notes that entry into dip tanks that meet this definition must be done in accordance with the requirements of 29 CFR 1910.146, and that the standard would be cited if improper entry occurs.

Proposed paragraph 1910.123(e) (final paragraph 1910.124(f)), which addressed training requirements for employees who work in or near a vapor area, was found by two commenters (Exs. 4–1 and 4–7) to duplicate other OSHA training requirements. The proposed provision would have required employers to instruct employees working in or near a vapor area in the hazards of their jobs, first-aid products, and PPE. One commenter (Ex. 4–7) stated that "[t]he requirements of 29 CFR 1910.1200 already require [hazard training]. This [proposed] requirement is duplicative and burdensome. [Also, 29 CFR 1910.38 and 1910.151 specify first-aid procedures.]"

OSHA agrees that the proposed requirement for hazard training would have duplicated the provisions of paragraph (h) of the Hazard Communication standard, 29 CFR 1910.1200, and has therefore deleted it from the final Dipping and Coating Operations standard. However, OSHA does not agree that paragraph (a) of section 1910.38 addresses first aid directly; instead, it requires that designated employees be trained to assist "in the safe and orderly emergency evacuation of [other] employees." Paragraph (c) of section 1910.151 requires that "a person or persons be trained to render first aid" when "an infirmary, clinic, or hospital is not in near proximity * * * for the treatment of all injured employees * * *." The first-aid provision of section 1910.151, therefore, does not duplicate the proposed requirement, which stated that "all employees who work in or near a vapor area must receive "appropriate first-aid instruction." Adopting the first-aid requirements of section 1910.151 in lieu of the proposed requirement would reduce substantially the protection afforded to employees by this paragraph of the final rule, and OSHA has thus not adopted this suggestion.

For clarity, OSHA has revised the language of paragraph 1910.124(f) to state that employees must "know" about the first-aid procedures appropriate to the dipping and coating hazards to which they are exposed. This revision eliminates the proposed provision, which would have required employers to document that employees involved in dipping or coating operations had received the required instruction.

Proposed paragraph 1910.123(f), which specified requirements for personal protective equipment (PPE), elicited two comments (Exs. 4–1 and 4–7) recommending that the provision be dropped because it duplicated the hazard-assessment, training, and PPE requirements of 29 CFR subpart I. Two other commenters (Exs. 4–10 and 4–11) noted that a hazard assessment conducted under the proposed provision would require PPE when employees were exposed to minor hazards, such as soap-and-water solutions. A fifth commenter (Ex. 4–13) recommended that the ANSI consensus standard for eye and face protection, ANSI Z87.1–1989, be referenced in this paragraph.

OSHA agrees that this proposed paragraph would have duplicated the requirements of 29 CFR 1910, subpart I, and has accordingly deleted it from the final standard. OSHA notes that the requirements of 29 CFR 1910, subpart I, including the Respiratory Protection requirements at section 1910.134, have always applied, as appropriate, to employers who are involved in dipping or coating operations, and will continue to do so. Paragraph (b)(1) of section 1910.133 ("Eye and Face Protection"),

which applies to employers who engage in dipping or coating operations, refers to ANSI Z87.1–1987; thus, adding a cross-reference to the ANSI standard is not necessary, as suggested by one commenter (Ex. 4–1).

Proposed paragraph 1910.123(g) (final paragraph 1910.124(g)), which addressed hygiene facilities, elicited two comments. The first commenter (Ex. 4–3) stated that proposed paragraph (g)(3), which would have regulated washing facilities, was too vague and recommended that a minimum number of basins be specified. The second commenter (Ex. 4–7), however, found that proposed paragraph (g)(3) was "well stated" but that proposed paragraphs (g)(1) and (g)(2), which would have required storage, emergency-shower, and eye-wash facilities, were "unnecessary and burdensome."

On review of these provisions (proposed paragraphs (g)(1) and (g)(2)), OSHA has decided to narrow their application to those employees exposed to liquids that "burn, irritate, or otherwise [are] harmful to the skin." This revision is consistent with section 1910.94(d) of the former rule.

To clarify the requirement in proposed paragraph (g)(3) and to ensure that an adequate number of hygiene facilities is provided to employees, OSHA has revised this provision to specify, consistent with former section 1910.94(d)(9)(ix), that "at least one basin with a hot-water faucet [be provided] for every 10 employees who work with such liquids."

Proposed paragraph 1910.123(h) (final paragraph 1910.124(h)), which specified physical examination and first-aid requirements, received two comments (Exs. 4–7, 4–10) that were concerned with the regulatory burden imposed by the proposed paragraph. One commenter stated that "[p]hysical exams may be required dependent on the health risk but certainly [are] not required for cleaning operations using mild surfactants" (Ex. 4–7). This commenter noted that the medical service and first-aid requirements of section 1910.151 appear to duplicate the provisions of this paragraph, and that many employers "utilize first aid providers who bring their supplies with them to an emergency." The second commenter (Ex. 4–10) believed that the requirement proposed in paragraph (h)(4), which would have required first-aid supplies to be located near dipping and coating operations, contradicted the provision in proposed paragraph (h)(2) for a properly designated person to treat skin abrasions, cuts, rashes, or open sores, stating that "[t]he presence of first aid supplies near the operation would encourage administration of first aid by the operators [who] are not necessarily the properly designated people."

OSHA has not adopted the suggestions of these commenters because doing so would reduce the level of employee protection provided by the final rule. For example, even a mild surfactant may worsen a serious skin lesion and cause it to require the attention of a health care provider. Further, requiring that the first-aid kit be located "near the dipping and coating operations" could facilitate more rapid intervention in a medical emergency than merely having such supplies "readily available," as required by paragraph (b) of section 1910.151. The Agency notes, however, that paragraph (h)(4) of the final rule specifies only that the first-aid supplies be "appropriate." This means that less hazardous dipping or coating operations would be likely to require fewer first-aid supplies than more hazardous operations. In response to the comments in Ex. 4–10, the Agency finds that final rule paragraphs 1910.124 (h)(2) and (h)(4) do not contradict each other; paragraph (h)(2) addresses the treatment of skin abrasions, cuts, rashes, or open sores to prevent skin exposure to hazardous chemicals, while paragraph (h)(4) designates the location of first-aid supplies to be used after an injurious exposure has occurred.

As noted above in the summary and explanation for final rule paragraph 1910.124(g), the Agency has determined that these requirements apply only when specific liquids are being used. Accordingly, paragraph 1910.124 (h) of the final rule has been revised to require physical examination and first aid only when employees are exposed to "liquids that may burn, irritate, or otherwise harm their skin[.]"

Proposed paragraph 1910.123(j) (final paragraph 1910.124(j)), addressed the inspection and maintenance of dipping and coating operations, including quarterly inspections of ventilation systems. One commenter (Ex. 4–3) endorsed the proposed language because it would improve compliance, while another commenter (Ex. 4–7) found the requirement "too prescriptive" and recommended that it be replaced with more performance-based language. This commenter stated that "[i]n some corrosive atmospheres[,] quarterly [inspections] would be too infrequent. In other non-corrosive atmospheres[,] quarterly [inspections] would be too frequent and a waste of maintenance resources" (Ex. 4–7).

The proposed requirement was adapted from paragraph (d)(8)(i) of former section 1910.94, which specified inspections "[a]t intervals of not more than 3 months operation." Consequently, this commenter (Ex. 4–7) is recommending a substantive revision to the standard that is beyond the scope of this rulemaking. OSHA also believes that the final rule's phrase, "at least quarterly," imposes a duty on employers to inspect at more frequent intervals when doing so is necessary "to ensure that proper rates are maintained."

Proposed paragraph 1910.124 (final paragraph 1910.125), which specified requirements for dipping and coating operations that use flammable or combustible liquids, elicited only one comment (Ex. 4–4). This commenter encouraged OSHA to reinstate the former rule's requirement for bottom drains, at least for large tanks, and to adopt the language of NFPA 34–1995, section 3–6, because "draining the tank, particularly a large one, also removes a substantial amount of the fuel from the fire area quickly. Deleting this requirement presents a much greater risk for a severe and long-lived fire."

OSHA agrees with the commenter that properly installed bottom drains are necessary to quickly remove the substantial quantities of flammable and combustible liquids often present in large dip tanks; such removal reduces the risk of severe and long-lived fires that, under some conditions (e.g., delayed evacuation/exit), could pose serious risks to employees. Accordingly, paragraph 1910.125(c) of the final rule requires bottom drains for large dip tanks. However, unlike paragraph (c)(3) of former section 1910.108 or section 3–6 of the NFPA standard, this paragraph of the final rule uses performance-based language. For example, the final rule requires only that tanks discharge to a safe location, not to "closed properly vented salvage tanks or to a safe location outside," as specified by the former standard. The Agency believes that the term "safe location" includes "closed and vented salvage tanks." The former standard and NFPA 34–1995 also specify the pipe sizes that must be used to drain dip tanks of various capacities, while this paragraph of the final rule requires only that the pipes be "correctly sized" to remove the flammable liquid. The revised language does specify, however, that the pipes be capable of removing the dip tank's contents "within five minutes after the fire begins," consistent with the language in NFPA 34–1995. This revision thus replaces the table in former paragraph 1910.108(c)(3)(iii) that specified correct pipe size and clarifies the requirement in former paragraph

1910.108(c)(3)(i) that "bottom drains [be] * * * arranged to quickly drain the tank * * *"

Paragraph 1910.125(c) of the final rule retains the exception from the bottom-drain requirements for dip tanks that contain highly viscous liquids. To clarify the provision, however, OSHA has replaced the phrase "makes this impractical" with the language "does not allow the liquid to flow or be pumped easily." Also included in this paragraph of the final rule is the provision in NFPA 34–1995 that excepts dip tanks that have automatic-closing doors from the bottom-drain requirements; former section 1910.108 did not have this exception. OSHA believes that automatic-closing doors eliminate fire and explosion hazards if they meet the requirements of paragraph (f)(3) of final section 1910.125 and, therefore, will protect employees at least as well as bottom drains.

Proposed paragraph 1910.124(b)(5) (final paragraph 1910.125(b)(2)), which addressed the clogging of overflow pipes, elicited only the following comment (Ex. 4–4): "[The NFPA Committee is] not aware of any problems with firefighting foam clogging the overflow pipe on a dip tank." The proposed provision was adopted from a requirement in paragraph (g)(3) of former section 1910.108, and OSHA believes that it is necessary to address the possibility of overflow pipe blockage. Paragraph 1910.125(b)(2) of the final rule thus includes the provision as proposed.

Proposed paragraph 1910.124(d) (final paragraph 1910.125(e)), which required the control of ignition sources, received only one comment (Ex. 4–4). This commenter stated that OSHA should substitute chapter 4 of NFPA 34–1995 for this entire paragraph of the final rule because, in the commenter's opinion, the NFPA chapter provides "diagrams that greatly simplify interpreting the requirements and establishing the limits of the hazardous (classified) location." OSHA finds that by defining the vapor area and the hazardous area surrounding the vapor area in objective terms, paragraph 1910.125(e) of the final rule will provide employers with the information necessary to identify hazardous areas and sources of ignition. Paragraph 1910.125(e) of the final rule also specifies the means of controlling ignition sources. OSHA has therefore not accepted this commenter's suggestion.

Proposed paragraph 1910.124(d)(2) (final paragraph 1910.125(e)(1)(i)), which specified the area that must be free of ignition sources, elicited several comments (Exs. 4–3, 4–7, 4–11). One commenter (Ex. 4–3) generally endorsed the proposed provision. Two commenters, however, recommended that the paragraph be revised. The first of these commenters (Ex. 4–7) stated that the requirement should be performance based and recommended the following language: "Open flames must be kept out of the vapor area * * * to prevent ignition." The second commenter (Ex. 4–11) believed that the proposed paragraph expanded the requirement in former section 1910.108 because it did not define hazardous areas by the quantity of flammable vapors present; this commenter recommended that OSHA instead adopt "the same distances as described in NFPA 34–1995."

OSHA believes that keeping ignition sources (including open flames) out of areas that are within 20 feet of the vapor area, which is a requirement taken from paragraphs (e)(1)(i) and (e)(2) of former section 1910.108, will afford employees more protection than merely excluding "open flames" from the vapor area (as specified in Ex. 4–7's recommended language). OSHA believes that the revised definition of "vapor area" in the final rule, which states that a vapor area is an "area where the vapor concentration exceeds 25% of the LFL," when used in combination with the definition of an "adjacent area" as an "area within 20 feet * * * of a vapor area," will make paragraph 1910.125(e) of the final rule consistent with the requirements of former paragraph 1910.108(e)(2) and satisfy these commenters' concerns.

Proposed paragraph 1910.124(d)(6) (final paragraphs 1910.125(e)(4)(ii) and (e)(4)(iii)), which delineated the procedure for disposing of rags and other contaminated material, was found by the single commenter (Ex. 4–3) to be a "[g]ood change, [because it] removes all confusion." The language of the final rule is thus unchanged from that proposed.

Proposed paragraph 1910.124(d)(7) (final paragraph 1910.125(e)(5)), which prohibited smoking in a vapor area, elicited one comment (Ex. 4–13). This commenter recommended that the no-smoking signs required by this paragraph conform to the characteristics for such signs specified in the ANSI Z535.2–1991 consensus standard.

The proposed no-smoking provision was adopted from paragraph (f)(4) of former section 1910.108. The Agency also regulates warning signs in § 1910.145 to ensure that warning signs used in general industry conform with uniform specifications and are readily understood by employees. OSHA believes, therefore, that employer familiarity with the former standard and the provisions of § 1910.145 will enhance their compliance with final paragraph 1910.125(e)(5). Adopting ANSI Z535.2–1991 would require employers to comply with new sign requirements, thereby increasing their regulatory burden. Adopting ANSI Z535.2–1991 would require substantial changes to the former rule and, therefore, is beyond the scope of this plain-language rulemaking. (OSHA also notes that ANSI has since issued an updated version of this consensus standard, ANSI Z535.2–1998. Either version (1991 or 1998) will be acceptable for the design of no-smoking signs to comply with final paragraph 1910.125(e)(5).)

Proposed paragraph 1910.124(e)(1)(i) (final paragraph 1910.125(f)(1)), which prescribed fire protection for dip tanks having a specified volume or surface area, received only one comment (Ex. 4–4). This commenter stated that section 7–6 of NFPA 34–1995 should be substituted for this paragraph because the NFPA standard "covers the smaller processes and allows a choice between a self-closing cover or a fire suppression system." OSHA based the size limitations specified in this requirement on paragraphs (c) and (h) of former section 1910.108; revising this requirement to cover smaller dip tanks would represent a substantive change to the former rule and is beyond the scope of this plain-language rulemaking.

Proposed paragraph 1910.125(d)(5) (final paragraph 1910.126(d)(5)), required that solvent-cleaning and vapor-degreasing tanks "with a vapor area larger than 4 feet^2 (.38m^2) . . . have cleanout or sludge doors located near the bottom of each tank." One commenter (Ex. 4–1) criticized the proposed language for using the term "vapor area" in a manner that was inconsistent with the definition of the term in proposed paragraph 1910.122(d). After reviewing the proposed paragraph, OSHA decided to delete it from the final standard because the Agency determined that it served no valid safety and health purpose (see the explanation of this action below in paragraph (j) of Part 4).

Proposed paragraph 1910.125(g)(7) (final paragraph 1910.126(g)(6)), which specified the fences, rails, or guards required in paint-detearing operations, received only a single comment (Ex. 4–13). This commenter recommended that such fences, rails, or guards be installed according to the ANSI A1264.1–1995 consensus standard. The ANSI consensus standard, which is more detailed than the final rule's provision,

would require construction of a complete guardrail system for this purpose. OSHA believes that it is appropriate to permit a single rail when doing so will safely isolate employees from detearing operations. Accordingly, OSHA has not made the suggested change to the final rule.

Part 3

The following discussion addresses general comments on this plain language rulemaking.

One commenter (Ex. 4–4) recommended that "OSHA abandon its attempt to re-write portions of a 25-year-old standard" to conform to various parts of NFPA 34–1995 and instead adopt NFPA 34–1995 in its entirety. This commenter also encouraged OSHA to include references in the final rule stating that "any ventilation system designed, installed, and operated in accordance with NFPA 34 and NFPA 91 meets the requirements of [this rule] for fire protection purposes," and "that any dipping/coating system that meets the requirements of NFPA 34 also meets [the requirements of this rule]." In a related matter, this commenter and another commenter (Ex. 4–13) asked why this rulemaking did not comply with the National Technology Transfer and Advancement Act of 1996 (NTTAA), which mandates that Federal regulatory agencies "use technical standards that are developed or adopted by voluntary consensus standards bodies. . . ."

In response, OSHA notes that the NTTAA's requirements do not apply where the Agency determines that use of a consensus standard "is inconsistent with applicable law or otherwise impractical . . . ." (15 U.S.C. 272 note.) In the case of this plain-language rewrite, adopting the recommended language would result in substantive revisions to the former standards and would therefore be beyond the scope of this rulemaking. In addition, the recommended NFPA standards use specification language, which is inconsistent with OSHA's emphasis on performance-oriented language in this rulemaking.

Part 4

OSHA has made various technical and editorial corrections to the regulatory text of the final rule.

In this final rule, OSHA has made the following changes to clarify the rule's meaning, to make the rule easier to follow, and to correct errors in the proposed rule. Specifically, OSHA has:

(a) Redesignated the section numbers in the final rule as 29 CFR 1910.122 to 29 CFR 1910.126 instead of 29 CFR 1910.121 to 29 CFR 1910.125. This revision is necessary because OSHA has reserved section 1910.121 for a future rule addressing the accreditation of training programs for workers involved in hazardous-waste operations and emergency-response activities.

(b) Removed proposed paragraph 1910.122(c)(2) from the final rule. The proposed paragraph, which was adopted from former paragraph 1910.94(d)(13)(ii), excepted surface-coating operations covered by 29 CFR 1910.107 from the scope of the standard. OSHA removed this provision from the final standard because the Agency interpreted the phrase "excluding open-tank operations" in former paragraph 1910.94(d)(13)(ii) to mean that the exception applied only when surface-coating operations do not involve dip tanks. OSHA believes that it is unnecessary to specify that the final standard, which regulates dip-tank operations, does not apply to surface-coating operations that do not involve dip tanks.

(c) Added two definitions to paragraph 1910.123(d) of the final rule. The first definition, of the term "adjacent area," clarifies the use of this term in paragraphs 1910.125(e)(1)(i) and (e)(1)(ii) of the final rule, and is consistent with the definition of "adjacent area" in paragraph (e)(2) of former section 1910.108. In both definitions, an adjacent area is defined as distinct from, and excluding, the vapor area.

The second definition, of the pronoun "you," was added because the final rule uses the "you" form of the question-and-answer plain-language style, as recommended in Federal plain-language guidance. This definition makes clear that employers are responsible for implementing the requirements of the final rule, as mandated by the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*).

(d) Removed the proposed definition of "safe distance" from the final rule to avoid confusion when the term is used in the context of spark production (see paragraphs 1910.126(g)(3) and (g)(4)(iii) of the final rule), as opposed to its use in the context of the removal of an employee from a fire hazard (see paragraph 1910.125(a)(4) of the final rule). The meaning of the term now is specified separately in paragraphs 1910.126(a)(4), (g)(3), and (g)(4)(iii) of the final rule.

(e) Restored the requirement in former paragraph 1910.94(d)(9)(vii) to limit the water pressure in a water hose used for emergency eye washing and showering to 25 pounds per square inch (1.62 k/cm^2) or less; this limit was inadvertently left out of the proposal. OSHA added this requirement to paragraph 1910.124(g)(2) of the final rule because the pressure limitation is necessary to prevent possible eye injury while using the hose.

(f) Removed from the final rule the first sentence in proposed paragraph 1910.124(j)(1), which required employers to "inspect [dipping and coating] equipment and promptly correct any deficiencies . . . [.]" This provision is redundant in large part with the requirement in proposed paragraph 1910.124(j)(1)(ii) "[T]o inspect all dipping and coating equipment . . . periodically." The periodic inspection requirement is specified in paragraph 1910.124(j)(3) of the final rule. The proposed requirement to "promptly correct any deficiencies" was added to final paragraph 1910.124(j)(3) because paragraph (f)(3) of former section 1910.108 required employers to promptly correct any defects found during periodic inspections of dip tanks.

(g) Moved an exception from the requirements to control ignition sources was from the note to proposed paragraph 1910.125(a) to paragraph 1910.125(e)(1)(i) of the final rule. OSHA determined that the exception in the former rule (paragraph 1910.108(e)(1)(i)) actually applies to electrostatic paint-detearing operations instead of hardening and tempering tanks. Accordingly, the exception has been moved to paragraph 1910.125(e)(1)(i) of the final rule, which specifies controls for electrical sources of ignition.

(h) Restored, in final rule paragraph 1910.126(a)(5), a provision inadvertently excluded from proposed paragraph 1910.125(a)(5) that permitted bottom drains in hardening or tempering tanks to be combined with the oil-circulating system.

(i) Removed from the final rule the note in proposed paragraph 1910.125(d)(2) because the combustion chamber must be air tight (except for the flue opening) regardless of the solvent used in vapor degreasing tanks.

(j) Removed proposed paragraph 1910.125(d)(5) from the final rule. The proposed paragraph required that solvent-cleaning and vapor-degreasing tanks that have a surface area larger than 4 feet^2 (.38 m^2) be equipped with "cleanout or sludge doors located near the bottom of the tank." OSHA determined that the purpose of this provision, which was adopted from former paragraph 1910.94(d)(12)(iv), was to provide employers with a convenient means of cleaning residue from the bottom of the tanks; therefore,

the provision served no valid safety and health purpose.

Part 5

Comparing provisions of the former rules and the final rule.

The following tables show the paragraph designations of the former rules and the corresponding provisions of the final rule. Table I covers the requirements from former section 1910.94(d), and Table II lists the provisions from former section 1910.108. Table III contains the provisions of final sections 1910.123 through 1910.126 and the sources for each provision in former sections 1910.94(d) and 1910.108.

TABLE I

Former Section 1910.94(d)	Final Sections 1910.123 through 1910.126
(d) Open surface tanks. (1) General (i) Application.	1910.123(a) and (b).
(d)(1)(ii) Exhaust system construction	1910.124(b)(4).
(d)(2)(i) to (d)(2)(vii) Classification of open-surface tank operations	Covered by standards referenced in 1910.124(b)(4).
(d)(3) Ventilation	1910.124(b)(1) and (b)(2).
(d)(4)(i) to (d)(4)(v) Control requirements	Covered by standards referenced in 1910.124(b)(4).
(d)(5) Spray cleaning and degreasing	1910.126(f).
(d)(6) Control means other than ventilation	1910.124(b)(3).
(d)(7)(i) and (d)(7)(ii) System design	1910.124(b)(4).
(d)(7)(iii) Protect against exhaust system fire	1910.124(b)(6).
(d)(7)(iv) Exhaust system meets consensus standards	1910.124(b)(4).
(d)(8) Operation (i) Maintain airflow.	1910.124(j)(1) and (j)(2).
(d)(8)(ii),(iii) Exhaust discharge; makeup air	1910.124(c) and (d).
(d)(9) Personal protection. (i) Training	1910.124(f).
(d)(9)(ii) Protective shoes	Deleted, covered by subpart I of 29 CFR 1910.
(d)(9)(iii) Protective gloves	Deleted, covered by subpart I of 29 CFR 1910.
(d)(9)(iv) Protective garments	Deleted, covered by subpart I of 29 CFR 1910.
(d)(9)(v) Protective goggles	Deleted, covered by subpart I of 29 CFR 1910.
(d)(9)(vi) Respirators	Deleted, covered by subpart I of 29 CFR 1910.
(d)(9)(vii) Emergency showers	1910.124(g)(2).
(d)(9)(viii) Physician authorization, examination	1910.124(h)(1), (h)(2), and (h)(4).
(d)(9)(ix) Washing facilities	1910.124(g)(3).
(d)(9)(x) Locker space	1910.124(g)(1).
(d)(9)(xi) First aid	1910.124(h)(3).
(d)(10) Special precautions for cyanide	1910.126(e).
(d)(11) Inspection, maintenance, and installation. (i) Floors	Covered by section 1910.22(a).
(d)(11)(ii) Tank cleaning	1910.124(i).
(d)(11)(iii) Test tanks before entering	1910.124(e).
(d)(11)(iv) and (d)(11)(v) Entering tank	Covered by section 1910.146.
(d)(11)(vi) Welding operations	1910.124(j)(4) and (j)(5).
(d)(12) Vapor degreasing tanks. (i) Vapor control	1910.126(d)(1).
(d)(12)(ii) Keep gas vapors away from heating units	1910.126(d)(2) and (d)(3).
(d)(12)(iii) Do not create excessive vapors	1910.126(d)(4).
(d)(12)(iv) Solvent-cleaning and vapor-degreasing tanks must have cleanout or sludge doors.	Deleted; unnecessary.
(d)(13) Scope. (i) Coverage	1910.123(a), (b), and (c).
(d)(13)(ii) Molten materials operations defined	1910.123(c).
(d)(13)(iii) Surface coating operations defined	Deleted; unnecessary.

TABLE II

Former section 1910.108	Final sections 1910.123 through 1910.126
(a) Definitions applicable to this section-(1) Dip tank	1910.123(d).
(a)(2) Vapor area	1910.123(d).
(a)(3) Approved	1910.123(d).
(a)(4) Lister	Deleted; unnecessary
(b) Ventilation-(1) Vapor area ventilation	1910.124(b)(1), (b)(3), (b)(4), and (b)(5), and 1910.125(d)(2)
(b)(2) Ventilation combined with drying	1910.125(e)(3).
(c) Construction of dip tanks. (1) General	1910.124(a) and 125(a).
(c)(2) Overflow pipes. (i) Tank capacity	1910.125(b)(1).
(c)(2)(ii) Overflow pipe capacity	1910.125(b)(2)(i).
(c)(2)(iii) and (c)(2)(iv) Overflow pipe cleaning and location	1910.125(b)(2)(ii) and (b)(2)(iii).
(c)(3)(i) to (c)(3)(iii) Bottom drains	1910.125(c).
(c)(4) Salvage tanks	Deleted; property protection.
(c)(5) Automatic extinguishing facilities	1910.125(f)(1) and (f)(3).
(c)(6) Conveyor systems	1910.125(d).
(c)(7) Heating dip tank liquids	1910.125(g).
(d) Liquids used in dip tanks, storage, and handling	1910.125(e)(2).
(e) Electrical and other sources of ignition. (1) Vapor areas. (i) No open flames, explosion proof equipment.	1910.125(e)(1).
(e)(1)(ii) Electrical equipment in vapor areas	1910.125(e)(1)(i).
(e)(2) Adjacent areas	1910.125(e)(1).
(f) Operations and maintenance. (1) General	1910.125(e)(4)(i).
(f)(2) Waste cans	1910.125(e)(4)(ii) and (e)(4) (iii).

TABLE II—Continued

Former section 1910.108	Final sections 1910.123 through 1910.126
(f)(3) Inspection of dip tanks	1910.124(j)(1) and (3).
(f)(4) Warning signs	1910.125(e)(5).
(g) Extinguishment. (1) Extinguishers	1910.125(f)(2)(i).
(g)(2) Automatic water spray extinguishing systems	1910.125(f)(2)(ii).
(g)(3) Automatic foam extinguishing systems	1910.125(b)(2) and 1910.125(f)(2)(ii).
(g)(4) Automatic carbon dioxide systems	1910.125(f)(2)(ii).
(g)(5) Dry chemical extinguishing systems	1910.125(f)(2)(ii).
(g)(6) Dip tank covers. (i) Automatically activated	1910.125(f)(3) and (f)(3)(i).
(g)(6)(ii) to (g)(6)(iv) Construction and use of covers	1910.125(f)(3)(ii) and (f)(3)(iii).
(h) Special dip tank applications. (1) Hardening and tempering tanks. (i) Location	1910.126(a)(1)(i) and (a)(1)(ii).
(h)(1)(ii) Noncombustible hood and vent	1910.126(a)(1)(iii).
(h)(1)(iii) Temperature of cooling medium	1910.126(a)(4).
(h)(1)(iv) High temperature limit switch	1910.126(a)(2) and (a)(3).
(h)(1)(v) Automatic extinguishing facilities	1910.125(f)(1)(ii) and (f)(2)(ii).
(h)(1)(vi) No pressurized air	1910.126(a)(6).
(h)(1)(vii) Bottom drain	1910.125(c)(3), and 1910.126(a)(4) and (a)(5).
(h)(2) Flow coat; general. (i) All preceding standards apply	1910.126 (introductory paragraph).
(h)(2)(ii) Strong and rigid piping	1910.126(b)(2).
(h)(2)(iii) Paint pumped at low pressure	1910.126(b)(1).
(h)(2)(iv) Area of dip tank	Covered by section 1910.123(d) (definition of "dip tank").
(h)(3) Electrostatic apparatus	1910.126(g).
(h)(4) Roll coating	1910.126 (introductory paragraph) and 1910.126(c).

TABLE III

Final sections 1910.123 through 1910.126 (final section 1910.122 contains a table of contents for final sections 1910.123 through 1910.126)	Former sections 1910.94(d) and 1910.108 (or applicable NFPA standards)
1910.123 Dipping and coating operations: Coverage and definitions:	
(a) Does this standard apply to me?	
(a)(1) Using a liquid in a dip tank	1910.94(d)(1)(i) and (d)(13)(i).
(a)(2) Draining or drying an object	1910.94(d)(13)(i).
(b) What operations are covered?	1910.94(d)(13)(i).
(c) What operations are not covered? Operations using molten material	1910.94(d)(13)(i) and (d)(13)(ii).
(d)How are terms used in sections 1910.123 through 1910.126 defined?	1910.108(a).
"Adjacent area"	1910.108(e)(2).
"Approved"	1910.108(a)(3).
"Autoignition temperature"	NFPA 325–1994.
"Combustible liquid"	1910.1200(c).
"Dip tank"	1910.108(a)(1).
"Flammable liquid"	1910.1200(c).
"Flashpoint"	1910.1200(c).
"Lower flammable limit (LEL)"	NFPA 325–1994.
"Vapor area"	1910.108(a)(2).
"You"	
1910.124 General requirements for dipping and coating operations:	
(a) What construction requirements apply to dip tanks?	1910.108(c)(1).
(b) What ventilation requirements apply to vapor areas?	
(b)(1) Keep airborne concentrations below 25% of the LFL	1910.94(d)(3) and 1910.108(b)(1)
(b)(2) Meet the levels specified in part 1910, subpart Z.	1910.94(d)(3).
(b)(3) Use of tank covers or floating materials	1910.94(d)(6).
(b)(4) Mechanical ventilation requirements	1910.94(d)(1)(ii), (d)(2), (d)(4), and (d)(7)(i) to (d)(7)(iv); and 1910.108(b)(1).
(b)(5) Airflow requirements for mechanical ventilation	1910.108(b)(1).
(b)(6) Requirements for an independent exhaust system	1910.94(d)(7)(iii).
(c) What requirements must I follow to recirculate exhaust air into the workplace?	
(c)(1) Meet the requirements of paragraph (b) of this section	1910.94(d)(3) and (d)(8)(ii), and NFPA 34–1995.
(c)(2) Other requirements for recirculated exhaust air	NFPA 34–1995.
(c)(3) Requirements for an alarm	NFPA 34–1995.
(d) What must I do when I use an exhaust hood?	
(d)(1) Volume requirements	1910.94(d)(8)(iii).
(d)(2) Prevent damage to exhaust hoods	1910.94(d)(8)(iii).
(e) What requirements must I follow when an employee enters a dip tank?	1910.94(d)(11)(iii) to (d)(11)(v).
(f) What first-aid procedures must my employees know?	1910.94(d)(9)(i).
(g) What hygiene facilities must I provide?	
(g)(1) Storage space	1910.94(d)(9)(x).
(g)(2) Emergency shower and eye-wash station	1910.94(d)(9)(vii).
(g)(3) Washing facilities	1910.94(d)(9)(ix).
(h) What treatment and first aid must I provide?	
(h)(1) For sores, burns, or other skin lesions	1910.94(d)(9)(viii).

TABLE III—Continued

Final sections 1910.123 through 1910.126 (final section 1910.122 contains a table of contents for final sections 1910.123 through 1910.126)	Former sections 1910.94(d) and 1910.108 (or applicable NFPA standards)
(h)(2) For small skin abrasions, cuts, rashes, or open sores	1910.94(d)(9)(viii).
(h)(3) First-aid supplies	1910.94(d)(9)(xi).
(h)(4) Periodic examinations for employees exposed to chromic acid	1910.94(d)(9)(viii).
(i) What must I do before an employee cleans a dip tank?	
(i)(1) Drain the dip tank and open cleanout doors	1910.94(d)(11)(ii).
(i)(2) Ventilate vapor pockets	1910.94(d)(11)(ii).
(j) What must I do to inspect and maintain my dipping or coating operation?	
(j)(1) Inspect ventilation hoods and ductwork	1910.94(d)(8)(i) and 1910.108(f)(3).
(j)(2) Ensure an adequate airflow	1910.94(d)(8)(i).
(j)(3) Periodically inspect dipping and coating equipment	1910.108(f)(3).
(j)(4) Protect employees from toxic exposures during welding, burning, or open-flame work.	1910.94(d)(11)(vi).
(j)(5) Remove solvents and vapors before welding, burning, or open-flame work.	1910.94(d)(11)(vi).
1910.125 Additional requirements for dipping and coating operations that use flammable or combustible liquids:	
(a) What type of construction material must be used in making my dip tank?	1910.108(c)(1).
(b) When must I provide overflow piping?	
(b)(1) When overflow pipes are required	1910.108(c)(2)(i).
(b)(2) Overflow pipe requirements	1910.108(c)(2)(ii), (c)(2)(iii), and (c)(2)(iv).
(c) When must I provide a bottom drain?	
(c)(1) For dip tanks over 500 gallons (1893 L), with specified exceptions	1910.108(c)(3)(i); NFPA 34.
(c)(2) Bottom drain requirements	1910.108(c)(3)(ii); NFPA 34.
(c)(3) Manual and automatic operation	1910.108(c)(3)(i).
(c)(4) Use of automatic pumps	1910.108(c)(3)(i).
(d) When must my conveyor systems shut down automatically?	
(d)(1) When there is a fire	1910.108(c)(6).
(d)(2) When the ventilation rate drops	1910.108(b)(1) and (c)(6).
(e) What ignition and fuel sources must be controlled?	
(e)(1) Ignition sources in the vapor area and any adjacent area	1910.108(e)(1) and (e)(2).
(e)(2) Electrical bonding and grounding of portable containers	1910.108(d).
(e)(3) Ignition from a heating system	1910.108(b)(2).
(e)(4) Ignition from combustible debris and stock, rags and other contaminated material, and the content of waste cans.	1910.108(f)(1) and (f)(2).
(e)(5) Prohibit smoking in a vapor area	1910.108(f)(4).
(f) What fire protection must I provide?	
(f)(1) Tanks covered by these requirements	1910.108(c)(5) and (h)(1)(v).
(f)(2) Types of fire-extinguishing equipment required (manual and automatic)	1910.108(c)(5) and (g)(1) to (g)(5).
(f)(3) Requirements for fire-extinguishing covers	1910.108(g)(6).
(g) To what temperature may I heat a liquid in a dip tank?	
(g)(1) Below the liquid's boiling point	NFPA 34–1995.
(g)(2) At least 100° F (37.8° C) below the liquid's autoignition temperature	NFPA 34–1995.
1910.126 Additional requirements for special dipping and coating operations:	
(a) What additional requirements apply to hardening or tempering tanks?	
(a)(1) Location, flooring, and venting requirements	1910.108(h)(1)(i) and (h)(1)(ii).
(a)(2) Alarm requirements	1910.108(h)(1)(iv).
(a)(3) Limit switch to shut down the conveyor	1910.108(h)(1)(iv).
(a)(4) Circulating cooling system	1910.108(h)(1)(iii).
(a)(5) Bottom drains combined with oil-circulating system	1910.108(h)(1)(vii).
(a)(6) Prohibit use of pressurized air to fill or agitate	1910.108(h)(1)(vi).
(b) What additional requirements apply to flow coating?	
(b)(1) Use of direct low-pressure pumping systems or gravity tanks to supply paint.	1910.108(h)(2)(iii).
(b)(2) Piping requirements	1910.108(h)(2)(ii).
(c) What additional requirements apply to roll coating, roll spreading, or roll impregnating?	
(c)(1) Requirements for bonding and grounding metallic parts and installing static collectors.	1910.108(h)(4)(ii).
(c)(2) Requirement to maintain a conductive atmosphere	1910.108(h)(4)(ii).
(d) What additional requirements apply to vapor degreasing tanks?	
(d)(1) Maintain the vapor level below the top of the tank	1910.94(d)(12)(i).
(d)(2) Prevent solvent fumes from entering the air-fuel mixture	1910.94(d)(12)(ii).
(d)(3) Requirements for flues and draft diverters	1910.94(d)(12)(ii).
(d)(4) Temperature limit for the heating element	1910.94(d)(12)(iii).
(e) What additional requirements apply to cyanide tanks?	1910.94(d)(10).
(f) What additional requirements apply to spray cleaning tanks and degreasing tanks?	
(f)(1) Enclose spray operations	1910.94(d)(5).
(f)(2) Mechanical ventilation required	1910.94(d)(5).
(g) What additional requirements apply to electrostatic paint detearing?	
(g)(1) Approved electrostatic equipment including electrodes	1910.108(h)(3)(ii), (h)(3)(iv), and (h)(3)(xi).

TABLE III—Continued

Final sections 1910.123 through 1910.126 (final section 1910.122 contains a table of contents for final sections 1910.123 through 1910.126)	Former sections 1910.94(d) and 1910.108 (or applicable NFPA standards)
(g)(2) Use of conveyors to support goods being paint-deteared	1910.108(h)(3)(vii).
(g)(3) No manual handling of goods being paint-deteared	1910.108(h)(3)(viii).
(g)(4) Requirement to maintain the safe distance	1910.108(h)(3)(vi).
(g)(5) Automatic controls required	1910.108(h)(3)(ix).
(g)(6) Fences, rails, or guards required	1910.108(h)(3)(x).
(g)(7) Requirements for fire protection	1910.108(h)(3)(xiii).
(g)(8) Collecting paint deposits	1910.108(h)(3)(xiv).

IV. Legal Considerations

Because the final rule is only a plain language redrafting of two former Agency rules, it is not necessary to determine significant risk or the extent to which the final rule reduces that risk. In *Industrial Union Department, AFL–CIO* v. *American Petroleum Institute*, 448 U.S. 607 (1980), the Supreme Court ruled that, before OSHA can increase the protection afforded by a standard, the Agency must find that the hazard being regulated poses a significant risk to employees and that a new, more protective, standard is "reasonably necessary and appropriate" to reduce that risk. The final rule that replaces the Agency's former rules regulating dipping and coating operations does not directly increase or decrease the protection afforded to employees, nor does it increase employers' compliance burdens. Therefore, no finding of significant risk is necessary.

The Agency believes, however, that improved employee protection is likely to result from implementation of the final rule because employers and employees who clearly understand what a rule requires are more likely to comply with that rule. In addition, because the final rule is more performance-oriented than the former rules regulating dipping and coating operations, employers will find it easier to comply with the final rule.

V. Economic Analysis

The final rule is not a significant rule under Executive Order 12866 or a major rule under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) because it imposes no additional costs on any private or public sector entity and does not meet any of the other criteria for a significant or major rule specified by the Executive Order or the other statutes. Because the final rule does not impose any additional costs on employers whose operations involve dipping and coating, no economic or regulatory flexibility analysis of the final rule is required.

VI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq (as amended), OSHA has examined the regulatory requirements of the final rule to determine if it will have a significant economic impact on a substantial number of small entities. As indicated in section V of this preamble, the final rule does not increase employers' compliance costs, and may even reduce the regulatory burden on all affected employers, both large and small. Accordingly, the Agency certifies that the final rule does not have a significant economic impact on a substantial number of small entities.

VII. Environmental Impact Assessment

OSHA has reviewed the final rule in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 3et seq.), the regulations of the Council on Environmental Quality (40 U.S.C. part 1500), and the Department of Labor's NEPA procedures (29 CFR part 11). As noted earlier in this preamble, the final rule imposes the same requirements on employers as the standards it replaces; consequently, the final rule has no additional impact on the environment, including no impact on the release of materials that contaminate natural resources or the environment, beyond the impact imposed by OSHA's former standards regulating dipping and coating operations.

VIII. Paperwork Reduction Act

This final rule contains a collection of information requirement. Under 1910.126(g)(4), employers are required to determine how far away employees should remain when electrostatic paint detearing equipment is being used. This distance is called the "safe distance." The employer must conspicuously display this "safe distance" on a sign located near the equipment. OSHA does not believe that the provision imposes a burden on the employer to collect or display the information because OSHA believes the information has already been determined and displayed on the few, about 12, pieces of equipment in use today. Newer technology appears to have eliminated the need to manufacture or use electrostatic paint detearing equipment. OSHA solicited public comments on this information collection requirement. There were no comments submitted in response to the collection of information associated with this provision.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OSHA requested OMB approval of the collection of information requirement described above. On June 1, 1998, the Office of Management and Budget (OMB) granted approval of the information requirement under OMB Control Number 1218–0237. The approval expires on June 30, 2001.

Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

IX. Unfunded Mandates

OSHA has reviewed the final rule in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and Executive Order 12875. As discussed above in section IV of this preamble ("Legal Considerations"), OSHA has determined that the final rule imposes no new regulatory burdens on any employer, either public or private. The scope and content of the final rule remain the same as those of the former standards regulating dipping and coating operations and have not been expanded to include additional employers. Consequently, compliance with the final rule requires no additional expenditures by either public or private employers. In sum, the final rule does not mandate that State, local, and tribal governments adopt new, unfunded regulatory obligations.

X. Federalism

The final rule which revises the former standards regulating dipping and coating operations has been reviewed for Federalism issues, and the Agency

certifies that the final rule has been assessed in accordance with the principles, criteria, and requirements set forth in Sections 2 through 5 of Executive Order 12612.

Executive Order 12612 requires that Federal agencies, to the extent possible, refrain from limiting State policy options, consult with States before taking actions that restrict State policy options, and take such actions only when clear constitutional authority exists and the problem is of national scope. The Executive Order provides for preemption of State law only when Congress has expressed an intent that a Federal agency do so. Any such preemption must be limited to the extent possible.

With respect to States that do not have occupational safety and health plans approved by OSHA under Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") (29 U.S.C. 667), OSHA finds that the final rule conforms to the preemption provisions of the Act. Under these provisions, OSHA is authorized to preempt State promulgation and enforcement of requirements dealing with occupational safety and health issues covered by OSHA standards unless the State has an OSHA-approved State occupational safety and health plan. (See *Gade* v. *National Solid Wastes Management Association*, 112 S.Ct. 2374 (1992).) States without such programs are, by 29 U.S.C. 667, prohibited from issuing citations for violations of requirements covered by OSHA standards. The final rule does not expand this limitation.

Regarding States that have OSHA-approved occupational safety and health plans ("State-plan states"), OSHA finds that the final rule complies with Executive Order 12612 because the final rule addresses a problem that is national in scope, and Section 18(c)(2) of the Act (29 U.S.C. 667(c)(2)) requires State-plan States to adopt OSHA's final rule, or develop an alternative rule that is at least as effective as OSHA's final rule. Having already adopted OSHA's former standards regulating dipping and coating operations (or having developed alternative standards acceptable to OSHA), State-plan States are not obligated to adopt the final rule; they may, however, choose to adopt the final rule, and OSHA encourages them to do so.

XI. State Plan States

OSHA encourages the 25 States and Territories with their own OSHA-approved occupational safety and health plans to revise their standards regulating dipping and coating operations according to the final rule that resulted from this rulemaking. These States are: Alaska, Arizona, California, Connecticut (State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

XII. List of Subjects in 29 CFR Part 1910

Coating; Combustible liquid; Dipping; Dip tanks; Fire protection; Flammable liquid; Incorporation by reference; Occupational safety and health; Ventilation.

XIII. Authority

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. The final rule is issued under the authority of Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No 6–96 (62 FR 111); and 29 CFR part 1911.

Signed at Washington, D.C., this 15th day of March, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

OSHA amends 29 CFR part 1910 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart A—General

1. The Authority citation for subpart A of part 1910 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable.

Sections 1910.6, 1910.7, and 1910.8 also issued under 29 CFR part 1911.

§ 1910.6 [Amended]

1. Paragraph (b)(1) of § 1910.6 is revised to read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(b) * * *

(1) "Industrial Ventilation: A Manual of Recommended Practice" (22nd ed., 1995), incorporation by reference (IBR) approved for § 1910.124(b)(4)(iii).

* * * * *

2. Paragraph (e)(50) of § 1910.6 is revised to read as follows:

* * * * *

(e) * * *

(50) ANSI Z9.1–71 Practices for Ventilation and Operation of Open-Surface Tanks, IBR approved for § 1910.124(b)(4)(iv).

* * * * *

3. Paragraphs (e)(51) through (e)(70) of § 1910.6 are redesignated as paragraphs (e)(53) through (e)(72), respectively, and new paragraphs (e)(51) and (e)(52) are added to read as follows:

* * * * *

(e) * * *

(51) ANSI Z9.2–60 Fundamentals Governing the Design and Operation of Local Exhaust Systems, IBR approved for §§ 1910.94(a)(4)(i) introductory text, (a)(6) introductory text, (b)(3)(ix), (b)(4)(i) and (ii), (c)(3)(i) introductory text, (c)(5)(iii)(b), and (c)(7)(iv)(a); 1910.261(a)(3)(xx), (g)(1)(i) and (iii), and (h)(2)(ii).

(52) ANSI Z9.2–79 Fundamentals Governing the Design and Operation of Local Exhaust Systems, IBR approved for § 1910.124(b)(4)(i).

* * * * *

4. Paragraph (q) introductory text of § 1910.6 is revised to read as follows:

* * * * *

(q) The following material is available for purchase from the National Fire Protection Association (NFPA), 11 Tracy Drive, Avon, MA 02322:

5. Paragraph (q)(4) of § 1910.6 is revised to read as follows:

* * * * *

(q) * * *

(4) NFPA 34–1966 Standard for Dip Tanks Containing Flammable or Combustible Liquids, IBR approved for § 1910.124(b)(4)(iv).

* * * * *

6. Paragraphs (q)(5) through (q)(32) of § 1910.6 are redesignated as paragraphs (q)(6) through (q)(33), respectively, and a new paragraph (q)(5) is added to read as follows:

* * * * *

(q) * * *

(5) NFPA 34–1995 Standard for Dip Tanks Containing Flammable or Combustible Liquids, IBR approved for § 1910.124(b)(4)(ii).

* * * * *

Subpart G—Occupational Health and Environmental Control

1. The Authority citation for subpart G of part 1910 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable; and 29 CFR part 1911.

§ 1910.94 [Amended]

2. Paragraph (d) of § 1910.94 is removed.

Subpart H—Hazardous Materials

1. The Authority citation for subpart H of 29 CFR part 1910 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable; and 29 CFR part 11.

Sections 1910.103, 1910.106 through 1910.111, and 1910.119, 1910.120, and 1910.122 through 1910.126 also issued under 29 CFR part 1911.

Section 1910.119 also issued under Section 304, Clean Air Act Amendments of 1990 (Pub.L. 101–549), reprinted at 29 U.S.C. 655 Note.

Section 1910.120 also issued under Section 126, Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 Note), and 5 U.S.C. 553.

§ 1910.108 [Reserved]

2. Section 1910.108 is removed and reserved.

§ 1910.121 [Reserved]

3. Section 1910.121 is added and reserved.

4. New §§ 1910.122 through 1910.126 are added to read as follows:

DIPPING AND COATING OPERATIONS

§ 1910.122 Table of contents.

This section lists the paragraph headings contained in §§ 1910.123 through 1910.126.

§ 1910.123 Dipping and coating operations: Coverage and definitions.

(a) Does this rule apply to me?
(b) What operations are covered?
(c) What operations are not covered?
(d) How are terms used in §§ 1910.123 through 1910.126 defined?

§ 1910.124 General requirements for dipping and coating operations.

(a) What construction requirements apply to dip tanks?
(b) What ventilation requirements apply to vapor areas?
(c) What requirements must I follow to recirculate exhaust air into the workplace?
(d) What must I do when I use an exhaust hood?
(e) What requirements must I follow when an employee enters a dip tank?
(f) What first-aid procedures must my employees know?
(g) What hygiene facilities must I provide?
(h) What treatment and first aid must I provide?
(i) What must I do before an employee cleans a dip tank?
(j) What must I do to inspect and maintain my dipping or coating operation?

§ 1910.125 Additional requirements for dipping and coating operations that use flammable or combustible liquids.

(a) What type of construction material must be used in making my dip tank?
(b) When must I provide overflow piping?
(c) When must I provide a bottom drain?
(d) When must my conveyer system shut down automatically?
(e) What ignition and fuel sources must be controlled?
(f) What fire protection must I provide?
(g) To what temperature may I heat a liquid in a dip tank?

§ 1910.126 Additional requirements for special dipping and coating applications.

(a) What additional requirements apply to hardening or tempering tanks?
(b) What additional requirements apply to flow coating?
(c) What additional requirements apply to roll coating, roll spreading, or roll impregnating?
(d) What additional requirements apply to vapor degreasing tanks?
(e) What additional requirements apply to cyanide tanks?
(f) What additional requirements apply to spray cleaning tanks and spray degreasing tanks?
(g) What additional requirements apply to electrostatic paint detearing?

§ 1910.123 Dipping and coating operations: Coverage and definitions.

(a) Does this rule apply to me? (1) This rule (§§ 1910.123 through 1910.126) applies when you use a dip tank containing a liquid other than water. It applies when you use the liquid in the tank or its vapor to:

(i) Clean an object;
(ii) Coat an object;
(iii) Alter the surface of an object; or
(iv) Change the character of an object.

(2) This rule also applies to the draining or drying of an object you have dipped or coated.

(b) What operations are covered? Examples of covered operations are paint dipping, electroplating, pickling, quenching, tanning, degreasing, stripping, cleaning, roll coating, flow coating, and curtain coating.

(c) What operations are not covered? You are not covered by this rule if your dip-tank operation only uses a molten material (a molten metal, alloy, or salt, for example).

(d) How are terms used in §§ 1910.123 through 1910.126 defined?

Adjacent area means any area within 20 feet (6.1 m) of a vapor area that is not separated from the vapor area by tight partitions.

Approved means that the equipment so designated is listed or approved by a nationally recognized testing laboratory, as defined by § 1910.7.

Autoignition temperature means the minimum temperature required to cause self-sustained combustion, independent of any other source of heat.

Combustible liquid means a liquid having a flash point of 100° F (37.8° C) or above.

Dip tank means a container holding a liquid other than water and that is used for dipping or coating. An object may be immersed (or partially immersed) in a dip tank or it may be suspended in a vapor coming from the tank.

Flammable liquid means a liquid having a flashpoint below 100° F (37.8° C).

Flashpoint means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite if tested in accordance with the definition of "flashpoint" in § 1910.1200(c).

Lower flammable limit (LFL) means the lowest concentration of a material that will propagate a flame. The LFL is usually expressed as a percent by volume of the material in air (or other oxidant).

Vapor area means any space containing a dip tank, including its drain boards, associated drying or conveying equipment, and any surrounding area where the vapor concentration exceeds 25% of the LFL of the liquid in the tank.

You means the employer, as defined by the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*).

§ 1910.124 General requirements for dipping and coating operations.

(a) What construction requirements apply to dip tanks? Any container that you use as a dip tank must be strong enough to withstand any expected load.

(b) What ventilation requirements apply to vapor areas? (1) The ventilation that you provide to a vapor area must keep the airborne concentration of any substance below 25% of its LFL.

(2) When a liquid in a dip tank creates an exposure hazard covered by a standard listed in subpart Z of this part, you must control worker exposure as required by that standard.

(3) You may use a tank cover or material that floats on the surface of the liquid in a dip tank to replace or supplement ventilation. The method or combination of methods you choose must maintain the airborne

concentration of the hazardous material and the worker's exposure within the limits specified in paragraphs (b)(1) and (b)(2) of this section.

(4) When you use mechanical ventilation, it must conform to the following standards that are incorporated by reference as specified in § 1910.6:

(i) ANSI Z9.2–1979, Fundamentals Governing the Design and Operation of Local Exhaust Systems;

(ii) NFPA 34–1995, Standard for Dip Tanks Containing Flammable or Combustible Liquids;

(iii) ACGIH's "Industrial Ventilation: A Manual of Recommended Practice" (22nd ed., 1995); or

(iv) ANSI Z9.1–1971, Practices for Ventilation and Operation of Open-Surface Tanks, and NFPA 34–1966, Standard for Dip Tanks Containing Flammable or Combustible Liquids.

(5) When you use mechanical ventilation, it must draw the flow of air into a hood or exhaust duct.

(6) When you use mechanical ventilation, each dip tank must have an independent exhaust system unless the combination of substances being removed will not cause a:

(i) Fire;

(ii) Explosion; or

(iii) Chemical reaction.

(c) What requirements must I follow to recirculate exhaust air into the workplace? (1) You may not recirculate exhaust air when any substance in that air poses a health hazard to employees or exceeds 25% of its LFL.

(2) You must ensure that any exhaust air recirculated from a dipping or coating operation using flammable or combustible liquids is:

(i) Free of any solid particulate that poses a health or safety hazard for employees; and

(ii) Monitored by approved equipment.

(3) You must have a system that sounds an alarm and automatically shuts down the operation when the vapor concentration for any substance in the exhaust airstream exceeds 25% of its LFL.

(d) What must I do when I use an exhaust hood? You must:

(1) Provide each room having exhaust hoods with a volume of outside air that is at least 90 percent of the volume of the exhaust air; and

(2) Ensure that the outside air supply does not damage exhaust hoods.

(e) What requirements must I follow when an employee enters a dip tank? When an employee enters a dip tank, you must meet the entry requirements of § 1910.146, OSHA's standard for Permit-Required Confined Spaces, as applicable.

(f) What first-aid procedures must my employees know? Your employees must know the first-aid procedures that are appropriate to the dipping or coating hazards to which they are exposed.

(g) What hygiene facilities must I provide? When your employees work with liquids that may burn, irritate, or otherwise harm their skin, you must provide:

(1) Locker space or other storage space to prevent contamination of the employee's street clothes;

(2) An emergency shower and eye-wash station close to the dipping or coating operation. In place of this equipment, you may use a water hose that is at least 4 feet (1.22 m) long and at least ¾ of an inch (18 mm) thick with a quick-opening valve and carrying a pressure of 25 pounds per square inch (1.62 k/cm^2) or less; and

(3) At least one basin with a hot-water faucet for every 10 employees who work with such liquids. (See paragraph (d) of § 1910.141.)

(h) What treatment and first aid must I provide? When your employees work with liquids that may burn, irritate, or otherwise harm their skin, you must provide:

(1) A physician's approval before an employee with a sore, burn, or other skin lesion that requires medical treatment works in a vapor area;

(2) Treatment by a properly designated person of any small skin abrasion, cut, rash, or open sore;

(3) Appropriate first-aid supplies that are located near the dipping or coating operation; and

(4) For employees who work with chromic acid, periodic examinations of their exposed body parts, especially their nostrils.

(i) What must I do before an employee cleans a dip tank? Before permitting an employee to clean the interior of a dip tank, you must:

(1) Drain the contents of the tank and open the cleanout doors; and

(2) Ventilate and clear any pockets where hazardous vapors may have accumulated.

(j) What must I do to inspect and maintain my dipping or coating operation? You must:

(1) Inspect the hoods and ductwork of the ventilation system for corrosion or damage:

(i) At least quarterly during operation; and

(ii) Prior to operation after a prolonged shutdown.

(2) Ensure that the airflow is adequate:

(i) At least quarterly during operation; and (

ii) Prior to operation after a prolonged shutdown.

(3) Periodically inspect all dipping and coating equipment, including covers, drains, overflow piping, and electrical and fire-extinguishing systems, and promptly correct any deficiencies;

(4) Provide mechanical ventilation or respirators (selected and used as specified in § 1910.134, OSHA's Respiratory Protection standard) to protect employees in the vapor area from exposure to toxic substances released during welding, burning, or open-flame work; and

(5) Have dip tanks thoroughly cleaned of solvents and vapors before permitting welding, burning, or open-flame work on them.

§ 1910.125 Additional requirements for dipping and coating operations that use flammable or combustible liquids.

If you use flammable or combustible liquids, you must comply with the requirements of this section as well as the requirements of sections 1910.123, 1910.124, and 1910.126, as applicable.

You must comply with this section if:	And:
• The flashpoint of the flammable or combustible liquid is 200° F (93.3° C) or above ...	• The liquid is heated as part of the operation; or • A heated object is placed in the liquid.

(a) What type of construction material must be used in making my dip tank? Your dip tank must be made of noncombustible material.

(b) When must I provide overflow piping? (1) You must provide properly trapped overflow piping that discharges to a safe location for any dip tank having:

(i) A capacity greater than 150 gallons (568 L); or

(ii) A liquid surface area greater than 10 feet^2 (0.95 m^2).

(2) You must also ensure that:

(i) Any overflow piping is at least 3 inches (7.6 cm) in diameter and has sufficient capacity to prevent the dip tank from overflowing;

(ii) Piping connections on drains and overflow pipes allow ready access to the interior of the pipe for inspection and cleaning; and

(iii) The bottom of the overflow connection is at least 6 inches (15.2 cm) below the top of the dip tank.

(c) When must I provide a bottom drain? (1) You must provide a bottom drain for dip tanks that contain more than 500 gallons (1893 L) of liquid, unless:

(i) The dip tank is equipped with an automatic closing cover meeting the requirements of paragraph (f)(3) of this section; or

(ii) The viscosity of the liquid at normal atmospheric temperature does not allow the liquid to flow or be pumped easily.

(2) You must ensure that the bottom drain required by this section:

(i) Will empty the dip tank during a fire;

(ii) Is properly trapped;

(iii) Has pipes that permit the dip tank's contents to be removed within five minutes after a fire begins; and

(iv) Discharges to a safe location.

(3) Any bottom drain you provide must be capable of manual and automatic operation, and manual operation must be from a safe and accessible location.

(4) You must ensure that automatic pumps are used when gravity flow from the bottom drain is impractical.

(d) When must my conveyor system shut down automatically? If your conveyor system is used with a dip tank, the system must shut down automatically:

(1) If there is a fire; or

(2) If the ventilation rate drops below what is required by paragraph (b) of § 1910.124.

(e) What ignition and fuel sources must be controlled? (1) In each vapor area and any adjacent area, you must ensure that:

(i) All electrical wiring and equipment conform to the applicable hazardous (classified)-area requirements of subpart S of this part (except as specifically permitted in paragraph (g) of § 1910.126); and

(ii) There are no flames, spark-producing devices, or other surfaces that are hot enough to ignite vapors.

(2) You must ensure that any portable container used to add liquid to the tank is electrically bonded to the dip tank and positively grounded to prevent static electrical sparks or arcs.

(3) You must ensure that a heating system that is used in a drying operation and could cause ignition:

(i) Is installed in accordance with NFPA 86A–1969, Standard for Ovens and Furnaces (which is incorporated by reference in § 1910.6 of this part);

(ii) Has adequate mechanical ventilation that operates before and during the drying operation; and

(iii) Shuts down automatically if any ventilating fan fails to maintain adequate ventilation.

(4) You also must ensure that:

(i) All vapor areas are free of combustible debris and as free as practicable of combustible stock;

(ii) Rags and other material contaminated with liquids from dipping or coating operations are placed in approved waste cans immediately after use; and

(iii) Waste can contents are properly disposed of at the end of each shift.

(5) You must prohibit smoking in a vapor area and must post a readily visible "No Smoking" sign near each dip tank.

(f) What fire protection must I provide? (1) You must provide the fire protection required by this paragraph (f) for:

(i) Any dip tank having a capacity of at least 150 gallons (568 L) or a liquid surface area of at least 4 feet^2 (0.38 m^1); and

(ii) Any hardening or tempering tank having a capacity of at least 500 gallons (1893 L) or a liquid surface area of at least 25 feet^2 (2.37 m^2).

(2) For every vapor area, you must provide:

(i) Manual fire extinguishers that are suitable for flammable and combustible liquid fires and that conform to the requirements of § 1910.157; and

(ii) An automatic fire-extinguishing system that conforms to the requirements of subpart L of this part.

(3) You may substitute a cover that is closed by an approved automatic device for the automatic fire-extinguishing system if the cover:

(i) Can also be activated manually;

(ii) Is noncombustible or tin-clad, with the enclosing metal applied with locked joints; and

(iii) Is kept closed when the dip tank is not in use.

(g) To what temperature may I heat a liquid in a dip tank? You must maintain the temperature of the liquid in a dip tank:

(1) Below the liquid's boiling point; and

(2) At least 100° F (37.8° C) below the liquid's autoignition temperature.

§ 1910.126 Additional requirements for special dipping and coating operations.

In addition to the requirements in §§ 1910.123 through 1910.125, you must comply with any requirement in this section that applies to your operation.

(a) What additional requirements apply to hardening or tempering tanks?

(1) You must ensure that hardening or tempering tanks:

(i) Are located as far as practicable from furnaces;

(ii) Are on noncombustible flooring; and

(iii) Have noncombustible hoods and vents (or equivalent devices) for venting to the outside. For this purpose, vent ducts must be treated as flues and kept away from combustible materials, particularly roofs.

(2) You must equip each tank with an alarm that will sound if the temperature of the liquid comes within 50° F (10° C) of its flashpoint (the alarm set point).

(3) When practicable, you must also provide each tank with a limit switch to shut down the conveyor supplying work to the tank.

(4) If the temperature of the liquid can exceed the alarm set point, you must equip the tank with a circulating cooling system.

(5) If the tank has a bottom drain, the bottom drain may be combined with the oil-circulating system.

(6) You must not use air under pressure when you fill the dip tank or agitate the liquid in the dip tank.

(b) What additional requirements apply to flow coating? (1) You must use a direct low-pressure pumping system or a 10-gallon (38 L) or smaller gravity tank to supply the paint for flow coating. In case of fire, an approved heat-actuated device must shut down the pumping system.

(2) You must ensure that the piping is substantial and rigidly supported.

(c) What additional requirements apply to roll coating, roll spreading, or roll impregnating?

When these operations use a flammable or combustible liquid that has a flashpoint below 140° F (60° C), you must prevent sparking of static electricity by:

(1) Bonding and grounding all metallic parts (including rotating parts) and installing static collectors; or

(2) Maintaining a conductive atmosphere (for example, one with a high relative humidity) in the vapor area.

(d) What additional requirements apply to vapor degreasing tanks? (1) You must ensure that the condenser or vapor-level thermostat keeps the vapor level at least 36 inches (91 cm) or one-half the tank width, whichever is less,

below the top of the vapor degreasing tank.

(2) When you use gas as a fuel to heat the tank liquid, you must prevent solvent vapors from entering the air-fuel mixture. To do this, you must make the combustion chamber airtight (except for the flue opening).

(3) The flue must be made of corrosion-resistant material, and it must extend to the outside. You must install a draft diverter if mechanical exhaust is used on the flue.

(4) You must not allow the temperature of the heating element to cause a solvent or mixture to decompose or to generate an excessive amount of vapor.

(e) What additional requirements apply to cyanide tanks? You must ensure that cyanide tanks have a dike or other safeguard to prevent cyanide from mixing with an acid if a dip tank fails.

(f) What additional requirements apply to spray cleaning tanks and spray degreasing tanks? If you spray a liquid in the air over an open-surface cleaning or degreasing tank, you must control the spraying to the extent feasible by:

(1) Enclosing the spraying operation; and

(2) Using mechanical ventilation to provide enough inward air velocity to prevent the spray from leaving the vapor area.

(g) What additional requirements apply to electrostatic paint detearing? (1) You must use only approved electrostatic equipment in paint-detearing operations. Electrodes in such equipment must be substantial, rigidly supported, permanently located, and effectively insulated from ground by nonporous, noncombustible, clean, dry insulators.

(2) You must use conveyors to support any goods being paint deteared.

(3) You must ensure that goods being electrostatically deteared are not manually handled.

(4) Between goods being electrostatically deteared and the electrodes or conductors of the electrostatic equipment, you must maintain a minimum distance of twice the sparking distance. This minimum distance must be displayed conspicuously on a sign located near the equipment.

(5) You must ensure that the electrostatic equipment has automatic controls that immediately disconnect the power supply to the high-voltage transformer and signal the operator if:

(i) Ventilation or the conveyors fail to operate;

(ii) A ground (or imminent ground) occurs anywhere in the high-voltage system; or

(iii) Goods being electrostatically deteared come within twice the sparking distance of the electrodes or conductors of the equipment.

(6) You must use fences, rails, or guards, made of conducting material and adequately grounded, to separate paint-detearing operations from storage areas and from personnel.

(7) To protect paint-detearing operations from fire, you must have in place:

(i) Automatic sprinklers; or

(ii) An automatic fire-extinguishing system conforming to the requirements of subpart L of this part.

(8) To collect paint deposits, you must:

(i) Provide drip plates and screens; and

(ii) Clean these plates and screens in a safe location.

[FR Doc. 99–6824 Filed 3–22–99; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA48

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment Procedures

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule modifies the TRICARE Prime enrollment procedures for active duty families by specifying that enrollment will be automatically renewed upon the expiration of the annual enrollment period, unless the renewal is declined. It also allows for monthly installment payments of enrollment fees via allotment or electronic funds transfer for those beneficiaries required to pay an annual TRICARE Prime enrollment fee.

EFFECTIVE DATE: April 22, 1999.

ADDRESSES: TRICARE Management Activity, Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Kathleen Larkin, Office of the Assistant Secretary of Defense (Health Affairs)/ TRICARE Management Activity, telephone (703) 681–1745.

SUPPLEMENTARY INFORMATION:

Introduction and Background

A. Congressional Action

This final rule implements section 712 of the FY 1999 National Defense Authorization Act, which modified 10 U.S.C. 1097a to provide for automatic renewal of TRICARE Prime enrollments and additional payment options for retirees.

B. Public Comments

The proposed rule was published in the **Federal Register** on July 7, 1998 (63 FR 36651). We received no public comments.

II. Provisions of the Rule

1. TRICARE Prime Enrollment Renewals (revision to section 199.17(o)(2))

Provisions of the Proposed Rule

This paragraph explained that we proposed a change to the TRICARE Prime enrollment period from a 12-month enrollment period to continuous enrollment until such time as the enrollee opted to disenroll from TRICARE Prime. TRICARE Prime was originally designed so that enrollees would be required to take positive action to continue their enrollment in TRICARE Prime at or before their 12-month anniversary date. Positive action to reenroll was required because TRICARE implementation was not available in all regions of the country and overseas locations. Subsequent to our notice of proposed rulemaking, section 712 of the FY 1999 National Defense Authorization Act modified 10 U.S.C. 1097a to require annual enrollment periods but required that TRICARE Prime enrollment be automatically renewed upon the expiration of the enrollment unless the renewal is declined. The Act also requires that the enrollee, or the sponsor in the case of an enrolled family member, be notified in writing no later than 15 days before the enrollment expiration date and afforded the opportunity to decline enrollment.

Provisions of the Final Rule

The final rule has been modified to implement the statutory direction given in the FY 1999 National Defense Authorization Act.

2. Changes to Installment Payments of Enrollment Fees (revision to section 199.17(o)(3))

Provisions of the Proposed Rule

When we first instituted the requirement for annual TRICARE Prime enrollment fees for certain beneficiary categories, we allowed for quarterly installment payments of the enrollment fees. In keeping with the nature of a more continuous enrollment process, we proposed that retirees, their families, and other beneficiaries required to pay an annual enrollment fee would be

offered additional flexibility in fee payment by allowing for monthly or quarterly installment payments of enrollment fees. Subsequent to our notice of proposed rulemaking, section 712 of the FY 1999 National Defense Authorization Act modified 10 U.S.C. 1097a to expand payment options to include monthly payment of enrollment fees via an allotment from retired or retainer pay, or monthly payment via electronic funds transfer from a financial institution.

Provisions of the Final Rule

The final rule has been modified to implement the statutory direction given in the FY 1999 National Defense Authorization Act.

III. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

The final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Individuals and disabilities, Military personnel, Reporting and recordkeeping requirements.

Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. Chapter 55.

2. Section 199.17 is amended by revising paragraphs (o)(2) and (o)(3), redesignating paragraphs (o)(4) and (o)(5) and (o)(5) and (o)(6), and adding new paragraph (o)(4), to read as follows:

§ 199.17 TRICARE Program.

* * * * *

(o) * * *

(2) *Enrollment period.* Beneficiaries who select the TRICARE Prime option remain enrolled for 12 month increments until: they take action to disenroll; they are no longer eligible for enrollment in TRICARE Prime; or they are disenrolled for failure to pay required enrollment fees. For those who remain eligible for TRICAREPrime enrollment, no later than 15 days before the expiration date of an enrollment, the sponsor will be sent a written notification of the pending expiration and renewal of the TRICARE Prime enrollment. TRICARE Prime enrollments shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined by the sponsor. Termination of enrollment for failure to pay enrollment fees is addressed in paragraph (o)(3) of this section.

(3) *Installment payments of enrollment fee.* The enrollment fee required by § 199.18(c) may be paid in monthly or quarterly installments. Monthly fees may be payable by an allotment from retired or retainer pay, or paid from a financial institution through an electronic transfer of funds. For beneficiaries paying enrollment fees on an installment basis, failure to make a required installment payment on a timely basis [including a grace period, as determined by the Assistant Secretary of Defense (Health Affairs)] will result in termination of the beneficiary's enrollment in Prime and disqualification from future enrollment in Prime for a period of one year.

(4) *Voluntary disenrollment.* Any beneficiary for whom enrollment in Prime is voluntary may disenroll at any time. Disenrollment will take effect in accordance with administrative procedures established by the Assistant Secretary of Defense (Health Affairs). Beneficiaries who disenroll prior to their annual enrollment renewal date will not be eligible to reenroll in Prime for a one-year period from the effective date of the disenrollment. This one year exclusion may be waived by the Assistant Secretary of Defense (Health Affairs) based on extraordinary circumstances.

* * * * *

Dated: March 17, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–7034 Filed 3–22–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–010]

RIN 2115–AE46

Special Local Regulations for Marine Events; Western Branch, Elizabeth River, Portsmouth, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the Crawford Bay Crew Classic to be held on the waters of the Western Branch, Elizabeth River, Portsmouth, Virginia. These regulations are needed to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectator craft, and other vessels transiting the event area. This action is intended to enhance the safety of life and property during the event.

EFFECTIVE DATES: This temporary final rule is effective from 11 a.m. to 6 p.m. on March 26, 1999, and from 6:30 a.m. to 6 p.m. on March 27, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Allen Walther, Marine Events Coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Boulevard, Portsmouth, Virginia, 23703, telephone number (757) 483–8521.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Publishing a notice of proposed rulemaking and delaying the effective date would be contrary to the public interest because immediate action is needed to protect event participants, spectator craft, and transient vessel traffic.

Background and Purpose

Port Events, Inc., will hold the "Crawford Bay Crew Classic" on the waters of the Western Branch, Elizabeth River. The event will consist of intercollegiate crew competition along a 2000-meter course. A large fleet of spectator vessels is anticipated. Because of the need for vessel control during the crew competition, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators, and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Western Branch, Elizabeth River. The regulations will be in effect from 11 a.m. to 6 p.m. on March 26, 1999, and from 6:30 a.m. to 6 p.m. on March 27, 1999, and will restrict general navigation in the regulated areas during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the crew competition to enhance the safety of participants, spectators, and transiting vessels.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under the order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the facts that the regulated area will only be in effect for a limited amount of time and that the Coast Guard Patrol Commander will allow vessel transits through the regulated area during times that the race participants are not competing.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the event not lasting long, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no Collection-of-Information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary section, § 100.35–T05–010, is added to read as follows:

§ 100.35–T05–010 Western Branch, Elizabeth River, Portsmouth, Virginia.

(a) *Definitions*—(1) *Regulated Area.* The waters of the Western Branch, Elizabeth River, bounded by a line connecting the following points:

Latitude	Longitude
36°50.3′ North	076°23.1′ West, to
36°50.3′ North	076°21.7′ West, to
36°50.2′ North	076°21.7′ West, to
36°50.2′ North	076°23.1′ West, to
36°50.3′ North	076°23.1′ West

All coordinates refer to Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

(b) *Special Local Regulations*—(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by an official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective Dates.* The regulated area is effective from 11 a.m. to 6 p.m. on March 26, 1999, and from 6:30 a.m. to 6 p.m. on March 27, 1999.

Dated: March 3, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–7093 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–011]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations at 33 CFR 100.511 during the 20th Annual Seminar on Safety at Sea, a marine event to be held March 27, 1999, on Spa Creek and the Severn River at Annapolis, Maryland. These special local regulations are necessary to control vessel traffic in the vicinity of the U.S. Naval Academy because of the confined nature of the waterway and expected vessel congestion during the pyrotechnic display and helicopter-rescue demonstration. The effect will be to restrict general navigation in the regulated area for the safety of spectators, event participants, and other vessels transiting the event area.

EFFECTIVE DATE: 33 CFR 100.511 is effective from 11:30 a.m. to 3 p.m. on March 27, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. L. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, (410) 576–2674..

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy Sailing Squadron will

sponsor the 20th Annual Seminar on Safety at Sea on the Severn River, near the U.S. Naval Academy, Annapolis, Maryland. Waterborne activities will include demonstrations of life rafts, pyrotechnics, man-overboard procedures, and a helicopter rescue. To ensure the safety of participants and transiting vessels, 33 CFR 100.511 will be in effect for the duration of the event. Under provisions of 33 CFR 100.511, no vessel may enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area, but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: March 3, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–7094 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05–99–009]

RIM 2115–AA97

Safety Zone: Chesapeake Bay, Patapsco River, Inner Harbor, Baltimore, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone during the movement of the schooner Lady Maryland upon the waters of the Inner Harbor, Baltimore, MD. This safety zone is necessary to protect the safety of life and property of the participants, spectators and mariners on U.S. navigable waters during the effective dates.

EFFECTIVE DATES: This regulation will be effective from 12:30 p.m. to 2:30 p.m. March 27, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. Houck, Marine Event Coordinator, Activities Baltimore, 2401 Hawkins Point Rd., Baltimore, Maryland, 21226–1791, telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this rule and good cause exists for making it effective less than 30 days after **Federal Register** publication. The application for this event was not received until February 2, 1999. There was not sufficient time to publish a proposed rule in advance of the event. Publishing an NPRM and delaying its effective date would be contrary to the public interest because immediate action is needed to prevent a serious threat to spectators and vessels transiting in the vicinity.

Discussion of Regulation

The Living Classrooms Foundation will provide the schooner Lady Maryland for a mock gun battle as part of a promotional filming in the Inner Harbor for the Arts and Entertainment (A&E) Network on March 27, 1999. The Coast Guard is establishing a temporary safety zone 300 yards ahead and astern of, and 300 yards to port and starboard side of, the schooner Lady Maryland. A Coast Guard patrol commander will be assigned to control spectator and commercial vessels during this event. This safety zone is effective from 12:30 p.m. to 2:30 p.m. March 27, 1999. The Captain of the Port will notify the public of changes in the status of the zone by Marine Safety Radio Broadcast. Entry into this zone is prohibited unless authorized by the Captain of the Port.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 F.R. 11040; February 26, 1979). This temporary rule affects only a limited area outside of the main shipping channels. Therefore, the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this temporary rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Regulations establishing safety zones are excluded under that authority.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–6, and 160.5; and 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. A temporary § 165.T05–009 is added to read as follows:

§ 165.T05–009 Safety Zone: Patapsco River, Inner Harbor, Baltimore, Maryland.

(a) *Location.* The following area is a safety zone: All waters of the Inner Harbor, adjacent to Hawkins Point Shoal, enclosed within an area approximately 300 yards ahead and astern of, and 300 yards to port and starboard of, the schooner Lady Maryland.

(b) *Definitions.* (1) Captain of the Port (COTP) means the Commanding Officer of Coast Guard Activities Baltimore or any commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations.* (1) In accordance with the general requirements in section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(2) Persons or vessels wishing to enter or pass through the safety zone must first request authorization from the COTP or designated representative. Coast Guard patrol vessels enforcing the safety zone can be contacted on VHF–FM Marine Band Radio, channel 16. The Captain of the Port can be contacted at telephone number (410) 576–2693.

(3) The Captain of the Port will notify the public of any changes in the status of this zone by a Marine Safety Radio

Broadcast on VHF–FM Marine Band Radio, channel 22 (157.1 MHz).

(d) *Effective dates:* This regulation is effective from 12:30 p.m. to 2:30 p.m. March 27, 1999.

Dated: March 4, 1999.

C.L. Miller,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 99–7092 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans

CFR Correction

In Title 40 of the Code of Federal Regulations, part 52 (§§ 52.01 to 52.1018), revised as of July 1, 1998, page 106, § 52.220 is corrected by adding paragraph (c)(21)(vi)(B) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(vi) * * *

(B) Previously approved on May 11, 1977 and now deleted without replacement Rule 41.

* * * * *

[FR Doc. 99–55511 Filed 3–22–99; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 41

[CC Docket No. 98–119, FCC 98–344]

1998 Biennial Regulatory Review—Elimination of Rules Concerning Telegraph and Telephone Franks

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission released a Report and Order which eliminated the rules governing the issuance of franks and certain reports by communications common carriers. The elimination of this rule does not restrict privileges that are statutorily recognized, and will not affect other obligations imposed by the Communications Act, or confer any additional pricing flexibility on dominant or other carriers.

DATES EFFECTIVE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, Deputy Chief of the Industry Analysis Division, Common Carrier Bureau, at (202) 418–0952.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking in this proceeding was released July 21, 1998. See 63 FR 41757, published August 5, 1998. This is a compendium of the Commission's Report and Order, CC Docket 98–119, adopted December 22, 1998, and released February 3, 1999, pursuant to our 1998 Biennial Review of Regulations as required by Section 11(b) of the Communications Act of 1934, as amended, 47 U.S.C. 161(b). The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington. DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036.

List of Subjects in 47 CFR Part 41

Telegraph and telephone franks.

Rule Change

PART 41—[REMOVED]

Accordingly, under the authority of Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 210, 48 Stat. 1073, as amended (47 U.S.C. 210), Title 47 CFR chapter 1 is amended by removing part 41.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7059 Filed 3–22–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

49 CFR Part 1420

[Docket No. BTS–98–4659]

RIN 2139–AA05

Revision to Reporting Requirements for Motor Carriers of Property and Household Goods

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Final rule.

SUMMARY: The ICC Termination Act of 1995 transferred the motor carrier financial and operating data collection program to the Department of Transportation and made several changes to it. This final rule revises the data collection forms and reduces the reporting requirements. Class I and Class II motor carriers of property are now required to file a revised annual report form called Form M. Class I carriers are also required to file quarterly report Form QFR, which has been substantially reduced. The rules also adopt a system whereby motor carriers can request exemptions from filing and from public release of their reported data.

DATES: This final rule is effective on April 22, 1999.

FOR FURTHER INFORMATION CONTACT: David Mednick, K–2, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–8871; fax: (202) 366–3640; e-mail: david.mednick@bts.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You can examine all comments that were submitted to the Rules Docket concerning this rulemaking at: Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Internet users can access the comments at the address: http://dms.dot.gov. Search for Docket Number 4659. Please follow the instructions online for more information and help.

You can download an electronic copy of this document using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. If you have access to the Internet, you can obtain an electronic copy at http://www.bts.gov/mcs/rulemaking.htm.

II. Copies of the Revised Report Forms

If you have Internet access, you can view and download copies of the revised Form M and Form QFR at www.bts.gov/mcs/rulemaking.htm. You can also obtain copies by calling BTS at (202) 366–4383. Carriers required to file report will receive a full information package, including the revised report forms.

III. Regulatory History

On November 3, 1998, the Bureau of Transportation Statistics (BTS) published a Notice of Proposed Rulemaking (NPRM) which proposed rules for revising the data collected from Class I and II motor carriers of property and household goods (63 FR 59263). It also proposed a system for carriers to request exemptions from filing reports and exemptions from public release of their reported data. On November 25, 1998, BTS published a notice extending

the comment period until January 15, 1999 (63 FR 65163). BTS is publishing a Supplemental Notice of Proposed Rulemaking (SNPRM) on a related topic in this issue of the **Federal Register**. For more information about the authority and background to this rulemaking, please refer to the NPRM.

IV. Background

The U.S. government has collected information on motor carriers for much of this century, even after the industry was greatly deregulated. The government and others have used these data in a number of ways and for a number of purposes. The data collection rules were last reviewed and modified by the Interstate Commerce Commission (ICC) in 1994. Under the data collection program now in place, motor carriers of property are classified based on revenue. Class I carriers are those with annual operating revenues of $10 million or more, and they file annual report Form M–1 and quarterly report Form QFR. Class II carriers have annual operating revenues between $3 and $10 million, file a simpler annual report, Form M–2, and do not file a quarterly report. Class III carriers have annual operating revenues of less than $3 million and are not required to file any periodic financial reports. Unless otherwise prohibited by law, individual carrier reports are made available to the public.

Since the last change in 1994, the ICC Termination Act of 1995 (the ICCTA) made several changes to the ICC's data collection program and transferred it to the Department of Transportation (DOT). Similar to the legislation replaced by the ICCTA, then codified at 49 U.S.C. 11145, the ICCTA requires DOT to collect certain data from motor carriers of property and motor carriers of passengers:

> The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

The former 49 U.S.C. 11145 did not explicitly charge the ICC to collect information relevant to safety and did not specify minimum data to be collected. The ICCTA also allows DOT to collect certain other data as needed:

> The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

The ICCTA specifies the criteria to be used in designing the reporting program. DOT must consider: (1) Safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. In the ICCTA, Congress explicitly called on DOT to "streamline and simplify" these reporting requirements to the maximum extent practicable.

Unlike the former 49 U.S.C. 11145, the ICCTA authorizes two types of exemptions from the reporting requirements. Each exemption is based on certain criteria and is granted for a three-year period. The first is an exemption from filing report forms. The requestor "must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available." The second is an exemption from public release of data reported by the carrier. Similar to the other exemption, the requestor must demonstrate that "the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5." Further, for the latter exemption the requestor must not be a publicly held corporation or must not be subject to financial reporting requirements of the Securities and Exchange Commission.

In light of the ICCTA, we (BTS) believe it is necessary for us to weigh the continuing need for gathering accurate and consistent data against the burden the reporting requirements place on carriers who must comply with them. On November 3, 1998, BTS issued a Notice of Proposed Rulemaking (NPRM), which proposed changes to the annual and quarterly data collection forms and proposed procedures for carriers to request exemptions from filing and from public release of their reports. We sought comments concerning the use of the data we collect, why we should or should not continue to collect those data, and what procedures we should have for carriers that believe data in their report contain confidential business information. In response, 21 organizations and individuals submitted comments. The comments came from organizations in three broad groups—respondents (motor carriers and trade associations), data analysts, and other data users.

V. General Summary of the Comments

Some commenters (mostly trucking companies) advocate reducing or eliminating the reporting requirement. They argue that carrier reports represent an unwarranted intrusion into their privacy by allowing competitors to see their financial statements and are unnecessary because the reports are not used for any regulatory purpose. That is, while none of the commenters suggested the burden of completing the proposed forms was significant, some wished to protect data they consider to be confidential. Other commenters (including some representing carriers and carrier associations) felt the proposal struck the right balance between the needs of respondents and the needs of data users. A third group requested that more data be collected because the proposed reduction meant a loss in the utility of the data.

The comments we received confirm that carrier data are used and needed by a diversity of parties and that some of these uses require access to individual carrier data. They are used by private entities and governmental bodies to track the performance of the motor carrier industry and subgroups within it. Some representatives and associations of insurance companies state that knowledge of the financial condition, type of commodities hauled, and equipment of the carriers is essential to their underwriting operations. The data collected helps users review the financial status of Class I and Class II motor carriers to evaluate potential safety risks for particular firms and to define the aggregate relationship between financial conditions and safety. Information plays a role in analyzing various aspects of the motor carrier industry such as safety, productivity, and its role in the economy. Carriers use the information to benchmark their performance in order to strive for continuous improvement and efficiency.

After considering arguments on both sides of these issues, we conclude that we should go forward with the proposed annual and quarterly report forms with relatively minor modifications. We also conclude that the proposed procedures for handling requests for confidentiality and for exemptions from filing should be modified to clarify the standards that will be used, improve the process for all involved, and provide stronger assurances that firms will not be competitively harmed.

VI. The Report Forms

For BTS, the basic purposes of the data collection program are: (1) to provide the data DOT needs to fulfill its

responsibilities in overseeing the motor carrier industry; and (2) to help BTS fulfill its own statutory mandate to provide information on all modes of transportation for decision makers in the public and private sectors. We recognize that BTS and others in DOT have not made much direct use of individual carrier data. Rather, we have relied on summary data to better understand the industry. Under BTS's general statutory mandate (49 U.S.C. 111) and under the ICCTA, BTS is required to consider not only the Department of Transportation's information needs but also how information is used by others, including those in the private sector. Thus it is relevant that data collected may help third parties, such as motor carriers, insurance companies, and researchers, do their jobs. Given the ICCTA's safety emphasis, we must also give weight to third party use of the data to enhance safety, a use cited in comments by labor unions, representatives and associations of insurance companies, and university researchers. Collecting only bottom-line balance sheet and income statement data, as some commenters favor, would not be useful for analyzing industry and carrier safety. Conversely, providing the scope and detail of data desired by all users would fail to streamline and simplify the reporting requirements. Therefore, BTS has retained data items of critical importance and eliminated those that are now of more limited value. The revisions to the report forms represent a balance between the interest in reducing burden and the interest in providing important safety and economic data concerning the trucking industry.

The Annual Form

While some commenters endorsed the proposed forms, others suggested specific changes. Those supporting a reduction in proposed Form M wanted something approaching the minimum data requirements identified in the ICCTA—basic balance sheets and income statements. Those supporting expanding proposed Form M requested: (1) Greater detail on payables, receivables, and debt; (2) additional expense detail; (3) employment, compensation, and benefits data; (4) operating statistics with detail by industry segments; and (5) expanding the list of revenue commodity groups. The U.S. Department of Commerce's Bureau of Economic Analysis (BEA) has requested that BTS retain the following data contained in the proposed form: (1) The operating revenue section; (2) the operating supplies and expenses section; (3) most of the data items listed under miscellaneous expenses; (4) miles, tons, and ton-miles; and (5) the revenue equipment section. They use the data in preparing the national accounts of the United States economy.

In light of these comments, we will make some changes to the annual form we proposed. The resulting new form will still greatly reduce the amount of data currently collected. Most of the changes being made to the proposed Form M are technical changes to data items that will not add to reporting burden. These changes will make reporting more consistent with carriers' internal systems and therefore easier. The substantive changes being made to the proposed Form M are: (1) Expanding the Revenue Commodity Group table to include more freight types; (2) removing detail on Carrier Operating Property; (3) splitting Freight Operating Revenue into two categories—Intercity and Other; (4) increasing the categories for wages in the Wages and Salaries section from two to four; (5) adding separate line items for Interest Expenses and Extraordinary Items to the Net Income section; (6) dividing the Operating Statistics section into Less than Truckload and Truckload for general freight carriers; (7) adding a section on Employment and Compensation; and (8) adding a column for Cost of Units Acquired to the Revenue Equipment section. Except for the last, each of these substantive additions is an item already reported on both the current Form M–1 and Form M–2. Many of the changes are being made to provide categories that are consistent with motor carrier accounting systems and prior data collections, and will permit the kinds of distinctions and analyses needed for safety and other purposes. The employment data, containing the minimum amount of detail needed for most analyses, are being added in response to commenters who noted the importance of this information, particularly to analysis regarding driver shortage and driver hours of service issues.

The revised Form M will have only five schedules (balance sheet, income statement, operating information, revenue equipment, and employment information) and will require little time to complete. The creation of a Form M will result in a significant reduction in reporting burden for Class I carriers, while continuing to provide key information on their operations. In fact, we estimate that it should take no more than 10 hours annually to prepare Form M, compared to 25 hours for Form M–1. Although the burden will remain the same for Class II carriers, the ICC greatly reduced Class II reporting burden in 1994 with the introduction of the current M–2.

The Quarterly Form

Commenters representing the motor carrier industry disagreed about whether to eliminate the quarterly reporting requirement, keep the requirement as proposed, or expand on the proposal. All data analysts and users supported keeping and/or expanding the quarterly report. Some commenters called for additional data based on the need for timely information to detect motor carrier financial difficulties, and therefore potential safety problems. One commenting carrier wanted quarterly data for benchmarking its operations. Suggested additions included collection of more detailed information on freight revenue and on non-operating income, and collection of operating information detailed by industry segment. BEA has requested that BTS retain quarterly collection of operating revenue and expenses for its quarterly Gross Domestic Product estimates.

We will retain Form QFR, albeit greatly reduced from its current size. As the pace of society quickens so does the need for more timely data. Yet, because of the burden filing four times a year represents, we have reduced the number of data items to a small fraction of what is currently collected. A half-dozen line items are being added to the proposed form, though the resulting survey will still be much shorter than the current QFR. The report will include net income and a small amount of operating information to keep the form consistent with the annual data collection. The basic quarterly information we will collect is described by commenters as being easy to compile since it is maintained for other internal purposes. Yet it will help users monitor emerging trends in the dynamic trucking industry and will enable carriers to benchmark their operations. The public will also be able to periodically monitor the strength and viability of carriers, particularly those experiencing financial difficulties.

Reporting Carriers

The current program collects data from only Class I and II carriers. This has been based on the assumption that data from the largest carriers represent an accurate indicator of the industry because these companies comprise such a large share of the industry revenue and traffic volume. We could reduce the universe of reporting carriers further still, as one commenter suggested, by changing the revenue limits of the classifications. However, this could seriously hamper BTS's function in providing data for understanding the

industry and monitoring its health. Therefore, BTS will retain the current classification definitions. One commenter called for an exemption from reporting for all privately held companies stating that the collected information is private and therefore confidential. Since the vast majority of carriers are privately held, we believe the data collection would be rendered meaningless and this would subvert the intent of the ICCTA.

VII. Confidentiality

Some commenters expressed concerns about the proposed procedures for handling requests for exemptions from filing and exemptions from the public release of data. A major concern was about the public release of individual carrier data. The commenters state that many carriers are privately held companies and that competitive harm could result from disclosing the information to third parties, particularly shippers or competing carriers. These commenters suggested changes to the proposal they believe would better protect carriers from potential competitive harm. First, BTS could restrict access to individual carrier data. Second, assuming individual carrier data are made publicly available, BTS could limit the data items it collects. Potential detrimental affects would be reduced if BTS collected fewer data items or less detailed data.

Other commenters, including some representing motor carriers, supported the proposed procedures for handling requests for exemptions from filing and public release of carrier reports. These commenters state that the data collected are of critical importance to understanding the motor carrier industry and to monitoring motor carrier safety. Therefore, the information is in the public interest and DOT should not withhold it from public release. They state that not only should the Department monitor the financial condition of each motor carrier in order to protect the public interest, but that the prompt release of the information will result in even closer scrutiny and a concomitant increase in the protection accorded the public.

Exemptions From Filing

Some commenters disagreed with BTS's proposal that exemptions from filing not be allowed since no competitive harm could result if reports are kept confidential. They pointed out that publicly held firms cannot request confidentiality protection. Furthermore, all carriers should have at least the option to request relief from the filing requirement as allowed by the ICCTA. Unlike exemptions from public release, notice and comment are not necessary with an exemption from filing, plus the carrier would be relieved of submitting reports.

BTS will allow carriers to request exemptions from filing based on confidential business information. As required by the ICCTA, the carrier will need to "demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available." As discussed below, this is the same standard as for Exemption Four of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)). BTS notes that while it will consider all requests, it will be difficult for a carrier to meet the minimum showing. A privately held carrier that meets the requirements would also be eligible for confidentiality protection and the availability of this option would likely render moot any claim for further competitive harm requiring an exemption from filing. For a publicly held carrier, most of the reported information would likely be publicly available through other channels. Nonetheless, BTS will consider requests for exemptions from filing.

Exemptions From Public Release

Regarding the procedures for requesting confidentiality, a number of changes were suggested. The comments were that: (1) BTS should publish a notice indicating its decisions; (2) parties wishing to comment on requests should have access to the request; (3) reports should be held confidential while a request is pending; (4) requests should be allowed within a reasonable time after a report's deadline; (5) requests should be allowed anytime, regardless of the report due date; (6) BTS should decide the requests individually instead of en-masse; and (7) if a request is granted the confidentiality period should last three years.

Based on these comments, BTS will use the following revised procedure. A carrier may request that its annual report be exempt from public release. If so, the carrier must submit a request that must be received by the annual report due date. This gives carriers flexibility in making their request. BTS, in response to comments received, will use as the received date either the date the request is physically received or the date it is postmarked. BTS will allow a late request if there are extenuating circumstances and the requesting carrier gives adequate notice within a reasonable time of the extenuating circumstances. To protect the data of potential requestors, all annual reports received by BTS will be withheld from public release from the time they are received until at least the annual report's due date, which is also the request's due date. Carriers making a request after the report's due date, except as discussed above, will not be able to later request confidentiality for the report. The report either would have already been submitted, and therefore already been available to the public, or the report should have been submitted but was not.

After the annual report's due date, BTS will continue to withhold from public release those reports from carriers that have requested confidentiality. BTS will publish a **Federal Register** notice inviting public comment on the requests. BTS plans to use the DOT Dockets Management System to facilitate access to the requests and comments received. BTS will decide each request within 90 days of the annual report's due date. After the 90-day period from the annual report's due date, BTS will continue to withhold from public release those reports receiving an exemption from public release. If an exemption is granted, the confidentiality period will last for three years, unless otherwise required by law.

If a carrier wishes to request confidentiality for quarterly reports, it must submit its request at the same time it submits its request covering the annual report. For example, to request confidentiality for any or all of the four 1999 Form QFRs, the request must be included with the petition covering the 1998 Form M. Both requests will be decided in the 90-day period and quarterly reports will be released neither before the request due date nor while there is a request pending. As noted subsequently, BTS is granting an extension for filing of the 1998 Form M and for the Form QFR for the first quarter of 1999.

One commenter, a motor carrier, wanted the 90-day decision period to begin not on the report due date but on the date the request was made. We point out that all carriers' reports will be withheld from public release up to the report's due date and any report for which there is a pending request will be withheld from public release until a decision is made. Furthermore, BTS will not decide the requests en-masse. Regardless of the decision date, each request will be decided individually since a request must be based on circumstances particular to a carrier and based on the explanation it provides. Thus, a carrier would not benefit if the decision period started before the report

due date. This system also gives carriers more leeway for submitting requests for confidentiality than the one the commenter advocates. Under the latter, a request would have to be made only before or simultaneously with filing of the carrier's report. But under the former, a request could be made anytime up to the report's due date, regardless of when the carrier files its report. Perhaps a carrier may wish to request confidentiality, and wait for the decision, before filing its report. However, regardless of when the decision is made and regardless of whether the request is granted or denied, the report is required under law by the due date.

Regarding the criteria for deciding requests, some commenters supported the proposed standard that a carrier should be required to explain the particular or unique circumstances that would show why its data should be treated differently than other carriers' data. Other commenters felt the proposed confidentiality standards were vague and asked BTS to further clarify them. One objected to the requirement that a carrier show specific evidence of competitive harm favoring instead having the carrier simply allege harm and show evidence that it does not customarily release the data. Another commenter wanted BTS to make a blanket determination that all privately held carriers meet the threshold for confidentiality protection since it is common knowledge that the information is sensitive and since public release would not be in the public interest.

The ICCTA's standard for withholding information from public release is the same as the standard contained in Exemption Four FOIA. Exemption four covers "trade secrets and commercial or financial information obtained from a person (that is) privileged or confidential." Since the standards are the same, BTS will follow FOIA law on the standard that must be met. Information is confidential under Exemption Four if disclosure would be likely to cause substantial harm to the competitive position of the person from whom the information was obtained or would impair a protectable government interest. To clarify the criteria and keep it closely in line with established FOIA law, BTS will change the wording of its proposal. BTS will require that a carrier provide information on (1) whether the information is confidential; (2) the measures taken by carrier to prevent disclosure; and (3) either how disclosure would cause competitive harm or how disclosure would impair a protectable government interest. Under this showing, a carrier must do more than make a "blanket" assertion or conclusory statement that it meets the standard for an exemption from public release. These more detailed rules are based on those issued by the Department of Transportation's National Highway Traffic Safety Administration. Those rules allow persons to request confidential treatment of data they submit to that agency and they have worked well for many years (see 49 CFR part 512).

VIII. Extension of Report Due Dates

Usually, the annual report covering 1998 (the 1998 Form M) would be due on March 31, 1999. Because of the revisions to regulations contained in this final rule, including changes to the forms, BTS is hereby extending that report's due date. The 1998 annual report must be filed on or before May 31, 1999. This will give carriers enough time to complete the forms. As soon as possible, BTS will send the revised Form M to carriers and make it available on its web site at: www.bts.gov/mcs/info.html. We note that very little has changed on the form, except to remove data items. Where changes have been made to a data item, it has usually been done to make it more consistent with carriers' internal systems and thus easier to complete.

A request for an exemption from filing (covering just the annual report or covering the annual report and the reports for the following quarters) must be received by the due date of the annual report. Therefore, a carrier submitting a request for an exemption from filing the 1998 Form M and/or the 1999 QFRs, must do so before May 31, 1999. Likewise, a request for an exemption from public release (covering just the annual report or covering the annual report and the reports for the following quarters) must be received by the due date of the annual report. Again, a request covering the 1998 Form M and/or the 1999 QFRs must therefore be received by May 31, 1999. The extension of the 1998 annual report due date will also affect the date that carrier reports are made publicly available under the new 49 CFR 1420.10.

The quarterly report for the first quarter of 1999 is normally due on April 30, 1999. Because of the revisions to regulations contained in this final rule, including changes to the Form QFR, BTS is hereby extending the due date for the first quarter of 1999. The report will also be due on May 31, 1999.

IX. Supplemental Notice of Proposed Rulemaking

Today, BTS is also publishing a Supplemental Notice of Proposed Rulemaking (SNPRM). This is being done to address an issue that was raised by some commenters but was not part of the NPRM. These commenters urged BTS not to release individual carrier data at all. They stated that there is no strong public interest in having the information made available to the public, or at least available to those that would use it for private purposes, such as competing carriers. Furthermore, they feel the information is commercially sensitive. This issue is outside of the scope of the NPRM, which only addressed procedures and criteria for individual carriers to request exemptions from filing and public release of data based on individual circumstances. It did not ask whether all or any data collected should be generally withheld because of the confidential nature of the data. The SNPRM proposes revised rules on confidentiality that are designed to minimize any potential detrimental affects of public access to individual carrier data to the extent possible under law. They do this by restricting access to individual carrier data for those data items that are most sensitive. For more information on the SNPRM, please refer to the Proposed Rules section in this issue of the **Federal Register**.

X. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore is not reviewed by the Office of Management and Budget.

This final rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). It would reduce industry reporting burden by 18,900 hours or 39 percent. BTS estimates that the annual cost of reporting to be just over $1.1 million for the industry. This breaks down to $456 per year for Class I carriers and $380 per year for Class II carriers. The estimate is based on reporting costs of $38 per hour including overhead.

The major beneficiaries of the data collection are the federal government, the motor carrier industry, industry associations, transportation investment analysts, transportation research analysts, and motor carrier safety analysts. The program provides data that are used in developing the national accounts and preparing the Gross

Domestic Product estimates, data for monitoring industry trends, and data useful to the public and private sectors regarding the operation and health of the trucking industry and individual carriers.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), BTS must consider whether a final rule would have a significant economic impact on a substantial number of small entities. The definition of "small business" is contained in the Small Business Administration's small business size standard regulations. For motor carriers of property, small businesses are those with annual receipts of up to $18.5 million. Under the current classification, there are about 2,800 reporting carriers of which an estimated 2,180 (or 78 percent) are small businesses (all Class II carriers and 31 percent of Class I carriers are classified as small businesses). The changes decrease reporting burden hours for Class I carriers by 64 percent. In addition, the changes do not impose any new regulatory requirements, directly or indirectly, on small entities. Therefore, BTS certifies this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

The Form M and Form QFR have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The control numbers for these information collections are OMB Numbers 2139–0002 and 2139–0004. Administration: Bureau of Transportation Statistics. Titles: Quarterly Report of Class I Motor Carriers of Property and Household Goods, Annual Report of Class I and Class II Motor Carriers of Property and Household Goods. Need for Information: information that are used in developing the national accounts and preparing the Gross Domestic Product estimates, data for monitoring industry trends, and data useful to the public and private sectors regarding the operation and health of the trucking industry and individual carriers. Frequency: Quarterly and Annually. Burden Estimate: 29,800 annual hours. Average Annual Burden Hours per Respondent: Class I carriers—12 annual hours, Class II carriers—10 annual hours. For further information contact: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Attention Desk Officer for the Bureau of Transportation Statistics or David Mednick at the address listed above under **FOR FURTHER INFORMATION CONTACT.**

Other Determinations

BTS has analyzed the this action for the purposes of the National Environmental Protection Act. It will not have a significant impact upon the quality of the human environment or the conservation of energy resources. Accordingly, an Environmental Impact Statement is not required. BTS has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and determined that the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule. Similarly, because this rule does not create an unfunded Federal mandate on state, local or tribal governments the requirements of section 1(a) of Executive Order 12875, Enhancing Intergovernmental Partnerships, do not apply to this rule. This final rule does not have potential takings implication under Executive Order 12630 because it does not authorize any takings. In accordance with Executive Order 12630, regarding Governmental Action and Interference with Constitutionally Protected Property Rights, BTS finds that this final rule implicates no takings, in that it does not propose or implement licensing, permitting, or other conditions, requirements, or limitations on private use, nor does it require dedications or exactions from owners of private property. BTS has reviewed this final rule in accordance with Executive Order 12988, Civil Justice Reform, and has determined that this rule meets the applicable standards provided in section 3(b) of the Executive Order. Nor does this rule require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139–AA05 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 1420

Motor carriers, Reporting and classification.

Accordingly, the Bureau of Transportation Statistics amends 49 CFR part 1420 Reports of Motor Carriers, as follows:

PART 1420—REPORTS OF MOTOR CARRIERS

1. The authority citation for part 1420 is revised to read as follows:

Authority: 49 U.S.C. 14123.

2. Section 1420.1 is revised to read as follows:

§ 1420.1 Annual reports of motor carriers of property, motor carriers of household goods, and dual property carriers.

(a) *Annual Report Form M.* All class I and class II common and contract carriers of property, including household goods and dual property motor carriers, must file Motor Carrier Annual Report Form M (Form M). Carriers must file the annual report on or before March 31 of the year following the year to which it relates. For classification criteria, see § 1420.2.

(b) *Quarterly Report Form QFR.* All class I common motor carriers of property and class I household goods motor carriers must file Motor Carrier Quarterly Report Form QFR (Form QFR). The quarterly accounting periods end on March 31, June 30, September 30, and December 31. The quarterly reports must be filed within 30 calendar days after the end of the reporting quarter.

(c) *Where to file reports.* Carriers must file the quarterly and annual reports with the Bureau of Transportation Statistics at the address in § 1420.6. You can obtain blank copies of the report forms from the Bureau of Transportation Statistics.

3. In § 1420.2, paragraph (a) remove the phrase "subject to the Interstate Commerce Act".

4. In § 1420.2, paragraph (b)(4) is revised to read as follows:

§ 1420.2 Classification of carriers—motor carriers of property, household goods carriers, and dual property carriers.

* * * * *

(b) * * *

(4) Carriers must notify the Bureau of Transportation Statistics (BTS) of any

change in classification or any change in annual operating revenues that would cause a change in classification. The carrier may request a waiver or an exception from these regulations in unusual or extenuating circumstances, where the classification process will unduly burden the carrier, such as partial liquidation or curtailment or elimination of contracted services. The request must be in writing, specifying the conditions justifying the waiver or exception. BTS will notify the carriers of any change in classification.

* * * * *

5. In § 1420.2(b)(5), remove the term "an Annual Report (Form M–1 or Form M–2)" and add "Annual Report Form M" in its place.

6. In § 1420.2, paragraph (c) is removed (Note A is unchanged).

7. Section 1420.8 is added to read as follows:

§ 1420.8 Requests for exemptions from filing.

(a) *In General.* This section governs requests for exemptions from filing of reports required under § 1420.1.

(b) *Criteria.* The Bureau of Transportation Statistics (BTS) may grant a request upon a proper showing that the exemption is necessary to preserve confidential business information that is not otherwise publicly available. Information is considered to be confidential when:

(1) Disclosure of the information in the carrier's report would be likely to cause substantial harm to the carrier's competitive position; or

(2) Disclosure of information in the report would be likely to impair protectable government interests.

(c) *Contents of a request.* The contents of a request for an exemption from filing must contain, at a minimum, the contents that are required for a request for an exemption from public release contained in § 1420.9(c). A carrier's request may include any other grounds as to why the request should be granted.

(d) *When requests are due.* The timing of a request for an exemption from filing is the same as the timing for a request for an exemption from public release contained in § 1420.9(d). The table below summarizes report and request due dates.

Report	Report due by	Request due by
Annual Form M	March 31	March 31
First Quarter Form QFR	April 30	March 31
Second Quarter Form QFR	July 31	March 31
Third Quarter Form QFR	October 31	March 31
Fourth Quarter Form QFR	January 31	March 31

(e) *Decision to grant or deny a request.*

(1) A request will be denied if it fails to provide all of the supporting information required in paragraph (c) of this section or if the supporting information is insufficient to establish that information in the carrier's report meets the criteria in paragraph (b) of this section.

(2) BTS will grant or deny each request within a reasonable period of time. BTS will notify the carrier of its decision. The decision by BTS shall be administratively final.

(f) *Pendency.* While a request is pending, the carrier is required to submit any reports required under § 1420.1.

(g) *Period of exemptions.* If a request for an exemption under this section is granted, the carrier will be exempt from the reporting requirements of § 1420.1 for a period of three reporting years.

(h) *Modification of a decision to grant a request.* If a request is granted it remains in effect in accordance with its terms, unless modified by a later finding that the decision was clearly erroneous. If BTS believes such a finding should be made, BTS will notify the requesting carrier in writing of the reasons for the modification. The carrier may seek reconsideration of the modification.

8. Section 1420.9 is added to read as follows:

§ 1420.9 Requests for exemptions from public release.

(a) *In General.* This section governs requests for exemptions from public release of reports filed under § 1420.1.

(b) *Criteria.* The Bureau of Transportation Statistics (BTS) will grant a request upon a proper showing that the carrier is not a publicly held corporation or that the carrier is not subject to financial reporting requirements of the Securities and Exchange Commission, and that the exemption is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as trade secret or privileged or confidential information under 5 U.S.C. 552(b)(4). Information is considered to be confidential when:

(1) Disclosure of the information in the carrier's report would be likely to cause substantial harm to the carrier's competitive position; or

(2) Disclosure of information in the report would be likely to impair protectable government interests.

(c) *Contents of a request.* A request for an exemption from public release must contain information supporting the claim. While the supporting information may contain opinions, the request must consist of objective data to the extent possible. General or nonspecific assertions or analysis will be insufficient to support a request if BTS is unable to find that the criteria are met. The supporting information must show:

(1) That the information claimed to be confidential is a trade secret, or commercial or financial information that is privileged or confidential.

(2) Measures taken by the carrier to ensure that the information has not been disclosed or otherwise made available to any person, company, or organization other then the carrier.

(3) Insofar as is known by the carrier, the extent to which the information has been disclosed, or otherwise become available, to persons other than the carrier, and why such disclosure or availability does not compromise the confidential nature of the information.

(4) If the carrier asserts that disclosure would be likely to result in substantial competitive harm, what the harmful effects of disclosure would be, why the effects should be viewed as substantial, and the causal relationship between the effects and disclosure.

(5) If the carrier asserts that disclosure would be likely to impair protectable government interests, what the effects of disclosure are likely to be and why disclosure is likely to impair such interests.

(d) *When requests are due.*

(1) Requests for an exemption under this section may be made at any time during the year. However, a request will be deemed applicable to only those reports due on or after the date the request is received. Requests received

after a report's due date will only be considered for the following year's report.

(2) A request will be deemed received on the date the request is physically received or, if it is sent by mail, on the date it is postmarked.

(3) BTS will only allow a late request if there are extenuating circumstances and the carrier gives adequate notice within a reasonable time of the extenuating circumstances.

(4) A carrier submitting a request relating to the annual report can also request that it cover the quarterly reports for the upcoming year. In this case BTS will decide both requests at the same time. Requests covering the quarterly reports must be received by the due date of the annual report which relates to the prior year. The table in paragraph (e) of this section summarizes report, request, and decision due dates.

(e) *Decision to grant or deny a request.*

(1) After each due date of each annual report specified in § 1420.1, BTS will publish a notice in the **Federal Register** requesting comments on any requests received under this section that are valid and pending.

(2) A request will be granted only if it provides all of the supporting information required in paragraph (c) of this section and if the supporting information is sufficient to establish that information in the carrier's report meets the criteria in paragraph (b) of this section.

(3) If the carrier fails to comply with the timing requirements of paragraph (d) of this section, the claim for confidentiality will be waived unless BTS is notified of extenuating circumstances before the information is disclosed to the public and BTS finds that the extenuating circumstances warrant consideration of the claim.

(4) BTS will grant or deny each request no later than 90 days after the request's due date as defined in paragraph (d) of this section. The decision by BTS shall be administratively final. The table below summarizes report, request, and decision due dates.

Report	Report due	Request due	Decision due
Annual Form M	March 31	March 31	June 30
First Quarter Form QFR	April 30	March 31	June 30
Second Quarter Form QFR	July 31	March 31	June 30
Third Quarter Form QFR	October 31	March 31	June 30
Fourth Quarter Form QFR	January 31	March 31	June 30

(5) If a request is granted, BTS will notify carrier of that decision and of any appropriate limitations.

(6) If a request for confidentiality is denied, BTS will notify the carrier of that decision and that the information will be made available to the public not less than ten working days after the carrier has received notice of the denial. The notice will specify the reasons for denying the request.

(f) *Pendency.* A request is deemed pending from the date it is received by BTS until it is granted or denied by BTS. BTS will not release publicly, unless otherwise required by law, any report for which a valid request for an exemption from public release is pending.

(g) *Period of exemptions.* If a request for an exemption under this section is granted, BTS will not publicly release the reports covered by the granted exemption, unless otherwise required by law, for a period of three years from the report's due date.

(h) *Modification of a decision to grant a request.* If a request is granted it remains in effect in accordance with its terms, unless modified by a later finding that the decision was clearly erroneous. If BTS believes such a finding should be made, BTS will notify the requesting carrier in writing of the reasons for the modification and that the carrier's report will be made available to the public in not less than ten working days from the date of receipt of notice under this paragraph. The carrier may seek reconsideration of the modification.

9. Section 1420.10 is added to read as follows:

§ 1420.10 Public release of motor carrier of property data.

(a) *In general.* Unless other provided in this section, the data contained in a report filed under § 1420.1 shall be made publicly available, but no sooner than the due date for the report.

(b) *Exceptions relating to exemptions from public release.*

(1) If a request for an exemption from public release is pending under § 1420.9, BTS will not publicly release the reports covered by the request until at least the time that a decision to grant or deny the request is made.

(2) If a carrier is granted an exemption from public release under § 1420.9, BTS will not publicly release the reports covered by the granted exemption for a period of three years from the report's due date.

(c) *Other exceptions.* Notwithstanding any other provision of this part, information may be released:

(1) If the data are included in aggregate industry statistics that do not identify the individual carrier;

(2) To other components of the Department of Transportation for their internal use only;

(3) If required by law;

(4) With the consent of the carrier filing the report; or

(5) To contractors, if necessary for the performance of a contract with BTS.

10. Section 1420.6 is added to read as follows:

§ 1420.6. Address.

The following address must be used by motor carriers when submitting a report, requesting an exemption from filing a report, or requesting an exemption from public release of a report: Bureau of Transportation Statistics, U.S. Department of Transportation, K–27, 400 Seventh St., SW., Washington, DC 20590. This address may also be used for general correspondence regarding the data collection program described in this section.

Ashish Sen,

Director, Bureau of Transportation Statistics.

[FR Doc. 99–6849 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–FE–P

Proposed Rules

Federal Register
Vol. 64, No. 55
Tuesday, March 23, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1620

Expansion and Continuation of Thrift Savings Plan Eligibility

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule with request for comment.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board proposes to reorganize and amend the regulations on continuation of Thrift Savings Plan (TSP) eligibility. The reorganization eliminates obsolete and redundant provisions. The amendments codify a new Thrift Savings Plan loan policy for employees returning to civilian service pursuant to the Uniformed Services Employment and Reemployment Rights Act, codify current TSP procedures governing participation by judges of the Courts of Federal Claims and Veterans Appeals, and otherwise update the terms used in this regulation to correspond with the terms used throughout the Board's other regulations.

DATES: Comments must be received on or before April 22, 1999.

ADDRESSES: Comments may be sent to: Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest on (202) 942–1662.

SUPPLEMENTARY INFORMATION: The Federal Retirement Thrift Investment Board (Board) administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514, which has been codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479. The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. Sums in a TSP participant's account are held in trust for that participant.

Analysis

FERSA created the Federal Employees' Retirement System (FERS), and required the establishment of TSP accounts for "employees and Members" covered by FERS. *See* FERSA section 101(a), 100 Stat. at 541–44, codified as amended at 5 U.S.C. 8432. For purposes of FERS participation, "employee" and "Member" were defined at FERSA section 101(a), 100 Stat. at 517–20, codified as amended at 5 U.S.C. 8401(11) and (20). Voluntary TSP participation was also authorized for "employees and Members" covered under the Civil Service Retirement System (CSRS). *See* FERSA section 206(a)(1), 100 Stat. at 593–4, codified as amended at 5 U.S.C. 8351. FERSA also permitted TSP participation by various other specifically named groups, such as employees covered under the Foreign Service retirement plan. However, only individuals so authorized by FERSA could participate in the TSP.

From time to time since the passage of FERSA, Congress has expanded FERS participation and TSP eligibility to other groups of employees. Congress has also permitted certain groups of employees to maintain CSRS and FERS coverage after leaving Federal employment, and permitted them to retain their TSP eligibility. In addition, Congress has extended TSP participation to Supreme Court justices, Federal District Court judges, bankruptcy judges, and United States magistrates even though they are not covered by CSRS or FERS.

The Board created 5 CFR part 1620 to describe the rules for TSP participation by these individuals. Part 1620 consists of nine subparts which were added to govern TSP participation by different groups of employees as TSP eligibility was extended to them. Because part 1620 was written incrementally, it contains duplication, such as numerous definition sections. Various subparts also restate general TSP principles found elsewhere in the Board's regulations, and describe deadlines for actions which have passed. This proposed rule eliminates those obsolete and redundant provisions.

Removed Subparts A, D, and I

Section 101(a) of the Continuing Appropriations, Fiscal Year 1987, Pub. L. 99–591, section 110(a), 100 Stat. 3341, 3341–8, permitted food service employees of the House of Representatives who transferred from Federal employment to employment with a private contractor to retain Federal retirement system coverage and their TSP eligibility. On July 14, 1987, the Board published an interim rule with request for comments in the **Federal Register** (52 FR 28293) to implement that provision. The Board received no comments on the interim rule, which was codified at 5 CFR part 1620, subpart A.

The Federal Employees' Retirement System, Technical Corrections [Act of 1988], Pub. L. 100–238, title I, 101 Stat. 1744, 1744–67, permitted TSP participation by individuals covered by CSRS as a result of the provision of law described in 5 U.S.C. 8347(o). Under section 8347(o), individuals who were employed by an international organization before October 1, 1988, while not employed by the Federal Government, are nevertheless covered by CSRS. On March 28, 1988, the Board published an interim rule with request for comments in the **Federal Register** (53 FR 10038) to implement the above-mentioned provision. The Board received no comment on this interim rule, which was codified at 5 CFR part 1620, subpart D.

Section 101 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Control Board Act), Pub. L. 104–8, 109 Stat. 97, 100, established the District of Columbia Financial Responsibility and Management Assistance Authority (Control Board) as an entity within the Government of the District of Columbia. Under the Control Board Act, certain persons who separated from Federal employment and who became employed by the Control Board could maintain their Federal retirement system coverage and TSP eligibility. On January 29, 1996, the Board published an interim rule with request for comments in the **Federal Register** (61 FR 2872), governing TSP participation by CSRS and FERS employees of the Control Board. That interim rule was codified at subpart I. On April 26, 1996, the Control Board Act was amended by section 153 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104–134, 110 Stat. 1321, to permit a broader group of Control Board employees to elect CSRS or FERS

coverage and thereby TSP eligibility. On October 25, 1996, the Board published in the **Federal Register** (61 FR 55201) an interim rule with request for comments, amending subpart I to reflect the 1996 amendments. The Board received no comment on either rule.

Current subparts A, D, and I are removed by this proposed rule because they are now unnecessary. The deadline for food service employees to elect Federal retirement coverage passed in 1987 and Board regulations no longer need to address the requirements of that election. The remaining provisions of subpart A, which describe the rules for making TSP contributions, are unnecessary because food service employees participate in the TSP under the same rules that apply to all Federal employees.

With respect to subpart D, sections 1620.52 and 1620.53 describe the initial election period for employees covered by the subpart and are no longer needed because the election period has passed. The remainder of subpart D is unnecessary because it restates general TSP rules found elsewhere in the TSP regulations.

Finally, with respect to subpart I, CSRS and FERS employees of the D.C. Control Board also participate in the TSP under conventional rules. Although certain employees of the D.C. Control Board are eligible for CSRS or FERS coverage while others are not, this is a matter within the jurisdiction of the United States Office of Personnel Management, and Board regulations need not address the particulars of that eligibility.

New Subpart A

The proposed rule creates a new subpart A to explain the rules that generally apply to all TSP participants covered by part 1620. Section 1620.1 describes who is covered by part 1620 and explains that part 1620 must be read in conjunction with the Board's other regulations at 5 CFR chapter VI. Currently, each subpart of part 1620 contains its own definition section, which results in unnecessary duplication. Section 1620.2 consolidates the definitions, to the extent possible, and conforms the terms used in this part to those used throughout the remainder of 5 CFR chapter VI. Section 1620.3 states the general rule, currently repeated throughout part 1620, that an employing agency must timely notify an employee of his or her TSP eligibility and the applicability of part 1620.

New Subpart B

The Federal Employees' Retirement System, Technical Corrections [Act of 1988], Pub. L. 100–238, tit. I, 101 Stat. 1744, 1744–67, permitted the continuation of CSRS and FERS retirement coverage, and resulting TSP eligibility, for three separate groups of Federal employees: (1) those transferred or otherwise assigned to a cooperative extension service (CES), as defined at 7 U.S.C. 3103(5); (2) those who enter on approved leave-without-pay status to serve as full-time officers or employees of an organization composed primarily of "employees" as defined at 5 U.S.C. 8331(1) or 8401(11); and (3) those assigned on an approved leave-without-pay status to a State or local government under the Intergovernmental Personnel Act (IPA), 5 U.S.C. chapter 33, subchapter VI.

On March 28, 1988, the Board published an interim rule with request for comments in the **Federal Register** (53 FR 10038) to implement these provisions of the 1988 Act, which was codified at 5 CFR part 1620, subparts B and C. Subpart B addresses CES employees, while subpart C addresses union and IPA employees. On May 18, 1988, the Board published in the **Federal Register** (53 FR 17685) an amendment to the March 28, 1988, interim rule which extended the period during which union employees could elect TSP participation. The Board received no comment on either rule.

The proposed rule condenses subparts B and C into a new subpart B because, with few exceptions, the same rules apply to TSP participation by union, IPA, and CES employees. Some provisions have been moved to proposed subpart A, i.e., the definitions (sections 1620.11 and 1620.31), the employee notice provisions (sections 1620.18(b) and 1620.39), and the reference to other TSP regulations (sections 1620.19 and 1620.40). Others have been eliminated because they only restated general TSP principles found elsewhere in TSP regulations, i.e., the deadline for making employee contributions (sections 1620.14 and 1620.33) and the computation of basic pay (sections 1620.16 and 1620.35). Sections 1620.17, 1620.36, and 1620.37, which describe retroactive TSP contributions, are combined and rewritten in proposed section 1620.13 to omit material discussed in the error correction regulations at 5 CFR part 1605.

New Subpart C

Section 401(a) of the Federal Employees Health Benefits Amendments Act of 1988, 5 U.S.C. 8440a, permits justices and judges of the United States, as defined at 28 U.S.C. 451, to participate in the TSP. Similarly, section 7(a) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, 5 U.S.C. 8440b, permits bankruptcy judges and United States magistrates to participate in the TSP. On August 10, 1989, the Board published an interim rule with request for comments in the **Federal Register** (54 FR 32785) to implement sections 8440a and 8440b. The August 10 interim rule was codified at subparts E and F of part 1620. On January 13, 1994, the Board published an interim rule with request for comments in the **Federal Register** (59 FR 1889) to implement an amendment made to 5 U.S.C. 8440a and 8440b by the Thrift Savings Plan Technical Amendments Act of 1990, Pub. L. 101–335, § 3(b), 101 Stat. 335, 320–21. The 1990 amendment lifted investment restrictions that had required participants to invest their TSP accounts solely in the Government Securities Investment (G) Fund. On November 18, 1996, the Board published an interim rule with request for comments in the **Federal Register** which, *inter alia*, conformed the definitions of basic pay found at sections 1620.72 and 1620.83 to the definition of that term contained in the Thrift Savings Plan Act of 1996, 5 U.S.C. 8401(4). The Board received no comments on the foregoing publications.

To the extent it is not repeated elsewhere in Board regulations, the information in current subparts E and F should be retained because justices and judges of the United States, United States magistrates, and bankruptcy judges participate with special rules for contributions, withdrawals, and spousal rights. Therefore, this proposed rule condenses subparts E and F into a new subpart C.

Proposed subpart C also contains a discussion of two groups of TSP participants not mentioned in subparts E and F. Section 306(d)(1) of the Judicial Improvements Act of 1990, 5 U.S.C. 8440c, permits judges of the United States Court of Federal Claims to participate in the TSP. Section 5(a)(1) of the United States Court of Veterans Appeals, Amendments [Act of 1991], 5 U.S.C. 8440d, permits judges of the Court of Veterans Appeals to participate in the TSP. The Board did not publish regulations in part 1620 to implement sections 8440c and 8440d. However, because these judges participate in the TSP under rules similar to those affecting other judges, it would be helpful to discuss them also in the new subpart C.

Proposed subpart C also contains a new statement of law. Current sections

1620.73 and 1620.84, which deal with TSP withdrawals, are condensed into proposed section 1620.22. However, after the current regulations were written, legislation authorized in-service withdrawals. Therefore, proposed section 1620.22 explains in-service as well as post-employment withdrawal eligibility. Proposed section 1620.22 does not discuss the withdrawals themselves, or the procedures for obtaining them, because those matters are discussed at length in the Board's withdrawal regulations at 5 CFR part 1650.

Proposed subpart C also condenses several provisions of the Board's current regulations to eliminate redundant and obsolete statements. Proposed section 1620.21 explains the TSP contribution rules currently found in sections 1620.72 and 1620.83, while proposed section 1620.23 explains the spousal rights currently discussed in sections 1620.74 and 1620.85.

The remaining provisions of subparts E and F can be eliminated. Subpart C omits the definitions currently at sections 1620.71 and 1620.81. If the meaning of any word is not apparent from the text of the regulation, it is defined in proposed subpart A. Proposed subpart C also does not describe the circumstances under which a judge's annuity will be offset, presently set forth in sections 1620.72(c) and 1620.75, because judges' annuities are administered by the Administrative Office of the United States Courts, not the TSP. Finally, section 1620.82 is eliminated. The initial election period established under 5 U.S.C. 8440a has passed; therefore section 1620.82(a) is obsolete. Elections occurring outside the initial election period must follow the rules found at 5 CFR part 1600; therefore, section 1620.82(b) is also unnecessary.

New Subpart D

The Portability of Benefits for Nonappropriated Fund Employees Act of 1990 (1990 Portability Act), Pub. L. 101–508, 104 Stat. 1388, 1388–335 to 1388–341 (codified largely at 5 U.S.C. 8347(q)(1) and 8461(n)(1)), permitted CSRS and FERS employees of the Department of Defense and the United States Coast Guard who moved on or after January 1, 1987, to a Nonappropriated Fund (NAF) Instrumentality of the Department of Defense (DOD) to participate in the TSP if they elected to maintain their CSRS or FERS retirement coverage after the move. On June 10, 1991, the Board published an interim rule with request for comments in the **Federal Register** (56 FR 26,722) implementing the 1990 Portability Act as it pertained to the TSP. The Board received no comments on the 1991 interim rule, which was codified at 5 CFR part 1620, subpart G.

Section 1043 of the 1996 Defense Authorization Act for Fiscal Year 1996 (Defense Authorization Act), Pub. L. 104–106, 110 Stat. 186, 434–439, amended the 1990 Portability Act to allow a broader group of employees to participate in the TSP, both prospectively and retroactively. On August 9, 1996, the Board published an interim rule with request for comments in the **Federal Register** (61 FR 41485) to implement the Defense Authorization Act amendments.

The Board received a comment from one Federal agency objecting to three provisions of the 1996 interim rule, sections 1620.93(b), 1620.93(c) and 1620.94(a). After consideration thereof, the Board determined to promulgate the interim rule as a final rule. The provisions are renumbered as 1620.33(b), 1620.33(c) and 1620.34(a), respectively, in the proposed rule.

Proposed subpart D does not change the substance of current subpart G; rather, it renumbers and reorganizes its provisions. Proposed subpart D also does not contain certain provisions that have been moved to proposed subpart A, i.e., the definitions of *basic pay* and *retirement coverage* (1620.91), the employee notice provision (1620.98), and the reference to other TSP regulations (1620.99). Proposed subpart D also omits as unnecessary several provisions of the current NAF instrumentality regulations. First, current section 1620.92(a)(2) and (b) repeat the TSP contribution election rules found at 5 CFR 1600; that repetition is removed from the proposed rule and replaced with a reference to part 1600. Second, current section 1620.93(b) provides a detailed restatement of the TSP error correction procedures found at 5 CFR 1605.2(c); proposed section 1620.33 replaces that recitation with a reference to section 1605.2(c). Finally, current section 1620.95, which explains that the NAF instrumentality must submit agency contributions to the TSP record keeper, is also omitted as an unnecessary re-statement of the process described at 5 CFR part 1600.

New Subpart E

Section 4 of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 5 U.S.C. 8432b, describes the rights to TSP benefits afforded to an employee who is restored from leave-without-pay status or reemployed in the civilian service under 38 U.S.C. chapter 43 following a release from military service, discharge from hospitalization related to that service, or other similar event. On April 21, 1995, the Board published an interim rule with request for comments in the **Federal Register** (60 FR 19990), which was codified at 5 CFR part 1620 subpart H.

On August 20, 1996, the Small Business Job Protection Act of 1996, Pub. L. 104–188, 110 Stat. 1755, added section 414(u) to the Internal Revenue Code. Section 414(u) provides that retroactive contributions made by a reemployed veteran pursuant to USERRA are not subject to the elective deferral limit at 26 U.S.C. 402(g) for the year in which the contributions are made. On April 14, 1997, the Board published a final rule in the **Federal Register** (62 FR 18234) which removed a reference in subpart H to the elective deferral limit. The April 14 rule also adopted the amended subpart H as final.

This proposed rule makes one substantive change to current subpart H: under new TSP policy, a TSP participant whose loan was closed by taxable distribution due to a USERRA-related absence will be provided an opportunity to reinstate the TSP loan upon reemployment or upon return to Federal employment if the participant was on approved leave-without-pay. An employee will be given one year from the date of his or her reemployment to request reinstatement of the loan. The TSP record keeper will inform the employee if reinstatement is feasible, i.e, whether loan repayment can be accomplished within the time limits described in 5 CFR 1655.13(a)(5), and will not violate the restriction set forth in 5 CFR 1655.4 on the number of outstanding TSP loans. If reinstatement is not feasible, the participant will be given a one-time opportunity to repay the loan in full in the amount which, in effect, reverses the taxable distribution. The TSP record keeper will inform the employee of the amount he or she must repay, and the employee must provide the funds in a single payment to the TSP record keeper within 90 days of that notice.

The proposed rule also renumbers and reorganizes the substance of current subpart H and places it in a new sub part E. Proposed subpart E does not contain the definition of *recordkeeper*, currently at 1620.101, because that term is defined in proposed subpart A. In addition, *basic pay* and *retroactive period* have been redefined to be consistent with the Board's other regulations. Section 1620.103 is also omitted because lost earnings are discussed at 5 CFR part 1606.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduc tion Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, section 201, 109 Stat. 48, 64, the effects of this regulation on State, local, and tribal governments, and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 202, 109 Stat. 48, 64–65, is not required.

List of Subjects in 5 CFR Part 1620

Employment benefit plans, Government employees, Pensions, Retirement.

Dated: March 12, 1999.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, the Board proposes to revise 5 CFR Part 1620, to read as follows:

PART 1620—EXPANDED AND CONTINUING ELIGIBILITY

Subpart A—General

Sec.
1620.1 Application.
1620.2 Definitions.
1620.3 Contributions.
1620.4 Notices.

Subpart B—Cooperative Extension Service, Union, and Intergovernmental Personnel Act Employees

1620.10 Definition.
1620.11 Scope.
1620.12 Employing authority contributions.
1620.13 Retroactive contributions.
1620.14 Payment to the record keeper.

Subpart C—Article III Justices and Judges; Bankruptcy Judges and U.S. Magistrates; and Judges of the Courts of Federal Claims and Veterans Appeals

1620.20 Scope.
1620.21 Contributions.
1620.22 Withdrawals.
1620.23 Spousal rights.

Subpart D—Nonappropriated Fund Employees

1620.30 Scope.
1620.31 Definition.
1620.32 Employees who move to a NAF instrumentality on or after August 10, 1996.
1620.33 Employees who move to a NAF instrumentality before August 10, 1996, but after December 31, 1965.
1620.34 Employees who move from a NAF instrumentality to a Federal Government agency.
1620.35 Loan payments.
1620.36 Transmission of information.

Subpart E—USERRA-Covered Military Service

1620.40 Scope.
1620.41 Definitions.
1620.42 Processing TSP contribution elections.
1620.43 Agency payments to record keeper; agency ultimately responsible.
1620.44 Restoring forfeited agency automatic (1%) contributions.
1620.45 Restoring post-employment withdrawals and reversing taxable distributions.
1620.46 Agency responsibilities.

Authority: 5 U.S.C. 8474(b)(5) and (c)(1).

Subpart C also issued under 5 U.S.C. 8440a(b)(7), 8440b(b)(8), and 8440c(b)(8).

Subpart D also issued under sec. 1043(b), Pub. L. 104–106, 110 Stat. 186, 434–435; and sec. 7202(m)(2), Pub. L. 101–508, 104 Stat. 1388.

Subpart E also issued under 5 U.S.C. 8432b(i).

Subpart A—General

§ 1620.1 Application.

The Federal Employees' Retirement System Act of 1986 (codified as amended largely at 5 U.S.C. 8351 and 8401 through 8479) originally limited TSP eligibility to specifically named groups of employees. On various occasions, Congress has since expanded TSP eligibility to other groups. Depending on the circumstances, that subsequent legislation requires retroactive contributions, waives open season rules, or provides other special features. Where necessary, this part describes those special features. The employees and employing agencies covered by this part are also governed by the other regulations in 5 CFR chapter VI to the extent that they do not conflict with the regulations of this part.

§ 1620.2 Definitions.

As used in this part:

Account balance means the nonforfeitable valued account balance of a TSP participant as of the most recent month-end.

Basic pay means basic pay as defined in 5 U.S.C. 8331(3). For CSRS and FERS employees, it is the rate of pay used in computing any amount the individual is otherwise required to contribute to the Civil Service Retirement and Disability Fund as a condition for participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be.

Board means the Federal Retirement Thrift Investment Board established under 5 U.S.C. 8472.

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C).

CSRS means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, or any equivalent retirement system.

CSRS employee or *CSRS participant* means any employee or participant covered by CSRS or an equivalent retirement system, including employees authorized to contribute to the TSP under 5 U.S.C. 8351.

Election period means the last calendar month of a TSP open season and is the earliest period in which an election to make or change a TSP contribution election can become effective.

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8351(a), 8432(a), or 8440a through 8440d.

Employer contributions means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3), and agency matching contributions under 5 U.S.C. 8432(c)(2).

Employing agency means the organization that employs an individual described at § 1620.1 as being eligible to contribute to the TSP and that has authority to make personnel compensation decisions for such employee.

Executive Director means the Executive Director of the Federal Retirement Thrift Investment Board under 5 U.S.C. 8474.

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B).

FERS means the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, and any equivalent Federal Government retirement system.

FERS employee or *FERS participant* means any employee or participant covered by FERS.

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A).

Individual account means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a).

In-service withdrawal means an age-based or financial hardship withdrawal

from the TSP obtained by a participant before separation from Government employment.

Investment fund means either the G Fund, the F Fund, or the C Fund, and any other TSP investment funds created after December 27, 1996.

Monthly processing cycle means the process, beginning on the evening of the fourth business day of the month, by which the TSP record keeper allocates the amount of earnings to be credited to participant accounts in the TSP, implements interfund transfer requests, and authorizes disbursements from the TSP.

Open season means the period during which employees may choose to begin making contributions to the TSP, to change or discontinue (without losing the right to recommence contributions the next open season) the amount currently being contributed to the TSP, or to allocate prospective contributions to the TSP among the investment funds.

Plan participant or participant means any person with an account in the TSP, or who would have an account in the TSP but for an employing agency error.

Post-employment withdrawal means a withdrawal from the TSP obtained by a participant who has separated from Government employment.

Separation from Government employment means the cessation of employment with the Federal Government or the U.S. Postal Service (or with any other employer from a position that is deemed to be Government employment for purposes of participating in the TSP) for 31 or more full calendar days.

Spouse means the person to whom a TSP participant is married on the date he or she signs forms on which the TSP requests spouse information including a spouse from whom the participant is legally separated, and includes a person with whom a participant is living in a relationship that constitutes a common law marriage in the jurisdiction in which they live.

Thrift Savings Fund means the Fund described in 5 U.S.C. 8437.

Thrift Savings Plan, TSP, or *Plan* means the Thrift Savings Plan established under subchapters III and VII of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8351 and 8401–8479.

Thrift Savings Plan (TSP) contribution election means a request by an employee to start contributing to the TSP, to terminate contributions to the TSP, to change the amount of contributions made to the TSP each pay period, or to change the allocation of future TSP contributions among the investment funds, and made effective pursuant to 5 CFR part 1600.

Thrift Savings Plan Service Computation Date means the date, actual or constructed, that includes all "service" as defined at 5 CFR 1603.1.

Thrift Savings Plan Service Office means the office established by the Board to service participants. This office's current address is: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, Louisiana 70161–1500.

§ 1620.3 Contributions.

The employing agency is responsible for transmitting to the Board's record keeper, in accordance with Board procedures, any employee and employer contributions that are required by this part.

§ 1620.4 Notices.

An employing agency must notify affected employees of the application of this part as soon as practicable.

Subpart B—Cooperative Extension Service, Union, and Intergovernmental Personnel Act Employees

§ 1620.10 Definition.

As used in this subpart, *employing authority* means the entity that employs an individual described in § 1620.11 and which has the authority to make personnel compensation decisions for such employee.

§ 1620.11 Scope.

This subpart applies to any individual participating in CSRS or FERS who:

(a) Has been appointed or otherwise assigned to one of the cooperative extension services, as defined in 7 U.S.C. 3103(5);

(b) Has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by 5 U.S.C. 8331(1) and 8401(11); or

(c) Has been assigned, on an approved leave-without-pay basis, from a Federal agency to a state or local government under 5 U.S.C. chapter 33, subchapter VI.

§ 1620.12 Employing authority contributions.

The employing authority, at its sole discretion, may choose to make employer contributions under 5 U.S.C. 8432(c) for employees who are covered under FERS. Such contributions may be made for any period of eligible service after January 1, 1984, provided that the employing agency must treat all its employees who are eligible to receive employer contributions in the same manner. The employing authority can only commence or terminate employer contributions during an open season and must provide all affected employees with notice of a decision to commence or terminate such contributions at least 45 days before the beginning of the applicable election period. The employing authority may not contribute to the TSP on behalf of CSRS employees.

§ 1620.13 Retroactive contributions.

(a) An employing authority can make retroactive employer contributions on behalf of FERS employees described in this subpart, but cannot duplicate employer contributions already made to the TSP.

(b) An employing authority making retroactive employing agency contributions on behalf of a FERS employee described in § 1620.12 must continue those contributions (but only to the extent they relate to service with the employing authority) if the employee returns to his or her agency of record or is transferred to another Federal agency without a break in service.

(c) CSRS and FERS employees covered by this subpart can make retroactive employee contributions relating to periods of service described in § 1620.12, unless they already have been given the opportunity to make contributions for these periods of service.

§ 1620.14 Payment to the record keeper.

(a) The employing authority of a cooperative extension service employee (described at § 1620.11(a)) is responsible for transmitting employer and employee contributions to the TSP record keeper.

(b) The employing authority of a union employee or an Intergovernmental Personnel Act employee (described at § 1620.11(b) and (c), respectively) is responsible for transmitting employer and employee contributions to the employee's Federal agency of record. Employee contributions will be deducted from the employee's actual pay. The employee's agency of record is responsible for transmitting the employer and employee contributions to the TSP record keeper in accordance with Board procedures. The employee's election form (TSP–1) will be filed in the employee's official personnel folder or other similar file maintained by the employing authority.

Subpart C—Article III Justices and Judges; Bankruptcy Judges and U.S. Magistrates; and Judges of the Courts of Federal Claims and Veterans Appeals

§ 1620.20 Scope.

(a) This subpart applies to:

(1) A justice or judge of the United States as defined in 28 U.S.C. 451;

(2) A bankruptcy judge appointed under 28 U.S.C. 152 or a United States magistrate appointed under 28 U.S.C. 631 who has chosen to receive a judges' annuity described at 28 U.S.C. 377 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, Pub. L. 100–659, 102 Stat. 3910–3921;

(3) A judge of the United States Court of Federal Claims appointed under 28 U.S.C. 171 whose retirement is covered by 28 U.S.C. 178; and

(4) A judge of the Court of Veterans Appeals appointed under 38 U.S.C. 7253.

(b) This subpart does not apply to a bankruptcy judge or a United States magistrate who has not chosen a judges' annuity, or to a judge of the United States Court of Federal Claims who is not covered by 28 U.S.C. 178. Those individuals may participate in the TSP only if they are otherwise covered by CSRS or FERS.

§ 1620.21 Contributions.

(a) An individual covered under this subpart can contribute up to 5 percent of basic pay per pay period to the TSP, and, unless stated otherwise in this subpart, he or she is covered by the same rules and regulations that apply to a CSRS participant in the TSP.

(b) The following amounts are not basic pay and no TSP contributions can be made from them:

(1) An annuity or salary received by a justice or judge of the United States (as defined in 28 U.S.C. 451) who is retired under 28 U.S.C. 371(a) or (b), or 372(a);

(2) Amounts received by a bankruptcy judge or a United States magistrate under a judges' annuity described at 28 U.S.C. 377;

(3) An annuity or salary received by a judge of the United States Court of Federal Claims under 28 U.S.C. 178; and

(4) Retired pay received by a judge of the United States Court of Veterans Appeals under 38 U.S.C. 7296.

§ 1620.22 Withdrawals.

(a) *Post-employment withdrawal.* An individual covered under this subpart can make a post-employment withdrawal election described at 5 U.S.C. 8433(b):

(1) Upon separation from Government employment.

(2) In addition to the circumstance described in paragraph (a)(1) of this section, a post-employment withdrawal election can be made by:

(i) A justice or judge of the United States (as defined in 28 U.S.C. 451) who retires under 28 U.S.C. 317(a) or (b) or 372(a);

(ii) A bankruptcy judge or a United States magistrate receiving a judges' annuity under 28 U.S.C. 377;

(iii) A judge of the United States Court of Federal Claims receiving an annuity or salary under 28 U.S.C. 178; and

(iv) A judge of the United States Court of Veterans Appeals receiving retired pay under 38 U.S.C. 7296.

(b) *In-service withdrawals.* An individual covered under this subpart can request an in-service withdrawal described at 5 U.S.C. 8433(h) if he or she:

(1) Has not separated from Government employment; and

(2) Is not receiving retired pay as described in paragraph (a)(2) of this section.

§ 1620.23 Spousal rights.

(a) The current spouse of a justice or judge of the United States (as defined in 28 U.S.C. 451), or of a Court of Veterans Appeals judge, possesses the rights described at 5 U.S.C. 8351(b)(5).

(b) A current or former spouse of a bankruptcy judge, a United States magistrate, or a judge of the United States Court of Federal Claims, possesses the rights described at 5 U.S.C. 8435 and 8467 if the judge or magistrate is covered under this subpart.

Subpart D—Nonappropriated Fund Employees

§ 1620.30 Scope.

This subpart applies to any employee of a Nonappropriated Fund (NAF) instrumentality of the Department of Defense (DOD) or the U.S. Coast Guard who elects to be covered by CSRS or FERS and to any employee in a CSRS- or FERS-covered position who elects to be covered by a retirement plan established for employees of a NAF instrumentality pursuant to the Portability of Benefits for Nonappropriated Fund Employees Act of 1990, Pub. L. 101–508, 104 Stat. 1388, 1388–335 to 1388–341, as amended (codified largely at 5 U.S.C. 8347(q) and 8461(n)).

§ 1620.31 Definition.

As used in this subpart, move means moving from a position covered by CSRS or FERS to a NAF instrumentality of the DOD or Coast Guard, or vice versa, without a break in service of more than 1 year.

§ 1620.32 Employees who move to a NAF instrumentality on or after August 10, 1996.

Any employee who moves from a CSRS- or FERS-covered position to a NAF instrumentality on or after August 10, 1996, and who elects to continue to be covered by CSRS or FERS, will be eligible to contribute to the TSP as determined in accordance with 5 CFR part 1600.

§ 1620.33 Employees who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965.

(a) *Future TSP contributions*—(1) *Employee contributions.* An employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be covered by CSRS or FERS as of the date of that move may elect to make any future contributions to the TSP in accordance with 5 U.S.C. 8351(b)(2) or 8432(a), as applicable, within 30 days of the date of his or her election to be covered by CSRS or FERS. Such contributions will begin being deducted from the employee's pay no later than the pay period following the election to contribute to the TSP. Any TSP contribution election which may have been in effect at the time of the employee's move will not be effective for any future contributions.

(2) *Employer contributions.* If an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, elects to be covered by FERS:

(i) The NAF instrumentality must contribute each pay period to the Thrift Savings Fund on behalf of that employee any amounts that the employee is eligible to receive under 5 U.S.C. 8432(c)(1), beginning no later than the pay period following the employee's election to be covered by FERS; and

(ii) If the employee elects to make contributions to the TSP pursuant to paragraph (a)(1) of this section, the NAF instrumentality must also contribute each pay period to the Thrift Savings Fund on behalf of that employee any amounts that the employee is eligible to receive under 5 U.S.C. 8432(c)(2), beginning at the same time as the employee's contributions are made pursuant to paragraph (a)(l) of this section.

(b) *Retroactive TSP contributions.* (1) Without regard to any election to contribute to the TSP under paragraph (a)(l) of this section, the NAF instrumentality will take the following actions with respect to an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be

covered by CSRS or FERS as of the date of the move:

(i) *Agency automatic (1%) makeup contributions.* The NAF instrumentality must, within 30 days of the date of the employee's election to be covered by FERS, contribute to the Thrift Savings Fund an amount representing the agency automatic (1%) contribution for all pay periods during which the employee would have been eligible to receive the agency automatic (1%) contribution under 5 U.S.C. 8432, beginning with the date of the move and ending with the date that agency automatic (1%) contributions begin under paragraph (a)(2) of this section. Lost earnings will not be paid on these contributions unless they are not made by the NAF instrumentality within the time frames required by these regulations.

(ii) *Employee makeup contributions.* (A) Within 60 days of the election to be covered by FERS, an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be covered by FERS, may make an election regarding employee makeup contributions. The employee may elect to contribute all or a percentage of the amount of employee contributions which the employee would have been eligible to make under 5 U.S.C. 8432 between the date of the move and the date employee contributions begin under paragraph (a)(1) of this section or, if no such election is made under paragraph (a)(1) of this section, the date that agency automatic (1%) contributions begin under paragraph (a)(2) of this section.

(B) Within 60 days of the election to be covered under CSRS, an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be covered by CSRS, may make an election regarding makeup contributions. The employee may elect to contribute all or a percentage of the amount of employee contributions that the employee would have been eligible to make under 5 U.S.C. 8351 between the date of the move and the date employee contributions begin under paragraph (a)(1) of this section or, if no such election is made under paragraph (a)(1) of this section, the pay period following the date the election to be covered by CSRS is made.

(C) Deductions made from the employee's pay pursuant to an employee's election under paragraph (b)(1)(ii) (A) or (B) of this section, as appropriate, must be made according to a schedule that meets the requirements of 5 CFR 1505.2(c). The payment schedule must begin no later than the pay period following the date the employee elects the schedule.

(iii) Agency matching makeup contributions. The NAF instrumentality must pay to the Thrift Savings Fund any matching contributions attributable to employee contributions made under paragraph (b)(1)(ii)(A) of this section which the NAF instrumentality would have been required to make under 5 U.S.C. 8432(c), at the same time that those employee contributions are contributed to the Fund.

(2) Makeup contributions must be reported for investment by the NAF instrumentality when contributed, according to the employee's election for current TSP contributions. If the employee is not making current contributions, the retroactive contributions must be invested according to an election form (TSP–1–NAF) filed specifically for that purpose.

(c) *Noneligible employees.* An employee who is covered by a NAF retirement system is not eligible to participate in the TSP. Any TSP contributions relating to a period for which an employee elects retroactive NAF retirement system coverage must be removed from the TSP as required by the regulations at 5 CFR part 1605.

(d) *Elections.* If a TSP election was made by an employee of a NAF instrumentality who elected to be covered by CSRS or FERS before August 10, 1996, and the election was properly implemented by the NAF instrumentality because it was valid under then-effective regulations, the election is effective under the regulations in this subpart.

§ 1620.34 Employees who move from a NAF instrumentality to a Federal Government agency.

(a) An employee of a NAF instrumentality who moves from a NAF instrumentality to a Federal Government agency and who elects to be covered by a NAF retirement system is not eligible to participate in the TSP. Any TSP contributions relating to a period for which an employee elects retroactive NAF retirement coverage must be removed from the TSP as required by the regulations at 5 CFR part 1605.

(b) An employee of a NAF instrumentality who moves from a NAF instrumentality to a Federal Government agency and who elects to be covered by CSRS or FERS will become eligible to participate in the TSP as determined in accordance with 5 CFR part 1600.

§ 1620.35 Loan payments.

NAF instrumentalities must deduct and transmit TSP loan payments for employees who elect to be covered by CSRS or FERS to the record keeper in accordance with 5 CFR part 1655 and Board procedures. Loan payments may not be deducted and transmitted for employees who elect to be covered by the NAF retirement system. Such employees will be considered to have separated from Government service and must prepay their loans or the TSP will declare the loan to be a taxable distribution.

§ 1620.36 Transmission of information.

Any employee who moves to a NAF instrumentality must be reported by the losing Federal Government agency to the TSP record keeper as having transferred to a NAF instrumentality of the DOD or Coast Guard rather than as having separated from Government service. If the employee subsequently elects not to be covered by CSRS or FERS, the NAF instrumentality must submit an Employee Data Record to report the employee as having separated from Federal Government service as of the date of the move.

Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)—Covered Military Service

§ 1620.40 Scope.

To be covered by this subpart, an employee must have:

(a) Separated from Federal civilian service or entered leave-without-pay status in order to perform military service; and

(b) Become eligible to seek reemployment or restoration to duty by virtue of a release from military service, discharge from hospitalization, or other similar event that occurred on or after August 2, 1990; and

(c) Been reemployed in, or restored to, a position covered by CSRS or FERS pursuant to the provisions of 38 U.S.C. chapter 43.

§ 1620.41 Definitions.

As used in this subpart:

Basic pay means basic pay as defined in § 1620.2, except for the portion of the retroactive period when an employee did not receive a Federal salary. In that case, basic pay is the rate of pay that would have been payable to the employee had he or she remained continuously employed in the position last held before separating (or entering leave-without-pay status) to perform military service.

Current contributions means those contributions that are made

prospectively for any pay period after the employee has been reemployed.

Leave without pay or *LWOP* means a temporary nonpay status and absence from duty (including military furlough) to perform military service.

Reemployed or *reemployment* means reemployed in (or restored from a nonpay status to) a position pursuant to 38 U.S.C. chapter 43, which is subject to 5 U.S.C. chapter 84 or which entitles the employee to contribute to the TSP pursuant to 5 U.S.C. 8351.

Retroactive period means the period for which an employee is entitled to make up missed employee contributions and to receive retroactive agency contributions.

Retroactive period beginning date means, for an employee who was eligible to contribute to the TSP when military service began, the date following the effective date of separation or, in the case of LWOP, the date the employee enters LWOP status. For an employee who was not eligible to make TSP contributions when military service began, the retroactive period begins on the first day of the first pay period in the election period during which the employee would have been eligible to make contributions had the employee remained in Federal civilian service.

Retroactive period ending date means the earlier of the following two dates: the date before the first day of the first election period during which a contribution election could have been made effective after reemployment, or the last day of the pay period before the pay period during which routine current contributions are begun after the employee is reemployed (or restored). If an employee who was making contributions when he or she separated elects not to make routine current contributions, the ending date of the retroactive period is the last day of the pay period during which the employee elects to terminate contributions.

Separation or *separated* means the period an employee was separated from Federal civilian service (or entered a leave-without-pay status) in order to perform military service.

§ 1620.42 Processing TSP contribution elections.

(a) *Current TSP contribution elections.* Immediately upon reemployment, an employee's agency will give an eligible employee the opportunity to submit a TSP election form (Form TSP–1) to make current contributions. The effective date of the current Form TSP–1 will be the first day of the first full pay period in the most recent TSP election period. If the employee is reemployed during a TSP Open Season but before the election period, he or she can also submit an election form that will become effective the first day of the first full pay period in the following election period.

(b) *Retroactive contribution elections.* (1) An employee has the following options for making retroactive contributions:

(i) If the employee had a valid contribution election form (Form TSP–1) on file when he or she separated. that election form will be reinstated for purposes of retroactive contributions.

(ii) Instead of making the contributions for the retroactive period under the reinstated contribution election form, the employee may submit a new election form for any Open Season that occurred during the retroactive period. However, the allocation election on each Form TSP–1 for the retroactive period must be the same as the allocation election on the current Form TSP–1.

(2) An employee who terminated contributions within two months before entering military service will be eligible to make a retroactive contribution election effective for the first Open Season that occurs after the effective date that the contributions were terminated. This election may be made even if the termination was made outside of an Open Season.

§ 1620.43 Agency payments to record keeper; agency ultimately responsible.

(a) *Agency making payments to record keeper.* The current employing agency always will be the agency responsible for making payments to the record keeper for all contributions (both employee and agency) and lost earnings, regardless of whether some of that expense is ultimately chargeable to a prior employing agency.

(b) *Agency ultimately chargeable with expense.* The agency ultimately chargeable with the expense of agency contributions and lost earnings attributable to the retroactive period is ordinarily the agency that reemployed the employee. However, if an employee changed agencies during the period between the date of reemployment and October 13, 1994, the employing agency as of October 13, 1994, is the agency ultimately chargeable with the expense.

(c) *Reimbursement by agency ultimately chargeable with expense.* If the agency that made the payments to the record keeper for agency contributions and lost earnings is not the agency ultimately chargeable for that expense, the agency that made the payments to the recordkeeper may, but is not required to, obtain reimbursement from the agency ultimately chargeable with the expense.

§ 1620.44 Restoring forfeited agency automatic (1%) contributions.

If an employee's agency automatic (1%) contributions were forfeited because the employee was not vested when he or she separated to perform military service, the employee must notify the employing agency that a forfeiture occurred. The employing agency will follow the procedure described in § 1620.47(d) to have those funds restored.

§ 1620.45 Restoring post-employment withdrawals and reversing taxable distributions.

(a) *Post-employment withdrawals.* Employees who received automatic cashouts because their account balances were $3,500 or less, or who were required to withdraw their TSP accounts before March 1995 because they were not eligible for retirement benefits when they separated, may elect to have the separation for military service treated as if it never occurred. These employees will be permitted to return amounts to the TSP that represent the full amount of the post-employment withdrawal.

(b) *Reversing taxable distributions.* An employee who separated or who entered into nonpay status to perform military service, and whose TSP loan was therefore declared a taxable distribution. may be eligible to have that distribution reversed.

(1) If the employee received a post-employment withdrawal when he or she separated to perform military service, he or she can have a taxable distribution reversed only if that withdrawal is returned under the procedures described in paragraph (a) of this section. If the employee is not eligible to or does not return the withdrawal, he or she cannot have the taxable distribution reversed.

(2) The taxable distribution can be reversed either by reinstating the TSP loan or by repaying the loan in full. TSP loan repayments can be reinstated only if the loan can be repaid within five years of its disbursement for non-residential loans and 15 years for residential loans; and if the employee will have no more than two loans outstanding, one of which can be a residential loan.

(c) *Process.* Eligible employees must notify the TSP record keeper of their intent to return the withdrawn funds and/or reverse a taxable distribution. This notification must be given within one year of reemployment and the employee must provide the TSP record

keeper with a copy of the SF–50, Notification of Personnel Action, indicating reemployment or reinstatement was made pursuant to 38 U.S.C. chapter 43, or a letter from his or her agency indicating reemployment or restoration pursuant to 38 U.S.C. chapter 43. If the participant is eligible to return a withdrawal and/or reverse a distribution, the TSP record keeper will:

(1) In the case of a request to return withdrawn funds, notify the employee of the amount of funds to be returned.

(2) In the case of a request to reverse a taxable distribution, reinstate the loan if permitted, or if not, inform the employee of the repayment amount for the loan.

(3) In the case of returned withdrawal and a repaid loan, inform the employee that both actions must be accomplished in the same transaction (i.e., one payment for both amounts).

(4) In all cases inform the employee that he or she must provide the funds in a single payment to the TSP record keeper within 90 days after the record keeper sends the employee the notice advising of the amount and procedures for repaying the loan or withdrawal. Repayment must be submitted in the form of a certified or cashier's check, a certified or treasurer's draft from a credit union, or a money order.

(d) *Earnings.* Employees will not receive retroactive earnings on any amounts returned to their accounts under this section.

§ 1620.46 Agency responsibilities.

(a) *General.* Each employing agency must establish procedures for implementing these regulations. These procedures must at a minimum require agency personnel to identify eligible employees and notify them of their options under these regulations and the time period within which these options must be exercised.

(b) *Agency records; procedure for reimbursement.* The agency that is making the payments to the record keeper for all contributions (both employee and agency) and lost earnings will obtain from prior employing agencies whatever information is necessary to make accurate payments. If a prior employing agency is ultimately chargeable under § 1620.43(b) for all or part of the expense of agency contributions and lost earnings, the agency making the payments to the record keeper will determine the procedure to follow in order to collect amounts owed to it by the agency ultimately chargeable with the expense.

(c) *Payment schedule; matching contributions report.* Agencies will, with the employee's consent, prepare a payment schedule for making retroactive employee contributions which will be consistent with the procedures established at 5 CFR part 1605 for the correction of employing agency errors.

(d) *Agency automatic (1%) contributions.* Employing agencies must calculate the agency automatic (1%) contributions for all reemployed (or restored) FERS employees, report those contributions to the record keeper, and submit lost earnings records to cover the retroactive period within 60 days of reemployment.

(e) *Forfeiture restoration.* When notified by an employee that a forfeiture of the agency automatic (1%) contributions occurred after the employee separated to perform military service, the employing agency must submit to the record keeper Form TSP–5–R, Request to Restore Forfeited Funds, to have those funds restored.

(f) *Thrift Savings Plan Service Computation Date.* The agencies must include the period of military service in the Thrift Savings Plan Service Computation Date (TSP–SCD) of all reemployed FERS employees. If the period of military service has not been credited, the agencies must submit an employee data record to the TSP record keeper containing the correct TSP Service Computation Date.

[FR Doc. 99–6756 Filed 3–22–99; 8:45 am]
BILLING CODE 6760–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–ANE–02–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW2000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) PW2000 series turbofan engines. This proposal would require initial and repetitive inspections of certain High Pressure Turbine (HPT) stage 1 and stage 2 disks utilizing an improved ultrasonic method when the disk is exposed during a shop visit, and if a subsurface anomaly is found, removal from service and replacement with a serviceable part. This proposal is prompted by the results of a stage 1 HPT disk fracture investigation, which has identified a population of HPT stage 1 and 2 disks that may have subsurface anomalies formed during a forging process. The actions specified by the proposed AD are intended to prevent HPT disk fracture, which could result in an uncontained engine failure, and damage to the aircraft.

DATES: Comments must be received by April 22, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–02–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–ANE–02–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–ANE–02–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) received a report of an uncontained high pressure turbine (HPT) disk failure on an International Aero Engines (IAE) V2500–A1 series turbofan engine. The investigation into the cause of that failure revealed that certain HPT stage 1 and stage 2 disks were manufactured using a process that resulted in a subsurface defect in the disk material. The subsurface defect, called a "clean linear" anomaly, was formed during a specific forging process also used for HPT stage 1 and stage 2 disks for the PW2000 series engines. The anomaly may not have been detected during ultrasonic inspection during manufacture due to its orientation and shape. The disk failure occurred as a result of a crack that initiated at the anomaly site. An improved ultrasonic inspection has been developed which is more capable of detecting anomalies, or cracks that originate from the sites of anomalies, prior to disk failure. V2500–A1, PW2000 and JT9D–7R4 1st and 2nd stage HPT disks manufactured using this same material and forging process are affected. There are approximately 332 PW2000 HPT stage 1 and stage 2 disks that were manufactured using this material and forging process, and those disks have been identified by serial number in Pratt & Whitney (PW) Service Bulletin (SB) PW2000–72–628, dated January 4, 1999. This condition, if not corrected, could result in an HPT disk fracture, which could result in an uncontained engine failure, damage to the aircraft, and an inflight engine shutdown.

The FAA has reviewed and approved the technical contents of PW Service Bulletin (SB) PW2000 72–628, dated January 4, 1999, that describes inspection procedures and criteria for certain stage 1 and 2 HPT disks.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require initial and repetitive inspections of certain stage 1 and stage 2 HPT disks using an improved ultrasonic method whenever the disk is exposed during a shop visit. If a subsurface anomaly is found, the disk must be removed from service and replaced with a serviceable part. The actions would be required to be accomplished in accordance with the SB described previously.

There are approximately 332 affected disks installed in engines in the worldwide fleet. The FAA estimates that 166 engines on aircraft of U.S. registry would be affected by this proposed AD, that the shipping cost per disk to the facility which will inspect the disk and its return will be approximately $210 per disk, that no engines will require an unplanned HPT module disassembly/assembly, that the inspection would take approximately 12 work hours per disk to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Some disks will require multiple inspections during their service life. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $450,000. The manufacturer has advised the FAA that the all costs relative to the inspection will be reimbursed to the operator.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket 99–ANE–02–AD.

Applicability: Pratt & Whitney PW2037, PW2040, PW2037M, PW2240 and PW2337 series turbofan engines, installed on but not limited to Boeing 757 and Ilyushin IL–96T series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent high pressure turbine (HPT) disk fracture, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) For engines with a HPT stage 1 or Stage 2 disk installed that has a serial number listed in the Accomplishment Instructions section of PW SB PW2000–72–628, dated January 4, 1999, perform initial and repetitive ultrasonic inspections in accordance with the Accomplishment Instructions section of PW SB PW2000–72–628, dated January 4, 1999, as follows:

(1) Perform an initial ultrasonic inspection at the next HPT disk piece part accessibility after the effective date of this AD.

(2) Thereafter, perform an ultrasonic inspection at each HPT disk piece part accessibility after the initial inspection

performed in accordance with paragraph (a)(1) of this AD.

(b) Remove from service those HPT disks found with a crack indicating a subsurface anomaly and replace with a serviceable part.

(c) For the purposes of this AD, HPT disk piece part accessibility is defined as the separation of the HPT disk from the HPT module.

(d) For engines that do not have a HPT stage 1 or Stage 2 disk installed that has a serial number listed in the Accomplishment Instructions section of PW SB PW2000–72–628, dated January 4, 1999, no inspections are required.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on March 16, 1999.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–6979 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–112–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–46–310P and PA–46–350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all The New Piper Aircraft, Inc. (Piper) Models PA–46–310P and PA–46–350P airplanes. The proposed AD would require calibrating the turbine inlet temperature system to assure the accuracy of the existing turbine inlet temperature indicator and wiring for all of the applicable airplanes, and repairing or replacing any turbine inlet temperature system that fails the calibration test. The proposed AD would also require repetitively replacing the turbine inlet temperature probe on the Model PA–46–350P airplanes, and inserting a copy of this AD into the Pilot's Operating Handbook of certain airplanes. The proposed AD is the result of field reports that indicate service accuracy problems with the existing turbine inlet temperature system. The actions specified by the proposed AD are intended to prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane.

DATES: Comments must be received on or before May 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–112–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Donald J. Young, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6079; facsimile: (770) 703–6097; e-mail address: "Donald.Young@faa.gov".

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–112–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–112–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several reports that indicate service accuracy problems with the existing turbine inlet temperature system on Piper Models PA–46–310P and PA–46–350P airplanes. In particular, an accident report cited turbine inlet temperature probe inaccuracy as a contributing factor.

In addition, 9 airplanes were randomly checked for turbine inlet temperature system accuracy. Six of these airplanes revealed turbine inlet temperature system inaccuracy (60 degrees to 110 degrees low at the 1,750-degree test point). More extensive analysis of these systems reveals the following:

—The turbine inlet temperature probe used on the Model PA–46–310P airplanes (part number 471–990) when calibrated correctly is accurate and durable; and

—The turbine inlet temperature probe used on the Model PA–46–350P airplanes (part number 481–392) when calibrated correctly is accurate, but not durable.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that:

—the turbine inlet temperature systems on all Piper Models PA–46–310P and PA–46–350P airplanes should be calibrated to assure the accuracy of

the existing turbine inlet temperature indicator and wiring;
—the turbine inlet temperature probe used on the Model PA–46–350P airplanes (part number 481–392) should be replaced every 250 hours time-in-service (TIS); and
—AD action should be taken to prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Piper Models PA–46–310P and PA–46–350P airplanes of the same type design, the FAA is proposing AD action. The proposed AD would require calibrating the turbine inlet temperature system to assure the accuracy of the existing turbine inlet temperature indicator and wiring for all of the applicable airplanes, and repairing or replacing any turbine inlet temperature system that fails the calibration test. The proposed AD would also require repetitively replacing the turbine inlet temperature probe on the Model PA–46–350P airplanes, and inserting a copy of this AD into the Pilot's Operating Handbook of certain airplanes.

Cost Impact

The FAA estimates that 580 airplanes in the U.S. registry would be affected by the proposed calibration, that it would take approximately 4 workhours per airplane to accomplish the proposed calibration, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed calibration on U.S. operators is estimated to be $139,200, or $240 per airplane.

The FAA estimates that it would take approximately 1 workhour per airplane to accomplish the proposed initial turbine inlet temperature probe replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $518. Based on these figures, the total cost impact of the proposed replacement on U.S. operators is estimated to be $335,240, or $578 per airplane. These figures only take into account the initial replacement and do not take into account the cost of subsequent repetitive replacements. The FAA has no way of determining the number of replacements each owner/operator will incur over the life of the affected airplanes.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

The New Piper Aircraft, Inc.: Docket No. 98–CE–112–AD.

Applicability: Models PA–46–310P and PA–46–350P airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane, accomplish the following:

(a) For all affected airplanes (Models PA–46–310P and PA–46–350P), within the next 100 hours time-in-service (TIS) after the effective date of this AD, accomplish the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection, and Turbine Inlet Temperature System Calibration, as follows:

(1) *For Model PA–46–310P airplanes:* Perform the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection in accordance with the PA–46–310P/350P Maintenance Manual, Chapter 77–20–00 (section A.(1)(d), pages 1 and 2); and accomplish the Turbine Inlet Temperature System Calibration in accordance with the PA–46–310P/350P Maintenance Manual, Chapter 77–20–00 (pages 3 and 4); and

(2) *For Model PA–46–350P airplanes:* Perform the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection in accordance with the PA–46–350P Maintenance Manual, Chapter 77–20–00 (section 1.C, page 1); and accomplish the Turbine Inlet Temperature System Calibration in accordance with the PA–46–350P Maintenance Manual, Chapter 77–20–00 (section 1.I., pages 4 through 7).

Note 2: Operators of the Model PA–46–350P airplanes with over 150 hours TIS on the currently installed turbine inlet temperature probe will have to replace the probe as required in paragraph (c) of this AD. In this case, the operator may want to accomplish the replacement prior to the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection, and Turbine Inlet Temperature System Calibration.

(b) For all affected airplanes (Models PA–46–310P and PA–46–350P), if the results of paragraph (a) of this AD cannot be met (the turbine inlet temperature system indicator cannot be calibrated or the turbine inlet temperature probe fails the inspection), prior to further flight, repair or replace the failed parts with serviceable parts of the following part numbers:

(1) Lewis Turbine Inlet Temperature Analog Indicator, part number 471–008.

(2) Lewis Turbine Inlet Temperature Digital Indicator, part number 548–811.

(3) Turbine Inlet Temperature Probe, part number 471–009 for the Model PA–46–310P airplanes and part number 481–392 for the PA–46–350P airplanes.

(4) Only the Lewis Turbine Inlet Temperature Analog Indicator (referenced in paragraph (b)(1) of this AD) has a zero adjustment screw. The Lewis Turbine Inlet Temperature Digital Indicator (referenced in

paragraph (b)(2) of this AD) must be returned to the factory for adjustment or replacement.

(c) For the Model PA–46–350P airplanes, upon accumulating 250 hours TIS on the currently installed turbine inlet temperature probe or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 250 hours TIS; replace the part number 481–392 turbine inlet temperature probe with a new one of the same part number.

(d) For the operators of the airplanes presented in paragraphs (d)(1) and (d)(2) of this AD, within the next 100 hours TIS after the effective date of this AD, incorporate the emergency operation procedures specified in paragraph (e) of this AD for when a turbine inlet temperature system failure occurs while in-flight by inserting a copy of this AD into the applicable Pilots' Operating Handbook/Airplane Flight Manual (AFM/POH):

(1) For all operators of the Model PA–46–310P airplanes; and

(2) For those operators of the Model PA–46–350P airplanes that do not have the applicable POH revision incorporated as follows:

POH	Revision/date	Affected serial numbers
VB–1332	16/November 14, 1997	4622001 through 4622200.
VB–1609	1/November 21, 1997	463001 through 4636020.
VB–1602	1/November 28, 1997	4636021 through 4636131.
VB–1446	New/December 3, 1997	all serial numbers beginning with 4636132.

(e) The following are emergency operation procedures for when a turbine inlet temperature system failure occurs while in-flight:

(1) *For Model PA–46–310P airplanes:*

(i) If the turbine inlet temperature indication fails during takeoff, climb, descent, or landing, maintain FULL RICH mixture to assure adequate fuel flow for engine cooling.

(ii) If the turbine inlet temperature indication fails after cruise power has been set, maintain cruise power setting and lean to 6 gallons per hour (GPH) fuel flow above that specified in the Power Setting Table in Section 5 of the AFM/POH. Continually monitor engine cylinder head and oil temperatures to avoid exceeding temperature limits.

(2) *For Model PA–46–350P airplanes:*

(i) If the turbine inlet temperature indication fails during takeoff, climb, descent or landing, set power per the POH Section 5 Power Setting Table and then lean to the approximate POH Power Setting Table fuel flow plus 4 GPH.

(ii) If the turbine inlet temperature indication fails after cruise power has been set, maintain the power setting and increase indicated fuel flow by 1 GPH. Continually monitor engine cylinder head and oil temperatures to avoid exceeding temperature limits.

(f) Inserting a copy of this AD into the applicable POH/AFM as required by paragraph (d) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with paragraph (d) of this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(i) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 12, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6975 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–16–AD]

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 600N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Helicopter Systems (MDHS) Model 600N helicopters. This proposal would require applying serial numbers to several life-limited components related to pitch control and removing and replacing the components according to new life-limits. This proposal is prompted by fatigue tests that indicate a need for shorter service lives for these components. The actions specified by the proposed AD are intended to prevent failure of the collective pitch control tubes, collective stick housings, and collective pitch tube assemblies, which can cause loss of collective pitch control, and subsequent loss of control of the helicopter.

DATES: Comments must be received by May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–16–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Helicopter Systems, Technical Publications, Bldg. 530/B11, 5000 E. McDowell Road, Mesa, Arizona 85205–9797. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Frederick A. Guerin, Aerospace Engineer, Airframe Branch, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5232, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All

communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–16–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–16–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to MDHS Model 600N helicopters. This proposal would require three actions: (1) applying serial numbers to the collective pitch control tubes, part number's (P/N's) 369A7348 and 369H7809, and collective stick housings, P/N's 369A7347 and 369A7820; (2) adding the co-pilot collective pitch control tube, P/N 369A7809, to the Airworthiness Limitations section, Component Mandatory Replacement Schedule (CMRS), of the maintenance manual; and (3) reducing the service lives from those stated in the Airworthiness Limitations section, CMRS, of the pilot collective pitch control tube, P/N 369A7348, collective stick housings, P/N's 369A7347, 369A7820, and 369H7837, and collective pitch tube assemblies, P/N's 369H7354–3 and 369H7838–3. The following table shows the current life-limits and the proposed life-limits.

P/N	Component	Proposed life-limit (hours time-in-service)	Current life-limit (hours time-in-service)
369A7347	Housing, collective stick	450	Unlimited
369A7348	Tube, collective pitch control	400	Unlimited
369H7354–3	Tube assembly, collective pitch (pilot)	600	1,500
369A7809	Tube, collective pitch (co-pilot)	1,800	Not Determined
369A7820	Housing, collective stick	450	Unlimited
369H7837	Housing, collective stick	450	Unlimited
369H7838–3	Tube assembly, collective pitch (co-pilot)	1,000	1,500

This proposal is prompted by fatigue tests that indicate a need for shorter service lives for these components. The actions specified by the proposed AD are intended to prevent failure of the collective pitch control tubes, collective stick housings, and collective pitch tube assemblies, which can cause loss of collective pitch control, and subsequent loss of control of the helicopter.

The FAA has reviewed McDonnell Douglas Helicopter Systems Service Bulletin SB600N–009, dated February 24, 1998, that lists the service numbers to be applied to the four components for the listed aircraft serial numbers.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHS Model 600N helicopters of the same type design, the proposed AD would require applying serial numbers to several life-limited components related to pitch control and removing and replacing several components according to new life-limits. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 16 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per helicopter to apply the serial numbers, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $480.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

McDonnell Douglas Helicopter Systems: Docket No. 98–SW–16–AD.

Applicability: Model 600N helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability

provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the collective pitch control tubes, collective stick housings, and collective pitch tube assemblies, loss of collective pitch control, and subsequent loss of control of the helicopter, accomplish the following:

(a) On or before reaching 400 hours time-in-service (TIS), apply the serial number (S/N) listed in McDonnell Douglas Helicopter System Service Bulletin No. 600N–009, dated February 24, 1998 (SB), to the two collective stick housings, P/N's 369A7347 and 369A7820; the pilot collective pitch control tube, P/N 369A7348; and the co-pilot collective pitch control tube, P/N 369A7809, in the most visible spot for the specified aircraft S/N.

(b) Remove and replace the following flight control components according to the stated life-limits:

P/N	Component	Life-Limit (hours TIS)
1369A7347	Housing, collective stick	450
369A7348	Tube, collective pitch control (pilot)	400
369H7354–3	Tube assembly, collective pitch (pilot)	600
369A7809	Tube, collective pitch control (co-pilot)	1,800
369A7820	Housing, collective stick	450
369H7837	Housing, collective stick	450
369H7838–3	Tube assembly, collective pitch (co-pilot)	1,000

(c) Create a component history card or equivalent record in the helicopter log and record the helicopter TIS at installation for each of the components listed in paragraph (b) of this AD.

(d) This AD revises the Airworthiness Limitations Section of the maintenance manual by reducing the life-limits of the pilot collective pitch control tube, the collective stick housings, and the collective pitch tube assemblies, and adding the co-pilot collective pitch control tube to the Airworthiness Limitations section, Component Mandatory Replacement Schedule.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on March 16, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–7025 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–4]

Proposed Amendment of Class E Airspace; Thomson, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Thomson, GA. The Cedar Nondirectional Radio Beacon (NDB) has been established 4.49 miles west of Runway (RWY) 10 at the Thomson-McDuffie County Airport, from which a NDB RWY 10 Standard Instrument Approach Procedure (SIAP) will be developed. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Thomson-McDuffie County Airport. An extension via the 276 degree bearing from the Cedar NDB for the NDB RWY 10 SIAP will be necessary. The length of the Class E airspace extension west of the NDB will be 7 miles, and the width of the airspace extension will be 7 miles.

DATES: Comments must be received on or before April 22, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99–ASO–4, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–ASO–4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments

submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Thomson, GA. The Cedar NDB has been established 4.49 miles west of RWY 10 at the Thomson-McDuffie County Airport, from which a NDB RWY 10 SIAP will be developed. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Thomson-McDuffie County Airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Thomson, GA [Revised]

Thomson-McDuffie County Airport, GA
(Lat. 33°31′47″N, long. 82°31′00″W
Cedar NDB
(Lat. 33°31′59″N, long. 82°36′51″W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 7.5-mile radius of Thomson-McDuffie Airport and within 3.5-miles each side of the 276 degree bearing from the Cedar NDB, extending 7 miles west of the Cedar NDB.

* * * * *

Issued in College Park, Georgia, on March 5, 1999.

Signed by:

Nancy B. Shelton,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 99–7072 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–113744–98]

RIN 1545–AW69

Passive Foreign Investment Companies; Definition of Marketable Stock; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to the notice of proposed rulemaking (REG–113744–98), which was published in the **Federal Register** Tuesday, February 2, 1999 (64 FR 5012), relating to the new mark to market election for stock of a passive foreign investment company.

FOR FURTHER INFORMATION CONTACT: Robert Laudeman (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under section 1296 of the Internal Revenue Code.

Need for Correction

As published, REG–113744–98 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–113744–98), which was the subject of FR Doc. 99–1666, is corrected as follows:

On page 5012, column 1, in the preamble under the caption **ADDRESSES**, line 9, the language "to: CC:DOM:CORP:R (REG–110524–98)," is corrected to read "to: CC:DOM:CORP:R (REG–113744–98),".

Cynthia E. Grigsby,

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 99–6949 Filed 3–22–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 25, 31, and 40

[REG–100729–98]

RIN 1545–AW41

Electronic Funds Transfers of Federal Deposits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the deposit of Federal taxes by electronic funds transfer (EFT). The proposed regulations affect certain taxpayers required to make deposits of Federal taxes. For calendar years beginning after 1999, the proposed regulations provide rules under which certain taxpayers must make deposits by EFT.

DATES: Written and electronic comments must be received by May 24, 1999.

Outlines and topics to be discussed at the public hearing scheduled for May 11, 1999, at 10 a.m. must be received by April 20, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–100729–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–100729–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to http://www.irs.ustreas.gov/prod/tax_regs/comments.html (the IRS Internet address). The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Ave. NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Vincent Surabian, (202) 622–4940; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Michael Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1), the Estate Tax Regulations (26 CFR part 20), the Gift Tax Regulations (26 CFR part 25), the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR part 31), and the Excise Tax Procedural Regulations (26 CFR part 40).

On July 14, 1997, the IRS issued final regulations under section 6302(h) of the Internal Revenue Code relating to the deposit of Federal taxes by EFT (TD 8723, 62 FR 37490). Those final regulations gradually phase taxpayers into the EFT system through 1999. In the final stages of the phase-in under those regulations, taxpayers with more than $50,000 in employment tax deposits during calendar year 1995, 1996, or 1997, and taxpayers that, in any of those years, had no employment tax deposits but made deposits of other depository taxes exceeding $50,000, were required to begin to deposit by EFT.

At present, the regulations do not require EFT use by a new or growing taxpayer with annual deposits that did not exceed the prescribed threshold for the first time before 1998.

Explanation of Provisions

1. Increase in Current $50,000 Threshold

Section 6302(h) requires that in fiscal year 1999 and subsequent years 94 percent of employment taxes and 94 percent of other depository taxes be collected by EFT. The IRS and Treasury Department previously concluded that the deposit threshold had to be set at $50,000 to satisfy this statutory requirement. More recent experience suggests, however, that the statutory requirement can be satisfied even if the threshold is set at a substantially higher level. Moreover, an increase in the threshold would allow small businesses to make the transition to the EFT system at their own pace as they adopt electronic funds transfer in their other business operations. Accordingly, the proposed regulations increase the deposit threshold to $200,000 in aggregate Federal tax deposits during a calendar year.

The new threshold will be applied initially to 1998 deposits, and taxpayers that exceed the threshold in 1998 will be required to deposit by EFT in 2000 and subsequent years. Taxpayers that first exceed the threshold in 1999 or a subsequent year will similarly be required to deposit by EFT after a one-year grace period. A taxpayer that exceeds the threshold will not be permitted to resume making paper coupon deposits if its deposits fall below $200,000 in a subsequent year. Although a similar rule applies under the current regulations, taxpayers that are currently required to deposit by EFT will be given a fresh start and will not be required to use EFT unless they exceed the $200,000 threshold in 1998 or a subsequent calendar year.

Under the new rules, only 9 percent of all business taxpayers that make Federal tax deposits will be required to deposit by EFT. The fresh start will allow 65 percent of the taxpayers subject to the EFT requirement under the current regulations to resume making paper coupon deposits beginning in 2000. The IRS and Treasury Department are confident, however, that most of these taxpayers have come to appreciate the simplicity and convenience of the EFT system and will continue to deposit by EFT on a voluntary basis. The continued participation of these taxpayers, coupled with ongoing efforts to encourage voluntary enrollment, should assure 94 percent collections by EFT notwithstanding the increase in the threshold.

2. Taxes Taken into Account in Applying Threshold

The current regulations prescribe one threshold ($50,000 in employment taxes) for depositors liable for employment taxes and a separate threshold ($50,000 in other taxes) for taxpayers with no employment tax liability. Thus, taxpayers that deposit employment taxes but do not exceed the applicable $50,000 threshold are not subject to the EFT requirement even if they deposit large amounts of other depository taxes. In Notice 97–43 (1997–2 C.B. 294), the IRS and Treasury Department invited public comment on two alternatives to these rules and also welcomed any suggestions for a different rule. The first alternative presented in Notice 97–43 is a two-pronged test under which a taxpayer that deposits more than the threshold amount of the employment taxes imposed by chapters 21, 22, and 24 or more than the threshold amount of other depository taxes would be required to deposit by EFT. The second alternative is an aggregate deposits test under which a taxpayer that deposits more than the threshold amount of employment and other taxes combined would be required to deposit by EFT.

The IRS received six comments in response to Notice 97–43. Two commentators stated that the aggregate deposits test would be the most satisfactory. One of these commentators stated that an aggregate test (1) is simple for taxpayers to calculate; (2) is easy for financial institutions to calculate; and

(3) is easy for the IRS to monitor and maintain. The second commentator favored an aggregate deposits test because it would introduce a larger number of taxpayers to the advantages and efficiencies of the EFT system.

Two commentators stated that the present system should be retained because of its simplicity. One of these commentators stated that a taxpayer need consider only one set of figures, its employment taxes, to determine if it is subject to EFT. If the taxpayer has no employment taxes, then the taxpayer would simply look at its other depository taxes. The second commentator favored the present rule because of its belief that the adoption of either of the two proposals described in Notice 97–43 would bring additional smaller employers into the EFT system. The commentator stated that it is unnecessary to bring additional employers into the EFT system because, under the current rule, the IRS is satisfying the requirement of section 6302(h) that more than 94 percent of all depository taxes be deposited by EFT for fiscal year 1999 and thereafter.

The proposed regulations adopt an aggregate deposits test. As the comments illustrate, there is disagreement concerning the relative simplicity of the various options. The view of the IRS and Treasury Department, based on experience with the current system, is that an aggregate deposits test would be, on balance, simpler, less confusing to taxpayers, and more easily administered than a two-threshold rule. The aggregate deposits test also has the advantage of eliminating the anomalous current treatment of taxpayers that deposit small amounts of employment taxes and large amounts of other taxes as if they were smaller than taxpayers that deposit no employment taxes but are otherwise similarly situated. The IRS and Treasury Department believe that the other concern expressed in the comments, that the aggregate deposits test would unnecessarily extend the EFT system to additional small employers, has been adequately addressed by the proposed increase in the threshold.

A fifth commentator suggested that a rule be considered under which a taxpayer could be relieved of the EFT deposit requirement if the taxpayer, after being mandated into the system, fails to deposit the threshold amount during succeeding calendar years. This suggestion has not been adopted because of concerns that it would be more complex and more difficult to administer than the proposed rule.

A final commentator stated that the current regulations make no provision for the consciences of persons whose religious beliefs restrict the use of computer equipment in their businesses. The IRS and Treasury Department are continually sensitive to the limited nature of the technology available to many taxpayers and, for that reason, have developed a system under which, using the ACH debit option, equipment no more complex than a rotary or touch-tone telephone is all that is necessary to make an EFT deposit. A computer is not required.

3. Expansion of Voluntary Payments by EFT

Finally, the current regulations allow the voluntary payment by EFT of certain nondepository taxes, specifically individual income taxes (including estimated taxes). These proposed regulations expand the types of nondepository tax payments for which voluntary payment by EFT is allowed to include nondepository payments of Federal income, estate and gift, employment, and various specified excise taxes.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Proposed Effective Date

The regulations are proposed to become effective on the date final regulations are published in the **Federal Register**.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for May 11, 1999, beginning at 10 a.m. The hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by May 24, 1999, and submit an outline of topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by April 20, 1999.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Vincent Surabian, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 40

Excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, 25, 31, and 40 are proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by revising the entry for § 1.6302–4 to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6302–4 also issued under sections 6302(a), (c), and (h). * * *

Par. 2. Section 1.6302–4 is revised to read as follows:

§ 1.6302–4 Use of financial institutions in connection with income taxes; voluntary payments by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax imposed by subtitle A of the Internal Revenue Code, including any payment of estimated tax. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 3. The authority citation for part 20 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 20.6302–1 also issued under sections 6302(a) and (h). * * *

Par. 4. Section 20.6302–1 is added to read as follows:

§ 20.6302–1 Voluntary payments of estate taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 20 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority citation for part 25 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 25.6302–1 also issued under sections 6302(a) and (h). * * *

Par. 6. Section 25.6302–1 is added to read as follows:

§ 25.6302–1 Voluntary payments of gift taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 25 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 7. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 8. Section 31.6302–1 is amended as follows:

1. The heading for paragraph (h)(2) is revised.
2. A heading is added for paragraph (h)(2)(i).
3. New paragraph (h)(2)(i)(C) is added.
4. Paragraph (h)(2)(ii) is revised
5. Paragraph (h)(2)(iii) is added.
6. Paragraph (m) is redesignated as paragraph (n).
7. Paragraph (k) is redesignated as paragraph (m).
8. Paragraph (j) is redesignated as paragraph (k).
9. New paragraph (j) is added.

The additions and revisions read as follows:

§ 31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

* * * * *

(h) * * *

(2) *Applicability of requirement*—(i) *Deposits for return periods beginning before January 1, 2000.* * * *

(C) This paragraph (h)(2)(i) applies only to deposits required to be made for return periods beginning before January 1, 2000. Thus, a taxpayer, including a taxpayer that is required under this paragraph (h)(2)(i) to make deposits by electronic funds transfer beginning in 1999 or an earlier year, is not required to use electronic funds transfer to make deposits for return periods beginning after December 31, 1999, unless deposits by electronic funds transfer are required under paragraph (h)(2)(ii) of this section.

(ii) *Deposits for return periods beginning after December 31, 1999.* Unless exempted under paragraph (h)(5) of this section, a taxpayer that deposits more than $200,000 of taxes described in paragraph (h)(3) of this section during a calendar year beginning after December 31, 1997, must use electronic funds transfer (as defined in paragraph (h)(4) of this section) to make all deposits of those taxes that are required to be made for return periods beginning after December 31 of the following year and must continue to deposit by electronic funds transfer in all succeeding years. Thus, a taxpayer that exceeds the $200,000 deposit threshold during calendar year 1998 is required to make deposits for return periods beginning in calendar year 2000 by electronic funds transfer.

(iii) *Voluntary deposits.* A taxpayer that is not required by this section to use electronic funds transfer to make a deposit of taxes described in paragraph (h)(3) of this section may voluntarily make the deposit by electronic funds transfer, but remains subject to the rules of paragraph (i) of this section, pertaining to deposits by Federal tax deposit (FTD) coupon, in making deposits other than by electronic funds transfer.

* * * * *

(j) *Voluntary payments by electronic funds transfer.* Any person may voluntarily remit by electronic funds transfer any payment of tax imposed by subtitle C of the Internal Revenue Code. Such payment must be made in accordance with procedures prescribed by the Commissioner.

* * * * *

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

Par. 9. The authority citation for part 40 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 40.6302(a)–1 also issued under 26 U.S.C. 6302(a) and (h). * * *

Par. 10. Section 40.6302(a)-1 is added to read as follows:

§ 40.6302(a)–1 Voluntary payments of excise taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 40 applies.

Such payment must be made in accordance with procedures prescribed by the Commissioner.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–6948 Filed 3–22–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket No. RSPA–99–5013 (HM–229)]

RIN 2137–AD21

Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form F 5800.1

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This ANPRM solicits comments on the merits of revising the current incident reporting requirements of the Hazardous Materials Regulations and the Hazardous Materials Incident Report form (DOT Form F 5800.1). The Federal hazardous material transportation law requires the Secretary of Transportation to maintain a facility and technical staff sufficient to maintain a central reporting system to develop a statistical compilation on casualties and conduct reviews on hazardous materials transportation. Any changes resulting from this rulemaking are intended to increase the usefulness of data collected for risk analysis and management by government and industry and, where possible, provide relief from regulatory requirements.

DATES: Send your comments on or before June 21, 1999.

ADDRESSES: Address your comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW., Washington, DC 20590–0001. You must identify the docket number, RSPA–99–5013 (HM–229) at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that RSPA has received your comments, include a self-addressed stamped postcard. You may also submit your comments by E-mail to rules@rspa.dot.gov. The Dockets Unit is located on the Plaza Level of the Nassif Building at the U.S. DOT at the above address. You may view public dockets between the hours of 10 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Electronic Access

You may review all comments received by the Dockets Office on the Internet at http://dms.dot.gov. It is available 24 hours a day, 365 days a year. An electronic copy of this document may be downloaded from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at http://www.access.gpo.gov/su_docs or the Office of Hazardous Materials Safety at http://rspa.dot.dov/rulemake.htm. You may obtain copies of DOT Form F 5800.1 and the instruction booklet for completing DOT Form F 5800.1 at the Office of Hazardous Materials Safety's web site at http://hazmat.dot.gov/spills.htm or http://hazmat.dot.gov/ohmforms.htm#incidents.

FOR FURTHER INFORMATION CONTACT: Diane LaValle, at the Office of Hazardous Materials Standards, telephone (202) 366–8553 or Kevin Coburn, at the Office of Hazardous Materials Planning & Analysis, telephone (202) 366–4555, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1995, the President directed all Federal agencies to perform an extensive review of each of their regulations and eliminate or revise those requirements that are outdated or in need of reform. As a result of its review of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180), the Research and Special Programs Administration (RSPA, "we") is considering revisions to the incident reporting requirements in §§ 171.15 and 171.16 and the incident report form, DOT Form F 5800.1.

Following a meeting between DOT and members of several trade associations concerning hazardous materials incident reporting, the Association of American Railroads sponsored a workgroup with segments of the transportation community to discuss the DOT Form F 5800.1 and reporting requirements of §§ 171.15 and 171.16. The workgroup meetings were held during the winter of 1997–98. Participants included representatives of all four transportation modes, shippers, container manufacturers, and labor. The workgroup drafted suggestions and submitted them to RSPA. We developed questions based on input from these meetings, the DOT modal agencies, other concerned individuals, and our own initiative. We are now requesting comments on the merits of revising the requirements of §§ 171.15 and 171.16 for incident reporting and revising DOT Form F 5800.1.

Currently § 171.15 provides criteria requiring immediate notification of unintentional hazardous materials releases to the National Response Center. Each carrier making a report under § 171.15 is also required to fill out DOT Form F 5800.1 as required by § 171.16. Additionally, carriers are currently required to fill out DOT Form F 5800.1 for unintentional releases when the conditions of § 171.16 are met. We use the data and information we collect:

- As an aid in evaluating the effectiveness of the existing regulations.
- To assist in determining the need for regulatory changes to cover changing transportation safety problems.
- To determine major problem areas so that the attention of the Department may be more suitably directed to those areas.

We are considering expanding the reporting requirements in §§ 171.15 and 171.16 to include circumstances that are not currently required to be reported. For example, some questions concern reporting of undeclared shipments of hazardous materials whether or not there is a release. We are also considering expanding the reporting requirements to persons other than carriers. Other questions concern reporting of damage to packagings, especially bulk packagings such as cargo tanks, whether or not there has been a release. We anticipate that a modest increase in reporting potentially high-consequence incidents would be offset by reduced reporting requirements for incidents with less serious potential impacts.

This advance notice of proposed rulemaking (ANPRM) is designed to evaluate the need for any change in reporting requirements, to obtain more useful information from DOT Form F 5800.1 submissions and to reduce the regulatory burden on industry. Any changes would be based on both our own initiative and suggestions made by various members of industry. This ANPRM is also consistent with the goals of the President's Regulatory Reinvention Initiative.

II. Impact on Small Businesses

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of rules that have or will have a significant economic impact on a substantial number of small business entities. The purpose of the reviews is to determine

whether such rules should be continued without change, or should be amended or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities. The reviews are to consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. This ANPRM provides an opportunity for small entities to submit information relevant to this review.

III. Plain Language

RSPA intends to revise the Hazardous Materials Incident Report and §§ 171.15 and 171.16 in plain language. Clearer rules will improve both compliance and enforceability. Interested persons are encouraged to submit draft regulatory language they believe clearly and simply communicates regulatory requirements.

We request written comments from interested persons concerning regulatory changes and clarifications that will simplify completion of the Hazardous Materials Incident Report. Interested persons may submit draft regulatory language and comments suggesting ways to write the requirements for reporting hazardous materials incidents which would promote understanding and compliance. Comments that provide reasons and factual data are especially helpful.

IV. Questions

Questions on revising DOT Form F 5800.1 and the associated sections of the HMR generally fall within five categories. These categories are:

- General Issues.
- Telephonic Notification.
- Written Reports.
- DOT Form F 5800.1.

Customer Uses and Needs.

- National Transportation Safety Board recommendations.

An exact copy of the current DOT Form F 5800.1 is included with this ANPRM as an aid to the reader. In addition, §§ 171.15 and 171.16 are set forth in their entirety, as follows:

§ 171.15—Immediate Notice of Certain Hazardous Materials Incidents

(a) At the earliest practicable moment, each carrier who transports hazardous materials (including hazardous wastes) shall give notice in accordance with paragraph (b) of this section after each incident that occurs during the course of transportation (including loading, unloading and temporary storage) in which:

(1) As a direct result of hazardous materials—

(i) A person is killed; or

(ii) A person receives injuries requiring his or her hospitalization; or

(iii) Estimated carrier or other property damage exceeds $50,000; or

(iv) An evacuation of the general public occurs lasting one or more hours; or

(v) One or more major transportation arteries or facilities are closed or shut down for one hour or more; or

(vi) The operational flight pattern or routine of an aircraft is altered; or

(2) Fire, breakage, spillage, or suspected radioactive contamination occurs involving shipment of radioactive material (see also §§ 174.45, 175.45, 176.48, and 177.807 of this subchapter); or

(3) Fire, breakage, spillage, or suspected contamination occurs involving shipment of infectious substances (etiologic agents); or

(4) There has been a release of a marine pollutant in a quantity exceeding 450 L (119 gallons) for liquids or 400 kg (882 pounds) for solids; or

(5) A situation exists of such a nature (e.g., a continuing danger to life exists at the scene of the incident) that, in the judgment of the carrier, it should be reported to the Department even though it does not meet the criteria of paragraph (a) (1), (2) or (3) of this section.

(b) Except for transportation by aircraft, each notice required by paragraph (a) of this section shall be given to the Department by telephone (toll-free) on 800–424–8802. Notice involving shipments transported by aircraft must be given to the nearest FAA Civil Aviation Security Office by telephone at the earliest practical moment after each incident in place of the notice to the Department. Notice involving etiologic agents may be given the Director, Centers for Disease Control, U.S. Public Health Service, Atlanta, Ga., (800) 232–0124, in place of the notice to the Department or (toll call) on 202–267–2675. Each notice must include the following information:

(1) Name of reporter.

(2) Name and address of carrier represented by reporter.

(3) Phone number where reporter can be contacted.

(4) Date, time, and location of incident.

(5) The extent of injuries, if any.

(6) Classification, name, and quantity of hazardous materials involved, if such information is available.

(7) Type of incident and nature of hazardous material involvement and whether a continuing danger to life exists at the scene.

(c) Each carrier making a report under this section shall also make the report required by § 171.16.

Note: Under 40 CFR 302.6 EPA requires persons in charge of facilities (including transport vehicles, vessels and aircraft) to report any release of a hazardous substance in a quantity equal to or greater than its reportable quantity, as soon as that person has knowledge of the release, to the U.S. Coast Guard National Response Center at (toll free) 800–424–8802 or (toll) 202–267–2675.

§ 171.16—Detailed Hazardous Materials Incident Reports

(a) Each carrier who transports hazardous materials shall report in writing, in duplicate, on DOT Form F 5800.1 (Rev. 6/89) to the Department within 30 days of the date of discovery, each incident that occurs during the course of transportation (including loading, unloading, and temporary storage) in which any of the circumstances set forth in 171.15(a) occurs or there has been an unintentional release of hazardous materials from a package (including a tank) or any quantity of hazardous waste has been discharged during transportation. If a report pertains to a hazardous waste discharge:

(1) A copy of the hazardous waste manifest for the waste must be attached to the report; and

(2) An estimate of the quantity of the waste removed from the scene, the name and address of the facility to which it was taken, and the manner of disposition of any removed waste must be entered in Section IX of the report form (Form F 5800.1) (Rev. 6/89).

(b) Each carrier making a report under this section shall send the report to the Information Systems Manager, DHM–63 , Research and Special Programs Administration, Department of Transportation, Washington, DC 20590–0001; and, for incidents involving transportation by aircraft, a copy of the report shall also be sent to the FAA Civil Aviation Security Office nearest the location of the incident. A copy of the report shall be retained, for a period of two years, at the carrier's principal place of business, or at other places as authorized and approved in writing by an agency of the Department of Transportation.

(c) Except as provided in paragraph (d) of this section, the requirements of paragraph (a) of this section do not apply to incidents involving the unintentional release of a hazardous material—

(1) Transported under one of the following proper shipping names:

(i) Consumer commodity.

(ii) Battery, electric storage, wet, filled with acid or alkali.

(iii) Paint and paint related material when shipped in packagings of five gallons or less.

(2) Prepared and transported as a limited quantity shipment in accordance with this subchapter.

(d) The exceptions to incident reporting provided in paragraph (c) of this section do not apply to:

(1) Incidents required to be reported under 171.15(a);

(2) Incidents involving transportation aboard aircraft;

(3) Except for consumer commodities, materials in Packing Group I; or

(4) Incidents involving the transportation of hazardous waste.

General Issues

1. Should the hazardous materials incident reporting requirements be

extended to persons other than carriers (such as freight forwarders, warehouse operators, consignees, etc.)?

2. Should RSPA require reporting of any incident involving discovery of an undeclared shipment of a hazardous material whether or not there is a release of the hazardous material? Should the expanded requirement apply only to incidents discovered by a carrier during transportation? Should the expanded requirement apply to discovery by a consignee or other person during or following delivery of the material?

Telephonic Notification (see § 171.15)

3. Currently, immediate notification is required for incidents where estimated carrier or other property damage exceeds $50,000. Is this monetary reporting threshold reasonable? Should it be modified or eliminated? If modified, to what amount? Why?

4. Should any other current requirements for immediate notification be modified or eliminated? If so, explain your suggested modification, the reasons for the modification, and anticipated impacts.

5. Should RSPA require immediate telephonic notification for any other type of incident?

6. In addition to notifying the National Response Center, should a carrier also be required to give immediate telephonic notification of an incident to the person who offered the hazardous material for shipment?

7. If an incident requiring immediate telephonic notification occurs at the location of an offeror or consignee, should the offeror or consignee be required to provide the notification? Should such notification be in addition to, or instead of notification from the carrier? What would be the usefulness and burdens associated with such a requirement?

Written Reports (see § 171.16)

8. Is the current regulatory language clear as to when a written incident report is required? If not, what changes should RSPA make?

9. To provide a broader perspective for risk management in more critical hazardous material transportation situations, should additional information be collected through the incident reporting system to document successful performance and better gauge the integrity of packaging? For instance, should information be collected on certain highway accidents whether or not a hazardous material has been released? Would an appropriate definition of "accident" for reporting purposes be "any collision, rollover, jack-knife, or departure from the roadway"? Should additional reporting be limited to certain packagings or materials such as—

- Cargo tanks, portable tanks, and IM portable tanks with a capacity greater than 1000 gallons;
- Cylinders containing flammable gas with a water capacity greater than 100 pounds;
- Explosives in packaging greater than 50 pounds; or
- Toxic-by-inhalation liquids or gases in any quantity and packaging?

Should such additional reporting be limited to situations where there is exposure to fire or damage to the packaging? Should reporting be required for railway accidents that do not involve the unintentional release of hazardous materials, or do mechanisms exist to adequately capture this information apart from DOT Form F 5800.1?

10. Should RSPA expand the exceptions in § 171.16(c) to include any other hazardous material; class, division, or packing group; or quantity limitations? If so, indicate the exception and why.

11. Is there a spill quantity of an excepted material that should trigger incident reporting? For example, a spill of paint from a packaging with a capacity of less than 5 gallons is not reportable. Should a spill of a certain quantity of hazardous material be reportable regardless of the capacity of the packaging in which it was contained (e.g., a release from numerous small packagings)?

DOT Form F 5800.1 (See Appendix)

12. Should RSPA develop an abbreviated incident report form for incidents of low severity? What criteria could be used as a threshold? What minimal information should be required for a low severity incident?

13. Should DOT Form F 5800.1 be structured to more accurately describe the cause and manner of a packaging failure? How could this be done to better capture human causal factors?

14. Would replacing the current check boxes on DOT Form F 5800.1, sections V 24 and VI 25 thru 29, with numerically coded responses or other means to better identify how the incident occurred, increase the difficulty or lengthen the time it takes to complete the report?

15. Would replacing the boxes on DOT Form F 5800.1, section VIII parts 41 thru 45, with numerically coded responses or other means to identify the reasons why the packaging failed, increase the difficulty or lengthen the time it takes to complete the report?

16. What additional fields, if any, should be included on the report form to indicate the amount of hazardous material that was initially in the package?

17. Would the information required by section VII of the report form be easier to understand if column C was removed, column A was renamed "Inner Package", and column B was renamed "Outer Package"? Why?

18. Should there be either separate sections on DOT Form F 5800.1 for reporting bulk and non-bulk packagings or a separate incident report form for these packagings?

19. Should we require more specific incident location data, such as mile-post or street address, if available? How difficult would it be to obtain and report this information? What additional benefit would the information provide?

20. How can better information be provided on DOT Form F 5800.1 as to the transportation phase of an incident (e.g., when the incident most likely occurred?)

21. Should RSPA require updates to Section V 18 through V 23, the incident consequences fields, if additional or better data are available after the incident report form was submitted to DOT? Should RSPA set an amount or percentage change to trigger filing of a supplemental report?

22. Should better information on release duration be collected (for example, the length of time a vapor is dispersed)? How could this be done?

23. How can RSPA acquire better information on failures, such as estimated dimensions of cracks or punctures?

24. What burden would you incur from a requirement to submit copies of photographs in your possession when specified criteria are met?

25. Should reporting of information concerning duration of an evacuation be included on the incident report form?

26. Should RSPA add an additional section to the incident report form to include information regarding who was injured or required hospitalization (e.g., general public, employees, or emergency response personnel)?

27. Should RSPA add a section to the incident report form to identify the UN packing group, if any, of the hazardous material and the packaging?

28. Are you aware of other Federal reporting forms that duplicate information required by DOT Form F 5800.1? If so, how could RSPA link the necessary transportation data to other required Federal reporting forms?

Customer Uses and Needs

29. What data and information do you use from the incident report form and for what purpose?

30. What additional data not now collected on the incident report form should be collected and for what purpose would it be used?

31. Should access to incident data be available via the Internet? If only select data could be provided because of cost or technology considerations, what data would be most useful to you?

32. RSPA is considering optional electronic filing of incident reports by facsimile (fax), electronic mail (e-mail), and Internet. Do you have recommendations concerning implementation of electronic filing? Are there other means of electronic filing that RSPA should consider?

33. How would you use a tracking system for DOT Form F 5800.1 submissions and processing status?

National Transportation Safety Board (NTSB) Recommendations

Recommendation R–89–52 states that RSPA should:

> Establish procedures that require carriers reporting hazardous materials incidents under the provisions of 49 CFR 171.16 to notify shippers whose hazardous materials shipments are involved.

34. In accordance with NTSB recommendation R–89–52, what would be the potential benefits or impacts of requiring carriers (other than private motor carriers) reporting hazardous materials incidents under 49 CFR 171.16 to notify shippers whose hazardous materials shipments are involved in the incident being reported?

Recommendation H–92–6 states that RSPA should:

> Implement, in cooperation with the Federal Highway Administration, a program to collect information necessary to identify patterns of cargo tank equipment failures, including the reporting of all accidents involving DOT specification cargo tanks.

35. In accordance with NTSB recommendation H–92–6, how could RSPA, in cooperation with FHWA, improve the current incident reporting program to collect information identifying patterns of cargo tank equipment failures, including reporting of all accidents involving a DOT specification cargo tank, whether or not a release occurred?

V. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This ANPRM is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The costs and benefits associated with this rulemaking are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation. This determination may be revised as a result of public comment.

B. Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). Federal law expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous material that cover certain subjects and are not substantively the same as the Federal requirements. 49 U.S.C. 5125(b)(1). These subjects are:

(i) The designation, description, and classification of hazardous material;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous material and requirements respecting the number, content, and placement of those documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(v) the design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

This proposed rule concerns the written notification, recording, and reporting of the unintentional release in transportation of hazardous materials. If adopted as final, this rule would preempt any State, local, or Indian tribe requirements concerning this subject unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d)) as the Federal requirements.

Federal law (49 U.S.C. 5125(b)(2)) provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA requests comments on what the effective date of Federal preemption should be for any new requirements RSPA may propose concerning the specified covered subject.

C. Executive Order 13084

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule would not significantly or uniquely affect the Indian tribal communities, the funding and consultation requirements of the Executive Order do not apply.

D. Regulatory Flexibility Act

This ANPRM requests information on a series of questions which will be used to develop a proposal to amend provisions of the HMR addressing incident reporting, including the report form. RSPA anticipates that this rulemaking action will generally reduce burdens for most persons required to submit hazardous materials incident reports, some of whom are small entities. Since there are no specific proposals in this ANPRM, there are not costs to be evaluated. If a rulemaking is proposed, the impacts are anticipated to be so minimal as not to warrant preparation of a regulatory impact analysis. Therefore, I certify that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. This ANPRM does not propose any new information collection burdens.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This rulemaking would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

Issued in Washington, DC on March 17, 1999, under the authority delegated in 49 CFR part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–7040 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571, 585, 587, and 595

[Docket No. NHTSA 98–4405, Notice 3]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of a technical workshop.

SUMMARY: Because biomechanical performance criteria are essential to the successful design, evaluation, and regulation of vehicle safety systems with air bags, NHTSA is holding a technical workshop to provide an additional opportunity for a continuing dialog with the biomechanics community to insure that appropriate criteria are considered during current rulemaking activities. Attendance is open to both participants (presenters and discussants) and observers.

DATES: *Public Workshop:* We will hold the public workshop on April 20 and 21, 1999, from 9 a.m. to 5 p.m. each day. Those wishing to participate in the workshop should contact Dr. Rolf Eppinger, at the address, telephone, or e-mail listed below, by April 8, 1999. If you plan to present a statement during the meeting, please provide a copy of your statement to Dr. Eppinger by April 13, 1999.

Written Comments: Written comments may be made to the agency and must be received by April 30, 1999.

ADDRESSES: *Public Workshop:* We will hold the public workshop in room 2230 of the Nassif Building, 400 Seventh St., SW, Washington, DC 20590.

Written Comments: If you wish to submit written comments on the issues related to or discussed at this workshop, they should refer to Docket No. NHTSA 98–4405, Notice 3, and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590 (Docket hours are from 10 a.m. to 5 p.m.)

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Dr. Rolf Eppinger, Office of Human-Centered Research, 400 Seventh Street, SW, Washington, DC 20590 (telephone 202–366–4720; fax 202–366–5670, *reppinger@nhtsa.dot.gov*).

For legal issues: Edward Glancy, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590 (telephone 20—366–2992; fax 202–366–3820).

SUPPLEMENTARY INFORMATION:

A. Background

On September 18, 1998, we published in the **Federal Register** (63 FR 49958) a notice of proposed rulemaking (NPRM) to upgrade Standard No. 208, Occupant Crash Protection, to require advanced air bags. The proposal would require that improvements be made in the ability of air bags to cushion and protect occupants of different sizes, both belted or unbelted, and would require air bags to be redesigned to minimize risks of air-bag-induced injuries to infants, children, and other occupants seated in a variety of nonstandard positions. The agency held a public meeting relating to this proposal on November 23 and 24, 1998.

Essential parts of our proposal are biomechanical performance criteria (injury criteria and associated performance limits) that evaluate and limit the impact to test dummies to appropriately safe levels under specified test conditions. In the proposal, we referred to and provided a supplemental report titled "Development of Improved Injury Criteria for the Assessment of Advanced Automotive Restraint Systems' that detailed the sources and processes we used to arrive at our proposed biomechanical performance criteria. Comments on these proposed performance criteria ranged from agreement with NHTSA's proposals to proposals of alternative criteria and limits.

In light of the diversity of opinions expressed and in order to ensure that we consider appropriate criteria in developing the final rule, we will hold a technical workshop at which interested persons can present, and workshop participants can discuss, the technical bases and merits of the performance criteria they believe are the most appropriate for the agency to adopt.

B. Public Workshop

1. Purposes and Issues

• The purposes of the workshop are to: gather pertinent information and/or comment concerning the technical bases and rationale for the biomechanical performance criteria that should be considered by the agency for use in evaluating and regulating the performance of advanced air bag safety systems.

• Obtain specific technical comments, discussion, and/or constructive input related to the biomechanical performance criteria and their limits as proposed by the agency in its Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (63 FR 49958) on September 18, 1998, or those criteria and limits as recommended by commenters in response to the notice.

• Provide an opportunity for interested persons to present other data and criteria thought biomechanically relevant and appropriate for application in the automotive crash environment but not cited by either NHTSA or in the comments on the September 1998 NPRM.

Specific issues to be considered and discussed during the workshop include:

• What are the appropriate criteria and their biomechanical bases that can be used for the various body regions at risk in a crash? (Specific body regions to be considered include as a minimum the skull/brain, the neck, and the thorax.)

• What statistical techniques are appropriate to extract meaningful relationships between measurable engineering parameters and the probability of a certain injury outcome?

• What factors should be considered in the evaluation of alternative criteria?

• What scaling techniques are appropriate to extend a criterion's form and limits to validly encompass the wide range of occupant sizes being addressed by NHTSA? (From 12-month-old infant, to a 50th percentile adult male.)

2. Availability of Relevant Documents

The September 18, 1998, proposal for advanced air bags, the biomechanical support paper, and comments on the proposal have been placed in the docket. To obtain them, you may either visit the docket in Washington, DC, or access them via the Web.

The docket is located in Room PL–401, 400 Seventh Street, SW, Washington, DC. Docket hours are 9 a.m. to 4 p.m., Monday through Friday. The Docket Management Web site is at "http://dms/.dot.gov/". You should search for Docket number 4405.

The September 18 proposal (typewritten version) and the two technical papers are also available on NHTSA's Web site. The address for this site is "http://www.nhtsa.dot.gov/". You should select "Advanced Air Bags" under "Popular Information."

3. Procedural Matters

The purpose of this workshop is to provide NHTSA an opportunity for further dialog with the biomechanics community and interested parties to gather information, data, and opinions on proposals by and to the agency regarding biomechanical performance criteria needed to support the agency's recently proposed rulemaking initiatives. To maximize the output of the workshop within the limited time available, the first topic to be addressed will concern the appropriateness of the various statistical techniques used to analyze the available biomechanical data. Subsequent topics, in the order of their presentation, will be discussions of proposals for criteria for the skull/brain, neck, and the torso. The order of events in each topic area will be: A short presentation of the NHTSA proposal presented in the NPRM. Then, presentations by persons and organizations on the proposals and/or comments they made to the docket. This will be followed by presentations of any new or previously uncited data by interested persons, an open discussion by workshop participants of the technical merits of the previous presentations, and a summary statement by the workshop. To insure that the agency is fully cognizant of their issues and positions taken at this workshop, a transcript of the workshop will be made. Persons and organizations are also encouraged to submit written comments on the issues related to or discussed at this workshop. They should be submitted (preferably two copies) to Docket Management, National Highway Traffic Safety Administration, Room PL–401, 400 Seventh Street, Washington, DC 20590. Submissions must refer to Docket NHTSA 98–4405, Notice 3.

4. Workshop Participation

This workshop is a public workshop, and attendance is open to the public. You may attend as a participant (a presenter or a discussant) or an observer.

C. Written Comments

Interested persons are invited to submit comments on this notice. Two copies should be submitted to Docket Management at the address given at the beginning of this document.

In addition, for those comments of four or more pages in length, it is requested but not required that 10 additional copies, as well as one copy on computer disc, be sent to: Dr. Rolf Eppinger, Office of Human-Centered Research, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. This would aid the agency in expediting its review of all the comments. The copy on computer disc may be in any format although the agency would prefer that it be in WordPerfect 8.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

List of Subjects in 49 CFR Part 571

Imports, Motor Vehicle Safety, Motor Vehicles.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: March 17, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–7073 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

49 CFR Part 1420

[Docket No. BTS–98–4659]

RIN 2139–AA05

Revision to Reporting Requirements for Motor Carriers of Property and Household Goods

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Bureau of Transportation Statistics (BTS) collects data from motor carriers of property on annual report Form M and quarterly report Form QFR. BTS proposes to adopt measures concerning what data from those forms are made publicly available. Summary information, where information cannot be readily matched to an individual carrier, would always be made available. However, the proposed rules would restrict access to individual carrier data for some of the operating statistics, revenue equipment, and employment data items. Access to these data items would be limited to the Department of Transportation (DOT) and to such persons and in such circumstances as DOT determines to be in the public interest or consistent with the Department's regulatory functions and responsibilities.

DATES: Comments must be submitted by April 22, 1999.

ADDRESSES: Please direct comments to the Docket Clerk, Docket No. BTS–98–4659, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Comments should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on Docket BTS–98–4659. The Docket Clerk will date stamp the postcard and mail it back to the commenter.

If you wish to file comments using the Internet, you may use the U.S. DOT Dockets Management System website at http://dms.dot.gov. Please follow the instructions online for more information.

FOR FURTHER INFORMATION CONTACT: David Mednick, K–2, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–8871; fax: (202) 366–3640; e-mail: david.mednick@bts.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You can examine all comments that were submitted to the Rules Docket concerning this rulemaking at: Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, from 10 a.m. to 5 p.m. , Monday through Friday, except Federal holidays. Internet users can access the comments at the address: http://dms.dot.gov. Search for Docket Number 4659. Please follow the instructions online for more information and help.

You can download an electronic copy of this document using a modem and

suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. If you have access to the Internet, you can obtain an electronic copy at http://www.bts.gov/mcs/rulemaking.htm.

II. Background

Authority

The Secretary of Transportation has authority to establish regulations for the collection of certain data from motor carriers of property and others. Section 103 of the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (1995) (codified at 49 U.S.C. 14123). This authority has been delegated to the Director of the Bureau of Transportation Statistics (BTS). 49 CFR 1.71.

Regulatory History

On November 3, 1998, BTS published a Notice of Proposed Rulemaking (NPRM) which proposed rules for revising the data collected from Class I and II motor carriers of property and household goods (63 FR 59263). It also proposed a system for carriers to request exemptions from filing reports and exemptions from public release of their reported data. On November 25, 1998, BTS published a notice extending the comment period until January 15, 1999 (63 FR 65163). In addition to publishing this Supplemental Notice of Proposed Rulemaking (SNPRM), BTS is also publishing the final rule on the NPRM (Final Rule). The Final Rule is being published in this issue of the **Federal Register**. While the NPRM and Final Rule addressed the issue of confidentiality of individual carrier reports, they did not examine the issue of public availability of the data generally.

Brief History of the Data Collection Program

The Interstate Commerce Commission (ICC) collected financial data from regulated motor carriers from the 1930's until its sunset at the end of 1995, when the data collection was transferred to the Department of Transportation (DOT). *See* 49 U.S.C. 11145 and its implementing regulations at 49 CFR part 1420.[1] Between 1978 and 1994, the ICC significantly reduced the reporting requirements. It substantially shortened report forms and eased record retention requirements. These changes followed the shift in the ICC's focus from close economic regulation of the motor carrier industry to industry oversight. The last revision to accounting and reporting requirements, ICC's Ex Parte No. MC–206, 10 I.C.C.2d 329 (1994), contains additional background information.

Changes Made to the Data Collection Program by the Final Rule

The Final Rule, discussed above in "Regulatory History," implements the ICC Termination Act of 1995 (the ICCTA), which abolished the ICC and transferred some of the data collection program to DOT. While the ICCTA continued the program, it made several changes to it. Similar to the legislation replaced by the ICCTA, then codified at 49 U.S.C. 11145, the ICCTA requires DOT to collect certain data from motor carriers of property and motor carriers of passengers:

> The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

The former 49 U.S.C. 11145 did not explicitly charge ICC to collect information relevant to safety and did not specify minimum data to be collected. The ICCTA also allows DOT to collect certain other data as needed:

> The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

The ICCTA specifies the criteria to be used in designing the reporting program. DOT must consider: (1) Safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. In the ICCTA, Congress explicitly called on DOT to streamline and simplify these reporting requirements to the maximum extent practicable.

Unlike the former 49 U.S.C. 11145, the ICCTA authorizes two types of exemptions from the reporting requirements. Each exemption is based on certain criteria and is granted for a three-year period. The first is an exemption from filing report forms. The requestor "must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available." The second is an exemption from public release of a carrier's report. Similar to the other exemption, the requestor must demonstrate that "the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5." Further, for the latter exemption the requestor must not be a publicly held corporation or must not be subject to financial reporting requirements of the Securities and Exchange Commission.

To implement the ICCTA, BTS proposed changes to the reporting requirements and proposed procedures for carriers to request exemptions. After receiving comments on the proposal, BTS issued the Final Rule, which made a number of changes to the data collection program. Class I carriers, those with annual operating revenues of $10 million or more, will now file significantly reduced annual and quarterly reports. Class II carriers, those with annual operating revenues of between $3 and $10 million, will file a modified annual report. In addition, the Final Rule sets out procedures for carriers to request exemptions from filing and exemptions from public release of their reports. For more information, please refer to the NPRM and Final Rule.

Content of Carrier Reports

The annual report collects financial and operating data from Class I and Class II for-hire motor carries of property and motor carriers of household goods. The types of data, with varying amount of detail for each, are: (1) Assets, (2) liabilities; (3) operating revenue; (4) other revenue; (5) detailed operating expenses; (6) other expenses; (7) miles, tons, shipments, and ton-miles by industry segment; (8) revenue equipment; and (9) employment and compensation. Only Class I carriers are required to file the quarterly report, which contains much fewer data items and in much less detail. The types of data required in the quarterly report are: (1) Operating revenue; (2) other revenue; (3) operating expenses; (4) other expenses; and (5) miles, tons, and shipments.

The data are used by the Department of Transportation, other federal agencies, motor carriers, shippers, industry analysts, labor unions, segments of the insurance industry, investment analysts, and the consultants and data vendors that support these users. Among the uses of the data are: (1) Developing the U.S. national accounts and preparing the quarterly estimates of the Gross Domestic Product; (2) measuring the performance of the for-hire motor carrier industry

[1] The regulations were recently transferred from 49 CFR part 1249 to 49 CFR part 1420. *See Reports of Motor Carriers; Redesignation of Regulations Pursuant to the ICC Termination Act of 1995*, 63 FR 52192 (Sept. 30, 1998).

and segments within it; (3) monitoring carrier safety; (4) benchmarking carrier performance; and (5) analyzing motor carrier safety, productivity, and its role in the economy.

Confidentiality—Background

Under the current policy, individual carrier reports are made available to the public, unless otherwise prohibited by law. This policy was carried over from the time when the ICC administered the program. With the changes made by the ICCTA, as implemented by the Final Rule, privately held carriers are able to request that their report be kept confidential.

To understand how confidentiality is treated in the ICCTA requires a bit of background about the Freedom of Information Act (FOIA) (5 U.S.C. 552). Under FOIA, any person can obtain records from a federal agency, unless the records (or a part of the records) are protected from disclosure by any of the law's nine exemptions. Records include reports filed with the government by private entities, such as Form M and Form QFR. Of FOIA's nine exemptions, where disclosure is not mandatory, Exemption Four is relevant here. It protects "trade secrets and commercial or financial information obtained from a person (that is) privileged or confidential." Information is confidential under Exemption Four if disclosure would be likely "to cause substantial harm to the competitive position of the (reporting carrier)" or "impair the Government's ability to obtain necessary information in the future." [2]

Like FOIA, the ICCTA both calls for information to be available and restricts availability in certain instances. While nothing in the statutory authority explicitly requires that information be made publicly available, it is implied. BTS, in designing the data collection program, must consider not just government needs but also safety needs; use of the data by the private sector, academics, and the public; and the public interest. This gives a strong public policy statement in support of making individual carrier data accessible to the public. While summary data may meet certain needs, individual carrier data would be more helpful to some analyses. Furthermore, effective safety monitoring requires individual carrier data. The implication that individual carrier data generally be made publicly available is further supported by the fact that the ICCTA defines the circumstances under which a carrier's data must be withheld from disclosure. BTS must withhold carrier information from public release in those situations where the carrier can show competitive harm would result. In this case, the carrier's entire report is withheld for three years, except for internal DOT use or in aggregate form. Confidentiality also plays a role in shaping the data collection, since the ICCTA instructs BTS to take into account the need to preserve confidential business information and prevent competitive harm.

Confidentiality—Comments in the NPRM

As discussed above, individual carriers are able to request an exemption if public release would likely result in substantial competitive harm. Several commenters, however, advocated that some or all of the information should be kept confidential for all carriers. That is, the information could cause competitive harm not just in a particular carrier's case, but for carriers generally. These commenters said that is it common knowledge the data can be used by competitors to the reporting carrier's detriment. Publishing only aggregate data would serve most purposes because private data users have other means of getting data. Furthermore, in other industries companies are not required to divulge financial information. Since no public purpose would be served and the information provided by carriers is private, otherwise confidential, commercially sensitive information, it should not be publicly released. These commenters generally stated that the data collected (presumably all or most) fell into the confidentiality category. One wanted all data protected, but was most concerned about operating statistics (schedules 300 and 400 of proposed Form M). This was identified as information that could, when used in combination with other financial information, be used by competitors to the detriment of the reporting carrier. That is, the units of operation are most sensitive because they allow calculation of such items as revenue per mile and cost per mile.

By contrast, some other commenters pointed to the need for individual carrier data. They stated that the reports enable not only the government but also non-governmental entities to review the financial status of the motor carriers. This helps ensure that those carriers who are most likely to create safety risks are subject to oversight and evaluation. Some representatives and associations of insurance companies stated that they use reports to ascertain and evaluate the financial condition of insured and applicant motor carriers. They also state that this type of information is not generally available otherwise. A motor carrier supported continued availability, saying the information is pro-competitive, as it allows the public to monitor the profile of motor carriers. Furthermore, markets, including the motor carrier industry, operate most efficiently in the light of adequate competitive information. Without this essential data, shippers would have diminished ability to compare carriers, and carriers would have less incentive to benchmark their operations. Another commenter pointed out that the financial information is useful to shippers, who are concerned about the financial well-being of carriers they use.

Confidentiality—Proposal

The goal of the Final Rule is to determine what data items to collect. BTS had to balance user needs with the burden the data collection places on respondents and strike this balance within the guidelines and restrictions of the ICCTA. In this Supplemental Notice of Proposed Rulemaking, BTS seeks to strike a similar balance and again within the confines of the ICCTA. Data users need access to data, often at the individual carrier level. Respondents face the burden of having data they believe are proprietary and sensitive made available to competitors, shippers, and the public.

To protect carriers from any potential harm, BTS could either eliminate sensitive items from the data collection, withhold carrier reports from public release individually, or withhold some or all data from public release for all carriers. BTS proposes to use a combination of these approaches. The Final Rule will reduce the data items we collect to those that are most important. It also allows individual carriers to assert competitive harm with respect to their circumstances. This proposal would, to the extent allowed by law, protect for all carriers the most sensitive of the information that is collected under the revised forms. The proposal also includes a provision for releasing individual carrier data in certain circumstances, to ensure continued access for key uses.

The new rules would limit access to the following data items on the report forms: all of the Operating Statistics data items, the Cost column of the Revenue Equipment data items, and the Total Compensation and Hours Earned or Miles Operated columns of the Employment Information data items. We believe this is information that is generally kept confidential by motor carriers and not voluntarily disclosed to

[2] *National Parks & Conservation Ass'n* v. *Morton*, 498 F.2d 765 (D.C. Cir. 1974).

shippers and competitors. Furthermore, these data elements of operating information are those most likely to result in substantial competitive harm for carriers if released. This information would be given a three year confidentiality period, which is the amount of time confidential business information is to be withheld from public release under the ICCTA. Furthermore, three years is long enough to greatly diminish the harmful potential of the data.

Summary data that do not identify individual carriers may be released any time. In addition, individual carrier data withheld from public disclosure may be released by BTS to: (1) Other components of DOT for their internal use only; and (2) such persons and in such circumstances as the Department of Transportation determines to be in the public interest or consistent with the Department's regulatory functions and responsibilities. Examples of uses that would likely receive access to data restricted under this proposal include those aimed at improving motor carrier safety or research evaluating policy questions such as the impacts of changes to the driver hours of service regulations. The user would have to state its intended use and agree to abide by BTS's disclosure rules related to the restricted data. Uses that would likely not receive access include individual carriers or shippers seeking to improve their competitive position. There is no absolute guarantee that this information can be withheld from disclosure if requested under the Freedom of Information Act. If such requests are filed, they would be dealt with on a case-by-case basis.

Certain financial and operating information submitted to BTS by air carriers have been accorded confidential treatment under similar guidelines and the system has worked quite well. (*See* 14 CFR 298.62(d) and 14 CFR part 241 sections 19–6, 19–7 and 22). A similar system is likewise used by the Surface Transportation Board regarding the rail waybill data it collects (*see* 49 CFR 1244.8) and DOT's National Highway Traffic Safety Administration in its class determinations of confidentiality in certain circumstances (*see* 49 CFR 512.10 and appendix B to 49 CFR part 512).

Effects of the Proposed Revisions

These proposed rules, in combination with the Final Rule, are designed to minimize any potential detrimental affects of public access to individual carrier data to the extent possible under law. The changes incorporate aspects of the three major suggestions made by commenters favoring greater protection. The new rules significantly reduce the number and detail of data items class I carriers are required to report. The proposed rules would restrict access to individual carrier data for those data items that are most sensitive. Carriers will still be able to claim that, despite the shortened report form and protection of the most sensitive data items, in their situation competitive harm still result. That is, a carrier will be able to request that BTS further restrict public access to its report or request that BTS waive the reporting requirements altogether.

BTS also notes that the data collection benefits carriers as they are a large component of the data users. The data users will benefit from the changes as BTS retained reporting of key information in the Final Rule and is preserving access to data to meet most needs. First, users will have access to most of the data at the individual carrier level. Second, where individual carrier data are needed for one of the broad listed uses, the user will also have access. Third, all users will have access to all data at an aggregate level. Fourth, they will have access to all data after three years.

III. Request for Comments

The goal of this proposed rulemaking is to reach an equitable and practical balance, within the context of the ICC Termination Act of 1995, between access and confidentiality. It presumes that a certain set of data is likely to be commercially sensitive and creates a system designed to protect against the potential for competitive harm to carriers while permitting access for principal uses. The issue of protecting classes of data was not directly discussed in the earlier NPRM and BTS did not seek comment on it. Nor has the public had a chance to comment on the details of the system we are currently proposing. Therefore, BTS is issuing this SNPRM and requests comments concerning the above revisions to the public availability of the information collected in motor carrier report Forms M and QFR. Among other topics, you may wish to address one or more of the following: (1) Would public availability of the identified data items be likely to cause substantial competitive harms and why or why not; (2) are there other data items that are confidential and public release of them would either cause substantial competitive harm or would impair an important government interest; (3) what changes, if any, need to be made to the proposal to ensure that the ICCTA's goal of providing information for listed uses is fulfilled.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore is not reviewed by the Office of Management and Budget.

This final rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). It would not affect reporting burden and would have no economic impact. If anything, it would reduce the burden on motor carriers by protecting sensitive information from public release.

The major beneficiaries of the data collection are the federal government, the motor carrier industry, industry associations, transportation investment analysts, transportation research analysts, and motor carrier safety analysts. The program provides data that are used in developing the national accounts, data for monitoring industry trends, and data useful to the public and private sectors regarding the operation and health of the trucking industry and individual carriers.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), BTS must consider whether a final rule would have a significant economic impact on a substantial number of small entities. The definition of "small business" is contained in the Small Business Administration's small business size standard regulations. For motor carriers of property, small businesses are those with annual receipts of up to $18.5 million. Under the current classification, there are about 2,800 reporting carriers of which an estimated 2,180 (or 78 percent) are small businesses (all class II carriers and 31 percent of class I carriers are classified as small businesses). The proposed changes will not affect reporting burden for any reporting carriers. Instead they would reduce the burden on motor carriers by protecting sensitive information from public release. In addition, the changes would not impose any new regulatory requirements, directly or indirectly, on small entities. Therefore, I certify this proposal if adopted would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

In this SNPRM, no changes are being proposed to either Form M or Form QFR.

Other Determinations

BTS has analyzed this action for the purposes of the National Environmental Protection Act. It will not have a significant impact upon the quality of the human environment or the conservation of energy resources. Accordingly, an Environmental Impact Statement is not required. BTS has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and determined that the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule. Similarly, because this action does not create an unfunded Federal mandate on state, local or tribal governments, the requirements of section 1(a) of Executive Order 12875, Enhancing Intergovernmental Partnerships, do not apply. This action does not have potential takings implication under Executive Order 12630 because it does not authorize any takings. In accordance with Executive Order 12630, regarding Governmental Action and Interference with Constitutionally Protected Property Rights, BTS finds that this SNPRM implicates no takings, in that it does not propose or implement licensing, permitting, or other conditions, requirements, or limitations on private use, nor does it require dedications or exactions from owners of private property. BTS has reviewed this action in accordance with Executive Order 12988, Civil Justice Reform, and has determined that this action meets the applicable standards provided in section 3(b) of the Executive Order. Nor does this action require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139–AA05 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 1420

Motor carriers, Reporting and classification.

Proposed Rule

Accordingly, the Bureau of Transportation Statistics proposes to amend 49 CFR part 1420 Reports of Motor Carriers, as follows:

PART 1420—REPORTS OF MOTOR CARRIERS

1. The authority citation for part 1420 continues to read as follows:

Authority: 49 U.S.C. 14123.

2. In § 1420.10, paragraph (c) is redesignated as paragraph (d).

3. Section 1420.10 is amended by adding paragraph (c) to read as follows:

§ 1420.10 Public release of motor carrier of property data.

* * * * *

(c) *Exceptions relating to certain operating information.*

(1) The following data items contained in annual report Form M or quarterly report Form QFR shall be withheld from public release for a period of three years after the report's due date: all of the Operating Statistics data items, the Cost column of the Revenue Equipment data items, and the Total Compensation and Hours Earned or Miles Operated columns of the Employment Information data items.

(2) Except as provided in paragraph (b) of this section, individual carrier financial data withheld from public disclosure may be disclosed by BTS to such persons and in such circumstances as BTS determines to be in the public interest or consistent with the Department of Transportation's regulatory functions and responsibilities.

(3) This paragraph applies to annual reports covering 1998 and later years, and quarterly reports beginning with the first quarter of 1999.

* * * * *

Ashish Sen,

Director, Bureau of Transportation Statistics.

[FR Doc. 99–6850 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990226056–9056–01; I.D. 122498C]

RIN 0648–AL31

Northeast Multispecies Fishery; Amendment 9 to the Northeast Multispecies Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 9 to the Northeast Multispecies Fishery Management Plan (FMP). This amendment would add Atlantic halibut to the species managed under the Northeast Multispecies FMP, implement measures to rebuild halibut and stocks of winter flounder, and implement new or revised overfishing definitions and revised specifications of optimum yield for 12 groundfish species. This rule proposes: The addition of Atlantic halibut to the species managed under the Northeast Multispecies FMP and a one-fish halibut possession limit with a minimum size of 36 inches (66 cm); an increase of one inch in the minimum size of winter flounder; postponement of the Vessel Monitoring System (VMS) requirement beyond May 1, 1999; a modification of the framework process to allow for aquaculture projects and changes to the overfishing definitions; and a prohibition of brush-sweep trawl gear when fishing for multispecies. The intent of Amendment 9 is to eliminate overfishing and rebuild many of the groundfish stocks.

DATES: Comments are invited through May 3, 1999.

ADDRESSES: Comments on proposed Amendment 9 to the FMP, and its supporting documents should be sent to Jon C. Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Multispecies Plan."

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to the Acting Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of proposed Amendment 9, its Regulatory Impact Review, and the Final Environmental Assessment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (U.S. Route 1), Saugus, MA 01906–1097.

Copies of the Initial Regulatory Flexibility Analysis (IRFA) are available from the Jon C. Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Comments regarding the IRFA should be sent to the Acting Regional Administrator.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 978–281–9252.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council) developed Amendment 9 primarily to address the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA) on October 11, 1996. NMFS published a notice of availability for Amendment 9 in the **Federal Register** on January 5, 1999 (64 FR 471), soliciting public comments on the amendment through March 8, 1999. All comments received by the end of that comment period on the proposed amendment, whether specifically directed to the amendment or to this proposed rule, will be considered in the approval/disapproval decision on the amendment. Public comments must have been received (not postmarked or otherwise transmitted, including faxes) by the close of business on March 8, 1999, to be considered in the approval/disapproval decision. Comments received after March 8, 1999, but before the end of the comment period for this proposed rule (May 3, 1999), will not be considered in the approval/disapproval decision of the amendment, but will be addressed in the final rule.

In February 1998, the Multispecies Plan Development Team (PDT) met to review the new SFA requirements and the list of overfished groundfish stocks submitted in NMFS' September 1997 "Report to Congress," to develop recommendations for the Council on the required reductions to stop overfishing. Referring to the December 1997 Report of the Multispecies Monitoring Committee as its primary source of information, the PDT noted that overall nominal effort and exploitation rates had declined for all the stocks identified in this amendment as overfished except halibut. The PDT commented that this was primarily due to measures implemented under Amendment 5 (59 FR 9872, March 1, 1994) and Amendment 7 (61 FR 27710, July 1, 1996) to the FMP. The PDT also commented that additional reductions proposed to take effect under the May 1998 annual adjustment, Framework Adjustment 25 (63 FR 15326), would likely result in further declines.

Amendment 7 (61 FR 27710) established a procedure for setting annual target total allowable catch (TAC) levels for specific cod, haddock, and yellowtail flounder stocks, and an aggregate TAC for the combined stocks of the other regulated species. Under this annual framework adjustment process, TAC levels are set to attain a fishing mortality rate that allows the principal stocks to rebuild to minimum biomass thresholds over time, and to maintain current potential yield for the other regulated species. Although the intent of the management program established under Amendment 7 is to rebuild stocks of cod, haddock, and yellowtail flounder, other multispecies stocks benefit from measures imposed as well. Except for Georges Bank haddock, rebuilding to the Amendment 7 thresholds was expected to take 10 years or less. Georges Bank haddock had a 50-percent probability of being rebuilt within 12 years. Because this annual adjustment provides a process to review new information, either through assessments or trawl surveys and landings data, it ensures a safety mechanism against increases in effort. Therefore, based on measures currently in place and the assurance of an annual adjustment process to address any new information, the PDT recommended that additional measures to reduce fishing mortality rates were not needed at this time.

Due to insufficient information, the PDT was unable to determine the status of the halibut stock, but noted that it was severely depleted by historical standards. Given this, the PDT's recommendation to the Council was to reduce fishing mortality for halibut to as close to zero as possible. This rule would implement a one-fish possession limit and set a minimum fish size of 36 inches (66 cm). This limit is intended to stop directed fishing on halibut without requiring wasteful discarding of vessels that incidentally catch an occasional halibut.

Early in the development of Amendment 9, the Council adopted the Atlantic States Marine Fisheries Commission's (ASMFC's) more restrictive rebuilding goal for winter flounder ($F^{40\%}$ as compared with the current overfishing definition in the FMP of $F^{20\%}$). At its meeting, the PDT reviewed the ASMFC's most recent winter flounder assessment and, although this information was preliminary, the PDT noted that, if ASMFC's more restrictive management objective is to be met, additional measures were likely needed for the Southern New England/Mid-Atlantic winter flounder stock. To help achieve this goal, this rule proposes a 13-inch (33 cm) minimum fish size for winter flounder.

Because of the significant revisions to National Standard 1, the Council, with the Mid-Atlantic Fishery Management Council, convened an Overfishing Definition Review Panel to review existing overfishing definitions for compliance with the new SFA requirements. At its June 24–25, 1998, meeting, the Council adopted the Review Panel's recommendations, including control rules that specify a fishing mortality strategy to promote rebuilding. Amendment 9 would implement new and revised overfishing definitions for stocks of cod, haddock, pollock, redfish, white hake, yellowtail flounder, windowpane flounder, winter flounder, American plaice, witch flounder, Atlantic halibut, and ocean pout. It is the intent of the Council to address the established control rules during the annual framework adjustment process.

Measures of Concern

NMFS specifically invites public comment on the proposed indefinite postponement of the mandatory use of VMS by multispecies vessels that possess an individual days-at-sea (DAS) allocation permit (Individual DAS, Large Mesh Individual DAS, and Combination Vessel (for multispecies only) permit categories). The mandatory use of VMS by individual DAS vessels was originally implemented under Amendment 5. However, at that time, the Administrator, Northeast Region, NMFS (Regional Administrator) authorized the alternative call-in system as the method of notification for these vessels, until the VMS was determined to be operable. Although the operational date was determined as the beginning of the 1998 fishing year, a measure implemented under the May 1998 annual adjustment (Framework Adjustment 25) postponed mandatory usage for an additional year to provide time for the Council to address comments and issues raised by members of the public. The Council proposed an indefinite postponement of VMS implementation under this action because it believed that more time was needed to resolve several outstanding issues and questions raised by the

public. A major concern identified is equity among permit categories. With the layover requirement for Fleet DAS vessels eliminated under Amendment 7, the Council believes that DAS permit categories have become less distinguishable and questions why individual DAS vessels are subjected to a VMS requirement, while other DAS permitted vessels are not. While the original (Amendment 5) application of the VMS was solely to track DAS on individual DAS vessels, the Council also considers VMS to be a useful device to monitor area location based on experience with prior implementation of the VMS requirement in the Atlantic sea scallop fishery and on an experimental basis in the Northeast Multispecies fishery. The Council believes that limiting VMS to just individual DAS vessels (a category representing only a small proportion of the overall DAS vessels) compromises this monitoring tool. Other issues raised consist of general cost uncertainties for several issues associated with VMS, including cost control issues inherent with only one certified vendor (as is currently the case), efficacy of VMS hourly tracking (as opposed to recording DAS usage by minute), especially regarding per-day trip limits and enforcing closed areas or transit provisions, and the inability of some vessels to continuously run their VMS units.

Although removal of the fleet DAS lay-over requirement in Amendment 7 did remove one principal difference between Fleet and Individual DAS vessels, a major distinction between the two permitted vessel categories remains, and that is the fact that Individual DAS vessels tend to fish their DAS at a much higher rate, on average, than do Fleet DAS vessels. For example, of the vessels that called into the DAS program in fishing years 1996 and 1997, Individual DAS category vessels fished approximately 86 percent and 84 percent of their DAS, respectively, while Fleet DAS vessels fished roughly 27 percent and 42 percent, respectively. Furthermore, NMFS believes that the Council has had ample time to address the public's issues of concern. For these reasons, NMFS is considering disapproving VMS postponement for vessels that have an individual DAS allocation and, therefore, is seeking specific comment on this issue.

Other Measures

For Atlantic halibut, Amendment 9 proposes to include Atlantic halibut in the Northeast Multispecies fishery management unit. This proposed rule would establish a one-fish possession limit for commercial and recreational vessels and sets a minimum fish size of 36 inches (66 cm). Because halibut would be included under the NE Multispecies FMP, commercial and charter/party vessels would be required to possess an appropriate open access multispecies permit. As is the case for other groundfish species, non-charter/party recreational vessels would not be required to possess a permit and would be prohibited from selling their catch. To facilitate collection of additional information on halibut, NMFS would request multispecies permitted vessels to voluntarily include on their mandatory Vessel Trip Reports the estimated length and time of day for each halibut caught, whether or not the fish are retained.

For winter flounder, this proposed rule would increase the minimum fish size from 12 inches (30.5 cm) to 13 inches (33.0 cm) for both commercial and recreational vessels. The intent of this measure is to increase the age at which winter flounder are first captured. Industry members have commented that southern winter flounder are generally smaller than in the north and that an increased fish size would create regulatory discards. Under the current regulations, net vessels fishing for regulated multispecies are required to fish with a minimum mesh size of either 6-inch (15.24-cm) diamond or 6-inch (15.24-cm) square mesh nets, or, when fishing in the Mid-Atlantic Regulated Mesh Area, 5½-inch (13.97-cm) diamond or 6-inch (15.24-cm) square mesh nets. Many fishers acknowledge that, when fishing for flounders, they fish with nets of 6-inch (15.24-cm) square mesh. In proposing this measure, the Council believes, and NMFS agrees, that an increased winter flounder minimum fish size provides an incentive for industry to fish with diamond mesh rather than square mesh, since diamond mesh releases a higher proportion of juvenile and sub-legal sized flatfish. It also would reduce any incentive for using net liners. Since it takes approximately 9 months for southern winter flounder to grow one inch, increasing the minimum fish size would create a short-term economic loss in this area. However, NMFS anticipates that within one year increased yield per recruit and a likely higher price per pound would offset any short term losses.

This proposed rule would prohibit the use of brush-sweep trawl gear, also known as "streetsweeper" gear, by vessels fishing for or possessing multispecies finfish. A relatively new gear modification, brush-sweep trawl gear consists of rubber discs and bristle brushes that modify the footrope in such a way to make it lighter and more flexible than conventional rockhopper and roller gear. Unlike conventional modifications to the gear, brush-sweeps bring the entire trawl sweep in contact with the ocean floor and, thus, greatly improve the efficiency of the trawl. Users of this gear modification comment that efficiency is realized because their nets "hang-up" less and, therefore, require less repair, saving time. Time conserved in the multispecies fishery compromises the effectiveness of the DAS reduction program. By allowing this gear to continue, additional management measures would be needed to ensure that the FMP remains conservation neutral. Therefore, because of this compromised effectiveness, and the concern expressed by industry that this gear modification would only escalate, this rule proposes to prohibit the brush sweep gear modification as a precautionary step. The Council has suggested that it may consider lifting this prohibition in the future if it can be proven that this gear does not significanfly increase catch per unit effort or overall efficiency as compared with other gear modifications.

This proposed rule would modify the current framework adjustment process by allowing expedited rulemaking for aquaculture projects and changes to the multispecies overfishing definitions. For aquaculture projects, this measure would allow the Council to make recommendations on adjustments or additions to management measures from one or more of the following categories: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring and reporting requirements, permit restrictions, area closures, establishment of special management zones, and any other management measure currently included in the FMP. This measure would also allow the Council to modify overfishing definitions through the framework adjustment process as new scientific information becomes available warranting such a revision.

Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Office of Management and Budget has determined that this rule is significant for the purposes of E.O. 12866.

NMFS prepared an IRFA for this proposed rule, pursuant to 5 U.S.C. 603, without regard to whether the proposal would have a significant impact on a substantial number of small entities. Measures analyzed in the IRFA include the brush-sweep trawl gear prohibition, the one-fish halibut possession limit, and the winter flounder fish size increase. The following is a brief discussion of the measures analyzed in the IRFA.

Amendment 9 would prohibit possessing brush-sweep trawl gear while in the possession of NE multispecies and fishing for, landing, or possessing NE multispecies harvested with brush-sweep trawl gear unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters. The cost of the brush-sweep trawl gear is estimated to be between $8,000 and $15,000, depending on the individual vessel. Excessive wear and tear on the gear requires that it be replaced often. The overall cost to vessels impacted by this action would be based on the loss of the use of the gear which, when utilized, wears out in a few months to a year. The potential universe of vessels that could be impacted by the brush-sweep trawl gear prohibition is approximately 900 vessels, i.e., the number of permit holders based on NMFS Regional Office database that fish for multispecies with otter trawl gear. Therefore, the one-time cost to the industry would likely be between $7.2 million (900×$8,000) and $13.5 million (900×$15,000) since there are approximately 900 vessels that fish for multispecies with otter trawl gear. This assumes that all 900 vessels are currently using brush sweep gear. NMFS is seeking information on the number of vessels fishing with brush sweep trawl gear.

A one-fish halibut possession limit with a minimum fish size of 36 inches is also proposed. Commercial vessels wishing to retain a halibut under this possession and size limit would be required to obtain a multispecies permit. The economic costs associated with the proposed halibut restrictions include lost revenues from restricted or prohibited landings, as well as the added costs of enforcing new regulations and administering the new open-access permits. For years 1996 and 1997, Vessel Trip Reports indicate that 134 and 139 vessels, respectively, reported landing halibut. Based on recent landings data reported to NMFS, halibut landings have averaged less than 50,000 pounds, and more recently have declined from 31,542 pounds in 1996 to 17,078 pounds in 1997. Annual landings per vessel averaged 235 pounds in 1996 and 123 pounds in 1997. Annual revenues per vessel during this time averaged $1,059 and $553, respectively. The total exvessel revenue from halibut was $141,906 (134×$1,059) in 1996 and $76,867 (139×$553) in 1997.

The number of vessels affected by the proposed one-fish halibut possession limit may amount to 1,050 vessels based on the number of permitted vessels in the multispecies fishery. This number includes active limited access multispecies permit holders (1,000) combined with a subset of one-half the estimated 100 active participants in the directed halibut fishery that do not possess a Federal fisheries permit. Active vessels (those that reported landings of halibut in recent years) are estimated to be only those vessels that caught at least one halibut (134–139 vessels) in 1996 or 1997.

An increase in the minimum fish size for winter flounder to 13 inches from the current minimum size of 12 inches for both commercial and recreational fishing vessels is proposed in Amendment 9. For the commercial fishery, economic impacts of increasing the winter flounder fish size involve revenue loss from prohibiting landings of fish that are between 12 and 13 inches and revenue gains from the increased yield per recruit and price per pound for higher market category once 12-inch fish grow to 13 inches and above.

The NMFS data show 1997 winter flounder landings, including all sizes of fish, approximately 11.7 million pounds, or 14 percent of the total regulated species landings. Exvessel revenues of winter flounder during this period amounted to $15.6 million (8.5 percent) of the total exvessel revenues ($183.5 million) from all species for vessels that landed winter flounder. Although some fishers have commented that fish in the 12–13 inch size range accounted for up to 30–40 percent of their winter flounder catch, many other fishers have reported that very few fish in the 12–13 inch range are retained by nets unless the vessel is fishing with nets that are less than the minimum regulated mesh size. Landings reports from the New Bedford, MA auction indicate that 12 inch fish make up less than 10 percent of winter flounder sold in this port. Assuming that 30–40 percent of winter flounder landed were in the 12–13 inch size range, the decrease in exvessel revenue would likely be between 2.6 percent ($4.68 million of $183.5 million) and 3.4 percent ($6.24 million of $183.5 million) in the first year for all vessels that reported landings of winter flounder.

Compliance costs associated with increasing the minimum winter flounder fish size would result from the cost of modifying trawl codends to reduce the bycatch of 12-inch fish. However, because codends are expandable and replaced often due to constant wear and tear, annual costs associated with this measure would be part of normal gear replacement cost.

Approximately 1,650 vessels have limited access permits and could land winter flounder regardless of whether it was the target species. Based on the NMFS 1997 landings data, 971 of the active multispecies vessels landed winter flounder. On average, gross revenue per vessel would likely be reduced between $4,820 and $6,430 in the first year, assuming uniform landings across vessels. Otter trawl vessels accounted for the majority of the landings (64 percent), followed by gillnet vessels (18 percent). Thus, otter trawl vessels could lose between $3.0 million and $4.0 million in the first year. Gillnet vessels could lose between $0.8 million and $1.1 million in the first year.

NMFS seeks comments regarding the IRFA. In particular, NMFS is seeking information on the number of vessels using brush sweep trawl gear, the number of vessels currently fishing for halibut, and the number of vessels impacted by the increase in the winter flounder fish size. Copies of the IRFA are available (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains information collection requirements subject to the PRA and which require OMB approval. The rule restates requirements concerning the installation of a vessel tracking system, documentation of installation of a vessel tracking system, declarations of a vessel being in or out of a fishery, and call-in systems. The requirement for installation of vessel tracking systems has been approved by OMB under control number 0648–0307, with an estimated response time of 1 hour. The other requirements have been approved by OMB under control number 0648–0202, with an estimated response time of 2 minutes for each requirement.

The contents of this rule also affect two other information collection

requirements. The requirement that a vessel must have a NE multispecies permit in order to land or possess one halibut will subject additional persons to the existing permit requirement approved under OMB number 0648–0202. Those persons who are newly subject to the permit requirement will also automatically be subject to the requirement that permit holders submit Vessel Trip Reports, a requirement which has been approved under OMB number 0648–0212. Requests have been submitted to OMB for the expanded coverage of these requirements. The estimated response time for these requirements is 35 minutes for the permit and 5 minutes per day for the logbook entries beyond those made in vessel logbooks as part of normal fishing operations.

The estimated response times include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this collection of information is necessary for the proper performance of the functions of this agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding any of these burden estimates or any other aspect of the collection of information to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 18, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.2, the definitions for "Nonregulated multispecies" and "Northeast (NE) multispecies or multispecies" are revised and the definition for "Brush sweep trawl gear" is added to read as follows:

§ 648.2 Definitions.

* * * * *

Brush-sweep trawl gear means trawl gear consisting of alternating roller discs and bristle brushes that are strung along cables, chains, or footropes, and aligned together to form the sweep of the trawl net, designed to allow the trawl sweep to maintain contact with the ocean floor, or any modification to trawl gear that is substantially similar in design or effect.

* * * * *

Nonregulated multispecies means the subset of Northeast multispecies that includes silver hake, red hake, ocean pout, and Atlantic halibut.

Northeast (NE) multispecies or multispecies means the following species:

American plaice—*Hippoglossoides platessoides.*
Atlantic cod—*Gadus morhua.*
Atlantic halibut—*Hippoglossus hippoglossus.*
Haddock—*Melanogrammus aeglefinus.*
Ocean pout—*Macrozoarces americanus.*
Pollock—*Pollachius virens.*
Redfish—*Sebastes fasciatus.*
Red hake—*Urophycis chuss.*
Silver hake (whiting)—*Merluccius bilinearis.*
White hake—*Urophycis tenuis.*
Windowpane flounder—*Scophthalmus aquosus.*
Winter flounder—*Pleuronectes americanus.*
Witch flounder—*Glyptocephalus cynoglossus.*
Yellowtail flounder—*Pleuronectes ferrugineus.*

* * * * *

3. In § 648.10, paragraphs (b) and (d) are revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(b) *VMS Notification.* (1) Scallop vessels issued a full-time or part-time limited access scallop permit, or scallop vessels fishing under the small dredge program specified in § 648.51(e), or vessels issued a limited access multispecies or scallop permit and whose owners elect to fish under the VMS notification of this paragraph (b), unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section, must have installed on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified in § 648.9(a). Owners of such vessels must provide documentation to the Regional Administrator at the time of application for a limited access permit that the vessel has an operational VMS unit that meets those criteria. If a vessel has already been issued a limited access permit without providing such documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VMS unit that meets the criteria and to provide documentation of such installation to the Regional Administrator. Vessels that are required to or have elected to use a VMS unit shall be subject to the following requirements and presumptions:

(i) Vessels that have crossed the VMS Demarcation Line specified under paragraph (a) of this section are deemed to be fishing under the DAS program, unless the vessel's owner or authorized representative declares the vessel out of the scallop or NE multispecies fishery, as applicable, for a specific time period by notifying the Regional Administrator through the VMS prior to the vessel leaving port.

(ii) Part-time scallop vessels may not fish in the DAS allocation program unless they declare into the scallop fishery for a specific time period by notifying the Regional Administrator through the VMS.

(iii) Notification that the vessel is not under the DAS program must be received prior to the vessel leaving port. A vessel may not change its status after the vessel leaves port or before it returns to port on any fishing trip.

(iv) DAS for vessels that are under the VMS notification requirements of this paragraph (b) begin with the first hourly location signal received showing that the vessel crossed the VMS Demarcation Line leaving port. DAS end with the first hourly location signal received showing that the vessel crossed the VMS Demarcation Line upon its return to port.

(v) If the VMS is not available or not functional, and if authorized by the Regional Administrator, a vessel owner must provide the notifications required by paragraphs (b)(1)(i), (ii), and (iii) of this section by using the call-in notification system described under paragraph (c) of this section, instead of using the VMS system.

(2) Upon recommendation by the Council, the Regional Administrator may require, by notification through a letter to affected permit holders, notification in the **Federal Register**, or other appropriate means, that multispecies vessels issued an Individual DAS or Combination Vessel permit install on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified in § 648.9(a). Owners of such vessels must provide documentation to the Regional Administrator at the time of application for these permits that the vessel has an operational VMS unit that meets those criteria. If a vessel has already been issued a permit without providing such

documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VMS unit that meets the criteria and to provide documentation of such installation to the Regional Administrator. Vessels that are required to use a VMS unit shall be subject to requirements and presumptions described under paragraphs (b)(1)(i) through (b)(1)(v) of this section.

* * * * *

(d) *Temporary authorization for use of the call-in system.* The Regional Administrator may authorize or require, on a temporary basis, the use of the call-in system of notification specified in paragraph (c) of this section. If use of the call-in system is authorized or required, the Regional Administrator shall notify affected permit holders through a letter, notification in the **Federal Register**, or other appropriate means. Multispecies vessels issued an Individual DAS or Combination Vessel (regarding the multispecies fishery) permit are authorized to use the call-in system of notification specified in paragraph (c) of this section, unless otherwise notified as specified in paragraph (b)(2) of this section.

* * * * *

4. In § 648.14, paragraphs (b), (c)(1), (d)(1), (e) and (g)(2) are revised, and paragraphs (a)(116), (a)(117) and (c)(26) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(116) Fish for, land, or possess NE multispecies harvested with brush-sweep trawl gear unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(117) Possess brush-sweep trawl gear while in possession of NE multispecies, unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(b) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, it is unlawful for any person owning or operating a vessel holding a multispecies permit, issued an operator's permit, or issued a letter under § 648.4(a)(1)(i)(H)(3), to land, or possess on board a vessel, more than the possession or landing limits specified in § 648.86(a), (b) and (c), or to violate any of the other provisions of § 648.86, unless otherwise specified in § 648.17.

(c) * * *

(1) Fish for, possess at any time during a trip, or land per trip more than the possession limit of NE multispecies specified in § 648.86(d) after using up the vessel's annual DAS allocation or when not participating in the DAS program pursuant to § 648.82, unless otherwise exempted under § 648.82(b)(3) or § 648.89.

* * * * *

(26) Possess or land per trip more than the possession or landing limit specified under § 648.86(c) if the vessel has been issued a multispecies permit.

(d) * * *

(1) Possess, at any time during a trip, or land per trip, more than the possession limit of NE multispecies specified in § 648.88(a), unless the vessel is a charter or party vessel fishing under the charter/party restrictions specified in § 648.89.

* * * * *

(e) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a) through (d) of this section, it is unlawful for any person owning or operating a vessel issued a scallop multispecies possession limit permit to possess or land more than the possession limit of NE multispecies specified in § 648.88(c), or to possess or land regulated species when not fishing under a scallop DAS, unless otherwise specified in § 648.17.

* * * * *

(g) * * *

(2) Possess cod, haddock, and Atlantic halibut in excess of the possession limits specified in § 648.89(c).

* * * * *

5. In § 648.80, paragraph (g)(4) is added to read as follows:

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(g) * * *

(4) *Brush-sweep trawl prohibition.* No vessel may fish for, possess, or land NE multispecies while fishing with, or while in possession of, brush-sweep trawl gear.

* * * * *

6. In § 648.83, paragraph (a)(1) is revised to read as follows:

§ 648.83 Minimum fish sizes.

(a) * * * (1) Minimum fish sizes for recreational vessels and charter/party vessels that are not fishing under a NE multispecies DAS are specified in § 648.89. Except as provided in § 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

Species	Size (inches)
Cod	19 (48.3 cm)
Haddock	19 (48.3 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
American plaice (dab)	14 (35.6 cm)
Atlantic halibut	36 (91.4 cm)
Winter flounder (blackback)	13 (33.0 cm)
Redfish	9 (22.9 cm)

* * * * *

7. In § 648.86, paragraph (c) is revised and paragraph (d) is added to read as follows:

§ 648.86 Possession restrictions.

* * * * *

(c) *Atlantic halibut.* A vessel issued an NE multispecies permit under § 648.4(a)(1) may land or possess on board no more than one Atlantic halibut, provided the vessel complies with other applicable provisions of this part.

(d) *Other possession restrictions.* Vessels are subject to any other applicable possession limit restrictions of this part.

8. In § 648.88, paragraphs (a)(1), (b), (c) and (d) are revised to read as follows:

§ 648.88 Open access permit restrictions.

(a) * * *

(1) The vessel may possess and land up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, one Atlantic halibut, and unlimited amounts of the other NE multispecies, per trip, provided that it does not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies, and provided it has at least one standard tote on board.

* * * * *

(b) *Charter/party permit.* A vessel that has been issued a valid open access multispecies charter/party permit is subject to the additional restrictions on gear, recreational minimum fish sizes, possession limits, and prohibitions on sale specified in § 648.89, and any other applicable provisions of this part.

(c) *Scallop multispecies possession limit permit.* A vessel that has been issued a valid open access scallop multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated species and one Atlantic halibut when fishing under a scallop DAS allocated under § 648.53, provided the vessel does not fish for, possess, or land haddock from January 1 through June 30 as specified under § 648.86(a)(2)(i), and provided the vessel has at least one standard tote on board.

(d) *Non-regulated multispecies permit.* A vessel issued a valid open access nonregulated multispecies permit may possess and land one Atlantic halibut and unlimited amounts of the

other nonregulated multispecies. The vessel is subject to restrictions on gear, area, and time of fishing specified in § 648.80 and any other applicable provisions of this part.

9. In § 648.89, paragraphs (b)(1) and (c) are revised to read as follows:

§ 648.89 Recreational and charter/party restrictions.

* * * * *

(b) * * * (1) *Minimum fish sizes.* Persons aboard charter or party vessels permitted under this part and not fishing under the DAS program, and recreational fishing vessels in the EEZ, may not retain fish smaller than the minimum fish sizes, measured in total length (TL) as follows:

Species	Size (inches)
Cod	21 (53.3 cm)
Haddock	21 (53.3 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
Atlantic halibut	36 (91.4 cm)
American plaice (dab)	14 (35.6 cm)
Winter flounder (blackback)	13 (33.0 cm)
Redfish	9 (22.9 cm)

* * * * *

(c) *Possession restrictions*—(1) *Cod and haddock.* Each person on a recreational vessel may possess no more than 10 cod and/or haddock, combined, in, or harvested from, the EEZ.

(i) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing fillet number by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(ii) Cod and haddock harvested by recreational vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

(iii) Cod and haddock must be stored so as to be readily available for inspection.

(2) *Atlantic halibut.* Charter and party vessels permitted under this part, and recreational fishing vessels fishing in the EEZ, may not possess, on board, more than one Atlantic halibut.

* * * * *

10. In § 648.90, paragraphs (b) introductory text and (b)(1) are revised to read as follows:

§ 648.90 Framework specifications.

* * * * *

(b) *Within season management action.* The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Northeast Multispecies FMP, to address gear conflicts as defined under § 600.10 of this chapter, or to facilitate the development of aquaculture projects in the EEZ. This procedure may also be used to modify FMP overfishing definitions and fishing mortality targets which form the basis for selecting specific management measures.

(1) *Adjustment process.* The Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses and an opportunity to comment on them prior to, and at, the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes, effort monitoring, data reporting, possession limits, gear restrictions, closed areas, permitting restrictions, crew limits, minimum fish sizes, onboard observers, minimum hook size and hook style, the use of crucifiers in the hook-gear fishery, fleet sector shares, recreational fishing measures, area closures and other appropriate measures to mitigate marine mammal entanglements and interactions, and any other management measures currently included in the FMP. The Council's recommendation on adjustments or additions to management measures for the purposes of facilitating aquaculture projects must come from one or more of the following categories: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones, and any other management measures currently included in the FMP.

* * * * *

[FR Doc. 99–7088 Filed 3–18–99; 4:10 pm]

BILLING CODE 3510–22–P

Notice

This section c
contains docu
proposed rule
public. Notice
committee me
rulings, deleg
petitions and
statements of
examples of c
section.

DEPARTME

**Animal and
Service**

[Docket No.

**AgrEvo US
Determinat
for Corn Ge
Male Sterili
Herbicide T**

AGENCY: An
Inspection

ACTION: Not

SUMMARY: W
our decisio
corn transfo
determinati
transformat
AgrEvo US
genetically
and glufosi
marker, is n
regulated a
governing t
genetically
decision is
data submit
Company i
of a determ
status and a
data. This n
availability
assessment
impact.

EFFECTIVE D

ADDRESSES:
an environ
finding of n
inspected a
Building, 1
Avenue SW
8 a.m. and
Friday, exc
wishing to
asked to ca
(202) 690–2
the reading

Notices

Federal Register
Vol. 64, No. 55
Tuesday, March 23, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–010–1]

AgrEvo USA Co.; Extension of Determination of Nonregulated Status for Corn Genetically Engineered for Male Sterility and Glufosinate Herbicide Tolerance as a Marker

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to extend to one additional corn transformation event our determination that a corn transformation event developed by AgrEvo USA Company, which has been genetically engineered for male sterility and glufosinate herbicide tolerance as a marker, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our decision is based on our evaluation of data submitted by AgrEvo USA Company in its request for an extension of a determination of nonregulated status and an analysis of other scientific data. This notice also announces the availability of an environmental assessment and finding of no significant impact.

EFFECTIVE DATE: April 22, 1999.

ADDRESSES: The extension request and an environmental assessment and finding of no significant impact may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. James White, Biotechnology and Biological Analysis, PPQ, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5940. To obtain a copy of the extension request or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: Kay.Peterson@usda.gov.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

Background

On December 15, 1998, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 98–349–01p) from AgrEvo USA Company (AgrEvo) of Wilmington, DE, for corn designated as transformation event MS6 (event MS6), which has been genetically engineered for male sterility and glufosinate herbicide tolerance as a marker. The AgrEvo request seeks an extension of a determination of nonregulated status issued for corn transformation event MS3, the antecedent organism, in response to APHIS petition number 95–228–01p (61 FR 9142–9143, March 7, 1996, Docket No. 95–076–2). Based on the similarity of corn event MS6 to the antecedent organism, AgrEvo requests a determination that male sterile and glufosinate tolerant corn event MS6 does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

Analysis

Like the antecedent organism, corn event MS6 contains a *barnase* gene derived from *Bacillus amyloliquefaciens* and a *bar* gene derived from *Streptomyces hygroscopicus*. The *barnase* gene encodes an enzyme that inhibits pollen formation and results in male sterility of the transformed plants. The *bar* gene encodes a phosphinothricin acetyltransferase (PAT) enzyme that confers tolerance to the herbicide glufosinate. Linkage of the *barnase* gene, which induces male sterility, with the *bar* gene, a glufosinate tolerance gene used as a marker, enables selection of the male sterile line independent of plant growth stage. Expression of the added genes is controlled in part by gene sequences derived from the plant pathogens cauliflower mosaic virus and *Agrobacterium tumefaciens*. While corn event MS6 contains fragments of the *bla* marker gene, it was concluded that the fragments would not produce an intact protein in any medium. The particle acceleration method was used to transfer the added genes into the parental corn inbred line H99.

Corn event MS6 and the antecedent organism were genetically engineered using the same transformation method, with the same gene that makes the plants sterile and the same marker gene, and using the same parental inbred line. Accordingly, we have determined that corn event MS6 is similar to the antecedent organism in petition 95–228–01p and, therefore, should no longer be regulated under the regulations in 7 CFR part 340.

The subject corn event has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of this corn event conducted under APHIS notifications since 1997 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of its environmental release.

Determination

Based on an analysis of the data submitted by AgrEvo and a review of other scientific data and field tests of the subject corn event, APHIS has determined that corn event MS6: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than male sterile corn developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; and (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture. Therefore, APHIS has concluded that corn event MS6 and any progeny derived from crosses with other corn varieties will be as safe to grow as corn that is not subject to regulation under 7 CFR part 340.

Since APHIS has determined that corn event MS6 does not present a plant pest risk based on its similarity to the antecedent organism, AgrEvo's corn event MS6 will no longer be considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject corn event or its progeny. However, importation of corn event MS6 or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that AgrEvo's corn event MS6 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 17th day of March, 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–7077 Filed 3–23–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Advisory Committee (PAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Meeting.

SUMMARY: The Willamette PAC Advisory Committee will meet on Thursday, April 8, 1999. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 3 p.m. The meeting will be held at the Salem BLM Office; 1717 Fabry Road SE; Salem, Oregon 97306; phone (503) 375–5642. The tentative agenda includes: (1) Subcommittee Report on Mt. Hood Wilderness management proposal, (2) Public Forum, (3) Information presentation on Survey and Manage, (4) Forest Service 25% fund and payments to counties. The Public Forum is tentatively scheduled to begin at 10 a.m. Time allotted for individual presentation will limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may also be submitted prior to the April 8 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: March 17, 1999.

Randy A. Dunbar,

Acting Forest Supervisor.

[FR Doc. 99–7021 Filed 3–22–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Approval of New Information Collection.

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces Rural Business-Cooperative Service's (RBS) intention to request approval of an information collection in support of the Mid- to Upper Level Management and Sales/Field Representatives Compensation Survey.

DATES: Comments on this notice must be received by May 24, 1999, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Beverly L. Rotan, Agricultural Economist, Rural Business-Cooperative Service, Cooperative Resources and Management Division, USDA, Stop 3253, 1400 Independence Avenue, SW, Washington, DC 20250, telephone number (202) 690–2413 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Title: Mid- to Upper=Level Management and Sales/Field Representatives Compensation Survey.

Type of Request: New Information Collection.

Abstract: Changing agricultural markets, services, new farming techniques/technology (biotechnology, value-added products, etc.) available to cooperatives require them to closely examine methods to identify, attract, and retain the employment of competent, productive employees. The unique nature of the cooperative business requires the services of employees with special skills in addition to their areas of technical expertise. The "owner is customer" characteristic of cooperatives requires cooperative employees to have skills in education, communications, governance, and member relations that are not typically required of employees in any other type of business. Subsequently, compensation data on the general business population do not reflect the unique requirements of cooperatives. This study will also serve as a guide to established cooperatives.

RBS has received an increasing number of inquiries from cooperatives, farm organizations (National Council of Farmer Cooperatives (NCFC), University extension agents, etc.), and other interested clientele asking for updated data on employee compensation and comparable salary information for various job categories; with an added interest for cooperative directors' compensation. The most recent investigation into compensation for specified job classification was done in 1991. Before that time the most recent study was done in 1962.

In order to minimize burden on small businesses, an effort was made to identify any other private or government departments which collected data on specific cooperative salaries and benefit packages. After discussions with representatives of the Census Bureau, Population—National Statistics, Bureau of Labor Statistics, and the Bureau of Economic Analysis—Chief of Farm Income, Regional Economic Measurement Division, it was evident that the most relevant data available through these agencies were labor wages aggregated by county. This information isn't specific enough to supply adequate details pertaining to salary ranges, factors involved in setting salaries, and educational background for cooperative employees.

The initial users of the information collected will be managers, directors, and other cooperative leaders and policy makers of cooperatives. New cooperatives will use the resulting report primarily as a guide for setting their cooperative's benefit/compensation packages. Established cooperatives will use the resulting report primarily as a comparison of their present salary/benefit base. The report will also give new cooperatives a basis to evaluate their perspective employees' educational and/or work experience and backgrounds in order to formulate an adequate benefit/compensation package.

Estimate of Burden: Public reporting burden for this collection of information is estimated at .75 hour per survey, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing survey

Respondents: Cooperative managers and human resources personnel.

Estimated Number of Respondents: 300.

Estimated Number of Responses per respondent: 1.

Estimated Total Burden on Respondent: 225 Hours.

Copies of this information collection can be obtained from Jean Mosely, Regulations and Paperwork Management Branch, at (202) 692–0041.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of Rural Business-Cooperative Service (RBS), including whether the information will have practical utility; (b) the accuracy of RBS' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jean Mosely, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250. Comments may be submitted via the Internet by addressing them to Comments@rus.usda.gov. and must contain the word "compensation" in the subject. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 11, 1999.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 99–6998 Filed 3–22–99; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Maximum Portion of Guarantee Authority Available for Fiscal Year 1999

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: As set forth in 7 CFR part 4279, subpart B, each fiscal year the Agency shall establish a limit on the maximum portion of guarantee authority available for that fiscal year that may be used to guarantee loans with a guarantee fee of 1 percent or guaranteed loans with a guarantee percentage exceeding 80 percent.

Allowing the guarantee fee to be reduced to 1 percent or exceeding the 80 percent guarantee on certain guaranteed loans that meet the conditions set forth in 7 CFR 4279.107 and 4279.119 will increase the Agency's ability to focus guarantee assistance on projects which the Agency has found particularly meritorious, such as projects in rural communities that remain persistently poor, experience long-term population decline and job deterioration, are experiencing trauma as a result of natural disaster or are experiencing fundamental structural changes in the economic base.

Not more than 7 percent of the Agency quarterly apportioned guarantee authority will be reserved for loan requests with a guarantee fee of 1 percent, and not more than 15 percent of the Agency quarterly apportioned guarantee authority will be reserved for guaranteed loan requests with a guaranteed percentage exceeding 80 percent. Once the above quarterly limits have been reached, all additional loans guaranteed during the remainder of that quarter will require a 2 percent guarantee fee and not exceed an 80 percent guarantee limit. As an exception to this paragraph and for the purposes of this notice, loans developed by the North American Development Bank (NADBANK) Community Adjustment and Investment Program (CAIP) will not count against the 15 percent limit. CAIP loans are subject to a 50 percent limit of the overall CAIP loan program.

Written requests by the Rural Development State Office for approval of a guaranteed loan with a 1 percent guarantee fee or a guaranteed loan exceeding 80 percent must be forwarded to the National Office, Attn: Director, Business Programs Processing Division, for review and consideration prior to obligation of the guaranteed loan. The Administrator will provide a written response to the State Office confirming approval or disapproval of the request.

EFFECTIVE DATE: March 23, 1999.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Hennings, Senior Loan Specialist, Business Programs Processing Division, Rural Business-Cooperative Service, USDA, Stop 3221, Washington, DC 20250–3221, telephone (202) 690–3809.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866.

Dated: March 2, 1999.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 99–6997 Filed 3–22–99; 8:45 am]

BILLING CODE 3410–XY–U

COMMISSION ON CIVIL RIGHTS

Consultation Proceeding on the "Crisis of the Young African American Male in the Inner Cities"

AGENCY: Commission on Civil Rights.

ACTION: Notice of consultation.

SUMMARY: Notice is hereby given that a public consultation before the U.S. Commission on Civil Rights will commence on Thursday, April 15 through Friday, April 16, 1999, daily at 8:30 a.m. in the Holiday Inn,

Congressional Room, located at 415 New Jersey Avenue, N.W., Washington, DC 20001.

The purpose of the consultation is to collect information within the jurisdiction of the Commission, to examine the crisis of the young African American male in the inner cities, in the areas of criminal justice, education, health care, and employment/ entrepreneurial opportunies. The Commission is an independent bipartisan, factfinding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information with respect to discrimination or denials or equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the consultation and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division at (202) 376–8105 (TDD (202) 376–8116), at least five (5) working days before the scheduled date of the consultation.

FOR FURTHER INFORMATION CONTACT: David Aronson, Press and Communications (202) 376–8312.

Dated: March 18, 1999.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 99–7112 Filed 3–22–99; 8:45 am]

BILLING CODE 6335–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a community forum of the Iowa Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:00 p.m. on April 21, 1999, at the United Way of Central Iowa, 1111 Ninth Street, Suite 350, Room F, Des Moines, Iowa 50314. The purpose of the community forum is to receive information on Des Moines' New Immigrants.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the community forum and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the community forum.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 15, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–7095 Filed 3–22–99; 8:45 am]

BILLING CODE 6335–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 1:30 p.m. on April 12, 1999, at the Rivier Collage, Dion Center Board Room, 420 Main Street, Nashua, New Hampshire 03060. The Committee will finalize plans for its May 6, 1999, briefing on the status of civil rights in New Hampshire as part of its project, A Biennial Report on the Status of Civil Rights in New Hampshire.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 15, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–7096 Filed 3–22–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 11, 1998, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on oil country tubular goods ("OCTG") from Mexico covering exports of this merchandise to the United States by certain manufacturers (*Oil Country Tubular Goods from Mexico; Preliminary Results of Administrative Review* ("*Mexican OCTG*"), 63 FR 48599). Based on our preliminary review of these exports during the period August 1, 1996 through July 31, 1997, we found no margins for either reviewed company. We invited interested parties to comment on the preliminary results. We received comments and rebuttals from petitioners and from respondent with respect to Tubos de Acero de Mexico, S.A. ("TAMSA"). No comments were received from either party with respect to the other reviewed manufacturer, Hylsa S.A. de C.V. ("Hylsa") . We have now completed our final results of review and determine that the results have not changed for either respondent.

EFFECTIVE DATE: March 23, 1999.

FOR FURTHER INFORMATION CONTACT: John Drury, or Linda Ludwig, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW Room 7866, Washington, DC. 20230; telephone (202) 482–0195 (Drury), or (202) 482–3833 (Ludwig).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at

19 CFR part 351 (62 FR 27296, May 19, 1997).

Background

The Department of Commerce published a final determination of sales at less than fair value for OCTG from Mexico on June 28, 1995 (60 FR 33567), and subsequently published the antidumping duty order on August 11, 1995 (60 FR 41056). The Department of Commerce published a notice of "Opportunity To Request Administrative Review" of the antidumping order for the 1996/1997 review period on August 4, 1997 (62 FR 41925). Upon receiving requests for administrative review from two respondents, Hylsa and TAMSA, we published a notice of initiation of the review on September 25, 1997 (62 FR 50292).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 19, 1998, the Department extended the time limit for the preliminary results to August 31, 1998. *See Oil Country Tubular Goods from Mexico; Extension of Time Limits for Antidumping Duty Administrative Review* (63 FR 14422, March 25, 1998). On January 11, 1999, the Department extended the time limit for the final results until March 10, 1999. *See Oil Country Tubular Goods from Mexico; Extension of Time Limits for Antidumping Duty Administrative Review* (64 FR 3065, January 20, 1999).

Duty Absorption

On October 2, 1997, Maverick Tube Corporation, Lone Star Steel Company, and IPSCO Tubulars, Inc. requested that the Department determine, with respect to Hylsa, whether antidumping duties had been absorbed during the POR. On October 23, 1997, North Star Steel Ohio requested that the Department determine, with respect to TAMSA, whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because this review was initiated two years after the publication of the order, we have made a duty absorption determination in this segment of the proceeding.

In this case, both TAMSA and Hylsa sold to the United States through importers that are affiliated within the meaning of section 751(a)(4) of the Act. We determine that there is no dumping margin for eitner TAMSA's sales or Hylsa's sales during the POR. Since we have determined that there are no dumping margins for the respondents with respect to their U.S. sales, we also determine that there is no duty absorption with respect to those sales.

Scope of the Review

Imports covered by this review are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers:

7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

The Department has determined that couplings, and coupling stock, are not within the scope of the antidumping duty order on OCTG from Mexico. *See* Letter to Interested Parties; Final Affirmative Scope Decision, August 27, 1998.

Period of Review

The review covers the period August 1, 1996 through July 31, 1997. The Department is conducting this review in accordance within section 751 of the Act, as amended.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results of the reviews. We received both comments and rebuttals from petitioners and TAMSA. Because there were no comments concerning our preliminary results with respect to Hylsa, all comments below pertain to TAMSA. The following is a summary of comments.

Comment 1

Petitioners argue that TAMSA should not be granted a constructed export price ("CEP") offset, as TAMSA neither requested such an adjustment nor provided information to the Department necessary to analyze whether a CEP offset was warranted. Indeed, since TAMSA claimed that its sales were at similar levels of trade, and that the sale to the United States was an export price ("EP") sale, TAMSA never claimed a CEP offset. The lack of a CEP offset claim by TAMSA, and inadequate information concerning levels of trade, according to petitioners, precludes the Department from granting a CEP offset.

Petitioners begin by pointing out that TAMSA maintained that its sale to the United States was an EP sale, not a CEP sale. Because of TAMSA's steadfast insistence that its sale was not a CEP sale, and its alleged refusal to provide any information which might be used in conjunction with a CEP offset, petitioners maintain that TAMSA is not entitled to the offset.

Even if TAMSA is not required to request a CEP offset, petitioners argue, TAMSA has the burden to establish an entitlement to an offset by providing sufficient information to demonstrate that sales to the United States and home market were at different levels of trade, that it is not possible to make a level of trade adjustment, and that the level of trade in the home market is more advanced than that of the sale to the United States. Citing *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Germany* ("*German Pipe*") (63 FR 13217, March 18, 1998), petitioners assert that TAMSA alone was responsible for providing this information and failed to do so. Petitioners note that, in its initial response, TAMSA did not provide any information about different selling functions in the home market and the United States market which the Department could use in making a level of trade determination. Despite repeated requests by the Department in supplemental questionnaires, petitioners contend, TAMSA provided

little or no new information regarding the various selling functions in both markets. Instead, petitioners state, TAMSA continued to maintain that sales in both the home market and United States markets were at the same level of trade, and at no point requested a level of trade adjustment. Despite the fact that TAMSA provided just-in-time ("JIT") services to PEMEX, its largest customer, and did not provide them to its United States customers, petitioners note that TAMSA never took the position that JIT services were sufficient to create a difference in levels of trade.

Petitioners state that the respondent has the burden of proof to demonstrate that a level of trade adjustment based on price differences is not possible. Petitioners state that TAMSA provided no information to answer this question, and thus the Department's decision in the preliminary results to grant a CEP offset is incorrect. Petitioners believe that the Department did not explain its basis for finding that non-PEMEX sales in the home market were at a different level of trade from the sale to the United States, and that a level of trade adjustment based on price differences is not possible. For all of these reasons, petitioners believe that the Department should not grant a CEP offset to TAMSA.

TAMSA counters that the Department's decision to grant a CEP offset was proper if the Department maintains that the sale by TAMSA to the United States was a CEP sale. TAMSA asserts that it did fully cooperate with the Department and provided the necessary information. Furthermore, TAMSA states that it did, in fact, advise the Department that it had provided sufficient information for a CEP offset, in comments which were provided prior to verification. This information, according to TAMSA, includes a detailed explanation of the various selling functions for each channel of distribution in the home market, as well as for the sale to the United States. TAMSA states that if it meets its burden to provide sufficient information for the Department to determine if there is a more advanced level of trade in the home market, yet provides insufficient information for a level of trade adjustment, then it has nevertheless met the conditions for a CEP offset.

TAMSA states that it has, in fact, met this burden. Concerning the level of trade question, TAMSA states that the information provided to the Department shows that it sold at different levels of trade in the home market and the United States, and that the home market level of trade was more advanced. TAMSA states that, although it initially classified all customers as "end users," it subsequently provided detailed information regarding channels of distribution, selling functions, and other information which clearly establishes different channels of distribution and different selling functions with respect to the two markets. TAMSA further notes that the Department verified the services provided by TAMSA to its customers, including the provision of JIT services in the home market and services provided by Siderca Corp. in the United States. According to TAMSA, this information, which was also verified, is sufficient to establish that the U.S. sale was made at a different level of trade than TAMSA's home market sales.

Regarding the question of whether there is enough information to make a level of trade adjustment, and whether TAMSA cooperated sufficiently in providing such information, TAMSA asserts that the Department found no home market level of trade equal to the level of trade of the United States sale. Consequently, a level of trade adjustment was not feasible.

Department's Position

The question of whether a respondent is entitled to a CEP offset is predicated on a certain pattern of facts. First, there must be a decision that sales to the United States are CEP sales. Second, there must be a determination that there are different levels of trade between the home market and United States, that the home market level of trade is more advanced, and that it is not possible to quantify the price differences related to those sales and different levels of trade to make a level of trade adjustment. Only after these conditions are met can a CEP offset be made.

The Department presented a detailed explanation of the process for determining levels of trade and their proper treatment in the preliminary results of this review. *See Mexican OCTG*, 63 FR 48699. To summarize, the Department examines and compares the distribution systems, including the selling functions, classes of customers, and selling expenses, in the two markets. Further, unless the Department finds that there are substantial differences in selling functions, it will not determine that there are different levels of trade.

The Department's use of this test is well documented. In *Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands* (62 FR 18476, April 15, 1997), the Department stated that:

> [t]he existence of different classes of customers, as well as different functions performed by such customers, is not sufficient to establish a difference in the levels of trade. Accordingly, we consider the class of customer as one factor, along with the producer/exporter's selling functions and the selling expenses associated with these functions, in determining the stage of marketing, i.e., the level of trade associated with the sales in question."

As noted in the preliminary results, we compared sales to unaffiliated customers in the home market to the constructed sales to the importer in the United States. This is consistent with the Department's previous practice. *See Id.* At 18480. In this instance, TAMSA's home market sales to unaffiliated parties are compared to the sale to Siderca Corp., TAMSA's U.S. affiliate. All sales in the home market are to end users, i.e. manufacturers which consume the final product. The sale to Siderca Corp., by contrast, is similar to a sale to a distributor. Siderca Corp. does not consume the product, but rather acts as a reseller. Therefore, the sales in the home market and the U.S. sale appear to be made at different points in the chain of distribution.

With respect to the selling functions, TAMSA provided sufficient information for the Department to compare selling functions in the two markets. Information provided by TAMSA, and verified by the Department, demonstrates that TAMSA's selling functions for home market sales are different than those associated with TAMSA's sale to Siderca Corp.

First, TAMSA provides JIT services to the vast majority of its home market customers. The Department verified the extent and the nature of the expenses associated with JIT services. Also, as TAMSA stated in submitting its chart of selling functions, TAMSA provides customer visits in the home market. Neither of these services was provided in connection with the U.S. sale *to* Siderca Corp. Services provided by Siderca Corp. to end users in the United States are not relevant to this analysis, because the appropriate comparison for LOT purposes is between the "starting price" sale to the first unaffiliated customer in the home market, and the constructed export price sale (i.e. the sale *to* Siderca Corp.) in the United States. *See* § 351.412(c) of the Department's regulations. Based on information provided by TAMSA and on the Department's verification, the Department's analysis of the selling functions provided by TAMSA in both the home and U.S. markets indicates that there are selling functions provided in sales to the home market which are not provided in the U.S. market and that

all home market sales are made at a single level of trade.

Based on the facts of the case, the Department finds that sales by TAMSA in the home market are at a different level of trade than the sale to the United States. Sales in the home market are to end-users, while the sale to Siderca Corp. is a sale to a distributor. Furthermore, the provision of JIT services to the vast majority of home market customers, as well as visits to customers, demonstrates that TAMSA's sales in the home market and its sale to Siderca Corp. are characterized by different selling functions. Therefore, the facts on the record indicate that TAMSA's sales were made at different levels of trade.

Next, the Department must determine if the home market level of trade is more advanced than the U.S. level of trade. The Department's analysis of the different selling functions indicates that the home market sales are indeed made at a more advanced level of trade. The home market sales to end users, who are further down the chain of distribution than distributors such as Siderca Corp., and the selling functions provided in the home market, especially JIT services, constitute a far greater level of service and expense for TAMSA than the services provided to Siderca Corp. in connection with the sale to the United States.

Finally, the information on the record indicates that it is not possible for the Department to make a level of trade adjustment. Specifically, because there are no home market sales at the same level of trade as the U.S. sale, it is not possible to quantify the extent to which price differences are due to the level of trade differences.

Given that the home market sales are at a more advanced level of trade, and that it is not possible to make a level of trade adjustment, section 773(a)(7)(B) of the Act directs the Department to make a CEP offset.

The statutory provision is not limited to situations in which a respondent requests such an offset. The record indicates that TAMSA provided sufficient information for the Department to conduct a level of trade analysis and to determine that a CEP offset was appropriate. Thus, petitioners' reliance on the *German Pipe* case is off point. In that case, the respondent did not provide sufficient information either before or during verification for the Department to conduct a level of trade analysis. In the instant case, in contrast, TAMSA provided information prior to verification, and Department officials were able to verify the accuracy of the information during verification.

Thus, based on the facts in the case, we agree with respondent that a CEP offset is warranted if the Department continues to classify the sale to the United States as a CEP sale.

The question of whether the sale is classified properly as a CEP sale is addressed in the next comment.

Comment 2

TAMSA contends that the Department erred in classifying TAMSA's sale to the United States as a CEP sale. Instead, TAMSA maintains that the Department should classify TAMSA's United States sale as an EP sale.

In support of its argument, TAMSA begins by restating the three-prong test that the Department undertakes to determine if sales made through a U.S. affiliate should be classified as CEP sales or "indirect" EP sales. The test examines three criteria: (1) Whether merchandise sold to the United States entered into the physical inventory of the affiliate or was shipped directly to the United States customer; (2) whether a direct shipment to the unaffiliated customer was the customary channel of trade, and; (3) whether the affiliate acted only as a processor of documentation and as a communications link between the unaffiliated customer and the producer or exporter. Where one or more of these conditions is not met, the Department treats sales through a U.S. affiliate as CEP sales. Noting that the Department relied on the third prong of the test in rejecting its claim that the sale was an EP sale, TAMSA lists the reasons cited by the Department for its determination that the role of its affiliate, Siderca Corp., was more than ancillary, and argues that Siderca Corp. in fact served only as a document processor and a communications link.

TAMSA denies any suggestion that Siderca Corp. solicited the sale, or in any way negotiated the price of the sale. TAMSA states that the record shows clearly that TAMSA, and not Siderca Corp., set the terms and price for the sale in question. TAMSA cites a number of instances in which it contends that the Department has treated sales as EP sales when the United States affiliate has no authority to set prices or is not in a position to negotiate prices, and states that the fact pattern in this case is consistent with those cases. *See Notice of Final Determination of Sales at Less Than Fair Value: Beryllium Metal and High Beryllium Alloys from the Republic of Kazakhstan* ("*Beryllium from Kazakhstan*"), 62 FR 2648 (January 17, 1997); *Certain Corrosion Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Review* ("*Canadian Steel*"), 63 FR 12725 (March 16, 1998), *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Korea* ("*Wire Rod from Korea*"), 63 FR 40404 (July 29, 1998); and *U.S. Steel Group* v. *United States*, 15 F. Supp. 2d 892 (CIT 1998).

Regarding the sales agreement between TAMSA and Siderca Corp., which confers exclusive marketing and sales agency powers on Siderca Corp. with respect to TAMSA products, TAMSA argues that the antidumping duty order rendered this agreement moot with respect to any sales to the United States of subject merchandise.

Furthermore, TAMSA states that Siderca Corp. merely received a request from the U.S. customer, and passed it on to TAMSA in Mexico. TAMSA depicts the role of Siderca Corp. in finalizing the sale as the passive role of a mere conduit for information passing between the U.S. customer and TAMSA during the initial sales process. TAMSA states that Siderca Corp. did not match the order to TAMSA's inventory, did not find a buyer for the merchandise, and did not finalize the sale.

Once the sale terms were finalized, TAMSA asserts, the functions performed by Siderca Corp. were all "ancillary" and therefore should not weigh in the decision to treat this sale as a CEP sale. These included paying for certain charges, such as brokerage and insurance, serving as the importer of record, accepting payment, and other such services.

TAMSA concludes by stating that the Department must go beyond a listing of activities and must analyze the various activities involved with the sale. TAMSA contends that the record, properly analyzed, shows that this sale should be treated as an EP sale.

Petitioners respond by stating that the Department's normal practice is to consider a sale made through a U.S. affiliate to be a CEP sale unless the record indicates that all three prongs are met. Petitioners state that Siderca Corp. had more than ancillary or incidental involvement in the U.S. sale and that these activities were sufficient to warrant the Department's treatment of the sale as a CEP sale. Petitioners rely upon *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea, Final Results of Antidumping Duty Administrative Review*, ("*Korean Steel*"), 63 FR 13170 (March 18, 1998) and *Stainless Steel Wire Rod from Spain, Final Determination of Sales at Less Than Fair Value*, ("*Wire Rod from Spain*"), 63

FR 40391 (July 29, 1998) in which the Department treated the sales at issue as CEP sales.

Petitioners note in particular that the sales agency agreement between TAMSA and Siderca Corp. names Siderca Corp. as TAMSA's exclusive selling agent in the United States market, and further points out that the terms of the sale and the selling activities performed by Siderca Corp. appear to follow the terms of this agreement. Furthermore, petitioners note that the agreement was extended, without amendment, after the antidumping duty order went into effect.

Petitioners further assert that the contacts between Siderca Corp. and the U.S. customer were consistent with the functions described in the agreement. For example, according to petitioners, the U.S. customer contacted Siderca Corp., not TAMSA, regarding this sale, and Siderca Corp. had exclusive contact with the customer throughout the sales process. Additionally, Siderca Corp. had longstanding and frequent contacts with the customer and worked regularly with it to meet its needs as they arose for a variety of products and services. These contacts and activities, petitioners believe, indicate that Siderca Corp.'s efforts brought about the sale of TAMSA merchandise in the United States.

While not disputing that TAMSA may have set the price for the sale, petitioners reiterate that the selling agreement between TAMSA and Siderca Corp. grants Siderca Corp. certain rights in negotiating and setting prices as part of its work in marketing TAMSA products. Petitioners state that the Department should discount other assertions on the record regarding TAMSA's role in setting the price, and instead should concentrate on the selling agreement.

As for the other functions carried out with respect to this sale, petitioners believe that these activities, taken as a whole, indicate more than ancillary involvement by Siderca Corp. Petitioners urge the Department to consider the range of services and activities in the aggregate, rather than line by line, in making its determination. Petitioners also advise the Department to examine the differences in indirect selling expenses incurred by Siderca Corp. and TAMSA when making its determination on this question.

Finally, petitioners state that it is also doubtful that TAMSA passed the second prong of the CEP test. Petitoners note that, in the original investigation, the merchandise sold to the U.S. was produced to order and the U.S. sales were made through a different U.S. affiliate. Comparing the fact pattern in this review to the one from the original investigation, petitioners find the two to be different and conclude that the current United States sale does not represent the customary commercial channel between the parties involved in the sale. According to petitioners, this sale therefore failed two of the three prongs of the "indirect EP sale" test, and the Department should therefore treat this sale as a CEP sale.

Department's Position

Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted." Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States, as adjusted." When sales are made prior to importation through an affiliated U.S. sales agent to an unaffiliated customer in the United States, our practice is to examine several criteria in order to determine whether or not the sales are "indirect" EP sales. Those criteria are: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether this was the customary commercial channel between the parties involved; and (3) whether the function of the U.S. selling agent was limited to that of a "processor of sales-related documentation" and a "communications link" between the exporter and the unaffiliated U.S. buyer. *See Canadian Steel* 63 FR at 12738. Where all three criteria are met, the Department has regarded the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States where the sales agent performs them, and has determined the sales to be EP sales. Where one or more of these conditions is not met, the Department has classified the sales in question as CEP sales.

In attempting to determine whether a sale should be treated as EP or CEP, the Department looks at the overall role of an affiliate in the sales process. Essentially, the Department wishes to determine whether the affiliate is substantially involved in the sales process. While each of the three prongs addresses this question to some extent, the third prong of the test is the most important with respect to resolving the question. After carefully examining the evidence, the Department believes that the fact pattern indicates clearly that the affiliate, Siderca Corp., played the leading role in the U.S. sale made during this administrative review and was substantially involved in the sales process.

As an initial matter, the selling agreement between TAMSA and Siderca Corp. is quite clear with respect to the services that Siderca Corp. performs. Siderca Corp. is the exclusive selling agent for TAMSA products in the United States and other parts of the world, and has certain rights affecting the price for any sales under the agreement. In exchange for providing marketing and selling functions, and for providing other services, such as paying for brokerage and importer duties, Siderca Corp. is entitled to receive compensation under the agreement. The record indicates that Siderca Corp. did receive, in connection with this sale, the compensation provided for under the agreement, and performed functions for which it is responsible under the agreement.

In addition, Siderca Corp. played the primary role in generating this sale by bringing the customer to TAMSA. The record shows that Siderca Corp. has a longstanding working relationship with the United States customer, is in frequent contact with that customer, and that sales of other TAMSA products to this and other customers occur because of these contacts. Conversely, TAMSA itself appears to have little, if any, contact outside of Mexico with regard to the sale of its products in the United States. Indeed, under the terms of the agreement, TAMSA is precluded from soliciting or negotiating sales directly in the United States. The agreement places the rights and responsibilities of selling and marketing TAMSA products in the United States squarely on Siderca Corp.

Based on this fact pattern, it appears that, contrary to TAMSA's claims, the sale to the United States of subject merchandise was within the framework of the agreement between TAMSA and Siderca Corp. Evidence on the record indicates that, consistent with its rights and responsibilities under the selling agreement, Siderca Corp. maintained contacts with the United States customer and, through these contacts, was able to match that customer's requirements with subject merchandise available from TAMSA. Siderca Corp.

was aware of the existence of the merchandise from a canceled sale that it had previously arranged, and upon receiving the inquiry forwarded it to TAMSA for approval. The fact that Siderca Corp. may not have fully exercised its rights with regards to price negotiation, deferring to TAMSA with respect to the final approval, neither negates the substance and importance of the agreement nor diminishes the importance of Siderca Corp.'s role in arranging this sale. Simply put, under the current agreement, it appears that TAMSA would be precluded from seeking sales in the United States directly. Sales of TAMSA products in the United States must, as a condition of the agreement, begin with Siderca Corp. The fact that Siderca Corp. performed other functions as specified in the agreement, even if these were ancillary services, and received compensation according to the terms of the agreement, reinforces the conclusion that Siderca Corp.'s activities under the agreement were the primary factors in creating the sale to the United States.

The cases cited by both TAMSA and petitioners, when compared with the fact pattern of the case, reinforce the conclusion that this sale should be classified as a CEP sale. In *Wire Rod from Korea*, the Department treated the sales as EP sales because the Department "(c)onfirmed Changwon's assertions that POSAM (the U.S. affiliate) is not in a position to negotiate, confirm, or reject prices without approval from Changwon" and "POSAM * * * did not solicit business on behalf of Changwon" and "Changwon itself contacted its potential U.S. customers" (63 FR at 40418–19). In this instance, in contrast, Siderca Corp. had the authority to negotiate, confirm, or reject prices through its selling agreement. Additionally, the Department determined at the Siderca Corp. verification that Siderca Corp. maintains a sales staff which is in active contact with U.S. customers, whereas TAMSA had no contact with the potential U.S. customers.

In *Beryllium from Kazakhstan*, the Department treated the sales as EP because "verification findings confirmed the limits on BMI's (the U.S. affiliate) authority to finalize the sales and that BMI is acting solely as a processor of documentation and communications link" (62 FR at 2649). In the instant case, in contrast, the verification findings indicate that Siderca Corp.'s authority is not limited, because of the existence of the selling agreement.

As for the *Canadian Steel* case relied upon by the respondent, the U.S. affiliate whose sales were deemed to be EP sales in that case did not solicit sales, negotiate contracts or prices, or provide customer support. Siderca Corp., in contrast, regularly did all of the above on behalf of TAMSA. Even if it did not expressly solicit this particular sale, its function, which included negotiation with respect to this sale, clearly exceeded the *Canadian Steel* definition of ancillary functions.

Although TAMSA relied upon *U.S. Steel Group* v. United States, that case actually involved CEP, not EP, sales. In that case, the Court of International Trade ("CIT") examined the Department's determination in *Certain Cut-to-Length Carbon Steel Plate from Germany; Final Results of Antidumping Duty Administrative Review*, 62 FR 18391 (April 15, 1997). The CIT noted that, during the review, the producer, Dillinger, stated that it set the terms of the sale, including the final price. The Court further noted that the Department had found that the U.S. affiliate, Francosteel, among other things, either solicited or responded to the initial U.S. customer contact, received the purchase orders, negotiated the final sale with the U.S. customer using the pricing and term guidelines provided by Dillinger, took title to the merchandise, acted as importer of record, and invoiced the U.S. customer. Finally, Francosteel had the flexibility to make decisions on its own as to price. All of these factors, "[c]ombined with all the normal selling functions, which have not always led to CEP classification, legitimately may be viewed as pushing this sale over the edge into CEP rather than the EP category." *U.S. Steel Group*, 15 F. Supp. 2d at 903. A similar fact pattern exists in this case. Siderca Corp. has the authority to make pricing decisions on its own; it made the first contact with the customer and performed all of the selling functions listed above.

The case cited by petitioners also support a conclusion that this sale is best classified as a CEP sale. In *Wire Rod from Spain*, 63 FR at 40394, the Department treated the U.S. sales as CEP sales under a similar fact pattern. The Department noted that the U.S. affiliate (Acerinox) "will contact U.S. customers that it has not dealt with for some time. Otherwise, U.S. customers contact Acerinox to inquire about purchasing" Roldan's SSWR, the product made by the parent company. The Department further stated that Acerinox "(m)ay accept the customer's order, if it is a small order. * * * For inquiries regarding significant purchases, Acerinox will contact (the parent company) to determine the sales terms' that are acceptable. After taking an order, Acerinox transmits it to the parent company. Acerinox then coordinates freight in the United States and collects and transfers payment to the parent company. Based upon this fact pattern, the Department stated that "[t]he record shows that Acerinox was involved in every aspect of the sales process except for arranging for shipment [of the product] to the United States and invoicing the U.S. customers. Moreover, Acerinox's involvement in the sales process was extensive * * *" when compared to that of the parent company. The Department further stated that "[t]he preponderance of selling functions incurred to sell Roland's (wire rod) to the U.S. customers occurred in the United States. Furthermore, Acerinox's role in negotiating the terms of certain U.S. sales is not indicative of the ancillary role normally played by a "processor of sales-related documentation" and a "communication link." Specifically, Acerinox's authority to negotiate and accept sales terms * * * as well as its authority to initiate contact with U.S. customers * * * contradicts' the parent company's claim that the U.S. affiliate's activities were ancillary. Thus, the Department classified these sales as CEP sales.

Again, the fact pattern in *Wire Rod from Spain* is consistent with that found in this review. TAMSA had no direct contact with the U.S. customer, whereas Siderca Corp., through its selling agreement, had the authority to set the price and terms. While TAMSA had a role in setting the price, as did the parent of Acerinox, Siderca Corp."s contacts with customers, its flexibility in negotiating terms of sale, and its other sales-related activities, indicate that the sale is appropriately classified as CEP.

Finally, in *Korean Steel*, 63 FR at 13177, the Department again found that a fact pattern similar to that in this case warranted CEP treatment of the U.S. sales. In the *Korean Steel* case, the Department stated that "(a)ll of Dongbu's U.S. sales are made through DBLA [the U.S. affiliate], and that Dongbu's U.S. customers seldom have contact with Dongbu. Furthermore, it is DBSA (and not Dongbu) that writes and signs the sales contract. * * * Furthermore, we find that, in addition to playing a key role in the sales negotiation process, DBLA played a central role in all sales activities after the merchandise arrived in the United States."

Based on the facts of the case, and their similarity to previous cases concerning the issue of whether a sale should be classified as CEP or EP, we believe that TAMSA's sale to the United

States is properly classified as a CEP sale.

Comment 3

Petitioners argue that the Department should apply partial facts available for certain selling expenses incurred in the United States. Petitioners believe that TAMSA did not cooperate fully, or to the best of its ability, in providing proper figures and supporting documentation for various expenses such as brokerage.

Petitioners present a sequence of events which purport to show that TAMSA did not cooperate to the best of its ability. Petitioners point to the first price build-up submitted by TAMSA and assert that it contained numerous errors and omissions. Petitioners state that, despite requests for clarification of the expenses in the price build-up, TAMSA did not present all of the expenses or a satisfactory explanation until verification. During the verification in Veracruz, petitioners state that the Department discovered previously unknown and unreported expenses. Similarly, according to petitioners, at the verification of Siderca Corp. in Houston, the Department discovered new supporting documentation for the various expenses. Because neither all expenses nor all supporting documents were provided before the two verifications, petitioners urge the Department to use partial facts available with regard to these expenses.

TAMSA retorts that it did, in fact, cooperate fully and to the best of its ability. TAMSA states that, contrary to petitioners' claims, all expenses related to the sale into the United States were reported before verification in Veracruz. Of the three charges mentioned by petitioners (brokerage charges, stevedoring, and wharfage), TAMSA points out that each was reported before verification. While acknowledging that two of the three charges were reported late or were initially mis-reported, TAMSA attributes this delay to clerical errors or omissions that TAMSA itself discovered and corrected prior to the Department's first verification in Veracruz. Because the errors were minor, and were corrected either before or at verification, TAMSA contends that it is the Department's practice to accept such corrections. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Sweden*, 63 FR 40449 (July 29, 1998); *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909 (February 23, 1998); *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 (November 20, 1997).

Department's Position

We agree with respondent. While the Department generally requires respondents to report all expenses and provide any requested supporting documentation in accordance with established deadlines, the fact is that TAMSA provided data on nearly all expenses in a timely manner. TAMSA reported only one minor expense prior to the Department's verification in Veracruz. Furthermore, the Department verified the accuracy of the reported expenses. The additional support documentation added to the record at the verification in Houston did not reflect a change in the expenses reported. Although they demonstrated that Siderca Corp. did have greater control in the price build-up than originally claimed by TAMSA, the additional support documentation added to the record at the verification in Houston did not reflect a change in the expenses reported.

Finally, although TAMSA did not provide all of the supporting documentation for all of the expenses incurred prior to the verifications, the Department was able to supplement and verify all relevant information during the two verifications. Therefore, we will not make any changes with regard to these expenses.

Comment 4

Petitioners assert that the Department should deduct commissions paid to Siderca Corp. from the United States price. Assuming that TAMSA's United States sale is classified properly as a CEP sale, petitioners argue that the statute calls for commissions to be deducted from the United States Price.

Petitioners note that Siderca Corp. is entitled, under its selling agreement with TAMSA, to receive a "commission" equal to a percentage of the actual price charged to customers. If this figure is intended to offset expenses incurred by Siderca Corp., petitioners argue, the amount of the commission which exceeds the expenses should be deducted.

TAMSA counters that these are related party commissions and are thus intra-company transfers. TAMSA states that the general practice of the Department is to treat related party mark-ups in price not as commissions, but as intra-company transfers rather than as expenses. Since these are not sales expenses, they should not be deducted from United States price. TAMSA cites various cases in which the Department did not deduct commissions between affiliated parties. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom*, 63 FR 33320 (June 18, 1998); *Korean Steel*, 63 FR 13170.

Department's Position

We agree with respondent. The Department does not generally treat price mark-ups between affiliates such as the ones in this case as commissions. *See U.S. Steel Group*, 15 F. Supp. 2d at 903, and *Floral Trade Council* v. *United States*, Slip-Op. 99–10 (CIT January 27, 1999). Instead, these are intra-company transfers which the Department treats as part of the general operating expenses of the company. Thus we generally do not deduct them from U.S. price. Instead, in accordance with 19 CFR 351.402(e), we deduct the actual expenses of the affiliated importer. "Although the statute appears to require the expense represented by commissions to be deducted from CEP whether or not the producer/exporter and U.S. [affiliate] are related, the statute does not define 'commissions.'" *Floral Trade Council*, Slip Op. 99–10 at 10. Therefore, the Court has sustained the Department's practice of treating commissions paid by the producer/exporter to an affiliate as an intra-company transfer, rather than as a true commission. *Id.*

Petitioners cite section 771(d) of the Act (19 U.S.C. 1677a(d)) in support of their contention that commissions should be deducted. However, the opinion in *U.S. Steel Group* makes clear that, "[i]f expenses represented by the commissions are already accounted for by means of a deduction for selling expenses nominally made under another provision of 19 U.S.C.A. 1677a(d), or the expense does not truly exist, no additional commission deduction need be made." 15 F. Supp. 2d at 903. Because the Department has already made adjustments for all of TAMSA's selling expenses under 19 U.S.C. 1677a(d) related to the sale in question, an additional adjustment for "commission" would constitute double-counting. Consequently, the Department has made no further adjustments in this regard.

Petitioners' claim that the amount of the "commission" that exceeds the expenses incurred by Siderca Corp. is also already addressed by another provision of section 772(d) of the Act (19 U.S.C. 1677a(d)), specifically the CEP profit provision, section 772(d)(3) of the Act (19 U.S.C. 1677a(d)(3)). The

Court has also affirmed the Department's position that the amount by which "commissions" paid to affiliates represents profit for the affiliate receiving them. A profit amount has already been accounted for under the CEP profit provision. *Floral Trade Council*, Slip Op. 99–10 at 13.

Comment 5

Petitioners urge the Department to correct TAMSA's reported warehousing expenses in connection with the provision of Just In Time services to certain domestic customers. Petitioners assert that TAMSA's methodology, which reports expenses on a monthly basis by regional warehouse, is distortive. Petitioners cite changes in the actual expenses per month, and state that there appears to be no correlation between these expenses and the tonnage shipped or warehoused in that month. In particular, there appear to be instances where costs go up even though tonnages go down for a month. Petitioners urge the Department to recalculate warehousing expenses for each region on a per-ton amount for the entire period of review.

TAMSA counters that its methodology is reasonable, that it acted to the best of its ability in providing information, and that its reporting methodology was not unreasonably distortive. Because of the nature of Just In Time services (*i.e.*, rapid delivery upon order), expenses incurred in a month usually correspond closely to tonnages shipped and sold in that month. To relate expenses from one month to sales in a different month, as petitioners' methodology would, is more distortive, according to TAMSA. TAMSA further explains how lower tonnages in a month might incur higher expenses. For example, TAMSA could incur more customer support expenses during a month in which it made many smaller sales than in a month in which it made a single larger tonnage sale. TAMSA cites *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Final Results of Antidumping Duty Administrative Reviews* (63 FR 63860, November 17, 1998) in support of its assertion that the Department should accept this methodology.

Department's Position

We agree with respondent. The methodology which TAMSA used is based on actual, verified monthly figures. By using this methodology, TAMSA has provided the Department with a more detailed, and more accurate, warehousing cost. Adopting the petitioners' methodology would be less accurate, as it would spread out monthly costs over the entire period of review. As it is generally the Department's preference to use the most accurate and reasonable methodology possible, a warehousing expense methodology which is based on monthly figures is preferable to one based on annual averages.

Comment 6

Petitioners request that the Department adjust the reported home market freight charges for inland freight from the plant to the warehouse. Since TAMSA was unable to report the actual freight charges, it took the price lists for freight and adjusted these using a methodology to take into account trucks which did not ship with a full load. Petitioners argue that this "constructed" freight charge is distortive. As partial facts available, petitioners suggest using the prices from the price lists as a surrogate for the freight costs.

TAMSA counters that its allocation methodology was reasonable. As directed by the Department's original questionnaire, TAMSA attempted to allocate freight costs on the basis of the unit weight of the individual products shipped. Because it used actual price lists, as adjusted for instances not involving full truck loads, TAMSA claims that its methodology more closely reflects the actual prices paid for freight.

Department's Position

We agree with respondent. While the Department prefers to have actual freight costs, a reasonable allocation methodology that most closely reflects the actual costs is acceptable. The Department verified information regarding price lists and payment for freight. Based upon this verified information, the Department believes that this methodology most closely reflects actual costs.

Comment 7

Both petitioners and respondents request that the Department correct certain clerical errors. Petitioners request that the Department make an adjustment to its cost calculation methodology by eliminating the field titled "SEPTADJ," that it correct the direct selling expenses calculation by adding CREDITU to the expense, and that it correct the application of exchange rates to packing expenses. TAMSA requests that the Department calculate normal value based on monthly averages (instead of on averages for the "90–60 window" as it has done in the current program), that it add BILLADJH to the cost calculation program, that it correct a conversion error in the CEP ratio calculation, and that it not deduct CREDITU from U.S. direct selling expenses.

Department's Position

The Department has examined the error allegations, and has made the changes requested by both parties. Petitioners' and TAMSA's clerical error requests regarding direct selling expenses address the same issue. Both parties proposed programming language to address the issue. Because we believe that petitioners most closely follow the proper methodology, we have adopted their suggested programming language for the final results. Because the details of these clerical error issues involve proprietary data, *see Analysis Memorandum for Final Results*, March 8, 1999.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margins exist:

CIRCULAR WELDED NON-ALLOY STEEL PIPES AND TUBES

Producer/manufacturer/exporter	Weighted-average margin
Hylsa	0.00
TAMSA	0.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of oil country tubular goods from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate for that firm as stated above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm

covered in this review, the cash deposit rate will be 23.79 percent. This is the "all others" rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306 of the Department's regulations. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 351.221 of the Department's regulations.

Dated: March 10, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7100 Filed 3–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 980930252–9012–02]

Special American Business Internship Training Program (SABIT)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of extension of funding availability for grants under the Special American Business Internship Training Program (SABIT)

SUMMARY: This Notice supplements the **Federal Register** Notice of November 6, 1998 (63 FR 59938–59941) announcing the availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives (also referred to as "interns") from the Newly Independent States of the Former Soviet Union. All information in the previous announcement remains current, except for the changes to the closing date.

DATES: This Notice extends the closing date of the referenced **Federal Register** Notice for four months to 5 p.m. May 31, 1999. All awards are expected to be made prior to August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Liesel Duhon, Director, Special American Business Internship Training Program, International Trade Administration, U.S. Department of Commerce, phone—(202) 482–0073, facsimile—(202) 482–2443. These are not toll free numbers.

Liesel Duhon,

Director, Special American Business Internship Training Program.

[FR Doc. 99–7111 Filed 3–22–99; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

International Trade Administration

President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The meeting will include briefings on trade priorities and issues, the World Trade Organization, economic sanctions and Virtual Trade Mission activities. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 13062.

Date: April 14, 1999.

Time: 10:00 a.m. to 5:00 p.m.

Address: The Ronald Reagan International Trade Center, 1300 Pennsylvania Avenue, NW, Washington, DC, 20004. This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be submitted no later than March 31, 1999, to J. Marc Chittum, President's Export Council, Room 2015B, Washington, DC, 20230. Seating is limited and will be on a first come first serve basis.

FOR FURTHER INFORMATION CONTACT: J. Marc Chittum, President's Export Council, Room 2015B, Washington, DC, 20230 (Phone: 202–482–1124).

Dated: March 15, 1999.

J. Marc Chittum,

Staff Director and Executive Secretary, President's Export Council.

[FR Doc. 99–6798 Filed 3–22–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031799B]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet during April 5–9, 1999. The Council meeting will begin on Monday, April 5, at 3 p.m., with a closed session to discuss litigation and personnel matters. The Council will convene in open session at 3:30 p.m. on April 5 and reconvene in open session each day at 8 a.m. through Friday, April 9. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Red Lion's Sacramento Inn, 1401 Arden Way, Sacramento, CA; telephone: (916) 922–8041.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks, Introductions, Roll Call
2. Approve Agenda

B. Coastal Pelagic Species Management

1. Exempted Fishing Permits to Harvest Anchovy in Closed Area
2. Status of NMFS Review of Plan Amendment

C. Highly Migratory Species Management

1. Direction on Development of Fishery Management Plan

D. Administrative and Other Matters

1. Report of the Budget Committee
2. Report of the Legislative Committee
3. Appointments to Advisory Entities
4. Approve June 1999 Draft Agenda

E. Habitat Issues - Report of the Habitat Steering Group

F. Salmon Management

1. Identification of Stocks Not Meeting Escapement Goals for Three Consecutive Years
2. Methodology Reviews for 1999
3. Tentative Adoption of 1999 Ocean Salmon Measures for Analysis
4. Clarify Council Direction, If Necessary
5. Final Action on 1999 Measures

G. Groundfish Management

1. Status of Federal Regulations and Activities and Applications for Exempted Fishing Permits
2. Status of Strategic Planning Process
3. Work Load Priorities
4. Mandatory Observers on At-Sea Processors
5. Determination of Total Catch
6. Status of Capacity Issues, Including Trawl Buyback Program
7. Primary Fixed Gear Sablefish Fishery - Limits and Dates for 1999 and Longer Term Issues
8. Inseason Adjustments, Including Possible Emergency Action for Bocaccio
9. Rebuilding Plans for Lingcod, Bocaccio, and Pacific Ocean Perch, Including Allocation and Bycatch Reduction
10. Other Rockfish Allocation Issues
11. Landing of "Overages"
12. Bycatch Minimization

Advisory Meetings

The Groundfish Management Team convenes at 8 a.m. on Monday, April 5, and continues meeting as necessary April 6 through 9 to address groundfish issues on the Council agenda.

The Groundfish Advisory Subpanel convenes at 1 p.m. on Monday, April 5, and at 8 a.m. on Tuesday, April 6, and continues meeting as necessary April 7 and 8 to address groundfish issues on the Council agenda.

The Habitat Steering Group meets at 9 a.m. on Monday, April 5, to address issues and actions affecting habitat of fish species managed by the Council.

The Scientific and Statistical Committee will convene on Monday, April 5, at 8 a.m. and on Tuesday, April 6, at 8 a.m. to address scientific issues on the Council agenda.

The Salmon Technical Team will meet as necessary Monday through Friday April 5–9 to address salmon management items on the Council agenda.

The Salmon Advisory Subpanel will convene on Monday, April 5, at 8 a.m. and will continue to meet April 6 through 9 as necessary to address salmon management items on the Council agenda.

The Legislative Committee of the Council will meet on Monday, April 5, beginning at 10 a.m. to review proposed changes to legislation affecting fishery management.

The Budget Committee of the Council will convene at 1 p.m. on Monday, April 5, to review the status of the Council's 1999 budget and other related matters.

The Ad-Hoc Legal Gear Committee will meet on Tuesday, April 6 at 7 p.m. and on Wednesday, April 7 as necessary to discuss changes to groundfish legal gear specifications to reduce discard.

The Enforcement Consultants meet at 5:30 p.m. on Tuesday, April 5, and continue to meet as necessary April 6 through 9 to address enforcement issues relating to Council agenda items.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John S. Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: March 17, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7061 Filed 3–18–99; 1:36 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031199D]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council's (Council) Pelagics Advisory Panel (AP) members will hold a meeting.

DATES: The meeting will be held April 14–15, 1999, from 8:30 a.m. to 5:00 p.m. each day.

ADDRESSES: The meeting will be held at the The Ilikai Hotel, New Zealand Suite, 1777 Ala Moana Blvd., Honolulu, HI 96815; telephone: (808) 949 3811.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The AP meeting will discuss and may make recommendations to the Council on the following agenda items:

1. Introduction and selection of AP Chairman
2. 1st quarter 1999 Hawaii and American Samoa longline fishery report;
3. Shark incidental catch in the Hawaii longline fishery and issues related to shark finning;
4. Status of Council and NMFS projects concerning mitigation of longline-seabird interactions in the Hawaii longline fishery;
5. Status of NMFS research on bycatch of turtles in the Hawaii longline fishery, and issues relating to legal action against NMFS concerning the current biological opinion for turtles;
6. Marine debris; sources and impacts on habitat and protected species;
7. Status of the area closure for large pelagic fishing vessels around the islands of American Samoa;
8. Progress of the Multi-lateral High Level Conference process to implement a management convention for tunas in the Central-West Pacific;
9. Update on issues relating to blue marlin, and blue marlin stock assessment;
10. Status of bigeye and yellowfin tuna tagging around the Hawaiian Islands;
11. Recreational fishery reporting and formation of a recreational fisheries data task force;
12. Review of Council program plan; and
13. Other business as required.

Although other issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act,

those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: March 17, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7075 Filed 3–22–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031199E]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Native and Indigenous Rights Advisory Panel.

DATES: The meeting will be held on April 19 and 20, 1999, from 8:30 a.m. to 4:30 p.m. each day.

ADDRESSES: The meeting will be held at the Council office, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, telephone: 808–522–8220.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: This orientation meeting of the Native and Indigenous Rights Advisory Panel will review sections of the Magnuson-Stevens Act pertaining to the Western Pacific Community Development Program and Demonstration Projects, past actions of the Western Pacific Council which relate to indigenous fishing practices and access to fisheries and possible future actions of the Council such as a Community Development Program for the Hawaii Mau Zone bottomfish fishery.

Although other issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: March 17, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7076 Filed 3–22–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Conference Meeting of the Overseas Dependents' Schools National Advisory Panel (NAP) on the Education of Dependents With Disabilities

AGENCY: Department of Defense Education Activity.

ACTION: Notice.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Overseas Dependents' Schools NAP is scheduled to be held from 8 am to 4 pm on April 19–23, 1999. The meeting will be open to the public and will be held in Room 830 at the Department of Defense Education Activity, 4040 North Fairfax Drive, Arlington, Virginia 22203–1635. The purpose of the meeting is to: (1) review the proposed revision of Department of Defense Instruction 1342.12, "Provision of Early Intervention and Special Education Services to Eligible DoD Dependents in Overseas Areas," dated March 12, 1996; (2) review activities and plans for the Comprehensive System of Personnel Development that encompasses activities that build the skills of personnel who work with children with special needs and their families; and (3) review the "Department of Defense Directory of DoD Dependent Schools (DoDDS) and Education Development Intervention Services (EDIS)." Persons desiring to attend the meeting or desiring to make oral presentations or submit written statements for consideration by the panel must contact Ms. Diana Patton at (703) 696–4492, extension 1947.

Dated: March 18, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–7033 Filed 3–22–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is amending two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on April 22, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 17, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0351 DASG

SYSTEM NAME:

Army School Student Files: Physical Therapy Program *(February 22, 1993, 58 FR 10002).*

Changes:

* * *

AUTHORITY FOR

Delete entr
U.S.C. 3013,

* * *

SYSTEM MANAGE

Commanda
Services, Phy
3151 Scott Ro
Houston, TX

* * *

A0351 DASG

SYSTEM NAME:

Army Scho
Therapy Prog

SYSTEM LOCATI

Commanda
Services, Phy
3151 Scott Ro
Houston, TX

CATEGORIES OF SYSTEM:

Graduates
Therapy Prog

CATEGORIES OF

Academic
from 1973 to
and varying a
anecdotal inf
1945–1972.

AUTHORITY FOR

10 U.S.C. 3

PURPOSE(S):

To provide
from an appr
program to th

ROUTINE USES O SYSTEM, INCLUD THE PURPOSES

In addition
generally per
552a(b) of the
or informatio
specifically b
DoD as a rout
U.S.C. 552a(b

The 'Blank
the beginning
of systems of
to this system

POLICIES AND PR RETRIEVING, ACC DISPOSING OF RE

STORAGE:

Paper recor

RETRIEVABILITY:

By last nam

Changes:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army'.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commandant, Academy of Health Services, Physical Therapy Branch, 3151 Scott Road, Suite 1230, Fort Sam Houston, TX 78234–6138.

* * * * *

A0351 DASG

SYSTEM NAME:

Army School Student Files: Physical Therapy Program.

SYSTEM LOCATION:

Commandant, Academy of Health Services, Physical Therapy Branch, 3151 Scott Road, Suite 1230, Fort Sam Houston, TX 78234–6138.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Graduates of the U.S. Army Physical Therapy Program since 1928.

CATEGORIES OF RECORDS IN THE SYSTEM:

Academic grades only on graduates from 1973 to present. Academic grades and varying amounts and types of anecdotal information on performance: 1945–1972.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army.

PURPOSE(S):

To provide certification of graduation from an approved physical therapy program to the individual graduate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders:

RETRIEVABILITY:

By last name of graduate.

SAFEGUARDS:

Records are in closed files, accessible only to designated officials having need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant, Academy of Health Services, Physical Therapy Branch, 3151 Scott Road, Suite 1230, Fort Sam Houston, TX 78234–6138.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commandant, Academy of Health Services, Physical Therapy Branch, ATTN: MCCS HMT, 3151 Scott Road, Suite 1230, Fort Sam Houston, TX 78234–6138.

For verification purposes, the individual should provide the full name, maiden name if married, year of graduation, current address, institution and complete address to which transcript is to be mailed if other than that of individual concerned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commandant, Academy of Health Services, Physical Therapy Branch, ATTN: MCCS HMT, 3151 Scott Road, Suite 1230, Fort Sam Houston, TX 78234–6138.

For verification purposes, the individual should provide the full name, maiden name if married, year of graduation, current address, institution and complete address to which transcript is to be mailed if other than that of individual concerned.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Staff and faculty of appropriate school and/or training hospital responsible for presentation of instruction.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0640–10c TAPC

SYSTEM NAME:

Career Management Individual Files *(February 22, 1993, 58 FR 10002).*

Changes:

SYSTEM IDENTIFIER:

Change to read 'A0600-8-104g TAPC'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Active Army members in enlisted grades E–5 through E–9, all warrant and commission officers'.

* * * * *

STORAGE:

Delete 'card files' and add 'electronic media'.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records will be destroyed 90 days after separation of the service member from active duty by reason of discharge, transfer, retirement, or death'.

* * * * *

A0640–8–104g TAPC

SYSTEM NAME:

Career Management Individual Files.

SYSTEM LOCATION:

U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0474. Decentralized segments exist at the General Officer Management Office, Judge Advocate General's Office, the Chief of Chaplains Office, and the Medical Service Corps. Official mailing addresses may be obtained from U.S. Total Army Personnel Command.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Army members in enlisted grades E–5 through E–9, all warrant and commission officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Orders; record briefs; statements of preference; school credit papers; transcripts; details; career personnel actions; correspondence from individual concerned; original copy of efficiency report; appeal actions; assignment memoranda and requests for orders; memoranda concerning professional development actions; classification data; service awards; service agreements; variable inventive pay data; memoranda of interviews; assignment applications; resumes of qualifications, personal background and experience supporting service member's desires, nominative action by career managers; academic reports; copies of admonition/reprimands imposed under Article 15, UCMJ, letters of appreciation/commendation/recommendation;

reports/letters from accredited educational and training organizations; and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army and E.O. 9397 (SSN).

PURPOSE(S):

To manage member's Army career, including assignments, counseling, and monitoring professional development.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic media.

RETRIEVABILITY:

By individual's surname and/or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized career management activity personnel.

RETENTION AND DISPOSAL:

Records will be destroyed 90 days after separation of the service member from active duty by reason of discharge, transfer, retirement, or death.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, ATTN: TAPC-PDO, 200 Stovall Street, Alexandria, VA 22332–0474.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the following:

For information concerning general officers: General Officer Management Office, 200 Army Pentagon, ATTN: Chief of Staff, Washington, DC 20310–0200.

For information concerning chaplains: Chief of Chaplains, 200 Army Pentagon, Room 1E417, Washington, DC 20310–0200.

For information concerning officers of The Judge Advocate General Corps: The Judge Advocate General, 200 Army Pentagon, Room 2E444, Washington, DC 20310–0200.

For information pertaining to all other soldiers: Commander, U.S. Total Army Personnel, 200 Stovall Street, Alexandria, VA 22332–0474.

Individuals should designate Officer or Enlisted status.

Individual should provide the full name, Social Security Number, service identification number, military occupational specialty, military status, current home address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the following:

For information concerning general officers: General Officer Management Office, 200 Army Pentagon, ATTN: Chief of Staff, Washington, DC 20310–0200.

For information concerning chaplains: Chief of Chaplains, 200 Army Pentagon, Room 1E417, Washington, DC 20310–0200.

For information concerning officers of The Judge Advocate General Corps: The Judge Advocate General, 200 Army Pentagon, Room 2E444, Washington, DC 20310–0200.

For information pertaining to all other soldiers: Commander, U.S. Total Army Personnel, 200 Stovall Street, Alexandria, VA 22332–0474.

Individuals should designate Officer or Enlisted status.

Individual should provide the full name, Social Security Number, service identification number, military occupational specialty, military status, current home address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; enlistment, appointment, or commission related forms pertaining to the service member having a current active duty status; academic, training, and qualifications records acquired incident to military service; correspondence, forms, documents and other related papers originating in or collected by the military department for management purposes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–7035 Filed 3–22–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Notice of a Computer Matching Program Between the United States Department of Agriculture and the Defense Manpower Data Center of the Department of Defense.

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a computer matching program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The Department of Defense (DoD), as the matching agency under the Privacy Act is hereby giving notice to the record subjects of a computer matching program between United States Department of Agriculture (USDA) and DoD that their records are being matched by computer. The record subjects are USDA delinquent debtors who may be current or former Federal employees receiving Federal salary or benefit payments and who are indebted and or delinquent in their repayment of debts owed to the United States Government under programs administered by USDA.

DATES: This proposed action will become effective April 22, 1999, and the matching may commence unless changes to the program are required due to public comment or by Congressional or by the Office of Management and Budget objections. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr. at (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the DoD and USDA have concluded an agreement to conduct a computer matching program. The purpose of the match is to exchange personal data between the agencies for debt collection.

The match will yield the identity and location of the debtors within the Federal government so that USDA can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between USDA and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to Ms. Joyce Baumgartner, Debt Collection Coordinator, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 3022, South Building, Washington, DC 20250. Telephone (202) 720–4958.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published on June 19, 1989 at 54 FR 25818.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on March 10, 1999, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 17, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

COMPUTER MATCHING PROGRAM BETWEEN THE UNITED STATES DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF DEFENSE FOR DEBT COLLECTION

A. *Participating Agencies:* Participants in this computer matching program are the United States Department of Agriculture (USDA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The USDA is the source agency, i.e., the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the Match:* The purpose of this match is to identify and locate any matched Federal personnel, employed, serving, or retired, who owe delinquent debts to the Federal Government under certain programs administered by the USDA. USDA will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982, as amended, when voluntary payment is not forthcoming. These collection efforts will include requests by the USDA of the military service/employing agency in the case of military personnel (either active, reserve, or retired) and current non-postal civilian employees, and to the Office of Personnel Management in the case of retired non-postal civilian employees to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *Authority for Conducting the Match:* Debt Collection Act of 1982 (Public Law 97–365), as amended by the Debt Collection Improvement Act of 1996 (Public Law 104–134, section 31001); 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 135, Under Secretary of Defense (Comptroller); Section 101(1) of Executive Order 12731; 4 CFR 101.1 – 105.5, Federal Claims Collection Standards; 5 CFR 550.1101 – 550.1108 Collection by Offset from Indebted Government Employees (OPM); and 7 CFR Part 3, Debt Management (USDA).

D. *Records to be Matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

Record system identified as USDA/FSA-14, entitled 'Applicant/Borrower,' last published in the **Federal Register** at 62 FR 5583 on February 6, 1997.

Record system identified as USDA/FCIC-1, entitled 'Accounts Receivable,' last published in the **Federal Register** at 53 FR 4047 on February 11, 1988.

Record system identified as USDA/FSA-13, entitled 'Claims Data Base (Automated),' last published in the **Federal Register** at 62 FR 5581 on February 6, 1997.

Record system identified as USDA/OCFO-3, entitled 'Billings and Collections Systems,' last published in the **Federal Register** at 62 FR 47622 on September 10, 1997.

DoD will use personal data from the record system identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the **Federal Register** at 61 FR 32779, June 25, 1996.

E. *Description of Computer Matching Program:* USDA, as the source agency, will provide DMDC with an electronic file which contains the names of delinquent debtors in programs the USDA administers. Upon receipt of the electronic file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the USDA file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of employment records of non-postal Federal civilian employees and military members, both active and retired. The 'hits' or matches will be furnished to USDA. USDA is responsible for verifying and determining that the data on the DMDC electronic reply file are consistent with the USDA's source file and for resolving any discrepancies or inconsistencies on an individual basis. USDA will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The electronic file provided by USDA will contain data elements of the debtor's name, SSN, internal account numbers and the total amount owed for each debtor on approximately 136,000 delinquent debtors.

The DMDC computer database file contains approximately 4.8 million records of active duty and retired military members, including the Reserve and Guard, and approximately 3.1 million records of active and retired non-postal Federal civilian employees.

F. *Inclusive Dates of the Matching Program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If the mandatory 30 day period for public comment has expired and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program

becomes effective and the respective agencies may begin the exchange of data at the mutually agreeable time on a annual basis. By agreement between USDA and DoD, the matching program will be in effect and continue for 18 months with an option to extend for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for Receipt of Public Comments or Inquiries:* Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 99–7036 Filed 3–22–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 24, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat—Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 18, 1999.

Joseph Schubart,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.
Title: Local Educational Agencies' (LEAs') Collection of Data and Submission of Comprehensive Plan for Coordinating Social and Educational Services Under Title XI, Section 11004 of the Elementary and Secondary Education Act (ESEA) as Amended by the Improving America's Schools Act (Pub. L. 103–382).
Frequency: On occasion.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 500.
Burden Hours: 500.
Abstract: Under Title XI, LEAs may apply to the Secretary for authority to use up to five percent of the ESEA funds they receive to develop, implement, or expand a coordinated services project will improve the access of children and their families to social, health and educational services necessary for success in school.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: NCES Quick Response Information System.
Frequency: On occasion.
Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 10,161.
Burden Hours: 10,161.
Abstract: The Quick Response Information System (QRIS) is comprised of two types of surveys, one oriented towards elementary and secondary school and library issues, the Fast Response Surveys (FRSS) and the second intended to address issues in postsecondary education, the Postsecondary Education Quick Information System Surveys (PEQIS). All the surveys conducted under the QRIS are required to inform for current policy issues for which there are no other timely and/or appropriate data available. In recent years surveys have been conducted on topics as diverse as distance education in postsecondary education, services for students with disabilities in postsecondary education, advanced telecommunications in the elementary and secondary schools, summer programs for migrant students, and teacher quality.

[FR Doc. 99–7063 Filed 3–22–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 22, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington,

DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: March 17, 1999.

Joseph Schubart,

Acting Leader, Information Management Group, Office of the Chief Information Officer

Office of Vocational and Adult Education

Type of Review: Revision.

Title: Carl D. Perkins Vocational and Technical Education Act (P.L. 105–332)—State Plans.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 9,520.

Abstract: Pub. L. 105–332 requires State Boards for Vocational Education to submit a 5-year State plan, with annual revisions as the Board deems necessary, in order to receive Federal funds. Program staff review the plans for compliance and quality.

[FR Doc. 99–6999 Filed 3–22–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

The National Commission on Mathematics and Science Teaching for the 21st Century; Notice of Establishment

AGENCY: Office of the Under Secretary, Education.

ACTION: Notice of establishment of the National Commission on Mathematics and Science Teaching for the 21st Century.

SUMMARY: The Secretary of Education announces his intention to establish the National Commission on Mathematics and Science Teaching for the 21st Century. The Commission will be governed by Federal Advisory Committee Act (P.L. 92–463 as amended; 5 U.S.C.A. Appendix 2).

Purpose

The Secretary has determined that the establishment of the National Commission on Mathematics and Science Teaching for the 21st Century is necessary and in the public interest as stated in the Secretary's Annual State of American Education report. The Commission's purpose is to review the current state of American K–12 mathematics and science education with a focus on the challenges of teacher recruitment, preparation, retention, and professional growth and to articulate the steps needed to strengthen the classroom practice of math and science teachers. The Commission will produce a report describing specific action steps that federal, state, and local policymakers can take to address math and science teacher supply and quality issues. The Commission will issue a final report to the Secretary by September 30, 2000. This report shall contain a detailed statement of the findings and conclusions together with its recommendations. The Secretary will share this report with the President and Congress along with the Commission's recommendations. The Commission shall consist of twenty-two members, appointed by the Secretary, who shall be appointed from, but not limited to, the following groups: current or recent members of Congress, Governors, Mayors, State Legislators, Chief State School Officers, Nobel laureates, CEO's, University president, principals, teachers, parents, students, public representatives, and other distinguished leaders in the fields of mathematics and science. Ex-officio, non-voting members, of the Commission, include: the Secretary of Education or his designee, the Secretary of Defense, the Secretary of Energy, the Secretary of Transportation, the NASA Administrator, the Director of the Office of Science and Technology Policy, the Director of the National Science Foundation, and the President of the National Academy of Sciences.

FOR ADDITIONAL INFORMATION: Contact Linda Rosen, U.S. Department of Education, Washington, DC 20202, Telephone: (202) 205–9891.

Dated: March 17, 1999.

Richard W. Riley,

Secretary of Education.

[FR Doc. 99–7058 Filed 3–22–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Science, Office of Science Financial Assistance Program Notice 99–16; Atmospheric Radiation Measurement (ARM) Program

AGENCY: U.S. Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Sciences (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications to support the experimental and theoretical study of radiation and clouds in conjunction with the Atmospheric Radiation Measurement (ARM) Program as part of the U.S. Global Change Research Program (USGCRP). This notice requests applications for grants to support renewals of activities currently funded by DOE under previous Special Research Grant Program Notices issued for the ARM Program. A very limited number of new research efforts may be funded.

DATES: Applicants are strongly encouraged to submit a two page (maximum) brief preapplication. All preapplications, referencing Program Notice 99–16, should be received by

DOE by 4:30 P.M., E.D.T., April 12, 1999. A response to the preapplications discussing the potential program relevance and generally encouraging or discouraging a formal application will be communicated to the applicant by April 19, 1999.

The deadline for receipt of formal applications is 4:30 P.M., E.D.T., June 7, 1999, in order to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2000.

ADDRESSES: Preapplications referencing Program Notice 99–16, should be sent by E-mail to p.crowley@science.doe.gov. Preapplications will also be accepted if mailed to the following address: Dr. Patrick Crowley, Office of Biological and Environmental Research, SC–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290.

Formal applications, referencing Program Notice 99–16, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 99–16. This address must be used when submitting applications by U.S. Postal Service Express Mail or any other commercial mail delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Patrick Crowley, preferably by e-mail p.crowley@science.doe.gov, otherwise by telephone: (301) 903–3069, or at the Office of Biological and Environmental Research, SC–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. The full text of Program Notice 99–16 is available via the Internet using the following web site address: http://www.er.doe.gov/production/grants/grants.html.

SUPPLEMENTARY INFORMATION: New efforts should address one or more of the following within the context of ARM needs and data capabilities:

- Upper tropospheric water vapor concentration and transport.
- Use of ARM data to quantitatively test cloud and radiation parameterizations used in General Circulation Models (GCMs) and Tropical Western Pacific (NWP) Models.
- The statistics of cloud fields and their interaction with atmospheric radiation.
- Research using Single Column Models focussing on applications of data to improve the models and extrapolate the improvements to GCMs.
- New efforts to develop ice water path and cloud parameter retrievals with focus on ice content.

One of the major scientific objectives of the Environmental Sciences Division is to improve the performance of predictive models of the Earth's climate and to thereby make predictions of the response of the climate system to increasing concentrations of greenhouse gases. The purpose of the ARM Program is to improve the treatment of radiation and clouds in the models used to predict future climate, particularly the General Circulation Models (GCMs). This program is one element of a major effort to improve the quality of current models and to support the development of sets of climate models capable of making regional prediction of climate and climate change. The major component of the ARM Program is an experimental testbed to gather data for the study of models of the terrestrial radiation field, properties of clouds, the full life cycle of clouds, and the incorporation of these process-level models into climate models. This testbed is referred to as the Cloud and Radiation Testbed (CART). The first ARM CART site began operation in calendar year 1992, with instruments spread over an area of approximately 60,000 sq. km., centered on Lamont, Oklahoma. The Tropical Western Pacific (TWP) site will consist initially of island-based suites of instrumentation focused on cloud and radiative properties in the tropical ocean environment. The first and second of the TWP Atmospheric Radiation and Clouds Stations (ARCS) are operating on the island of Manus, Papua New Guinea and on Nauru respectively. Similar instrumentation is gathering data in the vicinity of Point Barrow, on the North Slope of Alaska and an island site near Atqasak will be instrumented to compliment the Point Barrow measurements.

To ensure that the program meets the broadest needs of the research community and the specific needs of the DOE Environmental Sciences Division (ESD), successful applicants will participate as ARM Science Team members along with selected scientists from other ESD programs that relate to the ARM Program. Costs for participation in ARM Science Team meetings and subcommittee meetings should be based on two trips of 1 week each to Washington, DC, and two (2) trips of 3 days each to Chicago, IL.

Successful applicants for renewal or enhancement of previously awarded grants, will demonstrate: (a) continued relevance of their work to the goals of the ARM Program; (b) the quality and relevance of work conducted under previous support to the goals of the ARM Program, including a listing of publications and presentations; and (c) relevant contribution to the development of the ARM program, particularly the design and development of CART facilities, as a result of previous funding. Renewal applications should include a special section covering items (b) and (c) entitled "Accomplishments Under Previous Support."

Successful applicants for new grants will demonstrate the role of their research in the improvement of General Circulation Models and/or related models and delineate the path that their results will take to make those improvements. Successful applicants will be involved in one or more of four activities: (a) the development of models and parameterization of radiative transfer or cloud processes, including aerosol effects, or the testing of these models in GCMs or process-level models; (b) experimental studies at CART facilities to test elements of models and their performance; (c) experimental studies to obtain key laboratory data; or (d) the analysis of existing data, including field data and satellite data, to support model development or testing.

The efforts proposed should have as a focus the conduct of research using the CART facilities either in operation or being developed for ARM. Successful applicants will participate in the continuing development of the detailed experimental approaches for CART and guide the evolving development and acquisition of the experimental equipment.

Program Funding

It is anticipated that approximately $3,000,000 will be available for multiple awards for this activity in FY 2000, contingent upon availability of appropriated funds. Multiple year funding of awards is expected, also contingent upon availability of funds. The allocation of funds will depend on the number and quality of the applications received. It is anticipated that most of the funds will support renewals of existing research. Typical ESD awards are $200,000 per year, but range from $50,000 to $600,000.

Collaborative applications are encouraged. Awards are anticipated to begin on or about November 1, 1999.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project
2. Appropriateness of the Proposed Method or Approach
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and an agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Applications for renewal of ongoing efforts must include an "Accomplishments under Previous Support" section, which should not exceed ten (10) additional double-spaced pages. The technical portion of the application should not exceed twenty-five (25) doubled-spaced pages. An abstract of less than 200 words must be included with the application. Lengthy appendices are discouraged.

Information about the development, submission of applications, eligibility, limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html. On the SC grant face page, form DOE F 4650.2, in block 15, also provide the PI's phone number, fax number and E-mail address.

Technical information on the ARM Program is available from the ARM Program Office at Pacific Northwest Laboratory, P.O. Box 999, Richland, WA 99352 (telephone (509) 375–6964).

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, D.C., on March 16, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–7064 Filed 3–22–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Monticello Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Monticello. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE AND TIME: Wednesday, April 21, 1999 7:00 p.m.–9:00 p.m.

ADDRESS: San Juan County Courthouse, 2nd Floor Conference Room, 117 South Main, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Audrey Berry, Public Affairs Specialist, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO, 81502 (970) 248–7727.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to advise DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Updates on repository status; Monticello surface and groundwater; reports from subcommittees on local training and hiring; health and safety, and future land use.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Audrey Berry's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Audrey Berry, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO 81502, or by calling her at (970) 248–7727.

Issued at Washington, DC on March 17, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–7071 Filed 3–22–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1023–000]

Boston Edison Company; Notice of Filing

March 17, 1999.

Take Notice that on March 11, 1999, Boston Edison Company (Edison) of Boston, Massachusetts, joined and supported by Monatup Electric Company (Montaup), tendered for filing the Fourth Amendment to its FERC Electric Rate Schedule No. 69. The Fourth Amendment was executed by Edison and Montaup for the purpose of extending the time for Montaup to make its Closing Payments to Edison in connection with the sale of Edison's Pilgrim nuclear power plant to Entergy Nuclear Generation Company. Edison and Montaup request a March 31, 1999, effective date of the amendment.

Edison states that copies of the filing have been served on the Massachusetts and Rhode Island attorney generals and on the service list compiled in Docket Nos. EC99–18–000, *et al.*

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 26, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/

online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6984 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–391–002]

Colorado Interstate Gas Company; Notice of Tariff Filing

March 17, 1999.

Take notice that on March 11, 1999, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Fourth Revised Sheet No. 176, Substitute Third Revised Sheet No. 177, Substitute Third Revised Sheet No. 178, Substitute third Revised Sheet No. 179 and First Revised Sheet No. 317, to be effective March 5, 1999.

CIG states that tariff sheets are filed in compliance with the Order issued February 25, 1999 in Docket No. RP98–391–000 and 001. This Order approved CIG's Swing Service subject to conditions.

CIG states that copies of this compliance filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6988 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA99–14–000]

Green Wolf Oil Company; Notice of Petition for Adjustment

March 17, 1999.

Take notice that on February 17, 1999, Green Wolf Oil Company, (Green Wolf),[1] filed a petition for staff adjustment in the above-referenced docket, pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Rules 1101–1117 (18 CFR 385.1101–385.1117) of the Commission's Rules of Practice and Procedure. Green Wolf seeks relief from paying Kansas ad valorem tax refunds to Panhandle Eastern Pipe Line Company (Panhandle) and Williams Gas Pipeline Central, Inc. (Williams).[2] Green Wolf's petition is on file with the Commission and open to public inspection.

Green Wolf asserts that paying the two pipeline refund claims will cause it to endure a special hardship, inequity, and an unfair distribution of burdens. Green Wolf asserts that all of the assets from the dissolved partnership are long gone, and that the remaining assets, i.e., the leases in question, do not produce enough to cover the refund demand. Green Wolf also points out that six of the eight wells involved operated at a loss over most of the period from 1990–1998. Green Wolf further states that one of the former partners (Wolfberg) is in bankruptcy. Therefore, Green Wolf contends that any refund attributable to Wolfberg is uncollectible. Green Wolf also asserts that the action requiring Green Wolf to make the refunds, i.e., the Circuit Court of Appeals decision in *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. Cir. 1996), is "entirely illegal and inequitable because Green Wolf had no notice of the proceedings beginning in 1983 upon which the refund demand is based until well after the ultimate decisions became final."[3] Green Wolf further contends that, without notice sufficient to satisfy due process under 44 U.S.C. §§ 1507 and 1508, neither the Circuit Court of Appeals nor the FERC has "in personam jurisdiction" over Green Wolf.[4] Green Wolf also argues that requiring Green Wolf to pay interest on the refund principal is wholly inequitable.

In addition, Green Wolf seeks relief from having to pay the refunds attributable to: (1) other working interest owners; (2) royalty interest owners; (3) pre-October 4, 1983 production; and (4) certain NGPA section 103(b)(2) wells, after the deregulation of those wells in June of 1987. Green Wolf asserts that, since 1983, the ownership of royalty interests in the leases has changed numerous times, that the records for payment of royalties for the years in question have been destroyed, and that the accountant who handled the partnership records (which includes those pertaining to payment of royalty interests) has died. In view of this, Green Wolf contends that it is now impossible to ascertain, with any degree of accuracy, the amount of overpayment which must be demanded from any of the royalty interest owners, living or dead. Therefore, Green Wolf contends that it cannot be held accountable for the refunds attributable to the royalty interest owners.

Green Wolf also contends that the Commission must permit it to offset its refund obligations on the Campbell #1 and #2 wells to compensate for Williams' underpayment to Green Wolf on two other wells which, according to Green Wolf, were entitled to but did not receive the NGPA section 108 price.

Finally, Green Wolf contends that the interest associated with Williams' refund claim should be paid by Williams, because Green Wolf's gas sales contract with Williams held that Williams would be responsible for refunding any interest associated with refunds required by the Federal Power Commission—the predecessor agency to the Federal Energy Regulatory Commission. Green Wolf also argues that Article I, Section 10 of the United State Constitution as prohibiting ex post facto laws and laws which impair the obligations of contracts, and that in view of this and the common law of contracts (which permits the parties to divide burden as they choose) Williams should be the one held responsible for paying the interest associated with its refund claim.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with

[1] Green Wolf is a dissolved partnership that was comprised of partners Laurance B. Wolfberg (Wolfberg) and Robert I. Greenberg (Greenberg). Wolfberg and Greenberg each held a one-half interest in the partnership until it was dissolved in 1984 by withdrawal of Greenberg.

[2] The total refund claim against Green Wolf stands at $330,755.13, plus the interest that continues to accrue on these refund obligations. Panhandle's refund claim totals $145,274.28 ($52,295.60 in principal and $92,978.68 in interest). Williams' refund claim totals $185,479.85 ($67,824.06 in principal and $117,655.79 in interest).

[3] Petition at pages 6 and 7.

[4] Petition at page 7.

the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6989 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–252–000]

Northern Natural Gas Company; Notice of Application

March 17, 1999.

Take notice that on March 11, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP99–252–000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, for a certificate of public convenience and necessity authorizing Northern to construct and operate a new compressor station, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.us/online/rims.htm (call 202–208–2222 for assistance).

Northern proposes to construct and operate a new South Sioux City Compressor Station at the previously abandoned South Sioux City compressor site located in Dakota County, Nebraska. Northern states that the proposed South Sioux City compressor station will consist of two (2) electric motor driven reciprocating compressors (1,750 horsepower (Hp) each) and certain yard piping and appurtenant facilities, as required to accommodate the new station configuration. Northern also states that the proposed compressor station will provide expanded capacity which will be used to provide 13,502 Dth/d of new incremental firm transportation service for one shipper, as well as, to meet the currently required delivery pressures on Northern's West Leg.

Any person desiring to be heard or making any protest with reference to said application should on or before April 7, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public conveniences and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–6990 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2170–000]

San Diego Gas & Electric Company; Notice of Filing

March 17, 1999.

Take notice that on March 16, 1999, Duke Energy South Bay LLC (South Bay), tendered for filing an amendment to the South Bay Must Run Agreement. San Diego Gas & Electric Company executed a certificate of concurrence regarding the amendment.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.2114). All such motions and protests should be filed on or before March 26, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be

viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7053 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2172–000]

San Diego Gas & Electric Company; Notice of Filing

March 17, 1999.

Take notice that on March 16, 1999, Cabrillo Power I LLC tendered for filing an amendment to the Encina Must-Run Agreement, effective upon Cabrillo Power I's acquisition of San Diego Gas & Electric Company's interest in the Encina Generating Station. San Diego Gas & Electric Company executed a certificate of concurrence regarding the amendment.

Cabrillo Power I has requested that the Commission act on this filing by March 31, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 26, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7054 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2173–000]

San Diego Gas & Electric Company; Notice of Filing

March 17, 1999.

Take notice that on March 16, 1999, Cabrillo Power II LLC filed an amendment to the Combustion Turbines Must-Run Agreement, effective upon Cabrillo Power II's acquisition of 17 combustion turbine facilities from the San Diego Gas & Electric Company. San Diego Gas & Electric Company executed a certificate of occurrence regarding the amendment. Cabrillo Power II has requested that the Commission act on this filing by March 31, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 26, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www/ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7055 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–222–000, OA96–76–003 and OA97–604–000]

Southern California Edison Company; Notice of Filing

March 17, 1999.

Take notice that on January 14, 1999, Southern California Edison Company (Edison), tendered for filing its refund report in the above-referenced dockets.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 26, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7052 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–243–000]

Southern Natural Gas Company; Notice of Application

March 17, 1999.

Take notice that on March 8, 1999, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563 filed an application with the Commission in Docket No. CP99–243–000 pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its 50 percent interest in certain offshore Louisiana facilities to Chevron U.S.A. Production Company, *et al.*, (Chevron) all as more fully set forth in the application which is open to the public for inspection. This filing may be viewed on the web at http:www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Southern proposes to abandon its 50 percent interest in the Main Pass 77 Pipeline and Receiving Station, offshore Louisiana, facilities to Chevron. Southern states that the facilities consist of approximately 2.77 miles of 10-inch diameter pipe that extends from Chevron's Main Pass Block 77 platform to a subsea interconnection in Main Pass Block 151 on Southern's 18-inch diameter South Pass 60 pipeline. Southern also proposes to abandon its interest in the receiving station located on Chevron's Main Pass Block 77 platform to Chevron. Southern states that Natural Gas Pipeline Company of

America (Natural) also owns a 50 percent interest in the Main Pass 77 Pipeline and Receiving Station facilities.

Southern states that the pipe it proposes to abandon by transfer to Chevron was severely damaged by Hurricane George in October 1998 and would be uneconomical for Southern to repair. Southern also states that Southern has agreed to give the pipe to Chevron following approval of the herein abandonment request so that Chevron could salvage the pipe if possible. Southern further states the proposed abandonment would not effect the capacity of its pipeline system or materially impact the availability of natural gas supplies on its system. Southern asserts that 30 shippers have the receipt point listed as a firm receipt point under their firm service agreement with Southern for a total Maximum Daily Quantity of 3,372 Mcf of natural gas per day; however, these shippers have not been able to obtain gas supplies from this receipt point since the damage occurred in October 1998. Chevron would either salvage the pipe or build a new pipe, and these shippers would be able to receive the Main Pass Block 77 gas at the interconnection of the Main Pass 77 Pipeline and Southern's Main Pass Block 151 facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 7, 1999, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6985 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–247–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

March 17, 1999.

Take notice that on March 10, 1999, Williams Gas Pipelines Central, Inc. (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–247–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to use measuring, regulating and appurtenant facilities constructed for the delivery of Natural Gas Policy Act Section 311 transportation gas to MAPCO Natural Gas Liquid, Inc., a Williams affiliate, in McPherson County, Kansas, for purposes other than Section 311 transportation, under authorization issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at: http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Williams states that the cost of the facilities was approximately $156,880 and would be reimbursed by MAPCO through the subscription of firm transportation service.

Williams further states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–6986 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–248–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

March 17, 1999.

Take notice that on March 11, 1999, Williams Gas Pipelines Central, Inc. (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–248–000 a request pursuant to Sections 157.205 and 157.216, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon the receipt of transportation of gas from MFP Petroleum Limited Partnership (MFP), successor to CNG Producing Company, and to reclaim facilities located in Harper County, Oklahoma under the blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Williams states that the meter setting has been blinded for some time and that MFP has agreed to the reclaim of facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is

filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6987 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–47–000, et al.]

The Cincinnati Gas & Electric Company et al. Electric Rate and Corporate Regulation Filings

March 15, 1999.

Take notice that the following filings have been made with the Commission:

1. The Cincinnati Gas & Electric Company

[Docket No. EC99–47–000]

Take notice that on March 9, 1999, The Cincinnati Gas & Electric Company (CG&E) tendered for filing pursuant to Section 203 of the Federal Power Act, 16 U.S.C. § 824b and Section 33.1(a)(1) of the Federal Energy Regulatory Commission's Regulations, 18 CFR 33.1(a)(1), its application for approval of the sale of 19 of its communication towers to an affiliated company, Cinergy Communications, Inc. (CCI).

CG&E states that it has served copies of its application upon the regulatory commission of Ohio.

Comment date: April 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Company, Massachusetts Electric Company, The Narragansett Electric Company, New England Electric Transmission, Corporation, New England Hydro-Transmission, Corporation, New England Hydro-Transmission, Electric Company, Inc., and AllEnergy Marketing Company, L.L.C., NGG Holdings LLC

[Docket No. EC99–49–000]

Take notice that on March 10, 1999, New England Power Company (NEP), its affiliates holding jurisdictional assets (Massachusetts Electric Company, The Narragansett Electric Company, New England Electric Transmission Corporation, New England Hydro-Transmission Corporation, New England Hydro-Transmission Electric Company, Inc., and AllEnergy Marketing Company, L.L.C.) (collectively, the NEES Companies) and NGG Holdings LLC (NGG), submitted for filing an application under Section 203 of the Federal Power Act (16 U.S.C. § 824b) and Part 33 of the Commission's Regulations (18 CFR 33.1) seeking the Commission's approval and related authorizations to effectuate the merger of New England Electric System (NEES) the parent company of the NEES Companies, with NGG, a wholly-owned subsidiary of The National Grid Group plc (National Grid). NEES will be the surviving entity in the Merger and, through the Merger, it and the NEES Companies will become subsidiaries of National Grid, which, among other things, is the owner and operator of the electric transmission network in England and Wales.

The Application states that it includes all the information and exhibits required by Part 33 of the Commission's regulations and the Commission's Merger Policy Statement, and that the Merger Application easily satisfies the criteria set forth in the Commission's Merger Policy Statement. The Application requests that the Commission grant approval without condition, modification or an evidentiary, trial-type hearing. The Application states that the parties are seeking to close the Merger expeditiously and thus the Applicants have requested Commission approval by May 31, 1999.

The Applicants have served copies of the filing on the state commissions of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. EGENOR S.A.

[Docket No. EG99–91–000]

Take notice that on March 10, 1999, EGENOR S.A. (EGENOR) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Sixty percent of EGENOR, a Peruvian corporation, is owned by Inversiones Dominion Perú S.A. (IDP). A majority of the capital stock of IDP is owned by Dominion Holding Peru S.A.C., a Peruvian corporation, which in turn is owned by Dominion Energy, Inc. (DEI) and its wholly-owned subsidiary Dominion Energy Peru Holdings, Inc., both Virginia corporations. DEI is a wholly-owned subsidiary of Dominion Resources, Inc., also a Virginia corporation.

EGENOR will own and operate two run-of-river hydroelectric facilities and six combustion turbine/diesel generator facilities with a combined installed nameplate capacity of approximately 510 MW and associated wholesale and retail transmission interconnection facilities, all located in Peru.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Trust Created Under The Trust Agreement Dated As of June 15, 1978 For The Use And Benefit of PSEG Resources Inc., Sanwa Bank California, Trustee

[Docket No. EG99–92–000]

Take notice that on March 10, 1999, Sanwa Bank California, as Trustee of the Trust created Under the Trust Agreement dated June 15, 1978 for the Use and Benefit of PSEG Resources Inc. (the Trust), 601 South Fiqueroa Street, Los Angeles, CA 90017, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Trust owns and holds legal title to an electric generating facility known as Encina No. 5, located in San Diego, California. Encina No. 5 is a 330 (net) MW oil-and-gas-fired steam turbine electric generation plant. Encina No. 5 comprises part of the Encina Generating Station. San Diego Gas & Electric Company (SDG&E), a public utility, leases Encina No. 5 from the Trust under a long-term lease which grants SDG&E care, custody and control of the unit.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Entergy Services, Inc.

[Docket No. ER98–4410–000]

Take notice that on March 10, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (together Entergy) filed its response to the February 8, 1999 letter in the above-referenced docket (Letter). The Letter requested additional information concerning

Entergy's August 31, 1998 and December 10, 1998 filings regarding a proposed amendment to its Open Access Transmission Tariff (OATT). The amendment revises OATT Attachment C, Methodology to Assess Available Transmission Capability, to continue Entergy's practice of using a transmission Reliability Margin to maintain native load reliability at a one-day-in-ten-year loss of load expectation.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. PJM Interconnection, L.L.C.

[Docket No. ER99–1619–000]

Take notice that on March 10, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing an amendment to its January 29, 1999 filing.

Copies of this filing were served upon each of the transmission customers that are parties to the service agreements filed in this docket on January 29, 1999 and each party listed on the service list compiled by the Commission in this proceeding.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Consumers Energy Company

[Docket No. ER99–2107–000]

Take notice that on March 10, 1999, Consumers Energy Company (Consumers) tendered for filing two Facilities Agreements Between Consumers Energy Company and CMS Generation Michigan Power, L.L.C., (Facilities Agreements). One of the Facilities Agreements is for CMS Generation Michigan Power L.L.C.'s Livingston Generating Station, the other for CMS Generation Michigan Power L.L.C.'s Kalamazoo River Generating Station. Under the Facilities agreements, Consumers is to construct, operate and maintain various interconnection facilities. Both Facilities Agreements are dated December 31, 1998.

Consumers requested that the Agreements be allowed to become effective by May 1, 1999.

Copies of the filing were served upon CMS Generation Michigan Power, L.L.C. and upon the Michigan Public Service Commission.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. LG&E Capital Corporation

[Docket No. ER99–2108–000]

Take notice that on March 10, 1999, LG&E Capital Corporation (Capital Corp.) submitted for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, a Petition for Blanket Authorization to Make Sales of Capacity and Energy at Market-Based Rates. Capital Corp. plans to own and operate two 164 megawatt combustion turbine electric generating units. These units will be the fifth and sixth units at Kentucky Utilities Company's existing E.W. Brown Generating Station in Mercer County, Kentucky.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Shell Energy Services Company L.L.C.

[Docket No. ER99–2109–000]

Take notice that on March 10, 1999, Shell Energy Services Company, L.L.C. (Seller), a limited liability company organized under the laws of the State of Delaware, petitioned the Commission for an order: (1) accepting Seller's proposed Rate Schedule FERC No. 1 (Market-Based Rate Schedule); (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the regulations, and (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates. Seller is a wholly-owned indirect subsidiary of Shell Oil Company.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Nevada Power Company

[Docket No. ER99–2110–000]

Take notice that on March 10, 1999, Nevada Power Company (NPC) tendered for filing the proposed McCullough 230-kV Switchyard Agreement (Agreement). The parties to this Agreement are: Department of Water and Power of the City of Los Angeles (LADWP), NPC, and the United States of America (US).

The Agreement sets forth all the terms and conditions for the ownership, cost responsibility, operation, maintenance and use of the McCullough 230 kV Switchyard and three 500/230 kV transformer banks located at the McCullough Substation.

In addition to all the Parties to this Agreement, copies of this filing have also been served on the Public Utilities Commission of Nevada and the Bureau of Consumer Protection Utility Consumer's Advocate of Nevada.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Public Service Corporation

[Docket No. ER99–2111–000]

Take notice that on March 10, 1999, WPS Resources Corporation (WPSR) on behalf of its operating companies, Wisconsin Public Service Corporation and Upper Peninsula Power Company tendered for filing an executed Transmission Service Agreement for long term Firm Point-To-Point service between WPSC and Wisconsin Public Power, Inc. The Agreement provides for transmission service under WPS Resources Corporation FERC Electric Tariff Volume No. 1.

WPSC requests that the agreement become effective May 1, 2000.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER99–2112–000]

Take notice that on March 10, 1999, Virginia Electric and Power Company (Virginia Power) tendered for filing the Service Agreement for Short-Term Market Based Rate Power Sales between Virginia Electric and Power Company and Select Energy, Inc. Under the Service Agreement, Virginia Power will provide services to Select Energy, Inc. under the terms of the Company's Revised Market-Based Rate Tariff designated as FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98–3771–000.

Virginia Power requests an effective date of March 10, 1999.

Copies of the filing were served upon Select Energy, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Power Service Corp., on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–2113–000]

Take notice that on March 10, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 18 to add two (2) new Customers to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of March 9, 1999, to AYP Energy, Inc. and Carolina Light & Power Company.

Copies of the filing have been provided to the Public Utilities

Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6982 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–50–000, et al.]

PacifiCorp., et al.; Electric Rate and Corporate Regulation Filings

March 16, 1999.

Take notice that the following filings have been made with the Commission:

1. PacifiCorp

[Docket No. EC99–50–000]

Take notice that on March 10, 1999, PacifiCorp (PacifiCorp) tendered for filing an application pursuant to Section 203 of the Federal Power Act and Part 33 of the Regulations of the Commission for an order authorizing transfer of control of jurisdictional facilities and notice of change of status (the Transaction). Applicant has requested Commission approval of the Transaction as early as practicable.

Pursuant to the terms of the Restated and Amended Agreement and Plan of Merger dated as of February 24, 1999, a special purpose, wholly-owned subsidiary of ScottishPower plc, which is an Oregon corporation, will merge with and into PacifiCorp with PacifiCorp to be a surviving U.S. corporation. Each issued and outstanding share of PacifiCorp will be canceled upon consummation of the Transaction and converted to the right of the holder thereof to receive 0.58 ScottishPower American Depositary Shares, which are traded on the New York Stock Exchange, or 2.32 ScottishPower ordinary shares, which are traded on the London Stock Exchange. As a result of the Transaction, PacifiCorp will become a wholly-owned subsidiary of ScottishPower. PacifiCorp filed no Section 205 rate proceeding in this application, and states that the Transaction will change only PacifiCorp's corporate control, and have no impact on competition, rates or regulation.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Automated Power Exchange, Inc.

[Docket No. ER98–1033–006]

Take notice that on March 11, 1999, Automated Power Exchange, Inc., tendered its filing in compliance with the Commission's order issued in Docket No. ER98–1033–004.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Alliance Energy Services Partnership

[Docket No. ER99–1945–000]

Take notice that on March 11, 1999, Alliance Energy Services Partnership (Alliance Energy Services Partnership) petitioned the Commission for acceptance of Alliance Energy Services Partnership amended Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Alliance Energy Services Partnership intends to engage in wholesale electric power and energy purchases and sales as a marketer. Alliance Energy Services Partnership is not in the business of generating or transmitting electric power. Alliance Energy Services Partnership is wholly owned by: Alliance Gas Services, Inc., and Conoco Inc. Andrew R. Fellon and John McCord, each hold 50% ownership in Alliance Gas Services, Inc. Additionally, Andrew R. Fellon and John McCord each hold 50% ownership in Fellon-McCord & Associates, Inc. All parties are primarily engaged in natural gas marketing.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER99–2114–000]

Take notice that on March 10, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 10–5 to add ACN Energy, Inc. and PEPCO Services, Inc. to Allegheny Power's Open Access Transmission Service Tariff.

The proposed effective date under the agreement is March 1, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. The Dayton Power and Light Company

[Docket No. ER99–2115–000]

Take notice that on March 10, 1999 The Dayton Power and Light Company (Dayton) submitted a service agreement for Short-Term Firm Transmission Service establishing Merrill Lynch Capital Services, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon Merrill Lynch Capital Services, Inc., and the Public Utilities Commission of Ohio.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. The Dayton Power and Light Company

[Docket No. ER99–2116–000]

Take notice that on March 10, 1999, The Dayton Power and Light Company (Dayton) submitted a Service Agreement for Non-firm Transmission Service establishing with Merrill Lynch Capital Services, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon with Merrill Lynch Capital Services,

Inc., and the Public Utilities Commission of Ohio.

Comment date: March 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket Nos. ER99–2117–000]

Take notice that on March 11, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Southern Energy Delta, L.L.C. (Southern Delta and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Southern Delta and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of March 4, 1999.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER99–2118–000]

Take notice that on March 11, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities (Meter Service Agreement) between the ISO and Southern Energy Delta, L.L.C. (Southern Delta) for acceptance by the Commission.

The ISO states that this filing has been served on Southern Delta and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of March 4, 1999.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER99–2119–000]

Take notice that on March 11, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Southern Energy Potrero, L.L.C. (Southern Potrero) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Southern Potrero and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of March 4, 1999.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER99–2120–000]

Take notice that on March 11, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities (Meter Service Agreement) between the ISO and Southern Energy Potrero, L.L.C. (Southern Potrero) for acceptance by the Commission.

The ISO states that this filing has been served on Southern Potrero and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of March 4, 1999.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Avista Corporation

[Docket No. ER99–2121–000]

Take notice that on March 11, 1999, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, executed Service Agreements under Avista Corporation's FERC Electric Tariff First Revised Volume No. 9, with Illinova Energy Partners, which replaces an unexecuted service agreement previously filed with the Commission under Docket No. ER98–4684–000 SA No 186 effective 8/29/98.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Ohio Valley Electric Corporation Indiana-Kentucky Electric Corporation

[Docket No. ER99–2122–000]

Take notice that on March 11, 1999, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service, dated February 5, 1999 (the Service Agreement) between Ameren Services Company (Ameren) and OVEC. The Service Agreement provides for non-firm transmission service by OVEC to Ameren. In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

OVEC proposes an effective date of February 10, 1999, and requests waiver of the Commission's notice requirement to allow the requested effective date.

Copies of this filing were served upon the Arkansas Public Service Commission, the Illinois Commerce Commission, the Missouri Public Service Commission and Ameren.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Northeast Utilities Service Company

[Docket No. ER99–2123–000]

Take notice that on March 11, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement to provide Non-Firm Point-To-Point Transmission Service to Dunbarton Energy Partners, Limited Partnership under the NU System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO requests that the Service Agreement become effective March 29, 1999.

NUSCO states that a copy of this filing has been mailed to Dunbarton Energy Partners, Limited Partnership.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. MidAmerican Energy Company

[Docket No. ER99–2124–000]

Take notice that on March 11, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a Firm Transmission Service Agreement with MidAmerican Energy Company (MidAmerican, as a wholesale merchant) dated February 19, 1999, and First Amendment to Firm Transmission Service Agreement with MidAmerican, as wholesale merchant, dated February 22, 1999, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of February 22, 1999, for the Firm Transmission Service Agreement, and February 19, 1999 for the First Amendment, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corp.

[Docket No. ER99–2125–000]

Take notice that on March 11, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing

Service Agreements for transmission and wholesale requirements services in conjunction with an electric retail access pilot program that was established by the New York Public Service Commission effective November 1, 1997. The Service Agreements for transmission services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 3; as modified by an Order of the Commission in this proceeding dated November 7, 1997. The Service Agreements for wholesale requirements services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 4; as modified by an Order of the Commission in this proceeding dated November 7, 1997. Niagara Mohawk's customer is Columbia Energy Power Marketing Corporation.

Niagara Mohawk requests that the agreements be made effective as of February 19, 1999.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Moon Lake Electric Association, Inc.

[Docket No. ER99–2126–000]

Take notice that on March 11, 1999, Moon Lake Electric Association, Inc. (Moon Lake), tendered for filing Amendment No. 1 and Revision No. 1 to Supplement No. 1, to its Rate Schedule FERC Nos. 3 through 5, under which Moon Lake provides transmission service to customers of PacifiCorp. The proposed amendment and revision provide for Moon Lake to furnish transmission service to two additional PacifiCorp customers as permitted by Supplement No. 1. The proposed amendments will not affect purchasers under other agreements.

Moon Lake seeks a waiver pursuant to 18 CFR 35.11 of the 60-day prior notice requirement of 18 CFR 35.3, to permit Amendment No. 1 and Revision No. 1 to become effective on May 4, 1994 and July 7, 1998, respectively.

Copies of the filing were served upon Moon Lake's purchasers in accordance with 18 CFR 35.11.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Company of New Mexico

[Docket No. ER99–2127–000]

Take notice that on March 11, 1999, Public Service Company of New Mexico (PNM), tendered for filing as an amendment to the San Juan Project Operating Agreement (Operating Agreement) an Interim Invoicing Agreement with respect to invoicing for coal deliveries from San Juan Coal Company among PNM, Tucson Electric Power Company (TEP) and the other owners of interests in the San Juan Generating Station. This interim agreement effectively modifies Modification 8 to the Operating Agreement for an interim period from January 1, 1999 through December 31, 1999.

PNM requests waiver of the Commission's notice requirements in order to allow the Interim Invoicing Agreement to be effective as of January 1, 1999.

Copies of this filing have been served upon the New Mexico Public Regulation Commission, TEP and each of the owners of an interest in the San Juan Generating Station.

Comment date: March 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. North West Rural Electric Cooperative

[Docket No. ES99–34–000]

Take notice that on March 10, 1999, North West Rural Electric Cooperative (NWREC), tendered for filing an application, under Section 204 of the Federal Power Act, for authorization to issue long-term debt up to $13.5 million, under a line of credit agreement with the National Rural Utilities Cooperative Finance Corporation, during a two-year period.

NWREC also requests that the Commission waive its competitive bidding or negotiated placement requirements of 18 CFR 34.2, pursuant to the authorization requested in this docket.

Comment date: April 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

STANDARD PARAGRAPHS

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–6983 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 17, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. Application Type: Non-Project Use of Project Lands and Waters.

b. Project No: 2232–383.

c. Date Filed: February 5, 1999.

d. Applicant: Duke Power Company.

e. Name of Project: Catawba-Wateree Hydroelectric Project.

f. Location: On Lake Norman near the Town of Springs, in Lincoln County, North Carolina. The project does not utilize federal or tribal lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. E.M. Oakley, Duke Power Company, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. FERC Contact: Any questions on this notice should be addressed to Brian Romanek, e-mail address: Brian.Romanek@ferc.fed.us. or telephone: (202) 219–3076.

j. Deadline for filing comments and or motions: April 22, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, NE, Washington, DC 02426.

Please include the project number (2232–383) on any comments or motions filed.

k. Description of Proposal: Duke Power Company proposes to lease to Sailview Properties, LLC (Sailview) nine parcels containing a total of 4.91 acres of project land for the construction of 186 boat slips. The boat slips would provide access to the reservoir for residents of Sailview Subdivision. Constructing the boat slips would require the dredging of 9,900 cubic yards of lake bottom material.

l. Locations of the application: A copy of the application is available for

inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6991 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 17, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. Application Type: Non-Project Use of Project Lands and Waters.

b. Project No.: 2232–384.

c. Date Filed: February 17, 1999.

d. Applicant: Duke Power Company.

e. Name of Project: Catawba-Wateree Hydroelectric Project.

f. Location: On Lake Norman near the Town of Mooresville, in Iredell County, North Carolina. The project does not utilize federal or tribal lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. E.M. Oakley, Duke Power Company, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. FERC Contact: Any questions on this notice should be addressed to Brian Romanek, e-mail address: Brian.Romanek@ferc.fed.us. or telephone: (202) 219–3076.

j. Deadline for filing comments and or motions: April 22, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, NE., Washington, DC 20426.

Please include the project number (2232–384) on any comments or motions filed.

k. Description of Proposal: Duke Power Company proposes to lease to Southdell, Inc. a 0.323 acre parcel of project land for the construction of 8 boat slips. The boat slips would provide access to the reservoir for residents of Donaldson Landing Subdivision. Constructing the boat slips would require the dredging of 707 cubic yards of lake bottom material.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6992 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 17, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. Application Type: Non-Project Use of Project Lands and Waters.

b. Project No: 2232–385.

c. Date Filed: February 23, 1999.

d. Applicant: Duke Power Company.

e Name of Project.: Catawba-Wateree Hydroelectric Project.

f. Location: On Lake Rhodhiss near the Town of Lovelady, in Burke County, North Carolina. The project does not utilize federal or tribal lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. E.M. Oakley, Duke Power Company, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. FERC Contact: Any questions on this notice should be addressed to Brian Romanek, e-mail address: Brian.Romanek@ferc.fed.us. or telephone: (202) 219–3076.

j. Deadline for filing comments and or motions: April 22, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, NE, Washington, DC 20426.

Please include the project number (2232–385) on any comments or motions filed.

k. Description of Proposal: Duke Power Company proposes to lease to Southeastern Land Sales, Inc. (Harbor Ridge) a 0.70 acre parcel of project land for the construction of 28 boat slips. The boat slips would provide access to the reservoir for residents of the Harbor Ridge Subdivision. Constructing the boat slips would require no dredging. About 200 linear feet of rip rap would be installed to stabilize the shoreline.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6993 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM96–1–012]

Standards for Business Practices of Interstate Natural Gas Pipelines; Notice Establishing Docketing Procedures for Filing of OBA Notification

March 17, 1999.

This notice establishes the docketing procedures pipelines must follow in making filings to comply with the Commission's order issued December 17, 1998,[1] in Docket No. RM96–1–012, requiring pipelines to file by April 1, 1999, a statement regarding compliance with Section 284.10(c)(2)(i) of the Commission's regulations.[2]

In Order No. 587–G, the Commission adopted Section 284.10(c)(2)(i) of its regulations, which requires each interstate pipeline to enter into operational balancing agreements (OBAs) at all points of interconnection between its system and the system of another interstate or intrastate pipeline.[3]

---

[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, 85 FERC ¶ 61,371 (1998).

[2] 18 CFR 284.10(c)(2)(i).

[3] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–G, 63 FR

Continued

In the December 17, 1998, order, the Commission established April 1, 1999, as the date by which pipelines are required to comply with this regulation and further required each interstate pipeline to file by April 1, 1999, a statement as to how it has complied with the OBA requirement.

In making their filings to comply with the December 17, 1998 order, each pipeline must file using the docket number under which they filed to comply with Order No. 587–G.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6994 Filed 3–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of November 30 Through December 4, 1998

During the week of November 30 through December 4, 1998, the decision and order summarized below was issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy.

A copy of the full text of this decision and order is available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C., Monday through Friday, except federal holidays. It is also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Date: March 15, 1999.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 114, Week of November 30 through December 4, 1998

Appeal

Doug Farver, 12/03/98, VFA–0455

The Department of Energy (DOE) issued a Decision and Order granting in part a Freedom of Information Act (FOIA) Appeal filed by Douglas Farver. In his Appeal, Mr. Farver requested that we review an Oak Ridge Operations Office (Oak Ridge) determination finding that a portion of Mr. Farver's FOIA request was too broad and, therefore, did not "reasonably describe" the information sought. In the Decision, the OHA held that Oak Ridge did not adequately justify this determination, and, in addition, did not respond to two items of Mr. Farver's original FOIA request. We therefore remanded the appeal to Oak Ridge for further processing.

Dismissals

The following submissions were dismissed.

Name	Case No.
Matthew Cherney, M.D.	VFA–0460

[FR Doc. 99–7066 Filed 3–22–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of November 23 Through November 27, 1998

During the week of November 23 through November 27, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C., Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: March 15, 1999.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 113 Week of November 23 Through November 27, 1998

Personnel Security Hearings

Personnel Security Hearing, 11/24/98, VSO–0198

A Hearing Officer found that the concern raised by an individual's illness or mental condition remained unresolved. Accordingly, the Hearing Officer recommended in the Opinion that the individual's access authorization not be restored.

Personnel Security Hearing, 11/23/98, VSO–0211

An OHA Hearing Officer issued an Opinion regarding the eligibility of an individual to be granted access authorization under the provisions of 10 CFR part 710. The Hearing Officer found that the individual has a mental condition which causes or may cause a significant defect in his judgment or reliability. The Hearing Officer also found that the individual had been diagnosed by a board-certified psychiatrist as alcohol abusive. In addition, the Hearing Officer found that the individual had failed to mitigate concerns raised by seventeen years of falsifications regarding his drug use. Accordingly, the Hearing Officer recommended that the individual's access authorization not be restored.

Personnel Security Hearing, 11/23/98, VSO–0220

An OHA Hearing Officer issued an opinion concerning an individual whose access authorization was suspended. The DOE alleged that the individual engaged in unusual conduct by violating a drug certification, stealing from his employer, and defrauding an insurance company by arranging the theft of his car. In addition, the DOE contended that the individual deliberately falsified significant information regarding past arrests and drug use. The Hearing Officer found that the individual had not overcome the security concerns of DOE with regard to his violation of the drug certification and that the individual had engaged in unusual conduct in his actions surrounding the theft of his car. In addition, the Hearing Officer found that the individual had not presented sufficient evidence to mitigate DOE's legitimate concerns arising from his falsifications. Accordingly, the Hearing Officer recommended that the individual's access authorization should not be restored.

Personnel Security Hearing, 11/24/98, VSO–0222

An OHA Hearing Officer issued an opinion concerning an individual whose access authorization was suspended. A DOE consultant-psychiatrist diagnosed the individual as suffering from alcohol abuse. In addition, the DOE alleged that the individual deliberately falsified significant information on a number of personnel security questionnaires. The Hearing Officer found that the individual had not overcome the security concerns of DOE with regard to his alcohol use. In addition, the Hearing Officer found that the individual had

20072 (Apr. 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 (Apr. 16, 1998).

not presented sufficient evidence to mitigate DOE's concerns arising from his falsifications. Accordingly, the Hearing Officer recommended that the individual's access authorization should not be restored.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
N.Y. City Health & Hospital	RC272–00396 RJ272–00067	11/24/98

[FR Doc. 99–7067 Filed 3–22–99; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of November 16 Through November 20, 1998

During the week of November 16 through November 20, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C. 20585–0107, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: March 15, 1999.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 112 Week of November 16 Through November 20, 1998

Appeals

Alan Henney, 11/17/98, VFA–0454

The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) received a request from the Department of Commerce asking DOE to provide a direct response to part of an Appeal filed by Alan Henney under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. OHA dismissed this Appeal. Under 10 CFR § 1004.8(a) of the DOE regulations, OHA does not have jurisdiction to adjudicate this matter, because there is no evidence that the decision to withhold documents in response to Mr. Henney's FOIA request was made by a DOE officer who has custody or responsibility for these records under the FOIA. Moreover, under 10 CFR § 1004.7(b), a legally sufficient denial of records under the FOIA has not been issued. OHA requested the FOIA/Privacy Act Division of the Office of the Executive Secretariat (DOE FOIA Office) to treat the Appeal as if it were a new request for documents under the FOIA.

Ruth Towle Murphy, 11/17/98, VFA–0453

The OHA denied an Appeal of a determination issued by the DOE's Office of Scientific and Technical Information in response to a request for a fee waiver. The requester claimed that her status as a graduate student, and her intention to incorporate the requested information into research for a dissertation, was sufficient to qualify her for a waiver of search and copying fees. The OHA found that the requester failed to show that she could disseminate the requested information to a broad enough audience to qualify for a fee waiver.

Personnel Security Hearing

Personnel Security Hearing, 11/16/98, VSO–0216

An Office of Hearings and Appeals Hearing Officer issued an Opinion under 10 CFR Part 710 concerning the continued eligibility of an individual. to hold an access authorization. The Hearing Officer found that the individual had failed to establish the truthfulness of his explanation for receiving a positive test result for the presence of cocaine metabolite in a urine sample provided by the individual pursuant to a random drug screening conducted by his employer. The Hearing Officer found that the individual had therefore failed to mitigate the legitimate security concerns of DOE relating to the use of illegal drugs. Accordingly, the Hearing Officer recommended that the individual's access authorization, which had been suspended, should not be restored.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Mercer County et al	RF272–96900	11/18/98
Raymond Canada et al	RC272–00395 RJ272–00066	11/19/98

Dismissals

The following submissions were dismissed.

Name	Case No.
Carl Buddig & Co	RF272–95207
Glendale Union HS Dist 205	RF272–80846
Personnel Security Review	VSA–0214
S.A.D. #51	RF272–80837

[FR Doc. 99–7068 Filed 3–22–99; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by The Office of Hearings and Appeals; Week of November 9 Through November 13, 1998

During the week of November 9 through November 13, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C. 20585–0107, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: March 15, 1999.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 111 Week of November 9 Through November 13, 1998

Appeals

Frank E. Isbill, 11/10/98, VFA–0450

Frank E. Isbill (Isbill) filed an Appeal from a determination issued to him by the Oak Ridge Operations Office (OR) of the Department of Energy (DOE). In his Appeal, Isbill asserted that OR failed to conduct an adequate search for documents, requested pursuant to the FOIA, that pertained to various personnel records and complaints at the DOE's Office of Scientific and Technical Information (OSTI). After reviewing the search that was conducted for responsive documents, the DOE determined that OR had performed an adequate search. In reaching this determination, DOE also held that records held by two contractors at OSTI were not agency records subject to the FOIA nor were they subject to the DOE's policy on contractor records. Consequently, Isbill's Appeal was denied.

Ashok Kaushal, 11/13/98, VFA–0452

DOE denied an appeal of a determination issued by the Albuquerque Operations Office (DOE/AL). OHA found that the search conducted by DOE/AL was reasonably calculated to uncover material responsive to the request.

Tammi D. Mourfield Selvidge, et al., 11/12/98, VFA–0449

Tammi D. Mourfield Selvidge, et al., filed an appeal from a denial by the Oak Ridge Operations Office of a request for information that it filed under the Freedom of Information Act (FOIA). The DOE upheld a determination by Oak Ridge that no documents existed that were responsive to the request for a list of 100 specified substances. The DOE referred the appeal of denial of access to classified information to the appropriate office in the Office of Security Affairs, to be addressed in Case No. VFA–0451. The DOE did not address the remaining issues raised in the appeal because Oak Ridge had not yet issued complete determinations regarding them. Accordingly, the appeal was denied in part and dismissed in part.

Personnel Security Hearings

Personnel Security Hearing, 11/9/99, VSO–0219

An OHA Hearing Officer issued an opinion concerning an individual whose access authorization was suspended because the DOE obtained derogatory information that the individual was alcohol dependent. At a hearing convened at the individual's request, the individual maintained that he was rehabilitated from alcohol dependence. A DOE consultant psychiatrist found that the individual was in full remission from his alcohol dependence and had shown adequate evidence of rehabilitation. Other witnesses corroborated that the individual had not used alcohol for more than one year and that he was committed to his rehabilitation program. Based on this evidence, the Hearing Officer found that the individual had mitigated the DOE's concern regarding his alcohol dependence. Accordingly, the Hearing Officer recommended that the individual's access authorization be restored.

Personnel Security Hearing, 11/13/98, VSO–0226

An OHA Hearing Officer issued an Opinion regarding the eligibility of an individual to be granted access authorization under the provisions of 10 CFR Part 710. After considering the testimony presented at the hearing and the record, the Hearing Officer first found that the individual has a mental condition which causes or may cause a significant defect in his judgment or reliability. The Hearing Officer also found that the individual has been a user of alcohol habitually to excess and had been diagnosed by a board-certified psychiatrist as alcohol dependent. This finding was based on the DOE consultant psychiatrist's diagnosis of alcohol dependence and opinion thatthere was insufficient evidence of rehabilitation and reformation. The individual's Employment Assistance Program counselor agreed with the DOE consultant psychiatrist that the individual was alcohol dependent and not yet rehabilitated. Accordingly, the Hearing Officer recommended that the individual not be granted access authorization.

Dismissals

The following submissions were dismissed.

Name	Case No.
Apex Oil Co./Clark Oil Co./Albert Burzinski.	RF342–00328

[FR Doc. 99–7069 Filed 3–22–99; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of October 26 Through October 30, 1998

During the week of October 26 through October 30, 1998, the decisions and orders summarized below were

issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C., Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: March 15, 1999.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 109, Week of October 26 through October 30, 1998

Appeals

Tod N. Rockefeller, 10/28/98, VFA–0447

Tod N. Rockefeller (Rockefeller), through his attorney, requested documents from DOE's Albuquerque Operations Office (AL) under the FOIA, and also asked that AL waive all fees. AL denied the request for a fee waiver, stating that the disclosure of the information was not in the public interest and that the request, since it was made by an attorney, was made for the attorney's commercial interest. Because Rockefeller had not shown an ability to disseminate the information to the public, the Office of Hearings and Appeals (OHA) concluded that the request was not in the public interest. However, OHA also noted that there was no evidence that the request was made for the attorney's commercial interest. Accordingly, the Appeal was denied.

Personnel Security Hearing

Personel Security Hearing, 10/29/98, VSO–0209

An Office of Hearings and Appeals Hearing Officer issued an opinion against restoration of the security clearance of an individual whose clearance had been suspended because the Department had obtained derogatory information that fell within 10 C.F.R. 710.8(k) & (1). In reaching his conclusion, the Hearing Officer found that the individual had failed to make a showing of mitigating facts and circumstances sufficient to overcome DOE's security concerns.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Arrow Trucking Co.	RF272–95745	10/27/98
William P. Johnson	RK272–04853	10/27/98
Russell Hosiery Mill	RK272–04855	
Johnston Industries Alabama	RK272–04857	
Marilyn Barnes	RK272–04859	
Putnam Asphalt Corp.	RK272–04864	

Dismissals

The following submissions were dismissed.

Name	Case No.
Personnel Security Hearing	VSO–0239

[FR Doc. 99–7070 Filed 3–22–99; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6313–2]

Annual Conference on Analysis of Pollutants in the Environment

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The U.S. EPA, Office of Water, Office of Science and Technology will co-sponsor, along with Battelle, the "22nd Annual Conference on Analysis of Pollutants in the Environment" to discuss all aspects of environmental measurement. The conference is open to the public.

DATES: The annual conference will be held on June 2–3, 1999. On June 2, 1999 the conference will begin at 8:30 a.m. and adjourn at 5:00 p.m. On June 3, 1999 the conference will begin at 8:45 a.m. and adjourn at 4:15 p.m.

On June 4, 1999 a workshop sponsored by Horizon Technology, Inc. will be held in addition to the conference. The workshop topic and program times are: Implementation of EPA Method 1664 for Oil and Grease Testing Workshop, June 4, 1999, 8:30 a.m. to 3:00 p.m.

ADDRESSES: The conference will be held at the Wyndham Franklin Plaza Hotel, 17th & Race Streets, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Conference and workshop arrangements are being arranged by Battelle. For information on registration, hotel rates, transportation, social events, and reservations call the Battelle coordinator, Lynn McLeod, at (781) 952–5381. If you have technical questions regarding the conference program, contact the EPA coordinator, Cindy Simbanin, at (202) 260-5019 or by facsimile at (202) 260–7185.

SUPPLEMENTARY INFORMATION: The 22nd Annual Conference on Analysis of Pollutants in the Environment is designed to bring together representatives of regulated industries, commercial environmental laboratories, state and federal regulators, and environmental consultants and contractors to discuss all aspects of environmental measurement with a particular focus on analytical methods and related issues.

The draft program for the conference follows:

Wednesday, June 2, 1999

Welcome and Status of EPA Office of Water Activities

8:30 am Welcome—Carlton Hunt, Battelle
8:45 am U.S. EPA's Office of Water Activities—James Hanlon, U.S. EPA Office of Science & Technology
9:00 am U.S. EPA's Wastewater Analytical Program Activities—William Telliard, U.S. EPA Office of Science & Technology
9:30 am U.S. EPA's Drinking Water Analytical Program Activities—Richard Reding, U.S. EPA Technical Support Center

10:00 am Break

Cryptosporidium

10:15 am Validating and Implementing Method 1622 to Monitor for Protozoa in Surface Water—Kevin Connell, DynCorp, Inc. Information & Enterprise Technology

10:45 am Development of Methods for Determination of Cryptosporidium in Wastewater and Sewage—Zia Bukhari, Clancy Environmental Consultants, Inc.

Inorganics

11:15 am Total Cyanide by Flow Injection, UV Digestion, and Amperometric Detection—Mike Straka, OI Analytical

11:45 am Lunch

1:15 pm Analytical Challenges with Determination of Perchlorate in Environmental Matrices—Andrew Eaton, Montgomery-Watson Laboratories

National Fish Study

1:45 pm U.S. EPA's National Study of Chemical Residues in Lake Fish Tissue—Jane Farris, U.S. EPA Health & Ecological Criteria Division

Organics

2:15 pm Extraction and Cleanup Procedures Used In the Columbia River Inter-Tribal Fish Commission Study—Robert Rieck, U.S. EPA Manchester Laboratory

2:45 pm Break

3:00 pm Low Detection Limit Methods for the Determination of VOCs in Air and Water as Applied in the USGS National Water Quality Assessment (NAWQA) Program—J. F. Pankow, Oregon State University

3:30 pm CDD/CDF Patterns in Industrial Discharges—Dale Rushneck, Interface, Inc.

4:00 pm Stability of VOC and SVOC Analytes in Environmental Samples—O.R. West, Oak Ridge National Laboratory

4:30 pm Drugs in Sewage Treatment Plant Effluents in Canada and Germany—Chris Metcalfe, Environmental and Resource Studies, Trent University, Peterborough, Ontario, Canada

5:00 pm Adjourn

Thursday, June 3, 1999

Detection and Quantitation

8:45 am Detectability of Semi-Volatile Pollutants by GCMS with Software Thresholds "On and Off"—Bruce Colby, Pacific Analytical, Inc.

Whole-Effluent Toxicity (WET)

9:15 am Procedures for Identifying Probable False Positives in Whole Effluent Toxicity Data—Timothy F. Moore, Risk Sciences

9:45 am QC of WET Methods—(Speaker to be announced)

10:15 am Break

10:30 am A State's Perspective on WET Methods—(Speaker to be announced)

11:00 am U.S. EPA's Position on WET Methods—Stephen Sweeney, U.S. EPA Office of General Counsel

Metals

11:30 am Mercury in the Environment and Selection of Appropriate Analytical Methods for Monitoring Needs—Anna Rule, Hampton Roads Sanitation District

12 Noon Lunch

1:30 pm A Critical Need for the New Millennium: Reliable U.S. EPA-Approved Trace Metals Speciation Methods—Nicolas Bloom, Frontier Geosciences, Inc.

2:00 pm Direct Speciation of Selenium and Other Metalloids in Aqueous Samples—Implications for Research and Remediation—D. Wallschlaeger, Frontier Geosciences, Inc.

2:30 pm Determination of Hydride-Forming Elements at U.S. EPA Ambient Water Quality Criteria Levels by Hydride Generation and Graphite Furnace Atomic Absorption Spectrophotometry—Khouane Ditthavong, U.S. EPA Office of Science & Technology

3:00 pm Break

3:15 pm Supplementary Effluent Data and Regulatory Status of U.S. EPA Method 1631: Mercury by Purge and Trap, Desorption, and Atomic Fluorescence—Maria Gomez-Taylor, U.S. EPA Office of Science & Technology

3:45 pm Application of ICP/MS Technology for Trace Metals Analysis—Paula Hogg, Hampton Roads Sanitation District

4:15 pm Closing Remarks

Dated: March 12, 1999.

James Hanlon,

Acting Director, Office of Science and Technology.

[FR Doc. 99–7082 Filed 3–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6313–3]

Gulf of Mexico Program—Habitat Focus Team Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Habitat Focus Team (HFT).

DATES: The HFT meeting will be held on Thursday, April 15, 1999 from 10:00 a.m. to 5:00 p.m. and on Friday, April 16 from 8:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting site will be the River House Conference Facility, Stennis Space Center, MS, (228) 688–7618.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda items will include: Habitat Focus Team Updates, Baseline Characterization, Permit Issue, Strategic Assessment, Gulf of Mexico Conservation Fund/National Fish and Wildlife Foundation and other Habitat Focus Team State Initiatives.

The meeting is open to the public.

Dated: March16, 1999.

Bryan O. Griffith,

Acting Director, Gulf of Mexico Program Office.

[FR Doc. 99–7083 Filed 3–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6314–1]

Waste Research Strategy

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of the Office of Research and Development's "Waste Research Strategy."

SUMMARY: The U.S. Environmental Protection Agency (EPA) is today announcing the availability of a research strategy entitled, "Waste Research Strategy." The "Waste Research Strategy" covers research necessary to support both the proper management of solid and hazardous wastes and the effective remediation of contaminated

waste sites. This research includes improving the assessment of existing environmental risks, as well as developing more cost-effective ways to reduce those risks. Prepared by EPA's Office of Research and Development (ORD), the strategy responds to two major legislative mandates and large programs within the EPA, the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or "Superfund") and their amendments. This strategy identifies four research areas that correspond to the major waste-related environmental problems (contaminated ground water, contaminated soils and the vadose zone [subsurface region above the ground water table], emissions from waste combustion facilities, and active waste management facilities). The strategy prioritizes research activities that ORD should undertake through Fiscal Year 2000 (FY00).

ADDRESSES: An electronic version of the "Waste Research Strategy" is accessible via the Internet at *http://www.epa.gov/ORD/WebPubs/final* and is downloadable in Adobe Acrobat format Interested parties can obtain a single copy of the report by contacting EPA's National Service Center for Environmental Publications (NSCEP) at (800) 490–9198. When contacting NSCEP, please provide your name and mailing address, and request publication number EPA/600/R–98/154 dated February 1999. There are a limited number of paper copies available from the above source, and requests will be filled on a first-come first-served basis. After the supply is exhausted, copies of the report can be purchased by contacting the National Technical Information Service (NTIS) at (703) 605–6000, or by sending a facsimile to (703) 605–6900.

FOR FURTHER INFORMATION CONTACT: Dr. Benjamin L. Blaney, National Risk Management Research Laboratory, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268, telephone (513) 569–7852.

Dated: March 16, 1999.

Calvin O. Lawrence,

Acting Director, National Risk Management Research Laboratory.

[FR Doc. 99–7086 Filed 3–22–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 6, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303-2713:

1. GNB Holdings Trust, Miami, Florida, and David Warren Sloan, Westen, Connecticut, as trustee; to acquire 100 percent of the voting shares of Eagle National Holding Company, Miami, Florida, and thereby indirectly acquire voting shares of Eagle National Bank of Miami, Miami, Florida.

Board of Governors of the Federal Reserve System, March 17, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6946 Filed 3–22–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 16, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Hudson City MHC and Hudson City Bancorp Inc., both of Paramus, New Jersey; to become bank holding companies by acquiring 100 percent of the voting shares of Hudson City Savings Bank, Paramus, New Jersey.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Iowa Community Bancorp, Inc., Creston, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Union-Adams Bancorp, Creston, Iowa, and thereby indirectly acquire Iowa State Savings Bank, Creston, Iowa.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Swedish-American Bancshares, Inc., Courtland, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Swedish-American State Bank, Courtland, Kansas.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Cullen/Frost Bankers, Inc., San Antonio, Texas; to merge with Commerce Financial Corporation, Fort Worth, Texas, and thereby indirectly acquire Bank of Commerce, Fort Worth, Texas.

Board of Governors of the Federal Reserve System, March 17, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6947 Filed 3–22–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 16, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. F&M Bancorporation, and F&M Merger Corporation, Kaukauna, Wisconsin; to acquire 100 percent of the voting shares of CBE, Inc., Elkhorn, Wisconsin, and thereby indirectly acquire Community Bank of Elkhorn, Elkhorn, Wisconsin.

Board of Governors of the Federal Reserve System, March 18, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7099 Filed 3–22–99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE BOARD

Sunshine Act

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, March 29, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7224 Filed 3–19–99; 3:38 pm]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Committees; Notice

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit nominations for membership on the National Committee on Vital and Health Statistics (NCVHS). The NCVHS is the statutory public advisory body to the U.S. Department of Health and Human Services in the areas of health data policy, data standards, health information privacy and population-based data. The Committee has been assigned new advisory responsibilities in health data standards and health information privacy as a result of the Health Insurance Portability and Accountability Act of 1996.

One or more vacancies are expected to occur on the Committee as of June 1999. New members of the Committee will be appointed to terms of up to four years by the Secretary of Health and Human Services from among persons who have distinguished themselves in the following fields: health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services.

In appointing members, the Department will give close attention to equitable geographic distribution and to minority and female representation. Appointments will be made without discrimination on the basis of age, race, gender, sexual orientation, HIV status, cultural, religious or socioeconomic status.

DATES: Nominations for new members should include a letter describing the qualifications of the nominee and the nominee's current resume or vitae. The closing date for nominations is May 7, 1999.

Nominations should be sent to the person named below.

James Scanlon, Executive Secretary, HHS Data Council, U.S. Department of Health and Human Services, Room 440–D, 200 Independence Avenue SW., Washington, DC 20201, (202) 690–7100

FOR FURTHER INFORMATION CONTACT: James Scanlon (202) 690–7100 or Marjorie Greenberg (301) 436–4253. Additional information about the NCVHS, including the charter, current roster, organization, and previous recommendations and reports is available on the NCVHS website: http://www.aspe.os.dhhs.gov/ncvhs.

SUPPLEMENTARY INFORMATION: The National Committee on Vital and Health Statistics serves as the statutory public advisory body to the Department of Health and Human Services in the area of health data policy. In that capacity, the Committee, which will celebrate its 50th anniversary in 2000, provides advice and assistance to the Department on a variety of key health data issues, including health data standards, privacy, population-based-data, and national health information infrastructure issues.

The Committee also provides advice to HHS on the implementation of the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996. The Committee consists of 18 members: Of the 18 members, one is appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of

Representatives; one is appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate, and 16 are appointed by the Secretary of Health and Human Services.

Dated: March 1, 1999.

Margaret A. Hamburg

Dated: March 12, 1999.

John M. Eisenberg,

Cochairpersons, HHS Data Council.

[FR Doc. 99–6945 Filed 3–22–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–1265]

Federal/State Memorandum of Understanding on Interstate Distribution of Compounded Drug Products; Draft; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to June 1, 1999, the comment period for the draft standard memorandum of understanding entitled "Memorandum of Understanding on Interstate Distribution of Compounded Drug Products" (draft standard MOU) that States may enter into with FDA. FDA published a notice of availability of the draft standard MOU in the **Federal Register** of January 21, 1999 (64 FR 3301). The agency is taking this action in response to a request for an extension.

DATES: Written comments on the draft standard MOU may be submitted by June 1, 1999.

ADDRESSES: Copies of the draft standard MOU are available on the Internet at "http://www.fda.gov/cder/pharmcomp/default.htm". Submit written requests for single copies of the draft standard MOU entitled "Memorandum of Understanding on Interstate Distribution of Compounded Drug Products" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Fred Richman, Center for Drug Evaluation and Research (HFD–332), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855–2737, 301–827–7292.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 21, 1999 (64 FR 3301), FDA published a notice announcing the availability of a draft standard MOU that States may enter into with FDA. The draft standard MOU describes the responsibilities of the States and FDA in investigating and responding to complaints related to compounded drug products distributed interstate and addresses the interstate distribution of inordinate amounts of compounded drug products. FDA has developed this MOU in consultation with the National Association of Boards of Pharmacy, under provisions of the Food and Drug Administration Modernization Act of 1997. Interested persons were given until March 22, 1999, to submit written comments on the draft standard MOU.

FDA received a letter dated February 12, 1999, from the South Carolina Board of Pharmacy (the Board) requesting that the agency extend the comment period on the draft standard MOU by 60 to 120 days to allow the Board time to finalize and submit its comments and for other State boards of pharmacy to respond to those comments.

In response to this request, FDA has decided to extend the comment period on the draft standard MOU to June 1, 1999.

Interested persons may, on or before June 1, 1999, submit to the Dockets Management Branch (address above) written comments on the draft standard MOU. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The draft standard MOU and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 17, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7056 Filed 3–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–10 & HCFA–1513]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: Information Collection Requirements Contained in BDP–718: Advanced Directives (Medicare and Medicaid) and Supporting Regulations in 42 CFR 417.436, 417.801, 422.128, 430.12, 431.20, 431.107, 434.28, 483.10, 484.10, 489.102;

Form No.: HCFA–R–10 (OMB# 0938–0610);

Use: Certain Medicare and Medicaid organizations are responsible for collecting and documenting, in medical records, whether or not an individual has executed an advanced directive. This document indicates the individual's preference if he/she is incapacitated;

Frequency: On occasion;

Affected Public: Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government;

Number of Respondents: 35,905;

Total Annual Responses: 35,905;

Total Annual Hours: 908,250.

(2) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: Disclosure of Ownership and Financial Control Interest Statement and

Supporting Regulations in 42 CFR 420.200–420.206, 455.100–455.106;

Form No.: HCFA–1513 (OMB# 0938–0086);

Use: The Medicare/Medicaid Disclosure of Ownership and Control Interest Statement must be used by State agencies and HCFA regional offices to determine whether providers meet the eligibility requirements for Titles 18 and 19 (Medicare and Medicaid) and for grants under Titles V and XX. Review of ownership and control is particularly necessary to prohibit ownership and control for individuals excluded under Federal fraud statutes;

Frequency: Other (every 1 to 3 years);

Affected Public: Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 125,000;

Total Annual Responses: 125,000;

Total Annual Hours: 62,500.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address:

OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 25, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–6968 Filed 3–22–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1100–N]

RIN 0938–AJ49

Medicare Program; Medicare Coordinated Care Demonstration Project and Request for Information on Potential Best Practices of Coordinated Care

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Solicitation of information.

SUMMARY: This notice announces our intent to conduct the Medicare Coordinated Care Demonstration. It informs interested parties of the opportunity to submit information on examples of best practices of coordinated care, as well as comment on potential aspects of the overall Medicare Coordinated Care demonstration.

Section 4016 of the Balanced Budget Act of 1997 requires a review of best practices and, following this assessment, a Medicare Coordinated Care Demonstration to be launched by August 1999.

The purpose of the demonstration is to evaluate models of coordinated care that improve the quality of services furnished to specific beneficiaries and reduce expenditures under Parts A and B of the Medicare program.

EFFECTIVE DATE: Information and comments will be considered if we receive them at the address provided below, no later than 5 p.m., June 21, 1999.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Mathematica Policy Research, Inc., Attn: Ms. Kristin LaBounty, P.O. Box 2393, Princeton, NJ 08543–2393.

Comments may also be submitted electronically to Ms. LaBounty's e-mail address (Klabounty@mathematica-mpr.com). Electronically submitted comments should not include attachments.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1100–N.

FOR FURTHER INFORMATION CONTACT: Kathy Headen, Acting HCFA Project Officer, (410) 786–9253 or Kristin LaBounty, (609) 275–2263.

SUPPLEMENTARY INFORMATION:

I. Background

Section 4016 of the Balanced Budget Act of 1997 (Public Law 105–33) requires the Secretary of Health and Human Services (the Secretary) to evaluate best practices in the private sector for methods of coordinated care. The statute also directs the Secretary to design demonstration projects for the Medicare fee-for-service population based on the evaluation. The purpose of the demonstration is to evaluate models of coordinated care that improve the quality of services provided to specific beneficiaries who have a chronic illness and reduce expenditures under Parts A and B of the Medicare program.

We competitively awarded a task order for conducting a review of best practices in coordinated care and for providing a recommendation of demonstration design options to Mathematica Policy Research, Inc. (MPR). We will perform the final assessment of best practices and select the demonstration design.

II. Provisions of This Notice

This notice announces our intent to conduct the Medicare Coordinated Care Demonstration and informs interested parties of the opportunity to submit information on potential best practices of coordinated care. In addition, this notice also requests comments on potential aspects of the overall demonstration. We are looking for information on successful models of coordinated care, disease management, or case management that are appropriate for the Medicare fee-for-service population.

Information about, and evidence of, successful models can be found in published literature; however, published literature is likely to be a limited resource and successful programs may not have been documented. Therefore, we would like to give interested parties the opportunity to submit information about models of coordinated care that are known to have achieved measurable success but may not have been discussed in published literature.

We anticipate this information will complement the review being conducted by MPR. Additional information regarding MPR's review can be found on their website (www.mathematica-mpr.com/projects/bestpractices).

Any person or organization may submit information about successful programs; however, the information must provide evidence of success in sufficient detail to be useful. Therefore, operators of programs may be in the best position to submit information regarding their approach. The following items of information should be submitted:

- The name and address of the program.
- The name, address, telephone number, facsimile number, and e-mail address of a contact person.
- Background on the program (including goals, history, relationship to larger organization(s), number of clients served, and length of time the program has been in operation).
- Special or innovative features of the program.
- Size and composition of the staff (number of RNs and number of social workers performing case management).

- Referral sources, targeting criteria, and selection criteria, if any, for participants.
- The patients served by the program (including age ranges, diagnoses or conditions, and functional impairments).
- Program intervention and how services differ from the usual care the patient would have received.
- How care plans are developed and monitored for each patient.
- Patient education efforts, if any.
- Patient monitoring efforts, if any.
- Feedback to providers, if any.
- Average length of time patient is in the program.
- Funding source(s) for the program.
- Financial incentives, if any, for providers and patients to participate.
- Outcome measures by which the program's performance is evaluated (including clinical, utilization, client-reported, and financial measures used).
- Program impacts on these measures.
- Cost savings due to the program (total and per person served per month).
- How program impacts and cost savings were calculated (for example, method of estimating reduction in use and costs, such as comparison to control group or prior year experience).
- Costs of operating the program (average per patient per month costs).
- Adaptability of the program to the Medicare fee-for-service setting.
- Program brochures or published articles, if any.

We are also interested in comments on potential aspects of the overall demonstration. Specifically, we are interested in comments that discuss and distinguish program characteristics known to be essential for positive outcomes in a fee-for-service setting. Commenters may also wish to address the types of providers, organizations, or entities capable of, and qualified to provide, coordinated care or case management services. Other aspects of importance include, but are not limited to:

- The relationship of the case management entity with other providers.
- The potential role of the case manager in authorizing or providing services beyond coordinating and educational activities.
- Appropriate incentives for the case management entity, beneficiaries, and other providers.
- Appropriate payment methodology.
- Potential risk bearing arrangements for the case management entity.

In addition, we seek comments regarding challenges to, and potential solutions for, implementing a coordinated care demonstration in rural sites.

We currently envision evaluating the data using a multi-tiered review process that will focus on structure, process, and outcomes. Review of individual programs will include the following review criteria:

- Programs that are currently functioning.
- Programs that decrease health care costs or utilization without adversely affecting health outcomes or that improve health outcomes without increasing health care costs or utilization.
- Programs that are suitable for the Medicare fee-for-service population.
- Programs that are targeted to common diseases in the Medicare population.

We will also examine a program's structural characteristics and specific features of its program interventions.

Responders should submit written information or comments to the above address. We encourage the public to submit information or comments as soon as possible to permit the maximum amount of time for consideration. Written information or comments received by 5 p.m., June 21, 1999, will be considered in drafting the demonstration design recommendations. Given the timeline for establishing this demonstration, there will not be sufficient time to consider information or comments received after this deadline.

III. Collection of Information Requirements

Section II of this notice contains information collection requirements that were approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 on January 5, 1999. The approval number is 0938–0750 and the expiration date is June 30, 1999.

Authority: Section 4016 of the Balanced Budget Act of 1997 (Public Law 105–33).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 16, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–7079 Filed 3–22–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review: Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: National Health Service Corps Waiver Request Worksheets—In Use Without Approval

The National Health Service Corps (NHSC) of HRSA's Bureau of Primary Health Care (BPHC) assists underserved communities through the development, recruitment and retention of primary health care clinicians dedicated to serving people in health professional shortage areas. The Public Health Service Act, Section 334 (b) contains provisions which permit a waiver of the reimbursement requirement for entities which are assigned Corps members. The Waiver Request Worksheets are used to collect the necessary information from sites which are requesting a waiver of the mandated reimbursable costs.

Estimates of the annualized reporting burden are as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Billing form	750	1	750	15 minutes	188
Budget form	450	1	450	1	450
Total			1,200		638

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 17, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–6951 Filed 3–22–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60 FR 56605 as amended November 6, 1995, as last amended at 64 FR 11478 dated March 9, 1999). This notice reflects the position title change in the Office of Field Operations.

I. Under Part R, HRSA, Office of Field Operations, (RE), Field Cluster Operations (RF), change the title of Field Coordinators to Field Directors. All duties and responsibilities will remain the same.

Section RF–30 Delegations of Authority

All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further redelegation.

This position title change is effective upon date of signature.

Dated: March 12, 1999.

Claude Earl Fox,

Administrator.

[FR Doc. 99–6950 Filed 3–22–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Charles Maynard, J.D., M.P.H., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057 ext. 243; fax: 301/402–0220; e-mail: cm251n@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel Adipose Seven Transmembrane Domain Protein

C Montrose-Rafizadeh (NIA), C–F Yang
DHHS Reference No. E–213–97/1 filed June 19, 1998

This technology relates to the discovery and isolation of a novel cDNA clone from mouse adipocytes. This invention comprises the identification and isolation of receptors from extra-pancreatic tissues. More specifically, this invention has identified and isolated a novel cDNA clone from mouse adipocytes that appears to be involved in glucose tolerance/intolerance. Clone A contains seven transmembrane domains, designated I through VII. Experiments in human, rat and mice tissues indicates that clone A may be a critical component in the glucose intolerance associated with aging and diabetes. This invention further provides vectors such as plasmids comprising a DNA molecule encoding clone A, adapted for expression in a bacterial cell, a yeast cell, an insect cell or a mammalian cell which additionally comprises the regulatory elements necessary for the expression of the DNA in the bacterial, yeast, insect or mammalian cells operatively linked to the DNA encoding clone A to permit expression thereof.

Methods and Compositions for Reducing Ischemic Injury of the Heart by Administering Adenosine A_3 and Adenosine A_1 Receptor Agonists

KA Jacobson, BT Liang (NIDDK
DHHS Reference No. E–006–98/0 filed May 9, 1997

This technology relates to methods of administering compounds to protect the heart from ischemic injury. In particular, this invention provides agonists which selectively activate adenosine A_3 and A_1 receptors simultaneously, thereby enhancing the protective effects of preconditioning and rendering the myocardium more resistant to ischemia. This invention involves administration of specific A_1 and A_3 agonists during ischemic attacks, or at risk for ischemic damage. The agonists of the invention may be delivered prior to a surgical procedure, and may also be administered to a patient to prevent or reduce the severity of ischemic damage during surgery. Additionally, the A_3/A_1 agonists may be administered following surgical procedures to reduce the risk of post-surgical ischemic complications. The A_3 and A_1 agonists may be administered to patients with agina, which may be chronic and stable, unstable or due to post-myocardial infarction.

Methods and Compositions for Protecting Against Cardiac Ischemia by Administering Adenosine A_{2a} Receptor Antagonists

KA Jacobson, BT Liang (NIDDK)
Serial No. 08/813,787 filed March 7, 1997

This technology relates to methods of administering compounds to protect the heart from ischemic injury. In particular, this invention provides antagonists, which selectively inhibit activation of A_{2a} receptors thereby enhancing the protective effects of preconditioning and rendering the heart more resistant to ischemia. This invention involves administration of a specific A_{2a} antagonist to patients

during ischemic attacks, or at risk for ischemic damage. The antagonists of this invention may be delivered prior to a surgical procedure. They may also be administered to a patient to prevent or reduce the severity of ischemic damage during surgery. Additionally, the A_{2a} antagonists may be administered following surgical procedures to reduce the risk of post-surgical ischemic complications. The A_{2a} antagonists may be administered to patients with angina, which may be chronic and stable, unstable or due to post-myocardial infarction.

Treatment of Stroke and Neurodegeneration

DK Von Lubitz, KA Jacobson (NIDDK)
DHHS Reference No. E–023–96/0 filed April 10, 1996

This technology relates to a method of using certain adenosine amine congeners in the prevention and treatment of brain damage caused by ischemia, hypoxia, and anoxia. The present invention provides a method of treating ischemic, hypoxic, or anoxic brain damage in an animal, particularly a human, comprising administering to an animal recently afflicted with ischemic, hypoxic, or anoxic brain damage, or an animal in imminent danger of suffering ischemic brain damage, a therapeutic does of adenosine or structural analogues of ADAC.

The present invention is predicated on the surprising discovery that ADAC is effective for post-ischemic neuropreservation in the brain at concentrations at least 10-fold lower than other A1 adenosine receptor selective agonists previously studied. At these doses, cardiovascular side effects are not observed in experimental animals.

Method of Treating Ischemic, Hypoxic, and Anoxic Brain Damage

DK Von Lubitz, KA Jacobson (NIDDK)
DHHS Reference No. E–023–96/1 filed May 9, 1996

This technology relates to a method of using certain adenosine amine congeners in the prevention and treatment of brain damage caused by ischemia, hypoxia, and anoxia. The present invention provides a method of treating ischemic, hypoxic, or anoxic brain damage in an animal, particularly a human, comprising administering to an animal recently afflicted with ischemic, hypoxic, or anoxic brain damage, or an animal in imminent danger of suffering ischemic brain damage, a therapeutic dose of adenosine or structural analogues of ADAC.

The present invention is predicated on the surprising discovery that ADAC is effective for post-ischemic neuropreservation in the brain at concentrations at least 10-fold lower than other A1 adenosine receptor selective agonists previously studied. At these doses, cardiovascular side effects are not observed in experimental animals.

Dated: March 15, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–6952 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Public Comments Meeting on a Proposed Hematopoietic Cell Transplant Network

Notice is hereby given of the NIH Public Comments Meeting on a Proposed Hematopoietic Cell Transplant Network which will be held Tuesday, April 6, 1999 in the Lister Hill Auditorium of the National Library of Medicine, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892. The conference begins at 8:30 a.m. on April 6.

The purpose of this meeting is to discuss a joint NHLBI/NCI effort to provide an opportunity for collaborative studies in hematopoietic cell transplantation. The objective is to organize a network of transplant centers to review current progress, design and conduct a definitive clinical trials, generate and analyze data, and provide information to physicians, scientists, and the public. This resource will establish an infrastructure to expeditiously perform multi-center clinical trials, and improve therapies. It is hoped that the meeting will address the merits of the transplant network, recommendations as to the best structure and procedures to accomplish the desired goals, and suggestions as to the development and prioritization of studies to improve hematopoietic cell transplantation as a treatment for various diseases. The plan is to be flexible to the needs of the transplant centers, and it will be tested for 5 years. It is not intended to replace the R01 or P01 grant mechanisms.

Hematopoietic cell transplantation is a curative therapy for a variety of hematologic diseases. In recent years, the number of transplant centers has increased, but there has been no simple mechanisms for collaboration among them to address potentially pivotal clinical questions. While promising techniques have been tried, and encouraging pilot data obtained, definitive collaborative studies to improve efficacy and reduce toxicity have not been initiated in many areas.

Frequently, clinical trials in this field have been performed at single institutions without controls, or used historic controls for comparison, or were retrospective and used matched contemporary controls. These kinds of studies are useful to generate hypotheses, and while a well-designed "Phase II" trial may be persuasive, the "gold standard" remains prospective, randomized, controlled trials, which are more difficult to perform. Not only is patient accrual hampered by investigator bias, competing protocols, rapidly changing technologies, and public perception, but many of the conditions treated are not prevalent. Even large medical centers may not have enough subjects for this type of study, and a mechanism to facilitate collaboration with other investigators is needed.

This project attempts to address these issues, and is expected to provide a coordinated, flexible mechanism to accept ideas and build consensus from the transplant community, which will develop protocols for prompt evaluation. Furthermore, the role of physician bias and media hype in hampering accrual should be addressed by beginning randomized studies early, and posting data from completed trials, ancillary analyses, and interpretations on Webpages for public review. The implementation of this project will create a "win-win" situation for physicians, patients, federal agencies, and healthcare organizations.

NHLBI and NCI propose to use a standard NIH competitive mechanism to support this network.

The goal is to test new approaches generated by R01/P01 grants in a timely fashion through definitive trials, based on sound experimental designs. A national transplant trials group would be open to everyone, and accept input on how to prioritize the clinical trials.

All interested individuals are invited to attend the public comments meeting. NIH staff will explain the purpose of the network, solicit comments, and answer questions. Directions to the building and information about accommodations in the area are available upon request.

Individuals wishing to provide oral comments at the meeting, or to provide written comments, should contact: Henry Chang, M.D., Director, Blood Resources Program, NHLBI, Division of Blood Diseases and Resources, MSC 7950, 6701 Rockledge Dr., Room 10170,

Bethesda, MD 20892–7950, Phone: 301–435–0067, FAX: 301–480–1060, E-Mail: changh@nih.gov.

Dated: March 8, 1999.

Barbara Alving,

Director, Division of Blood Diseases and Resources.

[FR Doc. 99–6954 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Evaluation of Chemopreventive Agent by in Vitro Techniques.

Date: March 29, 1999.

Agenda: To review and evaluate contract proposals.

Place: 6130 Executive Blvd. 6th Floor, Rockville, MD 20852.

Contact Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852, (301) 496–7903.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 12, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6955 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee C—Basic & Preclinical.

Date: April 29–30, 1999.

Time: 7:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Virginia P. Wray, PhD., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6130 Executive Boulevard—Room 635, Rockville, MD 20895–7405, 301/496–9236.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6960 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Development and Application of Imaging in Therapeutic Studies.

Date: April 21–22, 1999.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ray Bramhall, Phd, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd, Rockville, MD 20892, (301) 496–3428.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6961 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concern individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, General Clinical Research Centers Review Committee.

Date: April 14, 1999.

Time: 7:30 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: Marriott Hotel Portland, 1401 S.W. Front Avenue, Portland, OR 97201.

Contact Person: Bela J. Gulyas, PhD., Director, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892, 301–435–0811.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6962 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel.

Date: March 26, 1999.

Time: 8:30 AM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd. Suite 350, Rockville, MD 20892.

Contact Person: Andrew P. Mariani, Phd., Chief, Scientific Review Branch, 6120 Executive Blvd, Suite 350, Rockville, MD 20892, 301/496–5561.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institute of Health, HHS)

Dated: March 11, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6956 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Titles U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, R13 Review Meeting.

Date: March 29, 1999.

Time: 4:30 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Patrick J Mastin, Phd, 79 Alexander Drive, Research Triangle Park, NC 27709, (919) 541–1446.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Health and Safety Training; 93.143, HIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Heath, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Office, NIH.

[FR Doc. 99–6957 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National institute of Mental Health Special Emphasis Panel.

Date: April 5, 1999.

Time: 11:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Henry J. Haigler, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–7216.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 6, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Monica F. Woodfork, Grants Technical Assistant, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 6, 1999.

Time: 3:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd.,

Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Henry J. Haigler, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–7216.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6959 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK, BSC Meeting.

Date: May 5–7, 1999.

Time: May 5, 1999, 6:00 PM to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

Contact Person: Allen M. Spiegel, MD, Dir. Division of Intramural Research, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6963 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Notice of Committee: National Institute on Drug Abuse Special Emphasis Panel, Minority Institutions' Drug Abuse Research Development Program Applications, (MIDARP).

Date: April 7, 1999.

Time: 9:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Park Hyatt, 1201 24th Street, N.W., Washington, DC 20037.

Contact Person: Marina L. Volkov, Phd, Special Assistant, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, USC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6964 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.

Date: March 17, 1999.

Time: 1 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Mark Swieter, PhD., Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 12, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–6966 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Library of Medicine.

Date: May 13–14, 1999.

Open: May 13, 1999, 9:00 a.m. to 1:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communication.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: May 13, 1999, 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: May 13, 1999, 2:00 p.m. to 5:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: May 14, 1999, 9:00 a.m. to 12:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 10894.

Contact Person: Alexa McCray, PhD, Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Bldg. 38A, Room 7N–707, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–6958 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

Center For Scientific Review; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19, 1999.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hotel Sofitel, 1914 Connecticut Ave, NW, Washington, DC 20009.

Contact Person: Chhanda L. Ganguly, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 24–25, 1999.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Rita K. Anand, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7808, Bethesda, MD 20892, (301) 435–1151.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 24, 1999.

Time: 8:30 am to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, Washington, DC 20036.

Contact Person: John Bishop, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 24, 1999.

Time: 2:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel Rawlings, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7844, Bethesda, MD 20892, (301) 435–1243.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 24, 1999.

Time: 2:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, Washington, DC 20036.

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 25–26, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications

Place: Holiday Inn, Bethesda, MD 20814.

Contact Person: Sally Ann Amero, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 60461, MSC 7890, Bethesda, MD 20892, (301) 435–1159.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 25, 1999.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alec S. Liacouras, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 25, 1999.

Time: 1:00 pm to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gopal C. Sharma, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7816, Bethesda, MD 20892, (301) 435–1783.

This notice is being published less than 15 days prior to the meeting due to the timing limitation imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 25, 1999.

Time: 2:30 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Eugene Zimmerman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–435–1220.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 25, 1999.

Time: 4:00 pm to 5:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X (14).

Date: March 25–27, 1999.

Time: 7:00 pm to 11:00 am.

Agenda: To review and evaluate grant applications.

Place: Ramada Palo Verde, 5251 S. Julian Drive, Palo Verde & 1–10, Tucson, AZ 85706.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 12, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–6965 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); The Murine Local Lymph Node Assay: A Test Method for Assessing the Allergic Contact Dermatitis Potential of Chemicals/Compounds, Report Now Available

SUMMARY: The report entitled "The Murine Local Lymph Node Assay: A Test Method for Assessing the Allergic Contact Dermatitis Potential of Chemicals/Compounds," NIH Publication 99–4494, is now available and may be obtained as described in this notice. The report describes the results of an independent peer review evaluation of the validation status of the Local Lymph Node Assay (LLNA) that was conducted on September 17, 1998 (**Federal Register** 63 FR 37405–6, July 10, 1998). The (LLNA) was proposed as an alternative toxicological test method for assessing the allergic contact dermatitis (contact hypersensitivity) potential of chemicals and products. The review was coordinated by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM). The review was sponsored by the National Institute of Environmental Health Sciences and the NTP.

Background

Pub. L. 103–43 directed the NEIHS to develop and validate alternative methods that can reduce or eliminate the use of animals in acute or chronic toxicity testing, establish criteria for the validation and regulatory acceptance of alternative testing methods, and recommend a process through which scientifically validated alternative methods can be accepted for regulatory use. Criteria and processes for validation and regulatory acceptance were developed in conjunction with 14 other Federal agencies and programs with broad input from the public. These are described in the document "Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the Ad Hoc Interagency Coordinating Committee on the Validation of Alternative Methods" NIH publication 97–3981, March 1997, which is available on the internet at http://ntp-server.niehs.nih.gov.htdocs/ICCVAM/iccvam.html. ICCVAM was subsequently establihsed in a collaborative effort by NIEHS and 13 other Federal regulatory and research agencies and programs. The Committee's functions include the coordination of interagency reviews of toxicological test methods and communication with stakeholders throughout the process of test method development and validation. The following Federal regulatory and research agencies and organizations are participating in this effort:

Consumer Product Safety Commission
Department of Defense
Department of Energy
Department of Health and Human Services
- Agency for Toxic Substances and Disease Registry
- Food and Drug Administration
- National Institute for Occupational Safety and Health/CDC
- National Institutes of Health
- National Cancer Institute
- National Institute of Environmental Health Sciences
- National Library of Medicine

Department of the Interior
Department of Labor
- Occupational Safety and Health Administration

Department of Transportation
- Research and Special Programs Administration

Environmental Protection Agency

The LLNA was proposed to ICCVAM for consideration as a stand-alone test to identify chemicals that have a potential to cause allergic contact dermatitis. The ICCVAM determined that there was sufficient information available to merit an independent scientific peer review evaluation of the LLNA test method. Peer review is an essential prerequisite

for consideration of a method for regulatory acceptance. The peer review panel was charged with developing a scientific consensus on the usefulness and limitations of the test method. The peer review panel concluded that the LLNA is a valid alternative to currently accepted guinea pig test methods for the assessment of allergic contact dermatitis when the test method is conducted in accordance with peer review panel recommendations. The panel also concluded that the LLNA offers animal welfare advantages compared to conventional guinea pig methods in that it involves less pain and distress, and fewer animals may be required. The peer review panel's report has been forwarded to Federal agencies for their determination of the regulatory acceptability and applicability of the test method according to their statutory mandates.

Summary of the Report

The report contains 212 pages and includes the results of the independent peer review evaluation and supporting documentation, including the original test method submission, supporting data evaluations conducted by NICEATM, and a proposed protocol that incorporates the recommendations of the peer review panel.

Obtaining the Report

To receive a copy of the report, please contact NICEATM at PO Box 12233, MD EC–17, Research Triangle Park, NC 27709 (mail), 919–541–3398 (phone), 919–541–0947 (fax), or iccvam@niehs.nih.gov (email). The report is also available on the ICCVAM/NICEATM website at *http://iccvam.niehs.nih.gov/llnarep.htm.*

Dated: March 11, 1999.

Samuel H. Wilson,

Deputy Director, National Institutes of Environmental Health Sciences.

[FR Doc. 99–6953 Filed 3–22–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Advisory Committee for Women's Services; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the teleconference meeting of the Advisory Committee for Women's Services of the Substance Abuse and Mental Health Services Administration (SAMHSA) in April 1999.

The meeting of the Advisory Committee for Women's Services will be open and will include a discussion of the role and responsibilities of the Advisory Committee in providing advice to SAMHSA, and policy and program issues relating to women's substance abuse and mental health service needs at SAMHSA, including the Fiscal Year 1999 budget and SAMHSA's FY 1999 Knowledge Development and Application Grants.

Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information, a summary of the meeting and a roster of the committee members, may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date: April 30, 1999.

Place: Room 12–94, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Open: April 30, 1999, 10 a.m. to 12:00 noon.

Contact: Duiona R. Baker, Executive Secretary, Parklawn Building, Room 13–99, Telephone: (301) 443–5184, Fax: (301) 443–8964, E-mail: dbaker@samhsa.gov

Dated: March 17, 1999.

Sandi Stephens,

Team Leader, Division of Extramural Programs Policy and Review, SAMHSA.

[FR Doc. 99–7057 Filed 3–22–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Gila Box Riparian National Conservation Area Advisory Committee; Renewal

AGENCY: Bureau of Land Management, Interior

ACTION: Gila Box Riparian National Conservation Area Advisory Committee—Notice of renewal.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972, Public Law 92–463. Notice is hereby given that the Secretary of the Interior has renewed the Bureau of Land Management's Gila Box Riparian National Conservation Area Advisory Committee.

The purpose of the Committee is to advise the Bureau of Land Management's Safford Field Manager regarding the preparation and implementation of the comprehensive plan for the long-range management of the Gila Box Riparian National Conservation Area, as required by Section 201 of the Arizona Desert Wilderness Act of 1990, 16 U.S.C. 460ddd.

FOR FURTHER INFORMATION CONTACT: Melanie Wilson, Intergovernmental Affairs (640), Bureau of Land Management, 1620 L Street, N.W., Room 406 LS, Washington, D.C. 20240, telephone (202) 452–0377.

Certification Statement

I hereby certify the renewal of the Gila Box Riparian National Conservation Area Advisory Committee is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources, and facilities administered by the Bureau of Land Management.

Dated: March 12, 1999.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 99–7108 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–640–1820–00 24 1A]

Call for Nominations for Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Resource Advisory Council call for nominations.

SUMMARY: The purpose of this notice is to solicit public nominations for each of the Bureau of Land Management (BLM) Resource Advisory Councils (RACs) that have member terms expiring this year. The RACs provide advice and recommendations to BLM on land use planning and management of the public lands within their geographic areas. Public nominations will be considered for 45 days after the publication date of this notice.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, the interests represented by the individuals appointed to the RAC must be balanced

and representative of the various issues concerned with the management of the public lands. These include three categories:

Category One—Holders of federal grazing permits and representatives of energy and mineral development, timber industry, transportation or rights-of-way, off-highway vehicle use, and commercial recreation;

Category Two—Representatives of nationally or regionally recognized environmental organizations, archaeological and historic interests, dispersed recreation, and wild horse and burro groups;

Category Three—Holders of State, county or local elected office, employees of a State agency responsible for management of natural resources, academicians involved in natural sciences, representatives of Indian tribes, and the public-at-large.

Individuals may nominate themselves or others. Nominees must be residents of the State or States in which the RAC has jurisdiction. Nominees will be evaluated based on their education, training, experience, and their knowledge of the geographical area of the RAC. Nominees should have demonstrated a commitment to collaborative resource decisionmaking. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

Simultaneous with this notice, BLM State Offices will issue press releases providing additional information for submitting nominations, with specifics about the number and categories of member positions available for each RAC in the State. Nominations for RACs should be sent to the appropriate BLM offices listed below.

Alaska

Alaska RAC
Theresa McPherson, Alaska State Office, BLM, 222 West 7th Avenue, #13, Anchorage, Alaska 99513–7599, (907) 271–3322

Arizona

Arizona RAC
Deborah Stevens, Arizona State Office, BLM, 222 N. Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9215

California

Central California RAC
Larry Mercer, Bakersfield Field Office, BLM, 3801 Pegasus Avenue, Bakersfield, California 93308, (805) 391–6000

Northeastern California RAC
Jeff Fontana, Eagle Lake Field Office, BLM, 2950 Riverside Drive, Susanville, California 96130, (530) 257–0456

Northwestern California RAC
Jeff Fontana, Eagle Lake Field Office, BLM, 2950 Riverside Drive, Susanville, California 96130, (530) 257–0456

Colorado

Front Range RAC; Southwest RAC; Northwest RAC
Sheri Bell, Colorado State Office, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, (303) 239–3671

Idaho

Upper Columbia RAC; Upper Snake RAC; Lower Snake RAC
Don Smurthwaite, Idaho State Office, BLM, 1387 Vinnell Way, Boise, Idaho 83709–2500, (208) 373–4015

Montana and Dakotas

Butte RAC; Dakotas RAC; Lewistown RAC; Miles City RAC
Greg Albright, Montana State Office, BLM, Granite Tower, 222 N. 32nd Street, Billings, Montana 59107–6800, (406) 255–2911

Nevada

Mojave-Southern RAC; Northeastern Great Basin RAC; Sierra Front Northwestern RAC
Jo Simpson, Nevada State Office, BLM, 1340 Financial Boulevard, Reno, Nevada 89502–7147, (702) 785–6767

New Mexico

New Mexico RAC
Kathleen Mulkey, New Mexico State Office, BLM, P.O. Box 27115 Sante Fe, New Mexico 87502–0115, (505) 438–7514

Oregon/Washington

Eastern Washington RAC; John Day/Snake RAC; Southeast Oregon RAC
Pam Robbins, Oregon State Office, BLM, 1515 S.W. 5th Avenue Portland, Oregon 97208–2965, (503) 952–6027

Utah

Utah RAC
Sherry Foot, Utah State Office, BLM, 324 South State Street, Suite 301, P.O. Box 45155, Salt Lake City, Utah 84145–0155, (801) 539–4195

DATES: All nominations should be received by the appropriate BLM State Office by May 7, 1999.

FOR FURTHER INFORMATION CONTACT: Melanie Wilson, U.S. Department of the Interior, Bureau of Land Management, Intergovernmental Affairs, MS–LS–406, Washington, D.C. 20240; 202–452–0377.

Dated: March 11, 1999.

Nina Rose Hatfield,

Acting Director, Bureau of Land Management

[FR Doc. 99–7107 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

San Pedro Riparian National Conservation Area Advisory Committee; Renewal

AGENCY: Bureau of Land Management, Interior.

ACTION: San Pedro Riparian National Conservation Area Advisory Committee—Notice of renewal.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972, Public Law 92–463. Notice is hereby given that the Secretary of the Interior has renewed the Bureau of Land Management's San Pedro Riparian National Conservation Area Advisory Committee.

The purpose of the Committee is to advise the Bureau of Land Management's Safford Field Manager with respect to the preparation and implementation of the comprehensive plan for the long-range management protection of the San Pedro Riparian National Conservation Area, as required by Section 103 of the Arizona-Idaho Conservation Act of 1988, Public Law 100–696.

FOR FURTHER INFORMATION CONTACT: Melanie Wilson, Intergovernmental Affairs (640), Bureau of Land Management, 1620 L Street, N.W., Room 406 LS, Washington, D.C. 20240, telephone (202) 452–0377.

Certification Statement

I hereby certify that renewal of the San Pedro Riparian National Conservation Area Advisory Committee is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources, and facilities administered by the Bureau of Land Management.

Dated: March 12, 1999.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 99–7109 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–092–9922–03]

Notice of Intent To Amend the Texas Resource Management Plan

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Amend to Texas Resource Management Plan (RMP), Invitation for public involvement and notice of public meeting.

SUMMARY: The BLM, Amarillo Field Office, is initiating preparation of a Resource Management Plan Amendment (RMPA) and Environmental Assessment (EA) for BLM managed Federal lands and minerals in Potter County, Texas. Title 43 Code of Federal Regulations (CFR) 1600, the National Environmental Policy Act (NEPA) of 1969, Council on Environmental Quality (CEQ) regulations and the Federal Land Policy and Management Act (FLPMA) of 1976 will be followed in the preparation of this plan amendment. The public is invited to participate in this land use planning effort. Written comments and suggested issues to address will be accepted through May 17, 1999. An informal public scoping meeting will be held on May 4, 1999 from 6 p.m. to 8:30 p.m. at the BLM Amarillo Field Office, room 447, 801 South Fillmore, Amarillo, Texas.

DATES: Written comments will be accepted through May 17, 1999.

ADDRESSES: Comments and requests to be included on the mailing list should be sent to: Field Office Manager, Amarillo Field Office, 801 South Fillmore, Suite 500, Amarillo, Texas 79101.

FOR FURTHER INFORMATION CONTACT: For additional information contact Brian Mills, RMPA Team Leader, 221 North Service Road, Moore, Oklahoma 73160, or telephone (405) 794–9624.

SUPPLEMENTARY INFORMATION: The transfer of the Helium Operations Office from the Department of the Interior's now defunct Bureau of Mines to the BLM resulted in the need to amend the existing Texas RMP. The Texas RMP did not address the approximately 11,000 acres of Federal surface estate and 50,000 acres of Federal mineral estate managed by the Amarillo Field Office in Potter County. The anticipated issues to be addressed by this RMPA effort include:

(1) Transfer of all BLM managed Federal surface estate in Potter County, to the jurisdiction of the National Park Service.

(2) A determination of suitability for granting a right-of-way for transmission of electricity across Federal surface estate. These planning issues are presented for public comment and are subject to change as the result of such public comment. The planning team will seek public involvement throughout the planning amendment process. BLM public information and scoping will include notification to the public, Federal, state, tribal and local agencies of the proposed action. A complete record of all phases of the planning process will be available for public review and comment. The final RMPA documents will be available upon request.

Dated: March 16, 1999.

M.J. Chávez,

State Director.

[FR Doc. 99–7023 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–040–99–1150–00]

St. George Field Office Approved Resource Management Plan and Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (40 CFR 1550.2), and the Federal Land Policy and Management Act of 1976, the Department of the Interior, Bureau of Land Management (BLM), St. George Field Office provides notice of the availability of the approved Resource Management Plan (RMP) and Record of Decision (ROD) for the St. George Field Office. The approved RMP/ROD was signed by the Utah State Director on March 15, 1999. This approved RMP/ROD supersedes the existing Virgin River Management Framework Plan and other related documents for managing BLM-administered lands, with exception to some off-highway vehicle, mountain bike, and other restrictions/closures carried forth from past **Federal Register** notices. The St. George Field Office is responsible for management of BLM-administered lands and minerals in all of Washington County, Utah. This county encompasses the southwestern corner of Utah. The St. George Field Office is administratively responsible for 671,545 acres of surface and subsurface lands.

ADDRESSES: Copies of the approved RMP/ROD will be available upon request at the end of April when they are delivered by the printing contractor to the St. George Field Office. You may contact Lauren Mermejo at the St. George Field Office if you would like a copy of this document at: 345 East Riverside Drive, St. George, Utah, 84790. The telephone number is (435) 688–3216.

FOR FURTHER INFORMATION CONTACT: Jim Crisp, St. George Field Office Manager, at the above address. He can be reached by telephone at (435) 688–3201.

SUPPLEMENTARY INFORMATION: The St. George Field Office approved RMP/ROD is essentially the same as the Dixie Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS) that was completed in September, 1995. (The name of the field office was changed from the Dixie Resource Area to the St. George Field Office in early 1999; however, the administrative boundaries remain the same.) The **Federal Register** notice for the PRMP/DEIS was dated September 17, 1998, Volume 63, Number 180, Pages 49711–49712. No changes to the proposed decisions have been made. However, some clarifying language has been included as a result of the protest letters received on the PRMP/FEIS, as well as internal corrections. Two new decisions that were added to the approved RMP/ROD include (1) a decision to conduct activities within desert tortoise habitat in accordance with the terms and conditions described in the U. S. Fish and Wildlife Service Biological Opinion for the Mojave desert tortoise (ES/6–UT–98–F–005, August 12, 1998), and (2) a decision to continue to allow for low-impact motorcycle trials events in the Pahcoon Gulch area, with specific constraints. The Director's office has issued final decisions, dismissing or resolving, each of the nineteen protests received, thus allowing for immediate implementation of the approved RMP.

Wild and Scenic Rivers

Through this planning effort parts or all of the following five river segments are recommended as suitable for congressional designation: Deep Creek/Crystal Creek, North Fork of the Virgin River above Zion National Park, Oak Creek/Kolob Creek, that portion of LaVerkin Creek/Smith Creek from above Zion National Park to the north boundary of the private parcel of Section 18, T. 40 S., R. 12 W., and that portion of the Virgin River contained

wholly within the Beaver Dam Mountains Wilderness Area.

Areas of Critical Environmental Concern (ACEC)

The plan designates the following ten areas as ACECs: Red Bluff (6,168 acres), Warner Ridge/Fort Pearce (4,281 acres), Santa Clara/Gunlock (1,998 acres), Santa Clara/Land Hill (1,645 acres), Lower Virgin River (1,822 acres), Little Creek Mountain (19,302 acres), Canaan Mountain (31,355 acres), Red Mountain (4,854 acres), Beaver Dam Slope (48,519 acres), Upper Beaver Dam Wash (33,063 acres).

Off-Highway Vehicle Designations

The plan designates 91,704 acres closed to off-highway vehicle (OHV) use; 448,066 acres as open for use by OHVs on existing or designated roads and trails; and 89,235 acres as open for use by OHVs.

Linda Colville,

Acting State Director, Utah.

[FR Doc. 99–7024 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–00 ES–50259, Group 33, Illinois]

Notice of Filing of Plat of Survey; Illinois

The plat, in five sheets, of the dependent resurvey of portions of the north boundary, portions of the subdivisional lines and the survey of the Lock and Dam Nos. 25 and 26 acquisition boundaries, in Township 11 South, Range 2 West and the dependent resurvey of the north and east boundaries and a portion of the subdivisional lines, in Township 11 South, Range 3 West, both of the 4th Principal Meridian, Illinois, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on April 21, 1999.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., April 21, 1999.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: March 12, 1999.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 99–6967 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–GJ–M

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 2, 1999 at 1:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–387–392 and 731–TA–815–822 (Preliminary) (Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia)—briefing and vote.
5. Outstanding action jackets:

(1) Document No. INV–99–045: Approval of institution of five-year reviews on Potassium Chloride, Certain Bearings, Internal Combustion Industrial Forklift Trucks, and Nitrile Rubber.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 18, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7163 Filed 3–19–99; 12:20 pm]

BILLING CODE 7020–02–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

March 17, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 am., Thursday, March 25, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The Commission postponed until 10:00 a.m., Thursday, April 29, 1999, oral argument on *Secretary of Labor* v. *Cyprus Cumberland Resources, Inc,* Docket No. PENN 98–15–R.

PREVIOUSLY ANNOUNCED TIME AND DATE: The meeting to consider *Secretary of Labor* v. *Cyprus Cumberland Resources, Inc.*, Docket No. PENN 98–15–R, will commence following upon the conclusion of oral argument in the case which commences at 10:00 a.m. on Thursday, March 25, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

CHANGES IN THE MEETING: The meeting to consider *Secretary of Labor* v. *Cyprus Cumberland Resources, Inc.*, Docket No. PENN 98–15–R, will commence following upon the conclusion of oral argument in the case commences at 10:00 a.m. Thursday, April 29, 1999.

TIME AND DATE: 10:00 a.m. Thursday, April 8, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor on behalf of Zecco* v. *Consolidation Coal Co.*, Docket No. WEVA 97–82–D (Issues include whether the judge erred by not considering whether Zecco's shutdowns of his continuous miner in the presence of 1% or more methane, and his additional safety measures, were protected activity, and whether the judge erred when he determined that Consol had a legitimate business reason for transferring Zecco.)

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 39 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 99–7225 Filed 3–19–99; 3:50 pm]

BILLING CODE 6735–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Networking Infrastructure Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Advanced Networking Infrastructure Research (#1207).

Date & Time: April 8th & 9th, 1999; 8:30 AM–5:00 PM.

Place: Room 365, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Anne C. Richeson, Division of Advanced Networking Infrastructure Research, Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1950.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Connections to the Internet Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 17, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7002 Filed 3–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Anthropological and Geographic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting of the Advisory Panel for Anthropological and Geographic Sciences Cluster (#1757):

Date & Time: March 28–29, 1999; 8:30 a.m.–5:00 p.m.

Place: Sheraton Chicago Hotel and Towers, 301 East North Water Street, Chicago, IL 60611.

Contract Person: Dr. John Yellen, Program Director for Archaeology, Archaeomtry & Systematic Collections, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 306–1759.

Agenda: to review and evaluate Archaeometry proposals as part of the selection process for awards.

Type of Meeting: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the National Science Foundation for financial support.

Reason for Closing: The proposals being review include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Reason for Late Notice: Delay due to coordinating activity.

Dated: March 17, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7004 Filed 3–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer & Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer—Communications Research (1192).

Date: March 26, 1999.

Time: 8:00 a.m.–5:00 p.m.

Place: Room 1150 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Robert B. Grafton, Program Director, Design Automation, CISE/C–CR, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1936.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b©, (4) and (6) of the Government in the Sunshine Act.

Dated: March 17, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7003 Filed 3–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Engineering Education and Centers (173).

Date/Time: March 30–31, 1999, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, Room 380, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Joy Pauschke, Program Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Engineering Research Centers proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 17, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management

[FR Doc. 99–7006 Filed 3–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: March 29–30, 1999 from 8:30 a.m. to 5:00 p.m.

Place: Room 390, NSF 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. C. Denise Caldwell, Program Officer for Atomic, Molecular and Optical Physics, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 11130. Telephone: (703) 306–1807.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to MPS Directorate in response to solicitation NSF 98–160.

Agenda: To review and evaluate POWRE proposals as part of the selection process for awards.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and propriety data for present and future subcontracts. These matters are exempt from 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 17, 1999.

Linda Allen-Benton,

Acting Division Director, Human Resource Management.

[FR Doc. 99–7005 Filed 3–22–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454, STN 50–455, STN 50–456, STN 50–457]

Commonwealth Edison Company; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 106 to Facility Operating License No. NPF–37, Amendment No. 106 to Facility Operating License No. NPF–66, Amendment No. 98 to Facility Operating License No. NPF–72, and Amendment No. 98 to Facility Operating License No. NPF–77, issued to Commonwealth Edison Company (the licensee), which revised the operating licenses and the Technical Specifications for operation of Byron Station, Units 1 and 2, located in Ogle County, Illinois and Braidwood Station, Units 1 and 2, located in Will County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the Byron and Braidwood Technical Specifications (Appendix A of the operating licensees) in their entirety to be consistent with the Improved Standard Technical Specifications conveyed by NUREG–1431 (April 1995). In addition, the amendments add two new license conditions to Appendix C of the Byron and Braidwood operating licenses regarding surveillance requirements and delete one existing license condition.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on October 28, 1998 (63 FR 57710), October 29, 1998 (63 FR 58072), and November 2, 1998 (63 FR 58794). No request for a hearing or petition for leave to intervene was filed following these notices.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (63 FR 70440).

For further details with respect to the action see (1) the application for amendment dated December 13, 1996, as supplemented by letters dated February 24, September 2, October 10, October 28 and December 8, 1997, and January 27, January 29, February 6, February 13, February 24, February 26, April 14, April 16, June 1, June 2, July 2, July 8, July 30, July 31, August 11, August 12, September 21, September 25, October 1, October 2, October 5, October 15, October 23, November, 6, November 19, November 23, November 30 and December 14, 1998, (2) Amendment No. 106 to Facility Operating License No. NPF–37, Amendment No. 106 to Facility Operating License No. NPF–66, Amendment No. 98 to Facility Operating License No. NPF–72, and Amendment No. 98 to Facility Operating License No. NPF–77, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at: for Byron, The Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 22nd day of December, 1998.

For the Nuclear Regulatory Commission.

Ramin R. Assa,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7027 Filed 3–22–99; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Northeast Nuclear Energy Company, et al. (Millstone Nuclear Power Station, Unit 2); Exemption

I

Northeast Nuclear Energy Company, et al., is the holder of Facility Operating License No. DPR–65 which authorizes operation of Millstone Nuclear Power Station, Unit 2. Millstone Nuclear Power Station, Unit 2, is a pressurized water reactor located in Waterford, Connecticut. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," to Title 10 of the Code of Federal Regulations (10 CFR) Part 50, establishes fire protection features required to satisfy General Design Criterion 3, "Fire protection," of Appendix A to 10 CFR Part 50, with respect to certain generic issues for nuclear power plants licensed to operate prior to January 1, 1979. By letter dated July 31, 1998, as supplemented by letters dated September 24 and November 13, 1998, Northeast Nuclear Energy Company (NNECO), the licensee for Millstone Nuclear Power Station, Unit 2, requested four exemptions from certain requirements of 10 CFR Part 50 Appendix R. Specifically, for the Intake Structure (Appendix R Fire Area R–16) and the East 480 Volt Switchgear Room (Appendix R Fire Area R–11) the licensee requested exemptions from the requirements of 10 CFR Part 50, Appendix R, Section III.G.3 to the extent it requires the licensee to have automatic fire suppression systems in these areas. For the Charging Pump Room (Appendix R Area R–4) the licensee requested an exemption from the requirements of 10 CFR Part 50, Appendix R, Section III.G.2 to the extent that it requires the licensee to meet the specific requirements of either Section III.G.2.a, b, or c. Finally, the licensee requested an exemption from the requirements of 10 CFR Part 50, Appendix R, Section III.J to the extent that it requires emergency lighting units with at least an 8-hour battery power supply to light all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

III

Intake Structure

Background

As a result of a design basis review at Millstone, Unit 2, the licensee determined that the Intake Structure does not fully meet the requirements of 10 CFR Part 50, Appendix R. The Intake Structure is an alternate shutdown area. Therefore, it is required to meet Appendix R, Section III.G.3. Section III.G.3 requires that a fixed fire suppression system be installed in an alternate shutdown area. The licensee requested an exemption from this requirement.

Description

The Millstone Unit 2 Intake Structure is an alternate shutdown area because a fire in the Intake Structure could render all three of the service water pumps inoperable and the loss of all three service water pumps renders the emergency diesel generators inoperable. Alternative shutdown capability is provided by the backfeed of AC power from Millstone, Unit 1 for provision of power to Millstone, Unit 2.[1] This strategy eliminates the need to provide a service water pump to cool a Millstone, Unit 2 emergency diesel generator in the event of a fire in the Intake Structure.

The Intake Structure is a reinforced concrete structure and constitutes Fire Area R–16 in the Appendix R analysis. The structure consists of three fire hazard analysis (FHA) fire zones; I–1A, I–1B, and I–1C. The structure is constructed of concrete floors, ceiling and walls. Reinforced concrete walls separate the three fire zones within the Intake Structure. These walls are a minimum of 12″ thick. The ceiling height within the zones is approximately 24′.

Three service water pumps (P–5A, 5B and 5C), three service water strainers (L–1A, L–1B and L–1C), two service water isolation valves (2–SW–97A and 2–SW–97B), and associated cables used to support Appendix R safe shutdown are located in the pump room (fire zone I–1A). The pumps are approximately 19″ on center from each other. There is no Appendix R related equipment located in the sodium hypochlorite room (fire zone I–1B) or the motor control center (MCC) room (fire zone I–1C). The service water pumps supply service water through the tube side of the turbine building component cooling water (TBCCW), reactor building component cooling water (RBCCW), and emergency diesel generator heat exchangers. Following a fire, the only short-term need for service water is diesel generator cooling. In the long term, service water is used as part of the shutdown cooling process to transfer heat from the RBCCW system to the ultimate heat sink.

A fixed fire suppression system is not provided in the Intake Structure. Detection is provided by ionization smoke detectors located in all three zones of the Intake Structure. The MCC room and the sodium hypochlorite room are each provided with one detector. The pump room is provided with eight detectors in the east portion of the structure. Three of these detectors are located directly above each of the service water pumps to provide hazard-specific coverage for the pumps. The automatic detection system alarms in the control room.

Fire hose houses are located south of the Intake Structure between the Millstone Unit 1 and Millstone Unit 2 Intake Structures. Fire extinguishers are provided in the Intake Structure. Outdoor hydrants are located adjacent to the Intake Structure.

IV

East 480 Volt Switchgear Room

Background

As a result of a design basis review at Millstone, Unit 2, the licensee determined that the East 480 Volt Switchgear Room does not fully meet the requirements of 10 CFR Part 50, Appendix R. Specifically, the East 480 Volt Switchgear Room is an alternate shutdown area. Therefore, it is required to meet Appendix R, Section III.G.3. Section III.G.3 requires that a fixed fire suppression system be installed in an alternate shutdown area. The licensee requested an exemption from this requirement.

Description

The East 480 Volt Switchgear Room is an alternate shutdown area because a fire in this area has the potential to affect the availability of electrical AC power from both emergency diesel generators. Facility Z2 power may be unavailable because 480 Volt Bus 22F and the "B" emergency diesel generator room ventilation fan (F38B) power supply (MCC B62) are located in the fire area. The "A" emergency diesel generator may be unavailable because of fire damage to the power cable which supplies Facility Z1 Bus 24C. Coordination problems could also cause loss of the Z2 4160 volt switchgear. Thus, in the event of loss of offsite power, normal emergency AC power would not be available to shut down the plant. As discussed in an NRC letter of July 17, 1990, post-fire alternate shutdown capability for a fire in the East 480 Volt Switchgear Room is acceptable based, in part, on the ability to provide AC power from Millstone, Unit 1 via a backfeed from Unit 1 to Unit 2.

The East 480 Volt Switchgear Room is located on the 36′-6″ elevation of the auxiliary building and consists of one Appendix R Fire Area (R–11). The boundaries of this area consist of a concrete floor, ceiling and walls. Barriers providing separation between this fire area and the adjacent fire areas are constructed of reinforced concrete 12″ to 18″ thick, or concrete blocks 8″ to 12″ thick. These walls contain rated fire doors and dampers, and a door that has been evaluated as adequate for the hazards.

Cables associated with Appendix R cold shutdown equipment are also located in the area. Specifically cables associated with both trains of low pressure safety injection (LPSI A and B), and reactor building component cooling water (RBCCW A and B) are located in this area. However, the licensee has planned to repair the cables, to achieve cold shutdown, in the event of a fire.

A fixed fire suppression system has not been provided in the East 480 Volt Switchgear Room. Detection is provided by an ionization smoke detection system which alarms in the Control Room. Fire extinguishers are provided in this area and in adjacent areas. A hose station is located in the adjacent turbine building and is available for use in this area.

V

Charging Pump Area

Background

As a result of a design basis review at Millstone Unit 2, the licensee has determined that the Charging Pump Area does not fully meet the requirements of 10 CFR Part 50, Appendix R. Specifically, the Charging Pump Area does not fully meet any of the three options of Section III.G.2, which requires separation of cables and equipment and associated non-safety circuits of redundant trains by one of the following means: (1) enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 3-hour fire rating; (2) a horizontal distance of more

[1] In its September 24, 1998, letter responding to a request for additional information, the licensee stated that the decommissioning of Millstone, Unit 1 will not affect compliance with Appendix R for Millstone, Unit 2. As decommissioning progresses, both Millstone, Unit 1 and Millstone, Unit 2, must maintain the present licensing and design basis requirements unless or until revised by appropriate means.

than 20 feet with no intervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the area; or (3) enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic suppression system shall be installed in the fire area. The licensee has requested an exemption from this requirement.

As a result of its design basis review, the licensee has determined that the 3-hour rated fire wraps on the charging pump cables must be removed. Instead of relying on the protection of the fire wrap, the licensee stated that it would reroute the cables associated with the "B" and "C" charging pumps (Facility Z2 train) outside Fire Area R–4. These changes are necessary to resolve ampacity and fire rating issues with the previous fire wrap on the charging pump cables in Fire Area R–4. The licensee stated that the rerouting of the Facility Z2 cables from the "B" and "C" pump cubicles to outside the fire area is a more effective approach than relying on cables protected with fire wrap within the area of concern.

Description

The Charging Pump Room is located on the (−)25′-6″ elevation of the Auxiliary Building. All three of the Millstone, Unit 2 charging pumps (P18A, P18B, and P18C) are located in the same Appendix R Fire Area (R–4). The area is separated into two fire zones, A–6A and A–6B. Fire zone A–6A contains the Charging Pump Cubicles and fire zone A–6B contains the Degasifier Area. Fire area R–4 is mainly separated from adjacent fire zones and areas by reinforced concrete construction. The entrance to Fire Area R–4 is separated from Fire Area R–1 by a fixed water curtain.

The charging pumps are spaced approximately 18′ from each other and are separated by 10.5′ high reinforced concrete missile shield walls approximately 17′ on center and approximately 2′ thick. A common walkway traverses the entrances to all three pump cubicles. Six lightly loaded cable trays represent the only intervening combustibles. Three raceways traverse the back of the "A" and "B" cubicles and cross the "C" cubicle. Three other raceways are in the walkway in front of the charging pump cubicles. Each charging pump contains approximately 10 gallons of lube oil. A curbed dike area has been provided for each pump. The capacity of each dike area is sufficient to contain the volume of one 55 gallon oil drum. This is adequate to accommodate the approximately 10 gallons of lube oil contained within each respective charging pump plus any transient oil brought in for pump oil changes. The ceiling height in the Charging Pump Room is approximately 18′-0″.

The entrance to the Charging Pump Room is through adjacent zone A–6B, the Degasifier Area. The entrance to the Degasifier Area is via fire zone A–1B, the RBCCW Pump and Heat Exchanger Area. This entrance is protected with a locked gate. A water curtain has been provided at the entrance to zone A–6B.

Charging Pump Power Cables

Charging pump "A" is powered from Facility Z1. The power cable for pump "A" is routed in conduit Z1A202 to a junction box inside the "A" cubicle into conduit Z1A636 and out of the cubicle into a common walkway which traverses the entrance to the "B" and "C" cubicles. The cable exits the fire area via a raceway immediately near the entrance to the walkway (which is also the access point into the fire area).

Charging pump "B" is the swing pump and can be powered from either Facility Z1 or Z2. The transfer switch for pump "B" power is located adjacent to the pump, mounted on the partial height wall which separates the "B" and "C" cubicles. The Facility Z1 power cable for pump "B" is routed in conduit Z1A210 from a transfer switch adjacent to the pump and out of the "B" cubicle into a raceway in the walkway. The raceway traverses the entrance to the "C" cubicle. The cable exits the fire area via a raceway immediately near the entrance to the walkway (which is also the access point into the fire area). The Facility Z2 power cable for pump "B" will be rerouted from another transfer switch near the pump, downward in new conduit Z2A1261, out of the "B" cubicle and into the adjacent fire area below (Fire Area R–5). This cable will not re-enter Fire Area R–4.

Charging pump "C" is powered from Facility Z2. The power cable for pump "C" will be re-routed from the pump downward in a new conduit, Z2A1262, out of the "C" cubicle and into Fire Area R–5, below. This cable will not re-enter Fire Area R–4.

Fire Area R–5 does not contain any Facility Z1 power cables associated with charging pump "A" or "B'.

Charging Pump Control Cables

Charging pumps "A" and "C" have no safe-shutdown-related control cables located in Fire Area R–4.

Charging pump "B" has several control cables which are located in the Fire Area R–4. One of these control cables (a Facility Z1 cable) is routed from a transfer switch in the "B" cubicle in conduit Z5A205 to a junction box and into conduit Z5A203, out of the "B" cubicle, and into a raceway in the walkway. The raceway traverses the entrance to the "C" cubicle and exits the fire area at the entrance to the walkway (which is also the access point into the fire area). The Facility Z2 control cable will be re-routed with the "B" pump power cable from a transfer switch near the pump downward in conduit Z2A1261, out of the "B" cubicle and into Fire Area R–5, below. All of the control cables can be isolated from P18B control circuits by operating the pump from the Fire Shutdown Panel, C10 (located in the Facility Z2 4.6kV Switchgear Room).

Fire Area R–5 does not contain any Facility Z1 control cables associated with charging pump "A" or "B'.

VI

Yard Area

Background

As a result of a revised Appendix R compliance strategy for achieving safe shutdown, two additional areas have been identified by the licensee in which operation of safe shutdown equipment will be required. In the event of certain fires, operators will have to operate equipment in the Intake Structure and the Refueling Water Storage Tank (RWST) pipe enclosure. Access to these areas requires travel through portions of the yard area at Millstone, Unit 2. As these areas are not addressed in the existing exemption, the licensee determined that an exemption from Section III.J of Appendix R is required.

Description

The outdoor access and egress route to 4160V Bus 14H (formerly Electrical Bus 24F), extends from the east entrance of Millstone, Unit 1, Building 118 (grade elevation), east to the access roadway, south on the roadway (at the fire water tanks), and then turning west to Bus 14H.

The access route to the Intake Structure extends west from Bus 14H, then north up to the northeast corner doorway of the Millstone, Unit 2 Intake Structure.

The outdoor access/egress route to the RWST Pipe Chase also extends from the east entrance of Millstone, Unit No. 1, Building 118 (grade elevation) and east to the access roadway (at the fire water tanks). The route then continues north, west, and south along the cyclone fence, through the fenced gate between the Primary Water Storage Tank (PWST) and RWST. Inside the fenced area, the

route continues to the southern portion of the pipe chase building to the stairway platform entrance.

The licensee proposes to credit the security lighting system for access and egress route emergency lighting in lieu of an 8-hour battery supply in the yard area. The basis for this is as follows:

1. The security lighting system illuminates the required access and egress routes;

2. The security lighting power supply is backed by a security diesel generator with fuel storage capacity to ensure operation at greater than or equal to 8 hours;

3. The security generator, components, and circuits are independent from the postulated fire areas which require access to the 4160V Bus 14H enclosure, Intake Structure, or RWST Pipe Chase.

Additionally, there are portable lighting units dedicated for operations department use. The equipment is administratively controlled and located inside the Millstone, Unit 2 Control Room.

VII

Evaluation

Intake Structure (Fire Area R–16)

A postulated fire in the service water pump room is a cable or lube oil fire resulting from a transient ignition source, an electrical fault, or the overheating of a pump bearing. The majority of the combustible load in the area is cable insulation and lube oil. Plastic reinforced fiberglass traveling screen covers, wooden walkways, plastics, and rubber contribute relatively minor amounts to the combustible loading. The majority of the cable insulation is found in cable trays that are dispersed throughout the east portion of the structure. The cables meet the requirements for IEEE–383 qualified cables. The majority of the lube oil is contained within four non-safety-related circulating water pumps. The remaining lube oil is in other mechanical equipment in relatively small amounts dispersed throughout the pump room.

The traveling screen covers are mounted to four traveling screens. The wooden walkways cover approximately 900 ft^2 in the area of the traveling screens and consists of treated plywood on structural support members. These combustibles are dispersed over the west portion of the structure while the service water pumps and strainers are located on the east side. The use of transient combustible materials in the plant is limited and controlled procedurally. Intervening combustibles in the form of cable insulation are located between the individual service water pumps and in the surrounding area. A fire in this area is expected to be restricted to the immediate area of the cables and/or equipment involved. A fire detected by the automatic detection system would result in annunciation in the Control Room which would lead to a fire brigade response and subsequent extinguishment utilizing manual fire fighting equipment.

A significant fire in the sodium hypochlorite room is not anticipated due to minimal combustible loading and limited ignition sources. The majority of this combustible loading is in the form of cable insulation. The cables meet the requirements for IEEE–383 qualified cables.

If a fire were to occur in the sodium hypochlorite room, it is expected to be contained within the zone and not affect the service water pumps or related cables in zone I–1A due to the physical barrier separation between the zones and lack of intervening combustibles. Loss of the equipment in the zone (i.e., two sodium hypochlorite solution tanks) would not affect the ability of the plant to achieve safe shutdown and does not require the plant to invoke alternate shutdown methods. Smoke detection is present in the zone and will provide warning in the Control Room of a fire in its early stages. Rapid fire brigade response and subsequent extinguishment using manual fire fighting equipment is anticipated. Although sodium hypochlorite solution is considered non-flammable and non-combustible, the fumes that may be produced when it is heated are similar to chlorine gas. The licensee stated that its fighting strategies address concerns associated with fighting a fire involving the sodium hypochlorite tanks.

A significant fire in the MCC room is not anticipated due to the limited amounts of combustible materials present. The majority of this combustible load is cable insulation in trays. The cables meet the requirements for IEEE–383 qualified cables. The majority of the remaining portion of the combustible load is contained in an approved flammable liquids storage cabinet. A fire occurring in this zone is not expected to spread beyond the general area of origin and should not affect the service water pumps or related cables in zone I–1A due to the physical fire separation between the zones and a limited amount of intervening combustibles. A normally open flood control door and unprotected cable tray penetration openings exist in the west wall to zone I–1A. The cable trays through the penetration openings contain combustibles, in the form of cable insulation, that may contribute to fire spread between the zones. Combustible loading is located in the area of the door opening. Due to the limited quantity of combustible material and the configuration of the combustible loading, fire is expected to be restricted to the general area of the cables and/or equipment involved. The loss of the equipment in this zone (i.e., non-safety-related MCCs B–13 and B–42) would not affect the ability of the plant to achieve safe shutdown and does not require the plant to invoke alternate shutdown methods. There is reasonable assurance that a fire would be detected by the automatic detection system in its incipient stages prior to significant flame propagation through the openings or room temperature increase that may affect the service water pumps or related cables in the adjacent pump room. Annunciation in the Control Room will lead to fire brigade response and subsequent extinguishment using manual fire fighting equipment.

As approved in the NRC letter dated July 17, 1990, safe shutdown of the plant can be achieved in the event that a fire goes undetected and renders all three service water pumps inoperable. Such a fire would cause loss of diesel generator cooling, and therefore, the diesel generators would not be available during a loss of offsite power. In that situation, power will be provided via a backfeed from Millstone, Unit 1.

The underlying purpose of the requirement to install a fixed fire suppression system in the area, as required by Section III.G.3 of Appendix R, is to limit fire damage to the dedicated or alternate shutdown capability.

Based on the amount of combustible loading and combustible loading configuration, the licensee's administrative procedures that limit and control transient combustibles, the existing fire detection system, and the expected fire brigade response and subsequent fire extinguishment, the possibility of a fire developing to involve all three of the service water pumps is not considered likely. However, if this were to occur, the loss of all three of the service water pumps would not adversely impact the safe shutdown capability of the plant, based on the ability to provide power via a backfeed from Millstone Unit 1, and the ability of the plant to make necessary repairs to a service water pump, strainer, and power cable to achieve cold shutdown. The licensee stated that the Appendix R safe shutdown strategy for a fire in the Intake Structure accounts for the loss of all three service

water pumps. In addition, the configuration for alternate shutdown in the Intake Structure had been previously found acceptable in the NRC SE dated July 17, 1990. The configuration has not changed since this approval.

On the basis of its evaluation, the staff concluded that a fixed fire suppression system is not needed to satisfy the underlying purpose of the rule.

East 480 Volt Switchgear Room (Fire Area R–11)

The majority of the combustible load in this area consists of cable insulation in cable trays and other electrical equipment. A postulated fire in the area would involve the cable insulation or electrical equipment. The use of transient combustible materials in the plant is limited and controlled procedurally. Potential ignition sources include cables, shorts, malfunctioning electrical equipment, and transient sources. If a fire should occur, there is reasonable assurance that it will be detected by the automatic detection system in its incipient stages prior to significant flame propagation or room temperature increase. This will result in annunciation in the Control Room, timely fire brigade response, and manual fire extinguishment utilizing available fire fighting equipment. In addition, access to the switchgear room from the continuously manned Control Room has been provided via a double door at the east end of the room. This direct route to the area will ensure rapid response by the Control Room operators to an alarm in this area.

Due to the types of combustibles and the type of electrical fires expected in this area, as well as the fact that plant operators are situated in the Control Room directly adjacent to this room, and the presence of a dedicated site fire brigade, the licensee considers manual suppression to be the preferable method of protection in this area.

In the event that there is a loss of electrical power from both emergency diesel generators, the plant is able to safely achieve shutdown by utilizing the backfeed from Millstone, Unit 1 to power the Z1 electrical facility.

The underlying purpose of the requirement to install a fixed fire suppression system in the area, as required by Section III.G.3 of Appendix R, is to limit fire damage to the dedicated or alternate shutdown capability.

Based on the amount of combustible loading and combustible loading configuration, the licensee's administrative procedures that limit and control transient combustibles, the existing fire detection system, the expected fire brigade response and subsequent fire extinguishment, and the close proximity to the Control Room, there is reasonable assurance that a fire would not involve the entire area or spread beyond the area. The loss of the equipment in the east 480V switchgear room does not adversely impact the safe shutdown capability of the plant based on the ability to provide power via a backfeed from Millstone Unit 1.

Based on the above, the staff concluded that a fixed fire suppression system is not necessary to satisfy the underlying purpose of the rule.

Charging Pump Room (Fire Area R–4)

The primary combustibles in the charging pump and degasifier rooms are cable insulation and lube oil. Potential ignition sources include hot surfaces, potential cable shorts, motors, and mechanical failure. Both fire zones are provided with an ionization smoke detection system. Activation of the detection system in either zone will initiate an alarm in the Control Room.

Each charging pump contains approximately 10 gallons of lube oil. Spill containment curbing (capable of containing a 55-gallon spill) has been provided to separate each charging pump cubicle to protect each pump from a combustible liquid spill involving a redundant charging pump. The 55-gallon containment volume is adequate to accommodate the lube oil contained within each respective charging pump plus any transient oil brought in for pump oil changes. The separation provided by the reinforced concrete missile shield partial height walls prevents a direct line-of-sight between adjacent pumps. There are no openings in these walls.

Intervening combustibles between the pump areas consists of six lightly-loaded cable trays (less than 20 cables in each tray). Three raceways traverse the back of the "A" and "B" cubicles, and cross the "C" cubicle. Three other raceways are in the walkway in front of the charging pump cubicles. The cable insulation satisfies IEEE–383 qualification criteria.

A fire extinguisher is provided in the Charging Pump Area. In addition, fire extinguishers and a fire hose station are located in the adjacent zone A–1B. Transient combustible materials in the plant are controlled procedurally and there is a locked access gate at the walkway entrance. The licensee stated that firefighting strategies have been prepared and are available to assist the fire brigade in combating any expected fire.

Due to the functions required of the charging pumps in safe shutdown of the plant, the defense-in-depth concept for fire protection in this area is essential. This area is provided with detection and manual suppression in the form of a fire extinguisher. The area has low combustible loading. When the licensee completes the cable separation modifications, along with the partial barriers already in place, there is reasonable assurance that a single postulated fire would not damage redundant trains of safe shutdown equipment.

The Charging Pump Room is required to meet 10 CFR Part 50, Appendix R, Section III.G.2. Section III.G.2 requires separation of cables and equipment and associated non-safety circuits of redundant trains by any one of three optional means. The underlying purpose of the three applicable options under Section III.G.2, is to provide reasonable assurance that at least one train of equipment relied on to achieve and maintain safe shutdown is free of fire damage.

Based on the configuration of the charging pump room, the combustibles loading, the cable separation modifications, the in-place fire detection systems, the fire brigade and availability of manual fire suppression equipment, and preplanned fire fighting strategies there is reasonable assurance that a fire would not cause the loss of all charging pumps.

Based on the above, the staff concluded that requiring the licensee to meet one of the three applicable options listed in 10 CFR Part 50, Appendix R, Section III.G.2, is not necessary to satisfy the underlying purpose of the rule.

Yard Area

The underlying purpose of Section III.J of Appendix R is to ensure that fixed lighting of sufficient duration and reliability is provided to allow operation of equipment required for post-fire, safe shutdown of the reactor. Lighting for access/egress associated with the equipment is also required. The licensee is requesting an exemption from the access/egress portion of the Section III.J requirement relating to the yard area.

Large area applications will typically impose electrical load requirements which are beyond the normal limits of battery units. The licensee stated that the security lighting system illuminates the required access and egress routes. The power supply is backed by a security diesel generator with fuel storage capacity to ensure operation greater than or equal to 8 hours. The security generator, components, and

circuits are independent from the fire areas which require access to the 4160V Bus 14H enclosure, Intake Structure, or RWST Pipe Chase. Consistent with the defense in depth approach to fire protection, portable lighting equipment is also available and can be relied upon for use in the event of a fire.

Based on the availability and reliability of the security lighting of sufficient duration and the availability of portable lighting, there is reasonable assurance that the access/egress routes through the yard area that are relied on for safe shutdown of the facility can be accessed in the event of a fire.

On the basis of its evaluation, the staff concluded that the application of the regulation in this circumstance is not necessary to satisfy the underlying purpose of the rule.

VIII

Conclusions

Intake Structure

On the basis of its evaluation, the staff finds that special circumstances are present in that the application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule. The licensee's request for an exemption from the requirements of Section III.G.3 of Appendix R, to the extent that it requires the installation of a fixed fire suppression system, is granted pursuant to 10 CFR 50.12(a)(2)(ii) for fire area R–16, the Intake Structure, provided the factors the licensee used to justify its exemption request are maintained. The staff concludes that the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

East 480 Volt Switchgear Room

On the basis of its evaluation, the staff finds that special circumstances are present in that the application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule. The licensee's request for an exemption from the requirements of Section III.G.3 of Appendix R, to the extent that it requires the installation of a fixed fire suppression system, is granted pursuant to 10 CFR 50.12(a)(2)(ii) for fire area R–11, the East 480 Volt Switchgear Room, provided the factors the licensee used to justify its exemption request are maintained. The staff concludes that the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Charging Pump Room

On the basis of its evaluation, the staff finds that special circumstances are present in that the application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule. The licensee's request for an exemption from the requirements of Section III.G.2 of Appendix R, to the extent that it requires the licensee to meet one of the three applicable options (Section III.G.2.a, b, or c), is granted pursuant to 10 CFR 50.12(a)(2)(ii) for fire area R–4, the charging pump room, provided the factors the licensee used to justify its exemption request, including rerouting the charging pump cables, are maintained. The staff concludes that the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Yard Area

On the basis of its evaluation, the staff finds that special circumstances are present in that the application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule. The licensee's request for an exemption from the requirements of Section III.J of Appendix R, to the extent that it requires emergency lighting with an 8-hour battery supply for access and egress routes to safe shutdown equipment, is granted pursuant to 10 CFR 50.12(a)(2)(ii) for the yard area, provided the factors the licensee used to justify its exemption request are maintained. The staff concludes that the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Dated at Rockville, Maryland, this 16th day of March 1999.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7029 Filed 3–22–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–424 and 50–425]

Southern Nuclear Operating Company, Inc., et al.; (Vogtle Electric Generating Plant, Units 1 and 2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–68 and NPF–81, issued to Southern Nuclear Operating Company, Inc., et al. (the licensee), for operation of the Vogtle Electric Generating Plant, Units 1 and 2, located in Burke County, Georgia.

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the Facility Operating Licenses (FOLs) for the Vogtle Electric Generating Plant (Vogtle), Units 1 and 2, to delete or modify certain license conditions, which have become obsolete or inappropriate. In addition, the Technical Specifications would be reconstituted to reflect revised word processing software. No change in technical requirements would be involved; however, the font would be changed to Arial 11 point; page numbers would be revised to a limiting condition for operation specific numbering scheme; and intentional blank pages would be deleted.

The proposed action is in accordance with the licensee's application for amendments dated October 15, 1998, as supplemented by letter dated November 11, 1998.

The Need for the Proposed Action

When the FOLs, NPF–68 and NPF–81, were issued to the licensee, the NRC staff deemed certain issues essential to safety and/or essential to meeting certain regulatory interests. Other issues were associated with adoption of the Improved Standard Technical Specifications in License Amendment Nos. 96 and 74, for Vogtle Units 1 and 2, on September 25, 1996. These issues were imposed as license conditions in the FOLs, with deadlines for their implementation. Since the units were licensed to operate in the 1980s, most of these license conditions have been fulfilled. For the license conditions that have been fulfilled, the licensee proposed to have them deleted from the FOLs. The licensee is also proposing a minor change to a license reporting requirement.

The FOLs also included exemptions from Commission regulations. The licensee stated that some exemptions have either expired, or are no longer needed since the units are in full compliance with the respective regulations. The licensee proposed to delete these exemptions from the FOLs.

The licensee also proposed to reissue the Technical Specifications without changes, to implement a change to its word processing computer software.

The proposed amendments involve reformatting and removal of conditions

that have been satisfied or that are obsolete. No actual plant equipment, regulatory requirements, operating practices, or analyses are affected by these proposed amendments.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the amendments are approved. No changes will be made to the design and licensing bases, and applicable procedures at Vogtle Units 1 and 2 will remain the same. Other than the recordkeeping, reporting, or administrative procedures or requirements, no other changes will be made to the FOLs, including the Technical Specifications.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historical sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does did not involve the use of any resources not previously considered in the Final Environmental Statement for the Vogtle Electric Generating Plant, Units 1 and 2.

Agencies and Persons Contacted

In accordance with its stated policy, on March 17, 1999, the staff consulted with the Georgia State official, Mr. J. Setzer of the Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 15, 1998, as supplemented by letter dated November 11, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington DC, and at the local public document room located at the Burke County Library, 412 Fourth Street, Waynesboro, Georgia.

Dated at Rockville, Maryland, this 17th day of March 1999.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7028 Filed 3–22–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation (Wolf Creek Generating Station); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–42, issued to Wolf Creek Nuclear Operating Corporation (the licensee), for operation of the Wolf Creek Generating Station located in Coffey County, Kansas.

Environmental Assessment

Identification of the Proposed Action

The amendment would revise Technical Specification (TS) 4.7.3b, "Plant Systems—Component Cooling Water System—Surveillance Requirements," by deleting the requirement to perform the specified surveillances during shutdown. A change to the applicable Bases would also be included.

The proposed action is in accordance with the licensee's application for amendment dated May 15, 1997, as supplemented by letters dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, 1998, and January 15, 1999.

Need for the Proposed Action

By letter dated May 15, 1997, Wolf Creek Nuclear Operating Corporation (the licensee) proposed a conversion of the current TSs for Wolf Creek to the Improved Technical Specifications (ITSs). When the TS-required 18-month testing (during shutdown) of the component cooling water system (CCWS) was last conducted, a portion of the required testing was not completed for one pump in each train of the CCWS. The proposed action, an amendment to modify the TSs to allow testing during power operations, would avert a plant shutdown to complete this testing.

Environmental Impacts of the Proposed Action

With regard to potential radiological impacts to the general public, the amendment under consideration involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect the potential for radiological accidents and does not affect radiological plant effluents. No safety limits will be changed or setpoints altered as a result of the TS revision. The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and would have no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of Wolf Creek Generating Station, Unit No. 1" dated June 1982.

Agencies and Persons Contacted

In accordance with its stated policy, on March 8, 1999, the staff consulted with the Kansas State official, Mr. Vick Cooper, of the Kansas Department of Health and Environment, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application for amendment dated May 15, 1997, as supplemented by letters dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, 1998, and January 15, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 17th day of March 1999.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

Project Management, Project Directorate IV-2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-7031 Filed 3-22-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Public Workshop To Provide Information on the Pilot Plant Performance Indicators

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will hold a public workshop to provide information to selected NRC inspectors and licensee staff of the Reactor Oversight Process Pilot Program. This meeting is open to the public.

DATES: The workshop will be held from 8:00 a.m. to 5:00 p.m. April 12 through April 15, 1999. The first two hours of the workshop on April 12 will be dedicated to check-in procedures.

ADDRESSES: The workshop will be held at the Holiday Inn, 1250 Roosevelt road, Glen Ellyn, IL 60137

FOR FURTHER INFORMATION CONTACT: August Spector at 301-415-2140 or Lee Miller at 423-855-6510, Mail Stop: O-5H4, Inspection Program Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 1999, the staff issued SECY-99-007, forwarding the staff's recommendations for a new reactor oversight process. On January 20, 1999, the staff briefed the Commission on the staff's proposal described in SECY-99-007. The following issues represent a brief summary of the concepts presented in SECY-99-007.

Over the last 10 years, commercial nuclear power plants have been operated safely and overall plant performance has improved. This improvement in plant performance can be attributed, in part, to successful regulatory oversight. Despite this success, the agency has noted that the current reactor oversight process (1) is at times not clearly focused on the most safety important issues, (2) consists of redundant actions and outputs, and (3) is frequently subjective, with NRC action taken in a manner that is at times neither scrutable nor predictable.

In the new regulatory oversight process:

- There will be a risk-informed baseline inspection program that establishes the minimum direct inspection effort for all licensees.
- Thresholds will be established for licensee safety performance, below which increased NRC interaction would be warranted.
- Adequate assurance of licensee performance will require assessment of both performance indicators (PIs) and inspection findings.
- Both PIs and inspection findings will be evaluated against risk-informed thresholds, where feasible.
- Crossing a PI threshold and an inspection threshold will have the same meaning with respect to safety significance and required NRC interaction.
- The baseline inspection program will cover those risk-significant attributes of licensee performance not adequately covered by PIs.
- The baseline inspection program will also verify the accuracy of PI data collection and analysis and provide for event response, as appropriate.
- Enforcement actions will be focused on issues that are risk significant.
- Guidelines will be established for identifying and responding to unacceptable licensee performance.

Additionally, the staff will pilot the new reactor oversight process during a 6-month period beginning in June 1999. The purpose of the pilot program is to exercise the new processes (PI reporting, inspection, assessment, and enforcement), to identify process and procedure problems and make appropriate changes and, to the maximum extent possible, evaluate the effectiveness of the new process. Full implementation of the new oversight process will commence pending successful completion of the pilot program, as measured against pre-established success criteria. A notable feature of the pilot program is the use of the Pilot Program Evaluation Panel, consisting of NRC, NEI, industry, public, and State representatives, to aid in evaluating the effectiveness of the pilot program. This workshop will focus on the pilot plant participants and specifically address performance indicator reporting requirements.

Scope of the Public Workshops

The NRC will hold a four day workshop from April 12-15, 1999 to provide information on the new performance indicator reporting requirements to selected NRC inspectors and licensee staff participating in the Reactor Oversight Process Pilot Program. In order to meet the objectives of the workshop, active participants will be limited to 48 NRC and licensee personnel who will be participating in the pilot program. Other interested parties may observe, up to a total of 150 additional individuals. NRC and licensee staff may choose to rotate cognizant individuals into the active participant ranks as applicable. 18 slots will be reserved for the nine pilot plants, 25 for the regional offices, and five seats reserved for NRC Headquarters and Regional Senior Reactor Analysts. The pilot plants are: Hope Creek, Salem Units 1 and 2, Fitzpatrick, Prairie Island Units 1 and 2, Quad Cities Units 1 and 2, Shearon Harris, Sequoyah Units 1 And 2, Ft. Calhoun, and Cooper.

The agenda for the workshop will consist of the following:

—Day 1: registration and check-in, opening remarks, and initiating events performance indicators

—Day 2: mitigating systems and barrier performance indicators.

—Day 3: barrier performance indicators (continued) and Emergency Preparedness performance indicators.

—Day 4: occupational exposure, public exposure, and physical protection performance indicators.

Note: Each day will end with a question and answer session.

Workshop Pre-Registration

Active participants and observers at the workshop are requested to pre-register with the NRC approximately two weeks before the workshop. Attendees may pre-register in either of the following ways:

(1) Fax to Elaine Toro at (301) 415–3707

(2) Mail to: U.S. Nuclear Regulatory Commission, Attn: Elaine Toro, Office of Nuclear Reactor Regulation, Mailstop O5H4, Washington, D.C. 20555–0001

Dated at Rockville, Maryland, this 17th day of March, 1999.

For the Nuclear Regulatory Commission.

William M. Dean,

Chief Inspection Program Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

Cornerstone Performance Indicator Workshop Registration, Holiday Inn, Glen Ellyn, IL, April 12—15, 1999

(Please Print)

Name: _____
(last) (first)

Title: _____

Address: _____
(department, division or unit)

_____
(street or P.O. box)

_____
(city) (state) (zip code)

Pilot Plant (Yes/No) _____

Telephone (home): _____

Telephone (business): (ext) _____

E-mail: _____

Name (for name badge): _____

Mail your registration form to: Elaine Toro, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Mail Stop O–5H2, Washington, DC 20555.

Fax your registration form to: 301–415–3707 Attention: Elaine Toro.

THIS REGISTRATION FORM IS FOR THE WORKSHOP ONLY. PLEASE MAKE HOTEL RESERVATIONS SEPARATELY.

[FR Doc. 99–7030 Filed 3–22–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of March 22, 29, April 5, and 12, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 22

Thursday, March 25

2:30 p.m.—Briefing on Part 35 Rulemaking (Public Meeting) (Contact: Patricia Holahan, 301–415–8125)

Friday, March 28

9:00 a.m.—Briefing on Proposed Reactor Oversight Process Improvements & Enforcement (Public Meeting) (Contact: William Dean, 301–415–2240)

12:30 p.m.—Affirmation Session (Public Meeting)

*(Please Note: This item will be affirmed immediately following the conclusion of the preceding meeting.)

a: Changes to Paragraph (h) of 10 CFR Part 50.55a, "Codes and Standards"

Week of March 29—Tentative

There are no meetings scheduled for the Week of March 29.

Week of April 5—Tentative

There are no meetings scheduled for the Week of April 5.

Week of April 12

Wednesday, April 14

9:00 a.m.—Briefing on Investigative Matters (Closed—Ex. 5 & 7)

11:00 a.m.—Briefing on Remaining Issues Related to Proposed Restart of Millstone Unit 2 (Public Meeting) (Contact: William Dean, 301–415–2240)

Thursday, April 15

2:00 p.m.—Briefing on Status of Uranium Recovery (Public Meeting) (Contact: King Stablein, 301–415–7238)

3:00 p.m.—Affirmation Session (Public Meeting) (If needed)

Friday, April 16

9:30 a.m.—Briefing on Rulemaking For Generally Licensed Devices (Public Meeting) (Contact: Patricia Holahan, 301–415–8125)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact Person for more information: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on March 17, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Radiological Criteria for License Termination of Uranium Recovery Facilities" (PUBLIC MEETING) be held on March 17, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or *dkw@nrc.gov*.

Dated: March 19, 1999.

William M. Hill, Jr.,

SECY, Tracking Officer, Office of the Secretary.

[FR Doc. 99–7189 Filed 3–19–99; 2:12 pm]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised date collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

Title and Purpose of information collection: Annual Earnings Questionnaire for Annuitants in Last Pre-Retirement Non-Railroad Employment; OMB 3220–0179.

Under section 2(e)(3) of the Railroad Retirement Act (RRA), an annuity is not payable for any month in which a beneficiary works for a railroad. In addition, an annuity is reduced for any month in which the beneficiary works for an employer other than a railroad employer and earns more than a prescribed amount. Under the 1988 amendments to the RRA, the Tier II portion of the regular annuity and any supplemental annuity must be reduced by one dollar for each two dollars of Last Pre-Retirement Non-Railroad Employment (LPE) earnings for each month of such service. However, the reduction cannot exceed fifty percent of the Tier II and supplemental annuity amount for the month to which such deductions apply. LPE generally refers to an annuitants last employment with a non-railroad person, company, or institution prior to retirement which was performed whether at the same time of, or after an annuitant stopped railroad employment. The collection obtains earnings information needed by the RRB to determine if possible reductions in annuities because of Last Pre-Retirement Non-Railroad Employment Earnings (LPE) are in order.

The RRB utilizes Form G–19L to obtain LPE earnings information from annuitants. Companion Form G–19L.1, which serves as an instruction sheet and contains the Paperwork Reduction/Privacy Act Notice for the collection accompanies each Form G–19L sent to an annuitant. One response is requested of each respondent. Completion is required to retain a benefit. The RRB proposes minor editorial changes to Form G–19L and Form G–19L.1.

The estimated annual respondent burden is as follows:

Estimated number of responses: 5,000.

Estimated completion time per response: 15 minutes.

Estimated annual burden hours: 1,250.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–7098 Filed 3–22–99; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Certification of Relinquishment of Rights.

(2) *Form(s) submitted:* G–88.

(3) *OMB Number:* 3220–0016.

(4) *Expiration date of current OMB clearance:* 5/31/1999.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 3,600.

(8) *Total annual responses:* 3,600.

(9) *Total annual reporting hours:* 360.

(10) *Collection description:* Under Section 2(e)(2) of the Railroad Retirement Act, the Railroad Retirement Board must have evidence that an annuitant for an age and service, spouse, or divorced spouse annuity has relinquished their rights to return to the service of a railroad employer. The collection provides the means for obtaining this evidence.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–7097 Filed 3–22–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, NW., Washington, DC 20549.

Extension:

Rule 7d–1, SEC File No. 270–176, OMB Control No. 3235–0311.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension and approval of the collections of information discussed below.

Section 7(d) of the Investment Company Act of 1940 [15 U.S.C. 80a–7(d)] (the "Act" or "Investment Company Act") requires an investment company ("fund") organized outside the United States ("foreign fund") to obtain an order from the Commission allowing the fund to register under the Act before making a public offering of its securities through the United States mail or any means of interstate commerce. The Commission may issue an order only if it finds both that it is legally and practically feasible effectively to enforce the provisions of the Act against the foreign fund, and that the registration of the fund is consistent with the public interest and protection of investors.

Rule 7d–1 [17 CFR 270.7d–1] under the Act, which was adopted in 1954, specifies the conditions under which a Canadian management investment company ("Canadian fund") may request an order from the Commission permitting it to register under the Act. Although rule 7d–1 by its terms applies only to Canadian funds, funds in other jurisdictions generally have agreed to comply with the requirements of rule 7d–1 as a prerequisite to receiving an order permitting the fund's registration under the Act.

The rule requires Canadian funds that propose to register under the Act to file an application with the Commission that contains various undertakings and agreements by the fund. Certain of these undertakings and agreements, in turn, impose the following additional information collection requirements:

(1) The fund must file agreements between the fund and its directors, officers, and service providers requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations relating to the undertakings and agreements in the application;

(2) The fund and each of its directors, officers, and investment advisers that is not a U.S. resident, must file an irrevocable designation of the fund's custodian in the United States as agent for service of process;

(3) The fund's charter and bylaws must provide that (a) the fund will comply with certain provisions of the Act applicable to all funds, (b) the fund will maintain originals or copies of its books and records in the United States, and (c) the fund's contracts with its custodian, investment adviser, and principal underwriter, will contain certain terms, including a requirement that the adviser maintain originals or copies of pertinent records in the United States;

(4) The fund's contracts with service providers will require that the provider perform the contract in accordance with the Act, the Securities Act of 1933 [15 U.S.C. 77a–77z–3], and the Securities Exchange Act of 1934 [15 U.S.C. 78a–78mm], as applicable; and

(5) The fund must file, and periodically revise, a list of persons affiliated with the fund or its adviser or underwriter.

Under section 7(d) of the Act the Commission may issue an order permitting a foreign fund's registration only if the Commission finds that "by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the [Act]." The information collection requirements are necessary to assure that the substantive provisions of the Act may be enforced as a matter of contract right in the United States or Canada by the fund's shareholders or by the Commission.

Certain information collection requirements in rule 7d–1 are associated with complying with the Act's provisions. These information collection requirements are reflected in the information collection requirements applicable to those provisions for all registered funds.

The Commission believes that three Canadian funds and one other foreign fund are registered under rule 7d–1. Only one of the registered funds, a Canadian entity, currently is active. Apart from requirements under the Act applicable to all registered funds, rule 7d–1 imposes ongoing burdens to maintain records in the United States, and to update, as necessary, the fund's list of affiliated persons. The Commission staff estimates that the rule requires a total of three responses each year. The staff estimates that a fund makes two responses each year under the rule, one response to maintain records in the United States and one response to update its list of affiliated persons. The Commission staff further estimates that a fund's investment adviser makes one response each year under the rule to maintain records in the United States. Commission staff estimate that each recordkeeping response requires 12.5 hours of support staff time at a cost of $15 per hour, and the response to update the list of affiliated persons requires 0.25 hours of support staff time, for a total annual burden of 25.25 hours at a cost of $379. The estimated burden hours are a decrease from the current allocation of 101 burden hours. The decrease of 75.75 hours reflects the current inactive status of two Canadian registrants and one other foreign registrant, as well as the staff's administrative experience with the rule.

If a fund were to file an application under the rule, the Commission estimates that the rule would impose initial information collection burdens (for filing an application, preparing the specified charter, bylaw, and contract provisions, designations of agents for service of process, and an initial list of affiliated persons, and establishing a means of keeping records in the United States) of approximately 90 hours for the fund and its associated persons. The Commission is not including these hours in its calculation of the annual burden because no fund has applied under rule 7d–1 to register under the Act in the last three years.

After registration, a foreign fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Because rule 7d–1 does not mandate these applications and the fund determines whether to submit an application, the Commission has not allocated any burden hours for these applications.

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

The Commission believes that the one active Canadian registrant and its associated persons may spend (excluding the cost of burden hours) approximately $500 each year in maintaining records in the United States. These estimated costs include fees for a custodian or other agent to retain records, storage costs, and the costs of transmitting records by computer mail or otherwise.

If a Canadian or other foreign fund in the future applied to register under the Act under rule 7d–1, the fund initially might have capital and start-up costs (not including hourly burdens) of an estimated $16,000 to comply with the rule's initial information collection requirements. The costs include legal and processing-related fees for preparing the required documentation (such as the application, charter, bylaw, and contract provisions), designations for service of process, and the list of affiliated persons. Other related costs would include fees for establishing arrangements with a custodian or other agent for maintaining records in the United States, copying and transportation costs for records typically maintained in paper form (such as minutes of directors' meetings), and the costs of purchasing or leasing computer equipment, software, or other record storage equipment for records maintained in electronic or photographic form.

The Commission expects that the fund and its sponsors would incur these costs immediately and that the annualized cost of the expenditures would be $16,000 in the first year. Some expenditures might involve capital improvements, such as computer equipment, having expected useful lives for which annualized figures beyond the first year would be meaningful. These annualized figures are not provided, however, because, in most cases, the expenses would be incurred immediately rather than on an annual basis. The Commission is not including these costs in its calculation of the annualized capital/start-up costs because no investment company has applied under rule 7d–1 to register under the Act pursuant to rule 7d–1 in the last three years.

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: March

Margaret H. Mc

Deputy Secretar

[FR Doc. 99–697

BILLING CODE 801

SECURITIES
COMMISSION

[Rel. No. IC–237

The Brinson
Application

March 17, 1999

AGENCY: Secu
Commission (

ACTION: Notic
exemption un
of the Investm
(the "Act") fr
Act.

SUMMARY OF A
seek an order
kind of shares
investment co
shareholders
of the investm

APPLICANTS: T
("Brinson"), B
Funds (the "T
Partners, Inc.

FILING DATES:
on September
on March 3, 1

HEARING OR NO
order granting
be issued unl
hearing. Inter
a hearing by w
Secretary and
copy of the re
mail. Hearing
received by th
April 12, 199
accompanied
applicants, in
for lawyers, a
Hearing requ
of the writer's
request, and t
Persons may
hearing by wr
Secretary.

ADDRESSES: S
Street, NW, W
0609. Applica
209 South La
60604–1295.

FOR FURTHER
Lisa McCrea,
942–0562, or
Assistant Dir
(Division of I
Office of Inve
Regulation).

Dated: March 15, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6973 Filed 3–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–2371; 812–11322]

The Brinson Funds, et al.; Notice of Application

March 17, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit redemptions in-kind of shares of certain registered investment companies by certain shareholders who are affiliated persons of the investment companies.

APPLICANTS: The Brinson Funds ("Brinson"), Brinson Relationship Funds (the "Trust"), and Brinson Partners, Inc. ("Partners").

FILING DATES: The application was filed on September 24, 1998, and amended on March 3, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1999 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 5th Street, NW, Washington, D.C. 20549–0609. Applicants, Brinson Partners, Inc., 209 South LaSalle Street, Chicago, IL 60604–1295.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, at (202) 942–0562, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Brinson, a Delaware business trust, is an open-end management investment company registered under the Act, and currently consists of thirteen series (the "Brinson Funds"). The Trust, a Delaware business trust, is an open-end management investment company registered under the Act, and currently consists of seventeen series (the "Trust Funds"). The Brinson Funds, the Trust Funds, and other registered open-end management investment companies or series thereof that may in the future be advised by Partners or any person controlling, controlled by, or under common control with Partners, are referred to collectively as the "Funds."

2. Partners is registered as an investment adviser under the Investment Advisers Act of 1940. Partners provides investment advisory services to the Funds, and manages the daily investment and business affairs of the Funds, subject to the policies of the boards of trustees of Brinson and the Trust (the "Boards"). Each of the Boards has three trustees, all of whom are not "interested persons" as defined in section 2(a)(19) of the Act (the "Non-Interested Trustees").

3. The prospectuses of the Brinson Funds and the Trust Funds provide that, if condition exist which make cash payments undesirable, any request for redemption of a Fund's shares may be honored by making payment in whole or impart in securities. The payment would be made on a pro rata basis, monitored by Partners, which the securities valued in the same manner as they would be for purposes of computing the Fund's net asset value. This redemption procedure presently applies to all shareholders other than shareholders who are "affiliated persons" of the Funds within the meaning of section 2(a)(3) of the Act ("Non-Covered Shareholders").

4. Applicants request relief to permit the Funds to satisfy redemption requests make by shareholders who are "affiliated persons" of the Funds solely within the meaning of section 2(a)(3)(A) of the Act ("Covered Shareholders") because they own 5% or more of a Fund's outstanding shares by distributing portfolio securities in kind.

Applicant's Legal Analysis

1. Section 17(a)(2) of the Act makes it unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, to knowingly "purchase" from such registered investment company any security or other property (except securities of which the seller is the issuer). Under section 2(a)(3)(A) of the Act, an "affiliated person" includes any person owning 5% or more of the outstanding voting securities of such other person. Applicants state that to the extent that an in-kind redemption could be deemed to involve the purchase of portfolio securities by a Covered Shareholder, the proposed redemption in-kind would be prohibited by section 19(a)(2).

2. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the SEC may exempt classes of persons or transactions from the Act, where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request an order under sections 6(c) and 17(b) of the Act exempting them from the provisions of section 17(a) of the Act to permit Covered Shareholders to redeem their shares in-kind from the Funds. The requested order would not apply to redemptions by shareholders who are affiliated persons of the Fund within the meaning of sections 2(a)(3)(B) through (F) of the Act.

5. Applicants submit that the proposed transactions meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants assert that the terms of the proposed in-kind redemptions are reasonable and fair. Applicants state that Covered Shareholders who wish to redeem shares receive the same "in-kind" distribution of securities and cash on the same basis as Non-Covered Shareholders wishing to redeemshares. Applicants further state that the securities to be distributed in-kind will be valued in the same manner as that

used by each Fund to determine its net asset value.

6. Applicants state that the proposed in-kind redemptions are consistent with the investment policies of the Funds. Applicants also state that the proposed in-kind redemptions are consistent with the general purposes of the Act because there will not be discriminatory practices on the part of investment company affiliates to the detriment of other security holders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The portfolio securities distributed pursuant to a redemption in-kind (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which quoted bid and asked prices are available.

2. The In-Kind Securities will be distributed on a pro-rata basis after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; (b) securities issued by entities in countries which (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as a Fund, or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; and (c) certain portfolio assets (such as forward foreign currency exchange contracts, futures and options contracts and repurchase agreements) that, although they may be liquid and marketable, must be traded through the marketplace or with the counterparty to the transaction in order to effect a change in beneficial ownership. Cash will be paid for that portion of a Fund's assets represented by cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements) and other assets which are not readily distributable (including receivable sand prepaid expenses), net of all liabilities (including accounts payable). In addition, a Fund will distribute cash in lieu of securities held in its portfolio not amounting to round lots (or which would not amount to round lots if included in the in-kind distribution), fractional shares and accruals on such securities.

3. The In-Kind Securities will be valued in the same manner as they would be valued for purposes of computing a Fund's net asset value, which, in the case of securities traded on a public securities market for which quotations are available, is their last reported sales price on the exchange on which the securities are primarily traded or the last sales price on the national securities market, or, if the securities are not listed on an exchange or the national securities market, or if there is no such reported price, the average of the most recent bid and asked price (or, if no such price is available, the last quoted bid price).

4. The Trusts' Boards, including a majority of the Non-Interested Trustees, will determine no less frequently then annually: (a) whether the In-Kind Securities, if any, have been distributed in accordance with conditions 1 and 2; (b) whether the In-Kind Securities, if any, have been valued in accordance with condition 3; and (c) whether the distribution of any such In-Kind Securities is consistent with the policies of each affected Fund as reflected in its prospectus. In addition, the Boards will make and approve such changes as they deem necessary in the procedures for monitoring the applicants' compliance with the terms and conditions of the application.

5. The relevant Funds will maintain and preserve for a period of not less than six years from the end of the fiscal year in which the proposed in-kind redemption occurs, the first two years in an easily accessible place, a written record of each such redemption setting forth a description of each security distributed, the identity of the Covered Shareholder, the terms of the distribution, and the information or materials upon which the valuation was made.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6972 Filed 3–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23743; File No. 812–11454]

Western Reserve Life Assurance Co. Of Ohio, et al.

March 17, 1999.

AGENCY: Securities and Exchange Commission (the "Commission" or "SEC").

ACTION: Notice of application for an order under Section 6(c) the Investment Company Act of 1940 (the "1940 Act") granting relief from Rule 6e–2(c)(1) and from certain provisions of the Act and Rules thereunder specified in paragraph (b) of Rule 6e–2; and from Sections 2(a)(32) and 27(i)(2)(A) of the Act and Rules 6e–2(b)(12) and 22c–1.

APPLICANTS: Western Reserve Life Assurance Co. of Ohio ("Western Reserve"), WRL Series Life Account ("Western Reserve Separate Account"), PFL Life Insurance Company ("PFL"), Legacy Builder Variable Life Separate Account ("PLF Separate Account"), and AFSG Securities Corporation ("AFSG") (collectively, the "Applicants").

SUMMARY OF APPLICATION: Applicants seek exemptive relief to the extent necessary: (1) to permit them to offer and sell certain variable life insurance policies with modified single premiums ("Policies"); and (2) to permit other NASD member broker-dealers which may become the principal underwriter for such Policies ("Future Underwriters") to offer and sell such Policies.

FILING DATE: The application was filed on January 7, 1999.

HEARING OR NOTIFICATION OF HEARING: The Commission will issue an order granting the application unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, in person or by mail. The Commission should receive hearing requests by 5:30 p.m. on April 12, 1999, and the requests should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Thomas E. Pierpan, Esq., Western Reserve Life Assurance Co. of Ohio, 570 Carillon Parkway, St. Petersburg, Florida 33716; and Frank A. Camp, Esq., PFL Life Insurance Company, 4333 Edgewood Road, NE, Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Kevin P. McEnery, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, Mail Stop 1–2, 450 Fifth St., N.W., Washington, D.C. 20549–0102 (tel (202) 942–8090).

Applicants' Representations

1. Western Reserve, a stock life insurance company, is a wholly owned subsidiary of First AUSA Life Insurance Company, a stock life insurance company that is a wholly owned subsidiary of AEGON USA, Inc., a financial services holding company.

2. Western Reserve established the Western Reserve Separate Account under Ohio law to serve as a funding vehicle for variable life insurance policies issued by Western Reserve and its affiliates. The Western Reserve Separate Account is registered under the Act as a unit investment trust. In connection with the Policy issued by Western Reserve, the Western Reserve Separate Account currently has 12 subaccounts, each of which invests in shares of a corresponding portfolio of a mutual fund registered under the Act as an open-end management investment company.

3. PFL, a stock life insurance company, is a wholly owned indirect subsidiary of AEGON USA, Inc.

4. PFL established the PFL Separate Account under Iowa law to serve as a funding vehicle for variable life insurance policies issued by PFL. The PFL Separate Account is registered under the Act as a unit investment trust. The PFL Separate Account currently has 19 subaccounts, each of which invests in shares of a corresponding portfolio of a mutual fund registered under the Act as an open-end management investment company. The Application refers to Western Reserve and PFL, when used together, as the "Companies," and the Application refers to the Western Reserve Separate Account and the PFL Separate Account, when used together, as the "Separate Accounts."

5. AFSG is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, as amended, and is a member of the National Association of Securities Dealers, Inc. ("NASD"). AFSG is the principal underwriter of the Policies issued by both Western Reserve and PFL.

6. The Policies are modified single premium variable life insurance policies that prospective owners may purchase on an individual or a joint and last survivor basis. The Companies will rely on Rule 6e–2 in connection with the Policies, although the Policies also contain features not contemplated by Rule 6e–2.

7. The minimum premium required under the Policy for a given specified amount depends on a number of factors, including the age, sex, and risk class of the proposed insured(s). The Companies currently require a minimum initial premium of $20,000; however, each Policy will specify the minimum initial premium that the applicant must pay.

8. The Companies provide limited flexibility to add additional premiums since the Companies require that the initial premium equal the maximum amount that can be applied to the Policy at issue. In general, owners of the Policies may not pay any additional premiums on the Policy for several years in order for the Policy to continue to qualify on a life insurance contract as defined in Federal tax laws and regulations.

9. Policy owners may instruct the Companies to allocate from 1% to 100% of premiums to one or more subaccounts of the Separate Accounts and to the fixed account options. Policy owners may change the allocation instructions for additional premiums without charge at any time by providing the Companies with written notification. The Companies may limit the number of premium allocation changes.

10. If the Companies sell a Policy in a state that requires the return of initial premium upon exercise of the free look right, then the Companies will allocate the initial premium (plus interest) to a reallocation account. The premium will remain in the reallocation account (earning interest) for the length of time of the state's free look period plus five days. After this time, the Companies will reallocate all amounts in the reallocation account to the subaccounts and fixed account options selected on the Policy application. In other states, once underwriting is completed, the Companies will allocate premiums to the subaccounts and the fixed account options according to Policy owner instructions.

11. The value of amounts allocated to the subaccounts of the Separate Accounts will vary with the investment performance of the portfolios underlying the subaccounts. Policy owners bear the entire risk for amounts allocated to a subaccount.

12. The Policies provide for a death benefit that the Companies will determine as of the insured's date of death (the last insured, of a joint Policy). The death benefit is equal to the greater of: (1) the specified amount; or (2) the sum of the Policy's value in the subaccounts and the fixed accounts ("cash value") on the date the insured dies multiplied by the applicable limitation percentage. The limitation percentage is a percentage based on the insured's age at the beginning of each Policy year. For joint Policies, the Companies will use the age of the younger insured. Policy owners may not increase or decrease the specified amount under the Policy.

13. When applying for a Policy, owners may also purchase a guaranteed minimum death benefit rider whereby the Companies guarantee to provide a death benefit (minimum $1,000) as follows: (1) If the net surrender value (a Policy's cash value minus any surrender charge and minus any outstanding Policy loan) on any monthly deduction day is not sufficient to cover the monthly Policy charge on that day, then coverage will be provided as indicated below, and no grace period will begin, provided that the owner has not taken any Policy loans; and (2) If a death benefit is payable due to the provisions of the guaranteed minimum death benefit rider, then the following minimum death benefit is applicable:

- During the first 15 Policy years, or before the Policy anniversary next following the insured's (or younger joint insured's) 75th birthday, if sooner, the minimum death benefit payable will be as described at the beginning of this paragraph 13 above.
- After the first 15 Policy years, or on or after the Policy anniversary next following the insured's (or younger joint insured's) 75th birthday, if sooner, the minimum death benefit payable will be the initial premium, reduced by any partial withdrawals.

14. Owners of a Policy may request a partial withdrawal after the first Policy year. The Companies place the following limitations on partial withdrawals: (1) only 1 partial withdrawal is allowed during a 12-month period; and (2) the maximum partial withdrawal is equal to the excess of the cash value minus total outstanding loans, minus any interest owed on the loans, and minus total premiums paid.

15. A partial withdrawal will reduce the specified amount (or the guaranteed minimum death benefit) under the Policy by an amount equal to the amount of the partial withdrawal multiplied by the ratio of the initial specified amount to the initial premium.

16. The Companies do not deduct any charges from premiums before allocating the premiums to the subaccounts of the Separate Accounts and the fixed account options according to the Policy owner's instructions.

17. On each valuation date, the Companies deduct a daily charge at the annual rate of 0.50% from the assets in the subaccounts as part of the calculation of the unit value for each subaccount.

18. The Companies make a monthly deduction from the Policy's cash value

on the Policy's effective date and on each monthiversary (the same day of each succeeding month as the Policy's effective date, or, if there is not comparable valuation date, the next valuation date). The Companies make the deduction from each subaccount and the fixed account options in accordance with the current allocation instructions. If the value of any account is insufficient to pay that account's portion of the monthly deduction, the Companies will take the monthly deduction on a pro-rata basis from all accounts (that is, in the same proportion that the value in each subaccount and the fixed accounts bears to the total cash value on the monthiversary).

19. The monthly deduction is equal to: (1) the monthly Policy charge based each Separate Account's assets; plus (2) the monthly Policy charge based on each fixed account's assets; plus (3) the monthly cost of insurance charge for a Policy, if any; plus (4) the monthly charge for any benefits provided by riders attached to the Policy.

20. The monthly Policy charge for each Policy varies based on the Policy year, gender, and whether the Policy is issued on a single life basis or a joint and last survivor basis.

21. The monthly Policy charge, based on each Separate Account's assets is equal to: (1) The separate account monthly deduction charge (see table below) divided by 12; multiplied by (2) the sum of the subaccount values on the monthiversary.

22. The monthly Policy charge, based on each fixed account's assets is equal to: (1) The fixed account monthly deduction charge (see tables below) divided by 12; multiplied by (2) the fixed account value on the monthiversary, minus any outstanding Policy loan(s).

Single life policy	Single life policy	Male/unisex		Female	
		Policy years 1–10 (percent)	Policy years 11+ (percent)	Policy years 1–10 (percent)	Policy years 11+ (percent)
Separate account charges (annualized rate).	Monthly deduction charge (as a % of separate account assets).	2.00	1.00	1.85	.85
Fixed account charges (annualized rate)	Monthly deduction charge (as a % of fixed account assets).	2.00	1.00	1.85	.85

Joint & survivor life policy	Joint & survivor life policy	Policy years 1–10 (percent)	Policy years 11+ (percent)
Separate account charges (annualized rate)	Monthly deduction charge (as a % of separate account assets).	1.50	.50
Fixed account charges (annualized rate)	Monthly deduction charge (as a % of fixed account assets).	1.50	.50

23. The Companies reserve the right to assess a monthly cost of insurance charge to compensate them for underwriting the death benefit. The charge would depend on a number of variables (age, sex, risk class, number of years the Policy has been in force) that would cause it to vary from Policy to Policy and from monthiversary to monthiversary. If applicable, the Companies would calculate the cost of insurance each month for the specified amount at issue. The amount of this charge may not exceed the death benefit minus the cash value, and the difference multiplied by the appropriate monthly cost of insurance rate. The Companies do not currently assess this charge. If the Companies begin to assess this charge, the Companies will waive surrender charges upon any surrender of the Policy.

24. The monthly deduction also will include a charge for any supplemental benefits added to a Policy by rider.

25. The Companies currently assess a $10 fee for the 13th and each additional transfer during a Policy Year. The transfer charge is deducted from the amount transferred.

26. The value of the net assets of each subaccount will reflect the investment advisory fees and other expenses incurred by the corresponding portfolio in which the subaccount invests.

27. If the owner selects the guaranteed minimum death benefit rider at application, on each monthiversary the Companies will deduct 0.02% of the cash value in the Policy.

28. If an owner surrenders his Policy during the first 9 Policy years, the Companies will deduct a surrender charge from the cash value and pay the remaining cash value to the owner. The payment the owner receives is the net surrender value. The Companies reduce the surrender charge at older ages in compliance with state laws. The Companies calculate the surrender charge as a percentage of premium(s) paid based on the following schedule:

Policy year	Contingent surrender charge (as a percentage of initial premium)
1	9.75
2	9.50
3	9.25
4	9
5	8
6	7
7	6
8	4
9	2
10	0

Applicants' Legal Analysis

Definition of "Variable Life Insurance Contract"

1. Rule 6c–3 grants exemptions from those provisions of the Act (except for Sections 7 and 8(a)) that are specified in paragraph (b) of Rule 6e–2 to certain separate accounts of life insurance companies that support variable life insurance policies. Specifically, the exemptions provided by Rule 6c–3 are available only to separate accounts registered under the Act whose assets are derived solely from the sale of "variable life insurance contracts" that meet the definition set forth in Rule 6e–2(c)(1), and from certain advances made by the insurer. Rule 6e–2(c)(1) defines the term "variable life insurance contract" to include only life insurance policies that provide a death benefit and a cash surrender value, both of which vary to reflect the investment

experience of the separate account, and that guarantee that the death benefit will not be less than an initial dollar amount stated in the policy. As discussed above, the Policies' death benefit provides that the beneficiary will receive the greater of (1) the specified amount, or (2) the cash value multiplied by the appropriate limitation percentage. Thus, Applicants submit that the death benefit will not necessarily vary to reflect the investment experience of the Separate Account(s). Applicants request relief from the definition of "variable life insurance contracts" set forth in Rule 6e–2(c)(1) because Applicants must rely on certain exemptive provisions in Rule 6e–2(b), as described below, in connection with the issuance and sale of the Policies.

2. Applicants state that they must avail themselves of certain relief provided by Rule 6e–2(b), as set forth below, in order to issue, sell, and maintain the Policies.[1] Applicants request relief to the extent necessary to permit reliance on the exemptions provided in each of the provisions of paragraph (b) of Rule 6e–2 that are set forth below, in connection with the issuance and sale of the Policies.

(a) Paragraph (b)(3)—Applicants request relief to permit the Separate Accounts to rely on paragraph (b)(3)(ii) of Rule 6e–2 in order to effect compliance with Section 8(b) of the Act (regarding the filing of a registration statement with the Commission).

(b) Paragraph (b)(4)—Applicants request relief to permit Applicants to apply the eligibility restrictions of Section 9 of the Act in the fashion contemplated by paragraph (b)4).

(c) Paragraph (b)(5)—Applicants request relief to permit Applicants to rely on the exemptions provided from Section 13(a) of the Act relating to insurance regulatory authority imposing certain requirements on the investment policies of the Separate Accounts; and disapproval by the Companies of changes in the Separate Accounts' investment policies initiated by Policy owners under circumstances contemplated by and in accordance with the requirements of paragraph (b)(5); and to rely on the relief provided by (b)(15) of Rule 6e–2 (see below), which in turn refers to the conditions of paragraph (b)(5).

(d) Paragraph (b)(6)—Applicants request relief to permit Applicants to rely on the relief provided by paragraph (b)(15) of Rule 6e–2 (see below), which in turn refers to the conditions of paragraph (b)(6).

(e) Paragraph (b)(7)—Applicants request relief to permit Applicants to rely on the exemptions provided from Section 15(a), (b) and (c) relating to an insurance regulatory authority disapproving advisory or underwriting contracts; disapproval by the Companies of changes in any principal underwriter for the Separate Accounts initiated by Policy owners; and disapproval by the Companies of changes in any investment adviser to the Separate Accounts initiated by Policy owners under circumstances contemplated by and in accordance with the requirements of paragraph (b)(7); and to rely on the relief provided by paragraph (b)(15) of Rule 6e–2 (see below), which in turn refers to the conditions of paragraph (b)(7).

(f) Paragraph (b)(8)—Applicants request relief to permit Applicants to rely on the exemptions provided from Section 16(a) relating to an insurance regulatory authority disapproving or removing a member of the board of directors of a separate account under circumstances contemplated by and in accordance with the requirements of paragraph (b)(8); and to rely on the relief provided by paragraph (b)(15) of Rule 6e–2, which in turn refers to the conditions of paragraph (b)(8).

(g) Paragraph (b)(9)—Applicants request relief to permit Applicants to reply on the exemptions provided from Section 17(f) in order to maintain separate account assets in the custody of the Companies or an affiliate thereof, in accordance with the requirements of paragraph (b)(9).

(h) Paragraph (b)(10)—Applicants request relief to permit Applicants to reply on the exemptions provided from Section 18(i) in order to provide for variable contract owner voting as contemplated by and in accordance with the requirements of paragraph (b)(10).

(i) Paragraph (b)(12)—Applicants request relief to permit Applicants to rely on the exemptions provided from Section 22(d), 22(e) and Rule 22c–1 in connection with issuance, transfer and redemption procedures for the Policies, including premium processing, premium rate structure, underwriting standards, and the benefit provided by the Policies, as contemplated by and in accordance with the requirements of paragraph (b)(12).

(j) Paragraph (b)(14)—Applicants request relief to permit Applicants to rely on the relief provided by paragraph (b)(15) of Rule 6e–2 (see below), which in turn refers to the conditions of paragraph (b)(14).

(k) Paragraph (b)(15)—Applicants request relief to permit Applicants to rely on the exemptions provided from Section 9(a), and to facilitate the voting by the Companies of shares of management investment companies held by the Separate Accounts in disregard of Policy owner instructions under the circumstances contemplated by, and in accordance with the requirements of, paragraph (b)(15). Relief is also requested to permit Applicants to rely on he exemptions provided from Sections 14(a), 15(a), 16(a), and 32(a)(2) in connection with any registered management investment company established by the Companies in the future in connection with the Policies, in accordance with the requirements of paragraph (b)(15), and paragraphs (b)(5), (b)(7), (b)(8), and (b)(14) of Rule 6e–2.

3. Applicants submit that the death benefit under the Policies may vary to reflect investment experience within the meaning of Rule 6e–2(c)(1)(i). Applicants state, however, the structure of the death benefit may not precisely meet with the definitional requirements of Rule 6e–2(c)(1) since the death benefit will vary with investment experience only when the cash value is sufficiently large that, in order to qualify a Policy as life insurance for Federal income tax purposes, the death benefit must be increased. Applicants state that this may happen, for example, because of very favorable investment experience, the payment of additional premiums, or both. Under ordinary circumstances, it is likely that the death benefit will not change for several years as a result of any favorable investment experience. Therefore, Applicants request relief to the extent necessary to permit reliance on the definition of "variable life insurance contract" in Rule 6e–2(c)(1), and on the exemptions provided in each of the provisions of paragraph (b) of Rule 6e–2 that are set forth above, under the same terms and conditions applicable to a separate account that satisfies the conditions set forth in Rule 6e–2(a), to the extent necessary to permit the offer and sale of the policies in reliance on Rule 6e–2.

4. Applicants further submit that the considerations that led the Commission to adopt Rules 6c–3 and 6e–2 apply equally to the Separate Accounts and the Policies, and that the exemptions provided by these rules should be granted to the Separate Accounts and to the other Applicants on the terms specified in those rules, except to the

[1] Applicants state that certain of the relief requested may not currently be necessary in light of the structure of each of the Separate Accounts as a "unit investment trust," but would become necessary if either of the Separate Accounts were restructured as an open-end management company in the future. The Policies permit such a restructuring.

extent that further exemption from those terms is specifically requested herein.

Redeemability

5. Section 27(i)(2)(A) provides that no registered separate account funding variable insurance contracts or its sponsoring insurance company shall sell such a contract unless it is a "redeemable security." Section 2(a)(32) defines a "redeemable security" as any security (other than short-term paper) entitling its holder to receive "approximately his proportionate share of the issuer's current net assets" (or the cash equivalent thereof) upon presentation to the issuer. Applicants request relief from the requirement in Section 27(i)(2)(A) that the Policy be a "redeemable security," and from the definition of "redeemable security" set forth in Section 2(a)(32), in connection with the issuance and sale of the Policies and the surrender charge applicable to the Policies.

6. Rule 22c–1 promulgated under Section 22(c) of the Act requires that a security be redeemed at a price based on the current net asset value of the security next computed after receipt of request for surrender. If the conditions of Rule 6e–2(b)(12) are satisfied, paragraph (b)(12) provides certain exemptions from Rule 22c–1. However, a surrender charge such as the one provided under the Policies may not be contemplated by Rule 6e–2(b)(12), and thus may be deemed inconsistent with the foregoing provisions, to the extent that the charge can be viewed as causing a Policy to be redeemed at a price based on less than the current net asset value that is next computed after surrender of the Policy. Accordingly, Applicants request relief from Rule 22c–1 and Rule 6e–2(b)(12) to the extent necessary to permit the deduction of the surrender charge on surrender of a Policy.

7. Although Section 2(a)(32) does not specifically contemplate the imposition of a charge at the time of redemption, Applicants state that such charges are not necessarily inconsistent with the definition of "redeemable security."

8. Applicants submit that each of the Policies will be a "redeemable security." Each Policy provides for full surrender of the Policy for its net surrender value. The prospectuses for the Policies will disclose the nature of the surrender charge. Accordingly, Applicants state that there will be no restriction on, or impediment to, surrender that should cause a Policy to be considered other than a redeemable security within the meaning of the Act and rules thereunder. Upon surrender, a Policy owner will receive his or her "proportionate share" of the assets of the appropriate Separate Account, *i.e.*, the amount of premiums paid, reduced by the amount of all charges and loans, and increased or decreased by the amount of investment performance credited to the Policy.

9. Applicants, consistent with their current procedures, will determine the net surrender value under a Policy in accordance with the requirements of Rules 6e–2(b)(12) and 22c–1 and on a basis next computed after receipt of a Policy owner's request for surrender the of the Policy.

10. Applicants also state that the charge structure has been accepted as an appropriate feature of life insurance products under Rule 6e–3(T), as well as pursuant to exemptive relief granted by the Commission.

11. Therefore, Applicants respectfully submit that the surrender charge is consistent with the principles and policies underlying the limitations in Sections 2(a)(32) and 27(i)(2)(A) of the Act and Rules 6e–2(b)(12) and 22c–1 thereunder.

Class Exemption for Future Underwriters

12. Applicants also seek the relief herein with respect to Future Underwriters, a class consisting of NASD member broker-dealers which may, in the future, act as principal underwriter of the Policies.

13. Applicants represent that the terms of the relief requested with respect to any Future Underwriters are consistent with the standards set forth in Section 6(c) of the Act. Further, Applicants state that, without the requested class relief, exemptive relief any Future Underwriter would have to be requested and obtained separately. Applicants assert that such additional requests for exemptive relief would present no issues under the Act not already addressed herein. Applicants state that if Applicants were to repeatedly seek exemptive relief with respect to the same issues addressed in their application, investors would not receive additional protection or benefit, and investors and Applicants could be disadvantaged by increased costs from preparing additional requests for relief. Applicants argue that the requested class relief will promote competitiveness in the variable life insurance market by eliminating the need for the Companies to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Applicants submit, for all the reasons stated herein, that their request for class exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that an order of the Commission including such class relief, should, therefore, be granted.

Conclusion

Applicants submit, for all of the reasons stated therein, that their request for exemptions are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7089 Filed 3–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23740; File No. 812–11378]

Protective Life Insurance Co., et al.

March 16, 1999.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under Section 26(b) of the Investment Company Act of 1940 ("Act") approving the proposed substitution of securities.

SUMMARY OF APPLICATION: Applicants seek an order approving the substitution of shares of Oppenheimer Variable Account Funds ("Oppenheimer Variable Funds") representing interests in its Oppenheimer Money Fund for shares of Protective Investment Company ("PIC") representing interests in its Money Market Fund and held by the Life Account, Annuity Account, and Account A (together, the "Accounts") to support variable life insurance contracts or variable annuity contracts (collectively, the "Contracts") issued by Protective Life or American Foundation.

APPLICANTS: Protective Life Insurance Company ("Protective Life"), American Foundation Life Insurance Company ("American Foundation"), Protective Variable Life Separate Account ("Life Account"), Protective Variable Annuity Separate Account ("Annuity Account"), and Variable Annuity Account A of American Foundation ("Account A").

FILING DATE: The application was filed October 28, 1998 and amended and restated on February 9, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1999, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Steve M. Callaway, Esq., Protective Life Insurance Company, 2801 Highway 280 South, Birmingham, AL 35223. Copies to Stephen E. Roth, Esq. and David S. Goldstein, Esq. Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW., Washington, DC 20004–2415.

FOR FURTHER INFORMATION CONTACT: Elisa D. Metzger, Senior Counsel, and/or Susan M. Olson, Branch Chief, on (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, NW., Washington, DC 20549 or call (202) 942–8090.

Applicants' Representations

1. Protective Life is a stock life insurance company organized under Alabama law in 1907 and redomesticated under Tennessee law in 1992. Protective Life provides individual life and health insurance, annuities, group life and health insurance, and guaranteed investment contracts, and is licensed to transact insurance business in 49 states and the District of Columbia. As of December 31, 1997, Protective Life had total assets of approximately $10.4 billion. Protective Life is the principal operating subsidiary of Protective Life Corporation ("PLC"), a Delaware insurance holding company whose stock is traded on the New York Stock Exchange. For the purposes of the Act, Applicants state that Protective Life is the depositor and sponsor of the Life Account and Annuity Account.

2. American Foundation, an Alabama insurance company, is a wholly owned subsidiary of Protective Life. American Foundation provides individual life, annuity, and group dental insurance products, and is licensed to transact insurance business in 30 states, including New York. As of December 31, 1997, the company had assets in excess of $100 million. For the purposes of the Act, Applicants state that American Foundation is the depositor and sponsor of Account A.

3. Protective Life established the Life Account on February 22, 1995, and the Annuity Account on October 23, 1993, as separate investment accounts under Tennessee law. American Foundation established the Account A on December 1, 1997, as a separate investment account under Alabama law. Under both Tennessee and Alabama laws, the assets of each Account attributable to the Contracts through which interests in that Account are issued are owned by either Protective Life or American Foundation as appropriate, but are held separately from all other assets of Protective Life or American Foundation Life, for the benefit of the owners of, and the persons entitled to payment under, those contracts. Consequently, such assets in each Account are not chargeable with liabilities arising out of any other business that Protective Life or American Foundation may conduct. Income, gains and losses, realized or unrealized, from each of these Account's assets are credited to or charged against the amounts allocated to that Account in accordance with the Contracts without regard to other income, gains or losses of Protective Life or American Foundation. Each Account is a "separate account" as defined by Rule 0–1(e) under the Act, and is registered with the Commission as an unit investment trust.

4. The Life Account, Annuity Account, and Account A each are divided into seventeen sub-accounts. Each sub-account invests exclusively in shares representing an interest in a separate corresponding investment portfolio (each, a "Fund") of one of four series type management investment companies. The assets of the Life Account support variable life insurance contracts and the assets of the Annuity Account and the Account A support variable annuity contracts. Interests in these Accounts offered through such Contracts have been registered under the Securities Act of 1933 (the "1933 Act") on Form S–6 (Life Account) and on Form N–4 (Annuity Account and Account A). The Life Account, Annuity Account, and Account A each invest in the Protective Money Market Fund of PIC that is involved in the substitution discussed in this application.

5. PIC was organized as a Maryland corporation on September 2, 1993, to serve as an investment vehicle for Protective Life's and American Foundation Life's variable life and variable annuity separate accounts. PIC is registered under the Act as an open-end management investment company, and is a series investment company as defined by Rule 18f–2 under the Act. PIC issues a separate series of shares of stock in connection with each Fund, and has registered such shares under the 1933 Act on Form N–1A. Protective Investment Advisors, Inc. ("Protective Investment Advisor"), formerly Investment Distributors Advisory Services, Inc., a wholly owned subsidiary of PLC, serves as the investment manager to PIC. PIC currently comprises seven Funds, one of which is the Protective Money Market Fund and is the subject of the proposed substitution.

6. Oppenheimer Variable Funds was organized in 1984 as a Massachusetts business trust, and is registered under the Act as a diversified, open-end management investment company. Oppenheimer Variable Funds is a series investment company as defined by Rule 18f–2 under the Act, and issues a separate series of shares of beneficial interest in connection with each Fund. Oppenheimer Variable Funds has registered shares of such Funds under the 1933 Act on Form N–1A. Oppenheimer Funds, Inc., serves as the investment manager to Oppenheimer Variable Funds. Oppenheimer Variable Funds currently comprises ten Funds, one of which, the Oppenheimer Money Fund, is the subject of the proposed substitution.

7. The Contracts are individual flexible premium variable and fixed life insurance contracts, individual modified single premium variable and fixed life insurance contracts, and individual flexible premium deferred variable and fixed annuity contracts. Protective Life issues three variable life insurance contracts and one variable annuity contract. American Foundation issues one variable annuity contract. The Contracts provide for the accumulation of values on a variable basis, fixed basis or both, and provide settlement or annuity payment options on a fixed basis. Protective Life's variable annuity contract also provides for variable annuity payment options. Protective Life or American Foundation, under each of the Contracts, reserves the right to substitute shares of one Fund for shares of another, including a Fund of

a different management investment company.

8. Under all of the Contracts, subject to certain conditions, Contract owners may make unlimited free transfers (in minimum amounts of $100 or the entire value of the subaccount or fixed account being transferred) between and among the subaccounts of the appropriate Account and a fixed account that is part of Protective Life's or American Foundation's general account. Protective Life and American Foundation, however, under each of the Contracts, reserve the right to limit transfers to 12 per contract year and to charge a transfer fee of $25 for each transfer after the twelfth in a contract year. Applicants also serve the right to restrict the maximum amount which may be transferred from the fixed account in any contract year to the greater of (i) $2500, or (ii) 25% of the fixed account value.

9. Protective Investment Advisors has recommended to Protective Life and American Foundation that it cease operating Protective Money Market Fund. Since its inception, Protective Money Market Fund has been relatively small for several reasons, including the fact that it is only offered in Protective Life or American Foundation products and that Contracts owners generally do not allocate contract value to the Fund on a long-term basis. As a result, Protective Money Market Fund has been unable to generate a sufficient level of assets to achieve any significant economics of scale, and has not been able to achieve above-average performance results or otherwise distinguish itself from other money market funds. Likewise, the small size of the Fund results in little income being generated from management fees. Conversely, due to the requirements of Rule 2a–7 under the Act, management of the Fund is time consuming and difficult for either Protective Investment Advisors or the subadviser retained by Protective Investment Advisors to manage the day-to-day operations of the Fund. In light of the fact that a number of unaffiliated mutual fund organizations have large and successful insurance product money market funds in which the Accounts could invest, the foregoing factors have led Protective Life and American Foundation to conclude that there is little reason for Protective Investment Advisors to maintain an affiliated money market fund for them. Consequently, after consulting with the PIC's board of directors, Protective Investment Advisors, Protective Life and American Foundation have determined to liquidate Protective Money Market Fund via a substitution.

10. Protective Money Market Fund and Oppenheimer Money Fund have identical investment objectives and achieve these objectives by investing in "money market" securities. Both Funds seek to maintain a constant net asset value per share of $1.00. Applicants believe that by making the proposed substitution, they can better serve the interests of Contract owners by offering them a Fund which in recent years has had lower expenses and better performance than Protective Money Market Fund.

11. The assets of Oppenheimer Money Fund have been significantly greater than the assets of Protective Money Market Fund for each of the past three years. For the years 1997, 1996, and 1995, the net assets of the Oppenheimer Money Fund [1] were $126,782,000; $129,719,000; and $65,386,000, respectively. For the years 1997, 1996, and 1995, the net assets of the Protective Money Market Fund [2] were $3,622,000; $6,121,000; and $5,070,000, respectively. As a result of its size. Oppenheimer Money Fund has been able to achieve economies of scale that Protective Money Market could not attain. These economies of scale are reflected in Oppenheimer Money Fund's ratio of total operating expenses to net asset value. Oppenheimer Money Fund's expenses have ranged from one half to one third of those of the Protective Money Market Fund over the past three years.

RATIO OF OPERATING EXPENSES TO AVERAGE NET ASSETS

	1197 (percent)	1996 (percent)	1995 (percent)
Protective Money Market Fund (before reimbursement)	1.42	1.27	1.17
Protective Money Market Fund (after reimbursement)	.60	.60	.60
Oppenheimer Money Fund	.48	.49	.51

12. Applicants believe that Oppenheimer Money Fund will continues to have significantly greater assets than Protective Money Market Fund, and have no reason to believe, given the limited distribution of Protective Money Market Fund's shares and the relatively short-term nature of contract owners' investment in the Fund, that Protective Money Market Fund will match the low expense ratios of Oppenheimer Money Fund in the near future. Likewise, for each of the past three years, Oppenheimer Money Fund has had somewhat higher total returns than Protective Money Market Fund.

	Annual total return		
	1997 (percent)	1996 (percent)	1995 (percent)
Protective Money Market Fund	4.96	4.82	5.32
Oppenheimer Money Fund	5.31	5.13	5.62

[1] Oppenheimer Money Fund pays a monthly investment management fee based upon the average daily net assets of the Fund at an annual rate of .450% of the first $500 million, .425% of the next $500 million, .400% of the next $500 million, and .375% of the average net assets over $1.5 billion.

[2] Protective Money Market Fund pays a monthly investment management fee based upon the average daily net assets of the Fund at an annual rate of .60%. Protective Life or Protective Investment Advisors has voluntarily reimbursed the Fund for expenses in excess of its management fee over each of the last three fiscal years.

Applicants have no reason to believe that, in the near term, the performance of Protective Money Market Fund will match or exceed that of Oppenheimer Money Fund.

13. For the foregoing reasons, Applicants submit that the proposed substitution of Oppenheimer Money Fund for shares of Protective Money Market Fund is in the best interests of Contract owners.

14. Protective Life and American Foundation will redeem Protective Money Market Fund shares for cash and apply the redemption proceeds to the purchase of Oppenheimer Money Fund shares. The proposed substitution will take place at relative net asset value with no change in the amount of any Contract owner's contract or policy value, death benefit, or in the dollar value of his or her investment in any of the Accounts. As a result, Contract owners will remain fully invested. Contract owners will not incur any fees or charges as a result of the proposed substitution, nor will their rights nor Protective Life's or American Foundation's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitution, including legal, accounting, and other fees and expenses, will be paid by Protective Life or American Foundation. In addition, the proposed substitution will not impose any tax liability on Contract owners. The proposed substitution will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitution than before the proposed substitution. The proposed substitution will not, of course, be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract year. Protective Life and American Foundation will not exercise their rights under the Contracts to impose additional restrictions on transfers from the affected subaccount to another subaccount or a fixed account for a period of at least 30 days following the substitution.

15. Applicants state that by supplements to the various prospectuses for the Contracts and the Accounts, all owners of the Contracts have been notified of Protective Life's and American Foundation's intention to take the necessary actions, including seeking the order requested by this application, to substitute shares of Protective Money Market Fund as described herein. The supplements for the Accounts advise Contract owners that from the date of the supplement until the date of the proposed substitution, owners are permitted to make one transfer of all amounts under a Contract invested in the affected subaccount on the date of the supplement to another subaccount or a fixed account available under a Contract without that transfer counting as a "free" transfer permitted under a Contract. The supplements also inform Contract owners that Protective Life and American Foundation will not exercise their rights reserved under the Contracts to impose additional restrictions on transfers from the affected subaccount to another subaccount or a fixed account until at least 30 days after the proposed substitution.

16. In addition to the prospectus supplements distributed to owners of Contracts, within five days after the proposed substitution, any Contract owners who were affected by the substitution will be sent a written notice informing them that the substitution was carried out and that they may make one transfer of all amounts under a Contract invested in the affected subaccount on the date of the notice to another sub-account or a fixed account available under their Contract without that transfer counting as one of any limited number of transfers permitted in a Contract year or as one of a limited number of transfers permitted in a Contract year free of charge. The notice will also reiterate the fact that Protective Life and American Foundation will not exercise any rights reserved by either under any of the Contracts to impose additional restrictions on transfers from the affected subaccount to another subaccount or a fixed account until at least 30 days after the proposed substitution. The notice as delivered in certain states also may explain that, under the insurance regulations in those states, Contract owners who are affected by the substitution may exchange their Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by Protective Life or American Foundation (or one of their affiliates) during the 60 days following the proposed substitution. The notices will be preceded or accompanied by a current prospectus for Oppenheimer Variable Funds.

17. Protective Life and American Foundation also are seeking approval of the proposed substitution from any state insurance regulators whose approval may be necessary or appropriate.

Applicants' Legal Analysis

1. Applicants request an order from the Commission pursuant to Section 26(b) approving the proposed substitution of securities issued by Oppenheimer Variable Funds for those issued by PIC which are currently held by the Accounts.

2. Section 26(b) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive Commission approval before substituting the securities held by the trust.

3. The Contracts expressly reserve for Protective Life or American Foundation the right, subject to compliance with applicable law, to substitute shares of another investment management company for shares of an investment management company held by an Account or a subaccount of an Account. The prospectuses for the Contracts and the Accounts contain appropriate disclosure of this right. Protective Life and American Foundation each reserved this right of substitution both to protect themselves and their Contract owners in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of their separate accounts and to afford the opportunity to replace such shares where to do so could benefit itself and Contract owners.

4. Applicants state that in this case the proposed substitution of shares is necessary because Protective Money Market Fund will no longer be offered. Further, Applicants submit that the proposed substitution of shares of Oppenheimer Money Fund for shares of Protective Money Market Fund, will benefit Contract owners by replacing Protective Money Market Fund with a Fund that not only has identical investment objectives but which also has lower expenses and better performance.

5. Applicants anticipate that Contract owners will be at least as well off with the proposed array of subaccounts offered after the proposed substitution as they have been with the array of subaccounts offered prior to the substitution. Applicants state that the proposed substitution retains for Contract owners the investment flexibility which is a central feature of the Contracts.

6. Applicants state that the proposed substitution is not the type of substitution which Section 26(b) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer account values into other sub-accounts. Moreover, Applicants state that the Contracts will offer Contract owners the opportunity to transfer

amounts out of the affected subaccount into any of the remaining sub-accounts without cost or other disadvantage. Therefore, Applicants submit that the proposed substitution will not result in the type of costly forced redemption which Section 26(b) was designed to prevent

7. Applicants state that the proposed substitution also is unlike the type of substitution which Section 26(b) was designed to prevent in that by purchasing a Contract, Contract owners select much more than a particular investment company in which to invest their contract or policy values. They also select the specific type of insurance coverage offered by Protective Life or American Foundation under their Contract as well as numerous other rights and privileges set forth in the Contract. Contract owners may also have considered Protective Life's or American Foundation's size, financial condition, type and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed substitution.

8. Applicants request an order of the Commission pursuant to Section 26(b) of the Act approving the proposed substitution by Protective Life and American Foundation.

Conclusion

Applicants submit that, for all the reasons and facts summarized herein, the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6971 Filed 3–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41167; File No. SR–CHX–99–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Establishment of Net Capital Requirements for Specialists

March 12, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Rule 3 of Article XI, and add interpretation and policy .01 thereunder, to increase the minimum net capital requirements for CHX. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Article XI—Financial Responsibility and Reporting Requirements

Rule 3. Net Capital and Aggregate Indebtedness.

(a)(1) *Except as otherwise provided below,* [A] *a* member or member organization shall at all times—

(i) maintain net capital not less than that prescribed by SEC 15c3–1 (17 CFR 240.15c3–1) and

(ii) maintain subordinated cash borrowings and secured demand notes equal to or greater than 50% of its total subordinated borrowings to the extent that these subordinated borrowings are part of the debt equity total.

(2) A member or member organization that is registered as a specialist on the Exchange whose specialist transactions are effected through and carried in a specialist account cleared by another broker or dealer shall at all times—

(i) maintain, at a minimum, net capital that is the greater of (a) $100,000, or (b) the amount prescribed by SEC 15c3–1 (17 CFR 240.15c3–1), and

(ii) maintain subordinated cash borrowings and secured demand notes equal to or greater than 50% of its total subordinated borrowings to the extent that these subordinated borrowings are part of the debt equity total.

(3) A member or member organization that is registered as a specialist on the Exchange in less than 200 securities and that clears its own specialist account(s) shall at all times—

(i) maintain, at a minimum, net capital that is the greater of (a) $250,000, subject to the phase-in period set forth in Interpretation and Policy, .01, below, or (b) the amount prescribed by SEC 15c3–1 (17 CFR 240.15c3–1) and,

(ii) maintain subordinated cash borrowings and secured demand notes equal to or greater than 50% of its total subordinated borrowings to the extent that these subordinated borrowings are part of the debt equity total.

(4) A member or member organization that is registered as a specialist on the Exchange in 200 or more securities and that clears its own specialist account(s) shall at all times—

(i) maintain, at a minimum, net capital that is the greater of (a) $350,000, subject to the phase-in period set forth in Interpretation and Policy .01, below, or (b) the amount prescribed by SEC 15c3–1 (17 CFR 240.15c3–1), and

(ii) maintain subordinated cash borrowings and secured demand notes equal to or greater than 50% of its total subordinated borrowings to the extent that these subordinated borrowings are part of the debt equity total.

(5) A member or member organization that clears the specialist accounts of another member or member organization registered as a specialist on the Exchange shall, at all times—

(i) maintain, at a minimum, net capital that is the greater of (a) $500,000, subject to the phase-in period set forth in Interpretation and Policy, .01, below, or (b) the amount prescribed by SEC 15c3–1 (17 CFR 240.15c3–1), and

(ii) maintain subordinated cash borrowings and secured demand notes equal to or greater than 50% of its total subordinated borrowings to the extent that these subordinated borrowings are part of the debt equity total.

[(2)]*(6)* A member or member organization shall promptly notify the Exchange if it ceases to be in compliance with the requirements of clauses (1), *(2), (3), (4) or (5) (which ever is applicable)* of this paragraph (a) or if it becomes obligated to file monthly reports under paragraph (b) of this Rule. A member or member organization shall also promptly notify the Exchange of any material unsecured or partly secured loan, drawing in excess of share of profits, or other obligation owed to the member or member organization by (i) any person, including a subordinated lender, having a capital interest in the member or member organization, (ii) any partner, officer, director or employee of the member or member organization, or (iii) any corporation, firm or entity in which any partner, officer, director or employee of the member or member organization holds office or has a material financial interest. Such notification may show such obligations owed to the member or member organization by category

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

without personal identification, except that personal identification shall be made in respect to any person having such obligations equal to five percent or more of the member or member organization's debt equity total.

[(3)]*(7)* The Exchange may at any time or from time to time with respect to a particular member or member organization or all members or member organizations or a new member or member organization prescribe greater net capital or net worth requirements than those prescribed under this Rule including more stringent treatment of items in computing net capital or net worth.

Monthly Financial Statements

(a) No exchange in text.

Responsibility of Computations of Net Capital Requirements

(b) No change in text.

Restrictions on Operations

(c) No change in text.

Interpretations and Policies

.01 Phase-in Periods for Minimum Capital Standards for Self-Clearing Specialists and Firms Clearing Specialist Accounts.

On [insert initial effective date], the Exchange adopted separate minimum net capital standards for self-clearing specialists and firms clearing other specialist accounts, as specified in subsections (a)(3), (a)(4) and (a)(5) above. These minimum capital standards are to be phased in over a 12 month period.

Registered as Specialist in Less Than 200 Securities; $250,000 Standard.

The amount specified in Rule 3(a)(3)(i)(a) above shall be: $150,000 effective on [insert initial effective date]; $200,000 effective on [insert date six months from initial effective date]; and $250,000 effective on [insert date twelve months from initial effective date].

Registered as Specialist in 200 or More Securities; $350,000 Standard.

The amount specified in Rule 3(a)(4)(i)(a) above shall be: $200,000 effective on [insert initial effective date]; $275,000 effective on [insert date six months from initial effective date]; and $350,000 effective on [insert date twelve months from initial effective date].

Firms Clearing Other Specialists Accounts; $500,000 Standard.

The amount specified in Rule 3(a)(5)(i)(a) above shall be: $350,000 effective on [insert initial effective date]; $425,000 effective on [insert date six months from initial effective date]; and $500,000 effective on [insert date twelve months from initial effective date]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Speciaists play a very unique role in an auction market. They are responsible to investors, other members, and the Exchange to efficiently and accurately effect transactions in the securities in which they are registered. While specialists often act as agents, they are also required to act as principal at times to ensure that no imbalance between supply and demand in the market occurs. They must also make continuous two-sided quotations in the securities in which they are registered. As such, it is important that specialists are financially stable to fulfill their duties while withstanding regular market fluctuations.

The purpose of the proposed rule change is to establish increased net capital requirements for CHX specialists over and above those currently contained in the SEC's Rule 15c3–1 ("Net Capital Rule").[3]

Non-Clearing Specialists

Pursuant to the proposed rule change, non-clearing specialists will be required to maintain at a minimum the greater of (i) net capital in the amount of $100,000, or (ii) the amount prescribed by the Net Capital Rule. Current rules only require specialist adherence to the amount set forth in the Capital Rule which is $100,000 at this time. Specialists will also have to continue to comply with the Exchange requirement that subordinated cash borrowing and secured demand notes equal or exceed 50% of their total subordinated borrowing (to the extent that the borrowings are part of their debt equity total).

Specialists will continue to be subject to the provisions of CHX Rule 3 including filing monthly financial statements (in certain circumstances), submitting to regular annual field examinations, and timely and accurately computing their net worth. These provisions must be satisfied using the additional capital requirements imposed herein. For example, CHX Rule 3(b)(1)(i) requires a member organization to file a monthly financial statement for a period of three months if such member organization fails to maintain net capital of at least 120% of the new Exchange minimum requirements.

Self-Clearing Specialists

The proposing rule change will also require members and member organizations registered as specialists that are self-clearing to comply with additional net capital requirements prescribed by the Exchange, depending on whether they are registered as a specialist in less than 200 securities or 200 or more securities. Specifically, such members and member organizations registered as specialists in less than 200 securities will be required to maintain at a minimum the greater of (i) net capital in the amount of $250,000. or (ii) the amount prescribed by SEC Rule 15c3–1.[4] Such members and member organizations registered as specialists in 200 or more securities will be required to maintain at a minimum the greater of (i) net capital in the amount of $350.000, or (ii) the amount prescribed by SEC Rule 15c3–1.[5]

Members That Clear the Accounts of Other CHX Specialists

Finally, the proposed rule change will require members and member organizations that wish to carry the accounts of CHX specialists to comply with additional net capital requirements prescribed by the Exchange. Specifically, such members and member organizations will be required to maintain at a minimum the greater of (i) net capital in the account of $500,000, or (ii) the amount prescribed by SEC 15c3–1 (17 CFR 240.15c3–1). This requirement also applies to CHX specialists that are "self-clearing" and that also clear the accounts of other CHX specialists.

Phase-in Periods

The increases to the net capital standards set forth above will be phased-in in three stages over a twelve

[3] 17 CFR 240.15c3–1.

[4] 17 CFR 240.15c3–1.

[5] 17 CFR 240.15c3–1.

month period. The actual phase-in will be set forth in a Notice to Members to be issued within 30 days of the SEC order approving this proposed rule change. The initial phase-in date will be no loner than 60 days from the date of such Notice. The second and third phase-in dates will be six months and twelve months from the initial phase-in date.

The amounts of the phase-in will be as follows:

- For non-clearing specialists, the $100,000 standard will apply as of the initial phase-in date.
- For self-clearing specialist registered in less than 200 securities, the CHX net capital standard for the initial, second and third phase dates will be $150,000, $200,000, and $250,000 respectively.
- For self-clearing specialists registered in 200 or more securities, the CHX net capital standard for the initial, second and third phase dates will be $200,000, $275,000 and $350,000 respectively.
- For members that clear for other specialists, the CHX net capital standard for the initial, second and third phase dates will be $350,000, $425,000, and $500,000 respectively.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[6] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons regulating securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CHX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–99–01 and should be submitted by April 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7091 Filed 3–22–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41174; File No. SR–NASD–99–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc.

March 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 4, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal as one establishing or changing a due, fee or other charge imposed by the NASD under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statements of the Terms of Substance of the Proposed Rule Change

Nasdaq is filing a proposed rule change to NASD Rule 7010. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

7010 System Services

(a)–(b) No Change

(c)

(1) Consolidated Quotation Service. Existing Paragraph remains the same.

(2) Listed Securities Transaction Credit. For a pilot period, qualified NASD members that trade securities listed on the NYSE and Amex in over-the-counter transactions reported by the NASD to the Consolidated Tape Association may receive from the NASD transaction credits based on the number of trades so reported. To qualify for the credit with respect to either Tape A reports or Tape B reports, an NASD member must have accounted for 500 or more average daily Tape or Tape B reports of over-the-counter transactions (but not in combination) as reported to the Consolidated Tape by the NASD over the period of July 1, 1998 to December 31, 1998, and must continue to average either 500 or more daily Tape A or 500 or more daily Tape B reports (but not in combination) of over-the-counter transactions as reported to the Consolidated Tape by the NASD during the term of the pilot. If an NASD member is so qualified to earn credits based either on its Tape A activity, or its Tape B activity, or both, that member may earn credits from one or both (as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

the case may be, depending on the qualification standards) pools maintained by the NASD, each pool representing 40% of the revenue paid by the Consolidated Tape Association to the NASD for each of Tape A and Tape B transactions. A qualified NASD member may earn credits from such pools according to the member's pro rata share of the NASD's over-the-counter trade reports in each of Tape A and Tape B for each calendar quarter starting with October 1, 1998, and ending with the calendar quarter starting on April 1, 1999.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections, A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Nasdaq is proposing to establish a pilot program to provide a transaction credit[4] to NASD members who exceed certain level of trading activity in exchange-listed securities. The NASD has determined to establish a program regarding these transaction credits to assist in finding ways to lower investor costs associated with trading, and to respond to steps taken by other exchanges that complete for investors order flow in these securities. The NASD has established the program as a limited period pilot program to develop experience with assisting NASD members trading in exchange-listed securities and to learn how best to lower the cost of trading these securities.

Background

Nasdaq's Third Market is a quotation, communication and execution system which allows NASD members to trade stocks listed on the New York Stock Exchange ("NYSE") and the American Stock Exchange ("AMEX"). The Third Market competes with regional exchanges like the Chicago Stock Exchange ("CHX") and the Cincinnati Stock Exchange ("CSE") for retail order flow in stocks listed on the NYSE and AMEX.[5] The NASD collects quotations from broker-dealers that trade these securities over-the-counter and provides such quotations to the Consolidates Quotation System for dissemination. Additionally, the NASD collects trade reports from these broker-dealers trading such securities in the over-the-counter market and provides the trade reports to the Consolidated Tape Association ("CTA/CQA") for inclusion in the Consolidated Tape. As a participant in the CTA and CQA, the NASD earns a share of those organizations' revenue from trades that it reports in NYSE-listed securities ("Tape A") and in Amex-listed securities ("Tape B"). It is from the NASD's share of these revenues that Nasdaq intends to create credit pools for qualified members.

Nasdaq's transaction credit pilot is intended to both lower costs for Third Market Makers and for their customers, who execute trades in exchange-listed stocks through NASD members and Nasdaq facilities. The NASD believes that lowering the cost of trading increases competition among market centers trading listed securities. The pilot will also allow Nasdaq to evaluate the efficacy of this revenue sharing model and more effectively compete for the retention of Third Market participants with other regional exchanges who have adopted similar revenue distribution methodologies.

Pilot Program

Under the pilot proposal, Nasdaq will first calculate two separate pools of revenue from which credits can be earned—one representing 40% of the gross revenues received from the Consolidated Tape Association ("CTA") for providing trade reports in NYSE-listed securities executed in the Third Market for dissemination by CTA ("Tape A"), the other representing 40% of the gross revenue received from CTA for reporting AMEX trades ("Tape B"). To earn a credit from either of these pools, an NASD member must have reached a minimum trading level in that market segment for the period of July 1, 1998 to December 31, 1998. The measure that the NASD will use for this pilot period is 500 average daily executions in Tape A (to qualify for the Tape A pool) or 500 average daily executions for Tape B (to qualify for this pool).[6] Only those NASD members who both exceeded this 500 average daily execution threshold during the July to December 1998 time period and continue to average either 500 or more Tape A or 500 or more Tape B daily executions during the term of the pilot will be eligible for transaction credits. If an NASD member is so qualified, it will become part of the pilot's control group, and thus, be eligible to receive a pro-rata portion of the 40% revenue calculation during the term of the pilot.

A qualifying NASD member's transaction credit under the calculation will be determined by taking its percentage of total Third Market Transaction during the applicable calculation period and providing an equivalent percentage from the appropriate Tape A or B calculation pools. Thus, for each calendar quarter, commencing with the calendar quarter that started on October 1, 1998, the NASD will measure a qualified member's trade reported activity for that calendar quarter in each of Tape A and B and create a credit for that member based upon such activity. For example, should a qualifying NASD member's transactions represent 10% of the NASD's Tape A transactions, that member would receive a 10% share of the Tape A 40% calculation pool.

It must be noted that Nasdaq's transaction credit program is being proposed on a pilot basis only. There can be no guarantee that transaction credits will be available to qualifying NASD members beyond the term of the pilot.[7]

Nasdaq believes that the proposed rule change is consistent with the

[4] The transaction credit can be applied to any and all charges imposed by NASD or its non-SRO affiliates. Any remaining balance may be paid directly to the member.

[5] Both CHX and CSE have established similar programs pursuant to Section 19(b)(3)(A). *See* Securities Exchange Act Release No. 38237 (February 4, 1997), 62 FR 6592 (February 12, 1997) (providing a transaction credit for specialists based upon a percentage of the CTA tape revenue); Securities Exchange Act Release No. 39395 (December 3, 1997), 62 FR 65113 (December 10, 1997) (providing a transaction credit to members on a pro rate basis, based upon a percentage of the quarterly CSE Tape B transaction market share). To remain competitive with these markets, the NASD believes that it must evaluate programs designed to effectively respond to other market's approaches to trading the same securities.

[6] The NASD has chosen to establish the threshold for qualification at 500 trades per day because it believes that such number represents a clear example of a member's commitment to operating in the Third Market and competing for order flow. It also is being used as a rough, temporary measure to balance the credit program incentives against Nasdaq's costs in operating facilities that facilitate Third Market trading. The NASD plans to use the pilot period to carefully evaluate the need for a qualification threshold and, depending on its experience in the pilot, may change or eliminate the threshold at a future date.

[7] Nasdaq also reserves the right to terminate the transaction credit pilot at any time. The NASD will file a proposed rule change to terminate their pilot program.

provisions of Section 15A(b)(6)[8] of the Act in that the proposal is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a national market system and, in general, to protect investors and the public interest. Nasdaq believes its pilot is also consistent with Section 15A(b)(5)[9] of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(ii)[10] of the Act and subparagraph (f) of Rule 19b–4 thereunder[11] in that it establishes or changes a due, fee or other charge.

At any time within 60 days of the filing of such proposed rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6970 Filed 3–22–99; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78o–3(b)(6).

[9] 15 U.S.C. 78o–3(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41173; File No. SR–Phlx–98–24]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Floor Procedure Advice A–1 (Responsibility of Displaying Best Bid and Offer Prices Established on the Equity Floor)

March 15, 1999.

I. Introduction

On July 13, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or the "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchanger Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would update and amend its Equity Floor Procedure Advice A–1 to more closely track the SEC's customer limit order display rule.

On October 22, 1998, the proposed rule change was published for comment in the **Federal Register**.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 40554 (October 14, 1998), 63 FR 56685.

II. Description of the Proposal

The Exchange proposes to update and amend its Equity Floor Procedure Advice A–1 to more closely track the SEC's customer limit order display rules. Currently, Advice A–1 ("Responsibility Best Bid and Offer Prices Established on the Equity Floor") requires specialist to use due diligence to ensure proper and timely display of bids and offers respecting primary issues. For secondary issues, this requirement applies where the bid or offer is equal to or better than the national best bid or offer ("NBBO"). Advice A–1 pre-dates Exchange Act Rule 11Ac1–4,[1] which imposed new display requirements for "reported securities" and any other security for which a transaction report, last sale data or quotation information is disseminated through an automated quotation system as described in Section 3(a)(51)(A)(ii) of the Act. Since primary stock issues assigned to specialists on regional exchanges are not subject to this requirement, the proposed rule change amends Advice A–1 only with respect to secondary issues that are traded pursuant to unlisted trading privileges ("UTP"). The proposed change amends Advice A–1 to provide that the display requirement for secondary issues is the Commission's display rule, which requires specialists, subject to certain exceptions, to display not only those orders that are at or better than the NBBO, but also those that improve the specialist's quote or add 10% or more to the specialist's quote when the quote is the NBBO.[5]

Currently, Advice A–1 contains a fine schedule, which is administered pursuant to the Exchange's minor rule violation enforcement and reporting plan.[6] Under the proposed amendment,

[4] The limit order display rule was adopted by the Commission as part of its Order Handling Rules. *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) ("Order Handling Rules Adopting Release"); amended in Securities Exchange Act Release No. 38139 (January 8, 1997), 62 FR 1385 (January 10, 1997).

[5] In the Order Handling Rules Adopting Release, the Commission stated that a customer limit order should be considered *de minimis* if it less than or equal to 10% of the displayed size associated with a specialist's bid or offer. If a customer limit order is *de minimis*, the specialist does not need to add that order to his quote. *See* Order Handling Rules Adopting Release, *supra* note 4, at note 177 and accompanying text. For this reason, the Exchange is requiring a specialist to display only those customer orders that add 10% or more to the size of the specialist's quote.

[6] The Phlx's minor rule violation enforcement and reporting plan ("minor rule plan"), codified in Phlx Rule 970, contains floor procedure advices with accompanying file schedules. Exchange Act Rule 19d–1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for

a first violation will be subject to a written warning. Subsequent violations will be referred to the Business Conduct Committee.

III. Discussion

After careful review, the Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposed rule change is consistent with Sections 6(b)(5) and 11A(a)(1)(C)(iii) and (iv) of the Act. Section 6(b)(5) requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices and to remove impediments to and perfect the mechanism of a free and open market and a national market system. With respect to Section 11A, Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure the practicability of brokers executing investors' orders in the best market.[7] The proposed rule change will assure the availability of information with respect to quotations because it requires specialists to provide enhanced information regarding orders to the market by revising Advice A–1 to correspond to Exchange Act Rule 11Ac1–4.

In addition, the Commission believes the proposal is consistent with Section 6(b)(5)[8] because the incorporation of the limit order display rule into the Exchange's own rules should enhance compliance with the rule, thereby improving member handling of customer limit orders.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (Phlx–98–24) is approved.

summary discipline and abbreviated reporting; Rule 19d–1(c)(1) requires prompt filing with the Commission of any final disciplinary action. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

[7] 15 U.S.C. 78k–1(a)(1)(C)(iii) and (iv).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving these rules, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7090 Filed 3–22–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice #2999]

Overseas Presence Advisory Panel (OPAP) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the Overseas Presence Advisory Panel on Thursday, April 29, 1999 at 9:00 a.m. at the U.S. Department of State. The panel is charged with advising the Secretary of State with respect to the level and type of representation required overseas in the face of new foreign policy priorities, a heightened security situation and extremely limited resources. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 522b[c][1], it has been determined that the meeting will be closed to the public. The agenda calls for discussion of classified and sensitive information relative to findings derived from travel to overseas Embassies and Consulates; this would include intelligence and operational policies, and security aspects of all the U.S. Government agencies the Department of State supports abroad.

For more information contact Peter Petrihos, Overseas Presence Advisory Panel, Department of State, Washington, DC 20520; phone: 202–647–6477.

Dated: March 15, 1999

Ambassador William H. Itoh,

Executive Secretary, Overseas Presence Advisory Panel.

[FR Doc. 99–7110 Filed 3–22–99; 8:45 am]

BILLING CODE 4710–35–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–152]

WTO Dispute Settlement Proceeding Regarding Sections 301–310 of the Trade Act of 1974, as Amended

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice of the request for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO"), by the European Communities ("EC"), to examine Title III, chapter 1 (sections 301–310) of the United States Trade Act of 1974, as amended ("Trade Act") (19 U.S.C. 2411–2420). In this dispute, the EC alleges that sections 301–310 of the Trade Act are inconsistent with obligations of the United States under the Dispute Settlement Understanding ("DSU"), the Marrakesh Agreement establishing the WTO, and the General Agreement on Tariffs and Trade ("GATT 1994"). The USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted by April 10, 1999, to be assured of timely consideration by the USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: Section 301–310 Dispute, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Joanna McIntosh, Associate General Counsel, (202) 395–7203.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1), the USTR is providing notice that on February 2, 1999, the EC submitted a request for the establishment of a WTO dispute settlement panel to examine whether sections 301–310 of the Trade Act are inconsistent with the WTO obligations of the United States. The WTO Dispute Settlement Body ("DSB") considered the EC's first request for the establishment of a panel on February 17, 1999, and its second request on March 2, 1999; a panel was established at this meeting.

Major Issues Raised by the EC and Legal Basis of the Complaint

The EC claims that sections 301–310 of the Trade Act impose "specific, strict time limits" that require the United States to make "unilateral determinations" regarding WTO violations by other WTO members, as well as trade sanctions that are prescribed as a result of such violations. By making these determinations, the EC contends that the United States is acting inconsistently with the DSU and the

[11] 17 CFR 200.30–3(a)(12).

GATT 1994 in situations when, at the end of the time limits imposed by sections 301–310, the DSB has not yet made a determination that a WTO member has not complied with its WTO obligations, and has not yet authorized the suspension of concessions with regard to such non-compliance. Specifically, the EC alleges that the U.S. legislation is inconsistent with the obligations of the United States under Articles 3, 21, 22, and 23 of the DSU; Article XVI:4 of the Marrakesh Agreement establishing the WTO; and Articles I, II, III, VIII, and XI of the GATT 1994.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies to Sandy McKinzy at the address provided above. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commentator. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by the USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), the USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. The public file will include a listing of any comments received by the USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding, the submissions, or non-confidential summaries of submissions, to the panel received from other parties in the dispute, as well as the report of the dispute settlement panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–152, Sections 301–310 Dispute) may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Amelia Porges,

Senior Counsel for Dispute Settlement.

[FR Doc. 99–7080 Filed 3–22–99; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Summit County, CO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent and public scoping meetings.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed transportation improvements on SH 9 from Frisco to Breckenridge in Summit County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Sands, FHWA Colorado Division, 555 Zang Street, Room 250, Denver, CO 80228, Telephone: 303/969–6730 extension 362.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Colorado Department of Transportation (CDOT), will prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for transportation improvements on SH 9 from Frisco to Breckenridge in Summit County, Colorado. The EIS will evaluate the No-action and Build alternative(s) on SH 9 study limit from I–70 to River Park Drive south of Breckenridge, and determine the estimated costs and potential impacts associated with each. CDOT will be the local lead agency for the preparation of the EIS. The project is approximately ten miles in length and alternatives which may be evaluated included TSM (Transportation System Management), various four lane roadway typical sections and transit alternatives. Scoping has begun within the Environmental Assessment first initiated for this project. A public scoping meeting was held in Frisco, Colorado on November 5, 1998. Scoping meetings have also been conducted with the U.S. Army Corps of Engineers, U.S. Forest Service, Environmental Protection Agency, Colorado Division of Wildlife, Frisco City Council, Breckenridge City Council, Summit County Commissioners as well as interested citizens, property owners, business owners and others. Scoping will be continued through coordination with affected parties, organizations, federal, state and local agencies with future public and one-on-one meetings which will be held throughout the life of the project.

Written comments on project scope should be sent to: Ms. Lisa Kassels, Planning and Environmental Project Manager, CDOT Region 1, 18500 East Colfax Avenue, Aurora, CO 80011, Telephone: 303/757–9156.

FHWA, CDOT and other local agencies invite interested individuals, organizations, and federal, state and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or environmental issues related to the alternatives. Information describing the purpose of the project, the proposed alternatives, the areas to be evaluated, the citizen involvement program, and the preliminary project schedule will be available. These scoping materials may be requested contacting Ms. Lisa Kassels at the address and phone number above. Scoping comments may be made verbally at future public meetings or in writing. The public will receive notices on location and time of future meetings through newspaper advertisements and individual correspondence.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. if you wish to be placed on the mailing list to receive further information as the project develops, contact Ms. Lisa Kassels.

All significant social, economic, and environmental impacts of the alternatives carried forward for further study (e.g., the No-action alternative, a TSM alternative, a Build alternative) will be evaluated. Depending upon the alternatives under study, environmental and social impacts to be evaluated may include safety and mobility impacts, traffic and parking impacts if stations are proposed, visual impacts, impacts on cultural and paleontological resources, and noise impacts. Impacts on natural areas, threatened and endangered species, and water quality

will also be covered. Depending upon the alternative which surfaces as the preferred and the associated impacts of that alternative, construction-related impacts may need to be evaluated, and mitigation of any significant adverse impacts would be developed.

In accordance with FHWA policy, the Draft EIS will be prepared with required engineering design studies necessary to complete the document. After its publication, the Draft EIS will be available for public and agency review and comments, and a public hearing will be held. On the basis of the Draft EIS and the comments received, a preferred alternative will be selected and preparation of the Final EIS and Record of Decision will proceed.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued: March 4, 1999.

Ronald A. Speral,

Environmental/ROW Program Manager, Colorado Division, Federal Highway Administration, Lakewood, Colorado.

[FR Doc. 99–7026 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Blue Grass Railroad Museum, Incorporated

[Docket Number FRA–1999–5026]

The Blue Grass Railroad Museum, Incorporated, (BRMI) seeks a permanent waiver of compliance from certain provisions of the *Safety Glazing Standards*, 49 CFR 223.11, 223.13, and 223.15, that requires certified glazing, for three locomotives, one caboose, and four passenger cars. The BRMI is located in Versailles, Kentucky. The BRMI states they operate tourist excursions over 5.5 miles of track at a speed not to exceed 10 mph. They also state that all equipment is equipped with shatter proof glass that does not meet the Federal Glazing Standards.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1999–5026) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC. 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7051 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Indiana Harbor Belt Railroad Company

[Docket Number FRA–1998–4615]

The Indiana Harbor Belt Railroad Company (IHB) seeks an extension of one year for waiver of compliance (H–97–5) from 49 CFR 229.131, Railroad Locomotive Safety Standards, Cabs and Cab Equipment—Sanders. Section 229.131 states: "Except for MU locomotives, each locomotive shall be equipped with operable sanders that deposit sand on each rail in front of the first power operated wheel set in the direction of movement." IHB would like to continue to operate one switching locomotive as part of the test of a new technology adhesion device. If approved the test period would be continued for one year beyond the date originally approved. The IHB reports the test locomotive has been confined to yard switching service and is monitored daily. To date the IHB reports they have not experienced any problems with the device.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1998–4615) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7049 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Oil Creek & Titusville Lines

[Docket Number FRA–1998–4822]

The Oil Creek & Titusville Lines railroad (OCTL) seeks a permanent waiver of compliance with the *Safety Glazing Standards*, 49 CFR 223.11(c), which requires certified glazing in all locomotive windows, except those locomotives used in yard service. The OCTL seeks this waiver for locomotive number OCTL 6758 and OCTL 6764. The owner states the locomotives operate over 41.7 miles of track through rural countryside. The OCTL states they average one or two round trips per week and that there has never been a glazing related accident.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1998–4822) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7050 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroad have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA–1998–4762.

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation Incorporated seeks approval of the proposed reduction of the traffic control system (TCS) limits, on the single main track, near W. Peach Creek, West Virginia, Logan Subdivision, C&O Business Unit, consisting of the discontinuance and removal of absolute controlled signals 8L and 8R, removal of the TCS between milepost CLS–61.3 and milepost CLS–63.4, and govern train operations by Yard Limit Rule 93.

The reason given for the proposed changes is to increase operating efficiency.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7042 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–1998–4763.

Applicants: CSX Transportation, Incorporated.

Mr. R. M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

Norfolk Southern Corporation, Mr. W. C. Johnson, Chief Engineer S&E Engineering, 99 Spring Street, SW, Atlanta, Georgia 30303

SOO Line Railroad, Mr. J. C. Thomas, Manager C&S Services, Canadian Pacific Railway, 105 South 5th Street, Box 530, Minneapolis, Minnesota 55440

CSX Transportation Incorporated (CSX), Norfolk Southern Corporation (NS), and SOO Line Railroad, jointly

seek approval of the proposed modification of the traffic control system, near New Albany, Indiana, between milepost Q–316.1 and milepost Q–317.7, on the CSX Hoosier Subdivision, Louisville Service Lane, and between milepost 267.6W and milepost 268.9W on the NS St. Louis District, Kentucky Division, Western Region, consisting of the discontinuance and removal of absolute controlled signals 5R, 5LA, 5LC, 9R, and 9L.

The reason given for the proposed changes is that present day traffic does not warrant retention of the signals.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room Pl–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7043 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–1998–4923.

Applicant: CSX Transportation, Incorporated Mr. R. M. Kadlick, Chief Engineer Train Control 4901 Belfort Road, Suite 130 (S/C J–350), Jacksonville, Florida 32256.

CSX Transportation Incorporated (CSXT) seeks approval of the proposed modification of the traffic control system, on the two main tracks, at North Wilson, North Carolina, milepost A–134.9, on the South End Subdivision, Florence Service Lane, consisting of the discontinuance and removal of controlled absolute signals 26R, 26L, 28R, and 28L.

The reason given for the proposed changes is to improve operations and increase efficiency.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are availabe for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at http://dms.dot.gov. FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7045 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief from the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroad have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–1998–4924.

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation Incorporated seeks approval of the proposed modification of the signal system, at UN Control Point, milepost BG–55.6, on the New Castle Subdivision, Cumberland Division, near New Castle, Pennsylvania, consisting of the discontinuance and removal of the No. 7 power-operated derail.

The reason given for the proposed changes is that the power-operated derail is no longer needed in current day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401,

Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7046 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief from the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–1998–4925.

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 4901 Belfort Road, Suite 130 (S/C J–350), Jacksonville, Florida 32256.

CSX Transportation Incorporated (CSXT) seeks approval of the proposed discontinuance and removal of the traffic control and automatic block signal systems, on the two main tracks between milepost BAV–0.0, Hagerstown, Maryland, and milepost BAV–32.2, Lurgan, Pennsylvania, on the Lurgan Subdivision, Baltimore Division, a distance of approximately 32.2 miles, and operate under CSXT Operating Rules 105 and 46.

The reason given for the proposed changes is that a publicly funded project designed to eliminate several highway-rail grade crossings in Chambersburg, Pennsylvania, will cause all but a small portion of the involved CSXT traffic to be re-routed over a roughly parallel Conrail Line. The minimum remaining rail traffic on the CSXT line will no longer warrant operation of a wayside signal system.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7047 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA–1998–4761.

Applicant: Delray Connecting Railroad Company Mr. Harold Sebastian, General Manager, P.O. Box 32538, Detroit, Michigan 48232.

The Delray Connecting Railroad Company seeks approval of the proposed modification of Short Cut Bridge Interlocking, near Detroit, Michigan, consisting of the discontinuance and removal of the No. 1 power-operated derail, and relocation of the No. 9 power-operated derail to a new position 266.5 feet south of Shortcut Bridge, associated with combining the provided protection into one derail.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the

docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7041 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA–1998–4821.

Applicant: Duluth, Missabe and Iron Range Railway Company, Mr. D. B. Moore, Chief Engineer, Engineering Department, 329 Second Street, Proctor, Minnesota 55810–1091.

The Duluth, Missabe and Iron Range Railway Company (DMIR) seeks relief from the requirements of § 236.51 of the Rules, Standards, and Instructions (49 CFR 236.51), to the extent that DMIR be permitted to utilize wheel count-based trap circuits, on steel deck bridges in signaled territory, in lieu of maintaining the existing track circuits.

Applicant's justification for relief: The insulated bridge pads are approaching the end of their useful life, and replacement pads are only available from an Australian supplier in large quantities, at high cost; the steadily increasing annual cost for maintenance and train delays associated with troubleshooting and repairs, make it impracticable to maintain the existing track circuits; and presently, rail size is limited to 115-pound and cannot be upgraded to DMIR's 136-pound, main line track standard.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7044 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA–1998–4926.

Applicant: Union Pacific Railroad Company, Mr. Phil Abaray, Chief Engineer—Signal/Quality, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

Union Pacific Railroad Company seeks approval of the proposed modification of the signal system, on the main track and siding, between W.E. Irving, milepost 652.2 and E. E. Irving, milepost 653.3, on the Brooklyn Subdivision, near Eugene, Oregon. The proposal includes the discontinuance and removal of controlled signals 12LA, 12LB, and 12R at W. E. Irving; reduction of the traffic control system limits by approximately 1,700 feet; and the associated extension of the automatic block signal system eastward approximately 1,700 feet to E. E. Irving.

The reason given for the proposed changes is that there is no longer a need for the controlled signals at W. E. Irving because the switch has been permanently removed.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 17, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–7048 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; NISSAN

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of Nissan North America, Inc. (Nissan) for an exemption of a high-theft line (whose nameplate is confidential) from the parts-marking requirements of the Federal motor vehicle theft prevention standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. Nissan requested confidential treatment for its information and attachments submitted in support of its petition. In a letter to Nissan dated February 12, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

DATES: The exemption granted by this notice is effective beginning with the (confidential) model year.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington DC 20590. Ms. Proctor's phone number is (202) 366–4807. Her fax number is (202) 366–2739.

SUPPLEMENTARY INFORMATION: In a petition dated November 25, 1998, Nissan North America, Inc. (Nissan), requested exemption from the parts-marking requirements of the theft prevention standard for a motor vehicle line. The nameplate of the line and the model year of introduction are confidential. The petition requested an exemption from parts marking pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Nissan's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. Nissan requested confidential treatment for the information submitted in support of its petition. In a letter dated February 12, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. This antitheft device includes an engine-immobilizer system. The antitheft device is activated by turning the ignition switch to the "OFF" position using the proper ignition key.

In order to ensure the reliability and durability of the device, Nissan conducted tests based on its own specified standards. Nissan provided a detailed list of tests conducted and believes that its device is reliable and durable since the device complied with its specified requirements for each test.

Nissan compared the device proposed for its vehicle line with devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Nissan stated that its proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lack an audible and visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes. In these instances, the agency has concluded that the lack of a visual or audible alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Nissan has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Nissan, the agency believes that the antitheft device for the Nissan vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device, much of which is confidential. This confidential information included a description of reliability and functional tests conducted by Nissan for the anti-theft device and its components.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. Advanced listing, including the release of future product nameplates, is necessary in order to notify law enforcement agencies of new models exempted from the parts-marking requirements of the Theft Prevention Standard. Therefore, since Nissan has been granted confidential treatment for its vehicle line, the confidential status of the vehicle line will be protected until the introduction of its vehicle line into the market place. At that time, Appendix A–1 will be revised to reflect the nameplate of Nissan's exempted vehicle line.

If Nissan decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing

from the one specified in that exemption."

The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: March 16, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–6969 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 205X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Dickenson, Russell and Buchanan Counties, VA

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon a 6.26-mile line of railroad between milepost C–7.3 at Wilder and milepost C–13.56 at Duty, and a 1.8-mile line of railroad between milepost TS–0.0 at Tiller Spur Junction (CDX) and milepost TS–1.8 at Tiller, a total distance of 8.06 miles, in Dickenson, Russell and Buchanan Counties, VA. The line traverses United States Postal Service Zip Codes 24217, 24260 and 24066.

NS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past 2 years and any overhead traffic could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 22, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 2, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 12, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 26, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NS shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NS's filing of a notice of consummation by March 23, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: March 16, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–6920 Filed 3–22–99; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request Air Waybill

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Use of Air Waybill as In-Bond Document. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before May 24, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Use of Air Waybill as In-Bond Document

OMB Number: 1515–0186

Form Number: CF 7512

Abstract: This information collection is used by Customs to identify the delivering carrier , whether or not it is the initial bonded carrier, to surrender the in-bond document and serve notice of it's arrival.

Current Actions: This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 31,200.

Estimated Time Per Respondent: 2 minutes.

Estimated Total Annual Burden Hours: 1,030.

Estimated Annualized Cost to the Public: $10,300.

Dated: March 16, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–7101 Filed 3–22–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed collection; comment request; Certificate of Origin

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Origin. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 24, 1999, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Certificate of Origin.

OMB Number: 1515–0055.

Form Number: Customs Form 3229.

Abstract: This certification is required to determine whether an importer is entitled to duty-free for goods which are the growth or product of a U.S. insular possession and which contain foreign materials representing no more than 70 percent of the goods total value.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 113.

Estimated Total Annualized Cost on the Public: $1,030.

Dated: March 17, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–7102 Filed 3–22–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Petition for Remission or Mitigation

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Petition for Remission or Mitigation. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before May 24, 1999 to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Petition for Remission or Mitigation.

OMB Number: 1515–0052.

Form Number: Customs Form 4609.

Abstract: Persons who's property is seized or who incur monetary penalties due to violations of the Tariff Act are entitled to seek remission or mitigation by means of an informal appeal. This form gives the violator the opportunity to claim mitigation and provides a record of such administrative appeals.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 28,000.

Estimated Time Per Respondent: 19 minutes.

Estimated Total Annual Burden Hours: 8,834.

Estimated Annualized Cost to the Public: N/A.

Dated: March 17, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–7103 Filed 3–22–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Entry and Manifest of Merchandise Free of Duty

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Entry and Manifest of Merchandise Free of Duty. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 24, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Entry and Manifest of Merchandise Free of Duty.

OMB Number: 1515–0051.

Form Number: Customs Form 7523.

Abstract: Customs Form 7523 is used by carriers and importers as a manifest for the entry of merchandise free of duty under certain condition and by Customs to authorize the entry of such merchandise. It is also used by carriers to show that the articles being imported are to be released to the importer or consignee.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 4,950.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 8,247.

Estimated Total Annualized Cost on the Public: $123,700.

Dated: March 17, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–7104 Filed 3–22–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Inward Cargo Manifest for Vessels

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Inward Cargo Manifest for Vessels. This request for comment is being made pursuant to

the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before May 24, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Inward Cargo Manifest for Vessels.

OMB Number: 1515–0049.

Form Number: Customs Form 7533.

Abstract: Vessels under five tons and any vehicle carrying merchandise and arriving from contiguous country must report their arrival in the U.S. and produce a manifest on Customs Form 7533 listing merchandise being conveyed.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 41,650.

Estimated Annualized Cost to the Public: $499,800.

Dated: March 17, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–7105 Filed 3–22–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Application for Identification Card

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Identification Card. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 24, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Identification Card.

OMB Number: 1515–0026.

Form Number: Customs Form 3078.

Abstract: Customs Form 3078 is used by licensed Cartmen, Lightermen, Warehousemen, brokerage firms, foreign trade zones, container station operators, their employees, and employees requiring access to Customs secure areas to apply for an identification card so that they may legally handle merchandise which is in Customs custody.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 7,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 5,250.

Estimated Total Annualized Cost on the Public: $63,000.

Dated: March 17, 1999.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 99–7106 Filed 3–22–99; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Comment Request; Proposed New Collection: USIA Grantee/Customer Survey

SUMMARY: The United States Information Agency, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on an information collection requirement concerning the proposed public use form entitled, "USIA Grantee Customer." This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)]. Comments are requested on the proposed information collection concerning (a) whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/AOL, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503.

DATE: Comments are due on or before May 24, 1999.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/AOL, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619–4408, internet address: JGiovett@USIA.GOV; and OMB review: Mr. Jeff Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the Mutual Education and Cultural Exchange Act of 1961, Public Law 87–256, 22 U.S.C. 2451. Public reporting burden for this collection of information is estimated to average ten (10) minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are voluntary but respondents are requested to respond one time.

Current action(s): As this is a one-time survey, USIA is requesting OMB approval of this new collection through December 1999.

Title: USIA Grantee/Customer Survey.

Form Number(s): N/A.

Abstract: In support of the Government Performance and Results Act (GPRA) of 1993, USIA's Grants Office proposes to conduct a one-time survey to streamline the grants-making process to consistently identify ways to effectively and efficiently execute grant awards and to enhance the quality of service to our customers in developing future workshops.

Proposed Frequency of Responses:

No. of Respondents—800.

Recordkeeping Hours—.10.

Total Annual Burden—80.

Dated: March 18, 1999.

Rose Royal,

Federal Register Liaison.

[FR Doc. 99–7037 Filed 3–22–99; 8:45 am]

BILLING CODE 8230–01–M

MI

OL

64

SS

55

MR

23

99

MI

federal register

Tuesday
March 23, 1999

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902
50 CFR Parts 217, et al.
Endangered and Threatened Species: Regulations Consolidation; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 217, 220, 221, 222, 223, 224, 225, 226, 227, 648, 679, and 697

[Docket No. 980113011–9049–02; I.D. 061896A]

RIN 0648–AK34

Endangered and Threatened Species; Regulations Consolidation

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule consolidates and reorganizes existing regulations regarding implementation of the Endangered Species Act (Act) by NMFS. The action is part of the President's Regulatory Reinvention Initiative (RRI).

DATES: Effective March 23, 1999, except that §§ 222.205(c)(1) and (2), 222.305(a), 223.206(d)(5), 223.207(a)(9)(ii)(A) and (B) will not become effective until the Office of Management and Budget (OMB) approves the information collection requirements contained in those sections. NMFS will publish a document in the **Federal Register** announcing the effective date for those sections.

ADDRESSES: Kevin Collins, Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Therese Conant, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910, Phone: (301) 713–1401.

SUPPLEMENTARY INFORMATION: NMFS is responsible for implementing the Act (16 U.S.C. 1531 *et seq.*) with respect to most marine species. Regulations implemented by NMFS are currently codified at 50 CFR parts 217 through 227. These regulations outline agency procedures and provide program administration information to other government agencies, interested groups, and individuals. To improve regulations under the President's RRI, NMFS is recodifying its Act regulations into three basic sections:

Revised part 222 deals with general provisions of the Act, including purpose, definitions, and other miscellaneous issues (subpart A), certificates of exemption (subpart B), and permits (subpart C). Revised part 223 deals exclusively with threatened species. Revised part 224 deals exclusively with endangered species. Revised part 226 identifies critical habitat designated by the Secretary of Commerce. The consolidated text is reorganized into a more logical and cohesive order; duplicative and outdated provisions are eliminated; and editorial changes are made for readability and clarity. This final rule makes no substantive changes to the existing regulations. The purpose of this rule is to make the regulations more concise, better organized, and therefore easier for the public to use.

Specifically, regulations in part 217, concerning general provisions of the Act, purpose and scope of the regulations, definitions, and addresses, have been consolidated and are now codified in part 222, subpart A. Definitions in the new § 222.102 have been consolidated from definitions previously found in parts 217, 225, and 227, and all addresses have been updated and included in the definitions. Definitions for "Skimmer trawl", "Wing net", "Pusher-head trawl", "Summer flounder protection area", and "Leatherback conservation zone" have been revised, and definitions for "Beam trawl" and "Roller trawl" have been added for clarity. In addition, several terms are being deleted from the definitions because they are no longer pertinent or because they are self-evident. Such terms include "North Carolina restricted area", "Ongoing project(s)", "Country of origin", "Country of exportation", "Sea turtles(s)", "United States", "Whoever", "Wildlife", "Soft TED", "Hard TED", "Length", and "Plastron."

Regulations in part 221, concerning designated ports of entry for species listed in Appendix I or II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, are now codified in § 222.205(a).

Several components of part 225, concerning Federal/state cooperation in the conservation of endangered and threatened species, are being eliminated under the RRI, because they do not provide further guidance or detail over the language contained in section 6 of the Act. The remaining portions of part 225, concerning applications and program evaluation procedures, are being recodified in § 222.104. These provisions have been clarified so that it is clear that NMFS may enter into a Cooperative Agreement with a state pursuant to either sections 6(c)(1)(A) through (E) or sections 6(c)(1)(i) and (ii) of the Act.

Provisions relating to Certifications of Exemption for pre-Act endangered species part permits have been streamlined and recodified in subpart B of part 222. In addition, technical changes were made to the existing provisions to make them consistent with the current provisions of section 10 of the Act. Specifically, in 1988, Congress amended section 10(f) to allow for one renewal of a Certificate of Exemption that was renewed after October 13, 1982, and was in effect on March 31, 1988. Congress again amended section 10(f) to provide that any valid Certificate of Exemption for pre-ESA scrimshaw products or raw material for such products shall remain valid for up to a 5-year period beginning April 30, 1994. These legislative amendments are now reflected in new § 222.202(a)(1) and (2).

Regulations in parts 217 and 220, concerning general permit procedures, have been greatly streamlined and are now codified in subpart C of part 222. Previously, general provisions relating to permits were found in part 217, while specific procedures for permits to take endangered species were found in part 220. Regulations relating to permits to take threatened species previously found in part 227 referred to the provisions in parts 220 and 222. These cross-references resulted in redundancy and some confusion in applicable regulations. New subpart C of part 222 contains provisions relating to all types of permits for endangered and threatened species for which section 9 of the Act applies. General requirements for permits have been streamlined and are provided in §§ 222.301 through 222.306. Specific requirements for incidental take permits are now found in § 222.307, and requirements for research and enhancement permits are now found in § 222.208.

In addition, the existing regulations had several inconsistencies that have been addressed where appropriate. For example, § 220.11 required a permit application to be submitted 90 days prior to the effective date, and § 222.23(b) recommended 45 days. The new regulations change the 45 day requirement to 90 days to be consistent with the general permit requirements.

Part 224 contains provisions relating to endangered species, including special prohibitions. While part 223 contains regulations relating to threatened species, including specified prohibitions and exceptions to those prohibitions. The text has been reorganized into a more logical and cohesive order; duplicative and outdated provisions have been

eliminated;
been made
Regulatio
under two s
223.207, an
prohibition
species of s
requiremen
Minor chan
been made
readability.
text have be
provisions a
CFR 227.72
North Carol
turtles; 50 C
provisions
Territories i
227.72(a)(2)
within 90 d
turtles were
addition, ou
sunset date
titles and ac
have been u
Generally
depicting cr
removed un
reduce the
CFR. Howe
clarification
such as the
227. Otherw
continue to
Office of Pr
request (see
text contain
such areas
CFR part 22
table in 15 C
control num
the Paperwo
The follo
identifies th
with corresp
existing reg
intended to
relationship
sections and
understandi
sections hav
identified i
sections or
222.11–9, 2
225.12, 225.
227.72(f).

New section	
222.101(a)	
222.101(b)	
222.102 ...	
222.103(a)	
222.103(b)	
222.103(c)	
222.201(a)	
222.201(b)	

eliminated; and editorial changes have been made for readability and clarity.

Regulations found in § 227.72 are now under two sections, §§ 223.206 and 223.207, and covers exceptions against prohibitions relating to threatened species of sea turtles and technical requirements for turtle excluder devices. Minor changes to these regulations have been made to improve organization and readability. The following sections of text have been eliminated because the provisions are no longer applicable: 50 CFR 227.72(e)(3)(ii)(B) relating to the North Carolina restricted area for sea turtles; 50 CFR 227.72(f) relating to provisions relevant to the U.S. Trust Territories in the Pacific, and 50 CFR 227.72(a)(2) relating to ongoing research within 90 days of when species of turtles were listed as threatened. In addition, outdated provisions with sunset dates have been removed, and titles and addresses of NMFS offices have been updated.

Generally, the charts in part 226 depicting critical habitat areas are being removed under the RRI in order to reduce the volume of materials in the CFR. However, those charts providing clarification to descriptions will remain, such as the rookery site charts in part 227. Otherwise, these charts will continue to be available from the NMFS Office of Protected Resources upon request (see **ADDRESSES**). The tables and text containing specific boundaries of such areas will continue to appear in 50 CFR part 226. NMFS is amending the table in 15 CFR part 902 to update OMB control numbers for compliance with the Paperwork Reduction Act.

The following derivation table identifies the new parts and sections with corresponding sections of the existing regulations. This chart is intended to demonstrate the relationship of existing sections to new sections and to facilitate the public's understanding of the revisions. Several sections have been removed and are not identified in the chart. The removed sections or paragraphs are 222.1, 222.2, 222.11–9, 222.34, 225.2, 225.10, 225.11, 225.12, 225.13, 225.14, 227.72(a)(2) and 227.72(f).

New section	Old section
222.101(a)	217.1, 217.2, 217.4, 227.1, 227.2(c)
222.101(b)	217.3
222.102 ...	217.12, 217.21, 217.22, 217.23, 222.3, 225.3, 227.3
222.103(a)	225.4, 225.5
222.103(b)	225.5, 225.6, 225.8
222.103(c)	225.7, 225.9
222.201(a)	222.11–1, 222.13–4
222.201(b)	
222.201(c)	222.11–8(a)
222.201(d)	222.11–8(b)
222.202 ...	222.11–2, 222.11–3, 222.11–4
222.203(a)	222.11–5
222.203(b)	222.11–6
222.203(c)	222.11–7
222.204(a)	222.12
222.204(b)	222.12–1
222.204(c)	222.12–2, 222.12–3, 222.12–4
222.204(d)	222.12–5
222.204(e)	222.12–6
222.204(f)	222.12–7
222.204(g)	222.12–8
222.205(a)	221.1
222.205(b)	222.12–9
222.205(c)	222.13, 222.13–1, 222.13–2, 222.13–3
222.301(a)	220.2, 220.3, 220.4
222.301(b)	220.22, 222.21
222.301(c)	220.1
222.301(d)	222.28
222.301(e)	220.42
222.301(f)	220.43
222.301(g)	220.44
222.301(h)	220.45
222.301(i)	220.46
222.301(j)	220.47
222.302(a)	220.11
222.302(b)	220.11
222.302(c)	220.13, 222.22, 222.23
222.303(a)	220.21(a)
222.303(b)	222.24(a)
222.303(c)	222.24(b)
222.303(d)	222.24(c)
222.303(e)	220.21(b)
222.303(f)	222.24(d)
222.303(g)	222.24(e)
222.304 ...	220.24
222.305(a)	220.25(a), 220.26
222.305(b)	220.25(b)
222.306(a)	222.25
222.306(b)	220.27, 220.28
222.306(c)	222.26
222.306(d)	220.31
222.306(e)	222.27
222.307 ...	222.22
222.308 ...	222.23
222.309 ...	220.50, 220.51, 220.52, 220.53
223.101 ...	227.1, 227.2(a), 227.2(b)
223.102 ...	227.4
223.201 ...	227.11
223.202 ...	227.12
223.203 ...	227.21
223.204 ...	227.22
223.205 ...	227.71
223.206 ...	227.72
223.207 ...	227.72(e)(4)
224.101 ...	222.23(a)
224.102 ...	222.21
224.103(a) through (c).	222.31, 222.32, 222.33
224.104 ...	222.41, 222.42
226.101 ...	226.1, 226.2
226.201 ...	226.11
226.202 ...	226.12
226.203 ...	226.13
226.204 ...	226.21
226.205 ...	226.22
226.206 ...	226.23
226.207 ...	226.71
226.208 ...	226.72
226.209 ...	226.73

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(b)(B), finds for good cause to waive the requirement of a prior notice and an opportunity for public comment as such procedures are unnecessary. This rule does not make any substantive changes to existing regulations that, when issued, complied with notice-and-comment procedures. These changes are made solely to achieve greater clarity and organization and to eliminate provisions that are no longer necessary. Because this rule does not make any substantive changes to the existing regulations, it is not subject to the requirement in 5 U.S.C. 553(d) that its effective date be delayed.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 217

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Reporting and recordkeeping requirements.

50 CFR Part 220

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 221

Endangered and threatened species, Exports, Fish, Harbors, Imports, Marine mammals.

50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

50 CFR Part 224

Administrative practices and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 225

Endangered and threatened species, Grant programs—natural resources, Intergovernmental relations.

50 CFR Part 226

Endangered and threatened species.

50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 697

Administrative practice and procedure, Fisheries, Fishing.

Dated: March 15, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapters II and VI are amended as follows:

15 CFR, Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In 15 CFR 902.1, in paragraph (b), the table is amended by removing, in the left column under 50 CFR, the entries "222.11–2", "222.11–8", "222.12–7", "222.12–8", "222.22", and "227.72", and, in the right column, the corresponding control numbers; and by adding, in numerical order, the following entries to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers requirement with 0648–)
. . . . .	
50 CFR	
. . . . .	
222.201(c) and (d)	–0079
222.202	–0078
222.204(f) and (g)	–0078
222.301(i)	–0084
222.307	–0230
222.308	–0084
223.206(a)	–0230
223.206(b) and (c)	–0178
223.207(e)	–0309
. . . . .	

50 CFR Chapter II

PARTS 217, 220, 221, and 225—[REMOVED AND RESERVED]

3. Under the authority of Endangered Species Act of 1973 sec. 11(f), 87 Stat. 884, Pub. L. 93–205; 16 U.S.C. 742a *et seq.*, 1361 *et seq.*, and 1531–1544, parts 217, 220, 221, and 225 are removed and reserved.

4. Part 222 is revised to read as follows:

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

Subpart A—Introduction and General Provisions

Sec.

222.101 Purpose and scope of regulations.
222.102 Definitions.
222.103 Federal/state cooperation in the conservation of endangered and threatened species.

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

222.201 General requirements.
222.202 Certificate renewal.
222.203 Modification, amendment, suspension, and revocation of certificates.
222.204 Administration of certificates.
222.205 Import and export requirements.

Subpart C—General Permit Procedures

222.301 General requirements.
222.302 Procedure for obtaining permits.
222.303 Issuance of permits.
222.304 Renewal of permits.
222.305 Rights of succession and transfer of permits.
222.306 Modification, amendment, suspension, cancellation, and revocation of permits.
222.307 Permits for incidental taking of species.
222.308 Permits for scientific purposes or for the enhancement of propagation or survival of species.
222.309 Permits for listed species of sea turtles involving the Fish and Wildlife Service.

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

Section 222.403 also issued under 16 U.S.C. 1361 *et seq.*

Subpart A—Introduction and General Provisions

§ 222.101 Purpose and scope of regulations.

(a) The regulations of parts 222, 223, and 224 of this chapter implement the Endangered Species Act (Act), and govern the taking, possession, transportation, sale, purchase, barter, exportation, importation of, and other requirements pertaining to wildlife and plants under the jurisdiction of the Secretary of Commerce and determined to be threatened or endangered pursuant to section 4(a) of the Act. These regulations are implemented by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, This part pertains to general provisions and definitions. Specifically, parts 223 and 224 pertain to provisions to threatened species and endangered species, respectively. Part 226 enumerates designated critical habitat for endangered and threatened species. Certain of the endangered and threatened marine species enumerated in §§ 224.102 and 223.102 are included in Appendix I or II to the Convention on International Trade of Endangered Species of Wild Fauna and Flora. The importation, exportation, and re-exportation of such species are subject to additional regulations set forth at 50 CFR part 23, chapter I.

(b) For rules and procedures relating to species determined to be threatened or endangered under the jurisdiction of the Secretary of the Interior, see 50 CFR parts 10 through 17. For rules and procedures relating to the general implementation of the Act jointly by the Departments of the Interior and Commerce and for certain species under the joint jurisdiction of both the Secretaries of the Interior and Commerce, see 50 CFR Chapter IV. Marine mammals listed as endangered or threatened and subject to these regulations may also be subject to additional requirements pursuant to the Marine Mammal Protection Act (for

regulations implementing that act, see 50 CFR part 216).

(c) No statute or regulation of any state shall be construed to relieve a person from the restrictions, conditions, and requirements contained in parts 222, 223, and 224 of this chapter. In addition, nothing in parts 222, 223, and 224 of this chapter, including any permit issued pursuant thereto, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any state or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or any other National Marine Fisheries Service enforced statutes or regulations.

§ 222.102 Definitions.

Accelerator funnel means a device used to accelerate the flow of water through a shrimp trawl net.

Act means the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Adequately covered means, with respect to species listed pursuant to section 4 of the Act, that a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the Act for the species covered by the plan and, with respect to unlisted species, that a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the Act that would otherwise apply if the unlisted species covered by the plan were actually listed. For the Services to cover a species under a conservation plan, it must be listed on the section 10(a)(1)(B) permit.

Alaska Regional Administrator means the Regional Administrator for the Alaska Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Alaska Regional Administrator should be addressed: Alaska Regional Administrator, F/AK, Alaska Regional Office, National Marine Fisheries Service, NOAA, P.O. Box 21668 Juneau, AK 99802–1668.

Approved turtle excluder device (TED) means a device designed to be installed in a trawl net forward of the cod end for the purpose of excluding sea turtles from the net, as described in 50 CFR 223.207.

Assistant Administrator means the Assistant Administrator for Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or his authorized representative. Mail sent to the Assistant Administrator should be addressed: Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, 1315 East-West Highway, Silver Spring, MD 20910.

Atlantic Area means all waters of the Atlantic Ocean south of 36°33′00.8″ N. lat. (the line of the North Carolina/Virginia border) and adjacent seas, other than waters of the Gulf Area, and all waters shoreward thereof (including ports).

Atlantic Shrimp Fishery—Sea Turtle Conservation Area (Atlantic SFSTCA) means the inshore and offshore waters extending to 10 nautical miles (18.5 km) offshore along the coast of the States of Georgia and South Carolina from the Georgia-Florida border (defined as the line along 30°42′45.6″ N. lat.) to the North Carolina-South Carolina border (defined as the line extending in a direction of 135°34′55″ from true north from the North Carolina-South Carolina land boundary, as marked by the border station on Bird Island at 33°51′07.9″ N. lat., 078°32′32.6″ W. long.).

Authorized officer means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or enforcement officer of the National Marine Fisheries Service;

(3) Any officer designated by the head of a Federal or state agency that has entered into an agreement with the Secretary or the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Bait shrimper means a shrimp trawler that fishes for and retains its shrimp catch alive for the purpose of selling it for use as bait.

Beam trawl means a trawl with a rigid frame surrounding the mouth that is towed from a vessel by means of one or more cables or ropes.

Certificate of exemption means any document so designated by the National Marine Fisheries Service and signed by an authorized official of the National Marine Fisheries Service, including any document which modifies, amends, extends or renews any certificate of exemption.

Changed circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that can reasonably be anticipated by plan developers and NMFS and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events).

Commercial activity means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: Provided, however, that it does not include the exhibition of commodities by museums or similar cultural or historical organizations.

Conservation plan means the plan required by section 10(a)(2)(A) of the Act that an applicant must submit when applying for an incidental take permit. Conservation plans also are known as "habitat conservation plans" or "HCPs."

Conserved habitat areas means areas explicitly designated for habitat restoration, acquisition, protection, or other conservation purposes under a conservation plan.

Cooperative Agreement means an agreement between a state(s) and the National Marine Fisheries Service, NOAA, Department of Commerce, which establishes and maintains an active and adequate program for the conservation of resident species listed as endangered or threatened pursuant to section 6(c)(1) of the Endangered Species Act.

Fishing, or *to fish*, means:

(1) The catching, taking, or harvesting of fish or wildlife;

(2) The attempted catching, taking, or harvesting of fish or wildlife;

(3) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish or wildlife; or

(4) Any operations on any waters in support of, or in preparation for, any activity described in paragraphs (1) through (3) of this definition.

Footrope means a weighted rope or cable attached to the lower lip (bottom edge) of the mouth of a trawl net along the forward most webbing.

Footrope length means the distance between the points at which the ends of the footrope are attached to the trawl net, measured along the forward-most webbing.

Foreign commerce includes, among other things, any transaction between persons within one foreign country, or between persons in two or more foreign countries, or between a person within the United States and a person in one or more foreign countries, or between persons within the United States, where the fish or wildlife in question are moving in any country or countries outside the United States.

Four-seam, straight-wing trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top panel, a bottom panel, and two side panels of webbing. The upper and lower edges of the side panels of

webbing are parallel over the entire length.

Four-seam, tapered-wing trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top panel, a bottom panel, and two side panels of webbing. The upper and lower edges of the side panels of webbing converge toward the rear of the trawl.

Gulf Area means all waters of the Gulf of Mexico west of 81° W. long. (the line at which the Gulf Area meets the Atlantic Area) and all waters shoreward thereof (including ports).

Gulf Shrimp Fishery-Sea Turtle Conservation Area (Gulf SFSTCA) means the offshore waters extending to 10 nautical miles (18.5 km) offshore along the coast of the States of Texas and Louisiana from the South Pass of the Mississippi River (west of 89°08.5′ W. long.) to the U.S.-Mexican border.

Habitat restoration activity means an activity that has the sole objective of restoring natural aquatic or riparian habitat conditions or processes.

Headrope means a rope that is attached to the upper lip (top edge) of the mouth of a trawl net along the forward-most webbing.

Headrope length means the distance between the points at which the ends of the headrope are attached to the trawl net, measured along the forward-most webbing.

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the tariff laws of the United States.

Inshore means marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80.

Leatherback conservation zone means that portion of the Atlantic Area lying north of a line along 28°24.6′ N. lat. (Cape Canaveral, FL).

Northeast Regional Administrator means the Regional Administrator for the Northeast Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Northeast Regional Administrator should be addressed: Northeast Regional Administrator, F/NE, Northeast Regional Office, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298.

Northwest Regional Administrator means the Regional Administrator for the Northwest Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Northwest Regional Administrator should be addressed: Northwest Regional Administrator, F/NW, Northwest Regional Office, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

Office of Enforcement means the national fisheries enforcement office of the National Marine Fisheries Service. Mail sent to the Office of Enforcement should be addressed: Office of Enforcement, F/EN, National Marine Fisheries Service, NOAA, 8484 Suite 415, Georgia Ave., Silver Spring, MD 20910.

Office of Protected Resources means the national program office of the endangered species and marine mammal programs of the National Marine Fisheries Service. Mail sent to the Office of Protected Resources should be addressed: Office of Protected Resources, F/PR, National Marine Fisheries Service, NOAA, 1315 East West Highway, Silver Spring, MD 20910.

Offshore means marine and tidal waters seaward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80.

Operating conservation program means those conservation management activities which are expressly agreed upon and described in a Conservation Plan or its Implementing Agreement. These activities are to be undertaken for the affected species when implementing an approved Conservation Plan, including measures to respond to changed circumstances.

Permit means any document so designated by the National Marine Fisheries Service and signed by an authorized official of the National Marine Fisheries Service, including any document which modifies, amends, extends, or renews any permit.

Person means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal government of any state or political subdivision thereof or of any foreign government.

Possession means the detention and control, or the manual or ideal custody of anything that may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Possession includes the act or state of possessing and that condition of facts under which persons can exercise their power over a corporeal thing at their pleasure to the exclusion of all other persons. Possession includes constructive possession that which means not an actual but an assumed existence one claims to hold by virtue of some title, without having actual custody.

Pre-Act endangered species part means any sperm whale oil, including derivatives and products thereof, which was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

Properly implemented conservation plan means any conservation plan, implementing agreement, or permit whose commitments and provisions have been or are being fully implemented by the permittee.

Pusher-head trawl (chopsticks) means a trawl that is spread by two poles suspended from the bow of the trawler in an inverted "V" configuration.

Resident species means, for purposes of entering into cooperative agreements with any state pursuant to section 6(c) of the Act, a species that exists in the wild in that state during any part of its life.

Right whale means, as used in part 224 of this chapter, any whale that is a member of the western North Atlantic population of the northern right whale species (*Eubalaena glacialis*).

Roller trawl means a variety of beam trawl that is used, usually by small vessels, for fishing over uneven or vegetated sea bottoms.

Scrimshaw product means any art form which involves the substantial etching or engraving of designs upon, or the substantial carving of figures, patterns, or designs from any bone or tooth of any marine mammal of the order Cetacea. For purposes of this part, polishing or the adding of minor superficial markings does not constitute

substantial etching, engraving, or carving.

Secretary means the Secretary of Commerce or an authorized representative.

Shrimp means any species of marine shrimp (Order Crustacea) found in the Atlantic Area or the Gulf Area, including, but not limited to:

(1) Brown shrimp (*Penaeus aztecus*).

(2) White shrimp (*Penaeus setiferus*).

(3) Pink shrimp (*Penaeus duorarum*).

(4) Rock shrimp (*Sicyonia brevirostris*).

(5) Royal red shrimp (*Hymenopenaeus robustus*).

(6) Seabob shrimp (*Xiphopenaeus kroyeri*).

Shrimp trawler means any vessel that is equipped with one or more trawl nets and that is capable of, or used for, fishing for shrimp, or whose on-board or landed catch of shrimp is more than 1 percent, by weight, of all fish comprising its on-board or landed catch.

Skimmer trawl means a trawl that is fished along the side of the vessel and is held open by a rigid frame and a lead weight. On its outboard side, the trawl is held open by one side of the frame extending downward and, on its inboard side, by a lead weight attached by cable or rope to the bow of the vessel.

Southeast Regional Administrator means the Regional Administrator for the Southeast Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Southeast Regional Administrator should be addressed: Southeast Regional Administrator, F/SE, Southeast Regional Office, National Marine Fisheries Service, NOAA, 9721 Executive Center Drive N., St. Petersburg, FL 33702–2432.

Southwest Regional Administrator means the Regional Administrator for the Southwest Region of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or their authorized representative. Mail sent to the Southwest Regional Administrator should be addressed: Southwest Regional Administrator, F/SW, Southwest Regional Office, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213.

Stretched mesh size means the distance between the centers of the two opposite knots in the same mesh when pulled taut.

Summer flounder means the species *Paralichthys dentatus*.

Summer flounder fishery-sea turtle protection area means all offshore waters, bounded on the north by a line along 37°05′ N. lat. (Cape Charles, VA) and bounded on the south by a line extending in a direction of 135°34′55″ from true north from the North Carolina-South Carolina land boundary, as marked by the border station on Bird Island at 33°51′07.9″ N. lat., 078°32′32.6″ W. long.(the North Carolina-South Carolina border).

Summer flounder trawler means any vessel that is equipped with one or more bottom trawl nets and that is capable of, or used for, fishing for flounder or whose on-board or landed catch of flounder is more than 100 lb (45.4 kg).

Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

Taper, in reference to the webbing used in trawls, means the angle of a cut used to shape the webbing, expressed as the ratio between the cuts that reduce the width of the webbing by cutting into the panel of webbing through one row of twine (bar cuts) and the cuts that extend the length of the panel of webbing by cutting straight aft through two adjoining rows of twine (point cuts). For example, sequentially cutting through the lengths of twine on opposite sides of a mesh, leaving an uncut edge of twines all lying in the same line, produces a relatively strong taper called "all-bars"; making a sequence of 4-bar cuts followed by 1-point cut produces a more gradual taper called "4 bars to 1 point" or "4b1p"; similarly, making a sequence of 2-bar cuts followed by 1-point cut produces a still more gradual taper called "2b1p"; and making a sequence of cuts straight aft does not reduce the width of the panel and is called a "straight" or "all-points" cut.

Taut means a condition in which there is no slack in the net webbing.

Test net, or *try net,* means a net pulled for brief periods of time just before, or during, deployment of the primary net(s) in order to test for shrimp concentrations or determine fishing conditions (e.g., presence or absence of bottom debris, jellyfish, bycatch, seagrasses, etc.).

Tongue means any piece of webbing along the top, center, leading edge of a trawl, whether lying behind or ahead of the headrope, to which a towing bridle can be attached for purposes of pulling the trawl net and/or adjusting the shape of the trawl.

Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

Triple-wing trawl means a trawl with a tongue on the top, center, leading edge of the trawl and an additional tongue along the bottom, center, leading edge of the trawl.

Two-seam trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top and a bottom panel of webbing that are directly attached to each other down the sides of the trawl.

Underway with respect to a vessel, means that the vessel is not at anchor, or made fast to the shore, or aground.

Unforeseen circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that could not reasonably have been anticipated by plan developers and NMFS at the time of the conservation plan's negotiation and development, and that result in a substantial and adverse change in the status of the covered species.

Vessel means a vehicle used, or capable of being used, as a means of transportation on water which includes every description of watercraft, including nondisplacement craft and seaplanes.

Vessel restricted in her ability to maneuver has the meaning specified for this term at 33 U.S.C. 2003(g).

Wildlife means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

Wing net (butterfly trawl) means a trawl that is fished along the side of the vessel and that is held open by a four-sided, rigid frame attached to the outrigger of the vessel.

§ 222.103 Federal/state cooperation in the conservation of endangered and threatened species.

(a) *Application for and renewal of cooperative agreements.* (1) The Assistant Administrator may enter into a Cooperative Agreement with any state that establishes and maintains an active and adequate program for the conservation of resident species listed as endangered or threatened. In order for a state program to be deemed an adequate and active program, the Assistant Administrator must find, and annually reconfirm that the criteria of either sections 6(c)(1) (A) through (E) or

sections 6(c)(1) (i) and (ii) of the Act have been satisfied.

(2) Following receipt of an application by a state for a Cooperative Agreement with a copy of a proposed state program, and a determination by the Assistant Administrator that the state program is adequate and active, the Assistant Administrator shall enter into an Agreement with the state.

(3) The Cooperative Agreement, as well as the Assistant Administrator's finding upon which it is based, must be reconfirmed annually to ensure that it reflects new laws, species lists, rules or regulations, and programs and to demonstrate that it is still adequate and active.

(b) *Allocation and availability of funds.* (1) The Assistant Administrator shall allocate funds, appropriated for the purpose of carrying out section 6 of the Act, to various states using the following as the basis for the determination:

(i) The international commitments of the United States to protect endangered or threatened species;

(ii) The readiness of a state to proceed with a conservation program consistent with the objectives and purposes of the Act;

(iii) The number of federally listed endangered and threatened species within a state;

(iv) The potential for restoring endangered and threatened species within a state; and

(v) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

(2) Funds allocated to a state are available for obligation during the fiscal year for which they are allocated and until the close of the succeeding fiscal year. Obligation of allocated funds occurs when an award or contract is signed by the Assistant Administrator.

(c) *Financial assistance and payments.* (1) A state must enter into a Cooperative Agreement before financial assistance is approved by the Assistant Administrator for endangered or threatened species projects. Specifically, the Agreement must contain the actions that are to be taken by the Assistant Administrator and/or by the state, the benefits to listed species expected to be derived from these actions, and the estimated cost of these actions.

(2) Subsequent to such Agreement, the Assistant Administrator may further agree with a state to provide financial assistance in the development and implementation of acceptable projects for the conservation of endangered and threatened species. Documents to provide financial assistance will consist of an application for Federal assistance and an award or a contract. The availability of Federal funds shall be contingent upon the continued existence of the Cooperative Agreement and compliance with all applicable Federal regulations for grant administration and cost accounting principles.

(3)(i) The payment of the Federal share of costs incurred when conducting activities included under a contract or award shall not exceed 75 percent of the program costs as stated in the agreement. However, the Federal share may be increased to 90 percent when two or more states having a common interest in one or more endangered or threatened resident species, the conservation of which may be enhanced by cooperation of such states, jointly enter into an agreement with the Assistant Administrator.

(ii) The state share of program costs may be in the form of cash or in-kind contributions, including real property, subject to applicable Federal regulations.

(4) Payments of funds, including payment of such preliminary costs and expenses as may be incurred in connection with projects, shall not be made unless all necessary or required documents are first submitted to and approved by the Assistant Administrator. Payments shall only be made for expenditures reported and certified by the state agency. Payments shall be made only to the state office or official designated by the state agency and authorized under the laws of the state to receive public funds for the state.

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

§ 222.201 General requirements.

(a) The Assistant Administrator may exempt any pre-Act endangered species part from the prohibitions of sections 9(a)(1)(A), 9(a)(1)(E), or 9(a)(1)(F) of the Act.

(1) No person shall engage in any activities identified in such sections of the Act that involve any pre-Act endangered species part without a valid Certificate of Exemption issued pursuant to this subpart B.

(2) No person may export, deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any pre-Act finished scrimshaw product unless that person has been issued a valid Certificate of Exemption and the product or the raw material for such product was held by such certificate holder on October 13, 1982.

(3) Any person engaged in activities otherwise prohibited under the Act or regulations shall bear the burden of proving that the exemption or certificate is applicable, was granted, and was valid and in force at the time of the otherwise prohibited activity.

(b) Certificates of Exemption issued under this subpart are no longer available to new applicants. However, the Assistant Administrator may renew or modify existing Certificates of Exemptions as authorized by the provisions set forth in this subpart.

(c) Any person granted a Certificate of Exemption, including a renewal, under this subpart, upon a sale of any exempted pre-Act endangered species part, must provide the purchaser in writing with a description (including full identification number) of the part sold and must inform the purchaser in writing of the purchaser's obligation under paragraph (b) of this section, including the address given in the certificate to which the purchaser's report is to be sent.

(d) Any purchaser of pre-Act endangered species parts included in a valid Certificate of Exemption, unless an ultimate user, within 30 days after the receipt of such parts, must submit a written report to the address given in the certificate. The report must specify the quantity of such parts or products received, the name and address of the seller, a copy of the invoice or other document showing the serial numbers, weight, and descriptions of the parts or products received, the date on which such parts or products were received, and the intended use of such parts by the purchaser. The term "ultimate user", for purposes of this paragraph, means any person who acquired such endangered species part or product for his or her own consumption or for other personal use (including gifts) and not for resale.

§ 222.202 Certificate renewal.

(a) Any person to whom a Certificate of Exemption has been issued by the National Marine Fisheries Service may apply to the Assistant Administrator for renewal of such certificate. Any person holding a valid Certificate of Exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, may apply to the Secretary for one renewal for a period not to exceed 5 years.

(b) The sufficiency of the application shall be determined by the Assistant Administrator in accordance with the requirements of paragraph (c) of this section. At least 15 days should be

allowed for processing. When an application for a renewal has been received and deemed sufficient, the Assistant Administrator shall issue a Certificate of Renewal to the applicant as soon as practicable.

(c) The following information will be used as the basis for determining whether an application for renewal of a Certificate of Exemption is complete:

(1) Title: Application for Renewal of Certificate of Exemption.

(2) The date of application.

(3) The identity of the applicant, including complete name, original Certificate of Exemption number, current address, and telephone number. If the applicant is a corporation, partnership, or association, set forth the details.

(4) The period of time for which a renewal of the Certificate of Exemption is requested. However, no renewal of Certificate of Exemption, or right claimed thereunder, shall be effective after the close of the 5-year period beginning on the date of the expiration of the previous renewal of the certificate of exemption.

(5)(i) A complete and detailed updated inventory of all pre-Act endangered species parts for which the applicant seeks exemption. Each item on the inventory must be identified by the following information: A unique serial number; the weight of the item to the nearest whole gram; and a detailed description sufficient to permit ready identification of the item. Small lots, not exceeding five pounds (2,270 grams), of scraps or raw material, which may include or consist of one or more whole raw whale teeth, may be identified by a single serial number and total weight. All finished scrimshaw items subsequently made from a given lot of scrap may be identified by the lot serial number plus additional digits to signify the piece number of the individual finished item. Identification numbers will be in the following format: 00–000000–0000. The first two digits will be the last two digits of the appropriate certificate of exemption number; the next six digits, the serial number of the individual piece or lot of scrap or raw material; and the last four digits, where applicable, the piece number of an item made from a lot of scrap or raw material. The serial numbers for each certificate holder's inventory must begin with 000001, and piece numbers, where applicable, must begin with 0001 for each separate lot.

(ii) Identification numbers may be affixed to inventory items by any means, including, but not limited to, etching the number into the item, attaching a label or tag bearing the number to the item, or sealing the item in a plastic bag, wrapper or other container bearing the number. The number must remain affixed to the item until the item is sold to an ultimate user, as defined in § 222.201(d).

(iii) No renewals will be issued for scrimshaw products in excess of any quantities declared in the original application for a Certificate of Exemption.

(6) A Certification in the following language: I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a renewal of my Certificate of Exemption under the Endangered Species Act, as amended, and the Department of Commerce regulations issued thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to the penalties under the Act.

(7) Signature of the applicant.

(d) Upon receipt of an incomplete or improperly executed application for renewal, the applicant shall be notified of the deficiency in the application for renewal. If the application for renewal is not corrected and received by the Assistant Administrator within 30 days following the date of receipt of notification, the application for renewal shall be considered abandoned.

§ 222.203 Modification, amendment, suspension, and revocation of certificates.

(a) When circumstances have changed so that an applicant or certificate holder desires to have any material, term, or condition of the application or certificate modified, the applicant or certificate holder must submit in writing full justification and supporting information in conformance with the provisions of this part.

(b) All certificates are issued subject to the condition that the Assistant Administrator reserves the right to amend the provisions of a Certificate of Exemption for just cause at any time. Such amendments take effect on the date of notification, unless otherwise specified.

(c) Any violation of the applicable provisions of parts 222, 223, or 224 of this chapter, or of the Act, or of a condition of the certificate may subject the certificate holder to penalties provided in the Act and to suspension, revocation, or modification of the Certificate of Exemption, as provided in subpart D of 15 CFR part 904.

§ 222.204 Administration of certificates.

(a) The Certificate of Exemption covers the business or activity specified in the Certificate of Exemption at the address described therein. No Certificate of Exemption is required to cover a separate warehouse facility used by the certificate holder solely for storage of pre-Act endangered species parts, if the records required by this subpart are maintained at the address specified in the Certificate of Exemption served by the warehouse or storage facility.

(b) Certificates of Exemption issued under this subpart are not transferable. However, in the event of the lease, sale, or other transfer of the operations or activity authorized by the Certificate of Exemption, the successor is not required to obtain a new Certificate of Exemption prior to commencing such operations or activity. In such case, the successor will be treated as a purchaser and must comply with the record and reporting requirements set forth in § 222.201(d).

(c) The Certificate of Exemption holder must notify the Assistant Administrator, in writing, of any change in address, in trade name of the business, or in activity specified in the certificate. The Assistant Administrator must be notified within 10 days of a change of address, and within 30 days of a change in trade name. The certificate with the change of address or in trade name must be endorsed by the Assistant Administrator, who shall provide an amended certificate to the person to whom it was issued. A certificate holder who seeks amendment of a certificate may continue all authorized activities while awaiting action by the Assistant Administrator.

(d) A Certificate of Exemption issued under this subpart confers no right or privilege to conduct a business or an activity contrary to state or other law. Similarly, compliance with the provisions of any state or other law affords no immunity under any Federal laws or regulations of any other Federal agency.

(e) Any person authorized to enforce the Act may enter the premises of any Certificate of Exemption holder or of any purchaser during business hours, including places of storage, for the purpose of inspecting or of examining any records or documents and any endangered species parts.

(f) The records pertaining to pre-Act endangered species parts prescribed by this subpart shall be in permanent form and shall be retained at the address shown on the Certificate of Exemption or at the principal address of a purchaser in the manner prescribed by this subpart.

(g)(1) Holders of Certificates of Exemption must maintain records of all pre-Act endangered species parts they receive, sell, transfer, distribute or

dispose of otherwise. Purchasers of pre-Act endangered species parts, unless ultimate users, as defined in § 222.201(d), must similarly maintain records of all such parts or products they receive.

(2) Such records referred to in paragraph (g)(1) of this section may consist of invoices or other commercial records, which must be filed in an orderly manner separate from other commercial records maintained and be readily available for inspection. Such records must show the name and address of the purchaser, seller, or other transferor; show the type, quantity, and identity of the part or product; show the date of such sale or transfer; and be retained, in accordance with the requirements of this subpart, for a period of not less than 3 years following the date of sale or transfer. Each pre-Act endangered species part will be identified by its number on the updated inventory required to renew a Certificate of Exemption.

(i) Each Certificate of Exemption holder must submit a quarterly report (to the address given in the certificate) containing all record information required by paragraph (g)(2) of this section, on all transfers of pre-Act endangered species parts made in the previous calendar quarter, or such other record information the Assistant Administrator may specify from time to time.

(ii) Quarterly reports are due on January 15, April 15, July 15, and October 15.

(3) The Assistant Administrator may authorize the record information to be submitted in a manner other than that prescribed in paragraph (g)(2) of this section when the record holder demonstrates that an alternate method of reporting is reasonably necessary and will not hinder the effective administration or enforcement of this subpart.

§ 222.205 Import and export requirements.

(a) Any fish and wildlife subject to the jurisdiction of the National Marine Fisheries Service and is intended for importation into or exportation from the United States, shall not be imported or exported except at a port(s) designated by the Secretary of the Interior. Shellfish and fishery products that are neither endangered nor threatened species and that are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes are excluded from this requirement. The Secretary of the Interior may permit the importation or exportation at nondesignated ports in the interest of the health or safety of the species for other reasons if the Secretary deems it appropriate and consistent with the purpose of facilitating enforcement of the Act and reducing the costs thereof. Importers and exporters are advised to see 50 CFR part 14 for importation and exportation requirements and information.

(b) No pre-Act endangered species part shall be imported into the United States. A Certificate of Exemption issued in accordance with the provisions of this subpart confers no right or privilege to import into the United States any such part.

(c)(1) Any person exporting from the United States any pre-Act endangered species part must possess a valid Certificate of Exemption issued in accordance with the provisions of this subpart. In addition, the exporter must provide to the Assistant Administrator, in writing, not less than 10 days prior to shipment, the following information: The name and address of the foreign consignee, the intended port of exportation, and a complete description of the parts to be exported. No shipment may be made until these requirements are met by the exporter.

(2) The exporter must send a copy of the Certificate of Exemption, and any endorsements thereto, to the District Director of Customs at the port of exportation, which must precede or accompany the shipment in order to permit the appropriate inspection prior to lading. Upon receipt, the District Director may order such inspection, as deemed necessary; the District will clear the merchandise for export, prior to the lading of the merchandise. If they are satisfied that the shipment is proper and complies with the information contained in the certificate and any endorsement thereto. The certificate, and any endorsements, will be forwarded to the Chief of the Office of Enforcement for NMFS.

(3) No pre-Act endangered species part in compliance with the requirements of this subpart may be exported except at a port or ports designated by the Secretary of the Interior, pursuant to § 222.103.

(4) Notwithstanding any provision of this subpart, it shall not be required that the Assistant Administrator authorizes the transportation in interstate or foreign commerce of pre-Act endangered species parts.

Subpart C—General Permit Procedures

§ 222.301 General requirements.

(a)(1) The regulations in this subpart C provide uniform rules and procedures for application, issuance, renewal, conditions, and general administration of permits issuable pursuant to parts 222, 223, and 224 of this chapter. While this section provides generic rules and procedures applicable to all permits, other sections may provide more specific rules and procedures with respect to certain types of permits. In such cases, the requirements in all applicable sections must be satisfied.

(2) Notwithstanding paragraph (a)(1) of this section, the Assistant Administrator may approve variations from the requirements of parts 222, 223, and 224 of this chapter when the Assistant Administrator finds that an emergency exists and that the proposed variations will not hinder effective administration of those parts and will not be unlawful. Other sections within parts 222, 223, and 224 of this chapter may allow for a waiver or variation of specific requirements for emergency situations, upon certain conditions. In such cases, those conditions must be satisfied in order for the waiver or variation to be lawful.

(b) No person shall take, import, export or engage in any other prohibited activity involving any species of fish or wildlife under the jurisdiction of the Secretary of Commerce that has been determined to be endangered under the Act, or that has been determined to be threatened and for which the prohibitions of section 9(a)(1) of the Act have been applied by regulation, without a valid permit issued pursuant to these regulations. The permit shall entitle the person to whom it is issued to engage in the activity specified in the permit, subject to the limitations of the Act and the regulations in parts 222, 223, and 224 of this chapter, for the period stated on the permit, unless sooner modified, suspended or revoked.

(c) Each person intending to engage in an activity for which a permit is required by parts 222, 223, and 224 of this chapter or by the Act shall, before commencing such activity, obtain a valid permit authorizing such activity. Any person who desires to obtain permit privileges authorized by parts 222, 223, and 224 of this chapter must apply for such permit in accordance with the requirements of these sections. If the information required for each specific, permitted activity is included, one application may be accepted for all permits required, and a single permit may be issued.

(d)(1) Any permit issued under these regulations must be in the possession of the person to whom it is issued (or of an agent of such person) while any animal subject to the permit is in the possession of such person or agent. Specifically, a person or his/her agent

must be in possession of a permit during the time of the authorized taking, importation, exportation, or of any other act and during the period of any transit incident to such taking, importation, exportation, or to any other act.

(2) A duplicate copy of the issued permit must be physically attached to the tank, container, package, enclosure, or other means of containment, in which the animal is placed for purposes of storage, transit, supervision, or care.

(e) The authorizations on the face of a permit setting forth specific times, dates, places, methods of taking, numbers and kinds of fish or wildlife, location of activity, authorize certain circumscribed transactions, or otherwise permit a specifically limited matter, are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

(f) Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid.

(g) Any permit issued under parts 222, 223, and 224 of this chapter shall be displayed for inspection, upon request, to an authorized officer, or to any other person relying upon its existence.

(h) Permittees may be required to file reports of the activities conducted under the permit. Any such reports shall be filed not later than March 31 for the preceding calendar year ending December 31, or any portion thereof, during which a permit was in force, unless the regulations of parts 222, 223, or 224 of this chapter or the provisions of the permit set forth other reporting requirements.

(i) From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of fish or wildlife pursuant to such permit. Such records shall be kept current and shall include the names and addresses of persons with whom any fish or wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records, unless otherwise specified, shall be entered in books, legibly written in the English language. Such records shall be retained for 5 years from the date of issuance of the permit.

(j) Any person holding a permit pursuant to parts 222, 223, and 224 of this chapter shall allow the Assistant Administrator to enter the permit holder's premises at any reasonable hour to inspect any fish or wildlife held or to inspect, audit, or copy any permits, books, or records required to be kept by these regulations or by the Act. Such person shall display any permit issued pursuant to these regulations or to the Act upon request by an authorized officer or by any other person relying on its existence.

§ 222.302 Procedure for obtaining permits.

(a) Applications must be submitted to the Assistant Administrator, by letter containing all necessary information, attachments, certification, and signature, as specified by the regulations in parts 222, 223, and 224 of this chapter, or by the Act. In no case, other than for emergencies pursuant to § 222.301(a)(2), will applications be accepted either orally or by telephone.

(b) Applications must be received by the Assistant Administrator at least 90 calendar days prior to the date on which the applicant desires to have the permit made effective, unless otherwise specified in the regulations or guidelines pertaining to a particular permit. The National Marine Fisheries Service will attempt to process applications deemed sufficient in the shortest possible time, but does not guarantee that the permit will be issued 90 days after notice of receipt of the application is published in the **Federal Register**.

(c)(1) Upon receipt of an insufficiently or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned.

(2) The sufficiency of the application shall be determined by the Assistant Administrator in accordance with the requirements of this part. The Assistant Administrator, however, may waive any requirement for information or require any elaboration or further information deemed necessary.

§ 222.303 Issuance of permits.

(a)(1) No permit may be issued prior to the receipt of a written application unless an emergency pursuant to § 222.301(a)(2) exists, and a written variation from the requirements is recorded by the National Marine Fisheries Service.

(2) No representation of an employee or agent of the United States shall be construed as a permit unless it meets the requirements of a permit defined in § 222.102.

(3) Each permit shall bear a serial number. Upon renewal, such a number may be reassigned to the permittee to whom issued so long as the permittee maintains continuity of renewal.

(b) When an application for a permit received by the Assistant Administrator is deemed sufficient, the Assistant Administrator shall, as soon as practicable, publish a notice in the **Federal Register**. Information received by the Assistant Administrator as a part of the application shall be available to the public as a matter of public record at every stage of the proceeding. An interested party, within 30 days after the date of publication of such notice, may submit to the Assistant Administrator written data, views, or arguments with respect to the taking, importation, or to other action proposed in the application, and may request a hearing in connection with the action to be taken thereon.

(c) If a request for a hearing is made within the 30-day period referred to in paragraph (b) of this section, or if the Assistant Administrator determines that a hearing would otherwise be advisable, the Assistant Administrator may, within 60 days after the date of publication of the notice referred to in paragraph (b) of this section, afford to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and place of such hearing shall be published in the **Federal Register** not less than 15 days in advance of such hearing. Any interested person may appear at the hearing in person or through a representative and may submit any relevant material, data, views, comments, arguments, or exhibits. A summary record of the hearing shall be kept.

(d) Except as provided in subpart D to 15 CFR part 904, as soon as practicable but not later than 30 days after the close of the hearing. If no hearing is held, as soon as practicable but not later than 30 days from the publication of the notice in the **Federal Register**, the Assistant Administrator shall issue or deny issuance of the permit. Notice of the decision of the Assistant Administrator shall be published in the **Federal Register** within 10 days after the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(e)(1) The Assistant Administrator shall issue the permit unless:

(i) Denial of the permit has been made pursuant to subpart D to 15 CFR part 904;

(ii) The applicant has failed to disclose material or information required, or has made false statements as to any material fact, in connection with the application;

(iii) The applicant has failed to demonstrate a valid justification for the permit or a showing of responsibility;

(iv) The authorization requested potentially threatens a fish or wildlife population; or

(v) The Assistant Administrator finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(2) The applicant shall be notified in writing of the denial of any permit request, and the reasons thereof. If authorized in the notice of denial, the applicant may submit further information or reasons why the permit should not be denied. Such further information shall not be considered a new application. The final action by the Assistant Administrator shall be considered the final administrative decision of the Department of Commerce.

(f) If a permit is issued under § 222.308, the Assistant Administrator shall publish notice thereof in the **Federal Register**, including the Assistant Administrator's finding that such permit—

(1) Was applied for in good faith;

(2) Will not operate to the disadvantage of such endangered species; and

(3) Will be consistent with the purposes and policy set forth in section 2 of the Act.

(g) The Assistant Administrator may waive the 30-day period in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant. Notice of any such waiver shall be published by the Assistant Administrator in the **Federal Register** within 10 days following the issuance of the permit.

§ 222.304 Renewal of permits.

When the permit is renewable and a permittee intends to continue the activity described in the permit during any portion of the year ensuing its expiration, the permittee shall, unless otherwise notified in writing by the Assistant Administrator, file a request for permit renewal, together with a certified statement, verifying that the information in the original application is still currently correct. If the information is incorrect the permittee shall file a statement of all changes in the original application, accompanied by any required fee at least 30 days prior to the expiration of the permit. Any person holding a valid renewable permit, who has complied with the foregoing provision of this section, may continue such activities as were authorized by the expired permit until the renewal application is acted upon.

§ 222.305 Rights of succession and transfer of permits.

(a)(1) Permits issued pursuant to parts 222, 223, and 224 of this chapter are not transferable or assignable. In the event that a permit authorizes certain activities in connection with a business or commercial enterprise, which is then subject to any subsequent lease, sale or transfer, the successor to that enterprise must obtain a permit prior to continuing the permitted activity, with the exceptions provided in paragraph (a)(2) of this section.

(2) Certain persons, other than the permittee, are granted the right to carry on a permitted activity for the remainder of the term of a current permit, provided that they furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity. Such persons are the following:

(i) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee, and

(ii) The receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) Except as otherwise stated on the face of the permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for purposes authorized by the permit, may carry out the activity authorized by the permit.

§ 222.306 Modification, amendment, suspension, cancellation, and revocation of permits.

(a) When circumstances have changed so that an applicant or a permittee desires to have any term or condition of the application or permit modified, the applicant or permittee must submit in writing full justification and supporting information in conformance with the provisions of this part and the part under which the permit has been issued or requested. Such applications for modification are subject to the same issuance criteria as original applications.

(b) Notwithstanding the requirements of paragraph (a) of this section, a permittee may change the mailing address or trade name under which business is conducted without obtaining a new permit or being subject to the same issuance criteria as original permits. The permittee must notify the Assistant Administrator, in writing within 30 days, of any change in address or of any change in the trade name for the business or activity specified in the permit. The permit with the change of address or in trade name must be endorsed by the Assistant Administrator, who shall provide an amended permit to the person to whom it was issued.

(c) All permits are issued subject to the condition that the National Marine Fisheries Service reserves the right to amend the provisions of a permit for just cause at any time during its term. Such amendments take effect on the date of notification, unless otherwise specified.

(d) When any permittee discontinues the permitted activity, the permittee shall, within 30 days thereof, mail the permit and a request for cancellation to the issuing officer, and the permit shall be deemed void upon receipt. No refund of any part of an amount paid as a permit fee shall be made when the operations of the permittee are, for any reason, discontinued during the tenure of an issued permit.

(e) Any violation of the applicable provisions of parts 222, 223, or 224 of this chapter, or of the Act, or of a term or condition of the permit may subject the permittee to both the penalties provided in the Act and suspension, revocation, or amendment of the permit, as provided in subpart D to 15 CFR part 904.

§ 222.307 Permits for incidental taking of species.

(a) *Scope.* (1) The Assistant Administrator may issue permits to take endangered and threatened species incidentally to an otherwise lawful activity under section 10(a)(1)(B) of the Act. The regulations in this section apply to all endangered species, and those threatened species for which the prohibitions of section 9(a)(1) of the Act, under the jurisdiction of the Secretary of Commerce, apply.

(2) If the applicant represents an individual or a single entity, such as a corporation, the Assistant Administrator will issue an individual incidental take permit. If the applicant represents a group or organization whose members conduct the same or a similar activity in the same geographical area with similar impacts on listed species for which a permit is required, the Assistant Administrator will issue a general incidental take permit. To be covered by a general incidental take permit, each individual conducting the activity must have a certificate of inclusion issued under paragraph (f) of this section.

(b) *Permit application procedures.* Applications should be sent to the Assistant Administrator. The Assistant Administrator shall determine the

sufficiency of the application in accordance with the requirements of this section. At least 120 days should be allowed for processing. Each application must be signed and dated and must include the following:

(1) The type of application, either:

(i) Application for an Individual Incidental Take Permit under the Act; or

(ii) Application for a General Incidental Take Permit under the Act;

(2) The name, address, and telephone number of the applicant. If the applicant is a partnership or a corporate entity or is representing a group or an organization, the applicable details;

(3) The species or stocks, by common and scientific name, and a description of the status, distribution, seasonal distribution, habitat needs, feeding habits and other biological requirements of the affected species or stocks;

(4) A detailed description of the proposed activity, including the anticipated dates, duration, and specific location. If the request is for a general incidental take permit, an estimate of the total level of activity expected to be conducted;

(5) A conservation plan, based on the best scientific and commercial data available, which specifies the following:

(i) The anticipated impact (i.e., amount, extent, and type of anticipated taking) of the proposed activity on the species or stocks;

(ii) The anticipated impact of the proposed activity on the habitat of the species or stocks and the likelihood of restoration of the affected habitat;

(iii) The steps (specialized equipment, methods of conducting activities, or other means) that will be taken to monitor, minimize, and mitigate such impacts, and the funding available to implement such measures;

(iv) The alternative actions to such taking that were considered and the reasons why those alternatives are not being used; and

(v) A list of all sources of data used in preparation of the plan, including reference reports, environmental assessments and impact statements, and personal communications with recognized experts on the species or activity who may have access to data not published in current literature.

(c) Issuance criteria. (1) In determining whether to issue a permit, the Assistant Administrator will consider the following:

(i) The status of the affected species or stocks;

(ii) The potential severity of direct, indirect, and cumulative impacts on the species or stocks and habitat as a result of the proposed activity;

(iii) The availability of effective monitoring techniques;

(iv) The use of the best available technology for minimizing or mitigating impacts; and

(v) The views of the public, scientists, and other interested parties knowledgeable of the species or stocks or other matters related to the application.

(2) To issue the permit, the Assistant Administrator must find that—

(i) The taking will be incidental;

(ii) The applicant will, to the maximum extent practicable, monitor, minimize, and mitigate the impacts of such taking;

(iii) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild;

(iv) The applicant has amended the conservation plan to include any measures (not originally proposed by the applicant) that the Assistant Administrator determines are necessary or appropriate; and

(v) There are adequate assurances that the conservation plan will be funded and implemented, including any measures required by the Assistant Administrator.

(d) *Permit conditions.* In addition to the general conditions set forth in this part, every permit issued under this section will contain such terms and conditions as the Assistant Administrator deems necessary and appropriate, including, but not limited to the following:

(1) Reporting requirements or rights of inspection for determining whether the terms and conditions are being complied with;

(2) The species and number of animals covered;

(3) The authorized method of taking;

(4) The procedures to be used to handle or dispose of any animals taken; and

(5) The payment of an adequate fee to the National Marine Fisheries Service to process the application.

(e) *Duration of permits.* The duration of permits issued under this section will be such as to provide adequate assurances to the permit holder to commit funding necessary for the activities authorized by the permit, including conservation activities. In determining the duration of a permit, the Assistant Administrator will consider the duration of the proposed activities, as well as the possible positive and negative effects on listed species associated with issuing a permit of the proposed duration, including the extent to which the conservation plan is likely to enhance the habitat of the endangered species or to increase the long-term survivability of the species.

(f) *Certificates of inclusion.* (1) Any individual who wishes to conduct an activity covered by a general incidental take permit must apply to the Assistant Administrator for a Certificate of Inclusion. Each application must be signed and dated and must include the following:

(i) The general incidental take permit under which the applicant wants coverage;

(ii) The name, address, and telephone number of the applicant. If the applicant is a partnership or a corporate entity, the applicable details;

(iii) A description of the activity the applicant seeks to have covered under the general incidental take permit, including the anticipated dates, duration, and specific location; and

(iv) A signed certification that the applicant has read and understands the general incidental take permit and the conservation plan, will comply with their terms and conditions, and will fund and implement applicable measures of the conservation plan.

(2) To issue a Certificate of Inclusion, the Assistant Administrator must find that:

(i) The applicant will be engaged in the activity covered by the general permit, and

(ii) The applicant has made adequate assurances that the applicable measures of the conservation plan will be funded and implemented.

(g) *Assurances provided to permittee in case of changed or unforeseen circumstances.* The assurances in this paragraph (g) apply only to incidental take permits issued in accordance with paragraph (c) of this section where the conservation plan is being properly implemented, and apply only with respect to species adequately covered by the conservation plan. These assurances cannot be provided to Federal agencies. This rule does not apply to incidental take permits issued prior to March 25, 1998. The assurances provided in incidental take permits issued prior to March 25, 1998, remain in effect, and those permits will not be revised as a result of this rulemaking.

(1) *Changed circumstances provided for in the plan.* If additional conservation and mitigation measures are deemed necessary to respond to changed circumstances and were provided for in the plan's operating conservation program, the permittee will implement the measures specified in the plan.

(2) *Changed circumstances not provided for in the plan.* If additional conservation and mitigation measures are deemed necessary to respond to changed circumstances and such

measures were not provided for in the plan's operating conservation program, NMFS will not require any conservation and mitigation measures in addition to those provided for in the plan without the consent of the permittee, provided the plan is being properly implemented.

(3) *Unforeseen circumstances.* (i) In negotiating unforeseen circumstances, NMFS will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for the species covered by the conservation plan without the consent of the permittee.

(ii) If additional conservation and mitigation measures are deemed necessary to respond to unforeseen circumstances, NMFS may require additional measures of the permittee where the conservation plan is being properly implemented. However, such additional measures are limited to modifications within any conserved habitat areas or to the conservation plan's operating conservation program for the affected species. The original terms of the conservation plan will be maintained to the maximum extent possible. Additional conservation and mitigation measures will not involve the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for development or use under the original terms of the conservation plan without the consent of the permittee.

(iii) NMFS has the burden of demonstrating that unforeseen circumstances exist, using the best scientific and commercial data available. These findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species. NMFS will consider, but not be limited to, the following factors:

(A) Size of the current range of the affected species;

(B) Percentage of range adversely affected by the conservation plan;

(C) Percentage of range conserved by the conservation plan;

(D) Ecological significance of that portion of the range affected by the conservation plan;

(E) Level of knowledge about the affected species and the degree of specificity of the species' conservation program under the conservation plan; and

(F) Whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

(h) Nothing in this rule will be construed to limit or constrain the Assistant Administrator, any Federal, State, local, or Tribal government agency, or a private entity, from taking additional actions at his or her own expense to protect or conserve a species included in a conservation plan.

§ 222.308 Permits for scientific purposes or for the enhancement of propagation or survival of species.

(a) *Scope.* The Assistant Administrator may issue permits for scientific purposes or for the enhancement of the propagation or survival of the affected endangered or threatened species in accordance with the regulations in parts 222, 223, and 224 of this chapter and under such terms and conditions as the Assistant Administrator may prescribe, authorizing the taking, importation, or other acts otherwise prohibited by section 9 of the Act. Within the jurisdication of a State, more restrictive state laws or regulations in regard to endangered species shall prevail in regard to taking. Proof of compliance with applicable state laws will be required before a permit will be issued.

(b) *Application procedures.* Any person desiring to obtain such a permit may make application therefor to the Assistant Administrator. Permits for marine mammals shall be issued in accordance with the provisions of part 216, subpart D of this chapter. Permits relating to sea turtles may involve the Fish and Wildlife Service, in which case the applicant shall follow the procedures set out in § 222.309. The following information will be used as the basis for determining whether an application is complete and whether a permit for scientific purposes or for enhancement of propagation or survival of the affected species should be issued by the Assistant Administrator. An application for a permit shall provide the following information and such other information that the Assistant Administrator may require:

(1) Title, as applicable, either—

(i) Application for permit for scientific purposes under the Act; or

(ii) Application for permit for the enhancement of the propagation or survival of the endangered species Under the Act.

(2) The date of the application.

(3) The identity of the applicant including complete name, address, and telephone number. If the applicant is a partnership or a corporate entity, set forth the details. If the endangered species is to be utilized by a person other than the applicant, set forth the name of that person and such other information as would be required if such person were an applicant.

(4) A description of the purpose of the proposed acts, including the following:

(i) A detailed justification of the need for the endangered species, including a discussion of possible alternatives, whether or not under the control of the applicant; and

(ii) A detailed description of how the species will be used.

(5) A detailed description of the project, or program, in which the endangered species is to be used, including the following:

(i) The period of time over which the project or program will be conducted;

(ii) A list of the names and addresses of the sponsors or cooperating institutions and the scientists involved;

(iii) A copy of the formal research proposal or contract if one has been prepared;

(iv) A statement of whether the proposed project or program has broader significance than the individual researcher's goals. For example, does the proposed project or program respond directly or indirectly to recommendation of any national or international scientific body charged with research or management of the endangered species? If so, how?; and

(v) A description of the arrangements, if any, for the disposition of any dead specimen or its skeleton or other remains in a museum or other institutional collection for the continued benefit to science.

(6) A description of the endangered species which is the subject of the application, including the following:

(i) A list of each species and the number of each, including the common and scientific name, the subspecies (if applicable), population group, and range;

(ii) A physical description of each animal, including the age, size, and sex;

(iii) A list of the probable dates of capture or other taking, importation, exportation, and other acts which require a permit for each animal and the location of capture or other taking, importation, exportation, and other acts which require a permit, as specifically as possible;

(iv) A description of the status of the stock of each species related insofar as possible to the location or area of taking;

(v) A description of the manner of taking for each animal, including the gear to be used;

(vi) The name and qualifications of the persons or entity which will capture or otherwise take the animals; and

(vii) If the capture or other taking is to be done by a contractor, a statement

as to whether a qualified member of your staff (include name(s) and qualifications) will supervise or observe the capture or other taking. Accompanying such statement shall be a copy of the proposed contract or a letter from the contractor indicating agreement to capture or otherwise take the animals, should a permit be granted.

(7) A description of the manner of transportation for any live animal taken, imported, exported, or shipped in interstate commerce, including the following:

(i) Mode of transportation;

(ii) Name of transportation company;

(iii) Length of time in transit for the transfer of the animal(s) from the capture site to the holding facility;

(iv) Length of time in transit for any planned future move or transfer of the animals;

(v) The qualifications of the common carrier or agent used for transportation of the animals;

(vi) A description of the pen, tank, container, cage, cradle, or other devices used to hold the animal at both the capture site and during transportation;

(vii) Special care before and during transportation, such as salves, antibiotics, moisture; and

(viii) A statement as to whether the animals will be accompanied by a veterinarian or by another similarly qualified person, and the qualifications of such person.

(8) Describe the contemplated care and maintenance of any live animals sought, including a complete description of the facilities where any such animals will be maintained including:

(i) The dimensions of the pools or other holding facilities and the number, sex, and age of animals by species to be held in each;

(ii) The water supply, amount, and quality;

(iii) The diet, amount and type, for all animals;

(iv) Sanitation practices used;

(v) Qualifications and experience of the staff;

(vi) A written certification from a licensed veterinarian or from a recognized expert who are knowledgeable on the species (or related species) or group covered in the application. The certificate shall verify that the veterinarian has personally reviewed the amendments for transporting and maintaining the animal(s) and that, in the veterinarian's opinion, they are adequate to provide for the well-being of the animal; and

(vii) The availability in the future of a consulting expert or veterinarian meeting paragraph requirements of (b)(8)(vi) in this section.

(9) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a stud book.

(10) A statement of how the applicant's proposed project or program will enhance or benefit the wild population.

(11) For the 5 years preceding the date of application, the applicant shall provide a detailed description of all mortalities involving species under the control of or utilized by the applicant and are either presently listed as endangered species or are taxonomically related within the Order to the species which is the subject of this application, including:

(i) A list of all endangered species and related species that are the subject of this application that have been captured, transported, maintained, or utilized by the applicant for scientific purposes or for the enhancement of propagation or survival of the affected species, and/or of related species that are captured, transported, maintained, or utilized by the applicant for scientific purposes or for enhancement of propagation or survival of the affected species;

(ii) The numbers of mortalities among such animals by species, by date, by location of capture, i.e., from which population, and the location of such mortalities;

(iii) The cause(s) of any such mortality; and

(iv) The steps which have been taken by applicant to avoid or decrease any such mortality.

(12) A certification in the following language: I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Endangered Species Act, as amended, and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Act.

(13) The applicant and/or an officer thereof must sign the application.

(14) Assistance in completing this application may be obtained by writing Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 or calling the Office of Protected Resources at 301–713–1401. Allow at least 90 days for processing.

(c) *Issuance criteria.* In determining whether to issue a permit for scientific purposes or to enhance the propagation or survival of the affected endangered species, the Assistant Administrator shall specifically consider, among other application criteria, the following:

(1) Whether the permit was applied for in good faith;

(2) Whether the permit, if granted and exercised, will not operate to the disadvantage of the endangered species;

(3) Whether the permit would be consistent with the purposes and policy set forth in section 2 of the Act;

(4) Whether the permit would further a bona fide and necessary or desirable scientific purpose or enhance the propagation or survival of the endangered species, taking into account the benefits anticipated to be derived on behalf of the endangered species;

(5) The status of the population of the requested species and the effect of the proposed action on the population, both direct and indirect;

(6) If a live animal is to be taken, transported, or held in captivity, the applicant's qualifications for the proper care and maintenance of the species and the adequacy of the applicant's facilities;

(7) Whether alternative non-endangered species or population stocks can and should be used;

(8) Whether the animal was born in captivity or was (or will be) taken from the wild;

(9) Provision for disposition of the species if and when the applicant's project or program terminates;

(10) How the applicant's needs, program, and facilities compare and relate to proposed and ongoing projects and programs;

(11) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application; and

(12) Opinions or views of scientists or other persons or organizations knowledgeable about the species which is the subject of the application or of other matters germane to the application.

(d) *Terms and conditions.* Permits applied for under this section shall contain terms and conditions as the Assistant Administrator may deem appropriate, including but not limited to the following:

(1) The number and kind of species covered;

(2) The location and manner of taking;

(3) Port of entry or export;

(4) The methods of transportation, care, and maintenance to be used with live species;

(5) Any requirements for reports or rights of inspections with respect to any activities carried out pursuant to the permit;

(6) The transferability or assignability of the permit;

(7) The sale or other disposition of the species, its progeny, or the species product; and

(8) A reasonable fee covering the costs of issuance of such permit, including reasonable inspections and an appropriate apportionment of overhead and administrative expenses of the Department of Commerce. All such fees will be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the service.

§ 222.309 Permits for listed species of sea turtles involving the Fish and Wildlife Service.

(a) This section establishes specific procedures for issuance of the following permits: scientific purposes or to enhance the propagation or survival of endangered or threatened species of sea turtles; zoological exhibition or educational purposes for threatened species of sea turtles; and permits that requires coordination with the Fish and Wildlife Service. The National Marine Fisheries Service maintains jurisdiction for such species in the marine environment. The Fish and Wildlife Service maintains jurisdiction for such species of sea turtles in the land environment.

(b) For permits relating to any activity in the marine environment exclusively, permit applicants and permittees must comply with the regulations in parts 222, 223, and 224 of this chapter.

(c) For permits relating to any activity in the land environment exclusively, permit applicants must submit applications to the Wildlife Permit Office (WPO) of the U.S. Fish and Wildlife Service in accordance with either 50 CFR 17.22(a), if the species is endangered, or 50 CFR 17.32(a), if the species is threatened.

(d) For permits relating to any activity in both the land and marine environments, applicants must submit applications to the WPO. WPO will forward the application to NMFS for review and processing of those activities under its jurisdiction. Based on this review and processing, WPO will issue either a permit or a letter of denial in accordance with its own regulations.

(e) For permits relating to any activity in a marine environment and that also requires a permit under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (TIAS 8249, July 1, 1975) (50 CFR part 23), applicants must submit applications to the WPO. WPO will forward the application to NMFS for review and processing, after which WPO will issue a combination ESA/CITES permit or a letter of denial.

5. Part 224 is added to read as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

Sec.

224.101 Enumeration of endangered marine and anadromous species.
224.102 Permits for endangered marine and anadromous species.
224.103 Special prohibitions for endangered marine mammals.
224.104 Incidental capture of endangered sea turtles.

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

§ 224.101 Enumeration of endangered marine and anadromous species.

The marine and anadromous species determined by the Secretary of Commerce to be endangered pursuant to section 4(a) of the Act, as well as species listed under the Endangered Species Conservation Act of 1969 by the Secretary of the Interior and currently under the jurisdiction of the Secretary of Commerce, are the following:

(a) *Marine and anadromous fish.* Shortnose sturgeon (*Acipenser brevirostrum*); Totoaba (*Cynoscion macdonaldi*), Snake River sockeye salmon (*Oncorhynchus nerka*), Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*); Southern California steelhead (*Oncorhynchus mykiss*), including all naturally spawned populations of steelhead (and their progeny) in streams from the Santa Maria River, San Luis Obispo County, California (inclusive) to Malibu Creek, Los Angeles County, California (inclusive); Upper Columbia River steelhead (*Oncorhynchus mykiss*), including the Wells Hatchery stock and all naturally spawned populations of steelhead (and their progeny) in streams in the Columbia River Basin upstream from the Yakima River, Washington, to the United States-Canada Border; Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*).

(b) *Marine mammals.* Blue whale (*Balaenoptera musculus*); Bowhead whale (*Balaena mysticetus*); Caribbean monk seal (*Monachus tropicalis*); Chinese river dolphin (*Lipotes vexillifer*); Cochito (*Phocoena sinus*); Fin or finback whale (*Balaenoptera physalus*); Hawaiian monk seal (*Monachus schauinslandi*); Humpback whale (*Megaptera novaeangliae*); Indus River dolphin (*Platanista minor*); Mediterranean monk seal (*Monachus monachus*); Right whales (*Eubalaena spp.*); Saimaa seal (*Phoca hispida saimensis*); Sei whale (*Balaenoptera borealis*); Sperm whale (*Physeter catodon*); Western North Pacific (Korean) gray whale (*Eschrichtius robustus*); Steller sea lion, western population, (*Eumetopias jubatus*), which consists of Stellar sea lions from breeding colonies located west of 144° W. longitude.

(c) *Sea turtles.* Green turtle (*Chelonia mydas*) breeding colony populations in Florida and on the Pacific coast of Mexico; Hawksbill turtle (*Eretmochelys imbricata*); Kemp's ridley turtle (*Lepidochelys kempii*); Leatherback turtle (*Dermochelys coriacea*); Olive ridley turtle (*Lepidochelys olivacea*) breeding colony population on the Pacific coast of Mexico.

Note to § 224.101(c): Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

§ 224.102 Permits for endangered marine and anadromous species.

No person shall take, import, export, or engage in any activity prohibited by section 9 of the Act involving any marine species that has been determined to be endangered under the Endangered Species Conservation Act of 1969 or the Act, and that is under the jurisdiction of the Secretary, without a valid permit issued pursuant to part 222, subpart C of this chapter.

§ 224.103 Special prohibitions for endangered marine mammals.

(a) *Approaching humpback whales in Hawaii.* Except as provided in part 222, subpart C, of this chapter (General Permit Procedures), it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of the Islands of Hawaii, any of the following acts with respect to humpback whales (*Megaptera novaeangliae*):

(1) Operate any aircraft within 1,000 feet (300 m) of any humpback whale;

(2) Approach, by any means, within 100 yard (90 m) of any humpback whale;

(3) Cause a vessel or other object to approach within 100 yd (90 m) of a humpback whale; or

(4) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of breeding, nursing, or resting activities, attempts by a whale to shield a calf from a vessel

or human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.

(b) *Approaching North Atlantic right whales*—(1) *Prohibitions.* Except as provided under paragraph (b)(3) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, to solicit another to commit, or cause to be committed any of the following acts:

(i) Approach (including by interception) within 500 yards (460 m) of a right whale by vessel, aircraft, or any other means;

(ii) Fail to undertake required right whale avoidance measures specified under paragraph (b)(2) of this section.

(2) *Right whale avoidance measures.* Except as provided under paragraph (b)(3) of this section, the following avoidance measures must be taken if within 500 yards (460 m) of a right whale:

(i) If underway, a vessel must steer a course away from the right whale and immediately leave the area at a slow safe speed.

(ii) An aircraft must take a course away from the right whale and immediately leave the area at a constant airspeed.

(3) *Exceptions.* The following exceptions apply to this section, but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(i) Paragraphs (b)(1) and (b)(2) of this section do not apply if a right whale approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(ii) Paragraphs (b)(1) and (b)(2) of this section do not apply where compliance would create an imminent and serious threat to a person, vessel, or aircraft.

(iii) Paragraphs (b)(1) and (b)(2) of this section do not apply when approaching to investigate a right whale entanglement or injury, or to assist in the disentanglement or rescue of a right whale, provided that permission is received from the National Marine Fisheries Service or designee prior to the approach.

(iv) Paragraphs (b)(1) and (b)(2) of this section do not apply to an aircraft unless the aircraft is conducting whale watch activities.

(v) Paragraph (b)(2) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (b)(2) of this section.

(c) *Special prohibitions relating to endangered Steller sea lion protection.* The regulatory provisions set forth in part 223 of this chapter, which govern threatened Steller sea lions, shall also apply to the western population of Steller sea lions, which consists of all Steller sea lions from breeding colonies located west of 144° W. long.

§ 224.104 Incidental capture of endangered sea turtles.

(a) Shrimp fishermen in the southeastern United States and the Gulf of Mexico who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for incidental captures of endangered sea turtles by shrimp trawl gear.

(b) Summer flounder fishermen in the Summer flounder fishery-sea turtle protection area who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for incidental captures of endangered sea turtles by summer flounder gear.

(c) Special prohibitions relating to leatherback sea turtles are provided at § 223.206(d)(2)(iv) of this chapter.

PART 226—DESIGNATED CRITICAL HABITAT

6. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

PART 226—[AMENDED]

7. Subpart headings A through D, §§ 226.1 and 226.2, and Figures 1 through 9 to part 226 are removed.

§§ 226.11, 226.12, 226.13, 226.21, 226.22, 226.23, 226.71, 226.72 and 226.73 [Redesignated as §§ 226.201 through 226.209]

8. Sections 226.11 through 226.13, 226.21, 226.22, 226.23, 226.71, 226.72, and 226.73 are redesignated as §§ 226.201 through 226.209, respectively.

9. Section 226.101 is added to read as follows:

§ 226.101 Purpose and scope.

The regulations contained in this part identify those habitats designated by the Secretary of Commerce as critical under section 4 of the Act, for endangered and threatened species under the jurisdiction of the Secretary of Commerce. Those species are enumerated at § 223.102 of this chapter, if threatened and at § 224.101 of this chapter, if endangered. For regulations pertaining to the designation of critical habitat, see part 424 of this title, and for regulations pertaining to prohibitions against the adverse modification or destruction of critical habitat, see part 402 of this title. Maps and charts identifying designated critical habitat that are not provided in this section may be obtained upon request to the Office of Protected Resources (see § 222.102, definition of "Office of Protected Resources").

10. The section headings and table headings to part 226 are revised to read as follows:

PART 226—DESIGNATED CRITICAL HABITAT

226.101 Purpose and scope.
226.201 Critical habitat for Hawaiian monk seals.
226.202 Critical habitat for Steller sea lions.
226.203 Critical habitat for Northern right whales.
226.204 Critical habitat for Sacramento winter-run chinook salmon.
226.205 Critical habitat for Snake River sockeye salmon, Snake River fall chinook salmon, and Snake River spring/summer chinook salmon.
226.206 Critical habitat for Umpqua River cutthroat trout.
226.207 Critical habitat for leatherback turtle.
226.208 Critical habitat for green turtle.
226.209 Critical habitat for hawksbill turtle.

Tables to Part 226

Table 1 to Part 226—Major Steller Sea Lion Rookery Sites
Table 2 to Part 226—Major Steller Sea Lion Haulout Sites in Alaska
Table 3 to Part 226—Hydrologic Units Containing Critical Habitat for Snake River Sockeye Salmon and Snake River Spring/Summer and Fall Chinook Salmon
Table 4 to Part 226—Hydrologic Units Containing Critical Habitat for Endangered Umpqua River Cutthroat Trout and Counties Contained in Each Hydrologic Unit

§ 226.202 [Amended]

11. In newly redesignated § 226.202, in the first sentence of paragraph (c)(1), the phrase "which is identified in Figure 2" is removed; in the first sentence of paragraph (c)(2), the phrase "which is identified in Figure 3" is removed; and in paragraph (c)(3), the phrase "which is identified in Figure 4" is removed.

§ 226.203 [Amended]

12. In newly redesignated § 226.203, in paragraph (a), the reference "(Figure 6 to part 226)" and, in paragraph (b), the reference "(Figure 7 to part 226)" are removed.

§ 226.205 [Amended]

13. In newly redesignated § 226.205, in the introductory text, the third and fourth sentences are removed.

§ 226.206 [Amended]

14. In newly redesignated § 226.206, in paragraph (a), the third and fourth sentences are removed.

PART 227 [REDESIGNATED AS PART 223 AND AMENDED]

15. Part 227 is redesignated as part 223.

16. The heading for part 223 is revised to read as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

17. The authority citation for part 223 is revised to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

PART 223—[AMENDED]

18. Sections 223.1 through 223.4 and subpart headings C and D are removed.

§§ 223.11, 223.12, 223.21, 223.22, and 223.71 [Redesignated as §§ 223.201 through 223.205]

19–20. Sections 223.11, 223.12, 223.21, 223.22, and 223.71 are redesignated as §§ 223.201 through 223.205, respectively.

§ 223.72 [Redesignated as § 223.206]

21. Section 223.72 is redesignated § 223.206.

22. Subpart B heading is revised to read as follows:

Subpart B—Restrictions Applicable to Threatened Marine and Anadromous Species

§§ 223.203, 223.204 and 223.205 [Amended]

23. Under subpart B, §§ 223.203, 223.204, and 223.205 headings are revised to read as: "Anadromous fish," "Exceptions to prohibitions relating to anadromous fish," and "Sea turtles," respectively.

24. Sections 223.101 and 223.102 are added to subpart A to read as follows:

Subpart A—General Provisions

§ 223.101 Purpose and scope.

(a) The regulations contained in this part identify the species under the jurisdiction of the Secretary of Commerce that have been determined to be threatened species pursuant to section 4(a) of the Act, and provide for the conservation of such species by establishing rules and procedures to governing activities involving the species.

(b) The regulations contained in this part apply only to the threatened species enumerated in § 223.102.

(c) The provisions of this part are in addition to, and not in lieu of, other regulations of parts 222 through 226 of this chapter which prescribe additional restrictions or conditions governing threatened species.

§ 223.102 Enumeration of threatened marine and anadromous species.

The species determined by the Secretary of Commerce to be threatened pursuant to section 4(a) of the Act, as well as species listed under the Endangered Species Conservation of Act of 1969 by the Secretary of the Interior and currently under the jurisdiction of the Secretary of Commerce, are the following:

(a) *Marine and anadromous fish.* (1) Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of spring/summer chinook salmon in the mainstem Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, and Salmon River.

(2) Snake River fall chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of fall chinook in the mainstem Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River.

(3) Central California Coast Coho Salmon (*Oncorhynchus kisutch*): Includes all coho salmon naturally reproduced in streams between Punta Gorda in Humboldt County, CA, and the San Lorenzo River in Santa Cruz County, CA.

(4) Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*). Includes all coho salmon naturally reproduced in streams between Cape Blanco in Curry County, OR, and Punta Gorda in Humboldt County, CA.

(5) Central California Coast steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of steelhead (and their progeny) in streams from the Russian River to Aptos Creek, Santa Cruz County, California (inclusive), and the drainages of San Francisco and San Pablo Bays eastward to the Napa River (inclusive), Napa County, California. Excludes the Sacramento-San Joaquin River Basin of the Central Valley of California.

(6) South-Central California Coast steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of steelhead (and their progeny) in streams from the Pajaro River (inclusive), located in Santa Cruz County, California, to (but not including) the Santa Maria River.

(7) Snake River Basin steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of steelhead (and their progeny) in streams in the Snake River Basin of southeast Washington, northeast Oregon, and Idaho.

(8) Lower Columbia River steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of steelhead (and their progeny) in streams and tributaries to the Columbia River between the Cowlitz and Wind Rivers, Washington, inclusive, and the Willamette and Hood Rivers, Oregon, inclusive. Excluded are steelhead in the upper Willamette River Basin above Willamette Falls and steelhead from the Little and Big White Salmon Rivers in Washington;

(9) Central Valley, California steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of steelhead (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries. Excluded are steelhead from San Francisco and San Pablo Bays and their tributaries.

(10) Oregon Coast coho salmon (*Oncorhynchus kisutch*). Includes all naturally spawned populations of coho salmon in streams south of the Columbia River and north of Cape Blanco in Curry County, OR.

(11) Gulf sturgeon (Acipenser oxyrinchus desotoi).

(b) *Marine plants.*-Johnson's seagrass (Halophila johnsonii).

(c) *Marine mammals.* Guadalupe fur seal (*Arctocephalus townsendi*); Steller sea lion, eastern population (*Eumetopias jubatus*), which consists of all Stellar sea lions from breeding colonies located east of 114° W. longitude.

(d) *Sea turtles.* Green turtle (*Chelonia mydas*) except for those populations listed under § 224.101(c) of this chapter; Loggerhead turtle (*Caretta caretta*); Olive ridley turtle (*Lepidochelys olivacea*) except for those populations listed under § 224.101(c) of this chapter.

Note to § 223.201(d): Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

§ 223.201 [Amended]

25. In newly redesignated § 223.201, in paragraph (b)(1), the phrase "part 222 subpart C—Endangered Fish or Wildlife Permits." is removed and replaced with "part 222 subpart C—General Permit Procedures," and in paragraph (b)(2)(iv), the phrase "Director, Southwest Region, National Marine Fisheries Service, 300

S. Ferry Street, Terminal Island, CA 90731." is removed and replaced with "Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802."

§ 223.202 [Amended]

26. In newly redesignated § 223.202, in paragraph (b)(1), the phrase "50 CFR part 222 subpart C—Endangered Fish or Wildlife Permits." is removed and replaced with "part 222 subpart C—General Permit Procedures." and in § 223.202, in Table 1, the table title is revised to read "Table 1 to § 223.202—Listed Steller Sea Lion Rookery Sites/1/ ".

§ 223.203 [Amended]

27. In newly redesignated § 223.203, in paragraph (a), the text "227.4 (f), (g), (h), and (i)" is removed and replaced with "223.102(a)(1) through (a)(4)"; and the last sentence "These prohibitions shall become effective for the threatened species of salmon listed in § 227.4(i) on August 18, 1997." is removed.

28. In newly redesignated § 223.203, paragraph (b)(1), the text "in part 222 of this chapter II" is added after the word "regulations"; the text "§ 227.4 (f), (g), (h), and (i)" is replaced with "§ 223.102(a)(1) through (a)(4)"; and the second sentence of paragraph (b)(1) is removed.

29. In newly redesignated § 223.203, paragraph (b)(2), the reference "§ 227.4(i)" is replaced with "§ 223.102(a)(4)".

30. In newly redesignated § 223.203, paragraph (b)(3), the reference "§ 227.4(i)" is replaced with "§ 223.102(a)(4)".

31. Newly redesignated § 223.204 is revised to read as follows:

§ 223.204 Exceptions to prohibitions relating to anadromous fish.

(a) The following exceptions to the prohibitions of § 223.203(a) of this part apply to the Southern Oregon/Northern California Coast (SONCC) coho salmon.

(1) Take of SONCC coho salmon within 3 miles (approximately 5 km) of the coast, and in the bay, estuarine or freshwater fisheries regulated under the sole authority of the State of Oregon is not prohibited, if the take results from a fisheries harvest program conducted in accordance with the Oregon Coastal Salmon Restoration Initiative of March 1997 (OCSRI). NMFS must have issued a written concurrence that the fisheries regulations are consistent with the OCSRI, using information provided through the April 1997 Memorandum of Agreement (MOA) between the State of Oregon and NMFS.

(2) Incidental take of SONCC coho salmon in ocean fisheries within 3 miles (approximately 5 km) of the coast that are regulated under the sole authority of the State of California is not prohibited, provided that the ocean salmon fishing regulations adopted by the California Fish and Game Commission and CDFG for recreational and commercial fisheries within 3 miles (approximately 5 km) of the coast are consistent with the Pacific Fishery Management Council's Fishery Management Plan for Ocean Salmon Fisheries and the annual ocean salmon fishing regulations issued by the Secretary of Commerce for the Federal EEZ.

(3) Take of SONCC coho salmon in a hatchery program regulated under the sole authority of the State of Oregon is not prohibited, if the take results from a hatchery program conducted in accordance with the OCSRI, and the take is counted against the total allocation of harvest-related mortality as specified in the OCSRI. NMFS must have issued a written concurrence stating that the hatchery program is consistent with the OCSRI including the hatchery and genetic management plan adopted pursuant to the OCSRI, using information provided through the MOA.

(4) Take of SONCC coho salmon in fisheries research and monitoring activities conducted in California and Oregon is not prohibited provided that:

(i) Research and monitoring involving directed take of coho salmon is conducted by CDFG personnel (in California) and ODFW personnel (in Oregon);

(ii) The CDFG and ODFW, respectively, provide NMFS with a list of all research and monitoring activities involving coho salmon directed take planned for the coming year for NMFS' review and approval. This report shall include an estimate of the total directed take that is anticipated, a description of the study design, including a justification for taking the species and a description of the techniques to be used, and a point of contact;

(iii) The CDFG and ODFW, respectively, provide NMFS annually with the results of research and monitoring studies directed at SONCC coho salmon, including a report of the directed take resulting from the studies;

(iv) The CDFG and ODFW, provide NMFS annually with a list of all research and monitoring studies permitted that may allow incidental take of listed coho salmon during the coming year and report the level of incidental take of listed coho salmon from the previous year's research and monitoring activities, for NMFS' review and approval.

(v) The research and monitoring activities do not include the use of electrofishing in any body of water known or suspected to contain coho salmon.

(5) Incidental take of the SONCC coho salmon in Oregon resulting from a habitat restoration activity is not prohibited, provided that:

(i) The activity is conducted pursuant to a watershed action or restoration plan that has been affirmed by the state in writing as consistent with NMFS' approved state watershed plan guidelines set forth in § 222.307(c) of this chapter. NMFS shall also concur in writing that the plan is consistent with the state watershed plan guidelines; or

(ii) Until a watershed action or restoration plan is approved by both Oregon and NMFS as described in paragraph (a)(5)(i) of this section, or until August 18, 1999, whichever occurs first, the ODFW has made a written finding that the activity is consistent with state restoration activity guidelines that NMFS has agreed, in writing, meet the standards set forth in § 222.307(c) of this chapter.

(6) Incidental take of the SONCC coho salmon in California resulting from a habitat restoration activity, as defined in paragraph (a)(6)(iii) of this section, is not prohibited, provided that California has a program in effect that NMFS finds will assure technically supported watershed assessments and coordinated long-term monitoring strategies for watershed protection plans and activities and:

(i) The activity is conducted pursuant to a watershed protection plan that CDFG has affirmed, in writing, is consistent with NMFS' approved state watershed plan guidelines set forth in § 222.307(c) of this chapter for California's Watershed Protection Program. NMFS must concur, in writing, that the plan is consistent with those guidelines; or

(ii) Until a watershed protection or restoration plan is certified by the State of California and NMFS as described in paragraph (a)(6)(i) of this section, or until August 18, 1999, whichever occurs first, when NMFS has made a written finding that the activity is consistent with State of California conservation guidelines previously found to meet the standards set forth in § 222.307(c) of this chapter by NMFS.

32. Newly redesignated § 223.205 is revised to read as follows:

§ 223.205 Sea turtles.

(a) The prohibitions of section 9 of the Act (16 U.S.C. 1538) relating to endangered species apply to threatened

species of sea turtle, except as provided in § 223.206.

(b) Except as provided in § 223.206, it is unlawful for any person subject to the jurisdiction of the United States to do any of the following:

(1) Own, operate, or be on board a vessel, except if that vessel is in compliance with all applicable provisions of § 223.206(d);

(2) Fish for, catch, take, harvest, or possess, fish or wildlife while on board a vessel, except if that vessel is in compliance with all applicable provisions of § 223.206(d);

(3) Fish for, catch, take, harvest, or possess, fish or wildlife contrary to any notice of tow-time or other restriction specified in, or issued under, § 223.206(d)(3) or (d)(4);

(4) Possess fish or wildlife taken in violation of paragraph (b) of this section;

(5) Fail to follow any of the sea turtle handling and resuscitation requirements specified in § 223.206(d)(1);

(6) Possess a sea turtle in any manner contrary to the handling and resuscitation requirements of § 223.206(d)(1);

(7) Fail to comply immediately, in the manner specified at § 600.730 (b) through (d) of this Title, with instructions and signals specified therein issued by an authorized officer, including instructions and signals to haul back a net for inspection;

(8) Refuse to allow an authorized officer to board a vessel, or to enter an area where fish or wildlife may be found, for the purpose of conducting a boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(9) Destroy, stave, damage, or dispose of in any manner, fish or wildlife, gear, cargo, or any other matter after a communication or signal from an authorized officer, or upon the approach of such an officer or of an enforcement vessel or aircraft, before the officer has an opportunity to inspect same, or in contravention of directions from the officer;

(10) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere with an authorized officer in the conduct of any boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(11) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person committed an act prohibited by this section;

(12) Resist a lawful arrest for an act prohibited by this section;

(13) Make a false statement, oral or written, to an authorized officer or to the agency concerning the fishing for, catching, taking, harvesting, landing, purchasing, selling, or transferring fish or wildlife, or concerning any other matter subject to investigation under this section by such officer, or required to be submitted under this part 223;

(14) Sell, barter, trade or offer to sell, barter, or trade, a TED that is not an approved TED; or

(15) Attempt to do, solicit another to do, or cause to be done, any of the foregoing.

(c) In connection with any action alleging a violation of this section, any person claiming the benefit of any exemption, exception, or permit under this subpart B has the burden of proving that the exemption, exception, or permit is applicable, was granted, and was valid and in force at the time of the alleged violation. Further, any person claiming that a modification made to a TED that is the subject of such an action complies with the requirements of § 223.207 (c) or (d) has the burden of proving such claim.

33. Newly redesignated § 223.206 is revised to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles.

(a) *Permits*—(1) *Scientific research, education, zoological exhibition, or species enhancement permits.* The Assistant Administrator may issue permits authorizing activities which would otherwise be prohibited under § 223.205(a) for scientific or educational purposes, for zoological exhibition, or to enhance the propagation or survival of threatened species of sea turtles, in accordance with and subject to the conditions of part 222, subpart C—General Permit Procedures.

(2) *Incidental-take permits.* The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited under § 223.205(a) in accordance with section 10(a)(1)(B) of the Act (16 U.S.C. 1539(a)(1)(B)), and in accordance with, and subject to, the implementing regulations in part 222 of this chapter. Such permits may be issued for the incidental taking of threatened and endangered species of sea turtles.

(b) *Exception for injured, dead, or stranded specimens.* If any member of any threatened species of sea turtle is found injured, dead, or stranded, any agent or employee of the National Marine Fisheries Service, the Fish and Wildlife Service, the U.S. Coast Guard, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife who is designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take such specimens without a permit if such taking is necessary to aid a sick, injured, or stranded specimen or dispose of a dead specimen or salvage a dead specimen which may be useful for scientific study. Whenever possible, live specimens shall be returned to their aquatic environment as soon as possible. Every action shall be reported in writing to the Assistant Administrator within 30 days, and reports of further occurrence shall be made as deemed appropriate by the Assistant Administrator until the specimen is either returned to its environment or disposed of. Reports shall be mailed by registered or certified mail, return receipt requested, to the Assistant Administrator and shall contain the following information:

(1) Name and position of the official or employee involved;

(2) Description of the specimen(s) involved;

(3) Date and location of disposal;

(4) Circumstances requiring the action;

(5) Method of disposal;

(6) Disposition of the specimen(s), including, where the specimen(s) has been retained in captivity, a description of the place and means of confinement, and the measures taken for its maintenance and care; and

(7) Such other information as the Assistant Administrator may require.

(c) *Exception for research or conservation.* Any employee or agent of the National Marine Fisheries Service, the Fish and Wildlife Service, or a state fish and wildlife agency operating a conservation program pursuant to the terms of a Cooperative Agreement with the National Marine Fisheries Service or the Fish and Wildlife Service in accordance with section 6(c) of the Act, designated by his or her agency for such purposes, may, when acting in the course of his or her official duties, take any threatened species to carry out scientific research or conservation programs. All such takings shall be reported within 30 days of the taking to the Assistant Administrator who may request additional reports of the taking and research at the Assistant Administrator's discretion.

(d) *Exception for incidental taking.* The prohibitions against taking in § 223.205(a) do not apply to the incidental take of any member of a threatened species of sea turtle (i.e., a take not directed toward such member) during fishing or scientific research activities, to the extent that those involved are in compliance with all applicable requirements of paragraphs

(d)(1) through (d)(5) of this section, or in compliance with the terms and conditions of an incidental take permit issued pursuant to paragraph (a)(2) of this section.

(1) *Handling and resuscitation requirements.* (i) Any specimen taken incidentally during the course of fishing or scientific research activities must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are dead or actively moving must be released over the stern of the boat. In addition, they must be released only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose or inactive but not dead by:

(*1*) Placing the turtle on its back (carapace) and pumping its breastplate (plastron) with hand or foot; or

(*2*) Placing the turtle on its breastplate (plastron) and elevating its hindquarter several inches for a period of 1 up to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Sea turtles being resuscitated must be shaded and kept wet or moist. Those that revive and become active must be released over the stern of the boat only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Similarly, sea turtles that fail to move within several hours (up to 24, if possible) must be returned to the water in the same manner.

(ii) Any specimen taken incidentally during the course of fishing or scientific research activities must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

(2) *Gear requirements*—(i) *TED requirement for shrimp trawlers.* Any shrimp trawler that is in the Atlantic Area or Gulf Area must have an approved TED installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the shrimp trawler. Exceptions to the TED requirement for shrimp trawlers are provided in paragraph (d)(2)(ii) of this section.

(ii) *Exemptions from the TED requirement*—(A) *Alternative tow-time restrictions.* A shrimp trawler is exempt from the TED requirements of paragraph (d)(2)(i) of this section if it complies with the alternative tow-time restrictions in paragraph (d)(3)(i) of this section and if it:

(*1*) Has on board no power or mechanical-advantage trawl retrieval system (i.e., any device used to haul any part of the net aboard);

(*2*) Is a bait shrimper that retains all live shrimp on board in a container with a circulating seawater system, if it does not possess more than 32 pounds (14.5 kg) of dead shrimp on board, and if it has on board a valid original state bait-shrimp license (if in a state that requires such a license);

(*3*) Has only a pusher-head trawl, skimmer trawl, or wing net rigged for fishing; and

(*4*) Is in an area during a period for which tow-time restrictions apply under paragraphs (d)(3) (ii) or (iii) of this section, if it complies with all applicable provisions imposed under those paragraphs.

(B) *Exempted gear or activities.* The following fishing gear or activities are exempted from the TED requirements of paragraph (d)(2)(i) of this section:

(*1*) A single test net (try net) with a headrope length of 12 ft (3.6 m) or less and with a footrope length of 15 ft (4.6 m) or less, if it is either pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net;

(*2*) A beam or roller trawl, if the frame is outfitted with rigid vertical bars, and if none of the spaces between the bars, or between the bars and the frame, exceeds 4 inches (10.2 cm); and

(*3*) A shrimp trawler fishing for, or possessing, royal red shrimp, if royal red shrimp constitutes at least 90 percent (by weight) of all shrimp either found on board, or offloaded from that shrimp trawler.

(iii) *Gear requirement—summer flounder trawlers*—(A) *TED requirement.* Any summer flounder trawler in the summer flounder fishery-sea turtle protection area must have an approved TED installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the summer flounder trawler. Exceptions to the TED requirement for summer flounder trawlers are provided in paragraph (d)(2)(iii)(B) of this section.

(B) *Exemptions from the TED requirement.* Any summer flounder trawler north of 35°46.1′ N. lat. (Oregon Inlet, NC) from January 15 through March 15 annually is exempt from the TED requirement of paragraph (d)(2)(iii)(A) of this section, unless the Assistant Administrator determines that TED use is necessary to protect sea turtles or ensure compliance, pursuant to the procedures of paragraph (d)(4) of this section.

(C) *Monitoring.* Summer flounder trawlers must carry onboard a NMFS-approved observer if requested by the Southeast Regional Administrator or the Northeast Regional Administrator. A written notification will be sent to the address specified for the vessel in either the NMFS or state fishing permit application, or to the address specified for registration or documentation purposes, or upon written notification otherwise served on the owner or operator of the vessel. Owners and operators must comply with the terms and conditions specified in such written notification. All NMFS-approved observers will report any violations of this section, or other applicable regulations and laws. Information collected by observers may be used for enforcement purposes.

(D) *Additional sea turtle conservation measures.* The Assistant Administrator may impose other such restrictions upon summer flounder trawlers as the Assistant Administrator deems necessary or appropriate to protect sea turtles and ensure compliance, pursuant to the procedures of paragraph (d)(4) of this section. Such measures may include, but are not limited to, a requirement to use TEDs in areas other than summer flounder fishery-sea turtle protection area, a requirement to use limited tow-times, and closure of the fishery.

(iv) *Gear requirement—leatherback conservation zone*—(A) *Leatherback surveys.* From January 1 through June 30 of each year, weekly aerial surveys will be conducted in the leatherback conservation zone by NMFS or state agents, contingent upon weather conditions. If sighting rates of greater than 10 leatherback turtles per 50 nautical miles (92.6 km) of trackline are observed, the aerial surveys of that area will be replicated within 24 hours, or as soon as practicable thereafter.

(B) *TED requirements and registration.* If surveys pursuant to paragraph (d)(2)(iv)(A) of this section indicate a sighting rate within the leatherback conservation zone of greater than 10 leatherback sea turtles per 50 nautical miles (92.6 km) of trackline, NMFS will close an area of the leatherback conservation zone encompassing all, or a portion of, inshore waters and offshore waters 10 nautical miles (18.5 km) seaward of the

COLREGS demarcation line, bounded by 1° lat. coinciding with the trackline, within the leatherback conservation zone. This closure will be for a 2-week period. Within such closed area, fishing by any shrimp trawler required to have a NMFS-approved TED installed in each net rigged for fishing is prohibited, unless the TED installed is one described at § 223.207(a)(7)(ii)(B) or, prior to October 13, 1999, § 223.207(c)(1)(iv)(B), and the owner or operator of the shrimp trawler has notified the Southeast Regional Administrator of his or her intention to fish in that area, in accordance with the procedure provided in paragraph (d)(5) of this section. If requested in writing from the Southeast Regional Administrator, owners and operators of shrimp trawlers in the leatherback conservation zone must carry NMFS-approved observers aboard such vessel(s). A shrimp trawler in the leatherback conservation zone must comply with the terms and conditions specified in such written request, as well as provide information on trawling hours, gear modifications, and turtle captures.

(C) *Notification.* NMFS will immediately announce specific area closures on the NOAA weather radio channel, in newspapers, and other media. Specific area closures will be effective upon filing for public inspection at the Office of the Federal Register. Owners and operators of shrimp trawl vessels in the leatherback conservation zone are responsible for monitoring the NOAA weather radio channel for closure announcements. Shrimp trawlers may also call the Southeast Regional Office at (813) 570–5312 to receive updated area closure information.

(3) *Tow-time restrictions*—(i) *Duration of tows.* If tow-time restrictions are utilized pursuant to paragraph (d)(2)(ii), (d)(3)(ii), or (d)(3)(iii) of this section, a shrimp trawler must limit tow times. The tow time is measured from the time that the trawl door enters the water until it is removed from the water. For a trawl that is not attached to a door, the tow time is measured from the time the codend enters the water until it is removed from the water. Tow times may not exceed:

(A) 55 minutes from April 1 through October 31; and

(B) 75 minutes from November 1 through March 31.

(ii) *Alternative—special environmental conditions.* The Assistant Administrator may allow compliance with tow-time restrictions, as an alternative to the TED requirement of paragraph (d)(2)(i) of this section, if the Assistant Administrator determines that the presence of algae, seaweed, debris or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable.

(iii) *Substitute—ineffectiveness of TEDs.* The Assistant Administrator may require compliance with tow-time restrictions, as a substitute for the TED requirement of paragraph (d)(2)(i) of this section, if the Assistant Administrator determines that TEDs are ineffective in protecting sea turtles.

(iv) *Notice; applicability; conditions.* The Assistant Administrator will publish notification concerning any tow-time restriction imposed under paragraph (d)(3)(ii) or (iii) of this section in the **Federal Register** and will announce it in summary form on channel 16 of the marine VHF radio. A notification of tow-time restrictions will include findings in support of these restrictions as an alternative to, or as substitute for, the TED requirements. The notification will specify the effective dates, the geographic area, where tow-time restrictions apply, and any applicable conditions or restrictions that the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance, including, but not limited to, a requirement to carry observers, to register vessels in accordance with procedures at paragraph (d)(5) of this section, or for all shrimp trawlers in the area to synchronize their tow times so that all trawl gear remains out of the water during certain times. A notification withdrawing tow-time restrictions will include findings in support of that action.

(v) *Procedures.* The Assistant Administrator will consult with the appropriate fishery officials (state or Federal) where the affected shrimp fishery is located in issuing a notification concerning tow-time restrictions. An emergency notification can be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each if the Assistant Administrator finds that the conditions necessitating the imposition of tow-time restrictions continue to exist. The Assistant Administrator may invite comments on such an action, and may withdraw or modify the action by following procedures similar to those for implementation. The Assistant Administrator will implement any permanent tow-time restriction through rulemaking.

(4) *Limitations on incidental takings during fishing activities*—(i) *Limitations.* The exemption for incidental takings of sea turtles in paragraph (d) of this section does not authorize incidental takings during fishing activities if the takings:

(A) Would violate the restrictions, terms, or conditions of an incidental take statement or biological opinion;

(B) Would violate the restrictions, terms, or conditions of an incidental take permit; or

(C) May be likely to jeopardize the continued existence of a species listed under the Act.

(ii) *Determination; restrictions on fishing activities.* The Assistant Administrator may issue a determination that incidental takings during fishing activities are unauthorized. Pursuant thereto, the Assistant Administrator may restrict fishing activities in order to conserve a species listed under the Act, including, but not limited to, restrictions on the fishing activities of vessels subject to paragraph (d)(2) of this section. The Assistant Administrator will take such action if the Assistant Administrator determines that restrictions are necessary to avoid unauthorized takings that may be likely to jeopardize the continued existence of a listed species. The Assistant Administrator may withdraw or modify a determination concerning unauthorized takings or any restriction on fishing activities if the Assistant Administrator determines that such action is warranted.

(iii) *Notice; applicability; conditions.* The Assistant Administrator will publish a notification of a determination concerning unauthorized takings or a notification concerning the restriction of fishing activities in the **Federal Register**. The Assistant Administrator will provide as much advance notice as possible, consistent with the requirements of the Act, and will announce the notification in summary form on channel 16 of the marine VHF radio. Notification of a determination concerning unauthorized takings will include findings in support of that determination; specify the fishery, including the target species and gear used by the fishery, the area, and the times, for which incidental takings are not authorized; and include such other conditions and restrictions as the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. Notification of restriction of fishing activities will include findings in support of the restriction, will specify the time and area where the restriction is applicable, and will specify any applicable conditions or restrictions that the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. Such conditions and restrictions may include,

but are not limited to, limitations on the types of fishing gear that may be used, tow-time restrictions, alteration or extension of the periods of time during which particular tow-time requirements apply, requirements to use TEDs, registration of vessels in accordance with procedures at paragraph (d)(5) of this section, and requirements to provide observers. Notification of withdrawal or modification will include findings in support of that action.

(iv) *Procedures.* The Assistant Administrator will consult with the appropriate fisheries officials (state or Federal) where the fishing activities are located in issuing notification of a determination concerning unauthorized takings or notification concerning the restriction of fishing activities. An emergency notification will be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each. The Assistant Administrator may invite comments on such action, and may withdraw or modify the action by following procedures similar to those for implementation. The Assistant Administrator will implement any permanent determination or restriction through rulemaking.

(5) *Registration.* If the Assistant Administrator imposes restrictions under paragraph (d)(2)(iv), (d)(3)(ii), (d)(3)(iii), or (d)(4)(ii) of this section, the Assistant Administrator may require the owner and operator of a vessel to register before entering an area where, and during the time when, the restrictions apply. If registration is required, the vessel's owner and operator must submit the following information to the NMFS Regional Office:

(i) The name and official number (or registration number) of the vessel;

(ii) The names, mailing and street addresses, and telephone numbers of the vessel owner and operator;

(iii) The permit number or other identification of relevant state or Federal fishing permit(s);

(iv) Where and when the vessel intends to fish;

(v) Where and when the vessel will depart on any fishing trip, with sufficient specificity to allow for an observer to embark on the trip; and

(vi) Any changes in the information submitted under paragraphs (d)(5)(i) through (d)(5)(v) of this section. Failure to do so immediately will void the registration, rendering unlawful any subsequent entry of the fishing vessel into the area where and during the time when the restrictions apply.

34. Section 223.207 is added to subpart B to read as follows:

§ 223.207 Approved TEDs.

Any netting, webbing, or mesh that may be measured to determine compliance with this section is subject to measurement, regardless of whether it is wet or dry. Any such measurement will be of the stretched mesh size.

(a) *Hard TEDs.* Hard TEDs are TEDs with rigid deflector grids and are categorized as "hooped hard TEDs," such as the NMFS and Cameron TEDs (Figures 1 & 2 to this part), or "single-grid hard TEDs," such as the Matagorda and Georgia TEDs (Figures 3 & 4 to this part). Hard TEDs complying with the following generic design criteria are approved TEDs:

(1) *Construction materials.* A hard TED must be constructed of one or a combination of the following materials, with minimum dimensions as follows:

(i) Solid steel rod with a minimum outside diameter of ¼ inch (0.64 cm);

(ii) Fiberglass or aluminum rod with a minimum outside diameter of ½ inch (1.27 cm); or

(iii) Steel or aluminum tubing with a minimum outside diameter of ½ inch (1.27 cm) and a minimum wall thickness of ⅛ inch (0.32 cm) (also known as schedule 40 tubing).

(2) *Method of attachment.* A hard TED must be sewn into the trawl around the entire circumference of the TED with heavy twine.

(3) *Angle of deflector bars.* (i) The angle of the deflector bars must be between 30° and 55° from the normal, horizontal flow through the interior of the trawl, except as provided in paragraph (a)(3)(ii) of this section.

(ii) For any shrimp trawler fishing in the Gulf SFSTCA or the Atlantic SFSTCA, a hard TED with the position of the escape opening at the bottom of the net when the net is in its deployed position, the angle of the deflector bars from the normal, horizontal flow through the interior of the trawl, at any point, must not exceed 55°, and:

(A) If the deflector bars that run from top to bottom are attached to the bottom frame of the TED, the angle of the bottom-most 4 inches (10.2 cm) of each deflector bar, measured along the bars, must not exceed 45° (Figures 14a and 14b to this part);

(B) If the deflector bars that run from top to bottom are not attached to the bottom frame of the TED, the angle of the imaginary lines connecting the bottom frame of the TED to the bottom end of each deflector bar which runs from top to bottom must not exceed 45° (Figure 15 to this part).

(4) *Space between bars.* The space between deflector bars and between the deflector bars and the frame must not exceed 4 inches (10.2 cm).

(5) *Direction of bars.* The deflector bars must run from top to bottom of the TED, as the TED is positioned in the net, except that up to four of the bottom bars and two of the top bars, including the frame, may run from side to side of the TED.

(6) *Position of escape opening.* The entire width of the escape opening from the trawl must be centered on and immediately forward of the frame at either the top or bottom of the net when the net is in its deployed position. The escape opening must be at the top of the net when the slope of the deflector bars from forward to aft is upward, and must be at the bottom when such slope is downward. For a single-grid TED, the escape opening must be cut horizontally along the same plane as the TED, and may not be cut in a fore-and-aft direction.

(7) *Size of escape opening*—(i) *Hooped hard TED.* On a hooped hard TED, the escape opening must not be smaller than 25 inches by 25 inches (63.5 cm by 63.5 cm) in the Gulf Area, or 30 inches by 30 inches (76.2 cm by 76.2 cm) in the Atlantic Area. A door frame may not be used over the escape opening; however, a webbing flap may be used as provided in paragraph (e)(4)(iv)(C) of this section.

(ii) *Single-grid hard TED*—(A) *Escape opening for standard single-grid hard TED.* On a single-grid hard TED, the cut in the trawl webbing for the escape opening cannot be narrower than the outside width of the grid minus 4 inches (10.2 cm) on both sides of the grid, when measured as a straight line width. (Figure 13 to this part illustrates the dimensions of this cut.) The resulting escape opening in the net webbing must measure at least 32 inches (81.3 cm) in horizontal taut length and, simultaneously, 10 inches (25.4 cm) in vertical taut height in the Gulf Area; or 35 inches (88.9 cm) in horizontal taut length and, simultaneously, 12 inches (30.5 cm) in vertical taut height in the Atlantic Area. The vertical measurement must be taken at the midpoint of the horizontal measurement.

(B) *Escape opening for leatherback turtles.* A single-grid hard TED escape opening shall be enlarged to allow leatherback turtles to escape by cutting an exit hole in the extension forward of the TED frame 26 inches (66 cm) deep, on each side, by 83 inches (211 cm) across (Figures 12a and 12b to this part). Excess webbing is removed by cutting across ½ mesh forward of the TED frame. The exit hole cover is made by cutting a 133-inch (338-cm) by 58-inch (148 cm) piece of webbing no smaller than 1½ inch (4 cm) stretch mesh and no larger than 1⅝ inch (4.2 cm) stretch

mesh. The 133-inch (338 cm) edge of the cover is attached to the forward edge of the opening (83-inch (211-cm) edge) with a sewing sequence of 3:2. The cover should overlap 5 inches (13 cm) of the exit hole on each side. The side of the cover is attached, maintaining the 5-inch (13-cm) overlap, to the side of the opening by sewing 28 inches (71 cm) of the cover to 26 inches (66 cm) of the opening forward of the TED frame and by sewing 15 inches (38 cm) of the cover to 15 inches (38 cm) of the extension behind the TED frame. The cover may extend no more than 24 inches (61 cm) behind the posterior edge of the TED frame. The circumference of the exit opening must be 142 inches (361 cm) when stretched. If an accelerator funnel is used with a single-grid hard TED, modified as above, it must also have a minimum circumference of 142 inches (361 cm).

(8) *Size of hoop or grid*—(i) *Hooped hard TED.* (A) An oval front hoop on a hard TED must have an inside horizontal measurement of at least 32 inches (81.3 cm) and an inside vertical measurement of at least 20 inches (50.8 cm) in the Gulf Area, or an inside horizontal measurement of at least 35 inches (88.9 cm) and an inside vertical measurement of at least 30 inches (76.2 cm) in the Atlantic Area.

(B) A circular front hoop on a hard TED must have an inside diameter of at least 32 inches (81.3 cm) in the Gulf Area or 35 inches (88.9 cm) in the Atlantic Area.

(ii) *Single-grid hard TED.* A single-grid hard TED must have an inside horizontal and vertical measurement of at least 28 inches (71.1 cm) in the Gulf Area or 30 inches (76.2 cm) in the Atlantic Area. The required inside measurements must be at the mid-point of the deflector grid.

(9) *Flotation.* Floats must be attached to the top one-half of all hard TEDs with bottom escape openings. The floats may be attached either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface of the TED. Floats must be attached with heavy twine or rope. Floats must be constructed of aluminum, hard plastic, expanded polyvinyl chloride, or expanded ethylene vinyl acetate unless otherwise specified. The requirements of this paragraph may be satisfied by compliance with either the dimension requirements of paragraph (a)(9)(i) of this section, or the buoyancy requirements of paragraph (a)(9)(ii) of this section, or the buoyancy-dimension requirements of paragraph (a)(9)(iii) of this section. If roller gear is used pursuant to paragraph (d)(5) of this section, the roller gear must be included in the circumference measurement of the TED or the total weight of the TED.

(i) *Float dimension requirements.* (A) For hard TEDs with a circumference of 120 inches (304.8 cm) or more, a minimum of either one round, aluminum or hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or two expanded polyvinyl chloride or expanded ethylene vinyl acetate floats, each no smaller than 6.75 inches (17.2 cm) in diameter by 8.75 inches (22.2 cm) in length, must be attached.

(B) For hard TEDs with a circumference of less than 120 inches (304.8 cm), a minimum of either one round, aluminum or hard plastic float, no smaller than 9.8 inches (25.0 cm) in diameter, or one expanded polyvinyl chloride or expanded ethylene vinyl acetate float, no smaller than 6.75 inches (17.2 cm) in diameter by 8.75 inches (22.2 cm) in length, must be attached.

(ii) *Float buoyancy requirements.* Floats of any size and in any combination must be attached such that the combined buoyancy of the floats, as marked on the floats, equals or exceeds the weight of the hard TED, as marked on the TED. The buoyancy of the floats and the weight of the TED must be clearly marked on the floats and the TED as follows:

(A) *Float buoyancy markings.* Markings on floats must be made in clearly legible raised or recessed lettering by the original manufacturer. The marking must identify the buoyancy of the float in water, expressed in grams or kilograms, and must include the metric unit of measure. The marking may additionally include the buoyancy in English units. The marking must identify the nominal buoyancy for the manufactured float.

(B) *TED weight markings.* The marking must be made by the original TED manufacturer and must be permanent and clearly legible. The marking must identify the in-air, dry weight of the TED, expressed in grams or kilograms, and must include the metric unit of measure. The marking may additionally include the weight in English units. The marked weight must represent the actual weight of the individual TED as manufactured. Previously manufactured TEDs may be marked upon return to the original manufacturer. Where a TED is comprised of multiple detachable components, the weight of each component must be separately marked.

(iii) *Buoyancy-dimension requirements.* Floats of any size and in any combination, provided that they are marked pursuant to paragraph (a)(9)(ii)(A) of this section, must be attached such that the combined buoyancy of the floats equals or exceeds the following values:

(A) For floats constructed of aluminum or hard plastic, regardless of the size of the TED grid, the combined buoyancy must equal or exceed 14 lb (6.4 kg);

(B) For floats constructed of expanded polyvinyl chloride or expanded ethylene vinyl acetate, where the circumference of the TED is 120 inches (304.8 cm) or more, the combined buoyancy must equal or exceed 20 lb (9.1 kg); or

(C) For floats constructed of expanded polyvinyl chloride or expanded ethylene vinyl acetate, where the circumference of the TED is less than 120 inches (304.8 cm), the combined buoyancy must equal or exceed 10 lb (4.5 kg).

(b) *Special Hard TEDs.* Special hard TEDs are hard TEDs which do not meet all of the design and construction criteria of the generic standards specified in paragraph (a) of this section. The following special hard TEDs are approved TEDs:

(1) *Flounder TED* (Figure 10 to this part). The Flounder TED is approved for use only in the Atlantic summer flounder bottom trawl fishery. The Flounder TED is not an approved TED for use by shrimp trawlers. The Flounder TED must be constructed of at least 1¼ inch (3.2 cm) outside diameter aluminum or steel pipe with a wall thickness of at least ⅛ inch (0.3 cm). It must have a rectangular frame with outside dimensions which can be no less than 51 inches (129.5 cm) in length and 32 inches (81.3 cm) in width. It must have at least five vertical deflector bars, with bar spacings of no more than 4 inches (10.2 cm). The vertical bars must be connected to the top of the frame and to a single horizontal bar near the bottom. The horizontal bar must be connected at both ends to the sides of the frame and parallel to the bottom bar of the frame. There must be a space no larger than 10 inches (25.4 cm) between the horizontal bar and the bottom bar of the frame. One or more additional vertical bars running from the bottom bar to the horizontal bar must divide the opening at the bottom into two or more rectangles, each with a maximum height of 10 inches (25.4 cm) and a maximum width of 14½ inches (36.8 cm). This TED must comply with paragraphs (a)(2), (a)(3), (a)(6), and (a)(7)(ii) of this section with respect to the method of attachment, the angle of the deflector bars, the position of the escape opening, and the size of the escape opening,

except that the deflector bars must be positioned in the net to deflect turtles to the escape opening in the top of the trawl. This TED may not be configured with a bottom escape opening. Installation of an accelerator funnel is not permitted with this TED.

(2) *Jones TED* (Figure 11 to this part). The Jones TED must be constructed of at least 1¼ inch (3.2 cm) outside diameter aluminum or steel pipe, and the pipe must have a wall thickness of at least ⅛ inch (0.3 cm). It must be generally oval in shape with a flattened bottom. The deflector bars must be attached to the frame at a 45° angle from the horizontal positioning downward and each bar must be attached at only one end to the frame. The deflector bars must be attached and lie in the same plane as the frame. The space between the ends of the bottom deflector bars and the bottom frame bar must be no more than 3 inches (7.6 cm). The spacing between the bottom three deflector bars on each side must be no greater than 2½ inches (6.4 cm). The spacing between all other deflector bars must not exceed 3½ inches (8.9 cm) and spacing between ends of opposing deflector bars also must not exceed 3½ inches (8.9 cm). This TED must comply with paragraphs (a)(2), (a)(3), (a)(6), (a)(7)(ii), (a)(8)(ii), and (a)(9) of this section with respect to the method of attachment, the angle of the deflector bars, the position of the escape opening, the size of the escape opening, the size of the grid, and flotation.

(c) *Soft TEDs.* Soft TEDs are TEDs with deflector panels made from polypropylene or polyethylene netting. Prior to October 13, 1999, the following soft TEDs are approved TEDs:

(1) *Parker TED.* The Parker TED is a soft TED, consisting of a single triangular panel, composed of webbing of two different mesh sizes, that forms a complete barrier inside a trawl and that angles toward an escape opening in the top of the trawl.

(i) *Excluder Panel.* (Figure 5 to this part) The excluder panel of the Parker TED must be constructed of a single triangular piece of 8-inch (20.3 cm) stretched mesh webbing and two trapezoidal pieces of 4-inch (10.2-cm) stretched mesh webbing. The webbing must consist of number 48 (3-mm thick) or larger polypropylene or polyethylene webbing that is heat-set knotted or braided. The leading edge of the 8-inch (20.3-cm) mesh panel must be 36 meshes wide. The 8-inch (20.3-cm) mesh panel must be tapered on each side with all-bar cuts to converge on an apex, such that the length of each side is 36 bars. The leading edges of the 4-inch (10.2-cm) mesh panels must be 8 meshes wide. The edges of the 4-inch (10.2-cm) mesh panels must be cut with all-bar cuts running parallel to each other, such that the length of the inner edge is 72 bars and the length of the outer edge is 89 bars and the resulting fore-and-aft edge is 8 meshes deep. The two 4-inch (10.2-cm) mesh panels must be sewn to the 8-inch (20.3-cm) mesh panel to create a single triangular excluder panel. The 72-bar edge of each 4-inch (10.2-cm) mesh panel must be securely joined with twine to one of the 36-bar edges of the 8-inch (20.3-cm) mesh panel, tied with knots at each knot of the 4-inch (10.2-cm) webbing and at least two wraps of twine around each bar of 4-inch (10.2-cm) mesh and the adjoining bar of the 8-inch (20.3-cm) mesh. The adjoining fore-and-aft edges of the two 4-inch (10.2-cm) mesh panels must be sewn together evenly.

(ii) *Limitations on which trawls may have a Parker TED installed.* The Parker TED must not be installed or used in a two-seam trawl with a tongue, nor in a triple-wing trawl (a trawl with a tongue along the headrope and a second tongue along the footrope). The Parker TED may be installed and used in any other trawl if the taper of the body panels of the trawl does not exceed 4b1p and if it can be properly installed in compliance with paragraph (c)(1)(iii) of this section.

(iii) *Panel installation*—(A) *Leading edge attachment.* The leading edge of the excluder panel must be attached to the inside of the bottom of the trawl across a straight row of meshes. For a two-seam trawl or a four-seam, tapered-wing trawl, the row of meshes for attachment to the trawl must run the entire width of the bottom body panel, from seam to seam. For a four-seam, straight-wing trawl, the row of meshes for attachment to the trawl must run the entire width of the bottom body panel and half the height of each wing panel of the trawl. Every mesh of the leading edge of the excluder panel must be evenly sewn to this row of meshes; meshes may not be laced to the trawl. The row of meshes for attachment to the trawl must contain the following number of meshes, depending on the stretched mesh size used in the trawl:

(*1*) For a mesh size of 2¼ inches (5.7 cm), 152–168 meshes;

(*2*) For a mesh size of 2⅛ inches (5.4 cm), 161–178 meshes;

(*3*) For a mesh size of 2 inches (5.1 cm), 171–189 meshes;

(*4*) For a mesh size of 1⅞ inches (4.8 cm), 182–202 meshes;

(*5*) For a mesh size of 1¾ inches (4.4 cm), 196–216 meshes;

(*6*) For a mesh size of 1⅝ inches (4.1 cm), 211–233 meshes;

(*7*) For a mesh size of 1½ inches (3.8 cm), 228–252 meshes;

(*8*) For a mesh size of 1⅜ inches (3.5 cm), 249–275 meshes; and

(*9*) For a mesh size of 1¼ inches (3.2 cm), 274–302 meshes.

(B) *Apex attachment.* The apex of the triangular excluder panel must be attached to the inside of the top body panel of the trawl at the centerline of the trawl. The distance, measured aft along the centerline of the top body panel from the same row of meshes for attachment of the excluder panel to the bottom body panel of the trawl, to the apex attachment point must contain the following number of meshes, depending on the stretched mesh size used in the trawl:

(*1*) For a mesh size of 2¼ inches (5.7 cm), 78–83 meshes;

(*2*) For a mesh size of 2⅛ inches (5.4 cm), 83–88 meshes;

(*3*) For a mesh size of 2 inches (5.1 cm), 87–93 meshes;

(*4*) For a mesh size of 1⅞ inches (4.8 cm), 93–99 meshes;

(*5*) For a mesh size of 1¾ inches (4.4 cm), 100–106 meshes;

(*6*) For a mesh size of 1⅝ inches (4.1 cm), 107–114 meshes;

(*7*) For a mesh size of 1½ inches (3.8 cm), 114–124 meshes;

(*8*) For a mesh size of 1⅜ inches (3.5 cm), 127–135 meshes; and

(*9*) For a mesh size of 1¼ inches (3.2 cm), 137–146 meshes.

(C) *Side attachment.* The sides of the excluder panel must be attached evenly to the inside of the trawl from the outside attachment points of the excluder panel's leading edge to the apex of the excluder panel. Each side must be sewn with the same sewing sequence, and, if the sides of the excluder panel cross rows of bars in the trawl, the crossings must be distributed evenly over the length of the side attachment.

(iv) *Escape opening.* The escape opening for the Parker soft TED must match one of the following specifications:

(A) *Longitudinal cut.* A slit at least 56 inches (1.4 m) in taut length must be cut along the centerline of the top body panel of the trawl net immediately forward of the apex of the panel webbing. The slit must not be covered or closed in any manner. The edges and end points of the slit must not be reinforced in any way; for example, by attaching additional rope or webbing or by changing the orientation of the webbing.

(B) *Leatherback escape opening.* A horizontal cut extending from the attachment of one side of the deflector panel to the trawl to the attachment of

the other side of the deflector panel to the trawl must be made in a single row of meshes across the top of the trawl and measure at least 96 inches (244 cm) in taut width. All trawl webbing above the deflector panel between the 96-inch (244-cm) cut and edges of the deflector panel must be removed. A rectangular flap of nylon webbing not larger than 2-inch (5.1-cm) stretched mesh may be sewn to the forward edge of the escape opening. The width of the flap must not be larger than the width of the forward edge of the escape opening. The flap must not extend more than 12 inches (30.4 cm) beyond the rear point of the escape opening. The sides of the flap may be attached to the top of the trawl but must not be attached farther aft than the row of meshes through the rear point of the escape opening. One row of steel chain not larger than 3/16 inch (4.76 mm) may be sewn evenly to the back edge of the flap. The stretched length of the chain must not exceed 96 inches (244 cm). A Parker TED using the escape opening described in this paragraph meets the requirements of § 223.206(d)(2)(iv)(B).

(2) [*Reserved*]

(d) *Allowable modifications to hard TEDs and special hard TEDs.* Unless otherwise prohibited in paragraph (b) of this section, only the following modifications may be made to an approved hard TED or an approved special hard TED:

(1) *Floats.* In addition to floats required pursuant to paragraph (a)(9) of this section, floats may be attached to the top one-half of the TED, either outside or inside the net, but not to a flap. Floats attached inside the net must be behind the rear surface at the top of the TED.

(2) *Accelerator funnel.* An accelerator funnel may be installed in the trawl, if it is made of net webbing material with a stretched mesh size not greater than 1⅝ inches (4.1 cm), if it has an inside horizontal opening of at least 39 inches (99.1 cm) when measured in a taut position, if it is inserted in the net immediately forward of the TED, and if its rear edge does not extend past the bars of the TED. The trailing edge of the accelerator funnel may be attached to the TED on the side opposite the escape opening if not more than ⅓ of the circumference of the funnel is attached, and if the inside horizontal opening of at least 39 inches (99.1 cm) is maintained. In a bottom-opening TED, only the top ⅓ of the circumference of the funnel may be attached to the TED. In a top-opening TED, only the bottom ⅓ of the circumference of the funnel may be attached to the TED.

(3) *Webbing flap.* A webbing flap may be used to cover the escape opening under the following conditions: No device holds it closed or otherwise restricts the opening; it is constructed of webbing with a stretched mesh size no larger than 1⅝ inches (4.1 cm); it lies on the outside of the trawl; it is attached along its entire forward edge forward of the escape opening; it is not attached on the sides beyond the row of meshes that lies 6 inches (15.2 cm) behind the posterior edge of the grid; and it does not extend more than 24 inches (61.0 cm) beyond the posterior edge of the grid, except for trawlers fishing in the Gulf SFSTCA or Atlantic SFSTCA with a hard TED with the position of the escape opening at the bottom of the net when the net is in its deployed position, in which case the webbing flap must not extend beyond the posterior edge of the grid.

(4) *Chafing webbing.* A single piece of nylon webbing, with a twine size no smaller than size 36 (2.46 mm in diameter), may be attached outside of the escape opening webbing flap to prevent chafing on bottom opening TEDs. This webbing may be attached along its leading edge only. This webbing may not extend beyond the trailing edge or sides of the existing escape opening webbing flap, and it must not interfere or otherwise restrict the turtle escape opening.

(5) *Roller gear.* Roller gear may be attached to the bottom of a TED to prevent chafing on the bottom of the TED and the trawl net. When a webbing flap is used in conjunction with roller gear, the webbing flap must be of a length such that no part of the webbing flap can touch or come in contact with any part of the roller gear assembly or the means of attachment of the roller gear assembly to the TED, when the trawl net is in its normal, horizontal position. Roller gear must be constructed according to one of the following design criteria:

(i) A single roller consisting of hard plastic shall be mounted on an axle rod, so that the roller can roll freely about the axle. The maximum diameter of the roller shall be 6 inches (15.24 cm), and the maximum width of the axle rod shall be 12 inches (30.4 cm). The axle rod must be attached to the TED by two support rods. The maximum clearance between the roller and the TED shall not exceed 1 inch (2.5 cm) at the center of the roller. The support rods and axle rod must be made from solid steel or solid aluminum rod no larger than ½ inch (1.28 cm) in diameter. The attachment of the support rods to the TED shall be such that there are no protrusions (lips, sharp edges, burrs, etc.) on the front face of the grid. The axle rod and support rods must lie entirely behind the plane of the face of the TED grid.

(ii) A single roller consisting of hard plastic tubing shall be tightly tied to the back face of the TED grid with rope or heavy twine passed through the center of the roller tubing. The roller shall lie flush against the TED. The maximum outside diameter of the roller shall be 3½ inches (8.0 cm), the minimum outside diameter of the roller shall be 2 inches (5.1 cm), and the maximum length of the roller shall be 12 inches (30.4 cm). The roller must lie entirely behind the plane of the face of the grid.

(e) *Revision of generic design criteria, and approval of TEDs, of allowable modifications of hard TEDs, and of special hard TEDs.* (1) The Assistant Administrator may revise the generic design criteria for hard TEDs set forth in paragraph (a) of this section, may approve special hard TEDs in addition to those listed in paragraph (b) of this section, may approve allowable modifications to hard TEDs in addition to those authorized in paragraph (d) of this section, or may approve other TEDs, by regulatory amendment, if, according to a NMFS-approved scientific protocol, the TED demonstrates a sea turtle exclusion rate of 97 percent or greater (or an equivalent exclusion rate). Two such protocols have been published by NMFS (52 FR 24262, June 29, 1987; and 55 FR 41092, October 9, 1990) and will be used only for testing relating to hard TED designs. Testing under any protocol must be conducted under the supervision of the Assistant Administrator, and shall be subject to all such conditions and restrictions as the Assistant Administrator deems appropriate. Any person wishing to participate in such testing should contact the Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Dr., Miami, FL 33149–1003.

(2) Upon application, the Assistant Administrator may issue permits, subject to such conditions and restrictions as the Assistant Administrator deems appropriate, authorizing public or private experimentation aimed at improving shrimp retention efficiency of existing approved TEDs and at developing additional TEDs, or conducting fishery research, that would otherwise be subject to § 223.206(d)(2). Applications should be made to the Southeast Regional Administrator (see § 222.102 definition of "Southeast Regional Administrator").

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

35. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 648.106 [Amended]

36. In § 648.106, introductory text, remove the text, "parts 217 222, 227" and add in its place, "parts 222 and 223".

37. In § 648.106(a), remove the text, "§ 227.72(e)(1)(i) and (ii)" and add in its place, "§ 223.206(d)(1)".

38. In § 648.106(c), remove the text, "§ 227.72(e)(4)" and add in its place, "§ 223.207(b)(1)" and remove the text from the last sentence, ", and bounded on the east by a line 7 nm from the shoreward boundary of the EEZ.".

§ 648.126 [Amended]

39. In § 648.126, remove the text, "217 and 227" and add in its place, "222 and 223".

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

40. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 et seq., 1801 et seq., and 3631 *et seq.*

§ 679.2 [Amended]

41. In § 679.2, in the definition for "Steller Sea Lion Protection Areas," remove the text, "227.12" and add in its place, "223.202".

§ 679.22 [Amended]

42. In Tables 4, 5, 6 to part 679 in the caption, remove the text, "227.12(a)(2)" and add in its place, "223.202".

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

43. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.*

§ 697.2 [Amended]

44. In § 697.2, the definition "Approved TED", remove the text, "217.12," and add in its place, "222.102,".

45. In § 697.2, in the definition for "Flynets", remove the text, "227.72(e)(2)" and add in its place, "223.206", wherever it occurs.

[FR Doc. 99–6626 Filed 3–22–99; 8:45 am]

BILLING CODE 3510–22–P

MI

OL

64

SS

55

MR

23

99

MI

federal register

Tuesday
March 23, 1999

Part III

Department of Health and Human Services

Office of Public Health and Science: Family Planning Nurse Practitioner and Specialty Training Program Funds Availability Announcement; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science; Announcement of Availability of Funds for Family Planning Nurse Practitioner and Specialty Training Program

AGENCY: Office of Population Affairs, OPHS, HHS.

ACTION: Notice.

SUMMARY: The Office of Family Planning (OFT) of the Office of Population Affairs requests applications for grants under the Family Planning Service Training Program authorized under section 1003 of the Public Health Service (PHS) Act. Funds are available to train health care practitioners in order to maintain the high level of performance of family planning service projects funded under Title X of the PHS Act. The training programs to be funded will provide skill-based knowledge for registered professional nurses, qualified nurse practitioners, physicians assistants, Doctors of Medicine, and Doctors of Osteopathy employed in Title X clinics, and will enable Title X service providers to improve the delivery of family planning services to persons from low-income families and other persons desiring such services.

DATES: To receive consideration, applications must be received by the Office of Grants Management, Office of Population Affairs no later than May 24, 1999.

ADDRESSES: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Population Affairs, 4350 East-West Highway, Suite 200 West, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: *Program Requirements:* Ms. Susan Moskosky, Acting Deputy Director, Office of Family Planning, at (301) 594–4008.

Administrative and Budgetary Requirements: Office of Grants Management, Office of Population Affairs, at (301) 594–4012.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for projects to provide training for family planning services personnel. (Catalog of Federal Domestic Assistance Number 93.260). This notice announces the availability of approximately $1,800,000 in funding and solicits applications for grants for two training projects, each of which will serve states in five U.S. Department of Health and Human Services regions, as described below.

Program Background

Title X of the PHS Act, enacted by Pub. L. 91–572, authorizes grants for projects to provide family planning services to persons from low-income families and others. Section 1001 of the Act, as amended, authorizes grants to "assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)." Section 1003 of the Act, as amended, authorizes the Secretary to make grants to entities to provide the training for personnel to carry out the family planning services program. The regulations set out at 42 CFR, part 59, subpart C, govern grants for family planning services training. Prospective applicants should refer to the regulations in their entirety.

The Office of Family Planning in the Office of Population Affairs, through the Title X program, has funded certificate nurse practitioner programs since the early 1970s to prepare registered professional nurses to serve the clinical needs of clients in Title X agencies. More than 5,000 family planning and women's health nurse practitioners have been prepared in the Title X-supported nurse practitioner training since that time. Many changes are occurring, however, that are having an impact on the type of training that will be needed for nurse practitioners and other clinical providers in the Title X delivery system, both now and in the future.

While it is recognized that an estimated 80 percent of the clinicians currently providing services in Title X clinics are certificate prepared women's health nurse practitioners, there has been a precipitous and sustained decline in the number of applicants for Title X nurse practitioner training over the past five years. In the past two years, several of the Title X-supported nurse practitioner training programs have canceled classes due to an insufficient number of applicants.

During this same time period, only one of the five Title X-supported nurse practitioner training programs has been able to recruit the number of trainees to which they committed in the applications for funding. This decline in the number of applicants and trainees has resulted in a dramatic increase in the average cost per student to the Title X program.

A majority of the states (26) currently require a masters degree for nurse practitioner practice or for prescriptive authority. Beginning January 1, 2007, a masters degree in the specialty area will be required for nurse practitioners to be eligible for the women's health nurse practitioner certification examination. The change in the certification eligibility requirement will mean that certificate training of women's health nurse practitioners will no longer be a viable option. Compounding these factors are the changes occurring within the health care delivery system and the increasing complexity of reproductive health and other health issues requiring a broader understanding of related health complications (e.g., hypertension, diabetes, HIV-related complications, etc.).

The declining number of applicants for traditional certificate Title X nurse practitioner training along with the escalating costs of providing such training dictates a change in the approach to training clinical providers for the Title X system. Other factors that reinforce the need for a change in approach include changing State requirements and the availability of already credentialed, more broadly prepared clinical providers, such as masters prepared family or adult nurse practitioners, physicians assistants, Doctors of Medicine or Doctors of Osteopathy. The more broadly prepared clinical providers could benefit from in-depth family planning and women's health information and clinical training In an effect to maintain the quality of family planning service delivery in the Title X system, a strategy for providing this specialized family planning and women's health information to broadly prepared health care providers will be addressed by applicants for funding under this announcement.

It is recognized that because Title X nurse practitioner training has existed in its current form for many years, a period of time will be needed to make necessary adjustments in order to minimize disruption. Therefore, the changes in training health care providers for the Title X service delivery system that are indicated in this announcement will be phased in over the three year project period.

In recognition of the changes indicated in this announcement and the concomitant concern that employment of masters-prepared nurse practitioners will increase the cost of providing clinical services, the Office of Family Planning will make additional funds available to Title X service provider grantees to help offset these additional expenditures. A mechanism will be developed to ensure maintenance and retrieval of previous nurse practitioner training program graduate records.

Purpose of the Grant

The two training grants to be funded under this announcement will each provide training services in five of the Department's regions as follows:

(1) One grant with a range of $300,000–$1,000,000 to train registered professional nurses and health care practitioners, defined as: qualified nurse practitioners, as defined below; physicians assistants; Doctors of Medicine; and, Doctors of Osteopathy, from the following cluster of regions:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont);

Region II (New Jersey, New York, Puerto Rico and the Virgin Islands);

Region III (Delaware, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia);

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee);

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin).

(2) One grant with a funding range of $300,000–$1,000,000 to train registered professional nurses and health care practitioners, defined as: Qualified nurse practitioners, as defined below; physicians assistants; Doctors of Medicine; and, Doctors of Osteopathy, from the following cluster of regions:

Region VI (Arkansas, Louisiana, New Mexico, Texas and Louisiana);

Region VII (Iowa, Kansas, Missouri and Nebraska);

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming);

Region IX (Arizona, California, Hawaii, Nevada, American Samoa, Federated States of Micronesia, Republic of Marshall Islands, Commonwealth of Northern Mariana Islands, Republic of Palau and Guam);

Region X (Alaska, Idaho, Oregon and Washington).

For the purpose of this announcement, "qualified nurse practitioner" is defined as: registered professional nurse who is authorized by the State in which services are furnished to practice as a nurse practitioner in accordance with state law.

The training programs funded under this announcement will provide two tracks of training: (1) During Year One of the project period, applicants will be responsible for design and delivery of full course, on-site training to prepare registered professional nurses to function in an advanced nursing role as obstetric-gynecologic or women's health nurse practitioners; and (2) beginning Year Two and through Year Three of the project period, applicants will be responsible for design and delivery of a speciality course for "health care practitioners," defined as: qualified nurse practitioners, physicians assistants, Doctors of Medicine and Doctors of Osteopathy. The speciality course will include didactic information and clinical instruction specific to family planning and women's health for health care practitioners who are seeking additional training in these areas. The purpose of both of these training efforts is to enhance the quality of family planning and women's health services in the Title X delivery system.

The successful applicant will be responsible for all costs associated with training program administration and management, and for training costs directly associated with preparation of trainees (e.g., educational materials, classroom and clinical training sites, etc.). Trainees or employers of trainees will be responsible for all expenses incurred in association with transportation, housing and personal expenses.

Trainees from Title X funded agencies will receive primary consideration to attend the training program specified for their region. Training applicants may also apply for admission to the alternate program, and may be accepted on a space available basis.

Role and Operation of the Training Program

Traditional Full Course Nurse Practitioner Training Program

During Year One of the project period, the successful applicant will be responsible for the design and delivery of a high quality curriculum for a certificate women's health nurse practitioner program specific to the education and role of the nurse practitioner. The training curriculum must include content sufficient to prepare graduates to perform the full range of services required for nurse practitioners in the Title X clinic system. The training program must be accredited as a nurse practitioner program by a national nursing accrediting body, and program graduates must be eligible for national certification.

The training project may not hold more than three full course, on-site classes during Year One of the project period. Each full course may not exceed 16 weeks of on-site course work, with a preceptorship of approximately five and one-half months following the on-site course work. The number of Title X-supported students may not exceed 25 per class. The average cost per Title X-supported student may not exceed $12,000. No traditional full course nurse practitioner training may be initiated after the beginning of Year Two of the project period. A thorough report of the full course training program must be completed and submitted to the Office of Family Planning three months after the completion of the last full course training session.

Specialty Training Course

During Year Two of the project period, the successful applicant will be required to design and deliver a family planning/women's health specialty course for health care practitioners (as defined in Purpose of the Grant). Development of the specialty course should begin during Year One of the project period and may continue during Year Two. A minimum of one specialty course must be held during Year Two of the project period. The number of specialty courses to be offered during Year Two may not exceed three. The number of specialty courses to be offered during Year Three will be negotiated during the last three months of Year Two. Each specialty course must not exceed six weeks in length, and will include both didactic and clinical course work. A combination of on-site and distant learning approaches may be used. Prior to implementation, the curriculum and admissions criteria for candidates (including prerequisite qualifications) for the specialty course must be submitted to the Office of Family Planning (OFP) for review and approval. The number of Title X-supported trainees may not exceed 15 per class. The cost per Title X-supported student for the specialty course may not exceed $4,000.

Project Requirements and Management

Successful applicants will be required to work closely with Central and Regional Office staffs and a network of agencies, including Title X service providers and training advisory committees. The design of both the full course and the specialty course, including the curriculum, must be consistent with Title X statute, regulations and priorities.

Successful applicants will be responsible for the overall management of the training activities within the geographic area for which the grant is made. This responsibility includes:

(1) Meeting national or State recognition requirements as a provider of continuing education through a national nursing organization or one of its constituents, and facilitating the award of continuing education units to

nurse practitioner trainees, where appropriate;

(2) Developing an annual training plan which reflects an assessments of the needs of Title X service grantees for both types of training activities in the regions for which the grant is awarded;

(3) Maintaining data on training activities and trainees sufficient to allow evaluation by credentialing and licensing bodies and by the Office of Family Planning, Office of Population Affairs;

(4) Submitting to the Office of Family Planning a thorough report on the traditional nurse practitioner training course, three months after the completion of the last full course training session, including data on training activities and trainees;

(5) Developing and implementing an evaluation plan for the specialty course within Year Two of the project period. A thorough evaluation report of the specialty course, including data on trainees, will be submitted to OFP at the completion of Year Two of the project period and six months prior to the end of Year Three of the project period;

(6) Making available at cost all materials developed with Title X funds to other title X projects upon request; and

(7) Participating in at least one meeting with the Office of Family Planning annually;

Application Requirements: Any public or private nonprofit organization is eligible to apply for a grant. If the successful applicant is not physically located within one of the applicable regions, a major training facility of the organization must be located within the cluster of regions the applicant will serve.

Applications must be submitted on the forms supplied (PHS–5161–1, Revised 5/96) and in the manner prescribed in the application kits available from the Office of Grants Management. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

A copy of Title X legislation and regulations that govern this program will be sent to applicants as part of the application kit package. Applicants should use the legislation, regulations and other information included in this announcement to guide them in developing their applications. Applications should be limited to 60 double-spaced pages, not including appendices providing curriculum vitae, curriculum, or statements of organizational capabilities. Awards will be made only to those applicants who have met all applicable requirements.

Applications must be received on or before the deadline date to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and the proof-of-mailing date is not later than one week prior to the deadline date. Private metered postmarks will not be accepted as proof of timely mailing. Applications which are received by the Office of Grants Management after the deadline date will not be accepted for review. Applications which do not conform to the requirements of this program announcement or meet the applicable parts of 42 CFR part 59, subpart C will not be accepted for review. Applicants will be so notified and the applications will be returned.

Accepted applications will be subjected to a competitive review process. The results of this review will assist the Deputy Assistant Secretary for Population Affairs in considering competing applications and making the final funding decisions.

Application Consideration and Assessment: Eligible applications will be reviewed by a panel of independent reviewers and will be assessed against the following criteria:

(1) The extent to which the proposed training program will increase the delivery of services to people, particularly low-income groups, with a high percentage of unmet need for family planning services, as evidenced by the applicant's ability to address the requirements set out under "Role and Operation of the Training Program." (25 points);

(2) The extent to which the proposed training program promises to fulfill the family planning service delivery needs of the area to be served, as evidenced by the applicant's ability to address: (a) The extent to which the training curricula and objectives will improve the family planning service delivery skills of registered nurses and other health care practitioners (as defined in "Purposes of the Grant") providing family planning services; (b) the extent to which the training program proposes appropriate strategies to recruit and train nurse practitioners and other health care practitioners requiring specialized family planning training; and, (c) the factors set out at 42 CFR 59.206(a)(2)(i)–(iv). (25 points);

(3) The capacity of the applicant to make rapid and effective use of the training grant (10 points);

(4) The administrative and management capacity and competence of the applicant (15 points);

(5) The competence of the project staff in relation to the services to be provided, including demonstrating that project staff, meet educational and experience requirements of appropriate credentialing bodies. (15 points);

(6) The degree to which the project plan adequately provides for the requirements set forth in 42 CFR 59.205, including the applicant's presentation of the project's objectives, the methods of achieving project objectives, the ability to involve providers and the regional office, and the results or benefits expected. (10 points).

In making grant award decisions, the Deputy Assistant Secretary for Population Affairs (DASPA) will fund those projects which will in her judgement best promote the purposes of section 1003 of the Act, within the limits of funds available for such projects.

Grants will be approved for project periods of up to three years and will be funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory progress of the project, efficient and effective use of grant funds provided, and availability of funds.

Review Under Executive Order 12372: Applications under this announcement are subject to the review requirements of Executive Order 12372, State Review of Applications for Federal Financial Assistance, as implemented by 45 CFR part 100. As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for each State in the area to be served. The application kit contains the currently available listing of the SPOC's which have elected to be informed of the submission of applications. For those states not represented on the listing, further inquiries should be made by applicant regarding the submission to the relevant SPOC. The SPOC comment(s) should be forwarded to the Grants Management Office, Office of Population Affairs, 4350 East-West Highway, Suite 20 West, Bethesda, MD 20814. Such comments must be received by the Office of Population Affairs within 60 days of the closing date listed under "Dates" above.

When final funding decisions have been made, each applicant will be notified by letter of the outcome. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded,

the purposes of the grant, and terms and conditions of the grant award.

Authority: 43 U.S.C. 300(a)).

Dated: March 15, 1999.

Denese O. Shervington,

Deputy Assistance Secretary for Population Affairs.

[FR Doc. 99–7000 Filed 3–22–99; 8:45 am]

BILLING CODE 4160–17–M

MI

OL

64

SS

55

MR

23

99

MI

federal register

Tuesday
March 23, 1999

Part IV

Department of Health and Human Services

Centers for Disease and Prevention

Annual Submission of the Quantity of Nicotine Contained in Smokeless Tobacco Products Manufactured, Imported, or Packaged in the United States Requirement; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice Regarding Requirement for Annual Submission of the Quantity of Nicotine Contained in Smokeless Tobacco Products Manufactured, Imported, or Packaged in the United States

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice establishes a uniform protocol for the analysis of nicotine, total moisture, and pH in smokeless tobacco products. This protocol was designed to implement the requirement of the Comprehensive Smokeless Tobacco Health Education Act (CSTHEA) of 1986 (15 U.S.C. 4401 *et seq.*, Pub. L. 99–252), which requires that each entity manufacturing, packaging, or importing smokeless tobacco products shall annually provide the Secretary of Health and Human Services (HHS) with a specification of the quantity of nicotine contained in each smokeless tobacco product.

DATES: The first report of information is due June 30, 1999, with subsequent submissions due by March 31 of each year.

ADDRESSES: The information shall be submitted to: Michael P. Eriksen, Sc.D., Director, Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Atlanta, GA 30341–3724.

FOR FURTHER INFORMATION CONTACT: Michael P. Eriksen, Sc.D., Director, Office on Smoking and Health, telephone: (770) 488–5701.

SUPPLEMENTARY INFORMATION: According to a 1986 report of an Advisory Committee to the Surgeon General, smokeless tobacco represents a significant health risk, is not a safe substitute for cigarette smoking, can cause cancer and a number of noncancerous oral conditions, and can lead to nicotine addiction.

The Centers for Disease Control and Prevention's (CDC) Office on Smoking and Health (OSH) has primary responsibility for the Department of Health and Human Services' (HHS) tobacco and health program. The overall goal of this program is to reduce death and disability resulting from cigarette smoking and other forms of tobacco use through programs of information, education, and research.

HHS uses the information collected to exercise its authority under CSTHEA to conduct research on the addictive nature of nicotine and general health effects of using smokeless tobacco. Nicotine data will provide a more complete picture of the addictive nature of smokeless tobacco products. Also, as authorized in the statute, HHS may report to the Congress information regarding its current and proposed research relative to nicotine levels in smokeless tobacco products. CSTHEA further requires that individuals who manufacture, package, or import smokeless tobacco products report to HHS the list of ingredients added to tobacco in the manufacture of such products, and this requirement has been implemented by a previous notice (59 FR 4714,).

In 1989 the smokeless tobacco industry submitted a business review letter to the Department of Justice (DOJ), in accordance with 28 CFR 50.6. This letter requested approval of a collaborative industry effort to develop a uniform analytical protocol for determining the nicotine and moisture content of smokeless tobacco products.

In January 1993, DOJ extended permission to the smokeless tobacco industry to develop a uniform analytical protocol for this purpose. A work group representing the 10 major domestic manufacturers of smokeless tobacco was convened on July 7, 1993. The workgroup developed and submitted to CDC for approval the "Protocol for Analysis of Nicotine in Smokeless Tobacco Products." The protocol was revised by CDC based on individual comments from peer reviewers and the National Center for Environmental Health, CDC. The revised protocol, "Protocol for Analysis of Nicotine, Total Moisture, and pH in Smokeless Tobacco Products," is hereafter referred to as the "protocol."

On May 2, 1997, a notice (62 FR 24115) was published in accordance with the Paperwork Reduction Act to solicit public comment on the proposed collection of data. A notice was also published (62 FR 24116, May 2, 1997) to solicit public comment on the protocol. The protocol consists of standard laboratory methods to measure nicotine, moisture, and pH in smokeless tobacco products, and an equation (Henderson-Hasselbalch) to calculate un-ionized nicotine. Nicotine is the major alkaloid in tobacco and the drug in tobacco that causes addiction. In the protocol, moisture is referred to as total moisture because the method measures the amount of water and tobacco constituents in a smokeless tobacco product that are volatile at temperatures of 99 degrees centigrade. pH is defined as the negative logarithm of the molar concentration of hydrogen ions in an aqueous solution and is a quantitative measure of acidity or alkalinity. The degree of nicotine ionization is calculated from the Henderson-Hasselbalch equation. Un-ionized nicotine is known to be the form of nicotine absorbed most easily in the mouth. This protocol will provide CDC with information on levels of nicotine found in smokeless tobacco products manufactured, packaged, or imported during the previous calendar year. The schedule for reporting this information to CDC corresponds to the reporting of ingredients added to tobacco in the manufacture of smokeless tobacco products November 8, 1994 (59 FR 55670,).

Following public request, on June 2, 1997, a notice (62 FR 29729) was published extending the comment period on the proposed protocol by an additional 30 days to July 2, 1997. A summary of the comments received and CDC's response follows.

One respondent, on behalf of several smokeless tobacco manufacturers, had several comments regarding the collection of data. The respondent asserted that the protocols exceeded statutory authorization by collecting pH and free base (hereinafter referred to as "un-ionized", as reflected in the revised protocol) nicotine. Furthermore, the respondent felt that the legislative history of CSTHEA contemplates the reporting of nicotine content alone.

It is CDC's belief that the collection of pH of smokeless tobacco products and the un-ionized nicotine content of each is authorized by section 4 of CSTHEA. There is ample scientific evidence that mere quantity of nicotine alone is insufficient in determining its effect on a user; knowledge of pH and un-ionized nicotine content of the overall nicotine quantity is essential in determining the rate of nicotine absorption. pH and un-ionized nicotine content are essential factors affecting nicotine bioavailability. Furthermore, Congress has never defined exactly what it meant by "quantity of nicotine" in section 4(b) of CSTHEA. In light of ample scientific evidence indicating the importance of pH and un-ionized nicotine content in assessing the overall quantity of nicotine, CDC's interpretation of its statutory authority is clearly permissible.

It is CDC's belief that the legislative history provides support for requiring the reporting of moisture, pH, and un-ionized nicotine content. The Senate

Report accompanying and establishing Congress' views on CSTHEA repeatedly emphasized that "it is essential that we inform the public of the health effects of smokeless tobacco use and continue research on such health effects as expeditiously as possible" (Senate Report 99–209, Dec. 4, 1985, p.13). Since scientific evidence has established that knowledge of pH and un-ionized nicotine content is essential in determining the health effects of smokeless tobacco, the reporting of these elements is supported by the legislative history.

The respondent also commented that CDC failed to comply with procedural obligations in violation of 5 USC § 551 *et seq.*, the Administrative Procedure Act (APA). Specifically, the respondent claimed that CDC failed to provide opportunity for advance review and comment and failed to inform the public of the true nature of the proposed protocol.

CDC feels that the notice given to the tobacco manufacturers was clearly adequate under the APA. CDC's purpose in publishing the protocol in the **Federal Register** was to solicit comments from the public. This is the appropriate time for the manufacturers to review the protocol and relay their comments to CDC, not before publication. As a matter of courtesy, CDC has provided the manufacturers with a copy of draft protocols before publication. CDC did that here as well, for the tobacco companies were given an advance copy of the protocol before formal publication. Therefore, CDC did provide the tobacco companies with advance knowledge of the protocol, even though such notice was not required.

Furthermore, CDC has not failed to inform the public of the true nature of its proposed protocol. CDC sufficiently apprised the public of the agency's legal authority to issue the proposed protocol, for it explicitly states that it is operating under the authority of CSTHEA. Thus, the public is on sufficient notice of the legal authority under which CDC issued the proposed protocol, and has had full opportunity to comment.

CDC is also not required to lay out potential criticisms of its scientific positions in its notice and request for public comment. The purpose of the notice and comment period is to provide interested parties with the opportunity to conduct their own analysis of the merits of the protocol, and to provide scientific or other criticisms, if desired. CDC has clearly stated the terms and substance of its proposed protocol as to provide the public with sufficient opportunity to comment.

This respondent also commented that CDC failed to meet the requirements of the Paperwork Reduction Act by failing to provide the public with an accurate estimate of the burden of compliance. CDC disagrees. CDC based its original estimate on the figures that were submitted by the manufacturers themselves. Moreover, the 60-day notice and comment period is designed to solicit comment on the accuracy of the agency's estimate of the burden of the proposed collection of information. 44 U.S.C. 3506(c)(2)(A)(ii). The tobacco manufacturers felt that the estimate of burden had changed and commented as such at that time. CDC then sought revised estimates from the manufacturers. Only one manufacturer responded to the request for this information. Based on this response, CDC conducted new analyses and revised its estimate of burden accordingly. Thus, CDC clearly complied with the Paperwork Reduction Act's requirements.

CDC also received comments regarding the protocol, which raised technical and scientific concerns regarding collection and calculation of the requested information. Several respondents supported the protocol requirement of reporting not only moisture and nicotine content but also pH and unionized nicotine levels. Support for this aspect of the protocol was based on scientific evidence that the nicotine-specific effects of a given amount of smokeless tobacco depend as much on the pH of the product as on the nicotine content itself. CDC agrees with this scientific observation regarding the utility of determining smokeless tobacco pH and calculating unionized nicotine levels in smokeless tobacco products.

One respondent, on behalf of several smokeless tobacco manufacturers, stated that the protocols for nicotine analysis and total moisture determination are scientifically flawed. Specifically, the respondent stated that the Standards Addition Assay is flawed and unnecessary, that the protocol specifies an unavailable vegetable-based matrix, that triplicate determinations are unnecessary, and that the protocol requires smokeless tobacco manufacturers to use a protocol specific to cigarettes.

With respect to the Standards Addition Assay, CDC reaffirms the function of the Standards Addition Assay and disputes the inadequacies of the extraction testing offered by the respondent as a rationale for eliminating the Standards Addition Assay. CDC revised the protocol to facilitate preparation of a standard curve for the Standards Addition Assay that encompasses the range of values expected from adding known concentrations of nicotine to the smokeless tobacco product. Also, CDC revised the protocol to specify when the Standards Addition Assay is to be conducted by the testing facility.

Regarding use of a vegetable-based matrix, CDC acknowledges that a nicotine-free tobacco surrogate is not readily available to serve as a vegetable-based matrix; that is why the protocol thus specifies adding known concentrations of nicotine to the smokeless tobacco product when performing the Standards Addition Assay. CDC revised the text in Endnote 1 of the protocol to eliminate the phrase "routine testing of random blind samples."

Regarding triplicate determinations, CDC asserts that the potential sources of smokeless tobacco product variability necessitate triplicate determinations for evaluation of precision. In response to the comment that CDC was attempting to "bind the manufacturers" to a cigarette testing protocol in the smokeless tobacco testing protocol, CDC clarifies that the disputed protocol is a sampling protocol, not a testing protocol. Therefore, testing facilities should make use of the document as reference material. However, for clarification, Endnote 11 of the protocol (Endnote 10 of the public comment version of the protocol) was revised to read—"The testing facility must ensure that samples are obtained through the use of a survey design protocol for sampling 'at one point in time' at the factory or warehouse. The survey design protocol must address short-, medium-, and long-term smokeless tobacco product variability (e.g., variability over time and from container to container of the tobacco product) in a manner equivalent to that described for cigarette sampling in Annex C of ISO Protocol 8243."

This respondent also commented that the protocol for pH measurement is scientifically flawed. Specifically, the respondent states that the procedure is based on a nonvalidated protocol, that an inappropriate volume of liquid is specified, that proper calibration of instruments has not been incorporated in the protocol, that temperature is not considered in the protocol, and that multiple pH measurements are unnecessary.

CDC disagrees that the protocol for pH measurement is scientifically flawed. The protocol to determine smokeless tobacco pH is based on the validated protocol published by Henningfield et

al. (1995), which also provides the rationale for the quantity of smokeless tobacco and the volume of liquid. Parameters that can be standardized (sample size, sample preparation, quantity and purity of standard and reagents, instrumentation, measurement time and conditions, etc.) are specified in the protocol. Of note, the Henningfield et al. (1995) reference was provided in the version of the protocol that the respondent received for comment.

CDC agrees that careful calibration across the range of unknown values to be measured is needed. The protocol was revised to read—"Measure pH of sample after a two-point calibration of the pH meter to an accuracy of two decimal places using standard pH buffers (4.01 and 7.00 or 7.00 and 10.00) that will encompass the expected pH value of the smokeless tobacco product."

CDC also agrees that conditions such as sample preparation, sample size, extraction time, volume and purity of the water used, and temperature must be controlled during determination of the pH of a smokeless tobacco product. The protocol was revised to specify room temperature for nicotine extraction and pH determination.

As described above, CDC recognizes that there are several potential sources of smokeless tobacco product variability that necessitate triplicate determinations for evaluation of precision. With respect to pH determination, CDC recognizes the need for multiple measurements to determine if pH values for the smokeless tobacco product vary systematically with time. For edification, the protocol was revised to read—"The first time pH values are determined for each lot of a smokeless tobacco product, measure the pH of the smokeless tobacco product at 5, 15, and 30 minutes. If there is no systematic variation in pH values with time, all subsequent pH determinations for the lot are made at 5 minutes. If there is systematic variation in pH values, continue to measure the pH of the smokeless tobacco product until the pH value is stable and does not vary more than 10% over 15 minutes. Report the final pH value."

This respondent further asserted that the "smokeless tobacco pH" theory has been discredited. In summary, the respondent states that calculation of un-ionized nicotine is based on a discredited scientific theory and that the "smokeless tobacco pH" theory ignores the chemical, biological, and behavioral factors that govern absorption of smokeless tobacco.

Un-ionized nicotine is known to be the form of nicotine most easily absorbed in the mouth. pH determination is a component of the protocol to allow calculation of un-ionized nicotine. The degree of nicotine ionization is calculated from the Henderson-Hasselbalch equation. In a document written at the request of the United States Tobacco Company, Dr. Jeffrey R. Idle recognizes pH as one of the "chemical factors which determine the absorption of a substance dissolved in water across a biological barrier with which the solution is in intimate contact." In the same document Dr. Idle concludes that "The concept of a pH for snuff depends upon a standardized and validated pH assay for aqueous tobacco suspensions' and that "The concept of pH for a moist solid such as tobacco can only apply to a solution derived from a stirred suspension of a standardized amount of tobacco in a standardized volume of water."

It is the intent of the protocol to provide smokeless tobacco manufacturers with a "standardized measurement" of pH. Parameters that can be standardized for pH, moisture, and nicotine determination (sample size, sample preparation, quantity and purity of standards and reagents, instrumentation, measurement time and conditions, etc.)—not random conditions or circumstances unique to each smokeless tobacco user such as "residues of beverages" in the mouth of the smokeless tobacco user (chemical factors), "surface area of the absorptive tissues" (biological factors), and "expectoration" or "swallowing" (behavioral factors)—are specified in the protocol. In addition, the protocol's methodology is supported by the conclusions presented in a recent review article that "pH is a major determinant of nicotine absorption across mucosal tissues" in the mouth and that other "behavioral and biological" factors probably have "little effect on the rate of nicotine absorption" (Tomar and Henningfield, Tobacco Control 1997, 6:219–225).

Information Collection Provisions

This notice contains information collections which have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and assigned OMB Action Notice number 0920–0444 (expiration 01/31/2002). The title description, and respondent information are shown below with an estimate of the annualized costs and burden hours.

Title: Quantity of Nicotine Contained in Smokeless Tobacco Products Manufactured, Imported, or Packaged in the United States.

Description: The Comprehensive Smokeless Tobacco Health Education Act (CSTHEA) of 1986 requires HHS to collect this information. HHS is authorized under CSTHEA to conduct research on the addictive nature of nicotine and general health effects of using smokeless tobacco.

Description of Respondents: Businesses or other For-Profit Organizations.

Estimates of Annualized Burden Hours and Costs: The average annualized total cost to industry is $23,419. This is based on an annualized estimated cost for 11 companies at $2,129 per company. Some companies may choose to contract with an independent laboratory while others may elect to complete the determinations in-house. For those companies choosing to conduct the testing in-house, approximately US$60,000 would be required to purchase the necessary equipment, assuming none of the equipment was previously owned.

The annual response burden to the industry is estimated at 170 hours per smokeless tobacco company. Thus, for the 11 respondents, the hour-burden is 1,870 hours.

Respondents	Number of re-spond-ents	Avg. number of responses per respond-ent	Avg. hours per respondent	Estimated total hours	Avg. cost per respondent	Estimated total cost
Tob. Mfrs.	11	1	170	1,870	$2,129	$23,419

Procedures to maintain confidentiality of nicotine, pH, and moisture data: As provided by CSTHEA, HHS is required to treat the nicotine, pH, and moisture information as a trade secret or confidential in accordance

with 5 U.S.C. 552(b)(4)and 18 U.S.C. 1905. CSTHEA also requires HHS to establish written procedures to assure the confidentiality of the information provided. Consistent with these statutory provisions, HHS has developed strict procedures for treating and protecting relevant documents, including secured file storage and strictly-limited access to the information. The procedures that are applicable to the nicotine content of smokeless tobacco products comport with those already in place for protecting the confidential lists of ingredients in cigarettes and smokeless tobacco products. These procedures have proven workable, effective, and acceptable to the companies required to report the confidential information. The procedures, Guidelines for Maintaining and Releasing Privileged Information Obtained in Accordance With Sec. 4(b)(2)(a) of Public Law 99–252 (15 U.S.C. 4403), were previously published in the February 1, 1994, **Federal Register** (59 FR 4714), and are available from CDC's Office on Smoking and Health upon request.

Dated: March 17, 1999.

Martha Katz,

Acting Director, Centers for Disease Control and Prevention.

Protocol for Analysis of Nicotine, Total Moisture, and pH in Smokeless Tobacco Products

I. Requirements [1, 2]

A. Reagents [3]

1. Sodium hydroxide (NaOH), 2N
2. Methyl t-butyl ether (MTBE)
3. (-) -Nicotine (Fluka 72290) >99% purity [4, 5]
4. Quinoline (Aldrich)
5. Standard pH buffers; 4.01, 7.00, and 10.00
6. Deionized distilled water

B. Glassware and supplies

1. Volumetric flasks, class A
2. Culture tubes, 25 mm x 200 mm, with Teflon-lined screw caps
3. Pasteur pipettes
4. Repipettors (10 mL and 50 mL)
5. Linear shaker (configured to hold tubes in horizontal position) [6, 7]
6. Weighing dishes, aluminum
7. Teflon-coated magnetic stirring bars
8. Polypropylene containers, 50 mL

C. Instrumentation

1. Robot Coupe Model RSI 2V Scientific Batch Processor.
2. Capillary gas chromatograph, Hewlett Packard, Model 6890, with split/splitless injector capability, flame ionization detector, and a capillary column (Hewlett Packard HP–5, Crosslinked 5% PH ME Siloxane, 30 m length x 0.32 mm ID, film thickness 0.25 or 0.52 µm).
3. Orion Model EA 940 pH meter equipped with Orion 8103 Ross combination pH electrode.

D. Additional Equipment

Forced-air oven, Fisher Isotemp®, regulated to 99 ± 1.0°C. Suggested dimensions: 18 x 18 x 20."

E. Chromatographic Conditions [8, 9]

1. Detector temperature: 250°C
2. Injector temperature: 250°C
3. Flow rate at 100°C—1.7 mL/min; with split ratio of 40:1 [10]
4. Injection volume: 2 µl
5. Column conditions: 110–185°C at 10°C min $^{-1}$; 185–240°C at 6°C min $^{-1}$, hold at final temperature for 10 min.

F. Sample Preparation [11]

There exist six different categories of commercial smokeless tobacco products:

1. Dry snuff;
2. Moist (wet) snuff;
3. Moist (wet) snuff portion packs;
4. Plug;
5. Twist; and
6. Loose leaf.

Because of their physical characteristics, samples of three of the six product categories must be ground before nicotine, total moisture, and pH analyses can be conducted. The objective of grinding the samples is to obtain a homogeneous sample with particles measuring approximately 4 mm. Grinding to achieve this particle size should take no more than 3 minutes. To ensure proper grinding and an adequate amount of the ground sample for analysis, the minimum sample size of all commercial products to be ground should not be less than 100 grams.

To ensure precision of analyses for nicotine, total moisture, and pH, the samples that require grinding should be ground using a Robot Coupe Model RSI 2V Scientific Batch Processor or its equivalent. This is a variable speed (0 to 3000 RPM) processor. The variable speed motor is required to ensure proper grinding of the tobacco tissues (and in the case of pH determination, the moist (wet) snuff portion pack). Elevated temperatures can result in moisture loss and an underestimated value for moisture content. Hence, care must be taken during grinding to avoid elevated temperatures. The bowl should be cleaned after each grinding to obtain accurate results.

1. Dry snuff. Dry snuff samples do not need to be ground since the product is a powder. The sample must be thoroughly mixed before weighing for nicotine, total moisture, and pH analysis.

2. Moist (wet) snuff. Moist (wet) snuff samples do not need to be ground. The sample must be thoroughly mixed before weighing for nicotine, total moisture, and pH analysis.

3. Moist (wet) snuff portion packs. The tobacco contents of the moist (wet) snuff portion packs do not need to be ground for nicotine, total moisture, or pH analysis. The tobacco packaging material (the "pouch") should be separated from the tobacco and ground to obtain particles measuring approximately 4 mm for pH analysis. The tobacco of the moist (wet) snuff portion pack and the ground pouch are combined and thoroughly mixed before pH analysis.

4. Plug tobacco. Break or cut apart plugs and add in portions to grinder at 2000 RPM. Reduce RPM or stop grinding if sample bowl becomes warm. Pulse the Robot Coupe, when needed, to complete grinding. Grind samples until approximately 4 mm in size. The total grinding time should be no more than 3 minutes.

5. Twist tobacco. Separate twists, add to grinder and grind at 2000 RPM. Reduce RPM or stop grinding if sample bowl becomes warm. Continue grinding until sample particles are approximately 4 mm in size. The total time for grinding should be no more than 3 minutes.

6. Loose leaf. Grind in the same manner as described in 4 and 5 to obtain product with particle size of approximately 4 mm.

II. Nicotine Analysis [12]

A. Calibration Standards

1. Internal Standard (IS)

Weigh 10.00 grams of quinoline, transfer to a 250 mL volumetric flask and dilute to volume with MTBE. This solution will be used for calibration of the instrument for the nicotine calibration curve (II.A.2), for the standards addition assay (II.B), and for preparation of the extracting solution (II.D).

2. Nicotine Calibration Curve

a. Weigh 1.0000 gram of nicotine into a clean, dry 100 mL volumetric flask and dilute to volume with MTBE. This gives a nicotine concentration of 10 mg/mL for the stock solution.

b. Accurately pipette 0.5 mL of IS from stock solution (II.A.1) to five clean, dry 50 mL volumetric flasks. To prepare a nicotine standard corresponding to a concentration of 0.8 mg/mL, pipette exactly 4.0 mL of the nicotine standard

(II.A.2.a) to a 50 mL volumetric flask containing the internal standard and dilute to volume with MTBE. To obtain nicotine concentrations equivalent to 0.6, 0.4, 0.2, and 0.1 mg/mL, pipette precisely 3.0, 2.0, 1.0, and 0.5 mL, respectively, of the nicotine standard into the four remaining flasks and dilute to volume with MTBE.

c. Transfer aliquots of the five standards to auto sampler vials and determine the detector response for each standard using gas chromatographic conditions described in I.E.

d. Calculate least squares line for linear equation from these standards by obtaining the ratio of $Area_{nicotine}/Area_{IS}$. This ratio will be the Y value and the concentration of nicotine will be the X value for determining the linear equation of the line (Equation 1):

Equation 1:
$Y = a + bX;$

Where:
X = Concentration of nicotine in mg
$Y = Area_{nicotine}/Area_{IS}$
a = intercept on the ordinate (y axis)
b = slope of the curve

The final result will be reported in the following units:

Concentration of nicotine = mg of nicotine/gram of tobacco sample.

e. Determine the recovery of nicotine by pipetting 10 mL of the 0.4 mg/mL nicotine standard to a screw capped tube containing 1.0 mL of 2 N NaOH. Cap the tube. Shake the contents vigorously and allow the phases to separate. Transfer an aliquot of the organic phase to an injection vial and inject. Calculate the concentration of nicotine using the equation of the line in II.A.2.d above. This should be repeated two more times to obtain an average of the three values. The recovery of nicotine can be obtained by using the following equation:

Equation 2:
$Recovery = Nicotine_{calculated}/Nicotine_{actual}$

B. Standards Addition Assay

Prior to analyzing a smokeless tobacco product for nicotine content, the testing facility must validate the system to verify that matrix bias is not occurring during nicotine extraction. This is done by analyzing the nicotine calibration standards in the same vegetable matrix as the smokeless tobacco. The first time each lot of a smokeless tobacco product is evaluated, the Standards Addition Assay will be performed, and documentation of its performance and of the nicotine concentrations selected for the standard curve (II.B.2) will be submitted to the Centers for Disease Control and Prevention.

1. Using an analytical balance, accurately weigh 1.000 ± 0.020 gram of the homogeneous, prepared tobacco sample into a culture tube. Repeat this five times for a total of 6 culture tubes containing the smokeless tobacco product. Record the weight of each sample.

2. Prepare a five-point standard curve for the Standards Addition Assay. The standard curve must consist of nicotine concentrations that encompass the range of values expected from adding known concentrations of the nicotine standard (II.A.2.a) to a measured quantity of the smokeless tobacco product (1.000 ± 0.020 gram, described in II.B.1.). The sixth culture tube is not supplemented with nicotine and serves as an analytical blank. Allow the samples to equilibrate for 10 minutes.

3. Pipette 5 mL of 2 N NaOH into each tube. Cap each tube. Swirl to wet sample and allow to stand 15 minutes.[13]

4. Pipette 50 mL of extraction solution (II.D.1) into each tube. Cap each tube and tighten.[14]

5. Place tubes in rack(s), place racks in linear shaker in horizontal position and shake for two hours.

6. Remove rack(s) from shaker and place in vertical position to allow the phases to separate.

7. Allow the solvent and nicotine supplemented samples and the blank to separate (maximum 2 hours).

8. Transfer aliquots of the five standards and the blank from the extraction tubes to sample vials and determine the detector response for each using gas chromatographic conditions described in I.E.

9. Subtract the $Area_{nicotine}/Area_{IS}$ of the blank from the $Area_{nicotine}/Area_{IS}$ of each of the standards.

10. Calculate least squares line for linear equation from the corrected standards as described above (Equation 1) in II.A.2.d.

The final corrected result will be reported in the following units:

Concentration of nicotine = mg of nicotine/gram of tobacco sample.

11. Determine the recovery of nicotine by pipetting 10 mL of the 0.4 mg/mL nicotine standard to a screw capped tube containing 1.0 mL of 2 N NaOH and 10 mL of extraction solution (II.D.1). Cap the tube and tighten. Shake the contents vigorously and allow the phases to separate. Transfer an aliquot of the organic phase to an injection vial and inject. Calculate the concentration of nicotine using the equation of the line above in II.A.2.d. This should be repeated two more times to obtain an average of the three values. The recovery of nicotine can be obtained by using Equation 2:

$Recovery = Nicotine_{calculated}/Nicotine_{actual}$

12. Compare the results of steps II.A.2. and II.B. If they differ by a factor of 10% or more, the recovery of nicotine from the aqueous matrix is not equivalent to recovery from the vegetable matrix of the smokeless tobacco product. In this instance, the nicotine concentration of the smokeless tobacco product must be determined from a nicotine calibration curve prepared from nicotine standards in a vegetable-based matrix.

C. Quality Control Pools

At least two quality control pools at the high and low ends of the expected nicotine values are recommended to be included in each analytical run. The pools should be analyzed in duplicate in every run. The quality control pools should be available in sufficient quantity to last for all analyses of a product lot.

D. Sample Extraction Procedure[12]

1. Extraction solution is prepared by pipetting 10 mL of the IS from the stock solution (II.A.1) to a 1000 mL volumetric flask and diluting to volume with MTBE.

2. Using an analytical balance, accurately weigh 1.000 ± 0.020 gram of prepared tobacco sample into culture tube and record weight.[15] The number of products sampled per lot should reflect an acceptable level of precision.[16] The test material is to be representative of the product that is sold to the public and therefore should consist of sealed, packaged samples from each lot of finished product that is ready for commercial distribution. Triplicate determinations will provide precision data.

3. Pipette 5 mL of 2 N NaOH into the tube. Cap the tube. Swirl to wet sample and allow to stand 15 minutes.[13]

4. Pipette 50 mL of extraction solution into tube, cap tube and tighten.[14]

5. Place tubes in rack(s), place racks in linear shaker in horizontal position and shake for two hours.

6. Remove rack(s) from shaker and place in vertical position to allow the phases to separate.

7. Allow the solvent and sample to separate (maximum 2 hours). Transfer an aliquot from the extraction tube to a sample vial and cap.

8. Analyze the extract using GC conditions as described above (I.E) and calculate the concentration of nicotine using the linear calibration equation. Correct percent nicotine values for both recovery and weight of sample by using Equation 3.[17]

BILLING CODE 4163–16–P

Equation 3:[18]

$$\text{Nicotine (mg/g)} = \frac{(\text{Area}_{\text{nicotine}}/\text{Area}_{\text{IS}}) - a}{b \times \text{Sample Wt} \times \text{Recovery}}$$

BILLING CODE 4163–18–C

9. Report the *final* nicotine determination as mg of nicotine per gram of the tobacco product (mg nicotine/gram), to an accuracy level of two decimal places for each lot and for each brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.). All data should include the mean value with a 95% confidence interval, the range of values, the number of samples tested per lot, the number of lots per brand name, and the estimated precision of the mean. Information will be reported for each manufacturer and variety (including brand families and brand variations) and brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.).

III. Total Moisture Determination

A. This procedure is a modification of AOAC Method 966.02 (1990) and is referred to as "Total Moisture Determination" because it determines water and tobacco constituents that are volatile at temperatures of 99 ± 1.0°C.

B. Accurately weigh 5.00 grams of the sample (ground to pass ≤ 4 mm screen) [19] into a weighed moisture dish and place uncovered dish in oven.[20] The number of products sampled per lot should reflect an acceptable level of precision.[16] The test material is to be representative of the product that is sold to the public and therefore should consist of sealed, packaged samples from each lot of finished product that is ready for commercial distribution. Triplicate determinations will provide precision data.

C. Do not exceed 1 sample/10 sq in. (650 sq cm) shelf space, and use only 1 shelf. Dry 3 hr at 99 ± 1.0°C. Remove from oven, cover, and cool in desiccator to room temp. (about 30 min). Reweigh and calculate percent moisture.

D. Report the *final* moisture determination as a percentage (%), to an accuracy level of one decimal place for each lot and for each brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.). All data should include the mean value with a 95% confidence interval, the range of values, the number of samples tested per lot, the number of lots per brand name, and the estimated precision of the mean. Information will be reported for each manufacturer and variety (including brand families and brand variations) and brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.).

IV. pH Measurement [12,21]

A. Test samples as soon as possible after they are received. The number of products sampled per lot should reflect an acceptable level of precision.[16] The test material is to be representative of the product that is sold to the public and therefore should consist of sealed, packaged samples from each lot of finished product that is ready for commercial distribution. Triplicate determinations will provide precision data.

B. Accurately weigh 2.00 grams of the sample. Place in a 50 mL polypropylene container with 10 mL deionized distilled water.

C. Place Teflon-coated magnetic stirring bar in container and stir mixture continuously throughout testing.

D. Measure pH of sample after a two-point calibration of the pH meter to an accuracy of two decimal places using standard pH buffers (4.01 and 7.00 or 7.00 and 10.00) that will encompass the expected pH value of the smokeless tobacco product.

E. The first time pH values are determined for each lot of a smokeless tobacco product, measure the pH of the smokeless tobacco product at 5, 15, and 30 minutes. If there is no systematic variation in pH values with time, all subsequent pH determinations for the lot are made at 5 minutes. If there is systematic variation in pH values, continue to measure the pH of the smokeless tobacco product until the pH value is stable and does not vary more than 10% over 15 minutes. Report the final pH value.

F. Report the *final* pH determination to an accuracy level of two decimal places for each lot and for each brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.). All data should include the mean value with a 95% confidence interval, the range of values, the number of samples tested per lot, the number of lots per brand name, and the estimated precision of the mean. Information will be reported for each manufacturer and variety (including brand families and brand variations) and brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.).

G. Estimate the un-ionized (free) nicotine content with the Henderson-Hasselbalch equation (Equation 4), based on measured pH and nicotine content.

BILLING CODE 4163–18–P

Equation 4:

$$pH = pKa + \log \frac{[B]}{[BH^+]}$$

$$B + H^+ \rightleftharpoons BH^+$$

$$\% \text{ un-ionized (free) nicotine} = \frac{\frac{[B]}{[BH^+]}}{\frac{[B]}{[BH^+]} + 1} \times 100$$

$pKa = 8.02$ (CRC Handbook of Chemistry and Physics, 1989-1990)

$[B]$ = amount of un-ionized (free) nicotine

$[BH^+]$ = amount of ionized nicotine

BILLING CODE 4163-18-C

H. Report the *final* estimated un-ionized (free) nicotine as a percentage (%) of the total nicotine content, to an accuracy level of two decimal places and as mg of un-ionized (free) nicotine per gram of the tobacco product (mg un-ionized (free) nicotine/gram), to an accuracy level of two decimal places for each lot and for each brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.). All data should include the mean value with a 95% confidence interval, the range of values, the number of samples tested per lot, the number of lots per brand name, and the estimated precision of the mean. Information will be reported for each manufacturer and variety (including brand families and brand variations) and brand name (e.g., Skoal Bandits Wintergreen, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.).

Billing Code 4163-18-P

Sample calculation:

Mean total nicotine = 10.30 (mg/g)

Mean pH = 7.50

pKa = 8.02

$$pH = pKa + \log \frac{[B]}{[BH^+]}$$

$$7.50 = 8.02 + \log \frac{[\text{un-ionized (free) nicotine}]}{[\text{ionized nicotine}]}$$

$$-0.52 = \log \frac{[\text{un-ionized (free) nicotine}]}{[\text{ionized nicotine}]}$$

$$0.302 = \frac{[\text{un-ionized (free) nicotine}]}{[\text{ionized nicotine}]}$$

$$\frac{[B]}{[BH^+]}$$

$$\% \text{ un-ionized (free) nicotine} = \frac{\frac{[B]}{[BH^+]}}{\frac{[B]}{[BH^+]} + 1} \times 100$$

$$\% \text{ un-ionized (free) nicotine} = \frac{0.302}{0.302 + 1} \times 100$$

$$\% \text{ un-ionized (free) nicotine} = 23.20$$

$$\text{Total free nicotine (mg/g)} = \text{total nicotine} \times \frac{\% \text{ un-ionized (free) nicotine}}{100}$$

$$\text{Total free nicotine (mg/g)} = 10.30 \times \frac{23.20}{100}$$

$$\text{Total free nicotine (mg/g)} = 2.39$$

BILLING CODE 4163–16–C

V. Assay Criteria for Quality Assurance

A. Establishing Limits for Quality Control Parameters

All quality control parameters must be determined within the laboratory in which they are to be used. At least 10 within-laboratory runs must be performed to establish temporary confidence intervals for the quality control parameters. Permanent limits should be established after 20 runs and should be reestablished after each additional 20 runs.

B. Exclusion of Outliers From the Calibration Curve [18]

The coefficient of determination between $Area_{nicotine}/Area_{IS}$ and nicotine concentration should be equal to 0.99 or higher. Any calibration standard having an estimated concentration computed from the regression equation (Equation 1) which is different from its actual concentration by a factor of 10% can be excluded from the calibration curve. Up to two concentrations may be excluded, but caution should be used in eliminating values, since bias may be increased in the calibration curve. If an outlier value is eliminated, its duplicate value must also be discarded to avoid producing a new bias. All unknowns must fall within the calibration curve; therefore, duplicate values excluded at either end of the calibration curve will restrict the useful range of the assay.

C. Quality Control Pools and Run Rejection Rules

The mean estimated nicotine concentration in a pool should be compared with the established limits for that pool based on at least 20 consecutive runs. An analytical run should be accepted or rejected based upon the following set of rules adapted from Westgard et al. (1981).

1. When the mean of one QC pool exceeds the limit of $x \pm 3$ standard deviations (SD), then the run is rejected as out of control. Here, x and SD represent the overall mean and standard deviation of all estimated nicotine concentrations for a particular pool in the runs which were used to establish the control limits.

2. When the mean nicotine concentrations in two QC pools in the same run exceed the same direction, then the run must be rejected. The same direction is the condition in which both pools exceed either the $x + 2$ SD or the $x - 2$ SD limits.

3. When the mean nicotine concentrations in one or two QC pools exceed their $x \pm 2$ SD limits in the same direction in two consecutive runs, then both runs must be rejected.

4. When the mean nicotine concentrations in two QC pools are different by more than a total of 4 SD, then the run must be rejected. This condition may occur, for example, when one QC pool is 2 SD greater than the mean, and another is 2 SD less than the mean.

Endnotes

The comments and notes listed below can be described as Good Laboratory Practice guidelines; they are described in detail in this protocol to ensure minimal interlaboratory variability in the determination of nicotine, total moisture, and pH in smokeless tobacco.

[1] This protocol assumes that the testing facility will implement and maintain a stringent Quality Assurance/Quality Control program to include, but not be limited to, regular interlaboratory comparisons, determination of the quality and purity of purchased products, and proper storage and handling of all reagents and samples.

[2] When a specific product or instrument is listed, it is the product or instrument that was used in the development of this method. Equivalent products or instruments may also be used. Use of trade names is for identification only and does not constitute endorsement by the Public Health Service or the U.S. Department of Health and Human Services.

[3] All chemicals, solvents, and gases are to be of the highest purity.

[4] Companies must ensure that the purity of the nicotine base is certified by the vendor and that the chemical is properly stored. However, nicotine base oxidizes with storage, as reflected by the liquid turning brown. If oxidation has occurred, the nicotine base should be distilled prior to use in making a standard solution.

[5] A suggested method for the determination of nicotine purity is CORESTA Recommended Method No. 39.

[6] Horizontal shaking will allow more intimate contact of this three phase extraction. There is a minimal dead volume in the tube due to the large sample size and extraction volume. This necessitates horizontal shaking.

[7] If linear shaker is not available, a wrist action shaker using 250 mL stoppered Erlenmeyer flasks can be substituted. Values for nicotine are equivalent to those obtained from the linear shaker.

[8] After installing a new column, condition the column by injecting a tobacco sample extract on the column, using the described column conditions. Injections should be repeated until areas of IS and nicotine are reproducible. This will require approximately four injections. Recondition column when instrument has been used infrequently and after replacing glass liner.

[9] Glass liner and septum should be replaced after every 100 injections.

[10] Most older instruments operate at constant pressure. To reduce confusion, it is suggested that the carrier gas flow through the column be measured at the initial column temperature.

[11] The testing facility must ensure that samples are obtained through the use of a survey design protocol for sampling "at one point in time" at the factory or warehouse. The survey design protocol must address short-, medium-, and long-term smokeless tobacco product variability (e.g., variability over time and from container to container of the tobacco product) in a manner equivalent to that described for cigarette sampling in Annex C of ISO Protocol 8243. Information accompanying results for each sample should include, but not be limited to:

1. For each product—manufacturer and variety (including brand families and brand variations) and brand name (e.g., Skoal Bandits, Skoal Long Cut Cherry, Skoal Long Cut Wintergreen, etc.) information.

2. Product "category," e.g., loose leaf, plug, twist, dry snuff, moist (wet) snuff, etc.

3. Lot number.

4. Lot size.

5. Number of randomly sampled, sealed, packaged (so as to be representative of the product that is sold to the public) smokeless tobacco products selected per lot (sampling fraction) for nicotine, moisture, and pH determination.

6. Documentation of method used for random sample selection.

7. "Age" of product when received by testing facility and storage conditions prior to analysis.

[12] Extraction of nicotine and pH determination must be performed with reagents and samples at a room temperature of 22–25°C. Room temperature should not vary more than 1°C during extraction of nicotine or pH determination.

[13] Use non-glass 10 mL repipette for transferring NaOH solution.

[14] Use 50 mL repipette for transferring MTBE.

[15] For dry snuff, use 0.500 ± 0.010 gram sample.

[16] The testing facility is referred to ISO Procedure 8243 for a discussion of sample size and the effect of variability on the precision of the mean of the sample (ISO 8243, 1991).

[17] When analyzing new smokeless tobacco products, extract product without IS to determine if any components co-elute with the IS or impurities in the IS. This interference could artificially lower calculated values for nicotine.

[18] The calculated nicotine values for all samples must fall within the low and high nicotine values used for the calibration curve. If not, prepare a fresh nicotine standard solution and an appropriate series of standard nicotine dilutions. Determine the detector response for each standard using chromatographic conditions described in I.E.

[19] The method is a modification of AOAC Method 966.02 (1990) in that the ground tobacco passes through a 4 mm screen rather than a 1 mm screen.

[20] When drying samples, do not dry different products (e.g., moist (wet) snuff, dry snuff, loose leaf) in the oven at the same time since this will produce errors in the moisture determinations.

[21] The method is based on a method published by Henningfield et al. (1995).

References

AOAC (Association of Official Analytical Chemists). Official Methods of Analysis. 966.02: Moisture in Tobacco. (1990) Fifth Edition. K. Helrich (ed). Association of Official Analytical Chemists, Inc. Suite 400, 2200 Wilson Boulevard, Arlington, Virginia 22201 USA.

CORESTA (Centre de Coopération pour les Recherches Scientifiques relatives au Tabac). Recommended Method No. 39: Determination of the purity of nicotine and nicotine salts by gravimetric analysis—Tungstosilic acid method November, 1994. 87–90.

CRC Handbook of Chemistry and Physics. R.C. Weast, D.R. Lide, M.J. Astle, and WH. Beyer (eds). 70th ed. Boca Raton, Florida: CRC Press (1989–1990) D–162.

Henningfield, J.E., Radzius A., Cone E.J. (1995). Estimation of available nicotine content of six smokeless tobacco products. Tobacco Control 4:57–61.

ISO (International Organization for Standardization). IOS 8243: Cigarettes—Sampling. (1991). Second Edition. Prepared by Technical Committee ISO/TC 126, Tobacco and tobacco products. International Organization for Standardization, Case Postale 56, CH–1211 Geńve 20, Switzerland.

Westgard J.O., Barry P., Hunt M., and Groth T. (1981). A multi-rule Shewhart chart for quality control in clinical chemistry. Clinical Chemistry 27:493.

[FR Doc. 99–7022 Filed 3–22–99; 8:45 am]

BILLING CODE 4163–18–P

Reade

CUSTOMER

Federal Regist
General Inform
aids

Laws

Presidential D
Executive orde
The United Sta

Other Services
Electronic and
Privacy Act Co
Public Laws U
TTY for the de

ELECTRONIC

World Wide W
Full text of the
publications:
http
Federal Registe
Inspection List
http

E-mail

PENS (Public
service that de
Laws. To subs
listp
with the text n
subs
Use listproc@l
PENS. We can

Reference ques
Federal Regist
info
The Federal Re
regulations.

FEDERAL R

9905–10100
10101–10204
10205–10386
10387–10554
10555–10918
10919–11372
11373–11754
11755–12078
12079–12238
12239–12742
12743–12880
12881–13062
13063–13310
13311–13496
13497–13662
13663–13880
13881–14096

Reader Aids

Federal Register

Vol. 64, No. 55

Tuesday, March 23, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22
13881–14096	23

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100	12881
Proclamations:	
7168	10101
7169	10379
7170	10383
7171	10385
7172	11373
7173	12879
Executive Orders:	
12170 (See Notice of March 10, 1999)	12239
12852 (Amended by EO 13114)	10099
12957 (See Notice of March 10, 1999)	12239
12959 (See Notice of March 10, 1999)	12239
13059 (See Notice of March 10, 1999)	12239
13114	10099
Administrative Orders:	
Notice of March 10, 1999	12239
Presidential Determinations:	
No. 99–15 of February 26, 1999	11319
No. 99–16 of March 4, 1999	13495

5 CFR

532	9905, 9906
2635	13063
Proposed Rules:	
1620	13924
1650	13725

7 CFR

3	11755
246	13311
360	12881
361	12881
782	12884
989	10919
1381	11755
1434	10923
1439	13497
1469	10929
Proposed Rules:	
301	11392
915	13123
916	11346
917	11346
1065	13125
1301	12769
1823	10235
1956	10235

8 CFR

3	13663, 13881
103	13881
208	13881
235	13881
238	13881
240	13881
241	13881
253	13881
274a	11533
507	13881

9 CFR

52	13064
Proposed Rules:	
1	10400
3	10400
71	13726
80	13726
112	13365
113	10400
391	10402

10 CFR

708	12862
Proposed Rules:	
21	12117
50	12117
54	12117
63	10405
70	13368
707	11819

11 CFR

Proposed Rules:	
2	10405
4	10405
5	10405

12 CFR

3	10194
208	10194
225	10201
325	10194
567	10194
960	12079
Proposed Rules:	
602	10954

13 CFR

123	13667

14 CFR

21	13501
25	10740
39	9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504, 13667, 13669, 13882, 13884, 13886, 13889, 13890, 13892

71 .....10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672
73 .....12743, 13334, 13506
97 ....9912, 9914, 13334, 13336
204.....12084
257.....12838
258.....12854
399.....12838

Proposed Rules:
39 .....9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936
71 .....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404, 13938
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
752.....13338
772.....13338
774 .....10852, 12744, 13338
806.....10387
902.....14052

16 CFR

Proposed Rules:
241.....13368
256.....13369
1213.....10245
1500.....10245
1513.....10245
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230 .....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:
210.....10579
228.....10579
230.....12908
232.....12908
239.....11118, 12908
240 .....9948, 10579, 11124, 12127, 12908
270.....12908
274.....12908

19 CFR

Ch. I.....13673
133.....11376

Proposed Rules:
4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404.....10103, 13677
416.....13677

21 CFR

26.....11376
50.....10942
101.....12886, 12887
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520 .....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556 .....10103, 13068, 13341, 13679
558 .....13068, 13069, 13341, 13342, 13679
701.....13254
812.....10942
874.....10947

Proposed Rules:
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:
Ch. IX 13531, 13533
990.....12920

25 CFR

031.....13894
039.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR

1.....10218, 11378
602.....10218

Proposed Rules:
1 .....10262, 13939, 13940
20.....10964, 13940
025.....13940
031.....13940
040.....13940

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686

Proposed Rules:
25.....10262
302.....11821
549.....10095

29 CFR

1910.....13700, 13897
4044.....12745

30 CFR

256.....13343
914.....12890
934.....12896

Proposed Rules:
204.....13734
206.....12267
250.....13535
938.....12269

32 CFR

199.....11765, 13912

33 CFR

62.....10104
100.....13913, 13914
117.....10104, 13514
165 .....11771, 12746, 13915
320.....11708
326.....11708
331.....11708

Proposed Rules:
117.....12795, 12797
155.....13734
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184

Proposed Rules:
303.....12674

36 CFR

61.....11736

Proposed Rules:
1190.....13752
1091.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111.....10950, 12072

Proposed Rules:
111.....11402

40 CFR

52 .....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514, 13916
58.....10389
60.....10105, 11536
62.....13075, 13517
63.....11536, 12762
80.....10366
81 .....11775, 12002, 12005, 12257, 13146
82.....10374
93.....13476
136.....10391, 13053
180 .....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:
Ch. 1 10066
52 ...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753
60.....10119, 11555
62.....13539
63.....11555, 11560
81 .....11822, 12025, 13383, 13384
94.....10596
97.....10118
136.....10596
271.....10121
372.....9957, 10597
435.....10266

41 CFR

101–49.....13700

42 CFR

Proposed Rules:
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277
498.....12277
1003.....12277

43 CFR

4.....13362

Proposed Rules:
428.....12141
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919

65 11378

67.....

Proposed Rules:
67.....
77.....
80.....
81.....
82.....
83.....
152.....
207.....
220.....
221.....
222.....
301.....
303.....
306.....
308.....
320.....
324.....
325.....
328.....
333.....
336.....

45 CFR

60.....
302.....
303.....
304.....

Proposed Rules:
92.....
95.....
1224.....
2508.....

46 CFR

502.....
510.....
514.....
515.....

65 .....11378, 11380, 11382, 11384
67.....11386, 11388

Proposed Rules:
67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303.....11802, 11810
304.....11802

Proposed Rules:
92.....10412
95.....10412
1224.....10872
2508.....10872

46 CFR

502.....9922
510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156

47 CFR

41.....13916
64.....13701
73 .....9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729
90.....10395

Proposed Rules:
1.....9960
2.....10266
73 .....12922, 12923, 12924, 13756, 13757
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548
4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52 .....10531, 10535, 10538, 10545, 10548
53 .....10548, 10913, 12862
913.....12862
922.....12862
915.....12220
970.....12220, 12862
1806.....10571
1815.....10573
1819.....10571
1842.....10573
1852.....10571, 10573

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234
1420.....13916

Proposed Rules:
171.....13856, 13943
173.....13856
177.....13856
178.....13856
180.....13856
192.....12147
350.....11414
571 .....9961, 10604, 13947
572.....10965
585.....13947
587.....13947
591.....13757
595.....13947
1420.....13948

50 CFR

17.....13116
216.....9925
217.....14052
220.....14052
221.....14052
222.....14052
223.....14052
224.....14052
225.....14052
226.....14052
227.....14052
285.....10576
300.....13519
600.....9932
622 .....13120, 13363, 13528
630.....12903
648.....14052
660.....9932, 12092
679 .....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723, 14052
697.....14052

Proposed Rules:
216.....9965
17.....12924
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648 .....11431, 13392, 13952
660.....10439, 12279
678.....10438

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 23, 1999

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Endangered and threatened species:
Regulations consolidation; published 3-23-99

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Virginia; published 1-22-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Food labeling—
Dietary supplements and conventional foods; nutrient content claims; high potency and antioxidant definitions and use of sugar free claims; published 9-23-97
Dietary supplements and conventional foods; nutrient content claims; high potency and antioxidant definitions and use of sugar free claims; correction; published 10-24-97
Dietary supplements, nutrition and ingredient labeling; compliance policy guide (vitamin products for human use—low potency), revocation; published 9-23-97
Dietary supplements, nutrition and ingredient labeling; compliance policy guide (vitamin products for human use—low potency), revocation; correction; published 12-18-97
Dietary supplements, nutrition and ingredient labeling; compliance policy guide revocation; published 6-5-98
Nutrient content claims, health claims, and dietary supplements nutritional support statements; requirements md; published 9-23-97

INTERIOR DEPARTMENT
Indian Affairs Bureau
Codification errors; technical corrections; published 3-23-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Boeing; published 3-8-99
McDonnell Douglas; published 2-16-99
Schweizer Aircraft Corp.; published 2-16-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Nectarines and peaches grown in—
California; comments due by 3-29-99; published 3-8-99
Olives grown in—
California; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Animal welfare:
Rats and mice bred for use in research and birds; definition as animals; rulemaking petition; comments due by 3-29-99; published 1-28-99
Plant-related quarantine, domestic:
Citrus canker; comments due by 4-2-99; published 2-1-99
Plant-related quarantine, foreign:
Cut flowers; importation; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT
Farm Service Agency
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Business-Cooperative Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Housing Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Utilities Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic coastal fisheries—
Atlantic sturgeon; comments due by 3-29-99; published 2-26-99
Northeastern United States fisheries—
Summer flounder, et al.; comments due by 3-29-99; published 1-27-99
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish; comments due by 3-29-99; published 2-10-99
West Coast States and Western Pacific Fisheries—
West Coast Salmon; comments due by 3-29-99; published 1-27-99
International fisheries regulations:
Pacific tuna; conservation and management measures; comments due by 3-29-99; published 2-25-99
Marine mammals:
Incidental taking—
BP Exploration; Beaufort Sea; offshore oil and gas platform construction and operation; comments due by 3-31-99; published 3-1-99

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
Federal claims collection; comments due by 3-29-99; published 1-28-99

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Conforming late offer treatment; comments due by 3-29-99; published 1-27-99
Interest and other financial costs; comments due by 3-30-99; published 1-29-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution; standards of performance for new stationary sources:
Steel plants; electric arc furnaces; comments due by 4-1-99; published 3-2-99
Air programs:
Fuels and fuel additives—
Methylcyclopentadienyl manganese tricarbonyl (MMT); Alternative Tier 2 health and exposure testing requirements; comments due by 3-30-99; published 2-9-99
Stratospheric ozone protection—
Montreal Protocol adjustment for 1999 interim reduction in Class I, Group VI controlled substances; comments due by 3-29-99; published 2-25-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 3-31-99; published 3-1-99
District of Columbia; comments due by 3-29-99; published 2-25-99
Louisiana; comments due by 3-29-99; published 2-25-99
Missouri; comments due by 3-29-99; published 2-26-99
New Jersey; comments due by 3-31-99; published 3-1-99
Hazardous waste program authorizations:
Michigan; comments due by 4-1-99; published 3-2-99
Wyoming; comments due by 3-29-99; published 2-25-99
Hazardous waste:
Lead-based paint debris; toxicity characteristic rule; temporary suspension; comments due by 4-2-99; published 2-12-99
Waste water treatment sludges from metal finishing in
accumulati
comments
published
Pesticides; tole
animal feeds
agricultural c
Azoxystrobin
by 3-30-99
29-99
Fenbuconazo
due by 3-
1-29-99
Lambda-cyha
comments
99; publish
Toxic substanc
Lead-based
Lead-base
manage
disposal
by 4-2-9
12-99

FEDERAL COMMUNICAT COMMISSION
Radio stations;
assignments
Colorado; cc
3-29-99; p
99
Idaho; comm
29-99; pub
Kansas; com
3-29-99; p
99
Louisiana; c
3-29-99; p
99
New Hamps
due by 3-
2-17-99
New York; c
by 3-29-99
17-99
North Dakot
due by 3-
2-17-99
Oregon; com
3-29-99; p
99
Wisconsin; c
by 3-29-99
17-99
Television broa
Digital Telev
Industry C
Committee
comments
99; publis
Television stat
assignments
Arkansas; c
3-29-99; p
99

GENERAL SE ADMINISTRAT
Acquisition reg
Federal Sup
multiple a

finishing industry; 180-day accumulation time; comments due by 4-2-99; published 2-1-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Azoxystrobin; comments due by 3-30-99; published 1-29-99

Fenbuconazole; comments due by 3-30-99; published 1-29-99

Lambda-cyhalothrin; comments due by 3-30-99; published 1-29-99

Toxic substances:

Lead-based paint activities—

Lead-based paint debris; management and disposal; comments due by 4-2-99; published 2-12-99

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Colorado; comments due by 3-29-99; published 2-17-99

Idaho; comments due by 3-29-99; published 2-17-99

Kansas; comments due by 3-29-99; published 2-17-99

Louisiana; comments due by 3-29-99; published 2-17-99

New Hampshire; comments due by 3-29-99; published 2-17-99

New York; comments due by 3-29-99; published 2-17-99

North Dakota; comments due by 3-29-99; published 2-17-99

Oregon; comments due by 3-29-99; published 2-17-99

Wisconsin; comments due by 3-29-99; published 2-17-99

Television broadcasting:

Digital Television Service Industry Coordination Committee; establishment; comments due by 3-29-99; published 2-9-99

Television stations; table of assignments:

Arkansas; comments due by 3-29-99; published 2-17-99

GENERAL SERVICES ADMINISTRATION

Acquisition regulations:

Federal Supply Service multiple award schedule contracts; streamlining administration and clarifying marking requirements; comments due by 4-2-99; published 2-1-99

Federal Acquisition Regulation (FAR):

Conforming late offer treatment; comments due by 3-29-99; published 1-27-99

Interest and other financial costs; comments due by 3-30-99; published 1-29-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—

Dietary supplements; nutrition labeling on a 'per day' basis; comments due by 3-29-99; published 1-12-99

INTERIOR DEPARTMENT

Land Management Bureau

Minerals management:

Oil and gas leasing—

Performance standards in lieu of current prescriptive requirements; comments due by 4-2-99; published 12-3-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Findings on petitions, etc.—

Vermillion darter; comments due by 3-29-99; published 1-26-99

Santa Ana sucker; comments due by 3-29-99; published 1-26-99

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Aliens—

Temporary protected status; employment authorization fee requirements, etc.; comments due by 4-2-99; published 2-1-99

JUSTICE DEPARTMENT

Parole Commission

Federal prisoners; paroling and releasing, etc.:

District of Columbia Code; prisoners serving sentences; comments due by 3-31-99; published 2-4-99

LABOR DEPARTMENT

Pension and Welfare Benefits Administration

Employee Retirement Income Security Act:

Employee pension and welfare benefit plans; recordkeeping and disclosure requirements; use of electronic media; comments due by 3-29-99; published 1-28-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Conforming late offer treatment; comments due by 3-29-99; published 1-27-99

Interest and other financial costs; comments due by 3-30-99; published 1-29-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Truth in Savings Act—

Fee disclosure, dividend rates, annual percentage yield et al.; comments due by 3-29-99; published 12-29-98

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list addition; comments due by 3-29-99; published 1-11-99

SECURITIES AND EXCHANGE COMMISSION

Securities:

Sweden; securities exemption for purposes of trading futures contracts; comments due by 3-31-99; published 3-1-99

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:

Florida; comments due by 3-29-99; published 1-26-99

Boating safety:

Numbering undocumented vessels in Alaska; fee increase; comments due by 4-2-99; published 2-1-99

Regattas and marine parades:

Fleet's Albany Riverfest; comments due by 4-2-99; published 2-1-99

Hudson Valley Triathlon; comments due by 4-2-99; published 2-1-99

Tank vessels:

Tank barges; emergency control measures; comments due by 3-30-99; published 12-30-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 3-30-99; published 2-23-99

Bell Helicopter Textron, Inc.; comments due by 3-29-99; published 1-26-99

Boeing; comments due by 3-29-99; published 2-10-99

Hartzell Propeller Inc.; comments due by 3-29-99; published 1-27-99

McDonnell Douglas; comments due by 3-29-99; published 1-28-99

Class E airspace; comments due by 3-29-99; published 2-12-99

Class E airspace; correction; comments due by 3-29-99; published 2-19-99

TRANSPORTATION DEPARTMENT

Maritime Administration

Cargo preference—U.S.-flag commercial vessels:

Carriage of agricultural exports; comments due by 3-29-99; published 1-28-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Anthropomorphic test devices:

Occupant crash protection—

Hybrid III test dummies; 3-year-old child dummy; design and performance specifications; comments due by 3-29-99; published 1-28-99

Motor vehicle safety standards:

Occupant crash protection—

Child restraint systems; Federal regulatory review; comments due by 4-2-99; published 2-1-99

Vehicle certification—

Altered vehicles; certification labels contents requirements; comments due by 3-29-99; published 2-11-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Tax return preparers' signatures; retention; comments due by 3-31-99; published 12-31-98

TREASURY DEPARTMENT

United States Mint

Exchange of paper currency and coin:

Melting discontinuance and substitution of mechanical means to destroy mutilated coins; comments due by 3-29-99; published 1-27-99

VETERANS AFFAIRS DEPARTMENT

Acquisition regulations:

Tax-free tobacco products; comments due by 3-30-99; published 1-29-99

Order Processing C
* 6173
☐ YES

The total cos
Internationa

Company or p

Additional add

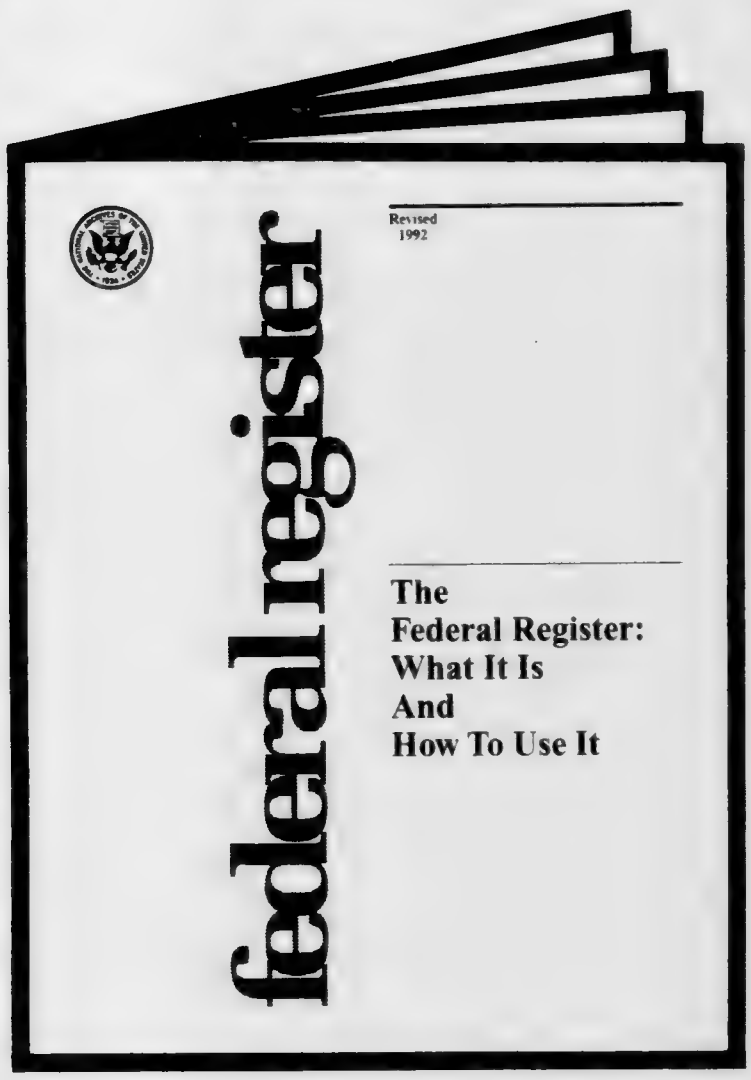
Street address

City, State, ZI

Daytime phone

Purchase order

May we make



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a simple research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

Order Processing Code:
*** 6173**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ copies of **The Federal Register – What it is and Hot To Use It,** at $7.00 per copy. Stock No. 069–000–00044–4.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%

_____
Company or personal name (Please type or print)

_____
Additional address/attention line

_____
Street address

_____
City, State, ZIP code

_____
Daytime phone including area code

_____
Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

_____
Authorizing signature (Rev 11/3)

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
                                    DEC97 R 1
AFR SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
                                    DEC97 R 1
AFRDO SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

SERVICE

VISA

02) 512–2250
02) 512–1800

to change.

Documents

–

Thank you for your order!

11/3

250–7954



Printed on recycled paper

OL
64
SS
56
MR
24
99
MI

3-24-99
Vol. 64

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

United Sta
Governme
Printing O
SUPERINTENDE
OF DOCUMENT
Washington, DC

OFFICIAL BUSIN
Penalty for pnvat

3–24–99
Vol. 64 No. 56

Federal Register

Wednesday
March 24, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

3–24–99
Vol. 64 N
Pages 14097

3–24–99
Vol. 64 No. 56
Pages 14097–14354

federal register

Wednesday
March 24, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche — **202–512–1800**

Assistance with public subscriptions — **512–1806**

General online information — **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche — **512–1800**

Assistance with public single copies — **512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche — **523–5243**

Assistance with Federal agency subscriptions — **523–5243**

Contents

Federal Register

Vol. 64, No. 56

Wednesday, March 24, 1999

Agriculture Department
See Animal and Plant Health Inspection Service
See Cooperative State Research, Education, and Extension Service

Animal and Plant Health Inspection Service
PROPOSED RULES
Viruses, serums, toxins, etc.:
Veterinary antibody products; meeting, 14156

Children and Families Administration
PROPOSED RULES
Head Start Program:
Selection and funding of grantees; policies and procedures, 14202–14203

Coast Guard
RULES
Ports and waterways safety:
Storrow Drive Connector Bridge, Charles River, MA; safety zone
Correction, 14306

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
PROPOSED RULES
Foreign futures and options transactions:
Access to electronic boards of trade; automated trading systems use, 14159–14178

Consumer Product Safety Commission
PROPOSED RULES
Consumer Product Safety Act and Federal Hazardous Substances Act:
Bunk beds; safety standards, 14158–14159

Cooperative State Research, Education, and Extension Service
PROPOSED RULES
Grants:
Special Research Program, 14347–14350

Corporation for National and Community Service
RULES
Foster Grandparent Program, 14123–14133
Retired and Senior Volunteer Program, 14133–14141
Senior Companion Program, 14113–14123
NOTICES
Grants and cooperative agreements; availability, etc.:
AmeriCorps programs—
AmeriCorps*State and America Reads programs; allowable cost per full-time equivalent for Indian Tribes, 14216

Defense Department
See Navy Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14216–14217

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Funches, Anthony D., 14267–14269
Pierson, Jacqueline Lee, et al., 14269–14273

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request; correction, 14306
Grants and cooperative agreements; availability, etc.:
Technology Innovation Challenge Program, 14223–14224
Meetings:
National Assessment Governing Board, 14224–14225

Employment and Training Administration
NOTICES
Reports and guidance documents; availability, etc.:
Performance accountability measurement system; consultation papers, 14335–14345

Energy Department
See Federal Energy Regulatory Commission
See Western Area Power Administration
PROPOSED RULES
Acquisition regulations:
Costs associated with whistleblower actions, 14206–14207
NOTICES
Meetings:
Secretary of Energy Advisory Board, 14225

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Azoxystrobin, 14106–14113
Cinnamaldehyde; correction, 14098–14099
Clopyralid, 14101–14104
Imidacloprid, 14104–14106
Norflurazon, 14099–14101
PROPOSED RULES
Hazardous waste program authorizations:
Massachusetts, 14201–14202
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14229–14231
Meetings:
Clean Air Act Advisory Committee, 14231–14232
Environmental Laboratory Advisory Board, 14232
Science Advisory Board, 14232–14233
Pesticide registration, cancellation, etc.:
Novartis Crop Protection, 14233–14234
Sureco Inc. et al., 14234–14237
Zeneca Ag Products, 14237
Pesticides; experimental use permits, etc.:
University of Rhode Island, 14238

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Williams International, L.L.C., 14097–14098
Class D and Class E airspace; correction, 14306

Federal Communications Commission
RULES
Common carrier services:
Computer III further remand proceedings; Bell Operating Co. enhanced services provision; Computer III and Open Network Architecture safeguards, etc., 14141–14148
PROPOSED RULES
Common carrier services:
Inter-carrier compensation for Internet service provider (ISP)-bound traffic, 14203–14206
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14238
Common carrier services:
Inter-carrier compensation for Internet service provider (ISP)-bound traffic; clarification, 14239–14243
Toll free service access codes—
888 right-of-first refusal process ended, 14243–14244
Meetings:
North American Numbering Council, 14244

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 14245

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Alabama Power Co., 14227
Applications, hearings, determinations, etc.:
Clear Creek Storage Co., L.L.C., 14225–14226
Reliant Energy Gas Transmission Co., 14226
Southern Natural Gas Co., 14226, 14227
Texas Eastern Transmission Corp., 14227

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Stark, Columbiana, and Carroll Counties, OH, 14302–14303

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
Menlo Logistics Global Transportation Services, Inc., et al., 14245

Federal Reserve System
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14245–14246

Federal Trade Commission
PROPOSED RULES
Electronic media; rules and guides interpretation, participation procedures, and advertisements request; workshop, 14156–14158
NOTICES
Prohibited trade practices:
Intel Corp., 14246–14249
Medtronic Inc., 14249–14251

Fish and Wildlife Service
RULES
Alaska National Wildlife Refuges:
Administrative and visitor facility sites; public safety, government property protection, and fish and wildlife regulations, 14149–14151
Kenai National Wildlife Refuge; seasonal closure of Moose Range Meadows public access easements, 14151–14154
PROPOSED RULES
Endangered and threatened species:
Abutilon eremitopetalum, etc. (245 Hawaiian plants); critical habitat designation reevaluation, 14209–14210

Food and Drug Administration
RULES
Medical devices:
Corrections and removals; authority citation; CFR correction, 14098
Organization, functions, and authority delegations:
Compliance Office, Center for Drug Evaluation and Research, Director and Deputy Director; CFR correction, 14098
PROPOSED RULES
Food for human consumption:
Food labeling—
Dietary supplements; use of health claims based on authoritative statements; meeting, 14178–14180
Radiological health:
Laser products; performance standards, 14180–14200
NOTICES
Human drugs:
New drug applications—
Vale Chemical Co., Inc., et al.; approval withdrawn, 14252–14253

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
New York, 14212
Ohio, 14212
Texas, 14212–14213
Virginia, 14213

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
NOTICES
Grants and cooperative agreements; availability, etc.:
Ricky Ray Hemophilia Relief Fund Act of 1998; payment petitions filing procedures, 14251–14252

Indian Affairs Bureau
NOTICES
Grants and cooperative agreements; availability, etc.:
Traffic safety on Indian reservations, 14259–14261

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Indian Gaming Commission
See National Park Service
NOTICES
Privacy Act:
Systems of records, 14257–14259

Internal Revenue Service
PROPOSED RULES
Income taxes:
Low-income housing credit; compliance monitoring and miscellaneous issues
Correction, 14306

International Trade Administration
NOTICES
Antidumping:
Oil country tubular goods from—
Mexico, 14213–14214
Export trade certificates of review, 14214–14215

International Trade Commission
NOTICES
Import investigations:
Agricultural tillage tools from—
Brazil, 14265
Andean Trade Preference Act; effect on U.S. economy and on Andean drug crop eradication; annual report, 14265–14266
Caribbean Basin Economic Recovery Act; impact on U.S. industries and consumers; annual report, 14266
Textiles, etc., from—
Colombia et al., 14266–14267

Justice Department
See Drug Enforcement Administration

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration

Land Management Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
Eastern Washington Resource Advisory Council, 14261
Public land orders:
Alaska, 14261–14262
Colorado, 14262
Realty actions; sales, leases, etc.:
California, 14262–14263
Recreation management restrictions, etc.:
Headwaters Forest Reserve, CA; interim management guidelines, 14263–14264

Mine Safety and Health Administration
PROPOSED RULES
Metal and nonmetal mine safety and health:
Underground mines—
Diesel particulate matter exposure of miners, 14200–14201

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Labor disputes; contracts for Government notification, 14148–14149
NOTICES
Inventions, Government-owned; availability for licensing, 14273

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Side impact protection; inflatable restraint systems; benefits and risks; meeting, 14207–14209
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14303–14304

National Indian Gaming Commission
NOTICES
Indian Gaming Regulatory Act:
Class III tribal gaming ordinances; approval; correction, 14273

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 14253
National Center for Research Resources, 14253–14254
National Institute of Allergy and Infectious Diseases, 14255
National Institute of General Medical Sciences, 14255
National Institute of Neurological Disorders and Stroke, 14254
National Institute on Deafness and Other Communication Disorders, 14255
National Library of Medicine, 14255–14256
Scientific Review Center, 14256–14257
Warren Grant Magnuson Clinical Center Board of Governors, 14257

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Marine and anadromous species—
West coast chinook salmon, 14307–14328
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Shallow-water species, 14155
Atlantic shark, 14154–14155
PROPOSED RULES
Endangered and threatened species:
Marine and anadromous species—
West coast chinook salmon, 14329–14333
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
West coast salmon; correction, 14211
NOTICES
Meetings:
New England Fishery Management Council, 14215–14216

National Park Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14264
Meetings:
Boston Harbor Islands Advisory Council, 14264–14265

Navy Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Naval Training Center San Diego, CA, 14217–14223

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Baltimore Gas & Electric Co., 14275–14276
Florida Power & Light Co., 14276–14277
Virginia Electric & Power Co., 14277–14278
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 14278–14292

Applications, hearings, determinations, etc.:
Carolina Power & Light Co., 14273–14274
Duke Energy Corp., 14274–14275

Presidential Documents
PROCLAMATIONS
Special observances:
Poison Prevention Week, National (Proc. 7174), 14351–14354

Public Health Service
See Food and Drug Administration
See National Institutes of Health

Securities and Exchange Commission
NOTICES
Securities:
Suspension of trading—
Cosmos Ventures, Inc., 14293
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 14293–14294
New York Stock Exchange, Inc., 14294–14300
New York Stock Exchange, Inc.; correction, 14306
Applications, hearings, determinations, etc.:
Innovative Medical Services, 14292–14293
International FiberCom, Inc., 14293

State Department
NOTICES
Foreign passports validity; list of countries, 14300–14301
International agreements:
Satellite telecommunications; international anti-bribery and fair competition laws, 14301
Passport travel restrictions, U.S.:
Iraq, 14301–14302

Surface Transportation Board
NOTICES
Rail carriers:
Cost recovery procedures—
Adjustment factor, 14304

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Hearings, etc.—
Wrangell Mountain Air, Inc., 14302

Treasury Department
See Internal Revenue Service

Veterans Affairs Department
NOTICES
Meetings:
Former Prisoners of War Advisory Committee, 14304–14305

Western Area Power Administration
NOTICES
Power rate adjustments:
Boulder Canyon Project; firm power services base charge, 14227–14228

Separate Parts In This Issue

Part II
Department of Commerce, National Oceanic and Atmospheric Administration, 14307–14333

Part III
Department of Labor, Employment and Training Administration, 14335–14345

Part IV
Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14347–14350

Part V
The President, 14351–14354

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS

A cumulative li
Reader Aids se

3 CFR
Proclamations:
7174
7 CFR
Proposed Rules
3400
9 CFR
Proposed Rules
113
14 CFR
39
71
16 CFR
Proposed Rules
Ch. I
1213
1500
1513
17 CFR
Proposed Rules
1
30
21 CFR
5
806
Proposed Rules
101
1010
1040
26 CFR
Proposed Rules
1
30 CFR
Proposed Rules
57
33 CFR
165
40 CFR
180 (5 docume
14099, 1410
Proposed Rules
271
45 CFR
1207
1208
1209
2551
2552
2553
Proposed Rules
1302
47 CFR
54
64
Proposed Rules
51
48 CFR
1822
Proposed Rules
970
49 CFR
Proposed Rules
571
50 CFR
25
36 (2 document

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7174.....14353

7 CFR
Proposed Rules:
3400.....14348

9 CFR
Proposed Rules:
113.....14156

14 CFR
39.....14097
71.....14306

16 CFR
Proposed Rules:
Ch. I.....14156
1213.....14158
1500.....14158
1513.....14158

17 CFR
Proposed Rules:
1.....14159
30.....14159

21 CFR
5.....14098
806.....14098
Proposed Rules:
101.....14178
1010.....14180
1040.....14180

26 CFR
Proposed Rules:
1.....14306

30 CFR
Proposed Rules:
57.....14200

33 CFR
165.....14306

40 CFR
180 (5 documents) 14098, 14099, 14101, 14104, 14106
Proposed Rules:
271.....14201

45 CFR
1207.....14113
1208.....14123
1209.....14133
2551.....14113
2552.....14123
2553.....14133
Proposed Rules:
1302.....14202

47 CFR
54.....14141
64.....14141
Proposed Rules:
51.....14203

48 CFR
1822.....14148
Proposed Rules:
970.....14206

49 CFR
Proposed Rules:
571.....14207

50 CFR
25.....14149
36 (2 documents) 14149, 14151
223.....14308
224.....14308
678.....14154
679.....14155
Proposed Rules:
17.....14209
223.....14329
224.....14329
660.....14211

Rules

This section of
contains regula
applicability an
are keyed to a
Federal Regula
50 titles pursua

The Code of F
the Superinten
new books are
REGISTER iss

DEPARTMEN

Federal Avia

14 CFR Part

[Docket No. 9
39–11088; AD

RIN 2120–AA6

Airworthines International Engines

AGENCY: Fede
Administrati

ACTION: Final

SUMMARY: Th
new airworth
applicable to
L.L.C. FJ44–1
requires remo
turbine (HPT
accumulating
of 1,900 cycle
replacing wit
option, the H
thereby incre
life limit from
life limit. Thi
by a revised l
the manufact
similarly desi
actions specif
intended to p
failure, which
uncontained
to the aircraft

DATES: Effecti

The incorp
certain public
regulations is
of the Federal
1999.

ADDRESSES: T
referenced in
from William
Road, P.O. Bo
48390–0200;
fax (248) 669-

Rules and Regulations

Federal Register
Vol. 64, No. 56
Wednesday, March 24, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–36–AD; Amendment 39–11088; AD 99–07–04]

RIN 2120–AA64

Airworthiness Directives; Williams International, L.L.C. FJ44–1A Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Williams International, L.L.C. FJ44–1A turbofan engines, that requires removing the high pressure turbine (HPT) disk from service prior to accumulating a reduced cyclic life limit of 1,900 cycles since new (CSN) and replacing with a serviceable disk. As an option, the HPT nozzle can be modified, thereby increasing the HPT disk cyclic life limit from the new reduced cyclic life limit. This amendment is prompted by a revised life analysis conducted by the manufacturer after the failure of a similarly designed HPT disk. The actions specified by this AD are intended to prevent HPT disk rim failure, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective May 24, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Williams Rolls, 2280 West Maple Road, P.O. Box 200, Walled Lake, MI 48390–0200; telephone (248) 960–2545, fax (248) 669–9515. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Bonnen, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–7134, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Williams International, L.L.C. FJ44–1A turbofan engines was published in the **Federal Register** on September 9, 1998 (63 FR 48140). That action proposed to require removing the high pressure turbine (HPT) disk from service prior to accumulating a reduced cyclic life limit of 1,900 cycles since new (CSN) and replacing with a serviceable disk. As an option, the HPT nozzle can be modified, thereby increasing the HPT disk cyclic life limit from the new reduced cyclic life limit.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 223 engines of the affected design in the worldwide fleet. The FAA estimates that 165 engines installed on aircraft of U.S. registry will be affected by this AD. The cost of removing a disk earlier than the original life-limit rather than reworking the disk is $12,546 per engine. The costs of reworking the HPT nozzle assembly to obtain increased HPT life are substantially less than the costs of replacement of the HPT disk. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,070,090 assuming all disks are replaced. The actual total cost to U.S. operators, however, will be less depending on how many operators exercise the rework option. In addition, the manufacturer may reimburse operators for the costs of removing disks earlier than the original life limit, reducing even further the total cost impact for U.S. operators.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–07–04 Williams International, L.L.C.: Amendment 39–11088. Docket 98–ANE–36–AD.

Applicability: Williams International, L.L.C. FJ44–1A turbofan engines, installed on but not limited to Cessna 525 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent high pressure turbine (HPT) disk rim failure, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Prior to accumulating 1,900 cycles since new (CSN), remove from service HPT disk, part number (P/N) 55291, and replace with a serviceable part.

(b) As an option to paragraph (a), modify the HPT nozzle assembly and remark the HPT disk and assembly with new P/Ns in accordance with Williams Rolls Service Bulletin (SB) FJ44–72–36, dated October 21, 1997.

Note 2: The low cycle fatigue retirement lives for the HPT disks remarked with new P/Ns in accordance with paragraph (b) of this AD may be found in Williams Rolls Alert SB FJ44–A72–38, dated October 21, 1997.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(d) Thereafter, except as provided in paragraph (c) of this AD, no alternative replacement times or life limits may be approved for HPT disk, P/N 55291.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) The actions required by this AD shall be done in accordance with the following Williams Rolls SBs:

Document No	Pages	Date
FJ44–A72–38	1–2	October 21, 1997.
Total Pages: 2.		
FJ44–72–36	1–9	October 21, 1997.
Total Pages: 9.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Williams Rolls, 2280 West Maple Road, P.O. Box 200, Walled Lake, MI 48390–0200; telephone (248) 960–2545, fax (248) 669–9515. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 24, 1999.

Issued in Burlington, Massachusetts, on March 16, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–6978 Filed 3–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization

CFR Correction

In Title 21 of the Code of Federal Regulations, parts 1 to 99, revised as of Apr. 1, 1998, page 52, § 5.60 is corrected by revising paragraph (b)(8) as follows:

§ 5.60 Required and discretionary postmarket surveillance.

* * * * *

(b) * * *

(8) The Director and Deputy Director, Office of Compliance, CDER.

* * * * *

[FR Doc. 99–55512 Filed 3–23–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 806

Medical Device Corrections and Removals

CFR Correction

In Title 21 of the Code of Federal Regulations, parts 800 to 1299, revised as of Apr. 1, 1998, page 61, the authority for part 806 is correctly revised to read "21 U.S.C. 352, 360, 360i, 360j, 371, 374."

[FR Doc. 99–55513 Filed 3–23–99; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300769A; FRL–6069–2]

RIN 2070–AB78

Cinnamaldehyde; Exemption from the requirement of a Tolerance; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA published in the **Federal Register** of February 17, 1999, a document establishing an exemption from the requirement of tolerance for residues of the biochemical cinnamaldehyde in or on all food commodities when applied as a broad spectrum fungicide/insecticide/algaecide in accordance with good agricultural practices. A sentence should have been removed from § 180.1156. This document corrects that section by removing the language.

DATES: This correction becomes effective February 17, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Diana M. Horne, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 902, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA22202, (703) 308–8367; e-mail: horne.diana@epa.gov.

SUPPLEMENTARY INFORMATION: EPA published a document on February 17, 1999 (64 FR 7801) (FRL–6049–9), establishing an exemption from the requirement of tolerance for residues of the biochemical cinnamaldehyde in or on all food commodities when applied as a broad spectrum fungicide/insecticide/algaecide in accordance with good agricultural practices.The Interregional Research Project No. 4 (IR-4) submitted a petition to EPA on behalf of Proguard, Inc. requesting the exemption from the requirement of a tolerance. In publishing the revision to § 180.1156, a sentence that should have been removed was inadvertently left in. This document will correct the section by removing that sentence.

I. Regulatory Assessment Requirements

This final rule does not impose any new requirements. It only implements a technical correction to the Code of Federal Regulations (CFR). As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). In addition, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act (APA) or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

II. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This is a technical corection to the **Federal Register** and is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 8, 1999.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

In FR Doc. 99–3663 published on February 17, 1999 (64 FR 7801), make the following correction:

§ 180.1156 [Corrected]

On page 7804, in the third column, in § 180.1156 remove the last sentence which reads: "The existing tolerance exemption on mushrooms (40 CFR 180.1156) is hereby removed."

[FR Doc. 99–6897 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300803; FRL–6063–2]

RIN 2070–AB78

Norflurazon; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for the combined residues of the herbicide norflurazon and its desmethyl metabolites in or on bermudagrass forage and hay at 2 and 3 parts per million (ppm) respectively, for an additional 1-year period. This tolerance will expire and is revoked on November 30, 2000. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on bermudagrass. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective March 24, 1999. Objections and requests for hearings must be received by EPA, on or before May 24, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300803], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300803], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300803]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 280, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)–308–9364, pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of April 11, 1997 (62

FR 17742–17748) (FRL–5598–2), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established a time-limited tolerance for the combined residues of norflurazon and its metabolites in or on bermudagrass forage and hay at 2 and 3 ppm, respectively, with an expiration date of November 30, 1998. EPA extended the expiration date of these tolerances to November 30, 1999 in a **Federal Register** notice published February 25, 1998 (63 FR 9425–9427) (FRL–5770–8). EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of norflurazon on bermudagrass for this years growing season due to the continuation of the emergency situation in Alabama, Georgia, and Mississippi. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of norflurazon on bermudagrass for control of grassy weeds.

EPA assessed the potential risks presented by residues of norflurazon in or on bermudagrass forage and hay. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of April 11, 1997. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on November 30, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on bermudagrass forage and hay after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 24, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300803] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also

include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance/exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 5, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.356 [Amended]

2. In § 180.356, by amending paragraph (b) in the table, for the commodities "Grasses, Bermuda, Forage" and "Grasses, Bermuda, Hay" by changing the date "11/30/99" to read "11/30/00".

[FR Doc. 99–6896 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300802; FRL–6066–2]

RIN 2070–AB78

Clopyralid; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of the herbicide clopyralid in or on cranberries at 2 part per million (ppm) for an additional 18–month period. This tolerance will expire and is revoked on July 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cranberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective March 24, 1999. Objections and requests for hearings must be received by EPA, on or before May 24, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300802], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300802], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300802]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 280, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703 308–9364, pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of March 12, 1997 (62 FR 11360) (FRL–5593–1), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established a time-limited tolerance for the residues of clopyralid or on cranberries at 2 ppm, with an expiration date of July 31, 1998. EPA extended the expiration date of the tolerance to July 31, 2000, published in the **Federal Register** of April 29, 1998 (63 FR 23392) (FRL–5786–9). EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of clopyralid on cranberries for this year growing season due to the continued need for control of various weeds. Cancellations of the most effective registered alternatives have left growers with few tools to control weeds in a crop which cannot be cultivated. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of clopyralid on cranberries for control of various weeds in Wisconsin, Washington, Massachusetts and Oregon.

EPA assessed the potential risks presented by residues of clopyralid in or on cranberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of March 12, 1997. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 18–month period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on July 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cranberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 24, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to

the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300802] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance/exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal

governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 11, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.431 [Amended]

2. In § 180.431, by amending paragraph (b) by changing the expiration/revocation date "1/31/00" for the entry "cranberries" to read "7/31/01".

[FR Doc. 99–6895 Filed 3–23–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300808; FRL 6066–9]

RIN 2070–AB78

Imidacloprid; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for combined residues of the insecticide imidacloprid (1-[6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl moiety, all expressed as 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine in or on cucurbits (Crop Group 9 including cucumbers, melons and squash) at 0.2 part per million (ppm) for an additional 1–year period. This tolerance will expire and is revoked on March 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cucurbits. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective March 24, 1999. Objections and requests for hearings must be received by EPA, on or before May 24, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300808], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300808], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300808]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 284, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6463, madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of March 19, 1997 (62 FR 53) (FRL 5594–2), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established a time-limited tolerance for the combined residues of imidacloprid and its metabolites in or on cucurbits at 0.2 ppm, with an expiration date of March 31, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without

providing notice or period for public comment.

EPA received a request to extend the use of imidacloprid on cucurbits for this year growing season due to the sweet potato, or silverleaf whitefly (SLW) infestation which has caused serious damage to the Hawaii cucurbit crop (watermelon, cucumbers, zucchini etc.) over the past several years. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of imidacloprid on cucurbits for control of silverleaf whitefly in cucurbits.

EPA assessed the potential risks presented by residues of imidacloprid in or on cucurbits. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of March 19 , 1997 (62 FR 53) (FRL 5594–2). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on March 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cucurbits after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 24, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697; tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300808] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:
opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* , or impose any enforceable duty or contain any unfunded mandate as described under

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq* .) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.* , as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 11, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§180.472 [Amended]

2. In §180.472, by amending the table in paragraph (b) for the following commodity "Vegetables, cucurbits" by changing the date "3/31/99" to read "3/31/00."

[FR Doc. 99–6894 Filed 3–23–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300805; FRL–6066–4]

RIN 2070–AB78

Azoxystrobin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of azoxystrobin in or on lettuce and spinach. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on lettuce grown in California. This regulation establishes a maximum permissible level for residues of azoxystrobin in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on September 30, 2000.

DATES: This regulation is effective March 24, 1999. Objections and requests for hearings must be received by EPA on or before May 24, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300805], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number [OPP–300805], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300805]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Jacqueline E. Gwaltney, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 278, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6792, e-mail: gwaltney.jackie@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to sections 408 and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), is establishing a tolerance for combined residues of the fungicide, in or on lettuce, leaf at 20.0 part per million (ppm); lettuce, head at 6.0 ppm and spinach at 25 ppm. These tolerances will expire and be revoked on September 30, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described in this preeamble and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Azoxystrobin on Lettuce and FFDCA Tolerances

The California Department of Pesticide Regulation requested on December 30, 1998 a specific exemption for the use of azoxystrobin on lettuce to control anthracnose. This is the first year this use has been requested under section 18 of FIFRA. Anthracnose became a serious economic problem during the late winter-spring 1998, the lettuce growing season in California. This disease has not been reported in previous years, and it has never reached the infestation levels experienced in 1998. Under moderate to severe infestation conditions, anthracnose will cause reduction in yield and crop quality, with resultant economic losses to growers. The growers in the Salinas Valley estimate losses ranging from 20–60%, to a complete loss in some fields. EPA has authorized under FIFRA section 18 the use of azoxystrobin on lettuce for control of Anthracnose in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

The Maryland Department of Agriculture requested on February 19, 1999 a specific exemption for the use of azoxystrobin on spinach to control white rust. This is the first year this use has been requested under section 18 of FIFRA. White rust is one of the most serious constraints to increased spinach production, and disease control represents a large production investment in the mid-atlantic. The most severe disease of spinach whithin the region is white rust caused by *Albugo occidentalis*. When this disease is not controlled, losses in yield can be severe. White rust can cause dramatic quality reductions to the crop and can render a processing spinach crop unmarketable. EPA has authorized under FIFRA section 18 the use of azoxystrobin on spinach for control of white rust in Maryland. After having reviewed the submission, EPA concurs

that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of azoxystrobin in or on lettuce. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on September 30, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on lettuce after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether azoxystrobin meets EPA's registration requirements for use on lettuce or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of azoxystrobin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for azoxystrobin, contact the Agency's Registration Division at the address provided under the "ADDRESSES" section.

III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of azoxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of azoxystrobin on lettuce, leaf at 20.0 ppm; lettuce, head at 6.0 ppm and spinach at 25.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by azoxystrobin are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity.* The Agency did not identify an acute dietary endpoint and has determined that this risk assessment is not required.

2. *Short- and intermediate-term toxicity.* No toxic endpoints for these durations of exposure were identified in the toxicological data base.

3. *Chronic toxicity.* EPA has established the Reference Dose (RfD) for azoxystrobin at 0.18 milligrams/kilogram/day (mg/kg/day). The RfD, based on a chronic toxicity study in rats with a no observed adverse effect level of 18.2 mg/kg/day, was established at 0.18 mg/kg/day. Reduced body weights and bile duct lesions were observed at the lowest obseved adverse effect level of 34 mg/kg/day. An Uncertainty Factor (UF) of 100 was used to account for both the interspecies extrapolation and the intraspecies variability.

4. *Carcinogenicity.* Azoxystrobin has been classified by the Agency's RfD Committee as "Not Likely" to be carcinogenic to humans via relevant routes of exposure. This decision was made according to the 1996 proposed guidelines. Therefore, cancer risk was not assessed.

C. Exposures and Risks

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures to the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor and/or outdoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.507) for the combined residues of azoxystrobin, in or on a variety of raw agricultural commodities. Permanent tolerances have been established (40 CFR 180.507(a)) for the combined residues of azoxystrobin and its Z isomer in or on a variety of raw agricultural commodities at levels ranging from 0.01 ppm in peanuts and pecans to 1.0 ppm in grapes. In addition, time-limited tolerances have been established (40 CFR 180.507(b)) at levels ranging from 0.006 ppm in milk to 20 ppm in rice hulls in conjunction with previous Section 18 requests. Risk assessments were conducted by EPA to assess dietary exposures and risks from azoxystrobin as follows:

i. *Acute exposure and risk.* No toxicological effects which could be attributed to a single dietary exposure were observed, including developmental and neurotoxic effects in the appropriate studies. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

ii. *Chronic exposure and risk—(Chronic RfD = 0.18 mg/kg/day).* In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions: 100% of lettuce commodities and all other commodities having azoxystrobin tolerances will contain azoxystrobin residues and those residues will be at the level of the tolerance. Default concentration factors have been removed (i.e., set to 1) for the following commodities: grapes-juice, grapes-raisins, tomatoes-juice, tomatoes-puree, and potatoes-white (dry). Concentration factors were removed because data which were previously submitted show no concentration of residues into raisins, grape juice, tomato juice and puree or potatoes. The Novigen DEEM

(Dietary Exposure Evaluation Model) system was used for this chronic dietary exposure analysis. The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1991. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure. The existing azoxystrobin tolerances (published, pending, and including the necessary Section 18 tolerance(s)) result in a theoretical maximum residue contribution (TMRC) that is equivalent to the following percentages of the Chronic RfD:

Population Subgroup	Exposure (mg/kg/day)	Percent Reference Dose [1] (%Chronic RfD)
U.S. Population (48 States)	0.0052	2.9
All Infants (<1 year old)	0.012	6.7
Nursing Infants (<1 year old)	0.0036	2.0
Non-Nursing Infants (<1 year old)	0.016	8.6
Children (1–6 years old)	0.010	5.6
Children (7–12 years old)	0.0068	3.8
U.S. Population (Spring season)	0.0060	3.3
U.S. Population (Summer season)	0.0056	3.1
Northeast Region	0.0058	3.2
Western Region	0.0055	3.0
Pacific Region	0.0057	3.2
Hispanics	0.0060	3.3
Non-hispanic (other than black or white)	0.0086	4.8
Females (13+/nursing)	0.0064	3.6

[1] Percentage reference dose (% Chronic RfD) = Exposure/Chronic RfD x 100%

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the Chronic RfD occupied is greater than that occupied by the subgroup U.S. Population (48 states).

2. *From drinking water.* Azoxystrobin is persistent and mobile. There is no established Maximum Contaminant Level for residues of azoxystrobin in drinking water. No health advisory levels for azoxystrobin in drinking water have been established (EPA Safe Drinking Water Hotline, 1(800)426–4791, January 27, 1999). EPA has estimates for the concentration of azoxystrobin in surface water based on GENEEC (Generic Estimated Environmental Concentration) modeling.

Chronic exposure and risk. Estimated environmental concentrations (EECs) using GENEEC for azoxystrobin on bananas, grapes, peaches, peanuts, pecans, tomatoes, and wheat are listed in the SWAT Team Second Interim Report (June 20, 1997).

The highest EEC for azoxystrobin in surface water (39 µg/L) is from the application of azoxystrobin to grapes. The EEC for ground water is 0.064 µg/L resulting from use on turf. For purposes of risk assessment, the maximum EEC for azoxystrobin in drinking water (39 µg/L) should be used for comparison to the back-calculated human health drinking water levels of comparison (DWLOC) for the chronic (non-cancer) endpoint. These DWLOCs for various population categories are summarized in the following table.

DRINKING WATER LEVELS OF COMPARISON FOR CHRONIC EXPOSURE [1]

Population Category [2]	Chronic RfD (mg/kg/day)	Food Exposure (mg/kg/day)	Maximum Water Exposure [3] (mg/kg/day)	DWLOC [4,5,6] (µg/L)
U.S. Population (48 states)	0.18	0.0052	0.17	6,100
Females (13+ years, nursing)	0.18	0.0064	0.17	5,200
Non-nursing Infants (<1 year old)	0.18	0.016	0.16	1,600

[1] Values are expressed to 2 significant figures.
[2] Within each of these categories, the subgroup with the highest food exposure was selected.
[3] Maximum Water Exposure (Chronic) (mg/kg/day) = Chronic RfD (mg/kg/day) - Food Exposure (mg/kg/day).
[4] DWLOC(µg/L) = Max. water exposure (mg/kg/day) x body wt (kg) ÷ [(10^{-3} mg/µg) * water consumed daily (L/day)].
[5] HED Default body weights are: General U.S. Population, 70 kg; Males (13^{+} years old), 70 kg; Females (13^{+} years old), 60 kg; Other Adult Populations, 70 kg; and, All Infants/Children, 10 kg.
[6] HED Default daily drinking rates are 2 L/day for adults and 1 L/day for children.

The estimated maximum concentrations of azoxystrobin in surface water and ground water are less than EPA's levels of comparison for azoxystrobin in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the present uses and uses proposed in this Section 18 and the fact that GENEEC can substantially overestimate (by up to 3x) true pesticide concentrations in drinking water, EPA concludes with reasonable certainty that residues of azoxystrobin in drinking water (when considered along with other sources of chronic exposure for which EPA has reliable data) would not result in an unacceptable estimate of chronic (non-cancer) aggregate human health risk at this time.

EPA bases this determination on a comparison of estimated average concentrations of azoxystrobin in surface and ground water to back-calculated DWLOCs for azoxystrobin in drinking water. These levels of comparison in drinking water were determined after EPA considered all other non-occupational human exposures for which it has reliable data, including all current uses, and the use considered in this action. The estimate of azoxystrobin in surface water is derived from a water quality model that uses conservative assumptions (health-protective) regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of azoxystrobin in drinking water as a part

of the chronic (non-cancer) aggregate risk assessment process.

3. *From non-dietary exposure.* Azoxystrobin is currently registered for use on the following residential non-food sites: A search of References indicated that azoxystrobin (Heritage formulation) is registered for residential use on ornamental turf. Short-term exposure may occur for residential handlers and for postapplication activities. Because the TES Committee did not select applicable acute dietary or short-term dermal or inhalation endpoints, a short-term risk assessment is not required. No toxicity was observed at the limit dose (1,000 mg/kg body wt/day) in a 21–day dermal study and an acute inhalation study indicated low toxicity. Intermediate-term and chronic exposures are not expected for residential use.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether azoxystrobin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, azoxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that azoxystrobin has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Chronic risk.* Using the conservative Theoretical Maximum Residue Contribution exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, EPA has estimated the exposure to azoxystrobin from food will utilize 4.8% of the Chronic RfD for the most highly exposed adult population subgroup (Non-Hispanic (other than black or white)). The exposure to azoxystrobin from food for infants and children will utilize from 2.0% to 8.6% of the chronic RfD. EPA generally has no concern for exposures below 100% of the Chronic RfD (when the FQPA 10x safety factor is removed, as is the case with azoxystrobin) because the Chronic RfD represents the level at which daily aggregate oral exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to azoxystrobin in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the Chronic RfD. Chronic exposures are not expected for residential uses. EPA concludes that there is a reasonable certainty that no harm will result to adults, infants, or children from chronic aggregate exposure to azoxystrobin residues.

2. *Short- and intermediate-term risk.* There are no applicable endpoints for short-term exposure, therefore, a short-term aggregate risk assessment is not required. Intermediate-term exposure is not expected for registered residential uses, therefore, an intermediate-term risk assessment is not required.

3. *Aggregate cancer risk for U.S. population.* The EPA RfD/Peer Review Committee (November 7, 1996) determined that azoxystrobin should be classified as "Not Likely" to be a human carcinogen according to the proposed revised Cancer Guidelines. Therefore, a cancer risk assessment is not required.

4. *Endocrine disrupter effects.* EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) "may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect...." The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry, and research scientists in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from the passage of FQPA (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active ingredient and end use products for endocrine disrupter effects.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to azoxystrobin residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children—i. In general.* In assessing the potential for additional sensitivity of infants and children to residues of azoxystrobin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Conclusion.* There is a complete toxicity data base for azoxystrobin and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

2. *Acute risk.* This is not applicable since no toxicological endpoints of concern were identified during review of the data.

3. *Chronic risk.* Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to azoxystrobin from food will utilize 2–8.6% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to azoxystrobin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Determination of safety.* Based on these risk assessments, EPA concludes

that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to azoxystrobin residues.

IV. Other Considerations

A. Metabolism In Plants and Animals

1. *Plants.* The nature of the residue in plants is adequately understood. The HED Metabolism Assessment Review Committee (MARC) met on November 10, 1998 and determined that the residue of concern in plants is azoxystrobin and its Z isomer, R230310. The committee based this determination on the results of metabolism studies done on grapes, peanuts, and wheat. In all three studies the major residues were azoxystrobin and R230310. RAB2 will translate these data to lettuce for this Section 18.

2. *Animals.* As there are no animal feed items associated with lettuce, the nature of the residue in animal commodities is not of concern for this Section 18.

B. Analytical Enforcement Methodology

Adequate methodology (RAM 243, GC/NPD, MRID No. 445951–05) is available for enforcement of the proposed tolerance in/on lettuce. This method will be submitted to FDA for inclusion in PAM. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

C. Magnitude of Residues

Zeneca Ag Products has submitted field trial data for a variety of crops. The data from cherries were translated to lettuce for the purposes of this Section 18 only. The data were submitted in conjunction with a request for the establishment of a permanent tolerance on the stone fruit crop group. In choosing a crop to translate data from, the following criteria were considered: azoxystrobin application rate, PHI, and plant morphology. Several crops had similar application rates, but cherries had the most similar PHI.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican maximum residue limits for azoxystrobin on lettuce commodities. Thus, harmonization is not an issue for this Section 18 request.

E. Rotational Crop Restrictions

Rotational crop data were previously submitted. Based on this information, a 45–day plantback interval is appropriate for all crops other than those with azoxystrobin tolerances.

V. Conclusion

Therefore, the tolerance is established for combined residues of azoxystrobin in lettuce, leaf at 20.0 ppm; lettuce, head at 6.0 ppm; and spinach at 25.0 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 24, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VII. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300805] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are

received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 16, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In § 180.507, paragraph (b), by adding an entry for "lettuce, leaf", "lettuce, head", and "spinach", to the table to read as follows:

§ 180.507 Azoxystrobin; tolerance for residues.

* * * * *

(b) *Section 18 emergency exemptions.* * * *

Commodity	Parts per million	Expiration/ Revocation date
* * *	*	*
Lettuce, head	6.0	9/30/00
Lettuce, leaf	20.0	9/30/00
* * *	*	*
Spinach	25.0	9/30/00

Commodity	Parts per million	Expiration/ Revocation date
* * *	*	*

[FR Doc. 99–7175 Filed 3–23–99; 8:45 am]
BILLING CODE 6560–50–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1207 and 2551

RIN 3045–AA17

Senior Companion Program

ACTION: Final regulations.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), amends the regulations governing the administration of the Senior Companion Program (SCP). This final rule implements changes to the Domestic Volunteer Service Act of 1973, as amended, and establishes minimum program requirements with greater clarity. It updates program operations, consolidates requirements from outdated sources into one user friendly document; and incorporates new concepts of programming to highlight the accomplishments and impact of senior service. This amendment supersedes the old ACTION Senior Companion Program regulations and provisions of the SCP Operations Handbook.

DATES: These regulations take effect April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Rey Tejada at 202–606–5000 ext. 197.

SUPPLEMENTARY INFORMATION: The Corporation published a notice of proposed rulemaking (NPRM) for the Senior Companion Program 45 CFR Parts 1207 and 2551 in the **Federal Register** at 63 FR 46954, September 3, 1998.

Summary of Main Comments and Changes

In response to the Corporation's invitation in the NPRM, the Corporation received 223 letters. A significant number (80 percent) of the letters came from one state. A summary of the main comments received and the Corporation's responses are provided in this final rule. Comments that are general or editorial in nature, or those requesting clarification of program requirements are not addressed in this final rule. The significant comments and the Corporation's responses are summarized by section as follows:

Section 2551.11 What is the Senior Companion Program?

Comments: Expressed concern that the language proposed for § 2551.11 puts too much emphasis on service, less on the volunteers, and disregards the dual purpose of the program.

Response: The Corporation understands the concerns expressed and has modified the section to emphasize the dual purpose of the program. The first sentence of § 2551.11 was revised by adding "for the dual purpose of engaging" after "organizations", and "and to provide a high quality experience that will enrich the lives of the volunteers" after "needs."

Section 2551.12(d) Annual Income

Comments: Expressed some confusion as to whether it is mandatory to count the value of food and shelter given the use of the word "may" in this section, and the word "should" in the second sentence of § 2551.42(b).

Response: In determining income eligibility, it is the Corporation's intent to count the value of food and shelter provided at no cost to a volunteer. This is to ensure that volunteer applicants receiving such assistance do not have an undue advantage over those who do not. To make this point clear, the Corporation has amended the second sentence of this section by using the word "shall" instead of "may", and has also inserted the word "in-kind" after "cash" in the first sentence.

Section 2551.12(l) National Senior Service Corps

Comments: Object to the use of the name National Senior Service Corps (NSSC) because it is not the name used in the DVSA.

Response: This name has been in use for the last several years and the Corporation has used significant resources for the development and design of a number of promotional program materials that are now in wide use by projects across the country.

Section 2551.22 General Responsibilities of Sponsor

Comments: Suggested adding language that would prohibit a sponsor from delegating its responsibilities to its own subsidiary.

Response: The Corporation gives the sponsor primary responsibility for fulfilling all project management requirements. It would be inconsistent with its obligations under the grant, if the sponsor were to be prohibited from delegating part of its responsibilities to any subsidiary under its control.

Section 2551.23(f) Volunteer Orientation

Comments: Indicated that 40 hours of pre-service orientation is difficult for staff to deliver; others thought that the four hours of monthly in-service training is excessive.

Response: The Corporations understands the concerns expressed. To increase flexibility and training options, the Corporation amended the provision to provide 40 hours of orientation, of which 20 hours must be pre-service. The Corporation believes four hours of monthly in-service training is essential.

Section 2551.23(i) Strategic Plan

Comments: Expressed concern that to require the development of a strategic plan would be a significant paperwork burden on projects.

Response: The Corporation understands the concerns expressed regarding the requirement and the potential burden it may produce. For this reason, the provision has been withdrawn from the final rule.

Section 2551.23(k) Assessment of Accomplishments and Impact

Comments: Expressed concern about administrative demands the requirement for assessing impact would entail.

Response: The Corporation appreciates the concern expressed. However, the provision is essential for the Corporation to meet its obligations under The Government Performance and Results Act.

Section 2551.24 Securing Community Participation

Comments: The comments were mixed. Some oppose any changes in the structure, role and operation of the Advisory Council as they were specified in previous regulations. Others support the flexibility provided by the new rule.

Response: The new provision gives local program sponsors maximum flexibility for securing community participation. It gives them discretion to use an Advisory Council or another organizational structure to meet the requirement. The Corporation believes that the new rule gives local sponsors the ability to choose whatever method works best for them to involve the community in program operations.

Section 2551.25(b) Delegation of Authority

Comments: Expressed concern about the potential increase in workload for project directors to meet this

requirement. Some were also confused as to what the delegation of authority means.

Response: The Corporation has withdrawn the provision from the final rule.

Section 2551.25(d) Full-time Project Director

Comments: Comments were mixed. Some were in support of the new rule; others wanted a provision to waive the full-time project director requirement; and a few wanted the requirement taken out of federal regulations and left at the sponsor's discretion.

Response: The Corporation modified this section by deleting from the last sentence any reference to cost savings and leaving the basis for negotiating a part-time director position to the size, scope and quality of project operations. The new rule replaces the more rigid and cumbersome waiver process required under the old regulations to employ a part-time director.

Section 2551.41 Senior Companion Eligibility

Comments: Suggested lowering the age eligibility from 60 to 55 to attract more volunteers into to the program and broaden the potential volunteer pool.

Response: The age eligibility of volunteers is established by law. Only Congress can change this requirement and the Corporation plans to pursue that objective through the reauthorization process.

Section 2551.42 Income Guidelines

Comments: Many recommend increasing the income guideline to 150% of poverty. Others questioned the inclusion of the value of food and shelter provided at no cost to a volunteer in determining income.

Response: The income guideline is also established by law and can only be changed through a legislative amendment. Counting the value of food, clothing and shelter provided at no cost, encourages equitable participation by not giving advantage to volunteers who receive such assistance.

Section 2551.45(a) Stipend

Comments: Expressed concern that the rule excludes eligible married couples from receiving a stipend.

Response: The Corporation, after considering the concerns expressed, has decided to withdraw subsections (a)(1) and (a)(2) in order to allow all eligible married volunteers, to receive a stipend.

Section 2551.45(c) Transportation

Comments: Concern that use of the word "may" in this section takes away the guarantee that volunteers will receive the transportation assistance they need to get to their assignments.

Response: After considering the comments, the Corporation modified this section by deleting the word "may" and using "shall" instead after "Senior Companions".

Section 2551.45(d) Physical Examination

Comments: Requested that the physical examination be permitted during the first month of service rather than requiring that it be provided only prior to service. The rationale for this request is that such an approach could save money particularly in cases where volunteers terminate shortly after enrollment.

Response: The Corporation understands the rationale for the request. However, physical examinations provide some assurance that the volunteers can serve without detriment to themselves or their clients. The Corporation believes this justifies the costs involved.

Section 2551.45(e) Meals and Recognition

Comments: Expressed concern that this section reduces the value of support by limiting it to available resources, and suggested that recognition be made mandatory.

Response: To emphasize its importance to the volunteers, the Corporation revised this section by using the term "shall be" instead of "are" in the first line. The level of support volunteers receive is always governed by the resources available to a project under an approved grant.

Section 2551.51(a) (b) (c) Terms of Service

Comments: Comments were mixed. Some agree with the flexibility provided under the new rule; others thought there should be more flexibility suggesting that terms of service should be left to discretion of the sponsor.

Response: After considering the comments, the Corporation modified this section to allow even more flexibility in volunteers' term of service. Subsection (a) was revised to allow volunteers to serve a minimum of nine months a year at an average of 20 hours of service a week. Consistent with this amendment, subsections (b) and (c) were deleted.

Section 2551.52 Modified Schedule

Comments: All opposed the proposed rule. Many thought that the 10 year service requirement as a condition for a modified service schedule was excessive.

Response: The Corporation deleted this section in view of the changes made on Section 2551.51(a) on terms of service.

Section 2551.55 Volunteer Leave

Comments: Opposed this provision because it may result in less leave for volunteers. Many thought that volunteer leave should be governed by sponsor's policies.

Response: After considering the comments, the Corporation has withdrawn this provision from the final rule.

Section 2551.61 Sponsor As Volunteer Station

Comments: Reflected concern about the limit that no more than 20 percent of a sponsor's budgeted VSY's can be placed in programs administered by the sponsor.

Response: Language was added providing a waiver by the Corporation to increase the percentage of volunteers who may serve in programs administered by the sponsor.

Section 2551.62(c) Care Plans

Comments: Opposed the care plan provision saying that it would increase paperwork burden on stations and raise issues of client confidentiality.

Response: The Corporation modified the provision changing "care plan" to a "written volunteer assignment plan" that identifies the role and activities of the Senior Companion and expected outcomes for the client served.

Section 2551.72(a) Volunteer Assignments

Comments: Suggested that volunteers be permitted to handle client's finances because it is considered to be a vital service.

Response: The Corporation amended sub-section (a) by deleting "handling a client's finances" from the list of prohibited volunteer activities.

Section 2551.73 Care Plans

Comments: Stated they were unclear as to the meaning of the provision and that it raises issues of client confidentiality.

Response: The Corporation modified the provision changing "care plan" to a "written volunteer assignment plan" that identifies the role and activities of the Senior Companion and expected outcomes for the client served.

Section 2551.81 Type of Clients

Comments: Requested a more inclusive definition of eligible clients.

Response: The Corporation modified this section by adopting the more inclusive language of the old regulations on eligible clients.

Section 2551.92(c) Excess Non-Corporation Support

Comments: Recommended that the Corporation not restrict the manner in which contributions in excess of the required local support are spent. They also suggest deleting the condition that such expenditure be made consistent with the provision of the Act.

Response: The final rule does not restrict the manner in which the sponsors spend contributions made in excess of the local support required. The condition that such expenditures be made consistent with the provisions of the Act is a requirement of the law.

Section 2551.92(e) Cost Reimbursement Ratio

Comments: Comments were mixed. Some are opposed to the requirement and suggest that a waiver provision be included. Others are in favor of the new provision that reduces the required cost reimbursement ratio from 90 percent to 80 percent.

Response: The new provision lessens the burden on local sponsors by reducing the required ratio under the old regulation by 10 percent. It ensures that volunteer support items are adequately covered in the grant budget. The Corporation believes that allowing any further reduction through a waiver provision, would jeopardize the sponsor's ability to provide volunteer support.

Section 2551.93(d) Assignment Related Costs

Comments: Opposed the provision specifying that equipment or supplies for volunteer while on assignment are not allowable costs.

Response: The provision restates a requirement under the old regulations. Limited program funds can cover only essential direct volunteer support such as transportation to and from assignment. Other costs associated with the volunteer's service activity are the responsibility of the station or other third parties.

Section 2551.104 Funds for Non-Stipended Senior Companions

Comments: Questioned why federal funds cannot be used to pay any cost related to non-stipended volunteers when the Corporation encourages their recruitment and allows them to receive cost reimbursements other than the stipend.

Response: The rule on non-stipended volunteers is a restatement of the language in the program's authorizing legislation. The rule cannot be changed without a change in the law.

Section 2551.121(c) Compensation for Service

Comments: Requested clarifying language for subsection (3) which states that station support shall not be a precondition to the assignment of volunteers, and subsection (4) which states that the sponsor shall withdraw services if the station is unable to provide monetary and in-kind support.

Response: The Corporation modified both subsections by moving the last sentence in subsection (3) and inserted it as the first sentence in subsection (4). This adjustment clarifies the Corporation's position that a volunteer station's ability to provide cash or in-kind support is not a precondition to the assignment of volunteers to that station. However, if a station agrees to provide support under a Memorandum of Understanding, but later decides to withdraw that support in a manner that reduces or diminishes the ability of the project to fulfill its obligations under the grant, then the sponsor can withdraw volunteer services from that station.

Regulatory Flexibility Act and Unfunded Mandates Reform Act

The General Counsel, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed this regulation and by approving certifies that this final rule will not have a significant impact on small business entities.

Under the Unfunded Mandates Reform Act of 1995, the Corporation certifies that this final rule does not include any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act of 1995

These final regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372. The objective of the Executive Order is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the Order, this document is intended to provide early notification of the Corporation's specific plans and actions for this program.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866. The Office of Management and Budget has reviewed this rule and has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review.

DISTRIBUTION TABLE

Old 45 CFR Part 1207	New 45 CFR Part 2551
1207.1–1	2551.11
1207.1–2	2551.12
1207.1–3	2551.23
1207.2–1	None
1207.2–2	2551.92
1207.2–3	2551.21
1207.2–4	2551.91
1207.2–5	2551.91
1207.2–6	2551.91
1207.2–7	2551.93
1207.2–8	2551.31
1207.3–1	2551.23
1207.3–2	2551.25
1207.3–3	2551.24
1207.3–4	2551.62
1207.3–5	2551.41
1207.3–6	2551.71
1207.4–1	2251.41
1207.5–1	2251.121
1207.5–2	2551.122

List of Subjects

45 CFR Part 1207

Aged, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2551

Aged, Grant programs—social programs, Volunteers.

For the reasons set out in the preamble, and under the authority of 42 U.S.C. 12501 *et seq.*, part 1207 in 45 CFR chapter XII is redesignated as part 2551 in 45 CFR chapter XXV and is revised to read as follows:

PART 2551—SENIOR COMPANION PROGRAM

Subpart A—General

Sec.

2551.11 What is the Senior Companion Program?
2551.12 Definitions.

Subpart B—Eligibility and Responsibilities of a Sponsor

2551.21 Who is eligible to serve as a sponsor?
2551.22 What are the responsibilities of a sponsor?
2551.23 What are a sponsor's program responsibilities?
2551.24 What are a sponsor's responsibilities for securing community participation?
2551.25 What are a sponsor's administrative responsibilities?
2551.26 May a sponsor administer more than one program grant from the Corporation?

Subpart C—Suspension and Termination of Corporation Assistance

2551.31 What are the rules on suspension, termination, and denial of refunding of grants?

Subpart D—Senior Companion Eligibility, Status, and Cost Reimbursements

2551.41 Who is eligible to be a Senior Companion?
2551.42 What income guidelines govern eligibility to serve as a stipended Senior Companion?
2551.43 What is considered income for determining volunteer eligibility?
2551.44 Is a Senior Companion a federal employee, an employee of the sponsor or of the volunteer station?
2551.45 What cost reimbursements are provided to Senior Companions?
2551.46 May the cost reimbursements of a Senior Companion be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

Subpart E—Senior Companion Terms of Service

2551.51 What are the terms of service of a Senior Companion?
2551.52 What factors are considered in determining a Senior Companion's service schedule?
2551.53 Under what circumstances may a Senior Companion's service be terminated?

Subpart F—Responsibilities of a Volunteer Station

2551.61 When may a sponsor serve as a volunteer station?
2551.62 What are the responsibilities of a volunteer station?

Subpart G—Senior Companion Placements and Assignments

2551.71 What requirements govern the assignment of Senior Companions?
2551.72 Is a written volunteer assignment plan required for each volunteer?

Subpart H—Clients Served

2551.81 What type of clients are eligible to be served?

Subpart I—Application and Fiscal Requirements

2551.91 What is the process for application and award of a grant?
2551.92 What are project funding requirements?
2551.93 What are grants management requirements?

Subpart J—Non-Stipended Senior Companions

2551.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Senior Companions without stipends?
2551.102 What are the conditions of service of non-stipended Senior Companions?
2551.103 Must a sponsor be required to enroll non-stipended Senior Companions?
2551.104 May Corporation funds be used for non-stipended Senior Companions?

Subpart K—Non-Corporation Funded SCP Projects

2551.111 Under what conditions can an agency or organization sponsor a Senior Companion project without Corporation funding?
2551.112 What benefits are a non-Corporation funded project entitled to?
2551.113 What financial obligation does the Corporation incur for non-Corporation funded projects?
2551.114 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

Subpart L—Restrictions and Legal Representation

2551.121 What legal limitations apply to the operation of the Senior Companion Program and to the expenditure of grant funds?
2551.122 What legal coverage does the Corporation make available to Senior Companions ?

Authority: 42 U.S.C. 4950 *et seq.*

Subpart A—General

§ 2551.11 What is the Senior Companion Program?

The Senior Companion Program provides grants to qualified agencies and organizations for the dual purpose of: engaging persons 60 and older, particularly those with limited incomes, in volunteer service to meet critical community needs; and to provide a high quality experience that will enrich the lives of the volunteers. Program funds are used to support Senior Companions in providing supportive, individualized services to help adults with special needs maintain their dignity and independence.

§ 2551.12 Definitions.

(a) *Act.* The Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 396, 42 U.S.C. 4950 *et seq.*

(b) *Adult with special needs.* Any individual over 21 years of age who has one or more physical, emotional, or mental health limitations and is in need of assistance to achieve and maintain their highest level of independent living.

(c) *Adequate staffing level.* The number of project staff or full-time equivalent needed by a sponsor to manage NSSC project operations considering such factors as: number of budgeted Volunteer Service Years (VSY), number of volunteer stations, and the size of the service area.

(d) *Annual income.* Total cash and in-kind receipts from all sources over the preceding 12 months including: the applicant or enrollee's income and, the applicant or enrollee's spouse's income, if the spouse lives in the same residence. The value of shelter, food, and clothing, shall be counted if provided at no cost by persons related to the applicant/enrollee, or spouse.

(e) *Chief Executive Officer.* The Chief Executive Officer of the Corporation appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

(f) *Corporation.* The Corporation for National and Community Service established under the Trust Act. The Corporation is also sometimes referred to as CNCS.

(g) *Cost reimbursements.* Reimbursements provided to volunteers such as stipends to cover incidental costs, meals, and transportation, to enable them to serve without cost to themselves. Also included are the costs of annual physical examinations, volunteer insurance and recognition which are budgeted as Volunteer Expenses.

(h) *In-home.* The non-institutional assignment of a Senior Companion in a private residence.

(i) *Letter of Agreement.* A written agreement between a volunteer station, the sponsor and the adult served or the persons legally responsible for that adult. It authorizes the assignment of a Senior Companion in the clients home, defines the Senior Companion's activities and delineates specific arrangements for supervision.

(j) *Memorandum of Understanding.* A written statement prepared and signed by the Senior Companion project sponsor and the volunteer station that identifies project requirements, working

relationships and mutual responsibilities.

(k) *National Senior Service Corps (NSSC).* The collective name for the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), the Senior Companion Program (SCP), and Demonstration Programs established under Title II Parts A, B, C, and E, of the Act. NSSC is also referred to as the "Senior Corps".

(l) *Non-Corporation support (required).* The percentage share of non-Federal cash and in-kind contributions, required to be raised by the sponsor in support of the grant.

(m) *Non-Corporation support (excess).* The amount of non-Federal cash and in-kind contributions generated by a sponsor in excess of the required percentage.

(n) *Project.* The locally planned and implemented Senior Companion Program activity or set of activities as agreed upon between a sponsor and the Corporation.

(o) *Qualified individual with a disability.* An individual with a disability (as defined in the Rehabilitation Act, 29 U.S.C. 705 (20)) who, with or without reasonable accommodation, can perform the essential functions of a volunteer position that such individual holds or desires. If a sponsor has prepared a written description before advertising or interviewing applicants for the position, the written description may be considered evidence of the essential functions of the volunteer position.

(p) *Service area.* The geographically defined area in which Senior Companions are recruited, enrolled, and placed on assignments.

(q) *Service schedule.* A written delineation of the days and times a Senior Companion serves each week.

(r) *Sponsor.* A public agency or private non-profit organization that is responsible for the operation of a Senior Companion project.

(s) *Stipend.* A payment to Senior Companions to enable them to serve without cost to themselves. The amount of the stipend is determined by the Corporation and is payable in regular installments. The minimum amount of the stipend is set by law and shall be adjusted by the CEO from time to time.

(t) *Trust Act.* The National and Community Service Trust Act of 1993, Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785.

(u) *United States and States.* Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, and Trust Territories of the Pacific Islands.

(v) *Volunteer assignment plan.* A written description of a Senior Companion's assignment with a client. The plan identifies specific outcomes for the client served and the activities of the Senior Companion.

(w) *Volunteer station.* A public agency, private non-profit organization or proprietary health care agency or organization that accepts the responsibility for assignment and supervision of Senior Companions in health, social service or related settings such as multi-purpose centers, home health care agencies or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

Subpart B—Eligibility and Responsibilities of a Sponsor

§ 2551.21 Who is eligible to serve as a sponsor?

The Corporation awards grants to public agencies, including Indian tribes and non-profit private organizations, in the United States that have the authority to accept and the capability to administer a Senior Companion project.

§ 2551.22 What are the responsibilities of a sponsor?

A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the Senior Companion Program as specified in the Act. A sponsor shall not delegate or contract these responsibilities to another entity. The sponsor shall comply with all program regulations and policies, and grant provisions prescribed by the Corporation.

§ 2551.23 What are a sponsor's program responsibilities?

A sponsor shall:

(a) Focus Senior Companion resources on critical problems affecting the frail elderly and other adults with special needs within the project's service area.

(b) Assess in collaboration with other community organizations or utilize existing assessment of the needs of the client population in the community and develop strategies to respond to those needs using the resources of Senior Companions.

(c) Develop and manage a system of volunteer stations by:

(1) Insuring that a volunteer station is a public or non-profit private organization, or an eligible proprietary health care agency, capable of serving as a volunteer station for the placement of Senior Companions;

(2) Ensuring that the placement of Senior Companions is governed by a Memorandum of Understanding:

(i) That is negotiated prior to placement;

(ii) That specifies the mutual responsibilities of the station and sponsor;

(iii) That is renegotiated at least every three years; and

(iv) That states the station assures it will not discriminate against Senior Companions or in the operation of its program on the basis of race, color, national origin, sex, age, political affiliation, religion, or on the basis of disability, if the participant or member is a qualified individual with a disability; and

(3) Reviewing volunteer placements regularly to ensure that clients are eligible to be served.

(d) Develop service opportunities that consider the skills and experiences of the Senior Companion.

(e) Consider the demographic make-up of the project service area in the enrollment of Senior Companions, taking special efforts to recruit eligible individuals from minority groups, persons with disabilities, and under-represented groups.

(f) Provide Senior Companions with assignments that show direct and demonstrable benefits to the adults and the community served, the Senior Companions, and the volunteer station; with required cost reimbursements specified in § 2551.45; with not less than 40 hours of orientation of which 20 hours must be pre-service, and an average of 4 hours of monthly in-service training.

(g) Encourage the most efficient and effective use of Senior Companions by coordinating project services and activities with related national, state and local programs, including other Corporation programs.

(h) Conduct an annual appraisal of volunteers' performance and annual review of their income eligibility.

(i) Develop, and annually update, a plan for promoting senior service within the project's service area.

(j) Annually assess the accomplishments and impact of the project on the identified needs and problems of the client population in the community.

(k) Establish written service policies for Senior Companions that include but are not limited to annual and sick leave, holidays, service schedules, termination, appeal procedures, meal and transportation reimbursements.

§ 2551.24 What are a sponsor's responsibilities for securing community participation?

(a) A sponsor shall secure community participation in local project operation by establishing an Advisory Council or a similar organizational structure with a membership that includes people:

(1) Knowledgeable of human and social needs of the community;

(2) Competent in the field of community service and volunteerism;

(3) Capable of helping the sponsor meet its administrative and program responsibilities including fund-raising, publicity and impact programming;

(4) With interest in and knowledge of the capability of older adults; and

(5) Of a diverse composition that reflects the demographics of the service area.

(b) The sponsor determines how such participation shall be secured, consistent with the provisions of paragraphs (a)(1) through (a)(5) of this section.

§ 2551.25 What are a sponsor's administrative responsibilities?

A sponsor shall:

(a) Assume full responsibility for securing maximum and continuing community financial and in-kind support to operate the project successfully.

(b) Provide levels of staffing and resources appropriate to accomplish the purposes of the project and carry out its project management responsibilities.

(c) Employ a full-time project director to accomplish program objectives and manage the functions and activities delegated to project staff for NSSC program(s) within its control. A full-time project director shall not serve concurrently in another capacity, paid or unpaid, during established working hours. The project director may participate in activities to coordinate program resources with those of related local agencies, boards or organizations. A sponsor may negotiate the employment of a part-time project director with the Corporation when it can be demonstrated that such an arrangement will not adversely affect the size, scope, and quality of project operations.

(d) Consider all project staff as sponsor employees subject to its personnel policies and procedures.

(e) Compensate project staff at a level that is comparable with other similar staff positions in the sponsor organization and/or project service area.

(f) Establish risk management policies and procedures covering project and Senior Companion activities. This includes provision of appropriate insurance coverage for Senior Companions, vehicles and other properties used in the project.

(g) Establish record keeping/reporting systems in compliance with Corporation requirements that ensure quality of program and fiscal operations, facilitate timely and accurate submission of required reports and cooperate with Corporation evaluation and data collection efforts.

(h) Comply with and ensure that all volunteer stations comply with all applicable civil rights laws and regulations, including providing reasonable accommodation to qualified individuals with disabilities.

§ 2551.26 May a sponsor administer more than one program grant from the Corporation?

A sponsor may administer more than one Corporation program.

Subpart C—Suspension and Termination of Corporation Assistance

§ 2551.31 What are the rules on suspension, termination, and denial of refunding of grants?

(a) The Chief Executive Officer or designee is authorized to suspend further payments or to terminate payments under any grant providing assistance under the Act whenever he/she determines there is a material failure to comply with applicable terms and conditions of the grant. The Chief Executive Officer shall prescribe procedures to insure that:

(1) Assistance under the Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days;

(2) An application for refunding under the Act may not be denied unless the recipient has been given:

(i) Notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial; and

(ii) Opportunity to show cause why such action should not be taken;

(3) In any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant, the recipient shall be afforded and opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Corporation; and

(4) Assistance under the Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held in locations convenient to the recipient agency.

(c) The procedures for suspension, termination, and denial of refunding, that apply to the Senior Companion Program are specified in 45 CFR Part 1206.

Subpart D—Senior Companion Eligibility, Status, and Cost Reimbursements

§ 2551.41 Who is eligible to be a Senior Companion?

(a) To be a Senior Companion, an individual must:

(1) Be 60 years of age or older;

(2) Be determined by a physical examination to be capable, with or without reasonable accommodation, of serving adults with special needs without detriment to either himself/herself or the adults served;

(3) Agree to abide by all requirements as set forth in this part; and

(4) In order to receive a stipend, have an income that is within the income eligibility guidelines specified in this subpart D.

(b) Eligibility to be a Senior Companion shall not be restricted on the basis of formal education, experience, race, religion, color, national origin, sex, age, handicap, or political affiliation.

§ 2551.42 What income guidelines govern eligibility to serve as a stipended Senior Companion?

(a) To be enrolled and receive a stipend, a Senior Companion cannot have an annual income from all sources, after deducting allowable medical expenses, which exceeds the program's income eligibility guideline for the state in which he or she resides. The income eligibility guideline for each state is the higher amount of either:

(1) 125 percent of the poverty line as set forth in 42 U.S.C. 9902 (2); or

(2) 135 percent of the poverty line, in those primary metropolitan statistical areas (PMSA), metropolitan statistical areas (MSA) and non-metropolitan counties identified by the Corporation as being higher in cost of living, as determined by application of the Volunteers in Service to America (VISTA) subsistence rates. In Alaska the guideline may be waived by the Corporation State Director if a project demonstrates that low-income individuals in that location are participating in the project.

(b) Annual income is counted for the past 12 months and includes the applicant or enrollee's income and that of his/her spouse, if the spouse lives in

the same residence. Sponsors shall count the value of shelter, food, and clothing, if provided at no cost by persons related to the applicant, enrollee, or spouse.

(c) Allowable medical expenses are annual out-of-pocket medical expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse which were not and will not be paid by Medicare, Medicaid, other insurance, or other third party payor, and which do not exceed 15 percent of the applicable income guideline.

(d) Applicants whose income is not more than 100 percent of the poverty line shall be given special consideration for enrollment.

(e) Once enrolled, a Senior Companion shall remain eligible to serve and to receive a stipend so long as his or her income, does not exceed the applicable income eligibility guideline by 20 percent.

§ 2551.43 What is considered income for determining volunteer eligibility?

(a) For determining eligibility, "income" refers to total cash or in-kind receipts before taxes from all sources including:

(1) Money, wages, and salaries before any deduction, but not including food or rent in lieu of wages;

(2) Receipts from self-employment or from a farm or business after deductions for business or farm expenses;

(3) Regular payments for public assistance, Social Security, Unemployment or Workers Compensation, strike benefits, training stipends, alimony, child support, and military family allotments, or other regular support from an absent family member or someone not living in the household;

(4) Government employee pensions, private pensions, and regular insurance or annuity payments; and

(5) Income from dividends, interest, net rents, royalties, or income from estates and trusts.

(b) For eligibility purposes, income does not refer to the following money receipts:

(1) Any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation from injury;

(2) Non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

§ 2551.44 Is a Senior Companion a federal employee, an employee of the sponsor or of the volunteer station?

Senior Companions are volunteers, and are not employees of the sponsor, the volunteer station, the Corporation, or the Federal Government.

§ 2551.45 What cost reimbursements are provided to Senior Companions?

Cost reimbursements include:

(a) *Stipend.* Senior Companions who are income eligible will receive a stipend in an amount determined by the Corporation and payable in regular installments, to enable them to serve without cost to themselves. The stipend is paid for the time Senior Companions spend with their assigned clients, for earned leave, and for attendance at official project events.

(b) *Insurance.* A Senior Companion is provided with the Corporation-specified minimum levels of insurance as follows:

(1) *Accident insurance.* Accident insurance covers Senior Companions for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project-sponsored activities. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources.

(2) *Personal liability insurance.* Protection is provided against claims in excess of protection provided by other insurance. It does not include professional liability coverage.

(3) *Excess automobile liability insurance.* (i) For Senior Companions who drive in connection with their service, protection is provided against claims in excess of the greater of either:

(A) Liability insurance volunteers carry on their own automobiles; or

(B) The limits of applicable state financial responsibility law, or in its absence, levels of protection to be determined by the Corporation for each person, each accident, and for property damage.

(ii) Senior Companions who drive their personal vehicles to or on assignments or project-related activities must maintain personal automobile liability insurance equal to or exceeding the levels established by the Corporation.

(c) *Transportation.* Senior Companions shall receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, and recognition events.

(d) *Physical examination.* Senior Companions are provided a physical examination prior to assignment and annually thereafter to ensure that they will be able to provide supportive service without injury to themselves or the clients served.

(e) *Meals and recognition.* Senior Companions shall be provided the following within limits of the project's available resources:

(1) Assistance with the cost of meals taken while on assignment; and

(2) Recognition for their service.

§ 2551.46 May the cost reimbursements of a Senior Companion be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. Senior Companion's cost reimbursements are not subject to any tax or charge or treated as wages or compensation for the purposes of unemployment insurance, worker's compensation, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Cost reimbursements are not subject to garnishment and do not reduce or eliminate the level of, or eligibility for, assistance or services a Senior Companion may be receiving under any governmental program.

Subpart E—Senior Companion Terms of Service

§ 2551.51 What are the terms of service of a Senior Companion?

A Senior Companion shall serve a minimum of nine months a year for an average of 20 hours of service a week. A Senior Companion shall not serve more than 1044 hours per year.

§ 2551.52 What factors are considered in determining a Senior Companion's service schedule?

(a) Travel time between the Senior Companion's home and place of assignment is not part of the service schedule and is not stipended.

(b) Travel time between individual assignments is a part of the service schedule and is stipended.

(c) Meal time may be part of the service schedule and is stipended only if it is specified in the goal statement as part of the service activity.

§ 2551.53 Under what circumstances may a Senior Companion's service be terminated?

(a) A sponsor may remove a Senior Companion from service for cause. Grounds for removal include but are not limited to: extensive and unauthorized absences; misconduct; inability to perform assignments; and failure to accept supervision. A Senior Companion may also be removed from

service for having income in excess of the eligibility level.

(b) The sponsor shall establish appropriate policies on service termination as well as procedures for appeal from such adverse action.

Subpart F—Responsibilities of a Volunteer Station

§ 2551.61 When may a sponsor serve as a volunteer station?

(a) A sponsor may function as a volunteer station if it is:

(1) A State organization administering a statewide Senior Companion project where the volunteer station is part of the State organization; or

(2) A Federal or State-recognized Indian tribal government.

(b) Other sponsors not included in the categories specified in paragraphs (a)(1) and (a)(2) of this section, can serve as a volunteer station provided that no more than 20 percent of its budgeted VSYs can be placed in programs administered by such sponsors. In special circumstances, the Corporation may grant a waiver to increase this percentage.

§ 2551.62 What are the responsibilities of a volunteer station?

A volunteer station shall undertake the following responsibilities in support of Senior Companion volunteers:

(a) Develop volunteer assignments that meet the requirements specified in §§ 2551.71 through 2551.72, and regularly assess those assignments for continued appropriateness.

(b) Select eligible clients for assigned volunteers.

(c) Develop a written volunteer assignment plan for each client that identifies the role and activities of the Senior Companion and expected outcomes for the client served.

(d) Obtain a Letter of Agreement for Senior Companions assigned in-home. This letter must comply with all Federal, State and local regulations.

(e) Provide Senior Companions serving the station with:

(1) Orientation to the station and any in-service training necessary to enhance performance of assignments;

(2) Resources required for performance of assignments including reasonable accommodation; and

(3) Appropriate recognition.

(f) Designate a staff member to oversee fulfillment of station responsibilities and supervision of Senior Companions while on assignment.

(g) Keep records and prepare reports required by the sponsor.

(h) Provide for the safety of Senior Companions assigned to it.

(i) Comply with all applicable civil rights laws and regulations including reasonable accommodation for Senior Companions with disabilities.

(j) Undertake such other responsibilities as may be necessary to the successful performance of Senior Companions in their assignments or as agreed to in the Memorandum of Understanding.

Subpart G—Senior Companion Placements and Assignments

§ 2551.71 What requirements govern the assignment of Senior Companions?

Senior Companion assignments shall:

(a) Provide for Senior Companions to give direct services to one or more eligible adults. Senior Companions cannot provide services such as those performed by medical personnel, services to large numbers of clients, custodial services, administrative support services or other services that would detract from the person-to-person relationship.

(b) Result in person-to-person supportive relationships with each client served.

(c) Support the achievement and maintenance of the highest level of independent living for their clients.

(d) Be meaningful to the Senior Companion.

(e) Be supported by appropriate orientation, training and supervision.

§ 2551.72 Is a written volunteer assignment plan required for each volunteer?

(a) All Senior Companions shall receive a written volunteer assignment plan developed by the volunteer station that:

(1) Is approved by the sponsor and accepted by the Senior Companion;

(2) Identifies the individual client to be served;

(3) Identifies the role and activities of the Senior Companion and expected outcomes for the client;

(4) Addresses the period of time each client should receive such services; and

(5) Is used to review the status of the Senior Companion's services in working with the assigned client, as well as the impact of the assignment on the client.

(b) If there is an existing plan that incorporates paragraphs (a)(2), (3), and (4) of this section, that plan shall meet the requirement.

Subpart H—Clients Served

§ 2551.81 What type of clients are eligible to be served?

Senior Companions serve only adults, primarily older adults, who have one or more physical, emotional, or mental health limitations and are in need of assistance to achieve and maintain their highest level of independent living.

Subpart I—Application and Fiscal Requirements

§ 2551.91 What is the process for application and award of a grant?

(a) *How and when may an eligible organization apply for a grant?*

(1) An eligible organization may file an application for a grant at any time.

(2) Before submitting an application an applicant shall determine the availability of funds from the Corporation.

(3) The Corporation may also solicit grant applicants. Applicants solicited under this provision are not assured of selection or approval and may have to compete with other solicited or unsolicited applications.

(b) *What must an eligible organization include in a grant application?*

(1) An applicant shall complete standard forms prescribed by the Corporation.

(2) The applicant shall comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs," (3 CFR, 1982 Comp., p. 197) in 45 CFR part 1233 and any other applicable requirements.

(c) *Who reviews the merits of an application and how is a grant awarded?*

(1) The Corporation reviews and determines the merit of an application by its responsiveness to published guidelines and to the overall purpose and objectives of the program. When funds are available, the Corporation awards a grant in writing to each applicant whose grant proposal provides the best potential for serving the purpose of the program. The award will be documented by Notice of Grant Award (NGA).

(2) The Corporation and the sponsoring organization are the parties to the NGA. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of the Corporation's obligation to provide financial support to the sponsor.

(d) *What happens if the Corporation rejects an application?* The Corporation will return to the applicant an application that is not approved for funding, with an explanation of the Corporation's decision.

(e) *For what period of time does the Corporation award a Senior Companion grant?* The Corporation awards a Senior Companion grant for a specified period that is usually 12 months in duration.

§ 2551.92 What are project funding requirements?

(a) *Is non-Corporation support required?* A Corporation grant may be awarded to fund up to 90 percent of the cost of development and operation of a Senior Companion project. The sponsor is required to contribute at least 10 percent of the total project cost from non-Federal sources or authorized Federal sources.

(b) *Under what circumstances does the Corporation allow less than the 10 percent non-Corporation support?* The Corporation may allow exceptions to the 10 percent local support requirement in cases of demonstrated need such as:

(1) Initial difficulties in the development of local funding sources during the first three years of operations; or

(2) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(3) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years.

(c) *May the Corporation restrict how a sponsor uses locally generated contributions in excess of the 10 percent non-Corporation support required?* Whenever locally generated contributions to Senior Companion projects are in excess of the minimum 10 percent non-Corporation support required, the Corporation may not restrict the manner in which such contributions are expended provided such expenditures are consistent with the provisions of the Act.

(d) *Are program expenditures subject to audit?* All expenditures by the grantee of Federal and non-Federal funds, including expenditures from excess locally generated contributions in support of the grant are subject to audit by the Corporation, its Inspector General, or their authorized agents.

(e) *How are Senior Companion cost reimbursements budgeted?* The total of cost reimbursements for Senior Companions, including stipends, insurance, transportation, meals, physical examinations, and recognition, shall be a sum equal to at least 80 percent of the amount of the federal share of the grant award. Federal, required non-Federal, and excess non-federal resources can be used to make up the amount allotted for cost reimbursements.

(f) *May a sponsor pay stipends at a rate different than the rate established by the Corporation?* A sponsor shall pay stipends at the same rate as that established by the Corporation.

§ 2551.93 What are grants management requirements?

What rules govern a sponsor's management of grants?

(a) A sponsor shall manage a grant in accordance with:

(1) The Act;

(2) Regulations in this part;

(3) 45 CFR Part 2541, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", or 45 CFR Part 2543, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations';

(4) The following OMB Circulars, as appropriate A–21, "Cost Principles for Educational Institution", A–87, "Cost Principles for State, Local and Indian Tribal Governments", A–122, "Cost Principles for Non-Profit Organizations", and A–133, "Audits of States, Local Governments, and Other Non-Profit Organizations" (OMB circulars are available electronically at the OMB homepage www.whitehouse.gov/WH/EOP/omb); and

(5) Other applicable Corporation requirements.

(b) Project support provided under a Corporation grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which Corporation funds are budgeted must be justified as being necessary and essential to project operation.

(d) Other than reimbursement for meals during a normal meal period, project funds shall not be used to reimburse volunteers for expenses, including transportation costs, incurred while performing their volunteer assignments. Equipment or supplies for volunteers on assignment are not allowable costs. Assignment-related costs of transportation, equipment, supplies, etc. are the responsibility of the volunteer station or a third party, and are not an allowable grant cost.

(e) Volunteer expense items, including transportation, meals, recognition activities and items purchased at the volunteers' own expense and which are not reimbursed, are not allowable as contributions to the non-Federal share of the budget.

(f) Costs of other insurance not required by program policy, but maintained by a sponsor for the general conduct of its activities are allowable with the following limitations:

(1) Types and extent of and cost of coverage are according to sound institutional and business practices;

(2) Costs of insurance or a contribution to any reserve covering the risk of loss of or damage to Government-owned property are unallowable unless the government specifically requires and approves such costs; and

(3) The cost of insurance on the lives of officers, trustees or staff is unallowable except where such insurance is part of an employee plan which is not unduly restricted.

(g) Costs to bring a sponsor into basic compliance with accessibility requirements for individuals with disabilities are not allowable costs.

(h) Payments to settle discrimination allegations, either informally through a settlement agreement or formally as a result of a decision finding discrimination, are not allowable costs.

(i) Written Corporation approval/concurrence is required for the following changes in the approved grant:

(1) Reduction in budgeted volunteer service years.

(2) Change in the service area.

(3) Transfer of budgeted line items from Volunteer Expenses to Support Expenses. This requirement does not apply if the 80 percent volunteer cost reimbursement ratio is maintained.

Subpart J—Non-Stipended Senior Companions.

§ 2551.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Senior Companions without stipends?

Over-income persons, age 60 or over, may be enrolled in SCP projects as non-stipended volunteers in communities where there is no RSVP project or where agreement is reached with the RSVP project that allows for the enrollment of non-stipended volunteers in the SCP project.

§ 2551.102 What are the conditions of service of non-stipended Senior Companions?

Non-stipended Senior Companions serve under the following conditions:

(a) They must not displace or prevent eligible low-income individuals from becoming Senior Companions.

(b) No special privilege or status is granted or created among Senior Companions, stipended or non-stipended, and equal treatment is required.

(c) Training, supervision, and other support services and cost reimbursements, other than the stipend, are available equally to all Senior Companions.

(d) All regulations and requirements applicable to the program, with the exception listed in paragraph (f) of this section, apply to all Senior Companions.

(e) Non-stipended Senior Companions may be placed in separate volunteer stations where warranted.

(f) Non-stipended Senior Companions will be encouraged but not required to serve an average of 20 hours per week and nine months per year. Senior Companions will maintain a close person-to-person relationship with their assigned special needs clients on a regular basis.

(g) Non-stipended Senior Companions may contribute the costs they incur in connection with their participation in the program. Such contributions are not counted as part of the required non-federal share of the grant but may be reflected in the budget column for excess non-federal resources.

§ 2551.103 Must a sponsor be required to enroll non-stipended Senior Companions?

Enrollment of non-stipended Senior Companions is not a factor in the award of new or continuation grants.

§ 2551.104 May Corporation funds be used for non-stipended Senior Companions?

Federally appropriated funds for SCP shall not be used to pay any cost, including any administrative cost, incurred in implementing the regulations in this part for non-stipended Senior Companions.

Subpart K—Non-Corporation Funded SCP Projects

§ 2551.111 Under what conditions can an agency or organization sponsor a Senior Companion project without Corporation funding?

An eligible agency or organization who wishes to sponsor a Senior Companion project without Corporation funding, must sign a Memorandum of Agreement with the Corporation that:

(a) Certifies its intent to comply with all Corporation requirements for the Senior Companion Program; and

(b) Identifies responsibilities to be carried out by each party.

§ 2551.112 What benefits are a non-Corporation funded project entitled to?

The Memorandum of Agreement entitles the sponsor of a non-Corporation funded project to:

(a) All technical assistance and materials provided to Corporation-funded Senior Companion projects; and

(b) The application of the provisions of 42 U.S.C. 5044 and 5058.

§ 2551.113 What financial obligation does the Corporation incur for non-Corporation funded projects?

Entry into a Memorandum of Agreement with, or issuance of an NGA to a sponsor of a non-Corporation funded project, does not create a financial obligation on the part of the Corporation for any costs associated with the project, including increases in required payments to Senior Companion's that may result from changes in the Act or in program regulations.

§ 2551.114 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

A non-Corporation funded project sponsor's noncompliance with the Memorandum of Agreement may result in suspension or termination of the Corporation's agreement and all benefits specified in § 2551.112.

Subpart L—Restrictions and Legal Representation

§ 2551.121 What legal limitations apply to the operation of the Senior Companion Program and to the expenditure of grant funds?

(a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a matter supporting or resulting in the identification of such project with:

(i) Any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election; or

(ii) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(iii) Any voter registration activity, except that voter registration applications and nonpartisan voter registration information may be made available to the public at the premises of the sponsor. But in making registration applications and nonpartisan voter registration information available, employees of the sponsor shall not express preferences or seek to influence decisions concerning any candidate, political party, election issue, or voting decision.

(3) The sponsor shall not use grant funds in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except:

(i) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of such a program to draft, review or testify regarding measures or to make representation to such legislative body, committee or member; or

(ii) In connection with an authorization or appropriations measure directly affecting the operation of the Senior Companion Program.

(b) *Non-displacement of employed workers.* A Senior Companion shall not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(c) *Compensation for service.* (1) An agency or organization to which NSSC volunteers are assigned or which operates or supervises any NSSC program shall not request or receive any compensation from NSSC volunteers or from beneficiaries for services of NSSC volunteers.

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the grant or from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by the Corporation grant.

(3) A Senior Companion volunteer station may contribute to the financial support of the Senior Companion Program. However, this support shall not be a required precondition for a potential station to obtain Senior Companion service.

(4) If a volunteer station agrees to provide funds to support additional Senior Companions or pay for other Senior Companion support costs, the agreement shall be stated in a written Memorandum of Understanding. The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project under the Memorandum of Understanding diminishes or jeopardizes the project's financial capabilities to fulfill its obligations.

(5) Under no circumstances shall a Senior Companion receive a fee for service from service recipients, their legal guardian, members of their family, or friends.

(d) *Labor and anti-labor activity.* The sponsor shall not use grant funds directly or indirectly to finance labor or anti-labor organization or related activity.

(e) *Fair labor standards.* A sponsor that employs laborers and mechanics for construction, alteration, or repair of facilities shall pay wages at prevailing rates as determined by the Secretary of

Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

(f) *Nondiscrimination.* A sponsor or sponsor employee shall not discriminate against a Senior Companion on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if the Senior Companion with a disability is qualified to serve.

(g) *Religious activities.* A Senior Companion or a member of the project staff funded by the Corporation shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of his or her duties.

(h) *Nepotism.* Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the community group established by the sponsor under Subpart B of this part and with notification to the Corporation.

§ 2551.122 What legal coverage does the Corporation make available to Senior Companions?

It is within the Corporation's discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a Senior Companion are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the Senior Companion's activities. The circumstances under which the Corporation shall pay such expenses are specified in 45 CFR part 1220.

Dated: March 15, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–6631 Filed 3–23–99; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1208 and 2552

RIN 3045–AA18

Foster Grandparent Program

ACTION: Final regulations.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), amends the regulations governing the administration of the Foster Grandparent Program (FGP). This final rule implements changes to the Domestic Volunteer Service Act of 1973 as amended, and establishes minimum program requirements with greater clarity. It updates program operations, consolidates requirements from outdated sources into one user friendly document; and incorporates new concepts of programming to highlight the accomplishments and impact of senior service. This amendment supersedes the old ACTION Foster Grandparent Program regulations and Foster Grandparent Program Operations Handbook dated January 1989.

DATES: These regulations take effect April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Rey Tejada at 202–606–5000 ext. 197.

SUPPLEMENTARY INFORMATION: The Corporation published a notice of proposed rulemaking (NPRM) for the Foster Grandparent Program, 45 CFR Parts 1208 and 2552, in the **Federal Register** at 63 FR 46963, September 3, 1998.

Summary of Main Comments and Changes

In response to the Corporation's invitation in the NPRM, the Corporation received 524 letters. A significant number (73 percent) of the letters came from one state. A summary of the main comments received and the Corporation's responses are provided in this final rule. Comments that are general or editorial in nature, or those requesting clarification of program requirements are not addressed in this final rule. The significant comments and the Corporation's responses are summarized by section as follows:

Section 2552.11 What is the Foster Grandparent Program?

Comments: Expressed concern that the language proposed for § 2552.11 puts too much emphasis on service, less on the volunteers, and disregards the dual purpose of the program.

Response: The Corporation understands the concerns expressed and has modified the section to emphasize the dual purpose of the program. The first sentence of § 2552.11 was revised by adding "for the dual purpose of engaging" after "organizations", and "and to provide a high quality experience that will enrich the lives of the volunteers" after "needs."

Section 2552.12(c) Annual Income

Comments: Expressed some confusion as to whether it is mandatory to count the value of food and shelter given the use of the word "may" in this section, and the word "should" in the second sentence of § 2552.42(b).

Response: In determining income eligibility, it is the Corporation's intent to count the value of food and shelter provided at no cost to a volunteer. This is to ensure that volunteer applicants receiving such assistance do not have an undue advantage over those who do not. To make this point clear, the Corporation has amended the second sentence of this section by using the word "shall" instead of "may", and has also inserted the word "in-kind" after "cash" in the first sentence.

Section 2552.12(g) Children Having Exceptional Needs

Comments: Expressed concern that limiting services to children with special and exceptional needs would eliminate services to so called "at-risk" children who do not meet the definition. Others said that the examples cited exclude other types of children such as those with literacy needs; while some objected to the use of the term "mentally retarded" in the first sentence.

Response: The Corporation has expanded the examples by including children with literacy needs in the definition. It also deleted the term "mentally retarded". The Domestic Volunteer Service Act (DVSA) requires that volunteer services be focused on children with "special or exceptional needs".

Section 2552.12(n) National Senior Service Corps

Comments: Object to the use of the name National Senior Service Corps (NSSC) because it is not the name used in the DVSA.

Response: This name has been in use for the last several years and the Corporation has used significant resources for the development and design of a number of promotional program materials that are now in wide use by projects across the country.

Section 2552.23(f) Volunteer Orientation

Comments: Indicated that 40 hours of pre-service orientation is difficult for staff to deliver; others thought that the four hours of monthly in-service training is excessive.

Response: The Corporations understands the concerns expressed. To increase flexibility and training options, the Corporation amended the provision to provide 40 hours of orientation of which 20 hours must be pre-service. The Corporation believes four hours of monthly in-service training is essential.

Section 2552.23(i) Strategic Plan

Comments: Expressed concern that to require the development of a strategic plan would be a significant paperwork burden on projects.

Response: The Corporation understands the concerns expressed regarding the requirement and the potential burden it may produce. For this reason, the provision has been withdrawn from the final rule.

Section 2552.23(k) Assessment of Accomplishments and Impact

Comments: All expressed concern about administrative demands the requirement for assessing impact would entail.

Response: The Corporation appreciates the concern expressed. However, the provision is essential for the Corporation to meet its obligations under The Government Performance and Results Act.

Section 2552.24 Securing Community Participation

Comments: Comments were mixed. Some of the comments oppose any changes in the structure, role and operation of the Advisory Council as they were specified in previous regulations. Others support the flexibility provided by the new rule.

Response: The new provision gives local program sponsors maximum flexibility for securing community participation. It gives them discretion to use an Advisory Council or another organizational structure to meet the requirement. The Corporation believes that the new rule gives local sponsors the ability to choose whatever method works best for them to involve the community in program operations.

Section 2552.25(b) Delegation of Authority

Comments: Expressed concern about the potential increase in workload for project directors to meet this requirement. Some were also confused as to what the delegation of authority means.

Response: The Corporation has withdrawn the provision from the final rule.

Section 2552.25(d) Full-Time Project Director

Comments: Comments were mixed. Some were in support of the new rule; others wanted a provision to waive the full-time project director requirement; and a few wanted the requirement taken out of federal regulations and left at the sponsor's discretion.

Response: The Corporation modified this section by deleting from the last sentence any reference to cost savings and leaving the basis for negotiating a part-time director position to the size, scope and quality of project operations. The new rule replaces the more rigid and cumbersome waiver process required under the old regulations to employ a part-time director.

Section 2552.41 Foster Grandparent Eligibility

Comments: Suggested lowering the age eligibility from 60 to 55 to attract more volunteers into the program and broaden the potential volunteer pool.

Response: The age eligibility of volunteers is established by law. Only Congress can change this requirement and the Corporation plans to pursue that objective through the reauthorization process.

Section 2552.42 Income Guidelines

Comments: Many recommend increasing the income guideline to 150 percent of poverty. Others questioned the inclusion of the value of food and shelter provided at no cost to a volunteer in determining income.

Response: The income guideline is established by law and can only be changed through a legislative amendment. Counting the value of food, clothing and shelter provided at no cost, encourages equitable participation by not giving advantage to volunteers who receive such assistance.

Section 2552.43 What Is Considered Income

Comments: Requests special consideration for volunteers who own their homes and have related expenses.

Response: This section restates a provision in the old regulations and will be maintained. The only consideration with respect to expenses relates to extraordinary health care expenses.

Section 2552.45(a) Stipend

Comments: Expressed concern that the rule excludes eligible married couples from receiving a stipend.

Response: The Corporation, after considering the concerns expressed, has decided to withdraw subsections (a)(1) and (a)(2) in order to allow all eligible married volunteers to receive a stipend.

Section 2552.45(c) Transportation

Comments: Concern that the use of the word "may" in this section takes away the guarantee that volunteers will receive the transportation assistance they need to get to their assignments.

Response: After considering the comments, the Corporation modified this section by deleting the word "may" and using "shall" instead after "Grandparents".

Section 2552.45(d) Physical Examination

Comments: Requested that the physical examination be permitted during the first month of service rather than requiring that it be provided only prior to service. The rationale for the request is that such an approach could save money particularly in cases where volunteers terminate shortly after enrollment.

Response: The Corporation understands the rationale for the request. However, physical examinations provide some assurance that volunteers can serve without detriment to themselves or their clients. The Corporation believes this justifies the costs involved.

Section 2552.45(e) Meals and Recognition

Comments: Expressed concern that this Section reduces the value of support by limiting it to available resources and suggested that recognition be made mandatory.

Response: To emphasize its importance to the volunteers, the Corporation revised this Section by using the term "shall be" instead of "are" in the first line. The level of support volunteers receive is always governed by the resources available to a project under an approved grant.

Section 2552.51(a) (b) (c) Terms of Service

Comments: Comments were mixed. Some agree with the flexibility provided under the new rule; others thought there should be more flexibility suggesting that terms of service should be left to the discretion of the sponsor.

Response: After considering the comments, the Corporation modified this Section to allow even more flexibility in volunteers' term of service. SubSection (a) was revised to allow volunteers to serve a minimum of nine months a year at an average of 20 hours of service a week. Consistent with this amendment, subSection s (b) and (c) were deleted.

Section 2552.52 Modified Schedule

Comments: All opposed the proposed rule. Many thought the 10 year service requirement as a condition for a modified service schedule was excessive.

Response: The Corporation deleted this Section in view of the changes made on Section 2552.51 (a) on terms of service.

Section 2552.55 Volunteer Leave

Comments: Opposed this provision because it may result in less leave for volunteers. Many thought that volunteer leave should be governed by sponsor's policies.

Response: After considering the comments, the Corporation has withdrawn this provision from the final rule.

Section 2552.62(c) Care Plans

Comments: Opposed the care plan provision saying that it would increase paperwork burden on stations and raise issues of client confidentiality.

Response: The Corporation modified the provision changing "care plan" to a "written volunteer assignment plan" for each child that identifies the role and activities of the Foster Grandparent and expected outcomes for the child served.

Section 2552.71 Number of Children in a Station

Comments: All were opposed, stating that the provision is unrealistic and may be difficult for rural stations and those that cannot accommodate more than one volunteer. They suggested including a waiver provision.

Response: The Corporation has withdrawn this provision from the final rule.

Section 2552.73 Volunteer Assignments

Comments: Suggested that volunteers be permitted to serve as group leaders as an acceptable volunteer assignment.

Response: The program's authorizing legislation requires that volunteers provide supportive, person to person service to children with special or exceptional needs. The volunteer role suggested by the comments cannot be accommodated without a change in the authorizing legislation.

Section 2552.74 Care Plans

Comments: Opposed the care plan provision saying that it would increase paperwork burden on stations and raise issues of client confidentiality.

Response: The Corporation modified the provision changing "care plan" to a "written volunteer assignment plan" for each child that identifies the role and activities of the Foster Grandparent and expected outcomes for the child served.

Section 2552.81 Children Served

Comments: Objected to the use of the term children with special or exceptional needs citing that it labels children receiving volunteer services.

Response: The term children with special or exceptional needs is specified in the program's authorizing legislation. It is restated in the final rule for this reason.

Section 2552.82 Service After Age 21

Comments: Objected to the use in this Section of the term mentally retarded.

Response: The term is used because it is specified in the authorizing legislation. To change it would require a change in the law.

Section 2552.92(c) Excess Non-Corporation Support

Comments: Recommended that the Corporation not restrict the manner in which contributions in excess of the required local support are spent. They also suggest deleting the condition that such expenditure be made consistent with the provision of the Act.

Response: The final rule does not restrict the manner in which the sponsors spend contributions made in excess of the local support required. The condition that such expenditures be made consistent with the provisions of the Act is a requirement of the law.

Section 2552.92(e) Cost Reimbursement Ratio

Comments: Comments were mixed. Some are opposed to the requirement and suggest that a waiver provision be included. Others are in favor of the new provision that reduces the required cost reimbursement ratio from 90% to 80%.

Response: The new provision lessens the burden on local sponsors by reducing the required ratio under the old regulation by 10%. It ensures that volunteer support items are adequately covered in the grant budget. The Corporation believes that allowing any further reduction through a waiver provision would jeopardize the sponsor's ability to provide volunteer support.

Section 2552.93(d) Assignment Related Costs

Comments: Opposed the provision specifying that equipment or supplies for a volunteer while on assignment are not allowable costs.

Response: The provision restates a requirement under the old regulations. Limited program funds can cover only essential direct volunteer support such as transportation to and from assignment. Other costs associated with the volunteers service activity are the responsibility of the station or other third parties.

Section 2552.104 Funds for Non-Stipended Foster Grandparents

Comments: Questioned why federal funds cannot be used to pay any cost related to non-stipended volunteers when the Corporation encourages their recruitment and allows them to receive cost reimbursements other than the stipend.

Response: The rule on non-stipended volunteers is a restatement of the language in the program's authorizing legislation. The rule cannot be changed without a change in the law.

Section 2552.121(c) Compensation for Service

Comments: Requested clarifying language for subsection (3) which states that station support shall not be a precondition to the assignment of volunteers, and subsection (4) which states that the sponsor shall withdraw services if the station is unable to provide monetary and in-kind support.

Response: The Corporation modified both subsections by moving the last sentence in subsection (3) and inserted it as the first sentence in subsection (4). This adjustment clarifies the Corporation's position that a volunteer station's ability to provide cash or in-kind support shall not be a precondition to the assignment of volunteers to that station. However, if a station agrees to provide support under a Memorandum of Understanding, and later decides to withdraw that support in a manner that reduces or diminishes the ability of the project to fulfill its obligations under the grant, then the sponsor can withdraw volunteer services from that station.

Regulatory Flexibility Act and Unfunded Mandates Reform Act

The General Counsel, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed this regulation and by approving certifies that this final rule will not have a significant impact on small business entities.

Under the Unfunded Mandates Reform Act of 1995, the Corporation certifies that this final rule does not include any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act of 1995

These final regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372. The objective of the Executive Order is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the Order, this

document is intended to provide early notification of the Corporation's specific plans and actions for this program.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866. The Office of Management and Budget has reviewed this rule and has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review.

DISTRIBUTION TABLE

Old 45 CFR part 1208	New 45 CFR part 2552
1208.1–1	2552.11
1208.1–2	2552.12
1208.1–3	2552.23
1208.2–1	None
1208.2–2	2552.92
1208.2–3	2552.21
1208.2–4	2552.91
1208.2–5	2552.91
1208.2–6	2552.91
1208.2–7	2552.93
1208.2–8	2552.31
1208.3–1	2552.23
1208.3–2	2552.25
1208.3–3	2552.24
1208.3–4	2552.62
1208.3–5	2552.41
1208.3–6	2552.71
1208.3–7	2552.81
1208.4–1	2552.111
1208.5–1	2252.121
1208.5–2	2552.122

List of Subjects

45 CFR Part 1208

Aged, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2552

Aged, Grant programs—social programs, Volunteers.

For the reasons set out in the preamble, and under the authority of 42 U.S.C. 12501 et seq., part 1208 in 45 CFR chapter XII is redesignated as part 2552 in 45 CFR chapter XXV and is revised to read as follows:

PART 2552—FOSTER GRANDPARENT PROGRAM

Subpart A—General

Sec.
2552.11 What is the Foster Grandparent Program?
2552.12 Definitions.

Subpart B—Eligibility and Responsibilities of a Sponsor

2552.21 Who is eligible to serve as a sponsor?
2552.22 What are the responsibilities of a sponsor?
2552.23 What are a sponsor's program responsibilities?
2552.24 What are a sponsor's responsibilities for securing community participation?
2552.25 What are a sponsor's administrative responsibilities?
2552.26 May a sponsor administer more than one program grant from the Corporation?

Subpart C—Suspension and Termination of Corporation Assistance

2552.31 What are the rules on suspension, termination, and denial of refunding of grants?

Subpart D—Foster Grandparent Eligibility, Status and Cost Reimbursements

2552.41 Who is eligible to be a Foster Grandparent?
2552.42 What income guidelines govern eligibility to serve as a stipended Foster Grandparent?
2552.43 What is considered income for determining volunteer eligibility?
2552.44 Is a Foster Grandparent a federal employee, an employee of the sponsor or of the volunteer station?
2552.45 What cost reimbursements are provided to Foster Grandparents?
2552.46 May the cost reimbursements of a Foster Grandparent be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

Subpart E—Foster Grandparent Terms of Service

2552.51 What are the terms of service of a Foster Grandparent?
2552.52 What factors are considered in determining a Foster Grandparent's service schedule?
2552.53 Under what circumstances may a Foster Grandparent's service be terminated?

Subpart F—Responsibilities of a Volunteer Station

2552.61 When may a sponsor serve as a volunteer station?
2552.62 What are the responsibilities of a volunteer station?

Subpart G—Foster Grandparent Placements and Assignments

2552.71 What requirements govern the assignment of Foster Grandparents?
2552.72 Is a written volunteer assignment plan required for each volunteer?

Subpart H—Children Served

2552.81 What type of children are eligible to be served?
2552.82 Under what circumstances may a Foster Grandparent continue to serve an individual beyond his or her 21st birthday?

Subpart I—Application and Fiscal Requirements

2552.91 What is the process for application and award of a grant?
2552.92 What are project funding requirements?
2552.93 What are grants management requirements?

Subpart J—Non-Stipended Foster Grandparents

2552.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Foster Grandparents without stipends?
2552.102 What are the conditions of service of non-stipended Foster Grandparents?
2552.103 Must a sponsor be required to enroll non-stipended Foster Grandparents?
2552.104 May Corporation funds be used for non-stipended Foster Grandparents?

Subpart K—Non-Corporation Funded Foster Grandparent Program Projects

2552.111 Under what conditions can an agency or organization sponsor a Foster Grandparent project without Corporation funding?
2552.112 What benefits are a non-Corporation funded project entitled to?
2552.113 What financial obligation does the Corporation incur for non-Corporation funded projects?
2552.114 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

Subpart L—Restrictions and Legal Representation

2552.121 What legal limitations apply to the operation of the Foster Grandparent Program and to the expenditure of grant funds?
2552.122 What legal coverage does the Corporation make available to Foster Grandparents?

Authority: 42 U.S.C. 4950 *et seq.*

Subpart A—General

§ 2552.11 What is the Foster Grandparent Program?

The Foster Grandparent Program provides grants to qualified agencies and organizations for the dual purpose of: engaging persons 60 and older, particularly those with limited incomes, in volunteer service to meet critical community needs; and to provide a high quality experience that will enrich the lives of the volunteers. Program funds are used to support Foster Grandparents in providing supportive, person to

person service to children with exceptional or special needs.

§ 2552.12 Definitions.

(a) *Act.* The Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 396, 42 U.S.C. 4950 *et seq.*

(b) *Adequate staffing level.* The number of project staff or full-time equivalent needed by a sponsor to manage NSSC project operations considering such factors as: number of budgeted volunteers/Volunteer Service Years (VSYs), number of volunteer stations, and the size of the service area.

(c) *Annual income.* Total cash and in-kind receipts from all sources over the preceding 12 months including: the applicant or enrollee's income and, the applicant or enrollee's spouse's income, if the spouse lives in the same residence. The value of shelter, food, and clothing, shall be counted if provided at no cost by persons related to the applicant/enrollee, or spouse.

(d) *Chief Executive Officer.* The Chief Executive Officer of the Corporation appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

(e) *Child.* Any individual who is less than 21 years of age.

(f) *Children having exceptional needs.* Children who are developmentally disabled, such as those who are autistic, have cerebral palsy or epilepsy, are visually impaired, speech impaired, hearing impaired, orthopedically impaired, are emotionally disturbed or have a language disorder, specific learning disability, have multiple disabilities, other significant health impairment or have literacy needs. Existence of a child's exceptional need shall be verified by an appropriate professional, such as a physician, psychiatrist, psychologist, registered nurse or licensed practical nurse, speech therapist or educator before a Foster Grandparent is assigned to the child.

(g) *Children with special needs.* Children who are abused or neglected; in need of foster care; adjudicated youth; homeless youths; teen-age parents; and children in need of protective intervention in their homes. Existence of a child's special need shall be verified by an appropriate professional before a Foster Grandparent is assigned to the child.

(h) *Corporation.* The Corporation for National and Community Service established under the NCSA. The Corporation is also sometimes referred to as CNCS.

(i) *Cost reimbursements.* Reimbursements provided to volunteers such as stipends to cover incidental costs, meals, and transportation, to enable them to serve without cost to themselves. Also included are the costs of annual physical examinations, volunteer insurance and recognition which are budgeted as Volunteer Expenses.

(j) *In-home.* The non-institutional assignment of a Foster Grandparent in a private residence or a foster home.

(k) *Letter of Agreement.* A written agreement between a volunteer station, the sponsor and the parent or persons legally responsible for the child served by the Foster Grandparent. It authorizes the assignment of a Foster Grandparent in the child's home, defines the Foster Grandparent's activities and delineates specific arrangements for supervision.

(l) *Memorandum of Understanding.* A written statement prepared and signed by the Foster Grandparent project sponsor and the volunteer station that identifies project requirements, working relationships and mutual responsibilities.

(m) *National Senior Service Corps (NSSC).* The collective name for the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), the Senior Companion Program (SCP), and Demonstration Programs established under Title II Parts A, B, C, and E, of the Act. NSSC is also referred to as the "Senior Corps".

(n) *Non-Corporation support (required).* The percentage share of non-Federal cash and in-kind contributions, required to be raised by the sponsor in support of the grant.

(o) *Non-Corporation support (excess).* The amount of non-Federal cash and in-kind contributions generated by a sponsor in excess of the required percentage.

(p) *Parent.* A natural parent or a person acting in place of a natural parent, such as a guardian, a child's natural grandparent, or a step-parent with whom the child lives. The term also includes otherwise unrelated individuals who are legally responsible for a child's welfare.

(q) *Project.* The locally planned and implemented Foster Grandparent Program activity or set of activities as agreed upon between a sponsor and the Corporation.

(r) *Qualified individual with a disability.* An individual with a disability (as defined in the Rehabilitation Act, 29 U.S.C. 705 (20)) who, with or without reasonable accommodation, can perform the essential functions of a volunteer position that such individual holds or desires. If a sponsor has prepared a written description before advertising or interviewing applicants for the position, the written description may be considered evidence of the essential functions of the volunteer position.

(s) *Service area.* The geographically defined area in which Foster Grandparents are recruited, enrolled, and placed on assignments.

(t) *Service schedule.* A written delineation of the days and times a Foster Grandparent serves each week.

(u) *Sponsor.* A public agency or private non-profit organization that is responsible for the operation of a Foster Grandparent project.

(v) *Stipend.* A payment to Foster Grandparents to enable them to serve without cost to themselves. The amount of the stipend is determined by the Corporation and is payable in regular installments. The minimum amount of the stipend is set by law and shall be adjusted by the CEO from time to time.

(w) *Trust Act.* The National and Community Service Trust Act of 1993, Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785.

(x) *United States and States.* Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, and Trust Territories of the Pacific Islands.

(y) *Volunteer assignment plan.* A written description of a Foster Grandparent's assignment with a child. The plan identifies specific outcomes for the child served and the activities of the Foster Grandparent.

(z) *Volunteer station.* A public agency, private non-profit organization or proprietary health care agency or organization that accepts the responsibility for assignment and supervision of Foster Grandparents in health, education, social service or related settings such as hospitals, homes for dependent and neglected children, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

Subpart B—Eligibility and Responsibilities of a Sponsor

§ 2552.21 Who is eligible to serve as a sponsor?

The Corporation awards grants to public agencies, including Indian tribes and non-profit private organizations, in the United States that have the authority to accept and the capability to administer a Foster Grandparent project.

§ 2552.22 What are the responsibilities of a sponsor?

A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the Foster Grandparent Program as specified in the Act. A sponsor shall not delegate or contract these responsibilities to another entity. A sponsor shall comply with all program regulations and policies, and grant provisions prescribed by the Corporation.

§ 2552.23 What are a sponsor's program responsibilities?

A sponsor shall:

(a) Focus Foster Grandparent resources on critical problems affecting children with special and exceptional needs within the project's service area.

(b) Assess in collaboration with other community organizations or utilize existing assessment of the needs of the client population in the community and develop strategies to respond to those needs using the resources of Foster Grandparents.

(c) Develop and manage a system of volunteer stations by:

(1) Ensuring that a volunteer station is a public or non-profit private organization, or an eligible proprietary health care agency, capable of serving as a volunteer station for the placement of Foster Grandparents;

(2) Ensuring that the placement of Foster Grandparents will be governed by a Memorandum of Understanding:

(i) That is negotiated prior to placement;

(ii) That specifies the mutual responsibilities of the station and sponsor;

(iii) That is renegotiated at least every three years; and

(iv) That states the station assures it will not discriminate against Foster Grandparents or in the operation of its program on the basis of race, color, national origin, sex, age, political affiliation, religion, or on the basis of disability, if the participant or member is a qualified individual with a disability; and

(3) Reviewing volunteer placements regularly to ensure that clients are eligible to be served.

(d) Develop Foster Grandparent service opportunities to support locally-identified needs of eligible children in a way that considers the skills and experiences of Foster Grandparents.

(e) Consider the demographic make-up of the project service area in the enrollment of Foster Grandparents, taking special efforts to recruit eligible individuals from minority groups, persons with disabilities, and under-represented groups.

(f) Provide Foster Grandparents with assignments that show direct and demonstrable benefits to the children and the community served, the Foster Grandparents, and the volunteer station; with required cost reimbursements specified in § 2552.45; with not less than 40 hours of orientation of which 20 hours must be pre-service, and an average of 4 hours of monthly in-service training.

(g) Encourage the most efficient and effective use of Foster Grandparents by coordinating project services and activities with related national, state and local programs, including other Corporation programs.

(h) Conduct an annual appraisal of volunteers' performance and annual review of their income eligibility.

(i) Develop, and annually update, a plan for promoting senior service within the project's service area.

(j) Annually assess the accomplishments and impact of the project on the identified needs and problems of the client population in the community.

(k) Establish written service policies for Foster Grandparents that include but are not limited to annual and sick leave, holidays, service schedules, termination, appeal procedures, meal and transportation reimbursements.

§ 2552.24 What are a sponsor's responsibilities for securing community participation?

(a) A sponsor shall secure community participation in local project operation by establishing an Advisory Council or a similar organizational structure with a membership that includes people:

(1) Knowledgeable of human and social needs of the community;

(2) Competent in the field of community service, volunteerism and children's issues;

(3) Capable of helping the sponsor meet its administrative and program responsibilities including fund-raising, publicity and programming for impact;

(4) With interest in and knowledge of the capability of older adults; and

(5) Of a diverse composition that reflects the demographics of the service area.

(b) The sponsor determines how such participation shall be secured consistent with the provisions of paragraphs (a)(1) through (a)(5) of this section.

§ 2552.25 What are a sponsor's administrative responsibilities?

A sponsor shall:

(a) Assume full responsibility for securing maximum and continuing community financial and in-kind support to operate the project successfully.

(b) Provide levels of staffing and resources appropriate to accomplish the purposes of the project and carry out its project management responsibilities.

(c) Employ a full-time project director to accomplish program objectives and manage the functions and activities delegated to project staff for NSSC program(s) within its control. A full-time project director shall not serve concurrently in another capacity, paid or unpaid, during established working hours. The project director may participate in activities to coordinate program resources with those of related local agencies, boards or organizations. A sponsor may negotiate the employment of a part-time project director with the Corporation when it can be demonstrated that such an arrangement will not adversely affect the size, scope, and quality of project operations.

(d) Consider all project staff as sponsor employees subject to its personnel policies and procedures.

(e) Compensate project staff at a level that is comparable with other similar staff positions in the sponsor organization and/or project service area.

(f) Establish risk management policies and procedures covering project and Foster Grandparent activities. This includes provision of appropriate insurance coverage for Foster Grandparents, vehicles and other properties used in the project.

(g) Establish record keeping/reporting systems in compliance with Corporation requirements that ensure quality of program and fiscal operations, facilitate timely and accurate submission of required reports and cooperate with Corporation evaluation and data collection efforts.

(h) Comply with and ensure that all volunteer stations comply with all applicable civil rights laws and regulations, including providing reasonable accommodation to qualified individuals with disabilities.

§ 2552.26 May a sponsor administer more than one program grant from the Corporation?

A sponsor may administer more than one Corporation program grant.

Subpart C—Suspension and Termination of Corporation Assistance

§ 2552.31 What are the rules on suspension, termination, and denial of refunding of grants?

(a) The Chief Executive Officer or designee is authorized to suspend further payments or to terminate payments under any grant providing assistance under the Act whenever he/she determines there is a material

failure to comply with applicable terms and conditions of the grant. The Chief Executive Officer shall prescribe procedures to ensure that:

(1) Assistance under the Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days;

(2) An application for refunding under the Act may not be denied unless the recipient has been given:

(i) Notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial; and

(ii) Opportunity to show cause why such action should not be taken;

(3) In any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Corporation; and

(4) Assistance under the Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held in locations convenient to the recipient agency.

(c) The procedures for suspension, termination, and denial of refunding, that apply to the Foster Grandparent Program are specified in 45 CFR part 1206.

Subpart D—Foster Grandparent Eligibility, Status and Cost Reimbursements

§ 2552.41 Who is eligible to be a Foster Grandparent?

(a) To be a Foster Grandparent an individual must:

(1) Be 60 years of age or older;

(2) Be determined by a physical examination to be capable, with or without reasonable accommodation, of serving children with exceptional or special needs without detriment to either himself/herself or the children served;

(3) Agree to abide by all requirements as set forth in this part; and

(4) In order to receive a stipend, have an income that is within the income eligibility guidelines specified in this subpart D.

(b) Eligibility to be a Foster Grandparent shall not be restricted on the basis of formal education, experience, race, religion, color, national origin, sex, age, handicap, or political affiliation.

§ 2552.42 What income guidelines govern eligibility to serve as a stipended Foster Grandparent?

(a) To be enrolled and receive a stipend, a Foster Grandparent cannot have an annual income from all sources, after deducting allowable medical expenses, which exceeds the program's income eligibility guideline for the state in which he or she resides. The income eligibility guideline for each state is the higher amount of either:

(1) 125 percent of the poverty line as set forth in 42 U.S.C. 9902 (2); or

(2) 135 percent of the poverty line, in those primary metropolitan statistical areas (PMSA), metropolitan statistical areas (MSA) and non-metropolitan counties identified by the Corporation as being higher in cost of living, as determined by application of the Volunteers in Service to America (VISTA) subsistence rates. In Alaska the guideline may be waived by the Corporation State Director if a project demonstrates that low-income individuals in that location are participating in the project.

(b) Annual income is counted for the past 12 months and includes the applicant or enrollee's income and that of his/her spouse, if the spouse lives in the same residence. Sponsors shall count the value of shelter, food, and clothing, if provided at no cost by persons related to the applicant, enrollee, or spouse.

(c) Allowable medical expenses are annual out-of-pocket medical expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse which were not and will not be paid by Medicare, Medicaid, other insurance, or other third party pay or, and which do not exceed 15 percent of the applicable income guideline.

(d) Applicants whose income is not more than 100 percent of the poverty line shall be given special consideration for enrollment.

(e) Once enrolled, a Foster Grandparent shall remain eligible to serve and to receive a stipend so long as his or her income, does not exceed the applicable income eligibility guideline by 20 percent.

§ 2552.43 What is considered income for determining volunteer eligibility?

(a) For determining eligibility, "income" refers to total cash and in-kind receipts before taxes from all sources including:

(1) Money, wages, and salaries before any deduction, but not including food or rent in lieu of wages;

(2) Receipts from self-employment or from a farm or business after deductions for business or farm expenses;

(3) Regular payments for public assistance, Social Security, Unemployment or Workers Compensation, strike benefits, training stipends, alimony, child support, and military family allotments, or other regular support from an absent family member or someone not living in the household;

(4) Government employee pensions, private pensions, and regular insurance or annuity payments; and

(5) Income from dividends, interest, net rents, royalties, or income from estates and trusts.

(b) For eligibility purposes, income does not refer to the following money receipts:

(1) Any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation from injury.

(2) Non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

§ 2552.44 Is a Foster Grandparent a federal employee, an employee of the sponsor or of the volunteer station?

Foster Grandparents are volunteers, and are not employees of the sponsor, the volunteer station, the Corporation, or the Federal Government.

§ 2552.45 What cost reimbursements are provided to Foster Grandparents?

Cost reimbursements include:

(a) *Stipend.* Foster Grandparents who are income eligible will receive a stipend in an amount determined by the Corporation and payable in regular installments, to enable them to serve without cost to themselves. The stipend is paid for the time Foster Grandparents spend with their assigned children, for earned leave, and for attendance at official project events.

(b) *Insurance.* A Foster Grandparent is provided with the Corporation-specified minimum levels of insurance as follows:

(1) *Accident insurance.* Accident insurance covers Foster Grandparents for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project-sponsored activities. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources.

(2) *Personal liability insurance.* Protection is provided against claims in excess of protection provided by other insurance. It does not include professional liability coverage.

(3) *Excess automobile liability insurance.* (i) For Foster Grandparents who drive in connection with their service, protection is provided against claims in excess of the greater of either:

(A) Liability insurance volunteers carry on their own automobiles; or

(B) The limits of applicable state financial responsibility law, or in its absence, levels of protection to be determined by the Corporation for each person, each accident, and for property damage.

(ii) Foster Grandparents who drive their personal vehicles to or on assignments or project-related activities shall maintain personal automobile liability insurance equal to or exceeding the levels established by the Corporation.

(c) *Transportation.* Foster Grandparents shall receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, and recognition events.

(d) *Physical examination.* Foster Grandparents are provided a physical examination prior to assignment and annually thereafter to ensure that they will be able to provide supportive service without injury to themselves or the children served.

(e) *Meals and recognition.* Foster Grandparents shall be provided the following within limits of the project's available resources:

(1) Assistance with the cost of meals taken while on assignment; and

(2) Recognition for their service.

§ 2552.46 May the cost reimbursements of a Foster Grandparent be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. Foster Grandparent's cost reimbursements are not subject to any tax or charge or treated as wages or compensation for the purposes of unemployment insurance, worker's compensation, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Cost reimbursements are not subject to garnishment, and do not reduce or eliminate the level of, or eligibility for, assistance or services a Foster Grandparent may be receiving under any governmental program.

Subpart E—Foster Grandparent Terms of Service

§ 2552.51 What are the terms of service of a Foster Grandparent?

A Foster Grandparent shall serve a minimum of nine months a year for an average of 20 hours of service per week. A Foster Grandparent shall not serve more than 1044 hours per year.

§ 2552.52 What factors are considered in determining a Foster Grandparent's service schedule?

(a) Travel time between the Foster Grandparent's home and place of assignment is not part of the service schedule and is not stipended.

(b) Travel time between individual assignments is a part of the service schedule and is stipended.

(c) Meal time may be part of the service schedule and is stipended only if it is specified in the goal statement as part of the service activity.

§ 2552.53 Under what circumstances may a Foster Grandparent's service be terminated?

(a) A sponsor may remove a Foster Grandparent from service for cause. Grounds for removal include but are not limited to: extensive and unauthorized absences; misconduct; inability to perform assignments; and failure to accept supervision. A Foster Grandparent may also be removed from service for having income in excess of the eligibility level.

(b) The sponsor shall establish appropriate policies on service termination as well as procedures for appeal from such adverse action.

Subpart F—Responsibilities of a Volunteer Station

§ 2552.61 When may a sponsor serve as a volunteer station?

(a) A sponsor may function as a volunteer station if it is:

(1) A State organization administering a statewide Foster Grandparent project where the volunteer station is part of the State organization; or

(2) A Federal or State-recognized Indian tribal government.

(b) Other sponsors not included in the categories specified in paragraphs (a)(1) and (a)(2) of this section, can serve as a volunteer station provided that no more than 20 percent of its budgeted VSYs can be placed in programs administered by such sponsors. In special circumstances, the Corporation may grant a waiver to increase this percentage.

§ 2552.62 What are the responsibilities of a volunteer station?

A volunteer station shall undertake the following responsibilities in support of Foster Grandparent volunteers:

(a) Develop volunteer assignments that meet the requirements specified in §§ 2552.71 through 2552.72 and regularly assess those assignments for continued appropriateness.

(b) Select eligible children for assigned volunteers.

(c) Develop a written volunteer assignment plan for each child that identifies the role and activities of the Foster Grandparent and expected outcomes for the child served.

(d) Obtain a Letter of Agreement for Foster Grandparents assigned in-home. This letter must comply with all Federal, State and local regulations.

(e) Provide Foster Grandparents serving the station with:

(1) Orientation to the station and any in-service training necessary to enhance performance of assignments;

(2) Resources required for performance of assignments including reasonable accommodation; and

(3) Appropriate recognition.

(f) Designate a staff member to oversee fulfillment of station responsibilities and supervision of Foster Grandparents while on assignment.

(g) Keep records and prepare reports required by the sponsor.

(h) Provide for the safety of Foster Grandparents assigned to it.

(i) Comply with all applicable civil rights laws and regulations including reasonable accommodation for Foster Grandparents with disabilities.

(j) Undertake such other responsibilities as may be necessary to the successful performance of Foster Grandparents in their assignments or as agreed to in the Memorandum of Understanding.

Subpart G—Foster Grandparent Placements and Assignments

§ 2552.71 What requirements govern the assignment of Foster Grandparents?

Foster Grandparent assignments shall:

(a) Provide for Foster Grandparents to give direct services to one or more eligible children. Foster Grandparents cannot be assigned to roles such as teacher's aides, group leaders or other similar positions that would detract from the person-to-person relationship.

(b) Result in person-to-person supportive relationships with each child served.

(c) Support the development and growth of each child served.

(d) Be meaningful to the Foster Grandparent.

(e) Be supported by appropriate orientation, training and supervision.

§ 2552.72 Is a written volunteer assignment plan required for each volunteer?

(a) All Foster Grandparents shall receive a written volunteer assignment plan developed by the volunteer station that:

(1) Is approved by the sponsor and accepted by the Foster Grandparent;

(2) Identifies the individual child(ren) to be served;

(3) Identifies the role and activities of the Foster Grandparent and expected outcomes for the child;

(4) Addresses the period of time each child should receive such services; and

(5) Is used to review the status of the Foster Grandparent's services in working with the assigned child, as well as the impact of the assignment on the child's development.

(b) If there is an existing plan that incorporates paragraphs (a)(2), (3), and (4) of this section, that plan shall meet the requirement.

Subpart H—Children Served

§ 2552.81 What type of children are eligible to be served?

Foster Grandparents serve only children and youth with special and exceptional needs who are less than 21 years of age.

§ 2552.82 Under what circumstances may a Foster Grandparent continue to serve an individual beyond his or her 21st birthday?

(a) Only when a Foster Grandparent has been assigned to, and has developed a relationship with, a mentally retarded child, that assignment may continue beyond the individual's 21st birthday, provided that:

(1) Such individual was receiving such services prior to attaining the chronological age of 21, and the continuation of service is in the best interest of the individual; and

(2) The sponsor determines that it is in the best interest of both the Foster Grandparent and the individual for the assignment to continue. Such a determination will be made through mutual agreement by all parties involved in the provision of services to the individual served.

(b) In cases where the assigned Foster Grandparent becomes unavailable to serve a particular individual, the sponsor may select another Foster Grandparent to continue the service.

(c) The sponsor may terminate service to a mentally retarded individual over age 21, if it determines that such service is no longer in the best interest of either the Foster Grandparent or the individual served.

Subpart I—Application and Fiscal Requirements

§ 2552.91 What is the process for application and award of a grant?

(a) *How and when may an eligible organization apply for a grant?*

(1) An eligible organization may file an application for a grant at any time.

(2) Before submitting an application an applicant shall determine the availability of funds from the Corporation.

(3) The Corporation may also solicit grants. Applicants solicited under this provision are not assured of selection or approval and may have to compete with other solicited or unsolicited applications.

(b) *What must an eligible organization include in a grant application?*

(1) An applicant shall complete standard forms prescribed by the Corporation.

(2) The applicant shall comply with the provisions of Executive Order 12372 "Intergovernmental Review of Federal Programs," (3 CFR, 1982 Comp., p.197) in 45 CFR Part 1233, and any other applicable requirements.

(c) *Who reviews the merits of an application and how is a grant awarded?*

(1) The Corporation reviews and determines the merit of an application by its responsiveness to published guidelines and to the overall purpose and objectives of the program. When funds are available, the Corporation awards a grant in writing to each applicant whose grant proposal provides the best potential for serving the purpose of the program. The award will be documented by Notice of Grant Award (NGA).

(2) The Corporation and the sponsoring organization are the parties to the NGA. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of the Corporation's obligation to provide financial support to the sponsor.

(d) *What happens if the Corporation rejects an application?* The Corporation will return an application that is not approved for funding to the applicant with an explanation of the Corporation's decision.

(e) *For what period of time does the Corporation award a grant?* The Corporation awards a Foster Grandparent grant for a specified period that is usually 12 months in duration.

§ 2552.92 What are project funding requirements?

(a) *Is non-Corporation support required?* A Corporation grant may be awarded to fund up to 90 percent of the cost of development and operation of a Foster Grandparent project. The sponsor is required to contribute at least 10 percent of the total project cost from non-Federal sources or authorized Federal sources.

(b) *Under what circumstances does the Corporation allow less than the 10 percent non-Corporation support?* The Corporation may allow exceptions to the 10 percent local support requirement in cases of demonstrated need such as:

(1) Initial difficulties in the development of local funding sources during the first three years of operations; or

(2) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(3) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years.

(c) *May the Corporation restrict how a sponsor uses locally generated contributions in excess of the 10 percent non-Corporation support required?* Whenever locally generated contributions to Foster Grandparent projects are in excess of the minimum 10 percent non-Corporation support required, the Corporation may not restrict the manner in which such contributions are expended provided such expenditures are consistent with the provisions of the Act.

(d) *Are program expenditures subject to audit?* All expenditures by the grantee of Federal and non-Federal funds, including expenditures from excess locally generated contributions in support of the grant, are subject to audit by the Corporation, its Inspector General or their authorized agents.

(e) *How are Foster Grandparent cost reimbursements budgeted?* The total of cost reimbursements for Foster Grandparents, including stipends, insurance, transportation, meals, physical examinations, and recognition, shall be a sum equal to at least 80 percent of the amount of the federal share of the grant award. Federal, required and excess non-Corporation resources can be used to make up the amount allotted for cost reimbursements.

(f) *May a sponsor pay stipends at a rate different than the rate established by the Corporation?* A sponsor shall pay stipends at the same rate as that established by the Corporation.

§ 2552.93 What are grants management requirements?

What rules govern a sponsor's management of grants?

(a) A sponsor shall manage a grant awarded in accordance with:

(1) The Act;

(2) Regulations in this part;

(3) 45 CFR Part 2541, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", or 45 CFR Part 2543, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations";

(4) The following OMB Circulars, as appropriate A–21, "Cost Principles for Educational Institutions", A–87, "Cost Principles for State, Local and Indian Tribal Governments", A–122, "Cost Principles for Non-Profit Organizations", and A–133, "Audits of States, Local Governments, and Other Non-Profit Organizations" (OMB circulars are available electronically at the OMB homepage www.whitehouse.gov/WH/EOP/omb); and

(5) Other applicable Corporation requirements.

(b) Project support provided under a Corporation grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which Corporation funds are budgeted must be justified as being necessary and essential to project operation.

(d) Other than reimbursement for meals during a normal meal period, project funds shall not be used to reimburse volunteers for expenses, including transportation costs, incurred while performing their volunteer assignments. Equipment or supplies for volunteers on assignment are not allowable costs. Assignment-related costs of transportation, equipment, supplies, etc. are the responsibility of the volunteer station or a third party, and are not an allowable grant cost.

(e) Volunteer expense items, including transportation, meals, recognition activities and items purchased at the volunteers' own expense and which are not reimbursed, are not allowable as contributions to the non-Federal share of the budget.

(f) Costs of other insurance not required by program policy, but maintained by a sponsor for the general conduct of its activities are allowable with the following limitations:

(1) Types and extent of and cost of coverage are according to sound institutional and business practices;

(2) Costs of insurance or a contribution to any reserve covering the risk of loss of or damage to Government-owned property are unallowable unless the government specifically requires and approves such costs; and

(3) The cost of insurance on the lives of officers, trustees or staff is unallowable except where such insurance is part of an employee plan which is not unduly restricted.

(g) Costs to bring a sponsor into basic compliance with accessibility requirements for individuals with disabilities are not allowable costs.

(h) Payments to settle discrimination allegations, either informally through a settlement agreement or formally as a result of a decision finding discrimination, are not allowable costs.

(i) Written Corporation approval/concurrence is required for the following changes in the approved grant:

(1) Reduction in budgeted volunteer service years.

(2) Change in the service area.

(3) Transfer of budgeted line items from Volunteer Expenses to Support Expenses. This requirement does not apply if the 80 percent volunteer cost reimbursement ratio is maintained.

Subpart J—Non-Stipended Foster Grandparents

§ 2552.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Foster Grandparents without stipends?

Over-income persons, age 60 or over, may be enrolled in FGP projects as non-stipended volunteers in communities where there is no RSVP project or where agreement is reached with the RSVP project that allows for the enrollment of non-stipended volunteers in the FGP project.

§ 2552.102 What are the conditions of service of non-stipended Foster Grandparents?

Non-stipended Foster Grandparents serve under the following conditions:

(a) They must not displace or prevent eligible low-income individuals from becoming Foster Grandparents.

(b) No special privilege or status is granted or created among Foster Grandparents, stipended or non-stipended, and equal treatment is required.

(c) Training, supervision, and other support services and cost reimbursements, other than the stipend, are available equally to all Foster Grandparents.

(d) All regulations and requirements applicable to the program, with the exception listed in paragraph (f) of this section, apply to all Foster Grandparents.

(e) Non-stipended Foster Grandparents may be placed in separate volunteer stations where warranted.

(f) Non-stipended Foster Grandparents will be encouraged but not required to serve an average of 20 hours per week and nine months per year. Foster Grandparents will maintain a close person-to-person relationship with their assigned children on a regular basis.

(g) Non-stipended Foster Grandparents may contribute the costs they incur in connection with their participation in the program. Such contributions are not counted as part of the required non-federal share of the grant but may be reflected in the budget column for excess non-federal resources.

§ 2552.103 Must a sponsor be required to enroll non-stipended Foster Grandparents?

Enrollment of non-stipended Foster Grandparents is not a factor in the award of new or continuation grants.

§ 2552.104 May Corporation funds be used for non-stipended Foster Grandparents?

Federally appropriated funds for FGP shall not be used to pay any cost, including any administrative cost, incurred in implementing the regulations in this part for non-stipended Foster Grandparents.

Subpart K—Non-Corporation Funded Foster Grandparent Program Projects

§ 2552.111 Under what conditions can an agency or organization sponsor a Foster Grandparent project without Corporation funding?

An eligible agency or organization who wishes to sponsor a Foster Grandparent project without Corporation funding, must sign a Memorandum of Agreement with the Corporation that:

(a) Certifies its intent to comply with all Corporation requirements for the Foster Grandparent Program; and

(b) Identifies responsibilities to be carried out by each party.

§ 2552.112 What benefits are a non-Corporation funded project entitled to?

The Memorandum of Agreement entitles the sponsor of a non-Corporation funded project to:

(a) All technical assistance and materials provided to Corporation-funded Foster Grandparent projects; and

(b) The application of the provisions of 42 U.S.C. 5044 and 5058.

§ 2552.113 What financial obligation does the Corporation incur for non-Corporation funded projects?

Entry into a Memorandum of Agreement with, or issuance of an NGA

to a sponsor of a non-Corporation funded project, does not create a financial obligation on the part of the Corporation for any costs associated with the project, including increases in required payments to Foster Grandparents that may result from changes in the Act or in program regulations.

§ 2552.114 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

A non-Corporation funded project sponsor's noncompliance with the Memorandum of Agreement may result in suspension or termination of the Corporation's agreement and all benefits specified in § 2552.112.

Subpart L—Restrictions and Legal Representation

§ 2552.121 What legal limitations apply to the operation of the Foster Grandparent Program and to the expenditure of grant funds?

(a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a matter supporting or resulting in the identification of such project with:

(i) Any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election; or

(ii) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(iii) Any voter registration activity, except that voter registration applications and nonpartisan voter registration information may be made available to the public at the premises of the sponsor. But in making registration applications and nonpartisan voter registration information available, employees of the sponsor shall not express preferences or seek to influence decisions concerning any candidate, political party, election issue, or voting decision.

(3) The sponsor shall not use grant funds in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except:

(i) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of such a program to draft, review or testify regarding measures or to make representation to such legislative body, committee or member; or

(ii) In connection with an authorization or appropriations measure directly affecting the operation of the FGP.

(b) *Non-displacement of employed workers.* A Foster Grandparent shall not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(c) *Compensation for service.* (1) An agency or organization to which NSSC volunteers are assigned, or which operates or supervises any NSSC program shall not request or receive any compensation from NSSC volunteers or from beneficiaries for services of NSSC volunteers.

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the grant or from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by the Corporation grant.

(3) A Foster Grandparent volunteer station may contribute to the financial support of the FGP. However, this support shall not be a required precondition for a potential station to obtain Foster Grandparent service.

(4) If a volunteer station agrees to provide funds to support additional Foster Grandparents or pay for other Foster Grandparent support costs, the agreement shall be stated in a written Memorandum of Understanding. The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project under the Memorandum of Understanding diminishes or jeopardizes the project's financial capabilities to fulfill its obligations.

(5) Under no circumstances shall a Foster Grandparent receive a fee for service from service recipients, their legal guardian, members of their family, or friends.

(d) *Labor and anti-labor activity.* The sponsor shall not use grant funds directly or indirectly to finance labor or anti-labor organization or related activity.

(e) *Fair labor standards.* A sponsor that employs laborers and mechanics for construction, alteration, or repair of facilities shall pay wages at prevailing rates as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

(f) *Nondiscrimination.* A sponsor or sponsor employee shall not discriminate against a Foster Grandparent on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if the Foster Grandparent with a disability is qualified to serve.

(g) *Religious activities.* A Foster Grandparent or a member of the project staff funded by the Corporation shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of his or her duties.

(h) *Nepotism.* Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the community group established by the sponsor under Subpart B of this part and with notification to the Corporation.

§ 2552.122 What legal coverage does the Corporation make available to Foster Grandparents?

It is within the Corporation's discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a Foster Grandparent are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the Foster Grandparent's activities pursuant to the Act. The circumstances under which the Corporation may pay such expenses are specified in 45 CFR part 1220.

Dated: March 15, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–6630 Filed 3–23–99; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1209 and 2553

RIN 3045–AA19

Retired and Senior Volunteer Program

ACTION: Final regulations.

SUMMARY: The Corporation for National and Community Service, (hereinafter the "Corporation"), amends the regulations governing the administration of the Retired and Senior Volunteer Program (RSVP). This final rule implements changes to the Domestic Volunteer Service Act of 1973

as amended, and establishes minimum program requirements with greater clarity. It updates program operations, consolidates requirements from outdated sources into one user friendly document; and incorporates new concepts of programming to highlight the accomplishments and impact of senior service. This amendment supersedes the old ACTION regulations and RSVP Operations Handbook 4700 dated May 1989.

DATES: These regulations take effect April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Rey Tejada at 202–606–5000 ext.197.

SUPPLEMENTARY INFORMATION: The Corporation published a notice of proposed rulemaking (NPRM) for the Retired and Senior Volunteer Program 45 CFR Parts 1209 and 2553 in the **Federal Register** at 63 FR 46972, September 3, 1998.

Summary of Main Comments and Changes

In response to the Corporation's invitation in the NPRM, the Corporation received 79 letters. A significant number (44 percent) of the letters came from one state. A summary of the main comments received and the Corporation's responses are provided in this final rule. Comments that are general or editorial in nature, or those requesting clarification of program requirements are not addressed in this final rule. The significant comments and the Corporation's responses are summarized by section as follows:

Section 2553.11 What is the Retired and Senior Volunteer Program?

Comments: Expressed concern that the language proposed for § 2553.11 puts too much emphasis on service and less on the volunteers.

Response: The Corporation understands the concerns expressed and has modified the section to emphasize the dual purpose of the program. The first sentence of § 2553.11 was revised by adding "for the dual purpose of engaging" after "organizations", "to meet critical community needs" after "service" and "and to provide a high quality experience that will enrich the lives of the volunteers." after "needs".

Section 2553.12(j) National Senior Service Corps

Comments: Objected to the use of the name National Senior Service Corps (NSSC) because it is not the name used in the DVSA.

Response: This name has been in use for the last several years and the Corporation has used significant resources for the development and design of a number of promotional program materials that are now in wide use by projects across the country.

Section 2553.23(a) Focusing Resources on Critical Needs

Comments: Objected to this requirement for being labor intensive and reducing the emphasis on assignments that are not outcome based.

Response: The Corporation appreciates the concerns expressed. However, the program's resources need to be focused on critical needs and this provision is essential to meet our obligation under the Government Performance and Results Act.

Section 2553.23(b) Assessment of Needs

Comments: The requirement may duplicate the work of other local organizations.

Response: The Corporation amended the provision to clarify that needs assessment may be conducted by the project or other community organizations.

Section 2553.23(d) Special Efforts to Recruit Minorities

Comments: Objected to the requirement that special efforts be made to recruit members of under represented groups.

Response: This provision restates a requirement from the old regulations and is based on a specific mandate from the DVSA.

Section 2553.23(f) Strategic Plan

Comments: Expressed concern that to require the development of a strategic plan would be a significant paperwork burden on projects.

Response: The Corporation understands the concerns expressed regarding the requirement and the potential burden it may produce. For this reason, the provision has been withdrawn from the final rule.

Section 2553.23(g) Plan for Promoting Service

Comments: Objected to the requirement and view it as a burden.

Response: The Corporation provides funding to each sponsor to cover the cost of program operations and considers promotion of service by older adults an essential part of operating the program.

Section 2553.23(h) Assessment of Accomplishments and Impact

Comments: Expressed concern about administrative demands the requirement for assessing impact would entail.

Response: The Corporation appreciates the concern expressed. However, the provision is essential for the Corporation to meet its obligations under the Government Performance and Results Act.

Section 2553.24 Securing Community Participation

Comments: The comments were mixed. Some oppose any changes in the structure, role and operation of the Advisory Council as they were specified in previous regulations. Others support the flexibility provided by the new rule.

Response: The new provision gives local program sponsors maximum flexibility for securing community participation. It gives them discretion to use an Advisory Council or another organizational structure to meet the requirement. The Corporation believes that the new rule gives local sponsors the ability to choose whatever method works best for them to involve the community in program operations.

Section 2553.25(b) Delegation of Authority

Comments: Expressed about the potential increase in work load for project directors to meet this requirement. Some were also confused as to what the delegation of authority means.

Response: After considering the concerns expressed, the Corporation has withdrawn the provision from the final rule.

Section 2553.25(d) Full-time Project Director

Comments: Objected to the policy provision on full-time project director.

Response: After considering the comments, the Corporation modified this section by deleting from the last sentence any reference to cost savings and leaving the basis for negotiating a part-time director position to the size, scope and quality of project operations. The new rule replaces the more rigid and cumbersome waiver process required under the old regulations to employ a part-time director.

Section 2553.43(a) Transportation

Comments: Expressed concern that the use of the word "may" in this section takes away the guarantee that volunteers will receive the transportation assistance they need to get to their assignments.

Response: After considering the comments, the Corporation modified this section by deleting the word "may" and using "shall" instead after "RSVP volunteers."

Section 2553.51 Terms of Service

Comments: The comments were mixed. Most believed there should be more flexibility to allow the project to count seasonal volunteers.

Response: After considering the comments, the Corporation modified this section by deleting the second sentence that required monthly service. This revision would allow weekly or short term assignments consistent with the volunteer's assignment description.

Section § 2553.61 Sponsor As Volunteer Station

Comments: Many expressed concern that the rule would prohibit volunteers from serving in programs administered by the sponsor. Others objected to the three year limit placed on projects to implement program initiatives in areas where there are no volunteer stations.

Response: After considering the comments, the Corporation replaced this section with a provision in the old regulation which allowed the assignment of volunteers in programs run by the sponsor, and for the project to serve as a volunteer station under certain conditions.

Section § 2553.62 Station Responsibilities

Comments: Objected generally to the responsibilities specified as being burdensome and may cause some volunteer stations to drop from the program.

Response: The Corporation reexamined the provision and finds that the responsibilities specified are needed to protect the welfare of volunteers while on assignment and enhance the impact of their services.

Section 2553.62(a)(2) Station Staff to Oversee Volunteers

Comments: Claimed that the requirement is unrealistic and not consistent with the intent of RSVP.

Response: This provision is a restatement of a requirement prescribed under the old regulations. The Corporation believes the requirement is necessary to provide adequate support for volunteers while they are on assignment.

Section 2553.91(c) Compensation for Service

Comments: Requested clarifying language for subsection (3) which states that station support shall not be a precondition to the assignment of volunteers, and subsection (4) which states that the sponsor shall withdraw services if the station is unable to provide monetary and in-kind support.

Response: The Corporation modified both subsections by moving the last sentence in subsection (3) and inserted it as the first sentence in subsection (4). This adjustment clarifies the Corporation's position that a volunteer station's ability to provide cash or in-kind support is not a precondition to the assignment of volunteers to that station. However, if a station agrees to provide support under a Memorandum of Understanding, but later decides to withdraw that support in a manner that reduces or diminishes the ability of the project to fulfill its obligations under the grant, then the sponsor can withdraw volunteer services from that station.

Regulatory Flexibility Act and Unfunded Mandates Reform Act

The General Counsel, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed this regulation and by approving certifies that this final rule will not have a significant impact on small business entities.

Under the Unfunded Mandates Reform Act of 1995, the Corporation certifies that this final rule does not include any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act of 1995

These final regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372. The objective of the Executive Order is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the Order, this document is intended to provide early notification of the Corporation's specific plans and actions for this program.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866. The Office of Management and Budget has reviewed this rule and has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review.

DISTRIBUTION TABLE

Old 45 CFR part 1209	New 45 CFR part 2553
1209.1–1	2553.11
1209.1–2	2553.12
1209.1–3	2553.23
1209.2–1	None
1209.2–2	2553.72
1209.2–3	2553.21
1209.2–4	2553.71
1209.2–5	2553.71
1209.2–6	2553.71
1209.2–7	2553.73
1209.2–8	2553.31
1209.3–1	2553.23
1209.3–2	2553.25
1209.3–3	2553.24
1209.3–4	2553.62
1209.3–5	2553.41
1209.3–6	2553.23
1209.3–7	None
1209.4–1	2553.81
1209.5–1	2553.91
1209.5–2	2553.92

List of Subjects

45 CFR Part 1209

Aged, Government contracts, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2553

Aged, Grant programs—social programs, Volunteers.

For the reasons set out in the preamble, and under the authority of 42 U.S.C. 12501 *et seq.*, part 1209 in 45 CFR chapter XII is redesignated as part 2553 in 45 CFR chapter XXV and is revised to read as follows:

PART 2553—THE RETIRED AND SENIOR VOLUNTEER PROGRAM

Subpart A—General

Sec.

2553.11 What is the Retired and Senior Volunteer Program?
2553.12 Definitions.

Subpart B—Eligibility and Responsibilities of a Sponsor

2553.21 Who is eligible to serve as a sponsor?
2553.22 What are the responsibilities of a sponsor?
2553.23 What are a sponsor's program responsibilities?
2553.24 What are a sponsor's responsibilities for securing community participation?
2553.25 What are a sponsor's administrative responsibilities?
2553.26 May a sponsor administer more than one program grant from the Corporation?

Subpart C—Suspension, Termination and Denial of Refunding

2553.31 What are the rules on suspension, termination and denial of refunding of grants?

Subpart D—Eligibility, Cost Reimbursements and Volunteer Assignments

2553.41 Who is eligible to be a RSVP volunteer?
2553.42 Is a RSVP volunteer a federal employee, an employee of the sponsor or of the volunteer station?
2553.43 What cost reimbursements are provided to RSVP volunteers?
2553.44 May cost reimbursements received by a RSVP volunteer be subject to any tax or charge, treated as wages or compensation, or affect eligibility to receive assistance from other programs?

Subpart E—Volunteer Terms of Service

2553.51 What are the terms of service of a RSVP volunteer?
2553.52 Under what circumstances may a RSVP volunteer's service be terminated?

Subpart F—Responsibilities of a Volunteer Station

2553.61 When may a sponsor serve as a volunteer station?
2553.62 What are the responsibilities of a volunteer station?

Subpart G—Application and Fiscal Requirements

2553.71 What is the process for application and award of a grant?
2553.72 What are project funding requirements?
2553.73 What are grants management requirements?

Subpart H—Non-Corporation Funded Projects

2553.81 Under what conditions may an agency or organization sponsor a RSVP project without Corporation funding?
2553.82 What benefits are a non-Corporation funded project entitled to?
2553.83 What financial obligation does the Corporation incur for non-Corporation funded projects?
2553.84 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

Subpart I—Restrictions and Legal Representation

2553.91 What legal limitations apply to the operation of the RSVP Program and to the expenditure of grant funds?
2553.92 What legal coverage does the Corporation make available to RSVP volunteers.

Authority: 42 U.S.C. 4950 *et seq.*

Subpart A—General

§ 2553.11 What is the Retired and Senior Volunteer Program?

The Retired and Senior Volunteer Program (RSVP) provides grants to qualified agencies and organizations for the dual purpose of: engaging persons 55 and older in volunteer service to meet critical community needs; and to provide a high quality experience that will enrich the lives of volunteers.

§ 2553.12 Definitions.

(a) *Act.* The Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 396, 42 U.S.C. 4950 *et seq.*

(b) *Adequate staffing level.* The number of project staff or full-time equivalent needed by a sponsor to manage NSSC project operations considering such factors as: number of budgeted volunteers, number of volunteer stations, and the size of the service area.

(c) *Assignment.* The activities, functions or responsibilities to be performed by volunteers identified in a written outline or description.

(d) *Chief Executive Officer.* The Chief Executive Officer of the Corporation appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

(e) *Corporation.* The Corporation for National and Community Service established under the NCSA. The Corporation is also sometimes referred to as CNCS.

(f) *Cost reimbursements.* Reimbursements budgeted as Volunteer Expenses and provided to volunteers to cover incidental costs, meals, transportation, volunteer insurance, and recognition to enable them to serve without cost to themselves.

(g) *Letter of Agreement.* A written agreement between a volunteer station, the sponsor, and person(s) served or the person legally responsible for that person. It authorizes the assignment of a RSVP volunteer in the home of a client, defines RSVP volunteer activities, and specifies supervision arrangements.

(h) *Memorandum of Understanding.* A written statement prepared and signed by the RSVP project sponsor and the volunteer station that identifies project requirements, working relationships and mutual responsibilities.

(i) *National Senior Service Corps (NSSC).* The collective name for the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and the Senior Companion Program (SCP), and Demonstration Programs established under Parts A, B, C, and E, Title II of the Act. NSSC is also referred to as the "Senior Corps".

(j) *Non-Corporation support (required).* The percentage share of non-Federal cash and in-kind contributions required to be raised by the sponsor in support of the grant, including non-Corporation federal, state and local governments and privately raised contributions.

(k) *Non-Corporation support (excess).* The amount of non-Federal cash and in-kind contributions generated by a sponsor in excess of the required percentage.

(l) *Project.* The locally planned and implemented RSVP activity or set of activities in a service area as agreed upon between a sponsor and the Corporation.

(m) *Qualified individual with a disability.* An individual with a disability (as defined in the Rehabilitation Act, 29 U.S.C. 705 (20)) who, with or without reasonable accommodation, can perform the essential functions of a volunteer position that such individual holds or desires. If a sponsor has prepared a written description before advertising or interviewing applicants for the position, the written description may be considered evidence of the essential functions of the volunteer position.

(n) *Service area.* The geographically defined area approved in the grant application, in which RSVP volunteers are recruited, enrolled, and placed on assignments.

(o) *Sponsor.* A public agency or private non-profit organization that is responsible for the operation of a RSVP project.

(p) *Trust Act.* The National and Community Service Trust Act of 1993, as amended, Public Law 103–82, Sept. 21, 1993, 107 Stat. 785.

(q) *United States and States.* Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, and Trust Territories of the Pacific Islands.

(r) *Volunteer station.* A public agency, private non-profit organization or proprietary health care agency or organization that accepts responsibility for assignment, supervision and training of RSVP volunteers. Each volunteer station must be licensed or otherwise certified, when required, by appropriate state or local government. Private homes are not volunteer stations.

Subpart B—Eligibility and Responsibilities of a Sponsor

§ 2553.21 Who is eligible to serve as a sponsor?

The Corporation awards grants to public agencies, including Indian tribes and non-profit private organizations, in the United States that have the authority to accept and the capability to administer a RSVP project.

§ 2553.22 What are the responsibilities of a sponsor?

A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the RSVP program as specified in the Act. A sponsor shall not delegate or contract these responsibilities to another entity. A sponsor shall comply with all regulations contained in this part, policies, and grant provisions prescribed by the Corporation.

§ 2553.23 What are a sponsor's program responsibilities?

A sponsor shall:

(a) Focus RSVP resources to have a positive impact on critical human and social needs within the project service area.

(b) Assess in collaboration with other community organizations or utilize existing assessments of the needs of the community or service area and develop strategies to respond to those needs using the resources of RSVP volunteers.

(c) Develop and manage a system of volunteer stations to provide a wide range of placement opportunities that appeal to persons age 55 and over by:

(1) Ensuring that a volunteer station is a public or non-profit private organization or an eligible proprietary health care agency capable of serving as a volunteer station for the placement of RSVP volunteers to meet locally identified needs;

(2) Ensuring the placement of RSVP volunteers is governed by a Memorandum of Understanding:

(i) That is negotiated prior to placement;

(ii) That specifies the mutual responsibilities of the station and sponsor;

(iii) That is renegotiated at least every three years; and

(iv) That states the station assures it will not discriminate against RSVP volunteers or in the operation of its program on the basis of race, color, national origin, sex, age, political affiliation, religion, or on the basis of disability, if the participant or member is a qualified individual with a disability; and

(3) Annually assessing the placement of RSVP volunteers to ensure the safety of volunteers and their impact on meeting the needs of the community.

(d) Consider the demographic make-up of the project service area in the enrollment of RSVP volunteers, taking special efforts to recruit eligible individuals from minority groups, persons with disabilities and under represented groups.

(e) Encourage the most efficient and effective use of RSVP volunteers by coordinating project services and activities with related national, state and local programs, including other Corporation programs.

(f) Develop, and annually update, a plan for promoting service by older adults within the project service area.

(g) Conduct an annual assessment of the accomplishments and impact of the project and how they meet the identified needs and problems of the community.

(h) Provide RSVP volunteers with cost reimbursements specified in § 2553.43.

§ 2553.24 What are a sponsor's responsibilities for securing community participation?

(a) A sponsor shall secure community participation in local project operation by establishing an Advisory Council or a similar organizational structure with a membership that includes people:

(1) Knowledgeable about human and social needs of the community;

(2) Competent in the field of community service and volunteerism;

(3) Capable of helping the sponsor meet its administrative and program responsibilities including fund-raising, publicity and programming for impact;

(4) With an interest in and knowledge of the capability of older adults; and

(5) Of a diverse composition that reflects the demographics of the service area.

(b) The sponsor determines how this participation shall be secured, consistent with the provisions of paragraphs (a)(1) through (a)(5) of this section.

§ 2553.25 What are a sponsor's administrative responsibilities?

A sponsor shall:

(a) Assume full responsibility for securing maximum and continuing community financial and in-kind support to operate the project successfully.

(b) Provide levels of staffing and resources appropriate to accomplish the purposes of the project and carry out its project management responsibilities.

(c) Employ a full-time project director to accomplish program objectives and manage the functions and activities delegated to project staff for NSSC program(s) within its control. A full-time project director shall not serve concurrently in another capacity, paid or unpaid, during established working hours. The project director may participate in activities to coordinate program resources with those of related local agencies, boards or organizations. A sponsor may negotiate the employment of a part-time project director with the Corporation when it can be demonstrated that such an arrangement will not adversely affect the size, scope and quality of project operations.

(d) Consider all project staff as sponsor employees subject to its personnel policies and procedures.

(e) Compensate project staff at a level that is comparable with similar staff positions in the sponsor organization and/or project service area.

(f) Establish risk management policies and procedures covering project and RSVP activities. This includes provision of appropriate insurance coverage for RSVP volunteers, vehicles and other properties used in the project.

(g) Establish record keeping and reporting systems in compliance with Corporation requirements that ensure quality of program and fiscal operations, facilitate timely and accurate submission of required reports and cooperate with Corporation evaluation and data collection efforts.

(h) Comply with and ensure that all volunteer stations comply with all applicable civil rights laws and regulations, including providing reasonable accommodation to qualified individuals with disabilities.

§ 2553.26 May a sponsor administer more than one program grant from the Corporation?

A sponsor may administer more than one Corporation program grant.

Subpart C—Suspension, Termination and Denial of Refunding

§ 2553.31 What are the rules on suspension, termination and denial of refunding of grants?

(a) The Chief Executive Officer or designee is authorized to suspend further payments or to terminate payments under any grant providing assistance under the Act whenever he or she determines there is a material failure to comply with applicable terms and conditions of the grant. The Chief Executive Officer shall prescribe procedures to insure that:

(1) Assistance under the Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days;

(2) An application for refunding under the Act may not be denied unless the recipient has been given:

(i) Notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial; and

(ii) Opportunity to show cause why such action should not be taken;

(3) In any case where an application for refunding is denied for failure to comply with the terms and conditions

of the grant, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Corporation; and

(4) Assistance under the Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held in locations convenient to the recipient agency.

(c) The procedures for suspension, termination, and denial of refunding, that apply to the Retired and Senior Volunteer Program are specified in 45 CFR Part 1206.

Subpart D—Eligibility, Cost Reimbursements and Volunteer Assignments

§ 2553.41 Who is eligible to be a RSVP volunteer?

(a) To be an RSVP volunteer, an individual must:

(1) Be 55 years of age or older;

(2) Agree to serve without compensation;

(3) Reside in or nearby the community served by RSVP;

(4) Agree to abide by all requirements as set forth in this part.

(b) Eligibility to serve as a RSVP volunteer shall not be restricted on the basis of formal education, experience, race, religion, color, national origin, sex, age, handicap or political affiliation.

§ 2553.42 Is a RSVP volunteer a federal employee, an employee of the sponsor or of the volunteer station?

RSVP volunteers are not employees of the sponsor, the volunteer station, the Corporation, or the Federal Government.

§ 2553.43 What cost reimbursements are provided to RSVP volunteers?

RSVP volunteers are provided the following cost reimbursements within the limits of the project's available resources:

(a) *Transportation.* RSVP volunteers shall receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, and recognition events. On-the-job or assignment related transportation costs are the responsibility of the volunteer station or a third party.

(b) *Meals.* RSVP volunteers shall receive assistance with the cost of meals taken while on assignment.

(c) *Recognition.* RSVP volunteers shall be provided recognition for their service.

(d) *Insurance.* A RSVP volunteer is provided with the Corporation-specified minimum levels of insurance as follows:

(1) *Accident insurance.* Accident insurance covers RSVP volunteers for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project sponsored activities. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources.

(2) *Personal liability insurance.* Protection is provided against claims in excess of protection provided by other insurance. It does not include professional liability coverage.

(3) *Excess automobile liability insurance.* (i) For RSVP volunteers who drive in connection with their service, protection is provided against claims in excess of the greater of either:

(A) Liability insurance the volunteers carry on their own automobiles; or

(B) The limits of applicable state financial responsibility law, or in its absence, levels of protection to be determined by the Corporation for each person, each accident, and for property damage.

(ii) RSVP volunteers who drive their personal vehicles to or on assignments or project-related activities shall maintain personal automobile liability insurance equal to or exceeding the levels established by the Corporation.

§ 2553.44 May cost reimbursements received by a RSVP volunteer be subject to any tax or charge, treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. RSVP volunteers' cost reimbursements are not subject to any tax or charge and are not treated as wages or compensation for the purposes of unemployment insurance, worker's compensation, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Cost reimbursements are not subject to garnishment, do not reduce or eliminate the level of or eligibility for assistance or services a volunteer may be receiving under any governmental program.

Subpart E—Volunteer Terms of Service

§ 2553.51 What are the terms of service of a RSVP volunteer?

A RSVP volunteer shall serve weekly on a regular basis, or intensively on short-term assignments consistent with the assignment description.

§ 2553.52 Under what circumstances may a RSVP volunteer's service be terminated?

(a) A sponsor may remove a RSVP volunteer from service for cause. Grounds for removal include but are not limited to: extensive and unauthorized absences; misconduct; inability to perform assignments; and failure to accept supervision.

(b) The sponsor shall establish appropriate policies on service termination as well as procedures for appeal from such adverse action.

Subpart F—Responsibilities of a Volunteer Station

§ 2553.61 When may a sponsor serve as a volunteer station?

The sponsor may function as a volunteer station, provided that no more than 5% of the total number of volunteers budgeted for the project are assigned to it in administrative or support positions. This limitation does not apply to the assignment of volunteers to other programs administered by the sponsor or special volunteer activities of the project. The RSVP project itself may function as a volunteer station or may initiate special volunteer activities provided the Corporation agrees that these activities are in accord with program objectives and will not hinder overall project operations.

§ 2553.62 What are the responsibilities of a volunteer station?

A volunteer station shall undertake the following responsibilities in support of RSVP volunteers:

(a) Develop volunteer assignments that impact critical human and social needs, and regularly assess those assignments for continued appropriateness;

(b) Assign staff member responsible for day to day oversight of the placement of RSVP volunteers within the volunteer station and for assessing the impact of volunteers in addressing community needs;

(c) Obtain a Letter of Agreement for an RSVP volunteer assigned in-home. The Letter of Agreement shall comply with all Federal, State and local regulations;

(d) Keep records and prepare reports as required;

(e) Comply with all applicable civil rights laws and regulations including reasonable accommodation for RSVP volunteers with disabilities; and

(f) Provide assigned RSVP volunteers the following support:

(1) Orientation to station and appropriate in-service training to enhance performance of assignments;

(2) Resources required for performance of assignments including reasonable accommodation;

(3) Supervision while on assignment;

(4) Appropriate recognition; and

(5) Provide for the safety of RSVP volunteers assigned to it.

(g) Undertake such other responsibilities as may be necessary to the successful performance of RSVP volunteers in their assignments or as agreed to in the Memorandum of Understanding.

Subpart G—Application and Fiscal Requirements

§ 2553.71 What is the process for application and award of a grant?

(a) *How and when may an eligible organization apply for a grant?*

(1) An eligible organization may file an application for a RSVP grant at any time.

(2) Before submitting an application, an applicant shall determine the availability of funds.

(3) The Corporation may also solicit grant applicants. Applicants solicited by the Corporation are not assured of selection or approval and may have to compete with other solicited or unsolicited applicants.

(b) *What must an eligible organization include in a grant application?*

(1) An applicant shall complete standard forms prescribed by the Corporation.

(2) The applicant shall comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs," (3 CFR, 1982 Comp., p. 197) in 45 CFR part 1233, and any other applicable requirements.

(c) *Who reviews the merits of a RSVP application and how is a grant awarded?*

(1) The Corporation reviews and determines the merit of an application by its responsiveness to published guidelines and to the overall purpose and objectives of the program. When funds are available, the Corporation awards a grant in writing to each applicant whose grant proposal provides the best potential for serving the purpose of the program. The award will be documented by a Notice of Grant Award (NGA).

(2) The Corporation and the sponsoring organization are parties to the NGA. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of the Corporation's obligation to provide financial support to the sponsor.

(d) *What happens if the Corporation rejects an application?* The Corporation will return to the applicant an application that is not approved for funding, with an explanation of the Corporation's decision.

(e) *For what period of time does the Corporation award a grant?* The Corporation awards a RSVP grant for a specified period that is usually 12 months in duration.

§ 2553.72 What are project funding requirements?

(a) *Is non-Corporation support required?*

(1) A Corporation grant may be awarded to fund up to 90 percent of the total project cost in the first year, 80 percent in the second year, and 70 percent in the third and succeeding years.

(2) A sponsor is responsible for identifying non-Corporation funds which may include in-kind contributions.

(b) *Under what circumstances does the Corporation allow less than the percentage identified in paragraph (a) of this section?* The Corporation may allow exceptions to the local support requirement identified in paragraph (a) of this section in cases of demonstrated need such as:

(1) Initial difficulties in the development of local funding sources during the first three years of operations; or

(2) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(3) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years.

(c) *May the Corporation restrict how a sponsor uses locally generated contributions in excess of the non-Corporation support required?* Whenever locally generated contributions to RSVP projects are in excess of the non-Corporation funds required (10 percent of the total cost in the first year, 20 percent in the second year and 30 percent in the third and succeeding years), the Corporation may not restrict the manner in which such contributions are expended provided such expenditures are consistent with the provisions of the Act.

(d) *Are program expenditures subject to audit?* All expenditures by the grantee of Federal and Non-Federal funds, including expenditures from excess locally generated contributions, are subject to audit by the Corporation, its Inspector General, or their authorized agents.

(e) *How much of the grant must be budgeted to pay volunteer expenses or cost reimbursements?* The total volunteer expenses and cost reimbursements for RSVP volunteers, including transportation, meals, recognition and insurance shall be an amount equal to at least 25 percent of the Corporation funds in the grant award. Corporation and non-Corporation resources may be used to make up this sum.

§ 2553.73 What are grants management requirements?

What rules govern a sponsor's management of grants?

(a) A sponsor shall manage a grant awarded in accordance with:

(1) The Act;

(2) Regulations in this part;

(3) 45 CFR Part 2541, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", or 45 CFR Part 2543, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations";

(4) The following OMB Circulars, as appropriate A–21, "Cost Principles for Educational Institutions", A–87, "Cost Principles for State, Local and Indian Tribal Governments", A–122, "Cost Principles for Non-Profit Organizations", and A–133, "Audits of States, Local Governments, and Other Non-Profit Organizations" (OMB circulars are available electronically at the OMB homepage www.whitehouse.gov/WH/EOP/omb); and

(5) Other applicable Corporation requirements.

(b) Project support provided under a Corporation grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which Corporation funds are budgeted must be justified as being essential to project operation.

(d) Project funds shall not be used to reimburse volunteers for expenses, including transportation costs, incurred while performing their volunteer assignments. Volunteers on assignment during a normal meal period may be reimbursed for the meal cost. Equipment or supplies for volunteers on assignment are not allowable costs. Assignment related costs of transportation, equipment, supplies, etc. are the responsibility of the volunteer station or a third party.

(e) Volunteer expense items, including transportation, meals,

recognition activities and items purchased at the volunteers own expense that are not reimbursed, are not allowable as contributions to the non-Federal share of the budget.

(f) Costs of other insurance not required by program policy, but maintained by a sponsor for the general conduct of its activities are allowable with the following limitations:

(1) Types and extent of and cost of coverage are according to sound institutional and business practices;

(2) Costs of insurance or a contribution to any reserve covering the risk of loss of or damage to Government-owned property are unallowable unless the government specifically requires and approves such costs; and

(3) The cost of insurance on the lives of officers, trustees or staff is unallowable except where such insurance is part of an employee plan which is not unduly restricted.

(g) Costs to bring a sponsor into basic compliance with accessibility requirements for individuals with disabilities are not allowable costs.

(h) Payments to settle discrimination allegations, either informally through a settlement agreement or formally as a result of a decision finding discrimination, are not allowable costs.

(i) Written Corporation State Office approval/concurrence is required for the following changes in the approved grant:

(1) Change in the approved service area.

(2) Transfer of budgeted line items from Volunteer Expenses to Support Expenses. This requirement does not apply if the 25 percent cost reimbursement ratio is maintained.

Subpart H—Non-Corporation Funded Projects

§ 2553.81 Under what conditions may an agency or organization sponsor a RSVP project without Corporation funding?

An eligible agency or organization who wishes to sponsor a RSVP project without Corporation funding, must sign a Memorandum of Agreement with the Corporation that:

(a) Certifies its intent to comply with all Corporation requirements for the Retired and Senior Volunteer Program; and

(b) Identifies responsibilities to be carried out by each party.

§ 2553.82 What benefits are a non-Corporation funded project entitled to?

(a) All technical assistance and materials provided to Corporation-funded RSVP projects; and

(b) The application of the provisions of 42 U.S.C. 5044 and 5058.

§ 2553.83 What financial obligation does the Corporation incur for non-Corporation funded projects?

Entry into a Memorandum of Agreement with, or issuance of an NGA to a sponsor of a non-Corporation funded project does not create a financial obligation on the part of the Corporation for any costs associated with the project.

§ 2553.84 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

A non-Corporation funded project sponsor's noncompliance with the Memorandum of Agreement may result in suspension or termination of the Corporation's agreement and all benefits specified in § 2553.82.

Subpart I—Restrictions and Legal Representation

§ 2553.91 What legal limitations apply to the operation of the RSVP Program and to the expenditure of grant funds?

(a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a matter supporting or resulting in the identification of such project with:

(i) Any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election; or

(ii) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(iii) Any voter registration activity, except that voter registration applications and nonpartisan voter registration information may be made available to the public at the premises of the sponsor. But in making registration applications and nonpartisan voter registration information available, employees of the sponsor shall not express preferences or seek to influence decisions concerning any candidate, political party, election issue, or voting decision.

(3) The sponsor shall not use grant funds in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except:

(i) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of such a program to draft, review or testify regarding measures or to make representation to such legislative body, committee or member; or

(ii) In connection with an authorization or appropriations measure directly affecting the operation of the RSVP Program.

(b) *Nondisplacement of employed workers.* A RSVP volunteer shall not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(c) *Compensation for service.* (1) An agency or organization to which NSSC volunteers are assigned, or which operates or supervises any NSSC program, shall not request or receive any compensation from NSSC volunteers or from beneficiaries for services of NSSC volunteers.

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the grant; or, from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by the Corporation grant.

(3) A RSVP volunteer station may contribute to the financial support of the RSVP Program. However, this support shall not be a required precondition for a potential station to obtain RSVP volunteers.

(4) If a volunteer station agrees to provide funds to support additional volunteers or pay for other volunteer support costs, the agreement shall be stated in a written Memorandum of Understanding. The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project under the Memorandum of Understanding diminishes or jeopardizes the project's financial capabilities to fulfill its obligations.

(5) Under no circumstances shall a RSVP volunteer receive a fee for service from service recipients, their legal guardian, members of their family, or friends.

(d) *Labor and anti-labor activity.* The sponsor shall not use grant funds directly or indirectly to finance labor or anti-labor organization or related activity.

(e) *Fair labor standards.* A sponsor that employs laborers and mechanics for construction, alteration, or repair of facilities shall pay wages at prevailing rates as determined by the Secretary of

Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

(f) *Nondiscrimination.* A sponsor or sponsor employee shall not discriminate against a RSVP volunteer on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if the volunteer with a disability is qualified to serve.

(g) *Religious activities.* A RSVP volunteer or a member of the project staff funded by the Corporation shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of his/her duties.

(h) *Nepotism.* Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the Advisory Council or community group established by the sponsor under subpart B of this part, and with notification to the Corporation.

§ 2553.92 What legal coverage does the Corporation make available to RSVP volunteers?

It is within the Corporation's discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a RSVP volunteer are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the volunteer's activities. The circumstances under which the Corporation may pay such expenses are specified in 45 CFR part 1220.

Dated: March 15, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–6632 Filed 3–23–99; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 51 and 64

[CC Docket No. 95–20; FCC 99–36]

Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Report and Order released March 10, 1999 streamlines the Commission's Comparably Efficient Interconnection (CEI) and network information disclosure rules. The Report and Order frees the Bell Operating Companies (BOCs) from the requirement that they obtain pre-approval of their CEI plans and plan amendments from the Commission before initiating or altering an intraLATA information service. This change to the CEI rules will result in new information services being available to the public sooner. The Report and Order clarifies the network information disclosure rules, and relieves the interexchange carriers (IXCs) and competitive local exchange carriers (Competitive LECs) from these reporting requirements. As a result, these carriers will no longer perform a task the Commission has found to be unnecessary.

DATES: Effective April 23, 1999, except for §§ 51.325, 64.702, and Subpart G of Part 64, which contain information collection requirements which have not been approved by the Office of Management and Budget (OMB) and which will be effective June 2, 1999. Written comments by the public on the modified information collections are due April 23, 1999. Written comments must be submitted by OMB on the modified information collections on or before May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Jonathan Reel, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580 or via the Internet at jreel@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted February 24, 1999, and released March 3, 1999. This Report and Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other federal agencies are invited to comment on the proposed information collections contained in this proceeding. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, N.W., Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9936.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Regulatory Flexibility Certification: As required by the Regulatory Flexibility Act, the Report and Order contains a Final Regulatory Flexibility Analysis which is set forth in the Report and Order. A brief description of the analysis follows. The Report and Order removes the network information disclosure requirements from interexchange carriers and competitive local exchange carriers. These carriers are thus relieved of the burden associated with the requirements, and for that reason the Commission continues to foresee no significant economic impact on a substantial number of small entities.

Paperwork Reduction Act: This Report and Order contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–12. Written comments by the public on the information collections are due 30 days after date of publication in the **Federal Register**. OMB notification of action is due May 24, 1999. Comments should address: (a) whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0817.

Title: Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, CC Docket No. 95–20.

Form No.: N/A.

Type of Review: Revised collection.

Information collection	No. of respondents (approx.)	Estimated time per response (house)	Total annual burden
Section 51.325	500	72	36,000

Total Annual Burden: 36,000 hours (no change in burden).

Respondents: Businesses or other for-profit.

Estimated costs per respondent: $0.

Needs and Uses: The Commission no longer requires Bell Operating Companies (BOCs) to file their Comparably Efficient Interconnection (CEI) plans with the Commission and to obtain pre-approval of CEI plans and amendments before initiating or altering an intraLATA information service. Instead, we require BOCs to post their CIE plans and plan amendments on their publicly accessible Internet sites linked to and searchable from the BOC's main Internet page, and to notify the Common Carrier Bureau of the posting. The Commission also extended the disclosure requirements in 47 CFR Section 51.325(a) to require incumbent LECs to provide public notice of any network changes that will affect the manner in which Customer Premises Equipment (CPE) is attached to the network. The requirements will be used to ensure that the affected carriers comply with Commission policies and regulations safeguarding against potential anticompetitive behavior in the provision of information services.

Synopsis of Order

I. Introduction

1. In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to examine its rules every two years and repeal or modify those found to be no longer in the public interest. Consistent with the directive of Congress, in 1998 the Commission undertook a comprehensive biennial review of the Commission's rules to promote "meaningful deregulation and streamlining where competition or other considerations warrant such action."

2.In this Report and Order (*Order*) the Commission evaluates the utility of two of the regulatory safeguards we employ to prevent carriers that control local exchange and exchange access facilities from using their market power for anticompetitive purposes in the provision of intraLATA information services. The first safeguard we review is the requirement that Bell Operating Companies (BOCs) file service-specific Comparably Efficient Interconnection (CEI) plans, and obtain the Commission's approval of those plans, prior to initiating or altering their intraLATA information services. The other safeguards we review are the Commission's network information disclosure requirements, which seek to prevent anticompetitive behavior by ensuring that Information Service Providers (ISPs) and others have timely access to information affecting interconnection to the BOCs", AT&T's, and other carriers' networks.

3. Our consideration of these two issues is part of a larger proceeding to reexamine issues relating to the safeguards applied primarily to the provision of information services by the BOCs. In January 1998, the Commission released a Further Notice of Proposed Rulemaking (*Further NPRM*) in the *Computer III* proceeding to reevaluate structural and nonstructural safeguards in light of recent developments, among them a remand from the United States Court of Appeals for the Ninth Circuit (*California III*), and the enactment of the 1996 Act. We also intended to repeal or modify any safeguards that we determine to be "no longer necessary in the public interest." In the *Further NPRM*, the Commission sought to strike a reasonable balance between the goal of reducing and eliminating those regulatory requirements it could, and the recognition that certain safeguards may still be necessary.

4. We conclude that although the BOCs must continue to comply with their CEI obligations, they should no longer be required to file or obtain pre-approval of CEI plans and plan amendments before initiating or altering an intraLATA information service. Instead, we will require the BOCs to post their CEI plans and plan amendments on their publicly accessible Internet sites, and to notify the Common Carrier Bureau upon such posting. We also conclude that the network information disclosure rules set forth in the *Computer II* and *Computer III* proceedings have been effectively superseded by the disclosure rules that the Commission adopted pursuant to the 1996 Act, and we therefore eliminate those rules. We retain the *Computer II* network disclosure requirement that incumbent local exchange carriers (LECs) must disclose network changes that could affect the manner in which customer premises equipment (CPE) is attached to the interstate network.

5. This modification of our CEI rules should reduce substantially the burden of compliance with these requirements by the BOCs. By eliminating the need to obtain pre-approval of the BOCs' CEI plans, we remove the delay that has sometimes hampered the BOCs in their introduction of new intraLATA information services. Requiring the BOCs to post CEI plans on their publicly accessible Internet sites should not delay the introduction of innovative information services, because posting and service initiation may occur simultaneously. Also, by limiting the notification aspect of the requirement to a single-page letter stating the Internet address and path to the relevant CEI plan, the new procedure minimizes the administrative burden associated with the plans. Removing the CEI plan pre-approval process allows BOCs to bring new services to consumers sooner. At the same time, by requiring BOCs to post their CEI plans on the Internet, we ensure that the information which the BOCs' competitors still need will continue to be widely and conveniently available.

6. By removing the *Computer II* and *Computer III* network disclosure regimes, we reduce from three to one the sources to which an incumbent LEC must look to ascertain its disclosure obligations. All of the Commission's network disclosure obligations now reside together in sections 51.325–335 of our rules, which clarifies and streamlines the network disclosure regulation that remains. In addition, by eliminating the *Computer II* "all carrier" rule, we remove entirely the regulatory burden of network information disclosure obligations from both IXCs and competitive LECs. Instead, we rely on market forces to ensure network disclosure by those sectors of the telecommunications industry that we find to be subject to competitive pressures, and in which no carrier enjoys the degree of market power that could make anti-competitive nondisclosure appealing. The measures we adopt in this *Order* thus carry out the Commission's obligation to review our rules to determine whether they are no longer necessary in the public interest as a result of meaningful economic competition.

II. Comparably Efficient Interconnection Plan Requirements

A. Background

7. Since its *Computer I* proceeding, the Commission has adopted a variety of regulatory tools to prevent improper cost allocation and access discrimination against ESPs in the provision of enhanced services, both by the BOCs, and, before divestiture, by their predecessor in interest, AT&T. In the *Computer II* proceeding, the Commission required the then-integrated Bell System to establish structurally separate affiliates for the provision of enhanced services in order to address the concern over AT&T's incentive and ability to engage in anticompetitive activity. Following the divestiture of AT&T in 1984, the Commission extended the structural separation requirements of *Computer II* to the BOCs. In *Computer III*, the Commission determined that the costs of structural separation outweighed the benefits, and that nonstructural safeguards could protect competitive ESPs from improper cost allocation and discrimination by the BOCs while avoiding the inefficiencies associated with structural separation.

8. Under *Computer III* and our Open Network Architecture rules, the BOCs are permitted to provide enhanced services on an integrated basis through the regulated entity, subject to certain nonstructural safeguards. One of the safeguards the Commission instituted in the *Computer III* decision requires the BOCs to obtain Commission approval of, and to comply with, a service-specific Comparably Efficient Interconnection (CEI) plan in order to offer a new enhanced service. In these CEI plans, the BOC must explain how it would offer to competitive ESPs, on a non-discriminatory basis, all the underlying basic services that the BOC uses to provide its own enhanced service offering. The Commission indicated that such a CEI requirement, itself a form of interconnection making basic network facilities and services available to the public.

9. The Commission in 1998 released a *Further NPRM* to reexamine the issues of structural and nonstructural safeguards in light of further developments. We observed in the *Further NPRM* that the BOCs remain the dominant providers of local exchange and exchange access services in their in-region states, and thus continue to have the ability to engage in anticompetitive behavior against competitive ISPs. The Commission also acknowledged that Congress recognized, in passing the 1996 Act, that competition will not immediately supplant monopolies. In addition, we noted that Congress required the Commission to conduct a biennial review of regulations that apply to operations or activities of any provider of telecommunications service, and to repeal or modify any regulation we determine to be "no longer necessary in the public interest."

10. In the *Further NPRM*, the Commission tentatively concluded that we should eliminate the requirement that BOCs file CEI plans and obtain Commission approval for those plans prior to providing new intraLATA information services. Given the protection afforded by the Commission's ONA requirements and the 1996 Act, we tentatively concluded that the administrative costs associated with BOC preparation and agency review of CEI plans outweighed their utility as an additional safeguard against access discrimination, and that the preparation and review of CEI plans could delay the introduction of new information services by the BOCs, without commensurate regulatory benefits. Finding that the burden imposed by these requirements outweighed their benefit as additional safeguards against access discrimination, we tentatively concluded that we should eliminate the requirement that BOCs file CEI plans, and obtain Bureau approval for those plans, prior to providing new information services. We also tentatively concluded that lifting the CEI plan filing requirement would further our statutory obligation to review and eliminate regulations that are "no longer necessary in the public interest." We sought comment on these tentative conclusions and our supporting analysis.

B. Discussion

1. Introduction

11. We believe that compliance with the Commission's CEI requirements remains conducive to the operation of a fair and competitive market for information services. Based on the record before us in this proceeding, and as we discuss below, we conclude that the BOCs' CEI plans have continuing importance in that they provide non-BOC ISPs with helpful information regarding their interconnection rights, options, and methods. These plans thus ensure that non-BOC ISPs have access to the underlying basic services that the BOCs use for their own information service offerings, access which enables those non-BOC ISPs to provide competitive offerings. We find that neither the protection afforded by ONA nor the effect of the 1996 Act has yet rendered the CEI plans superfluous as an effective means of making this information available and of promoting BOC compliance with their interconnection obligations. For these reasons, we do not at this time eliminate the requirement that BOCs publicly disclose in a written document how they will comply with the Commission's CEI parameters.

12. We further conclude, however, that, although the BOCs must continue to prepare CEI plans, we should no longer require BOCs to file their CEI plans with the Commission, or obtain the Commission's approval of these plans, before initiating a new or changing an existing intraLATA information service. We conclude that the chief burdens associated with the CEI requirements—the administrative burden associated with filing the plans, and the delay in the introduction of new services—can be eliminated without compromising the efficient dissemination of the information contained in the BOC CEI plans. We eliminate the requirement that BOCs file with the Commission and obtain from the Commission approval of their CEI plans. In its place, we require the BOCs to post on their publicly accessible Internet page, linked to and searchable from the BOC's main Internet page, their CEI plan for any new or altered intraLATA information service offering, and to notify the Common Carrier Bureau at the time of the posting.

2. Benefits of Public Disclosure of CEI Compliance

13. From the nine parameters of a BOC's CEI plan, an ISP can obtain detailed information regarding the following: Interface Functionality; Unbundling of Basic Services; Resale; Technical Characteristics; Installation, Maintenance, and Repair; End User Access; CEI Availability; Minimization of Transport Costs; Availability to All Interested ISPs.

14. We agree with non-BOC ISPs and other commenters that CEI plans provide useful information that is either not available, or not available in as much detail, from other sources. Moreover, we conclude that the BOCs' CEI plans present this information in a more usable form than is otherwise available to ISPs. The nine parameters of a CEI plan unite in a single document the disparate pieces of information that a BOC makes available to its competitors through other avenues. Such a collection of information in a single CEI plan is significantly useful to competitive ISPs. In addition, CEI plans describe the availability of comparable interconnection to *services*, as distinct

from the building-block *elements* of services described in ONA filings, and so provide competitive ISPs with a different and frequently more appropriate level of access to the public switched network.

15. Also, based on these circumstances, we do not believe that our progress in implementing the 1996 Act has reduced the threat of discrimination sufficiently to warrant removal of these additional safeguards at this time.

16. Posting CEI plans on their publicly accessible Internet sites should not hamper the BOCs in their introduction of innovative information services, because posting and service initiation may occur simultaneously. The substance of notification to the Bureau may be limited to the Internet address and path to the relevant CEI plan or amended plan; the form may consist of a letter to the Secretary with a copy to the Bureau.

3. Elimination of Filing and Pre-approval of CEI Plans

17. Based on the record before us, we conclude that the CEI plan filing and pre-approval process has significant disadvantages without commensurate advancement of our regulatory goal of ensuring fair and equal interconnection.

4. CEI Plans for Telemessaging, Alarm Monitoring, and Payphone Services

a. Section 260 Telemessaging and Section 275 Alarm Monitoring Services

18. In the *Telemessaging and Electronic Publishing Order*, 62 FR 7690, February 20, 1997, and the *Alarm Monitoring Order*, 62 FR 16093, April 4, 1997, respectively, the Commission concluded that the *Computer II*, *Computer III*, and ONA requirements continue to govern the BOCs' provision of intraLATA telemessaging services and alarm monitoring services.

19. For the same reasons we lift the CEI filing and pre-approval requirement for other intraLATA information services provided by the BOCs on an integrated basis, we also lift the requirement for section 260 telemessaging and section 275 alarm monitoring services. We also require the BOCs to post on their Internet sites CEI plans for new or modified telemessaging or alarm monitoring services, and to notify the Bureau of the posting. As with other BOC intraLATA information services, we believe this approach minimizes a BOC's administrative burden, and eliminates regulatory delay; provides competitive ISPs with essential information; promotes the Commission's ability to monitor and enforce BOC access and interconnection obligations; and appropriately acknowledges the degree that competitive providers of telemessaging and alarm monitoring services must still depend on the basic services of the incumbent LEC—usually a BOC—for access to their customers.

b. Section 276 Payphone Services

20. In the *Further NPRM*, we noted that section 276 directs the Commission to prescribe a set of nonstructural safeguards for BOC provision of payphone services that must include, at a minimum, "nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90–623) proceeding." In implementing section 276, the Commission required the BOCs, among other things, to file CEI plans describing how they would comply with various nonstructural safeguards. The Bureau approved the BOCs' CEI plans to provide payphone service on April 15, 1997. In the *Further NPRM*, we sought comment regarding whether to relieve the BOCs from the requirement of filing amendments to their CEI plans for payphone services, and how such a step would comport with the statutory requirement in section 276.

21. We now conclude that the BOCs should not be required to file or obtain approval of CEI plans for new payphone services or for amendments to their existing payphone plans. As with other applications of CEI, we find that the benefits of CEI plans may be largely preserved by instead requiring the BOCs to post on their Internet pages CEI plans for new or amended payphone services. Consistent with our application of CEI to intraLATA information services that BOCs provide on an integrated basis, we believe that, under current market conditions, such posting disseminates valuable interconnection information, and facilitates our enforcement of BOC interconnection responsibilities, at minimum cost to the BOCs.

5. IntraLATA Information Services Provided Through 272 and 274 Affiliates

a. Background

22. In the *Further NPRM*, we observed that, under our current rules, a BOC may provide an intraLATA information service either on an integrated basis pursuant to an approved CEI plan, or on a structurally separate basis pursuant to the Commission's *Computer II* rules. We noted that, in addition to the factors cited by the Commission in the *Computer III Phase I Order*, 51 FR 24350, July 3, 1986, the advent of the 1996 Act may affect our analysis of the relative costs and benefits of structural and nonstructural safeguards. In this context, we noted that the Act's local competition provisions should in time provide for alternate sources of access to basic services, thereby diminishing the BOCs' ability to engage in anticompetitive behavior against competitive ISPs.

23. *Section 272 Separate Affiliates.* In the *Non-Accounting Safeguards Order*, 62 FR 2927, January 21, 1997, the Commission noted that section 272 of the Act imposes specific separate affiliate and nondiscrimination requirements on BOC provision of interLATA information services, but that section 272 does not address BOC provision of intraLATA information services. We concluded that, pending the conclusion of the *Computer III Further Remand* proceeding, BOCs may continue to provide intraLATA information services on an integrated basis, in compliance with the Commission's nonstructural safeguards—including CEI—established in the Computer III and ONA proceedings. In the *Further NPRM*, however, we tentatively concluded that the BOCs should not have to file CEI plans for any information services they offer through section 272 separate affiliates, notwithstanding that section 272's requirements are not identical to the Commission's *Computer II* requirements. We also reasoned that our concern regarding access discrimination would be sufficiently addressed by requirements set forth in section 272 and the Commission's orders implementing that section.

24. *Section 274 Electronic Publishing.* In the *Telemessaging and Electronic Publishing Order*, the Commission concluded that our *Computer II*, *Computer III*, and ONA requirements continue to govern the BOCs' provision of intraLATA electronic publishing services.

25. In the *Further NPRM*, we tentatively concluded that, just as BOCs should not be required to file CEI plans for intraLATA information services they provide through a section 272 affiliate, so too the requirement should be lifted for electronic publishing services or other information services that BOCs provide through a section 274 affiliate.

b. Discussion

26. In this *Order*, we adopt our tentative conclusion that BOCs should not be required either to file or to obtain pre-approval of CEI plans for information services that are offered through section 272 or section 274 separate affiliates. The reasons that persuade us to eliminate the CEI filing

and approval process in the context of intraLATA information services that a BOC offers on an integrated basis —reduction of administrative burden and elimination of delay—apply with at least equal force to the intraLATA services that a BOC chooses to offer through a section 272 or section 274 separate affiliate. The requirements Congress set forth in sections 272 and 274 substantially reduce our concern regarding access discrimination, so there is even less reason to delay the introduction of an intraLATA information service pending our review of a CEI plan. That the pre-approval process might also delay the introduction of combined intra-and interLATA integrated information services is a further reason to eliminate the requirement.

27. Moreover, Congress has instructed us to repeal or modify any regulation we determine to be "no longer necessary in the public interest." That Congress itself has addressed in sections 272 and 274 concerns over discriminatory interconnection and misallocation of funds makes pre-Act regulation by the Commission targeted to the same concerns the object of our special scrutiny. Because we believe that structural separation protects against discriminatory interconnection better than do nonstructural safeguards such as CEI, we see no reason at this time to impose on the BOCs even the relatively light burden of posting CEI plans on the Internet for intraLATA information services they provide through a separate subsidiary. Accordingly, we will no longer require the BOCs to formulate CEI plans before initiating or altering any intraLATA information service offered through a section 272 or 274 affiliate.

6. Pending CEI Matters

a. Background

28. In the *Further NPRM*, we sought comment on whether, if we adopted our tentative conclusion to eliminate the CEI plan filing requirement for the BOCs, we should also dismiss as moot all pending CEI matters, including approval of pending CEI plans, pending CEI plan amendments, and requests for CEI plan waivers, on the condition that the BOCs must comply with any new or modified rules that we might establish.

b. Discussion

29. We now believe that the Commission's section 208 enforcement process is far better suited than the CEI plan pre-approval process to addressing the complex and highly fact-specific issues that arise in certain CEI plans. In certain instances these issues fall outside the scope of the nine CEI parameters. The section 208, formal complaint process is set up to conduct the fact-finding, arbitration, and adjudication necessary to resolve CEI-related disputes. Moreover, through use of the Commission's Accelerated Docket or revised complaint procedures, parties would have swifter resolution and closure of their CEI-related disputes. For these reasons, we are confident that all parties, BOCs and non-BOCs, will be better served by the information-and enforcement-based system we adopt today, and we dismiss all pending requests for approval of CEI plans and CEI plan amendments.

30. We also dismiss without prejudice any pending petitions for reconsideration or applications for review of orders approving CEI plans. We believe that these complicated, fact-specific issues may be more appropriately and more quickly resolved in the enforcement setting than in the context of a CEI plan. Accordingly, parties affected by such ancillary issues may file section 208 formal complaints with the Commission. Should they file such a complaint, those parties with previously pending challenges to CEI plans may, as appropriate, rely on their already existing record, rather than developing a factual record through the procedures normally applicable to formal complaints.

III. Network Information Disclosure Requirements

A. Background

31. In the *Further NPRM*, we addressed the Commission's network information disclosure rules. These rules seek to prevent anticompetitive behavior by ensuring that ISPs and others have timely access to information affecting interconnection to the BOCs', AT&T's, and other carriers' networks. Prior to the 1996 Act, the rules established in the Commission's *Computer II* and *Computer III* proceedings governed the disclosure of network information. Section 251(c)(5) of the Act requires incumbent LECs to "provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities or networks." In the *Local Competition Second Report and Order*, 61 FR 47284, September 6, 1996, the Commission adopted network information disclosure requirements to implement section 251(c)(5). Although we discussed our existing network information disclosure requirements in conjunction with the requirements of section 251(c)(5) in the *Local Competition Second Report and Order*, we did not address in that proceeding whether our *Computer II* and *Computer III* network information disclosure requirements should continue to apply independent of our section 251(c)(5) network information disclosure requirements. In the *Further NPRM*, we sought comment on the extent to which the Commission should retain the network information disclosure rules established in the *Computer II* and *Computer III* proceedings in light of the disclosure requirements stemming from section 251(c)(5) of the 1996 Act.

1. *Computer II* Network Disclosure Rules

32. The *Computer II* network information disclosure rules consist of two requirements: one, termed "the separate subsidiary rule," that depends on the existence of a *Computer II* separate subsidiary; and another, termed "the all carrier rule," that applies to all carriers owning basic transmission facilities, independent of whether the carrier has a separate subsidiary. The separate subsidiary network disclosure requirement obligates the BOCs to disclose "at a minimum, * * * any network information which is necessary to enable all [information] service * * * vendors to gain access to and utilize and to interact effectively with [the BOCs'] network services or capabilities, to the same extent that [the BOCs' *Computer II* separate affiliate] is able to use and interact with those network services or capabilities." In addition to technical information, the information required includes marketing information, such as "commitments of the carrier with respect to the timing of introduction, pricing, and geographic availability of new network services or capabilities." The other component of the *Computer II* network disclosure rules, the all carrier rule, encompasses "all information relating to network design * * * which would affect either intercarrier interconnection or the manner in which customer premises equipment is attached to the interstate network. * * *"

33. In the *Further NPRM*, we tentatively concluded that both *Computer II* network disclosure requirements should continue to apply—specifically, that the separate affiliate disclosure rule should continue to apply to BOCs that operate a Computer II subsidiary, and that the all carrier rule should continue to apply to

all carriers owning basic transmission facilities. We reasoned that the *Computer II* separate subsidiary disclosure rule should continue to apply to the BOCs because the rule encompasses some information, such as marketing information, which falls outside the scope of section 251(c)(5), and because the rule requires disclosure under a more stringent timetable than that required under section 251(c)(5). We based our tentative conclusion that the all carrier rule should be retained on two factors: first, that the rule requires carriers to disclose network changes that affect CPE, whereas our section 251(c)(5) rules require carriers to disclose only information that affects competitive service providers; and second, that the rule applies to all carriers, whereas section 251(c)(5) applies only to incumbent LECs.

2. Computer III Network Disclosure

34. The *Computer III* network information disclosure rules initially were imposed on AT&T and the BOCs in the *Phase I Order* and *Phase II Order*, 52 FR 20714, June 3, 1987. The Commission later extended the *Computer III* network information disclosure rules and other nondiscrimination safeguards to GTE in the *GTE ONA Order*. Under *Computer III*, the scope of network information that carriers must disclose is adopted from, and identical to, the *Computer II* requirements.

35. In the *Further NPRM*, we tentatively concluded that the network information disclosure rules for incumbent LECs that the Commission established pursuant to section 251(c)(5) should supersede the disclosure rules established in *Computer III*. We explained that, in our view, the 1996 Act disclosure rules for incumbent LECs are as comprehensive, if not more so, than the *Computer III* disclosure rules. We invited parties who disagreed to explain why, in light of the section 251(c)(5) rules, all or some aspects of the *Computer III* disclosure rules might still be needed.

3. Section 251(c)(5) Network Disclosure Rules

36. The Commission promulgated the rules implementing the section 251(c)(5) network disclosure requirements in the *Local Competition Second Report and Order*. The section 251(c)(5) network disclosure requirements apply to all incumbent LECs, as the term is defined in section 251(h) of the Act.

B. Discussion

37. We adopt our tentative conclusion that the network disclosure rules adopted pursuant to section 251(c)(5) supersede the *Computer III* disclosure rules. In addition, we remove the *Computer II* network disclosure rules that affect BOCs providing information services through a *Computer II* separate subsidiary. Finally, we eliminate the *Computer II* all carrier rule, but we preserve in our section 51 rules the requirement that incumbent LECs must disclose network changes that could affect the manner in which CPE is attached to the interstate network.

1. Computer III Network Disclosure Rules

38. We conclude that we should eliminate the *Computer III* network disclosure rules. We agree with comments that the section 251(c)(5) rules have rendered the *Computer III* network disclosure rules redundant.

2. Computer II Network Disclosure Rules

39. In the *Further NPRM* we identified two *Computer II* requirements that exceed the rules adopted pursuant to section 251(c)(5), the separate subsidiary rule and the all carrier rule. We address the separate subsidiary rule first.

a. The Separate Subsidiary Rule

40. In the *Further NPRM*, we recognized that some BOCs may be providing certain intraLATA information services through a *Computer II* subsidiary, rather than on an integrated basis under the Commission's *Computer III* rules. We tentatively concluded that the *Computer II* separate subsidiary disclosure rule should continue to apply in such cases. We conclude that maintaining the *Computer II* separate subsidiary network information disclosure rules is no longer necessary. We believe that the protection from discriminatory interconnection afforded by structural separation generally exceeds that provided by non-structural safeguards alone. It follows that a BOC that uses a *Computer II* separate affiliate should not be subject to more stringent network disclosure obligations than a BOC that offers such services on an integrated basis under the Commission's *Computer III* rules. Moreover, Congress has instructed us to repeal or modify any regulation we determine to be "no longer necessary in the public interest." Because we find that it is no longer necessary to retain the separate subsidiary disclosure rule, we remove it.

b. The All Carrier Rule

41. We conclude that disclosure of network information by carriers other than incumbent LECs is "no longer necessary in the public interest as a result of meaningful competition between providers. * * *" Because no single carrier now dominates the interexchange market, no interexchange carrier (IXC) has the incentive or the ability to gain an unfair advantage by withholding network information from ISPs. We also find that no new entrants into the local exchange market possess individual market power. Because IXCs and competitive LECs currently lack individual market power, they also lack the incentive to create incompatible network interfaces for existing services in order to leverage that power into upstream or downstream markets.

42. We conclude that, in contrast to the incumbent LECs, the IXCs and competitive LECs are not likely to gain the individual market power that would allow them profitably to withhold information necessary for interconnection to their networks in order to increase market power in upstream or downstream markets. Thus, we find that regulatory intervention to ensure network information disclosure is no longer needed for all carriers, but only for incumbent LECs, whose duty to disclose network changes that will affect other service providers is already defined by the section 251(c)(5) network disclosure rules. This conclusion comports with our statutory obligation to eliminate regulations that are no longer necessary due to meaningful economic competition among providers.

43. Although we relieve IXCs and competitive LECs from the specific, routine network information disclosure obligations previously required under the all carrier rule, we emphasize that the Communications Act imposes certain nondiscrimination requirements on all common carriers providing interstate communication services. Among them, section 201 provides that all common carriers have a duty "to establish physical connections with other carriers," and to furnish telecommunications services "upon reasonable request therefor." We conclude in this proceeding that, if a carrier fails to disclose network information that enables other entities to interconnect to the carrier's basic telecommunications facilities and services in a just and reasonable manner, such action would violate section 201 of the Act. Moreover, all common carriers remain subject to the nondiscrimination requirements in section 202 of the Act. The Commission will not hesitate to use its enforcement authority to determine whether any carrier's network information disclosure practices are unjust or unreasonable.

44. We further conclude that the *Computer II* network information disclosure rules that extend disclosure requirements to CPE should be retained, but that their application should be limited to incumbent LECs only. The primary purpose of network information disclosure in this context is not to protect intercarrier interconnection, but rather to give competitive manufacturers of CPE adequate advance notice when a carrier intends to alter its network in a way that may affect the manner in which CPE is attached to the network. Our concern has been that to the extent that a company with control over underlying transmission facilities also manufactures CPE, that company may have the incentive and ability to leverage its control of those facilities to favor its affiliate's CPE over that of competitive manufacturers. We note that section 201 interconnection and section 202 nondiscrimination obligations also apply in the context of CPE. We conclude that failure to disclose network changes that affect CPE could give incumbent LECs a significant head start in providing fully compatible equipment, and could thereby adversely affect competition in the CPE market.

45. Although we find it necessary to retain a network information disclosure requirement that extends incumbent LECs' disclosure obligations to CPE, we see no point in subjecting incumbent LECs to two separate sets of network information disclosure rules, each with its own timing, triggering, and notice requirements. Instead, we simplify our disclosure requirements to the extent feasible. We therefore remove from our rules the *Computer II* all carrier requirement, and instead extend the disclosure requirements in section 51.325(a) of our rules to require incumbent LECs to provide public notice of any network changes that will affect the manner in which CPE is attached to the network. By amending section 51.325(a) of our rules to include a CPE disclosure requirement to, we continue to require incumbent LECs to disclose that information.

IV. Procedural Matters

A. Final Regulatory Flexibility Certification

46. This regulatory flexibility certification supplements our prior certifications and analyses in this proceeding. The Regulatory Flexibility Act (RFA) requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The SBA defines small businesses under the category "Telephone Communications, Except Radiotelephone," to be those employing no more than 1,500 persons.

47. The Commission, in the previous *Further Notice of Proposed Rulemaking* (*Further NPRM*) in this proceeding, stated in the Initial Regulatory Flexibility Certification that the *Further NPRM* pertained to Bell Operating Companies (BOCs), each of which is an affiliate of a Regional Holding Company (RHC), as well as to GTE and AT&T. Because each BOC is dominant in its field of operations and all of the BOCs as well as GTE and AT&T have more than 1,500 employees, we previously certified that the proposed action would not have a significant economic impact on a substantial number of small entities. No commenter addressed this previous certification. Subsequently, however, it has became clear that the changes to the Commission's network information disclosure requirements will also affect IXCs and competitive LECs, because the present *Report and Order* removes the network information disclosure requirements from interexchange carriers (IXCs) and competitive local exchange carriers (LECs). At present, because these additional carriers are relieved of any burden associated with the requirements, we continue to foresee no significant economic impact on a substantial number of small entities, and therefore so certify regarding the rules adopted. In addition, this removal of regulation produces no reporting, recordkeeping, or other compliance requirement.

48. The Commission will send a copy of the *Report and Order*, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the *Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration. Finally, the *Report and Order* (or summary thereof) and certification will be published in the **Federal Register**.

V. Ordering Clauses

49. Accordingly, it is ordered that, pursuant to the authority contained in sections 1, 2, 4, 11, 201–205, 208, 251, 260, and 271–276, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 161, 201–205, 208, 251, 260, and 271–276, that the policies, rules, and requirements set forth herein are adopted, and that parts 51 and 64 of the Commission's rules, 47 CFR Parts 51 and 64, are amended as set forth in Rule Changes.

50. It is further ordered that, pursuant to 5 U.S.C. 553(d), the rules, requirements, and amendments set forth herein shall take effect 30 days after the publication of this Report and Order in the **Federal Register**, except for the amendments to parts 51 and 64 of the Commission's rules, 47 CFR parts 51 and 64, as set forth in Rule Changes, which, pursuant to 44 U.S.C. 3507(c), shall take effect 70 days after the publication of this Report and Order in the **Federal Register**.

51. It is further ordered that, pursuant to the authority contained in sections 1, 2, 4, and 201–204, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, and 201–204, the pending requests for approval of CEI plans and CEI plan amendments listed in Attachment A are dismissed.

52. It is further ordered that, pursuant to the authority contained in sections 1, 2, 4, and 201–204, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, and 201–204, the pending petitions for reconsideration or applications for review of orders approving CEI plans listed in Attachment B are dismissed without prejudice.

53. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act, *see* 5 U.S.C. 605(b).

List of Subjects

47 CFR Part 51

Communications common carriers, Telecommunications.

47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Attachment A—Pending Requests for Approval of CEI Plans or Amendments

1. Ameritech CEI Plan for Enhanced Services. DA 95–553. Plan filed March 13, 1995.
2. Bell Atlantic Amendment to CEI Plan for Internet Access Service. CCBPol 96–09. Amendment filed May 5, 1997.
3. Southwestern Bell Telephone Company CEI Plan for Internet Support Services. CCBPol 97–05. Plan filed May 22, 1997.
4. US West CEI Plan for Alarm Monitoring. CCBPol 98–02. Plan filed April 24, 1998.
5. BellSouth CEI Plan for Alarm Monitoring. CCBPol 98–03. Plan filed June 12, 1998.

Attachment B—Pending Petitions for Reconsideration or Applications for Review of Orders Approving CEI Plans

1. Reconsideration of Bell Atlantic Internet Access CEI Plan. CCBPol 96–9. Petition for Reconsideration filed July 3, 1996.
2. Applications for Review of Payphone CEI Orders. CC Docket No. 96–28. Applications for Review filed May 5, 1997.

Rule Changes

For the reasons discussed in the Preamble, the Federal Communications Commission amends 47 CFR parts 51 and 64 as follows:

PART 51—INTERCONNECTION

1. The authority citation for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, unless otherwise noted.

2. Section 51.325(a) is amended by revising paragraphs (a)(1) and (a)(2) and adding a new paragraph (a)(3):

§ 51.325 Notice of network changes; Public notice requirement.

(a) * * *

(1) Will affect a competing service provider's performance or ability to provide service;

(2) Will affect the incumbent LEC's interoperability with other service providers; or

(3) Will affect the manner in which customer premises equipment is attached to the interstate network.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

3. The authority for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. secs 201, 218, 226, 228, and 254(k) unless otherwise noted.

Subpart G of Part 64—[Amended]

§ 64.702 [Amended]

4. In the title of Subpart G of Part 64 and in paragraph (b) of § 64.702 remove the words "Communications Common Carriers" and add, in their place, the words "Bell Operating Companies."

5. In § 64.702, in paragraph (c), remove the words "Communications Common Carrier" and add, in their place, the words "Bell Operating Company," and revise the last sentence of paragraph (d)(2) to read as follows:

§ 64.702 Furnishing of enhanced services and customer-premises equipment.

* * * * *

(d) * * *

(2) * * * Such information shall be disclosed in compliance with the procedures set forth in 47 CFR 51.325 through 51.335.

* * * * *

[FR Doc. 99–6726 Filed 3–23–99; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1822

Designation of Contracts for Notification to the Government of Actual or Potential Labor Disputes

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule amends the NASA Federal Acquisition Regulation Supplement (NFS) to designate all NASA contracts in excess of the simplified acquisition threshold as requiring notification to the Government of actual or potential labor disputes that are delaying or threaten to delay timely contract performance.

EFFECTIVE DATE: March 24, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, Telephone: (202) 358–0444, e-mail: joseph.lecren@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

Background

FAR 22.101–1(e) permits the head of the contracting activity to designate programs or requirements requiring notifying the Government of actual or potential labor disputes that are delaying or threaten to delay timely contract performance. Contracts resulting from those programs or requirements are to include the clause at FAR 52.222–1, Notice to the Government of Labor Disputes. NASA believes it is appropriate, in order to establish consistent application across the agency, to designate the contracts in which the requirement for contractor notification shall be included. NASA has selected the notification requirement to be included in all contracts in excess of the simplified acquisition threshold to ensure that it is made aware of labor disputes which could adversely impact critical mission needs.

Impact

Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comments is not required. However, comments from small entities concerning the affected NFS subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.*

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1822

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1822 is amended as follows:

1. The authority citation for 48 CFR Part 1822 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

1822.101–1 [Amended]

2. In section 1822.101–1, paragraph (e) is added to read as follows:

1822.101–1 General. (NASA supplements paragraphs (d) and (e))

* * * * *

(e) Programs or requirements that result in contracts in excess of the simplified acquisition threshold shall require contractors to notify NASA of actual or potential labor disputes that are delaying or threaten to delay timely contract performance.

3. Section 1822.103–5 is added to read as follows:

1822.103–5 Contract clauses. (NASA supplements paragraph (a))

(a) See 1822.101–1(e).

[FR Doc. 99–7205 Filed 3–23–99; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25 and 36

RIN 1018–AE21

Regulations for Administrative and Visitor Facility Sites on National Wildlife Refuges in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule amends current regulations and provides us with proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on administrative and visitor facility sites commonly located outside the approved boundaries of national wildlife refuges in Alaska.

DATES: This rule is effective April 23, 1999.

ADDRESSES: U.S. Fish and Wildlife Service, Attention: George Constantino, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: George Constantino; telephone (907) 786–3557.

SUPPLEMENTARY INFORMATION:

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) as amended and Section 1306 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) (16 U.S.C. 3196) authorize the Secretary of the Interior to establish administrative sites and visitor facilities outside the boundaries of, and in the vicinity of, refuge units and to prescribe regulations governing use of such acquired lands.

We originally published the current regulations governing use on units of the National Wildlife Refuge System in Alaska, codified at 50 CFR part 36, in the **Federal Register** on June 17, 1981 (46 FR 31827, as corrected at 46 FR 40194, August 7, 1981), and amended them in 1986 (51 FR 44793, December 12, 1986). The existing regulations in part 36 are applicable only on federally-owned lands within the approved boundaries of Alaska National Wildlife Refuges. We currently have administrative and visitor facility sites that are both inside and outside the approved boundaries of refuges, some of which are held in less than fee title. Examples of visitor facility sites include Alaska Maritime Refuge's Visitor Center and Headquarters Complex (fee title land) in Homer; Tetlin Refuge's two campgrounds (leased from the State of Alaska) near Northway; and Kenai Refuge's "Sportsmen's Lodge" access and parking area (leased from the State of Alaska and Memorandum of Understanding with the U.S. Forest Service) on the Kenai River at the Russian River confluence near Cooper Landing. Refuge officers currently do not have full authority to enforce applicable Federal and State regulations at visitor facility locations such as those noted above and other administrative sites, including refuge staff offices and residences. The primary purpose of these regulations is to provide us with the proper regulatory authority to enforce regulations concerning public safety, protection of United States government property, and State of Alaska fish and resident wildlife statutes on administrative and visitor facility sites of national wildlife refuges in Alaska.

Analysis of Public Comments and Changes Made to the Proposed Rule

We received two written comments on the proposed rule; one from the general public and one from the State of Alaska's Division of Governmental Coordination (Division). The comment from the member of the general public opposed the regulations and stated that we "should not have the ability to enforce State Fish and Game regulations anywhere and existing authority, if any, should be curtailed not increased." The Division's comments requested that we not promulgate these regulations as they are unnecessary. Their opposition focused primarily on the fact that the Service and the Alaska Department of Public Safety were currently in the process of renegotiating a Memorandum of Agreement for cooperative law enforcement. The draft agreement provided a delegation of State authority to specified Service refuge officers to enforce State criminal, motor vehicle, and public safety laws and regulations on lands leased or owned by us, or in situations involving an immediate threat to public safety. The Division contended that the completed Memorandum of Agreement would resolve our gap in authority without expanding the Federal regulatory presence on these lands.

Both parties have now signed the final Memorandum of Agreement. The agreement does partially address our needs by including a provision which allows delegation of refuge officers as State authorities for the conservation of wildlife and natural resources as well as for public safety. However, according to the agreement, only refuge officers "whose principal duty is the enforcement of conservation laws . . ." receive delegated State authority. The State delegation of authority greatly expands a refuge officer's authority on all lands within the boundary of the State of Alaska. Both parties understood while developing the agreement that only a very limited number of refuge officers would receive State authority, and the State would approve individuals on a case-by-case basis. It was not the intent of the agreement to grant State cross-deputization with an associated broad expansion of authorities to all refuge officers in order to resolve our need for a limited expansion of authority for refuge officers at refuge administrative and visitor facility sites.

The State also had concerns whether the scope of the regulations would include access areas such as Alaska Native Claims Settlement Act (ANCSA) 17(b) easements or would affect the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII subsistence issues.

After considering the foregoing comments, we need this regulation to provide all refuge officers with the proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on refuge administrative and visitor facility sites. In response to the State's concerns, we have amended the language to clarify that the scope of the regulation does not include ANCSA 17(b) easements. The regulation does not affect ANILCA Title VIII issues.

Required Determinations

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule subject to Office of Management and Budget review under Executive Order 12866.

1. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

This action is of an administrative nature only, and places no new economic or regulatory burden on the visiting public.

2. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. See explanation under Regulatory Flexibility Act.

3. This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. See explanation under Regulatory Flexibility Act.

4. This rule does not raise novel legal or policy issues. See explanation under Regulatory Flexibility Act.

Regulatory Flexibility Act

The primary purpose of these revised regulations is to provide us with the proper regulatory authority to enforce regulations concerning public safety, protection of United States government property, and State of Alaska fish and resident wildlife statutes on fewer than ten administrative and visitor facility sites located both inside and outside the National Wildlife Refuges System in Alaska. Examples of these sites include Alaska Maritime Refuge's Visitor Center and Headquarters Complex (fee title land) in Homer, Tetlin Refuge's two campgrounds (leased from the State of Alaska) near Northway, and Kenai Refuge's "Sportsmen's Lodge" access and parking area (leased from the State of Alaska and memorandum of understanding with the U.S. Forest Service) on the Kenai River at the Russian River confluence near Cooper Landing. This action is of an administrative nature only, and places no new economic or regulatory burden on the visiting public.

We certify that this document will not have a significant economic effect on a substantial number of small entities such as businesses, organizations and governmental jurisdictions in the area under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq., Pub. L. 104–4, E.O. 12875)

This rulemaking does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. See explanation under Regulatory Flexibility Act determination. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. See explanation under Regulatory Flexibility Act determination.

Federalism (E.O. 12612)

In accordance with Executive Order 12612, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. It will not have substantial direct effects on the States, in their relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from ten or more parties and a submission under the Paperwork Reduction Act of 1995 is not required.

Section 7 Consultation

We reviewed this rule with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and find the action is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species within the System since the rule is administrative, financial, legal, technical or procedural in nature and/or makes minor modifications to existing public use programs.

National Environmental Policy Act

We ensure compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) when developing refuge public use management plans, and we make determinations required by NEPA before the addition of refuges to the lists of areas open to public uses in 50 CFR part 32. The minor revisions to regulations as outlined in this document amend current regulations to provide us with the proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on administrative and visitor facility sites commonly located outside the approved boundaries of national wildlife refuges in Alaska. In accordance with 516 DM 2, Appendix 1, we have determined that this rule is categorically excluded from the National Environmental Policy Act (NEPA) process because it is limited to "policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature." 516 DM 2, Appendix 1, Sec. 1.10. These regulations simply qualify or otherwise define methods we may or may not use, for purposes of resource management.

Individual refuge headquarters retain information regarding public use programs and the conditions that apply to their specific programs, and maps of their respective areas. You may also obtain information from the regional office at the address listed below:

Region 7—Alaska. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3557.

Primary Author

George Constantino, Chief, Division of Refuges, U.S. Fish and Wildlife Service, Alaska Region.

List of Subjects

50 CFR Part 25

Administrative practice and procedure, Concessions, Reporting and recordkeeping requirements, Safety, Wildlife refuges.

50 CFR Part 36

Alaska, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife refuges.

For the reasons set forth in the preamble, we amend parts 25 and 36 of Chapter I of Title 50 of the *Code of Federal Regulations* as follows:

PART 25—[AMENDED]

1. The authority citation for part 25 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 715i, 3901 *et seq.*,; and 102–402, 106 Stat. 1961.

2. We amend § 25.12 by revising the section heading and by adding the definition for "Service" in alphabetical order to read as follows:

§ 25.12 What do these terms mean?

* * * * *

Service or *we* means U.S. Fish and Wildlife Service, Department of the Interior.

* * * * *

PART 36—[AMENDED]

3. We revise the authority citation for part 36 to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460(k) *et seq.*, 668dd–668ee, as amended, 742(a) *et seq.*, 3101 *et seq.*; and 44 U.S.C. 3501 *et seq.*

4. Amend § 36.1 by revising the section heading, by revising paragraph (b), and by adding paragraph (c) to read as follows:

§ 36.1 How do the regulations in this part apply to me and what do they cover?

* * * * *

(b) Except as provided in paragraph (c) of this section, the regulations contained in this part are applicable only on federally-owned lands within the boundaries of any Alaska National Wildlife Refuge. For purposes of this part, "federally-owned lands" means land interests held or retained by the United States, but does not include those land interests:

(1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska; or

(2) Interim conveyed or patented to a Native Corporation or person.

(c) The regulations found in 50 CFR, parts 25, 26, 27, and 28, and §§ 32.2(d) and 32.5(c), except as supplemented or modified by this part or amended by ANILCA, along with the regulations found in 50 CFR 36.35(d), also are applicable to administrative and visitor facility sites of the Fish and Wildlife Service in Alaska which we may hold in fee or less than fee title and are either inside or outside the approved boundaries of any Alaska National Wildlife Refuge. Less than fee title lands do not include easements under Section 17(b) of the Alaska Native Claims Settlement Act (85 Stat. 688), but although not limited to, they include sites administered by a national wildlife refuge under the terms of a memorandum of understanding or lease agreement.

5. Amend § 36.2 by revising the section heading, by removing paragraph designations (a) through (o), placing existing definitions in alphabetical order, and by adding a new definition in alphabetical order to read as follows:

§ 36.2 What do these terms mean?

* * * * *

Administrative and visitor facility sites means any facility or site administered by the U.S. Fish and Wildlife Service for public entry or other administrative purposes including, but not limited to, refuge staff offices, visitor centers, public access and parking sites, and campgrounds.

* * * * *

6. Amend § 36.33(a) by revising the section heading, and by removing paragraph designations (a)(1) through (a)(11), and placing existing definitions in alphabetical order, to read as follows:

§ 36.33 What do I need to know about using cabins and related structures on Alaska National Wildlife Refuges?

* * * * *

Dated: December 7, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–6942 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018–AE58

Seasonal Closure of the Moose Range Meadows Public Access Easements in the Kenai National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We restrict public access and use of the public easements in the Moose Range Meadows area within the boundary of the Kenai National Wildlife Refuge (Refuge). This seasonal closure is necessary to prevent incompatible levels of bank degradation that occur along the easements due to intensive bank angling during the sockeye (red) salmon fishery each summer. We will prohibit public access and use on our managed easements from July 1 through August 15 annually.

DATES: This rule is effective April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Robin West, Refuge Manager, Kenai National Wildlife Refuge, telephone: (907) 262–7021; or Bob Stevens, Public Involvement Specialist, telephone: (907) 786–3499.

SUPPLEMENTARY INFORMATION:

Background

This seasonal closure is necessary to prevent incompatible levels of bank degradation that occur along the easements due to intensive bank angling during the sockeye (red) salmon fishery each summer. Concentrated bank angling along the easements has led to unacceptable levels of vegetation destruction and accelerated erosion of the riverbank. Healthy riverbank habitats are important in maintaining the Kenai River's famous anadromous and resident fish populations and in meeting the primary purpose of the Refuge.

We manage two public use easements on the banks of the Kenai River within lands conveyed to the Salamatof Native Association, Inc. We reserved the easements under terms of the August 17, 1979, stipulated settlement agreement between the United States, Cook Inlet Region Inc., and Salamatof Native Association Inc. We reserved the subject easements ". . . for the public at large to walk upon or along such banks, to fish from such banks or to launch or beach a boat upon such banks . . ." We also reserved two access easements from existing roadways to the river bank easements under the same agreement and limited use of the two access easements to foot travel or wheelchairs.

The level of foot traffic and use on the river bank easements has increased dramatically since the mid-1980's. The development and growth of the sockeye salmon sport fishery is the principal activity which has lead to this high level of public use. In recent years, use has grown to the point where impacts to the vegetated banks of the Kenai River are readily apparent.

Discussions and meetings among our staff, landowners, users, and other State and Federal managing agencies on how to deal with increasing use of the easements have been ongoing since the late 1980's. In 1995, the Kenai National Wildlife Refuge Manager (Refuge Manager) issued an emergency closure of portions of the public access easements pursuant to the authorities granted in 50 CFR 36.42. In issuing the emergency closure, the Refuge Manager determined that the human-caused bank degradation occurring as a result of the intensive bank angling effort was incompatible with the Refuge's purpose to, ". . . conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonids and other fish; waterfowl and other migratory and nonmigratory birds", [Alaska National Interest Lands Conservation Act (ANILCA),16 U.S.C. 140hh-3233, 43 U.S.C. 1602–1784]. By regulation, we limited this emergency action to 30 days in duration.

Following the closure in 1995, the Refuge Manager prepared an environmental assessment (EA), with full public involvement, to analyze the management alternatives for the Moose Range Meadows access easements (obtain copies of the EA from the Refuge Manager). Through the EA process, we selected a management alternative that would permanently close the easements

on a seasonal basis. We instituted a temporary closure during the peak use season of 1996 pursuant to 50 CFR 36.42 as an interim management measure. This rulemaking action is a necessary part of implementing the preferred alternative to make permanent the seasonal use closure.

In the March 18, 1998, issue of the **Federal Register** (63 FR 13158–13161) we published a proposed rulemaking and invited public comment on these regulations and received no public comments during the 60-day comment period.

The seasonal closure will be in effect on the 25-foot wide streamside easements on both banks of the Kenai River, and on the 25-foot wide access easements running from Funny River Road and Keystone Drive to the downstream ends of the stream side easements on the south and north banks of the River, respectively. This closure will affect approximately three miles of stream side easements (two miles on the north bank and one mile on the south bank) and an additional one mile of access easements. T. 4 N.; R. 10 W.; Sections 1, 2, and 3; and Seward Meridian contains lands affected by this action. Maps of the affected area are available from the Refuge Manager.

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, (16 U.S.C. 668dd–668ee), and the Refuge Recreation Act (RRA) of 1962, (16 U.S.C. 460k–460k–4) govern the administration and public use of national wildlife refuges.

The National Wildlife Refuge System Improvement Act of 1997 (Pub.L. 105–57) is the latest amendment to the NWRSAA. It amends and builds upon the NWRSAA in a manner that provides an improved "Organic Act" for the Refuge System similar to those which exist for other public lands. It serves to ensure that we effectively manage the System as a national system of lands, waters and interests for the protection and conservation of our nation's wildlife resources. The NWRSAA states first and foremost that the mission of the System focus on conservation of fish, wildlife, and plant resources and their habitat. This Act prevents the Secretary from initiating or permitting a new use of a refuge or expanding, renewing, or extending an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety.

The RRA authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which we established the areas. This Act requires that any recreational use of refuge lands be compatible with the primary purposes for which we established the refuge and not inconsistent with other previously-authorized operations.

The Alaska National Interest Lands Conservation Act of 1980, (16 U.S.C. 140hh–3233), (43 U.S.C. 1602–1784) (ANILCA), requires that we administer national wildlife refuges in Alaska in accordance with the laws governing the administration of the System. Section 304 of ANILCA adopted the compatibility standard of the Refuge Administration Act for Alaska refuges. When determining appropriate public uses of Alaska refuges, the refuge manager must find the use or uses compatible.

The NWRSAA establishes the same standard of compatibility for Alaska refuges as for other national wildlife refuges, but it specifically requires that ANILCA take precedence if any conflict arises between the two laws. Additionally, the provisions of ANILCA are the primary guidance refuge managers should use when examining compatibility issues regarding subsistence use. We may alter the compatibility process in some cases for Alaska refuges to include additional procedural steps such as when reviewing applications for oil and gas leasing on non-North-Slope lands (ANILCA Sec. 1008) and for applications for transportation or utility corridors (ANILCA Sec. 1104).

Section 22(g) of the Alaska Native Claims Settlement Act provides that patents issued for the land within the boundaries of a refuge existing on December 18, 1971, the date of Act signing, are subject to laws and regulations governing the use and development of such refuges. This includes application of the compatibility standard before uses or development may occur on the land.

Alaska refuges established before the passage of ANILCA have two sets of purposes. Purposes for pre-ANILCA refuges (in effect on the day before the enactment of ANILCA) remain in force and effect, except to the extent that they may be inconsistent with ANILCA or the Alaska Native Claims Settlement Act, in which case the provisions of those Acts apply. However, the original purposes apply only to those portions of the refuge established by executive order or public land order, and not to those portions of the refuge added by ANILCA.

The NWRSAA, and the RRA, also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

This rule regulates public use of our managed easements in a manner that is compatible with Refuge purposes as defined in section 303(4)(B) of ANILCA. We further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound fish and wildlife management, helps implement Executive Orders 12996 (Management and Public Use of the National Wildlife Refuge System) and 12962 (Recreational Fisheries) and is otherwise in the public interest by regulating recreational opportunities at national wildlife refuges. Sufficient funds will be available within the refuge budgets to operate the hunting and sport fishing programs.

Summary of Public Involvement

The public frequently has focused on the local area where land interests are centered. On February 20, 1996 we conducted a workshop-style public meeting in Soldotna, Alaska. Thirty people attended the discussions; an additional 15 provided written views. We incorporated the information received into an environmental assessment and mailed the EA to those meeting participants requesting a copy. Fourteen persons responded to the assessment with written comments which we considered in the preparation of the decision document. Eleven of those 14 persons writing had property interests affected by the proposed closure.

We published the resulting proposed rule in the **Federal Register** on March 18, 1998 (63 FR 13158), with a 60-day comment period, and on March 19, 1998 held a public meeting attended by approximately fifty people in Soldotna. Two attendees provided testimony in opposition to the closure because we were terminating their customary fishing access. We received no specific recommendations for changing the proposed rule nor did we receive written responses to the proposed rule during the 60-day public review.

In adopting the President's "plain language" mandate, we have revised "(7) Other Public Uses" to incorporate plain language changes without modifying the substance of the previous restrictions. We included the substantive changes discussed in this preamble in this effort.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule subject to Office of Management and Budget review under Executive Order 12866. See explanation under Regulatory Flexibility Act.

1. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. See explanation under Regulatory Flexibility Act.

2. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. See explanation under Regulatory Flexibility Act.

3. This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. See explanation under Regulatory Flexibility Act.

4. This rule does not raise novel legal or policy issues. See explanation under Regulatory Flexibility Act.

Regulatory Flexibility Act

This rulemaking will not have a significant economic impact on a substantial number of small entities by decreasing visitation and expenditures in the surrounding area of Kenai NWR. This is not a fishing closure and the same number of anglers will continue to fish the Kenai River. They will simply access the river in a different location.

Since the first emergency closure in 1995, public use has continued to increase. Many of these people are local or own summer homes along the river. They will continue to pay for fishing licenses, magazines, membership dues, contributions, land leasing, ownership, stamps, tags, permits, and tackle.

We calculated economic impacts of refuge fishing programs on local communities from average expenditures in the 1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. In 1996, 35.2 million U.S. residents 16 years old and older enjoyed a variety of fishing opportunities throughout the United States. Anglers fished 626 million days and took 507 million fishing trips. They spent almost $38 billion on fishing-related expenses during the year. Among the 29.7 million freshwater anglers, including those who fished in the Great Lakes, but not Alaska, 515 million days were spent and 420 million trips were taken freshwater fishing. Freshwater anglers spent $24.5 billion on freshwater fishing trips and equipment.

Saltwater fishing attracted 9.4 million anglers who enjoyed 87 million trips on 103 million days. They spent $8.1 billion on their trips and equipment. Trip-related expenditures for food, lodging, and transportation were $15.4 billion; equipment expenditures amounted to $19.2 billion; other expenditures such as those for magazines, membership dues, contributions, land leasing, ownership, licenses, stamps, tags, and permits accounted for $3.2 billion, or 19.2 percent of all expenditures. Overall, anglers spent an average of $41 per day in the lower 48 states and projecting a 25 percent cost of living increase for Alaska, spent an average of $51 per day in Alaska.

Five hundred angler-days, based on past creel surveys in the closure areas, will continue to have the same economic impact ($51./angler-day) on local economies because these anglers that used the closure area will continue to purchase supplies, food or lodging in the area of the refuge, during the time of the closure resulting in a continuation of $25,500 to the local economy.

We certify that this document will not have a significant economic effect on a substantial number of small entities such as businesses, organizations and governmental jurisdictions in the area under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*).

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. See explanation under Regulatory Flexibility Act.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. See explanation under Regulatory Flexibility Act determination. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. We have determined that the rule has no potential takings of private property implications as defined by Executive Order 12630. See explanation under Regulatory Flexibility Act analysis.

Federalism (E.O. 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. It will not have substantial direct effects on the States, in their relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.0. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

We have examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no new information collection requirements for which OMB approval is required. We have not changed the information relating to permits, and you may find it in § 36.3 with OMB approval number 1018–0014.

National Environmental Policy Act

The rule does not constitute a major Federal action significantly affecting the quality of the human environment. We complied with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) by completing an environmental assessment following the emergency fishing closure in 1995. On May 9, 1996, we signed a Decision Notice and Finding of No Significant Impact. You may obtain copies of the EA from the Kenai National Wildlife Refuge, P.O. Box 2139, Soldotna, Alaska 99669; telephone: (907) 262–7021. NEPA requires no further documentation.

Section 7 Consultation (16 U.S.C. 1531 et seq., 50 CFR 402)

We reviewed the opening package documents for the seasonal closure of the Moose Range Meadows public access easements in the Kenai National Wildlife Refuge with regards to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543). There are no known listed or candidate species present in this area of the refuge. We find the action as presented will not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species.

Primary Author

Mark Chase, Deputy Refuge Manager of the Kenai National Wildlife Refuge, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 36

Alaska, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife refuges.

Accordingly, we amend part 36 of chapter I of title 50 of the Code of Federal Regulations as follows:

PART 36—[AMENDED]

1. The authority citation for part 36 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460(k) *et seq.*, 668dd–668ee, 742(a) *et seq.*, 3101 *et seq.*; and 44 U.S.C. 3501 *et seq.*

2. Revise § 36.39 (i)(7) to read as follows:

§ 36.39 Public use.

* * * * * *

(i) * * *

(7) *What do I need to know about other public uses on Kenai National Wildlife Refuge?* (i) *What are the camping restrictions?* We allow camping subject to the following restrictions:

(A) Camping may not exceed 14 days in any 30-day period anywhere on the refuge.

(B) Campers may not spend more than two consecutive days at the Kenai-Russian River access area, more than seven consecutive days at Hidden Lake Campground, or more than seven consecutive days in refuge shelters.

(C) Within developed campgrounds, camp only in designated areas and use open fires only in portable, self-contained, metal fire grills, or fire grates provided by us.

(D) Do not camp within ¼ mile of the Sterling Highway, Ski Hill, or Skilak Loop roads except in designated campgrounds.

(E) Campers may cut only dead and down timber for campfire use.

(F) Pets must be on a leash no longer than nine feet in developed campgrounds.

(ii) *May I cut and remove timber?* You may remove timber, including the cutting of firewood for home use, only if you have obtained a special use permit from the Refuge Manager.

(iii) *May I leave personal property on the refuge?* Yes, however, if you leave personal property unattended for longer than 72 hours outside of a designated area, obtain a special use permit from the Refuge Manager.

(iv) *If I find research marking devices, what do I do?* Turn in all radio transmitters, neck and leg bands, ear tags, or other research marking devices recovered from wildlife to the Refuge Manager or the Alaska Department of Fish and Game within five days after recovery.

(v) *May I use non-motorized wheeled vehicles on the refuge?* Yes, but only on refuge roads designated and open for public vehicular access.

(vi) *May I use motorized equipment on the refuge?* You may not use motorized equipment, including but not limited to chainsaws, generators, and auxiliary power units, within the Kenai Wilderness, except snowmobiles, airplanes and motorboats in designated areas.

(vii) *Must I register to canoe on the refuge?* Only canoeists on the Swanson River and Swan Lake Canoe Routes must register at entrance points. Maximum group size is 15 persons.

(viii) *Are any areas of the refuge closed to public use?* (A) We close rock outcrop islands in Skilak Lake used by nesting cormorants and gulls and the adjacent waters within 100 yards to public entry and use from March 15 to September 30. You may obtain maps showing these areas from the Refuge Manager.

(B) From July 1 to August 15 the public may not use or access any portion of the 25-foot wide public easements along both banks of the Kenai River within the Moose Range Meadows area; or along the Homer Electric Association Right-of-Way from Funny River Road and Keystone Drive to the downstream limits of the streamside easements. You may obtain maps showing these closed areas from the Refuge Manager by referring to Sections 1, 2, and 3 of Township 4 North, Range 10 West, Seward Meridian.

* * * * *

Dated: January 24, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–6943 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[I.D. 031899B]

Atlantic Shark Fisheries; Large Coastal Shark Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the commercial fishery for large coastal sharks conducted by persons aboard vessels issued a Federal Atlantic shark permit in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea. This action is necessary to ensure that the semiannual quota of 642 metric tons (mt) for the period January 1 through June 30, 1999, is not exceeded.

DATES: The closure is effective from 11:30 p.m. local time March 31, 1999, through June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Margo Schulze or Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the Fishery Management Plan for Sharks of the Atlantic Ocean and its implementing regulations found at 50 CFR part 678 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Section 678.24(b) of the regulations provides for two semiannual quotas of large coastal sharks to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters by commercial fishers. The first semiannual quota of 642 mt is available for harvest from January 1 through June 30, 1999.

The Assistant Administrator for Fisheries, NOAA (AA), is required under § 678.25 to monitor the catch and landing statistics and, on the basis of these statistics, to determine when the catch of Atlantic, Caribbean, and Gulf of Mexico sharks will equal any quota under § 678.24(b). When shark harvests reach, or are projected to reach, a quota established under § 678.24(b), the AA is further required under § 678.25 to close the fishery.

Preliminary information indicates that approximately 71 percent of the available quota for large coastal sharks had been landed as of February 28, 1999. Accordingly, the AA has determined, based on the reported catch and other relevant factors, that the semiannual quota for the period January 1 through June 30, 1999, for large coastal sharks in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, will be attained as of March 31, 1999. During the closure, retention of large coastal sharks is prohibited for persons fishing aboard vessels issued a permit under § 678.4, unless the vessel is operating as a charter vessel or headboat, in which

case the vessel may retain up to two large coastal sharks per trip subject to the provisions of § 678.25(a)(2). The sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of carcasses and/or fins of large coastal sharks harvested by a person aboard a vessel that has been issued a permit under § 678.4, is prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure, and were held in storage by a dealer or processor.

Persons fishing aboard vessels issued a Federal Atlantic shark permit under § 678.4 are reminded that, as a condition of permit issuance, the vessel may not retain a large coastal shark during the closure, except as provided by § 678.24(a). Fishing for pelagic and small coastal sharks may continue. The recreational fishery is not affected by this closure.

Classification

This action is taken under 50 CFR part 678 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 19, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries,National Marine Fisheries Service.

[FR Doc. 99–7235 Filed 3–19–99; 4:48 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 031999A]

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the first seasonal apportionment of the 1999 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 20, 1999, until 1200 hrs, A.l.t., April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch allowance for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), the for the first season, the period January 20, 1999, through March 31, 1999, as 500 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for species included in the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: Pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species".

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The fleet has already taken the first seasonal bycatch allowance of Pacific halibut. Further delay would only result in the 1999 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA being exceeded. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 19, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7223 Filed 3–19–99; 4:11 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 56
Wednesday, March 24, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 99–015–1]

Veterinary Antibody Products; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are advising veterinary biologics producers and the general public that the Center for Veterinary Biologics will host a public meeting to discuss the regulations for veterinary antibody products. The primary purpose of the meeting is to provide an opportunity for interested parties to discuss the requirements for demonstrating the efficacy of products for treatment of failure of passive transfer and for including a treatment step in the manufacture of antibody products to inactivate potential contaminating microorganisms.

DATES: The public meeting will be held on Thursday, April 29, 1999, from 8 a.m. to 5 p.m.

ADDRESSES: The public meeting will be held in the Scheman Building, Iowa State Center, Ames, IA.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Clark, Center for Veterinary Biologics-Licensing and Policy Development, VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA, 50010; telephone (515) 232–5785, ext. 112; fax (515) 232–7120. Information is also available on the Internet at http://www.aphis.usda.gov/vs/cvb/lpd/notices/notices.html.

SUPPLEMENTARY INFORMATION:

Background

The Center for Veterinary Biologics will be holding a public meeting to discuss the regulations for veterinary antibody products under the Virus-Serum-Toxin Act (21 U.S.C. 151, *et seq.*). The regulations are contained in the Code of Federal Regulations, title 9, part 113, §§ 113.450 through 113.499. Manufacturers of antibody products for treatment of failure of passive transfer (FPT) have had some difficulty with the new efficacy requirements and some have indicated that they have not been able to successfully carry out the required treatment step during production to inactivate potential contaminating microorganisms.

The Center for Veterinary Biologics is holding this meeting to primarily discuss two issues. The first issue is whether the IgG content of the IgG Species Standards produced by the Animal and Plant Health Inspection Service and used in evaluating the efficacy of bovine and equine FPT products is too high. The second issue is whether the treatment requirement to inactivate potential contaminants needs to be applied in all cases, and whether there are alternative treatments that can be used. Participants will also have an opportunity to comment on other aspects of the antibody product regulations. The comments received during the meeting will aid the Center for Veterinary Biologics in determining whether the antibody product regulations need to be amended.

We expect to finalize the agenda soon. When the agenda is complete, it will be available from the person listed under **FOR FURTHER INFORMATION CONTACT**, as well as from the Internet address listed in that section.

The meeting on April 29, 1999, will begin at 8 a.m. and is scheduled to end at 5 p.m.; however, it may end earlier if all persons desiring to speak have been heard. Persons who wish to make a prepared statement should indicate their intention to do so at the time of registration and provide the subject of their remarks and the approximate length of time that will be necessary. Any person attending the meeting who did not indicate that he or she would speak will be given an opportunity to speak after the registered speakers have finished, as time permits.

Registration information, registration forms, and lodging information are available from the person listed under **FOR FURTHER INFORMATION CONTACT**, as well as from the Internet address listed in that section. If you do not register prior to the meeting, you may register at the meeting location from 7:30 a.m. to 8:00 a.m., local time, on the day of the meeting.

Done in Washington, DC, this 18th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–7187 Filed 3–23–99; 8:45 am]
BILLING CODE 3410–34–P

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Announcement of Date of Public Workshop on the Interpretation of Rules and Guides for Electronic Media, Procedure for Requesting to Participate, and Request for Submission of Advertisements

AGENCY: Federal Trade Commission.

ACTION: Announcement of date of public workshop on the interpretation of Federal Trade Commission rules and guides for electronic media, procedures for requesting to participate, and request for submission of advertisements for use at the workshop.

SUMMARY: On May 6, 1998, the Federal Trade Commission ("Commission") published a **Federal Register** Notice seeking public comments on its proposal to issue a policy statement regarding the applicability of its rules and guides to electronic media, such as e-mail, CD–ROMs, and the Internet. The Commission also solicited comment regarding interest in participating in or attending a workshop to discuss the issues raised in the **Federal Register** Notice. As a part of the review of these issues, the Commission has scheduled the workshop for May 14, 1999 at its headquarters at 600 Pennsylvania Ave., NW, Washington, DC. Today's **Federal Register** Notice discusses the topics to be discussed at the workshop and the procedures to be followed by those who wish to participate in the workshop. The Commission also solicits the submission of mock advertisements to be used at the workshop to discuss some of the issues raised in its Notice and in the comments.

DATES: Requests to participate at the workshop must be submitted by April 12, 1999, and any examples of advertisements to be used at the workshop must be submitted by April 19, 1999.

ADDRESSES: All submissions should be sent either to the Office of the Secretary, Federal Trade Commission, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or by e-mail to <elecmedia@ftc.gov>. The submissions should include the submitter's name, address, telephone number and, if available, FAX number and e-mail address. All submissions should be captioned "Interpretation of Rules and Guides for Electronic Media—FTC File No. P974102."

FOR FURTHER INFORMATION CONTACT: Laura J. DeMartino, Attorney, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, telephone (202) 326–3030, e-mail <Ldemartino@ftc.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

In a May 6, 1998 **Federal Register** Notice, the Federal Trade Commission ("Commission") solicited public comment on its proposal to issue a policy statement regarding the applicability of its consumer protection rules and guides to newer forms of electronic media, such as e-mail, CD–ROMs, and the Internet (hereinafter collectively referred to as "electronic media"). The Notice discussed the Commission's proposals with respect to: (1) The extent to which the Commission's rules and guides apply to representations disseminated through, and activities occurring on, electronic media; (2) how businesses may comply with the Commission's rules and guides in advertising products and services and conducting commercial activities using electronic media; (3) interpretations of certain terms in light of the use of electronic media and how electronic media could be used to comply with the affirmative disclosure requirements of the rules and guides; and (4) how disclosures required or recommended by the Commission's rules and guides should be made in electronic media advertisements.[1] The purpose of the Notice, and any future policy statement by the Commission, was to reduce any uncertainty regarding whether the rules and guides applied to activities on the Internet and provide guidance to industry in complying with the rules and guides in electronic media. The Commission also solicited comment regarding interest in a workshop to discuss the issues raised in the Notice.

The Commission received 62 comments in response to the Notice.[2] A number of comments advised the Commission to proceed carefully in developing guidance for electronic media advertising, to avoid inadvertently burdening business or stifling new technology. Many comments expressed interest in participating in a public workshop to more fully discuss the issues related to the applicability of the rules and guides to electronic media. The Commission has concluded that a workshop will afford Commission staff and interested parties an opportunity to explore a number of the issues raised in the Notice and the comments. The workshop would not be intended to achieve a consensus among participants, or between participants and Commission staff, with regard to any issue raised in the Notice. The Commission will consider the views and suggestions made during the workshop, in addition to the written comments received, in formulating any future guidance regarding the application of its rules and guides to electronic media.

II. Date, Time and Location of Workshop

The workshop is scheduled to be held in the FTC headquarters building, 600 Pennsylvania Avenue, NW, Washington, DC, on May 14, 1999.

III. Workshop Sessions

The workshop will be divided into two sessions, focusing on the issues that generated significant public comment and that the Commission believes will be useful to discuss further with participants. Session One will discuss how the Commission should evaluate whether disclosures required or recommended by the rules and guides are made clearly and conspicuously in electronic media advertisements. Session Two will discuss the interpretation of the terms "written," "writing" and "printed," as used in the rules and guides, in light of the use of electronic media. This session will also discuss how electronic media may be used to comply with requirements to provide information to consumers "in writing" or by "mail."[3] An agenda of the workshop will be provided to all interested parties as soon as practicable.

IV. Interpretation of the Term "Direct Mail"

The Commission has determined not to discuss at the workshop the use of the term "direct mail" in the rules and guides. The Commission proposed interpreting this term to include communications that are individually addressed and capable of being received privately (e.g., e-mail). Many written comments addressing this issue concur that e-mail is a form of direct mail, and additional workshop discussion on the issue is unlikely to contribute significantly to the record.

The comments, however, offered differing opinions and rationales as to whether targeted Internet advertising is properly considered a form of direct mail or other media advertising. The use of targeted advertising on the Internet and consumers' perceptions of it are still evolving and there is likely to be considerable variation in the extent to which such advertising is personalized to the individual consumer or viewer. Thus, the Commission has concluded it is premature, at this point, to consider defining whether or not targeted Internet advertising, in all of its varying forms, is direct mail.

V. Interpretation of "Clear and Conspicuous" Disclosures

The Notice solicited comment on how the Commission should evaluate whether disclosures required or recommended by the rules and guides are clear and conspicuous in electronic media advertisements. In determining whether a disclosure is clear and conspicuous, the Commission evaluates the nature of the advertisement and the claim and generally considers a number of factors. Because of the unique nature of electronic media advertisements, the Notice solicited comment on how these factors should be applied in evaluating such ads. The purpose of this proceeding is not to develop specific rules as to how all disclosures in electronic media advertisements should be made. Instead, this proceeding will inform the Commission's analysis of disclosures in electronic media advertisements and may provide a basis for future guidance for businesses in making online disclosures effectively.

The Notice, and the comments received in response to it, raise challenging issues regarding whether disclosures in electronic media advertisements are displayed clearly

---

[1] The May 6, 1998 **Federal Register** Notice specifies the rules and guides that are being considered in this proceeding. *See* 63 FR 24998 (May 6, 1998). The Commission is not addressing regulations issued by the Federal Reserve Board and enforced by the Commission: Regulation B, 12 CFR part 202; Regulation E, 12 CFR part 205; Regulation M, 12 CFR part 213; Regulation Z, 12 CFR part 226.

[2] The comments are available for viewing at the Commission's headquarters, 600 Pennsylvania Ave., NW, Room 130, Washington, DC 20580. The comments also are available on the Commission's website at <http://www.ftc.gov/bcp/rulemaking/elecmedia/index.htm>.

[3] Other issues relating to electronic media generally, such as privacy or electronic payment technologies, will not be addressed in this workshop.

and conspicuously. Some of these issues include:

(1) The disclosure's proximity to the claim being modified and its placement in the context of the advertisement, including

(a) Whether the disclosure should be placed on the same screen as the claim it modifies,

(b) The difficulties faced by advertisers in placing disclosures on the same screen,

(c) Whether disclosures accessible by a hyperlink are effective and the nature of the hyperlink used;

(2) The disclosure's prominence;

(3) Whether factors in other parts of the advertisement distract consumers' attention away from the disclosure;

(4) Whether the disclosure should be repeated in a lengthy advertisement;

(5) Whether the disclosure should be made in the same mode (visual, audio) as the claim; and

(6) Whether a website contains features that "block" a consumer from returning to a page with a disclosure, after the consumer links to another page on the site.

VI. Request for Submission of Advertisements

To encourage a productive discussion of these issues at a workshop, Commission staff will request participants to discuss mock advertisements that staff has produced. The Commission also is providing interested parties with an opportunity to submit mock advertisements that may be useful for discussion at the workshop. The advertisements should contain disclosures that are required or advised by the rules and guides and should highlight the issues faced in evaluating whether the disclosures are clear and conspicuous. The advertisement should not feature real products or services and it should not identify the individual or company who created it. Parties interested in creating advertisements should first contact Laura DeMartino, 202/326–3030, to discuss their proposed advertisement.

If the number of advertisements submitted is so large that it would be impossible to discuss all of them at the workshop, Commission staff will choose those advertisements that best exemplify the issues to be discussed. All examples should be submitted by April 19, 1999. The advertisements should be submitted in the format in which they should be displayed at a workshop (e.g., HTML format). Prior to the workshop, Commission staff will make available the mock advertisements that will be discussed.

The Commission also encourages interested parties to submit the results of any research or studies regarding consumer behavior or perceptions of electronic media advertisements for discussion at the workshop.

VII. Request to Participate

To be eligible to participate in the workshop, you must file a request to participate by April 12, 1999. The request should specify the workshop sessions in which you are interested. Any persons who wish to participate in the workshop, but did not submit a written comment, should submit a short statement of their views. If the number of parties who request to participate in the workshop is so large that including all requesters would inhibit effective discussion among the participants, Commission staff will select as participants a limited number of parties to represent the interests. Selection will be based on the following criteria:

(1) The party submitted a request to participate by April 12, 1999.

(2) The party's participation would promote the representation of a balance of interests at the workshop.

(3) The party's participation would promote the consideration and discussion of the issues presented in the workshop.

(4) The party has expertise in issues raised in the workshop.

(5) The party adequately reflects the view of the affected interest(s) which it purports to represent.

If it is necessary to limit the number of participants, those who requested to participate but were not selected will be afforded an opportunity, if at all possible, to present statements during a limited time period at the end of one or more sessions. The time allotted for these statements will be based on the amount of time necessary for discussion of the issues by the selected parties, and on the number of persons who wish to make statements.

Requesters will be notified as soon as possible after April 12, 1999 if they have been selected to participate.

By direction of the Commission, Commissioner Swindle not participating for medical reasons.

Donald S. Clark,

Secretary.

[FR Doc. 99–7125 Filed 3–23–99; 8:45 am]

BILLING CODE 6750–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1213, 1500 and 1513

Bunk Beds; Notice of Opportunity for Oral Presentation of Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of opportunity for oral presentation of comments.

SUMMARY: The Commission announces that there will be an opportunity for interested parties to present oral comments on a proposed rule that could reduce unreasonable risks of injury and death associated with bunk beds that are constructed so that children can become entrapped in the beds' structure or become wedged between the bed and a wall. The Commission also requests that interested parties address the question of what constitutes substantial compliance with a voluntary standard. Any oral comments will be part of the rulemaking record.

DATES: If requests for oral presentations of comments are received, the presentations will begin at 10 a.m., May 6, 1999, in Room 420 in the Commission's offices at 4330 East-West Highway, Bethesda, MD 20814.

Requests to present oral comments must be received by April 22, 1999. Persons requesting an oral presentation must file a written text of their presentations no later than April 29, 1999.

ADDRESSES: Requests for oral presentations of comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Requests may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Requests to make oral presentations and texts of presentations should be captioned "Oral Comment; NPR for Bunk Beds."

FOR FURTHER INFORMATION CONTACT: Concerning the substance of the proposed rule: John Preston, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207–0001; telephone (301) 504–0494, ext. 1315; email jpreston@cpsc.gov. Concerning requests and procedures for oral presentations of comments or to request a copy of the December 16, 1998 memorandum by the Office of General Counsel on the issue of substantial compliance: Rockelle Hammond, Docket

Control and Communications Specialist, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0800 ext. 1232. Information about this rulemaking proceeding may also be found on the Commission's web site: www.cpsc.gov.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission ("CPSC" or "Commission") has reason to believe that unreasonable risks of injury and death are associated with bunk beds that are constructed so that children can become entrapped in the beds' structure or become wedged between the bed and a wall.

On March 3, 1999, the Commission proposed a rule that, if issued, would mandate bunk bed performance requirements to reduce this hazard. 64 FR 0245.[1] These requirements would be issued under both the Federal Hazardous Substances Act ("FHSA"), for bunk beds intended for use by children, and the Consumer Product Safety Act ("CPSA"), for beds not intended for children.

During the course of the February 3, 1999 decision meeting, the Commissions unanimously indicated an interest in receiving public comments as to the interpretation of substantial compliance with a voluntary standard. The Commission has taken no position on the interpretation proffered by the Office of General Counsel in its memorandum to the Commission dated December 16, 1998, or on the factors that the Office of Compliance suggested for consideration in the March 3, 1999 **Federal Register** notice, and seeks public comment on both. The Commission's findings on this issue can be determinative as to when it may proceed with a rulemaking with regard to a product for which there is an existing voluntary standard.

As required by Section 9(d)(2) of the Consumer Product Safety Act, 15 U.S.C. 2058(d)(2), there will be an opportunity for interested parties to present oral comments on the proposal. See the information under the headings **DATES** and **ADDRESSES** at the beginning of this notice. Any oral comments will be part of the rulemaking record.

Commenters should limit their presentations to approximately 10 minutes, exclusive of any periods of questioning by the Commissioners or the CPSC staff. The Commission reserves the right to further limit the time for any presentation and to impose restrictions to avoid excessive duplication of presentations.

Dated: March 18, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–7119 Filed 3–23–99; 8:45 am]

BILLING CODE 6355–01–P

[1] The Commission approved the notice publishing the proposed rule by a vote of 2–0–1. Chairman Ann Brown and Commissioner Thomas H. Moore voted to approve the notice; Commissioner Mary Sheila Gall abstained. Each commissioner issued a statement concerning his or her position on the proposal. Copies of the statements can be obtained from the Commission's Office of the Secretary.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 30

Access to Automated Boards of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: On July 24, 1998, the Commodity Futures Trading Commission ("CFTC" or "Commission") published in the **Federal Register** a "concept release" seeking public comment on issues related to permitting the use in the U.S. of automated trading systems providing access to electronic boards of trade otherwise primarily operating outside the U.S. Following its review of the comments received on the concept release, the Commission has determined to propose new rules concerning automated access to these boards of trade from within the U.S. The Commission is proposing herein a new Rule 30.11 that would establish a procedure for an electronic exchange operating primarily outside the U.S. to petition the Commission for an order that would permit use of automated trading systems that provide access to the board of trade from within the U.S. without requiring the board of trade to be designated as a U.S. contract market. If appropriate in light of the information provided in a petition, the Commission would issue an order under section 4(c) of the Commodity Exchange Act ("Act" or "CEA") that would allow a member of the petitioner board of trade or an affiliate thereof to operate automated trading systems that provide access to the board of trade in the U.S., subject to specified conditions.

The Commission also is proposing a new Rule 1.71, which would apply both to domestic and foreign firms. New Rule 1.71 would clarify that U.S. customers and foreign futures and foreign options customers wishing to trade on or subject to the rules of the automated trading system of a U.S. contract market or on or subject to the rules of the automated trading system of an exchange otherwise operating primarily outside the U.S. may place orders via automated order routing systems, provided that such systems meet certain minimum requirements and provide certain safeguards such as automated checks for customer trading or position limits and credit limits.

The rules proposed herein are focused on boards of trade with automated order matching/execution, often referred to as "electronic exchanges," and do not address the use of order routing systems or other communication devices that provide access to traditional open outcry exchanges.

DATES: Comments must be received on or before April 23, 1999.

ADDRESSES: Comments on the proposed rules may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to secretary@cftc.gov. Reference should be made to "Access to Automated Boards of Trade."

FOR FURTHER INFORMATION CONTACT: David M. Battan, Chief Counsel, Lawrence B. Patent, Associate Chief Counsel, or Charles T. O'Brien, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone (202) 418–5450.

SUPPLEMENTARY INFORMATION:

I. Introduction

Significant developments in technology in recent years have made automated trading methods a significant addition or alternative to traditional open outcry for trading commodity futures and option products on or subject to the rules of foreign and domestic boards of trade. In February 1996, the Commission's Division of Trading and Markets ("Division") issued a no-action letter to the Deutsche Terminborse ("DTB" or "Eurex"),[1] an automated international futures and option exchange headquartered in Frankfurt, Germany, in which the Division agreed, subject to certain conditions, not to recommend enforcement action to the Commission if Eurex placed computer terminals in the U.S. offices of its members for principal trading[2] and, where the Eurex member

[1] In June 1998, DTB changed its name to Eurex Deutschland ("Eurex").

[2] A "principal" trade under Eurex rules is limited to a trade made by a Eurex member for its own

Continued

is also an FCM registered under the Act,[3] for trading on behalf of U.S. customers as well, without Eurex being designated as a U.S. contract market ("Letter").[4] Since the Division's issuance of the Letter, several other boards of trade that have heretofore operated outside the U.S. have requested similar relief.

In light of these requests, the Commission determined that it is appropriate to address, through the Commission's rulemaking process, the subject of the use in the U.S. of automated trading systems that provide access to boards of trade whose primary operations otherwise take place outside the U.S. The Commission began this process in July 1998 by publishing in the **Federal Register** a concept release seeking public comment on a wide variety of questions concerning the use of automated trading systems in the U.S. and on a possible regulatory structure to address these questions. After reviewing the comments received and engaging in discussions with industry participants, the Commission has decided to propose rules that incorporate many of the general principles set forth for comment in the concept release. However, based upon the comments received and the Commission's further consideration of the issues, the proposal contains a number of refinements to the model set forth in the concept release.

The Commission's purpose in issuing these proposed rules is to create a framework for addressing the regulatory issues that arise from the increasing globalization of futures exchanges. The procedures set forth herein are intended to provide an exemption from the contract market designation requirement for boards of trade that are established in a foreign country and that have historically operated solely within that countries other than the U.S., but that as a result of a desire to take advantage of technological advancements, now wish to make their products accessible from within the U.S. via trading screens, the Internet, or other automated trading systems. Boards of trade that are accessible within the U.S. in this manner are not "located outside the U.S." for purposes of section 4(a) of the Act and might, accordingly, be required to be designated as contract markets absent an exemption under Section 4(c) of the Act.[5] However, the Commission does not believe that it would be appropriate to require these exchanges to be designated as contract markets as long as they would be subject to generally comparable regulation in their home countries. Exemption from the contract market designation requirement and other related requirements under the Act and Commission regulations would avoid duplicative regulation, would encourage other countries to allow access to the automated trading systems of U.S. exchanges and would encourage global competition and open markets in the industry. The Commission believes that the petition approach set forth below would provide the Commission with the information necessary to identify those boards of trade that would be "located in the U.S." by virtue of being accessible from within the U.S. via automated trading systems, but that otherwise would continue to be primarily operated outside the U.S. The Commission would exercise its power under section 4(c) of the Act to exempt such boards of trade from regulation under the Act if the requirements described below are satisfied. Further, the process described herein is flexible enough that, if the locus of the board of trade's activities is such that it should be subject to all requirements of the Act and the Commission's regulations, if the board of trade is not subject to a generally comparable regulatory structure, or if the board of trade has been established and structured purposefully to evade U.S. regulation, the Commission can require it to become a designated contract market.

In determining whether to exercise its section 4(c) exemptive authority with respect to a particular petitioner, the Commission believes that it is essential to its customer protection obligations under the Act to ensure that certain general standards have been met. Specifically, the Commission intends to ensure that: (1) The petitioner is an established board of trade that wishes to place within the United States an automated trading system permitting access to its products but whose activities are otherwise primarily located in a particular foreign country that has taken responsibility for regulation of the petitioner; (2) the petitioner's home country has established a regulatory scheme that is generally comparable to that in the U.S. and provides basic protections for customers trading on markets and for the integrity of the markets themselves; (3) except for certain incidental contacts with the U.S., the petitioner is present in the U.S. only by virtue of being accessible from within the U.S. via its automated trading system; (4) the petitioner is willing to submit itself to the jurisdiction of the Commission and the U.S. courts in connection with its activities conducted under an exemptive order; (5) the petitioner's automated trading system has been approved by the petitioner's home country regulatory following a review of the system that applied the standards set forth in the 1990 International Organisation of Securities Commissions ("IOSCO") report on screen-based trading systems (as may be revised and updated from time-to-time) or substantially similar standards; and (6) satisfactory information sharing arrangements are in effect between the Commission and the petitioner and the petitioner's regulatory authority. As discussed further in the description of the petition procedure below, a petitioner which satisfies these standards may be issued an order under section 4(c) of the Act that exempts the petitioner from the contract market designation requirements of section 4(a) of the Act and related statutory and regulatory provisions.

II. The Concept Release

The July 1998 concept release raised general questions concerning, among other things, how to define an

account. Eurex's definition of "principal" is thus narrower than the definition of "proprietary" found in Commission Rule 1.3(y). A proprietary trade under Commission rules includes not only transactions made by futures commission merchants ("FCMs") for their own accounts, but also those made by certain affiliates and insiders of the FCM for their respective accounts carried by the FCM.

[3] 7 U.S.C. 1 *et seq.* (1994).

[4] *See* CFTC Interpretative Letter No. 96–28, (1996–1997 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 26,669 (Feb. 29, 1996). For a thorough discussion of prior Division actions concerning automated trading system use in the U.S., *see* the Commission's concept release, discussed below. 63 FR 39779 (July 24, 1998).

[5] Section 4(a) of the Act states in relevant part:

* * *[I]t shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the U.S., its territories or possessions, for the purpose of soliciting, or accepting any order for, or otherwise dealing in, any transaction in, or in connection with a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange, or market located outside the U.S., its territories or possessions) unless—

(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a "contract market" for such commodity;

(2) such contract is executed or consummated by or through a member of such contract market; and

(3) such contract is evidenced by a record in writing * * *.

Section 4(c) of the Act provides the Commission with authority "by rule, regulation, or order" to exempt "any agreement, contract or transaction" from the requirements of Section 4(a) of the act if the Commission determines that the exemption would be consistent with the public interest, that the contracts would be entered into solely by appropriate persons and that the exemption would not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act. 7 U.S.C. 6(a) and 6(c) (1994).

automated system that would be subject to Commission rules, how to treat the use of automated order routing systems located in the U.S. when they are employed to enter orders through a futures commission merchant ("FCM") (or through a firm exempt from registration pursuant to Commission Rule 30.10, also referred to as a "Rule 30.10 firm")[6] for execution on a board of trade operated primarily outside the U.S., and how to determine if a board of trade's activities in the U.S. are such that it should be subject to all of the requirements of the Act and the Commission's regulations. The concept release also set forth for comment a possible regulatory approach that was intended to promote discussion on the appropriate means to resolve these and related issues.

The Commission initially provided a 60-day comment period on the concept release, through September 22, 1998. On September 18, 1998, the Commission extended the comment period for fifteen days, through October 7, 1998. The Commission received 31 comments on the release: 19 from futures exchanges, three from FCMs, two from futures trade associations, two from commodity trading advisors (one of which is also a registered commodity pool operator), one from a futures self-regulatory authority, one from an exchange member and three from foreign securities/futures regulatory authorities. In addition, the Commission was aided significantly in the development of these proposed rules by the work of the Commission's Global Markets Advisory Committee which held two public meetings on these issues, as well as the Committee's Working Group on Electronic Terminals which prepared a report for the Commission on these issues. The Commission's Financial Products Advisory Committee also held a public meeting at which these issues were discussed.

In general, most commenters supported the Commission's effort to develop uniform rules concerning the use from within the U.S. of automated trading systems that provide access to boards of trade operated primarily outside the U.S. For example, Her Majesty's ("HM") Treasury, the regulator that is authorized to grant foreign exchanges the right to have their automated trading systems placed in the U.K.[7] indicated in its comment letter that the approach set forth in the concept release is similar to that applied by HM Treasury when processing similar requests in the U.K. Other commenters, however, took issue with various aspects of the possible regulatory approach set forth in the concept release. Certain specific comments concerning the approach set forth in the concept release and the issues related thereto are discussed in the description of the proposed rules which follows.

The Commission believes that the rules proposed herein will establish a regulatory approach that addresses the important issues presented by the use of automated trading systems in the U.S. by boards of trade otherwise operated primarily outside the U.S. in a manner that will foster growth of the global marketplace while fulfilling the Commission's obligations under the Act to protect U.S. customers and to maintain the integrity and competitiveness of U.S. markets. The Commission looks forward to the comments on the proposed rules herein and will consider such comments carefully in adopting any final rules.

III. The Proposed Rules

A. Definitions

Proposed Rules 30.11(a) (1) and (2) distinguish between two major types of automated trading systems and establish two mutually exclusive definitions, "direct execution system" ("DES") and "automated order routing system" ("AORS"). As explained more fully below, DES is a term that encompasses any system that allows entry of orders from within the U.S. for an automated board of trade, except those systems that satisfy the definition of AORS. AORSs generally are systems on which customers or their representatives would submit orders through an FMC or rule 30.10 firm for automated execution, although the definition covers every system on which an order is transmitted to another party and then transmitted to an automated board of trade. It should be noted that the definitions of DES and AORS, and these rules generally, only apply in the context of automated or "electronic" boards of trade where orders are matched and executed at the board of trade without substantial human intervention. Order routing or other devices that are used to enter or to communicate trades to be executed on traditional open outcry exchanges are not within the ambit of these rules.[8] If one exchange organization operates both an electronic exchange and an open outcry exchange, the proposed rules would apply to the former but not to the latter. The Commission wishes to emphasize that the definitions of DES and AORS are structured so that every device, system or software upon which orders for products traded on boards of trade can be entered from within the U.S. for any electronic exchange would fall into one or the other category.[9]

It should be noted further that, while those rules provide standards for exemptive relief to certain boards of trade with respect to their exchange-traded products, these rules do not sanction the trading of off-exchange products, nor do they alter, restrict or

---

[6] Commission Rule 30.10 provides for a process whereby any person affected by any requirement in the Commission's part 30 rules may petition the Commission for an exemption from such requirement. Appendix A to the part 30 rules provides an interpretative statement that clarifies that a foreign regulator or self-regulatory organization ("SRO") can petition the Commission under Rule 30.10 for an order to permit firms that are members of the SRO and subject to regulation by the foreign regulator to conduct business from locations outside the U.S. for U.S. persons on non-U.S. boards of trade without registering under the Act—based upon substituted compliance with a foreign regulatory structure found comparable to that administered by the Commission under the Act. In considering a request from a foreign regulatory or self-regulatory authority for Rule 30.10 comparability relief, the Commission considers, among other things: (1) Registration, authorization or other form of licensing, fitness review, or qualification of persons through whom customer orders are solicited and accepted; (2) minimum financial requirements for those persons that accept customer funds; (3) minimum sales practice standards, including disclosure of risks and the risk of transactions undertaken outside of the United States; (4) procedures for auditing compliance with the requirements of the regulatory program, including recordkeeping and reporting requirements; (5) protection of customer funds from misapplication; and (6) the existence of appropriate information-sharing agreements. The Commission has issued orders to permit certain foreign firms that have comparability relief under Rule 30.10 to engage in limited marketing activities of foreign futures and option products from locations within the United States. *See* orders of October 28, 1992, 57 FR 49644 (Nov. 3, 1992), and August 4, 1994, 59 FR 42156 (Aug. 17, 1994).

[7] Specifically, HM Treasury is authorized to grant a foreign exchange status as a "recognized overseas investment exchange" ("ROIE") and to monitor ROIEs operating in the U.K. through automated trading systems placed in the U.K. HM Treasury's responsibilities with respect to ROIEs are to be transferred to the Financial Services Authority ("FSA") with the enactment of the Financial Services and Markets Bill, which is anticipated to take place some time toward the end of 1999.

[8] The definitions of DES and AORS apply to systems that access boards of trade where trade execution takes place "without *substantial* human intervention." See proposed Rules 30.11(a)(1) and 1.3(tt) (emphasis added). The word "substantial" is included to make clear that an automated or electronic exchange cannot evade the application of these rules by inserting clerical or trivial human action into the trade matching/execution process. Execution on traditional open outcry exchanges involves substantial human intervention and, as noted above, is beyond the scope of these rules.

[9] A determination as to whether a system is a DES or an AORS is not dependent on who designs, maintains or provides the system. That a particular system implementation uses third-party hardware, networks or services will not prevent it from being a DES or AORS.

expand the coverage of existing Commission exemptions for particular classes of products. For example, an illegal off-exchange futures product that is traded in violation of the Act may not lawfully be traded via an AORS, even if such AORS satisfies the requirements of the proposed rules. Likewise, a product that has been exempted from relevant provisions of the Act need not satisfy the requirements of these rules unless the Commission rule or order exempting the product so indicates.[10]

Paragraph (a)(1) of proposed Rule 30.11 defines a DES as any system of computers, software or other devices that allows the entry of orders for products traded on a board of trade's computer or other automated device where, without substantial human intervention, trade matching or execution takes place. One common example of a DES is a board of trade's proprietary computer terminal (*e.g.*, a dedicated Eurex computer terminal where members place orders that are then executed in the exchange's matching system). However, the term DES would also include any other device that currently is being used or may be used in the future to provide access to a board of trade's automated matching engine. Such devices might include, for example, computer software that facilitates access via a personal computer or other electronic device, an automated telephonic system that is connected, or can be used to connect, to the main computer of a board of trade primarily operated outside the U.S. for order matching and execution, and direct Internet access to such a board of trade through a personal computer, telephone or similar device. Thus, for example, if a board of trade that is otherwise primarily operated outside the U.S. were to provide its members in the U.S. with personal identification numbers or passwords that permitted such members to access and to place orders on the board of trade via an automated telephone system or Internet connection, the board of trade would be covered by the proposed rules.

Paragraph (a)(2) of proposed Rule 30.11 defines AORS. This term is defined by reference to a definition that is being proposed herein to be added as new Rule 1.3(tt).[11] Proposed rule 1.3(tt) in turn would define an AORS as any system of computers, software or other devices that allows entry of orders through another party for transmission to a board of trade's computer or other automated device where, without substantial human intervenion, trade matching or execution takes place. The Commission anticipates that the most common form of an AORS will be computer software that is provided by an FCM (or Rule 30.10 firm) to customers, foreign futures and options customers, or their representatives such as CTAs to enter orders on a board of trade or on several boards of trade. This rule is intended to cover an AORS used by any person for trading on a designated contract market's automated system, whether the person, his or her representative or the AORS is located in the U.S. or outside of the U.S. The AORS in these circumstances must provide for trading through an FCM. The rule also is intended to cover trading by a person located in the U.S. on a board of trade that otherwise primarily is operated outside the U.S. and that has received a Commission exemptive order under these rules or whose products are accessible as part of an automated trading system pursuant to rules of a designated contract market that have been submitted to the Commission and are in effect pursuant to section 5a(a)(12)(A) of the Act and Rule 1.41 (hereinafter referred to as a "linked exchange"). The AORS in the latter circumstances must provide for trading through an FCM or a Rule 30.10 firm.

Rule 30.10 firms may not solicit or accept orders from U.S. persons for trading on designated contract markets, and these proposed rules are not intended to affect that prohibition. Under these rules, however, Rule 30.10 firms would be authorized to solicit or accept orders from U.S. customers for products traded on automated boards of trade that obtain a Commission order under these rules or products traded on linked exchanges. To this end, the Commission is proposing Rule 30.11(g), which would deem products traded on a board of trade that received a Commission order or on a linked exchange to be foreign futures or foreign options, notwithstanding the board of trade's or linked exchange's presence in the U.S.[12] Further, these rules would not expand the boards of trade for which a Rule 30.10 firm may solicit or accept orders beyond those provided in the relevant Commission order issued under rule 30.10 and any confirmation thereof for a particular firm. Thus, if the Commission's order issued under Rule 30.10 permits a firm to solicit or accept orders for products traded on boards of trade in its home country and Countries B and C (but not Country D), the restriction on soliciting or accepting orders for products traded on a board of trade in Country D would remain in effect even if the Country D board of trade were to obtain a section 4(c) exemption order in accordance with Rule 30.11.

The proposed rules would not permit customer use of DESs; however, they would allow customers and their representatives to obtain AORSs and to enter orders via those AORSs. Under the proposal, a customer order for a contract traded on or subject to the rules of an exempted board of trade under proposed Rule 30.11 or a linked exchange that is made via an AORS would be required to be made through a registered FCM or through a Rule 30.10 firm.

The Commission requested comment as to whether it should consider imposing any requirements that would enable it to ensure that board of trade members who would have DESs are *bona fide* members (*i.e.* to ensure that petitioning boards of trade do not create membership categories that do not meaningfully differentiate between traditional "members" and "customers").[13] In response to this request, one commenter suggested that the Commission should require information concerning a board of trade's membership standards and closely examine those standards to ensure that they are meaningful. Another commenter stated, among other things, that the Commission should not impose formal limits on exchange membership qualifications and that no limitations should be imposed as long as a board of trade primarily operated outside the U.S. does not have special membership categories (*i.e.*, as long as all members have the same rights and obligations).

The Commission has determined to require that petitioners under the proposed rule provide information concerning their membership rules and classes. The information should include any financial requirements (*e.g.*, net worth requirements and fees for

---

[10] For example, the Commission could decide in the future that a particular class of products should be exempt from some Commission regulations, but that, to the extent such class of products will be traded through automated trading systems, these proposed rules should apply.

[11] Since this term and the requirements applicable thereto would, as recommended by some commenters, apply uniformly and not only to boards of trade primarily operated outside the U.S., the Commission is proposing to define AORS in a new paragraph (tt) of Commission Rule 1.3, which contains the Commission's general definitions.

[12] Consistent with current regulations regarding linked exchanges, Rule 30.10 firms could handle U.S. customer orders for products traded on the linked exchange but not for products traded on the designated contract market to which that exchange is linked.

[13] 63 FR at 39787.

membership) as well as any experience or professional requirements or certifications established by the board of trade. The Commission's proposed rules require that, for customer protection purposes, the trades of U.S. customers on automated trading systems must be intermediated by an FCM or by a Rule 30.10 firm. Accordingly, the Commission wishes to ensure that access to DESs is limited to commodity professionals and large sophisticated users trading their proprietary accounts. The Commission would review the information received concerning a petitioner's membership requirements with a view toward ensuring that the petitioner's membership criteria did not provide a means for avoidance of intermediation for U.S. retail investors. In the event that the commission concluded form the information received that U.S. retail customers could be "members" under a particular petitioner's rules and could, therefore, have access to DESs if the Commission were to issue a section 4(c) exemption order to the petitioner, the Commission could refuse to issue such an order or could condition its order accordingly. In the latter regard, the Commission could take into account relevant market structures and financial protections and controls that potentially could serve the same customer protection objectives as professional intermediation.

As technology continues to evolve, the available means to provide direct access from within the U.S. to boards of trade otherwise primarily operating outside the U.S. undoubtedly will further develop. By using broad definitions, the Commission hopes to creates a regulatory approach that provides a flexible means to incorporate the changing nature of technology. The Commission has no desire to dictate particular technology choices to market participants, nor does it wish to restrict innovation, and these rules were crafted accordingly.

B. The Petition Procedure

The Commission's proposal would establish a uniform procedure to enable a board of trade that primarily is operating outside the U.S. to request a Commission order that would permit access, via DESs or AORSs, to the board of trade's products from within the U.S. without requiring the board of trade to be designated as a U.S. contract market. The Commission wishes to emphasize that the proposed rules would not alter a board of trade's obligations to: (a) Receive a no-action position from the Commission prior to authorizing the offer or sale of any stock index futures or options contracts in the U.S. or (b) have any foreign government debt obligation first designated as an "exempt security" by the Securities and Exchange Commission ("SEC") before authorizing the offer or sale of any futures contract or option thereon in the U.S.

The approach set forth for discussion in the concept release envisioned a two-step procedure. Under this approach, a board of trade that primarily is operated outside the U.S. would first petition the Commission for an order that would permit the use of automated trading systems in the U.S. to facilitate trading of the board of trade's products without requiring the board of trade to receive U.S. contract market designation. Next, if the Commission issued an exemptive order to a particular board of trade, a member of that board of trade or an affiliate thereof would be able to make a written request to the National Futures Association ("NFA") for confirmation to operate under the order.[14]

The concept of a confirmation process was derived from the procedure currently required of Eurex members for their compliance with the Letter. Pursuant to this procedure, if a Eurex member located in the U.S. wishes to install a Eurex terminal in its office, Eurex must make a written filing to the NFA on behalf of that member, including certain information and declarations.

The potential approach set forth in the concept release suggested the possibility of codifying confirmation process similar to that from the Eurex Letter. Although the Commission received few comments regarding the confirmation process, upon reconsideration of this procedure the Commission has determined that such a process is unnecessary. A a simpler alter-native to this procedure, the proposed rules would require only that, as a condition to any section 4(c) exemption order, a board of trade primarily operating outside the U.S. must maintain and provide to the Commission's on a quarterly basis, and at any other time upon request of a Commission representative, a current list that includes (1) the names and main business addresses in the U.S. of its members and affiliates thereof that have DESs in the U.S. indicating which of such persons allow their customers to use AORSs, and (2) the names and main business addresses of its members and affiliates thereof that allow their U.S. customers to use AORSs but who do not have DESs in the U.S.[15] Thus, under the proposed rules, after the Commission issues an exemption order,[16] any member, or affiliate thereof,[17] of the petitioner may take advantage of the Commission's order immediately.[18] Additionally, as discussed below in Section III. B. 3. concerning the use of AORSs, after the Commission issues an order under these rules, any FCM or Rule 30.10 firm may provide U.S. customers with AORSs that provide access to the products of the board of trade that received the Commission order provided that the AORS meets certain minimal requirements and contains certain safeguards.[19]

This release is not intended to alter Commission Rule 30.4 that requires, generally, that a foreign firm be a registered FCM or a Rule 30.10 firm if it solicits or accepts orders for or involving any foreign futures contract or foreign options transaction and, in connection therewith, accepts money, securities or property to margin, guarantee or secure any trades or contracts that result therefrom

[14] 62 FR 47792, 47795 (Sept. 11, 1997)

[15] *See* proposed Rule 30.11(d)(3)(iii).

[16] Proposed Rule 30.3(c) makes clear that a board of trade that primarily operates outside the U.S. that is accessible from a DES in the U.S. must be designated as a U.S. contract market unless it has received a section 4(c) exemption order under Rule 30.11. The Commission believes that this rule is necessary to ensure its ability to enforce proposed Rule 30.11 adequately.

[17] Proposed Rule 30.11(a)(3) defines an affiliate of a board of trade member for purposes of the rule as: (1) A person that owns 50% or more of a member (*e.g.*, a board of trade member's parent company with an ownership interest in the board of trade member of 50% or more); (2) a person owned 50% or more by a member (*e.g.*, a board of trade member's 50%-or-more-owned subsidiary); or (3) a person that is owned by a third person that also owns 50% or more of a member (*e.g.*, a member's sister company where both the member and the sister company are owned 50% or more by a third person).

[18] Because any person who solicits or accepts orders and funds related thereto from U.S. customers for trading pursuant to a Commission order under Rule 30.11 must be registered as an FCM or operate pursuant to an order of exemption under Rule 30.10, the Commission would have appropriate means to discipline such a person for any violation of the Act or rules thereunder relating to the operation of board of trade DESs or AORSs in the U.S.

[19] Proposed Rule 30.3(d) would provide that, except as provided in Rule 30.11, it shall be unlawful for any person to solicit or accept orders for, or to accept money, securities or property in connection with the purchase or sale of, foreign futures or foreign options by a foreign futures or options customer that are placed via an AORS (as defined in proposed Rule 30.11(a)(2) by reference to proposed Rule 1.3(tt)) unless the board of trade through which the transaction will be executed has been designated as a contract market under section 5 of the Act. As noted above proposed Rule 30.11 is not intended to allow Rule 30.10 firms to solicit or to accept orders from U.S. customers to be placed on a U.S. contract Market. To obviate any limitations on the use of AORS by Rule 30.10 firms, Rule 30.11(g) would deem products traded on a board of trade that received a Commission order under Rule 30.11 to be foreign futures or foreign options.

(including where the U.S. person is a nonclearing member of an exempt board of trade trading solely for its own account).[20] The Commission also wishes to make clear that the Commission's issuance of a Rule 30.11 order would not affect the Commission's ability to bring appropriate actions for fraud or manipulation, nor would it alter the obligations of the board of trade that received the order, its members, FCMs or any other persons under applicable provisions of the Act or the Commission's regulations, except as specifically provided in these rules or in a section 4(c) exemption order. For example, an FCM who solicits or accepts orders from U.S. customers for trading on a board of trade exempted under proposed Rule 30.11 or on a linked exchange would remain responsible for complying with the risk disclosure requirements set forth in Rule 30.6 regarding, among other things, the risks associated with trading foreign futures or foreign options contracts.[21]

1. Application Procedure

Paragraph (b) of proposed Rule 30.11 establishes the petition procedure discussed above, whereby a board of trade may petition the Commission for an exemption order under section 4(c) of the Act. Such an order would enable DESs or AORSs that provide access to the board of trade's products to be used in the U.S. without requiring the board of trade to be designated as a contract market.

The approach set forth in the concept release requested comments on six general categories of information that could be included in a petition by a board of trade: (1) General information concerning the petitioner and its products; (2) information concerning the petitioner's rules and regulations, the laws and regulations in effect in the petitioner's home country, and the methods for monitoring compliance therewith; (3) information related to the board of trade's technological system and standards; (4) financial and accounting information; (5) information concerning the ability of U.S. contract markets to operate in the petitioner's home country; and (6) information concerning the petitioner's U.S. activities and presence. The concept release suggested that this information would be used to determine whether a board of trade that is subject to regulation by a foreign regulator and whose primary locus of operations is aboard should be exempt from contract market designation requirements if it places automated trading systems in the U.S. accessing such board of trade.

Commenters generally agreed that the Commission has a legitimate regulatory interest in examining automated boards of trade that are primarily operated abroad, but that nonetheless wish to have a presence in the U.S. by becoming accessible from within the U.S. via computer screens or other automated trading systems. However, some commenters took issue with certain of the specific information included in the categories above, generally based upon concerns regarding the information's relevance or based upon concerns that collection of the information would be unnecessarily duplicative or burdensome. In light of the comments received and the Commissions's own assessment of the information that it believes would be necessary in reviewing a board of trade's petition, the proposed rules provide for a modified set of information that would be required in a petition. Additionally, the proposed rules contain certain provisions that are intended to eliminate the filing of duplicative information.

a. General Approach

At the outset, the Commission wishes to reiterate its general view that it supports technological innovation and does not wish to make it unduly burdensome for U.S. customers to access global future and option markets. The Commission does believe, however, that in order to make the determinations required before it can issue an order under section 4(c) of the Act concerning the public interest, customer protection and its ability to discharge its regulatory duties, the Commission has an obligation to obtain and to review certain basic information. This basic information relates to, among other things, a board of trade's regulatory structure, its automated trading systems, and the extent of its contacts and operations in the U.S. Likewise, in an era where fully computerized exchanges are becoming common, the Commission has an interest in ensuring that operators of these exchanges are not using developments in technology and global communications to evade U.S. regulatory requirements.

Generally, as noted above, section 4(a) of the Act requires that futures and option contracts offered or sold in the U.S. be: (1) Traded on or subject to the rules of a designated contract market; (2) executed or consummated by or through a member of such contract market; and (3) evidenced by a written record that includes the date, the parties and their addresses, the property covered and its price, and the delivery terms. An exception from these requirements is provided for contracts that are made on or subject to the rules of a board of trade located outside of the U.S. or for which the Commission has granted an exemption from the section 4(a) requirements pursuant to section 4(c) of the Act. The Commission believes that, if contracts of a board of trade otherwise primarily operated outside of the U.S. are accessible from within the U.S. via a DES or an AORS, the board of trade is no longer "located outside of the U.S." for purposes of section 4(a) of the Act. The Commission also believes, however, that regulating boards of trade that satisfy the requirements set forth below would be largely duplicative of their home country regulations and unnecessary. Thus, the Commission proposes to establish an exemption process.

Proposed Rule 30.11 would establish a framework for the consideration of petitions for exemption pursuant to section 4(c) of the Act for boards of trade otherwise primarily located outside of the U.S. section 4(c) of the Act requires the Commission to make certain determinations prior to granting an exemption thereunder. In the context of a petition under Rule 30.11, the Commission would be required to determine that: (1) The requirements of Section 4(a) of the Act should not apply to the contracts for which the exemption is requested and the exemption would be consistent with the public interest and the purposes of the Act; (2) the

---

[20] Commission staff have interpreted this rule to provide an exception if (1) the foreign firm is either a member of the relevant board of trade or is a foreign affiliate of a registered FCM and its *sole* contact with a U.S. customer is that it carries the FCM's customer omnibus account or (2) the foreign firm solely carries accounts on behalf of U.S. customers that are proprietary accounts (as defined in Rule 1.3(y)) of the foreign firm. *See* CFTC Interpretative Letter No. 87–7, Comm. Fut. L. Rep (CCH) ¶23,972, (Nov. 17, 1987), and CFTC Interpretative Letter No. 88–15, Comm. Fut. L. Rep. (CCH) ¶24,296 (August 10, 1998).

[21] Rule 30.6 refers to Rule 1.55 which requires, among other things, that an FCM provide a risk disclosure statement to each of its customers that provides certain disclosures regarding the risks associated with trading in commodity futures contracts. Paragraphs (b) (7) and (8) of Rule 1.55 contain required language specifically related to risks concerning trading in foreign futures and foreign options. In particular, paragraph (b)(7) requires disclosure that, because "[n]o domestic organization regulates the activities of a foreign exchange . . .", customers who trade on these exchanges may not be afforded the same protections (*e.g.*, protections regarding the safety of margin funds) that may apply to domestic transactions. Rules 4.24 and 4.34 require similar risk disclosure language to be provided by commodity pool operators and commodity trading advisors to their customers if the offered pool may trade in foreign futures or foreign options contracts or the offered trading program permits the trading of foreign futures or foreign option. *See also* Rule 30.6, *as proposed to be amended by* 64 FR 1566 (Jan. 11, 1999).

contracts will be entered into solely between appropriate persons; and (3) the contracts will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act. As noted above, the standards that will guide the Commission in determining whether a petitioner meets the requirements under section 4(c) of the Act are that: (1) The petitioner is an established board of trade that wishes to place within the United States an automated trading system permitting access to its products but whose activities are otherwise primarily located in a particular foreign country that has taken responsibility for regulation of the petitioner; (2) the petitioner's home country has established a regulatory scheme that is generally comparable to that in the U.S. and provides basic protections for customers trading on markets and for the integrity of the markets themselves; (3) except for certain incidental contacts with the U.S. the petitioner is present in the U.S. only by virtue of being accessible from within the U.S. via its automated trading system; (4) the petitioner is willing to submit itself to the jurisdiction of the Commission and the U.S. courts in connection with its activities conducted under an exemptive order; (5) the petitioner's automated trading system has been approved by the petitioner's home country regulator following a review of the system that applied the standards set forth in the 1990 International Organization of Securities Commissions ("IOSCO") report on screen-based trading systems (as may be revised and updated from time-to-time) or substantially similar standards; and (6) satisfactory information sharing arrangements are in effect between the Commission and the petitioner and petitioner's regulatory authority.

b. Statutory Standards for Exemptive Relief under Section 4(c)

As noted above, section 4(c) of the act provides the Commission with authority "by rule, regulation or order" to exempt "any agreement, contract or transaction" from any of the requirements of section 4(a) of the Act, if the Commission determines that the exemption would be consistent with the public interest and that the contracts would be entered into solely by appropriate persons and would not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act.

As discussed more fully below, the Commission has crafted standards to apply in evaluating exemptive petitions under the proposed rules that will enable it to make the requisite findings under section 4(c) if appropriate. If a petitioner is subject to a regulatory structure in its home jurisdiction that the Commission finds to be generally comparable to that in the U.S. in terms of protecting customers and the integrity of markets, as well as meeting IOSCO standards or similar standards for screen-based trading, and finds that the regulator in that other jurisdiction monitors and enforces compliance with that regulatory structure, the Commission appropriately can determine that automated trading by U.S. customers pursuant to that foreign regulatory structure is consistent with the public interest and the purposes of that Act. the Commission appropriately could permit anyone who can participate in contract market transactions to be deemed to be an "appropriate person" for such automated trading and thus to be eligible to participate in the petitioner's markets. Further, the various provisions that the Commission would establish under Rule 30.11 with regard to information sharing arrangements (access to books and records, notice of enforcement or disciplinary actions and notice of default, insolvency or bankruptcy), the petitioner's appointment of an agent for service of process and consent to U.S. jurisdiction, the Commission's retention of antifraud authority concerning these transactions, as well as the limitations on the petitioner's U.S. presence to DESs or AORSs that provide access to its products and incidental U.S. contacts, would provide a basis for the Commission to determine that granting the petition would not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory duties under the Act. A more detailed description of the requirements for a petition follows.

c. Foreign Regulatory Requirements

The Commission believes that the establishment of automate trading systems in the U.S. that provide rapid and proximate access to boards of trade otherwise primarily located outside the U.S. will cause a fundamental change in the nature of global trading and raise substantial issues regarding the regulation of increasingly international or multinational exchanges. Thus, the Commission believes that one essential factor in determining whether an automated board of trade that wishes to establish trading systems in the U.S. should be exempt from contract market designation is whether such board of trade is subject to a *bona fide* regulatory system *i.e.*, a structure that is generally comparable to that in the U.S. in terms of customer protections and market integrity and that is adequately monitored and supervised by a foreign futures authority.

To assist the Commission in making the required determinations under Section 4(c) of the Act and the judgments concerning the general standards set forth above, the Commission is proposing that a petitioners submit certain information. With respect to whether the petitioner is an established board of trade primarily operating outside the U.S., the petitioners would be required to include the following basic business information: (1) The address of the petitioner's main business office and the name, address, telephone number, facsimile number and electronic mail address of a person to contact for additional information concerning the petition; (2) the petitioner's articles of association, constitution, or other similar organizational documents along with the date and place of its establishment; (3) the name and address of the petitioner's home country regulatory; and (4) a complete description of the contracts that initially would be traded through DESs and/or AORSs located in the U.S.[22]

In order for a petitioner to be eligible for an exemption, petitioner's home country regulatory regime should be generally comparable to that in the U.S. in providing for: (A) Prohibition of fraud, abuse and market manipulation relating to trading on the petitioner's markets; (B) recordkeeping and reporting by the petitioners and its members; (C) fitness standards for intermediaries operating on petitioner's markets, members or others; (D) financial standards for the petitioner's members; (E) protection of customer funds, including procedures in the event of a clearing member's default or insolvency; (F) trade practice standards; (G) rule review or general review of board of trade operations by its regulatory authority; (H) surveillance, compliance, and enforcement mechanisms employed by the board of trade and its regulatory authority to ensure compliance with their rules and regulations; and (I) regulatory oversight of clearing facilities.[23] Information concerning the petitioner's rules, including its membership rules, the laws and regulations of the home

[22] Proposed Rule 30.11(b)(2)(i)–(iii).

[23] Proposed Rule 30.11(b)(2)(iv)–(vi).

country applicable to the petitions and its operations, and the mechanisms available for ensuring compliance with all such rules, laws and regulations should be provided in the petition. The Commission would review such information in order to determine whether it is consistent with the public interest, customer protection and its ability to discharge its regulatory duties to issue an order under section 4(c) of the Act to permit U.S. customer access to petitioner's products from automated systems within the U.S.

In response to the Commission's request for comment concerning ways to avoid the filing of unnecessarily duplicative information with the Commission, several commenters argued that, if a petitioner or its regulator has received an exemption from the Commission pursuant to Commission Rule 30.10, the petitioner should not be required to submit duplicative information to the Commission. The Commission agrees that, if a petitioner or a regulatory authority that governs the petitioner has received an exemption under Rule 30.30, the Commission may already have received much of the information referred to above. Accordingly, the proposed rules provide that, in such a case, a petitioner would not be required to submit its organizational documents, its current rules, and the information concerning the regulatory scheme in the petitioner's home country, if such information was provided to the Commission as a basis for the Rule 30.10 exemptive order and remains the same in all material respects and if the petitioner provides a statement in its petition to this effect that also specifies the date(s) the information was provided and the name of the petitioner who received the Rule 30.10 order.[24] Such a petitioner, however, would be required to provide all other information set forth in the rules unless a particular provision of the rules provides to the contrary. It should be noted that it is only where the information as to a *particular* board of trade's regulatory and self-regulatory program has previously been provided to the Commission under Rule 30.10 that a petitioner under Rule 30.11 need not provide all required information. Only where provision of information would, in fact, be duplicative may a petitioner rely on information provided in a prior Rule 30.10 application.[25]

The Commission wishes to emphasize that it remains very concerned about, and committed to, the protection of the positions and funds of U.S. customers who trade on boards of trade whose primary locus of operations is outside the U.S. Any U.S. customer who trades on such boards of trade may face additional risks, as various Commission-mandated risk disclosure statements make clear. There may also be an impact even on customers who do not themselves trade on such boards of trade, but have their accounts carried at FCMs that clear trades for other customers who do. The recent financial failure of Griffin Trading Company has heightened the Commission's concern in this area. Although the Commission recognizes that the events leading to Griffin's insolvency began on automated trading systems outside of the U.S., the Commission believes that this incident should serve as a reminder of the importance of establishing and enforcing trading and credit limits, rules to address the insolvency of intermediaries, and methods to transfer accounts of non-defaulting customers when there is a customer default. The protection of customer funds remains one of the Commission's major goals in its regulatory regime.

In light of the issues raised by the failure of Griffin, the Commission is considering the appropriateness of adopting a provision, in connection with its rules concerning automated trading systems, that would require that the automated order matching/execution system of contract markets, linked exchanges or boards of trade operating pursuant to proposed Rule 30.11 exemption orders have the ability to provide pre-execution credit and trading or position limit screening. The Commission's intention would be to insure that DESs could not be used to execute trades in violation of give-up or clearing agreements with credit and trading or positions limits. (This is to be distinguished from the trading or credit checks performed by FCMs' or Rule 30.10 firms' AORSs.) The Commission is not including such a requirement in these proposed rules, but requests comment on the appropriateness of such a requirement.

d. Technological Systems and Standards

The Commission's concept release also requested comment concerning what information should be requested regarding the technological systems and standards related to a petitioner's automated trading systems. The concept release suggested that this information could include a discussion of the petitioner's order processing system and its system integrity and architecture. Commenters varied in their suggested approaches to this issue. One commenter stated that petitioners should be required to provide information concerning their home country regulator's technological standards and suggested, by example, that a petitioner be required to specify whether such regulator has adopted the principles for screen-based trading set forth by IOSCO.[26] Another commenter suggested that the Commission's rules should not require any review or inquiry concerning the technological features of a petitioner's systems unless special circumstances warrant such attention. This commenter stated further that, if the home country regulator has satisfied itself that a trading system meets or surpasses the standards set forth by IOSCO in its report, no purpose is served by the Commission requiring any further demonstration of compliance by the petitioner.

The Commission believes it is generally appropriate to respect the judgment of home country regulators in these matters and does not wish to conduct a *de novo* review of the technological decisions made by petitioning boards of trade. However, the Commission also believes that it has an obligation to assure that any system that will be accessed from within the U.S. is sufficiently sound (*e.g.*, its architecture is sufficient to handle reliably the type and volume of transactions reasonably anticipated) and secure and provides fair access to U.S.

---

[24] *See* proviso to proposed Rule 30.11(b)(2)(vi).

[25] If a petitioner is aware that another board of trade in its home jurisdiction has recently provided information to the Commission in a petition that, in fact, duplicates specific information that would be required in the petitioner's petition, the petitioner may, in its petition, request that it not be required to include such duplicative information.

[26] These principles address the following topics:

1. Compliance with applicable legal standards, regulatory policies, and/or market custom or practice where relevant;
2. The equitable availability of accurate and timely trade and quotation information;
3. The order execution algorithm used by the system;
4. Technical operation of the system that is equitable to all market participants;
5. Periodic objective risk assessment of the system and system interfaces;
6. Procedures to ensure the competence, integrity, and authority of system users and to ensure fair access to the system;
7. Consideration of any additional risk management exposures pertinent to the system;
8. Mechanisms to ensure that the information necessary to conduct adequate surveillance of the system for supervisory and enforcement purposes is available;
9. Adequacy of risk disclosure, including system liability; and
10. Procedures to ensure that the system sponsor, providers, and users are aware of, and will be responsive to, relevant regulatory authorities.

See IOSCO report entitled "Screen-Based Trading Systems for Derivative Products" (June 1990).

customers on a nondiscriminatory basis (*i.e.*, U.S. customers are not placed at a competitive disadvantage to others trading on the system). These assurances are necessary in order for the Commission to determine that issuance of a section 4(c) exemption order would not be contrary to the public interest, would serve to ensure protection of U.S. customers and would not adversely affect the Commission's ability to discharge its regulatory duties.

To address these concerns and the recommendations of commenters, the proposed rules would require that a petitioner state in detail in its petition the extent to which a technical review of the system at issue was performed by its home country regulator and identify the standards applied in that review. The petitioner would include a copy of any order or certification received from its home country regulator as a result of such review. If the home country regulator based its approval on a review conducted by a third-party, the petitioner should so indicate and discuss the qualifications of the party that performed the review and the standards applied.

The petition would also be required to include a general description of the automated trading system operated by the board of trade, including at a minimum a general description of the architecture and security features of the system, information as to the length of time the particular system has been operating and a history of significant system failures or interruptions.[27] Depending upon the nature of the technical review performed and the information received concerning the system's operating history, the Commission would determine what additional inquiry, if any, by the Commission is necessary and appropriate in reviewing the petitioner's request. The Commission adopted the IOSCO 1990 Principles on Screen-Based Trading as a formal Commission statement of regulatory policy and would use the IOSCO principles as guidelines for its review to determine whether the petitioner's automated system technology is sufficient to permit the Commission to issue a section 4(c) exemption order.[28] In this regard, the petitioner would be required to describe any differences between the IOSCO principles and those that were used to perform the technical review.

[27] *See* proposed rule 30.11(b)(2)(viii).

[28] 55 FR 48670 (Nov. 21, 1990). IOSCO is currently undertaking a study to review the principles set forth in its 1990 report in light of new technological developments.

To the extent that the information to be provided to the Commission would be the same for several boards of trade using a shared computer or for a board of trade that lists its products on another board of trade's automated trading system, only one of the boards of trade using the system or making its products available on such system in the U.S. would be required to provide the information regarding technological systems and standards. If a petitioner shares a computer system or platform with another board of trade that has not sought an exemption order and the petitioner has relied on the system analysis performed by the other board of trade's home country regulator, it would not be sufficient for the petitioner simply to state that it relied on such analysis. Rather, the petitioner would be responsible for obtaining and providing the Commission with information concerning the analysis performed by the other board of trade's home country regulator and for describing whether such analysis was consistent with the IOSCO principles. Additionally, if a board of trade does not include all or a portion of the information regarding the type of review that was performed on its system because the information has been or is being provided by another board of trade, the petitioner must include a statement to that effect in its petition and must identify the board of trade that has provided or is providing the information.

e. U.S. Activities

Another possible information requirement outlined in the concept release concerned the petitioner's activities in the U.S. The concept release requested comment on whether to require a petitioner to provide information concerning its marketing, education, promotional or other activities in the U.S. including the address of, and number of persons employed by, any office maintained by the petitioner in the U.S., and the extent to which the board of trade makes information available on the Internet that may be relvevant to U.S. customers who wish to trade its products. Additionally, if the petitioner maintains a warehouse in the U.S. for any futures contracts that could involve physical delivery of the underlying commodity, the concept release suggested that the petitioner should provide the address for such warehouse and the stocks contain as of the date of the petition.

Commenters generally agreed that the Commission has a legitimate interest in obtaining information to determine whether a board of trade's presence in the United States is more than incidental such that the board of trade should be required to obtain contract market designation. The Commission has determined to propose generally the submission of the information discussed in the concept release concerning a petitioner's U.S. activities.[29] To qualify for an exemption order, petitioner's management, back office operations, order matching/execution facilities and clearing facilities would have to be located outside the U.S., as would all or the vast majority of its personnel. The presence of an office or offices in the U.S. might or might not be deemed to be incidental contact, depending on the size, purpose, and activities conducted by the office(s). The Commission will evaluate this issue based on the facts described in the petition.

One commenter questioned the relevance of information concerning the address of warehouses in the U.S. and the stocks available at such warehouses. The Commission believes that the location of the underlying cash market and delivery points with respect to products traded through U.S.-located automated trading systems is a pertinent factor in examining the nature and extent of an exchange's activities in the U.S. Presence in the U.S. of some warehouse facilities would not itself render a petitioner ineligible for relief under these rules. Eligibility would depend on the nature of petitioner's U.S. activities taken as a whole.[30]

f. Rules Concerning Access by U.S. Exchanges to Foreign Markets

The concept release also requested comment on whether the Commission should require that the petitioner provide a statement from the regulatory authority in its home country with primary responsibility for oversight of the petitioner as to whether such regulator or any other body in that country imposes any restrictions or regulations regarding: (1) The placement or operation of U.S. exchange automated trading systems in the country; (2) the types of products permitted to be traded on such systems; and (3) the sale of U.S. exchange products, generally. If any such restrictions or regulations existed, the concept release suggested that the statement include a description of the restrictions or regulations, copies of any relevant statutes or other relevant legal

[29] *See* proposed Rule 30.11(b)(2)(ix)–(xi).

[30] The proposed rules require petitioners to identify the addresses of any warehouses maintained in the U.S. for delivery of underlying commodities, but not to specify the stocks on hand at such warehouses. If a petition is granted, an exempted exchange must respond to any Commission requests for information about such stocks. *See* proposed Rule 30.11(d)(8).

materials and a description of the application process, if any, required for a U.S. exchange and its members to place automated trading systems and/or to sell products in the petitioner's home country.

Commenters generally were in favor of the Commission's collection of the information described above as a means of ensuring electronic access to markets globally. Commenters differed, however, regarding the role such information should have in the Commission's ultimate determination as to whether it should issue an order. Several commenters stated that an order should not be issued to a board of trade primarily located outside the U.S. unless similar electronic access is made available to U.S. exchanges by the board of trade's home country regulator. Other commenters warned that the Commission should not use the request for information concerning the electronic access rules of the petitioner's home country as a means to require, as a prerequisite to issuing an order, that a particular regulatory framework for allowing U.S. exchanges to place automated trading systems in the foreign jurisdiction be in effect in a foreign jurisdiction. Two commenters believed that the Commission should collect information concerning a foreign jurisdiction's rules and policies vis-a-vis a U.S. contract market's ability to place automated trading systems in the foreign jurisdiction, but should not deny electronic access to a board of trade solely on the basis that its home jurisdiction excludes the systems of U.S. exchanges. Rather, these commenters believed that the information should be considered as one element in the Commission's assessment of the entire petition. Another commenter stated its view that the issue of reciprocity should not be a significant factor in the Commission's determination as to whether to issue an exemption order because financial institutions in a country that does not provide electronic access ultimately will be harmed by such a policy, thus effectively forcing the country into developing regulations permitting access. One commenter also noted that any Commission regulations must be consistent with U.S. obligations under the General Agreement on Trade in Services ("GATS") and any applicable annexes thereto.

With respect to the GATS, Commission staff have held discussions with staff of the U.S. Department of Treasury ("Treasury") and the Office of the U.S. Trade Representative ("USTR") on this issue. Treasury and USTR staff have expressed to Commission staff their view that the Commission may not condition granting an order on reciprocity by the petitioner's home country without violating U.S. legal obligations under the GATS and North American Free Trade Agreement (NAFTA). Indeed, they have expressed concern that even a request for information such as that set forth in the concept release and described above might raise questions relating to U.S. obligations under the GATS and NAFTA.

In light of Treasury's and USTR's view regarding U.S. legal obligations under the GATS and NAFTA, the Commission is not now proposing to impose a requirement that a particular partitioner's home country jurisdiction extend reciprocity to U.S. exchanges' automated trading systems, even though it had intended to do so. The Commission would welcome comment on this issue. Even if U.S. international obligations prevent the Commission from requiring reciprocity, the Commission strongly supports a policy of open and free access to global markets and is committed to aiding U.S. exchanges in gaining the right to place electronic systems in foreign jurisdictions. The Commission encourages any U.S. exchange that believes that it is being wrongfully prevented from placing its automated trading systems in foreign jurisdiction to inform the Commission of this concern. The Commission will work with the exchange, with the foreign jurisdiction, and with Treasury and/or USTR as appropriate to open such jurisdiction to U.S. exchanges and to resolve any dispute over unfair restrictions placed on U.S. exchanges.

g. Financial Information and Volume Data

The concept release requested comment on a requirement to include in a petition the petitioner's most recent annual financial statements and the total trading volume, on a contract-by-contract basis and in the aggregate, for its most recent year and most recent quarter (or other period if data is not maintained on an annual and quarterly basis). Based upon the concerns of commenters regarding the relevance of the financial statements, the fact that the Commission does not require similar statements from contract markets and the fact that the Commission will review the minimum financial standards and clearing facility oversight in the petitioner's home country, the Commission has determined not to require financial statements from the petitioner in the proposed rules. Neither will the Commission require volume figures in a petition under Proposed Rule 30.11. The proposed rules, however, would require certain basic U.S. volume data to be reported to the Commission on a quarterly basis as a condition of a section 4(c) exemption order.[31]

h. Information Sharing

The prevention of fraud and the protection of U.S. customers, including customer funds, remain major goals of the Commission's regulatory scheme. The Commission's ability to access information regarding trading by persons located in the U.S. that is conducted on a board of trade exempted under proposed Rule 30.11 is essential to achieving these goals. The concept release requested comment on a requirement that a petitioner identify any information sharing arrangement in effect among the relevant regulatory authorities and the Commission, including information concerning any blocking statutes or data protection laws in effect in the petitioner's home country that might impair the Commission's ability to obtain information under such arrangements. The commission has determined that the existence of satisfactory information sharing arrangements between the petitioner and the petitioner's regulator and the Commission is an essential prerequisite for an exemptive order under the proposed rules. Under such arrangements, the Commission and the petitioner and the petitioner's regulatory authority would agree to cooperate with respect to inquiries concerning trading on the petitioner's markets that affects U.S. persons or markets. Relevant information to be provided under such arrangements may include, without limitation, trade confirmation data, data necessary to trace funds related to trading futures and option products subject to regulation in the petitioner's home country, position data, data on a firm's standing to do business in the petitioner's home country, and a firm's financial condition. Mechanisms for cooperating with the Commission and the NFA in inquiries, compliance matters, investigations and enforcement proceedings must be established in the information sharing arrangements. Failure to maintain satisfactory information sharing arrangements could result in revocation of the Commission's order. Proposed Rule 30.11(d)(8) also provides that the Commission may seek information directly from the petitioner to evaluate the petitioner's continued eligibility for or compliance with the

[31] *See* discussion of conditions of an order in Section III.B.2., below.

conditions of a section 4(c) exemption or for any other reason.

i. Arrangements Among Multiple Exchanges

The Commission envisions that its proposed rules would apply not only with respect to individual boards of trade that primarily are operated outside the U.S., but also in circumstances where the products of multiple boards of trade are traded through a single system. In such a case, each board of trade whose products would be made available through U.S.-located automated trading systems generally would be required to comply with the requirements set forth in the proposed rules. For example, if two or more boards of trade share the same system and each wishes to place DESs in the U.S. for its members' (or members' affiliates') use, each would be required to receive an order from the Commission prior to such placement. Similarly, if the products of one or more boards of trade are available through the DES of another board of trade, each board of trade whose products would be available in the U.S. through such DES would be required to receive a section 4(c) exemption order. With respect to AORSs that provide U.S. customers with access to the products of multiple boards of trade, each board of trade whose products would be available through such device or software would have to comply with the rules and receive a section 4(c) exemption order before an FCM or a Rule 30.10 firm could allow its customers to enter trades on the board of trade via an AORS. In the examples discussed above, a petition to the Commission under the proposed rules could be made individually by each board of trade or jointly, provided that the Commission received all required information under the proposed rules with respect to each board of trade whose products would be made available electronically from within the U.S.

In addition to the foregoing, the Commission appreciates that some boards of trade currently allow automated trading of their products from within the U.S. through mutual arrangements with designated contract markets or may in the future do so. In these cases, the arrangements are submitted to the Commission for its prior review as rule changes of the contract market. Because the Commission thus has the opportunity to examine each such arrangement, the proposed rules carve out an exception that would allow a board of trade primarily operating outside the U.S. to have its products traded through automated trading systems located in the U.S. without obtaining contract market designation and without receiving a section 4(c) exemption order if (1) the board of trade has entered into an electronic trading arrangement with a designated contract market which is submitted to the Commission for review and is in effect as a rule of the contract market and (2) the products of the board of trade that are traded in the U.S. through such trading systems are traded in accordance with such an arrangement. However, a board of trade that has entered into an electronic trading arrangement with a designated contract market would be required to receive a Commission order pursuant to these proposed rules if the board of trade planned to allow automated access to its products in any manner that would fall *outside* the arrangement with a U.S. contract market that has been submitted to the Commission for review.

The Commission wishes to emphasize that, although a "linked exchange" would not be required to comply with these proposed rules if access to its products via automated trading systems from within the U.S. is limited to the terms of an arrangement with a designated contract market, a designated contract market that enters into such a linkage arrangement must submit a rule(s) describing the arrangement and the attendant rights and responsibilities of all parties involved in the arrangement to the Commission for approval. In reviewing such a rule submission, the Commission has applied and will continue to apply substantially the same standards as set forth herein modified as appropriate based on the exact nature of the linkage arrangement. Among other things, the Commission seeks assurances from the designated contract market that the arrangement will conform with the principles for screen-based trading set forth by IOSCO [32] and evaluates what role the U.S. contract market would have in securing its members' compliance with the rules of the board of trade operating primarily outside the U.S. Additionally, the Commission will ensure that any rule(s) it reviews includes language requiring such a board of trade to subject itself to the jurisdiction of the Commission and U.S. courts regarding its activities under the linkage arrangement.

j. Public Availability of Petitions

The concept release asked for comment on whether petitions received should routinely be published in the **Federal Register** for public comment. After reviewing the comments and in light of the nature of the petition process that would be established by the proposed rules, the Commission believes that, as a general matter, it would be beneficial to provide public notice of petitions. Accordingly, pursuant to section 4(c) of the Act, paragraph (e) of proposed Rule 30.11 provides that the Commission will publish a "notice of availability" in the **Federal Register** upon receipt of any petition. The notice of availability would contain a general description of the information discussed in the petition and the exemption sought by the petitioner. Interested parties would thus be aware of each petition and would have the opportunity to request information concerning the petition from the Secretariat of the Commission. The proposed rule further provides that the Commission may, upon the request of a petitioner, limit the public availability of information included in its petition if the Commission determines that such information constitutes a trade secret or that public disclosure would result in material competitive harm to the petitioner.

2. Conditions of an Order

If all standards for exemptive relief are met, exemptive orders under proposed Rule 30.11 would be issued subject to certain conditions. The concept release set forth a number of potential conditions that would be included in each Commission order. The Commission believes that it generally would be helpful to go further and provide in its rules a list of conditions that will apply automatically to each Commission order, unless a particular order indicates otherwise. In light of the comments received on the concept release, the Commission is proposing conditions that vary in certain respects from those discussed in the concept release. These conditions are intended to aid the Commission to fulfill certain basic goals of its rulemaking: (1) To ensure protections for U.S. customers and (2) to ensure that the Commission has ongoing access to data to ensure the continued appropriateness of the Commission's 4(c) exemption order. The conditions that are proposed to be included automatically in each Commission order are as follows:

1. Only memebers of the board of trade that received a Commission exemptive order and their affiliates may have access to DESs, and the board of trade will not provide, and will take reasonable steps to prevent third parties from providing DESs to any other persons;

[32] *See supra* note 26.

2. Unless otherwise exempt from registration, any member or affiliate thereof that solicits or accepts orders for, or accepts money, securities or property in connection with the purchase or sale of, foreign futures or foreign options by a foreign futures or foreign options customer via a DES or an AORS must be a registered FCM or a Rule 30.10 firm;

3. The board of trade that received the exemptive order must notify the Commission in writing within 30 calendar days of (a) any material changes in the information provided in its petition to the Commission and any changes in its rules or in the laws or rules of its home country that may have a material impact on the order, (b) any known violation by a member (or its affiliate) of the Commission's order; and (c) any disciplinary action taken against a member (or its affiliate that involves any market manipulation, fraud, deceit or conversion or that results in the member's suspension or expulsion[33] and that involves the use of a DES or an AORS in the U.S., *provided, however,* that the board of trade must notify the Commission at least ten business days prior to allowing any new products (*i.e.*, products other than those discussed in its petition) to be traded through DESs or AORSs located in the U.S. and within 24 hours of any significant system failure or interruption or a member's default, insolvency or bankruptcy;[34]

4. Satisfactory information sharing arrangements must remain in effect between the Commission and the petitioner and the petitioner's regulatory authority;

5. The board of trade that received the order must provide to the Comission, on a quarterly basis and at any other time upon the request of a Commission representative, a current list that (a) identifies and provides the main business addresses in the United States for those of its members and affiliates thereof that have DESs in the United States and indicates which of such members and affiliates thereof allow the use of AORSs by foreign futures and foreign options customers and (b) identifies and provides the main business addresses for those of its members and affiliates thereof that allow the use of AORSs by foreign futures and foreign options customers, but who do not have DESs in the U.S.;

6. Prior to operating pursuant to the Commission order, the board of trade that received the order must file with the Commission, and maintain thereafter as long as it operates pursuant to the order, a valid and binding appointment of an agent for service of process in the United States, pursuant to which such agent is authorized to accept delivery and service of communications issued by or on behalf of the Commission, the Department of Justice, any member of the board of trade or affiliate of such member, or any foreign futures or foreign options customer. Service or delivery of any communication issued by or on behalf of any of the foregoing, pursuant to such appointment, shall constitute valid and effective service or delivery.

7. Prior to operating pursuant to the Commission order, the board of trade that received the order must file with the Commission a written representation, executed by someone with authority to bind the board of trade, stating that, as long as the board of trade operates pursuant to the order, the board of trade irrevocably agrees to and submits to the jurisdiction of the Commission and state and federal courts in the United States with respect to the board of trade's activities conducted under the exemption order; and

8. The board of trade that received the order must provide the Commission with quarterly reports indicating with respect to each contract available to be traded from within the U.S. via DESs or AORSs (a) the total volume originating from DESs or AORSs located in the U.S. and (b) the total worldwide trade volume on the board of trade. If applicable, the board of trade also must provide reports upon request indicating the stocks held at any warehouse maintained by it in the U.S. for products that require physical delivery.

A significant issue raised in the concept release concerned the extent to which the Commission should look to the volume of a petitioner's contracts transacted by U.S. persons in determining whether such petitioner should be issued an exemption order under these proposed rules. The majority (although not all) of the commenters on this issue believed that the Commission should not use a volume test as the sole means to determine whether a board of trade should be eligible for a Commission order. Commenters varied, however, in their views as to the extent, if any, to which U.S. volume data should play a role in this determination. The Commission agrees with those commenters who suggested that adopting a particular percentage of volume within the U.S. beyond which a board of trade would be required to receive contract market designation could serve to inhibit the development of new products that might appeal to U.S. users and could prove difficult to manage because volume potentially can vary greatly from one reporting period to the next. Thus, the Commission is not proposing any fixed percentage. However, the Commission believes that trade volume from within the U.S. is relevant in assessing whether a board of trade's contacts in the U.S. are so extensive that it should be required to be designated as a contract market and that a quarterely report that indicates a board of trade's volume of U.S. transactions in each contract and the total number of transactions worldwide in each contract would be beneficial to the Commission in obtaining a complete picture of the board of trade's U.S. activities. Accordingly, the Commission has determined to include in its proposal a periodic U.S. volume reporting requirement that would be included as a condition to each order issued under the proposed rules. The Commission believes that the volume data that would be required under the proposed rules, while relevant and helpful to the Commission, should not impose a significant burden. Specifically, as noted above, the proposed rules would require that a board of trade that received a Commission order provide a report to the Commission on a quarterly basis that indicates the total volume in each of its contracts that originates from automated trading systems in the U.S. (whether from DESs or AORSs) and the total volume of transactions in such contracts worldwide (including the U.S.). This information would be provided for each contract traded on DESs or AORSs from within the U.S.

Another issue raised in the concept release concerned a potential requirement for a biennial on-site review of the operations of members (and their affiliates) operating in the U.S. under a Commission order. The Commission has determined not to require a separate on-site review. As one commenter pointed out, any member or affiliate thereof that uses a DES to trade on behalf of U.S. customers pursuant to a Commission issued order would have to be registered as an FCM and would be subject to periodic audits by the Commission and its designated self-regulatory organization ("DSRO") (*i.e.*, U.S. contract market or NFA). The Commission does not believe that it is necessary to require an additional review under these rules. Rather, it anticipates that the DSRO's audit procedures would be extended to encompass a review of compliance with the Commission's new rules, and orders

[13] *See, e.g.*, Rule 1.63(a)(6)(ii) (defining disciplinary offense for purposes of the Commission's rule concerning service on SRO governing boards by persons with disciplinary histories to include any violation of SRO rules that involves fraud, deceit or conversion or results in suspension or expulsion).

[14] Although the proposed rules would require that the Commission be notified if a board of trade operating under an exemption order intends to allow automated access to new products through DESs or AORSs located in the U.S., the proposed rules generally would not require any type of pre-approval process. However, as previously noted, the proposed rules would not alter a board of trade's obligations: (a) To receive a no-action position from the Commission prior to engaging in the offer or sale of any stock index futures or option contracts in the U.S. or (b) to have any foreign government debt obligation designated as an "exempt security" by the SEC before engaging in the offer or sale of any futures contract or option thereon in the U.S. section 2(a)(1)(B)(v) of the Act states generally that no person shall offer or enter into a contract of sale for future delivery of any security except an "exempt security" under Section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934.

issued thereunder, when adopted and issued.

The Commission wishes to make clear that the above list of conditions that will automatically apply under the proposal would not necessarily be exhaustive. For clarity's sake, each order likely would reiterate the conditions that are imposed automatically by the rules. However, as the rules state, the "default" or automatic conditions would apply even if not contained in an order, unless explicitly excluded therefrom. Additionally, a petitioner must include in its petition a written statement in which it consents to or agrees to comply with each of the conditions should the Commission issue the petitioner a Rule 30.11 exemption order.[35] Thus, consent or agreement to comply with the conditions also would be a prerequisite to the Commission's issuance of an order under these rules.

The Commission would be free to subject any order to other conditions that the Commission believes to be necessary or appropriate. In addition, under paragraph (f) of proposed Rule 30.11, the Commission would retain the authority to condition further, modify, suspend, terminate or otherwise restrict the terms of an order as they apply either to a specific person operating thereunder or to the order in its entirety. The Commission might determine to take such action, for example, if the Commission found that the board of trade that received the order, or an entity operating in the U.S. based on the order, materially violated a stated condition of the order, that the activities, operations and trading of the board of trade that received the order no longer justified the order, or that continuation of the order otherwise would be contrary to the Act, public policy or the public interest.

3. Rules Concerning Automated Order Routing Systems

a. AORS Definition

As noted above, the Commission is proposing to adopt a definition of the term "automated order routing system" in a new paragraph (tt) of Commission Rule 1.3, which contains the Commission's general definitions and thus would apply to U.S. designated contract markets in addition to boards of trade granted a Commission order under proposed Rule 30.11 and linked exchanges. The definition of an AORS is any system of computers, software or other devices that allows entry of orders through another party for transmission to a board of trade's computer or other automated device where, without substantial human intervention, trade matching or excution takes place. "Entry of orders" for an AORS could be via a screen-based or other automated system. A customer who telephones an order to an employee of an FCM or Rule 30.10 firm would not be *entering* an order for purposes of these rules, and the AORS definition would not apply. The definition of AORS and the requirements relating thereto would apply to orders *for* and customer or foreign futures or options customer, although order entry itself could be made by the customer *or* by a person designated by the customer to enter orders on its behalf, *e.g.*, a CTA.

As described more fully below, under Proposed Rule 1.71(a), if a customer or foreign futures or foreign options customer uses an AORS to transmit an order to an FCM or Rule 30.10 firm, such AORS must be a "qualified" AORS and satisfy certain minimum requirements specified in proposed rule 1.71(b). Further, under proposed rule 30.3 (d), AORSs can only be used to access designated contract markets, boards of trade that have received an exemption under Proposed Rule 30.11 or linked exchanges.

The qualification requirements of Proposed Rule 1.71 do not apply to orders transmitted via an AORS if such orders are proprietary orders of the receiving firm, of if they are transmitted by a registered FCM to another firm for any proprietary account or customer omnibus account of the FCM. Systems transmitting such orders still fall within the definition of AORS, however, and therefore Proposed Rule 30.3(d) requires that such orders be directed to a contract market, a Rule 30.11 exempt board of trade or a linked exchange.

There are a number of possible permutations in how a particular order may be transmitted from a customer or an FCM for eventual execution on an automated board of trade, and it is important to examine each step of a particular transaction to determine what requirements apply. For example, if a customer telephoned an order to an employee of a U.S. FCM, who then entered the order into a system linked directly to an automated board of trade of which it was member, the second step of the transaction would involve the use of a DES, and under proposed Rule 30.3(c), the board of trade for which the order was placed must be a designated contract market, a Rule 30.11 exempt board of trade, or a linked exchange. If the same customer used a system that satisfied the definition of an AORS to send an order to an FCM (or Rule 30.10 firm) for transmission to an automated board of trade, such AORS would have to be a qualified AORS and satisfy the requirements of Proposed rule 1.71(b). Under proposed Rule 30.3(d), the board of trade for which the order was placed would have to be a designated contract market, a Rule 30.11 exempt board of trade, or a linked exchange.

If a foreign futures options customer telephoned an order to an employee of an FCM and the FCM, using its customer omnibus account, were to take the order and transmit it electronically to another FCM, a Rule 30.10 firm or a firm otherwise exempt from registration as an FCM [36] for transmission into an automated board of trade, transmission of the order from the customer's FCM through the other firm for execution would constitute use of an AORS. Accordingly, under proposed Rule 30.3(d), the board of trade for which the order was placed must be a Rule 30.11 exempt board of trade or a linked exchange. The AORS used by the customer's FCM in this example would not have to be a qualified AORS that meets the credit check and other requirements of proposed Rule 1.71, however, because its use was by an FCM for a customer omnibus account.

Where a non-clearing member of a board of trade operating under a Rule 30.11 exemption order or of a linked exchange uses an automated device directly to access the board of trade's automated order matching engine and there is a post-trade give-up for clearing to an FCM or a Rule 30.10 firm, this would be treated as use of a DES rather than an AORS under the proposed rules. The requirements of proposed Rule 1.71 therefore would not apply.[37] However, an FCM or Rule 30.10 firm must bear in mind that, if the non-clearing member used an automated device to route an order through the FCM or Rule 30.10 firm prior to the order's transmission to the matching/execution engine of the board of trade, this would be treated as use of an AORS by the non-clearing member customer, and the AORS therefore would have to be a qualified AORS and to satisfy the requirements of proposed Rule 1.71, unless the non-clearing member is itself an FCM or has a proprietary relationship to the FCM receiving the order.

b. Requirements for Qualified AORSs

Proposed Rule 1.71 would set forth very basic standards that must be met by a qualified AORS. If these minimum requirements are satisfied, there would

[35] *See* proposed rule 30.11(b)(2)(xii).

[36] *See supra* note 20.

[37] The firm carrying the account generally would have to be a registered FCM or Rule 30.10 firm

be no restriction upon the type of customer that could use the AORS, *e.g.*, no minimum net worth standards, and no restrictions upon the type of data that may be displayed to the customer. The AORS must be limited to exchange trading only, either on a designated contract market, an exchange linked to such a contract market or a board of trade that receives an exemption order in accordance with proposed Rule 30.11.[38]

A qualified AORS may only provide access for a customer or a foreign futures or foreign options customer to products that can lawfully be offered to or entered into by U.S. persons. Thus, for example, if there were a futures contract traded on a board of trade with a Rule 30.11 exemption order (or a linked exchange) involving a foreign stock index or a foreign government's sovereign debt instruments that had not received the requisite clearances, the futures contract could not lawfully be offered or sold to U.S. persons. The FCM (or Rule 30.10 firm, as applicable) should also exercise due diligence to verify that use of an AORS is permissible under, and undertaken in accordance with, the rules of the relevant contract market, board of trade that received a Rule 30.11 exemption order, or linked exchange.

For trading through an FCM, a qualified AORS would be required to provide all information required by Commission Rule 1.35(a–1)(1) concerning identification of customer orders, except that order-related times would have to be captured to the nearest second. The proposed requirement for timing to the nearest second is consistent with the Commission's previous advisory concerning recordkeeping requirements for electronic order-routing systems.[39]

The Commission believes that the use of AORSs may be beneficial for customers and FCMs in terms of convenience and efficiency. However, these systems are not infallible or without serious risk. The Commission is concerned that, due to the speed and the uninterrupted nature of an automated device, an error, if one should occur, could be very large in magnitude and impact and thus potentially could pose a significant risk to customers, to the integrity of the FCM and to the marketplace in general if the AORS does not contain appropriate safeguards. Commission Rule 1.16 requires, among other things, that an FCM have in place appropriate internal accounting controls and procedures for safeguarding customer and firm assets.[40] However, that rule does not prescribe specific controls that must be in place. The Commission believe that it is appropriate to mandate that certain specific, minimum controls be present in any qualified AORS. These minimum safeguards do not supplant or replace an FCM's duties under Rules 1.16 and 166.3 and other applicable regulations, concerning proper internal controls and supervision of employees and accounts. Rather, they are minimum standards that should be implemented in addition to other appropriate controls employed by FCMs regarding AORSs.

Proposed Rule 1.71(b)(3) requires generally that an FCM or Rule 30.10 firm take reasonable steps to ensure that its system is and remains sound and secure and generally fit for its intended purpose. Proposed Rule 1.71(b)(5) provides that a qualified AORS must contain at a minimum checks that verify that any credit and trading or position limits for the account (as established by the FCM or Rule 30.10 firm) are not exceeded.[41] Such checking could be performed manually or by the system itself on an automated basis. If these checks are automated, the FCM or Rule 30.10 firm must implement proper internal controls to ensure that limits appropriate to each customer or foreign futures or foreign options customer, as determined by personnel authorized to set such limits, are properly input into the AORS and updated as appropriate. The Commission is also proposing, in proposed Rule 1.71(b)(6) and (b)(7), that a qualified AORS must provide: (1) An FCM or Rule 30.10 firm, on a unilateral and immediate basis, with the capability to block use of an AORS if, for example, the firm determines that its security or the security of any contract market, linked exchange or board of trade operating pursuant to a Rule 30.11 exemption order may be adversely affected by use of the AORS and (2) reasonable precautions to ensure against unauthorized access, unauthorized trading and unauthorized disclosure of customer or foreign futures or foreign options customer orders[42] and to provide overall integrity and security of the AORS.

With respect to recordkeeping, the Commission is proposing that a qualified AORS must enable an FCM to download trade history on each order entered through the system on a daily basis and otherwise to maintain records related to such orders in accordance with Commission Rule 1.31.[43] To assure system integrity and appropriate trade data, any and all modifications to or cancellations of an order must be recorded. In addition, the Commission is proposing to require an FCM to maintain a record of accounts for which it will accept or transmit for execution orders that have been entered through an AORS. This record shall also include the name of any person designated by a customer or a foreign futures or foreign options customer to exercise control over the trading decisions for the account and shall be maintained in accordance with Commission Rule 1.31.[44] A Rule 30.10 firm should maintain records in accordance with the

---

[38] An AORS could also provide access to trading in cash markets, securities markets, or CEA-exempt hybrid markets, if such trading is consistent with all applicable laws and regulations. Trading of swaps via AORSs would not be permissible under the current Commission exemption for swaps, which prohibits the use of multilateral transaction execution facilities for swaps trading, *see, e.g.*, Rule 35.2(d), and thus would not be permissible under proposed Rule 1.71.

[39] 62 FR 7675, at 7677 (Feb. 20, 1997).

[40] In particular, Rule 1.16(d)(1) requires that the scope of the FCM's annual audit, review of the accounting system and procedures for safeguarding customer and firm assets be "sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in (i) the accounting system, (ii) the internal accounting controls, and (iii) the procedures for safeguarding customer and firm assets . . . will be discovered." A material inadequacy is defined generally in Rule 1.16(d)(2) to include, among others, "any conditions which contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to . . . (r)esult in material financial loss(.)" *See also*, Commission Rule 166.3, which governs an FCM's general supervisory duty with respect to handling of accounts.

[41] This proposed rule is consistent with conditions currently placed on customers of the CME who may transmit Globex orders to FCMs via the Internet. By letter to the CME dated August 14, 1997, the Division, under authority delegated by the Commission in Rule 1.41(a)(3), informed the CME that its proposal to permit customers to transmit Globex orders to FCMs via the Internet did not require Commission approval under section 5a(a)(12) of the Act. Under CME's proposal, customers do not have direct access to Globex. Rather, the proposal permits CME clearing members to accept customer orders via the Internet. After receipt of a customer order, the order is transmitted to Globex via the clearing member's order routing system and CME's computer-to-computer interface ("CTCI"), which enables a clearing member to upload and download orders between the member's order routing system and Globex. A CME clearing member may use CME's CTCI only if (1) the member's order routing system contains automated credit controls or position limits or (2) customer orders received by a member through its order routing system are subject to manual review and processing by a clearing member employee prior to being entered into a Globex terminal.

[42] *See* Commission Rule 155.3(b)(1).

[43] *See* proposed Rule 1.71(b)(8).

[44] Proposed Rule 1.71(c). The records of third-party account controllers, like all books and records required to be kept by the Act or rules thereunder, must be readily accessible during the first two years of the required five-year retention period under Rule 1.31. Commission staff have sometimes experienced difficulty in obtaining this information on existing accounts. Such information is required by Rule 1.37 and is generally maintained by FCMs, but sometimes the manner of maintenance improperly makes ready retrieval difficult.

requirements of its home country regulator, which would then be available to Commission or NFA representatives under appropriate information sharing arrangements.

As discussed above, proposed Rule 1.71 is intended to establish minimum requirements with respect to the use and the soundness of an AORS. The Commission believes that these basic, common sense requirements likely would be adopted by any responsible FCM or Rule 30.10 firm, even in the absence of Commission action. Indeed, the Commission anticipates that AORSs may contain protections more elaborate than those required under the proposed rules. Depending on the nature of the system, compliance with existing Commission Rules 1.16 and 166.3 may require more stringent internal controls and protections to be in effect. The Commission requests comments as to whether any additional specific prudential standards should be included in the Commission's rules concerning the use of AORSs.

Certain commenters noted that rules pertaining to AORSs should apply universally. The Commission agrees with that position and is therefore proposing to add to Commission Rule 30.3 a new paragraph (e) to provide that, notwithstanding the terms of any prior Rule 30.10 order, it shall be unlawful for a Rule 30.10 firm to accept or transmit for execution an order from a foreign futures or foreign options customer through an AORS unless the system satisfies the requirements of proposed Rule 1.71(a), as appropriate for a Rule 30.10 firm. This provision would apply to existing Rule 30.10 firms irrespective of what may have been stated in an earlier Commission order under Rule 30.10.

With respect to the disclosure of risk that an FCM must provide to a customer or a foreign futures of foreign options customer using an AORS, the Commission notes that Rule 1.55, certain provisions of which are referred to above, provides in paragraph (g) thereof that any specific requirements set forth therein do "not relieve (an FCM) from any other disclosure obligation it may have under applicable law." Therefore, although the Commission is not proposing any specific risk disclosure *language* applicable to an AORS or a DES, just as it has not done so for contract market automated trading systems, the Commission believes that FCMs must disclose material risks about these systems. Designated contract markets have developed risk disclosure statements for their automated trading systems that FCMs provide to customers using those systems, and comparable risk disclosures would be necessary and appropriate as to AORSs and DESs.

The Commission notes that there have been discussions between Commission staff and a joint industry-NFA committee concerning a generic electronic trading and order routing systems disclosure statement, which is proposed to replace the contract market-specific disclosure statements with the understanding that customers would always be entitled to further information about a particular system upon request or about particular material risks not otherwise covered by the generic disclosure statement. In determining whether a petitioner's regulatory structure is generally comparable to the U.S. structure with respect to customer protection and prohibition of fraud and abuse, the Commission would review the petitioner's risk disclosures pertaining to its automated trading systems in light of those prepared by designated contract markets for their systems and any generic disclosure statement ulitmately developed in discussions between Commission staff and the industry-NFA committee discussed above. The Commission requests comment concerning any specific disclosure provisions that should be set forth in Commission rules.

The Commission also notes that proposed Rule 1.71 would not apply in a situation where the customer is outside the U.S. and trades on a Rule 30.11 exempt board of trade or foreign board of trade, but the trade is given up for clearance after execution to an FCM. The focus of Rule 1.71 is to assure that there is a sound automated system that will be secure and provide for credit and trading or position limit checks prior to execution, and the Commission does not believe that the above situation would allow pre-screening by the FCM. Of course, the Commission expects that an FCM will maintain appropriate internal controls and supervision with respect to any account that it clears in accordance with existing Rules 1.16 and 166.3.

The Commission is not proposing to apply the AORS definition or Rule 1.71 to order routing for open outcry execution. The Commission intends that these proposals would not alter its prior advisory referred to above or impact on efforts of contract markets using open outcry execution to enhance the automation of order flow.

4. Interim Procedures

Several commenters have requested that the Commission grant interim relief to allow automated access from within the U.S. to boards of trade primarily operated outside the U.S. in anticipation of the Commission's final rules. The Commission appreciates the importance of the issues involved in this rulemaking, but does not believe that it is appropriate to grant interim relief either before the Commission's adoption of final rules or pending the Commission's review of a board of trade's petition. Interested boards of trade should feel free, however, to begin a dialogue now with Commission staff to help expedite their preparation and submission of a petition following the Commission's adoption of final rules.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–611 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The proposed rules discussed herein would affect boards of trade, their members or members' affiliates and FCMs. Many board of trade members and affiliates thereof will be FCMs. The commission previously has determined that, based upon the fiduciary nature of the FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.[45] With respect to potentially affected entities that are not FCMs, such entities must be board of trade members or their affiliates, which generally have financial requirements comparable to FCMs. On that basis, these entities should not be considered "small." Boards of trade likely to seek electronic access to their products from within the U.S. are similar in nature to designated contract markets, and the Commission has excluded contract markets from the definition of small entity.[46] Accordingly, on behalf of the Commission, the Chairperson certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. Moreover, this proposal provides an alternative to the contract market designation process and to compliance with the law and rules related to contract markets and, in that respect, is less burdensome than that currently in place. Nevertheless, we invite comments regarding the applicability of the FRA to these proposed rules.

B. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act of 1995 (Pub.

[45] 47 FR 18618–18621 (April 30, 1982).

[46] *Id.*

L. 104–13 (May 13, 1995)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission, through these rule proposals, solicits comments to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

The Commission has submitted these proposed rules and their associated information collection requirements to the Office of Management and Budget. The burden associated with this entire collection (3038–0023), including these proposed rules, is as follows:

Average Burden Hours Per Response: 39.36003.

Number of Respondents: 73,640.

Frequency of Response: On occasion.

The burden associated with this specific proposed rule, is as follows:

Average Burden Hours Per Response: 21.25003.

Number of Respondents: 140.

Frequency of Response: On occasion and quarterly.

Persons wishing to comment on the estimated paperwork burden associated with these proposed rules should contact Desk Officer, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503 (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5160.

List of Subjects

17 CFR Part 1

Commodity futures; Automated order routing system.

17 CFR Part 30

Commodity futures; Foreign futures and foreign options.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular, sections 2(a)91)(A), 4, 4c and 8a thereof, 7 U.S.C. 2, 6, 6c and 12a, the Commission hereby proposes to amend parts 1 and 30 of chapter I of title 17 of the code of Federal Regulations as follows:

PART I—GENERAL REGULATIONS UDNER THE COMMODITY EXCHANGE ACT

1. The authority citation ofr part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24.

2. Section 1.3 is proposed to be amended by adding paragraph (tt) to read as follows:

§ 1.3 Definitions.

* * * * *

(tt) *Automated order routing system.* This term means any system of computers, software or other devices that allows entry of orders through another party for transmission to a board of trade's computer or other automated device where, without substantial human intervention, trade matching or execution takes place.

3. Section 1.71 is proposed to be added to read as follows:

§ 1.71 Automated order routing system.

(a) It shall be unlawful for a firm registered or required to be registered as a futures commission merchant or a firm exempt from such registration under § 30.10 of this chapter to accept or transmit for execution an order from or on behalf of a customer (other than an owner or holder of a proprietary account as defined in § 1.3(y)) or a foreign futures or foreign options customer (as defined in § 30.1(c) of this chapter) that has been entered through an automated order routing system, whether the system is operated, maintained or provided to the customer or the foreign futures or foreign options customer by the futures commission merchant, a firm exempt from such registration under § 30.10 of this chapter or by another person, unless the automated order routing system is a qualified automated order routing system: *Provided, however* that the requirements of this section shall not apply to orders received by a firm registered or required to be registered as a futures commission merchant or a firm exempt from such registration under § 30.10 of this chapter *from* a registered futures commission merchant for that futures commission merchant's customer omnibus accounts or proprietary accounts.

(b) To be a qualified automated order routing system, such automated order routing system shall provide that:

(1) Access is limited to:

(i) Trading conducted on or subject to the rules of a designated contract market, through a registered futures commission merchant;

(ii) Trading conducted on or subject to the rules of a board of trade to which the Commission has issued an exemption order under section 4(c) of the Act following the board of trade's submission of a petition in accordance with § 30.11 of this chapter; or

(iii) Trading conducted on a board of trade the products of which are accessible as part of an automated trading system operated pursuant to specific rules regarding the particular linkage arrangement that have been submitted by a designated contract market to the Commission and are in effect pursuant to section 5a(a)(12)(A) of the Act and § 1.41 and which is otherwise primarily operating outside the United States.

(2) Access is limited to products that can be lawfully offered and sold in the United States;

(3) The futures commission merchant or firm exempt from such registration under § 30.10 of this chapter takes reasonable steps to ensure that the system is and remains sound and secure and fit for the purpose for which it is intended;

(4) For futures commission merchants, information required by § 1.35(a–1)(1) is recorded in accordance with that paragraph, except that order-related times must be captured to the nearest second;

(5) It is designed and operated consistent with the duty of the futures commission merchant or firm exempt from such registration under § 30.10 of this chapter to maintain proper internal controls and supervision over the handling of customer accounts. This must include, but is not limited to, credit and trading or position limit checks that are performed, either by a natural person or by the system itself, prior to the order's execution. If such credit and trading or position limit checks are automated, the futures commission merchant or firm exempt from such registration under § 30.10 of this chapter shall implement proper internal controls to ensure that limits appropriate to each customer or foreign futures or foreign options customer as determined by personnel of the futures commission merchant or the firm exempt from such registration under § 30.10 of this chapter authorized to set such limits are properly input into the

automated order routing system and updated as appropriate;

(6) The futures commission merchant or firm exempt from such registration under § 30.10 of this chapter has the capability on a unilateral and immediate basis to block any customer's or foreign futures or foreign options customers' use of an automated order routing system where necessary or appropriate to safeguard the futures commission merchant or firm exempt from registration under § 30.10, customer accounts or the stability or security of any designated contract market or any board of trade referred to in paragraphs (b)(1)(ii) and (iii) of this section; or for any other appropriate reason;

(7) There are reasonable safeguards to ensure against unauthorized access, unauthorized trading, and unauthorized disclosure of customer or foreign futures or foreign options customer orders and to provide overall integrity and security of the automated order routing system; and

(8) For a futures commission merchant, that the futures commission merchant has the capability to download trade history on each order entered through an automated order routing system on a daily basis and otherwise to maintain records related to such orders in accordance with § 1.31.

((c)(1) A futures commission merchant shall maintain in accordance with § 1.31 a record of those accounts of customers or foreign futures or foreign options customers for which the futures commission merchant will accept or transmit for execution orders that have been entered through an automated order routing system. This record shall also include the name of any person designated by the customer or foreign futures or foreign options customer to exercise control over the trading decisions for the account, which shall be readily accessible during the first two years of the required five-year retention period under § 1.31.

(2) A firm that is exempt from registration as a futures Medicare pursuant to an order granted by the Commission under § 30.10 of this chapter shall maintain in accordance with the recordkeeping requirements of its home country regulator a record of those accounts of foreign futures or foreign options customers for which the firm will accept or transmit for execution orders that have been entered through an automated order routing system. This record shall also include the name of any person designated by the foreign futures or foreign options customer to exercise control over the trading decisions for the account and shall be made available upon the request of any Commission representative.

PART 30—FOREIGN OPTIONS AND FOREIGN FUTURES TRANSACTIONS

4. The authority citation for part 30 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 6, 6c, and 12a.

5. Section 30.3 is proposed to be amended by adding paragraphs (c)–(e) to read as follows:

§ 30.3 prohibited transactions.

* * * * *

(c) Except as otherwise provided in § 30.11, it shall be unlawful to use or to provide to any person in the United States a direct execution system (as defined in § 30.11(a)(1)) for the purpose of facilitating the execution of transactions in foreign futures or foreign options unless the board of trade to which the direct execution system provides access has been designated as a contract market under section 5 of the Act.

(d) Except as otherwise provided in § 30.11, it shall be unlawful for any person to solicit or accept orders for, or to accept money, securities or property in connection with, the purchase or sale of foreign futures or foreign options by a foreign futures or options customer that are entered via an automated order routing system (as defined in § 30.11(a)(2)) unless the board of trade through which the transaction is to be executed has been designated as a contract market under section 5 of the Act.

(e) notwithstanding the terms of any prior Commission order issued under § 30.10, it shall be unlawful for a firm operating pursuant to a confirmation of a Commission order issued under § 30.10 to accept or transmit for execution an order from a foreign futures or foreign options customer through an automated order routing system unless the applicable requirements of § 1.71 of this chapter are satisfied.

§ 30.11 [Redesignated as § 30.12]

6. Section 30.11 is redesignated as § 30.12 and a new § 30.11 is added to read as follows:

§ 30.11 Access from the United States to automated trading systems of a board of trade whose primary locus of regulation and operations is otherwise outside the United States.

(a) Definitions: For purposes of this section:

(1) *Direct execution system* means any system of computers, software or other devices that allows entry of orders for products traded on a board of trade's computer or other automated device where, without substantial human intervention, trade matching or execution takes place: *Provided, however,* that this term shall not include an automated order routing system as that term is defined in § 1.3(tt) of this chapter.

(2) *Automated order routing system* means automated order routing system as defined in § 1.3(tt) of this chapter.

(3) An *affiliate* of a member of a board of trade for purposes of this rule means any person that:

(i) Owns 50% or more of a member;

(ii) Is owned 50% or more by the member; or

(iii) Is owned 50% or more by a third person that also owns 50% or more of the member.

(4) *Proprietary account* means proprietary account as defined in § 1.3(y) of this chapter.

(b)(1) Upon the submission of a petition for exemption by a board of trade in accordance with this section, the Commission may issue an exemption order to the board of trade if the Commission determines that:

(i) The petitioner is an established board of trade that wishes to place within the United States an automated trading system permitting access to trading its products but whose activities are otherwise primarily located in a particular foreign country that has taken responsibility for regulation of the petitioner;

(ii) The petitioner's home country has established a regulatory scheme that is generally comparable to that in the U.S. and provides basic protections for customers trading on markets and for the integrity of the markets themselves;

(iii) Except for certain incidental contacts with the U.S., the petitioner would be present in the U.S. only by virtue of being accessible from within the U.S. via its automated trading system;

(iv) The petitioner is willing to submit itself to the jurisdiction of the Commission and the U.S. courts in connection with its activities conducted under an exemptive order;

(v) The petitioner's automated trading system has been approved by the petitioner's home country regulator following a review of the system that applied the standards set forth in the 1990 International Organisation of Securities Commissions report on screen-based trading systems (as may be revised and updated from time-to-time) or substantially similar standards; and

(vi) Satisfactory information sharing arrangements are in effect between the Commission and the petitioner and the petitioner's regulatory authority.

(2) A petition of a board of trade made pursuant to this section should be filed with the Secretary of the Commission and must contain the following information, in English:

(i) The address of the petitioner's main business office and the name, address, telephone number, facsimile number and electronic mail address of a person to contact for additional information concerning the petition;

(ii) The petitioner's articles of association, constitution, or other similar organizational documents along with the date and place of its establishment;

(iii) A complete description of the contracts that initially will be traded through direct execution systems and/or automated order routing systems located in the United States;

(iv) The petitioner's current rules including all rules for members and users, which may be attached as an Appendix to the petition, and shall include a description of membership requirements and classes and distinctions between customer and proprietary trading;

(v) The address of the office responsible for monitoring compliance with the petitioner's rules and the supervisory arrangements for monitoring compliance with the rules insofar as the rules apply to activities conducted in the United States, as well as the name and address of the petitioner's home country regulator;

(vi) A description of the regulatory structure established in the petitioner's home country, including, without limitation, a description of the regulatory authority to which the petitioner is subject under the laws of such country, the status of the petitioner under those laws, and the applicable statutory and regulatory requirements established by law or by the regulatory authority that govern the operation of futures and options trading in the petitioner's home country, including, without limitation, applicable regulations or requirements concerning:

(A) Prohibition of fraud, abuse and market manipulation relating to trading on petitioner's markets;

(B) Recordkeeping and reporting by the petitioner or its members;

(C) Fitness standards for intermediaries operating on petitioner's markets, members, or others;

(D) Financial standards for the petitioner's members;

(E) Protection of customer funds, including procedures in the event of a clearing member's default, insolvency or bankruptcy;

(F) Trade practice standards;

(G) Rule review or general review of board of trade operations by its regulatory authority;

(H) Surveillance, compliance, and enforcement mechanisms employed by the board of trade and its regulatory authority to ensure compliance with their rules and regulations; and

(I) Regulatory oversight of clearing facilities; *Provided, however*, that if the petitioner or the regulatory authority that governs the petitioner has received an order of exemption, for trading on the petitioning board of trade, from the Commission under § 30.10 and the information required by paragraphs (b)(2) (ii), (iv) and (vi) of this section was provided to the Commission in the petition for such order and has not changed materially from the date of the Commission's order, the petitioner may, in lieu of furnishing the information otherwise required under paragraphs (b)(2) (ii), (iv) and (vi) of this section, make a statement to such effect which shall specify the date(s) the information was provided to the Commission and the name of the petitioner who received an order from the Commission under § 30.10;

(vii) Information sharing arrangements in effect between the board of trade and the regulatory authority in the petitioner's home country and the Commission, including information concerning any blocking statutes or data protection laws in effect in the petitioner's home country that might impair the Commission's ability to obtain information in accordance with such an arrangement;

(viii) A general description of the order matching/execution system and any direct execution system, software or devices operated by the board of trade, including, at a minimum, a general description of the architecture and security features of the systems, a statement as to the length of time such systems have been operating, a complete history of any significant system failures or interruptions, and a discussion of the nature of any technical review of the board of trade's order matching/execution system or direct execution system performed by the board of trade's home country regulator, including a copy of any order or certification received and any discrepancies between the standard of review and the principles for screen-based trading set forth by the International Organisation of Securities Commissions: *Provided, however*, that if the information required by this paragraph has been provided to the Commission, or will be provided to the Commission contemporaneously with the board of trade's petition, by another board of trade whose products trade through the same direct execution system or automated order routing system as the petitioner, the petitioner must so state and must identify the board of trade that has or will provide the Commission with the required information and need not itself provide the information required under this paragraph, but will remain responsible for the provision of such information by the other board of trade;

(ix) A description of all activities engaged in by the board of trade or its employees, agents or representatives in the United States, including, but not limited to, activities in connection with marketing, education or otherwise promoting the board of trade's business or products;

(x) The address of, and a description of activities engaged in by, any office of the board of trade located in the United States and the number of personnel employed or retained by the board of trade in the United States, including the number of personnel in each such office;

(xi) If the petitioner lists for trading any futures contracts that involve physical delivery of the underlying commodity and warehouses in connection with such delivery are located in the United States, its territories or possessions, the address of any such warehouses;

(xii) A written statement in which the petitioner consents to or agrees to comply with each of the conditions listed in paragraph (d) of this section; and

(xiii) Any further information that the Commission or its representatives request.

(c) To the extent that the products of multiple boards of trade are to be traded from the same direct execution system or automated order routing system, each board of trade whose products will be made available from such systems located in the United States must, either individually or jointly, submit a petition in accordance with this section: *Provided, however*, that a board of trade's products may be offered through direct execution systems or automated order routing systems located in the United States and need not submit a petition to the Commission under this section or be designated as a contract market under section 5 of the Act if its products are accessible as part of an electronic trading system operated pursuant to specific rules regarding the particular linkage arrangement that have been submitted by a designated contract market to the Commission for review and are in effect under section 5a of the Act.

(d) The Commission may issue an order under section 4(c) of the Act and the provisions of this section subject to such terms and conditions as the Commission may find appropriate: *Provided, however,* that any order issued to a board of trade under this section will be subject to the following conditions at a minimum, unless otherwise specified in the order by the Commission:

(1) Only members of the board of trade and affiliates thereof will have access to direct execution systems, and the board of trade will not provide, and will take reasonable steps to prevent third parties from providing, direct execution systems to persons other than members and their affiliates;

(2) Unless otherwise exempt from registration, any member or affiliate thereof that solicits or accepts orders for, or accepts money, securities or property in connection with the purchase or sale of foreign futures or foreign options by a foreign futures or foreign options customer via an automated order routing system, or that transmits the order of a foreign futures or foreign options customer via a direct execution system, must be a registered futures commission merchant or a firm exempt from such registration pursuant to an order granted under § 30.10;

(3) The board of trade will submit the following information to the Commission on at least a quarterly basis:

(i) For each contract available to be traded through direct execution systems and automated order routing systems located in the United States, the total trade volume originating from such systems located in the United States; and

(ii) For each contract available to be traded through direct execution systems and automated order routing systems located in the United States, the board of trade's total worldwide trade volume, from any source;

(iii) A current list that:

(A) Identifies and provides the main business addresses in the United States for those of its members and affiliates thereof that have direct execution systems in the United States and indicates which of such members and affiliates thereof allow the use of automated order routing systems for foreign futures and foreign options customers; and

(B) Identifies and provides the main business addresses for those of its members and affiliates thereof that allow the use of automated order routing systems by foreign futures and foreign options customers, but who do not have direct execution systems in the United States: *Provided, however,* that the board of trade will additionally provide a current list to a Commission representative at any time upon request;

(4) The board of trade will provide the Commission with written notice within 30 calendar days of:

(i) Any material change to any information provided in its petition to the commission for a section 4(c) exemption order under this section: *Provided, however,* that the board of trade will notify the Commission in writing:

(A) At least ten business days prior to offering any products not listed in its initial petition to be traded through direct execution systems or automated order routing systems located in the United States and;

(B) Within 24 hours of any significant system failure or interruption or a member's default, insolvency or bankruptcy;

(ii) A change in any laws or rules in the board of trade's home country relevant to futures or options, including rules of the board of trade itself, that may have a material impact on the order;

(iii) Any known violation of any obligations under the order committed by a member of the board of trade or an affiliate thereof operating in the United States under the order; and

(iv) Any disciplinary action taken against a member of the board of trade or an affiliate thereof operating in the United States under the order that involves any market manipulation, fraud, deceit or conversion or that results in suspension or expulsion and that involves the use of a direct execution system or an automated order system in the United States;

(5) Satisfactory information sharing arrangements must remain in effect between the board of trade and the board of trade's regulatory authority and the Commission;

(6) Prior to operating pursuant to the section 4(c) exemption order, the board of trade must file with the Commission, and maintain thereafter as long as the board of trade operates pursuant to the order, a valid and binding appointment of an agent for service of process in the United States, pursuant to which such agent is authorized to accept delivery and service of communications issued by or on behalf of the Commission, the Department of Justice, any board of trade member or affiliate of such member, or any foreign futures or foreign options customer. Service or delivery of any communication issued by or on behalf of any of the foregoing to the appointed agent shall constitute valid and effective service or delivery; and

(7) Prior to operating pursuant to the section 4(c) exemption order, the board of trade must file with the Commission a written representation, executed by someone with authority to bind the board of trade, that, as long as the board of trade operates pursuant to the order, the board of trade irrevocably agrees to and submits to the jurisdiction of the Commission and state and federal courts in the United States with respect to the board of trade's activities conducted under the section 4(c) exemption order;

(8) The Commission, in its discretion, may require other information of the board of trade to evaluate its continued eligibility for or compliance with conditions of a section 4(c) exemption order, or for any other reason. The Commission may require the board of trade to provide information regarding the stocks held at any warehouse maintained by the board of trade in the U.S. for products that require physical delivery.

(e) The Commission shall publish in the **Federal Register** a notice of availability of each petition received under paragraph (b) of this section for the purpose of providing notice to the public. Interested parties may request a copy of the petition or relevant parts thereof from the Secretary of the Commission: *Provided, however,* that the Commission may limit the public availability of any information received from the petitioner if the petitioner submits a written request to limit disclosure contemporaneously with the petition and the Commission determines that the information sought to be restricted constitutes a trade secret or that public disclosure of the information would result in material competitive harm to the petitioner.

(f) The Commission may, as it deems appropriate, condition, modify, suspend, terminate, or otherwise restrict the terms of an order issued under section 4(c) of the Act in accordance with this section if the Commission determines that a board of trade that has received a section 4(c) exemption order in accordance with this section is in material violation of any term or condition of the order, or this section that the continued effectiveness of the order would be contrary to public policy or the public interest, or that circumstances otherwise do not warrant continuation of the order as issued. The Commission may take such action with respect to the order in its entirety or with respect to a specific person or persons operating thereunder.

(g) Any trading conducted on or subject to the rules of a board of trade

that has received a section 4(c) exemption order in accordance with this section or a board of trade the products of which are accessible as part of an automated trading system operated pursuant to specific rules regarding the particular linkage arrangement that have been submitted by a designated contract market to the Commission and are in effect pursuant to section 5a(a)(12)(A) of the Act and § 1.41 of this chapter and which otherwise operates primarily outside the United States shall be deemed to involve the trading of foreign futures or foreign options, as appropriate, under the definitions of § 30.1(a) and (b) and under any provisions that refer to those definitions. A person located in the United States, its territories or possessions engaged in such trading shall be deemed to be a foreign futures or foreign options customer under § 30.1(c).

Issued in Washington, DC on March 16, 1999 by the Commission.

Jean A. Webb,

Secretary of the Commission.

Commissioner Barbara P. Holum joining in the concurring opinions of Commissioners Spears and Newsome.

Dated: March 16, 1999.

Commissioner Barbara P. Holum.

Concurring Opinion of Commissioner David D. Spears—Proposed Rules Concerning Access to Automated Boards of Trade

I have significant reservations about the complexity of the proposed rules. I believe the elaborate regulatory system this proposal envisions could impose unnecessary burdens on US FCMs and could be cited by foreign regulators as justification for imposing unnecessarily restrictive requirements on US exchanges. However, I also recognize that the Commission needs to act as quickly as possible to address issues relating to access to foreign boards of trade from within the US. Further delay in issuing proposed rules to allow for additional revisions or refinements in the proposal would be a disservice to those affected by the proposal. The investing public and the futures industry have every right to expect this agency to act expeditiously in bringing legal certainty to this area. Therefore, I have voted to issue the proposed rules in the form presented. However, I would urge commenters to review the proposal carefully with an eye toward suggesting revisions that would make the rules simpler without detracting from adequate customer protection or the fair and even-handed treatment of all affected parties.

Concurring Opinion of Commissioner James E. Newsome—Proposed Rules Concerning Automated Trading System Use in the United States

I respectfully concur in the issuance of the proposed rules concerning automated trading system use in the United States. I agree that the proposal should be released for public comment, but I do not agree with the approach detailed therein, for the reasons stated below.

My concerns are twofold: first, I believe that the proposal is overly regulatory in approach, and secondly, I believe that there are troublesome jurisdictional issues inherent in the proposed regulation, specifically, the use of the Commodity Exchange Act's § 4(c) exemptive authority and the possible conflict with the Act's § 4(b) jurisdictional limitations. I do not believe that the proposal appropriately mitigates the competitive concerns of our domestic exchangers, and, indeed, may well exacerbate the issue of inequitable regulatory treatment. Moreover, I believe that there are unnecessary additional burdens included in this proposal that would negatively affect the futures commission merchant community.

Given the widespread interest in this issue and the unfortunate delay in its release, I support moving forward expeditiously and giving the public another opportunity to comment on the proposal. However, I strongly urge interested parties to comment particularly on the issues I have mentioned, as well as alternative methods of addressing this issue, including, for example, the use of no-action procedures or the CEA's Part 30 Regulations.

Dated: March 15, 1999.

James E. Newsome,

Commissioner.

[FR Doc. 99–6829 Filed 3–23–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 99N–0554]

How to Use Health Claims and Nutrient Content Claims in Food Labeling; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Announcement of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming public meeting concerning implementation of sections 303 and 304 of the Food and Drug Administration Modernization Act of 1997 (FDAMA). Those provisions provide for use, in food labeling, of health claims and nutrient content claims based on authoritative statements published by certain Federal scientific bodies or the National Academy of Sciences (NAS) or any of its subdivisions. We are holding the meeting to allow you to provide information and recommendations to assist us in identifying appropriate approaches for implementing sections 303 and 304 of FDAMA. We anticipate that the discussion will include presentations from people whom we invite to participate as well as from members of the public.

DATES: We will hold the meeting on May 11, 1999, 8 a.m. to 5 p.m. Please register by April 27, 1999. Written comments should be submitted by May 11, 1999.

ADDRESSEES: The meeting will be held at the Jefferson Auditorium, U.S. Department of Agriculture, South Bldg., 1400 Independence Ave. SW., Washington, DC.

You may submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. You may also send comments to the Dockets Management Branch at the following e-mail address: "FDADockets@bangate.fda.gov" or via the FDA Website "http://www.fda.gov".

FOR FURTHER INFORMATION CONTACT: Jeanne E. Latham, Center for Food Safety and Applied Nutrition (HFS–456), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4697, or e-mail to "JLatham@bangate.fda.gov".

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1997, the President signed FDAMA (Pub. L. 105–115) into law. FDAMA made amendments to the Federal Food, Drug, and Cosmetic Act (the act). In particular, sections 304 and 303 of FDAMA amended section 403(r)(2) and (r)(3) of the act by adding new paragraphs (r)(2)(G), (r)(2)(H), (r)(3)(C), and (r)(3)(D) to section 403 of the act (21 U.S.C. 343(r)(2)(G), (r)(2)(H), (r)(3)(C), and (r)(3)(D), respectively). These new paragraphs provide for the use in food labeling of nutrient content claims and health claims, respectively,

based on authoritative statements 120 days after a notification of the claim is submitted to the agency. This notification process added by FDAMA supplements the petition process for nutrient content and health claims provided by section 403(r)(4) of the act (21 U.S.C. 343(r)(4)) and §§ 101.69 and 101.70 (21 CFR 101.69 and 101.70, respectively). It does so by providing a less time-consuming and less burdensome alternative for establishing the scientific basis for such claims through use of authoritative statements of certain scientific bodies.

Since the passage of FDAMA, FDA has been reviewing both the statute and the accompanying legislative history to determine the most appropriate approach for implementing these new provisions. We issued a guidance document in early June 1998 (Ref. 1). In this guidance, we focused on the submission procedures for notifications of claims, identified appropriate Federal scientific bodies, discussed the nature of authoritative statements and the scientific standard with respect to health claims, outlined the content of a notification and other statutory requirements, and indicated that we intended to propose that health claims based on authoritative statements be permitted for use in dietary supplement labeling. We published that proposed rule in the **Federal Register** of January 21, 1999 (64 FR 3250) (Ref. 2).

Moreover, because section 403(r)(2)(G) and (r)(3)(C) of the act provide that authoritative statements from appropriate Federal scientific bodies may be the basis of nutrient content claims and health claims, we believed there was benefit in identifying key persons within each such Federal body who could provide us with information on authoritative statements if needed. At our request, the Secretary of Health and Human Services sent a letter to scientific bodies within the Public Health Service (Ref. 3) and to the U.S. Department of Agriculture (Ref. 4) requesting that they identify such a contact person.

On February 23, 1998, we received a notification containing nine prospective claims that were identified in the notification as health claims (Ref. 5). We created nine separate dockets, one for each claim, and issued a separate interim final rule responding to each claim (Refs. 6 through 14). In one of these rules (Ref. 6), we included in the preamble our thinking about the requirements of section 403(r)(2)(G), (r)(2)(H), (r)(3)(C), and (r)(3)(D) of the act as well as procedures that we would use to review notifications for claims under those provisions.

We received a number of comments on these nine interim final rules. Some comments supported the approach that we had taken and others opposed it. Some comments offered alternative approaches for our consideration. You can find these comments in Docket Nos. 98N–0419 through 98N–0424 and 98N–0426 through 98N–0428 at our Dockets Management Branch (see address in section IV of this document). In addition, on August 13, 1998 (Ref. 15), and October 26, 1998 (Ref. 16), we received congressional requests for information about the nine interim final rules. We responded to these requests on September 16, 1998 (Ref. 17), and December 8, 1998 (Ref. 18).

We believe that our efforts to implement section 304(r)(2)(G), (r)(2)(H), (r)(3)(C), and (r)(3)(D) of the act would benefit from a public meeting and an open discussion of all possible approaches to implementing these provisions. We anticipate that this discussion will be most useful to us if it involves those that commented on FDA's tentative approach and other members of the public, as well as representatives of scientific bodies that may be sources of authoritative statements.

II. Scope of Discussion

We intend that the scope of the meeting be limited to issues related to implementing section 403(r)(2)(G), (r)(2)(H), (r)(3)(C), and (r)(3)(D) of the act. More specifically, comments to the nine interim final rules raised questions concerning both the need for and the nature of a definition for "authoritative statement." We seek clarification of issues and approaches that relate to these questions. These questions focused on FDA's role in overseeing the provisions that allow such claims, as well as our role in relation to the Federal scientific bodies and NAS. In addition, we seek input about which of the regulatory requirements applicable to health claims and nutrient content claims that FDA authorizes by regulation under the petition process in section 403(r)(4) of the act should apply to health claims and nutrient content claims authorized based on authoritative statements. Finally, we seek input on several definitional and procedural issues. Based on the questions and comments that we have already received, we are particularly interested in discussions of the following questions:

1. The Scientific Basis for Claims

a. What is an "authoritative statement"?

b. Who defines "authoritative statement"?

c. Who decides if a particular statement is an "authoritative statement"?

d. Is the "context" of a statement in the publication in which it appears relevant to that determination? If so, how?

e. How does the significant scientific agreement standard apply to health claims based on authoritative statements?

2. Existing Regulatory Requirements

a. What requirements of 21 CFR 101.13 and part 101, subpart D should we apply to nutrient content claims based on authoritative statements?

b. What requirements of 21 CFR 101.14 should we apply to health claims based on authoritative statements?

3. Procedural and Definitional Issues

a. Which agencies should we identify as scientific bodies of the U.S. Government with official responsibility for public health protection or research directly relating to human nutrition under section 403(r)(2)(G)(i) and (r)(3)(C)(i) of the act?

b. Should we provide by regulation that health claims based on authoritative statements may be used in the labeling of dietary supplements?

c. What should we require that you submit with a notification of a health or nutrient content claim based on an authoritative statement?

d. Should we require you to submit in a notification an analytical methodology for measuring the substance that is the subject of your submitted claim?

e. What is a balanced presentation of the scientific literature relating to the subject to which a claim refers that is required under section 403(r)(2)(G)(ii)(III) and (r)(3)(C)(ii)(III) of the act?

f. Should FDA keep notifications confidential for 120 days after the date of their submission or should we place them in a public docket upon receipt?

g. If a notification is incomplete or does not support a claim, should we respond to it by letter or by issuing a regulation, and what should be the legal effect of letters were we to use them?

III. Registration and Requests to Make Oral Presentation

If you would like to attend the meeting, you must register with the contact person (address above) by April 27, 1999, by providing your name, title, business affiliation, address, telephone and fax number. To expedite processing, registration information may also be

faxed to 202–260–8957. If you need special accommodations due to disability, please inform the contact person when you register. If, in addition, you desire to make an oral presentation during the meeting, when you register to attend you must inform the contact person of that desire and submit: (1) A brief written statement of the general nature of the evidence or arguments that you wish to present, (2) the names and addresses of the persons who will give the presentation, and (3) an indication of the approximate time that you request to make your presentation. Depending upon the number of people who register to make presentations, we may have to limit the time allotted for each such presentation. We anticipate that, if time permits, those attending the meeting will have the opportunity to ask questions during the meeting.

IV. Comments

You may, by May 11, 1999, submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. You may also send comments to the Dockets Management Branch at the following e-mail address: "FDADockets@bangate.fda.gov" or via the FDA Website "http://www.fda.gov". You should annotate and organize your comments to identify the specific issues to which they refer. You must submit two copies of any comments, identified with the docket number found in brackets in the heading of this document, except that you may submit only one copy if you are an individual. You may see received comments in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Transcripts

You may request transcripts of the meeting in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. You may also examine the transcript of the meeting after May 21, 1999, at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday, as well as on the FDA Website "http://www.fda.gov".

VI. References

We have placed the following references on display in the Dockets Management Branch (address above). You may see them at that office between 9 a.m. and 4 p.m., Monday through Friday.

1. "Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body," June 11, 1998.
2. Food Labeling: Use on Dietary Supplements of Health Claims Based on Authoritative Statements (64 FR 3250, January 21, 1999).
3. Memorandum from Donna E. Shalala, DHHS, to scientific bodies within the Public Health Service, March 17, 1998.
4. Memorandum from Donna E. Shalala, DHHS, to The Honorable Dan Glickman, USDA, March 17, 1998.
5. Notification to Donna E. Shalala, DHHS, from Jonathan W. Emord et al., Emord & Associates, P.C., Counsel for Weider Nutrition International, Inc., February 23, 1998.
6. Food Labeling: Health Claims; Interim Final Rule; Antioxidant Vitamins C and E and the Risk in Adults of Atherosclerosis, Coronary Heart Disease, Certain Cancers, and Cataracts (63 FR 34084, June 22, 1998).
7. Food Labeling: Health Claims; Interim Final Rule; Antioxidant Vitamin A and Beta-Carotene and the Risk in Adults of Atherosclerosis, Coronary Heart Disease, and Certain Cancers (63 FR 34092, June 22, 1998).
8. Food Labeling: Health Claims; Interim Final Rule; B-Complex Vitamins, Lowered Homocysteine Levels, and the Risk in Adults of Cardiovascular Disease (63 FR 34097, June 22, 1998).
9. Food Labeling: Health Claims; Interim Final Rule; Calcium Consumption by Adolescents and Adults, Bone Density and The Risk of Fractures (63 FR 34101, June 22, 1998).
10. Food Labeling: Health Claims; Interim Final Rule; Chromium and the Risk in Adults of Hyperglycemia and the Effects of Glucose Intolerance (63 FR 34104, June 22, 1998).
11. Food Labeling: Health Claims; Interim Final Rule; Omega-3 Fatty Acids and the Risk in Adults of Cardiovascular Disease (63 FR 34107, June 22, 1998).
12. Food Labeling: Health Claims; Interim Final Rule; Garlic, Reduction of Serum Cholesterol, and the Risk of Cardiovascular Disease in Adults (63 FR 34110, June 22, 1998).
13. Food Labeling: Health Claims; Interim Final Rule; Zinc and the Body's Ability to Fight Infection and Heal Wounds in Adults (63 FR 34112, June 22, 1998).
14. Food Labeling: Health Claims; Interim Final Rule; Vitamin K and Promotion of Proper Blood Clotting and Improvement in Bone Health in Adults (63 FR 34115, June 22, 1998).
15. Letter of August 13, 1998, to Michael A. Friedman, FDA, from The Honorable Dan Burton, House of Representatives, regarding the nine interim final rules that FDA published in the **Federal Register** of June 22, 1998.
16. Letter of October 26, 1998, to Jane Henney, FDA, from The Honorable Dan Burton, House of Representatives, regarding the nine interim final rules that FDA published in the **Federal Register** of June 22, 1998.
17. Letter of September 16, 1998, to The Honorable Dan Burton, House of Representatives, from Diane E. Thompson, FDA, regarding the nine interim final rules that FDA published in the **Federal Register** of June 22, 1998.
18. Letter of December 8, 1998, to The Honorable Dan Burton, House of Representatives, from Diane E. Thompson, FDA, regarding the nine interim final rules that FDA published in the **Federal Register** of June 22, 1998.

Dated: March 18, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7115 Filed 3–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1010 and 1040

[Docket No. 93N–0044]

Laser Products; Proposed Amendment to Performance Standard

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the performance standard for laser products to achieve harmonization between the current standard and the International Electrotechnical Commission (IEC) standard for laser products and medical laser products. FDA is proposing additional changes that reflect FDA's understanding of how photobiological and behavioral factors, such as involuntary eye and body motion, affect the risk of injury from exposure. In addition, FDA is clarifying the requirement that manufacturers provide certain information to servicers. Generally, the proposed amendments will reduce the regulatory burden on affected manufacturers and improve the effectiveness of FDA's regulation of laser products. This action is being taken under the Federal Food, Drug, and Cosmetic Act as amended by Radiation Control for Health and Safety Act of 1968.

DATES: Written comments on the proposed rule should be submitted by June 22, 1999. See section IV of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments on the proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jerome E. Dennis, Center for Devices and Radiological Health (HFZ–342), Food and Drug Administration, 2094 Oak Grove Rd., Rockville, MD 20850, 301–594–4654, ext. 135.

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 1992, FDA's Center for Devices and Radiological Health (CDRH) mailed to all listed manufacturers and importers of laser products and interested persons a notice that FDA was considering amendments to the Federal performance standard for laser products (§§ 1040.10 and 1040.11) (21 CFR 1040.10 and 1040.11). Accordingly, in the **Federal Register** of May 10, 1993 (58 FR 27495), FDA published a notice of intent (NOI) that informed interested persons that FDA was considering amending the performance standard for laser products to: (1) Achieve greater consistency between the performance standard and the IEC standards for laser products and medical laser products (IEC 825–1 and IEC 601–2–22); (2) improve compliance; and (3) develop a more efficient enforcement program. The NOI explained that the impetus for many of the changes under consideration stemmed largely from extensive FDA involvement in international standardization efforts for laser products with IEC, an international standards development organization with participants from many countries. The NOI also informed interested persons that additional changes to the current standard that are unrelated to harmonization were being considered as a result of FDA's continuing effort to evaluate new information and experience enforcing the present laser standard and processing variance applications.

At this time, the agency is proposing specific amendments discussed in the NOI and is also proposing additional items responding to amendments to the IEC 825–1 standard. A significant amendment to the IEC standard, which was approved in 1993, expanded the scope of the IEC 825–1 standard to include light emitting diodes (LED's) and products incorporating LED's. This amendment was approved because LED's are: (1) Very similar to semiconductor laser diodes, (2) often electrically and mechanically interchangeable with laser diodes, and (3) considered to represent similar hazards to the eyes. After the publication of IEC 825–1, considerable controversy developed because manufacturers of LED's became aware that the conditions for measuring radiant power and energy to enable product hazard classification resulted in an exaggeration of the hazard of many LED's. Unlike lasers, LED's are often extended sources (i.e., have relatively large physical dimensions) and therefore are not capable of being focussed to as small and intense a retinal image as comparable lasers. At this time, it appears that the IEC will be publishing an amendment that will partially address this concern. However, FDA is not aware of any injuries that have occurred from LED radiation. In consideration of the economic impact of including LED's in the applicability of its standard, the FDA has reconsidered its former notifications and is eliminating LED products from this proposed rulemaking. The agency believes that other remedies exist that can be used if needed and can, in the future, propose additional amendments if warranted.

FDA recognizes its responsibility not only to participate in the development of radiation safety standards for electronic products, but also to use its role in the development of the standard to demonstrate leadership and to exert influence. Although harmonization with the IEC standard is in itself a worthwhile goal, FDA disagrees with certain parts of the IEC standard. Specifically, under the IEC standard, the conditions for the measurement of radiant energy and power for the purpose of product classification contain a requirement that assumes that the output of diverging laser sources will be collected by large aperture optical instruments at a short distance from the source, and that optical components to collimate the diverging sources are currently commercially offered as accessories. FDA believes that the present IEC approach fails to allow for realistic factors of risk likely in the use of the products. FDA also believes that when collimators are offered as accessories, the classification measurements are to be made using the collimators; this situation is equivalent to offering the collimated laser product in a kit form. The entire laser product industry, however, should not be burdened with excessive classification and requirements for controls, indicators, and warnings. Therefore, FDA is proposing that measurements of radiant energy and power be made in accordance with the scheme developed by Working Group 1 of the IEC Technical Committee 76 (IEC TC76/WG1) at its meeting in Washington, DC, in February, 1995, which does not require the use of large aperture optical instruments in all cases. The IEC TC76/WG1:1995 scheme is described in section II of this document.

Another departure from the requirements of IEC 825–1 relates to the criterion for human access that applies to levels of laser radiation that are less than the accessible emission limit (AEL) of Class 2 (Class II under FDA's current standard). Such levels of radiation are considered to be ocular hazards only for exposures longer than 0.25 seconds. However, the criterion for human access is based on skin exposure, i.e., interception by any part of the human body. FDA has recently identified laser products that are classified as Class 2 but have configurations that prevent direct eye exposure. The present classification is based upon the ability to insert a part of a hand or finger into a laser field that is not recognized to be a skin hazard. FDA recognizes that the classification of an eye hazard based on the possibility of skin exposure is unnecessarily burdensome on such products and is therefore proposing to amend this criterion. Although it is acknowledged that the possibility exists for a person to insert a mirror and extract the beam, this is not considered to be a realistic risk upon which all such products need be evaluated.

II. Contents of the Proposed Regulation

Proposed §§ 1010.2(d) and 1010.3(b) (21 CFR 1010.2(d) and 1010.3(b)) authorize the Director, Office of Compliance, CDRH, to approve alternate means of providing certification and identification information. The 1985 amendments to the standard authorized the Director, Office of Compliance, to give similar approvals for labeling required by part 1040 (21 CFR part 1040). FDA is now proposing to give the Director, Office of Compliance, similar authority under §§ 1010.2 and 1010.3.

In proposed § 1040.10(d)(4), FDA is introducing the concept of reduced emission duration for classification of products for which viewing of the radiation is not intended within the range of their applications. This is to harmonize with IEC 825–1 and to reduce the burden on manufacturers of products that have been in higher classes because of the use of emission durations for classification that are unrealistically long given the use of the products. Therefore, the current Class IIa would no longer be needed, and its definition, table of AEL, and warning label requirements would be eliminated.

Under proposed § 1040.10(b), FDA would change to the use of Arabic numerals for class designations because Arabic numerals are less ambiguous. Also, changing to Arabic numerals will

harmonize with IEC 825–1 and the American National Standard Institute (ANSI) Z136.1 standards. However, FDA would not object to continued use of Roman numerals providing that the classification is correct as of the date of manufacture of the product as shown on the identification label required by § 1010.3.

Proposed § 1040.10(b)(7) redefines Class 3A (IIIa). The proposed new definition would expand the range of wavelengths included in the class and have an AEL for radiant power and energy that is five times that of Class 1 in addition to an AEL for radiant exposure and irradiance to account for increased hazard as a result of the use of collecting optics. Although the new Class 3A would exclude visible radiation if the irradiance exceeds 2.5 milliwatts per square centimeter (mW/cm^2), the performance and labeling requirement currently applicable to Class IIIa would apply to the new class.

Under proposed § 1040.10(d) and Table 1, FDA is deleting the Class 1 AEL for integrated radiance and replacing these limits with correction factors to the AEL for radiant energy and power based on the angular subtense of the radiation source. This concept is in accord with the current bioeffects science and will harmonize with IEC 825–1. Current bioeffects science indicates that repetitive pulse exposures have an increased hazard compared either to a simple summation of the individual pulses or to a continuous exposure to the same average power for the same duration. For this reason, the AEL for Class 1 should be reduced by a factor of the number of pulses raised to the negative one fourth power ($N^{-1/4}$).

The measurement parameters for radiant energy and power are those proposed by IEC TC76/WG1:1995 and endorsed by the U.S. Technical Advisory Group for that standards committee. This proposal would require two measurements for visible or near-infrared wavelengths, a 50 millimeters (mm) aperture at 2 meters (m) from the apparent source, and a 7 mm aperture at 100 mm. The measurement yielding the greater result is to be used for classification. For sources that have a high degree of divergence, the 7 mm aperture at a close distance is believed to accurately represent a worst practical viewing condition without the use of optical aides. This proposal by WG1 received a majority of the votes within IEC TC–76, but not a high enough number for acceptance. The TC–76 has, since approved, a more conservative proposal for the purpose of providing relief for LED's that can be considered to be extended sources. This more conservative approach, however, uses a 50 mm aperture at 100 mm from the apparent source and reflects the assumption that the classification will be based upon the hazard associated with viewing highly divergent sources through collecting optics, which increase the hazard. In addition, the use of the 7 mm aperture with sources that subtend greater than α_{min} permits the aperture to be placed at a distance greater than 100 mm from the apparent source. In order to be in further agreement with IEC 825–1, the aperture diameter over which the power or energy is averaged to determine the radiant exposure or irradiance is determined from a table (Table 6) and is determined by the wavelength and emission duration.

Under proposed § 1040.10(f)(5) and (f)(6), FDA would eliminate the requirements for an emission indicator and beam attenuator for systems in Class 2, 3A, and for systems in Class 3B having a visible output power of 5 mW or less. Because such systems present minimal hazard or, by virtue of the visibility of their output, give adequate warning of its presence, this relaxation is considered to be appropriate.

FDA is proposing to eliminate the requirement in § 1040.10(f)(9)(ii) that requires a scanning safeguard to determine if a change in scan parameters results from a failure or is intentional, and to react only to those changes resulting from failure. This requirement has not been invoked by the agency and has been found very difficult for the industry to understand.

Proposed § 1040.10(g) allows the use of warning logotype labels and protective housing labels that comply with IEC 825–1. The logotype labels in current § 1040.10(g) are of a design specified by ANSI. It is noted that the ANSI standard for laser safety allows use of the IEC style labels. The IEC labels for protective housings use the word "CAUTION" in all cases. In permitting use of the IEC labels, for consistency purposes, FDA will also permit this wording change.

The agency is not proposing significant changes to § 1040.10(h)(2)(ii); however, FDA is using this preamble to clarify the agency's interpretation of that provision in response to the evident confusion among manufacturers and servicers.

Finally, FDA is proposing to eliminate the quoted caution statement in § 1040.10(h)(1)(iv), while retaining the requirement in general terms. This proposed change will avoid otherwise unnecessary approvals or notifications and allow manufacturers to fulfill the requirement by using their own wordings for this warning.

III. Summary and Analysis of Comments and FDA's Response

The NOI set out the proposed changes to §§ 1040.10 and 1040.11 and invited comments and recommendations on such changes. Interested persons were given until August 9, 1993, to comment on the NOI. FDA received a total of 13 comments from laser product manufacturers, government organizations, a consultant, an industry association, and a professional medical association. These comments generally supported the proposed changes and the concept of harmonization with international requirements, except for the comments that follow.

1. Several comments suggested clarifying the proposed amendments to § 1040.10(d), which proposed reducing the emission durations to be used for the classification of Class 1 laser products that emit visible or infrared (IR) laser radiation not intended to be viewed, as determined from the design of the product or its intended function. These comments included the following:

A. Long-Term Viewing or Exposure

Four comments requested that FDA clarify the amendment as being applicable to products for which "long-term" viewing or exposure is intended or inherent in the design of the product, to differentiate between products in which viewing or exposure would only occur for short periods.

B. Products Emitting in the Near-IR Range

Four comments assumed that products which emit in the near-IR range that are classified on the basis of 100 seconds of emission would continue to be so classified, even if they are general purpose products. The comments noted that it would help to clarify the proposal by adding "general construction" to the applications listed for use with the 100 seconds classification time.

C. Surveying Lasers

Six comments stated that surveying lasers should not be included in the category with laboratory laser systems for a 10,000 seconds classification because they are not intended to be viewed for long durations. One comment noted that the purpose of the design of surveying lasers is to permit the beam to be viewed by electronic or mechanical devices. Two comments cited the existence of the Occupational Safety and Health Administration

regulations promoting safe use of surveying lasers. One manufacturer submitted an analysis stipulating that the current standard provides an adequate safety margin for its laser surveying products and noted that the proposed amendment would mandate a large reduction of output power for such products, which would render the technology useless.

FDA agrees with comments 1.A and 1.B of section III of this document. The proposed amendments have been drafted to incorporate the concepts and language of IEC 825–1, 1993. Although FDA agrees with the point in comment 1.C of section III of this document that invisible radiation intended for detection only by electronic means is not considered to be intended to be viewed, FDA notes that visible radiation emitted by surveying lasers that is used for leveling must be assumed to be intended to be viewed by the eyes. Further, viewing for more than 100 seconds cannot be considered to be unlikely. Therefore, the proposed 30,000 second maximum sampling interval is retained.

2. Four comments noted that the amendments to reduce the AEL for repetitively pulsed lasers should only be made if the change to reduce the time period for classification discussed in comment 1 of section III of this document is also made. If the proposed reduction in the AEL were made without reducing the time period for classification, the result would be a lowering of the allowable power for some products and an inconsistency with the IEC 825 standard. The comments also suggested that "repetitively pulsed lasers" be changed to "products with scanning or repetitively pulsed outputs," to clarify that the requirement would also apply to scanning products.

FDA agrees with these comments and believes that the wording of the proposed amendments addresses the concern relating to the time period for classification. The clarification that the requirement applies both to repetitive pulses and scanned radiation has been made.

3. One comment suggested use of the revised ANSI AEL in the 1,150 to 2,800 nanometers (nm) spectral band rather than merely revising the AEL in the 1,535 to 1,540 nm spectral band. The comment noted that the revisions, which relate to both fiber optic exposure and so-called "eye-safe" laser exposure, are important to consider because of the greatly expanding technology in that spectral region.

FDA agrees that a revision of the AEL is appropriate to incorporate up-to-date understanding of the biological effects of exposure to certain spectral bands. The method used in the ANSI standard to determine the AEL is to calculate using the maximum permissible exposure. Although this is appropriate in the ANSI standard, which is primarily concerned with the safe use of lasers, FDA believes that it is appropriate to employ tables of AEL in a product standard. In addition, in the interests of global harmonization, the AEL in the proposed amendments to the standard are identical to those of IEC 825–1, which is accepted in most other countries.

4. One comment disagreed with FDA's approach in its proposal to amend the tables in § 1040.10(d) for the purpose of making the resulting classifications agree more nearly with the IEC and ANSI classifications. The comment disagreed with FDA's contention that the present structure of these tables should be retained because the existing structure is simpler than the corresponding ANSI and IEC tables. The comment stated that although the ANSI calculations are more complex, if more simplified tables (such as those in the FDA standard) result in some systems being considered more hazardous than they would be under the ANSI or IEC methods, then the more complex method should be used.

FDA partially agrees with this comment. Upon further consideration, it became clear that reformatting the IEC tables of AEL to conform to those in the present standard was practically unworkable. Therefore, the proposal contains tables of AEL that are identical to those of IEC 825–1. Further, FDA agrees that the standard should not result in an exaggeration of the hazard; therefore, the specified conditions for measurement of radiant energy and power for classification are more relaxed than those of IEC 825–1. FDA recognizes that this is a potential obstacle to harmonization and hopes that the IEC TC–76 will follow the agency's lead in this area.

5. Four comments stated that it would be helpful to clarify the amendment regarding relaxation of the laser radiation levels for which the requirements of § 1040.10(f)(2) for safety interlocks are applicable. These comments requested that FDA clarify that the relaxation discussed with regard to "radiation emitted directly through the opening created by removal or displacement of the interlocked portion of the protective housing" refers only to Class 3A radiation that is "emitted out, not just any radiation level."

FDA agrees with this comment and has inserted an explanatory note in the performance requirement for protective housing.

6. Five comments noted that the proposed interlock requirement (§ 1040.10(f)(2)) exceeds the requirements in Amendment 2 to IEC 825. One comment noted that safety interlocks are not now required by IEC 825 on Class 4 lasers and suggested a requirement that the lids of laser boxes be interlocked so that the laser turns off when the lid is lifted, or a requirement that the laser beam be fully enclosed within the box, inside a cover which is either interlocked itself or that requires a tool for removal.

FDA disagrees with this comment and notes that this performance requirement was made identical to that in the current CDRH standard in the amendments of the IEC standard that were approved in 1993. FDA has always maintained that interlock protection during operation or maintenance that entails human access to hazardous levels of laser radiation is equally appropriate for all classes of laser products.

7. Four comments noted that the proposed amendment of § 1040.10(f)(5) to require "visible indications of actual emission from remote laser apertures of Class 3B and 4 laser systems" exceeds the requirements of the IEC amendments, which only require such indications when the aperture could be emitting energy. The comments expressed concern that the proposed amendment, as worded, would be difficult to implement and may not provide additional safety for the user. FDA has considered these comments and decided that the proposed amendment would provide additional safety for the user and that any difficulty in implementation would be outweighed by the increase in safety. The proposed change addresses concern about some industrial workstations where the laser aperture is located at a considerable distance from either the laser or the control station. The concern is even greater for those situations in which the output of a single high power laser is shared by a number of workstations. The proposed requirements are in agreement with those under consideration by the IEC TC–76.

8. Several comments addressed the proposed amendments to warning labels, signal words, and labels for noninterlocked and defeatably interlocked protective housings. These comments are as follows:

A. Acceptance of IEC Labels

Five comments believed that the acceptance of IEC labels will ease the burden on manufacturers. Several of these comments expressed concern, however, that the differences in measurement criteria for classification between the IEC and FDA standards may cause problems and confusion. The comments noted that these problems might be addressed in the third set of amendments to the IEC standard.

B. Signal Words

One comment disagreed with eliminating the signal words "CAUTION" and "DANGER" because U.S. consumers are accustomed to the type of markings that include a signal word. The use of signal words resulted from consensus agreements between consumer and legal interests in the United States a number of years ago, and the standard 3-part marking specified in most U.S. product safety standards, which are ANSI approved, requires the use of a signal word.

C. Permission of the Word "CAUTION" in Place of the Word "DANGER"

Three comments that agreed with the proposed amendment to § 1040.10(g)(6) permitting the word "CAUTION" in place of the word "DANGER" believed that this amendment should also apply to § 1040.10(g)(7).

D. Proposed Simplification

Four comments agreed with the proposed simplification of the requirements in § 1040.10(g)(6) and (g)(7) applicable to labels for noninterlocked and defeatably interlocked protective housings.

FDA is in general agreement with comment 8.A of section III of this document. Although it is true that differences in measurement criteria will cause problems and confusion for a small number of products, FDA believes that the disadvantages of adopting the present measurement criteria of IEC 825–1 outweigh the disadvantages of having different FDA and IEC criteria.

In response to comment 8.B of section III of this document, FDA believes that the benefit resulting from the use of "CAUTION" or "DANGER" is outweighed, in this case, by that of averting noncompliance through harmonized requirements.

FDA agrees with comment 8.C of section III of this document as it applies to Class 2 and certain Class 3A accessible laser radiation and collateral radiation. Proposed § 1040.10(g)(6) and (g)(7) permit use of the word "CAUTION" on labels for the protective housing on products emitting these levels of radiation.

Proposed § 1040.10(g)(6) and (g)(7) are simplified in accordance with the NOI and with comment 8.D of section III of this document.

9. One comment requested clarification of the proposed amendment to § 1040.11(a) requiring optical or electrical monitoring of the operation of lasers in Class 3B and 4 medical laser products. The proposed amendment states that "an electrical or optical quantity that is directly related to the laser or LED level generated shall be continually monitored during operation." The comment noted that for very low repetition rate pulsed laser systems, the energy is usually measured before a procedure begins or between patient exposures. According to this comment, if an additional means of monitoring is required beyond the level of normal compliance, the "additional means" would be a "significant engineering feat." This is because "real-time" monitoring of the pulsed energy during an actual treatment pulse requires an instantaneous shuttering or shutoff of the laser pulse while the specified energy level is reached. FDA believes that monitoring the voltage of a charged capacitor could satisfy this requirement for a pulsed laser system. The comment concluded that the cost of new pulsed laser systems would be increased substantially if this engineering change were required for new or existing laser systems.

FDA agrees with this comment and has clarified its intent in proposed § 1040.11(a). The item was intended to harmonize with the requirements of IEC 601–2–22 for medical laser and LED products. The present standard requires that Class 3B and 4 medical laser products incorporate a means of optical measurement of the level of laser radiation intended to be incident upon the target tissue. FDA has determined that this requirement can be met by a measurement at a location within the product or prior to emission from the distal aperture. IEC 601–2–22 addresses the same intent by imposing an accuracy specification relative to the preset or selected level. IEC 601–2–22 further requires that the operation of the laser be monitored electrically or optically, that there be an alarm if the actual monitored value differs by more than ±20 percent from the preset value, and that the user instructions specify how and when to actually measure the delivered output. Proposed § 1040.11(a) adopts these requirements.

10. One comment requested that a section be included in the amendment that certain low-power laser products be exempt from reporting. This section would condense and clarify provisions set forth in exemptions granted by Laser Notices 36, 41, and 42 and other notices as applicable. The author of the comment believes that inclusion of such a section would make this information available to the broad audience, and reduce misunderstandings associated with the administration of the regulation.

FDA agrees with this comment and believes the question has already been addressed in the amendments to part 1002 (21 CFR part 1002) published in the **Federal Register** of September 19, 1995 (60 FR 48374).

11. One comment believed that the lasers in compact disk (CD) players should be exempt from FDA regulation and should only be subject to general safety certification (UL, CSA, etc.)

FDA believes that the amendments to part 1002 have addressed this concern, but notes that the lasers themselves that are in CD players are generally Class 3B. However, when the laser is incorporated into a cell with a focusing lens, this assembly becomes the smallest component that is replaceable in service and is Class 1. Because of the low cost of such components, it is unlikely that any individual or firm would be motivated to disassemble the components and then to attempt to cause them to emit. FDA has determined that the level of laser radiation that could be accessible during service may be considered to be the maximum level accessible from the smallest replaceable component.

12. In addition, FDA has recently received inquiries, suggestions, and one trade complaint concerning the interpretation of § 1040.10(h)(2)(ii), which requires manufacturers of laser products to provide adequate instructional information to servicers and others upon request. Although the correspondence does not directly relate to the advanced notice of proposed rulemaking, the agency believes this proposal is an appropriate forum for presenting its construction of the current regulation and inviting comment from interested persons.

The correspondence FDA has received has reflected disagreement between manufacturers and independent servicers of laser products about whether the regulation authorizes manufacturers to interpret "adequate" to include training provided by the manufacturer. The agency believes that it is appropriate for the manufacturer to decide, in the first instance, what constitutes "adequate" servicing instructions. If the agency learns, however, through the inspection of laser

manufacturing facilities or otherwise, that manufacturers are using the requirement of "adequate" as a pretext for making the provision of servicing instructions contingent upon costly or burdensome training, FDA will deem the manufacturer's product to be noncompliant with the laser performance standard and will take appropriate regulatory action.

IV. Effective Date

FDA proposes that any final rule that may issue based on this proposal become effective 1 year after the date of publication of the final rule in the **Federal Register**.

V. Environmental Impact

The agency has determined under 21 CFR 25.34(c) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impact of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Regulatory Fairness Act of 1966 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule in many instances decreases the regulatory burden from that imposed by the current regulations and increases the level of consistency between Federal law and international law to which small entities may be subject, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more in either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement of analysis under section 202(a) of the Unfunded Mandates Reform Act is not required.

VII. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The burden hours required for § 1040.10(a)(4)(i), (h)(1)(i) through (h)(1)(vi), (h)(2)(i) and (h)(2)(ii), (i), and § 1040.11(a)(2)(iv) are reported and approved under OMB control number 0910–0213.

VIII. Comments

Interested persons may, on or before June 22, 1999, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 1010

Administrative practice and procedures, Electronic products, Exports, Radiation protection.

21 CFR Part 1040

Electronic products, Labeling, Lasers, Medical devices, Radiation protection, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 1010 and 1040 be amended as follows:

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

1. The authority citation for 21 CFR part 1010 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381.

2. Section 1010.2 is amended by revising paragraph (d) to read as follows:

§ 1010.2 Certification.

* * * * *

(d) In the case of products for which it is not feasible to certify in accordance with paragraph (b) of this section, upon application by the manufacturer or upon his or her initiative, the Director, Office of Compliance, Center for Devices and Radiological Health, may approve an alternate means by which such certification may be provided.

3. Section 1010.3 is amended by revising paragraph (b) to read as follows:

§ 1010.3 Identification.

* * * * *

(b) In the case of products for which it is not feasible to affix identification labeling in accordance with paragraph (a) of this section, upon application by the manufacturer or upon his or her initiative, the Director, Office of Compliance, Center for Devices and Radiological Health, may approve an alternate means by which such identification may be provided.

* * * * *

PART 1040—PERFORMANCE STANDARDS FOR LIGHT-EMITTING PRODUCTS

4. The authority citation for 21 CFR part 1040 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 371, 381; 42 U.S.C. 263b–263n.

5. Section 1040.10 is revised to read as follows:

§ 1040.10 Laser products.

(a) *Applicability.* The provisions of this section and § 1040.11, as amended, are applicable as specified to all laser products manufactured or assembled after (date 1 year after date of publication in the **Federal Register** of any final rule that issues based on this proposed rule), except when:

(1) Such a laser cannot under any conditions of operation, maintenance, service, or single failure emit radiation in excess of the accessible emission limits of a Class 1 laser product, or

(2) Such a laser is sold to a manufacturer of an electronic product for use as a component (or replacement) in such electronic product, or

(3) Such a laser is sold by or for a manufacturer of an electronic product for use as a component (or replacement) in such electronic product, provided that such laser:

(i) Is accompanied by a general warning notice that adequate instructions for the safe installation of the product are provided in servicing information available from the complete product manufacturer under paragraph (h)(2)(ii) of this section, and should be followed,

(ii) Is labeled with a statement that it is designated for use solely as a component of such electronic product and therefore is not required to comply with the appropriate requirements of this section and § 1040.11 for complete laser products, and

(iii) Is not a removable laser system as described in paragraph (c)(2) of this section; and

(4) The manufacturer of such a laser product, if manufactured after August 20, 1986,

(i) Registers and provides a listing by type of such laser products manufactured that includes the product name, model number, and laser medium or emitted wavelength(s). The registration and listing shall include the name and address of the manufacturer and shall be submitted to the Director, Office of Compliance (HFZ–342), Center for Devices and Radiological Health, 2098 Gaither Rd., Rockville, MD 20850; and

(ii) Maintains and allows access to any sales, shipping, or distribution records that identify the purchaser of such a laser product by name and address, the product by type, the number of units sold, and the date of sale (shipment). These records shall be maintained and made available as specified in § 1002.31 of this chapter.

(b) *Definitions.* As used in this section and § 1040.11, the following definitions apply:

(1) *Accessible emission level* means the magnitude of accessible laser or collateral radiation of a specific wavelength and emission duration at a particular point as measured according to paragraph (e) of this section. Accessible laser or collateral radiation is radiation to which human access is possible.

(2) *Accessible emission limit* means the maximum accessible emission level permitted within a particular class as set forth in paragraphs (c) and (d) of this section when measured according to paragraph (e) of this section.

(3) *Aperture* means any opening in the protective housing or other enclosure of a laser product through which laser or collateral radiation is emitted, thereby allowing human access to such radiation.

(4) *Aperture stop* means an opening serving to limit the size and to define the shape of the area over which radiation is measured.

(5) *Class 1 laser* means any laser that does not permit access during the operation to levels of laser radiation in excess of the accessible emission limits contained in Table 1 of paragraph (d) of this section.[1]

(6) *Class 2 laser* means any laser that permits human access during operation to levels of visible laser radiation in excess of the accessible emission limits contained in Table 1 in paragraph (d) of this section, but does not permit human access during operation to levels of laser radiation in excess of the accessible emission limits contained in Table 2 of paragraph (d) of this section.[2]

(7) *Class 3A laser* means any laser that permits human access during operation to levels of visible laser radiation in excess of the accessible emission limits contained in Table 2 of paragraph (d) of this section, but does not permit human access during operation to levels of laser radiation in excess of the accessible emission limits contained in Table 3 of paragraph (d) of this section.[3]

(8) *Class 3B laser product* means any laser product that permits human access during operation to levels of laser radiation in excess of the accessible emission limits of Table 3 of paragraph (d) of this section, but does not permit human access during operation to levels of laser radiation in excess of the accessible emission limits contained in Table 4 of paragraph (d) of this section.[4]

(9) *Class 3 laser product* means any Class 3A or Class 3B laser product.

(10) *Class 4 laser product* means any laser product that permits human access during operation to levels of laser radiation in excess of the accessible emission limits contained in Table 4 of paragraph (d) of this section.[5]

(11) *Collateral radiation* means any electronic product radiation, except laser radiation, emitted by a laser product as a result of the operation of the laser(s) or any component of the laser product that is physically necessary for the operation of the laser(s).

(12) *Demonstration laser product* means any laser product manufactured, designed, intended, or promoted for purposes of demonstration, entertainment, advertising display, or artistic composition. The term "demonstration laser product" does not apply to laser products which are not manufactured, designed, intended, or promoted for such purposes, even though they may be used for those purposes or are intended to demonstrate other applications.

(13) *Emission duration* means the temporal duration of a pulse, a series of pulses, or continuous operation, expressed in seconds, during which human access to laser or collateral radiation could be possible as a result of operation, maintenance, or service of a laser product.

(14) *Human access* means the capacity to intercept laser or collateral radiation by any part of the human body. For laser products that contain Class 3B or 4 levels of laser radiation, "human access" also means access to laser radiation that can be reflected directly onto any part of the human body by any single introduced flat surface from the interior of the product through any opening in the protective housing of the product.

(15) *Invisible radiation* means laser or collateral radiation having wavelengths of equal to or greater than 180 nm but less than or equal to 400 nm or greater than 700 nm but less than or equal to 1,000,000 nm (1 millimeter).

(16) *Irradiance* means the time-averaged radiant power incident on an element of a surface divided by the area of that element, expressed in watts per square centimeter.

(17) *Laser* means any device that can be made to produce or amplify electromagnetic radiation at wavelengths greater than 180 nm but less than or equal to 1,000,000 nm (1 millimeter) primarily by the process of controlled stimulated emission.

(18) *Laser energy source* means any device intended for use in conjunction with a laser to supply energy for the operation of the laser. General energy sources such as electrical supply mains or batteries shall not be considered to constitute laser energy sources.

(19) *Laser product* means any manufactured product or assemblage of components which constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product shall itself be considered a laser product.

(20) *Laser radiation* means all electromagnetic radiation emitted by a laser product within the spectral range specified in paragraph (b)(17) of this section that is produced as a result of controlled stimulated emission or that is detectable with radiation so produced through the appropriate aperture stop as

---

[1] Class 1 levels of laser or radiation are not considered to be hazardous.

[2] Class 2 levels of laser radiation are considered to be a chronic viewing hazard.

[3] Class 3A levels of laser radiation are considered to be either an acute viewing hazard at visible or near-infrared (700 to 1,400 nanometers (nm)) wavelengths if viewed directly with optical instruments, or a nominal hazard at wavelengths outside these ranges.

[4] Class 3B levels of laser radiation are considered to be an acute hazard to the skin and eyes from direct radiation.

[5] Class 4 levels of laser radiation are considered to be an acute hazard to the skin and eyes from direct and scattered radiation.

specified in paragraph (e) of this section.

(21) *Laser system* means a laser in combination with an appropriate laser energy source with or without additional incorporated components. See paragraph (c)(2) of this section for an explanation of the term "removable laser system."

(22) *Maintenance* means performance of those adjustments or procedures specified in user information provided by the manufacturer with the laser product which are to be performed by the user for the purpose of assuring the intended performance of the product. It does not include operation or service as defined in paragraphs (b)(27) and (b)(37) of this section.

(23) *Maximum output* means the maximum radiant power and, where applicable, the maximum radiant energy per pulse of accessible laser radiation emitted by a laser product during operation, as determined under paragraph (e) of this section.

(24) *Maximum angular subtense* means the value of angular subtense of the apparent source above which the AEL's are independent of the source size (α_{max} = 0.1 rad (100 mrad)).

(25) *Medical laser* means any laser product which is a medical device as defined in 21 U.S.C. 321(h) and is manufactured, designed, intended, or promoted for in vivo laser irradiation of any part of the human body for the purpose of:

(i) Diagnosis, surgery, or therapy; or

(ii) Relative positioning of the human body.

(26) *Minimum angular subtense* means the value of angular subtense of the apparent source above which the source is considered to be an extended source. Maximum permissible exposures (MPE's) and AEL's are independent of source size for angles less than the minimum angular subtense (α_{min}).

α_{min} = 0.0015 rad $t \leq 0.7s$

$0.002t^{3/4}$ rad $0.7s \leq t \leq 10s$

0.01rad $t \leq 10s$

(27) *Operation* means the performance of the laser product over the full range of its functions. It does not include maintenance or service as defined in paragraphs (b)(22) and (b)(37) of this section.

(28) *Protective housing* means those portions of a laser product which are designed to prevent human access to laser or collateral radiation in excess of the prescribed accessible emission limits under conditions specified in this section and in § 1040.11.

(29) *Pulse duration* means the time increment measured between the half-peak-power points at the leading and trailing edges of a pulse.

(30) *Radiant energy* means energy emitted, transferred or received in the form of radiation, expressed in joules (J).

(31) *Radiant exposure* means the radiant energy incident on an element of a surface divided by the area of the element, expressed in joules per square centimeter (Jcm^{-2}).

(32) *Radiant power* means time-averaged power emitted, transferred or received in the form of radiation, expressed in watts (W).

(33) *Remote interlock connector* means an electrical connector which permits the connection of external remote interlocks.

(34) *Safety interlock* means a device associated with the protective housing of a laser product to prevent human access to excessive radiation in accordance with paragraph (f)(2) of this section.

(35) *Sampling interval* means the time interval during which the level of accessible laser or collateral radiation is sampled by a measurement process. The magnitude of the sampling interval in units of seconds is represented by the symbol (t).

(36) *Scanned laser radiation* means laser radiation having a time-varying direction, origin or pattern of propagation with respect to a stationary frame of reference.

(37) *Service* means the performance of those procedures or adjustments described in the manufacturer's service instructions which may affect any aspect of the product's performance for which this section and § 1040.11 have applicable requirements. It does not include maintenance or operation as defined in paragraphs (b)(22) and (b)(27) of this section.

(38) *Surveying, leveling, or alignment laser product* means a laser product manufactured, designed, intended, or promoted for one or more of the following uses:

(i) Determining and delineating the form, extent, or position of a point, body, or area by taking angular measurement;

(ii) Positioning or adjusting parts in proper relation to one another; and

(iii) Defining a plane, level, elevation, or straight line.

(39) *Visible radiation* means laser or collateral radiation having wavelengths of greater than 400 nm but less than or equal to 700 nm.

(40) *Warning logotype* means a logotype as illustrated in either Figure 1 or Figure 2 of paragraph (g) of this section.

(41) *Wavelength* means the propagation wavelength in air of electromagnetic radiation.

(c) *Classification of laser*—(1) *All laser products.* Each laser shall be classified in Class 1, 2, 3A, 3B, or 4 in accordance with definitions set forth in paragraphs (b)(5) through (b)(10) of this section. The product classification shall be based on the highest accessible emission level(s) of laser radiation to which human access is possible during operation in accordance with paragraphs (d), (e), and (f)(1) of this section.

(2) *Removable laser systems.* Any laser system that is incorporated into a laser product subject to the requirements of this section and that is capable, without modification, of producing laser radiation when removed from such laser product, shall itself be considered a laser product and shall be separately subject to the applicable requirements in this subchapter for laser products of its class. It shall be classified on the basis of the accessible emission level of laser radiation the system is capable of producing when so removed.

(d) *Accessible emission limits.* Accessible emission limits for laser radiation in each class are specified in Tables 1, 2, 3, and 4 of this paragraph. Accessible emission limits for collateral radiation are specified in Table 7 of this paragraph.

NOTE APPLICABLE TO TABLES 1, 2, 3, 4, AND 6

The variable t in the expressions of emission limits is the magnitude of the sampling interval in units of seconds.

BILLING CODE 4160-01-F

Table 1 Accessible emission limits for Class 1 laser products[1]

Wavelength λ \ Emission Duration t (s)	$< 10^{-3}$	10^{-9} to 10^{-7}	10^{-7} to 1.8×10^{-5}	1.8×10^{-5} to 5×10^{-5}	5×10^{-7} to 1×10^{-3}	1×10^{-3} to 3	3 to 10	10 to 10^{3}	10^{3} to 10^{4}	10^{4} to 3×10^{4}
180 to 302.5	2.4×10^{11} W	$< 4\times10^{-5}$ J								
302.5 to 315		$7.9\times10^{-7}C_1$ J ($t < T_1$)					$7.9\times10^{-7}C_2$ J ($t > T_1$)	$7.9\times10^{-7}C_2$ J		
315 to 400		$7.9\times10^{-7}C_1$ J						7.9×10^{-3} J	7.9×10^{-6} W	
400 to 550	$200C_6$ W	$2\times10^{-7}C_6$ J		$7\times10^{-4}t^{0.75}C_6$ J				$3.9\times10^{-3}C_6$ J		$3.9\times10^{-7}C_6$ W
550 to 700								($t < T_2$) $7\times10^{-4}t^{0.75}$ J	$3.9\times10^{-3}C_3C_6$ J ($t > T_2$)	$3.9\times10^{-7}C_3C_6$ W
700 to 1,050	$200\ C_4C_6$ W	$2\times10^{-7}C_4C_6$ J		$7\times10^{-4}t^{0.75}C_4C_6$ J					$1.2\times10^{-3}C_4C_6$ W	
1,050 to 1,400	$3\times10^{-3}C_6C_7$ W	$2\times10^{-6}C_6C_7$ J		$3.5\times10^{-3}t^{0.75}C_6C_7$ J					$6\times10^{-4}C_6C_7$ W	
1,400 to 1,500	8×10^{5} W	8×10^{-4} J				$4.4\times10^{-3}t^{0.25}$ J		$5.4\times10^{-2}t^{0.25}$ J	10^{-2} W	
1,500 to 1,800	8×10^{6} W	8×10^{-3} J						0.1 J		
1,800 to 2,600	8×10^{5} W	8×10^{-4} J				$4.4\times10^{-3}t^{0.25}$ J		$5.4\times10^{-2}t^{0.25}$ J		
2,600 to 4,000	8×10^{4} W	8×10^{-5} J		$4.4\times10^{-3}t^{0.25}$ J						
4,000 to 10^{6}	10^{7} W•cm^{-2}	10^{-2} J•cm^{-2}		$0.56\times10^{-1}t^{0.25}$ J•cm^{-2}					0.1 W•cm^{-2}	

For correction factors and units, see table 5.

Table 2 - Accessible emission limits for Class 2 laser products

Wavelength λ nm	Emision duration t s	Class 2 AEL
400 to 700	t < 0.25	Same as Class 1 AEL
	t = 0.25	$C_6 \times 10^{-3}$ W*

*For correction factors and units see Table 5

Table 3 - Accessible emission limits for Class 3A laser products

Wavelength λ \ Emission Duration t (s)	$<10^{9}$	10^{9} to 10^{7}	10^{7} to 1.8×10^{5}	1.8×10^{5} to 5×10^{5}	5×10^{5} to 1×10^{3}	1×10^{3} to 0.25	0.25 to 3	3 to 10	10 to 10^{3}	10^{3} to 3×10^{4}
180 to 302.5	1.2×10^{5} W and 3×10^{6} W•cm^{-2}	1.2×10^{4} J and 3×10^{3} J•cm^{-2}								
302.5 to 315		$4\times10^{-6}C_1$ J and $10^{4}C_1$ J•cm^{-2} ($t<T_1$)							$4\times10^{6}C_2$ J and $10^{-4}C_2$ J•cm^{-2}	
315 to 400		$4\times10^{-6}C_1$ J and $10^{4}C_1$ J•cm^{-2}							4×10^{-2} J and 1 J•m^{-2}	4×10^{-5} W and 10^{-3} W•cm^{-2}
400 to 700	1,000 C_6 W and 500 C_6 W•cm^{-2}	$10^{6}C_6$ J and $0.5\times10^{7}C_6$ J•cm^{-2}	$3.5\times10^{3}t^{0.75}C_6$ J and $1.8\times10^{3}C_6$ J•cm^{-2}				$5\times10^{-3}C_6$ W and 2.5×10^{-3} W•cm^{-2}			
700 to 1,050	1,000C_4C_6 W and 500C_4C_6 W•cm^{-2}	$10^{-6}C_4C_6$ J and $5\times10^{-7}C_4C_6$ J•cm^{-2}	$3.5\times10^{3}t^{0.75}C_4C_6$ J and $1.8\times10^{3}C_4C_6$ J•cm^{-2}							$6\times10^{-4}C_4C_6$ W and $3.2\times10^{4}C_4C_6$ W•cm^{-2}
1,050 to 1,400	$10^{4}C_6C_7$ W and $5\times10^{3}C_6C_7$ W•cm^{-2}	$10^{5}C_6C_7$ J and $5\times10^{6}C_6C_7$ J•cm^{-2}		$1.8\times10^{2}t^{0.75}C_6C_7$ J and $9\times10^{3}t^{0.75}C_6C_7$ J•cm^{-2}						$3\times10^{-3}C_6C_7$ W and $1.6\times10^{2}C_6C_7$ W•cm^{-2}
1,400 to 1,500	4×10^{6} W and 10^{8} W•cm^{-2}	4×10^{3} J and 0.1 J•cm^{-2}			$2.2\times10^{2}t^{0.25}$ J and $0.56t^{0.25}$ J•cm^{-2}		$0.27t^{0.25}$ J and $0.56t^{0.25}$ J•cm^{-2}		5×10^{-2} W and 0.1 W•cm^{-2}	
1,500 to 1,800	4×10^{7} W and 10^{9} W•cm^{-2}	4×10^{2} J and 1 J•cm^{-2}					0.5 J and 1 J•cm^{-2}			
1,800 to 2,600	4×10^{6} W and 10^{8} W•cm^{-2}	4×10^{3} J and 0.1 J•cm^{-2}			$2.2\times10^{2}t^{0.25}$ J and $0.56t^{0.25}$ J•cm^{-2}		$0.27t^{0.25}$ J and $0.56t^{0.25}$ J•cm^{-2}			
2,600 to 4,000	4×10^{5} W and 10^{7} W•cm^{-2}	4×10^{-4} J and 0.01 J•cm^{-2}	$2.2\times10^{2}t^{0.25}$ J and $0.56t^{0.25}$ J•cm^{-2}							
4,000 to 10^{6}	10^{7} W•cm^{-2}	0.01 J•cm^{-2}	$0.56t^{0.25}$ J•cm^{-2}						0.1 W•cm^{-2}	

For correction factors and units, see table 5.

Table 4 - Accessible emission limits for Class 3B laser products

Emission duration t s / Wavelength λ nm	$< 10^{-9}$	10^{-9} to 0.25	0.25 to $3x10^4$
180 to 302.5	$3.8x10^5$ W	$3.8x10^{-4}$ J	$1.5x10^{-3}$ W
302.5 to 315	$1.25x10^4 C_2$ W	$1.25x10^{-5} C_2$ J	$5x10^{-5} C_2$ W
315 to 400	$1.25x10^8$ W	0.125 J	0.5 W
400 to 700	$3x10^7$ W	0.03 J for t< 0.06 s 0.5 W for t ≥ 0.06 s	0.5 W
700 tp 1,050	$3x10^7 C_4$W	$0.03C_4$ J for t < $0.06C_4$ s 0.5 W for t ≥ $0.06C_4$ s	0.5 W
1,050 to 1,400	$1.5x10^8$ W	0.15 J	0.5 W
1,400 to 10^6	$1.25x10^8$ W	0.125 J	0.5 W
For correction factors and units, see Table 5			

Table 5 - Notes to Tables 1 to 4

Parameter	Spectral Range nm
$C_1 = 5.6 \times 10^3 t^{0.25}$	302.5 to 400
$T_1 = 10^{0.8(\lambda-295)} \times 10^{-15} s$	302.5 to 315
$C_2 = 10^{0.2(\lambda-295)}$	302.5 to 315
$T_2 = 10 \times 10^{0.02(\lambda-550)} s$	550 to 700
$C_3 = 10^{0.015(\lambda-550)}$	550 to 700
$C_4 = 10^{0.002(\lambda-700)}$	700 to 1,050
$C_5 = N^{-1/4}$ (for pulse durations < 0.25 s)	400 to 10^6
$C_6 = 1$ (for $\alpha \leq \alpha_{min}$)	400 to 1,400
$C_6 = \alpha/\alpha_{min}$ for $\alpha_{min} < \alpha \leq \alpha_{max}$	400 to 1,400
$C_6 = \alpha_{max}/\alpha_{min}$ for $\alpha > \alpha_{max}$	400 to 1,400
$C_7 = 1$	1,050 to 1,150
$C_7 = 10^{0.018(\lambda-1150)}$	1,150 to 1,200
$C_7 = 8$	1,200 to 1,400

Table 6 - Apertures for the Determination of Irradiance or Radiant Exposure

Spectral region nm	Duration s	Aperture diameter for	
		Eye mm	Skin mm
180 to 400	$t \leq 3X10^4$	1	1
400 to 1,400	$t \leq 3X10^4$	7	3.5
1,400 to 10^5	$t \leq 3$	1	1
1,400 to 10^5	$t > 3$	3.5	3.5
10^5 to 10^6	$t \leq 3X10^4$	11	11

TABLE 7

ACCESSIBLE EMISSION LIMITS FOR COLLATERAL

RADIATION FROM LASER OR LED PRODUCTS

1. Accessible emission limits for collateral radiation having wavelengths greater than 180 nanometers but less than or equal to 1.0×10^6 nanometers are identical to the accessible emission limits for Class 1 laser or LED radiation.

i. In the wavelength range of less than or equal to 400 nanometers, for all emission durations;

ii. In the wavelength range of greater than 400 nanometers, for all emission durations less than or equal to 1×10^3 seconds, and when applicable under paragraph (f)(8) of this section, for all emission durations.

2. Accessible emission limit for collateral radiation within the x-ray range of wavelengths is 0.5 milliroentgen in an hour, averaged over a cross-section parallel to the external surface of the product, having an area of 10 square centimeters with no dimension greater than 5 centimeters.

BILLING CODE 4160–01–C

(1) *Beam of a single wavelength.* Laser or collateral radiation single wavelength exceeds the accessible emission limits of a class if its accessible emission level is greater than the accessible emission limit of that class within any of the ranges of emission duration specified in Tables 1, 2, 3, and 4 of this paragraph.

(2) *Beam of multiple wavelengths in same range.* Laser or collateral radiation having two or more wavelengths within any one of the wavelength ranges specified in Tables 1, 2, 3, and 4 of this paragraph exceeds the accessible emission limits of a class if the sum of the ratios of the accessible emission level to the corresponding accessible emission limit at each such wavelength is greater than unity for that combination of emission duration and wavelength distribution which results in the maximum sum.

(3) *Beam with multiple wavelengths in different ranges.* Laser or collateral radiation having wavelengths within two or more of the wavelength ranges specified in Tables 1, 2, 3, and 4 of this paragraph exceeds the accessible emission limits of a class if it exceeds the applicable limits within any one of those wavelength ranges. This determination is made for each wavelength range in accordance with paragraph (d)(1) or (d)(2) of this section.

(4) *Maximum sampling interval.* Three maximum sampling intervals are used for the classification of laser. Which interval applies depends upon the accessible emission level of the product and whether viewing the radiation is an inherent feature of the product. The accessible emission limits of a class are exceeded, if exceeded within any emission duration less than or equal to the following maximum sampling intervals:

(i) 30,000 seconds for wavelengths less than or equal to 400 nm and for wavelengths greater than 400 nm if intentional viewing of the radiation is inherent in the design or function of the product, or

(ii) 100 seconds for wavelengths greater than 400 nm unless intentional viewing of the radiation is inherent in the design or function of the product.

(iii) 0.25 seconds for Class 2 and for Class 3A laser radiation within the wavelength range from 400 to 700 nm.

(5) *Repetitively pulsed or scanned laser radiation.* For repetitively pulsed or scanned laser radiation in the wavelength range from 400 nm to 1,000,000 nm (1 millimeter) the AEL is determined by using the most restrictive of requirements in paragraphs (d)(4)(i), (d)(4)(ii), and (d)(4)(iii) of this section as appropriate. For wavelengths less than 400 nm, the AEL is determined by using the most restrictive of requirements in paragraphs (d)(4)(i) and (d)(4)(ii) of this section.

(i) The emission level of any single pulse within a pulse train shall not exceed the AEL for a single pulse.

(ii) The average power of a pulse train of duration t shall not exceed the power corresponding to the AEL given in Tables 1, 2, 3, and 4 of this paragraph, respectively, for a single pulse of duration t.

(iii) The emission level of any single pulse within a pulse train shall not exceed the AEL for a single pulse multiplied by the correction factor C_5:

$AEL_{train} = AEL_{single} \times C_5$

NOTE: C_5 is only applicable to pulse durations shorter than 0.25 sec. where:

AEL_{train} = AEL for any single pulse in the pulse train

AEL_{single} = AEL for a single pulse

$C_5 = N^{-1/4}$

N = number of pulses in the pulse train during the sampling interval.

NOTE: In some cases, AEL_{train} this value may fall below the AEL that would apply for continuous operation at the same peak power using the same time base. Under these circumstances, the AEL for continuous operation may be used.

(e) *Tests for determination of compliance*—(1) *Tests for certification.* Tests on which certification under

§ 1010.2 of this chapter is based shall account for all errors and statistical uncertainties in the measurement process. Because compliance with the standard is required for the useful life of a product, such tests shall also account for increases in emission and degradation in radiation safety with age.

(2) *Test conditions.* Except as provided in § 1010.13 of this chapter, tests for compliance with each of the applicable requirements of this section and § 1040.11 shall be made as appropriate during operation, maintenance, service, or single failure as follows:

(i) Under those conditions and procedures that maximize the accessible emission levels, including start-up, stabilized emission, and shut-down of the laser product; and

(ii) With all controls and adjustments listed in the operation, maintenance, and service instructions adjusted in combination to result in the maximum accessible emission level of radiation; and

(iii) At locations where human access to laser radiation is possible, e.g., if operation may require removal of portions of the protective housing and defeat of safety interlocks, measurements shall be made at points accessible in that product configuration; and

(iv) With the measuring instrument detector so positioned and so oriented with respect to the laser product as to result in the maximum detection of radiation by the instrument; and

(v) For a laser product other than a laser system, with the laser connected to that type of laser energy source that is specified as compatible by the laser product manufacturer and that produces the maximum emission level of accessible radiation from that product.

(3) *Measurement parameters.* Accessible emission levels of laser and collateral radiation shall be based upon the measurements in paragraph (e)(3)(i) of this section as appropriate, or their equivalent. For the purposes of the measurements in paragraphs (e)(3)(i)(A) through (e)(3)(i)(D), and paragraph (e)(3)(ii) of this section, the 50-millimeter aperture will be the limiting case with collimated beams, and the measurement distances referring to the apparent source are measured from the apparent source irrespective of any optical element placed between the source and the measurement aperture.

(i) Radiant power (W) or radiant energy (J) measurable under the following conditions:

(A) Within a circular aperture stop of 50-millimeter diameter placed at a distance of 2 meters from the closest point of human access. In general, the 50-millimeter aperture will be the limiting case with collimated beams, or

(B) In the wavelength range from 400 nm to 1,400 nm within a circular aperture stop of 7-millimeter diameter placed at a distance of 100 millimeters from the apparent source.

(C) For apparent sources subtending an angle (α) (measured at a minimum distance of 100 millimeters) less than α_{max} and within the wavelength range from 400 nm to 1,400 nm, within a circular aperture stop of 7-millimeter diameter positioned at a distance (r) from the source depending upon the angular subtense α (between a minimum of 1.5 mrad and a maximum of α_{max}) of the source. The distance (r) of the 7-millimeter measurement aperture from the source is determined by:

BILLING CODE 4160–01–F

$$r = (100\ mm)\sqrt{\frac{\alpha + 0.46\ mrad}{\alpha_{max}}}$$

BILLING CODE 4160–01–C

NOTE: In cases where the apparent source is recessed within the product at a distance greater than that specified in paragraph (e)(3)(i)(B) or (e)(3)(i)(C) of this section, the minimum measurement distance should be at the closest point of human access, such as the exit window or lens. This measurement is needed to determine the user information required for Class 1 laser products (see paragraph (h)(1)(vi) of this section).

(D) For wavelengths less than 400 nm and greater than 1,400 nm, within a circular aperture stop of 7-millimeter diameter (or as otherwise specified) placed at a distance of 14 millimeters from the closest point of human access.

(E) For the calculation of the AEL expressed in terms of radiant power, radiant energy, irradiance, or radiant exposure, the value of the angular subtense of a rectangular or linear source is determined by the arithmetic mean of the two angular dimensions of the source. Any angular dimension that is greater than α_{max} or less than α_{min} shall be limited to α_{max} or α_{min}, respectively, prior to calculating the mean.

(F) For scanned laser radiation, the direction of the solid angle of acceptance shall change as needed to maximize detectable radiation, with an angular speed of up to 5 radians/second.

(ii) The irradiance (Wcm^{-2}) or radiant exposure (Jcm^{-2}) equivalent to the radiant power (W) or radiant energy (J) measurable through a circular aperture stop having a diameter as specified in Table 6 of paragraph (d) of this section shall be divided by the area of the aperture stop.

(f) *Performance requirements*—(1) *Protective housing.* Each laser product shall have a protective housing that prevents human access during operation to laser and collateral radiation that exceed the limits of Tables 1 or 7 of paragraph (d) of this section wherever and whenever such human access is not necessary for the product to perform its intended function. Wherever and whenever human access to laser radiation levels that exceed the limits of Class 1 is necessary, these levels shall not exceed the limits of the lowest class necessary to perform the intended function(s) of the product.

NOTE: If there is an opening or openings, such as for cooling, in a protective housing that encloses Class 3B or 4 levels of laser radiation, the adequacy of the protective housing shall be determined by whether the level of radiation that can be reflected out through the opening(s) by a single flat reflector exceeds the accessible emission limits of Class 1.

(2) *Safety interlocks*—(i) Each laser, regardless of its class, shall be provided with at least one safety interlock for each portion of the protective housing which is designed to be removed or

displaced during operation or maintenance, if removal or displacement of the protective housing could permit, in the absence of such interlock(s), human access to:

(A) Laser radiation in excess of the accessible emission limits of Class 3A; or

(B) Laser radiation in excess of the accessible emission limits of Class 2 to be emitted directly through the opening created by removal or displacement of the interlocked portion of the protective housing.

(ii) Each required safety interlock, unless defeated, shall prevent human access to laser radiation as described in paragraphs (f)(2)(i)(A) through (f)(2)(i)(B) of this section upon removal or displacement of such portion of the protective housing.

(iii) Either multiple safety interlocks or a means to preclude removal or displacement of the interlocked portion of the protective housing shall be provided, if failure of a single interlock would allow:

(A) Human access to a level of laser radiation in excess of the accessible emission limits of Class 3A; or

(B) Laser radiation in excess of the accessible emission limits of Class 2 to be emitted directly through the opening created by removal or displacement of the interlocked portion of the protective housing.

(iv) Laser products that incorporate safety interlocks designed to allow safety interlock defeat shall incorporate a means of visual or aural indication of interlock defeat. During interlock defeat, such indication shall be visible or audible whenever the laser product is energized, with and without the associated portion of the protective housing removed or displaced.

(v) Replacement of a removed or displaced portion of the protective housing shall not be possible while required safety interlocks are defeated.

(3) *Remote interlock connector.* Each laser system classified as a Class 3B or 4 laser product, except for Class 3B with not more than five times the AEL of Class 2 in the wavelength range of 400 to 700 nm, shall incorporate a readily available remote interlock connector having an electrical potential difference of no greater than 130 root-mean-square volts between terminals. When the terminals of the connector are not electrically joined, human access to all laser and collateral radiation from the laser product in excess of the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section shall be prevented.

(4) *Key control.* Each laser system classified as a Class 3B or 4 laser product, except for Class 3B with not more than five times the AEL of Class 2 in the wavelength range of 400 to 700 nm, shall incorporate a key-actuated master control. The key shall be removable and the laser shall not be operable when the key is removed.

(5) *Laser radiation emission indicator*—(i) Each laser system classified as a Class 3B or 4 laser product, except for Class 3B with not more than five times the AEL of Class 2 in the wavelength range of 400 to 700 nm, shall incorporate an emission indicator which provides a visible or audible signal during emission of accessible laser radiation in excess of the accessible emission limits of Class 1, and sufficiently prior to emission of such radiation to allow appropriate action to avoid exposure to the laser radiation.

(ii) For laser systems manufactured on or before August 20, 1986, if the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both laser and laser energy source shall incorporate an emission indicator as required in accordance with paragraph (f)(5)(i) of this section.

(iii) Any visible signal required by paragraph (f)(5)(i) or (f)(5)(ii) of this section shall be clearly visible through protective eyewear designed specifically for the wavelength(s) of the emitted laser radiation.

(iv) Emission indicators required by paragraph (f)(5)(i) or (f)(5)(ii) of this section shall be located so that viewing does not require human exposure to laser or collateral radiation in excess of the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section.

(6) *Beam attenuator*—(i) Each laser system classified as a Class 3B or 4 laser product, except for Class 3B with not more than five times the AEL of Class 2 in the wavelength range of 400 to 700 nm, shall be provided with one or more permanently attached means, other than laser energy source switch(es), electrical supply main connectors, or the key-actuated master control, capable of preventing access by any part of the human body to all laser and collateral radiation in excess of the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section.

(ii) Upon written application by the manufacturer or on the initiative of the Director, Office of Compliance, Center for Devices and Radiological Health, the Director may, upon determination that the configuration, design, or function of the laser product would make unnecessary compliance with the requirement in paragraph (f)(6)(i) of this section, approve alternate means to accomplish the radiation protection provided by the beam attenuator.

(7) *Location of controls.* Each Class 2, 3, or 4 laser product shall have operational and adjustment controls located so that human exposure to laser or collateral radiation in excess of the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section is unnecessary for operation or adjustment of such controls.

(8) *Viewing optics.* All viewing optics, viewports, and display screens incorporated into a laser product, regardless of its class, shall limit the levels of laser and collateral radiation accessible to the human eye by means of such viewing optics, viewports, or display screens during operation or maintenance to less than the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section. For any shutter or variable attenuator incorporated into such viewing optics, viewports, or display screens, a means shall be provided:

(i) To prevent access by the human eye to laser and collateral radiation in excess of the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section whenever the shutter is opened or the attenuator varied.

(ii) *To preclude, upon failure of such* means as required in paragraph (f)(8)(i) of this section, opening the shutter or varying the attenuator when access by the human eye is possible to laser or collateral radiation in excess of the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section.

(9) *Scanning safeguard.* Laser products that emit accessible scanned laser radiation shall not, as a result of any failure causing a change in either scan velocity or amplitude, permit human access to laser radiation in excess of the accessible emission limits of the class of the product.

(10) *Manual reset mechanism.* Each laser system manufactured after August 20, 1986, classified as a Class 4 laser shall be provided with a manual reset to enable resumption of laser radiation emission after interruption of emission caused by the use of a remote interlock or after an interruption of emission in excess of 5 seconds duration due to the unexpected loss of main electrical power.

(g) *Labeling requirements.* In addition to the requirements of §§ 1010.2 and 1010.3 of this chapter, each laser product shall be subject to the applicable labeling requirements of this paragraph. Labeling in accordance with the International Electrotechnical Commission (IEC) Document 825–1 will

satisfy the requirements of paragraphs (g)(1) through (g)(10) of this section.

(1) *Class 2 designation and warnings.* Each Class 2 laser product shall have affixed a label bearing the warning logotype A (Figure 1 in this paragraph) that includes the following wording:

[Position 1 on the logotype]

"LASER RADIATION—DO NOT STARE INTO BEAM"; and

[Position 3 on the logotype]

"CLASS 2 LASER PRODUCT".

BILLING CODE 4160–01–F

WARNING LOGOTYPE A

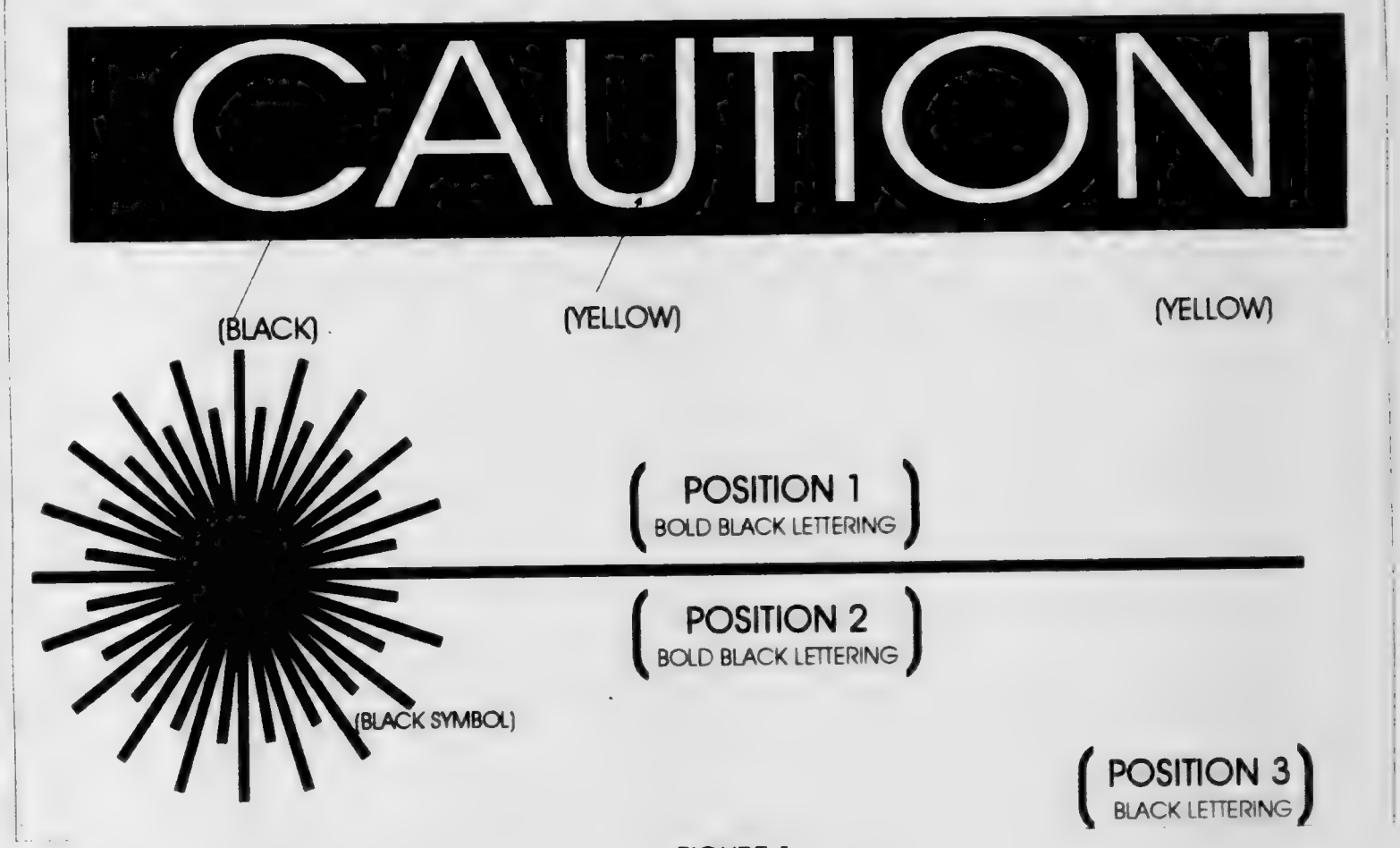


FIGURE 1

BILLING CODE 4160–01–C

(2) *Class 3A and 3B designations and warnings.* (i) Each Class 3 laser product that does not exceed the accessible emission limits of Table 3A shall have affixed a label bearing the warning logotype A (Figure 1 of paragraph (g)(1) of this section) that includes the following wording:

[Position 1 on the logotype]

"LASER RADIATION DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS"; and,

[Position 3 on the logotype]

"CLASS 3A LASER PRODUCT".

(ii) Each Class 3 laser product that exceeds the accessible emission limits of Table 3A in the wavelength range of 400 to 700 nm and less than the AEL of Class 3A at other wavelengths shall have affixed a label bearing the warning logotype B (Figure 2 in this paragraph) and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION AVOID DIRECT EYE EXPOSURE"; and,

[Position 3 on the logotype]

"CLASS 3B LASER PRODUCT".

BILLING CODE 4610–01–F

WARNING LOGOTYPE B

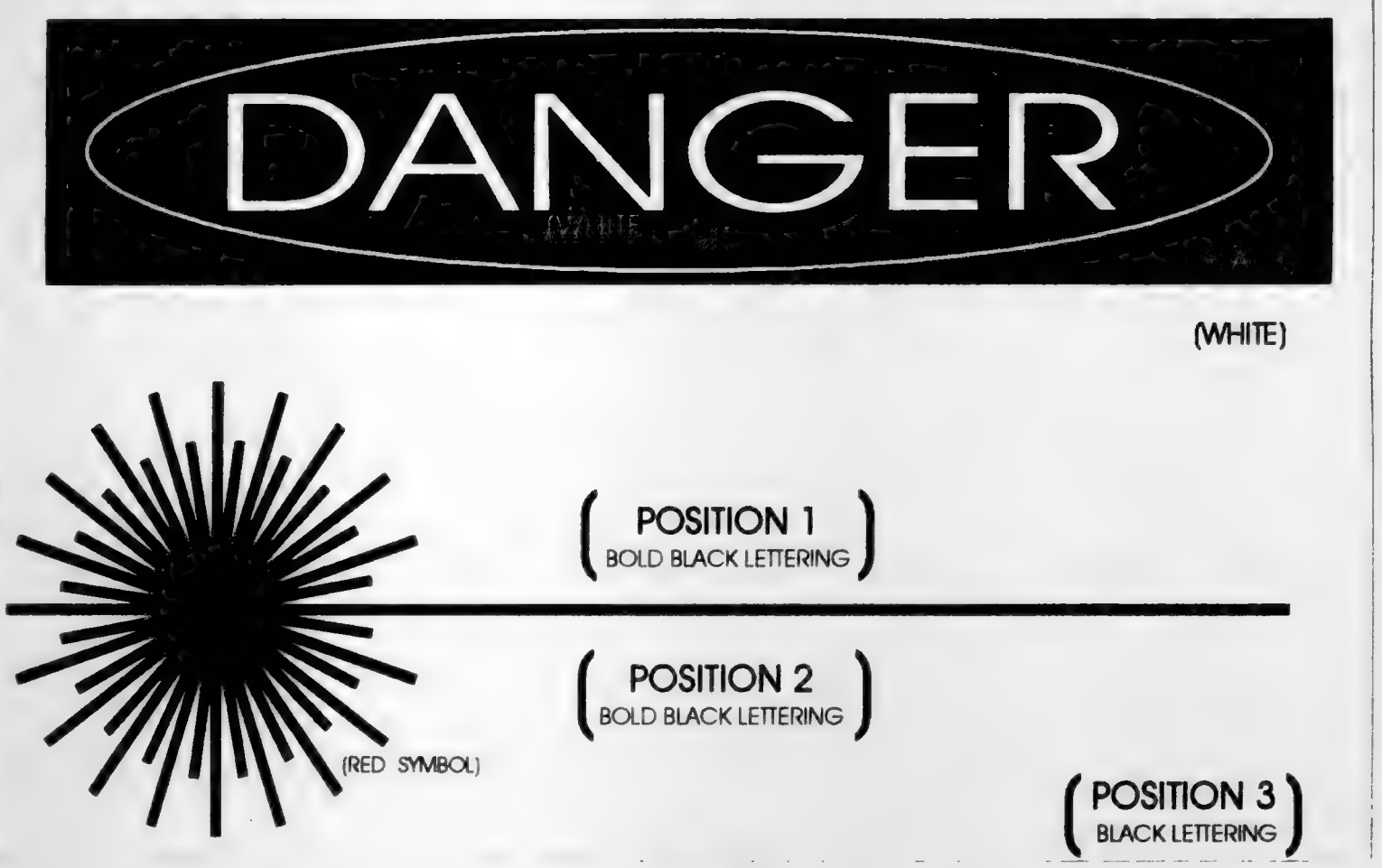


FIGURE 2

BILLING CODE 4160–01–C

(iii) Each Class 3B laser product except as specified in (g)(2)(ii) shall have affixed a label bearing the warning logotype B (Figure 2 of paragraph (g)(2)(ii) of this section) and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION AVOID DIRECT EXPOSURE TO BEAM"; and,

[Position 3 on the logotype]

"CLASS 3B LASER PRODUCT".

(3) *Class 4 designation and warning.* Each Class 4 laser product shall have affixed a label bearing the warning logotype B (Figure 2 of paragraph (g)(2)(ii) of this section), and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION—AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION"; and,

[Position 3 on the logotype]

"CLASS 4 LASER PRODUCT".

(4) *Radiation output information on warning logotype.* Each Class 2, 3, and 4 laser product shall state in appropriate units, at position 2 on the required warning logotype, the maximum output of laser radiation, the pulse duration when appropriate, and the laser medium or emitted wavelength(s).

(5) *Aperture label.* Each laser, except medical lasers, shall have affixed, in close proximity to each aperture through which is emitted accessible laser or collateral radiation in excess of the accessible emission limits of Class 1 and Table 7 of paragraph (d) of this section, a label or labels bearing the following wording as applicable:

(i) "AVOID EXPOSURE—Laser radiation is emitted from this aperture," if the radiation emitted through such aperture is laser radiation.

(ii) "AVOID EXPOSURE—Hazardous electromagnetic radiation is emitted from this aperture," if the radiation emitted through such aperture is collateral radiation described in Table 7, item 1 of paragraph (d) of this section.

(iii) "AVOID EXPOSURE—Hazardous x-rays are emitted from this aperture," if the radiation emitted through such aperture is collateral radiation described in Table 7, item 2 of paragraph (d) of this section.

(6) *Labels for noninterlocked protective housings.* For each laser product, labels shall be provided for each portion of the protective housing which has no safety interlock and which is designed to be displaced or removed during operation, maintenance, or service, and thereby could permit human access to laser or collateral radiation in excess of the limits of Class 1 and Table 7 of paragraph (d) of this section. Such labels shall be visible on the protective housing prior to displacement or removal of such portion of the protective housing and visible on the product in close proximity to the opening created by removal or displacement of such portion of the protective housing, and shall include the wording:

(i) "CAUTION—Laser radiation when open. DO NOT STARE INTO BEAM." for Class 2 accessible laser radiation.

(ii) "CAUTION—Laser radiation when open. DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS." for Class 3A accessible laser radiation.

(iii) "DANGER—Laser radiation when open. AVOID DIRECT EYE EXPOSURE." for Class 3B accessible

laser radiation with an irradiance greater than 0.0025 W/cm^{-2} and with not more than five times the AEL of Class 2 in the wavelength range of 400 to 700 nm.

(iv) "DANGER Laser radiation when open. AVOID DIRECT EXPOSURE TO BEAM." for Class 3B accessible laser radiation other than that described in paragraph (g)(6)(iii) of this section.

(v) "DANGER Laser radiation when open. AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION." for Class 4 accessible laser radiation.

(vi) "CAUTION Hazardous electromagnetic radiation when open." for collateral radiation in excess of the accessible emission limits in Table 7, item 1 of paragraph (d) of this section.

(vii) "CAUTION Hazardous x-rays when open." for collateral radiation in excess of the accessible emission limits in Table 7, item 2 of paragraph (d) of this section.

(7) *Labels for defeatably interlocked protective housings.* For each laser product, labels shall be provided for each defeatably interlocked (as described in paragraph (f)(2)(iv) of this section) portion of the protective housing which is designed to be displaced or removed during operation, maintenance, or service, and which upon interlock defeat could permit human access to laser or collateral radiation in excess of the limits of Class 1 or Table 7 of paragraph (d) of this section. Such labels shall be visible on the product prior to and during interlock defeat and shall be in close proximity to the opening created by the removal or displacement of such portion of the protective housing, and shall include the wording:

(i) "CAUTION—Laser radiation when open and interlock defeated. DO NOT STARE INTO BEAM." for Class 2 accessible laser radiation.

(ii) "CAUTION—Laser radiation when open and interlock defeated. DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS." for Class 3A accessible laser radiation with an irradiance less than or equal to 0.0025 W/cm^{-2}.

(iii) "DANGER Laser radiation when open and interlock defeated. AVOID DIRECT EYE EXPOSURE." for Class 3B accessible laser radiation with an irradiance greater than 0.0025 W/cm^{-2} and with not more than five times the AEL of Class 2 in the wavelength range of 400 to 700 nm.

(iv) "DANGER Laser radiation when open and interlock defeated. AVOID DIRECT EXPOSURE TO BEAM." for Class 3B accessible laser radiation other than that described in paragraph (g)(7)(iii) of this section.

(v) "DANGER Laser radiation when open and interlock defeated. AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION." for Class 4 accessible laser radiation.

(vi) "CAUTION Hazardous electromagnetic radiation when open and interlock defeated." for collateral radiation in excess of the accessible emission limits in Table 7 item 1 of paragraph (d) of this section.

(vii) "CAUTION Hazardous x-rays when open and interlock defeated." for collateral radiation in excess of the accessible emission limits in Table 7, item 2 of paragraph (d) of this section.

(8) *Warning for visible and/or invisible radiation.* On the labels specified in this paragraph, if the laser or collateral radiation referred to is:

(i) Invisible radiation, the word "invisible" shall appropriately precede the word "radiation"; or

(ii) Visible and invisible radiation, the words "visible and invisible" or "visible and/or invisible" shall appropriately precede the word "radiation."

(iii) Visible laser radiation only, the phrase "laser light" may replace the phrase "laser radiation."

(9) *Positioning of labels.* All labels affixed to a laser product shall be positioned so as to make unnecessary, during reading, human exposure to laser radiation in excess of the accessible emission limits of Class 1 radiation or the limits of collateral radiation established to Table 7 of paragraph (d) of this section.

(10) *Label specifications.* Labels required by this section and § 1040.11 shall be permanently affixed to, or inscribed on, the laser product, legible, and clearly visible during operation, maintenance, and service, as appropriate. Upon written application by the manufacturer, or on the initiative of the Director, Office of Compliance, Center for Devices and Radiological Health, the Director may, upon determination that the size, configuration, design, or function of the laser product would preclude compliance with the requirements for any required label or would render the required wording of such label inappropriate or ineffective, approve alternate means of providing such label(s) or alternate wording for such label(s) as applicable.

(h) *Informational requirements*—(1) *User information.* Manufacturers of laser products shall provide as an integral part of any user instruction or operation manual which is regularly supplied with the product, or, if not so supplied, shall cause to be provided with each laser:

(i) Adequate instructions for assembly, operation, and maintenance, including clear warnings concerning precautions to avoid possible exposure to laser and collateral radiation in excess of the accessible emission limits in Tables 1, 2, 3, 4, and 7 of paragraph (d) of this section determined under paragraph (e) of this section, and a schedule of maintenance necessary to keep the product in compliance with this section and, if applicable, § 1040.11.

(ii) A statement of the magnitude, in appropriate units, of the pulse duration(s), maximum radiant power and, where applicable, the maximum radiant energy per pulse of the accessible laser detectable in each direction in excess of the accessible emission limits in Table 1 of paragraph (d) of this section.

(iii) Legible reproductions (color optional) of all labels and hazard warnings required by paragraph (g) of this section and, if applicable, § 1040.11, to be affixed to the laser product or provided with the laser product, including the information and warnings required for positions 1, 2, and 3 of the applicable logotype (Figure 1 of paragraph (g)(1) or Figure 2 of paragraph (g)(2)(ii) of this section). The corresponding position of each label affixed to the product shall be indicated or, if provided with the product, a statement that such labels could not be affixed to the product but were supplied with the product and a statement of the form and manner in which they were supplied shall be provided.

(iv) A listing of all controls, adjustments, and procedures for operation and maintenance, including a cautionary warning that the use of controls or adjustments or performance of procedures other than specified may result in hazardous radiation exposure.

(v) In the case of laser products other than laser systems, a statement of the compatibility requirements for a laser energy source that will assure compliance of the laser product with this section and, if applicable, § 1040.11.

(vi) For Class 1 laser products, if the output power (or energy) measured according to paragraph (e)(3)(i)(D) of this section is greater than that measured in accordance with paragraph (e)(3)(i)(A) or (e)(3)(i)(B) of this section and that level exceeds the Class 1 limit, an additional warning is required. This warning shall state that viewing the laser output with optical instruments having a magnifying power greater than

2.5 (e.g., eye loupes) may pose an eye hazard.

(2) *Purchasing and servicing information.* Manufacturers of laser products shall provide or cause to be provided:

(i) In all catalogs, specification sheets, and descriptive brochures pertaining to each laser product, a legible reproduction (color optional) of the class designation and warning required by paragraph (g) of this section to be affixed to that product, including the information required for positions 1, 2, and 3 of the applicable logotype (Figure 1 of paragraph (g)(1) or Figure 2 of paragraph (g)(2)(ii) of this section).

(ii) To servicing dealers and distributors and to others upon request, at a cost not to exceed the cost of preparation and distribution, adequate instructions for service adjustments and service procedures for each laser product model, including clear warnings and precautions to be taken to avoid possible exposure to laser and collateral radiation in excess of the accessible emission limits in Tables 1, 2, 3, 4, and 7 of paragraph (d) of this section, and a schedule of maintenance necessary to keep the product in compliance with this section and, if applicable, § 1040.11. All such service instructions shall include a listing of those controls and procedures that could be used by persons other than the manufacturers or their agents to increase accessible emission levels of radiation and a clear description of the location of displaceable portions of the protective housing that could allow human access to laser or collateral radiation in excess of the accessible emission limits in Tables 1, 2, 3, 4, and 7 of paragraph (d) of this section. The instructions shall include protective procedures for service personnel to avoid exposure to levels of laser and collateral radiation known to be hazardous for each procedure or sequence of procedures to be accomplished, and legible reproductions (color optional) of required labels and hazard warnings.

(i) *Modification of a certified product.* The modification of a laser product, previously certified under § 1010.2 of this chapter, by any person engaged in the business of manufacturing, assembling, or modifying laser products constitutes manufacturing under the Federal Food, Drug, and Cosmetic Act if the modification affects any aspect of the product's performance or intended function(s) for which this section or § 1040.11 have an applicable requirement. The person who performs such modification shall recertify and reidentify the product in accordance with the provisions of §§ 1010.2 and 1010.3 of this chapter.

5. Section 1040.11 is revised to read as follows:

§ 1040.11 Specific purpose laser products.

(a) *Medical laser products.* Each medical laser product shall comply with all of the applicable requirements of § 1040.10 for laser products of its class. In addition:

(1) A label bearing the wording: "Laser aperture." shall be affixed in close proximity to each aperture through which is emitted accessible laser radiation in excess of the accessible emission limits of Class 1, and

(2) For each Class 3B or 4 medical laser system, except those of Class 3B not exceeding 5 milliwatts at visible wavelengths and not intended for ocular exposure:

(i) The accessible emission level, shall not deviate from the preset or selected level by more than ±20 percent,

(ii) An electrical or optical quantity that is directly related to the laser level generated shall be continually monitored during operation,

(iii) A visible or audible indication shall be given whenever the monitored quantity denotes deviation from the preset or selected level by more than ±20 percent,

(iv) The user instructions shall specify an instrument, procedure, and schedule for calibration of the accessible emission level,

(v) If the system emits either continuously or a series of pulses for longer than 0.25 seconds, the system shall incorporate a visual or audible indication of actual emission in addition to the emission indicator required by § 1040.10(f)(5),

(vi) The system shall include a hand or foot operated control to stop the emission of laser radiation. The switch shall be colored red and be located so that it is clearly visible and quickly accessible to the operator from the operating position. If it is a push-button type, it shall be of the "mushroom-head" type.

(b) *Surveying, leveling, and alignment laser products.* Each surveying, leveling, or alignment laser product shall comply with all of the applicable requirements of § 1040.10 for a Class 1, 2 or 3A laser product and shall not permit human access to laser radiation in excess of the accessible emission limits of Class 3A.

(c) *Demonstration laser products.* Each demonstration laser product shall comply with all of the applicable requirements of § 1040.10 for a Class 1, 2, 3A or Class 3B laser, except for Class 3B with not more than five times the AEL of Class 2 in the wavelength range of 400 to 700 nanometers, and shall not permit human access to laser radiation in excess of the accessible emission limits of such classes.

Dated: March 17, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7158 Filed 3–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

RIN 1219–AB11

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; notice of hearings; and close of record.

SUMMARY: MSHA is announcing public hearings on the Agency's proposed rule about diesel particulate matter exposure of underground metal and nonmetal miners, which was published in the **Federal Register** on October 29, 1998. These hearings will be held under section 101 of the Federal Mine Safety and Health Act of 1977.

The rulemaking record will remain open until July 26, 1999.

DATES: If you want to make an oral presentation for the record, submit your request at least 5 days prior to the hearing date. However, you do not have to make a written request to speak. The public hearings will be held at the following locations on the dates indicated:

May 11, 1999, Salt Lake City, Utah
May 13, 1999, Albuquerque, New Mexico
May 25, 1999, St. Louis, Missouri
May 27, 1999, Knoxville, Tennessee

Each hearing will be held from 8:30 a.m. to 5 p.m., but will continue into the evening if necessary.

The rulemaking record will remain open until July 26, 1999.

ADDRESSES: Send requests to make oral presentations to: MSHA, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203–1984.

The hearings will be held at the following locations:

1. May 11, 1999, Doubletree Hotel, 255 South West Temple, Salt Lake City, Utah 84101, Tel. No. 801–328–2000.

2. May 13, 1999, Doubletree Hotel, 201 Marquette NW, Albuquerque, New Mexico, 87102, Tel. No. 505–247–3344.

3. May 25, 1999, Holiday Inn Select, St. Louis Downtown Convention Center, 811 North Ninth St., St. Louis, Missouri 63101, Tel. No. 314–421–4000.

4. May 27, 1999, Hyatt Regency Knoxville, 500 Hill Avenue, SE, Knoxville, Tennessee 37915, Tel. No. 423–637–1234.

FOR FURTHER INFORMATION CONTACT: Carol J. Jones, Acting Director; Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Arlington, VA 22203–1984. She can be reached at cjones@msha.gov (Internet E-mail), 703–235–1910 (Voice), or 703–235–5551 (Fax).

SUPPLEMENTARY INFORMATION:

I. Background

On October 29, 1998, (63 FR 58104), MSHA published a proposed rule that would establish new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines.

The proposed rule is designed to reduce the risks to underground metal and nonmetal miners of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter (dpm). DPM is a very small particle in diesel exhaust. Underground miners are exposed to far higher concentrations of this fine particulate than any other group of workers. The best available evidence indicates that such high exposures put these miners at excess risk of a variety of adverse health effects, including lung cancer.

The proposed rule for underground metal and nonmetal mines would establish a concentration limit for dpm, and require mine operators to use engineering and work practice controls to reduce dpm to that limit. Underground metal and nonmetal mine operators would also be required to implement certain "best practice" work controls similar to those already required of underground coal mine operators under MSHA's 1996 diesel equipment rule. Additionally, operators would be required to train miners about the hazards of dpm exposure.

The comment period on the proposed rule was scheduled to close on February 26, 1999. However, in response to requests from the public for additional time to prepare their comments, and with additional data added to the rulemaking record by MSHA, the Agency extended the public comment period until April 30, 1999 (64 FR 7144).

The Agency welcomes your comments on the significance of the material already in the record, and any information that can supplement the record. For example, we welcome comments on: Additional information on existing and projected exposures to dpm and to other fine particulates in various mining environments; the health risks associated with exposure to dpm; on the costs to miners, their families and their employers of the various health problems linked to dpm exposure; or additional benefits to be expected from reducing dpm exposure.

The rulemaking record will remain open until July 26, 1999.

II. Public Hearings

MSHA will hold pubic hearings to receive additional public comments on the proposed rule addressing diesel particulate matter exposure of underground metal and nonmetal miners.

The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearings and may exclude irrelevant or unduly repetitious material and questions.

Each session will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearing panel may ask questions of speakers. At the discretion of the presiding official, the time allocated to speakers for their presentations may be limited. In the interest of conducting productive hearings, MSHA will schedule speakers in a manner that allows all points of view to be heard as effectively as possible.

Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. MSHA will make available copies of the hearing transcripts for pubic review.

MSHA will accept additional written comments and other appropriate data for the record from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record.

III. Rulemaking Record

To allow for the submission of post-hearing comments, the rulemaking record will remain open until July 26, 1999. This provides nine months from publication for the public to comment on this proposed rule.

Dated: March 8, 1999.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 99–7139 Filed 3–23–99; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6314–2]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The EPA is providing additional opportunity to the public to comment on the proposal to grant final authorization to the Commonwealth of Massachusetts for revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA) published in the **Federal Register** of February 24, 1999 (64 FR 9110). The notice proposes to approve Massachusetts for final authorization for provisions of the Universal Waste Rule (UWR) and the Toxicity Characteristics (TC) Rule except as they relate to cathode ray tubes (CRTs). The purpose of today's document is to extend the public comment period from March 26, 1999 to May 10, 1999. This extension is provided in response to a request from the Commonwealth of Massachusetts to extend the comment period by an additional 45 days. EPA does not anticipate granting any further extensions of this comment period.

DATES: Written comments must be received on or before May 10, 1999.

ADDRESSES: Copies of the Commonwealth of Massachusetts' revision application and the materials which EPA used in evaluating the revision (the "Administrative Record") are available for inspection and copying during normal business hours at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9:00 a.m. to 5:00 p.m., Telephone: (617) 292–5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours: 8:30 a.m. to 5:00 p.m., Telephone: (617) 918–1990. Send written comments to Robin Biscaia at the address below.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, EPA Region I, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; Telephone: (617) 918–1642.

Dated: March 16, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–7087 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970–AB98

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Administration on Children, Youth and Families proposes to amend Head Start regulations governing policies and procedures on selection and funding of grantees. The amendment would remove the section on priority for previously selected Head Start agencies. We propose to remove this section because of increased confusion among existing Head Start grantees about the meaning of "priority" as ACYF acts to replace grantees who have been terminated or relinquish their grant. This proposed change will clarify that the "priority" provided under the Head Start Act ("Act") applies to annual refunding of existing grantees and not to competition to select a grantee to serve an unserved area or an area previously served by a grantee no longer with the program. Removal of this section will not affect the ongoing funding or operation of Head Start grantees.

DATES: In order to be considered comments on this proposed rule must be received on or before May 24, 1999.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration on Children, Youth, and Families, P.O. Box 1182, Washington, DC 20013. Beginning 14 days after close of the comment period, comments will be available for public inspection on Room 2219, 330 C Street, SW, Washington, DC 20201, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James Kolb, (202) 205–8580.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Head Start is authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*). It is a national program providing comprehensive developmental services primarily to low-income preschool children, primarily age three to the age of compulsory school attendance, and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Also, section 645A of the Head Start Act provides authority (authorized in 1994) to fund programs for families with infants and toddlers. Programs receiving funds under the authority of this section are referred to as Early Head Start programs.

Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1998, Head Start served 823,000 children through a network of over 2,000 grantees and delegate agencies.

While Head Start is intended to serve primarily children whose families have incomes at or below the poverty line or who receive public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low-income criteria. The Act also requires that a minimum of 10 percent of the enrollment opportunities in each program be made available to children with disabilities. Such children are expected to participate in the full range of Head Start services and activities with their non-disabled peers and to receive needed special education and related services.

II. Discussion of the Proposed Removal of 45 CFR 1302.12

The Administration for Children and Families (ACF) is proposing to delete section 1302.12 entitled "Priority for previously selected Head Start agencies." A number of grantees have been terminated or have relinquished their grant in the past several years because they have been unable to meet quality standards applicable to Head Start grantees. This section has caused confusion as ACF has acted to replace these grantees. Removing this section will reduce confusion and misunderstanding among existing Head Start grantees about the proper application of "priority."

[**Note:** The references to Section 641 of the Head Start Act in this Preamble reflect, where appropriate, the recent reauthorization changes made to the Head Start Act in the Coats Human Services Reauthorization Act of 1998, Public Law 105–285, enacted October 27, 1998. The Head Start statutory changes in the Reauthorization Act do not affect the proposed removal of 45 CFR 1302.12.]

Since the Head Start, Economic Opportunity, and Community Partnership Act of 1974 (Pub. L. 93–644) was enacted, the Head Start Bureau has used the "priority" referred to in the current Section 641(c) of the Act as the basis for the noncompetitive refunding of existing Head Start grantees. This is effected by making grant awards with an indefinite project period. So long as a grantee meets the programmatic and fiscal requirements of the Act and regulations, it continues to receive priority for refunding. Pursuant to the intent of Congress, this provision has assured continuity of services to children and families, without the disruption that a periodic and routine change of sponsoring agency would entail.

We are proposing to eliminate 45 CFR 1302.12 from the regulations governing the selection of grantees. This change is being proposed to make it clear that the application of the priority provided by section 641(c) of the Head Start Act does not apply to competitions to select a grantee to serve an unserved area or an area previously served by a grantee no longer with the program. The statute as now written provides in section 641(a) that in order to be designated as a Head Start grantee an organization must be within the community to be served. Under section 641(d), a competition for award of Head Start funding is only held where no entity in the community is eligible for a priority. "Community" is defined in section 641(b) as "a city, county, or multicity or multicounty unit within a State, an Indian reservation (including Indians in any off reservation area designated by an appropriate tribal government in the consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program." As the result of the adoption of 45 CFR 1305.3, all grantees must specify in their annual applications for funding the "service area" that they plan to serve. They must define it by "county or sub-county area, such as a municipality, town or census tract or a federally recognized Indian reservation" and it must not overlap with the service areas where other grantees have been

designated to provide services. A Head Start grantee that is not receiving funding to provide Head Start services in the particular service area would be ineligible for a priority in selection to serve that community under section 641(c) because it is not eligible for selection as a Head Start grantee within the community under section 641(a). Therefore, 45 CFR 1302.12 is no longer needed in the regulation. (The 1998 Head Start reauthorization, however, provides priority to a delegate agency that functioned in the community when the Secretary is designating a Head Start agency but this change would not affect this NPRM.)

Eliminating § 1302.12 will clarify that priority applies to the annual refunding of existing grantees providing services within their communities, not to other circumstances such as selection of a replacement grantee. Section 641(a) provides the relevant guidance in these cases by specifying that "[t]he Secretary is authorized to designate as a Head Start agency any *local* public or private nonprofit or for-profit agency, *within a community* . . ." (emphasis added). A Head Start agency's approved service area defines the community it is serving. A geographic area outside the grantee's approved service area (e.g., the service area of a grantee that has left the program) would not be within its community and thus priority would not apply.

We want to emphasize that this proposed rule does not affect in any way the annual refunding of existing grantees to continue to provide Head Start services in their approved service area. Grantees will continue to receive this priority for funding without interruption. Only when a grantee is terminated or relinquishes its grant, and the service area thus has no provider, does this proposed rule have an effect.

III. Impact Analysis

Executive Order 12866

Executive Order 12866 require that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that the removal of 45 CFR 1302.12 is consistent with these priorities and principles.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5.U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. Removal of section 1302.12 will not affect any Head Start grantees, including those that are small entities. The change brings the regulations into conformity with requirements of the regulations and the statute.

Paperwork Reduction Act

Under the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule. The removal of section 1302.12 is not affected by the PRA requirement.

List of Subjects in 45 CFR Part 1302

Education of disadvantaged, Grant programs—social programs.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: October 19, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: December 10, 1998.

Donna E. Shalala,

Secretary.

For the reasons set forth in the Preamble, 45 CFR part 1302 is proposed to be amended to read as follows:

PART 1302—POLICIES AND PROCEDURES FOR SELECTION, INITIAL FUNDING, AND REFUNDING OF HEAD START GRANTEES, AND FOR SELECTION OF REPLACEMENT GRANTEES

1. The authority citation for part 1302 is revised to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

2. Section 1302.12 is removed.

[FR Doc. 99–7220 Filed 3–23–99; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 99–68; FCC 99–38]

Inter-Carrier Compensation for ISP-Bound Traffic

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On February 26, 1999, the Commission released a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 99–68 concerning compensation between carriers for the delivery of traffic bound for Internet service providers (ISPs). The NPRM initiates a proceeding to determine, on a prospective basis, a federal inter-carrier compensation mechanism. It tentatively concludes that private negotiations driven by market forces are more likely to lead to efficient outcomes than are rates set by regulation. This document also seeks comment on an alternative proposal under which this Commission would establish rules governing inter-carrier compensation for ISP-bound traffic and resolve disputes through a federal arbitration process.

DATES: Comments are due on or before April 12, 1999 and reply comments are due on or before April 27, 1999.

ADDRESSES: Federal Communications Commission, 445 Twelfth St., S.W., Room TW-A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tamara Preiss, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1520.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Notice of Proposed Rulemaking in CC Docket No. 99–68, Inter-Carrier Compensation for ISP-Bound Traffic, FCC 99–38, adopted February 25, 1999, and released February 26, 1999. The NPRM seeks comment on the tentative conclusion that inter-carrier compensation should be governed prospectively by interconnection agreements negotiated and arbitrated under Sections 251 and 252 of the Act (47 U.S.C. 251, 252). State commissions would arbitrate disputes if parties fail to agree on a compensation mechanism. The file in its entirety is available for inspection and copying during the weekday hours of 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc.; 1231 20th St., N.W., Washington, D.C. 20036, phone (202) 857–3800.

Analysis of proceeding

A. Discussion

1. The Commission does not have an adequate record upon which to adopt a rule regarding inter-carrier compensation for ISP-bound traffic. It does believe, however, that adopting such a rule to govern prospective compensation would serve the public interest. As a general matter, the Commission tentatively concludes that

our rule should strongly reflect our judgment that commercial negotiations are the ideal means of establishing the terms of interconnection contracts. The Commission seeks comment on two alternative proposals for implementing such a regime. Until adoption of a final rule, state commissions will continue to determine whether reciprocal compensation is due for this traffic. As discussed, the Commission's holding that parties' agreements, as interpreted by state commissions, should be binding also applies to those state commissions that have not yet addressed the issue.

2. For the traffic at issue here, the Commission tentatively conclude that a negotiation process, driven by market forces, is more likely to lead to efficient outcomes than are rates set by regulation. In addition, setting a rate by regulation appears unwise because the actual amounts, need for, and direction of inter-carrier compensation might reasonably vary depending on the underlying commercial relationships with the end user, and who ultimately pays for transmission between its location and the ISP. The Commission acknowledges that, no matter what the payment arrangement, LECs incur a cost when delivering traffic to an ISP that originates on another LEC's network. The Commission believes that efficient rates for inter-carrier compensation for ISP-bound traffic are not likely to be based entirely on minute-of-use pricing structures. In particular, pure minute-of-use pricing structures are not likely to reflect accurately how costs are incurred for delivering ISP-bound traffic. For example, flat-rated pricing based on capacity may be more cost-based. Parties also might reasonably agree to rates that include a separate call set-up charge, coupled with very low per-minute rates. These economic characteristics of this traffic are likely to make voluntary agreements among the parties easier to reach. For these reasons, the Commission proposes that inter-carrier compensation rates for ISP-bound traffic be based on commercial negotiations undertaken as part of the broader interconnection negotiations between incumbent LECs and CLECs. The Commission seeks comment below on two alternative proposals to govern the negotiations with respect to ISP-bound traffic.

3. The Commission tentatively concludes that, as a matter of federal policy, the inter-carrier compensation for this interstate telecommunications traffic should be governed prospectively by interconnection agreements negotiated and arbitrated under Sections 251 and 252 of the Act. Resolution of failures to reach agreement on inter-carrier compensation for interstate ISP-bound traffic then would occur through arbitrations conducted by state commissions, which are appealable to federal district courts. As with other issues on which parties petition state commissions for arbitration under Section 252 of the Act, if a state commission fails to act, the Commission will assume the responsibility of the state commission within 90 days of being notified of such failure. 47 U.S.C. 252(e)(5). This proposal could help facilitate the policy goals set forth by forcing the parties to hold a single set of negotiations regarding rates, terms, and conditions for interconnected traffic and to submit all disputes regarding interconnected traffic to a single arbitrator. The Commission seeks comment on this tentative conclusion.

4. The Commission also seeks comment on an alternative proposal that it adopt a set of federal rules governing inter-carrier compensation for ISP-bound traffic pursuant to which parties would engage in negotiations concerning rates, terms, and conditions applicable to delivery of interstate ISP-bound traffic. These negotiations would commence on the effective date of the adopted rule but could proceed in tandem with broader interconnection negotiations between the parties. The Commission realizes, however, that the success of any negotiation over rates is likely to depend on the availability of the swift and certain resolution of disputes, and the structure of the resolution process. For example, the Commission, through delegation to the Common Carrier Bureau, might resolve such disputes, at the request of either party, through an arbitration-like process, following a discrete period of voluntary negotiation. The Commission seeks comment on how such an approach would operate procedurally and what costing standards the Commission might use in arbitrating disputes. The Commission also seeks comment on how this proposal compares with a broad interconnection negotiation in which most disputes are resolved by a state arbitrator but disputes regarding ISP-bound traffic are resolved through a federal arbitration-like process. The Commission also seeks comment on whether it is possible, as a technical matter, to segregate intrastate and interstate ISP-bound traffic and whether any federal rules it adopts should apply to all intrastate and interstate ISP-bound traffic.

5. The Commission also seeks comment on whether the Commission has the authority to establish an arbitration process that is final and binding and not subject to judicial review. For instance, the Commission notes that parties might agree to binding arbitration pursuant to the Administrative Dispute Resolution Act. Administrative Dispute Resolution Act, Public Law 101–552, 104 Stat. 2738, *codified* at 5 U.S.C. 571 *et seq*. The Commission seeks comment on whether and how such a system should be implemented. In particular, it seeks comment on the desirability of arbitration before an arbitrator selected by the parties, as provided by the Administrative Dispute Resolution Act, as opposed to a federal or state decision-maker. *See* 5 U.S.C. 577.

6. The Commission also invites parties to submit alternative proposals for inter-carrier compensation for interstate ISP-bound traffic that will advance our policy goals in this area. For example, Ameritech has proposed basing inter-carrier compensation for ISP-bound traffic on sharing the incumbent LEC's revenue associated with the interconnected ISP-bound traffic. The Commission also request parties to comment on how any alternatives they propose will advance its goals of ensuring the broadest possible entry of efficient new competitors, eliminating incentives for inefficient entry and irrational pricing schemes, and providing to consumers as rapidly as possible the benefits of competition and emerging technologies.

7. The Commission is aware that disputes may arise regarding various terms and conditions for inter-carrier compensation for ISP-bound traffic. Although many such disputes could be resolved through a negotiation and arbitration process, the Commission seeks comment on whether there are any issues under our two proposals that it can and should address in the first instance through rules rather than through arbitration. The Commission requests parties to comment on the need for rules pertaining to such matters and, to the extent that parties believe that rules are appropriate, the substance and degree of specificity of such rules. The Commission emphasizes, however, that it does not seek comment on whether interstate access charges should be imposed on ESPs as part of this proceeding. The Commission recently reaffirmed that exemption in the *Access Charge Reform Order*, and it does not reconsider it here. *Access Charge Reform Order*.

8. Pursuant to Section 252(i) of the Act, interconnection agreements often have clauses (often referred to as "most-favored nation" or "MFN" provisions) that allow parties to select, to varying degrees of specificity, provisions from other parties' interconnection

agreements with that particular LEC. 47 U.S.C. 252(i). The Commission understands that an arbitrator recently permitted a CLEC to exercise MFN rights to opt into an interconnection agreement that an incumbent LEC previously had negotiated with another CLEC. That interconnection agreement, executed in July 1996, has a three-year term. The arbitrator concluded that the new CLEC was entitled to opt into the agreement for a new three-year term, thus raising the possibility that the incumbent LEC might be subject to the obligations set forth in that agreement for an indeterminate length of time, without any opportunity for renegotiation, as successive CLECs opt into the agreement. The Commission seeks comment, therefore, on whether and how section 252(i) and MFN rights affect parties' ability to negotiate or renegotiate terms of their interconnection agreements.

9. As discussed, not all ISP-bound traffic is interstate. The Commission seeks comment on whether it should adopt rules for the interstate traffic that would coexist with state rules governing the intrastate traffic, or whether it is too difficult or inefficient to separate intrastate ISP-bound traffic from interstate ISP-bound traffic. The Commission further seeks comment on the technical and practical implications of requiring the separation of intrastate and interstate ISP-bound traffic. In addition, it seeks comment on the implications of various proposals regarding inter-carrier compensation for ISP-bound traffic on the separations regime, such as the appropriate treatment of incumbent LEC revenues and payments associated with the delivery of such traffic. This Commission is mindful of concerns that our jurisdictional analysis may result in allocation to different jurisdictions of the costs and revenues associated with ISP-bound traffic, and the Commission wishes to make clear that it has no intention of permitting such a mismatch to occur. With respect to current arrangements, the Commission notes that this order does not alter the long-standing determination that ESPs (including ISPs) can procure their connections to LEC end offices under intrastate end-user tariffs, and thus for those LECs subject to jurisdictional separations both the costs and the revenues associated with such connections will continue to be accounted for as intrastate.

B. Procedural Matters

1. Ex Parte Presentations

This Notice of Proposed Rulemaking is a permit-but-disclose notice-and-comment rulemaking proceeding. *Ex Parte* presentations are permitted, in accordance with the Commission's rules, provided that they are disclosed as required. *See generally* 47 CFR 1.1200, 1.1202, 1.1204, 1.1206.

2. Initial Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Notice of Proposed Rulemaking (Notice)*. *See* 5 U.S.C. 603. Written public comments are requested on the IRFA. These comments must be filed by the deadlines for comment on the remainder of the *Notice*, and should have a separate and distinct heading designating them as responses to the IRFA. The Commission will send a copy of the *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA), in accordance with the RFA, 5 U.S.C. 603(a).

12. *Need for and Objectives of the Proposed Rules.* The Commission tentatively conclude that it should adopt a rule regarding inter-carrier compensation for ISP-bound traffic that strongly reflects our judgment that commercial negotiations are the ideal means of establishing the terms of interconnection contracts. The Commission seeks comment on two alternative proposals for implementing such a regime. Until adoption of a final rule, state commissions will continue to determine whether reciprocal compensation is due for this traffic. In light of comments received in response to the *Notice*, the Commission might issue new rules or alter existing rules.

13. *Legal Basis.* The legal basis for any action that may be taken pursuant to the *Notice* is contained in Sections 1, 2, 4, 201, 202, 274, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 251, 252, and 303(r).

14. *Description and Estimate of the Number of Small Entities That May Be Affected by the Notice of Proposed Rulemaking.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that might be affected by proposed rules. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under Section 3 of the Small Business Act. 5 U.S.C. 601(3). A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by SBA. 15 U.S.C. 632. The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be an entity with no more than 1,500 employees. *See* 13 CFR 121.201. Consistent with prior practice, the Commission excludes small incumbent local exchange carriers (LECs) from the definition of "small entity" and "small business concern." Although such a company may have 1,500 or fewer employees and thus fall within the SBA's definition of a small telecommunications entity, such companies are either dominant in their field of operations or are not independently owned and operated. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, the Commission will consider small incumbent LECs within this present analysis and use the term "small incumbent LECs" to refer to any incumbent LEC that arguably might be defined by SBA as a small business concern.

15. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (the Census Bureau) reports that at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number includes a variety of different categories of carriers, including local exchange carriers (both incumbent and competitive), interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not "independently owned or operated." 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are either small entities or small incumbent LECs that may be affected by this Notice.

16. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition of small providers of local exchange services.

The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which it is aware appears to be the data that the Commission collects annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, or are dominant, the Commission is unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 1,371 small providers of local exchange service are small entities or small incumbent LECs that may be affected by the Notice.

17. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* As a result of rules that the Commission may adopt, incumbent LECs and CLECs may be required to discern the amount of traffic carried on their networks that is bound for ISPs. In addition, such incumbent LECs and entrants may be required to produce information regarding the costs of carrying ISP-bound traffic on their networks.

18 *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Alternatives Considered.* As noted, the Commission proposes to adopt rules that may require incumbent LECs and CLECs to discern the amount of traffic carried on their networks that is bound for ISPs. The Commission anticipates that if it adopts such rules, incumbent LECs and CLECs, including small entity incumbent LECs and CLECs, will be able to receive compensation for the delivery of ISP-bound traffic that they might not otherwise receive. The Notice also requests comment on alternative proposals.

19. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

3. Comment Filing Procedures

20. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before April 12, 1999, and reply comments on or before April 27, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 Fed. Reg. 24,121 (1998).

21. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail message to ecfs@fcc.gov and include "get form <your e-mail address>" in the body of the message. A sample form and directions will be sent in reply.

22. Parties that choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth St., S.W., Room TW–A325, Washington, DC 20554.

23. Parties that choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Harris, Federal Communications Commission, Common Carrier Bureau, Competitive Pricing Division, 445 Twelfth St., S.W., Fifth Floor, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the docket number in this case, CC Docket No. 99–68); type of pleading (comment or reply comment); date of submission; and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, DC 20036.

V. Ordering Clauses

24. Accordingly, *it is ordered,* pursuant to Sections 1, 4 (i) and (j), 201–209, 251, 252, and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 251, 252 and 403, that this Notice of Proposed Rulemaking *is hereby adopted* and comments *are requested.*

25. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7160 Filed 3–23–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991–AB36

Acquisition Regulation: Costs Associated With Whistleblower Actions

AGENCY: Department of Energy.

ACTION: Supplemental proposed rule; notice of limited reopening of comment period.

SUMMARY: On January 5, 1998, the Department of Energy (DOE or Department) published a notice of proposed rulemaking (NOPR) to amend the Department of Energy Acquisition Regulations (DEAR) to incorporate a contract reform initiative concerning costs associated with defense of whistleblower actions. DOE has issued this document to invite public comments on alternate regulatory text that DOE is considering. The alternate text would implement a cost principle instead of a contract clause approach, and it would expand the coverage of the proposed DEAR revision to include allowability of labor settlement costs generally.

DATES: Written comments must be submitted no later than April 23, 1999.

ADDRESSES: Comments should be addressed to: Terrence D. Sheppard, Office of Procurement and Assistance Policy (MA–51), Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585–0705.

FOR FURTHER INFORMATION CONTACT: Terrence D. Sheppard (202) 586–8193; fax (202) 586–0545; e-mail terry.sheppard@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background
II. Public Comment

I. Background

On January 5, 1998 the Department published a NOPR to amend the DEAR to incorporate a contract reform initiative concerning costs associated with defense of whistleblower actions (63 FR 386). On the same day, the Department also published proposed revisions to its whistleblower protection program (10 CFR Part 708). (63 FR 374).

This document invites public comment on an alternate approach to the cost clause that DOE proposed in the January 1998 NOPR. The alternative that DOE is considering would add a new cost principle in DEAR subpart 970.31. The cost principle would address the allowability of costs relating to labor disputes generally, including whistleblower actions. The cost principle would be less prescriptive than the proposed contract clause; and would give contracting officers greater discretion to review the circumstances of each case in making a determination of allowability.

DOE developed this cost principle approach after considering written comments from two entities that were critical of the contract clause proposed in the January 1998 NOPR. One commenter objected to the proposed contract clause provision that would generally disallow the costs of defending a whistleblower action if an adverse determination had been issued against the contractor. See proposed 970.5204–XX(c)(2). The commenter argued that it would be unfair to treat all adverse decisions in the same manner, regardless of the circumstances surrounding the decision. The commenter further pointed out that some cases may represent situations where two reasonable minds could disagree and the reviewer rules in favor of the employee; such close cases would not represent bad faith by the contractor.

In reformulating the whistleblower cost clause as a cost principle, contracting officers would have greater latitude and discretion to review the facts of each case in determining the allowability of defense costs. In some situations, the contracting officer could also determine settlement costs to be unallowable when the facts warrant that determination. Both commenters on the January 1998 NOPR stated that the proposed cost clause, by disallowing costs if there has been an adverse determination against the contractor, would have the practical effect of encouraging contractors to enter into settlements with alleged whistleblowers, regardless of the merit of the claim and whether the contractor's defense of its action was a prudent business decision. In their view, a liberal settlement policy would encourage meritless or questionable claims.

DOE thinks the cost principle that follows this paragraph would provide greater leeway in allowability determinations for situations where a contractor's prudent business judgment determines the need to defend against claims of undetermined merit or claims that may adversely impact industrial relations and employee morale. The cost principle also would bring the Department into greater conformity with the rest of the federal government, particularly as reflected in the decisions of the various Boards of Contract Appeals.

As an alternate to the proposed rule published on January 5, 1998 at 63 FR 386, DOE proposes to add a new section to part 970 to read as follows:

970.3102–XX Labor disputes and whistleblower actions.

(a) Labor settlement costs (awards) can arise from judicial orders, negotiated agreements, arbitration, or an order from a Federal agency or board. The awards generally involve a violation in one of the following areas:

(1) Equal Employment Opportunity (EEO) laws,

(2) Union agreements,

(3) Federal labor laws, and

(4) Whistleblower protection laws.

(b) An award or settlement can cover compensatory damages, or underpayment for work performed. Reimbursement for a complainant employee's legal counsel may also be covered by an award or settlement.

(c) The allowability of these costs should be determined on a case-by-case basis after considering the relevant terms of the contract and the surrounding circumstances; i.e., looking behind the settlement and considering the causes. If the dispute resulted from actions that would be taken by a prudent business person (FAR 31.201–3 and 48 CFR (DEAR) 970.3101–3), the costs would be allowable. However, if the dispute was occasioned by contractor actions which are unreasonable or were found by the agency or board ruling on the dispute to be caused by unlawful, negligent or other malicious conduct, the costs would be unallowable.

(d) The allocability of these costs must also be reviewed (FAR 31.201–4 and 48 CFR (DEAR) 970.3101–3). In some circumstances an award may not impact direct costs, but may be determined to be an allowable indirect cost.

(e) Litigation costs incurred as part of labor settlements shall be differentiated and accounted for so as to be separately identifiable. If a contracting officer provisionally disallows such costs, the contractor may not use funds advanced by DOE to finance litigation costs connected with the defense of a labor dispute or whistleblower action.

(f) Settlement and litigation costs associated with actions resolved prior to an adverse determination or finding against a contractor through judicial action or an agency board will, depending on the circumstances and facts of each case, generally be allowable, if consistent with paragraph (c) of this section. Litigation costs associated with an adverse determination against the contractor require a higher level of scrutiny before a determination of allowability can be made.

II. Public Comment

DOE invites public comment on this cost principle, as well as general comment on the relative merits of the contract clause and cost principle approaches. DOE also invites public comment on the suggested expansion of coverage to include labor settlement costs generally. DOE will finally decide these issues after considering public comments it receives.

Issued in Washington, D.C. on March 17, 1999.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

[FR Doc. 99–7065 Filed 3–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–5098]

Federal Motor Vehicle Safety Standards; Side Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of a public meeting.

SUMMARY: This document announces that NHTSA will be holding a public meeting to explore technical issues (including test procedures) relating to the assessment of potential benefits and risks of inflatable restraint systems for side crash protection. This meeting is intended to provide an opportunity for

the automotive community and interested parties to discuss their evaluation of the safety performance of these inflatable restraint systems. The meeting is open to both participants (presenters and discussants) and observers.

DATES: *Public Meeting:* A public meeting will be held on April 19, 1999, from 9:00 a.m. to 4:00 p.m. If you wish to participate in the meeting, contact Randa Radwan Samaha, at the address, telephone, or e-mail listed below, by April 7, 1999. If you wish to present a prepared oral statement during the meeting, please provide a copy of your statement to Ms. Samaha by April 12, 1999.

Written Comments: If you wish to submit written comments to the agency, you must do so in time for the agency to receive your comments by April 30, 1999.

ADDRESSES: *Public Meeting:* The public meeting will be held in Room 2230 of the Nassif Building, 400 Seventh St., S.W., Washington, DC 20590.

Written Comments: If you wish to submit written comments on the issues related to or discussed at this meeting, mention Docket No. NHTSA 99–5098 in your comments, and submit them to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590 (Docket hours are from 10:00 a.m. to 5:00 p.m.).

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Randa Radwan Samaha, Office of Vehicle Safety Research, NRD–11, 400 Seventh Street, S.W., Washington, DC 20590 (telephone 202–366–4707; fax 202–366–5670, *randa.samaha.@nhtsa.dot.gov*).

For legal issues: Edward Glancy, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590 (telephone 202–366–2992; fax 202–366–3820).

SUPPLEMENTARY INFORMATION:

A. Background

Several types of inflatable restraint systems (IRS) for side crash protection are rapidly emerging in the U.S. and world markets. The number of vehicles equipped with these systems is projected to increase substantially over the next two to three years. About three-quarters of automakers already offer side-mounted air bags in at least some of their model year 1999 vehicles. The side IRS vary widely in designs, sizes, mounting locations and methods, inflation systems, body regions protected, and areas of coverage. In particular, there are seat and door mounted air bag systems for thorax protection, seat-mounted air bag systems for combination thorax/head protection, and various versions of window curtains, an inflatable tubular structure system, and headrest-mounted air bags for head protection.

Although these systems have been demonstrated to have potential for superior protection in side crashes, there may be a potential of added injury risk by the side IRS to out-of-position children and adults. This potential risk has been examined in exploratory static deployment testing by vehicle manufacturers, NHTSA, Transport Canada, and other institutions; discussed in recent communications between the agency and the automakers; and called attention to in some automakers' news releases and owner's manuals.

In view of the potential risk, it is necessary to understand the performance and overall effectiveness of these recently introduced systems. It is especially necessary to conduct a critical evaluation of any possible harmful effects and unintended consequences of their deployment for children and out-of-position occupants. In December 1998, NHTSA sent a letter to twenty-one vehicle manufacturer executives urging them to personally ensure that their side-mounted air bag systems are designed to "do no harm" to occupants. In a February 1999 public statement, the agency said that, "Manufacturers have an obligation to thoroughly and adequately test the safety of any new technology under real world conditions prior to introduction into the market place." In addition, the agency noted in that statement that it "has held meetings with industry to better understand system designs."

To date, NHTSA has not received any reports of serious or fatal injuries directly attributable to a side IRS. Both NHTSA and Transport Canada are currently monitoring the field experience of these systems in North America. Further, NHTSA is aware of vehicle manufacturers' efforts to find ways to minimize injury risk to out-of-position occupants either through the design or location of the side IRS, or by means of automatic deactivation under certain circumstances (e.g., when the presence of a child is detected by sensors in the vehicle seat).

Although the side IRS are designed primarily to provide protection to adult occupants, vehicle manufacturers conduct tests with smaller-sized dummies to attempt to determine the injury potential to out-of-position adults and children. Based on recent communications with vehicle manufacturers, the agency is aware of substantial differences among vehicle manufacturers in the test procedures and type of testing performed with child sized and adult dummies, and the levels of the biomechanical injury criteria considered as acceptable performance. (The agency notes that much of the information submitted to it by the manufacturers was provided along with requests that the information be treated as confidential business information under 5 U.S.C. 552. The agency has granted those requests.)

B. Public Meeting

In light of the foregoing, the agency is holding a public meeting to share the real world and test data that are available and explore technical issues relating to the assessment of potential benefits and risks of side IRS.

1. Purpose and Issues

The purpose of this meeting is to:

- Share real world field and test data on the performance of side IRS involving both children and adult occupants.
- Obtain specific technical comments, discussion, and/or constructive input related to the test conditions, anthropomorphic devices, and injury criteria for evaluating the potential benefits and injury risks of side IRS.
- Obtain pertinent technical comments, discussion, and/or constructive input related to new technologies applicable to side IRS design and performance.
- Provide an opportunity for interested persons to present other pertinent data relevant to and appropriate for the assessment of side IRS, e.g., specifications for desirable performance.

Specific issues to be considered and discussed during the meeting include:

- What are the appropriate criteria and their biomechanical bases for assessing injury risk to out-of-position children and adults? Specific body regions to be considered include as a minimum the skull/brain, the neck, the thorax, the upper and lower extremities, and auditory system.
- What and how many appropriate tests should be performed to determine if the side IRS are safe and providing a safety benefit?

2. Procedural Matters.

A written transcript of the meeting will be made.

To make efficient use of the limited time available for the meeting, the issues will be addressed in the following order:

1. Available real world field data.

2. Available test data.
   a. IRS Injury Risk
   b. IRS Effectiveness
3. Child and adult injury criteria for the skull/brain, neck, torso, upper and lower extremities, and auditory system.
4. New technologies applicable to side IRS design and performance (e.g., sensing and suppression).
5. Proposals for test conditions and procedures.

The discussion of each issue will be structured as follows: (1) A short presentation by NHTSA, (2) Presentations by persons and organizations who have indicated the desire to present data or share other information, (3) Presentations of any new or unconsidered data by interested persons, (4) An open discussion by meeting participants of the technical merits of the presentations and of potential test procedures, and (5) A summary statement.

3. Meeting Participation

This is a public meeting and attendance is open to all members of the public. You may attend as a participant (a presenter or a discussant) or an observer.

C. Written Comments

To ensure that the agency is fully cognizant of the issues and positions taken at this meeting, you are encouraged to submit written comments on the issues related to or discussed at this meeting. Two copies should be submitted to DOT's Docket Management Office at the address given at the beginning of this document.

In addition, if your comments are four or more pages in length, we request, but do not require, that you send 10 additional copies, as well as one copy on computer disc, to: Randa Radwan Samaha, Office of Vehicle Safety Research, NRD–11, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. Providing these additional copies would aid the agency in expediting its review of your comments. The copy on computer disc may be in any format, although the agency would prefer that it be in WordPerfect 8.

Your comments must not exceed 15 pages in length (49 CFR 553.21). You may append necessary supplemental material to your comments without regard to the 15-page limit. This limitation is intended to encourage you to detail your primary arguments in a concise fashion. This will aid the agency in understanding your comments.

If you wish to submit certain information under a claim of confidentiality, you should submit three copies of the complete submission, including purportedly confidential business information, to the Chief Counsel, NHTSA, at the street address given above. In addition, you should submit two copies from which the purportedly confidential information has been deleted to Docket Management. Your request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: March 17, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 99–7172 Filed 3–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Reopening of Comment Period on Our Re-evaluation of Whether Designation of Critical Habitat Is Prudent for 245 Hawaiian Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of comment period.

SUMMARY: We, the Fish and Wildlife Service, provide notice of reopening the public comment period on our re-evaluation of whether designation of critical habitat is prudent for 245 Hawaiian plants. Our original notice was published in the **Federal Register** on November 30, 1998 (63 FR 65805) and the original public comment period was opened from November 30, 1998, to March 1, 1999. This notice reopens the comment period to May 24, 1999.

DATES: Comments from all interested parties must be received by May 24, 1999.

ADDRESSES: Comments and materials concerning the notice should be sent to Robert P. Smith, Pacific Islands Manager, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850 (telephone: 808/541–2749; facsimile: 808/541–2756).

FOR FURTHER INFORMATION CONTACT: Karen Rosa, Assistant Field Supervisor, Ecological Services (see **ADDRESSES** section) (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

On January 29, 1997, the Sierra Club Legal Defense Fund (now Earthjustice Legal Defense Fund) filed a lawsuit on behalf of the Conservation Council for Hawaii, the Sierra Club, and the Hawaiian Botanical Society in U.S. District Court in Honolulu, Hawaii, for the Service's failure to designate critical habitat for 278 endangered or threatened Hawaiian plant taxa. Because the statute of limitations had elapsed for many of the plants, this list of plants was later reduced to 245 taxa.

The 245 plant species that are the subject of our November 30, 1998, notice were listed by the Service over a period of several years, between 1990 and 1996, at which time the Service determined that designation of critical habitat was not prudent for one or more of the following three reasons: designation of critical habitat would increase the likelihood of illegal taking or vandalism; designation of critical habitat would not be beneficial for plant species located on private property; and, designation of critical habitat for plant species located on Federal lands provides little or no additional benefit beyond the existing precautions the Federal government must take under section 7 of the Act.

The 245 plant taxa are: *Abutilon eremitopetalum, Abutilon sandwicense, Acaena exigua, Achyranthes mutica, Adenophorus periens, Alectryon macrococcus, Alsinidendron lychnoides, Alsinidendron obovatum, Alsinidendron trinerve, Alsinidendron viscosum, Amaranthus brownii, Argyroxiphium kauense, Argyroxiphium sandwicense* ssp. *macrocephalum, Adenophorus periens, Asplenium fragile* var. *insulare, Bidens micrantha* ssp. *kalealaha, Bidens wiebkei, Bonamia menziesii, Brighamia insignis, Brighamia rockii, Canavalia molokaiensis, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamasyce deppeana, Chamaesyce halemanui, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Clermontia drepanomorpha, Clermontia lindseyana, Clermontia oblongifolia* ssp. *brevipes, Clermontia oblongifolia* ssp. *mauiensis, Clermontia peleana,*

Clermontia pyrularia, Colubrina oppositifolia, Ctenitis squamigera, Cyanea asarifolia, Cyanea acuminata, Cyanea copelandii ssp. *copelandii, Cyanea dunbarii, Cyanea grimesiana* ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea hamatiflora* ssp. *carlsonii, Cyanea humboldtiana, Cyanea koolauensis, Cyanea lobata, Cyanea longiflora, Cyanea macrostegia* ssp. *gibsonii, Cyanea mannii, Cyanea mceldowneyi, Cyanea pinnatifida, Cyanea platyphylla, Cyanea procera, Cyanea recta, Cyanea remyi, Cyanea st.-johnii, Cyanea shipmanii, Cyanea stictophylla, Cyanea superba, Cyanea truncata, Cyanea undulata, Cyperus trachysanthos, Cyrtandra crenata, Cyrtandra cyaneoides, Cyrtandra dentata, Cyrtandra giffardii, Cyrtandra limahuliensis, Cyrtandra munroi, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra tintinnabula, Cyrtandra viridiflora, Delissea rhytidosperma, Delissea rivularis, Delissea subcordata, Delissea undulata, Diellia erecta, Diellia falcata, Diellia pallida, Diellia unisora, Diplazium molokaiense, Dubautia herbstobatae, Dubautia latifolia, Dubautia pauciflorula, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Exocarpos luteolus, Flueggea neowawraea, Gahnia lanaiensis, Gardenia mannii, Geranium arboreum, Geranium multiflorum, Gouania meyenii, Gouania vitifolia, Hedyotis cookiana, Hedyotis coriacea, Hedyotis degeneri, Hedyotis mannii, Hedyotis parvula, Hedyotis st.-johnii, Hesperomannia arborescens, Hesperomannia arbuscula, Hesperomannia lydgatei, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Hibiscadelphus woodii, Hibiscus arnottianus* ssp. *immaculatus, Hibiscus brackenridgei, Hibiscus clayi, Hibiscus waimeae* ssp. *hannerae, Huperzia mannii, Ischaemum byrone, Isodendrion hosakae, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Kokia kauaiensis, Labordia cyrtandrae, Labordia lydgatei, Labordia tinifolia* var. *wahiawaensis, Lepidium arbuscula, Lipochaeta fauriei, Lipochaeta kamolensis, Lipochaeta lobata* var. *leptophylla, Lipochaeta micrantha, Lipochaeta tenuifolia, Lipochaeta waimeaensis, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia niihauensis, Lobelia oahuensis, Lycopodium nutans, Lysimachia filifolia, Lysimachia lydgatei, Lysimachia maxima, Mariscus fauriei, Mariscus pennatiformis, Marsilea villosa, Melicope adscendens, Melicope balloui, Melicope haupuensis, Melicope knudsenii, Melicope lydgatei, Melicope mucronulata, Melicope ovalis, Melicope pallida, Melicope quadrangularis, Melicope reflexa, Melicope saint-johnii, Melicope zahlbruckneri, Munroidendron racemosum, Myrsine juddii, Myrsine linearifolia, Neraudia angulata, Neraudia ovata, Neraudia sericea, Nothocestrum breviflorum, Nothocestrum peltatum, Nototrichium humile, Ocrosia kilauaensis, Panicum niihauense, Peucedanum sandwicense, Phyllostegia glabra* var. *lanaiensis, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia knudsenii, Phyllostegia mannii, Phyllostegia mollis, Phyllostegia parviflora, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Phyllostegia waimeae, Phyllostegia wawrana, Plantago hawaiensis, Plantago princeps, Platanthera holochila, Pleomele hawaiiensis, Poa mannii, Poa sandvicensis, Poa siphonoglossa, Portulaca sclerocarpa, Pritchardia affinis, Pritchardia aylmer-robinsonii, Pritchardia kaalae, Pritchardia munroi, Pritchardia napaliensis, Pritchardia remota, Pritchardia schattaueri, Pritchardia viscosa, Pteralyxia kauaiensis, Pteris lidgatei, Remya kauaiensis, Remya mauiensis, Remya montgomeryi, Rollandia crispa, Sanicula mariversa, Sanicula purpurea, Schiedea apokremnos, Schiedea haleakalensis, Schiedea helleri, Schiedea hookeri, Schiedea kaalae, Stenogyne campanulata, Schiedea kauaiensis, Stenogyne kanehoana, Schiedea kealiae, Schiedea lydgatei,Schiedea membranacea, Schiedea nuttallii, Schiedea sarmentosa, Schiedea spergulina* var. *leiopoda,Schiedea spergulina* var. *spergulina, Schiedea stellarioides, Schiedea verticillata, Sesbania tomentosa, Sicyos alba, Silene alexandri, Silene hawaiiensis, Silene lanceolata, Silene perlmanii, Solanum incompletum, Solanum sandwicense, Spermolepis hawaiiensis, Stenogyne bifida, Tetramolopium arenarium, Tetramolopium capillare, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum, Tetramolopium remyi, Tetramolopium rockii, Tetraplasandra gymnocarpa, Trematolobelia singularis, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana, Viola helenae, Viola kauaensis* var. *wahiawaensis, Viola lanaiensis, Viola oahuensis, Wilkesia hobdyi, Xylosma crenatum, Zanthoxylum dipetalum* var. *tomentosum, Zanthoxylum hawaiiense.*

In accordance with the U.S. District Court's August 10, 1998, order (Civil No. 97–00098ACK Conservation Council for Hawaii, *et al.* vs. Bruce Babbitt, *et al.*), the Service is reconsidering the not prudent determinations that were made for these 245 plant species. We published a notice seeking any new information that may affect whether we proceed with a proposal to designate critical habitat for these species (63 FR 65805) on November 30, 1998. The original public comment period closed on March 1, 1999. Four respondents requested that the public comment period be extended to allow all interested parties ample opportunity to respond to our request for comments. Therefore, we are reopening the public comment period and continue to request comments, suggestions, or information on our re-evaluation of whether designation of critical habitat is prudent for these 245 plant species.

We are soliciting information concerning:

(1) Biological, commercial trade, vandalism, or other relevant data concerning any threat to these species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these species;

(4) Current or planned activities in the subject area and their possible impacts on these species;

(5) Additional information on the principal biological or physical constituent elements that are essential to the conservation of these species. These primary constituent elements may include, but are not limited to, the following: seasonal wetland or dryland, water quality or quantity, plant pollinator, geological formation, vegetation type, and specific soil types;

(6) Information on existing management for any of these species and benefits to these species.

This information should be submitted by May 24, 1999, to the Fish and Wildlife office in the **ADDRESSES** section.

Author: The primary author of this document is Christa Russell (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 17, 1999.

Thomas J. Dwyer,

Acting Regional Director.

[FR Doc. 99–7153 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 990219053–9053–01: I.D. 011999B]

Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Amendment 13; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Corrections to the proposed rule implementing Amendment 13 to the West Coast Salmon Plan.

SUMMARY: This document contains a correction to the proposed rule that would implement Amendment 13 to the West Coast Salmon Plan, which was published in the **Federal Register** on March 4, 1999.

FOR FURTHER INFORMATION CONTACT: William D. Chappell, NMFS, 301–713–2341.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a proposed rule to implement portions of Amendment 13 to the West Coast Salmon Plan in the **Federal Register** on March 4, 1999 (64 FR 10439). The proposed rule contained an incorrect address for the Pacific Fishery Management Council.

Corrections

In proposed rule FR Doc. 99–5361, beginning on page 10439, in the issue of Thursday, March 4, 1999 (64 FR 10439), make the following correction:

1. On page 10439, under ADDRESSES, in the middle column, the last sentence should be changed to read: "Copies of the amendment, including the environmental assessment and the regulatory impact review/initial regulatory flexibility analysis, the Amendment 13 Issues Attachment, and the Oregon Department of Fish and Wildlife (ODFW)/NMFS risk assessment for the Oregon Coastal Salmon Restoration Initiative (OCSRI) are available from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201."

Dated: March 18, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7168 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 56
Wednesday, March 24, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1030]

Expansion of Foreign-Trade Zone 90, Onondage County, New York, Area; Approval of Manufacturing Activity Within FTZ 90; M.S. Pieterafesa, L.P. (Tailored Apparel for Export)

Pursuant to its authority under the Foreign-Trade Zones Act (the Act) of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the County of Onondaga, New York, grantee of FTZ 90, has applied for authority to expand and reorganize its general-purpose zone in Onondaga County, New York, to include two new parcels contiguous to FTZ 90 owned by M.S. Pietrafesa, L.P. (MSPLP), and has requested authority, on behalf of MSPLP, to manufacture tailored apparel under FTZ procedures for export within FTZ 90 (filed 4–23–97, FTZ Doc. 36–97);

Whereas, notice inviting public comment was given in the **Federal Register** (62 FR 26772, 5–15–97);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the Act and the Board's regulations would be satisfied, and that the proposal would be in the public interest if approval of the application is for export production only;

Now, therefore, the Board hereby authorizes the grantee to expand its zone as requested in the application, and approves the request for export manufacturing authority, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the restrictions listed below.

FTZ manufacturing authority is for export activity only (FTZ procedures shall be limited to duty deferral for foreign-origin, non-quota fabric entered for U.S. consumption).

2. All foreign-origin fabric that is subject to quantitative restrictions must be duty paid/entered for consumption (19 CFR 146.43(a)(2)) prior to admission to FTZ 90.

Signed at Washington, DC, this 12th day of March 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary

[FR Doc. 99–7219 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1027]

Expansion of Foreign-Trade Zone 100, Dayton, OH

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Dayton Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 100, submitted an application to the Board for authority to expand FTZ 100 to include four new sites in Dayton, Ohio, within the Dayton Customs port of entry (FTZ Docket 2–97; filed 1/3/97; amended 6/11/98; and, amended 12/14/98 to withdraw the proposed expansion of Site 1 from the request);

Whereas, notice inviting public comment was given in **Federal Register** (62 FR 3659, 1/24/97; 63 FR 33036, 6/17/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal, as amended, is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 100, as amended, is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 12th day of March 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–7216 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1028]

Expansion of Foreign-Trade Zone 39, Dallas/Fort Worth, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Dallas/Fort Worth International Airport Board, grantee of Foreign-Trade Zone 39, submitted an application to the Board for authority to expand FTZ 39 to include the Railhead Fort Worth facility (Site 4) in Fort Worth, Texas, within the Dallas/Fort Worth Customs port of entry (FTZ Docket 17–98; filed 4/2/98);

Whereas, notice inviting public comment was given in **Federal Register** (63 FR 17983, 4/13/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 39 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000-acre activation limit.

Signed at Washington, DC, this 12th day of March, 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–7217 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1029]

Expansion of Foreign-Trade Zone 137, Loudoun County, VA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Washington Dulles Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 137, submitted an application to the Board for authority to expand FTZ 137 to include an additional site in Loudoun County, Virginia, within the Washington DC Customs port of entry (FTZ Docket 40–97; filed 5/8/97; amended 8/20/98);

Whereas, notice inviting public comment was given in **Federal Register** (62 FR 28445, 5/23/97) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal would be in the public interest provided approval is subject to a monitoring condition;

Now, therefore, the Board hereby orders:

The application to expand FTZ 137 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to subject to a condition that requires the grantee to submit an annual report to the Board regarding the procedures for identification and development of sites and users.

Signed at Washington, DC, this 12th day of March, 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–7218 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods From Mexico; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of changed circumstances antidumping duty administrative review.

SUMMARY: Since 1997, the Department of Commerce ("the Department") has received two requests to revoke the antidumping duty (AD) order covering Oil Country Tubular Goods ("OCTG") from Mexico as it pertains to drill pipe with tool joints attached (commonly referred to as finished drill pipe). One request came from the International Association of Drilling Contractors ("IADC"), requesting that the Department self-initiate a changed circumstances review for the antidumping duty orders covering OCTG from Mexico, Japan, and Argentina. The other request came from Grant Prideco Inc., the leading producer of finished drill pipe in the United States. The latter request, covering only the antidumping duty order on OCTG from Mexico, was withdrawn.

Because of the unusual circumstances surrounding this product, we initiated an antidumping duty changed circumstances administrative review to determine the extent of domestic industry support for continuing the antidumping duty order on OCTG from Mexico with regard to both unfinished and finished drill pipe. We included both finished and unfinished drill pipe in the review because the International Trade Commission determined, in its injury test, that both finished and unfinished drill pipe constituted a "like product" with respect to the antidumping duty orders on OCTG from Argentina, Japan, and Mexico. We solicited comments from parties regarding this review, and also requested production figures for 1997 and the first quarter of 1998 for all identified domestic producers of the like product (i.e. finished and unfinished drill pipe). We conducted verifications of the submitted data between September 29 and October 2, 1998.

Based on the information submitted by producers, and our findings at verification, we preliminarily determine that there is insufficient domestic industry support for proceeding to revoke the antidumping duty order on oil country tubular goods with respect to finished drill pipe.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes).

EFFECTIVE DATE: March 24, 1999.

FOR FURTHER INFORMATION CONTACT: John K. Drury or Richard Weible, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3208 or (202) 482–1103, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations.

Scope of the Review

The merchandise subject to this changed circumstances review is finished oil well drill pipe with tool joints attached. This merchandise is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 8431.43.8010 as "Parts suitable for use solely or principally with the machinery of headings 8425 to 8430, [o]f machinery of heading 8426, 8429 or 8430: [p]arts for boring or sinking machinery of subheading 8430.41 or 8430.49: [o]ther: [o]f oil and gas field machinery." Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Background

On July 8, 1997, the IADC requested that the Department self-initiate a changed circumstances review with respect to finished drill pipe for all countries with finished drill pipe included in the OCTG antidumping duty order. On March 13, 1998, the Department responded to the IADC request. On January 28, 1998, Grant Prideco, Inc. requested revocation of the AD order on Mexican OCTG with respect to finished drill pipe. The Department received letters in opposition to this second request from OMSCO Industries and Drill Pipe Industries, Inc. on February 12, 1998, and February 13, 1998, respectively. On March 16, 1998, Grant Prideco withdrew its request for a changed circumstances review.

Subsequent to the Department's response to IADC on March 13, 1998, parties raised questions regarding whether "substantially all" of the domestic industry supports continuation of the AD order on OCTG from Mexico with respect to finished drill pipe. In light of the request originally filed by Grant Prideco and the information available to the Department, the Department believed that Grant Prideco's affirmative statement of no interest constituted good cause for conducting a changed circumstances review solely to determine if "substantially all" of the domestic producers of the like product supported partial revocation of the antidumping duty order with respect to finished drill pipe.

Analysis

Section 351.222(g)(i) of the Department's regulations provides that the Secretary may revoke an order in part based on changed circumstances if "producers accounting for substantially all of the production of the domestic like product to which * * * the part of the order to be revoked * * * have expressed a lack of interest" in the continued existence of the order, in whole or in part. The Department interprets "substantially all" production to mean at least 85 percent of domestic production of the domestic like product. The Department thus conducted the review solely to determine the level of support of domestic producers of the domestic like product for maintaining this order with respect to finished drill pipe.

In order to determine whether "substantially all" of the domestic producers supported revocation in part of the order, the Department solicited comments from all parties with an interest in this review. In addition, the Department requested production information from producers of both finished and unfinished drill pipe. The Department received numerous comments regarding interest in the order, including comments on the supply and production lead times of finished drill pipe in the United States. Additionally, the Department received production information from producers of finished drill pipe, as well as producers of unfinished drill pipe.

To verify this information, the Department conducted verifications of three of the domestic producers of the like product (Grant Prideco, OMSCO, and Drill Pipe Inc.) in September and October of 1998. Copies of the public versions of the verification reports for all three companies are available in the Import Administration's Central Records Unit.

Based on the responses by domestic producers, and the results of our verification, we have determined that less than 85 percent of the domestic industry of the like product supports the partial revocation of the order.

Parties wishing to comment on these results must submit briefs to the Department within 30 days after the publication of this notice in the **Federal Register**. Parties will have five days subsequent to this date to submit rebuttal briefs. Any requests for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**.

Preliminary Results of Review

Based on the submissions by the producers, the Department has preliminarily determined that producers supporting a partial revocation of the order account for less than 85 percent of domestic production of the like product. Under the definition given above, "substantially all" of the domestic producers of the like product do not support partial revocation of the order with respect to finished drill pipe. As a result, we preliminarily determine that there is no basis to revoke, in part, the antidumping duty order on oil country tubular goods from Mexico with respect to finished drill pipe.

Dated: March 11, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7215 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce

ACTION: Notice of Initiation of Process to Revoke Export Trade Certificate of Review No. 96–00004.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to The Foreign Market Search for U.S. Products and Services, Inc. doing business as FMS Exports-Imports, Inc., ("FMS"). Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to FMS.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325. 0Pursuant to this authority, a certificate of review was issued on September 10, 1996 to FMS.

A certificate holder is required by law (section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§ § 325.14(a) and (b) of the regulations). Failure to submit a complete annual report may be the basis for revocation. (Sections 325.10(a) and 325.14(c) of the regulations).

The Department of Commerce sent to FMS on August 31, 1998, a letter containing annual report questions with a reminder that its annual report was due on October 25, 1998. Additional reminders were sent on November 13, 1998, and on February 10, 1999. The Department has received no written response to any of these letters.

On March 18, 1999, and in accordance with § 325.10 (c)(1) of the regulations, a letter was sent by certified mail to notify FMS that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because

of the certificate holder's failure to file an annual report.

In accordance with § 325.10(c)(2) of the regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (§ 325.10(c)(2) of the regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (§ 325.10(c)(3) of the regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)(4) of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (§ § 325.10(c)(4) and 325.11 of the regulations).

Dated: March 18, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–7190 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031799C]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public meetings of its Habitat Committee, including Advisors and Technical Team; Sea Scallop Committee; Social Sciences Advisory Committee; Herring Committee; Ad hoc Vessel Buyback Committee; Groundfish Committee and Advisory Panel in April, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will held between Monday, April 5, 1999 and Thursday, April 22, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Peabody, MA; Warwick, RI; Saugus, MA; Providence, RI; and Danvers, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Monday, April 5, 1999, 9:30 a.m.—Joint Habitat Committee, Advisory Panel and Technical Team Meeting

Location: Holiday Inn, One Newbury Street (Rt. 1 North), Peabody, MA; telephone: (978) 535–4600.

Review of the 1999 Habitat Annual Review Report; identification and prioritization of habitat-related research and information needs; final review of habitat-related information pertaining to scalloping in areas closed for groundfish conservation; identification of habitat-related issues to be addressed during development of the next groundfish and sea scallop amendments.

Thursday and Friday, April 8–9, 1999, 9:30 a.m. (day 1), 8:30 a.m. (day 2)—Sea Scallop Committee Meeting

Location: Radisson Airport Hotel, 2081 Post Road, Warwick, RI; telephone: (401) 739–3000.

Review of potential impacts of options under consideration for Framework Adjustment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and Framework Adjustment 29 to the Northeast Multispecies FMP, an action that would allow scallop vessels to fish in areas now closed to them for purposes of groundfish conservation — Area II and the Nantucket Lightship Area; identification of issues to be addressed in Amendment 10 to the Atlantic Sea Scallop FMP, an action that would base scallop management on a series of rotating open and closed areas.

Friday, April 9, 1999, 10:00 a.m.—Social Sciences Advisory Committee

Location: New England Fishery Management Council Office, 5 Broadway, Saugus, MA; telephone: (781) 231–0422.

Evaluation of the socio-economic data and analyses contained in the Monkfish and the Northeast Multispecies FMPs for the purpose of recommending improvements.

Tuesday, April 13, 1999, 10:00 a.m.—Herring Oversight Committee Meeting

Location: Providence Biltmore Hotel, Kennedy Plaza, 11 Dorrance Street, Providence, RI 02903; telephone: (401) 421–0700.

Review of proposals and related issues under consideration for a framework adjustment to the Atlantic Herring FMP; these may include, but are not limited to, possible changes to spawning closure boundaries in the Gulf of Maine; total allowable catch set-asides in Management Area 1 for various industry sectors; groundfish bycatch by mid-water trawlers; discussion of the establishment of a control date and a limited entry system for the herring fishery.

Tuesday, April 20, 1999, 9:30 a.m.—Ad Hoc Vessel Buyback Committee

Location: New England Fishery Management Council Office, 5 Broadway, Saugus, MA; telephone: (781) 231–0422.

Discussion of the Council's role in industry-generated vessel buyout proposals; development of recommendations concerning the specifics of Council involvement, the content of industry proposals and protocols for the selection of alternative proposals.

Wednesday, April 21, 1999, 9:30 a.m.—Groundfish Advisory Panel Meeting

Location: King's Grant Inn, Trask Lane and Route 128 (Exit 21N) Danvers, MA 01923; telephone: (978) 774–6800.

Development of advice on issues and management measures proposed for public hearings on Amendment 13 to the Northeast Multispecies FMP (the amendment will contain rebuilding programs for overfished groundfish stocks pursuant to the Sustainable Fisheries Act and other measures identified during the scoping process, including the management of excess fishing capacity (latent permits) and minimizing the complexity of the FMP).

Thursday, April 22, 1999, 8:30 a.m.—Groundfish Committee Meeting

Location: King's Grant Inn, Trask Lane and Route 128 (Exit 21N) Danvers, MA 01923; telephone: (978) 774–6800.

Development of recommendations to the Council on issues and management measures proposed for public hearings on Amendment 13 to the Northeast Multispecies FMP (the amendment will contain rebuilding programs for overfished groundfish stocks pursuant to the Sustainable Fisheries Act and other measures identified during the scoping process, including managing excess fishing capacity (latent permits) and minimizing the complexity of the FMP.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 18, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7169 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Increase in Allowable Cost Per Full-time Equivalent (FTE) for Indian Tribes Applying for 1999 AmeriCorps and America Reads Funds

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (Corporation) announces an increase in the allowable cost per FTE for Indian Tribes applying for 1999 AmeriCorps*State and America Reads funds. The Corporation will consider applications with a cost per FTE of up to $14,500, provided that the necessity for the increase is clearly documented in the proposal.

FOR FURTHER INFORMATION CONTACT: Cynthia Johnson, (202) 606–5000, ext. 541. TDD (202) 565–2799. For individuals with disabilities, information will be made available in alternative formats upon request.

SUPPLEMENTARY INFORMATION: Pursuant to the National and Community Service Act of 1990, as amended (42 U.S.C. 12501 *et seq.*), the Corporation for National and Community Service (Corporation) makes grants to support national service programs. The Corporation has sent out application packets announcing the availability of $6,500,000 for its 1999 AmeriCorps*State and America Reads competition for Indian Tribes. According to the application instructions, no grant may exceed the total number of FTE AmeriCorps members multiplied by $11,250. This notice is to inform applicants that the Corporation will consider applications with a cost per FTE of up to $14,500, provided that the necessity for the increase is clearly documented in the proposal.

For example, if an applicant wishes to apply for a program supporting 20 full-time AmeriCorps members, the maximum grant award the applicant may receive is 20 × $14,500, or $290,000. If the applicant applies for 15 full-time members and 10 part-time members, the maximum grant award would also be 20 × $14,500, or $290,000.

Applicants should keep in mind that proposals requesting a lower cost per member might be deemed more competitive, as this is a factor in our evaluation criteria. Further, whether the Corporation may approve a budget of $14,500 per member will depend upon whether the average cost per FTE requested for all program applicants, including those submitted pursuant to this notice, meets the $11,250 cost per FTE target.

Dated: March 18, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–7151 Filed 3–23–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0259]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Economic Price Adjustment Clauses

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through August 31, 1999. DoD proposes that OMB extend its approval for use through August 31, 2002.

DATES: Consideration will be given to all comments received by May 24, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Melissa D. Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0359.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0259 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0259 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa D. Rider, at (703) 602–0131. A copy of this information collection requirement is available electronically via the Internet at:

http://www.acq.osd.mil/dp/dar/dfars.html

Paper copies may be obtained from Ms. Melissa D. Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 216, Types of Contracts, and related clauses at DFARS 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products, DFARS 252.216–7001, Economic Price Adjustment—Nonstandard Steel Items, and DFARS 252.216–7003, Economic Price Adjustment—Wage Rate or Material Prices Controlled by a Foreign Government; OMB Control Number 0704–259.

Needs and Uses: The clauses at DFARS 252.216–7000, 252.216–7001, and 252.216–7003 require contractors with fixed-price economic price adjustment contracts to submit information to the contracting officer regarding changes in established material prices or wage rates. The contracting officer uses this information to make appropriate adjustments to contract prices.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 1,212.

Number of Responses: 302.

Responses Per Respondent: 2.

Average Burden Per Response: 4 hours.

Frequency: On occasion.

Summary of Information Collection

Each clause requires the contractor to submit certain information that the contracting officer uses to adjust contract prices:

a. Paragraph (c) of the clause at DFARS 252.216–7000 requires the contractor to notify the contracting officer of the amount and effective date of each decrease in any established price. Paragraph (d) of the clause permits the contractor to submit a written request to the contracting officer for an increase in contract price.

b. Paragraph (f)(2) of the clause at DFARS 252.216–7001 requires the contractor to furnish a statement identifying the correctness of the established prices and employee hourly earnings that are relevant to the computation of various indices. Paragraph (f)(3) of the clause requires the contractor to make available all records used in the computation of labor indices upon the request of the contracting officer.

c. Paragraph (b)(1) of the clause at DFARS 252.216–7003 permits the contractor to provide a written request for contract adjustment based on increases in wage rates or material prices that are controlled by a foreign government. Paragraph (c) of the clause requires the contractor to make available its books and records that support a requested change in contract price.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 99–7134 Filed 3–23–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Disposal and Reuse of Naval Training Center, San Diego, California

SUMMARY: The Department of the Navy (Navy), pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 C.F.R. Parts 1500–1508, hereby announces its decision to dispose of Naval Training Center (NTC) San Diego in San Diego, California.

Navy and the City of San Diego jointly analyzed the impacts of the disposal and reuse of Naval Training Center San Diego in an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) prescribed by NEPA and the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code, §§ 21000–21177. The EIS/EIR analyzed five reuse alternatives and identified the Naval Training Center San Diego Draft Reuse Plan dated June 1997 (Reuse Plan) as the Preferred Alternative. The City of San Diego is the Local Redevelopment Authority (LRA) for Naval Training Center San Diego. Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DoD Rule), 32 C.F.R. § 176.20(a).

The Preferred Alternative proposed a mix of residential, educational, commercial, public and recreational uses. These include housing, two hotels, an environmental monitoring laboratory and related administrative facility for the San Diego Metropolitan Wastewater Department, a public safety institute, a nesting site for the California least tern, and expansion of the adjacent San Diego International Airport (Lindbergh Field).

Navy intends to dispose of NTC San Diego in a manner that is consistent with the Reuse Plan. Navy has determined that a mixed land use will meet the goals of achieving local economic redevelopment, creating new jobs, and providing additional housing, while limiting adverse environmental impacts and ensuring land uses that are compatible with adjacent property. This Record Of Decision does not mandate a specific mix of land uses. Rather, it leaves selection of the particular means to achieve the proposed redevelopment to the acquiring entities and the local zoning authority.

Background

Under the authority of the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. § 2687 note, the 1993 Defense Base Closure and Realignment Commission recommended the closure of Naval Training Center San Diego. This recommendation was approved by President Clinton and accepted by the One Hundred Third Congress in 1993. Naval Training Center San Diego closed on April 30, 1997, and Navy is currently maintaining the property in a caretaker status.

The Naval Training Center is located in San Diego County, California, within the corporate limits of the City of San Diego. The base is bounded on the north and west by Rosecrans Street and the San Diego communities of Loma Portal and Point Loma; on the south by San Diego Bay and Harbor Drive; and on the east by Lindbergh Field. Harbor Drive, a City road on Navy property, is located on the southern side of NTC San Diego and lies adjacent to San Diego Bay.

The 541-acre property consists of two areas that are separated by a 51-acre manmade waterway known as the Boat Channel. The main part of the base covers 377 acres and is situated west of the Boat Channel. The other part of the base, known as Camp Nimitz, covers 113 acres and is located east of the Boat Channel.

Navy will retain part of the NTC San Diego complex, *i.e.*, 30 acres containing the training and conference center known as the Admiral Kidd Club (Building A3); the United States Pacific Fleet Intelligence Training Center (Building 564); 7 acres containing the Consolidated Area Telephone Service facilities (Building 600); and 1 acre

containing the cogeneration power plant (Building 566). Navy made the remaining property available for possible use by other Federal agencies.

Navy approved requests from the Department of Justice and the United States Marine Corps for transfers of base closure property at the Naval Training Center. Navy transferred a two-acre parcel on Camp Nimitz containing the small arms range (Building 569) to the Department of Justice on July 27, 1998. Navy transferred a 72-acre parcel west of the Boat Channel to the Marine Corps for use as military family housing on August 10, 1998. The remaining 429 acres are surplus to the needs of the Federal Government.

This Record Of Decision addresses the disposal and reuse of these 429 acres, which contain about 270 buildings and structures that were used for training, related administrative activities, and housing. The base also contains recreational facilities and an undeveloped area that has been set aside as a nesting site for the California least tern, a Federally protected endangered species.

Some of the buildings and structures on the main part of the base at NTC San Diego were built during the 1920s and 1930s, and they constitute the Naval Training Center San Diego Historic District. The Historic District includes Buildings 1 through 12, 14 through 30, 32, 35, 175, 176, 177, 178, 193, 194, 195, 198, 200, 201, 202, 208, 210, and Quarters A, B, C, and D. The Historic District also includes other structures, *i.e.*, the USS Recruit (Building 430), two gun platforms (Buildings 453 and 454), two flagpoles (Buildings 451 and 528), and the Gate 1 Arch and Gatehouse (Main Gate). Finally, the Historic District includes open areas, roads, gardens and a burial site. These include Lawrence Court, Luce Court, John Paul Jones Court, Ingram Plaza, Sellers Plaza, Preble Field, Decatur Road, Dewey Road, Perry Road, Roosevelt Road, Sims Road, Truxtun Road, Stanley/Welty Terrace, the gardens in front of the officers quarters, six Bunya-bunya trees, a fir tree, and the Navy burial site on the Sail Ho golf course.

The historic buildings, which were the original structures at NTC San Diego, are important examples of the Spanish Colonial Revival style of architecture that is evident throughout Southern California. They reflect Navy's decision during the 1920's to build bases that adopt important regional architectural themes.

Navy published a Notice Of Intent in the **Federal Register** on May 13, 1996, announcing that Navy and the City of San Diego would prepare an EIS/EIR for the disposal and reuse of Naval Training Center San Diego. Navy and the City held a public scoping meeting at the Naval Training Center San Diego Support Center on June 11, 1996, and the scoping process concluded on June 19, 1996.

Navy and the City distributed a Draft EIS/EIR (DEIS/EIR) to Federal, State, and local governmental agencies, elected officials, community groups and associations, and interested persons on August 29, 1997, and commenced a 45-day public review and comment period. During this public review period, Federal, State, and local agencies, community groups and associations, and interested persons submitted oral and written comments concerning the DEIS/EIR. On September 30, 1997, Navy and the City held a public hearing at the Naval Training Center San Diego Support Center to receive comments on the DEIS/EIR.

Navy's and the City's responses to the public comments were incorporated in the Final EIS/EIR (FEIS/EIR), which was distributed to the public on July 31, 1998, for a review period that concluded on August 31, 1998. Navy and the City received eight letters commenting on the FEIS/EIR.

Alternatives

NERA requires Navy to evaluate a reasonable range of alternatives for the disposal and reuse of this surplus Federal property. In the FEIS/EIR, Navy and the City of San Diego analyzed the environmental impacts of five reuse alternatives. Navy also evaluated a "No Action" alternative that would leave the property in a caretaker status with Navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety.

The City of San Diego, acting as the LRA, established the Naval Training Center San Diego Reuse Planning Committee in November 1993. The Reuse Planning Committee held public design workshops in November 1994 and March 1995, at which it solicited comments concerning reuse of the Naval Training Center. The Committee also held public meetings in December 1995, February 1996, and May 1996, where it provided status reports and solicited additional comments concerning reuse of the base.

In May 1996, the Reuse Planning Committee submitted a conceptual land use plan entitled Policies and Priorities for Base Reuse, dated May 22, 1996, to the San Diego City Council. On July 16, 1996, the City Council modified this plan by increasing the area designated for airport expansion and proposing to build up to 350 homes in the residential area. City Council Resolution No. R-287661. Based upon this modified conceptual land use plan, the City Council developed the Draft Reuse Plan, dated September 30, 1996.

On October 21, 1996, the City Council modified its July 1996 decision by changing the mix of proposed uses for Camp Nimitz to make additional property available for expansion of the airport. In particular, the City Council removed a proposed emergency vehicle operations course from the Draft Reuse Plan dated September 30, 1996. City Council Resolution No. R-287949. These changes were embodied in another Draft Reuse Plan, dated June 1997, that Navy analyzed in the NEPA process. On October 20, 1998, the City Council approved the Draft Reuse Plan dated June 1997 as the final Naval Training Center San Diego Reuse Plan and issued this Reuse Plan in October 1998. City Council Resolution No. R-290901.

The Reuse Plan, identified in the FEIS/EIR as the Preferred Alternative, proposed a mix of land uses. For the main part of the base, west of the Boat Channel, the Reuse Plan designated areas for residential, educational, commercial, and recreational uses. In the southwest corner of the main base, the Reuse Plan proposed to remove all existing structures and build 350 new houses and townhouses on 39 acres. On 29 acres located northeast of this residential area, the Reuse Plan would use existing buildings for educational purposes and build new educational facilities. It would be necessary to remove about half of the existing buildings here to permit the new construction. This complex would provide more than 640,000 square feet of space for use as classrooms, vocational training shops, and related administrative facilities.

A 42-acre golf course would be developed along the northwestern and northern boundaries of the Naval Training Center property. About 58 acres southeast of the golf course would be used for offices, restaurants, retail businesses, and museums. This 58-acre area comprises nearly the entire Historic District, where all of the existing buildings and structures would be retained. The Preferred Alternative also proposed a 76-acre recreational area along the west side of the Boat Channel and construction of a 350-room, three-story hotel on an 18-acre site near Harbor Drive.

On the Camp Nimitz property, east of the Boat Channel, the preferred Alternative proposed to build a 650-room, eight-story hotel on 14 acres facing Harbor Drive. On an 8-acre parcel

north of this hotel, the Preferred Alternative would build an environmental monitoring laboratory and related administrative facility providing 100,000 square feet of space for use by the San Diego Metropolitan Wastewater Department. On 25 acres located east of the hotel and north of the laboratory, the Preferred Alternative would use some existing buildings and build new facilities for training local fire, police, and other public safety personnel. It would be necessary to remove some of the existing buildings here to permit the new construction associated with this public safety institute.

Under the Preferred Alternative, 26 acres of undeveloped property located east of the public safety institute and adjacent to Terminal 2 at Lindbergh Field would be used to expand San Diego International Airport. An additional 25 acres in this area would be used as a nesting site and buffer zone for the California least tern. A narrow strip of land that lies along the eastern shore of the Boat Channel would be used as a recreational area. Finally, the Preferred Alternative would retain Harbor Drive and the Boat Channel.

Navy analyzed a second alternative described in the FEIS/EIR as the Entertainment Alternative. On the main part of the base, west of the Boat Channel, the Entertainment Alternative would build 450 apartments and duplexes on the same 39-acre parcel in the southwest corner of the property where 350 houses and townhouses would be built under the Preferred Alternative. The Entertainment Alternative would create a 113-acre Naval theme park located northeast of the residential area. This part could provide restaurants, theaters, retail shops, and video entertainment and would include the Historic District. A 1,000-room, eight-story hotel would be built on 17 acres east of the residential area. Additionally, a 46-acre recreational area would occupy the western shore of the Boat Channel, and a 42-acre golf course would be located along the northern and eastern boundaries of the base.

East of the Boat Channel, the Entertainment Alternative proposed to make a 76-acre area at the Camp Nimitz property available for the expansion of Lindbergh Field. Finally, this Alternative proposed to maintain the 25-acre California least tern nesting site, Harbor Drive, and the Boat Channel.

Navy analyzed a third alternative described in the FEIS/EIR as the Low Traffic Alternative. This Alternative proposed a combination of uses that would result in traffic levels similar to those generated before closure of the Navy Training Center.

On the west side of the Boat Channel, the Low Traffic Alternative proposed a residential area that would provide 200 new residential units on a 22-acre parcel in the southwestern part of the Naval Training Center property. These residential units could include houses, townhouses, duplexes, and apartments. Southeast of this residential area, there would be an elementary school on about 9 acres. Northeast of the residential area, 38 acres would be used for educational buildings. Most of the existing facilities here would be demolished to permit the new construction.

The environmental monitoring laboratory would be located on 5 acres southeast of the educational area. A 72-acre golf course would be developed along the northwestern, northern, and eastern boundaries of the Naval Training Center property. A 77-acre recreational area would be located between the western shore of the Boat Channel and Rosecrans Street. Like the Preferred Alternative, the Low Traffic Alternative would introduce offices into the Historic District.

On Camp Nimitz, the Low Traffic Alternative proposed to build a 350-room, three-story hotel on 10 acres facing Harbor Drive and maintain the 25-acre California least tern nesting site. A 68-acre between the hotel and the least tern nesting site would be made available for the expansion of Lindbergh Field. Finally, this Alternative would retain Harbor Drive and the Boat Channel.

Navy analyzed a fourth alternative designated as the High Traffic Alternative. This Alternative would increase traffic above the levels experienced at the Naval Training Center before closure, because more of the property would be dedicated to commercial enterprises, *i.e.*, offices, retail stores, and research and development activities. This Alternative would not provide areas for residential uses or for expansion of the airport.

On the west side of the Boat Channel, seven areas covering 105 acres and providing more than one million square feet of space dedicated to commercial uses would be spread throughout the main part of the base. This Alternative would provide 35 acres along the northwest boundary of the base adjacent to Rosecrans Street for educational activities and about 18 acres at the northern end of the Naval Training Center property for a golf course. Light industrial facilities containing up to 230,000 square feet would be located in the center of the main part of the base.

On Camp Nimitz, the High Traffic Alternative would build a 751-room, eight-story hotel on 28 acres facing Harbor Drive. A 5-acre wetland would be established on land located between the hotel an the eastern shore of the Boat Channel. This Alternative would also provide a public safety institute on 38 acres between the Boat Channel and Lindbergh Field. Like the Preferred Alternative, the High Traffic Alternative proposed to retain the California least tern nesting site, Harbor Drive, and the Boat Channel. No part of the Camp Nimitz property would be made available for expansion of the airport.

Navy analyzed a fifth alternative designated as the Minimal Airport Expansion Alternative that is similar to the Preferred Alternative. On the main part of the base, it proposed to develop an educational complex, a golf course, restaurants, retail stores, museums, a recreational area, and a hotel in the same places and configurations as in the Preferred Alternative. This Alternative, however, would build 450 apartments and townhouses on the same 39-acre site in the southwestern part of the property where the Preferred Alternative would build 350 houses and townhouses.

On Camp Nimitz, the Minimal Airport Expansion Alternative proposed to build a 650-room, 8-story hotel on 14 acres facing Harbor Drive. North of the hotel, there would be an environmental monitoring laboratory on 8 acres. On 44 acres north and east of the laboratory and hotel, this Alternative would build a public safety institute. The California least tern nesting area would be maintained on a 21-acre site northeast of the institute. East of the nesting site, this Alternative proposed to make a 10-acre area available for the expansion of Lindbergh Field. Finally, the Minimal Airport Expansion Alternative would retain Harbor Drive and the Boat Channel.

Environmental Impacts

Navy analyzed the direct, indirect, and cumulative impacts of the disposal and reuse of this Federal property. The FEIS/EIR addressed the impacts of the Preferred Alternative, the Entertainment Alternative, the Low Traffic Alternative, the High Traffic Alternative, the Minimal Airport Expansion Alternative, and the "No Action" Alternative for each alternative's effects on land use, transportation and circulation, cultural resources, socioeconomic factors (including population, employment, income, housing, and environmental justice), infrastructure and utilities, biological resources, geology and soils, hydrology and water quality, air quality,

public health and safety, visual resources, noise, hazardous substances and waste, and community services and facilities. This Record Of Decision focuses on the impacts that would likely result from implementation of the Reuse Plan Alternative, designated in the FEIS/EIR as the Preferred Alternative.

The Preferred Alternative would have significant impacts on land use. The land uses proposed in the Reuse Plan would not be consistent with the traffic reduction policies articulated in the Peninsula Community Plan. This Plan was developed by the City of San Diego to evaluate projects proposed to be built in Point Loma. Navy and the City used this Plan to evaluate whether the reuse alternatives were consistent with the City's land use policies for the Point Loma area. The City recognizes that implementation of the Preferred Alternative would have significant unmitigable impacts on land use that are inconsistent with the traffic reduction policies set forth in the Peninsula Community Plan.

The proposed development of a public safety institute could have a significant land use impact if it were built on tidelands encumbered by the public trust established by California law. Known as the Tidelands Trust, it mandates that public tidelands and submerged lands be used for the benefit of the people of California for commerce, navigation, fisheries and recreation. The proposed safety institute, while public in nature, would constitute a municipal use that would not be permitted under the Trust's restrictions. The City of San Diego, however, proposes to avoid this impact by entering into an agreement with the California State Lands Commission that would impose public trust restrictions on non-trust lands in exchange for the removal of those restrictions on the property where the public safety institute would be developed.

The proposed educational, recreational, office, and retail land uses would have significant land use impacts because they are inconsistent with the Lindbergh Field Comprehensive Land Use Plan (CLUP) and San Diego's Progress Guide and General Plan (General Plan). The CLUP, adopted by the San Diego Association of Governments in 1992, describes the actions required to ensure that development around the airport is compatible with air operations. In particular, the CLUP establishes height limitations and noise attenuation requirements for new buildings and defines appropriate uses for property near the airport. The Naval Training Center property is subject to high levels of noise form Lindbergh Field. Thus, the educational, recreational, and retail uses proposed by the Preferred Alternative would be incompatible with the noise attenuation requirements of the CLUP.

San Diego's General Plan is a statement of goals, objectives, and implementing rules that guide the City's future development. Navy compared the proposed reuse alternatives with the land use policies set forth in the General Plan and concluded that the General Plan would bar the educational, recreational, and retail uses proposed by the Preferred Alternative from such noisy areas. These proposed uses, however, are not inconsistent with Navy's historical use of the property, and the City recognizes that implementation of the Reuse Plan would result in unmitigable noise-related land use impacts.

The Preferred Alternative would generate additional traffic in the area surrounding the Naval Training Center that would have significant impacts on transportation and circulation. This Alternative would generate about 53,525 average daily trips compared with 35,607 average daily trips that were associated with Navy's use of the property. Roadways that may experience traffic congestion include Rosecrans Street, Lytton Street, Barnett Avenue, Chatsworth Boulevard, and Midway Drive. The City has identified certain intersectional and roadway improvements that would reduce some of the traffic impacts. Even with these improvements, however, there would be significant impacts arising out of traffic generated by implementation of the Reuse Plan.

The Preferred Alternative could have a significant impact on cultural resources. Although no construction is currently proposed for the Historic District, future development could cause a significant impact by introducing buildings or landscaping that would be incompatible with the design or scale of the Historic District. In addition, property near Building 227 contains buried debris from the World War II era that could be disturbed by future grading.

In accordance with section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. § 470(f), Navy consulted with the California State Historic Preservation Officer, the Advisory Council on Historic Preservation, the City of San Diego, and an interested party, the Save Our Heritage Organisation. These consultations focused on ways to avoid and mitigate adverse impacts to the Historic District that could result from disposal and reuse of the Naval Training Center.

In July 1998, Navy, the Advisory Council on Historic Preservation, and the State Historic Preservation Officer executed a Memorandum of Agreement (MOA). The City of San Diego and the Save Our Heritage Organisation also signed the MOA as concurring parties. This MOA defines actions that Navy must take before it conveys the Naval Training Center property.

Navy will nominate the Historic District for listing on the National Register of Historic Places in accordance with 36 C.F.R. § 60.9. Navy will also ensure that a determination of eligibility for listing on the National Register of Historic Places is concluded for the buried World War II era debris near Building 227, before that site is disturbed or before the property is conveyed. Additionally, the City of San Diego will comply with its historic preservation regulations before demolishing, altering or disturbing any building, surface or landscape element in the Historic District.

The Preferred Alternative would not have significant adverse socioeconomic impacts. On the contrary, this Alternative would generate 6,086 direct jobs and 10,767 indirect jobs.

The Preferred Alternative would not result in any significant impacts on infrastructure and utility systems. The existing utility systems are either adequate to accommodate the anticipated demand or will be upgraded by the acquiring entities to meet that demand.

The Preferred Alternative could have a significant impact on biological resources. The construction of facilities near the California least tern nesting area could have a significant impact on the suitability of this area as a nesting and breeding site for this Federally protected bird. For example, the structures, fences, lighting, and landscaping associated with the public safety institute, the hotels, and the environmental monitoring laboratory could provide perches for predators of the California least tern.

Navy held informal consultations with the United States Fish and Wildlife Service under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. § 1536, to identify measures that would mitigate the impacts. During these consultations, the City of San Diego offered to restrict future development by limiting the height of structures and the number of exterior light poles near the nesting area. These measures will protect the California least tern by limiting the number of potential perches for predators. In a letter dated June 30, 1998, the Service concurred in Navy's determination that

the disposal and reuse of the Naval Training Center is not likely to have an adverse effect on the California least tern.

The Preferred Alternative could have a significant impact on other biological resources. Implementation of the Reuse Plan could result in the removal of ornamental trees that support a nesting colony of two species of herons on the main part of the base at the corner of Cushing Road and Worden Road. Construction activities or an increased human presence could also frighten herons and other waterbirds away from foraging areas in the Boat Channel. Additionally, changes in the volume and chemical composition of stormwater runoff resulting from redevelopmnet could introduce larger amounts of fertilizers, pesticides, herbicides, and hydrocarbon pollutants such as motor oils and fuels into the Boat Channel and adversely affect the eelgrass beds.

The impacts on herons and other waterbirds can be mitigated by minimizing construction noise near breeding, roosting, the foraging areas; preserving the heron nesting colony trees; and establishing a construction buffer zone around these trees during the nesting season. The potential impacts to eelgrass beds can be mitigated by adhering to best management practices for the control of erosion and runoff and by implementing stormwater pollution prevention plans.

The Preferred Alternative could have significant impacts on geologic and soil conditions. Naval Training Center San Diego is located in a highly active seismic region and is built on artificial fill that has a moderate to high potential for both liquefaction and severe erosion. Thus, new construction will be required to meet current building codes governing seismic safety. The impacts from hazards arising out of ground movement can be reduced to an insignificant level by upgrading the existing buildings to comply with current seismic safety standards. The acquiring entities can reduce the impacts from erosion by implementing soil erosion control measures.

The Preferred Alternative could have significant impacts on the quality of surface water. Stormwater discharges from paved road surfaces that contain small amounts of fuels, oils, and residual contaminants could degrade the quality of the surface water. Implementation of appropriate stormwater pollution prevention plans can reduce this impact to an insignificant level.

The Preferred Alternative would not have a significant impact on air quality. The annual emissions of the common or criteria pollutants regulated by the Clean Air Act, 42 U.S.C. §§ 7401–7671q, other than oxides of sulfur, would decrease. Emissions of these oxides would increase by about 1.34 tons per year for a total of about 7.89 tons per year. This level is well below the significance criteria threshold for this pollutant of 100 tons per year.

Section 176(c) of the Clean Air Act, 42 U.S.C. 7506, requires Federal agencies to review their proposed activities to ensure that these activities do not hamper local efforts to control air pollution. Section 176(c) prohibits Federal agencies from conducting activities in air quality areas such as San Diego that do not meet one or more of the national standards for ambient air quality, unless the activities conform to an approved implementation plan. The United States Environmental Protection Agency regulations implementing Section 176(c) recognize certain categorically exempt activities. Conveyance of title to real property and certain leases are categorically exempt activities. 40 CFR §§ 93.153(c) (2) (xiv) and (xix). Therefore, the disposal of Naval Training Center San Diego will not require Navy to conduct a conformity determination.

The Preferred Alternative could have significant impacts on public health and safety. Steam lines located above the ground and uncovered drainage channels could present hazards to children living in the proposed residential area. In addition, certain activities of the public safety institute, such as tactical training, could expose guests in the nearby hotel to safety-related hazards. The acquiring entities can mitigate these impacts by posting warning signs and installing fences.

The Preferred Alternative could have a significant impact on visual resources. Some of the existing structures would be demolished to build the proposed housing, educational facilities and hotels. Although the precise locations and dimensions of new buildings and structures have not yet been determined, the proposed redevelopment could impede the views of San Diego Bay that neighborhoods northwest of the Naval Training Center currently enjoy. This impact can be reduced to an insignificant level by following the design and visual quality policies set forth in local community plans, *i.e.*, the Peninsula Community Plan and the Midway/Pacific Highway Corridor Community Plan.

The Preferred Alternative would not have a significant impact on noise. Noise impacts from traffic generated by the Preferred Alternative would be insignificant. On all roadways for which the Preferred Alternative would contribute up to 10 percent of future traffic, the increase in noise attributable to traffic generated by the Preferred Alternative would be imperceptible to the human ear.

The proposed expansion of Lindbergh Field would not generate noise impacts. The airport expansion envisioned by the Preferred Alternative would consist of roadway and parking improvements and construction of support facilities. This expansion would not introduce any additional flight capacity. Finally, noise arising out of construction activities would be governed by the City's noise ordinance. San Diego Municipal Code, Section 59.5.0404.

Hazardous materials and hazardous waste that may be used and generated by the Preferred Alternative would not cause any significant adverse impacts. The quantity of hazardous materials used, stored, and disposed of, and the quantity of hazardous waste generated on the property would be less under the Preferred Alternative than during Navy's use of the Naval Training Center property. Hazardous materials used under the Preferred Alternative will be managed in accordance with Federal and State regulations. Hazardous wastes transported for disposal or generated under the Preferred Alternative and stored for more than 90 days will be controlled by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, *et seq.*

Implementation of the Preferred Alternative would not have any impact on existing environmental contamination at the Naval Training Center. Navy will inform future property owners about the environmental condition of the property and may, where appropriate, include restrictions, notifications, or covenants in deeds to ensure the protection of human health and the environment in light of the intended use of the property.

The Preferred Alternative would not have any significant impact on most community services and facilities. This Alternative would, however, have a significant cumulative impact on schools. The Reuse Plan's proposed new houses and townhouses would result in the introduction of about 101 students into the San Diego Unified School District. The military family housing proposed for the 72-acre property that Navy transferred to the Marine Corps would introduce an additional 373 students into the School District.

The impact of the Reuse Plan would be mitigated by the local development fee assessed on new construction and applied to finance the renovation and

construction of schools. Under the current local development fee schedule, the Preferred Alternative would generate about $1.4 million in school fees. Additionally, Navy will make property available for school facilities on the 72-acre Marine Corps tract.

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, reprinted in 42 U.S.C. 4321 note, requires that Navy determine whether any low-income and minority populations will experience disproportionately high and adverse human health or environmental effects from the proposed action. While there are substantial minority and low-income populations residing in the vicinity of the Naval Training Center, these populations will not experience disproportionately high and adverse human health or environmental effects. Indeed, the employment opportunities created by implementing the Preferred Alternative would have beneficial effects on minority and low-income populations residing within the region.

Navy also analyzed the impacts on children pursuant to Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, 3 C.F.R. 198 (1998). Under the Preferred Alternative, the largest concentration of children would be present in the residential and recreational areas. The Preferred Alternative would not result in any disproportionate environmental health or safety risks to children.

Mitigation

The decision to dispose of Naval Training Center San Diego does not require Navy to implement any mitigation measures beyond those discussed here. Navy will take certain actions to implement existing agreements and regulations. These actions were treated in the FEIS/EIR as agreements or regulatory requirements rather than as mitigation. Before conveying any property at Naval Training Center San Diego, Navy will nominate the Historic District to the National Register of Historic Places and determine the eligibility of the property near Building 227, containing World War II era debris, for listing on the Register.

The FEIS/EIR identified and discussed those actions that will be necessary to mitigate impacts associated with the reuse and redevelopment of Naval Training Center San Diego. The acquiring entities, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for implementing any necessary mitigation measures.

Comments Received on the FEIS

Navy and the City of San Diego received comments on the FEIS/EIR from four local governmental agencies, three organizations and one individual. The local agencies were the Metropolitan Transit Development Board, the San Diego Unified Port District, the San Diego County Water Authority, and the San Diego Unified School District. The organizations were the Harbor Lights Foundation, the San Diego Archaeological Center, and the San Diego Audubon Society. All of the substantive comments concerned issues discussed in the FEIS/EIR. Those comments that require clarification are addressed below.

The Water Authority asked Navy to conduct an analysis of the quantity of water that would be required by the redevelopment proposed in the Reuse Plan. Navy performed an analysis that meets the needs of the Water Authority in Section 4 of the FEIS/EIR, *i.e.*, Environmental Consequences. The Reuse Plan would not have a significant impact on the potable water supply.

The Water Authority also suggested mitigation measures to ensure that water conservation practices would be observed in the redevelopment proposed by the Reuse Plan. In particular, the Water Authority asked Navy to impose requirements such as the use of low flow plumbing fixtures; landscape plantings that need little watering; and reclaimed water on the golf course. Section 17921.3 of the California Health and Safety Code requires the use of low flow fixtures in new buildings constructed in the State, and the City's plumbing standards require the use of water conserving fixtures when replacing fixtures in existing structures. San Diego Municipal Ordinance Section 93.0208. In the exercise of its local land use authority, the City will place appropriate water conservation requirements on future development projects at the Naval Training Center property.

The Port asked Navy to clarify that the acquiring entities must grant aviation easements to mitigate noise impacts arising out of the incompatibility of the Reuse Plan with the Lindbergh Field CLUP. To address the Port's concern, the City will ensure that an navigation easement for noise impacts in favor of the Lindbergh Field operator, currently the Port, will be placed on the property.

The Port also commented that noise impacts on residential and hotel land uses might occur if the City does not require that subsequent developers conduct acoustical analyses and implement attenuation measures as a condition of granting building permits. Thus, the Port asked that a mitigation measure be included in the FEIS/EIR that would compel the City to comply with the noise insulation standards set forth in Title 24 of the California Administrative Code. The City will continue to comply with its own regulations and noise ordinances and it has adopted the State noise standards as part of its own noise ordinances. Therefore, no additional mitigation measures are required.

The School District commented that the proposed mitigation for the Reuse Plan's cumulative impact on school facilities was inadequate. The District asked that the mitigation include full funding for the construction of an elementary school. As explained in response to the School District's comments on the DEIS/EIR, Navy's disposal of the Naval Training Center property would not cause any impacts requiring Navy to fund the construction of new school facilities. The FEIS/EIR discussed mitigation measures that would reduce school overcrowding to an insignificant level. The acquiring entities and the School District will be responsible for implementing appropriate mitigation measures.

Regulations Governing the Disposal Decision

Since the proposed action contemplates a disposal action under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. § 2687 note, Navy's decision was based upon the environmental analysis in the FEIS/EIR and application of the standards set forth in the DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR Part 101–47, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DoD Rule), 32 CFR Parts 174 and 175.

Section 101–47.303–1 of the FPRM requires that disposals of Federal property benefit the Federal Government and constitute the "highest and best use" of the property. Section 101–47.4909 of the FPMR defines the "highest and best use" as that use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or services a public or institutional propose. The "highest and best use" determination must be based upon the property's economic potential, qualitative values inherent in the property, and utilization factors affecting land use such as zoning,

physical characteristics, other private and public uses in the vicinity, neighboring improvements, utility services, access, roads, location, and environmental and historical considerations.

After Federal property has been conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and subdivision regulations, and building codes. Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As a result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the "highest and best use" of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of Defense authority to transfer and dispose of base closure property. Section 2905(b) of the DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth in Part 101–47 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under the DBCRA to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of the Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only where Congress has expressly provided additional authority for disposing of base closure property, *e.g.*, the economic development conveyance authority established in 1993 by Section 2905(b)(4) of the DBCRA, may Navy apply disposal procedures other than those in the FPMR.

In Section 2901 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property at closing installations. In Section 2903(c) of Public Law 103–160, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in the property disposal process. Under Section 2905(b)(2)(E) of the DBCRA, Navy must consult with local communities before it disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in Section 174.4 of the DoD Rule, is to help base closure communities achieve rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the LRA's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, as reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, Section 175.7(d)(3) of the DoD Rule provides that the LRA's plan generally will be used as the basis for the proposed disposal action.

The Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484, as implemented by the FPMR, identifies several mechanisms for disposing of surplus base closure property: by public benefit conveyance (FPMR Sec. 101–47.303–2); by negotiated sale (FPMR Sec. 101–47.304–9); and by competitive sale (FPMR 101–47.304–7). Additionally, in Section 2905(b)(4), the DBCRA established economic development conveyances as a means of disposing of surplus base closure property. The selection of any particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid, are left to the Federal agency's discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

Conclusion

The LRA's proposed reuse of Naval Training Center San Diego, reflected in the Reuse Plan, is consistent with the prescriptions of the FPMR and Section 174.4 of the DoD Rule. The LRA has determined in its Reuse Plan that the property should be used for several purposes including residential, educational, commercial, public and recreational uses. These uses include housing, educational facilities, two hotels, retail stores, an environmental monitoring laboratory and administrative facility, a public safety institute, a nesting site for the California least tern, expansion of the adjacent Lindbergh Field, and athletic fields and open spaces. The property's location, physical characteristics and existing infrastructure as well as the current uses of adjacent property make it appropriate for the proposed uses.

The Preferred Alternative responds to local economic conditions, promotes rapid economic recovery from the impact of the closure of Naval Training Center San Diego, and is consistent with President Clinton's Five-Part Plan for Revitalizing Base Closure Communities, which emphasizes local economic redevelopment of the closing military facility and creation of new jobs as the means to revitalize the communities. 32 CFR Parts 174 and 175, 59 FR 16123 (1994).

Although the "No Action" Alternative has less potential for causing adverse environmental impacts, this Alternative would not take advantage of the property's location, physical characteristics and infrastructure or the current uses of adjacent property. Additionally, it would not foster local economic redevelopment of the Naval Training Center property.

The acquiring entities, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for adopting practicable means to avoid or minimize environmental harm that may result from implementing the Reuse Plan.

Accordingly, Navy will dispose of Naval Training Center San Diego in a manner that is consistent with the City of San Diego's Reuse Plan for the property.

Dated: March 10, 1999.

William J. Cassidy, Jr.,

Deputy Assistant Secretary of the Navy (Conversion and Redevelopment).

[FR Doc. 99–7209 Filed 3–23–99; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.303A]

Office of Educational Research and Improvement (OERI), Technology Innovation Challenge Grants Program; Notice Announcing a Two-Tier Review Process for Applications Received Under the Fiscal Year (FY) 1999 Competition

SUMMARY: The Secretary announces the use of a two-tier review process to evaluate applications submitted for new

awards under the FY 1999 Technology Innovation Challenge Grants program. The Secretary takes this action to ensure a thorough review and assessment of the large number of applications that are expected to be received under the FY 1999 competition. This competition was announced previously in a notice published in the **Federal Register** on December 22, 1998 (63 FR 70977). That notice, however, did not explain that a two-tier review process is to be used in the evaluation of applications. Because the announcement of a two-tier review process does not affect the contents of applications in this competition, the date by which applications must be received remains the same as originally announced, March 12, 1999.

SUPPLEMENTARY INFORMATION: In prior fiscal years, applications for awards under this program were evaluated and selected in accordance with procedures established in the notice of final selection criteria, selection procedures, and application procedures for Technology Innovation Challenge Grants published in the **Federal Register** on May 12, 1997 (62 FR 26175). This year, however, these procedures for "evaluation and selection of applications" will not apply to this program. Instead, the Department will follow the procedures in 34 CFR part 75 except as indicated below.

Application Review Procedures: The Secretary will use a two-tier process for reviewing applications in this competition. In the first tier, all eligible applications will be reviewed. The applications with the highest scores in the first tier—the top-ranked 60—will be reviewed in the second tier. In the event of a tie for the 60th place in the rank order of applications in the first tier, all applications tied for that final position will be considered in the second tier. The same evaluation criteria will be used in the second tier as in the first tier. The Secretary will select applications for funding on the basis of the rank ordering of applications in the second tier. In all other respects, the Secretary will follow the procedures in the Education Department General Administrative Regulations (EDGAR), 34 CFR part 75, in reviewing applications.

Waiver of Proposed Rulemaking: In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these exceptions to EDGAR make procedural changes only. Therefore, under 5 U.S.C. 553(b)(A), proposed rulemaking is not required.

FOR FURTHER INFORMATION CONTACT: Elizabeth Payer, U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Washington, DC 20208–5544. Telephone 202 208–3882. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530, or toll free, at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G-Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

PROGRAM AUTHORITY: 20 U.S.C. 6846.

Dated: March 19, 1999.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 99–7188 Filed 3–23–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference of the Design and Methodology Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: March 26, 1999.

TIME: 2:30–4:00 p.m., EST.

LOCATION: National Assessment Governing Board, 800 North Capitol Street, NW, Suite #825, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On March 26, 1999 the Design and Methodology Committee of the National Assessment Governing Board will hold a teleconference from 2:30–4:00 p.m. The purpose of this meeting is to endorse a plan of action to achieve the goals of the Board's redesign policy regarding sampling issues. The Committee will be acting under the prospective authority of the Board.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North

Capitol Street, NW, Washington, D.C., from 8:30 a.m. 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 99–7133 Filed 3–23–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board—Task Force on Fusion Energy.

DATES AND TIMES: Monday, March 29, 1999, 8:30 AM–5:00 PM and Tuesday, March 30, 1999, 8:30 AM–12:00 PM.

ADDRESSES: U.S. Department of Energy, Program Review Center (Room 8E–089), Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585. Note: Members of the public are requested to contact the Office of the Secretary of Energy Advisory Board at (202) 586–7092 in advance of the meeting (if possible), to expedite their entry to the Forrestal Building on the day of the meeting.

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–1709 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the Task Force on Fusion Energy is to review the Department of Energy's plans for research and development of four fusion related technologies—pulsed-power, lasers, ion drivers, and magnetic fusion—and to provide advice to the Secretary of Energy Advisory Board on how to structure the Department's fusion energy programs, both inertial and magnetic. The review is to focus on the scientific quality of the programs, the goals and objectives of the programs, and the energy potential of each technology. The findings and recommendation of the Task Force on Fusion Energy are to comment on the goals and objectives of the Department's fusion energy related programs, provide a critique of the current development strategies, suggest changes in the overall fusion energy roadmap, and recommended funding levels.

Tentative Agenda

Monday, March 29, 1999

8:30–9:00 AM Opening Remarks, Introductions and Objectives—Dr. Richard Meserve, Task Force Chairman
9:00–9:45 AM Briefing and Discussion: Review of President's Committee of Advisors on Science and Technology (PCAST) Reviews of Fusion Energy
9:45–10:00 AM Break
10:00–11:15 AM Briefing and Discussion: Overview of the Department of Energy Fusion Energy Program
11:15–12:00 PM Briefing and Discussion: Overview of the Inertial Confinement Fusion Program
12:00–1:00 PM Lunch
1:00–2:30 PM Briefing and Discussion: Magnetic Fusion Energy Program Status and Plans
2:30–2:45 PM Break
2:45–4:15 PM Briefing and Discussion: Inertial Fusion Energy Program Status and Plans
4:15–4:45 PM Briefing and Discussion: Magnetic and Inertial Fusion Energy Roadmap
4:45–5:00 PM Public Comment Period
5:00 PM Adjourn

Tuesday, March 30, 1999

8:30–8:35 AM Opening Remarks and Objectives—Dr. Richard Meserve, Task Force Chairman
8:35–9:15 AM Briefing and Discussion: Fusion Energy Sciences Advisory Committee (FESAC) Review
9:15–10:00 AM Working Session: Task Force Discussion/Question and Answer Period
10:00–10:15 AM Break
10:15–11:45 AM Working Session: Task Force Work Plan Discussion and Development
11:45–12:00 PM Public Comment Period
12:00 PM Adjourn

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation

The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C., the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes

Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Further information on the Task Force on Fusion Energy may be found at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on March 18, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–7214 Filed 3–23–99; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–256–001]

Clear Creek Storage Company, L.L.C.; Notice of Filing

March 18, 1999.

Take notice that on March 3, 1999, Clear Creek Storage Company, L.L.C. (Clear Creek), 180 East 100 South, P.O. Box 45601, Salt Lake City, Utah 84111 filed a revised Exhibit P. containing a pro forma tariff and initial rates as required by Ordering Paragraph (B) of the Commission's March 2, 1998 order in Docket No. CP98–256–000.

Clear Creek states that the revised Exhibit P comprises a pro forma copy of Original Volume No. 1 of its FERC Gas Tariff as well as supporting data and information regarding proposed rates that are applicable to open-access firm and interruptible storage service.

Clear Creek anticipates providing storage service in the Clear Creek storage facility no later than September 1, 1999 and has requested that the Commission issue an order regarding its revised Exhibit P in such time that a compliance tariff filing may be rendered and accepted by the Commission to become effective September 1, 1999.

Clear Creek states that a copy of this filing has been served upon all parties on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Room 1A, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the Internet at *http:/www.ferc.fed.us/online/rims.htm* (call 202–208–222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7127 Filed 3–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket No. CP99–250–000]

Reliant Energy Gas Transmission; Notice of Request Under Blanket Authorization

March 18, 1999.

Take notice that on March 11, 1999, Reliant Energy Gas Transmission Company (REGT), formerly NorAm Gas Transmission Company (NGT), 1111 Louisiana Street, Houston, Texas 77002–5231, filed in Docket No. CP99–250–000 a request pursuant to Sections 157.205, 157.216 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216 and 157.211) for authorization to abandon, construct and operate certain facilities in Louisiana, under REGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

REGT proposes to abandon two 2-inch Fisher regulators and one 1-inch relief valve and install two 2-inch Fisher ET Barton Control regulators and one 3-inch Axialflow relief valve to upgrade a meter station on Line HM–34 in Union Parish, Louisiana, to provide additional deliveries to and on behalf of Reliant Energy Arkla, a distribution division of Reliant Energy, Incorporation (Arkla). Arkla has requested that this meter station be upgraded to allow an increase in deliveries. The estimated volumes to be delivered through these upgraded facilities are approximately 946,080 Dth annually and 4,320 Dth on a peak day. The facilities will be constructed and placed in service at an estimated cost of $16,620 and Arkla will reimburse REGT for the cost of construction.

REGT states that the proposed activity is not prohibited by its existing tariff and that there is sufficient capacity to accommodate the proposed changes without detriment or disadvantage to REGT's other customers. That its peak day and annual deliveries will not be effected and that the total volumes to be delivered to the customer after the request do not exceed the total volumes authorize prior to the request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7128 Filed 3–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–254–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

March 18, 1999.

Take notice that on March 12, 1999, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed a request with the Commission in Docket No. CP99–254–000, pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon 4-inch Certain Teed Pipeline authorized in blanket certificate issued in Docket No. CP82–406–000, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Southern proposes to abandon its 4-inch Certain Teed Pipeline which consists of approximately 500 feet of pipeline located at or near mile post 110 on its 14″ Wrens-Savannah Line. Southern states that it has not provided natural gas service to the Certain Teed Plant in approximately ten years and that it has already abandoned the meter station where it previously delivered gas to the plant. Southern further states that the pipeline would be abandoned in place.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7130 Filed 3–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–420–003]

Southern Natural Gas Company; Notice of Conference

March 18, 1999.

The above referenced docket relates to Southern Natural Gas Company's (Southern) operational flow orders (OFOs). Parties have raised certain concerns with Southern's one-year report regarding OFOs. In order to facilitate the resolution of the issues in this proceeding, the Commission Staff is convening an informal conference among the interested parties.

Take notice that the conference will be held on Thursday, April 15, 1999, at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Southern and interested parties should be prepared to discuss in detail the OFOs in order to resolve the specific concerns raised by the parties in these proceedings.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7132 Filed 3–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–253–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

March 18, 1999.

Take notice that on March 12, 1999, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP99–253–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a delivery point in Monroe County, Mississippi so that Texas Eastern may provide natural gas deliveries to the town of Shannon, Mississippi under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Texas Eastern proposes to construct and install a single 2-inch tap valve, a 2-inch check valve and a 2-inch insulating flange on Texas Eastern's existing 6-inch Line No. 25–B, at approximately Mile Post 0.02, in Monroe County, Mississippi. Texas Eastern states that the town of Shannon will install or cause to be installed dual 2-inch turbine meter runs and associated piping and valves (meter station), approximately 25 feet of 2-inch pipeline which will extend from the meter station to the tap and gas measurement equipment. Texas Eastern states that the Town of Shannon will reimburse Texas Eastern 100% of the coast and expenses incurred to install the tap.

Texas Eastern states that its existing tariff does not prohibit the addition of this facility, the delivery point will have no effect on Texas Eastern's peak day or annual deliveries, and its proposal will be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7129 Filed 3–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 340–051]

Alabama Power Company; Notice of Availability of Environmental Assessment

March 18, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has prepared an environmental assessment (EA) for an application to amend the Recreation Plan and change the Project Boundary on Lake Martin. Alabama Power Company proposes to remove the 30-acre Tallassee Recreational Use Area (RUA), No. 7 from the project boundary; add 40 acres to RUA No. 1 (West of Dadeville); and reclassify the Chapman Creek RUA No. 8 to Natural Undeveloped land from Recreational Use land. In the EA, staff concludes that approval of the licensee's proposal would not constitute a major Federal action significantly affecting the quality of the human environment. The Martin Dam Project is located on the Tallapoosa River in Tallapoosa, Coosa and Elmore Counties, Alabama.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA are available for review at the Commission's Reference and Information Center, Room 2–A, 888 North Capitol Street, NE, Washington, DC 20426. The EA may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7131 Filed 3–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project—Firm Power Services Base Charge

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Base Charge Adjustments.

SUMMARY: The Western Area Power Administration's (Western) Desert Southwest Region (DSW) is initiating a rate adjustment process for the firm power services base charge for the Boulder Canyon Project (BCP) for FY 2000. The annual base charge adjustments are a requirement of the rate setting methodology approved on a final basis by the Federal Energy Regulatory Commission (FERC) on April 19, 1996. The existing rate schedule was placed into effect on November 1, 1995. The power repayment study indicates the proposed base charge herein for BCP firm power services is appropriate to provide sufficient revenue to pay all

annual costs (including interest expense), plus repayment of required investment within the allowable time period.

The proposed base charge is explained in greater detail during the informal and formal processes and made available to all power customers and interested parties.

The proposed base charge for firm power services is expected to become effective October 1, 1999. This **Federal Register** notice initiates the formal process for the proposed base charge.

DATES: The consultation and comment period will begin from the date of publication of this **Federal Register** notice and will end June 22, 1999. A public information forum at which Western will present a detailed explanation of the proposed base charge is scheduled for April 21, 1999, beginning at 10:00 a.m. MST, at the Desert Southwest Regional Office. A public comment forum at which Western will receive oral and written comments is scheduled for June 2, 1999, beginning at 10:30 a.m. MST, at the same location.

ADDRESSES: Written comments should be sent to: Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457. Western should receive written comments by the end of the consultation and comment period to be assured consideration. The public forums will be held at the Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr. Maher A. Nasir, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2768.

SUPPLEMENTARY INFORMATION:

Proposed Base Charge for Firm Power Services

In accordance with established rate design principles for the BCP firm power services, Western has established a proposed base charge, consisting of an energy dollar and capacity dollar, and has established a forecast energy rate and forecast capacity rate. The proposed base charge for BCP firm power services is based on an annual revenue requirement of $47,929,196. The proposed base charge consists of an energy dollar amount of $24,752,366 and a capacity dollar amount of $23,176,831. The proposed forecast energy rate is 4.6249 mills/kilowatthour (mills/kWh), and the proposed forecast capacity rate is $0.9900 per kilowattmonth ($/kWmo).

The existing BCP firm power services base charge is based on an annual revenue requirement of $48,842,126, consisting of an energy dollar amount of $25,208,831 and a capacity dollar amount of $23,633,296. The existing BCP forecast energy rate is 4.8646 mills/kWh and the forecast capacity rate is $1.0095/kWmo.

Authorities

Since the proposed change to the base charge constitutes a major rate adjustment as defined in 10 CFR 903.2, both a public information forum and a public comment forum will be held. After review of public comments, Western will recommend the proposed base charge or revised proposed base charge for approval on an interim basis by the Department of Energy (DOE) Deputy Secretary.

The proposed firm power services base charge for BCP is being established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*) and the Reclamation Act of 1902 (43 U.S.C. 371, *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 8 of the Act of August 31, 1964 (16 U.S.C. 837g), the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501, *et seq.*), the Colorado River Storage Project Act (43 U.S.C. 620, *et seq.*), the Boulder Canyon Project Act (43 U.S.C. 617, *et seq.*), the Boulder Canyon Project Adjustment Act (43 U.S.C. 618, *et seq.*), the Hoover Power Plant Act of 1984 (43 U.S.C. 619, *et seq.*), the General Regulations for Power Generation, Operation, Maintenance, and Replacement at the BCP, Arizona/Nevada (43 CFR Part 431) published in the **Federal Register** at 51 FR 23960 on July 1, 1986, and the General Regulations for the Charges for the Sale of Power From the BCP, Final Rule (10 CFR Part 904) published in the **Federal Register** at 50 FR 37837 on September 18, 1985, and the DOE financial reporting policies, procedures, and methodology (DOE Order No. RA 6120.2 dated September 20, 1979).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of DOE delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835).

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a proposed rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action relates to rates or services offered by Western, and therefore is not a rule within the purview of the Act.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); the Council On Environmental Quality Regulations (40 CFR Parts 1500–1508); and DOE NEPA Regulations (10 CFR Part 1021), Western conducts environmental evaluations of the proposed base charge and develops the appropriate level of documentation.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed base charge will be made available for inspection and copying at Western's Desert Southwest Regional Office at 615 South 43rd Avenue in Phoenix, Arizona.

Dated: March 5, 1999.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 99–7213 Filed 3–23–99; 8:45 am]

BILLING CODE 6450–01–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00565; FRL–6046–4]

Renewal of Pesticide Information Collection Activities; Data Call-In for Special Review Chemicals and Registration Review Program; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): "Data Call-In for Special Review Chemicals and Registration Review Program," (EPA ICR No. 0922.06, OMB No. 2070–0057). This ICR involves a collection activity that is currently approved and recently amended to reflect the Agency's need to collect additional information to meet the new requirements in the Food Quality Protection Act of 1996. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments must be received on or before May 24, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of this document.

FOR FURTHER INFORMATION CONTACT: Cameo Smoot, Office of Pesticide Programs, Mail Code (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 703–305–5454, fax: 703–305–5884, e-mail: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply To Me?

You may be potentially affected by this notice if you are a pesticide registrant of a pesticide product and are required to submit data to support continued registration of your product. By law, EPA must periodically review each pesticide registration (see section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)). The EPA may require registrants to generate and submit data to the Agency when data is needed to assess whether the existing pesticide registration poses an unreasonable risk to human health or the environment (see section 3(c)(2)(B) of FIFRA).

Potentially affected categories and entities may include, but are not limited to the following:

Category	NAICS Code	SIC Codes	Example of Potentially Affected Entity
Pesticide and other agricultural chemical manufacturing	325320	286—Industrial organic chemicals 287—Agricultural chemicals	Pesticide registrants

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. You or your business are affected by this action if you have registered a pesticide with the Agency pursuant to FIFRA. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

II. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

A. Electronic Availability

Electronic copies of this document and the ICR are available from the EPA Home Page at the **Federal Register** - Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/). You can easily follow the menu to find this **Federal Register** notice using the publication date or the **Federal Register** citation for this notice. Although a copy of the ICR is posted with the **Federal Register** notice, you can also access a copy of the ICR by going directly to http://www.epa.gov/icr/. You can then easily follow the menu to locate this ICR by the EPA ICR number, the OMB control number, or the title of the ICR.

B. Fax-on-Demand

Using a faxphone call 202–401–0527 and select item 6056 for a copy of the ICR.

C. In Person or By Phone

If you have any questions or need additional information about this notice or the ICR referenced, please contact the person identified in the "FOR FURTHER INFORMATION CONTACT" section.

In addition, the official record for this notice, including the public version, has been established for this notice under docket control number OPP–00565 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in the Office of Pesticide Programs (OPP) Public Docket, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OPP Public Docket telephone number is 703–305–5805.

III. How Can I Respond To This Notice?

A. How and To Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, OPP–00565, in your correspondence.

1. *By mail.* Submit written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: 703–305–5805.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment

and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–00565. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit To the Agency?

You may claim information that you submit in response to this notice as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must also be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

C. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

D. What Should I Consider When I Prepare My Comments for EPA?

We invite you to provide your views on the estimates provided, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the collection activity.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the "Subject" heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the notice, along with the appropriate EPA and OMB ICR numbers.

IV. What Information Collection Activity or ICR Does This Notice Apply To?

EPA is seeking comments on the following ICR:

Title: Data Call-In for Special Review Chemicals and Registration Review Program.

ICR numbers: EPA ICR No. 0922.06, OMB No. 2070–0057.

ICR status: This ICR is currently scheduled to expire on March 31, 1999, but EPA intends to seek a 90 day extension to ensure that there is adequate time to review comments. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: This ICR has been amended to include two information collection programs: the Special Review Program and the Registration Review Program. The Special Review program is part of the existing ICR while the Registration Review Program is being added to the ICR with this renewal. The Registration Review Program was created by the Food Quality Protection Act in 1996. Under the new Registration Review Program, EPA must periodically review all pesticide registrations (see section 3(g) of FIFRA). Therefore, continued registration of all pesticides, regardless of whether a hazard or potential hazard is identified, requires that the Agency obtain additional data, if necessary, and assess all the information to determine whether a registration should continue. Language in FIFRA suggests that EPA review registrations at least once every 15 years. The Agency will establish procedural regulations for scheduling registration review as mandated under the new provisions of FIFRA. EPA believes that there are certain similarities between the information collection in the Registration Review Program and the information collection in the Special Review Program. Since both collections derive their authority and procedures from FIFRA section 3(c)(2)(B), which allows EPA to collect information related to the maintenance of an existing pesticide registration, and both collections are based, in part, on concerns about potential hazard, EPA believes both information collection activities should be covered in the same ICR.

The EPA is responsible for the registration of pesticides as mandated by FIFRA. Currently, as part of the on-going administrative process under section 6 of FIFRA, registrants are required to submit additional information to EPA regarding unreasonable adverse effects on the environment from the use of the pesticide. EPA may also determine that additional information is needed from the registrant to maintain an existing registration. When the Agency identifies a hazard or a potential hazard from the use of a pesticide that was not known at the time of registration, this information collection is used in the Special Review Program to determine whether regulatory actions are needed. This information collection program is separate from the information collection program described in the ICR entitled "Data Generation for Reregistration." The information collection activity described in that ICR results from implementation of the FIFRA Amendments of 1988 (i.e., section 4 of FIFRA) and focuses on the new collection of information necessary to reregister pesticides which were registered before 1984. The reregistration program is expected to be completed by 2006.

Under both the Special Review Program and the Registration Review Program, EPA may require registrants to generate and submit data to the Agency when data is needed to assess whether the existing pesticide registration poses an unreasonable risk to human health or the environment. When the need for additional information/data occurs, the

Agency's Office of Pesticide Programs (OPP) will issue a data call-in (DCI) to obtain the necessary data from the registrant. Agency scientists and analysts integrate the new data received from the registrant with the existing data in EPA's files. All relevant information is reviewed to assess the potential risks and benefits associated with the use of the pesticide. If it is determined that regulatory actions are needed, the Agency will act accordingly.

The types of data that may be requested by this ICR will depend on whether certain information on the pesticide chemical is lacking in the current data base. However, the types of data that can be the subject of a data call-in are categorized into various divisions and listed in 40 CFR part 158. These categories are:

- Product Chemistry
- Residue Chemistry
- Environmental Fate
- Toxicology
- Reentry Protection
- Spray Drift
- Wildlife and Aquatic Organisms
- Plant Protection
- Nontarget Insect
- Product Performance
- Biochemical Pesticides
- Microbial Pesticides

In addition to these types of data, special studies could be required to support continued registration. These special studies would be based on the particular characteristics of a particular pesticide product, and would be made on a case-by-case basis.

OPP will issue a data call-in for a pesticide chemical only after it reviews the available data and determines that the information is not sufficient to satisfy the statutory requirements for continued registration. Even after OPP has completed its review and has determined that additional data must be called-in, registrants are given the opportunity to request a waiver if they believe that OPP can properly evaluate the risks of their pesticide chemicals without additional data. OPP will review each waiver request individually.

V. What are EPA's Burden and Cost Estimates for This ICR?

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to amend this list as appropriate, but use these terms; review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for the Special Review Program portion of this information collection is estimated to average 920 hours per response and the annual public burden for the Registration Review Program portion of this information collection is estimated to average 1,063 hours per response. The following is a summary of the total estimates taken from the ICR:

Respondents/affected entities: Pesticide registrants.

Estimated total number of potential respondents: 4 to 60.

Frequency of response: As needed only when specific data is required.

Estimated total/average number of responses for each respondent: 2 to 40.

Estimated total annual burden hours: 7,360 to 63,800.

Estimated total annual burden costs: $616,096 to $5.46 million.

VI. Are There Changes in the Estimates From the Last Approval?

Yes. This ICR is being amended to include the information collection activities attributable to the Registration Review Program. This program was authorized in the 1996 amendments to FIFRA and are being incorporated into this ICR because the information collection activities are similar and both collections derive their authority and procedures from FIFRA section 3(c)(2)(B). EPA is particularly interested in receiving comments on the changes related to this incorporation and the burden estimates for this new program.

VII. What is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.10. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

List of Subjects

Environmental protection, Information collection requests.

Dated: March 12, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–6784 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6314–6]

Clean Air Act Advisory Committee Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19,1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

OPEN MEETING NOTICE: Pursuant to 5 U.S.C. App. 2 section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Tuesday, April 27, 1999, from approximately 8:30 a.m. to 3:30 p.m. at the Portland Marriott Downtown, 1401 S.W. Naito Parkway, Portland, Oregon 97201. Seating will be available on a first come, first served basis. The CAAAC's four Subcommittees (The Energy, Clean Air and Climate Change Subcommittee; Linking Transportation, Land Use and Air Quality Concerns Subcommittee; the Permits/NSR/Toxics Integration Subcommittee; and the Economic Incentives and Regulatory Innovations Subcommittee) will hold concurrent meetings on April 26 from approximately 8:30 p.m. to 11:30 p.m. All subcommittee meetings will be held at the Portland Marriott Downtown Hotel, the same location as the full Committee.

INSPECTION OF COMMITTEE DOCUMENTS: The Committee agenda and any documents, prepared for the meeting will be publicly available at the meeting. Thereafter, these documents,

together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket item A–94–34 (CAAAC). The Docket office can be reached by telephoning 202–260–7548; FAX 202–260–4400.

FOR FURTHER INFORMATION CONTACT: Concerning this meeting of the full CAAAC, please contact Paul Rasmussen, Office of Air and Radiation, US EPA (202) 260–6877, FAX (202) 260–8509 or by mail at US EPA, Office of Air and Radiation (Mail code 6102), 401 M St. S.W. Washington, D.C. 20460. For information on the Subcommittee meetings, please contact the following individuals: (1) Energy, Clean Air and Climate Change—Anna Garcia, 202–564–9492; (2) Permits/NSR/Toxics Integration—Debbie Stackhouse, 919–541–5354; (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, 202–260–7433; and (4) Linking Transportation, Land Use and Air Quality Concerns—Gay MacGregor, 734–668–4438.

Dated: March 17, 1999.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–7178 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6314–5]

Environmental Laboratory Advisory Board, Meeting Dates and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice of open meetings and request for names.

SUMMARY: The Environmental Protection Agency (EPA) will convene two open meetings of the Environmental Laboratory Advisory Board (ELAB) on April 20, 1999, from 2:00 p.m. to 5:00 p.m. and on April 29, 1999, from 2:00 p.m. to 5:00 p.m. Both meetings will be conducted by teleconference. The public is invited to join Ms. Ramona Trovato in Room 911, West Tower, Waterside Mall, 401 M Street, SW, Washington, DC.

Topics for discussion will include at a minimum a continuing address of Open Forum issues identified at the January 14, 1999, meeting, an update on environmental sample shipment issues, and a review of the status of ELAB recommendations. The public is encouraged to attend. Time will be allotted for public comment.

Also, EPA is interested in assembling a roster of potential names for future ELAB membership. Individuals interested in serving on ELAB should contact Ms. Elizabeth Dutrow. Written comments on the meeting agenda and potential names for future ELAB membership should be directed to Ms. Elizabeth Dutrow; Designated Federal Officer; USEPA; 401 M Street, SW (8724R); Washington, DC 20460. If questions arise, please contact Ms. Dutrow by phone at (202) 564–9061, by facsimile at (202) 565–2441 or by email at dutrow.elizabeth@epa.gov.

Dated: March 15, 1999.

Nancy W. Wentworth,

Director, Quality Assurance Division.

[FR Doc. 99–7180 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6314–3]

Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Environmental Economics Advisory Committee (EEAC) of the Science Advisory Board (SAB), will meet on April 20, 1999, from 9:00 am to no later than 4:00 pm at The Latham Hotel, 3000 M Street, NW, Washington, DC; telephone (202) 726–5000. All times noted are Eastern Daylight Time. This meeting is open to the public, however, due to limited space, seating will be on a first-come basis. For further information concerning this meeting, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

The primary purpose of the meeting will be to complete the Committee's review of the economic analysis guidelines being developed by the Environmental Protection Agency.

Background Information on Economic Analysis Guidelines

The Environmental Economics Advisory Committee (EEAC or the Committee) has been asked to review the revised Guidelines for Preparing Economic Analyses, a document produced under the direction of the EPA's Regulatory Policy Council. The guidelines are designed to reflect Agency policy on the conduct of the economic analyses called for under applicable legislative and administrative requirements, including, but not limited to Executive Order 12866. These guidelines are intended to provide EPA analysts with a concise but thorough treatment of mainstream thinking on important technical issues so that they can conduct credible and consistent economic analyses. They refer to methods and practices that are commonly accepted in the environmental economics profession; however, they are not intended to preclude new or innovative forms of analysis. The guidelines are shaped by administrative and statutory requirements that contain direct references to the development of economic information during the development of regulations (e.g., evaluations of economic achievability).

This will be the final review meeting on the guidelines. The EEAC was first briefed on the draft guidelines at its August 19, 1998 meeting (see 63 FR 41820, August 5, 1998). Additional discussions occurred on the guidelines at the Committee's November 18, 1998 meeting (see 63 FR 57295, October 27, 1998). At those meetings, the Agency presented information on, and then discussed with EEAC members, each section of the draft guidelines.

Charge to the Committee

The Agency charge asks the EEAC the following questions:

(1) Do the published economic theory and empirical literature support the statements in the guidance document on the treatment of discounting benefits and costs in the following circumstances: (a) Discounting private and public costs for use in an economic impact analysis?; (b) Discounting social benefits and costs in an intragenerational context?; (c) Discounting social benefits and costs in an intergenerational context?; and (d) Discounting social benefit and cost information that is reported in nonmonetary terms?

(2) Do the published economic theory and empirical literature support the statements in the guidance document on quantifying and valuing the social benefits of reducing fatal human health risks?

(3) Do the published economic theory and empirical literature support the statements in the guidance document on the treatment of certainty equivalents in the assessment of social benefits and costs of environmental policies?

(4) Do the published economic theory and empirical literature support the statements in the guidance document on the merits and limitations of different valuation approaches to the measurement of social benefits from

reductions in human morbidity risks and improvements in ecological conditions attributable to environmental policies?

(5) Do the published economic theory and empirical literature support the statements in the guidance document on the relationships and distinctions between the measurement of economic impacts and net social benefits?

(6) Does the guidance document contain an objective and reasonable presentation on the published economic theory, empirical literature, and analytic tools associated with computable general equilibrium (CGE) models, and description of their relevance for economic analyses performed by the EPA?

(7) Does the guidance document contain an objective and reasonable presentation on the measurement of economic impacts, including approaches suitable to estimate impacts of environmental regulations on the private sector, public sector and households? This includes, for example, the measurement of changes in market prices, profits, facility closure and bankruptcy rates, employment, market structure, innovation and economic growth, regional economies, and foreign trade.

(8) Does the guidance document contain a reasonable presentation and set of recommendations on the selection of economic variables and data sources used to measure the equity dimensions identified as potentially relevant to environmental policy analysis?

The Committee will provide a formal response to EPA as a result of the review of these guidelines.

For Further Information—Single copies of the guidelines information provided to the Committee can be obtained by contacting Mr. Brett Snyder, Director, Economy and Environment Division (2172), Office of Policy, US Environmental Protection Agency, 401 M Street SW., Washington DC 20460, telephone (202) 260–5610, fax (202) 260–2685; or via e-mail at: <snyder.brett@epa.gov≤. Anyone wishing to make an oral presentation at the meeting must contact Mr. Thomas Miller, Designated Federal Officer for the Environmental Economics Advisory Committee, *in writing* no later than 4:00 pm, April 12, 1999, at U.S. EPA Science Advisory Board (1400), 401 M Street SW., Washington, DC 20460, fax (202) 260–7118, or via e-mail at: <miller.tom@epa.gov>. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Miller no later than the time of the presentation for distribution to the Committee and the interested public. To discuss technical aspects of the meeting, please contact Mr. Miller by telephone at (202) 260–5886.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access, should contact Mr. Miller at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 15, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–7179 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30470; FRL–6063–8]

Novartis Crop Protection; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 23, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30470] and the file symbols to: Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Dani Daniel, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 209, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–305–5409, e-mail: daniel.dani@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 100–OGA. Applicant: Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. Product Name: Thiamethoxam Technical. Insecticide. Active ingredient: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 98%. Proposed classification/

Use: None. For manufacturing purposes only.

2. File Symbol: 100–OGI. Applicant: Novartis Crop Protection. Product Name: Actara 25 WG. Insecticide. Active ingredient: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 25.0%. Proposed classification/Use: None. For control of certain pests infesting various crops.

3. File Symbol: 100–OGL. Applicant: Novartis Crop Protection. Product Name: Helix Technical. Insecticide/Fungicide. Active ingredients: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 20.70%, difenoconazole at 1.25%, (*R*)-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester at 0.38%, and fludioxonil at 0.13%. Proposed classification/Use: None. For use as a seed treatment product to control certain insects and diseases of canola.

4. File Symbol: 100–OGO. Applicant: Novartis Crop Protection. Product Name: Platinum 2SC. Insecticide. Active ingredient: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 21.6%. Proposed classification/Use: None. For control of certain insect pests infesting various crops.

5. File Symbol: 100–OUE. Applicant: Novartis Crop Protection. Product Name: Adage 70WS. Insecticide. Active ingredient: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 70%. Proposed classification/Use: None. For use as a seed treatment product for control of certain insects on barley, cotton, sorghum, and wheat.

6. File Symbol: 100–OUG. Applicant: Novartis Crop Protection. Product Name: Veridian. Insecticide. Active ingredient: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 25.0%. Proposed classification/Use: None. For foliar and systemic control of pests in turfgrass, sod farms, interior plantscapes, and greenhouse ornamentals.

7. File Symbol: 100–OUN. Applicant: Novartis Crop Protection. Product Name: Thiamethoxam Spot On for Dogs. Insecticide. Active ingredient: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 20%. Proposed classification/Use: None. For the prevention and control of flea infestations.

8. File Symbol: 100–OUR. Applicant: Novartis Crop Protection. Product Name: Adage 5FS. Insecticide. Active ingredient: Thiamethoxam, 4*H*-1,3,5-oxadiazin-4-imine, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro- at 47.6%. Proposed classification/Use: None. For use as a seed treatment product for control of certain insects on barley, cotton, sorghum, and wheat.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30470] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30470]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: March 9, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–6656 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66264; FRL 6063–7]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by September 20, 1999, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 43 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1 — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000070–00259	Rigo Streptomycin Sulfate	Streptomycin sulfate
000239–02575	Isotox Insect Killer Formula III	1,1-Bis(chlorophenyl)-2,2,2-trichloroethanol *O,S*-Dimethyl acetylphosphoramidothioate
000279 AZ–93–0017	Talstar Granular	(2-Methyl(1,1'-biphenyl)-3-yl)methyl 3-(2-chloro-3,3,3-trifluoro-1-
000279 AZ–93–0018	Talstar 10WP Insecticide/miticide	(2-Methyl(1,1'-biphenyl)-3-yl)methyl 3-(2-chloro-3,3,3-trifluoro-1-
000432–00746	Gold Crest Vengeance Rodenticide	*N*-Methyl-2,4-dinitro-*N*-(2,4,6-tribromophenyl)-6-(trifluoromethyl)benzenamine
000432–00748	Gold Crest Vengeance Rodenticide Small Bait Packs	*N*-Methyl-2,4-dinitro-*N*-(2,4,6-tribromophenyl)-6-(trifluoromethyl)benzenamine
000572–00237	Rockland Super Dacthal 686	Dimethyl tetrachloroterephthalate
000655–00791	Prentox Ban Bug Bait	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
000707 AZ–93–0019	Goal 1.6E Herbicide	2-Chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene
000707 NC–83–0023	Goal 1.6E Herbicide	2-Chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene
000707 NC–88–0004	Goal 1.6E Herbicide	2-Chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene
000707 NC–91–0003	Goal 1.6E Herbicide	2-Chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene
000802–00571	Lily/Miller Casoron Granules 1.5%	2,6-Dichlorobenzonitrile
000802–00576	Lilly/Miller Ultragreen Crabgrass Control & Lawn Food	Dimethyl tetrachloroterephthalate
001270–00107	ZEP Insect Repellent	*N,N*-Diethyl-meta-toluamide and other isomers
002724–00279	Zoecon RF–156 Collar for Dogs	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
003125–00330	Oftanol 5% Granular Insecticide	1-Methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinothioyl)oxy)benzoate
003125–00331	Oftanol 1.5% Granular	1-Methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinothioyl)oxy)benzoate
003125–00350	Lawn Food and Insecticide	1-Methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinothioyl)oxy)benzoate
003125–00435	Oftanol 5% Granular Turf and Ornamental Insecticide	1-Methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinothioyl)oxy)benzoate
005481–00189	Alco Slug'm	4-(Methylthio)-3,5-xylyl methylcarbamate
005481–00195	Metaldehyde Methiocarb Granules 2–1	2,4,6,8-Tetramethyl-1,3,5,7-tetroxocane
		4-(Methylthio)-3,5-xylyl methylcarbamate
005481–00332	Metaldehyde Methiocarb Granules 2–1 for Home Owner Use	2,4,6,8-Tetramethyl-1,3,5,7-tetroxocane
		4-(Methylthio)-3,5-xylyl methylcarbamate
005481–00333	Slug' M for Homeowners Use	4-(Methylthio)-3,5-xylyl methylcarbamate
005815–00035	Triple X Garden Weed Preventer	Dimethyl tetrachloroterephthalate
007401–00342	Ferti-Lome Bug Bait	4-(Methylthio)-3,5-xylyl methylcarbamate
009198–00024	Tee Time Fertilizer 20–4–10 with Dacthal	Dimethyl tetrachloroterephthalate
009779–00350	Iprodione R	3-(3,5-Dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide
010163–00096	Gowan Dicofol 1.6 EC	1,1-Bis(chlorophenyl)-2,2,2-trichloroethanol
010163 AZ–94–0001	Prefar 4–E Herbicide	*S*-(*O,O*-Diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl)benzenesulfonamide
010163 WA–95–0011	Imidan 70–WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 WA–95–0012	Imidan 70–WSB	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 WA–95–0013	Imidan 70–WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 WA–95–0014	Imidan 70–WSB	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 WA–95–0018	Gowan Cryolite Bait	Cryolite
010182 OR–95–0012	Warrior Insecticide	(R+S)-alpha-Cyano-3-phenoxybenzyl (1S+1R)-*cis*-3-(*Z*-2-chloro-3,3,3-
032802–00017	Dacthal 5–G Plus	Dimethyl tetrachloroterephthalate
032802–00027	Dacthal 5–G Weed Preventer	Dimethyl tetrachloroterephthalate
059639 AZ–92–0009	Volck Supreme Spray	Aliphatic petroleum hydrocarbons
059639 AZ–98–0003	Dibrom 8 Emulsive	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate

TABLE 1 — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
060224 FL–88–0001	Malathion ULY	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
062719 WA–94–0003	Lorsban 4E–HF	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
067801–00002	Paraquat Concentrate	1,1'-Dimethyl-4,4'-bipyridinium dichloride

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2 — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000070	Sureco Inc., An Indirect Subsidiary of Verdant Brands, 9555 James Ave., South, Suite 200, Bloomington, MN 55431.
000239	The Solaris Group of Monsanto Co., Box 5006, San Ramon, CA 94583.
000279	FMC Corp., Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000432	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000572	Rockland Corp., 686 Passaic Ave., Box 809, West Caldwell, NJ 07007.
000655	Prentiss Inc., C.B. 2000, Floral Park, NY 11001.
000707	Rohm & Haas Co., Attn: Robert H. Larkin, 100 Independence Mall W., Philadelphia, PA 19106.
000802	Schroeder Law offices, Agent For: The Garden Grow Co., 3355 NE Davis, Portland, OR 97232.
001270	ZEP Mfg. Co., Box 2015, Atlanta, GA 30301.
002724	Wellmark International, 1000 Tower Lane, Suite 245, Bensenville, IL 60106.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
005481	AMVAC Chemical Corp., Attn: W. F. Millar, 2110 Davie Ave., Commerce, CA 90040.
005815	The Andersons, Dba/ Wegro, 1200 Dussel Drive, Box 119, Maumee, OH 43537.
007401	Voluntary Purchasing Group Inc., Box 460, Bonham, TX 75418.
009198	The Andersons Lawn Fertilizer Division, Dba/ Free Flow Fertilizer, Box 119, Maumee, OH 43537.
009779	Terra International, Inc., 600 Fourth St., Sioux City, IA 51102.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010182	Zeneca Ag Products, Box 15458, Wilmington, DE 19850.
032802	Howard Johnson's Enterprises Inc., 700 W. Virginia St., Ste 222, Milwaukee, WI 53204.
059639	Valent U.S.A. Corp., 1333 N. California Blvd, Ste 600, Walnut Creek, CA 94596.
060224	Director, Fl Dept of Agric & Cons Svcs, Div of Plant Industry, 1911 SW 34th St., Gainesville, FL 32608.
062719	Dow Agrosciences LLC, 9330 Zionsville Rd., 308/3E, Indianapolis, IN 46268.
067801	Crystal Chemical Inter-America, 6262 Bird Rd., Suite 2E, Miami, FL 33155.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before September 20, 1999. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; (FRL 3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the

affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: February 19, 1999

Faye M. Howell,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–7081 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30452A; FRL–6067–6]

Zeneca Ag Products; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to conditionally register the pesticide products Tralkoxydim Technical Wet Paste, Achieve 40DG Herbicide, and Achieve 80DG Herbicide containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: James Tompkins, Product Manager (PM-25), Registration Division (7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 239, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, 703–305–5697; e-mail: tompkins.jim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register** Environmental Sub-Set entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published the **Federal Register** of April 29, 1998 (63 FR 23438)(FRL–5783–2), which announced that Zeneca Ag Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850–5458, had submitted applications to conditionally register the herbicide products Tralkoxydim Technical Wet Paste, Achieve 40DG Herbicide, and Achieve 80DG Herbicide (EPA File Symbols 10182–UEL, 10182–UEA, and 10182–UET) containing the active ingredient tralkoxydim 2-cyclohexen-1-one, 2-[1-ethoxyimino) propyl]-3-hydroxy-5-(2,4,6-trimethylphenyl)-(9Cl) at 81%, 40%, and 80% respectively, an active ingredient not included in any previously registered pesticide products.

The applications were approved for general use on December 4, 1998, for one technical and two end-use products listed below:

1. Tralkoxydim Technical, Wet Paste for formulating use only (EPA Registration Number 10182–425).

2. Achieve 40DG Herbicide for selective control of wild oats, green and yellow foxtail, annual ryegrass, and Persian Darnel on wheat and barley (EPA Registration Number 10182–426).

3. Achieve 80DG Herbicide for selective control of wild oats, green and yellow foxtail, annual ryegrass, and Persian Darnel on wheat and barley (EPA Registration Number 10182–427).

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of tralkoxydim, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of tralkoxydim during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C), the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

All required data studies must be submitted to the Agency by February 28, 2003. If these conditions are not complied with the registrations will be subject to cancellation in accordance with FIFRA section 6(e).

More detailed information on these conditional registrations is contained in an EPA Pesticide Fact Sheet on tralkoxydim.

A paper copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: March 9, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–6655 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50849; FRL–6046–2]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit to the following applicant. The permit is in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Edward Allen, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Rm. 902W16, CM #2, Arlington, VA, 703–308–8699, e-mail: allen.edward@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permit:

38581–EUP–1. Issuance. University of Rhode Island, Plant Sciences Department, Kingston, RI 02881. This experimental use permit allows the use of 1.5 pounds of the biological acaricide metarhizium anisopliae, strain ECS 1 on deer to evaluate the control of ticks. A total of 3,500 acres is involved. The program is authorized only in the State of Rhode Island. The experimental use permit is effective from November 2, 1998 to November 2, 1999.

Persons wishing to review this experimental use permit are referred to the designated contact person. Inquires concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: March 11, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–7174 Filed 3–23–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 17, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 23, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0404.

Title: Application for an FM Translator or FM Booster Station.

Form Number: FCC Form 350.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 560.

Estimated Time Per Response: 1.0 hours per response.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 560 hours.

Total Annual Cost: N/A.

Needs and Uses: On October 22, 1998, the Commission adopted a Report and Order in MM Docket Nos. 98–43 and 94–149, which among other things, substantially revised the FCC Form 350 to facilitate electronic filing by replacing narrative exhibits with the use of certifications and an engineering technical box. The Commission also deleted and narrowed overly burdensome questions. The FCC 350 will be supplemented with detailed instructions to explain processing standards and rule interpretations to help ensure that applicants certify accurately. These changes will reduce applicant filing burdens in the preparation and submission of exhibits in support of applications. In addition, these changes will streamline the Commission's processing of FCC 350 applications. The Commission has also adopted a formal program of pre- and post-application grant random audits to preserve the integrity of our streamlined application process.

Licensees and permittees of FM Translator or FM Booster stations are required to file FCC Form 350 to obtain a new or modified station license. The data will be used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit. Data is then extracted from the FCC 350 for inclusion in the subsequent license to operate the station.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7170 Filed 3–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–98; FCC 99–38]

Inter-Carrier Compensation for ISP-bound Traffic.

AGENCY: Federal Communications Commission.

ACTION: Clarification.

SUMMARY: On February 26, 1999, the Commission released a document in CC Docket No. 96–98 concluding that dial-up traffic bound for Internet service providers is largely interstate and thus subject to federal jurisdiction. The document also makes clear that parties are bound by their existing interconnection agreements, as construed by state commissions. Parties may have agreed that ISP-bound traffic should be subject to reciprocal compensation, or a state commission, in the exercise of its statutory authority to arbitrate interconnection disputes, may have imposed reciprocal compensation obligations for this traffic. In either case, parties are bound by their contracts.

FOR FURTHER INFORMATION CONTACT: Tamara Preiss, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1520.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Declaratory Ruling in CC Docket No. 96–98, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, FCC 99–38, adopted February 25, 1999, and released February 26, 1999. The file in its entirety is available for inspection and copying during the weekday hours of 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 1231 20th St., N.W., Washington, D.C. 20036, phone (202) 857–3800.

Analysis of Proceeding

I. Introduction

1. The Commission and the Common Carrier Bureau (Bureau) have received a number of requests to clarify whether a local exchange carrier (LEC) is entitled to receive reciprocal compensation for traffic that it delivers to an information service provider, particularly an Internet service provider (ISP). Generally, competitive LECs (CLECs) contend that this is local traffic subject to the reciprocal compensation provisions of Section 251(b)(5) of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996. Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56, *codified at* 47 U.S.C. 151 *et seq.* (1996 Act). Incumbent LECs contend that this is interstate traffic beyond the scope of Section 251(b)(5). After reviewing the record developed in response to these requests, the Commission concludes that ISP-bound traffic is jurisdictionally mixed and appears to be largely interstate. This conclusion, however, does not in itself determine whether reciprocal compensation is due in any particular instance. As explained, parties may have agreed to reciprocal compensation for ISP-bound traffic, or a state commission, in the exercise of its authority to arbitrate interconnection disputes under Section 252 of the Act, may have imposed reciprocal compensation obligations for this traffic. In the absence, to date, of a federal rule regarding the appropriate inter-carrier compensation for this traffic, the Commission therefore concludes that parties should be bound by their existing interconnection agreements, as interpreted by state commissions.

II. Background

2. Identifying the jurisdictional nature and regulatory treatment of ISP-bound communications requires us to determine how Internet traffic fits within the Commission's existing regulatory framework.

A. The Internet and ISPs

3. The Internet is an international network of interconnected computers enabling millions of people to communicate with one another and to access vast amounts of information from around the world. The Internet functions by splitting up information into "small chunks or 'packets' that are individually routed . . . to their destination." Federal-State Joint Board on Universal Service, CC Docket No. 96–45, Report to Congress, 13 FCC Rcd 11501 (1998) (*Universal Service Report to Congress*). With packet-switching, "even two packets from the same message may travel over different physical paths through the network . . . which enables users to invoke multiple Internet services simultaneously, and to access information with no knowledge of the physical location of the service where the information resides." *Id.*

4. An ISP is an entity that provides its customers the ability to obtain on-line information through the Internet. ISPs purchase analog and digital lines from local exchange carriers to connect to their dial-in subscribers. Under one typical arrangement, an ISP customer dials a seven-digit number to reach the ISP server in the same local calling area. The ISP, in turn, combines "computer processing, information storage, protocol conversion, and routing with transmission to enable users to access Internet content and services." *Id.* Under this arrangement, the end user generally pays the LEC a flat monthly fee for use of the local exchange network and generally pays the ISP a flat, monthly fee for Internet access. The ISP typically purchases business lines from a LEC, for which it pays a flat monthly fee that allows unlimited incoming calls.

5. Although the Commission has recognized that enhanced service providers (ESPs), including ISPs, use interstate access services, since 1983 it has exempted ESPs from the payment of certain interstate access charges. Pursuant to this exemption, ESPs are treated as end users for purposes of assessing access charges, and the Commission permits ESPs to purchase their links to the public switched telephone network (PSTN) through intrastate business tariffs rather than through interstate access tariffs. Thus, ESPs generally pay local business rates and interstate subscriber line charges for their switched access connections to local exchange company central offices. In addition, incumbent LEC expenses and revenue associated with ISP-bound traffic traditionally have been characterized as intrastate for separations purposes. ESPs also pay the special access surcharge when purchasing special access lines under the same conditions as those applicable to end users. In the *Access Charge Reform Order*, the Commission decided to maintain the existing pricing structure pursuant to which ESPs are treated as end users for the purpose of applying access charges. Access Charge Reform, CC Docket No. 96–262, First Report and Order, 62 FR 31868 (June 11, 1997) (*Access Charge Reform Order*). Thus, the Commission continues to discharge its interstate regulatory obligations by treating ISP-bound traffic as though it were local.

6. The Internet provides citizens of the United States with the ability to communicate across state and national borders in ways undreamed of only a few years ago. The Internet also is developing into a powerful instrumentality of interstate commerce. In 1997, the Commission decided that retaining the ESP exemption would avoid disrupting the still-evolving information services industry and advance the goals of the 1996 Act to "preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services." *Access Charge Reform Order.*

This Congressional mandate underscores the obligation and commitment of this Commission to foster and preserve the dynamic market for Internet-related services. The Commission emphasizes the strong federal interest in ensuring that regulation does nothing to impede the growth of the Internet—which has flourished to date under the Commission's "hands off" regulatory approach—or the development of competition. The Commission is mindful of the need to address the jurisdictional question at issue here, and the effect the jurisdictional determination may have on inter-carrier compensation for ISP-bound traffic, in a manner that promotes efficient entry by providers of both local telephone and Internet access services, and that, by the same token, does not encourage inefficient entry.

B. Incumbent LEC and CLEC Delivery of ISP-Bound Traffic

7. Section 251(b)(5) of the Act requires all LECs "to establish reciprocal compensation arrangements for the transport and termination of telecommunications." 47 U.S.C. 251(b)(5). In the *Local Competition Order*, this Commission construed this provision to apply only to the transport and termination of "local telecommunications traffic." *See* 47 CFR 51.701; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket Nos. 96–98, 95–185, 61 FR 45476 (August 29, 1996) (*Local Competition Order*). In order to determine what compensation is due when two carriers collaborate to deliver a call to an ISP, the Commission must determine as a threshold matter whether this is interstate or intrastate traffic. In general, an originating LEC end user's call to an ISP served by another LEC is carried (1) by the originating LEC from the end user to the point of interconnection (POI) with the LEC serving the ISP; (2) by the LEC serving the ISP from the LEC-LEC POI to the ISP's local server; and (3) from the ISP's local server to a computer that the originating LEC end user desires to reach via the Internet. If these calls terminate at the ISP's local server (where another (packet-switched) "call" begins), as many CLECs contend, then they are intrastate calls, and LECs serving ISPs are entitled to reciprocal compensation for the "transport and termination" of this traffic. If, however, these calls do not terminate locally, incumbent LECs argue, then LECs serving ISPs are not entitled to reciprocal compensation under section 251(b)(5).

8. CLECs argue that, because Section 251(b)(5) of the Act refers to the duty to establish reciprocal compensation arrangements for the "transport and termination of *telecommunications,*" a transmission "terminates" for reciprocal compensation purposes when it ceases to be "telecommunications." "Telecommunications" is defined in the Act as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. 153(43). CLECs contend that, under this definition, Internet service is not "telecommunications" and that the "telecommunications" component of Internet traffic terminates at the ISP's local server. In addition, CLECs and ISPs argue that, given that ESPs are exempt from paying certain interstate access charges and that, as a result, the PSTN links serving ESPs are treated as intrastate under the separations regime, the services that CLECs provide for ISPs must be deemed local. Incumbent LECs contend, however, that the "telecommunications" terminate not at the ISP's local server, but at the Internet site accessed by the end user, in which case these are interstate calls for which, they argue, no reciprocal compensation is due.

III. Discussion

9. The Commission has no rule governing inter-carrier compensation for ISP-bound traffic. Generally speaking, when a call is completed by two (or more) interconnecting carriers, the carriers are compensated for carrying that traffic through either reciprocal compensation or access charges. When two carriers jointly provide interstate access (*e.g.*, by delivering a call to an interexchange carrier (IXC)), the carriers will share access revenues received from the interstate service provider. Conversely, when two carriers collaborate to complete a local call, the originating carrier is compensated by its end user and the terminating carrier is entitled to reciprocal compensation pursuant to Section 251(b)(5) of the Act. Until now, however, it has been unclear whether or how the access charge regime or reciprocal compensation applies when two interconnecting carriers deliver traffic to an ISP. As explained, under the ESP exemption, LECs may not impose access charges on ISPs; therefore, there are no access revenues for interconnecting carriers to share. Moreover, the Commission has directed states to treat ISP traffic as if it were local, by permitting ISPs to purchase their PSTN links through local business tariffs. As a result, and because the Commission had not addressed inter-carrier compensation under these circumstances, parties negotiating interconnection agreements and the state commissions charged with interpreting them were left to determine as a matter of first impression how interconnecting carriers should be compensated for delivering traffic to ISPs, leading to the present dispute.

A. Jurisdictional Nature of Incumbent LEC and CLEC Delivery of ISP-Bound Traffic

10. As many incumbent LECs properly note, the Commission traditionally has determined the jurisdictional nature of communications by the end points of the communication and consistently has rejected attempts to divide communications at any intermediate points of switching or exchanges between carriers. In *BellSouth MemoryCall,* for example, the Commission considered the jurisdictional nature of traffic that consisted of an incoming interstate transmission (call) to the switch serving a voice mail subscriber and an intrastate transmission of that message from that switch to the voice mail apparatus. Petition for Emergency Relief and Declaratory Ruling Filed by BellSouth Corporation, 7 FCC Rcd 1619 (1992) (*BellSouth MemoryCall*). The Commission determined that the entire transmission constituted one interstate call, because "there is a continuous path of communications across state lines between the caller and the voice mail service." *Id.* The Commission's jurisdictional determination did not turn on the common carrier status of either the provider or the services at issue; *BellSouth MemoryCall* is not, therefore, distinguishable on the grounds that ISPs are not common carriers.

11. Similarly, in *Teleconnect,* the Bureau examined whether a call using Teleconnect's "All-Call America" (ACA) service, a nationwide 800 travel service that uses AT&T's Megacom 800 service, is a single, end-to-end call. *Teleconnect Co.* v. *Bell Telephone Co. of Penn.*, E–88–83, 10 FCC Rcd 1626 (1995) (*Teleconnect*). Generally, an ACA call is initiated by an end user from a common line open end; the call is routed through a LEC to an AT&T Megacom line, and is then transferred from AT&T to Teleconnect by another LEC. At that point, Teleconnect routes the call through the LEC to the end user being called. The Bureau rejected the argument that the (ACA) 800 call used

to connect to an interexchange carrier's (IXC) switch was a separate and distinct call from the call that was placed from that switch. The Commission affirmed, noting that "both court and Commission decisions have considered the end-to-end nature of the communications more significant than the facilities used to complete such communications. According to these precedents, the Commission regulates an interstate wire communications under the Communications Act from its inception to its completion." *Id.* The Commission concluded that "an interstate communication does not end at an intermediate switch. . . . The interstate communication itself extends from the inception of a call to its completion, regardless of any intermediate facilities." *Id.* In addition, in *Southwestern Bell Telephone Company*, the Commission rejected the argument that "a credit card call should be treated for jurisdictional purposes as two calls: one from the card user to the interexchange carrier's switch, and another from the switch to the called party" and concluded that "switching at the credit card switch is an intermediate step in a single end-to-end communication." In the Matter of Southwestern Bell Tel. Co., CC Docket No. 88–180, Order Designating Issues for Investigation, 3 FCC Rcd 2339 (1988) (*Southwestern Bell Tel. Co.*).

12. Consistent with these precedents, the Commission concludes, as explained, that the communications at issue here do not terminate at the ISP's local server, as CLECs and ISPs contend, but continue to the ultimate destination or destinations, specifically at a Internet website that is often located in another state. The fact that the facilities and apparatus used to deliver traffic to the ISP's local servers may be located within a single state does not affect the Commission's jurisdiction. As the Commission stated in *BellSouth MemoryCall*, "this Commission has jurisdiction over, and regulates charges for, the local network when it is used in conjunction with the origination and termination of interstate calls." *BellSouth MemoryCall*. Indeed, in the vast majority of cases, the facilities that incumbent LECs use to provide interstate access are located entirely within one state. Thus, the Commission rejects MCI WorldCom's assertion that the LEC facilities used to deliver traffic to ISPs must cross state boundaries for such traffic to be classified as interstate.

13. The Commission disagrees with those commenters that argue that, for jurisdictional purposes, ISP-bound traffic must be separated into two components: an intrastate telecommunications service, provided in this instance by one or more LECs, and an interstate information service, provided by the ISP. As discussed, the Commission analyzes the totality of the communication when determining the jurisdictional nature of a communication. The Commission previously has distinguished between the "telecommunications services component" and the "information services component" of end-to-end Internet access for purposes of determining which entities are required to contribute to universal service. Federal-State Joint Board on Universal Service, Report and Order, 62 FR 32862 (June 17, 1997) (*Universal Service Order*). Although the Commission concluded that ISPs do not appear to offer "telecommunications service" and thus are not "telecommunications carriers" that must contribute to the Universal Service Fund, it has never found that "telecommunications" end where "enhanced" service begins. To the contrary, in the context of open network architecture (ONA) elements, for example, the Commission stated that "an otherwise interstate basic service . . . does not lose its character as such simply because it is being used as a component in the provision of a[n enhanced] service that is not subject to Title II." Filing and Review of Open Network Architecture Plans, 54 FR 3453 (January 24, 1989). The 1996 Act is consistent with this approach. For example, as amended by the 1996 Act, Section 3(20) of the Communications Act defines "information services" as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information *via telecommunications*." 47 U.S.C. 153(20) (emphasis added). This definition recognizes the inseparability, for purposes of jurisdictional analysis, of the information service and the underlying telecommunications. Although it concluded in the *Universal Service Report to Congress* that ISPs do not provide "telecommunications" as defined in the 1996 Act, the Commission reiterated the traditional analysis that ESPs enhance the underlying telecommunications service. *Universal Service Report to Congress*. Thus, the Commission analyzes ISP traffic for jurisdictional purposes as a continuous transmission from the end user to a distant Internet site.

14. Some CLECs note that the language of section 252(d)(2) provides for the recovery of the costs of transporting and terminating a "call." Although the 1996 Act does not define the term "call," these CLECs argue that it is used in the 1996 Act in a manner that implies a circuit-switched connection between two telephone numbers. For example, Adelphia contends that a "call" takes place when two stations on the PSTN are connected to each other. A call "terminates," according to Adelphia, when one station on the PSTN dials another station, and the second station answers. Under this view, the "call" associated with Internet traffic ends at the ISP's local premises.

15. The Commission finds that this argument is inconsistent with Commission precedent holding that communications should be analyzed on an end-to-end basis, rather than by breaking the transmission into component parts. The examples cited by CLECs to support the argument that calls end at the called number are not dispositive. The statutory sections upon which they rely were written to apply to specific situations, all of which, as far as the Commission can tell, involve traditional telephony connections between two called numbers, as opposed to the novel circumstance of Internet traffic.

16. Nor is the Commission persuaded by CLEC arguments that, because the Commission has treated ISPs as end users for purposes of the ESP exemption, an Internet call must terminate at the ISP's point of presence. The Commission traditionally has characterized the link from an end user to an ESP as an interstate access service. In the *MTS/WATS Market Structure Order*, for instance, the Commission concluded that ESPs are "among a variety of users of access service" in that they "obtain local exchange services or facilities which are used, in part or in whole, for the purpose of completing interstate calls which transit its location and, commonly, another location in the exchange area." MTS and WATS Market Structure, CC Docket No. 78–72, Memorandum Opinion and Order, 48 FR 10319 (March 11, 1983) (*MTS/WATS Market Structure Order*). The fact that ESPs are exempt from access charges and purchase their PSTN links through local tariffs does not transform the nature of traffic routed to ESPs. That the Commission *exempted* ESPs from access charges indicates its understanding that ESPs in fact use interstate access service; otherwise, the exemption would not be necessary. The Commission emphasizes that its decision to treat ISPs as end users for access charge purposes and, hence, to treat ISP-bound traffic as local, does not affect the Commission's ability to exercise jurisdiction over such traffic.

17. CLECs also argue that the traffic they deliver to ISPs must be deemed either "telephone exchange service" or "exchange access." They contend that ISP traffic cannot be "exchange access," because neither LECs nor CLECs assess toll charges for the service. CLEC delivery of ISP traffic is, therefore, according to CLECs, "telephone exchange service," a form of local telecommunications for which reciprocal compensation is due. As discussed, however, the Commission consistently has characterized ESPs as "users of access service" but has treated them as end users for pricing purposes. Thus, the Commission is unpersuaded by this argument.

18. Having concluded that the jurisdictional nature of ISP-bound traffic is determined by the nature of the end-to-end transmission between an end user and the Internet, the Commission must determine whether that transmission constitutes interstate telecommunications. Section 2(a) of the Act grants the Commission jurisdiction over "all interstate and foreign communication by wire." 47 U.S.C. 152(a). Traffic is deemed interstate "when the communication or transmission originates in any state, territory, possession of the United States, or the District of Columbia and terminates in another state, territory, possession, or the District of Columbia." *Universal Service Report to Congress*. In a conventional circuit-switched network, a call that originates and terminates in a single state is jurisdictionally intrastate, and a call that originates in one state and terminates in a different state (or country) is jurisdictionally interstate. The jurisdictional analysis is less straightforward for the packet-switched network environment of the Internet. An Internet communication does not necessarily have a point of "termination" in the traditional sense. An Internet user typically communicates with more than one destination point during a single Internet call, or "session," and may do so either sequentially or simultaneously. In a single Internet communication, an Internet user may, for example, access websites that reside on servers in various states or foreign countries, communicate directly with another Internet user, or chat on-line with a group of Internet users located in the same local exchange or in another country. Further complicating the matter of identifying the geographical destinations of Internet traffic is that the contents of popular websites increasingly are being stored in multiple servers throughout the Internet, based on "caching" or website "mirroring" techniques. After reviewing the record, the Commission concludes that, although some Internet traffic is intrastate, a substantial portion of Internet traffic involves accessing interstate or foreign websites.

19. Although ISP-bound traffic is jurisdictionally mixed, incumbent LECs argue that it is not technically possible to separate the intrastate and interstate ISP-bound traffic. In the current absence of a federal rule governing inter-carrier compensation, however, the Commission does not find it necessary to reach the question of whether such traffic is separable into intrastate and interstate traffic.

20. The Commission's determination that at least a substantial portion of dial-up ISP-bound traffic is interstate does not, however, alter the current ESP exemption. ESPs, including ISPs, continue to be entitled to purchase their PSTN links through intrastate (local) tariffs rather than through interstate access tariffs. Nor, as the Commission discusses, is it dispositive of interconnection disputes currently before state commissions.

B. Inter-Carrier Compensation for Delivery of ISP-Bound Traffic

21. The Commission finds no reason to interfere with state commission findings as to whether reciprocal compensation provisions of interconnection agreements apply to ISP-bound traffic, pending adoption of a rule establishing an appropriate interstate compensation mechanism. The Commission seeks comment on such a rule In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96–98, 99–68, FCC 99–38, Declaratory Ruling in CC Docket No. 96–98 and Notice of Proposed Rulemaking in CC Docket No. 99–68 (rel. February 26, 1999).

22. Currently, the Commission has no rule governing inter-carrier compensation for ISP-bound traffic. In the absence of such a rule, parties may voluntarily include this traffic within the scope of their interconnection agreements under Sections 251 and 252 of the Act, even if these statutory provisions do not apply as a matter of law. Where parties have agreed to include this traffic within their section 251 and 252 interconnection agreements, they are bound by those agreements, as interpreted and enforced by the state commissions.

23. Although the Commission determines that ISP-bound traffic is largely interstate, parties nonetheless may have agreed to treat the traffic as subject to reciprocal compensation. The Commission's treatment of ESP traffic dates from 1983 when the Commission first adopted a different access regime for ESPs. Since then, the Commission has maintained the ESP exemption, pursuant to which it treats ESPs as end users under the access charge regime and permits them to purchase their links to the PSTN through intrastate local business tariffs rather than through interstate access tariffs. As such, the Commission discharged its interstate regulatory obligations through the application of local business tariffs. Thus, although recognizing that it was interstate access, the Commission has treated ISP-bound traffic as though it were local. In addition, incumbent LECs have characterized expenses and revenues associated with ISP-bound traffic as intrastate for separations purposes.

24. Against this backdrop, and in the absence of any contrary Commission rule, parties entering into interconnection agreements may reasonably have agreed, for the purposes of determining whether reciprocal compensation should apply to ISP-bound traffic, that such traffic should be treated in the same manner as local traffic. When construing the parties' agreements to determine whether the parties so agreed, state commissions have the opportunity to consider all the relevant facts, including the negotiation of the agreements in the context of this Commission's longstanding policy of treating this traffic as local, and the conduct of the parties pursuant to those agreements. For example, it may be appropriate for state commissions to consider such factors as whether incumbent LECs serving ESPs (including ISPs) have done so out of intrastate or interstate tariffs; whether revenues associated with those services were counted as intrastate or interstate revenues; whether there is evidence that incumbent LECs or CLECs made any effort to meter this traffic or otherwise segregate it from local traffic, particularly for the purpose of billing one another for reciprocal compensation; whether, in jurisdictions where incumbent LECs bill their end users by message units, incumbent LECs have included calls to ISPs in local telephone charges; and whether, if ISP traffic is not treated as local and subject to reciprocal compensation, incumbent LECs and CLECs would be compensated for this traffic. These factors are

illustrative only; state commissions, not this Commission, are the arbiters of what factors are relevant in ascertaining the parties' intentions. Nothing in this Declaratory Ruling, therefore, necessarily should be construed to question any determination a state commission has made, or may make in the future, that parties have agreed to treat ISP-bound traffic as local traffic under existing interconnection agreements. Finally, the Commission notes that issues regarding whether an entity is properly certified as a LEC if it serves only or predominantly ISPs are matters of state jurisdiction.

25. Even where parties to interconnection agreements do not voluntarily agree on an inter-carrier compensation mechanism for ISP-bound traffic, state commissions nonetheless may determine in their arbitration proceedings at this point that reciprocal compensation should be paid for this traffic. The passage of the 1996 Act raised the novel issue of the applicability of its local competition provisions to the issue of inter-carrier compensation for ISP-bound traffic. Section 252 imposes upon state commissions the statutory duty to approve voluntarily-negotiated interconnection agreements and to arbitrate interconnection disputes. As the Commission observed in the *Local Competition Order*, state commission authority over interconnection agreements pursuant to section 252 "extends to both interstate and intrastate matters." *Local Competition Order*. Thus the mere fact that ISP-bound traffic is largely interstate does not necessarily remove it from the section 251/252 negotiation and arbitration process. However, any such arbitration must be consistent with governing federal law. While to date the Commission has not adopted a specific rule governing the matter, the Commission notes that its policy of treating ISP-bound traffic as local for purposes of interstate access charges would, if applied in the separate context of reciprocal compensation, suggest that such compensation is due for that traffic.

26. Some CLECs construe the Commission's rules treating ISPs as end users for purposes of interstate access charges as requiring the payment of reciprocal compensation for this traffic. Incumbent LECs contend, however, that the Commission's rules preclude the imposition of reciprocal compensation obligations to interstate traffic and that, pursuant to the ESP exemption, LECs carrying ISP-bound traffic are compensated by their end user customers—the originating end user or the ISP. Either of these options might be a reasonable extension of the Commission's rules, but the Commission has never applied either the ESP exemption or its rules regarding the joint provision of access to the situation where two carriers collaborate to deliver traffic to an ISP. As the Commission stated, it currently has no rule addressing the specific issue of inter-carrier compensation for ISP-bound traffic. In the absence of a federal rule, state commissions that have had to fulfill their statutory obligation under section 252 to resolve interconnection disputes between incumbent LECs and CLECs have had no choice but to establish an inter-carrier compensation mechanism and to decide whether and under what circumstances to require the payment of reciprocal compensation. Although reciprocal compensation is mandated under section 251(b)(5) only for the transport and termination of local traffic, neither the statute nor the Commission's rules prohibit a state commission from concluding in an arbitration that reciprocal compensation is appropriate in certain instances not addressed by section 251(b)(5), so long as there is no conflict with governing federal law. 47 CFR 51.701(a); *Local Competition Order*. A state commission's decision to impose reciprocal compensation obligations in an arbitration proceeding—or a subsequent state commission decision that those obligations encompass ISP-bound traffic—does not conflict with any Commission rule regarding ISP bound traffic. By the same token, in the absence of governing federal law, state commissions also are free not to require the payment of reciprocal compensation for this traffic and to adopt another compensation mechanism.

27. State commissions considering what effect, if any, this Declaratory Ruling has on their decisions as to whether reciprocal compensation provisions of interconnection agreements apply to ISP-bound traffic might conclude, depending on the bases of those decisions, that it is not necessary to re-visit those determinations. The Commission recognizes that the Commission's conclusion that ISP-bound traffic is largely interstate might cause some state commissions to re-examine their conclusion that reciprocal compensation is due to the extent that those conclusions are based on a finding that this traffic terminates at an ISP server, but nothing in this Declaratory Ruling precludes state commissions from determining, pursuant to contractual principles or other legal or equitable considerations, that reciprocal compensation is an appropriate interim inter-carrier compensation rule pending completion of the rulemaking initiated In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96–98, 99–68, FCC 99–38, Declaratory Ruling in CC Docket No. 96–98 and Notice of Proposed Rulemaking in CC Docket No. 99–68 (rel. February 26, 1999).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7159 Filed 3–23–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 95–155]

Toll Free Service Access Codes

AGENCY: Federal Communications Commission.

ACTION: Notice; letter.

SUMMARY: The Common Carrier Bureau has issued a letter ending the 888 right-of-first-refusal process and referring non-compliant RespOrgs to the Bureau's Enforcement Division. All unclaimed set-aside 888 numbers (except 888–555–XXXX numbers) will be released into "spare" status and become available to all subscribers on a first come, first served basis on April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Marty Schwimmer 202–418–2334.

SUPPLEMENTARY INFORMATION: The Bureau's letter follows:

Release Date: March 19, 1999.

Mr. Michael Wade,

President, Database Service Management, Inc., 6 Corporate Place, Room PYA—1F286, Piscataway, NJ 08854–4157

Re: End of 888 Right-of-First-Refusal Process on April 5, 1999, Referral of Non-Compliant RespOrgs to Enforcement Division

Dear Mr. Wade: In January 1996, the Bureau directed Database Service Management, Inc. (DSMI) to set aside, in "unavailable" status, toll free 888 numbers that subscribers with corresponding 800 numbers might wish to request, except that 888–555–XXXX numbers were to remain unavailable because they are associated with directory assistance.[1] In March 1998, the Commission voted to permit holders of

[1] In the Matter of Toll Free Service Access Codes, Report and Order, CC Docket No. 95–155, 11 F.C.C.Rcd. 2496, 2509 (1996).

corresponding 800 numbers to have a "right of first refusal" to the set-aside 888 numbers.[2]

The Bureau's letters to you dated April 2 and May 15, 1998, required Responsible Organizations (RespOrgs)—the entities that manage and administer subscriber records in the 800 Service Management System—to notify subscribers of their right of first refusal to request the 888 numbers that had been set aside for them.[3] By August 21, 1998, RespOrgs were to report to DSMI those 888 numbers that subscribers requested to activate or declined to activate, and they were to certify to DSMI that they had attempted to contact the subscribers having right of first refusal to all other set-aside 888 numbers by providing to DSMI each subscriber's name, address, phone number, and the date and means by which the RespOrg attempted the notification. The May 15 letter stated that the Bureau would audit the results to ensure that subscribers received adequate notice from RespOrgs of their right of first refusal. It concluded that the time for subscribers to exercise their right of first refusal will end following completion of the process, when the Bureau directs DSMI to release all remaining unclaimed "unavailable" set-aside 888 numbers into "spare" status.

The Bureau's letter to you dated November 24, 1998, identified RespOrgs that apparently did not account for all of their set-aside 888 numbers, because they did not certify that they had attempted to contact the subscribers who had right of first refusal for 100% of those numbers.[4] The letter required those RespOrgs to explain, by December 11, 1998, why the required notification process was not completed and what action they were taking to remedy their non-compliance. The letter concluded that RespOrgs failing to provide satisfactory explanation or failing to submit explanations altogether will be referred to the Common Carrier Bureau's Enforcement Division for enforcement action, possibly resulting in forfeiture penalties, decertification as RespOrgs, or further referral to the Department of Justice to determine whether a fine, imprisonment, or both are warranted.[5]

This letter now ends the 888 right-of-first-refusal process. Approximately 370,000 toll free 888 numbers were set aside under the Commission's right-of-first-refusal policy. In compliance with the required procedures, RespOrgs have reported that they notified the subscribers having right of first refusal to approximately 90% of the set-aside 888 numbers. RespOrgs that failed to comply with the procedures are being referred at this time to the Bureau's Enforcement Division.

Therefore, DSMI is directed, beginning at noon and ending by 6:00 pm EST on April 5, 1999, to release all remaining unclaimed "unavailable" set-aside 888 numbers (except 888–555–XXXX numbers) into "spare" status. At that time, those numbers will become available to all subscribers on a first come, first served basis. The Commission will publish notice of this letter in the **Federal Register** and post it on the Commission's Internet site at www.fcc.gov, so that the public may know in advance when all remaining set-aside 888 numbers will become available. DSMI is also directed to forward a copy of this letter to all RespOrgs.

Sincerely,

Lawrence E. Strickling,

Chief, Common Carrier Bureau.

Federal Communications Commission.

Kurt A. Schroeder,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 99–7171 Filed 3–23–99; 8:45 am]

BILLING CODE 6712–01–P

[2] In the Matter of Toll Free Service Access Codes, Fourth Report and Order and Memorandum Opinion and Order, CC Docket No. 95–155, 13 F.C.C. Rcd. 9058 (1998). 888–555–XXXX numbers were not included in the 888 right-of-first-refusal process.

[3] Letter from Geraldine A. Matise, Chief, Network Services Division, Common Carrier Bureau, to Mr. Michael Wade, President, Database Service Management, Inc., dated April 2, 1998, 63 FR 18422 (Apr. 15, 1998). Letter from Geraldine A. Matise, Chief, Network Services Division, Common Carrier Bureau, to Mr. Michael Wade, President, Database Service Management, Inc., dated May 15, 1998, 63 FR 29734 (Jun. 1, 1998).

[4] Letter from Anna M. Gomez, Chief, Network Services Division, Common Carrier Bureau, to Mr. Michael Wade, President, Database Service Management, Inc., dated November 24, 1998, 63 FR 67483 (Dec. 7, 1998).

[5] Toll Free Service Access Codes, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95–155, 12 F.C.C. Rcd. 11162 (1997).

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 99–546]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On March 19, 1999, the Commission released a public notice announcing the March 30, 1999, conference call meeting from 3:00 p.m. to 5:00 p.m., and agenda of the North American Numbering Council (NANC). The conference bridge number for domestic participants is 1–888–322–9648 (toll free), the call in number for international participants is 954–797–0718 (caller pays) and the pin for both is 951360. The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda. This notice of the March 30, 1999, NANC conference call meeting is being published in the **Federal Register** less than 15 calendar days prior to the meeting due to NANC's need to discuss a time sensitive issue before the next scheduled meeting. This statement complies with the General Services Administration Management regulations implementing the Federal Advisory Committee Act. *See* 41 CFR § 101–6.1015(b)(2).

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes at (202) 418–2320 or via the Internet at jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20554. The fax number is: (202) 418–7314. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This meeting is open to the members of the general public. The FCC will attempt to accommodate as many participants as possible. Participation on the conference call is limited. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Jeannie Grimes at the address under "**FOR FURTHER INFORMATION CONTACT,**" stated above.

Proposed Agenda

1. Discussion and development of NANC recommendation to the Federal Communications Commission regarding the Lockheed Martin Request for Expeditious Review of the Transfer of the Lockheed Martin Communications Industry Services Business, *In the Matter of Request of Lockheed Martin Corporation and Warburg, Pincus & Co., for Review of the Transfer of the Lockheed Martin Communications Industry Services Business from Lockheed Martin Corporation to an Affiliate of Warburg, Pincus & Co.*, filed with the Federal Communications Commission on December 21, 1998.

2. Other Business.

Federal Communications Commission

Blaise A. Scinto,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 99–7241 Filed 3–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Tuesday, March 23, 1999, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider matters relating to the Corporation's corporate, resolution, and supervisory activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: March 19, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–7255 Filed 3–19–99; 5:05 pm]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Menlo Logistics Global Transportation Services, Inc., One Lagoon Drive, Suite 300, Redwood City, CA 94065–1564, Officers: John H. Williford, President, Robert L. Bianco, Jr., Vice President

Lion Exhibition Freight, Inc., 4742 Aviation Pkwy., Atlanta, GA 30349, Officers: Frank S. Rettig, President, Jerry Hipper, Jr., Exec. Vice President

Pinnacle International Freight, Inc., Southgate Terminal, 1400 Sewells Point Road, Norfolk, VA 23502, Officers: Martyn Burrell, Managing Director, Stuart Burrell, Director

Dated: March 18, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7140 Filed 3–23–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposal.

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before May 24, 1999.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. West, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, without revision of the following report:

1. Report title: Disclosure Requirements in Connection with Regulation CC to Implement the Expedited Funds Availability Act

Agency form number: unnum Reg CC

OMB control number: 7100-0235

Frequency: Event-generated

Reporters: State Member Banks

Annual reporting hours: 174,384 hours

Estimated average hours per response: Notice of exceptions, Case by case hold

notice, or Notice to potential customers upon request: 3 minutes; Notice posted where customers make deposits: 15 minutes; Notice of changes in policy: 20 hours; and Annual notice of new ATMs: 5 hours.

Number of respondents: 989 state member banks
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 4008). Because the Federal Reserve System does not collect any information, no issue of confidentiality exists. If during a compliance examination a violation of the Expedited Funds Availability Act is noted, then the information regarding such violation may be kept confidential (5 U.S.C. 552(b)(8)).

Abstract: The third party disclosure requirements are intended to alert consumers about their financial institutions' check-hold policies and to help prevent unintentional (and costly) overdrafts. Most disclosures resulting from a policy change must be made thirty days before actions is taken, or within thirty days if the action makes funds available more quickly. Model forms, clauses, and notices are appended to the regulations to provide guidance.

The Board's Regulation CC applies to all depository institutions, not just state member banks. However, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the Regulation CC paperwork burden on their respective constituencies.

Board of Governors of the Federal Reserve System, March 18, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–7144 Filed 3–23–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Docket No. 9288]

Intel Corporation; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that the Commission issued in June 1998 and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 24, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John Horsley or Richard Parker, FTC/H–3105, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2648 or (202) 326–2574.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 17, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½-inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(b)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted for public comment an Agreement Containing Consent Order with Intel Corporation ("Intel") to resolve the matters charged in an administrative Complaint issued by the Commission on June 8, 1998. The Agreement has been placed on the public record for sixty (60) days for receipt of comments from interested members of the public. The Agreement is for settlement purposes only and does not constitute an admission by Intel that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint alleges that Intel has monopoly power in the worldwide market for general purpose microprocessors. According to the Complaint, Intel's market dominance is reflected in a market share approximating 80 percent of dollar sales, together with high entry barriers including large sunk costs of design and manufacture, substantial economies of scale, customers' investments in existing software, the need to attract support from software developers, and reputational barriers.

The Complaint alleges that Intel sought to maintain its dominance by, among other things, denying advance technical information and product samples of microprocessors to Intel customers ("original equipment manufacturers" or "OEMs") and threatening to withhold product from those OEMs as a means of coercing those customers into licensing their patented innovations to Intel.

A microprocessor is an integrated circuit that serves as the central processing unit (or CPU) of computer systems. Microprocessors are sometimes described as the "brains" of computers because they perform the major data processing functions essential to computer systems. Advance technical information about new microprocessor products is essential to Intel's OEM customers, who design, develop, manufacture, and sell computer system products such as servers, workstations, and desktop and mobile personal computers. Computer design and development require the effective integration of multiple complex microelectronics components (including microprocessors, memory components, core logic chips, graphics controllers, and various input and output devices) into a coherent system. To achieve such system integration, a computer OEM requires product specifications and other technical information about each component, such as the electrical, mechanical, and thermal characteristics of the microprocessor. OEMs also need advance product samples, errata, and related technical assistance in order to perform system testing and debugging, thereby assuring the high performance and reliability of new computer products.

Intel promotes and markets its microprocessors by providing customers with technical information about new Intel products in advance of their commercial release, subject to formal nondisclosure agreements. Such information sharing has substantial commercial benefits for Intel and its OEM customers. Customers benefit because the information enables them to develop and introduce new computer system products incorporating the latest microprocessors as early and efficiently as possible. Intel benefits because a larger group of OEMs can sell new computer systems incorporating Intel's newest microprocessors as soon as the new microprocessors are introduced to the market.

The Complaint charges that Intel suspended its traditional commercial relationships with three established customers—Digital Equipment Corporation, Intergraph Corporation, and Compaq Computer Corporation—by refusing to provide advance technical information about, and product samples of, Intel microprocessors. Intel did so, according to the Complaint, to force those customers to end disputes with Intel concerning the customers' asserted intellectual property rights and to grant Intel licenses to patented technology developed and owned by those customers. In at least one of the cases, the Complaint alleges that Intel also acted to create uncertainty in the marketplace about the customer's future source of supply of Intel microprocessors.

The computer industry is characterized by short, dynamic product cycles, which are generally measured in months. Time to market is crucial. Indeed, the denial of advance product information is virtually tantamount to a denial of actual parts, because an OEM customer lacking such information simply cannot design new computer systems on a competitive schedule with other OEMs. An OEM who suffers denial of such information over a period of months will lose much of the profits it might otherwise have earned even from a successful new computer model. Continued denial of advance technical information to an OEM by a dominant supplier can make a customer's very existence as an OEM untenable.

As a result of the commercial pressure exerted by Intel's conduct, Compaq and Digital quickly entered in to cross-license arrangements with Intel. Intergraph was able to resist that pressure because it succeeded in obtaining a preliminary injunction from a federal district court requiring Intel to resume and continue supplying Intergraph with advance product information, part samples, and other technical support pending a judicial resolution on the merits of the claims in the lawsuit.

The alleged conduct tends to reinforce Intel's domination of the general purpose microprocessor market in at least three ways. First, the alleged conduct tends to give Intel preferential access to a wide range of technologies being developed by many other firms in the industry. To the extent that firms desiring to compete with Intel are unable to obtain comparable access to such a wide range of technology, they can be seriously disadvantaged, thus making it more difficult for them to challenge Intel's dominance. Second, because patent rights are an important means of promoting innovation, coercion that forces customers to license away rights to microprocessor-related technologies on unfavorable terms to diminish the customers' incentives to develop such technologies, and thus harms competition by reducing innovation. Finally, Intel's conduct tends to make it more difficult for an OEM to serve as a platform for microprocessors that compete with Intel's. Intel's actions ensure that Intel can act as a conduit for technology flows from one OEM to another. That is, an OEM that seeks to enforce its intellectual property rights against other Intel customers may face retaliation from Intel, as the Complaint alleges Compaq did when it sued Packard-Bell for patent infringement. The result is that OEMs find it more difficult to differentiate their computer systems from their competitors through patented technology. As a result, an OEM seeking to use non-Intel microprocessors is less able to offset the lack of an Intel microprocessor by the strength of its own reputation for offering superior technology in other areas. For all of these reasons, continuation of this pattern of conduct would likely have injured competition by entrenching Intel's dominant position.

The Complaint also alleges that Intel's exclusionary conduct was not reasonably necessary to serve any legitimate, procompetitive purpose.

Exclusionary conduct by a monopolist that is reasonably capable of significantly contributing to the maintenance of a firm's dominance through unjustified means has long been understood to give rise to serious competitive concerns. *See, e.g., Lorain Journal Co.* v. *United States*, 342 U.S. 143, 154 n.7 (1951); *Eastman Kodak Co.* v. *Image Technical Services*, 504 U.S. 451, 483 & n.32 (1992); *Aspen Skiing Co.* v. *Aspen Highlands Skiing Co.*, 472 U.S. 585, 596 .19 (1985); *United States* v. *Grinnell Corp.*, 384 U.S. 563, 570–71 (1966); *Barry Wright Corp.* v. *ITT Grinnell Corp.*, 724 F.2d 227, 230 (1st Cir. 1983) (Breyer, J.) (citing 3 P. Areeda & D. Turner, *Antitrust Law*, ¶ 626 at 83 (1978)).

Such conduct harms consumers, not only because competition brings lower prices, but also because competition is a powerful spur to the development of new, better, and more diverse products and processes. Unjustified conduct by a monopolist that removes the incentive to such competition by depriving innovators of their reward or otherwise tilting the playing field against new entrants or fringe competitors thus has a direct and substantial impact upon future consumers.

In the absence of a legitimate business justification that outweighs these concerns, such conduct constitutes a violation of Section 2 of the Sherman Act, 15 U.S.C. 2, and therefore Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. In issuing Complaint, the Commission found reason to believe that such a violation had occurred.

II. Terms of the Proposed Consent Order

The Proposed Order would remedy all of the concerns embodied in the Complaint. The substantive prohibition, Section II.A., prohibits Intel from withholding or threatening to withhold certain advance technical information from a customer or taking other specified actions with respect to such information for reasons relating to an intellectual property dispute with that customer. It also prohibits Intel from refusing or threatening to refuse to sell microprocessors to a customer for reasons related to an intellectual property dispute with that customer. This provision is designed to prevent Intel from restricting access to microprocessor products, or advance technical information relating to such products, as leverage in an intellectual property dispute against a customer that is receiving advance technical information from Intel at the time the dispute arises. The Proposed Order does not impose any kind of broad "compulsory licensing" regime upon Intel. So long as it is otherwise lawful, Intel is free to decide in the first instance whether it chooses to provide or not provide information to customers, and whether to provide more information or earlier information to specific customers in furtherance of a joint venture or other legitimate activity. Moreover, the Order is limited to the types of information that Intel routinely gives to customers to enable them to use Intel microprocessors, not information that would be used to design or

manufacture microprocessors in competition with Intel.

In short, Paragraph II.A. secures to Intel customers the right to seek full and fair value for their intellectual property, free from the risk of curtailment of needed advance technical information or product. With one exception, Intel will be required to continue providing information and product while the customer seeks any of a range of legal and equitable remedies available to it, such as damages (trebled or otherwise increased in appropriate cases), reasonable royalties, and attorneys fees and costs. These remedies will generally be sufficient to protect the customer in its exercise of its intellectual property rights.

The exception involves situations where a customer maintains the right to seek an injunction against Intel's manufacture, use, sale, offer to sell or importation of its microprocessors. The Order contemplates that Intel may request a customer to waive that remedy and give the customer a reasonable opportunity to make a simple written statement to that effect. If the customer refuses, Intel will not be required by this Order to continue providing information or product with respect to the microprocessors that the customer is seeking to enjoin.

This part of the Order strikes an appropriate balance, on a prospective basis, between the interests of Intel and its customers. If a customer chooses to seek an injunction against Intel's microprocessors, it cannot, under the provisions of this Order, be assured of continuing to receive advance technical information about the very same microprocessors that it is attempting to enjoin. If an Intel customer nevertheless wishes to seek injunctive relief against Intel's manufacture, use, sale, offer to sell or importation, it remains free to do so, but without the protections in this Order. In all other circumstances, Intel is required to continue supplying technical information and product under the Proposed Order.

The Proposed Order contains a number of other definitions and provisos to ensure that it will achieve its purposes while not sweeping more broadly than needed to remedy the competitive concerns alleged in the Complaint:

- "Advance Technical Information" (or "AT Information") is defined in Paragraph I.C. to encompass all information necessary to enable a customer to design and develop, in a timely way, computer systems incorporating Intel microprocessors. The Proposed Order establishes a rebuttable presumption that the provision of AT information six months before the commercial release date of a microprocessor is sufficient to enable the customer to design and develop new systems based on that microprocessor in a competitive and timely way. AT Information does not include detailed microprocessor design information or other information not generally provided to Intel's customers.
- "Intellectual Property Dispute" is defined in Paragraph I.D. to include not only situations in which a customer directly or indirectly asserts or threatens to assert patent, copyright or trade secret rights against Intel, but also to situations in which a customer asserts such rights against another Intel customer, or where a customer has refused a request by Intel to license or otherwise convey its intellectual property rights.
- Paragraph II.B.1. states that the Proposed Order does not prohibit Intel from seeking legal or equitable remedies based upon its own intellectual property, provided that it continues to supply AT Information to the customer.
- Paragraph B.2. and B.3. make clear that the Proposed Order does not prohibit Intel from withholding AT Information or making decisions about product supply based on otherwise lawful business considerations unrelated to the existence of the intellectual property dispute. For example, Intel retains the right to withhold information from a customer that has breached an agreement regarding the disclosure or use of the information.
- Paragraph B.4. provides that the Proposed Order does not require Intel to provide AT Information or microprocessors to facilitate the design or development of a type of system that the customer has not designed or developed or demonstrated plans to design or develop within the preceding year.
- Paragraph B.5. makes clear that the Proposed Order does not prohibit Intel from restricting the use of AT Information to the customer's design and development of computer systems that incorporate the microprocessor to which the AT Information pertains. For example, if a recipient of AT Information is in the business of designing competing microprocessors, the Proposed Order would not prevent Intel from using reasonable firewall provisions to prevent that recipient from using the information in that competing business.
- Paragraph B.6. provides that the Proposed Order does not require Intel to disclose information or supply microprocessors that are not otherwise available for disclosure or supply to Intel's customers. If the information or product is not being provided to other customers, then the refusal to provide it to a customer with which Intel has an intellectual property dispute does not provide the kind of leverage that the challenged conduct provides.
- Paragraph B.7. makes clear that, apart from the specific requirements and prohibitions, the Proposed Order does not otherwise limit Intel's intellectual property rights.

In light of the rapidly changing nature of the industry, Intel's obligations under the Proposed Order would terminate in ten years. The Commission appreciates that this same industry dynamic makes it important for it to address disputes over Intel's compliance with the Order expeditiously, should any such disputes arise.

Parts III, IV, and V of the Proposed Order set out various procedural requirement, such as notice to affected persons and annual compliance reporting. Paragraph III.A. permits Intel to provide notice of the Order to recipients of AT Information through a conspicuous notice placed, for thirty days after final entry of the Order, as the first item on the "In the News" portion of the "developers" page of Intel's World-Wide Web site. Because recipients of AT Information must frequently visit that area of Intel's Website in order to receive information needed in their business, a notice displayed at that location will ensure notice to all affected persons. After the initial thirty-day period, Intel will maintain a link from the "developers" page to the Order, so that new customers will also have access to the Order. The other provisions of these paragraphs are standard provisions of the type typically included in Commission orders of this kind.

III. Opportunity for Public Comment

The Proposed Order has been placed on the public record for 60 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the Agreement and comments received, and will decide whether it should withdraw from the Agreement or make final the Order contained in the Agreement.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive issues described in the complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the Proposed Order. It is not intended to constitute an official interpretation of

the Agreement and Proposed Order or in any way to modify their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Commission Mozelle W. Thompson in the Matter of Intel Corporation

The Commission has accepted for public comment an Agreement Containing Consent Order (the "Agreement") that settles the charges made by the Commission against Intel in an administrative complaint (the "Complaint"). The Complaint alleged that Intel unlawfully used its monopoly power in the market for general microprocessors, to coerce computer and other peripheral manufacturers to license intellectual property rights to Intel. The Complaint further alleged that Intel engaged in this conduct in order to maintain its monopoly position.

On June 8, 1998, I voted to issue a Complaint in the above-captioned action because I was concerned that these allegations, if true, threatened to harm competition and opportunity for innovation in the general microprocessor market. This threatened harm would thereby deprive consumers of the price and innovation benefits of a truly competitive marketplace. Today, I vote to accept the Agreement for public comment because I believe the Agreement can address these concerns by preserving competition and providing opportunities for innovation by preventing Intel from using intellectual property disputes to limit access to advance technical information or microprocessor products that it routinely provides customers.

I particularly wish to commend the Commission staff and Intel for working together to craft an agreement that effectively serves the public interest in the context of the important characteristics of the high technology computer industry. By eliminating the possibility of anti-competitive withholding of product and information, the Agreement preserves the benefits of competition while creating a climate for new ideas. This creative solution will benefit consumers and industry alike.

Statement of Commissioner Orson Swindle in the Matter of Intel Corporation

As is already widely known, one of the Federal Trade Commission's most significant antitrust adjudications in years was resolved on the eve of trial with the signing of a consent agreement by complaint counsel and respondent Intel Corporation. A hospitalization for major surgery since March 5 has precluded me for the present from considering the settlement of this important case on its merits. I would have strongly preferred to have been able to evaluate it and to participate in the Commission's vote.

Nevertheless, I fully expect to have an opportunity to formulate and communicate my views on the consent agreement, and I anticipate issuing those views—as an aid to public comment on the settlement—as soon as possible during the 60-day comment period. When my statement is ready for issuance, I will ask the Commission's Office of Public Affairs to release it and will also post it on the Commission's website (www.ftc.gov).

[FR Doc. 99–7211 Filed 3–23–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9810329]

Medtronic Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 24, 1999.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Stephen Riddell or Mark Menna, FTC/H–2105, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2721 or (202) 326–2722.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 8, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of the Proposed Consent Order and Draft Complaint to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted for public comment from Medtronic, Inc. ("Medtronic" or "proposed Respondent") an Agreement Containing Consent Order ("the proposed consent order"). The proposed Respondent has also reviewed a draft complaint contemplated by the Commission. The proposed consent order is designed to remedy likely anticompetitive effects arising from the acquisition of Avecor Cardiovascular, Inc. ("Avecor"). Both Medtronic and Avecor are medical technology companies that compete in the manufacture and sale of non-occlusive arterial pumps, perfusion devices used in heart/lung machines. The proposed consent order remedies the acquisition's anticompetitive effects by requiring Medtronic to divest Avecor's non-occlusive arterial pump assets ("Avecor Pump Assets") as a viable, on-going product line. Medtronic has entered into an agreement to divest the Avecor Pump Assets to Baxter Healthcare Corporation ("Baxter").

Medtronic, which is headquartered in Minneapolis, Minnesota, is engaged in the research, development, manufacture and sale of medical devices, including implantable devices, such as pacemakers and defibrillators, which regulate heart rhythm; tissue and mechanical heart valves; coronary stents; and perfusion devices for heart/lung machines. Medtronic's perfusion devices include non-occlusive arterial pumps. Medtronic's Bio-Pump is the market leader in non-occlusive arterial pumps. Avecor, also headquartered in Minneapolis, Minnesota, is engaged in the research, development, manufacture and sale of perfusion devices, including,

among other things, non-occlusive arterial pumps. Avecor introduced its non-occlusive arterial pump is the Fall of 1997. Avecor's pump, which utilizes different technology, is still in the early stages of gaining market acceptance. Some in the industry believe that this new pump may offer consumers advantages over the Bio-Pump and other conventional non-occlusive pumps.

Pursuant to an Agreement and Plan of Merger ("Merger Agreement"), signed July 12, 1998, and as subsequently amended, Medtronic agreed to acquire 100% of the voting stock of Avecor for approximately $106 million. The proposed Complaint alleges that the Merger Agreement violates Section 5 of the FTC Act, as amended, 15 U.S.C § 45, and that the acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. § 15, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, in the United States market for the research, development, manufacture and sale of non-occlusive arterial pumps.

The draft complaint alleges that medtronic's proposed acquisition of Avecor would lessen competition in the United States market for research, development, manufacture and sale of non-occlusive arterial pumps. Arterial pumps are a perfusion device used primarily to stand in for the heart and lungs during surgical procedures involving those organs. Perfusion devices are products that handle blood in heart/lung machines. These devices circulate and oxygenate the blood and regulate body temperature during heart bypass surgery and other procedures where the heart must be relieved of its pumping function. Arterial pumps circulate the blood. According to the complaint, there are no competitive substitutes for non-occlusive arterial pumps.

The complaint alleges that the United States is the relevant geographic market in which to analyze the effects of the proposed acquisition.

The complaint alleges that the United States market for research, development, manufacture and sale of non-occlusive arterial pumps is highly concentrated, and would become significantly more concentrated as a result of the acquisition. Premerger concentration in this market, as measured by the Herfindahl-Hirschamann Index,[1] exceeds 5,700, and the acquisition would increase the HHI by more than 340 to more than 6,050.

According to the draft complaint, entry into the United States market for research, development, manufacture and sale of non-occlusive arterial pumps is difficult and would not be timely, likely or sufficient to prevent the adverse competitive effects that may result from the proposed acquisition.

The proposed consent order remedies the Commission's competitive concerns about the proposed acquisition. Under Paragraph II of the proposed consent order, Medtronic must divest all of the assets relating to Avecor's non-occlusive arterial pump to Baxter or to another acquirer approved by the Commission. Baxter is a major producer of medical devices used in cardiac surgery and has substantial experience in the research, development, manufacture and sale of other perfusion devices used in cardiac surgery bypass operations. Baxter also is a major provider of perfusion services. In the event that Medtronic does not sell these assets to Baxter or another Commission-approved buyer within ninety (90) days of the Order's becoming final, the Commission may appoint a trustee to divest the Avecor Pump Assets.

The Commission's purpose in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed buyer must not itself present competitive problems. The Commission believes that Baxter is well qualified to operate the divested assets and that divestiture to Baxter will not be anticompetitive in this market.

The proposed consent order requires Medtronic to provide substantial assistance to the buyer of the Avecor Pump Assets to enable the buyer to obtain FDA approval to manufacture and market the Avecor pumps and reservoirs to use with the pump. First, Medtronic must contract manufacture a supply of the Avecor pumps and the reservoirs used with the Avecor pumps for a year while the buyer establishes its own manufacturing capability. Medtronic must continue to supply the buyer with such reservoirs for a second year if the buyer determines that it needs additional time to establish the manufacturing capability to produce a reservoir to use with the Avecor pump. Second, Medtronic must provide technical assistance to help the buyer obtain necessary FDA approvals and to acquire the capability to manufacture the Avecor pump. Finally, the proposed consent order provides the buyer with the opportunity to hire Avecor employees associated with the Avecor Pump Assets.

In order to facilitate the smooth transfer of assets and ensure that the buyer will get the assistance necessary to independenty manufacture the Avecor pump, the proposed consent order also provides for the appointment of an interim trustee. The interim trustee will serve until the acquirer has received all necessary FDA approvals to manufacture the Avecor pump and becomes an independent producer of the Avecor pump.

Under certain circumstances if the Commission-approved buyer fails to become a viable, independent manufacturer and seller of Avecor pump, the Commission may terminate the divestiture and appoint a divestiture trustee to find a new buyer for the Avecor pump assets. If, prior to obtaining the necessary FDA approvals and beginning to manufacture Avecor pump and a compatible reservoir, the buyer stops selling the Avecor pump for 60 days or otherwise fails to make good faith efforts to sell it, the Commission may step in and terminate the divestiture. The Commission may also terminate the divestiture if the buyer fails to make good faith efforts to obtain the necessary FDA approvals. Similarly, the Commission may revoke the divestiture if the buyer fails to obtain the FDA approvals or to begin manufacturing within one year. Under this last scenario, the Commission may refrain from revoking the divestiture (for a second year) if it appears that the buyer is likely to obtain the FDA approvals or begin to manufacture the products in that time period.

The proposed consent order also required Medtronic to provide to the Commission a report of compliance with the divestiture and assistance provisions of the proposed consent order within sixty (60) days following the date the proposed consent order becomes final and every ninety (90) days thereafter until Medtronic has completed the divestiture and the acquire has obtained all necessary FDA approvals and has become an independent manufacturer of the Avecor pump and a reservoir that can be used with the Avecor pump. The proposed consent order also requires Medtronic to notify the Commission at least thirty (30) days prior to any change in the structure of Medtronic that may affect compliance with the proposed consent order.

[1] The Herfindahl-Hirschmann Index, or "HHI," is a measurement of market concentration calculated by summing the squares of the individual market shares of all participants in the market. Under section 1.51 of the Horizontal Merger Guidelines issued April 2, 1992, by the Federal Trade Commission and the Department of Justice, the Commission considers concentration levels exceeding 1,800 as "highly concentrated" and concentration levels between 1,000 and 1,800 as "moderately concentrated."

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw the argument or make the proposed consent order final.

By accepting the proposed consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to facilitate public comment on the proposed consent order, including the proposed sale of the Avecor pump assets to Baxter, in order to aid the Commission in its determination of whether to make the proposed consent order final. This analysis is not intended to constitute an official interpretation of the proposed consent order, nor is it intended to modify the terms of the proposed consent order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7210 Filed 3–23–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ricky Ray Hemophilia Relief Fund Act of 1998, Procedures for Filing Petitions for Payment

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services (HHS) announces procedures for filing Notices of Intent to File Petitions for payment under the newly enacted Ricky Ray Hemophilia Relief Fund Act of 1998 ("the Act"). Although the Act became law on November 12, 1998, no funds have been appropriated either for the payment of awards to petitioners or for the administrative costs to HHS for operating this new program. Nevertheless, the Act states that HHS shall first establish procedures to implement the Act within 120 days of its enactment. We are establishing as a first procedure under the Act the opportunity for individuals to file Notices of Intent to File Petitions, which may lead to later filings of full petitions and determinations on those petitions if funding is appropriated to operate the program and to pay awards. The timely filing of a Notice of Intent to File a Petition will meet a petitioner's obligation to file within the statutory limitations period for seeking payment from the Ricky Ray Hemophilia Relief Fund. Again, since no funds have been appropriated for this program, submitting a Notice of Intent to File a Petition allows a petitioner to record his or her intent to seek payment should Congress appropriate funds in the future.

ADDRESSES: Notices of intent meeting the requirements described below shall be sent to: Ricky Ray Program Office, Bureau of Health Professions, Room 8–05, 5600 Fishers Lane, Rockville, Maryland 20857.

DATES: The procedures established by this noticed shall take effect on April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Neil Sampson, Deputy Associate Administrator for Health Professions, Health Resources and Services Administration, Room 805, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2330.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Act provides for compassionate payments with regard to certain individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus (HIV) due to contaminated antihemophilic factor within specified time periods. Section 101 of the Act establishes in the Treasury of the United States a trust fund known as the Ricky Ray Hemophilia Relief Fund. The Act authorizes appropriations to the Fund of $750,000,000. To date, no appropriations have been made for the Fund. In addition, no appropriations have been made for the administrative costs to HHS for operating this program.

Section 102(a) of the Act provides that, if there are sufficient amounts in the Fund to make each payment, the Secretary shall make a single payment of $100,000 to any individual who has an HIV infection and who is described in one of the following paragraphs:

(1) The individual has any form of blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any item during the period beginning on July 1, 1982, and ending on December 31, 1987.

(2) The individual is (A) the lawful spouse of an individual described in paragraph (1) or (B) the former lawful spouse of an individual described in paragraph (1) and was the lawful spouse of the individual at any time after a date, within the period described in paragraph (1) on which the individual was treated as described in paragraph (1) and can assert reasonable certainty of transmission of HIV from such individual.

(3) The individual acquired HIV infection through perinatal transmission from a parent who is an individual described in paragraph (1) or (2).

Section 103 provides for the payment to certain survivors if the individuals listed in section 102 are deceased when that payment is to be made. If the individual eligible for payment dies before filing a petition, a survivor may file a petition on his or her behalf (section 103(c)(2)(B) of the Act).

Although an attorney or other representative is not required, petitioners may engage the services of an attorney or other agent to render services in connection with the petition. No such attorney or agent may receive for services rendered more than five percent of an payment made under the program (section 107 of the Act).

For the full text of the Act, individuals may consult the World Wide Web site of the Library of Congress at "http://thomas.loc.gov" and seek Public Law 105–369, or they may seek the public law from a law library.

II. Statutory Procedures

Under section 105 of the Act, petitions seeking payment from the Ricky Ray Hemophilia Relief Fund must be filed by eligible petitioners within 3 years after the date of enactment of the Act, i.e., by November 11, 2001. Accordingly, even though no appropriations have been made for payment with respect to petitioners or for administration of the program, we are establishing the following first procedures to implement the Act.

III. Filing of Notice of Intent

An eligible individual may submit a Notice of Intent to File a Petition stating an intent to file a full petition when appropriate. The Notice of Intent shall include the following:

(1) The name of the petitioner, with current address and phone number.

(2) The name, address, and phone number of the petitioner's attorney of record or other representative for the petition, if any.

The notice of intent shall be sent to: Ricky Ray Program Office, Bureau of Health Professions, Room 8–05, 5600 Fishers Lane, Rockville, Maryland 20857.

On receipt of the Notice of Intent to File a Petition, we will respond with an acknowledgment reflecting a case number assigned to the filing.

Thereafter, petitioner must advise the Department of any change of address, phone number, or attorney of record or other representative. We will not further process a Notice of Intent to File a Petition if we are unable to contact the petitioner or her/his attorney or other representative in the future because of a change in such informaiton of which we were not informed. New name, address, phone number(s) or attorney or other representative information should be sent to the same addressee as will receive Notices of Intent to File a Petition.

The date of receipt of the Notice of Intent will be viewed as the date of filing for purposes of the 3-year time limit on filing petitions (section 105 of the act). The Notice of Intent will not activate Departmental consideration beyond sending an acknowledgment of its receipt since processing and consideration commence on the filing of an actual petition. The sending of the acknowledgment in no way implies that the petitioner has been determined to be eligible for a payment. The review period described in section 103(d) of the Act will begin on receipt of a fu ll petition containing all informaiton to be specified in future instructions. All filings are confidential and will be used only for authorized purposes.

Should funds be appropriated for the administrative costs of the program and for the payment of successful petitions, we will advise those who submit Notices of Intent of the content, format, and deadlines for future submissions related to the petition.

Dated: March 10, 1999.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 99–7221 Filed 3–23–99; 8:45 am]

BILLING CODE 4165–15–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–1036]

Vale Chemical Co., Inc., et al.; Withdrawal of Approval of 13 New Drug Applications and 1 Abbreviated New Drug Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 13 new drug applications (NDA's) and 1 abbreviated new drug application (ANDA). The basis for the withdrawals is that the holders of the applications have repeatedly failed to file required annual reports for these applications.

EFFECTIVE DATE: March 24, 1999.

FOR FURTHER INFORMATION CONTACT: Olivia A. Pritzlaff, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The holders of approved applications to market new drugs or antibiotics for human use are required to submit annual reports to FDA concerning each of their approved applications in accordance with § 314.81 (21 CFR 314.81).

In the **Federal Register** of December 2, 1998 (63 FR 66549), FDA offered an opportunity for a hearing on a proposal to withdraw approval of 13 NDA's and 1 ANDA because the firms had failed to submit the required annual reports for these applications.

Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299, notified the agency that they no longer market the products for NDA's 50–088, 50–129, 50–189, 50–197, 50–305, and 50–319. Wyeth-Ayerst did not request a hearing and submitted a formal request for the agency to withdraw approval of the NDA's for these products.

The holders of the other eight applications did not respond to the notice of opportunity for a hearing. Failure to file a written notice of participation and request for a hearing as required by 21 CFR 314.200 constitutes an election by the applicant not to make use of the opportunity for a hearing concerning the proposal to withdraw approval of the applications and a waiver of any contentions concerning the legal status of the drug products. Therefore, the Director, Center for Drug Evaluation and Research, is withdrawing approval of the applications listed in the table of this document.

Application No.	Drug	Applicant
NDA 7–112	Nisaval (pyrilamine maleate) 25 milligram (mg) Tablets	Vale Chemical Co., Inc., 1201 Liberty St., Allentown, PA 18102.
NDA 11–863	Flavihist Cough Syrup	Boyle & Co., 6330 Chalet Dr., Los Angeles, CA 90022.
NDA 50–042	Potassium Penicillin G Diagnostic Sensitivity Powder, 20,000 units	Pfizer Inc., 235 East 42d St., New York, NY 10017–5755.
NDA 50–067	Compocillin-VK Chewable Wafers	Abbott Laboratories, 100 Abbott Park Rd., Abbott Park, IL 60064.
NDA 50–088	Unipen Injection	Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 50–121	Compocillin-VK Tablets	Abbott Laboratories.
NDA 50–122	Compocillin-V Chewable Wafers	Do.
NDA 50–129	Pen-Vee Suspension and Drops	Wyeth-Ayerst Laboratories.
NDA 50–189	Omnipen Tablets	Do.
NDA 50–197	Unipen Injection	Do.
NDA 50–305	Unipen Capsules	Do.
NDA 50–319	Omnipen Chewable Tablets	Do.
NDA 50–413	Geopen Diagnostic Susceptibility Powder	Pfizer Inc.
ANDA 87–387	Aminophylline Injection USP, 25 mg/milliliter	Pharma-Serve, Inc., 218–20 98th Ave., Queens Village, NY 11429.

The Director, Center for Drug Evaluation and Research, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), and under authority of 21 CFR 5.82, finds that the holders of the applications listed in the table of this document have repeatedly failed to submit reports required by § 314.81. Therefore, under

this finding, approval of the applications listed in the table of this document, and all amendments and supplements thereto, is hereby withdrawn, effective March 24, 1999.

Dated: March 8, 1999.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 99–7124 Filed 3–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee E—Prevention & Control.

Date: April 28–30, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue Bethesda, MD 20814.

Contact Person: Mary C. Fletcher, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN–Room 643G, Bethesda, MD 20814, 301/496–7413.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7198 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee D—Clinical Studies.

Date: April 14–15, 1999.

Time: 12:00 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Martin H. Goldrosen, PHD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, Room 635 C, Rockville, MD 20852–7408, (301) 496–7930, mg85x@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7199 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Date: May 25–27, 1999.

Open: May 25, 1999, 8:00 am to 9:00 am.

Agenda: To discuss program planning and program accomplishments.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Closed: May 25, 1999, 9:00 am to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: D.G. Patel, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, Bethesda, MD 20892, (301) 435–0822.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: March 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7201 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Research Resources Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should

notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Research Resources Council.

Date: May 20–21, 1999.

Open: May 20, 1999, 8:30 am to Recess.

Agenda: To discuss policy issues.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Closed: May 21, 1999, 8:00 am to 9:30 am.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 6, Building 31C, Bethesda, MD 20892.

Contact Person: Louise E. Ramm, Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: March 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7202 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Neurological Disorders and Stroke, including consideration of personal qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

Date: May 9–11, 1999.

Closed: May 9, 1999, 7 pm to 10:00 pm.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 9000 Rockville Pike, Bethesda, MD 20892.

Open: May 10, 1999, 8:00 am to 10:10 am.

Agenda: To conduct Branch presentations.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: May 10, 1999, 10:10 am to 10:40 am.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 9000 Rockville Pike, Bethesda, MD 20892.

Open: May 10, 1999, 10:50 am to 3:10 pm.

Agenda: To conduct Branch presentations.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: May 10, 1999, 3:10 pm to 4:00 pm.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 9000 Rockville Pike, Bethesda, MD 20892.

Open: May 10, 1999, 4:00 pm to 6:00 pm.

Agenda: To conduct Branch presentations.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: May 11, 1999, 8:30 am to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 6C9, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Story C. Landis, PhD, Director, Division of Intramural Activities, NINDS, National Institutes of Health, Building 36, Room 5A05, Bethesda, MD 20892, 301–435–2232.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 17, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7191 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

NAME OF COMMITTEE: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

DATE: April 13, 1999.

TIME: 1:00 pm to 5:00 pm.

AGENDA: To review and evaluate grant applications.

PLACE: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

CONTACT PERSON: Paul A. Sheehy, Phd., Scientific Review Administrator, Scientific Review Branch, NINDS, Fed. Bldg., Rm. 9C10, 7550 Wisconsin Avenue, MSC 9175, National Institutes of Health, Rockville, MD 20892–9175, 301–496–9223, ps32h@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 17, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7192 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: April 13, 1999.

Time: 12:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Suite 400C, Bethesda, MD 20852 (Telephone Conference Call).

Contact Person: George M. Barnas, Phd, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities/NIDCD, 6120 Executive Blvd, Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7196 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Chronic Fatigue Syndrome.

Date: April 12, 1999.

Time: 8:30 am to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Edward W. Schroder, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C38, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–435–8537.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy Immunology, and Transportation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7197 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: May 13–14, 1999.

Closed: May 13, 1999, 8:30 am to 11:00 am.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: May 13, 1999, 11:00 am to 5:00 pm.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: May 14, 1999, 8:30 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: W. Sue Shafer, Deputy Director, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN–32C, Bethesda, MD 20892, (301) 594–4499.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7200 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should

notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C, as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine.
Date: May 3–5, 1999.
Open: May 4, 1999, 9:00 am to 3:45 pm.
Agenda: Administrative reports and program discussion.
Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.
Closed: May 4, 1999, 3:45 pm to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.
Open: May 5, 1999, 9:00 am to 11:30 am.
Agenda: Administrative reports and program discussion.
Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, National Institutes of Health, PHS, DHHS, Bldg. 38, Room 2E17B, Bethesda, MD 20894.

Name of Committee: Board of Regents of the National Library of Medicine, Planning Subcommittee—Space and Consumer Health.
Date: May 3, 1999.
Open: 3:00 pm to 5:00 pm.
Agenda: Reports and program discussion.
Place: National Library of Medicine, 8600 Rockville Pike, Bldg. 38, Conference Room B, Bethesda, MD 20894.
Contact Person: Donald-A.B. Lindberg, MD, Director, National Library of Medicine, National Institutes of Health, PHS, DHHS, Bldg. 38, Room 2E17B, Bethesda, MD 20894.

Name of Committee: Board of Regents of the National Library of Medicine, Subcommittee on Outreach and Public Information.
Date: May 4, 1999.
Open: 7:45 am to 9:00 am.
Agenda: Outreach and Public Information Items.
Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20894.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, National Institutes of Health, PHS, DHHS, Bldg. 38, Room 2E17B, Bethesda, MD 20894.

Name of Committee: Board of Regents of the National Library of Medicine, Extramural Programs Subcommittee.
Date: May 4, 1999.
Closed: 12:15 pm to 1:30 pm.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, Building 38A, HPCC Conference Room B1B30Q, 8600 Rockville Pike, Bethesda, MD 20894.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, National Institutes of Health, PHS, DHHS, Bldg. 38, Room 2E17B, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 16, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7194 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 23, 1999.
Time: 12:00 pm to 1:00 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge, MD 20892, (Telephone Conference Call).
Contact Person: Nabeeh Mourad, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, (301) 435–1222.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 28–29 1999.
Time: 8:00 am to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Nancy Shinowara, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, shinowan@drg.nih.gov.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Special Emphasis Panel.
Date: March 28–29, 1999.
Time: 1:00 pm to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Ave, Washington, DC 2007.
Contact Peson: Patricia H. Hand, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, (301) 435–1767.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 29–30 1999.
Time: 8:30 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Dennis Leszczynski, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 29, 1999.
Time: 1:00 pm to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Gopal C. Sharma, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7816, Bethesda, MD 20892, (301) 435–1783.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 29, 1999.
Time: 2:00 pm to 3:00 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Richard Panniers, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–8 (55).

Date: March 29, 1999.

Time: 2:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nadarajen Vydelingum, Scientific Review Administrator, Special Study Section—8, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7854, Rm 5122, Bethesda, MD 20892, (301) 435–1176, vydelinn@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 30, 1999.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Garrett V. Keefer, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 30, 1999.

Time: 12:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ronald Dubois, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722, duboisr@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 31, 1999.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815

Contact Person: Gopal C. Sharma, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7816, Bethesda, MD 20892, (301) 435–1783.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 31–April 2, 1999.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Calbert Laing, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, (301) 435–1221.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: March 17, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7193 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center, March 22, 1999, 9 AM to March 22, 1999, 12:00 PM, National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on March 1, 1999, 64 FR 10009.

In accordance with the provisions set forth in sec. 552b(c)(6) of Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, a portion of this meting will be closed to the public from approximately 12:00 PM until adjournment for discussion of personnel qualifications and performance, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: March 16, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7195 Filed 3–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974: As Amended; Deletion of an Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed deletion of an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to delete an existing Privacy Act system of records notice, OS–12, "Private Relief Claimants, Department."

EFFECTIVE DATE: This action will be effective on march 24, 1999.

FOR FURTHER INFORMATION CONTACT: Director, Office of Congressional and Legislative Affairs, MS 6242 MIB, 1849 C Street NW, Washington DC 20240.

SUPPLEMENTARY INFORMATION: In this notice, the Department of the Interior is deleting OS–12, "Private Relief Claimants, Department" because a separate system of records, maintained and accessible by the names of individual claimants, seeking relief through legislative action, is no longer being maintained by the Office of Congressional and Legislative Affairs.

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/OS–12

SYSTEM NAME:

"Private Relief Claimants, Department"—Interior, OS–12.

ORIGINAL FEDERAL REGISTER PUBLICATION CITATION:

54 FR 4915, January 31, 1989.

REASON FOR DELETION:

The Office of Congressional and Legislative Affairs no longer maintains a separate system of records for private relief bills. Records for private relief bills are filed by bill number in the Legislation History Files maintained by the Office of Congressional and Legislative Affairs for the Department of the Interior. Records filed into the Legislative History Files are not accessible by name or other personal identifier.

DISPOSITION OF RECORDS:

All records older than 36 years have been destroyed, in accordance with Office of the Secretary Comprehensive Records Disposal Schedule, Category H, Item 3. All other records have been

retired to the Federal Records Center, for storage, until their officially scheduled destruction date. Requests for notification of the existence of records on named individuals, access to records on named individuals, and amendment of records on named individuals that were filed in "Private Relief Claimants, Department"—Interior, OS–12, which have not been destroyed, should be sent to the following address: Freedom of Information Act/Privacy Act Coordinator, Office of Congressional and Legislative Affairs, MS 6242 MIB, 1849 C Street NW, Washington, DC 20240.

[FR Doc. 99–7149 Filed 3–23–99; 8:45 am]
BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974: As Amended; Revisions to the Existing System of Records

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary is issuing public notice of its intent to modify an existing Privacy Act system of records notice, OS–57, "Privacy Act Files." The revisions will update the system number, update the routine uses, and revise the addresses of the System Locations and System Managers.

EFFECTIVE DATE: These actions will be effective on March 24, 1999.

FOR FURTHER INFORMATION CONTACT: Departmental Privacy Act Officer, U.S. Department of the Interior, Office of Information Resources Management, MS–5312 MIB, 1849 C Street NW, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: In this notice, the Department of the Interior is amending the system notice for OS–57, "Privacy Act Files," to more accurately describe the Department-wide scope of the system of records; to update the routine uses of the data to include disclosures to debt collection agencies, disclosures to other Federal agencies as required in performance of official duties in support of functions compatible with the collection of the data, and disclosures to a consumer reporting agency; and to update the addresses of the System Locations and the System Managers. Accordingly, the Department of the Interior proposes to amend the "Privacy Act Files," OS–57 in its entirety to read as follows:

Sue Ellen Sloca,

Office of the Secretary Privacy Act Officer, National Business Center.

INTERIOR/DOI–57

SYSTEM NAME:

Privacy Act Files—Interior, DOI–57.

SYSTEM LOCATION:

1. U.S. Department of the Interior, Office of Information Resources Management, MS–5312, 1849 C Street NW, Washington, DC 20240.

2. Offices of Privacy Act Officers for each of the Department's bureaus. (Consult the Appendix for addresses of bureau Privacy Act Officers.)

3. Offices of Systems Managers (and officials authorized, by them,) to receive requests for notification of the existence of, access to, and petitions for amendment of records. (Consult individual system notices for addresses of System Managers.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted requests for notification of the existence of, access to, and petitions for amendment of records maintained in formally designated "systems of records" under the Privacy Act. Individuals who have filed Privacy Act appeals with the Assistant Secretary-Policy, Management and Budget in accordance with Departmental Privacy Act appeal procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Privacy Act requests and appeals; decisions on Privacy Act requests and appeals; accounting of disclosure files; correspondence; reports and related records

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purposes of the system are:

(1) To support action on Privacy Act requests and appeals.

(2) To gather information for management and reporting purposes.

Disclosure outside the Department of the Interior may be made:

(1) To other Federal agencies with a subject matter interest in a request or an appeal of a decision on a request.

(2) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or compatible with the purpose for which the records were compiled.

(3) Of information indicating the violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

(4) To a congressional office in connection with an inquiry an individual covered by the system has made to the congressional office.

(5) To a debt collection agency for the purpose of collecting outstanding debts owned to the Department for fees associated with processing Privacy Act requests.

(6) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual and automated form.

SAFEGUARDS:

Records are maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with General Records Schedule No. 14, Items 21–26.

SYSTEM MANAGER(S) AND ADDRESS:

1. Departmental Privacy Act Officer, U.S. Department of the Interior, Office of Information Resources Management, MS–5312 MIB, 1849 C Street NW, Washington, DC 20240.

2. Bureau Privacy Act Officers. (Consult the Appendix for addresses of bureau Privacy Act Officers.)

3. System Managers. (Consult individual system notices for addresses of System Managers.)

NOTIFICATION PROCEDURES:

A request for notification of the existence of records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A request for amendment of a record shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.71.

RECORDS SOURCE CATEGORIES:

Individuals filing Privacy Act requests and appeals; Departmental officials acting on requests, appeals, and reporting requirements; the Office of Management and Budget.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–7150 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Grant Availability to Federally Recognized Indian Tribes for Projects Implementing Traffic Safety on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) intends to make funds available to federally-recognized Indian tribes on an annual basis for the purpose of implementing traffic safety projects which are designed to reduce the number of traffic crashes within Indian Country. Due to the limited funding available for this program, all projects will be reviewed and selected on a competitive basis. This notice informs Indian tribes that grant funds are available and that the information packets are forthcoming. Information packets will be distributed by the end of January of each program year to all tribal leaders on the latest tribal leaders list.

DATES: Requests for funds must be received by June 1 of each program year. Requests not received in the office of the Indian Highway Safety Program at the close of business on June 1 will not be considered.

ADDRESSES: Each tribe must submit their request to the Bureau of Indian Affairs, Division of Safety Management, Attention: Indian Highway Safety Program Coordinator, 505 Marquette Avenue, NW, Suite 1705, Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: Tribes should direct questions concerning the grant program to Larry Archambeau, Indian Highway Safety Program Coordinator or to Charles L. Jaynes, Program Administrator, at 505–248–5053.

SUPPLEMENTARY INFORMATION:

Background

The Federal-Aid Highway Act of 1973 (Pub. L. 93–87) provides for U.S. Department of Transportation (DOT) funding to assist Indian tribes in implementing Highway Safety projects. The projects are designed to reduce the number of traffic crashes and their resulting fatalities, injuries, and property damage within Indian reservations. All federally-recognized Indian tribes on Indian reservations are eligible to receive this assistance. All tribes receiving awards of program funds are reimbursed for costs incurred under the terms of 23 U. S.C. 402 and subsequent amendments.

Responsibilities

For purposes of application of the Act, Indian reservations are collectively considered a "State" and the Secretary of the Interior is considered the "Governor of a State." The Secretary of the Interior delegated the authority to administer the programs throughout all the reservations in the United States to the Assistant Secretary—Indian Affairs. The Assistant Secretary—Indian Affairs further delegated the responsibility for primary administration of the Indian Highway Safety Program to the Division of Safety Management located in Albuquerque, New Mexico. The Chief, Division of Safety Management, as program administrator of the Indian Highway Safety Program, has three full-time staff members to assist in program matters and provide technical assistance to the Indian tribes. It is at this level that contacts with DOT are made with respect to program approval, funding of projects and technical assistance. DOT, through the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA), is responsible for ensuring that the Indian Highway Safety Program is carried out in accordance with 23 U.S.C. 402 and other applicable Federal statutes and regulations.

NHTSA is responsible for the apportionment of funds to the Secretary of the Interior, review and approval of the Indian Highway Safety Plan involving NHTSA highway safety program areas and technical guidance and assistance to the Bureau of Indian Affairs.

Program Areas

The Surface Transportation and Uniform Relocation Assistance Act of 1987, 23 U.S.C. 402(j), required DOT to conduct a rulemaking process to determine those programs most effective in reducing traffic crashes, injuries, and fatalities. Those program areas were determined to be national priority program areas, and include the following:

NHTSA Program Areas:

(1) Alcohol and Other Drug Countermeasures, (2) Police Traffic Services, (3) Occupant Protection, (4) Traffic Records, (5) Emergency Medical Services, (6) Safe Communities, (7) Roadway Safety, and (8) Pedestrian and Bicycle Safety.

Funding Criteria

The Bureau of Indian Affairs will reimburse for eligible costs associated with the following:

(1) *Alcohol and Other Drug Countermeasures*—salary and overtime (DWI enforcement officer), enforcement/education, NHTSA-approved training, approved breath-testing equipment (must be included on most recent Consumer Products List published by NHTSA), community/school alcohol traffic safety education, DWI offender education, prosecution, adjudication, training for judicial personnel and vehicle expenses.

(2) *Police Traffic Services*—salary and overtime (traffic enforcement/education), traffic law enforcement/radar training, speed enforcement equipment (must be on Consumer Products List published by NHTSA), community/school education, and vehicle expenses.

(3) *Motorcycle, Pedestrian, Bicycle Initiatives.*

(4) *Occupant Protection:*

(a) Child passenger safety—child car seat loaner program, car seat

transportation/storage, and public information/education.

(b) Community seat belt program—salary, education/promotional materials, office expense, and NHTSA-approved Occupant Protection Usage and Enforcement (OPUE) training.

(5) *Traffic Records*—salary, ADP equipment, and training.

(6) *Emergency Medical Services*—training, public information and education.

(7) *Roadway Safety*—traffic signs (warning, regulatory, work zone), hardware and sign posts, construction zone safety and flagger training.

(8) *Community Traffic Safety Projects*—project management, public information and education training, law enforcement, prosecution, judicature, data management.

(9) *Safe Community Projects*—salary, project management, public information, law enforcement, prosecution, judicature, data management.

Project Guidelines

BIA will send information packets to the tribes by January of each program year. Upon receipt of the information packet, each tribe should prepare a proposed project based on the following guidelines:

(1) *Program Planning.* Program planning shall be based upon the highway safety problems identified and countermeasures selected by the tribe, using a Safe Community concept for the purpose of reducing traffic crash factors.

(2) *Problem Identification.* Highway traffic safety problems shall be identified from the best data available. This data may be found in tribal enforcement records on traffic crashes. Other sources of data include ambulance records, court and police arrest records. The problem identification process may be aided by using professional opinions of personnel in law enforcement, Indian Health Service, driver education, road engineers, education specialists, and judicial personnel. This data should accompany the funding request. Impact problems should be indicated during the identification process. An impact problem is a highway safety problem that contributes to car crashes, fatalities and/or injuries, and one that may be corrected by the application of countermeasures. Impact problems can be identified from analysis of statewide and/or tribal traffic records. The analyses should consider as a minimum: pedestrian, motorcycle, bicycle, passenger car, school bus, and truck crashes; records on problem drivers, roadside and roadway hazards, alcohol involvement, youth involvement, defective vehicle involvement, suspended or revoked driver involvement, speed involvement, child safety seat and seat belt usage. Data should accompany the funding request.

(3) *Countermeasures Selection.* When tribal traffic safety problems are identified, the tribe's Safe Community coalition must develop appropriate countermeasures to solve or reduce the problems. The tribe should take into account the overall cost of the countermeasures versus their possible effect on the problem.

(4) *Objectives/Performance Indicators.* After countermeasures selection, the objectives of the project must be expressed in clearly defined, time-framed and measurable terms.

(5) *Budget Format.* The activities to be funded shall be outlined in detail according to the following object groups: personnel services, travel and transportation, rent/communications, printing and reproduction, other services, equipment and training. Each object group shall be quantified; i.e., personnel activities should show number to be employed, hours to be employed, hourly rate of pay, etc. Each object group shall have sufficient detail to show what is to be procured, unit cost, quarter in which the procurement is to be made and the total cost, including any tribal contribution to the project. Indirect costs are limited to 15 percent.

(6) *Evaluation Plan.* Evaluation is the process of determining whether a highway safety activity should be undertaken, if it is being properly conducted, and if it has accomplished its objectives. The tribe must include in the funding request a plan explaining how the evaluation will be accomplished and identifying the criteria to be used in measuring performance.

(7) *Technical Assistance.* The Indian Highway Safety Program staff will be available to tribes for technical assistance in the development of tribal projects.

(8) *Section 402 Project Length.* Section 402 funds may not be used to fund the same project at one location or jurisdiction for more than 3 years.

(9) *Certification Regarding Drug-Free Workplace Requirement.* Indian tribes receiving highway safety grants through the Indian Highway Safety Program must certify that they will maintain a drug-free workplace. An individual authorized to sign for the tribe or reservation must sign the certification. The Department of Transportation must receive the certification before it will release grant funds for that tribe or reservation. The certification must be submitted with the tribal Highway Safety project proposal.

Submission Deadline

Each tribe must submit its funding request to the BIA Indian Highway Safety Program, Albuquerque, New Mexico. The request must be received by the Indian Highway Safety Program Coordinator by close of business June 1 of each program year. Requests for extension to this deadline will not be granted. Modifications of the funding request received after the close of the funding period will not be considered in the review and selection processes.

Selection Criteria

Each funding request will be reviewed and evaluated by the Indian Highway Safety Program staff, Law Enforcement staff, Department of Education staff, Office of Alcohol and Substance Abuse staff, and BIA Division of Transportation staff. Each staff member will rank the projects by assigning points to four areas of consideration. The areas of consideration are (1) magnitude of the problem, 50 points; (2) countermeasure selection, 40 points; (3) tribal leadership and community support, 10 points; (4) past performance, 10 points.

Notification of Selection

The tribes selected to participate will be notified by letter. Each tribe selected must include in its proposal a certification regarding drug-free workplace requirements and a duly authorized tribal resolution. The certification and resolution must be on file before grant funds for the tribe or reservation can be released.

Notification of Non-Selection

The Program Administrator will notify each tribe of non-selection. The tribe will be provided the reason for non-selection.

Uniform Administrative Requirements for Grant-in-Aid

Uniform grant administration procedures have been established on a national basis for all grant-in-aid programs by DOT/NHTSA under 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." NHTSA and FHWA have codified uniform procedures for State Highway Safety Programs in 23 CFR parts 1200, 1204 and 1205. OMB Circular A–87 and NHTSA order 462–13A have established cost principles applicable to grants and contracts with State and local

government. It is the responsibility of the Indian Highway Safety Program to establish operating procedures consistent with the applicable provisions of these rules.

Standards for Financial Management System

Tribal financial management systems must provide:

(1) Accurate, current, and complete disclosure of financial results of the Highway Safety project.

(2) Adequate record keeping.

(3) Control over and accountability for all funds and assets.

(4) Comparison of actual expenditures with budgeted amounts.

(5) Documentation of accounting records.

(6) Appropriate auditing. Highway Safety projects will be included in the tribal A–128 single audit requirement.

Tribes will provide a quarterly financial and program status report to the BIA Indian Highway Safety Program Coordinator, 505 Marquette, NW, Suite 1705, Albuquerque, New Mexico 87102. These reports will be submitted no later than 7 days beyond the reporting month.

Project Monitoring

During the program year, it is the responsibility of the BIA Indian Highway Safety Program to maintain a degree of project oversight, provide technical assistance as needed to assist the project in fulfilling its objectives, and assure that grant provisions are complied.

Project Evaluation

BIA will conduct a performance evaluation for each Highway Safety project. The evaluation will measure the actual accomplishments to the planned activity. BIA will evaluate the project on-site at the discretion of the Indian Highway Safety Program Administrator.

Dated: March 16, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–7118 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–00; GP9–0140]

Call For Nominations for the Academician Position on the Eastern Washington Resource Advisory Council

AGENCY: Spokane District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit nominations for an academician for the Eastern Washington Resource Advisory Council, established and authorized in 1995 by the Secretary of the Interior to provide advice and recommendations to the Bureau of Land Management (BLM) and the U.S. Forest Service on management of public lands.

The Council was established in August, 1995, and is composed of 15 members. This notice requests nominations to fill the vacant academician position for the balance of the term which expires in August of 2001.

The Council, which covers much of eastern Washington, has worked closely with the BLM on the development of standards for rangeland health and guidelines for grazing management, and in providing comments on the Interior Columbia Basin Ecosystem Management Project.

This Council is authorized under the Federal Land Policy and Management Act (FLPMA), which directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, Resource Advisory Council membership must be balanced and representative of the various interests concerned with the management of public lands.

Individuals may nominate themselves or others. Nominees must be residents of the State of Washington. Nominees for the academician position will be evaluated based on their experience as an academician in a natural resource related field and their knowledge of the geographic area covered by the Council. Nominees must also have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications. The BLM Oregon/Washington State Director, the Forest Service Regional Forester, and the Washington Governor's Office will forward the nominations to the Secretary of the Interior, who will make the appointment to the Council.

This nomination period will also be announced through press releases issued by the BLM Oregon/Washington State Office. Nominations for Resource Advisory Councils should be sent to: Elaine Zielinski, Bureau of Land Management, Oregon/Washington State Director, P.O. Box 2965, Portland, Oregon, 97208–2965.

DATES: All nominations must be received by the Bureau of Land Management Oregon/Washington State Office on or before April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Joseph K. Buesing, Bureau of Land Management, Spokane District Office, 1103 North Fancher, Spokane, Washington, 99212–1275; or call 509–536–1200.

Dated March 18, 1999.

Joseph K. Buesing,

District Manager.

[FR Doc. 99–7145 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1430–01; F–031039, F–19363]

Public Land Order No. 7379; Revocation of Executive Order No. 782 and Partial Revocation of Public Land Order No. 5187; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order in its entirety, and partially revokes a public land order, as they affect approximately 19 acres of public land withdrawn for use by the military, and for classification and protection of the public interest. The land is no longer needed for the purposes for which it was withdrawn. Approximately 8.37 acres have been transferred to other Federal agencies according to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, *et seq.*). The remaining 10.83 acres have been conveyed out of Federal ownership. This action is for record clearing purposes only.

EFFECTIVE DATE: March 24, 1999.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5049.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), and by section 22(h)(4) of the Alaska Native Claims Settlement

Act, 43 U.S.C. 1621(h)(4) (1994), it is ordered as follows:

Executive Order No. 782, dated April 16, 1908, which reserved public land at Fairbanks for use by the military, is hereby revoked in its entirety. Public Land Order No. 5187, dated March 15, 1972, which withdrew public lands for classification and for protection of the public interest, is hereby revoked insofar as it affects the following described land:

Located within secs. 10 and 11 of T. 1 S., R. 1 W., Fairbanks Meridian, the parcel, as described in Executive Order No. 782, is more particularly described as follows:

That tract of land included within metes and bounds as follows: Beginning at a stake, centered with a tack, and marked "Initial Stake No. 1"; Thence N. 81°5″ E. 18 feet to the left bank of the Chena River at its intersection with the south line of the Independent Lumber Company's property; Thence in a southerly direction following the meanderings of the left bank of the Chena River approximately 853 feet; Thence S. 81°5″ W. 16 feet to a stake, centered with a tack, and marked "Stake No. 2"; Thence S. 81°5″ W. 1100 feet to a stake, centered with a tack, and marked "Stake No. 3"; Thence N. 08°1″ W. 850 feet to a stake, centered with a tack, and marked "Stake No. 4"; Thence N. 81°5″ E. 982 feet to Initial Stake No. 1, the point of beginning.

The area described contains approximately 19 acres.

Dated: March 12, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–7204 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–019069, COC–011495, COC–28246, COC–28268, COC–28269]

Public Land Order No.7378; Revocation of Three Secretarial Orders and Three Public Land Orders, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes, in their entireties, three Secretarial orders and three public land orders which withdrew public lands for the Juniper, White River, and Yampa River Storage Reclamation Projects. These projects were never developed and the lands are no longer needed for reclamation purposes. The Bureau of Reclamation has relinquished these withdrawals and this action will relieve the lands of the segregative effects of these withdrawals. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order Nos. 3735, 3736, and 3805, and the Secretarial Orders dated March 25, 1905, June 18, 1909, and May 16, 1917, which withdrew public lands for the Juniper, White River, and Yampa River Storage Reclamation Projects, are hereby revoked in their entireties for lands within the following listed Townships:

Sixth Principal Meridian

Tps. 5 and 6 N., R. 91 W.,
Tps. 5 and 6 N., R. 92 W.,
Tps. 5 and 6 N., R. 93 W.,
Tps. 5 and 6 N., R. 94 W.,
T. 6 N., R. 95 W.,
T. 6 N., R. 97 W.,

The areas described aggregate approximately 36,200 acres in Moffat County. More specific legal descriptions showing sections and subdivisions may be obtained by contacting Doris Chelius at the address or phone number listed above. The documents may also be examined by the public during regular working hours in the Colorado State Office.

2. At 9 a.m. on April 23, 1999, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. April 23, 1999 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on April 23, 1999, the lands shall be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 12, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–7203 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–00–5440–B101, CACA–38678]

Noncompetitive Sale of Public Land in Kern County, California

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of realty action.

SUMMARY: Notice is hereby given that certain land has been examined and identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1701, 1713). The land will be offered for sale 60 days after the publication of this notice. The 40 acres of land is described as the NW¼SE¼, section 10, T. 9 N., R. 13 W., San Bernardino Meridian, Kern County, California.

The land has not been used for and is not required for any Federal purpose. The Parcel is difficult and uneconomic to manage as public land. Disposal would best serve the public interest. The disposal would be consistent with the Bureau's planning recommendations as approved in the California Desert Conservation Plan (1986), as amended.

All mineral interest will be offered for conveyance. The mineral interest being offered have no known mineral value. Mr. Snavely has applied for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1719(b)). The patent issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945); and

The patentee agrees to indemnify, defend, and hold the grantor harmless from any costs, damages, claims, liabilities, and judgements arising from past, present, and future, acts or omissions of the patentee, its

employees, agents, contractors, or lessees arising of or in connection with, patentee's use, occupancy or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, arising out of or in connection with the use and/or occupancy on the patented real property which has already resulted or does hereafter result in: (1) Violations of federal, state, and local laws and regulations which are now or may in the future become, applicable to the patented real property; (2) Judgements, claims or demands assessed against the grantor; (3) Costs, expenses, damages incurred by the United States; (4) Other releases or threatened releases on or into land, property and other interests of the grantor by solid waste and/or hazardous substance(s) as defined by federal or state environmental laws; (5) Or other activities by which solid or hazardous substances or wastes, as defined by federal and state environmental laws were generated, released, stored, used or otherwise disposed on the patented real property, and any clean-up response, natural resource damage or other actions related in any manner to said solid or hazardous substances or wastes. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction.

FOR FURTHER INFORMATION AND PUBLIC COMMENT CONTACT: Janet Eubanks, Ridgecrest Realty Specialist at (909) 697–5376, located in the California Desert District, 6221 Box Springs Boulevard, Riverside, CA 92507. For a period of 45 days from the date of publication of this notice, interested parties may submit comment. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior Comments, including names and street addresses of respondents, will be available for public review at the above address during regular business hours (8:00 a.m. to 4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, will be made available for public inspection on in their entirety.

SUPPLEMENTARY INFORMATION: The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public and laws, including the mining laws. This segregation will end upon issuance of patent, or 270 days from the date of publication of this notice.

Dated: March 12, 1999.

Alan Stein,

Acting District Manager.

[FR Doc. 99–7126 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–1030–00–HDWT]

Headwaters Forest Reserve, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of interim management guidelines.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, in cooperation with the State of California, will put into place interim management guidelines for the Headwaters Forest Reserve in Humboldt County, California. Under these Interim Management Guidelines, pedestrian access will be allowed into the Headwaters Forest Reserve. Other uses as cited below, on lands in the Headwaters Forest Reserve, will not be allowed on a temporary basis, subject to 43 CFR 8364: Unauthorized use by motorized and non-motorized vehicles in accordance with 43 CFR 8341.2, use of firearms (43 CFR 8365.1–4), overnight camping (43 CFR 8364.1(a)), equestrian use (43 CFR 8364.1(a)), and to the issuance of special use permits including but not limited to special forest products/vegetation collection (43 CFR 8365.1–5(2)), and recreation (43 CFR 8364.1(a)). Decisions on long term public uses at the Headwaters Forest Reserve will be made through the cooperative management plan to be developed over the next year. Employees, agents and permittees of the BLM may be exempt from these restrictions as determined by the Field Manager.

These temporary restrictions are necessary to (1) protect aquatic threatened and endangered species from further ecosystem damage caused by accelerated sedimentation of waterways by unstable road conditions, (2) protect terrestrial threatened and endangered species from unregulated, un-analyzed impacts, and (3) ensure public safety. These temporary restrictions will remain in effect until a formal planning process with full public participation is completed. The planning process will include: a comprehensive ecosystem analysis (watershed analysis) compliant with the standards and guidelines of the Northwest Forest Plan (NWFP), a National Environmental Policy Act (NEPA) analysis, an approved United States Fish and Wildlife (USFW) Section 7 Biological Consultation, and an approved National Marine Fisheries Service (NMFS) Consultation. These processes will lead to a final management plan and record of decision. The formal planning process is scheduled to begin later this year, with appropriate calls for public involvement.

DATES: Restrictions are effective March 24, 1999.

ADDRESSES: Maps and supporting documentation of the Headwaters Reserve are available for review at the following location: Bureau of Land Management, Arcata Field Office, 1695 Heindon Road, Arcata, CA, 95521.

FOR FURTHER INFORMATION CONTACT: Lynda J. Roush, BLM, Arcata Field Manager (707) 825–2300.

SUPPLEMENTARY INFORMATION: The new Headwaters Forest Reserve, described in Section 501 of the 1998 Interior Appropriations Act as the Headwaters Forest and Elk River Property Acquisition, provides a unique opportunity for Federal, State, and local agencies to combine their strengths and involve the public in a Cooperative Resource Management Planning (CRMP) approach. A cooperative agreement among the three levels of government, along with a broad spectrum of interest groups, will oversee and help direct future management of the area. Such an approach will foster and perpetuate a public sense of stewardship for these important biological resources. The land acquisition, funded by the State of California and the Federal Government, will be managed as one landscape, with a seamless meshing of government and private sector entities. Cooperative management will be the cornerstone of the Headwaters Forest. The Bureau of Land Management (BLM) will be the managing agency representing the Federal government. Now that

acquisition is complete, the BLM will help lead the development of a management plan. The focus of the management plan is the protection and monitoring of threatened and endangered species and their aquatic and terrestrial habitats, particularly within the old-growth redwood groves. Management of the surrounding second-growth would include significant restoration activities to accelerate the return of old-growth dependent species. Virgin old-growth forest stands will not be subject to silvicultural practices. The re-establishment of natural drainage networks will include extensive road restoration with the goal of removing, decommissioning, or stabilizing the entire existing road network and re-instating natural processes over time in an essential roadless landscape. Recreation activities and visitor services at the Headwaters Forest Reserve will be developed through the planning process. Visitor use will be managed in a manner consistent with the management of late-successional and old-growth forest habitats and the species they support.

Opportunities for recreation use will be an evolving program where demand and impacts of uses will be analyzed over time. Management of the area will rely on findings of a detailed and comprehensive ecosystem analysis (watershed analysis) and an assessment of forest stand conditions. The findings of these analyses will set the ecological parameters within which all management will be conducted, including restoration, research, recreation, transportation, and monitoring.

Extensive public involvement, along with public outreach and education, will be a vital component in the analysis process.

Lynda J. Roush,

Arcata Field Manager.

[FR Doc. 99–7264 Filed 3–22–99; 12:22 pm]

BILLING CODE 4130–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-day Notice of Intention To Request Clearance of Information Collection—Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Cuyahoga Valley National Recreation Area.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service invites public comments on a proposed information collection. Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

The National Park Service is conducting a study to assess the positive and negative social consequences of various potential deer management alternatives in Cuyahoga Valley National Recreation Area (CVNRA). This information will be used to help the staff at CVNRA develop a deer management strategy that considers public desires and concerns relating to management of the CVNRA. The following specific study objectives have been identified:

1. Determine the acceptability, tolerance, and preferences among the local public for: deer management activities, the perceived positive and negative consequences of deer management activities, and deer population levels;

2. Identify and determine the intensity of the psychological and emotional Impacts among the local public served by CVNRA due to various deer management actions;

3. Determine the effect of deer management activities on local public attitudes toward the park, its services, and park staff;

4. Determine the degree to which deer management activities may affect park visitation patterns among the local public;

DATES: Public comments on the proposed ICR will be accepted on or before May 24, 1999.

ADDRESSES: Send comments to David C. Fulton, Ph.D., Assistant Unit Leader, Minnesota Cooperative Fish and Wildlife Research Unit, University of Minnesota, 142 Hodson Hall, 1980 Folwell Ave., St. Paul MN 55108–6124.

All responses to this notice will be summarized and included in the requests for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. Copies of draft surveys can be obtained from David C. Fulton, Ph.D., Assistant Unit Leader, Minnesota Cooperative Fish and Wildlife Research Unit, University of Minnesota, 142 Hodson Hall, 1980 Folwell Ave., St. Paul, MN 55108–6124.

FOR FURTHER INFORMATION CONTACT: David Fulton, 612–625–5256, or Jerrilyn Thompson, 612–624–3699.

SUPPLEMENTARY INFORMATION:

Title: Assessing Public Reaction to Potential Deer Management Programs in Cuyahoga Valley National Recreation Area.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration date: To be requested.

Type of request: Request for new clearance.

Description of need: To assess social impacts (positive and negative) of potential deer management programs on Cuyahoga Valley residents.

Automated data collection: At the present time, there is no automated way to gather this information, since it includes asking residents about their perceptions, expectations, and preferences related to deer management programs in the CVNRA.

Description of respondents: Individuals residing in 9 county area surrounding CVNRA.

Estimated average number of respondents: 600.

Estimated average number of responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: 10 minutes.

Estimated frequency of responses: once.

Estimated annual reporting burden: 100 burden hours.

Leonard E. Stowe,

Information Collection Clearance Officer, National Park Service, WAPC.

[FR Doc. 99–7141 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Boston Harbor Islands Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (PL 92–463) that the Boston Harbor Islands Advisory Council will meet on Thursday, April 8, 1999. The meeting will convene at 4:00 PM in the Jury Assembly Room, on the second floor of the New United States Courthouse, 1 Courthouse Way, Boston, Massachusetts.

The Advisory Council was appointed by the Director of National Park Service

pursuant to Public Law 104–333. The 28 members represent business, educational, cultural, and environmental entities; municipalities surrounding Boston Harbor, and Native American interests. The purpose of the Council is to adviser and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of a management plan and the operation of the Boston Harbor National Recreation Area.

The Agenda for this meeting is as follows:

1. Approval of minutes from December 3, 1998, and March 4, 1999.
2. Comments to the Partnership on the preferred alternative from the draft general management plan and environmental impact statement.
3. Discussion regarding the organizational representation on the Council.
4. Election of remaining interest group representatives.
5. Comments on Logan Airport improvements.
6. Approval of the Annual Report.
7. Proposed letter of support for MWRA funding request to the Browne Fund.

The meeting is open to the public. Further information concerning Council meetings may be obtained from the Superintendent, Boston Harbor Islands. Interested persons may make oral/written presentations to the Council or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Boston Harbor Islands NRA, 408 Atlantic Ave., Boston, MA, 02110, telephone (617) 223–8667.

Dated: March 16, 1999.

Bruce Jacobson,

Superinetendent, Boston Harbor Islands NRA.

[FR Doc 99–7142 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–70–01–M

INTERNATIONAL TRADE COMMISSION

Agricultural Tillage Tools From Brazil (Inv. No. 701–TA–223 (Review))

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year review.

SUMMARY: The subject five-year review was initiated in December 1998 to determine whether revocation of the existing countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy and of material injury to a domestic industry. On March 8, 1999, the Department of Commerce published notice that it was revoking the order because no domestic interested party responded to its notice of initiation by the applicable deadline (64 FR 10993, March 8, 1999). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR § 207.69), the subject review is terminated.

EFFECTIVE DATE: March 8, 1999.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: This review is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR § 207.69).

By order of the Commission.

Issued: March 17, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7183 Filed 3–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–352]

Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication

AGENCY: United States International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with 1998 annual report.

EFFECTIVE DATE: March 17, 1999.

FOR FURTHER INFORMATION CONTACT: Joanne Guth (202–205–3264), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

Background

Section 206 of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3204) requires that the Commission submit annual reports to the Congress regarding the economic impact of the Act on U.S. industries and consumers and, in conjunction with other agencies, the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. Section 206(b) of the Act requires that each report include:

(1) The actual effect of ATPA on the U.S. economy generally as well as on specific domestic industries which produce articles that are like, or directly competitive with, articles being imported under the Act;

(2) The probable future effect that ATPA will have on the U.S. economy generally and on domestic industries affected by the Act; and

(3) The estimated effect that ATPA has had on drug-related crop eradication and crop substitution efforts of beneficiary countries.

In addition, in this year's report the Commission plans to examine the effectiveness of ATPA in promoting export-oriented growth and diversification of production in the beneficiary countries.

Notice of institution of the investigation and the schedule for such reports was published in the **Federal Register** of March 10, 1994 (59 FR 11308). The Commission's sixth annual report on ATPA, covering calendar year 1998, is to be submitted by September 30, 1999.

Written Submissions

The Commission does not plan to hold a public hearing in connection with the preparation of the sixth annual report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than June 25, 1999. The Commission's rules do not authorize filing of submissions

with the Secretary by facsimile or electronic means.

Address all submissions to Office of the Secretary, U.S. International Trade Commission, 500 E St., SW, Washington, DC 20436. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

Issued: March 17, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7186 Filed 3–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–227]

Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers

AGENCY: United States International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with 1998 annual report.

EFFECTIVE DATE: March 17, 1999.

FOR FURTHER INFORMATION CONTACT: Joanne Guth (202–205–3264), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

Background

Section 215(a) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)) requires that the Commission submit annual reports to the Congress and the President regarding the economic impact of the Act on U.S. industries and consumers. Section 215(b)(1) requires that the reports include:

(1) The actual economic effect of CBERA on the U.S. economy generally as well as on specific industries which produce articles that are like, or directly competitive with, articles being imported under the Act; and

(2) The probable future effect of CBERA on the U.S. economy generally and on industries affected by the Act.

In addition, in this year's report the Commission plans to examine the effectiveness of CBERA in promoting export-oriented growth and diversification of production in the beneficiary countries.

Notice of institution of the investigation and the schedule for such reports was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The fourteenth report, covering calendar year 1998, is to be submitted by September 30, 1999.

Written Submissions

The Commission does not plan to hold a public hearing in connection with the fourteenth annual report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than June 25, 1999. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

Address all submissions to the Secretary to the Commission, U.S. International Trade Commission, 500 E St., SW, Washington, DC 20436. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

Issued: March 17, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7185 Filed 3–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Textiles From Columbia and Thailand [Invs. Nos. 701–TA–C and D (Review)], Frozen Concentrated Orange Juice From Brazil [Inv. No. 701—TA–184 (Review)], Calcium Hypochlorite From Japan [Inv. No. 731–TA–189 (Review)], Castor Oil Products From Brazil [Inv. No. 104–TAA–20 (Review)], Red Raspberries From Canada [Inv. No. 731–TA–196 (Review)]

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in December 1998 to determine whether revocation of the existing countervailing duty or antidumping duty orders or termination of the suspension agreements would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy and of material injury to a domestic industry. On February 26, 1999, the Department of Commerce published notice that it was revoking the orders because no domestic interested party responded to its notice of initiation by the applicable deadline (64 FR 9473, February 26, 1999). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR 207.69), the subject reviews are terminated.

EFFECTIVE DATE: February 26, 1999.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

Issued: March 17, 1999.

By order of the Commission.
Donna R. Koehnke,
Secretary.
[FR Doc. 99–7184 Filed 3–23–99; 8:45 am]
BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–36]

Anthony D. Funches; Grant of Registration With Condition

On July 31, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Anthony Delano Funches (Respondent) of Denver, Colorado, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a retail distributor of list I chemicals pursuant to 21 U.S.C. 823(h), for reason that his registration would be inconsistent with the public interest.

Respondent filed a request for a hearing on the issues raised by the Order to Show Cause. Following prehearing procedures, a hearing was held in Denver, Colorado on April 8, 1998, before Administrative Law Judge Mary Ellen Bittner. At the hearing both parties called witnesses to testify and introduced documentary evidence. After the hearing, counsel for the Government submitted proposed findings of fact, conclusions of law and argument. On September 9, 1998, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's application for registration be granted. Neither party filed exceptions to her recommended decision, and on October 13, 1998, Judge Bittner transmitted the record of these proceedings to the then-Acting Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, except as specifically noted, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that in 1991 Respondent moved back to Colorado and renewed his acquaintance with a married couple who owned and operated a store called "The Connection" located at 4811 East Colfax Avenue, Denver, Colorado. Approximately three years later, the husband died and his widow inherited The Connection. Respondent assisted her in the management of the business and at some print, they married. They eventually separated and his wife abandoned the store at 4811 East Colfax. Respondent obtained a retail business license and registered the store under the trade name "The Other Connection." The Other Connection sells ephedrine products, as well as items such as sunglasses and jewelry, and also provides services such as fax machines and notary.

On August 25, 1995, Respondent applied for a DEA registration as a retail distributor of ephedrine and pseudoephedrine [1] and listed 4811 East Colfax as the proposed registered location. However in light of his divorce settlement, Respondent ultimately moved the business to 4815 East Colfax.[2] In his application, Respondent answered "no" to the question which asks, "Has the applicant ever been convicted of a crime in connection with controlled substances/listed chemicals under State or Federal law, or ever surrendered or had a Federal registration revoked, suspended, restricted or denied, or ever had a State professional license or registration revoked, suspended, denied, restricted or placed on probation?"

On February 6, 1996, a DEA investigator visited The Other Connection as part of a preregistration investigation. The investigator testified at the hearing in this matter that his inspection revealed that Respondent's recordkeeping and security procedures were adequate and that Respondent's transactions were "well documented." In addition to the on-site visit, the investigator conducted a criminal history of Respondent which revealed that on June 1, 1978, Respondent and a co-defendant were charged in the District Court in the County of Denver, Colorado, with Conspiracy to Sell Narcotic Drugs, Sale of Narcotic Drugs, and Possession of a Dangerous Drug in violation of Colorado law. On January 17, 1979, Respondent pled guilty to the misdemeanor charge of possession of marijuana and the other counts against him were dismissed. Respondent was sentenced to 12 months imprisonment with the sentence suspended provided that he not be "convicted of any state or Federal law, city ordinance other than traffic" and was fined $250.00.

The investigator testified that further investigation of Respondent's conviction revealed a report of a DEA task force officer which stated that in August 1977, Respondent and his co-defendant made arrangements to sell 56.65 grams of cocaine for $4,000.00 to the undercover officer. According to the report, the three met at a designated location; the undercover officer presented the other two with $4,000.00 in exchange for a package; Respondent opened the package so that the undercover officer could sample its contents; and respondent requested that he and the co-defendant be allowed to keep the remnants of the sample for their own use. According to a laboratory analysis report the substance was cocaine and was purchased by the undercover officer from the co-defendant on August 4, 1977. Respondent's name is not mentioned anywhere in this laboratory analysis report.

Respondent admitted at the hearing in this matter that he was present during the alleged cocaine transaction in 1977, but denied handling either the money or the package of cocaine. He explained that at the time of the transaction he was a professional bodyguard and was present during the transaction to provide protection for the co-defendant. Regarding the marijuana, Respondent conceded that although he cannot recall specifically having marijuana in his possession on that occasion over 20 years ago, it was possible since "[i]n those years, I was known to have a drink here and there, or a smoke." However, Respondent testified that he no longer uses illegal drugs.

In explaining why he indicated on his DEA application that he had never been convicted of a crime related to controlled substances, Respondent testified that he did not believe that he still had a marijuana conviction on his record. It was his understanding that the misdemeanor marijuana charge to which he pled guilty would be "erased" from his record after one year. Respondent testified that in the 20 years since his conviction, he has undergone the screening processes required to

[1] The parties stipulated that a DEA registration is not required for the retail distribution of pseudoephedrine, and therefore the only chemical relevant to this application is ephedrine.

[2] The Order to Show Cause listed the proposed registered location as 4811 East Colfax Avenue, however by letter dated July 16, 1996, Respondent submitted a request to modify the address on his application to reflect 4815 East Colfax Avenue. Since Respondent's request to modify his application was submitted prior to the issuance of the Order to Show Clause in this matter, Respondent was not required to obtain permission from DEA to modify his application. *See* 21 CFR 1309.36(a).

become a notary public, to redeem weapons out of pawn, and to purchase property, and at no time has he ever been informed that there is a marijuana conviction on his record.

In arguing against Respondent's registration, the Government concedes that Respondent maintains good records, however it contends that Respondent's 1977 misdemeanor conviction, his failure to report this conviction on his application for registration, and his failure to take responsibility for his role in the alleged 1977 sale of cocaine to an undercover officer indicate that Respondent "does not possess a sense of the high responsibilities required of a registrant." Respondent argues that he did not intend to mislead DEA on his application, that he believed that he no longer had a conviction on his record, that whatever happened over 20 years ago is not an accurate measure of his trustworthiness today, and that DEA's own inspection of his store revealed that he is responsible in his security and recordkeeping procedures.

Pursuant to 21 U.S.C. 823(h), the Deputy Administrator may deny an application for a DEA Certificate of Registration, if he determines that granting the registration would be inconsistent with the public interest. Section 823(h) requires that the following factors be considered in determining the public interest:

(1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance by the applicant with applicable Federal, State, and local law;

(3) Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the applicant in the manufacture and distribution of chemicals;

(5) such other factors as are relevant to and consistent with the public health and safety. Like with the factors found in 21 U.S.C. 823(f) relating to the registration of practitioners to handle controlled substances, these factors are to be considered in the disjunctive; the Deputy Administrator may properly rely on any one or a combination of these factors, and give each factor the weight he deems appropriate in determining whether an application should be denied. *See Henry J. Schwarz, Jr., M.D.*, 54 F.R. 16,422 (1989).

Regarding factor one, the DEA investigator who conducted the preregistration inspection testified that Respondent's security procedures at his store are adequate and that transactions are well documented. The Government conceded that Respondent is a "scrupulous recordkeeper as well as attentive to proper controls."

As to factor two, the Government alleged that Respondent participated in the sale of cocaine to an undercover officer in 1977. Judge Bittner found Respondent's testimony credible that he was present, but did not participate in the transaction. However, the Deputy Administrator finds the DEA task force officer's report compelling since it was written at the time of the cocaine transaction. The report indicates that Respondent was not only present, but participated in the transaction by opening the package so the officer could sample its contents and by requesting that he and his co-defendant be allowed to keep the remnants of the sample for their own use. Therefore unlike Judge Bittner, the Deputy Administrator concludes that Respondent was involved in the unlawful distribution of cocaine in violation of 21 U.S.C. 841(a)(1). The Deputy Administrator also finds that Respondent violated Colorado law by being in possession of marijuana at the time of his arrest in 1977.

The Government also alleged that Respondent violated 21 U.S.C. 843(a)(4)(A) by furnishing false material information in his application for registration since he indicated that he had never been convicted of a crime related to controlled substances. Respondent testified that he did not intend to mislead DEA because he honestly believed that his 1979 misdemeanor marijuana possession conviction no longer remained on his record. Judge Bittner found Respondent's testimony to be credible. The Deputy Administrator agrees with Judge Bittner that Respondent did not violate 21 U.S.C. 843(a)(4)(A) because he did not intentionally furnish false information on his application for registration.

Regarding factor three, it is undisputed that Respondent was convicted of one count of misdemeanor possession of marijuana on January 17, 1979, in the District Court in the County of Denver, Colorado.

As to factor four, the record shows that Respondent has been involved in the distribution of chemicals since at least 1994, and there is no evidence of any wrongdoing. In fact according to the DEA investigator, Respondent's recordkeeping and security are adequate.

Finally regarding factor five, Judge Bittner noted that it is appropriate to consider the grounds for revocation of a registration found in 21 U.S.C. 824(a), when determining whether to deny an application for registration. DEA has consistently held that "the law would not require an agency to indulge in the useless act of granting a license on one day only to withdraw it on the next," and therefore the bases for revocation found in 21 U.S.C. 824(a) are properly considered under 21 U.S.C. 823(f)(5). *See Alan R. Schankman, M.D.*, F.R. 45,260 (1998); *Kuen H. Chen, M.D.*, 58 F.R. 65,401 (1993)). Judge Bittner concluded that because of the similar statutory construction and legislative intent between 21 U.S.C. 823(f) and 823(h), the grounds for revocation found in 21 U.S.C. 824(a) are likewise incorporated into 21 U.S.C. 823(h)(5). Therefore, the Deputy Administrator agrees with Judge Bittner that it is appropriate to consider whether Respondent's application for DEA registration should be denied pursuant to 21 U.S.C. 823(h)(5) and 824(a)(1) on grounds that he materially falsified his application.

There is no dispute that Respondent materially falsified his application by indicating that he had never been convicted of a crime related to controlled substances. However according to Respondent, he believed that he no longer had a conviction on his record, and that nothing has occurred in the 20 years since the conviction to alert him otherwise. As Judge Bittner noted, a registration may still be revoked based upon an unintentional falsification of an application, but a lack of intent to deceive is a relevant consideration in determining whether a registrant or applicant should possess a DEA registration. *See Samuel Arnold, D.D.S.*, 63 F.R. 8687 (1998); *Martha Hernandez, M.D.*, 62 F.R. 61,145 (1997).

Here, Respondent's falsification was not based on intentional or negligent behavior. Instead, Respondent believed that he no longer had a conviction on his record and therefore he believed that he was answering the question correctly when he filled out the application for registration. The Deputy Administrator agrees with Judge Bittner that under these circumstances it would be too sever a sanction to deny Respondent's application for registration based upon his falsification of his application.

Judge Bittner recommended that Respondent should be issued a DEA Certification of Registration. While there is no dispute that Respondent operated his business today in a responsible manner, the Deputy Administrator is extremely troubled by Respondent's failure to acknowledge the nature of his involvement in the 1977 cocaine

transaction. The Deputy Administrator agrees that it would not be in the public interest to deny Respondent's application. However, given Respondent's failure to accept responsibility for his past behavior, Respondent should be subject to greater scrutiny. Therefore, the Deputy Administrator concludes that for three years after issuance of the DEA Certification of Registration, Respondent shall permit the inspection of his premises without an administrative inspection warrant or other means of entry.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration as a retail distributor of ephedrine, submitted by Anthony Delano Funches, be, and it hereby is, granted subject to the above described condition. This order is effective upon issuance of the DEA Certification of Registration, but not later than April 23, 1999.

Dated: March 17, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–7122 Filed 3–23–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98–1]

Jacqueline Lee Pierson Energy Outlet; Denial of Application

On July 31, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to two businesses with the same address in Westminster, Colorado, The New Connection, and Jacqueline Lee Pierson, Energy Outlet, notifying them of an opportunity to show cause as to why DEA should not deny their applications for registration as a retail distributor of list I chemicals pursuant to 21 U.S.C. 823(h), for reason that the registration would be inconsistent with the public interest.

Both The New Connection and Energy Outlet (Respondent) filed a request for a hearing on the issues raised by the Order to Show Cause, and the matters were docketed before Administrative Law Judge Gail A. Randall. On October 21, 1997, Judge Randall issued a Memorandum and Order consolidating the proceedings regarding The New Connection and Respondent, for hearing purposes only and a hearing was held in Denver, Colorado on February 11 and 12, 1998. At the hearing, all parties called witnesses to testify and introduced documentary evidence. After, the hearing, all parties submitted proposed findings of fact, conclusions of law and argument. On September 30, 1998, Judge Randall issued her Opinion and Recommended Ruling, recommending that Respondent's application for registration be denied. On October 20, 1998, Respondent filed exceptions to Judge Randall's Opinion and Recommended Ruling, and on November 5, 1998, Judge Randall transmitted the record of these proceedings to the then-Acting Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, of any failure to mention a matter of fact or law.

The Deputy Administrator finds that ephedrine is a List I chemical that has legitimate uses, but it can also be used to manufacture methamphetamine, a Schedule II controlled substance. Methamphetamine is a very potent central nervous system stimulant and its abuse is a growing problem in the United States. Ephedrine extracted from over-the-counter ephedrine products is often used in the illicit manufacture of methamphetamine.

In an effort to curb the use of licit chemicals in the illicit manufacture of controlled substances, Congress amended the Controlled Substances Act in 1988 with the passage of the Chemical Diversion and Trafficking Act (CDTA). Pub. L. 100–690, 102 Stat. 4181 (1988). The CDTA required that records and reports be made of certain transactions involving various chemicals. However, products containing ephedrine were exempt from the recordkeeping and reporting requirements because they were approved for marketing under the Federal Food, Drug, and Cosmetic Act. The CDTA also made it illegal to distribute a listed chemical "knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance. . . ." See 21 U.S.C. 841(d)(2). This provision applied to the distribution of all listed chemicals including ephedrine products.

In 1979, Jacqueline Pierson began working as a salesperson for MFC Enterprises which operated a chain of four stores called the Connection. Michael F. Carles was the president of MFC Enterprises. In 1990, Ms. Pierson began working at the Connection store located at 7115 North Federal Boulevard in Westminster, Colorado. According to Ms. Pierson, in 1991 and 1992 almost 100% of the store's sales were of ephedrine products; the store was primarily engaged in small sales; and she did not receive compensation based on her sales.

DEA began an investigation of the Connection stores, after receiving information that they were receiving large quantities of ephedrine from an east coast distributor. On July 31, 1991, an undercover DEA agent purchased 10,000 ephedrine tablets from Ms. Pierson at the North Federal Connection store without giving any reason for the purchase.

In February 1992, DEA personnel, acting in their official capacity, went to the North Federal Connection store and advised Ms. Pierson of the recordkeeping and reporting requirements imposed by the CDTA. They also advised Ms. Pierson that ephedrine is often used in the illicit manufacture of methamphetamine and that if she suspected that someone was purchasing ephedrine for that purpose, she should contact DEA.

The undercover agent returned to the North Federal Connection store on August 28, 1992, and purchased 30,000 ephedrine tablets. On this occasion, the undercover agent handed Ms. Pierson a handwritten formula for the manufacture of methamphetamine entitled "Synthesis for Meth" and asked her whether the ephedrine tablets he was purchasing would work in the formula. Ms. Pierson indicated that they would.

A second undercover agent made visits to the North Federal Connection store. On June 19, 1992, this undercover agent attempted to buy 20 1,000-count bottles of ephedrine at one of the other Connection stores. An employee at that store sold the undercover agent 10 bottles and told him that he could buy the other 20 bottles at the North Federal Connection store. At the North Federal Connection store the undercover agent met Ms. Pierson and told her that on his next visit he wanted to purchase 75 1,000-count bottles of ephedrine. Ms. Pierson indicated that she would need two days advance notice in order to have that amount available and she would have to talk to her boss about the

sale. The undercover agent then bought the 10 1,000-count bottles of ephedrine for $250.00.

The next visit by the second undercover agent to the North Federal Connection store was on August 20, 1992. He purchased 50,000 ephedrine tablets for $750.00. According to the undercover agent, he indicated to Ms. Pierson that he was concerned with making repeated visits to the store because he did not want the police to figure out that he was buying the ephedrine to make "meth." He further indicated that he was buying the ephedrine for a motorcycle gang, and Ms. Pierson asked him not to tell them where he was buying the tablets. Then at Ms. Pierson's request, the undercover agent helped her remove the labels from the bottles that indicated the store's name and address.

On September 15, 1992, the second undercover agent went to the North Federal Connection store, however Ms. Pierson was not at the store that day. He returned to the store on September 17, 1992. The undercover agent did not purchase any ephedrine on this occasion, but he did discuss with Ms. Pierson the possibility of purchasing 100,000 tablets of ephedrine and told her that it would be used to manufacture methamphetamine. Ms. Pierson indicated that she could sell the undercover agent 50,000 tablets at the North Federal Connection store; that he could buy another 50,000 at a different Connection store; that he should return the following day to make the purchase; and that it would cost a total of $1,500.

On September 18, 1992, the undercover agent returned to the North Connection Store with only $900.00. He explained to Ms. Pierson that he had already spent $600.00 on hydriodic acid to be used by the motorcycle gang to manufacture methamphetamine. The undercover agent then purchased 60,000 tablets of ephedrine. Ms. Pierson again expressed concern about the removal of the store labels and told the undercover agent that she would put the bottles of ephedrine in black plastic bags so the neighboring businesses would not be suspicious.

As a result of the investigation, the corporate officers and employees of the Connection stores, including Ms. Pierson, were indicted in the United States District Court for the District of Colorado and charged with violations of 21 U.S.C. 841(d)(2), 846 and 18 U.S.C. 2. On January 20, 1993, a search warrant was executed at the North Federal Connection store and Ms. Pierson was arrested. At the time of her arrest, Ms. Pierson indicated that Michael Carles had died in approximately October 1992. She also acknowledged that she knew why the undercover agents were purportedly obtaining the ephedrine.

Initially, Ms. Pierson agreed to plead guilty to some of the charges against her and to testify on behalf of the Government at the trial of the other employees. During her pretrial debriefing, Ms. Pierson again acknowledged that she understood that the undercover purchases of ephedrine were intended to be used in the illegal manufacture of controlled substances. However, Ms. Pierson subsequently filed a motion to withdraw her guilty pleas and disclosed that she suffered from various mental and emotional disorders. it was also disclosed in her motion that Ms. Pierson was dominated and intimidated by Michael Carles who physically abused her and threatened her with extreme harm. In addition the motion stated that Ms. Pierson "did not want to sell large quantities of ephedrine to [the] undercover government agents but did so because Michael Carles insisted she do so and informed her that she was not doing anything wrong."

The Government did not oppose Ms. Pierson's motion indicating that the indictment against Ms. Pierson's co-defendants had been dismissed and that had Ms. Pierson also gone to trial, her case would have similarly been dismissed. Therefore, the criminal charges against Ms. Pierson were ultimately dismissed.

Recognizing, among other things that the use of over-the-counter ephedrine products in the illegal manufacture of methamphetamine was increasing, Congress passed the Domestic Chemical Diversion Control Act of 1993 (DCDCA). Pub. L. 103–200, 107 Stat. 2333 (1993). The DCDCA removed the exemption from recordkeeping and reporting requirements for single entity ephedrine products. In addition, the DCDCA also established a registration system for certain handlers of List I chemicals, including retail distributors. DEA temporarily exempted from registration anyone who submitted an application by November 13, 1995, until such time as DEA either approves or denies the application. *See* 21 CFR 1310.09 (1996).

According to Ms. Pierson, she assumed ownership of the North Federal Connection Store after Michael Carles died in October 1992. Ms. Pierson submitted an application dated August 10, 1995, for registration for the New Connection located at 7115 North Federal Boulevard, Westminster, Colorado, as a retail distributor of ephedrine, pseudoephedrine and phenylpropanolamine. It was determined during the course of the hearing in this matter that a retail distributor does not need to be registered with DEA to distribute pseudoephedrine and phenylpropanolamine. Therefore the only chemical relevant to the application in this proceeding is ephedrine.

In February 1996, DEA personnel conducted a preregistration inspection of the New Connection. One of the investigators who conducted this inspection testified at the hearing in this matter that the security system at The New Connection was suitable for registration purposes and that the store's records appeared to be in order. During the inspection, DEA personnel discussed the relevant requirements with Ms. Pierson and two other employees in the back room of the store. One of the employees left the discussion on two to three occasions to conduct business transactions in the front of the store. As the DEA investigator was leaving the store he noticed three sales records that had been left on the counter that contained only the names of the customers and no other information. When questioned, Ms. Pierson and the employee indicated that these were repeat customers and the remaining information would be filled in when the store was not so busy. The investigator was unable to say at the hearing what substances were sold during the three transactions, and Ms. Pierson indicated that the forms were used for both ephedrine and pseudoephedrine sales.

On March 12, 1996, Ms. Pierson submitted an application for registration as a retail distributor of ephedrine for Respondent, the Energy Outlet, also located at 7115 North Federal Boulevard, Westminster, Colorado. During a telephone conversation with the DEA investigator, Ms. Pierson indicated that she simply was trying to effectuate a name change and thought that she had to submit another application. According to the investigator, because it was the same location as the New Connection which had just been inspected the month before, no additional preregistration inspection was conducted. Ms. Pierson testified that she is not operating two businesses at the North Federal location and only wants a DEA registration for the Energy Outlet.

At the hearing in this matter Ms. Pierson testified that she reported every large transaction to Michael Carles who told her that he would make the proper reports. She stated that she was afraid of Michael Carles because he abused and threatened her and he told her that if she did not make the sales, he would find someone who would. Ms. Pierson

testified that "in an effort to improve her self-esteem, as part of her efforts to separate herself from Michael Carles' control," she took a "life skills" course.

Ms. Pierson further testified that the undercover agents used the word "meth" and at that time she did not know what "meth" meant. However, she also stated that she suspected that the 1992 purchases were being used to manufacture controlled substances. With respect to the removal of the labels, Ms. Pierson testified that this was done at Michael Carles' request and also because she was afraid of motorcycle gangs and she did not want them to know where the ephedrine came from.

Ms. Pierson testified that currently ephedrine accounts for 60–75% of her sales at Respondent and she has not made any large sales since she took over the store from Michael Carles. It is her current policy to sell no more than two 250-count bottles to any customer in a week.

At the time of the hearing, Ms. Pierson was still suffering from panic attacks and severe anxiety. However, she testified that her condition did not interfere with her ability to operate her business.

The Government contends that granting Respondent's application for registration would be inconsistent with the public interest due to Ms. Pierson's sales of ephedrine in 1991 and 1992 to the undercover agents when she had reason to believe that the ephedrine would be used to illegally manufacture a controlled substance and due to Respondent's failure to keep complete and accurate records of the three sales transactions that occurred during DEA's preregistration inspection in February 1996. Respondent contends however that the Government has failed to establish that issuance of a DEA registration to Respondent would be inconsistent with the public interest. Respondent argues that Ms. Pierson should not be punished for activities that occurred in 1991 and 1992 while the store was under different ownership and that Respondent has been operating in a legal manner since Ms. Pierson became its owner. Further, Respondent contends that how the business is currently being run is more relevant than what occurred in 1991 and 1992. Pursuant to 21 U.S.C. 823(h), the Deputy Administrator may deny an application for a DEA Certificate of Registration, if he determines that granting the registration would be inconsistent with the public interest. Section 832(h) requires that the following factors be considered in determining the public interest:

(1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance by the applicant with applicable Federal, State, and local law;

(3) Any prior conviction record for the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

In passing the DCDCA, Congress intended to create a registration system parallel to that in place for controlled substances:

> This registration system is precisely patterned after the system which has been successfully applied to legitimate controlled substances for over 20 years. It will enable DEA to prevent a firm from distributing these covered chemicals if it can be shown that registration of the firm is contrary to the public interest.

139 Cong. Rec. E2341 (daily ed. Oct. 5, 1993) (statement of Rep. Stupak). Therefore, consistent with this congressional intent, these factors are to be considered in the disjunctive; the Deputy Administrator may properly rely on any one or a combination of these factors, and give each factor the weight he deems appropriate in determining whether an application should be denied. *See Henry J. Schwarz, Jr., M.D.*, 54 FR 16,422 (1989).

As a preliminary matter, DEA has consistently held that a retail store operates under the control of its owners, stockholders, or other employees, and therefore the conduct of these individuals is relevant in evaluating the fitness of an applicant or registrant for registration. *See, e.g., Rick's Pharmacy*, 62 FR 42,595 (1997); *Big T Pharmacy, Inc.*, 47 FR 51,830 (1982). Since Ms. Pierson is the owner of Respondent, her conduct is relevant in determining whether or not to grant Respondent's application for registration.

Regarding factor one, the preregistration inspection that was conducted in February 1996 revealed that Respondent's security system was suitable for registration and its records appeared to be in order. While this preregistration inspection was conducted based upon the application filed by Ms. Pierson for The New Connection, it is clear that the application that is the subject of this proceeding was filed by Ms. Pierson merely to change the name of the business from The New Connection to the Energy Outlet. Therefore, it is reasonable to consider the findings of the February 1996 preregistration inspection in evaluating Energy Outlet's application for registration.

As to factor two, the Deputy Administrator finds that based upon the law in place at the time of the undercover transactions in 1991 and 1992, Ms. Pierson was not required to maintain records of these transactions. However, Ms. Pierson clearly violated 21 U.S.C. 841(d)(2) by distributing ephedrine to the undercover agents knowing or having reasonable cause to believe that the ephedrine would be used to manufacture methamphetamine. On August 28, 1992, Ms. Pierson sold 30,000 ephedrine tablets to the first undercover agent even though he handed her a formula for the manufacture of methamphetamine entitled "Syntheses for Meth," and asked her whether the tablets would work in the formula. The second undercover agent purchased 50,000 ephedrine tablets from Ms. Pierson on August 20, 1992. During this visit, the undercover agent indicated that he was concerned with making repeated visits to the store because he did not want the police to figure out that he was buying ephedrine for the manufacture of "meth." It was also on this occasion that Ms. Pierson requested that the labels with the store's name and address be removed from the bottles. Finally, Ms. Pierson sold the undercover agent 60,000 ephedrine tablets on September 18, 1992, even after the undercover agent stated that he had earlier purchased $600.00 worth of hydriodic acid to be used by a motorcycle gang to make "meth." On this occasion, not only did Ms. Pierson express concerns regarding the bottles' labels, but she also stated that she would put the bottles of ephedrine in black plastic bags so the neighboring businesses would not be suspicious.

At the hearing, Ms. Pierson testified that she did not understand what the agents meant by "meth." However, the Deputy Administrator finds Ms. Pierson's contention beyond belief. First, DEA personnel specifically discussed with her in February 1992 that ephedrine is used in the illegal manufacture of methamphetamine. Also, at the time the second undercover agent was discussing that the ephedrine was to be used to manufacture "meth," he was also stating that he was concerned that the police would figure out why he was purchasing the ephedrine. Clearly, Ms. Pierson knew or had reasonable cause to believe that the ephedrine she distributed to the undercover agents was going to be used

in the illegal manufacture of methamphetamine.

The Government contends that Respondent failed to fully record three sales transactions that occurred during the February 1996 preregistration inspection in violation of 21 U.S.C. 830 and 21 CFR 1310.06. However, the Deputy Administrator agrees with Judge Randall that the Government has failed to prove by a preponderance of the evidence that a violation occurred. Pursuant to 21 CFR 1310.03, records must be made of regulated transactions. But, there is no evidence that the transactions in question were in fact regulated transactions. The investigator did not determine what substances were sold during these transactions. Therefore, the Deputy Administrator cannot find that a record was even required to be made of transactions.

But even assuming that these were regulated transactions requiring a record, there is no requirement that a record of a transaction must be made simultaneously with the transaction. Ms. Pierson and her employee indicated that these were repeat customers and the records would be completed when the store was not as busy. Consequently, the Deputy Administrator finds that the record does not establish that there was a violation of the recordkeeping requirements in February 1996.

Regarding factor three, there is no evidence that an owner, shareholder or employee of Respondent has been convicted of any crimes relating to controlled substances of listed chemicals.

As to Respondent's experience in distributing chemicals, Ms. Pierson has been involved in the distribution of chemicals since approximately 1986. As discussed previously, in 1991 and 1992, Ms. Pierson distributed large quantities of ephedrine tablets knowing or having reasonable cause to believe that they would be used for illegal purposes. However, the record also indicates that since Ms. Pierson became the owner of Respondent in approximately October 1992, there have been no allegations of improper distributions. According to Ms. Pierson, her current policy is to sell no more than two 250-count bottles to any customer in a week.

Regarding factor five, Judge Randall expressed concern regarding Ms. Pierson's ability to responsibly handle ephedrine in the future. Ms. Pierson testified that her behavior in 1991 and 1992 was a result of her fear of Michael Carles. As Judge Randall stated, "Jacqueline Pierson's previous vulnerability to intimidation and coercion is significant, particularly in light of the serious problem with methamphetamine abuse and the dangerous nature of the illicit market." Judge Randall noted that "the record contains no basis for assurances that, in the future, Ms. Pierson would not be equally intimidated by an abusive customer into engaging in similar conduct." The Deputy Administrator finds it particularly troubling that at the time of the hearing Ms. Pierson suffered from panic attacks and severe anxiety and there is no evidence in the record regarding her ongoing treatment for these disorders. However, there is no evidence in the record of any improper conduct by Ms. Pierson since 1992, and as Judge Randall noted, "this passage of time is also significant, for it adds credence to Ms. Pierson's assertions that her mental and emotional difficulties do not interfere with her ability to manage the Respondent business."

Judge Randall concluded that Respondent's registration would be inconsistent with the public interest in light of Ms. Pierson's 1992 distributions of ephedrine knowing or having reasonable cause to believe that it would be used in the illicit manufacture of a controlled substance and her susceptibility to intimidation "that is not rebutted by evidence in the record, except by the passage of time without any further documented incidents." Judge Randall further found that Ms. Pierson has failed to present adequate assurances "that she has developed the needed self-esteem to withstand potential customer abuses from the customer base her products attract." Accordingly, Judge Randall recommended that the application of Energy Outlet be denied.

In its exceptions to Judge Randall's Opinion and Recommended Ruling, Respondent argues that Judge Randall unfairly interjected a new issue, Ms. Pierson's lack of self-esteem, into the proceedings. However, as stated in Judge Randall's opinion "[t]he issue in this case is whether or not the record as a whole establishes by a preponderance of the evidence that the DEA should deny the application, dated March 12, 1996, for a DEA Certificate of Registration as a retail distributor of the List I chemical ephedrine, of the Energy Outlet, pursuant to 21 U.S.C. 823(h), because to grant such application would be inconsistent with the public interest." In light of Ms. Pierson's behavior in 1991 and 1992, the Government clearly established a prima facie case for denial of Respondent's application for registration. In determining whether Respondent's application should be granted or denied, the Deputy Administrator must look at all of the evidence presented. During the course of these proceedings, Respondent raised the issue of Ms. Pierson's susceptibility to intimidation and her lack of self-esteem in explaining her behavior in 1991 and 1992. In evaluating whether Respondent can responsibly handle the listed chemical ephedrine in the future, it is reasonable to consider whether the same susceptibility to intimidation and lack of self-esteem still exists.

The Deputy Administrator concludes that Respondent's registration with DEA would be inconsistent with the public interest. Although there have been no allegations of any wrongdoing since 1992, Ms. Pierson's behavior in 1991 and 1992 was unconscionable. She clearly sold ephedrine to the undercover agents knowing or having reasonable cause to believe that it would be used to illegally manufacture methamphetamine. In attempting to explain her behavior, Ms. Pierson testified that she was intimidated by the previous owner of the store, and lacked the self-esteem to withstand his intimidation. The Deputy Administrator is extremely troubled by this explanation.

In a previous DEA case involving a practitioner registered with DEA to handle controlled substances, the practitioner also attributed his improper conduct to intimidation by another. *James B. Rivers, D.M.D.*, 53 FR 20,382 (1988). In revoking the practitioner's DEA registration, the then-Administrator concluded that:

> Respondent does not appreciate the enormous responsibility which accompanies DEA registration. Registrants under the Controlled Substances Act are required to prevent the diversion of controlled substances into the illicit market. Respondent's conduct reflects a failure to take adequate action to protect the public health and safety. Respondent has failed to provide any satisfactory assurances that a situation such as the one he alleges occurred with the individual is unlikely to recur. *Id.*

Similarly, those registered to distribute List I chemicals must prevent the diversion of the chemicals to the illegal manufacture of controlled substances. Here, the Deputy Administrator is not convinced that Ms. Pierson could withstand intimidation in the future by an individual seeking to purchase ephedrine for illegal purposes. Other than Ms. Pierson's statement that she took a "self-help class," there is no evidence in the record regarding any treatment that she has received. In fact, Ms. Pierson still suffers from panic attacks and anxiety. The Deputy Administrator recognizes that there have been no allegations of wrongdoing by Ms. Pierson since 1992, however this

is outweighed by the lack of adequate assurances that Ms. Pierson has the needed self-esteem to withstand being intimidated to sell ephedrine for illegal purposes in the future.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration as a retail distributor of ephedrine, submitted by Jacqueline Lee Pierson, d/b/a Energy Outlet, be, and it hereby is, denied. This order is effective April 23, 1999.

Dated: March 17, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–7123 Filed 3–23–99; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–048)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The invention listed below is assigned to the National Aeronautics and Space Administration, has been filed in the United States Patent and Trademark Office, and is available for licensing.

DATES: March 24, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Beth Vrioni, Patent Counsel, John F. Kennedy Space Center, Mail Stop MM–E, Kennedy Space Center, FL 32899; telephone (407) 867–6225.

NASA Case No. KSC–12023: Cable and Line Inspection Mech.

Dated: March 16, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–7120 Filed 3–23–99; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL INDIAN GAMING COMMISSION

Notice of Approval of Class III Tribal Gaming Ordinances

AGENCY: National Indian Gaming Commission.

ACTION: Notice; Correction.

SUMMARY: The National Indian Gaming Commission published the Notice of Approval of Class III Tribal Gaming Ordinances on January 29, 1999. The list of approved class III tribal gaming ordinances was incorrect. This publication corrects the mistake and updates additional approvals.

EFFECTIVE DATE: This notice is effective March 24, 1999.

FOR FURTHER INFORMATION CONTACT: Frances Fragua at the National Indian Gaming Commission, 202/632–7003, or by facsimile at 202/632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The IGRA established the National Indian Gaming Commission (Commission). Section 2710 of the IGRA authorizes the Commission to approve class II and class III tribal gaming ordinances. Section 2710(d)(2)(B) of the IGRA as implemented by 25 C.F.R. Section 522.8 (58 FR 5811 (January 22, 1993)), requires the Commission to publish, in the **Federal Register**, approved class III gaming ordinances.

The IGRA requires all tribal gaming ordinances to contain the same requirements concerning ownership of the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission. The Commission believes that publishing a notice of approval of each class III gaming ordinance is sufficient to meet the requirements of 25 U.S.C. Section 2710(d)(2)(B). Also, the Commission will make copies of approved class III ordinances available to the public upon request. Requests can be made in writing to the: National Indian Gaming Commission, 1441 L Street, N.W., Suite 9100, Washington, D.C. 20005.

The notice of tribal gaming ordinances authorizing class III gaming approved by the Chairman on January 29, 1999, and published in the **Federal Register**, should be corrected as follows for the following tribes:

1. Bear River Band of the Rohnerville Rancheria
2. Burns Paiute Tribe
3. Confederated Salish & Kootenai Tribes of the Flathead Nation
4. Dry Creek Rancheria
5. Grand Portage Band of Chippewa Indians
6. Iowa Tribe of Kansas and Nebraska
7. Kalispel Tribe of Indians
8. Little Traverse Bay Bands of Odawa Indians
9. Ottawa Tribe of Oklahoma
10. Pawnee Tribe of Oklahoma
11. Pueblo of Santa Clara
12. Rumsey Indian Rancheria
13. Santa Ysabel Band of Mission Indians
14. Scotts Valley Band of Pomo Indians
15. Skokomish Indian Tribe
16. Table Mountain Rancheria
17. Trinidad Rancheria
18. Washoe Tribe of Nevada and California

Barry Brandon,

General Counsel.

[FR Doc. 99–7121 Filed 3–23–99; 8:45 am]

BILLING CODE 7565–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–3]

Carolina Power & Light Company, H. B. Robinson Nuclear Plant; Notice of Docketing of the Materials License SNM–2502 Amendment Application for the H. B. Robinson Independent Spent Fuel Storage Installation

By letter dated January 11, 1999, Carolina Power and Light Company (CP&L) submitted an application to the Nuclear Regulatory Commission (the Commission) in accordance with 10 CFR Part 72 requesting the amendment of the H. B. Robinson (HBR) independent spent fuel storage installation (ISFSI) license (SNM–2502) and the Technical Specifications for the ISFSI located at Darlington County, South Carolina. CP&L is seeking Commission approval to amend the materials license and the ISFSI Technical Specifications to change the reporting frequency for the radiological effluent reports from semi-annual to annual. Such an action would align the reporting requirements for CP&L's license with those currently in 10 CFR 50.36a(a)(2) and 10 CFR 72.44(d)(3).

This application was docketed under 10 CFR Part 72; the ISFSI Docket No. is 72–3 and will remain the same for this action. The amendment of an ISFSI license is subject to the Commission's approval.

The Commission will determine if the amendment presents a genuine issue as to whether public health and safety will be significantly affected and may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) or take immediate action on the amendment in accordance with 10 CFR 72.46(b)(2).

For further details with respect to this application, see the application dated January 11, 1999, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555 and at the Local Public Document Room located at the Hartsville Memorial Library, 147 W. College Avenue, Hartsville, SC 29550.

Dated at Rockville, Maryland, this 12th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–7164 Filed 3–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 and 50–414]

Duke Energy Corporation; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–35 and NPF–52, issued to Duke Energy Corporation (the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would revise the Technical Specifications (TS), deleting Section 3.3.7, "Control Room Area Ventilation System (CRAVS) Actuation Instrumentation," and Section 3.3.8, "Auxiliary Building Filtered Ventilation Exhaust System (ABFVES) Actuation Instrumentation." The basis for the proposed deletion is that Sections 3.3.7 and 3.3.8 do not correctly reflect the design of the Catawba CRAVS and ABFVES control systems. At Catawba, the Solid State Protection System (SSPS) provides input to the diesel generator load sequencer, which, in turn, provides input to the CRAVS and ABFVES. Thus, the CRAVS and ABFVES are not directly actuated by the SSPS. However, the surveillance requirements currently specified by Sections 3.3.7 and 3.3.8 are written on the assumption that the CRAVS and ABFVES are directly actuated by the SSPS.

The licensee requested approval on an exigent basis pursuant to its request for enforcement discretion. The staff verbally granted the enforcement discretion on March 11, 1999, and affirmed it by a subsequent notice of enforcement discretion (NOED) letter dated March 15, 1999. The NOED letter stated that the enforcement discretion is in effect until the issuance of amendments to revise Section 3.3.7 and 3.3.8. The staff intends to issue such amendments within 4 weeks of the NOED letter. This issuance schedule would not be accommodated by the normal 30-day notice to the public.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Approval of this amendment will have no effect on accident probabilities or consequences. No physical changes are being made to the plant design which will result in any increase in accident probabilities. Approval of this amendment will not result in a decrease in system or equipment reliability or availability. Therefore, there will be no impact on any accident consequences.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the plant that will introduce any new accident causal mechanisms.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be degraded by the implementation of this amendment. No safety margins will be impacted.

Based upon the preceding discussion, Duke Energy Corporation has concluded that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 23, 1999, the licensee may file a request for a hearing with respect

to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina, 28201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated March 15, 1999, as supplemented by letter dated March 17, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, Maryland, this 18th day of March 1999.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate II–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7167 Filed 3–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Baltimore Gas and Electric Company, Calvert Cliffs Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix R, Section III.J, Emergency lighting, to Baltimore Gas and Electric Company (the licensee) for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, located in Calvert County, Maryland.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would grant relief from the requirements of 10 CFR Part 50, Appendix R, Section III.J, Emergency lighting, as follows:

(1) Security lighting, required by 10 CFR 73.55, powered by the diesel generator, would be used for exterior lighting in lieu of 8-hour battery powered emergency lighting units specified by Section III.J;

(2) Portable lights powered by an 8-hour battery supply, for actions in high radiation areas would be used in lieu of 8-hour battery powered emergency lighting units; and

(3) Helmet lanterns would be used inside of switchgear cabinets in lieu of 8-hour battery powered emergency lighting units.

The proposed action is in accordance with the licensee's application for exemption dated October 6, 1997, as supplemented by letter dated July 22, 1998.

The Need for the Proposed Action

The exemption is needed to reduce the hardships or costs associated with complying with Appendix R, Section III.J.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action will not adversely affect safety.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on February 10, 1999, the staff consulted with the Maryland State official, Richard J. McLean of the Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 6, 1997, as supplemented by letter dated July 22, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Calvert County Library, Prince Frederick, Maryland.

Dated at Rockville, Maryland, this 18th day of March 1999.

For the Nuclear Regulatory Commission.

S. Singh Bajwa,

Director, Project Directorate I–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7165 Filed 3–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Company, Turkey Point Units 3 and 4; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an exemption from certain requirements of its regulations to Florida Power and Light Company (the licensee), holder of Facility Operating Licenses Nos. DPR–31 and DPR–41 for operation of Turkey Point Units 3 and 4, respectively, located in Dade County, Florida.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from certain requirements of Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," for Turkey Point Units 3 and 4. Specifically, the licensee requested an exemption from the requirements of Appendix R, Subsection III.G.2.a, for raceway fire barriers in the control building roof which includes fire zone 106R.

The proposed action is in accordance with the licensee's application dated November 2, 1998, as supplemented by a submittal dated February 11, 1999.

The Need for the Proposed Action

The Thermo-Lag fire barriers installed at Turkey Point Units 3 and 4 have a rating that does not meet the requirements specified in Subsection III.G.2.a. The proposed exemption is needed because compliance with the regulation would result in significant additional costs.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the underlying purpose of the regulation, to provide reasonable assurance that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire in the plant, will be met. This is based on the fact that the control building roof which includes fire zone 106R is considered to have a negligible contribution to the in situ combustible load and the gravel on the roof would resist fire from, and to, the roof. In addition the control building roof provides high resistance to severe fire and is equivalent to the standards of the Underwriter's Laboratory requirements for resistance to severe fire.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological

plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of Turkey Point Units 3 and 4, dated July 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on February 25, 1999, the NRC staff consulted with the Florida State official, Mr. William Passetti of the Bureau of Radiation Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's request dated November 2, 1998, as supplemented by a submittal dated February 11, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Florida International University, University Park, Miami, Florida.

Dated at Rockville, Maryland, this 18th day of March 1999.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Director, Project Directorate II–3, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7162 Filed 3–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–2]

Virginia Electric and Power Company, Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.72(d) to Virginia Electric and Power Company (Virginia Power or applicant). The requested exemption would allow Virginia Power to maintain a single set of spent fuel records at a records storage facility, that satisfies the requirements set forth in ANSI N45.2.9–1974, for the Independent Spent Fuel Storage Installation (ISFSI) at the Surry Power Station (Docket Nos. 50–280 and 50–281) in Surry County, Virginia.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated September 10, 1998, Virginia Power requested an exemption from the requirement in 10 CFR 72.72(d) which states in part that "Records of spent fuel and high level radioactive waste in storage must be kept in duplicate. The duplicate set of records must be kept at a separate location sufficiently remote from the original records that a single event would not destroy both sets of records." The applicant proposes to maintain a single set of spent fuel records in storage at a records storage facility that satisfies the requirements set forth in ANSI N45.2.9–1974.

The proposed action before the Commission is whether to grant this exemption pursuant to 10 CFR 72.7.

Need for the Proposed Action

The applicant stated that, pursuant to 10 CFR 72.140(d), the Virginia Power Operational Quality Assurance (QA) Program Topical Report will be used to satisfy the QA requirements for the ISFSI. The QA Program Topical Report states that QA records are maintained in accordance with commitments to ANSI N45.2.9–1974. ANSI N45.2.9–1974 allows for the storage of QA records in a duplicate storage location sufficiently remote from the original records or in a records storage facility subject to certain provisions designed to protect the records from fire and other adverse conditions. The applicant seeks to streamline and standardize recordkeeping procedures and processes for the Surry Power Station and ISFSI spent fuel records. The applicant states that requiring a separate method of record storage for ISFSI records diverts resources unnecessarily.

ANSI N45.2.9–1974 provides requirements for the protection of nuclear power plant QA records against degradation. It specifies design requirements for use in the construction of record storage facilities when use of a single storage facility is desired. It includes specific requirements for protection against degradation mechanisms such as fire, humidity, and condensation. The requirements in ANSI N45.2.9–1974 have been endorsed by the NRC in Regulatory Guide 1.88, "Collection, Storage and Maintenance of Nuclear Power Plant Quality Assurance Records," as adequate for satisfying the recordkeeping requirements of 10 CFR Part 50, Appendix B. ANSI N45.2.9–1974 also satisfies the requirements of 10 CFR 72.72 by providing for adequate maintenance of records regarding the identity and history of the spent fuel in storage. Such records would be subject to and need to be protected from the same types of degradation mechanisms as nuclear power plant QA records.

Environmental Impacts of the Proposed Action

Elimination of the requirement to store ISFSI records at a duplicate facility has no impact on the environment. Storage of records does not change the methods by which spent fuel will be handled and stored at the Surry Power Station and ISFSI and does not change the amount of any effluents, radiological or non-radiological, associated with the ISFSI.

Alternative to the Proposed Action

Since there are no environmental impacts associated with the proposed action, alternatives are not evaluated other than the no action alternative. The alternative to the proposed action would be to deny approval of the exemption and, therefore, not allow storage of ISFSI spent fuel records at a single qualified record storage facility. However, the environmental impacts of the proposed action and the alternative would be the same.

Agencies and Persons Consulted

On February 19, 1999, Mr. Les Foldesi from the State of Virginia Bureau of Radiological Health was contacted about the environmental assessment for the proposed action and had no comments.

Finding of no Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.72(d), so that Virginia Power may store spent fuel records at the ISFSI in a single record storage facility which meets the requirements of ANSI N45.2.9–1974, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that an environmental impact statement for the proposed exemption is not necessary.

The request for exemption was docketed under 10 CFR Part 72, Docket 72–2. For further details with respect to this action, see the application for an ISFSI license dated October 8, 1982, and the request for exemption dated September 10, 1998, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555 and the Local Public Document Room at the College of William and Mary, Swem Library, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 12th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–7166 Filed 3–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 1, 1999, through March 12, 1999. The last biweekly notice was published on March 10, 1999 (64 FR 11958).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By April 23, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for

leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: December 16, 1998.

Description of amendments request: The proposed amendment would revise Technical Specification (TS) 3.8.1, "AC Sources—Operating," and TS 3.3.7, "Diesel Generator (DG)—Loss of Voltage Start (LOVS)." The proposed amendment will (1) change Condition G of TS 3.8.1 to ensure that the appropriate actions will be taken to prevent double sequencing of safety-related loads, and (2) change TS 3.3.7 to ensure that the setpoint allowable values for the degraded voltage and the loss of voltage relays reflect the required function of the relays. *Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment will change Condition G of Technical Specification 3.8.1. These changes will ensure that the appropriate actions will be taken to prevent double sequencing of safety-related loads. This change is required to assure the capability of the offsite circuits "to effect a safe shutdown and to mitigate the effects of an accident" in accordance with Regulatory Guide 1.93. The proposed amendment will also change the setpoint allowable values for the degraded voltage and the loss of voltage relays in Technical Specification Surveillance Requirement (SR) 3.3.7.3. The proposed changes do not involve any physical changes to plant equipment. The actions required by the TS amendment will identify when an offsite circuit does not meet its required capability and provides actions to restore the required capability. The proposed changes are intended to identify and correct the conditions (voltage and/or loading) required to prevent the possibility of a double sequencing event. Therefore, this change ensures that power will be supplied to the ESF [engineered safety feature] loads following a loss of offsite power event described in UFSAR [Updated Final Safety Analysis Report] 15.2.6.1. For other events discussed in the UFSAR, the electrical distribution system is an event mitigator. This change will ensure that the electrical distribution system will continue to meet this requirement. The proposed changes will not effect the function of the DG loss of voltage start as required by the design basis and safety analysis. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed changes do not involve any physical changes to plant equipment. The proposed changes ensure that appropriate controls are in place to prevent a double sequencing event. The proposed changes consider the factors in preventing a double sequencing event such as pretrip voltage, load, number of units on line, and number of transmission lines in service. These are factors which could affect post trip voltage. The actions associated with this change will identify and mitigate the condition where an offsite circuit does not meet its required capability and, as such, do not result in new or revised accident sequences. The proposed changes will not effect the function of the DG loss of voltage start as required by the design basis and safety analysis. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will change Condition G of Technical Specification 3.8.1. These changes will ensure that the appropriate actions will be taken to prevent double sequencing of safety-related loads. This change is required to assure the capability of the offsite circuits "to effect a safe shutdown and to mitigate the effects of an accident" in accordance with Regulatory

Guide 1.93. The proposed amendment will also clarify the setpoint allowable values for the degraded voltage and the loss of voltage relays in Technical Specification Surveillance Requirement (SR) 3.3.7.3. The proposed changes do not change the operation of any system or equipment, nor do they create a new type of malfunction. The proposed changes prevent double sequencing and do not create the possibility of any other malfunction. The actions associated with this change will identify and mitigate the condition where an offsite circuit does not meet its required capability. The proposed changes will not effect the function of the DG loss of voltage start as required by the design basis and safety analysis. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment will change Condition G of Technical Specification 3.8.1. These changes will ensure that the appropriate actions will be taken to prevent double sequencing of safety-related loads. This change is required to assure the capability of the offsite circuits "to effect a safe shutdown and to mitigate the effects of an accident" in accordance with Regulatory Guide 1.93. The proposed amendment will also change the setpoint allowable values for the degraded voltage and the loss of voltage relays in Technical Specification Surveillance Requirement (SR) 3.3.7.3. The proposed changes ensure that the units will be in conformance with GDC 17, Electric Power Systems (basis for TS 3.8.1). The required actions of the proposed change will ensure that the single failure analyses and safety analysis are maintained. The actions associated with this change will identify and mitigate the condition where an offsite circuit does not meet its required capability. The proposed changes ensure that the bases for the current TS are maintained. The proposed changes will not effect the function of the DG loss of voltage start as required by the design basis and safety analysis. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 26, 1999.

Description of amendment request: The proposed amendment would revise the Table Notations for Technical Specification (TS) Table 3.3–4, "Engineered Safety Features Actuation System Instrumentation Trip Setpoints." Specifically, the time constants used in the lead-lag controller for Steam Line Pressure—Low (Table item 1.e.) are t_1 greater than or equal to 50 seconds and t_2 greater than or equal to 5 seconds. The proposed amendment would revise t_2 to less than or equal to 5 seconds. Also, the time constant used in the rate-lag controller for Negative Steam Line Pressure Rate—High (Table item 4.e.) is less than or equal to 50 seconds. The proposed amendment would revise this time constant to greater than or equal to 50 seconds.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Correcting the time constants will ensure conservative calibration of the Engineered Safety Feature Actuation System instrumentation. The proposed amendment will not introduce any new equipment or require existing equipment to function different from that previously evaluated in the Final Safety Analysis Report (FSAR) or TS. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Correcting the time constants will ensure conservative calibration of the Engineered Safety Feature Actuation System instrumentation. The proposed amendment will not introduce any new equipment or require existing equipment to function different from that previously evaluated in the Final Safety Analysis Report (FSAR) or TS. The proposed amendment will not create any new accident scenarios, because the change does not introduce any new single failures, adverse equipment or material interactions, or release paths. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

Correcting the time constants will ensure conservative calibration of the Engineered Safety Feature Actuation System instrumentation. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Cecil Thomas.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: March 26, 1997.

Brief description of amendment: The amendment revises modifies Technical Specification sections 3.6 and 4.5 by removing the list of containment isolation valves in accordance with Generic Letter 91–08, "Removal of Components Lists from Technical Specifications," dated May 6, 1991, and by revising requirements related to containment pressure and containment temperature. Additionally, several editorial changes are made to emulate the format and content of NUREG–1432, "Standard Technical Specifications, Combustion Engineering Plants."

Date of issuance: February 22, 1999.

Effective date: February 22, 1999.

Amendment No.: 184.

Facility Operating License No. DPR–20. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 17, 1997 (62 FR 66136)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 22, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: September 3, 1997.

Description of amendment request: The proposed amendment includes the following changes to the station technical specification (TS):

(a) TS Action Statement 3.14a is replaced by a revised condition description for TS Action Statement 3.17.1.6 in the instrumentation systems section. Also, the maximum control room temperature at which a shutdown must be initiated is revised from 120 °F [degrees Fahrenheit] to 90 °F, and a time limit for reaching the hot shutdown condition is specified;

(b) TS 3.14b is replaced with two limiting conditions for operation (LCOs), 3.14.1 and 3.14.2, addressing, respectively, the filtration and cooling functions of the CRHVAC [control room heating, ventilation, and air conditioning] system. These proposed LCOs emulate the standard TS (NUREG 1432) for control room ventilation;

(c) TS Table 4.2.3 surveillance requirement (SR) number 3, verification of control room temperature, is moved to SR Table 4.17.1, for the reactor protection system (RPS); and

(d) other administrative changes.

The licensee classified each change as either administrative or more restrictive. An administrative change is editorial in nature, involves only movement of requirements within the TS without affecting their technical content, or clarifies existing TS requirements. A more restrictive change adds new requirements, or revises existing requirements resulting in more conservative or additional operational restrictions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to TS 3.14a and TS 3.14b constitute either new, or more restrictive requirements that provide additional assurance that equipment conforms to the plant design basis and will operate reliably when called upon. These changes represent additional restrictions on plant operation that enhance safety and are consistent with the standard TS. The proposed change to TS Table 4.2.3 of moving SR item number 3 to TS Table 4.17.1, and other administrative changes are editorial in nature or involve the reorganization or reformatting of TS requirements without affecting technical content or operational restrictions. The proposed changes do not result in any substantive change in operating requirements or the intent of these requirements, and are consistent with the Commission's regulations. Therefore, these changes cannot involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

The proposed changes to TS 3.14a and TS 3.14b constitute either new, or more restrictive requirements that provide additional assurance that equipment conforms to the plant design basis and will operate reliably when called upon. These changes represent additional restrictions on plant operation that enhance safety and are consistent with the standard TS. The proposed change to TS Table 4.2.3 of moving SR number 3 to TS Table 4.17.1, and other administrative changes are editorial in nature or involve the reorganization or reformatting of TS requirements without affecting technical content or operational restrictions. The proposed changes do not result in any substantive change in operating requirements or the intent of these requirements, and are consistent with the Commission's regulations. Therefore, these changes cannot create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The proposed changes to TS 3.14a and TS 3.14b constitute either new, or more restrictive requirements that provide additional assurance that equipment conforms to the plant design basis and will operate reliably when called upon. These changes represent additional restrictions on plant operation that enhance safety and are consistent with the standard TS. The proposed change to TS Table 4.2.3 of moving SR number 3 to TS Table 4.17.1, and other administrative changes are editorial in nature or involve the reorganization or reformatting of TS requirements without affecting technical content or operational restrictions. The proposed changes do not result in any substantive change in operating requirements or the intent of these requirements, and are consistent with the Commission's regulations. Therefore, these changes cannot involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423–3698.

Attorney for licensee: Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Cynthia A. Carpenter.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: March 1, 1999.

Description of amendment request: The proposed amendments would revise Oconee Nuclear Station, Units 1, 2, and 3 Improved Technical Specification (ITS) 3.3.8 to only require two channels for the reactor coolant system hot leg temperature function. The current TSs require two channels per loop. This requirement was incorrectly specified during the ITS conversion.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated:

The proposed change modifies ITS Table 3.3.8–1 to only require two channels for RCS [Reactor Coolant System] Hot Leg Temperature Function. These instruments provide indication only and are not considered as initiators of any analyzed event. The proposed change does not involve a physical alteration of the plant. No new or different equipment is being installed, and no installed equipment is being operated in a new or different manner. No set points for parameters which initiate protective or mitigative action are being changed. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

The proposed change does not involve a physical alteration of the plant. No new or different equipment is being installed, and no

installed equipment is being operated in a new or different manner. No set points for parameters which initiate protective or mitigative action are being changed. As a result, no new failure modes are being introduced. Therefore, this proposed amendment will not create the possibility of any new or different kind of accident.

3. Involve a significant reduction in a margin of safety.

The margin of safety for PAM [post accident monitoring] instrumentation is based on the availability and capability of the instrumentation to provide the required operator information. The proposed change maintains requirements within the safety analyses and licensing basis and has no effect on the availability and capability of the PAM function. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Attorney for licensee: Ann W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC.

NRC Project Director: Herbert N. Berkow.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: March 1, 1999.

Description of amendment request: The proposed amendments to Improved Technical Specification (ITS) 3.9, "Refueling Operations," Subsection 3.9.3, "Containment Penetrations," Limiting Condition for Operation 3.9.3.b would add a Note to state that the emergency air lock door is not required to be closed when it is sealed with a temporary cover plate. The temporary cover plate contains penetrations that are used for such refueling outage services as cables, pneumatic tubing, and hoses.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards, in that operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change allows the use of a temporary cover plate as a seal for the emergency air lock during refueling operations in lieu of an air lock door. Duke [Duke Energy Corporation] analyses for Oconee Nuclear Station (ONS) does not credit containment closure. Therefore, use of the temporary cover plate does not affect offsite doses, which were previously calculated to be well within 10 CFR 100 limits. As such, the proposed change does not involve a significant increase in the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated:

The fuel handling accident inside containment analyses discussed in the Updated Final Safety Analysis Report section 15.11 bound the proposed change. No new or different type of accident will occur because of the temporary cover plate placement.

3. Involve a significant reduction in a margin of safety.

Placing the temporary cover plate in the emergency air lock will still meet the intent of containment closure. The building pressure does not increase during a fuel handling accident and fission products will be contained. The fuel handling accident inside containment analyses does not credit containment closure for reducing offsite dose. As such, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Attorney for licensee: Anne W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC.

NRC Project Director: Herbert N. Berkow.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: February 24, 1999.

Description of amendment request: The proposed amendments would change Technical Specification (TS) 3/4.7.4 to remove the restriction to monitor the Ultimate Heat Sink (UHS) temperature only in the Intake Cooling Water (ICW) bay and prior to the ICW pumps. This change would permit the option of monitoring the UHS temperature after the ICW pumps but prior to the component cooling water heat exchangers, which is considered to be equivalent to temperature monitoring before the ICW pumps.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The method of monitoring the Ultimate Heat Sink temperature is not considered in, and has no effect on, the probability of any type of accident initiating sequence. The proposed changes will permit other means of monitoring the Ultimate Heat Sink that have been evaluated to be equivalent to the current method permitted. As the monitoring will continue to be performed by equal means, the consequences of any accident previously evaluated will not be affected.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will permit other means of monitoring the Ultimate Heat Sink temperature, which will be equal to the methods currently employed. The continued monitoring of this variable by equivalent means cannot create the possibility of a new or different type of accident.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The Ultimate Heat Sink temperature is an input assumption used in the accident analysis and in evaluation of component design. This temperature limit is not being altered by this change, only the permissible means of monitoring this variable. As any new methods employed are expected to be equivalent to those currently used, no reduction in any margin of safety will result.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Project Director: Cecil O. Thomas.

GPU Nuclear, Inc., et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: February 2, 1999.

Description of amendment request: The proposed amendment revises the Technical Specifications (TS) to expand the scope of systems and test requirements considered under TS 4.5.4 "Engineered Safeguards Feature (ESF) Systems Leakage," and increases the maximum allowable leakage for those portions of the ESF system outside containment. The proposed amendment also includes revised the Bases for TS 3.15.3, "Auxiliary and Fuel Handling Building Air Treatment System," to clarify system design requirements and accident analysis considerations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. No physical modifications which would change structures, systems or components are proposed by this TSCR [technical specification change request] for surveillance changes in Technical Specification 4.5.4 and its Bases. The proposed increase in the ESF Systems leakage rate acceptance limit has no effect on the performance of ESF systems during a DBA [design basis accident]. The proposed changes are supported by a revised MHA [maximum hypothetical accident] dose calculation using updated X/Q values and calculation assumptions. The MHA dose consequence analysis yields dose results that are below the 10 CFR 100 guidelines for both the EAB [exclusion area boundary] and LPZ [low population zone]. The calculated Control Room Habitability Evaluation does not exceed the permissible annual occupational exposure limit of 50 Rem to the thyroid as specified in 10 CFR 20.1201(a)(ii). In addition, the potential thyroid exposure can be mitigated by the availability of self-contained breathing apparatus and potassium iodide. Therefore, the changes would not involve a significant increase in the consequences of accidents previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated. This TSCR does not involve any physical modifications that would affect structures, systems, or components, nor does it involve any changes in plant operation.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. This TSCR does not involve changes to the Technical Specification defined Safety Limits, Limiting Conditions for Operation, and does not involve any change to safety system setpoints for operation. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Elinor G. Adensam.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 12, 1999.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) to (1) allow reactor vessel hydrostatic and leakage tests without maintaining primary containment integrity, (2) establish a limit and a surveillance requirement on reactor coolant activity when reactor coolant temperature is above 212°F, the reactor is not critical, and primary containment has not been established, and (3) correct a punctuation error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not increase the probability of an accident since reactor vessel hydrostatic and leakage tests would be performed with the reactor vessel nearly water solid, at nominal operating pressure, not critical and at low decay heat values which minimizes the energy stored in the reactor vessel. Under this proposed change a limit on reactor coolant activity is established that provides adequate assurance that the consequences of a large primary system break during reactor vessel hydrostatic and leakage test conditions will be conservatively bounded by the consequences of a postulated main steam line break outside of primary containment. Low pressure emergency core cooling systems are required to be operable during reactor vessel hydrostatic and leakage test providing assurance that adequate core cooling can be achieved to preclude fuel failures and subsequent increases in reactor coolant activity in the event of a large primary system break. The reduced stored energy in the reactor vessel and proposed limit on reactor coolant activity ensures there is no increase in the probability or consequences of an accident previously evaluated.

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed changes do not introduce any new accident initiators or failure mechanisms since the changes do not involve any changes to the structures, systems, or components. They also do not involve any change to the operation of systems, and alter procedures only to the extent that 212°F may be exceeded during reactor vessel hydrostatic and leakage testing without maintaining primary containment integrity. Without maintaining primary containment integrity, a large primary system break during a reactor vessel hydrostatic or leakage test would result in the same kind of accident as would a main steam line break outside primary containment during normal operation. Therefore, the proposed TS change does not create the possibility of a new or different kind of accident, from any accident previously evaluated.

The proposed amendment will not involve a significant reduction in the margin of safety.

Since reactor vessel hydrostatic and leakage tests are performed nearly water solid, at nominal operating pressure, not critical and at low decay heat values, the stored energy in the reactor vessel during testing will be low. Under these conditions, the potential for failed fuel and a subsequent increase in coolant activity is minimized. Therefore, the proposed Technical Specification change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. In addition, correction to the punctuation error is strictly a grammatical change and has no effect on the three standards of 10 CFR 50.92(c). Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and

Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: February 8, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification 4.5.3.2.b to allow the option of using closed and disabled automatic valves to provide the necessary isolation function when performing safety injection and charging pump testing in Modes 4, 5, and 6 (hot shutdown, cold shutdown, and refueling) for low temperature over pressurization protection.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

In Mode 4 with the RCS [reactor coolant system] coolant temperature less than 312 °F or in Modes 5 and 6 there is a potential risk of low temperature overpressurization. Mass additions of coolant by the safety injection and charging pumps could cause such an event to the extent that these pump flows exceed the ability of a single over pressure protection relief valve to protect the system. In order to eliminate this potentiality provisions are made to allow a maximum of one pump to be in service with the other pumps disabled except for testing. Further provisions are made to assure that a pump being tested can not inject into the vessel. The proposed change merely adds an alternate method of providing this assurance in addition to that currently provided by closing the manual discharge valves. The proposed change offers an equivalent means of affording the required protection.

Based upon the above, the proposed change will not increase the probability or consequences of an accident previously analyzed.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not require any change in the operation of the plant. A minor configuration change is involved in that a[ ] disabled automatic valve in the flow path will be used in lieu of the manual valve to provide protection. Specifically, no new hardware is being added to the plant as part of the proposed change, no existing equipment is being modified, and no significant changes in operations are being introduced. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed change will not alter any assumptions, initial conditions, or results of any accident analyses. The proposed change maintains the level of protection. The change will, therefore, not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Elinor G. Adensam.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: March 1, 1999.

Description of amendment request: The proposed amendment would revise the Ginna Station Improved Technical Specifications battery cell parameters limit for specific gravity Surveillance Requirement (SR) 3.8.6.3 and SR 3.8.6.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of Ginna Station in accordance with the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change is only to correct an error in the determination of the minimum limiting value for specific gravity of the station batteries. This does not increase the probability of an accident previously evaluated since the battery specific gravity is only a measure of the state of charge of the battery and the batteries themselves are not an accident initiator. The proposed minimum value for specific gravity, based on the NUREG–1431 guidance, gives a higher assurance that the battery has sufficient capacity. Therefore, the probability or consequences of an accident previously evaluated is not significantly increased.

(2) Operation of Ginna Station in accordance with the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not involve a physical alteration of the plant (i.e. no new or different type of equipment will be added) or changes in the methods governing normal plant operation. The change only involves implementing a more conservative minimum limiting value for the battery cell parameter of specific gravity. Therefore, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

(3) Operation of Ginna Station in accordance with the proposed change does not involve a significant reduction in a margin of safety. The proposed change only corrects an error in the determination of the limiting value for specific gravity. The error is being corrected by using a more conservative value as determined by the guidance of NUREG–1431. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Project Director: S. Singh Bajwa.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: February 18, 1999.

Description of amendment request: The proposed amendment would revise Virgil C. Summer Nuclear Station (VCSNS) Technical Specification (TS) 3/4.4.9 Reactor Coolant System Pressure/Temperature Limits to incorporate the new Pressure/Temperature (PT) Limits curves consistent with reactor vessel specimen analysis results. Additionally, the proposed amendment would revise the Pressure/Temperature Limits Bases section to accurately reflect current industry standards and regulations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes revise the Pressure/Temperature Limits Curves to provide curves that reflect the results of the analysis performed on reactor vessel surveillance

specimen W. This analysis was performed using NRC approved methodology as documented in WCAP 14040-NP-A, dated January, 1996. These curves provide the limits for operation of the Reactor Coolant System during heat up, cool down, criticality, and hydrotesting. The limits protect the reactor vessel from brittle fracture by separating the region of acceptable operation from the region where brittle fracture is postulated to occur. Failure of the reactor vessel is not a VCSNS design basis accident, and, in general, reactor vessel failure has a low probability of occurrence and is not considered in the safety analysis.

Therefore, the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes revise the Pressure/Temperature Limits Curves, Section 3/4.4.9, to incorporate the results of the analysis performed on reactor vessel specimen W. There are no plant design changes or significant changes in any operating procedures. This change adjusts the heat up and cool down curves to reflect the shift in nil-ductility reference temperature of the reactor vessel as a result of neutron embrittlement. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in margin of safety? The proposed changes revise the Pressure/Temperature Limits Curves, Section 3/4.4.9, to incorporate the results of the analysis performed on reactor vessel specimen W. The new PT curves ensure that the 10 CFR 50 Appendix G, requirements are not exceeded during normal operation including Reactor Coolant System transients during heat up, cool down, criticality, and hydrotesting. The new PT curves were prepared, using approved NRC methodology, for a projected reactor vessel neutron exposure of 32 EFPY [effective full power years].

The new curves shift to more conservative operating limitations, thus providing increased margin against non-ductile fractures. Since administrative limits remain in place to ensure that 10 CFR 50 Appendix G limits are not challenged, the margin of safety described in the TS Bases is not reduced by the proposed change. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Project Director: Herbert N. Berkow.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: May 8, 1996, as supplemented by letter dated January 13, 1999.

Description of amendment requests: The January 13, 1999, supplemental letter added an additional change to the technical specifications (TS) to incorporate an additional restriction to the time required to close containment when reactor coolant system (RCS) water level is reduced during a refueling outage. This additional restriction adds a limitation that containment must be able to be closed within the calculated time to boil, if it is less than the current four hour requirement. The January 13, 1999, letter supplements the staff's proposed no significant hazards consideration determination evaluation that was published on September 11, 1996 (61 FR 47978).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The licensee's analysis of the issue of no significant hazards consideration on the supplemental change is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Item 6 conservatively restricts the completion time to ensure containment closure is achieved prior to the water in the cavity boiling, in the event of a Loss of Shutdown Cooling. This restriction is already a self imposed requirement at San Onofre Units 2 and 3. Incorporating it in the Technical Specification only serves to highlight the importance of this requirement.

This change captures all periods of time when the time to boil following a Loss of Shutdown Cooling is less than 4 hours. Having this requirement cannot initiate an accident. However, this requirement reduces the consequences of a Loss of Shutdown Cooling Accident when the time to boil is less than 4 hours.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Item 6 conservatively restricts the completion time to ensure containment closure is achieved prior to the water in the cavity boiling, in the event of a Loss of Shutdown Cooling. This restriction is already a self imposed requirement at San Onofre Units 2 and 3. Incorporating it in the Technical Specification only serves to highlight the importance of this requirement.

This restriction cannot initiate an accident.

3. The proposed change does not involve a significant reduction in a margin of safety.

Item 6 conservatively restricts the completion time to ensure containment closure is achieved prior to the water in the cavity boiling, in the event of a Loss of Shutdown Cooling. This restriction is already a self imposed requirement at San Onofre Units 2 and 3. Incorporating it in the Technical Specification only serves to highlight the importance of this requirement.

This change increases the margin of safety provided by the Technical Specification by specifying that the containment must be closed within 4 hours or within the calculated time to boil, whichever is less. This change revises the Technical Specification to specifically recognize the importance of ensuring containment closure is achieved prior to boiling in the reactor vessel, upon a loss of shutdown cooling.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770.

NRC Project Director: William H. Bateman.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 22, 1998.

Description of amendment requests: The proposed amendment would modify the technical specifications (TS) to add a reference to allow use of Westinghouse laser-welded steam generator (SG) tube sleeving. The proposed amendment also provides typographical and editorial corrections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Steam generator tubes, tube plugging, and tube failures are considered in the analysis of

accidents in the Updated Final Safety Analysis Report (UFSAR). The steam generator tube rupture accident analysis considered the failure of a steam generator tube. Also, inadvertent opening of a steam generator dump valve (IOSGDV), loss of condenser vacuum (LOCV), loss of coolant accidents (LOCAs), and feed water line break (FWLB) accident analyses carry assumptions regarding steam generator tube plugging. In each case, the addition of steam generator tube sleeves to repair defective tubes will not change the probability or consequences of any accident previously evaluated.

The sleeve configurations have been designed, analyzed, and tested in accordance with the American Society of Mechanical Engineers (ASME) code requirements, and mechanical testing has shown that the sleeve and sleeve joints provide margin above acceptance limits. Ultrasonic testing (UT) and eddy current testing (ECT) are used to verify the adequacy of welds. Tests have demonstrated that tube collapse will not occur due to postulated LOCA loadings.

The probability or consequences of any accident previously evaluated is not increased because any leakage through the sleeve assembly is fully bounded by the existing steam generator tube rupture analysis included in the San Onofre Unit 2 and 3 Updated Final Safety Analysis Report. Additionally, any reactor coolant flow restriction from sleeving is addressed by a ratio of number of sleeved tubes to be equal to a plugged tube.

Therefore, the proposed sleeving repair process will not involve an increase in the probability or consequences of any previously evaluated accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The sleeves are captured within the steam generator tubes by hard rolling and welding and as such are not able to physically affect other parts of the system. The failure of a sleeve is identical to the failure of the parent tube which has been previously analyzed.

The use of a sleeve to span the area of degradation of the steam generator tube restores the structural and leakage integrity of the tubing to meet the original design requirements. Structural analysis of the sleeve assembly shows that the requirements of the ASME code are met. Mechanical testing has demonstrated that margin exists above the original tube design criteria. Any hypothetical accident as a result of any degradation in a sleeved tube would be bounded by the existing steam generator tube rupture accident analysis.

Therefore, operation of the facility in accordance with proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The use of sleeves to repair degraded steam generator tubing will maintain the integrity of the tube bundle commensurate with the ASME Code and draft Regulatory Guide (RG) 1.121 margin requirements for original tubing. Sleeves are components which are part of the reactor coolant pressure boundary and meet the requirements for Class 1 components in Section III of the ASME Boiler and Pressure Vessel Code. The primary to secondary pressure boundary will be maintained to the same margins as the original tubes under normal and postulated accident conditions. The safety margins used in the verification of the strength of the sleeve assembly are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code used in steam generator design. Further, a test program has been conducted by Westinghouse which demonstrated the integrity of the lower hard rolled joint design and its capability to withstand the design loads.

Therefore, operation of the facility with the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770.

NRC Project Director: William H. Bateman.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: February 26, 1999 (TS 98–08).

Brief description of amendments: The proposed amendments would change the Sequoyah (SQN) Technical Specifications (TS) by relocating TS 3.7.6, "Flood Protection Plan," and the associated bases to the SQN Technical Requirements Manual (TRM). This change does not alter the current requirements for implementation or surveillance testing of the Flood Protection Plan and future revisions of this plan will require an evaluation in accordance with 10 CFR 50.59.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to the TS relocates the requirements for SQN flood protection without changing the current requirements. This administrative relocation of the requirements will not increase the possibility of an accident.

The capability of the Flood Protection Plan will continue to provide the same function. Changes to the relocated requirements will be processed, in accordance with 10 CFR 50.59, to ensure the Flood Protection Plan will be properly maintained. Therefore, the proposed relocation of the flood protection requirements will not increase the probability or consequences of an accident previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SQN Flood Protection Plan is used to mitigate the effects of a flooding event at SQN. This plan would not be the initiator of any new or different kind of accident. The capability of the Flood Protection Plan will continue to provide the same function. Changes to the relocated requirements will be processed, in accordance with 10 CFR 50.59, to ensure the Flood Protection Plan will be properly maintained. The proposed change does not alter the current functions of SQN's Flood Protection Plan; therefore, this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

B. The proposed amendment does not involve a significant reduction in a margin of safety.

The requirements for SQN's flood protection are unchanged by the proposed relocation of the requirements to the SQN TRM. The function of the Flood Protection Plan and surveillance requirements to ensure implementation of the plan remains unchanged. Any future changes to these requirements will be evaluated, in accordance with 10 CFR 50.59, to ensure acceptability and NRC review as required. Accordingly, the proposed change will not result in a reduction in a margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Cecil O. Thomas.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: February 26, 1999 (TS 99–02).

Brief description of amendments: The proposed amendments would change the Sequoyah (SQN) Technical Specifications (TS) to provide for consistency when exiting the action statements associated with the Emergency Diesel Generators (D/Gs). The Tennessee Valley Authority (TVA) inadvertently omitted revising Action Statements c, d, and e associated with TS 3.8.1.1 in Revision 1 to TS Change 96–08, addressing the D/G allowed outage time, submitted to the NRC staff on October 8, 1998.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), TVA has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed revision provides for consistency and removes contradictions within the action statements associated with TS 3.8.1.1. Additionally, the proposed revision will not result in any change in the design, maintenance or operation of the associated plant equipment nor will it result in deviation from the actions presently approved by the staff for SQN's response to the associated LCOs [Limiting Conditions for Operation]. The deletion of the defined portion of the requirements associated with the restoration of offsite power sources in Action Statements c and d does not result in any change to SQN's response to the stated condition since this requirement remains unchanged in Action Statement a.

The deletion of the requirements associated with the restoration of 4 diesel generator (D/G) sets within 72 hours from Action Statements c and e provides for a consistent allowed outage time of 7 days for the loss of a D/G set as previously approved by the staff in a safety evaluation issued on December 16, 1998. Therefore, the proposed amendment does not involve an increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change provides for consistency and removes contradictions within the action statements associated with TS 3.8.1.1. Additionally, the proposed revision will not result in any change in the design, maintenance or operation of the associated plant equipment nor will it result in deviation from the actions presently approved by the staff for SQN's response to the associated LCOs. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change provides for consistency and removes contradictions within the action statements associated with TS 3.8.1.1. Additionally, the proposed revision will not result in any change in the design, maintenance or operation of the associated plant equipment nor will it result in deviation from the actions presently approved by the staff for SQN's response to the associated LCOs. Therefore, the proposed amendment does not involve a reduction in a margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Cecil O. Thomas.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application of amendment: December 4, 1998, January 18, and January 19, 1999.

Brief description of amendment: The proposed amendment would modify the staffing and training requirements to allow the use of Certified Fuel Handlers to meet plant staffing requirements.

Date of publication individual notice in **Federal Register**: December 29, 1998 (63 FR 71657).

Expiration date of individual notice: January 28, 1999.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: July 20, 1998, as supplemented December 4, 1998, and December 23, 1998.

Brief description of amendment: The amendment permits a one-time change to the Technical Specification (TS) Bases for TS 3.8.2 for Calvert Cliffs Nuclear Power Plant, Unit No. 2 and provides approval of the licensee's analysis of unreviewed safety questions as described in 10 CFR 50.59. The change allows Baltimore Gas and Electric Company to provide alternate cooling to the Unit 2 emergency diesel generators (EDGs) during their replacement of the Unit 2 service water (SRW) heat exchangers in the 1999 refueling outage since the normal SRW cooling would be unavailable. The licensee proposes to provide the 2A EDG with cooling water from the Unit 1 SRW system and to provide the 2B EDG with cooling water from an independent external cooling system during the replacement work.

Date of issuance: March 8, 1999.

Effective date: As of the date of its issuance to be implemented during the Calvert Cliffs Unit No. 2 spring 1999 refueling outage.

Amendment No.: 205.

Facility Operating License No. DPR–69: Amendment revised the Technical Specifications Bases.

Date of initial notice in **Federal Register**: August 26, 1998 (63 FR 45523) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: October 9, 1998.

Brief description of amendment: The amendment revised Section 6.0 to Technical Specifications to change the membership of the Nuclear Facility Safety Committee and corrected other typographical errors.

Date of issuance: March 8, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 199.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 16, 1998 (63 FR 69337).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: April 9, 1998 (NRC–98–0071).

Brief description of amendment: The amendment revises Technical Specification (TS) 3.7.1.2, "Emergency Equipment Cooling Water System," Action a, and TS 3.8.1.1, "A.C. Sources—Operating," Action c, to be consistent with the actions required for inoperable oxygen monitoring instrumentation in TS 3.3.7.5, "Accident Monitoring Instrumentation." The existing "***" footnote to TS 3.7.1.2, Action a, is modified and a "*" footnote is added to TS 3.8.1.1, Action c.

Date of issuance: March 3, 1999.

Effective date: March 3, 1999, with full implementation within 30 days.

Amendment No.: 132.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: September 23, 1998 (63 FR 50937).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: September 23, 1998.

Brief description of amendment: The amendment changes Division III battery specific gravity acceptance criteria outlined in River Bend Station (RBS) Technical Specifications (TS). The change is required as a result of Division III battery system modifications scheduled to be implemented during refueling outage RF–8, beginning April 3, 1999. During this time, the current Division III battery will be replaced with a new battery having a greater capacity rating. The new battery has a nominal specific gravity of 1.215 at 77°F in contrast to the existing Division III battery supplied with a nominal specific gravity of 1.210 at 77°F. Since TS Section 3.8.6, Table 3.8.6–1 values for specific gravity are based upon the manufacturer's nominal specific gravity, these values were updated to reflect the changes.

Date of issuance: March 3, 1999.

Effective date: The license amendment is effective upon the date of issuance and shall be implemented within 90 days.

Amendment No.: 103.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 18, 1998 (63 FR 64111).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: August 31, 1998.

Brief description of amendment: This amendment revised Technical Specification Surveillance Requirement 3.6.1.3.4 to permit removal of the inclined fuel transfer system primary containment blind flange while primary containment integrity is required.

Date of issuance: February 24, 1999.

Effective date: February 24, 1999.

Amendment No.: 100.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56260).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 24, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

FirstEnergy Nuclear Operating Company, Docket No. 50–440 Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: July 13, 1998, and as supplemented by submittal dated November 23, 1998.

Brief description of amendment: This amendment revised Technical Specification 3.4.4," Safety/Relief Valves (SRVs)," by increasing the present plus or minus 1% tolerance on the safety mode lift setpoint for the safety relief valves to plus or minus 3%.

Date of issuance: March 3, 1999.

Effective date: March 3, 1999.

Amendment No.: 101.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 12, 1998 (63 FR 43214).

The supplemental information contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Illinois Power Company, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: October 5, 1998.

Brief description of amendment: The amendment allows deferral of the next scheduled local leak rate test for valve 1MC–042 until the seventh refueling outage.

Date of issuance: March 8, 1999.

Effective date: March 8, 1999, and shall be implemented within 45 days.

Amendment No.: 121.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 23, 1998 (63 FR 56949).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, IL 61727.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: December 4, 1998, and January 18 and 19, 1999.

Brief description of amendment: The proposed amendment would modify the staffing and training requirements to allow the use of Certified Fuel Handlers to meet plant staffing requirements.

Date of issuance: March 5, 1999.

Effective date: As of the date of issuance to be implemented within 45 days from the date of issuance.

Amendment No.: 104.

Facility Operating License No. DPR–21: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 29, 1998 (63 FR 71657).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of applications for amendment: August 12, 1998, as supplemented by letter dated October 30, 1998; and application dated September 28, 1998, as supplemented by letters dated January 7 and 20, 1999.

Brief description of amendment: The amendment allows implementation of a revised main steamline break analysis and revised control room habitability analyses.

Date of issuance: March 10, 1999.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 228.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications and authorized changes to the Final Safety Analysis Report.

Date of initial notice in **Federal Register**: October 7, 1998 (63 FR 53951) and December 2, 1998 (63 FR 66597).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: December 10, 1998, as supplemented February 19, 1999.

Brief description of amendment: The amendment allows the licensee to implement changes to the Final Safety Analysis Report (FSAR) regarding a revised method for ensuring boron precipitation can be prevented (post-loss-of-coolant accident).

Date of issuance: March 10, 1999.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 229.

Facility Operating License No. DPR–65: Amendment authorizes changes to the Final Safety Analysis Report.

Date of initial notice in **Federal Register**: January 13, 1999 (64 FR 2249).

The February 19, 1999, supplemental letter provided additional information that did not change the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: June 10, 1998, as supplemented October 30, 1998.

Brief description of amendment: The amendment revises the Millstone Unit 3 licensing basis associated with post-accident mitigation activities, vital area access travel routes, and the associated action completion times. Northeast Nuclear Energy Company determined that the Final Safety Analysis Report (FSAR) description of post-accident vital area routing was out of date

because the radiological control area boundary fence created an access problem on the designated routes to the hydrogen recombiner and fuel building. The revised licensing basis will be incorporated into the FSAR and will revise the routes to accommodate the fence location and allow for the time to unlock gates.

Date of issuance: March 1, 1999.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 166.

Facility Operating License No. NPF–49: Amendment authorized revision to the FSAR.

Date of initial notice in **Federal Register**: July 15, 1998 (63 FR 38202).

The October 30, 1998, letter provided clarifying information that did not change the scope of the June 10, 1998, application, and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: December 4, 1998.

Brief description of amendment: The amendment eliminates the need to cycle the plant and its components through a shutdown-startup cycle by allowing the next snubber surveillance interval to be deferred until the end of refueling outage 6 or September 10, 1999, whichever date is earlier.

Date of issuance: March 3, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment No.: 167.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 30, 1998 (63 FR 71971).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, ThreeRivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

PP&L, Inc., Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: August 5, 1998, as supplemented by letter dated November 23, 1998.

Brief description of amendment: This amendment would change the allowable values for both the core spray system and the low-pressure-coolant injection system reactor steam dome pressure-low functions.

Date of issuance: March 4, 1999.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment No.: 155.

Facility Operating License No. NPF–22: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 1, 1999 (64 FR 4904).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 4, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: August 25, 1998, as supplemented January 27, 1999.

Brief description of amendment: This amendment revised Technical Specification (TS) 2.1.2, "THERMAL POWER, High Pressure and High Flow," and the Bases for TS 2.1, "Safety Limits." These changes were made to implement appropriately conservative Safety Limit Minimum Critical Power Ratio values for the Hope Creek Generating Station Cycle 9 core and fuel designs. An administrative revision has also been made to TS 6.9.1.9 to reflect these changes for Cycle 9.

Date of issuance: March 9, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days after the completion of Cycle 8.

Amendment No.: 117.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 23, 1998 (63 FR 50938).

The supplemental letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: September 29, 1998.

Brief description of amendments: The amendments revise Technical Specification (TS) 3/4.9.4, "Refueling Operations—Containment Building Penetrations," to allow the use of an equivalent closure device to satisfy the closure requirements of the containment equipment hatch during core alterations or movement of irradiated fuel in containment. The amendment also revises TS 3/4.9.4 to allow the use of an equivalent closure method to satisfy the closure requirements of containment penetrations (in addition to an isolation valve, blind flange or manual valve) during core alterations or movement of irradiated fuel in containment.

Date of issuance: February 26, 1999.

Effective date: Effective as of its date of issuance, to be implemented within 60 days.

Amendment Nos.: 217 and 199.

Facility Operating License Nos. DPR–70 and DPR–75. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998 (63 FR 56258).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: November 24, 1998.

Brief description of amendment: This amendment revises the Ginna Station Improved Technical Specifications

description of the fuel cladding material (TS 4.2.1) and updates the list of references provided in Specification 5.6.5 for the Core Operating Limits Report.

Date of issuance: March 3, 1999.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment No.: 73.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 30, 1998 (63 FR 71972).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: July 7, 1998, as supplemented by letters dated October 15 and October 26, 1998, and February 16, 1999. The supplements provided clarifying information and corrected administrative errors within the scope of the amendment request and did not change the initial no significant hazards consideration determination.

Brief description of amendments: The amendments revised the spent fuel pool criticality analysis and rack utilization schemes by allowing credit for spent fuel pool soluble boron.

Date of issuance: March 3, 1999.

Effective date: This license amendment is effective as of its date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: Unit 1—Amendment No. 104; Unit 2—Amendment No. 91.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 26, 1998 (63 FR 45530).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Tennessee Valley Authority, Docket No. 50–260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: September 8, 1998 (TS–354), as supplemented by letter dated February 22, 1999.

Brief description of amendment: Revises the Appendix A Technical Specifications (TS) to include provisions for enabling the Oscillation Power Range Monitor Upscale trip function in the Average Power Range Monitor.

Date of issuance: As of date of issuance to be implemented at the end of the Unit 2 Cycle 10 outage scheduled to begin on April 11, 1999.

Effective date: March 5, 1999.

Amendment No.: 258.

Facility Operating License No. DPR–52: Amendment revises the TS.

Date of initial notice in **Federal Register**: October 7, 1998 (63 FR 53958). The supplemented letter dated February 22, 1999, did not change the original no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: November 10, 1998.

Brief description of amendments: The amendments revise the Technical Specifications Sections 3.4.4 and 3.4.4.a for Unit 1, and 3.4.4 and 3.4.4.a for Unit 2, providing a clarification on the operability requirements for pressurizer heaters and the emergency power source for the pressurizer heaters.

Date of issuance: March 1, 1999.

Effective date: March 1, 1999.

Amendment Nos.: 217 and 198.

Facility Operating License Nos. NPF–4 and NPF–7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66605).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: October 25, 1995, as supplemented February 5, 1999. The February 5, 1999, supplemental letter contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the original **Federal Register** Notice.

Brief description of amendments: The amendments revise the Technical Specifications (TS) Sections 3.4.3.2, 4.4.3.2.1.b, 4.4.3.2.1.c, 4.4.3.2.2, 4.4.9.3.d, 4.4.9.3.e, 3/4.4.2, 3/4.4.3, 3/4.4.4 and 6.8.4.g for Unit 1, and 3.4.3.2, 4.4.3.2.1.c, 4.4.3.2.2, 4.4.9.3.d, 4.4.9.3.e, 3/4.4.2, 3/4.4.3, 3/4.4.4 and 6.8.4.g for Unit 2, providing an allowed outage time of 14 days for the prezzurizer power operated relief valve (PORV) nitrogen accumulators, as well as provide separate action statements for the PORV depending on the reason for the PORV inoperability.

Date of issuance: March 2, 1999.

Effective date: March 2, 1999.

Amendment Nos.: 218 and 199.

Facility Operating License Nos. NPF–4 and NPF–7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 5, 1996 (61 FR 28620).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 2, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: September 24, 1998.

Brief description of amendments: These amendments revise the Technical Specifications to allow the reactor trip bypass breakers to be tested immediately after being placed in service, but prior to commencing Reactor Protection System testing or maintenance.

Date of issuance: March 12, 1999.

Effective date: March 12, 1999.

Amendment Nos.: 219 and 219.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: February 10, 1999 (64 FR 6715).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 12, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: September 28, 1998 (TSCR 208).

Brief description of amendments: These amendments clarify the notation definition of refueling interval "R" in TS Table 15.4.1–1 and add a new annual (12-month) interval "A".

Date of issuance: March 1, 1999.

Effective date: March 1, 1999, with full implementation within 45 days.

Amendment Nos.: 186 and 191.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 27, 1999 (64 FR 4162).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: October 5, 1998 (TSCR 200).

Brief description of amendments: These amendments modify TS Section 15.4.1, "Operational Safety Review," by removing the requirement to check certain environmental monitors on a monthly basis.

Date of issuance: March 2, 1999.

Effective date: March 2, 1999, with full implementation within 45 days.

Amendment Nos.: 187 and 192.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 27, 1999 (64 FR 4163).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 2, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: October 7, 1998 (TSCR 207).

Brief description of amendments: These amendments incorporate changes to the Technical Specifications to ensure the 4 kV bus undervoltage input to the reactor trip protective function is controlled in accordance with the design and licensing basis for the facility. An additional administrative change removes the footnote related to the definition of Rated Power in TS 15.1.j.

Date of issuance: March 2, 1999.

Effective date: March 2, 1999, with full implementation within 45 days.

Amendment Nos.: 188 and 193.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 30, 1998 (63 FR 71978).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 2, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Yankee Atomic Electric Company, Docket No. 50–29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: October 15, 1998.

Brief description of amendment: Revises the Possession Only License by changing the submittal interval for the Radioactive Effluent Reports from semiannual to annual.

Date of issuance: March 5, 1999.

Effective date: March 5, 1999.

Amendment No.: 151.

Possession Only License No. DPR–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 18, 1998 (63 FR 64128). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated No significant hazards consideration comments received: No.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 17th day of March 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7032 Filed 3–23–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Innovative Medical Services, Common Stock, and Class A Common Stock Purchase Warrants) File No. 1–14468

March 18, 1999.

Innovative Medical Services ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").[1]

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities of the Company have been listed for trading on the BSE and the Nasdaq SmallCap Market since August 8, 1996, pursuant to a Registration Statement on Form 8–A which became effective on said date.

The Company has complied with the rules of the BSE by filing with the Exchange a certified copy of the preambles and resolution adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the BSE and by setting forth in detail to the Exchange the reasons for the proposed withdrawal and the facts in support thereof. In making the decision to withdraw its Securities from listing on the BSE, the Company considered the direct and indirect costs of maintaining dual listings of its Securities on the BSE and the Nasdaq SmallCap Market. The

[1] Notice of this application was previously issued by the Commission as Release No. 34–41114 on February 25, 1999. Such notice, however, failed to appear in the **Federal Register**, as required, and so is being reissued.

Company does not believe that due to the duplication of expenses of continued listing on both Exchanges there is any benefit to continued listing on the BSE.

The Exchange has informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the BSE.

The Company's application relates solely to the withdrawal from listing of the Securities from the BSE and shall have no effect upon the continued listing of the Securities on the Nasdaq SmallCap Market.

Any interested person may, on or before, April 8, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7156 Filed 3–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (International FiberCom, Inc., Common Stock, No Par Value) File No. 1–13278

March 18, 1999.

International FiberCom, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange").

The reasons cited in the application for withdrawing the security from listing and registration include the following:

The security has been listed for trading on the Nasdaq National Market as well as the PHLX. The Company has considered the direct and indirect costs and expenses in connection with maintaining the listing of its security on the PHLX. Due to the low level of trading volume in its security on the PHLX, and in light of the recent changes to the Securities Act of 1933, as amended, under the National Securities Markets Improvement Act of 1996, the Company does not see any particular advantage in continuing to list its security on the PHLX. The Company also believes that the trading of its security on multiple exchanges may possibly fragment the market for its security.

The Company has filed with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its security from listing on the Exchange and has provided to the Exchange detailed reasons for the proposed withdrawal, and the facts in support thereof.

The Exchange has informed the Company that it has no objection to the withdrawal of the Company's security from listing on the PHLX.

The application refers only to the security set forth above and shall have no effect upon the continued listing of such security on the Nasdaq National Market. In addition, by reason of Section 12(g) of the Act and the rules and regulations of the Commission thereunder, the Company shall be obligated to continue to file reports with the Commission under Section 13 of the Act.

Any interested person may, on or before, April 8, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7154 Filed 3–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Cosmos Ventures, Inc.; Order of Suspension of Trading

March 22, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current, adequate and accurate information concerning the securities of Cosmos Ventures, Inc., a Nevada shell corporation Questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, the business prospects of Cosmos Ventures, Inc., including its purported acquisition of all rights to a foreign pulp mill.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EST, March 22, 1999, through 11:59 p.m. EDT, on April 5, 1999.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7274 Filed 3–22–99; 12:45 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41180; File No. SR–NASD–98–94]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. to Amend Adjudication Procedures for Clearly Erroneous Transactions

March 17, 1999.

On December 18, 1998, the National Association of Securities Dealers, Inc., ("NASD" or "Association") through its wholly-owned subsidiary, NASD Regulation, submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend adjudication procedures for clearly erroneous transactions. The **Federal Register** published the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change for comment on February 3, 1999.[3] The Commission received no comments on the proposal. This order approves the proposal.

Description of the Proposal

NASD Regulation is proposing to amend NASD Rule 11890 ("Rule") to conform the time frame for requesting a clearly erroneous adjudication for pre-opening transactions to the 30 minute frame that applies trades that occur after 10:00 a.m. The rule permits The Nasdaq Stock Market, Inc. ("Nasdaq") to review erroneous transactions and declare them void or otherwise modify their terms. In 1998, the Commission approved changes to the rule to make this process more efficient and fair ("Amendments").[4] NASD Regulation amended the rule to require members to submit erroneous transaction complaints within 30 minutes of the transaction. Prior to the amendments, the rule allowed members to submit these complaints any time during the trading day. The Association hoped the amendments would preclude firms from waiting until the end of the day to submit erroneous transaction complaints after deciding whether the erroneous trade became unprofitable. The amendments also required that firms give the counterparty to the erroneous transaction adequate notice of the error within a short period of time.

Because of the high trading volume, however, the NASD intended to provide additional time to submit adjudication requests for trades occurring during the first half of each trading day. Specifically, the NASD intended that members have until 10:30 a.m. to request an adjudication for trades occurring between the 9:30 a.m. open and 10:00 a.m. The rule, however, currently only applies to trades that occur before 10:00 a.m., and does not mention trades that occur before the 9:30 a.m. opening. Consequently, a literal reading of the rule accords additional time to pre-9:30 a.m. transactions as well as those that occur between 9:30 and 10:00 a.m.

The NASD staff identified this issue when the Commission approved the amendments, but agreed, in consultation with Commission staff, to wait and observe the operation of the amended rule. After administering the amended rule for eight months, the NASD has confirmed its original belief that this additional time is not necessary for pre-opening transactions and is inconsistent with the original intent of the amendments.

In particular, the NASD notes that of the 27 requests for adjudication involving pre-opening trades received since the amendments, more than half were submitted by members within 30 minutes (in several instances within ten minutes) even though some members had as long as 90 minutes to do so. More importantly, members made virtually all of these requests (23 of 27) after the market opened and they had an opportunity to observe the direction of the market. While the NASD still believes that it is appropriate to provide additional time to request an adjudication for erroneous trades that occur following the opening, the NASD believes providing members additional time for pre-opening transactions is inconsistent with the intent of the amendments and allows members to abuse the rule.

Discussion

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association. In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[5] which requires that an Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.[6] Specifically, the Commission believes the proposed rule change promotes fair and efficient resolution of disputes involving clearly erroneous transactions. The Commission believes that uncorrected erroneous transactions hinder an investor's ability to rely on reported transactions as accurately reflecting the current state of the market. The Commission believes the proposed rule change will lessen the impact of erroneous transactions on the public by allowing Nasdaq to more quickly correct erroneous transactions that have been publicly reported.

Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NASD–98–94) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7155 Filed 3–23–99; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Exchange Act Release No. 40992 (Jan. 28, 1999), 64 FR 5846 (Feb. 5, 1999).

[4] Exchange Act Release No. 39550 (Jan. 14, 1998), 63 FR 4333 (Jan. 28, 1998) (approving SR–NASD–96–51).

[5] 15 U.S.C. 78*o*–3.

[6] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41177; File No. SR–NYSE–98–05]

Self-Regulatory Organizations; New York Stock Exchange, Inc.: Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Material

March 16, 1999.

I. Introduction

On February 6, 1998, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to extend through June 30, 2001, the effectiveness of the pilot fees ("Pilot Fee Structure") set forth in Exchange Rule 451, "Transmission of Proxy Material," and Exchange Rule 465, "Transmission of Interim Reports and Other Material" (collectively the "Rules").[3] The Rules establish guidelines for the reimbursement of expenses by NYSE issuers to NYSE member organizations for the processing and delivery of proxy materials and other issuer communications to security holders whose securities are held in street name.[4] The proposed rule change also

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The "Pilot Fee Structure" originally was approved by the Commission on March 14, 1997. *See* Securities Exchange Act Release No. 38406 (Mar. 14, 1997), 62 FR 13922 (Mar. 24, 1997) ("Original Pilot Approval Order"). The Pilot Fee Structure subsequently was extended several times and modified once. *See infra* notes 14 and 15. The Exchange amended its proposed rule change to extend the Pilot Fee Structure through August 31, 1999, rather than June 30, 2001, as originally proposed. *See infra* note 8.

[4] The ownership of shares in street name means that a shareholder, or "beneficial owner," has purchased shares through a broker-dealer or bank, also known as a "nominee." In contrast to direct ownership, where the shares are directly registered

sought to revise the Rules to allow NYSE member firms to reduce mailings to beneficial owners through the "householding" of materials, provided that implied consent (*i.e.*, beneficial owner does not object after receiving 60 days written notice of the proposed householding) is obtained from the beneficial owners.[5] This portion of the proposal has been withdrawn by the Exchange.[6]

The proposed rule change was published for comment in the **Federal Register** on March 26, 1998.[7] The Commission received 47 comment letters on the proposal. On March 9, 1999, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.[8] This order approves, through August 31, 1999, the proposed rule change, as amended, and Amendment No. 1 on an accelerated basis.

II. Background

NYSE member organizations that hold securities for beneficial owners in street name solicit proxies from, and deliver proxy and issuer communication materials to, beneficial owners on behalf of owners of NYSE-listed company shares. For this service, NYSE issuers reimburse NYSE member organizations for reasonable out-of-pocket, clerical, postage, and other expenses incurred in performing such activities. The Rules provide specific fee guidelines for the reimbursement of these expenses.

Over the last thirty years, NYSE member firms increasingly have outsourced their proxy delivery obligations to proxy distribution intermediaries. The primary reason underlying this shift is that member firms believe proxy distribution is not a core broker-dealer business and that capital is better used elsewhere. By the early 1990's, two proxy distribution firms distributed most of the proxies to street name accounts on behalf of NYSE member firms: Automatic Data Processing ("ADP")[9] and the Independent Election Corporation of America ("IECA"). In February 1992, ADP acquired IECA and became the dominant proxy distribution intermediary. By 1993, ADP reportedly distributed seventy percent of all proxies sent to beneficial owners holding shares in street name. Because three of the four remaining major self-distributing broker-dealers recently contracted with ADP to discharge their proxy delivery and voting obligations,[10] that figure now stands close to one hundred percent.[11]

III. Description of the Proposal

A. The Pilot Fee Structure

On March 14, 1997, the Commission approved an Exchange proposal that significantly revised the reimbursement guidelines set forth in the Rules and established the Pilot Fee Structure.[12] The Pilot Fee Structure was designed to address many of the functional and technological changes that had occurred in the proxy distribution process since the Rules were last revised in 1986. Although the Pilot Fee Structure reduced certain fees, it also raised one fee, and in some instances created new fees. The Pilot Fee Structure initially was set to expire on May 13, 1998.

Under the fee structure in effect prior to March 14, 1997, NYSE member firms were permitted to charge NYSE issuers a basic processing fee of $0.60–$0.70 for each proxy package (*i.e.*, proxy statement, form of proxy, and annual report) delivered to a beneficial owner.[13] The Pilot Fee Structure reduced this fee to $0.55 per proxy package. In the subsequent companion filing to this proposed rule change, the Exchange amended the Pilot Fee Structure to further reduce the basic proxy processing fee to $0.50.[14] The companion filing also extended the effectiveness of the Pilot Fee Structure from May 13, 1998, through July 31, 1998. Three additional Exchange rule filings extended the effectiveness of the Pilot Fee Structure, as amended by the companion filing, to March 15, 1999.[15]

The Pilot Fee Structure also reduced from $0.20 to $0.15 the fee for annual reports that are mailed separately from the proxy materials pursuant to the instruction of the person soliciting proxies. The Pilot Fee Structure likewise reduced from $0.20 to $0.15 the fee for interim reports, annual reports if mailed separately, post meeting reports, or other material. The historic fee structure's $0.60 fee for mailing follow-up proxy materials only to beneficial owners who had not voted was eliminated; however, the fee for mailing follow-up proxy materials to all beneficial owners remained $0.40. The fee for proxy fights (*i.e.*, an opposition proxy statement has been furnished to security holders) was raised under the

---

in the name of the shareholder, shares held in street name are registered in the name of the nominee, or in the nominee name of a depository such as the Depository Trust Company. Research provided by the Exchange indicates that approximately 70 to 80 percent of all outstanding shares are held in street name and that the shares held in street name are dispersed among approximately 800 nominees.

[5] "Householding" is used to eliminate multiple mailings of proxy and other materials to beneficial owners residing at the same address. For example, if a husband and wife living together both separately own shares in the same NYSE issuer, householding could be used to reduce from two to one the number of proxy packages sent to the married couple.

[6] *See infra* note 8.

[7] Securities Exchange Act Release No. 39774 (Mar. 19, 1998), 63 FR 14745 (Mar. 26, 1998).

[8] *See* Letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, dated March 8, 1999 ("Amendment No. 1"). Amendment No. 1 to the proposed rule change proposes two revisions: (1) modifying the proposed term of the Pilot Fee Stucture from June 30, 2001, to August 31, 1999; and (2) withdrawing the householding through implied consent provision. Amendment No. 1 also clarifies that the proposed rule change, as revised by Amendment No. 1, proposes to extend through August 31, 1999, the Pilot Fee Structure, as amended by the companion filing (*see infra* note 14 and related text for a description of the companion filing).

[9] The name of the actual business unit that serves as a proxy distribution intermediary is ADP Beneficial Shareowner Communication ("ADP BCS"). ADP BCS is a service line of ADP Investor Communication Services, a division of ADP Financial Information Services, Inc., which in turn is an indirect wholly owned subsidiary of Automatic Data Processing, Inc. For clarity and ease of reference, the acronym "ADP" will be used in place of "ADP BCS."

[10] As recently as the 1997 proxy season, four major broker-dealers directly distributed proxy materials to their customers holding shares in street name: Merrill Lynch, Paine Webber, Prudential Securities, and the Dean Witter arm of Morgan Stanley Dean Witter. Currently, only Dean Witter directly distributes proxy materials to street name accounts.

[11] For a more detailed description of the background and history of the proxy distribution industry, proxy fees, as well as the events leading to the Exchange's proposal to revise the Rules, *see* Original Pilot Approval Order *supra* note 3.

[12] *See* Original Pilot Approval Order *supra* note 3. Under the Pilot Fee Structure, NYSE member organizations also are entitled to receive reimbursement for: (i) actual postage costs (including return postage at the lowest available rate); (ii) the actual cost of envelopes (provided they are not furnished by the person soliciting proxies); and (iii) any actual communication expenses (excluding overhead) incurred in receiving voting returns either telephonically or electronically. Prior to the Pilot Fee Structure, NYSE member firms were entitled to reimbursement for "all out-of-pocket expenses, including reasonable clerical expenses, incurred in connection with proxy solicitations pursuant to Rule 451 and in mailing interim reports or other material pursuant to Rule 465." *See* Exchange Rule 451, Supplementary Material .90, "Schedule of Approved Charges by Member Organizations in Connection with Proxy Solicitations" and Exchange Rule 465, Supplementary Material .20, "Mailing Charges by Member Organizations."

[13] The $0.60 fee applied to proxy packages for meetings that did not include a proposal that required beneficial owner instructions; the $0.70 fee applied to proxy packages for meetings that included a proposal that required beneficial owner instructions (*e.g.*, proxy fights).

[14] *See* Securities Exchange Act Release No. 39672 (Feb. 17, 1998), 63 FR 9034 (Feb. 23, 1998).

[15] *See* Securities Exchange Act Release Nos. 40289 (July 31, 1998), 63 FR 42652 (Aug. 10, 1998) (extended the Pilot Fee Structure from July 31, 1998, through October 31, 1998); 40621 (Oct. 30, 1998), 63 FR 60036 (Nov. 6, 1998) (extended the Pilot Fee Structure from October 31, 1998, through February 12, 1999); and 41044 (Feb. 11, 1999), 64 FR 8422 (Feb. 19, 1999) (extended the Pilot Fee Structure from February 12, 1999, through March 15, 1999).

Pilot Fee Structure from $0.70 to $1.00 for each set of proxy materials mailed.

The Pilot Fee Structure implemented two new fees. First, a paper elimination incentive fee of $0.50 was instituted for each proxy package ($0.10 for each interim report) not mailed because of either householding or electronic delivery. The paper elimination fee was intended to serve as an incentive to use technologies, such as electronic mail, to reduce the number of paper mailings sent to beneficial owners. The paper elimination incentive fee could be assessed in addition to the basic processing fee. Second, the Pilot Fee Structure implemented a nominee coordination fee of $20 per nominee (*i.e.*, each NYSE issuer must pay $20 for each nominee holding its shares in street name). The nominee coordination fee was designed to compensate a proxy distribution intermediary for coordinating a series of functions across multiple nominees. The functions included are: consolidation of search responses, delivery of materials to nominees, use of bulk mail, and tabulation and dissemination of preliminary voting information.[16]

Finally, the Pilot Fee Structure permitted the householding of proxy and other materials to beneficial owners provided that actual written consent was obtained from the beneficial owner to whom the materials are not sent.[17] This provision allows member firms to household annual reports, interim reports, proxy statements, and other material.[18]

B. The Proposal and Amendment No. 1

In its original form, the Exchange's proposed rule change sought to extend the effectiveness of the Pilot Fee Structure through June 30, 2001. In Amendment No. 1, the Exchange requested that the Pilot Fee Structure end on August 31, 1999. The original version of the proposal also sought to permit the householding of proxy materials and other issuer communications through implied consent. Specifically, the Exchange had sought to permit householding if a beneficial owner did not object after receiving 60 days written notice of the proposed householding. Amendment No. 1 withdrew the householding through implied consent provision from the Exchange's proposal.

[16] *See* Original Pilot Approval Order *supra* note 3 for a more detailed discussion of the nominee coordination fee, the coordination services encompassed in that fee, and the supporting rationale provided by the Exchange.

[17] *See* Exchange Rule 451, Supplementary Material .95, "'Householding' of Reports" and Exchange Rule 465, Supplementary Material .25, "'Householding' of Reports." For a description of householding, *see supra* note 5.

[18] *But see* 17 CFR 240.14a–3(e) and 17 CFR 240.14c–7(a).

IV. Summary of Comments

The Commission received 47 comment letters regarding the Exchange's proposed rule change.[19] A substantial majority of the commenters, 41 of the 47, supported the proposal. Four commenters did not support the proposal,[20] and one commenter

[19] All of the comment letters are part of File No. SR–NYSE–98–05, which is available for public review and inspection in the Commission's Public Reference Section. The comment letters were submitted by twenty-six issuers, nine broker-dealers, six trade associations, two institutional investors, one bank, one potential proxy service provider, one economic analysis company retained by ADP (Analysis Group/Economics), and the ADP Steering Committee. The comment letters are listed below in the order they were received by the Commission's Office of the Secretary. *See* Letters from: Timothy E. Hall, Corporate Controller, Flexsteel Industries, Inc., dated February 24, 1998 ("Flexsteel Letter"); Judy Foshay, Director, Shareholder Services, Cirrus Logic, dated April 9, 1998 ("Cirrus Letter"); Sari L. Macrie, Vice President, Investor Relations, Ameritech, dated April 8, 1998 ("Ameritech Letter"); Janet M. Turner, Vice President, Investor Relations, PLM International, Inc., dated April 14, 1998 ("PLM Letter"); Sophia G. Vergas, Assistant Secretary, The Liberty Corporation, dated April 14, 1998 ("Liberty Letter"); Anne C. Cumberledge, Manager, Investor Relations, Meridian Industrial Trust, dated April 10, 1998 ("Meridian Letter"); Rhoda Anderson, Director, Corporate Secretary's Department, Lucent Technologies, and Chairperson, ADP Steering Committee (on behalf of: Linda Selbach, Barclays Global Investors; Janice Hester Amey, CALSTRS; Ray DiSanza, Charles Schwab & Co.; Paula Gurley, Colorado Public Employees' Retirement Association; Steven Berk, J.P. Morgan Services; Nancy Obringer, Mellon Bank; Gordon Garney, Mobil Corporation; and Rafael Dieppa, Oppenheimer & Co.), dated April 14, 1998 ("ADP Steering Committee Letter"); Jerome J. Clair, Senior Vice President, Smith Barney Inc., dated April 15, 1998 ("Smith Barney Letter"); Virgil L. Clubbs, Associate Vice President, A.G. Edwards & Sons, Inc., dated April 15, 1998 ("A.G. Edwards Letter"); John E. Nolan, Senior Vice President, Raymond James & Associates, Inc., dated April 15, 1998 ("Raymond James Letter"); Peter Quick, President, Quick & Reilly, dated April 13, 1998 ("Quick & Reilly Letter"); John B. Meagher, Consultant to Corn Products International, Inc., dated April 15, 1998 ("Corn Products Letter"); George Kim Johnson, General Counsel, and Paula A. Gurley, Manager, Shareholder Responsibility Division, Public Employees' Retirement Association of Colorado, dated April 13, 1998 ("PERA Letter"); D. Stuart Bowers, Senior Vice President, Legg Mason Wood Walker, Incorporated, dated April 15, 1998 ("Legg Mason Letter"); Roger P. Smith, Secretary, 3M, dated April 16, 1998 ("3M Letter"); Janice Hester Amey, Corporate Affairs Advisor, State of California State Teachers' Retirement System, dated April 15, 1998 ("CALSTRS Letter"); Andrew D. Hendy, Senior Vice President, General Counsel, and Secretary, Colgate-Palmolive Company, dated April 15, 1998 ("Colgate-Palmolive Letter"); John W. Hetherington, Vice President, Secretary, and Assistant General Counsel, Westvaco, dated April 13, 1998 ("Westvaco Letter"); Robert M. Williams, Assistant Secretary, Carolina Power and Light Company, dated April 15, 1998 ("CP&L Letter"); Gordon G. Garney, Senior Assistant Secretary, Mobil Corporation, dated April 16, 1998 ("Mobil Letter"); Stacy A. Matseas, Manager, Stock Administration, QUALCOMM, Incorporated, dated April 15, 1998 ("QUALCOMM Letter"); Gary Ball, Manager, Investor Relations, Fluke Corporation, dated April 15, 1998 ("Fluke Letter"); Sarah A.B. Teslik, Executive Director, Council of Institutional Investors, dated April 20, 1998, with attached letter to Brian Lane dated February 9, 1998 ("CII Letter"); Glynn E. Williams, Jr., Vice President, Finance, Goodrich Petroleum Corporation, dated April 15, 1998 ("Goodrich Letter"); Walter Flicker, Secretary, ResMed Corp., dated April 16, 1998 ("ResMed Letter"); Mike Tate, Controller, Galileo Technology, dated April 14, 1998 ("Galileo Letter"); David Kerner, Treasurer, Standard Motor Products, Inc., dated April 13, 1998 ("Standard Motor Letter"); Laurin L. Laderoute, Jr., Vice President, Assistant General Counsel, and Secretary, Olsten Corporation, dated April 23, 1998 ("Olsten Letter"); Ron Miele, Vice President, Global Operations, Goldman, Sachs & Co., dated April 20, 1998 ("Goldman Letter"); Brian T. Borders, President, Association of Publicly Traded Companies, dated April 24, 1998 ("APTC Letter"); Robert S. Harkey, Senior Vice President, General Counsel, and Secretary, Delta Air Lines, Inc., dated April 16, 1998 ("Delta Letter"); George M. Holston, Assistant General Manager and Assistant Secretary, Texaco Inc., dated April 14, 1998 ("Texaco Letter"); William A. Bowen, Vice President, Finance, AAON, Inc., dated April 16, 1998 ("AAON Letter"); Jennifer LaGrow, Director, Shareholder Services, The Walt Disney Company, dated April 28, 1998 ("Disney Letter"); Donna Murphy, Investor Relations Coordinator, UniSource Energy Corporation, dated April 16, 1998, ("UniSource Letter"); Joan DiBlasi, President, Corporate Transfer Agents Association, Inc., dated May 7, 1998 ("CTA Letter"); David W. Smith, President, American Society of Corporate Secretaries, dated May 11, 1998 ("ASCS Letter"); Susan E. Shaw, Secretary, The Coca-Cola Company, dated May 1, 1998 ("Coca-Cola Letter"); Thomas L. Montrone, President, The Securities Transfer Association, Inc., dated May 18, 1998 ("STA Letter"); Lindsay Klombies, Reorganization Manager, Norwest Bank, dated May 12, 1998 ("Norwest Letter"); Susan C. Hafleigh, Assistant Treasurer, Oracle Corporation, dated May 14, 1998 ("Oracle Letter"); Anne O. Faulk, received June 15, 1998 ("Faulk Letter"); Robert Kaplan, Senior Vice President, Administrative Group Office, Prudential Securities Incorporated, dated June 22, 1998 ("Prudential Letter"); The Corporate Actions Division, Inc., Securities Industry Association, dated July 7, 1998 ("SIA Letter"); Doug Harris, Incumbent Secretary, and Polk Laffoon, Incoming Secretary, Knight Ridder, dated July 23, 1998 ("Knight Letter"); Stephen P. Norman, Secretary, American Express Company, dated August 31, 1998 ("American Express Letter"); and Robert Comment, Analysis Group/Economics, dated October 27, 1998 ("Analysis Group Letter").

Commission staff also interviewed representatives from fourteen proxy industry participants. *See*, Memorandums to File No. SR–NYSE–98–05 regarding Commission staff meetings or conversations with: First Chicago Trust Co., dated August 13, 1998; The Depository Trust Company, dated August 11, 1998; Dean Witter Reynolds, Inc., dated August 11, 1998; Georgeson & Company, Inc., dated August 11, 1998; JP Morgan, Inc., dated August 11, 1998; Carl T. Hagberg & Associates, dated August 11, 1998; Salomon Brothers, Inc./Smith Barney, Inc., dated August 11, 1998; Bank of New York, dated August 11, 1998; Prudential Securities, dated August 11, 1998; Merrill Lynch, Pierce, Fenner & Smith, Inc., dated August 11, 1998; CT Corporation System, dated August 13, 1998; Investor Responsibility Research Center, dated August 11, 1998; Corporate Investor Communications, dated August 13, 1998; and Paine Webber, Inc., dated August 11, 1998.

[20] *See* CII Letter, CTA Letter, STA Letter, and Faulk Letter, *supra* note 19. Several of these

specifically objected to the nominee coordination fee.[21] One additional commenter, who was retained by ADP to provide an economic analysis of proxy processing, submitted a comment letter that examined price trends, market share, natural monopoly status, predatory pricing, regulatory best practices, and peak-load pricing.[22]

Thirty-six of the 41 commenters supporting the proposal believed an extension of the Pilot Fee Structure through June 30, 2001, was appropriate,[23] while five of those commenters believed that another review of the Pilot Fee Structure was necessary at the conclusion of the extended pilot period.[24] Several other commenters believed that a shorter pilot period would be more appropriate.[25] The commenter retained by ADP asserted that "the 'ongoing pilot' approach to regulating fees is an invitation to micro-management, and as such is flatly inconsistent with regulatory best practices."[26]

In the published notice of the proposed rule change, the Commission solicited comment on the itemized fees prescribed under the Pilot Fee Structure. In particular, the Commission sought comment on the nominee coordination fee and its impact on issuers, the paper elimination incentive fee, certain fees relating to electronic (*e.g.*, Internet) voting and delivery of proxy materials, as well as the length of the proposed extension.[27]

Most commenters did not discuss the itemized fees that ADP charges issuers for electronic proxy delivery and voting services, although 20 commenters stated that they expect that technological developments in electronic delivery and voting will eventually result in cost savings to issuers and therefore should warrant a reevaluation of the appropriate level of the fees in the future.[28] Several commenters specifically stated that the reimbursement fee assessed in connection with electronic voting was appropriate.[29] In contrast, one commenter believed that the basic proxy processing fee for electronic delivery was not appropriate and stated that, according to ADP, "votes returned by mail cost companies $0.34 per return while Internet votes cost $0.03 per return," thus suggesting that "proxy materials delivered by Internet should cost intermediaries substantially less than materials delivered by mail."[30]

Although the majority of commenters were silent regarding the appropriateness of the paper elimination incentive fee, 14 commenters believed the incentive fee was appropriate.[31] One commenter noted that although it "seems reasonable to continue some incentive appropriate to encourage ongoing efforts to make the substantial improvements yet possible," a reduction in the paper elimination incentive fee should be possible now that ADP is offering a system approach to electronic processing.[32] One commenter believed that the incentive fee was inappropriate and stated that the fee was too high in relation to the basic processing fee and the cost savings realized by issuers that household or electronically distribute proxy materials.[33]

Most commenters did not specifically mention the nominee coordination fee. One commenter, however, complained that although its costs for proxy distribution increased significantly over the previous year (104%) because of the nominee coordination fee, the services provided by the proxy distribution intermediary did not change from the previous year.[34] This commenter concluded that the nominee coordination fee "appears to be unreasonable." Four commenters, none of whom are small issuers, believed that small issuers with a diffuse shareholder base should realize the same benefits from the nominee coordination fee as large issuers whose securities are widely owned but more concentrated in the accounts of nominees.[35] Four other commenters, who considered themselves small issuers, did not specifically address the nominee coordination fee issue but stated that they benefit from the application of

---

commenters believed that a lack of competition in the proxy distribution industry has resulted in higher than necessary proxy fees and that the regulatory structure governing the delivery of proxy materials to street name shareholders should be revised to promote more competition.

[21] *See* Flexteel Letter *supra* note 19.

[22] *See* Analysis Group Letter *supra* note 19.

[23] *See* Cirrus Letter, Ameritech Letter, PLM Letter, Liberty Letter, Meridian Letter, ADP Steering Committee Letter, Smith Barney Letter, A.G. Edwards Letter, Raymond James Letter, Quick & Reilly Letter, Corn Products Letter, PERA Letter, Legg Mason Letter, 3M Letter, CALSTRS Letter, Colgate-Palmolive Letter, Westvaco Letter, CP&L Letter, QUALCOMM Letter, Fluke Letter, Goodrich Letter, ResMed Letter, Galileo Letter, Standard Motor Letter, Olsten Letter, Goldman Letter, APTC Letter, Delta Letter, Texaco Letter, AAON Letter, UniSource Letter, ASCS Letter, Norwest Letter, Oracle Letter, SIA Letter, and American Express Letter, *supra* note 19.

[24] *See* Cirrus Letter, PLM Letter, CP&L Letter, Fluke Letter, and Standard Motor Letter, *supra* note 19.

[25] The commenter who did not support extension of the Pilot Fee Structure through June 30, 2001, generally did, however, support extending the pilot for a shorter period of either one or two years. *See* Mobil Letter (one or two years), CII Letter (until July 31, 1999). CTA Letter (no more than two years), *supra* Note 19.

[26] *See* Analysis Group Letter, *supra* note 19.

[27] The Commission sought comment on these questions in connection with its independent determination whether the Pilot Fee Structure: (1) provides for the equitable allocation of reasonable fees among NYSE-listed companies and NYSE member firms; (2) conforms with Sections 6(b)(5) and 6(b)(8) of the Act by not unfairly discriminating among issuers and imposing a burden on competition that is not necessary under the Act; and (3) imposes fees that are "reasonable" within the meaning of Rules 14a–13, 14b–1, and 14b–2 under Sections 14(a) and 14(b) of the Act (Rules 14a–13, 14b–1, and 14b–2 Act collectively provide that nominees are entitled to reimbursement for the "reasonable expenses" incurred in the delivery of proxy materials to beneficial owners.).

[28] *See* Cirrus Letter, PLM Letter, Liberty Letter, ADP Steering Committee Letter, Corn Products Letter, 3M Letter, CP&L Letter, QUALCOMM Letter, Fluke Letter, Goodrich Letter, ResMed Letter, Galileo Letter, Standard Motor Letter, Olsten Letter, Goldman Letter, Texaco Letter, AAON Letter, Disney Letter, UniSource Letter, ASCS Letter, and Oracle Letter, *supra* note 19. One commenter questioned the need for the nominee coordination fee and the paper elimination incentive fee at a time when technology is increasingly being used by issuers and shareholders. *See* Faulk Letter *supra* note 19.

[29] *See* Ameritech Letter, ADP Steering Committee Letter, Smith Barney Letter (stating that the basic proxy processing fee "represents the multiple steps required in the preparation of the forthcoming proxy record date, the identification of the clients on record date and the vote tabulation. These processes are required regardless whether the distribution is by mail or the Internet."), A.G. Edwards Letter, Legg Mason Letter, and SIA Letter, *supra* note 19.

[30] *See* CII letter, *supra* note 19. Separately, several commenters believed that the processing fee relating to the mailing of materials in paper form was appropriate. *See* A.G. Edwards Letter, Raymond James Letter, CP&L Letter, QUALCOMM Letter, ResMed Letter, Goldman Letter, Delta Letter, Texaco Letter, and Oracle Letter, *supra* note 19.

[31] One commenter noted that "[o]nce an automated system is put in place, it must be maintained, at the same time ADP must continue to operate and maintain its normal mailing/vote recording process and integrate both for the process to work." *See* Prudential Letter, *supra* note 19. *See also*, Cirrus Letter, ADP Steering Committee Letter, Smith Barney Letter, A.G. Edwards Letter, Raymond James Letter, 3M Letter, CP&L Letter, QUALCOMM Letter, Galileo Letter, Standard Motor Letter, Oracle Letter, SIA Letter, and American Express Letter, *supra* note 19.

[32] *See* 3M Letter, *supra* note 19.

[33] *See* CII Letter, *supra* note 19.

[34] Flexsteel industries ("Flexsteel"), a small issuer listed on the Nasdaq Stock Market, believed that its 1997 proxy costs greatly increased because of the nominee coordination fee but that the higher fee did not reflect any change in service. Flexsteel noted that it had "1,920 and 1,646 shareholders of common stock at June 30, 1997 and 1996 respectively." Flexsteel's proxy distribution costs, however, "increased from $2,168.94 in 1996 to $4,433.16 in 1997." This difference was primarily attributable to the nominee coordination fee of $2,200 charged to Flexsteel. *See* Flexsteel Letter, *supra* note 19.

[35] One commenter noted that "[a]s a relatively large issuer," it could not "address this question. However, savings in the initiatives for electronic processing should exist for everyone, the relativity of benefits amongst issuers seeming a secondary matter." *See* 3M Letter, *supra* note 19. *See also*, QUALCOMM Letter, Goldman Letter, and Oracle Letter, *supra* note 19.

technology by ADP.[36] Finally, one commenter expressed concern that there was no provision for phasing out the nominee coordination fee once the technology was in place for which it was established.[37]

Without commenting on the impact that the nominee coordination fee has on small issuers, four commenters specifically supported the nominee coordination fee.[38] Two other commenters believed that the nominee coordination fee currently appears reasonable, but that the Commission should monitor the appropriateness of the fee in the future.[39] In addition, three commenters suggested that because fees are "shared" between ADP and some broker-dealers, the fees could be reduced.[40] Specifically, one commenter questioned whether revenue sharing or a rebate system creates the need for extra revenue through additional fees, such as the nominee coordination fee. The commenter stated that "[c]learly[,] if rebates are being given, then there is still room in the system to reduce the fees to issuers. Reasonable expense for reimbursement by issuers should not include money to subsidize any revenue sharing or a rebate system since that only serves to cement the intermediary's relationship with their clients which reduces competition."[41]

Finally, several commenters indicated their support for the Exchange's implied consent householding proposal.[42] Three commenters suggested that the regulatory framework currently governing the delivery of proxy materials to beneficial owners should be revised to permit greater competition.[43] In addition, one commenter suggested that the Pilot Fee Structure should be revised to increase the economic rationality of the fee structure and to better reflect marginal costs.[44]

V. Discussion

For the reasons discussed below, the Commission finds that the proposal to extend the effectiveness of the Pilot Fee Structure is consistent with the requirements of the Act and the rules and regulations under the Act applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[45] Section 6(b)(4) requires that exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using the facilities of an exchange.[46] Section 6(b)(5) requires, among other things, that the rules of an exchange promote just and equitable principles of trade and that they are not designed to permit unfair discrimination between issuers, brokers, or dealers.[47] Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[48] For the reasons discussed in more detail below, the Commission believes the proposal to extend the Pilot Fee Structure through August 31, 1999, meets the requirements of the Act.[49]

The Commission, along with the Exchange, has carefully monitored the Pilot Fee Structure since its adoption on March 14, 1997. The Commission's Original Pilot Approval Order specifically stated that the Commission's preliminary determination to approve the Pilot Fee Structure would be reevaluated in light of the results of the pilot period and the Exchange's independent audit report. Following publication of the notice of the Exchange's proposed rule change in March 1998, the Commission conducted a thorough review of the Pilot Fee Structure and its impact on NYSE issuers and member firms. In particular, the Commission staff interviewed numerous proxy industry participants to gather information and views on the current proxy system and the Pilot Fee Structure.[50] These interviews provided the staff with information concerning the mechanics of the proxy distribution business and the role of nominees and proxy distribution intermediaries. Based on this information, the Commission staff also analyzed the economic impact of the Pilot Fee Structure on smaller, non-NYSE issuers—a sample that was outside the scope of the Exchange's audit reports.

In addition, the Commission staff undertook an in-depth review of the 1997 and 1998 Audit Reports that were prepared by an independent accounting firm retained by the Exchange.[51] The Audit Reports examined the proxy distribution process for NYSE issuers and member firms during the 1997 and 1998 proxy seasons. The 1997 Audit Report analyzed the proxy operations of ADP and the four major broker-dealers that distributed proxy materials directly during the 1997 proxy season: Dean Witter, Merrill Lynch, Paine Webber, and Prudential Securities. Because three of these broker-dealers contracted with ADP before the 1998 proxy season. Dean Witter was the sole major broker-dealer during the 1998 proxy season that continued to distribute proxy materials directly.[52]

Finally, ADP provided the Commission with a comprehensive report examining the proxy distribution business and ADP's role as an intermediary. In addition to providing an overview of the proxy distribution business and an evaluation of specific

---

[36] *See* PLM Letter, Quick & Reilly Letter, Goodrich Letter, and Galileo Letter, *supra* note 19.

[37] *See* CTA Letter *supra* note 19. In addition, this commenter stated that concrete guidelines need to be developed to justify the continuation of the nominee coordination fee.

[38] *See* A. G. Edwards Letter, Raymond James Letter, ResMed Letter, and Delta Letter, *supra* note 19.

[39] *See* CP&L Letter and Knight Letter, *supra* note 19.

[40] *See* CII Letter, Mobil Letter, and STA Letter, *supra* note 19. The commenter retained by ADP noted, however, that ADP's single billing service, in which ADP bills issuers on a consolidated basis on behalf of all nominees, necessitated an ancillary system of sharing revenue with nominees in order to reimburse them for the in-house costs they still incur after subcontracting to ADP. "Single billing [, however,] has the unintended consequence of placing squarely on ADP the locus of concern over whether nominees are compensated fairly for their in-house costs." *See* Analysis Group Letter, *supra* note 19.

[41] *See* Mobil Letter, *supra* note 19.

[42] *See* Smith Barney Letter, Raymond James Letter, Corn Products Letter, Legg Mason Letter, 3M Letter, Mobil Letter, Olsten Letter, APTC Letter, Texaco Letter, CTA Letter, ASCS Letter, Coca-Cola Letter, and SIA Letter, *supra* note 19.

[43] *See* CTA Letter, STA Letter, and Faulk Letter, *supra* note 19. One of these commenters observed that under the current regulatory framework, "issuers are precluded from selecting other agents for the distribution of annual meeting materials and tabulation of proxies for NOBOs [non-objecting beneficial owners]." *See* STA Letter, *Supra* note 19. A potential competitor to ADP believed that competition in the delivery of corporate communication materials to beneficial owners should be encouraged. Specifically, "ownership data for NOBOs should be made available to any participant in the shareholder distribution business. Additionally, ownership information on OBOs [objecting beneficial owners] should also be available to any entity who can assure the objecting owner of a firewall between it and the corporate issuer." *See* Faulk Letter, *supra* note 19.

[44] Specifically, the commenter retained by ADP believed that the current system of uniform pricing ignores the fact that costs are higher due to the seasonality in annual meetings. This commenter believed that a non-uniform, peak-load pricing schedule should be introduced to charge peak users for the full cost of the extra capacity needed to accommodate the peak load. *See* Analysis Group Letter, *supra* note 19.

[45] 15 U.S.C. 78f(b).

[46] 15 U.S.C. 78f(b)(4).

[47] 15 U.S.C. 78f(b)(5).

[48] 15 U.S.C. 78f(b)(8).

[49] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[50] *See supra* Note 19 for a listing of the proxy industry participants interviewed by the Commission staff.

[51] *See New York Stock Exchange: Shareholder Communication and Proxy Study*, January 1998 ("1997 Audit Report"), and *New York Exchange: Shareholder Communication and Proxy Study*, December 1998 ("1998 Audit Report"). Copies of both Audit Reports are publicly available for review in File No. SR–NYSE–98–05 at the Commission's Public Reference Section located at the address specified in Item VI of this order.

[52] Dean Witter elected not to participate in the survey underlying the 1998 Audit Report.

aspects of the Pilot Fee Structure, the ADP report made recommendations to improve the current system.

The Commission believes the reimbursement guidelines established under the Pilot Fee Structure should be allowed to continue through August 31, 1999.[53] The Commission notes that the Pilot Fee Structure provides an incentive to reduce paper mailings through householding and electronic delivery. The Commission also recognizes that the nominee coordination fee rewards intermediaries, such as ADP, for the consolidation and simplification of numerous functions. Indeed, in general, NYSE issuers and member firms appear to be satisfied with the quality of service provided by ADP. This was further evidenced by the support expressed in a majority of the comment letters regarding the Exchange's proposal to extend the Pilot Fee Structure through June 30, 2001.

However, based on the facts gathered and reviewed during the past two years, including the 1997 and 1998 Audit Reports and the Commission staff's independent analyses, the Commission believes the Pilot Fee Structure could be further modified in the future to provide for a fairer and more reasonable allocation of fees among NYSE issuers and member firms. The experience with the Pilot Fee Structure during the 1997 and 1998 proxy seasons shows that it would be possible to devise a fee structure that benefits more NYSE issuers and that results in lower fees. The Commission has therefore requested that the Exchange promptly and carefully review the Pilot Fee Structure and make changes where necessary to develop an improved fee structure.[54] The Commission has communicated to the Exchange the Commission's desire to see a new fee structure in place for the year 2000 proxy season. Accordingly, the Exchange has agreed to file with the Commission a new fee structure proposal in May 1999.

For several reasons, the Commission believes it is reasonable to extend the Pilot Fee Structure through August 31, 1999, even though the reimbursement guidelines will be further modified in the near future. First, the 1999 proxy season is already underway. The Commission believes that if Pilot Fee Structure were permitted to lapse in the midst of the current proxy season, the resulting change in fee structure (*i.e.*, reversion to the fee structure in place before March 14, 1997) could be inequitable or confusing to NYSE issuers and member firms.[55] The extension through August 31, 1999, will ensure that one pricing scheme will apply to all proxy distributions made to beneficial owners of shares of NYSE issuers during the 1999 proxy season. Second, the additional five month extension will provide the Exchange and the Commission staff with the time necessary to review the Pilot Fee Structure to determine the most equitable way to modify fees. Finally, members of the public will have the opportunity to comment on any proposed fee changes before they are implemented. This is particularly important given that the Pilot Fee Structure generated a significant number of comment letters from a variety of constituencies interested in, and affected by, the fees.

Although the Commission believes it is currently appropriate for the Exchange to specify rates of reimbursement for NYSE member firms that distribute proxy materials to beneficial owners of NYSE issuers during the 1999 proxy season, it remains concerned that competitive market forces do not determine these rates. In the Original Pilot Approval Order, the Commission encouraged the Exchange, issuers, and broker-dealers to develop an approach that would foster competition in the proxy distribution industry so that market forces would determine "reasonable expenses" within the meaning of the proxy and Exchange rules. The Commission is concerned that the current lack of competition in the proxy distribution industry may ultimately result in higher costs for NYSE issuers and their shareholders.

In addition to encouraging market participants to explore ways to increase competition, the Commission also suggested that the Exchange and other self-regulatory organizations ("SROs") investigate whether reimbursement rates could be set by market forces, and whether market forces would provide a more efficient, competitive, and fair process than SRO standards. Because of further consolidation in the proxy distribution industry (*i.e.*, recent contractual arrangements between ADP and Merrill Lynch, Paine Webber, and Prudential), the Exchange has expressed doubts that "competition will develop to the extent necessary to relieve the Exchange of its role in establishing reimbursement guidelines."[56] Although the Exchange indicated support for increased competition, it also concluded that the proxy communication process benefits from the economies of scale and uniformity that is created when most mailings are coordinated through a single entity. Furthermore, while other SROs are considering alternatives, no SRO has yet formally proposed an alternative to the present system.

In general, the Commission believes that free market forces, rather than governmental or quasi-governmental authorities, should determine what fees are reasonable for the services provided, especially during this age of rapid technological developments that facilitate the electronic delivery of proxy materials. The Commission is concerned that there are risks attendant to a single proxy distribution intermediary controlling such a high percentage of shareholder material distribution. Moreover, because of the operation of the Commission's proxy rules, issuers cannot themselves distribute proxy materials to street name shareholders or hire their own agents to do so, but instead must reimburse broker-dealers for the reasonable expenses incurred in distributing shareholder materials. Under these rules and industry practice, issuers have no role in determining whether the broker-dealers outsource their proxy distribution function, and if so, which agents they choose. Thus, issuers are unable to bargain for rates commensurate with their size or shareholder profile. Therefore, the Commission in the future will consider ways to increase competition in this area, including whether it would be appropriate to remove itself and the SROs from the rate-setting process.

The Commission requests comment on ways to encourage competition in the

---

[53] The Commission notes that its determination applies only to the reimbursement guidelines explicitly set forth in the Pilot Fee Structure. The Commission is not making any findings on any terms or practices that are part of privately negotiated contracts between NYSE member firms and proxy distribution intermediaries such as ADP, including multi-year exclusive-dealing and fee-sharing arrangements.

[54] The Commission staff also continues to gather information regarding the current proxy season. Although the Exchange is not required to prepare an Audit Report for the 1998 proxy season, the Commission nonetheless expects to obtain certain basic information from the Exchange and others regarding the results of the 1999 proxy season.

[55] For example, consider two hypothetical NYSE issuers (A and B) that are identical in all respects, including their shareholder profiles. Issuer A distributed its proxy materials before the March 15, 1999, expiration, while Issuer B will do the same in April 1999. If the Pilot Fee Structure were to lapse, these two issuers would pay different proxy fees despite receiving identical proxy services. In addition, some NYSE issuers may distribute proxy materials both before and after the March 15, 1999, expiration date (*e.g.*, proxy statements mailed March 1, 1999, and remember proxies mailed March 29, 1999). In such a case, the issuers would be billed for services during the same proxy season according to two different fee schedules.

[56] *See* Securities Exchange Act Release No. 39774 (Mar. 19, 1998), 63 FR 14745 (Mar. 26, 1998).

distribution of proxy materials to beneficial owners.[57] For example, the Commission previously requested comment on whether a system for voluntary direct delivery of proxy materials to non-objecting beneficial owners by issuers or their agents is preferable to the existing proxy distribution process by allowing issuers to independently determine whether to rely on in-house operations or to contract with outsiders to distribute their proxy materials to non-objecting beneficial owners.[58] Several transfer agents, proxy solicitors, and others have expressed an interest in competing for this type of business. Also, the Commission may consider whether it is appropriate for a uniform fee schedule to take into account the fact that small, non-NYSE issuers have experienced increases in proxy distribution fees.

In summary, although there are some benefits derived from the existing regulatory scheme, the Commission believes that it may be appropriate to consider changes to the Commission's proxy rules in the near future. While the exact form and scope of any possible rulemaking have not been determined, the primary goal is clear: the Commission seeks to ensure protection of shareholder voting rights by introducing competition in the proxy distribution industry. When market forces operate freely to set competitive and reasonable rate of reimbursement, the Commission will consider whether to discontinue its rate-setting role.

The changes outlined above require a two step process. As previously mentioned, the Commission believes the data on the Pilot Fee Structure, including The Commission staff's own economic analyses, indicates that further revisions to the Exchange's reimbursement guidelines are necessary. The Commission expects the Exchange to propose and implement such changes before the year 2000 proxy season. At the same time, the Commission will consider whether to alter the regulatory structure governing the distribution of proxy materials to beneficial owners to remove barriers to the entry of new competitors in this area.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 1 changes the period of effectiveness for the Pilot Fee Structure from June 30, 2001, to August 31, 1999. As stated above, the Commission has asked the Exchange to undertake a thorough and prompt review of the Pilot Fee Structure. After the Exchange has completed its review, the Commission expects the Exchange to submit a proposed rule change in May 1999, which presents a new fee structure. The Commission believes it is appropriate for the Exchange to prepare for the implementation of a new fee structure by shortening the duration of the Pilot Fee Structure. Accordingly, the extension through August 31, 1999, will allow the Pilot Fee Structure to continue uninterrupted during the 1999 proxy season, while providing the Exchange additional time to consider and propose revisions to the Pilot Fee Structure.

Amendment No. 1 also removes from the proposal the provision permitting householding through implied consent. The Commission notes that the Exchange's implied consent householding proposal differs from the Commission's householding initiative now under consideration as part of Commission rulemaking.[59] The Commission is concerned that if the Exchange's householding proposal was approved by the Commission, NYSE member firms would be permitted to engage in householding practices that might be inconsistent with any rule amendments that the Commission might ultimately adopt. Therefore, the Commission believes it is appropriate for the Exchange to withdraw its implied consent householding proposal and wait for the Commission to complete its independent rulemaking.

Based on the above, the Commission believes good cause exists, consistent with Sections 6(b) and 19(b) of the Act,[60] to accelerate approval of Amendment No. 1 to the Exchange's proposed rule change.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–98–05 and should be submitted by April 14, 1999.

VII. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Sections 6(b)(4), 6(b)(5), and 6(b)(8),[61] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[62] that the proposed rule change (SR–NYSE–98–05), as amended, is approved through August 31, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[63]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7157 Filed 3–23–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 3015]

Bureau of Consular Affairs; Certain Foreign Passports Validity

In accordance with section 212(a)(7)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)(B)), a nonimmigrant alien who makes an application for a visa or for admission into the United States is required to possess a passport that: (1) is valid for a minimum of six months beyond the date of the expiration of the initial period of the alien's admission into the United States or contemplated initial period of stay and, (2) authorizes the alien to return to the country from which he or she came, or to proceed to and enter some other country during such period. Because of the foregoing

---

[57] *See* Item VI of this approval order for specific instructions regarding the submission of comments on these issues.

[58] *See* Securities Exchange Act Release No. 40633 (Nov. 3, 1998), 63 FR 67331 (Dec. 4, 1998).

[59] *See* Securities Act Release No. 7475; Securities Exchange Act Release No. 39321; and Investment Company Act Release No. 22884 (Nov. 13, 1997), 62 FR 61933 (Nov. 20, 1997).

[60] 15 U.S.C. 78f(b) and 78s(b).

[61] 15 U.S.C. 78f(b)(4), 78f(b)(5), and 78f(b)(8).

[62] 15 U.S.C. 78s(b)(2).

[63] 17 CFR 200.30–39a)(12).

requirement, certain competent authorities have agreed that their passports will be recognized as valid for the return of the bearer for a period of six months beyond the expiration date specified in the passport, thereby effectively extending the validity period of the foreign passport an additional six months beyond its expiration date, see 22 CFR 41.104(b).

This public notice adds Zimbabwe to the list of competent authorities that have provided the necessary assurances to the Government of the United States. The updated list of competent authorities which have made the necessary assurances is shown below:

Table of Foreign Passports Recognized for Extended Validity

Algeria
Antigua & Barbuda
Argentina
Australia
Austria
Bahamas, The
Bangladesh
Barbados
Belgium
Brazil
Canada
Chile
Colombia
Costa Rica
Cote D'Ivoire
Cuba
Cyprus
Czech Republic
Denmark
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Ethiopia
Finland
France
Germany
Greece
Grenada
Guinea
Hong Kong (Certificates of identity & passports)
Hungary
Iceland
India
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Korea
Kuwait
Laos
Lebanon
Liechtenstein
Luxembourg
Madagascar
Malaysia
Malta
Mauritius
Mexico
Monaco
Netherlands
New Zealand
Nicaragua (Diplomatic & official only)
Nigeria
Norway
Oman
Pakistan
Panama
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Russia
Senegal
Singapore
Slovak Republic
Slovenia
South Africa
Spain
Sri Lanka
St. Kitts & Nevis
St. Lucia
St. Vincent & The Grenadines
Sudan
Suriname
Sweden
Switzerland
Syria
Taiwan
Thailand
Togo
Trinidad & Tobago
Tunisia
Turkey
United Arab Emirates
United Kingdom
Uruguay
Venezuela
Zimbabwe

Public Notice 2920 of October 24, 1998 published at 63 FR 60436 is hereby superseded.

Dated: March 15, 1999.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 99–7208 Filed 3–23–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 3014]

Designation Under Section 5(d)(2) of the International Anti-Bribery and Fair Competition Act of 1998

Pursuant to section 5(d)(2) of the International Anti-Bribery and Fair Competition Act of 1998, Pub. L. 105–366, and by virtue of the authority vested in the Secretary of State by the Presidential Memorandum for the Secretary of State of November 16, 1998, I hereby designate the following agreements as international agreements for purposes of section 5 of the International Anti-Bribery and Fair Competition Act of 1998:

(i) Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT), with annexes. Done at Washington August 20, 1971; entered into force February 12, 1973 (23 UST 3813; TIAS 7532);

(ii) Headquarters Agreement Between the Government of the United States of America and the International Telecommunications Satellite Organization. Signed at Washington November 22 and 24, 1976; entered into force November 24, 1976 (28 UST 2248; TIAS 8542);" and

(iii) Convention on the International Mobile Satellite Organization (Inmarsat), with annex. Done at London September 3, 1976; entered into force July 16, 1979 (31 UST 135; TIAS 9605).

This designation is not intended to abridge in any respect privileges, exemptions or immunities that the International Satellite Telecommunications Organization (INTELSAT) or the International Mobile Satellite Organization (Inmarsat) may have acquired by virtue of any other international agreement to which the United States is a party. Any such agreements may be designated as international agreements for purposes of section 5 of the Act by further designation under section 5(d)(2).

Dated: January 27, 1999.

Strobe Talbott,

Acting Secretary of State.

[FR Doc. 99–7207 Filed 3–23–99; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice—3004]

Extension of the Restriction on the Use of United States Passports for Travel To, In or Through Iraq

On February 1, 1991, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73 (a)(2) and (a)(3), all United States passports, with certain exceptions, were declared invalid for travel to, in, or

through Iraq unless specifically validated for such travel. The restriction was originally imposed because armed hostilities then were taking place in Iraq and Kuwait, and because there was an imminent danger to the safety of United States travelers to Iraq. American citizens then residing in Iraq and American professional reporters and journalists on assignment there were exempted from the restriction on the ground that such exemptions were in the national interest. The restriction has been extended for additional one-year periods since then, and was last extended on March 20, 1998.

Conditions in Iraq remain unsettled and hazardous, and tensions remain high. Iraq continues to refuse to comply with UN Security Council resolutions to fully declare and destroy its weapons of mass destruction and missiles while mounting a virulent public campaign in which the United States is blamed for maintenance of U.N. sanctions. Between December 14–18, 1998, this refusal resulted in extensive coalition air strikes against Iraqi military targets. Since December 1998, the Iraqi Airforce has violated the northern and southern no-fly zones on more than 100 occasions, and coalition aircraft have been fired upon in more than 60 incidents.

Local conflicts within Iraq also pose hazards to travellers. Military repression of Shia communities continues in southern Iraq with reports that hundreds of persons were summarily killed in security sweeps during 1998. In the north, tens of thousands of Iraqi soldiers remain poised for possible military operations against Kurd, Turkomen, and Assyria Iraqis.

Iraq's economy was severely damaged during the Gulf War and continues to be affected by the government of Iraq's refusal to implement fully the UN's Oil for Food program. Basic modern medical care and medicines may not be available to our citizens in case of emergency.

U.S. citizens and other foreigners working inside Kuwait near the Iraqi borders have been detained by Iraqi authorities in the past and sentenced to lengthy jail terms for alleged illegal entry into the country. Although our interests are represented by the Embassy of Poland in Baghdad, its ability to obtain consular access to detained U.S. citizens and to perform emergency services is constrained by Iraqi unwillingness to cooperate. In light of these circumstances, I have determined that Iraq continues to be a country "where there is imminent danger to the public health or physical safety of United States travellers".

Accordingly, United States passports shall continue to be invalid for use in travel to, in, or through Iraq unless specifically validated for such travel under the authority of the Secretary of State. The restriction shall not apply to American citizens residing in Iraq on February 1, 1991, who continue to reside there, or to American professional reporters or journalists on assignment there.

The Public Notice shall be effective upon publication in the **Federal Register** and shall expire March 20, 2000, unless sooner extended or revoked by Public Notice.

Dated: March 18, 1999.

Madeleine K. Albright,

Secretary of State.

[FR Doc. 99–7324 Filed 3–22–99; 2:36 pm]

BILLING CODE 4710–06–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Wrangell Mountain Air, Inc.; For Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 99–3–13); Docket OST–1999–5010.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Wrangell Mountain Air, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than April 2, 1999.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–1999–5010 and addressed to Department of Transportation Dockets, U.S. Department of Transportation, 400 Seventh Street, SW, Rm. PL–401, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Woods, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 366–2340.

Dated: March 18, 1999.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–7173 Filed 3–23–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Major Investment Study and Environmental Impact Statement: Stark, Columbiana, and Carroll Counties, Ohio

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a major investment study and environmental impact statement will be prepared concurrently for transportation improvements proposed in Stark, Columbiana, and Carroll Counties, Ohio.

FOR FURTHER INFORMATION CONTACT: Michael B. Armstrong, Field Operations Engineer, Federal Highway Administration, 200 N. High Street, Room 328, Columbus, Ohio 43215, Telephone: (614) 280–6855.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Ohio Department of Transportation (ODOT), will concurrently prepare a major investment study (MIS) and an environmental impact statement (EIS) on a proposal that will consider transportation improvements to the U.S. 30 corridor from Trump Road in Stark County to State Route 11 in Columbiana County, Ohio.

A transportation investment is considered necessary to improve the regional transportation network by providing an improved east-west travel corridor; to reduce anticipated congestion on existing U.S. Route 30 from projected traffic volumes; to improve safety on the existing highway system by removing trips from the network; and to support existing industry and future development through improved access to the region.

Actions under consideration include: (1) Taking no action; (2) upgrading and/or enhancing elements of the existing U.S. Route 30 transportation network; (3) constructing a roadway on new alignment in the U.S. Route 30 corridor.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in the project area. On April 14, 1999, the Draft MIS will be presented to the public and, in early 2000, the preliminary draft EIS will be presented. In addition, a public hearing will be held in conjunction with

the draft EIS later in 2000. Public notice will be given of the exact time and place of the meetings and hearing to be held for the MIS and EIS elements of the project. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A scoping meeting for the MIS was held in June 10, 1998. No formal scoping meeting is planned at this time for the EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action, the MIS, or the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 18, 1999.

Mr. Michael B. Armstrong,

Field Operations Engineer, Federal Highway Administration, Columbus, Ohio.

[FR Doc. 99–7152 Filed 3–23–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–99–5199]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before May 24, 1999.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, 400 Seventh Street, SW, Plaza 401, Washington, DC 20590. Docket No. NHTSA–99–5199.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Block, Contracting Officer's Technical Representative, Office of Research and Traffic Records (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behavior

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—December 31, 2001.

Summary of the Collection of Information—NHTSA proposes to conduct a National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behavior by telephone among a national probability sample of 4,200 adults (age 16 and older). Participation by respondents would be voluntary. The proposed survey would collect information on pedestrian and bicycling behavior, obstacles to walking and bicycling, use of bicycle helmets, training in bicycling safety, pedestrian and bicyclist safety education for children, knowledge of safety issues and rules of the road, assessment of existing community facilities for walking and bicycling, and other related issues.

In conducting the proposed survey, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle-related crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle safety standards and traffic safety programs.

While not as much in the public eye as other traffic safety problems, motor vehicle crashes involving pedestrians and bicyclists exact a heavy toll. Pedestrians and bicyclists account for 15 percent of all traffic fatalities, and more than 130,000 injuries each year. Yet there are simple things that people can do to reduce these risks, provided that they are sufficiently aware and willing to take the appropriate steps. For example, a study published in the Journal of the American Medical Association found that the universal use of helmets by all bicyclists could have prevented as many as 2,500 deaths and 757,000 head injuries between 1984 and 1988.

There is a lack of data concerning the public's exposure to risk as pedestrians and bicyclists, their awareness of correct pedestrian and bicyclist safety practices, their perceptions of the responsibilities of other roadway users, and their perceptions of risks. Without this information, safety professionals are left with inadequate tools for determining if there are critical deficits in education or training that should be addressed, or whether interventions are efficiently targeted to where they are most needed. This in turn would pose severe constraints on the ability to meet the U.S. Secretary of Transportation's goal of reducing by 10 percent the number of

injuries and fatalities occurring to bicyclists and pedestrians.

Besides reducing pedestrian/bicyclist injuries and fatalities, the U.S. Secretary of Transportation has called for a doubling in the national percentage of transportation trips made by bicycling and walking. Both goals are part of the DOT Secretarial Initiative for Pedestrian and Bicycle Safety. This is a national effort to promote walking and bicycling as safe, efficient, and healthy ways to travel. It involves partnering with numerous groups to foster the development of a more balanced transportation system. Yet while the Initiative calls for an increase in pedestrian and bicyclist activities, there are no exposure data to measure its progress. Moreover, there is a lack of information on the obstacles to walking and bicycling that would have to be addressed to meet the Secretarial goal; as well as information on how persons decide whether or not to walk, or to bike.

The proposed survey would collect data to meet the informational needs described above. The survey instrument would include items to measure exposure, knowledge, risk perception, community characteristics, and decision factors. The survey data would be used to assess the adequacy of present strategies to increase pedestrian and bicyclist safety, and to help guide policies aimed at encouraging these modes of transportation.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Under this proposed effort, a telephone interview averaging approximately 23.5 minutes in length would be administered to each of 4,200 randomly selected members of the general public age 16 and older in telephone households. The respondent sample would be selected from all 50 states plus the District of Columbia. Interviews would be conducted with persons at residential phone numbers selected through random digit dialing. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. Each member of the sample would complete one interview.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—NHTSA estimates that each respondent in the sample would require an average of 23.5 minutes to complete the telephone interview. Thus, the number of estimated reporting burden hours a year on the general public (4,200 respondents multiplied by 1 interview multiplied by 23.5 minutes) would be 1645 for the proposed survey. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

Rose A. McMurray,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 99–7074 Filed 3–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (99–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the second quarter 1999 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 1999 RCAF (Unadjusted) is 0.993. The second quarter 1999 RCAF (Adjusted) is 0.589. The second quarter 1999 RCAF–5 is 0.587.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. TDD for the hearing impaired: (202) 565–1695.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20423–0001, telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 18, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–7206 Filed 3–23–99; 8:45 am]

BILLING CODE 4915–00–U

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Former Prisoners of War will be held on April 12th through 14th, 1999, at the Department of Veterans Affairs, VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. The meeting will be held in Room 230. Each day the meeting will convene at 9 a.m. and end at 4:30 p.m. The meeting is open to the public.

The purpose of the committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the need of such veterans for compensation, health care and rehabilitation.

The agenda for April 12 will begin with an introduction of committee members and dignitaries, a review of Committee reports, an update of activities since the last meeting, and also a period for POW veterans and/or the public to address the committee. Additionally, the Committee will receive presentations on the Veterans Benefits Administration and Veterans Health Administration activities. The agenda on April 13 will include updates on the Center for POW Studies, continuing learning education seminars and the Mortality/Morbidity Study. On April 14, the Committee's Medical and Administrative subcommittees will break out to discuss their activities and report back to the Committee. Additionally, the committee will review and analyze the comments that had been discussed throughout the meeting for the purpose of assisting and compiling a final report to be sent to the Secretary.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Robert J. Epley, Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Submitted materials must be received by April 2, 1999. A report of the meeting and roster of Committee members may be obtained from Mr. Epley.

Dated: March 15, 1999.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 99–7147 Filed 3–23–99; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 64, No. 56

Wednesday, March 24, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

Correction

In notice document 99–6570 beginning on page 13413 in the issue of Thursday, March 18, 1999, make the following correction(s):

On page 13414, in the first column, in **DATES:** section, in the last line from the bottom, "[insert the 60th day after publication of this notice]" should read "May 17, 1999".

[FR Doc. C9–6570 Filed 3–23–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41044; File No. SR-NYSE-99-6]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Extending the Pilot Rules Governing the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Material

February 11, 1999

Correction

In notice document 99–4116, beginning on page 8422, in the issue of Friday, February 19, 1999, the date line is added as set forth above.

[FR Doc. C9–4116 Filed 3–23–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1-99-015]

RIN 2115-AA97

Safety Zone: Storrow Drive Connector Bridge (Central Artery Tunnel Project), Charles River, Boston MA

Correction

In rule document 99–5921, beginning on page 11771, in the issue of Wednesday, March 10, 1999, make the following correction:

On page 11772, in the third column, the section number, "§ 165.601-015"should read "§ 165.T01-015".

[FR Doc. C9–5921 Filed 3-23-99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-AGL-64]

Modification of Class D Airspace and Class E Airspace and Establishment of Class E Airspace; Rapid City, SD

Correction

In rule document 99–6139 beginning on page 12254, in the issue of Friday, March 12, 1999, make the following corrections:

§ 71.1 [Corrected]

1. On page 12255, in the first column, under the heading **AGL SD E4 Rapid City, SD [Revised]**, in the fifth line from the bottom, "Radid" should read "Rapid".

2. On page 12255, in the second column, under the heading **AGL SD E2 Rapid City, SD [New]**, in the ninth line, "city" should read "City".

[FR Doc. C9–6139 Filed 3–23–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–114664–97]

RIN 1545–AV44

Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit

Correction

In proposed rule document 99–174, beginning on page 1143, in the issue of Friday, January 8, 1999, make the following correction:

On page 1144, in the first column, in the eighth full paragraph, in the third line, after "information" add "unless it displays".

[FR Doc. C9–174 Filed 3–23–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
March 24, 1999

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

Endangered and Threatened Species: Threatened Status for Three Chinook Salmon Evolutionarily Significant Units in Washington and Oregon, and Endangered Status of One Chinook Salmon ESU in Washington; Final Rule

Partial 6-Month Extension on Final Listing Determinations for Four Evolutionarily Significant Units of West Coast Chinook Salmon; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 990303060–9071–02; I.D. 022398C]

RIN 0648–AM54

Endangered and Threatened Species; Threatened Status for Three Chinook Salmon Evolutionarily Significant Units (ESUs) in Washington and Oregon, and Endangered Status for One Chinook Salmon ESU in Washington

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is issuing final determinations to list four ESUs of west coast chinook salmon as threatened or endangered species under the Endangered Species Act (ESA) of 1973, as amended. Previously, NMFS completed a comprehensive status review of west coast chinook salmon (*Oncorhynchus tshawytscha*) which resulted in proposed listings for eight ESUs. After reviewing additional information, including biological data on the species' status and an assessment of protective efforts, NMFS now concludes that four chinook salmon ESUs warrant protection under the ESA. NMFS has determined that Puget Sound chinook salmon in Washington, Lower Columbia River chinook salmon in Washington and Oregon, and Upper Willamette spring-run chinook salmon in Oregon are at risk of becoming endangered in the foreseeable future and will be listed as threatened species under the ESA. NMFS also has determined that Upper Columbia River spring-run chinook salmon in Washington are in danger of extinction throughout all or a significant portion of their range and will be listed as an endangered species.

With respect to the Central Valley spring-run, Central Valley fall/late fall-run, and Southern Oregon and California Coastal chinook salmon ESUs proposed for listing, NMFS has found that substantial scientific disagreement precludes making final determinations and has extended the deadline for an additional 6 months to resolve these disagreements. Similarly, the proposed revision of the currently listed Snake River fall-run chinook salmon ESU to include fall-run chinook salmon in the Deschutes River, Oregon, is still under review in order to resolve substantial scientific disagreements about the information relevant to that determination. The findings regarding substantial scientific disagreement and extension of final determination for the 4 chinook salmon ESUs published in the Proposed Rules section in this **Federal Register** issue.

DATES: Effective May 24, 1999.

ADDRESSES: Branch Chief, NMFS, Northwest Region, Protected Resources Division, 525 N.E. Oregon St., Suite 500, Portland, OR 97232–2737; Salmon Coordinator, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Garth Griffin at (503) 231–2005, or Chris Mobley at (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Previous Federal Actions

West coast chinook salmon have been the subject of many Federal ESA actions, which are summarized in the proposed rule (63 FR 11482, March 9, 1998). NMFS initially announced its intention to conduct a coastwide review of chinook salmon status in response to a petition to list several Puget Sound chinook salmon stocks on September 12, 1994 (59 FR 46808). After receiving a more comprehensive petition from the Oregon Natural Resources Council and Dr. Richard Nawa on February 1, 1995, NMFS reconfirmed its intention to conduct a coastwide review (60 FR 30263, June 8, 1995). During that review, NMFS requested public comment and assessed the best available scientific and commercial data, including technical information from Pacific Salmon Biological Technical Committees (PSBTCs) and other interested parties. The PSBTCs consisted primarily of scientists (from Federal, state, and local resource agencies, Indian tribes, industries, universities, professional societies, and public interest groups) possessing technical expertise relevant to chinook salmon and their habitats. The NMFS Biological Review Team (BRT), composed of staff from NMFS' Northwest, Southwest, and Auke Bay Fisheries Science Centers, as well as from the National Biological Survey, reviewed and evaluated scientific information provided by the PSBTCs and other sources. Early drafts of the BRT review were distributed to state and tribal fisheries managers and peer reviewers who are experts in the field to ensure that NMFS' evaluation was accurate and complete. The BRT then incorporated tribal and state co-manager comments into the coastwide chinook salmon status review.

Based on the results of the completed status report on west coast chinook salmon (Myers *et al.*, 1998), NMFS has identified fifteen ESUs of chinook salmon from Washington, Oregon, Idaho, and California, including 11 new ESUs, and one redefined ESU (63 FR 11482, March 9, 1998). After assessing information concerning chinook salmon abundance, distribution, population trends, and risks, and after considering efforts being made to protect chinook salmon, NMFS determined that several chinook salmon ESUs did not warrant listing under the ESA. The chinook salmon ESUs not requiring ESA protection included the Upper Klamath and Trinity River ESU, Oregon Coast ESU, Washington Coast ESU, Middle Columbia River spring-run ESU, and Upper Columbia River summer/fall-run ESU.

Also based on this evaluation, and after considering efforts being made to protect chinook salmon, NMFS proposed that seven chinook salmon ESUs warranted listing as either endangered or threatened species under the ESA. The chinook salmon ESUs proposed as endangered species included California Central Valley spring-run and Washington's Upper Columbia River spring-run chinook salmon. The chinook salmon ESUs proposed as threatened species included California Central Valley fall/late fall-run, Southern Oregon and California Coastal, Puget Sound, Lower Columbia River, and Upper Willamette River spring-run chinook salmon. Additionally, NMFS found that fall-run chinook salmon from the Deschutes River in Oregon shared a strong genetic and life history affinity to currently listed Snake River fall-run chinook. Based on this affinity, NMFS proposed to revise the existing listed Snake River fall-run ESU to include fall-run chinook salmon in the Deschutes River. The resulting revised ESU would be listed as threatened.

During the year between the proposed rule and this final determination, NMFS conducted 21 public hearings within the range of the proposed chinook salmon ESUs in California, Oregon, Washington and Idaho. NMFS accepted and reviewed public comments solicited during a 112-day public comment period. Based on these public hearings, comments, and additional technical meetings with Indian tribes and the states, NMFS has found that substantial scientific disagreements exist concerning the information relevant to making final determinations for California's Central Valley spring-run and Central Valley fall/late fall-run, Southern Oregon and California Coastal,

and Snake River fall-run ESUs. As a result, NMFS has extended the period for making final determinations for these ESUs by not more than 6 additional months. The findings regarding substantial scientific disagreement and extension of final determination for the 4 chinook salmon ESUs published in the Proposed Rules section in this **Federal Register** issue.

Also during the comment period, NMFS solicited peer and co-manager review of NMFS' proposal and received comments and new scientific information concerning the status of the chinook salmon ESUs proposed for listing. NMFS also received information regarding the relationship of existing hatchery stocks to native populations in each ESU. This new information was evaluated by NMFS' BRT and published in an updated status review for these chinook salmon entitled "Status Review Update for West Coast Chinook Salmon (*Oncorhynchus tshawytscha*) from Puget Sound, Lower Columbia River, Upper Willamette River, and Upper Columbia River Spring-run ESUs." (NMFS, 1998a). This updated status review report draws conclusions about those specific ESU delineations and risk assessments. Based on the updated NMFS status review and other information, NMFS now issues its final listing determinations for those four proposed ESUs. Copies of NMFS' updated status review report and related documents are available upon request (see **ADDRESSES**).

Species Life History and Status

Biological information for west coast chinook salmon can be found in species' status assessments by NMFS (Matthews and Waples, 1991; Waples *et al.*, 1991; NMFS, 1995; Waknitz *et al.*, 1995; Myers *et al.*, 1998; NMFS, 1998a), Oregon Department of Fish and Wildlife (ODFW, 1991; Nickelson *et al.*, 1992; Kostow *et al.*, 1995), species life history summaries (Miller and Brannon, 1982; Healey, 1991), and in previous **Federal Register** documents (56 FR 29542, June 27, 1991; 63 FR 11482, March 9, 1998).

Summary of Comments and Information Received in Response to the Proposed Rule

NMFS held 21 public hearings in California, Oregon, Idaho, and Washington to solicit comments on this and other salmonid listing proposals (63 FR 16955, April 7, 1998; 63 FR 30455, June 4, 1998). During the 112-day public comment period, NMFS received nearly 300 written comments regarding the west coast chinook salmon proposed rule. A number of comments addressed issues pertaining to the proposed critical habitat designation for west coast chinook salmon. NMFS will address these comments in a forthcoming **Federal Register** document announcing the agency's conclusions about critical habitat for the listed ESUs.

NMFS also sought new data and analyses from tribal, state, and Federal co-managers and met with them to formally discuss technical issues associated with the chinook salmon status review. This new information and analysis was considered by NMFS' BRT in its re-evaluation of ESU boundaries and species' status; this information is discussed in an updated status review report for these chinook salmon, and a summary follows.

In addition to soliciting and reviewing public comments, NMFS must seek peer review of its listing proposals. On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service (FWS), published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). In accordance with this policy, NMFS solicited 13 individuals to take part in a peer review of its west coast chinook salmon proposed rule. All individuals solicited are recognized experts in the field of chinook salmon biology, and represent a broad range of interests, including Federal, state, and tribal resource managers, and academia. Four individuals took part in the peer review of this action; new information and comments provided by the public and comments from peer reviewers were considered by NMFS' BRT and are summarized in the updated status review document (NMFS, 1998a). Copies of these documents are available upon request (see **ADDRESSES**).

A summary of comments received in response to the proposed rule follows.

Issue 1: Sufficiency and Accuracy of Scientific Information and Analysis

Comment: Some commenters questioned the sufficiency and accuracy of data NMFS employed in the listing proposal. In contrast, peer reviewers commented that the agency's status review was both credible and comprehensive, even though they may not have concurred with NMFS' conclusions.

Response: Section 4(b)(1)(A) of the ESA requires that NMFS make its listing determinations solely on the basis of the best available scientific and commercial data after reviewing the status of the species and taking into account any efforts being made to protect such species. NMFS believes that information contained in the agency's status review (Myers *et al.*, 1998), together with more recent information obtained in response to the proposed rule (NMFS, 1998a), represent the best scientific information presently available for the chinook salmon ESUs addressed in this final rule. NMFS has made every effort to conduct an exhaustive review of all available information and has solicited information and opinion from all interested parties, including peer reviewers as described previously. If new data become available to change these conclusions, NMFS will act accordingly.

Comment: Several of the comments received suggested that the ESA does not provide for the creation of ESUs, and that ESUs do not correspond to species, subspecies, or distinct population segments (DPSs) that are specifically identified in the ESA. Further, NMFS" use of genetic information (allozyme- or DNA-derived) to determine ESU boundaries was criticized by several commenters. It was argued that allozyme-based electrophoretic data cannot be used to imply evolutionary significance, nor does it imply local adaptation. Other commenters indicated that NMFS used genetic distances inconsistently in determining the creation of ESUs. Several commenters argued that there was insufficient scientific information presented to justify the establishment of the chinook salmon ESUs discussed. Information was lacking concerning a number of "key" criteria for defining ESUs, such as phenotypic differences, evolutionary significance, or ecological significance of various chinook populations. Commenters contended that NMFS did not find any life history, habitat, or phenotypic characteristics that were unique to any of the ESUs discussed. Disagreement within the BRT regarding ESU delineations was also given as a reason for challenging the proposed listing decision.

Response: General issues relating to ESUs, DPSs, and the ESA have been discussed extensively in past **Federal Register** documents as described in this paragraph. Regarding application of its ESU policy, NMFS relies on its policy describing how it will apply the ESA definition of "species" to anadromous salmonid species published in 1991 (56 FR 58612, November 20, 1991). More recently, NMFS and FWS published a joint policy, which is consistent with NMFS" policy, regarding the definition of "distinct population segments" (DPSs) (61 FR 4722, February 7, 1996). The earlier policy is more detailed and applies specifically to Pacific salmonids and, therefore, was used for this determination. This policy indicates that one or more naturally reproducing salmonid populations will be

considered to be distinct and, hence, a species under the ESA, if they represent an ESU of the biological species. To be considered an ESU, a population must satisfy two criteria: (1) It must be reproductively isolated from other population units of the same species, and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute but must have been strong enough to permit evolutionarily important differences to occur in different population units. The second criterion is met if the population contributes substantially to the ecological or genetic diversity of the species as a whole. Guidance on applying this policy is contained in a NOAA Technical Memorandum entitled "Definition of 'Species' Under the Endangered Species Act: Application to Pacific Salmon" (Waples, 1991) and in a more recent scientific paper by Waples (1995).

The National Research Council (NRC) has recently addressed the issue of defining species under the ESA (NRC, 1995). Their report found that protecting DPSs is soundly based on scientific evidence, and recommends applying an "Evolutionary Unit" (EU) approach in describing these segments. The NRC report describes the high degree of similarity between the EU and ESU approaches (differences being largely a matter of application between salmon and other vertebrates), and concluded that either approach would lead to similar DPS descriptions most of the time.

ESUs were identified using the best available scientific information. As discussed in the status review, genetic data were used primarily to evaluate the criterion regarding reproductive isolation, not evolutionary significance. In some cases, there was a considerable degree of confidence in the ESU determinations; in other cases, more uncertainty was associated with this process. Similarly, the risk analysis necessarily involved a mixture of quantitative and qualitative information and scientific judgement. NMFS' process for conducting its risk assessment has evolved over time as the amount and complexity of information has changed, and NMFS continues to seek and incorporate comments and suggestions to improve this process. NMFS believes that there is evidence to support the identification of DPSs for chinook salmon. The chinook salmon status review describes a variety of characteristics that support the ESU delineations for this species, including ecological and life history parameters. NMFS also assessed available allozyme data for the proposed ESUs and concludes that sufficient genetic differences existed between these and adjacent ESUs to support separate delineations.

Issue 2: Description and Status of Chinook Salmon ESUs

Comment: Some comments suggested that risk assessments were made in an arbitrary manner and that NMFS did not rely on the best available science. Several commenters questioned NMFS' methodology for determining whether a given chinook salmon ESU warranted listing. In some cases, such commenters also expressed opinions regarding whether listing was warranted for a particular chinook salmon ESU.

Response: Section 3 of the ESA defines the term "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range." The term "threatened species" is defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." NMFS has identified a number of factors that should be considered in evaluating the level of risk faced by an ESU, including: (1) Absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); and (6) recent events (e.g., a drought or changes in harvest management) that have predictable short-term consequences for abundance of the ESU. A more detailed discussion of status of individual ESUs is provided later in this document under "Status of Chinook Salmon ESUs."

Issue 3: Factors Contributing to the Decline of West Coast Chinook Salmon

Comment: Comments identified factors for decline that were either not identified in the status review or which they believed were not given sufficient weight in the risk analysis. For example, one commenter submitted a report to support their contention that NMFS had not addressed specific harvest regime effects on Puget Sound chinook salmon. This report (Mathews, 1997) noted that harvest of immature fish in non-terminal mixed stock fisheries results in a decrease in the average age of spawning, and causes substantial incidental mortalities in mixed stock fisheries. Other commenters contended that recent declines in chinook salmon abundance were related to natural factors such as predation and changes in ocean productivity. Furthermore, these commenters contend that NMFS did not show how the present declines were significantly different from natural variability in abundance, nor that abundances were below the current carrying capacity of the marine environment and freshwater habitat.

Response: The status review did not attempt to comprehensively identify factors for decline, except insofar as they contributed directly to the risk analysis. Comments on these issues will be considered carefully in the recovery planning process. Nevertheless, NMFS agrees that a multitude of factors, past and present, have contributed to the decline of west coast chinook salmon. Many of the identified factors were specifically cited as risk agents in NMFS's status review (Myers *et al.*, 1998) and listing proposal (63 FR 11482, March 9, 1998). NMFS recognizes that natural environmental fluctuations have likely played a role in the species' recent declines. However, NMFS believes other human-induced impacts (e.g., harvest in certain fisheries and widespread habitat modification) have played an equally significant role in the decline of these chinook salmon.

NMFS' status review briefly addressed the impact of adverse marine conditions and climate change, but concluded that there is considerable uncertainty regarding the role of these factors in chinook salmon abundance. At this time, we do not know whether these climate conditions represent a long-term shift in conditions that will continue into the future or short-term environmental fluctuations that can be expected to reverse soon. A recent review by Hare *et al.* (1999) suggests that these conditions could be part of an alternating 20- to 30-year long regime pattern. These authors concluded that, while at-risk salmon stocks may benefit from a reversal in the current climate/ocean regime, fisheries management should continue to focus on reducing impacts from harvest and artificial propagation and improving freshwater and estuarine habitats.

NMFS believes there is ample evidence to suggest that degradation of freshwater habitats has contributed to the decline of these chinook salmon ESUs. The past destruction, modification, and curtailment of freshwater habitat was reviewed in a recent NMFS assessment for steelhead (NMFS, 1996), and, more recently, for chinook salmon (NMFS, 1998b). Many of the identified risks and conclusions

apply specifically to these chinook salmon. Examples of habitat alterations affecting chinook salmon include: Water withdrawal, conveyance, storage, and flood control (resulting in insufficient flows, stranding, juvenile entrainment, and increased stream temperatures); logging and agriculture (resulting in loss of large woody debris, sedimentation, loss of riparian vegetation, and habitat simplification)(Spence *et al.*, 1996; Myers *et al.*, 1998). These human-induced impacts in freshwater ecosystems have likely reduced the species' resiliency to natural factors for decline such as drought and poor ocean conditions. A critical next step in restoring listed chinook salmon will be identifying and ameliorating specific factors for decline at both the ESU and population level.

With respect to predation issues raised by some commenters, NMFS has recently published reports describing the impacts of California sea lions and Pacific harbor seals upon salmonids and on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1997 and 1999a). These reports conclude that in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is at the Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. These reports further conclude that data regarding pinniped predation are quite limited, and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS, 1997 and 1999a).

A discussion of the relationship between various hatchery stocks and native chinook salmon, and their potential role for recovery of specific ESUs follows in "Status of Chinook Salmon ESUs".

Issue 4: ESU Delineation and Status of Puget Sound Chinook Salmon

Comment: Some commented that chinook salmon within Puget Sound are too diverse to be combined into a single ESU. They urged that specific major river basins and life history types should be recognized as distinct chinook salmon ESUs. Conversely, other commenters believed that the Puget Sound ESU should include populations in southern British Columbia.

Several commenters were unsure of the accuracy of historical and present estimates for Puget Sound abundances. Furthermore, they argued that the total abundance of Puget Sound chinook salmon was "relatively" high, even with current harvest levels, and although there have been recent declines in escapement, these have been within levels of historical variation in abundance and did not warrant a threatened listing. It was unclear to the respondents why hatchery-derived fish were not included in the risk determination, especially if the BRT noted that they could not differentiate between hatchery and naturally produced fish. Some comments stressed that the majority of the trends in Puget Sound were actually stable or upward, and this situation was compared to the Mid-Columbia River spring-run chinook salmon ESU, where there were an equal number of upward and downward trends and relatively low abundance, a situation where NMFS did not propose ESA listings. Some commenters provided further information on the interpretation of fish abundances, and they argued that many of the stock abundances and trends listed in the status review contain a high proportion of hatchery fish and should not be included. These sites include areas in south Puget Sound and the Kitsap Peninsula. Some abundances for rivers in this area are not based on spawning escapements, but on a proportion of neighboring river escapements. Additionally, Puyallup River estimates are of poor quality and based upon a single peak live and dead spawner count. One commenter expressed the opinion that none of the populations with a large hatchery stray component (e.g. Elwha, Nisqually, and Duwamish/Green Rivers) should be used in the risk analysis.

Some comments suggested that the status review indicated that introductions from outside of the ESU (from Lower Columbia River hatcheries) may have had a considerable impact on the genetic characteristics of Puget Sound fish, and that this may have reduced the fitness of the genetics of Puget Sound stocks. Alternatively, another commenter accentuated the genetic diversity that exists in the Puget Sound ESU, arguing that the status review was misleading in the way that it emphasized the homogenizing effects of hatchery releases on the diversity of wild stock life history characteristics. The Washington Department of Fish and Wildlife (WDFW) and the Northwest Indian Fish Commission (NWIFC) did not disagree with the risk conclusion made by the previous BRT that the Puget Sound ESU was likely to become endangered in the foreseeable future (B. Sanford, WDFW, 600 Capitol Way N, Olympia, WA 98501–1091 , and G. Graves, NWIFC, 6730 Martin Way E., Olympia, WA 98506. Pers. commun., November, 1998).

Response: The distribution of positive and negative trends is very uneven in Puget Sound. The increasing trends are associated with populations having high hatchery influence, while downward trends are found in populations supported primarily by natural production. These data and others (e.g., declining recruit/spawner ratios in Skagit River populations) raise serious concerns about the sustainability of natural chinook salmon populations in Puget Sound. Since 1991 NMFS has made clear that although hatchery populations may be part of a salmon ESU, they are not a substitute for the conservation of natural populations in their native ecosystems. Therefore, risk analysis focuses on the health and sustainability of populations supported by natural production. This is consistent with the approach that FWS has taken under the ESA for terrestrial and freshwater species and is mandated by the ESA's focus on conserving species in their ecosystems.

New information on these issues, and on the historical and current abundance of Puget Sound chinook salmon is discussed in further detail in "Status of Chinook Salmon ESUs".

Issue 5: ESU Delineation and Status of the Lower Columbia River Chinook Salmon

Comment: Commenters argued that, in light of NMFS' prior determination that the Lower Columbia River coho salmon ESU did not represent a distinct species, a similar determination should have been made for Lower Columbia River chinook salmon. Other commenters concurred with NMFS' designation of the Lower Columbia River chinook salmon ESU.

Response: Even though there are uncertainties concerning the delineation and status of chinook salmon in this ESU, NMFS concludes that the available information, presented by other co-managers, meets thresholds for determining distinctness and evolutionary significance of these chinook salmon. Since at least several demonstrably native, natural populations of chinook salmon remain in the Lower Columbia River, there is no basis for concluding that the ESU does not exist.

Comment: A number of comments suggested that the abundance of some

hatchery stocks should be included in the risk determination, especially in light of the fact that many of these hatcheries contain the only representative populations from a number of river systems (which were blocked to migratory passage). A peer reviewer argued that although NMFS believes there is a potential for hatcheries to pose a risk to naturally spawning populations, there was no evidence for this to be the case. Finally, it was asserted that population abundances in this ESU are well above historical lows, and do not indicate that this ESU is in danger of extinction.

ODFW (1998) recommended that this ESU be given candidate status rather than the proposed threatened listing. Specifically, they disputed NMFS's exclusion of spring-run chinook salmon in the Sandy and Clackamas Rivers. Although these systems have received substantial introductions of fish from the upper Willamette River, ODFW (1998) argued that there is no *a priori* reason to assume that the genetic resemblance between naturally spawning fish in the Sandy and Clackamas Rivers and hatchery fish from the upper Willamette River is due to these introductions. Additionally, they also consider the several thousand upriver bright fall chinook salmon that are spawning below Bonneville Dam as part of this ESU. This population was apparently founded by strays from the upriver bright fall-run chinook salmon program at Bonneville Hatchery and are viewed by ODFW as a source of new genetic diversity. ODFW also outlined efforts to reduce the straying of Rogue River fall-run chinook salmon from the Big Creek Hatchery program. New information was provided to document the abundance of naturally spawning populations in Oregon river basins in this ESU. In all, ODFW estimated that there are some 20,000 to 30,000 natural spawners in the entire ESU.

Response: The pattern of abundance and trends in this ESU depends heavily on which populations are considered. Since 1991 NMFS has made clear that, although hatchery populations may be part of a salmon ESU, they are not a substitute for the conservation of natural populations in their native ecosystems. Therefore, risk analysis focuses on the health and sustainability of populations supported by natural production. This is consistent with the approach that FWS has taken under the ESA for terrestrial and freshwater species and is mandated by the ESA's focus on conserving species in their ecosystems. These issues are further addressed in detail in "Status of Chinook Salmon ESUs'.

Issue 6: ESU Delineation and Status of Upper Willamette River Chinook Salmon

Comment: Commenters agreed with NMFS that an Upper Willamette River ESU should be defined, but argued that the hatchery populations should be included in the ESU and used in assessing the extinction risk. Given that NMFS had very little genetic or life history data from naturally spawning fish, and relied on information obtained from hatchery-produced fish to describe the ESU, commenters argued that hatchery fish should be considered part of the ESU for the determination of risk status. Finally, ODFW (1998) and one peer reviewer argued that hatchery abundances should be considered in the risk determination, because without hatchery operations the ESU might fail to persist. They also contend that total adult abundance is well above historical lows. Furthermore, it was suggested that the proposed ODFW Willamette Basin Fish Management Plan (WBFMP) would provide additional spawning habitat for naturally spawning fish and modify hatchery operations to minimize hatchery/wild interactions and loss of genetic integrity.

Information provided by ODFW (1998) indicated that the naturally spawning population in the McKenzie River Basin represents the last of five major populations in the ESU. Previously it had been suggested that a population in the North Santiam River existed; however, ODFW contended that the thermal profile of water releases from Detroit Dam significantly lowers the survival of any progeny from naturally spawning fish. ODFW concurred with the previous risk conclusion made by the BRT that the Upper Willamette River ESU is likely to become endangered in the foreseeable future (J. Martin, ODFW, 2501 SW First Avenue, P.O. Box 59, Portland, OR 97207. Pers. commun. November 1998).

Response: If it is true that the ESU would fail to persist without the hatchery populations, that is a strong indication that the natural populations need protection under the ESA. Also, there is no indication that the WBFMP has alleviated the risks facing these chinook salmon. In fact, Oregon's Independent Multi-disciplinary Science Team's preliminary review of the WBFMP expressed concerns related to the WBFMP's framework, effectiveness, and accountability. NMFS believes that it is too early to assess the effectiveness of this plan in reducing risks faced by spring-run chinook salmon in this ESU.

Other population-specific issues are further addressed in detail in "Status of Chinook Salmon ESUs".

Issue 7: ESU Delineation and Status of the Upper Columbia River Spring-Run Chinook Salmon

Comment: Several respondents agreed with NMFS that chinook salmon stocks in this ESU represent an identifiable group that merits definition as a separate ESU. A commenter contended that there was no scientific basis to exclude spring-run chinook salmon from the Rock Island Fish Hatchery Complex and Methow Fish Hatchery Complex from consideration in the risk assessment. Furthermore, commenters estimate that the total escapement of naturally spawning fish in this ESU averages around 5,000 fish, and that given the historical importance of these fish and the current "moderate" abundance level, a listing of "threatened" rather than endangered is warranted. A peer reviewer concurred with the proposed endangered listing, although he suggested that the impact of Carson National Fish Hatchery (NFH) spring-run introductions were much more limited than was indicated in the status review.

Response: Although there have been strays from the Leavenworth, Entiat, and Winthrop NFHs observed spawning naturally near the hatcheries, there is little evidence these fish have strayed into the upper portions of the watersheds or hybridized extensively with the natural populations. Marked strays from other, out-of basin, programs (e.g., Dworshak NFH) have been found on the natural spawning grounds. These issues are further addressed in detail in the "Status of Chinook Salmon ESUs".

Issue 8: Consideration of Existing Conservation Measures

Comment: Several comments expressed concerns about NMFS' reliance and characterization of the efficacy of the Northwest Forest Plan (NFP), citing significant differences in management practices between various Federal land management agencies.

Response: In the listing proposal, NMFS noted that the NFP requires specific management actions on Federal lands, including actions in key watersheds in Puget Sound, the Lower Columbia, and Upper Willamette Rivers that comply with special standards and guidelines designed to preserve their refugia functions for at-risk salmonids (i.e., watershed analysis must be completed prior to timber harvests and other management actions, road miles should be reduced, no new roads can be built in roadless areas, and restoration

activities are prioritized). In addition, the most significant element of the NFP for anadromous fish is its Aquatic Conservation Strategy (ACS), a regional-scale aquatic ecosystem conservation strategy that includes: (1) Special land allocations (such as key watersheds, riparian reserves, and late-successional reserves) to provide aquatic habitat refugia; (2) special requirements for project planning and design in the form of standards and guidelines; and (3) new watershed analysis, watershed restoration, and monitoring processes. These ACS components collectively ensure that Federal land management actions achieve a set of nine ACS objectives that strive to maintain and restore ecosystem health at watershed and landscape scales to protect habitat for fish and other riparian-dependent species and resources and to restore currently degraded habitats. NMFS will continue to support the NFP strategy and address Federal land management issues via ESA section 7 consultations in concert with this strategy.

Comment: Several comments expressed concern over the need to list these chinook salmon ESUs and the effects of these listings on Indian resources, programs, land management, and associated Trust responsibilities. Particular concern was expressed about the effects of listing Puget Sound chinook salmon on tribal fishing for this and other species, and further noted that the tribes had foregone significant harvest opportunities in the interest of protecting at-risk salmon stocks.

Response: NMFS believes that the best available scientific information supports listing these chinook salmon ESUs under the ESA. NMFS acknowledges that these listings may impact Indian resources, programs, land management and associated Trust responsibilities. NMFS will continue to work closely with affected Indian tribes as harvest and other management issues arise and will continue to support the development of strong and credible tribal and state conservation efforts to restore listed chinook salmon and other west coast salmon populations.

Summary of Chinook Salmon ESU Determinations

The following is a summary of NMFS' ESU determinations for the species. A more detailed discussion of ESU determinations is presented in the chinook salmon status review (Myers *et al.*, 1998) and the recent status review update (NMFS, 1998a). Copies of these documents are available upon request (see **ADDRESSES**).

NMFS also evaluated the relationship between hatchery and natural populations of chinook salmon in these ESUs. In examining this relationship, NMFS scientists consulted with hatchery managers to determine whether any hatchery populations are similar enough to native, naturally spawned fish to be considered part of the biological ESU (NMFS, 1999b).

(1) Puget Sound Chinook Salmon ESU

This ESU includes all naturally spawned chinook populations residing below impassable natural barriers (e.g., long-standing, natural waterfalls) in the Puget Sound region from the North Fork Nooksack River to the Elwha River on the Olympic Peninsula, inclusive. NMFS reviewed, and reiterates, its previous conclusions that chinook salmon in the Elwha, North Fork Nooksack, and South Fork Nooksack Rivers are part of the Puget Sound ESU, while chinook salmon populations from Southern British Columbia are not. The Puget Sound chinook salmon ESU corresponds closely to the Puget Lowland Ecoregion. Although the Elwha River chinook salmon population does fall outside this Ecoregion, its genetic and life history attributes show it is a transitional population between Washington Coast and Puget Sound ESUs. NMFS did not receive any new information that suggests its proposed determination was inaccurate.

As a result of the extensive history of artificial production in Puget Sound, it was difficult to clearly distinguish between some historic natural runs of chinook, and naturally spawning populations resulting from hatchery introductions. Based on comments received and technical meetings with co-managers, NMFS concludes that, unless there is sufficient evidence that they resulted from out-of-ESU introductions, naturally spawned populations within the geographic boundaries of the Puget Sound ESU generally should be considered part of the biological ESU. One exception is that naturally-spawning descendants from the spring-run chinook salmon program at the Quilcene National Fish Hatchery (Quilcene and Sol Duc stocks) and their progeny are not considered part of the Puget Sound ESU. NMFS believes that the inclusion of naturally spawning chinook populations founded by hatchery populations which originated from within the ESU (even if they may not be representative of the historical local stock or which may represent a mixture of within-ESU stocks) may play an important role in the recovery process. What role individual populations might play in recovery will be determined during the recovery process, taking into consideration the origin and status of the current population.

Hatchery Populations Pertaining to the ESU

NMFS identified 38 hatchery stocks associated with the Puget Sound ESU (NMFS, 1999b; Table 1).

TABLE 1.—STATUS OF PUGET SOUND CHINOOK SALMON HATCHERY STOCKS

Hatchery population	Run	In/out of ESU?	Essential for recovery?	Listed?
Kendall Ck	Spring	In	Yes	Yes.
Kendall Ck./Samish R	Fall	In	No	No.
Clark Ck	Fall	In	No	No.
Marblemount (I)	Summer	In	No	No.
Marblemount (II)	Summer	In	No	No.
Marblemount	Spring	In	No	No.
N. Fk. Stillaguamish R	Summer	In	Yes	Yes.
May Ck./Wallace R	Summer	In	No	No.
Soos Ck	Fall	In	No	No.
Tulalip Tribal	Fall	In	No	No.
Tulalip Tribal	Spring	In	No	No.
Puyallup	Fall	In	No	No.
Minter Ck	Fall	In	No	No.
Coulter Ck	Fall	In	No	No.
Keta Ck	Fall	In	No	No.
Grover's Ck	Fall	In	No	No.

TABLE 1.—STATUS OF PUGET SOUND CHINOOK SALMON HATCHERY STOCKS—Continued

Hatchery population	Run	In/out of ESU?	Essential for recovery?	Listed?
Garrison Springs	Fall	In	No	No.
Kalama Ck	Fall	In	No	No.
Nisqually (Clear Ck.)	Fall	In	No	No.
McAllister Ck	Fall	In	No	No.
Deschutes R. (WA)	Fall	In	No	No.
Little Boston Ck	Fall	In	No	No.
George Adams	Fall	In	No	No.
Hoodsport	Fall	In	No	No.
Skokomish (Enetai)	Fall	In	No	No.
Big Beef Ck	Fall	In	No	No.
Samish R	Fall	In	No	No.
Lummi Sea Ponds	Fall	In	No	No.
Bellingham Heritage	Fall	In	No	No.
Glenwood Springs	Fall	In	No	No.
Univ. of Washington	Fall	In	No	No.
Issaquah Ck	Fall	In	No	No.
White R	Spring	In	Yes	Yes.
Sol Duc	Spring	Out	No	No.
Finch Ck	Fall	In	No	No.
Quilcene R	Spring	Out	No	No.
Dungeness R	Spring	In	Yes	Yes.
Elwha R	Fall	In	Yes	Yes.

NMFS has revised the criteria used by the BRTs to decide whether or not a hatchery population is part of the biological ESU. Details of these new criteria are discussed in the "Evaluation of the Status of Chinook and Chum Salmon and Steelhead Hatchery Populations for ESUs Identified in Final Listing Determinations" memo (NMFS, 1999b). After reviewing the best available information regarding the relationship between hatchery and natural populations in this ESU, NMFS concludes that 36 hatchery stocks should be considered part of the ESU. The listing status of the hatchery stocks is described later in this document under "Status of Chinook Salmon ESUs."

(2) Lower Columbia River Chinook Salmon ESU

This ESU includes all naturally spawned chinook populations residing below impassable natural barriers (e.g., long-standing, natural waterfalls) from the mouth of the Columbia River to the crest of the Cascade Range just east of the Hood River in Oregon and the White Salmon River in Washington. This ESU excludes populations above Willamette Falls, and others as specifically noted in the discussion that follows. Within this ESU, there are historic runs of three different chinook salmon populations: spring-run, tule, and late-fall "bright" chinook salmon.

NMFS discussed at length the status of several chinook salmon populations in the Lower Columbia River. As discussed in the preceding ESU section, because of the extensive history of artificial production in the Lower Columbia River, it was difficult to clearly distinguish between historic natural runs of chinook, and naturally spawning populations resulting from hatchery introductions. Based on comments received and technical meetings with co-managers, NMFS concludes that, unless there is sufficient evidence that they resulted from out-of-ESU introductions, naturally spawned populations within the geographic boundaries of the Lower Columbia River ESU generally should be considered part of the biological ESU. NMFS believes that the inclusion of naturally spawned chinook populations founded by hatchery populations which originated from within the ESU (even if they may not be representative of the historical local stock or which may represent a mixture of within-ESU stocks) may play an important role in the recovery process. What role individual populations might play in recovery will be determined during the recovery process, taking into consideration the origin and status of the current population.

NMFS concludes that, based on new information received since the proposed rule, although fish introduced from the Upper Willamette River ESU have probably interbred with indigenous spring-run chinook salmon in the Sandy River, this population still retains some genetic characteristics from the native population. In light of the extirpation of the majority of the spring-run populations in this ESU and despite the history of introductions from outside of the ESU, this population may be an important genetic resource and is considered part of the Lower Columbia River ESU. In contrast, naturally spawned Clackamas River spring-run chinook salmon are considered part of the Upper Willamette River ESU, and the fall-run fish, descended from Upper Columbia River Bright hatchery stocks, that spawn in the mainstem Columbia River below Bonneville Dam and in other Bonneville Pool tributaries (Lower River brights) are considered part of the Upper Columbia River summer- and fall-run ESU. Not included in this ESU are spring-run chinook salmon derived from the Round Butte Hatchery (Deschutes River, Oregon) (and their progeny) and spawning in the Hood River, spring-run chinook salmon derived from the Carson NFH (and their progeny) and spawning in the Wind River, and naturally spawning fish originating from the Rogue River fall chinook program (and their progeny).

Hatchery Populations Pertaining to the ESU

NMFS identified 23 hatchery stocks associated with the Lower Columbia River ESU (NMFS, 1999b; Table 2).

TABLE 2.—STATUS OF LOWER COLUMBIA RIVER CHINOOK SALMON HATCHERY STOCKS

Hatchery population	Run	In/out of ESU?	Essential for recovery?	Listed?
Sea Resources Net Pens	Fall	In	No	No.
Abernathy SCTC	Fall	In	No	No.
Grays R	Fall	In	No	No.
Elochomin	Fall	In	No	No.
Cowlitz R	Spring	In	Yes	No
Cowlitz R	Fall	In	No	No.
Toutle R	Fall	In	No	No.
Kalama R	Spring	In	No	No.
Kalama R	Fall	In	No	No.
Lewis R	Spring	In	No	No.
Washougal R	Fall	In	No	No.
Carson NFH	Spring	Out	No	No.
Little White Salmon R	Fall	Out	No	No.
Spring Ck. NFH	Fall	In	No	No.
Klickitat R	Fall	Out	No	No.
Youngs Bay	Spring	Out	No	No.
Big Ck. (13)	Fall	In	No	No.
Rogue R (52)	Fall	Out	No	No.
Klaskanine R	Spring	Out	No	No.
Klaskanine R (15)	Fall	In	No	No.
Bonneville H. URB (95)	Fall	Out	No	No.
Sandy R (Clackamas 19)	Spring	Out	No	No.
Hood River (66)	Spring	Out	No	No.

After reviewing the best available information regarding the relationship between hatchery and natural populations in this ESU, NMFS concludes that 14 hatchery stocks should be considered part of the ESU and the remaining nine stocks not part of the ESU (Table 2). The listing status of the hatchery stocks is described later in this document under "Status of Chinook Salmon ESUs."

(3) Upper Willamette River Chinook Salmon ESU

NMFS reviewed its previous decision on the proposed designation of the Upper Willamette River ESU. Information provided by ODFW (1998) indicates that at present the only significant natural production of spring-run chinook salmon occurs in the McKenzie River Basin. Previously, Nicholas *et al.* (1995) had also suggested that a self-sustaining population may exist in the North Santiam River Basin. In general, NMFS considers that naturally spawned spring-run chinook salmon are part of the ESU, unless it can be shown to have originated from outside of the ESU. NMFS specifically excludes fall-run chinook salmon from this ESU. Fall-run fish are not native to the basin, having been introduced above Willamette Falls on several occasions throughout this century and, therefore, are not part of this ESU. NMFS did not determine to which ESU, if any, these fall-run fish belong.

As previously described, NMFS concludes that the presently naturally spawned population of spring-run chinook salmon in the Clackamas River derives from this ESU. NMFS could not determine, based on available information, whether this represents an historical affinity or a recent, human-mediated expansion into the Clackamas River. In any case, the current Clackamas River population represents a genetic resource that might be useful in the recovery of the Upper Willamette River ESU.

Hatchery Populations Pertaining to the ESU

NMFS identified 6 hatchery stocks associated with the Upper Willamette River ESU (NMFS, 1999b; Table 3).

TABLE 3.—STATUS OF UPPER WILLAMETTE RIVER CHINOOK SALMON HATCHERY STOCKS

Hatchery population	Run	In/out of ESU?	Essential for recovery?	Listed?
N. Fk. Santiam R. (21)	Spring	In	No	No.
M. Fk. Willamette R. (22)	Spring	In	No	No.
McKenzie R. (23)	Spring	In	No	No.
S. Fk. Santiam R. (24)	Spring	In	No	No.
Clackamas R. (19)	Spring	In	No	No.
Stayton Ponds (14)	Fall	Out	No	No.

After reviewing the best available information regarding the relationship between hatchery and natural populations in this ESU, NMFS concludes that all but the Stayton Ponds hatchery stock should be considered part of the ESU (Table 3). The listing status of the hatchery stocks is described later in this document under "Status of Chinook Salmon ESUs."

(4) Upper Columbia River Spring-run Chinook Salmon ESU

Although the spring-run chinook salmon populations in this ESU were effectively homogenized during the implementation of the Grand Coulee Fish Management Program (GCFMP) (1939–1943), NMFS concurs with its previous conclusion that this ESU contains the only remaining genetic resources of those spring-run chinook

salmon that migrated into the upper Columbia River Basin (including fish that would have spawned in Canada) and is distinct from other stream-type chinook salmon ESUs. After considering information provided by co-managers, NMFS determined that naturally spawning spring-run chinook salmon (and their progeny) derived from Carson NFH are not part of this ESU. Hatchery Populations Pertaining to the ESU

NMFS identified 10 hatchery stocks associated with the Upper Columbia River spring-run ESU (NMFS, 1999b; Table 4).

TABLE 4.—STATUS OF UPPER COLUMBIA RIVER SPRING-RUN CHINOOK SALMON HATCHERY STOCKS

Hatchery population	Run	In/out of ESU?	Essential for recovery?	Listed?
Winthrop NFH	Spring	Out	No	No.
Entiat NFH	Spring	Out	No	No.
Leavenworth NFH	Spring	Out	No	No.
Chiwawa R.	Spring	In	Yes	Yes.
Methow R.	Spring	In	Yes	Yes.
Twisp R.	Spring	In	Yes	Yes.
Chewuch R.	Spring	In	Yes	Yes.
White R.	Spring	In	Yes	Yes.
Nason Cr.	Spring	In	Yes	Yes.
Ringold H.	Spring	Out	No	No.

After reviewing the best available information regarding the relationship between hatchery and natural populations in this ESU, NMFS concludes that six hatchery stocks should be considered part of the ESU and the remaining four stocks not part of the ESU (Table 4). The listing status of the hatchery stocks is described later in this document under "Status of Chinook Salmon ESUs."

Summary of Factors Affecting Chinook Salmon

Section 4(a)(1) of the ESA and NMFS' listing regulations (50 CFR part 424) set forth procedures for listing species. The Secretary of Commerce (Secretary) must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

The factors threatening naturally spawned chinook salmon throughout its range are numerous and varied. The present depressed condition is the result of several long-standing, human-induced factors (e.g., habitat degradation, water diversions, harvest, and artificial propagation) that serve to exacerbate the adverse effects of natural environmental variability from such factors as drought, floods, and poor ocean conditions.

As noted earlier, NMFS received numerous comments regarding the relative importance of various factors contributing to the decline of chinook salmon. A summary of various risk factors and their roles in the decline of west coast chinook salmon was presented in NMFS' March 9, 1998, proposed rule (63 FR 11482), as well as in several "Factors for Decline" reports published in conjunction with proposed rules for steelhead and for chinook (NMFS, Factors Contributing to the Decline of Chinook Salmon: An Addendum to the 1996 West Coast Steelhead Factors for Decline Report, June, 1998 (NMFS 1998b); NMFS, Factors for Decline: A Supplement to the Notice of Determination for West Coast Steelhead Under the Endangered Species Act, 1996, NMFS, 1996).

Efforts Being Made To Protect West Coast Chinook Salmon

Under section 4(b)(1)(A) of the ESA, the Secretary of Commerce is required to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made to protect a species. During the status review for west coast chinook salmon and for other salmonids, NMFS reviewed protective efforts ranging in scope from regional strategies to local watershed initiatives; some of the major efforts are summarized in the March 9, 1998, proposed rule (63 FR 11482). Since then, NMFS has received some new information regarding these and other efforts being made to protect chinook salmon. Notable efforts within the range of the chinook ESUs proposed for listing continue to be the NFP, PACFISH, Lower Columbia River National Estuary Program, Lower Columbia Steelhead Conservation Initiative, Oregon Plan for Salmon and Watersheds, Washington Wild Stock Restoration Initiative, and Washington Wild Salmonid Policy.

An additional Federal effort affecting the Upper Columbia River spring-run chinook salmon ESU, the Interior Columbia Basin, Ecosystem Management Project (ICBEMP), was not addressed in the proposed rule. The ICBEMP addresses Federal lands in this region that are managed under U.S. Forest Service (USFS) and Bureau of Land Management (BLM) Land and Resource Management Plans (LRMPs) or Land Use Plans which are amended by PACFISH. PACFISH provides objectives, standards and guidelines that are applied to all Federal land management activities such as timber harvest, road construction, mining, grazing, and recreation. USFS and BLM implemented PACFISH in 1995 and intended it to provide interim protection to anadromous fish habitat while a longer term, basin scale aquatic conservation strategy was developed in the ICBEMP. It is intended that ICBEMP will have a Final Environmental Impact Statement and Record of Decision by early 2000.

For other ESUs already listed in the Interior Columbia Basin (e.g., Snake River chinook, Snake River steelhead, Upper Columbia River steelhead), NMFS' ESA section 7 consultations have required several components that are in addition to the PACFISH strategy (NMFS, 1995; NMFS, 1998c). NMFS, USFS, and BLM intend these additional components to bridge the gap between interim PACFISH direction and the longterm strategy envisioned for ICBEMP. NMFS anticipates that these components will also be carried forward in the ICBEMP direction. These components include (but are not limited to) implementation monitoring and

accountability, a system of watersheds that are prioritized for protection and restoration, improved and monitored grazing systems, road system evaluation and planning requirements, mapping and analysis of unroaded areas, multi-year restoration strategies, and batching and analyzing projects at the watershed scale. Given the timeframe for ICBEMP, NMFS will likely conduct similar additional section 7 consultations for the LRMPs within the Upper Columbia River spring-run chinook salmon ESU and will then consult on ICBEMP when it is complete.

In the range of the Lower Columbia and Willamette River ESUs, several notable efforts have recently been initiated. Harvest, hatchery, and habitat protections under state control are evolving under the Oregon Plan for Salmon and Watersheds (Plan). The plan is a long-term effort to protect all at-risk wild salmonids through cooperation between state, local and Federal agencies, tribal governments, industry, private organizations and individuals. Parts of the Plan are already providing benefits including an aggressive program by the Oregon Department of Transportation to inventory, repair, and replace road culverts that block fish from reaching important spawning and rearing areas. The Plan also encourages efforts to improve conditions for salmon through non-regulatory means, including significant efforts by local watershed councils. An Independent Multi disciplinary Science Team provides scientific oversight to plan components and outcomes. A recent Executive Order from Governor Kitzhaber reinforced his expectation that all state agencies will make improved environmental health and salmon recovery part of their mission.

Protecting and restoring fish and wildlife habitat and population levels in the Willamette River Basin, promoting proper floodplain management, and enhancing water quality is the focus of the recently formed Willamette Restoration Initiative (WRI). The WRI creates a mechanism through which residents of the basin are mounting a concerted, collaborative effort to restore watershed health. In addition, habitat protection and improved water quality in the Portland/Vancouver metropolitan areas are getting unprecedented attention from local jurisdictions. The regional government, Metro, recently adopted an aggressive stream and floodplain protection ordinance designed to protect functions and values of floodplains, and natural stream and adjacent vegetated corridors. All jurisdictions in the region must amend their land use plans and implementing ordinances to comply with the Metro ordinance within 18 months. Metro also has a Green spaces acquisition program that addresses regional biodiversity, and is giving protection to significant amounts of land, some of it on the Sandy River or on tributaries to the Willamette River. The City of Portland has identified those activities which impact salmonids and is now using that information to reduce impacts of existing programs and to identify potential enhancement actions. The City will shortly be making significant improvements in its storm water management program, a key to reducing impacts on salmonid habitat.

Across the Columbia River in Washington State, critical riparian areas are being acquired and preserved under Clark County's Conservation Futures Open Space Program. This program is entirely locally funded and has already acquired more than 2,000 acres of habitat critical to numerous fish and wildlife species. Improvements to the county's Critical Areas Ordinance are also under consideration and an 18 member task force has been formed to develop a salmonid recovery plan. Also, an inventory of factors limiting salmonid survival is being compiled for individual lower Columbia River watersheds in Washington State by the Lower Columbia River Fish Recovery Board. Established by the State Legislature, the Board will begin using this information later this year to help prioritize and implement improved land-use regulations and habitat restoration activities over a five-county area.

In the lower Columbia River, salmonid populations were seriously depleted long before increasing predator populations posed any significant threat to their long-term survival. Various development and management actions have interrupted the natural balance between predator and prey populations, and this situation now poses a risk to struggling salmonid populations. For example, steps have already been taken this year by the U.S. Army Corps of Engineers (COE), FWS, Oregon and Washington Fish and Wildlife agencies and NMFS to relocate at least 90 percent of a Caspian tern colony away from areas in the lower Columbia where their primary food is juvenile salmonids.

NMFS and FWS are also engaged in an ongoing effort to assist in the development of multiple species Habitat Conservation Plans (HCPs) for state and privately owned lands in Oregon and Washington. While section 7 of the FSA addresses species protection associated with Federal actions and lands, Habitat Conservation Planning under section 10 of the ESA addresses species protection on private (non-Federal) lands. HCPs are particularly important since well over half of the habitat in the range of the Puget Sound, Lower Columbia River, and Upper Willamette spring-run chinook ESUs is in non-Federal ownership. The intent of the HCP process is to ensure that any incidental taking of listed species will not appreciably reduce the likelihood of survival of the species, reduce conflicts between listed species and economic development activities, and to provide a framework that would encourage "creative partnerships" between the public and private sectors and state, municipal, and Federal agencies in the interests of endangered and threatened species and habitat conservation.

NMFS will continue to evaluate state, tribal, and non-Federal efforts to develop and implement measures to protect and begin the recovery of chinook salmon populations within these ESUs. Because a substantial portion of land in these ESUs is in state or private ownership, conservation measures on these lands will be key to protecting and recovering chinook salmon populations in these ESUs. NMFS recognizes that strong conservation benefits will accrue from specific components of many non-Federal conservation efforts.

While NMFS acknowledges that many of the ongoing protective efforts are likely to promote the conservation of chinook salmon and other salmonids, some are very recent and few address salmon conservation at a scale that is adequate to protect and conserve entire ESUs. NMFS concludes that existing protective efforts are inadequate to preclude a listing for the Puget Sound, Upper Columbia River spring-run, Lower Columbia River, and Upper Willamette River ESUs. However, NMFS will continue to encourage these and future protective efforts and will work with Federal, state, and tribal fisheries managers to evaluate, promote, and improve efforts to conserve chinook salmon populations.

Status of Chinook Salmon ESUs

Section 3 of the ESA defines the term "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range." The term "threatened species" is defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." Thompson (1991) suggested that conventional rules of thumb, analytical

approaches, and simulations may all be useful in making this determination. In previous status reviews (e.g., Weitkamp *et al.*, 1995), NMFS has identified a number of factors that should be considered in evaluating the level of risk faced by an ESU, including: (1) absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); and (6) recent events (e.g., a drought or changes in harvest management) that have predictable short-term consequences for abundance of the ESU.

During the coastwide status review for chinook salmon, NMFS evaluated both quantitative and qualitative information to determine whether any proposed ESU is threatened or endangered according to the ESA. The types of information used in these assessments are described in the proposed rule, published March 9, 1998 (63 FR 11482). The assessments also considered whether any of the hatchery populations identified in "Summary of Chinook Salmon ESU Determinations" should be considered essential for the recovery of a listed ESU. The following summaries draw on these quantitative and qualitative assessments to describe NMFS' conclusions regarding the status of each chinook salmon ESU. A more detailed discussion of the status of these chinook salmon ESUs is presented in the updated status review (NMFS, 1998a).

(1) Puget Sound Chinook Salmon ESU

Updated abundance information through 1997–98 was obtained for almost all streams in the Puget Sound ESU. Recent estimated escapements of chinook salmon to rivers in this ESU ranged from 38 spring/summer-run chinook salmon in the Dungeness River to almost 7,000 summer/fall chinook salmon in the Skagit River Basin. Most of the 36 streams with data available continue to exhibit declines in estimated abundance. Seven of the 10 streams with positive trends in abundance are considered to be influenced by hatchery fish. Both long- and short-term trends for natural chinook salmon runs in North Puget Sound were negative, with few exceptions. In South Puget Sound, both long- and short-term trends in abundance were predominantly positive (NMFS, 1998a).

Estimating historic abundance is difficult. Bledsoe *et al.* (1989) estimated that the total Puget Sound catch in 1908 was approximately 670,000 fish (based on a catch of 2.1 million kg.), at a time when both ocean harvest and hatchery production were negligible. This estimate, as with other historical estimates, should be viewed cautiously. Puget Sound cannery pack probably included a portion of fish landed at Puget Sound ports but originating in adjacent areas, and cannery pack represents only a portion of the total catch. Also, the estimates of exploitation rates used in run-size expansions are not based on precise data. Recent mean spawning escapements totaling 71,000 correspond to a naturally spawning escapement entering Puget Sound of approximately 160,000 fish based on run reconstruction of escapement and commercial landings within Puget Sound (Big Eagle and LGL, 1995). Expanding this estimate by the fraction of 1982–1989 average total harvest mortalities of Puget Sound chinook salmon stocks in intercepting ocean fisheries (exclusive of U.S. net fisheries) and U.S. recreational fisheries would yield a recent average potential run size of 426,000 chinook salmon (both hatchery and wild adults) into Puget Sound (Pacific Salmon Commission (PSC) 1994, appendices F and G).

Currently, escapement to rivers in Puget Sound and Hood Canal is monitored by WDFW and the Northwest Indian tribes. The Nooksack River has spring/summer-runs in the north and south forks. Escapement to the South Fork is monitored by redd counts, and the stock is believed to have little hatchery influence. Both stocks were rated as "critical" by WDFW because of chronically low spawning escapements. The Skagit River supports three spring-runs, two summer-runs and a fall-run. Mean spawning escapement of the summer/fall-run has been almost 7,000 fish and has been declining (NMFS, 1998a). Of the six stocks in the Skagit River Basin identified by WDF *et al.* (1993), two are rated healthy, three depressed, and one of unknown status. On the Stillaguamish River, the combined escapement goal has been met only twice since 1978, and the most recent mean abundance consisted of just over 1,000 fish (NMFS, 1998a). Both runs were rated as "depressed" by WDFW (WDF *et al.*, 1993). Of four runs identified in the Snohomish River system, two are rated depressed, one unknown, and one as healthy. Although estimating Puget Sound chinook escapement is complicated by large numbers of naturally spawning hatchery fish, populations least affected by hatcheries are in the northern part of the sound in the Nooksack, Skagit, Stillaguamish, and Snohomish River systems.

In Hood Canal, summer/fall-run chinook salmon spawn in the Skokomish, Union, Tahuya, Duckabush, Dosewallips and Hamma Hamma Rivers. Because of transfers of hatchery fish, these spawning populations are considered to be a single stock (WDF *et al.*, 1993). Fisheries in the area are managed primarily for hatchery production and secondarily for natural escapement; high harvest rates directed at hatchery stocks have resulted in failure to meet natural escapement goals in most years (FWS, 1997). The 5-year geometric mean natural spawning escapement has been just over 1,000 (NMFS, 1998a), with negative short- and long-term trends.

The ESU also includes the Dungeness and Elwha Rivers, which have natural chinook salmon runs as well as hatcheries. The Dungeness River has a run of spring/summer-run chinook salmon with a 5-year geometric mean natural escapement of only 38 fish (NMFS, 1998a). WDFW maintains a captive broodstock program using offspring from local redds on the Dungeness River because of the severely depressed numbers (Crawford, 1998). The Elwha River has a 5-year geometric mean escapement of just over 1,500 fish (NMFS 1998a), but it contains two hatcheries, both lacking adequate adult recovery facilities. Egg take at the hatcheries is augmented from natural spawners, and hatchery fish are known to spawn in the wild. Consequently, hatchery and natural spawners are not considered discrete stocks (WDF *et al.*, 1993). Both the Dungeness and Elwha River populations exhibit severely declining recent trends in abundance (NMFS, 1998a). Furthermore, only limited accessible spawning habitat remains in the Elwha River Basin, and it is uncertain whether the existing population could persist without hatchery intervention.

As reported in the status review (Myers *et al.*, 1998), a substantial amount of habitat throughout the Puget Sound region has been degraded or blocked by dams and other barriers. In general, upper tributaries have been negatively affected by forest practices and lower tributaries and mainstem rivers have been impacted by agriculture and/or urbanization. Diking for flood control, draining and filling of freshwater and estuarine wetlands, and sedimentation due to forest practices and urban development are cited as problems throughout the ESU (WDF *et*

al., 1993). Blockages by dams, water diversions, and shifts in flow regime due to hydroelectric development and flood control projects are major habitat problems in several basins (Bishop and Morgan, 1996; Puget Sound Salmon Stock Review Group, 1997). Increasing percentages of land in the Puget Sound area are composed of impermeable surfaces, and the reductions in habitat quality due to point-and non-point source pollutants have been widespread (McCain *et al.*, 1988; Puget Sound Water Quality Authority, 1988; Palmisano *et al.*, 1993), and the direct and indirect impacts of the reduction in habitat quality on chinook salmon have just begun to be explored. For example, recent research has shown that juvenile chinook salmon from a contaminated estuary in Puget Sound are more susceptible to disease pathogens than are juvenile chinook salmon from a non-urban estuary (Arkoosh *et al.*, 1998a and 1998b).

Harvest impacts on Puget Sound chinook salmon stocks have been quite high in the past. Ocean exploitation rates on natural stocks averaged 56–59 percent; total exploitation rates on some stocks have exceeded 90 percent (PSC, 1994). Although total exploitation rates averaged 68–83 percent for the 1982–89 brood years (PSC, 1994), there is some evidence they have decreased in the past 3 to 4 years (Peter Dygert, NMFS, 7600 Sand Point Way N.E. Seattle, WA 98115–0070. Pers. comm., February 18, 1998). Recent changes in hatchery management practices may include a program to mass mark hatchery chinook salmon with adipose fin clips (Bruce Sanford, WDFW, 600 Capitol Way N, Olympia, WA 98501–1091. Pers. comm., November, 1998). The mass marking program is designed to assist managers in implementing selective fisheries. The enhanced ability to visually identify chinook salmon of hatchery origin in fisheries and for spawning ground surveys may be a positive outcome of the mass marking program. However, there are questions about our ability to accurately measure hooking mortality of natural spawners in multiple hook and release fisheries.

Moreover, as a byproduct of a proposed mass-marking strategy, a small fraction of hatchery-origin chinook salmon would receive coded-wire tags but would not have their adipose fins removed, in order to estimate the behavior of naturally produced chinook salmon in selective fisheries. Therefore, NMFS believes that technical difficulties may increase in detecting coded-wire tagged chinook salmon as a result of changes in the adipose marking program. In addition, valuable stock-specific abundance and mortality schedule information for chinook salmon may be more difficult to obtain if recovery of coded-wire tags is compromised under the new management practices.

NMFS' concerns about the status of this ESU are related to risks associated with population trends and productivity. NMFS believes that widespread declines and outright losses of the spring- and summer-run chinook populations represent a significant reduction in the life history diversity of this ESU. Additionally, NMFS is concerned about the significant declines in abundance from historical levels in many streams in Puget Sound. The population sizes in many streams are small enough that stochastic genetic and demographic processes are important risk factors. Two of the three largest remaining chinook salmon runs in this ESU that are not heavily influenced by hatchery fish (Skagit and Snohomish Rivers) are declining in abundance. Indeed, in most streams for which abundance data are available, both long- and short-term trends in abundance are declining.

Degradation and loss of freshwater and estuarine habitat throughout the range of the ESU were additional sources of risk to chinook salmon in Puget Sound identified by NMFS. Furthermore, recent studies suggest that effects of pollutants on early life history stages of chinook salmon also contribute to the stress on fish in this ESU. Historically high harvest rates in ocean and Puget Sound fisheries were likely to be a significant source of risk in the past; NMFS is hopeful that recently established lower harvest targets for Puget Sound stocks will reduce threats to the persistence of the ESU due to reductions in direct mortality and size-selective fisheries.

Hatchery chinook salmon are widespread in the Puget Sound ESU, although there are no precise estimates of the proportion of natural spawners of hatchery origin. NMFS found that although chinook salmon are relatively well-distributed geographically in the Puget Sound region, the extensive transplanting of hatchery fish throughout the area makes identifying native, naturally self-sustaining runs difficult. Recent proposals to mass mark hatchery fish may be helpful in assessing the status and managing abundance of fish in this ESU. However, the resulting technical difficulties associated with detecting coded-wire tagged fish under the new marking design may hinder collection efforts for that important data base and compromise the management tools currently used to manage chinook salmon in Canadian and U. S. fisheries.

Listing Determination

Based on available information, NMFS concludes that chinook salmon in the Puget Sound ESU are not presently in danger of extinction, but they are likely to become endangered in the foreseeable future. Therefore, NMFS determines that Puget Sound chinook salmon warrant listing as a threatened species under the ESA. In this ESU, all naturally spawned populations of chinook salmon residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. This ESU does not include naturally spawning descendants from the spring-run chinook salmon program at the Quilcene National Fish Hatchery (Quilcene and Sol Duc stocks) and their progeny.

Status of Hatchery Populations

NMFS concludes that five of the hatchery chinook salmon stocks identified as part of this ESU (see "Summary of Chinook Salmon ESU Determinations") should be listed (as well as their progeny) since they are currently essential for the its recovery (NMFS, 1999b; Table 1). The listed hatchery stocks are: Kendall Creek (spring run); North Fork Stillaguamish River (summer run); White River (spring run); Dungeness River (spring run); and Elwha River (fall run).

(2) Lower Columbia River Chinook Salmon

Updated abundance information through 1997–98 was obtained for many streams in the Lower Columbia River ESU. Smaller tributary streams in the lower reaches of the Columbia River (e.g., Big, Skamokawa and Gnat Creeks, and Elochoman, Youngs, Klaskanine, and Grays Rivers) support naturally-spawning chinook salmon runs numbering in the hundreds of fish. The larger tributaries, such as the Cowlitz River Basin streams, contain natural runs of chinook salmon ranging in size from 100 to almost 1,000 fish (NMFS, 1998a). It is difficult to obtain precise estimates of natural escapements in many streams within the lower Columbia River Basin because of the presence of hatchery chinook salmon in many areas. Almost all of the streams with data available are exhibiting declines in estimated abundance. All of the streams considered to be influenced by hatchery fish in this ESU are declining in abundance.

Estimates of historic abundance are available for only a few streams in this ESU, but there is widespread agreement

that natural production has been substantially reduced over the last century. In addition to fall-run chinook salmon, this ESU also includes spring-run chinook salmon in the Cowlitz, Lewis, Kalama, and Sandy Rivers. Historical estimates of spring-run chinook salmon escapement into the Cowlitz River Basin are available for the early 1950s (WDF, 1951; Fulton, 1968). The estimated total escapement of spring-run chinook salmon was 10,400 to the Cowlitz River, and this total was distributed as 1,700 spring-run chinook salmon into the mainstem Cowlitz River, 8,100 into the Cispus River, and 200 and 400 fish into the Tilton and Toutle Rivers, respectively (WDF, 1951). The historical estimate of spring-run chinook salmon escaping into the Sandy River in the 1950s was 1,000 fish (Fulton, 1968), although it may have been as high as 12,000 fish historically (Mattson, 1955). Recent abundance of spawners through 1996–97 includes a 5-year geometric mean natural spawning escapement of only 3,600 spring-run fish in the entire ESU (NMFS, 1998a).

Historical estimates of fall-run chinook salmon in the Lower Columbia River ESU also are available for the early 1950s in the Cowlitz River Basin (WDF, 1951; Fulton, 1968). The estimated total escapement of fall-run chinook salmon to the Cowlitz River was 31,000 fish, of which 10,900 were estimated to escape to the mainstem Cowlitz River, 8,100 to the Cispus River, 6,500 to the Toutle River, 5,000 to the Coweeman River, and 500 to the Tilton River (WDF, 1951). In addition, estimates of fall-run chinook salmon into the smaller tributaries in the lower Columbia River (i.e., Klaskanine, Elochoman, Clatskanie Rivers and Big and Gnat Creeks) was a total of 4,000 fish (Fulton, 1968). Fulton (1968) also provided estimates of escapement of fall-run chinook into the Lewis (n=5,000), Washougal (n=3,000) and the Kalama (n=20,000) Rivers for the 1950s. Based on these reports, it is possible to estimate historical abundance in the ESU of at least 63,000 fall-run chinook salmon escaping to spawn in the lower Columbia River region in the 1950s. It is important to note that by the 1950s the Lower Columbia River chinook salmon stocks had already declined considerably from pre-European settlement levels, and hatchery production was already substantial.

Currently, spawning escapement to populations on the Washington side of the Columbia River are monitored primarily by peak fish counts in index areas (WDF *et al.*, 1993). Estimates of spring- and fall-runs to the mainstem Columbia River tributaries are routinely reported by fishery management agencies (WDFW and ODFW, 1994; (Pacific Fisheries Management Council (PFMC), 1996). Peak index area spawning counts are expanded to estimate total spawning escapement. In most lower Columbia River tributaries in Oregon, foot surveys are conducted and escapement estimates are based on peak spawner counts or redd counts (Theis and Melcher, 1995), and dam counts are available for the Sandy River. Data through 1996–97 indicate that the lower Columbia River fall-run currently includes 34,000 natural spawners (NMFS, 1998a), but according to the PFMC (1996b), approximately 68% of the natural spawners are first-generation hatchery strays. Long-term trends in escapement for the fall- and spring-run are mixed, with most larger stocks showing positive trends (NMFS, 1998a). Short-term trends in abundance for both runs are more negative. The only remaining spring-run chinook salmon populations that are not showing severe declines in abundance are those on the Sandy and Hood Rivers (NMFS, 1998a), and these are both heavily influenced by hatchery fish; in addition, the spring-run in the Hood River may not be representative of the native stock (Kostow *et al.*, 1995).

All basins are affected to varying degrees by habitat degradation. Major habitat problems are related primarily to blockages, forest practices, urbanization in the Portland and Vancouver areas, and agriculture in floodplains and low-gradient tributaries.

Hatchery programs to enhance chinook salmon fisheries in the lower Columbia River began in the 1870s, expanded rapidly, and have continued throughout this century. Although the majority of the stocks have come from within this ESU, over 200 million fish from outside the ESU have been released since 1930 (Myers *et al.*, 1998). Available evidence indicates a pervasive influence of hatchery fish on natural populations throughout this ESU, including both spring- and fall-run populations (Howell *et al.*, 1985; Marshall *et al.*, 1995). In addition, the exchange of eggs among hatcheries in this ESU apparently has led to extensive genetic homogenization of hatchery stocks (Utter *et al.*, 1989). A particular concern at the time the status review was prepared is the straying by Rogue River fall-run chinook salmon, large numbers of which are released into the lower Columbia River to augment harvest opportunities (Myers *et al.*, 1998). Beginning in 1997, ODFW began restricting the release sites of the Rogue River hatchery fall-run chinook salmon to Youngs Bay in the Lower Columbia River, where an intensive chinook salmon fishery occurs (ODFW, 1998). ODFW hopes that reducing the number of sites where the Rogue River fish are released and targeting those hatchery fish in an active chinook salmon fishery will reduce the incidence of straying of non-ESU fish into lower Columbia River tributaries (ODFW, 1998). There are no indications of the success of this mitigation at this time.

ODFW provided NMFS with an overview of the conservation status of Lower Columbia River chinook salmon stocks (ODFW, 1998). ODFW identified the chinook salmon populations in the Lower Columbia River ESU that were naturally self-sustaining and provided their best estimate of the conservation status of each population and the percentage of hatchery fish in natural spawning escapements. The list of populations included fall-run chinook salmon on the Sandy, Clackamas, White Salmon, Wind, North Fork Lewis, East Fork Lewis, Coweeman and mainstem Columbia Rivers. Estimated average minimum escapements over the last 5 years for fall-runs ranged from 100 to 11,600, and the estimated percentages of hatchery fish in natural spawning escapements ranged from 0 to 8 percent (ODFW, 1998). Spring-run chinook salmon populations identified were those in the Sandy and Clackamas Rivers. Estimated escapements ranged from 3,000 to 3,700 fish, and the estimated percentage of spawners of hatchery origin ranged from 10–50 percent (ODFW, 1998).

NMFS' concerns regarding the status of this ESU were evenly divided among the abundance/distribution, trends/productivity and genetic integrity risk categories. NMFS was concerned that there are very few naturally self-sustaining populations of native chinook salmon remaining in the lower Columbia River ESU. With input from co-managers, NMFS identified a list of streams containing primarily native runs of chinook salmon with minimal influence from hatchery fish to get a better understanding of the present distribution and population sizes of potentially self-sustaining chinook salmon runs in the lower Columbia River ESU (ODFW, 1998). Populations of "bright" fall-run chinook salmon identified included those on the North Fork and East Fork of the Lewis River and the Sandy River; "tule" fall-run chinook salmon populations identified as naturally reproducing were those on the Clackamas, East Fork of the Lewis and Coweeman Rivers. Estimated average escapements over the past 5–10 years for these populations ranged from 300 (tule fall-run chinook on the East

Fork of the Lewis River) to over 11,000 (fall-run chinook on the North Fork Lewis River). These are the only fall-run chinook salmon populations in the ESU with relatively high abundance and low hatchery influence. The populations identified by NMFS do not include some populations that ODFW suggested should be considered for risk evaluations. Some of the populations of fall-run chinook salmon suggested by ODFW as naturally self-sustaining are smaller, have extensive hatchery components, or were determined by NMFS to be in a different ESU (see "Status of Chinook Salmon ESUs"). NMFS discussed the likely possibility that smaller streams draining into the Columbia River below the Cowlitz River historically had small populations of tule fall-run chinook salmon. It was not clear to NMFS whether these small populations of tule fall-run chinook historically were self-sustaining; the widespread presence of tule hatchery fish in this area makes their present status difficult to evaluate.

The few remaining populations of spring chinook salmon in the ESU were not considered to be naturally self-sustaining because of either small size, extensive hatchery influence, or both. NMFS felt that the dramatic declines and losses of spring run chinook salmon populations in the Lower Columbia River ESU represent a serious reduction in life-history diversity in the region.

Long-term trends in chinook salmon abundance are mixed in this ESU, but NMFS was concerned that short-term trends are predominantly downward, some strongly so. It is difficult to predict whether the high variability in abundance estimates for chinook salmon in many streams in this ESU reflect natural fluctuations in the numbers of wild fish or periodic influences from hatchery fish. Exceptions are the Coweeman and Green River (Cowlitz River tributary) tule fall-runs, where short-term trends in abundance are positive.

The presence of hatchery chinook salmon in this ESU poses an important threat to the persistence of the ESU and also obscures trends in abundance of native fish. At the time of the status review, approximately 68 percent of the naturally spawning chinook salmon in the lower Columbia River ESU were estimated to be first-generation hatchery fish; no new information was available to suggest that this percentage has appreciably changed. NMFS discussed the difficulty in ascribing "native, naturally self-sustaining" status to tule fall-run chinook salmon runs because of the extensive within-ESU transfers of these fish. Recent changes in hatchery release practices adopted by ODFW designed to reduce straying of introduced Rogue River fall-run chinook salmon into lower Columbia River streams are encouraging changes. Nevertheless, NMFS noted that straying of these out-of-ESU fish still could occur into lower Columbia River streams.

In summary, habitat degradation and loss due to extensive hydropower development projects, urbanization, logging and agriculture continue to threaten the chinook salmon spawning and rearing habitat in the lower Columbia River. Recent harvest levels in the mainstem Columbia River and tributary fisheries are reduced over historic practices. Nevertheless, NMFS concludes that documented extinctions in fall- and spring-run chinook salmon populations, the near complete demise of the spring-run life history form, extensive mixing of fall-run tule chinook salmon populations within the ESU and the widespread occurrence of hatchery fish have combined to pose significant threats to the persistence of chinook salmon in the lower Columbia River ESU.

Listing Determination

Based on available information, NMFS concludes that chinook salmon in the Lower Columbia River ESU are not presently in danger of extinction, but they are likely to become endangered in the foreseeable future. Therefore, NMFS determines that Lower Columbia River chinook salmon warrant listing as a threatened species under the ESA. In this ESU, all naturally spawned populations of chinook salmon residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. This ESU does not include spring-run chinook salmon derived from the Round Butte Hatchery (Deschutes River, Oregon) (and their progeny) and spawning in the Hood River, spring-run chinook salmon derived from the Carson NFH (and their progeny) and spawning in the Wind River, fall-run fish (and their progeny) that originated from the Upper Columbia River summer/fall-run ESU and spawning the mainstem Columbia River below Bonneville Dam and in other Bonneville Pool tributaries, and naturally spawning fish originating from the Rogue River fall chinook program (and their progeny).

Status of Hatchery Populations

The BRT concluded that one of the hatchery chinook salmon stocks identified as part of this ESU (Cowlitz River Hatchery spring-run; see Summary of Chinook Salmon ESU Determinations) was essential for the recovery of the ESU (NMFS, 1999b; Table 2). Like the natural population in the Cowlitz River, the hatchery stock has declined steadily for the past two decades and appeared to stabilize at depressed levels during the past five years. However, the hatchery run is still an order of magnitude greater than the natural run, averaging about 2,000 hatchery returnees during the past 5 years, (which is approximately double the number needed to maintain the hatchery run). NMFS has reviewed the state's hatchery and harvest efforts pertaining to the Cowlitz River Hatchery stock and determined that they are sufficiently protective of this stock and likely to continue producing surplus non-listed fish that could be made available for harvest in most years (NMFS, 1999c). In addition, supplementation and re-introduction efforts using this hatchery stock are already underway and will likely contribute to the recovery of the ESU. Therefore, NMFS has determined that listing the Cowlitz River Hatchery stock is not warranted because their future existence and value for recovery are not at risk (NMFS, 1999c). If new information indicates that the hatchery stock is at risk of extinction, NMFS will revise its listing status accordingly. NMFS has reviewed the state's hatchery and harvest efforts pertaining to the Cowlitz River hatchery stock and determined that they are sufficiently protective of this stock and likely to continue producing surplus non-listed fish that could be made available for harvest in most years (NMFS, 1999c). In addition, supplementation and re-introduction efforts using this hatchery stock are already underway and will likely contribute to the recovery of the ESU.

(3) Upper Willamette River Chinook Salmon

NMFS received updated abundance information for chinook salmon in the Upper Willamette River ESU through 1997–98, including total abundance estimates of spring chinook salmon at Willamette Falls and counts at Leaburg Dam on the McKenzie River (NMFS, 1998a). Spring chinook salmon runs at both sites continue to exhibit declines in estimated abundance. For fishery monitoring purposes, the Clackamas River spring-run chinook salmon are included with the Willamette River (ODFW, 1994). Consistent with ODFW's approach, NMFS concluded that the spring-run chinook salmon in the Clackamas River should be considered part of the Upper Willamette River ESU (see "Status of Chinook Salmon ESUs"). Historical estimates of chinook salmon

abundance in the Clackamas River are available for the late-1800s. At least 100 tons of chinook salmon were harvested from the Clackamas River in both 1893 and 1894. Given an average of 22.8 pounds (10.3 kgs) per fish, an estimated 12,000 and 8,000 chinook salmon were caught in those 2 years (ODFW, 1992). ODFW (1992) reported that most of the chinook salmon caught in the Clackamas River fisheries were spring-run. Updated dam counts for spring-run chinook salmon on the Clackamas River were obtained by NMFS through 1997, and the resulting 5-year geometric mean estimate of naturally spawning spring-run chinook salmon is just over 6,000 fish (Streamnet, 1998). Because of the heavy influence of spring-chinook salmon of hatchery origin in the Clackamas River, NMFS did not weigh Clackamas River abundance estimates heavily in their risk determinations for the Upper Willamette River ESU.

The spring-run has been counted at Willamette Falls since 1946 (ODFW and WDFW, 1995), but counts were not differentiated into adults and jacks until 1952. In the first 5 years (1946–50), the geometric mean of the counts for adults and jacks combined was 31,000 fish. The most recent 5-year (1993–97) geometric mean escapement above Willamette Falls was 24,000 adults (NMFS, 1998a). Willamette River spring-run chinook salmon are targeted by commercial and recreational fisheries in the lower Willamette and Columbia Rivers. During the 5-year period from 1992–1996, the geometric mean of the run-size to the mouth of the Columbia River was 48,000 fish (PFMC, 1997b). Long-term trends in escapement of spring-run chinook salmon to the Upper Willamette River ESU are mixed, ranging from slightly upward to moderately downward (NMFS, 1998a). Short-term trends in abundance are all strongly downward.

Estimates of the naturally produced run have been made only for the McKenzie River from 1994 to 1998 (Nicholas, 1995; ODFW, 1998). Nicholas (1995) estimated the escapement of naturally produced spring-run chinook salmon in the McKenzie River to be approximately 1,000 spawners. Updated information using an estimation from counts at Leaburg Dam suggest that the most recent 5-year geometric mean escapement of naturally-spawning spring-run chinook salmon in the McKenzie River was 1,500 fish (ODFW, 1998; NMFS, 1998a). Until the 1940s, as many as 11 million chinook salmon fry and fingerlings were released into the McKenzie River and tributaries annually (Wallis, 1961; Howell *et al.*, 1988). Although returns from these releases were poor, they may have influenced the shift in the spawn timing in the McKenzie River Basin from historical times. In the early 1900s, peak spawning occurred during early September, and now peak spawning occurs during late September/early October (Wallis, 1961; Howell *et al.*, 1988). It is possible that the shift in spawn timing of chinook salmon in the McKenzie River Basin is due in part to influences from hatchery-derived fish. Alternatively, alterations in the thermal regime due to dam projects may have caused the shift in spawn timing.

Habitat blockage and degradation are significant problems in this ESU. Available habitat has been reduced by construction of dams in the Santiam, McKenzie, and Middle Fork Willamette River Basins, and these dams have probably adversely affected remaining production via thermal effects. Agricultural development and urbanization are the main activities that have adversely affected habitat throughout the basin (Bottom *et al.*, 1985; Kostow, 1995).

Historically, only spring-run fish were able to ascend Willamette Falls to access the upper Willamette River (Fulton, 1968). Following improvements in the fish ladder at Willamette Falls, some 200 million fall-run chinook salmon have been introduced into this ESU since the 1950s. In contrast, the upper Willamette River has received relatively few introductions of non-native spring-run fish from outside this ESU (Myers *et al.*, 1998). Artificial propagation efforts have been undertaken by a limited number of large facilities (McKenzie, Marion Forks, South Santiam, and Willamette (Dexter) Fish Hatcheries). These hatcheries have exchanged millions of eggs from various populations in the upper Willamette River Basin. The result of these transfers has been the loss of local genetic diversity and the formation of a single breeding unit in the Willamette River Basin (Kostow, 1995). Considerable numbers of hatchery spring-run strays have been recovered from natural spawning grounds, and an estimated two-thirds of natural spawners are of hatchery origin (Nicholas, 1995). There is also evidence that introduced fall-run chinook salmon have successfully spawned in the upper Willamette River (Howell *et al.*, 1985). Whether hybridization has occurred between native spring-run and introduced fall-run fish is not known. The majority of the Willamette River fish are hatchery produced.

Total harvest rates on stocks in this ESU are moderately high, with the average total harvest mortality rate estimated to be 72 percent in 1982–89, and a corresponding ocean exploitation rate of 24 percent (PSC, 1994). This estimate does not fully account for escapement, and ODFW is in the process of revising harvest rate estimates for this stock; revised estimates may average 57 percent total harvest rate, with 16 percent ocean and 48 percent freshwater components (Kostow, 1995). The in-river recreational harvest rate (Willamette River sport catch/estimated run size) for the period from 1991 through 1995 was 33 percent (PFMC, 1996). ODFW (1998) provided information indicating that total (marine and freshwater) harvest rates on upper Willamette River spring-run stocks have been reduced considerably for the 1991–93 broodyears to an average 21 percent.

NMFS' primary concerns regarding the status of the Upper Willamette River ESU focused on risks associated with low abundance and reduced distribution. NMFS was concerned about the few remaining populations of spring chinook salmon in the Upper Willamette River ESU, and the high proportion of hatchery fish in the remaining runs. The recent average total abundance of spring chinook salmon in this ESU has been 24,000 fish, of which only 4,000 are believed to be spawning naturally. In addition, it is estimated that two-thirds of the naturally spawning spring chinook salmon are first generation hatchery fish. In other words, the high proportion of hatchery fish in the total return and on spawning grounds indicate that populations of chinook salmon in this ESU are not self sustaining. ODFW was able to identify only one remaining naturally reproducing population in this ESU, spring chinook salmon in the McKenzie River. Severe declines in short-term abundance have occurred throughout the ESU, and the McKenzie River population declined precipitously until 1994. Since 1994, adult returns of naturally spawning spring-run chinook have increased slowly, although it is believed that a large portion of these chinook salmon are first generation hatchery fish.

As stated in the status review (Myers *et al.*, 1998), the potential for interactions between native spring-run and introduced fall-run chinook salmon has increased relative to historical times due to fall-run chinook salmon hatchery programs and the laddering of Willamette Falls. There is no direct evidence of interbreeding between the two forms, but they do exhibit overlap in spawning times and locations. No new evidence was presented indicating significant changes in the conditions that affect the potential for negative

interactions between native and hatchery spring-run chinook salmon in this ESU.

The declines in spring chinook salmon in the Upper Willamette River ESU can be attributed in large part to the extensive habitat blockages caused by dam construction. The overall reduction in available spawning and rearing habitat, combined with altered water flow and temperature regimes, have probably had a major deleterious effect on spring chinook salmon abundance in this ESU. Furthermore, historically high harvest levels have occurred on chinook salmon in this ESU in ocean and lower Columbia River fisheries. Recent efforts to reduce harvest of naturally produced spring chinook salmon in Upper Willamette River tributaries, and the increase in selective fisheries should help managers targeting specific populations of wild or hatchery chinook salmon.

Listing Determination

Based on available information, NMFS concludes that chinook salmon in the Upper Willamette River ESU are not presently in danger of extinction, but they are likely to become endangered in the foreseeable future. Therefore, NMFS determines that Upper Willamette River chinook salmon warrant listing as a threatened species under the ESA. In this ESU, all naturally spawned populations of spring-run chinook salmon residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. This ESU does not include fall-run chinook salmon.

Status of Hatchery Populations

NMFS concludes that none of the hatchery chinook salmon stocks identified as part of this ESU ("Summary of Chinook Salmon ESU Determinations") should be listed since none are currently essential for the recovery of the ESU (NMFS, 1999b; Table 3).

(4) Upper Columbia River Spring-run Chinook Salmon

There are no estimates of historical abundance specific to this ESU. WDFW monitors nine spring-run chinook salmon stocks geographically located within this ESU. Escapements to most tributaries are monitored by redd counts, which are expanded to total live fish based on counts at mainstem dams. Updated abundance information for spring-run chinook salmon in the Upper Columbia River ESU through 1997–98 was obtained for redd counts on all streams monitored in this ESU (NMFS, 1998a). Escapements continue to be critically low in all rivers, and the redd counts are still declining severely. Individual populations within the ESU are all quite small, with none averaging over 150 adults annually in recent years (NMFS, 1998a). Long-term trends in estimated abundance are mostly downward, with annual rates of change ranging from −6 percent to +1 percent over the full data set. All ten short-term trends were downward, with five populations exhibiting rates of decline exceeding 20 percent per year (NMFS, 1998a). Harvest rates have been declining recently, and currently they are less than 10 percent (ODFW and WDFW, 1995).

Artificial propagation efforts have had a significant impact on spring-run populations in this ESU. Artificial propagation recently has focused on supplementing naturally spawning populations in this ESU (Bugert, 1996). although it should be emphasized that these naturally spawning populations were founded by the same GCFMP homogenized stock. Furthermore, the potential for hatchery-derived non-native stocks to adversely affect naturally spawning populations, especially given the recent low numbers of fish returning to rivers in this ESU. The hatchery contribution to escapement may be moderated by the homing fidelity of spring-run fish that could reduce the potential for hybridization (Chapman *et al.*, 1995). For example, the hatchery contribution to naturally spawning escapement was recently estimated as 39 percent in the mainstem Methow River (where the hatcheries are located), but averaged only 10 percent in the tributaries—Chewuch, Lost, and Twisp Rivers—that are upstream of the hatcheries (Spotts, 1995). In contrast, WDFW (1997) reported that in 1996 the Chewuch and Twisp runs were 62 percent and 72 percent hatchery fish, respectively. Utter *et al.* (1995) found that spring-run hatchery stocks from Leavenworth and Winthrop hatcheries were genetically indistinguishable from the Carson hatchery stock, but distinct from naturally spawning populations in the White and Chiwawa Rivers and Nason Creek. In 2 recent years (in 1996 and 1998), 100 percent of the production in the Methow River Basin has come from hatchery-reared fish. The returns to Methow River tributaries were so low in those years that all adults returning to Wells Dam were intercepted for emergency artificial propagation at the Methow Fish Hatchery and the Winthrop NFH (L. Brown, WDFW, 3860 Chelan Highway, Wenatchee, WA 98801. Pers. comm., November, 1998). In addition, captive broodstock programs are underway on the Twisp River and are just beginning on the White River and Nason Creek (NMFS *et al.*, 1998). Production of the non-native Carson hatchery stock will be discontinued at the Winthrop NFH (NMFS *et al.*, 1998).

Howell *et al.* (1985), Chapman *et al.* (1991), Mullan *et al.* (1992), and Chapman *et al.* (1995) have suggested that the prevalence of bacterial kidney disease (BKD) in upper Columbia and Snake River hatcheries is directly responsible for the low survival of hatchery stocks. These authors also suggest that the high incidence of BKD in hatcheries impacts wild populations, and reduces the survival of hatchery fish to such an extent that naturally spawning adults are "mined" to perpetuate hatchery stocks (Chapman *et al.*, 1991). There may also be direct horizontal transmission of BKD between hatchery and wild juveniles during downstream migration (specifically, in smolt collection and transportation facilities) or vertical transmission from hatchery-reared females on the spawning grounds.

Another recent risk evaluation for chinook salmon in this ESU was conducted by an interagency working group as part of the Mid-Columbia River HCP development (NMFS *et al.*, 1998). To determine the need for hatchery supplementation programs in the HCP region (an area including the Wenatchee, Entiat, and Methow River Basins), a panel of experts was asked to estimate (using best professional judgement) the probability that the spring-run chinook salmon populations in those 3 river basins would have a certain status (extinct, nearly extinct, <100 fish/year, 100–500 fish/year, and >500 fish/year) after 10–50 years under current conditions and without hatchery supplementation. In all river basins within this Upper Columbia River Spring-Run ESU geographic area, the experts estimated that there was a greater than 50 percent chance that the chinook salmon would be nearly extinct or extinct within 50 years, assuming current conditions continue into the future. Furthermore, the experts predicted that there was only a 4 to 17 percent chance that after 50 years there would be more than 100 spring-run chinook salmon in any river (NMFS *et al.*, 1998).

NMFS' primary concerns centered on very low abundance and distribution and strongly negative trends and stock productivity for this ESU. The average recent escapement to the ESU has been less than 5,000 hatchery and wild chinook salmon combined; all

individual populations consist of less than 100 fish. At these population sizes, negative effects of demographic and genetic stochastic processes are very likely to occur. Furthermore, both long- and short-term trends in abundance are declining, many strongly so. The abundance of the spring chinook salmon returning to the Methow River Basin has been so low that all fish returning in 1996 and 1998 were intercepted at Wells Dam and were incorporated into artificial propagation programs at Methow fish hatchery. In addition, the captive broodstock programs underway on the Twisp and White Rivers and Nason Creek indicate the severity of the population declines.

Plans to discontinue production of the non-native Carson hatchery stock at the Winthrop NFH are encouraging. Nevertheless, the extensive introductions of spring-run chinook salmon from outside the ESU and within-ESU egg transfers that occurred in the past have left their mark on the genetic legacy of the fish remaining in the ESU. Furthermore, as mentioned above, because of the extremely low population sizes in some streams in some years, 100 percent of the offspring for an entire basin were produced in a hatchery from a mixture of populations. That such extreme measures have been considered necessary speaks to the seriousness of the risks faced by the natural populations.

Habitat degradation, blockages and hydroelectric power system passage mortality all have contributed to the significant declines in spring chinook salmon production in this ESU. In addition to at least six known extinctions, all remaining populations are small and declining in number. Recently, a panel of fisheries experts convened to evaluate a management plan for a HCP in this region and concluded in their risk evaluations that the probability of extinction for spring-run chinook salmon was high. NMFS discussed the possible significance of a noted increase in non-migratory jacks in some areas, and was not able to conclude whether their presence represented a permanent change in age structure or merely a facultative shift in life history strategy due to changes in the selective environment. Finally, due to near elimination of in-river harvest during the last two decades and the absence of a significant marine harvest on these populations, NMFS is concerned that the remaining avenues for recovery would take years to implement and that the ESU may go extinct before any improvements could take effect.

Listing Determination

Based on available information, NMFS concludes that the Upper Columbia River spring-run chinook salmon ESU is in danger of extinction throughout all or a significant portion of its range. Therefore, NMFS determines that Upper Columbia River spring-run chinook salmon warrant listing as an endangered species under the ESA. In this ESU, all naturally spawned populations of spring-run chinook salmon residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. This ESU does not include naturally spawning spring-run chinook salmon derived from the Carson NFH spring-run chinook salmon stock, or other hatchery stocks derived from the Carson spring-run stock and their progeny.

Status of Hatchery Populations

NMFS concludes that 6 of the hatchery chinook salmon stocks identified as part of this ESU (see "Summary of Chinook Salmon ESU Determinations") should be listed (as well as their progeny) since they are currently essential for the recovery of the ESU (NMFS, 1999b; Table 4). The listed hatchery stocks are: Chiwawa River (spring run); Methow River (spring run); Twisp River (spring run); Chewuch River (spring run); White River (spring run); and Nason Creek (spring run).

Determinations

After reviewing the best available information, including general public and peer review comments, and biological data on the species' status and an assessment of protective efforts, as described in the previous sections of this document, NMFS has concluded that four chinook salmon ESUs warrant protection under the ESA. With respect to the four chinook salmon ESUs that are the subject of this rule, NMFS has determined that three ESUs are at risk of becoming endangered in the foreseeable future throughout all or a portion of their range. The threatened chinook salmon ESUs are Puget Sound chinook salmon in Washington, Lower Columbia River chinook salmon in Washington and Oregon, and Upper Willamette spring-run chinook salmon in Oregon. NMFS also has determined that Upper Columbia River spring-run chinook salmon in Washington are in danger of extinction throughout all or a significant portion of their range.

In all four ESUs, only naturally spawned populations of chinook salmon residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. Naturally spawning fish (and their progeny) from the following populations are not considered part of the specified ESUs and are not intended to receive ESA protection: (1) Naturally spawning descendants from the spring-run chinook salmon program at the Quilcene NFH (Quilcene and Sol Duc stocks) and their progeny are not considered part of the Puget Sound ESU; (2) spring-run chinook salmon derived from the Round Butte Hatchery (Deschutes, Oregon) (and their progeny) and spawning in the Hood River, spring-run chinook salmon derived from the Carson NFH (and their progeny) and spawning in the Wind River, fall-run fish (and their progeny) that originated from the Upper Columbia River summer/fall-run ESU and spawn in the mainstem Columbia River below Bonneville Dam and in other Bonneville Pool tributaries, and naturally spawning fish originating from the Rogue River fall chinook program (and their progeny) are not considered part of the Lower Columbia River ESU; (3) fall-run chinook salmon are not considered part of the Upper Willamette River ESU; and (4) naturally spawning spring-run chinook salmon derived from the Carson NFH (and their progeny) are not considered part of the Upper Columbia River spring-run ESU.

NMFS' intent in listing only "naturally spawned" populations is to protect chinook salmon stocks that are indigenous to (i.e., part of) the ESU. In this listing determination NMFS has identified various non-indigenous populations that co-occur with fish in the listed ESUs. NMFS recognizes the difficulty of differentiating between indigenous and non-indigenous fish, especially when the latter are not readily distinguishable with a mark (e.g., fin clip). Also, matings in the wild of either type would generally result in progeny that would be treated as listed fish (i.e., they would have been naturally spawned in the geographic range of the listed ESU and have no distinguishing mark). Therefore, to reduce confusion regarding which chinook salmon are considered listed within an ESU, NMFS will treat all naturally spawned fish as listed for purposes of the ESA. Efforts to determine the conservation status of an ESU would focus on the contribution of indigenous fish to the listed ESU. It should be noted that NMFS will take actions necessary to minimize or prevent non-indigenous chinook salmon from spawning in the wild unless the fish are specifically part of a recovery effort.

NMFS has evaluated the relationship between hatchery and natural populations of chinook salmon in these ESUs (described previously in "Summary of Chinook Salmon ESU Determinations" and "Status of Chinook Salmon ESUs"). In the Puget Sound ESU, chinook salmon (and their progeny) from the following hatchery stocks are considered part of the ESU and listed: Kendall Creek (spring run); North Fork Stillaguamish River (summer run); White River (spring run); Dungeness River (spring run); and Elwha River (fall run). In the Lower Columbia and Upper Willamette River ESUs, none of the chinook salmon hatchery stocks considered part of the ESUs are being listed. Finally, in the Upper Columbia River spring-run ESU, chinook salmon (and their progeny) from the following hatchery stocks are considered part of the ESU and listed: Chiwawa River (spring run); Methow River (spring run); Twisp River (spring run); Chewuch River (spring run); White River (spring run); and Nason Creek (spring run). Other hatchery stocks identified as part of these four ESUs are not considered to be essential for their recovery; hence, they are not listed at this time.

The determination that a hatchery stock is not "essential" for recovery does not preclude it from playing a role in recovery. Any hatchery population that is part of the ESU is available for use in recovery if conditions warrant. In this context, an "essential" hatchery population is one that is vital to incorporate into recovery efforts (for example, if the associated natural population(s) were extinct or at high risk of extinction). Under such circumstances, NMFS would consider taking the administrative action of listing existing hatchery fish.

NMFS' "Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act" (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, "progeny of fish from the listed species that are propagated artificially are considered part of the listed species and are protected under the ESA." In the case of hatchery chinook populations considered to be part of the Puget Sound ESU, Lower Columbia River ESU, Upper Willamette River spring-run ESU, or Upper Columbia River spring-run ESU, NMFS protective regulations may except take of naturally spawned listed fish for use as broodstock as part of an overall conservation program. According to the interim policy, the progeny of these hatchery-wild or wild-wild crosses would also be listed. Given the requirement for an acceptable conservation plan as a prerequisite for collecting broodstock, NMFS determines that it is not necessary to consider the progeny of intentional hatchery-wild or wild-wild crosses as listed (except in cases where NMFS has listed the hatchery population as well).

In addition, NMFS believes it is desirable to incorporate naturally spawned fish into these unlisted hatchery populations to ensure that their genetic and life history characteristics do not diverge significantly from the natural populations. NMFS therefore concludes that it is not inconsistent with NMFS' interim policy, nor with the policy and purposes of the ESA, to consider these progeny as part of the ESU but not listed.

NMFS is not now issuing protective regulations under section 4(d) of the ESA for this species. NMFS will propose such protective measures it considers necessary for the conservation of chinook salmon ESUs listed as threatened in a forthcoming **Federal Register** document. Even though NMFS does not now issue protective regulations for this ESU, Federal agencies possess a duty under section 7 of the ESA to consult with NMFS if any activity they authorize, fund, or carry out may affect listed chinook salmon ESUs. The effective date for this requirement is May 24, 1999.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Section 9 prohibitions apply automatically to endangered species, and will become effective for the Upper Columbia River spring-run chinook ESU 60 days after publication of this final rule.

Section 4(d) of the ESA directs the Secretary to implement regulations "to provide for the conservation of [threatened] species," that may include extending any or all of the prohibitions of section 9 to threatened species. Section 9(a)(1)(g) also prohibits violations of protective regulations for threatened species implemented under section 4(d). NMFS will soon issue protective regulations pursuant to section 4(d) for the Puget Sound, Lower Columbia River, and Upper Willamette River chinook salmon ESUs.

In the case of threatened species, NMFS also has flexibility under section 4(d) of the ESA to tailor the protective regulations based on the contents of adequate available conservation measures. Even though existing conservation efforts and plans are not sufficient to preclude the need for listings at this time, they are nevertheless valuable for improving watershed health and restoring salmon populations. In those cases where well-developed and reliable conservation plans exist, NMFS may choose to incorporate them into the recovery planning process starting with protective regulations. NMFS has already adopted 4(d) protective regulations that except a limited range of activities from section 9 take prohibitions. For example, the interim 4(d) rule for Southern Oregon/Northern California Coasts coho salmon (62 FR 38479, July 18, 1997) excepts habitat restoration activities conducted in accordance with approved plans and fisheries conducted in accordance with an approved state management plan. In the future, 4(d) rules may contain limited take prohibitions applicable to such activities as forestry, agriculture, and road construction when such activities are conducted in accordance with approved conservation plans.

These are all examples where NMFS may apply modified section 9 prohibitions in light of the protections provided in a conservation plan that is adequately protective. There may be other circumstances as well in which NMFS would use the flexibility of section 4(d). For example, in some cases there may be a healthy population within an overall ESU that is listed. In such a case, it may not be necessary to apply the full range of prohibitions available in section 9. NMFS intends to use the flexibility of the ESA to respond appropriately to the biological condition of each ESU and to the strength of efforts to protect them.

Section 7(a)(4) of the ESA requires that Federal agencies consult with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions likely to affect chinook salmon in the listed ESUs include authorized land management activities of the USFS and BLM, as well as operation of hydroelectric and storage

projects of the Bureau of Reclamation and COE. Such activities include timber sales and harvest, hydroelectric power generation, and flood control. Federal actions, including the COE section 404 permitting activities under the Clean Water Act, COE permitting activities under the River and Harbors Act, National Pollution Discharge Elimination System permits issued by the Environmental Protection Agency, highway projects authorized by the Federal Highway Administration, Federal Energy Regulatory Commission licenses for non-Federal development and operation of hydropower, and Federal salmon hatcheries, may also require consultation. These actions will likely be subject to ESA section 7 consultation requirements that may result in conditions designed to achieve the intended purpose of the project and avoid or reduce impacts to chinook salmon and its habitat within the range of the listed ESUs.

There are likely to be Federal actions ongoing in the range of the listed ESUs at the time these listings become effective. Therefore, NMFS will review all ongoing actions that may affect the listed species with Federal agencies and will complete formal or informal consultations, where requested or necessary, for such actions pursuant to ESA section 7(a)(2).

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's "taking" prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves a directed take of listed species.

NMFS has issued section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon, Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging to determine population distribution and abundance, and collection of adult fish for artificial propagation programs. NMFS is aware of many sampling efforts for chinook salmon within these listed chinook salmon ESUs, including efforts by Federal and state fisheries agencies, and private landowners. These and other research efforts could provide critical information regarding chinook salmon distribution and population abundance.

ESA section 10(a)(1)(B) incidental take permits may be issued to nonfederal entities performing activities that may incidentally take listed species. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the release of artificially propagated fish by state or privately operated and funded hatcheries, state or university research on other species, not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on nonfederal lands.

Take Guidance

On July 1, 1994, (59 FR 34272) NMFS and FWS published a policy committing the Services to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and on-going activities within the species' range. NMFS believes that, based on the best available information, the following actions will not result in a violation of section 9: (1) Possession of chinook salmon from the listed ESUs acquired lawfully by permit issued by NMFS pursuant to section 10 of the ESA, or by the terms of an incidental take statement pursuant to section 7 of the ESA; and (2) federally funded or approved projects that involve activities such as silviculture, grazing, mining, road construction, dam construction and operation, discharge of fill material, stream channelization or diversion for which a section 7 consultation has been completed, and when such an activity is conducted in accordance with any terms and conditions provided by NMFS in an incidental take statement accompanied by a biological opinion pursuant to section 7 of the ESA. As described previously in this notice, NMFS may adopt 4(d) protective regulations that except other activities from section 9 take prohibitions for threatened species.

Activities that NMFS believes could potentially harm, injure or kill chinook salmon in the listed ESUs and result in a violation of section 9 of the ESA include, but are not limited to: (1) land-use activities that adversely affect chinook salmon habitat in this ESU (e.g., logging, grazing, farming, road construction in riparian areas, and areas susceptible to mass wasting and surface erosion); (2) destruction or alteration of chinook salmon habitat in the listed ESUs, such as removal of large woody debris and "sinker logs" or riparian shade canopy, dredging, discharge of fill material, draining, ditching, diverting, blocking, or altering stream channels or surface or ground water flow; (3) discharges or dumping of toxic chemicals or other pollutants (e.g., sewage, oil, gasoline) into waters or riparian areas supporting listed chinook salmon; (4) violation of discharge permits; (5) pesticide and herbicide applications; (6) interstate and foreign commerce of chinook salmon from the listed ESUs and import/export of chinook salmon from listed ESUs without an ESA permit, unless the fish were harvested pursuant to legal exception; (7) collecting or handling of chinook salmon from listed ESUs (permits to conduct these activities are available for purposes of scientific research or to enhance the propagation or survival of the species); and (8) introduction of non-native species likely to prey on chinook salmon in these ESUs or displace them from their habitat. This list is not exhaustive. It is intended to provide some examples of the types of activities that might or might not be considered by NMFS as constituting a take of listed chinook salmon under the ESA and its regulations. Questions regarding whether specific activities will constitute a violation of this rule, and general inquiries regarding prohibitions and permits, should be directed to NMFS (see **ADDRESSES**).

Effective Date of Final Listing

Given the cultural, scientific, and recreational importance of chinook salmon, and the broad geographic range of these chinook salmon ESUs, NMFS recognizes that numerous parties may be affected by this listing. Therefore, to permit an orderly implementation of the consultation requirements and take prohibitions associated with this action, this final listing will take effect on May 24, 1999.

Conservation Measures

Conservation benefits are provided to species listed as endangered or threatened under the ESA through increased recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Increased recognition through listing promotes public awareness and conservation actions by Federal, state, and local agencies, private organizations, and individuals.

Several conservation efforts are underway that may reverse the decline of west coast chinook salmon and other salmonids. NMFS is encouraged by these significant efforts, which could provide all stakeholders with an approach to achieving the purposes of the ESA—protecting and restoring native fish populations and the ecosystems upon which they depend—that is less regulatory. NMFS will continue to encourage and support these initiatives as important components of recovery planning for chinook salmon and other salmonids.

To succeed, protective regulations and recovery programs for chinook salmon will need to focus on conserving aquatic ecosystem health. NMFS intends that Federal lands and Federal activities play a primary role in preserving listed populations and the ecosystems upon which they depend. However, throughout the range of the listed ESUs, chinook salmon habitat occurs and can be affected by activities on state, tribal or private land.

Conservation measures that could be implemented to help conserve the species are listed here (the list is generalized and does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA). Progress on some of these is being made to differing degrees in specific areas.

1. Measures could be taken to promote practices that are more protective of (or restore) chinook salmon habitat across a variety of land and water management activities. Activities affecting this habitat include timber harvest; agriculture; livestock grazing and operations; pesticide and herbicide applications; construction and urban development; road building and maintenance; sand and gravel mining; stream channelization; dredging and dredged spoil disposal; dock and marina construction; diking and bank stabilization; dam construction/operation; irrigation withdrawal, storage, and management; mineral mining; wastewater/pollutant discharge; wetland and floodplain alteration; habitat restoration projects; and woody debris/structure removal from rivers and estuaries. Each of these activities could be modified to ensure that watersheds and specific river reaches are adequately protected in the short-and long-terms.

2. Fish passage could be restored at barriers to migration through the installation or modification of fish ladders, upgrade of culverts, or removal of barriers.

3. Harvest regulations could be modified to protect listed chinook salmon populations affected by both directed harvest and incidental take in other fisheries.

4. Artificial propagation programs could be modified to minimize negative impacts (e.g., genetic introgression, competition, disease, etc.) upon native populations of chinook salmon.

5. Predator control/relocation programs could be implemented in areas where predators pose a significant threat to chinook salmon.

6. Measures could be taken to improve monitoring of chinook salmon populations and their habitat.

7. Federal agencies such as the USFS, BLM, Federal Energy Regulatory Commission, COE, U.S. Department of Transportation, and U.S. Bureau of Reclamation could review their management programs and use their discretionary authorities to formulate conservation plans pursuant to section 7(a)(1) of the ESA.

NMFS encourages non-Federal landowners to assess the impacts of their actions on threatened or endangered salmonids. In particular, NMFS encourages state and local governments to use their existing authorities and programs, and encourages the formation of watershed partnerships to promote conservation in accordance with ecosystem principles. These partnerships will be successful only if state, tribal, and local governments, landowner representatives, and Federal and non-Federal biologists all participate and share the goal of restoring salmon to the watersheds.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Section 4(b)(6)(C)(ii) provides that, where critical habitat is not determinable at the time of final listing, NMFS may extend the period for designating critical habitat by not more than one additional year.

In the proposed rule (63 FR 11482, March 9, 1998), NMFS described the areas that may constitute critical habitat for the proposed chinook salmon ESUs. Since then, NMFS has received numerous comments from the public concerning the process and definition of critical habitat for chinook salmon and other salmonids. Also, due to statutory time limitations, NMFS has not yet consulted with affected Indian tribes regarding the designation of critical habitat in areas that may affect tribal trust resources, tribally owned fee lands, or the exercise of tribal rights.

Given these remaining unresolved issues, NMFS determines at this time that a final critical habitat designation is not determinable for these ESUs since additional time is required to complete the needed biological assessments and evaluate special management considerations affecting critical habitat. NMFS, therefore, extends the deadline for designating critical habitat for 1 year until such assessments can be made and after appropriate consultations are completed.

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F.2d 825 (6th Cir., 1981), NMFS has categorically excluded all ESA listing actions from the environmental assessment requirements of the National Environmental Policy Act (NEPA) under NOAA Administrative Order 216–6.

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. In addition, this final rule is exempt from review under E.O. 12866.

This rule has been determined to be major under the Congressional Review Act (5 U.S.C. 801 *et seq.*)

At this time NMFS is not promulgating protective regulations pursuant to ESA section 4(d). In the future, prior to finalizing its 4(d) regulations for the threatened chinook salmon ESUs, NMFS will comply with all relevant NEPA and RFA requirements.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**). Reference materials regarding this listing determination can also be obtained from the internet at www.nwr.noaa.gov.

Change in Enumeration of Threatened and Endangered Species

In the proposed rule issued on March 9, 1998 (63 FR 11482), Upper Columbia river spring-run chinook salmon was added to paragraph (a) in § 222.23 and Puget Sound, Lower Columbia River and Upper Willamette spring-run chinook salmon were designated as paragraphs (s), (t) and (u) respectively in § 227.4. Since March 9, 1998, NMFS has issued a final rule consolidating and reorganizing existing regulations regarding implementation of the ESA. In this reorganization, § 222.23 has been redesignated as § 224.101, therefore, Upper Columbia River spring-run chinook salmon has been added in this final rule to paragraph (a) in § 224.101. Also in this reorganization, § 227.4 has been redesignated as § 223.102; therefore, Puget Sound, Lower Columbia River and Upper Willamette spring-run chinook salmon have been added in this final rule to paragraph (a) in § 223.102 as (16), (17), and (18), respectively.

List of Subjects

50 CFR Part 223

Administrative practice and procedure, Endangered and threatened

species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 224

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: March 15, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 223.102, paragraphs (a)(16), (a)(17) and (a)(18) are added to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(a) * * *

(16) Puget sound chinook salmon (*Oncorhynchus tshawytscha*). Includes all naturally spawned populations of chinook salmon from rivers and streams flowing into Puget Sound including the Straits of Juan De Fuca from the Elwha River eastward, including rivers and streams flowing into Hood Canal, South Sound, North Sound and the Strait of Georgia in Washington.

(17) Lower Columbia River chinook salmon (*Oncorhynchus tshawytscha*). Includes all naturally spawned populations of chinook salmon from the Columbia River and its tributaries from its mouth at the Pacific Ocean upstream to a transitional point between Washington and Oregon east of the Hood River and the White Salmon River, and includes the Willamette River to Willamette Falls, Oregon, exclusive of spring-run chinook salmon in the Clackamas River.

(18) Upper Willamette River chinook salmon (*Oncorhynchus tshawytscha*). Includes all naturally spawned populations of spring-run chinook salmon in the Clackamas River and in the Willamette River, and its tributaries, above Willamette Falls, Oregon.

* * * * *

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

3. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

4. In § 224.101, paragraph (a) is revised to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(a) *Marine and anadromous fish.* Shortnose sturgeon (*Acipenser brevirostrum*); Totoaba (*Cynoscian macdonaldi*), Snake River sockeye salmon (*Oncorhynchus nerka*), Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*); Southern California steelhead (*Oncorhynchus mykiss*), including all naturally spawned populations of steelhead (and their progeny) in streams from the Santa Maria River, San Luis Obispo County, California (inclusive) to Malibu Creek, Los Angeles County, California (inclusive); Upper Columbia River steelhead (*Oncorhynchus mykiss*), including the Wells Hatchery stock and all naturally spawned populations of steelhead (and their progeny) in streams in the Columbia River Basin upstream from the Yakima River, Washington, to the United States—Canada Border; Upper Columbia River spring-run chinook salmon (Oncorhynchus tshawytscha), including all naturally spawned populations of chinook salmon in Columbia River tributaries upstream of the Rock Island Dam and downstream of Chief Joseph Dam in Washington (excluding the Okanogan River), the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to Chief Joseph Dam in Washington, and the Chiwawa River (spring run), Methow River (spring run), Twisp River (spring run), Chewuch River (spring run), White River (spring run), and Nason Creek (spring run) hatchery stocks (and their progeny); Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*).

* * * * *

[FR Doc. 99–6815 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 990303060–9060–01; I.D.022398C]

RIN 0648–AM54

Endangered and Threatened Species: Notice of Partial 6-Month Extension on Final Listing Determinations for Four Evolutionarily Significant Units (ESUs) of West Coast Chinook Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; partial extension of deadline for final determination.

SUMMARY: NMFS has determined that substantial scientific disagreements exist regarding the sufficiency and accuracy of data relevant to final listing determinations for the California Central Valley spring-run and Central Valley fall/late fall-run, Southern Oregon and California Coastal, and Snake River fall-run ESUs of chinook salmon.

By this publication, NMFS intends to extend the deadline for a final listing determination for these four ESUs for 6 months to collect and analyze specific additional information from co-managing agency scientists and other scientific experts on this species that will enable NMFS to make a final listing determination based on the best available scientific information. NMFS has also issued final listing determinations for Puget Sound chinook salmon, Lower Columbia River chinook salmon, Upper Willamette spring-run chinook salmon and Upper Columbia River spring-run chinook salmon which published elsewhere in the Rules and Regulations section of this **Federal Register** issue.

DATES: Comments must be received by April 23, 1999. The new deadline for final action on the four ESUs of west coast chinook salmon is extended from March 9, 1999, to September 9, 1999.

ADDRESSES: Written comments should be sent to Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737; or to Chief, Protected Resources Division, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; or to Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, 503-231-2005, Craig Wingert, 310–980–4021, or Christopher Mobley, 301-713-1401.

SUPPLEMENTARY INFORMATION:

Background

Historically, chinook salmon inhabited most coastal streams in Washington, Oregon, and California, as well as many inland streams in these states and in Idaho. However, during this century, over 50 indigenous, naturally reproducing stocks of chinook salmon are believed to have been extirpated, and many more have been identified as being at moderate or high risk of extinction in numerous coastal and inland streams in Washington, Oregon, Idaho, and California (Nehlsen *et al.*, 1991; Higgins *et al.*, 1992).

The history of Endangered Species Act (ESA) listing petitions received regarding west coast chinook salmon is summarized in the proposed listings rule published on March 9, 1998 (63 FR 11482). The most recent and comprehensive petition was submitted by Oregon Natural Resources Council and Siskiyou Project Staff Ecologist Dr. Rich Nawa on February 1, 1995. In response to this petition, as well as to earlier petitions, NMFS collected and assessed the best available scientific and commercial data, including technical information compiled from the Pacific Salmon Biological Technical Committees (PSBTCs) and from interested parties in Washington, Oregon, Idaho, and California. The PSBTCs consisted primarily of scientists from Federal, state, and local resource agencies, Indian tribes, industries, universities, professional societies, and public interest groups possessing technical expertise relevant to chinook salmon and their habitats.

NMFS also established a Biological Review Team (BRT) that was composed of staff from NMFS' Northwest and Southwest Fisheries Science Centers and Southwest Regional Office, as well as a representative of the National Biological Survey. The BRT conducted a coastwide status review for west coast chinook salmon (Myers *et al.*, 1998) and identified 15 ESUs in the States of Washington, Oregon, Idaho, and California. These ESUs included two Snake River ESUs already listed under the ESA, one previously identified ESU (mid-Columbia River summer/fall run) for which no listing was proposed and one population (Sacramento River winter-run) that was listed as a "distinct population segment" prior to the formulation of the NMFS ESU policy. Based on the results of the BRT report and after considering other information and efforts being made to protect chinook salmon, NMFS proposed (1) Listing two ESUs as endangered; (2) listing five ESUs as threatened; and (3) redefining the Snake River fall-run chinook salmon ESU (previously listed as a threatened species under the ESA in 1992 (57 FR 14653)) to include fall chinook salmon populations in the Deschutes River, and listing the redefined ESU as a threatened species (63 FR 11482, March 9, 1998). NMFS also concluded that at the time four ESUs did not warrant protection under the ESA.

Finding

Within 1 year from the date of a proposed listing, section 4(b)(6) of the ESA requires NMFS to take one of three actions: (1) Finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the 1-year period for not more than 6 months pursuant to section 4(b)(6)(B)(i) of the ESA. Section 4(b)(6)(B)(i) of the ESA allows NMFS to extend the deadline for a final listing determination for not more than 6 months for the purpose of soliciting additional data. NMFS' ESA implementing regulations condition such an extension on the finding of "substantial disagreement among scientists knowledgeable about the species concerned regarding the sufficiency or accuracy of the available data relevant to the determination." (50 CFR 424.17(a)(1)(iv)).

NMFS has analyzed new information and public comments received in response to the March 9, 1998, proposed rule. As a result of the new information and comments, NMFS has determined that substantial scientific disagreements exist regarding the sufficiency and accuracy of data relevant to final listing determinations for California's Central Valley spring-run and fall/late fall-run and for Southern Oregon and California Coastal and for Snake River fall-run chinook salmon ESUs (Memorandum from U. Varanasi and M. Tillman to W. Stelle and W. Hogarth, October 30, 1998). These scientific disagreements concern the consistency of analysis used to identify temporal runs of chinook salmon in the same basin, the data needed to determine the geographic boundaries of certain ESUs, and information related to the risk assessment for some chinook salmon ESUs. Therefore, NMFS extends the final listing determination deadline for these four ESUs for 6 months to collect and analyze these additional data.

Several efforts are underway that may resolve the scientific disagreements relevant to these ESUs. These efforts include (1) analysis of tissue samples of

Central Valley, Southern Oregon and California Coastal, and Upper Klamath and Trinity River spring- and fall-run chinook salmon that have been and will be collected this summer and fall by various parties, including the California Department of Fish and Game (CDFG) and NMFS, to help determine the genetic relationship between conspecific temporal runs of chinook salmon in these ESUs; (2) collection of Deschutes River fall-run chinook salmon samples by the Confederated Tribes of the Warm Springs Reservation (CTWSR) which will be genetically analyzed by the Washington Department of Fish and Wildlife and used by NMFS to determine the genetic makeup of these chinook salmon in relationship to the genetic structure of listed Snake River fall-run chinook salmon; and (3) analysis of additional genetic and abundance data regarding the ratio of hatchery-to-natural fall-run chinook salmon in California's Central Valley. A more detailed discussion of the areas of substantial scientific disagreement and of the efforts to resolve it follows.

Points of Substantial Scientific Disagreement

Knowledgeable scientists from state fish and wildlife agencies, tribes, the public, and some peer reviewers dispute the sufficiency and accuracy of data employed by NMFS in its proposed listing of west coast chinook salmon ESUs in California, Oregon, and Washington. The primary areas of dispute fell into two broad categories: issues relating to ESU definitions and issues relating to risk assessment. The following sections briefly discuss the types of data that are subject to disagreement within each category.

Issues Relating to ESU Definitions

Two points of scientific disagreement may affect chinook salmon ESU boundaries. One area of disagreement concerns NMFS' treatment of diverse life history forms within the individual ESUs, specifically the relationship between spring and fall chinook salmon in the same river basins. Comments received focused on NMFS' use of primarily genetic data in making its determination to combine spring and fall chinook salmon into a single ESU. Some commenters argued that not all relevant life history characteristics are apparent through an analysis of discrete genetic markers.

CDFG, U.S. Fish and Wildlife Service, Hoopa Valley Tribal Council (HVTC), Yurok Tribal Fisheries Program (YTFP), and several of the peer-reviewers, as well as a number of local government agencies, conservation groups, and private citizens, all felt that in a number of cases where spring- and fall-run chinook salmon were included in the same ESU, separate ESUs should have been established. These recommendations were supported with information on ecological differences in spring and fall-run spawning and juvenile rearing habitat. Furthermore, it was argued that separation in spawning time and location provided a significant amount of reproductive isolation, even in those systems where dams had restricted access to historical spring-run spawning habitat. Several of the commenters highlighted these ecological and life history differences in those ESUs where genetic data were limited or lacking. Furthermore, the commenters stated that the lumping of spring and fall runs in the Klamath River ESU and in coastal ESUs was inconsistent with the recognition of separate fall- and spring-run ESUs in California's Central Valley and the upper Columbia River Basin.

However, another point of disagreement concerns whether there is significant reproductive isolation between spring and fall chinook salmon to warrant their designation as separate ESUs. One peer reviewer indicated that the genetic differences observed between the Central Valley fall/late fall- and Central Valley spring-run ESU were not compelling enough to justify their separation into two ESUs. NMFS will receive new samples of spring and fall chinook salmon from CDFG and CTWSR at the conclusion of the run year early in 1999 and will need time to analyze these additional data.

The relationship between different chinook salmon temporal runs within the same geographic areas varies by region. For example, in Puget Sound and in the Columbia River, considerable information is available on the relationship between spring- and fall-run populations. The two runs are well differentiated by both genetic and life history traits in the upper Columbia and Snake Rivers, whereas the same characters show only modest differences between runs in Puget Sound. These patterns are well established and are not likely to change if additional information were gathered.

The relationship of different temporal runs in some other areas, especially those south of Cape Blanco, Oregon, are much less clear. NMFS had limited genetic information on the relationship between spring and fall runs in California's Central Valley and in the Klamath River Basin. The only allozyme information available for spring-run chinook salmon in both of these regions is from hatchery broodstocks. Furthermore, available information suggests that these "spring-run" broodstocks have undergone significant hybridization with fall-run chinook salmon returning to the Feather River Hatchery in the Central Valley. In the Upper Klamath and Trinity River ESU, there was no genetic information available for naturally-spawning populations. NMFS concluded that the case for separating the spring and fall runs in this ESU on an ecologic and life-history basis alone was not as compelling as was the case in the Central Valley. However, NMFS will review this decision if new genetic information on naturally-spawning spring-run populations becomes available to NMFS.

Another scientific disagreement concerning California's Central Valley spring-run chinook salmon ESU concerns the origins of some spring-run chinook salmon populations. Disagreements have arisen concerning the origin of the recently increasing number of spring-run chinook salmon in Butte Creek, a tributary of the Sacramento River. The California Department of Water Resources and CDFG presented genetic information which indicates that the spring-run chinook salmon population in Butte Creek is not the result of Feather River Hatchery stray chinook salmon, as NMFS suggested might be the case. New DNA data suggests that Butte Creek spring-run chinook salmon may be more closely related to spring-run fish in Deer and Mill Creeks than to fall or late-fall run stocks. NMFS was unable to positively ascertain the origin of spring-run chinook salmon in Butte Creek at the time of the proposed listing and is curently analyzing new genetic samples of Butte Creek spring-run chinook salmon provided by CDFG so that it can more accurately address questions concerning ESU configurations and abundance within the Central Valley.

Scientific disagreement was also raised by the Oregon Department of Fish and Wildlife (ODFW), CDFG, and a number of other commenters who disputed the geographic boundaries of the Southern Oregon and California Coastal chinook salmon ESU. Comments focused on two issues: (1) Splitting the ESU just south of the Klamath River; and (2) revising the southern boundary to the Russian River or north of the Russian River. Genetic data presented in the status review indicate that within this ESU there are two somewhat distinct subgroups (the first group includes populations from Cape Blanco to the Klamath River Basin, inclusive, and the second group includes populations south of the Klamath

River). These commenters argued that the genetic distance separating these groups is comparable to the distance between other ESUs recognized by NMFS (e.g., between Upper Columbia summer and fall-run and Snake River fall-run ESUs, and Oregon Coast and Washington Coast ESUs). Furthermore, these commenters argued that there are considerable ecological differences between the northern and southern populations within this large ESU. These geological and environmental differences had been used by NMFS, in part, to separate coho salmon and steelhead from this large geographic area into two separate ESUs. ODFW further contended that the depressed status of chinook salmon in the southern portion of this ESU was dramatically different from that found in the northern part, and that the causal factor(s) for this difference may be related to environmental and management differences between the regions of this ESU.

The second geographic boundary issue that was presented by reviewers was the boundary of the southern border of the Southern Oregon and California Coastal ESU. Several citations were given to substantiate claims that self-sustaining chinook salmon populations do not presently, and did not historically, exist in river basins south of the Russian River or in San Francisco Bay. Additionally, some commenters contended that chinook salmon native to the Russian River are extinct, and that the historical abundance of the population was never very large and may have been intermittent. Part of the rationale for not dividing the Southern Oregon and California Coastal ESU was based on the absence of biological information on populations in the southern portion of the ESU. Although genetic information was available for these southern stocks, the differences observed were not consistent with the genetic differences used to distinguish other ESUs.

Information on the historical distribution of chinook salmon south of the Mattole River is very limited. Historical records from the turn of the century indicate that the southernmost population was in the Ventura River. The only extant coastal populations south of the Mattole River are a fall-run population(s) in the Ten-Mile River (Mendocino County) and possibly the Russian River. CDFG and other reviewers concluded that the native run in the Russian River was extirpated early in this century, and genetic information and hatchery transfer records indicate that the current population is composed of a myriad of introduced stocks. Chinook salmon have also been observed spawning in the Guadalupe River (south San Francisco Bay) and have been recently observed in several other tributaries in San Francisco Bay (Coyote Creek), San Pablo Bay (Sonoma Creek, Napa River), and Suisun Bay (Walnut Creek) (SOE, 1996), but NMFS was unable to resolve the origin of these populations.

Regarding the Snake River fall-run chinook salmon ESU, ODFW, CTWSR, the Columbia River Inter-Tribal Fish Commission (CRITFC), and other reviewers disagreed with the inclusion of the Deschutes River fall-run chinook salmon in this ESU. They argued that the Deschutes River and Snake River Basins are ecologically distinct. Furthermore, the geographic distance between these basins would preclude any significant genetic exchange, especially if one considers the historical spawning distribution of the Snake River chinook salmon. A number of scenarios were suggested that might explain the genetic similarity between the Deschutes River and Snake River fall-run populations. One scenario presented by ODFW suggested that, after the loss of the majority of their historical spawning habitat, the remaining Snake River fall-run populations no longer represent the genetic characteristics of the historical ESU. They stressed that the existing allozyme information NMFS analyzed was acquired after the Columbia River Basin had undergone considerable alterations (mainstem dam construction) and many of the native populations had been extirpated. An alternative view is that because the genetic differences between all ocean-type chinook salmon above the Dalles Dam are relatively small, the clustering of populations is subject to uncertainty and possible bias, depending on the procedures used. The commenters also suggested that the marine coded-wire tag recovery information for the Deschutes River fall-run populations may be biased due to the limited number of tags recovered and the limited number of brood years that were tagged. CTWSR asserted that an ocean-type summer-run existed (and may still exist) in the Deschutes River, and this would evolutionarily link the Deschutes River ocean-type fish more with ocean-type fish in the Upper Columbia summer/fall-run ESU, which (unlike the Snake River fall-run ESU) also includes summer-run populations.

Some reviewers suggested that all ocean-type chinook salmon above the historical location of Celilo Falls should be considered a single ESU. The most commonly suggested alternative ESU configuration was for a separate ESU that would include the Deschutes River, and the now extinct populations that once spawned in the John Day, Umatilla, and Walla Walla Rivers.

Considerable uncertainty exists regarding the Snake River fall-run chinook salmon ESU configuration, and none of the alternatives considered (including the configuration in the proposed rule) for these chinook salmon populations can be convincingly substantiated by the existing scientific evidence.

Issues Related to Risk Assessment

Risk assessment involves the collection and analysis of data on the abundance and status of west coast chinook salmon and the threats presented by various human activities and natural occurrences. In its "Factors for Decline" report for west coast chinook salmon, NMFS identified the principal threats to chinook as past and present harvest and hatchery practices, habitat loss, fragmentation, and degradation, as well as adverse ocean conditions (NMFS, 1998).

With respect to abundance data, several commenters argued that NMFS lacked sufficient and accurate data to estimate current chinook salmon abundance. These commenters argued that NMFS failed to accurately estimate the number and effects of hatchery fish spawning in the wild, and that NMFS' analysis upwardly biased its assessment of the risks facing chinook salmon in those instances.

The Association of California Water Agencies and other resources agencies disagreed with NMFS' conclusion that a considerable portion of the naturally-spawning population in the Central Valley were hatchery strays. They argued that in the absence of definitive information regarding the proportion of strays spawning naturally that NMFS could not adequately define risks. Additionally, they argued that if hatchery and natural populations were indistinguishable (due to the use of broodstocks from within the ESU) and hatcheries are needed to mitigate lost habitat, then hatchery abundance should be included in the risk determination. Furthermore, one estimate of the hatchery stray rate (20 percent) is much lower than that found in other ESUs that were not recommended for listing.

NMFS considered several different estimates of hatchery contribution to naturally spawning chinook salmon populations in the Central Valley. The estimates of stray rates varied from 20 to over 50 percent. Additionally, NMFS inferred the status of naturally-spawning populations by comparing the

abundance trends for populations that were near hatchery release sites relative to those more distantly situated. Recent information indicates that stray rates for many basins, especially those in the San Joaquin River Basin, are well in excess of 50 percent, but may be quite low for selected basins in the upper Sacramento River. Additional spawner survey, smolt sampling, and coded-wire-tag recovery data have been received from CDFG, the water resource agencies, and other comanagers. This information begins to fill an important void in NMFS' understanding of the relationship between hatchery and spawning fish. There are still a number of major basins for which there is limited, dated information on spawner strays. NMFS and CDFG staff are currently collecting additional information and data to help resolve these substantial scientific disagreements.

In the case of Central Valley spring-run chinook salmon, spawner abundance in Butte Creek increased from less than a hundred to several thousand in a few years; the 1998 abundance estimate for the Butte Creek spring run is approximately 19,000 spawners. This increase was so abrupt that it caused some speculation that it was not due to natural production. Furthermore, water from the Feather River had been diverted into Butte Creek to improve flows, and it was suggested that this may have attracted Feather River Hatchery fish. If these fish are included in the total abundance estimate for the Central Valley spring-run chinook salmon ESU, it represents a several fold increase in total spring-run chinook salmon abundance and this new information may affect NMFS' determination. NMFS was unable to positively ascertain the origin of spring-run chinook salmon in Butte Creek at the time of the proposed listing, and our recently collected genetic samples have yet to be fully analyzed.

Prospects for Resolving Existing Disagreements

Several efforts are underway that may resolve scientific disagreement regarding the sufficiency and accuracy of data relevant to these listings. Currently, NMFS is obtaining genetic samples from naturally-spawning spring- and fall-run populations in the Central Valley and the upper Klamath and Trinity River Basins. Furthermore, a number of co-managing agencies (U.S. Forest Service, CDFG, the Natural Resources Conservation Service, HVTC, and YTFP) in the Upper Klamath and Trinity Rivers and Southern Oregon and Coastal California ESUs have collected samples for microsatellite DNA analysis from both spring and fall runs. These samples would be very useful in determining the relationship between conspecific temporal chinook salmon runs within an ESU, as currently defined, and would provide a wider geographic context for the DNA data that were utilized in determining the configuration of the California chinook salmon stocks. Additionally, DNA information has been made available from California State agencies for an additional naturally-spawning spring run in California's Central Valley (Butte Creek). Over the next few months the analysis of this genetic information will be completed at the Bodega Bay Marine Laboratory and Hopkins Marine Station Laboratory (DNA samples) and by NMFS (allozyme samples). The results will provide a more complete picture of the genetic relationship between conspecific temporal runs and may significantly alter the configuration of the proposed ESUs.

Presently, there are reports of chinook salmon (of unknown run size and origin) spawning in a number of tributaries to Suisun Bay, San Pablo Bay, and San Francisco Bay. New information is being gathered by NMFS to document the occurrence of spawning chinook salmon throughout San Francisco Bay and the lower Delta region.

Regarding the Snake River fall-run chinook salmon ESU, ODFW and CTWSR are currently collecting new genetic samples from fish spawning in the Deschutes River. Samples are being taken from above and below Sherars Falls to establish whether multiple populations exist within the Deschutes River. The CTWSR is also reviewing historical environmental data for the Deschutes and Snake River Basins. CTWSR and CRITFC will prepare a report of the results of their studies for NMFS to review by late spring 1999.

For California's Central Valley ESUs, NMFS will receive and analyze additional spring- and fall-run genetic samples as well as rigorously evaluate ecological characteristics to determine if further subdivision of these ESUs are warranted. Currently, NMFS is obtaining tissue samples for allozyme analysis from Butte Creek, Deer Creek, and possibly Mill Creek (the latter two sites contain what are generally thought to be the native spring runs). The inclusion of these samples in the NMFS allozyme database should help resolve the origin of the Butte Creek fish, and evaluate the reproductive isolation of conspecific temporal relationships between spring- and fall-run chinook salmon in the Sacramento and San Joaquin Rivers.

Determination

NMFS expects that information that has just become (or will soon become) available will, when fully analyzed, significantly help to resolve scientific uncertainties associated with ESU determinations and/or extinction risk analysis for the chinook salmon ESUs discussed earlier in this document. Four of these chinook salmon ESUs were proposed for listing in 1998: Central Valley spring- and fall/late fall-run, Southern Oregon and California Coastal, and Snake River fall-run chinook salmon. This information should also help clarify the ESU configuration and status of populations in the Upper Klamath and Trinity Rivers ESU (an ESU that was not proposed for listing), thus providing greater certainty and consistency in ESU determinations coastwide.

With respect to the other ESUs of chinook salmon that were proposed for listing on March 9, 1998 (Puget Sound, Lower Columbia River, Upper Willamette River, and Upper Columbia River spring-run), NMFS has made final listing determinations published elsewhere in the Rules and Regulations section of this **Federal Register** issue.

The scientific disagreements concerning data and analyses discussed earlier are substantial and may alter NMFS' assessment of the status of California's Central Valley spring-run and Central Valley fall/late fall-run, Southern Oregon and California Coastal, and Snake River fall chinook salmon ESUs. In light of these disagreements and the fact that more data are forthcoming on risk assessment and ESU boundaries, NMFS extends the final determination deadline for California's Central Valley spring-run and Central Valley fall/late fall-run, Southern Oregon and California Coastal, and Snake River fall-run chinook salmon ESUs for 6 months from the 1-year decision deadline, until September 9, 1999. During this period, NMFS will analyze new information aimed at resolving these disagreements. New information or analyses may indicate that changing the proposed status of one or more of these ESUs of west coast chinook salmon is warranted, and NMFS will either finalize, withdraw, or modify the proposed rule accordingly.

Request for Comments

In addition to collecting and analyzing data received, NMFS seeks additional comments on the information presented in this **Federal Register** document. Comments must be received by April 23, 1999.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**).

Authority: 16 U.S.C. 742a *et. seq.*; 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 1531–1543; 16 U.S.C. 31 U.S.c. 9701.

Dated: March 15, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–6816 Filed 3–23–99; 8:45 am]

BILLING CODE 3510–22–F

MI

OL

64

SS

56

MR

24

99

MI

federal register

Wednesday
March 24, 1999

Part III

Department of Labor

Employment and Training Administration

Consultation Paper on Performance Accountability Measurement for the Workforce Investment System Under Title I of the Workforce Investment Act; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Consultation Paper on Performance Accountability Measurement for the Workforce Investment System Under Title I of the Workforce Investment Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to disseminate consultation papers for interested parties on the Performance Accountability Measurement System for Title I of the Workforce Investment Act. There are two papers. The first presents the broad framework for Core Measures of Performance and Customer Satisfaction specified in Title I, Section 136. The second presents the framework for Negotiating State Adjusted Levels of Performance as specified in Title I Section 136. These papers are to be used by States intending to implement the Workforce Investment Act as of July 1, 1999. The Department of Labor will work with States individually to ensure that there are no negative consequences if significant changes occur in these papers based on the comments received. Interested parties have 30 days to provide comments on these papers. Over the next several months additional consultation papers will also be disseminated for comment.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Johnson, Workforce Investment Implementation Taskforce Office, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S5513, Washington, DC, Telephone: (202) 219–0316 (voice) (This is not a toll-free number), or 1–800–326–2577 (TDD). Information may also be found, or comments provided, at the website—http://usworkforce.org.

SUPPLEMENTARY INFORMATION: The Workforce Investment Act (WIA or Act), Pub. L. 105–220 (August 7, 1998) provides the framework for a reformed National workforce and employment system designed to meet the needs of the Nation's employers, job seekers and those who want to further their careers. Title I of WIA specifies Core Performance and Customer Satisfaction measures. Each Governor must submit a five-year strategic plan no later than April 1, 1999, to begin WIA programs by July 1, 1999, and no later than April 1, 2000, to begin WIA programs by July 1, 2000. The current law, the Job Training Partnership Act, is repealed effective July 1, 2000. States planning to implement during PY 1999 are to utilize these papers in addressing Performance Accountability in their plans.

An important part of the five-year strategic plan is the establishment of performance levels for each of the core performance and customer satisfaction measures, which will be negotiated between the Governor and the Secretary of Labor. These levels will form the basis for incentives and sanctions as specified in Title I, section 136 and Title V, section 503 of the Workforce Investment Act.

The U. S. Department of Labor is establishing this performance accountability measurement system, and the process for reaching agreement on State adjusted levels of performance. These two consultation papers are part of that effort. Some of the questions on which the Department of Labor is seeking input are the following:

- Which services would be appropriately defined as self-service/informational and thus not included in the core measures, and which services fall into the core services, intensive services or training;
- The point at which adult and youth registrants are counted for different performance measures (e.g., at a certain time after registration, during the reporting period, after completion of service, after program exit);
- The use of wage records for performance measurement considering availability, completeness, accuracy, timeliness and when wage records might be combined with supplemental sources (i.e., administrative records or survey data for performance purposes) considering the need for consistency, comparability and cost effectiveness;
- Who will be counted in the numerator and/or denominator of those measures expressed as rates, for example how should the employed and underemployed who receive services be accounted for;
- Identifying possible unintended effects resulting from definitions/policies around performance measurements;
- Identifying burdensome and unnecessary requirements that will provide limited benefit, but will be costly in terms of both record keeping requirements and processing;
- Using adjustment models in (1) negotiating State adjusted levels of performance to account for differences in service mix, participant characteristics and labor markets and/or (2) determining eligibility for incentives and consideration for sanctions comparing negotiation assumptions with actual information.
- Sources and types of information that would be useful in negotiating State adjusted levels of performance;
- The circumstances in which revisions to State adjusted levels of performance will be required by the Department, including special circumstances for early implementing States and the differences between the first program year and subsequent years covered by a State's 5-year plan. For example, if better data available in later years or if actual performance data shows that the assumptions under which State adjusted performance levels were negotiated are incorrect, should the Department require that approved levels for later years be changed.

Please consider these issues as you review these consultation papers, and provide comments.

Signed at Washington, DC, this 17th day of March 1999.

Raymond L. Bramucci,

Assistant Secretary of Labor, Employment and Training Administration.

Attachment 1—Performance Accountability Measurement for the Workforce Investment System

I. Introduction

The Workforce Investment Act (WIA) calls for a comprehensive accountability system to assess the effectiveness of State and local areas in providing employability and training services. The Act requires:

- A focus on results defined by "core indicators" of performance;
- Customer Satisfaction with programs and services measured and related to results;
- A strong emphases on Continuous Improvement of Services;
- Annual performance levels and improvement plans developed during negotiations among Federal, State and local partners;
- Awards and Sanctions based on State performance; and
- State reporting and record keeping.

In addition, States are required to provide annual reports to the Secretary of Labor with respect to progress in achieving State performance measures. The Act requires certain additional information be provided, such as cost of workforce investment activities and specified recipient data.

This paper presents a draft framework for the workforce investment system core performance and customer service measures that apply to States in Title I of the WIA and will be used in determining State adjusted performance levels, eligibility for incentive grants or imposing sanctions. Additional papers on all of the above listed requirements

are being developed and will be provided for comment in the coming weeks. This paper is intended to elicit discussion about how success will be defined for workforce investment system activities and how it can efficiently and effectively be measured Statewide. The concepts within the paper build on previous Department of Labor (DOL) efforts such as the Workforce Development Performance Measures Initiative, the Labor Exchange Performance Measures Work Group, Simply Better!, Employment Service (ES) Reinvention and the Enterprise. It also incorporates input from State and local officials that was received at recent consultations focusing on WIA accountability and from other WIA briefings and communications.

Please keep in mind that this document presents an overall framework. It does not fully address a number of the detailed technical and operational issues that were raised at recent consultations, nor is it intended to serve as reporting instructions. In addition to your feedback on this framework, we are also interested in input on technical and operational issues that may not have been addressed by this paper. All of this input will be used to develop further guidance and finalize the document for use by those States planning to implement the Workforce Investment Act before July 2000. This paper includes proposed definitions for the Core Indicators of Performance that will be used for State incentive grant eligibility determinations and sanctions.

The paper is divided into three sections:

- Adult Performance Measures and Definitions that will apply separately to: (1) Adult Services, (2) Dislocated Worker services, and (3) Services to Eligible Youth 19 to 21 years old in Youth programs under Section 129 of WIA.
- Youth Performance Measures and Definitions for Services to Eligible Youth 14 to 18 years old in the Youth Program.
- Customer Satisfaction Measures for Participants and Employers.

While the specific core performance indicators and customer satisfaction indicators outlined in this paper only apply by law to Title I of WIA, DOL may adopt them, as appropriate, for other DOL programs, and will work in cooperation with other Federal partner agencies to reach agreement where feasible on uniform measures. Thus, all partners are encouraged to review and comment on this draft framework. However, any changes to other programs whether internal or external to DOL would require appropriate actions based upon present Laws, Regulations and/or policies.

Definitions to be used by all States and localities are provided for each of the core indicators and customer satisfaction measures to ensure comparability. Comparability of measures among States is important for two reasons. First, core indicators and the customer satisfaction performance levels are to be negotiated between the States and DOL. One of the factors affecting those negotiations are "how the levels compare with State-adjusted levels of performance established for other States * * *" Second, comparability also contributes to continuous improvement. Having standard definitions will allow States and localities to benchmark other States and localities to promote continuous improvement. Comparability also will facilitate the sharing of best practices within and among the States. Since the performance and accountability system under WIA includes incentives and sanctions, comparability is important to fairness and equity.

Continuous improvement is a significant and required element of WIA. States and localities need to collect more substantial data than the core measures or other required measures under the Act to function in a continuous improvement environment. Therefore, it is important for State and local leadership to take advantage of the opportunity when developing their performance systems to go beyond Federal requirements.

II. Adult/Dislocated Worker Services

A. Workforce Investment Act (WIA) Requirements/Program Activity Categories for Reporting

The WIA provides for a continuum of service delivery that includes three levels of services: (1) core services; (2) intensive services; and (3) training services. All persons will have access to core employment-related information and self-service tools without restrictions or additional eligibility requirements, assuming sufficient funds are available. Those core services that are not primarily informational and must be staff-assisted will require WIA registration. Intensive services and training will also require WIA registration. The intensive services are provided when a determination is made that unemployed individuals are or would be unable to obtain employment after receiving the basic core services, or when employed individuals are determined to be in need of these intensive services to obtain or retain employment that allows for self-sufficiency. Similarly, training services are only available after a determination that the individual is unable to obtain or retain employment that leads to self-sufficiency through intensive services.

For accountability purposes, WIA establishes core indicators of performance in State and local WIA financed systems for participants in all workforce investment activities other than self-service and informational activities. This exception recognizes the low cost per unit of providing these services. WIA also requires that States and localities report on how participants in workforce investment activities other than training (except for self-service and informational activities) compare to participants in training activities. Therefore, the level of service individuals receive defines whether the individual will be counted in the core indicators and if so, how they will be categorized for reporting purposes.

Many of the core services generally will be low cost, self-service and consist primarily of information and not require registration. In contrast, intensive services will be more costly, require significantly more staff investment, and thus, justify a different measurement system that calls for registering and tracking individuals throughout their program participation. For reporting, services are divided into—

- Core Services (for registered participants)
- Intensive Services
- Training

Consistent with WIA, participants who use one-stop self-service facilities or only access information do not need to be registered and tracked. Access to some Core Services will be universally available through the Internet, at a One-Stop center or through a One-Stop partner. States and local Boards will be free to allow completely anonymous access to core services that are primarily information and universally available (for example, browsing a job bank or using a computer in the resource room). However, States and local Boards may be encouraged to request unique identifying information about customers who use the Internet (for example, current America's Job Bank account) and who use the universally available self-service capacity in One-Stop centers.

For customers who are assessed for purposes of determining whether they require services or training that are not universally available, additional information will need to be collected as part of the assessment process. This information will include demographic data elements such as racial-ethnic

characteristics, veteran status and information on disabilities, and will assist in referring individuals to other partners' services and will be available for comparisons of program applicants and registrants.

B. What Services Fall Into What Category?

The categorization of services is a State or local decision and will depend on the nature of the service. To serve as a guide and to assist in this identification, Table 1 includes most of the core, intensive, and training services described in Section 134(d). Each of the required WIA services is *italicized*. Frequently provided services that are in addition to those required by the legislation are not italicized. Given the wide variation in types of service that can be categorized as job search and placement assistance, and career counseling, finer distinctions have been made for these services. As soon as a participant moves from the self-service/informational level of service to registered service (core, intensive, training) core measures apply.

TABLE 1.—CATEGORIES OF SERVICES

A. Core services—Self-service and information	B. Other core services (registration required)	C. Intensive services (registration required)	D. Training (registration required)
Determination of eligibility to receive assistance.	Follow-up services, including counseling for registrants (those previously receiving intensive/training services) after entering employment.	*Comprehensive and specialized assessment, including diagnostic testing and interviewing.*	*Occupational skills training.*
Outreach, intake (which may include profiling), and orientation to the One-Stop center.	Individual job development	*Development of individual employment plan.*	*On the Job Training.*
Initial assessment of skill levels, aptitudes, abilities, and support service.	Job clubs	*Group counseling*	*Workplace training and cooperative education programs.*
Labor Market Information	Screened referrals (testing and background checks done before referral or when operating as the employers agent).	*Individual counseling and career planning.*	*Private sector training programs.*
Consumer reports information and delivery system performance information.		Case management	*Skill upgrading and retraining.*
Information on other One-Stop partner services and supportive services.		*Short term pre-vocational services.*	*Entrepreneurial training.*
Information on filing UI claims.			Job readiness training.
Assistance in establishing WtW eligibility and other non-WIA training and education.			Adult education and literacy activities in combination with training.
Resource Room usage			Customized training.
"How to" group sessions (e.g. writing a resume).			
Job referrals (informational, e.g., job scouts, ES referrals in non-exclusive hiring arrangements, short-term or seasonal placements).			
Internet browsing—job, info, and training searches.			
Internet accounts—Career Kit, Personnel Kit.			
Talent referrals (informational, e.g., talent scouts, ES staff referrals of resumes without further screening).			

The following considerations provided some of the rationale used in preparing this guide. First, "self-service and informational activities" are by their nature core services that do not require registration and tracking. A second consideration is the likely per unit cost of services. A number of placement activities are primarily informational in nature and relatively low cost. In these instances, the added cost of registration and participant tracking may not be justifiable. Thirdly, some services benefit participants but are undertaken primarily for their value to employers (e.g., assistance with recruitment for seasonal work—summer or holiday) are intended only to provide short term employment and do not necessarily increase worker earnings, retention or occupational skill attainment. Fourthly, these groupings of activities are intended to be clean, easy to administer, and applicable to all programs.

C. How to Measure Core Services, Intensive Services and Training

1. Core Indicators of Performance

Measure	Definition
Entry into Unsubsidized Employment: Entered Employment Rate (Sec 136(b)(2)(A)(i)(I)).	The rate will be defined for cohorts of registered participants unemployed at the time of registration. The numerator will be the number of these registered participants that are shown to have paid employment in the quarter following registration or service completion. The denominator will be all registered participants unemployed at the time of registration who were active during the reporting period (received services or continuing from a prior period) but who are no longer actively receiving services, other than post-employment services. This includes enrolled participants who (1) have obtained unsubsidized employment; (2) have withdrawn from participation; or (3) who have completed training or services. Individuals should be considered no longer active and to have completed service if they have received no services in the last quarter of the reporting period, and are not scheduled to receive services in the future. **Note:** State and local officials opposed using a program exit or termination to trigger reporting. Records of all registered participants unemployed at the time of registration, and not enrolled in a training program at the end of the reporting period would be drawn and matched against wage records to identify employment. Dislocated workers as defined in WIA, Title I, subtitle A, sec.101 (9) are included in the definition of unemployed. A person is considered employed if his/her social security number appears in the employer wage report (no minimal wage requirement) in the quarter following the one in which the seed record for matching is drawn. Not all jobs are covered by State UI wage records. Therefore, a State or locality may supplement the results of the wage record review by other methods and count as employed any of these individuals in jobs not covered by the State's UI wage records. Again, employment would be determined based on employment in the quarter following the one in which the seed record is drawn. Supplementary information could include: use of the New Hire index, surveys, self-reported hires or staff-reported hires through an administrative record system. Seed records not shown as employed would be matched against administrative records to exclude from the computation individuals who remain active, i.e, have received services in the last quarter or are scheduled to receive them in the future.
Retention in unsubsidized employment Six Months after entry into the employment: Six Month Retention Rate (Sec 136(b)(2)(A)(i)(II)).	The rate is computed using information on the total number of registered participants who have employment and who appear in the wage records, and wage record information for the second quarter thereafter (6 month rate). For example, an individual completing training and placed immediately in the first quarter of the program year, would be recorded as employed in the second quarter. The fourth quarter records would be queried to determine retention. **Note:** retention is not limited to the same employer.
Earnings Received in Unsubsidized Employment Six Months After Entry into Employment: Average Earnings Change in Six months (Sec 136(b)(2)(A)(i)(III)).	The average earnings change is measured as follows: the wage record earnings for the registered participant in the two quarters following employment (not counting the quarter in which employment was recorded) less 50% of the wage record earnings for the four quarters prior to enrollment (not counting the quarter of enrollment). The post-employment income can be with the same or other employer in which the placement was first noted. The measure is reported as an average (mean) gain. For Incumbent workers and others who are employed at the time of registration average earnings and retention would be computed begining in the second quarter following the quarter in which services are completed.
Educational Credential/Occupational Skills Credential Attainment Rate (Training Services Only) (Sec 136(b)(2)(A)(i)(IV)).	For adults entering employment after training and eligible youth 19 through 21 entering employment, post-secondary education or advanced training after training, the percent who attained a State-recognized credential related to educational skill attainment (diploma, degree or certificate) or attainment of an occupational skill (license or certification) recognized by a State or a Nationally-recognized industry trade body. Information in administrative records or information gathered through electronic interfaces with other data bases available or surveys may be used. Additional guidance on acceptable credentials and certificates will be provided.

2. Why These Measures and Definitions?

Wage record versus surveys. WIA requires that wage records be used but does not exclude the use of surveys to supplement information. Where the same information is obtainable from both sources, instructions will provide that wage records be used both to ensure comparability among States and to minimize costs.

Earnings change versus absolute earnings level. A change—gain/loss—measure was chosen because of the different circumstances within the WIA service population and the difficulty of creating an absolute earnings target for all adults.

Earnings change—prior period earnings. Six month comparisons are made with a full twelve month period prior to registration. (Fifty percent is used for the six month change for comparability of periods.) The twelve month period is used to minimize, to the extent possible, the impact on dislocated workers of reduced earnings as layoffs approach and any severance pay that may be added to earnings.

Retention rate. While most of the measures use the registered population as the base, this measure chooses only those who are employed because the retention question makes no sense in another context.

Credentials rate (Training Service only). Adults entering employment after receipt of core or intensive services also may acquire some credential as a result of WIA participation. However, given the few relative to the number who will be employed after receiving services, the cost of this added information collection is not justified.

III. Youth 14 to 18 Years Old

A. WIA Requirements/Guiding Principles

WIA authorizes programs to provide services to prepare youth to enter the workforce or to advance to postsecondary education or other occupational skills training. Programs link academic and occupational learning. Service providers will have strong ties to employers and must also include tutoring, study skills training and instruction leading to completion of secondary school (including dropout prevention). Other elements of programs should include alternative school services, mentoring by appropriate adults, paid and unpaid work experience (such as internships and job shadowing, occupational skills training, leadership development, and appropriate supportive services.) Youth participants also will receive guidance and counseling and follow-up services for at least one year. Programs must also provide summer job opportunities linked to academic and occupational learning. The mix of year-round and summer activities is left to local discretion.

Eligible youth are low-income, ages 14 through 21 with barriers to employment. WIA specifies different youth core indicators for older youth ages 19 through 21 and for youth ages 14 through 18. The older youth performance measures are identical to the adult program measures and were addressed earlier in the paper. The three required core indicators for youth ages 14 through 18 are—

- Attainment of basic skills and, as appropriate, work readiness or occupational skills;
- Attainment of secondary school diplomas and their recognized equivalent;
- Placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships.

B. Guiding Principles

- Performance measures should reflect the same flexibility available for program design and services and the varied successful outcomes recognized. WIA allows a wide variety of services that are offered to youth. This provides the opportunity for local programs to design and operate programs that meet local needs and respond to gaps in services as they are identified for their area. Indicators should not force certain designs to remain competitive in terms of measurement.
- Performance measures should accommodate a variety of different approaches to serving youth without forcing arbitrary time limits or sequencing of services. Measures should not determine when youth begin or end services by forcing measurements before participants are ready to complete their goals or require that a youth leave the program before credit can be taken for outcomes achieved. Research has shown that programs that establish an ongoing relationship with youth, and continue to serve them for several years while adjusting goals and services to reflect needs as youth age have the greatest success.
- Performance measures need to recognize that youth goals change as youth mature and must be age appropriate. The denominator for various rates should depend on the appropriateness of the goal as determined through individual service plans. For example, younger youth participants should receive services that encourage staying in or returning to school and keeping up academically. As the participants get older, goals will change and relate to getting a secondary school diploma, and, ultimately, placement and retention in post-secondary education, advanced training or employment.
- Indicators must (1) recognize the differing goals depending on the activities/services; (2) the age of the youth; and (3) allow comparison between activities/services that include modest levels of summer job opportunities and those that invest a large proportion of resources during the summer. WIA provides for summer employment opportunities directly linked to academic and occupational learning, but intentionally did not provide a separate funding stream or differing set of indicators. In addition, the summer employment opportunities element is not intended to be a stand alone program (WIA sec. 129(c)(2)(C)). Indicators should be designed so that achieving every goal established for every youth—whether for a year-round or summer employment opportunities only—would result in a 100 percent rate.

C. Establishing a Basis for Performance Measurement

State and local officials with whom DOL consulted strongly believed that the core indicators of performance for participants should reflect completion of their activities, not necessarily completion of participation. By design, youth programs are intended to provide a continuum of services for youth resulting in attainment of several interim outcomes such as the acquisition of basic skills, work readiness, or occupational skills, award of a secondary school degree, and then, placement and retention in employment or advanced education/training. Participant goals are reflected in individual service strategies and will be different from one youth to another, depending on the needs and interests of the youth.

1. Core Indicators of Performance

Measure	Definition
Attainment of basic skills and, as appropriate, work readiness or occupational skills: Skill Attainment Rate (Sec 136(b)(2)(A)(ii)(I).	A rate computed by dividing the number of youth who attained a higher level of proficiency with regard to basic skills, and, as appropriate, work readiness skills or occupational skills by the number of youth receiving services or training for whom attaining basic skills, and, as appropriate, work readiness skills or occupational skills were goals to be achieved during the reporting period. Goals are based on individual assessments using widely accepted and recognized measurement/assessment techniques. (Outcomes are counted as they are achieved, not when the youth completes program participation).

Measure	Definition
Attainment of secondary school diplomas or recognized equivalents Diplomas or Equivalent Attainment Rate (Sec 136(b)(2)(A)(ii)(II)).	A rate computed by dividing the number of youth who attained a secondary school diploma or equivalent divided by the number of youth for whom attaining a diploma or certificate was a goal to be achieved during the reporting period. This goal will generally be appropriate for older youth 16 or 18 years old.
Placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships: Retention Rate (Sec 136(b)(2)(A)(ii)(III)).	Of those who are receiving follow-up services and for whom placement and retention is a goal, the percent with retention status at 30 days, 90 days, 180 days and one year from beginning follow-up. This overall rate would be an average of measures for all four periods.

2. Age as the Basis for Outcomes.

These younger youth reporting requirements are for participants who are 14 to 18 when enrolled in the youth program. They are appropriate as long as the youth continues to receive services identified in their individual service plans and has not attained the outcomes established for that age group. If the youth were going to continue being served by the youth program after achieving goals established prior to age 19, the youth does not need to be "terminated" but instead the record would indicate that the youth transferred to the age 19 to 21 youth program. This would have the same effect as a "termination" for performance measurement purposes but would not disrupt services to the youth. Individuals ages 19 through 21 who have completed the goals established for them prior to turning 19 and those who enter the youth program as age 19 or older should have individual service plans leading to the attainment of the goals appropriate for that age group. These outcomes would be measured in accordance with the same principles established for the adult program.

D. Why These Measures and Definitions?

Skill Attainment Rate; Attainment of secondary school diplomas and their recognized equivalents; and Placement in postsecondary education or advanced training, or placement in military service, employment, or qualified apprenticeships. All three core indicators use as their denominators the total number of youth age 14 through 18 for whom the particular outcome to be measured was a goal. This recognizes that depending on the age of the youth and their needs, individual goals will differ significantly and that the effectiveness and quality of a program should be measured by its experience in achieving goals established for its participants. It allows comparisons of programs and allows for program goals to be established without having to know the exact mix of ages of participants and relative investments in different activities. It also permits a 100 percent rate if all goals are achieved.

Note: A youth participating in WIA youth activities/services for multiple reporting periods (years), could be counted during each of the periods (years) if goals established in each are achieved.

Placement Rate and Retention Rate. Unlike the adult program where separate measures are provided for placement and retention, WIA calls for a single youth indicator that includes both placement and retention rates in one measure. The retention rate—for unsubsidized employment and further education—was chosen as the core indicator because of the difficulty in coming up with a single measure that measures placement and retention. A meaningful measure with both would be difficult because of complications coming up with a single denominator. Placement will be measured, but outside the core indicators.

Unsubsidized employment. WIA specifies that adults be measured with regard to placement in unsubsidized employment. The Youth indicator specifies only placement in employment. Unsubsidized employment is being used for consistency and because it, and not subsidized employment, will lead to self-sufficiency.

IV. Customer Satisfaction

A. Workforce Investment Act Requirements

In addition to the core measures, WIA, at sec. 136(b)(2)(B), states that "the customer satisfaction indicator of performance shall consist of customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subtitle." The Statute also requires, at sec. 136(b)(3)(A)(i), that there be State adjusted levels of performance for customer satisfaction and that "the levels of performance established * * * shall, at a minimum—

(I) Be expressed in an objective, quantifiable, and measurable form; and

(II) Show the progress of the State toward continuously improving on performance."

The Act draws a link between the core measures and customer satisfaction by indicating that negotiations between DOL and the States must take into consideration "* * * the extent to which the levels involved will assist the State in attaining a high level of customer satisfaction." WIA further suggests that "customer satisfaction may be measured through surveys conducted after the conclusion of participation in workforce investment activities."

B. Methods To Measure Customer Satisfaction

Customer satisfaction measures are important because they provide valuable information from customers for strategic planning and program operation. Such feedback to supervisors and staff can motivate high performance and continuous improvement. They also send a clear message to staff, management, and customers themselves that customers matter.

There are a number of different methods to collect customer satisfaction information. The simplest approach is to train staff to listen to the customers they serve and to ask questions that elicit customer needs while they are providing service. Focus groups and group interviews are another strategy. A trained manager or staff person can circulate in the resource center where people are waiting and ask questions informally to gain a better understanding of customer needs and concerns. Suggestion boxes are also a way of gathering information. As part of a comprehensive continuous improvement strategy, organizations generally use a combination of strategies since each serves a somewhat different purpose and provides different types of information.

To meet the customer satisfaction requirements of WIA, the recommended measures focus on customer satisfaction surveys. This is the only method that allows State and National aggregation of comparable, quantifiable data. The proposed measures present a general framework for developing a National customer satisfaction index for different customers.

An index is a single score that is created by combining the scores from several questions that address different dimensions of the customer experience. The customer satisfaction index will be described in more detail in the proposed measures. Essentially, the index would provide a way to capture common customer satisfaction information across programs that could be aggregated to a State and National level. The proposed measures will continue to be modified as DOL receives feedback and validation through consultation with the workforce investment system.

C. Proposed Customer Satisfaction Measurement Strategy

WIA requires measures of customer satisfaction for both participants and employers that are quantifiable, comparable across States, and that, along with the core indicators of performance, promote continuous improvement.

The basic approach for gathering and reporting customer satisfaction measures that meet these requirements will be as follows—

- There will be separate surveys of participants and employers;
- Customer satisfaction indicators will be derived from State or locally conducted surveys that include a few embedded questions that enable comparisons across States, while allowing each State to design its own instrument;
- Guidelines will be issued to the States requiring the States to validate survey methods to ensure comparability across States;
- Participants surveyed will include only registered individuals who have completed their activity/service participation (excluding follow-up services). This includes individuals who have completed services and are now employed, those who have discontinued receiving services or training, either because they have withdrawn or completed;
- Employer surveys can be based on a random sample of employers using the system; and
- Results on the embedded questions, for both employers and participants, will be compiled on the State level and reported annually.

While the Act requires reporting and comparisons across States, the primary value of effective customer feedback is to drive strategic planning and continuous improvement at the local level. DOL plans to play a strong, proactive technical assistance role that will provide States and localities with easy access to the information, instruments, tools and other resources that will enable them to use this feedback as a springboard toward high performance and quality services.

ETA will finance the design and development of customer satisfaction instruments and methodologies that meet requirements, and make these available to the States. However, States will have the option of designing their own instruments and methods as long as the few questions that enable comparisons are embedded in the State instruments and the methodologies used to collect responses on those questions are within guidelines that DOL will develop. These guidelines will include suggestions for establishing State baseline levels to be used where they do not already exist.

Attachment II—Reaching Agreement on State Adjusted Levels of Performance Under Title I of the Workforce Investment Act of 1998; A Consultation Paper

This Consultation Paper provides a framework regarding the approach and process for reaching agreement on State adjusted levels of performance under Title I of the Workforce Investment Act of 1998 to be incorporated in States' five-year strategic plans required by that Act. Comments are solicited on the overall framework and the approach. The paper does not address the additional indicators a State may identify in the State plan in accordance with Title I, because they are not subject to the agreement process.

I. Introduction

A. Broad Legal Framework

In Section 136, the Workforce Investment Act (WIA) establishes a comprehensive performance accountability system for the Statewide and local workforce investment systems. Its purpose is to assess the effectiveness of States and local areas in achieving continuous improvement of their Federally-funded workforce investment activities, in order to optimize the return on investment of Federal funds in those activities.

As part of the performance accountability system, WIA requires the Secretary and the Governor of each State to reach agreement on the respective State performance levels for the core indicators of performance and the customer satisfaction indicator. WIA requires that the State performance levels be expressed in an objective, quantifiable, and measurable form. The law also requires that the levels show the State's progress toward continuously improving in performance. The negotiated performance levels become "State adjusted levels of performance" and must be incorporated into the State's 5-year plan. They become the basis for sanctions for failed performance. Together with adjusted levels of performance for adult education literacy programs and performance levels for vocational education programs, they become the basis for incentive grants.

State adjusted levels of performance for the first three program years covered by a State 5-year plan are agreed to during the plan review and approval process. In reaching agreement on those levels, the Secretary and the Governor must take into account the expected levels of performance identified by the State in its 5-year plan. The Secretary and the Governor also must take into account the following three factors: (1) the extent to which the levels will help the State achieve a high level of customer satisfaction; (2) how the levels compare to those of other States, with consideration of, at least, differences in economic conditions, participant characteristics at entry into the program, and services to be provided; and (3) the extent to which the levels promote continuous improvement in performance and ensure optimal return on investment. State adjusted levels of performance for the fourth and fifth program years covered by a State 5-year plan must be agreed to before the beginning of the fourth program year.

The State plan is not required to identify expected levels of performance for those years. In reaching agreement, the Secretary and the Governor must take into account the same three factors listed above. The Governor may request revision of the agreed to performance levels if unanticipated new circumstances in the State result in significant change in any of factors for any year.

B. Guiding Principles

WIA reflects the Nation's commitment to accountability for results in government programs that is expressed in the Government Performance and Results Act. It embodies strong commitment to partnership among government entities in serving people in areas of workforce development. It promotes flexibility to provide services that provide maximum benefit to customers and high levels of customer satisfaction. These commitments are characterized by key principles that must be reflected in the process of reaching agreement on target levels for State performance measures.

1. Performance expectations for related workforce investment programs and for related reporting purposes (e.g., reporting under the Government Performance and Results Act) should be aligned to facilitate better management of overall performance.

2. State and Federal partners share the commitment to high performance and customer satisfaction, and continuous improvement in both.

3. The process and considerations in reaching agreement on State performance levels must be consistent for all the States so as to assure fairness in the derivation of performance levels.

4. States should have maximum flexibility to target populations for WIA services within the parameters of the law, and to develop and adopt innovative methods for accomplishing workforce investment objectives; this flexibility should be reflected in agreed target levels of performance.

5. States should have maximum flexibility to develop reasonable methodologies for setting performance goals in the core measurement areas and customer satisfaction.

C. Assumptions

Critical assumptions underlie the discussion of the process for reaching State/Federal agreement on State adjusted levels of performance. These assumptions relate to performance measures, incentives and sanctions, performance data and tools, and continuous improvement.

1. A paper on Performance Accountability Measurement for the Workforce Investment System is being circulated for comment. The measures described here are drawn from that paper, and so are subject to change. There are seven measurements for the core indicators of performance. Four of these apply separately to activities under three funding streams (adult, dislocated worker, and youth ages 19–22) and three apply to activities for youth ages 14–18, for a total of fifteen measures. In addition to those fifteen measures for the core indicators of performance, there are two measures for the customer satisfaction indicator. Each State plan will include one State adjusted performance level for each of the seventeen measures. The indicators and their measures, grouped by program, are:

- Adult Program (four indicators)
- Entry into unsubsidized employment, measured by Entered Employment Rate,
- Retention in unsubsidized employment after entry into the employment, measured by Six Month Retention Rate,
- Earnings received in unsubsidized employment six months after entry into employment, measured by Average Earnings Change in Six Months,
- Attainment of educational credential/occupational skills credential for adults entering employment after training, measured by Educational Credential/Occupational Skills Credential Attainment Rate (Training Services Only);

- Dislocated Workers Program

(Four indicators—same as for the Adult Program)

- Entry into unsubsidized employment, measured by Entered Employment Rate,
- Retention in unsubsidized employment after entry into the employment, measured by Six Month Retention Rate,
- Earnings received in unsubsidized employment six months after entry into employment, measured by Average Earnings Change in Six Months,
- Attainment of educational credential/occupational skills credential for adults entering employment after training, measured by Educational Credential/Occupational Skills Credential Attainment Rate (Training Services Only);

- Youth Ages 19–22 Program

(four indicators—same as for the Adult Program, with a variation in the credentials indicator)

- Entry into unsubsidized employment, measured by Entered Employment Rate,
- Retention in unsubsidized employment after entry into the employment, measured by Six Month Retention Rate,
- Earnings received in unsubsidized employment six months after entry into employment, measured by Average Earnings Change in Six Months,
- Attainment of educational credential/occupational skills credential for youth ages 19–22 entering post-secondary education, advanced training, or employment after training, measured by Educational Credential/Occupational Skills Credential Attainment Rate (Training Services Only),

Youth Ages 14–18 Program

(three indicators)

- Attainment of basic skills and, as appropriate, work readiness or occupational skills, measured by Skill Attainment Rate,
- Attainment of secondary school diplomas and their recognized equivalents, measured by Diplomas and Equivalents Attainment Rate,
- Placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships, measured by Placement Rate;

Customer Satisfaction for Combined Programs

(two indicators)

- Participant satisfaction, measured by an index derived from several questions on customer satisfaction surveys,
- Employer satisfaction, measured by an index derived from several questions on customer satisfaction surveys.

2. The Department of Labor expects that negotiations will lead to high State adjusted levels of performance to encourage high performance.

3. Incentives will be awarded and sanctions will apply based on performance against State adjusted levels of performance beginning in the first year of WIA implementation. Only States that exceed their agreed to levels will be eligible for incentive awards. Sanctions based on first year performance will not include monetary penalties.

4. The Department of Labor will establish a single estimate of National average performance for each performance measure. Initially, because only limited historical outcome data are available to develop information on likely outcomes for WIA core

performance indicators, the information will be subject to serious qualifications. For some indicators, rough estimates of the distribution of performance among States and simple adjustment models will be developed as tools for reaching agreement on State adjusted levels of performance. For other core performance indicators and the customer satisfaction indicator, the available data will not be sufficient at the outset to develop such tools. The Department expects that future negotiations will be informed by discussions with and the actual performance of the early implementing States.

5. A commitment to continuous improvement is not simply an agreement to raise the State adjusted levels of performance for successive years and incrementally improve performance numbers. Continuous improvement is the process of building dynamic, high achieving systems within every organization through the ongoing systematic improvement of products, programs, services, and processes by both small increments and major breakthroughs. Continuous improvement encompasses a commitment to a systematic approach to high performance. Continuous improvement is driven by finding opportunities to do better, as well as by solving problems that need immediate correction. It becomes a regular part of daily work, and provides a method of eliminating problems at their source. Performance measures and customer satisfaction are integrated into a continuous improvement approach to focus on where to concentrate resources, or redesign programs or sequences of services in order to achieve better results.

II. Principal Stages of Agreement Process

There are three principal stages of the process for reaching agreement on State adjusted levels of performance in State five-year plans. These stages are defined in terms of plan submittal and approval. The first stage precedes submittal of the State plan and includes the Department's provision of information, the State's planning and development of an "expected level of performance" for each of the prescribed indicators of performance and customer satisfaction, and preliminary State/Federal discussions. The second stage begins with the State's submittal of its plan including the expected levels of performance that serve as the starting point for negotiations between the State and Federal partners, and ends when the State adjusted levels of performance are agreed to by the State Governor and the Secretary of Labor and incorporated into the State plan. The third stage follows approval of the plan with the agreed levels and encompasses possible modification of the plan to revise the State adjusted levels of performance.

A. Stage One: Federal and State Information and Preliminary Discussion

Before any meaningful activity can be accomplished relative to planning or setting State performance goals, the State and Federal partners will need an understanding about the process and its relationship to other processes in the performance accountability system, e.g., reporting, incentive and sanction policies, GPRA goals, etc. Ideally, this information would become available before a State engages in its strategic planning process or sets its "expected levels of performance" and must be available before the negotiation process begins. Both the State and the Federal partners must gather and assess information prior to States' submittal of their plans.

1. Federal Information

The Department expects to release information in the following areas at the earliest possible time. Each of these items will be covered in papers to be developed and issued for comment.

- Specific measures will be identified for the core performance and customer satisfaction indicators. Definitions will be provided for those measures, and will include the scope of the measures, e.g., are they only Title I, all WIA referenced activities, etc.
- Information will be provided about performance measurement tools under development, such as estimates of the distribution of performance among States and simple adjustment models. The information will include sources of data, the expected usefulness of information to be developed, and for which measures, if any, there will be State-specific estimates or adjustment models.
- The process for negotiating the measures will be established and communicated to the system. This will include expectations for how and when the discussions will occur as well as the kinds of information that must be available from the State to facilitate the discussions.
- Guidance will be issued about the levels that will be considered acceptable when negotiating adjusted performance levels, including specific information on:

—Policies that set criteria for evaluating expected levels of performance;
—Policies for award of incentives and related concepts for meeting and exceeding WIA Title I performance goals (note that this does not include the overall policy for consideration of performance WIA Title II and Carl D. Perkins Act programs); and
—Policies defining sanctions and related definitions for failure to meet standards.

- Guidance will be issued on determining the impact of adjusted levels of performance on attaining high levels of customer satisfaction.
- Policy will be set to describe the consideration of continuous improvement in the goal setting process.
- Specific data and tools including models, if available, will be provided for comparing the adjusted levels of performance among States. Data and tools will continue to be released as they are developed.

2. State Information

WIA envisions an accountability process that takes into consideration unique State and local requirements and circumstances. As States engage in the planning process and develop the expected levels of performance they will identify in their State plans, they will gather information that will be useful in the subsequent negotiation process. States will obtain preliminary information about the economy, anticipate characteristics of the population to be served, and set strategies for determining service mix, since these must be considered in setting performance levels. States will explore pertinent data sources related to sequenced services and one-stop service systems and examine their utility in establishing a baseline for the negotiations process. States will develop information gleaned from an environmental scan to determine the progress local areas have made in developing a service delivery system as required in WIA. States will consider the strength of State/local partnerships among agencies and organizations that will support the system and strategies under consideration to strengthen and streamline the delivery system. States are encouraged to take into account, in developing their expected levels of performance, the results of the negotiation of local performance levels.

3. Preliminary Discussion

The Department recognizes, with the States, that time is short for development of State plans, including performance levels, particularly for those States that expect to implement WIA in July 1999. The Department appreciates and continues to encourage

State and local involvement as WIA policies and procedures are developed. In this spirit of cooperation, preliminary discussion of performance management, including the development of performance levels, is welcomed. States are encouraged to contact their Regional Offices for discussion and technical assistance prior to plan submittal. The benefits of early discussion could include:

- Ensuring understanding of guidance, policy, data, and technical material provided by the Department prior to plan submittal;
- Benefitting from the experience of regional staff and other States;
- Tailoring the provision of technical assistance on performance accountability to meet local and regional planning needs;
- Developing a mutual understanding of State and Federal expectations and assumptions prior to plan submittal, to ensure development of a shared set of goals;
- Allowing maximum time (in advance of the up-to-ninety-days plan review period) for States and local areas to complete necessary planning and consultation on performance levels; and
- Smoothing the agreement process.

B. Stage Two: Formal Discussion and Agreement

A State's submittal of its five-year plan to the Secretary of Labor triggers the up-to-ninety-days review period during which the Federal and State partners are to reach agreement on the State adjusted levels of performance for the core and customer satisfaction indicators. The agreed to levels will be incorporated into the plan prior to its approval. A State's plan will not be approved if agreement has not been reached. It is expected that the negotiations will take place between the States and the Department's Regional Offices, consistent with guidelines to be issued by the Department to the workforce development system.

The State plan will include the State's expected level of performance for each core indicator and customer satisfaction indicator. The plan will also include an explanation of the derivation of each expected level. In the formal negotiations, States should be prepared to provide support for any data and data analysis used in arriving at the expected levels of performance. States should also be prepared to discuss any environmental or strategic issues that are expected to influence performance levels.

In addition to the expected levels of performance identified in the State plan for the first three years covered by the plan, WIA specifies three factors that the Governor and the Secretary must take into consideration in the agreement process. The first is the extent to which the State adjusted levels of performance will help the State achieve a high level of customer satisfaction. The second is how those levels compare to the adjusted levels of other States, considering differences in economic conditions, characteristics of participants upon entry into WIA programs, and services to be provided. The third factor is the extent to which the adjusted levels promote continuous improvement in performance and ensure optimal return on investment. As mentioned earlier, the Department expects to issue guidelines for consideration of all of these factors, to ensure consistency and fairness in the agreement process. The performance levels, representing the anticipated results of the comprehensive workforce development plan, will be considered in the context of the entire plan. Particularly because of the anticipated limitations of available data at the outset of WIA implementation, the negotiation process itself is expected to be a learning experience for the State and Federal partners.

C. Stage Three: Modifications, and Years Four and Five

WIA specifies that Governors may request revisions to State adjusted levels of performance for any of the five program years included in a State plan, based on unanticipated circumstances in their respective States that result in significant changes in factors including economic conditions, characteristics of participants, and services provided. WIA does not prohibit consideration of other factors. The Secretary will issue guidelines establishing objective criteria and methods for making revisions requested by Governors. These guidelines also will specify the conditions under which a State is required to revise the agreed to levels of performance. The revision process will be addressed in a separate paper which is expected to be issued for comment in late April 1999.

Because of the transitional nature of the program for the first three program years and the lack of data from which predictions of WIA performance can be derived for each State, there must be allowance for changes in expected performance beyond the circumstances specified in WIA. Allowance for changes in performance expectations is particularly important because a State's performance measured against its State adjusted levels of performance will affect its eligibility for incentive grants and its susceptibility to sanctions. As the body of WIA experience grows—over time in individual States and as more States implement WIA—more information will become available to permit development of more useful performance management tools, including National figures, State-specific information, distributions of performance data across States, and adjustment models. The effects of continuous improvement approaches will be better understood and more predictable as their application is tested. Because of these anticipated changes, it is expected that State adjusted performance levels included at the beginning of a State's five-year plan will be able to be refined as time passes.

Federal guidance will delineate circumstances in which the State adjusted levels of performance must or may be revised—upward or downward—for individual States or for all States. Some possibilities beyond those identified in the law are listed here.

- Performance levels are set for all States based on the pre-WIA wage record experience of a few States, and experience shows that the predictions were not valid.
- The operation of the one-stop system in a State varies significantly from that discussed during performance negotiations.
- Changes in State law, Statewide vision, or strategies have a significant impact on performance outcomes.
- Changes in Federal law or policy have a significant impact on performance outcomes.

WIA requires that agreement be reached on State adjusted levels of performance for the fourth and fifth program years covered by a five-year plan prior to the beginning of the fourth year. The State does not submit expected levels of performance for those years. The law seems to contemplate that experience under WIA in the first three years will provide a sufficient basis for setting levels for subsequent performance.

[FR Doc. 99–7148 Filed 3–23–99; 8:45 am]
BILLING CODE 4510–30–P

MI

OL

64

SS

56

MR

24

99

MI

federal register

Wednesday
March 24, 1999

Part IV

Department of Agriculture

Cooperative State Research, Education, and Extension Service

7 CFR Part 3400

Special Research Grants Programs; Proposed Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

7 CFR Part 3400

Special Research Grants Program

AGENCY: Cooperative State Research, Education, and Extension Service, USDA

ACTION: Proposed Rule

SUMMARY: This proposed rule will amend the Special Research Grants Program Administrative Regulations to replace references to section 2 of the Act of August 4, 1965, with references to the Competitive, Special, and Facilities Research Grant Act (CSFRGA), to apply to competitive and noncompetitive grants, to include extension and educational activities under the regulation, to shorten the maximum potential grant award period, to require grantees to arrange for scientific peer review of their proposed research activities and merit review of their proposed extension and education activities prior to award, in accordance with subsection (c)(5) of CSFRGA, as amended by section 212 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 450i(c)(5)), and to require an annual report of the results of the research, extension, or education activity and the merit of the results.

DATES: Written comments must be received on or before April 23, 1999.

ADDRESSES: Submit written comments concerning this proposed rule to Dr. Sally Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, USDA Cooperative State Research, Education, and Extension Service, Mail Stop 2240, 1400 Independence Avenue, SW, Washington, DC 20250-2240; telephone, (202) 401–1761; e-mail, srockey@reeusda.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Sally Rockey, Deputy Administrator, at the above address.

SUPPLEMENTARY INFORMATION: On June 23, 1998, President Clinton signed into law the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (Pub. L. No. 105–185). CSFRGA (formerly section 2 of the Act of August 4, 1965, Pub. L. No. 89–106, as retitled by Section 401(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (FACT Act Amendments), Pub. L. No. 102–237), as amended by section 212(2) of AREERA, states in subsection (c)(5) that the Secretary shall make a grant under this authority for a research activity only if the activity has undergone scientific peer review arranged by the grantee in accordance with regulations promulgated by the Secretary. Likewise, subsection (c)(5) of CSFRGA, as amended by section 212(2) of AREERA, states that the Secretary shall make a grant under this authority for an extension or education activity only if the activity has undergone merit review arranged by the grantee in accordance with regulations promulgated by the Secretary. This proposed rule is intended to comply with the Secretary's duty to promulgate such regulations.

The proposed rule expands the scope of these regulations to apply to all subsection (c) awards, including both competitive and noncompetitive awards made under this authority. The proposed rule also revises these regulations to address extension and education activities in addition to research activities. CSREES determined that expanding the scope of the existing regulations was preferable compared to the alternative of having two sets of administrative regulations to govern the same program. Having only one set of administrative regulations will result in less confusion of interested parties. Making these regulations applicable to all subsection (c) awards, including competitive and noncompetitive grants, is necessary because the statutory review requirements apply to all grants made under this authority. The proposed rule clearly delineates in revised § 3400.1 which provisions will apply respectively to competitive and noncompetitive awards. Subparts A and B, other than § 3400.1, will continue to apply only to grants awarded under subsection (c)(1)(A). Subpart C, implementing the review requirements, will apply to all grants awarded under subsection (c), including both competitive and noncompetitive awards.

Subpart C of the proposed rule requires that applicants have research proposals undergo peer review and extension and education proposals undergo merit review. The program authority emphasizes the regional or national nature of the funded projects. Consistent with that emphasis, the review must assess the technical quality and relevance of the proposed work to regional or national goals. The proposed regulations also require that any review be credible and independent. By specifying only basic parameters and not detailed procedures for review, CSREES aims to provide applicants with maximum flexibility in determining the timing and use of resources committed for such review. CSREES, however, has reserved the right in the proposed regulations to specify the timing of submission of the notice of completion of review. The agency does not anticipate the need to set the timing of this notice, but intends only to preserve this option should CSREES determine that implementation of this regulation required such action. Flexibility within the review requirements allows applicants to tailor the nature and character of the review more appropriately to the size, scope, and duration of the proposed project. CSREES considers such latitude necessary because of the broad range of research, education, and extension projects supported under this authority.

CSREES is proposing a broad definition of "scientific peer review." For purposes of this grant program, CSREES is implementing "peer" to mean "experts with the scientific knowledge and technical skills to conduct the proposed research work." Again, this provision aims to allow applicants flexibility in determining who performs the review while simultaneously imposing the minimum standards that CSREES believes are necessary to ensure the ability of such persons to review the technical components of a proposed activity. CSREES also lists certain persons, such as collaborators, who should not perform the review because of a direct conflict-of-interest. CSREES includes similar requirements for merit reviewers based on the same rationale.

Applicants must provide notice acting as certification prior to an award by CSREES that the review has been completed. Having applicants submit only a notice of compliance, and not the actual review documentation or results, aims to minimize the administrative burden on the applicants. The proposed regulations, however, do require that the applicant retain the review documentation and, consistent with agency assistance regulations, such documentation may be subject to agency inspection.

CSREES has elected not to require peer or merit review for each renewal or extension of a proposed project either through a renewal grant, continuation grant, or supplemental grant except under limited circumstances. These circumstances are: (1) if the funded activity has changed significantly from the original proposal; (2) if other scientific discoveries have affected the project; and (3) if the need for the activity has changed. CSREES will make the final determinations as to whether any of these three situations exists. Under any of these three circumstances, a new review will be required before

CSREES will make a subsequent grant award. Because any grant awarded under this program statutorily cannot extend beyond three years, a new review automatically is required every three years before CSREES can make a new grant award.

Subpart D of the proposed rule requires that recipients submit annual reports describing the results of the research, extension, or education activity. The agency currently requires that recipients submit annual and final performance reports as part of the terms and conditions of each award. The agency believes that subpart D meets the reporting requirements contained in section 212 of AREERA.

This proposed rule also makes technical amendments to Part 3400 to change references to the Act of August 4, 1965, to the Competitive, Special, and Facilities Research Grant Act as retitled by Section 401(a) of the FACT Act Amendments. The proposed rule also changes the maximum potential award period for Special Grants from five (5) years to three (3) years to conform with the amendments in section 212 of AREERA.

This proposed rule has been reviewed under Executive Order No. 12866, and it has been determined that it is not a "significant regulatory action" rule because it will not have an annual effect on the economy of $100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This proposed rule will not create any serious inconsistencies or otherwise interfere with any actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees or loan programs and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order No. 12866. In addition, the Department certifies that the rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601–612).

This proposed rule has been reviewed under Executive Order No. 12988, Civil Justice Reform. No retroactive effect is to be given to this proposed rule. This proposed rule does not require administrative proceedings before parties may file suit in court.

This proposed rule does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Under the provisions of the Paperwork Reduction Act of 1995, as amended, 44 U.S.C. chapter 35, and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, the collection of information requirements for research activities contained in this rule have been approved under OMB Document Nos. 0524–0022 and 0524–0033. When appropriations are made available for extension and education activities under this program, CSREES will fully comply with the Paperwork Reduction Act and submit a revision to the collection of information requirements to include these activities. Comments from potential applicants on this proposed collection of information may be submitted to CSREES–USDA; Office of Extramural Programs; Policy and Program Liaison Staff; Mail Stop 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2299 by May 24, 1999, or to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20502. Reference should be made to the volume, page, and date of this **Federal Register** publication.

List of Subjects in 7 CFR Part 3400

Grants programs—agriculture, Grants administration.

For the reasons set forth above, CSREES proposes to amend Part 3400 of Chapter XXXIV of Title 7 of the Code of Federal Regulations as follows:

PART 3400—SPECIAL RESEARCH GRANTS PROGRAM

1. The authority citation for Part 3400 is revised to read as follows:

Authority: 7 U.S.C. 450i(c).

2. Revise § 3400.1 to read as follows:

§ 3400.1 Applicability of regulations

(a) The regulations of this part apply to special research grants awarded under the authority of subsection (c) of the Competitive, Special, and Facilities Research Grant Act, as amended (7 U.S.C. 450i(c)), to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States. Subparts A and B, excepting this section, apply only to special research grants awarded under subsection (c)(1)(A) of the Act. Subpart C, Peer and Merit Review Arranged by Grantees, and Subpart D, Annual Reports, applies to all grants awarded under subsection (c) of the Act.

(b) Each year the Administrator of CSREES shall determine and announce through publication of a Notice in such publications as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, research program areas for which proposals will be solicited competitively, to the extent that funds are available.

(c) The regulations of this part do not apply to research, extension or education grants awarded by the Department of Agriculture under any other authority.

3. Revise § 3400.7(c) by inserting in lieu of the words "five (5) years" the words "three (3) years" so that the paragraph is revised to read as follows:

§ 3400.7 Use of funds; changes.

(c) *Changes in project period.* The project period determined pursuant to § 3400.5(b) may be extended by the Administrator without additional financial support for such additional period(s) as the Administrator determines may be necessary to complete, or fulfill the purposes of an approved project. Any extension, when combined with the originally approved or amended project period shall not exceed three (3) years (the limitation established by statute) and shall be further conditioned upon prior request by the grantee and approval in writing by the Department, unless prescribed otherwise in the terms and conditions of a grant award.

* * * * *

4. Subpart C of Part 3400 is added to read as follows:

Subpart C—Peer and Merit Review Arranged by Grantees

3400.20 Grantee review prior to award.
3400.21 Scientific peer review for research activities.
3400.22 Merit review for education and extension activities.

Subpart C—Peer and Merit Review Arranged by Grantees

§ 3400.20 Grantee review prior to award.

(a) *Review requirement.* Prior to the award of a standard or continuation grant by CSREES, any proposed project shall have undergone a review arranged by the grantee as specified in this subpart. For research projects, such review must be a scientific peer review conducted in accordance with § 3400.21. For education and extension projects, such review must be a merit review conducted in accordance with § 3400.22.

(b) *Credible and independent.* Review arranged by the grantee must provide for

a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

(c) *Notice of completion and retention of records.* A notice of completion of review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

(d) *Renewal and supplemental grants.* Review by the grantee is not automatically required for renewal or supplemental grants as defined in § 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

§ 3400.21 Scientific peer review for research activities.

Scientific peer review is an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be selected from an applicant organization or from outside the organization, but shall not include principal or co-principal investigators, collaborators or others involved in the preparation of the application under review.

§ 3400.22 Merit review for education and extension activities.

Merit review is an evaluation of a proposed project or elements of a proposed program whereby the technical quality and relevance to regional or national goals are assessed. The merit review shall be performed by peers and other individuals with expertise appropriate to evaluate the proposed project. Merit reviewers may not include principals, collaborators or others involved in the preparation of the application under review.

5. Subpart D of Part 3400 is added to read as follows:

Subpart D—Annual Reports

§ 3400.23 Annual reports.

(a) *Reporting requirement.* Annually, within 30 days of the anniversary date of each award, the recipient shall submit a report describing the results of the research, extension, or education activity and the merit of the results.

(b) *Report type and content.* Unless otherwise stipulated, grant recipients will have met the reporting requirement under this subpart by complying with the reporting requirements as set forth in the terms and conditions of the grant at the time of award.

Done at Washington, D.C., on this 19th day of March, 1999.

I. Miley Gonzalez,

Under Secretary, Research, Education and Economics.

[FR Doc. 99–7256 Filed 3–23–99; 8:45 am]

BILLING CODE 3410–22–P

federal register

Wednesday
March 24, 1999

Part V

The President

Proclamation 7174—National Poison Prevention Week, 1999

Federal Regis
Vol. 64, No. 5
Wednesday, M

Title 3—

The Pres

Federal Register
Vol. 64, No. 56
Wednesday, March 24, 1999

Presidential Documents

Title 3—

The President

Proclamation 7174 of March 19, 1999

National Poison Prevention Week, 1999

By the President of the United States of America

A Proclamation

During National Poison Prevention Week, Americans focus on the progress we have made in reducing the number of accidental poisonings that occur each year and reaffirm our commitment to preventing further tragedies.

We can be heartened by the progress we have made. In 1962, when President Kennedy proclaimed the first National Poison Prevention Week, 450 young people died due to poisoning. That number has fallen dramatically. There are many who share the credit for this growing success story: responsible parents and caregivers, who keep medicines, cosmetics, household cleaners, insecticides, and other poisonous substances out of the reach of children; the U.S. Consumer Product Safety Commission, which requires the use of child-resistant packaging on potentially dangerous materials; the Poison Prevention Week Council, which annually distributes poison prevention information to pharmacies, public health departments, and safety organizations; and our Nation's poison control centers, which provide lifesaving emergency first aid information. Working together, these dedicated individuals and organizations have saved hundreds of lives each year.

But we cannot relax our efforts, because each life we lose to accidental poisoning is one too many. We must all do our part to protect our Nation's children by selecting and properly using child-resistant packaging, keeping poisonous substances accurately labeled and locked away from children, carefully reading and following all directions and caution labels on packages, and keeping the number of a poison control center close to the telephone. If a poisoning incident does occur, we need to respond quickly by contacting the poison control center, relaying the appropriate information—such as the age and weight of the poisoning victim and the type and amount of substance he or she has ingested—and heeding instructions. These simple safety measures can mean the difference between life and death.

To encourage the American people to learn more about the dangers of accidental poisonings and to take responsible preventive measures, the Congress, by joint resolution approved September 26, 1961 (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March of each year as "National Poison Prevention Week."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week beginning March 21, 1999, as National Poison Prevention Week. I call upon all Americans to observe this week by participating in appropriate ceremonies and activities and by learning how to protect our children from poisons.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of March, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J Clinton

[FR Doc. 99–7389
Filed 3–23–99; 8:45 am]
Billing code 3195–01–P

Reade

CUSTOMER

Federal Regis
General Infor
aids

Laws

Presidential
Executive ord
The United S

Other Servic
Electronic an
Privacy Act C
Public Laws
TTY for the d

ELECTRONIC

World Wide
Full text of th
publications:
htt
Federal Regis
Inspection Li
htt

E-mail

PENS (Public
service that d
Laws. To sub
lis
with the text
su
Use listproc@
PENS. We ca

Reference qu
Federal Regis
inf
The Federal
regulations.

FEDERAL

9905–10100
10101–10204
10205–10386
10387–10554
10555–10918
10919–11372
11373–11754
11755–12078
12079–12238
12239–12742
12743–12880
12881–13062
13063–13310
13311–13496
13497–13662
13663–13880
13881–14096
14097–14354

Reader Aids

Federal Register

Vol. 64, No. 56

Wednesday, March 24, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22
13881–14096	23
14097–14354	24

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100	12881
Proclamations:	
7168	10101
7169	10379
7170	10383
7171	10385
7172	11373
7173	12879
7174	14353
Executive Orders:	
12170 (See Notice of March 10, 1999)	12239
12852 (Amended by EO 13114)	10099
12957 (See Notice of March 10, 1999)	12239
12959 (See Notice of March 10, 1999)	12239
13059 (See Notice of March 10, 1999)	12239
13114	10099
Administrative Orders:	
Notice of March 10, 1999	12239
Presidential Determinations:	
No. 99–15 of February 26, 1999	11319
No. 99–16 of March 4, 1999	13495

5 CFR

532	9905, 9906
2635	13063
Proposed Rules:	
1620	13924
1650	13725

7 CFR

3	11755
246	13311
360	12881
361	12881
782	12884
989	10919
1381	11755
1434	10923
1439	13497
1469	10929
Proposed Rules:	
301	11392
915	13123
916	11346
917	11346
1065	13125
1301	12769
1823	10235
1956	10235
3400	14348

8 CFR

3	13663, 13881
103	13881
208	13881
235	13881
238	13881
240	13881
241	13881
253	13881
274a	11533
507	13881

9 CFR

52	13064
Proposed Rules:	
1	10400
3	10400
71	13726
80	13726
112	13365
113	10400, 14156
391	10402

10 CFR

708	12862
Proposed Rules:	
21	12117
50	12117
54	12117
63	10405
70	13368
707	11819

11 CFR

Proposed Rules:	
2	10405
4	10405
5	10405

12 CFR

3	10194
208	10194
225	10201
325	10194
567	10194
960	12079
Proposed Rules:	
602	10954

13 CFR

123	13667

14 CFR

21	13501
25	10740
39	9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330 13502, 13504, 13667, 13669, 13882, 13884, 13886, 13889,

13890, 13892, 14097
71 .....10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672, 14306
73 .....12743, 13334, 13506
97 ....9912, 9914, 13334, 13336
204.....12084
257.....12838
258.....12854
399.....12838

Proposed Rules:
39 .....9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936
71 .....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404, 13938
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
752.....13338
772.....13338
774 .....10852, 12744, 13338
806.....10387
902.....14052

16 CFR

Proposed Rules:
Ch. I.....14156
241.....13368
256.....13369
1213.....10245, 14158
1500.....10245, 14158
1513.....10245, 14158
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230 .....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:
1.....14159
30.....14159
210.....10579
228.....10579
230.....12908
232.....12908
239.....11118, 12908
240 .....9948, 10579, 11124, 12127, 12908
270.....12908
274.....12908

19 CFR

Ch. I.....13673
133.....11376

Proposed Rules:
4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404.....10103, 13677
416.....13677

21 CFR

5.....14098
26.....11376
50.....10942
101.....12886, 12887
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520 .....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556 .....10103, 13068, 13341, 13679
558 .....13068, 13069, 13341, 13342, 13679
701.....13254
806.....14098
812.....10942
874.....10947

Proposed Rules:
101.....14178
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774
1010.....14180
1040.....14180

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:
Ch. IX 13531, 13533
990.....12920

25 CFR

031.....13894
039.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR

1.....10218, 11378
602.....10218

Proposed Rules:
1 .....10262, 13939, 13940, 14306
20.....10964, 13940
025.....13940
031.....13940
040.....13940

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686

Proposed Rules:
25.....10262
302.....11821
549.....10095

29 CFR

1910.....13700, 13897
4044.....12745

30 CFR

256.....13343
914.....12890
934.....12896

Proposed Rules:
57.....14200
204.....13734
206.....12267
250.....13535
938.....12269

32 CFR

199.....11765, 13912

33 CFR

62.....10104
100.....13913, 13914
117.....10104, 13514
165 .....11771, 12746, 13915, 14306
320.....11708
326.....11708
331.....11708

Proposed Rules:
117.....12795, 12797
155.....13734
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184

Proposed Rules:
303.....12674

36 CFR

61.....11736

Proposed Rules:
1190.....13752
1091.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111.....10950, 12072

Proposed Rules:
111.....11402

40 CFR

52 .....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514, 13916
58.....10389
60.....10105, 11536
62.....13075, 13517
63.....11536, 12762
80.....10366
81 .....11775, 12002, 12005, 12257, 13146
82.....10374
93.....13476
136.....10391, 13053
180 .....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106, 14098, 14099, 14101, 14104, 14106
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:
Ch. 1 10066
52 ...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753
60.....10119, 11555
62.....13539
63.....11555, 11560
81 .....11822, 12025, 13383, 13384
94.....10596
97.....10118
136.....10596
271.....10121, 14201
372.....9957, 10597
435.....10266

41 CFR

101–49.....13700

42 CFR

Proposed Rules:
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277

498.....
1003.....

43 CFR

4.....

Proposed Rules:
428.....
3400.....
3420.....
3800.....

44 CFR

61.....
64.....
65 1137

67.....

Proposed Rules:
67.....
77.....
80.....
81.....
82.....
83.....
152.....
207.....
220.....
221.....
222.....
301.....
303.....
306.....
308.....
320.....
324.....
325.....
328.....
333.....
336.....

45 CFR

60.....
302.....
303.....
304.....
1207.....
1208.....
1209.....
2551.....
2552.....

498.....12277
1003.....12277

43 CFR

4.....13362

Proposed Rules:

428.....12141
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919
65 .....11378, 11380, 11382, 11384
67.....11386, 11388

Proposed Rules:

67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303.....11802, 11810
304.....11802
1207.....14113
1208.....14123
1209.....14133
2551.....14113
2552.....14123
2553.....14133

Proposed Rules:

92.....10412
95.....10412
1224.....10872
1302.....14202
2508.....10872

46 CFR

502.....9922
510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156

47 CFR

41.....13916
51.....14141
64.....13701, 14141
73 .....9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729
90.....10395

Proposed Rules:

1.....9960
2.....10266
51.....14203
73 .....12922, 12923, 12924, 13756, 13757
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548
4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52 .....10531, 10535, 10538, 10545, 10548
53 .....10548, 10913, 12862
913.....12862
922.....12862
915.....12220
970.....12220, 12862
1806.....10571
1815.....10573
1819.....10571
1822.....14148
1842.....10573
1852.....10571, 10573

Proposed Rules:

970.....14206

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234
1420.....13916

Proposed Rules:

171.....13856, 13943
173.....13856
177.....13856
178.....13856
180.....13856
192.....12147
350.....11414
571 .....9961, 10604, 13947, 14207
572.....10965
585.....13947
587.....13947
591.....13757
595.....13947
1420.....13948

50 CFR

17.....13116
25.....14149
36.....14149, 14151
216.....9925
217.....14052
220.....14052
221.....14052
222.....14052
223.....14052, 14308
224.....14052, 14308
225.....14052
226.....14052
227.....14052
285.....10576
300.....13519
600.....9932
622 .....13120, 13363, 13528
630.....12903
648.....14052
660.....9932, 12092
678.....14154
679 .....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723, 14052, 14155
697.....14052

Proposed Rules:

216.....9965
17.....12924, 14209
223.....14329
224.....14329
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648 .....11431, 13392, 13952
660 .....10439, 12279, 14211
678.....10438

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 24, 1999

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Azoxystrobin; published 3-24-99
- Cinnamaldehyde; published 3-24-99
- Clopyralid; published 3-24-99
- Imidacloprid; published 3-24-99
- Norflurazon; published 3-24-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Labor disputes; contracts for Government notification; published 3-24-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Nectarines and peaches grown in—
- California; comments due by 3-29-99; published 3-8-99

Olives grown in—
- California; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Animal welfare:
- Rats and mice bred for use in research and birds; definition as animals; rulemaking petition; comments due by 3-29-99; published 1-28-99

Plant-related quarantine, domestic:
- Citrus canker; comments due by 4-2-99; published 2-1-99

Plant-related quarantine, foreign:
- Cut flowers; importation; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT

Farm Service Agency

Program regulations:
- Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Program regulations:
- Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:
- Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT

Rural Utilities Service

Program regulations:
- Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Atlantic coastal fisheries—
  - Atlantic sturgeon; comments due by 3-29-99; published 2-26-99
- Northeastern United States fisheries—
  - Summer flounder, et al.; comments due by 3-29-99; published 1-27-99
- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 3-29-99; published 2-10-99
- West Coast States and Western Pacific Fisheries—
  - West Coast Salmon; comments due by 3-29-99; published 1-27-99

International fisheries regulations:
- Pacific tuna; conservation and management measures; comments due by 3-29-99; published 2-25-99

Marine mammals:
- Incidental taking—
  - BP Exploration; Beaufort Sea; offshore oil and gas platform construction and operation; comments due by 3-31-99; published 3-1-99

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Federal claims collection; comments due by 3-29-99; published 1-28-99

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
- Conforming late offer treatment; comments due by 3-29-99; published 1-27-99
- Interest and other financial costs; comments due by 3-30-99; published 1-29-99

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:
- Steel plants; electric arc furnaces; comments due by 4-1-99; published 3-2-99

Air programs:
- Fuels and fuel additives—
  - Methylcyclopentadienyl manganese tricarbonyl (MMT); Alternative Tier 2 health and exposure testing requirements; comments due by 3-30-99; published 2-9-99
- Stratospheric ozone protection—
  - Montreal Protocol adjustment for 1999 interim reduction in Class I, Group VI controlled substances; comments due by 3-29-99; published 2-25-99

Air quality implementation plans; approval and promulgation; various States:
- Alabama; comments due by 3-31-99; published 3-1-99
- District of Columbia; comments due by 3-29-99; published 2-25-99
- Louisiana; comments due by 3-29-99; published 2-25-99
- Missouri; comments due by 3-29-99; published 2-26-99
- New Jersey; comments due by 3-31-99; published 3-1-99

Hazardous waste program authorizations:
- Michigan; comments due by 4-1-99; published 3-2-99
- Wyoming; comments due by 3-29-99; published 2-25-99

Hazardous waste:
- Lead-based paint debris; toxicity characteristic rule; temporary suspension; comments due by 4-2-99; published 2-12-99
- Waste water treatment sludges from metal finishing industry; 180-day accumulation time; comments due by 4-2-99; published 2-1-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Azoxystrobin; comments due by 3-30-99; published 1-29-99
- Fenbuconazole; comments due by 3-30-99; published 1-29-99
- Lambda-cyhalothrin; comments due by 3-30-99; published 1-29-99

Toxic substances:
- Lead-based paint activities—
  - Lead-based paint debris; management and disposal; comments due by 4-2-99; published 2-12-99

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
- Colorado; comments due by 3-29-99; published 2-17-99
- Idaho; comments due by 3-29-99; published 2-17-99
- Kansas; comments due by 3-29-99; published 2-17-99
- Louisiana; comments due by 3-29-99; published 2-17-99
- New Hampshire; comments due by 3-29-99; published 2-17-99
- New York; comments due by 3-29-99; published 2-17-99
- North Dakota; comments due by 3-29-99; published 2-17-99
- Oregon; comments due by 3-29-99; published 2-17-99
- Wisconsin; comments due by 3-29-99; published 2-17-99

Television broadcasting:
- Digital Television Service Industry Coordination

Committee; establishment; comments due by 3-29-99; published 2-9-99

Television stations; table of assignments:

Arkansas; comments due by 3-29-99; published 2-17-99

GENERAL SERVICES ADMINISTRATION

Acquisition regulations:

Federal Supply Service multiple award schedule contracts; streamlining administration and clarifying marking requirements; comments due by 4-2-99; published 2-1-99

Federal Acquisition Regulation (FAR):

Conforming late offer treatment; comments due by 3-29-99; published 1-27-99

Interest and other financial costs; comments due by 3-30-99; published 1-29-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—

Dietary supplements; nutrition labeling on a 'per day' basis; comments due by 3-29-99; published 1-12-99

INTERIOR DEPARTMENT

Land Management Bureau

Minerals management:

Oil and gas leasing—

Performance standards in lieu of current prescriptive requirements; comments due by 4-2-99; published 12-3-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Findings on petitions, etc.—

Vermillion darter; comments due by 3-29-99; published 1-26-99

Santa Ana sucker; comments due by 3-29-99; published 1-26-99

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Aliens—

Temporary protected status; employment authorization fee requirements, etc.; comments due by 4-2-99; published 2-1-99

JUSTICE DEPARTMENT

Parole Commission

Federal prisoners; paroling and releasing, etc.:

District of Columbia Code; prisoners serving sentences; comments due by 3-31-99; published 2-4-99

LABOR DEPARTMENT

Pension and Welfare Benefits Administration

Employee Retirement Income Security Act:

Employee pension and welfare benefit plans; recordkeeping and disclosure requirements; use of electronic media; comments due by 3-29-99; published 1-28-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Conforming late offer treatment; comments due by 3-29-99; published 1-27-99

Interest and other financial costs; comments due by 3-30-99; published 1-29-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Truth in Savings Act—

Fee disclosure, dividend rates, annual percentage yield et al.; comments due by 3-29-99; published 12-29-98

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list addition; comments due by 3-29-99; published 1-11-99

SECURITIES AND EXCHANGE COMMISSION

Securities:

Sweden; securities exemption for purposes of trading futures contracts; comments due by 3-31-99; published 3-1-99

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:

Florida; comments due by 3-29-99; published 1-26-99

Boating safety:

Numbering undocumented vessels in Alaska; fee increase; comments due by 4-2-99; published 2-1-99

Regattas and marine parades:

Fleet's Albany Riverfest; comments due by 4-2-99; published 2-1-99

Hudson Valley Triathlon; comments due by 4-2-99; published 2-1-99

Tank vessels:

Tank barges; emergency control measures; comments due by 3-30-99; published 12-30-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 3-30-99; published 2-23-99

Bell Helicopter Textron, Inc.; comments due by 3-29-99; published 1-26-99

Boeing; comments due by 3-29-99; published 2-10-99

Hartzell Propeller Inc.; comments due by 3-29-99; published 1-27-99

McDonnell Douglas; comments due by 3-29-99; published 1-28-99

Class E airspace; comments due by 3-29-99; published 2-12-99

Class E airspace; correction; comments due by 3-29-99; published 2-19-99

TRANSPORTATION DEPARTMENT

Maritime Administration

Cargo preference—U.S.-flag commercial vessels:

Carriage of agricultural exports; comments due by 3-29-99; published 1-28-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Anthropomorphic test devices:

Occupant crash protection—

Hybrid III test dummies; 3-year-old child dummy; design and performance specifications; comments due by 3-29-99; published 1-28-99

Motor vehicle safety standards:

Occupant crash protection—

Child restraint systems; Federal regulatory review; comments due by 4-2-99; published 2-1-99

Vehicle certification—

Altered vehicles; certification labels contents requirements; comments due by 3-29-99; published 2-11-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Tax return preparers' signatures; retention; comments due by 3-31-99; published 12-31-98

TREASURY DEPARTMENT

United States Mint

Exchange of paper currency and coin:

Melting discontinuance and substitution of mechanical means to destroy mutilated coins; comments due by 3-29-99; published 1-27-99

VETERANS AFFAIRS DEPARTMENT

Acquisition regulations:

Tax-free tobacco products; comments due by 3-30-99; published 1-29-99

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.



Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

sterCard VISA

02) 512–2250
02) 512–1800

o change.

Documents

– ☐

hank you for your order!

11/3

250–7954







Printed on recycled paper

OL
64
SS
57
MR
25
99
MI

3-25-99
Vol. 64

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

United Sta
Governme
Printing Of
SUPERINTENDE
OF DOCUMENT
Washington, DC

OFFICIAL BUSIN
Penalty for pnvat

3–25–99
Vol. 64 No. 57

Federal Register

Thursday
March 25, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

MI
OL
64
SS
57
MR
25
99
MI

3–25–99
Vol. 64 N
Pages 14355

3–25–99
Vol. 64 No. 57
Pages 14355–14574

federal register

Thursday
March 25, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche — **202–512–1800**

Assistance with public subscriptions — **512–1806**

General online information — **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche — **512–1800**

Assistance with public single copies — **512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche — **523–5243**

Assistance with Federal agency subscriptions — **523–5243**

Contents

Federal Register

Vol. 64, No. 57

Thursday, March 25, 1999

Agency for International Development
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14464–14465

Agriculture Department
See Food and Nutrition Service
See Rural Utilities Service

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 14436–14437

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Coast Guard
RULES
Regattas and marine parades:
1D48 Chesapeake Grand Prix Distance Race, 14382–14383
1D48 Chesapeake Grand Prix Round-the-Buoys Races, 14384–14385
PROPOSED RULES
Ports and waterways safety:
Tongass Narrows and Ketchikan Harbor, AK; speed limit; safety zone redesignated as anchorage ground, 14414–14416
NOTICES
Meetings:
National Boating Safety Advisory Council, 14493

Commerce Department
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
NOTICES
Complaints:
Cadet Manufacturing Co., 14436

Customs Service
NOTICES
Automation program test:
Electronic processing of quota-class apparel merchandise, 14499–14500
Privacy Act:
Systems of records, 14500

Defense Department
See Air Force Department
RULES
Acquisition regulations:
Persons convicted of fraud or other defense-contract-related felonies; employment prohibition, 14397–14398
Purchases through other agencies, 14399–14400
Single process initiative, 14398–14399
PROPOSED RULES
Acquisition regulations:
Security responsibilities; oral attestation, 14424

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Special education and rehabilitative services—
Parents of Children with Disabilities Training and Information Program, 14555–14557

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Cooperative Automotive Research for Advanced Technologies Program, 14437

Environmental Protection Agency
RULES
Air programs; State authority delegations:
Alabama and Georgia, 14393–14394
Air quality implementation plans; approval and promulgation; various States:
California, 14391–14393
PROPOSED RULES
Air programs:
Stratospheric ozone protection—
Ozone-depleting substances; substitutes list; correction, 14417–14418
Air quality implementation plans; approval and promulgation; various States:
California, 14416–14417
Radiation protection programs:
Rocky Flats Environmental Technology Site; transuranic radioactive waste disposal; applicable waste characterization documents; availability, 14418–14419
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14441
Clean Air Act:
Ozone nonattainment areas; downwind transport areas; attainment dates extension, 14441–14444
Toxic and hazardous substances control:
Lead-based paint activities in target housing and child-occupied facilities; State and Indian Tribe authorization applications—
Iowa, 14444–14446

Equal Employment Opportunity Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14446–14447

Executive Office of the President
See Trade Representative, Office of United States

Export-Import Bank
RULES
Freedom of Information Act and Privacy Act; implementation, 14373–14381

Federal Aviation Administration
PROPOSED RULES
Airworthiness standards:
Special conditions—
Boeing model 717-200 airplane; operation without normal electrical power, 14408–14410
Soloy Corp. model Pathfinder 21 airplane, 14401–14408
Class C airspace, 14410–14412
NOTICES
Airport noise compatibility program:
Noise exposure map—
Salt Lake City International Airport, UT, 14493–14494
Level I VFR towers; privatization, 14494–14495
Meetings:
Communications/Surveillance Operational Implementation Team, 14495
RTCA, Inc., 14495
Passenger facility charges; applications, etc.:
Portland International Airport, OR, 14496

Federal Communications Commission
RULES
Common carrier services:
Satellite communications—
Alternative incentive-based regulation; policies and rules; reclassification of Comsat Corp. as nondominant carrier, 14394–14397
Radio stations; table of assignments:
Mississippi, 14397
PROPOSED RULES
Radio stations; table of assignments:
Colorado, 14423
Michigan, 14419
Minnesota, 14420
Montana, 14419–14420
Nebraska, 14422
Nevada, 14421
New Hampshire, 14420–14421
New Mexico, 14421–14423
New York, 14422–14423
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14447–14448
Submission for OMB review; comment request, 14448

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 14437–14438
ISO New England Inc. et al., 14439
Minnesota Power, Inc., 14439
Northern Natural Gas Co., 14440
Reliant Energy Gas Transmission Co., 14440
Southern Natural Gas Co., 14439

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Dade County et al., FL, 14496

Federal Maritime Commission
NOTICES
Agreements filed, etc., 14448–14449
Freight forwarder licenses:
Opus One USA et al., 14449

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 14449
Formations, acquisitions, and mergers; correction, 14449–14450
Permissible nonbanking activities, 14450
Meetings; Sunshine Act, 14450

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc.—
Black-tailed prairie dog, 14424–14428
NOTICES
Endangered and threatened species permit applications, 14458–14461
Marine mammals permit applications, 14435

Food and Drug Administration
NOTICES
Agency information collection activities:
Reporting and recordkeeping requirements, 14451
Food additive petitions:
Exxon Chemical Co., 14451
Human drugs:
New drug applications—
Nitroglycerin transdermal system; hearing, 14451–14453
Meetings:
International outreach and training on good agricultural and good manufacturing practices for fresh produce, 14453–14454

Food and Nutrition Service
NOTICES
Child nutrition programs:
Women, infants, and children; special supplemental nutrition program—
Income eligibility guidelines, 14429–14431

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See Inspector General Office, Health and Human Services Department
See Public Health Service
NOTICES
Scientific misconduct finding; administrative actions:
Diaz, Maria, 14450–14451

Health Care Financing Administration
See Inspector General Office, Health and Human Services Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14454
Submission for OMB review; comment request, 14454–14455

Housing and Urban Development Department
RULES
Lead-based paint poisoning prevention in residential structures:
Reporting and recordkeeping requirements; technical amendment, 14381–14382

Mortgage and loan insurance programs:
Single family mortgage insurance—
Builder warranty for high-ratio FHA-insured mortgages for new homes, 14571–14574
Maximum mortgage limit and downpayment requirement; statutory changes, 14567–14569
NOTICES
Grant and cooperative agreement awards:
Lead-based paint hazard control—
Midwest Research Institute, 14457–14458

Inspector General Office, Health and Human Services Department
NOTICES
Program exclusions; list, 14456–14457

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Excise taxes:
Group health plans; continuation coverage requirements
Correction, 14382
PROPOSED RULES
Income taxes:
Credit for increasing research activities; hearing, 14412

International Development Cooperation Agency
See Agency for International Development

Justice Department
See Justice Programs Office
NOTICES
Pollution control; consent judgments:
American Color & Chemical Corp. et al., 14465
BP Exploration & Oil Inc., 14465–14466
Jason Properties, Ltd., et al., 14466
Montgomery Ward Holding Corp. et al, 14466–14467

Justice Programs Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14467

Labor Department
See Labor Statistics Bureau
RULES
Grants, contracts, and other agreements, and States, local governments, and non-profit organizations; audit requirements, 14537–14553
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14467–14468

Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14468–14469

Land Management Bureau
NOTICES
Closure of public lands:
Arizona, 14461
Motor vehicle use restrictions:
South Dakota, 14461
Public land orders:
Alaska, 14461–14462
Montana, 14462–14463
New Mexico, 14463–14464
Realty actions; sales, leases, etc.:
Utah, 14464

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts and Artifacts Indemnity Panel, 14469
Humanities Panel, 14469–14470

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Marine and anadromous species—
Chum salmon in Washington and Oregon, 14507–14517
Ozette Lake sockeye salmon, 14528–14536
West coast steelhead in Washington and Oregon, 14517–14528
NOTICES
Marine mammals:
Incidental taking; authorization letters, etc.—
BP Exploration (Alaska), Beaufort Sea, AK; ringed seals; on-ice seismic activities, 14431
Meetings:
South Atlantic Fishery Management Council, 14431
Permits:
Endangered and threatened species, 14431–14435
Marine mammals, 14435–14436

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Southern California Edison Co., 14470–14471
Meetings:
Plant specific reactor regulatory activities; low power and shutdown risk; workshop, 14471–14473
Regulatory agreements:
Ohio, 14473–14477

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Service
RULES
Domestic Mail Manual:
Commercial mail receiving agency; delivery of mail; procedure clarification, 14385–14391

Public Health Service
See Food and Drug Administration
PROPOSED RULES
Indian Child Protection and Family Violence Prevention Act; implementation:
Individuals employed in positions involving regular contact with or control over Indian children; minimum standards of character and employment suitability, 14559–14565

Railroad Retirement Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14477–14478

Research and Special Programs Administration
NOTICES
Hazardous materials transportation:
International standards on transport of dangerous goods—
Substances dangerous to environment; requirements and criteria development; comment request, 14497–14499

Rural Utilities Service
RULES
Rural development:
Distance learning and telemedicine loan and grant program, 14355–14373
PROPOSED RULES
Rural development:
Distance learning and telemedicine loan and grant program, 14401

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Depository Trust Co., 14478–14479
Municipal Securities Rulemaking Board, 14479–14480

State Department
NOTICES
Shrimp trawl fishing; sea turtle protection guidelines; certifications, 14481–14485

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Indiana, 14412–14414

Tennessee Valley Authority
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14485–14486

Trade Representative, Office of United States
NOTICES
World Trade Organization:
Recommendations—
European Communities; meat and meat products, 14486–14492

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Research and Special Programs Administration

Treasury Department
See Customs Service
See Internal Revenue Service
NOTICES
Meetings:
International Child Labor Enforcement Advisory Committee, 14499

United States Information Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
English Language Enrichment Program, 14500–14503
Nigeria; legislature development program, 14503–14505

Separate Parts In This Issue

Part II
Department of Commerce, National Oceanic and Atmospheric Administration, 14507–14536

Part III
Department of Labor, 14537–14553

Part IV
Department of Education, 14555–14557

Part V
Department of Health and Human Services, Public Health Services, 14559–14565

Part VI
Department of Housing and Urban Development, 14567–14569

Part VII
Department of Housing and Urban Development, 14571–14574

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PART

A cumulative
Reader Aids

7 CFR
1703
Proposed Rule
1703
12 CFR
404
405
14 CFR
Proposed Rule
23
25
71
24 CFR
35
203 (2 docum
234
26 CFR
54
Proposed Rule
1
29 CFR
96
99
30 CFR
Proposed Rule
914
33 CFR
100 (2 docum
Proposed Rule
110
162
165
39 CFR
111
40 CFR
52
60
Proposed Rule
52
82 (2 docume
194
42 CFR
Proposed Rule
36
47 CFR
25
61
73
Proposed Rule
73 (11 docum
14420, 144
48 CFR
203
211
217
252 (2 docume
Proposed Rule
204
252
50 CFR
223 (3 docume
Proposed Rule
17

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1703.....14355
Proposed Rules:
1703.....14401

12 CFR
404.....14373
405.....14373

14 CFR
Proposed Rules:
23.....14401
25.....14408
71.....14410

24 CFR
35.....14381
203 (2 documents) 14568, 14572
234.....14572

26 CFR
54.....14382
Proposed Rules:
1.....14412

29 CFR
96.....14538
99.....14538

30 CFR
Proposed Rules:
914.....14412

33 CFR
100 (2 documents) 14382, 14384
Proposed Rules:
110.....14414
162.....14414
165.....14414

39 CFR
111.....14385

40 CFR
52.....14391
60.....14393
Proposed Rules:
52.....14416
82 (2 documents) 14417
194.....14418

42 CFR
Proposed Rules:
36.....14560

47 CFR
25.....14394
61.....14394
73.....14397
Proposed Rules:
73 (11 documents) 14419, 14420, 14421, 14422, 14423

48 CFR
203.....14397
211.....14398
217.....14399
252 (2 documents) 14397, 14398
Proposed Rules:
204.....14424
252.....14424

50 CFR
223 (3 documents) 14508, 14517, 14528
Proposed Rules:
17.....14424

Rules

This section c
contains regu
applicability a
are keyed to a
Federal Regu
50 titles pursu

The Code of
the Superinte
new books ar
REGISTER is

DEPARTME

Rural Utiliti

7 CFR Part

RIN 0572–AB

**Distance Le
Loan and G**

AGENCY: Ru

ACTION: Dire

SUMMARY: T
(RUS) is am
Distance Le
(DLT) Loan
amendment
requirement
financial ass
policies and
loans and ex
which loan
award grant

DATES: This
on May 10,
written adve
intent to sub
or before Ap
comments m
later than A
such comme
publish a do
Register pri
withdrawing

ADDRESSES:
comments o
adverse com
Assistant Ad
Telecommu
Utilities Ser
Ave., SW., S
South Build
1590. RUS r
and three co
part 1700). A
be made ava
at room 405
Department
DC, between

Rules and Regulations

Federal Register
Vol. 64, No. 57
Thursday, March 25, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1703

RIN 0572–AB31

Distance Learning and Telemedicine Loan and Grant Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations for its Distance Learning and Telemedicine (DLT) Loan and Grant Program. These amendments will clarify the requirements for the different types of financial assistance offered; streamline policies and procedures for obtaining loans and expanding the purposes for which loan funds can be used; and award grants on a competitive basis.

DATES: This rule will become effective on May 10, 1999, unless we receive written adverse comments or notice of intent to submit adverse comments on or before April 26, 1999. Written comments must be received by RUS not later than April 26, 1999. If we receive such comment or notice, we will publish a document in the **Federal Register** prior to the effective date withdrawing the direct final rule.

ADDRESSES: Submit any written comments or notice of intent to submit adverse comments to Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1590, Room 4056, South Building, Washington, DC 20250–1590. RUS requires a signed original and three copies of all comments (7 CFR part 1700). All comments received will be made available for public inspection at room 4056, South Building, U.S. Department of Agriculture, Washington, DC, between 8:00 a.m. and 4:00 p.m. (7 CFR part 1.27(b)). Telephone number (202) 720–9554.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1590, Room 4056, South Building, Washington, DC 20250–1590. Telephone number (202) 720–9556.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of that Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and administrative appeal procedures, if any, are required to be exhausted prior to initiating litigation against the Department (7 U.S.C. 6912(e)).

Regulatory Flexibility Act Certification

RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*). The RUS DLT Loan and Grant Program provides recipients with grants and with loans at interest rates and terms that are more favorable than those generally available from the private sector. Recipients, as a result of obtaining federal financing, receive economic benefits that exceed any direct cost associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping burdens contained in this rule were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number 0572–0096.

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden to F. Lamont Heppe, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Avenue, SW., Room 4034—South Building, Washington D.C. 20250–1522.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under number 10.855, Distance Learning and Telemedicine Loan and Grant Program. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Background

RUS is amending its regulations for the Distance Learning and Telemedicine Loan and Grant Program (DLT program). These amendments will (1) clarify the requirements for the different types of financial assistance offered; (2) streamline policies and procedures for obtaining loans and expanding purposes for which loans can be used; (3) award grants on a competitive basis; and (4) provide applicants with additional

offices to submit applications. Currently, the regulations covering the administration of the DLT program are contained in one subpart. This amendment will revise subpart D to address all criteria related to the overall program and add three subparts that address specifically the different types of financing options offered by the DLT program. Subpart E addresses applications for grants. Subpart F addresses applications for a combination loan and grant. Subpart G addresses applications for loans.

The current regulations implemented the provisions of the Federal Agriculture Improvement Act of 1996 (1996 Act, 7 U.S.C. 950aaa *et seq.*) which added a loan program component to the grant program. During its first two years, the loan program has struggled to effectively utilize its available loan funds, in part because applicants seeking financial assistance were either unable to enter into loan agreements or could not pay back a loan. The amendments to the regulations will seek to retarget available loan funds to entities that are capable of supporting debt service payments for the purpose of providing distance learning and telemedicine services in rural areas.

This rule establishes three application processes to finance necessary equipment and telecommunications facilities that will enable schools and libraries and rural medical clinics to offer the best services possible: (1) grants, contained in subpart E; (2) combination loan and grant, contained in subpart F; and (3) loans, contained in subpart G. The three application processes by which applicants can request consideration for financial assistance will enable the government to more effectively and efficiently utilize the limited financial assistance available. By segregating the three different application processes, RUS will be able to target entities that qualify for the different types of financial assistance. The rule seeks to assure repayment to the government of any loan.

Grants will be awarded to the neediest applicants on a competitive basis subject to the availability of funds. Instead of "categorizing" applicants based on the percentage of students eligible to participate in the National School Lunch Program (NSLP), RUS will instead use the NSLP eligibility levels as an indicator of poverty and award points based on the percentage of the students eligible to participate located in the proposed end user sites of the project (higher eligibility percentages will receive more points). In addition, applicants will be able to submit for consideration additional indicators which address the economic disparity of the community the project will serve. All eligible applications for grants will be scored and ranked in accordance with the provisions of subpart E. Grants will be awarded on a competitive basis to applications receiving the highest number of points.

Loans and combination loans and grants will be made to applicants able to enter into a loan agreement, execute a note for more than one year, demonstrate loan feasibility, and otherwise qualify under subparts F and G. RUS will determine the specific amounts to be made available for a combination loan and grant, generally at a ratio of 10 to 1, loans to grants, respectively (e.g., $100,000 of grant funds for every $1,000,000 of loan funds). Loans and combination loan and grant applications will generally be processed on a first-in, first-out basis, based on the amount of funding available for the fiscal year and the number of applications received. RUS believes that sufficient funding is generally available to fund all eligible combination loan and grant and loan applications received during the fiscal year, and therefore will process and approve each application as it is received. However, if RUS determines that the amount of combination loan and grant and loan funds available for funding is insufficient to process all eligible applications, RUS may prioritize such applications using evaluation criteria similar to that set forth for processing grants. The purposes for which loans can be used will be expanded to allow for the financing of purposes and facilities that are restricted under approved grant purposes in this rule and under any financing purpose in the current rule. For example, in some instances, loans may be used to cover initial operating start-up costs or for the construction of buildings and purchase of land necessary for the delivery of educational and health care services to rural areas. Loans afford applicants the most flexibility in terms of the types of approved purposes for financial assistance and provide the highest amount of financial assistance available per applicant.

In addition to establishing three distinct financial assistance application processes, this rule will amend several of the scoring criteria used to rank grant applications.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs-education, Grant programs-health care, Grant programs-housing and community development, Loan programs-education, Loan programs-health care, Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, 7 CFR Chapter XVII is amended as follows:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for part 1703 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.* and 950aaa *et seq.*

2. In part 1703, subpart E is redesignated as subpart H, subpart D is revised, and new subparts E, F, and G are added to read as follows:

Subpart D—Distance Learning and Telemedicine Loan and Grant Program—General

Sec.

1703.100 Purpose.
1703.101 Policy.
1703.102 Definitions.
1703.103 Applicant eligibility and allocation of funds.
1703.104 [Reserved]
1703.105 Processing of selected applications.
1703.106 Disbursement of loans and grants.
1703.107 Reporting and oversight requirements.
1073.108 Audit requirements.
1703.109 Grant and loan administration.
1703.110 Changes in project objectives or scope.
1703.111 Grant and loan termination.
1703.112 Expedited telecommunications loans.
1703.113–1703.119 [Reserved]

Subpart E—Distance Learning and Telemedicine Grant Program

1703.120 Use of grants.
1703.121 Approved purposes for grants.
1703.122 Matching contributions.
1703.123 Nonapproved purposes for grants.
1703.124 Maximum and minimum grant amounts.
1703.125 Completed application.
1703.126 Criteria for scoring grant applications.
1703.127 Application selection provisions.
1703.128 Submission of applications.
1703.129 Appeals.

Subpart F—Distance Learning and Telemedicine Combination Loan and Grant Program

1703.130 Use of combination loan and grant.
1703.131 Approved purposes for a combination loan and grant.
1703.132 Nonapproved purposes for a combination loan and grant.

1703.133 Maximum and minimum amounts.
1703.134 Completed application.
1703.135 Application selection provisions.
1703.136 Submission of applications.
1703.137 Appeals.
1703.138–1703.139 [Reserved]

Subpart G—Distance Learning and Telemedicine Loan Program

1703.140 Use of loan funds.
1703.141 Approved purposes for loans.
1703.142 Nonapproved purposes for loans.
1703.143 Maximum and minimum amounts.
1703.144 Completed application.
1703.145 Application selection provisions.
1703.146 Submission of applications.
1703.147 Appeals.

Subpart D—Distance Learning and Telemedicine Loan and Grant Program—General

§ 1703.100 Purpose.

The purpose of the Distance Learning and Telemedicine (DLT) Loan and Grant Program is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents. This subpart describes the general policies for administering the DLT program. Subpart E contains the policies and procedures related to grants; subpart F contains the policies and procedures related to a combination loan and grant; and subpart G contains the policies and procedures related to loans.

§ 1703.101 Policy.

(a) The transmission of information is vital to the economic development, education, and health of rural Americans. To further this objective, RUS will provide financial assistance to distance learning and telemedicine projects that will improve the access of people residing in rural areas to educational, learning, training, and health care services.

(b) In providing financial assistance, RUS will give priority to rural areas that it believes have the greatest need for distance learning and telemedicine services. RUS believes that generally the need is greatest in areas that are economically challenged, costly to serve, and experiencing outward migration. This program is consistent with the provisions of the Telecommunications Act of 1996 that designate telecommunications service discounts for schools, libraries, and rural health care centers. RUS will take into consideration the community's involvement in the proposed project and the applicant's ability to leverage grant funds.

(c) In administering this subpart, RUS will not favor or mandate the use of one particular technology over another.

(d) Rural institutions are encouraged to cooperate with each other, with applicants, and with end-users to promote the program being implemented under this subpart.

(e) RUS staff will make diligent efforts to inform potential applicants in rural areas of the programs being implemented under this subpart.

(f) The Administrator will provide only loans under this subpart to any entity that has received a telecommunications or electric loan under the Rural Electrification Act of 1936. Telecommunications and Electric borrowers are encouraged to seek a loan under this subpart to bolster educational and health care opportunities in the rural communities they serve. A borrower receiving a loan shall:

(1) Make the loan available to entities that qualify as distance learning or telemedicine projects satisfying the requirements of this subpart, under any terms it so chooses as long as the terms are no more stringent than the terms under which it received the financial assistance.

(2) Use the loan to acquire, install, improve, or extend a distance learning or telemedicine system referred to in this subpart.

(g) The Administrator will allocate funds that are appropriated each fiscal year for the subparts E, F, and G, of this part respectively. Not more than 30 days before the end of the fiscal year, the Administrator may transfer any funds not committed to grants in the combination loan and grant program to the grant program.

(h) Financial assistance may be provided for end user sites. Financial assistance may also be provided for hubs located in rural or non-rural areas if they are necessary to provide distance learning or telemedicine services to rural residents at end user sites.

(i) The Administrator will publish, at the end of each fiscal year, a notice in the **Federal Register** of all applications receiving financial assistance under this subpart. Subject to the provisions of the Freedom of Information Act, (5 U.S.C. 552), applications will be available for public inspection at the U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C., 20250.

§ 1703.102 Definitions.

1996 Act means the Federal Agriculture Improvement Act of 1996.

Act means the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*).

Administrator means the Administrator of the Rural Utilities Service, or designee or successor.

Applicant means an eligible organization that applies for financial assistance under this subpart.

Approved purposes means project purposes for which grant, loan, or combination loan and grant financial assistance may be expended.

Champion community means any community that submitted a valid application to become a USDA Empowerment Zone/Enterprise Community (EZ/EC) area, that met the requirements to be designated an EZ/EC area, but not chosen because their score was not high enough to be selected.

Combination loan and grant means a grant in combination with a loan made under the DLT program.

Completed application means an application that includes all those items specified in §§ 1703.125, 1703.134, and 1703.144 in form and substance satisfactory to the Administrator.

Computer networks mean computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

Consortium means a combination or group of eligible entities formed to undertake the purposes for which the distance learning and telemedicine financial assistance is provided. Each consortium shall be composed of a minimum of one eligible organization that meets the requirements of § 1703.103.

Construct means to acquire, construct, extend, improve, or install a facility or system.

Data terminal equipment means equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

Distance learning means a telecommunications link to an end user through the use of eligible equipment to:

(1) Provide educational programs, instruction, or information originating

in one area, whether rural or not, to students and teachers who are located in rural areas; or

(2) Connect teachers and students, located in one rural area with teachers and students that are located in a different rural area.

DLT borrower means an entity that has an outstanding loan under the provisions of the DLT program.

DLT program means the Distance Learning and Telemedicine Loan and Grant Program administered by RUS.

Economic useful life as applied to equipment and facilities financed under the DLT program means the number of years resulting from dividing 100 percent by the depreciation rate (expressed as a percent) based on Internal Revenue Service depreciation rules or recognized telecommunications industry guidelines.

Eligible equipment means computer hardware and software, audio or video equipment, computer network components, telecommunications terminal equipment, data terminal equipment, inside wiring, interactive video equipment, or other facilities that would further telemedicine services or distance learning services.

Eligible facilities means land, buildings, or building construction needed to carry out an eligible distance learning or telemedicine project for loan financial assistance only.

Eligible organization means an entity that meets the requirements of § 1703.103.

Empowerment Zone and Enterprise Community (EZ/EC) means any community whose designation as such by USDA pursuant to 26 U.S.C. 1391 *et seq.*, is in effect at the time RUS agrees to provide financial assistance.

End user is one or more of the following:

(1) Rural elementary, secondary schools, and other educational institutions, such as institutions of higher education, vocational and adult training and education centers, libraries, and teacher training centers, and students, teachers and instructors using such rural educational facilities, that participate in a rural distance learning telecommunications program through a project funded under this subpart;

(2) Rural hospitals, primary care centers or facilities, such as medical centers, nursing homes, and clinics, and physicians and staff using such rural medical facilities, that participate in a rural telemedicine program through a project funded under this subpart; and

(3) Other rural community facilities, institutions, or entities that receive distance learning or telemedicine services.

End user site means a facility that is part of a network or telecommunications system that is utilized by end users.

Financial assistance means a grant, combination loan and grant, or loan.

GFR means RUS telecommunications program General Field Representative.

Grant documents means the grant agreement, including any amendments and supplements thereto, between RUS and the grantee.

Grantee means a recipient of a grant from RUS to carry out the purposes of the DLT program.

Guarantee means a guarantee for a loan provided by a RUS borrower or other qualified third party.

Hub means a facility that is part of a network or telecommunications system that provides educational or medical services to end user sites.

Instructional programming means educational material, including computer software, which would be used for educational purposes in connection with eligible equipment but does not include salaries, benefits, and overhead of medical or educational personnel.

Interactive equipment means equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations so that individuals at such locations can orally and visually communicate with each other. Such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

Loan means a loan made under the DLT program bearing interest at a rate equal to the then current cost-of-money to the government.

Loan documents mean the loan agreement, note, and security instrument, including any amendments and supplements thereto, between RUS and the DLT borrower.

Local exchange carrier means a commercial, cooperative or mutual-type association, or public body that is engaged in the provision of telephone exchange service or exchange access.

Matching contribution means the applicant's contribution for approved purposes.

National school lunch program (NSLP) means the federally assisted meal program established under the National School Lunch Act of 1946 (42 U.S.C. 1751).

Project means approved purposes for which financial assistance has been provided.

Project service area means the area in which at least 90 percent of the persons to be served by the project are likely to reside.

Recipient means a grantee, borrower, or both of a DLT program grant, loan or combination loan and grant.

Rural community facilities mean facilities such as schools, libraries, learning centers, training facilities, hospitals, medical centers, and similar facilities, primarily used by residents of rural areas, that will use a telecommunications, computer network, or related advanced technology system to provide educational or health care benefits primarily to residents of rural areas.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture, successor to the Rural Electrification Administration.

Secretary means the Secretary of Agriculture.

Technical assistance means:

(1) Assistance in learning to manage, operate, or use equipment or systems; and

(2) Studies, analyses, designs, reports, manuals, guides, literature, or other forms of creating, acquiring, or disseminating information.

Telecommunications carrier means any provider of telecommunications services.

Telecommunications or electric borrower means an entity that has outstanding RUS or Rural Telephone Bank electric or telecommunications loans or loan guarantees under the provisions of the Act.

Telecommunications systems plan means the plan submitted by an applicant in accordance with § 1703.125 for grants, § 1703.134 for a combination loan and grant, or § 1703.144 for loans.

Telecommunications terminal equipment means the assembly of telecommunications equipment at the end of a circuit or path of a signal, including but not limited to facilities that receive or transmit over the air broadcast, satellite, and microwave, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode, or otherwise prepare signals to be transmitted via such telecommunications facilities, or that is used to modify, reconvert, or carry signals received from such facilities, the purpose of which is to accomplish the goal for which the circuit or signal was established.

Telecommunications transmission facilities means facilities that transmit, receive, or carry voice, video, or data between the telecommunications terminal equipment at each end of the telecommunications circuit or path. Such facilities include microwave antennae, relay stations and towers,

other telecommunications antennae, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items.

Telemedicine means a telecommunications link to an end user through the use of eligible equipment which electronically links medical professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care services primarily to residents of rural areas.

§ 1703.103 Applicant eligibility and allocation of funds.

(a) To be eligible to receive financial assistance under this subpart, the applicant must be organized in one of the following corporate structures:

(1) An incorporated organization, partnership, Indian tribe and tribal organization as defined in 25 U.S.C. 450b (b) and (c), or other legal entity, including a municipal corporation or a private corporation organized on a for-profit or not-for-profit basis, which operates, or will operate a school, college, university, learning center, training facility, or other educational institution, including a regional educational laboratory, library, hospital, medical center, medical clinic, or any rural community facility. A political subdivision of a State government, other than a political subdivision of a State government that operates a rural community facility, is not considered an eligible applicant; or

(2) A consortium, as defined in § 1703.102. A consortium which includes a political subdivision of a State government is only eligible if the political subdivision of the State government operates a rural community facility; or

(3) An incorporated organization, partnership, Indian tribe, and tribal organization as defined in 25 U.S.C. 450b (b) and (c), or other legal entity which is providing or proposes to provide telemedicine service or distance learning service to other legal entities or consortia at rates calculated to ensure that the economic value and other benefits of the distance learning or telemedicine grant is passed through to such other legal entities or consortia.

(b) At least one of the entities in a partnership or consortium must be eligible individually, and the partnership or consortium must provide written evidence of its legal capacity to contract with RUS and to obtain the applicable financial assistance. If a partnership or consortium lacks the capacity to contract, each individual entity must contract with RUS on its own behalf.

(c) Electric or telecommunications borrowers are eligible for loans only.

§ 1703.104 [Reserved]

§ 1703.105 Processing of selected applications.

(a) During the period between the submission of an application and the execution of documents, the applicant must inform RUS if the project is no longer viable or the applicant no longer is requesting financial assistance for the project. When the applicant so informs RUS, the selection will be rescinded or the application withdrawn and written notice to that effect sent to the applicant.

(b) If an application has been selected and the scope of the project changes substantially, the applicant may be required to submit a new application to RUS for review and consideration depending on the degree of change. A new application will be subject to review in accordance with this subpart. The financial assistance may not be transferred by the applicant for use for another project.

(c) If State or local governments raise objections to a proposed project under the intergovernmental review process that are not resolved within 90 days of the Administrator's selection of the application, the Administrator will rescind the selection and written notice to that effect will be sent to the applicant. The Administrator, in his sole discretion may extend the 90 day period if it appears resolution is eminent.

(d) RUS may request additional information to complete the appropriate documents covering financial assistance.

(e) Financial assistance documents. (1) The documents will include a grant agreement for grants; loan documents, including third party guarantees, notes and security instruments for loans; or any other legal documents the Administrator deems appropriate, including suggested forms of certifications and legal opinions.

(2) The grant agreement and the loan documents will include, among other things, conditions on the release or advance of funds and include at a minimum, a project description, approved purposes, the maximum amount of the financial assistance, supplemental funds required for the project, and certain agreements or commitments the applicant may have proposed in its application. In addition, the loan documents may contain covenants and conditions the Administrator deems necessary or desirable to provide additional assurance that loans will be repaid and the purposes of the loan will be accomplished.

(3) The recipient of a loan will be required to execute a security instrument in form and substance satisfactory to RUS and must, before receiving any advance of loan funds, provide security that is adequate, in the opinion of RUS, to assure repayment, within the time agreed, of all loans to the borrower under the DLT program. This assurance will generally be provided by a first lien upon all facilities and equipment financed by the loan. RUS may require additional security as it deems necessary.

(4) Adequate security may also be provided by third-party guarantees, letters of credit, pledges of revenue, or other forms of security satisfactory to RUS.

(5) The security instrument and other loan documents required by RUS in connection with a loan under the DLT program shall contain such pledges, covenants, and other provisions as may, in the opinion of RUS, be required to secure repayment of the loan.

(6) If the project does not constitute a complete operating system, the DLT borrower shall provide evidence, in form and substance satisfactory to RUS, demonstrating that the borrower has sufficient contractual, financing, or other arrangements to assure that the project will provide adequate and efficient service.

(f) Prior to the execution of a grant and loan document, RUS reserves the right to require any changes in the project or legal documents covering the project to protect the integrity of the DLT program and the interests of the government.

(g) If the applicant fails to submit, within 120 calendar days from the date of RUS' selection of an application, all of the information that RUS determines to be necessary to prepare legal documents and satisfy other requirements of this subpart, RUS may rescind the selection of the application.

§ 1703.106 Disbursement of loans and grants.

(a) For financial assistance of $100,000 or greater, prior to the disbursement of a grant and a loan, the recipient, if it is not a unit of government, will provide evidence of fidelity bond coverage as required by 7 CFR part 3019.

(b) Grants and loans will be disbursed to recipients on a reimbursement basis,

or with unpaid invoices for the eligible purposes contained in this subpart, by the following process:

(1) An SF 270, "Request for Advance or Reimbursement," will be completed by the recipient and submitted to RUS not more frequently than once a month;

(2) RUS will review the SF 270 for accuracy when received and will schedule payment if the form is satisfactory. Payment will ordinarily be made within 30 days; and

(3) For financial assistance approved during and subsequent to FY 1999, funds will be advanced in accordance with 7 CFR 1744.69.

(c) The recipient's share in the cost of the project must be disbursed in advance of the loan and grant, or if the recipient agrees, on a pro rata distribution basis with financial assistance during the disbursement period. Recipients will not be permitted to provide their contributions at the end of the project.

(d) A combination loan and grant will be disbursed on a pro rata basis based on the respective amounts of financial assistance provided.

§ 1703.107 Reporting and oversight requirements.

(a) A project performance activity report will be required of all recipients on an annual basis until the project is complete and the funds are expended by the applicant.

(b) A final project performance report must be provided by the recipient. It must provide an evaluation of the success of the project in meeting the objectives of the program. The final report may serve as the last annual report.

(c) RUS will monitor recipients, as it determines necessary, to assure that projects are completed in accordance with the approved scope of work and that the financial assistance is expended for approved purposes.

(d) Recipients shall diligently monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Recipients are to submit an original and one copy of all project performance reports, including, but not limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) A description of any problems, delays, or adverse conditions which have occurred, or are anticipated, and which may affect the attainment of overall project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(3) Objectives and timetable established for the next reporting period.

§ 1703.108 Audit requirements.

A recipient of financial assistance shall provide RUS with an audit for each year, beginning with the year in which a portion of the financial assistance is expended, in accordance with the following:

(a) If the recipient is a for-profit entity, a Telecommunications or Electric borrower, or any other entity not covered by the preceding paragraph, the recipient shall provide an independent audit report in accordance with 7 CFR part 1773, "Policy on Audits of RUS Borrowers."

(b) If the recipient is a State or local government, or non-profit organization, the recipient shall provide an audit in accordance with 7 CFR part 3052, "Audits of States, Local Governments, and Non-Profit Organizations."

§ 1703.109 Grant and loan administration.

RUS will conduct reviews as necessary to determine whether the financial assistance was expended for approved purposes. The recipient is responsible for ensuring that the project complies with all applicable regulations, and that the grants and loans are expended only for approved purposes. The recipient is responsible for ensuring that disbursements and expenditures of funds are properly supported by invoices, contracts, bills of sale, canceled checks, or other appropriate forms of evidence, and that such supporting material is provided to RUS, upon request, and is otherwise made available, at the recipient's premises, for review by the RUS representatives, the recipient's certified public accountant, the Office of Inspector General, U. S. Department of Agriculture, the General Accounting Office, and any other official conducting an audit of the recipient's financial statements or records, and program performance for the grants and loans made under this subpart. The recipient shall permit RUS to inspect and copy any records and documents that pertain to the project.

§ 1703.110 Changes in project objectives or scope.

The recipient shall obtain prior written approval by RUS for any material change to the scope or objectives of the project, including any changes to the scope of work or the budget submitted to RUS. Any material change shall be contained in a revised scope of work plan to be prepared by the recipient, submitted to, and approved by RUS in writing.

§ 1703.111 Grant and loan termination.

(a) The financial assistance may be terminated when RUS and the recipient agree upon the conditions of the termination, the effective date of the termination, and, in the case of a partial termination of the financial assistance, any unadvanced portion of the financial assistance to be terminated and any advanced portion of the financial assistance to be returned.

(b) The recipient may terminate the financial assistance by written notification to RUS, providing the reasons for such termination, the effective date, and, in the case of a partial termination, the portion of the financial assistance to be terminated. In the case of a partial termination, if RUS believes that the remaining portion of the financial assistance will not accomplish the approved purposes, then, RUS may terminate the financial assistance in its entirety, pursuant to the provisions of paragraph (a) of this section.

§ 1703.112 Expedited telecommunications loans

RUS will expedite consideration and determination of an application submitted by an RUS telecommunications borrower for a loan under the Act or an advance of such loan funds to be used in conjunction with financial assistance under subparts E, F, or G of this part. See 7 CFR part 1737 for loans and 7 CFR part 1744 for advances under this section.

§§ 1703.113—1703.119 [Reserved]

Subpart E—Distance Learning and Telemedicine Grant Program

§ 1703.120 Use of grants

(a) Grants may be used by eligible organizations for distance learning and telemedicine projects to finance up to 70 percent of the amount designated for approved purposes; at least 30 percent of the project must be funded by matching contributions. For purposes of determining the applicant's ability to leverage resources in § 1703.126(b)(4), the minimum matching contribution of 30 percent of the amount designated for approved purposes equals 42.85 percent of the grant requested.

(b) Only projected costs for approved grant purposes will be considered in determining the amount of DLT grant

eligibility in accordance with paragraph (a) of this section.

(c) Funding from Federal sources other than RUS cannot be considered as matching contributions under this subpart.

§ 1703.121 Approved purposes for grants.

Grants shall be expended only for the costs associated with the initial capital assets associated with the project. The following are approved grant purposes:

(a) Acquiring, by lease or purchase, eligible equipment as defined in § 1703.102;

(b) Acquiring instructional programming; and

(c) Providing technical assistance and instruction for using eligible equipment, including any related software; developing instructional programming; providing engineering or environmental studies relating to the establishment or expansion of the phase of the project that is being financed with the grant (this purpose shall not exceed 10 percent of the grant).

§ 1703.122 Matching contributions.

(a) The grant applicant's minimum matching contribution (as specified in § 1703.120) for approved purposes, generally must be in the form of cash. However, in-kind contributions for the purposes listed in § 1703.121 may be substituted for cash.

(b) In-kind items listed in § 1703.121 must be non-depreciated or new assets with established monetary values. Manufacturers' or service providers' discounts are not considered in-kind matching.

(c) Costs incurred by the applicant, or others on behalf of the applicant, for facilities or equipment installed, or other services rendered prior to submission of a completed application, shall not be considered as an eligible in-kind matching contribution.

(d) Costs incurred for non-approved purposes for grant outlined in § 1703.123 shall not be used as an in-kind matching contribution.

§ 1703.123 Nonapproved purposes for grants.

(a) A grant made under this subpart will not be provided or used:

(1) To cover the costs of installing or constructing telecommunications transmission facilities, other than those facilities not available and necessary for the completion of the proposed project and not otherwise available;

(2) To pay for medical equipment not having telemedicine as its essential function;

(3) To pay salaries, wages, or employee benefits to medical or educational personnel;

(4) To pay for the salaries or administrative expenses of the applicant or the project;

(5) To purchase equipment that will be owned by the local exchange carrier or another telecommunications service provider;

(6) To duplicate facilities providing distance learning or telemedicine services in place or to reimburse the applicant or others for costs incurred prior to RUS' receipt of the completed application;

(7) To pay costs of preparing the application package for financial assistance under this program;

(8) For projects whose sole objective is to provide links between teachers and students or between medical professionals who are located at the same facility;

(9) For site development and the destruction or alteration of buildings;

(10) For the purchase of land, buildings, or building construction;

(11) For projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*);

(12) For any purpose that the Administrator has not specifically approved;

(13) Except for leases provided for in § 1703.105, to pay the cost of recurring or operating expenses for the project; or

(14) For any other purposes not specifically contained in § 1703.105.

(b) Except as otherwise provided in § 1703.112, grants shall not be used to finance a project, in part, when the success of the project is dependent upon the receipt of additional financial assistance under this subpart or is dependent upon the receipt of other financial assistance that is not assured.

§ 1703.124 Maximum and minimum grant amounts.

Applications for grants under this subpart will be subject to limitations on the proposed amount of grant funds. The Administrator will establish the maximum amount of a grant to be made available to an individual recipient for each fiscal year under this subpart by publishing notice of the maximum amount in the **Federal Register** not sooner than 45 days before the period for accepting applications begins. The minimum amount of a grant is $50,000.

§ 1703.125 Completed application.

The following items are required to be submitted to RUS in support of an application for grant funds:

(a) *An application for Federal Assistance.* A completed Standard Form 424.

(b) *An executive summary of the project.* The applicant must provide RUS with a general project overview that addresses the following 8 categories:

(1) A description of why the project is needed;

(2) An explanation of how the applicant will address the need cited in paragraph (b)(1) of this section, why the applicant requires financial assistance, the types of educational or medical services to be offered by the project, and the benefits to rural residents;

(3) A description of the applicant, documenting eligibility in accordance with § 1703.103;

(4) An explanation of the total project cost including a breakdown of the grant required and the source of matching contribution and other financial assistance for the remainder of the project;

(5) A statement specifying whether the project is either a distance learning or telemedicine facility as defined in § 1703.102. If the project provides both distance learning and telemedicine services, the applicant must identify the predominant use of the system;

(6) A general overview of the telecommunications system to be developed, including the types of equipment, technologies, and facilities used;

(7) A description of the participating hubs and end user sites and the number of rural residents that will be served by the project at each end user site; and

(8) A certification by the applicant that facilities constructed with grants do not duplicate adequate established telemedicine or distance learning services.

(c) *Scoring criteria documentation.* Each grant applicant must address and provide documentation on how it meets each of the scoring criteria contained in § 1703.126.

(d) *A scope of work.* The scope of work must include, at a minimum:

(1) The specific activities to be performed under the project;

(2) Who will carry out the activities;

(3) The time-frames for accomplishing the project objectives and activities; and

(4) A budget for all capital expenditures reflecting the line item costs for approved purposes for both the grant funds and other sources of funds for the project. Separately, the budget must specify any line item costs that are nonapproved purposes for grants as contained in § 1703.123.

(e) *Financial information.* The applicant must provide financial information to support the need for the financial assistance requested for the project and the applicant's ability and financial capacity to carry out the proposed project. It must show its

financial and other ability to carry out the proposed work. All institutions participating in a project application (including all members of a consortium), must include an income statement (or equivalent revenue and expense reports) and balance sheet reports, reflecting net worth, for the most recent annual reporting period preceding the date of the application. When the applicant is a partnership, company, corporation or other entity, current balance sheets, reflecting net worth, are needed from each of the entities that has at least a 20 percent interest in such partnership, company, corporation, or other entity. When the applicant is a consortium, a current balance sheet, reflecting net worth, is needed from each member of the consortium and from each of the entities that has at least a 20 percent interest in such member of the consortium.

(1) Applicants must include sufficient pro-forma financial data to demonstrate feasibility of the project and the financial capability of the project participants to continue a sustainable project for a minimum of 10 years after completion of the project. This documentation should include non-contingent sources of income or revenues that are sufficient to pay operating expenses including telecommunications access and toll charges, system maintenance, salaries, training, and any other general operating expenses, and provide for replacement of depreciable items.

(2) For each hub and end user site, the applicant must identify and provide reasonable evidence of each source of revenue. If the projection relies on cost sharing arrangements among hub and end user sites, the applicant must provide evidence of agreements made among project participants.

(3) For applicants eligible under § 1703.103(a)(3), an explanation of the economic analysis justifying the rate structure to ensure that the benefit, including cost saving, of the financial assistance is passed through to those receiving telemedicine or distance learning services.

(f) *A statement of experience.* The applicant must provide a written narrative (not exceeding three single spaced pages) describing its demonstrated capability and experience, if any, in operating an educational or health care endeavor and any project similar to the project. Experience in a similar project is desirable but not required.

(g) *Funding commitment from other sources.* The applicant must provide evidence, in form and substance satisfactory to RUS, that funding agreements have been obtained to ensure completion of the project. These agreements shall be sufficient to ensure:

(1) Payment of all proposed expenditures for the project;

(2) All required matching contribution in 1703.120;

(3) any additional matching funding provided in accordance with § 1703.126(b)(4); and

(4) Any other funds necessary to complete the project.

(h) *A telecommunications system plan.* A telecommunications system plan consisting of the following:

(1) The capabilities of the telecommunications terminal equipment, including a description of the specific equipment which will be used to deliver the proposed service. The applicant must document discussions with various technical sources which could include consultants, engineers, product vendors, or internal technical experts, provide detailed cost estimates for operating and maintaining the end user equipment and provide evidence that alternative equipment and technologies were evaluated.

(2) A listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this subpart, that the applicant intends to build or fund using RUS financial assistance.

(3) A description of the consultations with the appropriate telecommunications carriers (including other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services and telecommunications equipment manufacturers and distributors) and the anticipated role of such providers in the proposed telecommunications system.

(i) *Compliance with other Federal statutes.* The applicant must provide evidence of compliance with other Federal statutes and regulations including, but not limited to the following:

(1) E.O. 11246, Equal Employment Opportunity, as amended by E.O. 11375 and as supplemented by regulations contained in 41 CFR part 60;

(2) Anti-Kickback Act (18 U.S.C. 874);

(3) Davis Bacon Act (40 U.S.C. 276a–a–7);

(4) Contract Work and Safety Standards Act (40 U.S.C. 327–333);

(5) Clean Air Act (42 U.S.C. 7401, *et seq.*);

(6) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);

(7) E.O.s 12549 and 12689, Debarment and Suspension;

(8) Resource Conservation and Recovery Act (42 U.S.C. 6962);

(9) Drug-Free Workplace Act of 1988 (41 U.S.C. 701);

(10) Assistance and Real Property Acquisition Policies Act of 1970; and

(11) Office of Management and Budget Circulars A–110 and A–102.

(j) *Environmental impact and historic preservation.* (1) The applicant must provide details of the project's impact on the environment and historic preservation. Grants made under this part are subject to part 1794 of this chapter which contains RUS' policies and procedures for implementing a variety of Federal statutes, regulations, and executive orders generally pertaining to the protection of the quality of the human environment that are listed in 7 CFR 1794.1. The application shall contain a separate section entitled "Environmental Impact of the Project."

(2) The applicant may use the "Environmental Questionnaire," available from RUS, to assist in complying with the requirements of this section.

(k) *Evidence of legal authority and existence.* The applicant must provide evidence of its legal existence and authority to enter into a grant agreement with RUS and perform the activities proposed under the grant application.

(l) *Federal debt certification.* The applicant must provide a certification that it is not delinquent on any obligation owed to the government (7 CFR parts 3016 and 3019).

(m) *Consultation with USDA State Director, Rural Development.* The applicant must provide evidence that it has consulted with the USDA State Director, Rural Development, concerning the availability of other sources of funding available at the State or local level.

(n) *State strategic plan conformity.* The applicant must provide evidence from the USDA State Director, Rural Development, that the application conforms with the State strategic plan as prepared under section 381D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*). The applicant should indicate if such a plan does not exist.

(o) *Supplemental information.* The applicant should provide any additional information it considers relevant to the project and likely to be helpful in determining the extent to which the project would further the purposes of the 1996 Act.

(p) *Additional information required by RUS.* The applicant must provide any additional information RUS may consider relevant to the application and necessary to adequately evaluate the application. RUS may request modifications or changes, including changes in the amount of financial assistance requested, in any proposal described in an application submitted under this subpart.

§ 1703.126 Criteria for scoring grant applications.

(a) *Criteria.* The criteria in this section will be used by RUS to score applications that have been determined to be in compliance with the requirements of this subpart. Applications for grants must meet the rurality requirements in paragraph (a)(2) of this section and address each of the following scoring criteria:

(1) The need for services and benefits derived from services (up to 55 points);

(2) The comparative rurality of the project service area (up to 45 points);

(3) The economic need of the applicant's service area as estimated by the NSLP or other supplemental objective criteria (up to 35 points);

(4) The ability of the applicant to leverage resources (up to 35 points);

(5) Innovativeness of the project (up to 15 points);

(6) The cost effectiveness of the system (up to 35 points);

(7) Project participation in EZ/ECs (Empowerment Zone and Enterprise Communities) and Champion Communities (up to 15 points).

(b) Scoring criteria:

(1) *The need for services and benefits derived from services—Up to 55 Points.*

(i) This criterion will be used by RUS to score applications based on the documentation in support of the need for services, benefits derived from the services proposed by the project, and local community involvement in planning, implementing, and financial assistance of the project. Applicants may receive up to 45 points for documenting the need for services and benefits derived from service as explained in this section. Applicants with an average NSLP percentage less than 50 percent as determined in paragraph (b)(3) of this section may receive up to an additional 10 points based on information submitted that evidences the economic need of the project's service area. This determination will be made by RUS based on information submitted by the applicant under paragraph (b)(1) of this section.

(ii) RUS will consider the extent of the applicant's documentation explaining the economic, education, or health care challenges facing the community; the applicant's proposed plan to address these challenges; how the grant can help; and why the applicant cannot complete the project without a grant. RUS will also consider the extent to which the applicant provides evidence that economic, education, or health care challenges could not be addressed without employing advanced technology. The Administrator will also consider any support by recognized experts in the related educational or health care field, any documentation substantiating the educational or health care underserved nature of the applicant's proposed service area, and any justification for specific educational or medical services which are needed and will provide direct benefits to rural residents.

(A) Some examples of benefits to be provided by the project include, but are not limited to:

(*1*) Improved educational opportunities for a specified number of students;

(*2*) Travel time and money saved by telemedicine diagnoses;

(*3*) Number of doctors retained in rural areas;

(*4*) Number of additional students electing to attend higher education institutions;

(*5*) Lives saved due to prompt medical diagnoses and treatment;

(*6*) New education courses offered, including college level courses;

(*7*) Expanded use of educational facilities such as night training;

(*8*) Number of patients receiving telemedicine diagnoses;

(*9*) Provision of training, information resources, library assets, adult education, lifetime learning, community use of technology, jobs, connection to region, nation, and world.

(B) Other matters that will be considered by RUS under this criterion include:

(*1*) That rural residents, and other beneficiaries, desire the educational or medical services to be provided by the project. A strong indication of need is the willingness of local end users or institutions, to the extent possible, to contribute to the capital costs of establishing the project. This could include letters of financial commitment toward the project from local institutions.

(*2*) The extent of the project's planning, development, and support by local residents and institutions. This may include evidence of community involvement, as exemplified in community meetings, public forums, and surveys. In addition, applicants should provide evidence of local residents' participation in the project planning and development.

(*3*) The extent to which the application addresses the problems of population out-migration and how the project seeks to slow, halt, or prevent population loss.

(*4*) The extent to which the application is consistent with the State strategic plan prepared by the Rural Development State Director of the United States Department of Agriculture.

(2) *The comparative rurality of the project service area—Up to 45 Points.* This criterion will be used to evaluate the relative rurality of service areas for various projects. Under this system, the end user sites and hubs (as defined in § 1703.102) contained within the project service area are identified and given a score according to the population of the area where the end user sites are located.

(i) The following definitions are used in the evaluation of rurality:

(A) Exceptionally Rural Area means any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 5,000 inhabitants.

(B) Rural Area means any area of the United States included within the boundaries of any incorporated or unincorporated city, village, or borough having a population over 5,000 and not in excess of 10,000 inhabitants.

(C) Mid-Rural Area means any area of the United States included within the boundaries of any incorporated or unincorporated city, village, or borough having a population over 10,000 and not in excess of 20,000 inhabitants.

(D) Urban Area means any area of the United States included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 20,000 inhabitants.

(ii) There are a total of 45 possible points for this criterion. Each end user site will receive points based on its location in accordance with paragraph (b)(2)(i) of this section. If a hub is utilized as an end user site, the hub will be considered as an end user site. The applicant will receive points as follows:

(A) If the end user site is located in an Exceptionally Rural Area, it will receive 45 points.

(B) If the end user site is located in a Rural Area, it will receive 30 points.

(C) If the end user site is located in a Mid-Rural Area, it will receive 15 points.

(D) If the end user site is located in an Urban Area, it will receive 0 points.

(iii) The total score for this criterion will be based on the average score for all the end user sites included in the project.

(iv) An application must receive a minimum of 20 points as an average score for all the end user sites under this criterion to be eligible for a grant.

(3) *The economic need of the applicant's service area as estimated by NSLP—Up to 35 points.* This criterion will be used to evaluate the relative financial need of the applicant, community, and project. All applicants are required to provide the applicable percentage of students eligible to participate in the NSLP for each area to be served by the end user site. The appropriate State or local organization administering the program must certify the percentages as being correct. The applicant must provide RUS with a listing of the location of each end user site (city, town, village, borough or rural area plus the State) discussing how the appropriate NSLP percentage was determined in accordance with this section. These percentages may be obtained from the State or local organization that administers the program and must be certified by that organization as being correct. For purposes of this subpart, the NSLP percentage will reflect the percentage of eligibility rather than the percentage of actual participation.

(i) The following guidelines will be used to determine the applicable NSLP percent for a particular application:

(A) Public schools or non-profit private schools of high school grade or under will use the actual eligibility percentage for that particular school.

(B) Schools and institutions of higher learning ineligible to participate in the NSLP and non-school end user sites (medical facilities, libraries, etc.) will use the eligibility percentage of all students in the school district where the end user will be located.

(C) Percentage ratios will be rounded up to the next highest or rounded down to the next lowest whole number for fraction of percentages at or greater than .5 or less than .5, respectively.

(D) The project NSLP percentage will be determined by the average of the NSLP percentages of the end user sites. If end user sites fall within different percentile categories, the eligibility percentages associated with each end user site will be averaged to determine the percentile category. For purposes of averaging, if a hub is also utilized as an end user site, the hub will be considered as an end user site.

(ii) The applicant will receive points as follows:

(A) NSLP percentage greater than or equal to 75 percent—35 points

(B) NSLP percentage greater than or equal to 50 percent but less than 75 percent—25 points

(C) NSLP percentage greater than or equal to 25 percent but less than 50 percent—15 points

(D) NSLP percentage less than 25% percent—0 points

(4) *The ability of the applicant to leverage resources—Up to 35 points.*

This criterion will be used to evaluate the ability of the applicant to provide a matching contribution for the project using other non-Federal financial assistance. Documentation submitted in support of the application should reflect any additional financial support for the project from non-Federal sources above the applicant's matching contribution as required by § 1703.120. Based on the maximum RUS financial assistance percentage of 70 percent of eligible project costs, the minimum matching as a percentage of the grant requested is 42.85 percent. The applicant must include evidence from authorized representatives of the sources that the funds are available and will be used for the project. The applicant will receive points as follows:

(i) Matching contribution for a grant for approved purposes greater than 42.85 percent, but less than or equal to 70 percent of the grant—0 points.

(ii) Matching contribution for a grant for approved purposes greater than 70 percent, but less than or equal to 100 percent of the grant—15 points.

(iii) Matching contribution for a grant for approved purposes greater than 100 percent, but less than or equal to 150 percent of the grant—25 points.

(iv) Matching contribution for a grant for approved purposes greater than 150 percent, but less than or equal to 200 percent of the grant—30 points.

(v) Matching contribution for a grant for approved purposes greater than 200 percent of the grant—35 points.

(5) *Innovativeness of the project—Up to 15 points.* This criterion will be used to evaluate the innovativeness of application based on documentation that shows how the project utilizes advanced telecommunications in a unique way to address the needs of the community. Innovativeness should be addressed in the context of how the project will deliver distance learning or telemedicine services more effectively or at a lower cost. The following issues may be addressed to show how the project differs from a typical distance learning and telemedicine network as follows:

(i) The extent to which the project differs from a technical standpoint;

(ii) The extent to which the project differs from an educational or medical programmatic standpoint;

(iii) The extent to which the project reflects a unique adaptation of technology based on the special needs or circumstances of the proposed area to be served by the project; and

(iv) The potential of the project to influence or lead changes in how telecommunications services can be delivered in other areas.

(6) *The cost-effectiveness of the project*—Up to 35 points. This criterion will be used to evaluate the cost effectiveness of the application based on the extent that cost-efficiency is considered in delivering the services in the project. The following issues should be addressed under this criterion:

(i) The extent to which the applicant has considered various technological options for delivering the services. The applicant must provide sufficient documentation reflecting accepted analytical and financial methodologies to substantiate its choice of technology as the most cost-effective option. RUS will consider the applicant's documentation and analysis comparing various systems and technologies.

(ii) Whether buying or leasing specific equipment is more cost effective.

(iii) The extent to which the project will utilize other existing networks at the regional, statewide, national or international levels. To the extent possible, educational and health care networks should be designed to utilize the widest practicable number of other networks that expand the capabilities of the project, thereby affording rural residents opportunities that may not be available at the local level. The ability to connect to the Internet alone cannot be used as the sole basis to fulfill this criteria.

(iv) The extent to which the facilities being constructed with financial assistance, particularly financial assistance under this chapter provided to entities other than the applicant, will be utilized to extend or enhance the benefits of the project.

(v) The extent to which the project utilizes existing telecommunications transmission facilities that could provide the transmission path for the needed services. For projects that do not utilize existing transmission facilities, RUS will consider documentation explaining the necessity of this option. RUS will also consider any agreements

between the applicant and other entities for sharing transmission facilities to lower the fixed costs of such facilities.

(7) *Project participation in EZ/ECs and champion communities*—(Up to 15 Points). This criterion will be used by RUS to score applications based on the number of end user sites within an EZ/EC and Champion Community. Ten (10) points will be assigned if at least one end user site is located in an EZ/EC. Five (5) points will be assigned if at least one end user site is located in a Champion Community.

§ 1703.127 Application selection provisions.

(a) Applications will be selected for approval based on scores assigned, availability of funds, and the provisions of this section. RUS will make determinations regarding the reasonableness of all numbers; dollar levels; rates; the nature and design of the project; costs; location; and other characteristics of the application and the project to determine the number of points assigned to a grant application for all selection criteria.

(b) Regardless of the number of points an application receives in accordance with § 1703.126, the Administrator may, based on a review of the applications in accordance with the requirements of this subpart:

(1) Limit the number of applications selected for projects located in any one State during a fiscal year;

(2) Limit the number of selected applications for a particular project;

(3) Select an application receiving fewer points than another higher scoring application if there are insufficient funds during a particular funding period to select the higher scoring application. In this case, however, the Administrator will provide the applicant of the higher scoring application the opportunity to reduce the amount of its grant request to the amount of funds available. If the applicant agrees to lower its grant request, it must certify that the purposes of the project can be met, and the Administrator must determine the project is financially feasible at the lower amount in accordance with § 1703.125(e)(1). An applicant or multiple applicants affected under this paragraph will have the opportunity to be considered for loan financing in accordance with subparts F and G of this part.

(c) RUS will not approve a grant if RUS determines that:

(1) The applicant's proposal does not indicate financial feasibility or is not sustainable in accordance with the requirements of § 1703.115(e)(1);

(2) The applicant's proposal indicates technical flaws, which, in the opinion of RUS, would prevent successful implementation, operation, or sustainability of the project;

(3) Other applications would provide more benefit to rural America based on a review of the financial and technical information submitted in accordance of § 1703.125(e).

(4) Any other aspect of the applicant's proposal fails to adequately address any requirement of this subpart or contains inadequacies which would, in the opinion of RUS, undermine the ability of the project to meet the general purpose of this subpart or comply with policies of the DLT Program contained in § 1703.101.

(d) Grant applications will be ranked by the type of application (health care or educational) and total points scored. Grants available for medical and educational applicants may be allocated based on the total number of medical and educational applications scoring in the top 50 percent of all applications received for that fiscal year. Based on the number and type of applications received, applications may be ranked only in one category based on the predominant use of the project.

(e) RUS may reduce the amount of the applicant's grant based on insufficient program funding for the fiscal year in which the project is reviewed. RUS will discuss its findings informally with the applicant and make every effort to reach a mutually acceptable agreement with the applicant. Any discussions with the applicant and agreements made with regard to a reduced grant amount will be confirmed in writing, and these actions shall be deemed to have met the notification requirements set forth in paragraph (f) of this section.

(f) RUS will provide the applicant with an explanation of any determinations made with regard to paragraphs (c)(1) through (c)(4) of this section prior to making final project selections for the year. The applicant will be provided 15 days from the date of RUS' letter to respond, provide clarification, or make any adjustments or corrections to the project. If, in the opinion of the Administrator, the applicant fails to adequately respond to any determinations or other findings made by the Administrator, the project will not be funded, and the applicant will be notified of this determination. If the applicant does not agree with this finding an appeal may be filed in accordance with § 1703.129.

(g) Grantees shall comply with all applicable provisions of 7 CFR parts 3015, 3016, and 3019.

§ 1703.128 Submission of applications.

(a) Applications for grants shall be submitted to the RUS, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1590, Washington, DC 20250–1590. Applications should be marked "Attention: Assistant Administrator, Telecommunications Program".

(b) Applications must be submitted to RUS postmarked not later than the application filing deadline established by the Administrator if the applications are to be considered during the period for which the application was submitted. The deadline for submission of applications each fiscal year will be published, and provided through other notices, by RUS in the **Federal Register**, at least 30 days before the deadline occurs. It is suggested that applications be submitted prior to the respective deadline to ensure they can be reviewed and considered complete by the deadline. RUS will review each application for completeness in accordance with § 1703.125, and notify the applicant, within 15 working days of the receipt of the application, of the results of this review, citing any information that is incomplete. To be considered for a grant, the applicant must submit the information to complete the application within 15 working days of the date of RUS' written response. If the applicant has submitted an application prior to the application filing deadline, the applicant will have 15 working days from RUS' response or until the application filing deadline to submit information, whichever provides the applicant more time. If the applicant fails to submit such information by the appropriate deadline, the application will be considered during the next established application period.

(c) All applicants must submit an original and two copies of a completed application. Applicants must also submit a copy of the application to the State government point of contact, if one has been designated for the State, at the same time it submits an application to RUS. All applications must include the information required by § 1703.125.

§ 1703.129 Appeals.

All qualifying applications under this subpart will be scored based on the criteria contained in § 1703.126. Awards will be made by RUS based on the highest ranking applications and the amount of financial assistance available for grants. All applicants will be notified in writing of the score each application receives, and included in this notification will be a tentative minimum required score to receive financial assistance. If the score

received by the applicant could result in the denial of its application, or if its score, while apparently sufficient to qualify for financial assistance, may be surpassed by the score awarded to a competing application after appeal, that applicant may appeal its numerical scoring. Any appeal must be based on inaccurate scoring of the application by RUS and no new information or data that was not included in the original application will be considered. The appeal must be made, in writing, within 10 days after the applicant is notified of the scoring results. Appeals shall be submitted to the Administrator, RUS, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1590, Washington, DC 20250–1590. Thereafter, the Administrator will review the original scoring to determine whether to sustain, reverse, or modify the original scoring determination. Final determinations will be made after consideration of all appeals. The Administrator's determination will be final. A copy of the Administrator's decision will be furnished promptly to the applicant.

Subpart F—Distance Learning and Telemedicine Combination Loan and Grant Program

§ 1703.130 Use of combination loan and grant.

(a) A combination loan and grant may be used by eligible organizations as defined in § 1703.103 for distance learning and telemedicine projects to finance 100 percent of the cost of approved purposes contained in § 1703.131 provided that no financial assistance may exceed the maximum amount for the year in which the combination loan and grant is made.

(b) Applicants must meet the minimum eligibility requirement for determining the extent to which the project serves rural areas as determined in § 1703.126(b)(2) (the applicant must receive at least 20 points to be eligible to receive financial assistance under this subpart).

§ 1703.131 Approved purposes for a combination loan and grant.

The approved purposes for a combination loan and grant are:

(a) Acquiring, by lease or purchase, eligible equipment or facilities as defined in § 1703.102;

(b) Acquiring instructional programming;

(c) Providing technical assistance and instruction for using eligible equipment, including any related software; developing instructional programming; providing engineering or environmental studies relating to the establishment or expansion of the phase of the project that is being financed with a combination loan and grant (this purpose shall not exceed 10 percent of the total requested financial assistance);

(d) Paying for medical or educational equipment and facilities that are shown to be necessary to implement the project, including vehicles utilizing distance learning and telemedicine technology to deliver educational and health care services. The applicant must demonstrate that such items are necessary to meet the purposes under this subpart and financial assistance for such equipment and facilities is not available from other sources at a cost which would not adversely affect the economic viability of the project;

(e) Providing links between teachers and students or medical professionals who are located at the same facility, provided that such facility receives or provides distance learning or telemedicine services as part of a distance learning or telemedicine network which meets the purposes of this subpart;

(f) Providing for site development and alteration of buildings in order to meet the purposes of this subpart. Financial assistance for this purpose must be necessary and incidental to the total amount of financial assistance requested;

(g) Purchasing of land, buildings, or building construction determined by RUS to be necessary and incidental to the project. The applicant must demonstrate that financial assistance funding from other sources is not available at a cost that does not adversely impact the economic viability of the project as determined by the Administrator. Financial assistance for this purpose must be necessary and incidental to the total amount of financial assistance requested; and

(h) Acquiring telecommunications transmission facilities provided that no telecommunications carrier will install such facilities under the Act or through other financial procedures within a reasonable time period and at a cost to the applicant that does not impact the economic viability of the project, as determined by the Administrator.

§ 1703.132 Nonapproved purposes for a combination loan and grant.

(a) Without limitation, a combination loan and grant made under this subpart shall not be expended:

(1) To pay salaries, wages, or employee benefits to medical or educational personnel;

(2) To pay for the salaries or administrative expenses of the applicant or the project;

(3) To purchase equipment that will be owned by the local exchange carrier or another telecommunications service provider, unless the applicant is the local exchange carrier or other telecommunications service provider;

(4) To duplicate facilities providing distance learning or telemedicine services in place or to reimburse the applicant or others for costs incurred prior to RUS' receipt of the completed application;

(5) For projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*);

(6) For any purpose that the Administrator has not specifically approved;

(7) Except for leases (see § 1703.131), to pay the cost of recurring or operating expenses for the project; or,

(8) For any other purposes not specifically outlined in § 1703.131.

(b) Except as otherwise provided in § 1703.112, funds shall not be used to finance a project, in part, when the success of the project is dependent upon the receipt of additional financial assistance under this subpart or is dependent upon the receipt of other funding that is not assured.

§ 1703.133 Maximum and minimum amounts.

Applications for a combination loan and grant under this subpart will be subject to limitations on the proposed amount of loans and grants. The Administrator will establish the maximum amount of loans and grants and the portion of grant funds as a percentage of total assistance for each project to be made available to an individual recipient for each fiscal year under this subpart, by publishing notice of the maximum amount in the **Federal Register** before the beginning of the fiscal year to carry out this subpart. The minimum amount of a combination loan and grant is $50,000.

§ 1703.134 Completed application.

The following items are required to be submitted to RUS in support of an application for a combination loan and grant:

(a) *An application for federal assistance:* A completed Standard Form 424.

(b) *An executive summary of the project:* The applicant must provide RUS with a general project overview that addresses each of the following 9 categories:

(1) A description of why the project is needed;

(2) An explanation of how the applicant will address the need cited in paragraph (b)(1) of this section, why the applicant requires financial assistance, the types of educational or medical services to be offered by the project, and the benefits to the rural residents;

(3) A description of the applicant, documenting eligibility in accordance with § 1703.103;

(4) An explanation of the total project cost including a breakdown of the combination loan and grant required and the source of funding, if applicable, for the remainder of the project;

(5) A statement specifying whether the project provides predominantly distance learning or telemedicine services as defined in § 1703.102. If the project provides both distance learning and telemedicine services, the applicant must identify the predominant use of the system;

(6) A general overview of the telecommunications system to be developed, including the types of equipment, technologies, and facilities used;

(7) A description of the participating hubs and end user sites and the number of rural residents that will be served by the project at each end user site;

(8) A certification by the applicant that facilities constructed with a combination loan and grant do not duplicate adequately established telemedicine or distance learning services.

(9) A listing of the location of each end user site (city, town, village, borough, or rural area plus the State).

(c) *A scope of work.* The scope of work must include, at a minimum:

(1) The specific activities to be performed under the project;

(2) Who will carry out the activities;

(3) The time-frames for accomplishing the project objectives and activities; and

(4) A budget for capital expenditures reflecting the line item costs for both the combination loan and grant and any other sources of funds for the project.

(d) *Financial information.* The applicant must show its financial ability to complete the project; show project feasibility; and provide evidence that it can execute a note for a loan with a maturity period greater than one year. For educational institutions participating in a project application (including all members of a consortium), the financial data must reflect revenue and expense reports and balance sheet reports, reflecting net worth, for the most recent annual reporting period preceding the date of the application. For medical institutions participating in a project application (including all members of a consortium), the financial data must include income statement and balance sheet reports, reflecting net worth, for the most recent completed fiscal year preceding the date of the application. When the applicant is a partnership, company, corporation, or other entity, current balance sheets, reflecting net worth, are needed from each of the entities that has at least a 20 percent interest in such partnership, company, corporation or other entity. When the applicant is a consortium, a current balance sheet, reflecting net worth, is needed from each member of the consortium and from each of the entities that has at least a 20 percent interest in such member of the consortium.

(1) Applicants must include sufficient pro-forma financial data that adequately reflects the financial capability of project participants and the project as a whole to continue a sustainable project for a minimum of 10 years and repay the loan portion of the combination loan and grant. This documentation should include sources of sufficient income or revenues to pay operating expenses including telecommunications access and toll charges, system maintenance, salaries, training, and any other general operating expenses, provide for replacement of depreciable items, and show repayment of interest and principal for the loan portion of the combination loan and grant.

(2) A list of property which will be used as collateral to secure repayment of the loan. The applicant shall purchase and own collateral that secures the loan free from liens or security interests and take all actions necessary to perfect a security interest in the collateral that secures the loan. RUS considers as adequate security for a loan, a guarantee by a RUS telecommunications or electric borrower or by another qualified party. Additional forms of security, including letters of credit, real estate, or any other items will be considered. RUS will determine the adequacy of the security offered.

(3) As applicable, a depreciation schedule covering all assets of the project. Those assets for which a combination loan and grant are being requested should be clearly indicated.

(4) For each hub and end user site, the applicant must identify and provide reasonable evidence of each source of revenue. If the projection relies on cost sharing arrangements among hub and end user sites, the applicant must provide evidence of agreements made among project participants.

(5) For applicants eligible under § 1703.103(a)(3), an explanation of the economic analysis justifying the rate structure to ensure that the benefit, including cost saving, of the financial assistance is passed through to the other persons receiving telemedicine or distance learning services.

(e) *A statement of experience.* The applicant must provide a written narrative (not exceeding three single spaced pages) describing its demonstrated capability and experience, if any, in operating an educational or health care endeavor similar to the project. Experience in a similar project is desirable but not required.

(f) *A telecommunications system plan.* A telecommunications system plan, consisting of the following (the items in paragraphs (f)(4) and (f)(5) of this section are required only when the applicant is requesting a combination loan and grant for telecommunications transmission facilities):

(1) The capabilities of the telecommunications terminal equipment, including a description of the specific equipment which will be used to deliver the proposed service. The applicant must document discussions with various technical sources which could include consultants, engineers, product vendors, or internal technical experts, provide detailed cost estimates for operating and maintaining the end user equipment and provide evidence that alternative equipment and technologies were evaluated.

(2) A listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this subpart, that the applicant intends to build or fund using a combination loan and grant.

(3) A description of the consultations with the appropriate telecommunications carriers (including other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services, and telecommunications equipment manufacturers and distributors) and the anticipated role of such providers in the proposed telecommunications system.

(4) Results of discussions with local exchange carriers serving the project area addressing the concerns contained in § 1703.131(h).

(5) The capabilities of the telecommunications transmission

facilities, including bandwidth, networking topology, switching, multiplexing, standards, and protocols for intra-networking and open systems architecture (the ability to effectively communicate with other networks). In addition, the applicant must explain the manner in which the transmission facilities will deliver the proposed services. For example, for medical diagnostics, the applicant might indicate whether or not a guest or other diagnosticians can join the network from locations off the network. For educational services, indicate whether or not all hub and end-user sites are able to simultaneously hear in real-time and see each other or the instructional material in real-time. The applicant must include detailed cost estimates for operating and maintaining the network, and include evidence that alternative delivery methods and systems were evaluated.

(g) *Compliance with other Federal statutes.* The applicant must provide evidence of compliance with other federal statutes and regulations including, but not limited to the following:

(1) E.O. 11246, Equal Employment Opportunity, as amended by E.O. 11375, and as supplemented by regulations contained in 41 CFR part 60;

(2) Anti-Kickback Act (18 U.S.C. 874);

(3) Davis Bacon Act (40 U.S.C. 276a–a–7);

(4) Contract Work and Safety Standards Act (40 U.S.C. 327–333);

(5) Clean Air Act (42 U.S.C. 7401, *et seq.*);

(6) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);

(7) E.Os 12549 and 12689, Debarment and Suspension;

(8) Resource Conservation and Recovery Act (42 U.S.C. 6962);

(9) Drug-Free Workplace Act of 1988 (41 U.S.C. 701);

(10) Assistance and Real Property Acquisition Policies Act of 1970; and

(11) Office of Management and Budget Circulars A–110 and A–102.

(h) *Environmental impact and historic preservation.* (1) The applicant must provide details of the project's impact on the environment and historic preservation. Loans and grants made under this part are subject to 7 CFR part 1794 which contains RUS' policies and procedures for implementing a variety of Federal statutes, regulations, and Executive orders generally pertaining to the protection of the quality of the human environment that are listed in 7 CFR 1794.1. The application shall contain a separate section entitled "Environmental Impact of the Project."

(2) The applicant may use the "Environmental Questionnaire," available from RUS, to assist in complying with the requirements of this section.

(i) *Evidence of legal authority and existence.* The applicant must provide evidence of its legal existence and authority to enter into a grant and incur debt with RUS.

(j) *Federal debt certification.* The applicant must provide evidence that it is not delinquent on any obligation owed to the government.

(k) *Supplemental information.* The applicant should provide any additional information it considers relevant to the project and likely to be helpful in determining the extent to which the project would further the purposes of this subpart.

(l) *Additional information required by RUS.* The applicant must provide any additional RUS may consider relevant to the application and necessary to adequately evaluate the application. RUS may also request modifications or changes, including changes in the amount of funds requested, in any proposal described in an application submitted under this subpart.

§ 1703.135 Application selection provisions.

(a) A combination loan and grant will be approved based on availability of funds, the financial feasibility of the project in accordance with § 1703.134(d), the services to be provided which demonstrate that the project meets the general requirements of this subpart, the design of the project; costs; location; and other characteristics of the application.

(b) RUS will determine, from the information submitted with each application for a combination loan and grant, whether the application achieves sufficient priority, based on the criteria set forth in the 1996 Act, to receive a combination loan and grant from funds available for the fiscal year. If such priority is achieved, RUS will process the combination loan and grant application on a first-in, first-out basis, provided that the total amount of applications on-hand for combination loans and grants does not exceed 90 percent of the total loan and grant funding available for the fiscal year. At such time as the total amount of applications eligible for combination loans and grants, if such applications were approved, exceeds 90 percent of amount of combination loan and grant funding available, RUS will process the remaining applications using the evaluation criteria set forth in § 1703.126.

(c) RUS will not approve a combination loan and grant if RUS determines that:

(1) The applicant's proposal does not indicate financial feasibility, or will not be adequately secured in accordance with the requirements contained in § 1703.134(d);

(2) The applicant's proposal indicates technical flaws, which, in the opinion of RUS, would prevent successful implementation, or operation of the project; or

(3) Any other aspect of the applicant's proposal fails to adequately address any requirements of this subpart or contains inadequacies which would, in the opinion of RUS, undermine the ability of the project to meet the general purpose of this subpart or comply with policies of the DLT program contained in § 1703.101.

(d) RUS will provide the applicant with a statement of any determinations made with regard to paragraphs (c)(1) through (c)(3) of this section. The applicant will be provided 15 days from the date of RUS' letter to respond, provide clarification, or make any adjustments or corrections to the project. If, in the opinion of the Administrator, the applicant fails to adequately respond to any determinations or other findings made by the Administrator, the project will not be funded, and the applicant will be notified of this determination. If the applicant does not agree with this finding, an appeal may be filed in accordance with § 1703.137.

§ 1703.136 Submission of applications.

(a) RUS will accept applications for a combination loan and grant submitted by RUS telecommunications General Field representatives (GFRs), by Rural Development State Directors, or by applicants themselves. Applications for a combination loan and grant under this subpart may be filed at any time and will be evaluated as received.

(b) Applications submitted to the State Director, Rural Development, in the State serving the headquarters of the project will be evaluated as they are submitted. All applicants must submit an original and two copies of a completed application. The applicant must also submit a copy of the application to the State government point of contact, if one has been designated for the State, at the same time it submits an application to the State Director. The State Director will:

(1) Review each application for completeness in accordance with § 1703.134, and notify the applicant, within 15 working days of receiving the application, of the results of this review,

acknowledging a complete application, or citing any information that is incomplete. To be considered for a combination loan and grant, the applicant must submit any additional information requested to complete the application within 15 working days of the date of the State Director's written response. If the applicant fails to submit such information, the application will be returned to the applicant.

(2) Within 30 days of the determination of a completed application in accordance with paragraph (b)(1) of this section, review the application to determine suitability for financial assistance in accordance with § 1703.135, and other requirements of this subpart. Based on its review, the State Director will work with the applicant to resolve any questions or obtain any additional information. The applicant will be notified, in writing, of any additional information required to allow a financial assistance recommendation and will be provided a reasonable period of time to furnish the additional information.

(3) Based on the review in accordance with § 1703.135 and other requirements of this subpart, make a preliminary determination of suitability for financial assistance. A combination loan and grant recommendation will be prepared by the State Director with concurrence of the RUS telecommunications GFR that addresses the provisions of sections § 1703.134 and § 1703.135 and other applicable requirements of this subpart.

(4) If the application is determined suitable for further consideration by RUS, forward an original and one copy of the application with a financial assistance recommendation, signed jointly, to the Assistant Administrator, Telecommunications Program, Rural Utilities Service, Washington, DC. The applicant will be notified by letter of this action. Upon receipt of the application from the State Director, RUS will conduct a review of the application and the financial assistance recommendation. A final determination will be made within 15 days. If the Administrator determines that a combination loan and grant can be approved, the State Director will be notified and the State Director will notify the applicant. A combination loan and grant will be processed, approved, and serviced in accordance with §§ 1703.105 through 1703.112 of subpart D.

(5) If the State Director determines that the application is not suitable for further consideration by RUS, notify the applicant with the reasons for this determination. The applicant may appeal this determination pursuant to section § 1703.137 of this subpart.

(c) Applications submitted by RUS telecommunications GFRs or directly by applicants will be evaluated as they are submitted. All applicants must submit an original and two copies of a completed application. The applicant must also submit a copy of the application to the State government point of contact, if one has been designated for the State, at the same time it submits an application to RUS. RUS will:

(1) Review each application for completeness in accordance with § 1703.134, and notify the applicant, within 15 working days of receiving the application, of the results of this review, acknowledging a complete application, or citing any information that is incomplete. To be considered for a combination loan and grant assistance, the applicant must submit any additional information requested to complete the application within 15 working days of the date of the RUS written response. If the applicant fails to submit such information, the application will be returned to the applicant.

(2) Within 30 days of the determination of a completed application in accordance with paragraph (c)(1) of this section, review the application to determine suitability for financial assistance in accordance with § 1703.135, and other requirements of this subpart. Based on its review, RUS will work with the applicant to resolve any questions or obtain any additional information. The applicant will be notified, in writing, of any additional information required to allow a financial assistance recommendation and will be provided a reasonable period of time to furnish the additional information.

(3) If the application is determined suitable for further consideration by RUS, conduct a review of the application and financial assistance recommendation. A final determination will be made within 15 days. If the Administrator determines that a combination loan and grant can be approved, the applicant will be notified. A combination loan and grant will be processed, approved, and serviced in accordance with §§ 1703.105 through 1703.112 of subpart D.

(4) If RUS determines that the application is not suitable for further consideration, notify the applicant with the reasons for this determination. The applicant will be able to appeal in accordance with § 1703.137 of this subpart.

§ 1703.137 Appeals.

Any appeal must be made, in writing, within 10 days after the applicant is notified of the determination to deny the application. Appeals shall be submitted to the Administrator, RUS, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1590, Washington, DC 20250–1590. Thereafter, the Administrator will review the appeal to determine whether to sustain, reverse, or modify the original determination. Final determinations will be made after consideration of all appeals. The Administrator's determination will be final. A copy of the Administrator's decision will be furnished promptly to the applicant.

§§ 1703.138—1703.139 [Reserved]

Subpart G—Distance Learning and Telemedicine Loan Program

§ 1703.140 Use of loan funds.

Loans may be used to finance 100 percent of the costs of a project. Entities seeking a loan must be able to provide security and execute a note with a maturity period greater than one year. The following entities are eligible for loans under this subpart:

(a) Organizations as defined in § 1703.103. If a RUS telecommunications borrower is seeking a loan, the borrower does not need to submit all of the financial security information required by § 1703.144(d). The borrower's latest financial report (Form 479) filed with RUS and any additional information relevant to the project, as determined by RUS, will suffice;

(b) Any non-profit or for-profit entity, public or private entity, urban or rural institution, or rural educational broadcaster, which proposes to provide and receive distance learning and telemedicine services to carry out the purposes of this subpart; or

(c) Any entity that contracts with an eligible organization in paragraphs (a) or (b) of this section for constructing distance learning or telemedicine facilities for the purposes contained in § 1703.141, except for those purposes in § 1703.141(h).

(d) Applicants must meet the minimum eligibility requirement for determining the extent to which the project serves rural areas as contained in § 1703.126(b)(2) (the applicant must receive at least 20 points to be eligible to receive financial assistance under this subpart).

§ 1703.141 Approved purposes for loans.

The following are approved purposes for loans:

(a) Acquiring, by lease or purchase, eligible equipment or facilities as defined in § 1703.102;

(b) Acquiring instructional programming;

(c) Providing technical assistance and instruction for using eligible equipment, including any related software; developing instructional programming; providing engineering or environmental studies relating to the establishment or expansion of the phase of the project that is being financed with the loan (financial assistance for this purpose shall not exceed 10 percent of the requested financial assistance);

(d) Paying for medical or educational equipment and facilities which are shown to be necessary to implement the project, including vehicles utilizing distance learning and telemedicine technology to deliver educational and health care services. The applicant must demonstrate that such items are necessary to meet the purposes under this subpart and financial assistance for such equipment and facilities is not available from other sources at a cost which would not adversely affect the economic viability of the project;

(e) Providing links between teachers and students or medical professionals who are located at the same facility, provided that such facility receives or provides distance learning or telemedicine services as part of a distance learning or telemedicine network which meets the purposes of this subpart;

(f) Providing for site development and alteration of buildings in order to meet the purposes of this subpart. Loans for this purpose must be necessary and incidental to the total amount of financial assistance requested;

(g) Purchasing of land, buildings, or building construction, where such costs are demonstrated necessary to construct distance learning and telemedicine facilities. The applicant must demonstrate that funding from other sources is not available at a cost which does not adversely impact the economic viability of the project as determined by the Administrator. Financial assistance for this purpose must be necessary and incidental to the total amount of financial assistance requested;

(h) Acquiring of telecommunications transmission facilities provided that no telecommunications carrier will install such facilities under the Act or through other financial procedures within a reasonable time period and at a cost to the applicant that does not impact the economic viability of the project, as determined by the Administrator;

(i) Any project costs, not included in paragraphs (a) through (h) of this section, incurred during the first two years of operation after the financial assistance has been approved. The applicant must show that financing such costs are necessary for the establishment or continued operation of the project and that financing is not available for such costs elsewhere, including from the applicant's financial resources. The Administrator will determine whether such costs will be financed based on information submitted by the applicant. Loans shall not be made exclusively to finance such costs, and financing for such costs will not exceed 20 percent of the loan provided to a project under this section; and

(j) All of the costs needed to provide distance learning broadcasting to rural areas. Loans may be used to cover the costs of facilities and end-user equipment dedicated to providing educational broadcasting to rural areas for distance learning purposes. If the facilities are not 100 percent dedicated to broadcasting, a portion of the financing may be used to fund such facilities based on a percentage of use factor that approximates the distance learning broadcasting portion of use.

§ 1703.142 Nonapproved purposes for loan.

(a) Loans made under this subpart will not be provided for any of the following costs incurred after two years from approval:

(1) To pay salaries, wages, or employee benefits to medical or educational personnel;

(2) To pay for the salaries or administrative expenses of the applicant or the project after two years; or

(3) To pay the cost of recurring or operating expenses for the project (see § 1703.141).

(b) Loans made under this subpart will not be provided for any of the following costs:

(1) To purchase equipment that will be owned by the local exchange carrier or another telecommunications service provider, unless the applicant is the local exchange carrier or other telecommunications service provider;

(2) To duplicate facilities providing distance learning or telemedicine services in place or to reimburse the applicant or others for costs incurred prior to RUS' receipt of the completed application;

(3) For projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*); or

(4) For any purpose that the Administrator has not specifically approved.

(c) Except as otherwise provided in § 1703.112, funds shall not be used to finance a project, in part, when the success of the project is dependent upon the receipt of additional financial assistance under this subpart G or is dependent upon the receipt of other funding that is not assured.

§ 1703.143 Maximum and minimum amounts.

Applications for loans under this subpart will be subject to limitations on the proposed amount of loans. The Administrator will establish the maximum amount of a loan available to an applicant under this subpart, by publishing notice of the maximum amount in the **Federal Register** before the opening of the application window. The minimum amount of a loan is $50,000.

§ 1703.144 Completed application.

The following items are required to be submitted in support of an application for a loan:

(a) *An application for federal assistance:* A completed standard form 424.

(b) *An executive summary of the project.* The applicant must provide RUS with a general project overview that addresses each of the following 9 categories:

(1) A description of why the project is needed;

(2) An explanation of how the applicant will address the need (see paragraph (b)(1) of this section), why the applicant requires financial assistance, the types of educational or medical services to be offered by the project, and the benefits to the rural residents;

(3) A description of the applicant, documenting eligibility in accordance with § 1703.103;

(4) An explanation of the total project cost including a breakdown of the loan required and the source of funding, if applicable, for the remainder of the project;

(5) A statement specifying whether the project provides predominantly distance learning or telemedicine services as defined in § 1703.102. If the project provides both distance learning and telemedicine services, the applicant must identify the predominant use of the system;

(6) A general overview of the telecommunications system to be developed, including the types of equipment, technologies, and facilities used;

(7) A description of the participating hubs and end user sites and the number of rural residents which will be served by the project at each end user site;

(8) A certification by the applicant that facilities funded by a loan do not duplicate adequate established telemedicine or distance learning services.

(9) A listing of the location of each end user site (city, town, village, borough, or rural area plus the State).

(c) *A scope of work.* The scope of work must include, at a minimum:

(1) The specific activities to be performed under the project;

(2) Who will carry out the activities;

(3) The time-frames for accomplishing the project objectives and activities; and

(4) A budget for capital expenditures reflecting the line item costs for both the combination loan and grant and any other sources of funds for the project.

(d) *Financial information.* The applicant must show its financial ability to complete the project; show project feasibility; and provide evidence that it can execute a note for a loan for a maturity period greater than one year. For educational institutions participating in a project application (including all members of a consortium), the financial data must reflect revenue and expense reports and balance sheet reports, reflecting net worth, for the most recent annual reporting period preceding the date of the application. For medical institutions participating in a project application (including all members of a consortium), the financial data must include income statement and balance sheet reports, reflecting net worth, for the most recent completed fiscal year preceding the date of the application. When the applicant is a partnership, company, corporation, or other entity, current balance sheets, reflecting net worth, are needed from each of the entities that has at least a 20 percent interest in such partnership, company, corporation or other entity. When the applicant is a consortium, a current balance sheet, reflecting net worth, is needed from each member of the consortium and from each of the entities that has at least a 20 percent interest in such member of the consortium.

(1) Applicants must include sufficient pro-forma financial data which adequately reflects the financial capability of project participants and the project as a whole to continue a sustainable project for a minimum of 10 years and repay the requested loan. This documentation should include sources of sufficient income or revenues to pay operating expenses including telecommunications access and toll charges, system maintenance, salaries, training, and any other general operating expenses, provide for replacement of depreciable items, and show repayment of interest and principal for the loan.

(2) A list of property which will be used as collateral to secure repayment of the proposed loan. The applicant shall purchase and own collateral that secures the loan free from liens or security interests and take all actions necessary to perfect a first lien in the collateral that secures the loan. RUS will consider as adequate security for a loan guarantee by a telecommunications or electric borrower or by another qualified party. Additional forms of security, including letters of credit, real estate, or any other items will be considered. RUS will determine the adequacy of the security offered.

(3) As applicable, a depreciation schedule covering all assets of the project. Those assets for which a combination loan and grant are being requested should be clearly indicated.

(4) For each hub and end user site, the applicant must identify and provide reasonable evidence of each source of revenue. If the projection relies on cost sharing arrangements among hub and end user sites, the applicant must provide evidence of agreements made among project participants.

(5) For applicants eligible under § 1703.103(a)(3), an explanation of the economic analysis justifying the rate structure to ensure that the benefit, including cost saving, of the financial assistance is passed through to the other persons receiving telemedicine or distance learning services.

(e) *A statement of experience.* The applicant must provide a written narrative (not exceeding three single spaced pages) describing its demonstrated capability and experience, if any, in operating an educational or health care endeavor and any project similar to the project. Experience in a similar project is desirable but not required.

(f) *A telecommunications system plan.* A telecommunications system plan, consisting of the following (the items in paragraphs (f)(4) and (f)(5) of this section are required only when the applicant is requesting a loan for telecommunications transmission facilities):

(1) The capabilities of the telecommunications terminal equipment, including a description of the specific equipment which will be used to deliver the proposed service. The applicant must document discussions with various technical sources which could include consultants, engineers, product vendors, or internal technical experts, provide detailed cost estimates for operating and maintaining the end user equipment and provide evidence that alternative equipment and technologies were evaluated.

(2) A listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this subpart, that the applicant intends to build or fund using a combination loan and grant.

(3) A description of the consultations with the appropriate telecommunications carriers (including other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services, and telecommunications equipment manufacturers and distributors) and the anticipated role of such providers in the proposed telecommunications system.

(4) Results of discussions with local exchange carriers serving the project area addressing the concerns contained in § 1703.131(h).

(5) The capabilities of the telecommunications transmission facilities, including bandwidth, networking topology, switching, multiplexing, standards, and protocols for intra-networking and open systems architecture (the ability to effectively communicate with other networks). In addition, the applicant must explain the manner in which the transmission facilities will deliver the proposed services. For example, for medical diagnostics, the applicant might indicate whether or not a guest or other diagnosticians can join the network from locations off the network. For educational services, indicate whether or not all hub and end-user sites are able to simultaneously hear in real-time and see each other or the instructional material in real-time. The applicant must include detailed cost estimates for operating and maintaining the network, and include evidence that alternative delivery methods and systems were evaluated.

(g) *Compliance with other Federal statutes.* The applicant must provide evidence of compliance with other Federal statutes and regulations including, but not limited to the following:

(1) E.O. 11246, Equal Employment Opportunity, as amended by E.O. 11375,

and as supplemented by regulations contained in 41 CFR part 60;

(2) Anti-Kickback Act (18 U.S.C. 874);

(3) Davis Bacon Act (40 U.S.C. 276a–a–7);

(4) Contract Work and Safety Standards Act (40 U.S.C. 327–333);

(5) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);

(6) E.O.s 12549 and 12689, Debarment and Suspension;

(7) Resource Conservation and Recovery Act (42 U.S.C. 6962);

(8) Assistance and Real Property Acquisition Policies Act of 1970;

(9) National Historic Preservation Act of 1966; and

(10) Historic Sites Act of 1935.

(h) *Environmental impact and historic preservation.* (1) The applicant must provide details of the project's impact on the environment and historic preservation. Loans made under this part are subject to 7 CFR part 1794 which contains RUS' policies and procedures for implementing a variety of Federal statutes, regulations, and executive orders generally pertaining to the protection of the quality of the human environment that are listed in 7 CFR 1794.1. The application shall contain a separate section entitled "Environmental Impact of the Project."

(2) The applicant may use the "Environmental Questionnaire," available from RUS, to assist in complying with the requirements of this section.

(i) *Evidence of legal authority and existence.* The applicant must provide evidence of its legal existence and authority to enter into debt with RUS and perform the activities proposed under the loan application.

(j) *Federal debt certification.* The applicants must provide a certification that it is not delinquent on any obligation owed to the government (7 CFR parts 3016 and 3019).

(k) *Supplemental information.* The applicant should provide any additional information it considers relevant to the project and likely to be helpful in determining the extent to which the project would further the purposes of this subpart.

(l) *Additional information required by RUS.* The applicant must provide any additional information RUS determines is necessary to adequately evaluate the application. Modifications or changes, including changes in the loan amount requested, may be requested in any project described in an application submitted under this subpart.

§ 1703.145 Application selection provisions.

(a) Loans will be approved based on availability of funds, the financial feasibility of the project in accordance with § 1703.144(d), the services to be provided which demonstrate that the project meets the general requirements of this subpart, the design of the project; costs; location; and other characteristics of the application.

(b) RUS will determine, from the information submitted with each application for a loan, whether the application achieves sufficient priority, based on the criteria set forth in the 1996 Act, to receive a loan from funds available for the fiscal year. If such priority is achieved, RUS will process the loan application on a first-in, first-out basis, provided that the total amount of applications on-hand for loans does not exceed 90 percent of the total loan and grant funding available for the fiscal year. At such time as the total amount of applications eligible for loans, if such applications were approved, exceeds 90 percent of amount of loan funding available, RUS will process the remaining applications using the evaluation criteria set forth in § 1703.126.

(c) A loan will not be approved if it is determined that:

(1) The applicant's proposal does not indicate financial feasibility, or is not adequately secured in accordance with the requirements of § 1703.144(d);

(2) The applicant's proposal indicates technical flaws, which, in the opinion of RUS, would prevent successful implementation, or operation of the project; or

(3) Any other aspect of the applicant's proposal fails to adequately address any requirements of this subpart or contains inadequacies which would, in the opinion of RUS, undermine the ability of the project to meet the general purpose of this subpart or comply with policies of the DLT program contained in § 1703.101.

(d) RUS will provide the applicant with a statement of any determinations made with regard to paragraphs (c)(1) through (c)(3) of this section. The applicant will be provided 15 days from the date of the RUS letter to respond, provide clarification, or make any adjustments or corrections to the project. If, in the opinion of the Administrator, the applicant fails to adequately respond to any determinations or other findings made by the Administrator, the loan will not be approved, and the applicant will be notified of this determination. If the applicant does not agree with this finding an appeal may be filed in accordance with § 1703.147.

§ 1703.146 Submission of applications.

(a) RUS will accept applications for loans submitted by RUS telecommunications General Field Representatives (GFRs), by Rural Development State Directors, or by applicants themselves. Applications for loans under this subpart may be filed at any time and will be evaluated as received on a non-competitive basis.

(b) Applications submitted to the State Director, Rural Development, in the State serving the headquarters of the project will be evaluated as they are submitted. All applicants must submit an original and two copies of a completed application. The applicant must also submit a copy of the application to the State government point of contact, if one has been designated for the State, at the same time it submits an application to the State Director. The State Director will:

(1) Review each application for completeness in accordance with § 1703.144, and notify the applicant, within 15 working days of receiving the application, of the results of this review, acknowledging a complete application, or citing any information that is incomplete. To be considered for a loan, the applicant must submit any additional information requested to complete the application within 15 working days of the date of the State Director's written response. If the applicant fails to submit such information, the application will be returned to the applicant.

(2) Within 30 days of the determination of a completed application in accordance with paragraph (b)(1) of this section, review the application to determine suitability for financial assistance in accordance with § 1703.145, and other requirements of this subpart. Based on its review, the State Director will work with the applicant to resolve any questions or obtain any additional information. The applicant will be notified, in writing, of any additional information required to allow a financial assistance recommendation and will be provided a reasonable period of time to furnish the additional information.

(3) Based on the review in accordance with § 1703.145 and other requirements of this subpart, make a preliminary determination of suitability for financial assistance. A loan recommendation will be prepared by the State Director with concurrence of the RUS telecommunications GFR that addresses the provisions of §§ 1703.144 and 1703.145 and other applicable requirements of this subpart.

(4) If the application is determined suitable for further consideration by

RUS, forward an original and one copy of the application with a loan recommendation, signed jointly, to the Assistant Administrator, Telecommunications Program, Rural Utilities Service, Washington DC. The applicant will be notified by letter of this action. Upon receipt of the application from the State Director, RUS will conduct a cursory review of the application and the recommendation. A final determination will be made within 15 days. If the Administrator determines that a loan can be approved, the State Director will be notified and the State Director will notify the applicant. Applications for loans will be processed, and approved loans serviced, in accordance with §§ 1703.105 through 1703.112.

(5) If the State Director determines that the application is not suitable for further consideration by RUS, notify the applicant with the reasons for this determination. The applicant will be offered appeal rights in accordance with § 1703.147.

(c) Applications submitted by RUS telecommunications GFRs or directly by applicants will be evaluated as they are submitted. All applicants must submit an original and two copies of a completed application. The applicant must also submit a copy of the application to the State government point of contact, if one has been designated for the State, at the same time it submits an application to the RUS. RUS will:

(1) Review each application for completeness in accordance with § 1703.144, and notify the applicant, within 15 working days of receiving the application, of the results of this review, acknowledging a complete application, or citing any information that is incomplete. To be considered for a loan, the applicant must submit any additional information requested to complete the application within 15 working days of the date of the RUS written response. If the applicant fails to submit such information, the application will be returned to the applicant.

(2) Within 30 days of the determination of a completed application in accordance with paragraph (c)(1) of this section, review the application to determine suitability for financial assistance in accordance with this subpart. Based on its review, RUS will work with the applicant to resolve any questions or obtain any additional information. The applicant will be notified, in writing, of any additional information required to allow a financial assistance recommendation and will be provided a reasonable period of time to furnish the additional information.

(3) If the application is determined suitable for further consideration by RUS, conduct a review of the application and financial assistance recommendation. A final determination will be made within 15 days. If the Administrator determines that a loan can be approved, the applicant will be notified. Applications will be processed, and approved loans serviced, in accordance with §§ 1703.105 through 1703.112 of subpart D.

(4) If RUS determines that the application is not suitable for further consideration, notify the applicant with the reasons for this determination. The applicant will be offered appeal rights in accordance with § 1703.147 of this subpart.

§ 1703.147 Appeals.

Any appeal must be made, in writing, within 10 days after the applicant is notified of the determination to deny the application. Appeals shall be submitted to the Administrator, RUS, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1590, Washington, DC 20250–1590. Thereafter, the Administrator will review the appeal to determine whether to sustain, reverse, or modify the original determination. Final determinations will be made after consideration of all appeals. The Administrator's determination will be final. A copy of the Administrator's decision will be furnished promptly to the applicant.

Dated: March 17, 1999.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 99–6995 Filed 3–24–99; 8:45 am]

BILLING CODE 3410–15–P

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Parts 404 and 405

Comprehensive Revision of Export-Import Bank of the United States Freedom of Information Act, Privacy Act and other Information Disclosure Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996

AGENCY: Export-Import Bank of the United States.

ACTION: Final rule.

SUMMARY: This document sets forth comprehensive revisions of the Export-Import Bank's information disclosure regulations. The regulations are intended to supersede the Export-Import Bank's current Freedom of Information Act (FOIA) and Privacy Act regulations, found at 12 CFR parts 404 and 405, respectively. The Export-Import Bank (Ex-Im Bank) has implemented the following revisions in order to provide more "user-friendly" regulations that are consistent with current law, including the Electronic Freedom of Information Act Amendments of 1996. The regulations also include updated fee schedules.

DATES: Effective April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Howard A. Schweitzer, Counsel for Administration, (202) 565–3229.

SUPPLEMENTARY INFORMATION: This is a comprehensive revision of 12 CFR part 404 (Ex-Im Bank's current FOIA regulations) and 12 CFR part 405 (Ex-Im Bank's current Privacy Act regulations). Part 404 contains Ex-Im Bank's regulations for the FOIA, found in subpart A, and the Privacy Act, found in subpart B. Part 404 does not contain any regulations concerning "appearance and testimony by Ex-Im Bank officers and employees," currently found at 12 CFR 404.8. Ex-Im Bank has removed and is reserving part 405 for publication of new regulations entitled "production and disclosure in federal or state proceedings."

The FOIA and related disclosure regulations, in addition to setting forth Ex-Im Bank's basic FOIA policy and procedure, include provisions, found in § 404.7, to implement Executive Order 12600, "Predisclosure Notification Procedures for Confidential Commercial Information." The regulations also set forth a revised "schedule of fees," found in § 404.8. The changes include increases in the hourly fees for clerical and professional time to $16.00 and $32.00, respectively, and a decrease in duplication charges, from $.25 to $.10 per photocopy. New provisions implementing the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231) can be found in § 404.3 (public reference facilities), § 404.5 (time for processing), and § 404.8(d) (material withheld). The regulations also establish, in § 404.11 (administrative appeal), the Ex-Im Bank Assistant General Counsel for Administration as the appellate authority for administrative appeals under the FOIA. This final rule does not include certain provisions that were published at 63 FR 48452, August 4, 1998, in an amendment to the proposed rule. Due to comments received from relevant sources, Ex-Im Bank has decided to withdraw the substantive

provisions of the proposed amendments.

The Privacy Act regulations set forth Ex-Im Bank's basic Privacy Act policy and procedures. The regulations also include the following provisions concerning matters not previously addressed: § 404.19 (Request for accounting of record disclosures); § 404.20 (Notice of court-ordered and emergency disclosures); § 404.21 (Submission of social security and passport numbers); and § 404.22 (Government contracts). The regulations do not include a section published in the proposed rule concerning employee standards of conduct. Ex-Im Bank determined that existing statutes and regulations adequately provide for the protection of information covered by the Privacy Act.

Regulatory Flexibility Act

The Ex-Im Bank President and Chairman, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has certified that this regulation will not have a significant economic impact on a substantial number of small entities. Under the Freedom of Information Act, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Under the Privacy Act, agencies may recover only duplication costs. Thus, fees assessed by Ex-Im Bank under these regulations will be nominal. Also, Ex-Im Bank receives, on average, less than two hundred FOIA and Privacy Act requests per year, and only one in four of those requests is made by a small entity

Certification

In accordance with the Regulatory Flexibility Act, I hereby certify that the Freedom of Information Act and Privacy Act regulations of the Export-Import Bank of the United States will not have a significant economic impact on a substantial number of small entities.

James A. Harmon,

President & Chairman.

Dated: November 20, 1997.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with the Executive Order. The Office of Management and Budget has determined that this rule is not a "significant regulatory action," as defined by the Executive Order.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a "major rule," as defined by the Small Business Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects

12 CFR Part 404

Administrative practice and procedure, Confidential business information, Freedom of information, Privacy.

12 CFR Part 405

Administrative practice and procedure, Privacy.

For the reasons stated in the preamble, Ex-Im Bank amends 12 CFR chapter IV as follows:

1. 12 CFR part 404 is revised to read as follows:

PART 404—INFORMATION DISCLOSURE

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act.

Sec.
404.1 General provisions.
404.2 Definitions.
404.3 Public reference facilities.
404.4 Request requirements.
404.5 Time for processing.
404.6 Release of records under the Freedom of Information Act.
404.7 Confidential business information.
404.8 Initial determination.
404.9 Schedule of fees.
404.10 Fee waivers or reductions.
404.11 Administrative appeal.

Subpart B—Protection of Privacy and Access to Records Under the Privacy Act of 1974

Sec.
404.12 General provisions.
404.13 Definitions.
404.14 Requirements of request for access.
404.15 Initial determination.
404.16 Schedule of fees.
404.17 Appeal of denials of access.
404.18 Requests for correction of records.
404.19 Request for accounting of record disclosures.
404.20 Notice of court-ordered and emergency disclosures.
404.21 Submission of social security and passport numbers.
404.22 Government contracts.
404.23 Other rights and services.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Authority: 5 U.S.C. 552 and 552a.

Section 404.7 also issued under E.O. 12600, 52 F.R. 23781, 3 CFR, 1987 Comp., p. 235.

Section 404.21 also issued under 5 U.S.C. 552a note.

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act.

§ 404.1 General provisions.

(a) *Purpose.* This subpart establishes policy, procedures, requirements, and responsibilities for administration of the Freedom of Information Act (FOIA), 5 U.S.C. 552, at the Export-Import Bank of the United States (Ex-Im Bank).

(b) *Policy.* It is Ex-Im Bank's policy to honor all requests for the disclosure of its records, provided that disclosure would not adversely affect a legitimate public or private interest and would not impose an unreasonable burden on Ex-Im Bank. However, this subpart also recognizes that the soundness of many Ex-Im Bank programs depends upon the receipt of reliable commercial, technical, financial, and business information relating to applicants for Ex-Im Bank assistance and that receipt of such information depends on Ex-Im Bank's ability to hold such information in confidence. Consequently, except as provided by applicable law and this regulation, information provided to Ex-Im Bank in confidence will not be disclosed without the submitter's consent.

(c) *Scope.* All record requests made to Ex-Im Bank shall be processed under this subpart, except that information customarily furnished to the public in the regular course of the performance of official duties may continue to be furnished to the public without complying with this subpart. Requests made by individuals under the Privacy Act of 1974 which are processed under subpart B of this part also shall be processed under this subpart A.

(d) *Ex-Im Bank Internet site.* Ex-Im Bank maintains an Internet site at http://www.exim.gov. The site contains information on Ex-Im Bank functions, activities, programs, and transactions.

Web site visitors have access to Board of Directors and Loan Committee meeting minutes, country information, and Ex-Im Bank press releases, among other information. Ex-Im Bank encourages all prospective FOIA requesters to visit the site prior to submission of a FOIA request.

(e) *Delegation.* Any action or determination in this subpart which is the responsibility of a specific Ex-Im Bank employee, may be delegated to a duly designated alternate.

(f) *Ex-Im Bank address.* The Export-Import Bank of the United States is located at 811 Vermont Avenue, NW, Washington, DC 20571.

§ 404.2 Definitions.

For purposes of this subpart, the following definitions shall apply:

All other requesters—Requesters other than commercial use requesters, educational and non-commercial scientific requesters, or representatives of the news media.

Appeal—A written request to the Ex-Im Bank Assistant General Counsel for Administration for reversal of an adverse initial determination.

Business information—Potentially confidential commercial or financial information that is provided to Ex-Im Bank.

Business submitter—Any person who provides business information to Ex-Im Bank.

Commercial use request—A request for a use or purpose that furthers the commercial, trade or profit interest of the requester.

Direct costs—Expenditures incurred in the search, review, and duplication of records in response to a FOIA request.

Educational institution—A preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, or an institution of professional or vocational education.

Final determination—The written decision by the Assistant General Counsel for Administration on an appeal.

Initial determination—The initial written determination by Ex-Im Bank regarding disclosure of requested records.

Non-commercial scientific institution—An institution that is operated for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry and that is not operated solely for purposes of furthering a business, trade or profit interest.

Person—An individual, partnership, corporation, association or organization other than a federal government agency.

Record—All papers, memoranda or other documentary material, or copies thereof, regardless of physical form or characteristics, created or received by Ex-Im Bank and preserved as evidence of the activities of Ex-Im Bank. "Record" does not include publications which are available to the public through the **Federal Register**, sale or free distribution.

Redaction—The process of removing non-disclosable material from a record so that the remainder may be released.

Representative of the news media—A person actively gathering information on behalf of an entity organized and operated to publish or broadcast news to the public. Freelance journalists shall qualify as representatives of the news media when they can demonstrate that a request is reasonably likely to lead to publication.

Request—Any record request made to Ex-Im Bank under the FOIA.

Requester—Any person making a request.

Review—The process of examining a record to determine whether any portion is required to be withheld. It includes redaction, duplication, and any other preparation for release. Review does not include time spent resolving general legal and policy issues regarding the application of exemptions.

Search—The process of identifying and collecting records pursuant to a request.

Trade secrets—All forms and types of financial, business, scientific, technical, economic or engineering information, including, but not limited to, patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs or codes.

Unusual circumstances—The need to search for and collect requested records from facilities that are separate from Ex-Im Bank headquarters; the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or the need for consultation with another agency a person that has a substantial interest in the determination of the request.

Working days—All calendar days excluding Saturdays, Sundays, and Federal Government holidays.

§ 404.3 Public reference facilities.

Ex-Im Bank maintains a public reading room which contains the Ex-Im Bank records that the FOIA requires to be made available for public inspection and copying. The records available under this section include copies of records released pursuant to the FOIA that Ex-Im Bank determines have, or are likely to, become the subject of subsequent requests for substantially the same records. Requesters shall be responsible for the cost of duplicating such material in accordance with the provisions of § 404.9(e). Persons desiring to use the reading room should contact the Ex-Im Bank Freedom of Information and Privacy Office, either in writing at the address at § 404.1(f) or by telephone at (202) 565–3946 or (800) 565–3946, to arrange a time to inspect the available records.

§ 404.4 Request requirements.

(a) *Form.* Requests must be made in writing and must be signed by, or on behalf of, the requester. Requests should be addressed to the Freedom of Information and Privacy Office at the address in § 404.1(f) and should contain both the return address and telephone number of the requester.

(b) *Description of records requested.* Each request must describe the records sought in sufficient detail so as to enable a professional employee of Ex-Im Bank familiar with the subject matter of the request to locate the record with a reasonable amount of effort. A request shall not be deemed to have been received until such time as the request adequately identifies the records sought. To the extent practicable, a description should include relevant dates, format, subject matter, and the name of any person to whom the record is known to relate. A general request for records with no accompanying date restriction, either express or implied, shall be deemed to be a request for records created within the preceding twelve months.

(c) *Fee statement.* The request must contain a statement expressing willingness to pay fees for the requested records or a request for a fee waiver (see § 404.10) before the request shall be deemed to have been received. A fee statement may specify the maximum amount a requester is willing to pay for processing the request.

(1) Whenever a requester submits a FOIA request that does not contain a fee statement or a request for a fee waiver, Ex-Im Bank shall advise the requester of the requirements of this paragraph. If the requester fails to respond within ten working days of such notification, then the Freedom of Information and Privacy Office shall notify the requester, in writing, that Ex-Im Bank will not process the request.

(2) A general statement by the requester expressing willingness to pay all applicable fees under § 404.9 shall be deemed an agreement to pay up to $50.00. If Ex-Im Bank estimates that the

fees for a request will exceed $50.00, then Ex-Im Bank shall offer the requester the opportunity to agree, in writing, either to pay a greater fee or to modify the request as a means of limiting the cost.

(d) *Written notice of amendment.* The requester should provide any amendment to the original request in writing to Ex-Im Bank.

(e) *Requester assistance.* Ex-Im Bank shall make reasonable efforts to assist a requester in complying with the requirements of this section.

§ 404.5 Time for processing.

(a) *General.* Ex-Im Bank shall respond to requests within twenty working days of the date of receipt of the request unless unusual circumstances exist. Ex-Im Bank shall provide written notice to the requester whenever such unusual circumstances necessitate an extension. If the extension is expected to exceed ten working days, then Ex-Im Bank shall offer the requester the opportunity to:

(1) Alter the request so that it may be processed within the time limit; or

(2) Propose an alternative, feasible time frame for processing the request.

(b) *Date of receipt.* A request shall be deemed to have been received on the date that the request is received in the Freedom of Information and Privacy Office, provided that the requester has met all the requirements of § 404.4. Ex-Im Bank shall notify the requester of the date on which a request was officially received.

(c) *Order of processing.* Ex-Im Bank ordinarily shall process requests according to their order of receipt.

(d) *Expedited processing.* A request for expedited processing must be included in the original request for records and may be granted at the discretion of Ex-Im Bank based upon the requester's demonstration of:

(1) An imminent threat to the life or physical safety of an individual; or

(2) In the case of a requester who is a representative of the news media, an urgency to inform the public concerning actual or alleged Federal Government activity. Ex-Im Bank shall provide notice of its determination on expedited processing to the requester. A requester may file an administrative appeal, as set forth at § 404.11, based on a denial of a request for expedited processing. Ex-Im Bank shall grant expeditious consideration to any such appeal.

§ 404.6 Release of records under the Freedom of Information Act.

(a) *Creation of records.* A reasonable request for material not in existence may be honored at Ex-Im Bank's discretion when tabulation or compilation will not significantly burden Ex-Im Bank, its programs or its activities.

(b) *Discretionary release.* Consistent with federal government policy, material technically qualifying for exemption from disclosure under 5 U.S.C. 552(b)(5) may be made available when disclosure would not adversely affect legitimate public or private interests, violate law or impose an unreasonable burden on Ex-Im Bank. This policy does not, however, create any right enforceable in a court of law.

(c) *Segregable records.* Whenever it is determined that a portion of a record is exempt from disclosure, any reasonably segregable portion of the record shall be provided to the requester after redaction of the exempt material. If segregation would render the document meaningless, Ex-Im Bank shall withhold the entire record.

(d) *Date for determining responsive records.* Only those records within Ex-Im Bank's possession and control as of the date of receipt of a request shall be deemed to be responsive to a request.

§ 404.7 Confidential business information.

(a) *Scope.* This section applies to all business information, as defined in § 404.2. Such information shall only be disclosed pursuant to a FOIA request in accordance with this section.

(b) *Submitter designation.* All business submitters should designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portion of any submission that they consider to be exempt from disclosure under 5 U.S.C. 552(b)(4).

(c) *Pre-disclosure notice to the business submitter.* Whenever Ex-Im Bank receives a FOIA request seeking disclosure of business information, Ex-Im Bank shall provide prompt written notice to the submitter of such information. This notice shall include a description or a copy of the records containing the business information. Such notice shall not be required, however, if:

(1) Ex-Im Bank determines that the records shall not be disclosed;

(2) The records have been published or otherwise made available to the public; or

(3) disclosure of the records is required by law.

(d) *Opportunity to object to disclosure.* The business submitter shall have ten working days from and including the date of the notification letter to provide Ex-Im Bank with a detailed statement of any objection to disclosure of the records. A submitter located outside the United States shall have twenty working days to object to disclosure. Ex-Im Bank may extend the time for objection upon timely request from the submitter and for good cause shown. A statement of objection must specify all grounds under the FOIA for withholding the information.

(e) *Notice to the requester.* The Freedom of Information and Privacy Office shall notify the requester in writing whenever a business submitter is afforded the opportunity to object to disclosure of records pursuant to paragraph (c) of this section.

(f) *Disclosure of confidential business information.* Ex-Im Bank shall consider any objections raised by the business submitter prior to making its disclosure decision.

(g) *Notice of intent to disclose.* Whenever Ex-Im Bank determines to disclose business information over the objection of a business submitter, Ex-Im Bank shall notify the business submitter, in writing, of such determination, the reasons for the decision, and the expected disclosure date. This notification—which shall be provided at least ten days prior to the planned disclosure date and which shall include a copy or description of the records at issue—is intended to afford the submitter the opportunity to seek judicial review.

(h) *Notice to requester of disclosure date.* If Ex-Im Bank determines to disclose records over a business submitter's objection, then Ex-Im Bank shall notify the requester of the expected disclosure date.

(i) *Appeal.* Whenever Ex-Im Bank determines to disclose, pursuant to an administrative appeal, business information that initially was withheld from disclosure under 5 U.S.C. 552(b)(4), Ex-Im Bank shall notify the business submitter. Such notice shall be in writing and shall be provided ten working days prior to the proposed disclosure date. It shall include a copy or description of the records at issue and a statement of Ex-Im Bank's reasons for disclosure.

(j) *Notice of FOIA lawsuit.* Ex-Im Bank shall promptly notify the submitter whenever a requester brings suit against Ex-Im Bank seeking to compel the release of business information covered by this section. Ex-Im Bank shall promptly notify the requester when a submitter brings suit against Ex-Im seeking to restrict the release of business information that is covered by this section.

(k) *Exception.* Notwithstanding the foregoing provisions of this part, Ex-Im Bank may, upon request or on its own initiative, publicly disclose the parties to transactions for which Ex-Im Bank

approves support, the amount of such support, the identity of any participants involved, a general description of the related U.S. exports, and the country to which such exports are destined.

§ 404.8 Initial determination.

(a) *Authority to grant or deny requests.* The Freedom of Information and Privacy Office shall be responsible for search, review, and the initial determination.

(b) *Referrals to other government agencies.* A requested record in Ex-Im Bank's possession that was created or classified by another Federal agency shall be referred to such agency for direct response to the requester. The Freedom of Information and Privacy Office shall notify the requester of any such referral, the number of documents so referred, and the name and address of each agency to which the request has been referred.

(c) *Notification of Ex-Im Bank action.* The Freedom of Information and Privacy Office shall notify the requester in writing of its decision to grant or deny the request.

(1) If the decision is made to grant a request, then Ex-Im Bank shall promptly disclose the requested records and shall inform the requester of any fee payable under § 404.9.

(2) A denial is a determination to withhold any requested record in whole or in part, a determination that a requested record does not exist or cannot be located or a determination that what has been requested is not a record subject to the FOIA. Whenever Ex-Im Bank withholds information, such notice shall include:

(i) The name, title, and signature of the person responsible for the determination;

(ii) The statutory basis for non-disclosure; and

(iii) A statement that any denial may be appealed under § 404.11 and a brief description of the requirements of that section.

(d) *Material withheld.* Ex-Im Bank shall make reasonable efforts to inform the requester of the volume of material withheld pursuant to a full or partial denial and the extent of any redaction. Ex-Im Bank shall not, however, indicate the extent of any denial when doing so could harm an interest protected by an applicable exemption.

§ 404.9 Schedule of fees.

(a) *General.* Ex-Im Bank shall charge fees to recover the full allowable direct costs it incurs in processing requests. Ex-Im Bank shall attempt to conduct searches in the most efficient manner to minimize costs for both Ex-Im Bank and the requester.

(b) *Categories of requesters.* Fees shall be assessed according to the status of the requester. The specific schedule of fees for each requester category (each as defined in § 404.2) is prescribed as follows:

(1) *Commercial use requesters.* Ex-Im Bank shall charge the full costs for search, review, and duplication.

(2) *Educational and non-commercial scientific institution requesters.* Ex-Im Bank shall charge only for the cost of duplication in excess of 100 pages. No fee will be charged for search or review.

(3) *Representatives of the news media.* Ex-Im Bank shall charge only for the cost of duplication in excess of 100 pages. No fee will be charged for search or review.

(4) *All other requesters.* Ex-Im Bank shall charge for the cost of search, review, and duplication, except that 100 pages of duplication and two hours of professional search time shall be furnished without charge.

(c) *Search and review fees.* Ex-Im Bank shall charge the following fees for search and review:

(1) *Clerical.* Hourly rate—$16.00.

(2) *Professional.* Hourly rate—$32.00.

(3) *Computer Searches.* Hourly rate—based upon the salary of the employee performing the work and the cost of operating any equipment.

(d) *Administrative appeals.* Ex-Im Bank shall not charge for administrative review of an exemption applied in an initial determination. Ex-Im Bank shall charge, however, for search and review pursuant to an administrative appeal if the appeal is based on a claim other than the application of an exemption in the initial determination.

(e) *Duplication.* Ex-Im Bank shall charge $.10 per page for paper copy duplication. Ex-Im Bank shall charge the actual or estimated cost of copies prepared by computer, such as tape or printouts, or for other methods of duplication. When duplication charges are expected to exceed $50.00, Ex-Im Bank shall seek the requester's consent to be responsible for the estimated charges unless a requester has already expressed a willingness to pay duplication fees in excess of $50.00. Ex-Im Bank shall also offer the requester the opportunity to alter the request in order to reduce duplication costs.

(f) *Fees for searches that produce no records.* Fees shall be payable as provided in this section even though searches and review do not generate any disclosable records.

(g) *Aggregating requests.* A requester, or a group of requesters acting in concert, shall not file multiple requests, seeking portions of a record or similar or related records, in order to avoid payment of fees. Ex-Im Bank shall aggregate any such requests and charge as if the requests were a single request.

(h) *Special services charges.* Complying with requests for special services such as those listed in this paragraph is entirely at the discretion of Ex-Im Bank. Ex-Im Bank shall recover the full costs of providing such services to the extent that it elects to provide them.

(1) *Certifications.* Ex-Im Bank shall charge $25.00 to certify the authenticity of any Ex-Im Bank record or any copy of such record.

(2) *Special shipping.* Ex-Im Bank may ship by special means (e.g., express mail) if the requester so desires, provided that the requester has paid or has expressly undertaken to pay all costs of such special services. Ex-Im Bank shall not charge for ordinary packaging and mailing.

(i) *Minimum fee.* Ex-Im Bank shall waive a final fee of $5.00 or less.

(j) *Advance payment.* Whenever Ex-Im Bank estimates that the fees are likely to exceed $250.00, Ex-Im Bank shall notify the requester of the likely cost and shall require an advance payment of an amount up to the full estimated charges.

(k) *Failure to pay fee.* Ex-Im Bank shall not process a request by a requester who has failed to pay a fee for a previous request unless and until such a requester had paid the full amount owed and also has paid, in advance, the total estimated charges for the new request. The administrative time limits for the new request—set forth in § 404.5—shall begin to run only after Ex-Im Bank has received the payments described in this section.

§ 404.10 Fee waivers or reductions.

(a) *General.* Upon request, Ex-Im Bank shall consider a discretionary fee waiver or reduction of the fees chargeable under § 404.9.

(b) *Form of request for fee waiver.* Ex-Im Bank shall deny a request for a waiver or reduction of fees that does not clearly address each of the following:

(1) The proposed use of the records and whether the requester will derive income or other benefit from such use;

(2) An explanation of the reasons why the public will benefit from such use; and

(3) If specialized use of the records is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(d) *Burden of proof.* In all cases, the requester has the burden of presenting sufficient evidence or information to

justify the fee waiver or reduction. The requester may use the procedures set forth in § 404.11 to appeal a denial of a fee waiver request.

(e) *Employee requests.* Fees of less than $50.00 shall be waived in connection with any request by an employee, former employee, or applicant for employment, related to a grievance or complaint of discrimination against Ex-Im Bank.

§ 404.11 Administrative appeal.

(a) *General.* Whenever a request for records, a fee waiver or expedited processing has been denied, the requester may appeal the denial within thirty days of the date of Ex-Im Bank's issuance of notice of such action. Any denial under this subpart must be appealed according to this section before a requester is eligible to seek judicial review.

(b) *Form.* Appeals must be made in writing and must be signed by the appellant. Appeals should be addressed to the Assistant General Counsel for Administration at the address at § 404.1(f). Both the envelope and the appeal letter should be clearly marked in capital letters: "FREEDOM OF INFORMATION ACT APPEAL." Failure to properly mark or address the appeal may slow its processing. The letter should include:

(1) A copy of the denied request or a description of the records requested;

(2) The name and title of the Ex-Im Bank employee who denied the request;

(3) The date on which the request was denied;

(4) The Ex-Im Bank identification number assigned to the request; and

(5) The return address and telephone number of the appellant.

(c) *Processing schedule.* Appeals shall not be deemed to have been received until the Assistant General Counsel for Administration receives the appeal. Ex-Im Bank shall notify the requester of the date on which an appeal was officially received. The disposition of an appeal shall be made in writing within twenty working days after the date of receipt of an appeal. The Assistant General Counsel for Administration may extend the time for response an additional ten working days if unusual circumstances exist, provided that the Assistant General Counsel for Administration notifies the requester in writing.

(d) *Ex-Im Bank decision.* A final determination which affirms an adverse initial determination shall set forth the reasons for affirming the denial and shall advise the requester of the right to seek judicial review. If the initial determination is reversed on appeal, the request shall be remanded to the Freedom of Information and Privacy Office to be processed promptly in accordance with the decision on appeal, subject to § 404.7(i).

Subpart B—Access to Records Under the Privacy Act of 1974

§ 404.12 General provisions.

(a) *Purpose.* This subpart establishes policies, procedures, requirements, and responsibilities for administration of the Privacy Act of 1974, 5 U.S.C. 552a, at the Export-Import Bank of the United States (Ex-Im Bank).

(b) *Relationship to the Freedom of Information Act.* The Privacy Act applies to records contained in a systems of records, as defined in § 404.13. If an individual submits a request for access to records and cites the Privacy Act, but the records sought are not contained in a Privacy Act system of records, then the request shall be processed only under subpart A of this part, Procedures for Disclosure of Records Under the Freedom of Information Act. All requests properly processed under this subpart B shall also be processed under subpart A of this part.

(c) *Appellate authority.* The Ex-Im Bank Assistant General Counsel for Administration is the appellate authority for all Privacy Act requests.

(d) *Delegation.* Any action or determination in this subpart which is the responsibility of a specific Ex-Im Bank employee may be delegated to a duly designated alternate.

(e) *Ex-Im Bank address.* The Export-Import Bank of the United States is located at 811 Vermont Avenue, NW, Washington, DC 20571.

§ 404.13 Definitions.

For purposes of this subpart, the following definitions shall apply:

Appeal—A written request to the Ex-Im Bank Assistant General Counsel for Administration for reversal of an adverse initial determination.

Final determination—The written decision by the Assistant General Counsel for Administration on an appeal.

Individual—A citizen of the United States or an alien lawfully admitted for permanent residence.

Initial determination—The initial written determination in response to a Privacy Act request.

Record—Any item, collection or grouping of information about an individual that is maintained within a system of records and that contains the individual's name or an identifying number, symbol or other identifying particular assigned to the individual.

Redaction—The process of removing non-disclosable material from a record so that the remainder may be released.

Request for access—A request to view a record.

Request for accounting—A request for a list of all disclosures of a record.

Request for correction—A request to modify a record.

Requester—An individual who makes a request under the Privacy Act.

Review—The process of examining a record to determine whether any portion is required to be withheld.

Search—The process of identifying and collecting records pursuant to a request.

System of records—A group of any records under the control of an agency from which information is retrieved by the name of the individual or some identifying number, symbol or other identifying particular assigned to the individual.

Working days—All calendar days excluding Saturdays, Sundays, and Federal Government holidays.

§ 404.14 Requirements of request for access.

(a) *Form.* Requests for access must be made in writing and must be signed by the requester. Requests should be addressed to the Freedom of Information and Privacy Office at the address in § 404.12(e) and should contain both the return address and telephone number of the requester.

(b) *Description of records sought.* A request for access must describe the records sought in sufficient detail so as to enable Ex-Im Bank personnel to locate the system of records containing the records with a reasonable amount of effort. To the extent practicable, such description should include the nature of the record sought, the date of the record or the period in which the record was compiled, and the name or identifying number of the system of records in which the requester believes the record is kept. A requester may include his or her social security number in the request in order to facilitate the identification and location of the requested records.

(c) *Fee statement.* The request must contain a statement expressing willingness to pay fees for processing the request or a request for a fee waiver (see § 404.16(d)).

(1) Whenever a requester submits a request for access that does not contain a fee statement or a request for a fee waiver, Ex-Im Bank shall advise the requester of the requirements of this section. If the requester fails to respond within ten working days of such notification, then the Freedom of

Information and Privacy Office shall notify the requester, in writing, that Ex-Im Bank will not process the request.

(2) A general statement by the requester expressing willingness to pay all applicable fees shall be deemed an agreement to pay up to $25.00. If Ex-Im Bank estimates that the fees for a request will exceed $25.00, then Ex-Im Bank shall notify the requester. Ex-Im Bank shall offer the requester the opportunity to agree, in writing, either to pay a greater fee or to modify the request as a means of limiting the cost.

(3) Whenever the estimated fee chargeable under this section exceeds $25.00, Ex-Im Bank reserves the right to require a requester to make an advance payment prior to processing the request.

(4) Ex-Im Bank shall not process a request by a requester who has failed to pay a fee for a previous request unless and until such requester had paid the full amount owed and also has paid, in advance, the total estimated charges for the new request.

(d) *Verification of identity.* An individual who submits a request for access must verify his or her identity. The request must include the requesters full name, current address, and date and place of birth. In addition, such requester must provide a notarized statement attesting to his or her identity.

(e) *Verification of guardianship.* When a parent or guardian of a minor or the guardian of a person judicially determined to be incompetent submits a request for access to records that relate to the minor or incompetent, such parent or guardian must establish:

(1) His or her own identity and the identity of the subject of the record in accordance with paragraph (d) of this section; and

(2) Parentage or guardianship of the subject of the record, either by providing a copy of the subject's birth certificate showing parentage or by providing a court order establishing guardianship.

(f) *Written notice of amendment.* The requester must provide any amendment to the original request in writing to Ex-Im Bank.

(g) *Requester assistance.* Ex-Im Bank shall make reasonable efforts to assist a requester in complying with the requirements of this section.

(h) *Date of receipt.* Requests for access shall be deemed to have been received on the date that the request is received by the Freedom of Information and Privacy Office, provided that all the requirements of this section have been met. Ex-Im Bank shall notify the requester of the date on which it officially received a request.

§ 404.15 Initial determination.

(a) *Time for processing.* The Freedom of Information and Privacy Office shall respond to valid requests for access within twenty working days of the date of receipt of the request letter. The time for response may be extended an additional ten working days for good cause, provided that the Freedom of Information and Privacy Office notifies the requester in writing.

(b) *Notice regarding request for access.* The Freedom of Information and Privacy Office shall notify the requester in writing of its decision to grant or deny a request for access.

(1) If the request is granted, then the notice shall either include the requested records, in releasable form, or shall describe the manner in which access to the record will be granted. The notice also shall inform the requester of any processing fee.

(2) A denial is a determination to withhold any requested record in whole or in part or a determination that the requested record does not exist or cannot be located. If the request is denied, then the denial notice shall state:

(i) The name, signature, and title or position of the person responsible for the denial;

(ii) The reasons for the denial; and

(iii) The procedure for appeal of the denial under § 404.17 and a brief description of the requirements of that section.

(c) *Form of record disclosure.* Ex-Im Bank shall grant access to the requested records either by providing the requester with a copy of the record or, at the requester's option, by making the record available for inspection at a reasonable time and place. If Ex-Im Bank makes the record available for inspection, such inspection shall not unreasonably disrupt Ex-Im Bank operations. In addition, the requester must provide a form of official photographic identification—such as a passport, driver's license or identification badge—and any other form of identification bearing his or her name and address prior to inspection of the requested records. Records may be inspected by the requester in the presence of another individual, provided that the requester signs a form stating that Ex-Im Bank is authorized to disclose the record in the presence of both individuals.

§ 404.16 Schedule of fees.

(a) *Search and review.* Ex-Im Bank shall not charge for search and review.

(b) *Duplication.* Ex-Im Bank shall charge $.10 per page for paper copy duplication. Ex-Im Bank shall charge the actual or estimated cost of copies prepared by computer, such as tape or printouts, or for other methods of reproduction or duplication.

(c) *Minimum fee.* Ex-Im Bank shall waive final fees of $5.00 or less.

(d) *Fee waivers.* Ex-Im Bank may waive fees whenever it is determined to be in the public interest. Fees of less than $50.00 shall be waived in connection with any request by an employee, former employee or applicant for employment, related to a grievance or complaint of discrimination against Ex-Im Bank.

(e) *Special services charges.* Complying with requests for special services such as those listed in this paragraph is entirely at the discretion of Ex-Im Bank. Ex-Im Bank shall recover the full costs of providing such services to the extent that it elects to provide them.

(1) *Certifications.* Ex-Im Bank shall charge $25.00 to certify the authenticity of any Ex-Im Bank record or any copy of such record.

(2) *Special shipping.* Ex-Im Bank may ship by special means (e.g., express mail) if the requester so desires, provided that the requester has paid or has expressly undertaken to pay all costs of such special services. Ex-Im Bank shall not charge for ordinary packaging and mailing.

§ 404.17 Appeal of denials of access.

(a) *Appeals to the Assistant General Counsel for Administration.* Whenever Ex-Im Bank denies a request for access or for waiver or reduction of fees, the requester may appeal the denial to the Assistant General Counsel for Administration within 30 working days of the date of Ex-Im Bank's issuance of notice of such action. Appeals must be made in writing and must be signed by the appellant. Appeals should be addressed to the Assistant General Counsel for Administration at the address in § 404.12(e). Both the envelope and the appeal letter should be clearly marked in capital letters: "PRIVACY ACT APPEAL." Failure to properly mark or address the appeal may slow its processing. An appeal shall not be deemed to have been received by Ex-Im Bank until the Assistant General Counsel for Administration receives the appeal letter. The letter should include:

(1) A copy of the denied request or a description of the records requested;

(2) The name and title of the Ex-Im Bank employee who denied the request;

(3) The date on which the request was denied; and

(4) The Ex-Im Bank identification number assigned to the request.

(b) *Final determination.* The disposition of an access appeal shall be made in writing within twenty working days after the date of receipt of the appeal. The Assistant General Counsel for Administration may extend the time for response an additional ten working days for good cause, provided that the requester is notified in writing. A decision affirming the denial of a request for access shall include a brief statement of the reasons for affirming the denial and shall advise the requester of the right to seek judicial review. If the initial determination is reversed, then the request shall be remanded to the Freedom of Information and Privacy Office to be processed in accordance with the decision on appeal.

§ 404.18 Requests for correction of records.

(a) *Form.* Requests for correction must be made in writing and must be signed by the requester. Requests should be addressed to the Freedom of Information and Privacy Office at the address in § 404.12(e) and should contain both the return address and telephone number of the requester. The request must identify the particular record in question, state the correction sought, and set forth the justification for the correction. The requester also must verify his or her identity in accordance with the procedures set forth at § 404.14(d) and (e). Both the envelope and the request for correction itself should be clearly marked in capital letters: "PRIVACY ACT CORRECTION REQUEST."

(b) *Initial determination.* The Freedom of Information and Privacy Office shall respond to valid correction requests within ten working days of receipt of the request letter. If Ex-Im Bank grants the request for correction, then the Freedom of Information and Privacy Office shall advise the requester of his or her right to obtain a copy, in releasable form, of the corrected record. A denial notice shall state the reasons for the denial and shall advise the requester of the right to appeal. Ex-Im Bank shall not charge for processing requests for correction.

(c) *Appeal of denial of request for correction.* Whenever Ex-Im Bank denies a request for correction, the requester may appeal the denial to the Assistant General Counsel for Administration within thirty working days of Ex-Im Bank's issuance of notice of such action. Appeals must be made in writing and must be signed by the appellant. Appeals should be addressed to the Assistant General Counsel for Administration at the address set forth in § 404.12(e). Both the envelope and the appeal letter should be clearly marked in capital letters: "PRIVACY ACT CORRECTION APPEAL." Failure to properly mark or address the appeal may slow its processing. An appeal shall not be deemed to have been received by Ex-Im Bank until the Assistant General Counsel for Administration receives the appeal letter. The letter must include:

(1) A copy of the denied request or a description of the correction sought;

(2) The name and title of the Ex-Im Bank employee who denied the request;

(3) The date on which the request was denied;

(4) The Ex-Im Bank identification number assigned to the request; and

(5) Any information said to justify the correction.

(d) *Final determination on correction appeal.* (1) The disposition of an appeal shall be made in writing within twenty working days after the date of receipt of an appeal. The Assistant General Counsel for Administration may extend the time for response an additional ten working days for good cause, provided that the requester is notified in writing.

(2) A decision affirming the denial of a request for access shall advise the appellant of the:

(i) Reasons for affirming the denial;

(ii) Right to seek judicial review; and

(iii) Right to file a statement of disagreement, as provided in paragraph (e) of this section.

(3) If the initial determination is reversed, then the request shall be remanded to the Freedom of Information and Privacy Office to be processed in accordance with the decision on appeal.

(e) *Statement of disagreement.* Upon denial of a correction appeal, the appellant shall have the right to file a statement of disagreement with Ex-Im Bank, setting forth his or her reasons for disagreeing with the Agency's action. The statement should be addressed to the Freedom of Information and Privacy Office at the address in § 404.12(e) and must be received within thirty working days of Ex-Im Bank's issuance of the denial notice. A statement of disagreement must not exceed one typed page per fact disputed. Statements exceeding this limit shall be returned to the requester for editing. Upon receipt of a statement of disagreement under this section, the Freedom of Information and Privacy Office shall have the statement included in the system of records in which the disputed record is maintained and shall have the disputed record marked so as to indicate that a Statement of Disagreement has been filed. Ex-Im Bank may also append to the disputed record a written statement regarding Ex-Im Bank's reasons for denying the request to correct the record.

(f) *Notices of correction or disagreement.* In any disclosure of a record for which Ex-Im Bank has received a statement of disagreement, Ex-Im Bank shall clearly note any portion of the record which is disputed and shall provide a copy of the statement of disagreement. Ex-Im Bank also may provide its own statement regarding the disputed record. In addition, whenever Ex-Im Bank corrects a record or receives a statement of disagreement, Ex-Im Bank shall, as is reasonable under the circumstances, advise any person or agency to which it previously disclosed such record of the correction or statement, provided that an accounting of such disclosure exists.

§ 404.19 Request for accounting of record disclosures.

(a) *Required information.* With respect to each system of records under Ex-Im Bank control, Ex-Im Bank shall maintain an accurate accounting of the date, nature, and purpose of each external disclosure of a record and the name and address of all persons, organizations, and agencies to which disclosure has been made. Ex-Im Bank shall retain this accounting for at least five years or the life of the record, whichever is longer.

(b) *Form.* An individual may obtain an accounting of all disclosures of a record, provided that such individual establishes his or her identity as the subject of such record in accordance with the procedures set forth at § 404.14(d) and (e). A request for an accounting must be made in writing and must be signed by the requester. The request should be addressed to the Freedom of Information and Privacy Office at the address in § 404.12(e) and should contain both the return address and telephone number of the requester. Both the envelope and the request itself should be clearly be marked in capital letters: "PRIVACY ACT ACCOUNTING REQUEST." Failure to properly mark or address the request may slow its processing. The request shall not be deemed to have been received by Ex-Im Bank until the Freedom of Information and Privacy Office receives the request. The letter must clearly identify the particular record for which the accounting is requested.

(c) *Initial determination.* The Freedom of Information and Privacy Office shall notify the requester whether the request will be granted or denied within ten working days of receipt of a valid request for an accounting. Ex-Im Bank

shall not charge for processing such a request.

(d) *Exceptions.* Ex-Im Bank shall not be required to provide an accounting to an individual when the accounting relates to a disclosure made:

(1) To an employee within the agency;

(2) Under the FOIA; or

(3) To a law enforcement agency for an authorized law enforcement activity in response to a written request from such agency which specified the law enforcement activity for which the disclosure was sought.

§ 404.20 Notice of court-ordered and emergency disclosures.

(a) *Court-ordered disclosures.* When a record pertaining to an individual is required to be disclosed by a court order, the Assistant General Counsel for Administration shall make reasonable efforts to provide notice to the subject individual. Notice shall be given within a reasonable time after Ex-Im Bank's receipt of the order, except that in a case in which the order is not a matter of public record, notice shall be given only after the order becomes public. Such notice shall be mailed to the individual's last known address and shall contaih a copy of the order and a description of the information disclosed.

(b) *Emergency disclosures.* If a record has been disclosed by Ex-Im Bank under compelling circumstances affecting the health or safety of any person, then, within ten working days, the Assistant General Counsel for Administration shall notify the subject individual of the disclosure at his or her last known address. The notice of such disclosure shall be in writing and shall state the:

(1) Nature of the information disclosed;

(2) Person, organization or agency to which it was disclosed;

(3) Date of disclosure; and

(4) Compelling circumstances justifying the disclosure.

§ 404.21 Submission of social security and passport numbers.

(a) *Policy.* Ex-Im Bank recognizes the importance of assessing, to the extent reasonably possible, the risks associated with transactions supported by Ex-Im Bank. It is often difficult to assess risks related to individuals and non-publicly trade entities. Therefore, when an individual or a non-publicly traded entity applies for participation in an Ex-Im Bank program or is proposed as a guarantor for an Ex-Im Bank transaction, Ex-Im Bank may request social security and/or U.S. passport numbers from such individual or from the principals of such entity. Ex-Im Bank shall not require submission of this information, and unwillingness or inability to provide a social security or passport number shall not affect Ex-Im Bank's decision on an application for Ex-Im Bank assistance.

(b) *Use.* Ex-Im Bank shall use social security and passport numbers to assess the creditworthiness of Ex-Im Bank program participants and as a mechanism for enforcing agreements with Ex-Im Bank. Such information shall not be disclosed, except as warranted by law and regulation.

(c) *Notice.* Whenever Ex-Im Bank requests a social security or passport number, Ex-Im Bank shall place an appropriate Privacy Act notification on the form used to collect the information.

§ 404.22 Government contracts.

(a) *Approval by Assistant General Counsel for Administration.* Ex-Im Bank shall not contract for the operation of a system of records or for an activity that requires access to a system of records without the express, written approval of the Assistant General Counsel for Administration.

(b) *Contract clauses.* Any contract authorized under paragraph (a) of this section shall contain the standard contract clauses required by the Federal Acquisition Regulation (48 CFR 24.104) to ensure compliance with the requirements imposed by the Privacy Act. The division within Ex-Im Bank that is responsible for technical supervision of the contract shall be responsible for ensuring that the contractor complies with the Privacy Act contract requirements.

(c) *Contractor status.* Any contractor that operates an Ex-Im Bank system of records or engages in an activity that requires access to an Ex-Im Bank system of records shall be considered an Ex-Im Bank employee for purposes of this subpart. Ex-Im Bank shall supply any such contractor with a copy of the regulations in this subpart upon entering into a contract with Ex-Im Bank.

§ 404.23 Other rights and services.

Nothing in this subpart shall be construed to entitle any person to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

PART 405—[REMOVED AND RESERVED]

2. 12 CFR part 405 is removed and reserved.

Dated: March 16, 1999.

Kenneth W. Hansen,

General Counsel.

[FR Doc. 99–7283 Filed 3–24–99; 8:45 am]

BILLING CODE 6690–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 35

[Docket No. FR–4444–F–02]

Lead-Based Paint Poisoning Prevention in Certain Residential Structures—Information Collection Approval Numbers; Technical Amendment

AGENCY: Office of the Secretary-Office of Lead Hazard Control, HUD.

ACTION: Final rule; technical amendment.

SUMMARY: The rule amends various sections of HUD's regulations relating to lead-based hazards to include the Office of Management and Budget (OMB) approval numbers for the information collections contained in those provisions.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Gail Ward, Reports Liaison Officer, Office of Lead Hazard Control, Department of Housing and Urban Development, Room B–133, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 111. (This is not a toll-free number.) For persons with hearing or speech impairments, this number may be accessed by TTY through the Federal Information Relay Service, (800) 877–8339.

SUPPLEMENTARY INFORMATION: HUD's regulations on Lead-Based Paint Poisoning Prevention in Certain Residential Structures are set forth in 24 CFR part 35. Information collection requirements are in §§ 35.88, 35.90, 35.92, and 35.94, which pertain to disclosure requirements for sellers and lessors, evaluation, certifications and acknowledgments of disclosure, and agent responsibilities. This final rule amends those sections to remove inaccurate notations about the effectiveness of the information

collections and to insert the OMB approval number assigned in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

Justification for Final Rule

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 does provide, however, for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1)

In this case, the changes being made to the rule are technical in nature, conforming the rule to the OMB approval actions that have already taken place. Therefore, prior public procedure is unnecessary.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the program affected by this rule is 14.900.

List of Subjects in 24 CFR Part 35

Grant programs—housing and community development, Lead poisoning, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, part 35 of title 24 of the Code of Federal Regulations is amended as follows:

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

1. The authority citation for part 35 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 4821–4846 and 4852d.

§§ 35.88, 35.90, 35.92 and 35.94 [Amended]

2. Sections 35.88, 35.90, 35.92, and 35.94 are amended to add at the end of each section the following statement:

"(Approved by the Office of Management and Budget under control number 2070–0151)."

Dated: March 18, 1999.

David E. Jacobs,

Director of the Office of Lead Hazard Control.

[FR Doc. 99–7344 Filed 3–24–99; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 8812]

RIN 1545–A193

Continuation Coverage Requirements Applicable to Group Health Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to Treasury Decision 8812, which was published in the **Federal Register** on Wednesday, February 3, 1999, (64 FR 5160) relating to continuation coverage requirements applicable to group health plans.

DATES: This correction is effective February 3, 1999.

FOR FURTHER INFORMATION CONTACT: Yurlinda Mathis at (202) 622–4695 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 4980B of the Internal Revenue Code.

Need for Correction

As published, TD 8812 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8812), which were the subject of FR Doc. 99–1520, is corrected as follows:

1. On page 5166, column 2, in the preamble under the heading, "*COBRA Continuation Coverage*", first full paragraph, line 4 from the bottom of paragraph, the language "offer for core coverage separately." is corrected to read "offer core coverage separately.".

2. On page 5170, column 1, in the preamble under the heading, "*Paying for COBRA Continuation Coverage*", last paragraph in the column, line 14, the language "beginning. Therefore, the final" is corrected to read "beginning of the period. Therefore, the final".

§ 54.4980B–1 [Corrected]

3. On page 5174, column 1, § 54.4980B–1, paragraph (b), line 7 from bottom of paragraph, the language "rules in §§ 54.4980B–1 though" is corrected to read "rules in §§ 54.4980B–1 through".

Michael Slaughter,

Acting Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–7340 Filed 3–24–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–013]

RIN 2115–AE46

Special Local Regulations for Marine Events; 1D48 Chesapeake Grant Prix Distance Race

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the start of the 1D48 Chesapeake Grand Prix Distance Race, a marine event to be held on the waters of the Chesapeake Bay between Annapolis, Maryland, and Chesapeake Light. These regulations are necessary to provide for the safety of life and property on U.S. navigable waters during the start of the event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATE: This temporary final rule is effective from 12:30 p.m. EDT (Eastern Daylight Time) to 1:30 p.m. EDT on May 2, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland, 21226–1791, telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, no notice of proposed rulemaking was published for this regulation. Following normal rulemaking procedures would have been impracticable since there is not sufficient time remaining to publish a proposed rule in advance of the event or to provide for a delayed effective date. Immediate action is needed to protect vessel traffic from the potential hazards associated with this event.

Background and Purpose

One Design, LLC, of Annapolis, Maryland, will sponsor the 1D48 Chesapeake Grant Prix Distance Race on May 2, 1999. The event will consist of

8 state-of-the-art auxiliary-powered sloops conducting a highly publicized, competitive race, on the waters of the middle and lower Chesapeake Bay, from the Chesapeake Bay Bridge off Annapolis, Maryland, to Chesapeake Light at the entrance to the Chesapeake Bay, thence returning to Annapolis, Maryland. A fleet of spectator vessels is anticipated for the start of the event, as the race coincides with the annual Chesapeake Bay Bridge Walk. Because of the need for vessel control during the start of the race, vessel traffic will be temporarily restricted to provide for the safety of spectators, participants and transiting vessels.

Discussion of Regulations

The Coast Guard will establish temporary special local regulations on specified waters of the Chesapeake Bay in the vicinity of the Chesapeake Bay Bridge (Wm. P. Lane, Jr. Memorial Bridge) during the start of the race. The effect will be to restrict general navigation in the regulated area during the start of the race. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators, and transiting vessels.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulated area will be in effect only for a limited amount of time, extensive advisories have been and will be made to the affected maritime community so that they may adjust their schedules accordingly, and the event schedule will allow commercial interests to coordinate their activities to allow for minimum disruption to their enterprise.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the event not lasting long, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no Collection-of-Information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, 100.35–T05–013, is added to read as follows:

§ 100.35–T05–013; 1D48 Chesapeake Grand Prix Distance Race.

(a) *Definitions.* (1) *Regulated area.* The waters of the Chesapeake Bay enclosed by a line connecting the following points:

Latitude	*Longitude*
39°00′25.0″ N	76°22′57.0″ W. to
39°00′19.0″ N	76°22′20.0′ W. to
38°58′52.0″ N	76°22′47.5″ W. to
38°58′59.5″ N	76°23′27.5″ W. to
39°00′25.0″ N	76°22′57.0″ W

All coordinates refer to Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special local regulations.* (1) All persons and vessels not authorized as participants or official patrol vessels are spectators. The "official patrol" consists of any Coast Guard, public, State, county, or local law-enforcement vessels assigned or approved by Commander, Coast Guard Activities Baltimore.

(2) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(3) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(4) Spectator vessels may enter and anchor in areas outside the regulated area without the permission of the Patrol Commander. They shall use caution not to enter the regulated area. No vessel shall anchor within a tunnel, cable, or pipeline area shown on a Government chart.

(5) The Coast Guard Patrol Commander will announce the specific times during which the regulations will be enforced, by Broadcast Notice to Mariners on channel 22 VHF–FM marine-band radio.

(c) *Effective date.* The regulated area is effective from 12:30 p.m. EDT (Eastern Daylight Time) to 1:30 p.m. EDT on May 2, 1999.

Dated: March 5, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–7322 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–012]

RIN 2115–AE46

Special Local Regulations for Marine Events; 1D48 Chesapeake Grand Prix Round-the-Buoys Races

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the 1D48 Chesapeake Grand Prix Round-the-Buoys Races, a marine event to be held on the waters of the Patapsco River near Baltimore, Maryland. These regulations are necessary to provide for the safety of life and property on U.S. navigable waters during the event. The effect will be restrict general navigation in the regulated area for the safety of spectators, participants, and other vessels transiting the area.

EFFECTIVE DATES: This temporary final rule is effective from 11 a.m. EDT (Eastern Daylight Time) to 3 p.m. EDT on April 28, April 29, and April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore Maryland, 21226–1791, telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, no notice of proposed rulemaking was published for this regulation. Following normal rulemaking procedures would have not been impracticable since there is not sufficient time remaining to publish a proposed rule in advance of the event or to provide for a delayed effective date. Immediate action is needed to protect vessel traffic from the potential hazards associated with this event.

Background and Purpose

One Design, LLC, of Annapolis, Maryland, will sponsor the 1D48 Chesapeake Grand Prix Round-the Buoys Races on April 28, April 29 and April 30, 1999. The event is consist of 8 state-of-the-art auxiliary-powered sloops conducting highly publicized, competitive races, on the waters of the Patapsco River, near Baltimore, Maryland. A fleet of spectator vessels is anticipated for the event, as the races coincide with the annual Baltimore Waterfront Festival. Because of the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of spectator, participants and transiting vessels.

Discussion of Regulations

The Coast Guard will establish temporary special local regulations on specified waters of the Patapsco River. The effect will be to restrict general navigation in the regulated area during the races. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area while the regulations are in effect. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators, and transiting vessels. Since the Coast Guard Patrol Commander may stop the event to assist transit of vessels through the regulated area, normal marine traffic should not be severely disrupted.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulated area will be in effect only for a limited amount of time, extensive advisories have been and will be made to the affected maritime community so that they may adjust their schedules accordingly, and the event schedule will allow commercial interests to coordinate their activities to allow for minimum disruption to their enterprise.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small businesss concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the event not lasting long, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no Collection-of-Information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, 100.35–T05–012, is added to read as follows:

§ 100.35–T05–012; 1D48 Chesapeake Grand Prix Round-the-Buoys Races.

(a) *Definitions.* (1) *Regulated area.* The waters of the Patapsco River enclosed by:

Latitude	*Longitude*
39°15′09.0″ N.	76°32′38.5″ W, to
39°13′30.5″ N	76°31′06.5″ W, to
39°12′45.5″ N	76°32′03.0″ W, to
39°15′17.0″ N	76°34′40.0″ W, to
39°15′39.0″ N	76°34′16.0″ W, to
39°15′09.0″ N	76°32′38.5″ W

All coordinates refer to Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special local regulations.* (1) All persons and vessels not authorized as participants or official patrol vessels are spectators. The "official patrol" consists of any Coast Guard, public, State, county, or local law-enforcement vessels assigned or approved by Commander, Coast Guard Activities Baltimore.

(2) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(3) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(4) Spectator vessels may enter and anchor in areas outside the regulated area without the permission of the Patrol Commander. They shall use caution not to enter the regulated area. No vessel shall anchor within a tunnel, cable, or pipeline area shown on a Government chart.

(5) The Coast Guard Patrol Commander will announce the specific time during which the regulations will be enforced, by Broadcast Notice to Mariners on channel 22 VHF–FM marine band radio.

(c) *Effective dates.* The regulated area is effective from 11 a.m. EDT (Eastern Daylight Time) to 3 p.m. EDT on April 28, April 29, and April 30, 1999.

Dated: March 5, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–7323 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 111

Delivery of Mail to a Commercial Mail Receiving Agency

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends section D042.2.5 through D042.2.7 of the Domestic Mail Manual (DMM) to update and clarify procedures for delivery of an addressee's mail to a commercial mail receiving agency (CMRA). The rule provides procedures for registration to act as a CMRA; an addressee to request mail delivery to a CMRA; and delivery of the mail to a CMRA. This rule adopts with changes a proposed rule published for public comment on August 27, 1997, in the **Federal Register** (62 FR 45366–45368).

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Roy E. Gamble, (202) 268–3197.

SUPPLEMENTARY INFORMATION: On August 27, 1997, the Postal Service published in the **Federal Register** a proposed rule to amend sections D042.2.5 through D042.2.7 of the Domestic Mail Manual (62 FR 45366–45368). The proposed rule was in response to a need to clarify and revise current rules. Recent audits and follow-up reviews indicated a need for easy-to-understand rules to satisfy the different needs and requirements of the sender and the addressee of mail sent to CMRA addresses.

The proposed rule clarifies and updates the requirements to be consistent with other current postal rules, policies, and requirements. In many instances, these requirements are similar to those for obtaining post office box service. The requirements are protective of the sender's requirement for a secure mailstream. They are sensitive to the addressee's desire to have a CMRA receive delivery of his or her mail and hold it for pickup or re-mail it to the addressee, prepaid with new postage.

Comments on the proposed rule were due on or before September 26, 1997. The Postal Service reopened the public comment period for an additional 30 days with written comments due on or before December 24, 1997, (62 FR 62540 November 24, 1997). The Postal Service received a total of 8,107 comments. Of the total, 727 comments were from CMRA owners, 7,365 were from CMRA customers, four were from CMRA franchisers and associations, and one comment was from a Member of Congress. These comments were largely identical in content and format, and generally opposed the proposed rule. The Postal Service received 10 comments that generally supported the proposed rule. Large firms and associations, including financial institutions and trade associations of mailers, consumers, and law enforcement officials submitted these comments. The Postal Service also received a number of comments after the deadline that were similar in nature and content to those received on-time that generally opposed the proposed rule.

At the outset, it may be useful to address in more detail the purposes of this rulemaking. A number of commenters who opposed the new rule questioned the intent of the undertaking to amend the rule. There are assertions from the CMRAs that compliance with the regulations will "pu[t] CMRAs out of business." Customers of CMRAs assert that the rulemaking "appears to discriminate against them because of [their] choice of an address."

These claims are erroneous. The sole postal purpose of the rule is to increase the safety and security of the mail. The rule is designed to benefit both businesses and consumers by reducing the opportunities to use the mail for fraudulent purposes. The rule is intended to ensure that mailers are confident that addresses provided by prospective customers are actually used by these customers, and that the mail will reach the recipient, rather than be returned to the sender.

Comments from business, consumer, and law enforcement organizations recognize these purposes and indicate strong support for the rule. Indeed, in several cases, the commenters advocate even stronger provisions. The commenters describe a variety of problems addressed by the rule. For instance, several commenters refer to the term "identity theft," referring to criminal schemes with potential significant financial consequences to an innocent victim. The criminal may apply for new credit cards in the individual's name or request that the credit card issuers change the address of the legitimate cardholder. In each case, the criminal requests that future mailings are sent to an address that he or she controls.

One of the purposes of the rule is to strengthen the identification process at the time of application to receive mail through a CMRA. Thus, there are additional safeguards to ensure that a CMRA verifies that the applicant is the individual to whom mail will be addressed. The Postal Service has adopted safeguards in other instances where the mails may be used for fraudulent purposes, including strengthening the identification process for those applying to use post office box service as well as additional safeguards in change-of-address procedures. Thus the Postal Service is not "singling out" CMRAs.

Compliance with the prescribed procedures may, as noted by some commenters, impose additional burden on some CMRAs. It is true that CMRAs and their customers are, in the

overwhelming majority of cases, innocent of any wrongdoing. Indeed, one commenter who supported the rule referred to CMRAs as "unwitting conduits" in these frauds. Unfortunately, there are numerous instances in the modern world (e.g., airport security checks, custom searches, and restrictions on mailing parcels in collection boxes) where innocent people suffer inconvenience or expense due to the actions of a few lawbreakers. While the harms addressed in this rulemaking may not entail the physical dangers addressed in some of these examples, the potential financial consequences suffered by innocent victims can be devastating.

The Postal Service is not imposing administrative and financial burdens solely on the CMRAs or their customers. As noted above, the Postal Service undertakes similar administrative efforts with respect to persons using post office box service. Moreover, local postal officials are being asked to increase efforts to work with CMRAs to ensure knowledge of, and compliance with, these regulations. Finally, Postal Inspectors investigate complaints that CMRAs, post office boxes, or other addresses are being used in conducting fraudulent schemes. As observed by some commenters, the Postal Service and CMRAs act together to ensure that mail is delivered from the sender to the CMRA and then to the CMRA's customer, the addressee. This rulemaking extends this partnership by ensuring that the Postal Service and CMRAs work together for the equally important objective of ensuring that their customers are not the victims of fraud.

Numerous commenters, particularly CMRAs, oppose the updated requirement that assigns responsibility to the CMRA for verification of the addressee's permanent residential or business address entered on PS Form 1583, Application for Delivery of Mail Through Agent. The CMRAs asserted that this requirement is a huge burden that operators are unequipped to bear. The CMRAs said that the "Postal Service should not force CMRA operators to seek information that the Postal Service wants; operators are not police officers or private investigators."

In contrast, commenters who supported the rulemaking strongly favored this proposal and argued that, if anything, it does not go far enough. These commenters asserted that the requirements would reduce the number of persons who use a CMRA address to shield the user's identity and will help in the apprehension of individuals who use CMRAs for such purposes. These commenters suggested that the provisions be strengthened by requiring CMRAs to maintain a photocopy of the applicant's photo identification; and, by eliminating proposed section D042.2.6(a)(4) that permits the applicant's second item of identification "to be another credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer."

The Postal Service has determined to adopt the proposed rule with certain clarifications. To a large degree, the proposed rule is similar to that in effect today in that an applicant for CMRA service must submit identification when applying for service. The proposed rule, with additional clarifying language, makes explicit the procedures that are implicit today; e.g., that the CMRA must review the identification to ensure that the applicant is the person he or she claims. These identification procedures are similar to those followed by the Postal Service for persons applying for post office box service. The Postal Service does not believe that these procedures are burdensome. Moreover, even if this was not true, we believe the procedures are necessary to prevent the fraud and mail security problems described by the mailers, consumers, and law enforcement groups supporting the rule. The proposal simply requires that the CMRA match the information on the application with that on the valid identification presented. If a discrepancy exists between the two, the CMRA must require that the addressee substantiate that he or she resides or conducts business at the address shown. The CMRA must deny the application if the addressee is unable to substantiate the address. This is an essential element in preventing mail delivery to a CMRA without verifiable consent of the actual addressee and reflects current practices to confirm that the identification belongs to the person presenting it. The information and the procedure will help the CMRA hinder fraud schemes involving identity theft. As an additional benefit, the verification of the address ensures that the CMRA has an address to re-mail mail or trace customers who terminate the relationship without prior notification.

The Postal Service has determined to retain the option to use "other credential" as one of the forms of identification (D042.2.6(a)(4)). The Postal Service believes that this provision is clear. The other credential could, for example, include a document such as a current lease, mortgage, deed, voter registration card, or a university identification card. In most instances these forms of identification would contain a signature and an address, and in some cases a photograph. The additional options will provide the CMRA with sufficient valid identification to confirm that the person presenting it is the addressee. Moreover, elimination of this provision could be burdensome to CMRAs and their customers of whom many may not have two of the other required forms of identification.

The comment recommending that the rule be amended to require the CMRA to retain a photocopy of the addressee's photo identification asserts that this would assist law enforcement officials to apprehend criminals and that it would only be a minor additional burden on the CMRA to maintain a photocopy. While the Postal Service does not disagree with this argument, we have determined, nevertheless, not to adopt this recommendation at this time. The Postal Service strongly believes that full compliance with procedures outlined in the proposed rule and due diligence by the CMRA owners will be sufficient to deter wrongdoing. The proposed rule does, moreover, permit CMRA owners to retain photocopies when they believe it appropriate. However, as part of its ongoing efforts to deter mail fraud at all addresses, including CMRAs, the Postal Service will continue to review its procedures and will propose adjustments where needed.

There is an additional clarification in this portion of the final rule. In general, each person receiving mail through a CMRA must complete a PS Form 1583, i.e., if three persons share a single CMRA private mailbox delivery address, each must submit a completed PS Form 1583. One CMRA commenter suggested a revision to the rule to allow spouses to execute and sign one PS Form 1583 and for parents or guardians to receive delivery of a minor's mail by listing the minor's name and age on their forms. The Postal Service adopted this suggestion.

Some CMRAs oppose the new provision, proposed D042.2.6(b), that requires addressees to disclose on PS Form 1583 when a private mailbox is being used for doing or soliciting business to the public. They expressed concern for their customers' privacy and about the lack of similar provisions for post office box service customers.

An identical requirement, noted in section 265(d) of title 39 of the Code of Federal Regulations, currently applies to users of post office box service. Under 39 C.F.R. 265.6(d)(3), parties may request information concerning the recorded name, address, and telephone number of the holder of a post office box

being used for doing or soliciting business with the public, or any person applying on behalf of a holder (see Administrative Support Manual 352.44(c)). Thus, the Postal Service, in adopting this proposal, is adopting the same provision that has been in place with respect to post office box service.

The CMRA commenters opposed the proposal to submit quarterly alphabetical listings to the postmaster of all new customers, current customers, and those customers who terminated within the past 12 months, including the date of termination (proposed D042.2.6(d) and D042.2.7(c)). The commenters asserted that these requirements are burdensome and unnecessary and that the current annual submission is sufficient. They also argued that submission of their copy of PS Form 1583 to the post office with the termination date should serve as immediate notification of the termination date and contended that this action should cease further delivery of the former customers' mail to the CMRA.

While generally supporting the submission of a quarterly list, one commenter recommended that the list also include the re-mail address of former customers.

After consideration of the comments, the Postal Service has determined to adopt the requirement that lists be submitted quarterly. The annual submission of the updated list of CMRA customers is inadequate. The average customer turnover rate at CMRAs is significant and recurrent. An accurate quarterly list of CMRA customers is necessary for the Postal Service to ensure mail security and compliance with CMRA requirements. The list will allow us to ensure that all addressees receiving mail at a CMRA have a completed PS Form 1583 on file at the Postal Service. We do not believe that the provision of a quarterly list will be unduly burdensome to CMRAs. In this respect, the Postal Service has eliminated the requirement to immediately notify the Postal Service of customers who have terminated their relationships with the CMRA. Instead, the CMRA will notify the Postal Service on a quarterly basis as part of the listing. The current procedure of notifying the Postal Service of the termination date of a customer relationship does not cease delivery of the customer's mail to the CMRA. The PS Form 1583 agreement obligates the Postal Service to deliver the intended addressee's mail to the CMRA. The Postal Service currently uses, and will continue to use, the termination date to determine the end of the retention period for the PS Form 1583.

The Postal Service has determined not to adopt the proposal that the CMRA provide the Postal Service, as part of the quarterly list, all addresses to which the agency re-mails mail. Requiring the CMRAs to include these addresses on the quarterly lists would impose an unnecessary burden on the CMRAs. The Postal Service has revised section D042.2.7(b) to require the CMRAs to provide these addresses on request, consistent with current policy.

The Postal Service is adopting a modification proposed by a CMRA. Noting the possible conflicts with other end-of-the month responsibilities, the commenter suggested that the lists be due on the 15th day of the applicable months. The Postal Service has revised section D042.2.6(d) to reflect this change.

The CMRAs and their customers opposed the regulation requiring the use of the delivery address designation "PMB" (private mailbox) that specifies the location to which a mailpiece is delivered. They perceive the use of the "PMB" designation as "unnecessary and a stigma that unfairly portrays the CMRA customer as somehow unsavory." Additionally, some CMRA customers will incur costs to print new stationery and to notify all current correspondents of the address change.

Commenters supporting the proposed rule, including business, consumer, and law enforcement associations, strongly endorsed the address designation. They believed that the designation would greatly assist business and law enforcement authorities in the prevention and detection of fraudulent activity with a minimum adverse effect on businesses or individuals; and suggested that adoption would be in the best interest of mailers and the general public. One commenter went on to assert that some of the proposed amendments did not go far enough and suggested even tougher requirements. The commenter expressed concern that many people would not recognize that "PMB" stands for private mailbox, and suggested using "private mailbox" or "rental mailbox."

After consideration of the comments, the Postal Service has determined to adopt the proposed rule. The comments supporting the proposal testify to the need for mailers to know the identity of the location to which a mailpiece is delivered. These comments also minimize the possibility of discriminatory treatment of CMRA customers. They indicate that businesses can adopt safeguards to protect themselves and their customers while continuing to provide credit card and other services to the addressee that receives mail at a CMRA.

The Postal Service believes that "PMB (private mailbox)" is the most appropriate description for the CMRA customer address designation. Use of the complete secondary designation name in the address might cause operational problems. The Postal Service uses automated equipment to sort and to distribute mail. The automated equipment identifies the word "box" in the address and associates it with a post office box number in the zone. In many instances, the automated equipment will code and sort this type of address to the post office box bearing that number. This causes an undue mail delay. The Postal Service designed the "PMB" acronym for "private mailbox" to prevent such mail delays while establishing the true address identity of mail delivered to CMRAs. The Postal Service also believes that the acronym "PMB" should not cause long-term confusion among customers.

As a further note, this proposal is consistent with the current policy of general addressing standards as required by Domestic Mail Manual A010.1.1 and A010.1.2, Address Content and Placement. PMB (private mailbox) simply specifies the location to which a mailpiece is delivered like APT (apartment), STE (suite), and PO BOX (post office box) address designations. Current use of APT, STE, and other address designations by CMRA customers is misleading and does not identify the true location of the mailpiece delivery. This misrepresentation of a mailing address is not in the best interest of and may cause irreparable harm to the sender. The sender has a primary right to know the true identity of the location to where his or her mail is delivered. Properly addressed mail serves the best interests of all.

While the Postal Service has determined to adopt the proposal, it is nevertheless sensitive to the needs of CMRAs and their customers. CMRA customers should begin making changes now but will receive up to 6 months after the Final Rule effective date to be in full compliance. The Postal Service recognizes that CMRA customers may need to print new stationery. This 6-month period is sufficient to advise correspondents and to make any other changes to comply with the address requirement. Accordingly, we urge the CMRAs and their customers to begin the notification process and conversion to the required address as quickly as possible. The Postal Service will require

strict adherence to the address requirement. At the end of this 6-month period, the Postal Service will return mail without a proper address to the sender endorsed "Undeliverable as Addressed."

Some CMRAs oppose the proposed regulation assigning authority to the postmaster to suspend delivery to a CMRA that fails to comply with Domestic Mail Manual regulations or other applicable postal requirements. The commenters believe there is no requirement or opportunity to allow the CMRA to come into compliance.

This provision is not new, but merely codifies current policy into the DMM. Current CMRA regulations assign authority to the postmaster to suspend mail delivery to a CMRA for noncompliance with DMM regulations (see 612.14, Compliance with Proper Procedures, of the Postal Operations Manual). The CMRA must receive written notification identifying the violation(s) and reasonable time to come into compliance. If the CMRA fails to comply with the written notification, the postmaster must receive approval from the next higher level and notify the Postal Inspector-In-Charge before suspending delivery service to a CMRA. Upon approval, the postmaster must provide the CMRA with written notification of the effective date and the reason(s) for suspension of delivery. If the CMRA fails to comply by the effective date, mail will be returned to the sender endorsed "Delivery Suspended to Commercial Mail Receiving Agency." The next higher level authority may disagree with the time allotted for compliance or with the severity of the violation(s) and not approve the action. This postal procedure is designed to prevent unnecessary delays in mail delivery and provide the postmaster with the means to maintain compliance. The Postal Service believes the regulation is fair and reasonable to the CMRA and its customers.

Provisions concerning the handling of mail after delivery to CMRAs attracted comments from CMRAs, their customers, a mailers association, and a consumer organization. The CMRAs, their customers, and a mailers association opposed the provision limiting the ability of former customers to file change-of-address orders with the Postal Service and the requirement to pay new postage when re-mailing pieces to former customers. The CMRAs also opposed the provision limiting their ability to refuse mail for their customers. The consumer organization questioned whether CMRAs should be permitted to re-mail pieces to current or former customers, even when that is the desire of the parties. This commenter asserted that there is "no compelling reason why a legitimate addressee would need to arrange for forwarding on a permanent basis." The commenter urged adoption of a rule that would restrict re-mailing to a period of several weeks while a current customer is out of town or for 3 months after termination of the agency relationship. The commenter asserted that these provisions are necessary to prevent fraud.

Some of the comments appear to be based on misconceptions. A number of comments asserted that all other customers receive mail-forwarding service. To the extent that these commenters seek the right to file change-of-address orders with the Postal Service, this assertion is incorrect. Anyone who receives mail at a single point or bulk delivery location, such as residents of universities, hospitals, and other institutions, and some apartment or mobile home parks, as well as at their places of employment, may not file change-of-address orders. In each of these cases, the institution must place the individual's new address on the piece in order to redirect the mail. The difference between the CMRAs and these other locations is that the CMRA must re-mail the piece and affix new postage to send it to the individual. The reasons for this distinction are further discussed below.

Many commenters appear to believe that the policies codified in these DMM provisions are new. The majority of these policies are not new. To the extent that there are changes, at least portions of them ease the current requirements on the CMRAs and their customers. For instance, the restrictions against CMRA customers filing change-of-address orders and requiring payment of new postage to re-mail items are consistent with long-standing policy. Indeed, these provisions have long been set forth in postal regulations and reprinted on PS Form 1583. More important, these provisions implement standards in 2025 of the Domestic Mail Classification Schedule (DMCS). They cannot be changed by the Postal Service without a request and proceeding before the Postal Rate Commission.

These policies are clearly consistent with the mandate that the Postal Service operates efficiently. As is the case with other entities receiving bulk delivery of mail, it is impractical for the Postal Service to accept change-of-address orders from former CMRA customers. To do so would require the Postal Service to manually inspect large quantities of mail to extract individual pieces addressed to customers filing change-of-address orders. This would entail significant time and expense for the Postal Service and delay the timely delivery of mail.

As noted above, other entities receiving bulk delivery of mail may redirect mail to former residents and other parties by writing the new address on the piece. No additional postage is required. Under the existing DMCS and DMM rules, CMRAs must affix new postage to re-mail mailpieces to former customers. This treatment is warranted. Unlike other bulk delivery points, CMRAs advertise and charge customers for mail service, which is a primary, rather than an incidental, part of their business. It is reasonable to expect CMRAs to perform this service completely by requiring CMRAs to ensure that mail continues to reach former customers. Many CMRAs already perform this same re-mailing service for customers not located in the same geographic area as the CMRA or who otherwise do not wish to travel to the CMRA to pick up mail.

The costs of re-mailing also should not be burdensome to the CMRAs. They are free to pass these costs on to their customers. The Postal Service understands that many, if not all, CMRAs already charge customers to re-mail their correspondence. The CMRA and the customers can make arrangements to reduce these costs by aggregating the pieces and paying postage on a single package rather than re-mailing each piece. The Postal Service believes it is appropriate that these costs be borne by the CMRA customer rather than be passed on to all postal customers, which would occur if the re-mailing costs were imposed on the Postal Service.

The Postal Service has determined not to adopt the suggestion by one commenter restricting CMRAs from re-mailing to current or former customers. The Postal Service understands that CMRAs routinely provide such services to customers. The suggestion would appear to prevent such persons from using CMRAs, and accordingly would have a significant adverse impact on these individuals as well as on the business of the CMRA.

The comments concerning the refusal of mail were generally received from CMRAs. These questions have arisen in the past and have been the subject of a number of rulings, some of which are potentially conflicting. This has included rulings that CMRAs may not refuse mail under any circumstances as well as rulings allowing CMRAs to refuse mail.

The issues concerning a CMRA's obligation to re-mail material to current or former customers (as opposed to redirecting it without affixing new postage) and their entitlement to refuse mail are linked in our view. A CMRA's obligation to re-mail matter may be circumvented by the expedient of returning mail without payment of new postage. Thus, a CMRA could avoid re-mailing pieces to a former customer if it could simply mark the piece "refused" and return it to the Postal Service. This adversely affects a number of parties: the sender whose mail does not reach the intended recipient, the addressee who does not receive it, and the Postal Service and its customers, which incurs the costs of returning the piece to the sender.

Accordingly, there are significant reasons to limit the refusal of mail by CMRAs. This conclusion is also consistent with the underlying relationship between the CMRA and its customer. By using PS Form 1583, the customer directs the Postal Service to deliver its mail to the CMRA, which is in the business of, and charges for, the receipt of such mail and holding it for pick up or re-mailing to the customer with payment of new postage. There is no provision to rescind this direction or for the CMRA to abandon its obligation to handle the individual's mail and to impose that responsibility on the Postal Service.

The Postal Service did, nevertheless, propose a limit on the obligation of CMRAs to re-mail mailpieces addressed to former customers and a limited authority to refuse mail. The Postal Service proposed to limit the period to 12 months for CMRAs to re-mail to former customers, after which the CMRAs could return only First-Class Mail to the Postal Service, with a specified endorsement. The proposed rule also clarified the conditions under which the CMRA can refuse mail and return it to the Postal Service with a specified endorsement.

In consideration of a comment, the Postal Service has determined to reduce the required period to re-mail to former customers to at least 6 months. This reasonably balances the interests and obligations of the senders of the mail, the CMRAs, former CMRA customers, and the Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual (DMM) which are incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

The Domestic Mail Manual is amended by revising modules A, D, and F as follows:

A Addressing

A000 Basic Addressing

A010 General Addressing Standards

1.0 ADDRESS CONTENT AND PLACEMENT

* * * * *

1.2 Address Elements

[Revise A010.1.2b as follows:]

* * * * *

b. Street and number. (Include the apartment number, or use the post office box number, or private mailbox (PMB) number, or general delivery, or rural route or highway contract route designation and box number, as applicable.)

* * * * *

3.0 COMPLETE ADDRESS

* * * * *

3.2 Elements

[Revise A010.3.2d as follows:]

* * * * *

d. Secondary address unit designator and number (such as an apartment, suite, or private mailbox number (APT 202, STE 100, PMB 300)).

* * * * *

5.0 RESTRICTIONS

* * * * *

[Add new 5.3 as follows:]

5.3 Mail Addressed to CMRAs

Mail sent to an addressee at a commercial mail receiving agency (CMRA) must be addressed to their private mailbox (PMB) number at the CMRA mailing address.

* * * * *

D Deposit, Collection, and Delivery

* * * * *

D042 Conditions of Delivery

* * * * *

2.0 DELIVERY TO ADDRESSEE'S AGENT

* * * * *

2.5 CMRA

[Revise D042.2.5 as follows:]

The procedures for the establishment of a commercial mail receiving agency:

a. An addressee may request mail delivery to a commercial mail receiving agency (CMRA). The CMRA accepts delivery of the mail and holds it for pickup or re-mails it to the addressee, prepaid with new postage.

b. Each CMRA must register with the post office responsible for delivery to the CMRA. Any person who establishes, owns, or manages a CMRA must provide a Form 1583–A, Application to Act as Commercial Mail Receiving Agency, to the postmaster (or designee) responsible for the delivery address. The CMRA owner or manager must complete all entries and sign the Form 1583–A. The CMRA owner or manager must furnish two items of valid identification; one item must contain a photograph of the CMRA owner or manager. The following are examples of acceptable identification:

(1) Valid driver's license.

(2) Armed forces, government, or recognized corporate identification card.

(3) Passport or alien registration card.

(4) Other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer.

The postmaster (or designee) may retain a photocopy of the identification for verification purposes. Furnishing false information on the application or refusing to give required information will be reason for denying the application. When any information required on Form 1583–A changes or becomes obsolete, the CMRA owner or manager must file a revised application with the postmaster.

c. The postmaster (or designee) must verify the documentation to confirm that the CMRA owner or manager resides at the permanent home address shown on Form 1583–A; witness the signature of the CMRA owner or manager; and sign Form 1583–A. The postmaster must provide the CMRA with a copy of the DMM regulations relevant to the operation of a CMRA. The CMRA owner or manager must sign the Form 1583–A acknowledging receipt of the regulations. The postmaster must file the original of the completed Form 1583–A at the post office and provide the CMRA with a duplicate copy.

d. The approval of Form 1583–A does not authorize the CMRA to accept accountable mail (for example: Registered, Insured, or COD) from their customers for mailing. The only acceptable mailing point for this type of Accountable mail is the post office.

2.6 Delivery to CMRA

[Revise D042.2.6 as follows:]

Procedures for delivery to a CMRA:

a. Mail delivery to a CMRA requires that the CMRA owners or manager and each addressee complete and sign PS Form 1583, Application for Delivery of Mail Through Agent. Spouses may complete and sign one Form 1583. The requirement to furnish two items of valid identification will apply to each spouse. If any information that is required on Form 1583 is different for either spouse, include it in the appropriate box. A parent or guardian may receive delivery of a minor's mail by listing the name(s) and age(s) (block 13) of the minor(s) on Form 1583. The CMRA owner or manager, authorized employee, or a notary public must witness the signature of the addressee. The addressee must complete all entries on Form 1583. The CMRA owner or manager must verify the documentation to confirm that the addressee resides or conducts business at the permanent address shown on Form 1583. The address is verified if there is no discrepancy between information on the application and the identification presented. If the information on the application does not match the identification, the applicant must substantiate to the CMRA that the applicant resides or conducts business at the address shown. If the applicant is unable to substantiate the address, the CMRA must deny the application. Furnishing false information on the application or refusing to give required information will be reason for withholding the addressee's mail from delivery to the agency and returning it to the sender. When any information required on Form 1583 changes or becomes obsolete, the addressee must file a revised application with the CMRA. The addressee must furnish two items of valid identification; one item must contain a photograph of the addressee. The following are examples of acceptable identification:

(1) Valid driver's license.

(2) Armed forces, government, or recognized corporate identification card.

(3) Passport or alien registration card.

(4) Other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer.

The CMRA owner or manager may retain a photocopy of the identification for verification purposes. The CMRA owner or manager must list the two types of identification (block 9) and write the complete CMRA delivery address used to deliver mail to the addressee (block 3) on Form 1583.

b. The addressee must disclose on Form 1583 when the private mailbox is being used for the purpose of doing or soliciting business to the public. The information required to complete this form may be available to the public if "yes" in block 5 on Form 1583 is checked.

c. The CMRA must provide the original of completed Forms 1583 to the postmaster. This includes revised Forms 1583 (write revised on form) submitted by an addressee based on information changes in the original Form 1583. The CMRA must maintain duplicate copies of completed Forms 1583 on file at the CMRA business location. The Forms 1583 must be available at all times for examination by postal representatives and postal inspectors. The postmaster must file the original Forms 1583 alphabetically by the addressee's last name for each CMRA at the station, branch, or post office. The postmaster files the original Forms 1583 without verifying the address of residence or firm shown on Forms 1583. Verification is required only when the postmaster receives a request by the Postal Inspector-In-Charge, or when there is reason to believe that the addressee's mail may be, or is being, used for unlawful purposes.

d. When the agency relationship between the CMRA and the addressee terminates, the CMRA must write the date of termination on its duplicate copy of PS Form 1583. The CMRA must notify the post office of termination dates through the quarterly updates (due January 15, April 15, July 15, and October 15) of the alphabetical list of customers cross-referenced to the CMRA addressee delivery designations. The alphabetical list must contain all new customers, current customers, and those customers who terminated within the past 6 months, including the date of termination. The CMRA must retain the endorsed duplicate copies of Forms 1583 for at least 6 months after the termination date. Forms 1583 filed at the CMRA business location must be available at all times for examination by postal representatives and postal inspectors.

e. A CMRA must represent its delivery address designations for the intended addressees as a private mailbox (PMB). The CMRA delivery address must specify the location to which the mailpiece is delivered. Mailpieces must bear a delivery address that contains at least the following elements, in this order:

(1) Intended addressee's name or other identification. Examples: Joe Doe or ABC CO.

(2) PMB and number. Example: PMB 234.

(3) Street number and name or post office box number or rural route designation and number. Examples: 10 Main St or PO BOX 34 or RR 1 BOX 12.

(4) City, state, and ZIP Code (5-digit or ZIP+4). Example: Herndon VA 22071–2716.

The CMRA must write the complete CMRA delivery address used to deliver mail to each individual addressee or firm on the Form 1583 (block 3). The Postal Service will return mail without a proper address to the sender endorsed "Undeliverable as Addressed."

f. A CMRA or the addressee must not modify or alter Form 1583 or Form 1583–A. Modified or altered forms are invalid and the addressee's mail must be returned to sender in accordance with Postal Service regulations.

g. The CMRA must be in full compliance with DMM D042.2.5 through D042.2.7 and other applicable postal requirements to receive delivery of mail from the post office.

h. The postmaster may, with the next higher level approval and notification to the Postal Inspector-In-Charge, suspend delivery to a CMRA that, after proper notification, fails to comply with D042.2.5 through D042.2.7 or other applicable postal requirements. The proper notification must be in writing outlining the specific violation(s) with a reasonable time to comply.

i. With the approval of suspension of delivery, the postmaster must provide the CMRA with written notification of the effective date and the reason(s). If the CMRA fails to comply by the effective date, return mail to the sender endorsed "Delivery Suspended to Commercial Mail Receiving Agency."

2.7 Addressee and CMRA Agreement

[Reviser D042.2.7 as follows:]

In delivery of the mail to the CMRA, the addressee and the CMRA agree that:

a. When the agency relationship between the CMRA and the addressee terminates, neither the addressee nor the CMRA will file a change-of-address order with the post office.

b. The CMRA must re-mail mail intended for the addressee for at least 6 months after the termination date of the agency relationship between the CMRA and addressee. When re-mailed by the CMRA, mail requires payment of new postage. At the end of the 6-month period, the CMRA may return only First-Class Mail received for the former addressee (customer) to the post office. The CMRA must return this mail to the post office the next business day after receipt with this proper endorsement: "Undeliverable, Commercial Mail Receiving Agency, No Authorization to Receive Mail for This Addressee." Return this mail without payment of new postage to the post office. The

CMRA must not deposit return mail in a collection box. The CMRA must give the return mail to the letter carrier or return it to the post office responsible for delivery to the CMRA. Upon request, the agent must provide to the Postal Service all addresses to which the agency re-mails mail.

c. The CMRA must provide to the postmaster a quarterly list (due January 15, April 15, July 15, and October 15) of its customers in alphabetical order cross-referenced to the CMRA addressee delivery designations. The alphabetical list must contain all new customers, current customers, and those customers who terminated within the past 6 months, including the date of termination.

d. A CMRA may not refuse delivery of mail if the mail is for an addressee that is a customer or former customer (within the past 6 months). The agreement between the addressee and the CMRA obligates the CMRA to receive all mail, except restricted delivery, for the addressee. The addressee may authorize the CMRA in writing on Form 1583 (block 6) to receive restricted delivery mail for the addressee.

e. If the CMRA has no Form 1583 on file for the intended addressee, the CMRA must return that mail to the post office responsible for delivery. The CMRA must return this mail to the post office the next business day after receipt with this proper endorsement: "Undeliverable, Commercial Mail Receiving Agency, No Authorization to Receive Mail for This Addressee." Return this mail without payment of new postage to the post office. The CMRA must return misdelivered mail the next business day after receipt.

f. The CMRA must not deposit return mail in a collection box. The CMRA must give the return mail to the letter carrier or return it to the post office responsible for delivery to the CMRA.

* * * * *

F000 BASIC SERVICES

* * * * *

[Revise Exhibit F010.4.1 to add an endorsement.]

* * * * *

Delivery Suspended to Commercial Mail Receiving Agency

Failure to Comply with D042.2.5–D042.2.7

* * * * *

F020 FORWARDING

* * * * *

2.0 FORWARDABLE MAIL

* * * * *

[Add new F020.2.7 as follows:]

2.7 Mail CMRA Customers

Mail addressed to an addressee at CMRA is not forwarded through the USPS. The CMRA customer may make special arrangements for the CMRA operator to re-mail the mail with payment of new postage. A CMRA must accept and re-mail mail to former customers for at least 6 months after termination of the agency relationship. After the 6-month period, the CMRA may refuse mail addressed to a former customer.

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 99–7352 Filed 3–24–99; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 201–0138a; FRL–6309–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the emergency episode provisions in South Coast Air Quality Management District (SCAQMD) Rule 701.

The intended effect of approving this rule is to incorporate changes to the rule for clarity and consistency in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on May 24, 1999 without further notice, unless EPA receives adverse comments by April 26, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule is available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1189.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being approved into the California SIP is SCAQMD Rule 701, Air Pollution Emergency Contingency Actions. This rule was submitted by the California Air Resources Board to EPA on September 8, 1997.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the South Coast Air Quality Management District. 43 FR 8964, 40 CFR 81.305. The requirements for the Prevention of Air Pollution Emergency Episodes for sulfur dioxide, carbon monoxide, nitrogen dioxide, ozone and particulate matter are located in 40 CFR Part 51, Subpart H. These requirements include provisions for classification of regions for episodes plans, significant harm levels, contingency plans and re-evaluation of episode plans. SCAQMD

Rule 701 is now being revised to update the existing rule language and modify the boundary between two Source Receptor Areas. The revisions do not impose any additional requirements on affected sources and do not effect emissions.

This document addresses EPA's direct-final action for SCAQMD Rule 701, Air Pollution Emergency Contingency Actions. This rule was adopted by SCAQMD on June 13, 1997 and submitted by the California Air Resources Board on September 8, 1997. This rule was found to be complete on October 20, 1997, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V [1] and is being finalized for approval into the SIP.

The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of an emergency episode rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations as found in section 110 and part D of the CAA and 40 CFR part 51 Subpart H. The EPA interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents.[2]

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Rule 701, Air Pollution Emergency Contingency Action, is being revised by updating the existing rule language and by modifying the boundary between two Source Receptor Areas. These modifications are generally administrative in nature, and in no case does this action represent a relaxation of an EPA approved requirement. Therefore, SCAQMD's Rule 701, Air Pollution Emergency Contingency Actions, is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 24, 1999 without further notice unless the Agency receives adverse comments by April 26, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 24, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal. governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section (110)(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[2] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book)(notice of availability was published in the **Federal Register** on May 25, 1988).

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Subpart F of part 52, chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401– *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(249)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(249) * * *

(i) * * *

(A) * * *

(*2*) Rule 701, amended on June 13, 1997.

* * * * *

[FR Doc. 99–7176 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AL–AT–98–01; FRL–6315–4]

New Stationary Sources; Supplemental Delegation of Authority to the State of Alabama and the State of Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The States of Alabama and Georgia have requested that EPA delegate authority for implementation and enforcement of existing New Source Performance Standards (NSPS) which have been previously adopted by the State agencies, but have remained undelegated by EPA, and to approve the mechanism for delegation (adopt-by-reference) of future NSPS. The purpose of the States' request for approval of their delegation mechanism is to streamline the existing administrative procedures by eliminating unnecessary steps involved in taking delegation of federal NSPS regulations. With the new NSPS delegation mechanism in place, once a new or revised NSPS is promulgated by EPA, formal delegation of authority from EPA to the Alabama Department of Environmental Management and the Georgia Department of Natural Resources will become effective on the date that the NSPS is adopted by the respective State agency without change. No further State requests for delegation will be necessary. Likewise, no further **Federal Register** notices will be published. If an NSPS regulation is adopted with changes, EPA reserves the right to review and comment on the adopted NSPS. The State will notify EPA, and in return, EPA will review any State revisions and reserve the option to implement the NSPS regulation directly,

in which case a **Federal Register** notice will advise accordingly. The EPA's review of the States of Alabama's and the State of Georgia's pertinent laws, rules, and regulations at the time of original delegation indicate that adequate and effective procedures were in place for the implementation and enforcement of these Federal standards. NSPS requirements have been successfully implemented since that time for more than 20 years for applicable sources. This notice was written to inform the public of delegations made to the State of Alabama and the State of Georgia for which a **Federal Register** notice was not previously written and to inform the public of their new mechanism for delegation of future NSPS.

EFFECTIVE DATE: The effective date is March 25, 1999.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air & Radiation Technology Branch, 61 Forsyth Street, S.W., Atlanta, Georgia 30303.

Alabama Department of Environmental Management-Air Division, 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama 36130.

Georgia Department of Natural Resources, Environmental Protection Division, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the delegated standards should not be submitted to the Region 4 office, but should instead be submitted to the appropriate following address: Alabama Department of Environmental Management-Air Division, 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama 36130, or Georgia Department of Natural Resources, Environmental Protection Division, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354

FOR FURTHER INFORMATION CONTACT: Ms. Katy Forney, Air & Radiation Technology Branch, Environmental Protection Agency, Region 4, 61 Forsyth St. SW, Atlanta, Georgia 30303, 404–562–9130.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110 and 111(c)(1) of the Clean Air Act as amended November 15, 1990, authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards (NSPS).

On August 5, 1976, the EPA initially delegated the authority for implementation and enforcement of the NSPS program to the State of Alabama and on May 3, 1976, the NSPS program was initially delegated to the State of Georgia. These agencies have subsequently requested a delegation of authority for implementation and enforcement of the previously adopted, undelegated part 60 NSPS categories listed below as well as future NSPS categories codified in 40 CFR part 60.

State of Alabama

1. 40 CFR part 60, subpart VV, adopted August 17, 1997.

State of Georgia

Currently, no NSPS regulations are waiting delegation.

All current NSPS categories are delegated with the exception of the following sections within those subparts that may not be delegated. Future NSPS regulations will contain a list of sections that will not be delegated for that subpart.

1. Subpart A—Sec. 60.8(b) (1) thru (5), Sec. 60.11(e) (7) and (8), Sec. 60.13 (g), (i) and (j)(2)
2. Subpart B—Sec. 60.22, Sec. 60.27, and Sec. 60.29
3. Subpart Da—Sec. 60.45a
4. Subpart Db—Sec. 60.44b(f), Sec. 60.44b(g), Sec. 60.49b(a)(4)
5. Subpart Dc—Sec. 60.48c(a)(4)
6. Subpart Ec—Sec. 60.56(c)(i)
7. Subpart J—Sec. 60.105(a)(13)(iii), Sec. 60.106(i)(12)
8. Subpart Ka—Sec. 60.114a
9. Subpart Kb—Sec. 60.111b(f)(4), Sec. 60.114b, Sec. 60.116b(e)(3) (iii) and (iv), Sec. 60.116b(f)(2)(iii)
10. Subpart O—Sec. 60.153(e)
11. Subpart EE—Sec. 60.316(d)
12. Subpart GG—Sec. 60.334(b)(2), Sec. 60.335(f)(1)
13. Subpart RR—Sec. 60.446(c)
14. Subpart SS—Sec. 60.456(d)
15. Subpart TT—Sec. 60.466(d)
16. Subpart UU—Sec. 60.474(g)
17. Subpart VV—Sec. 60.482–1(c)(2) and Sec. 60.484
18. Subpart WW—Sec. 60.496(c)
19. Subpart XX—Sec. 60.502(e)(6)
20. Subpart AAA—Sec. 60.533, Sec. 60.534, Sec. 60.535, Sec. 60.536(i)(2), Sec. 60.537, Sec. 60.538(e), Sec. 60.539
21. Subpart BBB—Sec. 60.543(c)(2)(ii)(B)
22. Subpart DDD—Sec. 60.562–2(c)
23. Subpart III—Sec. 60.613(e)
24. Subpart NNN—Sec. 60.663(e)
25. Subpart RRR—Sec. 60.703(e)
26. Subpart SSS—Sec. 60.711(a)(16), Sec. 60.713(b)(1)(i), Sec. 60.713(b)(1)(ii), Sec. 60.713(b)(5)(i), Sec. 60.713(d), Sec. 60.715(a), Sec. 60.716
27. Subpart TTT—Sec. 60.723(b)(1), Sec. 60.723(b)(2)(i)(C), Sec. 60.723(b)(2)(iv), Sec. 60.724(e), Sec. 60.725(b)
28. Subpart VVV—Sec. 60.743(a)(3)(v)(A) and (B), Sec. 60.743(e), Sec. 60.745(a), Sec. 60.746

After a thorough review of the request, the Regional Administrator has determined that such a delegation request was appropriate for all source categories. All sources subject to the requirements of 40 CFR part 60 will now be under the jurisdiction of the State of Alabama or the State of Georgia, as appropriate.

Since review of the pertinent laws, rules, and regulations for the State of Alabama and the State of Georgia has shown them to be adequate for implementation and enforcement of existing, previously adopted, undelegated NSPS and future NSPS, EPA hereby notifies the public that it has delegated the authority for existing, previously adopted and undelegated NSPS as well as the mechanism for delegation of future NSPS source categories upon publication of this **Federal Register** notice.

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

Authority: This notice is issued under the authority of sections 101, 110, 111, 112 and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: March 8, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–7333 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 61

[IB Docket No. 98–60; FCC 99–17]

Policies and Rules for Alternative Incentive-Based Regulation of Comsat Corporation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts a policy of incentive-based price regulation for Comsat Corporation in its provision of services in "non-competitive" INTELSAT markets. The Commission also adopts a streamlined process to determine in the future when Comsat INTELSAT markets should be redefined as non-dominant in response to the introduction of competition. In April 1998, the Commission reclassified Comsat as a non-dominant carrier for most of its services, on most of its routes, and eliminated all rate regulation regarding its provision of INTELSAT services in markets deemed "competitive". That decision eliminated rate regulation in markets accounting for approximately 92 percent of Comsat's INTELSAT revenues. Roughly eight-percent of Comsat's INTELSAT revenues—those derived from "non-competitive" INTELSAT services markets—remained subject to rate of return regulation. This document addresses the eight-percent.

EFFECTIVE DATE: February 9, 1999.

FOR FURTHER INFORMATION CONTACT: Michael McCoin, International Bureau, Satellite Policy Branch, (202) 418–0774, or email at mmccoin@fcc.gov; Sande Taxali, International Bureau, Satellite Policy Branch, (202) 418–0786, or email at staxali@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in IB Docket No. 98–60, FCC 99–17, adopted February 4, 1999, and released February 9, 1999. The complete text of this Commission *Report and Order* is available for inspection and copying during the weekday hours of 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., or may be purchased from the Commission's duplicating contractor, International Transcription Service, (202) 857–3800, 2131 M Street, N.W., Washington, D.C. 20036. The complete text is also available under the file name fcc99017.txt or fcc99017.wp on the Commission's internet site at http://www.fcc.gov/Bureaus/International/Orders/1999.

Summary of the Report and Order

1. This *Report and Order* eliminates rate of return regulation and applies incentive-based price regulation to Comsat's provision of INTELSAT services in "non-competitive" markets. Customers immediately benefit by the lowering or capping of prices in Comsat's INTELSAT "non-competitive" switched-voice, private line, and occasional-use video services markets. This incentive-based regulation is administratively less burdensome to both Comsat and the Commission. Additionally, the *Report and Order* adopts a more expedient process by which newly "competitive" markets may be redefined as non-dominant.

2. Since 1985, the Commission has regulated Comsat as a dominant carrier in its provision of INTELSAT services in all markets. In April 1998, in the *Comsat Non-Dominant Order & NPRM*, 63 FR 25811, the Commission partially granted Comsat's request by reclassifying it as non-dominant in INTELSAT markets deemed "competitive". The Commission denied, however, Comsat's request for reclassification as a non-dominant carrier in its INTELSAT services markets deemed "non-competitive". The Commission stated, nevertheless, that it would consider the adoption of an alternative incentive-based regulation in the ensuing *Report and Order*, in lieu of continuing rate of return regulation. In 1998, Comsat's "non-competitive" INTELSAT service markets accounted for roughly eight-percent or $19 million of Comsat's INTELSAT revenue.

3. The *Comsat Non-Dominant Order & NPRM* tentatively concluded that any alternative incentive-based price regulation should (a) remain in effect for an indefinite period, (b) allow all users of Comsat's service to "non-competitive" markets to benefit from a "competitive" or "transaction" rate rather than the non-discounted tariff rate that would result from Comsat's uniform pricing commitment, and (c) allow all users of Comsat's service to "non-competitive" markets to benefit from reduced rates due to increases in efficiency and productivity. Comsat offers high volume users, like AT&T, Sprint, and MCI, significantly discounted tariff and contract rates for switched-voice service. These discounted rates may reflect both the economies of scale inherent in providing high volume service and increased pressure on Comsat to match the lower rates offered by its competitors in "competitive" markets. It is unclear whether users seeking service in "non-competitive" markets are in a position to take advantage of such discounted or transaction rates or whether they generally must pay the higher non-discounted tariff rates. Thus, Comsat's uniform pricing for switched-voice service, even if adopted as a commitment, would not necessarily lead to lower, more competitive rates for all users in "non-competitive" markets. *Comsat Non-Dominant Order & NPRM*, 13 FCC Rcd. 14083 at paragraph 165. In addition, the Commission said that an "alternative incentive-based" price procedure should be simple to implement and noncumbersome. A regulatory policy here should; promote proper efficiency incentives for Comsat; benefit consumers through lower rates in the dominant markets; and relieve the Commission from administratively burdensome rate of return regulation of Comsat in these markets. All parties commenting in the proceeding generally agreed with these principles expressed by the Commission, including the need for a simple and less administratively burdensome regulation.

4. The specific alternative incentive-based price regulation plan adopted for Comsat's "non-competitive" INTELSAT markets consists of the following: First, Comsat will institute an immediate four-percent annual rate reduction for switched-voice services in "non-competitive" markets. This actually decreases rates below those currently charged in "competitive" switched-voice markets. Existing switched-voice tariff rates remain in place as an option for those customers whose aggregate circuit volume would otherwise result in a lower rate. Second, current tariff rates for private line service in "non-competitive" markets are capped indefinitely. This follows a recent across-the-board rate reduction of eight-percent in Comsat's private line service market. Third, an immediate one-time rate reduction of four-percent in Comsat's "non-competitive" and "competitive" occasional-use video service markets is enacted. Moreover, the incentive-based regulation adopted further requires Comsat to refrain from raising rates for an indefinite period in all of its "non-competitive" INTELSAT markets. Finally, it mandates that Comsat apply any tariff reduction in its "competitive" INTELSAT markets to its "non-competitive" INTELSAT markets.

5. Overall, the alternative incentive-based regulation adopted in the *Report and Order* guarantees certain rate reductions and caps rates as long as Comsat is regulated as a dominant carrier in the respective markets at issue. In effect, customers receive the benefits of potential increases in productivity regardless of whether such productivity increases actually occur. This benefit to customers should provide Comsat with a real incentive to increase efficiency and productivity.

6. Additionally, this *Report and Order* establishes a streamlined process for declaring Comsat's INTELSAT markets non-dominant and no longer subject to price regulation as they become "competitive". The process, particularly, requires Comsat to file a

petition with the Commission requesting that a particular market or markets be reclassified as non-dominant. For the "non-competitive" switched-voice and private line service markets, Comsat must include evidence that the market is served by a United States carrier through submarine cable facilities. For occasional-use video markets, Comsat must include evidence that another satellite carrier is providing transmit and receive (uplink and downlink) occasional-use video service. The specific type of information required in this showing includes the (a) name of the cable or satellite provider, (b) the country or countries where the new cable circuit or occasional-use video services provision exists, and (c) the estimated capacity available from the competitor. In our recent decision approving the World Com/MCI merger, we noted that upgrades in recently constructed underseas fiber cables can substantially increase transport capacity on existing cables and can be implemented in less than a year. While we found that the World Com/MCI merger would increase concentration in each of three international transport market regions, we also found that it was unlikely to result in anticompetitive effects, given the low barriers to entry and substantial amounts of transport capacity not controlled by MCI or World Com. *See* Memorandum Opinion and Order, CC Docket No. 97–211, FCC 98–255, 13 FCC Rcd. 21520 (1998) at paragraphs 100–101. Comsat must support its filing with an affidavit. For switched-voice and private line services, a country listed as being served by cable on the Circuit Status Reports is considered *prima facie* evidence that the market is competitive since the capacity available on a submarine cable can be rapidly expanded to meet demand. The showing requirements of this process is consistent with the analysis in the *Comsat Non-Dominant Order & NPRM*, in which evidence of a cable circuit for switched-voice and private line service, and evidence of another carrier for occasional-use video service, provided the standard from which to assess Comsat's market power. Parties would have the opportunity to challenge a Comsat petition for reclassification by either refuting the evidence submitted by Comsat or showing that the particular market at issue has unique characteristics that would allow Comsat to exercise market power, despite the presence of a cable circuit for switched-voice and private line service or service being provided by another satellite carrier for occasional-use video service.

Final Regulatory Flexibility Analysis

7. As required by section 603 of the Regulatory Flexibility Act ("RFA"), an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the *Comsat Non-Dominant Order & NPRM*. *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"). *See Comsat Corporation*, Order and Notice of Proposed Rulemaking, 13 FCC Rcd 14083 (1998) at Appendix C. The Commission then sought written public comment in that proceeding, including comments on the IRFA. No party filed comments in response to the IRFA. This *Report and Order* promulgates no new rules and our action here does not affect the previous analysis in the *Comsat Non-Dominant Order & NPRM*. The Commission certifies that there will be no significant effect on a substantial number of small entities.

A. Need for and Objectives of Rules

8. In this *Report and Order*, the Commission eliminates cumbersome rate of return regulation and replaces it with an alternative incentive-based price regulation. In addition, the Commission streamlines the process whereby Comsat's INTELSAT markets may be reclassified as non-dominant. Currently, revenue from its markets that are still classified as dominant account for approximately eight-percent of its INTELSAT revenues. The modification to these processes will result in administratively less burdensome and more efficient procedures for both the Commission and Comsat.

B. Summary of Significant Issues Raised by Public Comments in Response to the Regulatory Flexibility Analysis

9. No comments were submitted in direct response to the RFA.

C. Description and Estimates of the Number of Small Entities to Which the Rules Will Apply

10. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business", "small organization", and "small governmental jurisdiction". See 5 U.S.C. 601(6). The RFA has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) ("CWAAA"). See 5 U.S.C. 601 *et. seq.* Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. See 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3). A small business concern is one which (1) is independently owned and operated, (2) is not dominant in its field of operation, and (3) satisfies any additional criteria established by the Small Business Administration ("SBA").

11. The Commission has not developed a definition of small entities specifically applicable to this situation. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, "Not Elsewhere Classified." This definition provides that a small entity is one with no more than $11.0 million annual receipts. 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899. According to the Census Bureau data, there were a total of 848 communications services in operation in 1992 that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of $9.999 million or less and qualify as small entities. 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration). The census report does not provide more precise data. Comsat Corporation is the only business effected by the policy enacted in this *Report and Order*. Its annual receipts are in excess of $11.0 million and, therefore, it does not fall into the classification of a "small business". Accordingly, the number of small businesses impacted by the policy change here is zero.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. The Commission adopts no new reporting requirements in this *Report and Order*.

E. Steps Taken To Minimize Significant Economic Burden on Small Entities, and Significant Alternatives Considered

13. This *Report and Order* promulgates no new rules or policies that would effect small business concerns. The policies it does advance, however, should positively impact the effectiveness and efficiency of Comsat Corporation, the only business entity effected.

F. Report to Congress

14. The Commission shall send a copy of this *Report and Order,* including the status of the FRFA in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). Since this *Report and Order* promulgates no new rules and does not affect the IRFA in the *Comsat Non-Dominant Order and NPRM,* it is not necessary to publish an FRFA in the **Federal Register**.

Ordering Clauses

15. Accordingly, *it is ordered,* that Comsat Corporation's proposal in IB Docket 98–60, to establish an alternative incentive-based price regulation in lieu of rate of return regulation in "non-competitive" INTELSAT service markets for the provision of switched-voice, private line, and occasional-use video, is granted, to the extent indicated herein, and Comsat shall be subject to an alternative incentive-based price regulation in the markets for which it remains dominant, as described in this *Report and Order.*

16. *It is further ordered,* pursuant to authority contained in sections 4(i), 201(b), and 203–205 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 201(b), and 203–205, respectively, and sections 201(c)(5), 201(c)(11), and 401 of the Communications Satellite Act, as amended, 47 U.S.C. 721(c)(5), 721 (c)(11), and 741, respectively, we adopt the incentive-based price regulation to the extent indicated herein.

17. *It is further ordered,* that the International Bureau shall have delegated authority to approve petitions from Comsat to redefine any markets served by Comsat from a dominant to a non-dominant status.

18. Comsat Corporation is afforded 30 days from the date of release of this *Report and Order* to decline the alternative incentive-based price regulation as specified herein. Failure to respond within this period will constitute formal acceptance of the requirements in this *Report and Order.*

List of Subjects

47 CFR Part 25

Satellites communication.

47 CFR Part 61

Tariffs.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7253 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No.97–45, RM–8961]

Radio Broadcasting Services; Tylertown, MS.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Reconsideration and Motion for Stay filed by Guaranty Broadcasting Corporation directed to the *Report and Order* in this proceeding. *See* 63 FR 3833, published January 27, 1998. The *Report and Order* had allotted Channel 297A to Tylertown, Mississippi. With this action the proceeding is terminated.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No.97–45, adopted March 10, 1999, and released March 19, 1999. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3805, 1231 M Street, NW, Washington, D.C. 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles W. Logan,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7305 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 203 and 252

[DFARS Case 97–D020]

Defense Federal Acquisition Regulation Supplement; Employment Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to expand the list of positions in which contractors may not allow persons convicted of fraud or other defense-contract-related felonies to serve, and to provide that the period of such a prohibition on service may exceed 5 years.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Pelkey, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 97–D020.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 203.570–2 and 252.203–7001 to expand the list of positions in which a person convicted of a felony arising out of a DoD contract may not serve, and to provide that the period of such a prohibition on service may exceed 5 years.

A proposed rule with request for comments was published in the **Federal Register** on October 2, 1997 (62 FR 51623). Two sources submitted comments on the proposed rule. All comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule applies only to the employment of persons convicted of a felony arising out of a DoD contract.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval

of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 203 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulation Council.

Therefore, 48 CFR Parts 203 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 203 and 252 continue to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Section 203.570 is revised to read as follows:

203.570 Prohibition on persons convicted of frauds or other defense-contract-related felonies.

203.570–2 Policy.

(a) A contractor or subcontractor shall not knowingly allow a person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD, to serve—

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On its board of directors;

(3) As a consultant, agent, or representative; or

(4) In any capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(b) DoD has sole responsibility for determining the period of the prohibition described in paragraph (a) of this subsection. The prohibition period—

(1) Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security; and

(2) May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.

4. Section 203.570–5 is revised to read as follows:

203.570–5 Contract clause.

Use the clause at 252.203–7001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies, in all solicitations and contracts exceeding the simplified acquisition threshold, except solicitations and contracts for commercial items.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.203–7001 is amended by revising the section heading, clause title and date, and paragraphs (b) and (c); in paragraphs (a)(1)(i) and (ii) by removing the comma and adding in its place a semicolon; in paragraph (d) introductory text by removing the word "further"; in paragraph (f) introductory text by removing the word "prohibitions" and adding in its place the world "prohibition"; in paragraph (f)(3) by removing the comma; and in paragraph (h) by adding, before the world "Benefits", the world "Federal". The revised text reads as follows:

252.203–7001 Prohibition on persons convicted of fraud or other defense-contract-related felonies.

* * * * *

PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (MARCH 1999)

* * * * *

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving—

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

* * * * *

[FR Doc. 99–7135 Filed 3–24–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 211 and 252

[DFARS Case 97–D014]

Defense Federal Acquisition Regulation Supplement; Single Process Initiative

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to facilitate the use of management and manufacturing processes that DoD has accepted under the Single Process Initiative (SPI). SPI provides for industry submission and DoD review of alternatives to military and Federal specifications and standards.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 97–D014.

SUPPLEMENTARY INFORMATION:

A. Background

This rule amends DFARS 211.273–2, 211.273–3, and 252.211–7005 to finalize the interim rule that was published in the **Federal Register** on August 20, 1997 (62 FR 44223), with a request for comments. Four sources submitted comments on the interim rule. All comments were considered in the development of the final rule.

The final rule differs from the interim rule in that it clarifies that an SPI management council includes contractor representation in addition to DoD representation; provides that, before offers are due, offerors may obtain verification that an SPI process is acceptable for a particular procurement; provides an Internet site where accepted SPI processes are listed; and clarifies documentation requirements for offerors proposing to the use SPI processes.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because industry participation in the DoD Single Process Initiative is voluntary. Approximately 310 contractors are involved in the initiative. It is estimated that 10 percent of those contractors are small businesses.

C. Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements associated with this rule under OMB Control Number 0704–0398, for use through January 31, 2001.

List of Subjects in 48 CFR Parts 211 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 211 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 211 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 (CFR Chapter 1.

PART 211—DESCRIBING AGENCY NEEDS

2. Section 211.273–2 is amended by revising paragraph (b) to read as follows:

211.273–2 Policy.

* * * * *

(b) DoD acceptance of an SPI process follows the decision of a Management Council, which includes representatives of the contractor, the Defense Contract Management Command, the Defense Contract Audit Agency, and the military departments.

* * * * *

3. Section 211.273–3 is revised to read as follows:

211.273–3 Procedures.

(a) Solicitations for previously developed items shall encourage offerors to identify SPI processes for use in lieu of military or Federal specifications and standards cited in the solicitation. Use of the clause at 252.211–7005 satisfies this requirement.

(b) Contracting officers shall ensure that—

(1) Concurrence of the requiring activity is obtained for any proposed substitutions prior to contract award;

(2) Any necessary additional information regarding the SPI process identified in the proposal is obtained from the cognizant administrative contracting officer; and

(3) In competitive procurements, prospective offerors are provided the opportunity to obtain verification that an SPI process is an acceptable replacement for a military or Federal specification or standard for the particular procurement prior to the date specified for receipt of offers.

(c) Any determination that an SPI process is not acceptable for a specific procurement shall be made prior to contract award at the head of the contracting activity or program executive officer level. This authority may not be delegated.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 252.211–7005 is revised to read as follows:

252.211–7005 Substitutions for military or Federal specifications and standards

As prescribed in 211.273–4, use the following clause:

SUBSTITUTIONS FOR MILITARY OR FEDERAL SPECIFICATIONS AND STANDARDS (MAR 1999)

(a) *Definition.* "SPI process," as used in this clause, means a management or manufacturing process that has been accepted previously by the Department of Defense under the Single Process Initiative (SPI) for use in lieu of a specific military or Federal specification or standard at specific facilities. Under SPI, these processes are reviewed and accepted by a Management Council, which includes representatives of the Contractor, the Defense Contract Management Command, the Defense Contract Audit Agency, and the military departments.

(b) Offerors are encouraged to propose SPI processes in lieu of military or Federal specifications and standards cited in the solicitation. A listing of SPI processes accepted at specific facilities is available via the Internet in PDF format at http://www.dcmc.hq.dla.mil/spi/dbreport/modified.pdf and in Excel format at http://www.dcmc.hg.dla.mil/spi/dbreport/modified.xls.

(c) An offeror proposing to use an SPI process in lieu of military or Federal specifications or standards cited in the solicitation shall—

(1) Identify the specific military or Federal specification or standard for which the SPI process has been accepted;

(2) Identify each facility at which the offeror proposes to use the specific SPI process in lieu of military or Federal specifications or standards cited in the solicitation;

(3) Identify the contract line items, subline items, components, or elements affected by the SPI process; and

(4) If the proposed SPI process has been accepted at the facility at which it is proposed for use, but is not yet listed at the Internet site specified in paragraph (b) of this clause, submit documentation of Department of Defense acceptance of the SPI process.

(d) Absent a determination that an SPI process is not acceptable for this procurement, the Contract shall use the following SPI processes in lieu of military or Federal specifications or standards:

(*Offeror insert information for each SPI process*)

SPI Process: _____

Facility: _____

Military or Federal Specification or Standard: _____

Affected Contract Line Item Number, Subline Item Number, Component, or Element: _____

(e) If a prospective offeror wishes to obtain, prior to the time specified for receipt of offers, verification that an SPI process is an acceptable replacement for military or Federal specifications or standards required by the solicitation, the prospective offeror—

(1) May submit the information required by paragraph (d) of this clause to the Contracting Officer prior to submission of an offer; but

(2) Must submit the information to the Contracting Officer at least 10 working days prior to the date specified for receipt of offers.

(End of clause)

[FR Doc. 99–7136 Filed 3–24–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 98–D311]

Defense Federal Acquisition Regulation Supplement; Purchases Through Other Agencies

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. Section 814 requires DoD to revise the regulations pertaining to interagency acquisitions under the Economy Act to cover orders under task or delivery order contracts.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 98–D311.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule adds a new section at DFARS 217.500 to implement Section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261). Section 814 requires DoD to revise the regulations pertaining to the Economy Act, issued pursuant to Section 844 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160), to cover orders under task or delivery order contracts.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577 and

publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98–D311.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 217

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 217 is amended as follows:

1. The authority citation for 48 CFR part 217 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 217—SPECIAL CONTRACTING METHODS

2. Section 217.500 is added to read as follows:

217.500 Scope of subpart.

(b) Unless more specific statutory authority exists, the procedures in FAR Subpart 17.5, this subpart, and DODI 4000.19 apply to all purchases, except micro-purchases, made for DoD by another agency. This includes orders under a task or delivery order contract entered into by the other agency. (Pub. L. 105–261, Section 814.)

[FR Doc. 99–7138 Filed 3–24–99; 8:45 am]

BILLING CODE 5000–04–M

Propo

This section of contains notice issuance of ru purpose of the persons an op rule making pr rules.

DEPARTME

Rural Utilitie

7 CFR Part 1

RIN 0572–AB3

Distance Le Loan and Gr

AGENCY: Rur

ACTION: Prop

SUMMARY: Th (RUS) is prop regulations f Telemedicin Program. The will clarify t different typ offered; strea procedures f expanding th funds can be a competitive

In the final **Federal Regi** action as a di prior proposa as a non-cont anticipates n adverse comm response to t further action proposed rul become effec the direct fin adverse comm submit adver will be publi **Register** with rule and all p will be addre rule based on interested in should do so

DATES: Comm must be recei

ADDRESSES: S comments or adverse comm Assistant Ad Telecommun Utilities Serv

Proposed Rules

Federal Register
Vol. 64, No. 57
Thursday, March 25, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1703

RIN 0572–AB31

Distance Learning and Telemedicine Loan and Grant Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) is proposing an amendment to its regulations for its Distance Learning and Telemedicine (DLT) Loan and Grant Program. These proposed amendments will clarify the requirements for the different types of financial assistance offered; streamline policies and procedures for obtaining loans and expanding the purposes for which loan funds can be used; and award grants on a competitive basis.

In the final rules section of the **Federal Register**, RUS is publishing this action as a direct final rule without prior proposal because RUS views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If RUS receives adverse comments or notice of intent to submit adverse comments, a document will be published in the **Federal Register** withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received by April 26, 1999.

ADDRESSES: Submit any written comments or notice of intent to submit adverse comments to Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1590, Room 4056, South Building, Washington, DC 20250–1590. RUS requires a signed original and three copies of all comments (7 CFR part 1700). All comments received will be made available for public inspection at room 4056, South Building, U.S. Department of Agriculture, Washington, DC, between 8:00 a.m. and 4:00 p.m. (7 CFR part 1.27(b)). Telephone number (202) 720–9554.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1590, Room 4056, South Building, Washington, DC 20250–1590. Telephone number (202) 720–9556.

SUPPLEMENTARY INFORMATION: See supplementary Information provided in the direct final rule located in the final rules section of the **Federal Register** for applicable supplementary information on this section.

Dated: March 16, 1999.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 99–6996 Filed 3–24–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE149; Notice No. 23–98–05–SC]

Special Conditions: Soloy Corporation Model Pathfinder 21 Airplane; Airframe

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Soloy Corporation Model Pathfinder 21 airplane. The Model Pathfinder 21 airplane is a Cessna Model 208B airplane as modified by Soloy Corporation to be considered as a multiengine, part 23, normal category airplane. The Model Pathfinder 21 airplane will have a novel or unusual design feature associated with installation of the Soloy Dual Pac propulsion system, which consists of two Pratt & Whitney Canada Model PT6D–114A turboprop engines driving a single, Hartzell, five-blade propeller. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards for multiengine airplanes.

DATES: Comments must be received on or before April 26, 1999.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE149.601 East 12th Street, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: Docket No. CE149. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: David Keenan, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–112, 601 East 12th Street, Kansas City, Missouri, 816–426–5688, fax 816–426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments

submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE149." The postcard will be date stamped and returned to the commenter.

Background

On February 6, 1992, Soloy Corporation applied for a supplemental type certificate (STC) for the Model Pathfinder 21 airplane, which would notify the Cessna Model 208B airplane by installing the Soloy Dual Pac propulsion system. This propulsion system consists of two Pratt & Whitney Canada (PWC) Model PT6D–114A turboprop engines driving a single, Hartzell, five-blade propeller through a combining gearbox. Soloy Corporation is seeking approval for this airplane, equipped with a Soloy Dual Pac propulsion system, as a multiengine airplane Title 14 CFR part 23 is not adequate to address a multiengine airplane with a single propeller. Hence, the requirement for these proposed special conditions, which will be applied in addition to the applicable sections of part 23.

The Soloy Dual Pac population system is mounted in the nose of the Model Pathfinder 21 airplane. With this arrangement, an engine failure does not cause an asymmetric thrust condition that would exist with a conventional twin turboprop airplane. This asymmetric thrust compounds the flightcrew workload following an engine failure. The Model Pathfinder 21 airplane configuration has the potential to substantially reduce this workload.

Since the Model Pathfinder 21 airplane produces only centerline thrust, the only direct airplane control implications of an engine failure are the change in torque reaction and propeller slip stream effect. These transient characteristics require substantially less crew action to correct than an asymmetric thrust condition and do not require constant effort by the flightcrew to maintain control of the airplane for the remainder of the flight.

Safety Analysis

The FAA has conducted a safety analysis that recognizes both the advantages and disadvantages of the proposed Model Pathfinder 21 airplane. The scope of this safety analysis was limited to the areas affected by the unique propulsion system installation and assumes compliance with the design-related requirements of these proposed special conditions. The FAA examined the accident and incident history of small twin turboprop operations for the years of 1983 to 1994 in the United States and United Kingdom. The FAA evaluated each event and determined if the outcome, given the same pilot, weather, and airplane except with centerline thrust and one propeller, would have been more favorable, less favorable, or unchanged. Examination of the incident data revealed a number of failure modes that, if not addressed as part of the Model Pathfinder 21 airplane design, could result in a potential increase in the number of accidents for the Model Pathfinder 21 airplane compared to the current fleet. Examples of such failure modes include loss of propeller blade tip or failure of the propeller control system. Although these proposed special conditions contain provisions to prevent catastrophic failures of the remaining non-fail-safe components of the Model Pathfinder 21 airplane after compliance with the design related requirements, the analysis assumes that these components will fail in a similar manner to the failures contained in the incident data. Given these assumptions, the FAA determined that the projected accident rate of the Model Pathfinder 21 airplane would be equal to or lower than the current small twin turboprop airplane fleet. Considering that analysis, the FAA has determined that the advantages of centerline thrust compensate for the disadvantages of the non-fail-safe-design features. Once that determination was made, these proposed special conditions were formulated with the objective of substantially reducing or eliminating risks associated with the non-redundant systems and components of the Model Pathfinder 21 airplane design that have been identified and providing a level of safety equivalent to that of conventional multiengine airplanes.

The FAA data review conducted to prepare these proposed special conditions is applicable only to the Model Pathfinder 21 airplane. For the concept of a single-propeller, multiengine airplane to be extended to other projects, a separate analysis of the accident and incident data for similarly sized airplanes would be required. If the advantages of centerline thrust compensated for the disadvantages of the non-fail-safe components, based on the service history of similarly sized airplanes, development of separate special conditions would be required.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, Soloy Corporation must show that the Model Pathfinder 21 airplane continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate (TC) Data Sheet A37CE or the applicable regulations in effect on the date of application for change. The regulations incorporated by reference are commonly referred to as the "original type certification basis." The regulations incorporated by reference in TC No. A37CE are as follows:

The type certification basis for Cessna Model 208B airplanes shown on TC Data Sheet A37CE for parts not changed or not affected by the changes proposed by Soloy Corporation is part 23 of the Federal Aviation Regulations dated February 1, 1965, as amended by Amendments 23–1 through 23–28; part 36 dated December 1, 1969, as amended by Amendments 36–1 through 36–18; Special Federal Aviation Regulations (SFAR) 27 dated February 1, 1974, as amended by Amendments 27–1 through 27–4. Soloy Corporation must show that the Model Pathfinder 21 airplane meets the applicable provisions of part 23, including multiengine designated sections, as amended by Amendment 23–42 (the Pathfinder 21 type certification basis is based on the date of STC application: February 6, 1992) for parts changed or affected by the change. Soloy Corporation has also elected to comply with § 23.561, Emergency Landing Conditions—General (Amendment 23–48); § 23.731, Wheels (Amendment 23–45); § 23.733, Tires (Amendment 23–45); § 23.783, Doors (Amendment 23–49); § 23.807, Emergency Exits (Amendment 23–49); § 23.811, Emergency Exit Marking (Amendment 23–46); § 23.901, Installation (Amendment 23–51); § 23.955, Fuel Flow (Amendment 23–51); § 23.1041, Cooling—General (Amendment 23–51); § 23.1091, Air Induction System (Amendment 23–51); § 23.1181, Designated Fire Zones; Regions Included (Amendment 23–51); § 23.1189, Shutoff Means (Amendment 23–43); § 23.1305, Powerplant Instruments (Amendment 23–52); and § 23.1351, Electrical Systems and Equipment—General (Amendment 23–49). The type certification basis for the Model Pathfinder 21 airplane also includes parts 34 and 36, each as amended at the time of certification. Soloy Corporation may also elect to comply with subsequent part 23 requirements to facilitate operators' compliance with corresponding part 135 requirements. The type certification basis for this airplane will include exemptions, if any; equivalent level of safety findings, if any; and the special conditions adopted by this rulemaking action.

If the Administrator finds that the applicable airworthiness regulations

(part 23, as amended) do not contain adequate or appropriate safety standards for the Model Pathfinder 21 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by § 11.28 and § 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for an STC to modify any other model included on the same TC to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

The Soloy Dual Pac was certified as a propulsion system under part 33 and special conditions in Docket No. 93–ANE–14; No. 33–ANE–01 (62 FR 7335, February 19, 1997) under STC No. SE00482SE to the PWC Model PT6 engine TC E4EA. Those special conditions were created in recognition of the novel and unusual features of the proposal, specifically the combining gearbox.

Novel or Unusual Design Features

The Model Pathfinder 21 will incorporate a noval or unusual design feature by installing the Soloy Dual Pac propulsion system, which consists of two PWC Model PT6D–114A engines driving a single, Hartzell, five-blade propeller through a Soloy-designed combining gearbox. The combining gearbox incorporates redundant freewheeling drive, governing, and lubricating systems. A system of one-way clutches both prevents the propeller shaft from driving the engine input shafts and allows either engine to drive the propeller should the other engine fail.

Airplane Design Features

The Model Pathfinder 21 airplane is a modified Cessna Model 208B airplane converted to a multiengine, normal category, combination nine-passenger/freight airplane. The proposed modification includes the installation of the Soloy Dual Pac engine, installation of a different propeller, addition of a six-foot fuselage extension and integral belly-mounted cargo compartment, alterations to the langing gear, and an increase of the maximum gross weight to 12,500 pounds. The proposed changes to the Cessna Model 208B airplane are discussed below.

Powerplant

The original PWC Model PT6A–114 engine is replaced with the Soloy Dual Pac propulsion system, consisting of two Model PT6D–114A engines and a Soloy Corporation-designed propulsion drive system. The FAA has issued STC No. SE00482SE approving the Soloy Dual Pac propulsion system. A Hartzell propeller part number HC–B5MA–3H1/M11296NK–5, which is a steel-hubbed, five-blade, aluminum, constant-speed, single-acting, reversible-pitch propeller, is replacing the original three-blade Hartzell or McCauley propeller. The propulsion installation and associated systems, mounts, instrumentation, firewall, exhaust stacks, and cowling are all impacted by this modification.

Fuselage Extension

The most significant structural modification is a 72-inch extension in the fuselage aft of the wing trailing edge. The new fuselage section is designed and manufactured using the same conventional formed sheet metal bulkhead, stringer, and skin methods used by Cessna in the basic airplane. The section has a constant cross section and is positioned in the widest and tallest portion of the rear fuselage. Also, the control cables are extended due to the fuselage extension.

Airframe Structure

Structural reinforcements are added to the basic fuselage structure to accommodate the higher increased takeoff gross weight. Reinforcement of wing structure is also required to accommodate the higher wing loading. The empennage structure is unchanged from the basic airplane.

Cargo Pod

A cargo pod is added to the underside of the fuselage. New lower fuselage reinforcement angles serve as the attachment means for the cargo pod that runs the full width of the fuselage. The fuselage/engine compartment bulkhead is extended to form the forward end of the cargo pod.

Cabin

The cabin arrangement places the nine passengers directly behind the flightcrew. Cargo is secured in the aft portion of the cabin. The floor of the fuselage extension is equipped with the Brownline seat tracks and cargo attachment fittings that are used in the Cessna Model 208B airplane. Features to satisfy current crashworthiness regulations are being added to the cabin, including cargo retention barriers and relocation of the passenger door. The cargo door is unchanged.

Landing Gear

The original main landing gear is placed with larger land gear, wheels, and brakes. The nose gear support structure is replaced and the nose gear strut is pressurized for shock absorption.

Instrumentation

The flight deck is being modified to include an additional set of engine instruments, propulsion drive system instrumentation, and other flight deck indications required for multiengine airplanes.

Engine Controls

The flight deck modifications include an additional power lever and condition lever to accommodate the second engine.

Fuel System

The fuel system is being modified to provide independent fuel feed capability to each engine. In addition, pilot selectable crossfeed function is available. The two fuel wing tanks remain unchanged.

Electrical System

A dual redundant electrical system with independent batteries is being added as part of this modification. All components are located in the cargo pod immediately aft of the engine firewall, except for the generators that are installed on the engines.

Maximum Takeoff Weight

The maximum gross takeoff weight of the aircraft is increased from 8,750 pounds to 12,500 pounds.

Discussion

Elements of these proposed special conditions have been developed to replace part 23 standards for which the Model Pathfinder 21 airplane design, because of the single propeller system, cannot comply using the criteria usually applied to multiengine airplanes, namely § 23.903(c), Engines. Other elements of these proposed special conditions have also been developed to supplement part 23 standards that are considered inadequate to address the Model Pathfinder 21 airplane design, namely §§ 23.53, 23.67, 23.75, 23.903(b), 23.1191, 23.1305, 23.1545, 23.1585, and 23.1587.

The part 23 requirement that is most affected by the multiengine, single propeller Model Pathfinder 21 airplane arrangement is § 23.903(c). Section 23.903(c) states, "The powerplants must be arranged and isolated from each other to allow operation, in at least one configuration, so that the failure or

malfunction of any engine, or the failure or malfunction (including destruction by fire in the engine compartment) of any system that can affect an engine (other than a fuel tank if only one fuel tank is installed), will not: (1) prevent the continued safe operation of the remaining engines; or (2) require immediate action by any crewmember for continued safe operation of the remaining engines." This is a fail-safe requirement since it takes advantage of the redundancy provided by having multiple engines that are isolated from each other, which is intended to ensure that no single failure affecting one engine will result in the loss of the airplane. In conventional twin turboprop airplanes, this isolation is, in part, provided by the inherent separation of having each engine mounted on opposite sides of the airplane driving its own propeller. Installation of the engines on either side of the airplane automatically provides a degree of separation of critical systems, such as the electrical and fuel systems, and minimizes the effect of high vibration, rotor burst failures, and engine case burn-through from the opposite engine. This separation aids in preventing any single failure from jeopardizing continued safe operation of the airplane. In contrast, the nearness of the engines to each other driving a combining gearbox with a single propeller in the Model Pathfinder 21 airplane arrangement is inherently less isolated from certain types of failure modes. As a result, many failure modes that do not pose a significant hazard on conventional multiengine airplanes could threaten continued safe operation of the Model Pathfinder 21 airplane unless specific additional precautions are taken to prevent hazardous secondary effects.

To ensure a level of safety equivalent to that provided by conventionally arranged twin turboprop airplanes, the FAA evaluated the relative advantages and disadvantages of each arrangement while striving to maintain, as much as possible, the fail-safe and isolation design requirement of § 23.903(c). Only for those areas of the design where the fail-safe and isolation design philosophy could not be maintained did the FAA consider other options, such as requiring components with a proven reliability, an enhanced maintenance program, and additional testing. The FAA's analysis and derivation of each of the special condition requirements is discussed in the Description of Proposed Requirements section below.

Soloy Corporation Soloy Dual Pac Engine Special Conditions (Docket No. 93–ANE–14; No. 33–ANE–01) were developed for the propulsion system to maintain the fail-safe and isolation design philosophy up to the propeller shaft. They include the design requirement that the propulsion system must be able to provide controllable power, which is at least fifty percent of rated power, for any probable engine failure. This includes failures in the propulsion drive system.

Even after complying with the part 33 special conditions, Soloy Corporation's design still contains several single failure modes of non-redundant components that could cause a total loss of thrust. These components include the single propeller hub and blade assembly, propeller shaft, and propeller control system. Common propeller system failure modes are eliminated or the hazard significantly reduced by the design and maintenance requirements contained in these proposed special conditions, which are intended to reduce the risk of these failures to an acceptable level. Rotorcraft techniques, including development of a critical parts plan, are used to mitigate the risks associated with the non-fail-safe components because Soloy Corporation's propulsion system concept is similar to twin engine, single rotor propulsion systems of twin engine rotorcraft in certain aspects.

The propulsion system installation design of the Model Pathfinder 21 airplane is potentially more critical when assessing the rotorburst and engine case burn-through design requirements set forth in § 23.903(b)(1). Section 23.903(b)(1) states, "Turbine engine installations. For turbine engine installations—(1) Design precautions must be taken to minimize the hazards to the airplane in the event of an engine rotor failure or of a fire originating inside the engine which burns through the engine case." For conventional twin turboprop airplanes, compliance with this regulation has involved a degree of inherent protection by having the engines installed some distance apart from one another and on opposite sides of the airplane fuselage. This level of inherent protection is not provided as part of the Pathfinder 21 configuration.

In addressing propeller assembly structural failures, uncontained engine failures, and engine case burn-through, these proposed special conditions allow Soloy Corporation to select components with excellent service histories. While compliance to part 23 establishes adequate safety standards, in-service operations identify long term durability problems and problems associated with operations that the condensed evaluation of the critical conditions during a certification program cannot. Propeller assembly structural failures, uncontained engine failures, and engine case burn-through will most likely be catastrophic for the Model Pathfinder 21 airplane, but are only occasionally catastrophic for conventional twin turboprop airplanes. The probability of each of these events occurring on conventional small twin turboprop airplanes is on the order of one in ten million hours based on the service history as discussed in the Safety Analysis section. Therefore, for the purposes of these special conditions, it is reasonable and appropriate to require ten million hours free of specific failure modes as an acceptable level of proven reliability needed to establish a level of safety equivalent to that of conventional multiengine airplanes.

Description of Proposed Requirements

The FAA has reviewed the part 23 standards and identified that § 23.53, Takeoff Speeds, § 23,67(c) and (d), Climb: one engine inoperative, § 23.69, Enroute Climb/Descent, and § 23.75(g), Landing Distance, are inadequate to address the effects of propeller control system failure modes in a manner consistent with how these sections address specific engine failure conditions. Sections 23.1191(a) and 23.1191(b), Firewalls, do not adequately define the locations of firewalls needed to isolate the engines and propulsion drive system of the Soloy Dual Pac propulsion system. Additionally, the FAA has identified that § 23.1305(c), Powerplant Instruments, is inadequate because it does not recognized a propulsion system installation with a combining gearbox whose oil system is separate from either engine. Furthermore, the FAA has identified that § 23.1545(b)(5), Airspeed Indicator, § 23.1585(c), Operating Procedures and § 23.1587(a), Performance Information; do not recognize a propeller system installation independent from either engine. Elements of these proposed special conditions have been developed to ensure that these unique aspects of the Model Pathfinder 21 airplane are addressed in a manner equivalent to that established by part 23 standards.

Propulsion System

The propulsion drive system includes all parts necessary to transmit power from the engines to the propeller shaft. This includes couplings, universal joints, drive shafts, supporting bearings for shafts, brake assemblies, clutches, gearboxes, transmissions, any attached accessory pads or drives, and any cooling fans that are attached to, or mounted on, the propulsion drive system. The propulsion drive system for

this multiengine installation must be designed with a "continue to run" philosophy. This means that it must be able to power the propeller after failure of one engine or failure in one side of the drive system, including any gear, bearing, or element expected to fail. Common failures, such as oil pressure loss or gear tooth failure, in the propulsion drive system must not prevent the propulsion system from providing adequate thrust. These design requirements, and other propulsion drive system requirements, are included in the part 33 special conditions, and, therefore, are required as part of these proposed special conditions.

Special 23.903(b)(1) states, in part, "Design precautions must be taken to minimize the hazards to the airplane in the event of a rotor failure." Part 33 containment requirements address blade failures but do not require containment or failed rotor disks; therefore, § 23.903(b)(1) requires that airplane manufacturers minimize the hazards in the event of a rotor failure. This is done by locating critical systems and components out of impact areas as much as possible. The separation inherent in conventional twin engine arrangements by locating the engines on opposite sides of the fuselage provides good protection from engine-to-engine damage. Although most multiengine installations have the potential for an uncontained failure of one engine damaging the other engine, service history has shown that the risk of striking the opposite engine is extremely low.

The Model Pathfinder 21 airplane propulsion system installation does not have the inherent engine-to-engine isolation of a conventional twin turboprop airplane. For the Model Pathfinder 21 airplane to obtain a level of safety equivalent to that of a conventional multiengine airplane, the effects of rotor failure must be addressed. Soloy Corporation must demonstrate that the engine type in relevant installations has at least ten million hours of service time without a high energy rotor failure (for example, disks, hubs, compressor wheels, and so forth). Additionally, for any lower energy fragments released during this extensive service life of the engine (for example, blades), a barrier must be placed between the engines to contain these low energy fragments. Even after installation of a barrier, engine-to-engine isolation following failure of either engine could be compromised through the common mount system or shared system interfaces such as firewalls, electrical busses, or cowlings. Soloy Corporation must, therefore, demonstrate any loads transmitted through the common mount system as a result of an engine failure do not prevent continued safe flight and landing with the operating engine.

Section 23.903(b)(1) also addresses damage caused by engine burn-through. Engine case burn-through results in a concentrated flame that has the capacity to burn through the firewall mandated by § 23.1191; therefor, § 23.903(b)(1) requires that design precautions must be taken to minimize the hazards to the airplane in the event of a fire originating in the engine that burns through the engine case. Similar to uncontained engine failures, the conventional multiengine airplane arrangement provides inherent protection from engine-to-engine damage associated with engine case burn-through by placing the engines on opposite sides of the fuselage. The Model Pathfinder 21 airplane propulsion system does not have this inherent isolation; therefore, the FAA is requiring that engine type in a relevant installation to have at least ten million hours of service time without an engine case burn-through, or that a firewall able to protect the operating engine from engine case burn-through be installed between the engines.

Soloy Corporation is not required to show compliance to § 21.35, per § 21.115 because the Model Pathfinder 21 airplane certification is being conducted under an STC project. Section 21.35(f)(1), Flight Tests, requires aircraft incorporating turbine engines of a type not previously used in a type certificated aircraft operate for at least 300 hours with a full complement of engines that conform to a type certificate as part of the certification flight test. The propulsion system installation is, however, different from any other airplane previously certified; therefore, the FAA is requiring as part of these proposed special conditions that Soloy Corporation show compliance with § 21.35(f)(1).

Propeller Installation

As demonstrated by the data discussed in the Safety Analysis section, propeller blade failures near the hub result in substantial airplane damage on a conventional twin turboprop airplane. One of the eight events was catastrophic. Blade debris has damaged critical components and structure of the airplane, and large unbalanced loads in the propeller have led to engine, mount, and wing structural failure. In contrast, service history has demonstrated that blade tip failures are not necessarily catastrophic on a conventional multiengine airplane because the flightcrew is able to secure the engine with the failed propeller and safely land the airplane. However, if the Model Pathfinder 21 airplane's single propeller failed near the tip, the failure would be likely to result in a catastrophic accident caused by the total loss of thrust capability and severe vibration. Other propeller system structural failures would be equally catastrophic; therefore, steps must be taken to reduce the potential for propeller system structural failures.

As discussed earlier, the FAA has determined additional testing is required for non-redundant components to ensure that equivalency to the fail-safe and isolation requirements of § 23.903(c) is met. The Model Pathfinder 21 airplane's single propeller system must be installed and maintained in such a manner as to substantially reduce or eliminate the occurrence of failures that would preclude continued safe flight and landing. To ensure the propeller installation and production and maintenance programs are sufficient to achieve the fail-safe equivalency requirement, these proposed special conditions include a 2,500 cycle validation test. This corresponds to the FAA's estimated annual usage for a turboprop airplane operating in scheduled service. An airplane cycle includes idle, takeoff, climb, cruise, descent, and reverse. The test must utilize production parts installed on the engine and should include a wide range of ambient and wind conditions, several full stops, and validation of scheduled and unscheduled maintenance practices.

Furthermore, these proposed special conditions require identification of the critical parts of the propeller assembly, which are components whose failure during ground or flight operation could cause a catastrophic effect on the airplane, including loss of the ability to produce controllable thrust. The FAA is proposing to require that a critical parts plan, modeled after plans required by Joint Aviation Requirements 27 and 29 for critical rotorcraft components, be established and implemented for the critical components of the propeller assembly. This plan draws the attention of the personnel involved in the design, manufacture, maintenance, and overhaul of a critical part to the special nature of the part. The plan should define the details of relevant special instructions to be included in the Instructions for Continued Airworthiness. The Instructions for Continued Airworthiness, required by § 23.1529, should contain life limits, mandatory overhaul intervals, and conservative damage limits for return to

service and repair, as appropriate, for the critical parts identified in accordance with these proposed special conditions.

On a conventional multiengine airplane, the flightcrew will secure an engine to minimize effects of propeller imbalance. Most of these airplanes also incorporate quick acting manual or automatic propeller feathering systems that further reduce the time the airplane is exposed to the effects of propeller imbalance. In addition to the propeller blade failures discussed earlier, the unbalanced condition could be caused by a propeller system failure such as loss of a de-icing boot, malfunction of a de-icing boot in icing conditions, an oil leak into a blade butt, asymmetric blade pitch, or a failure in counterweight attachment. The Model Pathfinder 21 airplane design does not provide any means to reduce the vibration produced by an unbalanced propeller; therefore, these proposed special conditions require that the engines, propulsion drive system, engine mounts, primary airframe structure, and critical systems must be designed to function safely in the high vibration environment generated by those less severe propeller failures. In addition, the degree of flight deck vibration must not jeopardize the crew's ability to continue to operate the airplane in a safe manner. Component failures that generate vibrations beyond the capability of the airplane must be addressed as a critical part in the same manner as required for propeller blade failures.

Propeller Control System

Propeller control system failures on a conventional twin engine airplane may result in a one-engine-inoperative configuration. To ensure an equivalent level of safety in the event of a propeller control system failure, these proposed special conditions require that the Model Pathfinder 21 airplane propulsion system be designed such that the airplane meets the one-engine-inoperative requirements of § 23.53 and § 23.67 after the most critical propeller control system failure.

There are several means to accomplish these proposed special condition elements. Soloy Corporation plans to address them by providing a mechanical high-pitch stop, which would be set to a "get home" pitch position, thereby preventing the propeller blades from rotating to a feather-pitch position when oil pressure is lost in the propeller control system. This would allow the propeller to continue to produce a minimum amount of thrust as a fixed-pitch propeller. These proposed special conditions provide design requirements that the FAA has determined are critical to a default fixed-pitch position feature. These include maintaining engine and propeller limits following an automatic or manual pitch change, the ability to manually select and deselect the default fixed-pitch position in flight in the event of a propeller control system failure that does not result in a loss of oil pressure, and the means to indicate to the flightcrew when the propeller is at the default fixed-pitch position.

Propulsion Instrumentation

On a conventional multiengine airplane, the pilot has positive indication of an inoperative engine created by the asymmetric thrust condition. The airplane will not yaw when an engine or a portion of the propulsion drive system fails because of the centerline thrust of the Model Pathfinder 21 airplane propulsion system installation. The flightcrew will have to rely on other means to determine which engine or propulsion drive system element has failed in order that the correct engine is secured; therefore, these proposed special conditions require that a positive indication of an inoperative engine or a failed portion of the propulsion drive system must be provided.

Section 23.1305 requires instruments for the fuel system, engine oil system, fire protection system, and propeller control system. This rule is intended for powerplants consisting of a single-engine, gearbox, and propeller. To protect the portions of the propulsion drive system that are independent of the engines, additional instrumentation, which includes oil pressure, oil quantity, oil temperature, propeller speed, gearbox torque, and chip detection, is required.

Fire Protection System

On a conventional twin engine airplane, the engines are sufficiently separated to eliminate the possibility of a fire spreading from one engine to another. Since the Soloy Dual Pac propulsion system is installed in the nose of the airplane, the engines are separated only by a firewall. The fire protection system of the Model Pathfinder 21 airplane must include features to isolate each fire zone from any other zone and the airplane in order to maintain isolation of the engines during a fire; therefore, these proposed special conditions mandate that the firewall required per § 23.1191 be extended to provide firewall isolation between either engine and the propulsion drive system. These proposed special conditions require that heat radiating from a fire originating in any fire zone must not affect components in adjacent compartments in such a way as to endanger the airplane.

Airplane Performance

Section 23.67, and paragraphs in § 23.53, § 23.69 and § 23.75, provide performance requirements for multiengine airplanes with one engine inoperative. These rules are not adequate for multiengine, single propeller airplanes. In these proposed special conditions, the airplane configuration requirements specified in § 23.53(b)(1), § 23.67(c)(1), § 23.69(b), and § 23.75(g) have been adapted to accommodate the propeller system of the Model Pathfinder 21 airplane to ensure a level of safety equivalent to that of conventional multiengine airplanes.

Airspeed Indicator

Section 23.1545(b)(5) provides one-engine-inoperative marking requirements for the airspeed indicator. This rule is not adequate to address critical propeller control system failures on the Model Pathfinder 21 airplane. As a result, these proposed special conditions require that the airspeed markings required by § 23.1545(b)(5) be based on the most critical flight condition between one engine inoperative or a failed propeller control system in order to ensure a level of safety equivalent to that of conventional multiengine airplanes.

Airplane Flight Manual

Sections 23.1585 and 23.1587 require pertinent information to be included in the Airplane Flight Manual (AFM). These rules are not adequate to address critical propeller control system failures on the Model Pathfinder 21 airplane. As a result, these proposed special conditions require that the critical procedures and information required by § 23.1585, paragraph (c), and § 23.1587, paragraphs (c)(2) and (c)(4), include consideration of these critical propeller control system failures in order to ensure a level of safety equivalent to that of conventional multiengine airplanes.

Applicability

As discussed above, these special conditions are applicable to the Model Pathfinder 21 airplane. Should Soloy Corporation apply at a later date for an STC to modify any other model included on TC No. A37CE to incorporate the same novel or unusual design feature, the special conditions

would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101 and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Soloy Corporation Model Pathfinder 21 airplane modified by Soloy Corporation.

(a) *Propulsion System.*

(1) *Engine Requirements.* The propulsion system must comply with the Soloy Corporation Soloy Dual Pac Engine Special Conditions (Docket No. 93–ANE–14; No. 33–ANE–01), published in **Federal Register**, Volume 62, Number 33, dated February 19, 1997.

(2) *Engine Rotor Failure.* In addition to showing compliance with § 23.903(b)(1) (Amendment 23–40), compliance must be shown with the following:

(i) The engine type to be installed must be shown to have demonstrated a minimum of ten million hours of actual service experience in installations of equivalent or higher disk rotation loading without an uncontained high energy rotor failure; and, a shield capable of preventing all fragments of an energy level that have been released during uncontained engine failures experienced in service from impacting the adjacent engine must be installed; and,

(ii) It must be shown that the adjacent engine is not affected following any expected engine failure.

(3) *Engine Case Burn-Through.* In addition to showing compliance with § 23.903(b)(1) (Amendment 23–40), the engine type to be installed must be shown to have demonstrated a minimum of ten million hours of actual service experience in installations of equivalent or higher combustor pressures and temperatures without an engine case burn-through event; or a firewall capable of containing a fire originating in the engine that burns through the engine case must be installed between the engines.

(4) *Propulsion System Function and Reliability Testing.* The applicant must complete the testing required by § 21.35(f)(1) (Amendment 21–51).

(b) *Propeller Installation.*

(1) The applicant must complete a 2,500 airplane cycle evaluation of the propeller installation. This evaluation may be accomplished on the airplane in a combination of ground and flight cycles or on a ground test facility. If the testing is accomplished on a ground test facility, the test configuration must include sufficient interfacing system hardware to simulate the actual airplane installation, including the engines, propulsion drive system, and mount system.

(2) *Critical Parts.*

(i) The applicant must define the critical parts of the propeller assembly. Critical parts are those parts whose failure during ground or flight operation could cause a catastrophic effect to the airplane, including loss of the ability to produce controllable thrust. In addition, parts, of which failure or probably combinations of failures would result in a propeller unbalance greater than that defined under paragraph (b)(3), are classified as critical parts.

(ii) The applicant must develop and implement a plan to ensure that the critical parts identified in paragraph (b)(2)(i) are controlled during design, manufacture, and throughout their service life so that the risk of failure in service is minimized.

(3) *Propeller Unbalance.* The applicant must define the maximum allowable propeller unbalance that will not cause damage to the engines, propulsion drive system, engine mounts, primary airframe structure, or to critical equipment that would jeopardize the continued safe flight and landing of the airplane. Furthermore, the degree of flight deck vibration caused by this unbalance condition must not jeopardize the crew's ability to continue to operate the airplane in a safe manner.

(c) *Propeller Control System.*

(1) The propeller control system must be independent of the turbine engines such that a failure in either turbine engine or an engine control system will not result in loss of propeller control.

(2) The propeller control system must be designed so that the occurrence of any single failure or probable combination of failures in the system which would prevent the propulsion system from producing thrust at a level required to meet § 23.53(b)(1)(ii) (Amendment 23–34) and § 23.67(c) (Amendment 23–42) is extremely improbable.

(3) The propeller control system must be designed to implement a default fixed-propeller pitch position in the event of a propeller control system failure.

(i) An automatic or manual pitch change to the default fixed-pitch position must not exceed any limitation established as part of the engine and propeller type certificates;

(ii) A means, independent of the primary propeller control system, to manually select and deselect this position in flight must be provided and designed to prevent inadvertent operation; and

(iii) A means to indicate to the flightcrew when the propeller is at the default fixed-pitch position must be provided.

(d) *Propulsion Instrumentation.*

(1) *Engine Failure Indication.* A positive means must be provided to indicate when an engine is no longer able to provide torque to the propeller. This means may consist of instrumentation required by other sections of part 23 or these special conditions if it is determined that those instruments will readily alert the flightcrew when an engine is no longer able to provide torque to the propeller.

(2) *Propulsion Drive System Instrumentation.* In addition to the requirements of § 23.1305 (Amendment 23–52), the following instruments must be provided for any power gearbox or transmission:

(i) An oil pressure warning means and indicator for each pressure-lubricated gearbox;

(ii) A low oil quantity indicator for each gearbox, if lubricant is self-contained;

(iii) An oil temperature indicator;

(iv) A tachometer for the propeller;

(v) A torquemeter for the transmission driving a propeller shaft if the sum of the maximum torque that each engine is capable of producing exceeds the maximum torque for which the propulsion system has been certified under 14 CFR part 33; and

(vi) A chip detecting and indicating system for each gearbox.

(e) *Fire Protection System.*

(1) In addition to § 23.1191(a) and (b) (not amended),

(i) Each engine must be isolated from the other engine and the propulsion drive system by firewalls, shrouds, or equivalent means; and

(ii) Each firewall or shroud, including applicable portions of the engine cowling, must be constructed so that no

hazardous quantity of liquid, gas, or flame can pass from the isolated compartment to the other engine and the propulsion drive system and so that firewall temperatures under all normal or failure conditions would not result in auto-ignition of flammable fluids and vapors present in the other engine and the propulsion drive system.

(2) Components, lines, and fittings located in the engine and propulsion drive system compartments must be constructed of such materials and located at such distances from the firewall that they will not suffer damage sufficient to endanger the airplane if a fire is present in an adjacent engine compartment.

(f) *Airplane Performance.*

(1) In addition to § 23.53(b)(1) (Amendment 23–34), the airplane, upon reaching a height of 50 feet above the takeoff surface level, must have reached a speed of not less than 1.3 V_{S1}, or any lesser speed, not less than V_X plus 4 knots, that is shown to be safe under all conditions, including turbulence and the propeller control system failed in any configuration that is not extremely improbable.

(2) In lieu of § 23.67(c)(1) (Amendment 23–42), the steady climb gradient must be determined at each weight, altitude, and ambient temperature within the operational limits established by the applicant, with the airplane in the following configurations:

(i) Critical engine inoperative, remaining engine at not more than maximum continuous power or thrust, wing flaps in the most favorable position, and means for controlling the engine cooling air supply in the position used in the engine cooling tests required by § 23.1041 (Amendment 23–7) through § 23.1045 (Amendment 23–7);

(ii) Both engine operating normally and the propeller control system failed in any configuration that is not extremely improbable, the engines at more than maximum continuous power or thrust, wing flaps in the most favorable position, and means for controlling the engine cooling air supply in the position used in the engine cooling tests required by § 23.1041 (Amendment 23–7) through § 23.1045 (Amendment 23–7).

(3) *Enroute climb/descent.*

(i) Compliance to § 23.69(a) (Amendment 23–50) must be shown.

(ii) The steady gradient and rate of climb/descent must be determined at each weight, altitude, and ambient temperature within the operational limits established by the applicant with—

(A) The critical engine inoperative, the engines at not more than maximum continuous power, the wing flaps retracted, and a climb speed not less than 1.2 V_{S1}.

(B) Both engines operating normally and the propeller control system failed in any configuration that is not extremely improbable, the engines at not more than maximum continuous power, the wing flaps retracted, and a climb speed not less than 1.2 V_{S1}.

(4) In addition to § 23.75 (Amendment 23–42), the horizontal distance necessary to land and come to a complete stop from a point 50 feet above the landing surface must be determined as required in § 23.75 (Amendment 23–42) with both engines operating normally and the propeller control system failed in any configuration that is not extremely improbable.

(g) *Airspeed Indicator.* In lieu of the requirements of § 23.1545(b)(5) (Amendment 23–23), for one-engine inoperative or the propeller control system failed in any configuration that is not extremely improbable, whichever is most critical, the best rate of climb speed V_Y, must be identified with a blue sector extending from the V_Y speed at sea level to the V_Y speed at an altitude of 5,000 feet, if V_V is less than 100 feet per minute, or the highest 1,000-foot altitude (at or above 5,000 feet) at which the V_Y is 100 feet per minute or more. Each side of the sector must be labeled to show the altitude for the corresponding V_Y.

(h) *Airplane Flight Manual.*

(1) In addition to the requirements of § 23.1585(c) (Amendment 23–34), the following information must be included in the Airplane Flight Manual (AFM):

(i) Procedures for maintaining or recovering control of the airplane at speeds above and below V_{S1} with the propeller control system failed in any configuration that is not extremely improbable.

(ii) Procedures for making a landing with the propeller control system failed in any configuration that is not extremely improbable and procedures for making a go-around with the propeller control system failed in any configuration that is not extremely improbable, if this latter maneuver can be performed safely; otherwise, a warning against attempting the maneuver.

(iii) Procedures for obtaining the best performance with the propeller control system failed in any configuration that is not extremely improbable, including the effects of the airplane configuration.

(2) In lieu of the requirements of § 23.1587(c)(2) and (c)(4) (Amendment 23–39), the following information must be furnished in the Airplane Flight Manual:

(i) The best rate-of-climb speed or the minimum rate-of-descent speed with one engine inoperative or the propeller control system failed in any configuration that is not extremely improbable, whichever is more critical.

(ii) The steady rate or gradient of climb determined in paragraph (f)(2)(i) or paragraph (f)(2)(ii) of these special conditions, whichever is more critical, and the airspeed, power, and airplane configuration.

(3) The steady rate and gradient of climb determined in paragraph (f)(3) of these special conditions must be furnished in the Airplane Flight Manual.

(4) The landing distance determined under § 23.75 (Amendment 23–42) or in paragraph (f)(4) of these proposed special conditions whichever is more critical.

Issued in Kansas City, Missouri on March 9, 1999.

Marvin Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7276 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM152; Notice No. 25–99–01–SC]

Special Conditions: Boeing Model 717–200 Airplane; Operation Without Normal Electrical Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 717–200 airplane. This airplane will have novel or unusual design features associated with its electronic flight and engine control systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before April 26, 1999.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal

Aviation Administration, Office of the Assistant Chief Counsel, Attention: Rules Docket (ANM–7), Docket No. NM152, 1601 Lind Avenue SW, Renton, Washington 98055–4056, or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: NM152. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gerry Lakin, FAA, Standardization Branch, ANM–113, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1187, facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM152." The postcard will be date stamped and returned to the commenter.

Background

On August 8, 1994, the Los Angeles Certification Office received an application from the McDonnell Douglas Corporation, now a wholly owned subsidiary of The Boeing Company, informing the FAA of their intention to seek an amendment to FAA Type Certificate No. A6WE to add the new Model MD–95–30, which was later renamed the Boeing Model 717–200.

The Boeing Model 717–200 is a derivative of the DC–9/MD–80/MD–90 series of airplanes, Type Certificate No. A6WE, and is scheduled to be certificated in July 1999. The Boeing Model 717–200 is a low-wing, pressurized airplane with twin, body-mounted, jet engines that is configured for approximately 100 passengers. The airplane has a maximum takeoff weight of 121,000 pounds, a maximum landing weight of 104,000 pounds, a maximum operating altitude of 37,000 feet, and a range of 1500 nautical miles at a cruise speed of Mach 0.76. The overall length of the Boeing Model 717–200 is 124 feet, the height is 29 feet, 1 inch, and the wing span is 93 feet, 4 inches. Features have been added to the Boeing Model 717–200 to provide cost-efficient performance and decreased crew workload. These features include an advanced flight compartment, BMW/Rolls-Royce BR715 engines, an advanced auxiliary power unit (APU), advanced environmental systems, and an updated interior.

The advanced flight compartment includes an electronic instrument system, with six liquid crystal displays, to show navigation, engine, and system data. For decreased crew workload, the Boeing Model 717–200 has a flight management system and an autoflight system, with Category IIIa autoland capability. A central fault display system allows maintenance personnel access to fault data to perform return-to-service tests.

The Boeing Model 717–200 is equipped with two electronically controlled BMW/Rolls-Royce BR715 high-bypasss ratio engines capable of supplying up to 21,000 pounds of thrust. For reverse thrust, the engine has fixed pivot door type thrust reversers.

The advanced APU is a simple design with a single-stage compressor and turbine. The APU uses modular components for increased reliability and decreased maintenance and is controlled by an electronic control unit.

The Boeing Model 717–200 has a simplified pneumatic system to supply bleed-air for the airplane systems. The dual cabin pressure control system has automatic control, with a manual backup.

The passenger compartment interior has overhead stowage compartments, forward and aft lavatories, and two forward service galleys. The interior also has a full-grip lighted handrail attached to the overhead stowage compartments, for safety and convenience. Class C cargo compartments are located in the lower forward and aft ends of the airplane.

Type Certification Basis

Under the provisions of § 21.101, The Boeing Company must show that the Boeing Model 717–200 meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A6WE or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A6WE are as follows:

The type certification basis for the Boeing Model 717–200 airplane is 14 CFR part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–82, except for certain reversions to earlier amendments for parts of the airplane not affected by these special conditions.

In addition, the certification basis for the Boeing Model 717–200 includes the fuel vent and exhaust emission requirements of 14 CFR part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and the noise certification requirements of 14 CFR part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. These special conditions will form an additional part of the type certification basis. The certification basis may also include other special conditions and exemptions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Boeing Model 717–200 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Boeing Model 717–200 will utilize electronic flight and engine control systems that establish the

criticality of the electrical power generation and distribution systems. Since the loss of all electrical power may be catastrophic to the airplane, a special condition is proposed to retain the level of safety envisioned by § 25.1351(d).

The Boeing Model 717–200 airplane requires a continuous source of electrical power in order for the electronic flight instrument system to remain operable. Section § 25.1351(d), "Operation without normal electrical power," requires safe operation in visual flight rule (VFR) conditions for a period of not less than five minutes with inoperative normal power. This rule was structured around a traditional design utilizing analog/mechanical flight instrumentation, which allows the crew to sort out the electrical failure, start engine(s) if necessary, and re-establish some of the electrical power generation capability. However, with today's aircraft, complex electronic/avionics systems are now performing critical functions that may require uninterrupted electrical power for continued safe flight (in instrument meteorological conditions (IMC)) and landing.

In addition, § 121.161 states that an operator may fly a twin-engine airplane over a route that allows up to one hour flying time from a suitable airport. If Boeing seeks operational approval for extended over water operations, with a possible diversion time of one hour, the emergency power system must be capable of providing at least one hour of operation to critical and essential systems. If, however, Boeing intends to exclude extended over water operations, then only 30 minutes of emergency power will be required.

In order to maintain the same level of safety associated with traditional designs, the Boeing Model 717–200 design must provide at least 30 minutes of emergency power without the normal source of engine or APU generated electrical power. It should be noted that service experience has shown that the loss of all electrical power generated by the airplane's engine generators or APU is not extremely improbable. Thus, it must be demonstrated that the airplane can continue through safe flight and landing with only the use of its emergency electrical power systems. These emergency electrical power systems must be able to power loads that are essential for continued safe flight and landing. The emergency electrical power system must be designed to:

1. Continue to operate the airplane for immediate safety without the need for crew action following the loss of the normal engine (which includes APU power) generator electrical power system,

2. Supply electrical power required for continued safe flight and landing, and

3. Supply electrical power required to restart the engines.

For compliance purposes a test demonstration of the loss of normal engine generator power is to be established such that:

1. The failure condition is assumed to occur during night IMC at the most critical phase of the flight relative to the electrical power system design and distribution of equipment loads on the system.

2. The airplane engine restart capability must be provided and operations continued in IMC after the unrestorable loss of normal engine generator power.

3. The airplane is demonstrated to be capable of continuous safe flight and landing. The length of time must be computed based on the maximum diversion time capability for which the airplane is being certified. Consideration for speed reductions resulting from the associated failure must be made.

4. The availability of APU operation should not be considered in establishing emergency power system adequacy.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 717–200. Should The Boeing Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 717–200 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 717–200 airplanes.

1. *Operation Without Normal Electrical Power.* In lieu of compliance with § 25.1351(d), "It must be demonstrated by test, or combination of test and analysis, that the airplane can continue safe flight and landing with inoperative normal engine and APU generator electrical power (electrical power sources excluding the battery and any other standby electrical sources). The airplane operation must be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for the maximum diversion time capability being certified."

Issued in Renton, Washington on March 17, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 99–7319 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AWA–1]

RIN 2120–AA66

Proposed Revision to the Legal Description of the Riverside, March Air Force Base (AFB) Class C Airspace Area; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to revise the legal description of the Riverside, CA, March AFB Class C airspace area by replacing references to the former active duty AFB with the current civil/military joint-use designation of "March Field," and to change the operating hours to be consistent with the current mission requirements of the U.S. Air Force (USAF) Reserve, the U.S. Customs Service, and other tenants operating at the airport. Specifically, the Class C airspace area, as proposed, would be designated effective during the specific days and hours of operation of the March Field Ground Controlled Approach (GCA) facility as established in advance by a Notice to Airmen (NOTAM). The effective dates and times would thereafter be continuously published in the Airport/Facility Directory. This proposed action would

not change the actual dimensions, configuration, or operating requirements of the Riverside, March AFB Class C airspace area.

DATES: Comments must be received on or before May 13, 1999.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 99–AWA–1, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following Internet address: nprmcmts@mail.hq.faa.gov. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the FAA Western-Pacific Regional Office.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AWA–1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661), using a modem and suitable communications software.

Internet users may reach the FAA's web page at http://www.faa.gov or the **Federal Register**'s web page at http://www.access.gpo.gov/nara/index.html for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3075. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the Federal Aviation Administration, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

On May 7, 1997, the USAF Reserve and the March Joint Powers Authority (JPA) entered into a formal agreement for military-civilian joint-use of the former March Air Force Base. The March Class C airspace area remains an essential safety measure in support of the ongoing mission requirements of key March Field tenants which include the USAF Reserve, the U.S. Customs Service Domestic Air Interdiction Center, the California Air National Guard, and the March Aero Club.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the legal description of the Riverside, March AFB Class C airspace area located at Riverside, CA. The current legal description refers to an Air Force base that has been deactivated. Further, the FAA proposes to use the operating hours for the Class C airspace area which are consistent with the current mission requirements of the USAF Reserve, the US Customs Service, and other tenants operating at this airport. It is proposed that the Class C airspace area would be designated effective during the specific days and hours of operation of the March GCA facility as established in advance by NOTAM. The proposed action is a technical amendment to the legal description and would not change the actual dimensions, configuration, or operating requirements of the Riverside, March AFB Class C airspace area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed action: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The coordinates for this airspace docket are based on North American Datum 83. Class C airspace designations are published in paragraph 4000 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document would be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace

Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

AWP CA C Riverside, March Field, CA [Revised]

Riverside, March Field, CA
(Lat. 33°52'50"N., long. 117°15'34" W.)

That airspace extending upward from the surface to and including 5,500 feet MSL within a 5-mile radius of March Field; and that airspace extending upward from 3,900 feet MSL to and including 5,500 feet MSL within the 10-mile radius of March Field from the centerline of V–16/V–370 east of the airport clockwise to the 216° bearing from the airport and that airspace extending upward from 2,900 feet MSL to but not including 3,900 feet MSL within 2 miles east and 1.5 miles west of the 150° bearing from the airport extending from the 5-mile radius to the 10-mile radius of the airport. This Class C airspace area is effective during the specific days and hours of operation of the March GCA facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the airport/Facility Directory.

* * * * *

Issued in Washington, DC, on March 18, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–7355 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105170–97]

RIN 1545–AV14

Credit for Increasing Research Activities; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a notice of a public hearing on proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d).

DATES: The public hearing is being held on Thursday, April 29, 1999, at 10 a.m. The IRS must receive outlines of topics to be discussed at the hearing by April 15, 1999.

ADDRESSES: The public hearing is being held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: CC:DOM:CORP:R (REG–105170–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–105170–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit outlines electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting them directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Guy Traynor, (202) 622–7180 (not a toll free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations (REG–105170–97) that were published in the **Federal Register** on December 2, 1998 (63 FR 66503 [1998–50 IRB 10 (see § 601.601(d)(2)]).

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who have submitted written comments and wish to present oral comments at the hearing, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by April 15, 1999.

A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–7339 Filed 3–24–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–145–FOR; State Program Amendment No. 98–1]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposes reference changes in its rules for surface mining permit applications, geology description; underground mining permit applications, geology description; and permit applications, public participation. Indiana also proposes to add a new provision to its rule for surface mining permit applications, postmining land uses. Indiana intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Indiana program and amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that will be followed for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., e.s.t., April 26, 1999. If requested, we will hold a public hearing on the amendment on April 19, 1999. We will accept requests to speak at the hearing until 4:00 p.m., e.s.t. on April 9, 1999.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Indiana program, the amendment, a listing of

any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700

Indiana Department of Natural Resources, 402 West Washington Street, Room C256, Indianapolis, Indiana 46204, Telephone: (317) 232–1547

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone: (317) 226–6700. Internet: INFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, and 914.16.

II. Description of the Proposed Amendment

By letter dated March 8, 1999 (Administrative Record No. IND–1633), Indiana sent us an amendment to its program under SMCRA. Indiana sent the amendment its own initiative. Indiana proposes to amend the Indiana Administrative Code (IAC) at 310 IAC 12–3 as discussed below.

1. 310 IAC 12–3–31 Surface Mining Permit Applications; Geology Description

At 310 IAC 12–3–31(a)(3), Indiana proposes to replace a reference to "IC 13–4.1" with a reference to "IC 14–34." At 310 IAC 12–3–31(c), Indiana proposes to replace a reference to "this rule" with a reference to "this article."

2. 310 IAC 12–3–48 Surface Mining Permit Applications; Reclamation and Operations Plan; Postmining Land Uses

Indiana proposes to revise this rule by adding a new provision at 310 IAC 12–3–48(a)(3) to require the detailed description of the proposed land use to explain "[t]he consideration given to making all of the proposed surface mining activities consistent with surface owner plans and applicable state and local land use plans and programs."

3. 310 IAC 12–3–69 Underground Mining Permit Applications; Geology Description

At 310 IAC 12–3–69(a)(3) and 12–3–69(c)(3), Indiana proposes to replace references to "this rule" with references to "this article." At 310 IAC 12–3–69(d), Indiana proposes to replace a reference to "subsection (b)" with a reference to "subsection (b)(2) and (b)(3)."

4. 310 IAC 12–3–106 Permit Applications; Public Participation

At 310 IAC 12–3-106(a)(8), Indiana proposes to replace a reference to "section 94" with a reference to "section 94.1."

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Indiana program.

Written Comments

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under "DATES" or at locations other than the Indianapolis Field Office.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on April 9, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodations to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** The hearing will not be held if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We also make a written summary of each meeting a part of the Administrative Record.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 17, 1999.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99–7227 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 110, 162, and 165

[CDG17–99–002]

RIN 2115–AF81

Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes changes to the speed limit in Tongass Narrows. The present speed limit does not address the needs of floatplane traffic, may unnecessarily slow the transits of smaller vessels, and does not apply in the northern portions of Tongass Narrows where traffic congestion and wake from larger vessels has become a concern. The proposal would extend the speed limit area northward in Tongass Narrows to Channel Island, allow the take-off and landing of floatplanes, and allow smaller vessels to transit crowed areas to Tongass Narrows more quickly, thereby reliving congestion. The Coast Guard also proposes redesignation of the safety zone in Ketchikan Harbor as an anchorage ground. Vessels transiting the anchorage ground, other than those engaged in anchoring evolutions, would be required to proceed through the anchorage by the most direct route without delay or sudden course changes. The present designation of this areas as a safety zone does not reflect its actual use as an anchorage for large passenger vessels. The slow or erratic operation of small vessels in the present safety zone has made it very difficult for large vessels to safely maneuver to and from anchor. The requirement that transiting vessels proceed through the anchorage directly, without delay or sudden course changes, will make the final approach, anchoring, and departure of very large passenger vessels, safer for the vessels involved.

DATES: Comments must reach the Coast Guard by May 10, 1999.

The public hearing will be held on March 26, 1999, at 6 p.m. (AST).

ADDRESSES: You may mail comments to the Commander (mo), Seventeenth Coast Guard District, P.O. Box 25517, Juneau, Alaska 99802–5517, or deliver them to the Federal Building, 709 West 9th Street, sixth floor, room 661, Juneau Alaska between 8 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 907–463–2242. the Seventeenth Coast Guard District, Maritime Operations Division, maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this and will be available for inspection or copying at room 66, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

The public hearing will be held at the Ted Ferry Civic Center, 888 Venetia Avenue, Ketchikan, Alaska.

FOR FURTHER INFORMATION CONTACT: For information concerning this rulemaking, call Lieutenant P.W. Clark, Supervisor, U.S. Coast Guard Marine Safety Detachment, Ketchikan, AK, telephone 907–225–4496.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD17–99–002) and the specific section of this document to which each comments applies, and give the reason for each comment. Please submit two copies of all comment and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you want acknowledgement or receipt of your comments, you should enclose a stamped, self-addressed postcard or envelop.

The Coast Guard is establishing a forty five-day comment period for this proposed rule instead of the usual sixty-day comment period. The shortened comment period should be sufficient to allow the public to comment on the proposed rule. The shortened comment period is needed so that the modification to the existing rule may be in place by the beginning of the 1999 summer boating season. The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard has scheduled a public hearing for 6 p.m.(AST), March 26, 1999, at the Ted Ferry Civic Center, 888 Venetia Avenue, Ketchikan, Alaska. Persons may request an additional public hearing by writing to the Commander (To), Seventeenth Coast Guard District, at the address under **ADDRESSES**. the request should include the reasons why an additional hearing would be beneficial. It is determines that the opportunity for additional oral presentations will aid this rulemaking, the Coast Guard will hold an additional public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose .

During the last two years the Coast Guard and the Federal Aviation Administration have held a series of public meetings in Ketchikan, Alaska, to assess maritime traffic, congestion, safety, and wake concerns in Tongass Narrows. The individuals and groups represented at these meetings included recreational vessel operators, passenger vessel operator, commercial fishing vessel operators, waterfront facility managers, commercial freight vessel/barge operators, commercial tank barge operators, commercial Kayak operators, floatplane operators, charter vessel operator, and local residents.

Seven knot speed limit. The majority of the comments received at these meetings indicated that the existing 7-knot speed limit was no longer appropriate for the current navigational situation on Tongass Narrows. A search of the National Archives and comments received indicate that the original purpose of this speed restriction was to control bank erosion and damage to rafted fishing vessels from large wakes. In the forty plus years that this speed limit has been in effect, the number and type of vessels transiting, mooring, and anchoring in Tongass Narrows has changed considerably—with congestion becoming a much greater problem. For example, on an average summer day last year, traffic on Tongass Narrows consisted of more than 500 floatplane takeoffs and landings (in August 1998 the average was 526 takeoffs and landings per day), 173 charter boat transits, 22 small passenger vessels transits, 5 large cruise ships transits with 1 or 2 at anchor, 150 fishing vessels plying their trade at 7 canneries, 4 barge/tug transits, 30 to 40 kayaks transits; and an unknown number of recreation and transient boat traffic. These numbers are predicted to increase by 3 to 4 percent during the 1999 tourist season.

Numerous comments criticized the present speed limit, noting that it is impossible for floatplanes to comply with this restriction when on the water because they must exceed this speed in order to take off and land. Comments also noted that modern, small vessels with planing hulls actually create less wake when operated at higher speeds. Numerous comments thought that permitting smaller vessels to transit more rapidly would decrease congestion by clearing vessel traffic more quickly, while actually decreasing problems with the wakes from those vessels.

Comments were also received favoring extension of the speed limit zone to the north, as far as Channel Island, while clarifying the end of the speed limit in the west channel of Tongass Narrows. The extension northward was favored because it would help reduce in an area that has become more heavily developed, with regular ferry transits and significant floatplane traffic near the airport.

Large Vessel Anchorage. The operators of cruise ships commented that the slow and often erratic transits of small vessels made the maneuvering and anchoring of large cruise ships very difficult in the present safety zone in Ketchikan Harbor. Although comments generally favored relaxation of the speed limit for small vessels, there was concern that increased speed, when combined with erratic maneuvering, would actually worsen the situation for anchoring cruise ships.

Discussion of Proposed Rules

The proposed rule would modify the existing boundaries for the 7-knot speed limit. Currently the 7-knot speed limit applies to water traffic in the Tongass Narrows from Idaho Rock to Charcoal Point. This provides adequate protection for facilities and vessels in the southern portion of the narrows but not those located in the northern section. The current regulation also covers all types and sizes of vessels and does not make any allowances for floatplanes nor for smaller vessels that do not typically cause a large wake. As proposed, the revised rule would modify the geographical boundaries of the regulated area. The new boundaries would be: Channel Island in the north part of the narrows; Idaho Rock as the southermost boundary for the east channel; and West Pennock Light 4 as the southermost boundary in the west channel. The second change would be to add an exemption from the 7-knot speed limit for floatplanes during landings and takeoffs and for vessels of 26 feet or less in length.

By exempting smaller vessels and floatplanes from the speed limit, the traffic congestion in all of Tongass Narrows (including the northern section) should be eased. Without the speed limit for small vessels, they would depart from, or transit through, the congested areas more quickly. This is turn should ease congestion and reduce navigational conflicts that have arisen between slow moving small boats and cruise ships and other large waterway users. Large wakes would not become a problem because the exemption is limited to smaller vessels and because Tongass Narrows regularly experiences substantial wave action (due to the large fetch in the Narrows) that is equivalent to the wake from these smaller vessels. The speed limit is retained for vessels over 26 feet because they commonly operate in the displacement mode, in which case they generate considerable wake at higher speeds.

The proposed rule re-designates the present safety zone as an anchorage ground and requires motorized vessels to proceed directly, without delay or rapid course changes, while transiting through the anchorage area. This should allow smaller vessels to rapidly move through the area without slow or erratic maneuvers that create difficulties for large vessels using the anchorage area.

Regulatory Evaluation

The proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040: February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is so because the regulation is designed to reduce present impacts on waterway users of the existing speed limit. In regards to the extension of the speed limit northward to Channel Island, operators of larger vessels stated that their present practice is to slow down upon reaching Channel Island, so the proposed change conforms to an existing practice. In combination with the speed limit exemption for floatplanes and vessels 26 feet and less in length, the overall impact should be minimal. The new requirement to proceed directly, without erratic maneuvering, through the anchorage area, is expected, in combination with relaxation of the speed limit for small vessels, to result in less congestion and quicker and safer transits for all users.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard considers whether this proposed rule, if adopted, will have significant economic impacts on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard believes there will be some impact to small entities, but that it will be beneficial. This is so because the speed limit is relaxed for smaller waterway users; i.e., floatplanes and vessels 26 feet long and shorter, which eases their transit times and thus benefits these users. This group includes many small charter plane and charter fishing vessel operators. Although the Coast Guard is unsure of the economic impacts on other users, it believes such impact is generally beneficial because the combination of regulatory changes should reduce congestion and navigational conflicts

throughout the waterway and make transits safer and faster for all user groups. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If however, you think your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection-of-Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this advance notice under the principles and criteria contained in E.O. 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalisms Assessment.

Environment

The Coast Guard considered this proposal in accordance with paragraph 2.B.2.b of COMDTINST M16475.1C (National Environmental Policy Act—Implementing Procedures and Policy for Considering Environmental Impacts), and concluded that there are no circumstances that indicate a potential for significant effects. Therefore, the categorical exclusion provided in figure 2–1, paragraph 34(g) of COMDTINST M16475.1C is appropriate and no further environmental analysis or documentation is required. A "Categorical Exclusion" and an "Environmental Analysis Checklist" are available in docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 162

Navigation (water), Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 110, 162, and 165 as follows:

PART 162—[AMENDED]

1. The authority citation for part 162 continues to read a follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Revise § 162.240(b) to read as follows:

§ 162.240 Tongas Narrows, Alaska; Navigation.

* * * * *

(b) No vessel of over 26 feet in length, except for floatplanes during landings and take-offs, shall exceed a speed of seven knots in the region of Tongass Narrows bounded to the north by Channel Island and to the south by Idaho Rock in the east channel of Tongass Narrows and West Pennock Light 4 in the west channel of Tongass Narrows.

* * * * *

PART 165—[AMENDED]

PART 110—[AMENDED]

3. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 33 U.S.C. 2071; 33 CFR 1.05–1(g); 49 CFR 1.46. Section 110.1a and each section listed in it are also issued under 33 U.S.C. 1223 and 1231.

§ 165.1705 [Redesignated as § 110.231]

4. Section 165.1705 is redesignated as § 110.23 and is revised to read as follows:

§ 110.231 Ketchikan Harbor, Alaska, Large Passenger Vessel Anchorage.

(a) *The anchorage grounds, Ketchikan Harbor, Alaska, Large Passenger Vessel Anchorage.* The waters of Ketchikan Harbor, Ketchikan, Alaska, enclosed by the following boundary lines: A line from Thomas Basin Entrance Light "2", to East Channel Lighted Buoy "4A", to Pennock Island Reef Lighted Buoy "PR", to Wreck Lighted Buoy "WR6", then following a line bearing 064 degrees true to shore. This anchorage is effective 24 hours per day from 1 May through 30 September, annually.

(b) *The regulations.* (1) When transiting through the anchorage, all vessels using propulsion machinery shall proceed across the anchorage by the most direct route and without unnecessary delay. Sudden course changes within the anchorage are prohibited.

(2) No vessels, other than a large passenger vessel over 1600 gross tons (including ferries), may anchor within the anchorage without the express consent of the Captain of the Port, Southeast Alaska.

A. Regalbuto,

Captain, U.S. Coast Guard, Acting Commander, Seventeenth Coast Guard District.

[FR Doc. 99–7270 Filed 3–22–99; 12:42 pm]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 201–0138b; FRL–6310–1]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the California State Implementation Plan (SIP) which concerns South Coast Air Quality Management District Rule 701. The intended effect of proposing approval of this rule is to update the episode criteria and to modify the boundary between two Source Receptor Area in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.

The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 26, 1999.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of this rule is available for public inspection at EPA's Region 9

office during normal business hours. Copies of the submitted rule revision is also available for inspection at the following locations:

South Coast Air Quality Management District, 21865 E., Copley Drive, Diamond Bar, CA 91765.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1189.

SUPPLEMENTARY INFORMATION: This document concerns South Coast Air Quality Management District Rule 701, Air Pollution Emergency Contingency Actions. This rule was submitted by the California Air Resources Board to EPA on September 8, 1997. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–7177 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6313–7]

Protection of Stratospheric Ozone; Listing of Substitutes for Ozone-Depleting Substances; Correction

AGENCY: Environmental Protection Agency.

ACTION: Request for data and advance notice of proposed rulemaking; correction.

SUMMARY: On February 18, 1999, the Environmental Protection Agency published in the **Federal Register** (64 FR 8043), a Request for Data and Advance Notice of Proposed Rulemaking. Inadvertently, the docket number listing in the **ADDRESSES** section was incorrect. The correct docket number and contact information is listed in the **ADDRESSES** section of this document.

DATES: The comment period has been extended by two weeks to accommodate any inconvenience the incorrect information may have caused. Written comments on data provided in response to the ANPR must be submitted by May 3, 1999.

ADDRESSES: Comments on and materials supporting this advance notice are collected in Air Docket # A–91–42, U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC, 20460. The docket is located at the address above in room M–1500, First Floor, Waterside Mall. The materials may be inspected from 8 am until 5:30 pm Monday through Friday. Telephone (202) 260–7548; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Hotline at (800) 296–1996 or Melissa Payne at (202) 564–9738 or fax (202) 565–2096, Analysis and Review Branch, Stratospheric Protection Division, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to our 501 3rd Street, NW., Washington, DC, 20001 location.

SUPPLEMENTARY INFORMATION: The EPA published an advance notice of proposed rulemaking in the **Federal Register** of February 18, 1999 (64 FR 8043) that incorrectly listed Air Docket #A–92–13 for materials supporting and comments on the advance notice. This correction replaces that Docket number with the correct Air Docket number. In addition, the appropriate Air Docket contact information (telephone and fax number) is provided in the **ADDRESSES** section of this document.

In proposed rule FR Doc. 99–3993 published on February 18, 1999 (64 FR 8043), make the following correction. On page 8043, in the third line of the **ADDRESSES** section, correct "Air Docket #A–92–13" to read "Air Docket #A–91–42".

Dated: March 15, 1999.

Robert D. Brenner,

Acting Assistant Administrator, OAR.

[FR Doc. 99–7084 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6313–8]

Protection of Stratospheric Ozone; Listing of Substitutes for Ozone-Depleting Substances; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: On February 18, 1999, the Environmental Protection Agency published in the **Federal Register** (64 FR 8038), a Notice of Proposed Rulemaking. Inadvertently, a paragraph in the table of appendix G to subpart G was incorrect. In the "conditions" column of the Fire Suppression and Explosion Protection Total Flooding Agents table for substitute IG–100, it was stated incorrectly that a design concentration of less than 10% may only be used in normally occupied areas, as long as an employee who could possibly be exposed can egress within 30 seconds. Instead, the table should read: "A design concentration of less than 10% may only be used in normally unoccupied areas, as long as an employee who could possibly be exposed can egress within 30 seconds."

DATES: The comment period has been extended to accommodate any inconvenience the incorrect information may have caused. Written comments on data provided in response to the Notice of Proposed Rulemaking must be submitted by May 3, 1999.

ADDRESSES: Written comments or data should be sent to Air Docket A–91–42, U.S. Environmental Protection Agency, 401 M Street, SW., Room M–1500, Washington, DC, 20460. The docket is located at the address above in room M–1500, First Floor, Waterside Mall. The materials may be inspected from 8 am until 5:30 pm Monday through Friday. Telephone (202) 260–7548; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials. To expedite review, a second copy of the comments should be sent to Kelly Davis at the address listed below under **FOR FURTHER INFORMATION CONTACT.** Information designated as Confidential Business Information (CBI) under 40 CFR part 2, subpart 2, must be sent directly to the contact person for this document. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Hotline at (800) 296–1996 or Kelly Davis at (202) 564–2303 or fax (202) 565–2096, Analysis and Review Branch, Stratospheric Protection Division, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to our 501 3rd Street, NW., Washington, DC, 20001 location.

SUPPLEMENTARY INFORMATION: The EPA published a document in the **Federal**

Register of February 18, 1999 (64 FR 8038) which incorrectly listed a paragraph of the conditions for Fire Suppression and Explosion Protection Total Flooding Agents substitute IG–100. This correction replaces that paragraph in the table found in appendix G to subpart G to part 82.

In proposed rule FR Doc. 99–3992 published on February 18, 1999 (64 FR 8038), make the following correction. On page 8043, in the first table of appendix G to subpart G to part 82, correct the final paragraph under "Conditions" to read, "A design concentration of less than 10% may only be used in normally unoccupied areas, as long as an employee who could possibly be exposed can egress within 30 seconds."

Dated: March 12, 1999.

Robert D. Brenner,

Acting Assistant Administrator, OAR.

[FR Doc. 99–7085 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–6315–2]

RIN 2060–AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Rocky Flats Environmental Technology Site for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at Rocky Flats Environmental Technology Site (RFETS) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are entitled: (1) "Transuranic Waste Management Manual, Rev. 2," (2) "RFETS TRU Waste Characterization Program Quality Assurance Project Plan," and (3) "Salt Residue Stabilization, Building 707 Process Control/Qualification Plan." They are available for review in the public dockets listed in **ADDRESSES.** EPA will conduct an inspection of waste characterization systems and processes at RFETS to verify that the proposed systems and processes at RFETS can characterize transuranic waste in accordance with EPA's WIPP compliance criteria at 40 CFR 194.24. EPA will perform this inspection the week of April 12, 1999. This notice of the inspection and comment period accords with 40 CFR 194.8.

DATES: EPA is requesting public comment on the document. Comments must be received by EPA's official Air Docket on or before April 26, 1999.

ADDRESSES: Comments should be submitted to: Docket No. A–98–49, Air Docket, Room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The DOE document is available for review in the official EPA Air Docket in Washington DC, Docket No. A–98–49, Category II–A–2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10am–9pm, Friday–Saturday, 10am–6pm, and Sunday 1pm–5pm; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Monday—Thursday, 8am–9pm, Friday, 8am–5pm, Saturday–Sunday, 1pm–5pm; and in Santa Fe at the Fogelson Library, College of Santa Fe, Hours: Monday–Thursday, 8am–12am, Friday, 8am–5pm, Saturday, 9am–5pm, and Sunday, 1pm–9pm.

As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Scott Monroe, Office of Radiation and Indoor Air, (202) 564–9310 or call EPA's toll-free WIPP Information Line, 1–800–331-WIPP.

SUPPLEMENTARY INFORMATION:

Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Public Law 102–579), as amended (Public Law 104–201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratory (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of Appendix A to 40 CFR part 194); and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until the EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of Appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision-making process, the DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, D.C., and informational dockets in the State of New Mexico for public review and comment.

EPA inspected certain waste characterization processes at RFETS on June 22–26, 1998. At the time of EPA's inspection, RFETS was using these processes to characterize waste that DOE categorizes as debris waste. DOE is proposing to characterize a different category of waste, called salt residues, using processes at RFETS that EPA did not previously inspect. DOE also is proposing to use a repackaging process for LECO crucibles, a type of debris waste. EPA will conduct a inspection of RFETS to verify that these additional processes comply with 40 CFR 194.24.

EPA has placed three documents pertinent to the inspection in the public dockets described in **ADDRESSES.** The documents are entitled: (1) "Transuranic Waste Management Manual, Rev. 2," (2) "RFETS TRU Waste Characterization Program Quality Assurance Project Plan," and (3) "Salt Residue Stabilization, Building 707 Process Control/Qualification Plan." The first two documents are revised

versions of documents placed in the docket prior to the June 1998 inspection (Docket A–98–49, Items II–A2–1 and II–A2–2). In accordance with 40 CFR 194.8, as amended by the final certification decision, EPA is providing the public 30 days to comment on the document.

If EPA determines as a result of the inspection that the proposed systems and processes at RFETS can adequately characterize transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow the DOE to ship from RFETS the TRU waste that may be characterized using the approved processes. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at the three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: March 18, 1999.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–7331 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–80, RM–9493]

Radio Broadcasting Services; Hubbardston, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Garry Zack proposing the allotment of Channel 279A at Hubbardston, Michigan, as that community's first local broadcast service. The channel can be allotted to Hubbardston with a site restriction 2.1 kilometers (1.3 miles) west of the community at coordinates 43–05–53 NL and 84–51–54 WL. Canadian concurrence will be requested for the allotment at Hubbardston.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Robert L. Olender, Baraff, Koerner & Olender, P.C., 3 Bethesda Metro Center, Suite 640, Bethesda, Maryland 20814–5330.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–80, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7315 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–77, RM–9489]

Radio Broadcasting Services; Frenchtown, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Idaho Broadcasting Consortium proposing the allotment of Channel 294C2 to Frenchtown, Montana, as that community's first local broadcast service. The channel can be allotted to Frenchtown without a site restriction at coordinates 47–00–54 NL and 114–14–00 WL. Canadian concurrence will be requested for the allotment of Channel 294C2 at Frenchtown.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lee W. Shubert, Haley Bader & Potts P.L.C., 4350 North Fairfax Drive, Suite 900, Arlington, Virginia 22203–1633.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–77, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7314 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–78, RM–9487]

Radio Broadcasting Services; Blackduck, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Community Religious Broadcasters proposing the allotment of Channels 221A and 283A at Blackduck, Minnesota, as that community's second and third FM broadcast services. Both channels can be allotted to Blackduck without a site restriction using the city reference coordinates (47–43–48 NL and 94–32–54 WL). Canadian concurrence will be requested for the allotment of both channels at Blackduck.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Harry F. Cole, Bechtel & Cole, Chartered, 1901 L Street, NW, Suite 250, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–78, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7313 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–79, RM–9488]

Radio Broadcasting Services; Broadview, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Windy Valley Broadcasting proposing the allotment of Channel 290C3 to Broadview, Montana, as that community's first local broadcast service. The channel can be allotted to Broadview without a site restriction at coordinates 46–06–00 NL and 108–52–36 WL.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, Jr., President, Windy Valley Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–79, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7312 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–84, RM–9501]

Radio Broadcasting Services; Stratford, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Peter George seeking the allotment of Channel 254A to Stratford, NH, as the community's first local aural service. Channel 254A can be allotted to Stratford in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.3 miles) north, at coordinates 44–43–54 NL; 71–34–10 WL, to avoid a short-spacing to the proposed allotment of Channel 256A at Whitefield, NH (MM Docket 99–42).

Canadian concurrence in the allotment is required since Stratford is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Peter George, 33 Stetson St., Apt. #2, Whitman, MA 02382 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–84, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7311 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–85, RM–9504]

Radio Broadcasting Services; Overton, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting seeking the allotment of Channel 295C1 to Overton, NV, as the community's first local aural service. Channel 295C1 can be allotted to Overton in compliance with the Commission's minimum distance separation requirements with a site restriction of 40 kilometers (24.9 miles) north, at coordinates 36–53–17 NL; 114–34–27 WL, to avoid short-spacings to Stations KSNE–FM, Channel 293C, Las Vegas, NV, KCCA, Channel 296C3, Colorado City, AZ, and to the construction permit of a new station on Channel 296B, Needles, CA.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–85, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7310 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–86, RM–9505]

Radio Broadcasting Services; Fruitland, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting seeking the allotment of Channel 300A to Fruitland, NM, as its first local commercial aural service. Channel 300A can be allotted to Fruitland in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 36–44–18 NL; 108–23–30 WL. Petitioner is requested to provide further information to demonstrate that Fruitland is a community for allotment purposes..

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Mivchael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.

99–86, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7309 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–82, RM–9496]

Radio Broadcasting Services; Allen, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain West Broadcasting seeking the allotment of Channel 265A to Allen, NE, as the community's first local aural service. Channel 265A can be allotted to Allen in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.4 kilometers (2.7 miles) north, at coordinates 42–27–14 NL; 96–51–07 WL, to avoid a short-spacing to Station KGBI–FM, Channel 264C, Omaha, NE.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–82, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7308 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–83, RM–9500]

Radio Broadcasting Services; Saranac Lake, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dana Puopolo to allot Channel 276A to Saranac Lake, as the community's third local FM service. Channel 276A can be allotted to Saranac Lake in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 44–19–48 NL; 74–08–00 WL. Canadian concurrence as a specially negotiated short-spaced allotment is required since Saranac Lake is located within 320 kilometers (200 miles) of the U.S.-Canadian border and the allotment would be short-spaced to the proposed allotment of Channel 276A, Huntington, Quebec, and vacant Channel 276A at Valleyfield, Quebec, Canada.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dana Puopolo, 37 Martin St., Rehoboth, MA 02769–2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–83, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed

Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7307 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–76; RM–9400]

Radio Broadcasting Services; Silverton and Bayfield, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Voice Ministries of Farmington, Inc., permittee for a new FM broadcast station to operate on Channel 297C1, Silverton, Colorado, requesting the reallotment of Channel 297C1 from Silverton to Bayfield, Colorado, and modification of its authorization to specify operation on Channel 296C at the latter community, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Coordinates used for this proposal are 37–13–32 NL and 107–35–53 WL.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Jeffrey D. Southmayd, Esq., Southmayd & Miller, 1220 19th Street, N.W., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–76, adopted March 10, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7306 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–75, RM–9446]

Radio Broadcasting Services; Grants and Milan, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Don Davis, licensee of Station KQEO, Grants, NM, requesting the reallotment of Channel 264A from Grants to Milan, NM, as the community's second local and first fulltime aural service, and the modification of Station KQEO's license to specify Milan as its community of license. Channel 264A can be allotted to Milan in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.7 kilometers (3.6 miles) south, at coordinates 35–07–09 North Latitude; 107–54–08 West Longitude, which is Station KQEO's presently licensed transmitter site. The Commission also proposes to editorially amend the FM Table of Allotments by substituting Channel 224A for Channel 224C2 and Channel 264A for Channel 264C2 at Grants to reflect the license changes for Stations KAIU and KQEO, respectively.

DATES: Comments must be filed on or before May 10, 1999, and reply comments on or before May 25, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Barry D. Wood, Paul H. Brown, Wood, Maines & Brown, Chartered, 1827 Jefferson Place, N.W., Washington, D.C. 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–75, adopted March 3, 1999, and released March 19, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–7304 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 204 and 252

[DFARS Case 99–D006]

Defense Federal Acquisition Regulation Supplement; Oral Attestation of Security Responsibilities

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add a requirement for contractor employees that are cleared for access to certain classified information to attest orally that they will comply with the security requirements associated with the information.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 24, 1999, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 99–D006 in all correspondence related to this issue. E-mail comments should cite DFARS Case 99–D006 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the DFARS to add a new clause for use in contracts requiring access to classified information. The new clause would require contractor employees that are cleared for access to information designated as Top Secret, Special Access Program, or Special Compartmented Information to attest orally that they will conform to the conditions and responsibilities imposed by law or regulation on those granted access to such information.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.*, because the conditions and responsibilities that are the subject of the oral attestation are conditions and responsibilities that already are placed on individuals granted access to classified information. To satisfy the requirement for oral attestation, the rule permits reading aloud from a form that the individual already is required to sign. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99–D006 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 204 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 204 and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 204 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 204—ADMINISTRATIVE MATTERS

2. Section 204.404–70 is amended by adding paragraph (c) to read as follows:

204.404–70 Additional contract clauses.

* * * * *

(c) Use the clause at 252.204–7XXX, Oral Attestation of Security Responsibilities, in solicitations and contracts that include the clause at FAR 52.204–2, Security Requirements.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.204–7XXX is added to read as follows:

252.204–7XXX Oral Attestation of Security Responsibilities.

As prescribed in 204.404–70(c), use the following clause:

ORAL ATTESTATION OF SECURITY RESPONSIBILITIES (XXX 19XX)

(a) Contractor employees cleared for access to Top Secret (TS), Special Access Program (SAP), or Special Compartmented Information (SCI) shall attest orally that they will conform to the conditions and responsibilities imposed by law or regulation on those granted access. Reading aloud the first paragraph of the Standard Form 312, Classified Information Nondisclosure Agreement, in the presence of a person designated by the Contractor for this purpose, and a witness, will satisfy this requirement. Contractor employees currently cleared for access to TS, SAP, or SCI may attest orally to their security responsibilities when being briefed into a new program or during their annual refresher briefing. There is no requirement to retain a separate record of the oral attestation.

(b) If an employee refuses to attest orally to security responsibilities, the Contractor shall deny the employee access to classified information and shall submit a report to the Contractor's security activity.

(End of clause)

[FR Doc. 99–7137 Filed 3–24–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-day Finding for a Petition To List the Black-Tailed Prairie Dog as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We have received a petition to list the black-tailed prairie dog (*Cynomys ludovicianus*) throughout its range in Arizona, Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wyoming, southern Saskatchewan, Canada, and northern Mexico. The petition presents substantial scientific and commercial information that the request for listing may be warranted. Therefore, we are initiating a status review to determine if the petitioned action is warranted. To ensure that the review is comprehensive, we are soliciting information and data regarding this action. We will use information received during the comment period for this status review in our review of the black-tailed prairie dog.

DATES: The finding announced in this document was made on March 17, 1999. A status review is initiated. To have

information considered in the status review and subsequent 12-month finding for the petition, submit information to us by May 24, 1999.

ADDRESSES: Data, information, technical critiques, comments, or questions relevant to this finding should be submitted to the Field Supervisor, Ecological Services, U.S. Fish and Wildlife Service, 420 South Garfield Avenue, Suite 400, Pierre, South Dakota 57501–5408. You may inspect the petition, finding, and supporting documents, by appointment, at the above address. You may request and receive electronic copies of the petition and finding via e-mail from r6fwe__pie@fws.gov.

FOR FURTHER INFORMATION CONTACT: Pete Gober, at the address given above, or telephone (605) 224–8693.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973 as amended (16 U.S.C. 1531 *et seq.*), requires us to make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific and commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to us at the time we make the finding. To the maximum extent practicable, we make this finding within 90 days of receipt of the petition and we promptly publish a Notice in the **Federal Register**. This document provides a summary of the information in the 90-day finding, which is our decision document. When we make a positive finding, we are required to promptly initiate a status review of the species. A positive 90-day finding is not a decision to list a species. This document meets the requirement for publication of a 90-day finding on the petition discussed below.

We have made a 90-day finding on a petition to list the black-tailed prairie dog (*Cynomys ludovicianus*). The petition, dated July 30, 1998, was submitted by Thomas France, Esq., and Dr. Sterling Miller, both of Missoula, Montana, and Kimberly Graber, Esq., of Denver, Colorado, on behalf of the National Wildlife Federation (NWF; "the Petitioners"), and was received by us on July 31, 1998, accompanied by a letter from Mark Van Putten, Chief Executive Officer for NWF. The Petitioners requested that we list the black-tailed prairie dog as a threatened species throughout its range. The Petitioners also requested that the black-tailed prairie dog receive emergency listing under the Act.

We received another petition regarding the same species from the Biodiversity Legal Foundation, the Predator Project, and Jon C. Sharps on August 26, 1998. They requested that we list the black-tailed prairie dog as threatened throughout its known historic range in the contiguous United States. We accepted this second request as supplemental information to the NWF petition.

The Petitioners presented extensive information regarding the biology and ecology of the black-tailed prairie dog. The Petitioners and other interested parties also provided supplemental information to the NWF petition that has been considered in this finding. Additionally, we have reviewed information in our files, other readily available information, and information submitted by Federal, State, and Tribal agencies. We expect to solicit and receive additional information through the status review of the species.

The Petitioners expressed concern about continuing human activities that pose a threat to the black-tailed prairie dog and additional threats that might be anticipated following the filing of their petition. The Petitioners predicted that poisoning and shooting activities would increase and result in significant population declines for the species during the normal rulemaking process. Thus, the petitioners requested that we emergency list the black-tailed prairie dog. Under 16 U.S.C. 1533(b)(7), the Secretary of the Interior has the authority to suspend normal rulemaking procedures and issue emergency regulations for a species, when there is a significant risk to the species and where the routine listing process is not adequate to prevent losses that may result in extinction. We determined, and advised the Petitioners, that based on our initial review of the petition, it would be inappropriate to emergency list this species based on its current known status. Furthermore, it is typically inappropriate to emergency list a species as threatened because the threatened definition only covers species that are at risk of becoming endangered, not extinct. We acknowledged that existing regulatory mechanisms for black-tailed prairie dogs may not preclude continued losses of individuals from some populations of the species. However, we believe that the normal petition review and rulemaking procedures are sufficient and appropriate. We will revisit the issue of emergency listing if the immediacy or magnitude of threats increase such that black-tailed prairie dogs require immediate protection.

The historical range of the black-tailed prairie dog includes southern Saskatchewan, Canada; eastern Montana, Wyoming, Colorado, and New Mexico; western North Dakota; western and central South Dakota, Nebraska, Kansas, and Oklahoma; western, northwestern, and northern Texas; and northeastern Mexico (Miller et al. 1996). The species was present historically in eastern Arizona, but was extirpated in recent years (Alexander 1932). The Petitioners noted that the species still occurs generally throughout its historic range, although much reduced in numbers and in the amount of habitat that it occupies. The Petitioners asserted that the black-tailed prairie dog once occupied more than 100 million acres (ac) or 40 million hectares (ha) of western North America, contrasted that with current estimates of occupied habitat (Knowles 1998a), and concluded that the species' population has been reduced by 99 percent. The Petitioners attributed reductions in occupied habitat to habitat loss and degradation related to the conversion of prairie grasslands to farmland, urban development, extensive poisoning efforts, unregulated shooting, disease, combinations of these factors, and other causes.

The Petitioners asserted that the small size and widely spaced distribution of most remaining black-tailed prairie dog colonies create concerns of adverse influences of habitat fragmentation, dispersal limitations, and other factors. They asserted that the cumulative effect of these factors is to reduce the viability of the species and increase the probability of extinction for the species. They acknowledged that the number of individual black-tailed prairie dogs appears to be comparable to many other species that are not thought to be in danger of extinction. However, they argued that the species is threatened as evidenced by (and due to) its precipitous historic population decline, its recent population declines, and the number and variety of threats to it. The Petitioners emphasized the colonial nature of the black-tailed prairie dog and the subsequent population responses en masse to habitat conversion, poisoning efforts, and especially disease (i.e., sylvatic plague, a disease exotic to North America and to which prairie dogs have no immunity).

The Petitioners pointed out that all States within the range of the black-tailed prairie dog have classified it as a pest for agricultural purposes, either permitting or requiring eradication of the species. They also asserted that these States allow or promote unlimited

recreational shooting. The Petitioners believed that there are inconsistent Federal policies regarding all species of prairie dogs, and that the legal mechanisms under which they have declined remain in place. The Petitioners asserted that some Tribes have a sophisticated management program for the black-tailed prairie dog and play an important role in its conservation.

We have previously addressed the status of the black-tailed prairie dog. On October 21, 1994, the Biodiversity Legal Foundation and Jon C. Sharps petitioned us to classify the black-tailed prairie dog as a Category 2 candidate species pursuant to the Administrative Procedures Act and the "intent of the Endangered Species Act" (Biodiversity Legal Foundation and Sharps 1994). At that time a Category 2 candidate species was a taxon for which we believed listing might be appropriate, but for which there was not sufficient data regarding biological vulnerability or threats to support a proposed rule. We no longer use this candidate classification system. The addition of a species to the list of Category 2 candidates was not an action petitionable under the Act. However, we reviewed the status of the black-tailed prairie dog in 1994–1995 and concluded that the numbers, distribution, and reproductive capability of the species were such that it did not warrant candidate status at that time (Terrell, U.S. Fish and Wildlife Service, *in litt.* 1995). New information has become available since then and we believe that an additional status review is now appropriate.

Black-tailed prairie dogs are small, stout, ground squirrels approximately 14–17 inches (in) long and weighing 1–3 pounds (lbs). Black-tailed prairie dogs are highly social colonial, diurnal, burrowing animals. Individual appearance within the species varies with a mix of brown, black, gray, and white, but with a characteristic black-tipped tail (Hoogland 1995). The black-tailed prairie dog is a colonial ground squirrel and one of five species in the genus *Cynomys*, all of which occur in western North America. There are two subspecies of the black-tailed prairie dog—the Arizona black-tailed prairie dog (*C. l. arizonensis*), and the more widespread black-tailed prairie dog (*C. l. ludovicianus*) (Hall and Kelson 1959), which is usually what is thought of when the common name "black-tailed prairie dog" is used.

Historical and Current Distribution

The Arizona subspecies (*C. l. arizonensis*) is found in northeastern Mexico (Ceballos et al. 1993), is extirpated (extinct) in Arizona (Alexander 1932), may or may not be present in New Mexico, and is remnant in west Texas (Davis 1974; Hall and Kelson 1959). Individuals of this subspecies in Chihuahua, Mexico, comprise the largest prairie dog complex (90,000 ac or 36,000 ha) remaining in North America. This complex is the only significant population remaining in Mexico (Ceballos et al. 1993). The black-tailed prairie dog is listed as threatened by the Lista de las Especies Amerzadas, the official threatened and endangered species list of the Mexican Government (SEMARNAP 1994).

The major subspecies, *C. l. ludovicianus*, is found in Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, northern Texas, and Canada. In Canada, the black-tailed prairie dog is designated as vulnerable by the Committee on the Status of Endangered Wildlife in Canada. In the remainder of this finding, the name "black-tailed prairie dog" will be used to include both subspecies.

In addition to the large colony in Mexico, we know of only six other black-tailed prairie dog colonies larger than 10,000 ac (4,000 ha) remaining throughout the species' range—one in Montana, one in Wyoming, and four in South Dakota. South Dakota, the only State where plague is absent, contains an estimated 32 percent of the remaining black-tailed prairie dog occupied habitat. All other remaining black-tailed prairie dog colonies are smaller, more isolated, and spottily distributed throughout the species range.

Rangewide, the black-tailed prairie dog is estimated to inhabit only a small fraction of the area that it once occupied, perhaps as little as 800,000 ac (320,000 ha) (Knowles 1998a) of what may have been 300 million ac or more (120 million ha) in its original range (Seton 1953). Seton (1953) estimated that individuals of black-tailed prairie dogs once numbered 5 billion. Many prairie dog colonies were quite large and interconnected (Miller et al. 1996). By 1961, the area occupied by black-tailed prairie dogs in the United States had declined to approximately 364,000 ac (147,000 ha) (Bureau of Sport Fisheries and Wildlife 1961). Knowles (1998a), Weurthner (1997), Barko (1997), Knowles (1995), Mulhern and Knowles (1995), and Fagerstone and Ramey (1995) concluded that an approximate decrease in area occupied of 94–99 percent had occurred compared to historic estimates. Generally, State wildlife agencies confirm this decline, but some point out that disproportionately more occupied habitat remains in some areas than in others. Knowles' (1998a) estimated that 677,000 ac (274,000 ha) of black-tailed prairie dog occupied habitat in the United States remains. Some increases in black-tailed prairie dog occupied habitat occurred in 1961–1980 (notably in Wyoming and South Dakota), but in 1980–1998, significant declines occurred in Montana, Mexico, and South Dakota.

Three major impacts have had substantial influence on black-tailed prairie dog populations and distribution. The petitioners asserted that the first major impact on the species historically was the conversion of prairie grasslands to farmland in the eastern portion of its range, and that the second major impact on the species was large-scale poisoning conducted to reduce perceived competition between prairie dogs and domestic livestock. A third major impact on the species was the inadvertent introduction of an exotic disease from the Old World, sylvatic plague, into the North American prairie ecosystem. Other authors also address these threats to the black-tailed prairie dog, as discussed below.

Threats

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

The petitioners asserted that conversion of prairie habitat to farmland was one of the primary causes of the decline in occupied habitat of the black-tailed prairie dog. Between 1880 and 1899, 104 million ac (42 million ha) of the total western plains surface area was converted to crop productions (Laycock 1987). Native grasslands have been reduced by approximately 60 percent (Burke *in prep.*) resulting in significant destruction of black-tailed prairie dog habitat. Some agricultural conversion of native grasslands continues today, and could accelerate with the increase of dryland cropping and use of genetically engineered drought resistant crop strains. Hexem and Krupa (1987) identified 57,700,000 ac (23,400,000 ha) of unplowed land in the western Great Plains with potential for cropland conversion. Such conversion could significantly reduce the remaining native prairie and black-tailed prairie dog habitat.

Urbanization also presents a significant loss of black-tailed prairie dog habitat in local areas near metropolitan areas such as Wichita,

Kansas; Helena, Montana (Knowles 1995); and the Front Range of Colorado near Denver (Weber, Colorado Division of Wildlife, pers. comm. 1998). Habitat loss also occurs through degradation of burrows and vegetation changes in areas where black-tailed prairie dogs have been removed. Once underground burrows collapse or there is an increase in woody or taller vegetation, the species is less likely to reestablish itself in the area. At the Rocky Mountain Arsenal National Wildlife Refuge in Colorado, reintroduced black-tailed prairie dogs reestablished themselves quickly where intact burrows constructed by previous prairie dogs (extirpated by sylvatic plague) had not deteriorated (Seery, U.S. Fish and Wildlife Service, pers. comm. 1998). Where burrows had deteriorated, prairie dogs established themselves slowly and with little success. Weltzin et al. (1997) determined that historically, black-tailed prairie dogs, and the herbivores and granivores associated with their colonies, probably maintained grassland and savanna by preventing woody species such as mesquite from establishing or attaining dominance. List (1997) reported that poisoning of black-tailed prairie dogs in Mexico resulted in the invasion of mesquite shrubs that rendered the landscape unsuitable for reoccupation by the species; moreover, fire suppression would likely maintain this situation. Davis (1974) also noted that removal of the species from some sites in Texas resulted in the invasion of brush. Thus, when degradation of burrows or vegetation changes occur, the amount of habitat suitable for recolonization may be reduced. Current levels of conversion of rangeland to farmland or urban development may not be as important to the species' numbers and viability as are indirect losses caused by poisoning or disease. These indirect losses of individuals or local populations may result in habitat loss for the species through the deterioration of burrows and the alteration of vegetative communities.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

One activity impacting black-tailed prairie dog populations in some local areas is unregulated recreational (sport or varmint) shooting. Shooting has increased appreciably in popularity in recent years. An example of this is the Buffalo Gap National Grasslands in South Dakota where the number of annual shooter days has increased from a few hundred in the mid-1990's to an estimated 6,500 in 1998 (Perry, U.S. Forest Service, pers. comm., 1998). High-powered rifles with high-quality scopes enable the modern varmint shooter to be consistently accurate at distances of 400 yards (yd) (400 meters (m)) or greater, and an individual shooter may shoot a considerable number of animals each day (Kayser 1998). Many States do not require hunting licenses and have no bag limits or seasonal restrictions for taking prairie dogs. Prairie dog density may decrease with increased shooting pressure and prairie dogs may spend more time on alert and less time foraging (Vosberg 1996). Shooting also may contribute to population reduction and fragmentation, reduce colony productivity and health, and preclude or delay recovery of colonies reduced by other factors such as sylvatic plague. Recreational shooting may significantly impact colonies in local areas where shooting is most intense or colony numbers are already reduced from other losses.

C. Disease or Predation

Sylvatic plague is a non-native disease caused by the bacterium, *Yersinia pestis*, which fleas can harbor and transmit to rodents and other species (Cully 1989). The term "sylvatic" refers to the occurrence of the disease in the wild (Berkow 1982). Barnes (1993) recorded sylvatic plague in 76 species of 6 mammalian orders, although it is primarily a rodent disease. Rodent species vary in their susceptibility to plague, with some species acting as hosts or carriers of the disease or infected fleas and showing no symptoms (e.g., kangaroo rats, *Dipodomys* sp., and deer mice, *Peromyscus maniculatus*). Conversely, black-tailed and Gunnison's prairie dogs show nearly 100 percent mortality when exposed to sylvatic plague (Barnes 1993, Cully 1993).

Sylvatic plague is an exotic disease foreign to the evolutionary history of North American species. Scientists discovered the plague among wild rodents near San Francisco in 1908 and it has spread throughout much of the Great Plains over the past century (Eskey and Haas 1940, Miles et al. 1952 in Cully 1989, Ecke and Johnson 1952). Black-tailed prairie dogs show neither effective antibodies nor immunity to the disease. Death occurs quickly for prairie dogs exposed to sylvatic plague; noticeable symptoms usually do not develop (Cully 1993). Data obtained from the Rocky Mountain Arsenal National Wildlife Refuge show that plague has the potential to severely depress black-tailed prairie dog populations and cause local extirpations (Seery and Matiatos, in press; U.S. Fish and Wildlife Service 1998). Scientists have also observed longterm plague-related declines in white-tailed prairie dogs near Meeteetse, Wyoming (Biggins, U.S. Geological Survey, Biological Resources Division, pers. comm. 1998).

Many mammals, snakes, and raptors prey on prairie dogs (Hoogland 1995) and the species has evolved resilience to natural levels of predation. Scientists do not generally see predation as a threat to the species but, in unusual circumstances intense levels of predation may be problematic to individual small colonies, particularly if they are already reduced by other causes.

D. The Inadequacy of Existing Regulatory Mechanisms

All States within the historic range of the black-tailed prairie dog classify the species as a pest for agricultural purposes and either permit or require their eradication (Mulhern and Knowles 1995). Fish and wildlife agencies in many States classify black-tailed prairie dogs by categories such as "unclassified game" that permit licensed or unlicensed shooting with no limitations on take or season. Knowles (1995) reviewed Federal regulatory management policies as they relate to the black-tailed prairie dog. Significant black-tailed prairie dog occupied habitat is found on public lands managed by the BIA, the Bureau of Land Management (BLM), the Service, USFS, and the National Park Service (NPS). The BLM manages prairie dogs to meet multiple-use resource objectives (Knowles 1995). Various National Forest Resource Management Plans address black-tailed prairie dog habitat on USFS-administered land; these plans reflect Forest Service policy, not regulation. Two tribes have voluntary prairie dog management plans in place (Knowles 1995). In areas where black-footed ferrets are re-established, some programs to conserve prairie dogs are in place.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Control (Poisoning)

Hanson (1993) cited poisoning as a major factor in the reduction of prairie dog populations. An extensive poisoning effort has occurred over most of the species' range (Bell 1921, Cain et al. 1971, Anderson et al. 1986, Roemer and Forrest 1996, and Forrest and Proctor in prep.). Organized prairie dog control gained momentum from 1916 to 1920, when property owners and Federal agencies poisoned prairie dogs

on millions of acres of western rangeland (Bell 1921); Federal programs were responsible for much of this effort. From 1937–1968, 30,447,355 ac (12,321,875 ha) of occupied prairie dog habitat was controlled (Cain et al. 1971). After the 1970's some toxicants previously used for prairie dog control were banned and although prairie dog control continued, it occurred at a reduced rate.

Federal agencies are involved to varying degrees in active control of prairie dog colonies. The Environmental Protection Agency regulates use of prairie dog poisons. The Animal and Plant Health Inspection Service-Wildlife Services (APHIS-WS) provides technical assistance and distributes prairie dog poison to State and Federal agencies, Tribes, and private landowners. Based on information obtained from the APHIS Freedom of Information Act web page (foia.aphis.usda.gov), the agency controlled 95,076 ac (38,480 ha) of black-tailed prairie dog habitat from 1991–1996. Although this number could have included some acreage that was treated more than once, this number indicates that over a 5-year period, AHPIS-WS alone has conducted prairie dog control on 14 percent of the estimated remaining black-tailed prairie dog habitat.

Control programs have significantly reduced black-tailed prairie dog populations. These programs essentially remove all animals from the area treated and directly contribute to habitat fragmentation and vegetation changes that limit future recolonization by the black-tailed prairie dog. In particular, Federal control programs may play a significant role in the continued decline of black-tailed prairie dog populations.

Habitat Fragmentation

The grassland biome in North America has arguably suffered the most extensive fragmentation and transformation of any biome on the continent (Groombridge 1992). More fragmented, more isolated, and less connected populations usually have higher extinction rates (MacArther and Wilson 1967, Wilcox and Murphy 1985, Clark 1989). Miller et al. (1996) describe existing prairie dog populations as small, disjunct, and geographically isolated. They further describe the discontinuous nature of remaining populations as widely separated islands where habitat fragmentation has increased the likelihood of individual colony extinction due to genetic inbreeding and random demographic events. Lost genetic diversity is inherently detrimental to most species. Black-tailed prairie dog dispersal movements that previously offset these adverse effects likely are limited by short migration distances, as reported by Hoogland (1995) and Knowles (1985), and longer distances between remaining colonies.

Finding

We have reviewed the petition, as well as other available information, published and unpublished studies and reports, information received from State, Tribal and private entities, and agency files. On the basis of our review of the petition, literature cited in the petition, and other readily available information, we find there is sufficient information to indicate that listing of the black-tailed prairie dog may be warranted, and we initiate a status review. However, we also find there is no substantial information to warrant an emergency listing at this time, as was requested by the petitioner.

Based on our review of the petition and other readily available information, we believe that the decline, especially the recent decline, of the black-tailed prairie dog likely is due to many factors. One of the most influential and unpredictable factors is the widespread occurrence of plague, an exotic and completely lethal disease to the species. We believe that we should evaluate black-tailed prairie dog reduced colony size and connectivity in light of factors such as plague, control, land conversion, and shooting, in a thorough analysis of the status of the species. Therefore, with the completion of this 90-day Finding, a status review of the species will be undertaken with a subsequent Finding as to whether the petitioned action is warranted (section 4(b)(3)(B) of the Act). We will consider all relevant information in conducting a full status review to determine if listing is warranted. We are hereby requesting any additional data or scientific information from the public, scientific community, Tribal, State and Federal governments, and other interested parties concerning the status of and threats to the black-tailed prairie dog throughout the species' range.

References Cited

You may request a complete list of all references cited herein, as well as others, from the Service's Pierre Field Office (see **ADDRESSES** section).

Author

Pete Gober (see **ADDRESSES** section) prepared this document.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544 *et seq.*).

Dated: March 17, 1999.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 99–7273 Filed 3–23–99; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 64, No. 57
Thursday, March 25, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted income eligibility guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program). These income eligibility guidelines are to be used in conjunction with the WIC Regulations.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305–2730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice is exempted from review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act of 1995

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112 June 24, 1983).

Description

Section 17(d)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786 (d)(2)(A)) requires the Secretary of Agriculture to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be income eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced price school meals under section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)). Under section 9(b), the income limit for reduced price school meals is 185 percent of the Federal poverty guidelines, as adjusted.

Section 9(b) also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 1999 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** on March 18, 1999 at 64 FR 13428. The guidelines published by DHHS are referred to as the poverty guidelines.

Section 246.7(d)(1) of the WIC regulations specifies that State agencies may prescribe income guidelines either equaling the income guidelines established under section 9 of the National School Lunch Act for reduced price school meals or identical to State or local guidelines for free or reduced price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines for reduced price school meals, or which are less than 100 percent of the Federal poverty guidelines. Consistent with the method used to compute income eligibility guidelines for reduced price meals under the National School Lunch Program, the poverty guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time the Department is publishing the maximum and minimum WIC income eligibility guidelines by household size for the period July 1, 1999 through June 30, 2000. Consistent with Section 17(f)(17) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(17)), a State agency may implement the revised WIC income eligibility guidelines concurrently with the implementation of income eligibility guidelines under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 *et seq.*). State agencies may coordinate implementation with the revised Medicaid guidelines, but in no case may implementation take place later than July 1, 1999. State agencies that do not coordinate implementation with the revised Medicaid guidelines must implement the WIC income eligibility guidelines on July 1, 1999. The first table of this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia and all Territories, including Guam. Because the poverty guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

BILLING CODE 3410–30–U

INCOME ELIGIBILITY GUIDELINES
(Effective from July 1, 1999 to June 30, 2000)

Household Size	Federal Poverty Guidelines			Reduced Price Meals - 185%		
	Annual	Month	Week	Annual	Month	Week
48 CONTIGUOUS UNITED STATES, DISTRICT OF COLUMBIA, GUAM AND TERRITORIES						
1.....	8,240	687	159	15,244	1,271	294
2.....	11,060	922	213	20,461	1,706	394
3.....	13,880	1,157	267	25,678	2,140	494
4.....	16,700	1,392	322	30,895	2,575	595
5.....	19,520	1,627	376	36,112	3,010	695
6.....	22,340	1,862	430	41,329	3,445	795
7.....	25,160	2,097	484	46,546	3,879	896
8.....	27,980	2,332	539	51,763	4,314	996
For each add'l family member add	+2,820	+235	+55	+5,217	+435	+101
ALASKA						
1.....	10,320	860	199	19,092	1,591	368
2.....	13,840	1,154	267	25,604	2,134	493
3.....	17,360	1,447	334	32,116	2,677	618
4.....	20,880	1,740	402	38,628	3,219	743
5.....	24,400	2,034	470	45,140	3,762	869
6.....	27,920	2,327	537	51,652	4,305	994
7.....	31,440	2,620	605	58,164	4,847	1,119
8.....	34,960	2,914	673	64,676	5,390	1,244
For each add'l family member add	+3,520	+294	+68	+6,512	+543	+126
HAWAII						
1.....	9,490	791	183	17,557	1,464	338
2.....	12,730	1,061	245	23,551	1,963	453
3.....	15,970	1,331	308	29,545	2,463	569
4.....	19,210	1,601	370	35,539	2,962	684
5.....	22,450	1,871	432	41,533	3,462	799
6.....	25,690	2,141	495	47,527	3,961	914
7.....	28,930	2,411	557	53,521	4,461	1,030
8.....	32,170	2,681	619	59,515	4,960	1,145
For each add'l family member add	+3,240	+270	+63	+5,994	+500	+116

Dated: March 19, 1999.
Samuel Chambers, Jr.,
Administrator, Food and Nutrition Service.
[FR Doc. 99-7284 Filed 3-24-99; 8:45 am]
BILLING CODE 3410-30-U

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
[I.D. 030599B]

Incidental Taking of Pinnipeds; Taking of Pinnipeds Incidental to On-Ice Seismic Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.
ACTION: Notice of issuance of an authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, notice is hereby given that an authorization has been issued to incidental to on-ice seismic operations in the Beaufort Sea. This authorization was issued on March 5, 1999, to Exploration Technology, Inc.
DATES: This authorization is effective from March 5, 1999, through May 31, 1999.
ADDRESSES: Copies of the application are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226; and Alaska Field Office, NMFS, 222 West 7th Avenue, Anchorage, AK 99513-7577.
FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Anchorage, AK, 907/271-5006, or Jeannine Snyder, Silver Spring, MD, 301/713-2055 ext. 128, or Brad Smith, Alaska Field Office, 907/271-5006.
SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary, upon request, the authorization of the intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region if certain findings are made and either regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture or kill or to attempt to harass, hunt or capture or kill any marine mammal.
Permission may be granted for periods up to 5 years if, after notice and opportunity for public comment, the taking will have a negligible

Dated: March 16, 1999.
Authority: 42 U.S.C. 1786.

Samuel Chambers, Jr.,
Administrator.

[FR Doc. 99–7263 Filed 3–24–99; 8:45 am]
BILLING CODE 3410–30–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030599B]

Incidental Take of Marine Mammals; Taking of Ringed Seals Incidental to On-Ice Seismic Activities

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and with implementing regulations, notification is hereby given that a letter of authorization to take ringed seals incidental to on-ice seismic operations in the Beaufort Sea off Alaska was issued on March 21, 1999, to BP Exploration (Alaska), Anchorage, AK.

DATES: This letter of authorization is effective from March 21, 1999, through May 31, 1999.

ADDRESSES: The applications and letters are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and Western Alaska Field Office, NMFS, 701 C Street, Anchorage, AK 99513.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, (301) 713–2055 or Brad Smith, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of ringed and bearded seals incidental to on-ice seismic surveys were published on February 2, 1998 (63 FR 5277), and remain in effect until December 31, 2002.

Summary of Request

NMFS received a request for a letter of authorization on February 8, 1999, from BP Exploration (Alaska). This letter requested a take by harassment of a small number of ringed seals incidental to the described activity.

Issuance of these letters of authorization are based on findings that the total takings by this activity will have a negligible impact on the ringed and bearded seal stocks of the Western Beaufort Sea and that the applicants have met the requirements contained in the implementing regulations.

Dated: March 21, 1999.

Hilda Diaz-Soltero,
Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–7351 Filed 3–24–99; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031799D]

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council's (Council) Statement of Organization Practices and Procedures (SOPPs) Committee and ad hoc Reauthorization Committee will meet in Charleston, SC.

DATES: The SOPPs Committee meeting will be held on April 19, 1999 from 1:00 p.m. to 5:30 p.m., and on April 20, 1999 from 8:30 a.m. to 12:00 noon; the ad hoc Reauthorization Committee meeting will be held on April 20, 1999 from 1:00 p.m. to 5:30 p.m. and on April 21, 1999 from 8:30 a.m. to 12:00 noon.

ADDRESSES: The meetings will be held at the Town and Country Inn, 2001 Savannah Highway, Charleston, SC 29407; telephone: 843-571-1000.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (843) 571-4366; fax: (843) 769-4520; email: susan.buchanan@noaa.gov.

SUPPLEMENTARY INFORMATION: The SOPPs Committee will revise the Council's SOPPs manual for submission to the Secretary of Commerce for review. The ad hoc Reauthorization Committee will develop Council recommendations for changes to the Magnuson-Stevens Fishery Conservation and Management Act.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by April 12, 1999.

Dated: March 19, 1999.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7350 Filed 3–24–99; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031999D]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of a request for modification 1 to permit 1094.

SUMMARY: Notice is hereby given that the Washington Department of Fish and Wildlife at Olympia, WA (WDFW) has applied in due form for a permit modification that would authorize takes of anadromous fish species listed under the Endangered Species Act for research/enhancement purposes.

DATES: Written comments or a request for a public hearing on this request for a permit modification must be received on or before April 26, 1999.

ADDRESSES: The application and related documents are available for review in the following office, by appointment:

Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, PRD in Portland, OR.

FOR FURTHER INFORMATION CONTACT: Robert Koch (503–230–5424).

SUPPLEMENTARY INFORMATION: WDFW requests a permit modification under the authority of section 10 of the Endangered Species Act (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217-227).

Permit 1094 authorizes WDFW an annual take of adult and juvenile, endangered, naturally produced and artificially propagated, upper Columbia River (UCR) steelhead (*Oncorhynchus mykiss*) associated with a hatchery supplementation program in the mid- to upper Columbia River Basin. Incidental takes of ESA-listed species resulting from WDFW hatchery operations and hatchery produced fish releases are also authorized by the permit. WDFW believes the artificial propagation of ESA-listed steelhead will benefit the species by enhancing the population, which is not currently able to naturally replace itself. For modification 1, WDFW requests an increase in the number of ESA-listed juvenile steelhead releases from the program in 1999 for scientific research and enhancement purposes, which may result in an increase in incidental takes of ESA-listed species. Also for modification 1, WDFW requests incidental takes of juvenile, endangered, UCR spring chinook salmon (*O. tshawytscha*) associated with the program. WDFW has provided a revised conservation plan designed to minimize and mitigate the potential increase in incidental takes of ESA-listed species. The revised conservation plan includes a strategy to manage adult returns. The increases in hatchery produced fish releases is requested to be valid in 1999 only. Takes of endangered, UCR spring chinook salmon are requested to be valid for the duration of the permit, which expires on May 31, 2003.

Those individuals requesting a hearing on this application should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: March 19, 1999.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–7236 Filed 3–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031899C]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for permits (1201, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213); receipt of applications to modify permits (1038, 1048, 1050, 1060, 1131, 1141, 1166, 1181); and issuance of permits (1190, 1193).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement: NMFS has received permit applications from: Dr. Thane Wibbels, of the University of Alabama at Birmingham (TW-UAB)(1201), the East Bay Municipal Utility District in Orinda, CA (EBMUD) (1204),

Oregon Department of Environmental Quality in Portland, OR (ODEQ) (1205), United States Forest Service, Klamath National Forest in Fort Jones, CA (USFS) (1206), Camm Swift, of Arcadia, CA (SWIFT) (1207), Robert Leidy, of San Francisco, CA (LEIDY) (1208), Mr. Ken Alfieri, of Cypress Gardens, FL (KA-CG) (1209), Mr. John Ritgers, NMFS Northeast Region (NER) (1210), East Bay Regional Park District, in Oakland, CA (EBRPD) (1211), and the Fish Ecology Division of the Northwest Fisheries Science Center, NMFS at Seattle, WA (NWFSC) (1212, 1213); NMFS has received applications for modifications to existing permits from: Trihey & Associates, Inc., of Walnut Creek, CA (TRIHEY) (1038), Sonoma County Water Agency, in Santa Rosa, CA (SCWA) (1048), Entrix, Inc., in Walnut Creek, CA (ENTRIX) (1050), Simpson Timber Company, in Korbel, CA (STC) (1060), the Port of Portland at Portland, OR (POP) (1131), the Public Utility District Number 2 of Grant County in Ephrata, WA (PUD GC)(1141), Alice A Rich and Associates (AAR) San Anselmo, CA (1166), and Mendocino Redwood Company (MRC) in Capella, CA (1181); and NMFS has issued permits to Charles Karnella, of the Pacific Islands Area Office, NMFS Southwest Region (SWR-PIAO) (1190), and the Fish Passage Center, in Portland, OR (FPC) (1193).

DATES: Written comments or requests for a public hearing on any of the new applications or modification requests must be received on or before April 26, 1999.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permit 1209: Protected Resources Division, F/SER3, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432 (813–570–5312).

For permits 1131, 1141, 1193, 1205, 1212, 1213: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permits 1038, 1048, 1050, 1060, 1166, 1181 1204, 1206, 1207, 1208, 1211: Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

For permits 1190, 1201, 1210: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–1401).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permit 1209: Terri Jordan, Silver Spring, MD (301–713–1401).

For permits 1190, 1201, 1210: Karen Salvini, Silver Spring, MD (301–713–1401).

For permits 1038, 1048, 1050, 1060, 1166, 1181 1204, 1206, 1207, 1208, 1211: Dan Logan, Protected Resources Division, Santa Rosa, CA (707-575-6053).

For permit 1193: Leslie Schaeffer, Portland, OR (503–230–5433).

For permits 1131, 1212, 1213: Robert Koch, Portland, OR (503–230–5424).

For permits 1141, 1205: Tom Lichatowich, Portland, OR (503–230–5438).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the ESA, is based on a finding that such permits/modifications: (1) Are applied for in

good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

1. Green turtle (*Chelonia mydas*), Hawksbill turtle (*Eretmochelys imbricata*), Kemp's ridley turtle (*Lepidochelys kempii*), Leatherback turtle (*Dermochelys coriacea*), Loggerhead turtle (*Caretta caretta*), Olive ridley sea turtle (*Lepidochelys olivacea*), Shortnose sturgeon (*Acipenser brevirostrum*).

2. Chinook salmon (*Oncorhynchus tshawytscha*): Snake River (SnR) spring/summer, SnR fall, Upper Columbia River (UCR) spring.

3. Coho salmon (*Oncorhynchus kisutch*): Central California Coast (CCC), Southern Oregon/Northern California coast (SONCC).

4. Sockeye salmon (*Oncorhynchus nerka*): SnR.

5. Steelhead trout (*Oncorhynchus mykiss*): California Central Valley (CV), CCC, Lower Columbia River (LCR), SnR, Southern California coast (SoCC), South-Central California coast (SCCC), UCR.

To date, protective regulations for threatened LCR steelhead under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of applications requesting takes of LCR steelhead is issued as a precaution in the event that NMFS issues LCR steelhead protective regulations. The initiation of a 30-day public comment period on the applications, including their proposed takes of LCR steelhead, does not presuppose the contents of the eventual protective regulations.

New Applications Received

TW-UAB (1201) requests a 2-year permit to authorize takes of juvenile green, Kemp's ridley, and loggerhead sea turtles in the estuaries of Alabama, while conducting studies to potentially identify specific foraging areas. TW-UAB proposes to: (1) Identify potential foraging areas by conducting sampling surveys, and measuring and tagging all captured turtles, (2) perform radio tracking on some of the turtles to determine short term movements, home range, and identify foraging areas, (3) collect samples of fecal and stomach materials in order to identify and document the diets of juvenile turtles, and (4) collect blood samples to estimate the sex ratio.

EBMUD (1204) requests a 5-year permit to authorize takes of adult and juvenile, threatened, steelhead associated with fish population, migration, growth studies, dietary studies, and spawning studies within the CCC steelhead ESU. The applicant is requesting the intentional killing of targeted ESA-listed juveniles for a dietary studies; direct mortalities of 120 CCC juvenile steelhead annually are requested.

ODEQ (1205) requests a 5-year permit to authorize annual takes of juvenile, threatened, SONCC coho salmon and juvenile, threatened, LCR steelhead associated with water quality assessment studies in western Oregon. ODEQ proposes to capture juvenile fish in the Rogue River Basin and tributaries of the LCR with backpack electrofishing equipment; anesthetize them; collect biological information; tag a subsample; and release them. Data collected from these studies will be valuable in assessing the productivity status of these streams and the effectiveness of measures being taken to restore fish populations. Indirect mortalities of ESA-listed juvenile fish associated with the scientific research activities are also requested.

USFS (1206) requests a 5-year permit to authorize takes of juvenile, threatened, coho salmon associated with presence/absence and migration studies within the SONCC coho salmon ESU.

SWIFT (1207) requests a 5-year permit to authorize takes of adult and juvenile, endangered, steelhead associated with presence/absence studies throughout the SoCC steelhead ESU, and threatened, steelhead associated with presence/absence studies throughout the CCC and SCCC steelhead ESUs.

LEIDY (1208) requests a 5-year permit to authorize takes of adult and juvenile, threatened, steelhead associated with presence/absence surveys throughout the CV, CCC, SCCC steelhead ESUs, endangered, steelhead associated with presence/absence studies throughout the SoCC steelhead ESU, and threatened, coho salmon associated with presence/absence studies throughout the CCC coho salmon ESU.

KA-CG (1209) requests a 5-year permit to authorize maintenance of a population of six to eight shortnose sturgeon in a captive environment for educational purposes. This application meets Recovery Task 2.5 C concerning public education and raising public awareness of sturgeon issues.

NER (1210) requests a five-year research/enhancement permit to take listed green, Kemp's ridley, leatherback, and loggerhead sea turtles. The purpose of the activities will be to aid sick, injured, entangled, or stranded sea turtles through the activities of the Northeast Regional Stranding Network. The turtles will be collected opportunistically at sea and on coastal beaches from the Canadian border through Virginia. If possible, the turtles will be rehabilitated, tissue and blood sampled, tagged, and released in the area of collection; dead specimens will be used for scientific research or education.

EBRPD (1211) requests a 5-year permit to authorize takes of adult and juvenile, threatened, steelhead associated with presence/absence and migration studies within the CCC steelhead ESU. The applicant also requests minor takes of eggs from areas that are unsuitable for successful reproduction, to hatch the eggs and rear the juveniles in public school classrooms, and release the juveniles to their parent streams within the CCC steelhead ESU.

NWFSC (1212) requests a 5-year permit to authorize takes of juvenile, endangered, SnR sockeye salmon ; juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon; juvenile, threatened, SnR fall chinook salmon; juvenile, endangered, naturally produced and artificially propagated, UCR steelhead; juvenile, threatened, SnR steelhead; and juvenile, endangered, naturally produced and artificially propagated, UCR spring chinook salmon associated with four studies at the hydropower dams on the Snake and Columbia Rivers in the Pacific Northwest. The goal of Study 1 is to provide up-to-date survival estimates of juvenile salmonids as they migrate past McNary Dam on the Columbia River. The goal of Study 2 is to evaluate the specific trouble areas in

the juvenile fish bypass system at Lower Monumental Dam on the Snake River. The goal of Study 3 is to compare the performance of juvenile salmonids tagged with Sham radiotransmitters with juvenile salmonids tagged with passive integrated transponders (PIT) at Lower Granite Dam on the Snake River. The goal of Study 4 is to determine tailrace residence times of radio-tagged hatchery chinook salmon under varying operational conditions at Lower Monumental Dam and to identify spill conditions that utilize the smallest volumes of water to maximize fish passage efficiency at Ice Harbor Dam on the Snake River. The research will provide information that will be used to develop corrective measures to improve juvenile fish passage at the dams. ESA-listed juvenile fish are proposed to be captured, handled (examined or tagged), and released. ESA-listed juvenile fish indirect mortalities are also requested. The take authorization for Study 1 is requested to be valid for five years. The take authorization for Studies 2–4 is requested to be valid for 2 years.

NWFSC (1213) requests a 1-year permit to authorize takes of juvenile, endangered, SnR sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon; juvenile, threatened, SnR fall chinook salmon; juvenile, endangered, naturally produced and artificially propagated, UCR steelhead; juvenile, threatened, SnR steelhead; juvenile, threatened, LCR steelhead; and juvenile, endangered, naturally produced and artificially propagated, UCR spring chinook salmon associated with seven studies at the hydropower dams on the Snake and Columbia Rivers in the Pacific Northwest. The goal of Study 1 is to evaluate the extended length bar screen at Little Goose Dam on the Snake River. The goal of Study 2 is to evaluate a prototype separator at Ice Harbor Dam. The goal of Study 3 is to establish biological design criteria for the fish passage facility at McNary Dam. The goal of Study 4 is to evaluate an orifice shelter, an outlet-flow control device, and methods of debris control at McNary Dam. The goal of Study 5 is to evaluate the modified extended-length bar screens at John Day Dam on the Columbia River. The goal of Study 6 is to evaluate the juvenile fish bypass system at John Day Dam. The goal of Study 7 is to evaluate the modified juvenile fish bypass system at the second powerhouse of Bonneville Dam on the Columbia River. The research will provide information that will be used to develop corrective measures to improve juvenile fish passage at the dams. ESA-listed juvenile fish are proposed to be captured, handled (examined and fin-clipped or tagged with PITs or radiotransmitters), and released. ESA-listed juvenile fish indirect mortalities are requested. A lethal take of ESA-listed juvenile fish associated with Studies 5 and 7 are also requested.

Modification Requests Received

TRIHEY requests modification 1 to permit 1038 for authorization to include takes of adult and juvenile, threatened, steelhead associated with presence/absence studies, fish population and habitat studies, and genetic studies throughout the CCC and CV steelhead ESUs for the duration of the permit which expires on June 30, 2002.

SCWA requests modification 1 to permit 1048 for authorization to include takes of adult and juvenile, threatened, coho salmon associated with fish population and habitat studies throughout the Russian River Basin within the CCC coho ESU for the duration of the permit which expires on June 30, 2002.

ENTRIX requests modification 1 to permit 1050 for authorization to include takes of adult and juvenile, threatened, steelhead associated with fish population and habitat studies throughout the CCC steelhead ESU for the duration of the permit which expires on June 30, 2002.

STC requests modification 1 to permit 1060 for authorization to include takes of adult and juvenile, threatened, SONCC coho salmon associated with fish population, migration studies, and habitat studies in Little River Basin in Humboldt County, California for the duration of the permit which expires on June 30, 2003.

POP requests modification 1 to permit 1131 for authorization of an increase in the take of juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon and juvenile, threatened, SnR fall chinook salmon associated with research designed to determine the presence and distribution of fish in shallow water habitats between the lower end of Hayden Island and the Sandy River delta on the Columbia River. An associated increase in ESA-listed juvenile fish indirect mortalities are also requested. Modification 1 is requested to be valid for the duration of the permit which expires on January 31, 2000.

PUD GC requests modification 1 to permit 1141 for authorization of annual takes of adult and juvenile UCR spring chinook salmon associated with PUD GC's fish salvage operation and scientific research studies at Wanapum and Priest Rapids Dams located on the Columbia River in anticipation of a possible listing decision of this species by NMFS. PUD GC also requests takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead and adult and juvenile UCR spring chinook salmon associated with two additional research studies (studies 3 and 4). For Study 3, PUD GC proposes to evaluate the fish fauna in the Priest Rapids project area during 1999. Fish will be collected with electrofishing equipment, seines, gill nets and minnow traps; anesthetized; sampled for biological information; and released. Results from this study will be used to evaluate the status of listed and non-listed fish inhabiting the project area. For study 4, PUD GC proposes to assess the survival of juvenile, endangered, artificially propagated, UCR steelhead as they migrate past Wanapum and Priest Rapids Dams. Fish will be collected with dip nets at dam gatewells, anesthetized, tagged with radio tags, released downstream, and tracked electronically. The results from this study will provide dam operators with valuable information on the survival of ESA-listed steelhead in the UCR. Juvenile fish indirect mortalities associated with the proposed activities are also requested. Study 4 is requested to be valid for the duration of the permit which expires on December 31, 2002.

MRC requests modification 1 to permit 1181 for authorization to include takes of juvenile, threatened, coho salmon associated with fish migration studies in several watersheds within the CCC coho salmon ESU for the duration of the permit which expires on June 30, 2004.

Permits Issued

Notice was published on January 4, 1999 (64 FR 148) that SWR-PIAO had requested a 5-year research permit. Permit 1190 was issued on March 8, 1999, and authorizes takes of loggerhead, green, hawksbill, leatherback, and olive ridley sea turtles in the Pacific Basin associated with studies to determine take rates of sea turtles incidental to the Hawaiian longline fishery, and to determine the fate of sea turtles released alive after incidental capture. Permit 1190 expires March 31, 2004.

Notice was published on February 2, 1999 (64 FR 5030), that FPC had requested a 5-year research permit. Permit 1193 was issued on March 12, 1999 and authorizes takes of juvenile, endangered, SnR sockeye

salmon; juvenile, threatened, SnR fall chinook salmon; juvenile, threatened, artificially propagated and naturally produced, SnR spring/summer chinook salmon; and juvenile, endangered, artificially propagated and naturally produced, UCR steelhead associated with the Smolt Monitoring Program (SMP). The objective of the SMP is to generate information on the migrational characteristics of various salmon and steelhead stocks in the Columbia River Basin, to provide advice on the implementation of flow and spill measures to improve fish passage conditions in the Snake and Columbia Rivers, to provide a long-term consistent database for year-to-year comparisons, and to monitor gas bubble trauma as required by the states' water quality agencies. Permit 1193 expires on December 31, 2003.

Dated: March 19, 1999.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–7348 Filed 3–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 030399C]

Marine Mammals; File No. 932–1489

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce and Office of Management Authority, U.S. Fish and Wildlife Service (USFWS), Interior.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that The National Marine Fisheries Service (NMFS), Office of Protected Resources (OPR), Marine Mammal Health and Stranding Response Program, 1315 East-West Highway, Silver Spring, MD 20910 has applied in due form for a permit to take various marine mammal species for scientific research and enhancement.

DATES: Written or telefaxed comments must be received on or before April 26, 1999.

ADDRESSES: The application and related documents are available for review upon written request or by appointment, see "Address Information" under the **SUPPLEMENTARY INFORMATION** section.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

NMFS/OPR/MMHSRP (File No. 932–1489) requests authorization to oversee the collecting, preserving, labeling, and transporting of all species of marine mammal cadavers or tissue and fluid samples for physical, chemical, or biological analyses, import, and export, and the taking of stranded or distressed endangered or threatened marine mammals, and the salvage of specimens from dead threatened or endangered marine mammals. The animals for which they are requesting authorization include all species of the Orders Cetacea, Pinnipedia, Sirenia, and polar bears (*Ursus maritimus*), sea otters (*Enhydra lutris*), and marine otters (*Lontra felina*).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Address Information

The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001);

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Regional Administrator, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Dr., Gloucester, MA 01930–2298 (978/281–9250);

Regional Administrator, Southeast Region, National Marine Fisheries Service, NOAA, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (727/570–5301);

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, BIN C15700, Bldg. 1, Seattle, WA 98115–0020(206/526–6150); and

Coordinator, Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole St., Room 106, Honolulu, HI 96822–2396 (808/943–1221).

Dated: March 3, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: March 18, 1999.

Margaret Tieger,

Chief, Branch of Permits, Office of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 99–7347 Filed 3–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.# 022699D]

Marine Mammals; File No. 77–1#73_967

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the National Marine Mammal Laboratory, Alaska Fisheries Science Center, National Marine Fisheries Service, 7600 Sand Point Way NE, Bin C15700, Seattle, Washington 98115–0070, has been issued an amendment to scientific research Permit No. 967 to extend the area of take to include Alaska waters.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA, 98115–0070 (206/526–6150);

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Sara Shapiro 301/713–2289.

SUPPLEMENTARY INFORMATION: On January 14, 1999, notice was published in the **Federal Register** (63 FR 2472) that an amendment of Permit No. 697, issued July 11, 1995 (60 FR 37053), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Date: March 19, 1999.

Jeannie Drevenak,

Acting Chief, Permits and Documentation, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–7349 Filed 3–24–99; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 99–1]

Cadet Manufacturing Company; Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of first prehearing conference.

DATE: This notice announces a prehearing conference to be held in the matter of Cadet Manufacturing Company on April 12, 1999, at 1:00 p.m. (EDT).

Location: The prehearing conference will be via conference telephone call. Pursuant to 16 C.F.R. 1025.21(d) and 1025.47, the conference shall be stenographically reported.

FOR FURTHER INFORMATION CONTACT: For additional information contact Sadye E. Dunn, Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800, ext. 1230; facsimile (301) 504–0127.

SUPPLEMENTARY INFORMATION: This public notice is issued pursuant to 16 CFR 1025.21(b) of the U.S. Consumer Product Safety Commission's Rules of Practice for Adjudicative Proceedings to inform the public that a prehearing conference will be held in an administrative proceeding under Section 15 of the Consumer Product Safety Act (CPSA), captioned CPSC Docket No. 99–1, In the Matter of Cadet Manufacturing Company ("Cadet"). The Presiding Officer in the proceeding is United States Administrative Law Judge William B. Moran. The Presiding Officer has determined that, for good and sufficient cause, the time period for holding this first prehearing conference had to be extended to the date announced above, which date is beyond the fifty (50) day period referenced in 16 CFR 1025.21(a).

The public is referred generally to the Code of Federal Regulations citation listed above for identification of the issues to be raised at the conference, but the chief purpose will be to establish a schedule for discovery and for the initial exchange of witness lists, prepared testimony, and documents. The public is also advised that the date, time and location of the hearing will be established at the conference.

Substantively, the issue being litigated in this proceeding is described by the Presiding Officer as whether, as alleged in the Complaint, certain electric in-wall heaters manufactured by Cadet are defective in that their design causes overheating and fire hazards. The Complaint also asserts that the identified models have manufacturing or assembly defects created by inadequate or faulty components and/or contacts which cause overheating and multiple fire-related hazards.

On this basis it is alleged that the heater models identified in the Complaint present a "substantial product hazard" within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

In response, Cadet's Answer denies, generally and specifically, the allegations that its products are defective and that its heaters present a substantial product hazard within the meaning of the CPSA.

Should the allegations be proven, Complaint Counsel for the Office of Compliance of the U.S. Consumer Product Safety Commission seeks a finding that the product presents a substantial product hazard and that public notification be made pursuant to section 15(c) of the CPSA and that other appropriate relief be directed, as set forth in the Complaint.

Dated: March 19, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–7226 Filed 3–24–99; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Operational Test and Evaluation Advisory Group Meeting in support of the HQ USAF Scientific Advisory Board will meet in Kirtland AFB, NM on May 10–12, 1999 from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefings in support of the Scientific Advisory Board.

The meeting will be closed to the public in accordance with section 552b (c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–7242 Filed 3–24–99; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Intelligence and Vigilance Panel Meeting will meet in Washington, DC on April 14–16, 1999 from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefings in support of the USAF Scientific Advisory Board's 1999 Summer Study.

The meeting will be closed to the public in accordance with section 552b

(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–7299 Filed 3–24–99; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF ENERGY

Solicitation for Financial Assistance for Cooperative Automotive Research for Advanced Technologies (CARAT) Program Solicitation No. DE–PS02–99EE50493

AGENCY: Chicago Operations Office (DOE).

ACTION: Notice inviting financial assistance applications.

SUMMARY: The Department of Energy (DOE) invites applications for federal assistance for research on the Cooperative Automotive Research for Advanced Technologies (CARAT) Program. The purpose of the (CARAT) Program is to provide small businesses and institutions of higher education with an exclusive means to research, develop, and validate advanced automotive technologies that will enable the production of cars and light trucks which are extremely fuel efficient, have low emissions, and/or are fuel flexible. CARAT is intended to channel the creativity and resourcefulness of the small business and academic communities to remove technology barriers blocking the viability of promising technologies.

DATES: Pre-Application information is to be received no later than April 9, 1999. Applications are to be received no later than June 10, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rafa, Acquisition and Assistance Group, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439, Telephone No. (630) 252–2192, FAX No. (630) 252–5045, Internet—Michael.Rafa@ch.doe.gov.

SUPPLEMENTARY INFORMATION: There are 15 topics for which the DOE invites Financial Assistance Applications: Oxygen Reduction Catalysts for PEM Fuel Cell, Cooling Systems for PEM Fuel Cells, Direct-Methanol Proton-Exchange Membrane Fuel Cells, Ultralight Sandwich Structures, Processing of Metal Matrix Composites, Low-Cost Carbon Fiber Precursors and Production Methods, High-Volume, High-Rate, Low-Cost Manufacturing of Structural Thermoplastics Composites, Mass Flow Rate and Chemical Composition Sensor for Engine Intake System, Safe Electrolytes with Improved Operating Temperature Range, Low-Cost Packaging for Lithium-ion Cells, Stabilization of Manganese Spinel for Use as a Low-Cost Cathode Material in Lithium-ion Batteries, Traction Motors, Improved Coolant for Electrical/Electronic EV/HEV Systems and Waste Heat Recovery in Passenger Automobiles.

The solicitation will be available on the Internet to view and download at http://www.ch.doe.gov/business/ACQ.htm (It is critical that ACQ be in uppercase and all others are lower case). Printed copies will not be available from this office, therefore, copies must be downloaded from the Internet. Any amendments to this solicitation will be posted on the Internet. Please note that prospective applicants will not be alerted when the solicitation is issued on the Internet or when amendments are posted on the Internet.

Issued in Chicago, Illinois on March 17, 1999.

John D. Greenwood,

Acquisition and Assistance Group Manager Contracting Officer.

[FR Doc. 99–7329 Filed 3–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–241–000]

ANR Pipeline Company; Notice of Application

March 19, 1999.

Take notice that on March 8, 1999, as supplemented on March 19, 1999 ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed an application pursuant to Section 7(c) of the Natural Gas Act and Subpart A of Part 157 of the Commission's regulations for a certificate of public convenience and necessity authorizing ANR to construct, own, and operate an expansion of its mainline facilities located west of its Joliet Compressor Station near Joliet, Illinois, and to its mainline facilities located in eastern Wisconsin (the Wisconsin Expansion Phase II facilities), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

In order to meet increasing gas requirements in the State of Wisconsin by November 1, 2000, ANR proposes to install certain additional loop pipeline, compression, tie-line, and related facilities on parts of its existing mainline facilities located in Wisconsin and Illinois. ANR states that these facilities will increase its transmission capacity into Wisconsin by up to 194,000 dekatherms per day (194 Mdt/d), thereby enabling ANR to provide additional firm transportation service for shippers from the ANR Joliet Hub to the Wisconsin market area for ANR's system. In order to allow sufficient time for construction of the proposed facilities and to meet the proposed in-service date, ANR requests that the Commission issue a preliminary determination order by August 1, 1999 and a final order by no later than February 1, 2000.

Specifically, ANR seeks authority to construct: (1) approximately 3.0 miles of 42-inch diameter loop pipeline between milepost 801 and milepost 804 along ANR's existing Michigan Leg South in Kendall County, Illinois; (2) two 10,000 horsepower (hp) turbine compressor units to be located at ANR's existing Woodstock Compressor Station in McHenry County, Illinois; (3) one 1,500 hp turbine compressor unit to be located at ANR's existing Weyauwega Compressor Station in Waupaca County, Wisconsin; (4) 0.11 mile of 16-mile diameter pipeline traversing from the Weyauwega Compressor Station to the Marinette Junction tap site on ANR's existing 24-inch mainline; (5) one 1,500 hp reciprocating compressor unit to be located at ANR's existing Janesville Compressor Station in Rock County, Wisconsin; and (6) minor related facilities. ANR states that these facilities are estimated to cost $37,516,622.

ANR states that the proposed 3.0 miles of 42-inch loopline along the Michigan Leg South comprise an extension of a 15.9 mile segment of certain Michigan Leg South loopline facilities that are currently pending approval in Docket No. CP97–319–000 (ANR's "SupplyLink" project). ANR contends that, although the design for the facilities proposed herein includes this pending 15.9 mile loopline segment, the facilities proposed here are required to serve different market needs in Wisconsin, and are not part of Docket No. CP97–319–000. ANR presumes that the SupplyLink facilities will be in service by the time ANR places the

facilities proposed herein in service.[1] In the event that the SupplyLink loopline facilities are not available in the. proposed time frame, ANR states that it will be required to seek appropriate authorizations from the Commission in this Docket to accommodate any such delays.

ANR proposes to charge the subscribing shippers rates that do not exceed its currently effective Mainline Area rates under the provisions of its rate schedules for firm service under its existing Second Revised Volume No. 1 to its FERC Gas Tariff.

ANR states that it recently conducted an open season. As a result, a number of shippers expressed an interest in receiving firm transportation service on ANR. According to ANR, these shippers desired service from various existing and proposed pipeline interconnecting points located near or within the vicinity of the ANR Joliet Hub near Chicago, to markets located within the State of Wisconsin. ANR states that those non-affiliated shippers have entered into executed precedent agreements with ANR for new services that will utilize 94 Mdt/d of the new capacity proposed herein. ANR is also proposing to construct as part of this project 100 Mdt/d of presently uncommitted capacity that will be used to serve, on a timely basis, the projected near term demand growth in Wisconsin.

According to ANR, a report recently published by the Wisconsin energy Bureau, entitled Wisconsin Energy Statistics 1998, indicates that, from 1987–1997, natural gas demand in Wisconsin grew at an annual rate of approximately 2.6 percent. ANR states that it currently serves firm peak day entitlements of approximately 2,200 Mdt/d, which equates to an annual growth in peak day requirements on the ANR system of approximately 57 Mdt per year. ANR contends that when this proposed project is placed in service approximately two years from now, normal growth patterns indicate that the 100 Mdt/d of additional capacity will be required in Wisconsin.

ANR submits that its proposal to build additional facilities to meet projected growth in demand is in the overall public interest, and is consistent with Commission precedent. According to ANR, additional unsubscribed capacity for future growth as required has been previously approved as part of an application to replace mainline facilities.[2] ANR further states that building all the necessary facilities as part of one single project will also reduce the potential for repeated environmental disturbance that might occur in the same location if the facilities were constructed on a piecemeal basis as part of two different projects.[3]

ANR argues that its expansion at the level proposed is justified, given that during the last two winter heating seasons ANR has experienced peak day throughout levels at or near capacity, despite the fact that both winters were warmer than normal. ANR states that its capacity expansion is an appropriate response to existing increased demands on its system, and the 100 Mdt/d of additional capacity represents only approximately four percent of ANR's current capacity into the State of Wisconsin.

ANR also states that it has also contacted shippers whose capacity, if reduced or released permanently, would reduce the need for the proposed new construction, in order to ensure that the new facilities are appropriately sized. ANR states that no shipper offered to reduce or release its capacity on a permanent basis.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 9, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commisson by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and procedure, a hearing will be held with further notice before the Commisson or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7248 Filed 3–24–99 8:45 am]

BILLING CODE 6717–01–M

[1] In Docket No. CP97–319–000, ANR proposed to place the SupplyLink facilities in service by November 1, 1999.

[2] ANR cites Columbia Gas Transmission Corporation, 72 FERC ¶ 61,018 (1995).

[3] ANR cites Pacific Gas Transmission Company, 70 FERC ¶ 61,016 at 61,043 (1995).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2175–000]

ISO New England Inc. and New England Power Pool; Notice of Filing

March 19, 1999.

Take notice that on March 16, 1999, ISO New England Inc. (the ISO) and the New England Power Pool (NEPOOL) Executive Committee submitted for filing, pursuant to Section 205 of the Federal Power Act, a new Market Rule 15 and revisions to Market Rules 5 and 7, together with a request that the Commission accept Market Rule 15 and the revisions to Market Rules 5 and 7 on an expedited basis, by March 4, 1999. The ISO and the NEPOOL Executive Committee also requested that the Commission approve the remainder of the market rules previously filed by NEPOOL on an expedited basis, by that same date.

The ISO and the NEPOOL Executive Committee state that copies of these materials were sent to the participants in the New England Power Pool, and to the New England state governors and regulatory commissions, and to all parties in the existing proceedings in Docket Nos. ER99–1374–000 and ER99–1609–000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 29, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7247 Filed 3–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2169–000]

Minnesota Power, Inc.; Notice of Filing

March 19, 1999.

Take notice that on March 1, 1999, Minnesota Power, Inc. (Minnesota Power), tendered its filing in confirmation and support of the contemporaneous filing made by the Mid-Continent Area Power Pool (MAPP) in response to the Commission's order in North American Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (TLR Order), regarding curtailments of generation to load transactions and regional redispatch solutions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 29, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7272 Filed 3–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–251–000]

Northern Natural Gas Company; Notice of Application

March 19, 1999.

Take notice that on March 11, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No.

Northern states that it proposes to abandon RS T–59 of its FERC Gas Tariff, Original Volume No. 2, and that it has entered into an agreement with Texas Gas Transmission Corporation for a self-implementing service under Subpart G of Part 284 of the Regulations which would replace the T–59 service requested to be abandoned herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the Abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7251 Filed 3–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–259–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

March 19, 1999.

Take notice that on March 16, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP99–259–000 a request pursuant to Sections 157.205, and 157.216, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon facilities in Pine County, Minnesota under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Northern proposes to abandon the Hinckley Evergreen #1A town Border Station (TBS), including appurtenant facilities. The Local Distribution Company served by these facilities has provided written consent for the abandonment. Northern states that natural gas service downstream of the TBS will be provided through an alternate TBS.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7250 Filed 3–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–249–000]

Reliant Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

March 19, 1999.

Take notice that on March 11, 1999, Reliant Energy Gas Transmission (REGT) formerly NorAm Gas Transmission Company (NGT), 1100 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP99–249–000 a request pursuant to Sections 157.216 and 157.212 of the Commission's Regulations (18 CFR 157.216, 157.212) under its blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 to abandon and operate certain facilities in Louisiana, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

REGT specifically proposes to abandon a 1-inch meter station on Line F-east in Lincoln Parish, Louisiana and to operate a 2-inch meter station under Subpart G of the Regulations. It is stated that these facilities were constructed on Line F-east to upgrade the 1-inch meter station, solely to provide service under section 311 of the NGPA and Subpart B of the Regulations on behalf of Reliant Energy Arkla, a division of Reliant Energy, Inc. (Arkla). The volumes to be delivered to this meter are about 56,000 Dth annually and 240 Dth on a peak day. It is also stated that the meter station was upgraded on March 4, 1999, at a cost of $17,870 and Arkla will reimburse REGT. The cost to abandon the 1-inch station is $7,969, it is asserted.

Any person or the Commission's Staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rule (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7249 Filed 3–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–256–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

March 19, 1999.

Take notice that on March 16, 1999, Southern Natural Gas Company (Southern), PO Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP99–256–000 a request pursuant to Sections 157.205 and 211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a new delivery point for service to the City of Calhoun, Georgia (Calhoun) under Southern's blanket certificate issued in Docket No. CP82–406–000 all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Southern proposes to construct and operate certain measurement and other appurtenant facilities in order to provide transpiration service to Calhoun at a new delivery point for service on Southern's 12-inch Chattanooga Branch Line in Gordon County, Georgia. The estimated cost of the construction and installation of the facilities is approximately $278,200, for which Calhoun would reimburse Southern. Southern contends that it would transport gas on behalf of Calhoun under its Rate Schedule IT.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed

for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7251 Filed 3–24–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6315–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Cooperative Agreements and Superfund State Contracts for Superfund Response Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR's) to the Office of Management and Budget (OMB): Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 24, 1999.

ADDRESSES: Office of Grants and Debarment, 401 M. Street SW., Washington, DC 20460, Mailstop 3903R.

FOR FURTHER INFORMATION CONTACT: Remit comments to: William G. Hedling, (202) 564–5377/Fax: (202) 565–2468 hedling.william@epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which apply for EPA assistance.

Title: General Administrative Requirements for Assistance Programs. EPA ICR #0938.06, OMB Control #2030–0020, Expiration 6/30/99.

Abstract: The information is collected from applicants/recipients of EPA assistance and is used to make awards, pay recipients and collect information on how Federal funds are being spent. EPA needs the information to meet its Federal stewardship. This information Collection Request (ICR) renewal request authorizes the collection of information under EPA's General Regulations for Assistance programs that establishes minimum management requirements for all recipients of EPA grants or cooperative agreements (assistance agreements). 40 CFR part 30 "Grants with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" includes the management requirements for these potential grantees. 40 CFR part 31 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" includes the management requirements for these potential grantees. These regulations include only those provisions mandated by statute, required by OMB Circulars or added by EPA to ensure sound and effective financial assistance management. This SF–83 combines all of these requirements under OMB Control Number 2030–0020. The information required by these regulations will be used by the EPA award official to make assistance awards, to make assistance payments, and to verify that the recipient is using Federal funds appropriately to comply with OMB Circulars. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual record keeping burden for this collection is estimated to average 31 hours per application. The estimated annual number of respondents is approximated 4,360. The estimated total burden hours on respondents: 135,160. The frequency of collection: as required.

Send comments regarding these matters, or any other aspect of information collection, including suggestions for reducing the burden, to the address listed above.

Dated: March 21, 1999.

Gary M. Katz,

Director, Grants Administration Division.

[FR Doc. 99–7335 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6315–1]

Extension of Attainment Dates for Downwind Transport Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; proposed interpretation; request for comments.

SUMMARY: Today's document announces EPA's interpretation of the Clean Air Act (Act) regarding the possibility of extending attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour standard and which are downwind of areas that have interfered with their ability to demonstrate attainment by dates prescribed in the Act. The guidance memorandum that is being printed in today's notice is entitled "Extension of Attainment Dates for Downwind Transport Areas" and was signed by Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, on July 16, 1998. This notice follows up on the statement made in the guidance memorandum that EPA would request comments on its interpretation.

A number of areas may find themselves facing the prospect of being reclassified or "bumped up" to a higher classification in spite of the fact that pollution beyond their control contributes to the levels of ozone they experience. The notice addresses the problem by providing an avenue to extend the attainment dates for areas affected by transported pollution. The EPA intends to finalize the interpretation in this guidance only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations and requests for attainment date extensions. If EPA approves an area's attainment demonstration and attainment date extension request, the area would no longer be subject to bump up for failure to attain by its original attainment date.

DATES: The EPA is establishing an informal 30-day comment period for today's notice, ending on April 26, 1999.

ADDRESSES: Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6101), Attention: Docket No. A–98–47, U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Written comments should be submitted to this address.

FOR FURTHER INFORMATION CONTACT: Denise Gerth, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, MD–15, Research Triangle Park, NC 27711, telephone (919) 541-5550.

SUPPLEMENTARY INFORMATION: On July 16, 1998, the following guidance was issued by Richard Wilson, Acting Assistant Administrator for Air and Radiation. It should be noted that the July 16, 1998 memorandum reprinted in this notice refers to EPA's proposed NO_X SIP call. After the memorandum was signed, EPA took final action on the SIP call and promulgated a final rule. See 63 FR 57356 (October 27, 1998).

Guidance on Extension of Attainment Dates for Downwind Transport Areas

Preface

The purpose of this guidance is to set forth EPA's current views on the issues discussed herein. EPA intends soon to set out its interpretation in an advance notice of proposed rulemaking on which the Agency will take comment.

While EPA intends to proceed under the guidance that it is setting out today, the Agency will finalize this interpretation only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations. At that time and in that context, judicial review of EPA's interpretation would be available.

Introductory Summary

A number of areas in the country that have been classified as moderate or serious nonattainment areas for the 1-hour ozone standard are affected by pollution transported from upwind areas. For these downwind areas, transport from upwind areas has interfered with their ability to demonstrate attainment by the dates prescribed in the Clean Air Act (Act). As a result, many of these areas find themselves facing the prospect of being reclassified, or "bumped up," to a higher nonattainment classification in spite of the fact that pollution that is beyond their control contributes to the levels of ozone they experience. In the policy being issued today, EPA is addressing this problem by planning to extend the attainment date for an area that is affected by transport from either an upwind area with a later attainment date or an upwind area in another State that significantly contributes to downwind nonattainment, as long as the downwind area has adopted all necessary local measures, and has submitted an approvable attainment plan to EPA which includes those local measures. (By "affected by transport," EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain.) EPA intends to initiate rulemaking for each area seeking such relief and contemplates providing such relief to those who qualify. If after consideration of public comments EPA acts to approve an area's attainment demonstration and extend its attainment date, the area will no longer be subject to reclassification or "bump-up" for failure to attain by its otherwise applicable attainment date.

Background

The Act may be interpreted to allow a later attainment date than generally applicable to a particular ozone nonattainment area if transport of ozone or its precursors (nitrogen oxides (NO_X) and volatile organic compounds (VOCs)) prevents timely attainment. This principle has already been advanced in EPA's Overwhelming Transport Policy, which allowed a downwind area to assume the later attainment date if it could meet certain criteria, including a demonstration that it would have attained "but for" transport from an upwind nonattainment area with a later attainment date. See Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled, "Ozone Attainment Dates for Areas Affected by Overwhelming Transport," September 1, 1994. In the four years since the issuance of that memorandum, the history of the efforts to analyze and control ozone transport has led EPA to believe that it should expand the policy's reach to ensure that downwind areas are not unjustly penalized as a result of transport.

In March 1995, EPA called for a collaborative, Federal-State process for assessing the regional ozone transport problem and developing solutions, and the Ozone Transport Assessment Group (OTAG) was subsequently formed. See Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled "Ozone Attainment Demonstrations," March 2, 1995. The OTAG was an informal advisory committee with representatives from EPA, thirty-seven states in the Midwestern and eastern portions of the country, and industry and environmental groups. OTAG's major functions included developing computerized modeling analyses of the impact of various control measures on air quality levels throughout the region and making recommendations as to the appropriate ozone control strategy. Based on OTAG's modeling analyses, it developed recommendations concerning control strategies. These recommendations, issued in mid-1997, called upon EPA to calculate the specific reductions needed from upwind areas.

In November 1997, using OTAG's technical work, EPA issued a proposed NO_X State implementation plan (SIP) call, directing certain States to revise their SIPs in order to satisfy section 110(a)(2)(D) by reducing emissions of NO_X to specified levels, which in turn will reduce the amounts of ozone being transported into nonattainment areas from upwind areas. 62 FR 60318 (November 7, 1997). In July 1997, the EPA promulgated a revised 8-hour ozone NAAQS. 62 FR 38856 (July 18, 1997). That promulgation included regulations providing that the 1-hour NAAQS would be phased out, and would no longer apply to an area once EPA determined that the area had air quality meeting the 1-hour standard. 40 CFR 50.9(b). Until the 1-hour standard is revoked for a particular area, the area must continue to implement the requirements aimed at attaining that standard.

The Current Problem

The Act called on areas classified as moderate ozone nonattainment areas to submit SIPs that demonstrate attainment by 1996 (unless they receive an extension), and called on serious nonattainment areas to demonstrate attainment by November 1999 (unless they receive an extension). Section 181 and 182(b) and (c). For many of these areas, EPA has preliminarily determined in the proposed SIP call that transport from upwind areas is contributing to their nonattainment problems. Such transport also appears to be interfering with their ability to demonstrate attainment by the statutory attainment dates.

The graduated control scheme in sections 181 and 182 of the Act expressed Congress's intent that areas be assigned varying attainment dates, depending upon the severity of the air quality problem they confront. Sections 181 and 182 provide for attainment "as expeditiously as practicable," but

establish later deadlines for attainment in more polluted areas, and additional control measures that the more polluted areas must accomplish over the longer time frame. Thus, many of the upwind areas have later attainment dates than the downwind areas which are affected by emissions from the upwind States. On the other hand, section 110(a)(2)(D)(i)(I) of the Act requires SIPs to prohibit "consistent with the other provisions of [title I]," emissions which will "contribute significantly to nonattainment in * * * any other State." The EPA interprets section 110(a)(2)(A) to incorporate the same requirement in the case of intrastate transport. Sections 176A and 184 provide for regional ozone transport commissions that may recommend that EPA mandate additional regional control measures to allow areas to reach timely attainment in accordance with section 110(a)(2)(D)(i)(I).

These provisions demonstrate Congressional intent that upwind areas be responsible for preventing interference with timely downwind attainment. They must be reconciled with express Congressional intent that more polluted areas be allotted additional time to attain. As EPA pointed out in its overwhelming transport policy, Congress does not explicitly address how these provisions are to be read together to resolve the circumstance where more polluted upwind areas interfere with timely attainment downwind, during the time provided for those upwind areas to reduce their own emissions.

In the 1994 overwhelming transport policy, EPA stated that it would harmonize these provisions to avoid arguably absurd or odd results and to give effect to as much of Congress' manifest intent as possible. The EPA struck a balance in the overwhelming transport policy by requiring that the upwind and downwind areas reduce their contribution to the nonattainment problem while avoiding penalizing the downwind areas for failure to do the impossible.

In the 1994 policy, EPA reasoned that Congress did not intend the section 110(a)(2)(D)(i)(I) obligation to supersede the practicable attainment deadlines and graduated control scheme in sections 181 and 182, especially since section 110(a)(2)(D)(i)(I) specifically applies only "to the extent consistent with the provisions of [title I]." The same rationale applies in the intrastate context under section 110(a)(2)(A).

Developments since the issuance of the overwhelming transport policy in 1994 have prompted EPA once again to interpret these provisions so that they can be reconciled in light of existing circumstances. Since the issuance of that policy, EPA and the States, through OTAG, have made significant progress in addressing interstate transport in the eastern United States, and have worked to analyze the flow of transport and to allocate among the States their respective responsibilities for control. During the period required for this effort, which took longer than was anticipated, the resolution of the regional transport issue was held in abeyance. The effort to address regional transport recently resulted in EPA's proposed NO_x SIP call, expected to be finalized in the next few months. For areas in the OTAG region affected by transport, the conclusion of the OTAG and SIP call processes in September 1998 will result in assignments of responsibility that will assist in the design of SIPs and the formation and implementation of attainment demonstrations.

Because EPA had not previously determined how much to require upwind States in the OTAG region to reduce transport, downwind areas were handicapped in their ability to determine the amounts of emissions reductions needed to bring about attainment. While operating in this environment of uncertainty, many of these downwind areas confronted near-term attainment dates. Moreover, as described in the NO_X SIP call proposal, the reductions from the proposed NO_X SIP call will not likely be achieved until at least 2002, well after the attainment dates for many of the downwind nonattainment areas that depend on those reductions to help reach attainment.

The Solution

The EPA believes that a fair reading of the Act would allow it to take these circumstances into account to harmonize the attainment demonstration and attainment date requirements for downwind areas affected by transport both with the graduated attainment date scheme and the schedule for achieving reductions in emissions from upwind areas. Thus, EPA will consider extending the attainment date for an area that:

(1) Has been identified as a downwind area affected by transport from either an upwind area in the same State with a later attainment date or an upwind area in another State that significantly contributes to downwind nonattainment. (By "affected by transport," EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain);

(2) Has submitted an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that shows that it will attain the 1-hour standard no later than the date that the reductions are expected from upwind areas under the final NO_X SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind reductions;

(3) Has adopted all applicable local measures required under the area's current classification and any additional measures necessary to demonstrate attainment, assuming the reductions occur as required in the upwind areas. (To meet section 182(c)(2)(B), serious areas would only need to achieve progress requirements until their original attainment date of November 15, 1999);

(4) Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA contemplates that when it acts to approve such an area's attainment demonstration, it will, as necessary, extend that area's attainment date to a date appropriate for that area in light of the schedule for achieving the necessary upwind reductions. The area would no longer be subject to reclassification or "bump-up" for failure to attain by its original attainment date under section 181(b)(2).

Legal Rationale

The legal basis for EPA's interpretation of the attainment date requirements employs and updates the rationale invoked in the Agency's overwhelming transport policy. By filling a gap in the statutory framework, EPA's interpretation harmonizes the requirements of sections 181 and 182 with the Act's requirements (sections 110(a)(2)(D)(i)(I), 110(a)(2)(A), 176A and 184) on inter-area transport. It reconciles the principle that upwind areas are responsible for preventing interference with downwind attainment with the Congressional intent to provide longer attainment periods for areas with more intractable air pollution problems. It also takes into account the amount of time it will take to achieve emission reductions in upwind areas under the NO_X SIP call, which EPA expects to finalize in September 1998.

The EPA's resolution respects the intent of sections 181 and 182 to provide longer attainment dates for areas burdened with more onerous air pollution problems, while allowing

reductions from upwind areas to benefit the downwind areas. Under EPA's interpretation, upwind areas will be required to reduce emissions to control transport, but should not find that the requirements imposed upon them amount to an acceleration of the time frames Congress envisioned for these areas in sections 181 and 182. Downwind areas will be provided additional time to accommodate the delayed control contributions from upwind areas, while at the same time being held accountable for all measures required to control local sources of pollution.

The EPA's interpretation of the Act allows it to extend attainment dates only for those areas which are prevented from achieving timely attainment due to a demonstrated transport problem from upwind areas, and which submit attainment demonstrations and adopt local measures to address the pollution that is within local control. The EPA believes that Congress, had it addressed this issue, would not have intended downwind areas to be penalized by being forced to compensate for transported pollution by adopting measures that are more costly and onerous and/or which will become superfluous once upwind areas reduce their contribution to the pollution problem.

This interpretation also recognizes that downwind areas in the OTAG region have been operating in a climate of uncertainty as to the allocation of responsibility for controlling transported pollution. Section 110(a)(2)(D) is not self-executing and, until the NO_X SIP call rulemaking, downwind areas in the OTAG region could not determine what boundary conditions they should assume in preparing attainment demonstrations and determining the sufficiency of local controls to bring about attainment. By allowing these areas to assume the boundary conditions reflecting reductions set forth in the NO_X SIP call and/or reductions from the requirements prescribed for upwind nonattainment areas under the Act, EPA will hold upwind areas responsible for reducing emissions of transported pollution, and downwind areas will be obliged to adopt and implement local controls that would bring about attainment but for the transported pollution.

The EPA's interpretation harmonizes the disparate provisions of the Act. It avoids accelerating the obligations of the upwind States so that downwind States can meet earlier attainment dates, which would subvert Congressional intent to allow upwind areas with more severe pollution longer attainment time frames to attain the ozone standards. In addition, EPA's interpretation of the Act takes into account the fact that, under the SIP call, upwind area reductions will not be achieved until after the attainment dates for moderate and serious ozone nonattainment areas. To refuse to interpret the Act to accomplish this would unduly penalize downwind areas by requiring them to compensate for the transported pollution that will be dealt with by controls adopted in response to the requirements of the NO_X SIP call or to achieve attainment in an upwind area. The EPA is thus interpreting the requirements to allow the Agency to grant an attainment date extension to areas that submit their attainment demonstrations and all adopted measures necessary locally to show attainment. This solution preserves the responsibility of these downwind areas to prepare attainment demonstrations and adopt measures, but does not penalize them for failing to achieve timely attainment by reclassifying them upwards, since such attainment was foreclosed by transport beyond their control.

Under this policy, once EPA has acted to approve the attainment demonstration and extend the area's attainment date, the area would no longer be subject to reclassification or "bump-up" for failure to attain by its original attainment date under section 181(b)(2).

The EPA requests comment on the interpretation in the guidance memorandum reprinted above.

Dated: March 18, 1999.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–7332 Filed 3–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–IA; FRL–6059–2]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities and Hazard Education Before Renovation of Target Housing; State of Iowa's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 7, 1998, the State of Iowa submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA) and requirements for hazard education before renovation of target housing under section 406 of TSCA. This notice announces the receipt of the State of Iowa's application, provides a 45-day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before May 10, 1999. Public hearing requests must be received on or before April 26, 1999.

ADDRESSES: Submit all written comments identified by docket number PB–402404–IA (in duplicate) to: Environmental Protection Agency, Region VII, Mazzie Talley, Air, RCRA and Toxics Division, Radiation, Asbestos, Lead and Indoor Programs Branch, 726 Minnesota Ave., Kansas City, KS 66101.

Comments, data, and requests for a public hearing may also be submitted electronically to: talley.mazzie@epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Mazzie Talley, Environmental Protection Agency, Region VII, Air, RCRA and Toxics Division, Radiation, Asbestos, Lead and Indoor Programs Branch, 726 Minnesota Ave., Kansas City, KS 66101; telephone (913) 551–7518; e-mail address: talley.mazzie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–2692), entitled *Lead Exposure Reduction.*

Section 402 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities

are certified and follow documented work practice standards. Under section 404 (15 U.S.C. 2684), a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

Section 406 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing the development of a lead hazard information pamphlet and requires each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation. Under section 404 (15 U.S.C. 2684), a State may seek authorization from EPA to develop their own pamphlet, administer and enforce its own pre-renovation notification program.

On August 29, 1996, (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). On June 1, 1998 (63 FR 29907) (FRL–5751–7), EPA promulgated final TSCA section 406 regulations governing hazard education before renovation of target housing. Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA (15 U.S.C. 2684(h)), EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized (15 U.S.C. 2684(a)). This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA (15 U.S.C. 2684(b)), EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether the State of Iowa's application meets the requirements for EPA approval. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of the State of Iowa's proposed program has been provided by the applicant:

Lead-Based Paint Activities Training and Certification Program and Pre-renovation Notification Program

The state of Iowa has submitted an application to the U.S. Environmental Protection Agency asking for the state's Lead-Based Paint Activities Training and Certification Program and Pre-renovation Notification Program to be authorized. The Iowa Department of Public Health is the lead agency for these programs.

The rules for the Lead-Based Paint Activities Training and Certification Program are found in 641-Chapter 70 of the *Iowa Administrative Code*. The training and certification requirements go into effect on August 1, 1999. These rules:

1. Establish the disciplines of lead inspector, elevated blood lead (EBL) inspector, lead abatement contractor, lead abatement worker, and visual risk assessor.

2. Establish work practice requirements for lead inspections, EBL inspections, risk assessments, lead hazard screens, visual risk assessments, and lead abatement.

3. Require individuals who conduct these activities to be certified by August 1, 1999. In order to be certified, individuals must complete an approved training program and meet additional education and experience requirements.

4. Establish procedures for the suspension, revocation, or modification of certifications.

5. Establish requirements for the approval of training programs and requirements and procedures for the administration of a third-party certification exam.

The rules for the Pre-renovation Notification Program are found in 641-Chapter 69 of the *Iowa Administrative Code*. These rules require the distribution of lead hazard information to owners and occupants of target housing before renovation for compensation. The pre-renovation notification goes into effect on August 1, 1999. These rules establish:

1. Clear standards for identifying home improvement activities that trigger the pamphlet distribution requirements.

2. Procedures for distributing the lead hazard information to owners and occupants of the housing prior to renovation activities.

3. Special procedures to be used for emergency renovation, remodeling, and repainting of target housing for compensation for the purpose of preventing significant property damage or threats to public safety or health.

III. Federal Overfiling

TSCA section 404(b) (15 U.S.C. 2684(b)) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number PB–402404–IA. Copies of this notice, the State of Iowa's authorization application, and all comments received on the application are available for inspection in the Region VII Office, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at Environmental Protection Agency, Region VII, Air, RCRA and Toxics Division, Radiation, Asbestos, Lead and Indoor Programs Branch, 726 Minnesota Ave., Kansas City, KS 66101.

Commenters are encouraged to structure their comments so as not to contain information for which Confidential Business Information (CBI) claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a non-confidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:

talley.mazzie@epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number PB–402404–

IA. Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 (*Regulatory Planning and Review*, 58 FR 51735, October 4, 1993), and Executive Order 13045 (*Protection of Children from Environmental Health Risks and Safety Risks*, 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: February 24, 1999.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 99–7338 Filed 3–24–99; 8:45 a.m.]

BILLING CODE 6560–50–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of information collection under review; recordkeeping requirements under the uniform guidelines on employee selection procedures.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the U.S. Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request to extend without change the existing collection of information listed below. The Commission is seeking public comments on the proposed extension.

DATES: Written comments on this notice must be submitted on or before May 24, 1999.

ADDRESSES: Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, N.W., Washington, D.C. 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4078 (voice) or (202) 663–4074 (TDD). (These are not toll-free numbers.) Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street, N.W., Washington, D.C. between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Surveys Division, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663–4958 (voice) or (202) 663–7063 (TDD).

SUPPLEMENTARY INFORMATION: The Commission solicits public comment to enable it to:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the Commission's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

Collection Title: Recordkeeping Requirements of the Uniform Guidelines on Employee Selection Procedures, 29 CFR part 1607.

Form Number: None.

Frequency of Report: None required.

Type of Respondent: Businesses or other institutions, state or local governments, and farms.

Standard Industrial Classification (SIC) Code: Multiple.

Description of Affected Public: Any employer, labor organization, or employment agency covered by the federal equal employment opportunity laws.

Responses: 666,000.

Reporting Hours: 1,450,000.

Number of Forms: None.

Abstract: The records required to be maintained by 29 CFR 1607.4 and 1607.15 are used by respondents to assure that they are complying with Title VII; by the Commission in investigating, conciliating, and litigating charges of employment discrimination; and by complainants in establishing violations of federal equal employment opportunity laws.

Burden Statement: There are no reporting requirements associated with UGESP. Thus the only paperwork burden derives from the required recordkeeping. There are a total of 666,000 employers who have 15 or more employees and that are, therefore, subject to the recordkeeping requirement. Prior to the imposition of the UGESP recordkeeping requirement, the Commission proposed to conduct a practical utility survey to obtain estimates of burden hours. The intended survey was not approved by OMB, however, and the Commission relied instead on data obtained from the Business Roundtable study on "Cost of Government Regulation" conducted by the Arthur Anderson Company.

In its initial estimate of recordkeeping burden the Commission relied on data from that study to derive the estimate of 1.91 million hours. In a subsequent submission to OMB for clearance of the UGESP collection, the Commission made an adjustment to reflect the increase in the incidence of computerized recordkeeping that had resulted in a reduction of total burden hours of approximately 300,000, and had brought the total burden down to 1.6 million hours.

In the calculation of the initial burden of UGESP compliance, the estimated number of employees covered by the guidelines was 71.1 million. Average cost per employee was taken to be $1.79. Since most of this cost, however, was for employers' administrative functions and represented the time spent in reviewing their selection processes for 'adverse impact' and in reviewing and validating their testing procedures, the actual recordkeeping function was estimated to be in the range of 10 to 15 percent of the total per-employee cost, or between $.179 and $.2685 per employee. The Commission used these per-employee costs, even though it believed that they were an over-estimate. In the initial estimate the Commission used the higher end of the range.

Subsequently in 1996, the Commission modified its burden estimate. It recognized the midpoint of the range or $.22 per employee as a better estimate of per-employee cost. The number of employees had also grown by 15 million since the initial estimate, increasing the number of employees covered to 86 million. Finally, from the private employer survey the Commission has been conducting for 30 years (the EEO–1), it knew that 29.7 percent of the private employers file their employment reports on magnetic tapes, on diskettes, or on computer printouts. Thus, at a minimum, that proportion of employers had computerized recordkeeping. From the same survey the Commission also learned that when records are computerized, the burden hours for reporting, and thus for recordkeeping, are about one-fifth of the burden hours associated with non-computerized records. Accordingly, the Commission's estimate of recordkeeping burden hours is as follows:

Computerized recordkeepers—(.29) × 86 mil × ($.044) = $ 1,097,360

All other recordkeepers—(.71) × 86 mil × ($.22) = $13,433,200

Total recordkeeping cost = $14,530,560

Total Burden Hours are then computed by dividing the total cost of recordkeeping by $10, the hourly rate of staff recordkeepers. The total new estimate of burden hours associated with the UGESP recordkeeping then is 1.45 million hours. Assumptions made in deriving the estimate are as follows:

Cost per employee for recordkeeping is $.22*

Cost per employee for computerized records is $.44*

Hourly rate of pay for recordkeeping staff is $10.00**

* Both of these are derived from a private employer study.

** To the extent that this is an under-estimate, the reporting burden is over-estimated.

Dated: March 19, 1999.

For the Commission.

Ida L. Castro,

Chairwoman.

[FR Doc. 99–7317 Filed 3–21–99; 8:45 am]

BILLING CODE 6570–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 18, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 24, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0386.

Title: Section 73.1635, Special Temporary Authorizations (STA).

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,645.

Estimated Time per Response: 1 to 4 hours.

Total annual burden: 3,165 hours.

Total annual costs: $1,074,935.

Needs and Uses: Section 73.1635 allows licensees/permittees of broadcast stations to file for special temporary authority to operate broadcast stations at specified variances from station authorization not to exceed 180 days. Data are used by FCC staff to ensure that such operation will not cause interference to other stations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7254 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Submitted to OMB for Review and Approval

March 17, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 26, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications, Room 1 A–804, 445 12th St., S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Lesmith at 202–418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0669.

Title: Section 76.946, Advertising of Rates.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 11,365.

Estimated Time Per Response: 30 minutes.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 5,683 hours.

Total Annual Costs: None.

Needs and Uses: Section 76.946 states that cable operators that advertise rates for basic service and cable programming service tiers shall be required to advertise rates that include all costs and fees. Cable systems that cover multiple franchise areas having differing franchise fees or other franchise costs, different channel line-ups, or different rate structures may advertise a complete range of fees without specific identification of the rate for each individual area. In such circumstances, the operator may advertise a "fee plus" rate that indicates the core rate plus the range of possible additions, depending upon the particular location of the subscriber. The Commission has set forth this disclosure requirement to ensure consumer awareness of all costs and fees associated with basic service and cable programming service tier rates.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7316 Filed 3–24–99; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements of the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 202–010979–032

Title: Caribbean Shipowners Association

Parties:

Bernuth Lines, Ltd.
Cari Freight Shipping Co. Ltd.
Interline Connection, NV
Seaboard Marine, Ltd.
Tecmarine Lines, Inc.
Crowley American Transport, Inc.
Kent Line International Limited
SeaFreight Line, Ltd.
Tropical Shipping & Construction Co., Ltd.
King Ocean Service, S.A.
Sea-Land Service, Inc. ("Sea-Land")
Navieras

Synopsis: The proposed amendment would expand the geographic scope of the Agreement to include Haiti and Jamaica. It also amends the independent action and service contract provisions of the Agreement to conform to the Ocean Shipping Reform Act of 1998 and deletes Sea-Land as a party to the Agreement.

Agreement No.: 217–011657

Title: Zim/Italia-D'Amico Space Charter Agreement

Parties:

Zim Israel Navigation Company Ltd.

Italia d'Navigazione S.p.A. ("Italia")
D'Amico Societa di Navigazione S.p.A. ("D'Amico")

Synopsis: The proposed Agreement would permit the parties to charter space to one another in the trade between United States Atlantic and Pacific Coast ports and ports in France, Spain, Italy, and Israel. For purposes of this Agreement, Italia and D'Amico will be considered a single party.

Dated: March 22, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7268 Filed 3–24–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Opus One USA, 1754 40th Avenue, San Francisco, CA 94122, Jo-Yu A. Wu, Sole Proprietor

The Pelixan Group, Inc., 3405–B NW 72 Ave., Suite 105, Miami, FL 33122, Officers: Francis W. Alter, President, Donna Pearson, Vice President

Dated: March 22, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7267 Filed 3–24–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 16, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. First Financial Banc Corporation, El Dorado, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of First Financial Bank, El Dorado, Arkansas (upon its conversion from a federal savings bank under the name of First Financial Bank, FSB, to a state chartered bank).

Board of Governors of the Federal Reserve System, March 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7228 Filed 3-24-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 19, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. BanTenn Corp., Kingsport, Tennessee; to acquire 20 percent of the voting shares of Paragon Commercial Bank, Raleigh, North Carolina.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Roxton Corporation Employee Stock Ownership Plan, Waco, Texas; to acquire 42.74 percent of the voting shares of The Roxton Corporation, Celeste, Texas, and thereby indirectly acquire The First Bank, Roxton, Texas.

Board of Governors of the Federal Reserve System, March 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7353 Filed 3–24–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-6649) published on page 13427 of the issue for Thursday, March 18, 1999.

Under the Federal Reserve Bank of Cleveland heading, the entry for Fifth Third Bancorp, Cincinnati, Ohio, is revised to read as follows:

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Fifth Third Bancorp., Cincinnati, Ohio; to merge with South Florida Bank Holding Corporation, Ft. Meyers, Florida, and thereby indirectly acquire South Florida Bank, Ft. Meyers, Florida.

Comments on this application must be received by April 12, 1999.

Under the Federal Reserve Bank of Chicago heading, the entry for Foresight Financial Group, Inc., Freeport, Illinois, is revised to read as follows:

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Foresight Financial Group, Inc., Freeport, Illinois; to acquire 100 percent of the voting shares of State Bank FFG, Freeport, Illinois.

Comments on this application must be received by April 12, 1999.

Under the Federal Reserve Bank of Dallas heading, the entry for Violeta Investments, Ltd., Hebbronville, Texas, is revised to read as follows:

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Violeta Investments, Ltd., Hebbronville, Texas; to acquire 12.34 percent of the voting shares of Hebbronville State Bank, Hebbronville, Texas.

Comments on this application must be received by April 12, 1999.

Board of Governors of the Federal Reserve System, March 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7354 Filed 3–24–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 7, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Northwest Financial Corporation, Spencer, Iowa; to engage *de novo* through its subsidiary, Northwest Federal Savings Bank, Spencer, Iowa, in acquiring Gateway Savings Bank, Ankeny, Iowa (in organization), and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7229 Filed 3-24-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Committee on Employee Benefits of the Federal Reserve Systems.*

TIME AND DATE: 2:30 p.m., Tuesday, March 30, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551,

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Further consideration of a proposal relating to Federal Reserve System benefits.

2. Any items carried forward from a previously announced meeting.

*The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement of this meeting. (The Web site also includes procedural and other information about the meeting.)

Dated: March 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7378 Filed 3–22–99; 5:00 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 64 FR 13427, March 18, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Tuesday, March 23, 1999.

CHANGES IN THE MEETING: THE OPEN MEETING HAS BEEN CANCELED, AND THE SCHEDULED ITEM WAS HANDLED VIA NOTATION VOTING.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: March 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7412 Filed 3–23–99; 12:28 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Ms. Maria Diaz, Rush-Presbyterian-St. Luke's Medical Center: Based on the report of the Rush-Presbyterian-St. Luke's Medical Center (RPMC) Research Integrity Investigation Committee dated May 13, 1998, which included a report of a special National Cancer Institute (NCI) audit, and additional information obtained by ORI during its oversight review, ORI finds that Ms. Diaz, former data manager for two multicenter cancer prevention clinical trials at RPMC,

engaged in scientific misconduct in this clinical research supported by NCI, National Institutes of Health (NIH), cooperative agreements.

Specifically, Ms. Diaz intentionally fabricated and/or falsified research data and information collected at RPMC for the Breast Cancer Prevention Trial (BCPT) under the National Surgical Adjuvant Breast and Bowel Project (NSABP) and a secondary prevention trial for lung cancer sponsored by the M.D. Anderson Cancer Center and Eastern Cooperative Oncology Group (ECOG). Ms. Diaz falsified data related to entry criteria and treatment compliance on the secondary lung cancer prevention trial. She fabricated reports of follow-up examinations for subjects entered on the BCPT, falsified laboratory test results, and forged signatures of physicians on informed consent documents.

ORI has implemented the following administrative actions for the three (3) year period beginning March 13, 1999:

(1) Ms. Diaz is prohibited from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) Any institution that submits an application for PHS support for a research project on which Ms. Diaz's participation is proposed or which uses her in any capacity on PHS supported research, or that submits a report of PHS-funded research in which she is involved, must concurrently submit a plan for supervision of her duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Ms. Diaz's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations Office of Research Integrity 5515 Security Lane, Suite 700 Rockville, MD 20852 (301) 443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 99–7234 Filed 3–24–99 8:45 am]

BILLING CODE 4160–17–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98P–0043]

Agency Information Collection Activities; Announcement of OMB Approval; Food Labeling: Nutrition Labeling of Dietary Supplements on a "Per Day" Basis

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Food Labeling: Nutrition Labeling of Dietary Supplements on a "Per Day" Basis" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 12, 1999 (64 FR 1765), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–395. The approval expires on March 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at "http://www.fda.gov/ohrms/dockets".

Dated: March 17, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7233 Filed 3–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0487]

Exxon Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Exxon Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of fatty acids, C10-13-branched, vinyl esters as a comonomer in polymers used as components of adhesive formulations intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4650) has been filed by Exxon Chemical Co., P.O. Box 3272, Houston, TX 77253–3272. The petition proposes to amend the food additive regulations in § 175.105 Adhesives (21 CFR 175.105) to provide for the safe use of fatty acids, C 10-13-branched, vinylesters as a comonomer in polymers used as components of adhesive formulations intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: March 5, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–7231 Filed 3–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N–0240; DESI 1786]

Nitroglycerin Transdermal System; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is proposing to withdraw approval of one new drug application (NDA) and five abbreviated new drug applications (ANDA's) for certain single-entity coronary vasodilator drug products containing nitroglycerin in a transdermal system.

FDA is offering the holders of the applications an opportunity for a hearing on the proposal. The basis for the proposal is that the sponsors of these products have failed to submit acceptable data on bioavailability and bioequivalence.

DATES: Hearing requests are due by April 26, 1999; data and information in support of hearing requests are due by May 24, 1999.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 1786 and directed to the attention of the appropriate office named below.

A request for a hearing, supporting data, and other comments are to be identified with Docket No. 77N–0240 and submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

A request for applicability of this notice to a specific product should be directed to the Division of Prescription Drug Compliance and Surveillance (HFD–330), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice (DESI 1786) published in the **Federal Register** of February 25, 1972 (37 FR 4001), FDA announced its evaluation of reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, on certain coronary vasodilator drugs. FDA classified controlled-release tablets of nitroglycerin as possibly effective for indications relating to the management, prophylaxis, or treatment of anginal attacks.

Notices published in the **Federal Register** of August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), amended earlier notices (37 FR 26623, December 14, 1972; and 38 FR 18477, July 11, 1973) by temporarily exempting nitroglycerin in controlled-release forms from the time limits established for the Drug Efficacy Study Implementation (DESI) program (paragraph XIV, category I exemption). FDA granted this exemption to allow manufacturers additional time to study the effectiveness and bioavailability of their products. FDA also added additional dosage forms of nitroglycerin to the Drug Efficacy Study and the paragraph XIV, category I exemption.

The exemption notices established conditions for marketing the single-entity coronary vasodilators and identical, similar, or related products (§ 310.6 (21 CFR 310.6)), whether or not they had been marketed and whether or not they were subjects of approved NDA's. FDA required distributors and manufacturers to have ANDA's (conditionally approved, pending the results of ongoing studies) to market products not the subject of NDA's. If at least one drug sponsor was conducting clinical studies on a chemical entity, FDA permitted the marketing of all firms' products containing the same chemical entity in a similar dosage form, provided each product met the other conditions. Not all sponsors, therefore, were required to conduct clinical studies. Because bioavailability is specific for an individual product, however, FDA required each firm to conduct a bioavailability study on its own product.

In a notice published in the **Federal Register** of July 15, 1993 (58 FR 38129), after completing its review of the clinical studies submitted for the transdermal delivery system of nitroglycerin, FDA announced its conclusions that this dosage form of nitroglycerin is effective. The notice set forth the conditions for marketing and approval of such products. To receive full approval of an application based on effectiveness, as well as safety, the notice required that sponsors submit bioavailability/bioequivalence studies within 1 year.

The sponsors of the drug products listed in section II of this document are not in compliance with the July 15, 1993, notice in that they either have not submitted any bioavailability/bioequivalence data or have not submitted additional data on incomplete or inadequate studies.

Accordingly, this notice reclassifies the products to lacking substantial evidence of effectiveness, proposes to withdraw approval of the applications, and offers an opportunity for a hearing on the proposal.

II. NDA's and ANDA's Known by FDA to Be Subject to This Notice

1. NDA 20–146; Nitrodisc, release rate 0.2 milligrams (mg) of nitroglycerin per hour (h); G.D. Searle & Co., P.O. Box 5100, Chicago, IL 60680 (Searle).

Nitrodisc, release rate 0.3 mg of nitroglycerin per h; Searle.

Nitrodisc, release rate 0.4 mg of nitroglycerin per h; Searle.

2. ANDA 88–727; Deponit, release rate 0.2 mg of nitroglycerin per h; Schwarz Pharma, Inc., 5600 West County Line Rd., Mequon, WI 53092 (Schwarz) (formerly held by Wyeth Laboratories, Inc., P.O. Box 8297 Philadelphia, PA 19101).

3. ANDA 88–782; Nitroglycerin Transdermal System (NTS), release rate 0.2 mg of nitroglycerin per h; Hercon Pharmaceutical Co., Inc., P.O. Box 786, York, PA 17405 (Hercon).

4. ANDA 88–783; NTS, release rate of 0.6 mg of nitroglycerin per h; Hercon.

5. ANDA 89–022; Deponit, release rate 0.4 mg of nitroglycerin per h; Schwarz.

6. ANDA 89–516; NTS, release rate of 0.4 mg of nitroglycerin per h; Hercon.

III. Notice of Opportunity for a Hearing

On the basis of all the data and information available to her, the Director of the Center for Drug Evaluation and Research is unaware of any adequate and well-controlled clinical investigation conducted by experts who are qualified by scientific training and experience meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355), 21 CFR 314.126, and 21 CFR part 320 that demonstrates effectiveness (i.e., bioavailability/bioequivalence) of the drugs that have been found to be in compliance with the conditions established for continued marketing.

Therefore, notice is given to the holders of the NDA and ANDA's listed in section II of this document and to all other interested persons that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the act withdrawing approval of the applications and all amendments and supplements thereto on the ground that new information before her with respect to the drug products, evaluated with the evidence available to her when the applications were approved, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the applications specifically named in section II of this document, this notice of opportunity for a hearing applies to all persons who manufacture or distribute a drug product, not the subject of an approved application, that is identical, related, or similar to a drug product named in section II of this document, as defined in § 310.6. It is the responsibility of every drug

manufacturer or distributor to review this notice of opportunity for a hearing to determine whether it covers any drug product that they manufacture or distribute. Such persons may request an opinion on the applicability of this notice to a specific drug product by writing to the Division of Prescription Drug Compliance and Surveillance (address above).

This notice of opportunity for a hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 (Pub. L. 87–781), or for any other reason.

In accordance with section 505 of the act and parts 310 and 314 (21 CFR parts 310 and 314), an applicant and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approval of the applications should not be withdrawn.

An applicant or any other person subject to this notice who decides to seek a hearing shall file: (1) On or before April 26, 1999, a written notice of appearance and request for hearing; and (2) on or before May 24, 1999, the data, information, and analyses relied on to demonstrate that there is a genuine issue of material fact to justify a hearing, as specified in § 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, a notice of appearance, and request for a hearing, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in §§ 314.151 and 314.200 and in 21 CFR part 12.

The failure of an applicant or any other person subject to this notice to file a timely written notice of appearance and request for a hearing, as required by § 314.200, constitutes an election by that person not to use the opportunity for a hearing concerning the action proposed and a waiver of any contentions concerning the legal status of that person's drug products.Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for a hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions under this notice of opportunity for a hearing are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505 (21 U.S.C. 355)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82).

Dated: March 3, 1999.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 99–7232 Filed 3–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Workshop on International Outreach and Training on Good Agricultural and Good Manufacturing Practices for Fresh Produce

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting: Workshop on International Outreach and Training on Good Agricultural and Good Manufacturing Practices for Fresh Produce. The topics to be discussed are developing a collaborative process for identifying training needs for foreign growers and producers who export fresh produce to the United States and identifying effective strategies to best meet those needs.

Date and Time: The meeting will be held on April 26 and 27, 1999, from 8:30 a.m. to 5:30 p.m., and on April 28, 1999, from 8:30 a.m. to 12 noon.

Location: The workshop will be held at the Inn and Conference Center, University of Maryland University College, University Blvd. at Adelphi Rd., College Park, MD, 301–985–7300.

Contact: Camille E. Brewer, Center for Food Safety and Applied Nutrition (HFS–32), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–2314, FAX 202–260–9653, e-mail "cbrewer@oc.fda.gov".

Registration: The meeting is open to the public. However, space is limited and preregistration is required. Send preregistration information (including name, title, firm name, address, telephone, and fax number), to Wendy Buckler, JIFSAN (HFS–6), Center for Food Safety and Applied Nutrition, FDA, 200 C St. SW., Washington, DC 20204, 202–205–4153, FAX 202–260–1654, e-mail "wbuckler@bangate.fda.gov". Translation into Spanish will be available. Limited space will be available at no cost to groups interested in exhibiting outreach, education, and training materials on produce safety. However, all exhibitors must preregister with Ms. Buckler.

If you need special accommodations due to a disability, please contact Ms. Buckler at least 7 days in advance.

SUPPLEMENTARY INFORMATION: On October 2, 1997, the President announced the "Initiative to Ensure the Safety of Imported and Domestic Fruits and Vegetables" (fresh produce safety initiative). As part of the fresh produce safety initiative, the President directed the Secretary of the Department of Health and Human Services (DHHS) and the Secretary of the U.S. Department of Agriculture (USDA), in cooperation with the agricultural community, to issue within 1 year guidance on good agricultural practices and good manufacturing practices for fresh fruits and vegetables. FDA coordinated the effort for DHHS.

FDA announced the availability of the final good agricultural practices and good manufacturing practices guidance on October 29, 1998 (63 FR 58055), after receiving and considering comments on the draft guidance from producers, foreign governments, and trade associations both in writing and during two separate rounds of public meetings on successively more developed drafts of the guide. The final guide (the guide) details a broad approach on how to minimize microbial contamination of produce through the control of: Water, manure, worker health and hygiene,

field and facility sanitation, and transportation.

On February 24, 1998, USDA and FDA issued a progress report to the President on the Initiative to Ensure the Safety of Imported and Domestic Fruits and Vegetables. The report summarized the progress USDA and FDA have made in providing good agricultural practices and good manufacturing practices guidance to domestic and international growers, harvesters, handlers, and transporters of fresh fruits and vegetables. The report discussed, among other things, the agencies' plans for assisting domestic and foreign producers to improve those practices.

The report stated that education and outreach programs are essential to foster appropriate application of the guidance by the domestic and international fresh fruit and vegetable industry, and that such programs are pivotal to industry's understanding of the essential principles of the guidance, as well as the scientific and practical reasons for application of the guidance as everyday production and processing practice.

The FDA workshop will begin the process for determining how to develop an education and outreach program for growers and producers of fresh fruit and vegetables imported into the United States. Participants will have the opportunity to discuss the most effective approaches for education and training and to identify any science-based needs that will further the implementation of the guide. At the meeting, foreign and domestic scientific experts, extension professionals, and industry representatives will make presentations on the applications of the guide. Representatives from donor organizations (e.g., the InterAmerican Development Bank) will also address infrastructure improvements needed to enhance food safety. Although the meeting will not offer training, per se, participants will have the opportunity to share current educational information and industry strategies that can further enhance the microbiological safety of fresh fruits and vegetables and contribute to the development of an educational framework for users of the guide.

Dated: March 17, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7230 Filed 3–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–0282]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Blood Bank Inspection Checklist and Report and Supporting Regulations in 42 CFR 493.1269–493.1285; *Form No.:* HCFA–0282 (OMB# 0938–0170); *Use:* The Clinical Laboratory Improvement Amendments (CLIA) of 1988 requires the Department of Health and Human Services (HHS) to establish certification requirements for any laboratory that performs tests on human specimens, and to certify through the issuance of a certificate that those laboratories meet the requirements established by HHS. The law provides for inspections on an announced or unannounced basis during regular hours of operation. All records and information having a bearing on whether the laboratory is being operated in accordance with the law can be requested by the surveyor. The HCFA–0282 is the Blood Bank Inspection Checklist and Report which is outlined in the CLIA of 1988.; *Frequency:* Biennially; *Affected Public:* Not-for-profit institutions, Business or other for-profit, Federal Government, and State, Local, and Tribal Government; *Number of Respondents:* 1,250; *Total Annual Responses:* 1,250; *Total Annual Hours:* 625.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Louis Blank, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 15, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–7292 Filed 3–24–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–0319, 2786, and R–0074]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to

minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* State Medicaid Eligibility Quality Control (MEQC) Sample Section Lists and Supporting Regulations in 42 CFR 431.800–431.865; *Form No.:* HCFA–0319 (OMB# 0938–0147); *Use:* At the beginning of each month, State agencies are required to submit sample selection lists which identify all of the cases selected for review in the States' samples. These reviews are conducted to determine whether the sampled cases meet applicable State Title XIX eligibility requirements. The sample selection lists contain identifying information on Medicaid beneficiaries such as: State agency review number; beneficiary's name and address; the name of the county where beneficiary resides; and the Medicaid case number. The reviews are also used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases.; *Frequency:* Monthly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 55; *Total Annual Responses:* 660; *Total Annual Hours:* 5,280.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Fire Safety Survey Report Forms and Supporting Regulations in 42 CFR 416.44, 418.100, 482.41, 483.70, 483.470; *Form No.:* HCFA–2786 A–D, F, G, H, J, K, L, M, P and Q (OMB# 0938–0242); *Use:* The information from these forms will be used to make Medicare/Medicaid certification decisions. We request information in accordance with the Life Safety Code of the National Fire Protection Association. HCFA then surveys all facilities based upon prior compliance history; that is, the "good" facilities will be surveyed less frequently. Either the short or long fire safety form will be utilized each time a health survey is performed, depending on the circumstances.; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 53; *Total Annual Responses:* 30,000; *Total Annual Hours:* 25,000.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Income and Eligibility Verification System (IEVS) and Supporting Regulations in 42 CFR 431.17, 431.306, 435.910, 435.920, 435.940–435.960; *Form No.:* HCFA–R–0074 (OMB# 0938–0467); *Use:* Section 1137 of the Social Security Act requires Medicaid State agencies and other federally funded welfare agencies to request income and resource data from certain federal agencies, State wage information collection agencies, and State unemployment compensation agencies through an IEVS. The purpose of the IEVS is to ensure that only eligible individuals receive benefits.; *Frequency:* Annually; *Affected Public:* Individuals or Households, and State, Local, or Tribal government; *Number of Respondents:* 54; *Total Annual Responses:* 54; *Total Annual Hours:* 101,414.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503

Dated: March 15, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–7291 Filed 3–24–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–79]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Payment Adjustment for Sole Community Hospitals and Supporting Regulations in 42 CFR 412.92;

Form No.: HCFA–R–79 (OMB# 0938–0477);

Use: Hospitals designated as "Sole Community Hospitals" that experience a five percent decrease in discharges in one cost reporting period, due to unusual circumstances, beyond its control, may request an adjustment to its Medicare payment amount;

Frequency: On occasion;

Affected Public: Not-for-profit institutions, business or other for-profit, and State, Local or Tribal Government;

Number of Respondents: 40;

Total Annual Responses: 40;

Total Annual Hours: 160.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 8, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–7293 Filed 3–24–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: February 1999

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of February 1999, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ATEGBOLE, OLUSEGUN V LAKELAND, FL	03/18/1999
AU, PUI-YEN MERCER ISLAND, WA	09/24/1998
AU, ALLEN T C MERCER ISLAND, WA	09/24/1998
BENNETT, JAMES W TUCSON, AZ	10/05/1998
BOGGS, RENEE BOBBIE HOBBS, NM	03/18/1999
BORNN, BRENDA F CARSON, IA	03/18/1999
BROWN, ANGELA DENISE NASHVILLE, TN	03/18/1999
CHAVEZ, ARLENE ALBUQUERQUE, NM	03/18/1999
CHRISTIANSON, CLAYTON OSCAR GAINESVILLE, FL	03/18/1999
CLEMENDOR, ROBERT DECATUR, GA	03/18/1999
CLEMENTE, FRANK E MARLBORO, NY	03/18/1999
FRANK, GARY D PHOENIX, AZ	11/05/1998
GABANI, YASIR AHMED HUNTSVILLE, AL	03/18/1999
GEHA, JAMES SCOTTSDALE, AZ	03/18/1999
HAIL, ANN HOBBS, NM	03/18/1999
JACKSON, ZUNILDA REYES PAHOKEE, FL	03/18/1999
LLOYD, TIMIKA DECATUR, GA	03/18/1999
MILLER, LAUREN OVAL MCKINLEYVILLE, CA	03/18/1999
SAGHERIAN, ARTIN GLENDALE, CA	03/18/1999
SOLARZ, LAUREN VOORHEES, NJ	03/18/1999
FELONY CONTROL SUBSTANCE CONVICTION	
THIRKILL, SHARRON K LIMA, OH	03/18/1999
PATIENT ABUSE/NEGLECT CONVICTIONS	
BALTIERRA, JUAN R SOLEDAD, CA	03/18/1999
BLOOD, BRAD R DOWNEY, CA	03/18/1999
BRANAM, MICHAEL DARRYL PETALUMA, CA	03/18/1999
BRIMELLI, JUDITH L SOLVAY, NY	03/18/1999
DARRELL, DAVID RYAN STILLWATER, OK	03/18/1999
FLOWERS, HERMAN JOEL JR PEMBERTON, NJ	03/18/1999
GOMEZ, ANGELA MARIE LINCOLN, CA	03/18/1999
GREEN, MICHAEL DEE EUREKA, CA	03/18/1999
HENRICKSEN, RUTH ANN CLOVER, SC	03/18/1999
KIRKLAND, FANNIE MARIE ALEXANDRIA, LA	03/18/1999
MCALLISTER, LAGINA RENEE FAYETTEVILLE, NC	03/18/1999
PEDEGLORIO, GIL ASPIRAS VALLEJO, CA	03/18/1999
RANK, DENNIS R SIDNEY, OH	03/18/1999
SHAFT, GEORGIA ANN PERRY, MI	03/18/1999
THORNTON, SCOTT WAYNE HARRIMAN, TN	03/18/1999
TWYMAN, TOMMY T CHESTER, PA	03/18/1999
WALTUCH, THEODORE L COALINGA, CA	03/18/1999
LICENSE REVOCATION/SUSPENSION/ SURRENDERED	
ALEMAN, LINDA L BELLEVILLE, IL	03/18/1999
BELANGER, KENNETH JR CHICAGO, IL	03/18/1999
BENSON, LAUREL A DES MOINES, IA	03/18/1999
BETHANY, EVA CARPENTER LEXINGTON, MS	03/18/1999
BISHOP, ALMA R HAYWARD, CA	03/18/1999
BOLLES, LEO JOSEPH BELLEVUE, WA	03/18/1999
BOWEN, ALLEN J MUSCATINE, IA	03/18/1999
CAMPBELL, MARGARET A STOCKTON, CA	03/18/1999
CHANCE, KIRBY R DES MOINES, IA	03/18/1999
CHAVIS, PATRICK LOS ANGELES, CA	03/18/1999
COUNTS, EDWARD F LEXINGTON, KY	03/18/1999
DARK, PAUL L CHICAGO, IL	03/18/1999
DATES, DELORES A CHICAGO, IL	03/18/1999
DICKINSON, DAVID CARSON CITY, NV	03/18/1999
DILLIGARD, JANICE W NEW BERN, NC	03/18/1999
DIXIT, AMEER M LAGUNA NIGUEL, CA	03/18/1999
DIXON, DAVID CORONA, CA	03/18/1999
DULAC, MARK BRIAN WILLIAMSBURG, MI	03/18/1999
ESPINOZA, RURICO ROBERT IMPERIAL, CA	03/18/1999
FITZGERALD, DAVID A GLENCOE, IL	03/18/1999
FOURNIER, BARRY P BULRINGTON, MA	03/18/1999
FRALISH, BILLIE J HARRISBURG, NC	03/18/1999
GABRIELE, VICTORIA WATERBURY, CT	03/18/1999
GOEI, GORDON BEVERLY HILLS, CA	03/18/1999
HAGGERTY, THOMAS MICHAEL ESCONDIDO, CA	03/18/1999
HERGENRADER, SHARON M DES MOINES, IA	03/18/1999
HILL, JAMES L ANACORTE, WA	03/18/1999
JACKSON, MONA E BRIGHTON, IA	03/18/1999
JENKINS, JULIA KING, NC	03/18/1999
JOHNSON, ROY J JR SHELBY, OH	03/18/1999
KIRGAN, KEVIN W MARISSA, IL	03/18/1999
LARK, DAVID LEE CORCORAN, CA	03/18/1999
LEE, ANNETTE HICKORY, NC	03/18/1999
LONG, KATHLEEN M OCEANSIDE, CA	03/18/1999
MARINESCU, TEOHARI STEFAN W BLOOMFIELD, MI	03/18/1999
MAY, INGRID E GREENFIELD, IA	03/18/1999
MCKINNON, JAMES A CORONA, CA	03/18/1999
MCLACHLAN, CYNTHIA ANN ORION, MI	03/18/1999
MCNEILL, MARY G GAFFNEY, SC	03/18/1999
MINKOWSKI, WILLIAM LOUIS SANTA CRUZ, CA	03/18/1999
NAAYEM, HOUDA MINNEAPOLIS, MN	03/18/1999
NAHAM, RICHARD E LOS ANGELES, CA	03/18/1999
NETZEL, LYNN A CICERO, IL	03/18/1999
PANSCIK, CYNTHIA L	03/18/1999

Subject city, state	Effective date
AVOCA, MI	
PEAVY, WINDY	03/18/1999
BATESVILLE, MS	
POWELL, KATHRYNE SHAW	03/18/1999
BUTNER, NC	
RANDOL, BARBARA	03/18/1999
MARION, IL	
RISENHOOVER, PATRICIA MARIE	03/18/1999
FRESNO, CA	
ROBERTS, JUDY	03/18/1999
SHELTON, CT	
RYAN, JEANETTE	03/18/1999
WASHINGTON, NC	
SANBORN, MICHAEL T	03/18/1999
DES MOINES, IA	
SANEZ, CHRISTOPHER CHARLES	03/18/1999
RESEDA, CA	
SAWIN, DOUGLAS B	03/18/1999
LAGUNA BEACH, CA	
SCARBEAU, RUTH O	03/18/1999
NEEDHAM, MA	
SIPLE, JONI	03/18/1999
REDDING, CA	
STEWART, CHARLES DAVID	03/18/1999
LAMESA, TX	
STRONG, REBECCA	03/18/1999
WATERLOO, IA	
SUTTON, TAWANA LEE	03/18/1999
CARMI, IL	
TERRELL, PAULA EUGENA	03/18/1999
GASTONIA, NC	
THOMPSON, KAREN	03/18/1999
SPARKS, NV	
TRAHMS, ROBERT GEORGE	03/18/1999
GREENBRAE, CA	
TUCHSCHER, THOMAS J	03/18/1999
SAN DIEGO, CA	
WAGNER, CAROL JEAN	03/18/1999
YUCAIPA, CA	
WERNER, FABANN M	03/18/1999
MANSFIELD, OH	
WICKREMASINGHE, FELIX A	03/18/1999
PEEBLES, OH	
WODKA, RICHARD MARK	03/18/1999
MARANA, AZ	
ZAGURSKI, DEBORAH A	03/18/1999
LUDLOW, MA	
FEDERAL/STATE EXCLUSION/ SUSPENSION	
LARICCHIA, SAMUEL	03/18/1999
RIDGEFIELD, CT	
MSK PHARMACY, INC	03/18/1999
BROOKLYN, NY	
MUNIR, SHAHID	03/18/1999
BROOKLYN, NY	
SYMA PHARMACY, INC	03/18/1999
BROOKLYN, NY	
OWNED/CONTROLLED BY CONVICTED/ EXCLUDED	
ALLCARE HEALTH	
SERVICES, INC	03/18/1999
MONROE, CT	
G & A TRANSPORTATION	
SERVICES	03/18/1999
HUNTSVILLE, AL	
MILLER MED TRANS	03/18/1999
MEKINLEYVILLE, CA	
ORANGE CENTER	
PHARMACY, INC	03/18/1999
MONROE, CT	
PEACH STATE HOME MEDICAL	03/18/1999
COLLEGE PARK, GA	
DEFAULT ON HEAL LOAN	
AHRENDT, ANDREW R	03/18/1999
MARIETTA, GA	
ANDERSON, MICHAEL L	03/18/1999
RED BUD, IL	
COBY, MICHAEL E	03/18/1999
HADLEY, MA	
OBOT, ETIOWO A	03/18/1999
LITHONIA, GA	
ROBLES, ALLEN	03/18/1999
SAN FRANCISCO, CA	
ROMANICK, MICHAEL R	03/18/1999
LONG BEACH, CA	
SHARP, GREGORY D	03/18/1999
COLVILLE, WA	
SHERRON, HUGH KEITH	03/18/1999
BROWNSVILLE, TX	
SHINDER, THOMAS W	03/18/1999
SEAGOVILLE, TX	
SPAULDING, MICHELE DELOIS	03/18/1999
WASHINGTON, DC	
TURNER, ANTHONY J	03/18/1999
WICHITA, KS	
VIGIL, JACOB	03/18/1999
EL PASO, TX	
VINCENTI, CAMILLA C	03/18/1999
PLAINSBORO, NJ	
WEBSTER, LAWRENCE H	03/18/1999
SEABECK, WA	
WRIGHT, LARRY ALAN	03/18/1999
CHICO, CA	

Dated: March 4, 1999.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 99–7289 Filed 3–24–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4316–FA–04]

Announcement of Funding Award—Fiscal Year 1998 Lead-Based Paint Hazard Control Midwest Research Institute

AGENCY: Office of the Secretary—Office of Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to the Midwest Research Institute. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: David Levitt, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 755–1785, ext. 156. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Research to develop improved methods for measuring lead in paint films, dust, and soil samples is authorized by section 1052(3) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992).

The Midwest Research Institute will provide oversight, maintenance and storage for the HUD owned lead-based paint archives. The lead-based paint archives consist of approximately 150 real world housing components which are lead-based painted. These components have served as the basis for the development of Performance Characteristic Sheets (PCS) for use with field-portable X-ray Fluorescence (XRF) instruments, which are currently the most common technology utilized for performing lead-based paint inspections. PCSs are utilized in conjunction with an XRF to facilitate the accurate interpretation of data generated by that specific XRF instrument. Use of the XRF, its manufacturer's instructions, and the PCS are important elements necessary for conducting a lead-based paint inspection in conjunction with the HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing (HUD, 1995, with a 1997 revision of chapter 7 on inspection).

The lead-based paint archives will continue to be used for the testing of XRF instruments, and will also be used for the testing of alternative technologies developed for the identification of lead-based paint (e.g., spot test kits). The use of existing lead-based paint archive components for evaluating testing instrumentation is an important part of ongoing efforts to develop new, improved, and cost-effective methods for accurately identifying and quantifying lead-based paint in target housing. The results of these efforts will continue to support HUD's goal of reducing the incidence of childhood lead poisoning.

The Midwest Research Institute (MRI) will continue to provide oversight and coordination with manufacturers and research entities on the testing of new and existing technologies for the identification of lead-based paint. In addition, MRI will ensure that the lead-

based paint archives are maintained in good condition to allow for their continued use as components in instrument testing protocols.

This notice announces the award of $24,612 to MRI. This funding will be used by MRI for the continued oversight of the lead-based paint archive facility and coordination of instrument testing activities.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows: Midwest Research Institute, 425 Volker Boulevard, Kansas City, MO 64110–2299. Amount of Grant: $24,612

Dated: March 18, 1999.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 99–7343 Filed 3–24–99; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE009163

Applicant: Raptor Resource Project, Ridgeway, Iowa.

The applicant requests a permit to take (capture, temporarily hold, translocate, and release) Peregrine falcons (Falco peregrinus) in Minnesota, Iowa, and Wisconsin. Activities are proposed for the enhancement of survival of the species in the wild.

Permit Number TE009168

Applicant: Leon C. Hinz, Jr.

The applicant requests a permit to take (capture and release; limited removal from the wild for voucher specimens) Hungerford's crawling water beetle (*Brychius hungerfordi*) in Michigan. Surveys are proposed to document the distribution of the species for the purpose of enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5343); FAX: (612/713–5292).

Dated: March 18, 1999.

T.J. Miller,

Acting Program Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 99–7246 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–800929.

Applicant: City of San Diego, San Diego, California.

The applicant requests a permit amendment to take (harass by survey, capture and release) the Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with population monitoring in vernal pools in San Diego County, California for the purpose of enhancing its survival.

Permit No. TE–007628.

Applicant: Darren Smith, San Diego, California.

The applicant requests a permit to take (pursue by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout the species' range for the purpose of enhancing its survival.

Permit No. TE–008031.

Applicant: David W. Flietner, Riverside, California.

The applicant requests a permit to take (pursue by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout the species' range for the purpose of enhancing its survival.

Permit No. TE–844475.

Applicant: Shapiro & Associates, Portland, Oregon.

The applicant requests a permit to take (capture and collect) the Lost River sucker (*Deltistes luxatus*) and the shortnose sucker (*Chasmistes brevirostrum*) in conjunction with surveys, and DNA and otolith analyses in Klamath County, Oregon for the purpose of enhancing their survival.

Permit No. TE–007907.

Applicant: U.S. Geological Survey, Western Fisheries Research Center, Cook, Washington.

The applicant requests a permit to take (capture, mark, and collect) the Lost River sucker (*Deltistes luxatus*) and the shortnose sucker (*Chasmistes brevirostrum*) in conjunction with population monitoring and life history studies in Klamath and Lake Counties, Oregon for the purpose of enhancing their survival.

Permit No. TE–799569.

Applicant: Renee Y. Owens, Jamul, California.

The applicant requests a permit amendment to take (harass by survey, locate and monitor nests, and remove brown-headed cowbird eggs) the southwestern willow flycatcher (*Empidonax extimus traillii*) and take (locate and monitor nests, and remove brown-headed cowbird eggs) the least Bell's vireo (*Vireo bellii pusillum*) in conjunction with population monitoring and presence or absence surveys in San Diego, Orange, and Riverside Counties, California for the purpose of enhancing their survival.

Permit No. TE–799568.

Applicant: Dana K. Kamada, San Clemente, California.

The applicant requests a permit amendment to take (harass by survey, locate and monitor nests, and remove brown-headed cowbird eggs) the southwestern willow flycatcher (*Empiodonax extimus traillii*) throughout the species' range in California, Arizona, New Mexico, Nevada, and Colorado in conjunction with population monitoring and presence or absence surveys for the purpose of enhancing its survival. The applicant also requests a permit amendment to take (locate and montor nests, and remove brown-headed

cowbird eggs) the least Bell's vireo (*Vireo bellii pusillus*) and take (pursue by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) throughout the species' range in conjunction with population monitoring and presence or absence surveys for the purpose of enhancing their survival.

Permit No. TE–008547.

Applicant: Botany Department, San Diego Natural History Museum, San Diego, California.

The applicant requests a permit to take (remove and reduce to possession) *Chorizanthe orcuttiana* and *Arctostaphylos vanessae* from the Marine Corp Air Station in Miramar, California, as voucher specimens for the purpose of enhancing their survival.

Permit No. TE–009015.

Applicant: Jason Lee Berkley, Whittier, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax trailli extimus*) throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–009018.

Applicant: Rancho Santa Ana Botanic Garden, Claremont, California.

The applicant requests a permit to take (remove and reduce to possession) *Berberis nevinii* and *Dodecahema leptoceras* from the Angeles National Forest in California as voucher specimens for the purpose of enhancing their survival.

Permit No. TE–785148.

Applicant: Ogden Environmental and Energy Services, San Diego, California.

The applicant requests a permit amendment to take (harass by survey) the Yuma clapper rail (*Rallus longirostris yumanensis*) and light-footed clapper rail (*Rallus longirostris levipes*) throughout each species' range in conjunction with presence or absence surveys for the purpose of enhancing their survival.

Permit No. TE–810394.

Applicant: Daniel A. Guthrie, Claremont, California.

The applicant requests a permit amendment to take (harass by survey, locate and monitor nests, and remove brown-headed cowbird eggs) the southwestern willow flycatcher (*Empiodonax extimus traillii*) and take (locate and montor nests and remove brown-headed cowbird eggs) the least Bell's vireo (*Vireo bellii pusillum*) in Ventura County, California, in conjunction with population monitoring and presence or absence surveys for the purpose of enhancing their survival.

Permit No. TE–007456.

Applicant: Leonard A. Freed, University of Hawaii, Honolulu, Hawaii.

The applicant requests renewal of his permit to take (capture, mark, collect biological samples) the Hawaii Akepa (*Loxops coccineus coccineus*), Hawaii Creeper (*Oreomystis mana*), Akiapolaau (*Hemignathus munroi*), and Hawaiian Hawk (*Buteo solitarius*) in conjunction with demographic, genetic, and disease research for the purpose of enhancing their survival. All of these activities have previously been authorized under subpermit UMNZA.

Permit No. 825573.

Applicant: Janet A. Randall, San Francisco State University, San Francisco, California.

The applicant requests an amendment to her permit to take (harass by radio-tagging) additional giant kangaroo rats (*Dipodomys ingens*) in conjunction with scientific research in Merced, Fresno, Monterey, San Luis Obispo, Kings, Kern, and Santa Barbara Counties, California, for the purpose of enhancing its survival.

Permit No. TE–745541.

Applicant: Stephen J. Montgomery, San Diego, California.

The applicant requests an amendment to his permit to take (capture and collect biological samples) the Amargosa vole (*Microtus californicus scirpensis*) in conjunction with life history studies throughout the species range for the purpose of enhancing its survival.

Permit No. TE–834489.

Applicant: Stacie Tennant, Costa Mesa, California.

The applicant requests a permit amendment to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout the species range in California for the purpose of enhancing its survival.

Permit No. TE–797233.

Applicant: Entomological Consulting Services, LTD., Pleasant Hill, California.

The applicant requests a permit to take (harass, pursue, capture, collect) the Mount Hermon June beetle (*Polyphylla barbata*), valley elderberry longhorn beetle (*Desmocerus californicus*), bay checkerspot butterfly (*Euphydryas editha bayensis*), Behrens silverspot butterfly (*Speyeria zerene behrensii*), Callippe silverspot butterfly (*Speyeria callippe callippe*), Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), lotis blue butterfly (*Lycaeides argyrognomon lotis*), mission blue butterfly (*Icaricia icarioides missionensis*), Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*), Quino checkerspot butterfly (*Euphydryas editha quino*), San Bruno elfin butterfly (*Callophrys mossii bayensis*), Smith's blue butterfly (*Euphilotes enoptes smithi*), Laguna Mountains skipper (*Pyrgus ruralis lagunae*), Delhi sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), and the California freshwater shrimp (*Syncaris pacifica*) in conjunction with monitoring, surveys, and life history studies throughout each species range in California and Oregon for the purpose of enhancing their survival.

Permit No. TE–009066.

Applicant: Debby Martin, Sacramento, California.

The applicant requests a permit amendment to take (harass by survey, capture, and collect) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), San Diego fairy shrimp (*Brachinecta sandiegonensis*), and the Riverside fairy shrimp (*Streptocephalus woottoni*) throughout the range of the species in California in conjunction with surveys for the purpose of enhancing their survival.

Permit No. TE–797267.

Applicant: H.T. Harvey & Associates, Alviso, California.

The applicant requests an amendment to his permit to take (harass by survey) the California clapper rail (*Rallus longirostris obsoletus*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–004578.

Applicant: Robin Bolser, Goleta, California.

The applicant requests a permit amendment to take (harass by survey, capture, and collect) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), San Diego fairy shrimp (*Brachinecta sandiegonensis*), and the Riverside fairy shrimp (*Streptocephalus woottoni*) throughout the range of the species in California in conjunction with demographic research for the purpose of enhancing their survival.

Permit No. TE–009173.

Applicant: Cary Myler, Pocatello, Idaho.

The applicant requests a permit to take (collect and sacrifice) the Bruneau hot springsnail (*Pyrgulopsis bruneauensis*) throughout Bruneau River and its associated tributaries in conjunction with scientific studies for the purpose of enhancing its survival.

DATES: Written comments on these permit applications must be received by April 26, 1999.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Recovery, Planning and Permits, Ecological Services, Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99–7266 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–009303

Applicant: Keith Brewer, Stateline, NV

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–009306

Applicant: Marc Cheramie, Golden Meadow, LA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–009421

Applicant: Steven J. Ennis, Tullahoma, TN

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–009420

Applicant: Jordan E. Ennis, Tullahoma, TN

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–007657

Applicant: Clint Heiber, Red Bluff, CA

The applicant requests a permit to import the sport-hunted trophy on one male straight-horned markhor (*Capra falconeri jerdoni*) from the Torghar Hills, Baluchistan Province, Pakistan for the purpose of enhancement of the survival of the species.

PRT–005736

Applicant: The Wildlife Conservation Society's Bronx Zoo/Wildlife Conservation Park, Bronx, New York

The applicant requests a permit to import four male and six female proboscis monkeys (*Nasalis larvatus*) from the Surabaya Zoo, Surabaya, Java, Indonesia. These animals were captive born at the zoo or rescued from a recent forest fire. The import is for the purpose of enhancement of the survival of the species through the development of a cooperative breeding program.

PRT–006843

Applicant: Richard Ayres, Anaheim Hills, CA

The applicant requests a permit to conduct the interstate commerce of two male and three female radiated tortoises (*Geochelone radiata*) from Wayne Hill, Winterhaven, FL for the purpose of cooperative breeding for enhancement of the survival of the species.

PRT–008967

Applicant: Brian Reichart, Frankton, IN

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–008968

Applicant: Walter A. Oleniwski, Silver Spring, MD

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–008969

Applicant: John R. Garland, Round Lake, IL

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–008961

Applicant: Tom E. Smith, Salisbury, NC

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–008875

Applicant: Bradley W. Nicholson, Pearisburg, VA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–008656

Applicant: Robert W. Landis, Fountain City, IN

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–008747

Applicant: John L. Estes, Dallas, TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director. Documents and other information submitted with these applications are available for

review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 22, 1999.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–7277 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–034–1010–00]

Closure of Public Land to Camping in Yavapai County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public lands to camping.

SUMMARY: Notice is hereby given that the following described lands are temporarily closed until further notice for camping for the protection of public health and safety under the provisions of 43 CFR 8364.1. The closure will remain in effect until rescinded or modified by the Phoenix Field Manager.

Gila and Salt River Meridian, Arizona

T. 12 N.,R. 1 E.,
Sec. 23, Lot 3, MS 3991, SW¼SE¼.

EFFECTIVE DATE: This order is effective March 16, 1999.

SUPPLEMENTARY INFORMATION: The public lands involved (approximately 94 acres) are adjacent to areas of expanding urban development. Unregulated and extended overnight camping use is not consistent with the orderly growth of the communities and presents health and safety problems.

ORDER: Notice is hereby given that effective the date of signature by the authorized officer of this notice the above disposal lands are closed to camping until further notice.

FOR FURTHER INFORMATION CONTACT: Michael A. Taylor, Field Manager, Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, AZ 85027, (602) 580–5500.

Dated: March 16, 1999.

Michael A. Taylor,

Field Manager.

[FR Doc. 99–7294 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–952–1010–00–EAA1]

Order—Vehicle Route Closure in Lawrence County, SD

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of vehicle route closures.

SUMMARY: A portion of contiguous vehicle routes on Federal public lands in the vicinity of the Belle Eldridge Mine, east of Deadwood, South Dakota, are being closed to all motorized and mechanized (bicycles, etc.) vehicular traffic, and foot access, except as noted below, under the provisions of 43 CFR 8364.1. These closures are being initiated to protect the public from heavy metals contamination as well as physical hazards at the mine site.

SUPPLEMENTARY INFORMATION: The closures are within a portion of:

Legal Description

Black Hills Principal Meridian

T. 5 N., R. 3 E.,
Sec. 25, NW¼,
Lawrence County, South Dakota.

and include the following routes within this legal description:

(1) The route in Spruce Gulch beginning 1.0 miles upstream from the intersection of Railroad Avenue and Sampson Street within the city of Deadwood, South Dakota, to the intersection of the Spruce Gulch road and the East Spruce Gulch road, for 0.2 miles, then continuing up Spruce Gulch to the point where the Spruce Gulch road crosses the Spruce Gulch stream, for 0.05 miles, and also from the intersection of the Spruce Gulch road and the East Spruce Gulch road, continuing up East Spruce Gulch road, for a distance of 0.2 miles.

These routes are being closed to all motorized and mechanized vehicles with the following exceptions:

1. Law enforcement and other emergency personnel while engaged in emergency operations and official duties.

2. BLM employees while engaged in approved official duties.

3. Contractors, cooperating entities, and regulators involved in approved reclamation actions designed to restore the Belle Eldridge Mine site.

4. Individuals or other entities, and their agents, having ownership of lands necessitating passage through the closed road, who apply for an exception and whose need for access is found to be legitimate.

Failure to comply with this closure may result in a fine of not more than $1,000 or imprisonment not to exceed 12 months, or both, in accordance with 43 CFR 8360.0–7.

These closures are being initiated to protect the public from heavy metals contamination as well as physical hazards at the mine site.

A Removal Site Evaluation (RSE) and Engineering Evaluation/Cost Analysis Report (EECA) for the Belle Eldridge Mine, addressing the closure and other activities, is available for inspection at the address listed below.

EFFECTIVE DATES: The closures will be effective upon posting and closure of the route(s) by the Authorized Officer. The closure will be in effect until completion of the rehabilitation of the Belle Eldridge Mine site.

FOR FURTHER INFORMATION CONTACT: Charles A. Berdan, South Dakota Field Office, Acting Field Manager, or Russell Pigors, Natural Resource Specialist, 310 Roundup Street, Belle Fourche, South Dakota 57717, telephone (605) 892–2526.

Dated: March 10, 1999.

Charles A. Berdan,

Acting South Dakota Field Manager.

[FR Doc. 99–7239 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1410–00; AA–6649 and AA–6689]

Public Land Order No. 7380; Withdrawal of Public Lands for Atka Village Selection and Pauloff Harbor Village Selection; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 26,579.51 acres of public lands located within the Alaska Peninsula National Wildlife Refuge or the Alaska Maritime National Wildlife Refuge, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to section 22(j)(2) of the Alaska Native Claims Settlement Act. This action reserves 13,968.61 acres of the lands for selection by the Atxam Corporation, the village corporation for

Atka, and reserves 12,610.90 acres of the lands for selection by the Sanak Corporation, the village corporation for Pauloff Harbor. This withdrawal is for a period of 120 days; however, any lands selected shall remain withdrawn by the order until they are conveyed. Any lands described herein that are not selected by the corporations will remain withdrawn as part of the Alaska Peninsula National Wildlife Refuge or the Alaska Maritime National Wildlife Refuge, pursuant to the Alaska National Interest Lands Conservation Act, and will be subject to the terms and conditions of any withdrawal of record.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5049.

By virtue of the authority vested in the Secretary of the Interior by section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands located within the Alaska Peninsula Wildlife Refuge or the Alaska Maritime National Wildlife Refuge, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and are hereby reserved for:

(a) The selection of the remaining entitlement under section 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 (1994), by the Atxam Corporation, village corporation for Atka:

Seward Meridian

T. 52 S., R. 72 W.,
  Secs. 15 to 34, inclusive.
T. 75 S., R. 121 W.,
  Secs. 28, 33, 34, and 35.
T. 76 S., R. 121 W.,
  Secs. 3 and 4.
T. 93 S., R. 177 W., (Unsurveyed)
  Sec. 8.
T. 93 S., R. 179 W., (Unsurveyed)
  Sec. 28.

The areas described aggregate approximately 13,968.61 acres.

(b) The selection of the remaining entitlement under section 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 (1994), by the Sanak Corporation, village corporation for Pauloff Harbor:

Seward Meridian

T. 53 S., R. 68 W.,
  Secs. 3, 4, 5, 8, 9, 10, 15, 16, 20, and 21.
T. 52 S., R. 70 W.,
  Secs. 17 to 20, inclusive.
T. 52 S., R. 71 W.,
  Secs. 9, 10, 13 to 16, inclusive;
  Secs. 21 to 24, inclusive; and
  Secs. 26 to 32, inclusive.
T. 53 S., R. 73 W.,
  Secs. 33 and 34.

The areas described aggregate 12,610.90 acres.

The areas described in (a) and (b) above aggregate a total of approximately 26,579.51 acres.

2. Prior to conveyance of any of the lands withdrawn by this order, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal.

3. This order constitutes final withdrawal action by the Secretary of the Interior under section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1994), to make lands available for selection by the Atxam Corporation, to fulfill the entitlement of the village for Atka, and to make lands available for selection by the Sanak Corporation, to fulfill the entitlement of the village for Pauloff Harbor, under section 12 and section 14(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 and 1613 (1994).

4. This withdrawal will terminate 120 days from the effective date of this order; provided, any lands selected shall remain withdrawn pursuant to this order until conveyed. Any lands described in this order not selected by the corporation shall remain withdrawn as part of the Alaska Peninsula National Wildlife Refuge or the Alaska Maritime National Wildlife Refuge, pursuant to sections 302(1), 303(1) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1994); and will be subject to the terms and conditions of any other withdrawal or segregation of record.

5. It has been determined that this action is not expected to have any significant effect on subsistence uses and needs pursuant to section 810(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120(c) (1994) and this action is exempted from the National Environmental Policy Act of 1969, 42 U.S.C. 4321 note (1994), by section 910 of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1638 (1994).

Dated: March 12, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–7290 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–01; MTM 86164]

Public Land Order No.7381; Withdrawal of Public Land for Protection of the Crystal Cave Area; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 174.48 acres of public land from surface entry and mining for a period of 50 years to protect the unique and significant geologic resources of the Crystal Cave area. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, PO Box 36800, Billings, Montana 59107, 406–255–2949, or Loretta Park, BLM Lewistown Field Office, Box 1160, Lewistown, Montana 59457, 406–538–7461.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described land is hereby withdrawn from settlement, sale, location or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the unique and significant geologic resources of the Crystal Cave area:

Principal Meridian, Montana

T. 16 N., R. 19 E.,
  Sec. 15, lot 15, lots 25 to 28, inclusive, NW¼SW¼, and MS 9204;
  Sec. 16, MS 5974.

The area described contains 174.48 acres in Fergus County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 12, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–7296 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–050–1110–00; NMNM 95104]

Public Land Order No. 7382; Withdrawal of Public Lands for the Devil's Backbone Desert Bighorn Sheep Habitat Area; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 5,607.52 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect and preserve endangered desert bighorn sheep habitat within the Devil's Backbone Desert Bighorn Sheep Habitat Area. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Lois Bell, BLM Socorro Field Office, 198 Neel Avenue NW, Socorro, New Mexico 87801, 505–835–0412.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws, (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, to protect and preserve endangered desert bighorn sheep habitat within the Devil's Backbone Desert Bighorn Sheep Habitat Area:

New Mexico Principal Meridian

T. 5 S., R. 3 W.,
  sec. 16, lots 5 to 8, inclusive, N½, and N½S½
  secs. 21, 28, 29, and 32.
T. 6 S., R. 3 W.,
  sec. 4, lots 3 and 4, and SW¼;
  sec. 9, W½;
  sec. 15, W½;
  sec. 16;
  sec. 22, NE¼, N½NW½, SE¼W E½SW¼, and SE¼.
T. 5 S., R. 4 W.,
  sec. 25, E½.

The areas described aggregate 5,607.52 acres in Socorro County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 12, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–7300 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–VC–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–020–1430–01; NMNM 97074/G–010–G9–0251]

Public Land Order No. 7383; Withdrawal of Public Lands for the Rio Grande Corridor; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 2,151.80 acres of public lands from surface entry and mining, and 52.30 acres of federally reserved mineral interests underlying private surface estate from mining, for a period of 50 years, for the Bureau of Land Management to protect the outstanding recreational, scenic, wildlife, and riparian values of the Rio Grande Corridor. The lands have been and will remain open to mineral leasing. An additional 1,129.96 acres of non-Federal lands and the surface estate of the above 52.30 acres would become subject to the withdrawal if acquired.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Francina Martinez, BLM Taos Field Office, 226 Cruz Alta Road, Taos, New Mexico 87571, 505–758–8851.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws, (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the outstanding recreational, scenic, wildlife, and riparian values of the Rio Grande Corridor:

New Mexico Principal Meridian

T. 23 N., R. 9 E.,
  Sec. 22, SE¼SE¼;
  Sec. 23, lots 1 to 4, inclusive;
  Sec. 24, lot 2 and SW¼NW¼;
  Sec. 26, NW¼NW¼;
  Sec. 27, NE¼, SE¼NW¼, SW¼, and W½SE¼;
  Sec. 34, N½NW¼, SW¼NW¼, and N½SW¼.
T. 23 N., R. 10 E.,
  Sec. 15, lots 6 to 9, inclusive;
  Sec. 16, lot 3 and SW¼SW¼;
  Sec. 19, lots 14, 20, 21, 22, 36, and 37;
  Sec. 20, lots 13 to 16, inclusive;
  Sec. 21, lots 1, 2, 6, 7, and 8.
T. 24 N., R. 11 E.,
  Sec. 32, lot 3.
T. 27 N., R. 11 E.,
  Sec. 36, lots 5 to 7, inclusive, and a parcel of land consisting of 5.6 acres lying along the west boundary of and within the Antoine Leroux Land Grant.
T. 27 N., R. 12 E.,
  Sec. 30, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
  Sec. 31, lots 1 to 4, inclusive, N½NW¼, and 130 acres of the Antoine Leroux Land Grant meandering the east boundary of the Rio Grande.
T. 28 N., R. 12 E.,
  Sec. 10, N½NW¼ except patent No. 39879.

The areas described aggregate 2,151.80 acres in Taos and Rio Arriba Counties.

2. Subject to valid existing rights, the federally reserved mineral interests in the following described lands are hereby withdrawn from mining under the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the outstanding recreational, scenic, wildlife, and riparian values of the Rio Grande Corridor:

New Mexico Principal Meridian

T. 23 N., R. 9 E.,
  Sec. 24, tract A and NE¼SW¼.
T. 23 N., R. 10 E.,
  Sec. 19, lot 13.

The areas described aggregate 52.30 acres in Rio Arriba County.

3. The surface estate of the lands described in Paragraph 2 is non-Federal. In the event these lands return to Federal ownership, they would be subject to the terms and conditions of this withdrawal as described in Paragraph 1.

4. The following described non-Federal lands are located within the Rio Grande Corridor. In the event these

lands return to Federal ownership, they would be subject to the terms and conditions of this withdrawal as described in Paragraph 1:

New Mexico Principal Meridian

T. 23 N., R. 9 E.,
Sec. 23, tract A, NE¼SW¼, and SE¼;
Sec. 24, lot 1, patent No. 178, patent No. 179, N½NE¼, SW¼NE¼, SE¼NW¼, SW¼SW¼, and NW¼SE¼.
T. 23 N., R. 10 E.,
Sec. 16, lots 1 and 2, small holding claim (SHC) 966 tract 2, SHC 2143, and SHC 1536;
Sec. 19, lots 3 and 4, SHC 3266, SHC 388, SHC 969, SHC 561 tract 3, SHC 559 tract 1, SHC 556 tract 2, SHC 560 tracts 2 and 4, SHC 792 tracts 1 and 2, SHC 792, (two separate tracts numbered 792), SHC 966, SHC 380 tract 3, SHC 386, SHC 389, SHC 382 tract 1, and SHC 494 tract 2;
Sec. 20, lots 1, 3, and 4, SHC 560 tract 4, SHC 968 tract 2, SHC 556 tract 3, SHC 1121 Borrego, SHC 1121 Archuleta, and SHC 1121 Roybal, SHC 561 tract 4, SHC 798 Romero and SHC 798 Bolton, SHC 801 tracts 1, 2, and 3, SHC 1000, SHC 1120, SHC 4472 tract 2, and SHC 1111 tract 3;
Sec. 21, SHC 1111 tract 3, SHC 1120, SHC 966 tract 1, SHC 349, SHC 355, SHC 402, SHC 403, SHC 488, SHC 487 tracts 1 and 2, SHC 490 Romero and SHC 490 Roybal, SHC 487 Romero and SHC 487 Ortega, SHC 966 tract 2, SHC 2143, and SHC 1536.

The areas described aggregate 1,129.96 acres in Taos and Rio Arriba Counties.

5. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

6. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 12, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–7302 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–046–09–1430–00; UTU–77260]

Realty Action; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, Recreation and Public Purposes (R&PP) Act Classification, Utah.

SUMMARY: The following public land in Garfield County, Utah has been examined and found suitable for classification for lease or conveyance to Garfield County under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*):

Salt Lake Meridian,

Utah, T. 34 S., R. 5 W.,
Sec. 30, SE¼NE¼NE ¼, NE¼SE¼NE¼,
containing 20 acres.

Garfield County proposes to use the land for a public safety facility; i.e., law enforcement complex. The land is not needed for Federal purposes. Lease or conveyance is consistent with current Bureau of Land Management land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

•3. A right-of-way for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

4. Those rights for power transmission line purposes granted to Garkane Power Association by right-of-way No. UTU–52866.

5. All other valid existing rights.

6. The leasee/patentee assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees) or attributable to: (a) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (b) the sole fault, failure, or negligence of the United States.

7. Title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or before the date five years after the date of conveyance.

Upon publication of this notice in the **Federal Register**, the lands are segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a public service facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of Land Management followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a public service facility. Any adverse comments will be reviewed by the Utah State Director who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this classification will become effective on May 24, 1999.

ADDRESSES: Comments will be accepted until May 10, 1999. Address comments to the Bureau of Land Management, Kanab Field Office Manager, 318 North 100 East, Kanab, Utah 84741. Detailed information concerning this action is available at the same address.

Arthur L. Tait,

District Manager.

[FR Doc. 99–7240 Filed 3–24–99; 8:45 am]

BILLING CODE 4310–DQ–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID), is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by

the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Send comments on this information collection on or before May 5, 1999.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0004.

Form No.: AID 11.

Title: Application for Approval of Commodity Eligibility.

Type of Review: Renewal of Information Collection.

Purpose: USAID provides loans and grants to some developing countries in the form of Commodity Import Programs (CIPs). These funds are made available to host countries to be allocated to the public and private sectors for purchasing various commodities from the U.S., or in some cases, from other developing countries. In accordance with section 604(f) of the Foreign Assistance Act of 1961, as amended, USAID may finance only those commodities which are determined eligible and suitable in accordance with various statutory requirements and agency policies. Using the Application for Approval of Commodity Eligibility (Form AID 11), the supplier certifies to USAID information about the commodities being supplied, as required in section 604(f), so that USAID may determine eligibility.

Annual Reporting Burden:

Respondents: 365 (twice a year).

Total annual responses: 730.

Total annual hours requested: 365 hours.

Dated: March 17, 1999.

Willette L. Smith,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 99–7301 Filed 3–24–99; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a consent decree in *United States and Commonwealth of Pennsylvania* v. *American Color and Chemical Corporation, et al.*, Civil Action No. 4:CV–92–1352 (M.D. Pa.) was lodged with the court on December 1, 1998.

The proposed decree resolves claims of the Untied States against Pfister Chemical Corporation, Inc. under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9606 and 9607, for response costs and actions at the Drake Chemical Superfund Site in Lock Haven, PA. The decree obligates the Settling Defendant to reimburse to the United States and Pennsylvania up to $3 million of response costs over a period of ten years.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States and Commonwealth of Pennsylvania* v. *American Color and Chemical Corporation, et al.*, Civil Action No. 4:CV–92–1352 (M.D. Pa.), DOJ Ref. #90–11–2–7A.

The proposed consent decree may be examined at the United States Department of Justice, Environment and Natural Resources Division, Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 2005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $11.00 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–7284 Filed 3–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act, the Comprehensive Emergency Response, Compensation and Liability Act, and the Emergency Planning and Community Right-to-Know Act

Under 28 CFR § 50.7, notice is hereby given that on March 15, 1999, a proposed Consent Decree in *United States v. BP Exploration & Oil Inc.* Civil Action No. 3:97CV7790, was lodged with the United Stated District Court for the Northern District of Ohio, Western Division.

In this action, the United States south penalties and injunctive relief against BP Exploration & Oil Inc. ("BP") for claims arising in connection with BP's refinery in Toledo, Ohio, under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 1101 *et seq.*, Under the Consent Decree, PB will monitor, report on, and undertake corrective actions to remedy process operations that lead to the flaring of refinery gases that are high in hydrogen sulfide. BP also will develop a training program for its Toledo refinery employees designed to assist in minimizing sulfur dioxide emissions from flaring and process operations. Similarly, BP will undertake a study to optimize the performance of its existing sulfur recover unit. BP will pay a civil penalty of $1,400,000 and will spend $350,000 on two Supplemental Environmental Projects. In one project, BP will spend $150,000 to fund an emergency response telephone notification system for Lucas County. In another project, BP will spend $200,000 to fund and upgraded radio and paging system for the Oregon, Ohio, fire department, the fire department that serves BP's Toledo refinery.

The Department of Justice will receive for period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General to the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to the *United States* v. *BP Exploration & Oil Inc.* D.J. Ref.No 90–5–2–1–1916.

The Consent Decree may be examined at the Office of the United States Attorney, Four Seagate, Suite 308, Toledo, Ohio, 43604–2624, at the Region 5 Office of the United States

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604–3590, and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 2005. In requesting a copy, please refer to the above-referenced case and enclose a check in the amount of $39.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section Environmental and Natural Resources Division.

[FR Doc. 99–7286 Filed 3–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on February 23, 1999 proposed Consent Decree (the "decree") in *United States* v. *Jason Properties, Ltd. and Jason Properties LLLC*, Civil Action No. 99 Z 346 was lodged with the United States District Court for the District of Colorado.

In this action the United States sought to recover EPA's past costs incurred in connection with a removal action at the RAMP Industries Superfund site (the "Site"). Jason Properties, Ltd. and Jason Properties, LLLC (collectively "Jason Properties") owns the so-called "1031 Parcel," one of three parcels comprising the RAMP Industries Superfund Site (the "RAMP Site") located in northwest Denver, Colorado. Jason Properties leased the so called 1031 Parcel to the owner and operator of the main portions of the RAMP Site, RAMP Industries, Inc. The proposed decree is a cash-out of Jason Properties' liability under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1). Pursuant to an administrative order on consent ("AOC") attached to the proposed decree, Jason Properties will complete any final soils cleanup necessary for the unrestricted use of the 1031 Parcel. Under the terms of the proposed decree, Jason Properties will reimburse the United States the sum of $8,000 and complete of all work required under the AOC attached to the decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Jason Properties, Ltd. and Jason Properties LLLP*, D.J. Ref. 90–11–6–79.

The Consent Decree may be examined at the Office of the United States Attorney, 1961 Stout Street, Suite 1200, Denver, CO 80294, at U.S. EPA Region, 999 18th Street, Suite 700, Denver, CO 80202, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $26.75 payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–7285 Filed 3–24–99; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement in In Re Montgomery Ward Holding Company Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a Settlement Agreement ("Agreement") in *In re Montgomery Ward Holding Corp., et al.*, No. 97–1409 (PJW) (Bankr. D. Del.), has been entered into by the United States on behalf of U.S. EPA, U.S. DOI, and the National Oceanic and Atmospheric Administration ("NOAA") of the United States Department of Commerce, the State of California, and Montgomery Ward & Co., Incorporated and certain of its subsidiaries (collectively the "Debtors") and was lodged with the United States Bankruptcy Court for the District of Delaware on March 10, 1999. The agreement relates to liabilities under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 *et seq.* The Agreement resolves CERCLA claims against the Debtors for the following forty-seven (47) hazardous waste sites, denominated as "Liquidated Sites" under the Agreement: the American Chemical Services Site in Griffith, Indiana; the Arcanum Iron and Metal Site in Arcanum, Ohio; the Arrowhead Site in Hermantown, Minnesota; the Auburn Incinerator Site in Auburn, Indiana; the Batavia Landfill Site in Batavia, New York; the Bay Drum Site in Tampa, Florida; the Bypass 601 Site in Concord, North Carolina; the Casmalia Site in Casmalia, Santa Barbara County, California; the Calumet Container Site in Cook County, Illinois; the Cam-Or Site in Westville, Indiana; the Chemical Control Site in Elizabeth, New Jersey; the Chemical Recycling Site in Wylie, Texas; the Coakley Landfill Site in North Hampton, New Hampshire; the Combustion Inc. Site in Livingston Parish, Louisiana; the Doepke Disposal Site in Johnson County, Kansas; the Ekotek Site in Salt Lake City, Utah; the Envirochem Site in Zionsville, Indiana; the Envirochem (Third Site) in Zionsville, Indiana; the Gould Site in Portland, Oregon; the Brand Trunk Site in Battle Creek, Michigan; the Great Lakes Asphalt Site in Zionsville, Indiana; the H. Brown Site in Walker, Michigan; the Hardage Site in Criner, Oklahoma; the Huth Oil Site in Cleveland, Ohio; the Lenz Oil Site in Lemont, Illinois; the Liquid Disposal Site in Shelby Township, Michigan; the Miami County Incinerator Site in Troy, Ohio; the New Lyme Site in New Lyme, Ohio; the Ninth Avenue Dump Site in Gary, Indiana; the Operating Industries Site in Los Angeles, California; the PSC Resources Site in Palmer, Massachusetts; the Peak Oil Site in Tampa, Florida; the Petroleum Products Corp. Site in Pembroke Park, Florida; the Purity Oil Site in Malaga, California; the SAAD Superfund Site in Nashville, Tennessee; the Sapp Battery Salvage Site in Alford, Florida; the Seaboard Chemical Site in Jamestown, North Carolina; the Sidney Mine Site in Hillsborough County, Florida; the Standard Steel Site in Anchorage, Alaska; the Thermo Chem Inc. Site in Muskegon, Michigan; the Tri-County/Elgin Landfill Site in Kane County, Illinois, the Torrington Hide & Metal Site and the Smith Residence Site in Goshen County, Wyoming; the U.S. Scrap Site in Chicago, Illinois; the Waste Inc. Site in Michigan City, Indiana; the Wayne Reclamation and Recycling, Inc. Site in Columbia City, Indiana; the Yeoman Creek Site in Waukegan, Illinois; and the York Oil Site in Moira, New York.

Under the Agreement, the Debtors have agreed to allowed claims in the total amount of $4,611,683 for these sites as specified in the Agreement. Of this amount, EPA, or PRPs doing work for EPA under consent decrees with EPA, will have allowed claims for $4,234,761, DOI will have an allowed claim of $350,222, NOAA will have allowed claim of $20,000 and California

will have an allowed claim of $6,700. The Agreement also contains provisions pertaining to the treatment of three other categories of sites: Debtor-Owned Sites, Work Consent Decree Sites, and Additional Sites.

The Department of Justice will receive comments relating to the proposed Agreement for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *In re Montgomery Ward Holding Corp.*, D.J. Ref. No. 90–11–2–1321.

The proposed Agreement may be examined at the Office of the United States Attorney for the District of Delaware, 1201 Market Street, Suite 1100, Chemical Bank Plaza, Wilmington, DE 19899–2046; the United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005 (202–624–0892). A copy of the proposed Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy of the proposed Amended Settlement Agreement, please enclose a check in the amount of $12.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 99–7287 Filed 3–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection, Comment Request; Requirements: Data Collection Application for the Juvenile Accountability Incentive Block Grant (JAIBG) Program

ACTION: Notice of information collection under review; new collection.

The Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval is being sought for the information collection listed below. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, Attention: Mr. Alex Hunt, (202) 395–7860, Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Rodney Albert, Deputy Director, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of Information Collection:* New collection.

(2) *The title of the form/collection:* Requirements: Data Collection Application for the Juvenile Accountability Incentive Block Grant Program.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* New collection; Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State.

Public Law 105–119, November 26, 1997, Making Appropriations for the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 1998, and for other Purposes (Appropriations Act) appropriated $250,000,000 for the Juvenile Accountability Incentive Block Grants (JAIBG) described in Title III of H.R. 3, as passed by the House of Representatives on May 8, 1997.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Fifty-six (56) respondents will complete a 1-hour follow-up information form for each unit of local government receiving JAIBG funds and on funds retained by the State for program expenditure.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the information form will range from one (1) to 75 hours based on the number of units of local government receiving JAIBG funds and on funds retained by the State for program expenditure.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: March 19, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–7262 Filed 3–24–99; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

March 17, 1999.

The Department of Labor has submitted the following emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the

Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by April 1, 1999. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Pauline Perrow ((202) 219–5095, x. 165). Comments and questions about the ICR listed below should be forwarded to Office Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of response.

Agency: U.S. Department of Labor/ Employment and Training Administration.

Title: O*NET data Collection Program Survey Pretest.

OMB Number: 1205–0NEW.

Frequency: The pretest is one time only; the full data collection effort will be ongoing and renew information for each occupation every five years.

Affected Public: Employers (includes private and not for profit businesses and government); and individuals (employees).

Number of Respondents: Total: 10,257.

Estimated Time Per Respondent: Employer response time ranges from ¼ an hour to approximately 3 and ½ hours. Individual worker response time averages ½ hour.

Total Burden Hours: 5,522.

Total Burden Costs (capital/startup): $92,165.

Total Burden Cost (operating/ maintaining): 0.

Description: The goal of the Occupational Information Network (O*NET) Data Collection Program Pretest is to identify the specific features which will ultimately increase the response rate for the full data collection effort contained in the O*NET Data Collection Program. The O*NET Data Collection Program will be a continuing activity to develop and maintain a current database on the detailed characteristics of workers and jobs. The resulting O*NET database will be the most comprehensive standard source of occupational information in the United States and will be a valuable tool for all members in the employment and training communities. O*NET will be at the center of an extensive network of occupational information used by a wide range of audiences, from individuals making career decisions, to public agencies and schools making training investment decisions, to employers making job structure and hiring decisions.

Information for this data collection activity will be collected using a two-stage design, including a statistical sample of businesses expected to employ workers in the specific occupations being surveyed, and a sample of workers in the occupations within the sampled businesses. Using this design, the Pretest will test the use of alternative sample sizes per establishment and the use of incentives for their impact on business response rates. It will also test the impact of alternative outreach methods and monetary incentives on improving response rates. The total average burden for businesses is not expected to exceed 3 hours and 25 minutes. The total average burden for employee respondent is 30 minutes. The findings of this pretest will be incorporated into the final "O*NET Data Collection Program" that will be submitted to the Office of Management and Budget for approval.

The O*NET, Occupational Information Network, is a complex database. Our research has shown that no single system currently exists that will accommodate all of the needs of the O*NET database. Therefore, given the magnitude and pressing importance of filing the O*NET database, ETA will continue to examine alternative methods to populating the database.

ETA's current approach, to go forward with the survey methodology while remaining open to parallel approaches, is based on the recommendations of the Advisory for the Dictionary of Occupational Titles (APDOT). The APDOT concluded that a variety of data collection methodologies may have to be employed to populate the database. The survey methodology is one way; some information may be more appropriately determined through other forms of data collection.

Therefore, ETA continues to investigate other data collection strategies to populate the O*NET database, including collaborating with employer association groups, skill standard efforts, expert panels, and ETA initiatives and grantees using transactional data from a variety of sources.

By using a multiple source data collection strategy to populate O*NET, ETA will avoid duplication of effort thus maximizing the government resources while maintaining high validity and reliability of O*NET data.

Pauline D. Perrow,

Acting Departmental Clearance Officer.

[FR Doc. 99–7325 Filed 3–24–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed new collection of "General Inquiries to State Agency Contacts."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 24, 1999. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSEES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics (BLS) awards funds to State agencies in the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and American Samoa (hereinafter referred to as the "States") in order to jointly conduct BLS/State Labor Market Information and Occupational Safety and Health Statistics cooperative statistical programs, which themselves have been approved by OMB separately, as follows:

Current Employment Statistics	1220–0011
Local Area Unemployment Statistics	1220–0043
Occupational Employment Statistics	1220–0042
Employment and Wages Report	1220–0012
Annual Refile Survey	1220–0032
Multiple Worksite Report	1220–0134
Mass Layoff Statistics	1220–0090
Annual Survey of Occupational Injuries & Illnesses	1220–0045
Census of Fatal Occupational Injuries	1220–0133

(This list of BLS/State cooperative statistical programs may change over time.)

To ensure the timely flow of data and to be able to evaluate and improve the programs, it is necessary to conduct ongoing communications between BLS and its State partners. Whether information requests deal with program deliverables, program enhancements, or administrative issues, questions and dialogue are crucial.

II. Current Actions

Information collected under this clearance is used to support the administrative and programmatic needs of these jointly conducted BLS/State programs.

Type of Review: New Collection.

Agency: Bureau of Labor Statistics.

Title: General Inquiries to State Agency Contacts.

OMB Number: 1220–New.

Affected Public: State, Local or Tribal Government.

Total Respondents: 53.

Frequency: As needed.

Total Responses: 22,618.

Average Time Per Response: 42 minutes.

Estimated Total Burden Hours: 15,639 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 19th day of March 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–7326 Filed 3–24–99; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 714, from 9:00 to 5:30 p.m., on Friday, April 30, 1999.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after July 1, 1999.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Nancy E. Weiss, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/606–8322.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 99–7327 Filed 3–24–99; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* April 5, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations in History I, submitted to the Division of Public Programs at the February 1, 1999 deadline.

2. *Date:* April 9, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 1999 deadline.

3. *Date:* April 12, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations in History II, submitted to the Division of Public Programs at the February 1, 1999 deadline.

4. *Date:* April 15, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: M–07.
Program: This meeting will review applications for Education Development and Demonstration in Schools for a New Millennium I, submitted to the Division of Research and Education at the April 1, 1999 deadline.

5. *Date:* April 16, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: M–07.
Program: This meeting will review applications for Education Development and Demonstration in Schools for a New Millennium I, submitted to the Division of Research and Education at the April 1, 1999 deadline.

6. *Date:* April 16, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Program at the February 1, 1999 deadline.

7. *Date:* April 16, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Special Projects, submitted to the Division of Public Programs at the February 1, 1999 deadline.

8. *Date:* April 19, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for School Teachers in American Studies I, submitted to the Division of Research and Education at the March 1, 1999 deadline.

9. *Date:* April 19, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations in Art History, submitted to the Division of Public Programs at the February 1, 1999 deadline.

10. *Date:* April 20, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for School Teachers in World History and Culture, submitted to the Division of Research and Education at the March 1, 1999 deadline.

11. *Date:* April 22, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Education Development and Demonstration in Schools for a New Millennium II, submitted to the Division of Research and Education at the April 1, 1999 deadline.

12. *Date:* April 23, 1999.
Time: 8:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Education Development and Demonstration in Schools for a New Millennium II, submitted to the Division of Research and Education at the April 1, 1999 deadline.

13. *Date:* April 23, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 1999 deadline.

14. *Date:* April 26, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 1999 deadline.

15. *Date:* April 28, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for School Teachers in Latin American Studies and American Studies II, submitted to the Division of Research and Education at the March 1, 1999 deadline.

16. *Date:* April 29, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for School Teachers in Western Civilization, submitted to the Division of Research and Education at the March 1, 1999 deadline.

17. *Date:* April 29, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: M–07.
Program: This meeting will review applications for Education Development and Demonstration in Schools for a New Millennium III, submitted to the Division of Research and Education at the March 1, 1999 deadline.

18. *Date:* April 30, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: M–07.
Program: This meeting will review applications for Education Development and Demonstration in Schools for a New Millennium III, submitted to the Division of Research and Education at the March 1, 1999 deadline.

19. *Date:* April 30, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in World History and Culture, submitted to the Division of Research and Education at the March 1, 1999 deadline.

Nancy E. Weiss,
Advisory Committee Management Officer.
[FR Doc. 99–7328 Filed 3–24–99; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; San Diego Gas and Electric Company; The City of Riverside, CA; The City of Anaheim, CA; San Onofre Nuclear Generating Station, Unit Nos. 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License Nos. NPF–10 and NPF–15, issued to Southern California Edison Company (the licensee), for operation of the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 located in San Diego County, California.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the licensee to submit revisions to the Updated Final Safety Analysis Report (UFSAR) to the NRC within 6 months after completion of the SONGS Unit 3 refueling outage, but not less frequently than every 24 months. In addition, pursuant to 10 CFR 50.59(b)(2), reports containing a brief description of changes, tests, and experiments, including associated safety evaluation summaries, will be submitted at the same time as revisions to the UFSAR.

The proposed action is in accordance with the licensee's application for the exemption dated December 18, 1998.

The Need for the Proposed Action

The proposed action is needed to address the undue regulatory burden for units that share a common UFSAR regarding the requirements of Section 50.71(e)(4). Section 50.71(e)(4) requires licensees to submit updates to its UFSAR annually or within 6 months after each refueling outage providing that the interval between successive updates does not exceed 24 months. Since SONGS Units 2 and 3 share a common UFSAR, the licensee must update the same document annually or within six months after a refueling outage for either unit. The underlying purpose of the rule was to relieve licensees of the burden of filing annual FSAR revisions while assuring that such revisions are made at least every 24 months.

The Commission reduced the burden, in part, by permitting a licensee to submit its FSAR revisions six months after refueling outages for its facility, but did not provide for multiple unit facilities sharing a common FSAR in the rule. Rather, the Commission stated that "With respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis" (57 FR 39355). Allowing the exemption would maintain the UFSAR current within 24 months of the last revisions. Submission of the 10 CFR 50.59 design change report for either unit together with the UFSAR revision as permitted by 10 CFR 50.59(b)(2), also would not exceed a 24-month interval.

Environmental Impacts of the Proposed Action

The Commisison has completed its evaluation of the proposed action and concludes that the proposed action is administrative in nature, unrelated to plant operations.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational exposure or public radiation exposure. Therefore, there are no radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impacts. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with this action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the exemption would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Proposed San Onofre Nuclear Generating Station, Units 2 and 3," dated April 1981 (NUREG–0490).

Agencies and Persons Contacted

In accordance with its stated policy, on March 15, 1999, the staff consulted with the California State official, Mr. Steve Hsu of the Radiologic Health Branch of the State Department of Health Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 18, 1998, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 18th day of March 1999.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation

[FR Doc. 99–7279 Filed 3–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Use of Low Power and Shutdown Risk in Plant Specific Reactor Regulatory Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public workshop.

SUMMARY: The Nuclear Regulatory Commission has issued guidance for power reactor licensees on acceptable methods for using probabilistic risk assessment (PRA) information and insights in support of plant-specific applications to change the current licensing basis. The use of such PRA information and guidance is voluntary. This guidance is documented in Regulatory Guide (RG) 1.174, "An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis." RG 1.174 states that a risk-informed regulatory process must consider risk associated with all operating modes (full power, low power and shutdown). The staff is developing (as necessary) acceptable methods to provide an understanding of the risk associated with low power and shutdown (LPSD) operations sufficient to support decision-making for risk-informed regulation.

SUPPLEMENTARY INFORMATION: Listed below are topics on which discussion and feedback are sought at the workshop:

1. Are LPSD core damage frequency (CDF) and large early release frequency (LERF) comparable to full power CDF and LERF? What methods and assumptions should be used to answer this question?

2. Are the LPSD CDF and LERF contributors comparable to the contributors from full power? What are the methods and assumptions should be used to answer this question?

3. How many plant operational states (POS) are needed to adequately represent the risk associated with LPSD operations?

4. Should the scope of LPSD analyses include fuel handling and storage, e.g., full core offloading? What methods and assumptions should be used to answer this question?

5. Is there a sufficient technical basis (knowledge of core melt phenomena, source terms, varying containment configurations, etc.) available to support LERF analysis for LPSD? If not, what issues require additional study? If a sufficient technical basis exists, what information sources can be cited to support the assertion?

6. Is the CDF and LERF associated with the transition from one operational state to another important? What methods and assumptions should be used to answer this question?

7. Is a traditional PRA approach needed to provide an understanding of LPSD for risk-informed regulatory decision-making? If not, what other approaches are available? What are their strengths and limitations?

8. Currently, the staff is supporting efforts to produce a nation consensus standard on full power PRA to support risk-informed decision-making. Is a standard on LPSD needed or desirable? Should it be a national consensus standard?

9. Draft NUREG–1602 provides reference material on the scope and quality of a LPSD PRA. Is the information in this draft complete and correct? Is it useful as reference material in making assessments on an application specific basis on the scope and quality of a LPSD risk assessment to support that particular application? How could it be improved?

10. Would draft NUREG–1602 be useful as a starting point to develop a standard on LPSD PRA? What would be needed? Should it specify acceptable LPSD PRA methods?

11. Given the lack of experience in performing LPSD PRAs, should a standard for LPSD PRA provide both (1) requirements for what activities should be performed and (2) detailed information/instructions on how those activities should be performed?

12. Is LERF an appropriate metric for meeting the Safety Goal Policy Statement for all POS? If not, what metrics should be used? For example, should there be a metric on long term release frequency to supplement LERF? What should it be based upon?

13. Can NUREG/CR–6595 be used to calculate LERF for LPSD conditions? If not, what additional guidance should be added to the report to support LERF calculations for LPSD conditions?

14. Are average equipment unavailabilities during LPSD conditions (resulting in average CDF and LERF estimates) sufficient to support risk-informed decision-making?

15. Is the following definition of an initiating event during LPSD adequate: "An event that causes loss of the function(s) necessary to maintain the plant in its existing operating state?" If not, then what changes should be made to enhance the definition?

16. Are there generic data sources for the identification and quantification of LPSD initiating events? If so, are the data sources publicly available? Are these generic data sources consistent?

17. Do certain LPSD operational states have the potential to have more human failures than full power operation? If event trees and fault trees are used to model the response of a plant to LPSD initiating events, where is the more appropriate place to model these human failures? What is the basis for this choice?

18. Are the human reliability analysis methods used in full power analyses sufficient to characterize the unique characteristics and conditions under which humans operate during LPSD? If not, what improvements are required to ensure an adequate representation of human actions during LPSD conditions? If so, how are these methods being used to identify errors of commission?

19. What are the important uncertainties (parameter, model, and completeness) that should be considered in LPSD analyses? How should these uncertainties be evaluated in LPSD analyses?

20. Are there any other issues related to Level 1 and 2 analyses that are important to the development of LPSD risk (CDF and LERF)?

Reference material (available for inspection and copying for a fee a the NRC Public Document Room, 2120 L Street N.W. (Lower Level), Washington D.C. 20555–0001; a free single copy of each document, to the extent of supply, may be requested by writing to Distribution Series, Printing and Mail Services, Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington D.C. 20555–0001) includes:

- RG 1.174, "An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis".
- NUREG/CR 6143, "Evaluation of Potential Severe Accidents During Low Power and Shutdown Operation at Grand Gulf, Unit 1," 1995.
- NUREG/CR–6144, "Evaluation of Potential Severe Accidents During Low Power and Shutdown Operation at Surry, Unit 1," 1995.
- NUREG–1602, "The Use of PRA in Risk-Informed Applications," Draft, June 1997.
- NUREG/CR–6595, "An Approach for Estimating the Frequencies of Various Containment Failure Modes and Bypass Events," January 1999.

In addition (available via the ASME web site, or contact Jess Moon at ASME, email *moonj@asme.org):*

- ASME RA–s–1999, Draft #10, "Standard for Probabilistic Risk Assessment for Nuclear Power Plant Applications," Draft for public review and comment.

WORKSHOP MEETING INFORMATION: The Commission intends to conduct a workshop to solicit information related to the risk associated with low power and shutdown conditions sufficient to support decision-making for risk-informed regulation. Persons other than NRC staff and NRC contractors interested in making a presentation at the workshop should notify Erasmia Lois, Office of Nuclear Regulatory Research, MS: T10–E50, U.S. Nuclear Regulatory Commission, Washington D.C., 20555–0001, (301) 415–6560, email: exl1@nrc.gov

DATES: April 27, 1999.

AGENDA: Preliminary agenda is as follows (a final agenda will be available at the workshop):

Tuesday, April 27, 1999

7:45 a.m. to 8:00 a.m. Introduction, opening remarks

8:00 a.m. to 8:45 a.m. NRC Presentations plus open discussion

—Purpose
—Status of Activities
—Plans
—Understanding of LPSD risk

8:45 a.m. to 9:15 a.m. Industry Presentations

9:15 a.m. to 9:30 a.m. BREAK

9:30 a.m. to 11:30 a.m. Industry Presentations

11:30 a.m. to 12:45 p.m. LUNCH

12:45 p.m. to 2:15 p.m. General Discussion of Issues/Topics

2:15 p.m. to 2:30 p.m. BREAK

2:30 p.m. to 4:15 p.m. General Discussion of Issues/Topics

4:15 p.m. to 4:45 p.m. Wrapup

LOCATION: DoubleTree Hotel, 1750 Rockville Pike, Rockville, Maryland.

REGISTRATION: No registration fee for workshop; however, notification of attendance is requested so that adequate space, etc. for the workshop can be arranged. Notification of attendance should be directed to Erasmia Lois,

Office of Nuclear Regulatory Research, MS: T10–E50, U.S. Nuclear Regulatory Commission, Washington D.C., 20555–0001, (301) 415–6560, email: *exl1@nrc.gov*

FOR FURTHER INFORMATION CONTACT: Mary Drouin, Office of Nuclear Regulatory Research, MS: T10–E50, U.S. Nuclear Regulatory Commission, Washington D.C., 20555–0001, (301) 415–6675, email: *mxd@nrc.gov*

Dated this 18 day of March, 1999.

For the Nuclear Regulatory Commission.

Mary Drouin,

Acting Chief, Probabilistic Risk Analysis Branch, Division of Systems Technology, Office of Nuclear Regulatory Research.

[FR Doc. 99–7275 Filed 3–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

State of Ohio: NRC Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the State of Ohio

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a proposed agreement with the State of Ohio.

SUMMARY: By letter dated June 22, 1998, former Governor George V. Voinovich of Ohio requested that the U.S. Nuclear Regulatory Commission (NRC) enter into an Agreement with the State as authorized by Section 274 of the Atomic Energy Act of 1954, as amended (Act). Under the proposed Agreement, the Commission would give up, and Ohio would take over, portions of the Commission's regulatory authority exercised within the State. As required by the Act, NRC is publishing the proposed Agreement for public comment. NRC is also publishing the summary of an assessment by the NRC staff of the Ohio regulatory program. Comments are requested on the proposed Agreement, especially its effect on public health and safety. Comments are also requested on the NRC staff assessment, the adequacy of the Ohio program staff, and the State's commitments concerning the program staff, as discussed in this notice.

The proposed Agreement would release (exempt) persons who possess or use certain radioactive materials in Ohio from portions of the Commission's regulatory authority. The Act requires that NRC publish those exemptions. Notice is hereby given that the pertinent exemptions have been previously published in the **Federal Register** and are codified in the Commission's regulations as 10 CFR Part 150.

DATES: The comment period expires April 26, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

ADDRESSES: Written comments may be submitted to Mr. David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Washington, DC 20555–0001. Copies of comments received by NRC may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Copies of the proposed Agreement, copies of the request for an Agreement by the Governor of Ohio including all information and documentation submitted in support of the request, and copies of the full text of the NRC staff assessment are also available for public inspection in the NRC's Public Document Room.

FOR FURTHER INFORMATION CONTACT: Richard L. Blanton, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–2322 or e-mail rlb@nrc.gov.

SUPPLEMENTARY INFORMATION: Since Section 274 of the Act was added in 1959, the Commission has entered into Agreements with 30 States. The Agreement States currently regulate approximately 16,000 agreement material licenses, while NRC regulates approximately 5800 licenses. Under the proposed Agreement, approximately 550 NRC licenses will transfer to Ohio. NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This notice is being published in fulfillment of the requirement.

I. Background

(a) Section 274d of the Act provides the mechanism for a State to assume regulatory authority, from the NRC, over certain radioactive materials [1] and activities that involve use of the materials. In a letter dated June 22, 1998, Governor Voinovich certified that the State of Ohio has a program for the control of radiation hazards that is adequate to protect public health and safety within Ohio for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities. Included with the letter was the text of the proposed Agreement, which is shown in Appendix A to this notice.

The radioactive materials and activities (which together are usually referred to as the "categories of materials") which the State of Ohio requests authority over are: (1) The possession and use of byproduct materials as defined in Section 11e.(1) of the Act; (2) the generation, possession, use, and disposal of byproduct materials as defined in Section 11e.(2) of the Act; (3) the possession and use of source materials; (4) the possession and use of special nuclear materials in quantities not sufficient to form a critical mass; (5) the regulation of the land disposal of byproduct materials as defined in Section 11e.(1) of the Act, source, or special nuclear waste materials received from other persons; and (6) the evaluation of radiation safety information on sealed sources or devices containing byproduct materials as defined in Section 11e.(1) of the Act, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

(b) The proposed Agreement contains articles that:

—Specify the materials and activities over which authority is transferred;
—Specify the activities over which the Commission will retain regulatory authority;
—Continue the authority of the Commission to safeguard nuclear materials and restricted data;
—Commit the State of Ohio and NRC to exchange information as necessary to maintain coordinated and compatible programs;
—Provide for the reciprocal recognition of licenses;
—Provide for the suspension or termination of the Agreement;
—Provide for the transfer of any financial surety funds collected by Ohio for reclamation or long-term surveillance of sites for the disposal of byproduct materials (as defined in Section 11e.(2) of the Act) to the United States if custody of the

[1] The radioactive materials, sometimes referred to as "agreement materials," are: (a) byproduct materials as defined in Section 11e.(1) of the Act; (b) byproduct materials as defined in Section 11e.(2) of the Act; (c) source materials as defined in Section 11z. of the Act; and (d) special nuclear materials as defined in Section 11aa. of the Act, restricted to quantities not sufficient to form a critical mass.

material and the disposal site are transferred; and
—Specify the effective date of the proposed Agreement. The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the Agreement, with the effective date, will be published after the Agreement is approved by the Commission, and signed by the Chairman of the Commission and the Governor of Ohio.

(c) Ohio currently regulates the users of naturally-occurring and accelerator-produced radioactive materials. The regulatory program is authorized by law in Section 3748 of the Ohio Revised Code. Subsection 3748.03 provides the authority for the Governor to enter into an Agreement with the Commission.

Ohio law contains provisions for the orderly transfer of regulatory authority over affected licensees from NRC to the State. After the effective date of the Agreement, licenses issued by NRC would continue in effect as Ohio licenses until the licenses expire or are replaced by State issued licenses. NRC licenses transferred to Ohio which contain requirements for decommissioning and express an intent to terminate the license when decommissioning has been completed in accordance with a Commission approved decommissioning plan will continue as Ohio licenses and will be terminated by Ohio when the Commission approved decommissioning plan has been completed.

(d) As described below, the proposed Agreement will be signed only after the fulfillment of commitments by Ohio to hire, train, and qualify a sufficient number of professional/technical staff. Contingent on the fulfilment of these commitments, the NRC staff assessment finds that the Ohio program is adequate to protect public health and safety, and is compatible with the NRC program for the regulation of agreement materials.

II. Summary of the NRC Staff Assessment of the Ohio Program for the Control of Agreement Materials

NRC staff has examined the Ohio request for an Agreement with respect to the ability of the radiation control program to regulate agreement materials. The examination was based on the Commission's policy statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" (referred to herein as the "NRC criteria") (46 FR 7540; January 23, 1981, as amended).

(a) Organization and Personnel. The agreement materials program will be located within the existing Bureau of Radiation Protection (Bureau) of the Ohio Department of Health. The program will be responsible for all regulatory activities related to the proposed Agreement.

The educational requirements for the Bureau staff members are specified in the Ohio State personnel position descriptions, and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold at least bachelor's degrees in physical or life sciences, or have a combination of education and experience at least equivalent to a bachelor's degree. Several staff members hold advanced degrees, and all staff members have had additional training plus working experience in radiation protection. Supervisory level staff have more than ten years working experience each in radiation protection.

The Bureau currently has staff vacancies, which it is actively recruiting to fill. In response to NRC comments, the Bureau performed, and NRC staff reviewed, an analysis of the expected Bureau workload under the proposed Agreement. Based on the analysis, Ohio has made three commitments. First, the Bureau will employ a staff of at least 21 full-time professional/technical employees for the agreement materials program. Second, the distribution of the qualifications of the individual staff members will be balanced to the distribution of categories of licensees transferred from NRC. For example, there will be enough inspectors trained and qualified to inspect industrial radiography operations that the program will be able to inspect all of the industrial radiography licensees transferred from NRC without developing a backlog of overdue inspections. Third, each individual on the staff will be qualified in accordance with the Bureau's training and qualification procedure (including use of interim qualification) to function in the areas of responsibility to which the individual is assigned. In the case of individuals assigned to review radiation safety information on sealed sources or devices containing byproduct materials as defined in Section 11e.(1) of the Act, source, or special nuclear materials, this commitment includes assuring that the individuals will be able to:

—Understand and interpret, if necessary, appropriate prototype tests that ensure the integrity of the products under normal, and likely accidental, conditions of use,
—Understand and interpret test results,
—Read and understand blueprints and drawings,
—Understand how the device works and how safety features operate,
—Understand and apply appropriate regulations,
—Understand the conditions of use,
—Understand external dose rates, source activities, and nuclide chemical form, and
—Understand and utilize basic knowledge of engineering materials and their properties.

(b) Legislation and Regulations. The Ohio Department of Health is designated by law in Chapter 3748 of the Ohio Revised Code to be the radiation control agency. The law provides the Department the authority to issue licenses, issue orders, conduct inspections, and to enforce compliance with regulations, license conditions, and orders. Licensees are required to provide access to inspectors. The Public Health Council is authorized to promulgate regulations.

The law requires the Public Health Council to adopt rules that are compatible with the equivalent NRC regulations and that are equally stringent to, or to the extent practicable more stringent than, the equivalent NRC regulations. The Council has adopted, by reference, the NRC regulations in Title 10 of the Code of Federal Regulations that were in effect on October 19, 1998. The adoption by reference is contained in Chapter 3701–39–021 of the Ohio Administrative Code (OAC). The Board of Health has extended the effect of the rules, where appropriate, to apply to naturally occurring radioactive materials and to radioactive materials produced in particle accelerators, in addition to agreement materials.

Ohio rule 3701–39–021 (A) specifies that references to the NRC shall be construed as references to the Director of the Department of Health. It is noted, however, that Ohio has adopted most of the NRC regulations as entire Parts, including sections that address regulatory matters reserved to the Commission. Ohio has adopted a provision in Rule 3701–39–021 (A) excepting such sections from being construed as enforced by the Director of the Department of Health. The OAC also contains a provision to avoid interference with licensees when they are complying with regulatory requirements which the Act specifies NRC must enforce and when they are complying with NRC regulatory

requirements from which the State licensees have not been exempted by the proposed Agreement. The NRC staff concludes that Ohio will not attempt to enforce the regulatory matters reserved to the Commission. In accordance with NRC Management Directive 5.9, "Adequacy and Compatibility of Agreement State Programs," this approach is considered compatible.

The NRC staff review verified that the Ohio rules contain all of the provisions that are necessary in order to be compatible with the regulations of the NRC on the effective date of the Agreement between the State and the Commission. The adoption of the NRC regulations by reference assures that the standards will be uniform.

The Ohio regulations are different from the NRC regulations with respect to the decommissioning of a licensed facility and the termination of the license. Current NRC regulations permit a license to be terminated when the facility has been decommissioned, i.e., cleaned of radioactive contamination, such that the residual radiation will not cause a total effective dose equivalent greater than 25 millirem per year to an average member of the group of individuals reasonably expected to receive the greatest exposure. Normally, the NRC regulations require that the 25 millirem dose constraint be met without imposing any restrictions regarding the future use of the land or buildings of the facility ("unrestricted release"). Under certain circumstances, NRC regulations in 10 CFR Part 20, Subpart E, allow a license to be terminated if the 25 millirem dose constraint is met with restrictions on the future use ("restricted release"). Ohio law does not allow a license to be terminated under restricted release. Ohio will instead issue special "decommissioning-possession only" licenses as an alternative to license termination under restricted release. The Commission has concluded that Ohio's approach, although different, is compatible.

(c) Storage and Disposal. Ohio has also adopted, by reference, the NRC requirements for the storage of radioactive material, and for the disposal of radioactive material as waste. The waste disposal requirements cover both the disposal of waste generated by the licensee and the disposal of waste generated by and received from other persons.

(d) Transportation of Radioactive Material. Ohio has adopted the NRC regulations in 10 CFR Part 71 by reference. Part 71 contains the requirements licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials. Ohio will not attempt to enforce portions of the regulations related to activities, such as approving packaging designs, which are reserved to NRC.

(e) Recordkeeping and Incident Reporting. Ohio has adopted, by reference, the sections of the NRC regulations which specify requirements for licensees to keep records, and to report incidents or accidents involving materials.

(f) Evaluation of License Applications. Ohio has adopted, by reference, the NRC regulations that specify the requirements which a person must meet in order to get a license to possess or use radioactive materials. Ohio has also developed a licensing procedures manual, along with the accompanying regulatory guides, which are adapted from similar NRC documents and contain guidance for the program staff when evaluating license applications.

(g) Inspections and Enforcement. The Ohio radiation control program has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by NRC. The program has adopted procedures for the conduct of inspections, the reporting of inspection findings, and the report of inspection results to the licensees. The program has also adopted, by rule in the OAC, procedures for the enforcement of regulatory requirements.

(h) Regulatory Administration. The Ohio Department of Health is bound by requirements specified in State law for rulemaking, issuing licenses, and taking enforcement actions. The program has also adopted administrative procedures to assure fair and impartial treatment of license applicants. Ohio law prescribes standards of ethical conduct for State employees.

(i) Cooperation with Other Agencies. Ohio law deems the holder of an NRC license on the effective date of the proposed Agreement to possess a like license issued by Ohio. The law provides that these former NRC licenses will expire either 90 days after receipt from the radiation control program of a notice of expiration of such license or on the date of expiration specified in the NRC license, whichever is later. In the case of NRC licenses that are terminated under restricted conditions pursuant to 10 CFR 20.1403 prior to the effective date of the proposed Agreement, Ohio deems the termination to be final despite any other provisions of State law or rule. For NRC licenses that, on the effective date of the proposed Agreement, contain a license condition indicating intent to terminate the license upon completion of a Commission approved decommissioning plan, the transferred license will be terminated by Ohio in accordance with the plan so long as the licensee conforms to the approved plan.

Ohio also provides for "timely renewal." This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision. The OAC provides exemptions from the State's requirements for licensing of sources of radiation for NRC and U.S. Department of Energy contractors or subcontractors.

The proposed Agreement commits Ohio to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that Ohio's program will continue to be compatible with the Commission's program for the regulation of agreement materials. The proposed Agreement stipulates the desirability of reciprocal recognition of licenses, and commits the Commission and Ohio to use their best efforts to accord such reciprocity.

III. Staff Conclusion

Subsection 274d of the Act provides that the Commission shall enter into an agreement under subsection 274b with any State if:

(a) The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the agreement materials within the State, and that the State desires to assume regulatory responsibility for the agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o, and in all other respects compatible with the Commission's program for the regulation of materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

On the basis of its assessment, the NRC staff concludes that the State of Ohio meets the requirements of the Act, conditioned on completion of the commitments made in regard to the program staff. The State's program, as defined by its statutes, regulations, personnel, licensing, inspection, and administrative procedures, is

compatible with the program of the Commission and adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

NRC will continue the formal processing of the proposed Agreement, however, the signing of the Agreement will be contingent upon the Bureau's completion of the staffing commitments.

IV. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

Dated at Rockville, Maryland, this 5th day of March, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

An Agreement Between the United States Nuclear Regulatory Commission and the State of Ohio for the Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

Whereas, The Governor of the State of Ohio is authorized under Chapter 3748. of the Ohio Revised Code to enter into this Agreement with the Commission; and,

Whereas, The Governor of the State of Ohio certified on June 22, 1998, that the State of Ohio (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the health and safety of the public and to protect the environment with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

Whereas, The Commission found on (date to be determined) that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and,

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now Therefore, It is hereby agreed between the Commission and the Governor of the State of Ohio, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

1. Byproduct materials as defined in Section 11e.(1) of the Act;
2. Byproduct materials as defined in Section 11e.(2) of the Act;
3. Source materials;
4. Special nuclear materials in quantities not sufficient to form a critical mass;
5. The regulation of the land disposal of byproduct, source, or special nuclear waste materials received from other persons; and,
6. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

Article II

A. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to:

1. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;
2. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
3. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in the regulations or orders of the Commission;
4. The regulation of the disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission.

B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct material as defined in Section 11e.(2) of the Atomic Energy Act:

1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.
2. The Commission reserves the authority to establish minimum standards governing reclamation, long-term surveillance or maintenance, and ownership of such byproduct material and of land used as a disposal site for such material.

Such reserved authority includes:

a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);

c. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States

or a State pursuant to paragraph 2.b. in this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger public health, safety, welfare, or the environment;

d. The authority to require, in the case of a license, if any, for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. in this section taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or the State;

e. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect public health and safety, and other actions as the Commission deems necessary; and

f. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian Tribe or land owned by an Indian Tribe and subject to a restriction against alienation imposed by the United States.

Article III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article IV

This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

Article VI

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgement of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

Article VIII

In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of Section 274o of the Act. If in such licensing and regulation, the State requires financial surety arrangements for reclamation or long-term surveillance and maintenance of such material,

A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

B. Such surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long-term management of such byproduct material and its disposal site.

Article IX

This Agreement shall become effective on July 22, 1999, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Columbus, Ohio this (date to be determined).

For the United States Nuclear Regulatory Commission.

_____, *Chairman.*

For the State of Ohio.

_____, *Governor.*

[FR Doc. 99–7278 Filed 3–24–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Availability for Work.

(2) *Form(s) submitted:* UI–38, UI–38s, ID–8k.

(3) *OMB Number:* 3220–0164.

(4) *Expiration date of current OMB clearance:* 5/31/1999.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households, Non-profit institutions.

(7) *Estimated annual number of respondents:* 7,600.

(8) *Total annual responses:* 7,600.

(9) *Total annual reporting hours:* 1,085.

(10) *Collection description:* Under section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day in which the claimant is not available for work. The collection obtains information needed by the RRB to determine whether a claimant is willing and ready to work.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laurie Shack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–7297 Filed 3–24–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41191; File No. SR–DTC–98–26]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Establishment of an Interface With National Securities Clearing Corporation Regarding the Automated Customer Account Transfer Service

March 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 18, 1998, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, DTC will establish an interface with National Securities Clearing Corporation ("NSCC") to allow certain DTC participants that are not NSCC members to participate in NSCC's Automated Customer Account Transfer Service ("ACATS")

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, DTC will give its participants that are not direct members of NSCC access to NSCC's ACATS via DTC's Participant Terminal System, NSCC's PC Web Direct service, or both and later through DTC's computer to computer facility. Through ACATS, DTC participants will be able to transfer customer accounts in an automated manner with standardized input and output.[3]

Currently, ACATS enables NSCC members to effect automated transfers of customer accounts among themselves.[4] On November 10, 1998, the Commission approved a proposed rule change by NSCC to expand the types of eligible ACATS participants and kinds of accounts that may be transferred.[5] NSCC's rule change permits a qualified securities depository ("QSD") such as DTC to effect customer account transfers in ACATS on behalf of its participants.[6]

As recently revised, ACATS will allow ACATS participants to transfer an account from one institution to another in a standardized, book-entry environment utilizing NSCC's links to DTC, The Option Clearing Corporation, Government Securities Clearing Corporation, the MBS Division of DTC, and approximately 120 mutual fund families through the ACATS-Fund/SERV link.

DTC will enter into an agreement with NSCC which will permit ACATS to be sued for the transfer of accounts between two DTC participants or between a DTC participant and an NSCC member. DTC will also enter into an agreement with each DTC participant that wants to use the ACATS interface.[7]

Transactions under the arrangement will be effected under DTC's present rules. Transfers between DTC participants (*e.g.*, bank-to-bank transfers) will be free. Transfers between a DTC participant and an NSCC member (*e.g.*, bank-to-broker transfers) and vice versa will also be free. Transfers of account cash balances associated with account transfers will be part of end of day net settlement.

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC since the proposed rule change will increase efficiency in processing participant transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

---

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] The program will begin as a pilot involving approximately 16 DTC participants that are not NSCC members. Thereafter, if the program is successful, it will be made generally available to all DTC participants.

[4] ACATS complements New York Stock Exchange ("NYSE") and National Association of Securities Dealers ("NASD") rules which require NYSE and NASD members to use automated, clearing agency customer account transfer services and to effect customer account transfers within specified time frames.

[5] Securities Exchange Act Release No. 40657 (November 10, 1998), 63 FR 63952 [File No. SR–NSCC–98–06].

[6] QSD is defined in NSCC Rule 1 as a registered clearing agency which has entered into an agreement with NSCC pursuant to which it will act as a securities depository for NSCC and effect book-entry transfers of securities to and by NSCC with respect to NSCC's CNS system.

[7] A draft agreement between NSCC and DTC and a draft agreement for DTC participants that want to use the ACATS interface are attached as exhibits to DTC's filing, which is available for inspection and copying at the Commission's Public Reference Room and through DTC.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants or Others

The "ACATS for Banks" proposal appeared in the March 1996 program agenda advisory committee agenda, which is a DTC communication mechanism to present new programs and other issues to DTC customers. The results of comments by DTC participants appeared in the August 1996 program agenda proposals report. Ninety-eight participants responded to the proposal, and more than 70% of those that approved of the proposal through that, of the several possible means of facilitating these account transfers, a link to the NSCC ACATS system was the most desirable approach. Since NSCC had already committed to a wholesale redesign of ACATs, bringing banks into the system was made an integral part of the redesign.

As part of the ACATS redesign, NSCC set up several focus groups, including a group of banks and representatives of bank industry groups, to discuss improvements to ACATS and DTC's role in account transfers. This led to a bank advisory group and, thereafter, to joint NSCC/DTC educational awareness seminars held in various cities around the country during February and March of 1998. All DTC participants were invited, and 16 DTC participants signed up to participate in a pilot. To date, 62 DTC participants have expressed an interest in ACATS.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b) (3) (F).[8] Section 17A(b)(3)(1)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(F) of the Act. ACATS provides a more efficient method for the transfer of customer assets. The rule change will make the benefits of ACATS available to a number of DTC participants that presently do not have access to ACATS.

DTC has requested that the Commission approve the proposed rule change subsequent to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change rule change prior to the thirtieth day after the publication of notice because such approval will allow DTC's interface the ACATS to become operative with NSCC's implementation of the newly designed ACATS system. The Commission points out that this proposed rule change was discussed in NSCC's rule filing regarding the new ACATs system to which no written comments were received.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SSR–DTC–98–26 and should be submitted by April 15, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–98–26) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7281 Filed 3–24–99; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[9] Securities Exchange Act Release Nos. 40487 (September 28, 1998), 63 FR 53479 and 40657 (November 10, 1998), 63 FR 63952.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–41192; File No. SR–MSRB–99–2)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G–11, on Sales of New Issue Municipal Securities During the Underwriting Period

March 19, 1999.

On March 11, 1999, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–99–2), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith an amendment to Rule G–11, on sales of new issue municipal securities during the underwriting period. The proposed rule change clarifies a previous amendment to Rule G–11(g)(iii) concerning the disclosure of designation information to syndicate members. The following is the text of the proposed rule change, with italics denoting new language and brackets denoting deletions:

I. Rule G–11. Sales of New Issue Municipal Securities During the Underwriting Period

(a)–(f) No change.

(g) Designations and Allocations of Securities. The senior syndicate manager shall:

(i)–(ii) No change.

(iii) disclose, *in writing,* to [the] *each* member[s] of the syndicate [, in writing,] all available *information on designations paid to syndicate and non-syndicate members expressed in total dollar amounts* [designation information] to members within 10 business days following the date of sale and all information *about designations paid to syndicate and non-syndicate members expressed in total dollar amounts* with the sending of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

designation checks pursuant to Rule G–12(k); and

(iv) No change.

(h) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On November 27, 1998, the Commission approved amendments to the Board's syndicate practices rules.[3] The amendments revised several areas involving syndicate practices, including: issuer syndicate requirements, allocation of securities, designation information, take-down information and payment of designations.

After the amendments were approved, the Board received several inquiries from dealers concerning the amendment to Rule G–11(g)(iii) that requires the managing underwriter to disclose to syndicate members, in writing, all available designation information to members within 10 business days following the date of sale and all information with the sending of the designation checks pursuant to Rule G–12(k).

Most of the inquiries concerned whether the requirement was to disclose to each syndicate member its own designation information or whether all members were to receive information about all the designations. On December 11, 1998, the Board published a notice on its Web site to clarify that the requirement is that all designation information be disclosed to each syndicate member.

There also have been a number of questions raised about the kind of designation information that managers are required to disclose. Callers asked whether managers should disclose designations by total dollar amounts, bond amounts or both total dollar amounts and bond amounts. The Board believes the designation information that will be most useful to syndicate members is the total dollar amounts of the designations.

Another question raised by some callers was whether the disclosure of designation information to syndicate members would require disclosure of designations made to anyone other than syndicate members, *e.g.*, selling group members, since it is not uncommon for selling group members to receive designations. These callers were concerned that, without disclosure to syndicate members of the designations made to non-syndicate members, it is obvious when the dollar amounts designated are totaled that the information is not complete. Since the intent of the Board in adopting the amendment to Rule G–11(g)(iii) was to increase the disclosure of designation information, the Board believes the information disclosed should include all designations.

The proposed rule change addresses the questions that have been raised about Rule G–11(g)(iii) by amending the rule language to make clear that all information about designations paid to syndicate and non-syndicate members is to be provided to each syndicate member and that the designation information must be expressed in total dollar amounts.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C)[4] of the Act, which provides that the Board's rules shall "be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest."

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–99–2 and should be submitted by April 15, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7280 Filed 3–24–99; 8:45 am]

BILLING CODE 8010–01–M

---

[3] *See* Securities Exchange Act Release No. 40717 (November 27, 1998), 63 FR 67157 (December 4, 1998).

[4] 15 U.S.C. 78o–4(b)(2)(C).

[5] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3013]

Notice of Proposed Revisions to Guidelines for the Implementation of Section 609 of Public Law 101–162 Relating to the Protection of Sea Turtles in Shrimp Trawl Fishing Operations

SUMMARY: Section 609 of Public Law 101–162 ("Section 609") provides that shrimp harvested with technology that may adversely affect certain species of sea turtles may not be imported into the United States. This import prohibition does not apply if the Department of State certifies to Congress that the harvesting nation has a regulatory program and an incidental take rate comparable to that of the United States, or, alternatively, that the fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. In response to recommendations of the Dispute Settlement Body of the World Trade Organization, the Department of State is proposing several revisions to the guidelines issued by the Department on August 28, 1998 for use in making such certifications. In order to comply with provisions of the Uruguay Round Trade Agreements Act, 16 U.S.C. 3533, the Department of State is requesting public comment on Sections II and III of this notice. Section I provides background information. Comments should be forwarded to the Office of Marine Conservation at the address listed below no later than 30 days after publication of this notice.

The August 28, 1998 guidelines contained additional information on the Department's policy with respect to certain aspects of the implementation of Section 609 for which no revisions are currently being proposed. The Department's policy with respect to those aspects, as set forth in the August 28, 1998 guidelines, remains unchanged.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Gibbons-Fly or Mr. David Hogan, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington D.C., telephone number (202) 647–2335. Comments should be submitted to the Department of State, Office of Marine Conservation, Room 5806, 2201 C Street NW., Washington, D.C. 20520.

I. Supplementary Information

A. Section 609

Section 609 provides that shrimp or products from shrimp harvested with commercial fishing technology that may adversely affect certain species of sea turtles protected under U.S. law and regulations may not be imported into the United States. This import prohibition does not apply if the President certifies to Congress by May 1, 1991, and annually thereafter, that:

a. The government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

b. The average rate of that incidental taking by vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

c. The particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

The President has delegated to the Secretary of State the authority to make certifications pursuant to Section 609 (Memorandum of December 19, 1990; 56 FR 357; January 4, 1991).

The relevant species of sea turtles are: loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempi*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*) and hawksbill (*Eretmochelys imbricata*).

B. Summary of WTO Recommendations and Measures Taken To Implement Those Recommendations

On November 6, 1998, the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) adopted a report of the WTO Appellate Body in a case brought by India, Malaysia, Pakistan and Thailand challenging the import prohibitions of Section 609. The Appellate Body report found that Section 609 itself was not inconsistent with U.S. obligations under the WTO Agreement and was, in fact, covered by the WTO provision relating to the conservation of exhaustible natural resources. At the same time, however, the Appellate Body report found that certain aspects of the manner in which Section 609 was being implemented, in their cumulative effect, were inconsistent with U.S. obligations under the WTO Agreement. The Appellate Body report recommended that the United States revise its implementation of Section 609 accordingly.

On November 25, 1998, the United States announced its intention to implement the recommendations and rulings of the DSB in a manner which is consistent not only with U.S. WTO obligations, but also with the firm commitment of the United States to the protection of threatened and endangered species, including sea turtles.

The following paragraphs summarize the findings of the WTO Appellate Body report to which the revisions to the Guidelines proposed in this notice respond:

(1) *WTO Finding:* While Section 609 requires as a condition of certification that foreign programs for the protection of sea turtles in the course of shrimp trawl fishing be *comparable* to the U.S. program, the practice of the Department of State in making certification decisions was to require foreign programs to be *essentially the same* as the U.S. program. In assessing foreign programs, the Department of State should be more flexible in making such determinations and, in particular, should take into consideration different conditions that may exist in the territories of those other nations.

Analysis: In response to this recommendation, the proposed revisions to the guidelines make clear that the Department of State will fully consider any evidence that another nation may present that its program to protect sea turtles in the course of shrimp trawl fishing is comparable to the U.S. program. In reviewing such evidence, the Department will take into account any demonstrated differences in foreign shrimp fishing conditions, to the extent that such differences may affect the extent to which sea turtles are subject to capture and drowning in the commercial shrimp trawl fisheries. The Department will also take such differences into account in making related determinations under Section 609.

(2) *WTO Finding:* The certification process under Section 609 is neither transparent nor predictable and denies to exporting nations basic fairness and due process. There is no formal opportunity for an applicant nation to be heard or to respond to arguments against it. There is no formal written, reasoned decision. But for notice in the **Federal Register**, nations are not notified of decisions specifically. There is no procedure for review of, or appeal from, a denial of certification.

Analysis: In response to this finding, the proposed revisions to the guidelines institute a broad range of procedural changes in the manner in which the Department of State will make certification decisions under Section 609. The intention is to create a more transparent and predictable process for reviewing foreign programs and for making decisions on certifications and other related matters. The proposed

revisions ensure that the governments of harvesting nations will be notified on a timely basis of all pending and final decisions and are provided a meaningful opportunity to be heard and to present any additional information relevant to the certification decision. The governments of harvesting nations that are not granted a certification shall receive a full explanation of the reasons that the certification was denied. Steps that the government must take to receive a certification in the future shall be clearly identified. The following paragraphs summarize certain other findings of the WTO Appellate Body report to which the United States Government is responding, or has responded.

(3) *WTO Finding:* At the time the WTO complaint arose, the United States did not permit imports of shrimp harvested by vessels using TEDs comparable in effectiveness to those used in the United States, unless the harvesting nation was certified pursuant to Section 609. In other words, shrimp caught using methods identical to those employed in the United States had been excluded from the United States market solely because they had been caught in waters of uncertified nations.

Analysis: For reasons unrelated to the WTO case, the Department of State modified its implementing Guidelines on August 28, 1998 to allow the importation of shrimp harvested by vessels using TEDs, even if the exporting nation is not certified pursuant to Section 609. This policy had, in fact, been in place as of April 19, 1996, but had been overturned by a domestic court ruling that was subsequently vacated. The provisions of the August 28, 1998 Guidelines pertaining to the importation of such shrimp remain in effect.

(4) *WTO Finding:* The United States failed to engage the nations that brought the complaint, as well as other WTO Members exporting shrimp to the United States, in serious across-the-board negotiations, apart from negotiations on the Inter-American Convention for the Protection and Conservation of Sea Turtles, for the purpose of concluding agreements to conserve sea turtles before enforcing the import prohibition on those other Members.

Analysis: As early as 1996, the United States proposed to governments in the Indian Ocean region the negotiation of an agreement to protect sea turtles in that region, but received no positive response. In 1998, even before the WTO Appellate Body issued its report, the United States reiterated its desire to enter into such negotiations with affected governments, including those that had brought the WTO complaint. During the summer of 1998, the United States informally approached several governments in the Indian Ocean region, as well as numerous non-governmental organizations, in an effort to get such negotiations underway. On October 14, 1998, following the issuance of the Appellate Body report, but before its adoption by the DSB, the Department of State formally renewed this proposal to high-level representatives of the embassies of the four complainants in Washington, D.C., and delivered the same message to a wide range of nations in the Indian Ocean region through our embassies abroad. In each case, the United States presented a list of "elements" that we believe could form the basis of such an agreement. We also made clear the willingness of the United States to support the negotiating process in a number of ways. We are continuing to pursue this initiative.

(5) *WTO Finding:* As compared to the 14 nations of the Caribbean and western Atlantic that were initially affected by Section 609, the United States provided less technical assistance to those nations that first became affected by the law at the end of 1995 as a result of the decision of the U.S. Court of International Trade.

Analysis: The United States has renewed, and hereby reiterates, its offer of technical training in the design, construction, installation and operation of TEDs to any government that requests it. Any government that wants to receive such training need only make such a request to the United States in writing, through diplomatic channels. The United States will make every effort to meet such requests. Training programs will be scheduled on a first come, first served basis, although special efforts will be made to accommodate nations whose governments are making good faith efforts to adopt and maintain nation-wide TEDs programs and who have not previously received such training. In this way, the United States hopes to create an additional incentive in favor of such programs.

C. The U.S. Program

Since certification decisions under Section 609(b)(2) (A) and (B) are based on comparability with the U.S. program governing the incidental taking of sea turtles in the course of shrimp harvesting, an explanation of the components of that program follows. The U.S. program requires that commercial shrimp trawl vessels use TEDs approved in accordance with standards established by the U.S. National Marine Fisheries Service (NMFS), in areas and at times when there is a likelihood of intercepting sea turtles. The goal of this program is to protect sea turtle populations from further decline by reducing the incidental mortality of sea turtles in commercial shrimp trawl operations.

The commercial shrimp trawl fisheries in the United States in which there is a likelihood of intercepting sea turtles occur in the temperate waters of the Gulf of Mexico and the Atlantic Ocean from North Carolina to Texas. With very limited exceptions, all U.S. commercial shrimp trawl vessels operating in these waters must use approved TEDs at all times and in all areas. The only exceptions to this requirement are as follows:

a. Vessels equipped exclusively with wing nets, skimmer trawls, and pusher-head trawls when used in conjunction with certain restricted tow times are not required to use TEDs because their operations do not pose a threat to sea turtles. Vessels equipped with barred beam trawls and/or barred roller trawls are not required to use TEDs. Single try nets (with less than a twelve foot headrope and fifteen foot rope) are not required to use TEDs.

b. Vessels whose nets are retrieved exclusively by manual rather than mechanical means are not required to use TEDs because the lack of a mechanical retrieval system necessarily limits tow times to a short duration so as not to pose a threat of the incidental drowning of sea turtles. This exemption applies only to vessels that have no power or mechanical-advantage trawl retrieval system.

c. In exceptional circumstances, where NMFS determines that the use of TEDs would be impracticable because of special environmental conditions such as the presence of algae, seaweed, or debris, or that TEDs would be ineffective in protecting sea turtles in particular areas, vessels are permitted to restrict tow times instead of using TEDs. Such exceptions are generally limited to two periods of 30 days each. In practice, NMFS has permitted such exceptions only rarely.

With these limited exceptions, all other commercial shrimp trawl vessels operating in waters subject to U.S. jurisdiction in which there is a likelihood of intercepting sea turtles must use TEDs at all times. For more information on the U.S. program governing the incidental taking of sea turtles in the course of commercial shrimp trawl harvesting, see 50 CFR 227.17 and 50 CFR 227.72(e).

II. Section 609

A. Shrimp Harvested in a Manner Not Harmful to Sea Turtles

The Department of State has determined that the import prohibitions imposed pursuant to Section 609 do not apply to shrimp or products of shrimp harvested under the following conditions, since such harvesting does not adversely affect sea turtles:

a. Shrimp harvested in an aquaculture facility in which the shrimp spend at least 30 days in pond prior to being harvested.

b. Shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States.

c. Shrimp harvested exclusively by means that do not involve the retrieval of fishing nets by mechanical devices or by vessels using gear that, in accordance with the U.S. program described above, would not required TEDs.

d. Shrimp harvested in any other manner or under any other circumstances that the Department of State may determine, following consultation with the NMFS, does not pose a threat of the incidental taking of sea turtles. The Department of State shall publish any such determinations in the **Federal Register** and shall notify affected foreign governments and other interested parties directly.

B. Shrimp Exporter's/Importer's Declaration

The requirement that all shipments of shrimp and products of shrimp imported into the United States must be accompanied by a declaration (DSP–121, revised) became effective as of May 1, 1996 and remains effective. The DSP–121 attests that the shrimp accompanying the declaration was harvested either under conditions that do not adversely affect sea turtles (as defined above) or in waters subject to the jurisdiction of a nation currently certified pursuant to Section 609. All declarations must be signed by the exporter. The declaration must accompany the shipment through all stages of the export process, including any transformation of the original product and any shipment through any intermediary nation. As before, the Department of State will make copies of the declaration readily available. Local reproduction of the declarations is fully acceptable.

The requirement that a government official of the harvesting nation not currently certified pursuant to Section 609 must also sign the DSP–121 asserting that the accompanying shrimp was harvested under conditions that do not adversely affect sea turtles species remains effective. In order to protect against fraud, the Department will continue to conduct periodic reviews of the systems that such foreign governments have put in place to verify the statements made on the DSP–121 form.

Date of Export. Import prohibitions shall not apply to shipments of shrimp and products of shrimp with a date of export falling at a time in which the harvesting nation is currently certified pursuant to Section 609.

Country of Origin. For purposes of implementing Section 609, the country of origin shall be deemed to be the nation in whose waters the shrimp is harvested, whether or not the harvesting vessel is flying the flag of another nation.

C. Review of Information

The government of any harvesting nation may request that the Department of State review any information regarding the particular shrimp fishing environment and conditions in that nation, or within a distinct geographic region of that nation, in making decisions pursuant to Section 609. Such information may be presented to demonstrate, *inter alia:*

(1) That some portion of the shrimp intended to be exported from that nation to the United States is harvested under one of the conditions identified above as not adversely affecting species of sea turtles;

(2) That the government of that nation has adopted a regulatory program governing the incidental taking of sea turtles in the course of commercial shrimp trawl fishing that is comparable to the U.S. program and, therefore, that the nation is eligible for certification under Section 609(b)(2)(A) and (B); or

(3) That the fishing environment in that nation does not pose a threat of the incidental taking of sea turtles and, therefore, that the nation is eligible for certification under Section 609(b)(2)(C).

Such information should be based on empirical data supported by objective scientific studies of sufficient duration and scope to provide the information necessary for a reliable determination. In addition, information submitted to support a request for any such determination should include available biological and commercial data that are relevant to determining whether or not the fishing environment of the harvesting nation is likely to pose a threat to sea turtles. Studies intended to show the rate of incidental taking of sea turtles in a given shrimp fishery should, at a minimum, contain data for an entire fishing season. Upon request, the United States will review and provide comments on a planned or existing study with respect to sample size, scientific methodology and other factors that affect whether such a study provides a sufficient basis for making a reliable determination.

The Department will fully review and take into consideration all such information and, in consultation with the NMFS, respond in writing to the government of the harvesting nation within 120 days from the date on which the information is received.

The Department, in consultation with the NMFS, will also take into consideration information on the same subjects that may be available from other sources, including but not limited to academic and scientific organizations, intergovernmental organizations and non-governmental organizations with recognized expertise in the subject matter.

III. Guidelines for Making Certification Decisions

A. Certification Pursuant to Section 609(b)(2)(C)

Section 609(b)(2)(C) authorizes the Department of State to certify a harvesting nation if the particular fishing environment of the harvesting nation does not pose a threat of incidental taking of sea turtles in the course of commercial shrimp trawl harvesting. Accordingly, the Department shall certify any harvesting nation meeting the following criteria without the need for action on the part of the government of the harvesting nation:

a. Any harvesting nation without any of the relevant species of sea turtles occurring in waters subject to its jurisdiction;

b. Any harvesting nation that harvests shrimp exclusively by means that do not pose a threat to sea turtles, e.g., any nation that harvests shrimp exclusively by artisanal means;

c. Any nation whose commercial shrimp trawling operations take place exclusively in waters subject to its jurisdiction in which sea turtles do not occur.

B. Certification Pursuant to Section 609(b)(2) (A) and (B)

Under Section 609(b)(2), the Department of State shall certify any other harvesting nation by May 1st of each year if "the government of [that] nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States" and if "the average

rate of that incidental taking by vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting."

a. *Regulatory Program.* The Department of State shall assess regulatory programs, as described in any documentary evidence provided by the governments of harvesting nations, for comparability with the U.S. program.

Where standard otter trawl nets are used in shrimp fisheries in waters where sea turtles are present, sea turtles will inevitably be captured and drowned. The Department of State is presently aware of no measure or series of measures that can minimize the capture and drowning of sea turtles in such nets that is comparable in effectiveness to the required use of TEDs.

1. If the government of the harvesting nation seeks certification on the basis of having adopted a TEDs program, certification shall be made if a program includes the following:

(i) *Required Use of TEDs*—a requirement that all commercial shrimp trawl vessels operating in waters in which there is a likelihood of intercepting sea turtles use TEDs at all times. TEDs must be comparable in effectiveness to those used in the United States. Any exceptions to this requirement must be comparable to those of the U.S. program described above; and

(ii) *Enforcement*—a credible enforcement effort that includes monitoring for compliance and appropriate sanctions.

2. If the government of a harvesting nation demonstrates that it has implemented and is enforcing a comparably effective regulatory program to protect sea turtles in the course of shrimp trawl fishing without the use of TEDs, that nation will also be eligible for certification. As described above, such a demonstration would need to be based on empirical data supported by objective scientific studies of sufficient duration and scope to provide the information necessary for a reliable determination. In reviewing any such information, the Department of State will take fully into account any demonstrated differences between the shrimp fishing conditions in the United States and those in other nations, as well as information available from other sources.

b. *Incidental Take.* Average incidental take rates will be deemed comparable if the harvesting nation requires the use of TEDs in a manner comparable to that of the U.S. program or, as described above, otherwise demonstrates that it has implemented a comparably effective program to protect sea turtles in the course of shrimp trawl fishing without the use of TEDs.

c. *Additional Considerations.* 1. *Form*—A regulatory program may be in the form of regulations promulgated by the government of the harvesting nation and having the force of law. If the legal system and industry structure of the harvesting nation permit voluntary arrangements between government and the fishing industry, such an arrangement may be acceptable so long as there is a governmental mechanism to monitor compliance with the arrangement and to impose penalties for non-compliance, and reliable confirmation that the fishing industry is complying with the arrangement.

2. *Documentary Evidence*—Documentary evidence may be in the form of copies of the relevant laws, regulations or decrees. If the regulatory program is in the form of a government-industry arrangement, then a copy of the arrangement is required. Harvesting nations are encouraged to provide, to the extent practicable, information relating to the extent of shrimp harvested by means of aquaculture.

3. Additional Sea Turtle Protection Measures—The Department of State recognizes that sea turtles require protection throughout their life cycle, not only when they are threatened during the course of commercial shrimp trawl harvesting. In making certification determinations, the Department shall also take fully into account other measures the harvesting nation undertakes to protect sea turtles, including national programs to protect nesting beaches and other habitat, prohibitions on the directed take of sea turtles, national enforcement and compliance programs, and participation in any international agreement for the protection and conservation of sea turtles. In assessing any information provided by the governments of harvesting nations in this respect, the Department of State will rely on the technical expertise of NMFS and, where appropriate, the US Fish and Wildlife Service to evaluate threats to sea turtles and the effectiveness of sea turtle protection programs.

4. Consultations—The Department of State will engage in ongoing consultations with the governments of harvesting nations. The Department recognizes that, as sea turtle protection programs develop, additional information will be gained about the interaction between sea turtle populations and shrimp fisheries.

These Guidelines may be revised in the future to take into consideration that and other information, as well as to take into account changes in the U.S. program. These Guidelines may also be revised as a result of pending domestic litigation. In addition, the Department will continue to welcome public input on the best ways to implement both these Guidelines and Section 609 as a whole and may revise these guidelines in the future accordingly.

C. Timetable and Procedures for Certification Decisions

Each year the Department will consider for certification: (a) Any nation that is currently certified, and (b) any other shrimp harvesting nation whose government requests such certification in a written communication to the Department of State through diplomatic channels prior to September 1 of the preceding year. Any such communication should include any information not previously provided that would support the request for certification, including the information specified above under Review of Information.

Between September 1 and March 1, U.S. officials will seek to visit those nations requesting certifications pursuant to Section 609(b)(2)(A) and (B). Each visit will conclude with a meeting between the U.S. officials and government officials of the harvesting nation to discuss the results of the visit and to review any identified deficiencies regarding the harvesting nation's program to protect sea turtles in the course of shrimp trawl fishing.

By March 15, the Department of State will notify in writing through diplomatic channels the government of each nation that, on the basis of available information, including information gathered during such visits, does not appear to qualify for certification. Such notification will explain the reasons for this preliminary assessment, suggest steps that the government of the harvesting nation can take in order to receive a certification and invite the government of the harvesting nation to provide, by April 15, any further information. If the government of the harvesting nation so requests, the Department of State will schedule face-to-face meetings between relevant U.S. officials and officials of the harvesting nation to discuss the situation.

Between March 15 and May 1, the Department of State will actively consider any additional information that the government of the harvesting nation believes should be considered by the Department in making its determination concerning certification.

By May 1 of each year the Department of State will make formal decisions on certification. The governments of all nations that have requested certification will be notified in writing of the decision promptly through diplomatic channels. In the case of those nations for which certification is denied, such notification will again state the reasons for such denial and the steps necessary to receive a certification in the future.

The government of any nation that is denied a certification by May 1 may, at any time thereafter, request reconsideration of that decision. When the United States receives information from that government demonstrating that the circumstances that led to the denial of the certification have been corrected, U.S. officials will visit the exporting nation as early as a visit can be arranged. If the visit demonstrates that the circumstances that led to the denial of the certification have indeed been corrected, the United States will certify that nation immediately thereafter.

D. Special Timetable for 1999

The United States and the four nations that brought the WTO complaint have agreed that the United States would implement the recommendations and rulings of the DSB within 15 months of the adoption of the WTO Appellate Body report by the DSB, i.e., by December 6, 1999.

Accordingly, the Department of State hereby establishes the following timetable to apply in 1999 only:

After the date of publication of the revised guidelines, the government of any harvesting nation that was denied certification by May 1, 1999, may request to be certified in accordance with these guidelines in a written communication to the Department of State through diplomatic channels prior to August 15, 1999.

Not later than October 15, 1999, U.S. officials will seek to visit to those nations requesting such certifications. Each visit will conclude with a meeting between the U.S. officials and government officials of the harvesting nation to discuss the results of the visit and to review any identified deficiencies regarding the harvesting nation's program to protect sea turtles in the course of shrimp trawl fishing.

By November 1, 1999, the Department of State will notify in writing through diplomatic channels the government of any nation that, on the basis of available information, including information gathered during such visits, does not appear to qualify for certification. Such notification will explain the reasons for this preliminary assessment, suggest steps that the government of the harvesting nation can take in order to receive a certification and invite the government of the harvesting nation to provide, by November 15, 1999, any further information.

Between November 15 and December 6, 1999, the Department of State will actively consider any additional information that the government of the harvesting nation believes should be considered by the Department in making its determination concerning certification.

By December 6, 1999, the Department of State will make formal decisions on certification. The governments of all nations that have requested certification under the special 1999 timetable will be notified in writing of the decision promptly through diplomatic channels. In the case of those nations for which certification is denied, such notification will again state the reasons for such denial and the steps necessary to receive a certification in the future.

The government of any nation that is denied a certification by December 6, 1999, may, at any time thereafter, request reconsideration of that decision. When the United States receives information from that government demonstrating that the circumstances that led to the denial of the certification have been corrected, U.S. officials will visit the exporting nation as early as a visit can be arranged. If the visit demonstrates that the circumstances that led to the denial of the certification have indeed been corrected, the United States will certify that nation immediately thereafter.

E. Related Determinations

As noted above, any harvesting nation that is not certified on May 1 of any year may be certified prior to the following May 1 at such time as the harvesting nation meets the criteria necessary for certification. Conversely, any harvesting nation that is certified on May 1 of any year may have its certification revoked prior to the following May 1 at such time as the harvesting nation no longer meets those criteria.

* * * * *

As a matter relating to the foreign affairs function, these guidelines are exempt from the notice, comment, and delayed effectiveness provisions of the Administrative Procedures Act. This action is exempt from Executive Order 12866, and is not subject to the requirements of the Regulatory Flexibility Act.

March 19, 1999.

R. Tucker Scully,

Acting Deputy Assistant Secretary for Oceans, Fisheries and Space.

[FR Doc. 99–7342 Filed 3–24–99; 8:45 am]

BILLING CODE 4710–09–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, As amended by Pubic Law 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to the OME Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than April 26, 1999.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Section 26a Permit Application.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households, state or local governments, farms, businesses, or other for-profit Federal agencies or employees, non-profit institutions, small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 2,600.

Estimated Total Annual Burden Hours: 3,900.

Estimated Average Burden Hours Per Response: 1.5.

Need For and Use of Information: Section 26a of the Tennessee Valley Authority Act of 1933, as amended, requires that TVA review and approve plans for the construction, operation, and maintenance of any dam.

appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information collected is used to assess the impact of the proposed project on the statutory TVA programs and determine if the project can be approved. Rules on the application for review and approval of such plans are published in 18 CFR part 1304.

Wilma H. McCauley,

Manager, Information Access.

[FR Doc. 99–7295 Filed 3–24–99; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–62a]

Implementation of WTO Recommendations Concerning EC—Measures Concerning Meat and Meat Products (Hormones)

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comment; notice of public hearing.

SUMMARY: May 13, 1999 is the deadline for the European Communities' (EC) implementation of the recommendations and rulings of the World Trade Organization (WTO) Dispute Settlement Body (DSB) concerning the EC's ban on imports of U.S. meat from animals treated with hormones. EC representatives have indicated that the EC is unlikely to meet this deadline. The United States Trade Representative (USTR) is seeking written comments on the action that the USTR should take to exercise U.S. rights under Article 22 of the WTO Dispute Settlement Understanding (DSU) if the EC fails to implement the DSB recommendations by May 13, 1999.

DATES: Requests to testify at the public hearing and written testimony for the public hearing are due by noon on Wednesday, April 14, 1999; the public hearing will be held beginning at 8:00 a.m. on Monday, April 19, 1999; written comments, in lieu of written and oral testimony, are due by noon on Friday, April 23, 1999; and rebuttal briefs, if needed, are due by 5:00 p.m. on Monday, April 26, 1999.

ADDRESSES: Room 100, 600 17th Street, NW, Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395–3419, for questions concerning Section 301 procedures and submissions filed in response to this notice; Demetrios Marantis, Assistant General Counsel, (202) 395–2581, or Ralph Ives, Deputy Assistant U.S. Trade Representative, (202) 395–4620, for questions concerning the EC hormone ban or WTO procedures; or Joanna McIntosh, Associate General Counsel (202) 395–7203, for questions concerning Section 301, this notice, or WTO procedures.

SUPPLEMENTARY INFORMATION: In December 1985, the EC adopted a directive on livestock production restricting the use of natural hormones to therapeutic purposes, banning the use of synthetic hormones, and prohibiting imports of animals, and meat from animals, to which hormones had been administered. That directive was later declared invalid by the European Court of Justice on procedural grounds and had to be re-adopted by the Council, unchanged, in 1988 ("the Hormone Directive"). These measures became effective January 1, 1989, notwithstanding U.S. attempts to resolve this issue bilaterally and multilaterally, including through dispute settlement under the General Agreement on Tariffs and Trade (GATT).

On December 24, 1987, the President of the United States announced an increase in duties on selected European products in response to the Hormone Directive and related measures, but immediately suspended this action to promote a negotiated solution of the issue. [52 Fed. Reg. 49139]. The USTR terminated the suspension of the increase in duties in January 1989 when the EC began implementing the hormone ban against imports from the United States. [53 Fed. Reg. 53115]. The USTR subsequently modified the application of increased duties on a number of occasions.

Following entry into force of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement") on January 1, 1995, the United States and, later, Canada, proceeded with formal WTO dispute settlement procedures against the hormone ban. Prior to the establishment of the WTO panel, the EC replaced the Hormone Directive with another directive that re-codified and expanded the hormone ban. On May 20, 1996, the DSB established a dispute settlement panel ("the WTO panel") to examine the consistency of the hormone ban with the EC's WTO obligations. The members of the WTO Panel were selected as of July 2, 1996. On July 15, 1996, the USTR terminated the increase in duties on certain products of the EC that had been imposed in response to the hormone ban. [61 Fed. Reg. 37309].

On August 18, 1997, the WTO panel issued its report finding that the hormone ban is not based on scientific evidence, a risk assessment, or relevant international standards in contradiction of the EC's obligations under the SPS Agreement. The Appellate Body issued its report on January 16, 1998 affirming that the hormone ban is not consistent with the EC's obligations under the SPS Agreement. Specifically, the Appellate Body concluded that the EC's hormone ban failed to satisfy the requirements of Articles 3.3 and 5.1 of the SPS Agreement because the risk assessments that had been performed did not support the ban on imports. In addition, the Appellate Body found that there was no risk assessment, as required by Article 5.1 of the SPS Agreement, for one of the hormones. At its February 13, 1998 meeting, the DSB adopted the Panel and Appellate Body reports on hormones.

The EC subsequently requested four years to implement the DSB recommendations, two years to conduct additional risk assessments and two years to revise its measures to reflect the results of those risk assessments. A WTO Arbitrator appointed to determine the reasonable period of time observed that the reasonable period should not be provided to "demonstrate the consistency of a measure already judged to be inconsistent," in response to the EC's arguments that it would need a substantial period to conduct additional risk assessments. [Para. 39 of the Award of the Arbitrator, WT/DS26/15]. The Arbitrator determined that the reasonable period of time for implementation was fifteen months and would expire on May 13, 1999.

To date, the EC has taken no action to implement the DSB recommendations and rulings. The EC has made no modifications to the hormone ban, but rather has initiated seventeen new risk assessments. In its status report for the March meeting of the DSB, the EC indicated that it does not expect to be in compliance by the May 13, 1999 WTO-mandated deadline.

On March 3–4, 1999, U.S. and EC officials held discussions in Washington to explore options to resolve this dispute. The United States presented a proposal for labeling U.S. beef as a way to address European consumers' concerns. However, the EC indicated that a resolution of this matter would be conditional on the completion of the additional risk assessments, which may not be completed until sometime in late 1999 or 2000, and other regulatory procedures.

Process for Suspending Concessions

If the EC fails to implement the DSB recommendations concerning the hormone ban by May 13, 1999, Article 22 of the WTO Dispute Settlement Understanding (DSU) permits the United States to suspend the application of concessions or other obligations accruing to the EC under the WTO Agreement. Article 22.2 of the DSU provides that the United States must seek authorization from the DSB prior to suspending concessions. Article 22.6 of the DSU provides that the DSB shall grant the requested authorization not later than thirty days after the expiration of the reasonable period, or by June 12 in this dispute, unless the EC objects to the level of suspension proposed.

If the EC objects to the level of suspension proposed, it may request that the assessment of that level be referred to arbitration. The DSU requires that such arbitration proceedings be completed within sixty days after the expiration of the reasonable period of time, or by July 12 in this dispute.

Following the completion of arbitration proceedings and upon request, the DSB must grant authorization to suspend concessions or other obligations consistent with the Arbitrator's decision. The United States may not suspend concessions or other obligations during the course of the arbitration proceedings.

Given the likelihood that the EC will not implement the DSB recommendations concerning the hormone ban by May 13, the USTR is taking steps, under the authority of Section 306 of the Trade Act, to prepare for the exercise of the United States's right to suspend concessions under Article 22 of the DSU. These steps include: (1) this request for comments on the concessions that the United States intends to suspend if the EC does not implement the DSB recommendations; and (2) the subsequent U.S. request to the DSB for suspension of concessions.

The U.S. request to the DSB will be submitted some time after May 13, when the EC's reasonable period of time for implementation expires, but before June 12, the latest date by which either the DSB must grant the requested authorization or the EC must request arbitration to review the level of the requested suspension. The U.S. request to the DSB will include the concessions which the U.S. intends to suspend (e.g., a list of products of the EC on which the United States intends to suspend tariff concessions). The United States would begin suspending these concessions in accordance with the time frames provided in Article 22 of the DSU and Section 306 of the Trade Act.

Request for Comments

The USTR requests comments on the types of concessions that may be appropriate for suspension pursuant to Article 22 of the DSU if the EC does not implement the DSB recommendations concerning the hormone ban within the prescribed reasonable period of time. The USTR proposes that the imposition of 100 percent *ad valorem* duties on selected products of the EC is an appropriate action and that the products to be affected by the duty increase will be drawn from the list of products set forth in the Annex to this notice. The imposition of increased duties may be applied to imported articles that are both: (1) classified in the headings and the subheadings of the Harmonized Tariff Schedule of the United States (HTS) listed in the Annex to this notice; and (2) the product of a member State of the European Union. In the instances where a 4-digit HTS heading appears in the left column of this list, products classified in any of the 8-digit subheadings appearing in the HTS indented under those 4-digit headings may be subject to increased duties.

Public Comment on Proposed Suspension of Concessions; Hearing Participation

Section 306(c) of the Trade Act provides that the USTR shall allow an opportunity for the presentation of views by interested persons prior to the issuance of a determination pursuant to section 306(b). The USTR invites interested persons to: (1) provide written comments on the proposed suspension of concessions; and (2) to present written and oral testimony and rebuttal briefs in the context of a public hearing. Written comments and written and oral testimony may address: the appropriateness of imposing increased duties on the products listed in the Annex to this notice; the levels at which U.S. customs duties should be set for particular items; the degree to which increased duties might have an adverse effect upon U.S. consumers of the products listed in the Annex; and any other matter relating to the EC hormone ban and the proposed increase in duties.

Written comments: Interested persons wishing to submit written comments must do so by noon on Friday, April 23, 1999. Persons submitting written comments may, but do not need to, present written and oral testimony as well.

Requests to Testify and Written Testimony: Interested persons wishing to present testimony at the hearing must submit a written request to do so by noon on Wednesday, April 14, 1999, together with twenty copies of their complete written testimony. Requests to testify must conform to the requirements of 15 CFR § 2006.9 and include the following information: (1) name, address, telephone number, fax number, firm or affiliation of the applicant, and interest of the applicant; and (2) a brief summary of the comments to be presented. After considering the request to present oral testimony, the Staff Assistant to the Section 301 Committee will notify the applicant of the time of his or her testimony.

Public Hearing: The public hearing will be held beginning at 8:00 a.m. on Monday, April 19, 1999 in the Main Hearing Room at the U. S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436. Testimony at the public hearing should be limited to no more than five minutes.

Rebuttal Briefs: To assure interested persons an opportunity to contest the information provided by other persons, the USTR will entertain rebuttal briefs filed by any party by 5:00 p.m. on Monday, April 26, 1999. In accordance with 15 CFR § 2006.8(c), rebuttal briefs should be strictly limited to demonstrating errors of fact or analysis not pointed out in written or oral testimony and should be as concise as possible.

Requirements for Submissions: Written comments on the proposed determination, written testimony, and rebuttal briefs must be filed in accordance with the requirements set forth in 15 CFR § 2006.8(b). Submission must include on the first page a clear reference in bold and/or underlining to the HTS number(s) and product(s) which are the subject of the submission. Submissions must state clearly the position taken and describe with particularity the supporting rationale, be in English, and be provided in twenty copies to: Chairman, Section 301 Committee, Attn: EC—Hormone Ban, Implementation of WTO Recommendations, Room 100.

Written comments, written testimony, and rebuttal briefs will be placed in a file (Docket 301–62a) open to public inspection pursuant to 15 CFR § 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR § 2006.15. Persons wishing to submit business confidential information must certify in writing that such information is confidential in accordance with 15 CFR § 2006.15(b), and such information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color

ink at the top of each page on each of twenty copies and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary will be placed in the docket that is open to public inspection.

An appointment to review Docket No. 301–62a may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101 of the Office of the United States Trade Representative.

Joanna K. McIntosh,

Chairman, Section 301 Committee.

BILLING CODE 3190–01–P

Annex

[The bracketed language in this Annex has been included only to clarify the scope of the numbered headings or subheadings of the Harmonized Tariff Schedule of the United States (HTS) which are being considered, and such language is not itself intended to describe articles which are under consideration. In the instances where a 4-digit HTS heading number appears in the left column of this annex, articles classified in any of the 8-digit subheadings indented thereunder in the HTS may be subject to increased duties.]

HTS Heading/ Subheading	Article Description
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0203	Meat of swine, fresh, chilled, or frozen
0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen
0207	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen
	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:
	Meat of swine:
0210.11.00	Hams, shoulders and cuts thereof, with bone in
0210.12.00	Bellies (streaky) and cuts thereof
0210.20.00	Meat of bovine animals
	Other, including edible flours and meals of meat or meat offal:
0210.90.20	Meat of poultry of heading 0105
0210.90.40	Other
	Cheese and curd:
	Blue-veined cheese:
	Roquefort:
0406.40.20	In original loaves
0406.40.40	Other
0504.00.00	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked
	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:
	[Fresh]
0603.90.00	Other
	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:
	[Mosses and lichens]
	Other:
0604.91.00	Fresh
	Other:
0604.99.30	Dried or bleached
0702	Tomatoes, fresh or chilled
	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled:
	Onions and shallots:
	[Onion sets]
	Other:
	[Pearl onions not over 16 mm in diameter]
0703.10.40	Other
	Other vegetables, fresh or chilled:
	Mushrooms and truffles:
0709.52.00	Truffle

Annex (con.)
2 of 4

HTS Heading/ Subheading	Article Description
	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared:
	Other vegetables; mixtures of vegetables:
0712.90.10	Carrots
	Tomatoes:
0712.90.74	In powder
0712.90.78	Other
	Other nuts, fresh or dried, whether or not shelled or peeled:
0802.40.00	Chestnuts (Castanea spp.)
	Pepper of the genus Piper; dried or crushed or ground fruits of the genus Capsicum (peppers) or of the genus Pimenta (e.g., allspice):
	Fruits of the genus Capsicum or of the genus Pimenta (including allspice), dried or crushed or ground:
	Of the genus Capsicum (including cayenne pepper, paprika and red pepper):
0904.20.20	Paprika
1004.00.00	Oats
	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 1006; germ of cereals, whole, rolled, flaked or ground:
	Rolled or flaked grains:
1104.12.00	Of oats
	Other worked grains (for example, hulled, pearled, sliced or kibbled):
1104.22.00	Of oats
	Wool grease and fatty substances derived therefrom (including lanolin):
	[Wool grease, crude]
1505.90.00	Other
1601	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products
	Other prepared or preserved meat, meat offal or blood:
1602.10.00	Homogenized preparations
	Of liver of any animal:
1602.20.20	Of goose
1602.20.40	Other
	Of poultry of heading 0105:
1602.31.00	Of turkeys
1602.32.00	Of chickens
1602.39.00	Other
	Of swine:
	Hams and cuts thereof:
1602.41.10	Containing cereals or vegetables
	Other:
1602.41.20	Boned and cooked and packed in airtight containers
1602.41.90	Other
	Shoulders and cuts thereof:
1602.42.20	Boned and cooked and packed in airtight containers
1602.42.40	Other
	Other, including mixtures:
1602.49.10	Offal
	Other:
	Not containing cereals or vegetables:
1602.49.20	Boned and cooked and packed in airtight containers
1602.49.40	Other
	Other:
1602.49.60	Mixtures of pork and beef
1602.49.90	Other

Annex (con.)
3 of 4

HTS Heading/ Subheading	Article Description
	Other prepared or preserved meat, meat offal or blood:
	Of bovine animals:
1602.50.05	Offal
	Other:
	Not containing cereals or vegetables:
1602.50.09	Cured or pickled
	Other:
	In airtight containers:
1602.50.10	Corned beef
1602.50.20	Other
1602.50.60	Other
1602.50.90	Other
	Sugar confectionery (including white chocolate), not containing cocoa:
1704.10.00	Chewing gum, whether or not sugar-coated
	Other:
	Confections or sweetmeats ready for consumption:
	Other:
1704.90.25	Cough drops
	Chocolate and other food preparations containing cocoa:
	[Cocoa powder, containing added sugar or other sweetening matter; other preparations in blocks, slabs or bars, weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg]
	Other, in blocks, slabs or bars:
1806.31.00	Filled
	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty capsules of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
1905.40.00	Rusks, toasted bread and similar toasted products
	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid:
2002.10.00	Tomatoes, whole or in pieces
	Other:
2002.90.40	In powder
2002.90.80	Other
	Jams, fruit jellies, marmalades, fruit or nut pureé and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter:
	[Homogenized preparations]
	Other:
	Other:
	Jams:
2007.99.05	Lingonberry and raspberry
	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:
	Citrus fruit:
	[Peel; pulp]
	Other:
	Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids:
	Mandarins:
	Satsumas, in airtight containers:
2008.30.42	For an aggregate quantity entered in any calendar year not to exceed 40,000 metric tons
2008.30.46	Other
2008.40.00	Pears
2008.70.00	Peaches

Annex (con.)
4 of 4

HTS Heading/ Subheading	Article Description
	Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:
2009.60.00	Grape juice (including grape must)
	Juice of any other single fruit or vegetable:
	Fruit juice:
	[Pear juice; prune juice]
2009.80.60	Other
	Mixtures of juices:
	[Vegetable]
2009.90.40	Other
	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:
2101.30.00	Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof
	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:
	Mustard flour and meal and prepared mustard:
	[Mustard flour and meal]
2103.30.40	Prepared mustard
	Soups and broths and preparations therefor; homogenized composite food preparations:
2104.10.00	Soups and broths and preparations therefor
	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavored; ice and snow:
2201.10.00	Mineral waters and aerated waters
	Preparations of a kind used in animal feeding:
	[Dog or cat food, put up for retail sale]
	Other:
2309.90.10	Mixed feeds or mixed feed ingredients
	Prepared glues and other prepared adhesives, not elsewhere specified or included; products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg:
	Products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg:
	[Animal glue, including casein glue, but not including fish glue]
3506.10.50	Other
	Artificial staple fibers, not carded, combed or otherwise processed for spinning:
5504.10.00	Of viscose rayon
	Yarn (other than sewing thread) of artificial staple fibers, not put up for retail sale:
	Containing 85 percent or more by weight of artificial staple fibers:
5510.11.00	Single yarn
	Shavers and hair clippers, with self-contained electric motor; parts thereof:
8510.20.00	Hair clippers
	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars:
8711.20.00	With reciprocating internal combustion piston engine of a cylinder capacity exceeding 50 cc but not exceeding 250 cc
8711.30.00	With reciprocating internal combustion piston engine of a cylinder capacity exceeding 250 cc but not exceeding 500 cc

[FR Doc. 99–7409 Filed 3–23–99; 1:01 pm]
BILLING CODE 3190–01–C

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5380]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees on boat occupant protection, navigation lights, and personal flotation device-life saving index will meet to discuss various issues relating to recreational boating safety. All meetings will be open to the public.

DATES: NBSAC will meet on Monday, April 26, 1999, from 8:30 a.m. to 5 p.m. and Tuesday, April 27 from 8:30 a.m. to noon. The Personal Flotation Device-Life Saving Index and Navigation Light Subcommittees will meet on Saturday, April 24, 1999, from 1:30 p.m. to 5 p.m. The Boat Occupant Protection Subcommittee will meet on Sunday, April 25, 1999, from 9:00 a.m. to noon. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before April 15, 1999. Requests to have a copy of your material distributed to each member of the committee or subcommittees should reach the Coast Guard on or before April 9, 1999.

ADDRESSES: NBSAC will meet at the Doubletree Hotel Columbia River, 1401 N. Hayden Island Drive, Portland, Oregon. The subcommittee meetings will be held at the same address. Send written material and requests to make oral presentations to Mr. Albert J. Marmo, Commandant (G–OPB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001. You may obtain a copy of this notice by calling the U.S. Coast guard Infoline at 1–800–368–5647. This notice is available on the Internet at http://dms.dot.gov or at the Web Site for the Office of Boating Safety at URL address www.uscgboating.org/.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Albert J. Marmo, Executive Director of NBSAC, telephone 202–267–0950, fax 202–267–4285. For questions on viewing the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, 202–366–9329.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

National Boating Safety Advisory Council (NBSAC). The agenda includes the following:

(1) Executive Director's report.
(2) Chairman's session.
(3) Personal Flotation Device-Life Saving Index Subcommittee report.
(4) Navigation Light Subcommittee report.
(5) Boat Occupant Protection Subcommittee report.
(6) Recreational Boating Safety Program report.
(7) Report on an evaluation of commercially available propeller injury protection devices.
(8) Presentation on the results of personal flotation device (PFD) wear rate study.
(9) Inflatable personal flotation device update.
(10) Report on the Canadian experience in mandatory operator competency.
(11) National Association of State Boating Law Administrators report.
(12) Vessel Identification System demonstration and discussion.
(13) Report on canoe and kayak safety issues.
(14) Report on fire extinguisher carton labeling.

Boat Occupant Protection Subcommittee. The agenda includes the following:

(1) Review and discuss results of test and evaluation of propeller safety devices.
(2) Discuss risk management and human factors initiatives.
(3) Discuss personal watercraft off-throttle steering test and evaluation.
(4) Discussion manufacturer compliance seminars.

Navigation Light Subcommittee. The agenda includes the following:

(1) Review and discussion rulemaking to replace navigation lights under regulatory control, including certification implementation strategy.
(2) Discussion International Organization for Standardization navigation light standard development.
(3) Discuss status of navigation light lens size study.

Personal Flotation Device-Life Saving Index Subcommittee. The agenda includes the following:

(1) Discuss status of development of the life saving index.
(2) Discuss the status of inflatable PFD inflation systems, and approval of automatic inflating PFDs.
(3) Discuss the "Standards Technical Panel" process.
(4) Discuss strategies for improving public awareness of the capabilities of the different types of personal flotation devices.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than April 15, 1999. Written material for distribution at a meeting should reach the Coast Guard no later than April 15, 1999. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than April 9, 1999.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: March 17, 1999.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 99–7321 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice and Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Salt Lake City International Airport under the provisions of 49 U.S.C. Sec. 47503(a) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing the proposed noise compatibility program that was submitted for Salt Lake City International Airport under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before September 6, 1999.

EFFECTIVE DATE: The effective date of the FAA's determination on the Salt Lake City International Airport noise

exposure maps and the start of the its review of the associated noise compatibility program is March 10, 1999. The public comment period ends May 10, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 1601 Lind Avenue, S.W., Renton, Washington, 98055–4056. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for Salt Lake City International Airport are in compliance with applicable requirements of Part 150, effective March 10, 1999. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approve or disapproved on or before September 6, 1999. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C. Sec. 47503(a), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. 49 U.S.C. Sec. 47503(a)(1) requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to 49 U.S.C. Sec. 47503(a) may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Executive Director of the Salt Lake International Airport submitted the FAA noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review the noise exposure maps, as described in 49 U.S.C. Sec. 47503. It was also requested that the noise mitigation measures be approved as a noise compatibility program under 49 U.S.C. Sec. 47504.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Salt Lake City International Airport. The specific maps under consideration are Figures 5–1 and 5–2 in the submission. The FAA has determined that these maps for Salt Lake City International Airport are in compliance with applicable requirements. This determination is effective on March 10, 1999. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under 49 U.S.C. Sec. 47503, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of 49 U.S.C. Sec. 47507. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under 49 U.S.C. Sec. 47503(a)(1). The FAA has relied on the certification by the airport operator, under Section 150.21 of the FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Salt Lake City International Airport, also effective on March 10, 1999. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 6, 1999.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, paragraph 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to the local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration 800 Independence Avenue, SW, Room 615 Washington, D.C.

Federal Aviation Administration Airports Division 1601 Lind Avenue, S.W. Renton, Washington

Federal Aviation Administration Denver Airports District Office 26805 E. 68th Ave. Suite 224 Denver, Colorado

Salt Lake City International Airport Salt Lake City, Utah

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Renton, Washington, March 10, 1999.

Lowell H. Johnson,

Manager, Airports Division, ANM–600, Northwest Mountain Region.

[FR Doc. 99–7261 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Privatizing Remaining Level I VFR Towers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of privatizing VFR towers.

SUMMARY: This notice announces that pursuant to the memorandum and order of Judge Aldrich of the U.S. District Court for the Northern District of Ohio, the agency has completed a new A–76 analysis concerning the contracting out of Level I VFR towers. The FAA intends

to continue privatizing the remaining Level I VFR towers.

Issued in Washington, DC on March 18, 1999.

Willie F. Card,

Manager, Federal Contract, Tower Program.

[FR Doc. 99–7259 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

The Federal Aviation Administration (FAA) Communications/Surveillance Operational Implementation Team (C/SOIT) Hosted Forum on the Operational Implementation of Satellite Communications, Surface Movement Surveillance Systems, and Data Link Technologies for Aviation Applications In the National Airspace System (NAS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA C/SOIT will be hosting a public forum to discuss the FAA's data link and surface movement surveillance systems. This meeting will be held in response to aviation industry requests to the FAA Administrator. Formal presentations will be provided followed by a question and answer session. In subsequent days, working group sessions will be held to discuss such topics as Controller-Pilot Data Link Communications, High Frequency Data Link, Human Factors, Flight Information Services and Satellite Communications. Those who plan to attend are invited to submit proposed discussion topics. Requests to make presentations to the assembled forum should be made to the **FOR FURTHER INFORMATION CONTACT** listed.

DATES: June 1–4, 1999, 9:00 a.m.–5:00 p.m.

ADDRESS: Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Registration and submission of suggested discussion topics may be made to Ms. Dottie Wilkins, telephone (202) 484–2535, fax (202) 484–1510 or email at *dottie.ctr.wilkins@faa.gov*.

SUPPLEMENTARY INFORMATION: Open to the aviation industry with attendance limited to space available. Participants are requested to register their intent to attend this meeting by May 10, 1999. Names, affiliations, addresses, telephone and facsimile numbers should be sent to the **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on March 19, 1999.

Donald W. Streeter,

CSOIT Co-Chairman.

[FR Doc. 99–7318 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the RTCA Program Management Committee (PMC) meeting to be held April 6, 1999, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Welcome and Introductions; (2) Review and Approval of Summary of the Previous Meeting; (3) Action Item Review: a. PMC Action Items 99–01 and 99–02, Revised Terms of Reference for Special Committee 192 (proposed change to new terms of reference); b. PMC Action Item 99–06, Flight Information Services Special Committee (status of FAA coordination and draft terms of reference; FAA's proposed use of committee products; report on user interest/requirement and chairman nominations); c. PMC Action Item 99–07, Data Link Special Committee (present the proposed terms of reference; consideration/approval of committee co-chairs); d. PMC Action Item 99–04, Cost Benefit Considerations in RTCA Documents; (4) Discussion: a. Revised Template for Special Committee Terms of Reference; b. New Chairman for Special Committee 190; c. Nominations for 1999 RTCA Awards; (5) Other Business; (6) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 17, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–7260 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Special Committee 193/RTCA Eurocae Working Group 44 Terrain and Airport Databases

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting to be held April 12–16, 1999, starting at 9:00 a.m. The meeting will be held at EUROCONTROL, Rue de la Fusee, 96, B–1130, Brussels, Belgium.

The agenda will be as follows: Monday, April 12, Opening Plenary Session: (1) Chairmen's Introductory Remarks; (2) Review/Approval of Meeting Agenda; (3) Review of Summary of the Previous Meeting. (4) Subgroup 2, Terrain and Obstacle Databases: (a) Review of Summary of the Previous Meeting; (b) Review of Actions Taken during the Previous Meeting; (c) Presentations; (d) Review of the Draft Document. Tuesday, April 13: (5) Subgroup 2, continuation of Previous day's discussions. Wednesday, April 14: (6) Subgroup 3, Airport Databases. Thursday, April 15: (7) Subgroup 3, continuation of previous day's discussions. Friday, April 16: Closing Plenary Session: (8) Summary of Subgroups 2 and 3 Meetings; (9) Assign Tasks; (10) Other Business; (11) Dates and Locations of Next Meetings; (12) Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; (202) 833–9339 (phone), (202) 833–9434 (fax), or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on March 19, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–7320 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on PFC Application 99–07–C–00–PDX To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Portland International Airport; Submitted by the Port of Portland, Portland, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use, and use only the revenue from a PFC at Portland International Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 26, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Steve Schreiber, Senior Manager, Aviation Finance, at the following address; 7000 NE Airport Way, Portland, OR 97218.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Portland International Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (425) 227–2660; Seattle Airports District Office, Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 99–07–C–00–PDX to impose and use the revenue from a PFC at Portland International Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 16, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Port of Portland, Portland, Oregon, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 14, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 2008.

Proposed charge expiration date: February 1, 2019.

Total estimated net PFC revenue: $146,483,000 (revised per 1/29/99 Plan of Finance from Port of Portland).

Brief description of proposed project(s): Airport Max Light Rail Transit (LRT) Extension.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators and is defined as "the carriage in air commerce of persons for compensation or hire as a commercial operator, but not an air carrier, of aircraft having a maximum seating capacity of less than twenty passengers or a maximum payload capacity of less than 6,000 pounds. 'Air taxi/commercial operators' shall also include, without regard to number of passengers or payload capacity, revenue passengers transported for student instruction, nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25 statute mile radius of the airport, ferry or training flights, aerial photography or survey charters, and fire fighting charters."

Any person may inspect the application, including additional information pertaining to project justification and financing recently submitted by the Port of Portland to supplement the application, in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Regional Office, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Portland International Airport, Portland, Oregon.

Issued in Renton, Washington on March 16, 1999.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 99–7258 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Dade, Broward, Palm Beach, Martin, Okeechobee, Saint Lucie, Indian River, Brevard, Oceola, Orange, Polk, and Hillsborough Counties in Florida

AGENCIES: Federal Highway Administration (FHWA) and Federal Railroad Administration (FRA), DOT.

ACTION: Notice of rescission of the Notice of Intent.

SUMMARY: The FHWA and FRA are issuing this notice of rescission to advise the public that preparation of an environmental impact statement (EIS) for a proposed Florida High Speed Rail project between Miami, Orlando, and Tampa, Florida has been terminated. This is a formal rescission of the Notice of Intent that was published in the **Federal Register** on April 8, 1998 (63 FR 17254).

FOR INFORMATION CONTACT: George Hadley, Environmental Coordinator, Federal Highway Administration, 227 North Bronough Street, Tallahassee, Florida 32301, (850) 942–9594 and/or Mark Yachmetz, RDV–13, Chief of Passenger Programs, Federal Railroad Administration, 400 Seventh Street, SW., MS–20, Washington, DC 20590, (202) 632–6389.

SUPPLEMENTARY INFORMATION: The FHWA and FRA in cooperation with the Florida Department of Transportation, will not prepare an EIS for a proposal to construct a high speed rail project between Miami, Orlando, and Tampa, Florida. The State of Florida has withdrawn the proposal to construct the proposed 320 mile long project that would allow trains to operate at speeds up to 200 miles per hour.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: March 11, 1999.

James E. St. John,

Division Administrator, Tallahassee, Florida.

[FR Doc. 99–7298 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5143 (Notice No. 99–1)]

International Standards on the Transport of Dangerous Goods: Request for Comments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Request for comments.

SUMMARY: RSPA invites comments on certain environmental substances issues that will be considered by the United Nations Committee of Experts on the Transport of Dangerous Goods (UN Committee of Experts) at a subcommittee meeting to be held in July 1999. These issues concern the development of requirements for substances that are dangerous to the environment and the criteria that will be used to define such substances, including RSPA's recommendation of criteria for substances transported in bulk quantities. The purpose of this notice is to afford the public an opportunity to submit comments on these important issues.

DATES: Comments must be submitted by May 7, 1999.

ADDRESSES: Address comments to the Dockets Unit, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW, Washington, D.C. 20590–0001. Comments should identify the docket and notice numbers (Docket No. RSPA–99–5143; Notice No. 99–1) and be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. Alternatively, comments may be submitted by E-mail to *rules@rspa.dot.gov*. The Dockets Unit is located on the Plaza Level of the Nassif Building at the U.S. Department of Transportation at the above address. Public dockets may be reviewed between the hours of 10 a.m. and 5 p.m. Monday through Friday, except on Federal holidays. Internet users may access all comments received by the U.S. Department of Transportation by using the Universal Resource Locator (URL) at *http://dms.dot.gov/*. An electronic copy of the document may be downloaded using modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator for Hazardous Materials Safety, RSPA, U.S. Department of Transportation, Washington, DC 20590–0001; telephone (202) 366–0656.

SUPPLEMENTARY INFORMATION:

Introduction

Subject to guidance and direction from the Department of State (49 U.S.C. 5120), the RSPA Associate Administrator for Hazardous Materials Safety represents the U.S. at meetings of the UN Committee of Experts in Geneva, Switzerland. The UN Committee of Experts is responsible for the UN Recommendations on the Transport of Dangerous Goods (UN Recommendations) which forms the basis for the International Civil Aviation Organization Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), and the International Maritime Organization (IMO) International Maritime Dangerous Goods Code (IMDG Code). Since 1990, through amendments to the Hazardous Materials Regulations (HMR; 49 CFR parts 100 through 180), U.S. regulations have been substantially aligned with the UN Recommendations. Although the UN Committee of Experts will consider many issues affecting the UN Recommendations in its 1999—2000 biennium, RSPA believes that the importance of developing requirements and criteria for substances that are dangerous to the environment is of such significance as to warrant special consideration and public involvement.

Background

In the absence of internationally harmonized criteria for substances that are dangerous to the environment in the UN Recommendations, varying environmental criteria and requirements applicable to these substances have been included in national and international transport regulations. The UN Committee of Experts seeks to achieve international harmonization of these differing regulations. Although discussion on the development of requirements and criteria for these substances has been on the agenda of the UN Committee for a number of years, RSPA believes that significant progress will be made by the UN Committee of Experts in its 1999—2000 biennium as a result of agreements by the Organization for Economic Cooperation and Development (OECD) on internationally harmonized environmental criteria.

UN Conference on Environment and Development (UNCED) and OECD

In 1992, UNCED endorsed the development of a standardized system for the classification and labeling of hazardous chemicals commonly referred to as the Globally Harmonized System (GHS). The goal of the GHS is to promote common, consistent criteria for classifying chemicals according to their health, physical and environmental hazards, and to develop compatible labeling, material safety data sheets for workers, and other information based on the resulting classifications. In developing the GHS, it was agreed that OECD would coordinate the development of health and environmental hazard classification criteria. In November 1998, OECD endorsed the Harmonized Integrated Hazard Classification System for Human Health and Environmental Effects of Chemical Substances. The document is available on the internet at "*http://www.epa.gov/oppfead1/harmonization*" and may also be accessed through RSPA's website (http://www.hazmat.dot.gov) under "International Standards." The document includes internationally harmonized criteria for classification of chemicals which are "hazardous for the aquatic environment," a discussion of how OECD arrived at the criteria, and an explanation of the application of the criteria. It is the UN Committee of Expert's intent to use the criteria in this document as the basis for its dangerous-to-the-environment criteria.

OECD is currently developing a guidance document on how the "hazardous-for-the-aquatic-environment" criteria should be applied to substances that are difficult to test and a standardized procedure for classifying mixtures. Completion of both tasks is necessary in order for the UN Committee of Experts to include criteria in its Model Regulations on the Transport of Dangerous Goods.

U.S. Domestic Activities Relative to the Development of Criteria

The U.S. HMR have long included requirements for substances that are hazardous to the environment, but do not include criteria for the classification of such substances. As required by law (42 U.S.C. 9601(14)), substances designated by the Environmental Protection Agency (EPA) as hazardous substances are regulated as hazardous materials and are listed in the HMR (Appendix A to § 172.101). Substances that are listed as marine pollutants in the HMR (Appendix B to § 172.101) are also regulated as hazardous materials. RSPA considers a criteria-based system for regulating substances that are hazardous to the environment to be more appropriate than the current list approach. Virtually all other substances

subject to the HMR are regulated on the basis of their meeting hazard classification criteria.

During congressional hearings following a July 14, 1991 train derailment in Dunsmuir, California that resulted in the release of 20,000 gallons of metam sodium into the Sacramento River, RSPA and EPA agreed to collaborate in developing criteria for substances that are dangerous to the environment. In an October 1992 letter, the EPA, pursuant to that agreement, provided RSPA with recommended criteria. On the basis of an analysis, the EPA letter noted that for "ecological effects, * * * the most vulnerable endpoint is aquatic ecosystems." EPA recommended four possible options for aquatic toxicity criteria for RSPA to consider for inclusion in the HMR. The "hazardous-for-aquatic-environment" criteria subsequently developed by OECD are compatible with the EPA recommended criteria. EPA also stated in their letter that substances with an aquatic toxicity of up to 100 mg/L should not be exempted. Pending the outcome of the ongoing work to develop internationally harmonized criteria, RSPA delayed proposing the EPA recommended criteria for inclusion in the HMR. Instead, U.S. delegations led by EPA used the recommended criteria as a basis for U.S. positions at the OECD meetings.

Following a June 30, 1992 train derailment in Superior, Wisconsin that resulted in the release of 21,850 gallons of aromatic concentrates into the Nemadji River, the National Transportation Safety Board recommended (Safety Recommendation I–94–1) that EPA and DOT work together to establish criteria to identify materials that are harmful to the environment and evaluate the "* * * severity of harm posed by the release of these materials from bulk containers, including tank cars, in transportation * * *". The inclusion of criteria in the HMR would be responsive to this recommendation.

United Kingdom (UK) Proposal

At the 20th Session of the UN Committee of Experts in December 1999, the UK provided an information paper proposing dangerous-to-the-environment requirements for inclusion in the UN Recommendations. It is anticipated that the UK proposal will provide the basis for the discussion on dangerous-to-the-environment criteria at the 16th Session of the UN Subcommittee of Experts on the Transport of Dangerous Goods to be held in July 1999. The paper is available through DOT's website (*http://dms.dot.gov/*) by first accessing the Docket number of this document and then the Notice number.

Under the UK proposal, substances which are not subject to regulation under Classes 1 through 8 in the UN Recommendations, and which meet the dangerous-to-the-environment criteria, would be subject to regulation as miscellaneous dangerous goods under Class 9 and offered for transportation in packaging tested at the Packing Group III level of performance. Under the proposal, an offeror would be responsible for determining whether a substance offered for transportation meets the dangerous-to-the-environment criteria. The paper proposes that substances meeting any one of several sets of acute and chronic toxicity categories be regarded as dangerous to the environment. The sets of criteria proposed by the UK for inclusion in the UN Recommendations are from the OECD "hazardous-for-the-aquatic-environment" criteria. They are as follows:

Acute Category I

Acute toxicity:	
96 hr LC50 (for fish)	≤1mg/L and/or
48 hr EC50 (for crustacea)	≤1mg/L and/or
72 or 96hr ErC50 (for algae or other aquatic plants)	≤1mg/L

Category: Chronic I

Acute toxicity:	
96 hr LC50 (for fish)	≤1 mg/L and/or
48 hr EC50 (for crustacea)	≤1mg/L and/or
72 or 96hr ErC50 (for algae or other aquatic plants) and the substance is not rapidly degradable and/or the log Kow ≥4 (unless the experimentally determined BCF <500).	≤1mg/L

Category: Chronic II

Acute toxicity:	
96 hr LC50 (for fish)	>1 to ≤10 mg/L and/or
48 hr EC50 (for crustacea)	>1 to ≤10 mg/L and/or
72 or 96hr ErC50 (for algae or other aquatic plants) and the substance is not rapidly degradable and/or the log Kow ≥4 (unless the experimentally determined BCF <500), unless the chronic toxicity NOECs are >1mg/L.	>1 to ≤10 mg/L

(The above abbreviations are defined in the OECD paper.)

RSPA believes that these criteria will be widely supported by participants at the UN Subcommittee meeting because they are similar to criteria already used by the IMO in identifying substances as Marine Pollutants under the IMDG Code and are similar to criteria used in European rail and highway transport regulations.

RSPA's Position and Request for Comments

As the U.S. representative at the UN Committee of Experts meeting, RSPA is developing positions it will take on proposals that will be considered at the July 1999 Subcommittee meeting. Consistent with past practice, RSPA reviews all the positions it intends to take at public meetings prior to participation in the upcoming UN meetings. RSPA believes that the issues set forth in this notice are of such significance as to merit a request for written comments prior to the public meeting which will be held in June on a date to be announced later in the **Federal Register**. RSPA currently plans to support the UK proposed criteria and, in addition, consistent with the statement in the October 1992 EPA letter, recommend that an acute toxicity level of less than 100 mg/L be used for defining substances as dangerous to the environment when being transported in bulk packagings having a capacity exceeding 3000 liters. Commenters are requested to address the development of requirements for substances that are dangerous to the environment and the proposed criteria to define such substances, including RSPA's proposed additional acute toxicity level recommendation for bulk packagings with a capacity exceeding 3000 liters.

Issued in Washington, DC on March 19, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–7257 Filed 3–24–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on International Child Labor Enforcement

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time for the first meeting and the provisional agenda for consideration by the Committee.

DATES: The first meeting of the Treasury Advisory Committee on International Child Labor Enforcement will be held on Friday, April 9, 1999, at 9:15 a.m. in the Secretary's large conference room, Room 3327, U.S. Treasury Department, 1500 Pennsylvania Avenue, N.W., Washington, DC. The duration of the meeting will be approximately three hours.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, DC 20220. Tel. (202) 622–0220. Final meeting details, including the final agenda, can be confirmed by contacting the above number.

SUPPLEMENTARY INFORMATION:

Agenda

At the April 9, session, the Committee is expected to pursue the following agenda. It is expected that additional topics will be added to the agenda prior to the meeting.

1. Welcome and introductions: Chairperson Elizabeth A. Bresee, Assistant Secretary (Enforcement).
2. Remarks. Secretary of the Treasury Robert E. Rubin.
3. Committee charter, objectives, and operations.
4. U.S. Customs Service: Trip reports, budget and staffing projections, and goals.
5. Other business.

Members: The Secretary of the Treasury has appointed the following private sector members to the Committee for the current two-year term:

Mr. Erik O. Autor, National Retail Federation
Mr. Claude Brown, International Brotherhood of Teamsters
Mr. Douglas Cahn, Reebok International Ltd.
Mr. Terry Collingsworth, Rugmark Foundation—USA
Mr. Thomas J. Cove, Sporting Goods Manufacturers Association
Ms. Linda F. Golodner, National Consumers League
Mr. Pharis J. Harvey, International Labor Rights Fund
Mr. Robin W. Lanier, International Mass Retail Association
Ms. Lucille J. Laufer, Oriental Rug Importers Association, Inc.
Ms. L. Diane Mull, Executive Director, Association of Farmworker Opportunity Programs
Mr. Jeffrey F. Newman, National Child Labor Committee
Mr. Elliott J. Schrage, Clark & Weinstock, Inc.
Dr. Sandy Vogelgesang, Everest Associates
Steven S. Weiser, Esq., Graham & James LLP
Ms. Lisa M. Woll, Convention on the Rights of the Child Impact Study

Representatives of the following entities of the Federal Government will participate as *ex officio* members: Department of Labor, Department of State, Department of Commerce, U.S. Trade Representative, National Economic Council, staffs of the U.S. Senate and U.S. House of Representatives.

The meeting is open to the public; however, participation in the Committee's deliberations is limited to private sector and *ex officio* Committee members and Customs and Treasury Department staff. In order to be cleared for admission to the Treasury Building, a person other than an Advisory Committee member who wishes to attend the meeting, should give advance notice by contacting Theresa Manning (202) 622–0220 no later than April 2, 1999.

Dated: March 19, 1999.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade), Enforcement.

[FR Doc. 99–7245 Filed 3–24–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Customs Service

Extension of General Program Test: Quota Preprocessing

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces that the testing period for the quota preprocessing program, which allows for the electronic processing of quota-class apparel merchandise, is being extended through the remainder of 1999. The test is being extended so that Customs can further evaluate the program's effectiveness and determine whether the program should be extended to other ports in addition to the ports located at New York/Newark and Los Angeles where the test is currently being run. Public comments concerning any aspect of the test are solicited.

DATES: The test is extended from March 15, 1999, until December 31, 1999, with evaluations of the test occurring periodically. Applications to participate in the test and comments concerning the test will be accepted throughout the testing period.

ADDRESSES: Written comments regarding this notice or any aspect of this test should be addressed to Lori Bowers, U.S. Customs Service, QWG Team Leader, 1000 Second Ave., Suite 2100, Seattle, WA 98104–1020 or may be sent via e-mail to preprocessing@quota.customs.sprint.com. Applications should be sent to the prototype coordinator at any of the four following port(s) where the applicant wishes to submit quota entries for processing:

(1) Julian Velasquez, Port of Los Angeles, 300 S. Ferry St., Terminal Island, CA 90731;
(2) Tony Piscitelli, Los Angeles International Airport, 11099 S. La Cienaga Blvd., Los Angeles, CA 90045;
(3) Barry Goldberg, JFK Airport, JFK Building 77, Jamaica, NY 11430; and
(4) John Lava, Ports of New York/Newark, 6 World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Lori Bowers (206) 553–0452 or Bob Abels (202) 927–0001.

SUPPLEMENTARY INFORMATION: On July 24, 1998, Customs published a general notice in the **Federal Register** (63 FR 39929) announcing the limited testing, pursuant to the provisions of § 101.9(a) of the Customs Regulations (19 CFR 101.9(a)), of a new operational procedure regarding quota preprocessing which allows the electronic processing of quota-class apparel merchandise. The new procedure was designed to allow certain quota entries to be processed prior to carrier arrival, thus, reducing the quota processing time. The test was to be conducted at only four ports located in New York/Newark and Los Angeles and was to commence no earlier than August 24, 1998, and run for approximately six months. The notice

informed the public of the new procedure and eligibility requirements for participation in the test. The goals of the quota preprocessing prototype being tested, as set forth in the July 24, 1998 **Federal Register** notice are:

(1) To reduce the processing time of quota entries;

(2) To process quota entries submitted as part of the preprocessing program in the same amount of time as non-quota entries;

(3) To increase the quantity of quota entries released within one calendar day of the arrival of the carrier; and

(4) To equalize the submission of quota entries over the five-day work week.

The quota preprocessing test began on September 15, 1998; the six-month time period of the original test expires on March 14, 1999. Approximately 400 brokers and importers have participated in the test so far, and Customs has received 84 evaluations: 22 from brokers and 62 from importers. The initial test evaluations were positive, showing general acceptance of the program. However, Customs would have liked greater participation. In fact, the biggest complaint contained in the evaluations received to date is that the preprocessing test occurred at the end of the year when many of the quotas were filled 85% or more. Many participants felt that had the test been conducted at the beginning of the year, it would have received greater participation.

Because of this complaint that conducting the test so near to the end of the year was an unfair measure of the prototype, Customs is extending the prototype testing period through the end of this calendar year. This will enable the importing community to more fully participate in the quota preprocessing test and allow Customs to more fully explore the benefits and drawbacks of the program.

Accordingly, this document announces that Customs is extending the test of the quota preprocessing prototype at the ports where testing is already underway until the end of 1999. Those ports are: the port of Los Angeles; the port of New York/Newark; JFK Airport; and Los Angeles International Airport. Anyone interested in participating in the test should refer to the test notice published in the July 24, 1998 **Federal Register** for eligibility and application information. Any expansion of the test to other ports will be the subject of another **Federal Register** notice.

Dated: March 19, 1999.

Charles W. Winwood,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 99–7238 Filed 3–24–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Privacy Act of 1974, as Amended; System of Records

AGENCY: Customs Service, Treasury.

ACTION: Notice of altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Customs Service gives notice of an altered Privacy Act system of records, Treasury/Customs .244—Treasury Enforcement Communications System.

DATES: Comments must be received no later than April 26, 1999. The proposed alteration to the system of records will be effective May 4, 1999, unless comments are received which would result in a contrary determination.

ADDRESSES: Comments should be sent to the Disclosure Law Staff, Office of Regulations and Rulings, Room 3.4C, Ronald Reagan guiding, 1300 Pennsylvania Ave., NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Frederica H. Gries. Disclosure Law Staff, U.S. Customs Service, Room 3.4C, Ronald Reagan Building, 1300 Pennsylvania Ave., NW, Washington, DC 20229, (202) 927–2333.

SUPPLEMENTARY INFORMATION: This report is to give notice of an altered U.S. Customs Service system of records entitled, "Treasury/Customs .244—Treasury Enforcement Communications System" which is subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The Privacy Act notice for Treasury/Customs .244 was last published in its entirety on December 17, 1998, at 63 FR 69809. The Customs Service is altering its present system of records regarding routine uses by adding another routine use which would permit Treasury law enforcement officers to release TECS information directly to the National Center for Missing and Exploited Children (NCMEC). The addition of this routine use reflects Customs' desire to assist NCMEC in its work coordinating information on the investigation and recovery of missing children.

The altered system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, Federal Agency Responsibilities for Maintaining Records About Individuals, dated February 8, 1996. The proposed additional routine use to Treasury/Customs .244 Treasury Enforcement Communications System is published below.

Dated: March 17, 1999.

Shelia Y. McCann,

Deputy Assistant Secretary (Administration).

TREASURY/CUSTOMS .244

SYSTEM NAME:

Treasury Enforcement Communications System (TECS)-Treasury/Customs.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

* * * * *

Description of change: The period at the end of routine use (5) is replaced with a semicolon ";", and the following routine use is added: (6) Provide certain information through Department of the Treasury law enforcement officers to personnel of the National Center for Missing and Exploited Children (NCMEC) who are employed by a law enforcement agency when it is consistent with the purposes of the NCMEC.

* * * * *

[FR Doc. 99–7244 Filed 3–24–99; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

English Language Enrichment Program; Notice: Request for Proposals

SUMMARY This NIS Secondary School Initiative division, Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an English Language Enrichment Program. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to conduct a four-week homestay-based, English language enrichment and cultural orientation program in July 1999 for 25 students from the New Independent States (NIS) of the former

Soviet Union selected for the Freedom Support Act Future Leaders Exchange (FLEX) program. Approximately 15 of the participants will be students with physical disabilities who were specially recruited and selected. The other 10 will be students from more isolated regions of the NIS. The purpose is to raise the English capability of these students to the level where they are able to attend regular classes when their academic program starts in the fall. Funds requested for this project may not exceed $50,000.

Program Information

OBJECTIVES: To prepare a select group of students with special needs to attend school in the fall and perform at a level closer to that of these FSA FLEX students that make up the majority of the program finalists.

BACKGROUND: Academic year 1999/2000 will be the seventh year of the FSA/FLEX program, which now includes over 7000 alumni. This component of the NIS Secondary School Initiative was originally authorized under the FREEDOM Support Act of 1992 and is funded by annual allocations from the Foreign Operations and USIA appropriations. The goals of the program are to promote mutual understanding and foster a relationship between the people of the NIS and the U.S.; assist the successor generation of the NIS to develop the qualities it will need to lead in the transformation of those countries in the 21st Century; and to promote democratic values and civil responsibility by giving NIS youth the opportunity to live in American society for an academic year. During the program's early year, there was concern that students from the more remote regions of the NIS might be underrepresented because the lack of English competence in those regions could prevent applicants from meeting the rigorous English language requirements of the FLEX recruitment process (including attaining a reasonable score on the Secondary Level English Proficiency—or SLEP—examination). To address this concern, a pre-academic year English language enrichment program was developed so that some students from the remote areas could be selected whose SLEP score was slightly lower than average. In subsequent years, lack of English competence in the remote regions of the NIS has become less of a problem. However, USIA has added a component focusing on students with disabilities, who do have a need for some special training before initiating their academic year program. The enrichment program for which proposals are being solicited here are in support of both groups of students. The essential components of the enrichment program are:

1. A four-week course of study in English, approximately 5.5 hours per day.
2. Lodging with volunteer host families.
3. Orientation programming that addresses the special needs of the students with disabilities and their unique adjustment issues.
4. Programming that builds on adjustment issues that will have been introduced at the pre-departure orientation for all FSA FLEX students.
5. The student's transition to their year-long host family and community.

OTHER COMPONENTS: Two organizations have already been awarded grants to perform the following functions: Recruitment and selection of students; targeted recruitment for students with disabilities; assistance in documentation and preparation of IAP–66 forms; preparation of cross-cultural materials; pre-departure orientation; international travel from home to host community and return; facilitation of ongoing communication between the natural parents and placement organizations, as needed; maintenance of a student database and provision of data to USIA; and ongoing follow-up with alumni following their return to the NIS. Additionally, 12 organizations have been selected through a grants competition to place the 930 1999–2000 FSA FLEX students in schools and homestays for the academic year, to monitor their progress, and to conduct cultural enrichment activities. The organization selected for the English Enrichment Program will be asked to interact with the organizations described above to ensure a smooth transition from the pre-academic training to their permanent placements.

GUIDELINES: Applicants should consult the Project Objectives Goals and Implementation (POGI) guidelines for a detailed statement of work. (See "For Further Information" below.) The program must take place from mid-July to mid–August, 1999. The venue for the program should be one that enables the students to focus on the coursework, experience life in a typical American family and community, and is conducive to a smooth transition into their permanent placement. An optimal site will have resources that can be drawn upon for cultural enrichment but will have minimal distractions.

Participants will travel on J–1 visas issued by USIA using a government program number.

The students will be covered by the health and accident insurance policies used by their placement organizations. The grantee organization will acknowledge its responsibility to coordinate with the appropriate organization(s) any time treatment is needed for the duration of the students' participation in the Enrichment Program.

Applicants may assume that grant activity may begin by June 1, 1999. Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Budget Guidelines: Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program costs. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. See POGI for allowable costs for the program. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with USIA concerning this RFP should reference the above title and number *E/PY–99–44*.

FOR FURTHER INFORMATION, CONTACT: The Office of Youth Program, E/PY, Rm 568, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, tel. (202) 619–6299, fax (202) 619–5311, e-mail daronson@usia.gov to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify USIA Program Officer Diana Aronson on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from USIA's website at http://e.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package Via Fax on Demand

The entire Solicitation Package may be requested from the Bureau's "Grants Information Fax on Demand System," which is accessed by calling 202/401–7616. The "Table of Contents" listing

available documents and order numbers should be the first order when entering the system.

Deadline for Proposals

All proposal copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Monday, April 26, 1999. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and six copies of the application should be sent to:

U.S. Information Agency, Ref.: *E/PY–99–44*, Office of Grants Management, E/XE, Room 568, 301 4th Street, SW, Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with USIA. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

USIA therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the USIA's Office of East European and NIS Affairs. Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Final funding decisions are at the discretion of USIA's Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation;

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to the Agency's mission and the stated objective of this project.

2. Program planning: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability to achieve program objectives: Objectives should be concrete, feasible, and measurable. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan and correlate with USIA's goals.

4. Multiplier effect/impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information.

5. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of speakers, program renue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, and resource materials).

6. Institutional Capacity: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. Institution's Record/Ability: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire, tests, or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

9. Cost-effectiveness; The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

10. Cost-sharing: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . .; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for this project is provided through legislation appropriating funds annually for USIA's exchange programs.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the

Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of Funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: March 18, 1999.

Judith S. Siegel,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 99–7269 Filed 3–24–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Legislature Development Program for Nigeria

ACTION: Request for proposals.

SUMMARY: The Africa/Near East/South Asia Division of the Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. U.S. public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to develop training programs. Grants are subject to the availability of funds.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through the Fulbright-Hays Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package.

Announcement Title and Number: All correspondence with USIA concerning this RFP should reference the above title and number *E/P–99–42.*

Deadline for Proposals: All proposal copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on April 26, 1999. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will *not* be accepted.

FOR FURTHER INFORMATION CONTACT: The Africa/Near East/South Asia Division, Office of Citizen Exchanges, (E/PS), Room 216, U.S. Information Agency, 301 Fourth Street, SW, Washington, DC 20547, attn: Carol Jean Locke, tel: 202–205–0535; fax 202–619–4350 or Internet address: clocke@usia.gov, to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions and standard guidelines for proposal preparation.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://e/usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package via Fax on Demand: The entire Solicitation Package may be requested from the Bureau's "Grants Information Fax on Demand System," which is accessed by calling 202/401–7616. The "Table of Contents" listing available documents and order numbers should be the first order when entering the system.

Please specify USIA Program Officer Carol Jean Locke on all inquiries and correspondence. Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition with applicants until the proposal review process has been completed.

Submissions: Applicants must follow all instructions in the Solicitation Package. The original and ten (10) copies of the application should be sent to: U.S. Information Agency, Ref.: T3E/P–99–42, Office of Grants Management, E/XE, Room 326, 301 Fourth Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support of Diversity" section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Program Information

Overview: USIA is interested in proposals which will assist in the development of staff and their services in the National Legislature of Nigeria. Exchanges and training programs supported by Office of Citizen Exchanges institutional grants should operate at two levels: they should promote institutional relationships; and they should offer practical information to individuals to assist them with their professional responsibilities. Strong proposals usually have the following characteristics: an existing or likely partner relationship between an American organization and a counterpart institution overseas; a proven track record of conducting program activity; cost-sharing from American and/or in-country sources, including donations of air fares, hotel and/or housing costs, experienced staff with language facility, or other resources valuable to the program; and a clear, convincing plan showing how permanent results and continuing activity will be implemented as a result of the activity funded by the grant. USIA wants to see tangible forms of time and money contributed to the project by the prospective American and grantee institutions, as well as funding from third-party sources.

Unless otherwise specified below, project activity may include: Study tours; short-term training; consultations; and extended, intensive workshops taking place as elements in a two-way exchange in the United States and in Nigeria. Proposals should reflect the applicant's understanding of the political, economic, and social

environment in which the program activity will take place.

Applicants should design programs for English speakers. Programs can take place in the United States and in Nigeria. USIA is interested in proposals whose designs take into account the need for ongoing sharing of information, training and concrete plans for self-sustainability. Examples include: Support for course syllabi and training venues in Nigeria; plans to create professional networks or professional associations to share information; establishing ongoing Internet communication; and/or train-the-trainers models.

USIA will consider proposals that respond to the following specific objectives.

Nigerian Legislature Staff Development

Nigeria's recent open national elections have signaled a change in the political climate. The time has come to assist democratic institutions in the development of their capabilities and with attention to the following influences on transparent and effective government: checks and balances through the separation of powers; development of effective executive-legislative relations as well as a clear and fair legislative process; respect for cultural and ethnic diversity; ethics; the role of staff; constituent services; and media relations.

USIA is looking for proposals for a progressive set of activities in legislative staff development that will follow a separate USIA-sponsored International Visitor program, scheduled for June 1999, for elected leaders in the new Nigerian national legislature. The proposal should lay out a multi-phase program that would establish links between U.S. and Nigerian legislative staffs and that would build expertise and momentum in a network that would take on a life of its own. USIA recommends that major program phases include Americans travelling to Nigeria in July–August 1999 and Nigerians travelling to the U.S. in the fall of 1999.

After initial get-acquainted activities, each follow-on phase would focus on one or more distinct elements of staff responsibility, such as fiscal analysis, legislative drafting, staff administration, constituent relations, research methods, and information resources and technology. These purposes would be achieved through exposure to and work with U.S. Congressional and state legislative staffers to see how their offices are organized, how staff supports the member, how staff keeps members informed of constituent views, and how all this facilities the work of Congress or state legislatures. It is important that the cooperation of staffers, who work together in a spirit of compromise to create meaningful legislation, be demonstrated. The U.S. phase might include 2–3 weeks in Congress and 1–2 weeks in State Legislatures, for a maximum total of 4 weeks, made up of briefings, shadowing and collaborative activities which stimulate learning and sharing.

Participants are envisioned to be ten or twelve newly appointed staff who will be responsible for the establishment and administration of the new National Assembly of Nigeria. The participants must be emerging leaders in staff development, be influential, have assignment authority, and be able to hire and fire subordinate staff. It is anticipated that relationships would be established that would lead to continued contact. Selection of Nigerian participants in the program should be made in consultation with USIS-Lagos, which retains the right to accept or deny nominations from other sources. First phase implementation should begin in the summer of 1999.

Visa Regulations

Foreign participants on programs sponsored by the Office of Citizen Exchanges are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Project Funding

Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of financial and in-kind support. Proposals with substantial private sector support from foundations, corporations and other institutions will be considered highly competitive.

Applicants Are Requested To Submit Proposals Not To Exceed $130,000 in Funding From USIA

Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location or activity in order to facilitate USIA decisions on funding. While a comprehensive line item budget based on the model in the Solicitation Package must be submitted, separate component budgets are optional.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the US program, organizations have the option of using a flat $160/day for program participants or the published US Federal per diem rates for individual US cities. For activities outside of the US, the published Federal per diem rates must be used. NOTE: US escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at http://www.policyworks.gov/.

3. Book and cultural allowance. Participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. staff do not receive these benefits.

4. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental. Room rental should not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop and translate materials for participants.

8. One working meal per project. Per capita costs may not exceed $5–$8 for a lunch and $14–$20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

9. A return travel allowance of $70 may be provided to each participant to be used for incidental expenditures during international travel.

10. All USIA-funded delegates will be covered under the terms of USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Administrative Costs. Other costs necessary for the effective administration of the program including salaries for grant organization employees, benefits and other direct and indirect costs are described in the detailed instructions in application package. While this announcement does not prescribe a rigid ratio of administrative to program costs, in general priority will be given to proposals whose administrative costs are less than twenty-five (25) percent of the total requested from USIA. Proposals should show cost-sharing, including both contributions from the applicant and from other sources.

Please refer to the Application Package for complete budget guidelines.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the USIA Office of African Affairs and the USIA/USIS posts in Nigeria. Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Final funding decisions are at the discretion of USIA's Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA Grants Officer.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with USIA. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly. USIA therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered.

1. Program Planning and Ability to Achieve Objectives. Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the included countries. Objectives should be reasonable and attainable. A detailed work plan should explain step by step how objectives will be achieved, including a timetable for completion of major tasks and activities and an outline of the selection process. The substance of the seminars, presentations, workshops, consulting, internships and itineraries should be spelled out in detail. Responsibilities of in-country partners should be clearly described.

2. Multiplier effect/impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

3. Support of Diversity: Proposals should demonstrate substantive support for the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

4. Institutional Capability: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. Proposals should reflect the institution's expertise in the subject area and knowledge of the conditions in the targeted region(s).

5. Follow-on Activities: Proposals should provide a plan for continued follow-on activity (without USIA support) ensuring that USIA-supported programs are not isolated events.

6. Project Evaluation: Proposals should include a plan and methodology to evaluate the program's successes, both as activities unfold and at the end of the program. USIA recommends that the proposal include a draft survey questionnaire or other technique plus description and/or plan for use of another measurement technique (such as a focus group) to link outcomes to original project objectives.

7. Cost-effectiveness and Cost Sharing: Overhead and administrative costs in the proposal, including salaries, subcontracts for services and honoraria, should be kept low. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with USIA in evaluating their programs under the principles of the Government Performance and Results Act of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: March 16, 1999.

Judith S. Siegel,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 99–7001 Filed 3–24–99; 8:45 am]

BILLING CODE 8230–01–M

MI

OL

64

SS

57

MR

25

99

MI

federal register

Thursday
March 25, 1999

Part II

Department of Commerce

50 CFR Part 223

Endangered and Threatened Species: Threatened Status for Two ESUs of Chum Salmon in Washington and Oregon, for Two ESUs of Steelhead in Washington and Oregon, and for Ozette Lake Sockeye Salmon in Washington; Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 980219042–9069–02; I.D. 011498B]

RIN 0648–AK53

Endangered and Threatened Species: Threatened Status for Two ESUs of Chum Salmon in Washington and Oregon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; notice of determination.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing a final determination that the Hood Canal summer-run chum salmon (Oncorhynchus *keta*) and Columbia River chum salmon Evolutionarily Significant Units (ESUs) are threatened species under the Endangered Species Act (ESA) of 1973, as amended. Fish in the Hood Canal summer-run chum salmon ESU spawn in several tributaries to Hood Canal and Discovery, Sequim, and Dungeness Bays, Washington, while those in the Columbia River chum salmon ESU spawn in tributaries to the lower Columbia River in Washington and Oregon.

In both ESUs only naturally spawned chum salmon residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. NMFS has examined the relationship between hatchery and natural populations of chum salmon in each ESU and determined that none of the hatchery populations are currently essential for recovery and, therefore, the hatchery populations (and their progeny) are not listed.

NMFS will issue any protective regulations deemed necessary under section 4(d) of the ESA for the listed ESUs in a separate rulemaking. Even though NMFS does not now issue protective regulations for these ESUs, Federal agencies are required under section 7 of the ESA to consult with NMFS if any activity they authorize, fund, or carry out may affect listed chum salmon.

DATES: Effective May 24, 1999.

ADDRESSES: Branch Chief, Protected Resources Division, NMFS, 525 NE Oregon St., Suite 500, Portland, OR 97232–2737.

FOR FURTHER INFORMATION CONTACT: Garth Griffin (503) 231–2005, or Chris Mobley (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Electronic Access

Reference materials regarding this listing determination can also be obtained from the internet at www.nwr.noaa.gov.

Species Background

Biological information for chum salmon can be found in recent species status assessments by NMFS (Johnson *et al.*, 1997; NMFS, 1999a and 1999b), Oregon Department of Fish and Wildlife (ODFW) (Kostow, 1995), and Washington Department of Fisheries (WDF), Washington Department of Wildlife, and Western Washington Treaty Tribes (WDF *et al.*, 1993), in species life history summaries (Pauley *et al.*, 1988; Emmett *et al.*, 1991; and Salo, 1991), and in the **Federal Register** document announcing the listing proposal (63 FR 11774, March 10, 1998).

Previous Federal ESA Actions Related to West Coast Chum Salmon

On March 14, 1994, NMFS was petitioned by the Professional Resources Organization-Salmon (PRO-Salmon) to list Washington's Hood Canal, Discovery Bay, and Sequim Bay summer-run chum salmon (*O. keta*) as threatened or endangered species under the ESA (PRO-Salmon, 1994). A second petition, received April 4, 1994, from the Save Allison Springs Citizens Committee (Save Allison Springs Citizens Committee, 1994), requested listing of fall chum salmon found in the following southern Puget Sound streams or bays: Allison Springs, McLane Creek, tributaries of McLane Creek (Swift Creek and Beatty Creek), Perry Creek, and the southern section of Mud Bay/Eld Inlet. A third petition, received by NMFS on May 20, 1994, was submitted by Trout Unlimited (Trout Unlimited, 1994). This petition requested listing for summer-run chum salmon that spawn in 12 tributaries of Hood Canal.

In response to these petitions and to the more general concerns about the status of Pacific salmon throughout the region, NMFS published a notification in the **Federal Register** (59 FR 46808, September 12, 1994) announcing that the petitions presented substantial scientific information indicating that a listing may be warranted and that the agency would initiate ESA status reviews for chum salmon and other species of anadromous salmonids in the Pacific Northwest. These comprehensive reviews considered all populations in the States of Washington, Idaho, Oregon, and California. Hence, the status review for chum salmon encompassed, but was not restricted to, the populations identified in the petitions described.

During the coastwide chum salmon status review, NMFS requested public comment and assessed the best available scientific and commercial data, including technical information from Pacific Salmon Biological Technical Committees (PSBTCs) and other interested parties. The PSBTCs consisted primarily of scientists (from Federal, state, and local resource agencies, Indian tribes, industries, universities, professional societies, and public interest groups) possessing technical expertise relevant to chum salmon and their habitats. The NMFS Biological Review Team (BRT), composed of staff from NMFS' Northwest Fisheries Science Center, reviewed and evaluated scientific information provided by the PSBTCs and other sources and completed a coastwide status review for chum salmon (Johnson *et al.*, 1997). Early drafts of the BRT review were distributed to state and tribal fisheries managers and peer reviewers who are experts in the field to ensure that NMFS' evaluation was accurate and complete.

Based on the results of the BRT report, and after considering other information and existing conservation measures, NMFS published a proposed listing determination (63 FR 11774, March 10, 1998) which identified four ESUs of chum salmon in Washington, Oregon, and California. The Hood Canal summer-run and Columbia River ESUs were proposed for listing as threatened species, while the Puget Sound/Strait of Georgia ESU and Pacific Coast ESU did not warrant listing.

During the year between the proposed rule and this final determination, NMFS solicited peer and comanager review of the agency's proposal and received comments and new scientific information concerning the status of the ESUs proposed for listing. NMFS also received information regarding the relationship of existing hatchery stocks to naturally spawned populations in each ESU. This new information was evaluated by NMFS' BRT and published in updated status review memoranda that draw conclusions about ESU delineation and risk assessments for the Hood Canal summer-run and Columbia River ESUs (NMFS, 1999a and 1999b). Based on the updated NMFS status review and other information, NMFS now issues its final listing determinations for the two proposed ESUs. Copies of the NMFS status review

and related documents are available upon request (see ADDRESSES).

Summary of Comments and Information Received in Response to the Proposed Rule

NMFS held 21 public hearings in California, Oregon, Idaho, and Washington to solicit comments on this and other salmonid listing proposals (63 FR 16955, April 7, 1998; 63 FR 30455, June 4, 1998). During the 112-day public comment period, NMFS received 10 written comments regarding the chum salmon proposed rule. NMFS also sought new data and analyses from tribal and state comanagers and met with them to formally discuss technical issues associated with the chum salmon status review. Technical information was considered by NMFS' BRT in its re-evaluation of ESU boundaries and risk assessments; this information is discussed in the updated status review memoranda for chum salmon (NMFS, 1999a and 1999b).

The new information focused on the Hood Canal summer-run ESU and included data regarding an extension of the ESU's boundaries, updated final 1997 (and preliminary 1998) spawning escapement estimates, and revised run reconstruction data for the ESU. No new information bearing on the risk assessment for the Columbia River ESU was provided for the BRT's consideration.

A number of comments addressed issues pertaining to the proposed critical habitat designation for chum salmon. NMFS will address these comments in a forthcoming **Federal Register** document announcing the agency's conclusions about critical habitat for the listed ESUs.

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service (FWS), published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). In accordance with this policy, NMFS solicited 7 individuals to take part in a peer review of its west coast chum salmon status review and proposed rule. All individuals solicited are recognized experts in the field of chum salmon biology, and represent a broad range of interests, including Federal, state, and tribal resource managers, and academia. Four of the seven individuals took part in the peer review of this action; comments from peer reviewers were considered by NMFS' BRT and are summarized in the updated status review document (NMFS, 1999a).

A summary of comments received in response to the proposed rule is presented here.

Issue 1: Sufficiency and Accuracy of Scientific Information and Analysis

Comment: Some commenters questioned the sufficiency and accuracy of data which NMFS employed in the listing proposal. In contrast, peer reviewers commented that the agency's status review was both credible and comprehensive.

Response: Section 4(b)(1)(A) of the ESA requires that NMFS make its listing determinations solely on the basis of the best available scientific and commercial data after reviewing the status of the species. NMFS believes that information contained in the agency's status review (Johnson *et al.*, 1997), together with more recent information obtained in response to the proposed rule (NMFS, 1999a and 1999b), represent the best scientific information presently available for the chum salmon ESUs addressed in this final rule. NMFS has made every effort to conduct an exhaustive review of all available information and has solicited information and opinion from all interested parties, including peer reviewers. If, in the future, new data become available to change these conclusions, NMFS will act accordingly.

Issue 2: Delineation of Chum Salmon ESUs

Comment: The majority of responses generally supported the BRT's findings on ESU boundaries. An exception was one commenter who suggested the BRT did not present sufficiently strong scientific evidence to support the identification of multiple ESUs in the Pacific Northwest. This commenter believed that all the ESUs identified by the BRT are likely segments of a general north-south cline of chum salmon and not distinct ESUs. Comments solicited from peer reviewers with specific expertise on chum salmon biology were supportive of the BRT's delineations. One peer reviewer supported separation of the lower Columbia River from coastal regions based upon a combination of the genetic data developed by the BRT and data from other species. However, he pointed out that only two genetic samples from the Columbia River were evaluated by the BRT, and that this was inadequate to support an accurate description of the ESU.

Response: As described in Issue 1, NMFS believes that the available information is sufficiently accurate to support the proposed ESU boundaries. NMFS has published a policy describing how it will apply the ESA definition of "species" to anadromous salmonid species (56 FR 58612, November 20, 1991). More recently, NMFS and FWS published a joint policy, which is consistent with NMFS' policy, regarding the definition of "distinct population segments" (61 FR 4722, February 7, 1996). The earlier policy is more detailed and applies specifically to Pacific salmonids and, therefore, was used for this determination. This policy indicates that one or more naturally reproducing salmonid populations will be considered to be distinct and, hence, species under the ESA, if they represent an ESU of the biological species. To be considered an ESU, a population must satisfy two criteria: (1) It must be reproductively isolated from other population units of the same species, and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute but must have been strong enough to permit evolutionarily important differences to occur in different population units. The second criterion is met if the population contributes substantially to the ecological or genetic diversity of the species as a whole. Guidance on applying this policy is contained in a NOAA Technical Memorandum entitled "Definition of 'Species' Under the Endangered Species Act: Application to Pacific Salmon" (Waples, 1991) and in a recent scientific paper by Waples (1995).

The National Research Council (NRC) has recently addressed the issue of defining species under the ESA (NRC, 1995). Their report found that protecting distinct population segments (DPS) is soundly based on scientific evidence, and recommends applying an "Evolutionary Unit" (EU) approach in describing these segments. The NRC report describes the high degree of similarity between the EU and ESU approaches (differences being largely a matter of application between salmon and other vertebrates), and concluded that either approach would lead to similar DPS descriptions most of the time.

NMFS believes there is evidence to support the identification of distinct population segments for chum salmon, and that the extant populations do not merely represent a north-south cline within the species. The chum salmon status review describes a variety of characteristics that support the ESU delineations for this species. For example, the review noted that run-timing data from as early as 1913 indicate differences between Hood Canal summer-run (mid-September to mid-October) and fall-run (November to December/January) populations. In addition, the summer-run populations

spawn during peak periods of high water temperature, suggesting a unique adaptation that allows this ESU to persist in an otherwise inhospitable environment. For the Columbia River ESU, the BRT concluded that there was historically at least one ESU of chum salmon in this major west coast river basin. The BRT also assessed available allozyme data for the proposed ESUs and concluded that sufficient genetic differences existed between these and adjacent ESUs to support separate delineations. Finally, other researchers have reported similar findings of distinctness for this species in Washington (Busack and Shaklee, 1995; and Phelps *et al.*, 1995).

Comment: One commenter presented data to support extending the boundary of the Hood Canal summer-run chum salmon ESU approximately 10 miles (16 kilometers) westward along the Strait of Juan de Fuca to include early-returning chum salmon in the Dungeness River.

Response: During the original BRT meetings in 1994 for the coastwide status review of chum salmon, the BRT considered including the Dungeness River early returning fish in the Hood Canal summer-run ESU, but at that time, the only data available on summer-run fish in the river were anecdotal. The new data provided by the Washington Department of Fish and Wildlife (WDFW) (and described in detail in the updated status review) clearly shows that in almost every year since extensive salmon surveys were begun in 1971, early-returning chum salmon were observed in the mainstem Dungeness River. Further, because the data are all incidental counts collected during pink or chinook salmon spawning surveys, the actual numbers of early-returning summer-run chum salmon might be significantly greater than these incidental counts. Also, the Dungeness River is geographically and environmentally similar to rivers in the Hood Canal summer-run ESU. The Dungeness River drains from the Olympic Mountains (like other rivers in the ESU), the mouth of the Dungeness River is less than 10 kilometers (6 miles) from the western boundary of the proposed Hood Canal summer-run ESU, and its tributaries intermingle with tributaries of Sequim Bay which was identified as within the proposed ESU. Based on this information, the BRT agreed with the commenter and concluded the Hood Canal summer-run ESU should be extended westward to include summer-run chum salmon in the Dungeness River.

Comment: Another peer reviewer said that chum salmon in the Lower Columbia River do appear to select spawning sites with upwelling groundwater, contrary to observations of WDFW biologists reported in NMFS' status review. He reported that the three populations of chum salmon monitored by WDFW in the Columbia River spawn in upwellings and seeps (two in spring fed systems and one in seeps and springs, all with upwellings). This commenter also noted that there is a population of chum salmon of undetermined size spawning below Bonneville Dam between Hamilton and Ives Islands in the Columbia River and that a few chum salmon are documented to migrate above Bonneville Dam to an unknown stream or streams.

Response: The NMFS status review presented the available information regarding spawning ground and redd characteristics for this species (Johnson *et al.*, 1997). Several studies on Asian chum salmon populations corroborate the reviewer's contention that the species may prefer to spawn in areas with upwelling groundwater (Sano, 1966; Salo, 1991; and Smirnov, 1975). Unfortunately, similar published studies are lacking for North American populations. Continued monitoring of Columbia River populations should shed more light on this issue and whether conservation efforts aimed at restoring subgravel flow could accrue benefits to this ESU.

NMFS reviewed the information documenting chum salmon passage at Bonneville Dam (ODFW and WDFW, 1995) and cited these data as one source for estimating the population size for the Columbia River ESU (Johnson *et al.*, 1997). Unfortunately, the final spawning destination for these fish is not known. However, these fish would still be considered part of the listed ESU since NMFS has described the ESU to include all naturally spawned populations of chum salmon in the Columbia River and its tributaries in Washington and Oregon. Although data are limited, NMFS has also reviewed WDFW surveys (dating back to at least 1976) which indicate that chum salmon are known to spawn in the area below Bonneville Dam (WDFW, 1997). NMFS has recently worked with the Bonneville Power Administration and other Columbia River comanagers to assess the effects of hydropower operations on these fish and has recommended that monitoring be initiated to evaluate impacts resulting from changes in operational flows (NMFS, 1998b).

Issue 3: Risk Analyses for Chum Salmon ESUs

Comment: Most commenters, including peer reviewers, generally supported the BRT's findings on ESU risk designations. An exception was one commenter who believed that NMFS had not shown with statistical data that any chum salmon ESUs are at high risk of extinction. Two commenters suggested that more data should be collected on chum salmon from the Oregon coast and southern Puget Sound, because they believed the data would demonstrate that these fish are at greater risk than presently believed. Similarly, two peer reviewers expressed concern about the paucity of data for making the determination that listing is not warranted for the Pacific Coast ESU.

Response: For nearly a decade, NMFS scientists have been conducting salmonid status reviews under the ESA using a risk assessment approach that includes an evaluation of: (1) absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); and (6) recent events (e.g., a drought or changes in harvest management) that have predictable short-term consequences for abundance of the ESU. In determining whether an ESU is threatened or endangered, BRT scientists must make judgements about the overall risk to the ESU based on likely interactions among, and cumulative effects of, these various status indicators.

During the chum salmon status review, NMFS evaluated both quantitative and qualitative information regarding the various indicators described above. The types and quality of information used in these assessments vary considerably (both within and between ESUs) and not all indicators lend themselves to rigorous statistical analyses. When possible, NMFS used computed statistics to determine overall trends in chum salmon populations (Johnson *et al.*, 1997). Except in the case of Puget Sound stocks, these statistics were either not available or considered unreliable. However, statistical analyses are not the only means by which to make risk assessments. For example, while escapement data clearly demonstrated a steady decline in Hood Canal summer-run chum salmon over the past 30 years, the BRT was equally concerned about the ESU's low productivity, low current abundance relative to historic abundance, and the loss of several of the historically smaller populations on the Kitsap Peninsula (NMFS, 1999a). Other

concerns identified included genetic risks from artificial propagation, the increasing urbanization of the Kitsap Peninsula, and recent increases in pinniped populations in Hood Canal. The BRT had similar concerns for the remaining Columbia River populations, which currently persist at less than 1 percent of historical run sizes (Johnson *et al.*, 1997; and NMFS, 1999a).

With respect to the ESA status of the Pacific Coast ESU, NMFS acknowledges that the available data sets are far from exhaustive. However, the agency did not receive new information indicating that the Pacific Coast ESU is at risk of extinction, nor did NMFS obtain complete updated information for these or other populations not proposed for listing. Still, justifiable concerns exist for specific populations in both the Puget Sound and Pacific Coast ESUs. The NMFS status review details some of these concerns. For example, populations in the Tillamook District (the major chum salmon-producing area on the Oregon coast) are at much lower abundance than they were historically, with no apparent increase in abundance since the closure of commercial fisheries in 1962. In the Puget Sound ESU, the BRT expressed concern that the summer-run populations in this ESU spawn in relatively small, localized areas and, therefore, are intrinsically vulnerable to habitat degradation and demographic or environmental fluctuations. Concern was also expressed about effects on natural populations of the high level of hatchery production of fall chum salmon in the southern part of Puget Sound and Hood Canal and about the high representation of non-native stocks in the ancestry of hatchery stocks throughout this ESU. If new information indicates that either of these ESUs warrant further consideration for listing, NMFS will announce a re-opening of the status review for the species.

Comment: Comments and new information on the risk analysis of the Hood Canal summer-run ESU all supported the analysis conducted by the BRT, although commenters pointed out some specific concerns. Among these concerns were: (1) numbers of returning adults to the Union River were depressed in 1996, but the decrease was not statistically significant, and may have no biological significance; (2) in estimating strength of Hood Canal summer-run chum salmon, the BRT should use the number of returning adults compared to the number of parents creating those adults. Estimates of these ratios (spawner-to-spawner) suggest a trend toward increasing populations over the last 8 years in those Hood Canal runs that still exist; and (3) fishery co-managers have greatly reduced harvest impacts on summer-run chum salmon by limiting fisheries on other co-mingled species (even when these species have been plentiful) and this should be taken into account in risk analyses. One commenter stated that there are actually two streams (not one, as stated in the proposed rule) in the Strait of Juan de Fuca portion of the Hood Canal summer-run chum salmon ESU showing increases in adult returns in 1996.

Response: With respect to one commenter's concerns about NMFS' characterization of Union River returns in 1996, NMFS did not intend to imply that this downturn was statistically significant. In contrast, NMFS noted in the proposed rule that the Union River was classified as a healthy stock (WDF *et al.*, 1993). NMFS was merely expressing concern that 1996 returns, while substantially improved for other populations, were not uniformly distributed throughout the ESU. Based on suggestions from this commenter, NMFS has considered the spawner-to-spawner ratios for this ESU. The results may suggest a trend toward increasing populations over the last 8 years in some Hood Canal streams. However, these trends must be balanced against a variety of other risk factors facing the ESU, including a steady decline in abundance over the past 30 years and the extinction of several populations in the ESU.

NMFS recognizes that Washington tribal and state fishery co-managers have made significant strides in reducing harvest impacts on summer-run chum salmon and the agency has taken these efforts into account in this final listing determination. It was this recognition, combined with increased returns in 1995 and 1996, that led NMFS to propose this ESU as threatened instead of endangered. While some of NMFS' concerns were mitigated by these harvest impact reductions, it is clear that other risk factors (including Canadian fisheries in the Northern Strait of Juan de Fuca) still bear upon this ESU. NMFS also acknowledges that the proposed rule was in error and that two populations (Snow and Salmon Creeks) in the Strait of Juan de Fuca portion of the Hood Canal summer-run chum salmon ESU showed increases in adult returns in 1996. The third (Jimmycomelately Creek) continued to demonstrate a long-term decline.

The new information received by NMFS did not substantially affect the agency's previous conclusions about the status of the Hood Canal summer-run ESU. The Western Washington Treaty Tribes and WDFW submitted a revision of run reconstructions for Hood Canal summer-run chum salmon. The revision has been comprehensive and thorough, including recalculation of escapement from historic survey data using consistent methods, an earlier cutoff date for distinguishing summer-run from fall-run chum salmon in catches (i.e., substantial numbers of fall-run chum salmon had been classified as summer-run chum salmon), and incorporation of summer-run chum salmon catches in Canadian Area 20 fisheries (N. Lampsakis, Point No Point Treaty Council, pers. comm., November 1998). These changes in the run reconstruction database have resulted in a substantial improvement in the quality of data available for summer-run chum salmon. However, the revisions result in mostly minor changes in escapement estimates for individual streams, with little change in the overall pattern of historic spawning escapements.

In addition, WDFW (J. Ames, pers. comm., November 1998) provided updated final 1997 and preliminary 1998 spawning escapement estimates for summer-run chum salmon in Hood Canal and Strait of Juan de Fuca tributaries. Spawning escapement to the ESU in 1997 was estimated to be 10,013 fish and preliminarily estimated in 1998 to be 5,290 fish. Of these totals, 8,734 spawners in 1997 and 3,959 spawners in 1998 returned to streams with supplementation programs. These spawning escapements in 1997 and 1998 represent 46 percent and 25 percent, respectively, of the recent high escapement of 21,594 fish in 1996.

Comment: One peer reviewer concurred that the Columbia River ESU is threatened (due to small population size with limited buffering capacity) but he was not compelled to believe that this ESU faces a high short term risk of extinction. Another peer reviewer stated concerns about using hatchery fish from an out-of-basin stock (Willapa Bay) in assessing extinction risk for the Columbia River ESU.

Response: NMFS did not receive new information bearing on the risk assessment for the Columbia River ESU. During the original NMFS status review, the BRT evaluated various indices of chum salmon abundance in the Columbia River ESU, including historical commercial landings, recent recreational harvests, spawner escapements in Washington tributaries, Bonneville dam counts, and returns to the Sea Resources Hatchery on the Chinook River, Washington (Johnson *et al.*, 1997). In addition, the BRT constructed a minimal run size estimate based on a composite of these indices.

Including the Sea Resources Hatchery return data was considered appropriate at the time of the proposed listing because the BRT had not drawn conclusions about whether any hatchery population was part of the ESU. However, NMFS has recently completed an assessment of hatchery populations associated with this ESU (NMFS, 1999b), and the agency agrees that the hatchery return data have likely inflated the minimal run size estimates. The BRT took this information into account when it re-assessed the status of the ESU for this final determination.

Issue 4: Factors Contributing to the Decline of West Coast Chum Salmon

Comment: A few comments addressed specific factors believed to have contributed to the decline of west coast chum salmon. Factors identified include overharvest in commercial and recreational fisheries, climate change, reduced ocean productivity, changes in the Columbia River estuary food base, stress and disease, reduced body size and fecundity, increased abundance of predators (e.g., marine mammals, seabirds and exotic fishes), pollution from pesticide and herbicide applications, urbanization, blocked habitats, decreased beaver-related habitat, reductions in anadromous fish carcasses, removal of large woody debris, and the general deterioration and loss of freshwater and marine habitats throughout the region. A peer reviewer suggested that NMFS evaluate potential negative impacts from hatchery releases of chum salmon derived from stocks outside the ESU. One commenter noted that NMFS failed to fully investigate and evaluate the impact of adverse marine conditions and climate change on chum salmon abundance, and further contended that degradation of freshwater habitat is not likely the major cause of recent declines.

Response: NMFS agrees that a multitude of factors, past and present, have contributed to the decline of west coast chum salmon. Many of the identified factors were specifically cited as risk agents in the NMFS status review (Johnson *et al.*, 1997) and listing proposal (63 FR 11774, March 10, 1998). NMFS recognizes that natural environmental fluctuations have likely played a role in the species' recent declines. However, NMFS believes other human-induced impacts (e.g., harvest in certain fisheries and widespread habitat modification) have played an equally significant role in this species' decline.

The NMFS status review briefly addressed the impact of adverse marine conditions and climate change, but concluded that there is considerable uncertainty regarding the role of these factors in controlling chum salmon abundance. At this time, we do not know whether these climate conditions represent a long-term shift in conditions that will continue into the future or short-term environmental fluctuations that can be expected to reverse soon. A recent review by Hare *et al.* (1999) suggests that these conditions could be part of an alternating 20– to 30-year long regime pattern. These authors concluded that, while at-risk salmon stocks may benefit from a reversal in the current climate/ocean regime, fisheries management should continue to focus on reducing impacts from harvest and artificial propagation and improving freshwater and estuarine habitats.

NMFS believes there is ample evidence to suggest that degradation of freshwater habitats has contributed to the decline of Hood Canal and Columbia River chum salmon. The past destruction, modification, and curtailment of freshwater habitat was reviewed in a recent NMFS assessment for steelhead (NMFS, 1996), and many of the identified risks and conclusions also apply to chum salmon. Examples of habitat alterations affecting chum salmon include water withdrawal, conveyance, storage, and flood control (resulting in insufficient flows, stranding, juvenile entrainment, and increased stream temperatures); logging and agriculture (resulting in loss of large woody debris, sedimentation, loss of riparian vegetation, and habitat simplification)(Johnson *et al.*, 1997). At a more population-specific level, Washington state and tribal comanagers have completed an assessment which concludes that a variety of habitat- and land-use practices have had a detrimental impact on chum salmon (WDF *et al.*, 1993). For example, they identified gravel aggradation (due to logging in some areas), channel shifting, and diking as habitat risk agents in Hood Canal. In the Columbia River, habitat "limiters" associated with chum salmon included gravel quality and stability, availability of good quality nearshore mainstem freshwater and marine habitat, road building, timber harvest, diking, and industrialization (WDF *et al.*, 1993). These human-induced impacts in freshwater ecosystems have likely reduced the species' resiliency to natural factors for decline such as drought and poor ocean conditions. A critical next step in restoring listed chum salmon will be identifying and ameliorating specific factors for decline at both the ESU and population level.

With respect to predation issues raised by some commenters, it is worth noting that NMFS has recently published reports describing the impacts of California sea lions and Pacific harbor seals upon salmonids and on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1997 and 1999c). These reports conclude that in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. These reports further conclude that data regarding pinniped predation are quite limited, and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS, 1997 and 1999c).

The relationship between various hatchery stocks and naturally spawned chum salmon, and their potential role for recovery of specific ESUs, is discussed in the "Determination" section later in this document.

Issue 5: Consideration of Existing Conservation Measures

Comment: One peer reviewer expressed concern about NMFS' characterization of the efficacy of the Northwest Forest Plan (NFP), citing significant differences in management practices between various Federal land management agencies.

Response: NMFS has reviewed existing conservation efforts and plans, including the NFP, and concludes that existing conservation efforts have generally helped ameliorate risks facing some chum salmon populations. In the listing proposal, NMFS noted that the NFP requires specific management actions on Federal lands, including actions in key watersheds within the range of both ESUs that comply with special standards and guidelines designed to preserve their refugia functions for at-risk salmonids (i.e., watershed analysis must be completed prior to timber harvests and other management actions, road miles should be reduced, no new roads can be built in roadless areas, and restoration activities are prioritized). In addition, the most significant element of the NFP for anadromous fish is its Aquatic Conservation Strategy (ACS), a regional-scale aquatic ecosystem conservation strategy that includes (1) special land allocations (such as key watersheds,

riparian reserves, and late-successional reserves) to provide aquatic habitat refugia; (2) special requirements for project planning and design in the form of standards and guidelines; and (3) new watershed analysis, watershed restoration, and monitoring processes. These ACS components collectively ensure that Federal land management actions achieve a set of nine ACS objectives that strive to maintain and restore ecosystem health at watershed and landscape scales to protect habitat for fish and other riparian-dependent species and resources and to restore currently degraded habitats. NMFS will continue to support the NFP strategy and address Federal land management issues via ESA section 7 consultations in concert with this strategy.

Comment: One commenter expressed concern over the need to list chum salmon and the effects of these listings on Indian resources, programs, land management, and associated Trust responsibilities. This commenter was particularly concerned about the effects of listing Hood Canal summer-run chum salmon on tribal fishing for this and other species, and further noted that the Tribes had foregone significant harvest opportunities in the interest of protecting summer-run chum salmon stocks.

Response: NMFS believes that the best available scientific information supports listing two ESUs of chum salmon as threatened under the ESA. NMFS acknowledges that these listings may impact Indian resources, programs, land management, and associated Trust responsibilities. As stated previously in this document, NMFS applauds the recent efforts by tribal and state comanagers to reduce specific harvest impacts on at-risk chum salmon populations. NMFS will continue to work closely with affected Indian tribes as harvest and other management issues arise and will continue to support the development of strong and credible tribal and state conservation efforts to restore listed chum salmon and other west coast salmon populations.

Summary of Factors Affecting Chum Salmon

Section 4(a)(1) of the ESA and NMFS listing regulations (50 CFR part 424) set forth procedures for listing species. The Secretary of Commerce must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

The factors threatening naturally spawned chum salmon throughout the species' range are numerous and varied. The present depressed condition of many populations is the result of several long-standing, human-induced factors (e.g., habitat degradation, water diversions, harvest, and artificial propagation) that serve to exacerbate the adverse effects of natural factors (e.g., competition and predation) or environmental variability from such factors as drought and poor ocean conditions.

As noted previously, NMFS received only a few comments regarding the relative importance of various risk factors contributing to the decline of chum salmon. A summary of these factors and their role in the decline of the ESUs proposed for listing is presented in NMFS' March 10, 1998, **Federal Register** notification (63 FR 11774), as well as several documents in the agency's west coast chum salmon administrative record (WDF *et al.*, 1993; Kostow, 1995; Johnson *et al.*, 1997; and NMFS, 1999a).

Efforts Being Made to Protect West Coast Chum Salmon

Under section 4(b)(1)(A) of the ESA, the Secretary of Commerce is required to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made to protect a species. During the status review for west coast chum salmon and for other salmonids, NMFS reviewed protective efforts ranging in scope from regional strategies to local watershed initiatives; some of the major efforts are summarized in the March 10, 1998, proposed rule (63 FR 11774). Since then, NMFS has received little new information regarding these or other efforts being made to protect chum salmon. Notable efforts within the range of the Hood Canal summer-run and Columbia River ESUs continue to be the NFP, Lower Columbia River National Estuary Program, Lower Columbia Steelhead Conservation Initiative, Oregon Plan for Salmon and Watersheds, Washington Wild Stock Restoration Initiative, Washington Wild Salmonid Policy, and Hood Canal/Strait of Juan de Fuca Chum Salmon Conservation Plan (HCSCP).

Of the existing efforts, the HCSCP is currently the most comprehensive chum salmon conservation effort operating at the scale of an ESU. State and tribal fisheries managers involved in the HCSCP have continued to endorse an array of harvest restrictions, including refraining from directed fisheries on summer-run chum salmon in the Hood Canal summer-run ESU. These management restrictions are significant, and are expected to continue based on current management objectives and the HCSCP. In addition, ongoing hatchery supplementation and reintroduction efforts may play a key role in the recovery of this ESU. NMFS will encourage the continued development and implementation of the HCSCP as an important strategy for protecting and restoring Hood Canal summer-run chum salmon.

While NMFS recognizes that many of the ongoing protective efforts are likely to promote the conservation of chum salmon and other salmonids, some are very recent and few address chum salmon conservation at a scale that is adequate to protect and conserve entire ESUs. NMFS concludes that existing protective efforts are inadequate to preclude a listing for the Hood Canal summer-run and Columbia River ESUs. However, NMFS will continue to encourage these and future protective efforts and will work with Federal, state, and tribal fisheries managers to evaluate, promote, and improve efforts to conserve chum salmon populations.

Determinations

Section 3 of the ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that listing determinations be based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account those efforts, if any, being made to protect such species.

Based on results from its coastwide status review for chum salmon, and after taking into account comments and new information described previously, NMFS determines that the two ESUs proposed for listing on March 10, 1998 (Hood Canal summer-run and Columbia River ESUs) should be classified as threatened under the ESA. In both cases, the majority of the NMFS BRT concluded that the ESUs are likely to become endangered in the foreseeable future if present conditions continue. Furthermore, NMFS concludes that current protective efforts are insufficient to change the BRT's forecast of extinction risk.

In both ESUs, only naturally spawned populations of chum salmon residing

below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. NMFS' intent in listing only "naturally spawned" populations is to protect chum salmon stocks that are indigenous to (i.e., part of) the ESU. In this listing determination, NMFS has identified various non-indigenous populations that co-occur with fish in the listed ESUs. The agency recognizes the difficulty of differentiating between indigenous and non-indigenous fish, especially when the latter are not readily distinguishable with a mark (e.g., fin clip). Also, matings in the wild of either type would generally result in progeny that would be treated as listed fish (i.e., they would have been naturally spawned in the geographic range of the listed ESU and have no distinguishing mark). Therefore, to reduce confusion regarding which chum salmon are considered listed within an ESU, NMFS will treat all naturally spawned fish as listed for purposes of the ESA. Efforts to determine the conservation status of an ESU would focus on the contribution of indigenous fish to the listed ESU. It should be noted that NMFS will take actions necessary to minimize or prevent non-indigenous chum salmon from spawning in the wild unless the fish are specifically part of a recovery effort.

NMFS has evaluated the relationship between hatchery and natural populations of chum salmon in these ESUs (NMFS, 1999b). In examining this relationship, NMFS scientists consulted with hatchery managers to determine whether any hatchery populations are similar enough to native, naturally spawned fish to be considered part of the biological ESU. The evaluation also considered whether any hatchery population should be considered essential for the recovery of a listed ESU. In the Hood Canal summer-run ESU, chum salmon from the following five hatchery programs are considered part of the ESU: Quilcene National Fish Hatchery; Long Live the Kings Enhancement Project (Lilliwaup Creek); Hamma Hamma River Supplementation Project; Big Beef Creek Re-introduction Project; and WDFW/Wild Olympic Salmon Cooperative (Dungeness River). In the Columbia River ESU, chum salmon from the Grays River Hatchery and Cowlitz River Hatchery programs are considered part of the ESU, while chum salmon from the Sea Resources Hatchery program are not considered part of the ESU.

At this time, none of the hatchery populations considered part of the ESUs are being listed because none are deemed essential for the recovery of either ESU. However, the determination that a hatchery stock is not "essential" for recovery does not preclude it from playing a role in recovery. Any hatchery population that is part of the ESU is available for use in recovery if conditions warrant. In this context, an "essential" hatchery population is one that is vital to incorporate into recovery efforts (for example, if the associated natural population(s) were extinct or at high risk of extinction). Under such circumstances, NMFS would consider taking the administrative action of listing existing hatchery fish.

NMFS' "Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act" (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, "progeny of fish from the listed species that are propagated artificially are considered part of the listed species and are protected under the ESA." In the case of hatchery chum salmon populations considered to be part of the Hood Canal summer-run ESU or Columbia River ESU, the protective regulations that NMFS will issue shortly may except take of naturally spawned listed fish for use as broodstock as part of an overall conservation program. According to the interim policy, the progeny of these hatchery-wild or wild-wild crosses would also be listed. Given the requirement for an acceptable conservation plan as a prerequisite for collecting broodstock, NMFS determines that it is not necessary to consider the progeny of intentional hatchery-wild or wild-wild crosses as listed.

In addition, NMFS believes it is desirable to incorporate naturally spawned fish into these hatchery populations to ensure that their genetic and life history characteristics do not diverge significantly from the natural populations. NMFS therefore concludes that it is not inconsistent with NMFS' interim policy, nor with the policy and purposes of the ESA, to consider these progeny as part of the ESU, but not listed.

Prohibitions and Protective Measures

Section 4(d) of the ESA requires NMFS to issue protective regulations that it finds necessary and advisable to provide for the conservation of a threatened species. Section 9(a) of the ESA prohibits violations of protective regulations for threatened species promulgated under section 4(d). The 4(d) protective regulations may prohibit, with respect to the threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. These 9(a) prohibitions and 4(d) regulations apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. NMFS will publish 4(d) protective regulations for both listed chum salmon ESUs in a separate **Federal Register** document. The process for completing the 4(d) rule will provide the opportunity for public comment on the proposed protective regulations.

In the case of threatened species, NMFS also has flexibility under section 4(d) of the ESA to tailor the protective regulations based on the contents of available conservation measures. Even though existing conservation efforts and plans are not sufficient to preclude the need for listings at this time, they are nevertheless valuable for improving watershed health and restoring salmon populations. In those cases where well-developed and reliable conservation plans exist, NMFS may choose to incorporate them into the protective regulations and recovery plans. NMFS has already adopted 4(d) protective regulations that exempt a limited range of activities from section 9 take prohibitions. For example, the interim 4(d) rule for Southern Oregon/Northern California Coasts coho salmon (62 FR 38479, July 18, 1997) exempts habitat restoration activities conducted in accordance with approved plans and fisheries conducted in accordance with an approved state management plan. In the future, 4(d) rules may contain limited take prohibitions applicable to activities such as forestry, agriculture, and road construction when such activities are conducted in accordance with approved conservation plans.

These are all examples where NMFS may apply modified ESA section 9 prohibitions in light of the protections provided in a conservation plan that is adequately protective. There may be other circumstances as well in which NMFS would use the flexibility of section 4(d). For example, in some cases there may be a healthy population within an overall ESU that is listed. In such a case, it may not be necessary to apply the full range of prohibitions available in section 9. NMFS intends to use the flexibility of the ESA to respond appropriately to the biological condition of each ESU and to the strength of efforts to protect them.

Section 7(a)(4) of the ESA requires that Federal agencies confer with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) of the ESA requires Federal agencies to ensure that activities

they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions likely to affect chum salmon in the listed ESUs include authorized land management activities of the U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM), as well as operation of hydroelectric and storage projects of the Bureau of Reclamation and U.S. Army Corps of Engineers (COE). Such activities include timber sales and harvest, hydroelectric power generation, and flood control. Federal actions, including the COE section 404 permitting activities under the Clean Water Act, COE permitting activities under the River and Harbors Act, National Pollution Discharge Elimination System permits issued by the Environmental Protection Agency, highway projects authorized by the Federal Highway Administration, Federal Energy Regulatory Commission licenses for non-Federal development and operation of hydropower, and Federal salmon hatcheries, may also require consultation. These actions will likely be subject to ESA section 7 consultation requirements that may result in conditions designed to achieve the intended purpose of the project and avoid or reduce impacts to chum salmon and its habitat within the range of the listed ESUs.

There are likely to be Federal actions ongoing in the range of the listed ESUs at the time these listings become effective. Therefore, NMFS will review all ongoing actions that may affect the listed species with Federal agencies and will complete formal or informal consultations, where requested or necessary, for such actions pursuant to ESA section 7(a)(2).

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's "taking" prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves a directed take of listed species.

NMFS has issued ESA section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon and Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging, electroshocking to determine population presence and abundance, removal of fish from irrigation ditches, and collection of adult fish for artificial propagation programs. NMFS is aware of several sampling efforts for chum salmon in the listed ESUs, including efforts by Federal and state fishery management agencies. These and other research efforts could provide critical information regarding chum salmon distribution and population abundance.

ESA section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the release of artificially propagated fish by tribal, state or privately operated and funded hatcheries, state or university research on species other than chum salmon not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on non-Federal lands.

Take Guidance

On July 1, 1994, (59 FR 34272) NMFS and FWS published a policy committing the Services to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and on-going activities within the species' range. NMFS believes that, based on the best available information, the following actions will not result in a violation of section 9: (1) Possession of chum salmon from the listed ESUs acquired lawfully by permit issued by NMFS pursuant to section 10 of the ESA, or by the terms of an incidental take statement pursuant to section 7 of the ESA; and (2) federally funded or approved projects that involve activities such as silviculture, grazing, mining, road construction, dam construction and operation, discharge of fill material, stream channelization or diversion for which an ESA section 7 consultation has been completed, and when such an activity is conducted in accordance with any terms and conditions provided by NMFS in an incidental take statement accompanied by a biological opinion pursuant to section 7 of the ESA. As described previously in this document, NMFS may adopt 4(d) protective regulations that except other activities from section 9 take prohibitions for threatened species.

Activities that NMFS believes could potentially harm, injure or kill chum salmon in the listed ESUs and result in a violation of section 9 include, but are not limited to: (1) land-use activities that adversely affect chum salmon habitat in this ESU (e.g., logging, grazing, farming, road construction in riparian areas, and areas susceptible to mass wasting and surface erosion); (2) destruction or alteration of chum salmon habitat in the listed ESUs, such as removal of large woody debris and "sinker logs" or riparian shade canopy, dredging, discharge of fill material, draining, ditching, diverting, blocking, or altering stream channels or surface or ground water flow; (3) discharges or dumping of toxic chemicals or other pollutants (e.g., sewage, oil, gasoline) into waters or riparian areas supporting listed chum salmon; (4) violation of discharge permits; (5) pesticide and herbicide applications; (6) interstate and foreign commerce of chum salmon from the listed ESUs and import/export of chum salmon from listed ESUs without an ESA permit, unless the fish were harvested pursuant to legal exception; (7) collecting or handling of chum salmon from listed ESUs (permits to conduct these activities are available for purposes of scientific research or to enhance the propagation or survival of the species); and (8) introduction of non-native species likely to prey on chum salmon in these ESUs or displace them from their habitat. This list is not exhaustive. It is intended to provide some examples of the types of activities that might or might not be considered by NMFS as constituting a take of listed chum salmon under the ESA and its regulations. Questions regarding whether specific activities will constitute a violation of this rule, and general inquiries regarding prohibitions and permits, should be directed to NMFS (see **ADDRESSES**).

Effective Date of Final Listing

Given the cultural, scientific, and recreational importance of this species, and the broad geographic range of these listings, NMFS recognizes that numerous parties may be affected by this listing. Therefore, to permit an orderly implementation of the consultation requirements associated with this action, this final listing will take effect May 24, 1999.

Conservation Measures

Conservation benefits are provided to species listed as endangered or threatened under the ESA through increased recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Increased recognition through listing promotes public awareness and conservation actions by Federal, state,

and local agencies, private organizations, and individuals.

Several conservation efforts are underway that may reverse the decline of west coast chum salmon and other salmonids. NMFS is encouraged by these significant efforts, which could provide all stakeholders with an approach to achieving the purposes of the ESA–protecting and restoring native fish populations and the ecosystems upon which they depend that are less regulatory. NMFS will continue to encourage and support these initiatives as important components of recovery planning for chum salmon and other salmonids.

To succeed, protective regulations and recovery programs for chum salmon will need to focus on conserving aquatic ecosystem health. NMFS intends that Federal lands and Federal activities play a primary role in preserving listed populations and the ecosystems upon which they depend. However, throughout the range of the listed ESUs, chum salmon habitat occurs and can be affected by activities on state, tribal or private land.

Conservation measures that could be implemented to help conserve the species are listed here (the list is generalized and does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA). Progress on some of these is being made to differing degrees in specific areas.

1. Measures could be taken to promote practices that are more protective of (or restore) chum salmon habitat across a variety of land and water management activities. Activities affecting this habitat include timber harvest; agriculture; livestock grazing and operations; pesticide and herbicide applications; construction and urban development; road building and maintenance; sand and gravel mining; stream channelization; dredging and dredged spoil disposal; dock and marina construction; diking and bank stabilization; dam construction/operation; irrigation withdrawal, storage, and management; mineral mining; wastewater/pollutant discharge; wetland and floodplain alteration; habitat restoration projects; and woody debris/structure removal from rivers and estuaries. Each of these activities could be modified to ensure that watersheds and specific river reaches are adequately protected in the short- and long-terms.

2. Fish passage could be restored at barriers to migration through the installation or modification of fish ladders, upgrade of culverts, or removal of barriers.

3. Harvest regulations could be modified to protect listed chum salmon populations affected by both directed harvest and incidental take in other fisheries.

4. Artificial propagation programs could be modified to minimize negative impacts (e.g., genetic introgression, competition, disease, etc.) upon native populations of chum salmon.

5. Predator control/relocation programs could be implemented in areas where predators pose a significant threat to chum salmon.

6. Measures could be taken to improve monitoring of chum salmon populations and their habitat.

7. Federal agencies such as the USFS, BLM, Federal Energy Regulatory Commission, COE, U.S. Department of Transportation, and U.S. Bureau of Reclamation could review their management programs and use their discretionary authorities to formulate conservation plans pursuant to section 7(a)(1) of the ESA.

NMFS encourages non-Federal landowners to assess the impacts of their actions on threatened or endangered salmonids. In particular, NMFS encourages state and local governments to use their existing authorities and programs, and encourages the formation of watershed partnerships to promote conservation in accordance with ecosystem principles. These partnerships will be successful only if state, tribal, and local governments, landowner representatives, and Federal and non-Federal biologists all participate and share the goal of restoring salmon to the watersheds.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Section 4(b)(6)(C)(ii) provides that, where critical habitat is not determinable at the time of final listing, NMFS may extend the period for designating critical habitat by not more than one additional year.

In the proposed rule (63 FR 11774, March 10, 1998), NMFS described the areas that may constitute critical habitat for the Hood Canal summer-run and Columbia River ESUs. Since then, NMFS has received numerous comments from the public concerning the process and definition of critical habitat for chum salmon and other salmonids. Also, due to statutory time limitations, NMFS has not yet consulted with affected Indian tribes regarding the designation of critical habitat in areas that may affect tribal trust resources, tribal-owned fee lands, or the exercise of tribal rights.

Given these remaining unresolved issues, NMFS determines at this time that a final critical habitat designation is not determinable for these ESUs since additional time is required to complete the needed biological assessments and evaluate special management considerations affecting critical habitat. The agency therefore extends the deadline for designating critical habitat for 1 year until such assessments can be made and after appropriate consultations are completed.

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F.2d 825 (6th Cir. 1981), NMFS has categorically excluded all ESA listing actions from environmental assessment requirements of the National Environmental Policy Act (NEPA) under NOAA Administrative Order 216–6.

As noted in Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. In addition, this final rule is exempt from review under E.O. 12866.

This rule has been determined to be major under the Congressional Review Act (5 U.S.C. 801 *et seq.*)

At this time NMFS is not promulgating protective regulations pursuant to ESA section 4(d). In the future, prior to finalizing its 4(d) regulations for the threatened chum salmon ESUs, NMFS will comply with all relevant NEPA and RFA requirements.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**) and can also be obtained from the internet at www.nwr.noaa.gov.

Threatened Species Regulations Consolidation

In the proposed rule issued on March 10, 1998 (63 FR 11774), Hood Canal summer-run chum salmon was designated the letter (m) and Columbia River chum salmon the letter (n) in § 227.4. Since March 10, 1998, NMFS issued a final rule consolidating and reorganizing existing regulations regarding implementation of the ESA. In this reorganization, § 227.4 has been redesignated as § 223.102; therefore, Hood Canal summer-run chum salmon

is designated in this final rule as paragraph (a)(12) and Columbia River chum salmon as paragraph (a)(13) of § 223.102. The regulatory text of the proposed rule remains unchanged in this final rule.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: March 15, 1999.

Andrew A. Rosenberg, Ph.D.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 223 is amended as follows:

PART 223–THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 223.102, paragraphs (a)(12) and (a)(13) are added to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(a) * * *

(12) Hood Canal summer-run chum salmon (*Oncorhynchus keta*). Includes all naturally spawned populations of summer-run chum salmon in Hood Canal and its tributaries as well as populations in Olympic Peninsula rivers between Hood Canal and Dungeness Bay, Washington;

(13) Columbia River chum salmon (*Oncorhynchus keta*). Includes all naturally spawned populations of chum salmon in the Columbia River and its tributaries in Washington and Oregon.

* * * * *

[FR Doc. 99–6814 Filed 3–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 980225046–9070–03; I.D. 021098B]

RIN 0648–AK54

Endangered and Threatened Species: Threatened Status for Two ESUs of Steelhead in Washington and Oregon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; notice of determination.

SUMMARY: Previously, NMFS completed a comprehensive status review of west coast steelhead (*Oncorhynchus mykiss*) populations in Washington, Oregon, Idaho, and California, and identified 15 Evolutionarily Significant Units (ESUs) within this range. NMFS now issues a final rule to list two ESUs as threatened under the Endangered Species Act (ESA). The listed ESUs include the Middle Columbia River ESU located in Washington and Oregon, and the Upper Willamette River ESU located in Oregon.

In both threatened ESUs, only naturally spawned populations of steelhead residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed. NMFS examined the relationship between hatchery and natural populations of steelhead in these ESUs and determines none of the identified hatchery populations are essential for recovery at this time.

At this time, NMFS is listing only anadromous life forms of *O. mykiss*.

NMFS will issue any protective regulations deemed necessary under section 4(d) of the ESA for the listed ESUs in a separate rulemaking. Even though NMFS does not now issue protective regulations for these ESUs, Federal agencies are required under section 7 of the ESA to consult with NMFS if any activity they authorize, fund, or carry out may affect listed steelhead.

DATES: Effective May 24, 1999.

ADDRESSES: Branch Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, 503–231–2005, or Chris Mobley, 301–713-1401.

SUPPLEMENTARY INFORMATION:

Electronic Access

Reference materials regarding this listing determination can also be obtained from the internet at www.nwr.noaa.gov.

Species Background

Biological and life history information for steelhead can be found in NMFS' recent status assessments (Busby *et al.*, 1996; NMFS, 1999a and 1999b) and in the **Federal Register** notice announcing the listing proposal (63 FR 11797, March 10, 1998).

Previous Federal ESA Actions Related to West Coast Steelhead

The history of petitions received regarding west coast steelhead is summarized in the proposed rule published on August 9, 1996 (61 FR 41541). The most comprehensive petition was submitted by Oregon Natural Resources Council and 15 co-petitioners on February 16, 1994. In response to this petition, NMFS assessed the best available scientific and commercial data, including technical information from Pacific Salmon Biological Technical Committees (PSBTCs) and interested parties in Washington and Oregon. The PSBTCs consisted primarily of scientists (from Federal, state, and local resource agencies, Indian tribes, industries, universities, professional societies, and public interest groups) possessing technical expertise relevant to steelhead and their habitats. NMFS also established a Biological Review Team (BRT), composed of staff from NMFS' Northwest and Southwest Fisheries Science Centers and Southwest Regional Office, as well as a representative of the U.S. Geological Survey Biological Resources Division (formerly the National Biological Service), which conducted a coastwide status review for west coast steelhead (Busby *et al.*, 1996).

Based on the results of the BRT report, and after considering other information and existing conservation measures, NMFS published a proposed listing determination (61 FR 41541, August 9, 1996) that identified 15 ESUs of steelhead in the states of Washington, Oregon, Idaho, and California. Ten of these ESUs were proposed for listing as threatened or endangered species, four were found not warranted for listing, and one was identified as a candidate for listing.

On August 18, 1997, NMFS published a final rule listing five ESUs as threatened or endangered under the ESA (62 FR 43937, August 18, 1997). In a separate notice published on the same day, NMFS determined substantial scientific disagreement remained for five proposed ESUs (62 FR 43974, August 18, 1997). In accordance with section 4(b)(6)(B)(i) of the ESA, NMFS deferred its decision on these remaining steelhead ESUs for 6 months, until February 9, 1998, for the purpose of soliciting additional data. On March 19, 1998, NMFS published a final rule listing two ESUs as threatened (63 FR 13347, March 19, 1998). In this notice NMFS also determined the remaining three ESUs (Oregon Coast, Klamath Mountains Province, and Northern California) did not warrant listing (*Id.*).

On March 10, 1998, NMFS published a proposed listing determination for Middle Columbia River and Upper Willamette River steelhead ESUs (63 FR

11798). This proposed rule was based on an updated status review completed for previously deferred ESUs [Memorandum to William Stelle and William Hogarth from M. Schiewe, December 18, 1997, Status of Deferred and Candidate ESUs of West Coast Steelhead]. In response to the proposed rule, NMFS received comments and scientific information from affected states, tribes, and others which were recently considered by NMFS' BRT. NMFS has now completed an updated status review that analyzes this new information (NMFS, 1999a). Copies of this memorandum are available upon request (see **ADDRESSES**). Based on this updated review and other information, NMFS now lists the Upper Willamette River and Middle Columbia River steelhead ESUs as threatened species under the ESA.

Summary of Comments Received in Response to the Proposed Rule

NMFS held 21 public hearings in California, Oregon, Idaho, and Washington to solicit comments on this and other salmonid listing proposals (63 FR 16955, April 7, 1998; 63 FR 30455, June 4, 1998). During the 112-day public comment period, NMFS received 28 written comments on the proposed rule from Federal, state, and local government agencies, Indian tribes, non-governmental organizations, the scientific community, and other individuals. A number of comments addressed specific technical issues pertaining to a particular geographic region or *O. mykiss* population. These technical comments were considered by NMFS' BRT in its re-evaluation of ESU boundaries and status and are discussed in the updated Status Review document (NMFS, 1999a).

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service (FWS), published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). In accordance with this policy, NMFS solicited a total of 35 individuals to take part in a peer review of the current and previous west coast steelhead proposed rules. All individuals solicited are recognized experts in the field of steelhead biology, and represent a broad range of interests, including Federal, state, and tribal resource managers, private industry consultants, and academia. Eight individuals took part in the peer review of these findings; comments from peer reviewers were considered by NMFS' BRT and are summarized in the relevant Status Review documents (e.g., NMFS 1997a).

A summary of comments received in response to this proposed rule is presented here.

Issue 1: Sufficiency and Accuracy of Scientific Information and Analysis

Comment: Numerous commenters disputed the sufficiency and accuracy of data which NMFS employed in its proposed rule to list two steelhead ESUs as threatened under the ESA. Several commenters urged NMFS to delay any ESA listing decisions for steelhead until additional scientific information is available concerning this species.

Response: Section 4(b)(1)(A) of the ESA requires that NMFS make its listing determinations solely on the basis of the best available scientific and commercial data after reviewing the status of the species. NMFS believes that information contained in the agency's status review (Busby *et al.*, 1996), together with more recent information obtained in response to the proposed rule (NMFS, 1999a), represents the best scientific information presently available for the steelhead ESUs addressed in this final rule. NMFS has conducted an exhaustive review of all available information relevant to the status of this species. NMFS has also solicited information and opinion from all interested parties. If, in the future, new data become available to change these conclusions, NMFS will act accordingly.

Issue 2: Description and Status of Steelhead ESUs

Comment: Several commenters disputed NMFS' conclusions regarding the geographic boundaries for some of the ESUs and questioned NMFS' basis for determining these boundaries.

Response: NMFS has published a policy describing how it applies the ESA definition of "species" to anadromous salmonid species (56 FR 58612; November 20, 1991). More recently, NMFS and FWS published a joint policy, which is consistent with NMFS' policy, regarding the definition of "distinct population segments" (61 FR 4722, February 7, 1996). The earlier policy is more detailed and applies specifically to Pacific salmonids and, therefore, was used for this determination. This policy indicates that one or more naturally reproducing salmonid populations will be considered to be distinct and, hence, species under the ESA, if they represent an ESU of the biological species. To be considered an ESU, a population must satisfy two criteria: (1) It must be reproductively isolated from other population units of the same species, and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute but must have been strong enough to permit evolutionarily important differences to occur in different population units. The second criterion is met if the population contributes substantially to the ecological or genetic diversity of the species as a whole. Guidance on applying this policy is contained in a NOAA Technical Memorandum entitled "Definition of 'Species' Under the Endangered Species Act: Application to Pacific Salmon" (Waples, 1991) and in a recent scientific paper by Waples (1995).

The National Research Council (NRC) has recently addressed the issue of defining species under the ESA (NRC, 1995). Their report found that protecting distinct population segments (DPS) is soundly based on scientific evidence, and recommends applying an "Evolutionary Unit" (EU) approach in describing these segments. The NRC report describes the high degree of similarity between the EU and ESU approaches (differences being largely a matter of application between salmon and other vertebrates), and concluded that either approach would lead to similar DPS descriptions most of the time.

Comment: Several commenters questioned NMFS' methodology for determining whether a given steelhead ESU warranted listing. In most cases, such commenters also expressed opinions regarding whether listing was warranted for a particular steelhead ESU. A few commenters provided substantive new information relevant to making risk assessments.

Response: Section 3 of the ESA defines the term "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range." The term "threatened species" is defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." NMFS has identified a number of factors that should be considered in evaluating the level of risk faced by an ESU, including: (1) absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); and (6) recent events (e.g., a drought or changes in harvest management) that have

predictable short-term consequences for abundance of the ESU. A more detailed discussion of status of individual ESUs is provided in this document under "Summary of Conclusions Regarding Listed ESUs."

Issue 3: Factors Contributing to the Decline of West Coast Steelhead

Comment: Many commenters identified factors they believe have contributed to the decline of west coast steelhead. Factors identified include overharvest by recreational fisheries, predation by pinnipeds and piscivorous fish species, effects of artificial propagation, and the deterioration or loss of freshwater and marine habitats.

Response: NMFS agrees that many factors, past and present, have contributed to the decline of West Coast steelhead. NMFS also recognizes that natural environmental fluctuations have likely played a role in the species' recent declines. However, NMFS believes other human-induced impacts (e.g., incidental catch in certain fisheries, hatchery practices, and habitat modification) have played an equally significant role in this species' decline. Moreover, these human-induced impacts have likely reduced the species' resiliency to natural factors for decline such as drought and poor ocean conditions (NMFS, 1996a).

Since the time of this proposed listing, NMFS has published a report describing the impacts of California sea lions and Pacific harbor seals upon salmonids and on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1999c). This report concludes that in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. This study further concludes that data regarding pinniped predation are quite limited, and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS, 1997b). For additional information on this issue see the "Summary of Factors Affecting Steelhead" later in this document.

Comment: Several commenters stated that NMFS' assessment underestimated the significant influence of natural environmental fluctuations on salmonid populations. Several commenters stated that ocean conditions are one of the primary factors for decline.

Response: Environmental changes in both marine and freshwater habitats can have important impacts on steelhead abundance. For example, a pattern of relatively high abundance in the mid-1980s followed by (often sharp) declines over the next decade occurred in steelhead populations from most geographic regions of the Pacific Northwest. This result is most plausibly explained by broad-scale changes in ocean productivity. Similarly, 6 to 8 years of drought in the late 1980s and early 1990s adversely affected many freshwater habitats for steelhead throughout the region. These natural phenomena put increasing pressure on natural populations already stressed by anthropogenic factors such as habitat degradation, blockage of migratory routes, and harvest (NMFS, 1996a).

Improvement of cyclic or episodic environmental conditions (for example, increases in ocean productivity or shifts from drought to wetter conditions) may help alleviate extinction risk to steelhead populations. However, NMFS cannot reliably predict future environmental conditions, making it unreasonable to assume improvements in abundance as a result of improvements in such conditions. Furthermore, steelhead and other species of Pacific salmon have evolved over the centuries with such cyclical environmental stresses. This species has persisted through time in the face of these conditions largely due to the presence of freshwater and estuarine refugia. As these refugia are altered and degraded, Pacific salmon species are more vulnerable to such episodic events as shifts in ocean productivity and drought cycles (NMFS, 1996a).

Issue 4: Consideration of Existing Conservation Measures

Comment: Several commenters argued that NMFS had not considered existing conservation programs designed to enhance steelhead stocks within a particular ESU. Some commenters provided specific information on some of these programs to NMFS concerning the efficacy of existing conservation plans.

Response: NMFS has reviewed existing conservation plans and measures relevant to the two ESUs addressed in this final rule and concludes that existing conservation efforts in some cases have helped ameliorate risks facing the species. These conservation efforts are discussed in detail later in this document under "Existing Conservation Efforts."

While several of the plans addressed in comments show promise for ameliorating risks facing steelhead, some of the measures described in comments have not been implemented and are only recently proposed. Some of these measures are also geographically limited to individual river basins or political subdivisions, thereby improving conditions for only a small portion of the entire ESU.

Even though existing conservation efforts and plans in the listed ESUs are not sufficient to preclude the need for listings at this time, they are nevertheless valuable for improving watershed health and restoring fishery resources. In those cases where well-developed, reliable conservation plans exist, NMFS may choose to incorporate them into the recovery planning process. In the case of threatened species, NMFS also has flexibility under section 4(d) of the ESA to tailor the protective regulations based on the contents of available conservation measures. NMFS has already adopted 4(d) rules that except a limited range of activities from section 9 take prohibitions. For example, the interim 4(d) rule for Southern Oregon/Northern California coho salmon (62 FR 38479, July 18, 1997) excepts habitat restoration activities conducted in accordance with approved plans and fisheries conducted in accordance with an approved state management plan. In appropriate cases, 4(d) rules could contain limited take prohibitions applicable to such activities as forestry, agriculture, and road construction when such activities are conducted in accordance with NMFS approved state or tribal conservation plans.

These examples show that NMFS may apply modified ESA section 9 prohibitions where NMFS approved state or tribal conservation plans exist. There may be other circumstances as well in which NMFS would use the flexibility of section 4(d). For example, in some cases there may be a healthy population of salmon or steelhead within an overall ESU that is listed. In such a case, it may not be necessary to apply the full range of prohibitions available in section 9. NMFS intends to use the flexibility of the ESA to respond appropriately to the biological condition of each ESU and the populations within it, and to the strength of state and tribal conservation plans in place to protect them.

Issue 5: Steelhead Biology and Ecology

Comment: Several commenters asserted that resident rainbow trout should be included in listed steelhead ESUs. Several commenters also stated that NMFS and FWS should address how the presence of rainbow trout

populations may ameliorate risks facing anadromous populations within listed ESUs.

Response: In its August 9, 1996, proposed rule (61 FR 41541), NMFS stated that based on available genetic information, it was the consensus of NMFS scientists, as well as regional fishery biologists, that resident fish should generally be considered part of the steelhead ESUs. However, NMFS concluded that available data were inconclusive regarding the relationship of resident rainbow trout and steelhead. NMFS requested additional data in the proposed rule to clarify this relationship and determine if resident rainbow trout should be included in listed steelhead ESUs.

In response to this request for additional information, many groups and individuals expressed opinions regarding this issue. In most cases these opinions were not supported by new information that resolves existing uncertainty. Two state fishery management agencies (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife(ODFW)) provided comments and information supporting the inclusion of resident rainbow trout in listed steelhead ESUs. In general, these parties also felt that rainbow trout may serve as an important reservoir of genetic material for at-risk steelhead stocks.

While conclusive evidence does not yet exist regarding the relationship of resident and anadromous *O. mykiss*, NMFS believes available evidence suggests that resident rainbow trout should be included in listed steelhead ESUs in certain cases. Such cases include (1) where resident *O. mykiss* have the opportunity to interbreed with anadromous fish below natural or man-made barriers, or (2) where resident fish of native lineage once had the ability to interbreed with anadromous fish but no longer do because they are currently above human-made barriers, and they are considered essential for recovery of the ESU. Whether resident fish that exist above any particular man-made barrier meet these criteria must be reviewed on a case-by-case basis by NMFS. Resident fish above long-standing natural barriers and those that are derived from the introduction of non-native rainbow trout would not be considered part of any salmonid ESU.

Several lines of evidence exist to support this conclusion. Under certain conditions, anadromous and resident *O. mykiss* are apparently capable not only of interbreeding, but also of having offspring that express the alternate life history form, that is, anadromous fish can produce nonanadromous offspring, and vice versa (Shapovalov and Taft, 1954; Burgner *et al.*, 1992). Mullan *et al.* (1992) found evidence that in very cold streams, juvenile steelhead had difficulty attaining "mean threshold size for smoltification" and concluded that "Most fish here [Methow River, Washington] that do not emigrate downstream early in life are thermally-fated to a resident life history regardless of whether they were the progeny of anadromous or resident parents." Additionally, Shapovalov and Taft (1954) reported evidence of *O. mykiss* maturing in fresh water and spawning prior to their first ocean migration; this life history variation has also been found in cutthroat trout (*O. clarki*) and Atlantic salmon (*Salmo salar*).

NMFS believes resident fish can help buffer extinction risks to an anadromous population by mitigating depensatory effects in spawning populations, by providing offspring that migrate to the ocean and enter the breeding population of steelhead, and by providing a "reserve" gene pool in freshwater that may persist through times of unfavorable conditions for anadromous fish. In spite of these potential benefits, the presence of resident populations is not a substitute for conservation of anadromous populations. A particular concern is isolation of resident populations by human-caused barriers to migration. This interrupts normal population dynamics and population genetic processes and can lead to loss of a genetically based trait (anadromy). As discussed in NMFS' "species identification" paper (Waples, 1991), the potential loss of anadromy in distinct population segments may, in and of itself, warrant listing the ESU as a whole.

On February 7, 1996, FWS and NMFS adopted a joint policy to clarify their interpretation of the phrase "distinct population segment of any species of vertebrate fish or wildlife" (DPS) for the purposes of listing, delisting, and reclassifying species under the ESA (61 FR 4722). DPSs are "species" pursuant to section 3(15) of the ESA. Previously, NMFS had developed a policy for stocks of Pacific salmon where an ESU of a biological species is considered to be a DPS if (1) it is substantially reproductively isolated from other conspecific population units, and (2) it represents an important component in the evolutionary legacy of the species (56 FR 58612, November 20, 1991). NMFS believes available data suggest that resident rainbow trout are, in many cases, part of steelhead ESUs. However, FWS, which has ESA authority for resident fish, maintains that behavioral forms can be regarded as separate DPSs (e.g., as when the agency listed coastal, but not interior, populations of the western snowy plover).

In its review of West Coast steelhead, NMFS' BRT stated that rainbow trout and steelhead in the same area may share a common gene pool, at least over evolutionary time periods (NMFS, 1997a). The importance of any recovery action is measured in terms of its ability to recover the listed species in the foreseeable future. The FWS believes that steelhead recovery will not rely on the intermittent exchange of genetic material between resident and anadromous forms (FWS, 1997). As a result, without a clear demonstration of any risks to resident rainbow trout or the need to protect rainbow trout to recover steelhead in the foreseeable future, the FWS concludes that only the anadromous forms of *O. mykiss* should be included in the listed steelhead ESUs at this time (Department of the Interior, 1997; FWS, 1997).

Comment: Several commenters questioned NMFS' inclusion of both summer- and winter-run steelhead in the same ESU. These commenters suggested that summer- and winter-run steelhead be segregated into individual ESUs based on life history differences.

Response: While NMFS considers both life history forms (summer and winter steelhead) to be important components of diversity within the species, new genetic data reinforces previous conclusions that within a geographic area, summer and winter steelhead typically are more genetically similar to one another than either is to populations with similar run timing in different geographic areas. This indicates that an ESU that included summer-run populations from different geographic areas but excluded winter-run populations (or vice-versa) would be an inappropriate unit. The only biologically meaningful way to have summer and winter steelhead populations in separate ESUs would be to have a very large number of ESUs, most consisting of just one or a very few populations. This would be inconsistent with the approach NMFS has taken in defining ESUs in other anadromous Pacific salmonids. Taking these factors into consideration, NMFS concludes that summer and winter steelhead should be considered part of the same ESU in geographic areas where they co-occur.

Summary of Steelhead ESU Determinations

The following is a summary of NMFS' ESU determinations for the species. A more detailed discussion of ESU determinations is presented in the

"Status Review Update for Deferred and Candidate ESUs of West Coast Steelhead" (NMFS, 1997a) and "Updated Review of the Status of the Upper Willamette River and Middle Columbia River ESUs of Steelhead" (NMFS, 1999a). Copies of these documents are available upon request (see **ADDRESSES**).

NMFS also evaluated the relationship between hatchery and natural populations of steelhead in these ESUs (NMFS, 1999b). In examining this relationship, NMFS scientists consulted with hatchery managers to determine whether any hatchery populations are similar enough to native, naturally spawned fish to be considered part of the biological ESU.

(1) Upper Willamette River ESU

This steelhead ESU occupies the Willamette River and its tributaries, upstream from Willamette Falls to the Calapooia River, inclusive. This is a revision of the proposed ESU boundary in that NMFS now refines the range of this ESU to exclude rivers upstream of the Calapooia River.

The Willamette River Basin is zoogeographically complex. In addition to its connection to the Columbia River, the Willamette River historically has had connections with coastal basins through stream capture and headwater transfer events (Minckley *et al.*, 1986).

Steelhead from the upper Willamette River are genetically distinct from those in the lower river. Reproductive isolation from lower river populations may have been facilitated by Willamette Falls, which is known to be a migration barrier to some anadromous salmonids. For example, winter steelhead and spring chinook salmon (*O. tshawytscha*) occurred historically above the falls, but summer steelhead, fall chinook salmon, and coho salmon did not (PGE, 1994).

The native steelhead of this basin are late-migrating winter steelhead, entering fresh water primarily in March and April (Howell *et al.*, 1985), whereas most other populations of west coast winter steelhead enter fresh water beginning in November or December. As early as 1885, fish ladders were constructed at Willamette Falls to aid the passage of anadromous fish. The ladders have been modified and rebuilt, most recently in 1971, as technology has improved (Bennett, 1987; PGE, 1994). These fishways facilitated successful introduction of Skamania stock summer steelhead and early-migrating Big Creek stock winter steelhead to the upper basin. Another effort to expand the steelhead production in the upper Willamette River was the stocking of native steelhead in tributaries not historically used by that species. Native steelhead primarily used tributaries on the east side of the basin, with cutthroat trout predominating in streams draining the west side of the basin.

Resident *O. mykiss* are known to occupy the Upper Willamette River Basin; however, most of these populations occur above natural and manmade barriers (Kostow, 1995). Historically, spawning by Upper Willamette River steelhead was concentrated in the North and Middle Santiam River Basins (Fulton, 1970). These areas are now largely blocked to fish passage by dams, and steelhead spawning is now distributed throughout more of the Upper Willamette River Basin than in the past (Fulton, 1970). Due to introductions of non-native steelhead stocks and transplantation of native stocks within the basin, it is difficult to formulate a clear picture of the present distribution of native Upper Willamette River steelhead, and their relationship to nonanadromous and possibly residualized *O. mykiss* within the basin.

Substantive comments from ODFW on this ESU addressed the boundaries of the ESU and the relationship between the native steelhead of the middle basin and the resident trout of the upper basin (i.e., McKenzie and Middle Fork Willamette Rivers) (Greer, 1998). Additionally, NMFS was able to evaluate new genetic information pertinent to this ESU.

Recently developed resident trout genetic data from the McKenzie and Middle Fork Willamette River Basins showed no genetic continuity with known hatchery trout (Cape Cod stock) or any Willamette River steelhead population. Additionally, ODFW has been unable to achieve success in their attempts to establish steelhead populations in these subbasins. These factors combine to give credence to the theory that, for some unidentified reason, the upper reaches of the Willamette River Basin are not suitable to support steelhead populations, although resident trout and chinook salmon have been successful there.

NMFS reviewed the steelhead distribution described by Fulton (1970); however, aside from this, little new information was added to that presented by Busby *et al.* (1996). NMFS concludes that this ESU was comprised of the native late-run winter steelhead and that the historic distribution of the ESU did not extend upstream of the Calapooia River. NMFS also concludes that steelhead had some historic distribution in westside tributaries to the Willamette River (e.g., Gales Creek in the Tualatin River Basin) but that current distribution of winter-run steelhead in westside tributaries is somewhat unclear. Based on limited genetic analysis, the recent samples from westside tributaries do not appear to reflect populations derived from this ESU (NMFS, 1999a). However, information provided by the State of Oregon indicates that winter-run steelhead may in fact presently occur in several westside tributaries (Kostow, 1995; NMFS, 1999a).

Based on the best available scientific information, NMFS concludes that westside tributaries to the Willamette River warrant inclusion in this ESU at this time, although some uncertainty remains regarding this conclusion. While westside tributaries are included in the ESU, it is important to note that the listed ESU consists of naturally spawned, winter-run steelhead. Where distinguishable, naturally spawned, summer-run steelhead are not included in the listed ESU.

Hatchery Populations Pertaining to the ESU

NMFS identified three hatchery stocks associated with the Upper Willamette River ESU (NMFS, 1999b). After reviewing the best available information regarding the relationship between hatchery and natural populations in this ESU, NMFS concludes that the North Santiam River (ODFW Stock 21) hatchery stock should be considered part of the ESU. However, the Big Creek (ODFW Stock 13) and Skamania/Foster/McKenzie ODFW stocks are not considered part of the ESU. The listing status of these hatchery stocks is described later in this document under "Status of Steelhead ESUs."

(2) Middle Columbia River ESU

This inland steelhead ESU occupies the Columbia River Basin and tributaries from above the Wind River in Washington and the Hood River in Oregon (exclusive), upstream to, and including, the Yakima River, in Washington. Steelhead of the Snake River Basin are excluded. Franklin and Dyrness (1973) placed the Yakima River Basin in the Columbia Basin Physiographic Province, along with the Deschutes, John Day, Walla Walla, and lower Snake River Basins. Geology within this province is dominated by the Columbia River Basalt formation, stemming from lava deposition in the Miocene epoch, overlain by plio-Pleistocene deposits of glaciolacustrine origin (Franklin & Dyrness, 1973). This intermontane region includes some of the driest areas of the Pacific Northwest, generally receiving less than 40 centimeters of rainfall annually (Jackson, 1993). Vegetation is of the

shrub-steppe province, reflecting the dry climate and harsh temperature extremes.

Genetic differences between inland and coastal steelhead are well established, although some uncertainty remains about the exact geographic boundaries of the two forms in the Columbia River. Electrophoretic and meristic data show consistent differences between several middle Columbia River steelhead populations and Snake River steelhead. No recent genetic data exist for natural steelhead populations in the upper Columbia River, but recent WDFW data show that the Wells Hatchery stock from the upper Columbia River does not have a close genetic affinity to sampled populations from the middle Columbia River.

All steelhead in the Columbia River Basin upstream from The Dalles Dam are summer-run, inland steelhead (Schreck *et al.*, 1986; Reisenbichler *et al.*, 1992; and Chapman *et al.*, 1994). Steelhead in Fifteenmile Creek, Oregon, are genetically allied with inland *O. mykiss*, but are winter-run. Winter steelhead are also found in the Klickitat and White Salmon Rivers, Washington.

Life history information for steelhead of this ESU indicates that most middle Columbia River steelhead smolt at 2 years and spend 1 to 2 years in salt water (i.e., 1–ocean and 2–ocean fish, respectively) prior to re-entering fresh water, where they may remain up to a year prior to spawning (Howell *et al.*, 1985; BPA, 1992). Within this ESU, the Klickitat River is unusual in that it produces both summer and winter steelhead, and the summer steelhead are dominated by 2-ocean steelhead, whereas most other rivers in this region produce about equal numbers of both 1– and 2-ocean steelhead.

The proposed listing of the Middle Columbia River ESU generated substantive comments from ODFW (Greer, 1998) and the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO) (Calica, 1998). These comments, while summarized here, are discussed in detail in the status review update (NMFS, 1999a).

NMFS previously concluded that native, resident *O. mykiss* populations that have the opportunity to interbreed with anadromous *O. mykiss* should be included in the steelhead ESUs (Busby *et al.*, 1996). While ODFW and CTWSRO presented anecdotal accounts of spawning interactions between resident trout and steelhead in the Deschutes River (i.e., Zimmerman and Reeves, 1996; 1997; and 1998), such studies did not provide much evidence of this. NMFS concludes that, given the opportunity for reproductive interaction, co-occurring resident trout are included within this steelhead ESU.

In its comments, ODFW recommended that NMFS realign the proposed ESU to exclude winter steelhead from it; however, this recommendation is not supported by any new scientific data. Currently available data indicate that these are inland steelhead populations. An intensive genetic survey of these steelhead populations might provide useful information to further clarify the relationship between coastal and inland steelhead. NMFS concludes that no change in the ESU boundaries are warranted based solely on the presence of a winter-run life history.

Recently obtained genetic data raises some question about the boundaries of the Middle Columbia River ESU. However, NMFS concludes that this new information is too uncertain at this stage to warrant revising the proposed ESU boundaries. NMFS will revise these boundaries in the future when additional data support such a revision.

Hatchery Populations Pertaining to the ESU

NMFS identified two hatchery stocks associated with the Middle Columbia River ESU (NMFS, 1999b). After reviewing the best available information regarding the relationship between hatchery and natural populations in this ESU, NMFS concludes that both the Deschutes River (ODFW Stock 66) and Umatilla River (ODFW Stock 91) hatchery stocks should be considered part of the ESU. The listing status of these hatchery stocks is described later in this document under "Status of Steelhead ESUs."

Summary of Factors Affecting Steelhead

Section 4(a)(1) of the ESA and NMFS listing regulations (50 CFR part 424) set forth procedures for listing species. The Secretary of Commerce must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

Several recent documents describe in more detail the impacts of various factors contributing to the decline of steelhead and other salmonids (e.g., 63 FR 11798; NMFS, 1999a). Relative to west coast steelhead, NMFS prepared a supporting document that addresses the factors leading to the decline of this species entitled "Factors for Decline: A Supplement to the Notice of Determination for West Coast Steelhead" (NMFS, 1996b). This report, available upon request (see **ADDRESSES**), concludes that all of the factors identified in section 4(a)(1) of the ESA have played a role in the decline of the species. The report identifies destruction and modification of habitat, overutilization for recreational purposes, and natural and human-made factors as being the primary reasons for the decline of west coast steelhead.

Efforts Being Made to Protect West Coast Steelhead

Under section 4(b)(1)(A) of the ESA, the Secretary of Commerce is required to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made to protect a species. During the status review for west coast steelhead and for other salmonids, NMFS reviewed protective efforts ranging in scope from regional strategies to local watershed initiatives; some of the major efforts are summarized in the March 10, 1998 proposed rule (63 FR 11798) as well as a document entitled "Steelhead Conservation Efforts: A Supplement to the Notice of Determination for West Coast Steelhead under the Endangered Species Act" (NMFS, 1996c). During the proposed rule period, NMFS identified additional conservation measures in the States of Washington and Oregon. These additional conservation measures are summarized here.

Two Federal planning efforts affect aquatic habitat on Federal lands within the range of these ESUs. These Federal efforts in some cases provide substantial protection for aquatic communities and are therefore considered in NMFS' listing determination. Federal forest lands in the Upper Willamette River ESU (and some areas of the Middle Columbia River ESU) are managed under U.S. Forest Service (USFS) and Bureau of Land Management (BLM) Land and Resource Management Plans or Land Use Plans which are amended by the Northwest Forest Plan (NFP). The NFP is a Federal interagency cooperative program that was implemented to provide a coordinated management direction for the lands administered by the USFS and BLM. A major part of the Plan, implementation of an Aquatic Conservation Strategy (ACS) on Federal land, is expected to reverse the trend of aquatic ecosystem degradation and contribute toward fish habitat recovery. Coordination among

the Federal land management agencies, NMFS, the U.S. Environmental Protection Agency (EPA), and the FWS should ensure that the ACS objectives are achieved.

Prior to implementing the Record of Decision for the President's Forest Plan, little or no riparian protection was afforded for the fish and their habitat. One of the most important substantive protective measures implemented through the Plan are riparian reserves. These are buffered strips of land that, depending on stream class and type of watershed, range from 300 ft (91m) on perennial streams to 50 ft (15 m) on ephemeral streams.

Some Federal lands in the Middle Columbia River ESU are managed under USFS and BLM Land and Resource Management Plans or Land Use Plans which are amended by PACFISH. PACFISH provides objectives, standards and guidelines that are applied to all Federal land management activities such as timber harvest, road construction, mining, grazing and recreation. The USFS and BLM implemented PACFISH in 1995 and intended it to provide interim protection to anadromous fish habitat while a longer term, basin scale aquatic conservation strategy was developed in the Interior Columbia Basin, Ecosystem Managment Project (ICBEMP). It is intended that ICBEMP will have a Final Environmental Impact Statement and Record of Decision by early 2000.

For other ESUs already listed in the Interior Columbia Basin (Snake River chinook, Snake River steelhead, and Upper Columbia River steelhead), NMFS has required in section 7 consultation, several components that are in addition to the PACFISH strategy (NMFS 1995; NMFS 1998). NMFS, USFS, and BLM intend these additional components to bridge the gap between interim PACFISH direction and the longterm strategy envisioned for ICBEMP. NMFS anticipates that these components will also be carried forward in the ICBEMP direction. These components include (but are not limited to) implementation monitoring and accountability, a system of watersheds that are prioritized for protection and restoration, improved and monitored grazing systems, road system evaluation and planning requirements, mapping and analysis of unroaded areas, multi-year restoration strategies, and batching and analyzing projects at the watershed scale. Given the timeframe for ICBEMP, NMFS will likely conduct similar additional section 7 consultations for the Land and Resource Management plans within the Middle Columbia River ESU and will then consult on ICBEMP when it is complete.

In the range of both the Middle Columbia River and Upper Willamette River ESUs, several notable efforts have recently been initiated. Harvest, hatchery, and habitat protections under state control are evolving under the Oregon Plan for Salmon and Watersheds (OPSW). The OPSW is a long-term effort to protect all at-risk wild salmonids through cooperation between state, local and Federal agencies, tribal governments, industry, private organizations, and individuals. Parts of the OPSW are already providing benefits, including an aggressive program by the Oregon Department of Transportation to inventory, repair, and replace road culverts that block fish from reaching important spawning and rearing areas. The OPSW also encourages efforts to improve conditions for salmon through non-regulatory means, including significant efforts by local watershed councils. An Independent Multi-disciplinary Science Team provides scientific oversight to OPSW components and outcomes. A recent Executive Order from Governor Kitzhaber reinforced his expectation that all state agencies will make improved environmental health and salmon recovery part of their mission.

Protecting and restoring fish and wildlife habitat and population levels in the Willamette River Basin, promoting proper floodplain management, and enhancing water quality is the focus of the recently formed Willamette Restoration Initiative (WRI). The WRI creates a mechanism through which residents of the basin are mounting a concerted, collaborative effort to restore watershed health. In addition, habitat protection and improved water quality in the Portland/Vancouver metropolitan areas are getting unprecedented attention from local jurisdictions. The regional government, Metro, recently adopted an aggressive stream and floodplain protection ordinance designed to protect functions and values of floodplains, and natural stream and adjacent vegetated corridors. All jurisdictions in the region must amend their land use plans and implementing ordinances to comply with the Metro ordinance within 18 months. Metro also has a green spaces acquisition program that addresses regional biodiversity, and is giving protection to significant amounts of land, some of it on the Sandy River or on tributaries to the Willamette River. The City of Portland has identified those activities which impact salmonids and is now using that information to reduce impacts of existing programs and to identify potential enhancement actions. The City will shortly be making significant improvements in its storm water management program, a key to reducing impacts on salmonid habitat.

In the lower Columbia River, salmonid populations were seriously depleted long before increasing predator populations posed any significant threat to their long-term survival. Various development and management actions have interrupted the natural balance between predator and prey populations, and this situation now poses a risk to struggling salmonid populations. For example, steps have already been taken this year by the U.S. Army Corps of Engineers (COE), FWS, ODFW, and NMFS to relocate at least 90 percent of a Caspian tern colony away from areas in the lower Columbia where their primary food is juvenile salmonids.

The State of Washington is currently in the process of developing a statewide strategy to protect and restore wild steelhead and other salmon and trout species. In May of 1997, Governor Gary Locke and other state officials signed a Memorandum of Agreement creating the Joint Natural Resources Cabinet (Joint Cabinet). This body is comprised of state agency directors or their equivalents from a wide variety of agencies whose activities and constituents influence Washington's natural resources. The goal of the Joint Cabinet is to restore salmon, steelhead, and trout populations by improving those habitats on which the fish rely. The Joint Cabinet's current activities include development of the Lower Columbia Steelhead Conservation Initiative (LCSCI), which is intended to comprehensively address protection and recovery of steelhead in the lower Columbia River area.

NMFS intends to continue working with the State of Washington and stakeholders involved in the formulation of the LCSCI. Ultimately, when completed, this conservation effort may help to ameliorate risks facing many salmonid species in this region. In the near term, for steelhead and other listed species, individual components of the conservation effort may be recognized through section 4(d) of the ESA. In this way activities conducted in accordance with full, matured, and implemented conservation efforts may be excepted from take under section 9 of the ESA.

NMFS and FWS are also engaged in an ongoing effort to assist in the development of multiple species Habitat Conservation Plans (HCPs) for state and privately owned lands in Oregon and Washington. While section 7 of the ESA addresses species protection associated

with Federal actions and lands, Habitat Conservation Planning under section 10 of the ESA addresses species protection on private (non-Federal) lands. HCPs are particularly important since significant portions of habitat in the range of both steelhead ESUs is in non-Federal ownership. The intent of the HCP process is to ensure that any incidental taking of listed species will not appreciably reduce the likelihood of survival of the species, reduce conflicts between listed species and economic development activities, and to provide a framework that would encourage "creative partnerships" between the public and private sectors and state, municipal, and Federal agencies in the interests of endangered and threatened species and habitat conservation.

NMFS will continue to evaluate state, tribal, and non-Federal efforts to develop and implement measures to protect and begin the recovery of steelhead populations within these ESUs. Because a substantial portion of land in these ESUs is in state or private ownership, conservation measures on these lands will be key to protecting and recovering steelhead populations in these ESUs. NMFS recognizes that strong conservation benefits will accrue from specific components of many non-Federal conservation efforts.

While NMFS acknowledges that many of the ongoing protective efforts are likely to promote the conservation of steelhead and other salmonids, some are very recent and few address steelhead conservation at a scale that is adequate to protect and conserve entire ESUs. NMFS concludes that existing protective efforts are inadequate to preclude a listing for these ESUs. However, NMFS will continue to encourage these and future protective efforts and will work with Federal, state, and tribal fisheries managers to evaluate, promote, and improve efforts to conserve steelhead populations.

Status of Steelhead ESUs

Section 3 of the ESA defines the term "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range." The term "threatened species" is defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." Thompson (1991) suggested that conventional rules of thumb, analytical approaches, and simulations may all be useful in making this determination. In previous status reviews (e.g., Weitkamp *et al.*, 1995), NMFS has identified a number of factors that should be considered in evaluating the level of risk faced by an ESU, including: (1) absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); and (6) recent events (e.g., a drought or changes in harvest management) that have predictable short-term consequences for abundance of the ESU.

During the coastwide status review for steelhead, NMFS evaluated both quantitative and qualitative information to determine whether any proposed ESU is threatened or endangered according to the ESA. The types of information used in these assessments are described in the proposed rule, published August 9, 1996 (61 FR 41541). The assessments also considered whether any of the hatchery populations identified in "Summary of Steelhead ESU Determinations" should be considered essential for the recovery of a listed ESU. The following summaries draw on these quantitative and qualitative assessments to describe NMFS' conclusions regarding the status of each steelhead ESU. A more detailed discussion of the status of these steelhead ESUs is presented in the "Status Review Update for Deferred and Candidate ESUs of West Coast Steelhead" (NMFS, 1997a) and "Updated Review of the Status of the Upper Willamette River and Middle Columbia River ESUs of Steelhead" (NMFS, 1999a). Copies of these documents are available upon request (see **ADDRESSES**).

(1) Upper Willamette River ESU

Steelhead in the Upper Willamette River ESU are distributed in a few, relatively small, natural populations. Over the past several decades, total abundance of natural late-migrating winter steelhead ascending the Willamette Falls fish ladder has fluctuated several times over a range of approximately 5,000 to 20,000 spawners. However, the last peak occurred in 1988, and this peak has been followed by a steep and continuing decline. Abundance in each of the last 5 years has been below 4,300 fish, and the run in 1995 was the lowest in 30 years. Declines also have been observed in almost all natural populations, including those with and without a substantial component of naturally spawning hatchery fish. NMFS notes with concern the results from ODFW's extinction assessment, which estimates that the Molalla River population had a greater than 20 percent extinction probability in the next 60 years, and that the upper South Santiam River population had a greater than 5 percent extinction risk within the next 100 years (Chilcote, 1997).

Steelhead native to the Upper Willamette River ESU are late-run winter steelhead, but introduced hatchery stocks of summer and early-run winter steelhead also occur in the upper Willamette River. Estimates of the proportion of hatchery fish in natural spawning escapements range from 5 to 25 percent. NMFS is concerned about the potential risks associated with interactions between non-native summer and wild winter steelhead, whose spawning areas are sympatric in some rivers (especially in the Molalla and North and South Santiam Rivers). The percentage of hatchery fish in natural spawning escapements is considered relatively low in most rivers in the Upper Willamette River Basin. Declines in winter steelhead runs, regardless of degree of hatchery influence, suggest that causes other than artificial propagation are primarily responsible for reduced abundances.

NMFS remains concerned about the lack of historical abundance estimates for winter steelhead in the Upper Willamette River ESU. It may be possible that population sizes were never large above Willamette Falls, and that the winter steelhead in this ESU are capable of persisting at relatively low abundance. Although not as extreme as is the case for spring chinook salmon, the proportion and total amount of historical steelhead spawning habitat that has been blocked by dams and water diversions is high in the Upper Willamette River ESU. It is possible that several consecutive years of poor ocean conditions and recent harvest pressure in the lower Columbia River have pushed the winter steelhead populations in the Upper Willamette River drainage to the limit of their resiliency.

Listing Determination

Based on new information submitted by ODFW and others, NMFS concludes Upper Willamette River steelhead warrant listing as a threatened species. NMFS is concerned about the universally declining trends in abundance in the relatively small-to-moderate sized runs of winter steelhead in this ESU. Recent abundance trends indicate naturally spawned steelhead have declined to historically low levels in areas above Willamette Falls. This

low abundance, coupled with potential risks associated with interactions between naturally spawned steelhead and hatchery stocks is of great concern to NMFS.

Recent conservation planning efforts by the State of Oregon may reduce risks faced by steelhead in this ESU in the future; however, these efforts are still in their formative stages. Specifically, the OPSW, while substantially implemented and funded on the Oregon Coast, has not yet reached a similar level of development in inland areas. Furthermore, while the NFP has reduced habitat degradation on Federal lands within this ESU, less than 20 percent of land areas in this region are under Federal ownership and hence covered by this management plan.

Status of Hatchery Populations

NMFS concludes that none of the hatchery steelhead stocks identified as part of this ESU (see "Summary of Steelhead ESU Determinations") should be listed since they are not currently essential for its recovery (NMFS, 1999b).

(2) Middle Columbia River Basin ESU

Current population sizes are substantially lower than historic levels, especially in the rivers with the largest steelhead runs in the ESU: the John Day, Deschutes, and Yakima Rivers. At least two extinctions of native steelhead runs in the ESU have occurred (the Crooked and Metolius Rivers, both in the Deschutes River Basin). Trends in natural escapement in the Yakima and Umatilla Rivers have been highly variable since the mid-late 1970s, ranging from abundances that indicate relatively healthy runs to those that are cause for concern (i.e., from 2,000 to 3,000 steelhead during peaks to approximately 500 fish during the low points).

One of the most significant sources of risk to steelhead in the Middle Columbia ESU is the recent and dramatic increase in the percentage of hatchery fish in natural escapement in the Deschutes River Basin. ODFW estimates that in recent years, the percentage of hatchery strays in the Deschutes River has exceeded 70 percent, and most of these are believed to be long-distance strays from outside the ESU. Coincident with this increase in the percentage of strays has been a decline in the abundance of native steelhead in the Deschutes River. In combination with the trends in hatchery fish in the Deschutes River, estimates of increased proportions of hatchery fish in the John Day and Umatilla River Basins pose a risk to wild steelhead due to negative effects of genetic and ecological interactions with hatchery fish. For example, in recent years, most of the fish planted in the Touchet River are from out of ESU stocks. As a result, a recent analysis of this stock by WDFW found that it was most similar genetically to Wells Hatchery steelhead from the Upper Columbia River ESU.

NMFS remains concerned about the widespread declines in abundance in the steelhead populations in this ESU. The serious declines in abundance in the John Day River Basin are especially troublesome, because the John Day River has supported the largest populations of naturally spawning summer steelhead in the ESU. Populations in the Yakima River Basin are at a small fraction of historical levels, with the majority of production coming from a single stream (Satus Creek). The number of naturally spawning fish in the Umatilla River has been relatively stable in recent years, but this has been accomplished with substantial supplementation of natural spawning by hatchery-reared fish. Naturally produced steelhead have declined precipitously in the Deschutes River over the past decade. The most optimistic observation that can be made for steelhead in this area is that some populations have shown resiliency to bounce back from even more depressed levels in the past (e.g., the late 1970s).

The continued increase of stray steelhead into the Deschutes River Basin is also a major source of concern to NMFS. ODFW and CTWSRO estimate that 60 to 80 percent of the naturally spawning population is composed of strays, which greatly outnumber naturally produced fish. Although the level of reproductive success of these stray fish has not been evaluated, the levels are so high that major genetic and ecological effects on natural populations are possible. Recent efforts underway by the CTWSRO and ODFW to determine the origin of strays and the proportion of strays that are spawning naturally in the Deschutes River may prove useful in focusing management efforts to address this serious issue.

ODFW argues that resident fish in the Deschutes River play a more substantial role in overall population dynamics and abundance of *O. mykiss* than is the case in other streams within this ESU or in most other steelhead ESUs. Further, they argue that the resident populations in the Deschutes River are robust and provide a substantial buffer against extinction. Evaluating the role of resident fish in extinction risk analysis for steelhead ESUs is very complex. Comprehensive abundance information for resident fish is not available, but if the data presented by ODFW for Nena Creek/North Junction are representative, the overall abundance of resident fish in the Deschutes River may be fairly high. Some spawning between resident and anadromous fish has been observed, but there appears to be substantial microhabitat partitioning of reproduction between the forms based on size, timing, and location. Available information is limited, but it does not provide evidence that resident fish contribute significantly to anadromous returns. A tentative conclusion is that, within the Deschutes River Basin, the two forms are closely linked over evolutionary time frames, but the ability of the resident form to substantially affect demographic/genetic processes in steelhead populations in the short term is doubtful. To the extent that the resident form has been producing steelhead offspring in this ESU, the effect of that production has not been sufficient to stave off continued declines in steelhead populations. Furthermore, if there is substantial and continuing gene flow between resident and anadromous forms, that would suggest that the high stray rates of non-native hatchery steelhead also pose a genetic risk to resident fish in the Deschutes River. Not enough information currently exists to determine whether the relative abundances of the two life history forms should be viewed positively (e.g., the relatively high abundance of the resident form in those streams can act to buffer the anadromous form from declines) or negatively (e.g., the resident form is outcompeting or interbreeding with the anadromous form) in risk evaluations.

Listing Determination

NMFS concludes the Middle Columbia ESU warrants listing as a threatened species. Continued declines in steelhead abundance and increases in the percentage of hatchery fish in natural escapements pose significant threats to this ESU.

Recent conservation planning efforts by the States of Washington and Oregon may reduce risks faced by steelhead in this ESU in the future; however, these efforts are still in their formative stages. Federal management efforts, including the NFP, PACFISH, and forthcoming ICEBMP, address important habitat-related risk factors for this ESU. However, only about 24 percent of the land area within this ESU is under Federal management and subject to these management efforts.

Status of Hatchery Populations

NMFS concludes that none of the hatchery steelhead stocks identified as part of this ESU (see "Summary of Steelhead ESU Determinations") should

be listed since they are not currently essential for its recovery (NMFS, 1999b).

Determinations

Based on new information and comments received during the proposed rule, NMFS concludes that Upper Willamette River steelhead and Middle Columbia River steelhead warrant listing as threatened species under the ESA. The geographic boundaries (i.e., the watersheds within which the members of the ESU spend their freshwater residence) for these ESUs are described under "Summary of Steelhead ESU Determinations."

In both threatened steelhead ESUs, NMFS is listing only naturally spawned populations residing below impassable natural barriers (e.g., long-standing, natural waterfalls). NMFS' intent in listing only "naturally spawned" populations is to protect steelhead stocks that are indigenous to (i.e., part of) the ESU. In this listing determination, NMFS has identified various non-indigenous populations that co-occur with fish in the listed ESUs. The agency recognizes the difficulty of differentiating between indigenous and non-indigenous fish, especially when the latter are not readily distinguishable with a mark (e.g., fin clip). Also, matings in the wild of either type would generally result in progeny that would be treated as listed fish (i.e., they would have been naturally spawned in the geographic range of the listed ESU and have no distinguishing mark). Therefore, to reduce confusion regarding which steelhead are considered listed within an ESU, NMFS will treat all naturally spawned fish as listed for purposes of the ESA. Efforts to determine the conservation status of an ESU would focus on the contribution of indigenous fish to the listed ESU. It should be noted that NMFS will take actions necessary to minimize or prevent non-indigenous steelhead from spawning in the wild unless the fish are specifically part of a recovery effort.

NMFS has also evaluated the relationship between hatchery and natural populations of steelhead in the listed ESUs (described previously in "Summary of Steelhead ESU Determinations" and "Status of Steelhead ESUs"). None of the hatchery populations are being listed because, while some are considered part of the ESUs, none are deemed essential for the recovery of either ESU (NMFS, 1999b).

The determination that a hatchery stock is not "essential" for recovery does not preclude it from playing a role in recovery. Any hatchery population that is part of the ESU is available for use in recovery if conditions warrant. In this context, an "essential" hatchery population is one that is vital to incorporate into recovery efforts (for example, if the associated natural population(s) were extinct or at high risk of extinction). Under such circumstances, NMFS would consider taking the administrative action of listing existing hatchery fish.

NMFS' "Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act" (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, "progeny of fish from the listed species that are propagated artificially are considered part of the listed species and are protected under the ESA." In the case of hatchery steelhead populations considered to be part of the Upper Willamette River ESU or Middle Columbia River ESU, the protective regulations that NMFS will issue shortly may except take of naturally spawned listed fish for use as broodstock as part of an overall conservation program. According to the interim policy, the progeny of these hatchery-wild or wild-wild crosses would also be listed. Given the requirement for an acceptable conservation plan as a prerequisite for collecting broodstock, NMFS determines that it is not necessary to consider the progeny of intentional hatchery-wild or wild-wild crosses as listed.

In addition, NMFS believes it is desirable to incorporate naturally spawned fish into these hatchery populations to ensure that their genetic and life history characteristics do not diverge significantly from the natural populations. NMFS therefore concludes that it is not inconsistent with NMFS' interim policy, nor with the policy and purposes of the ESA, to consider these progeny as part of the ESU but not listed.

At this time, NMFS is listing only anadromous life forms of *O. mykiss.*

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Section 9 prohibitions apply automatically to endangered species, as described in the following discussion, this is not the case for threatened species.

Section 4(d) of the ESA directs the Secretary of Commerce to implement regulations "to provide for the conservation of [threatened] species," that may include extending any or all of the prohibitions of section 9 to threatened species. Section 9(a)(1)(g) also prohibits violations of protective regulations for threatened species implemented under section 4(d). NMFS will issue shortly protective regulations pursuant to section 4(d) for the listed ESUs.

Section 7(a)(4) of the ESA requires that Federal agencies consult with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions likely to affect steelhead in the listed ESUs include authorized land management activities of the USFS and BLM, as well as operation of hydroelectric and storage projects of the Bureau of Reclamation and COE. Such activities include timber sales and harvest, hydroelectric power generation, and flood control. Federal actions, including the COE section 404 permitting activities under the Clean Water Act, COE permitting activities under the River and Harbors Act, National Pollution Discharge Elimination System permits issued by EPA, highway projects authorized by the Federal Highway Administration, Federal Energy Regulatory Commission licenses for nonfederal development and operation of hydropower, and Federal salmon hatcheries, may also require consultation. These actions will likely be subject to ESA section 7 consultation requirements that may result in conditions designed to achieve the intended purpose of the project and avoid or reduce impacts to steelhead and its habitat within the range of the listed ESUs. It is important to note that the current listing applies only to the anadromous form of *O. mykiss*; therefore, section 7 consultations will not address resident forms of *O. mykiss* at this time.

There are likely to be Federal actions ongoing in the range of the listed ESUs at the time these listings become effective. Therefore, NMFS will review all ongoing actions that may affect the listed species with Federal agencies and will complete formal or informal consultations, where requested or necessary, for such actions pursuant to ESA section 7(a)(2).

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's "taking" prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves a directed take of listed species.

NMFS has issued ESA section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon and Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging, electroshocking to determine population presence and abundance, removal of fish from irrigation ditches, and collection of adult fish for artificial propagation programs. NMFS is aware of several sampling efforts for steelhead in the listed ESUs, including efforts by Federal and state fishery management agencies. These and other research efforts could provide critical information regarding steelhead distribution and population abundance.

ESA Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the release of artificially propagated fish by state or privately operated and funded hatcheries, state or university research on species other than steelhead, not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on nonfederal lands.

Take Guidance

On July 1, 1994, (59 FR 34272) NMFS and FWS published a policy committing the agencies to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and on-going activities within the species' range. NMFS believes that, based on the best available information, the following actions will not result in a violation of section 9: (1) Possession of steelhead from the listed ESUs acquired lawfully by permit issued by NMFS pursuant to section 10 of the ESA, or by the terms of an incidental take statement pursuant to section 7 of the ESA; and (2) federally funded or approved projects that involve activities such as silviculture, grazing, mining, road construction, dam construction and operation, discharge of fill material, stream channelization or diversion for which a section 7 consultation has been completed, and when such an activity is conducted in accordance with any terms and conditions provided by NMFS in an incidental take statement accompanied by a biological opinion pursuant to section 7 of the ESA. As described previously in this notice, NMFS may adopt 4(d) protective regulations that except other activities from section 9 take prohibitions for threatened species.

Activities that NMFS believes could potentially harm, injure or kill steelhead in the listed ESUs and result in a violation of section 9 of the ESA include, but are not limited to: (1) land-use activities that adversely affect steelhead habitat in this ESU (e.g., logging, grazing, farming, road construction in riparian areas, and areas susceptible to mass wasting and surface erosion); (2) destruction or alteration of steelhead habitat in the listed ESUs, such as removal of large woody debris and "sinker logs" or riparian shade canopy, dredging, discharge of fill material, draining, ditching, diverting, blocking, or altering stream channels or surface or ground water flow; (3) discharges or dumping of toxic chemicals or other pollutants (e.g., sewage, oil, gasoline) into waters or riparian areas supporting listed steelhead; (4) violation of discharge permits; (5) pesticide and herbicide applications; (6) interstate and foreign commerce of steelhead from the listed ESUs and import/export of steelhead from listed ESUs without an ESA permit, unless the fish were harvested pursuant to legal exception; (7) collecting or handling of steelhead from listed ESUs (permits to conduct these activities are available for purposes of scientific research or to enhance the propagation or survival of the species); and (8) introduction of non-native species likely to prey on steelhead in these ESUs or displace them from their habitat. This list is not exhaustive. It is intended to provide some examples of the types of activities that might or might not be considered by NMFS as constituting a take of listed steelhead under the ESA and its regulations. Questions regarding whether specific activities will constitute a violation of this rule, and general inquiries regarding prohibitions and permits, should be directed to NMFS (see **ADDRESSES**).

Effective Date of Final Listing

Given the cultural, scientific, and recreational importance of this species, and the broad geographic range of these listings, NMFS recognizes that numerous parties may be affected by this listing. Therefore, to permit an orderly implementation of the consultation requirements associated with this action, this final listing will take effect May 24, 1999.

Conservation Measures

Conservation benefits are provided to species listed as endangered or threatened under the ESA through increased recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Increased recognition through listing promotes public awareness and conservation actions by Federal, state, and local agencies, private organizations, and individuals.

Several conservation efforts are underway that may reverse the decline of west coast steelhead and other salmonids. NMFS is encouraged by these significant efforts, which could provide all stakeholders with an approach to achieving the purposes of the ESA–protecting and restoring native fish populations and the ecosystems upon which they depend that are less regulatory. NMFS will continue to encourage and support these initiatives as important components of recovery planning for steelhead and other salmonids.

To succeed, protective regulations and recovery programs for steelhead will need to focus on conserving aquatic ecosystem health. NMFS intends that Federal lands and Federal activities play a primary role in preserving listed populations and the ecosystems upon which they depend. However, throughout the range of the listed ESUs, steelhead habitat occurs and can be affected by activities on state, tribal or private land.

Conservation measures that could be implemented to help conserve the species are listed here (the list is generalized and does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA). Progress on some of these is being made to differing degrees in specific areas.

1. Measures could be taken to promote practices that are more protective of (or restore) steelhead habitat across a variety of land and water management activities. Activities affecting this habitat include timber harvest; agriculture; livestock grazing and operations; pesticide and herbicide applications; construction and urban development; road building and maintenance; sand and gravel mining; stream channelization; dredging and dredged spoil disposal; dock and marina construction; diking and bank stabilization; dam construction/operation; irrigation withdrawal,

storage, and management; mineral mining; wastewater/pollutant discharge; wetland and floodplain alteration; habitat restoration projects; and woody debris/structure removal from rivers and estuaries. Each of these activities could be modified to ensure that watersheds and specific river reaches are adequately protected in the short- and long-terms.

2. Fish passage could be restored at barriers to migration through the installation or modification of fish ladders, upgrade of culverts, or removal of barriers.

3. Harvest regulations could be modified to protect listed steelhead populations affected by both directed harvest and incidental take in other fisheries.

4. Artificial propagation programs could be modified to minimize negative impacts (e.g., genetic introgression, competition, disease, etc.) upon native populations of steelhead.

5. Predator control/relocation programs could be implemented in areas where predators pose a significant threat to steelhead.

6. Measures could be taken to improve monitoring of steelhead populations and their habitat.

7. Federal agencies such as the USFS, BLM, Federal Energy Regulatory Commission, COE, U.S. Department of Transportation, and U.S. Bureau of Reclamation could review their management programs and use their discretionary authorities to formulate conservation plans pursuant to section 7(a)(1) of the ESA.

NMFS encourages non-Federal landowners to assess the impacts of their actions on threatened or endangered salmonids. In particular, NMFS encourages state and local governments to use their existing authorities and programs, and encourages the formation of watershed partnerships to promote conservation in accordance with ecosystem principles. These partnerships will be successful only if state, tribal, and local governments, landowner representatives, and Federal and non-Federal biologists all participate and share the goal of restoring steelhead and salmon to the watersheds.

Critical Habitat

Section 4(b)(6)(C) of the ESA requires that, to the extent prudent, critical habitat be designated concurrently with the listing of a species unless such critical habitat is not determinable at that time. On February 5, 1999, NMFS published a proposed critical habitat rule for all listed and proposed steelhead ESUs (64 FR 5740). Copies of this critical habitat proposed rule are available upon request (see **ADDRESSES**).

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F.2d 825 (6th Cir. 1981), NMFS has categorically excluded all ESA listing actions from environmental assessment requirements of the National Environmental Policy Act (NEPA) under NOAA Administrative Order 216–6.

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. Similarly, this final rule is exempt from review under E.O. 12866.

This rule has been determined to be major under the Congressional Review Act (5 U.S.C. 801 *et seq.*)

At this time NMFS is not promulgating protective regulations pursuant to ESA section 4(d). In the future, prior to finalizing its 4(d) regulations for the threatened steelhead ESUs, NMFS will comply with all relevant NEPA and RFA requirements.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**) and can also be obtained from the internet at www.nwr.noaa.gov.

Threatened Species Regulations Consolidation

In the proposed rule issued on March 10, 1998 (63 FR 11774), Upper Willamette River steelhead was designated the letter (v) and Middle Columbia River steelhead the letter (w) in § 227.4. Since March 10, 1998, NMFS issued a final rule consolidating and reorganizing existing regulations regarding implementation of the ESA. In this reorganization, § 227.4 has been redesignated as § 223.102; therefore, Upper Willamette River steelhead is designated in this final rule as paragraph (a)(14) and Middle Columbia River steelhead as paragraph (a)(15) of § 223.102. The regulatory text of the proposed rule remains unchanged in this final rule.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: March 15, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 223 is amended as follows:

PART 223–THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 223.102, paragraphs (a)(14) and (a)(15) are added to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(a) * * *

(14) Upper Willamette River steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of winter-run steelhead in the Willamette River, Oregon, and its tributaries upstream from Willamette Falls to the Calapooia River, inclusive;

(15) Middle Columbia River steelhead (*Oncorhynchus mykiss*). Includes all naturally spawned populations of steelhead in streams from above the Wind River, Washington, and the Hood River, Oregon (exclusive), upstream to, and including, the Yakima River, Washington. Excluded are steelhead from the Snake River Basin.

* * * * *

[FR Doc. 99–6817 Filed 3–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 980219043–9068–02; I.D. 011498A]

RIN 0648–AK52

Endangered and Threatened Species: Threatened Status for Ozette Lake Sockeye Salmon in Washington

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing a final determination that the Ozette Lake sockeye salmon (*Oncorhynchus nerka*) Evolutionarily Significant Unit (ESU), located on Washington's Olympic Peninsula, is a threatened species under

the Endangered Species Act (ESA) of 1973, as amended.

NMFS also reviewed the status of Baker River sockeye salmon, previously designated as a candidate species. Based on that review, NMFS has determined that Baker River sockeye salmon do not warrant listing under the ESA, nor candidate status at this time. NMFS previously determined that the Okanogan River, Lake Wenatchee, Quinault Lake, and Lake Pleasant (all located in Washington) sockeye salmon ESUs did not warrant listing. However, based on new information, NMFS remains concerned about the status of the Okanogan River and Lake Wenatchee ESUs, and will closely monitor their status.

At this time, NMFS is listing all naturally spawned populations of Ozette Lake sockeye salmon belonging to the species' anadromous life form. NMFS has examined the relationship between hatchery and natural populations of sockeye salmon in this ESU and determined that none of the hatchery populations are currently essential for recovery and, therefore, the hatchery populations (and their progeny) are not listed.

NMFS will issue any protective regulations deemed necessary under section 4(d) of the ESA for the listed ESU in a separate rulemaking. Even though NMFS does not now issue protective regulations for this ESU, Federal agencies are required under section 7 to consult with NMFS if any activity they authorize, fund, or carry out may affect listed sockeye salmon.

DATES: Effective May 24, 1999.

ADDRESSES: Branch Chief, Protected Resources Division, NMFS, 525 NE Oregon St., Suite 500, Portland, OR 97232–2737.

FOR FURTHER INFORMATION CONTACT: Garth Griffin (503) 231–2005, or Chris Mobley (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

Biological information for sockeye salmon can be found in recent species status assessments by NMFS (Gustafson *et al.*, 1997; NMFS, 1999a), Washington Department of Fisheries (WDF), Washington Department of Wildlife, and Western Washington Treaty Tribes (WDF *et al.*, 1993), in species life history summaries (Pauley *et al.*, 1989; Burgner, 1991; Emmett *et al.*, 1991), and in the **Federal Register** document announcing the listing proposal (63 FR 11750, March 10, 1998).

Previous Federal ESA Actions Related to West Coast Sockeye and Petition Background

The ESA actions on sockeye salmon in the Pacific Northwest are extensive. The history of petitions received regarding this species is summarized in the proposed rule published on March 10, 1998 (63 FR 11750). This final determination was initiated in response to a petition filed by Professional Resource Organization-Salmon (PRO-Salmon) on March 14, 1994. PRO-Salmon petitioned to list Baker River sockeye salmon as well as eight populations of other species of Pacific salmon under the ESA. In response to this petition and to the more general concerns about the status of Pacific salmon throughout the region, NMFS published a document in the **Federal Register** on September 12, 1994 (59 FR 46808) announcing that the petition presented substantial scientific information indicating that a listing may be warranted and that the agency would initiate ESA status reviews for sockeye and other species of anadromous salmonids in the Pacific Northwest. The comprehensive review considered all populations in the States of Washington, Idaho, and Oregon. Hence, the status review for sockeye salmon encompassed, but was not restricted to, the population identified in the PRO-Salmon petition.

During the coastwide sockeye salmon status review, NMFS assessed the best available scientific and commercial data, including technical information from Federal, state, and tribal co-managers and other interested parties. The NMFS Biological Review Team (BRT), composed of staff from NMFS' Northwest Fisheries Science Center, reviewed and evaluated scientific information provided by the co-managers and other sources and completed a coastwide status review for sockeye salmon (Gustafson *et al.*, 1997). Early drafts of the BRT review were distributed to state and tribal fisheries managers and peer reviewers who are experts in the field to ensure that NMFS' evaluation was accurate and complete.

Based on the results of the BRT report, and after considering other information and existing conservation measures, NMFS published a proposed listing determination (63 FR 11750, March 10, 1998) which identified six ESUs of sockeye salmon in Washington. The Ozette Lake ESU was proposed for listing as a threatened species and the Baker River ESU was classified as a candidate species. NMFS concluded that the remaining four ESUs (Okanogan River, Lake Wenatchee, Quinault Lake, and Lake Pleasant ESUs) did not warrant listing proposals.

During the year between the proposed rule and this final determination, NMFS requested public comment and solicited peer and co-manager review of the agency's proposal and received comments and new scientific information concerning the status of the Ozette Lake and Baker River ESUs, as well as the status of other ESUs for which listing was deemed not warranted. NMFS also received information regarding the relationship of existing hatchery stocks to naturally spawned populations in the Ozette Lake ESU. This new information was evaluated by NMFS' BRT and published in an updated status review that draws conclusions about the delineation and risk assessment for the proposed Ozette Lake ESU (NMFS, 1998). Based on the updated NMFS status review and other information, NMFS now issues its final listing determination for the Ozette Lake ESU and conclusions regarding the candidate Baker River ESU. Copies of the NMFS status review and related documents are available upon request (see **ADDRESSES**).

Summary of Comments and Information Received in Response to the Proposed Rule

NMFS held 21 public hearings in California, Oregon, Idaho, and Washington to solicit comments on this and other salmonid listing proposals (63 FR 16955, April 7, 1998; 63 FR 30455, June 4, 1998). During the 112-day public comment period, NMFS received 8 written comments regarding the sockeye salmon proposed rule. NMFS also sought new data and analyses from tribal and state co-managers and met with them to formally discuss technical issues associated with the sockeye salmon status review. Technical information was considered by NMFS' BRT in its re-evaluation of ESU boundaries and risk assessments; this information is discussed in the updated status review of sockeye salmon (NMFS, 1998).

A number of comments addressed issues pertaining to the proposed critical habitat designation for sockeye salmon. NMFS will address these comments in a forthcoming **Federal Register** document announcing the agency's conclusions about critical habitat for the listed ESU.

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service (FWS), published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). In accordance with this policy, NMFS solicited 10 individuals to take part in

a peer review of its west coast sockeye salmon status review and proposed rule. All individuals solicited are recognized experts in the field of sockeye salmon biology, and represent a broad range of interests, including Federal, state, and tribal resource managers, and academia. Three of the 10 individuals took part in the peer review of this action; comments from peer reviewers were considered by NMFS' BRT and are summarized in the updated status review document (NMFS, 1998).

A summary of comments received in response to the proposed rule is presented here.

Issue 1: Sockeye Salmon Biology and Ecology

Comments: Several commenters and peer reviewers asserted that resident sockeye salmon (kokanee) should be included in the listed anadromous sockeye salmon ESU. Several commenters also stated that NMFS should address how the presence of kokanee populations may ameliorate risks facing anadromous populations within the listed ESU. A peer reviewer emphasized his belief that Ozette Lake kokanee should be made part of the Ozette Lake sockeye salmon ESU, despite the very large genetic distance between beach-spawning Ozette Lake sockeye salmon and Ozette Lake kokanee. This reviewer also stated, that given sufficient time and selective pressures, Ozette Lake kokanee will reintroduce the anadromous form of *Oncorhynchus nerka* (*O. nerka*) to Ozette Lake. The reviewer argued that kokanee represent the remaining tributary-spawning gene pool, and that without them, anadromous production will not expand beyond what the limited beach habitat can produce. On the other hand, another peer reviewer agreed with both the separate ESU designation for Ozette Lake sockeye salmon and with the exclusion of kokanee from this ESU, based on information presented in the status review. This reviewer also provided information (unpublished mtDNA data) on genetic relationships between the Ozette Lake ESU and selected *O. nerka* populations in Washington and British Columbia.

Response: While conclusive evidence does not yet exist regarding the relationship of resident and anadromous forms of *O. nerka*, NMFS believes available evidence suggests that resident sockeye and kokanee should not be included in listed sockeye ESUs in cases where the strength and duration of reproductive isolation would provide the opportunity for adaptive divergence in sympatry. This is demonstrated by the very large genetic differences between Ozette Lake sockeye salmon and Ozette Lake kokanee. However, where resident "kokanee-sized" *O. nerka* (potential "residual sockeye salmon") are observed spawning with, or adjacent to, sockeye salmon on spawning beaches in Ozette Lake, they are to be considered part of the Ozette Lake sockeye salmon ESU.

Several lines of evidence support comments that kokanee may produce anadromous offspring, and thus, represent a valuable life form for anadromous sockeye salmon. Under certain conditions, anadromous and resident *O. nerka* are capable of having offspring that express the alternate life history form; that is, anadromous fish can produce nonanadromous offspring, and vice versa (Ricker, 1938; Fulton and Pearson, 1981; Scott, 1984; Chapman *et al.*, 1995). However, the number of outmigrants that successfully return as adults is typically quite low. In Ozette Lake, where access to and from the ocean is relatively easy and the energetic costs of migration to and from the ocean are negligible, the sockeye salmon morphology has not been reported to occur on the tributary spawning grounds of kokanee (prior to the recent sockeye salmon stocking efforts in these tributaries). If Ozette Lake kokanee were producing anadromous outmigrants that were surviving to adulthood, individuals expressing the sockeye salmon morphology would most likely have been seen on the kokanee spawning grounds.

NMFS believes resident fish can help buffer extinction risks to an anadromous population by mitigating depensatory effects in spawning populations, by providing offspring that migrate to the ocean and enter the breeding population of sockeye salmon, and by providing a "reserve" gene pool in fresh water that may persist through times of unfavorable conditions for anadromous fish. In spite of these potential benefits, presence of resident populations is not a substitute for conservation of anadromous populations. A particular concern is isolation of resident populations by human-caused barriers to migration. This interrupts normal population dynamics and population genetic processes and can lead to loss of a genetically based trait (anadromy). As discussed in NMFS' "species identification" paper (Waples, 1991), the potential loss of anadromy in distinct population segments may, in and of itself, warrant listing the ESU as a whole.

Issue 2: Description and Status of Sockeye Salmon ESUs

Comment: Several general comments were received about the overall analytical process for delineating sockeye salmon ESUs. One peer reviewer stated that the sockeye salmon status review is incomplete because it is limited to the anadromous form only and does not include designation of kokanee ESUs. One commenter criticized NMFS' ESU concept, arguing that the ESA does not require a Distinct Population Segment (DPS) to be reproductively isolated from other conspecific populations, that it is not possible to determine evolutionary significance of an ESU with genetic data, and that the ESU concept does not properly address the ecological significance of a DPS. Additionally, a peer reviewer stated that his unpublished analysis of mtDNA haplotype data for several populations of sockeye salmon in Washington does not, in general, support the "decision to define ESUs at the lake level" although he recognized the observed genetic differentiation of sockeye salmon in Washington, as shown by allozyme data.

Response: Regarding the identification of ESUs, NMFS relies on a policy describing how it will apply the ESA definition of "species" to anadromous salmonid species (56 FR 58612, November 20, 1991). More recently, NMFS and FWS published a joint policy defining DPSs (61 FR 4722, February 7, 1996). The earlier policy is more detailed and applies specifically to Pacific salmonids and, therefore, was used for this determination. This policy states that one or more naturally reproducing salmonid populations will be considered to be distinct and, hence, species under the ESA, if they represent an ESU of the biological species. To be considered an ESU, a population must satisfy two criteria: (1) It must be reproductively isolated from other population units of the same species, and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute, but must have been strong enough to permit evolutionarily important differences to occur in different population units. The second criterion is met if the population contributes substantially to the ecological or genetic diversity of the species as a whole. Guidance on applying this policy is contained in a NOAA Technical Memorandum entitled "Definition of 'Species' Under the Endangered Species Act: Application to Pacific Salmon" (Waples, 1991) and in

a recent scientific paper by Waples (1995).

The National Research Council (NRC) has recently addressed the issue of defining species under the ESA (NRC, 1995). Their report found that protecting DPSs is soundly based on scientific evidence, and recommends applying an "Evolutionary Unit" (EU) approach in describing these segments. The NRC report describes the high degree of similarity between the EU and ESU approaches (differences being largely a matter of application between salmon and other vertebrates), and concluded that either approach would lead to similar DPS descriptions most of the time.

Comment: One commenter criticized NMFS' risk assessment approach, arguing that NMFS' evaluation of risks from artificial propagation was arbitrary, and that the overall risk assessment is fundamentally flawed due to an absence of references to standard conservation biology literature (particularly that on risk assessment methods), a lack of unambiguous criteria for risk, the lack of quantitative population modeling, and the use of subjective opinion within the risk matrix approach.

Response: For nearly a decade, NMFS scientists have been conducting salmonid status reviews under the ESA using a risk assessment approach that includes an evaluation of: (1) absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); and (6) recent events (e.g., a drought or changes in harvest management) that have predictable short-term consequences for abundance of the ESU. In determining whether an ESU is threatened or endangered, BRT scientists must make judgements about the overall risk to the ESU based on likely interactions among, and cumulative effects of, these various status indicators. NMFS acknowledges that some elements of the agency's approach are inherently subjective (e.g., forecasting effects of natural risk factors). Still, NMFS believes that its approach to making listing determinations is scientifically credible and invites any constructive suggestions on ways to improve risk assessments under the ESA.

Comment: One commenter disagreed with the BRT's conclusion that the Okanogan River and Lake Wenatchee ESUs are near historic abundance levels. They cited evidence that total Columbia Basin sockeye salmon run size may have exceeded 4,000,000 fish at a time when the Okanogan Basin had 41 percent of the accessible lake rearing area in the Columbia Basin, and suggest that historical Okanogan River escapement was probably in excess of 1,000,000 fish (not the 12,000 fish suggested in the status review). Further, they commented that the status of the Wenatchee stock is of particular concern, with a recent steep decline and very low escapements despite negligible downstream harvest. The Okanogan stock has also exhibited a steep recent decline, and both stocks have poor prospects for 1999 runs.

Response: Despite finding that these populations did not warrant ESA protection at the conclusion of the initial status review for west coast sockeye salmon, NMFS sought additional information regarding the status of Okanogan River and Lake Wenatchee sockeye salmon ESUs in the updated status review (NMFS, 1998). NMFS agrees that the recent trends in abundance are of concern and the agency intends to closely monitor these ESUs.

Comment: One commenter questioned the genetic integrity of the Ozette Lake sockeye salmon ESU and, thus, its designation as a separate species under the ESA. Based on the introduction of non-native sockeye salmon (Quinault Lake sockeye salmon were stocked in 1982) and sockeye salmon/kokanee hybrids (released in 1991 and 1992), this commenter stated that at issue is "whether the non-native population has bred with the native population to such an extent that the evolutionarily important adaptations that distinguished the original population have been lost." He suggested that more research is needed to better determine the proper limits of the Ozette Lake sockeye salmon ESU before determining that the ESU warrants listing.

Response: The history of artificial propagation in the Ozette Lake basin is extensive. All releases prior to 1983 were single, large, plantings of out-of-basin sockeye. It is unlikely that these practices resulted in the loss of genetic fitness and unique adaptations of the historic Ozette Lake sockeye salmon population. NMFS will work with hatchery managers in the Ozette Lake ESU to ensure that current artificial propagation practices are conducted in a manner that will not result in the loss of genetic characteristics or adaptive traits.

Issue 3: Factors Contributing to the Decline of West Coast Sockeye Salmon

Comment: Many commenters identified factors they believe have contributed to the decline of west coast sockeye salmon. Factors identified include overharvest by commercial fisheries, predation by pinnipeds and piscivorous fish species, effects of artificial propagation, and the deterioration or loss of freshwater and marine habitats. Despite concurrence with NMFS' assessment of the risk factors facing Ozette Lake sockeye salmon, one peer reviewer questioned the consistency of statements regarding siltation in tributaries as a cause of sockeye salmon decline compared to statements regarding abundance of kokanee, which would also presumably be affected by such siltation. Another peer reviewer argued that listing was not warranted for this ESU because the dominant brood years in the four-year abundance cycle (1984, 1988, 1992 and 1996) are stable, not declining. He also commented that risk was decreasing, not increasing, so becoming endangered in the future is not likely. As evidence of decreasing risk, he noted that the lake is protected within Olympic National Park, the watershed is recovering from logging in the 1960s and 1970s, lake rearing habitat is not limiting, and there is no longer any tribal harvest. In addition, a review panel was unable to determine which factors were responsible for any decline in Ozette Lake sockeye salmon. This reviewer also commented that the genetic effects of hatchery production are misrepresented in the status review.

Response: NMFS agrees that a multitude of factors, past and present, have contributed to the decline of west coast sockeye salmon. NMFS also recognizes that natural environmental fluctuations have likely played a role in the species' recent decline in abundance. However, NMFS believes other human-induced impacts (e.g., incidental catch in certain fisheries, hatchery practices, and habitat modification) have played an equally significant role in this species' decline. Moreover, these human-induced impacts have likely reduced the species' resiliency to such natural factors for decline as drought and poor ocean conditions (NMFS 1996a).

For the Ozette Lake ESU, risks perceived by the BRT were focused on low current abundance and trends and variability in abundance; current escapements average below 1,000 adults per year, implying a moderate degree of risk from small-population genetic and demographic variability with little room for further declines before abundances

reach critically low levels. Other concerns include siltation of beach spawning habitat, very low abundance now compared to harvests in the 1950s, and potential genetic effects of past interbreeding with genetically dissimilar kokanee.

With respect to predation issues raised by some commenters, it is worth noting that NMFS published reports recently describing the impacts of California sea lions and Pacific harbor seals upon salmonids on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1997 and 1999). These reports conclude that in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. These reports further conclude that data regarding pinniped predation are quite limited, and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS, 1997 and 1999).

Comment: Two commenters questioned NMFS' interpretation of population trends, arguing that the main decline in abundance occurred between 1948 and 1958, and that populations have not declined substantially since then. They noted that declines cited by NMFS were not statistically significant, and that an analysis of the four individual brood cycles (4-year lags) shows two increasing and two declining. They argue that there is a consistent strong run every 4 years indicating that the population is no longer declining significantly. They also provided new information on the history of logging in the Ozette Lake Basin, noting that the main population declines occurred before there was substantial logging in the basin. They argue that overharvest at sea could be a major limiting factor, and that sockeye salmon tributary spawning may have been eliminated by harvest practices focusing on the early part of the run. Finally, they contended that re-establishment of tributary spawning by anadromous fish is limited by the genetic capacity of remaining lake-spawning fish.

Response: Although Ozette Lake sockeye salmon populations were heavily harvested in fisheries prior to the most extensive timber harvest activities in the watershed, the impacts of intense and frequent timber harvest and associated road building (conducted prior to state regulation of forest practices) in the watershed in the years following the high fishery harvest events have been extensively documented; these forest practice activities have no doubt contributed to the widespread sedimentation of key portions of lake tributaries, lakeshore spawning beaches, and outwash fans. Timber harvest and road building may not have caused the declining sockeye salmon abundance, but have contributed to the failure of Ozette Lake sockeye populations to rebuild since the cessation of commercial sockeye salmon harvests in 1974 (there has been no direct sockeye harvest of any kind since 1982). Additionally, although there is a single strong brood-year, the ESU as a whole faces significant risks due to the weakness of the other brood-year returns.

Issue 4: Designation of Baker River Sockeye Salmon as a Candidate Species

Comment: One peer reviewer and a commenter contended that the Baker River ESU should not be a candidate for listing, although their arguments were based on different considerations. The peer reviewer argued that because the Baker Lake spawning beaches are essentially a hatchery, this is not a natural stock, and, therefore, is not subject to the ESA. He also argued that although human intervention may pose a risk to long-term evolution of the population, it will be required for the run to continue. Alternatively, both the peer reviewer and commenter believed that abundance and trends do not demonstrate high risk, and that the artificial spawning beaches are highly productive, producing very high numbers of fry per female. Finally, they commented that water quality and disease are not serious concerns.

Response: Concerns over these issues prompted NMFS to conduct a renewed evaluation of Baker River sockeye salmon status in the year since publication of the proposed rule. As a result of this review, NMFS determined that continued significant increases in abundance since the status review eased concerns over the risks facing this population. NMFS acknowledges that significant human intervention is required to maintain the productivity of this ESU. Although changes in the suite of activities could pose risks to this population, NMFS concludes that Baker River sockeye salmon are increasing substantially and that listing is not warranted.

Issue 5: Consideration of Existing Conservation Measures

Comment: Several commenters argued that NMFS had not considered existing conservation programs designed to enhance sockeye salmon stocks within particular ESUs. Some commenters provided specific information on some of these programs to NMFS concerning the efficacy of existing conservation plans.

Response: NMFS has reviewed existing conservation plans and measures relevant to the ESUs addressed in this final rule and concludes that existing conservation efforts in some cases have helped ameliorate risks facing the species. Some of these conservation efforts are discussed here in "Existing Conservation Efforts."

While several of the conservation plans addressed in the comments received show promise for ameliorating risks facing sockeye salmon, some of the measures described in comments have not been implemented. Some of these measures are also geographically limited to individual river basins or political subdivisions, thereby improving conditions for only a small portion of the entire ESU. Some of these measures are not mature enough to accurately measure their efficacy in protecting or restoring the sockeye salmon populations that are the subject of this determination.

Summary of Factors Affecting Sockeye Salmon

Section 4(a)(1) of the ESA and NMFS listing regulations (50 CFR part 424) set forth procedures for listing species. The Secretary of Commerce must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

The factors threatening naturally spawned sockeye salmon throughout the species' range are numerous and varied. The present depressed condition of many populations is the result of human-induced factors (e.g., incidental harvest in certain fisheries, hatchery practices, and habitat modification) that serve to exacerbate the adverse effects of natural factors (e.g., competition and predation) or environmental variability

from such factors as drought and poor ocean conditions.

As noted previously, the comments received regarding the relative importance of various risk factors contributing to the decline of sockeye salmon essentially reinforce NMFS' description of factors in the listing proposal. A summary of these factors and their role in the decline of the Ozette Lake ESU is presented in NMFS' March 10, 1998, **Federal Register** document (63 FR 11750), as well as several documents in the agency's west coast sockeye salmon administrative record (WDF *et al.*, 1993; Gustafson *et al.*, 1997; NMFS, 1999).

Efforts Being Made to Protect West Coast Sockeye Salmon

Under section 4(b)(1)(A) of the ESA, the Secretary of Commerce is required to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made to protect a species. During the status review for west coast sockeye salmon and for other salmonids, NMFS reviewed protective efforts ranging in scope from regional strategies to local watershed initiatives; some of the major efforts are summarized in the March 10, 1998, proposed rule (63 FR 11774). Since then, NMFS has received little new information regarding these or other efforts being made to protect sockeye salmon. Notable efforts within the range of the Ozette Lake ESU continue to be the Northwest Forest Plan (NFP), Washington Wild Stock Restoration Initiative, and Washington Wild Salmonid Policy.

In addition, a recovery planning group composed of the Makah and Quileute Indian Tribes, the National Parks Service, and Washington Department of Fish and Wildlife has recently initiated a collaborative planning effort to determine how to increase the abundance of naturally spawning Ozette Lake sockeye salmon to historic and self-sustaining population levels. NMFS and FWS will assist this effort, and other state agencies and interested parties will be invited to participate. The Makah tribe, which has operated a supplementation program in Ozette Lake since the early 1980's, is contributing a draft supplementation plan as a starting point for the planning group.

While NMFS recognizes that many of the ongoing protective efforts are likely to promote the conservation of Ozette Lake sockeye salmon and other salmonids, some are very recent and few address conservation at a scale that is adequate to protect and conserve the Ozette Lake ESU. NMFS concludes that existing protective efforts are inadequate to preclude a listing for this ESU. However, NMFS will continue to encourage these and future protective efforts and will work with Federal, state, and tribal fisheries managers to evaluate, promote, and improve efforts to conserve sockeye and other salmon populations.

Determination

Section 3 of the ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that listing determinations be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made to protect such species.

Ozette Lake Sockeye Salmon ESU - Based on results from its coastwide status review for sockeye salmon, and after taking into account comments and new information described earlier, NMFS concludes that the Ozette Lake ESU should be classified as threatened under the ESA. The majority of the NMFS BRT concluded that this ESU is likely to become endangered in the foreseeable future if present conditions continue. Furthermore, NMFS concludes that current protective efforts are insufficient to change the BRT's forecast of extinction risk.

In the listed Ozette Lake ESU, all naturally spawned populations of sockeye salmon residing below impassable natural barriers (e.g., long-standing, natural waterfalls) are listed as threatened. NMFS' intent in listing only "naturally spawned" populations is to protect sockeye salmon stocks that are indigenous to (i.e., part of) the ESU. In this listing determination NMFS has identified non-indigenous populations that co-occur with fish in the listed ESU. The agency recognizes the difficulty of differentiating between indigenous and non-indigenous fish, especially when the latter are not readily distinguishable with a mark (e.g., fin clip). Also, matings in the wild of either type would generally result in progeny that would be treated as listed fish (i.e., they would have been naturally spawned in the geographic range of the listed ESU and have no distinguishing mark). Therefore, to reduce confusion regarding which sockeye salmon are considered listed within the ESU, NMFS will treat all naturally spawned fish as listed for purposes of the ESA. Efforts to determine the conservation status of the ESU would similarly focus on the contribution of indigenous fish to the listed ESU. It should be noted that NMFS will take actions necessary to minimize or prevent non-indigenous sockeye salmon from spawning in the wild unless the fish are specifically part of a recovery effort.

NMFS has examined the relationship between hatchery and natural populations of sockeye salmon in this ESU, and has assessed whether any hatchery populations are essential for their recovery. In examining this relationship, NMFS scientists consulted with hatchery managers to determine whether any hatchery populations are similar enough to native, naturally spawned fish to be considered part of the biological ESU (NMFS, 1999a). The evaluation also considered whether any hatchery population should be considered essential for the recovery of a listed ESU. NMFS concludes that the sockeye salmon stock reared at Umbrella Creek Hatchery should be considered part of the Ozette Lake ESU, based on the fact that broodstock are derived from wild beach-spawning adults and that hatchery stock is not perpetuated by spawning fish returning to the hatchery. NMFS also concludes that the Umbrella Creek Hatchery stock is not essential for recovery. NMFS' opinion on this second question was influenced by the presence of significant numbers of sockeye salmon still spawning naturally on Olsen's Beach and in Allen's Bay in Ozette Lake; these fish could be used in recovery efforts. NMFS also concludes that if progeny of the sockeye salmon/kokanee hybrid stock reared at Umbrella Creek Hatchery still exist, they should not be considered part of the ESU. This decision was based on the wide genetic divergence of Ozette Lake stream-spawning kokanee and beach-spawning sockeye salmon and the likelihood that hybrids of these stocks would resemble neither of the native *O. nerka* stocks in Ozette Lake.

The determination that a hatchery stock is not "essential" for recovery does not preclude it from playing a role in recovery. Any hatchery population that is part of the ESU is available for use in recovery if conditions warrant. In this context, an "essential" hatchery population is one that is vital to incorporate into recovery efforts (for example, if the associated natural population(s) were extinct or at high risk of extinction). Under such circumstances, NMFS would consider taking the administrative action of listing existing hatchery fish.

NMFS' "Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act" (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, "progeny of fish from the listed species that are propagated artificially are considered part of the listed species and are protected under the ESA." (58 FR 17573, April 5, 1993). In the case of the Umbrella Creek Hatchery stock, the protective regulations that NMFS will issue shortly may except take of naturally spawned listed fish for use as broodstock as part of an overall conservation program. According to the interim policy, the progeny of these hatchery-wild or wild-wild crosses would also be listed. Given the requirement for an acceptable conservation plan as a prerequisite for collecting broodstock, NMFS determines that it is not necessary to consider the progeny of intentional hatchery-wild or wild-wild crosses as listed.

In addition, NMFS believes it is desirable to incorporate naturally spawned fish into the hatchery population to ensure that genetic and life history characteristics do not diverge significantly from the natural population's. NMFS therefore concludes that it is not inconsistent with NMFS' interim policy, nor with the policy and purposes of the ESA, to consider these progeny as part of the ESU but not listed.

Baker River Sockeye Salmon ESU - For the reasons described in the March 10, 1998, proposed rule (63 FR 11750) and earlier in this document, NMFS concludes that the Baker River sockeye salmon ESU is not presently in danger of extinction, nor is it likely to become endangered in the foreseeable future if present conditions continue. NMFS will no longer classify this ESU as a candidate species.

Other Sockeye Salmon ESUs - While other ESUs and populations were not extensively reviewed at this time, NMFS did review updated trend information for the Lake Wenatchee and Okanogan River ESUs. Based on this new information, NMFS is concerned about the status of the Okanogan River and Lake Wenatchee ESUs, and will continue to closely monitor their status.

Prohibitions and Protective Measures

Section 4(d) of the ESA requires NMFS to issue protective regulations that it finds necessary and advisable to provide for the conservation of a threatened species. Section 9(a) of the ESA prohibits violations of protective regulations for threatened species promulgated under section 4(d). The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. These 9(a) prohibitions and 4(d) regulations apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. NMFS will publish 4(d) protective regulations for the listed Ozette Lake sockeye salmon ESU in a separate **Federal Register** document. The process for completing the 4(d) rule will provide the opportunity for public comment on the proposed protective regulations.

In the case of threatened species, NMFS also has flexibility under section 4(d) to tailor the protective regulations based on the contents of available conservation measures. Even though existing conservation efforts and plans are not sufficient to preclude the need for listing at this time, they are nevertheless valuable for improving watershed health and restoring salmon populations. In those cases where well-developed and reliable conservation plans exist, NMFS may choose to incorporate them into the protective regulations and recovery plans. NMFS has already adopted 4(d) protective regulations that excepts a limited range of activities from general section 9 take prohibitions. For example, the interim 4(d) rule for Southern Oregon/Northern California Coasts coho salmon (62 FR 38479, July 18, 1997) excepts habitat restoration activities conducted in accordance with approved plans and fisheries conducted in accordance with an approved state management plan. In the future, 4(d) rules may except from take prohibitions activities identified in conservation plans governing such activities as forestry, agriculture, and road construction when such activities are conducted in accordance with the plans.

These are all examples where NMFS may apply modified section 9 prohibitions in light of the protections provided in a conservation plan that is adequately protective. There may be other circumstances as well in which NMFS would use the flexibility of section 4(d). For example, in some cases there may be a healthy population within an overall ESU that is listed. In such a case, it may not be necessary to apply the full range of prohibitions available in section 9. NMFS intends to use the flexibility of the ESA to respond appropriately to the biological condition of each ESU and to the strength of efforts to protect it.

Section 7(a)(4) of the ESA requires that Federal agencies confer with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) of the ESA requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions likely to affect sockeye salmon in the listed ESU include authorized land management activities (e.g., timber sales and harvest) of the U.S. Forest Service (USFS). Federal actions, including the Army Corps of Engineers (COE) section 404 permitting activities under the Clean Water Act, COE permitting activities under the River and Harbors Act, National Pollution Discharge Elimination System permits issued by the Environmental Protection Agency, highway projects authorized by the Federal Highway Administration, and Federal Energy Regulatory Commission licenses for non-Federal development and operation of hydropower, may also require consultation. These actions will likely be subject to ESA section 7 consultation requirements that may result in conditions designed to achieve the intended purpose of the project and avoid or reduce impacts to sockeye salmon and its habitat within the range of the listed ESU.

There are likely to be Federal actions ongoing in the range of the listed ESUs at the time these listings become effective. Therefore, NMFS will review all ongoing actions that may affect the listed species with Federal agencies and will complete formal or informal consultations, where requested or necessary, for such actions pursuant to ESA section 7(a)(2).

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's "take" prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves a directed take of listed species.

NMFS has issued section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon and Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging, electroshocking to determine population presence and abundance, removal of fish from irrigation ditches, and collection of

adult fish for artificial propagation programs. NMFS is aware of sampling efforts for sockeye in the listed ESU. These and other research efforts could provide critical information regarding sockeye salmon distribution and population abundance.

Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the release of artificially propagated fish by tribal, state or privately operated and funded hatcheries, state or university research on species other than sockeye salmon not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on non-Federal lands.

Take Guidance

On July 1, 1994, (59 FR 34272) NMFS and FWS published a policy committing the Services to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and on-going activities within the species' range. NMFS believes that, based on the best available information, the following actions will not result in a violation of section 9: (1) Possession of sockeye salmon from the listed ESU acquired lawfully by permit issued by NMFS pursuant to section 10 of the ESA, or by the terms of an incidental take statement pursuant to section 7 of the ESA; and (2) federally funded or approved projects that involve such activities as silviculture, grazing, mining, road construction, dam construction and operation, discharge of fill material, stream channelization or diversion for which a section 7 consultation has been completed, and when such an activity is conducted in accordance with any terms and conditions provided by NMFS in an incidental take statement accompanied by a biological opinion pursuant to section 7 of the ESA. As described previously in this notice, NMFS may adopt 4(d) protective regulations that except other activities from section 9 take prohibitions for threatened species.

Activities that NMFS believes could potentially harm, injure or kill sockeye salmon in the listed ESU and result in a violation of section 9 include, but are not limited to: (1) Land-use activities that adversely affect sockeye salmon habitat in this ESU (e.g., logging, grazing, farming, road construction in riparian areas, and areas susceptible to mass wasting and surface erosion); (2) diverting water through an unscreened or inadequately screened diversion at times when juvenile sockeye salmon are present; (3) physical disturbance or blockage of the streambed or lakeshore where spawners or redds are present concurrent with the disturbance. The disturbance could be mechanical disruption from creating push-up dams, gravel removal, mining, or other work within a stream channel, trampling or smothering of redds by livestock in the streambed, driving vehicles or equipment across or down the streambed, and similar physical disruptions; (4) discharges or dumping of toxic chemicals or other pollutants (e.g., sewage, oil, gasoline) into waters or riparian areas supporting the listed sockeye salmon; (5) pesticide and herbicide applications; (6) blocking fish passage through fills, dams, or impassable culverts; (7) interstate and foreign commerce of listed sockeye salmon and import/export of listed sockeye salmon without an ESA permit, unless the fish were harvested pursuant to this rule; (8) collecting or handling of listed sockeye salmon (permits to conduct these activities are available for purposes of scientific research or to enhance the propagation or survival of the species); and (9) introduction of non-native species likely to prey on listed sockeye salmon or displace them from their habitat. This list is not exhaustive. It is intended to provide some examples of the types of activities that might or might not be considered by NMFS as constituting a take of listed sockeye salmon under the ESA and its regulations. Questions regarding whether specific activities will constitute a violation of this rule, and general inquiries regarding prohibitions and permits, should be directed to NMFS (see **ADDRESSES**).

Effective Date of Final Listing

Given the cultural, scientific, and recreational importance of this species, and the broad geographic range of this listing, NMFS recognizes that numerous parties may be affected by this listing. Therefore, to permit an orderly implementation of the consultation requirements associated with this action, this final listing will take effect May 24, 1999.

Conservation Measures

Conservation benefits are provided to species listed as endangered or threatened under the ESA through increased recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Increased recognition through listing promotes public awareness and conservation actions by Federal, state, and local agencies, private organizations, and individuals.

Several conservation efforts are underway that may reverse the decline of west coast sockeye salmon and other salmonids. NMFS is encouraged by these significant efforts, which could provide all stakeholders with an approach to achieving the purposes of the ESA (i.e., protecting and restoring native fish populations and the ecosystems upon which they depend) that is less regulatory. NMFS will continue to encourage and support these initiatives as important components of recovery planning for sockeye salmon and other salmonids.

To succeed, protective regulations and recovery programs for sockeye salmon will need to focus on conserving aquatic ecosystem health. NMFS intends that Federal lands and Federal activities play a primary role in preserving listed populations and the ecosystems upon which they depend. However, throughout the range of the listed ESUs, sockeye salmon habitat occurs and can be affected by activities on state, tribal or private land.

Conservation measures that could be implemented to help conserve the species are listed here (the list is generalized and does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA). Progress on some of these is being made to differing degrees in specific areas.

1. Measures could be taken to promote practices that are more protective of (or restore) sockeye salmon habitat across a variety of land and water management activities. Activities affecting this habitat include timber harvest; agriculture; livestock grazing and operations; pesticide and herbicide applications; construction and urban development; road building and maintenance; sand and gravel mining; stream channelization; dredging and dredged spoil disposal; dock and marina construction; diking and bank stabilization; irrigation withdrawal, storage, and management; mineral mining; wastewater/pollutant discharge; wetland and floodplain alteration; habitat restoration projects; and woody debris/structure removal from rivers and estuaries. Each of these activities could be modified to ensure that watersheds and specific river reaches are adequately protected in the short- and long-terms.

2. Fish passage could be restored at barriers to migration through the installation or modification of fish ladders, upgrade of culverts, or removal of barriers.

3. Harvest regulations could be modified to protect listed sockeye salmon populations.

4. Artificial propagation programs could be modified to minimize negative impacts (e.g., genetic introgression, competition, disease, etc.) upon native populations of sockeye salmon.

5. Predator control/relocation programs could be implemented in areas where predators pose a significant threat to sockeye salmon.

6. Measures could be taken to improve monitoring of sockeye salmon populations and their habitat.

7. Federal agencies such as the USFS, U.S. Bureau of Land Management, Federal Energy Regulatory Commission, U.S. Army Corp of Engineers, U.S. Department of Transportation, and U.S. Bureau of Reclamation could review their management programs and use their discretionary authorities to formulate conservation plans pursuant to section 7(a)(1) of the ESA.

NMFS encourages non-Federal landowners to assess the impacts of their actions on threatened or endangered salmonids. In particular, NMFS encourages state and local governments to use their existing authorities and programs, and encourages the formation of watershed partnerships to promote conservation in accordance with ecosystem principles. These partnerships will be successful only if state, tribal, and local governments, landowner representatives, and Federal and non-Federal biologists all participate and share the goal of restoring salmon to the watersheds.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Section 4(b)(6)(C)(ii) provides that, where critical habitat is not determinable at the time of final listing, NMFS may extend the period for designating critical habitat by not more than one additional year.

In the proposed rule (63 FR 11774, March 10, 1998), NMFS described the areas that may constitute critical habitat for the Ozette Lake sockeye salmon ESU. Since then, NMFS has received numerous comments from the public concerning the process and definition of critical habitat for sockeye salmon and other salmonids. Also, due to statutory time limitations, NMFS has not yet consulted with affected Indian tribes regarding the designation of critical habitat in areas that may affect tribal trust resources, tribally owned fee lands, or the exercise of tribal rights.

Given these remaining unresolved issues, NMFS determines at this time that a final critical habitat designation is not determinable for this ESU since additional time is required to complete the needed biological assessments and evaluate special management considerations affecting critical habitat. The agency therefore extends the deadline for designating critical habitat for 1 year until such assessments can be made and after appropriate consultations are completed.

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F.2d 825 (6th Cir. 1981), NMFS has categorically excluded all ESA listing actions from environmental assessment requirements of the National Environmental Policy Act (NEPA) under NOAA Administrative Order 216–6.

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. In addition, this final rule is exempt from review under E.O. 12866.

This rule has been determined to be major under the Congressional Review Act (5 U.S.C. 801 *et seq.*)

At this time NMFS is not promulgating protective regulations pursuant to ESA section 4(d). In the future, prior to finalizing its 4(d) regulations for the threatened sockeye salmon ESU, NMFS will comply with all relevant NEPA and RFA requirements.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**) and can also be obtained from the internet at www.nwr.noaa.gov.

Change in Enumeration of Threatened Species

In the proposed rule issued on March 10, 1998 (63 FR 11750), Ozette Lake sockeye salmon was designated the letter (o) in § 227.4. Since March 10, NMFS has issued a final rule consolidating and reorganizing existing regulations regarding implementation of the ESA. In this reorganization, § 227.4 has been redesignated, as § 223.102(a), therefore, Ozette Lake sockeye salmon is designated in this final rule as paragraph (a) (20) in § 223.102(a). The regulatory text of the proposed rule remains unchanged in this final rule.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: March 15, 1999.

Andrew A. Rosenberg, Ph.D.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 223 is amended as follows:

PART 223–THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 223.102, paragraph (a)(19) is added to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(a) * * *

(19) Ozette Lake sockeye salmon (*Oncorhynchus nerka*). Includes all naturally spawned populations of sockeye salmon in Ozette Lake and streams and tributaries flowing into Ozette Lake, Washington.

* * * * *

[FR Doc. 99–6813 Filed 3–24–99; 8:45 am]

BILLING CODE 3510–22–F

federal register

Thursday
March 25, 1999

Part III

Department of Labor

Office of the Secretary

29 CFR Parts 96 and 99

Audit Requirement: Grants, Contacts and Other Agreements and States, Local Governments, and Non-Profit Organizations; Interim Final Rules

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Parts 96 and 99

RIN 1291–AA26 and 1291–AA27

Audit Requirements: Grants, Contracts, and Other Agreements and States, Local Governments, and Non-Profit Organizations

AGENCY: Office of the Secretary, Labor.

ACTION: Interim final rules; request for comment.

SUMMARY: The Department of Labor hereby revises its regulation on "Audit Requirements For Grants, Contracts, and Other Agreements," to ensure consistency with previously published amendments to "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations" and "Uniform Administrative Requirements for Grants, and Cooperative Agreements to State and Local Governments." In addition, "Audits of States, Local Governments, and Non-Profit Organizations," is published as a new regulation which codifies in (DOL) regulations the revised Office of Management and Budget (OMB) Circular A–133 in its entirety.

DATES: This rule will be effective on March 25, 1999. Written or electronic comments are invited on this Interim Final Rule. All written or electronic comments submitted on or before May 24, 1999 will be considered. Appropriate changes to the regulations will be made when the Final Rule is published, which adopts this interim rule as final.

ADDRESSES: Send written comments to Al Stewart, Director, Office of the Acquisition Advocate, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–1522, Washington, D.C. 20210. Send electronic comments to: Stewart-Milton@dol.gov.

FOR FURTHER INFORMATION CONTACT: Al Stewart, Director, Office of the Acquisition Advocate, telephone number (202) 693–4025, facsimile (202) 693–4019.

SUPPLEMENTARY INFORMATION: The Single Audit Act Amendments of 1996, (Public Law 104–156, 110 Stat. 1396), and the June 24, 1997, revision of OMB Circular A–133, "Audits of States, Local Governments, and Non-Profit Organizations" (62 FR 35278, June 30, 1997), required agencies to adopt in codified regulations the standards in the revised Circular A–133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised Circular A–133 co-located audit requirements for States, local governments, and non-profit organizations. As a consequence, OMB rescinded OMB Circular A-128, "Audits of State and Local Governments." On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance. Amendments to 29 CFR 96 are required to ensure continuity and ameliorate conflicts with provisions of 29 CFR Parts 95 and 97.

EFFECTIVE DATE AND ABSENCE OF NOTICE AND COMMENT: The Office of the Assistant Secretary for Administration and Management (OASAM) has determined that pursuant to the Administrative Procedure Act, the Single Audit Act Amendments of 1996, and the revised OMB Circular A–133, which provide standards applicable to non-Federal entities, are effective for audits of fiscal years beginning after June 30, 1996, provides good cause for waiving the customary requirement to delay the effective date of a final rule for 30 days following its publication. Accordingly, the issuance of a proposed rule, which would delay the effective date of a final rule for 30 days, would be contrary to the public interest. This Interim Final Rule sets a comment period to elicit any concerns raised by the Rule. OASAM has limited the comment period to 60 days so that input is received in time for the Agency to develop any revisions and promulgate a final rule to allow for the expeditious incorporation of the grants common rules at CFR Parts 95 and 97 and the new regulation at CFR Part 99.

I. Regulatory Procedures

Executive Order 12866

Executive Order 12866 requires that a regulatory impact analysis be prepared for "major" rules, which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. This modification will not have an annual impact of $100 million or more or the other effects listed in the Order. However, the interim final rule would result in some savings to organizations administering grants or subgrants, primarily due to the increase in the threshold (from $25,000 to $300,000) that triggers an audit requirement. In addition, the due date for submission of the audit report by auditors has been reduced from 13 to 9 months. For these reasons, the participating agencies have determined that this interim final rule would not create a major rule within the meaning of the Order.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis must be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities. This interim final rule will not have a significant economic impact on a substantial number of small entities. The interim final rule does not affect the amount of funds provided in the covered programs, but rather increases the threshold for non-Federal entities subject to audit, thereby reducing burden on some small entities. The Assistant Secretary of the Office for Administration and Management has certified to this effect to the Chief Counsel for the Advocacy of the Small Business Administration.

Unfunded Mandates Act of 1995

The Unfunded Mandates Act of 1995 (Pub. L. 104–4) requires agencies to prepare several analytic statements before proposing any rule that may result in annual expenditures of $100 million of State, local, and Indian tribal governments or the private sector. Since this interim final rule will not result in expenditures of this magnitude, such statements are not necessary.

Paperwork Reduction Act

This interim final rule will impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) after OMB finalizes the new SF–SAC, "Data Collection Form for Reporting on Audits of States, Local Governments, and Non-Profit Organizations." On June 30, 1997, OMB requested public comments on the proposed SF–SAC (62 FR 35302).

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

II. Congressional Notification

Consistent with the Small Business Regulatory Enforcement Fairness Act of 1996, the Department will submit to Congress a report regarding the issuance of the final rule prior to the Effective Date set forth in the outset of this document. The report will note the Office of Management and Budget's determination that this rule does not constitute a "major rule" under the Act. 5 U.S.C. 801, 805.

List of Subjects

29 CFR Part 96

Accounting, Audit requirements, Contract programs, Grant programs, Reporting and recordkeeping.

29 CFR Part 99

Accounting, Audit requirements, Contract programs, Grant programs, Reporting and recordkeeping requirements.

For the reasons delineated in the preamble, Subtitle A of Title 29 of the Code of Federal Regulations is amended by revising Part 96 and by adding Part 99, as follows:

PART 96—AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Sec.

96.0 Purpose and scope of part.
96.1 Terminology.

Subpart A—Audits of States, Local Governments, and Non-profit Organizations

96.11 Purpose and scope of subpart.
96.12 Audits requirements.

Subpart B—[Reserved]

Subpart C—Audits of Entities Not Covered by Subpart A

96.31 Purpose and scope of subpart.
96.32 Audit requirement.

Subpart D—Access to Records, Audit Standards, and Relation of Organization-wide Audits to Other Audit Requirements

96.41 Access to records.
96.42 Audit standards.
96.43 Relation of organization-wide audits to other audit requirements.

Subpart E—Audit Resolution

96.51 Purpose and scope of subpart.
96.52 Pre-resolution phase activities.
96.53 Audit resolution generally.
96.54 Responsibility for subrecipient audits.

Subpart F—Appeals

96.61 Purpose and scope of subpart.
96.62 Contracts.
96.63 Federal financial assistance.

Authority: 31 U.S.C. 7500 *et seq.*; and OMB Circular No. A–133.

§ 96.0 Purpose and scope of part.

This part identifies the audit requirements for recipients and subrecipients of Department of Labor (DOL) awards and contains DOL's procedures for the resolution of audits. It applies to all grants and contracts and other Federal awards provided by or on behalf of the DOL.

§ 96.1 Terminology.

As used in this part, the terms "Federal award," "Federal financial assistance," "recipient," and "subrecipient" have the same meanings as the definitions in 29 CFR 99.105 of this title.

Subpart A—Audits of States, Local Governments, and Non-profit Organizations

§ 96.11 Purpose and scope of subpart.

The regulations in this subpart and in 29 CFR part 99 implement Office of Management and Budget (OMB) Circular A–133, "Audits of States, Local Governments, and Non-Profit Organizations," which was issued pursuant to The Single Audit Act Amendments of 1996 (Act). The Act builds upon earlier efforts to improve audits of Federal financial assistance programs. This subpart establishes uniform audit requirements and policy for recipients and subrecipients that receive Federal financial assistance from DOL.

§ 96.12 Audit requirements.

(a) Organizations covered by this subpart are responsible for arranging for independent audits that meet the requirements of this section.

(b) The audit requirements contained in 29 CFR part 99 shall be followed for audits of all fiscal years beginning after June 30, 1996.

(c) Except as provided in paragraph (d) of this section, the audit requirements applicable to earlier fiscal years under regulations and award conditions in force when the awards were made shall continue in force.

(d) The Secretary or his/her designee may provide written notice to recipients/subrecipients subject to paragraph (c) of this section directing them to follow the requirements of 29 CFR 99.320, which provides for submission of audit data collection forms and reporting packages to a Federal clearinghouse designated by OMB.

Subpart B—[Reserved]

Subpart C—Audits of Entities Not Covered by Subpart A

§ 96.31 Purpose and scope of subpart.

This subpart prescribes the requirement for audits of recipients, subrecipients, contractors, and subcontractors that receive funds from the DOL and are not covered by subpart A.

§ 96.32 Audit requirement.

The Secretary of Labor is responsible for the survey, audit or examination of recipients, subrecipients, contractors, and subcontractors covered by this subpart. Such surveys, audits, or examinations shall be conducted at the Secretary's discretion.

Subpart D—Access to Records, Audit Standards and Relation of Organization-wide Audits to Other Audit Requirements

§ 96.41 Access to records.

The Secretary of Labor, the DOL Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives (including certified public accountants under contract), shall have access to any books, documents, papers, and records (manual and automated) of the entity receiving funds from DOL and its subrecipients/subcontractors for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

§ 96.42 Audit standards.

Surveys, audits, and examinations will conform to the Government auditing standards, issued by the Comptroller General of the United States, and guides issued by the Secretary. For purposes of meeting audit requirements under subparts A and C, only the standards for financial and compliance audits need apply.

§ 96.43 Relation of organization-wide audits to other audit requirements.

To the extent that audits conducted in accordance with subpart A provide DOL officials with the information needed to carry out their responsibilities under Federal law or DOL regulations, the Secretary shall rely upon and use the information. Additional audit efforts are not precluded, but such efforts must build upon the organization-wide audit and not duplicate it. The provisions of subpart A do not authorize a covered entity, after having complied with those requirements, to constrain, in any manner, the Secretary from carrying out additional surveys, audits, or examinations as deemed necessary.

Subpart E—Audit Resolution

§ 96.51 Purpose and scope of subpart.

This subpart prescribes standards for resolution of audit findings, including, but not limited to, questioned costs and administrative deficiencies, identified as a result of the audit of grant agreements, contracts, and other agreements awarded by or on behalf of DOL. In cases where these standards conflict with statutes or other DOL regulations, the latter shall be controlling. The DOL Office of Inspector General (OIG) is available to assist agencies in the audit resolution process.

§ 96.52 Pre-resolution phase activities.

(a) *Submission of reports.* Recipients and subrecipients of DOL funds that are audited in accordance with the requirements of subpart A shall comply in all respects with the report submission requirements of 29 CFR part 99. Failure to submit a complete audit package will result in the return of the submitted package by the Clearinghouse, which will assign a delinquency classification until the completed package is submitted.

(b) *Quality control.* The Office of Inspector General, in conjunction with other Federal agencies, will implement an audit quality program which may include random, planned, or directed reviews of audits submitted in compliance with OMB Circular A–133. When audits are found not to be performed in compliance with the requirements, the OIG may share the findings with the auditor, the auditee, and the funding agencies, and may work with the local licensing authorities to achieve corrective action.

§ 96.53 Audit resolution generally.

The DOL official(s) responsible for audit resolution shall promptly evaluate findings and recommendations reported by auditors and the corrective action plan developed by the recipient to determine proper actions in response to audit findings and recommendations. The process of audit resolution includes at a minimum an initial determination, an informal resolution period, and a final determination.

(a) *Initial determination.* After the conclusion of any comment period for audits provided the recipient/contractor, the responsible DOL official(s) shall make an initial determination on the allowability of questioned costs or activities, administrative or systemic findings, and the corrective actions outlined by the recipient. Such determination shall be based on applicable statutes, regulations, administrative directives, or terms and conditions of the grant/contract award instrument.

(b) *Informal resolution.* The recipient/contractor shall have a reasonable period of time (as determined by the DOL official(s) responsible for audit resolution) from the date of issuance of the initial determination to informally resolve those matters in which the recipient/contractor disagrees with the decisions of the responsible DOL official(s).

(c) *Final determination.* After the conclusion of the informal resolution period, the responsible DOL official(s) shall issue a final determination that:

(1) As appropriate, indicate that efforts to informally resolve matters contained in the initial determination have either been successful or unsuccessful;

(2) Lists those matters upon which the parties continue to disagree;

(3) Lists any modifications to the factual findings and conclusions set forth in the initial determination;

(4) Lists any sanctions and required corrective actions; and

(5) Sets forth any appeal rights.

(d) *Time limit.* Insofar as possible, the requirements of this section should be met within 180 days of the date the final approved audit report is received by the DOL official(s) responsible for audit resolution.

§ 96.54 Responsibility for subrecipient audits.

Recipients of Federal assistance from DOL are responsible for ensuring that subrecipient organizations who expend $300,000 or more in a fiscal year are audited and that any audit findings are resolved in accordance with this part. The recipient shall:

(a) Determine whether appropriate audit requirements outlined in subpart A have been met;

(b) Determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations;

(c) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of non-compliance with Federal law and regulations;

(d) Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

(e) Require that each subrecipient permit independent auditors to have access to the records and financial statements necessary to comply with this part.

Subpart F—Appeals

§ 96.61 Purpose and scope of subpart.

(a) The purpose of this subpart is to set forth procedures by which recipients and contractors may appeal final determinations by the DOL officials responsible for audit resolution as a result of audits.

(b) Subrecipients and subcontractors shall have only such appeal rights as may exist in subgrants or subcontracts with the respective recipients or contractors.

§ 96.62 Contracts.

(a) For the purpose of this subpart, the term "contract" includes all agreements described in sec. 602(a) of the Contract Disputes Act (Applicability of Law—Executive agency contracts) (41 U.S.C. 602(a)).

(b) Upon a contractor's receipt of the DOL contracting officer's final determination as a result of an audit, the contractor may appeal the final determination to the DOL Board of Contract Appeals, pursuant to 41 CFR part 29–60 and 48 CFR part 2933 or pursue such other remedies as may be available under the Contract Disputes Act.

§ 96.63 Federal financial assistance.

The DOL grantor agencies shall determine which of the two appeal options set forth in paragraphs (a) and (b) of this section the recipient may use to appeal the final determination of the grant officer. All awards within the same Federal financial assistance program shall follow the same appeal procedure.

(a) Appeal to the head of the grantor agency, or his/her designee, for which the audit was conducted.

(1) *Jurisdiction.* (i) *Request for hearing.* Within 21 days of receipt of the grant officer's final determination, the recipient may transmit, by certified mail, return receipt requested, a request for hearing to the head of the grantor agency, or his/her designee, as noted in the final determination. A copy must also be sent to the grant officer who signed the final determination.

(ii) *Statement of issues.* The request for a hearing shall be accompanied by a copy of the final determination, if issued, and shall specifically state those portions of the final determination upon which review is requested. Those portions of the final determination not specified for review shall be considered resolved and not subject to further review.

(iii) *Failure to request review.* When no timely request for a hearing is made, the final determination shall constitute final action by the Secretary of Labor and shall not be subject to further review.

(2) *Conduct of hearings.* The grantor agency shall establish procedures for the

conduct of hearings by the head of the grantor agency, or his/her designee.

(3) *Decision of the head of the grantor agency, or his/her designee.* The head of the grantor agency, or his/her designee, should render a written decision no later than 90 days after the closing of the record. This decision constitutes final action of the Secretary.

(b) *Appeal to the DOL Office of Administrative Law Judges.*

(1) *Jurisdiction.* (i) *Request for hearing.* Within 21 days of receipt of the grant officer's final determination, the recipient may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, 800 K Street NW, Suite 400, Washington, DC 20001, with a copy to the grant officer who signed the final determination. The Chief Administrative Law Judge shall designate an administrative law judge to hear the appeal.

(ii) *Statement of issues.* The request for a hearing shall be accompanied by a copy of the final determination, if issued, and shall specifically state those portions of the final determination upon which review is requested. Those portions of the final determination not specified for review shall be considered resolved and not subject to further review.

(iii) *Failure to request review.* When no timely request for a hearing is made, the final determination shall constitute final action by the Secretary and shall not be subject to further review.

(2) *Conduct of hearings.* The DOL Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, set forth at 29 CFR part 18, shall govern the conduct of hearings under paragraph (b) of this section.

(3) *Decision of the administrative law judge.* The administrative law judge should render a written decision no later than 90 days after the closing of the record.

(4) *Filing exceptions to decision.* The decision of the administrative law judge shall constitute final action by the Secretary of Labor, unless, within 21 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary, specifically identifying the procedure or finding of fact, law, or policy with which exception is taken. Any exceptions not specifically urged shall be deemed to have been waived. Thereafter, the decision of the administrative law judge shall become the decision of the Secretary, unless the Secretary, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(5) *Review by the Secretary of Labor.* Any case accepted for review by the Secretary shall be decided within 180 days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary.

PART 99—AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

Subpart A—General

Sec.
99.100 Purpose.
99.105 Definitions.

Subpart B—Audits

99.200 Audit requirements.
99.205 Basis for determining Federal awards expended.
99.210 Subrecipient and vendor determinations.
99.215 Relation to other audit requirements.
99.220 Frequency of audits.
99.225 Sanctions.
99.230 Audit costs.
99.235 Program-specific audits.

Subpart C—Auditees

99.300 Auditee responsibilities.
99.305 Auditor selection.
99.310 Financial statements.
99.315 Audit findings follow-up.
99.320 Report submission.

Subpart D—Federal Agencies and Pass-through Entities

99.400 Responsibilities.
99.405 Management decision.

Subpart E—Auditors

99.500 Scope of audit.
99.505 Audit reporting.
99.510 Audit findings.
99.515 Audit working papers.
99.520 Major program determination.
99.525 Criteria for Federal program risk.
99.530 Criteria for a low-risk auditee.

Authority: Public Law 104–156, 110 Stat. 1396 (31 U.S.C. 7500 *et seq.*), and OMB Circular A–133 revised June 24, 1997.

Subpart A—General

§ 99.100 Purpose.

This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

§ 99.105 Definitions.

Audit finding means deficiencies which the auditor is required by § 99.510(a) to report in the schedule of findings and questioned costs.

Auditee means any non-Federal entity that expends Federal awards which must be audited under this part.

Auditor means an auditor that is a public accountant or a Federal, State, or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of non-profit organizations.

CFDA number means the number assigned to a Federal program in the Catalog of Federal Domestic Assistance (CFDA).

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other clusters" are as defined by the Office of Management and Budget (OMB) in the compliance supplement or as designated by a State for Federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State shall identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with § 99.400(d)(1) and § 99.400(d)(2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in § 99.520, and, with the exception of R&D as described in § 99.200(c), whether a program-specific audit may be elected.

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in § 99.400(a).

Compliance supplement refers to the Circular A–133 Compliance Supplement, included as Appendix B to Circular A–133, or such documents as OMB or its designee may issue to replace it. This document is available from the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325.

Corrective action means action taken by the auditee that:

(1) Corrects identified deficiencies,

(2) Produces recommended improvements, or

(3) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Federal agency has the same meaning as the term agency in Section 551(1) of title 5, United States Code.

Federal award means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the

terms and conditions of the contract. Contracts to operate Federal Government-owned, contractor-operated (GOCOs) facilities are excluded from the requirements of this part.

Federal awarding agency means the Federal agency that provides an award directly to the recipient.

Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance, but does not include amounts received as reimbursement for services rendered to individuals as described in § 99.205(h) and § 99.205(i).

Federal program means: (1) All Federal awards to a non-Federal entity assigned a single number in the CFDA. (When no CFDA number is assigned, all Federal awards from the same agency made for the same purpose should be combined and considered one program.)

(2) Notwithstanding paragraph (1) of this definition, a cluster of programs. The types of clusters of programs are:

(i) Research and development (R&D);

(ii) Student financial aid (SFA); and

(iii) "Other clusters" as described in the definition of cluster of programs in this section.

GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Generally accepted accounting principles has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA).

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Internal control means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(1) Effectiveness and efficiency of operations;

(2) Reliability of financial reporting; and

(3) Compliance with applicable laws and regulations.

Internal control pertaining to the compliance requirements for Federal programs (Internal control over Federal programs) means a process—effected by an entity's management and other personnel—designed to provide reasonable assurance regarding the achievement of the following objectives for Federal programs:

(1) Transactions are properly recorded and accounted for to:

(i) Permit the preparation of reliable financial statements and Federal reports;

(ii) Maintain accountability over assets; and

(iii) Demonstrate compliance with laws, regulations, and other compliance requirements;

(2) Transactions are executed in compliance with:

(i) Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and

(ii) Any other laws and regulations that are identified in the compliance supplement; and

(3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity.

Local government means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

Major program means a Federal program determined by the auditor to be a major program in accordance with § 99.520 or a program identified as a major program by a Federal agency or pass-through entity in accordance with § 99.215(c).

Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

Non-Federal entity means a State, local government, or non-profit organization.

Non-profit organization means:

(1) Any corporation, trust, association, cooperative, or other organization that:

(i) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(ii) Is not organized primarily for profit; and

(iii) Uses its net proceeds to maintain, improve, or expand its operations; and

(2) The term non-profit organization includes non-profit institutions of higher education and hospitals.

OMB means the Executive Office of the President, Office of Management and Budget.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in § 99.400(b).

Pass-through entity means a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

Program-specific audit means an audit of one Federal program as provided for in § 99.200(c) and § 99.235.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(1) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;

(2) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Recipient means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

Research and development (R&D) means all research activities, both basic and applied, and all development activities that are performed by a non-Federal entity. Research is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. Development is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Single audit means an audit which includes both the entity's financial statements and the Federal awards as described in § 99.500.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe as defined in this section.

Student Financial Aid (SFA) includes those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070 *et seq.*), which is administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include programs which provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in § 99.210.

Types of compliance requirements refers to the types of compliance requirements listed in the compliance supplement. Examples include: activities allowed or unallowed; allowable costs/cost principles; cash management; eligibility; matching, level of effort, earmarking; and, reporting.

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided in § 99.210.

Subpart B—Audits

§ 99.200 Audit requirements.

(a) *Audit required.* Non-Federal entities that expend $300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in § 99.205.

(b) *Single audit.* Non-Federal entities that expend $300,000 or more in a year in Federal awards shall have a single audit conducted in accordance with § 99.500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) *Program-specific audit election.* When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § 99.235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) *Exemption when Federal awards expended are less than $300,000.* Non-Federal entities that expend less than $300,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in § 99.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

(e) *Federally Funded Research and Development Centers (FFRDC).* Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

§ 99.205 Basis for determining Federal awards expended.

(a) *Determining Federal awards expended.* The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

(b) *Loan and loan guarantees (loans).* Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines shall be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs (c) and (d) of this section:

(1) Value of new loans made or received during the fiscal year; plus

(2) Balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus

(3) Any interest subsidy, cash, or administrative cost allowance received.

(c) *Loan and loan guarantees (loans) at institutions of higher education.* When loans are made to students of an institution of higher education but the institution does not make the loans, then only the value of loans made during the year shall be considered Federal awards expended in that year. The balance of loans for previous years is not included as Federal awards expended because the lender accounts for the prior balances.

(d) *Prior loan and loan guarantees (loans).* Loans, the proceeds of which were received and expended in prior-years, are not considered Federal awards expended under this part when the laws, regulations, and the provisions of contracts or grant agreements pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) *Endowment funds.* The cumulative balance of Federal awards for endowment funds which are federally restricted are considered awards expended in each year in which the funds are still restricted.

(f) *Free rent.* Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of an award to carry out a Federal program shall be included in determining Federal awards expended and subject to audit under this part.

(g) *Valuing non-cash assistance.* Federal non-cash assistance, such as free rent, food stamps, food commodities, donated property, or donated surplus property, shall be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

(h) *Medicare.* Medicare payments to a non-Federal entity for providing patient care services to Medicare eligible individuals are not considered Federal awards expended under this part.

(i) *Medicaid.* Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

(j) *Certain loans provided by the National Credit Union Administration.* For purposes of this part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured institutions are not considered Federal awards expended.

§ 99.210 Subrecipient and vendor determinations.

(a) *General.* An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) *Federal award.* Characteristics indicative of a Federal award received by a subrecipient are when the organization:

(1) Determines who is eligible to receive what Federal financial assistance;

(2) Has its performance measured against whether the objectives of the Federal program are met;

(3) Has responsibility for programmatic decision making;

(4) Has responsibility for adherence to applicable Federal program compliance requirements; and

(5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) *Payment for goods and services.* Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

(1) Provides the goods and services within normal business operations;

(2) Provides similar goods or services to many different purchasers;

(3) Operates in a competitive environment;

(4) Provides goods or services that are ancillary to the operation of the Federal program; and

(5) Is not subject to compliance requirements of the Federal program.

(d) *Use of judgment in making determination.* There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) *For-profit subrecipient.* Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) *Compliance responsibility for vendors.* In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

§ 99.215 Relation to other audit requirements.

(a) *Audit under this part in lieu of other audits.* An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors.

(b) *Federal agency to pay for additional audits.* A Federal agency that conducts or contracts for additional audits shall, consistent with other applicable laws and regulations, arrange for funding the full cost of such additional audits.

(c) *Request for a program to be audited as a major program.* A Federal agency may request an auditee to have a particular Federal program audited as a major program in lieu of the Federal agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such request by informing the Federal agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in § 99.520 and, if not, the estimated incremental cost. The Federal agency shall then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal agency request, and the Federal agency agrees to pay the full incremental costs, then the auditee shall have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

§ 99.220 Frequency of audits.

Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(a) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this part biennially. This requirement must still be in effect for the biennial period under audit.

(b) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.

§ 99.225 Sanctions.

No audit costs may be charged to Federal awards when audits required by this part have not been made or have been made but not in accordance with this part. In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

(a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;

(b) Withholding or disallowing overhead costs;

(c) Suspending Federal awards until the audit is conducted; or

(d) Terminating the Federal award.

§ 99.230 Audit costs.

(a) *Allowable costs.* Unless prohibited by law, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR)(48 CFR parts 30 and 31), or other applicable cost principles or regulations.

(b) *Unallowable costs.* A non-Federal entity shall not charge the following to a Federal award:

(1) The cost of any audit under the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 *et seq.*) not conducted in accordance with this part.

(2) The cost of auditing a non-Federal entity which has Federal awards expended of less than $300,000 per year and is thereby exempted under § 99.200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its subrecipients in accordance with § 99.400(d)(3), provided the subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching; level of effort; earmarking; and, reporting.

§ 99.235 Program-specific audits.

(a) *Program-specific audit guide available.* In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal control, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor should contact the Office of Inspector General of the Federal agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor shall follow GAGAS and the guide when performing a program-specific audit.

(b) *Program-specific audit guide not available.* (1) When a program-specific audit guide is not available, the auditee and auditor shall have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit.

(2) The auditee shall prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of § 99.315(b), and a corrective action plan consistent with the requirements of § 99.315(c).

(3) The auditor shall:

(i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal control and perform tests of internal control over the Federal program consistent with the requirements of § 99.500(c) for a major program;

(iii) Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements of § 99.500(d) for a major program; and

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements of § 99.500(e).

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is presented fairly in all material respects in conformity with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which shall describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a format consistent with § 99.505(d)(1), and findings and questioned costs consistent with the requirements of § 99.505(d)(3).

(c) *Report submission for program-specific audits.* (1) The audit shall be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the required reporting shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a different period is specified in a program-specific audit guide.) Unless restricted by law or regulation, the auditee shall make report copies available for public inspection.

(2) When a program-specific audit guide is available, the auditee shall submit to the Federal clearinghouse designated by the OMB, the data collection form prepared in accordance with § 99.320(b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide to be retained as an archival copy. Also, the auditee shall submit to the Federal awarding agency or pass-through entity the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit shall consist of the financial statement(s) of the Federal program, a summary schedule of prior audit findings, and a corrective action plan as described in paragraph (b)(2) of this section, and the auditor's report(s) described in paragraph (b)(4) of this section. The data collection form prepared in accordance with § 99.320(b), as applicable to a program-specific audit, and one copy of this reporting package shall be submitted to the Federal clearinghouse designated by the OMB to be retained as an archival copy. Also, when the schedule of findings and questioned costs disclosed audit findings or the summary schedule of prior audit findings reported the status of any audit findings, the auditee shall submit one copy of the reporting package to the Federal clearinghouse on

behalf of the Federal awarding agency, or directly to the pass-through entity in the case of a subrecipient. Instead of submitting the reporting package to the pass-through entity, when a subrecipient is not required to submit a reporting package to the pass-through entity, the subrecipient shall provide written notification to the pass-through entity, consistent with the requirements of § 99.320(e)(2). A subrecipient may submit a copy of the reporting package to the pass-through entity to comply with this notification requirement.

(d) *Other sections of this part may apply.* Program-specific audits are subject to § 99.100 through § 99.215(b), § 99.220 through § 99.230, § 99.300 through § 99.305, § 99.315, § 99.320(f) through § 99.320(j), § 99.400 through § 99.405, § 99.510 through § 99.515, and other referenced provisions of this part unless contrary to the provisions of this section, a program-specific audit guide, or program laws and regulations.

Subpart C—Auditees

§ 99.300 Auditee responsibilities.

The auditee shall:

(a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

(d) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with § 99.310.

(e) Ensure that the audits required by this part are properly performed and submitted when due. When extensions to the report submission due date required by § 99.320(a) are granted by the cognizant or oversight agency for audit, promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.

(f) Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § 99.315(b) and § 99.315(c), respectively.

§ 99.305 Auditor selection.

(a) *Auditor procurement.* In procuring audit services, auditees shall follow the procurement standards prescribed by the Grants Management Common Rule (hereinafter referred to as the "A–102 Common Rule") published March 11, 1988, and amended April 19, 1995; 29 CFR part 97, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations;" or the FAR (48 CFR part 42), as applicable (OMB Circulars are available from the Office of Administration, Publications Office, Room 2200, New Executive Office Building, Washington, DC 20503). Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in the A–102 Common Rule, OMB Circular A–110, or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

(b) *Restriction on auditor preparing indirect cost proposals.* An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded $1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. To minimize any disruption in existing contracts for audit services, this paragraph applies to audits of fiscal years beginning after June 30, 1998.

(c) *Use of Federal auditors.* Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.

§ 99.310 Financial statements.

(a) *Financial statements.* The auditee shall prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements shall be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, organization-wide financial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with § 99.500(a) and prepare separate financial statements.

(b) *Schedule of expenditures of Federal awards.* The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple award years, the auditee may list the amount of Federal awards expended for each award year separately. At a minimum, the schedule shall:

(1) List individual Federal programs by Federal agency. For Federal programs included in a cluster of programs, list individual Federal programs within a cluster of programs. For R&D, total Federal awards expended shall be shown either by individual award or by Federal agency and major subdivision within the Federal agency. For example, the National Institutes of Health is a major subdivision in the Department of Health and Human Services.

(2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

(3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available.

(4) Include notes that describe the significant accounting policies used in preparing the schedule.

(5) To the extent practical, pass-through entities should identify in the schedule the total amount provided to subrecipients from each Federal program.

(6) Include, in either the schedule or a note to the schedule, the value of the Federal awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end. While not required, it is preferable to present this information in the schedule.

§ 99.315 Audit findings follow-up.

(a) *General.* The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee shall prepare a summary schedule of prior audit findings. The auditee shall also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan shall include the reference numbers the auditor assigns to audit findings under § 99.510(c). Since the summary schedule may include audit findings from multiple years, it shall include the fiscal year in which the finding initially occurred.

(b) *Summary schedule of prior audit findings.* The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(4) of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.

(3) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule shall provide an explanation.

(4) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

(i) Two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse;

(ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

(iii) A management decision was not issued.

(c) *Corrective action plan.* At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.

§ 99.320 Report submission.

(a) *General.* The audit shall be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the data collection form and reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period.) Unless restricted by law or regulation, the auditee shall make copies available for public inspection.

(b) *Data collection.* (1) The auditee shall submit a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The form shall be approved by OMB, available from the Federal clearinghouse designated by OMB, and include data elements similar to those presented in this paragraph. A senior level representative of the auditee (e.g., State controller, director of finance, chief executive officer, or chief financial officer) shall sign a statement to be included as part of the form certifying that: the auditee complied with the requirements of this part, the form was prepared in accordance with this part (and the instructions accompanying the form), and the information included in the form, in its entirety, are accurate and complete.

(2) The data collection form shall include the following data elements:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee.

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses.

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(vi) A list of the Federal awarding agencies which will receive a copy of the reporting package pursuant to § 99.320(d)(2).

(vii) A yes or no statement as to whether the auditee qualified as a low-risk auditee under § 99.530.

(viii) The dollar threshold used to distinguish between Type A and Type B programs as defined in § 99.520(b).

(ix) The Catalog of Federal Domestic Assistance (CFDA) number for each Federal program, as applicable.

(x) The name of each Federal program and identification of each major program. Individual programs within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.

(xi) The amount of expenditures in the schedule of expenditures of Federal awards associated with each Federal program.

(xii) For each Federal program, a yes or no statement as to whether there are audit findings in each of the following types of compliance requirements and the total amount of any questioned costs:

(A) Activities allowed or unallowed.

(B) Allowable costs/cost principles.

(C) Cash management.

(D) Davis-Bacon Act.

(E) Eligibility.

(F) Equipment and real property management.

(G) Matching, level of effort, earmarking.

(H) Period of availability of Federal funds.

(I) Procurement and suspension and debarment.

(J) Program income.

(K) Real property acquisition and relocation assistance.

(L) Reporting.

(M) Subrecipient monitoring.

(N) Special tests and provisions.

(xiii) Auditee Name, Employer Identification Number(s), Name and Title of Certifying Official, Telephone Number, Signature, and Date.

(xiv) Auditor Name, Name and Title of Contact Person, Auditor Address, Auditor Telephone Number, Signature, and Date.

(xv) Whether the auditee has either a cognizant or oversight agency for audit.

(xvi) The name of the cognizant or oversight agency for audit determined in accordance with § 99.400(a) and § 99.400(b), respectively.

(3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor shall complete the applicable sections of the form. The auditor shall sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of the form is limited to the data elements prescribed by OMB.

(c) *Reporting package.* The reporting package shall include the:

(1) Financial statements and schedule of expenditures of Federal awards discussed in § 99.310(a) and § 99.310(b), respectively;

(2) Summary schedule of prior audit findings discussed in § 99.315(b);

(3) Auditor's report(s) discussed in § 99.505; and

(4) Corrective action plan discussed in § 99.315(c).

(d) *Submission to clearinghouse.* All auditees shall submit to the Federal clearinghouse designated by OMB the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section for:

(1) The Federal clearinghouse to retain as an archival copy; and

(2) Each Federal awarding agency when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the Federal awarding agency provided directly or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the Federal awarding agency provided directly.

(e) *Additional submission by subrecipients.* (1) In addition to the requirements discussed in paragraph (d) of this section, auditees that are also subrecipients shall submit to each pass-through entity one copy of the reporting package described in paragraph (c) of this section for each pass-through entity when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the pass-through entity provided or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the pass-through entity provided.

(2) Instead of submitting the reporting package to a pass-through entity, when a subrecipient is not required to submit a reporting package to a pass-through entity pursuant to paragraph (e)(1) of this section, the subrecipient shall provide written notification to the pass-through entity that: an audit of the subrecipient was conducted in accordance with this part (including the period covered by the audit and the name, amount, and CFDA number of the Federal award(s) provided by the pass-through entity); the schedule of findings and questioned costs disclosed no audit findings relating to the Federal award(s) that the pass-through entity provided; and, the summary schedule of prior audit findings did not report on the status of any audit findings relating to the Federal award(s) that the pass-through entity provided. A subrecipient may submit a copy of the reporting package described in paragraph (c) of this section to a pass-through entity to comply with this notification requirement.

(f) *Requests for report copies.* In response to requests by a Federal agency or pass-through entity, auditees shall submit the appropriate copies of the reporting package described in paragraph (c) of this section and, if requested, a copy of any management letters issued by the auditor.

(g) *Report retention requirements.* Auditees shall keep one copy of the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section on file for three years from the date of submission to the Federal clearinghouse designated by OMB. Pass-through entities shall keep subrecipients' submissions on file for three years from date of receipt.

(h) *Clearinghouse responsibilities.* The Federal clearinghouse designated by OMB shall distribute the reporting packages received in accordance with paragraph (d)(2) of this section and § 99.235(c)(3) to applicable Federal awarding agencies, maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees which have not submitted the required data collection forms and reporting packages.

(i) *Clearinghouse address.* The address of the Federal clearinghouse currently designated by OMB is: Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132.

(j) *Electronic filing.* Nothing in this part shall preclude electronic submissions to the Federal clearinghouse in such manner as may be approved by OMB. With OMB approval, the Federal clearinghouse may pilot test methods of electronic submissions.

Subpart D—Federal Agencies and Pass-through Entities

§ 99.400 Responsibilities.

(a) *Cognizant agency for audit responsibilities.* Recipients expending more than $25 million a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment. To provide for continuity of cognizance, the determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. For example, audit cognizance for periods ending in 1997 through 2000 will be determined based on Federal awards expended in 1995. (However, for States and local governments that expend more than $25 million a year in Federal awards and have previously assigned cognizant agencies for audit, the requirements of this paragraph are not applicable until fiscal years beginning after June 30, 2000.) Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency which provides substantial direct funding and agrees to be the cognizant agency for audit. Within 30 days after any reassignment, both the old and the new cognizant agency for audit shall notify the auditee, and, if known, the auditor of the reassignment. The cognizant agency for audit shall:

(1) Provide technical audit advice and liaison to auditees and auditors.

(2) Consider auditee requests for extensions to the report submission due date required by § 99.320(a). The cognizant agency for audit may grant extensions for good cause.

(3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor of irregularities or illegal acts, as required by GAGAS or laws and regulations.

(5) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee shall work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit shall notify the auditor, the auditee, and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.

(6) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this part, so that the additional audits or reviews build upon audits performed in accordance with this part.

(7) Coordinate a management decision for audit findings that affect the Federal programs of more than one agency.

(8) Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

(9) For biennial audits permitted under § 99.220, consider auditee requests to qualify as a low-risk auditee under § 99.530(a).

(b) *Oversight agency for audit responsibilities.* An auditee which does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency determined in accordance with § 99.105. The oversight agency for audit:

(1) Shall provide technical advice to auditees and auditors as requested.

(2) May assume all or some of the responsibilities normally performed by a cognizant agency for audit.

(c) *Federal awarding agency responsibilities.* The Federal awarding agency shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each recipient of the CFDA title and number, award name and number, award year, and if the award is for R&D. When some of this information is not available, the Federal agency shall provide information necessary to clearly describe the Federal award.

(2) Advise recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements.

(3) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of this part.

(4) Provide technical advice and counsel to auditees and auditors as requested.

(5) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.

(6) Assign a person responsible for providing annual updates of the compliance supplement to OMB.

(d) Pass-through entity responsibilities. A pass-through entity shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending $300,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.

(7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

§ 99.405 Management decision.

(a) *General.* The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.

(b) *Federal agency.* As provided in § 99.400(a)(7), the cognizant agency for audit shall be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency. As provided in § 99.400(c)(5), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients. Alternate arrangements may be made on a case-by-case basis by agreement among the Federal agencies concerned.

(c) *Pass-through entity.* As provided in § 99.400(d)(5), the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) *Time requirements.* The entity responsible for making the management decision shall do so within six months of receipt of the audit report. Corrective action should be initiated within six months after receipt of the audit report and proceed as rapidly as possible.

(e) *Reference numbers.* Management decisions shall include the reference numbers the auditor assigned to each audit finding in accordance with § 99.510(c).

Subpart E—Auditors

§ 99.500 Scope of audit.

(a) *General.* The audit shall be conducted in accordance with GAGAS. The audit shall cover the entire operations of the auditee; or, at the option of the auditee, such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year, provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which shall be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards shall be for the same fiscal year.

(b) *Financial statements.* The auditor shall determine whether the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles. The auditor shall

also determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole.

(c) *Internal control.* (1) In addition to the requirements of GAGAS, the auditor shall perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs.

(2) Except as provided in paragraph (c)(3) of this section, the auditor shall:

(i) Plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(2)(i) of this section.

(3) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(2) of this section are not required for those compliance requirements. However, the auditor shall report a reportable condition (including whether any such condition is a material weakness) in accordance with § 99.510, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(d) *Compliance.* (1) In addition to the requirements of GAGAS, the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.

(2) The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement.

(3) For the compliance requirements related to Federal programs contained in the compliance supplement, an audit of these compliance requirements will meet the requirements of this part. Where there have been changes to the compliance requirements and the changes are not reflected in the compliance supplement, the auditor shall determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplement, the auditor should use the types of compliance requirements contained in the compliance supplement as guidance for identifying the types of compliance requirements to test, and determine the requirements governing the Federal program by reviewing the provisions of contracts and grant agreements and the laws and regulations referred to in such contracts and grant agreements.

(4) The compliance testing shall include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient evidence to support an opinion on compliance.

(e) *Audit follow-up.* The auditor shall follow-up on prior audit findings; perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with § 99.315(b); and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor shall perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year.

(f) *Data collection form.* As required in § 99.320(b)(3), the auditor shall complete and sign specified sections of the data collection form.

§ 99.505 Audit reporting.

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) A report on internal control related to the financial statements and major programs. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(c) A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(d) A schedule of findings and questioned costs which shall include the following three components:

(1) A summary of the auditor's results which shall include:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses;

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee;

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses;

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings which the auditor is required to report under § 99.510(a);

(vii) An identification of major programs;

(viii) The dollar threshold used to distinguish between Type A and Type B programs, as described in § 99.520(b); and

(ix) A statement as to whether the auditee qualified as a low-risk auditee under § 99.530.

(2) Findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(3) Findings and questioned costs for Federal awards which shall include audit findings as defined in § 99.510(a).

(i) Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) which relate to the same issue should be presented as a single audit finding. Where practical, audit findings should be organized by Federal agency or pass-through entity.

(ii) Audit findings which relate to both the financial statements and Federal awards, as reported under paragraphs (d)(2) and (d)(3) of this

section, respectively, should be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

§ 99.510 Audit findings.

(a) Audit findings reported. The auditor shall report the following as audit findings in a schedule of findings and questioned costs:

(1) Reportable conditions in internal control over major programs. The auditor's determination of whether a deficiency in internal control is a reportable condition for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.

(2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program. The auditor's determination of whether a noncompliance with the provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement.

(3) Known questioned costs which are greater than $10,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than $10,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs which are greater than $10,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program which is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program which is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than $10,000, then the auditor shall report this as an audit finding.

(5) The circumstances concerning why the auditor's report on compliance for major programs is other than an unqualified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with § 99.315(b) materially misrepresents the status of any prior audit finding.

(b) *Audit finding detail.* Audit findings shall be presented in sufficient detail for the auditee to prepare a corrective action plan and take corrective action and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information shall be included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award number, is not available, the auditor shall provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) Identification of questioned costs and how they were computed.

(5) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

(6) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.

(7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(8) Views of responsible officials of the auditee when there is disagreement with the audit findings, to the extent practical.

(c) *Reference numbers.* Each audit finding in the schedule of findings and questioned costs shall include a reference number to allow for easy referencing of the audit findings during follow-up.

§ 99.515 Audit working papers.

(a) *Retention of working papers.* The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.

(b) *Access to working papers.* Audit working papers shall be made available upon request to the cognizant or oversight agency for audit or its designee, a Federal agency providing direct or indirect funding, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

§ 99.520 Major program determination.

(a) *General.* The auditor shall use a risk-based approach to determine which Federal programs are major programs. This risk-based approach shall include consideration of: Current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (i) of this section shall be followed.

(b) *Step 1.* (1) The auditor shall identify the larger Federal programs,

which shall be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the larger of:

(i) $300,000 or three percent (.03) of total Federal awards expended in the case of an auditee for which total Federal awards expended equal or exceed $300,000 but are less than or equal to $100 million.

(ii) $3 million or three-tenths of one percent (.003) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $100 million but are less than or equal to $10 billion.

(iii) $30 million or 15 hundredths of one percent (.0015) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $10 billion.

(2) Federal programs not labeled Type A under paragraph (b)(1) of this section shall be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans significantly affects the number or size of Type A programs, the auditor shall consider this Federal program as a Type A program and exclude its values in determining other Type A programs.

(4) For biennial audits permitted under § 99.220, the determination of Type A and Type B programs shall be based upon the Federal awards expended during the two-year period.

(c) *Step 2.* (1) The auditor shall identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it shall have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, it shall have had no audit findings under § 99.510(a). However, the auditor may use judgment and consider that audit findings from questioned costs under § 99.510(a)(3) and § 99.510(a)(4), fraud under § 99.510(a)(6), and audit follow-up for the summary schedule of prior audit findings under § 99.510(a)(7) do not preclude the Type A program from being low-risk. The auditor shall consider: the criteria in § 99.525(c), § 99.525(d)(1), § 99.525(d)(2), and § 99.525(d)(3); the results of audit follow-up; whether any changes in personnel or systems affecting a Type A program have significantly increased risk; and apply professional judgment in determining whether a Type A program is low-risk.

(2) Notwithstanding paragraph (c)(1) of this section, OMB may approve a Federal awarding agency's request that a Type A program at certain recipients may not be considered low-risk. For example, it may be necessary for a large Type A program to be audited as major each year at particular recipients to allow the Federal agency to comply with the Government Management Reform Act of 1994 (31 U.S.C. 3515). The Federal agency shall notify the recipient and, if known, the auditor at least 180 days prior to the end of the fiscal year to be audited of OMB's approval.

(d) *Step 3.* (1) The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in § 99.525. However, should the auditor select Option 2 under Step 4 (paragraph (e)(2)(i)(B) of this section), the auditor is not required to identify more high-risk Type B programs than the number of low-risk Type A programs. Except for known reportable conditions in internal control or compliance problems as discussed in § 99.525(b)(1), § 99.525(b)(2), and § 99.525(c)(1), a single criteria in § 99.525 would seldom cause a Type B program to be considered high-risk.

(2) The auditor is not expected to perform risk assessments on relatively small Federal programs. Therefore, the auditor is only required to perform risk assessments on Type B programs that exceed the larger of:

(i) $100,000 or three-tenths of one percent (.003) of total Federal awards expended when the auditee has less than or equal to $100 million in total Federal awards expended.

(ii) $300,000 or three-hundredths of one percent (.0003) of total Federal awards expended when the auditee has more than $100 million in total Federal awards expended.

(e) *Step 4.* At a minimum, the auditor shall audit all of the following as major programs:

(1) All Type A programs, except the auditor may exclude any Type A programs identified as low-risk under Step 2 (paragraph (c)(1) of this section).

(2)(i) High-risk Type B programs as identified under either of the following two options:

(A) Option 1. At least one half of the Type B programs identified as high-risk under Step 3 (paragraph (d) of this section), except this paragraph (e)(2)(i)(A) does not require the auditor to audit more high-risk Type B programs than the number of low-risk Type A programs identified as low-risk under Step 2.

(B) Option 2. One high-risk Type B program for each Type A program identified as low-risk under Step 2.

(ii) When identifying which high-risk Type B programs to audit as major under either Option 1 or 2 in paragraph (e)(2)(i)(A) or (B), the auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

(3) Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in paragraph (f) of this section. This paragraph (e)(3) may require the auditor to audit more programs as major than the number of Type A programs.

(f) *Percentage of coverage rule.* The auditor shall audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 50 percent of total Federal awards expended. If the auditee meets the criteria in § 99.530 for a low-risk auditee, the auditor need only audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 25 percent of total Federal awards expended.

(g) *Documentation of risk.* The auditor shall document in the working papers the risk analysis process used in determining major programs.

(h) *Auditor's judgment.* When the major program determination was performed and documented in accordance with this part, the auditor's judgment in applying the risk-based approach to determine major programs shall be presumed correct. Challenges by Federal agencies and pass-through entities shall only be for clearly improper use of the guidance in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor shall consider this guidance in determining major programs in audits not yet completed.

(i) *Deviation from use of risk criteria.* For first-year audits, the auditor may elect to determine major programs as all Type A programs plus any Type B programs as necessary to meet the percentage of coverage rule discussed in paragraph (f) of this section. Under this option, the auditor would not be required to perform the procedures discussed in paragraphs (c), (d), and (e) of this section.

(1) A first-year audit is the first year the entity is audited under this part or the first year of a change of auditors.

(2) To ensure that a frequent change of auditors would not preclude audit of high-risk Type B programs, this election for first-year audits may not be used by an auditee more than once in every three years.

§ 99.525 Criteria for Federal program risk.

(a) *General.* The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring which could be material to the Federal program. The auditor shall use auditor judgment and consider criteria, such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with auditee management and the Federal agency or pass-through entity.

(b) *Current and prior audit experience.* (1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to applicable laws and regulations and the provisions of contracts and grant agreements and the competence and experience of personnel who administer the Federal programs.

(i) A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor shall consider whether weaknesses are isolated in a single operating unit (e.g., one college campus) or pervasive throughout the entity.

(ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

(iii) The extent to which computer processing is used to administer Federal programs, as well as the complexity of that processing, should be considered by the auditor in assessing risk. New and recently modified computer systems may also indicate risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

(3) Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) *Oversight exercised by Federal agencies and pass-through entities.* (1) Oversight exercised by Federal agencies or pass-through entities could indicate risk. For example, recent monitoring or other reviews performed by an oversight entity which disclosed no significant problems would indicate lower risk. However, monitoring which disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrence of OMB, may identify Federal programs which are higher risk. The OMB plans to provide this identification in the compliance supplement.

(d) *Inherent risk of the Federal program.* (1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have a high-risk for time and effort reporting, but otherwise be at low-risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, laws, regulations, or the provisions of contracts or grant agreements may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

§ 99.530 Criteria for a low-risk auditee.

An auditee which meets all of the following conditions for each of the preceding two years (or, in the case of biennial audits, preceding two audit periods) shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with § 99.520:

(a) Single audits were performed on an annual basis in accordance with the provisions of this part. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee, unless agreed to in advance by the cognizant or oversight agency for audit.

(b) The auditor's opinions on the financial statements and the schedule of expenditures of Federal awards were unqualified. However, the cognizant or oversight agency for audit may judge that an opinion qualification does not affect the management of Federal awards and provide a waiver.

(c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. However, the cognizant or oversight agency for audit may judge that any identified material weaknesses do not affect the management of Federal awards and provide a waiver.

(d) None of the Federal programs had audit findings from any of the following in either of the preceding two years (or, in the case of biennial audits, preceding two audit periods) in which they were classified as Type A programs:

(1) Internal control deficiencies which were identified as material weaknesses;

(2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or

(3) Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.

Signed at Washington, D.C. this 11th day of March, 1999.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 99–6862 Filed 3–24–99; 8:45 am]

BILLING CODE 4510–23–P

MI

OL

64

SS

57

MR

25

99

MI

federal register

Thursday
March 25, 1999

Part IV

Department of Education

Office of Special Education and Rehabilitative Services; Proposed Priority; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Notice of Proposed Priority

SUMMARY: The Secretary proposes a priority for the Special Education—Training and Information for Parents of Children with Disabilities program administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act (IDEA), as amended. The Secretary may use this priority in Fiscal Year 1999 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve results for children with disabilities. The proposed priority is intended to ensure wide and effective use of program funds.

DATES: Comments must be received on or before April 26, 1999.

ADDRESSES: All comments concerning this proposed priority should be addressed to: Debra Sturdivant, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3521, Switzer Building, Washington, DC 20202–2641. Comments may also be sent through the Internet: comments@ed.gov

You must include the term "Training and Information for Parents of Children with Disabilities" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: For further information regarding this proposed priority contact Debra Sturdivant. Telephone: (202) 205–8038. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8953. FAX: (202) 205–8105 (FAX is the preferred method for requesting information). Internet: Debra_Sturdivant@ed.gov

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by calling (202) 205–8113.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this priority. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895.

SUPPLEMENTARY INFORMATION: This notice contains one proposed priority under the Training and Information for Parents of Children with Disabilities program authorized by IDEA. This proposed priority supports the National Education Goals by helping to improve results for children with disabilities.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the availability of funds, the content of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Purpose of Program

The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Under section 682(e)(1) and (e)(2) of IDEA, the Secretary is required to: (1) make at least one award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval; and (2) select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

Eligible applicants for awards under this priority are parent organizations, as defined in section 682(g) of IDEA. A parent organization is a private nonprofit organization (other than an institution of higher education) that (1) has a board of directors, the parent and professional members of which are broadly representative of the population to be served and the majority of whom are parents of children with disabilities, that includes individuals with disabilities working in the fields of special education, related services, and early intervention; or (2) if the private nonprofit organization does not have such a board, it has a membership that represents the interest of individuals with disabilities and must establish a special governing board with the same requirements of paragraph (1) and develops a memorandum of understanding between this special governing board and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decision making responsibilities and authority of each.

Priority

Under section 682 of the Act, and 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only those applications that meet this proposed priority:

Proposed Absolute Priority—Parent Training and Information Centers (84.328M)

Background

The IDEA Amendments of 1997 strengthen the role of parents and increase their involvement in decisions about their children's education. Other changes in the law, increased dependence on and the use of technology, and a greater emphasis on networking and promoting partnerships between parents and school personnel require the PTI centers to be strengthened and refocused. In order to allocate resources more equitably, create a unified system of service delivery, and provide the broadest coverage for the parents and families in every State, the Department will begin to make awards in four(4)-year cycles for each State. Beginning in FY 1999, applications for awards will be accepted for the following States: Arizona, Delaware, District of Columbia, Iowa, Indiana, Massachusetts, Minnesota, Mississippi, Missouri, South Dakota, Virginia, Washington, and Wyoming.

In addition to the above State awards, the Secretary intends to fund a maximum of two awards. One award that focuses on the needs of Native-American families who have children with disabilities and one award that focuses on the needs of Military families who have children with disabilities.

Until the first four(4)-year cycle is completed, there may be a need to have an interim schedule for awards in States where there are more than one PTI and their current awards do not have the same end date. Therefore, we will hold a competition for one or more awards in these States for the time periods needed to match the end date of the last Center funded. Applications will be accepted for FY 1999 interim competitions for the following States: (1) California—3-year award, (2) Illinois—3-year award, and (3) New York—2-year award.

Priority

The Secretary proposes to establish an absolute priority to support parent training and information centers that—

(a) Provide training and information that meets the training and information needs of parents of children with disabilities in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in IDEA;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities;

(d) Assist parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decision making processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of the Act for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(f) Contract with the State education agency, if the State elects to contract with the parent training and information center, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use, and explain the benefits, of mediation consistent with sections 615(e)(2)(B) and (D) of IDEA;

(g) Network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of IDEA, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities;

(h) Establish cooperative relations with the Community Parent Resource Center or Centers in their State in accordance with section 683(b)(3) of IDEA; and

(i) Annually report to the Secretary on—

(1) The number of parents to whom it provided information and training in the most recently concluded fiscal year, and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(j) If there is more than one parent center in a particular State, coordinate their activities to ensure the most effective assistance to parents in that State.

An applicant must identify the strategies it will undertake—

(a) To ensure that the needs for training and information of underserved parents of children with disabilities in the areas to be served are effectively met, particularly in underserved areas of the State; and

(b) To work with the community-based organizations, particularly in the underserved areas of the State.

A parent training and information center that receives assistance under this absolute priority may also conduct the following activities—

(a) Provide information to teachers and other professionals who provide special education and related services to children with disabilities;

(b) Assist students with disabilities to understand their rights and responsibilities on reaching the age of majority, as included under section 615(m) of IDEA; and

(c) Assist parents of children with disabilities to be informed participants in the development and implementation of the State improvement plan under IDEA.

A project's budget must include funds to attend a two-day Project Directors' meeting to be held in Washington, D.C. each year of the project.

In order to demonstrate eligibility to receive a grant, an applicant must describe how its board or special governing committee meets the criteria for a parent organization in section 682(g) of IDEA. In addition, any parent organization that establishes a special governing committee under section 682(g)(2) of IDEA must demonstrate that the by-laws of its organization allows the governing committee to be responsible for operating the project (consistent with existing fiscal policies of its organization).

Current funding levels, population of school age children, and the relative proportion of children living in poverty will be considered in determining funding levels for grants.

Intergovernmental Review

The Training and Information for Parents of Children with Disabilities program in this notice is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3524, 300 C Street, SW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

(Program Authority: 20 U.S.C. 1482)

(Catalog of Federal Domestic Assistance Number: Training and Information for Parents of Children with Disabilities, (84.328))

Dated: March 19, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–7243 Filed 3–24–99; 8:45 am]

BILLING CODE 4000–01–U

MI

OL

64

SS

57

MR

25

99

MI

federal register

Thursday
March 25, 1999

Part V

Department of Health and Human Services

Public Health Service

42 CFR Part 36

Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

RIN 0917–AA02

Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character

AGENCY: Indian Health Service, Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Indian Health Service (IHS) is proposing to establish regulations as mandated by section 408 of the Indian Child Protection and Family Violence Prevention Act (the "Act"), that prescribe minimum standards of character and suitability of employment criteria for individuals who are employed or are being considered for employment in positions with duties and responsibilities that involve regular contact with or control over Indian children.

DATES: Comments must be received on or before May 24, 1999.

ADDRESSES: Written comments may be sent to Betty J. Penn, Regulations Officer, Indian Health Service, Twinbrook Metro Plaza, Suite 450, 12300 Twinbrook Parkway, Rockville, Maryland 20852. Comments will be made available for public inspection at this address from 8:30 a.m. to 5:00 p.m., Monday–Friday beginning approximately two weeks after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Ramona Williams, Child Protection Coordinator, Office of Mental Health/Social Services, Indian Health Service, 5300 Homestead Road, NE., Albuquerque, New Mexico 87110, (505) 248–4245. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The IHS is proposing regulations as mandated by section 408 of the Act, that prescribe minimum standards of character for individuals with duties and responsibilities that involve regular contact with or control over Indian children. The minimum standards of character prescribed in these proposed rules can be found in § 36.405.

The Act requires that minimum standards of character prescribed by these regulations ensure that no individuals appointed to positions involving regular contact with or control over Indian children shall have been found guilty of or entered a plea of nolo contendere or guilty to an offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons. The IHS is proposing that the minimum standards of character have been met only after individuals in positions involving regular contact with or control over Indian children have been the subject of a satisfactory background investigation, and it has been determined that these individuals have not been found guilty of or entered a plea of nolo contendere or guilty to an offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons.

If an individual has been determined to be unsuitable for employment in a position involving regular contact with or control over Indian children, the IHS is proposing that adjudicative standards may be used to ensure that the individual is suitable for employment in a position, if available, that does not involve regular contact with or control over Indian children. This would require a determination that the individual's prior conduct will not interfere with the performance of duties and will not create a potential risk to the safety and well-being of any Indian children.

The Bureau of Indian Affairs (BIA) published final regulations at 25 CFR part 63 establishing minimum standards of character and suitability of employment as required by the Act. The IHS is proposing minimum standards of character similar to those of the BIA so that similar standards will be applied by each agency. The Act requires that tribes or tribal organizations who receive funds under the Indian Self-Determination and Education Assistance Act (ISDEA), Pub. L. 93–638, employ individuals in positions involving regular contact with or control over Indian children only if the individuals meet standards of character no less stringent than those prescribed under these regulations. Thus, the minimum standards of character as proposed by these rules will become the basis for tribes or tribal organizations to use when developing their own minimum standards of character and suitability for employment of individuals.

Federal employees are regularly subject to the additional suitability criteria contained in 5 CFR part 731 as a condition of employment. In addition, section 231 of the Crime Control Act of 1990, Pub. L. 101–647, 42 U.S.C. 13041, provides that an individual employed by a Federal agency by direct hire or under contract may be disqualified from consideration or continuing employment if such individual has been convicted of a sex crime, an offense involving a child victim or a drug felony, or any other crime if such conviction bears on an individual's fitness to have responsibility for the safety and well-being of children.

Tribes or tribal organizations may but are not required to apply additional criteria in determining whether an individual is suitable for a position with duties and responsibilities that involve regular contact with or control over Indian children. Any additional suitability criteria beyond the minimum standards of character required by these proposed rules would be determined by each individual tribe or tribal organization in accordance with its own personnel policies and procedures. Standards of character established by tribes or tribal organizations should be used to determine whether an individual is suitable for employment in a position that permits contact with or control over Indian children. If not, the individual may only be placed in a position that does not permit regular contact with or control over Indian children.

Under the Act, Indian tribes or tribal organizations are responsible for identifying individuals in positions within their tribal programs whose duties and responsibilities involve regular contact with or control over Indian children. The Act requires tribes or tribal organizations to conduct background investigations of these individuals. Tribes or tribal organizations are not required to follow the United States Office of Personnel Management (OPM) requirements for background investigations for Federal employees. However, in order to meet the minimum standards of character under these proposed rules, tribes or tribal organizations must ensure that background investigations are completed on individuals with duties and responsibilities that involve regular contact with or control over Indian children. The background investigations require a criminal history background check, including a fingerprint check through the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI), under procedures approved by the FBI, and inquiries to State and tribal law enforcement agencies. The IHS has entered into an interagency agreement with the BIA to assist tribes and tribal organizations to access fingerprint/National Criminal History checks through existing FBI files and data bases of individuals being considered for or

placed in positions identified by the tribal programs as having regular contact with or control over Indian children.

The IHS presented an earlier draft of these proposed rules at the 14th Annual National Indian Health Board Consumer Conference. In addition, the IHS provided a copy of the draft proposed rules to the tribal leader of each federally recognized tribe for their review and comment. These proposed rules were modified to reflect the comments received.

Pending publication of these proposed rules, the IHS issued policy guidance requiring IHS personnel staff to identify positions involving regular contact with or control over Indian children, to conduct background investigations of individuals in these positions, and to identify those individuals who do not meet the minimum standards of character under section 408 of the Act. These proposed rules have taken into consideration the agency's experience in implementing section 408 of the Act.

The Department has determined that where an individual has been convicted of or pleaded guilty or nolo contendere to one of the enumerated crimes in section 408 of the Act, the IHS does not have the discretion to retain that individual in a position involving regular contact with or control over Indian children. We believe this is true regardless of such factors as the date of incident, circumstances of incident, rehabilitation or other relevant factors that might result in a determination that the individual is not a potential risk to Indian children. However, the individual must be given an opportunity to explain, deny, or refute unfavorable and incorrect information before an adjudication is final. The IHS would have the discretion to remove that individual to a position not involving regular contact with or control over Indian children after a determination is made that Indian children will not be placed at risk.

There are several terms in section 408 of the Act that were not defined by Congress. The IHS is proposing to define these terms in these regulations to remove any ambiguity created by the statute. The IHS has defined these terms based on the agency's experience in implementing section 408 of the Act.

The term *regular contract with or control over Indian children* is not defined in the Act. The IHS has defined the term in these proposed rules to apply to those positions where the responsibility for Indian children is within the scope of the individual's duties and responsibilities or where the individual has access to Indian children on a recurring or foreseeable basis that could potentially place an Indian child as risk. The IHS has developed a list of possible positions within the agency that might involve regular contact with or control over Indian children. The IHS has discretion to identify those positions on this list, on a case-by-case basis, to determine whether the duties and responsibilities of a particular position involve regular contact with or control over Indian children as defined by these proposed rules.

In addition, Congress did not define the terms crimes against persons or crimes of violence. The IHS is proposing to define the terms crimes against persons and crimes of violence for purposes of these proposed rules. The Act does not distinguish between felonies and misdemeanors, and thus, it has been determined that the Department does not have discretion to distinguish between felonies and misdemeanors in defining these terms. For example, if a crime is categorized as a crime against persons under Federal, State, or tribal law, a conviction or plea (even if a misdemeanor) would require termination or bar the individual from employment in a position involving regular contact with or control over Indian children. In determining whether an offense falls within these categories, reference may be made to the applicable Federal, State, or tribal law under which the individual was convicted or pleaded guilty or nolo contendere.

The IHS welcomes comments regarding these proposed rules from the public and especially the tribes and tribal organizations affected by them. Interested persons may submit written comments regarding the proposed rule to the location identified in the **ADDRESSES** section of this document.

Executive Order 12866

This proposed rule is a significant regulatory action under Executive Order (E.O.) 12866 and requires review by the Office of Management and Budget (OMB). Depending upon the number of positions for which determinations of suitability for employment are required, the cost of the background investigations (including the cost of each FBI fingerprint check) may have an economic effect on each tribal government and tribal organization under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.* and require additional outlays by tribal governments, tribal organizations, and the Federal Government. These costs are not projected to exceed $100 million. The cost of background investigation of Federal employees by the OPM are estimated to be $475,000. The cost of FBI fingerprint checks requested by tribes is approximately $20,000. In addition, the IHS is expected to expend $90,000 per year to support one staff position and related costs associated with tribal requests for FBI fingerprint checks processed through the BIA.

Executive Order 12612: Federalism

The Department has determined that this proposed rule does not have significant federalism effects under E.O. 12612 and will not interfere with the roles, rights and responsibilities of states.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the OMB for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

Whether the information collection is necessary and useful to carry out the proper functions of the agency;

The accuracy of the agency's estimate of the information collection burden;

The quality, utility, and clarity of the information to be collected; and

Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting comment on each of these issues for the proposed information collection requirements discussed below.

Sections 36.410—What Questions Must the IHS Ask as Part of the Background Investigation?

All applicants for a position involving regular contact with or control over Indian children are required to undergo background investigations to determine whether they meet minimum standards of character for that position. This section describes questions that will be asked as part of the background investigation. Applicants must state whether they have been arrested, charged, convicted of or plead guilty to certain enumerated crimes. In addition, the individuals will be required to sign, under penalty of perjury, a statement verifying the truth of all of the information provided in the employment application and acknowledging that knowingly falsifying or concealing information is subject to fine or imprisonment, or both.

Finally, the applicant must sign an informed consent form authorizing a criminal record check.

The IHS anticipates there will be approximately 100 respondents who will require no more than 15 minutes each to respond to these questions and sign the required forms.

For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attention Allison Herron Eydt, IHS Desk Officer.

List of Subjects in 42 CFR Part 36

American Indians, Alaska Natives, Children, Child health, Employment.

Dated: September 21, 1998.

Michael H. Trujillo,

Assistant Surgeon General, Director, Indian Health Service.

Approved: December 10, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set out in the preamble, the Department proposes to add subpart K to Part 36 of Title 42, CFR, as follows:

Subpart K—Indian Child Protection and Family Violence Prevention

Sec.

36.401 Purpose.
36.402 Policy.
36.403 Definitions.
36.404 What does the Indian Child Protection and Family Violence Prevention Act require of the IHS and Indian tribes or tribal organizations receiving funds under the ISDEA?
36.405 What are the minimum standards of character for individuals placed in, or applying for, a position that involves regular contact with or control over Indian children?
36.406 What are other factors, in addition to the minimum standards of character, that may be considered in determining placement of an individual in a position that involves regular contact with or control over Indian children?
36.407 What positions require a background investigation and determination of suitability for employment or retention?
36.408 Who conducts the background investigation and prepares determinations of suitability for employment?
36.409 Are the requirements for IHS adjudication different from the requirements for Indian tribes and tribal organizations?
36.410 What questions must the IHS ask as part of the background investigation?
36.411 What protections must the IHS and tribes or tribal organizations provide to individuals undergoing a background investigation?
36.412 How does the IHS determine suitability for employment and efficiency of service?
36.413 What rights does an applicant, volunteer, or employee have during this process?
36.414 When should the IHS deny employment or dismiss an employee?
36.415 What must the IHS do if an individual has been charged with an offense but the charge is pending or no disposition has been made by a court?

Authority: 25 U.S.C. 3201; 5 U.S.C. 301; 42 U.S.C. 13041.

Subpart K—Indian Child Protection and Family Violence Prevention

§ 36.401 Purpose.

The purpose of the regulations in this subpart is to establish minimum standards of character to ensure that individuals having regular contact with or control over Indian children have not been convicted of certain types of crimes or acted in a manner that placed others at risk or raised questions about their trustworthiness as mandated by the Indian Child Protection and Family Violence Prevention Act of 1990, Public Law 101–630, 104 Stat. 4544, 25 U.S.C. 3201–3211.

§ 36.402 Policy.

In enacting the Indian Child Protection and Family Violence Prevention Act, the Congress recognized there is no resource more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe. The minimum standards of character and suitability of employment for individuals ensure that Indian children are protected. In order to protect Indian children, the IHS has established minimum standards of character requiring completion of a satisfactory background investigation that ensures that no individuals who have been found guilty of, or entered a plea of nolo contendere or guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons, are placed in positions involving regular contact with or control over Indian children.

§ 36.403 Definitions

Crimes against persons means an offense that has an element the use, attempted use, or threatened use of physical force or other abuse of a person and includes, but is not limited to, homicide; assault; kidnapping; false imprisonment; reckless endangerment; robbery; rape; sexual assault, molestation, exploitation, contact, or prostitution; and other sexual offenses. In determining whether an offense falls within this category, reference may be made to the applicable Federal, State, or tribal law under which the individual was convicted or pleaded guilty or nolo contendere.

Crimes of violence means:

(1) An offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) Any other offense that is a felony and that, by its nature, involves substantial risk that physical force against the person or property of another may be used in the course of committing the offense. In determining whether an offense falls within this category, reference may be made to the applicable Federal, State, or tribal law under which the individual was convicted or pleaded guilty or nolo contendere.

Indian means any individual who is a member of an Indian tribe, as defined in this section.

Indian child means any unmarried person under the age of eighteen who is either a member of an Indian tribe or eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Individuals means persons with duties and responsibilities that involve regular contact with or control over Indian children and includes but is not limited to the following:

(1) Employees in the competitive or excepted service, the Commissioned corps, or the Senior Executive Service in the IHS;

(2) Individuals who perform service for or under the supervision of the IHS while being permanently assigned to another IHS office or to another organization, such as a Federal agency, State, or tribe;

(3) Individuals who volunteer to perform services for or under the supervision of the IHS;

(4) Individuals who contract with the IHS to perform services in IHS facilities.

Must is used in place of shall and indicates a mandatory or imperative act or requirement.

Regular contact with or control over an Indian child means responsibility for an Indian child within the scope of the individual's duties and responsibilities or access to Indian children on a recurring and foreseeable basis that could potentially place an Indian child at risk.

Tribal organization as defined in the ISDEA, means the recognized governing body of any Indian tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

§ 36.404 What does the Indian Child Protection and Family Violence Prevention Act require of the IHS and Indian tribes or tribal organizations receiving funds under the ISDEA?

(a) The IHS must compile a list of all authorized positions with duties and responsibilities that involve regular contact with or control over Indian children; investigate the character of each individual who is employed or is being considered for employment in such a position; and prescribe minimum standards of character that each individual must meet to be appointed to such positions.

(b) All Indian tribes or tribal organizations receiving funds under the authority of the ISDEA must identify those positions that permit regular contact with or control over Indian children; conduct an investigation of the character of each individual who is employed or is being considered for employment in a position that involves regular contact with or control over Indian children; and employ only individuals who meet standards of character that are no less stringent than those prescribed for the IHS.

§ 36.405 What are the minimum standards of character for individuals placed in, or applying for, a position that involves regular contact with or control over Indian children?

The minimum standards of character shall mean a benchmark of moral, ethical, and emotional strengths established by character traits and past conduct to ensure that the individual is competent to complete his/her job without harm to Indian children. The minimum standards of character shall be considered met only after the individual has been the subject of a satisfactory background investigation. The background investigation shall include a review of:

(a) The individual's trustworthiness, through inquiries with the individual's references and places of employment and education;

(b) A criminal history background check, which includes a fingerprint check through the Criminal Justice Information Services Division of the FBI, under procedures approved by the FBI, and inquiries to State and tribal law enforcement agencies for residence for the previous 5 years listed on the individual's application; and

(c) A determination as to whether the individual has been found guilty of or entered a plea of nolo contendere or guilty to any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons.

§ 36.406 What are other factors, in addition to the minimum standards of character, that may be considered in determining placement of an individual in a position that involves regular contact with or control over Indian children?

(a) All Federal employees are subject to suitability criteria contained in 5 CFR Part 31 as a condition of employment.

(b) Section 231 of the Crime Control Act of 1990, Pub. L. 101–647, 42 U.S.C. 13041, provides that an individual may be disqualified from consideration or continuing employment if such individual has been convicted of a sex crime, an offense involving a child victim or a drug felony, or any other crime if such conviction bears on an individual's fitness to have responsibility for the safety and well-being of children.

(c) Tribes or tribal organizations may but are not required to apply additional criteria in determining whether an individual is suitable for a position with duties and responsibilities that involve regular contact with or control over Indian children. Any additional suitability criteria established by tribes or tribal organizations beyond the minimum standards of character described in § 36.405 would be determined by each individual tribe or tribal organization in accordance with its own personnel policies and procedures.

§ 36.407 What positions require a background investigation and determination of suitability for employment or retention?

(a) All positions that allow an individual regular contact with or control over Indian children are subject to a background investigation and determination of suitability for employment. The IHS has compiled a list of positions within the agency in which the duties and responsibilities could involve regular contact with or control over Indian children. The list will be periodically updated and made available at all IHS Personnel Offices upon request. Positions should be reviewed on a case-by-case basis to determine whether the individual in that position has regular contact with or control over Indian children.

(b) Tribes and tribal organizations may use the list compiled by the IHS or develop a list of positions within their program that involve regular contact with or control over Indian children.

§ 36.408 Who conducts the background investigation and prepares determinations of suitability for employment?

(a) The IHS must use the Office of Personnel Management (OPM) to conduct background investigations for Federal employees. The IHS must designate qualified security personnel to adjudicate the results of background investigations.

(b) Indian tribes and tribal organizations may conduct their own background investigations, contract with private firms, or request that a Federal agency conduct investigations. (FBI criminal history record information, however, may only be received or evaluated by governmental agencies, including tribal government agencies, and may not be disseminated to private entities.) The investigation should cover the past five years of the individual's employment, education, etc.

§ 36.409 Are the requirements for IHS adjudication different from the requirements for Indian tribes and tribal organizations?

(a) In addition to the minimum requirements for background investigations found in § 36.405, IHS's adjudicating officials must review the results of searches by State human services agencies, the OPM National Agency Check and Inquiries, the OPM Security/Suitability Investigations Index, and the Defense Clearance and Investigations Index.

(b) All IHS employees who have regular contact with or control over Indian children must be reinvestigated every five years during their employment in that or any other position that allows regular contact with or control over Indian children.

(c) Indian tribes or tribal organizations may but are not required to adopt portions of the rules in this subpart that

are specifically applicable to employment within the IHS in conducting background investigations and adjudicating suitability for employment in tribal positions that allow regular contact with or control over Indian children.

§ 36.410 What questions must the IHS ask as part of the background investigation?

(a) Applications for employment with the IHS must include the following questions:

(1) Has the individual been arrested or charged with a crime involving a child? If yes, the individual must provide the date, explanation of the violation, disposition of the arrest or charge, place of occurrence, and the name and address of the police department or court involved.

(2) Has the individual ever been found guilty of, or entered a plea of nolo contendere or guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons? If yes, the individual must provide an explanation of the violation, place of occurrence, date and disposition of the court proceeding, and the name and address of the police department or court involved.

(b) The IHS must require that the individual sign, under penalty of perjury, a statement verifying the truth of all information provided in the employment application and acknowledging that knowingly falsifying or concealing a material fact is a felony that may result in fines up to $10,000 or 5 years imprisonment, or both.

(c) The IHS must inform the individual that a criminal history record check is a condition of employment and require the individual to consent in writing to a criminal history record check.

§ 36.411 What protections must the IHS and tribes or tribal organizations provide to individuals undergoing a background investigation?

(a) The IHS must comply with all policies, procedures, criteria, and guidance contained in other appropriate guidelines, such as the OPM policies, procedures, criteria, and guidance.

(b) Indian tribes and tribal organizations must comply with the privacy requirements of the Federal, State, or other tribal agency providing the background investigations. Indian tribes and tribal organizations may establish their own procedures that safeguard information derived from background investigations.

§ 36.412 How does the IHS determine suitability for employment and efficiency of service?

(a) Adjudication is the process employers use to determine suitability for employment and efficiency of service. The adjudication process protects the interests of the employer and the right of applicants and employees. Adjudication requires uniform evaluation to ensure fair and consistent judgment.

(b) Each case is judge on its own merits. All available information, both favorable and unfavorable, should be considered and assessed in terms of accuracy, completeness, relevance, seriousness, overall significance, and how similar cases have been handled in the past.

(c) The adjudicating official who conducts the adjudication must first have been the subject of a favorable background investigation.

(d) Each adjudicating official must be thoroughly familiar with all laws, regulations, and criteria involved in making a determination for suitability.

(e) The adjudicating official must review the background investigation to determine the character, reputation, and trustworthiness of the individual. At a minimum, the background investigation must:

(1) Review each security investigation form and employment application and compare the information provided.

(2) Review the results of written record searches requested from local law enforcement agencies, former employer, former supervisors, employment references, and schools.

(3) Review the results of the fingerprint charts maintained by the Federal Bureau of Investigation or other law enforcement information maintained by other agencies.

(4) Review the information obtained through a background investigation and determine whether the individual has been found guilty of, or entered a plea of nolo contendere of guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons.

(f) After an opportunity has been afforded the individual to respond, pursuant to § 36.413, and it is adjudicated that the individual has been found guilty of or entered a plea of nolo contendere or guilty to an enumerated offense under paragraph (e)(4) of this section, that individual shall not be placed or retained in a position involving regular contact with or control over Indian children.

(g) For individuals who have been determined to be unsuitable for employment in positions having regular contact with or control over Indian children, the IHS may use Federal adjudicative standards to certify that an individual is suitable for employment in a position, if available, that does not involve regular contact with or control over Indian children. The adjudicating official must determine that the individual's prior conduct will not interfere with the performance of duties and will not create a potential risk to the safety and well-being of any Indian children after consideration of the following factors:

(1) The nature and seriousness of the conduct in question.

(2) The recency and circumstances surrounding the conduct in question.

(3) The age of the individual at the time of the incident.

(4) Societal conditions that may have contributed to the nature of the conduct.

(5) The probability that the individual will continue the type of behavior in question.

(6) The individual's commitment to rehabilitation and a change in the behavior in question.

(7) The degree of public trust and the possibility the public would be placed at risk if the individual is appointed to the position.

§ 36.413 What rights does an applicant, volunteer, or employee have during this process?

(a) The applicant, volunteer, or employee must be provided an opportunity to explain, deny, or refute unfavorable and incorrect information gathered in an investigation, before the adjudication is final. He/she should receive a written summary of all derogatory information and be informed of the process for explaining, denying, or refuting unfavorable information.

(b) The adjudicating officials must not release the actual background investigative report to an applicant, volunteer, or employee. However, they may issue a written summary of the derogatory information.

(c)The applicant, volunteer, or employee who is the subject of a background investigation may obtain a copy of the reports from the originating (Federal, State, or other tribal) agency and challenge the accuracy and completeness of any information maintained by that agency.

(d) The results of an investigation cannot be used for any purpose other than to determine suitability for employment in a position that involves regular contact with or control over Indian children.

(e) Investigative reports contain information of a highly personal nature and must be maintained confidentially and secured in locked files. Investigative reports must be seen only by those officials who, in performing their official duties, need to know the information contained in the report.

§ 36414 When should the IHS deny employment or dismiss an employee?

(a) The IHS must deny employment to an individual or dismiss an employee, when the duties and responsibilities of the position the individual person would hold or holds involve regular contact with or control over Indian children, and it has been adjudicated, pursuant to § 36.412 and § 36.413, that the individual has been found guilty of, or entered a plea of guilty or nolo contendere to, any Federal, State, or tribal offense involving a crime of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons. The IHS has the discretion to place such an individual in a position, if available, that does not involve regular contact with or control over Indian children, if a determination has been made that such placement would not put Indian children at risk and the individual would be able to perform the duties and responsibilities of this position.

(b) Pursuant to section 231 of the Crime Control Act of 1990, Pub. L. 101–647, 42 U.S.C. 13041, as amended by Pub. L. 102–190, the IHS may hire an individual provisionally prior to the completion of a background investigation if, at all times prior to receipt of the background investigation during which children are in the care of the individual, the individual is within the sight and under the supervision of a staff person and a satisfactory background investigation has been completed on that staff person.

§ 36.415 What must the IHS do if an individual has been charged with an offense but the charge is pending or no disposition has been made by a court?

(a) The IHS may deny the applicant employment until the charge has been resolved.

(b) The IHS may deny the employee any on-the-job contact with children until the charge is resolved.

(c) The IHS may detail or reassign the employee to other duties that do not involve regular contact with children.

(d) The IHS may place the employee on indefinite suspension, in accordance with statutory and regulatory requirements, until the court has disposed of the charge.

[FR Doc. 99–7341 Filed 3–24–99; 8:45 am]
BILLING CODE 4160–16–M

MI

OL

64

SS

57

MR

25

99

MI

federal register

Thursday
March 25, 1999

Part VI

Department of Housing and Urban Development

24 CFR Part 203

FHA Single Family Mortgage Insurance; Statutory Changes for Maximum Mortgage Limit and Downpayment Requirement; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–4431–F–01]

RIN 2502–AH31

FHA Single Family Mortgage Insurance; Statutory Changes for Maximum Mortgage Limit and Downpayment Requirement

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends provisions of current regulations to provide consistency with recent statutory changes for the maximum mortgage limit and downpayment requirements for FHA single family mortgage insurance programs.

EFFECTIVE DATE: April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Home Mortgage Insurance Division, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–2700. (This is not a toll free number.) For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On October 21, 1998, President Clinton approved the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub. L. 105–276. Section 212 of the Act extended on a nationwide basis, through September 30, 2000, the simplified downpayment calculations that have been in effect the previous two years for FHA-insured single family mortgages in Alaska and Hawaii. Section 228 of the Act permitted increased FHA mortgage limits for high-cost areas of the country and raised the basic FHA "floor" mortgage limit available throughout the country. The Department has concluded that neither provision presents implementation issues that require a notice-and-comment procedure before making the necessary conforming revisions to 24 CFR part 203.

Mortgage Limits

As revised, 24 CFR 203.18 will no longer reproduce the statutory language of section 203(b)(2)(A) of the National Housing Act (NHA) regarding dollar amount limitations on FHA-insured mortgages. For a number of years, in an effort to respond to Congressional expectations of rapid implementation, the Department has initially implemented statutory changes in FHA single family mortgage limits through Mortgagee Letters with the intention of producing a conforming final rule soon afterwards. The Mortgagee Letter procedure has proven to be an effective means of rapidly disseminating information on the initial implementation of these statutory changes. However, HUD's intention to produce a follow-up conforming final rule rapidly has not always been realized in the crush of other competing regulatory priorities. For example, the statutory provision that first related FHA maximum mortgage limits to Freddie Mac's 1992 conforming loan limits was approved in October 1992 but not reflected in FHA regulations until the end of July 1993. In September 1994, the statutory provision was amended to substitute Freddie Mac's current conforming loan limit for the 1992 loan limit, but this change is not yet reflected in regulations.

In recent years, because of the frequent changes in underlying legislation and the annual changes in mortgage limits due to changes in the Freddie Mac limit, the regulations have not served as an important or reliable vehicle for disseminating current information on mortgage limits to the industry or the general public. The Department has concluded that the public would be better served by regulations that make clear that the statute sets out the basic approach to maximum mortgage limits for an area and that HUD will implement changes in mortgage limits by non-regulatory administrative means following the procedure set forth in § 203.18(h). By citing the applicable statutory section, the revised § 203.18(a) will still serve as an informational tool for persons who are uncertain where the statutory provision is located without misleading anyone by outdated provisions.

The Department has also updated 24 CFR 203.29(a) regarding section 214 of the NHA and increased mortgage limits in Alaska, Hawaii, Guam and the Virgin Islands. Some unnecessary repetition of statutory language has been omitted, and the regulatory requirement that mortgage limit increases authorized by section 214 be published in the **Federal Register** has been replaced by a reference to § 203.18(h). Section 203.18(h) generally permits area mortgage limit changes within the statutory minimum and maximum levels to be established by administrative issuances to affected mortgagees as an alternative to **Federal Register** notice, but it has not previously been applicable to increases authorized by section 214 because of the regulatory language requiring a **Federal Register** notice. Section 214 specifically permits the Secretary to make increases by regulations "or otherwise". This does not require a **Federal Register** notice, and there is no administrative need to continue to distinguish the regulatory procedures for mortgage limits based on section 214 from the procedures for other mortgage limits.

Downpayment Simplification

Section 203.18 is also revised to present the current requirements on downpayments and loan-to-value ratios in a more accessible fashion. In general, the revised rule refers simply to the applicable statutory provisions in the NHA: section 203(b)(10) on a temporary basis, with section 203(b)(2)(B) still in effect on a permanent basis. (Until the interim rule discussed below takes effect, § 203.18(a)(3) will include the current substantive approach to implementation of 203(b)(2)(B) for high-ratio mortgages on new homes. Readers are advised to consider this final rule and the interim rule together because § 203.18(a)(3) of the interim rule, rather than this final rule, presents HUD's warranty policy for high-ratio mortgages, subject to further reconsideration after review of public comments on the interim rule.)

This final rule also continues HUD's previous policy of distinguishing between secondary and primary residences for downpayment purposes by limiting insured mortgages on secondary residences to 85% of appraised value. Section 203(b)(10) has no effect on the calculation of mortgage amounts under section 203(h) of the NHA for homes for disaster victims or section 203(i) of the NHA for homes in outlying areas. Therefore, the language in § 203.18(d) for section 203(i) mortgages remains the same except for one technical cross-reference change required because of the revision of § 203.18(a). No changes are made to § 203.18(e) for homes for disaster victims.

The definition of appraised value in § 203.18(f)(4) is amended to recognize that the loan-to-value ratios under section 203(b)(10) downpayment simplification are intended to be applied to appraised value (or sales price, if lower) without including HUD-approved closing costs as part of appraised value.

In today's **Federal Register**, a separate interim rule is published regarding a substantive change in policy on warranty requirements for high ratio mortgages on new homes. That interim

rule will take effect one day after this final rule. It will clarify the applicability of the Department's current handbook policy requiring a comprehensive 1-year builder's warranty for new homes, as a necessary step to full implementation of downpayment simplification for new homes and as a permanent change in policy. It will also make a substantive revision to § 203.18(a)(3) of this final rule.

Justification for Final Rule

HUD ordinarily provides an opportunity for the public to comment on HUD rules before they take effect. However, 24 CFR 10.1 permits HUD to dispense with notice and public procedures—through either an interim or a final rule—if HUD determines that notice and public procedure are impracticable, unnecessary or contrary to the public interest. In this case, public comment is both unnecessary and contrary to the public interest. It is unnecessary because the rule as revised simply reflects the statutory changes, without any other change in substance, with some simplification in regulatory language. Delayed effectiveness pending public comment would be contrary to the public interest because the regulations would mislead by setting forth an outdated version of the law.

Other Matters

Environmental Review

This final rule is exempted from environmental review under the categorical exclusion in 24 CFR 50.19(c)(6).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule does not have a significant economic impact on a substantial number of small entities. This final rule merely authorizes an alternative way of qualifying a newly-constructed home for a high-ratio FHA-insured mortgage. The final rule has no adverse or disproportionate economic impact on small businesses.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this final rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes would result from this final rule that affect the relationship between the Federal Government and State and local governments.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number for the principal FHA single family mortgage insurance program is 14.117. This final rule would also apply through cross-referencing to FHA mortgage insurance for condominium units (14.133) and other smaller programs.

List of Subjects in 24 CFR part 203

Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 203 is amended to read as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715u; 42 U.S.C. 3535(d).

2. Section 203.18 is amended by revising paragraph (a), the introductory text of paragraph (b), paragraph (d)(1)(i), and paragraph (f)(4)(ii) to read as follows:

§ 203.18 Maximum mortgage amounts.

(a) *Mortgagors of principal or secondary residences.* The principal amount of the mortgage must not exceed the lesser of the following amounts that apply:

(1) The dollar amount limitation that applies for the area under section 203(b)(2)(A) of the National Housing Act including any increase in the dollar limitation under § 203.29, as announced in accordance with § 203.18(h);

(2)(i) The amount based on appraised value that is permitted by section 203(b)(10) of the National Housing Act, if that provision is in effect and applies to the mortgage; or

(ii) If section 203(b)(10) is not in effect or otherwise does not apply to the mortgage, the lesser of the amounts based on appraised value that are permitted by section 203(b)(2)(B) of the National Housing Act and paragraph (g) of this section;

(3) An amount equal to 90 percent of the appraised value, if the dwelling is a new home that was completed 1 year or less from the date of the mortgage insurance application and the dwelling is neither approved before the beginning of construction or covered by an acceptable consumer protection or warranty plan as provided in section 203(b)(2)(B) of the National Housing Act; or

(4) An amount equal to 85 percent of the appraised value if the mortgage covers a dwelling that is to be occupied as a secondary residence (as defined in paragraph (f)(2) of this section).

(b) *Veteran qualifications.* The special veteran terms provided in section 203(b)(2) of the National Housing Act shall apply only if the mortgagor submits one of the following certifications:

* * * * *

(d) * * *

(1) * * *

(i) 75 percent of the dollar limitation under (a)(1).

* * * * *

(f) * * *

(4) * * *

(i) * * *

(ii) Borrower-paid closing costs allowed under § 203.27(a)(1)–(3), except that closing costs do not apply if section 203(b)(10) of the National Housing Act is in effect and neither sales price nor closing costs apply for purposes of paragraph (g) of this section.

* * * * *

3. Section 203.29 is amended by revising paragraph (a) to read as follows:

§ 203.29 Eligible mortgages in Alaska, Guam, Hawaii, or the Virgin Islands.

(a) *When is an increased mortgage limit permitted for these areas?* For Alaska, Guam, Hawaii or the Virgin Islands, the Commissioner may increase the maximum mortgage amount permitted by section 203(b)(2)(A) of the National Housing Act when authorized by section 214 of that Act, through the procedures described in § 203.18(h).

* * * * *

Dated: March 11, 1999.

William C. Apgar,

Assistant Secretary for Housing.

[FR Doc. 99–7346 Filed 3–24–99; 8:45 am]

BILLING CODE 4210–27–P

MI

OL

64

SS

57

MR

25

99

MI

federal register

Thursday
March 25, 1999

Part VII

Department of Housing and Urban Development

24 CFR Parts 203 and 234

Builder Warranty for High-Ratio FHA-Insured Single Family Mortgages for New Homes; Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 203 and 234

[Docket No. FR–4288–I–01]

RIN 2502–AH08

Builder Warranty for High-Ratio FHA-Insured Single Family Mortgages for New Homes

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule permits FHA insurance for a mortgage on a new home to exceed a 90 percent loan-to-value ratio if the home is covered by a 1-year builder's warranty that meets the requirements of HUD regulations. Recently-enacted legislation has increased FHA's flexibility to set the conditions for insured mortgages on new homes.

DATES: Effective date: April 27, 1999. Comment due date: May 24, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Home Mortgage Insurance Division, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, (202) 708–2700. (This is not a toll free number.) For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background Information

Before a recent change, section 203(b)(2) of the National Housing Act (NHA) permitted HUD to provide FHA insurance for a high-ratio single family mortgage (i.e, a mortgage with a loan-to-value ratio exceeding 90% of appraised value) for a new home if any one of several conditions stated in section 203(b)(2) of the NHA was met: either the property was approved for insurance by HUD or the Department of Veterans Affairs before the beginning of construction, or the home was covered by a consumer protection or warranty plan acceptable to the Secretary. In HUD's regulations in 24 CFR 203.200–.209, HUD sets forth requirements for a 10-year warranty plan that would be considered acceptable. (In this preamble, "new construction" or "new home" refers to any home that was completed earlier than 1 year before the date of the application for mortgage insurance.)

Section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, amended section 203(b)(10) of the NHA to extend nationwide through September 30, 2000, a simplified downpayment calculation applicable in the prior two years in Alaska and Hawaii. The new calculation applies "[n]otwithstanding any other provision of this subsection." This "subsection" includes section 203(b)(2). HUD has considered whether this "notwithstanding" language supersedes only some of the loan-to-value provisions in section 203(b)(2) of the NHA—i.e., the loan-to-value maximum ratios applicable to mortgages that could have been insured as high-ratio (over 90%) mortgages under previous law—or whether the "notwithstanding" language may also be interpreted as superseding the 90% ratio limitation that is otherwise applicable to new construction mortgages that do not meet any of the conditions cited above. HUD has adopted the broader view of the "notwithstanding" language and concludes that the National Housing Act now permits HUD to insure new construction mortgages with loan-to-value ratios exceeding 90% despite the absence of prior approval or any warranty. However, section 203(b)(10) does not preclude HUD from imposing additional reasonable conditions for high-ratio new construction mortgages through regulations. In addition, HUD was already considering changing its warranty policy regardless of any change in legislation. HUD was considering reducing the length of the term of a warranty required for a high-ratio mortgage, and permitting a builder to provide the warranty.

HUD has decided that each high-ratio new construction mortgage should be accompanied by a builder warranty that provides sufficient protection for the public and the mortgagors, and that HUD already has an adequate requirement in the first-year warranty requirement imposed by HUD Handbook 4145.1 REV–2, paragraph 3–18.[1] That paragraph provides that whenever a mortgage for a new home will exceed a 90 percent loan-to-value ratio, a builder must sign Form HUD–92544 which states in part:

> The undersigned Warrantor further warrants to the Purchaser(s)/Owner(s) or his/her (their) successors or transferees, the property against defects in equipment, material, or workmanship or materials supplied or performed by the Warrantor or any subcontractor or supplier at any tier resulting in noncompliance with standards of quality as measured by acceptable trade practices. This warranty shall continue for a period of one year from the date of original conveyance of title to such Purchaser(s) or from the date of full completion of each of any items completed after conveyance of title. The Warrantor shall remedy, at the Warrantor's expense, any defect(s) of equipment, material, or workmanship furnished by the Warrantor. Warrantor shall restore any work damaged in fulfilling the terms and conditions of this warranty.

Form HUD–92544 has been approved by the Office of Management and Budget (see Paperwork Reduction Act Statement below.)

This Interim Rule

HUD is revising current 24 CFR 203.14 to conform to this broad warranty requirement for the first year of occupancy. The current text of § 203.14 generally follows the structure and content of section 801 of the Housing Act of 1954 (12 U.S.C. 1701j–1), which is narrowly focused on warranting that construction is in substantial conformity with the plans and specifications that served as the basis for the pre-construction appraisal, but HUD's actual first year warranty requirements are considerably broader. The revised § 203.14 would also apply to FHA single family programs other than the basic section 203 programs through existing cross-references in program regulations. HUD has amended the cross-references for condominium unit mortgages in 24 CFR 234.1 so that § 203.14 is no longer excluded from the sections incorporated by cross-reference. HUD has also made a necessary conforming change to § 203.18(a)(3), to replace the current text that was included in a final rule also published in today's **Federal Register** (with an effective date one day earlier than this interum rule).

As HUD strives to achieve its objectives of expanding homeownership opportunities, it is continuously seeking

[1] Note that Form HUD–92544A referenced in that paragraph was subsequently combined with Form HUD–92544, "Warranty of Completion of Construction", which is available through the Internet at http://www.hudclips.org/subscriber/html/forms.htm.

to develop approaches and products that will facilitate this effort. HUD believes that the comprehensive 1-year builder warranty provides valuable consumer protection and should continue to be required even without any specific statutory requirement. HUD interprets new section 203(b)(10) as making the 10-year warranty plan approach unnecessary as long as section 203(b)(10) is applicable, however, and HUD is therefore removing 24 CFR 203.200–.209. If section 203(b)(10) expires in the future without being replaced with an equivalent provision, so that section 203(b)(2) once again prevents insurance of high-ratio new construction mortgages in the absence of prior approval or a warranty plan acceptable to HUD, HUD expects to continue to accept compliance with the 1-year builder warranty requirement in this rule as compliance with the section 203(b)(2) requirement for an acceptable warranty plan. This change is consistent with longstanding industry practices and requirements. HUD replaced its archaic and onerous requirements with a process that relies on local building codes and inspections and adherence to national building construction standards. Consequently, the one year warranty requirement is congruent with these efforts.

The quality of housing and building technology has improved substantially over the years. Limiting the warranty requirements for new homes to the comprehensive 1-year builder warranty should increase homeownership by making the FHA program more widely accessible for new homes, thereby enhancing the level of consumer protection for new homes with marginal if any increases in costs to the consumer. No adverse impact on the FHA insurance funds is expected because the quality of the additional newly-constructed homes that may qualify for FHA insurance under the interim rule is likely to exceed the quality of existing homes which already qualify for high-ratio mortgages without special warranty requirements.

Justification for Interim Rulemaking

HUD ordinarily provides an opportunity for the public to comment on HUD rules before they take effect in accordance with HUD's regulations in 24 CFR part 10. However, 24 CFR 10.1 permits HUD to dispense with notice and public procedures—through either an interim or a final rule—if HUD determines that notice and public procedure are impracticable, unnecessary or contrary to the public interest. In this case, HUD has determined that the rule should take effect as an interim rule—before the public comment period has ended—because the rule is an important part of the implementation of the downpayment simplification statute.

Congress intended prompt implementation of the downpayment simplification and authorized it only for a limited time. Downpayment simplification has already been implemented for all existing homes through Mortgagee Letter 98–29 and a recent conforming final rule. Implementation of downpayment simplification for new homes is appropriately accomplished through rulemaking, instead of simply through a Mortgagee Letter, because of the discretion HUD is exercising in its interpretation of the scope of the temporary "notwithstanding" language of section 203(b)(10) of the NHA and the permanent language of section 203(b)(2) of the NHA, and in HUD's consequent administrative determination of the appropriate scope of warranty protection that should be provided to purchasers of new homes with FHA-insured mortgages.

HUD believes that there should continue to be a distinction between the requirements for new and existing homes that receive insurance for high ratio mortgages. It is not appropriate to implement section 203(b)(10) by completely dispensing with any warranty requirement for new homes, and the existing statutory 1-year builder warranty requirement in section 801 of the Housing Act of 1954 (see current 24 CFR 203.14) is triggered only if the builder seeks pre-construction approval for a home, which the builder would have no incentive to do if high-ratio mortgages were otherwise available for new construction. Therefore, this rule is needed to fill a gap in warranty requirements that otherwise would result if HUD simply implemented section 203(b)(10) for new construction without additional non-statutory regulatory requirements. Although the 1-year builder warranty requirements of this interim rule currently appear in a handbook, they take on added importance in light of downpayment simplification and it is important to present the requirements in regulatory form without delay.

If this extra level of consumer protection were provided only after the completion of full notice and comment rulemaking, however, the public would lose much of the benefit of section 203(b)(10) for new homes during the limited period section 203(b)(10) is authorized. Such a delay would be contrary to the public interest because it would lessen the availability of insured financing for new homes and reduce the choice of housing to many low- and moderate-income families, in conflict with the Congressional purposes behind the nationwide attempt to fix downpayment requirements that have been widely perceived as unnecessarily confusing and burdensome. Congress expects HUD to use the temporary authority for nationwide downpayment simplification to gain sufficient experience to support an evaluation of the benefits and drawbacks of continuing nationwide downpayment simplification on a permanent basis. Any substantial delay in full implementation of nationwide application—including simplification of requirements for high-ratio new construction—would limit the experience needed to support an evaluation.

In this interim rule HUD is adding no new burdens on builders or lenders with respect to the 1-year warranty for new homes currently required by handbook. HUD will consider all public comments received on this interim rule before issuing a final rule.

Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in § 203.14 of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0059. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule, and in so doing certifies that this rule does not have a significant economic impact on a substantial number of small entities. Only 13

warranty companies are now approved to provide a 10-year warranty plan for homes with FHA-insured mortgages. The demand for 10-year warranties may drop considerably once the warranty no longer helps to qualify a home for a high-ratio FHA-insured mortgage, although some builders may continue to offer such warranties as a marketing tool. The small universe of warranty companies that may be affected, however, is insufficient to support a conclusion that there will be a substantial impact on small business. Small businesses are specifically invited, however, to comment on whether this interim rule will significantly affect them, and to make any recommendations on alternatives for compliance the requirements of this rule. Comments should be submitted in accordance with the instructions in the **DATES** and **ADDRESSES** sections in the preamble of this interim rule.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this interim rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes would result from this proposed rule that affect the relationship between the Federal Government and State and local governments.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number for principal FHA single family mortgage insurance is 14.117. This interim rule would also apply through cross-referencing to FHA mortgage insurance for condominium units (14.133).

List of Subjects

24 CFR part 203

Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 203 and 234 are amended to read as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715u; 42 U.S.C. 3535(d).

2. Section 203.14 is revised to read as follows:

§ 203.14 Builders' warranty for initial year of occupancy.

If the property was not completed more than 1 year before the date of the mortgage insurance application and the loan-to-value ratio for the mortgage exceeds 90% in accordance with § 203.18, the builder or other seller must provide to the mortgagor a 1-year warranty that:

(a) Meets the requirements of section 801 of the Housing Act of 1954, if applicable;

(b) Warrants against defects in equipment, material or workmanship resulting in noncompliance with standards of quality as measured by acceptable trade practices;

(c) Is enforceable by the original purchaser of the property and any successor owners during the initial year of occupancy; and

(d) Otherwise is acceptable in form and content to the Secretary.

(Approved by the Office of Management and Budget under control number 2502–0059).

3. Section 203.18 is amended by revising paragraph (a)(3) to read as follows:

§ 203.18 Maximum mortgage amounts.

(a) * * *

(3) If the dwelling was completed 1 year or less from the date of the mortgage insurance application, an amount equal to 90 percent of the appraised value, unless the dwelling is covered by a builder warranty meeting the requirements of § 203.14;

* * * * *

§§ 203.200–203.209 [Removed]

4. Sections 203.200–203.209 are removed.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

5. The authority citation for part 234 is revised to read as follows:

Authority: 12 U.S.C. 1715b and 1715y; 42 U.S.C. 3535(d).

6. Section 234.1(a) is revised to read as follows:

§ 234.1 Cross-reference.

(a) *Incorporation of part 203 provisions; exclusions.* All of the provisions of subpart A of part 203 of this chapter concerning eligibility requirements of mortgages covering one-to four-family dwellings under section 203 of the National Housing Act (12 U.S.C. 1709) apply to mortgages on individually owned units insured under section 234 of the National Housing Act (12 U.S.C. 1715y) except the following provisions:

Sec.
203.12 Mortgage insurance on proposed or new construction in a new subdivision.
203.18a Solar energy system.
203.18c One-time or up-front mortgage insurance.
203.38 Location of dwelling.
203.42 Rental properties.
203.43c Eligibility of mortgages involving a dwelling in a cooperative housing development.
203.43d Eligibility of mortgages in certain communities.
203.43f Eligibility of mortgages covering manufactured homes.
203.43g Eligibility of mortgages in certain communities.
203.43h Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act.
203.43i Eligibility of mortgages on Hawaiian Home Lands insured pursuant to section 247 of the National Housing Act.
203.43j Eligibility of mortgages on Allegany Reservation of Seneca Nation of Indians.
203.50 Eligibility of rehabilitation loans.

* * * * *

Dated: March 4, 1999.

William C. Apgar,

Assistant Secretary for Housing.

[FR Doc. 99–7345 Filed 3–24–99; 8:45 am]

BILLING CODE 4210–27–P

Reader Aids

Federal Register

Vol. 64, No. 57

Thursday, March 25, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22
13881–14096	23
14097–14354	24
14355–14574	25

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100	12881
Proclamations:	
7168	10101
7169	10379
7170	10383
7171	10385
7172	11373
7173	12879
7174	14353
Executive Orders:	
12170 (See Notice of March 10, 1999)	12239
12852 (Amended by EO 13114)	10099
12957 (See Notice of March 10, 1999)	12239
12959 (See Notice of March 10, 1999)	12239
13059 (See Notice of March 10, 1999)	12239
13114	10099
Administrative Orders:	
Notice of March 10, 1999	12239
Presidential Determinations:	
No. 99–15 of February 26, 1999	11319
No. 99–16 of March 4, 1999	13495

5 CFR

532	9905, 9906
2635	13063
Proposed Rules:	
1620	13924
1650	13725

7 CFR

3	11755
246	13311
360	12881
361	12881
782	12884
989	10919
1381	11755
1434	10923
1439	13497
1469	10929
1703	14355
Proposed Rules:	
301	11392
915	13123
916	11346
917	11346
1065	13125
1301	12769
1703	14401
1823	10235
1956	10235
3400	14348

8 CFR

3	13663, 13881
103	13881
208	13881
235	13881
238	13881
240	13881
241	13881
253	13881
274a	11533
507	13881

9 CFR

52	13064
Proposed Rules:	
1	10400
3	10400
71	13726
80	13726
112	13365
113	10400, 14156
391	10402

10 CFR

708	12862
Proposed Rules:	
21	12117
50	12117
54	12117
63	10405
70	13368
707	11819

11 CFR

Proposed Rules:	
2	10405
4	10405
5	10405

12 CFR

3	10194
208	10194
225	10201
325	10194
404	14373
405	14373
567	10194
960	12079
Proposed Rules:	
602	10954

13 CFR

123	13667

14 CFR

21	13501
25	10740
39	9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761,

11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504, 13667, 13669, 13882, 13884, 13886, 13889, 13890, 13892, 14097
71 .....10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672, 14306
73 .....12743, 13334, 13506
97 ....9912, 9914, 13334, 13336
204.....12084
257.....12838
258.....12854
399.....12838

Proposed Rules:
23.....14401
25.....14408
39 .....9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936
71 .....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404, 13938, 14410
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
752.....13338
772.....13338
774 .....10852, 12744, 13338
806.....10387
902.....14052

16 CFR

Proposed Rules:
Ch. I.....14156
241.....13368
256.....13369
1213.....10245, 14158
1500.....10245, 14158
1513.....10245, 14158
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230 .....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:
1.....14159
30.....14159
210.....10579
228.....10579
230.....12908
232.....12908
239.....11118, 12908
240 .....9948, 10579, 11124, 12127, 12908
270.....12908
274.....12908

19 CFR

Ch. I.....13673
133.....11376

Proposed Rules:
4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404.....10103, 13677
416.....13677

21 CFR

5.....14098
26.....11376
50.....10942
101.....12886, 12887
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520 .....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556 .....10103, 13068, 13341, 13679
558 .....13068, 13069, 13341, 13342, 13679
701.....13254
806.....14098
812.....10942
874.....10947

Proposed Rules:
101.....14178
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774
1010.....14180
1040.....14180

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
35.....14381
203.....14568, 14572
234.....14572
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:
Ch. IX 13531, 13533
990.....12920

25 CFR

031.....13894
039.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR

1.....10218, 11378
54.....14382
602.....10218

Proposed Rules:
1 .....10262, 13939, 13940, 14306, 14412
20.....10964, 13940
025.....13940
031.....13940
040.....13940

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686

Proposed Rules:
25.....10262
302.....11821
549.....10095

29 CFR

96.....14538
99.....14538
1910.....13700, 13897
4044.....12745

30 CFR

256.....13343
914.....12890
934.....12896

Proposed Rules:
57.....14200
204.....13734
206.....12267
250.....13535
914.....14412
938.....12269

32 CFR

199.....11765, 13912

33 CFR

62.....10104
100 .....13913, 13914, 14382, 14384
117.....10104, 13514
165 .....11771, 12746, 13915, 14306
320.....11708
326.....11708
331.....11708

Proposed Rules:
110.....14414
117.....12795, 12797
155.....13734
162.....14414
165.....14414
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184

Proposed Rules:
303.....12674

36 CFR

61.....11736

Proposed Rules:
1190.....13752
1091.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111 .....10950, 12072, 14385

Proposed Rules:
111.....11402

40 CFR

52 .....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514, 13916, 14391
58.....10389
60 .....10105, 11536, 14393
62.....13075, 13517
63.....11536, 12762
80.....10366
81 .....11775, 12002, 12005, 12257, 13146
82.....10374
93.....13476
136.....10391, 13053
180 .....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106, 14098, 14099, 14101, 14104, 14106
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:
Ch. 1.....10066
52 ...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753, 14416
60.....10119, 11555
62.....13539
63.....11555, 11560
81 .....11822, 12025, 13383, 13384
82.....14417
94.....10596
97.....10118
136.....10596
194.....14418
271.....10121, 14201
372.....
435.....

41 CFR

101–49.....

42 CFR

Proposed Rules
36.....
409.....
410.....
411.....
412.....
413.....
416.....
419.....
447.....
457.....
488.....
489.....
498.....
1003.....

43 CFR

4.....

Proposed Rules
428.....
3400.....
3420.....
3800.....

44 CFR

61.....
64.....
65 1137

67.....

Proposed Rules
67.....
77.....
80.....
81.....
82.....
83.....
152.....
207.....
220.....
221.....
222.....
301.....
303.....
306.....
308.....
320.....
324.....
325.....
328.....
333.....

372.....9957, 10597
435.....10266

41 CFR

101–49.....13700

42 CFR

Proposed Rules:
36.....14560
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277
498.....12277
1003.....12277

43 CFR

4.....13362

Proposed Rules:
428.....12141
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919
65 .....11378, 11380, 11382, 11384
67.....11386, 11388

Proposed Rules:
67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303.....11802, 11810
304.....11802
1207.....14113
1208.....14123
1209.....14133
2551.....14113
2552.....14123
2553.....14133

Proposed Rules:
92.....10412
95.....10412
1224.....10872
1302.....14202
2508.....10872

46 CFR

502.....9922
510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156

47 CFR

25.....14394
41.....13916
51.....14141
61.....14394
64.....13701, 14141
73 .....9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729, 14397
90.....10395

Proposed Rules:
1.....9960
2.....10266
51.....14203
73 .....12922, 12923, 12924, 13756, 13757, 14419, 14420, 14421, 14422, 14423
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548
4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52 .....10531, 10535, 10538, 10545, 10548
53 .....10548, 10913, 12862
203.....14397
211.....14398
217.....14399
252.....14397, 14398
913.....12862
922.....12862
915.....12220
970.....12220, 12862
1806.....10571
1815.....10573
1819.....10571
1822.....14148
1842.....10573
1852.....10571, 10573

Proposed Rules:
204.....14424
252.....14424
970.....14206

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234
1420.....13916

Proposed Rules:
171.....13856, 13943
173.....13856
177.....13856
178.....13856
180.....13856
192.....12147
350.....11414
571 .....9961, 10604, 13947, 14207
572.....10965
585.....13947
587.....13947
591.....13757
595.....13947
1420.....13948

50 CFR

17.....13116
25.....14149
36.....14149, 14151
216.....9925
217.....14052
220.....14052
221.....14052
222.....14052
223 .....14052, 14308, 14508, 14517, 14528
224.....14052, 14308
225.....14052
226.....14052
227.....14052
285.....10576
300.....13519
600.....9932
622 .....13120, 13363, 13528
630.....12903
648.....14052
660.....9932, 12092
678.....14154
679 .....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723, 14052, 14155
697.....14052

Proposed Rules:
216.....9965
17 .....12924, 14209, 14424
223.....14329
224.....14329
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648 .....11431, 13392, 13952
660 .....10439, 12279, 14211
678.....10438

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 25, 1998

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):
- Brucellosis in cattle and bison—
  - State and area classifications; published 3-25-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Habitat conservation planning and incidental take permitting process; handbook availability; no surprises policy; published 2-23-98

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Imidacloprid; published 3-25-98
- Titanium dioxide; published 3-25-98

FEDERAL RESERVE SYSTEM

Electronic fund transfers (Regulation E):
- Disclosure requirements; delivery by electronic communication; published 3-25-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal and human drugs:
- Current good manufacturing practices—
  - Testing and approval or rejection of components, drug product containers, and closures; technical amendment; published 3-25-98

Animal drugs, feeds, and related products:
- New drug applications—
  - Bambermycins; published 3-25-98

Food for human consumption:
- Food labeling—
  - Nutrient content claims; definition of term "healthy"; published 3-25-98

Medical devices:
- Labeling—
  - Latex condoms; expiration date requirement; published 9-26-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- Mexican spotted owl, etc.; published 3-25-98

Habitat conservation planning and incidental take permitting process; handbook availability; no surprises policy; published 2-23-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Cessna; published 2-18-98
- Fairchild; published 2-18-98
- Gulfstream; published 2-18-98
- Gulfstream American; published 2-18-98
- Lockheed; published 2-18-98
- McDonnell Douglas; published 2-18-98
- Mitsubishi; published 2-18-98
- Sabreliner; published 2-18-98

Airworthiness standards:
- Transport category airplanes—
  - Technical amendments and other miscellaneous corrections; published 2-23-98

TREASURY DEPARTMENT

National Security Information designations; published 3-25-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Melons grown in Texas; comments due by 3-30-98; published 1-29-98

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):
- Livestock markets; handling of reactors; comments due by 3-30-98; published 1-27-98

Plant-related quarantine, domestic and foreign:
- Karnal bunt disease—
  - Regulated areas; movement from; comments due by 3-30-98; published 1-28-98

Plant-related quarantine, domestic:
- Fire ant, imported; comments due by 3-30-98; published 1-28-98

Plant-related quarantine, foreign:
- Karnal bunt disease—
  - Mexicali Valley, Mexico; comments due by 3-30-98; published 1-27-98

AGRICULTURE DEPARTMENT

Forest Service

Forest development transportation system administration; comments due by 3-30-98; published 1-28-98
- Temporary suspension of road construction in roadless areas; proposed interim rule; comments due by 3-30-98; published 1-28-98
- Temporary suspension of road construction in roadless areas; comments due by 3-30-98; published 2-27-98

National Forest System projects and activities; notice, comment, and appeal procedures; prohibition on appeals by Forest Service employees removed; comments due by 3-30-98; published 1-28-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Bering Sea and Aleutian Islands groundfish; comments due by 3-31-98; published 3-16-98
- Atlantic coastal fisheries
  - Lobsters; comments due by 4-1-98; published 3-2-98
- Magnuson Act provisions
  - Exempted fishing permit applications; comments due by 3-30-98; published 3-13-98

International fisheries regulations:
- Land Remote Sensing Policy Act of 1992—
  - Private land remote-sensing space systems; licensing provisions; comments due by 4-2-98; published 12-12-97

Oil Pollution Act:
- Natural resource damage assessments; comments due by 3-30-98; published 2-11-98

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
- Electronic data interchange transactions; shipment evidence; comments due by 3-30-98; published 1-27-98

Personnel:
- Personnel security policies for granting access to classified information; comments due by 3-31-98; published 1-30-98
- Reciprocity of facilities; national policy and implementation guidelines; comments due by 3-31-98; published 1-30-98
- Technical surveillance countermeasures; national policy; comments due by 3-31-98; published 1-30-98

DEFENSE DEPARTMENT

Navy Department

Personnel:
- Employee conduct standards and reporting procedures on defense related employment; CFR parts removed; comments due by 3-30-98; published 1-27-98

ENVIRONMENTAL PROTECTION AGENCY

Drinking water:
- National primary drinking water regulations—
  - Consumer confidence reports; comments due by 3-30-98; published 2-13-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Food packaging impregnated with insect repellant; jurisdiction transferred to FDA; comments due by 4-3-98; published 3-4-98
- Food packaging impregnated with insect repellent; jurisdiction transferred to FDA; comments due by 4-3-98; published 3-4-98

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
- Arkansas; co... 3-30-98; p... 98
- Kansas; com... 3-30-98; p... 98
- New York; c... by 3-30-98... 13-98
- Texas; comm... 30-98; pub...

FEDERAL RES... SYSTEM

Securities cred...
- Margin regul... review; co... 4-1-98; pu...

FEDERAL RE... THRIFT INVES... BOARD

Thrift savings ...
- Administrativ... correction; ... by 3-30-98... 29-98

GENERAL SE... ADMINISTRAT...

Federal Acquis... (FAR):
- Electronic da... transaction... evidence; ... by 3-30-98... 27-98

HEALTH AND... SERVICES DE...

Children and ... Administratio...

Child support ... program:
- Computer su... enforceme... automated ... processing ... limitation; ... by 4-1-98; ... 98

HEALTH AND... SERVICES DE...

Food and Dru... Administratio...

Human drugs:
- Labeling of ... (OTC)—
  - Standardiz... commer... 98; pub...

HOUSING AN... DEVELOPME... DEPARTMENT

Federal Nation... Association ... and Federal ... Mortgage Co... (Freddie Ma...
- Non-mortgag... regulatory ... comments ... 98; publis...

INTERIOR DE...

Fish and Wild...

Endangered a... species:

Arkansas; comments due by 3-30-98; published 2-13-98
Kansas; comments due by 3-30-98; published 2-13-98
New York; comments due by 3-30-98; published 2-13-98
Texas; comments due by 3-30-98; published 2-13-98

FEDERAL RESERVE SYSTEM

Securities credit transactions:
Margin regulations; periodic review; comments due by 4-1-98; published 1-16-98

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Thrift savings plan:
Administrative errors correction; comments due by 3-30-98; published 1-29-98

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
Electronic data interchange transactions; shipment evidence; comments due by 3-30-98; published 1-27-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Children and Families Administration

Child support enforcement program:
Computer support enforcement systems; automated data processing funding limitation; comments due by 4-1-98; published 3-2-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration

Human drugs:
Labeling of drug products (OTC)—
Standardized format; comments due by 3-30-98; published 2-13-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal National Mortgage Association (Fannie Mae) and Federal Home Mortgage Corporation (Freddie Mac):
Non-mortgage investments; regulatory requirements; comments due by 3-30-98; published 12-30-97

INTERIOR DEPARTMENT
Fish and Wildlife Service

Endangered and threatened species:
Pecos pupfish; comments due by 3-31-98; published 1-30-98
San Bernardino kangaroo rat; comments due by 3-30-98; published 1-27-98
Willamette daisy, Fender's Blue butterfly, and Kincaid's lupine; comments due by 3-30-98; published 1-27-98

Endangered Species Convention:
Appendices and amendments; comments due by 3-31-98; published 1-30-98

INTERIOR DEPARTMENT
Reclamation Bureau

Colorado River Water Quality Improvement Program:
Offstream storage of Colorado River water and interstate redemption of storage credits in the lower division States; comments due by 4-3-98; published 2-27-98

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Arkansas; comments due by 3-30-98; published 2-26-98

JUSTICE DEPARTMENT
Immigration and Naturalization Service

Immigration:
Employment eligibility verification process; number of acceptable documents reduced and other changes; comments due by 4-3-98; published 2-2-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
Electronic data interchange transactions; shipment evidence; comments due by 3-30-98; published 1-27-98

NUCLEAR REGULATORY COMMISSION

Practice rules:
Domestic licensing proceedings—
High-level radioactive waste disposal at geologic repository; comments due by 3-30-98; published 2-2-98

Production and utilization facilities; domestic licensing:
Nuclear power plants—
Components; construction, inservice inspection, and inservice testing; industry codes and standards; comments due by 4-3-98; published 1-26-98

SECURITIES AND EXCHANGE COMMISSION

Securities:
Net capital rule—
Capital requirements for broker-dealer's proprietary positions; statistical models; comments due by 3-30-98; published 12-30-97
Capital requirements for broker-dealers; net worth charges ("haircuts") for computing interest rate instruments; comments due by 3-30-98; published 12-30-97

OFFICE OF UNITED STATES TRADE REPRESENTATIVE
Trade Representative, Office of United States

Freedom of Information Act; implementation; comments due by 4-1-98; published 3-2-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration

Air carrier certification and operations:
Repair assessment for pressurized fuselages; comments due by 4-2-98; published 1-2-98

Airworthiness directives:
Airbus; comments due by 4-3-98; published 3-4-98
Airbus Industrie; comments due by 3-30-98; published 2-27-98
Boeing; comments due by 4-3-98; published 2-2-98
Cessna; comments due by 3-30-98; published 2-5-98
Eurocopter France; comments due by 4-2-98; published 3-3-98
Hartzell Propeller Inc.; comments due by 3-30-98; published 1-28-98
Pilatus Aircraft Ltd.; comments due by 4-3-98; published 3-3-98
Raytheon; comments due by 3-31-98; published 2-2-98

Class E airspace; comments due by 3-30-98; published 2-12-98

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration

Motor vehicle safety standards:
Air brake systems—
Medium and heavy vehicles stability and control during braking; malfunction indicator lamps; comments due by 4-3-98; published 2-17-98

TREASURY DEPARTMENT

Customs Service

Articles conditionally free, subject to a reduced rate, etc.:
Andean Trade Preference Act; duty preference provisions; implementation; comments due by 3-31-98; published 1-30-98

Seizures, penalties, and liquidated damages; relief petitions; comments due by 4-3-98; published 2-2-98

TREASURY DEPARTMENT

Internal Revenue Service

Excise taxes:
Deposit safe harbor rules and fuel floor stocks taxes; cross reference; comments due by 3-30-98; published 12-29-97

Income taxes:
Foreign investment—
Passive foreign investment company preferred shares; special income exclusion; cross reference; comments due by 4-2-98; published 1-2-98

Loans to plan participants from qualified employer plans; comments due by 4-2-98; published 1-2-98

Qualified long-term care insurance contracts; consumer protection; comments due by 4-2-98; published 1-2-98

Qualified plans and individual retirement plans; required distributions; comments due by 3-30-98; published 12-30-97

Procedure and administration:
Agreements for tax liability installment payments; comments due by 3-31-98; published 12-31-97

Unauthorized collection actions, civil cause of action; comments due by 3-31-98; published 12-31-97

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

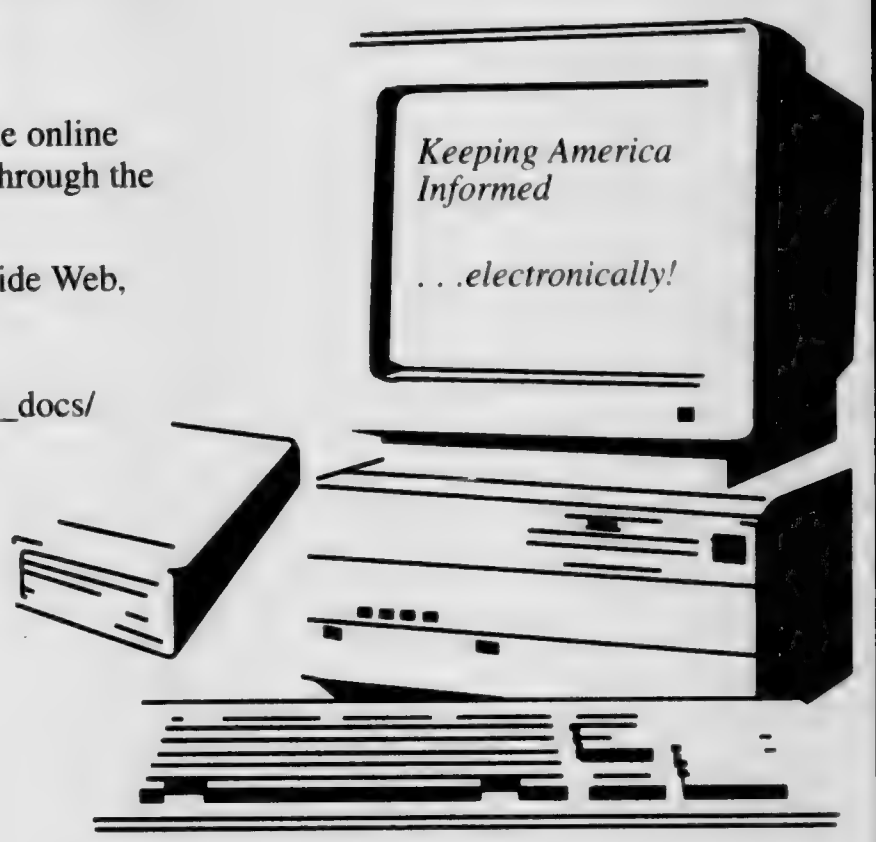
Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).



You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev 11/3)

Order Now!

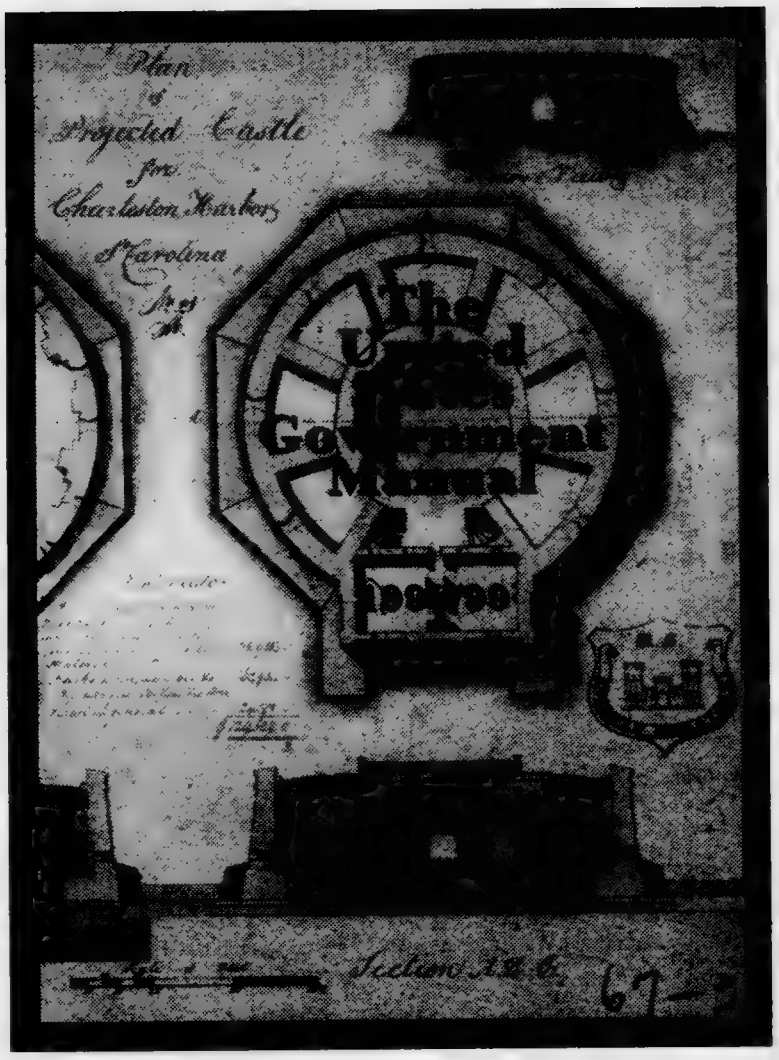
The United States Government Manual 1998/1999

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.



$41 per copy

Superintendent of Documents **Publications** Order Form

United States Government INFORMATION
PUBLICATIONS ★ PERIODICALS ★ ELECTRONIC PRODUCTS

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
*** 7917**

☐ **YES**, please send me ——— copies of **The United State Government Manual** 1998/99,
S/N 069–000–00076–2 at $41 ($50 foreign) each.

Total cost of my order is $ ———— . **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



per copy

VISA

02) 512–2250
02) 512–1800

change.

Documents

– ☐

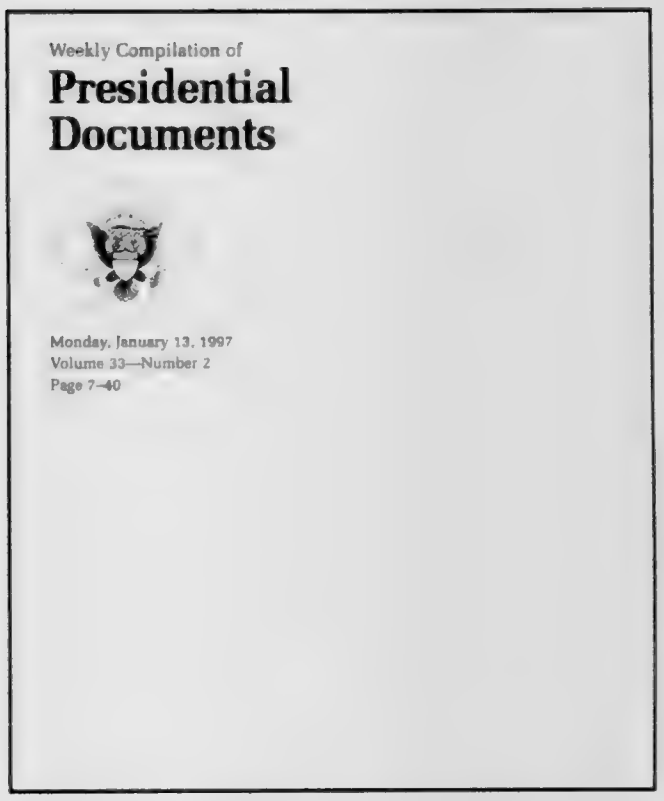
hank you for your order!

11/3

250–7954

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy! MasterCard VISA

Order Processing Code:
*** 5420**

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change.
International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

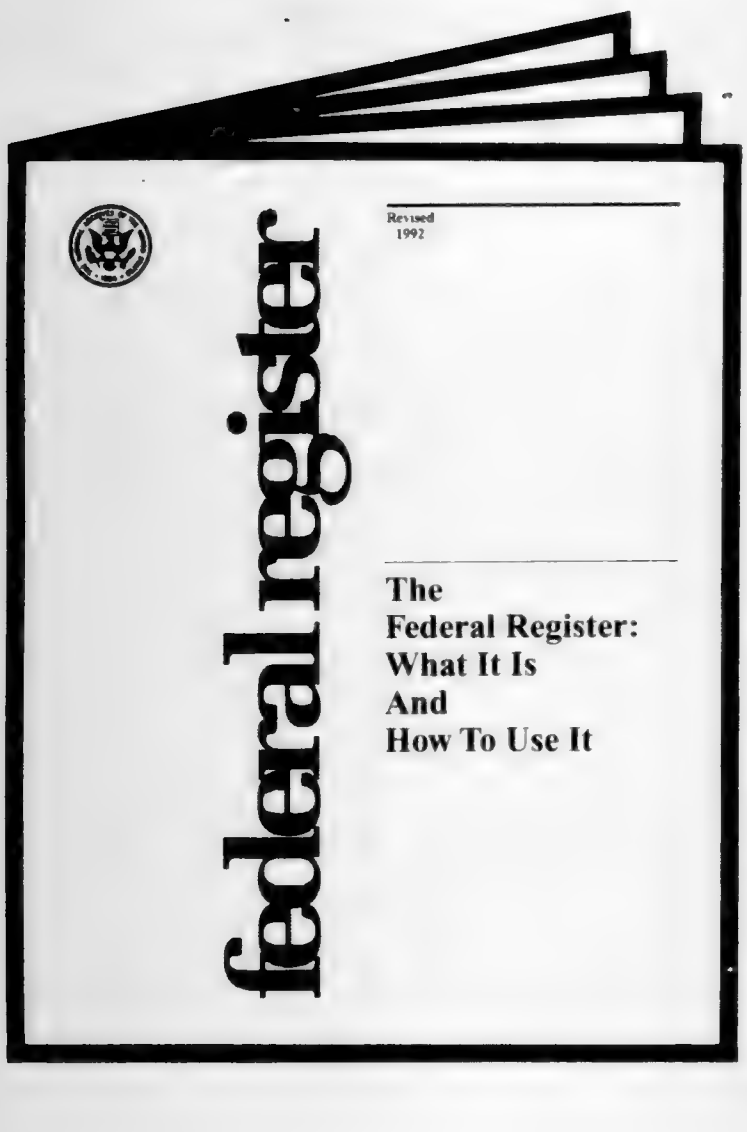
Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a simple research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

Order Processing Code
*** 6173**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ copies of **The Federal Register – What it is and Hot To Use It,** at $7.00 per copy. Stock No. 069–000–00044–4.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature (Rev.11/3)

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

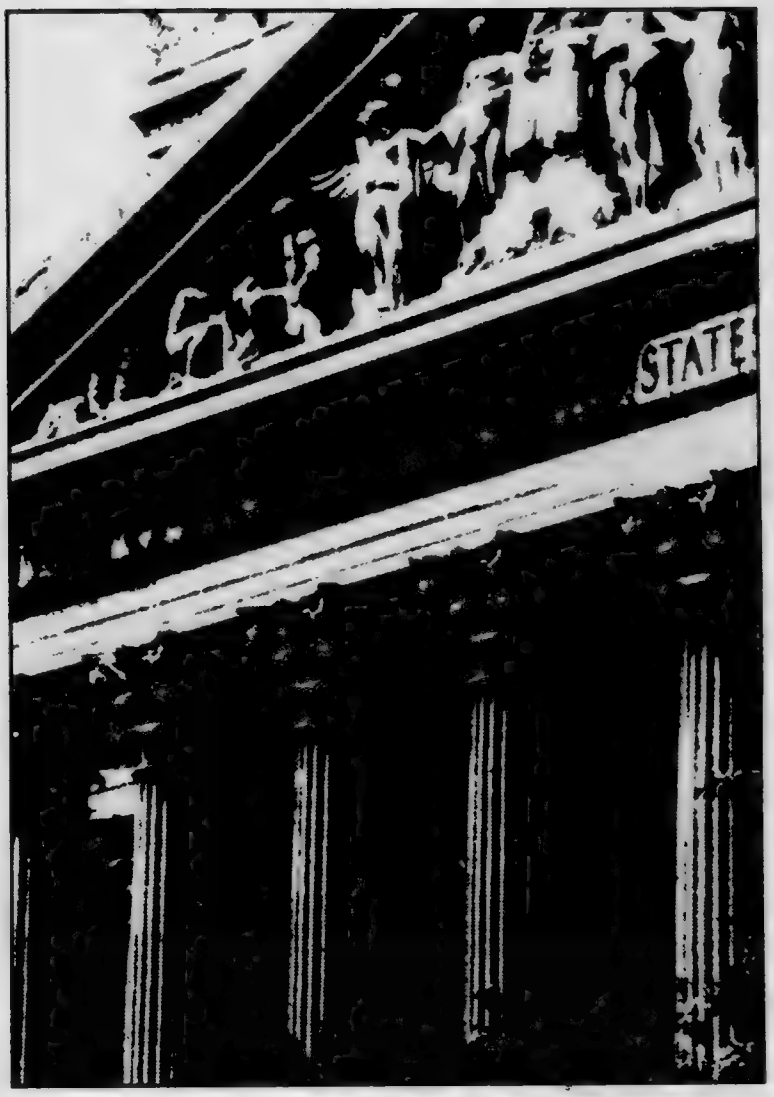
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.
_____ **Federal Register Index** (FRUS) $25 per year.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
                                  DEC97 R 1
AFR SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
                                  DEC97 R 1
AFRDO SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

SERVICE

s

MasterCard VISA

(202) 512–2250
(202) 512–1800

ist

ct to change.

f Documents

- ☐

Thank you for your order!

11/3

15250–7954



Printed on recycled paper

3-26-99
Vol. 64

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

United Sta
Governme
Printing Of
SUPERINTENDE
OF DOCUMENT
Washington, DC

OFFICIAL BUSIN
Penalty for pnvat

3–26–99
Vol. 64 No. 58

federal register

Friday
March 26, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

3-26-99
Vol. 64 N
Pages 14575

3-26-99
Vol. 64 No. 58
Pages 14575-14808

federal register

Friday
March 26, 1999

ANN ARBOR MI 48106

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account. VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Contents

Federal Register
Vol. 64, No. 58
Friday, March 26, 1999

Agricultural Marketing Service
RULES
Table grapes (European or vinifera type); grade standards, 14575–14577
PROPOSED RULES
Fruits; import regulations:
Nectarines, 14642–14648

Agriculture Department
See Agricultural Marketing Service
See Forest Service

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Signature Flight Support Corp et al., 14758–14769

Army Department
RULES
Military reservations and national cemeteries:
Private organizations on Army Department installations; CFR part removed, 14619–14620
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Chancepts, Ltd., LLC, 14708–14709
Self-imaging waveguide devices for wavelength division multiplexing applications, 14709
Training device for digital assessment of intraocular pressure, etc., 14709
Transon LLC, 14709

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See Minority Business Development Agency
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14688–14689
Submission for OMB review; comment request, 14689

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 14687–14688

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Dominican Republic, 14704
Egypt, 14704–14705
Mexico, 14705
Romania, 14705–14706

Commodity Futures Trading Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14706–14707
Meetings; Sunshine Act, 14707–14708

Consumer Product Safety Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14708

Customs Service
NOTICES
Reports and guidance documents; availability, etc.:
General order merchandise, etc.; damages and penalties for failure to provide notifications, take possession, etc., 14790–14798

Defense Department
See Army Department

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Saculla, Francois J., M.D., 14769

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 14770–14771

Energy Department
NOTICES
Environmental statements; notice of intent:
C.D. McIntosh, Jr. Power Plant, Lakeland, FL; pressurized circulating fluidized bed demonstration project, 14710–14713
Grants and cooperative agreements; availability, etc.:
Development of feed system for alternative feedstocks for gasification, 14713–14714
Improved natural gas storage well remediation, 14713
Meetings:
Environmental Management Advisory Board, 14714–14715
Environmental Management Site-Specific Advisory Board—
Paducah Gaseous Diffusion Plant, KY, 14715

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 14624–14626
Utah, 14620–14624
Drinking water:
Underground injection control program—
Lance Formation aquifer, Johnson County, WY; exemption determination, 14799–14804

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Arsanilic acid [(4-aminophenyl) arsonic acid], 14632–14639
Quinclorac, 14626–14632
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 14659–14665
California, 14665–14666
Utah, 14665
NOTICES
Air pollution control; new motor vehicles and engines:
California pollution control standards; Federal preemption waiver; public hearing, 14715–14717
Massachusetts and automobile manufacturers; sale of zero emission vehicles; comment request, 14717–14718
Drinking water:
Public water supply supervision program—
New York, 14718–14719
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 14719–14720
Weekly receipts, 14720–14721
Meetings:
Environmental Policy and Technology National Advisory Council, 14721
National Drinking Water Advisory Council, 14721
Superfund; response and remedial actions, proposed settlements, etc.:
Peerless Industrial Paint Coatings Site, MO, 14722
Powell Road Landfill Site, OH, 14722–14723

Executive Office of the President
See Presidential Documents

Export Administration Bureau
RULES
Export licensing:
Exports or reexports, license requirement; entity list—
Russian, Indian, and Pakistani entities, 14605–14606

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 14578–14580
British Aerospace, 14588–14589
Eurocopter France, 14585–14588
Lockheed, 14580–14583
Porsche, 14583–14584
Class E airspace, 14589–14602
Class E airspace; correction, 14594–14595
Jet routes, 14602–14603
Restricted areas, 14603–14605
NOTICES
Meetings:
RTCA, Inc., 14782
Passenger facility charges; applications, etc.:
Missoula International Airport, MT, 14782–14783

Federal Communications Commission
RULES
Radio services, special:
Personal radio services—
Family radio service; very short distance two-way voice radio service; establishment, 14639–14640

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 14723

Federal Highway Administration
NOTICES
Meetings:
Intelligent Transportation Society of America, 14783

Federal Maritime Commission
NOTICES
Agreements; additional information requests:
Transpacific Stabilization Agreement, 14723

Federal Reserve System
RULES
Availability of funds and collection of checks (Regulation CC):
Software changes related to mergers; time to implement, 14577–14578

Federal Trade Commission
NOTICES
Prohibited trade practices:
Abercrombie & Fitch, Inc., 14723–14724
Bugle Boy Industries, Inc., 14724–14725
Burlington Coat Factory Warehouse Corp., 14725
CMS Energy Corp., 14725–14727
Delia's Inc., 14727–14728
Design Zone, Inc., 14728–14729
Gottschalks, Inc., 14729–14730
North Lake Tahoe Medical Group, Inc., 14730–14733
Wal-Mart Stores, Inc., 14733–14734
Woolrich, Inc., 14734

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Alabama sturgeon, 14676–14685
NOTICES
Endangered and threatened species:
Recovery plans—
Hoffmann's rock-cress, etc. (13 plants from Northern Channel Islands, CA), 14745–14746

Food and Drug Administration
RULES
Food additives:
Secondary direct food additives permitted in food for human consumption—
Sulphopropyl cellulose, 14608–14610
NOTICES
Meetings:
Arthritis Advisory Committee, 14735
Changing times; clinical trial regulations, clinical investigators and IRB's learning to cope, 14735
Reports and guidance documents; availability, etc.:
Accelerated approval products; submission of promotional materials, 14735–14736
Seafood hazard analysis critical control point transition, 14736–14737

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Texas
BASF Corp; caprolactam and cyclohexanone chemical products manufacturing facilities, 14689

Forest Service
NOTICES
Environmental statements; notice of intent:
Boise National Forest, ID, 14686–14687
Meetings:
Deschutes Provincial Interagency Executive Committee Advisory Committee, 14687

General Accounting Office
NOTICES
Meetings:
Federal Accounting Standards Advisory Board, 14734–14735

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
PROPOSED RULES
Freedom of Information Act; implementation, 14668–14676

Health Care Financing Administration
PROPOSED RULES
Medicare program:
Ambulance Fee Schedule Negotiated Rulemaking Committee—
Meetings, 14666

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 14740–14745

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Coquille Forest Resource Management Plan, OR, 14746
Tribal-State Compacts approval; Class III (casino) gambling:
Lac du Flambeau Band of Lake Superior Chippewa Indians, WI, 14746–14747

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Cut-to-length carbon steel plate from—
Mexico, 14690
Romania, 14689–14690
Extruded rubber thread from—
Indonesia, 14690–14695
Fresh cut flowers from—
Colombia, 14695
Countervailing duties:
Extruded rubber thread from—
Indonesia, 14695–14697
HEU natural uranium component in United States; delivery procedures, 14697–14702

Justice Department
See Antitrust Division
See Drug Enforcement Administration

Labor Department
See Employment Standards Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14769–14770

Land Management Bureau
PROPOSED RULES
Minerals management:
Oil and gas leasing—
Performance standards in lieu of current prescriptive requirements, 14666–14668
NOTICES
Environmental statements; notice of intent:
Clackamas County et al., OR; seed orchard pest management programs, 14747–14748
Lost Creek Gathering System Project, WY; scoping meeting, 14748
Meetings:
Resource Advisory Councils—
Northwest Colorado, 14748–14749
Southeast Oregon, 14749
Realty actions; sales, leases, etc.:
Nevada, 14749
Recreation management restrictions, etc.:
Shasta County, CA; firearms restrictions, 14749–14750
Resource management plans, etc.:
Bonanza Herd Area, UT; wild horse maintenance, 14750
Withdrawal and reservation of lands:
Nevada, 14750–14751

Maritime Administration
PROPOSED RULES
Cargo preference–U.S.-flag commercial vessels:
Carriage of agricultural exports, 14676

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
Oil and gas lease sales—
Restricted joint bidders list, 14751
Royalty management:
Phosphate production on western public lands; royalty computation, 14751–14753

Minority Business Development Agency
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14702–14703

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Internal programmatic approval documentation, 14640–14641
NOTICES
Meetings:
Advisory Council
Aeronautics and Space Transportation Technology Advisory Committee, 14771
Life and Microgravity Sciences and Applications Advisory Committee, 147722

National Gambling Impact Study Commission
NOTICES
Meetings, 14772

National Highway Traffic Safety Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Impaired motorcycle riding reduction; innovative programs, 14784–14788

National Institutes of Health
NOTICES
Meetings:
National Institute of Allergy and Infectious Diseases, 14739
National Institute of Child Health and Human Development, 14738
National Institute of Dental and Craniofacial Research, 14739–14740
National Institute of Diabetes and Digestive and Kidney Diseases, 14740
National Institute of Environmental Health Sciences, 14738–14739
National Institute on Aging, 14737–14738
National Institute on Alcohol Abuse and Alcoholism, 14740

National Oceanic and Atmospheric Administration
NOTICES
National Weather Service; modernization and restructuring:
Consolidation, automation, and closure certifications, 14703–14704

National Park Service
NOTICES
Meetings:
Gettysburg National Military Park Advisory Commission, 14753–14754
Native American human remains and associated funerary objects:
University of Nebraska State Museum, NE—
Cradle board, etc., from Webster County, NE, 14757
Inventory, 14754–14757
Wisconsin State Historical Society, Madison, WI; inventory from La Crosse, WI, 14757–14758

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 14772–14774

Presidential Documents
PROCLAMATIONS
Special observances:
Greek Independence Day: A National Day of Celebration of Greek and American Democracy (Proc. 7175), 14805–14808

Public Health Service
See Food and Drug Administration
See National Institutes of Health

Research and Special Programs Administration
NOTICES
Hazardous materials transportation:
Registration requirements and fee assessment, 14788–14789

Securities and Exchange Commission
PROPOSED RULES
Securities and investment companies:
Canadian tax-deferred retirement savings accounts; offer and sale of securities, 14648–14658
NOTICES
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 14778–14779
Applications, hearings, determinations, etc.:
Public utility holding company filings, 14774–14776
Todd Investment Advisors, Inc., 14776–14778

Small Business Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14779–14780
Disaster loan areas:
Washington, 14780–14781
License surrenders:
KOCO Capital Co., L.P., 14781
TLC Funding Corp., 14781
Meetings; district and regional advisory councils:
District of Columbia, 14781
Applications, hearings, determinations, etc.:
BOCNY, LLC, 14780
InvestCare Partners, L.P., 14780
KCEP Ventures II, L.P., 14780

Social Security Administration
RULES
Social security benefits:
Federal old age, survivors, and disability insurance—
Spouses, mothers, fathers, and children; technical amendments, 14606–14608
NOTICES
Agency information collection activities:
Proposed collection and submission for OMB review; comment request, 14781–14782

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Pennsylvania, 14610–14619

Surface Transportation Board
NOTICES
Railroad services abandonment:
Central Kansas Railway L.L.C., 14789–14790

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Hearings, etc.—
Kiwi International Air Lines, Inc., 14782

Treasury Department
See Customs Service

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Gustave Moreau (1826-1898), 14798

Separate Parts In This Issue

Part II
Environmental Protection Agency, 14799–14804

Part III
The President, 14805–14808

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
51.....14575
Proposed Rules:
944.....14642
12 CFR
229.....14577
14 CFR
39 (5 documents) 14578, 14580, 14583, 14585, 14588
71 (19 documents) 14589, 14590, 14591, 14592, 14593, 14594, 14595, 14596, 14597, 14598, 14599, 14600, 14601, 14602
73 (2 documents) 14603, 14604
15 CFR
744.....14605
17 CFR
Proposed Rules:
230.....14648
240.....14648
270.....14648
20 CFR
404.....14606
21 CFR
173.....14608
30 CFR
938.....14610
32 CFR
556.....14619
40 CFR
52 (2 documents) 14620, 14624
147.....14800
180 (2 documents) 14626, 14632
Proposed Rules:
52 (3 documents) 14659, 14665
42 CFR
Proposed Rules:
405.....14666
43 CFR
Proposed Rules:
3100.....14666
3110.....14666
3120.....14666
3130.....14666
3140.....14666
3150.....14666
3160.....14666
3170.....14666
3180.....14666
45 CFR
Proposed Rules:
5.....14668
46 CFR
Proposed Rules:
381.....14676
47 CFR
95.....14639
48 CFR
1804.....14640
1807.....14640
1835.....14640
1872.....14640
50 CFR
Proposed Rules:
17.....14676

Rules

This section of
contains regula
applicability an
are keyed to a
Federal Regula
50 titles pursua

The Code of F
the Superinten
new books are
REGISTER iss

DEPARTMEN

Agricultural

7 CFR Part 5

[Docket Numb

Table Grape
Type); Grade

AGENCY: Agri
USDA.

ACTION: Final

SUMMARY: Th
United States
Table Grapes
Type). The A
Service (AMS
industry and
develops and
quality, cond
packaging in
commerce by
and quality a
uniform lang
various level
as valued in
revision will
reference thr
the present "
"Sugraone."
a benefit to th
providing a u
reference ens
the grade sta

DATES: This r
1999. The inc
certain public
approved by
Register as of

FOR FURTHER
Frank O'Sulli
Branch, Fruit
Agricultural
Department o
96456, Washi
(202) 720–21
Francis__J.__

SUPPLEMENTA
Department o

Rules and Regulations

Federal Register
Vol. 64, No. 58
Friday, March 26, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–98–302]

Table Grapes (European or Vinifera Type); Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the United States Standards for Grades of Table Grapes (European or Vinifera Type). The Agricultural Marketing Service (AMS), in cooperation with industry and other interested parties develops and improves standards of quality, condition, quantity, grade and packaging in order to facilitate commerce by providing buyers, sellers, and quality assurance personnel uniform language criteria for describing various levels of quality and condition as valued in the marketplace. The revision will change the specific varietal reference throughout the standard from the present "Superior Seedless" to "Sugraone." This revision will result in a benefit to the table grape industry by providing a uniform, up-to-date reference ensuring proper application of the grade standards.

DATES: This rule is effective March 29, 1999. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington D.C. 20090–6456, (202) 720–2185; E-Mail Francis_J._Osullivan@usda.gov.

SUPPLEMENTARY INFORMATION: The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

AMS provides inspection and grading services and issues grade and quality standards for commodities such as grapes. The agency does not determine varietal names for such commodities. However, in February 1998, AMS received a request from Sun World International (Sun World) to replace the varietal reference "Superior Seedless" with "Sugraone" in the table grape standards in 7 CFR Part 51.880–51.914. Sun World, a grower/shipper with proprietary rights to the term "Superior Seedless," advised AMS that "Superior Seedless" was a registered trademark name and no longer the varietal name used for this table grape variety.

Sun World petitioned AMS in February 1998 to revise the United States Standards for Grades of Table Grapes (European or Vinifera Type). Sun World requested that AMS revise the standards by replacing the varietal reference of "Superior Seedless" with "Sugraone." This request appeared reasonable to AMS, because the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) lists specific requirements for this variety. Although AMS is not responsible for issuing varietal names, the Agency is responsible for facilitating commerce by providing buyers, sellers, and quality assurance personnel uniform language criteria for describing various levels of quality and condition as valued in the marketplace. Accordingly, descriptions and varietal names should be used that are current and applicable for its users.

A proposed rule was issued to address this change. A proposed rule was published in the **Federal Register** on October 21, 1998 [V. 63, FR 56096]. A comment period of sixty days was issued which closed on December 21, 1998.

Only one comment was received during the comment period. This comment was from the proponent, Sun World, which offered several reasons for making the revision to the standard. These reasons include the fostering of international trade, recognition of "Sugraone" as the proper varietal name by appropriate international organizations and consistency with applicable laws and international agreements. The comments noted that on August 9, 1996, the State of California, where 100 percent of the U.S. production of Sugraone originates, revised its regulations identifying Sugraone as a grape varietal name (California Code of Regulations, Title 3, Subchapter 4, Fresh Fruits and Vegetables, Article 25, Table Grapes and Raisins, November 16, 1996).

AMS has considered this comment and based upon available information has determined that the varietal reference should be revised from "Superior Seedless" to "Sugraone." As previously stated, AMS provides inspection and grading services and issues grade and quality standards for commodities such as grapes. Even though U.S. grade standards make reference to varieties for some requirements, the agency does not determine varietal names for commodities.

However, according to the Agricultural Marketing Act of 1946 [7 U.S.C. 1621–1627, Sec. 203 (c)], the Secretary of Agriculture is directed and authorized "to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices." This change should encourage uniformity and consistency in commercial practices with regard to marketing this variety of table grape.

Further, users of the standard will be certain how to apply the requirements of the standard, specifically to the Sugraone variety. Ultimately, the changes are merely technical and the actual grade requirements for this variety will remain unchanged. The references are necessary to provide inspection personnel and other parties using the grade standards with clear, concise, up-to-date information. Accordingly, the revision will bave no substantive effect in the application of grade standards to regulated domestic and imported grapes under the

Agricultural Marketing Agreement Act of 1937 [7 U.S.C. 601–674], specifically those at 7 CFR part 925, and 7 CFR part 944, or grapes regulated under the Export Grape and Plum Act [7 U.S.C. 591–599].

Accordingly, in Sec. 51.882 U.S. Fancy, paragraph (i)(1)(ii), "Superior Seedless" will be changed to "Sugraone." In Sec. 51.884 U.S. No. 1 Table, paragraph (I)(1)(i), which specifies berry size for the U.S. No. 1 Table grade, "Superior Seedless" will also be changed to "Sugraone." A similar change will be made to Sec. 51.885 U.S. No. 1 Institutional, paragraph (h)(1)(i), which also references berry size for that particular grade.

In addition, as the maturity requirements specified in the standards incorporate applicable portions of The California Code of Regulations, and the State has revised these regulations by replacing "Superior Seedless" with "Sugraone," Sec. 51.888 (a)(2) of the U.S. grade standards will be revised to incorporate the new State regulations by reference to The California Code of Regulations, Title 3, Subchapter 4, Fresh Fruits, Nuts, and Vegetables, Article 25 Table Grapes and Raisins, November 16, 1996.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The United States standards issued pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627, and issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statues have compatibility.

It is difficult to obtain an exact number of table grape handlers and producers which grow or handle the Sugraone variety or Superior Seedless brand, (primarily due to the fact that a table grape producer or handler normally grows, or handles more than just one variety). However, according to the 1997 USDA National Agricultural Statistics Service reports, there are approximately 800 fresh market table grape growers/shippers in the United States which produced 939,665 short tons of table grapes (all varieties). Of these 800 growers/handlers, approximately 650 are from California and produce approximately 80 percent (750,000 short tons) of the crop. Approximately 10 growers from Arizona produced 2 percent (23,000 short tons) of the 1997 fresh market table grape crop. The bulk of the remaining 18 percent of production was produced by the remaining three of the top five States of table grape production: Georgia, Arkansas, and New York. In 1997, California produced approximately 26,572 short tons of the "Sugraone" variety, representing approximately 3 percent of the total U.S. table grape production and 100 percent of the U.S. production of this variety.

Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The table grape industry is characterized by growers and handlers whose farming operations generally involve more than one type (such as fresh market utilization versus processed market utilization) and variety of table grape, and whose income from farming operations in not exclusively dependent on one table grape variety or even one commodity. Typical table grape growers and shippers produce multiple varieties of fresh market table grapes and juice grapes within a single year. Furthermore, table grape handlers also handle not only multiple varieties of fresh market table grapes and juice grapes within a single year, but multiple commodities. Therefore, it is difficult to obtain an exact number of table grape growers and handlers, and, more specifically, "Sugraone" table grape growers, handlers and shippers, that can be classified as small entities based on the SBA's definition. However, the majority of the producers do have annual receipts greater than $500,000. Additionally, there are approximately 127 importers that receive an average of $2.8 million in grape revenue. (Table grapes received by these importers are subject to the requirements of Section 8e of the Agricultural Marketing Agreement Act of 1937 referenced above.) Therefore, it is estimated that the majority of table grape growers do not fit the SBA's definition of a small entity while the majority of handlers/importers are small entities.

The benefits of this rule are not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

Alternatives were considered for this action. One alternative would be to not issue a final rule. However, as the popularity of this variety increases, and as imports of this variety also increase, the exposure and frequency of this varietal designation will also increase. Since the purpose of these standards is to expedite the marketing of agricultural commodities, not changing this reference could result in confusion in terms of the proper application for the U.S. grade standards.

This action will make the standard more consistent and uniform with marketing trends and commodity characteristics. It will not impose any additional reporting or recordkeeping requirements on either small or large grape producers, handlers, or importers. In addition, other than discussed above, the Department has not identified any Federal rules that duplicate, overlap, or conflict with this rule.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this rule 30 days after publication in the **Federal Register** because: (1) It would be pertinent to have this change in effect by the beginning of the 1999 domestic table grape crop harvest (mid April to May); (2) the changes being made in this final rule only affect growers/handlers of the Sugraone variety of table grape; (3) the proposed rule provided a 60 day comment period during which no comments opposed to this rule were received. Accordingly, AMS amends the United States Standards for Grades of Table Grapes (European or Vinifera Type) as follows.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 51.882 [Amended]

2. In § 51.882, paragraph (i)(1)(ii) is amended by removing the words "Superior Seedless" and adding in their place the word "Sugraone."

§ 51.884 [Amended]

3. In § 51.884, paragraph (i)(1)(i) is amended by removing the words "Superior Seedless" and adding in their place the word "Sugraone."

§ 51.885 [Amended]

4. In § 51.885, paragraph (h)(1)(i) is amended by removing the words

"Superior Seedless" and adding in their place the word "Sugraone."

§ 51.888 [Amended]

5. In § 51.888, paragraph (a)(2) is amended by removing the date "February 28, 1992" and adding in its place the date "November 16, 1996".

Dated: March 22, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–7473 Filed 3–25–99; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1027]

Availability of Funds and Collection of Checks.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (the Board) recognizes that banks are currently dedicating their automation resources to addressing Year 2000 and leap year computer problems and may be challenged to make and test other programming changes, including those that may be required to comply with Regulation CC's merger transition provisions, without jeopardizing their Year 2000 or other programming efforts. Therefore, the Board is amending Regulation CC to allow banks that consummate a merger on or after July 1, 1998, and before March 1, 2000, greater time to implement software changes related to the merger.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jean Anderson, Staff Attorney, Legal Division (202/452–3707). For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION: On December 2, 1998, the Board proposed amending Regulation CC to allow banks that consummate merger transactions on or after July 1, 1998, and before June 1, 1999, greater time to implement software changes related to the merger. (63 FR 66499). The proposal did not affect applications under the Bank Merger Act or the Bank Holding Company Act. The Board proposed this amendment because it recognizes that banks are currently dedicating their automation resources to addressing Year 2000 and leap year computer problems and may be challenged to make and test other programming changes, including those that may be required to comply with Regulation CC, without jeopardizing their Year 2000 or other programming efforts.

The Board received 15 comments on the proposed rule from the following types of institutions:

Banks/thrifts—3
Trade associations—3
Federal Reserve Banks—3
Clearinghouses—3
Bank holding companies—3

All of the commenters generally supported the Board's proposal and viewed it as aiding banks' efforts to focus programming resources on renovating and testing software systems to address Year 2000 rollover and leap year computer problems. Nine commenters urged the Board, however, to lengthen the proposed extension of the transition period, and generally recommended that a more liberal transition period be applicable to banks that consummate mergers in 2000.

These commenters stated that adopting an extension into the Year 2000 would enable banks to delay merger programming work so that they may focus greater resources on addressing the Year 2000 computer problem. In particular, it would enable merged banks that were Year 2000 compliant as separate entities to delay merging their systems until after key Year 2000 events (the century rollover and leap year), which would enable them to avoid reprogramming and retesting already Year 2000 compliant systems prior to spring 2000. Finally, one commenter noted that extending the period into the Year 2000 would help ensure that banks have sufficient resources to address unanticipated Year 2000 problems that may arise at the turn of the century.

For these reasons, the Board has decided to further extend the transition period. The final rule allows banks that consummate a merger on or after July 1, 1998, and before March 1, 2000, to be treated as separate banks until March 1, 2001. Beginning in March 2000, banks that merge will be subject to the normal one-year transition period.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The final rule will apply to all depository institutions regardless of size. The amendments are intended to provide relief to banks involved in mergers, including small institutions, by reducing required changes to their automation environment during the period surrounding the century rollover, and should not have a negative economic effect on small institutions. Because the amendments should not have a negative economic effect on small institutions there were no significant alternatives that would have minimized the economic impact on those institutions.

List of Subjects in 12 CFR Part 229

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend Regulation CC, 12 CFR Part 229 as set forth below:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001 *et seq.*

2. In § 229.19, paragraph (g) is redesignated as paragraph (g)(1), a heading is added for newly designated paragraph (g)(1), and a new paragraph (g)(2) would be added to read as follows:

§ 229.19 Miscellaneous.

* * * * *

(g) *Effect of merger transaction.* (1) *In general.* * * *

(2) *Merger transactions on or after July 1, 1998, and before March 1, 2000.* If banks have consummated a merger transaction on or after July 1, 1998, and before March 1, 2000, the merged banks may be considered separate banks until March 1, 2001.

3. Section 229.40 is redesignated as § 299.40 (a), a heading is added for newly designated paragraph (a), and a new paragraph (b) would be added to . read as follows:

§ 229.40 Effect of merger transaction.

(a) *In general.* * * *

(b) *Merger transactions on or after July 1, 1998, and before March 1, 2000.* If banks have consummated a merger transaction on or after July 1, 1998, and

before March 1, 2000, the merged banks may be considered separate banks until March 1, 2001.

By order of the Board of Governors of the Federal Reserve System, March 22, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–7408 Filed 3–25–99; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–39–AD; Amendment 39–11091; AD 99–07–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This action requires repetitive inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, and follow-on actions, if necessary. This action also provides optional terminating action for the repetitive inspections. This amendment is prompted by a report that a fractured diagonal brace lug was found during a routine maintenance inspection. The actions specified in this AD are intended to detect and correct cracking of the diagonal brace of the nacelle strut, which could result in failure of the diagonal brace, and consequent fatigue failure of a strut secondary load path and separation of the engine and strut.

DATES: Effective April 12, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 12, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–39–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that a fractured lug of the diagonal brace of the nacelle strut was found during a routine visual inspection of a Boeing Model 767 series airplane. The affected airplane had accumulated 36,247 flight hours and 17,677 flight cycles.

Such cracking has been attributed to migration of a bushing inside the lug bore. A migrated bushing could cause fretting damage to the lug bore, which could lead to the initiation of a crack. Subsequent propagation of that crack due to fatigue loading could result in complete fracture of the lug and consequent failure of the diagonal brace. Failure of the diagonal brace would place increased stress on the strut secondary load paths. Continued operation of the airplane with a failed diagonal brace could result in fatigue failure of a strut secondary load path. This condition, if not corrected, could result in separation of the engine and strut.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998, which describes procedures for repetitive detailed visual inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, and follow-on actions, if necessary. Follow-on actions include, if cracking or damage is detected, replacement of the existing one-piece diagonal brace with a new three-piece diagonal brace, which eliminates the need for the repetitive inspections, and additional inspections of the strut secondary load paths to detect damage. For airplanes on which no cracking or damage is detected, the alert service bulletin describes procedures for optional rework of the diagonal brace, which allows repetitive inspections to be deferred, provided that the one-piece diagonal brace is replaced with a three-piece diagonal brace prior to the accumulation of 37,500 total flight cycles.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct cracking of the diagonal brace of the nacelle strut, which could result in failure of the diagonal brace, and consequent failure of a secondary load path and loss of the engine and strut. This AD requires repetitive detailed visual inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, and follow-on actions, if necessary. If no cracking or damage is detected, this AD provides for optional rework of the diagonal brace, which would allow the repetitive inspection threshold to be increased from 1,000 or 3,000 flight cycles, as applicable, to 12,000 flight cycles. If any cracking or damage is detected, this AD requires replacement of the existing one-piece diagonal brace with a new three-piece diagonal brace, which constitutes terminating action for the repetitive inspections; additional inspections of the strut secondary load paths to detect damage; and corrective actions, if necessary. This AD also provides for an optional replacement of the one-piece diagonal brace with a new three-piece diagonal brace, which constitutes terminating action for the repetitive inspection requirements of this AD. The actions are required to be accomplished in accordance with the alert service bulletin described previously, except as discussed below.

Differences Between Alert Service Bulletin and This AD

Operators should note that the effectivity listing of the alert service bulletin is divided into four groups. However, Figure 1 of the alert service bulletin specifies procedures only for Groups 1, 2, and 3. The FAA has determined that airplanes in Group 4 are subject to the detailed visual inspection at the same threshold (12,000 total flight cycles), and the same corrective actions, if necessary, as airplanes in Groups 1 and 3.

Operators also should note that, if the optional rework of the diagonal brace is accomplished, this AD requires reinspection to detect cracking or damage of the diagonal brace lugs within 12,000 flight cycles. The alert service bulletin identifies the optional rework as "zero time rework"; however, the alert service bulletin does not

clearly specify that the detailed visual inspection of the diagonal brace lugs should be repeated within 12,000 flight cycles after accomplishment of the rework. The FAA finds that, to ensure the safety of the fleet of affected airplanes, it is necessary to clarify the requirement to repeat the inspection of the diagonal brace within 12,000 flight cycles after rework.

Operators also should note that, although the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Interim Action

This is considered to be interim action. The FAA currently is considering requiring the replacement of the existing one-piece diagonal brace with a new three-piece diagonal brace, which would constitute terminating action for the repetitive inspections required by this AD action. However, the planned compliance time for the installation of the three-piece diagonal brace is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–39–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–07–06 Boeing: Amendment 39–11091. Docket 99–NM–39–AD.

Applicability: Model 767 series airplanes; as listed in Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the diagonal brace of the nacelle strut, which could result in failure of the diagonal brace, and consequent fatigue failure of a strut secondary load path and separation of the engine and strut, accomplish the following:

Initial Inspection

(a) Perform a detailed visual inspection to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, on the left and right sides of the airplane, in accordance with Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. Perform the inspection at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes in Groups 1, 3, and 4: Inspect prior to the accumulation of 12,000 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later.

(2) For airplanes in Group 2: Inspect prior to the accumulation of 24,000 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later.

Follow-On Actions

(b) If no cracking or damage is detected during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at the interval specified in paragraph (b)(1) or (b)(2) of this AD, as applicable, in accordance

with Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. Repeat the inspection until the actions specified by paragraph (d) or (e) of this AD have been accomplished.

(1) For airplanes in Groups 1, 3, and 4; and for airplanes in Group 2 on which the diagonal brace has accumulated more than 32,000 total flight cycles: Repeat the inspection at intervals not to exceed 1,000 flight cycles.

(2) For airplanes in Group 2 on which the diagonal brace has accumulated 32,000 or fewer total flight cycles: Repeat the inspection at intervals not to exceed 3,000 flight cycles.

(c) If any cracking or damage is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, remove the diagonal brace and perform additional inspections to detect damage of the strut secondary load paths, in accordance with Part 4 of Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998; and accomplish the requirements of paragraphs (c)(1) and, if applicable, (c)(2) of this AD.

(1) Prior to further flight, replace the one-piece diagonal brace with a new three-piece diagonal brace, in accordance with Part 3 of the Accomplishment Instructions of the alert service bulletin. Such replacement constitutes terminating action for the requirements of this AD.

(2) If any additional damage of the alternate load paths is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

(d) For airplanes on which no cracking is detected during the inspection required by paragraph (a) of this AD, in lieu of accomplishing repetitive inspections in accordance with paragraph (b) of this AD, rework of the forward and aft lugs of the diagonal brace may be accomplished in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. If such rework is accomplished: Within 12,000 flight cycles after the rework, repeat the inspection required by paragraph (a) of this AD; and, prior to the accumulation of 37,500 total flight cycles on the diagonal brace, replace the one-piece diagonal brace with a new three-piece diagonal brace, in accordance with Part 3 of the Accomplishment Instructions of the alert service bulletin. Such replacement constitutes terminating action for the requirements of this AD.

Optional Terminating Action

(e) Replacement of the one-piece diagonal brace with a new three-piece diagonal brace, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) Except as specified by paragraph (c)(2) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on April 12, 1999.

Issued in Renton, Washington, on March 17, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7117 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–256–AD; Amendment 39–11090; AD 99–07–05]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that requires repetitive external visual inspections and internal borescope inspections to detect discrepancies of the elevator assembly; and either repair or repair/modification of certain identified discrepancies. This amendment is prompted by a report of fretting at the diagonal truss to web joint of the elevator and cracking in the cap fillet radius adjacent to the joint, apparently due to loose fasteners as a result of local vibration. The actions specified by this AD are intended to detect and correct such fretting and cracking, which could result in reduced structural integrity of the elevator and consequent flutter instability if coupled with other structural failures.

DATES: Effective April 30, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 30, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Lockheed Model L–1011–385 series airplanes was published in the **Federal Register** on May 9, 1997 (62 FR 25565). That action proposed to require repetitive external visual inspections and internal borescope inspections to detect discrepancies of the elevator assembly; and repair/modification of any discrepancy.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed AD.

Request To Revise the Cost Estimate

One commenter states that inspection and modification of the elevator, in accordance with Part II of the Accomplishment Instructions of Lockheed L–1011 Service Bulletin 093–55–031, dated April 26, 1996, requires approximately 320 work hours instead of the 20 work hours specified in the service bulletin. The FAA infers that the commenter considers that the cost estimate included in the proposed AD is too low and should be revised.

The FAA does not concur. The economic analysis of the AD is limited only to the cost of actions actually required by the rule. It does not consider the costs of an "on condition" action, such as either the repair or repair/modification specified by paragraph (b) of this AD, which is required to be accomplished only if any discrepancy is detected during the required inspection. In light of this, the FAA considers that the cost estimate provided in the proposed AD is appropriate. No change has been made to this estimate in the final rule.

Request To Change the Inspection Requirements

One commenter requests that a one-time inspection be accomplished on all elevators, unless previously accomplished within the last 24 months in accordance with Lockheed L–1011 Service Bulletin 093–55–031, dated April 26, 1996. The commenter states that, because no damage has been found outboard of elevator station (ES) 187.5 by either the commenter or the manufacturer, inspection outside that area is unnecessary. The commenter adds that no damage has been found on airplanes having an elevator previously modified to incorporate larger (5/32-inch) fasteners in accordance with Lockheed L–1011 Service Bulletin 093–55–018, Revision 1, dated July 12, 1990. Based on these findings, the commenter maintains that those airplanes should not be subject to the inspection requirements of the proposed AD.

The FAA does not concur that a one-time inspection, instead of the repetitive inspections required by paragraphs (a) and (b) of this AD, would be adequate to detect and correct the unsafe condition. Although the FAA agrees that elevator damage has been limited to elevators on which the smaller fasteners are installed, and to the truss structure inboard of ES 187.5, Service Bulletin 093–55–031 describes only possible sources of such damage. While it appears that loose fasteners are the cause, the FAA has determined that it is possible that other factors could be involved. In light of that possibility and until the exact cause has been identified, the FAA has determined that mandating repetitive inspections is the only means to detect future damage to the elevator assembly, regardless of the fastener configuration of the truss structure. No change has been made to the repetitive inspections required by paragraph (a) of the final rule.

Requests To Change Repair/Modification Requirements

One commenter requests removal of the words "any discrepancy" from paragraph (b) of the proposed AD, because such wording would require accomplishment of the Part II inspection/modification [i.e., repair/modification] of the referenced service bulletin, even if the noted discrepancy is outside the scope of interest of this proposed AD. The commenter adds that the restriction should be limited to the repair of damages detected during inspections.

The FAA concurs and agrees that the term "any discrepancy," is too broad and needs clarification. The FAA has revised paragraph (b) of this final rule to specify that corrective action is required only for those discrepancies identified in paragraph (a) of this AD.

That same commenter requests that the repair of all damage found during inspections be accomplished prior to further flight, in accordance with the Lockheed L–1011 Structural Repair Manual (SRM), or instructions approved by a designated engineering representative (DER).

The FAA partially concurs. The FAA concurs with the commenter's request to allow repairs in accordance with the Lockheed L–1011 SRM. The FAA has reviewed the SRM procedure and finds that it may be used as an acceptable means of compliance for the repair required by paragraph (b) of this AD. However, the FAA has determined that the repair/modification (if accomplished) must be accomplished in accordance with Lockheed L–1011 Service Bulletin 093–55–031. Paragraph (b) of the final rule has been changed accordingly.

The FAA does not concur with the commenter's request to allow repair in accordance with DER-approved instructions. The FAA does not consider it appropriate for a DER to approve the repairs required by this AD. While DER's are authorized to approve certain repairs for cracking found during routine maintenance inspections or other types of inspections, the FAA considers that any cracking detected in the principal structural elements (PSE) during an inspection required by this AD indicates an airworthiness concern of a complex nature. Therefore, such cracking does not warrant "routine" handling, but requires expeditious action or a special approach to address the unsafe condition. In light of this, the FAA has determined that DER approval of repairs for AD-mandated discrepancy findings is not appropriate in this AD; therefore, DER approval is not included as an alternative source of information for accomplishing the repairs required by paragraph (b) of the final rule.

The same commenter states that modification of the elevator, in accordance with Part II of the Accomplishment Instructions of the referenced service bulletin, should not be required because the modification requires 320 work hours per "set" (two elevators) to accomplish, and that repairs with repetitive inspections would provide an equivalent level of safety.

The FAA partially concurs. The FAA agrees that the operator may have the option of accomplishing either the repair or the repair/modification, with continued inspections thereafter, and that accomplishment of either of these actions will provide an adequate level of safety. The final rule has been changed accordingly.

The FAA points out that Service Bulletin 093–55–031 specifies that accomplishment of the Part II repair/modification procedure closes out the inspection requirements. However, paragraph (a) of the final rule requires repetitive inspections after accomplishment of either the repair or the repair/modification. NOTE 2 has been added to the final rule to clarify that the inspections are to be continued after accomplishment of either of these actions.

Request To Correct the Part Number Specified in the Service Bulletin

One commenter notes that Part II A.(3) of the Accomplishment Instructions of Lockheed L–1011 Service Bulletin 093–55–031, dated April 26, 1996, incorrectly specifies part number (P/N) HLT319–5 flush head Hi-loks as alternative parts to MS20470AD5 rivets. The commenter states that the correct specification should be "P/N HLT318–5 protruding head Hi-loks," which has been confirmed by the manufacturer.

The FAA concurs that clarification of the specified part number is necessary,

based on information received from the manufacturer. The correct part number has been added to paragraph (c) in the final rule.

Request To Add a Reporting Requirement

One commenter recommends mandatory reporting of damages found during the initial inspection because the manufacturer has not yet determined the cause and extent of failures of the inboard ribs.

The FAA does not concur. Although the FAA agrees that mandatory reporting could help identify the extent of the cracking found in the elevator truss structure, it is unlikely that such reports could identify the root cause. For this reason, the FAA has not added a reporting requirement to the final rule. However, if the commenter or other operators wish to obtain the results of such inspections and provide findings to the FAA, the FAA would consider further analysis of such data.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 235 Lockheed Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $140,400, or $1,200 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–07–05 Lockheed: Amendment 39–11090. Docket 96–NM–256–AD.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fretting at the diagonal truss to web joint of the elevator, and cracking in the cap fillet radius adjacent to the joint, which could result in reduced structural integrity of the elevator and consequent flutter instability if coupled with other structural failures, accomplish the following:

Initial and Repetitive Inspections

(a) Within 12 months after the effective date of this AD, perform an external visual inspection and internal borescope inspection to detect discrepancies (i.e., loose/missing fasteners or rivets, sponginess, sheared rivets, fretting, damage, and cracking) of the elevator assembly, in accordance with Part I of the Accomplishment Instructions of Lockheed L–1011 Service Bulletin 093–55–031, dated April 26, 1996. Repeat the inspections thereafter at intervals not to exceed 18 months.

Repair or Repair/Modification

(b) If any discrepancy described in paragraph (a) of this AD is detected during any inspection required by this AD, prior to further flight, accomplish either the repair in accordance with the applicable sections of the Lockheed L–1011 Structural Repair Manual, or the repair/modification in accordance with Part II of the Accomplishment Instructions of Lockheed L–1011 Service Bulletin 093–55–031, dated April 26, 1996. Repeat the inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 18 months.

Note 2: This AD requires repetitive inspections after accomplishment of either the repair or the repair/modification.

Correct Part Number

(c) Part II A. (3) of the Accomplishment Instructions of Lockheed L–1011 Service Bulletin 093–55–031, dated April 26, 1996, incorrectly specifies the part number to be used as a replacement for ⅛-inch-diameter rivets as "HLT319–5." The correct part number and description are identified as "HLT318–5 protruding head Hi-lok." Where there are differences between the AD and the service bulletin, the AD prevails.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) Except as provided by paragraph (b) of this AD, the actions shall be done in accordance with Lockheed L–1011 Service Bulletin 093–55–031, dated April 26, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 30, 1999.

Issued in Renton, Washington, on March 17, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7116 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–ANE–09–AD; Amendment 39–11089; AD 99–04–15]

RIN 2120–AA64

Airworthiness Directives; Dr.Ing.h.c.F. Porsche Aktiengesellschaft (Porsche) 3200N01, N02, and N03 Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 99–04–15 that was sent previously to all known U.S. owners and operators of Porsche PFM3200N01, N02, and N03 reciprocating engines by individual letters. This AD requires replacement of valve springs prior to further flight on PFM3200N01, N02, and NO3 engines. This amendment is prompted by reports of six cases of undetected fatigue failures of valve springs, with one valve spring failure causing an in-flight engine failure that ended in an emergency landing. The actions specified by this AD are intended to prevent an in-flight engine shutdown due to undetected fatigue failures of valve springs.

DATES: Effective April 12, 1999, to all persons except those persons to whom it was made immediately effective by priority letter AD 99–04–15, issued on February 8, 1999, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 12, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–ANE–09–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.gov." Comments sent via the Internet must contain the docket number in the subject line.

The applicable service information may be obtained from Porsche Aviation Products, Inc., 1600 Holcomb Avenue, Reno, Nevada, 89502; Attn: Mr. Gary Butcher, telephone (702) 329–3937, fax (702) 329–0426. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt Authority (LBA), which is the German airworthiness authority, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on certain Dr.Ing.h.c.F. Porsche Aktiengesellschaft (Porsche) PFM3200N01, N02, and N03 reciprocating engines. The LBA advises that they have received reports of six cases of undetected fatigue failures of valve springs with one valve spring failure causing an in-flight engine failure that ended in an emergency landing. A metallurgical analysis determined that the relative motion between the valve spring and valve spring retainer will result in fatigue cracking of the valve spring and eventual failure of the spring. This condition, if not corrected, could result in an in-flight engine shutdown.

Porsche has issued Service Bulletin (SB) No. N/105–036, dated October 8, 1998, that specifies procedures for replacing all valve springs in each engine cylinder head. The LBA has classified this SB as mandatory and has issued airworthiness directive (AD) FCAA 1998–436, dated October 8, 1998, in order to assure the airworthiness of these engines in Germany.

This engine model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. This engine model is used on a high-performance single-engine airplane. The nature of the valve spring failure is such that the pilot may not have advanced warning of engine failure. Therefore, the FAA has determined that the compliance time should reflect a reasonable degree of conservatism. The FAA has examined the findings of LBA, reviewed all available information, and determined that airworthiness directive (AD) action is necessary for products of this type design that are certificated for operation in the United States.

On February 8, 1999, the FAA issued AD 99–04–15, applicable to Porsche PFM3200N01, N02, and N03 reciprocating engines, installed on but not limited to Mooney M20L series airplanes.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD requires replacement of valve springs prior to further flight on PFM3200N0 1, N02, and N03 engines with 500 hours or more time-in-service (TIS) since new or since last overhaul after the effective date of this AD. Additionally, this AD requires replacement of valve springs by 500 hours TIS on PFM3200N01, N02, and N03 engines with less than 500 hours TIS since new or since last overhaul after the effective date of this AD. After the initial valve spring replacement, this AD requires replacement of springs at intervals not to exceed 500 hours TIS.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on February 8, 1999, to all known U.S. owners and operators of Porsche PFM3200N01, N02, and N03 reciprocating engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an

amendment to Section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR part 39) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–09–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–04–15 Dr.Ing.h.c.F. Porsche Aktiengesellschaft (Porsche) PFM: Amendment 39–11089 Docket 99–ANE–09–AD.

Applicability: Porsche PFM3200N01, N02, and N03 reciprocating engines, installed on but not limited to Mooney M20L series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight engine shutdown due to undetected fatigue failures of valve springs, accomplish the following:

(a) Prior to further flight, for engines that upon the effective date of this AD have 500 or more hours time-in-service (TIS) since new or since the last overhaul, replace all valve springs in accordance with Porsche service bulletin (SB) No. N/105–036, dated October 8, 1998, Instructions, page 2, Nos. 1–14.

(b) For engines that upon the effective date of this AD have less than 500 hours TIS since new or since the last overhaul, replace all valve springs prior to accumulating 500 hours TIS since new or since the last overhaul in accordance with Porsche SB No. N/105–036, dated October 8, 1998, Instructions, page 2, Nos. 1–14.

(c) Thereafter, at intervals not to exceed 500 hours TIS since last valve spring replacement, replace all valve springs in accordance with Porsche SB No. N/105–036, dated October 8, 1998, Instructions, page 2, Nos. 1–14.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) The replacement of the valve springs must be done in accordance with Porsche SB No. N/105–036, dated October 8, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Porsche Aviation Products, Inc., 1600 Holcomb Avenue, Reno, Nevada, 89502; Attn: Mr. Gary Butcher, telephone (702) 329–3937, fax (702) 329–0426. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective April 12, 1999, to all persons except those persons to whom it was made immediately effective by priority letter AD 99–04–15, issued February 8, 1999, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on March 17, 1999.

Donald Plouffe,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–7212 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–42–AD; Amendment 39–11092; AD 99–07–07]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA 330J Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Eurocopter France (Eurocopter) Model SA 330J helicopters. This action requires the visual inspection and, if any crack is found, replacement of the affected main rotor head sleeve. This amendment is prompted by the discovery of a crack through the thickness of a lower lug of a blade sleeve. The actions specified by the proposed AD are intended to prevent failure of a main rotor head sleeve that could result in the loss of a main rotor blade and subsequent loss of control of the helicopter.

DATES: Effective April 12, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mike Mathias, Aerospace Engineer, FAA, Rotorcraft Directorate, ASW–111, 2601 Meacham Blvd, Fort Worth, Texas 76137, telephone 817–222–5123, fax 817–222–5961.

SUPPLEMENTARY INFORMATION: The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter Model SA 330J helicopters. The DGAC advises of the discovery of a crack in the lower lug on the trailing edge of an SA 330J blade sleeve.

Eurocopter has issued Eurocopter France Service Bulletin 05.80 R1, dated February 14, 1995 (SB), which specifies the visual inspection and replacement procedures of each main rotor head sleeve lug, Part Number (P/N) 330A31.1376.00 through .05 or 330A31.1376.12 through .17 in accordance with paragraph C(1) and C(2) of the SB. The DGAC classified this SB as mandatory and issued DGAC AD 91–021–064(B)R1, dated March 15, 1995, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model SA 330J helicopters of the same type design registered in the United States, the proposed AD would require the visual inspection of each main rotor head sleeve lug, P/N 330A31.1376.00 through .05 or 330A31.1376.12 through .17.

None of the Eurocopter Model SA 330J helicopters affected by this action are on the U.S. Register. All helicopters included in the applicability of this rule are currently operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers this rule necessary to ensure that the unsafe condition is addressed in the event that any of these subject helicopters are imported and placed on the U.S. Register in the future.

Since this AD action does not affect any helicopter that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, it is found that notice and opportunity for prior public comment hereon are unnecessary, and that good cause exists for making this amendment effective in less than 30 days.

Should an affected helicopter be imported and placed on the U.S. Register, it will require approximately 1 work hour to accomplish each required inspection, and 1 work hour to replace a sleeve, at an average labor rate of $60 per work hour. Each main rotor head sleeve costs $19,100. Based on these figures, the cost impact of this AD will be $19,220 for inspecting and replacing one blade sleeve.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–SW–42–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that notice and public comment are unnecessary in promulgating this regulation, that the regulation can be issued immediately to correct an unsafe condition in aircraft since none of these model helicopters are registered in the United States, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this

action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–07–07 Eurocopter France: Amendment 39–11092, Docket No. 97–SW–42–AD.

Applicability: Eurocopter France (Eurocopter) Model SA 330J helicopters, with main rotor head sleeves part number (P/N) 330A31.1376.00 through .05 or 30A31.1376.12 through .17 installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 15 calendar days, unless previously accomplished, and thereafter at intervals not to exceed 50 hours time-in-service.

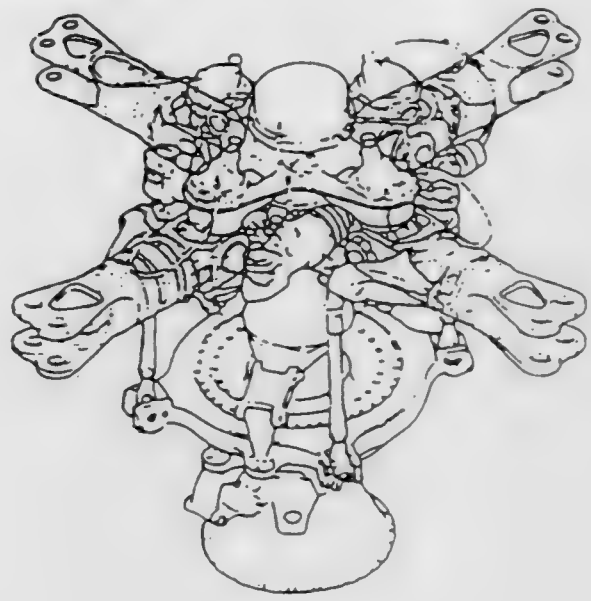
To prevent failure of a main rotor head sleeve (sleeve), P/N 330A31.1376.00 through .05 or 330A31.1376.12 through .17, that could result in loss of a main rotor blade and subsequent loss of control of the helicopter, accomplish the following:

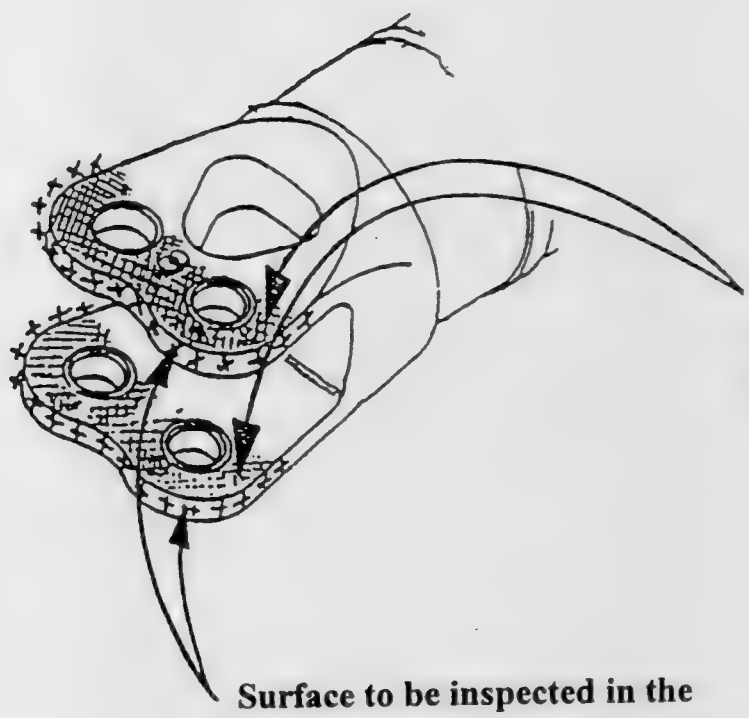
(a) Visually inspect each main rotor head sleeve lug (lug), without removing the main rotor blades, for cracks in the area indicated in Figure 1.

Note 2: Eurocopter France Service Bulletin 05.80R1, dated February 14, 1995, pertains to the subject of this AD.

BILLING CODE 4910–13–U

BILLING CODE





Surface to be inspected in visible areas (with main rotor blades installed) on internal and external faces of each MRH sleeve lug.

Surface to be inspected in the areas (marked +) located on the edge of each lug.

DETAIL OF AREAS TO BE INSPECTED

FIGURE 1

BILLING CODE 4910–13–C

(b) If any crack is found in a lug, prior to further flight, replace the affected sleeve with an airworthy sleeve.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits will not be issued.

(e) This amendment becomes effective on April 12, 1999.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 91–021–064(B)R1, dated March 15, 1995.

Issued in Fort Worth, Texas, on March 18, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–7383 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–91–AD; Amendment 39–11094; AD 99–07–09]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Jetstream Model 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain British Aerospace Jetstream Model 3201 airplanes. This AD requires replacing the nose landing gear downlock actuator, the flap actuator, the steering selector valve, the hydraulic reservoir, and the emergency selector valve. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent internal corrosion of the hydraulic components on airplanes where these components were exposed to water contamination, which could result in reduced or loss of control of the airplane.

EFFECTIVE DATE: May 10, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–91–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain British Aerospace Jetstream Model 3201 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 8, 1998 (63 FR 67633). The NPRM proposed to require replacing the nose landing gear downlock actuator, the flap actuator, the steering selector valve, the hydraulic reservoir, and the emergency selector valve. Accomplishment of the proposed action as specified in the NPRM would be in accordance with the applicable maintenance manual, as specified in Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

Since the issuance of the NPRM, British Aerospace has revised Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998 (Revision No. 1: January 27, 1999). This service bulletin revision only corrects reference to parts, clarifies certain aspects of the subjects, and incorporates procedural changes. In addition, the service bulletins (both the original issue and Revision No. 1) only specify the replacements. The procedures for accomplishing the work are included in the maintenance manual.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined:

—That referencing the revised service information in the AD would not add any additional burden upon the public than was originally proposed; and

—That air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections.

Compliance Time of This AD

The compliance time of this AD is presented in both calendar time and hours time-in-service (TIS). Corrosion could occur on the hydraulic system components and then either continue to deteriorate the part over time regardless of airplane operation or develop into stress cracks over time based on airplane operation. In order to assure that this condition does not go undetected, a compliance time of specific hours TIS and calendar time is utilized.

Cost Impact

The FAA estimates that 9 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 33 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts to accomplish the replacements cost approximately $46,636. (Overhauled or repaired parts are available from the agencies of equipment manufacturers or from the aircraft manufacturer's agency). Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $437,544, or $48,616 per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic

impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–07–09 British Aerospace: Amendment 39–11094: Docket No. 98–CE–91–AD.

Applicability: Jetstream Model 3201 airplanes, constructor numbers 841, 842, 844 through 848, 851, 853 through 855, 857, 859 through 862, and 864; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required at whichever of the following occurs later, unless already accomplished:

1. Upon accumulating 8,000 landings on the airplane or within 5 years since the last time the hydraulic system components were replaced (see paragraph (a) of this AD for listing of components), whichever occurs first; or

2. Within the next 12 calendar months after the effective date of this AD.

Note 2: If the number of landings is unknown, hours time-in-service (TIS) may be used by dividing 8,000 by 0.75. If hours TIS are utilized to calculate the number of landings, this would calculate the 8,000 landings compliance time to 10,667 hours TIS.

To prevent internal corrosion of the hydraulic components on airplanes where these components were exposed to water contamination, which could result in reduced or loss of control of the airplane, accomplish the following:

(a) Replace the following critical components of the hydraulic system, in accordance with the applicable maintenance manual, as specified in Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998, or Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998, Revision No. 1: January 27, 1999:

(1) The nose landing gear downlock actuator;

(2) The flap actuator;

(3) The steering selector valve;

(4) The hydraulic reservoir; and

(5) The emergency selector valve.

Note 3: The FAA highly recommends replacing the hydraulic fluid while these system components are being replaced, as specified in Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998, or Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998, Revision No. 1: January 27, 1999.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to British Aerospace Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998, or Jetstream Alert Service Bulletin 29–A–JA 970940, Original Issue: February 4, 1998, Revision No. 1: January 27, 1999, should be directed to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703.

This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 5: The subject of this AD is addressed in British AD 001–02–98, not dated.

(e) This amendment becomes effective on May 10, 1999.

Issued in Kansas City, Missouri, on March 18, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7381 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–68]

Modification of Class E Airspace; Bryan, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Bryan, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 010° helicopter point in space approach has been developed for Community Hospitals of Williams County, Inc. Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Bryan, OH, in order to include the point in space approach serving Community Hospitals of Williams County, Inc. Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Bryan, OH (64 FR 1559). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more

above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Bryan, OH, to accommodate aircraft executing the proposed GPS SIAP 010° helicopter point in space approach at Community Hospitals of Williams County, Inc. Heliport by modifying existing controlled airspace for the heliport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Bryan, OH [Revised]

Bryan, Williams County Airport, OH
(Lat. 41°28'03" N., long. 84°30'24" W)
Bryan NDB
(Lat. 41°28'47" N., long. 84°27'58" W)
Community Hospitals of Williams County, Inc., OH
Point in Space Coordinates
(Lat. 41°27'47" N., long. 84°33'28" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Williams County Airport and within 1.7 miles each side of the 068° bearing from the Bryan NDB, extending from the NDB to 7.0 miles east of the NDB, and within a 6.0-mile radius of the Point in Space serving Community Hospitals of Williams County, Inc., excluding the airspace within the Defiance, OH, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7467 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–66]

Modification of Class E Airspace; Adrian, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Adrian, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 121° helicopter point in space approach has been developed for Bixby Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Adrian, MI, in order to include the point in space approach serving Bixby Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Adrian, MI (64 FR 1564). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Adrian, MI, to accommodate aircraft executing the proposed GPS SIAP 121° helicopter point in space approach at Bixby Hospital Heliport by modifying existing controlled airspace for the heliport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Adrian, MI [Revised]

Adrian, Lenawee County Airport, MI
(Lat. 41°52′10″ N., long. 84°04′29″ W)
Bixby Hospital, MI
Point in Space Coordinates
(Lat. 41°55′03″ N., long. 84°03′44″ W)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of Lenawee County Airport, and within a 6.0-mile radius of the Point in Space serving Bixby Hospital.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7466 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–71]

Modification of Class E Airspace; Toledo, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Toledo, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 291° helicopter point in space approach has been developed for Fulton County Health Center Heliport, a GPS SIAP 136° helicopter point in space approach has been developed for Medical College of Ohio Hospital Heliport, A GPS SIAP 168° helicopter point in space approach has been developed for Wood County Hospital Heliport, a GPS SIAP 276° helicopter point in space approach has been developed for St. Vincent Hospital Heliport, and a GPS SIAP 306° helicopter point in space approach has been developed for Toledo Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing these approaches. This action proposes to modify existing controlled airspace for Toledo, OH, in order to include the point in space approaches serving these hospital heliports.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA Proposed to amend 14 CFR part 71 to modify Class E airspace at Toledo, OH (64 FR 1554). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Toledo, OH, to accommodate aircraft executing the proposed GPS SIAP 291° helicopter point in space approach for Fulton County Health Center Heliport, a GPS SIAP 136° helicopter point in space approach for Medical College of Ohio Hospital Heliport, a GPS 168° helicopter point in space approach for Wood County Hospital Heliport, a GPS SIAP 276° helicopter point in space approach for St. Vincent Hospital Heliport, and a GPS SIAP 306° helicopter point in space approach for Toledo Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing these approaches. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Toledo, OH [Revised]

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 41°40′00″ N., long. 84°20′00″ W, to lat. 41°49′00″ N., long. 83°37′00″ W, to lat. 41°45′00″ N., long. 83°22′00″ W, to lat. 41°34′00″ N., long. 83°19′00″ W, to lat. 41°15′00″ N., long. 83°34′00″ W, to lat. 41°22′00″ N., long 84°05′00″ W, to lat. 41°30′00″ N., long. 84°15′00″ W, to the point of beginning.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7465 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–65]

Establishment of Class E Airspace; Steubenville, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Steubenville, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 14, and a GPS SIAP to Rwy 32, have been developed for Jefferson County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action creates controlled airspace at Jefferson County Airport to accommodate the approaches.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Steubenville, OH (64 FR 1565). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace area extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CF 71.1 The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Steubenville, OH, to accommodate aircraft executing the proposed GPS Rwy 14 SIAP, and GPS Rwy 32 SIAP, at Jefferson County Airport by creating controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 25 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace area extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Steubenville, OH [New]

Steubenville, Jefferson County Airport, OH
(Lat. 40° 21′ 34″ N., long. 80° 42′ 00″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Jefferson County Airport, excluding that airspace within the Wheeling, WV, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7464 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–80]

Modification of Class E Airspace; Shelbyville, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Shelbyville, IN. A Global Positioning system (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 01, and a GPS SIAP to Rwy 19, have been developed for Shelbyville Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action increases the radius of the existing controlled airspace at Shelbyville Municipal Airport to accommodate the approaches.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal

Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, January 21, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Shelbyville, IN (64 FR 3228). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Shelbyville, OH, to accommodate aircraft executing the proposed GPS Rwy 01 SIAP, and GPS Rwy 19 SIAP, at Shelbyville Municipal Airport by increasing the radius of the existing controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Shelbyville, IN [Revised]

Shelbyville Municipal Airport, IN
(Lat. 39°34'41" N., long. 85°48'12" W.)
Shelbyville VORTAC
(Lat. 39°37'57" N., long. 85°49'28" W.)

That airspace extending upward from 700 feet above the surface within an 6.7-mile radius of the Shelbyville Municipal Airport and within 1.8 miles each side of the Shelbyville VORTAC 340° radial extending from the 6.7-mile radius to 9.6 miles north of the VORTAC, excluding the airspace within the Mount Comfort, IN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7463 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–18]

Amendment to Class E Airspace; Washington, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action amends the Class E airspace area at Washington Municipal Airport, Washington, IA. The FAA has developed Global Positioning System (GPS) Runway (RWY) 18 and GPS RWY 36 Standard Instrument Approach Procedures (SIAPs) to serve Washington Municipal Airport IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 18 and GPS RWY 36 SIAPs in controlled airspace.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing GPS RWY 18 and GPS RWY 36 SIAPs, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, July 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 13, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–18, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 18 and GPS RWY 36 SIAPs to serve the Washington Municipal Airport, Washington, IA. The amendment to Class E airspace at Washington, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules.

The amendment at Washington Municipal Airport, IA, will provide

additional controlled airspace for aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace area extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–ACE–18." The postcard will be date stamped and return to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among he various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not "significant rule" under the Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragaph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Washington, IA [Revised]

Washington Municipal Airport, IA
(Lat 41°16′34″ N., long. 91°40′24″ W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Washington Municipal Airport and within 3.5 miles each side of the 191° bearing from the airport extending from the 7.7 mile radius to 13 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on March 8, 1999.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–7462 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–55]

Amendment to Class E Airspace; Des Moines, IA; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E airspace at Des Moines, IA, and corrects an error in the airspace designation for Des Moines International Airport as published in the direct final rule.

DATES: The direct final rule published at 64 FR 2823 is effective on 0901 UTC, May 20, 1999.

This correction is effective on May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: On January 19, 1999, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at Des Moines, IA (FR Document 99–1096, 64 FR 2823, Airspace Docket No. 98–ACE–55). An error was subsequently discovered in the airspace designation for the Des Moines International Airport. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the airspace designation of the Des Moines International Airport and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 99–1096 published in the **Federal Register** on January 19, 1999, 64 FR 2823, make the following correction to the Des Moines, IA, Class E airspace designation incorporated by reference in 14 CFR 71.1:

§ 71.1 [Corrected]

ACE IA E Des Moines, IA [Corrected]

On page 2824, in the second column, line eleven, correct the airspace designation by removing the word "southwest" and adding "southeast."

Issued in Kansas City, MO on March 11, 1999.

Donavan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–7461 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–56]

Amendment to Class E Airspace; Burlington, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Burlington, IA.

DATES: The direct final rule published at 64 FR 2824 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 19, 1999 (64 FR 2824). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 11, 1999.

Donavan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–7460 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–50]

Amendment to Class E Airspace; Maquoketa, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Maquoketa, IA.

DATES: The direct final rule published at 64 FR 3010 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 20, 1999 (64 FR 3010). The FAA users the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 5, 1999.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 99–7459 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–51]

Amendment to Class E Airspace; Belle Plaine, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Belle Plaine, IA.

DATES: The direct final rule published at 64 FR 3009 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 20, 1999 (64 FR 3009). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 5, 1999.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division Central Region.

[FR Doc. 99–7458 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–72]

Modification of Class E Airspace; Napoleon, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Napoleon, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 186° helicopter point in space approach, has been developed for Henry County Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Napoleon, OH, in order to include the point in space approach serving Henry County Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Napoleon, OH (64 FR 1561). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Napoleon, OH, to accommodate aircraft executing the proposed GPS SIAP 186° helicopter point in space approach for Henry County Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing this approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Napoleon, OH [Revised]

Napoleon, Henry Count Airport, OH
(Lat. 41°22′27″ N., long. 84°04′05″ W)
Henry County Hospital, OH
Point in Space Coordinates
(Lat. 41°25′08″ N., long. 84°04′05″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Henry County Airport, and within a 6.0-mile radius of the Point in Space serving Henry County Hospital, excluding the airspace within the Toledo, OH, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7455 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–70]

Modification of Class E Airspace; Tiffin, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Tiffin, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 203° helicopter point in space approach has been developed for Mercy Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Tiffin, OH, in order to include the point in space approach serving Mercy Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Tiffin, OH (64 FR 1559). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Tiffin, OH, to accommodate aircraft executing the proposed GPS SIAP 280° helicopter point in space approach at Mercy Hospital Heliport by modifying existing controlled airspace for the heliport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES, AND REPORTING POINTS

1. The authority citation for part 71 continue to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389

§ 71.1 [Amended]

2. The incorporation by reference in 14 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Tiffin, OH [Revised]

Tiffin, Seneca County Airport, OH
(Lat. 41°05′39″ N., long. 83°12′45″ W)
Merch Hospital, OH
Point in Space Coordinates
(Lat. 41°07′21″ N., long. 83°11′33″ W)

That airspace extending upward from 700 feet above the surface within a 7.9-mile radius of Seneca County Airport, and within a 6.0-mile radius of the Point in Space serving Mercy Hospital.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7454 Filed 2–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–69]

Modification of Class E Airspace; Lima, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Lima, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 280° helicopter point in space approach has been developed for Saint Rita's Medical Center Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Lima, OH, in order to include the point in space approach serving Saint Rita's Medical Center Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Lima, OH (64 FR 1557). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rule's (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Lima, OH, to accommodate aircraft executing the proposed GPS SIAP 280° helicopter point in space approach at Saint Rita's Medical Center Heliport by modifying existing controlled airspace for the heliport. This area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep time operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Lima, OH [Revised]

Lima Allen Country Airport, OH
(Lat. 40°42′25″ N., long. 84°01′36″ W)
Allen Country VOR
(Lat. 40°42′26″ N., long. 83°58′05″ W)
Saint Rita's Medical Center, OH
Point in Space Coordinates
(Lat. 40°43′58″ N., long. 84°06′23″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Lima Allen Country Airport and within 3.0 miles each side of the Allen County VOR 090° radial, extending from the 6.4-mile radius to 7.4 miles east of the VOR, and within a 6.0-mile radius of the point in Space serving Saint Rita's Medical Center, excluding the airspace within the Findlay, OH, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7453 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–74]

Establishment of Class E Airspace; Kelleys Island, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Kelleys Island, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 270° helicopter point in space approach, has been developed for Kelleys Island Land Field Airport, a GPS SIAP 090° helicopter point in space approach, has been developed for Middle Bass Island Airport, and a GPS SIAP 030° helicopter point in space approach, has been developed for Put In Bay Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing these approaches. This action creates controlled airspace for Kelleys Island, OH, in order to include the point in space approaches serving these airports.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Kelleys Island, OH (64 FR 1562). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class F airspace at Kelleys Island, OH, to accommodate aircraft executing the proposed GPS SIAP 270° helicopter point in space approach for Kelleys Island Land Field Airport, the GPS SIAP 090° helicopter point in space approach for Middle Base Island Airport, and the GPS SIAP 030° helicopter point in space approach for Put In Bay Airport. Controlled airspace extending upward from 700 to 1200 feet AFL is needed to contain aircraft executing these approaches. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action"

under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Kelleys Island, OH [New]

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 41°40′ 35″ N., long. 82°30′00″ W, to lat 41°30′00″ N., long. 82°30′00″ W, to lat. 41°30′00″ N., long 82°45′00″ W, to lat 41°34′00″ N., long. 83°00′00″ W, to lat. 41°40′00″ N., long. 83°00′00″ W, to lat. 41°47′00″ N., long. 82°54′05″ W, thence along the Canada/United States border to the point of beginning, excluding the airspace within the Port Clinton, OH, and Sandusky, OH, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc 99–7452 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–77]

Modification of Class E Airspace; Grand Rapids, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E Airspace at Grand Rapids, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 065° helicopter point in space approach has been developed for Spectrum Medical Center/Downtown Campus Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Grand Rapids, MI, in order to include the point in space approach serving Spectrum Medical Center/Downtown Campus Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, January 19, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E Airspace at Grand Rapids, MI (64 FR 2866). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E Airspace at Grand Rapids, MI, to accommodate aircraft executing the proposed GPS SIAP 065° helicopter point in space approach at Spectrum Medical Center/Downtown Campus Heliport by modifying existing controlled airspace for the heliport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective

September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Grand Rapids, MI [Revised]

Grand Rapids, Kent County International Airport, MI
(Lat. 42° 52′ 51″N., long. 85° 31′ 22″W)
Spectrum Medical Center/Downtown Campus, MI Point in Space Coordinates
(Lat. 42°57′09″ N., long. 85°39′48″ W)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the Point in Space serving Spectrum Medical Center/Downtown Campus, excluding that airspace within the Sparta, MI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7451 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–73]

Modification of Class E Airspace; Port Clinton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Port Clinton, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 007° helicopter point in space approach, has been developed for Magruder Memorial Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above grand level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Port Clinton, OH, in order to include the point in space approach serving Magruder Memorial Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Port Clinton, OH (64 FR 1560). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace area extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Port Clinton, OH, to accommodate aircraft executing the proposed GPS SIAP 007° helicopter point in space approach for Magruder Memorial Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing this approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Napoleon, OH [Revised]

Napoleon, Henry County Airport, OH
(Lat. 41° 22′ 27″ N., long. 84° 04′ 05″ W)

Henry County Hospital, OH

Point in Space Coordinates
(Lat. 41° 25′ 08″ N., long. 84° 04′ 05″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Henry County Airport, and within a 6.0-mile radius of the Point in Space serving Henry County Hospital, excluding the airspace within the Toledo, OH, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7450 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–67]

Modification of Class E Airspace; Defiance, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Defiance, OH. A Global

Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 320° helicopter point in space approach has been developed for Defiance Hospital Heliport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies existing controlled airspace for Defiance, OH, in order to include the point in space approach serving Defiance Hospital Heliport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Defiance, OH (64 FR 1555). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Defiance, OH, to accommodate aircraft executing the proposed GPS SIAP 320° helicopter point in space approach at Defiance Hospital Heliport by modifying existing controlled airspace for the heliport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Defiance, OH [Revised]

Defiance Memorial Airport, OH
(Lat. 41°20′15″ N., long. 84°25′44″ W)

Defiance Hospital, OH

Point in Space Coordinates
(Lat. 41°16′32″ N., long. 84°19′54″ W)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of Defiance Memorial Airport, and within a 6.0-mile radius of the Point in Space serving Defiance Hospital.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7448 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–76]

Establishment of Class E Airspace; Glencoe, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Glencoe, MN. A Nondirectional Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 31 has been developed for Glencoe Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates controlled airspace for Glencoe Municipal Airport.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 11, 1999, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Glencoe, MN (64 FR 1563). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Glencoe, MN, to accommodate aircraft executing

the proposed NDB Rwy 31 SIAP at Glencoe Municipal Airport by creating controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designation and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Glencoe, MN [New]

Glencoe Municipal Airport, MN
(Lat. 44°45′22″ N, long. 94°04′52″ W)
Glencoe NDB
(Lat. 44°45′39″ N, long. 94°05′09″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Glencoe Municipal Airport and within 2.5 miles each side of the Glencoe NDB 136° bearing, extending from the 6.3-mile radius to 7.0 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7447 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–29]

RIN 2120–AA66

Modification of Jet Route J–42

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies a segment of Jet Route J–42 between the Robbinsville, NJ, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) station, and the Hartford, CT, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). The FAA is taking this action as a result of a recent flight inspection that found one of the radials used to form a segment of J–42, in the vicinity of Robbinsville, NJ, unusable for navigation. This action will enhance air traffic control service and allow for better utilization of the airspace. In addition, this action corrects the spelling of name of the Putnam, CT, VOR/DME in the legal description of J–42.

DATES: Effective 0901 UTC, May 20, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 10, 1999.

ADDRESSES: Send comments on the rule in triplicate to: Manager, Air Traffic Division, AEA–500, Docket No. 97–AEA–29, Federal Aviation Administration, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430. Comments may be also sent electronically to the following Internet address: 9-Direct Rule-Comments@faa.dot.gov. Comments delivered must be marked Airspace Docket No. 97–AEA–29.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916G, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

The FAA is amending 14 CFR part 71 to modify that segment of J–42 between the Robbinsville, NJ, VORTAC, and the Hartford, CT, VOR/DME. Currently, the affected section of J–42 extends from the Robbinsville VORTAC to the La Guardia, NY VOR/DME, thence via the La Guardia VOR/DME 042°(T) radial to intercept the Hartford VOR/DME 236°(T) radial. An FAA flight inspection has found that the La Guardia 042° radial is unusable for navigation and, therefore, the route must be realigned. This amendment realigns that segment of J–42 by deleting the La Guardia VOR/DME from the route description and substituting a radial from the Robbinsville VORTAC. As amended, the affected segment of J–42 extends from the Robbinsville VORTAC, thence via the intersection of the Robbinsville VORTAC 049°(M), 039°(T), and the Hartford VOR/DME 236°(T) radials, to Hartford. This action restores that segment of J–42 for use in navigation and allows for more efficient utilization of that airspace. In addition, this action corrects the spelling of name of the Putnam, CT, VOR/DME as contained in the legal description for J–42 in FAA Order 7400.9F, "Airspace Designations and Reporting Points."

Incorporation by Reference

Jet route designations are published in paragraph 2004 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The jet route designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. An FAA flight inspection found that the La Guardia, NY, VOR/DME 042° radial, which currently forms a segment of J–42, is out of tolerance, thus rendering that segment of J–42 unusable for navigation. As a satisfactory radial based on the La Guardia VOR/DME was unavailable, the FAA decided to substitute a radial based on the

Robbinsville VORTAC to describe that segment of J–42. The new Robbinsville radial was found to be satisfactory by a flight inspection conducted on January 22, 1999. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the direct final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit an adverse or negative comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the specified closing date for comments will be considered, and this rule may be amended or withdrawn in light of comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action may be needed.

Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–AEA–29." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) as the anticipated impact of this proposal is minimal, preparation of a Regulatory Evaluation is not necessary.

Since this is a routine matter that will only affect air traffic procedures and air navigation, the FAA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. Amend paragraph 2004 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1, as follows:

Paragraph 2004—Jet Routes

* * * * *

J–42 [Revised]

From Delicias, Mexico, via Fort Stockton, TX; Abilene, TX; Ranger, TX; Texarkana, AR; Memphis, TN; Nashville, TN; Beckley, WV; Montebello, VA; Gordonsville, VA; Nottingham, MD; INT Nottingham 061° and Woodstown, NJ, 225° radials; Woodstown; Robbinsville, NJ; INT Robbinsville 039° and Hartford, CT, 236° radials; Hartford; Putnam, CT; Boston, MA. The portion of this route outside of the United States is excluded.

* * * * *

Issued in Washington, DC, on March 19, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–7469 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 98–ANM–23]

RIN 2120–AA66

Revocation of Restricted Area R–5704 Hermiston, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Restricted Area R–5704 Hermiston, OR. The ammunition demilitarization operation at the Umatilla Chemical Depot has been terminated as a result of the Department of Defense Base Realignment and Closure (BRAC) 1989 initiatives. Therefore, the restricted airspace is no longer required for the US Army mission.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTAL INFORMATION:

The Rule

This amendment to 14 CFR part 73 revokes Restricted Area R–5704, Hermiston, OR. The ammunition demilitarization at the Umatilla Chemical Depot has been terminated as a result of the Department of Defense

Base Realignment and Closure (BRAC) 1989 initiatives, and therefore the restricted airspace is no longer required for the US Army mission. Since this action reduces restricted airspace, the solicitation of comments would only delay the return of airspace to public use without offering any meaningful right or benefit to any segment of the public, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.57 of part 73 was republished in FAA Order 7400.8F dated October 27, 1998.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this action: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action revokes the designation of a restricted area. In accordance with FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," this action is categorically excluded.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.57 [Amended]

2. Section 73.57 is amended as follows:

* * * * *

R–5704 Hermiston, OR. [Removed]

* * * * *

Issued in Washington, DC, on March 19, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–7470 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

Airspace Docket No. 98–ASO–21

RIN 2120–AA66

Change Using Agency for Restricted Areas; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of the using agency for Restricted Areas R–2914A and R–2914B, Valparaiso, FL; R–2915A, R–2915B and R–2915C, Eglin AFB, FL; R–2918, Valparaiso, FL; and R–2919A and R–2919B, Valparaiso, FL. On September 30, 1998, the U.S. Air Force changed the name of the current using agency from the "Air Force Development Test Center (AFDTC)," to the "Air Armament Center." This action amends the affected restricted area descriptions to include the using agency's new organizational title.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 73 by changing the name of the using agency for restricted areas R–2914A, R–2914B, R–2915A. R–2915B, R–2915C, R–2918, R–2919A and R–2919B, from "U.S. Air Force, Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL," to "U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL." On September 30, 1998, the AFDTC was renamed the "Air Armament Center" as part of an internal realignment by the U.S. Air Force. This administrative change will not alter the boundaries, altitudes or time of designation of the restricted areas; therefore, I find that notice and public procedure under 5 U.S.C 553(b) are unnecessary.

Section 73.29 of part 73 was republished in FAA Order 7400.8F, dated October 27, 1998.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action is a minor administrative change to amend the name of the using agency of existing restricted areas. There are no changes to the dimensions of the restricted areas, or to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.29 [Amended]

2. § 73.29 is amended as follows:

* * * * *

R–2914A and R–2914B Valparaiso, FL [Amended]

By removing "Using agency. U.S. Air Force, Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL," and adding "Using

agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL."

R–2915A, R–2915B, and R–2915C Eglin AFB, FL [Amended]

By removing "Using agency. U.S. Air Force, Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL," and adding "Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL."

* * * * *

R–2918 Valparaiso, FL [Amended]

By removing "Using agency. U.S. Air Force, Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL," and adding "Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL."

R–2919A and R–2919B Valparaiso, FL [Amended]

By removing "Using agency. U.S. Air Force, Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL," and adding "Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL."

* * * * *

Issued in Washington, DC, on March 19, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–7468 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 970428099–9015–08]

RIN 0694–AB60

Entity List: Addition of Russian Entities; and Revisions to Certain Indian and Pakistani Entities

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule adds to the entity list three Russian entities. Exports or reexports of all items subject to the EAR to these newly added entities now require a license, and applications will be reviewed with a presumption of denial.

EFFECTIVE DATE: This rule is effective March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

General Prohibition Five (§ 736.2(b)(5) of the EAR) prohibits exports and reexports to certain end-users or end-uses (described in part 744 of the EAR) without a license. In the form of Supplement No. 4 to part 744, BXA maintains an "Entity List" to provide notice informing the public of certain entities subject to such licensing requirements. This rule adds three entities in Russia to this list. This rule also makes editorial changes and adds clarifying revisions to the Entity List.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, continued by Presidential notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629) and August 13, 1998 (63 FR 44121).

Rulemaking Requirements

1. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This rule involves a collection of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended, as follows:

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*, 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099. 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); Notice of August 14, 1996 (61 FR 42527); Notice of August 13, 1997 (62 FR 43629, August 15, 1997); Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

PART 744—[AMENDED]

2. Part 744 is amended by revising § 744.10 to read as follows:

§ 744.10 Restrictions on certain entities in Russia.

(a) *General prohibition.* Certain entities in Russia are included in Supplement No. 4 to this part 744 (Entity List). (See also § 744.1(c) of the EAR.) Exporters are hereby informed that these entities are ineligible to receive any items subject to the EAR without a license.

(b) *Exceptions.* No License Exceptions apply to the prohibition described in paragraph (a) of this section.

(c) *License review standards.* Applications to export or reexport items subject to the EAR to these entities will be reviewed with a presumption of denial.

3. Supplement No. 4 to part 744 is amended by:

(a) Placing the Indian entity "Department of Atomic Energy (DAE) located in Mumbai (formerly Bombay) and subordinate entities specifically listed in this Supplement." in alphabetical order;

(b) Revising the Pakistani entity name "Khewra Soda Ash Plant", to read "Khewra Soda Ash Plant, Soda Ash Businesses, Soda Ash Works, Khewra Distt. Jhelum, (owned by ICI Pakistan Limited).";

(c) Revising the Russian entity name "Glavkosmos, 9 Krasnoproletarskaya st., 103030 Moscow." to read "Glavkosmos, 9 Krasnoproletarskaya St., 103030 Moscow."; and

(d) Adding, in alphabetical order, the following entries:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register citation
•	• •	•	• •	•
Russia:	Medeleyev University of Chemical Technology of Russia (including at 9 Miusskaya Sq. Moscow 125047, Russia).	For all items subject to the EAR (see § 744.10 of the EAR).	Presumption of denial ...	64 FR 14606 March 26, 1999.
•	• •	•	• •	•
	Moscow Aviation Institute (MAI) (including at 4 Volokolamskoye Shosse, Moscow 125871, Russia).	For all items subject to the EAR (see § 744.10 of the EAR).	Presumption of denial ...	64 FR 14606 March 26, 1999.
•	• •	•	• •	•
	The Scientific Research and Design Institute of Power Technology (a.k.a. NIKIET, Research and Development Institute of Power Engineering (RDIPE), and ENTEK) (including at 101000, P.O. Box 788, Moscow, Russia).	For all items subject to the EAR (see § 744.10 of the EAR).	Presumption of denial ...	64 FR 14606 March 26, 1999
•	• •	•	• •	•

Dated: March 19, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99–7438 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–33–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

RIN 0960–AD83

Benefits for Spouses, Mothers, Fathers, and Children

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: These final regulations make several clarifying technical changes to correct language incorporated into the regulations when they were recodified on June 15, 1979, which could potentially result in confusion regarding the applicable law and SSA policy. They also make a technical change to one section to reflect a longstanding SSA policy and to another section to correct a cross-reference.

EFFECTIVE DATE: These regulations are effective April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Lois Berg, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1713 or TTY (410) 966–5609 for information about these rules. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 1979, SSA published final regulations at 44 FR 34479 reorganizing and restating in simpler language the rules on requirements for entitlement to Social Security benefits, when benefits begin and end, how benefit amounts are determined, and how we determine family relationships when benefits are sought as the insured individual's dependent or survivor. The primary purpose of the recodification was to restate the rules so that they would be easier for the public to understand and use.

We have found that when the regulations were recodified in June 1979, the rewording of §§ 404.332(b)(4), 404.341(b)(2), 404.361, and the introductory text in 404.366(b) inadvertently resulted in regulations that could be interpreted as inaccurately reflecting either the statute or the operating policies followed by SSA. Those sections could cause confusion regarding the applicable law and SSA policy. Therefore, in these final regulations, we are making clarifying technical corrections to those sections.

We are amending § 404.357 to reflect a longstanding SSA policy concerning stepchildren set forth in Social Security Ruling (SSR) 60–9, C.B. 1960–1965, p. 128. In addition, we are amending § 404.406 to correct a cross-reference.

Explanation of Revisions

Sections 202(b)(1)(E)–(K) and 202(c)(1)(E)–(K) of the Social Security Act (the Act) specify when wife's and husband's ("spouse's") benefits end, and section 202(g)(1) of the Act specifies when mother's and father's benefits end. In these final regulations, we are amending §§ 404.332(b)(4) and 404.341(b)(2) to more accurately reflect sections 202(b)(1)(I), 202(c)(1)(I) and 202(g)(1) of the Act. As revised by the June 1979 recodification, §§ 404.332(b)(4) and 404.341(b)(2) of the regulations may be incorrectly interpreted to mean that the spouse's, mother's or father's benefits will terminate when the child in that beneficiary's care becomes age 16 (unless disabled) or is no longer entitled. This is true only if there is no other child entitled to benefits on the

insured's earnings record who is under age 16 or disabled. If there is another entitled child who is not in the care of the spouse, mother or father, benefits are subject to deductions, but are not terminated, when the entitled child who is in the care of the spouse, mother or father attains age 16 or is no longer entitled. Therefore, in §§ 404.332(b)(4) and 404.341(b)(2), we clarify that benefits will end when there is no longer any child of the insured under age 16 or disabled who is entitled to benefits on the insured's record.

Section 202(d)(3) of the Act explains the circumstances under which a child will be deemed dependent on his or her natural or adopting parent. As revised by the June 1979 recodification, § 404.361 states that if a child is adopted by someone other than the natural parent ("the insured") during that natural parent's lifetime and the child files an application for benefits after that adoption, he or she must meet certain actual dependency requirements. This is not entirely correct under the statute. We are amending § 404.361 to address the situation in which the insured had a period of disability that lasted until the insured became entitled to disability or old-age benefits or died. As amended, § 404.361 will reflect that, under the Act, a child is deemed dependent on the insured, and need not meet the actual dependency requirements, if the child is adopted during the insured's lifetime by someone other than the insured after the insured's disability onset date.

We are amending the introductory text in § 404.366(b) to change the references "§§ 404.362 through 404.364" shown in that section to "§§ 404.362(c)(1) and 404.363." This will correct another technical error which occurred in the June 1979 recodification.

In order to be entitled to child's benefits, section 202(d)(1)(C) of the Act requires that an individual must be dependent (or deemed dependent) upon the insured individual at a particular time, (e.g., at the time the child applies for benefits). To meet this requirement, certain children are required by the Act to have been receiving "one-half support" from the insured individual at that time. To determine if that condition is met, SSA determines whether the insured was providing one-half support for a "reasonable period" prior to the applicable time. As stated in § 404.366(b), ordinarily, we consider a reasonable period to be the 12-month period immediately preceding the time when one-half support must be met. However, based on § 404.366(b), in some situations, SSA may set a reasonable period at less than 12 months.

In the June 1979 recodification, the introductory text in § 404.366(b) referred to "§§ 404.362 through 404.364" concerning the reasonable period for meeting the one-half support requirement for a child. These references were over-inclusive because §§ 404.362(b) and 404.364 reflect sections 202(d)(8) and (9) of the Act which mandate that dependency must be met by certain child claimants for the entire one-year period before the applicable time. The statutorily mandated period applies to a child age 18 or over who is adopted after the insured individual's entitlement and to a grandchild or stepgrandchild (except for those born during the applicable one-year period). SSA may not set a shorter period in these two situations. The revised references to §§ 404.362(c)(1) and 404.363 reflect that SSA may set a shorter period for children adopted by the insured's surviving spouse, and for the insured's stepchildren. The statute does not require dependency for an entire one year period for these children, and the "reasonable period" rules apply in determining whether one-half support is met for them.

We are also amending § 404.357 to reflect the longstanding SSA policy that a child conceived before and born after the marriage of the child's parent to an insured individual may be entitled as the stepchild of the insured, if the insured is not the child's natural parent. This policy is set forth in SSR 60–9, C.B. 1960–1965, p. 128.

Finally, we are amending § 404.406 to correct a technical error. We are changing the reference in the second sentence from § 404.607 to § 404.603, which is the correct reference.

Regulatory Procedures

Justification for Final Rules

Pursuant to section 702(a)(5) of the Act, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of the notice of proposed rulemaking and public comment procedures for these amendments to our regulations. Opportunity for public comment prior to the effectuation of the amendments is unnecessary. These amendments to the regulations contain no changes in SSA policy and only make clarifying technical changes that would correct inadvertent errors, would reflect more accurately provisions in sections 202(b)(1)(I), 202(c)(1)(I), 202(d)(1)(C), 202(d)(3), (8) and (9), 202(g)(1) and 216(e) of the Act and would reflect a longstanding SSA policy set forth in SSR 60–9, C.B. 1960–1965, p. 128. We believe that the public would have little interest in these minor, technical amendments. Therefore, we are issuing these changes to our regulations as final rules.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866 and the President's memorandum of June 1, 1998.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program No. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; and 96.004 Social Security—Survivors Insurance.)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

Dated: March 16, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set forth in the preamble, subparts D and E of part 404 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart D—[Amended]

1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.332 is amended by revising paragraph (b)(4) to read as follows:

§ 404.332 When wife's and husband's benefits begin and end.

* * * * *

(b) * * *

(4) If you are under age 62, there is no longer a child of the insured who is under age 16 or disabled and entitled to child's benefits on the insured's earnings record. (See paragraph (c) of this section if you were entitled to wife's or husband's benefits for August 1981 on the basis of having a child in care.) (If you no longer have in your care a child who is under age 16 or disabled and entitled to child's benefits on the insured's earnings record, your benefits may be subject to deductions as provided in § 404.421.)

* * * * *

3. Section 404.341 is amended by revising paragraph (b)(2) to read as follows:

§ 404.341 When mother's and father's benefits begin and end.

* * * * *

(b) * * *

(2) There is no longer a child of the insured who is under age 16 or disabled and entitled to a child's benefit on the insured's earnings record. (See paragraph (c) of this section if you were entitled to mother's or father's benefits for August 1981.) (If you no longer have in your care a child who is under age 16 or disabled and entitled to child's benefits on the insured's earnings record, your benefits may be subject to deductions as provided in § 404.421.)

* * * * *

4. Section 404.357 is amended by adding a new sentence following the first sentence to read as follows:

§ 404.357 Who is the insured's stepchild?

* * * You also may be eligible as a stepchild if you were conceived prior to the marriage of your natural parent to the insured but were born after the marriage and the insured is not your natural parent. * * *

5. Section 404.361 is revised to read as follows:

§ 404.361 When a natural child is dependent.

(a) *Dependency of natural child.* If you are the insured's natural child, as defined in § 404.355, you are considered dependent upon him or her, except as stated in paragraph (b) of this section.

(b) *Dependency of natural child legally adopted by someone other than the insured.*

(1) Except as indicated in paragraph (b)(2) of this section, if you are legally adopted by someone other than the insured (your natural parent) during the insured's lifetime, you are considered dependent upon the insured only if the insured was either living with you or contributing to your support at one of the following times:

(i) When you applied;

(ii) When the insured died; or

(iii) If the insured had a period of disability that lasted until he or she became entitled to disability or old-age benefits or died, at the beginning of the period of disability or at the time he or she became entitled to disability or old-age benefits.

(2) You are considered dependent upon the insured (your natural parent) if:

(i) You were adopted by someone other than the insured after you applied for child's benefits; or

(ii) The insured had a period of disability that lasted until he or she became entitled to old-age or disability benefits or died, and you are adopted by someone other than the insured after the beginning of that period of disability.

6. Section 404.366 is amended by revising the sixth sentence of the introductory text in paragraph (b) to read as follows:

§ 404.366 "Contributions for support," "one-half support," and "living with" the insured defined—determining first month of entitlement.

* * * * *

(b) * * * Ordinarily we consider a reasonable period to be the 12-month period immediately preceding the time when the one-half support requirement must be met under the rules in §§ 404.362(c)(1) and 404.363 (for child's benefits), in § 404.370(f) (for parent's benefits) and in § 404.408a(c) (for benefits where the Government pension offset may be applied). * * *

* * * * *

7. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 425, and 902(a)(5)).

8. Section 404.406 is amended by revising the second sentence to read as follows:

§ 404.406 Reduction of maximum because of retroactive effect of application for monthly benefits.

* * * An application may also be effective (retroactively) for benefits for months before the month of filing (see § 404.603). * * *

[FR Doc. 99–7271 Filed 3–25–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 96F–0248]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Sulphopropyl Cellulose

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for a change in the limitations for sulphopropyl cellulose ion-exchange resin for the recovery and purification of proteins for food use. This action is in response to a petition filed by Life Technologies, Inc.

DATES: The regulation is effective March 26, 1999; written objections and requests for a hearing by April 26, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3071.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 22, 1996 (61 FR 37905), FDA announced that a food additive petition (FAP 6A4502) had been filed by Life Technologies, Inc., 8400 Helgerman Ct., Gaithersburg, MD 20874 (now, 9800 Medical Center Dr., Rockville, MD 20850). The petition proposed to amend the food additive regulations in § 173.25(b)(5) *Ion-exchange resins* (21 CFR 173.25(b)(5)) to provide for a change in the temperature and pH limitations for sulphopropyl cellulose

ion-exchange resin for the recovery and purification of proteins for food use.

In the notice of filing, published in the **Federal Register** on July 22, 1996, the agency announced that it was placing the environmental assessment (EA) on display at the Dockets Management Branch for public review and comment. No comments were received. On July 29, 1997, FDA published revised regulations under part 25 (21 CFR part 25), which became effective on August 28, 1997. These regulations established additional categorical exclusions for a number of FDA actions. As a result, such actions would no longer require the submission of an EA. Because the agency had not completed its review of the EA submitted with the petition, the agency evaluated whether a categorical exclusion under revised § 25.32(j) would apply to this rule.

After the filing of the petition on July 22, 1996, FDA determined that the petitioned amendment of the food additive regulations in § 173.25(b)(5) also necessitated an amendment of the provisions in § 173.25(d)(2), that provide extraction requirements for the ion-exchange resin. FDA published an amended filing notice in the **Federal Register** of August 28, 1998 (63 FR 46053), to announce this change. The amended filing notice also contained the agency's determination that the proposed action would not have a significant impact on the human environment, and therefore, that neither an environmental assessment nor an environmental impact statement was required. The notice, however, incorrectly cited the categorical exclusion under § 25.32(i), rather than the exclusion under § 25.32(j).

FDA published a final rule in the **Federal Register** of April 22, 1991 (56 FR 16266), that amended the regulation under § 173.25 to provide for the use of the ion-exchange resin and starting materials used to manufacture the sulphopropyl cellulose ion-exchange resin. The amendment to the regulation was based upon information provided in FAP 6A3905. In the final rule of April 22, 1991, the agency stated that while the sulphopropyl cellulose ion-exchange resin has not been shown to cause cancer, it may contain small amounts of the starting materials, epichlorohydrin (ECH) and propylene oxide (PO), as byproducts of its production. Because the chemicals ECH and PO have been shown to cause cancer in test animals, the agency conducted a quantitative risk assessment to calculate the risk from the use of ECH and PO. Based on the results of the risk assessment, the agency concluded in the final rule of April 22, 1991, that there was a reasonable certainty of no harm from exposure to ECH (upper-bound limit of individual lifetime risk no greater than $8x10^{-15}$) and PO (upper-bound limit of individual lifetime risk no greater than $1x10^{-14}$) that might result from the proposed use of the additive.

As stated previously, FAP 6A4502 was submitted to amend the regulations in § 173.25(b)(5) and (d)(2) by changing the limitations for the temperature, pH, and the extraction requirements for the sulphopropyl cellulose ion-exchange resin. The petitioner did not propose any changes to the provisions under § 173.25(a)(20) for the manufacturing process, involving the starting materials ECH and PO, for the ion-exchange resin.

The agency has reviewed the information in the FAP's 6A3905 and 6A4502, and has determined that the information in FAP 6A4502 does not indicate a change in the manufacturing process. Therefore, the resin composition in FAP 6A4502 does not differ from the resin composition evaluated in the original petition (FAP 6A3905). Moreover, based on its evaluation, the agency finds that the proposed changes to the limitations for the temperature, pH, and the extraction requirements for the ion-exchange resin are expected to reduce the potential level of exposure to the residues of ECH and PO. Accordingly, the agency concludes that a recalculation of a risk assessment performed for the original petition FAP 6A3905 is not necessary to support this action.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe; (2) the additive will achieve its intended technical effect; and, therefore, (3) the regulations in § 173.25 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under § 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at anytime on or before April 26, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.25 is amended by revising paragraphs (b)(5) and (d)(2) to read as follows:

§ 173.25 Ion-exchange resins.

* * * * *

(b) * * *

(5) The ion-exchange resin identified in paragraph (a)(20) of this section is limited to use in aqueous process

streams for the isolation and purification of protein concentrates and isolates under the following conditions:

(i) For resins that comply with the requirements in paragraph (d)(2)(i) of this section, the pH range for the resin shall be no less than 3.5 and no more than 9, and the temperatures of water and food passing through the resin bed shall not exceed 25 °C.

(ii) For resins that comply with the requirements in paragraph (d)(2)(ii) of this section, the pH range for the resin shall be no less than 2 and no more than 10, and the temperatures of water and food passing through the resin shall not exceed 50 °C.

* * * * *

(d) * * *

(2) The ion-exchange resin identified in paragraph (a)(20) of this section shall comply either with:

(i) The extraction requirement in paragraph (c)(4) of this section by using dilute sulfuric acid, pH 3.5 as a substitute for acetic acid; or

(ii) The extraction requirement in paragraph (c)(4) of this section by using reagent grade hydrochloric acid, diluted to pH 2, as a substitute for acetic acid. The resin shall be found to result in no more than 25 parts per million of organic extractives obtained with each of the following solvents: Distilled water; 15 percent alcohol; and hydrochloric acid, pH 2. Blanks should be run for each of the solvents, and corrections should be made by subtracting the total extractives obtained with the blank from the total extractives obtained in the resin test.

* * * * *

Dated: March 17, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7515 Filed 3–25–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–121–FOR]

Pennsylvania Abandoned Mine Land Reclamation Program; Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions, a proposed amendment to the Pennsylvania Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the AMLR Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The proposed amendment adds a new section "F" entitled Government Financed Construction Contracts (GFCC) to authorize the incidental removal of coal and coal refuse at Abandoned Mine Land (AML) sites that would not otherwise be mined and reclaimed under the Title V program, along with relevant statutory provisions authorizing the AMLR Plan amendments. The proposed amendment also includes the Program Requirements and Monitoring Requirements related to the use of GFCC for that purpose. The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the government-financed construction exemption in Section 528 of SMCRA to be applied in cases involving less than 50% financing only in the limited situation where the construction constitutes a government approved and administered abandoned mine land reclamation project under Title IV of SMCRA. The amendment is also intended to authorize the use of excess spoil from a valid, permitted coal mining operation for the reclamation of an abandoned unreclaimed area outside of the permit area.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack) 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania AMLR Plan. Background on the Pennsylvania AMLR Plan, including the Secretary's findings and the disposition of comments can be found in the July 30, 1982 **Federal Register** (47 FR 33081). Subsequent actions concerning the AMLR Plan amendments are identified at 30 CFR 938.20 and 938.25.

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background information on the Pennsylvania program can be found in the July 30, 1982 **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Description of the Proposed Amendment

By letter dated November 21, 1997 (Administrative Record No. PA–855.00), the Pennsylvania Department of Environmental Protection (PADEP) submitted proposed Program Amendment No. 2 to the Pennsylvania AMLR Plan. In addition, PADEP also submitted the following documents: Introduction; Basis of Authority for the Proposed Amendment; AML Amendment Conformance with 30 CFR Section 884.13; Assistant Counsel's Opinion of Authority for GFCC; PADEP Organization Chart; the Office of Mineral Resources Management Organization Chart; and Public Participation in Part F of the Reclamation Plan (Amendment No. 2). The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the Government-financed construction exemption in Section 528 of SMCRA to be applied in certain cases involving less than 50% government financing. Pennsylvania also proposed to authorize the use of excess spoil from a valid, permitted coal mining operation for the reclamation of an abandoned unreclaimed area outside of the permit area.

OSM announced receipt of the proposed amendment in the December 29, 1997, **Federal Register** (62 FR 67590), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 28, 1998.

OSM's review of the proposed amendment determined that several items required clarification. As a result, a letter requesting clarification on three items pertaining to placement of excess spoil on Abandoned Mine Lands was sent to Pennsylvania dated June 5, 1998 (Administrative Record No. PA 855.08). Pennsylvania initially responded in its letter dated June 17, 1998, (Administrative Record No. PA 855.09), that it would require additional time to respond to OSM's request, and that it expected to provide a response by July 15. A response was received from Pennsylvania in its letter dated July 7,

1998 (Administrative Record No. PA–855.10). Therefore, OSM announced a reopening of the public comment period until August 12, 1998, in the July 28, 1998, **Federal Register** (63 FR 40237). No comments were received. However, OSM subsequently informed Pennsylvania that its program appeared to lack the statutory authority to implement the exemption for incidental coal removal pursuant to government-financed reclamation projects. Therefore, in letters, in letters dated October 8 and October 13, 1998 (Administrative Record No. PA 855.12), Pennsylvania subsequently submitted portions of its state law which it believes provides specific authorization to implement the proposed changes to AMLR Plan. Pennsylvania requested to have the statutory provisions included as part of Pennsylvania's Abandoned Mine Reclamation Plan Amendment. The proposed additions were published in the November 3, 1998, **Federal Register** (63 FR 59259), and the comment period was reopened to November 18, 1998. No comments were received. Since that time, national regulations known as the AML Enhancement Rule were published in the February 12, 1999, **Federal Register** (64 FR 7470) as a final rule to be effective March 15, 1999. OSM found that Pennsylvania's amendment did not include certain aspects of the AML Enhancement Rule. Therefore, in a letter to OSM dated March 2, 1999 (Administrative Record No. PA 855.15), Pennsylvania specified the additional requirements it proposed to be included in its amendment.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15, 732.17, 884.14 and 884.15, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes and paragraph notations to reflect organizational changes resulting from this amendment. The proposed amendment consists of new Part F, Program Requirements, and a Monitoring Program for GFCC's, both to be added to the AMLR Plan. The proposed amendment also consists of amendments to the Pennsylvania state code, at 52 P.S. 1396.3 and 1396.4h.

AMLR Plan, Part F: Government Financed Construction Contracts

(1) *Incidental Coal Removal*—PADEP proposes to authorize the incidental removal of coal at AML sites that would not otherwise be mined and reclaimed under the Title V program. Through its management of the permitting process and knowledge of the status of the AML lands in Pennsylvania, PADEP plans to enter into agreements with mining companies and adjacent permit holders to direct the reclamation of AML lands which involve some incidental removal of coal. Following are (3) examples of situations where PADEP proposes to utilize the GFCC to address AML liabilities.

(a) *Refuse Pile Reclamation*—As a result of an extensive history of mining in Pennsylvania, thousands of coal refuse piles are scattered throughout the state in both the bituminous and anthracite fields. In many cases these piles are unsightly, unsafe and are adding to the sedimentation and mine drainage pollution of Pennsylvania streams in areas that are economically deprived because of poor water quality and general aesthetics.

Depending on the method used to clean the coal and the volume of material available, these piles have varying degrees of value. Those piles that are larger in volume and higher in quality have traditionally been permitted under the Title V Program while piles of smaller, poorer quality have remained virtually untouched and are not and will not be likely candidates for permitting. These are the types of piles that are generally suitable for use in fluidized-bed combustion processes employed at congeneration plants and the types of piles that will be reclaimed under the proposed program.

(b) *Reclamation of Abandoned Deep Mines*—An example specific to this initiative would be represented by an abandoned deep mine that includes subsidence problems and acid mine drainage discharges. The reclamation of this type of site would involve the daylighting of the deep mined area, the incidental and necessary removal of any coal encountered, the placement of alkaline material over the area of deep mine affected, and the construction of some type of passive treatment system to insure the reduction of pollutional loading from the discharges. Daylighting is the method of removing coal from a deep mine by first removing the overburden. Because of the limited amount of coal available, and the potential water quality liability for the discharges, this sample site would not be a candidate for a surface mine permit under the Title V Program.

(c) *Unreclaimed High Walls Adjacent to Active Mine Sites*—Nearly all permits issued under the Title V program include varying levels of remining or are located within close proximity to previously affected areas located outside of permit boundaries. In some cases coal along the crop barrier may have gone unmined because of poor quality or high moisture content. In other cases an additional cut taken off the highwall may facilitate a reclamation plan that results in a more suitable post-mining land use or may facilitate an abatement project (alkaline addition—highwall drains, etc.) that will result in improved water quality. In those situations where a Title V permit is impractical due to limited coal recovery or poor coal quality, PADEP proposes to direct reclamation of these sites through a GFCC which allows for the incidental removal of coal to complete reclamation of the AML lands.

(2) *Placement of Excess Spoil on Adjacent AML Lands*—PADEP proposes to authorize the placement of excess spoil from active mining operations on AML sites that would not otherwise be mined and reclaimed under the Title V program. Through its management of the permitting process and the knowledge of the status of AML lands in Pennsylvania, PADEP plans to enter into agreements with mining companies and adjacent permit holders to direct the reclamation of AML lands adjacent to permitted operations. The institution of this program will allow PADEP to maximize its reclamation efforts on AML lands at no expense to the funding sources for PADEP's AML program. Savings to the AML program would be used for reclamation at other sites throughout the Commonwealth.

Pennsylvania was asked to clarify which requirements in the approved program will apply to the placement of excess spoil on abandoned mine lands as referenced in the proposed amendment at page 7 where it is stated that the placement of excess spoil on adjacent AML lands would be approved AML reclamation projects and would therefore encompass the same time-tested administrative, financial, contractual and environmental safeguards as any other approved AML projects in the Commonwealth. OSM requested Pennsylvania either require that these projects be handled in the same manner as Federally-funded AML projects, or otherwise identify the administrative, financial, contractual and environmental safeguards that will be applied to these "no-cost" GFCC's, and show how these safeguards will ensure the same level of environmental protection as that provided by Federally-funded AML projects. Pennsylvania responded that these projects will be handled in the same manner as Federally-funded AML projects. Furthermore, projects that involve the support and involvement of the District Mining Offices will be

subject to the additional administrative requirements designed to address the coordination between the Bureau of Abandoned Mine Reclamation and the District Mining Offices. Pennsylvania revised page 7 of its proposed amendment to include these clarifications. (Administrative Record No. PA–855.10).

Pennlsyvania was asked to include in its AMLR Plan provisions to ensure that excess spoil from Title V operations will not be placed on approved AML sites in amounts greater than necessary to address the AML impacts and problems. Pennsylvania responded that it modified its amendment by adding the following sentence to the end of the first paragraph on page 6, C.1; after the fourth sentence of the first full paragraph on page 7; after the first sentence of the last paragraph on page 9; after the first sentence of Part F(2) on page 13; and after the first sentence of third paragraph under Program Requirements on page 15: "The amount of excess spoil from title V operations will not exceed that amount necessary to address the AML impacts and problems." (Administrative Record No. PA–855.10).

AMLR Plan, Part F: Program Requirements

A. The Department will solicit and accept proposals to enter into a GFCC for the purpose of reclamation of abandoned mine lands, some of which may involve the incidental and necessary removal of coal.

To be an "eligible person", for purposes of entering into a GFCC, the person must clear the Department's standard compliance with the Applicant Violator System (AVS) checks. In addition, the person must clear a check through the Commonwealth's contractor responsibility program. (*See* summary of 52 P.S. 1396.4h, under the heading "STATUTORY PROVISIONS", below.)

A GFCC under the terms of this amendment, is limited to those situations where a contractor proposes to enter into an agreement to perform reclamation on abandoned mine lands with the incidental and necessary removal of coal or to use excess spoil from a permitted site to reclaim an abandoned mine land. Reclamation should also include, where feasible, the installation of passive treatment systems and/or other measures to mitigate pre-existing discharges. No processing of coal will be conducted on-site.

Coal refuse ash may be returned to the site consistent with a general permit issued by the PADEP. General permits are issued by Pennsylvania's Bureau of Water Quality Protection as authorized by its Solid Waste Management Act (35 P.S. §§ 6018.101 *et seq*) and 25 Pa Code Chapters 77, 86–90 and 271.

Sewage sludge may be utilized for site reclamation consistent with a beneficial use order or land reclamation permit. Beneficial use and land reclamation permit are also authorized by Pennsylvania's Solid Waste Management Act.

PADEP will conduct an expeditious review of the proposal for adequacy of the monitoring plan, erosion and sedimentation control plan, operation plan, and reclamation plan. Particular attention will be given to the feasibility of installing passive treatment systems and/or other measures to mitigate pre-existing discharges. Any deficiencies are to be communicated to the contractor in writing.

Even though reclamation activities under a GFCC are not subject to the barrier prohibitions of 25 Pa. Code 86.102, precautions will be designed in the operation and reclamation plans to minimize any potential adverse impacts on areas that would be considered prohibited areas under a coal mining permit.

A performance bond in an amount determined by the PADEP shall be submitted on forms provided by the PADEP for all GFCC sites where bond is required. Specifically, a performance bond will be required on GFCC's which involve coal removal which is incidental to reclamation. PADEP stated that it has developed a bond rate schedule to be used to establish the bond amount for each GFCC. The bond rate schedule is based on acreage involved and PADEP's experience in reclaiming abandoned mine lands. The authority for requiring a bond is contained in the statutes cited in the legal opinion attached to the proposed program amendment initially submitted. (Administrative Record No. PA–855.00, Exhibit 2B), PADEP revised pages 15 and 16 of its proposed amendment to include these clarifications. Should a contractor default on a GFCC or otherwise fail to perform the required reclamation, PADEP will make a demand upon the surety to fulfill its performance bond obligations to either complete the reclamation required by the GFCC or to pay that amount of bond money necessary for PADEP to hire another contractor to complete the remaining contract reclamation work.

A consent order and agreement, in conjunction with a permit condition, will be used to ensure that AML sites which receive excess spoil from a Title V site are fully reclaimed in accordance with the contract standards and/or the consent order. The permit condition will provide that the operator will use no more than that amount of excess spoil which is necessary to reclaim the AML site and that the operator's failure to complete the required reclamation of the AML site prohibits release of the bond on the Title V permit. An operator's failure to complete reclamation of the AML site would also be a violation of its permit, exposing the operator to civil penalties and/or bond forfeiture and enforcement of the consent order and agreement.

B. A proposal for a GFCC will consist of a face sheet and the following Pennsylvania Surface Mine Permitting modules as applicable:

Module #1—Ownership and Right of Entry
Module #2—Environmental Resource and Operations Map
Module #3—Hydrology
Module #4—Operational Information
Module #5—Streams
Module #25—Flyash
Module #27—Sewage Sludge

(a) The ownership and control information is to be entered into the Land Use Management Information System (LUMIS) and a compliance check/AVS check run. If a "bar" is found, the proposal is to be returned. If "no bar" is found, the proposal will be accepted and given an ID number.

(b) All proposals will be subject to the consultation requirements with other state agencies as prescribed by Pennsylvania's approved AMLR Plan.

(c) The PADEP will advertise receipt of the proposal. This notice shall be run once a week for two weeks in a newspaper local to the project area.

(d) The municipality and the county in which the site is located will be notified, by certified letter, that the PADEP received a proposal for a GFCC to perform reclamation activities within the municipality.

(e) Upon final execution of the contract, PADEP will notify the host municipality and county by certified mail of the action; notify any agencies who submitted comments; notify appropriate state Legislators, in writing, of the action; and issue a press release of the action (The Regional Community Relations Coordinator will assist in preparation of this release). If a Small Projects Permit is issued with the executed contract, notice must be made in the Pennsylvania Bulletin.

AMLR Plan, Part F: Monitoring Program for GFCC's

The PADEP will conduct monthly inspections of all GFCC's until the site is determined to be stabilized by vegetation. At that time, the PADEP will

continue to conduct regular inspections on a quarterly basis until the contract receives final approval and final bond release.

The inspection forms and related instructions to be utilized to monitor the GFCC program are part of the amendment.

According to the PADEP, the proposed program amendment would offer solutions to the following problems that exist throughout Pennsylvania's coal field:

(1) Conditions which create a risk of fire, landslide, subsidence, cave-in or other unsafe, dangerous or hazardous conditions, including but not limited to any unguarded or unfenced open pit area, highwall, water pool, spoil bank and culm bank, abandoned structure, equipment, machinery, tools, or other property used in or resulting from surface mining operations. or other serious hazards to public health or safety.

(2) AMD pollution and sedimentation into Pennsylvania's streams.

(3) Unsightly, and unproductive property that has been largely unreclaimed through either the AML or active mining programs.

(4) Inadequate funding to address the above three Pennsylvania reclamation liabilities.

Generally speaking, the above conditions exist in areas that are economically depressed and environmentally damaged. The necessary reclamation represents an AML liability well in excess of hundreds of millions of dollars. The proposed program offers an additional solution to Pennsylvania's obligation to provide clean water and a safe and healthy environment to its citizens.

Statutory Provisions

At 52 P.S. 1396.3, Pennsylvania proposes to modify its definition of the term "surface mining activities", to add four exceptions. The effect of the modification will be that the excepted activities" will not be required to apply for and receive surface coal mining permits, and will not be required to comply with the full panoply of performance standards contained in the Pennsylvania surface coal mining regulatory program. Currently, Pennsylvania's definition of "surface mining activities" is as follows:

"Surface mining activities" shall mean the extraction of coal from the earth or from waste or stockpiles or from pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip, auger mining, dredging, quarrying and leaching, and all surface activity connected with surface or underground mining, including, but not limited to, exploration, site preparation, entry, tunnel, drift, slope, shaft and borehole drilling and construction and activities related thereto, but not including those portions of mining operations carried out beneath the surface by means of shafts, tunnels or other underground mine openings. The proposed amendment, which includes four exceptions to the definition of "surface mining activities" states that:

"Surface mining activities" shall not include any of the following: (1) Extraction of coal or coal refuse removal pursuant to a government-financed reclamation contract for the purposes of section 4.8 [52 P.S. 1396.4h]. (2) Extraction of coal as an incidental part of Federal, State or local government-financed highway construction pursuant to regulations promulgated by the Environmental Quality Board. (3) The reclamation of abandoned mine lands not involving extraction of coal or excess spoil disposal under a written agreement with the property owner and approved by the department. (4) Activities not considered to be surface mining as determined by the United States Office of Surface Mining, Reclamation and Enforcement and set forth in department regulations. The Director finds that exception number two, the extraction of coal as an incidental part of Federal, State or local government-financed highway construction pursuant to regulations promulgated by the Environmental Quality Board, is substantively identical to, and therefore no less stringent than, SMCRA Section 528(2), and she is therefore approving it. Prior to implementation of this exception, however, Pennsylvania must submit to OSM and receive OSM approval of the implementing regulations promulgated by the Environmental Quality Board. The Director finds that exception number three, the reclamation of abandoned mine lands not involving extraction of coal or excess spoil disposal under a written agreement with the property owner and approved by the department, is not inconsistent with the Federal definition of "surface coal mining operations" at SMCRA Section 701(28), and she is therefore approving it. The Director finds that exception number four, activities not considered to be surface mining as determined by the United States Office of Surface Mining, Reclamation and Enforcement and set forth in department regulations, is not inconsistent with SMCRA or the Federal regulations, and she is therefore approving it. Prior to implementing this exception, however, Pennsylvania must submit to and receive from OSM approval of any implementing regulations it promulgates. Exception number one, extraction of coal or coal refuse removal pursuant to a government-financed reclamation contract for the purposes of section 4.8 [52 P.S. 1396.4h], is discussed below in the section of this finding entitled "Analysis of Proposal to Allow Incidental Coal Removal Pursuant to GFCC's."

Also at 52 P.S. § 1396.3, Pennsylvania proposes to define the term "government-financed reclamation contract", as follows:

"Government-financed reclamation contract" shall mean:

(1) For the purposes of Section 4.8 [52 P.S. 1396.4h], a Federally-funded or state-funded and approved abandoned mine reclamation contract entered into between the department and an eligible person or entity who has obtained special authorization to engage in incidental and necessary extraction of coal refuse pursuant to government-financed reclamation which is either:

(i) a State-financed reclamation contract less than or equal to fifty thousand dollars ($50,000) total project costs, where up to five hundred (500) tons of coal is extracted, including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of a no-cost contract;

(ii) a State-financed reclamation contract authorizing the removal of coal refuse, including where reclamation is performed by the contractor under the terms of a no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material to the project area;

(iii) a State-financed reclamation contract greater than fifty thousand dollars ($50,000) total project costs or a federally-financed abandoned mine reclamation project: Provided, That the department determines in writing that extraction of coal is essential to physically accomplish the reclamation of the project area and is incidental and necessary to reclamation, or

(iv) federally financed or state-financed extraction of coal which the department determines in writing to be essential to physically extinguish an abandoned mine fire that poses a threat to the public health, safety and welfare.

(2) For purposes of determining whether or not extraction of coal is

incidental and necessary under section 4.8, the department shall consider standard engineering factors and shall not in any case consider the economic benefit deriving from extraction of coal. Necessary extraction of coal shall in no case include:

(i) the extraction of coal in an area adjacent to the previously affected area which will be reclaimed; or

(ii) the extraction of coal beneath the previously affected area which will be reclaimed. This definition is discussed below in the section of this finding entitled "Analysis of Proposal to Allow Incidental Coal Removal Pursuant to GFCC's."

Also at 52 P.S. 1396.3, Pennsylvania proposes to define the term "no-cost reclamation contract," as follows:

"No-cost reclamation contract" shall mean a contract entered into between the department and an eligible person for the purpose of reclaiming unreclaimed abandoned mine lands and which does not involve the expenditure of Commonwealth funds. This definition is discussed below in the section of this finding entitled "Analysis of Proposal to Allow Incidental Coal Removal Pursuant to GFCC's."

Finally, at 52 P.S. 1396.4h [also referred to as "section 4.8"], Pennsylvania proposes to add a new section entitled "Government-financed reclamation contracts authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse" which states that:

(a) No person may engage in the extraction of coal or in removal of coal refuse pursuant to a government-financed reclamation contract without a valid surface mining permit issued pursuant to this act unless such person affirmatively demonstrates that he is eligible to secure special authorization pursuant to this section to engage in a government-financed reclamation contract authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse. The department shall determine eligibility before entering into a government-financed reclamation contract authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse. The department may provide the special authorization as part of the government-financed reclamation contract: Provided, That the contract contains and does not violate the requirements of this section. The department shall not be required to grant a special authorization to any eligible person. The department may, however, in its discretion, grant a special authorization allowing incidental and necessary extraction of coal or allowing removal of coal refuse pursuant to a government-financed reclamation contract in accordance with this section.

(b) Only eligible persons may secure special authorization to engage in incidental and necessary extraction of coal or to engage in removal of coal refuse pursuant to a government-financed reclamation contract. A person is eligible to secure a special authorization if he can demonstrate, at a minimum, to the department's satisfaction that:

(1) The contractor or any related party or subcontractor which will act under its direction has no history of past or continuing violations which show the contractor's lack of ability or intention to comply with the acts or the rules and regulations promulgated thereunder, whether or not such violation relates to any adjudicated proceeding agreement, consent order or decree, or which resulted in a cease order or civil penalty assessment. For the purposes of this section, the term "related party" shall mean any partner, associate, officer, parent corporation, affiliate or person by or under common control with the contractor.

(2) The person has submitted proof that any violation related to the mining of coal by the contractor or any related party or subcontractor which will act under its direction of any of the acts, rules, regulations, permits or licenses of the department has been corrected or is in the process of being corrected to the satisfaction of the department, whether or not the violation relates to any adjudicated proceeding, agreement, consent order or decree or which resulted in a cease order or civil penalty assessment. For purposes of this section, the term "related party" shall mean any partner, associate, officer, parent corporation, subsidiary corporation, affiliate or person by or under common control with the contractor.

(3) The person has submitted proof that any violation by the contractor or by any person owned or controlled by the contractor or by a subcontractor which acts under its direction of any law, rule or regulation of the United States or any state pertaining to air or water pollution has been corrected or is in the process of being satisfactorily corrected.

(4) The person or any related party or subcontractor which will act under the direction of the contractor has no outstanding unpaid civil penalties which have been assessed for violations of either this act or the act of June 22, 1937 (Pub. L. 1987, No. 394), known as "The Clean Streams Law" (35 P.S. § 691.1 *et seq.*), in connection with either surface mining or reclamation activities.

(5) The person or any related party or subcontractor which will act under the direction of the contractor has not been convicted of a misdemeanor or felony under this act or the acts set forth in subsection (e) and has not had any bonds declared forfeited by the department.

(c) Any eligible person who proposes to engage in extraction of coal or in removal of coal refuse pursuant to a government-financed reclamation contract may request and secure special authorization from the department to conduct such activities under this section. The department may issue the special authorization as part of the government-financed reclamation contract: Provided, That the contract contains and does not violate the requirements of this section. A special authorization can only be obtained if a clause is inserted in a government-financed reclamation contract authorizing such extraction of coal or authorizing removal of coal refuse and the person requesting such authorization has affirmatively demonstrated to the department's satisfaction that he has satisfied the provision of this section. A special authorization shall only be granted by the department prior to the commencement of extraction of coal or commencement of removal of coal refuse on a project area. In order to be considered for a special authorization by the department, an eligible person must demonstrate at a minimum that:

(1) The primary purpose of the operation to be undertaken is the reclamation of abandoned mine lands.

(2) The extraction of coal will be incidental and necessary, or the removal of coal refuse will be required, to accomplish the reclamation of abandoned mine lands pursuant to a government-financed reclamation contract.

(3) Incidental and necessary extraction of coal or in removal of coal refuse will be confined to the project area being reclaimed.

(4) All extraction of coal or in removal of coal refuse and reclamation activity undertaken pursuant to a government-financed reclamation project will be accomplished pursuant to:

(i) The applicable environmental protection performance standards promulgated in the rules and regulations relating to surface coal mining listed in the government-financed reclamation contract; and

(ii) Additional conditions included in the government-financed reclamation contract by the department.

(d) The contractor will pay any applicable per-ton reclamation fee established by OSM for each ton of coal extracted pursuant to a government-financed reclamation project.

(e) Prior to commencing extraction of coal or commencement of removal of coal refuse pursuant to a government-financed reclamation project, the contractor shall file with the department a performance bond payable to the Commonwealth and conditioned upon the contractor's performance of all the requirements of the government-financed reclamation contract, this act, "The Clean Streams Law", the act of January 8, 1960 (1959 P.L. 2119, No. 787) (35 P.S. section 4001 *et seq.*), known as the "Air Pollution Control Act", the act of September 24, 1968 (P.L. 1040, No. 318) (52 P.S. § 30.51 *et seq.*), known as the "Coal Refuse Disposal Control Act," where applicable, the act of November 26, 1978 (P.L. 1375, No. 325) (32 P.S. § 693.1 *et seq.*), known as the "Dam Safety and Encroachments Act", and, where applicable, the act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. § 6018.101 *et seq.*), known as the "Solid Waste Management Act". An operator posting a bond sufficient to comply with this section shall not be required to post a separate bond for the permitted area under each of the acts herein above enumerated. For government-financed reclamation contracts other than a no-cost reclamation contract, the criteria for establishing the amount of the performance bond shall be the engineering estimate, determined by the department, of meeting the environmental obligations enumerated above. The performance bond which is provided by the contractor under a contract other than a government-financed reclamation contract shall be deemed to satisfy the requirements of this section provided that the amount of the bond is equivalent to or greater than the amount determined by the criteria set forth in this subsection. For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mine lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term, no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these contracts, the department may in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation which will occur during a period specified.

(f) The department shall insert in government-financed reclamation contracts conditions which prohibit coal extraction pursuant to government-financed reclamation in areas subject to the restrictions of Section 4.2 (52 P.S. § 1396.4b.), except as surface coal mining is allowed pursuant to that section.

(g) Any person engaging in extraction of coal pursuant to a no-cost government-financed reclamation contract authorized under this section who affects a public or private water supply by contamination or diminution shall restore or replace the affected supply with an alternate supply adequate in quantity and quality for the purposes served.

(h) Extraction of coal or removal of coal refuse pursuant to a government-financed reclamation contract cannot be initiated without the consent of the surface owner for right of entry and consent of the mineral owner for extraction of coal. Nothing in this section shall prohibit the department's entry onto land where such entry is necessary in the exercise of police powers.

This new section is discussed below in the section of this finding entitled "Analysis of Proposal to Allow Incidental Coal Removal Pursuant to GFCC's."

Analysis of Proposal To Allow Incidental Coal Removal Pursuant to GFCC's

Section 528(2) of SMCRA provides an exemption from the requirements of SMCRA for coal extraction incidental to government-financed highway or other construction under regulations established by the regulatory authority. The amendments to Pennsylvania's statutes and to its AMLR Plan would allow incidental coal extraction pursuant to the reclamation of abandoned sites without the need of a surface coal mining permit. The State contends that this amendment is consistent with the provisions of section 528(2) of SMCRA and, therefore, not subject to SMCRA.

The Federal regulations at 30 CFR Part 707 set forth the procedures for determining those surface coal mining and reclamation operations which are exempt from the Act and the Federal regulations because the extraction of coal is an incidental part of Federal, State, or local government-financed highway or other construction. Under 30 CFR 707.5, government-financed construction, generally, means construction funded 50 percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds. However, OSM has recently promulgated a revision to the definition of "government financed construction" at 30 CFR 707.5. The new revision allows incidental coal extraction to be performed pursuant to approved reclamation projects under Title IV of SMCRA, even where the government funding portion is less than 50%. 64 FR 7470, February 12, 1999. Therefore, Pennsylvania's proposed statutory and AMLR Plan amendments are no less than the newly promulgated revision to the Federal definition of "government financed construction", insofar as the State provisions apply to approved Title IV projects. The Director also finds that the AMLR plan amendment is no less effective than the federal regulations at 30 CFR 707.12, pertaining to the information required to be maintained on site, with respect to approved Title IV projects. However, other new Federal provisions were enacted in the same rulemaking. These new provisions, at 30 CFR 874.17, contain consultation responsibilities and concurrence obligations, as well as documentation requirements, for the Title IV and Title V divisions of State Regulatory Authorities as a prerequisite to approval of incidental coal extraction without a permit, on approved Title IV reclamation projects which are less than 50% government financed. Pennsylvania's proposed amendment already contained counterparts to the requirements contained in 30 CFR 874.17(b), (d)(3) and (d)(4). Also, since our approval of the incidental extraction of coal on projects which are less than 50% government financed is limited to approved AML projects under Title IV, the projects will necessarily be conducted in accordance with 30 CFR Subchapter R, thereby fulfilling the requirement at 30 CFR 874.17(d)(2). Finally, in a letter dated March 2, 1999 (Administrative Record No. PA–855.15), Pennsylvania proposed to amend its AML Plan to require that any Title IV reclamation projects to require compliance with the remaining portions of 30 CFR 874.17. Therefore, the Director finds that the amendment submitted by Pennsylvania, including the March 2, 1999, modification, complies with 30 CFR 874.17, to the extent that it applies to the incidental extraction of coal on approved Title IV projects which are less than 50% government financed.

A discussion of the support statutory revisions follows.

At 52 P.S. 1396.3, Pennsylvania proposes an exception from the definition of "surface mining activities" for the extraction of coal or coal refuse removal pursuant to a government-financed reclamation contract. Also at 52 P.S. 1396.3, Pennsylvania proposes a definition of "government-financed reclamation contract." (This definition is summarized above.) To the extent that these provisions apply to the incidental extraction of coal pursuant to approved AML projects, they are no less stringent than Section 528(2) of SMCRA, for the reasons discussed in the preceding paragraphs under this heading. These projects may be less than 50% government financed, and may be approved by Pennsylvania at any time after the effective date of this final rule. Our approval includes state financed reclamation projects, which receive no federal AML funding, so long as those projects are approved under title IV and the federal regulations at 30 CFR Subchapter R. In other words, the State need not actually use federal AML moneys to fund these projects, but the projects must first comply with the criteria in SMCRA and the federal regulations which govern eligibility for federal funding. Projects that are State financed, but that do not receive Title IV approval, qualify for the government financed construction exemption only if they are at least 50% government financed. Therefore, the director is not approving the definition of "government-financed reclamation contract" to the extent that it proposes to allow incidental coal removal, pursuant to state financed reclamation contracts which are less than 50 percent government financed, on sites which have not been approved as Title IV AML projects.

In addition, the Director is not approving the portions of the definition of "government-financed reclamation contract" which refer to "no-cost contracts." (*See* the proposed definition of "no-cost reclamation contract", which is set forth in its entirety, above.) In order to qualify as "government-financed construction", projects must receive some funding through appropriations from the government financing agency's budget. Any expenses incurred directly or indirectly by the AML agency, including the costs of project design, solicitation, management and oversight, qualify as government financing. However, Pennsylvania defines no-cost contracts as those contracts that do not involve the expenditure of any government funding, either as direct payments or as indirect expenses such as those listed above. Therefore, Pennsylvania's definition of "government financed reclamation contract" is less effective than the Federal definition of "government-financed construction", at 30 CFR 707.5, to the extent that it would allow incidental coal extraction or coal refuse removal, without a permit, pursuant to no-cost contracts. Specifically, the Director is not approving the following language in the definition of "government-financed reclamation contract":

In paragraph (1)(i), the phrase "including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of a no-cost contract"; and,

In paragraph (1)(ii), the phrase "including where reclamation is performed by the contractor under the terms of a no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material to the project area."

In addition, the Director is not approving the definition of "no-cost reclamation contract", at 52 P.S. 1396.3.

Finally, the Director is requiring Pennsylvania to amend 52 P.S. 1396.3 to delete the above-referenced language.

At 52 P.S. 1396.4h, also known as "Section 4.8", which is set forth in its entirety above, Pennsylvania has established criteria for determining eligibility for receipt of a special authorization to conduct incidental coal extraction or coal refuse removal pursuant to a government-financed reclamation contract. This provision also requires eligible persons to demonstrate that coal extraction or refuse removal will be incidental and necessary to reclamation, which shall be the primary purpose of the contract, and that it will comply with environmental protection performance standards listed in the contract. Next, the provision requires that applicable reclamation fees be paid for each ton of coal extracted, sets forth criteria for the posting of performance bonds, prohibits the incidental extraction of coal and removal of coal refuse in areas subject to other restrictions on coal extraction, pursuant to 52 P.S. 1396.4b, and requires surface owner consent for right of entry and for extraction of coal. These provisions, which are contained in subsections "a" through "d", "f" and "h" of 52 P.S. 1396.4h, have no Federal counterparts. However, they are not inconsistent with Section 528(2) of SMCRA or 30 CFR Part 707, and add restrictions to the issuance of "special authorizations" which should help to ensure that proposed projects which are truly "surface mining activities" will be required to obtain full surface mining permits. Therefore, the Director is approving these subsections. She is also approving subsection "e" for the same reasons, except for the following language, pertaining to "no-cost contracts", which is not approved:

> For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mine lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term, no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these contracts, the department may in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation which will occur during a period specified.

Also, the Director is not approving any portion of subsection "g", since it pertains solely to extraction of coal pursuant to no-cost contracts. Finally, the Director is requiring the State to amend 52 P.S. 1396.4h to delete the above-quoted portion of subsection "e", and to delete subsection "g" in its entirety.

Analysis of Proposal to Allow Placement of Excess Spoil on Adjacent AML Lands

Placement of excess spoil on adjacent abandoned mine land has been addressed previously in other rulemaking. Specifically, in a July 9, 1991, letter to Ohio (Administrative Record No. OH–1546), the Director of OSM clarified OSM's position concerning the standards and requirements which apply to the usage of excess spoil for reclamation of abandoned mine land sites. OSM focused on the parameters for excess spoil disposal outside the permit area as established, in part, in several final rules approving such a provision in the West Virginia program (45 FR 69254–69255, October 20, 1980; 46 FR 5919, January 21, 1981; and 55 FR 21328–21329, May 23, 1990).

In the January 21, 1981, **Federal Register** announcing approval of the West Virginia program (46 FR 5919), the Secretary found that, for purposes of excess spoil disposal, a reclamation contract governing work to be performed on a Federal AML reclamation grant project is the equivalent of permit and bond under Title V of SMCRA. In the May 23, 1990, **Federal Register** (55 FR 21329), OSM found that West Virginia's proposed

disposal of excess spoil on a Federally funded AML reclamation project is approvable provided the spoil is not necessary to restore approximate original contour (AOC) on or otherwise reclaim the active mine. In addition, as stated in the May 23, 1990, **Federal Register**, fills are not to be created on AML reclamation projects. Spoil deposited on such sites may be used only to complete reclamation and to return the site to its AOC. OSM restricted eligibility for such spoil deposition to AML reclamation projects funded through the Federal AML grant process. The May 23, 1990, finding, however, did not prohibit the possibility that "no-cost reclamation" contracts, which allow spoil disposal on AML sites not included in Federally funded grants, could be approved in the future. In order to gain OSM approval, however, "no-cost reclamation" amendments would have to contain meaningful performance incentives or safeguards to ensure that spoil is placed only where it is needed to restore AOC and where it will not destroy or degrade features of environmental value. In addition, the amendments must require that spoil be placed in an environmentally and technically sound fashion. *See* OSM Director's July 9, 1991, letter to Ohio (Administrative Record No. OH–1546). In short, "no cost reclamation" amendments must provide a degree of security comparable to that afforded by a Federally funded AML reclamation project.

The Director finds that Pennsylvania's proposal regarding placement of excess spoil, at Part F, meets these requirements, for the reasons set forth below.

First, Pennsylvania's proposal requires that the amount of excess spoil placed on an abandoned site will not exceed that required to restore that site to AOC. Also, the proposal limits the amount of excess spoil placed on AML sites to that amount needed to address the AML impacts and problems. Therefore, valley, head-of-hollow and durable rock fills will not be constructed on these AML sites, because the amount of material deposited would exceed that necessary to address the AML impacts and problems.

Second, the proposal requires that the plan for excess spoil placement pursuant to a GFCC will be developed and implemented in the same manner as is done for Federally funded AML projects. The environmental safeguards that therefore will apply to GFCC's should ensure that the excess spoil is placed in an environmentally sound fashion, and that placement will not destroy or degrade features of environmental value.

Third, and finally, the Director finds that the proposal contains sufficient performance incentives to require compliance with all applicable requirements, since a consent order and agreement, in conjunction with a permit condition, will be used to ensure that AML sites which receive excess spoil from a Title V site are fully reclaimed. The permit condition will provide that the operator will use no more than that amount of excess spoil which is necessary to reclaim the AML site and that the operator's failure to complete the required reclamation of the AML site prohibits release of the bond on the Title V permit. An operator's failure to complete reclamation of the AML site would also be a violation of its permit, exposing the operator to civil penalties and/or bond forfeiture and enforcement of the consent order and agreement. Finally, the PADEP always has AML grant funds available to reclaim these sites in the event that the operator defaults on the terms of its contract.

General Findings

Pursuant to 30 CFR 884.15(a), an AMLR Plan amendment which changes the scope, objectives or major policies followed by the State in the conduct of its reclamation program must meet the requirements of 30 CFR 884.14 before OSM may approve it. Accordingly, OSM makes the following findings:

1. OSM offered the public an opportunity for a public hearing on the amendment in the December 29, 1997, **Federal Register** Notice, (62 FR 67590), thereby complying with the requirement of 30 CFR 884.14(a)(1);

2. In both the December 29, 1997 (62 FR 67590) and July 28, 1998 (63 FR 40237) **Federal Register** Notices, OSM solicited the views of other Federal agencies having an interest in the AMLR Plan amendment, and OSM considered the views of those agencies in reaching its decision, thereby complying with the requirements of 30 CFR 884.14(a)(2);

3. PADEP has provided evidence of the State's legal authority, policies and administrative structure necessary to carry out the proposed AMLR Plan amendment, thereby complying with the requirements of 30 CFR 884.14(a)(3);

4. The AMLR Plan amendment meets all of the requirements of the Federal Regulations at Title 30, Chapter VII. Subchapter R, "Abandoned Mine Land Reclamation", including the newly promulgated "AML Enhancement Rule" at 30 CFR 874.17, and therefore complies with the requirements of 30 CFR 884.14(a)(4);

5. Pennsylvania has an approved State regulatory program, as announced in the July 30, 1982, **Federal Register** Notice (47 FR 33050), as required by 30 CFR 884.14(a)(5); and,

6. The AMLR Plan amendment is in compliance with all applicable State and Federal laws and regulations, and therefore complies with the requirements of 30 CFR 884.14(a)(6).

Based upon all of the above considerations, the Director is approving Part F.

IV. Summary and Disposition of Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Comments were received from the Pennsylvania Coal Association, the Anthracite Region Independent Power Producers Association, and the Indiana Coal Council, Inc. (Administrative Record Nos. PA–855.05, 855.06 and 855.07, each dated January 28, 1998, respectively). In each case, comments regarding the proposed amendment were favorable and supportive, and encouraged OSM's approval. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 884.14(a)(2), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Pennsylvania AMLR Plan. The Mine Safety and Health Administration (MSHA) responded in its letter dated December 15, 1997, (Administrative Record No. PA–855.03) that it saw no conflict with Coal Mine Safety and Health Impoundment or Refuse Pile Regulations under 30 CFR 77.214, 215 and 216. No other comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) The Director has determined that this amendment contains no such provisions and that EPA concurrence is therefore unnecessary. Also, EPA did not respond to OSM's request for comments.

V. Director's Decision

Based on the above finding(s), the Director approves the proposed

amendment as submitted by Pennsylvania on November 21, 1997, clarified on July 7, 1998, and revised on October 8 and October 13, 1998, and March 2, 1999 with the exceptions noted below. In particular, the Director is approving Part F, which authorizes the use of GFCCs which involve incidental coal removal, or which allow the placement of excess spoil on adjacent Abandoned Mine Lands. In addition, the Director is approving the statutory provisions submitted by the State, consisting of portions of 52 P.S. 1396.3 and a new section, 52 P.S. 1396.4th, with the exceptions noted below.

The Director is not approving the definition of "government-financed reclamation contract", at 52 P.S. 1386.3, to the extent that it proposes to allow incidental coal removal, pursuant to state financed reclamation contracts which are less than 50 percent government financed, on sites which have not been approved as Title IV AML project. Projects that are state financed, but that do not receive Title IV AML approval, can include incidental coal removal if the project are at least 50% government financed. In addition, the Director is not approving the portions of the definition of "government-financed reclamation contract" which refer to "no-cost contracts." Specifically, the Director is not approving the following language in the definition of "government-financed reclamation contract":

In paragraph (1)(i), the phrase "including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of a no-cost contract"; and,

In paragraph (1)(ii), the phrase "including where reclamation is performed by the contractor under the terms of a no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material to the project area."

In addition, since the Director is not approving the use of no-cost reclamation contracts that involve incidental extraction of coal or coal refuse, she is also not approving the definition of "no-cost reclamation contract", at 52 P.S. 1396.3.

Also, the Director is not approving the following portions of subsection "e" of 52 P.S. 1396.4h:

> For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mine lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these contracts, the department may in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation which will occur during a period specified.

Finally, the Director is not approving any portion of 52 P.S. 1396.4h., subsection "g", since it pertains solely to extraction of coal pursuant to no-cost contracts.

The Director is requiring Pennsylvania to amend 52 P.S. 1396.3 and 1396.4h to delete the above-referenced language.

The Federal regulations at 30 CFR part 938, codifying decisions concerning the Pennsylvania program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State AMLR Plans and State Regulatory Program amendment processes and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standard is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, no by OSM. These standards are also not applicable to the actual language of state regulatory programs and program amendments for the same reason. Decisions on State and Tribal abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the Federal regulations at 30 CFR Part 884. Similarly, under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(1), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)), and since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1999.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 938—PENNSYLVANIA

1. The authority citation for part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 938.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
October 8, 1998	March 26, 1999	52 P.S. §§ 1396.3, 1396.4h.

3. Section 938.16 is amended by adding new paragraphs (cccc), (dddd), (eeee) and (ffff) to read as follows:

(cccc) By May 26, 1999, Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to delete the following portions of the definition of "government-financed reclamation contract", at 52 P.S. § 1396.3: in paragraph (1)(i), the phrase "including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of a no-cost contract"; and, in paragraph (1)(ii), the phrase "including where reclamation is performed by the contractor under the terms of a no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material of the project area."

(dddd) By May 26, 1999, Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to delete the definition of "no-cost reclamation contract", at 52 P.S. § 1396.3.

(eeee) By May 26, 1999, Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to delete the following language contained in subsection "e" of 52 P.S. § 1396.4h:

For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mines lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term, no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these contracts, the department in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation.

(ffff) By May 26, 1999, Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to delete, in its entirety, subsection "g" of 52 P.S. § 1396.4h.

4. Section 938.25 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 938.25 Approval of Pennsylvania abandoned mine reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
November 21, 1997	March 26, 1999	Part F—Government Financed Construction Contracts.

[FR Doc. 99–7282 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 556

Private Organizations on Department of the Army Installations

AGENCY: U.S. Army Community and Family Support Center, DOD.

ACTION: Final rule.

SUMMARY: This document removes the Department of the Army's Private Organizations on Department of the Army Installations regulation codified in 32 CFR, part 556. The part has served its purpose and no longer supports other related rules currently in existence. The Army is in the process, however, of revising its policies and procedures concerning authorization and operation of private organizations operating on Army installations and will announces a future proposed rule for public comment.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT:

Margaret McMullen, U.S. Army Community and Family Support Center, 4700 King Street, Alexandria, VA 22302, phone (703) 681–7434.

SUPPLEMENTARY INFORMATION: Additionally, removal of Part 556 is based on the inconsistency of text with revised DODI 1000.15, Private Organizations on DOD Installations, and DOD 5500.7–R, Joint Ethics Regulations.

List of Subjects in 32 CFR Part 556

Federal buildings and facilities.

PART 556—[REMOVED AND RESERVED]

Accordingly, under the authority of 5 U.S.C. 301, 32 CFR Part 556 is removed.

Lloyd E. Mues,

Chief of Staff.

[FR Doc. 99–7475 Filed 3–25–99; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT10–1–6700a; UT–001–0014a; UT–001–0015a; FRL–6314–8]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Foreword and Definitions, Revision to Definition for Sole Source of Heat and Emissions Standards, Nonsubstantive Changes; General Requirements, Open Burning and Nonsubstantive Changes; and Foreword and Definitions, Addition of Definition for PM_{10} Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of the State of Utah. On July 11, 1994, the Governor submitted a SIP revision for the purpose of establishing a modification to the definition for "Sole Source of Heat" in UACR R307–1–1; this revision also made a change to UACR R307–1–4, "Emissions Standards." On February 6, 1996, a SIP revision to UACR R307–1–2 was submitted by the Governor of Utah which contains changes to Utah's open burning rules, requiring that the local county fire marshal has to establish a 30-day open burning window in order for open burning to be allowed in areas outside of nonattainment areas. Other minor changes are made in this revision to UACR R307–1–2.4, "General Burning" and R307–1–2.5, "Confidentiality of Information." In addition, on July 9, 1998, SIP revisions were submitted that would add a definition for "PM_{10} Nonattainment Area" to UACR R307–1–1. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on May 26, 1999 without further notice, unless EPA receives adverse comment by April 26, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: On July 11, 1994, February 6, 1996, and July 9, 1998, the State of Utah submitted formal revisions to its State Implementation Plan (SIP). The July 11, 1994, SIP submittal consists of a modification to the definition for "Sole Source of Heat" in UACR R307–1–1, as well as a nonsubstantive change to UACR R307–1–4, "Emissions Standards." The February 6, 1996, submittal made revisions to UACR R307–1–2 and contains changes to Utah's open burning rules to require that the local county fire marshal establish a 30-day open burning window in order for open burning to be allowed in areas outside of nonattainment areas. Other minor changes are made in this revision to UACR R307–1–2.4, "General Burning" and R307–1–2.5, "Confidentiality of Information." The July 9, 1998, submittal adds a definition for "PM_{10} Nonattainment Area" to UACR R307–1–1.

I. Background

On July 11, 1994, the definition for "Sole Source of Heat" was revised in UACR R307–1–1 such that households with only small portable heaters are included in the definition to allow these households to burn during mandatory no-burn periods. Revisions were also made to UACR R307–1–4 to include a new sub-section on "PM_{10} Contingency Plans;" these plans were requested to be withdrawn by the Governor in a November 9, 1998, letter to the Regional Administrator. EPA returned the portions of these plans with a letter to the Governor on January 29, 1999. However, a nonsubstantive change was made in this section as a result of the revision. This change moves section 4.13.3 D to section 4.13.3.E. For the purposes of ease and efficiency for the State, the revised sub-section numbering is being approved.

On February 6, 1996, the State of Utah submitted its revised open burning regulations in order to make them more consistent with Utah Code 65A–8–9. The State rules that were approved earlier in the SIP allow for more leniency with respect to open burning windows than does the Utah Code.

The following are requirements for open burning under Utah Code 65A–8–9 which pertain to the rule change addressed by the SIP:

1. June 1 through October 31 of each year is to be a closed fire season throughout the State.

2. The state forester has jurisdiction over the types of open burning allowed with a permit during the closed fire season.

The open burning requirement that was previously in the Utah SIP pertaining to this rule change is as follows:

For areas outside of Salt Lake, Davis, Weber, and Utah Counties (nonattainment areas), open burning is allowed during the periods of March 30 through May 30 and September 15 through October 30 with a permit issued by the authorized local authority.

The open burning requirement that was adopted by the Utah Air Quality Board on September 6, 1995 is as follows:

For areas outside of the designated nonattainment areas, open burning is allowed during the March 30 through May 30 period and the September 15 through October 30 period if the local county fire marshal has established a 30-day window for such open burning to occur with a permit issued by the authorized local authority and the state forester has allowed for such permit to be issued.

On July 9, 1998, the State submitted a revision to UACR R307–1–1, "Foreword and Definitions." The State of Utah's new definition is such that, "'PM_{10} Nonattainment Area' means Salt Lake County, Utah County, or Ogden City." This definition was included in the State rules in order to ensure that all requirements for PM_{10} nonattainment areas remain in effect after the revocation of the pre-existing NAAQS for PM_{10}.

II. Summary of SIP Revision

A. Review of Revisions

1. Review of the Changes to "Foreword and Definitions" Regulations Concerning the Definition for "Sole Source of Heat"

The residential woodburning regulation revision was developed by the Utah Division of Air Quality with input from local governments and the public. The Air Quality Board approved two changes to the woodburning rule at the December 9, 1993, hearing which were later submitted by the Governor. The revision to R307–1–1 redefines the definition for "Sole Source of Heat." This change defines which households may continue burning during woodburning bans so that those households with small portable heaters still qualify under the definition of households for which wood or coal burning is the only source of heat. The second revision which was made to the residential woodburning regulations under R307–1–4.13, specifies the actions which must be taken if contingency measures are implemented in the Salt Lake, Davis or Utah County nonattainment areas. These plans were requested to be withdrawn by the Governor in a November 9, 1998, letter to the Regional Administrator. EPA returned the portions of these plans with a letter to the Governor on January 29, 1999. However, a nonsubstantive change was made in this section as a result of the revision. This change moves section 4.13.3 D to section 4.13.3.E. For the purposes of ease and efficiency for the State, the revised subsection number is being approved, and thus, there will be no section 4.13.3.D.

2. Review of the Changes to General Requirements Regulations Concerning Open Burning Regulations and Minor Changes to Rules

Utah made revisions to its open burning regulations for areas outside of nonattainment areas because they were found to be in conflict with Utah Code 65A–8–9. The Code prohibits open burning between June 1 and October 31, unless a permit has been issued, whereas the open burning regulations allowed burning between March 30 and May 30 and between September 15 and October 30 in areas outside of nonattainment areas. The change to the open burning rule requires that the local county fire marshal establish a 30-day window during the spring and fall open burning windows in areas outside of Salt Lake, Davis, Weber, and Utah Counties in order for open burning to occur. In regards to the fall window, upon the decision of the state forester under Section 65A–8–9 of the Utah Code, the local county fire marshal may establish a 30-day period between September 15 and October 30 as an open burning period in which permits are required to conduct open burning. These changes were made under UACR R307–1–2.4.4. The proposed changes had originally not included the fall open burning window, but after adverse public comment the proposed rule was changed to allow for fall burning under the above provisions.

Other minor changes were made to the open burning regulations as well. Section R307–1–2.4, "General Burning" has had numbers added to it to make it more consistent with Utah Code 19–2–114. Section R307–1–2.4.3.C is corrected to refer to Subsection R307–17–3 in place of section 4.13.3 of the regulations. More minor changes were also made throughout the open burning regulations to change capitalization and to correct references.

Minor changes were also made under R307–1–2.5, "Confidentiality of Information" including a changed statutory reference in R307–1–2.5.1.B. Additional changes were made to correct references and capitalization of section headings.

3. Review of the Changes to "Foreword and Definitions" Regulations Concerning the Addition of a Definition for PM_{10} Nonattainment Areas

On January 7, 1998, the Air Quality Board approved the addition of the definition for "PM_{10} Nonattainment Area." This revision ensures that the currently designated nonattainment areas within the State for PM_{10} will be held to the same requirements after the pre-existing PM_{10} NAAQS are revoked as they were prior to the revocation of the NAAQS. This action is important in order to prevent the areas from backsliding during the interim period between the revocation of the NAAQS and the designation of the areas under the revised standards for PM_{10}.

B. Procedural Background

The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA provides that each SIP revision be adopted after going through a reasonable notice and public hearing process prior to being submitted by a State to EPA. EPA has evaluated each of the above Governor's submittals and discusses them below.

1. July 11, 1994 submittal: Copies of the proposed changes were made available to the public and the State held public hearings for the changes to "Foreword and Definitions" and "Emissions Standards" on October 5, 1993, October 6, 1993, October 7, 1993, and October 13, 1993. The changes to the State's rules were adopted by the Air Quality Board on December 9, 1993 and became effective on January 31, 1994; the revision was formally submitted by the Governor on July 11, 1994. EPA determined the submittal was complete on September 22, 1994. A portion of this revision included PM_{10} contingency plans which were requested to be withdrawn by the Governor in a November 9, 1998, letter to the Regional Administrator. EPA returned this portion of the submittal with a letter to the Governor on January 29, 1999.

2. February 6, 1996 submittal: Copies of the proposed changes were made available to the public and the State held public hearings for the changes to "General Requirements" on July 14 (two separate hearings), 17, 18, and 19, 1995. The changes to the State's rule were adopted by the Air Quality Board on September 6, 1995 and became effective on October 31, 1995; the new open burning regulations, along with the other nonsubstantive changes to "General Requirements," were formally submitted by the Governor on February 6, 1996. EPA determined the submittal was complete on August 14, 1996.

3. July 9, 1998 submittal: Copies of the proposed changes were made available to the public and the State held public hearings for the changes to "Foreword and Definitions" on December 16, 1997 and January 5, 1998. The changes to the State's rule were adopted by the Air Quality Board on January 7, 1998 and became effective on January 8, 1998; the new definition was formally submitted by the Governor on July 9, 1998. EPA determined the submittal was complete on October 16, 1998.

III. Final Action

EPA is approving the Governor's submittal of July 11, 1994, to revise the definition for "Sole Source of Heat" to define which households may continue burning during woodburning bans so that those households with small portable heaters still qualify under the definition of households for which wood or coal burning is the only source of heat. EPA is also approving a change made under "Emissions Standards." which moves section 4.13.3 D to section 4.13.3.E. EPA is approving the submittal of February 6, 1996, which made changes to Utah's open burning regulations (in "General Burning") to require that the local county fire marshal establish a 30-day window

during which open burning activities may occur in areas outside of nonattainment areas during the spring and fall closed burning seasons. This applies to all areas in the State outside of Salt Lake, Davis, Weber, and Utah Counties where the state forester has permitted the local county fire marshal to establish the open burning window. Minor changes were also made to R307–1–2.4, "General Burning" as well as R307–1–2.5, "Confidentiality of Information." Lastly, EPA is approving the Governor's submittal of July 9, 1998, adding a definition for "PM_{10} Nonattainment Area" in R307–1–1 to ensure that requirements for nonattainment areas are retained in Salt Lake County, Utah County, and Ogden City after the pre-existing PM_{10} NAAQS are revoked.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 26, 1999 without further notice unless the Agency receives adverse comments by April 26, 1999. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the

aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 26, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 11, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(41) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(41) On July 11, 1994 the Governor of Utah submitted revisions to the Utah State Implementation Plan (SIP) to revise the definition for "Sole Source of Heat" under UACR R307–1–1, "Foreword and Definitions," to allow the exemption of those households with small portable heating devices from mandatory no-burn periods. This revision also made changes to the residential woodburning regulations under UACR R307–1–4.13.3 "No-Burn Periods," which specifies the actions which must be taken if contingency measures are implemented in the Salt Lake, Davis or Utah County nonattainment areas. These plans were requested to be withdrawn by the Governor in a November 9, 1998, letter to the Regional Administrator. EPA returned the portions of these plans with a letter to the Governor on January 29, 1999. A nonsubstantive change was made in this section as a result of the revision which moves section 4.13.3 D to section 4.13.3.E; this change was also approved by EPA. On February 6, 1996 the Governor of Utah submitted revisions to the Utah State Implementation Plan to revise Utah's open burning regulations, under UACR R307–1–2.4, to require that the local county fire marshal establish 30-day open burning windows during the spring and fall closed burning seasons in areas outside of Salt Lake, Davis, Weber, and Utah Counties as granted by the state forester. There were also minor changes made to the open burning regulations under UACR R307–1–2.4, "General Burning" and minor changes made to UACR R307–1–2.5 "Confidentiality of Information." On July 9, 1998 the Governor of Utah submitted revisions to the Utah SIP to add a definition for "PM_{10} Nonattainment Area," under UACR R307–1–1, "Foreword and Definitions," to ensure that all requirements for nonattainment areas are retained in Salt Lake County, Utah County and Ogden City after the pre-existing PM_{10} standards are revoked.

(i) Incorporation by reference.

(A) UACR R307–1–1, a portion of "Foreword and Definitions," revision of definition for "Sole Source of Heat," as adopted by Utah Air Quality Board on December 9, 1993, effective on January 31, 1994.

(B) UACR R307–1–4, a portion of "Emissions Standards," as adopted by Utah Air Quality Board on December 9, 1993, effective on January 31, 1994.

(C) UACR R307–1–2, a portion of "General Requirements," open burning changes and nonsubstantive wording changes, as adopted by Utah Air Quality Board on September 6, 1995, effective on October 31, 1995.

(D) UACR R307–1–1, a portion of "Foreword and Definitions,' addition of definition for "PM_{10} Nonattainment Area," as adopted by Utah Air Quality Board on January 7, 1998, effective on January 8, 1998.

(ii) Additional Material.

(A) July 20, 1998, fax from Jan Miller, Utah Department of Air Quality, to Cindy Rosenberg, EPA Region VIII, transmitting Utah Code 65A–8–9, regarding closed fire seasons.

(B) October 21, 1998, letter from Richard R. Long, Director, EPA Air and Radiation Program, to Ursula Trueman, Director, Utah Division of Air Quality, requesting that Utah withdraw the submitted Salt Lake and Davis County PM_{10} Contingency Measure SIP revisions, the Utah County PM_{10} Contingency Measure SIP revisions, and the Residential Woodburning in Salt Lake, Davis and Utah Counties PM_{10} Contingency Measure SIP revision.

(C) November 9, 1998, letter from the Governor of Utah, to William Yellowtail, EPA Region VIII Administrator, requesting that the submitted Salt Lake and Davis County and Utah County PM_{10} Contingency Measure SIP revisions and the Residential Woodburning in Salt Lake, Davis and Utah Counties PM_{10} Contingency Measure SIP revision be withdrawn.

(D) December 16, 1998, letter from Larry Svoboda, EPA Region VIII, to Ursula Trueman, Utah Department of Air Quality, clarifying revisions that were made to UACR R307–1–4.

(E) January 5, 1999, letter from Ursula Trueman, Utah Department of Air Quality, to William Yellowtail, EPA Region VIII Administrator, concurring on EPA's clarification of revisions that were made to UACR R307–1–4.

(F) January 29, 1999, letter from William Yellowtail, EPA Region VIII Administrator, to the Governor of Utah returning the Salt Lake and Davis County and Utah County PM_{10} Contingency Measure SIP revisions and the Residential Woodburning in Salt Lake, Davis and Utah Counties PM_{10} Contingency Measure SIP revision.

[FR Doc. 99–7424 Filed 3–25–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0074, FRL–6307–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Air Pollution Control District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. This action is an administrative change which revises the definitions in Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 102, Definitions, and South Coast Air Quality Management District (SCAQMD) Rule 102, Definition of Terms. The intended effect of approving this action is to incorporate changes to the definitions for clarity and consistency with revised federal and state definitions.

DATES: This rule is effective on May 26, 1999, without further notice, unless EPA receives adverse comments by April 26, 1999. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at Region IX office listed below. Copies of these rules, along with EPA's evaluation report for each rule, are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted requests for rule revisions are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, California 93117

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone (415–744–1189).

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP are: SBCAPCD Rule 102, Definitions, submitted on March 10, 1998 and SCAQMD Rule 102, Definition of Terms, submitted on March 10, 1998, by the California Air Resources Board.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included Santa Barbara County and the South Coast Air Basin, see 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the Santa Barbara County APCD and South Coast AQMD portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). In response to the SIP call and other requirements, the SBCAPCD and SCAQMD submitted many rules which EPA approved into the SIP.

This document addresses EPA's direct-final action for SBCAPCD Rule 102, Definitions, and SCAQMD Rule 102, Definition of Terms. These rules were adopted by SBCAPCD and SCAQMD on April 17, 1997 and June 13, 1997, respectively, and submitted by the State of California for incorporation into its SIP on March 10, 1998. These rules were found to be complete on May 21, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V[1] and is being finalized for approval into the SIP. These rules were originally adopted as part of SBCAPCD and SCAQMD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement.

The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements appears in various EPA policy guidance documents.[2]

EPA previously reviewed many rules from the SBCAPCD and SCAQMD agencies and incorporated them into the federally approved SIP pursuant to section 110(k)(3) of the CAA. The following revisions were made in SBCAPCD and SCAQMD definitions rule.

Santa Barbara County APCD

Rule 102 has been revised to add new and amended definitions which apply to the entire rule book. Among the more significant new definitions are: Actual Emission Reductions, Affected Pollutants, Air Quality Impact Analysis, Air Quality Related Value, Attainment Pollutant, Authority to Construct, Baseline Air Quality, Best Available Control Technology, Best Available Retrofit Control Technology, California Coastal Waters, CFR, Class I Area, Class I Impact Area, Class II Area, Clean Air Act, Construction, Contiguous Property, Emission Reduction Credit, Emission Reduction Credit Certificate, Emission Unit, Federally Enforceable; Fugitive Emission, Hazardous Air Pollutant, Large Source, Major Modified Stationary Source, Major Stationary Source, Medium Source, Nonattainment Pollutant, Open Burning in Agricultural Operations, Outer Continental Shelf Source, Pollutant, Portable Internal Combustion Engine, Potential to Emit, Precursor, Quarterly, Reasonable

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section (110)(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[2] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

Further Progress, Reconstructed Source, Secondary Emissions, Small Source, Stationary Source, Installation, "Building, Structure, or Facility", Common Operations, Total Suspended Particulates, and Zones of Santa Barbara County. These definitions are not expected to change substantive requirements.

South Coast AQMD

Rule 102 has been revised to add tetrachloroethylene (perchloroethylene), 3,3-dichloro-1,1,1,2,2,-pentafluoropropane (HCFC 225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC 225cb), and 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC–43–10mee) to the "Exempt Compound" definition. Perchloroethylene is being added as a Group II Exempt Compound. The other three compounds are being added to the list of Group I Exempt Compounds. Definitions for "Clean Air Solvent" and "Ozone Depleting Compounds" are being added to Rule 102. The addition of these two definitions is administrative and is not expected to change substantive requirements.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SBCAPCD Rule 102, Definitions and SCAQMD Rule 102, Definition of Terms, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. Future action by EPA on prohibitory, new source review, or other SBCAPCD rules may require changes to these definitions.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective May 26, 1999 without further notice unless the Agency receives relevant adverse comments by April 26, 1999.

If the EPA received such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 26, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial

number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 26, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: February 23, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, Chapter I, Title of 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(254)(i)(C) and (c)(254)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(254) * * *

(i) * * *

(C) Santa Barbara County Air Pollution Control District.

(*1*) Rule 102 amended on April 17, 1998.

(D) South Coast Air Quality Management District.

(*1*) Rule 102 amended on June 13, 1997.

* * * * *

[FR Doc. 99–7422 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300820; FRL–6069–5]

RIN 2070–AB78

Quinclorac; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for resldues of quinclorac, 3,7-dichloro-8-quinoline carboxylic acid in or on wheat and sorghum. BASF Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective March 26, 1999. Objections and requests for hearings must be received by EPA on or before May 26, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300820], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300820], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300820]. No Confidential Business

Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703 305–6224, miller.joanne @epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 2, 1998 (63 FR 66535) (FRL–6043–2), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) announcing the filing of a pesticide petition (PP) 7F4870 for a tolerance by BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709–3528. This notice included a summary of the petition prepared by BASF Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.463 be amended by establishing tolerances for residues of the herbicide quinclorac 3,7-dichloro-8-quinoline carboxylic acid, in or on the raw agricultural commodities wheat and sorghum as follows: 0.5 part per million (ppm) (wheat grain), 0.1 ppm (wheat straw), 1.0 ppm (wheat forage), 0.5 ppm (wheat hay), 0.75 ppm (wheat germ), 6.0 ppm (sorghum, grain, grain), 3.0 ppm (sorghum, grain, forage), 1.0 ppm (sorghum, grain, stover) and 1,200 ppm (aspirated grain fractions). Based on the estimated dietary burden from the established tolerances and the proposed uses in this petition the following revised tolerances are also established: fat of cattle, goats, hogs, horses and sheep at 0.7 ppm and the meat byproducts of cattle, goats, hogs, horses and sheep at 1.5 ppm.

I. Background and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of quinclorac and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of 3,7-dichloro-8-quinoline carboxylic acid on the raw agricultural commodities wheat and sorghum as follows: 0.5 ppm (wheat grain), 0.1 ppm (wheat straw), 1.0 ppm (wheat forage), 0.5 ppm (wheat hay), 0.75 ppm (wheat germ), 6.0 ppm (sorghum, grain, grain), 3.0 ppm (sorghum, grain, forage), 1.0 ppm (sorghum, grain, stover) and 1,200 ppm (aspirated grain fractions). Based on the estimated dietary burden from the established tolerances and the proposed uses in this petition the following revised tolerances are also established: fat of cattle, goats, hogs, horses and sheep at 0.7 ppm and the meat byproducts of cattle, goats, hogs, horses and sheep at 1.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by quinclorac are discussed in this unit.

1. Acute toxicology studies place technical-grade quinclorac in Toxicity Category III for all routes of exposure. It is a dermal sensitizer.

2. A 21–day dermal toxicity study in NZ White rabbits was conducted at doses of 0, 200 or 1,000 milligrams/kilograms/day (mg/kg/day). No dermal or systemic toxicity was seen following 21 daily dermal applications of quinclorac at doses of 0, 200, or 1,000 mg/kg/day. The no observed adverse effect level (NOAEL) is greater than 1,000 mg/kg/day.

3. A 13–week feeding study in mice was conducted at doses of 0, 4,000, 8,000, or 16,000 ppm; equivalent to 0, 1,000, 2,202 or 4,555 mg/kg/day for males and 0, 1,467, 2,735 or 5,953 mg/kg/day for females. The lowest observed adverse effect level (LOAEL) is 1,000 mg/kg/day for males and 1,467 mg/kg/day for females based on decreased body weight gains in males and females (17.6 and 18.7%, respectively).

4. A 13–week feeding study in mice was conducted at doses of 0 or 500 ppm (equivalent to 0 or 75 mg/kg/ day). The NOAEL is 75 mg/kg/day.

5. A 3–month feeding study in rats was conducted at doses of 0, 1,000, 4,000, or 12,000 ppm (0, 76.8, 302.3 or 929.9 mg/kg/day in males and 0, 86.7, 358, or 1,035.4 mg/kg/day in females). The NOAEL is 302 mg/kg/day(male); 358 mg/kg/day (female). The LOAEL is 930 mg/kg/day (male); 1035 mg/kg/day (female), based on decreased body weight gain, food consumption, and increased water intake in males and females, increased SGOT, SGPT and focal chronic interstitial nephritis in males.

6. A 1–year feeding study in dogs was conducted at doses of 0, 1,000, 4,000, or 12,000 ppm (0, 34, 142, or 513 mg/kg/day in males and 0, 35, 140, or 469 mg/kg/day in females). The NOAEL is 142 mg/kg/day (male); 140 mg/kg/day (female). The LOAEL is 513 mg/kg/day (male); 469 mg/kg/day (female), based on reduced body weight gain, increased liver and kidney weights, reduced food efficiency, reduced HgB, RBC, MCH, and MCV, and kidney degeneration.

7. A 2–year chronic/carcinogenicity study in rats at doses of 0, 1,000, 4,000, 8,000 or 12,000 ppm (0, 56, 186, 385, or 487 mg/kg/day in males and 0, 60, 235, 478, or 757 mg/kg/day in females). The NOAEL is 385 mg/kg/day (male); 478 mg/kg/day (female). The LOAEL is 487 mg/kg/day (male); 757 mg/kg/day (female), based on decreased body weight in females and increased incidence of pancreatic acinar cell hyperplasia in males.

8. An 18–month carcinogenicity study in mice was conducted at doses of 0, 250, 1,000, 4,000, or 8,000 ppm (0, 37.5, 150, 600, or 1200 mg/kg/day). The NOAEL is 37.5 mg/kg/day and the LOAEL is 150 mg/kg/day based on decreased body weight in both sexes.

9. A developmental toxicity study in rats was conducted at gavage doses of 0, 24.4, 146, or 438 mg/kg/day during gestation. The maternal toxicity NOAEL is 146 mg/kg/day. The maternal toxicity LOAEL is 438 mg/kg/day, based on increased mortality, decreased food consumption, and increased water consumption. The developmental toxicity NOAEL is equal to or greater than 438 mg/kg/day.

10. A developmental toxicity study in rabbits was conducted at gavage doses of 0, 70, 200, or 600 mg/kg/day during gestation. The maternal toxicity NOAEL is 70 mg/kg/day. The maternal toxicity LOAEL is 200 mg/kg/day, based on decreased body weight gains and food consumption. The developmental toxicity NOAEL is 200 mg/kg/day. The developmental toxicity LOAEL is 600 mg/kg/day, based on increased resorption rate, post-implantation loss, decreased number of live fetuses, and reduced fetal body weight.

11. A 2–generation reproduction study in rats was conducted at dietary levels of 0, 1,000, 4,000, or 12,000 ppm (0, 50, 200, 600 mg/kg/day). The parental toxicity NOAEL is 200 mg/kg/day. The parental toxicity LOAEL is 600 mg/kg/day, based on reduced body weight in both sexes during premating and lactating periods. The reproductive toxicity NOAEL is equal to or greater than 600 mg/kg/day. The developmental toxicity NOAEL is 200 mg/kg/day. The developmental toxicity LOAEL is 600 mg/kg/day, based on decreased pup weight and viability, and developmental delays.

12. A metabolism (biodisposition) study in rats was conducted at single oral doses of 15 or 600 mg/kg; and multiple doses of unlabeled quinclorac for 14 days followed by ^{14}C quinclorac. Quinclorac was rapidly absorbed and eliminated in the urine. Urinary elimination accounted for 91 to 98% of the dose, with 1 to 4% in the feces. None was demonstrated in the expired air.

13. Biliary excretion studies in rats were conducted at single oral doses of 15 or 600 mg/kg. Biliary excretion was significant (11.5 to 14.5% of the dose) in 600 mg/kg treated rats but was reabsorbed from the intestine and eliminated in the urine.

14. A plasma level study was conducted at single oral doses of 15, 100, 600, or 1,200 mg/kg; and a multiple dosing study at 15 and 600 mg/kg/day for 7 days. Mean ^{14}C residues were detected in plasma 30 minutes after dosing in single dose animals at 15, 100, and 600 mg/kg or 15 mg/kg/day for 7 days. Most of this radioactivity was the parent compound. Peak plasma levels of radioactivity in animals receiving 1,200 mg/kg and 600 mg/kg/day for 7 days were noted at 7 to 48 hours post-dosing.

15. Tissue level studies were conducted at daily oral doses of 15 mg/kg or 1,200 mg/kg for 7 days. In both studies, the highest concentration of radioactivity in tissues was found 30 minutes after administration of the final dose.

B. Toxicological Endpoints

1. *Acute toxicity.* For acute dietary risk assessment, an acute Reference Dose (RfD) of 2.0 mg/kg/day has been selected, based on the developmental NOAEL of 200 mg/kg/day, from the rabbit developmental toxicity study and an uncertainty factor of 100 (10X for inter-species differences and 10X for intra-species variability). The endpoint is based on increased incidence of fetal resorptions, decrease in the number of live fetuses, and reduced fetal body weight at the LOAEL of 600 mg/kg/day. The population subgroup at risk is females of child-bearing age (13+years). For the general population, no appropriate endpoint attributable to a single exposure was identified from the oral toxicity studies, including the rat and rabbit developmental toxicity studies.

2. *Short- and intermediate-term toxicity.* Short and intermediate-term toxicity endpoints are not established since no dermal or systemic toxicity was observed in a 21–day dermal toxicity study in New Zealand White rabbits.

3. *Chronic toxicity.* EPA has established the chronic RfD for quinclorac at 0.4 mg/kg/day. This RfD is based on decreased body weights in male and female mice observed in the mouse carcinogenicity study with a NOAEL of 37.5 mg/kg/day.

4. *Carcinogenicity.* After considering an equivocal increase of acinar cell adenomas of the pancreas in male Wistar rats, quinclorac is classified as "Group D --not classifiable as to human carcinogenicity".

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.463) for the residues of 3,7-dichloro-8-quinoline carboxylic acid, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from quinclorac as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. An acute dietary risk assessment was performed for quinclorac. The analysis was conducted using the acute RfD of 2.0 mg/kg/day, based on increased incidence of fetal resorptions and post-implantation loss, decreased number of live fetuses and reduced fetal body weight observed in the rabbit developmental toxicity study. For the population subgroup of concern, females 13 years and older, the estimated 95th percentile of exposure occupies 0.4% of the acute RfD. The analysis is conservative since it assumes that 100% of wheat and sorghum - derived foods contain residues at the tolerance levels (0.5 and 6.0 ppm, respectively); tolerance level residues on all commodities with established quinclorac tolerances; and, 100% crop-treated.

ii. *Chronic exposure and risk.* A chronic dietary risk assessment was performed for quinclorac. The analysis used the chronic RfD of 0.4 mg/kg/day and assumed that 100% of wheat and sorghum - derived foods contain residues at tolerance levels (0.5 and 6.0 ppm, respectively); tolerance level residues on all commodities with established quinclorac tolerances; and, 100% crop-treated. Based on these assumptions, no more than 2% of the chronic RfD was occupied by any population subgroup.

2. *From drinking water.* No Maximum Contaminant Level or health advisory levels have been established for residues of quinclorac in drinking water. EPA used its SCI-GROW (Screening Concentration in Ground Water) screening model and environmental fate data to determine the estimated environmental concentration (EEC) for quinclorac in ground water. The GENEEC (Generic Estimated Environmental Concentration) screening model and environmental fate data were used to determine the EECs for quinclorac in surface water. EECs in ground water reflecting the maximum yearly application rate of 0.75 pounds of active ingredient per acre were 21 parts per billion (ppb;ug/L). EECs in surface water were 40 ppb for acute exposure scenarios and 38 ppb for chronic exposure scenarios. The computer generated EECs represent conservative estimates and should be used only for screening.

i. *Acute exposure and risk.* EPA has calculated a drinking water level of comparison (DWLOC) for acute

exposure to quinclorac in drinking water for the relevant population subgroup, females 13+ years of age. The DWLOC is 60,000 ug/L.

To calculate the DWLOCs for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure from the DEEM (Dietary Exposure Evaluation Model) analysis was subtracted from the ratio of the acute RfD to obtain the acceptable acute exposure to quinclorac in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

For purposes of risk assessment, EPA used 40 ppb as the estimated maximum concentration of quinclorac in drinking water. The estimated maximum concentrations in water are less than EPA's level of concern (60,000 ppb) for quinclorac residues in drinking water as a contribution to acute aggregate exposure. Therefore, taking into account the use proposed in this action, EPA concludes with reasonable certainty that residues of quinclorac in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

ii. *Chronic exposure and risk.* EPA has calculated drinking water levels of comparsion (DWLOCs) for chronic exposure to quinclorac in drinking water. For chronic (non-cancer) exposure to quinclorac in drinking water, the drinking water levels of comparison are 14,000 ug/L and 3,900 ug/L for the U.S. population and the subgroup children (1–6 years old), respectively.

To calculate the DWLOCs for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from the DEEM analysis) was A subtracted from the chronic RfD to obtain the acceptable chronic (non-cancer) exposure to quinclorac in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

The estimated average concentration of quinclorac in drinking water is 38 ppb. The DWLOCs are 14,000 ppb for the U.S. population and 3,900 ppb for the subgroup, children (1–6 years old). The estimated average concentration of quinclorac in drinking water is less than EPA's level of concern for quinclorac in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the use proposed in this action, EPA concludes with reasonable certainty that residues of quinclorac in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

3. *From non-dietary exposure.* Quinclorac is currently registered for use on the following residential non-food sites: residential lawns. The residential use on lawns poses the potential for dermal exposure for both children and adults and for oral exposure (incidental and/or hand-to-mouth ingestion) for children. However, since there was no observed dermal or systemic toxicity in a rabbit 21–day dermal study with quinclorac, short-, intermediate- or long-term dermal or inhalation endpoints are not being established. An acute dietary endpoint (applicable to the general population, including infants and children) is not being established since there was no observed toxicity in the database, from a single exposure. Thus, residential exposure risk assessments were not conducted.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether quinclorac has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, quinclorac does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that quinclorac has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Adult Population

1. *Acute risk.* For the population subgroup of concern, females 13+ years old, the acute dietary (food) exposure does not exceed 0.4% of the acute RfD. The drinking water level of comparison (DWLOC) for acute exposure to quinclorac residues is 60,000 ug/L for females (13+ years). The maximum estimated environmental concentration (EEC) of quinclorac in drinking water (40 ug/L) is less than EPA's level of concern for quinclorac in drinking water as a contribution to acute aggregate exposure. EPA concludes with reasonable certainty that residues of quinclorac in drinking water will not contribute significantly to the aggregate acute human health risk and that the acute aggregate exposure from quinclorac in food and water will not exceed the Agency's level of concern for acute dietary exposure.

2. *Chronic risk.* Using the TMRC exposure assumptions described in this unit, EPA has concluded that aggregate exposure to quinclorac from food will utilize no more than 1% of the RfD for the U.S. adult population. The major identifiable subgroup with the highest aggregate exposure, infants or children is "discussed below". EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to quinclorac in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. The residential use on lawns poses the potential for dermal exposure for both children and adults and for oral exposure (incidental and/or hand-to-mouth ingestion) for children. However, risk assessments were not required for short- and intermediate-term aggregate exposures due to a lack of observed toxicity in the quinclorac database.

4. *Aggregate cancer risk for U.S. population.* Quinclorac is classified as a "Group D -- not classifiable as to human carcinogenicity" chemical.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the adult U.S. population from aggregate exposure to quinclorac residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children.*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of quinclorac, EPA considered data from developmental toxicity studies in the rat

and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to pre-and post-natal effects from exposure to the pesticide, information on the reproductive capability of mating animals, and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Pre- and post-natal sensitivity.* There are no pre- or post-natal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2–generation rat reproductive toxicity study.

iii. *Conclusion.* There is a complete toxicity database for quinclorac and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. Taking into account the completeness of the data base and the toxicity data regarding pre-and post-natal sensitivity, EPA concludes, based on reliable data, that use of the standard margin of safety will be safe for infants and children without addition of another tenfold factor.

2. *Acute risk.* Fetuses are addressed by examining exposure to the mother and those exposures are acceptable.

3. *Chronic risk.* Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to quinclorac from food will utilize no more than 2% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to quinclorac in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to quinclorac residues.

III. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants (sorghum grain, wheat, rice), ruminants, and poultry is adequately understood. The residue of concern is quinclorac per se.

B. Analytical Enforcement Methodology

Adequate enforcement methodology (gas liquid chromotography with an electron capture detector) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

C. Magnitude of Residues

Residues of quinclorac 3,7-dichloro-8-quinoline carboxylic acid are not expected to exceed the following tolerances on the raw agricultural commodities wheat and sorghum as follows: 0.5 ppm (wheat grain), 0.1 ppm (wheat straw), 1.0 ppm (wheat forage), 0.5 ppm (wheat hay), 0.75 ppm (wheat germ), 6.0 ppm (sorghum, grain, grain), 3.0 ppm (sorghum, grain, forage), 1.0 ppm (sorghum, grain, stover) and 1200 ppm (aspirated grain fractions). Based on the estimated dietary burden from the established tolerances and the proposed uses in this petition the following revised tolerances are also established fat of cattle, goats, hogs, horses and sheep at 0.7 ppm and the meat byproducts of cattle, goats, hogs, horses and sheep at 1.5 ppm.

D. International Residue Limits

There are no Codex or Mexican maximum residue limits (MRLs) established for quinclorac residues on wheat or sorghum grain. Canada has an established MRL of 0.5 ppm for residues of quinclorac on "wheat". The tolerance BASF is proposing on wheat grain is in harmony with this MRL.

E. Rotational Crop Restrictions

The label restrictions are: Do not plant any crop other than wheat or sorghum grain for 309 days (10 months) following application. For flax, peas, lentils, and sugar beets, do not replant for 24 months.

IV. Conclusion

Therefore, the tolerances are established for residues of 3,7-dichloro-8-quinoline carboxylic acid in the raw agricultural commodities wheat and sorghum as follows: 0.5 ppm (wheat grain), 0.1 ppm (wheat straw), 1.0 ppm (wheat forage), 0.5 ppm (wheat hay), 0.75 ppm (wheat germ), 6.0 ppm (sorghum, grain, grain), 3.0 ppm (sorghum, grain, forage), 1.0 ppm (sorghum, grain, stover) and 1200 ppm (aspirated grain fractions). Based on the estimated dietary burden from the established uses in this petition the following revised tolerances are also established fat of cattle, goats, hogs, horses and sheep at 0.7 ppm and the meat byproducts of cattle, goats, hogs, horses and sheep at 1.5 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 26, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this regulation. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For

additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300820] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:
opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance/exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation

with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 15, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. Section 180.463 is amended as follows:

a. By revising the section title to read as set forth below:

b. By alphabetically adding the entries aspirated grain fractions; sorghum, grain, forage; sorghum, grain, grain; sorghum, grain, stover; wheat forage; wheat germ; wheat grain; wheat hay; and wheat straw to the table in paragraph (a)(1) and;

c. By revising the entries for cattle, fat; cattle, mbyp; goats, fat; goats, mbyp; hogs, fat; hogs, mbyp; horses, fat; horses, mbyp; and sheep, fat; and sheep, mbyp to the table in paragraph (a)(1) as set forth below:

§ 180.463 Quinclorac; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of quinclorac (3,7-dichloro-8-quinoline carboxylic acid) in or the following food commodities:

Commodity	Parts per million
Aspirated grain fractions	1200
* * * * *	
Cattle, fat	0.7
Cattle, mbyp	1.5
* * * * *	
Goats, fat	0.7
Goats, mbyp	1.5
* * * * *	
Hogs, fat	0.7
Hogs, mbyp	1.5
* * * * *	
Horses, fat	0.7
Horses, mbyp	1.5
* * * * *	
Sheep, fat	0.7
Sheep, mbyp	1.5
* * * * *	
Sorghum, grain, forage	3.0
Sorghum, grain, grain	6.0
Sorghum, grain, stover	1.0
Wheat forage	1.0
Wheat germ	0.75
Wheat grain	0.5
Wheat hay	0.5
Wheat straw	0.1

* * * * *

[FR Doc. 99–7435 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300822; FRL–6069–7]

RIN 2070–AB78

Arsanilic acid [(4-aminophenyl) arsonic acid]; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of arsanilic acid [(4-aminophenyl) arsonic acid] in or on grapefruit. Fleming Laboratories, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire on February 28, 2001.

DATES: This regulation is effective March 26, 1999. Objections and requests for hearings must be received by EPA on or before May 26, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300822], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300822], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or

ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300822]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager 22, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 249, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703 305–7740, giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 28, 1998 (63 FR 40273) (FRL–5799–3), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) announcing the filing of a pesticide petition (PP 4G4276) for tolerance in connection with an Experimental Use Permit (EUP) for (4-aminophenyl) arsonic acid by Fleming Laboratories, Inc., P.O. Box 34384, Charlotte, NC 28234. This notice included a summary of the petition prepared by Fleming Laboratories, Inc., the registrant. There were comments received from two citrus growers supporting the approval of the EUP in order to further develop and test (4-aminophenyl) arsonic acid. Both growers are directors of consulting companies.

The petition requested that 40 CFR part 180 be amended by establishing a time-limited tolerance for residues of the plant growth regulator used as a ripening enhancement agent arsanilic acid [(4-aminophenyl) arsonic acid], in or on grapefruit at 0.5 part per million (ppm). The temporary tolerance on grapefruit is requested for fruit resulting from the experimental use of arsanilic acid to evaluate enhancement of ripening. The chemical will be tested on 50 acres of grapefruit in the state of Florida for a period of 2 years. This tolerance will expire on February 28, 2001.

I. Background and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of arsanilic acid [(4-aminophenyl) arsonic acid] and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of (4-aminophenyl) arsonic acid in/on grapefruit at 2.0 ppm (not to exceed 0.7 ppm total arsenic). EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by arsanilic acid are discussed in this unit.

1. *Acute oral toxicity study.* Groups of Sprague-Dawley rats (5/sex) were given a single oral administration of arsanilic acid at doses of 500 (females), 750, 1,000, 1,250, or 1,500 milligrams/kilogram (mg/kg) (males). Clinical signs consisted of: piloerection, hypoactivity, soiled coat, hunched appearance, labored breathing, diarrhea, ataxia, subdued behavior, stained perigenital area, emaciation, and red nasal discharge. Oral LD_{50} results were as follows:

LD_{50} = 1,411 mg/kg (males)
LD_{50} = 976 mg/kg (females)
LD_{50} = 1,461 mg/kg (combined)

2. *Acute dermal toxicity study.* Groups of New Zealand White rabbits (5/sex/dose) were given a single dermal application of arsanilic acid at doses of 500, 1,000, or 2,000 mg/kg (Limit-Dose). Clinical signs of toxicity observed at all dose levels included: ataxia, diarrhea, dark urine, decreased defecation, convulsions, tremors, hindlimb paralysis, hyper salivation, vocalization, red eyes, piloerection, labored breathing, weight loss, hunched posture, and low food consumption primarily 2–8 days post-dosing. Dermal LD_{50} results were as follows:

LD_{50} = 922 mg/kg (males)
LD_{50} = 909 mg/kg (females)
LD_{50} = 921 mg/kg (combined)

3. *Acute inhalation toxicity study.* Groups of Sprague-Dawley rats (5/sex) were exposed to aerosol concentrations of arsanilic acid 99.5% at a maximum attainable analytical concentration of 5.3 mg/L for four hours. Rats exhibited respiratory depression, subdued appearance, and piloerection during exposure. Inhalation LC_{50} results were as follows:

$LC_{50} > 5.3$ mg/L (both sexes).

4. *Primary eye irritation study.* Arsanilic acid was instilled into the conjuctival sac of male New Zealand White rabbits. The results of this study indicate that arsanilic acid is a slight ocular irritant to rabbit.

5. *Primary dermal irritation study.* New Zealand White rabbits (6 males) were exposed to arsanilic acid on the intact skin for 4 hours. No erythema or edema was observed in any of the test animals. The primary Irritation Index is 0.0. The results of this study indicate that arsanilic acid is a non-irritant to the skin of rabbits.

6. *Dermal sensitization study.* The dermal sensitization potential of arsanilic acid was evaluated in 20 male Hartley guinea pigs receiving dermal applications of 0.5 mL of the test material at concentrations of 25%, 10%, 5%, or 2% w/v on three consecutive days for three weeks (Induction Phase), followed by a 25% w/v application to the original and virgin skin site four weeks later (Challenge Phase). None of the treated animals exhibited any irritation when challenged; the average skin reaction score for the virgin site was 0.0. Under the conditions of this

study, arsanilic acid 99.5% was not shown to be a sensitizer in guinea pigs.

7. *Developmental toxicity battery*—i. *Rat study.* Pregnant Crl:CD rats (25/dose) were administered arsanilic acid via oral gavage at dose levels of 0, 10, 30, or 60 mg/kg/day during gestation days 6–15. The test material in the powder form was mixed with Mazola corn oil for administration to the test animals. Maternal toxicity was observed at the highest dose tested (60 mg/kg/day) in the form of soft stool, decreased defecation, mucoid feces and/or mucoid diarrhea, alopecia on the abdomen or thorax, and red material around the nose. At the 30 mg/kg/day doses, alopecia on the hindlimbs and abdomen was seen at an increased frequency when compared to controls. Mean body weights were significantly decreased at 60 mg/kg/day on gestation days 8, 9, and 1–14, with a loss in mean body weight gain seen during gestation days 6–9. At 30 mg/kg/day, mean body weights were significantly decreased on gestation days 7, 8, 12, 13, and 15; mean body weight gain was significantly decreased during days 6–16. At 60 mg/kg/day, a significant decrease in food consumption was noted throughout the treatment period followed by a significant recovery during the post-treatment period. In the 10 and 30 mg/kg/day dose groups, significant decreases in food consumption were noted throughout the treatment period when compared to controls. Arsanilic acid did not induce developmental toxicity at any of the doses tested. Based on these results, the following is concluded:

Maternal No observable adverse effect level (NOAEL) = 6 mg/kg/day

Maternal Lowest observable adverse effect level (LOAEL) = 30 mg/kg/day (based on decreased body weight gain and food consumption, and clinical signs)

Developmental NOAEL = 60 mg/kg/day Highest dose tested (HDT)

ii. *Rabbit study.* Arsanilic acid in carboxymethyl cellulose was administered by gavage to 20 New Zealand White female rabbits/dose at dose levels of 0, 1, 3, or 6 mg/kg/day from days 7 through 19 of gestation. Maternal clinical toxicity included slightly increased clinical signs (diarrhea, discolored feces, decreased defecation), decreased bodyweight gains, and decreased food consumption in the high-dose group. No treatment-related differences in clinical signs, bodyweight gain, or food consumption were observed in the mid- and low-dose groups. The numbers of corpora, total implantations, and viable fetuses were decreased in a dose-dependent fashion compared to concurrent controls, but were within historical control ranges. Pre-implantation losses were increased in a dose-dependent fashion; however, the standard deviations were large and historical control data were not provided. The extent of resorptions, post-implantation losses, and mean fetal weights were similar between control and treated groups. Although the observed maternal toxicity was marginal, the dose levels used in this developmental study were adequate. In a range finding study in which rabbits were dosed with arsanilic acid at 5–80 mg/kg/day from days 7–19 of gestation, all animals in the 20, 40 and 80 mg/kg/day groups and three animals in the 10 mg/kg/day group died, were euthanized, or aborted prior to the scheduled necropsy. Clinical signs, and differences in bodyweight gains and food consumption were detected in the 5 and 10 mg/kg/day groups. Based on these results, the following is concluded:

Maternal NOAEL = 3 mg/kg/day

Maternal LOAEL = 6 mg/kg/day (Based on clinical signs, decreased body weight gain, and decreased food consumption)

Developmental NOAEL ≥6 mg/kg/day (HDT)

8. *Mutagenicity battery* — i. *Ames study.* In two independently performed *Salmonella typhimurium*/mammalian microsome plate incorporation assays, strains TA1535, TA1537, TA98, and TA100 were exposed to 33, 100, 333, 1,000, 3,333, or 10,000 µg/plate arsanilic acid with or without S9 activation. The S9 fraction was prepared from Arochlor 1254-induced rat livers and arsanilic acid was delivered to the test system in dimethyl sulfoxide (DMSO). No cytotoxicity or mutagenicity was observed in any strain at any dose either in the presence or absence of S9 activation.

ii. *Mouse lymphoma mutation study.* There were two independently performed mouse lymphoma forward mutation assays. Target cells exposed to arsanilic acid at doses of 112, 225, 450, 900, or 1,800 µg/mL with or without S9 activation were evaluated in the initial assay. Non-activated 600, 900, 1,200, 1,500, or 1,800 µg/L or S9-activated 800, 1050, 1,300, 1,550, or 1,800 µg/mL were assessed in the confirmatory test. S9 activation was derived from Arochlor 1254-induced rat livers and the test material was delivered in DMSO. Arsanilic acid was positive with S-9 activation at 1,800 µg/mL in both independent trials. Under non-activated conditions, a positive response was observed only at high cytotoxicity (4% relative suspension growth) in the initial assay, and the confirmatory assay was negative. Although the mutation assay was repeated several times due to widely varying cytotoxicity data, the results were consistent between the two acceptable assays and could be at least partially explained by a steep cytotoxicity curve. Findings with the positive controls confirmed the sensitivity of the test system to detect mutagenesis. Colony sizing at the high dose indicated that the predominant mutations induced were large chromosome deletions.

iii. *Micronucleus assay study.* In a mouse micronucleus assay, groups of five CD-1 mice/sex/dose received single oral gavage administrations of 0, 100, 200, or 400 mg/kg/day arsanilic acid for three consecutive days. Dosing solutions of the test material were prepared in 0.5% carboxymethyl cellulose. Mortalities, other clinical signs of toxicity (piloerection, hunched appearance, hypothermia, and cyanosis), and target tissue cytotoxicity were observed in the high-dose group. There was, however, no significant increase in the micronucleated polychromatic erythrocytes in bone marrow cells harvested 24 or 48 hours post-treatment with the high dose or 24 hours post-administration of the mid or low doses.

9. *General metabolism study.* The study demonstrated that arsanilic acid is rapidly absorbed, distributed, and excreted following oral administration in pigs and roosters. In four pigs administered 1.9–3.1 mg/kg ^{14}C-arsanilic acid, total 3- or 4-day recovery of the radioactivity was 92.3–97% of the administered dose, with higher recovery in the urine (47.7–65.8% of the administered dose) than in the feces (18.2–42.2% of the administered dose). Data suggested that biliary excretions was a minor elimination route; only 4.7% of the administered dose was recovered in the bile of a pig 3 days after administration of ^{14}C-arsanilic acid, recovery of radioactivity in the excreta (63.4% of administered dose in urine, 26.6% in feces) was similar to that of the pigs; however, biliary excretion was not determined. Tissue distribution and bioaccumulation of arsanilic acid is low in pigs and roosters as indicated by low recoveries of radioactivity in tissues 3 or 4 days after oral administration. The metabolism of arsanilic acid does not appear to be extensive. Unmetabolized parent compound and the metabolite, *N*-acetylarsanilic acid, represented the highest amount of urinary radioactivity in pigs; therefore, the major biotransformation reaction of arsanilic acid in pigs appeared to be *N*-acetylation. Unmetabolized arsanilic acid was the only radioactive

component identified from the urine of roosters. Radioactivity in the feces was not characterized for pigs or roosters.

10. *Subchronic battery (90–day dog) study.* Arsanilic acid was administered to four beagle dogs/sex/dose group at dietary concentrations of 0, 50, 100 or 200 ppm (equivalent to 0, 1.5, 3.2 or 6.9 mg/kg/day in males and 0, 1.7, 3.1 or 6.8 mg/kg/day in females) for 13 weeks. Because a NOAEL was not established in males of this initial phase, an add-on phase was conducted in which arsanilic acid was administered to four males/dose group at dietary concentrations of 0, 10 or 25 ppm (equivalent to 0, 0.3 or 0.7 mg/kg/day). In the initial phase, the kidney was the target organ, based on microscopic kidney alterations in all treated males and all 200 and 100 ppm group females. The incidence and severity of kidney alterations increased with dose. All treated male groups and both 100 and 200 ppm female groups had at least one animal whose kidneys displayed tubule regeneration, tubule dilatation, chronic inflammation, interstitial fibrosis, and papillary necrosis. Kidneys of all 200 ppm group dogs had a granular/pitted/rough appearance, irregular shape, dilated pelvis, pale material, pale area, and/or enlarged size. The severity of the kidney alterations ranged from slight in the 50 ppm group males to almost severe in the 200 ppm group males and females. Renal function was impaired in the 200 ppm male and female treatment groups, based on increased urea nitrogen at Weeks 4, (138–207%), 8 (78–92%), and 13 (78–128%) compared to the control values, and increased creatinine levels (1.0–1.3 mg/dL) compared to the control and the 50 and 100 ppm group dogs (0.7–0.9 mg/dL) at Weeks 4, 8, and 13. Though not statistically significant, all treated male groups had absolute and relative (to body weight) kidney weights around 20% higher than those of the control group. On the other hand, the 200 ppm group males and females were anemic, based on 11–16% decreased mean erythrocyte counts, hemoglobin, and hematocrit relative to the control values at Weeks 8 and 13; the decreases were significant ($p \leq 0.05$) except for erythrocyte counts in males and hemoglobin in females. No treatment-related effects were seen in the 50 ppm group females. In the add-on phase, the 25 and 10 ppm group males were not adversely affected by treatment and there were no treatment-related differences in hematology or clinical chemistry. In both phases, no animals died and there were no treatment-related differences in appearance, behavior, body weights, body weight gains, food consumption, ophthalmology, and absolute or relative remaining organ weights. Based on these results, the following is concluded:

NOAEL = 0.7 mg/kg/day (males)
NOAEL = 1.7 mg/kg/day (females)
LOAEL = 1.5 mg/kg/day (males - based on microscopic kidney alterations)
LOAEL = 3.1 mg/kg/day (females - based microscopic kidney alterations)

B. Toxicological Endpoints

1. *Acute toxicity.* For acute dietary exposure, a maternal NOAEL of 6 mg/kg/day was selected from a developmental toxicity study in rats. The observed effects at the LOAEL of 30 mg/kg/day were decreased body weight gain and food consumption and clinical signs. Using an uncertainty factor of 100, the acute dietary reference dose (Acute (RfD)) is 0.06 mg/kg/day. The additional 10x FQPA safety factor for infants and children was removed.

2. *Short - and intermediate-term toxicity.* For non-dietary short-term dermal exposure, an endpoint of 6 mg/kg/day was selected. This endpoint was selected based on the developmental toxicity study in rats and it was assumed that dermal absorption was 5%. For non-dietary intermediate-term dermal exposure, an endpoint of 0.7 mg/kg/day was selected. The result was selected based on the 13-week feeding study in dogs and it was assumed that dermal absorption was 5%.

3. *Chronic toxicity.* EPA has established the RfD for arsanilic acid at 0.0007 mg/kg/day. This RfD is based on 13-week dog study that had NOAELs of 0.7 mg/kg/day for males and 1.7 mg/kg/day for females and an uncertainty factor of 1000. The uncertainty factor was calculated based on extrapolation from a subchronic dog study to a chronic scenario. The LOAEL (1.5 mg/kg/day (males)/3.1 mg/kg/day (females)) caused microscopic kidney alterations.

4. *Carcinogenicity.* There is no endpoint. This chemical has not been classified yet.

C. Exposures and Risks

1. *From food and feed uses.* Currently, there are no tolerances established for residues of arsanilic acid in or on any raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from arsanilic acid as follows:

i. *Acute dietary (food only) exposure and risk (Acute RfD = 0.06 mg/kg/day).* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

A Tier 1 acute Dietary Exposure Evaluation Model (DEEM) analysis was performed reflecting the Theoretical Maximum Residue Concentration (TMRC). The DEEM detailed acute analysis estimates of the distribution of single-day exposures for the overall United States (U.S.) population and certain subgroups. The analysis evaluates individual food consumption as reported by respondents in the USDA 1989–91 Continuing Survey of Food Intake by Individuals (CSFII) and accumulates exposure to the chemical for each commodity. Each analysis assumes uniform distribution of arsanilic acid in the commodity supply.

The acute exposure estimates at the 99.9 percentile and their associated percentage of the acute reference dose (% Acute RfD) for the general U.S. population and those populations within subgroups with the highest exposure were calculated. None of the subgroups exceed 100% of the acute RfD. The exposure estimates were as follows (from highest to lowest): U.S. population (Spring) at 4% with 0.0026 mg/kg/day, children (1–6 years) at 4% with 0.0021 mg/kg/day, males (20+ years) at 4% with 0.0021 mg/kg/day, U.S. population (48 states) at 3% with 0.0019 mg/kg/day, females (13+ years, nursing) at 3% with 0.0020 mg/kg/day and infants with no exposure. Therefore, the risk from acute dietary exposure (food only) does not exceed the level of concern.

ii. *Chronic dietary (food only) exposure and risk (chronic RfD = 0.0007 mg/kg/day).* The chronic exposure estimates and their associated percentage of the chronic reference dose (% Chronic RfD) for the general U.S. population and those populations within subgroups with the highest exposure were calculated. None of the subgroups exceed 100% of the Chronic RfD. The exposure estimates were as follows (from highest to lowest): U.S. Population (Winter) at 5% with 0.000033 mg/kg/day, seniors (55+ years) at 5% with 0.000035 mg/kg/day, U.S. population (48 states) at 3% with 0.000018 mg/kg/day, females (20+ years, not pregnant, not nursing) at 3% with 0.000024 mg/kg/day, children (7–12 years) at 2% with 0.000012 mg/kg/day, and infants with no exposure. Therefore, the risk from chronic dietary exposure (food only) does not exceed the level of concern.

2. *From drinking water.* Tentative summary data show that arsanilic acid is persistent in soil and water, as evidenced by 1) its stability in water, 2) spectroscopic inference of stability

against photolytic breakdown in water and soil, and 3) aerobic and anaerobic soil "half-lives" roughly estimated to be about 600 and 900 days, respectively. All degradates were accounted for, but not identified, as they are, individually, less than 2% of the applied radioactivity. However, as arsanilic acid slowly and inevitably degrades, various arsenic containing moieties may enter the complex, natural, arsenic biogeochemical cycle. In general, chemicals in the cycle include highly toxic inorganic arsenicals and moderately toxic organic arsenicals. These associated chemicals are slowly produced in relatively low concentrations and, except for repeated annual applications, would eventually be converted to near background levels of locally dominant arsenic containing species in the various environmental compartments (soil, water, air).

Although arsanilic acid is highly water soluble (approximately 5,000 ppm), this property is attenuated in the environment by the compound's intermediate sorption to, or reaction with, soil mineral and/or organic constituents (apparent or effective K_{oc} values ranging from approximately 4,000 to 11,000 mL/g; desorption coefficients are significantly higher). With the combination of persistence and intermediate mobility, arsanilic acid has potential for runoff into surface water, with comparable amounts partitioned to runoff water and eroding soil. For exposure to nontarget organisms, surface water screening level concentrations based on GENEEC model are 22 and 37 ppb for acute (instantaneous) effects and 8.3 and 14 ppb for chronic (56–day value) effects for use on pink/red and white grapefruit varieties, respectively.

In most areas of the U.S., leaching of arsanilic acid to groundwater is not expected to be significant. However, in the proposed growing areas of Florida, groundwater contamination could be problematic if application of this compound becomes widespread. Sandy soils, shallow depth to groundwater, Karst strata and groundwater-surface water interaction zones present a special situation for which SCI-GROW, the current groundwater screening model, is not well-suited and may be not be sufficiently conservative. The groundwater concentration estimated from SCI-GROW is 0.080 ppb for pink/red and 0.13 ppb for white grapefruit varieties. USGS NAWQA monitoring data for Dade County, Florida, reveal concentrations of total arsenic in shallow groundwater over 1,000 times the maximum contaminant level (MCL) of 50 ppb, far above the SCI-GROW prediction. The extent and possible sources and reasons for this contamination are under investigation at this time. Arsenicals such as MSMA and cacodylic acid are among possible sources.

The water solubility (polarity) of arsanilic acid would indicate little tendency for bioconcentration. The reported sorption to soil, which serves as a measure of potential bioconcentration for many compounds, indicates that some bioconcentration may occur. With this indication, and because of arsanilic acid's persistence and potential for toxic concentrations in south Florida water bodies and sediment, the Agency has recommended that additional bioconcentration studies using oysters as the test organism be conducted. This study is needed to show whether arsanilic acid is likely to concentrate in shellfish, snails, etc., at levels which would pose dietary risks to aquatic wildlife, including habituating birds and mammals.

3. *From non-dietary exposure.* Arsanilic acid is not registered for use on residential non-food sites.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information' concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity.'

Arsanilic acid is a member of the of the arsonic acid group of arsenical herbicides (Ware, G.W. 1994. The Pesticide Book, 4th edition). EPA does not have, at this time, available data to determine whether the arsonic acid group has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, the arsonic acid group does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that arsanilic acid has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk (food + water).* The acute risk for "food only" does not exceed the level of concern. The lowest acute drinking water level of comparison (DWLOC) was for the infants/children subgroup at 580 µg/L. The maximum surface water screening level concentration for acute effects is 37 µg/L. Therefore, acute exposure to residues of arsanilic acid should not exceed the level of concern.

2. *Chronic risk (food + water + residential).* There are no current registered residential uses. The chronic drinking water level of comparison (DWLOC) for the U.S. population is 23 µg/L. The lowest DWLOC was for the infants/children subgroup at 7 µg/L. The highest surface water screening level concentration for chronic effects is 14 µg/L. However, the Agency believes that the GENEEC model overstimates average residues in drinking water at least 3-fold. Therefore, chronic exposure to residues of arsanilic acid should not exceed the level of concern.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Arsonic acid has no registered residential uses. Therefore, short- and intermediate-term aggregate risk assessments were not performed.

4. *Aggregate cancer risk for U.S. population.* Aggregate cancer risk was not determined since cancer studies are not required for pesticides to be tested under an Experimental Use Permit (EUP).

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of arsanilic acid.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children— i. In general.* In assessing the potential for additional sensitivity of infants and children to residues of arsanilic acid, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Conclusion.* There is a complete toxicity database for an EUP for arsanilic acid and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. Therefore, the additional 10x FQPA safety factor for infants and children was removed.

2. *Acute risk.* The acute risk for "food only" does not exceed the level of concern. The lowest acute DWLOC was for the infants/children subgroup at 580 µg/L. The maximum surface water screening level concentration for acute effects is 37 µg/L. Therefore, acute exposure to residues of arsanilic acid should not exceed the level of concern.

3. *Chronic risk.* Using the conservative exposure assumptions described in this unit, EPA has concluded that aggregate exposure to arsanilic acid from food will utilize 4% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to arsanilic acid in drinking water (see discussion under U.S. population), EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to arsanilic acid residues.

4. *Short- and intermediate risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Arsanilic acid has no registered residential uses. Therefore, short- and intermediate-term aggregate risk assessments were not performed.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to arsanilic acid residues.

III. Other Considerations

A. Metabolism In Plants and Animals

An interim report from a study examining the metabolism and distribution of arsanilic acid in grapefruit showed that arsanilic acid and eleven metabolites were found in water extracts of the peel, pulp, and juice fractions of the grapefruit. These compounds account for 83% of the total radioactive residue (TRR) in/on grapefruit. The remaining residues occur as organo-, acid-, or base-soluble components. Identification of the metabolites is underway and one has been tentatively identified as *N*-acetyl arsanilic acid. The majority of the residues occur as arsanilic acid in/on the peel (26% TRR), as Metabolite II in the pulp (3.8% TRR), and as Metabolite I in the juice (7.3% TRR). On a whole-fruit basis, 29% of the TRR was unmetabolized arsanilic acid with four metabolites of potential concern (≥ 10% TRR) making up 51% of the TRR. The nature of the residues in plants is not adequately understood. However, for purposes of this EUP only, arsanilic acid per se will be considered the residue of concern.

As part of the proposed EUP labeling, grapefruit treated with arsanilic acid will be restricted to fresh-market use only. Thus, animal metabolism studies are not required for establishment of the time-limited tolerances.

B. Analytical Enforcement Methodology

Adequate enforcement methodology is not available to enforce the tolerance expression. A GC/ECD method is under development for the determination of arsanilic acid in whole grapefruit. This method currently demonstrates good extraction efficiency but suffers from poor reproducibility during derivatization and chromatography. The limit of quantitation for the method is expected to be 0.05 ppm arsanilic acid in whole grapefruit. For purposes of tolerance enforcement for this time-limited tolerance only, the Agency will accept a method for the analysis of whole-fruit total arsenic by atomic absorption. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

C. Magnitude of Residues

Results of arsanilic acid field trial data are not yet available. The registrant has proposed a whole-fruit tolerance of 0.5 ppm arsanilic acid per se, based on data in the metabolic fate interim study summary. Because this value was obtained from a non-replicated, greenhouse study, the Agency believes that a tolerance of 0.5 ppm, as proposed by the registrant, is not adequately supported. Previously-submitted data indicate a tolerance of 2.0 ppm is appropriate. As a result of this EUP, residues of arsanilic acid are not expected to exceed 2 ppm in/on grapefruit. A time-limited tolerance should be established at this level. This tolerance is equivalent to 0.7 ppm arsenic, assuming arsanilic acid is the only source of arsenic. EPA is finalizing this tolerance using a tolerance level at variance with that requested in the petition based on consideration of all residue data available, the relatively low risk presented by this tolerance, and the limited exposure expected under the EUP connected with this tolerance.

Due to label restrictions, residues of arsanilic acid are not expected in the juice, oil, or dried pulp of treated grapefruit as no processed commodities are associated with this experimental use permit. Secondary residues of arsanilic acid are not expected in animal commodities as no feed items are associated with this experimental use permit due to label restrictions.

D. International Residue Limits

There are no Codex, Canadian, or Mexican tolerances established for arsanilic acid on grapefruit. Thus, international harmonization is not an issue for these time-limited tolerances.

E. Rotational Crop Restrictions

Grapefruit are not rotated to other crops, therefore, residues in or on rotational crops are not expected to occur.

IV. Conclusion

Therefore, the tolerance is established for residues of arsanilic acid in /on grapefruit at 2.0 ppm (not to exceed 0.7 ppm total arsenic).

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by May 26, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300822] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM 2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior

consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 17, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. Section 180.550 is adding to read as follows:

§ 180.550 Arsanilic acid [(4-aminophenyl) arsonic acid]; tolerances for residues.

(a) *General.* A time-limited tolerance is established for residues of the plant growth regulator arsanilic acid [(4-aminophenyl) arsonic acid], in or on the following food commodities in connection with the use of the pesticide under section 5 experimental use permit. The tolerance will expire on the date specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Grapefruit	2 ppm (not to exceed 0.7 ppm total arsenic)	2/28/01

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 99–7434 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[WT Docket No. 95–102; FCC 98–293]

Establishing a Very Short Distance Two-Way Voice Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration and clarification.

SUMMARY: This action denies two petitions for reconsideration and clarifies that, within the Family Radio Service ("FRS") rules, an antenna must be non-detachable to be an "integral antenna".

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Joy Alford, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at jalford@fcc.gov or (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum, Opinion and Order*, released on November 9, 1998. The full text of this *Memorandum, Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, Washington, DC 20036, telephone (202) 857–3800.

Summary of Memorandum Opinion and Order

1. On May 10, 1996, the Commission adopted a *Report and Order*, 61 FR 28768, June 6, 1996, 11 FCC Rcd 12977 (1996), in WT Docket No. 95–102 in which the Commission established the FRS, a very short distance, two-way voice personal radio service.

2. In a Petition for Reconsideration filed July 5, 1996, The Personal Radio Steering Group (PRSG) requests a series of additional rules and rule changes which it argues are primarily designed to provide greater assurance that the FRS is used for its intended purposes. It also expresses concern that some users of FRS units may not share spectrum responsibly with other users, and requests that we adopt rule changes to maintain the integrity of the FRS as

a short distance, occasional use service for individuals. PRSG also requests that we relax interference standards when FRS units are transmitting on channels with the General Mobile Radio Service ("GMRS").

3. In a Petition for Partial Reconsideration, filed July 3, 1996, Michael C. Trahos (Trahos) requests that we conform the GMRS to the FRS rules by amending the GMRS rules to permit GMRS stations to communicate with FRS units. PRSG and Trahos assert that the GMRS rules restrict GMRS stations to communications with other GMRS stations.

4. In addition, PRSG filed a Petition for Stay ("Stay") requesting the implementation of the new FRS rules be stayed pending resolution of its reconsideration petition, and Motorola has filed a Request for Clarification requesting that we clarify that an antenna must be a non-detachable antenna to be an "integral antenna" within the meaning of the FRS rules.

5. We conclude that revision of the FRS rules as requested by PRSG is unnecessary. PRSG essentially seeks to impose on FRS a much more restrictive regulatory environment than is warranted, based in large part on its speculative prediction that individuals may misuse the FRS. We note that during the two years that FRS has been authorized, the Bureau has not received any complaints of misuse of FRS units or harmful interference to GMRS users sharing channels with FRS. We further conclude that PRSG's and Trahos' requests to amend the GMRS rules stem from a misreading of the GMRS rules. Accordingly, we deny both petitions for reconsideration. We also deny PRSG's Petition for Stay and grant, in part, Motorola's request that we clarify that an integral antenna is not a detachable antenna.

Ordering Clauses

6. This action is taken pursuant to the authority found in Sections 4(i), 303, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 405, and sections 1.106 and 1.429 of our rules, 47 CFR 1.106 and 1.429.

7. *Accordingly, It is ordered* that the Petition for Reconsideration submitted by the Personal Radio Steering Group, Inc. and the Petition for Partial Reconsideration submitted by Michael C. *Trahos Are hereby denied.*

8. *It is further ordered* that the Request for Clarification filed by Motorola *Is hereby granted* to the extent indicated herein.

9. *It is further ordered* that the Petition for Stay filed by the Personal Radio Steering Group, Inc. *Is hereby denied.*

10. *It is further ordered* that this proceeding *Is terminated.*

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7496 Filed 3–25–99; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1804, 1807, 1835 and 1872

NASA Internal Programmatic Approval Documentation

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule changes the NASA FAR Supplement (NFS) to ensure that no affected solicitation is released prior to the approval of key programmatic documentation required by NASA Procedures and Guidelines (NPG) 7120.5, NASA Program and Project Management Processes and Requirements. This final rule prohibits release of affected solicitations until the required approvals have been obtained or authority to proceed without the required documentation has been granted by the Chair of the Governing Program Management Council or designee.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Sateriale, (202) 358–0491, kenneth.sateriale@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

Background

NPG 7120.5 establishes the management system for processes, requirements and responsibilities for implementing NASA Policy Directive 7120.4, Program and Project Management. This management system governs the formulation, approval, implementation, and evaluation of all Agency programs and projects established under the Provide Aerospace Products and Capabilities (PAPAC) process. The policy and guidelines require approvals at various programmatic stages and decision points. Before a program or project formulation may commence, a Formulation Authorization document must be approved. Before program implementation may commence, a Program Commitment Agreement and a Program Plan must be approved. Before project implementation may commence, a Program Commitment Agreement, Program Plan, and Project Plan must be approved. Approval to commence any of these activities without the required documentation must be obtained from the chair of the Governing Program Management Council or designee.

Impact

Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comments is not required. However, comments from small entities concerning the affected NFS subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5. U.S.C. 601, *et seq.*

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR 1804, 1807, 1835 and 1872

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1804, 1807, 1835 and 1872 are amended as follows:

1. The authority citation for 48 CFR Parts 1804, 1807, 1835 and 1872 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1804—ADMINISTRATIVE MATTERS

2. Section 1804.7301, is revised to read as follows:

1804.7301 General.

(a) Except in unusual circumstances, the contracting office shall not issue solicitations until an approved procurement request (PR), containing a certification that funds are available, has been received. However, the contracting office may take all necessary actions up to the point of contract obligation before receipt of the PR certifying that funds are available when—

(1) Such action is necessary to meet critical program schedules;

(2) Program authority has been issued and funds to cover the acquisition will be available prior to the date set for contract award or contract modification;

(3) The procurement officer authorizes such action in writing before solicitation issuance; and

(4) The solicitation includes the clause at FAR 52.232–18, Availability of Funds. The clause shall be deleted from the resultant contract.

(b) The contracting office shall not issue either a draft or final solicitation until a PR, either planning or final, has been received that contains an NPG 7120.5 certification. That certification must be made by the project or program office that initiated the PR, or the PR approval authority when there is no project or program office. The certification must state that either—

(1) The requested action is not in support of programs and projects subject to the requirements of NPG 7120.5, or

(2) The requested action is in support of programs and projects subject to the requirements of NPG 7120.5, and

(i) All NPG 7120.5 required documentation is current and has been approved; or

(ii) Authority to proceed without the required documentation has been granted by the Chair of the Governing Program Management Council or designee.

PART 1807—ACQUISITION PLANNING

3. In section 1807.105, paragraph (a)(2) is added to read as follows:

1807.105 Contents of written acquisition plans.

* * * * *

(a) * * *

(2) NPG 7120.5 shall be an integral part of acquisition planning for programs and projects subject to its requirements. If the NPG does not apply, the acquisition plan shall clearly state that fact. If the NPG does apply, specify whether all required NPG 7120.5 documentation is current and approved (see 1804.7301(b)(2)(i)). If not, describe the approach for obtaining approval or the authority to proceed without approval before release of draft or final solicitations. For programs and projects under the NPG, all draft or final solicitations subject to, or directly or substantially in support of, those programs or projects shall clearly identify the program or project of which they are part.

* * * * *

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

4. In section 1835.016, paragraph (a)(iii) is added to read as follows:

1835.016 Broad agency announcements.

(a) * * *

(iii) Draft or final versions of any form of BAA that directly or substantially supports a program subject to NASA Procedures and Guidelines (NPG) 7120.5 shall not be released unless—

(A) All applicable NPG 7120.5 required documentation (see 1804.7301(b)(2)(i)) is current and has been approved (e.g., Formulation Authorization Document, Program Commitment Agreement, Program Plan, or Project Plan); or

(B) Authority to proceed without the required documentation has been granted by the Chair of the Governing Program Management Council or designee.

* * * * *

PART 1872—ACQUISITIONS OF INVESTIGATIONS

5. In section 1872.102, paragraph (a)(1) is revised to read as follows:

1872.102 Key features of the system.

(a)(1) Use of the system commences with the Enterprise Associate Administrator's determination that the investigation acquisition process is appropriate for a program. An Announcement of Opportunity (AO) is disseminated to the interested scientific and technical communities. The AO is a form of broad agency announcement (BAA) (see FAR 35.016 and 1835.016 for general BAA requirements). This solicitation does not specify the investigations to be proposed but solicits investigative ideas which contribute to broad objectives. In order to determine which of the proposals should be selected, a formal competitive evaluation process is utilized. The evaluation for merit is normally made by experts in the fields represented by the proposals. Care should be taken to avoid conflicts of interest. These evaluators may be from NASA, other Government agencies, universities, or the commercial sector. Along with or subsequent to the evaluation for merit, the other factors of the proposals, such as engineering, cost, and integration aspects, are reviewed by specialists in those areas. The evaluation conclusions as well as considerations of budget and other factors are used to formulate a complement of recommended investigations. A steering committee, serving as staff to the Enterprise Associate Administrator or designee when source selection authority is delegated, reviews the proposed payload or program of investigation, the iterative process, and the selection recommendations. The steering committee serves as a forum where different interests, such as flight program, discipline management, and administration, can be weighed.

* * * * *

[FR Doc. 99–7499 Filed 3–25–99; 8:45 am]

BILLING CODE 7510–01–P

Proposed Rules

Federal Register
Vol. 64, No. 58
Friday, March 26, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 944

[Docket No. FV–97–916–1 PR]

Fruits; Import Regulations; Proposed Nectarine Import Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish minimum quality, size, and maturity requirements for fresh nectarines offered for importation into the United States during the months of April through October. The proposed import requirements would be implemented in accordance with Section 8e of the Agricultural Marketing Agreement Act of 1937, which requires that whenever certain specified commodities, including nectarines, are regulated under a Federal marketing order, imports of those commodities must meet the same or comparable grade, quality, size, and maturity requirements as those in effect for the domestically produced commodity.

DATES: Comments must be received by May 26, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; FAX # (202) 720–5698; or E-mail: moabdocket_clerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax # (202) 720–5698. Small businesses may request information on complying with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 720–2491, Fax # (202) 720–5698, or E-mail: Jay_N_Guerber@usda.gov. You may also view our web site: http://www.ams.usda.gov/fv/moab8e.html.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act," which provides that whenever certain specified commodities, including nectarines, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, quality, size, and maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This proposed rule would establish minimum quality, size, and maturity requirements for fresh nectarines offered for importation into the United States from April 1 through October 31 each year. The proposed import requirements would be implemented in accordance with section 8e of the Act.

Virtually all U.S. commercial shipments of fresh nectarines are regulated under Marketing Order No. 916 (order) which covers nectarines grown in California. The order has been in effect for more than 37 years. Grade, quality, size, and maturity requirements are in effect under the order for fresh market shipments during the period April 1 through October 31. These requirements are designed to increase nectarine sales by providing stable marketing conditions and ensuring that good quality fruit is shipped, thus promoting consumer satisfaction. The California nectarine season begins April 1 and ends October 31. The current handling regulation for these nectarines appears at 7 CFR 916.356. The most recent revisions to that regulation were published at 63 FR 16032, 63 FR 44363, 63 FR 50461, and 63 FR 60209. Proposed revisions to that regulation were published in the **Federal Register** on March 8, 1999, at 64 FR 11346.

There is no other Federal marketing order in effect for nectarines produced in the United States. Thus, the requirements for imported nectarines would be based on those in effect for California nectarines.

Most nectarines imported into the United States originate in Chile. The Chilean fresh nectarine season extends from November through mid-April, with most active shipments to the United States occurring between January and March. Fresh nectarine imports from Chile, while relatively small when compared with total domestic production, fill to a great extent the gap in supplies during the winter months. Most Chilean imports enter the United States when there are no domestic nectarine shipments and no regulations are in effect.

This proposed action would add a new § 944.800 under 7 CFR Part 944—Fruits; Import Regulations to establish minimum quality, size, and maturity requirements for fresh nectarines imported into the United States.

This proposed rule would provide that from April 1 through October 31 of each year, fresh nectarines imported into the United States would be subject to minimum quality, size, and maturity requirements. This is the same period that such requirements are in effect for fresh California nectarines under the order. Imports arriving before the domestic commodity's shipping season begins or after the domestic commodity's shipping season ends would not be subject to the proposed import requirements. In recent seasons, nectarines have been imported beginning in November and ending in mid-April. Most imported nectarines

would, therefore, not be covered by these proposed requirements.

This rule proposes that nectarines imported into the United States meet a minimum quality requirement of "CA Utility," which is established under the order. Under the order, containers of such quality fruit must be clearly labeled "CA Utility." No such labeling requirement is being proposed for nectarines imported into the United States, however, because section 8e of the Act does not authorize container regulations for imports.

This action also proposes that nectarines imported into the United States meet minimum size requirements. The minimum size requirement for each nectarine variety would specify a maximum number of nectarines permitted in a 16-pound sample. Under the order, minimum size requirements are specified by variety, and are based on the maximum number of nectarines permitted in a 16-pound sample of each variety. The minimum size requirement for an imported nectarine variety would be the same fruit count per 16-pound sample as that specified for that variety under the domestic handling regulation for nectarines.

The maximum number of nectarines in a 16-pound sample would range from a count of 67 to 100, depending on the variety. The nectarines in the 16-pound sample would have to be representative of the nectarines in the package or container and, to meet minimum requirements, the sample could not contain more than the specified number of nectarines for that variety. For the purposes of simplification, this proposed rule lists alphabetically, in a table under proposed § 944.800, the nectarine varieties with their corresponding 16-pound sample counts.

Nectarine varieties not specifically listed in the size table would also be subject to minimum size requirements, which would vary by time of year. From April 1 through May 31, the maximum number of such nectarines in a 16-pound sample would be 90; from June 1 through June 30, the maximum number would be 83; and from July 1 through October 31, the maximum would be 67 nectarines. This is comparable to the requirements under the California nectarine order.

Under the order, nectarines must be "mature" as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145 through 51.3160) (Standards). The Standards define "mature" to mean that the nectarine has reached the stage of growth that will insure a proper completion of the ripening process. A higher level of maturity, called "well-matured," is also defined in the order. For certain varieties, the minimum size requirements are based upon the degree of maturity of the fruit, with smaller nectarines being authorized for shipment if they meet the higher maturity standard. For example, a 16-pound sample of the Fantasia variety may not have more than 67 nectarines if the fruit is mature. However, if the fruit is "well-matured," the sample may have up to 75 nectarines.

Under the order, maturity guides known as color chips are used to determine whether certain specified varieties of nectarines meet the well-matured standard. It would be impractical to use these particular color chips to determine whether imported nectarines meet the well-matured requirement, because the color chips were assigned based on the nectarine growing conditions occurring in California. Chile is the principle source of nectarines imported into the United States. Climatic differences between Chile and California make it inappropriate to use the color chips developed for California nectarines as a measure of maturity of imported nectarines.

This proposed rule provides for the same minimum size requirements as those in place for California nectarines. This includes different minimum size requirements for certain varieties depending on the level of maturity. While color chips are not included as maturity guides, there are other criteria used to determine the level of maturity of California nectarines that are appropriate for use in ascertaining the maturity of imported nectarines as well.

For example, the characteristics of "mature" nectarines are that they are light green in color and their shoulders are well-rounded and filled out. Such fruit is normally unyielding to ordinary hand pressure, and exhibit a slight resistance to a knife cut. These nectarines have flesh that is somewhat granular in appearance and is light green to breaking yellow.

Fruit determined to be "well-matured" are light greenish yellow to yellow in color, with well-rounded shoulders that are completely filled out. "Well-matured" nectarines give slightly to ordinary hand pressure and exhibit little or no resistance to a knife cut. The flesh shows little or no granulation and is yellow or straw-colored.

This rule also proposes a procedure to be used in determining whether nectarines meet the minimum size requirements specified for each size category when applying the 16-pound sample requirement. Requirements for use of an 8-pound sample are provided under the marketing order. Under this procedure, a sample consisting of one-half of the specified number of fruit for a 16-pound sample for a particular size category would be used, provided such sample weighs at least 8 pounds. The count in the 8-pound sample would be multiplied by 2 to determine if it meets the 16-pound requirement. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit would be used to determine the sample weight. If a sample failed with respect to minimum size requirements on the basis of an 8-pound sample, a full 16-pound sample would be used to determine if the fruit meets the minimum size requirements.

Importers would be responsible for arranging for the required inspection and certification of such nectarines prior to importation. Importation is defined to mean release from custody of the United States Customs Service. Such inspection services are available on a fee-for-service basis. This action could, therefore, result in increased costs associated with importing fresh nectarines. The additional costs should be offset, however, by the benefits accrued by ensuring that only acceptable quality fruit is present in the United States marketplace. Such quality assurance promotes buyer satisfaction and increased sales.

This proposed rule would provide a limited quantity exemption from the import requirements specified herein. Individual shipments of 200 pounds or less would be excluded from the proposed quality, size, maturity, and inspection requirements. Additionally, fresh nectarines imported for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products would be exempt from the proposed import requirements. Similar exemptions are provided under the order.

To ensure that fresh nectarines imported exempt from the quality, size, and maturity requirements are used in exempt outlets, this rule proposes that such nectarines be subject to the safeguard procedures for imported fruit established in § 944.350.

Under these procedures, an importer wishing to import nectarines covered herein for exempt uses would complete, in quaduplicate, an "Importer's Exempt Commodity Form (FV–6)." The first copy would be presented to the U.S. Customs Service at the port of entry. The second copy would be mailed or sent via fax to the Marketing Order Administration Branch (MOAB) within

2 days of the entry of the shipment. The third copy would accompany the exempt lot to the receiver, who would certify that the lot has been received and it will be used in an exempt outlet. After the certification is signed by the receiver, the form would be returned to MOAB by the receiver within 2 days of receipt of the lot. The fourth copy would be retained by the importer.

The FV–6 form is currently used by importers of many other fruits and vegetables. The proposed rule could increase the reporting burden for a small number of importers and receivers of nectarines who would complete the FV–6 form, taking about 0.166 hour to complete each report. The additional burden is already accounted for in the information collection submitted for the FV–6 form. This form has been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581-0167. Because of the different domestic (April–October) and import (November–April) seasons, the impact of the 8e requirements should be insignificant. Since imports of nectarines end during April, the impact of this action on importers would be minimal.

FV–6 forms can be obtained from MOAB by calling (202) 720–2491 or sending a fax to (202) 720–5698. The form would be completed at the time the commodity enters the United States. Information called for on the "Importer's Exempt Commodity Form" includes:

(1) The commodity and the variety (if known) being imported,

(2) The date and place of inspection if used to enter failing product or culls as exempt, (include a copy of the inspection certificate),

(3) Identifying marks or numbers on the containers,

(4) Identifying numbers on the railroad car, truck or other transportation vehicle transporting product to the receiver,

(5) The name and address of the importer,

(6) The place and date of entry,

(7) The quantity imported (in pounds or kilograms),

(8) The name and address of the intended receiver (e.g., processor, charity, or other exempt receiver),

(9) The intended use of the exempt commodity,

(10) The U.S. Customs Service entry number and harmonized tariff code number, and

(11) Such other information as may be necessary to ensure compliance with this regulation.

Lots that are exempt from the quality, size, and maturity requirements of the nectarine import regulation would not be subject to the inspection and certification requirements in such regulation. An imported lot intended for nonexempt uses, or any portion of such a lot, which fails established quality, size, and maturity requirements, could be exported, disposed of in an exempt outlet, or destroyed.

This proposed rule would also amend paragraph (a) of § 944.400 (7 CFR part 944). That paragraph designates the organizations to perform inspection and certification of imported fresh fruits specified in section 8e of the Act. That paragraph also specifies procedures to be followed for obtaining the required inspections. This proposed rule would designate the Federal or Federal-State Inspection Service and the Canadian Food Inspection Agency as the organizations authorized to inspect and certify foreign produced nectarines as meeting import requirements issued pursuant to section 8e.

Paragraphs (b), (c), and (d) of § 944.400, which specify additional procedures for obtaining inspection and certification of the imported fruits listed in that section, would remain unchanged. These procedures are followed by importers who obtain inspection and certification of those fresh fruits specified in section 8e that are offered for importation into the United States.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000.

There are an estimated 35 importers of nectarines. During the 1996/97 season, about 2,885,000 packages (18 pounds each) of nectarines were imported from Chile. Prices ranged from $8.00 to $28.00 per package, depending on such factors as the time of year and size of the fruit. Assuming an average quantity of 82,428 packages at a price of $18.00 per package (mid-point in the range), the average nectarine receipts per importer would be $1,483,704. However, there is a variation in size among the importers, and many handle other commodities in addition to nectarines. While it is not possible to determine how many nectarine importers fall within SBA's definition of a small entity, it is safe to assume that some of the 35 importers could be classified as such.

Section 8e of the Act provides that when certain domestically produced commodities, including nectarines, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, quality, size, and maturity requirements.

Under section 8e, this rule would establish quality, size, and maturity requirements for imported nectarines during the period April 1 through October 31. Imported nectarines would be required to be inspected and certified as meeting these requirements. However, only a tiny fraction of the nectarines imported into the United States enter during the proposed period of regulation. For example, during the 1996–97 Chilean season, approximately 26,000 tons of nectarines were imported. Of these, only 27 tons were imported between April and October. Thus, less than 1 percent of nectarines imported that season would have been subject to the requirements, including inspection, proposed herein. This amount, which is slightly less than 1½ truckloads of nectarines (at 40,000 pounds per truckload), is less than 1 twentieth of 1 percent of the California nectarines which were regulated during 1997.

Similarly, during the 1995–96 Chilean season, approximately 20,000 tons were imported into the United States, but less than 1 percent would have been subject to these regulations. During the 1994–95 Chilean season, slightly less than 35,000 tons of nectarines were imported into the United States, but, again, less than 1 percent would have been regulated.

Since inspection is available on a fee-for-service basis, this action could result in increased costs associated with importing fresh nectarines during the regulated period. Because the amount coming in during this time is so small, however, the total cost of meeting the inspection requirement should be negligible.

Inspection fees vary, depending on such factors as the location of the inspection, the size of the lot to be

inspected, and whether there are multiple commodities in the lot to be inspected. It is estimated that the cost of inspecting nectarines at the Port of Philadelphia in accordance with the provisions of 7 CFR Part 51 (where the majority of nectarine imports enter the country) ranges from 1½ to 3½ cents per container. In recent seasons, f.o.b. prices for Chilean nectarines during the month of April (the time covered by this proposed rule) ranged from $8.00 to $16.00 per package. Inspection fees would therefore account for less than one half of 1 percent of the value of the nectarines being imported.

These slight additional costs should be offset by the benefits accrued by ensuring that only acceptable quality fruit is available in the United States marketplace during the regulated period, and allowing the Chilean fruit to equally compete with the California fruit.

This action is intended to ensure that imported nectarines are subject to the same quality requirements as domestically produced nectarines, but because it would apply only to the few nectarines that are presented for importation during the domestic shipping season, it should have only a minimal effect on the market.

The alternative to this action is to continue to allow nectarines to be imported during the domestic shipping season without having to meet similar quality, size, and maturity requirements. This alternative is not in accordance with the requirements of the Act.

Interested persons are invited to comment on this initial regulatory flexibility analysis, and submit information on the regulatory and informational impacts this proposed action would likely have on small businesses.

The information collection requirements contained in this proposed rule have been previously approved by the OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and have been assigned OMB number 0581–0167.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 60-day period is provided to allow interested persons to comment on this proposal. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Nectarines, Olives, Oranges.

For the reasons set forth above, 7 CFR Part 944 is proposed to be amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR Part 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 944.350 is amended by adding the word "nectarines" after the word "limes" in the section heading and in paragraphs (a)(1) and (a)(2).

3. In § 944.400, the section heading and paragraph (a) introductory text are revised to read as follows:

§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, kiwifruit, limes, nectarines, oranges, prune variety plums (fresh prunes), and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, kiwifruit, limes, nectarines, oranges, prune variety plums (fresh prunes), and table grapes that are imported into the United States. The Canadian Food Inspection Agency is also designated as a governmental inspection service for the purpose of certifying grade, size, quality and maturity of nectarines and prune variety plums (fresh prunes) only. Inspection by the Federal or Federal-State Inspection Service or the Canadian Food Inspection Agency, with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective services, applicable to the particular shipment of the specified fruit, is required on all imports. Inspection and certification by the Federal or Federal-State Inspection Service will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, kiwifruit, limes, nectarines, oranges, prune variety plums (fresh prunes), and table grapes should make arrangements for inspection through the applicable one of the following offices, at least the specified number of the days prior to the time when the fruit will be imported:

* * * * *

4. A new § 944.800 is added to read as follows:

§ 944.800 Nectarine import regulation.

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], the importation into the United States of any nectarines, during the period April 1 through October 31 of each year, is prohibited unless:

(1) Such nectarines meet at least "CA Utility" quality requirements. The term *CA Utility* means that not more than 40 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the nectarines in any container meet or exceed the requirements of U.S. No.1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Nectarines; and that such nectarines are mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split pits which cause an unhealed crack or one or more well healed cracks which, either singly or in the aggregate, are more than ⅜ inch in length; mold, brown rot, and decay which has affected the edible portion; and

(ii) Free from serious damage due to skin breaks, cuts, growth cracks, bruises, or other causes. Damage to any nectarine is serious when it causes a waste of 10 percent or more, by volume, of the individual nectarine.

(iii) Tolerances. Not more than 10 percent, by count, of the nectarines in any one container may be below the requirements which are prescribed by this paragraph, including not more than 5 percent, by count, for any one defect, except split pits. An additional tolerance of 10 percent, by count, of the nectarines in any one container or bulk lot may contain nectarines affected with split pits. This means a total tolerance of 20 percent is allowed for all defects, including split pits, but not to exceed 15 percent for split pits alone.

(2) Such nectarines of any variety of nectarines listed in Column A of Table I of this paragraph are of a size that a 16-pound sample representative of the size of the nectarines contains not more than the number of nectarines listed for the variety in Column B or C of said table: *Provided*, That the following procedure shall be used in determining whether nectarines meet the minimum size requirements specified for each size category in this section applying the 16-

pound sample. A sample consisting of one-half of the specified number of fruit for a particular size category shall be used, provided such sample weighs at least eight pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit shall be used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a 16-pound sample shall be used to determine if the fruit meets the minimum size requirements.

TABLE I

Column A Variety	Column B Maximum No. of nectarines per 16-lb. sample if mature	Column C Maximum No. of nectarines per 16-lb. sample if well-matured
Alshir Red	68	75
Alta Red	68	75
April Glo	100	100
Arctic Glo	83	83
Arctic Pride	68	75
Arctic Queen	68	75
Arctic Rose	83	83
Arctic Snow	68	75
Arctic Star	83	83
Arctic Sweet	68	75
August Glo	68	75
August Lion	68	75
August Red	68	75
August Snow	68	75
Autumn Delight	68	75
Big Jim	68	75
Brite Pearl	68	75
Crystal Rose	68	75
Diamond Brite	83	83
Diamond Ray	68	75
Earliglo	90	90
Early Diamond	90	90
Early May	83	83
Early Red Jim	68	75
Fairlane	68	75
Fantasia	68	75
Firebrite	68	75
Fire Pearl	68	75
Flame Glo	68	75
Flaming Red	68	75
Flavortop	68	75
Flavortop I	68	75
Grand Diamond	68	75
Grand Pearl	68	75
Grand Sun	90	90
Honey Kist	68	75
How Red	68	75
Johnny's Delight	90	90
July Red	68	75
Juneglo	83	83
June Pearl	83	83
Kay Diamond	68	75
Kay Glo	83	83
King Jim	68	75
Late Red Jim	68	75
May Diamond	83	83
May Grand	83	83
May Jim	90	90
May Kist	90	90
May Lion	83	83
Mayfire	100	100
Mayglo (before May 6)	100	100
Mayglo (after May 5)	90	90
Mid Glo	68	75
Niagara Grand	68	75
P–R Red	68	75
Prima Diamond IV	83	83
Prima Diamond IX	68	75
Prima Diamond XIII	83	83
Prima Diamond XVI	68	75
Prima Diamond XIX	68	75

TABLE I—Continued

Column A Variety	Column B Maximum No. of nectarines per 16-lb. sample if mature	Column C Maximum No. of nectarines per 16-lb. sample if well-matured
Prima Diamond XXIV	68	75
Prince Jim	83	83
Red Delight	83	83
Red Diamond	68	75
Red Glen	68	75
Red Glo	83	83
Red Jim	68	75
Red May	78	78
Rio Red	68	75
Rose Diamond	83	83
Royal Giant	68	75
Royal Glo	83	83
Ruby Diamond	68	75
Ruby Pearl	68	75
Scarlet Red	68	75
September Red	68	75
Sparkling June	68	75
Sparkling May	83	83
Sparkling Red	68	75
Spring Bright	68	75
Spring Diamond	68	75
Spring Red	68	75
Star Brite	83	83
Summer Beaut	68	75
Summer Blush	68	75
Summer Bright	68	75
Summer Diamond	68	75
Summer Fire	68	75
Summer Grand	68	75
Summer Lion	68	75
Summer Red	68	75
Sun Diamond	68	75
Sunburst	68	75
Sunny Red	68	75
Super Star	68	75
Terra White	68	75
White Jewel	68	75
Zee Glo	68	75
Zee Grand	83	83
491–48	68	75

(3) Such nectarines of any variety not specifically listed in Table I of paragraph (a)(2) of this section are of a size that a 16-pound sample, using the procedure in paragraph (a)(2) of this section, contains: During the period April 1 through May 31, not more than 90 nectarines; during the period June 1 through June 30, not more than 83 nectarines; and during the period July 1 through October 31, not more than 67 nectarines or, if the nectarines are "well-matured", not more than 75 nectarines.

(b) The importation of any individual shipment which, in the aggregate, does not exceed 200 pounds net weight, is exempt from the requirements specified in this section.

(c) The quality, size, and maturity requirements of this section shall not be applicable to nectarines imported for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, but such nectarines shall be subject to the safeguard provisions in § 944.350.

(d) The term *nectarines* means all varieties of Prunus Amygdalus Nectarina, commonly called nectarines.

(e) The term *importation* means release from custody of the United States Customs Service.

(f) The terms *U.S. No. 1* and *mature* mean the same as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145 to 51.3160). *Well-Matured* means a condition distinctly more advanced than *mature*.

(g) Inspection and certification service is required for imports and will be available in accordance with the regulation designating inspection services and procedures for obtaining inspection and certification (7 CFR Part 944.400).

(h) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, may be exported, disposed of in an exempt outlet, or destroyed.

(i) As specified in this section, it is determined that fresh nectarines imported into the United States shall meet the same or comparable minimum quality, size, and maturity requirements as those established for fresh nectarines grown in California under Marketing Order No. 916 (7 CFR Part 916).

Dated: March 22, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–7474 Filed 3–25–99; 8:45 am]

BILLING CODE 3410–02–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240 and 270

[Release Nos. 33–7656, 34–41189, IC–23745; File No. S7–10–99; International Series Release No. 1188]

RIN 3235–AH32

Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing a new rule that would permit foreign securities to be offered to U.S. participants in certain Canadian tax-deferred retirement accounts and sold to those accounts without being registered under the Securities Act of 1933. The Commission also is proposing a new rule that would permit foreign investment companies to offer securities to those U.S. participants and sell securities to their Canadian retirement accounts without registering under the Investment Company Act of 1940. These rules would enable investors who hold securities in certain Canadian tax-deferred retirement accounts, and who reside or are temporarily present in the United States, to manage their investments within those accounts.

DATES: Comments must be received on or before May 28, 1999.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically to the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–10–99; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW, Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Cynthia Gurnee Pugh, Special Counsel, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 5th Street NW. Washington DC 20549–0506, or Paul M. Dudek, Chief, at (202) 942–2990, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW, Washington DC 20549–0302.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is proposing for public comment rule 237 (17 CFR 230.237) under the Securities Act of 1933 (15 U.S.C. 77a) (the "Securities Act"), rule 7d–2 (17 CFR 270.7d–2) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act"), and amendments to rule 12g3–2 under the Securities Exchange Act of 1934 (15 U.S.C. 78a) (the "Exchange Act").

Table of Contents

Executive Summary

I. Introduction

II. Discussion

A. Proposed Securities Act Rule

1. Scope of the Rule

2. Conditions of the Rule

a. Limitations on Marketing Activities

b. Restriction on Disclaiming Canadian or U.S. Law or Jurisdiction

B. Proposed Investment Company Act Rule

C. Proposed Amendments to Exchange Act Rule 12g3–2

D. General Request for Comments

III. Cost-Benefit Analysis

IV. Paperwork Reduction Act

V. Summary of Initial Regulatory Flexibility Analysis

VI. Statutory Authority

TEXT OF PROPOSED RULES

Executive Summary

In Canada, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts ("Canadian retirement accounts"), which operate in a manner similar to Individual Retirement Accounts ("IRAs") in the United States. Individuals themselves can decide how to invest the assets held in the accounts, but contributions and withdrawals are subject to strict limits. Individuals who have established Canadian retirement accounts and later moved to the United States ("Canadian/U.S. Participants" or "participants") have encountered obstacles to the continued management of their retirement investments in those accounts. Most securities held in these accounts, and the investment companies ("funds") that issue many of those securities, are not registered in the United States, and issuers therefore cannot publicly offer and sell those securities to Canadian/U.S. Participants. As a result, these participants have not been able to make changes in their retirement accounts to carry out the financial planning needed to meet their individual retirement goals.

The Commission is proposing two rules that would enable Canadian/U.S. Participants to continue to manage the assets in their Canadian retirement accounts. The proposed rules would provide relief from the U.S. registration requirements, under certain conditions, for offers of securities to these participants and sales to their accounts. Under the proposals, (i) securities of foreign issuers, including securities of foreign funds, could be offered to Canadian/U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act or the Exchange Act and (ii) foreign funds could offer securities to Canadian/U.S. Participants and sell securities to their Canadian retirement accounts without registering as investment companies under the Investment Company Act. The offer and sale of these securities, however, would remain fully subject to the antifraud provisions of the U.S. securities laws.

I. Introduction

More than half of all Canadian households invest retirement savings through some form of Canadian retirement account.[1] Canadian retirement accounts, like IRAs in the United States,[2] encourage retirement saving by permitting individuals to invest savings on a tax-deferred basis.[3]

[1] *See, e.g.*, Royal Trust Seventh Annual RRSP Survey (1997), available at <http://www.royalbank.com/rt-wealth/01survey/01fk.html> (visited Dec. 22, 1998). Assets held in Canadian retirement accounts represent a sizable portion of Canadian pension assets. *See* The Conference Board of Canada, *Maximizing Choice: Economic Impacts of Increasing the Foreign Property Limit* at Table 1 (Jan. 1998), available at <http://www.ific.ca/eng/frames.asp?l1=Regulation__and__Committees> (through the "Current Issues & Initiatives" and the "Impact of the Foreign Property Rule" hyperlinks) (visited Dec. 22, 1998). In addition, a 1998 survey reports that approximately half of Canadian retirement account holders plan to invest the greatest proportion of their annual contributions in mutual funds. *See* Royal Trust Eighth Annual RRSP Survey (1998), available at <http://www.royalbank.com/rt-wealth/01survey/01h3.html> (visited Dec. 28, 1998).

[2] *See* 26 U.S.C. 408, 408A (providing for Individual Retirement Accounts under U.S. tax law). Canadian retirement accounts are established and governed by the Income Tax Act of Canada and the regulations thereunder. *See generally* Income Tax Act, R.S.C. 1985, ch. 1 (5th Supp.) (Can.) (as amended) ("Canadian Income Tax Act"); Income Tax Regulations, C.R.C., ch. 945 (1997) (Can.) ("Canadian Income Tax Regulations").

[3] Contributions to a Canadian retirement account and earnings on those contributions are not subject to Canadian income tax until withdrawn. A

Similar to U.S. law, Canadian law restricts the amount of money that a participant may contribute to a Canadian retirement account, and early withdrawals by a participant are subject to immediate taxation.[4] Unlike U.S. law, Canadian law also restricts the investments that may be held in a Canadian retirement account to certain "qualified investments," which must consist primarily of Canadian securities.[5] A participant who violates any of these restrictions may face significant adverse tax consequences.[6]

Individuals who establish Canadian retirement accounts while living and working in Canada and who later move to the United States often continue to hold their retirement assets in their Canadian retirement accounts rather than prematurely withdrawing (or "cashing out") those assets, which would result in immediate taxation in Canada.[7] Once in the United States, however, these participants (*i.e.*, Canadian/U.S. Participants) may not be able to manage their Canadian retirement account investments.[8] Most securities and most funds that are "qualified investments" for Canadian retirement accounts are not registered under the U.S. securities laws. Funds and other issuers therefore generally cannot offer and sell those securities in the United States without violating the registration requirements of the Securities Act[9] and, in the case of securities of an unregistered fund, the Investment Company Act.[10] As a result of these registration requirements of the U.S. securities laws, Canadian/U.S. Participants have not been able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.[11]

The Commission and its staff have interpreted section 7(d) to generally prohibit a foreign fund from making a U.S. private offering if that offering would cause the securities of the fund to be beneficially owned by more than 100 U.S. residents. See Resale of Restricted Securities, Securities Act Release No. 6862 (Apr. 23, 1990) [55 FR 17933 (Apr. 30, 1990)] at text following n.64; Investment Funds Institute of Canada, SEC No-Action Letter (Mar. 4, 1996); Touche Remnant & Co., SEC No-Action Letter (Aug. 27, 1984). Given the large number of Canadian/U.S. Participants, it is unlikely that a Canadian fund could sell securities to Canadian retirement accounts of Canadian/U.S. Participants without exceeding the limit of 100 U.S. beneficial owners.

The Commission and its staff have received numerous inquiries from Canadian/U.S. Participants concerned about their inability to manage retirement assets held in their Canadian retirement accounts. In addition, the Investment Funds Institute of Canada ("IFIC"), an association representing Canadian mutual funds, has filed a petition for rulemaking requesting that the Commission adopt rules to permit Canadian mutual funds to offer securities to Canadian/U.S. Participants and sell securities to their accounts, without registering those securities under the Securities Act or registering as investment companies under the Investment Company Act ("IFIC Petition").[12]

II. Discussion

The Securities Act's registration and disclosure requirements are premised on the notion that investors in a public offering are best protected if they are provided with full and fair disclosure of material information needed for an informed investment decision.[13] Securities offered publicly in the United States generally must be registered with the Commission, and a prospectus must be delivered to investors.[14] Congress recently amended the Securities Act to authorize the Commission to adapt its regulations, including its registration requirements, to the changing circumstances in which securities are offered and traded.[15] Under these

---

Canadian retirement account typically is structured as a trust and must be registered with the Canadian Minister of National Revenue and maintained with a qualified Canadian financial institution, such as a trust company, insurance company, or bank. *See generally* Canadian Income Tax Act ¶¶ 146(1), 146.3(1). The most common types of Canadian retirement accounts are Registered Retirement Savings Plans ("RRSPs") and Registered Retirement Income Funds ("RRIFs"). *See* Canadian Income Tax Act ¶¶ 146 (RRSPs), 146.3 (RRIFs). RRSPs and RRIFs may be "self-directed," in which the individual participant decides how to invest account assets, or "single vendor," in which a Canadian trustee or plan manager invests the account assets. The rules proposed in this release do not cover the offer or sale of securities to single vendor and other types of Canadian retirement accounts whose assets are managed exclusively in Canada. *See infra* note 26.

[4] Contributions to an RRSP Canadian retirement account are subject to an annual limit of 18 percent of an individual's "earned income" (*i.e.*, generally income from Canadian employment or self-employment) for the previous year (up to a maximum of $13,500 (Can.)), less certain pension adjustments. *See* Canadian Income Tax Act ¶ 146(1) ("earned income," "RRSP deduction limit," "RRSP dollar limit"). Early withdrawals are subject to withholding tax and must be included in taxable income in the year withdrawn. *See*, e.g., *id.* ¶¶ 146(8) (benefits taxable), 153(1)(j) (withholding).

[5] Canadian Income Tax Act ¶¶ 146(1), 146.3(1) (defining "qualified investment" for RRSPs and RRIFs); Canadian Income Tax Regulations § 4900 (qualified investments). At least 80 percent of the book value of a Canadian retirement account must be invested in Canadian securities. *See generally* Foreign Property of Registered Plans, Revenue Canada Bulletin No. IT–412R2 (Jan. 16, 1995).

[6] For example, excess contributions to a Canadian retirement account generally are subject to a penalty tax of one percent per month of the excess contributions. *See* Contributions to Registered Retirement Savings Plan, Revenue Canada Bulletin No. IT–124R6 (Jan. 31, 1995), at ¶ 30. Non-qualified investments held in a Canadian retirement account are subject to a penalty tax of one percent per month of the market value of the non-qualified investments, and earnings on non-qualified investments are subject to Canadian income tax. *See, e.g.*, Canadian Income Tax Act ¶¶ 146(10.1), 207.1(1).

[7] *See supra* note 4.

[8] The Commission believes that a significant number of Canadian/U.S. Participants may face this predicament. At the end of 1995, approximately 660,000 U.S. residents were either Canadian citizens or former Canadian citizens. Bureau of the Census, U.S. Dep't of Commerce, March 1996 Current Population Survey. In addition, U.S. citizens who live and work in Canada on a temporary basis may be able to establish Canadian retirement accounts, and so may face this predicament upon returning to the United States.

[9] Absent an exemption, all securities offered or sold through use of the U.S. mails or other means of interstate commerce must be registered under the Securities Act. *See* section 5(a) of the Securities Act (15 U.S.C. 77e(a)).

[10] The Investment Company Act requires a foreign fund to obtain an order from the Commission permitting it to register under that Act before it uses the U.S. mails or any means of interstate commerce in connection with a public offering of its securities. *See* section 7(d) of the Investment Company Act (15 U.S.C. 80a–7(d)). The Commission may issue this type of order only if it finds both that registration of the foreign fund is consistent with the public interest and protection of investors and that it is legally and practically feasible to enforce the provisions of the Investment Company Act against the fund. *Id.* Rule 7d–1 (17 CFR 270.7d–1) specifies the conditions that a Canadian fund may meet to satisfy the standards of section 7(d). Only one Canadian fund currently is registered with the Commission.

[11] The registration requirements of the Securities Act generally would not preclude Canadian/U.S. Participants from purchasing some types of securities for their Canadian retirement accounts in secondary market transactions on stock exchanges or in other markets. As discussed below, however, Canadian broker-dealers that effect transactions, including secondary market transactions (*i.e.*, those involving securities that are not required to be registered under the Securities Act), for Canadian/U.S. Participants are subject to the broker-dealer registration requirements of the Exchange Act, absent an exemption. *See infra* note 24. In addition, there are generally no secondary markets for the securities of open-end management funds (or "mutual funds"), which continuously publicly offer and redeem securities. The requirement that public offers be registered under the Securities Act thus deters most foreign mutual funds from offering securities to Canadian/U.S. Participants.

[12] The IFIC Petition is available for inspection and copying in the Commission's Public Reference Room in File No. 4–407 and File No. S7–10–99. The proposed rules respond to the issues raised in that petition.

[13] *See* Securities Act Concepts and Their Effects on Capital Formation, Securities Act Release No. 7314 (July 25, 1996) (61 FR 40044 (July 31, 1996)) at text accompanying n.13; *SEC* v. *Ralston Purina Co.*, 346 U.S. 119, 124 (1953).

[14] Section 5 of the Securities Act (15 U.S.C. 77e).

[15] Section 28 of the Securities Act (15 U.S.C. 77z–3) (enacted as part of the National Securities

Continued

amendments, the Commission may exempt persons, securities or transactions from any provision of the Securities Act, if necessary or appropriate in the public interest and consistent with the protection of investors.[16] Congress intended the Commission to use this authority to address, among other things, developments in the securities markets that "do not fit neatly into the existing regulatory framework."[17]

The growth of self-directed Canadian retirement accounts, the migration of participants to the United States, and the need of these participants to manage their retirement investments by buying and selling Canadian and other foreign securities for their accounts, appear to be developments that do not fit neatly into the existing regulatory framework of the Securities Act. According to some Canadian/U.S. Participants, the registration requirements of the Securities Act have operated to impede rather than promote their interests. These participants have purchased securities in Canada pursuant to a Canadian retirement program and, as a result, have the protections of the Canadian securities laws and regulatory system with respect to those investments. In light of the need for these investors to be able to manage their Canadian retirement account assets,[18] and the existence of a well-developed legal system in Canada, the Commission believes that it may be in the public interest and consistent with the protection of investors to exempt from the registration requirements of the Securities Act offers of foreign securities to Canadian/U.S. Participants and sales to their retirement accounts. The Commission therefore is proposing new rule 237 under the Securities Act to exempt these transactions from Securities Act registration, under certain conditions discussed below.[19]

The registration requirement of the Investment Company Act is an additional regulatory provision that can prevent Canadian/U.S. Participants from purchasing securities of foreign funds in the course of managing their Canadian retirement accounts. A foreign fund that publicly offers securities in the United States not only must register its securities under the Securities Act, but also must obtain an order permitting it to register as an investment company under the Investment Company Act.[20] Because most Canadian funds have not obtained such an order (and cannot be expected to do so[21]), Canadian/U.S. Participants have not been able to purchase securities of Canadian funds for their Canadian retirement accounts. As a result, participants who hold securities of Canadian funds through their Canadian retirement accounts cannot exchange those securities for other Canadian fund securities as, for example, they age and their financial needs change.[22] In order to allow Canadian/U.S. Participants to manage their Canadian retirement accounts, the Commission is proposing new rule 7d–2 under the Investment Company Act, which would permit a foreign fund to make offers to these participants and sales to their retirement accounts without registering as an investment company under the Investment Company Act.[23]

The provisions of proposed rules 237 and 7d–2 are substantially the same. They are designed to permit offers of foreign securities to Canadian/U.S. Participants and sales to their accounts, and to permit participants to receive prospectuses and other informational materials necessary for managing their investments, without permitting the types of additional sales or communications that could result in a more generalized public offering of securities in circumvention of the registration requirements of the U.S. securities laws.[24] The proposed rules would strictly limit the activities of persons making offers or sales in reliance on the rules, and would in no way limit the application of the antifraud provisions of the U.S. securities laws or the provisions of any state laws that may govern the offer or sale of securities to Canadian retirement accounts.

A. Proposed Securities Act Rule[25]

1. Scope of the Rule

Proposed rule 237 under the Securities Act would exempt from the registration requirements of that Act the offer of a foreign issuer's securities to a "participant" and the sale of those securities to his or her Canadian retirement account.[26] The rule would

---

Markets Improvement Act of 1996, Pub. L. 104–290, 110 Stat. 3416).

[16] *Id.*

[17] S. Rep. No. 293, 104th Cong., 2d Sess. 15 (1996).

[18] Financial planning experts stress the importance of periodically reallocating retirement investments to reflect the investor's changing age and income needs. *See, e.g.*, Laird H. Shuart & Michael E. Ruhlman, Planning for Retirement in the 21st Century—A New Approach 77–78 (1991); Timothy E. Johnson, Investment Principles 452–53 (1978). Some analysts also have suggested that, due to increasing life expectancies and health care costs, the careful management of individual retirement investments may be more important than ever. *See, e.g.*, Employee Benefit Research Institute, Fundamentals of Employee Benefit Programs 179, 196 (5th ed. 1997).

[19] *See infra* Part II.A.2. The Commission anticipates that this proposed exemption from the Securities Act's registration requirements would be used primarily in connection with offers and sales of securities of Canadian mutual funds, although other foreign issuers may use the exemption for offers and sales to Canadian/U.S. Participants in connection with public offerings.

[20] As noted above, section 7(d) of the Investment Company Act requires a foreign fund to obtain an order from the Commission permitting it to register under that Act before it uses the U.S. mails or any means of interstate commerce in connection with a public offering of its securities. *See supra* note 10. The requirement that a foreign fund register under the Investment Company Act before making a public offering in the United States is intended to subject foreign funds that access the U.S. markets to the same type and degree of regulation as domestic funds. *See* S. Rep. No. 1775, 76th Cong., 3d Sess. 13 (1940); H.R. Rep. No. 2639, 76th Cong., 3d Sess. 13 (1940).

[21] According to IFIC, a Canadian fund that satisfies the conditions necessary to obtain such an order likely would not be able to continue to operate as a registered mutual fund under Canadian law. *See* IFIC Petition, *supra* note 12, at n.34.

[22] This is true even for Canadian/U.S. Participants who already own securities of the other funds in their retirement accounts.

[23] Proposed rule 7d–2 would deem a foreign fund's offer of securities to Canadian/U.S. Participants, and the sale of securities to their Canadian retirement accounts, not to be a "public offering" for purposes of section 7(d) of the Investment Company Act, under the conditions discussed below. As noted earlier, the Commission and its staff have interpreted section 7(d) to generally prohibit a foreign fund from making a U.S. private offering if that offering would cause the securities of the fund to be beneficially owned by more than 100 U.S. residents. *See supra* note 10. Ownership by Canadian/U.S. Participants of foreign fund shares through their Canadian retirement accounts, however, would not count toward the 100 U.S. investors under this interpretation of section 7(d).

[24] Purchases or sales of securities held through Canadian retirement accounts generally are effected through Canadian securities dealers. Absent an exemption, however, Canadian broker-dealers that effect securities transactions for Canadian/U.S. Participants with respect to their Canadian retirement accounts are subject to the broker-dealer registration requirements of section 15 of the Exchange Act (15 U.S.C. 78*o*). Although rule 15a–6 under the Exchange Act (17 CFR 240.15a–6) provides several conditional exemptions from this registration requirement for foreign broker-dealers, additional relief may be required to permit Canadian broker-dealers to engage in activities generally necessary to maintain participants' Canadian retirement accounts without registration under the Exchange Act. The Commission has received a request for exemptive relief from the broker-dealer registration requirements of the Exchange Act for certain Canadian broker-dealers that effect transactions for Canadian/U.S. Participants with respect to their Canadian retirement accounts. Letter from Susan E. Pravda, Epstein, Becker & Green, to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission (Jan. 7, 1999). The Commission will be considering this request for exemptive relief.

[25] The following discussion focuses on the scope and conditions of proposed rule 237. The scope and conditions of proposed rule 7d–2, as noted above, are largely identical. *See infra* note 47 and accompanying text.

[26] The definition of "Canadian retirement account" would include self-directed individual retirement accounts that are both established and qualified for tax-advantaged treatment under Canadian law. Proposed rule 237(a)(2). The

define a "participant" as any individual in the United States who is entitled to receive the income and assets from a Canadian retirement account.[27] Typically, a participant would be an individual who established a Canadian retirement account while living and working in Canada and has moved to the United States either permanently or temporarily.[28] The exemption would be available for offers and sales of securities of any type of issuer.[29] To qualify for the exemption, however, the securities must be eligible for investment by Canadian retirement accounts, and they also must be available for purchase by Canadian investors other than participants.[30]

The proposed rule would exempt sales to a Canadian/U.S. Participant's retirement account in connection with an exchange or re-allocation of existing Canadian retirement account investments, as well as sales in connection with new investments made with additional contributions to the account. The Commission believes that most Canadian/U.S. Participants would not be permitted to make significant additional contributions to their Canadian retirement accounts, because Canadian tax law penalizes contributions greater than a specified percentage of an individual's Canadian earned income (*i.e.*, income that is earned and taxable in Canada), which an individual residing in the United States ordinarily would not have.[31] The Commission requests comment whether this view of Canadian tax law is accurate. If participants generally would be able to make significant additional contributions to their Canadian retirement accounts, should the proposed exemption exclude additional purchases? If additional purchases are excluded, would persons relying on the exemption be able to adequately monitor whether purchase requests from participants, or their broker-dealers, represent the exchange or re-allocation of previous Canadian retirement account investments, rather than additional acquisitions with new contributions?

2. Conditions of the Rule

a. Limitations on Marketing Activities. Proposed rule 237 includes conditions that limit the activities of persons relying on the rule, in order to prevent the exemption from being used as an avenue for a distribution of securities in the United States beyond the rule's limited purpose. Thus, a person relying on the rule would be permitted to solicit a Canadian/U.S. Participant only if that person is an authorized agent of the participant.[32] Persons relying on the rule would be limited to (i) processing transaction requests from participants,[33] (ii) paying dividends and distribution on securities held in a Canadian retirement account,[34] (iii) delivering

definition would exclude Canadian retirement accounts that are not self-directed, because those accounts are managed entirely in Canada and generally would not entail U.S. registration requirements. The proposed definition therefore does not include Registered Pension Plans (Canadian Income Tax Act ¶ 147.1), Deferred Profit Sharing Plans (Canadian Income Tax Act ¶ 147), single vendor RRSPs and RRIFs, and other Canadian tax-advantaged plans whose investments are managed by trustees or other fiduciaries in Canada.

[27] Proposed rule 237(a)(6). Participants, for example, would include individuals who have established Canadian retirement accounts with Canadian earned income and are in the United States (i) permanently, (ii) as a result of being stationed or transferred by an employer, or (iii) only during the winter months. An individual's status as a participant would not depend on the length of his or her stay in the United States. A participant would be an "annuitant" of a Canadian retirement account as provided by Canadian law. *See* Canadian Income Tax Act ¶¶ 146(1), 146.3(1) (defining "annuitant" as the individual, or a spouse in certain cases, for whom a RRSP or RRIF will provide retirement income).

[28] Certain "deemed" Canadian residents (*i.e.*, Canadian government and military personnel) may be able to establish Canadian retirement accounts with income earned while living and working in the United States. *See infra* note 31.

[29] Persons relying on the exemption would be persons that engage in transactions not otherwise exempt from the registration requirements of section 5 of the Securities Act (*i.e.*, issuers, underwriters or dealers under U.S. law). *See, e.g.*, section 4(1) of the Securities Act (15 U.S.C. 77d(1)).

[30] The types of securities that are qualified investments for Canadian retirement accounts are identified in the Canadian Income Tax Act and the Canadian Income Tax Regulations. *See supra* note 5 and accompanying text. The proposed rule would be available only for "eligible securities" issued by a "qualified company." Eligible securities would be securities issued by a qualified company that (i) are offered to participants or sold to their Canadian retirement accounts in reliance on the proposed rule and (ii) may also be purchased by Canadians other than participants. Proposed rule 237(a)(3)(i), (ii). The rule would define a qualified company as a foreign issuer whose securities are qualified for investment on a tax-deferred basis by a Canadian retirement account under Canadian law. Proposed rule 237(a)(7). A "foreign issuer" would include any issuer that is a foreign government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country, except for an issuer that has a substantial presence in the United States as described in the rule. Proposed rule 237(a)(5). This definition is modeled on the definitions of "foreign issuer" and "foreign private issuer" in rule 405 under the Securities Act (17 CFR 230.405).

As noted above, the proposed exemption would be available only for offers and sales of eligible securities of qualified companies. No condition of the rule, however, would require that a participant's Canadian retirement account comply with the other requirements of Canadian tax law, such as the limitations on contributions. *See generally supra* notes 4—5 and accompanying text (discussing certain restrictions on Canadian retirement account contributions and investments).

[31] *See* Canadian Income Tax Act ¶ 146(1) (defining "earned income"). *See also supra* notes 4, 6 (describing restrictions on Canadian retirement account contributions and certain penalties on excess contributions). Taxation in Canada generally depends on an individual's residence in Canada. Whether a Canadian/U.S. Participant's income is subject to Canadian tax or U.S. tax typically would depend on several factors, including (i) the permanence and purpose of the stay in the United States, (ii) residential ties to Canada, (iii) residential ties to the United States, and (iv) regularity and length of return visits to Canada. *See generally* Determination of an Individual's Residence Status, Revenue Canada Bulletin No. IT–221R2 (Feb. 25, 1983). Under the United States-Canada Tax Treaty and Canadian law, Canadian government employees, diplomats, and military personnel stationed in the United States are "deemed" to be Canadian residents, and their income remains subject to Canadian tax, despite their residence in the United States. *See* Convention with Respect to Taxes on Income and on Capital, Sept. 26, 1980, U.S.-Can., art. IV, para. 5, T.I.A.S. No. 11,087 (as amended by protocols); Canadian Income Tax Act ¶ 250(1) (deemed residents of Canada). Because most Canadian/U.S. Participants, other than deemed Canadian residents, who relocate to, maintain primary residence in, or spend most of their time in, the United States would no longer be residents of Canada for tax purposes, the Commission believes that they would not be able to contribute significant additional income to their Canadian retirement accounts. For individuals who are deemed residents of Canada, however, additional contributions to a Canadian retirement account may be the only mechanism for making a Canadian tax-advantaged retirement investment while in the United States.

[32] Proposed rule 237(b)(3). Generally, a "solicitation" would include any contact (*i.e.*, telephone calls, mailings, facsimile transmissions, electronic mail or similar communications) with a participant that is intended to generate interest in, or induce the purchase of, eligible securities. The exception for solicitations by authorized agents is intended to permit Canadian broker-dealers relying on the rule to continue to provide investment advice to their Canadian/U.S. Participant customers. For example, a broker-dealer relying on the rule would not be prohibited from providing investment advice, prospectuses or other similar materials to an *existing* client who is a participant about possible investments in the participant's Canadian retirement account. Of course, to the extent persons relying on the rule are engaged in broker-dealer activity in the United States, they would be required to register as broker-dealers under section 15 of the Exchange Act, absent an available exemption. *See supra* note 24.

[33] Proposed rule 237(b)(1)(i). A person relying on the rule also would be permitted to effect routine transactions in securities held in a participant's Canadian retirement account. *Id.* Routine transactions would include routine or mechanical transfers of securities held in the account, such as transfers caused by a participant's death or divorce, and rollovers or other transfers of assets among Canadian retirement accounts as required or allowed under Canadian law. The Commission believes that generally these types of transfers would not entail registration under the Securities Act in any event.

[34] Proposed rule 237(b)(1)(ii). The payment of dividends would include the issuance of securities under a dividend reinvestment plan. For guidance on whether registration of securities issued pursuant to a dividend reinvestment plan would be required absent the proposed exemption, *see, e.g.*, Securities Act Release No. 929 (July 29, 1936) (11 FR 10957 (1936)); Investment Company Act Release No. 6480 (May 10, 1971) (36 FR 9627 (May 1971)). Interpretation of the Division of Corporation Finance Relating to Dividend Reinvestment and

Continued

written offering materials upon the request of a participant,[35] and (iv) delivering updated offering materials, proxy statements, account statements and other materials typically provided to other security holders regarding securities held in a Canadian retirement account.[36] Persons relying on the rule could not engage in activities that would condition the U.S. market for the securities, such as advertising the securities in the United States,[37] or that would facilitate secondary trading in the securities, such as arranging for dealers to make a secondary market in the United States when there was no pre-existing U.S. market.[38]

As noted above, under the rule the only updated written offering materials or other informational materials that could be delivered to a Canadian/U.S. Participant would be those that concern securities already held in the participant's retirement account.[39] The Commission requests comment whether Canadian funds commonly use joint prospectuses or other joint informational materials to offer and sell securities of several affiliated funds or different classes or series of the same fund. If so, should rule 237 specifically permit persons relying on the rule to deliver updated joint prospectuses and other joint materials that concern both securities that are held in a participant's retirement account and securities that are not held in the account?

Under the proposed rule, offering materials for eligible securities must prominently disclose that the securities are not registered with the Commission and may not be offered or sold in the United States unless registered or exempt from registration under the U.S. securities laws.[40] This disclosure requirement would apply to all written offering materials, including prospectuses, advertisements and newsletters that are sent to participants in reliance on the proposed exemption. Comment is requested on this disclosure requirement.

The Commission also requests comment whether the rule should prohibit resales in the United States of securities offered and sold in reliance on the proposed exemption.[41] Is a restriction on resales necessary to ensure that unregistered securities sold to Canadian retirement accounts in reliance on the proposed exemption are not later transferred to persons in the United States who are not Canadian/U.S. Participants?

b. Restriction on Disclaiming Canadian or U.S. Law or Jurisdiction. Proposed rule 237 is premised on, among other things, the availability of the investor protections afforded by Canadian law for Canadian retirement account investments. We believe that, because these accounts were opened and remain in Canada, Canadian law would be applicable and Canadian courts would have jurisdiction. Nonetheless, we are proposing to include in the rule the condition that a person relying on the rule not disclaim the applicability of Canadian law or jurisdiction in any proceeding involving eligible securities.[42] The Commission requests comment on this proposed condition.

As noted above, offers and sales of securities made in reliance on the proposed rule would remain fully subject to the antifraud provisions of the U.S. securities laws. The proposed rule therefore also would include the condition that a person relying on the rule not disclaim the applicability of U.S. law, or the jurisdiction of the courts of the United States, in any proceeding involving eligible securities.[43] Comment is requested on this proposed condition of the rule.

The Commission also requests comment whether it would be unduly burdensome for rule 237 to require any person that relies on the rule to provide the Commission, upon request, with information, documents, testimony and assistance relating to their offers and sales of securities in reliance on the rule.[44] This type of provision could facilitate the Commission's ability to investigate allegations of fraud. In the alternative, should the rule require any person relying on the rule to designate an agent for service of process in the United States?[45] Finally, comment is requested whether persons relying on rule 237 should be required to obtain from each participant who desires to purchase securities offered and sold in reliance on the rule a written acknowledgment that those securities are not subject to the registration provisions of the U.S. securities laws.

B. Proposed Investment Company Act Rule

Proposed rule 7d–2 under the Investment Company Act would deem a foreign fund's offer of securities to Canadian/U.S. Participants and sale to their accounts not to be a "public offering" that would require the fund to register as an investment company under that Act.[46] The scope of this proposed rule, and the conditions that must be met by a foreign fund relying on the rule, would be substantially the same as the proposed scope and conditions of rule 237 under the Securities Act.[47] The Commission requests comment whether any specific provisions of proposed rule 7d–2 should differ from those of rule 237. Are any provisions of proposed rule 7d–2 broader than necessary to achieve the intended purpose of permitting Canadian/U.S. Participants to manage their Canadian retirement account investments? Comment also is requested whether rule 7d–2 should address the other issues on which comment was solicited in the discussion of proposed rule 237.[48]

Similar Plans, Securities Act Release No. 5515 (July 22, 1974) (39 FR 28520 (Aug. 8, 1974)).

[15] Proposed rule 237(b)(1)(iii).

[16] Proposed rule 237(b)(1)(iv).

[17] Proposed rule 237(b)(4). Activities with respect to an eligible security that constitute "directed selling efforts" for purposes of Regulation S under the Securities Act (17 CFR 230.901–.905) generally would be considered to "condition" the U.S. market for purposes of proposed rule 237. *See* 17 CFR 230.902(c); Offshore Offers and Sales, Securities Act Release No. 6863 (Apr. 24, 1990) (55 FR 18306 (May 2, 1990)), at nn.47–72 and accompanying text.

[18] Proposed rule 237(b)(4).

[19] *See supra* note 36 and accompanying text.

[40] Proposed rule 237(b)(2)

[41] For example, the rule could provide that securities offered and sold in reliance on the exemption may not be eligible for resale other than in accordance with the requirements of Regulation S under the Securities Act, which generally excludes from Securities Act registration offers and sales of securities that occur in offshore transactions and do not involve U.S. marketing activities. A Canadian/U.S. Participant who desires to sell eligible securities thus might be required either to sell the securities in the Canadian or other foreign markets or, with respect to securities of a Canadian mutual fund, to tender the securities to the fund for redemption.

[42] Proposed rule 237(b)(5). The rule would define "Canadian law" to include the federal laws of Canada, the laws of any province or territory of Canada, and the rules of any Canadian federal or provincial regulator or self-regulatory authority, depending upon the applicability of each. Proposed rule 237(a)(1).

[43] Proposed rule 237(b)(5).

[44] For example, persons relying on the rule could be required to provide the Commission with the types of information, documents, testimony, and assistance described in rule 15a-6(a)(3)(i)(B) under the Exchange Act [17 CFR 240.15a-6(a)(3)(i)(B)], with respect to offers and sales of securities made in reliance on the rule.

[45] For example, rule 237 could require issuers, underwriters and other persons that rely on the rule to file a form similar to Form F–X under the Securities Act [17 CFR 239.42] identifying a U.S. agent for service of process. Designating an agent for service of process also might facilitate the ability of Canadian/U.S. Participants to pursue antifraud remedies in the United States.

[46] *See generally supra* notes 20–23 and accompanying text.

[47] *See supra* Part II.A (discussion of the scope and conditions of proposed rule 237). The one substantive difference is that proposed rule 7d-2 would require written offering materials for eligible securities to disclose prominently not only that the securities are not registered with the Commission, but also that the foreign fund that issued those securities is not registered with the Commission. Proposed rule 7d–2(b)(2).

[48] *See supra* Part II.A.

C. Proposed Amendments to Exchange Act Rule 12g3–2

Section 12(g)(1) of the Exchange Act provides that an issuer whose securities are traded by any means of interstate commerce must register its equity securities with the Commission under the Exchange Act if it has more than 500 shareholders and total assets over $1 million.[49] The Exchange Act authorizes the Commission to exempt securities of foreign issuers from this registration requirement.[50] Under this authority, the Commission has adopted rule 12g3–2(a), which exempts securities of a foreign private issuer from the registration requirement if fewer than 300 shareholders reside in the United States.[51] Rule 12g3–2(b) exempts securities of a foreign private issuer that has 300 or more shareholders resident in the United States if the issuer notifies the Commission that it is electing to be exempt under that rule, furnishes certain information to the Commission that it provides to shareholders in its home country, and meets certain other requirements.[52]

The registration requirements under the Exchange Act were designed to assure that U.S. investors would have available adequate information about publicly held issuers. In the case of Canadian retirement accounts, participants already have a source of information through the administrators of their retirement accounts. Thus, it appears that counting Canadian/U.S. Participants toward the 300 shareholder limit of rule 12g3–2(a) is not necessary with respect to Canadian/U.S. Participants.[53] The Commission therefore is proposing to amend rule 12g3–2 to provide that participants who hold shares of a foreign private issuer only through their Canadian retirement accounts should not be counted for purposes of determining whether the issuer has fewer than 300 shareholders who reside in the United States.[54]

D. General Request for Comments

The Commission requests comment on the proposed rules and rule amendments that are the subject of this Release, suggestions for additional provisions or changes to existing rules or forms, and comments on other matters that might have an effect on the proposals contained in this Release. The Commission also requests comment whether the proposals, if adopted, would promote efficiency, competition and capital formation. Comments will be considered by the Commission in satisfying its responsibilities under section 2(b) of the Securities Act and section 3(f) of the Exchange Act.[55] The Commission encourages commenters to provide data to support their views. For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,[56] the Commission also requests information regarding the potential impact of the proposals on the economy on an annual basis. Commenters are requested to provide empirical data to support their views.

III. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The proposals would provide substantial benefits to Canadian/U.S. Participants. Because most securities that are held in Canadian retirement accounts, and the Canadian funds that issue many of those securities, are not registered under the U.S. securities laws, those securities generally cannot be sold by issuers to persons in the United States without violating the registration requirements of the Securities Act and, in the case of securities of an unregistered fund, the Investment Company Act.[57] As a consequence, Canadian/U.S. Participants have not been able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs. Proposed rules 237 and 7d–2 would permit offers of a foreign issuer's securities to a Canadian/U.S. Participant and sales to his or her account, under certain conditions consistent with the protection of investors. The proposals thus would benefit these investors by making it possible for them to manage their Canadian retirement account investments.

Proposed rules 237 and 7d–2 also would benefit foreign issuers and other persons that offer securities of foreign issuers (including securities of foreign funds) to Canadian/U.S. Participants and sell those securities to Canadian retirement accounts. Absent the proposals, these persons likely would forego offering foreign securities to Canadian/U.S. Participants and selling foreign securities to their accounts, because securities that are not registered under the U.S. securities laws may not be publicly offered or sold in the United States. Under the proposed rules, these persons would be able to sell those securities to participants' Canadian retirement accounts, because the proposals would permit (i) foreign securities, including securities of foreign funds, to be offered to Canadian/U.S. Participants and sold to their accounts without being registered under the Securities Act and (ii) foreign funds to offer securities to Canadian/U.S. Participants and sell securities to their accounts without registering as investment companies under the Investment Company Act.

Foreign issuers and other persons may incur costs when relying on the proposed rules to offer or sell securities. The proposed rules require that any written offering materials delivered to a Canadian/U.S. Participant in reliance on the rules include a prominent statement that the securities are not registered with the Commission and, in the case of securities issued by a foreign fund, that the fund also is not registered with the Commission. To meet these requirements, the foreign issuer, underwriter or broker-dealer may redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. It appears that the associated costs likely would be minimal and are justified by the benefits of the relief provided by the proposed new rules. Comment is requested on the costs associated with these proposed disclosure requirements.

Proposed rules 237 and 7d–2 also could result in some U.S. issuers, including some U.S. funds, incurring costs in the form of lost new business from Canadian/U.S. Participants who, absent the proposals, might cash out their Canadian retirement accounts and invest those assets in securities that are registered in the United States. Based on

---

[49] 15 U.S.C. 78*l*(g)(1). Rule 12g–1 under the Act (17 CFR 240.12g–1) exempts an issuer from this section 12(g)(1) registration requirement if its total assets at fiscal year end do not exceed $10 million and, with respect to a foreign private issuer, the securities were not quoted in an automated inter-dealer quotation system.

[50] Section 12(g)(3) of the Exchange Act (15 U.S.C. 78*l*(g)(3)) provides that the Commission may exempt any security of a foreign issuer from this registration requirement if the Commission finds that an exemption is in the public interest and consistent with the protection of investors.

[51] Exchange Act rule 12g3–2(a) (17 CFR 240.12g3–2(a)).

[52] *See* Exchange Act rule 12g3–2(b) (17 CFR 240.12g3–2(b)).

[53] In fact, counting these shareholders toward the 300 shareholder limit may hinder foreign issuers or broker-dealers from selling foreign securities to Canadian/U.S. Participants' retirement accounts out of concern that the issuer might not have complied with the requirements of section 12(g).

[54] Proposed rule 12g3–2(a)(2).

[55] Section 2(b) of the Securities Act (15 U.S.C. 77b(b)) and section 3(f) of the Exchange Act (15 U.S.C. 78c(f)) require the Commission, when it engages in rulemaking and is required to consider whether an action is consistent with the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

[56] Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

[57] *See supra* notes 9–11.

inquiries that the Commission has received from Canadian/U.S. Participants, however, it appears that many currently do not choose this investment strategy because of the adverse tax consequences that likely would result from such action. It therefore appears that the proposals would not significantly affect the number of participants that may cash out their Canadian retirement accounts in order to invest their retirement assets in U.S.-registered securities. The proposed rules thus should not result in significant costs for U.S. issuers, including U.S. funds, in the form of lost new business. Because the proposed rules primarily will affect foreign issuers and other foreign persons, it appears that the proposals also would not cause any other costs or benefits for U.S. issuers. Comment is requested on these assumptions, and in particular whether the proposals would result in significant costs, in the form of lost new business or otherwise, for U.S. issuers.

The proposed amendments to rule 12g3–2(a) would provide that a foreign issuer need not count the Canadian/U.S. Participants who hold its securities only through their Canadian retirement accounts for purposes of determining whether the issuer has fewer than 300 shareholders resident in the United States and thus qualifies for the exemption from Exchange Act registration afforded by the rule. These proposed amendments would benefit any foreign issuer whose securities might not qualify for the rule 12g3–2(a) exemption from Exchange Act registration if it were required to count participants who hold its securities in Canadian retirement accounts for purposes of determining whether it has fewer than 300 U.S. shareholders. The proposed amendments also may benefit Canadian/U.S. Participants, because without the amendments foreign issuers and broker-dealers might be reluctant to sell foreign securities to participants' Canadian retirement accounts out of concern that those sales might make the foreign securities subject to registration under section 12(g). There would appear to be no significant costs to foreign issuers, domestic issuers, or investors associated with these proposed amendments.

The Commission requests comment on the potential costs and benefits of the proposals and any suggested alternatives to the proposals. Specific comment is requested on the potential costs or benefits of these proposals to U.S. issuers, including U.S. funds. Data is requested concerning these costs and benefits.

IV. Paperwork Reduction Act

Certain provisions of the proposed rules contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and the Commission has submitted the proposed rules to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d). The titles for the collections of information are: "Exemption for offers and sales to certain Canadian tax-deferred retirement savings accounts" and "Definition of 'public offering' as used in section 7(d) of the Act with respect to certain tax-deferred retirement savings accounts." An agency may not sponsor, conduct, or require response to an information collection unless a currently valid OMB control number is displayed.

Proposed rule 237 would permit securities of foreign issuers, including securities of foreign funds, to be offered to Canadian/U.S. Participants and sold to their accounts without being registered under the Securities Act. The rule would require written offering materials for securities offered or sold in reliance on the rule to disclose prominently that the securities are not registered with the Commission and may not be offered or sold in the United States unless registered or exempt from registration. Proposed rule 7d–2 under the Investment Company Act would permit foreign funds to offer securities to Canadian/U.S. Participants and sell securities to their accounts without registering as investment companies under the Investment Company Act. The rule would require written offering materials for securities offered or sold in reliance on the rule to make the same disclosure concerning those securities as required by proposed rule 237, and in addition to disclose prominently that the foreign fund that issued those securities is not registered with the Commission. The purpose of these disclosure requirements is to ensure that participants are aware that those securities are not subject to the protections afforded by registration under the U.S. securities laws.

The burden under either rule associated with adding this disclosure to written offering materials should be minimal and is non-recurring. The foreign issuer, underwriter or broker-dealer may redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement. The staff estimates the annual burden as a result of the disclosure requirements of proposed rules 7d–2 and 237 as follows.

A. Proposed Rule 7d–2

The staff understands that there are approximately 1,300 publicly offered Canadian funds that potentially may rely on proposed rule 7d–2 to offer securities to Canadian/U.S. Participants and sell securities to their accounts without registering under the Investment Company Act. The staff estimates that during the first year that proposed rule 7d–2 is in effect, approximately 910 (70 percent) of these Canadian funds are likely to rely on the rule. The staff further estimates that each of those 910 Canadian funds, on average, distributes 3 different written offering documents concerning those securities, for a total of 2,730 offering documents.[58]

The staff therefore estimates that during the first year that proposed rule 7d–2 is in effect, approximately 910 respondents[59] would be required to make 2,730 responses by adding the new disclosure statements to approximately 2,730 written offering documents. Thus, the staff estimates that the total annual burden associated with this disclosure requirement in the first year after rule 7d–2 becomes effective would be approximately 455 hours (2,730 offering documents × 10 minutes per document).

In each year following the first year that proposed rule 7d–2 is in effect, the staff estimates that approximately 65 (5 percent) additional Canadian funds may rely on the rule to offer securities to Canadian/U.S. Participants and sell securities to their accounts, and that each of those funds, on average, distributes 3 different written offering documents concerning those securities, for a total of 195 offering documents. The staff therefore estimates that in each year after the first year that proposed rule 7d–2 becomes effective,

[58] Because Canadian tax law effectively precludes non-Canadian funds from being held in a Canadian retirement account, it is unlikely that any funds from countries other than Canada will rely on proposed rule 7d–2 to sell their shares to the Canadian retirement accounts of Canadian/U.S. Participants.

[59] This estimate of respondents assumes that all respondents are Canadian funds that redraft existing offering documents to add the required disclosure. The number of respondents may be greater if foreign underwriters or broker-dealers draft a sticker or supplement to add the required disclosure to an existing offering document.

approximately 65 respondents[60] would make 195 responses by adding the new disclosure statement to approximately 195 written offering documents. The staff therefore estimates that after the first year, the annual burden associated with the rule 7d–2 proposed disclosure requirement would be approximately 32.5 hours (195 offering documents × 10 minutes per document).

B. Proposed Rule 237

Canadian issuers other than Canadian funds. The Commission understands that there are approximately 3,500 Canadian issuers other than funds that potentially may rely on proposed rule 237 to make an initial public offering of their securities to Canadian/U.S. Participants.[61] The staff estimates that in any given year approximately 35 (or 1 percent) of those issuers are likely to rely on proposed rule 237 to make a public offering of their securities to participants, and that each of those 35 issuers, on average, distributes 3 different written offering documents concerning those securities, for a total of 105 offering documents.

The staff therefore estimates that during each year that proposed rule 237 is in effect, approximately 35 respondents[62] would be required to make 105 responses by adding the new disclosure statements to approximately 105 written offering documents. Thus, the staff estimates that the total annual burden associated with the proposed rule 237 disclosure requirement would be approximately 17.5 hours (105 offering documents × 10 minutes per document).

Other foreign issuers. In addition, issuers from foreign countries other than Canada could rely on proposed rule 237 to offer securities to Canadian/U.S. Participants and sell securities to their accounts without becoming subject to the registration requirements of the Securities Act. Because Canadian law strictly limits the amount of foreign investments that may be held in a Canadian retirement account, however, the staff believes that the number of issuers from other countries that might rely on proposed rule 237, and that therefore would be required to comply with the proposed offering document disclosure requirements, would be negligible.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) Evaluate whether the proposed collections of information are necessary for the proper performance of the function of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the staff's estimate of the burden of the proposed collections of information; (iii) enhance the quality, utility and clarity of the information to be collected; and (iv) minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements of the proposed rules should direct them to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; and (ii) Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549–0609, with reference to File No. S7–10–99. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication; therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this Release.

V. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with 5 U.S.C. 603 regarding proposed rules 237 and 7d–2, and the proposed amendments to rule 12g3–2. The following summarizes the IRFA.

A. Reasons for the Proposed Action

In Canada, individuals can invest a portion of their earnings in tax-deferred Canadian retirement accounts, which operate in a manner similar to IRAs in the United States. Individuals who establish Canadian retirement accounts while living and working in Canada and who later move to the United States ("Canadian/U.S. Participants" or "participants"), however, have encountered difficulties managing their Canadian retirement account investments. Most securities and most funds that are "qualified investments" for Canadian retirement accounts are not registered under the U.S. securities laws. Issuers, therefore, cannot publicly offer and sell those securities in the United States without violating the registration requirements of the Securities Act and, in the case of securities of an unregistered fund, the Investment Company Act. As a result of these registration requirements of the U.S. securities laws, Canadian/U.S. Participants have not been able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

B. Objectives

To enable Canadian/U.S. Participants to manage the assets in their Canadian retirement accounts, the Commission is proposing two new rules that would provide relief from the U.S. registration requirements, under certain conditions, for offers of foreign securities to Canadian/U.S. Participants and sales to their accounts. Proposed rule 237 under the Securities Act would permit securities of foreign issuers, including securities of foreign funds, to be offered to Canadian/U.S. Participants and sold to their accounts without being registered under the Securities Act. Proposed rule 7d–2 under the Investment Company Act would permit foreign funds to offer securities to Canadian/U.S. Participants and sell securities to their accounts without registering as investment companies under the Investment Company Act.

The Commission also is proposing to amend rule 12g3–2 under the Exchange Act. Section 12(g)(1) of the Exchange Act provides that an issuer whose securities are traded by any means of interstate commerce must register its equity securities with the Commission under the Exchange Act if it has more than 500 shareholders and total assets over $1 million.[63] The Commission is authorized to exempt securities of foreign issuers from this registration requirement, and has adopted rule 12g3–2 to exempt (i) securities of a foreign private issuer if the issuer has fewer than 300 shareholders resident in

---

[60] *See supra* note 59.

[61] Canadian funds would rely on both proposed rule 7d–2 and proposed rule 237 to offer securities to participants and sell securities to their Canadian retirement accounts without violating the registration requirements of the Investment Company Act or the Securities Act. Proposed rule 237, however, would not require any disclosure in addition to that required by proposed rule 7d–2. Thus, the disclosure requirements of proposed rule 237 would not impose any burden on Canadian funds in addition to the burden imposed by the disclosure requirements of rule 7d–2. To avoid double-counting this burden, the staff has excluded Canadian funds from the estimate of the hourly burden associated with proposed rule 237.

[62] This estimate of respondents assumes that all respondents are foreign issuers that redraft existing offering documents to add the required disclosure. The number of respondents may be greater if foreign underwriters or broker-dealers draft a sticker or supplement to add the required disclosure to an existing offering document.

[63] Rule 12g–1 under the Act exempts an issuer from this section 12(g)(1) registration requirement if its total assets at fiscal year end do not exceed $10 million and, with respect to a foreign private issuer, the securities were not quoted in an automated inter-dealer quotation system.

the United States (rule 12g3–2(a)); and (ii) securities of a foreign private issuer with 300 or more shareholders resident in the United States if the issuer furnishes certain information to the Commission that it provides to shareholders in its home country, and meets certain other requirements (rule 12g3–2(b)).

The registration requirements under the Exchange Act were designed to assure that U.S. investors would have available adequate information about publicly held issuers. In the case of Canadian retirement accounts, however, Canadian/U.S. Participants already have a source of information through the administrators of their retirement accounts. Because it appears that counting Canadian/U.S. Participants toward the 300 shareholder limit of rule 12g3–2(a) would serve little purpose with respect to Canadian/U.S. Participants, the Commission is proposing to amend rule 12g3–2(a) to provide that participants who hold shares of a foreign private issuer only through their Canadian retirement accounts need not be counted for purposes of determining whether the foreign issuer has fewer than 300 shareholders resident in the United States.

C. Legal Basis

The Commission is proposing rule 237 pursuant to the authority set forth in sections 19(a) and 28 of the Securities Act (15 U.S.C. 77*s*(a); 77z–3) and is proposing rule 7d–2 pursuant to section 38(a) of the Investment Company Act (15 U.S.C. 37(a)). Rule 12g3–2 is proposed to be amended pursuant to the authority set forth in section 19(a) of the Securities Act and section 12(g)(3) of the Exchange Act (15 U.S.C. 78*l*(g)(3)).

D. Small Entities Subject to the Rules

Proposed rules 237 and 7d–2 primarily will affect foreign issuers and other persons that offer securities to participants and sell securities to their retirement accounts. Foreign businesses, however, are not small entities for purposes of the Regulatory Flexibility Act.[64] Therefore, these proposals are unlikely to have a significant economic impact on a substantial number of small entities.

It is possible, however, that some domestic issuers could be affected by proposed rules 237 and 7d–2, because they may lose potential new business from Canadian/U.S. Participants who, absent the proposals, might choose to cash out their Canadian retirement accounts and invest those assets in securities registered under the U.S. securities laws. Based on inquiries that the Commission has received from Canadian/U.S. Participants, however, it appears that many participants currently do not choose this investment strategy because of the adverse tax consequences that likely would result from such action. It is likely, therefore, that the proposals would not significantly affect the number of participants that may cash out their Canadian retirement accounts, and thus that the proposals should not have any significant affect on U.S. issuers, including U.S. funds, in the form of lost new business. Moreover, even if absent the proposals some Canadian/U.S. Participants would cash out their Canadian retirement accounts and invest those assets in domestic issuers, including domestic funds, we have no basis for predicting whether they would invest in domestic issuers that are small entities.[65] Therefore, it appears that these proposals are unlikely to have a significant economic impact on a substantial number of domestic issuers that are small entities.

The proposed amendments to rule 12g3–2 would affect only foreign private issuers whose securities might not qualify for the exemption from Exchange Act registration afforded by rule 12g3–2(a) if the issuers are required to count Canadian/U.S. Participants who hold their securities in Canadian retirement accounts for purposes of determining whether they have fewer than 300 U.S. shareholders. Because foreign businesses are not small entities for purposes of the Regulatory Flexibility Act, it appears that these proposed amendments will not have a significant economic impact on a substantial number of small entities.

E. Reporting, Recordkeeping, and Other Compliance Requirements

Proposed rules 237 and 7d–2 each would require written offering documents relating to securities that are offered and sold in reliance on the rule to disclose prominently that those securities are not registered with the Commission. These proposed rules, however, are only available for offers and sales of securities of foreign issuers. Because foreign businesses are not small entities for purposes of the Regulatory Flexibility Act, this compliance requirement would have no impact on small entities. Proposed rules 237 and 7d–2, and the proposed amendments to rule 12g3–2, do not involve any other reporting, recordkeeping, or compliance requirements. The Commission has not identified any overlapping or conflicting rules or forms.

F. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant economic impact on small entities. Virtually all of the entities that would be affected by proposed rules 237 and 7d–2, and the proposed amendments to rule 12g3–2, however, are foreign, and foreign businesses are not considered small entities for purposes of the Regulatory Flexibility Act. As noted above, it appears that the only potential impact that any of the proposals may have on U.S. issuers, including those that are small entities, is the potential loss of new business from Canadian/U.S. Participants as a result of proposed rules 237 and 7d–2. As explained above, it appears that any such impact would not be significant. Therefore, alternatives to the proposed rules, including (i) establishing different compliance or reporting standards that take into account the resources available to small entities; (ii) clarifying, consolidating or simplifying the compliance requirements for small entities; (iii) using performance rather than design standards; or (iv) exempting small entities from coverage of all or part of the rule, would not minimize any impact that the proposals may have on small entities.

The Commission encourages the submission of comments on matters discussed in the IRFA. Comment specifically is requested on the number of small entities that would be affected by the proposals and the impact of the proposals on small entities. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. These comments will be placed in the same public comment file as comments on the proposals. A copy of the IRFA may be obtained by contacting Cynthia Gurnee Pugh, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0506.

[64] *See* 13 CFR 121.105 (defining "business concern" for purposes of the Small Business Administration's definition of "small business").

[65] For purposes of the proposed rules, a domestic issuer (other than an investment company) that has total assets of $5 million or less and that is engaged or proposes to engage in small business financing is considered a small entity. 17 CFR 230.157. A domestic investment company that, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less is considered a small entity. 17 CFR 270.0–10.

VI. Statutory Authority

The Commission is proposing rule 237 pursuant to authority set forth in sections 19(a) and 28 of the Securities Act (15 U.S.C. 77s(a); 77z–3), rule 7d–2 pursuant to authority set forth in section 38(a) of the Investment Company Act (15 U.S.C. 37(a)), and the amendments to rule 12g3–2 pursuant to authority set forth in section 19(a) of the Securities Act and section 12(g)(3) of the Exchange Act (15 U.S.C. 78*l*(g)(3)).

List of Subjects

17 CFR Parts 230 and 270

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Proposed Rules

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.237 is added to read as follows:

§ 230.237 Exemption for offers and sales to certain Canadian tax-deferred retirement savings accounts.

(a) *Definitions.* As used in this section:

(1) *Canadian law* means the federal laws of Canada, the laws of any province or territory of Canada, and the rules or regulations of any federal, provincial, or territorial regulatory authority, or any self-regulatory authority, of Canada.

(2) *Canadian Retirement Account* means a trust or other arrangement, including, but not limited to, a "Registered Retirement Savings Plan" or "Registered Retirement Income Fund" administered under Canadian law, that is self-directed and:

(i) Operated exclusively to provide retirement benefits to a Participant; and

(ii) Established in Canada, administered under Canadian law, and qualified for tax-deferred treatment under Canadian law.

(3) *Eligible Security* means a security issued by a Qualified Company that:

(i) Is offered to a Participant, or sold to his or her Canadian Retirement Account, in reliance on this section; and

(ii) May also be purchased by Canadians other than Participants.

(4) *Foreign Government* means the government of any foreign country or of any political subdivision of a foreign country.

(5) *Foreign Issuer* means any issuer that is a Foreign Government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country, except an issuer meeting the following conditions:

(i) More than 50 percent of the outstanding voting securities of the issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and

(ii) Any of the following:

(A) The majority of the executive officers or directors are United States citizens or residents;

(B) More than 50 percent of the assets of the issuer are located in the United States; or

(C) The business of the issuer is administered principally in the United States.

(iii) For purposes of this definition, the term *resident*, as applied to security holders, means any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.

(6) *Participant* means a natural person who is a resident of the United States, or is temporarily present in the United States, and currently is entitled to receive the income and assets from a Canadian Retirement Account.

(7) *Qualified Company* means a Foreign Issuer whose securities are qualified for investment on a tax-deferred basis by a Canadian Retirement Account under Canadian law.

(8) *United States* means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.

(b) *Exemption.* The offer to a Participant, or the sale to his or her Canadian Retirement Account, of Eligible Securities by any person is exempt from section 5 of the Act (15 U.S.C. 77e) if the person:

(1) Limits its activities with respect to Participants and their Canadian Retirement Accounts to the following:

(i) Processing requests from a Participant (or his or her authorized agent) for the purchase, sale, exchange, or redemption of an Eligible Security, and effecting other routine transactions under Canadian law;

(ii) Paying dividends and distributions on securities of a Qualified Company held in a Canadian Retirement Account;

(iii) Delivering, upon request, written offering materials or other informational materials concerning an Eligible Security; and

(iv) Delivering updated written offering materials, shareholder reports, account statements, proxy statements, or other materials concerning securities of a Qualified Company held in a Canadian Retirement Account.

(2) Includes in any written offering materials delivered to a Participant, or to his or her Canadian Retirement Account, a prominent statement that the Eligible Security is not registered with the U.S. Securities and Exchange Commission and may not be offered or sold in the United States or to any person in the United States unless registered, or an exemption from registration is available.

(3) Has not directly or indirectly solicited the Participant concerning the Eligible Security, unless the person was an authorized agent of the Participant at the time of the solicitation.

(4) Has not directly or indirectly engaged in activities that are intended or could reasonably be expected to condition the market in the United States or to facilitate secondary market trading in the United States with respect to an Eligible Security.

(5) Has not asserted that Canadian or U.S. law, or the jurisdiction of the courts of Canada (or a province or territory of Canada) or of the United States, does not apply in a proceeding involving an Eligible Security.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

4. Section 240.12g3–2 is amended by revising paragraph (a) to read as follows:

§ 240.12g3–2 Exemptions for American depositary receipts and certain foreign securities.

(a) Securities of any class issued by any foreign private issuer shall be exempt from section 12(g) of the Act if the class has fewer than 300 holders resident in the United States. This exemption shall continue until the next

fiscal year end at which the issuer has a class of equity securities held by 300 or more persons resident in the United States. For the purpose of determining whether a security is exempt pursuant to this paragraph:

(1) Securities held of record by persons resident in the United States shall be determined as provided in § 240.12g5–1 except that securities held of record by a broker, dealer, bank or nominee for any of them for the accounts of customers resident in the United States shall be counted as held in the United States by the number of separate accounts for which the securities are held. The issuer may rely in good faith on information as to the number of such separate accounts supplied by all owners of the class of its securities which are brokers, dealers, or banks or a nominee for any of them.

(2) Persons in the United States who hold the security only through a Canadian Retirement Account (as that term is defined in rule 237(a)(2) under the Securities Act of 1933 (§ 230.237(a)(2) of this chapter)), may not be counted as holders resident in the United States.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. The general authority citation for part 270 continues to read in part as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, 80a–39 unless otherwise noted:

6. Section 270.7d–2 is added to read as follows:

§ 270.7d–2 Definition of "public offering" as used in section 7(d) of the Act with respect to certain Canadian tax-deferred retirement savings accounts.

(a) *Definitions.* As used in this section:

(1) *Canadian law* means the federal laws of Canada, the laws of any province or territory of Canada, and the rules or regulations of any federal, provincial, or territorial regulatory authority, or any self-regulatory authority, of Canada.

(2) *Canadian Retirement Account* means a trust or other arrangement, including, but not limited to, a "Registered Retirement Savings Plan" or "Registered Retirement Income Fund" administered under Canadian law, that is self-directed and:

(i) Operated exclusively to provide retirement benefits to a Participant; and

(ii) Established in Canada, administered under Canadian law, and qualified for tax-deferred treatment under Canadian law.

(3) *Eligible Security* means a security issued by a Qualified Company that:

(i) Is offered to a Participant, or sold to his or her Canadian Retirement Account, in reliance on this section; and

(ii) May also be purchased by Canadians other than Participants.

(4) *Foreign Government* means the government of any foreign country or of any political subdivision of a foreign country.

(5) *Foreign Issuer* means any issuer that is a Foreign Government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country, except an issuer meeting the following conditions:

(i) More than 50 percent of the outstanding voting securities of the issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and

(ii) Any of the following:

(A) The majority of the executive officers or directors are United States citizens or residents;

(B) More than 50 percent of the assets of the issuer are located in the United States; or

(C) The business of the issuer is administered principally in the United States.

(iii) For purposes of this definition, the term *resident*, as applied to security holders, means any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.

(6) *Participant* means a natural person who is a resident of the United States, or is temporarily present in the United States, and currently is entitled to receive the income and assets from a Canadian Retirement Account.

(7) *Qualified Company* means a Foreign Issuer whose securities are qualified for investment on a tax-deferred basis by a Canadian Retirement Account under Canadian law.

(8) *United States* means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.

(b) *Public Offering.* For purposes of section 7(d) of the Act (15 U.S.C. 80a–7(d)), the term "public offering" does not include the offer to a Participant, or the sale to his or her Canadian Retirement Account, of Eligible Securities issued by a Qualified Company, if the Qualified Company:

(1) Limits its activities with respect to Participants and their Canadian Retirement Accounts to the following:

(i) Processing requests from a Participant (or his or her authorized agent) for the purchase, sale, exchange, or redemption of an Eligible Security, and effecting other routine transactions under Canadian law;

(ii) Paying dividends and distributions on securities of a Qualified Company held in a Canadian Retirement Account;

(iii) Delivering, upon request, written offering materials or other informational materials concerning an Eligible Security; and

(iv) Delivering updated written offering materials, shareholder reports, account statements, proxy statements, or other materials concerning securities of a Qualified Company held in a Canadian Retirement Account.

(2) Includes in any written offering materials delivered to a Participant, or to his or her Canadian Retirement Account, a prominent statement that the Eligible Security, and the Qualified Company that issued the Eligible Security, are not registered with the U.S. Securities and Exchange Commission, and that the Eligible Security may not be offered or sold in the United States or to any person in the United States unless the security and the Qualified Company are registered, or exemptions from registration are available.

(3) Has not directly or indirectly solicited the Participant concerning the Eligible Security, unless the person was an authorized agent of the Participant at the time of the solicitation.

(4) Has not directly or indirectly engaged in activities that are intended or could reasonably be expected to condition the market in the United States or to facilitate secondary market trading in the United States with respect to an Eligible Security.

(5) Has not asserted that Canadian or U.S. law, or the jurisdiction of the courts of Canada (or a province or territory of Canada) or of the United States, does not apply in a proceeding involving an Eligible Security.

Dated: March 19, 1999.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7237 Filed 3–24–99; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–005–ROP; FRL–6315–6]

Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, Revision to the 15 Percent Rate of Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing minor changes to its 1998 15 percent rate of progress federal implementation plan (1998 FIP) for the metropolitan Phoenix (Arizona) ozone nonattainment area. The 1998 FIP contains a demonstration that the Phoenix metropolitan area has in place sufficient measures to meet the 15 percent rate of progress (ROP) requirement in the Clean Air Act. We are proposing changes to the control strategy for the 15 percent ROP demonstration. The proposed changes delete or add to the control strategy measures that have already been adopted in the Phoenix area; we are not proposing any new emission control regulations. This proposal does not alter our basic conclusion in the 1998 FIP that the Phoenix metropolitan area will meet the 15 percent ROP requirement as soon as practicable. We also discuss our policies on the contingency measures required by the Clean Air Act for the Phoenix ozone nonattainment area. Finally, we are proposing to revise the transportation conformity budget set in the 1998 FIP.

DATES: Comments on this proposal must be received in writing by April 26, 1999. Please address your written comments to the contact listed below. You may also request the opportunity to submit oral comments as allowed under Clean Air Act section 307(d)(5). EPA must receive your request for a public hearing by April 5, 1999. If we schedule a hearing, the record will remain open for 30 days after the hearing for submission of supplemental or rebuttal information only.

ADDRESSES: Written comments and requests for public hearing should be addressed to Frances Wicher at the EPA Region 9 address below.

EPA has placed copies of the draft technical support document (TSD) and other documents relied on for this proposal in a docket. You may inspect this docket during normal business hours at the following locations and may request copies of any document contained in the docket. A reasonable fee may be charged for any requested copies.

U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1248.

Arizona Department of Environmental Quality, Office of Outreach and Information, First Floor, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207–2217.

We have also posted copies of this proposal, the draft TSD, and EPA's 1998 plan and its TSD in the air programs section of EPA Region 9's website, www.epa.gov/region09/air.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1248, wicher.frances@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Purpose

What Is EPA Proposing in This Action?

EPA is proposing minor changes to its 1998 15 percent rate of progress federal implementation plan (1998 15 percent ROP FIP or 1998 FIP) for the metropolitan Phoenix (Arizona) ozone nonattainment area. We published the 1998 FIP in the **Federal Register** on May 27, 1998 at 63 FR 28898 (Reference 1). The 1998 FIP contains a demonstration that the Phoenix metropolitan area has in place or will have in place sufficient measures to meet the 15 percent rate of progress (ROP) requirement in section 182(b)(1) of the Clean Air Act (CAA) as soon as practicable. For the complete background to our 1998 FIP, please see section I.B. of the technical support document (TSD) for the 1998 FIP (Reference 2).

In this action, we are specifically proposing to change the control strategy (that is, the list of control measures) that makes up the 15 percent ROP demonstration for the Phoenix area by deleting the National Architectural Coatings Rule and adding Arizona's Clean Burning Gasoline (CBG) program. Neither of these proposed changes will affect our basic conclusion in the 1998 15 percent ROP FIP that the Phoenix metropolitan area has in place sufficient measures to meet the 15 percent rate of progress requirement in CAA section 182(b)(1) as soon as practicable. We are proposing these changes under our federal planning authority in CAA section 110(c).

Later in this preamble, we will also discuss in more detail our policies on the contingency measures required by CAA section 172(c)(9) for most ozone nonattainment area plans.

Finally, we will describe our proposed revisions to the transportation conformity budget set in the 1998 FIP.

Why Is EPA Proposing This Action?

In the 1998 15 percent ROP FIP, we included emission reductions from three proposed national consumer and commercial product rules in the ROP demonstration. Since the 1998 FIP was published, EPA has finalized these rules. The final rules varied from the proposals in ways that affected either the amount or timing of the emission reductions that we assumed for them in the 15 percent ROP demonstration. We stated in the 1998 FIP that if the final rules did not result in all the emission reductions we expected, we would take appropriate action to revise the plan. We are proposing the necessary revisions in this document.

We are also taking this action to comply with the voluntary remand that we requested and were granted from the Ninth Circuit Court of Appeals in order to address two issues raised in a petition to review the 1998 FIP. This petition, *Aspegren* v. *Browner*, No. 98–70824, asked the court to review two aspects of the 1998 FIP and then require us to take certain actions to revise the plan. The petitioners first asked the court to require EPA to evaluate the effects of the final federal rules on the Phoenix 15 percent ROP demonstration and to adopt any additional rules needed to assure that the 15 percent ROP is met. Second, the petitioners asked the court to require EPA to adopt and include in the FIP contingency measures consistent with CAA section 172(c)(9) and EPA guidance. See page 22 of the petitioners' brief in the case (Reference 3).

We have, therefore, reviewed the effect of the final federal rules on the 15 percent ROP demonstration in the 1998 FIP and are proposing changes to the control strategy. We are also responding to the petitioners' arguments regarding the Clean Air Act and our guidance requirements for contingency measures.

II. Background on the 15 Percent ROP FIP for Phoenix

What Is the CAA 15 Percent Rate of Progress Requirement?

Clean Air Act section 182(b)(1) requires each ozone nonattainment area with a classification of moderate or above to develop a plan to reduce volatile organic compounds (VOC) emissions (a contributor to ozone) in the area by 15 percent from 1990 levels. This plan is referred to as the 15 percent

rate of progress plan or the 15 percent ROP plan. The 15 percent ROP requirement applies only to areas that are not meeting the one-hour national ozone ambient air quality standard.

In 1991, we classified the Phoenix ozone nonattainment area as moderate and in 1997 reclassified the area to serious. Therefore the Phoenix area must meet the 15 percent ROP requirement.

For an area to show that it meets the 15 percent ROP requirement, it must show that future emissions in the area will be equal to or less than a target level of emissions that meets the 15 percent reduction. CAA section 182(b)(1) has detailed instructions and several restrictions for calculating the required target level.

We calculated the 15 percent ROP target for the Phoenix area in the 1998 FIP. This calculation is documented in sections II.B. and III.B. in the Technical Support Document (TSD) for the 1998 FIP (Reference 2). The target level for the Phoenix area is not affected by the changes we are proposing to the control strategy and remains the same as in the 1998 FIP.

The Clean Air Act requires ozone nonattainment areas to show the 15 percent ROP by November 15, 1996. Even though that date has passed, the Act's 15 percent ROP requirement still applies to the Phoenix area. However, because the date has passed, in order to show that the Phoenix area meets the 15 percent ROP requirement, we now have to show that the 15 percent ROP will be met "as soon as practicable." In summary, this means that we have to show the plan includes all available measures that could meaningfully advance when the 15 percent ROP is met in Phoenix. For a more detailed description of the "as soon as practicable" requirement for 15 percent ROP, please see page 3687 of the proposal for the 1998 FIP (Reference 4).

What Is in the 1998 15 Percent ROP FIP?

The 1998 FIP included our demonstration that the Phoenix area would have sufficient controls in place to meet the 15 percent rate of progress requirement for the Phoenix area by no later than April 1, 1999. The FIP also showed that April 1, 1999 is the earliest date by which the 15 percent reduction could be met considering the availability of practicable measures for the Phoenix area. See page 3689 in the proposal for the 1998 FIP (Reference 4).

In the demonstration, we relied on a set of promulgated and proposed federal measures as well as numerous State measures that we had previously approved. These measures and their expected emission reductions are identified in Table 5 of the proposed FIP, see page 3690 in the proposal for the 1998 FIP (Reference 4).

The proposed federal rules that we included in the 15 percent ROP demonstration are three rules that reduce emissions from certain consumer and commercial products: (1) architectural coatings (e.g., paints, stains, and finishes), (2) automobile refinish coatings, and (3) consumer products (e.g., household cleaning products, personal grooming products). At the time we issued the 1998 15 percent ROP FIP in May 1998, we had proposed these rules and were required by a court order to finalize them by mid-August 1998. We had been developing these rules for several years and had issued guidance memoranda allowing states to take a specified emission reduction credit for each measure in their 15 percent plans. For a further discussion of these measures and the credit allowed for them, see page 3691 in the proposal for the 1998 FIP (Reference 4).

The 1998 15 percent ROP FIP also included a "as soon as practicable" analysis which showed that the applicable implementation plan contains all VOC control measures that are practicable for the Phoenix area and that meaningfully accelerate the date by which the 15 percent level is achieved. For the 1998 FIP, we defined "to meaningfully accelerate the date by which the 15 percent is demonstrated" to mean to advance the demonstration date by three or more months. For a more detailed description of how we applied the "as soon as practicable" requirement in the 1998 15 percent ROP FIP, please see page 3691 in the proposal for the 1998 FIP (Reference 4).

III. Proposed Changes to the 1998 15 Percent ROP FIP

How Did the Changes to the Final National Rules Affect the Emission Reductions Included in the 1998 FIP?

In the FIP, EPA estimated that the proposed national rules would reduce emissions in the Phoenix area by 4.5 metric tons per day (mtpd) by April 1, 1999.

The final rules were published in the **Federal Register** on September 11, 1998. We made changes to the final rules in response to public comments that we received on the proposals. Most of the changes had no effect on the expected emission reductions from the rules. A few changes, however, did reduce slightly the emission reductions expected from the autobody coatings rule and delayed all or some of the emission reductions from the other two rules beyond April 1, 1999. See section II.B. in the draft TSD for this proposal (Reference 5).

Table 1 presents the effects of these rule changes on the anticipated emission reductions in the 1998 15 percent ROP FIP. In total, the rule changes reduce emission reductions creditable by April 1, 1999 from the national rules by 1.3 mtpd. For the detailed analysis of these changes, see section II.B. in draft TSD for this proposal (Reference 5).

TABLE 1.—SUMMARY OF CHANGES TO EMISSION REDUCTIONS FROM NATIONAL RULES FOR APRIL 1, 1999

[Metric Tons per Day]

Rule	Change	Reductions assumed in 1998 FIP	Reductions from rules	Net loss in emission reductions
Architectural Coatings (most limits effective 9/11/99).	Delay in effective date to 9/11/99	0.6	0	−0.6
Automobile Refinish Coatings (most limits effective 1/11/99).	Reduction in effectiveness from 37% to 33%	1.4	1.2	−0.2
Consumer Products (most limits effective 12/10/98).	Delay in effective date for pesticides until 12/10/99.	2.5	2	−0.5
Total		4.5	3.2	−1.3

What Effect Do These Changes in Emission Reductions Have on the 15 Percent ROP Demonstration in the 1998 FIP?

Because the federal measures are slightly less effective than we originally assumed, total emissions in the Phoenix area will be 1.3 mtpd higher than we expected in the 1998 FIP. We originally projected that the Phoenix area would meet the 15 percent ROP target emissions level on April 1, 1999 with 0.3 mtpd to spare. Increasing total emissions in the area by 1.3 mtpd will mean that instead of demonstrating the 15 percent ROP on April 1, 1999 with a small cushion of excess emission reductions, the area will be 1.0 mtpd short of its 15 percent ROP target level on that date.

How Is EPA Proposing To Revise the 1998 FIP To Account for the Changes to the National Rules?

We are proposing to revise the control strategy in the 1998 FIP to assure that the 15 percent ROP continues to be demonstrated as soon as practicable in the Phoenix area. We are proposing to revise the control strategy by deleting the National Architectural Coatings Rule and adding, in its place, Arizona's Clean Burning Gasoline (CBG) program.

We are proposing to delete the National Architectural Coatings Rule because emissions from this rule will no longer be relied on in the Phoenix 15 percent ROP demonstration. Emissions reductions from this rule will not occur until September 11, 1999, well after the date the 15 percent ROP will be met in the Phoenix area. We are proposing to add Arizona's CBG rule to the control strategy to make up the emission reductions lost or delayed from the national rules.

Table 2 lists the measures in the proposed revised control strategy.

TABLE 2.—PROPOSED REVISED CONTROL STRATEGY FOR THE 1998 15 PERCENT PLAN ROP FIP FOR THE METROPOLITAN PHOENIX OZONE NONATTAINMENT AREA

Category	Approval status	Adjusted 1996 reduction (mtVOC/d)
Arizona Vehicle Emissions Inspection Program	Approved 60 FR 22518 (May 8, 1995)	3.3
Arizona Summertime Gasoline Volatility Limitation (7.00 psi RVP) (on-road and nonroad).	Approved 62 FR 31734 (June 11, 1997)	13
Federal RFG—Phase I (on-road and nonroad)	Approved June 3, 1997 (62 FR 30260)	5
National Phase I Non-Road Engines Standards	Promulgated July 3, 1995 (60 FR 34582)	9.1
MCESD Rules 331, 336, 337, 342, 346, and 351	Approval signed 1/20/97	11.3
Stage II vapor recovery	Approved 11/1/94 (59 FR 54521)	9.8
MCESD Rule 335 Architectural coatings	Approved 1/6/92 (57 FR 354)	2.9
Autobody refinishing (national rule)	Promulgated September 11, 1998 (63 FR 48806).	1.2
Consumer products (national rule)	Promulgated September 11, 1998 (63 FR 48819).	2
Additional Increment for CBG (partial credit)	Approved 2/10/98 (63 FR 6653)	2

On February 10, 1998, EPA approved into the Arizona state implementation plan, the State's Cleaner Burning Gasoline (CBG) program for the Phoenix nonattainment area. 63 FR 6653. The CBG program requires gasoline to be reformulated to reduce emissions of VOCs from automobiles. The program is being implemented in two stages. From June to September of 1998, gasoline sold in the Phoenix area had to meet standards similar to the federal phase I reformulated gasoline (RFG) program or California's Phase II RFG program. California Phase II RFG is generally considered to reduce emissions more in the Phoenix area than federal RFG. Starting May 1, 1999, gasoline sold in the Phoenix area has to meet standards similar to EPA's *Phase II* RFG program or California's Phase II RFG program.

The switch from a fuel similar to federal phase I RFG to a fuel similar to federal phase II RFG will result in additional emissions reductions of 2.0 mtpd from Phoenix on-road motor vehicles as of May 1, 1999. Please see, section III.A. and Appendix A of the draft TSD for this proposal (Reference 5) for the complete documentation of this emissions reduction.

How Does This Proposed Revision Affect When the 15 Percent ROP Will Be Demonstrated in the Phoenix Area?

We concluded in the 1998 FIP that the Phoenix metropolitan area has in place sufficient measures to meet the 15 percent rate of progress requirement as soon as practicable (ASAP) and that there were no other measures for the Phoenix area that could meaningfully advance the date by which the 15 percent ROP was demonstrated. We estimated the "as soon as practicable" demonstration date to be April 1, 1999. See page 3689 of the proposal for the 1998 FIP (Reference 4).

The second stage of the Arizona CBG program will not produce the additional 2.0 mtpd reduction until it begins on May 1, 1999. The 15 percent ROP target level on May 1, 1999 is 231.2 mtpd. Total Phoenix-area VOC emissions on May 1, 1999 before reductions from the CBG program are factored in will be 232.0 mtpd, 0.8 mtpd above the target level. When the 2-ton reduction from the CBG program is factored in, total emissions in the Phoenix area will be 230.0 mtpd, well below the 231.2 mtpd target level. See section III.A. in the draft TSD for this proposal (Reference 5). Therefore, our proposal to revise the 1998 FIP to replace the lost reductions from the federal rules with reductions from the CBG rule will cause the date on which the 15 percent ROP is demonstrated in the Phoenix area to move from April 1, 1999 to the CBG stage II start date of May 1, 1999.

Will the 15 Percent ROP Goal Still Be Achieved as Soon as Practicable?

Because the demonstration date is later, we must re-evaluate the basic conclusion in the 1998 FIP that sufficient creditable measures are in place in the Phoenix area to assure that the 15 percent ROP goal will be met as soon as practicable.

The revised demonstration date is less than 2 months away. This time period is so short that we can not complete this rulemaking prior to May 1, 1999 and still provide an adequate period for the public to comment and then for sources

to comply with any new rules. We are, therefore, proposing to conclude that the Phoenix metropolitan area has in place sufficient measures to meet the 15 percent rate of progress requirement as soon as practicable and that there were no other measures available for the Phoenix area that could meaningfully advance the date by which the 15 percent ROP is demonstrated.

IV. CAA Section 172(C)(9) Contingency Measures

What Are the Clean Air Act's Requirements for Contingency Measures?

Section 172(c)(9) of the Clean Air Act requires that states submit contingency measures for their ozone nonattainment areas that will be implemented if their nonattainment plans fail to meet a ROP goal or to attain the national ozone standard by the required attainment date. The Act also requires that a state be able to implement its selected contingency measures without taking any further actions. We have discussed the Act's requirements for the section 172(c)(9) contingency measures and their role in nonattainment plans in more detail in section IV of the draft TSD for this proposal (Reference 5).

Other sections of the Act require contingency measures for other specific potential failures such as a failure of a serious or above ozone nonattainment area to meet a ROP goal (see section 182(c)(9)). We are not concerned here with these other requirements because they did not apply to the Phoenix area at the time its 15 percent ROP plan was due.

What Is EPA's Guidance for the Section 172(c)(9) Contingency Measures in Ozone Nonattainment Areas?

The Clean Air Act does not say how many contingency measures are required, what emission reductions they must achieve, or when a state must submit them. To fill this gap in the Act, we addressed these issues in our guidance documents.

For ozone nonattainment areas, we established guidelines that contingency measures should presumptively provide a VOC emission reduction of 3 percent of 1990 levels. We reason that the contingency measures should ensure an appropriate rate of progress in reducing emissions while a state revised its nonattainment plan following a failure to meet a ROP goal or to attain. We consider 3 percent an appropriate reduction because it is the annual rate of progress required by the Act after 1996. See pages 13510–13511 of our General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (the General Preamble) (Reference 6).

We also set the submittal date for the contingency measures as not later than November 15, 1993. We used our general authority in CAA section 172(b) to set this date. Section 172(b) allows us to establish submittal dates where the Act does not provide a specific date; however, the section limits how long we can give a state to submit a required element of a nonattainment plan. This limit in section 172(b) meant that we could have set a date earlier than, but not any later than November 15, 1993 for submittal of the section 172(c)(9) contingency measures. We decided that November 15, 1993 was the appropriate submittal date for the section 172(c)(9) contingency measures "since States must demonstrate attainment of the 15 percent milestone at this time." See page 13511 of the General Preamble (Reference 6).

Are the 172(c)(9) Contingency Measures a Required Part of 15 Percent ROP Plans?

The commenter on the 1998 FIP proposal read the Clean Air Act and EPA guidance to require contingency measures as a necessary part of a complete 15 percent ROP plan submittal. The commenter also stated his position that we could not act on a 15 percent ROP plan without concurrently acting on contingency measures. The commenter provided no discussion or references in support of his position. See comment letter from the Arizona Center for Law in the Public Interest (ACLPI) (Reference 7).

The *Aspegren* petitioners, in seeking review of our 1998 FIP, also relied on this reading to request the court to order us to include contingency measures in the 1998 15 percent ROP FIP. The petitioners, however, provided an extended argument for their position. The commenter's and petitioners' reading of the Act and our guidance is incorrect.

The Clean Air Act requires states to submit *nonattainment plans* that consist of numerous individual items that work together to provide progress toward and attainment of an air quality standard in a nonattainment area. While the various plan items may (and occasionally need to) refer to and/or depend on each other, each has its own unique Clean Air Act mandate and approval criteria and, therefore, each is a separate and distinct element of a nonattainment plan.

One of these individual plan items is contingency measures; another is a 15 percent ROP demonstration. The Act does not require that each individual element of a nonattainment plan, such as the 15 percent ROP demonstration, contain contingency measures. The Act's structure also allows us to approve or disapprove contingency measures independently from our actions on the 15 percent ROP plan.

Our guidance also does not treat the section 172(c)(9) contingency measures as a necessary part of a complete and approvable 15 percent ROP plan. As we discussed above, we could have set a due date for the contingency measures that was earlier than the one set in the CAA for the 15 percent ROP plans. The fact that we elected to require contingency measures to be submitted on the same date the CAA required submittal of the 15 percent ROP plans does not mean that one of these items is a subpart of the other.

The *Aspegren* petitioners point to two EPA guidance documents to support their reading. The first of these guidance documents is the General Preamble (Reference 6) which gives our preliminary interpretation of the Clean Air Act's requirements for nonattainment areas. The second is *Guidance for Growth Factors, Projections, and Control Strategies for the 15 Percent Rate of Progress Plans* (Reference 8) which provides detailed technical guidance on preparing 15 percent ROP demonstrations and certain other Clean Air Act requirements.

The petitioners list a total of four statements in these two guidance document which they interpret to require contingency measures in 15 percent ROP plans. Two of these statements simply give our rationale for selecting the November 15, 1993 submittal date for the contingency measures. We discussed this rationale above.

The other two statements use the term "15 percent rate-of-progress plans" as a compact reference to all the multiple submittals due at the same time as the 15 percent ROP plans. Along with the 15 percent ROP plan submittal and the section 172(c)(9) contingency measures submittal, states were also required to submit their attainment demonstrations for moderate ozone areas, and the section 182(c)(9) contingency measures for serious and above ozone nonattainment areas on November 15, 1993.

EPA has issued numerous guidance documents in addition to the ones cited by the petitioners that address the 15 percent ROP plans and the other submittals that were also due November 15, 1993. None of these documents states or even implies that the contingency measures are part of 15 percent ROP plans. Please see the draft

TSD for this action (Reference 5) for a complete discussion of the statements cited by the *Aspegren* petitioners, our other guidance documents, and other documents cited by the petitioners. See also section IV of the draft TSD for this proposal (Reference 5).

While the petitioners may dispute this interpretation of our guidance documents, we believe as the Agency that wrote the documents, we are best able to interpret them. See, e.g., *Arkansas* v. *Oklahoma*, 503 U.S. 91, 110, 112 (1992) and *Thomas Jefferson Univ.* v. *Shalala*, 512 U.S. 504, 512 (1994). We have consistently treated the section 172(c)(9) contingency measures as separate from the 15 percent ROP plan not only in our numerous guidance documents but also in our application of this guidance to rulemakings approving individual 15 percent plans across the country. In these rulemakings, we have consistently evaluated the approvability of the 15 percent plans without regard to the presence, absence, or approvability of contingency measures. Some of these rulemakings are listed in Appendix B to the draft TSD for this proposal (Reference 5).

V. Proposed Transportation Conformity Budget

What Are Transportation Conformity and a Transportation Conformity Budget?

Section 176(c) of the Clean Air Act requires that federally funded or approved transportation actions in nonattainment areas "conform" to, that is support, the area's air quality plans. Conformity ensures that federal transportation actions do not worsen an area's air quality or interfere with its meeting the air quality standards.

One of the primary tests for conformity is to show that transportation plans and improvement programs will not cause motor vehicle emissions higher than the levels needed to make progress toward and to meet the air quality standards. These motor vehicle emissions levels are set in the area's air quality plans and are known as the "transportation conformity budget."

What Transportation Conformity Budget Is EPA Proposing?

We are proposing to establish a transportation conformity budget of 87.1 metric tons of VOC per average summer day. This proposed budget has been calculated as described in section V of the draft TSD for this proposal (Reference 5). It reflects all on-road mobile source control measures that will be in place by May 1, 1999: the implementation of Arizona's enhanced vehicle inspection program, the State's limitation on the volatility of gasoline sold in the Phoenix area, and Phase II of the State's Cleaner Burning Gasoline program.

This proposed budget will replace the 76.7 metric tons of VOC per average summer day budget set in the 1998 FIP. See page 28903 of the 1998 FIP (Reference 1).

Why Is the Proposed Budget Higher Than the Budget in the 1998 FIP?

We erred in calculating the budget in the 1998 FIP. We are proposing to correct that error here and to include the reductions from the State CBG program in the budget.

We calculated total on-road motor vehicle emissions in the 1998 FIP by multiplying the vehicle miles traveled in the Phoenix area in 1996 by motor vehicle emission factors for 1999. This calculation followed our policies for demonstrating the 15 percent ROP after 1996 which require that the ROP demonstration be based on 1996 activity levels and the controls in the 15 percent ROP plan even if emission reductions from those controls did not happen until after 1996. We then used the resulting on-road motor vehicle emissions total as the emissions budget for transportation conformity.

This budget number, however, is the product of 1996 travel levels and 1999 control levels. The combination of travel levels from one year and control levels from another year does not happen in reality and therefore does not create real a emissions level against which the conformity of a transportation plan can be judged. To create a real emissions level for conformity that reflects the controls in the 15 percent ROP plan, the budget should be a product of travel and control levels for the same year. Because the Act requires the 15 percent ROP plan to address growth only through 1996, the appropriate year for calculating the conformity budget in 15 percent ROP plans is 1996. The proposed conformity budget is, therefore, a product of 1996 travel and 1996 control levels. These 1996 control levels however, account for all the on-road motor vehicle controls in the proposed revisions to the 15 percent ROP FIP. Please see section V of the draft TSD for this proposal (Reference 5) for the fuller discussion of the error and the correction.

Consultation Process

Our transportation conformity rules require that we consult with appropriate local, State and federal transportation agencies as well as local and state air pollution control agencies before setting a final transportation conformity budget. Therefore, between this proposal and our final action, we will be consulting with these agencies on this proposed transportation conformity budget and the methods and assumption we used to calculate it.

VI. Conclusion

Under our authority in CAA section 110(c) and for the reasons discussed above, EPA is proposing to determine that the Phoenix metropolitan area has in place sufficient control measures to meet the 15 percent rate of progress requirement in CAA section 182(b)(1)(A) as soon as practicable. This proposed determination is based on our analysis of the effect of the final federal measures (which were originally relied on in proposed form) on the 1998 15 percent ROP FIP and the proposed addition of Arizona's Cleaner Burning Gasoline Program and proposed deletion of the National Architectural Coatings Rule from the control strategy for the 15 percent ROP demonstration. It is also based on our reanalysis of the "as soon as practicable" demonstration in that previous FIP.

EPA is also proposing to revise the transportation conformity budget to 87.1 metric tons of VOC per average summer day.

VII. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735; October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order

12866 and is therefore not subject to OMB review.

B. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires EPA to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure of $100 million or more in any one year by state, local, and tribal governments, in aggregate, or by the private sector. Section 203 requires EPA to establish a plan for obtaining input from and informing any small governments that may be significantly or uniquely affected by the rule. Section 205 requires that regulatory alternatives be considered before promulgating a rule for which a budgetary impact statement is prepared. EPA must select the least costly, most cost-effective, or least burdensome alternative that achieves the rule's objectives, unless there is an explanation why this alternative is not selected or this alternative is inconsistent with law.

This proposed rule does not include a Federal mandate and will not result in any expenditures by State, local, and tribal governments or the private sector. Therefore, EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, EPA is not required to develop a plan with regard to small governments.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because it imply proposes a revision to a demonstration based on previously established requirements and contains no additional requirements applicable to small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This proposed rule contains no information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

E. Applicability of Executive Order 13045: Children's Health Protection

This rule is not subject to E.O. 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it is not economically significant under E.O. 12866 and it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

F. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." This proposal will not create a mandate on State, local or tribal governments. The rule will not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments or EPA consults with those governments. If EPA complied by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This proposal will neither create a mandate nor impose any enforceable duties on tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. The National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d), Public Law 104–113, requires federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. If use of such technical standards is inconsistent with applicable law or otherwise impractical, a federal agency or department may elect to use technical standards that are not developed or adopted by voluntary consensus standards bodies if the head of the agency or department transmits to the Office of Management and Budget an explanation of the reasons for using such standards.

This proposed rule does not include technical standards for exposure limits; therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Dated: March 19, 1999.

Carol M. Browner,

Administrator.

References

1. 63 FR 28898–28904 (May 27, 1998); *Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory*; Final rule.

2. Air Division, U.S. EPA, Region 9, "Final TSD for the Notice of Final Rulemaking on

the Clean Air Act Section 182(b)(1) 15 Percent Rate of Progress Requirement for the Phoenix Metropolitan Area," May 18, 1998.

3. Brief for the Petitioners, *Carolyn Aspegren and David Matusow* vs. *Carol Browner, Administrator, and U.S. EPA* (No. 98–70824), October 13, 1998.

4. 63 FR 3687–3693 (January 26, 1998); *Approval and Promulgation of Implementation Plans; Phoenix Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory;* Proposed rule.

5. Air Division, U.S. EPA, Region 9, "Draft Addendum to the Technical Support Document for the Notice of Final Rulemaking on the Clean Air Act Section 182(b)(1) 15 Percent Rate of Progress Requirement for the Phoenix Metropolitan Ozone Nonattainment Area," March 18, 1999.

6. 57 FR 13498 (April 16, 1992). *State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.* General Preamble for future proposed rulemakings.

7. Letter, David S. Baron, Assistant Director, ACLPI, to Frances Wicher, EPA Region 9, February 24, 1998.

8. *Guidance for Growth Factors, Projections, and Control Strategies for the 15 Percent Rate of Progress Plans,* Office of Air Quality Planning and Standards, U.S. EPA. EPA–452/R–93–002, March 1993.

[FR Doc. 99–7336 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT10–1–6700b; UT–001–0014b; UT–001–0015b; FRL–6314–9]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Forward and Definitions, Revision to Definition for Sole Source of Heat and Emissions Standards, Nonsubstantive Changes; General Requirements, Open Burning; and Forward and Definitions, Addition of Definition for PM_{10} Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is taking direct final action to approve State Implementation Plan (SIP) revisions submitted by the Governor of the State of Utah on July 11, 1994, for the purpose of establishing a modification to the definition for "Sole Source of Heat" in UACR R307–1–1, as well as to make a nonsubstantive change to UACR R307–1–4, Emissions Standards. On February 6, 1996, a SIP revision to UACR R307–1–2 was submitted by the Governor of Utah which contains changes to Utah's open burning requirements to require that the local county fire marshal has to establish 30-day open burning windows in order for open burning to occur. Other minor changes are made in this revision to UACR R307–1–2.4, "General Burning" and R307–1–2.5, "Confidentiality of Information." In addition, on July 9, 1998, SIP revisions were submitted that would add a definition for "PM_{10} Nonattainment Area" to UACR R307–1–1. In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as a noncontroversial SIP revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments must be received in writing on or before April 26, 1999.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah, 84114–4820.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 11, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 99–7425 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–207–0074b; FRL–6306–9]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision Santa Barbara County Air Pollution Control District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises various definitions in Santa Barbara Air Pollution Control District (SBCAPCD) Rule 102, Definitions and South Coast Air Quality Management District (SCAQMD) Rule 102, Definition of Terms.

The intended effect of proposing approval of this action is to incorporate changes to the definitions for clarity and consistency with revised federal and state definitions. EPA is proposing approval of this revision to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this administrative change as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 26, 1999.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules are available for public inspection at EPA's Region 9

office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, California 93117

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1189

SUPPLEMENTARY INFORMATION: This document concerns Santa Barbara County Air Pollution Control District Rule 102, Definitions, and South Coast Air Quality Management District Rule 102, Definition of Terms. These rules were submitted to EPA on March 10, 1998 by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Date Signed: February 23, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 99–7423 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[HCFA–1002–N]

Medicare Program; Meetings of the Negotiated Rulemaking Committee on Ambulance Fee Schedule

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meetings.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces the dates and location for the second meeting and the dates for the third and fourth meetings of the Negotiated Rulemaking Committee on the Ambulance Fee Schedule. These meetings are open to the public.

The purpose of this committee is to develop a proposed rule that establishes a fee schedule for the payment of ambulance services under the Medicare program through negotiated rulemaking, as mandated by section 4531(b) of the Balanced Budget Act (BBA) of 1997.

DATES: The second meeting is scheduled for April 12 and 13, 1999 from 9:00 a.m. until 5 p.m. and April 14, 1999 from 8:30 a.m. until 4 p.m. E.S.T.

Two further meetings are scheduled for May 24 and 25, 1999 and June 28 and 29, 1999.

ADDRESSES: The 3-day April meeting will be held at Doyle's Hotel, 1500 New Hampshire Avenue, N.W., Washington, D.C. 20036; (202) 483–6000.

FOR FURTHER INFORMATION CONTACT: Inquiries regarding these meetings should be addressed to Bob Niemann (410) 786–4569 or Margot Blige (410) 786–4642 for general issues related to ambulance services or to Lynn Sylvester (202) 606–9140 or Elayne Tempel (207) 780–3408, facilitators.

SUPPLEMENTARY INFORMATION: Section 4531(b)(2) of the Balanced Budget Act (BBA), Public Law 105–33, added a new section 1834(l) to the Social Security Act (the Act). Section 1834(l) of the Act mandates implementation, by January 1, 2000, of a national fee schedule for payment of ambulance services furnished under Medicare Part B. The fee schedule is to be established through negotiated rulemaking. Section 4531(b)(2) also provides that in establishing such fee schedule, the Secretary will—

- Establish mechanisms to control increases in expenditures for ambulance services under Part B of the program;
- Establish definitions for ambulance services that link payments to the type of services furnished;
- Consider appropriate regional and operational differences;
- Consider adjustments to payment rates to account for inflation and other relevant factors; and
- Phase in the fee schedule in an efficient and fair manner.

The Negotiated Rulemaking Committee on the Ambulance Fee Schedule has been established to provide advice and make recommendations to the Secretary with respect to the text and content of a proposed rule that establishes a fee schedule for the payment of ambulance services under Part B of the Medicare program.

The Committee held its first meeting on February 22, 23, and 24, 1999. At this meeting, the Committee discussed in detail how the negotiations will proceed, the schedule for subsequent meetings, and how the Committee will function. The Committee agreed to ground rules for Committee operations, determined how best to address the principal issues, and began to address those issues.

During the April meeting the committee will finalize descriptions of the issues to be negotiated, committee members will present a description of their interests, and a representative from HCFA's Actuarial and Health Cost Analysis Group will describe the methodology for determining the amount that would have been paid for ambulance services had the fee schedule not been implemented.

The announced future meetings are open to the public without advanced registration. Interested parties can file statements with the committee. Location of future meetings will be published in the **Federal Register** at a later date.

Public attendance at the meetings may be limited to space available. A summary of all proceedings will be available for public inspection in room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690–7890), or can be accessed through the HCFA Internet site at http://www.hcfa.gov/medicare/ambmain.htm. Additional information related to the Committee will also be available on the web site.

Authority: Section 1834(l)(1) of the Social Security Act (42 U.S.C. 1395m).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 19, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–7366 Filed 3–25–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3170, and 3180

[WO–310–1310–00–2I–IP]

RIN 1004–AC94

Onshore Oil and Gas Leasing and Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; notice of extension of public comment period and notice of public hearings.

SUMMARY: The
Management (
public comme
Proposed Rul
Register on D
66840). The p
BLM's oil and
operations reg
performance s
instances in li
prescriptive r
cite industry
them by refer
those standar
BLM's onshor
notices to less
into the regul
with existing
would increas
amounts and
BLM's curren
with a more f
process. Final
would elimin
procedures a
and streamlin
public reques
extends the c
from the origi
closing date
extended com
of June 4, 199
public hearin

DATES:

Comments.
BLM on or be
will consider
postmarked o
preparing the

Public hea
hearings on t
dates and tim
the **SUPPLEME**
under "Publi

ADDRESSES: P
to the Bureau
Administrati

California Hear
mino Del Ric
State Highwa
Montana Heari
fice, Sixth F
lings, Montar
Texas Hearing
Texas.
Colorado Hear
Office, Fourt
Lakewood, C
Utah Hearing,
Utah.
Washington, D
10 Thomas
ington, D.C..
Wyoming Hear
mission Build
New Mexico
Arrington, Fa

SUMMARY: The Bureau of Land Management (BLM) is extending the public comment period on a Notice of Proposed Rule, published in the **Federal Register** on December 3, 1998 (63 FR 66840). The proposed rule would revise BLM's oil and gas leasing and operations regulations. The rule uses performance standards in certain instances in lieu of the current prescriptive requirements. It would also cite industry standards and incorporate them by reference rather than repeat those standards in the rule itself. Also, BLM's onshore orders and national notices to lessees would be incorporated into the regulations to eliminate overlap with existing regulations. The rule would increase certain minimum bond amounts and would revise and replace BLM's current unitization regulations with a more flexible unit agreement process. Finally, the proposed rule would eliminate redundancies, clarify procedures and regulatory requirements, and streamline processes. In response to public requests for additional time, BLM extends the comment period 60 days from the original comment period closing date of April 5, 1999, to the extended comment period's closing date of June 4, 1999. BLM will also hold public hearings on the proposal.

DATES:

Comments. Send your comments to BLM on or before June 4, 1999. BLM will consider comments received or postmarked on or before this date in preparing the final rule.

Public hearings. BLM will hold public hearings on this proposed rule. The dates and times of the hearings are in the **SUPPLEMENTARY INFORMATION** section under "Public hearings."

ADDRESSES: Please send your comments to the Bureau of Land Management Administrative Record, Room 401 LS, 1849 C Street, NW., Washington, DC 20240, or hand deliver comments to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington D.C. For information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under "Electronic access and filing address."

Public hearings. The locations of the public hearings that BLM is holding on this proposed rule are in the **SUPPLEMENTARY INFORMATION** section under "Public hearings."

FOR FURTHER INFORMATION CONTACT: John Duletsky of BLM's Fluid Minerals Group at (202) 452–0337 or Ian J. Senio of BLM's Regulatory Affairs Group at (202) 452–5049. If you require a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service at 1–800–877–8339 between 8:00 a.m. and 4:00 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic access and filing address

You can view an electronic version of this proposed rule at BLM's Internet home page: www.blm.gov. You can also comment via the Internet at: WOComment@wo.blm.gov. Please include "Attention: AC94" and your name and return address in your Internet message. If you do not receive a confirmation from our system that we have received your Internet message, contact us directly at (202) 452–5030.

Written Comments

Written comments on the proposed rule should:

(A) Be specific;

(B) Be confined to issues pertinent to the proposed rule;

(C) Explain the reason for any recommended change; and

(D) Reference the specific section or paragraph of the proposal you are addressing.

BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (See **ADDRESSES**).

You can review comments, including names, street addresses, and other contact information of respondents at this address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays. BLM will also post all comments on its Internet home page (www.blm.gov) at the end of the comment period. If you are an individual respondent you may request confidentiality. If you request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will not consider anonymous comments. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

Public Hearings

The hearings will take the form of a question and answer workshop. BLM will hold the public hearings at the following locations on the dates and local times specified.

Location	Date and time	BLM contact
California Hearing, Doubletree Hotel, Buena Vista Room, 3100 Camino Del Rio Court, (at the intersection of U.S. Highway 99 and State Highway 58 in Bakersfield), Bakersfield, California.	April 7, 1999, 1:00 p.m	Leroy Mohorich (916) 978–4363.
Montana Hearing, Bureau of Land Management, Montana State Office, Sixth Floor Conference Room, 222 North 32nd Street, Billings, Montana.	April 7, 1999, 8:00 a.m.	Jim Albano (406) 255–2849.
Texas Hearing, Midland Center, Room 5, 105 North Main, Midland, Texas.	April 14, 1999 2:00 p.m	Rick Wymer (505) 438–7411
Colorado Hearing, Bureau of Land Management, Colorado State Office, Fourth Floor Conference Room, 2850 Youngfield Street, Lakewood, Colorado.	April 14, 1999 1:00 p.m	Sherri Thompson (303) 239–3758.
Utah Hearing, Western Park Center, 300 East, 200 South, Vernal, Utah.	April 14, 1999 1:00 p.m	Howard Cleavinger (435) 781–4480.
Washington, D.C. Hearing, Washington Plaza Hotel, State Suites, 10 Thomas Circle, NW (14th and Massachusetts Avenue) Washington, D.C..	April 20, 1999 1:00 p.m	Kermit Witherbee (202) 452–0335.
Wyoming Hearing, The Wyoming Oil and Gas, Conservation Commission Building, 777 West 1st Street, Casper, Wyoming.	April 20, 1999 1:00 p.m	Michael Madrid (307) 775–6201.
New Mexico Hearing, Civic Center, Exhibit Hall 3, 200 West Arrington, Farmington, New Mexico.	April 21, 1999 2:00 p.m	Rick Wymer (505) 438–7411.

Location	Date and time	BLM contact
Eastern States Hearing, Holiday Inn, Downtown/Riverfront Pavilion I, 102 Lake Street (exit Spring Street at I–20), Shreveport, Louisiana.	May 12, 1999 1:00 p.m	Dave Stewart (703) 440–1728.

The meeting sites are accessible to individuals with disabilities. If you have a disability and will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, you must notify one of the persons listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dated: March 22, 1999.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 99–7440 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5

RIN 0991–AB00

Revision of the Department of Health and Human Services Freedom of Information Act Regulations and Implementation of the Electronic Freedom of Information Act Amendments of 1996

AGENCY: Department of Health and Human Services.

ACTION: Proposed rule.

SUMMARY: This document sets forth proposed revisions to the Department's Freedom of Information regulations. The regulations have been streamlined and condensed, in accord with principles of the National Performance Review, and incorporated more "user-friendly" language wherever possible. These proposed revisions also contain new provisions implementing the Electronic Freedom of Information Act Amendments of 1996.

DATES: Submit comments on this proposed regulation on or before May 26, 1999.

ADDRESSES: Address all comments concerning this proposed rule to Rosario Cirrincione, Freedom of Information and Privacy Acts Division, Office of the Assistant Secretary for Public Affairs, U.S. Department Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201–0004.

FOR FURTHER INFORMATION CONTACT: Rosario Cirrincione (202) 690–7453.

SUPPLEMENTARY INFORMATION: These comprehensive revisions of 45 CFR part 5 incorporate changes to the language and structure of the regulations and add new provisions to implement the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231). The Department's current Freedom of Information Act regulations are no longer in compliance with the law in that they do not reflect the provisions of the 1996 Amendments. This revised regulation is intended to bring the Department into compliance and to inform the public as to how we will implement the law in the light of the Amendments.

New Provisions

A. The following new definitions are added to the regulation:

1. *Electronic mail* or *e-mail* means a communication of information electronically from one personal computer user to another.

2. *Expedited processing* means placing a request in a special queue for processing ahead of requests which had been received earlier. Within any special queue as well as within any regular queues we may also maintain, requests will continue to be processed on a "first in, first out" basis.

3. *Form* means the medium in which the record is physically incorporated (e.g., paper, floppy disk, CD–ROM, etc.).

4. *Format* means a particular manner of storing or presenting the information within a given medium, such as a particular computer software used to generate or reproduce the record.

5. *Reproduction* means duplicating an existing record for release, in whole or in part, to a requester under the Freedom of Information Act. As appropriate to the medium of release, records may be photocopied, microfilmed, or electronically copied onto tape or disc.

B. Response Times. The proposed regulation reflects the expanded time frame, from 10 working days to 20 working days, permitted for routine responses.

C. Expedited Processing. Expedited processing is provided in cases where the requester demonstrates that failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or, when the requester is a person primarily engaged in disseminating information, a showing is made that there exists an urgency to inform the public concerning an actual or alleged Federal Government activity. Other requests for expedited processing will be considered on a case by case basis. The decision to grant expedited processing rests with the FOI Officer, but may be appealed.

D. What Is Not A FOIA Request. The proposed regulation attempts to correct a common misunderstanding by clarifying that the Freedom of Information Act is not the proper mechanism to seek answers to specific questions of program policy, appeal adjudication of program or administrative decisions, or to provide input into HHS program decision making.

E. Electronic Records. The proposed regulation emphasizes that electronic records, including e-mail, are also subject to the Act, and that every reasonable effort will be made to provide records in the form and format requested.

F. Listing of FOIA Exemptions. Because they are a matter of law, not regulation, and are readily available elsewhere, the proposed regulation does not repeat the listing of FOIA exemptions contained in the previous regulation.

Similar revisions to the Freedom of Information Act Regulations of Executive Branch Agencies are occurring throughout the Government. Public hearings are not planned but public comment on the proposed rule is invited. Instructions as to where to mail public comments are included, above.

We have examined the impacts of this proposal under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 to 612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages). Under the

Regulatory Flexibility Act, unless an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the agency must analyze regulatory options that would minimize the impact of the rule on small entities. Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1532) requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an expenditure in any 1 year by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation).

HHS has reviewed this rule and has determined that it is consistent with the regulatory philosophy and principles identified in Executive Order 12866, and these two statutes. With respect to the Regulatory Flexibility Act, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the proposed rule does not impose any mandates on state, local, or tribal governments, or the private sector that will result in a 1-year expenditure of $100 million or more, HHS is not required to perform a cost-benefit analysis under the Unfunded Mandates Reform Act.

List of subjects in 45 CFR Part 5

Administrative practices and procedure, Freedom of information.

Dated: December 10, 1998.

Donna E. Shalala,

Secretary.

For the reasons set out in the preamble, the Secretary proposes to revise 45 CFR part 5 to read as follows:

PART 5—FREEDOM OF INFORMATION REGULATIONS

Subpart A—Basic Policy

Sec.

5.1 Purpose.
5.2 Policy.
5.3 Scope.
5.4 Relationship between the FOIA and the Privacy Act of 1974.
5.5 Definitions.

Subpart B—Obtaining a Record

5.21 How to request records.
5.22 Expedited processing.
5.23 Requests not handled under the FOIA.
5.24 Referral of request outside the Department.
5.25 Responding to your request.

Subpart C—Release and Denial of Records

5.31 Designation of authorized officials.
5.32 Release of records.
5.33 Denial of requests.
5.34 Appeal of Denials.
5.35 Time limits.

Subpart D—Fees

5.41 Fees to be charged—categories of requests.
5.42 Fees to be charged—general provisions.
5.43 Fee schedule.
5.44 Procedures for assessing and collecting fees.
5.45 Waiver or reduction of fees.

Subpart E—Records Available for Public Inspection

5.51 Records available.
5.52 Indices of records.

Subpart F—Predisclosure Notification for Certain Kinds of Commercial/Financial Records

5.61 General.

Authority: 5 U.S.C. 552, 18 U.S.C. 1905, 31 U.S.C. 9701, 42 U.S.C. 1306(c), E.O. 12600.

Subpart A—Basic Policy

§ 5.1 Purpose.

This part contains the rules that the Department of Health and Human Services (HHS) follows in handling requests for records under the Freedom of Information Act (FOIA). It describes how to make FOIA requests; who can release records and who can decide not to release them; how much time it should take to make a determination regarding release; what fees may be charged; what records are available for public inspection; why some records are not released; and your right to appeal and to then go to court if we still refuse to release records.

§ 5.2 Policy.

As a general policy, HHS follows a balanced approach in administering the FOIA. We recognize the right of the public to access records in the possession of the Department but also realize that some materials are nonetheless protected by the statute. In addition, we recognize the legitimate interests of persons or organizations who have submitted material to the Department or who would otherwise be affected by the release of records. For example, we have no discretion to release certain records, such as trade secrets and confidential commercial information, which we are prohibited by law from releasing. This policy calls for the fullest responsible disclosure consistent with those requirements of administrative necessity and confidentiality recognized in the Freedom of Information Act. In particular, the Department encourages a "pro-active" approach to making information available through press releases, public information programs, and to the greatest degree possible, electronically, through the large number of web sites sponsored and maintained by HHS components.

§ 5.3 Scope.

These rules apply to all components of the Department. Some units may establish additional rules because of unique program requirements, but such rules must be consistent with these rules and must have the concurrence of the Assistant Secretary for Public Affairs. Existing implementing rules remain in effect to the extent they are consistent with the new Departmental regulation. If additional rules are issued, they will be published in the **Federal Register**, and you will be able to get copies from our Freedom of Information Officers.

§ 5.4 Relationship between the FOIA and the Privacy Act of 1974.

(a) *Coverage.* The FOIA and this rule apply to all HHS records, including those covered by the Privacy Act. The Privacy Act, 5 U.S.C. 552a, applies only to records that are about individuals but only if those records are in a system of records. "Individuals" and "system of records" are defined in the Privacy Act and in our Privacy Act regulation, part 5b of this title.

(b) *Requesting your own records.* If you are an individual and request records, then to the degree that you are requesting your own records in a Privacy Act system of records, we will handle your request under the Privacy Act and part 5b of this title. If there is any record that we need not release to you under those provisions, we will also consider your request under the FOIA and this rule, and we will release the record to you if the FOIA requires it.

(c) *Requesting another individual's record.* Whether or not you are an individual, if you request records that are about an individual (other than yourself) and that are in a system of records, we will handle your request under the FOIA and this rule. (However, if our disclosure in response to your request would be permitted by the Privacy Act's disclosure provisions, 5 U.S.C. 552a(b), for reasons other than the requirements of the FOIA, and if we decide to make the disclosure, then we will not handle your request under the FOIA and this rule. For example, when we make routine use disclosures pursuant to requests, we do not handle them under the FOIA and this rule. *Routine use* is defined in the Privacy Act and in part 5b of this title.) If we handle your request under the FOIA and this rule and the FOIA does not require releasing the records to you; then the Privacy Act may prohibit the release and remove our discretion to release.

§ 5.5 Definitions.

As used in this part,

Agency means any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the Federal Government, or any independent regulatory agency. Thus HHS is an agency. A private organization is not an agency even if it is performing work under contract with the Government or is receiving Federal financial assistance. Grantee and contractor records are not subject to the FOIA unless they are in the possession of HHS or its agents, such as Medicare health insurance carriers and intermediaries.

Commercial use means, when referring to a request, that the request is from or on the behalf of someone who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or of a person on whose behalf the request is made. Whether a request is for a commercial use depends on the purpose of the request and the use to which the records will be put. The identity of the requester (e.g., individual, non-profit corporation, for profit corporation) or the nature of the records, while in some cases indicative of that purpose or use, is not necessarily determinative. When a request is from a representative of the news media, a purpose or use supporting the requester's new dissemination function is not considered a commercial use.

Department or *HHS* means the U.S. Department of Health and Human Services. It includes Medicare health insurance carriers and intermediaries to the extent they are performing functions under agreements entered into under sections 1816 and 1842 of the Social Security Act, 42 U.S.C. 1395h, 1395u.

Duplication means the process of making a copy of a record and sending it to the requester, to the extent necessary to respond to the request. Such copies include paper copy, microfilm, audio visual materials, and magnetic tape, cards, and discs.

Educational institution means a preschool, elementary, or secondary school, institution of undergraduate or graduate higher education, or institution of professional or vocation education, which operates a program of scholarly research.

Electronic mail or *e-mail* means a communication of information electronically from one personal computer user to another.

Expedited Processing means placing a request in a special queue for processing ahead of other requests which had been received earlier. Within any special queue as well as within any regular queues we may also maintain, requests will continue to be processed on a "first in/first out basis," except for requests expedited on the basis of an imminent threat to the life or safety of a specific person, which will always be placed at the head of the queue.

Form means the medium in which the record is physically maintained (e.g., paper, floppy diskette, CD–ROM, etc.)

Format means a particular manner of storing or presenting the information within a given medium, such as a particular computer software used to generate or reproduce the record.

Freedom of Information or *FOIA* means section 552 of Title 5, United States Code.

Freedom of Information Officer means any HHS official who has been delegated the authority to release or withhold records, and assess, waive, or reduce fees in response to FOIA requests.

Multitrack Processing means a system of separate processing queues into which requests are placed based on their complexity and scope. HHS components may establish such processing systems if, in their judgement, such an arrangement will enable them to provide better service to requesters.

Non-commercial scientific institution means an institution that is not operated substantially for purposes of furthering its own or someone else's business, trade, or profit interests, and that is operated for the purposes of conducting scientific research whose results are not intended to promote any particular product or industry.

Records means any handwritten, typed, printed or electronic documents (such as memoranda, letters, studies, tables, charts, drafts, transcripts, and minutes) and documentary material in other forms (such as magnetic tapes, cards or discs; paper tapes; audio or video recordings; maps; photographs; slides; microfilm; and motion pictures). It does not include objects or articles such as exhibits, models, office equipment, duplicating machines, computers or audiovisual processing materials. In particular, it does not include such objects or articles even to the extent that there is information inscribed or imprinted on them, or electronic instructions embedded in them. Nor does it include books, magazines, brochures, pamphlets, or other reference material in formally organized and officially designated HHS libraries, where such materials are available under the rules of the particular library.

Representative of the news media means a person actively gathering information for an entity organized and operated to publish or broadcast news to the public. News media entities include television and radio broadcasters, publishers of newspapers or periodicals who distribute or make their products available for purchase or subscription by the general public, and those who may disseminate information to the general public, by subscription, through electronic means. We will treat freelance journalists as representatives of a news media entity if they can show a likelihood of publication through such an entity. A publication contract is such a basis, and a requester's past publication record may provide such a basis.

Reproduction means duplicating an existing record for release, in whole or in part, to a requester under the Freedom of Information Act. As appropriate to the medium of release, records may be photocopied, microfilmed, or electronically copied onto tape or disc.

Request means asking for records, whether or not you specifically refer to the Freedom of Information Act. Requests from other Executive Branch agencies and Federal court orders for documents are not included within this definition. Judicial subpoenas from other than Federal courts are requests to the extent provided by part 2 of this title.

Review means, when used in connection with processing records for a commercial use request, examining records to determine what portions, if any, may be withheld, and any other processing that is necessary to prepare the records for release. It includes only the examining and processing that are done the first time we analyze whether a specific exemption applies to a particular record or portion of a record. It does not include examination done in the appeal stage with respect to an exemption that was applied at the initial response stage, nor does it include the process of researching or resolving general legal or policy issues regarding exemptions.

Search means looking for records or portions of records responsive to a request. It includes reading and interpreting a request, manually searching hard copy paper files, electronically searching automated files and data bases, and page-by-page and line-by-line examination to identify responsive portions of a document. It does not include, however, line-by-line examination where merely duplicating an entire page would be a less expensive

and quicker way to comply with a request.

Subpart B—Obtaining a Record

§ 5.21 How to request records.

(a) *General.* Our policy is to answer all requests as accurately and completely as possible from existing records. In order to accomplish this most efficiently and with a minimum of misunderstanding, we require all requests to be submitted in writing, by postal service, facsimile or messenger. All requests, no matter how submitted, must be signed by the person making the request and contain the postal address of the requester and the name of the person responsible for the payment of any fees that may be charged. A phone number where we can reach the requester to get clarification of the request or resolve other issues concerning the request, is strongly recommended. Providing the request in writing assures that all the rights provided by the FOIA and these regulations are protected (for example, the right to administratively appeal any denials we may make and the right to have our decisions reviewed in Federal court).

(b) *Addressing requests.* It will help us to handle your request sooner if you address it to the Freedom of Information Officer of the HHS component that is most likely to have the records you want. (See § 5.31 of this part for a list of HHS Freedom of Information Officers.) If you cannot determine who is most likely to have the records you seek, send the request to: HHS Freedom of Information Officer, Room 645–F, Hubert H. Humphrey Building, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201. Write the words "Freedom of Information Act Request" on the envelope and on the letter.

(c) *Details in the letter.* You should provide all the details you can that will help us identify and locate the records you want. A request submitted without details, such as one for "all records you have on (a particular subject)," is likely to require a great deal of search time and be very expensive, even if we find few or no records. If you are not sure how to write your request or what details to include, communicate with a Freedom of Information Officer.

§ 5.22 Expedited processing.

You may ask that your request be handled in an expedited fashion.

(a) *Reasons for expedited processing.* We will expedite the processing of your request if you demonstrate:

(1) That failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of a specific individual; or

(2) With respect to a request made by a person primarily engaged in disseminating information, that there exists an urgency to inform the public concerning actual or alleged Federal Government activity. (A routine publication deadline, of itself, shall not constitute urgency.)

(3) We will consider other reasons for expedited processing on a case-by-case basis. (One situation that may warrant expedited processing in some cases occurs where lack of such processing will deprive you of information for which you have a substantial need for purposes of litigation with a governmental agency. If you ask for expedited processing on this basis, you must show that you submitted the request as soon as possible after learning of the need for the records.)

(b) *Process for asking for expedited processing.* You must make your request for expedited processing in writing. You must include a complete explanation of the reasons that you believe justify expediting the processing of your request. You must certify in writing that the explanation is true and correct to the best of your knowledge and belief. Such a certification is required, but it does not, by itself, entitle you to expedited processing. You must address the request for expedited processing to the FOI Officer whose component has the records you want. (See § 5.31 of this part for a list of FOI Officers in HHS.) If the records are in more than one component of HHS, you must address your request for expedited processing to the HHS FOI Officer.

(c) *The decision.* The FOI Officer will decide whether to expedite the processing of your request for records. The decision will be made, and notice of the decision will be sent to you, within ten calendar days after the date of your request for expedited processing. The date of your request will be the date it is received in the FOI office of the component maintaining the records requested.

(d) *Granting the request.* Granting a request for expedited processing does not constitute a promise to meet any particular deadline that you may try to impose on us for responding to your request for records.

(e) *Denying the request.* If we deny your request for expedited processing, we will process your request for records with other non-expedited requests for records, on a first-in/first-out basis. You may appeal a decision to deny expedited processing. The denial letter will explain the appeal process and will identify the official authorized to decide an appeal of the decision. You must address the appeal to the official identified in the denial letter. We will make a decision on your appeal expeditiously and we will notify you promptly of that decision. If we deny your appeal, you may seek judicial review of that decision in the United States District Court in the district where you reside or have your principal place of business, in the district where the records are situated, or in the District of Columbia.

§ 5.23 Requests not handled under the FOIA.

(a) We will not handle your request under the FOIA and this regulation to the extent that it asks for records that are currently available, either from HHS or another part of the Federal Government, under a statute other than the FOIA that provides for charging fees for those records. For example, we will not handle your request under the FOIA and these regulations to the extent that it asks for records currently available from the Government Printing Office or the National Technical Information Service.

(b) We will not handle your request under the FOIA and this regulation to the extent that it asks for records that are distributed by an HHS program office as part of its regular program activity, for example, health education brochures distributed by the National Institutes of Health.

(c) We will not handle your request under the FOIA and this regulation to the extent that it asks for specific answers to questions regarding program policies of any component of HHS, seeks adjudication of decisions made in the administration of any our programs, or attempts to circumvent established procedures providing for input into our decision making processes. There are other mechanisms available to address each of these kinds of concerns.

§ 5.24 Referral of requests outside the Department.

If you request records that were created by, or provided to us by, another Federal agency, we may refer the records and your request (or the portion of your request which would be answered by those records) to that agency for response. We may likewise refer your request for classified records to the agency that classified them. In these cases, the other agency will process and respond to your request (or that portion of your request) under that agency's regulations. You will not need

to make a separate request to that agency. We will notify you when we refer your request to another agency.

§ 5.25 Responding to your request.

(a) *Retrieving records.* The Department is required to furnish copies of records only when they are in our possession or we can retrieve them from storage. If we have stored the records you want in the National Archives or another storage center, we will retrieve and review them for possible disclosure. However, the Federal Government destroys many old records, so sometimes, it is impossible to fill requests. Various laws, regulations, and manuals give the time periods for keeping records before they may be destroyed. You will find further information about the retention of records in the Records Disposal Act of 1944, 44 U.S.C. 3301 through 3314; the Federal Property Management Regulations, 41 CFR 101–11.4; the General Records Schedules of the National Archives and Records Administration; and in the HHS Handbook: Files Maintenance and Records Disposition.

(b) *Furnishing records.* As stated above, the Department is required to furnish copies only of those records we have or can retrieve. We need not ask or compel state governments or other entities to produce records not in our possession in order to respond to a FOIA request. Neither are we required to create records, perform research, or aggregate data from a variety of unrelated sources. We will, however, conduct electronic searches of electronic files and/or data bases when they are likely to contain the requested records, unless such a search would significantly interfere with the operation of the electronic information system. We will provide the records in the form or format you request, if the existing record is readily reproducible in that form or format. Requesters will be required to pay the actual costs of reproducing a record in a form or format in which it is not already maintained by the responding Departmental component, including the cost of programming to produce an electronic record. We will not, however, purchase special equipment or software for the sole purpose of satisfying a requester's desire for a specific form or format, nor will we ship records from one organizational or geographic component to another for the sole purpose of reproducing them in the form or format asked for by the requester. Regardless of the form or format in which the responsive records are provided, we will usually provide only one copy of the record to the requester.

Subpart C—Release and Denial of Records

§ 5.31 Designation of authorized officials.

(a) *Freedom of Information Officers.* To provide coordination and consistency throughout HHS in responding to FOIA requests, only Freedom of Information Officers have the authority to release or deny records, or waive or reduce FOIA fees.

(1) HHS Freedom of Information Officer. Only the HHS Freedom of Information Officer may determine whether to release or deny records, or waive or reduce FOIA fees, in any of the following situations:

(i) The records you seek include records addressed to, sent from, or created by an official or office of the Office of the Secretary, including its staff offices, or of any Regional Director's Office;

(ii) The records you seek include any records of the Administration for Children and Families, including its regional offices, or any organizational unit of HHS not specifically identified below;

(iii) The records you seek include records of more than one of the HHS components listed below and are not limited to the components listed in paragraph (a)(3)(iii), (v)–(vi), (viii)–(xi) of this section.

(2) PHS Freedom of Information Officer. If the records you seek are exclusively records of the Office of Public Health and Science, or of the Parklawn components of the Program Support Center, or if the records involve more than one of the components listed in paragraph (a)(3)(iii), (v)–(vi), (viii)–(xi) of this section, including records in the regional offices, only the PHS Freedom of Information Officer may determine whether to release or deny those records, or waive or reduce associated FOIA fees.

(3) Except as indicated above, each of the Operating Divisions of the Department has its own Freedom of Information Officer to process requests for records which are exclusively records of that Operating Division. Because organizational titles vary from component to component and may change as the result of organizational realignments, we will not use the specific organizational titles of officials who serve as the Operating Divisions' Freedom of Information Officers. Regardless of titles, Freedom of Information Officers are so designated by the Heads of their respective Operating Divisions and are frequently, but not necessarily, the primary Public Affairs officials or Chief Information Officers of those Operating Divisions. These officials may, with the concurrence of the Assistant Secretary for Public Affairs, delegate their authority to release or deny records, or reduce or deny FOIA fees. The persons to whom these authorities are delegated are also known as Freedom of Information Officers. The addresses and telephone numbers of Departmental Freedom of Information Officers are listed below.

(i) HHS Freedom of Information Officer, Room 645–F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Tel: (202) 690–7453.

(ii) PHS Freedom of Information Officer, Room 13–C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Tel: (301) 443–5252.

(iii) Freedom of Information Officer, Agency for Health Care Policy and Research, Executive Office Center, Suite 501, 2101 East Jefferson Street, Rockville, Maryland 20852. Tel: (301) 594–1364, ext. 1342.

(iv) Freedom of Information Officer, Administration on Aging, Room 4655, 330 Independence Avenue, SW., Washington, DC 20201. Tel: (202) 205–2814.

(v) Freedom of Information Officer, Centers for Disease Control and Prevention, and/or the Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Tel: (770) 639–7270.

(vi) Freedom of Information Officer, Food and Drug Administration, Room 12–A–16, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Tel: (301) 827–6500.

(vii) Freedom of Information Officer, Health Care Financing Administration, Room N2–20–16, North Building, 7500 Security Boulevard, Baltimore, Maryland 21244. Tel: (410) 786–5353.

(viii) Freedom of Information Officer, Health Resources and Services Administration, Room 1134, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Tel: (301) 443–2865.

(ix) Freedom of Information Officer, Indian Health Service, Suite 450, Twinbrook Metro Plaza, 12300 Twinbrook Parkway, Rockville, Maryland 20857. Tel: (301) 443–1116.

(x) Freedom of Information Officer, National Institutes of Health, Room 2B39, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892. Tel: (301) 496–5633.

(xi) Freedom of Information Officer, Substance Abuse and Mental Health Services Administration, Room 12–C–15, Parklawn Building, 5600 Fishers

Lane, Rockville, Maryland 20857. Tel: (301) 443–8956.

(b) [Reserved]

§ 5.32 Release of Records.

(a) *Records previously released.* If we have released a record, or part of a record, to others in the past, we will ordinarily release it to you also. We will not release it to you, however, if a statute forbids this disclosure to you, and we will not necessarily release it to you if an exemption applies in your situation and did not apply, or applied differently, in the previous situations. For example, a record about himself/herself, released to a requester, may contain personal information which would be removed if that record had to be released to another party.

(b) *Unauthorized disclosure.* The principle stated in paragraph (a) of this section, does not apply to any release of material which was unauthorized.

(c) *Poor copy.* If we cannot make a legible copy of a record to be released, we do not attempt to reconstruct it. Instead, we furnish the best copy possible and note the poor quality in our reply.

§ 5.33 Denial of Requests.

(a) *Information found but records denied in whole or in part.* All official denials are in writing and are signed by the person who made the decision to deny all or part of your request. The denial will include the following details, to the extent that we can do so without revealing information that is protected by the FOIA: an estimate of the volume of material that is being denied, a description of the withheld material in general terms, the reasons for the denial (including references to the specific exemption(s) of the FOIA authorizing the withholding or deletion), and an explanation of your right to appeal the decision (including the identity of the official to whom you should address any appeal). If we deny information by deleting it from a record and releasing the remaining portion of the record, we will indicate on the released portion the amount of the deleted material to the extent that we can do so without revealing information that is protected by the FOIA. We will indicate this at the place of the deletion if that is technically feasible.

(b) *Unproductive searches.* We will make a diligent search for records to satisfy your request. Nevertheless, we may not be able to find the records you want using the information you provided, or the records may not exist. If we advise you that we have been unable to find the records you seek despite a diligent search, although we do not consider this to be a denial of your request, we will also advise you of your right to appeal the adequacy of our search.

§ 5.34 Appeal of denials.

(a) *Right of appeal.* You have the right to appeal a partial or full denial of your FOIA request, our failure to find records responsive to your request or a denial of your request for expedited processing or a waiver of fees. To do so, you must put your appeal in writing and send it to the appeal official identified in the letter denying the records, or expedited processing, or a waiver of fees, or informing you that we could not find responsive records. You must send your appeal within 30 days from the date you receive that letter or from the date you received any records released as a partial grant of your request.

(b) *Letter of appeal.* The appeal letter should state the reason why you believe that the FOIA exemption(s) we cited does not apply to the records you requested, or give reasons why they should be released regardless of whether the exemption(s) applies. If you are appealing the adequacy of our search, you should explain why you believe the records actually do exist and where you believe they may be found.

(c) *Review process.* Before making a decision on any FOIA appeal, the designated reviewing official will consult with the Office of the General Counsel to ensure that the rights and interests of all parties affected by the appeal decision are protected. The concurrence of the Assistant Secretary for Public Affairs is also required on all appeal decisions. The response to an appeal made by the reviewing official constitutes the Department's final action on the request. If the reviewing official grants your appeal of a denial of records, in whole or in part, we will send the releasable documents to you promptly or else explain the reasons for any delay and inform you of the approximate date you can expect to receive copies of newly released materials. If the decision is to deny your appeal, the official will state the reasons for the decision in writing and inform you of the FOIA provision for judicial review.

§ 5.35 Time limits.

(a) *General.* The FOIA sets certain time limits for us to decide whether to disclose the records you requested, and to decide appeals. If we fail to meet these deadlines, you may proceed as if we had denied your request or appeal. We will try diligently to comply with the time limits, but if it appears that processing your request may take longer than we would wish, we may contact you to determine if a more focused request might satisfy your needs. If a narrower scope will not suffice, or still will not permit us to process your request within the basic time limits, we will inform you of the actual time we estimate that it will take to answer your request. Time limits begin when your request is initially received in the office of the FOIA Officer responsible for releasing or denying those records, or of the official responsible for deciding the appeal. FOIA and appeals offices acknowledge receipt of requests and appeals when they are received, so if you have not heard from us within a reasonable time (usually about two weeks), you should call or write to be sure that your request or appeal was not misaddressed or misrouted.

(b) *Time allowed.*

(1)We will decide whether to release the records within twenty (20) working days after your request reaches the appropriate FOIA office, as identified in § 5.31. When we decide to release records, we will provide the records or let you know when you can expect them, or will make arrangements with you to inspect them, as soon as possible after that decision.

(2)We will decide an appeal within twenty (20) working days after the appeal reaches the appropriate appeal official.

(c) *Extension of time limits.* FOIA Officers or review officials may extend the time limits in unusual circumstances. Extensions at the request stage and at the appeal stage may not exceed a total of 10 working days, except as provided by paragraph (d) of this section. We will notify you in writing of any extension. "Unusual circumstances" include situations when we must:

(1) Search for and collect records from field facilities, storage centers, or locations other than the office processing the request;

(2) Search for, collect, or examine a great many records in response to a single request;

(3) Consult with another office or agency that has a substantial interest in the determination of the request;

(4) Conduct negotiations with submitters and requesters of information to determine the nature and extent of non-disclosable proprietary materials.

(d) *Extensions longer than 10 days.* If unusual circumstances, as defined in paragraph (c) of this section, exist, and if we do not believe that we can process your request even within the extra ten-day period described in paragraph (c) of this section, we will notify you of that conclusion. We will also give you the

opportunity to narrow the scope of your request so that it can be processed in a shorter time, and/or to agree on a time frame longer than the extra ten working days for our processing of your request.

(e) *Aggregating requests.* If a group of requests by the same requester, or by a group of requesters acting together, involve related matters and appear to actually constitute a single request, we may aggregate them in order to determine whether unusual circumstances, as defined above, exist.

Subpart D—Fees

§ 5.41 Fees to be charged—categories of requests.

The paragraphs below state, for each category of request, the type of fees that we will generally charge. For each of these categories, however, the fees may be limited, waived, or reduced for the reasons given in §§ 5.42 through 5.45, or for other reasons.

(a) *Commercial use request.* If your request is for a commercial use, HHS will charge you the costs of search, review, and duplication.

(b) *Educational and scientific institutions and news media.* If you are an educational institution or non-commercial scientific institution, operated primarily for scholarly or scientific research, or a representative of the news media, and your request is not for a commercial use, HHS will charge you only for the duplication of records. Also, HHS will not charge you the copying costs for the first 100 pages of duplication or its equivalent, depending on the medium involved.

(c) *Other requesters.* If your request is not the kind described by paragraph (a) or (b) of this section, HHS will charge you only for the search and the duplication. Also, we will not charge you for the first two hours of search time, or for the copying costs of the first 100 pages of duplication or its equivalent.

§ 5.42 Fees to be charged—general provisions.

(a) We may charge you search fees even if the records we find are exempt from disclosure, or even if we do not find any records at all.

(b) If we are not charging you for the first two hours of search time, under § 5.41(c), and the search is done electronically (including doing computer programming), we will charge you search costs only to the extent that they exceed the equivalent of two hours salary for a search of paper records calculated as prescribed in § 5.43.

(c) If we are not charging you for the first 100 pages of duplication, under § 5.41 (b) or (c), then those 100 pages are the first 100 pages of photocopies of standard size pages, or if the record is provided in another form, the cost of duplication will be reduced by an amount equivalent to the cost of photocopying 100 standard size pages.

(d) We will not charge you any fee at all if the costs of billing and processing the fee are likely to equal or exceed the amount of the fee. These amounts vary significantly from component to component. For requests processed by the HHS Freedom of Information Office, this amount was $25 as of May 1998.

(e) If we determine that you (acting alone or in concert with others) are breaking down a single request into a series of requests in order to avoid (or reduce) the fees charged, we may aggregate all these requests for purpose of calculating the fees to be charged.

(f) We will charge interest on unpaid bills beginning on the 31st day following the day the bill was sent. We will use the provisions of part 30 of this title in assessing interest, administrative costs and penalties, and in taking actions to encourage payment.

§ 5.43 Fee schedule.

HHS charges the following fees:

(a) *Manual searching for or reviewing of records*—When the search or review is performed by employees at grade GS–1 through GS–8, an hourly rate based on the salary of a GS–5, step 7, employee; when done by a GS–9 through GS–14, an hourly rate based on the salary of a GS–12, step 4, employee; and when done by a GS–15 or above, an hourly rate based on the salary of a GS–15, step 7, employee. In each case, the hourly rate will be computed by taking the hourly rate for the specified grade and step, adding 16% of that rate to cover benefits, and rounding to the nearest whole dollar. As of November, 1998, these rates were $14, $29, and $52, respectively. When a search involves employees at more than one of these levels, we will charge the rate appropriate for each, multiplied by the amount of time that person was involved in the search.

(b) *Computer searching and printing*—If we need to use a computer for any purpose involving searching for or copying records, or providing them in a different form or format, we will charge the actual cost of operating the computer, and charge for the time spent by the operator and/or programmers at the rate given in paragraph (a) of this section.

(c) *Photocopying standard size pages*—$0.10 per page. FOIA Officers may charge less than $0.10 per page for particular documents where—

(1) The document has already been printed in large numbers;

(2) The program office determines that using existing stock to answer this request, and other anticipated FOIA requests, will not interfere with program requirements; and

(3) The FOIA Officer determines that the lower fee to be charged is adequate to recover the prorated share of the original printing costs.

(d) *Photocopying odd-size documents (such as blueprints), or reproducing other records, (such as duplicating tapes or disks)*—the actual cost of operating the machine, plus the actual cost of materials involved, plus charges for the time spent by the operator, at the rates given in paragraph (a) of this section.

(e) *Certifying that records are true copies.* This service is not required by the FOIA. If we agree to provide it, we will charge $10 per certification.

(f) *Sending records by express mail or other special methods.* This service is not required by the FOIA. If we agree to provide it, we will only send the records by a method which allows the requester to directly pay or be directly charged by the special method carrier.

(g) *Performing any other special service that you request and we agree to*—Actual costs of operating any machinery, plus actual cost of any materials involved, plus charges for the time of our employees, at the rates given in paragraph (a) of this section.

§ 5.44 Procedures for assessing and collecting fees.

(a) *Agreement to pay.* We generally assume that when you request records you are willing to pay the fees we charge for services associated with your request. You may specify a limit on the amount you are willing to spend. We will notify you if it appears that the fees will exceed that limit, and we will ask you whether you nevertheless want us to proceed with the processing of your request.

(b) *Advance payment.* If you have failed to pay previous bills in a timely fashion, or if our initial review indicates that we will be charging you fees exceeding $250, we will require you to pay your past due fees, including penalties, and/or the estimated fees, or a deposit, before we start searching for the records you want. If so, we will let you know promptly upon receiving your request. In such cases, the administrative time limits prescribed in § 5.35 of this part (i.e., 20 working days from receipt of initial requests and from receipt of appeals of initial denials, plus permissible extensions of these time limits) will begin only after we come to an agreement with you over payment of

fees, or decide that a fee waiver or reduction is appropriate.

(c) *Billing and payment.* Except as indicated in paragraph (b) of this section, we will begin processing your request upon receipt. However, we will normally require you to pay all fees before we furnish the records to you. We may, at our discretion, send you a bill along with or following the furnishing of the records. For example, we may do this if you have a history of prompt payment. We may also, at our discretion, aggregate the charges for certain time periods to avoid sending numerous small bills to frequent requesters, or to businesses or agents representing requesters. For example, we might send a bill to such a requester once a month. Fees should be paid in accordance with the instructions provided by the person who responds to your request.

§ 5.45 Waiver or reduction of fees.

(a) *Standard.*(1) We will waive or reduce the fees we would otherwise charge if disclosure of the information meets both the following tests:

(i) It is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(ii) It is not primarily in the commercial interest of the requester.

(2) These two tests are explained in paragraphs (b) and (c) of this section. The burden of proof of meeting these tests rests with the requester.

(b) *Public interest.* The disclosure passes the first test only if it furthers the specific public interest of being likely to contribute significantly to the public understanding of government operations or activities, regardless of any other public interest it may further. In analyzing this question, we will consider the following factors:

(1) How, if at all, do the records to be disclosed pertain to the operations or activities of the Federal Government?

(2) Would disclosure of the records reveal any meaningful information about government operations or activities? Can one learn from these records anything that is not already public knowledge? Are these or essentially equivalent records already available to the public through some other source or mechanism?

(3) Will disclosure advance the understanding of the general public as distinguished from a narrow segment of interested persons? This is a critical factor under which we may consider whether the requester is in a position to contribute to public understanding. For example, what is the requester's expertise in the subject area of the request? Is the requester's intended use of the information likely to disseminate the information among the public at large? Does the requester have the ability to affect such dissemination? An unsupported claim to be doing research for a book or article does not demonstrate that likelihood, while such a claim by a representative of the news media is better evidence.

(4) Will the contribution to public understanding be a significant one? Will the public's understanding of the government's operations be substantially greater as a result of the disclosure?

(c) *Not primarily in the requester's commercial interest.* If the disclosure passes the test of furthering the specific public interest described in paragraph (b) of this section, we will determine whether it also furthers the requester's commercial interest and, if so, whether the commercial interest outweighs the advancement of that specific public interest. In applying this second test, we will consider the following factors:

(1) Would the disclosure further a commercial interest of the requester or of someone on whose behalf the requester is acting? "Commercial interests" include interests relating to business, trade, or profit. Not only profit-making corporations have commercial interests—so do nonprofit corporations, individuals, unions, and other associations. The interest of a representative of the news media in using the information for news dissemination purposes will not be considered a commercial interest.

(2) If disclosure would further the commercial interest of the requester, would that effect outweigh the advancement of the public defined in paragraph (b) of this section? Which effect is primary?

(d) *Deciding between waiver and reduction.* If the disclosure passes both tests, we will normally waive fees. In some cases, however, we may decide only to reduce the fees. For example, we may do this when some, but not all of the requested records pass the tests.

(e) *Procedure for requesting a waiver or reduction.* You must make your request for a waiver or reduction at the same time you make your request for records. You should explain why you believe a waiver or reduction is proper under the analysis in paragraphs (a) through (d) of this section. Only FOIA Officers may make the decision whether to waive or reduce fees. If we do not completely grant your request for a waiver or reduction, the denial letter will designate a review official. You may appeal the denial to that official. In your appeal letter, you should discuss whatever reasons are given in our letter for denying your request. The process prescribed in § 5.34 of this part will apply to these appeals.

Subpart E—Records Available for Public Inspection

§ 5.51 Records available.

Records of general interest. We will make available the following records of general interest for your inspection and copying. Before releasing them, however, we may delete the names of individuals or any information that would identify these individuals if release would invade their personal privacy to a clearly unwarranted degree (see § 5.67 of this part). Records of these sorts created on or after November 1, 1996, will be made available through electronic means.

(a) Orders and final opinions, including concurring and dissenting opinions in adjudications, such as Letters of Finding issued by the Office of Civil Rights in civil rights complaints.

(b) Statements of policy and interpretations that we have adopted but have not published in the **Federal Register**.

(c) Administrative staff manuals and instructions to staff that affect the public (we will not make available, however, manuals or instructions that reveal unique investigative or audit procedures).

(d) Records that we have already released in response to a FOIA request, and that we believe are being or will be requested frequently by other requesters.

§ 5.52 Indices of records.

(a) *Inspection and copying.* We will maintain and provide for your inspection and copying current indices of the records described in § 5.51 (a) through (c). We will also publish and distribute copies of the indices unless we announce in the **Federal Register** that it is unnecessary or impractical to do so. For assistance in locating indices maintained by the Department, you may contact the HHS FOIA Officer at the address and phone number shown in § 5.31.

(b) *Major information and records locator systems.* HHS participates in the Government Information Locator Service (GILS) program which makes this information available through a variety of media.

(c) *Electronic listing.* On or, in some cases, before December 31, 1999, a full listing of records made available under § 5.51 of this section will be available electronically.

(d) *Record citation as precedent.* We will not cite any record described in

§ 5.51 (a) through (c) as a precedent for action against a person unless we have published the record or have made it available electronically or by other means, or unless the person has timely notice of the record.

Subpart F—Predisclosure Notification for Certain Kinds of Commercial/ Financial Records

§ 5.61 General.

(a) *Designation of commercial information as confidential.* A person who submits records to the government may designate part or all of the information in such records as information that the person claims is exempt from disclosure under exemption 4 of the FOIA. The person may make this designation either at the time the records are submitted to the government or within a reasonable time thereafter. The designation must be in writing. Where a legend is required by a request for proposals or request for quotations, pursuant to 48 CFR 352.215–12, then that legend is necessary for this purpose. Any such designation will expire ten years after the records were submitted to the government.

(b) *Predisclosure notification.* The procedures in this paragraph apply to records on which the submitter has designated information as provided in paragraph (a) of this section. They also apply to records that were submitted to the government where we have substantial reason to believe that the information in the records could reasonably be considered exempt under exemption 4 of the FOIA. Certain exceptions to these procedures are stated in paragraph (c) of this section.

(1) When we receive a request for such records, and we determine that we may be required to release them, we will make reasonable efforts to notify the submitter about these facts. The notice will include a copy of the request, and it will inform the submitter about the procedures and time limits for submission and consideration of objections to disclosure. If we must notify a large number of submitters, we may do this by posting or publishing a notice in a place where the submitters are reasonably likely to become aware of it, or by sending the notice to a person or persons who we reasonably expect will give appropriate notification to the submitters or who will act on their behalf.

(2) The submitter will have five working days from receipt of the notice to object to disclosure of any part of the records and to state all bases for the objections. At the discretion of the FOIA Officer, extensions of the time within which to respond may be granted, when requested by the submitter. These extensions shall not exceed an additional five working days.

(3) We will give consideration to all bases that have been timely stated by the submitter. If we decide to disclose the records, we will notify the submitter in writing. This notice will briefly explain why we did not sustain his/her objections. We will include with the notice a copy of the records about which the submitter objected, as we propose to disclose them. The notice will state that we intend to disclose the records five working days after the submitter receives the notice unless we are ordered by a United States District Court not to release them.

(4) When a requester files suit under the FOIA to obtain records covered by this subsection, we will promptly notify the submitter.

(5) Whenever we send a notice to a submitter under paragraph (b)(1) of this section, we will notify the requester that we are giving the submitter a notice and an opportunity to object. Whenever we send a notice to a submitter under paragraph (b)(3) of this section, we will notify the requester of this fact.

(c) *Exceptions to predisclosure notification.* The notice requirements in paragraph (b) of this section do not apply in the following situations:

(1) We decide not to disclose the records;

(2) The information has previously been published or made generally available;

(3) Disclosure is required by a regulation, issued after notice and opportunity for public comment, that specifies certain narrow categories of records that are to be disclosed upon request. However, a submitter may still designate such records as described in paragraph (a) of this section, and in exceptional cases, we may, at our discretion, follow the notice procedures in paragraph (b) of this section.

(4) The designation appears to be obviously frivolous. We will still, however, give the submitter the written notice as described in paragraph (b)(3) of this section (although this notice need not explain our decision or include a copy of the records), and we will notify the requester as described in paragraph (b)(5) of this section.

[FR Doc. 99–7222 Filed 3–25–99; 8:45 am]

BILLING CODE 4110–60–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 381

[Docket No. MARAD–99–5038]

RIN 2133–AB37

Regulations To Be Followed by All Departments and Agencies Having Responsibility To Provide a Preference for U.S.-Flag Vessels in the Shipment of Cargoes on Ocean Vessels

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Advance notice of proposed rulemaking; Extension of deadline for comments.

SUMMARY: On January 28, 1999, the Maritime Administration (MARAD) Advance Notice of Proposed Rulemaking (ANPRM) soliciting public comment concerning whether MARAD should amend its cargo preference regulations governing the carriage of agricultural exports was published in the **Federal Register** [64 FR 4382].

DATES: The deadline for submitting comments concerning this ANPRM is extended to April 28, 1999.

FOR FURTHER INFORMATION CONTACT: Thoms W. Harrelson, Director, Office of Cargo Preference 202–366–5515.

By order of the Maritime Administrator.

Dated: March 19, 1999.

Joel C. Richard,

Secretary.

[FR Doc. 99–7265 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF56

Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Alabama Sturgeon as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to list the Alabama sturgeon (*Scaphirhynchus suttkusi*) as endangered under the authority of the Endangered Species Act of 1973, as amended (Act). The Alabama sturgeon's historic range once included about 1,600 kilometers (km) (1,000 miles (mi)) of the Mobile River system

in Alabama (Black Warrior, Tombigbee, Alabama, Coosa, Tallapoosa, Mobile, Tensaw, and Cahaba rivers) and Mississippi (Tombigbee River). Since 1985, all confirmed captures have been from a short, free-flowing reach of the Alabama River below Miller's Ferry and Claiborne locks and dams in Clarke, Monroe, and Wilcox counties, Alabama. The historic decline of the Alabama sturgeon is attributed to over-fishing, loss and fragmentation of habitat as a result of navigation-related development, and water quality degradation. Current threats primarily result from its small population numbers and its inability to offset mortality rates with reproduction and recruitment. This proposed rule, if made final, would extend the Act's protection to the Alabama sturgeon.

DATES: Send your comments to reach us on or before May 26, 1999. We will not consider comments received after the above date in making our decision on the proposed rule. We must receive requests for public hearings by May 10, 1999.

ADDRESSES: Send comments and materials concerning this proposal to the Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address (telephone 601/965–4900, extension 25; facsimile 601/965–4340).

SUPPLEMENTARY INFORMATION:

Background

The Alabama sturgeon (*Scaphirhynchus suttkusi*) is a small, freshwater sturgeon that was historically found only in the Mobile River Basin of Alabama and Mississippi. This sturgeon is an elongate, slender fish growing to about 80 centimeters (cm) (30 inches (in)) in length. A mature fish weighs 1 to 2 kilograms (kg) (2 to 3 pounds (lb)). The head is broad and flattened shovel-like at the snout. The mouth is tubular and protrusive. There are four barbels (whisker-like appendages used to find prey) on the bottom of the snout, in front of the mouth. Bony plates cover the head, back, and sides. The body narrows abruptly to the rear, forming a narrow stalk between the body and tail. The upper lobe of the tail fin is elongated and ends in a long filament. Characters used to distinguish the Alabama sturgeon from the closely-related shovelnose sturgeon (*Scaphirhynchus platorynchus*) include larger eyes, orange color, number of dorsal plates, dorsal fin ray numbers, and spines on snout.

The earliest specimens of Alabama sturgeon in museum collections date from about 1880. The first mention of the fish in the scientific literature, however, was not until 1955, when a report of the collection of a single specimen from the Tombigbee River was published by Chermock. In 1976, Ramsey referred to the Alabama sturgeon as the "Alabama shovelnose sturgeon," noting that it probably was distinct from the shovelnose sturgeon which is found in the Mississippi River Basin, and was also historically known from the Rio Grande. In 1991, Williams and Clemmer formally described the species based on a comparison of relative sizes and numbers of morphological structures of Alabama and shovelnose sturgeons.

The methods used by Williams and Clemmer (1991) to justify species designation for the Alabama sturgeon have been criticized. In unpublished manuscripts, (e.g., Blanchard and Bartolucci 1994, Howell *et al.* 1995), and in one published paper (Mayden and Kuhajda 1996), several authors identified a variety of statistical and methodological errors and limitations [e.g., small sample size, clinal variation, allometric growth (growth of parts of an organism at different rates and at different times), inappropriate statistical tests, and others] that appeared in the analyses used in the original description. Howell *et al.* (1995) in an unpublished manuscript, reexamined the data set used by Williams and Clemmer (1991), corrected certain errors, and recommended that *S. suttkusi* be synonymized with *S. platorynchus*. Mayden and Kuhajda (1996), in a peer-reviewed paper published in the journal *Copeia*, reevaluated the morphological distinctiveness of the Alabama sturgeon using improved statistical tests and new data derived from examination of additional shovelnose sturgeon specimens from a larger geographic area. Mayden and Kuhajda (1996) identified eight new diagnostic characters, found that there was little evidence of geographic clinal variation in these diagnostic features, and concluded that the Alabama sturgeon was a distinct and valid species. Bartolucci *et al.* (1998) showed the Alabama and shovelnose sturgeon to be indistinguishable using principal component analyses, as published in a peer-reviewed statistical journal.

Genetic analyses of sturgeon DNA used in attempts to clarify taxonomic findings have met with limited success. In an unpublished report, Schill and Walker (1994) used tissue samples from the Alabama sturgeon collected in 1993 to compare the three nominal *Scaphirhynchus* species. Based on estimates of sequence divergence at the mitochondrial cytochrome *b* locus, they concluded that the Alabama, shovelnose, and pallid sturgeons were indistinguishable. Other studies have also found that the cytochrome *b* locus was not useful for discriminating among some congeneric fish species which were otherwise distinguished by accepted morphological, behavioral, and other characteristics (Campton *et al.* 1995).

In two unpublished reports for us and the U.S. Army Corps of Engineers (Corps) by Genetic Analyses Inc. (1994, 1995), nuclear DNA fragments were compared among the three *Scaphirhynchus* species. The three Alabama sturgeon specimens examined proved genetically divergent from pallid and shovelnose, while there were no observed differences of DNA fragments between the pallid and shovelnose sturgeons. However, the 1995 study also noted that two of the Alabama sturgeon differed substantially from the third, and recommended additional studies to examine genetic diversity within the Alabama sturgeon population.

A comparative study of the mitochondrial DNA d-loop of *Scaphirhynchus* species has also been completed (Campton *et al.* 1995). The d-loop is considered to be a rapidly evolving part of the genome. Campton *et al.* (1995) found that haplotype (genetic markers) frequencies of the d-loop from the three *Scaphirhynchus* species were significantly different, with the Alabama sturgeon having a unique haplotype. However, the relative genetic differences among the three species was small, suggesting that the rate of genetic change in the genus is relatively slow and/or they have only recently diverged. The genetic similarity between the pallid and shovelnose sturgeon has been suggested to be due to interbreeding that has recently occurred as a result of niche overlap resulting from widespread habitat losses (Carlson *et al.* 1985, Keenlyne *et al.* 1994).

We acknowledge that there is some disagreement concerning the Alabama sturgeon's taxonomic status. However, the description of the Alabama sturgeon (*S. suttkusi*) complies with the rules of the *International Code of Zoological Nomenclature* (§ 17.11(b)). Furthermore, our analysis of the best available evidence supports its consideration as a species in this proposed rule.

Very little is known of the life history, habitat, or other ecological requirements

of the Alabama sturgeon. Observations by Burke and Ramsey (1985) indicate the species prefers relatively stable gravel and sand substrates in flowing river channels. Verified captures of Alabama sturgeon have primarily occurred in large channels of big rivers; however, at least two historic records were from oxbow lakes (Williams and Clemmer 1991). Examination of stomach contents of museum and captured specimens show that these sturgeon are opportunistic feeders, preying primarily on aquatic insect larvae (Mayden and Kuhajda 1996). Mayden and Kuhajda (1996) deduced other aspects of Alabama sturgeon life history by a review of spawning habits of its better known relative, the shovelnose sturgeon. Life history of the shovelnose sturgeon has also been recently summarized by Keenlyne (1997). These data indicate that Alabama sturgeon are likely to migrate upstream during late winter and spring to spawn. Downstream migrations may occur to search for feeding and summer refugia areas. Eggs are probably deposited on hard bottom substrates such as bedrock, armored gravel, or channel training works in deep water habitats, and possibly in tributaries to major rivers. The eggs are adhesive and require current for proper development. Sexual maturity is believed to occur at 5 to 7 years of age. Spawning frequency is influenced by food supply and fish condition, and may occur every 1 to 3 years. Alabama sturgeon may live up to 15 years of age.

The Alabama sturgeon's historic range consisted of about 1,600 km (1,000 mi) of river habitat in the Mobile River Basin in Alabama and Mississippi. There are records of sturgeon captures from the Black Warrior, Tombigbee, Alabama, Coosa, Tallapoosa, Mobile, Tensaw, and Cahaba rivers (Burke and Ramsey 1985, 1995). The Alabama sturgeon was once common in Alabama, and perhaps also in Mississippi. The total 1898 commercial catch of "shovelnose" sturgeons (i.e., Alabama sturgeon) from Alabama was reported as 19,000 kg (42,900 lb) in a statistical report to Congress (U.S. Commission of Fish and Fisheries 1898). Of this total, 18,000 kg (39,500 lb) came from the Alabama River and 1,000 kg (2,300 lb) from the Black Warrior River. Given that an average Alabama sturgeon weighs about 1 kg (2 lb), the 1898 commercial catch consisted of approximately 20,000 fish. These records indicate a substantial historic population of Alabama sturgeon.

Between the 1898 report and 1970, little information was published regarding the Alabama sturgeon. An anonymous article published in the *Alabama Game and Fish News* in 1930 stated that the sturgeon was not uncommon; however, by the 1970's, it had become rare. In 1976, Ramsey considered the sturgeon as endangered and documented only six specimens from museums. Clemmer (1983) was able to locate 23 Alabama sturgeon specimens in museum collections, with the most recent collection dated 1977. Clemmer also found that commercial fishermen in the Alabama and Tombigbee rivers were familiar with the sturgeon, calling it hackleback, buglemouth trout, or devilfish.

During the mid-1980's Burke and Ramsey (1985) conducted a status survey to determine the distribution and abundance of the Alabama sturgeon. Interviews were conducted with commercial fishermen on the Alabama and Cahaba rivers, some of whom reported catch of Alabama sturgeon as an annual event. However, during their collection efforts in areas identified by fishermen, Burke and Ramsey were able to collect only five Alabama sturgeons, including two males, two gravid females, and one juvenile about 2 years old. Burke and Ramsey (1985) concluded that the Alabama sturgeon had been extirpated from 57 percent (950 km or 600 mi) of its range and that only 15 percent (250 km or 150 mi) of its former habitat had the potential to support a good population. An additional sturgeon was taken in 1985 in the Tensaw River and photographed, but the specimen was lost (Mettee, Geologic Survey of Alabama, pers. comm. 1997).

In 1990 and 1992, biologists from the Alabama Department of Conservation and Natural Resources (ADCNR), with the assistance of the Corps, conducted searches for Alabama sturgeon using a variety of sampling techniques, without success (Tucker and Johnson 1991, 1992). However, some commercial and sports fishermen continued to report recent catches of small sturgeon in Millers Ferry and Claiborne reservoirs and in the lower Alabama River (Tucker and Johnson 1991, 1992).

In 1993, our biologists and the ADCNR conducted another extensive survey for Alabama sturgeon in the lower Alabama River. On December 2, 1993, a mature male was captured alive in a gill net downstream of Claiborne Lock and Dam, at river mile 58.8 in Monroe County, Alabama (Parauka, U.S. Fish and Wildlife Service, pers. comm. 1995). This specimen represented the first confirmed record of Alabama sturgeon in about 9 years. This fish was moved to a hatchery where it later died.

On April 18, 1995, an Alabama sturgeon captured by fishermen below Claiborne Lock and Dam was turned over to ADCNR and Service biologists. This fish was carefully examined, radio-tagged, and returned to the river where it was tracked for 4 days before the transmitter switched off (Parauka, pers. comm. 1995). In June 1995, it was determined that the tag had dislodged. On May 19, 1995, our biologists took another Alabama sturgeon in Monroe County, Alabama, near the 1993 collection site. Unfortunately, shortly after the fish was tagged and released, it was found entangled and dead in a vandalized gill net lying on the river bottom (Parauka, pers. comm. 1995). On April 26, 1996, a commercial fisherman caught, photographed, and released an Alabama sturgeon (estimated at about 51 to 58 cm (20 to 23 in) total length and 1 kg (2.5 lb) weight in the Alabama River, 5 km (3 mi) south of Millers Ferry Lock and Dam (Reeves, ADCNR, pers. comm. 1996).

During the spring of 1996, members of the Mobile River Basin Recovery Coalition began discussions to develop and implement a conservation plan for the Alabama sturgeon that could receive wide support. A draft plan was subsequently endorsed by the ADCNR, Service, Mobile District Corps of Engineers, and representatives of the Alabama-Tombigbee Rivers Coalition. The draft plan identified the need to develop life history information through capture, tagging, and telemetry; capture of broodstock for potential population augmentation; construction of hatchery facilities for sturgeon propagation; and habitat identification and quantification in the lower Alabama River.

In March 1997, the ADCNR implemented the collection component of the conservation plan. The Geological Survey of Alabama, Corps, Waterways Experiment Station, Alabama Power Company, and the Service also participated in the effort. Up to four crews were on the river at any one time using gill nets and trot lines. Most of the effort focused on the lower Alabama River where recent previous captures had been made. Personnel from the ADCNR caught one small sturgeon (1 kg (2 lb) weight) on April 9, 1997, immediately below Claiborne Lock and Dam.

The ADCNR continued fishing for sturgeon through the fall and winter and collected another sturgeon below Miller's Ferry Lock and Dam on December 10, 1997. This fish was also transported to the Marion Fish Hatchery, where both fish are being held for potential use as broodstock. In January 1998, the two fish were

biopsied to determine sex. The April specimen was found to be a mature female with immature eggs, whereas the December fish was a mature male.

Alabama broodstock collection efforts in 1998 resulted in the capture of a single fish on November 12, 1998. A biopsy performed in December found the specimen to be a reproductively inactive male. The two 1997 fish were also biopsied at this time, and were determined to be candidates for propagation in the spring.

The chronology of commercial harvest, scientific collections, and incidental catches by commercial and sport fishermen demonstrate a significant decline in both the population size and range of the Alabama sturgeon in the past 100 years. Historically the fish occurred in commercial abundance and was found in all major coastal plain tributaries of the Mobile River system. The Alabama sturgeon has apparently disappeared from the upper Tombigbee, lower Black Warrior, lower Tallapoosa, and upper Cahaba, where it was last reported in the 1960's; the lower Coosa, last reported around 1970; the lower Tombigbee, last reported around 1975; and lower Cahaba, last reported in 1985 (Clemmer 1983; Burke and Ramsey 1985, 1995; Williams and Clemmer 1991; Mayden and Kuhajda 1996). The fish is known from a single 1985 record in the Mobile-Tensaw Delta; however, no incidental catches by commercial or recreational fishermen have been reported since that time. Recent collection efforts indicate that very low numbers of Alabama sturgeon continue to survive in portions of the 216 km (130 mi) length of the Alabama River channel below Millers Ferry Lock and Dam.

The historic population decline of the Alabama sturgeon was probably initiated by unrestricted harvesting near the turn of the century. Although there are no reports of commercial harvests of Alabama sturgeon after the 1898 report, it is reasonable to assume that sturgeon continued to be affected by the commercial fishery. Keenlyne (1997) noted that in the early years of this century, shovelnose sturgeon were considered a nuisance to commercial fishermen and were destroyed when caught. Interviews with commercial and recreational fishermen along the Alabama River indicate that Alabama sturgeon continued to be taken into the 1980's (Burke and Ramsey 1985). Studies of other sturgeon species suggest that newly exploited sturgeon fisheries typically show an initial high yield, followed by rapid declines. There may be little or no subsequent recovery with continued exploitation and habitat loss, even after nearly a century (National Paddlefish and Sturgeon Steering Committee 1993, Birstein 1993).

Although unrestricted commercial harvesting of the Alabama sturgeon may have significantly reduced its numbers and initiated a population decline, the present curtailment of the Alabama sturgeon's range is the result of 100 years of cumulative impacts to the rivers of the Mobile River Basin (Basin) as they were developed for navigation. Navigation development of the Basin affected the sturgeon in major ways. This development significantly changed and modified extensive portions of river channel habitats; blocked long-distant movements, including migrations; and fragmented and isolated sturgeon populations.

The Basin's major rivers are now controlled by more than 30 locks and/or dams, forming a series of lakes that are interspersed with short, free-flowing reaches. Within the sturgeon's historic range, there are three dams on the Alabama River (built between 1968 and 1971); the Black Warrior has two (completed by 1959); and the Tombigbee six (built between 1954 and 1979). These 11 dams affect and fragment 970 km (583 mi) of river channel habitat. Riverine (flowing water) habitats are required by the Alabama sturgeon to successfully complete its life cycle. Alabama sturgeon habitat requirements are not met in impoundments, where weak flows result in accumulations of silt making bottom habitats unsuitable for spawning and, perhaps, for the bottom-dwelling invertebrates on which the sturgeon feed.

Prior to widespread construction of locks and dams throughout the Basin, Alabama sturgeon could move freely between feeding areas, and from feeding areas to sites that favored spawning and development of eggs and larvae. Additionally the sturgeon may have sought thermal refuges during summer months, when high water temperatures became stressful. Such movements might have been extensive, since other *Scaphirhynchus* species of sturgeons are known to make long distance movements exceeding 250 km (150 mi) (Moos 1978, Bramblett 1996). Locks and dams, however, fragmented the sturgeons' range, forming isolated metapopulations between the dams where all the species' habitat needs were not necessarily met. With avenues of movement and migration restricted, these metapopulations also became more vulnerable to local declines in water and habitat quality caused by riverine and land management practices and/or polluting discharges.

Most of the major rivers within the historic range of the Alabama sturgeon have also been dredged and/or channelized to make them navigable. For example, the 740-km (460-mi) long Warrior-Tombigbee Waterway channel was originally dredged to 45 meters (m) by 2 m (150 feet (ft) by 6 ft) and later to 61 m by 2 m (200 ft by 9 ft). The lower Alabama and Tombigbee rivers are routinely dredged in areas of natural deposition to maintain navigation depths. Dredged and channelized river reaches, in comparison to natural river reaches, have reduced habitat diversity (e.g., loss of shoals, removal of snags, removal of bendways, reduction in flow heterogeneity, etc.), which results in decreased aquatic diversity and productivity (Hubbard *et al.* 1988 and references therein). The deepening and destruction of shoals and shallow runs or other historic feeding and spawning sites as a result of navigation development likely contributed to local and overall historic declines in range and abundance of the Alabama sturgeon.

Dams constructed for navigation and power production also affected the quantity and timing of water moving through the Basin. Water depths for navigation are controlled through discharges from upstream dams, and flows have also been changed as a result of hydroelectric production by upstream dams (Buckley 1995; Freeman and Irwin, U.S. Geological Survey, pers. comm. 1997).

The construction and operation of dams and development of navigation channels were significant factors in curtailment of the historic range of the Alabama sturgeon and in defining its current distribution. While these structures and activities are likely to continue to influence the ecology of this species and others, the present effects of the operation of existing structures, flow regulation, and navigation maintenance activities on the sturgeon are poorly understood. This is due in large part to lack of specific information on the behavior and ecology of the Alabama sturgeon.

In summary, the Alabama sturgeon has undergone marked declines in population size and range during the past century. Over-fishing and navigation development were significant factors in the sturgeon's historic decline. The Alabama sturgeon currently inhabits only about 15 percent of its historic range, and the species is known to survive only in the Alabama River channel below Millers Ferry Lock and Dam.

Previous Federal Actions

The Alabama sturgeon was included in **Federal Register** notices of review for candidate animals in 1982, 1985, 1989, and 1991. In the 1982 and 1985 notices (47 FR 58454 and 50 FR 37958), this fish was included as a category 2 species (a species for which we had data indicating that listing was possibly appropriate, but for which we lacked substantial data on biological vulnerability and threats to support a proposed rule). We discontinued designation of Category 2 species in the February 28, 1996, notice of review (61 FR 7956). In the 1989 and 1991 notices (54 FR 554 and 56 FR 58816), the Alabama sturgeon was listed as category 1 candidate species (a species for which we have on file sufficient information on biological vulnerability and threats to support issuance of a proposed rule).

On June 15, 1993, we published a proposed rule to list the Alabama sturgeon as endangered with critical habitat (58 FR 33148). On July 27, 1993, we published a notice scheduling a public hearing on the proposed rule (58 FR 40109). We published a notice on August 24, 1993 (58 FR 44643), canceling and rescheduling the hearing. On September 13, 1993 (58 FR 47851), we published a notice re-scheduling the public hearing for October 4, 1993, and extending the comment period to October 13, 1993. The October 4 public hearing was held on the campus of Mobile College, Mobile, Alabama. On October 25, 1993 (58 FR 55036), we published a notice announcing a second public hearing date, reopening the comment period, and stating the availability of a panel report. This second public hearing was canceled in response to a preliminary injunction issued on November 9, 1993.

On January 4, 1994 (59 FR 288), we published a notice rescheduling the second public hearing and extending the comment period. However, this hearing was subsequently rescheduled in a January 7, 1994, notice (59 FR 997). We held the second public hearing on January 31, 1994, at the Montgomery Civic Center, Montgomery, Alabama.

We published a 6-month extension of the deadline and reopening of the comment period for the proposed rule to list the Alabama sturgeon with critical habitat on June 21, 1994 (59 FR 31970). On September 15, 1994 (59 FR 47294), we published another notice that further extended the comment period and sought additional comments on only the scientific point of whether the Alabama sturgeon still existed. We withdrew the proposed rule on December 15, 1994, (59 FR 64794) on the basis of insufficient information that the Alabama sturgeon continued to exist. On September 19, 1997, after capture of several individuals confirming that the species was extant, we included the Alabama sturgeon in the candidate species notice of review (62 FR 49403). A candidate species is defined as a species for which we have on file sufficient information on biological vulnerability and threats to support issuance of a proposed rule.

We published Listing Priority Guidance for Fiscal Years 1998 and 1999 on May 8, 1998 (63 FR 25502). That guidance clarifies the order in which we will process rulemakings, giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this proposed rule is a Tier 2 action.

Summary of Factors Affecting the Species

The procedures for adding species to the Federal lists are found in section 4 of the Act and the accompanying regulations (50 CFR part 424). A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Alabama sturgeon (*Scaphirhynchus suttkusi*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Alabama sturgeon has apparently disappeared from 85 percent of its historic range. Its decline has been associated with construction of dams, flow regulation, navigation channel development, other forms of channel modification, and pollution. Dams in the Alabama River have reduced the amount of riverine habitat, impeded migration of Alabama sturgeon for feeding and spawning needs, and changed the river's flow patterns. The species is now restricted to a 216 km (130 mi) reach of the Alabama River below Millers Ferry Lock and Dam. It is unknown if the quantity of fluvial (stream) habitat currently available to the species in this river reach is adequate to meet all of its ecological needs.

Changes in natural river flow regimes by operation of hydroelectric dams are known to be detrimental to other sturgeon species (e.g., Khoroshko 1972, Zakharyan 1972, Veshchev 1982, Veshchev and Novikova 1983, Auer 1996). Flow quantity is believed to be adequate to sustain the sturgeon in the lower Alabama River (Biggins 1994). The Alabama Power Company currently releases 57 cubic meters per second (cms) (2000 cubic feet per second (cfs)) seasonal minimum flow from Jordan Dam into the lower Coosa River, and 34 cms (1200 cfs) minimum flow from Thurlow Dam into the lower Tallapoosa River. These two releases provide a combined 91 cms (3200 cfs) minimum flow to the upper Alabama River for passage through the three Alabama River locks and dams. Alabama River flows are further augmented by generating flows from Jordan, Thurlow, and Bouldin dams, as well as other Alabama River tributary flows. The average daily flows measured over the last decade downstream of Claiborne Lock and Dam have ranged from over 100 cms to nearly 7,000 cms (4,000 to 240,000 cfs). While there is no evidence to suggest that the Alabama sturgeon is limited by water quantity below Robert F. Henry and Millers Ferry locks and dams, these dams house hydropower facilities and neither is required to maintain a minimum flow. Current low flow releases from these two facilities can be as little as 3 hours of generation timed according to peaking needs, plus lockage releases. The effect of such daily flow fluctuations below Millers Ferry Lock and Dam on Alabama sturgeon reproductive, larval, or juvenile habitat requirements may be negative; however, the importance of the area between Robert F. Henry and Claiborne lock and dams for sturgeon reproduction is currently unknown.

The most visible continuing navigation impact within presently occupied Alabama sturgeon habitat is maintenance dredging of navigation channels. At this time, there is no evidence that it currently constitutes a limiting factor to the sturgeon (Biggins 1994). The Corps has constructed 67 channel training works (jetties) at 16 locations in the lower Alabama River, eliminating about 60 percent of dredging requirements at those locations. In the Mississippi River drainage, such channel training works are believed to be used as spawning areas by other sturgeon species (Mayden and Kuhajda 1996).

Maintenance dredging continues to be necessary in the Alabama River to remove seasonally accumulated material from deposition areas within the navigation channel. Dredged materials are usually placed on natural deposition features adjacent to the navigation channel, such as point bars or lateral bars. Due to the natural dynamics of river channels and annual sediment movement, maintenance areas have remained fairly constant over time, with the same areas repeatedly dredged or used for disposal. Recent investigations by us, the Corps, and ADCNR indicate that the distribution of stable benthic (bottom) habitats in the riverine portions of the Alabama River has been, and continues to be, strongly influenced by historical dredge and disposal practices. Changes in disposal practices could disrupt the existing equilibrium. For example, river channels are strongly influenced by the amount of sediment moving through them. Increases in sediment budget can cause aggradation (filling) of the channel, while decreases in sediment can cause degradation (erosion). With the upstream dams forming barriers to the movement of sediment through the Alabama River, additional reduction of sediment availability (e.g., through upland disposal) could increase river bed and bank erosion, including areas that are now important, stable habitats. In consideration of this, significant changes in current disposal methods in the Alabama River could adversely affect the Alabama sturgeon.

Recent investigations by us and ADCNR biologists have documented the presence of high quality, stable river bottom habitats interspersed within and between dredge and disposal sites in the lower Alabama River (Hartfield and Garner 1998). These included stable sand and gravel river bottom supporting freshwater mussel beds, and bedrock walls and bottom. Mussel beds are excellent indicators of riverine habitat stability because freshwater mussels may live in excess of 30 years and mussel beds require many decades to develop (Neves 1993). Clean bedrock has been identified as potential Alabama sturgeon spawning habitat (Mayden and Kuhajda 1996). The significance of such areas of stability are suggested by the location of recent and historic Alabama sturgeon capture sites below Millers Ferry and Claiborne locks and dams. Dive surveys at 19 capture sites dating back to 1950 found 17 in the vicinity of dense mussel beds (15 sites) and/or clean bedrock riverine habitat (11 sites) (Hartfield and Garner 1998). Depths at these areas (5 to 15 m (15 to 45 ft)) are well below the minimum navigation maintenance depth of 3 m (9 ft).

Sand and gravel mining has had historic impacts on riverine habitats in the lower Tombigbee and Alabama river channels. Instream dredging for sand and gravel can result in localized biological and geomorphic changes similar to those caused by channelization and navigation channel development. For example, mining of rivers has been shown to reduce fish and invertebrate biomass and diversity, and can induce geomorphic changes in the river channel both above and below mined areas (Simons *et al.* 1982, Brown and Lyttle 1992, Kanehl and Lyons 1992, Hartfield 1993, Patrick and Dueitt 1996). Sand and gravel dredging of the Tombigbee and Alabama river channels within the historic and current range of the Alabama sturgeon has occurred periodically since the 1930's (Simons *et al.* 1982). We are not aware of any currently active sand and gravel dredging operations in the Alabama River; however, future mining of gravel from stable river reaches used by the Alabama sturgeon would be detrimental to the species.

Pollution may adversely impact sturgeon (Ruelle and Keenlyne 1993), and it was likely a factor in the decline of the Alabama sturgeon, especially prior to implementation of State and Federal water quality regulations. Presently, the major sources of water pollution in Alabama are agriculture, municipal point sources, resource extraction, and contaminated sediments, in order of decreasing importance based on numbers of miles impaired (Alabama Department of Environmental Management 1994). Water quality in the lower Alabama River is generally good; however, two localized river segments above Claiborne Lock and Dam have been reported as occasionally impaired due to excess nutrients and organic enrichment (Alabama Department of Environmental Management 1994). Sources of impairment were broadly identified as the combined effects of industrial and municipal discharges, and runoff from agriculture and silviculture. These river segments are also affected by hydropower discharges from Millers Ferry Lock and Dam.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* As discussed in the "Background" section of this proposed rule, the Alabama sturgeon was commercially harvested around the turn of the century. Alabama State law (sect. 220–2—.26–4) now protects the Alabama sturgeon and other sturgeons requiring that "* * * any person who shall catch a sturgeon shall immediately return it to the waters from whence it came with the least possible harm." As a result, sturgeon are not currently pursued by commercial or recreational fishermen. Nonetheless, Alabama sturgeon are occasionally caught by fishermen in nets or trot lines set for other species. For example, one of the Alabama sturgeons caught in 1995 was hooked by a fisherman on a trot line, and the Alabama sturgeon caught in 1996 was trapped in a hoop net; both of these fish were released. Doubtless there have been additional, undocumented incidental captures by commercial and sport fishermen; however, the surveys and collection efforts of the past decade have shown such captures to be rare.

C. *Disease or predation.* There are no known threats from disease or natural predators. To the extent that disease or predation occurs, it becomes a more important consideration as the total population decreases in number.

D. *The inadequacy of existing regulatory mechanisms.* As we discussed in factor B, Alabama State law (sect. 220–2-.26–4) protects the Alabama sturgeon and other sturgeons requiring that "* * * any person who shall catch a sturgeon shall immediately return it to the waters from whence it came with the least possible harm." As a result, sturgeon are not currently pursued by commercial or recreational fishermen. There is currently no requirement within the scope of other environmental laws or Alabama State law to specifically consider the Alabama sturgeon or ensure that a project will not jeopardize its continued existence.

E. *Other natural or manmade factors affecting its continued existence.* The primary threat to the immediate survival of the Alabama sturgeon is its apparent inability to offset mortality rates with current reproduction rates. As noted in the "Background" section, incidents of capture of Alabama sturgeon have been steadily diminishing for the past two decades, indicating declining population numbers over this time. Recent studies suggest that below some minimum population size, termed "minimum viable population" (MVP), a species is unable to offset mortality rates with natural reproduction and recruitment (Soule 1987). In such cases, the species becomes more vulnerable to extinction from natural or human-induced random events (e.g., droughts, floods, competition, variations in prey abundance, toxic spills, etc.), which further reduce recruitment or increase mortality. Estimates of the MVP in vertebrates range from hundreds to thousands of reproducing individuals

(Belovsky 1987, Shaffer 1987, Lande and Barrowclough 1987).

Sturgeons may be especially sensitive to MVP effects (likely to become extinct) for several reasons. Age at first spawning (ranging from 5 to 7 years for shovelnose sturgeon) is much delayed in comparison to other fishes, and female sturgeons may not spawn for intervals of several years (Wallus *et al.* 1990). Thus, the effective population size (number of adult males and females capable of reproducing in a given year) is much smaller than it would be if reproduction began earlier and took place annually. Also, recruitment success in fish is subject to considerable natural variability owing to fluctuations of environmental conditions, and there can be several years between periods of good recruitment.

Currently, there are no population estimates for the Alabama sturgeon. Recent collection efforts demonstrate its increasing rarity. For example, beginning in the spring of 1997 through 1998, up to four crews of professional fisheries biologists have expended approximately 3,000 man-hours of fishing effort in the lower Alabama River to capture Alabama sturgeon for use as broodstock. This effort resulted in the capture of only three Alabama sturgeon. During this time, commercial and recreational fishermen encountered on the Alabama River were interviewed, and asked to report any captures of sturgeon to the ADCNR. No incidental catches were reported. Thus, approximately 18 months of fishing by professional, commercial, and recreational fishermen resulted in the capture of only three Alabama sturgeon. Compared to the estimated 20,000 Alabama sturgeon reported in the 1898 harvest, the amount of effort currently required to capture Alabama sturgeon indicates that the species' population numbers are extremely low. This strongly suggests that the Alabama sturgeon is highly vulnerable to MVP effects.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Alabama sturgeon in determining to propose this rule. Based on this evaluation, the preferred action is to list the Alabama sturgeon as endangered. The Act defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is one that is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range. Endangered status is appropriate for the Alabama sturgeon due to the extensive curtailment of its range and extremely low population numbers.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species, or (2) Such designation of critical habitat would not be beneficial to the species. We find that designation of critical habitat is not presently prudent for the Alabama sturgeon.

Critical habitat receives consideration under section 7 of the Act. Section 7(a)(2) requires Federal agencies to consult with the Service to ensure that any action they carry out, authorize, or fund does not jeopardize the continued existence of a federally listed species or destroy or adversely modify designated critical habitat. The Service's implementing regulations (50 CFR part 402) define "jeopardize the continuing existence of" and "destruction or adverse modification of" in very similar terms. To jeopardize the continuing existence of a species means to engage in an action "that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species by reducing the reproduction, numbers, or distribution of that species." Destruction or adverse modification of habitat means a "direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species in the wild." Common to both definitions is an appreciable detrimental effect to both the survival and recovery of a listed species.

For any listed species, an analysis to determine jeopardy under section 7(a)(2) would consider impacts to the species resulting from impacts to habitat. Therefore, an analysis to determine jeopardy would include an analysis closely parallel to or, for the Alabama sturgeon, equivalent to an analysis to determine adverse modification of critical habitat. For the Alabama sturgeon, any modification to suitable habitat within the species' range has the potential to affect the species. Actions that may affect the habitat of the Alabama sturgeon in the lower Alabama River include those with impacts on river channel morphology, bottom substrate composition, water quantity and quality, and stormwater runoff. Any activity that would be determined to cause an adverse modification to critical habitat also would jeopardize the continued existence of this fish given its restricted distribution and imperiled status.

Critical habitat designation within a species' occupied range heightens the awareness of Federal agencies to the potential presence of the species, and encourages consideration of the effects of Federal actions on the species' habitat. We have worked closely with Federal agencies, particularly the Corps, in evaluating Federal agency actions and their potential effects to the Alabama sturgeon (Biggins 1994). All potentially affected Federal agencies are currently aware of the location and extent of habitat occupied by the Alabama sturgeon. In addition, should the species be listed, Federal actions that might affect occupied sturgeon habitat would be subject to review under section 7(a)(2) of the Act, whether or not critical habitat is designated. Therefore, habitat protection for the Alabama sturgeon can be accomplished through the section 7 jeopardy standard and there is no benefit in designating occupied habitat as critical habitat.

Designation of unoccupied habitat as critical habitat may, in certain instances, provide additional protection to that afforded by the jeopardy standard. Specific areas outside the geographic area occupied by a species at the time it is listed may be designated as critical habitat, if it is determined that such areas are essential for the conservation of the species. The ecological requirements of the Alabama sturgeon are so poorly known, its historical habitats are so severely modified and fragmented, and its population numbers are so small, that extensive research

over an extended period of time would be required to identify any existing essential unoccupied habitats (see "Background" and "Summary of Factors Affecting the Species" sections).

Though critical habitat designation directly affects only Federal agency actions, this process can arouse public concern and resentment. Although Alabama sturgeon are currently protected from commercial or recreational fishing, they are occasionally captured (see factor B). Publicity or controversy accompanying critical habitat designation may increase the potential for illegal take. For example, on June 15, 1993, the Alabama sturgeon was initially proposed for endangered status with critical habitat (59 FR 33148). Proposed critical habitat included the lower portions of the Alabama, Cahaba, and Tombigbee rivers in south Alabama. The proposal generated thousands of comments with the primary concern that the proposed listing and designation of these rivers as critical habitat would devastate the economy of the State of Alabama and severely impact adjoining States. There were reports from State conservation agents and other knowledgeable sources of rumors inciting the capture and destruction of Alabama sturgeon.

The primary threat to the Alabama sturgeon has been identified as its small numbers and its apparent inability to offset mortality rates with current reproduction rates (see factor E). As noted in the "Available Conservation Measures" section, a collaborative effort by public and private partners to address this threat and conserve the Alabama sturgeon was initiated in 1997. Essential to this effort is the collection of sturgeon for use as broodstock for hatchery propagation, and for telemetry studies on habitat and behavior. Commercial and recreational fishermen have caught two of the seven fish captured over the past decade. Their continued cooperation is important to on-going Alabama sturgeon conservation efforts. The loss of the cooperation of fishermen and other private partners, as a result of proposed designation of unoccupied habitat as critical habitat, would be detrimental to the survival and recovery of the species.

It should also be noted that regardless of critical habitat designation, Federal agencies are required by section 7(a)(1) of the Act to utilize their authorities in furtherance of the Act's purposes by carrying out conservation activities for listed species. We have been working with the Corps and other partners to assess habitat quantity, quality, and accessibility within the historic range of the Alabama sturgeon. Such studies, along with ongoing broodstock collection efforts, hatchery propagation, and other activities have focused attention on the sturgeon, its habitat, and threats to its existence, and will continue should the species be listed. Thus, any benefit that might accrue from designation of unoccupied habitat as critical is being accomplished under the existing coordination process.

Based on the above analysis, we have concluded critical habitat designation would provide no additional benefit for the Alabama sturgeon beyond that which would accrue from listing under the Act. In addition, we also conclude that any potential benefit from such a designation would be outweighed by a loss of cooperation by fishermen and other partners in current conservation efforts, and an increased level of vulnerability to illegal take. Therefore, the designation of critical habitat for the Alabama sturgeon is not prudent.

Available Conservation Measures

The ADCNR has implemented a conservation plan for the sturgeon that addresses the immediate threat to the species, its depressed population size, and seeks to develop information on the species and its habitat needs. A variety of public and private groups, including the Service, Army Corps of Engineers, Geological Survey of Alabama, Auburn University, the Alabama-Tombigbee Rivers Coalition, and the Mobile River Basin Coalition are participating in, and/or endorse, implementation of this plan. The immediate focus of the plan is to prevent extinction through a captive breeding program and release of propagated fish. Other objectives of the plan include habitat restoration and determining life history information essential to effective management of the species. A freshwater sturgeon conservation plan working group composed of scientists and resource managers from a variety of Federal and State agencies, industry, and local universities was formed in September 1996 to establish collection and handling protocols, and to recommend and participate in research efforts. Implementation of the conservation plan began in March 1997, with broodstock collection efforts. A female and two male sturgeon have been collected and are being held at the Marion Fish Hatchery. The hatchery has been upgraded to accommodate sturgeon propagation. An attempt to spawn the captive sturgeon is planned for spring 1999. Coordinated studies are currently in progress by us, the ADCNR, and the Corps to identify and quantify stable riverine habitat in the Alabama River, and to develop strategies for its management. Life history and habitat studies in progress include habitat characterization at historic sturgeon collection sites, prey density studies, and larval sturgeon surveys.

The Mobile River Basin Aquatic Ecosystem Recovery Coalition, a partnership comprised of diverse business, environmental, private landowner, and agency interests, has been meeting regularly to participate in recovery planning for 15 listed aquatic species in the Basin (U.S. Fish and Wildlife Service 1998). The Coalition promotes increased stewardship awareness by private landowners throughout the Basin, and encourages the control of nonpoint source pollution through the implementation of Best Management Practices. All aquatic habitats, including Alabama sturgeon habitat, will benefit from such efforts.

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Federal activities that could occur and impact the Alabama sturgeon include, but are not limited to, the carrying out or the issuance of permits for reservoir

construction, stream alterations, discharges, wastewater facility development, water withdrawal projects, pesticide registration, mining, and road and bridge construction. It has been our experience that nearly all section 7 consultations have been resolved so that the species have been protected and the project objectives have been met.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any wildlife that has been taken illegally. Certain exceptions apply to our agents and agents of State conservation agencies.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act if this species is listed. The intent of this policy is to increase public awareness as to the effects of these proposed listings on future and ongoing activities within a species' range.

Activities that we believe are unlikely to result in a violation of section 9 for the Alabama sturgeon are:

(1) Discharges into waters supporting the sturgeon, provided these activities are carried out in accordance with existing regulations and permit requirements (e.g., activities subject to section 404 of the Clean Water Act and discharges regulated under the National Pollutant Discharge Elimination System (NPDES)).

(2) Maintenance dredging of unconsolidated sediments undertaken or approved by the Corps of Engineers.

(3) Development and construction activities designed and implemented pursuant to State and local water quality regulations and implemented using approved Best Management Practices.

(4) Lawful commercial and sport fishing.

(5) Actions that may affect the Alabama sturgeon and are authorized, funded or carried out by a Federal agency when the action is conducted in accordance with an incidental take statement issued by the Service pursuant to section 7 of the Act.

Activities that we believe could potentially result in "take" of the Alabama sturgeon, if it becomes listed, include:

(1) Illegal collection of the Alabama sturgeon.

(2) Unlawful destruction or alteration of the Alabama sturgeon's habitat (e.g., un-permitted instream dredging, channelization, discharge of fill material).

(3) Violation of any discharge or water withdrawal permit in waters supporting the Alabama sturgeon.

(4) Illegal discharge or dumping of toxic chemicals or other pollutants into waters supporting the Alabama sturgeon.

Other activities not identified above will be reviewed on a case-by-case basis to determine if a violation of section 9 of the Act may be likely to result from such activity should the sturgeon become listed. We do not consider these lists to be exhaustive and provide them as information to the public.

You should direct questions regarding whether specific activities will constitute a violation of section 9, should the sturgeon be listed, to the Field Supervisor of our Jackson Field Office (see **ADDRESSES** section).

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Send requests for copies of regulations regarding listed species and inquiries about prohibitions and permits to the U.S. Fish and Wildlife Service, Ecological Services Division, 1875 Century Boulevard, Atlanta, Georgia 30345 (telephone 404/679–7313; facsimile 404/679–7081).

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we request comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the lower Alabama River and their possible impacts on this species.

We will take into consideration your comments and any additional information received on this species when making a final determination regarding this proposal. We will also submit the available scientific data and information to appropriate, independent specialists for review. We will summarize the opinions of these reviewers in the final decision document. The final determination may differ from this proposal based upon the information we receive.

You may request a public hearing on this proposal. Your request for a hearing must be made in writing and filed within 45 days of the date of publication of this proposal in the **Federal Register**. Address your request to the Field Supervisor (see **ADDRESSES** section).

Executive Order 12866

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to the following: (1) Are the requirements of the rule clear? (2) Is the discussion of the rule in the Supplementary Information section of the preamble helpful in understanding the rule? (3) What else could we do to make the rule easier to understand?

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a

currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.22.

References Cited

A complete list of all references cited in this document, as well as others, is available upon request from the Field Supervisor (see **ADDRESSES** section).

Author: The primary author of this document is Paul Hartfield (see **ADDRESSES** section)(601/965–4900, extension 25).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.11(h) by adding the following to the List of Endangered and Threatened Wildlife, in alphabetical order under FISHES:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Sturgeon, Alabama ..	*Scaphirhynchus suttkusi.*	U.S.A.(AL, MS)	Entire	E		NA	NA
*	*	*	*	*	*	*	

Dated: March 18, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–7387 Filed 3–23–99; 9:43 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 64, No. 58
Friday, March 26, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Warm Springs Ridge Vegetation Management Project, Boise National Forest, Boise County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Boise National Forest will prepare an environmental impact statement (EIS) to document the analysis and disclose the environmental impacts of a proposed vegetation management project on Warm Springs Ridge, located within the Lower Grimes Creek, Upper and Middle Mores Creeks Watersheds.

The Idaho City Ranger District of the Boise National Forest proposes to treat approximately 14,500 acres of forested lands and shrublands using timber harvest, silvicultural thinning, and prescribed fire. Approximately 350 acres of forested lands is under Bureau of Land Management jurisdiction. Timber harvest would occur on approximately 6,000 acres of overstocked Douglas-fir and ponderosa pine stands utilizing a combination of silvicultural treatments such as commercial thinning, shelterwood, seed tree, and sanitation activities. Noncommercial silviculture thinning treatments would also occur within portions of the above acres. Yarding systems to implement the harvest would include tractor/jammer, skyline, and helicopter. In addition, approximately 2,600 acres of overstocked, noncommercial stands (trees less than 8 inches in diameter) would be thinned. Cable yarding systems to remove the material from these stands to existing roads would occur on approximately 1,300 acres. Prescribed fire activities would occur on approximately 13,500 acres to reduce fuel loads from timber management activities, reduce national fuels and the threat of uncharacteristic fire to the urban interface, and to improve wildlife forage and habitat. Included in this proposed action are road construction, reconstruction, and stabilization activities to facilitate timber harvest and reduce current and long-term sediment delivery from existing and proposed roads. Approximately 5 miles of new road segments would be constructed to facilitate timber harvest. Approximately 13 miles of existing roads would be reconstructed to facilitate timber harvest, and reduce sediment delivery. Approximately 12 miles of existing roads would be stabilized and/or closed to reduce sediment delivery.

Comments: Written comments concerning the scope of the analysis described in this Notice should be received by April 26, 1999 to ensure timely consideration. No scoping meetings are planned at this time. Send written comments to Kathy Ramirez, Project Coordinator, Idaho City Ranger District, P.O. Box 129, Idaho City, ID 83631.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Kathy Ramirez at 208–392–6681.

SUPPLEMENTARY INFORMATION: The Forest Service is seeking information and comments from Federal, State, and local agencies, as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Serivce invites written comments and suggestions on the issues related to the proposal and the area being analyzed.

Information received will be used in preparation of the draft and final EIS. For the most effective use, comments should be submitted to the Forest Service within 30 days from the date of publication of this Notice in the **Federal Register**. The Responsible Official is David D. Rittenhouse, Forest Supervisor, Boise National Forest. The lead agency is USDA, Forest Service. The cooperating agency is USDI, Bureau of Land Management. The decisions to be made are whether timber harvest, noncommercial thinning, road system management, and prescribed fire should be implemented on National Forest System and Bureau of Land Management lands. The preliminary issue identified is increased sediment levels from the proposal could affect water quality and fish habitat in Grimes and Mores Creeks which are currently listed under the State of Idaho Section 303(d) of the Clear Water Act as being water quality impaired. The pollutant of concern is sediment. The draft EIS is expected to be available for public review in June 1999, with a final EIS estimated to be completed in August 1999. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft EIS stage but not raised until after completion of the final EIS may be waived or dismissed by the courts. City of *Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (Ninth Circuit 1986), and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is important for those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapter of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the draft EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received in response to this solicitation, including names and addressee of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted

anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentially should be aware that, under the FOIA, confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Dated: March 12, 1999.

David D. Rittenhouse,

Forest Supervisor.

[FR Doc. 99–6795 Filed 3–25–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on April 22, 1999 at the Jefferson County Fire Hall located on the corner of Adam and "J" street off of Hwy 97 in Madras, Oregon. A business meeting will begin at 9 a.m. and finish at 4 p.m. Agenda items include Hosmer Lake Working Group Recommendations, PAC/IAC Summit, Revisit PAC Agreements on Ground Rules for Meetings and Subcommittee/ Working Group Processes/Assignments, The Lower Deschutes Working Group PAC Liaison Update, 1999 Program of Work, a Short Course on the Northwest Forest Plan, and a public forum from 1:30 p.m. till 2 p.m. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT:

Mollie Chaudet, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 N.E. 3rd., Bend, OR 97701, mollie.chaudet/ r6pnw__deschutes@fs.fed.us, phone (541) 383–4769.

Dated: March 22, 1999.

Sally Collins,

Forest Supervisor.

[FR Doc. 99–7486 Filed 3–25–99; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

Comments Must Be Received On Or Before: April 26, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Base Supply Center, Columbus Air Force Base, Mississippi.

NPA: Alabama Industries for the Blind, Talladega, Alabama

Central Facility Management, Southern Maryland District Courthouse, Greenbelt, Maryland.

NPA: The Chimes, Inc., Baltimore, Maryland

Janitorial/Custodial, Internal Revenue Service, Fresno Service Center (FSC), 5045 E. Butler Avenue, Fresno, California. NPA: Goodwill Industries of San Joaquin Valley, Inc., Stockton, California

Janitorial/Custodial, USARC #2, 1107 Payne Avenue, Erie, Pennsylvania. NPA: Dr. Gertrude A. Barber Center, Inc., Erie, Pennsylvania

Deletion:

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

The following commodity has been proposed for deletion from the Procurement List:

Pin, Tent, Metal, 8340–00–985–7461

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–7494 Filed 3–25–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletion from the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

EFFECTIVE DATE: April 26, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 12, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice (64 FR 7166) of proposed additions to and deletion from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Grounds Maintenance, The John F. Kennedy Center for the Performing Arts, 2700 F Street, NW, Washington, DC

Janitorial/Grounds Maintenance, U.S. Courthouse and IRS Federal Complex, 99 First Avenue, Beckley, West Virginia

Mailroom Operation, Federal Bureau of Investigation (FBI) Headquarters, J. Edgar Hoover (JEH), 935 Pennsylvania Avenue, NW, Washington, DC

Switchboard Operation, MacDill Air Force Base, Florida

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the service.

3. The action may result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following service is hereby deleted from the Procurement List:

Mailing Service, Headquarters, Air Force Military Personnel Center, Randolph AFB, Texas

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–7495 Filed 3–25–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Survey of Business Leaders Accompanying the Secretary on Trade Missions

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 26, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Office of the Chief Information Officer, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230. Her Internet address is LEngel@Doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ilene Zeldin, Department of Commerce, Room 5517, 14th & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

On every trade mission the Secretary of Commerce leads, a brief survey will be conducted assessing the participants' opinions and opportunities they see for the markets where the trade mission will be taken. This information will help the Secretary to communicate the participant's concerns and views as they look to increase business opportunities.

II. Method of Collection

Orally or by completing a written survey.

III. Data

OMB Number: 0690–0017.
Form Number: N/A.
Type of Review: Regular submission.
Affected Public: Businesses or other for-profit organizations.
Estimated Number of Respondents: 100.
Estimated Time Per Response: 3 minutes.
Estimated Total Annual Burden Hours: 5.
Estimated Total Annual Cost: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 22, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–7413 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: Survey of Reference Materials for Forensic Science.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 567 hours.

Number of Respondents: 200.

Avg. Hours Per Response: 2.8 hours per laboratory.

Needs and Uses: The NIST Office of Law Enforcement Standards' (OLES) mission is to develop standards and perform scientific and engineering research in response to the needs of the criminal justice community. The NIST/OLES Survey of Reference Materials for Forensic Science will identify the current status of, and need for, standard reference materials and standard reference collections within all public crime laboratories in the United States. The information will be used to determine what standard reference materials and collections are needed to expand investigative capabilities of laboratories and to improve their efficiency.

Affected Public: State, local or tribal government and the federal government.

Frequency: One-time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Virginia Huth, (202) 395–6929.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327 (internet address is LEngel@doc.gov), 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Virginia Huth, OMB Desk Officer, Room 10236, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: March 22, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–7414 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 10–99]

Foreign-Trade Subzone 149A—Freeport, TX, Request for Extension of Board Order Condition, BASF Corporation (Caprolactam Extract, Cyclohexanone)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by BASF Corporation, operator of FTZ 149A, requesting an extension (to December 31, 2003) of Condition No. 2 of Board Order 732, which authorizes the election of nonprivileged foreign status (19 CFR § 146.42) for caprolactam extract and cyclohexanone admitted to Subzone 149A at the BASF chemical products manufacturing facilities in Freeport, Texas. It was formally filed on March 17, 1999.

Subzone 149A was approved by the Board in 1995 with authority to manufacture polycaprolactam (nylon-6; HTSUS 3908.10.0000) and its related chemical precursors, caprolactam extract and cyclohexanone under FTZ procedures up to a combined level of 45 million kilograms annually (Board Order 732, 60 FR 15903, 3–28–95), subject to the following conditions: (1) privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that nonprivileged foreign (NPF) status may be elected for foreign caprolactam extract (HTSUS 2933.71.0000; 2.3¢/kg+9%) and cyclohexanone (2914.22.1000; 1.4¢/kg+9.7%); and, (2) the authority with regard to the NPF option is initially granted until December 31, 1999, subject to extension.

FTZ procedures exempt BASF from Customs duty payments on the foreign components used in export production. On its domestic sales, the NPF option enables BASF to choose the finished polycaprolactam (nylon-6) duty rate (6.3%) for the foreign inputs noted above. The request indicates that the savings from FTZ procedures will continue to help improve the facilities' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 26, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 9, 1999).

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230–0002.

Dated: March 17, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–7369 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–803]

Cut-to-Length Carbon Steel Plate From Romania; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the 1997–1998 administrative review of the antidumping duty order on cut-to-length carbon steel plate from Romania. The review covers one exporter of the subject merchandise to the United States, Windmill International Romania Branch (Windmill), and the period August 1, 1997 through July 31, 1998.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Fred Baker at (202) 482–2924 or John Kugelman at (202) 482–0649, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: The Department initiated this administrative review on September 29, 1998 (63 FR 51893). Under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. Because of the complexity and difficulties presented with surrogate factor valuation in this case, the Department is extending the time limit for completion of the preliminary results until August 31, 1999. See Memorandum from Joseph A. Spetrini to Robert S. LaRussa, on file in Room B–099 of the Main Commerce Building. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations.

Dated: March 19, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–7367 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–809]

Certain Cut-to-Length (CTL) Carbon Steel Plate From Mexico; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary determination in antidumping duty administrative review of certain CTL carbon steel plate from Mexico.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the administrative review of the antidumping duty order on certain CTL carbon steel plate from Mexico. This review covers the period August 1, 1997 through July 31, 1998.

EFFECTIVE DATES: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Heather Osborne or John Kugelman, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3019 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION: Beause it is not practicable to complete this review within the time limits mandated by the Tariff Act of 1930, as amended, the Department is extending the time limit for completion of the preliminary results until August 31, 1999, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994 (19 U.S.C. 1675(a)(3)(A)). *See* memorandum to Robert S. LaRussa from Joseph A. Spetrini regarding the extension of the case deadline, dated March 17, 1999.

Dated: March 18, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–7370 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–803]

Notice of Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Eric B. Greynolds, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1775 or (202) 482–6071, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351 (April 1998).

Final Determination

We determine that extruded rubber thread ("ERT") from Indonesia is being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of our preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Extruded Rubber Thread from Indonesia;* 63 FR 59279, (October 27, 1998), ("Preliminary Determination")), the following events have occurred:

In December 1998, we verified the sales questionnaire response from Globe Manufacturing Company ("Globe"), an affiliated selling agent of P.T. Bakrie Rubber Industries ("Bakrie"), a foreign respondent. Between January 7 through January 31, 1999, we verified the sales and cost questionnaire responses of the foreign respondents, Bakrie and P.T. Swasthi Parama Mulya ("Swasthi").

Petitioner, North American Rubber Thread Co., Ltd., and respondents, Bakrie and Globe, submitted case briefs on February 26, 1999, and rebuttal briefs on March 2, 1999. Swasthi submitted a case brief on February 26, 1999, and a rebuttal brief on March 3, 1999. No party requested a public hearing for this investigation.

Scope of the Investigation

For purposes of this investigation, the product covered is ERT from Indonesia. ERT is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inches or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter.

ERT is currently classified under subheading 4007.00.00 of the *Harmonized Tariff Schedule* ("HTS"). Although the HTS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Fair Value Comparisons

To determine whether sales of ERT from Indonesia to the United States were made at less than fair value, we compared the export price ("EP") or the constructed export price ("CEP") to the normal value ("NV"), as described below in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the description in the "Scope of Investigation" section of this notice, produced in Indonesia by the respondents and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): gauge and color. In our preliminary determination we also made product comparisons using ends in our model match. At verification we learned that ends are not relevant to the product price of ERT. We also verified that there are no costs associated with the ends. Therefore, for purposes of the final determination, we have eliminated ends as a model match characteristic.

Level of Trade

In the preliminary determination, we determined that all comparisons are at the same level of trade for both respondents and an adjustment pursuant to section 773(a)(7)(A) of the Act is not warranted. We find no basis to change this determination for the final determination.

Export Price

As in the preliminary determination, for Swasthi we used EP methodology, in accordance with section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated.

We based EP on the packed prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, from the starting price for foreign inland freight, international freight, marine insurance, U.S. customs duty, and brokerage and handling. We also made a deduction, where appropriate, for rebates.

In the course of preparing for verification, Swasthi discovered minor errors in its questionnaire responses. Swasthi reported these corrections to its questionnaire responses on the first day of verification. Upon examination of these minor corrections, we made the following revisions to Swasthi's U.S. sales database: (1) accepted a revised sales database which amended various fields (*see* Comment 4 in the "Analysis of Comments Received" section for further discussion); (2) revised the brokerage expenses (*see* Swasthi's Sales Verification Report); (3) revised the rebate calculation, where appropriate (*see* Swasthi's Sales Verification Report); and (4) recalculated imputed credit costs in the home and U.S. market in order to account for changes in the interest rates (*see* Swasthi's Sales Verification Report).

Constructed Export Price

For all sales by Bakrie, we used the CEP methodology, in accordance with section 772(b) of the Act, because the first sale of subject merchandise to an unaffiliated purchaser took place after importation into the United States. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for discounts. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, containerization expenses (expenses for loading the merchandise into the container), foreign brokerage and handling, international freight (including marine insurance, U.S. inland insurance, U.S. freight to the affiliated reseller), U.S. customs duties, and freight to U.S. customer. In accordance with section 772(d)(1) of the Act, we deducted selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit cost) (*see* Comment 7), inventory carrying costs (*see* Comment 7), other indirect selling expenses.

Finally, during our verification of Globe, we learned that Globe incorrectly based its inventory carrying costs and indirect selling expenses on a nine-month period rather than on the entire POI. Thus, based on our verification findings, we revised the inventory carrying costs and indirect selling expenses in Bakrie's U.S. sales database in order to account for the entire POI. In addition, we revised the international freight expenses incurred in the United States and the inland freight expenses from the warehouse and created a new field in order to account for marine insurance expenses that were omitted from Bakrie's original section C response. For further discussion on the above-mentioned revisions, *see* Globe's Verification Report. In addition, we recalculated Bakrie's imputed credit expenses in the home and U.S. market in order to account for changes in the interest rates that we discovered at verification (*see* Bakrie and Globe's Sales Verification Report).

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the POI.

Consequently, we based NV on home market sales.

As discussed in the preliminary determination, the Department found reasonable grounds to believe or suspect that both Bakrie's and Swasthi's sales in the home market were made at prices below the cost of producing the subject merchandise. As a result, the Department initiated an investigation to determine whether Bakrie and Swasthi had made home market sales during the POI at prices below their respective cost of production within the meaning of section 773(b) of the Act. Section 782(c)(2) of the Act provides that the Department must attempt to provide guidance to small responding companies. Because both respondents are small companies in Indonesia, acting on their own behalf, the Department has attempted to provide guidance in the course of responding to antidumping questionnaires. This, in turn, necessitated granting time to respond to the questionnaires. Due to these extensions, the Department was unable to include a cost of production ("COP") analysis of either respondent's home market sales in the preliminary determination. However, we are including a COP analysis of Bakrie's and Swasthi's home market sales in this final determination.

Before making any fair value comparisons, we conducted the COP analysis described below for each company:

1. Bakrie

A. *Calculation of COP.* We calculated the COP based on the sum of Bakrie's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses ("SG&A") and packing costs in accordance with section 773(b)(3) of the Act.

B. *Test of Home Market Prices.* We used the respondent's weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether the below-cost prices would permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We did not deduct indirect selling expenses from the home market price because these expenses were included in COP.

C. *Results of COP Test.* Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to weighted-average COPs for the POI, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

Based on our COP test, we found that Bakrie had no above-cost home market sales for matching purposes. (For further discussion, see the Calculation Memorandum to the File, dated March 18, 1999). Therefore, NV was based upon constructed value, pursuant to section 773(b)(1).

D. *Calculation of CV.* In accordance with section 773(e) of the Act, we calculated CV based on the sum of Bakrie's cost of materials, fabrication costs, SG&A, profit, and U.S. packing costs. We used Bakrie's actual selling expenses incurred in Indonesia on home market sales. Because Bakrie had no above-cost home market sales and, hence, no actual company-specific profit data available for its home market sales, we calculated profit in accordance with section 773(e)(2)(B) of the Act. Specifically, section 773(e)(2)(B)(iii) of the Act permits the Department to use any other reasonable method to determine profit. Therefore, we used Swasthi's profit rate as facts available under section 773(e)(2)(B)(iii) of the Act (*see* Comment 2).

E. *Price to CV Comparisons.* For price to CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses, in accordance with section 773(a)(6)(C)(iii) of the Act.

2. Swasthi

A. *Calculation of COP.* We calculated the COP based on the sum of Swasthi's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A and packing costs in accordance with section 773(b)(3) of the Act.

B. *Test of Home Market Prices.* On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We did not deduct indirect selling expenses from the home market price because these expenses were included in the G&A portion of COP.

C. *Results of COP Test.* Based on our COP test and the methodology for disregarding below-cost sales described above for Bakrie, we found that Swasthi had sufficient above-cost home market sales for matching purposes. (For further discussion, *see* the Calculation Memorandum to the File, dated March 18, 1999). Therefore, for matching purposes, U.S. sales were compared to home market prices for all comparisons and CV was not required.

D. *Price to Price Comparisons.* We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where the sales were made at arm's length. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale ("COS") for credit expenses, in accordance with section 773(a)(6)(C). We made COS adjustments by deducting from the starting price credit expenses. In addition, in accordance with section 773(a)(6)(A) and (B) of the Act, we deducted home market packing costs and added U.S. packing costs. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Currency Conversion

As in the preliminary determination, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, ignoring fluctuations, in accordance with section 773A of the Act.

Section 773A of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate is a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we

substitute the benchmark for the daily rate.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents. Our verification results are outlined in detail in the public versions and are on file in Room B–099, the Central Records Unit, of the Department of Commerce.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, and the two respondents, Bakrie and Swasthi. We also received rebuttal comments from the petitioner, Bakrie, Swasthi, and Globe.

Comment 1: Averaging Periods to Account for the Effect of Time on Price Comparability. Petitioner requests that the Department depart from its standard use of a single weighted-average price and use two six-month averaging periods to calculate the dumping margin in this investigation to ensure that the currency conversion methodology does not distort the Department's calculations of the dumping margins. Petitioner, in this case, cites the identical arguments for applying two six-month averaging periods discussed in the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 72268, 72272 (December 31, 1998) ("*Preserved Mushrooms*"). *See Preserved Mushrooms* at Comment 1.

According to Globe, the petitioner has misinterpreted the Department's decision regarding the application of two six-month averaging periods to calculate the dumping margin in this investigation. Globe argues that in the *Preserved Mushrooms* case, the Department chose not to use shorter averaging periods because they were of no consequence in that case. Accordingly, because the POI in this investigation is identical to the POI in *Preserved Mushrooms*, Globe contends that the Department should also not alter the averaging period and continue to average prices over the entire POI.

Swasthi also disagrees with the Petitioner's assertion that the Department should use two-averaging periods. Swasthi argues that dividing the POI into two parts would require the use of two sets of costs and sales data for each of the periods. Swasthi notes that the Department has only the costs and sales information regarding calendar year 1997, and does not have the information available to consider the Petitioner's proposed two-six month averaging period. On this basis, Swasthi contends that the Department should follow the practice as applied in *Preserved Mushrooms* by basing the price comparison on a single averaging period for all of calendar year 1997.

DOC Position. We agree with petitioners that separate averaging periods should be used. Under section 777A(d)(1)(A) of the Act , the Department has wide latitude in calculating the average prices used to determine whether sales at less than fair value exist. More specifically, under 19 C.F.R. 351.414(d)(3), the Department may use shorter averaging periods where normal value varies significantly over the POI. In this case, such a change is evidenced by the steady, significant decline in the rupiah's value that began about August 1997 and continued through the end of the POI. From August through December, the end of the POI, the rupiah's value decreased by more than 50 percent in relation to the dollar. Consequently, it is appropriate to use two averaging periods to avoid the possibility of a distortion in the dumping calculation. We disagree with Globe's claim that the use of averaging periods is not warranted because the POI is the same as the POI in *Preserved Mushrooms*. Whereas we declined to use two averaging periods in that case because doing so would have had no effect, thus rendering the issue moot, in this case the use of two averaging periods would affect our determination. As noted above, in our view, using a single averaging period would result in a distortion of the dumping calculation. We also disagree with Swasthi's assertion that we would need additional information in order to use two averaging periods. In accordance with our normal requirements, respondents reported individual sales transactions, and we simply segregated sales by period. Further, no additional or different cost information is required. The use of two averaging periods for margin calculation purposes does not affect whether the reported cost data are appropriate.

Comment 2: Calculated Profit. Petitioner argues that, should the Department find in its COP analysis that respondents made no sales above the cost of production, the Department should resort to the use of constructed value as NV, and apply, as the profit rate, a rate of 22.69 percent as used in the *Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Indonesia*, 62 FR 1719, (January 13, 1997) ("*Melamine Dinnerware*").

Swasthi argues that its home market sales are profitable, and therefore the Department should use, if necessary, Swasthi's actual profit rate and not the rate of a plastic tableware manufacturer. Swasthi continues to state that a profit rate of another industry is irrelevant for an analysis involving the extruded rubber thread industry.

Bakrie did not comment on this issue.

DOC Position. We disagree with Petitioner. According to section 773(e)(2)(B) of the Act, the Department has various methodologies for calculating profit where profit does not exist. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2nd Sess. (1994) (SAA) at 841, states that if a company has no home market profit on sales of the foreign like product or has incurred losses in the home market, the Department is directed to find an alternative home market profit. The statute also infers that a positive profit amount must be included in the calculation of constructed value by mandating the use of profit from any sales above the costs of production (even one sale) and provides alternative methods for determining profit when no sales are found to be above the cost of production.

Because Bakrie had no above-cost home market sales and, hence, no actual company-specific profit data available for its home market sales of the foreign like product, we calculated profit in accordance with section 773(e)(2)(B) of the Act. Specifically, section 773(e)(2)(B)(iii) of the Act permits the Department to use any other reasonable method to determine profit. We note that Bakrie's audited 1997 financial statement indicated no profit during the POI. However, because Swasthi is another producer/exporter of the subject merchandise in Indonesia and did report a profit for the POI, we are applying, as facts available, its profit rate under section 773(e)(2)(B)(iii) of the Act. Therefore, we do not need to resort to other alternatives for a surrogate profit ratio.

Comment 3: Treatment of Bakrie's Audited Financial Statement as Public. Petitioner contends that the Department should treat Bakrie's 1997 audited financial statement as public information, as opposed to business proprietary information, based on the fact that Bakrie had to report such information to the Indonesian government.

Bakrie did not comment on this issue.

DOC Position. We disagree with Petitioner. Pursuant to section 351.105 of the Department's regulations, the Secretary normally will consider as business proprietary, at the request of the submitter, specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter. At the time of Bakrie's questionnaire submission, Bakrie requested that its financial statement be treated as proprietary. Bakrie's financial statement is not a public document. Petitioner's argument that the financial statement should be a public document because Bakrie has acknowledged that it must provide a copy of its financial statement to the government of Indonesia is not pertinent to Bakrie's request for proprietary treatment of the document. The fact that Bakrie's financial statement might be disclosed to a government entity does not in and of itself demonstrate that such information is public. For example, companies must file a tax return with the government, but this fact does not mean that company tax returns are public documents. Therefore, we continue to treat Bakrie's financial statement as a business proprietary document.

Comment 4: Use of Facts Available in Swasthi's Sales Responses. Petitioner argues that, at the beginning of the verification process, Swasthi provided updated information regarding returns, discounts, commissions, payment dates, packing expenses, product codes, sales dates and inland freight costs for both U.S. and Indonesian sales, which essentially constituted a new questionnaire response. Petitioner asserts that, because such data constitutes untimely new information which should have been provided in the questionnaire responses, the Department should disregard this new data and adjust Swasthi's sales data using facts available.

Swasthi states that the revisions should be included in the Department's final determination because the Department was able to reconcile the revisions during verification.

DOC Position. The revisions Swasthi provided to the Department at verification amount to corrections of certain errors Swasthi made in its questionnaire responses. The errors in question were neither significant nor pervasive. On the first day of verification, Swasthi presented a revised Section B and C database. The revisions were the direct result of errors discovered in the course of preparing for the Department's verification. Furthermore, the revised sales databases were reconciled and formed the basis of the Department's verification report. Because it is the Department's practice to accept minor corrections at verification, we have accepted these corrections for purposes of this final determination.

Comment 5: Conversion of Correct Units of Measure of Imputed Credit Cost in the United States. Swasthi alleges that its imputed credit cost for sales incurred in the United States at the preliminary determination was reported in U.S. dollars per kilogram instead of U.S. dollars per pound. Swasthi contends that this resulted in an overstatement of imputed credit cost to be deducted from the gross sales prices. Swasthi requests that the Department recalculate its imputed credit cost in the United States based on the fact that the Department verified that the imputed credit was reported in U.S. dollars per pound.

Petitioner did not comment on this issue.

DOC Position. In both the preliminary determination and in this final determination, we calculated imputed credit costs for Swasthi's U.S. sales based on a cost per-pound basis. This was done because the U.S. sales price is made on a per-pound basis. Therefore, the proper credit costs were used in both the preliminary and final determinations.

Comment 6: Loan from Shareholders. Petitioner argues that the Department should impute an interest expense on loans received from related parties and that this is consistent both with related party transaction provisions in the statute and with the Department's normal practice. Specifically, petitioner states that Swasthi received loans from shareholders bearing a non-arm's length interest rate. Petitioner notes that it is the Department's practice to calculate the interest cost for loans from affiliated parties, *e.g.*, shareholders, based on the interest rate the loan recipient is paying unaffiliated parties. *See Final Results of Antidumping Duty Administrative Review: Industrial Phosphoric Acid from Belgium*, 63 FR 55087, 55089, (October 18, 1998). According to petitioner, the COP the Department uses in its margin calculations should reflect the fair market cost of this type of loan.

Swasthi refutes petitioner's allegations by stating that its shareholders do indeed charge market interest rates on the loans; and that the cost of such loans were included as reported costs in its COP and CV databases. Swasthi notes that the Department stated in its verification report that there were no discrepancies in Swasthi's COP and/or CV databases. Thus, Swasthi contends, petitioner's comment on this issue should be disregarded.

DOC Position. We agree with Petitioner. It is the Department's practice to include imputed interest expenses in the computation of CV and COP on loans received from affiliated parties, if not included in the interest expense calculation. *See Final Results of Antidumping Duty Administrative Review: Shop Towels from Bangladesh*, 60 FR 48966, (September 21, 1995). The Department will normally impute an interest expense on transactions when the rate charged by a related party lender does not reflect a fair market rate. In this case, we do not consider the respondent's shareholder loans to be reflective of the fair market borrowing rate since such loans typically involve some cost to the borrower. The Department determined that Swasthi received loans from its shareholders, but the interest on those loans was not included in the calculation of Swasthi's COP and CV. Therefore, we calculated an annual imputed interest expense for the loan by multiplying the outstanding loan balance by the annual borrowing rate in rupiah as shown in the 1997 audited financial statement. The resulting per annum, annual imputed interest expense of the loan was added to Swasthi's reported interest expense, and the revised interest expense was then divided by the cost of goods sold to obtain a revised interest expense ratio which was used in the calculation of the COP (*see*, the Calculation Memorandum to the File dated March 18, 1999).

Comment 7: Imputed Credit and Inventory Carrying Costs. Bakrie argues that its U.S. and home market prices should not be adjusted for imputed credit costs and inventory carrying costs incurred in the home and United States because imputed credit costs are included in its interest expense for purposes of its COP calculation. Thus, Bakrie contends that the Department double-counted its interest expense because these expenses are included in COP and are also deducted from the home market sales price.

DOC Position. We did not double-count Bakrie's expenses. When conducting the COP test for Bakrie's home market sales, the COP includes the company's actual financial expenses. In conducting the COP test, we do not deduct imputed inventory carrying costs and home market credit costs from HM prices because the COP already includes the company's actual financial expenses. Thus, there is no double-counting of Bakrie's interest expenses. We do not perform the cost

test for U.S. sales. Therefore Bakrie's comment with respected to U.S. costs is moot.

Comment 8: Exclusion of Globe's Assistance in Bakrie's Reported COP. Petitioner contends that the Department should adjust Bakrie's reported COP to account for Globe's contribution to the joint venture which Petitioner asserts was not reflected in Bakrie's reported COP.

DOC Position. We disagree with Petitioner. Globe's contribution to the joint venture was already included in Bakrie's reported COP and CV databases. For further discussion, *see* the Calculation Memorandum to the File dated, March 18, 1999.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to begin suspension of liquidation for Swasthi of all entries of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final determination in the **Federal Register**. We are also directing the Customs Service to continue to suspend liquidation for Bakrie of all entries of subject merchandise from Indonesia, that are entered, or withdrawn from warehouse, for consumption on or after November 3, 1998 (the date of publication of the preliminary determination in the **Federal Register**). The "All Others" rate applies to all exporters of extruded rubber thread not specifically listed below. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
P.T. Bakrie Rubber Industry	28.29
P.T. Swasthi Parama Mulya	44.86
All Others	31.54

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 18, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7371 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–602]

Certain Fresh Cut Flowers From Colombia: Extension of Time Limit of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limit for the final results in the 11th administrative review of the antidumping duty order on certain fresh cut flowers from Colombia. The period of review is March 1, 1997, through February 28, 1998. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Rosa Jeong or Marian Wells, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3853 or 482–6309, respectively.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) initiated the administrative review of the antidumping duty order on certain fresh cut flowers from Colombia on April 21, 1998 (63 FR 19709). On December 7, 1998, we extended the deadline for these preliminary results until February 10, 1999 (63 FR 6754). On February 18, 1999, we published in the **Federal Register** the preliminary results of this administrative review (64 FR 8059).

Due to the complexity of the issues present in this case, the Department has determined that it is not practicable to complete this review within the original time limit set forth in section 751(a)(3)(A) of the Tariff Act of 1930 (the Act), as amended by the Uruguay Round Agreements Act. Therefore, the Department is extending the time limit for completion of the final results until August 17, 1999.

As a result of the extension of the final results, the Department is also postponing the briefing schedule. Case briefs will be due on June 3, 1999, rebuttal briefs will be due on June 10, 1999.

This extension is in accordance with the section 751(a)(3)(A) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary, Import Administration.

[FR Doc. 99–7368 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–804]

Final Negative Countervailing Duty Determination: Extruded Rubber Thread From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Eric B. Greynolds, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

FINAL DETERMINATION: The Department of Commerce (the "Department") determines that countervailable subsidies are not being provided to producers or exporters of extruded rubber thread (ERT) in Indonesia.

Case History

Since the publication of the preliminary negative determination in the **Federal Register** on September 9, 1998, (63 FR 48191) (*Preliminary Determination*), the following events have occurred. Between September 23 and October 2, 1998, we conducted verification of the responses of the Government of Indonesia (GOI) and the respondent companies, P.T. Swasthi Parama Mulya (Swasthi) and Bakrie Rubber Industries (Bakrie). Swasthi submitted a case brief on December 1, 1998. No other parties to this investigation filed case briefs or rebuttal briefs. A public hearing was not requested by any interested party.

Scope of Investigation

For purposes of this investigation, the product covered is extruded rubber thread (ERT) from Indonesia. ERT is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inches or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. ERT is currently classified under subheadings 4007.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR 351 and published in the **Federal Register** on May 19, 1997 (62 FR 27295).

Petitioner

The petition in this investigation was filed by North American Rubber Thread Co., Ltd. (the petitioner).

Period of Investigation

The period for which we are measuring subsidies (the "POI") is calendar year 1997.

De Minimis Countervailable Subsidy

Pursuant to its authority under section 771(36) of the Act, the United States Trade Representative ("USTR") has designated Indonesia as a "least developed country." *See* USTR Interim Final Rule: Developing and Least-Developed Country Designations Under the Countervailing Duty Law 15 CFR 2013 (63 FR 29945). Consequently, a net countervailable subsidy rate that does not exceed three percent *ad valorem* is considered *de minimis*, in accordance with section 703(b)(4)(B) of the Act, which implements Article 27 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement"). As discussed below, we determine that the net countervailable subsidy bestowed on extruded rubber thread from Indonesia is less than three percent *ad valorem*, and therefore, *de minimis*.

Analysis of Programs

Based upon our analysis of the petition, the responses to our questionnaires, the information reviewed at verification, and written briefs submitted by interested parties, we determine the following:

I. Programs Determined to Be Countervailable

A. Bank of Indonesia (BI) Rediscounted Loans

Under Decree No. 132/MPP/Kep/1996 of June 4, 1996, the Ministry of Industry and Trade, the Ministry of Finance, and the Bank of Indonesia (BI) provide support for certain exporters with the goal of achieving diversification of the Indonesian export base from oil and gas. Under the program, companies can sell their letters of credit and export drafts at a discount to the BI through participating foreign exchange banks, which are commercial banks that have obtained a license to conduct activities in foreign currencies. In the *Preliminary Determination*, we determined that this program was countervailable because the sale of the letters of credit and export drafts provided exporters with working capital at lower interest rates than they would otherwise obtain on the market. Our review of the information on the record, our findings at verification, and our analysis of the case brief submitted by Swasthi (*see* Comment 1) has not led us to change our preliminary determination that this program is countervailable.

During the POI, Swasthi obtained rediscounted loans under the BI rediscount loan program, as well as commercial rediscounted loans that were not associated with the BI rediscount loan program. Because Swasthi is a Designated Export Company (PET), it was eligible to obtain BI rediscounted loans at a rate that was lower than the rate available to non-PET companies, specifically, at the Singapore Interbank Offering Rate (SIBOR) rather than SIBOR plus one percentage point.

For purposes of the *Preliminary Determination*, we calculated the benefit to Swasthi under this program as the difference in the interest that Swasthi would have paid at the non-PET rate and interest it paid at the PET rate. However, for purposes of this final determination, we are using a different benchmark. According to section 771(5)(E)(ii) of the Act, the benefit conferred under a loan program is the difference between the amount the recipient of the loan pays on the loan under the government program and the amount the recipient would pay on a comparable commercial loan that it could actually obtain on the market. We verified that, during the POI, Swasthi obtained comparable commercial rediscounted loans outside of the BI rediscount loan program. Thus, we determine that those company-specific loans provide a more appropriate benchmark than the benchmark used in the *Preliminary Determination*. Therefore, instead of the using a rate established by the BI, we calculated the benchmark as the weighted-average interest rate of the non-BI rediscounted loans Swasthi obtained during the POI. In order to calculate the benefit under the program, we calculated the difference in the amount of interest Swasthi actually paid on the BI rediscounted loans during the POI and the amount it would have paid at the benchmark interest rate. We then divided the calculated benefit provided from the BI rediscount loan program by Swasthi's total exports of subject merchandise to the United States during the POI. We used export of subject merchandise to the United States because the loans could be segregated by product and destination. On this basis, we determine the benefit to Swasthi under this program to be 0.18 percent *ad valorem* for Swasthi. No other producers/exporters of the subject merchandise applied for or received loan under this program during the POI.

II. Programs Determined To Be Not Used

Based on the information provided in the responses and the results of verification, we determine that, during the POI, the producers/exporters of subject merchandise did not apply for or receive benefits under the following programs:

A. *Investment Credit for the Expansion of the Rubber Industry.*

B. *Corporate Income Tax Holiday.*

C. *Import Duty Exemption of Capital Equipment.*

Interest Party Comment

Comment 1: Benchmark Used in the Calculation of the Bank of Indonesia (BI) Rediscount Loan Program: Swasthi states that the Department should continue to use the benchmark interest rate employed in the *Preliminary Determination*, (*i.e.*, the interest rate differential between the BI's PET rate and the non-PET rate). Swasthi further argues that, when calculating the benefit provided by BI rediscounted loans, the Department should take into consideration the opportunity costs that Swasthi incurred as a result of collateral deposits. Swasthi states that collateral deposits are a typical banking practice in Indonesia.

Department's Position: We disagree with Swasthi's argument that the Department should continue to calculate the benefit to Swasthi using the BI rate for non-PET companies for comparison purposes. As explained above, section 771(5)(E)(ii) of the Act states that the benefit from a government loan program should be based upon comparable commercial loans that the company could actually obtain on the market. During the POI, Swasthi obtained comparable commercial rediscounted loans which are not associated with the BI rediscount loan program. Therefore, these loans are a more appropriate basis for benchmark purposes than the BI rediscount rate for non-PET companies.

Also we disagree that we should factor into our benefit calculations opportunity costs associated with collateral deposits. In determining whether particular loans are comparable for benchmark purposes, the Department normally focuses on the structure of the loans, the maturities of the loans, and the currencies in which the loans are denominated. As explained above, we have determined that Swasthi's commercial rediscounted loans are appropriate for benchmark purposes. They have comparable structures and maturities and are denominated in dollars.

As Swasthi acknowledges, collateral requirements are a typical bank practice in Indonesia. Both banks that participate in the BI rediscount loan program and banks that do not participate in the BI rediscount loan program require collateral. Moreover, collateral requirements vary across banks and loan types. Based on these facts, there is no basis for factoring in collateral requirements in determining the effective interest rates, nor is there a basis for finding that Swasthi's commercial rediscounted loans are not an appropriate benchmark.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed our standard verification procedures, including meeting with government and company officials, and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Summary

In accordance with section 705(a)(3) of the Act, we determine that the total net countervailable subsidy rate for Bakrie is zero and that the total net countervailable subsidy rate for Swasthi is 0.18 percent *ad valorem*, which is *de minimis*. Therefore, we determine that no countervailable subsidies are being provided to the production or exportation of extruded rubber thread from Indonesia. Pursuant to section 705(c)(2) of the Act, this investigation will be terminated upon the publication of the final negative determination in the **Federal Register**.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act.

Dated: March 18, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7372 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Procedures for Delivery of HEU Natural Uranium Component in the United States

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of draft revision of the procedures for delivery of HEU natural uranium component in the United States, and request for comments.

SUMMARY: The Department of Commerce is announcing draft revised procedures for the delivery of HEU material pursuant to the USEC Privatization Act.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: James C. Doyle, Karla Whalen, or Juanita H. Chen, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–3793.

Background

On April 25, 1996 Congress passed the United States Enrichment Corporation Privatization Act ("USEC Privatization Act"), 42 U.S.C. 2297h, *et seq*. The USEC Privatization Act requires the U.S. Department of Commerce ("Department") to administer and enforce the limitations set forth in 42 U.S.C. 2297h–10(b)(5) of the USEC Privatization Act. On January 7, 1998, in order to implement this statutory mandate, the Department issued the Procedures for Delivery of HEU Natural Uranium Component in the United States. The purpose of issuing Procedures for Delivery of HEU Natural Uranium Component in the United States ("HEU Procedures") is to enhance the predictability and transparency of the administration and enforcement of the above-referenced delivery limitations.

On July 6, 1998 the Department provided public notification of the HEU Procedures and Annex 1 to the HEU Procedures (see 63 FR 36391 (July 6, 1998)). On July 23, 1998 the Department issued a proposed Annex 2 to the HEU Procedures regarding re-importation requirements and requested public comment on Annex 2. Comments were received from eight parties.

In accordance with Section F of the HEU Procedures, on October 8, 1998, the Department requested comments on necessary or desirable changes to the HEU Procedures from parties (see 63 FR 54108 (October 8, 1998)). The Department received comments from eight parties regarding the HEU Procedures. After careful review of the comments, and after consultations with various parties, the Department has determined that revision and clarification of the HEU Procedures are warranted. Revised HEU Procedures are set forth below.

The Department hereby invites parties to provide comment on these draft

revised Procedures for delivery of HEU Natural Uranium Component in the United States, as set forth below. All such comments must be submitted to the Department no later than ten days after the date of publication of this notice. Comments should be addressed and submitted to: Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, Attention: Roland L. MacDonald—Room 7866.

The Department intends to issue final revised Procedures for delivery of HEU Natural Uranium Component in the United States no later than 20 days after the date of publication of this notice.

Dated: March 18, 1999.

Robert S. LaRussa,

Assistant Secretary, Enforcement Group III.

Draft Revised Procedures for Delivery of HEU Natural Uranium Component in the United States

The United States Enrichment Corporation Privatization Legislation, 42 U.S.C. § 2297h, *et seq.* ("USEC Privatization Act"), directs the Secretary of Commerce to administer and enforce Russian origin uranium delivery limitations set forth in 42 U.S.C. § 2297h-10(b)(5). Accordingly, the U.S. Department of Commerce ("Department") is implementing § 2297h–10 of the USEC Privatization Act by issuing these revised HEU Procedures. The authority to implement the HEU Procedures does not derive from the Tariff Act of 1930, as amended. Therefore, these revised HEU Procedures are not subject to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation ("Russian Suspension Agreement"), 57 FR 79235 (October 30, 1992), as amended.

A. Coverage

The uranium covered by these revised HEU Procedures consists of uranium hexafluoride derived from HEU taken from dismantled nuclear warheads, deemed under United States law for all purposes to be of Russian origin, and delivered to the Russian Executive Agent pursuant to the USEC Privatization Act ("HEU Natural Uranium Component").

B. Definitions

1. Account Administrator—means the party that administers the account into which the Russian Executive Agent or Designated Agent takes delivery of, and provides account balance information for, the HEU Natural Uranium Component prior to its sale pursuant to the USEC Privatization Act.

2. Annual Maximum Deliveries—means the delivery limitations as set forth at 42 U.S.C. § 2297h–10(b)(5):

ANNUAL MAXIMUM DELIVERIES TO END-USERS FOR CONSUMPTION

Year	(Millions lbs. U_3O_8 equivalent)
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009	20

3. Consumption—means for use as nuclear fuel.

4. Designated Agent—means any party that has been authorized by the Ministry of Atomic Energy of the Russian Federation ("MINATOM") to sell the HEU Natural Uranium Component.

5. Designated Agent's Account—means the account held in the name of the Designated Agent, into which only the HEU Natural Uranium Component is delivered prior to its transfer pursuant to the USEC Privatization Act.

6. End-User—means a utility that consumes the HEU Natural Uranium Component for energy production.

7. Executive Agent—means the United States or Russian Federation executive agent with the authority to implement the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 19, 1993.

8. Secretary—means the Secretary of Commerce or a designee. The Secretary has responsibility for the administration and enforcement of the limitations set forth in 42 U.S.C. 2297h–10(b)(5).

9. U_3O_8 to UF_6 Conversion—based on a tails assay of 0.30 U^{235}, 1 KgU in UF_6 = 2.61283 lbs. U_3O_8.

10. Verification—The process by which the Department examines the records of the party that provided the information being examined, and interviews company personnel who prepared such information and who are familiar with the sources of the data in the information, in order to establish the adequacy and accuracy of submitted information.

C. Record Procedures and Commercial Confidentiality

1. Public Record and Access

a. HEU Record: A separate record for documents and information generated under the HEU Procedures shall be created under the identifying title "HEU File" and maintained in the Central Records Unit.

b. Central Records Unit: Import Administration's Central Records Unit is located at B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, DC 20230. The office hours of the Central Records Unit are between 8:30 A.M. and 5:00 P.M. on business days.

c. The Central Records Unit is responsible for maintaining a public and an official record for the HEU File. The public record will consist of all material contained in the official record that the Secretary determines is subject to release under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, *et seq.* (1998), and disclosed to the general public in the Central Records Unit. The Secretary will charge an appropriate fee for providing copies of documents. The official record will contain information for which the submitter has claimed an exemption to release under FOIA. Such record will be accessible only to authorized Commerce Department employees.

d. FOIA Release and Treatment of Commercial Information: Documents submitted to the Department are fully releasable under FOIA, unless a party claims protection from release under a listed exemption. A party making a submission may not claim its own identity as protected from release under FOIA. In order to claim protection from release, a party must specify the appropriate exemption applicable to the information which the party seeks to protect from release, and bracket such information. See § 4.7 of the Department's FOIA regulations, set forth in 15 C.F.R. Part 4 (1998). If the information in the submission is protected from release under an exemption to FOIA, the party submitting such documentation is to provide a releasable public version along with the non-releasable version. Further information on FOIA may be accessed at *http://www.usdoj.gov/foia* .

e. Internet Access to Quarterly Quota Usage: The Department will set up and update quarterly a web-page which will allow the public to access updates on the Annual Maximum Deliveries quota usage. This information will be accessible at *http://www.ita.doc.gov* .

f. Interim Record: The Department will create the public record of the HEU

File within 90 days from publication of the final revised HEU Procedures. During this time the Department will allow parties that have already submitted information to the Department, pursuant to the January 7, 1998 HEU Procedures, the opportunity to claim documents are exempt from release under FOIA and to create releasable versions of said documents. The Department will also transfer any documentation relating to the HEU Procedures from the record for the Russian Suspension Agreement (A–821–802) to the HEU File, or will return such documentation to the submitter, as appropriate.

2. Record Submission Instructions

a. Where to file: For the Department to consider a submission to the record, persons must address and submit all documents to: The Secretary of Commerce; Attention: Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Submissions may be made between 8:30 AM and 5:00 PM on business days. Courtesy copies addressed to the appropriate employee, and designating the employee's room number, may be delivered to Room 1874. Contract submitters are requested to notify the Department at 202–482–3793 when a contract has been submitted for approval.

b. Required Header Information: Any submission made to the HEU File must contain the following information in the upper right hand corner of the document in the order presented below:

HEU File
Number of Pages
Public Document, or,
Business Proprietary Document (Public or Proprietary Version)
Attn: Uranium Program, Room 7866

c. Number of Copies: Each submission to the Department must be accompanied by three copies of the submission. Where claim of exemption from release under FOIA is made, two public and three proprietary versions should be submitted to the Department. Upon receipt, the Central Records Unit will stamp the official date of filing on the submission.

D. Allocation of Annual Maximum Deliveries to End-Users

The Department recognizes that MINATOM may allocate the Annual Maximum Deliveries of HEU Natural Uranium Component among any Designated Agent(s) which it authorizes to sell the HEU Natural Uranium Component. For each Designated Agent receiving a delivery allocation, MINATOM will issue a certificate identifying such Designated Agent, the duration of time for which the allocation is valid, and the maximum annual amount to be delivered under that certificate. The certificate(s) will also contain a statement that the material to be delivered to the Designated Agent is to be sold in the United States for consumption. MINATOM will provide a copy of all such certificates to the Department within 10 days of issuance. The cumulative amount of the maximum deliveries authorized by such certificates each year may not exceed the Annual Maximum Deliveries.

E. Contract Monitoring and Approval

1. All Designated Agents must submit for approval all contracts related to the sale of the HEU Natural Uranium Component in the United States, regardless of the point of delivery. The following five items are required for contract approval:

a. A certificate as provided for in Section D confirming that the Designated Agent has been allowed sufficient amounts for deliveries by MINATOM to fulfill its obligations under the submitted contract;

b. A schedule of deliveries indicating the date(s) of deliveries, amount, and site of each delivery. The Department will compare this information to the sum of the previously approved contracts to ensure that the Designated Agent delivery allocation and/or the Annual Maximum Deliveries are not exceeded;

c. A statement in the contract that the material to be sold is of Russian origin;

d. A statement in the contract that the sale is for delivery to an End-User for consumption; and,

e. A certification from the Designated Agent that the deliveries pursuant to the contract submitted for approval, when combined with deliveries pursuant to other approved contracts entered into by that Designated Agent, do not (and will not) exceed that Designated Agent's delivery allocation for any given annual period. See Section E.2.a., below. In addition, each Designated Agent shall certify to the Department that such Designated Agent's sales of HEU Natural Uranium Component are for consumption and do not circumvent, directly or indirectly, the limitations set forth in 42 U.S.C. 2297h–10(b) of the USEC Privatization Act and the revised Procedures set forth in this document. See Section E.2.b., below.

2. Required Language for Contract Approval Certifications.

a. (DESIGNATED AGENT) certifies that the total annual deliveries under the contract between (SELLER) and (PURCHASER), contract number (INSERT #), and executed on (INSERT DATE), when added to annual delivery quantities of other contracts approved in accordance with the HEU Procedures for Delivery of HEU Natural Uranium Component in the United States, as revised, will not exceed the maximum annual delivery quantity allocated to (DESIGNATED AGENT) by (MINATOM) for any given year, or the annual maximum delivery quantity(ies) established in 42 U.S.C. § 2297h–10(b)(5) of the USEC Privatization Act for the approved year(s) in which deliveries under this contract are to be made.

b. (DESIGNATED AGENT) further certifies that the sale of the HEU Natural Uranium Component is for consumption and does not circumvent, directly or indirectly, the limitations set forth in 42 U.S.C. § 2297h–10(b)(5) of the USEC Privatization Act or the Procedures for Delivery of HEU Natural Uranium Component in the United States, as revised.

3. Approval Notification.

The Department will notify the submitter of the contract in writing whether the contract has been approved within 10 business days of complete contract submission to the Central Records Unit. In the unlikely event that the Department fails to notify the submitter of the contract of approval or denial within 10 business days, the contract will be deemed approved. If an approved contract is subsequently terminated as a result of force majeure, as defined in the relevant contract, the Department will allow the affected Designated Agent to replace current and future year deliveries pursuant to such contract with a newly executed contract, subject to the approval process outlined above, provided that the Designated Agent's delivery allocation and the Annual Maximum Deliveries are not exceeded.

F. Re-allocation

1. Annual deliveries allocated to a Designated Agent may be re-allocated to any other Designated Agent or to MINATOM within the same annual period subject to the Annual Maximum Deliveries under the following conditions:

a. The new contract is submitted to the Department no later than December 21 of the year in which the delivery is to be made;

b. MINATOM provides the Department with a copy of the amended and/or terminated certificate(s) from

which delivery allocation is to be withdrawn and a copy of the new certificate(s) re-allocating such deliveries; and,

c. All new contracts entered into as a result of re-allocation must be approved under Section E of these HEU Procedures.

2. If, in any given annual period, a Designated Agent delivers less than the maximum amount deliverable under the approved contract(s), such Designated Agent may re-direct the difference between its actual deliveries during that year and the maximum deliverable amount approved for that same year by entering into a new contract(s), provided that the Designated Agent's total annual deliveries under all contracts do not exceed that Designated Agent's delivery allocation or the Annual Maximum Deliveries and provided that the following four conditions are met:

a. The Department is notified of the Designated Agent's intention to re-direct deliveries no later than December 21 of the applicable annual period;

b. All re-directed deliveries are to be delivered in that same year;

c. All new contracts entered into by Designated Agents resulting from re-direction of deliveries must be approved under Section E of these HEU Procedures; and,

d. The Designated Agent provides the Department with a copy of the End-User's binding delivery notice.

G. Delivery Forfeit and Flexibility

On December 31 of each year, any portion of the Annual Maximum Deliveries not delivered in that year will be forfeited. In the unlikely event that there are transfer or transportation difficulties beyond the control of the Designated Agent, the Department may provide for a 30 day grace period to complete the delivery. The Department must be notified in writing of a request for a 30 day grace period, detailing the reasons for the delivery delay.

H. Swaps, Exchanges, Loans, or Resales of Material

1. Swaps, Exchanges or Loans: Swaps, exchanges or loans of HEU Natural Uranium Component may be conducted solely for the purpose of facilitating further processing and end-use as nuclear fuel. Notification of such permitted swaps, exchanges or loans is required to be provided to the Department at the time of the transactions. The Department is attaching the notification format as Attachment 1. Examples of such permitted swaps are swaps designed to avoid transportation costs. The Department considers swaps, exchanges or loans that will result in sales for consumption in the United States, directly or indirectly, exceeding the Annual Maximum Deliveries to be circumvention. Swaps, exchanges or loans are subject to verification by the Department at any time and at its discretion.

2. Resale: The Department will permit End-Users to resell the HEU Natural Uranium Component. If the HEU Natural Uranium Component is resold to an entity outside the United States, the End-User making the resale must notify the Department of the date of the resale and the volume to be resold. If the HEU Natural Uranium Component is to be resold to an entity in the United States, the contract for the resale is presented to the Department for approval. The contract must indicate the date of delivery, amount, and site of delivery. The contract must also contain a statement that the material to be sold is of Russian origin. If the HEU Natural Uranium Component is resold to any party other than an End-User, the material must be held in a separate account and quarterly reports on the account balance similar to those attached at Attachments 2 and 3, are required from the purchaser of the resold material. The Department will notify the End-User making the resale whether the contract has been approved within 10 business days of complete contract submission to the Central Records Unit. Resales are also subject to verification by the Department at any time and at its discretion.

I. Quarterly Reports

1. Designated Agents

Designated Agents must submit quarterly reports to the HEU File that detail all activity relating to the movement of HEU Natural Uranium Component into and out of their respective accounts. These reports must be submitted on May 1, August 1, November 1, and February 1 of each year for the quarters ending March 31, June 30, September 30, and December 31. The Designated Agent must also provide a public summary of the report that details the movement of material in the aggregate. The Department is attaching a sample quarterly report form as Attachment 2. Designated Agents must also submit the following certification with the quarterly reports:

a. (DESIGNATED AGENT) certifies that it holds an HEU Natural Uranium Component account(s) at (STATE NAME OF ENTITY(IES)), and that all HEU Natural Uranium Component transferred from or into this (these) account(s) during calendar quarter (INDICATE DATES) has been transferred for any of the following reasons: (1) for use under an approved matched sale under 42 U.S.C. 2297h-10(b)(6) of the USEC Privatization Act and Article IV of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended; (2) for use in overfeeding in U.S. enrichment facilities pursuant to 42 U.S.C. 2297h-10(b)(7); (3) for delivery to a United States End-User for consumption, within the Annual Maximum Deliveries set forth in 42 U.S.C. 2297h-10(b)(5) [1]; (4) for export out of the United States; or (5) for further processing on behalf of (NAME OF ENTITY).

b. (DESIGNATED AGENT) further certifies that none of the HEU Natural Uranium Component transferred from or into this (these) account(s) during the calendar quarter (INDICATE DATES) has been loaned, swapped, exchanged or used in any arrangement that directly or indirectly circumvents the limitations set forth in 42 U.S.C. 2297h-10(b)(5) of the USEC Privatization Act, the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended, or the Procedures for Delivery of HEU Natural Uranium Component in the United States, as revised.

2. Account Administrators

Account Administrators must submit quarterly reports regarding the account holding the HEU Natural Uranium Component. These reports must be submitted on May 1, August 1, November 1, and February 1 of each year for the quarters ending March 31, June 30, September 30, and December 31. The Department is attaching a sample Account Administrator form as Attachment 3.

J. Importer Certifications

The importer of record must certify the following to the United States Customs Service and provide a copy of such certification to the Department:

(IMPORTER NAME) hereby certifies that the material being imported was not obtained under any arrangement, swap, exchange, or other transaction designed to circumvent any of the agreements suspending the antidumping investigations on uranium, as amended, any antidumping duty order(s) on uranium, or the delivery limitations set forth in 42 U.S.C. 2297h-10(b)(5) of the USEC Privatization Act, 42 U.S.C. 2297h, *et seq.*, and the Procedures for Delivery of HEU

[1] Material which is exported to a non-United States entity may not re-enter the United States for consumption, either directly or indirectly, except when in compliance with these revised Procedures.

Natural Uranium Component in the United States, as revised.

K. Verification

The Department reserves the right to verify any information submitted to the Department related to deliveries authorized under the USEC Privatization Act and to restrict future deliveries from any account in which the reported activity is found to be in violation of these revised Procedures and/or the Annual Maximum Deliveries if such violations are not rectified to the satisfaction of the Department and MINATOM.

L. Consultations

Upon request, MINATOM and the Department will hold consultations subsequent to the filing of the quarterly reports due February 1 of each year for the purpose of exchanging/reviewing all data pertaining to deliveries of HEU Natural Uranium Component under these revised Procedures during the previous year. Consultations may be held as necessary at other times.

M. Re-importation

The Department has simplified the procedure for allowing the re-importation of HEU Natural Uranium Component previously sold to an End-User that has been exported from the United States for further processing and subsequent re-importation into the United States. The End-User or its agent, i.e. the importer of record, must submit a notification letter and certifications, attached as Attachment 4.

N. Enforcement

If the Department finds that a Designated Agent has directly or indirectly exceeded its delivery allocation and/or the Annual Maximum Deliveries, the Department will require the Account Administrator or the appropriate entity to withhold any further release of HEU Natural Uranium Component from the Designated Agent's Account, until the issue has been satisfactorily resolved among the Department, MINATOM, and the relevant Designated Agent.

Pursuant to its authority under 42 U.S.C. 2297h-10(b)(9) of the USEC Privatization Act, the Department reserves the right to require any additional certifications, information, or take any other action necessary to enforce the Annual Maximum Deliveries provided for therein.

Attachment 1—Swaps, Exchanges and Loans Notification Format

1. List the volume and origin of the material being swapped.
2. Indicate the location of the swap, exchange, and/or loan.
3. List the parties involved in the swap, exchange, and/or loan.
4. Indicate the purpose of the swap, exchange and/or loan.

Indicate whether there was any financial or other consideration involved with the swap, exchange and/or loan.

Attachment 2—Designated Agent Quarterly Report Form

Quarterly Delivery Report for (INSERT DATES AND DESIGNATED AGENT) HEU Natural Uranium Component

Beginning Balance (in U_3O_8 equivalent):_____

Transaction date	Delivered from	Delivered to	Quantity (in UF_6 and U_3O_8 equivalent)	Transaction description	Comments

Ending Balance (in U_3O_8 equivalent):_____

(DESIGNATED AGENT) certifies that it holds an HEU Natural Uranium Component account at (STATE NAME OF ENTITY(IES)) and that all HEU Natural Uranium Component transferred from or into this (these) account(s) during calendar quarter (INDICATE DATES) has been transferred for any of the following reasons: (1) for use under an approved matched sale under 42 U.S.C. 2297h–10(b) of the USEC Privatization Act and Article IV of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended; (2) for use in overfeeding in U.S. enrichment facilities pursuant to 42 U.S.C. 2297h–10(b)(7); (3) for delivery to a United States End-User for consumption, within the Annual Maximum Deliveries set forth in the USEC Privatization Act, at 42 U.S.C. 2297h–10(b)(5); (4) for export out of the United States; or (5) for further processing on behalf of (NAME OF ENTITY).

(DESIGNATED AGENT) further certifies that none of the HEU Natural Uranium Component transferred from or into the account(s) during the calendar quarter (INDICATE DATES) has been loaned, swapped, exchanged or used in any arrangement that directly or indirectly circumvents the limitations set forth in 42 U.S.C. 2297h–10(b)(5) of the USEC Privatization Act, the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended, or the Procedures for Delivery of HEU Natural Uranium Component in the United States, as revised.

Attachment 3—Account Administrator Quarterly Report Form

Quarterly Report for (INSERT DATES AND ACCOUNT ADMINISTRATOR) HEU Natural Uranium Component

Beginning Balance (in U_3O_8 equivalent):_____

Transaction date	Delivered from	Delivered to	Quantity (in UF_6 and U_3O_8 equivalent)	Transaction description	Comments

Ending Balance (in U_3O_8 equivalent):

(ACCOUNT ADMINISTRATOR) certifies that it holds an HEU Natural Uranium Component account(s) in the name(s) of (DESIGNATED AGENT(S)), at (LOCATION), and that all HEU Natural Uranium Component transferred from or into this (these) account(s) during calendar quarter (INDICATE DATES) has been transferred for any of the following reasons: (1) for use under an approved matched sale under 42 U.S.C. 2297h–10(b)(6) and Article IV of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended; (2) for use in overfeeding in U.S. enrichment facilities pursuant to 42 U.S.C. 2297h–10(b)(7); (3) for delivery to a United States End-User for consumption, within the delivery limits of the USEC Privatization Act, at 42 U.S.C. 2297h–10(b)(5) ; (4) for export out of the United States; or (5) for further processing on behalf of (NAME OF ENTITY).

(ACCOUNT ADMINISTRATOR) further certifies that none of the HEU Natural Uranium Component transferred from or into this (these) account(s) during calendar

quarter (INDICATE DATES) has been loaned, swapped, exchanged or used in any arrangement that directly or indirectly circumvents the limitations set forth in the USEC Privatization Act, at 42 U.S.C. 2297h–10(b), the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended, or the Procedures for Delivery of HEU Natural Uranium Component in the United States, as revised.

Attachment 4 (Page One)—Re-importation Notification Form and Certifications

TOPIC: Re-importation of Uranium under 42 U.S.C. 2297h–10(b)(5) of the USEC Privatization Act.

Pursuant to Section M of the Procedures for Delivery of HEU Natural Uranium Component in the United States, as revised, ("HEU Procedures"), we hereby submit information describing the re-importation of Russian origin uranium subject to the delivery limitations set forth in the USEC Privatization Act, at 42 U.S.C. 2297h–10(b)(5), and in association with the contract between (NAME OF COMPANY A) and (NAME OF COMPANY B) approved by the U.S. Department of Commerce ("Department"), either by letter dated (DATE) or deemed approved at the end of the ten business day approval period referenced in Section E.3 of the HEU Procedures:

1. Quantity of Export (U_3O_8 equivalent) out of U.S.:
2. Date of Export out of U.S. (if available):
3. (NUMBER) lbs. of U_3O_8 equivalent contained in (NUMBER) KgU with enrichment assay (NUMBER) wt % and tails assay (NUMBER) wt %:
4. Port of Re-Import:
5. Importer of Record:
6. Planned Date of Re-Import:
7. End User:
8. Vessel/Airline Name:
9. Amount of export listed in 1. and 2. that has been re-imported as of date (including current re-import):

Also, please find attached the importer of record declaration regarding country of origin, anti-circumvention and qualification of this material under 42 U.S.C. 2297h–10(b) of the USEC Privatization Act. Further, we understand that, under 42 U.S.C. 2297h–10(b)(9) of the USEC Privatization Act, the Department has the authority to require additional information, if appropriate. We also agree to verification of this information if requested.

Attachment 4 (Page Two)—Re-importation Notification Form and Certifications

Certifications To U.S. Customs Service

1. (END-USER or IMPORTER OF RECORD) hereby certifies that the HEU Natural Uranium Component of the uranium being re-imported into the United States is derived from Russian highly enriched uranium pursuant to the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons. The uranium being re-imported was converted in (INSERT COUNTRY), enriched in (INSERT COUNTRY) and/or fabricated in (INSERT COUNTRY).

2. (END-USER or IMPORTER OF RECORD) hereby certifies that the material being re-imported was not obtained under any arrangement, swap, exchange, or other transaction designed to circumvent any of the agreements suspending the antidumping investigations on uranium, as amended, any antidumping duty order(s), or the delivery limitations set forth in 42 U.S.C. 2297h–10(b) of the USEC Privatization Act, 42 U.S.C. 2297h, *et seq.*, and the Procedures for Delivery of HEU Natural Uranium Component in the United States, as revised.

(END-USER or IMPORTER OF RECORD) hereby certifies that the uranium being re-imported into the United States is approved for United States end-use under 42 U.S.C. 2297h–10(b) of the USEC Privatization Act, 42 U.S.C. 2297h, et seq., under contract between (COMPANY) and (COMPANY) approved by the U.S. Department of Commerce, either by letter dated (DATE) with contract reference number (CONTRACT REFERENCE NUMBER) or deemed approved at the end of the ten business day approval period referenced in Section E.3 of the HEU Procedures. The material being re-imported represents (NUMBER) lbs. U_3O_8 equivalent of (NUMBER) lbs. U_3O_8 equivalent exported for further processing on (DATE). Including this shipment, (NUMBER) lbs. U_3O_8 equivalent of the material exported for further processing has been re-imported.

Signature
Name:
Title:

[FR Doc. 99–7373 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Survey for Financial Institutions for Website Inclusion

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–12 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 26, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dinah Flynn, Minority Business Development Agency, 14th and Constitution Avenue, NW, Washington, DC 20230 (202–482–5061).

SUPPLEMENTARY INFORMATION:

Abstract

The Minority Business Development Agency, in fulfillment of its mandate to foster the development of United States minority businesses, funds Business Development Centers nationwide to provide management and technical assistance to and seek sources of capital for those businesses. The Agency is in the process of creating an intranet website for the use of the consultants at its Centers who are seeking sources of equity and debt financing for their clients, with a goal of locating financial institutions which have an interest in working with minority entrepreneurs who are seeking capital to start, acquire or expand their businesses. The project will begin with a pilot program focused on financial institutions in New York and Philadelphia. Information on these participating institutions will be put on the new website. The Agency anticipates that as the pilot program is perfected, the website will contain comparable information on financial institutions across the country.

Method of Collection

Potential applicants will receive a survey form from the Agency along with a letter explaining the program. Those financial institutions who are interested in participating in the program will submit the completed form in order to be included on the new website.

Data

OMB Number: N/A.
Form Number: N/A.
Type of Review: Regular Submission.
Affected Public: For-profit organizations.
Estimated Number of Respondents: 100.
Estimated Time Per Response: 30 minutes.
Estimated Total Annual Burden Hours: 50 hours.
Estimated Total Annual Cost to Public: $0 (no material or equipment will need to be purchased to provide information. The form can be transmitted electronically).

Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance

of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 22, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 99–7415 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990217051–9051–01]

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: In accordance with the requirements of Public Law 102–567, the NWS is publishing proposed certifications for the consolidation, automation, and closure of the following:

(1) Fort Smith, Arkansas, Weather Service Office (WSO) which will be automated at FAA Weather Observation Service Level C and have its services consolidated into the future Tulsa, Oklahoma, and Little Rock, Arkansas, Weather Forecast Offices (WFOs); and

(2) Kahului, Hawaii, WSO which will be automated at Federal Aviation Administration (FAA) Weather Observation Service Level C and have its services consolidated into the future Honolulu, Hawaii, WFO.

Certifications are also proposed for the automation and closure of the following WSOs at the indicated FAA Weather Observation Service Level:

(1) Beckley, West Virginia, WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Charleston, West Virginia, and Roanoke, Virginia, WFOs;

(2) Boston, Massachusetts, Residual Weather Service Office (RWSO) which will be automated at FAA Weather Observation Service Level A with services being provided by the future Boston, Massachusetts, WFO;

(3) Concord, New Hampshire, WSO which will be automated at FAA Weather Observation Service Level D with services being provided by the future Portland, Maine, and Boston, Massachusetts, WFOs;

(4) Hartford, Connecticut, WSO which will be automated at FAA Weather Observation Service Level A with services being provided by the future Boston, Massachusetts; New York City; and Albany, New York, WFOs;

(5) Portland, Maine, RWSO which will be automated at FAA Weather Observation Service Level C with services being provided by the future Portland, Maine, WFO;

(6) Providence, Rhode Island, WSO which will be automated at FAA Weather Observation Service Level A with services being provided by the future Boston, Massachusetts, WFO; and

(7) Worcester, Massachusetts, WSO which will be automated at FAA Weather Observation Service Level C with services being provided by the future Boston, Massachusetts, WFO. Additionally, certifications are proposed for the closure of the following offices:

(1) Olympia, Washington, Fire Weather Office with services being provided by the future Seattle/Tacoma, Washington, WFO;

(2) Salem, Oregon, Fire Weather Office with services being provided by the future Portland, Oregon, WFO; and

(3) Wenatchee, Washington, Fire Weather Office with services being provided by the future Spokane, Washington, WFO. In accordance with Public Law 102–567, the public will have 60 days in which to comment on these proposed certifications.

DATES: Comments are requested by May 26, 1999.

ADDRESSES: Requests for copies of proposed certification packages should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, Maryland 20910–3283, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300 extension 141.

SUPPLEMENTARY INFORMATION: Pursuant to section 706 of Public Law 102–567, the Secretary of Commerce must certify that consolidation, automation, and/or closure of an NWS field office will not result in a degradation of service to the affected area of responsibility and must publish the proposed certifications in the **Federal Register**. Documentation supporting these proposed certifications includes the following:

(1) For all certifications: a draft memorandum by the meteorologist in charge recommending the certification, the final of which will be concurred with by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) For all certifications: a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) For all certifications: a comparison of services provided within the service area to services to be provided after such action;

(4) For all certifications: a description of any recent or expected modernization of NWS operations which will enhance services in the service area;

(5) For all certifications: an identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the Doppler weather surveillance radar network (WSR–88D);

(6) For consolidation certifications: evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service would result from such action, including the WSR–88D Radar Commissioning Report, User Confirmation of Services Report, and the Decomissioning Readiness Report;

(7) For automation certifications: evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action, including the Automated Surface Observing System (ASOS) commissioning report; series of three letters between NWS and FAA confirming weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning; Surface Aviation Observation Transition Checklist documenting transfer of augmentation and back-up responsibility from NWS to FAA; successful resolution of ASOS user confirmation of services complaints; and an inplace supplementary data program at the responsible WFO;

(8) For closure certifications, where appropriate: warning and forecast

verification statistics for pre-modernized and modernized services utilized in determining services have not been degraded;

(9) For closure certifications: an Air Safety Appraisal for offices which are located on an airport; and

(10) For all certifications: a letter appointing the liaison officer. These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Public Law 102–567. In December 1995, the Committee decided to forego the optional consultation on proposed certifications. Instead, the Committee would only review certifications after the public comment period closed so its consultation would include the benefit of public comments which has been submitted. This notice does not include the complete certification package because it is too voluminous to publish. Copies of certification packages and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. If a decision to certify is made, the Secretary of Commerce must publish final certifications in the **Federal Register** and transmit the certifications to the appropriate congressional committees prior to consolidating, automating, and closing the office.

Dated: March 19, 1999.

John J. Kelly, Jr.,

Assistant Administrator for Weather Services.

[FR Doc. 99–7437 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–KE–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 22, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 339/639 is being increased for special shift, reducing the limit for Categories 338/638 to account for the special shift being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 63297, published on November 12, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 22, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 5, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on March 26, 1999, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
338/638	896,412 dozen.
339/639	1,136,921 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–7482 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Egypt

March 22, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 338/339 is being reduced for carryforward and special carryforward applied to the 1998 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 54114, published on October 8, 1998; and 63 FR 63709, published on November 16, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 22, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 1, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on March 26, 1999, you are directed to decrease the limit for Categories 338/339 to 2,600,870 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing and the Memorandum of Understanding dated October 22, 1998 between the Governments of the United States and the Arab Republic of Egypt (see directive dated November 10, 1998).

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–7481 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Designated Consultation Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

March 22, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a Designated Consultation Level.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this level, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The 1999 Designated Consultation Level (DCL) for Categories 338/339/638/639 is being increased to recredit part of the 1998 DCL increase which was not used.

The level does not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the agreement. In addition, this consultation level does not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 53880, published on October 7, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 22, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 30, 1998 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the period which begins on January 1, 1999 and extends through December 31, 1999. The levels established in that directive do not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of NAFTA or to goods assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

Effective on March 26, 1999, you are directed to increase the 1999 Designated Consultation Level for Categories 338/339/638/639 to 601,629 dozen [1] pursuant to exchange of letters dated December 5, 1997 and provisions of the NAFTA (North American Free Trade Agreement).

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–7484 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a Merged Category Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Romania

March 22, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a merged category limit.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In a Memorandum of Understanding dated March 4, 1999, the Governments of the United States and Romania agreed to merge Categories 647 and 648 and to establish a new limit for merged Categories 647/648 of 185,931 dozen for the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999. In addition, unused carryforward that had been applied to the 1998 limit for Category 647 is being recredited. The individual 1999 levels for Categories 647 and 648 are superseded by the above limit.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish a new limit for merged Categories 647/648 for the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998.

Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 67051, published on December 4, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 22, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on March 29, 1999, you are directed to combine the charges for Categories 647 and 648 and establish a new limit of 185,931 dozen [1] for merged Categories 647/648 for the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, pursuant to a Memorandum of Understanding dated March 4, 1999 between the Governments of the United States and Romania.

Textile products in Categories 647/648 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

Products in Categories 647 and 648 exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 25, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limit set forth in this directive for merged Category 647/648.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–7483 Filed 3–25–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection 3038–0015: Copies of crop and market information reports.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0015, Copies of Crop and Market Information Reports, which is due to expire July 31, 1999. The information collected pursuant to this rule is in the public interest and is necessary for market surveillance.

In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW., Washington, DC 20581, (202) 418–5160.

Title: Copies of Crop and Market Information Reports.

Control Number: 3038–0015.

Action: Extension.

Respondents: Futures commission merchants and Members of contract markets.

Estimated Annual Burden: 5 total hours.

Respondents	Regulation (17 CFR)	Estimated No. of respondents	Annual responses	Est. avg. hours, per response
Futures Commission Merchants and Members of Contract Markets	1.40	30	1	0.167

Issued in Washington, DC on March 22, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7497 Filed 3–25–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection 3038–0021: Regulations governing bankruptcies of commodity brokers.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0021, Regulations Governing Bankruptcies of Commodity Brokers, which is due to expire July 31, 1999. The information collected pursuant to this rule is intended to protect, to the extent possible, the property of the public in the case of the bankruptcy of a commodity broker.

In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

[1] The limit has not been adjusted to account for any import exported after December 31, 1998.

(4) Minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Regulations Governing Bankruptcies of Commodity Brokers.

Control Number: 3038–0021.

Action: Extension.

Respondents: Futures Commission Merchants.

Estimated Annual Burden: 388 total hours.

Respondents	Regulation (17 CFR)	Estimated No. of respondents	Annual responses	Est. avg. hours. per response
Futures Commission Merchants	1.90	472	7757	0.35

Issued in Washington, D.C. on March 22, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7498 Filed 3–25–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, April 2, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7584 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, April 5, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7585 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, April 9, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7586 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, April 12, 1999.

PLACE: 1155 21st St., NW., Washington, DC., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7587 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, April 16, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7588 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, April 19, 1999.

PLACE: 1155 21st St., N.W., Washington D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7589 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 1:00 p.m., Tuesday, April 20, 1999.

PLACE: 1155 21st St., N.W., Washington D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed new rules concerning automated access to electronic boards of trade; otherwise, primarily operating outside the United States, and related proposed rule 1.71.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7590 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, April 23, 1999.

PLACE: 1155 21st St., N.W., Washington D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7591 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, April 26, 1999.

PLACE: 1155 21st St., N.W., Washington D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7592 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, April 30, 1999.

PLACE: 1155 21st St., N.W., Washington D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–7593 Filed 2–24–99; 12:16 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Notification Requirements for Coal and Woodburning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval, through June 30, 2002, of information collection requirements in a coal and woodburning appliance rule.

The rule, codified at 16 CFR Part 1406, requires manufacturers and importers of certain coal and woodburning appliances to provide safety information to consumers on labels and instructions and an explanation of how certain clearance distances in those labels and instructions were determined. The requirements to provide copies of labels and instructions to the Commission have been in effect since May 16, 1984. For this reason, the information burden imposed by this rule is limited to manufacturers and importers introducing new products or models, or making changes to labels, instructions, or information previously provided to the Commission. The purposes of the reporting requirements in Part 1406 are to reduce risks of injuries from fires associated with the installation, operation, and maintenance of the appliances that are subject to the rule, and to assist the Commission in determining the extent to which manufacturers and importers comply with the requirements in Part 1406. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than May 26, 1999.

ADDRESSES: Written comments should be captioned "Notification Requirements for Coal and Wood Burning Stoves" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Robert E. Frye, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 504–0416, Ext. 2264.

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

The Commission staff estimates that there may be up to about 5 firms required to annually submit labeling and other information. The staff further estimates that the average number of hours per respondent is three per year, for a total of about 15 hours of annual burden (5 x 3 = 15).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: March 12, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–7360 Filed 3–25–99; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Announcement of Intent To Grant an Exclusive License for a U.S. Army-Owned Patent

AGENCY: U.S. Army, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is objection, in sixty days it will grant an Exclusive license to Chancepts, Limited,

LLC of Charlotte, North Carolina, on U.S. Army Patent 5,099,764 issued on March 31, 1992 entitled "Propulsion Unit Fireable From An Enclosure" by Malcolm K. Dale, et al., based upon Serial No. 709,908 filed May 30, 1991, Army Docket No. DAR 34–90.

FOR FURTHER INFORMATION CONTACT: Mr. John Moran, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army, TACOM–ARDEC, Picatinny Arsenal, NJ 07806–5000. Phone: (973) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within 60 days from publication date of this notice in the **Federal Register**.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–7477 Filed 3–25–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patents for non-exclusive, partially exclusive or exclusive licensing. All of the listed patents have been assigned to the United States of America as represented by the Secretary of the Army, Washington, D.C.

These patents covers a wide variety of technical arts including: A Training Device for Digital Assessment of including: A Training Device for Digital Assessment of Intraocular Pressure and a Detector of Halogenated Compounds.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patents listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by these patents.

Title: Training Device for Digital Assessment of Intraocular Pressure.

Inventors: Bruce E. Amrein and James W. Karesh.

Patent Number: 5,868,580.

Issued Date: February 9, 1999.

Title: Detector of Halogenated Compounds Based on Laser Photofragmentation/Fragment Stimulated Emission.

Inventors: Rosario C. Sausa and Josef B. Simeonsson.

Patent Number: 5,866,073.

Issued Date: February 3, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Rausa, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Aberdeen Proving Ground, MD 21005–5055, tel: (410) 278–5028; fax: (410) 278–5820.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–7479 Filed 3–25–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive License of a U.S. Government-Owned Patent Concerning a Method of Lysing Thrombi

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with 37 CFR 404.7 (a)(I)(i), announcement is made of the intent to grant an exclusive, royalty-bearing, revocable license to U.S. Patent Number 5,399,158, issued March 21, 1995 and entitled "Method of Lysing Thrombi", to Transon LLC, a U.S. company incorporated in the State of Delaware and having a principal place of business in San Francisco, California. Notice of availability of this invention for licensing was previously published in the **Federal Register** on April 25, 1995, Vol. 60, No. 79, Pages 20259–20260.

ADDRESSES: Commanding General, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Harris, Patent Attorney, (301) 619–2065 or telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Command Judge Advocate, U.S. Army Medical Research and Materiel Command, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–7476 Filed 3–25–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patents for non-exclusive, partially exclusive or exclusive licensing. All of the listed patents have been assigned to the United States of America as represented by the Secretary of the Army, Washington, D.C.

This patent covers a wide variety of technical arts including: A Waveguide for performing 2 or more wavelength (de) multiplexing based on the Talbot effect.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patents listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by these patents.

Title: Self-Imaging Waveguide Devices for Wavelength Division Multiplexing Applications.

Inventors: Tristan Tayag and Theodore Batchman.

Patent Number: 5,862,288.

Issued Date: January 19, 1999.

FOR FURTHER INFORMATION CONTACT: Norma Cammaratta, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, 2800 Powder Mill Road, Adelphi, MD 20783–1197, tel: (301) 394–2952; fax: (301) 394–5818.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–7478 Filed 3–25–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed McIntosh Unit 4 Pressurized Circulating Fluidized Bed Demonstration Project

AGENCY: U.S. Department of Energy.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR Parts 1500–1508), and the DOE NEPA regulations (10 CFR Part 1021), to assess the potential environmental and human health impacts of a proposed project to expand the C. D. McIntosh, Jr. Power Plant in Lakeland, Florida. The proposed project, selected under DOE's Clean Coal Technology Program, would demonstrate both Pressurized Circulating Fluidized Bed (PCFB) and Topped PCFB technologies. The proposed project would involve the construction and operation of a nominal 238 MWe (megawatts of electric power) combined-cycle power plant designed to burn a range of low- to high-sulfur coals. The EIS will help DOE decide whether to provide 44% of the funding for the currently estimated $440,000,000 proposed project.

The purpose of this Notice is to inform the public about the proposed action; present the schedule for the action; announce the plans for a public scoping meeting; invite public participation in (and explain) the scoping process that DOE will follow to comply with the requirements of NEPA; and solicit public comments for consideration in establishing the proposed scope and content of the EIS. The EIS will evaluate the proposed project and reasonable alternatives.

DATES: To ensure that the full range of issues related to this proposal are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. All comments must be received by May 21, 1999, to ensure consideration. Late comments will be considered to the extent practicable. In addition to receiving comments in writing and by telephone, DOE will conduct a public scoping meeting in which agencies, organizations, and the general public are invited to present oral comments or suggestions with regard to the range of actions, alternatives, and impacts to be considered in the EIS. The scoping meeting will be held in the City of Lakeland's City Commission Chambers, 228 South Massachusetts Avenue, Lakeland, Florida at 7 p.m. on April 13, 1999. On the day of the meeting, from 1 p.m. until 7 p.m. preceding the meeting, DOE will host an informational session for interested parties in a conference room adjoining the City Commission Chambers. Displays and other forms of information about the proposed action and its location will be available, and DOE personnel will be available to answer questions. The public is invited to this informal session to learn more about the proposed action.

ADDRESSES: Written comments and requests to participate in the public scoping process should be addressed to:

Mr. Joseph Martin, Document Manager, Federal Energy Technology Center, U.S. Department of Energy, 3610 Collins Ferry Road, Morgantown, WV 26507–0880

Individuals who would like to provide comments and/or otherwise participate in the public scoping process should contact Mr. Martin directly at telephone 304–285–4447; toll free number 1–800–432–8330 (ext. 4447); fax 304–285–4469; or e-mail jmarti@fetc.doe.gov.

FOR FURTHER INFORMATION CONTACT: To obtain additional information about this project or to receive a copy of the draft EIS for review when it is issued, contact Mr. Joseph Martin at the address provided above. For general information on the DOE NEPA process, please contact:

Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0119, 202–586–4600 or leave a message at 1–800–472–2756

SUPPLEMENTARY INFORMATION:

Background and Need for Agency Action

Under Public Law 102–154, the U.S. Congress authorized and funded DOE to conduct cost-shared Clean Coal Technology Program projects for the design, construction, and operation of facilities that significantly advance the efficiency and environmental performance of coal-using technologies and apply to either new or existing facilities. DOE's purpose for this proposed action, which is known as the McIntosh Unit 4 PCFB Demonstration Project, is to establish through successful technology demonstration, the commercial viability of a Topped PCFB combustion combined-cycle plant. Funding for this action would be made available through the novation (substitution of a new obligation for an old one) of two previous Clean Coal Technology Program awards: (1) Cooperative Agreement DE–FC21–91MC27364, DMEC–1 Limited Partnership's PCFB Demonstration Project; and (2) Cooperative Agreement DE–FC21–94MC31261, Four Rivers Energy Modernization Project. The decision to combine the two projects into one at a new location was made because of diminished prospects for proceeding at their original sites due to uncertainties regarding regional power requirements. The City of Lakeland, however, is in an area experiencing substantial growth in demand for electricity. In addition, combining the two projects would save taxpayers more than $30,000,000 in Federal cost sharing (compared to building two projects separately) without sacrificing the original objectives.

Over the next several decades, increases in demand for electric power and replacement of a significant amount of electric power generating capacity that is approaching the end of its design service life are expected to require the construction of new generating stations. The most abundant domestic fuel, coal, continues to represent an attractive energy source for new generating capacity. The proposed McIntosh Unit 4 PCFB Demonstration Project would fulfill an established DOE programmatic need to demonstrate advanced technology that may improve the environmental performance and efficiency of coal-fired power generation facilities.

Since the early 1970s, DOE and its predecessor agencies have pursued research and development programs that include long-term, high-risk activities through the proof-of-concept stage in developing innovative concepts for a wide variety of coal technologies. However, the availability of a technology at the proof-of-concept stage is not sufficient to ensure its continued development and subsequent commercialization. Before any technology can be considered seriously for commercialization, it must be demonstrated. The financial risk associated with technology demonstration generally is too high for the private sector to assume without strong incentives. Congress established the Clean Coal Technology Program to accelerate the development of innovative technologies to meet the nation's near-term energy and environmental goals, to reduce technological risk to the business community to an acceptable level, and to provide incentives for the private

sector to pursue innovative research and development directed at providing solutions to long-range energy supply problems.

Proposed Action

The proposed action is for DOE to provide, through a cooperative agreement with the City of Lakeland, Florida, cost-shared financial assistance for the design, construction, and operation of the proposed McIntosh Unit 4 PCFB Demonstration Project, described below. The proposed project would last 121 months after novation of prior agreements (see Background and Need for Agency Action) and would cost a total of approximately $440,000,000; DOE's share would be approximately $195,000,000 (44%).

The proposed project would be constructed at the existing C.D. McIntosh, Jr. Power Plant, which is located in the City of Lakeland, Florida along the northeastern shore of Lake Parker. The current McIntosh Plant is an industrial site encompassing about 530 acres. The Plant includes three fossil-fuel-fired steam electric units, two diesel-powered peaking units, and one simple-cycle gas turbine peaking unit; water treatment facilities; fuel handling facilities (oil storage and coal handling and storage); air pollution control facilities; wastewater treatment facilities; by-product treatment and storage facilities; and an ash disposal area. Further, the City of Lakeland is adding to the McIntosh Plant a simple-cycle power generation unit that will use a Siemans Westinghouse 501G turbine to generate a nominal 250 MWe. In addition to the McIntosh Plant, the City of Lakeland owns and operates the Larsen Power Plant, which also is located on Lake Parker approximately 2 miles south of the McIntosh facility. The Larsen Plant provides 243 megawatts of electric power capacity and is fueled by oil and natural gas.

The Lake Parker area has been extensively mined for phosphate; several ponds and wetlands have formed in depressions left from these past mining activities. Mud Lake, a small wetland, is located to the north and adjacent to the fence line of the McIntosh Plant, but outside the proposed footprint of the PCFB Demonstration. A significant natural resource, the Class I Chassahowitzka National Wildlife Refuge, is located approximately 55–60 miles northwest of Lakeland. The McIntosh Plant site lies above the 100-year statistical flood frequency elevation.

PCFB technology is a combined-cycle power generation system that is based on the pressurized combustion of solid fuel to generate steam, combined with the expansion of hot pressurized flue gas through a gas turbine. The technology can be subdivided into the basic PCFB cycle (first generation or "Non-Topped") and Topped PCFB cycle (second generation or "Advanced").

In the basic PCFB cycle, hot pressurized flue gas is expanded through a gas turbine at a temperature of less than 1400°F. Tubes contained in the PCFB generate, superheat, and reheat steam for use with the most advanced steam turbines. Hot, pressurized combustion gas leaving the PCFB can drive a gas turbine for additional power generation. Combustion and fluidizing air is supplied from the compressor section of the gas turbine to the PCFB combustor located inside a pressure vessel. Dried coal and sorbent (usually limestone) are fed to the combustor using a conventional pneumatic transport system employing lock hoppers. The limestone sorbent captures sulfur *in situ* as sulfur dioxide, and nitrogen oxides are controlled by temperature and pressure. Particulate matter is removed from the flue gas exiting the combustor using cyclones and barrier filters located between the PCFB and the gas turbine. The hot gas cleaned by the filter system expands through the gas turbine, exhausts to a heat recovery unit, and vents to a stack. The heat recovered from both the combustor and the heat recovery unit is used to raise, superheat and reheat steam for use in the steam turbine. Approximately 25% of the total power produced is generated in the gas turbine, and the balance is generated in the steam turbine.

The topped PCFB technology integrates a carbonizer island and gas turbine topping combustor into the PCFB cycle. The carbonizer is an air-blown jetting, fluidized bed operating at 1600°F to 1800°F. Dried coal and sorbent are fed to the carbonizer using a conventional pneumatic transport system employing lock hoppers. The coal is devolatilized and partially gasified to produce a low-BTU synthesis gas and a solid residue (called char) that is removed from the carbonizer and transferred to the PCFB for combustion. The limestone sorbent captures sulfur as calcium sulfide and also acts as a stabilizer to prevent bed agglomeration and to aid in partial gasification. The particulate matter (char plus reacted and unreacted sorbent) in the synthesis gas is removed using a cyclone and hot gas particulate filter system similar to that used for the PCFB. This collected material, together with the main char flow from the carbonizer, is transferred to the PCFB to complete combustion and sulfur removal. The hot clean synthesis gas is burned in the topping combustor to raise the turbine inlet temperature to the firing temperature of the gas turbine.

The planned project would involve two sequential demonstrations as follows:

(1) The first demonstration would be a PCFB cycle that would come on-line in July 2002 and would provide approximately 145 MWe of coal-fired generating capacity. The system would have a gas turbine inlet temperature under 1400°F.

(2) The second demonstration, which would be constructed and brought on-line approximately two years later, would convert the PCFB system to a Topped PCFB system by adding a carbonizer island that includes a topping combustor. The addition of the carbonizer system would generate a coal-derived, low-BTU synthesis gas that would be burned in the topping combustor to raise the turbine inlet temperature to more than 1900°F. In order to provide the total power that the City of Lakeland needs from the project, an auxiliary coal-fired heat recovery steam generator would provide the necessary steam superheating and feedwater heating. The net effect would be an additional 93 MWe of power output.

Under the proposed action, the McIntosh Unit 4 would be designed to burn a wide range of coals including high ash-high sulfur coals that are expected to become available in the future at substantially lower prices than mid-to-low-sulfur bituminous coals. Further, limestone for the circulating fluidized bed would be obtained from a number of nearby Florida limestone quarries; ash produced during the processing would be disposed of in an existing landfill or marketed to others after such markets are identified.

The majority of the project's water makeup requirements would be met by using secondary treated sewage effluent in the cooling tower. Service water, which is potable water from the public water utility, would be used only for boiler water makeup feed to the demineralizer system. Wastewater from the PCFB Demonstration unit would be treated on site, by neutralization and removal of heavy metals, before being returned to the Glendale wastewater treatment facility, which is owned by the City of Lakeland, for discharge.

To ensure that the PCFB technology meets applicable emissions limits, gaseous emissions from the plant would be controlled, as required, using state-of-the-art technology. For example, the amount of high sulfur coal would be

reduced or sulfur dioxide would be removed using limestone scrubbers; the oxides of nitrogen would be controlled by managing combustion temperature and pressure, or by using selective non-catalytic reduction technology; and particulate matter would be removed by barrier filters or electrostatic precipitators.

Alternatives

Section 102(2)(C) of NEPA requires that agencies discuss the reasonable alternatives to the proposed action in an EIS. The purpose for agency action determines the range of reasonable alternatives. Congress established the Clean Coal Technology Program with a specific purpose: to demonstrate the commercial viability of technologies that use coal in more environmentally benign ways than conventional coal technologies. Congress also directed DOE to pursue the goals of the legislation by means of partial funding (cost sharing) of projects owned and controlled by non-Federal government sponsors. This statutory requirement places DOE in a much more limited role than if the Federal Government were the owner and operator of the project. In the latter situation, for example, DOE would be responsible for a comprehensive review of reasonable alternatives. However, in dealing with an applicant, the scope of alternatives is necessarily more restricted. It is appropriate in such cases for DOE to give substantial weight to the applicant's needs in establishing a project's reasonable alternatives.

An overall strategy for compliance with NEPA was developed for the Clean Coal Technology Program that includes consideration of both programmatic and project-specific environmental impacts during and after the process of selecting a project. As part of the NEPA strategy, the EIS for the proposed McIntosh Unit 4 demonstration project will tier off the final Programmatic Environmental Impact Statement (PEIS) that was issued by DOE in November 1989 (DOE/EIS–0146). Two alternatives were evaluated in the PEIS: (1) the no-action alternative, which assumed that the Clean Coal Technology Program was not continued and that conventional coal-fired technologies with flue gas desulfurization and nitrogen oxide controls, to meet New Source Performance Standards, would continue to be used; and (2) the proposed action, which assumed that the clean coal projects would be selected and funded, and that successfully demonstrated technologies would undergo widespread commercialization by the year 2010.

The range of reasonable alternatives to be considered in the EIS for the proposed McIntosh Unit 4 demonstration project is narrowed in accordance with the overall NEPA strategy. The EIS will include an analysis of the no-action alternative as a reasonable alternative to the proposed action of providing cost-shared funding support for the proposed project. DOE will consider other reasonable alternatives that may be suggested during the public scoping period.

Under the no-action alternative, DOE would not provide partial funding for the design, construction, and operation of the project. In the absence of DOE funding, the McIntosh Unit 4 facility probably would not be constructed, although the City of Lakeland could construct the proposed project without DOE cost-shared funding. If the proposed McIntosh Unit 4 is not built, other alternative sources for electric power would be necessary for the City of Lakeland to meet future demands of its customers. Such alternatives could include purchasing power from other sources, adding generation capacity that does not rely on PCFB technology (e.g., natural gas), or using some other current technology. Lakeland could also consider repowering old existing units at the McIntosh site. In the EIS, DOE will consider these variations of the no-action alternative.

Because of DOE's limited role of providing cost-shared funding for the proposed McIntosh Unit 4 PCFB project, and because of advantages associated with the proposed location, DOE does not plan to evaluate alternative sites for the proposed project. An existing plant site is preferred because the costs associated with a "greenfield site" in an undisturbed area would be much higher and the environmental impacts likely would be greater than at an existing facility.

Project activities would include engineering and design, permitting, fabrication and construction, testing, and demonstration of PCFB technology and Topped PCFB technology. The EIS will assume that the proposed facility would continue its commercial operation after the demonstration of Topped PCFB technology is completed. DOE plans to complete the EIS and issue a Record of Decision within 15 months of this Notice, assuming timely delivery of information from the City of Lakeland necessary for development of the EIS.

Preliminary Identification of Environmental Issues

The following issues have been tentatively identified for analysis in the EIS. This list, which is based on analyses of similar projects, is not intended to be all-inclusive nor a predetermined set of potential impacts, but is presented to facilitate public comment on the scope of the EIS. Additions to or deletions from this list may occur as a result of the scoping process. The issues include:

(1) Atmospheric resources: potential air quality impacts resulting from air emissions during current and future operations of the McIntosh Plant (e.g., effects of ground-level concentrations of criteria pollutants and trace metals on surrounding residential areas and sensitive areas (such as the Chassahowitzka National Wildlife Refuge, (a Class I refuge located approximately 55–60 miles northwest of Lakeland));

(2) Water resources: potential effects on surface water and groundwater resources consumed and discharged, including any impacts on wetlands;

(3) Infrastructure and land use: potential effects resulting from the transport of additional coal and limestone required for the proposed project;

(4) Solid waste: pollution prevention and waste management practices, including impacts caused by generation, treatment, transport, storage, and disposal of ash;

(5) Construction: impacts associated with noise, traffic patterns, and construction-related emissions;

(6) Changes in the sources of coal for the overall plant;

(7) Environmental Justice issues with respect to the surrounding community;

(8) Cumulative effects that result from the incremental impacts of the proposed action when added to other past, present, and reasonably foreseeable future actions.

Public Scoping Process

To ensure that all issues related to this proposal are addressed, DOE will conduct an open process to define the scope of the EIS. The public scoping period will run until May 21, 1999. Interested agencies, organizations, and the general public are encouraged to submit comments or suggestions concerning the content of the EIS, issues and impacts to be addressed in the EIS, and the alternatives that should be analyzed. Scoping comments should clearly describe specific issues or topics that the EIS should address in order to assist DOE in identifying significant issues.

Written, e-mailed, faxed, or telephoned comments should be communicated by May 21, 1999 (see **ADDRESSES**). A public scoping meeting to be conducted by DOE will be held in the City of Lakeland City Commission

Chambers on April 13, 1999, at 7 p.m. The address of the City Commission Chambers is: 228 South Massachusetts Avenue, Lakeland, Florida. In addition, DOE will hold an informational session at the same location from 1 p.m. to 7 p.m. on April 13. Displays and other materials and DOE personnel will be available to provide information about the proposed action.

DOE requests that anyone who wishes to speak at this public scoping meeting contact Mr. Joseph Martin, either by phone, fax, computer, or in writing (see **ADDRESSES** in this Notice). Individuals who do not make advance arrangements to speak may register at the meeting and will be given the opportunity to speak after all previously scheduled speakers have made their presentations. Speakers who wish to make presentations longer than five minutes should indicate the length of time desired in their request. Depending on the number of speakers, it may be necessary to limit speakers to five minute presentations initially, with the opportunity for additional presentations as time permits. Speakers can also provide additional written information to supplement their presentations. Oral and written comments will be given equal consideration.

DOE will begin the meeting with an overview of the proposed McIntosh Unit 4 demonstration project. A presiding officer will be designated by DOE to chair the meeting. The meeting will not be conducted as an evidentiary hearing, and speakers will not be cross-examined.

However, speakers may be asked to clarify their statements to ensure that DOE fully understands the comments or suggestions. The presiding officer will establish the order of speakers and provide any additional procedures necessary to conduct the meeting.

Issued in Washington, DC, this 22nd day of March, 1999.

Peter N. Brush,

Principal Deputy Assistant Secretary, Environment, Safety and Health.

[FR Doc. 99–7487 Filed 3–25–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice Inviting Financial Assistance Applications

AGENCY: U.S. Department of Energy (DOE), Federal Energy Technology Center (FETC).

ACTION: Notice inviting financial assistance applications.

SUMMARY: The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (grants) to successful applicants. Awards will be made to a limited number of applicants based on a scientific and engineering evaluation of the responses received to determine the relative merit of the approach taken in response to this offering by the DOE, and funding availability.

FOR FURTHER INFORMATION CONTACT: Nancy Toppetta, U.S. Department of Energy, Federal Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh, PA 15236–0940, Telephone: (412)892–5715, FAX: (412)892–6216, E-mail: toppetta@fetc.doe.gov. The solicitation (available in Portable Document Format (PDF)) will be released on DOE's FETC World Wide Web Server Internet System (http://www.fetc.doe.gov/business/solicit) on or about March 23, 1999.

SUPPLEMENTARY INFORMATION:

Title of Solicitation: "Improved Natural Gas Storage Well Remediation"

Objectives: Through Program Solicitation No. DE-PS26–99FT40060, the DOE seeks applications from qualified sources for research and development efforts that address storage well damage issues associated with underground geologic reservoirs, such as depleted oil/gas fields, aquifers, etc.; however, such research and development efforts must *not* include underground storage tanks or mined salt caverns. The general objectives of this research and development effort are to (1) characterize the geochemical conditions of underground geologic natural gas storage reservoirs and injection/withdrawal wells for a selected set of damage mechanisms that lead to decreased performance characteristics and (2) design and successfully demonstrate practical and cost effective remedial techniques for those damage mechanisms. The damage mechanisms to be considered are (1) inorganic precipitates, (2) hydrocarbons, organic residues, and production chemicals, (3) bacterial fouling and plugging, and (4) particulate fouling and plugging.

Eligibility: Applications are welcome from all qualified sources. The solicitation will contain a complete description of the technical evaluation factors and relative importance of each factor.

Areas of Interest: DOE is interested in development of the above described mechanisms for improved remediation design, especially for effective shallow damage remedial treatments.

Awards: DOE anticipates issuing financial assistance (grants) for each project selected. DOE reserves the right to support or not support, with or without discussions, any or all applications received in whole or in part, and to determine how many awards may be made through the solicitation subject to funds available in this fiscal year.

Solicitation Release Date: The Program Solicitation is expected to be ready for release on or about March 23, 1999. Applications must be prepared and submitted in accordance with the instructions and forms contained in the Program Solicitation.

Richard D. Rogus,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 99–7493 Filed 3–25–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice Inviting Financial Assistance Applications

AGENCY: U.S. Department of Energy (DOE), Federal Energy Technology Center (FETC).

ACTION: Notice inviting financial assistance applications.

SUMMARY: The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (cooperative agreements) for the program entitled "Development of Feed System for Alternative Feedstocks for Gasification." Through this solicitation, FETC seeks to support applications in the following areas of interest: (1) Wet Gasification Feed Systems, and (2) Dry Gasification Feed Systems. Applications will be subjected to a review by a DOE technical panel, and awards will be made to a limited number of applicants based on a scientific and engineering evaluation of the responses received to determine the relative merit of the approach taken in response to this offering by the DOE, and funding availability.

FOR FURTHER INFORMATION CONTACT: William Mundorf, U.S. Department of Energy, Federal Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh, PA 15236–0940, Telephone: (412) 892–4483, FAX: (412) 892–6216, E-mail: mundorf@fetc.doe.gov. The solicitation (available in both WordPerfect 6.1 and Portable Document Format (PDF)) will be released on DOE's

FETC World Wide Web Server Internet System (http://www.fetc.doe.gov/business/solicit) on or about April 2, 1999.

SUPPLEMENTARY INFORMATION:

Title of Solicitation: "Development of Feed System for Alternative Feedstocks for Gasification"

Objectives: Through Program Solicitation No. DE–PS26–99FT40432, the Department of Energy seeks applications for innovative technical approaches to co-feed alternative feedstocks with coal to a gasifier to broaden the base of fuels utilized in a gasifier. This solicitation is specifically aimed at identifying opportunities and constraints to the use of co-feeding alternative feedstocks and the development and testing of technologies for co-feeding coal with alternatives feedstocks such as biomass, municipal solid waste, animal wastes, other difficult-to-feed industrial streams, and lower quality coals or coal wastes. This solicitation is limited to those technologies, processes, and concepts that are applicable for co-feeding to a gasifier under pressure and with coal being the primary component of the feedstock.

Eligibility: Eligibility for participation in this Program Solicitation is considered to be full and open. All interested parties may apply. The solicitation will contain a complete description of the technical evaluation factors and relative importance of each factor.

Areas of Interest: The Department is interested in obtaining applications to improve gasification systems for co-feeding alternative feedstocks into gasifiers under pressure in the following areas of interest: (1) Wet Gasification Systems: Liquid feed systems primarily designed to handle feed materials that are hydrocarbon liquids or are solids slurried in water. Technical topics include: (a) property alteration or conversion to be suitable as a liquid or slurry feed; and (b) new or improved feed system equipment and design; and (2) Dry Gasification Systems: Co-mixtures of dry materials with coal that incorporate significantly different material properties to be fed with uniform and consistent performance. Technical topics include: (a) equipment and processes to modify the alternative feed materials and blend into acceptable co-mixtures; and (b) equipment modifications and improvements to the feed system.

Awards: DOE anticipates issuing financial assistance (cooperative agreements) for each project selected. DOE reserves the right to support or not support, with or without discussions, any or all applications received in whole or in part, and to determine how many awards may be made through the solicitation subject to funds available. Approximately $9.5 million of DOE funding is planned for this solicitation ($1.5 million Project Period I, $4 million Project Period II, and $4 million for Project Period III). The estimated funding by the DOE is planned to be $0.5 million per award for Project Period I and $1.5 million to $2.0 million for Project Period II, with remaining funds for Project Period III. The DOE intends to solicit Renewal Applications for subsequent Project Periods only from those organizations selected for Project Period I. Cost sharing by the applicant is required, and details of the cost sharing requirement are contained in the solicitation.

Solicitation Release Date: The Program Solicitation is expected to be ready for release on or about April 2, 1999. Applications must be prepared and submitted in accordance with the instructions and forms contained in the Program Solicitation.

Richard D. Rogus,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 99–7492 Filed 3–25–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board; Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Advisory Board. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 22, 1999, 1:00 p.m.–5:15 p.m., and Friday, April 23, 1999, 8:30 a.m.–12:15 p.m.

ADDRESSES: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue S.W. (Room 1E–245), Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Special Assistant to the Assistant Secretary for Environmental Management, Environmental Management Advisory Board (EM–1), 1000 Independence Avenue S.W. (Room 5B–171), Washington, D.C. 20585. The telephone number is 202–586–4400. The Internet address is *james.melillo@em.doe.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management Advisory Program from the perspective of affected groups, as well as state, local, and tribal governments. The Board will contribute to the effective operation of the Environmental Management Program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing the Office of Environmental Management and by helping to secure consensus recommendations on these issues.

Tentative Agenda*

Thursday, April 22, 1999

1:00 p.m.—Public Meeting Opens.
- Opening Remarks.
- Privatization Committee Report.
- Technology Development & Transfer Committee Report.
- Break.
- Worker Health & Safety Committee Report.
- Accelerating Closure Committee Report.
- Public Comment Period.

6:00 p.m.—Wrap up—Adjourn.

Friday, April 23, 1999

8:30 a.m.—Public Meeting Opens.
- Science Committee Report.
- Long Term Stewardship Committee Report.
- Break.
- Public Comment Period.
- Board Business.
- Public Comment Period.

12:15 p.m.—Meeting Adjourns

* Times are approximate. A final agenda will be available at the start of the meeting.

Public Participation: This meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, please contact Mr. Melillo at the address or telephone number listed above, or call the Environmental Management Advisory Board office at 202–586–4400, and we will reserve time for you on the agenda. You may also register to speak at the Meeting Site on April 22–23, or ask to speak during the public comment period. Those who call in and or register in advance will be given the opportunity to speak first. Others will be accommodated as time permits. The Board Chair will conduct the meeting in an orderly manner.

Minutes: We will make the minutes of this meeting available for public review and copying by May 23, 1999. Please come to the Freedom of Information Public Reading Room (Room 1E–190) in the Forrestal Building to view these documents. The Room is open Monday through Friday from 9:00 a.m.—4:00 p.m. except on Federal holidays.

Issued in Washington, D.C. on March 22, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–7488 Filed 3–25–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah Gaseous Diffusion Plant. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 15, 1999: 5:30 p.m.–10:00 p.m.

ADDRESSES: Paducah Information Age Park Resource Center, 2000 McCracken Boulevard, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: John D. Sheppard, Site-Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (502) 441–6804.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

5:30 p.m.	Call to Order
5:45 p.m.	Approve Meeting Minutes
6:00 p.m.	Public Comment/Questions
6:30 p.m.	Presentations
7:30 p.m.	Break
7:45 p.m.	Presentations
9:00 p.m.	Public Comment
9:30 p.m.	Administrative Issues
10:00 p.m.	Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact John D. Sheppard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the times indicated on the agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday through Friday, or by writing to John D. Sheppard, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, or by calling him at (502) 441–6804.

Issued at Washington, DC on March 22, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–7489 Filed 3–25–99; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6316–3]

California State Motor Vehicle Pollution Control Standards; Within the Scope Request; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing and public comment.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has approved amendments to the zero-emission vehicle (ZEV) requirements of the low-emission vehicle (LEV) program, including the repeal of the ZEV requirements for model years 1998 through 2002. By letter dated February 26, 1997, California requested that EPA confirm CARB's finding that its amendments are within-the-scope of section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b), of a waiver of federal preemption for the California LEV program regulations, which EPA approved on January 13, 1993.

EPA has tentatively scheduled a public hearing for April 23, 1999, to hear comments concerning CARB's request. Before this notice, EPA received submissions to the docket on this matter from the state of Massachusetts, CARB, and aftermarket associations. EPA requests comments from interested parties as to the relevance and merit of these previous submissions to the within-the-scope waiver request. If EPA does not receive a request for a public hearing, then EPA will not hold a hearing, and instead consider CARB's request based on written submissions to the docket.

DATES: EPA has tentatively scheduled a public hearing for April 23, 1999, beginning at 10:00 a.m. EPA will hold a hearing only if a party notifies EPA by April 5, 1999, expressing its interest in presenting oral testimony regarding CARB's requests or other issues noted in this notice. By April 7, 1999, any person who plans to attend the hearing should call David Dickinson of EPA's Vehicle Programs and Compliance Division at (202) 564–9256 to learn if we will hold a hearing. Any party may submit written comments by May 10, 1999.

ADDRESSES: EPA will make available for public inspection at the Air and Radiation Docket and Information Center written comments received from interested parties, in addition to any testimony given at the public hearing. The Air Docket is open during working hours from 8:00 a.m. to 4:00 p.m. at EPA, Air Docket (6102), Room M–1500, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The reference number for this docket is A–97–20. Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at the address noted below. In addition, parties should send their written comments (in duplicate) regarding the within-the-scope waiver request to David Dickinson at the same address. If EPA receives a request for a public hearing, EPA will hold the public hearing in the first floor conference room at 501 3rd Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Group Manager, Vehicle Programs and Compliance Division (6405J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Telephone:

(202) 564–9256, Fax:(202) 565–2057, E-Mail: Dickinson.David@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Obtaining Electronic Copies of Documents

EPA makes available an electronic copy of this Notice on the Office of Mobile Sources' (OMS) homepage (http://www.epa.gov/OMSWWW/). Users can find this document by accessing the OMS homepage and looking at the path entitled "Regulations." This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice on the day of publication on the primary website: (http://www.epa.gov/docs/fedrgstr/EPA-AIR/).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur.

II. Background

A. Procedural History

On January 13, 1993, EPA published a Notice Regarding Waiver of Federal Preemption granting California a waiver of federal preemption for the California LEV program. (58 FR 4166). The California LEV waiver included California's original ZEV requirements.

In March 1996, CARB amended the LEV program by eliminating the ZEV sales requirement for model years 1998 through 2002.

On February 26, 1997, CARB submitted to the Administrator a request that EPA confirm CARB Board's determination that the amendments to its regulations noted below (primarily repealing the ZEV requirements for model years 1998 through 2002) are within-the-scope of the existing California LEV waiver. CARB also entered into, on March 29, 1996, what it terms memorandum of agreements (MOAs) with the seven largest vehicle manufacturers. These MOAs provide for the introduction of a certain number of ZEVs into the California market for calendar years 1998–2000 and require CARB to perform certain tasks.

B. Background and Discussion

Section 209(a) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7543(a), provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emission from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any state that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the state determines that the state standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards. The Administrator must grant a waiver unless she finds that (A) the determination of the state is arbitrary and capricious, (B) the state does not need the state standards to meet compelling and extraordinary conditions, or (C) the state standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

CARB submitted a letter to the Administrator notifying EPA that it had adopted amendments to its LEV program. These amendments provide for (1) the elimination of the requirement upon manufacturers to certify, produce, and offer for sale in California ZEVs in amounts equal to two percent of their total California sales of passenger cars and light-duty trucks weighing less than 3,750 pounds beginning with the 1998 model year, increasing to five percent in the 2001 model year and ten percent in the 2003 model year (the ten percent ZEV requirement for the 2003 model year has been retained by California); (2) the creation of multiple ZEV credits for vehicles produced prior to the 2003 model year; and (3) the creation of test procedures for determining All-Electric Vehicle Range.

CARB asserts, and requests that the Administrator determine, that each of these three amendments to its LEV regulations fall within-the-scope of EPA's previously granted waiver, thereby obviating the independent need to meet the requirements of section 209(b) of the Act set forth above. EPA has decided in the past where California's amendments do not undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards; do not affect the consistency of California's requirements with section 202(a) of the Act; and raise no new issues affecting EPA's previous waiver determinations that a within-the-scope waiver determination is acceptable.

When EPA receives new waiver requests from CARB, EPA publishes a notice of opportunity for public hearing and comment and then publishes a decision in the **Federal Register** following the public comment period. In contrast, when EPA receives within-the-scope waiver requests from CARB, EPA traditionally publishes a decision in the **Federal Register** and concurrently invites public comment if an interested party is opposed to EPA's decision.

Because EPA has already received written comment on this within-the-scope request, EPA invites comment on the following issues before determining CARB's within-the-scope request: (1) Should EPA consider CARB's request as a within-the-scope of a previous waiver request or should it be considered and examined as a new waiver request?; (2) If EPA should consider CARB's request as a within-the-scope request then do California's amendments (a) undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (b) affect the consistency of California's requirements with section 202(a) of the Act, and (c) raise new issues affecting EPA's previous waiver determinations?; (3) Should EPA consider CARB's request as a new waiver request then provide comment on (a) Whether California's determination that its standards are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) Whether California needs separate standards to meet compelling and extraordinary conditions, and (c) Whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act?; and (4) the significance of the MOAs and issues that may arise out of the MOAs and their relevance to the within-the-scope waiver request CARB has submitted to EPA, addressing how the MOAs and related issues affect EPA's consideration either under the within-the-scope or waiver criteria.

III. Procedures for Public Participation

Any party desiring to make an oral statement on the record should file ten (10) copies of its proposed testimony and other relevant material with David Dickinson at the address listed above no later than April 21, 1999. In addition, the party should submit 25 copies, if feasible, of the planned statement to the

presiding officer at the time of the hearing.

In recognition that a public hearing is designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants with special approval by the presiding officer. The presiding officer is authorized to strike from the record statements that he or she deems irrelevant or repetitious and to impose reasonable time limits on the duration of the statement of any participant.

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until May 24, 1999. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, if any, relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at EPA Air Docket. (Docket No. A–97–20).

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information" (CBI). If a person making comments wants EPA to base its decision in part on a submission labeled CBI, then a nonconfidential version of the document that summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: March 17, 1999.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–7429 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6316–2]

Request From Massachusetts Concerning Zero Emission Vehicle Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The Attorney General of the Commonwealth of Massachusetts has requested that EPA respond to certain questions related to whether Massachusetts's regulations requiring the sale of a certain number of zero emission vehicles in the calendar years 1998–2000 are preempted by the Clean Air Act. The questions have arisen in the context of a decision by the United States Court of Appeals for the First Circuit in a litigation between Massachusetts and automobile manufacturers. This notice announces the opening of a thirty day period for the submission of written comments regarding the issues raised by the Court decision and the request from Massachusetts.

DATES: Written comments must be received on or before April 26, 1999

ADDRESSES: Written comments regarding the request should be submitted, in duplicate, to Public Docket No. A–99–08 at the following address: U.S. Environmental Protection Agency, Air Docket (6102), Room M–1500, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The Agency also requests that a separate written copy be sent to the contact person at the address noted below. The information received from Massachusetts, as well as any written comments received from interested parties, is available for public inspection in the Air Docket at the above address during from 8:00 a.m. to 5:30 p.m Monday to Friday, except on government holidays. The telephone number for EPA's Air Docket is (202) 260–7548. A reasonable fee may be charged by EPA for copying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT: For more information about this document, please contact Michael Horowitz, Office of General Counsel (2344), 401 M St., SW, Washington, DC 20460; telephone (202) 260–8883; fax (202) 260–0586; and e-mail: horowitz.michael@epamail.epa.gov

SUPPLEMENTARY INFORMATION: On December 29, 1998, the U.S. Court of Appeals for the First Circuit issued a decision in *American Automobile Manufacturers Ass'n* v. *Massachusetts Department of Environmental Protection*, 163 F.3d 74 (1st Cir. 1998). In that decision, the court determined that it would allow EPA an opportunity to rule on certain issues relevant to whether Massachusetts's requirement that automobile manufacturers deliver for sale a certain number of zero emission vehicles ("ZEVs") in the years 1998–2000 violated the Clean Air Act. The court therefore provided Massachusetts with "a reasonable opportunity to obtain a ruling from the EPA. * * * However, if no agency ruling is forthcoming within 180 days from the date this opinion issues, the parties shall so notify this court. We will then decide the issues before us without the EPA's guidance."

Pursuant to the court's decision, on January 28, 1999, the Attorney General of the Commonwealth of Massachusetts sent a letter to the Administrator requesting EPA's opinion regarding the questions arising from the case.

I. Background

This case arises from Massachusetts's regulations requiring that certain automobile manufacturers produce and deliver for sale in Massachusetts a combined total of 750 ZEVs during calendar years 1998 and 1500 ZEVs during each calendar years 1999 and 2000. There are also certain reporting requirements related to these regulations. This case is the latest in a series of law suits that automobile manufacturers have brought against Massachusetts and New York related to those states' incorporation of California's Low Emission Vehicle program into their state laws. The following is a brief summary of the critical federal statutory provisions and the events leading up to the Court's decision. For further information, please review the December 28, 1998 decision and the briefs filed in that case, as well as the earlier decisions resulting from the suits brought by manufacturers against New York and Massachusetts. [1]

[1] The briefs have been placed in the docket. The significant prior decisions in the Massachusetts litigation are as follows: *AAMA* v. *Massachusetts DEP*, 998 F. Supp. 10 (D. Mass. 1997); *AAMA* v. *Massachusetts DEP*, 31 F.3d 18 (1st Cir. 1994); *AAMA* v. *Greenbaum*, No.93–10799–MA, 1993 WL 443946 (D. Mass. Oct. 27, 1993). The significant decisions in the New York litigations are: *AAMA* v. *Cahill*, 152 F.3d 196 (2d Cir. 1998); *AAMA* v. *Cahill*, 973 F. Supp. 288 (N.D.N.Y. 1997); *Motor Vehicle Mfrs. Ass'n. ("MVMA")* v. *New York Dep't of Envtl. Cons. ("New York DEC")*, 79 F.3d 1298 (2d Cir. 1996); *MVMA* v. *New York DEC*, 869 F. Supp. 1012 (N.D.N.Y. 1994); *MVMA* v. *New York DEC*, 17 F.3d 521 (2nd Cir. 1994).

A. Relevant Clean Air Act Provisions

Under section 209(a) of the Clean Air Act ("CAA"), states and localities are prohibited from adopting or attempting to enforce "any standard relating to the control of emissions from new motor vehicles." Section 209(a) also prohibits state approvals "relating to the control of emissions from any new motor vehicle * * * as condition precedent to the initial sale, titling * * * or registration of such motor vehicle." However, section 209(b) of the Act permits the state of California to request an EPA waiver from this prohibition if California determines that its standards are, in the aggregate, at least as protective of public health and welfare as applicable federal standards. EPA must grant this request unless it finds one of the following: (1) California's "in the aggregate" determination was arbitrary and capricious; (2) California does not need standards to meet compelling and extraordinary conditions; or (3) California's standards and accompanying enforcement procedures are not consistent with Clean Air Act section 202(a).

There is no similar provision for other states to obtain a waiver from the prohibitions in section 209(a). However, under CAA section 177, once California has promulgated its motor vehicle program, other states may adopt and enforce their own standards as long as such standards are "identical to the California standards for which a waiver has been granted for such model year" and such standards have been adopted at least two years before commencement of such model year. Section 177 further states:

> Nothing in this section * * * shall be construed as authorizing any such State to prohibit or limit, directly or indirectly, the manufacture or sale of a new motor vehicle * * * that is certified in California as meeting California standards, or to take any action of any kind to create, or have the effect of creating, a motor vehicle * * * different than a motor vehicle * * * certified in California under California standards (a "third vehicle") or otherwise create such a "third vehicle'.

B. Factual Background

In 1990, the California Air Resources Board ("CARB") adopted its Low Emission Vehicle ("LEV") program. One of the elements of that program was a requirement, beginning in model year 1998, that two percent of the cars offered for sale in California by a manufacturer must be ZEVs. That percentage would increase to five percent in model year 2001 and ten percent in model year 2003. California received a waiver for its LEV program, including the ZEV sales requirement, in 1993. 58 FR 4166 (Jan. 13, 1993).

New York and Massachusetts both promulgated regulations adopting California's LEV program, including the ZEV mandate, into their state regulations. Auto manufacturers challenged both state programs in federal court, claiming that the state programs were prohibited under section 209 and were not authorized under the provisions of section 177. In both instances, manufacturers were not successful in their challenges. Courts in both the 1st and 2nd Circuit ruled that the state regulations were permitted under section 177.

However, in 1996, California amended its regulations to eliminate its ZEV sales mandate until the 2003 model year. Later in 1996, California entered into Memoranda of Agreement ("MOAs") with the seven largest automobile makers. As part of these MOAs, the automobile manufacturers agreed to supply a certain number of ZEVs in the state of California during calendar years 1998–2000. Massachusetts then revised its LEV regulations by replacing the preexisting ZEV sales mandate for the 1998–2002 model years with the ZEV sales portions of the MOAs, using the ZEV sales numbers in the MOAs.

AAMA sued Massachusetts, claiming the revised ZEV regulations violated section 209(a) of the Clean Air Act.[2] The District Court in Massachusetts ruled in favor of the auto manufacturers.[3] However, on appeal, the 1st Circuit refrained from deciding the case, preferring instead to allow EPA to provide its views on the issue, if it chooses to do so. "This matter is plainly within the EPA's primary jurisdiction, and its resolution could clearly benefit from a deep familiarity with the CAA and the public policy considerations that underlie these statutory provisions. We therefore refer this issue to the EPA for its consideration."[4] The court then stayed further judicial action to allow Massachusetts the opportunity to obtain a ruling from EPA on the issues relevant to deciding the case. However, if EPA does not rule within 180 days of the court's decision, the court has indicated that it will then decide the issues without EPA's guidance. Pursuant to the court's decision, the Massachusetts Attorney General sent a letter to the Administrator requesting EPA's opinion regarding the issues arising from the court's opinion.

EPA believes it is appropriate to seek comments from the public on this request from Massachusetts. EPA therefore requests that any interested parties provide comments on the issues raised by the Court's opinion and the letter from Massachusetts.

II. Procedures for Public Participation

EPA will keep the record open until April 26, 1999. Upon expiration of the comment period, EPA will determine the appropriate response, if any, to the request from the Massachusetts Attorney General. Persons seeking information relevant to this proceeding may review the information provided at the EPA Air Docket. (Docket No. A–99–08).

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information" (CBI). If a person making comments wants EPA to base its decision in part on a submission labeled CBI, then a nonconfidential version of the document which summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the person making comments.

Dated: March 17, 1999.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–7428 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

[2] AAMA also sued New York, which had not amended its ZEV mandate at all. The Second Circuit found for the auto makers in that case. *AAMA* v. *Cahill*, 152 F. 3d 196 (2d Cir. 1998).

[3] *AAMA* v. *Massachusetts DEP*, 998 F. Supp. 10 (D. Mass. 1997).

[4] *AAMA* v. *Massachusetts DEP*, 163 F. 3d 74, 83 (1st Cir. 1998).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6314–7]

Public Water Supply Supervision Program Revision for the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Environmental Protection Agency (USEPA) has determined to approve an application by the State of New York to revise its Public Water Supply Supervision Primacy Program to incorporate regulations no less stringent than the USEPA's National Primary Drinking Water Regulations (NPDWR) for Synthetic Organic Chemicals and Inorganic Chemicals (Phase 5 Chemical Regulations) promulgated by EPA on July 17, 1992 (57 FR 31776).

Effective May 27, 1998, the New York State Department of Health adopted revisions to 10 NYCRR Part 5, Subpart 5.1—Public Water Systems. These revised regulations have been submitted by the State in an application to revise its approved Public Water Supply Supervision Primacy Program (approved primacy program). The application demonstrates that New York has adopted drinking water regulations which satisfy the National Primary Drinking Water Regulations (NPDWR) for Synthetic Organic Chemicals and Inorganic Chemicals promulgated by EPA on July 17, 1992 (57 FR 31776). The USEPA has determined that New York State's chemical regulations are no less stringent than the corresponding Federal regulations and that New York continues to meet all requirements for primary enforcement responsibility as specified in 40 CFR 142.10.

In addition, the revised regulations contained in the revision application make several minor changes, consisting of corrections and clarifications, to New York State's drinking water regulations which parallel a number of other NPDWRs, including the Lead and Copper Rule (56 FR 26548) and Surface Water Treatment Rule (54 FR 27527) and certain variance and exemption procedures. Here, too, the USEPA has determined that New York State's drinking water regulations remain no less stringent than the corresponding Federal regulations. (The USEPA's June 3, 1997 determination to retain primacy, until May 15, 2007, for the enforcement of the Surface Water Treatment Rule within the City of New York's Catskill and Delaware water supply systems remains unaffected by today's action.) This determination to approve the State's primacy program revision application is made pursuant to 40 CFR 142.12(d)(3). It shall become final and effective April 26, 1999, unless (1) a timely and appropriate request for a public hearing is received or (2) the Regional Administrator elects to hold a public hearing on her own motion. Any interested person, other than Federal Agencies, may request a public hearing. A request for a public hearing must be submitted to the USEPA Regional Administrator at the address shown by April 26, 1999. If a substantial request for a public hearing is made within the requested thirty day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on her own motion, this determination shall become final and effective April 26, 1999.

Any request for a public hearing shall include the following information:

(1) the name, address and telephone number of the individual organization or other entity requesting a hearing;

(2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement on information that the requesting person intends to submit at such hearing;

(3) the signature of the individual making the requests or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: Requests for Public Hearing shall be addressed to: Regional Administrator, U.S. Environmental Protection Agency—Region II, 290 Broadway New York, New York 10007–1866.

All documents relating to this determination are available for inspection between the hours of 9:00 am and 4:30 pm, Monday through Friday, at the following offices:

New York State Department of Health, Bureau of Public Water Supply Protection—Room 406, 2 University Plaza/Western Avenue, Albany, New York 12203–3399

U.S. Environmental Protection Agency—Region II, Drinking Water Section, 290 Broadway, New York, New York 10007–1866

FOR FURTHER INFORMATION CONTACT: Michael J. Lowy, Drinking Water Section, U.S. Environmental Protection Agency—Region II, (212) 637–3880.

Authority: (Section 1413 of the Safe Drinking Water Act, as amended, 40 U.S.C. 300g–2, and 40 CFR 142.10, 142.12(d) and 142.13)

Dated: February 25, 1999.

William J. Muszynski,

Acting Regional Administrator, EPA Region II.

[FR Doc. 99–7181 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6241–2)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 01, 1999 Through March 05, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–AFS–J65297–MT

Rating EC2, Bull Lake Estates Road Access Project, Implementation, Easement Grant Permit, Kootenai National Forest, Three Rivers Rangers District, Lincoln County, MT.

Summary: EPA expressed environmental concerns about potential adverse social, water quality, fisheries, and wildlife impacts of the development of the Bull Lake Estates subdivision. The Final EIS should discuss the environmental impacts of the management actions and mitigation measures.

ERP No. D–AFS–L65312–WA

Rating EO2, Olympic Cross Cascade Pipeline Project, Construct and Operate a Common Carrier Petroleum Pipeline, Mt. Baker-Snoqualmie and Wenatchee National Forests, City of Pasco, Snohomish, King, Kittitas, Adams, Grant and Franklin Counties, WA.

Summary: EPA expressed environmental objections because the draft EIS does not adequately discuss the need for the project in terms of a public interest, a range of alternatives needed to meet the purpose and need for the project, and environmental risks posed by the proposed alternative.

ERP No. D–AFS–L65316–ID

Rating EC2, Coeur d'Alene River Ranger District Noxious Weed Control

Project, Treating 76 Specific Sites across District, Kootenai and Shoshone Counties, ID.

Summary: EPA expressed environmental concerns with the proposed methodologies for the controlling noxious weeds. The Final EIS should address operational objectives or performance standards, additional strategies to prevent the spread of noxious weeds, funding for the control of weed expansion and adaptive management that addresses treatment other than chemical ones.

ERP No. D–BLM–K65217–AZ

Rating EO2, Ray Land Exchange/Plan Amendment, Implementation, Exchange of Federal Lands for Public Lands, Pinal, Gila and Mohave Counties, AZ.

Summary: EPA expressed strong objections to the proposed project because of its potential for significant environmental degradation. EPA recommended that BLM consider preparing a revised DEIS with substantially more information regarding other alternatives, the affected environment, and environmental consequences, including indirect and cumulative impacts, with respect to site geology and geochemistry, hydrology and hydrogeology, existing and potential future water and air quality, riparian and aquatic resources, facilities design, minerals and land management, environmental justice, and mitigation measures.

ERP No. D–DOA–G36150–AR

Rating EC2, Departee Creek Watershed Plan Flood Prevention, Implementation, COE Section 404 Permit, Independence and Jackson Counties, AR.

Summary: EPA expressed environmental concerns regarding wetland impacts, alternative, mitigation, and environmental justice. Additional information concerning these issues was requested.

ERP No. DS–AFS–L67036–OR

Rating EC2, Nicore Mining Project, Implementation, New Information on Six New Alternatives, Plan-of-Operations, Mining of Four Sites, Road Construction, Reconstruction, Hauling and Stockpiling of Ore, Rough and Ready Creek Watershed, Illinois Valley Ranger District, Siskiyou National Forest, Medford District.

Summary: EPA expressed environmental concerns with mining in the Rough and Ready watershed because of potential impacts to water quality and the unique ecological values of the area. The Final EIS should disclose complete monitoring plan and mitigation plans.

Final EISs

ERP No. F–BLM–L65272–ID

Challis Land and Resource Management Plan, Implementation, Upper Columbus—Salmon Clearwater Districts, Salmon River, Lemhi and Custer Counties, ID.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory.

ERP No. F–GSA–C60004–NY

Governors Island Disposition of Surplus Federal Real Property, Implementation, Upper New York Bay, NY.

Summary: EPA's review of the Final EIS have been adequately addressed. In light of the covenants that will be set forth in the transfer deed, EPA have concluded that the proposed project would not result in significant adverse environmental impacts; therefore, EPA has no objections to the implementation of the proposed project.

ERP No. F–IBR–K28018–CA

Central Valley Project, Municipal and Industrial Water Supply Contracts under Public Law 101–514 (Section 206), Sacramento County Water Agency and San Juan Water District, City of Folsom, Sacramento County, CA.

Summary: EPA continues to be concerned with the probability of additional diversions from the American river. EPA urge selection of diversion point on the American River below the courthouse of the American River.

ERP No. F–STA–G50007–00

Programmatic EIS—International Bridge Crossing Project, Construction and Operation, Along the United States—Mexico Border from EL Paso to Brownsville, TX, Presidential Permit, NM and TX.

Summary: EPA finds that the Final Programmatic EIS to be adequate and has no objections to preferred alternative.

ERP No. FS–UMC–K24018–CA

Sewage Effluent Compliance Project, Updated and Additional Information, Implementation, Lower Santa Margarita Basin, Marine Corps Base Camp Pendleton, San Diego County, CA.

Summary: EPA indicated that the FSEIS adequately addressed EPA environmental objections. EPA request that a Record of Decision (ROD) not be made until the Navy fully evaluates a final percolation pond study. EPA also asked the Navy to provide a detailed monitoring and reporting program and contingency measures, for their selected alternative, to ensure that no adverse impacts would occur to the nearby salt marsh. EPA also commented on concerns regarding long term health of riparian habitat and asked the Navy to acknowledge its intent, in the ROD, to seek funding for tertiary treatment facilities.

Other

ERP No. LD–UAF–K11096–NV

Rating EO2, Nellis Air Force Range (NAFR), Renewal of the Land Withdrawal to Provide a Safe and Secure Location to Test Equipment and Train Military Personnel, Clark, Lincoln and Nye Counties, NV.

Summary: EPA expressed objections due to the excessively long proposed periods between public reviews of the land withdrawal (i.e., indefinitely or 25 years) of the roughly 3 million acre area. EPA requested additional information regarding impacts to ground and surface water, hazardous materials and waste, safety, and biological resources.

Dated: March 23, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–7490 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6241–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed March 15, 1999 Through March 19, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990083, Final Supplemental, EIS, NOA, Atlantic, Gulf and Caribbean Exclusive Economic Zone (EEZ) Billfish Fishery Management Plan, White and Blue Marlin, Sailfish, and the Longbill Spearfish, Implementation, Due: April 19, 1999, Contact: Rebecca J. Lent (301) 713–2347. This Notice of Availability (NOA) should have appeared In the 3/19/1999 FR. The Wait Period is Calculated from 3/19/1999. Publication of the NOA was Delayed Pending Resolution of an Administrative Problem with the Draft Supplemental EIS.

EIS No. 990084, Final EIS, BOP, WV, Ohio and Tyler Counties Federal Correctional Facility, Construction and Operations, Three Possible Sites:

Wheeling-Ohio County Airport Industrial Park, Fort Henry and Iver Flats, Ohio and Tyler Counties, WV, Due: April 26, 1999, Contact: David J. Dorwoth (202) 514–6470.

EIS No. 990085, Final EIS, BOP, WV, Preston County Federal Correctional Facility, Construction, Preston County, WV, Due: April 26, 1999, Contact: David J. Dorworth (202) 514–6440.

EIS No. 990086, Draft Supplemental EIS, AFS, CO, Upper Elk River Access Analysis, Implementation, Proposal to Remove and/or Treat Blowdown Trees, Routt Divide Blowdown, Medicine Bow-Routt National Forests, Hahn Peak/Bears, Ear Ranger District, Routt County, CO, Due: May 10, 1999, Contact: Andy Cadenhead (970) 870–2220.

EIS No. 990087, Final EIS, AFS, ID, Musselshell Analysis Area, Implementation, Pierce Ranger District, Clearwater National Forest, Clearwater County, ID, Due: April 26, 1999, Contact: Lois Hill (208) 935–2513.

EIS No. 990088, Revised Final EIS, NPS, MI, Isle Royale National Park General Management Plan, Implementation, Keweenaw County, MI, Due: April 26, 1999, Contact: Pete Armington (906) 487–7148.

EIS No. 990089, Final Supplement, NOA, CA, Coastal Pelagic Species Fishery Management Plan Amendment 8, (Formerly Known as Northern Anchovy Fishery Management Plan), Approval and Implementation, WA, CA and OR, Due: April 26, 1999, Contact: Jim Morgan (562) 980–4036.

EIS No. 990090, Final EIS, BIA, OR, Adoption—Coquille Forest Resource Management Plan, Implementation, Coos Bay District, Coos, Curry and Douglas Counties, OR, Due: April 26, 1999, Contact: Gary Varner (541) 444–2679. The U.S. Department of Interior's (DOI) Bureau of Indian Affairs (BIA) has Adopted the U.S. Department of Interior's Bureau of Land Management (BLM), FEIS #940460, filed with EPA on 11–14–94. BIA was not a Cooperating Agency on the BLM EIS, therefore recirculation on the FEIS is necessary under 1506.3(b) of the Council on Environmental Quality (CEQ) Regulations.

EIS No. 990091, Final EIS, FTA, UT, University-Downtown-Airport Transportation Corridor, Major Investment Study, Construction and Operation of the East-West Corridor Light Rail Transit (LRT), Transportation System Management (TSM) and Central Business District (CBD), Funding, Salt Lake County, UT, Due: April 26, 1999, Contact: Don Cover (303) 844–3242.

EIS No. 990092, Final EIS, FHW, CA, I–880 Interchange at Dixon Landing Road, Reconstruction Improvements, Funding and COE Section 404 Permit, Fremont, Milpitas, Alameda and Santa Clara Counties, CA, Due: April 26, 1999, Contact: Robert F. Tally (916) 498–5020.

Dated: March 23, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–7491 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6316–6]

National Advisory Council for Environmental Policy and Technology; Full Council Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a two-day meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues. This meeting is being held to formally present reports and recommendations to EPA and to discuss future activities and projects of NACEPT.

Tentatively, reports and recommendations will be presented by the Environmental Information and Public Access Committee, the Title VI Implementation Committee, the Toxic Data Reporting Committee, the Environmental Capital Markets Committee, and the NACEPT Self-Study Team. Future activities for NACEPT will also be discussed, including charges for new NACEPT committees and NACEPT's Strategic Planning Process.

DATES: The two-day public meeting will be held on Wednesday, April 28, 1999, from 1:00 p.m. to 5:30 p.m., and Thursday, April 29, 1999, from 8:30 a.m. to 3:00 p.m. On both days, the meeting will be held at the Ramada Plaza Hotel, 901 Fairfax Street, Alexandria, Virginia.

ADDRESSES: Material may be transmitted to the Committee through Joseph A. Sierra, NACEPT DFO, Office of Cooperative Environmental Management (1601–F), 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 260–9741.

FOR FURTHER INFORMATION CONTACT: Joseph A. Sierra, Designated Federal Officer for NACEPT, U.S. Environmental Protection Agency, (1601–F), Washington, D.C. 20460; telephone (202) 260–9741.

Dated: March 17, 1999.

Gordon Schisler,

Deputy Director, Office of Cooperative Environmental Management.

[FR Doc. 99–7426 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6315–7]

National Drinking Water Advisory Council, Health Care Provider Outreach and Education Working Group; Notice of Conference Call

Under section 10(a)(2) of Public Law 92–423, "The Federal Advisory Committee Act," notice is hereby given that a conference call of the Health Care Provider Outreach and Education Working Group of the National Drinking Water Advisory Council (NDWAC) established under the Safe Drinking Water Act, as amended (U.S.C. S300f *et.seq.*), will be held on April 16, 1999, from 1:00–3:00 p.m., EST. The call will be held at the U.S. Environmental Protection Agency, 401 M Street, S.W., Room 1209 East Tower, Washington, D.C., 20460. The call is open to the public, but seating will be limited.

The purpose of the call is to (1) review the work that has been done on draft strategic recommendations since the January conference call, and (2) prepare for the second formal working group meeting in Washington, DC, for late May to early June. Statements from the public will be taken on this call as time allows.

For more information, please contact Ron Hoffer, Designated Federal Officer, Health Care Provider Outreach and Education Working Group, U.S. EPA, Office of Ground Water and Drinking Water, Mail Code 4607, 401 M Street SW, Washington, D.C. 20460. The telephone number is 202/260–7096 and the e-mail address is hoffer.ron@epa.gov.

Dated: March 19, 1999.

Charlene E. Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 99–7430 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6314–4]

[Docket No. CERCLA–7–99–008]

Notice of Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act, as Amended, 42 U.S.C. 9622(h), Peerless Industrial Paint Coatings Site, St. Louis, MO

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement and request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Peerless Industrial Paint Coatings Site in St. Louis, Missouri with the following parties: Boise Cascade Corporation, Cook Composite and Polymers Company, Morton International, Inc., and U.S. Polymers, Inc.

DATES: On or before April 26, 1999, the Agency will receive written comments relating to the settlement terms regarding the payment of past and future costs as required by Section 9622(h) and (i) of CERCLA, 42 U.S.C. 9622(h) and (i). The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The Agency's response to any comments received will be available for public inspection at Region VII's offices located at 726 Minnesota Avenue, Kansas City, Kansas 66101.

ADDRESSES: The proposed settlement and a fact sheet providing additional background information relating to the settlement is available at Region VII's offices located at 726 Minnesota Avenue, Kansas 66101. A copy of the proposed settlement may be obtained form Venessa Cobbs, Regional Hearing Clerk, EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone number (913) 551–7630. Comments should reference the "Peerless Industrial Paint Coatings Site" and EPA Docket No. CERCLA–7–99–0008 and should be addressed to Ms. Cobbs at the above address. For further information, contact Denise Roberts, Assistant Regional Counsel, EPA Region VII, Office of Regional Counsel, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone number (913) 551–1349.

SUPPLEMENTARY INFORMATION: The settlement requires the settling parties to pay $525,000, including interest, to the Hazardous Substance Superfund. The settling parties also agree to finance and perform the future removal action, including payment of future oversight costs, estimated to cost $305,000. The value of the PRPs' settlement is $830,000. The government's past costs, after deduction of payments made by the *de minimis* parties, are calculated to be $1,321,202.50. EPA is forgiving $796,202.50 of unreimbursed past costs, representing the orphan share for this Site. This was one of 11 Superfund sites designated by the U.S. Environmental Protection Agency (EPA) to be one of the Allocation Pilots wherein EPA agreed to reimburse costs attributed to the orphan share, the share attributed to insolvent and defunct parties. In this case, the PRPs are paying 50% of past and future costs and EPA is contributing its 50% share through forgiveness of a portion of the past costs.

The settlement includes a covenant not to sue the settling parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). There is also reservation of rights to allow the United States to recover costs in certain circumstances.

Dated: March 10, 1999.

William Rice,

Regional Administrator, United States Environmental Protection Agency, Region VII.

[FR Doc. 99–7182 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6316–1]

Administrative Order on Consent Between the United States Environmental Protection Agency and Wise Garage, Inc., a CERCLA § 122(g) Deminimis Party at the Powell Road Landfill Site; In the Matter of Powell Road Landfill Site; Huber Heights, OH

AGENCY: Environmental Protection Agency (EPA).

ACTION: Administrative Order on Consent authorizing an installment payment arrangement with a deminimis party at the Powell Road Landfill Site.

SUMMARY: Wise Garage, Inc. ("Wise") is a deminimis party at the Powell Road Landfill Site ("Site"), but was unable to execute the January 21, 1998, deminimis settlement Administrative Order on Consent ("AOC") because of an inability to pay. Under the terms of the January 21, 1998, deminimis settlement, Wise has a payment amount of $83,583. An analysis by U.S. EPA determined that an installment payment arrangement was justified by Wise's financial condition. On April 23, 1998, a signature copy of the Wise installment payment Administrative Order on Consent ("Wise AOC") was sent to Wise by the U.S. EPA. On July 1, 1998, Wise sent the U.S. EPA a signed version of the Wise AOC. The Wise AOC requires a lump sum payment of $10,000 within 60 days of the effective date of the order. Wise is then required to pay five equal installments of $14, 717 each over the next five years.

In approximately October, 1996, U.S. EPA sent "first point of contact letters" to several hundred deminimis generators and transporters informing them of the impending deminimis settlement offer. On May 13, 1997, U.S. EPA issued deminimis settlement offers to 182 eligible deminimis PRPs, including Wise Garage, Inc. By the deadline for submission of signature pages on July 14, 1997, 71 of 182 eligible deminimis PRPs submitted signature pages to U.S. EPA certifying their commitment to participate in the settlement. The deminimis settlement AOC was executed on October 17, 1997. As required by section 12(g)(4) of CERCLA, the deminimis settlement AOC was approved by the Attorney General's designee on November 7, 1997. Pursuant to section 122(i) of CERCLA, U.S. EPA published notice of the proposed deminimis settlement in the **Federal Register** on November 28, 1997. The 30-day public notice and comment period ended on December 28, 1997. On January 21, 1998, the deminimis settlement AOC was approved as a final matter and became effective.

DATES: Comments on this Administrative Order on Consent must be received on or before April 26, 1999.

ADDRESSES: Written comments relating to this Administrative Order on Consent, Docket No. VW–98–C–499, should be sent to William H. Clune, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region 5, Mail Code C–14J, 77 West Jackson Blvd., Chicago, IL, 60604.

SUPPLEMENTARY INFORMATION: Copies of the Administrative Order on Consent and the Administrative record for this Site are available at the following address for review. It is strongly recommended that you telephone Mike

Bellot at (312) 353–6425 before visiting the Region 5 office.

U.S. Environmental Protection Agency, Region 5, Superfund Division, 77 West Jackson Blvd., Chicago, IL 60604

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*

William E. Muno,

Director, Superfund Division.

[FR Doc. 99–7431 Filed 3–25–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:41 a.m. on Tuesday, March 23, 1999, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, resolution, and supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than March 19, 1999, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: March 24, 1999.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 99–7676 Filed 3–24–99; 3:57 pm]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Request for Additional Information

This is a notice that additional information was requested from the Transpacific Stabilization Agreement.

Agreement No.: 203–011223–020

Title: Transpacific Stabilization Agreement.

Parties:

American President Lines, Ltd.
APL Co. PTE Ltd.
COSCO Container Lines Ltd.
Evergreen Marine Corp. (Taiwan) Ltd.
Hanjin Shipping Co., Ltd.
Hapag-Lloyd Container Linie GmbH
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Yangming Marine Transport Corp.

Synopsis: The Federal Maritime Commission hereby gives notice, pursuant to section 6(d) of the Shipping Act of 1984, 46 U.S.C. app. Sections 1701 *et seq.*, that it has requested the agreement parties to submit additional information regarding their agreement. Further information is necessary to evaluate the impact of the proposed agreement modification. This action prevents the agreement from becoming effective as originally scheduled.

Dated: March 22, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7303 Filed 3–24–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[File No. 9923039]

Abercrombie & Fitch, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Purusant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Abercrombie & Fitch, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of

the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final agreement's proposed order.

This matter concerns practices related to the sale of textile and wool products by means of a print catalog. The Commission's complaint charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, by failing to disclose in its catalogs whether products offered for sale were made in the U.S.A., imported, or both.

Part I of the proposed consent order prohibits future violations of the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and Commission rules and regulations, found at 16 CFR Parts 303 and 300, respectively, implementing the requirements of those statutes.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u) and 300.1(h), that offer textile and/or wool products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile and/or wool products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc 99–7402 Filed 3–25–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9923009]

Bugle Boy Industries, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Bugle Boy Industries, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the sale of textile products by means of an on-line Internet catalog. The Commission's complaint charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, by failing to disclose in its on-line catalog whether products offered for sale were made in the U.S.A., imported, or both.

Part I of the proposed consent order prohibits future violations of the Textile Fiber Products Identification Act and Commission rules and regulations, found at 16 CFR part 303, implementing the requirements of the statute.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) Copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u) and 300.1(h), that offer textile products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials

and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7401 Filed 3–25–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9923002]

Burlington Coat Factory Warehouse Corp.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Burlington Coat Factory Warehouse Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the sale of textile and wool products by means of an on-line Internet catalog. The Commission's complaint charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, and the Wool Products Labeling Act, 15 U.S.C. 68 *et seq.*, by failing to disclose in its catalogs whether products offered for sale were made in the U.S.A., imported, or both.

Part I of the proposed consent order prohibits respondent from advertising any textile or wool product in any mail order catalog or mail order promotional material, including those disseminated on the Internet, without disclosing clearly and conspicuously that the product was made in the U.S.A., imported, or both.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u) and 300.1(h), that offer textile and/or wool products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile and/or wool products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7395 Filed 3–25–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9910046]

CMS Energy Corp.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the

consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Frank Lipson or Mark Menna FTC/H–2105, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2617 or (202) 326–2722.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 19, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has accepted from CMS Energy Corporation ("CMS" or "Proposed Respondent") an Agreement Containing Consent Order ("Proposed Consent Order"). The Proposed Consent Order remedies the likely anticompetitive effects in the market for pipeline transportation of natural gas into parts of Michigan arising from certain aspects of the proposed acquisition by CMS of all voting securities of Panhandle Eastern Pipeline Company ("Panhandle"), Panhandle Storage Company, and Trunkline LNG Company ("Trunkline"), now held by Duke Energy Company ("Duke"), its subsidiaries or affiliates.

II. Description of the Parties and the Transaction

CMS is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business at 330 Town Center Drive, Dearborn, Michigan. CMS is a holding company for its principal subsidiary, Consumers Energy Company ("Consumers Energy"). Consumers Energy is a combination electric and gas utility company that serves customers in broad sections of Michigan.

Duke is an integrated energy and energy services provider. Duke delivers and manages electricity and natural gas throughout the United States and abroad. Duke's Natural Gas Transmission segment is involved in interstate transportation and storage of natural gas for customers primarily in the Mid-Atlantic, New England and Midwest states. Duke's earnings before interest and taxes for the three months ending September 30, 1998, were $870.9 million.

Duke owns 100 percent of Panhandle Eastern Pipeline and Trunkline Pipeline, both of which are natural gas pipelines regulated by the Federal Energy Regulatory Commission ("FERC") Panhandle originates in the producing fields of Oklahoma and moves natural gas in a northeasterly direction from Oklahoma into Michigan. Trunkline originates in the Gulf Coast and transports gas produced from offshore Gulf Coast wells north to the Midwest. Trunkline terminates at the Michigan border. Both Panhandle and Trunkline interconnect with Consumers Energy.

Respondent CMS entered into a Stock Purchase Agreement dated as of October 31, 1998, with PanEnergy Corp. and Texas Eastern Corp., subsidiaries of Duke, to acquire all voting securities of Panhandle Eastern Pipe Line Company, Panhandle Storage Company, and Trunkline LNG Company for $1.9 billion plus the assumption of $300 million in debt.

III. The Proposed Complaint and Consent Order

The Commission has entered into an agreement containing a Proposed Consent Order with CMS in settlement of a proposed complaint alleging that the proposed acquisition violates section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, and that consummation of the acquisition would violate section 7 of the Clayton Act, 15 U.S.C. 18, and section 5 of the Federal Trade Commission act. The proposed complaint alleges that the acquisition will lessen competition in the pipeline transportation of natural gas into Consumer Energy's gas service area (the "Service Area"). The Service Area includes all or portions of 54 counties in the lower peninsula of Michigan. Principal cities served include Bay City, Flint, Jackson, Kalamazoo, Lansing, Pontiac, and Saginaw.

Consumers Energy receives natural gas through interconnections with Panhandle and Trunkline as well as other pipelines in which Consumers Energy will have no financial interest after the proposed acquisition. The proposed compliant alleges that Consumers Energy can unilaterally decide to reduce the interconnection capacity or close the interconnection altogether. The proposed complaint alleges that after the acquisition, CMS will have an incentive to close or reduce the interconnection capacity with the non-CMS pipelines. This action is likely to increase demand for transportation service on Panhandle and Trunkline and enable these pipelines to increase their rates. The proposed compliant also alleges that such a rate increase may also affect customers' natural gas prices and electricity prices in the Service Area.

To remedy the alleged anticompetitive effects of the proposed acquisition, the Proposed Consent Order allows a shipper to use another interconnection on the Consumers Energy system if the shipper does not incur increased costs. Alternatively, the Proposed Consent Order requires CMS to supply gas from its own system to any shipper to which CMS refuses transportation because of reduced interconnect capacity. The shipper would have to return the borrowed gas, but not earlier than the end of the calendar month following the month in which CMS reduced interconnect capacity.

IV. Resolution of Antitrust Concerns

Consumers Energy, a CMS subsidiary, is the franchised monopoly provider of local gas distribution services to residential, commercial and industrial customers in large parts of Michigan. Gas enters the Consumers Energy's intra-state transmission system at interconnections with Trunkline, Panhandle and other pipelines (mainly, those owned by ANR, Great Lakes and Michigan Consolidated Gas). While Consumers Energy is the local distribution monopolist, it must offer transportation to other firms on its transmission system. In this manner, it competes with other companies in the

sale of natural gas to customers on the Consumers Energy system.

Consumers Energy controls the operation of its system, including its capacity to receive gas at pipeline interconnections. Currently, Consumers Energy, as a purchaser of interstate transportation services, has the incentive to maintain competitive access to its intra-state system to maintain maximum flexibility and minimum prices for the gas delivery. In fact, prices on both Panhandle and Trunkline are substantially below the maximum permitted by FERC. After the acquisition, however, CMS would have the incentive to restrict access to the Consumers Energy system by non-CMS pipelines to support higher post-acquisition transportation prices on Trunkline and Panhandle. CMS could restrict the access non-CMS pipelines have to the Consumers Energy system by reducing the capacity of the interconnections that service those pipelines. It is unlikely that either State or Federal regulatory agencies have the authority to interdict this behavior.

The resulting increase in the price of natural gas transportation into the Consumers Energy system would likely increase the price of gas sold to customers in the Service Area. In addition, the proposed acquisition is likely to adversely affect industrial plants locate in the Service Area that rely on natural gas as a feedstock to generate their electricity. Increased gas transportation rates are likely to increase the cost of self-generation and may force these plants, instead, to purchase electric power from Consumer Energy.

The Proposed Consent Order is designed to prevent CMS from restricting or eliminating the interconnection capacity available to competing pipelines. The Proposed Consent Order identifies a designated capacity for each interconnection based on historical usage to maintain non-CMS capacity at current levels. CMS may adjust the designated capacity for reasons related to force majeure or routine maintenance, resulting in an adjusted designated capacity for each interconnection.[1]

The Proposed Consent Order requires CMS to give shippers two options if they cannot deliver gas into Consumers Energy's service area because the available interconnection capacity is less than actual capacity for any reasons other than force majeure or routine maintenance. First, if the shipper is able to nominate its shipments to another pipeline interconnection point into the Consumers Energy system at no additional cost to the shipper, CMS will accept the gas at such other pipeline interconnection point. Second, if the shipper would incur additional cost in delivering at another interconnection point, or if no other interconnection point is available to the shipper, CMS will provide gas from its own supply of gas and without interruption on the Consumer Energy system for the shipper's account equal to the volume of gas nominated by the shipper that could not be transferred through any of the interconnection points. The shipper must return the gas to Consumers Energy without penalty by the end of the month following the month in which CMS provided gas in offset to the shipper's blocked gas.[2]

The Proposed Consent Order requires CMS to post to an electronic bulletin board information which will let shippers know whether actual capacity is less than current capacity at non-CMS interconnects. Specifically, the Proposed Consent Order requires Consumers Energy to provide (for each interconnection point) the current capacity, current capacity as adjusted for maintenance and force majeure conditions (including the cause of the adjustment and the date it is expected to end), actual capacity, shipments nominated and confirmed (no later than the second business day of each month), and throughput for the previous month.[3] This information will permit industry participants to monitor access to CMS's intra-state distribution system.

The Proposed Consent Order, which will be effective for a period of ten years, requires Consumers Energy to incorporate these obligations into the tariffs it has filed with the Michigan Public Service Commission and into its contracts with shippers.

[1] The Proposed Consent Order refers to these measures as "Designated Capacity" and "Adjusted Designated Capacity." The Proposed Consent Order refers to actual capacity as "Available Interconnection Capacity," meaning the amount of natural gas that Consumers Energy is ready, willing and able to receive at a non-CMS interconnection. Exhibit A to the Proposed Consent Order lists the eight non-CMS interconnection points at issue, along with the Designated Capacity of each interconnection.

[2] The procedure is iterative in that the process repeats itself if Consumers Energy declines a shipper's return of gas because actual non-CMS interconnection capacity is less than current capacity, thereby giving the shipper additional time to settle the offset with Consumers Energy.

[3] The Proposed Consent Order requires the listing of "Recorded Throughput," meaning the data obtained electronically by Consumers Energy from its Supervisory Control And Data Acquisition system units located at each of the interconnection points at issue.

V. Opportunity for Public Comment

The Proposed Consent Order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Proposed Consent Order and the comments received and will decide whether it should withdraw from the Proposed Consent Order or make the order final.

By accepting the Proposed Consent Order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Consent Order to aid the Commission in its determination of whether to make final the Proposed Consent Order. This analysis is not intended to constitute an official interpretation of the Proposed Consent Order, nor is it intended to modify the terms of the Proposed Consent Order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7403 Filed 3–25–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9923008]

Delia's Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Delia's Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the sale of textile and wool products by means of a print catalog and an on-line Internet catalog. The Commission's complaint charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, and the Wool Products Labeling Act, 15 U.S.C. 68 *et seq.*, by failing to disclose in its catalogs whether products offered for sale were made in the U.S.A., imported, or both.

Part I of the proposed consent order prohibits future violations of the Textile Fiber Products Identification Act, the Wool products Labeling Act, and Commission rules and regulations, found at 16 CFR parts 303 and 300, respectively, implementing the requirements of those statutes.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u) and 300.1(h), that offer textile and/or wool products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile and/or wool products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7399 Filed 3–25–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9823257]

Design Zone, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to section 69(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½-inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order

from Design Zone, Inc. The agreement would settle a proposed complaint by the Federal Trade Commission that Design Zone violated the Textile Fiber Products Indentification Act and engaged in unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns country-of-origin labeling practices relating to the sale of cotton t-shirts and other textile wearing apparel. The proposed complaint charges that Design Zone removed labels saying "Made in China" from t-shirts manufactured in China and substituted labels containing the statement "Made in the USA" or, in some instances, added the "Made in USA" labels without removing the "Made in China" labels.

The proposed consent order contains provisions designed to prevent Design Zone from engaging in similar acts and practices in the future. Part I of the proposed order prohibits Design Zone from misrepresenting, in any manner, the extent to which t-shirts or other items of textile wearing apparel are made in the United States or any other country. It further prohibits it from violating any provision of the Textile Fiber Products Identification Act.

The proposed order also contains standard provisions regarding record-keeping, notification of changes in corporate status, distribution of the order, termination of the order, and filing of a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7397 Filed 3–25–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9923004]

Gottschalks, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Gottschalks, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the sale of textile and wool products by means of an on-line Internet catalog. The Commission's complaint charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, and the Wool Products Labeling Act, 15 U.S.C. 68 *et seq.*, by failing to disclose in its on-line catalog whether products offered for sale were made in the U.S.A., imported, or both.

Part I of the proposed consent order prohibits respondent from advertising any textile or wool product in any mail order catalog or mail order promotional material, including those disseminated on the Internet, without disclosing clearly and conspicuously that the product was made in the U.S.A., imported, or both.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u) and 300.1(h), that offer textile and/or wool products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile and/or wool products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby

the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7396 Filed 3–25–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9810261]

North Lake Tahoe Medical Group, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Paul Nolan, FTC/H–3115, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2770 or Matthew Gold, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356–5276.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 22, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm.". A paper copy can be obtained form the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

North Lake Tahoe Medical Group, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from North Lake Tahoe Medical Group, Inc. ("Tahoe IPA"). The agreement settles charges by the Federal Trade Commission Tahoe IPA has violated Section 5 of the Federal Trade Commission Act by: (1) Acting concertedly to delay the entry into the market of managed care; (2) engaging in collective negotiations over prices with payers; and (3) refusing to deal with Blue Shield of California ("Blue Shield") when it did not comply with the Tahoe IPA's demands. The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement and proposed order.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by Tahoe IPA that the law has been violated as alleged in the complaint.

The Complaint

Under the terms of the agreement, a proposed complaint will be issued by the Commission along with the proposed consent order. The allegations in the Commission complaint are summarized below.

Tahoe IPA is a physician organization based in Truckee, California. All of the members of Tahoe IPA are physicians practicing in and around the Tahoe Basin, which includes the North Lake Tahoe and South Lake Tahoe areas. During the time period addressed by the allegations of the complaint, Tahoe members constituted at least 70% of all physicians practicing in the North and South Lake Tahoe areas.

Tahoe IPA was formed in 1994 as a vehicle for its members to deal concertedly with the impending entry into North and South Lake Tahoe of managed care. Beginning in 1994, and continuing until at least 1998, when Tahoe IPA first learned that it was under investigation by the staff of the Commission, Tahoe IPA conspired to fix the prices and other terms under which its members dealt with third-party payers. Tahoe IPA also conspired to prevent or delay the entry into the North Lake and South Lake Tahoe areas of managed care. Tahoe IPA refused to participate, either individually or collectively, in HMO plans offered by Blue Shield, Hometown Health Plan, Foundation Health Plan, St. Mary's Health Plan, and other third-party payers attempting to do business in the Tahoe Basin. Tahoe IPA engaged in collective negotiations to fix price terms and other competitively significant terms with all payers seeking to enter the North and South Lake Tahoe areas. Tahoe IPA maintained an exclusivity clause in its "Provider Participation Agreement," and encouraged its members to deal with third-party payers only through Tahoe IPA. Tahoe IPA sought to coerce payers into accepting the IPA fee schedules and minimum reimbursement rates. Tahoe IPA leaders stated that payers must accept the IPA's price terms if they want to contract with IPA members.

In furtherance of its unlawful agreements, since 1996 Tahoe IPA attempted to coerce Blue Shield to raise its level of fee-for-service reimbursement to IPA physicians. Since November 1997, when it became clear the Blue Shield would not negotiate on the Tahoe IPA's terms, the IPA encouraged its physician members to departicipate from Blue Shield's preferred provider organization ("PPO"). In private and public statements, the Tahoe IPA reminded its members that it was acting as their agent with Blue Shield, and that the IPA would ultimately be successful in its negotiations with Blue Shield if the members continued to contract on a united front. Beginning as early as

January 1998, many of the physician members of Tahoe IPA submitted letters of termination to Blue Shield. Some of these members no longer contract with Blue Shield, and others have notified Blue Shield of their intent to terminate their contracts as of January 1, 1999.

Tahoe IPA's members have not integrated their medical practices in any economically significant way, nor have they created any efficiencies that might justify this conduct. Tahoe IPA's actions have harmed consumers in the North and South Lake Tahoe areas by restraining competition among physicians, by fixing or increasing the prices that are paid for physician services, and by depriving third-party payers, their subscribers, and patients of the benefits of competition among physicians.

The Proposed Consent Order

The proposed consent order is designed to prevent the illegal concerted action alleged in the complaint, while allowing Tahoe to engage in legitimate joint conduct. Section II of the proposed order contains the core operative provisions. Section II.A prohibits Tahoe IPA from: (1) Engaging in collective negotiations on behalf of its members; (2) orchestrating concerted refusals to deal; (3) fixing prices, or any other terms, on which its members deal, and (4) restricting the ability of any physicians to deal with any payer or provider individually or through any arrangement outside of Tahoe IPA.

Section II.B prohibits Tahoe IPA from exchanging or facilitating the exchange of information among physicians of information concerning the terms or conditions of reimbursement. Section II.C prohibits this Tahoe IPA from encouraging, advising or pressuring any person to engage in any action that would be prohibited if the person were subject to the order.

Section II includes a proviso allowing Tahoe IPA to engage in conduct (including collectively determining reimbursement and other terms of contracts with payers) that is reasonably necessary to operate (a) any "qualified risk-sharing joint arrangement," or (b) any "qualified clinically integrated joint arrangement," provided Tahoe IPA complies with the order's prior notification requirements. For the purpose of the order, a "qualified risk-sharing joint arrangement" must satisfy three conditions. First, all physicians participating in the arrangement must share substantial financial risk from their participation in the arrangement. The order lists ways in which physicians might share financial risk, tracking the types of financial risk sharing set forth in the Statements of Antitrust Enforcement Policy in Health Care, issued jointly by the FTC and the Department of Justice. Statements of Antitrust Enforcement Policy in Health Care, issued August 28, 1996, 4 Trade Reg. Rep. (CCH) ¶ 13,153. Second, any agreement on prices or terms of reimbursement entered into by the arrangement must be reasonably necessary to obtain significant efficiencies through the joint arrangement. Third, the arrangement must be non-exclusive, i.e., it must not restrict the ability, or facilitate the refusal, or physicians participating in the arrangement to deal with payers individually or through any other arrangement.

A "qualified clinically integrated joint arrangement" includes arrangements in which the physicians undertake cooperative activities to achieve efficiencies in the delivery of clinical services, without necessarily sharing substantial financial risk. For purposes of the order, such arrangements are ones in which the participating physicians have a high degree of interdependence and cooperation through their use of programs to evaluate to evaluate and modify their clinical practice patterns, to control costs and assure the quality of physician services provided through the arrangement. As with risk-sharing arrangements, the definition of clinically integrated arrangements reflects the analysis contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care. In addition, as with risk-sharing arrangements, the arrangement must be non-exclusive in light of Tahoe IPA's large share of the market.

For a qualified clinically integrated joint arrangement to fall within the proviso, the Tahoe IPA must comply with the order's requirements for prior notification. The prior notification mechanism will allow the Commission to evaluate a specific proposed arrangement and assess its likely competitive impact. This requirement will help guard against the recurrence of acts and practices that have restrained competition and consumer choice.

Section II also contains a proviso that permits the Tahoe IPA to refuse to transmit information from payers or providers to less than all of its participating physicians. This proviso, however, does not permit the Tahoe IPA to require that payers or providers make offers to all participating physicians or to any particular physician.

Section III of the proposed order requires the Tahoe IPA to terminate the participation in the Tahoe IPA of physicians who have terminated their participation, or have given notice of their intent to terminate their participation, in Blue Shield's PPO. this provision requires the Tahoe IPA to provide to Blue Shield the names and addresses of all of its participating physicians, and to request from Blue Shield the names of all participating physicians who either have terminated participation in Blue Shield, or have given notice of intent to terminate future participation in any Blue Shield health plan between January 1, 1998, and the date the agreement was signed. Within twenty days after Tahoe IPA has received from Blue Shield the names and addresses of the boycotting physicians, the Tahoe IPA must terminate their participation unless the physician either: (1) Attempts in good faith to reestablish participation in a Blue Shield health plan for a period of at least six months thereafter; or (2) rescinds in writing his or her notice of intent to terminate future participation in a Blue Shield health plan and continues to participate in a Blue Shield health plan for a period of at least six months thereafter.

Section IV.A requires that Tahoe IPA notify its members and certain third parties, including certain third-party payers, about the order. Section IV.A also requires the IPA to revise its "Provider Agreement," which contains a clause requiring members to contract exclusively through the Tahoe IPA, so that it complies with the order. Section IV.B requires the IPA to terminate any contracts with any payers that do not comply with Section II of the order, at the earlier of (1) the termination or renewal date of the contract; or (2) receipt of a written request from the payer to terminate the contract. Section IV.C requires that the IPA, for the next five years (1) distribute copies of the complaint and order to new members, and (2) publish annually to members a copy of the complaint and order.

Sections V, VI, and VII consist of standard Commission reporting and compliance procedures, with the exception that Section V specifies some of the information Tahoe IPA must include in its annual compliance reports, including: (1) Information identifying each health plan that has contacted Tahoe IPA for the purpose of contracting for physician services, the terms of any contract the health plan was seeking with Tahoe IPA, and Tahoe IPA's response to the health plan; (2) information sufficient to describe the manner in which Tahoe IPA's members share financial risk in each "qualified non-exclusive risk-sharing arrangement" in which the Tahoe IPA participates; and (3) copies of the

minutes of Tahoe IPA's annual meetings.

Finally, Section VIII of the proposed order contains a twenty year "sunset" provision under which the terms of the order terminate twenty years after the date of issuance.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Chairman Robert Pitofsky and Commissioners Sheila F. Anthony and Mozelle W. Thompson

[North Lake Tahoe Medical Group, Inc., File No. 981–0261]

The Commission has published a proposed complaint alleging that North Lake Tahoe Medical Group ("Tahoe IPA") violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by orchestrating an illegal group boycott among its member physicians who refused to deal with Blue Shield of California ("Blue Shield"). Because the actions of Tahoe IPA went beyond a mere refusal to contract and were, instead, part of a larger agreement to impede the growth of managed care health plans, we believe that the proposed order, including the remedial provisions contained in Section III, prescribes appropriate relief to restore competition and remedy the harm caused by Tahoe IPA's illegal activities.

Having reached an impasse in its efforts to raise the reimbursement rate paid by Blue Shield to its members, Tahoe IPA requested that its members withdraw from Blue Shield's health plan. Twenty-four doctors either withdrew, or announced their intention to withdraw, following Tahoe IPA's request. By engaging in an illegal group boycott directed at Blue Shield, Tahoe IPA and its members attempted to impair the growth and effectiveness of health insurance plans in the relevant market.

The proposed order is designed to restore competition lost as a result of the boycott. Section II.A of the order would prohibit Tahoe IPA from negotiating on behalf of its members with any payer or provider for physician services. Section II.A also would prohibit Tahoe IPA from orchestrating refusals to deal among its members with payers, fixing prices or any other terms on which its members deal with physicians, and preventing physicians from dealing with any payer or provider individually or through arrangements outside of Tahoe IPA. Section III of the proposed order further requires that Tahoe IPA terminate member physicians for a period of six months who refused to deal with Blue Shield as part of the illegal boycott led by Tahoe IPA. Section III permits Tahoe IPA to retain these members if they either (1) attempt in good faith to re-join Blue Shield's network for six months, or (2) rescind their refusals to deal and participate in the Blue Shield plan for at least six months.

The Commission is unanimous in its belief that the relief set forth in Section II is necessary to restore competition in the relevant market. However, Commissioner Swindle dissents from Section III of the order and contends that Tahoe IPA's members will have sufficient independent incentives to negotiate or contract with Blue Shield without Section III of the proposed order. The facts tell a different story.

Since the proposed order was reached with Tahoe IPA, 20 of its member physicians have agreed to re-join the Blue Shield provider network or to enter negotiations over terms under which they might re-join. Only four members of Tahoe IPA have refused to enter negotiations with Blue Shield. There is every reason to believe that the doctors have re-joined the Blue Shield network in part because of the pending order, and may have been more reluctant to do so in the absence of Section III.

Accordingly, given the conduct alleged in the complaint and its anticompetitive effects, we respectfully disagree with Commissioner Swindle. Section III of the proposed order is a modest, but appropriate, step to reverse the harm caused by Tahoe's illegal conduct. With a large percentage of area doctors withdrawing from its plan through an illegal boycott, Blue Shield no longer offered adequate services to its members. Provisions of the cease and desist order other than Section III prohibit further action to effectuate an agreement to boycott. But where the action has already succeeded, as it did here, something more is needed to restore competition that was eliminated through the anticompetitive conduct alleged in the complaint. Insufficient relief in this case could increase the likelihood of similar conduct arising in other markets. Moreover, the relief in Section III is limited to a six-month time period, and is narrowly tailored to meet the direct purpose of the proposed order by covering only the period when negotiations were occurring for the 1999 coverage year. Tahoe IPA is primarily responsible for the boycott, and it is therefore appropriate that Tahoe IPA take steps to make clear to its own membership that they must make a unilateral decision whether to continue to deal with Blue Shield.

In cases where illegal conduct has caused serious harm, the remedy should aim to undo the damage when reasonably possible. The objective of the proposed order in this case is to restore competition that has been lost through the illegal activities of Tahoe IPA and its members. Section III of the proposed order is an appropriate limited measure designed to accomplish this traditional antitrust remedial objective. It ensures that Tahoe IAP will allow its members to act in a manner consistent with their independent incentives, not in a fashion that allows the effects of an antitrust violation to persist.

Statement of Commissioner Orson Swindle Concurring in Part and Dissenting in Part

[Tahoe Health System, Inc., File No. 981–0261]

The Commission has accepted a consent agreement in this matter that includes a novel remedy I do not support. North Lake Tahoe Medical Group, Inc. ("Tahoe IPA"), the respondent, engaged in negotiations on behalf of its member physicians to obtain from third-party payers prices that were discounted no more than 10 percent below their usual fees. Blue Shield, a third-party payer, refused to accede to Tahoe IPA's demands, leading Tahoe IPA to successfully encourage many of its members no longer to participate as physicians for Blue Shield. Other third-party payers that were considering offering HMO products in the Lake Tahoe area responded to Tahoe IPA's demands by deciding not to enter.

I agree that there is reason to believe that Tahoe IPA's conduct violated Section 5 of the FTC Act. To remedy these violations, Paragraph II of the proposed consent order contains typical provisions that would prohibit Tahoe IPA from entering into any agreement to (1) negotiate on behalf of physicians with any payer or provider for physician services, or (2) refuse to deal with any payer or provider. I support the relief in Paragraph II because it is necessary to prevent Tahoe IPA from engaging in unlawful conduct that is identical or similar to that alleged in the proposed complaint. Both the Commission's complaint and the relief prescribed by Paragraph II make it clear to Tahoe IPA's members that they must make unilateral decisions as to whether to deal with Blue Shield.

The proposed consent order, however, also contains a novel—and questionable—remedy, Paragraph III requires that Tahoe IPA terminate the membership of all physicians who refused to deal (or who gave notice of their intent to refuse to deal) with Blue Shield as a result of Tahoe IPA's encouragement. Tahoe IPA, however,

would not have to terminate: (1) physicians who refused to deal but attempt in good faith to reparticipate in Blue Shield for six months, and (2) physicians who rescind their notices of refusal to deal and continue to participate in Blue Shield for at least six months.

I do not believe that Paragraph III is needed. Prior to the refusal to deal with Blue Shield alleged in the complaint, the Tahoe IPA physicians who participated in Blue Shield had their own sufficient market incentives to participate. With the cessation of the refusal to deal and the prohibition in Paragraph II on future refusals to deal, these market incentives should revive. With the return of these incentives, the Tahoe IPA physicians who refused to deal presumably would choose once again to participate in Blue Shield even without the burdens imposed by Paragraph III.[1]

The majority believes that government action beyond these market incentives is needed to make this market work better in the future. I disagree. Because Tahoe IPA physicians on their own have sufficient to return to Blue Shield, there is no reason to add a layer of government intervention intended to achieve the same result.

I dissent as to Paragraph III of the proposed consent order.

[FR Doc. 99–7404 Filed 3–25–99; 8:45 am]
BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9923007]

Wal-Mart Stores, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Wal-Mart Stores, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate actions or make final the agreement's proposed order.

This matter concerns practices related to the sale of textile and wool products by means of an on-line Internet catalog. The Commission's compliant charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, and the Wool Products Labeling Act, 15 U.S.C. 68 *et seq.*, by failing to disclose on its on-line catalog whether products offered for sale were made in the U.S.A. imported, or both.

Part I of the proposed consent order prohibits respondent from advertising any textile or wool product in any mail order catalog or mail order promotional material, including those disseminated on the Internet, without disclosing clearly and conspicuously that the product was made in the U.S.A., imported, or both.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u) and 300.1(h), that offer textile and/or wool products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile and/or wool products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any changes in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an officials interpretation of the agreement and proposed order or to modify in any way there te.ms.

By direction of the Commission.

[1] Twenty physicians have agreed to reparticipate in Blue Shield, while four have not. All this demonstrates is that physicians have reparticipated in Blue Shield while Paragraph III is in effect. It does not establish that Paragraph III was a cause of this reparticipation, or that market incentives would not have caused the physicians to reparticipate in the absence of Paragraph III.

Dated:
Donald S. Clark,
Secretary
[FR Doc. 99–7398 Filed 3–25–99; 8:45 am]
BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9923003]

Woolrich, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, FTC/S–4302, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Woolrich, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed under.

This matter concerns practices related to the sale of textile and wool products by means of an on-line Internet catalog. The Commission's complaint charges that respondent violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, and the Wool Products Labeling Act, 15 U.S.C. 68 *et seq.*, by failing to disclose in its on-line catalog whether products offered for sale were made in the U.S.A., imported, or both.

Part I of the proposed consent order prohibits future violations of the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and Commission rules and regulations, found at 16 CFR parts 303 and 300, respectively, implementing the requirements of those statutes.

Part II of the proposed order requires the respondent, for five years after the date of issuance of the Order, to maintain records demonstrating compliance with the Order, including: (a) copies of mail order catalogs and mail order promotional materials, as defined in 16 CFR 303.1(u) and 300.1(h), that offer textile and/or wool products for direct sale to consumers; and (b) complaints and other communications with consumers, government agencies, or consumer protection organizations, pertaining to country-of-origin disclosures for textile and/or wool products.

Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.
Donald S. Clark,
Secretary.
[FR Doc. 99–7400 Filed 3–25–99; 8:45 am]
BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.
ACTION: Notice of two-day meeting on April 12 and 13.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will hold a two-day meeting on Monday, April 12 and Tuesday, April 13 from 9:00 to 4:30 PM in room 7C13, the Comptroller General's Briefing Room, of the General Accounting Office building, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to:

- Discuss issues regarding Stewardship Reporting and Management's Discussion and Analysis (MD&A), and
- Review FY 1998 Financial Reports, FASAB Projects Plans, and other miscellaneous items.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 3B18, Washington, D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86

Stat. 770, 774 (1974) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: March 23, 1999.

Wendy M. Comes,

Executive Director.

[FR Doc. 99–7480 Filed 3–25–99; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Arthritis Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Arthritis Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 20 and 21, 1999, 8 a.m. to 5 p.m.

Location: Holiday Inn, Walker and Whetstone Rooms, Two Montgomery Village Ave, Gaithersburg, MD.

Contact Person: Kathleen R. Reedy or LaNise S. Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857; 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12532. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the safety and efficacy of new drug application (NDA) 21–042 Vioxx™ (rofecoxib, Merck) for the treatment of acute or chronic signs and symptoms of osteoarthritis and the management of pain.

Procedure: On April 20, 1999, from 8 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 14, 1999. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 noon. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 14, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On April 21, 1999, from 8 a.m. to 5 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C., app.2).

Dated: March 16, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–7362 Filed 3–25–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Changing Times; Clinical Trial Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA), Southeast Region, is announcing the following meeting: "Changing Times: Clinical Trial Regulations, Clinical Investigators and IRB's Learning to Cope." The topic to be discussed is FDA regulatory requirements for the conduct of clinical studies and practical issues such as how clinical investigators and Institutional Review Boards can cope with the regulatory process, how to prepare for a data audit, what to expect during an inspection, and how to get current information from FDA.

Date and Time: The meeting will be held on Friday, April 30, 1999, from 8 a.m. to 6 p.m.

Location: The meeting will be held at the Veterans Administration Medical Center Auditorium (2d floor), 1201 NW. 25th St., Miami, FL 33125.

Contact: Luz I. Collado, Food and Drug Administration, HFR–SE2575, P.O. Box 59–2256, Miami, FL 33159, 305–526–2800, ext. 926, or Brunilda Torres, Food and Drug Administration, Florida District, HFR–SE250, 407–475–4718, FAX 407–475–4768.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number) to Gloria Allington, Director, University of Miami School of Medicine, Division of Continuing Medical Education, 1500 NW. 12th Ave., Miami, FL 33136, 305–243–6716, FAX 305–243–5613. Attendance will be limited to the first 200 applicants, therefore, interested parties are encouraged to register early. A $100 registration fee is being charged by the University of Miami School of Medicine to help cover costs of materials, breakfast, box lunches, and beverages for breaks. A discounted registration fee of $90 is being offered to those who register by Thursday, April 1, 1999.

If you need special accommodations due to a disability, please contact Gustavo Godoy, Executive Director and Administrative Officer for R&D, VA Medical Center, 1201 NW. 16th St., Miami, FL 33125, 305–324–3179, FAX 305–324–3126, at least 7 days in advance.

Dated: March 19, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7361 Filed 3–25–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0484]

Draft Guidance for Industry on Accelerated Approval Products: Submission of Promotional Materials; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Accelerated Approval Products: Submission of Promotional Materials." The accelerated approval regulations require that applicants, unless otherwise informed by the agency, submit to FDA for consideration during the preapproval review period copies of all promotional materials, including promotional labeling and advertisements, intended for dissemination or publication within 120 days following marketing approval. This draft guidance is intended to assist sponsors of drug and biological products who are submitting such materials as part of the accelerated approval process.

DATES: Written comments on the draft guidance may be submitted by May 26, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm", or "http://www.fda.gov/cber/guidelines.htm". Submit written requests for single copies of the draft guidance for industry to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, or FAX 301–594–3215.

FOR FURTHER INFORMATION CONTACT:

Regarding prescription human drugs: Tracy L. Acker, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2831, or via Internet at ackert@cder.fda.gov.

Regarding biological products: Toni M. Stifano, Center for Biologics Evaluation and Research (HFM–202), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3028, or via Internet at stifano@cber.fda.gov.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled "Accelerated Approval Products: Submission of Promotional Materials." This draft guidance is intended to assist sponsors of drug and biological products who are submitting promotional materials as part of the accelerated approval process.

In the **Federal Register** of December 11, 1992 (57 FR 58942), FDA published final regulations under which the agency would accelerate the approval of certain new drugs and biological products for serious or life-threatening illnesses. In November 1997, the President signed the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Pub. L. 105–115). Section 112 of the Modernization Act, in part, essentially codified in statute the accelerated approval regulations in an amendment to the Federal Food, Drug, and Cosmetic Act (section 506 of the act (21 U.S.C. 356) entitled "Fast Track Products"). On November 12, 1998, FDA published a draft guidance for industry on its policies and procedures regarding fast track drug development programs. The draft guidance that is the subject of this notice would apply to all products approved under § 314.500 (21 CFR 314.500), including those designated as fast track development programs.

Among other things, the accelerated approval regulations (§§ 314.550 and 601.45 (21 U.S.C. 314.550 and 601.45)) require that applicants, unless otherwise informed by the agency, submit to FDA for consideration during the preapproval review period copies of all promotional materials, including promotional labeling as well as advertisements, intended for dissemination or publication during the 120 days following marketing approval. The accelerated approval regulations also require that promotional materials intended for use following the 120-day postapproval period must be submitted to FDA for review at least 30 days prior to the intended time of initial dissemination of the labeling or initial publication of the advertisement, unless otherwise informed by the agency.

During the past several years, representatives of the pharmaceutical industry have requested guidance from FDA on the procedures for submitting promotional materials under §§ 314.550 and 601.45. The draft guidance is intended to assist applicants submitting promotional materials under these regulations.

This draft guidance document represents the agency's current thinking on the process for submitting promotional materials for accelerated approval products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

Interested persons may, on or before May 26, 1999, submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments or requests for copies are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 19, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7516 Filed 3–25–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Number 99D–0392]

Seafood HACCP Transition Guidance; Request for Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing for comment draft guidance setting forth circumstances under which the agency may consider refraining from regulatory action under the seafood Hazard Analysis Critical Control Point (HACCP) regulation and the Federal Food, Drug, and Cosmetic Act (the act) pending completion of studies to resolve scientific issues relating to whether the agency should revise or amend its policies concerning particular hazard analyses or controls.

DATES: Submit written comments by May 26, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should contain the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Donald W. Kraemer, Center for Food Safety and Applied Nutrition (HFS–400), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3133.

SUPPLEMENTARY INFORMATION: On December 18, 1995 (60 FR 65096), FDA published final regulations (21 CFR part 123) that require processors of fish and fishery products to develop and implement HACCP systems for their operations. Those regulations became effective on December 18, 1997. As a companion to the regulation, FDA also issued a guidance document entitled the Fish and Fishery Products Hazards and Controls Guide (the Guide). The Guide contains FDA's compilation of what the agency believes to be the latest, science-based knowledge about when food safety hazards are reasonably likely to occur and what controls are appropriate for those hazards. In the period since the publication of the final regulations, FDA has produced two editions of the Guide. The agency intends to publish

new editions of the Guide as knowledge and technology advance about fish and fishery products hazards and controls.

Under the act and its implementing regulations, processors are responsible for ensuring that their HACCP systems are adequate. If processors need help in developing a HACCP system, the Guide provides them with information that can help them put in place a HACCP system that should generally satisfy a processor's obligations under the seafood HACCP regulation. However, as the Guide itself makes clear, the materials contained in the Guide consist of recommendations, and not binding requirements. Processors may control hazards in other ways so long as they can demonstrate that their approaches are scientifically defensible. Processors may also rely on hazard analyses that differ from those in the Guide so long as they can demonstrate that their own analyses are valid for their particular circumstances.

As a general matter, processors should establish the adequacy of a hazard analysis or control before implementing it. FDA can envision circumstances, however, where the industry could make a strong threshold case for the validity of a particular hazard analysis or system of controls even though complete confirmation of its validity was not yet available from scientific studies.

FDA believes that a mandatory HACCP program should serve as a catalyst for research and science-based resolution of food safety questions. Thus, where the consuming public would not be placed at risk, FDA believes it is appropriate to use a mechanism that encourages the resolution of legitimate scientific questions before they become legal controversies.

The purpose of this notice is to propose and obtain comment on guidance on the submission of citizen's petitions under § 10.30 (21 CFR 10.30), whereby any member of the public may request that FDA consider exercising enforcement discretion on certain matters under the seafood HACCP regulations pending their scientific resolution. This proposed guidance applies to issues involving matters of scientific fact related to whether a hazard is reasonably likely to occur or whether a control is sufficient, the resolution of which is likely only after the completion of a scientific study or a search of existing scientific literature. Other issues that relate to broader policy, such as circumstances where regulations specify hazards that are reasonably likely to occur in certain situations or enumerate performance standards or the actual critical limits that must be met, may also be addressed by filing a citizen's petition, or by discussing the issue directly with the agency in a less formal manner, but are not within the scope of this proposed guidance.

FDA anticipates that matters for which limited enforcement discretion will be considered will be narrow. In determining whether to exercise enforcement discretion, the agency may consider, among other things, whether the position presented by the petitioner has sufficient scientific merit and whether the petitioner's proposal is appropriate and adequate to answer the necessary scientific questions (e.g., whether the study and/or literature search that will be undertaken will, in the agency's judgment, provide the information needed to support the requested change; whether the identification of the time necessary to complete the study and any data analysis is reasonable; whether the petitioner commits to keeping FDA apprised of the progress being made on the study plan over the course of the study; and whether the petitioner agrees to provide FDA with all data from the study in order to advance the public state of knowledge, regardless of the outcome of the study).

FDA recommends that such petitions be submitted as requests to revise or amend the Guide. If a party believes that the Guide should be revised based on scientific data to be provided at a later date, the party should submit a petition under § 10.30 to the Dockets Management Branch (address above). Petitions must comply with the requirements of § 10.30. In addition, interested persons are encouraged to discuss the contents of an intended petition in advance of submission with representatives of FDA's Office of Seafood either in person or by telephone (202–418–3133). Such communication may minimize misunderstandings and time-consuming written communication during the consideration process.

If FDA determines, after reviewing a request, that it is appropriate for the agency to exercise enforcement discretion, the agency will advise the requester in writing that the agency does not anticipate enforcement action for the practice at issue and will post the letter on its Internet website at "http://www.fda.gov". FDA will also advise the requester of the time period that the agency believes is reasonable for the study and data analysis. If, at the end of this timeframe, the agency concludes that the data from the study are inadequate, or if no data are submitted, FDA will proceed with its regulatory options. The agency may also reconsider the use of enforcement discretion before the end of the timeframe if circumstances change or otherwise warrant reconsideration. If such reconsideration takes place, FDA will notify the original requester and make its reconsideration public.

In considering the information submitted, FDA will evaluate, as appropriate: (1) The methodology of the scientific study; (2) the scientific merit of the conclusions; and (3) the consistency of the recommended action with agency policy. Any changes in agency position will be posted on FDA's Internet website at "http://www.fda.gov" and then reflected in the next edition of the Guide.

The public is reminded that it is welcome to discuss with the agency at any time, including before finalization of this guidance, issues relating to seafood hazards and controls and how these issues may be resolved through research.

The guidance provided in this notice represents the agency's current thinking on the subject and does not create or confer any rights for or on any person and does not operate to bind FDA or the public.

FDA tentatively concludes that this guidance would not impose any paperwork burden that has not already been approved by OMB under OMB No. 0910–0183 "Citizen Petition—21 CFR 10.30." These guidelines simply provide information to the public to assist them in submitting citizen petitions to obtain changes in the Guide under certain circumstances.

Dated: March 17, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7363 Filed 3–25–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should

notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: May 27–28, 1999.

Open: For the Director's Status Report, presentation on the NNA Program Review, Center for Inherited Disease Research, and Report on the Minority Aging Task Force.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Open: May 28, 1999, 8:00 am to 9:30 am.

Agenda: Report on Working Group on Program.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: May 28, 1999, 9:30 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Miriam F. Kelty, Director, Office of Extramural Affairs, National Institute of Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–496–9322.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 22, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7504 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(b)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, K–12 RFA.

Date: April 15, 1999.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.

Contact Person: Gopal M. Bhatnagar, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.865, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: March 22, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7505 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secretes of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel HYPOXIA IN DEVELOPMENT: INJURY AND ADAPTATION MECHANISMS.

Date: April 6–7, 1999.

Time: 7:30 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn at Yale, 30 Whalley Avenue, New Haven, CT 06511.

Contact Person: Gopal M. Bhatnagar, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 900 Rockville Pike, 6100 Bldg., Room 5E01, BETHESDA, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: March 22, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7506 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIEHS SEP: Growth Factors in Asbestos Induced Pulmonary Fibrosis.

Date: April 7–9, 1999.

Time: April 7, 1999, 7:00 PM to 10:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Downtown-Superdome, 330 Loyola Avenue, New Orleans, LA 70112.

Time: April 8, 1999, 4:00 PM to 8:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Downtown-Superdome, 330 Loyola Avenue, New Orleans, LA 70112.

Time: April 9, 1999, 8:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Downtown-Superdome, 330 Loyola Avenue, New Orleans, LA 70112.

Contact Person: Ethel B. Jackson, Chief, Scientific Review Branch, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233 MD EC–24, Research Triangle Park, NC 27709, (919) 541–7826.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: March 22, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7507 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel R13 Review Meeting.

Date: April 9, 1999.

Time: 10:00 A.M. to 11:00 A.M.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, 79 T W Alexander Dr., Bldg. 4401, Rm EC–122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Patrick J Mastin, 79 Alexander Drive, Research Triangle Park, NC 27709, (919) 541–1446.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel REF 98–26 (II) Contract Review.

Date: April 13, 1999.

Time: 8:30 A.M. to 5:00 P.M.

Agenda: To review and evaluate contract proposals.

Place: NIEHS-East Campus, 79 T W Alexander Drive, Bldg. 4401, Rm 3162, Research Triangle Park, NC 27709.

Contact Person: Patrick J Mastin, 79 Alexander Drive, Research Triangle Park, NC 27709, (919) 541–1446.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113 Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894; Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health; HHS)

Dated: March 22, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7508 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: May 25, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: The Committee will provide advice on scientific priorities, policy, and program balance at the Division level, review the progress and productivity of ongoing efforts, and identify critical gaps/obstacles to progress.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, Solar Building, Room 2A17, 6003 Executive Boulevard, Bethesda, MD 20892–7601, 301–435–3732.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 19, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7509 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental Research Special Emphasis Panel Novell Human Oral & Craniofacial Genes (RFP–NIH–NHLBI–DR–99–18).

Date: April 21, 1999.

Time: 1:00 pm TO 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Two Rockledge Centre, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Valerie L. Prenger, Scientific Review Administrator, NIH, NHLBI, DEA Review Branch, Rockledge Center II, 6701 Rockledge Drive, Suite 7198, Bethesda, MD 20892–7924, (301) 435–0297.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: March 19, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7510 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Instiute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel Special Emphasis Panel.

Date: March 25, 1999.

Time: 10:00 AM TO 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sean O'Rourke, Scientific Review Administrator.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientifics and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs, 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: March 19, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7511 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, March 24, 1999, 7:45 a.m. to March 25, 1999, 5 p.m., Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852 which was published in the **Federal Register** on March 8, 1999, 64 FR 11015.

The meeting is being amended to reflect location change. The new meeting location is Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007. The meeting is closed to the public.

Dated: March 19, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7512 Filed 3–25–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–12]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. Veterans Administration, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other

purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses:

Air Force: Ms. Barbara Jenkins, Air Force Real Estate Agency, (Area—MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184.

Army: Mr. Jeff Holste, U.S. Army Center for Public Works, Installation Support Center, Facilities Management, 7701 Telegraph Road, Alexandria, VA 22315–3862; (703) 428–6318.

Energy: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–0426.

DOT: Mr. Rugene Spruill, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW, Room 2310, Washington, DC 20590; (202) 366–4246.

GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–0052.

Interior: Ms. Lola Kane, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080.

Navy: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200 (these are not toll-free numbers).

Dated: March 18, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 3/26/99

Suitable/Available Properties

Buildings (by State)

Alaska

Bldg. 645
Fort Richardson
Anchorage C0: AK 99505–6500
Landholidng Agency: Army
Property Number: 21199910081
Status: Excess
Comment: 2304 sq. ft., concrete block, most recent use—admin., off-site use only.

Bldg. 763
Fort Richardson
Anchorage Co: AK 99505–6500
Landholidng Agency: Army
Property Number: 21199910082
Status: Excess
Comment: 1500 sq. ft., wood frame, most recent use—vehicle dispatch, off-site use only.

Bldg. 770
Fort Richardson
Anchorage Co: AK 99505–6500
Landholidng Agency: Army
Property Number: 21199910083
Status: Excess
Comment: 24,896 sq. ft., concrete block, most recent use—vehicle maint., off-site use only.

Bldg. 789
Fort Richardson
Anchorage Co: AK 99505–6500
Landholidng Agency: Army
Property Number: 21199910084
Status: Excess
Comment: 19,001 sq. ft., concrete block, most recent use—vehicle maint., off-site use only.

Arizona

Bldg. 87821, 90420
Fort Huachuca
Sierra Vista Co: Cochise, AZ 85635–
Landholding Agency: Army
Property Number: 21199910087
Status: Excess
Comment: 377 and 5662 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

California

Bldg. 104
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910088
Status: Unutilized
Comment: 8039 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only.

Bldg. 106
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910089
Status: Unutilized
Comment: 1950 sq. ft., presence of asbestos/lead paint, most recent use—office/storage, off-site use only.

Bldg. 125
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910090
Status: Unutilized
Comment: 371 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only.

Bldg. 339
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910092
Status: Unutilized
Comment: 5654 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only.

Bldg. 340
Presidio of Monterey
Monterey, Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910093
Status: Unutilized
Comment: 6500 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only.

Bldg. 341
Presidio of Monterey
Monterey, Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910094
Status: Unutilized
Comment: 371 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only.

Bldg. 4214
Presidio of Monterey
Monterey, Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910095
Status: Unutilized
Comment: 3168 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only.

Bldg. P–640
Fort Shafter
Honolulu, Co: HI 96819–
Landholding Agency: Army
Property Number: 21199910096
Status: Unutilized
Comment: 19,743 sq. ft., most recent use—dining facility, off-site use only.

Bldg. P–224
Tripler Army Medical Center
Honolulu, Co: HI 96819–
Landholding Agency: Army
Property Number: 21199910097
Status: Unutilized
Comment: 24,045 sq. ft., most recent use—dining facility, off-site use only.

Maryland

Bldg. 32
Fort George G. Meade
Anne Arundel, Co: MD 20755–5115
Landholding Agency: Army
Property Number: 21199910098
Status: Unutilized
Comment: 100 sq. ft., concrete block, office, off-site use only.

Bldg. 2232

Fort George G. Meade
Anne Arundel, Co: MD 20755–5115
Landholding Agency: Army
Property Number: 21199910099
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/ lead paint, most recent use—supply-storage, off-site use only.

Bldg. 2233
Fort George G. Meade
Anne Arundel, MD 20755–5115
Landholding Agency: Army
Property Number: 21199910100
Status: Unutilized
Comment: 1297 sq. ft., presence of asbestos/ lead paint, most recent use—supply-storage, off-site use only.

Missouri

Bldg. 6036
Fort Leonard Wood
Pulaski, MO 65473–8994
Landholding Agency: Army
Property Number: 21199910101
Status: Underutilized
Comment: 240 sq. ft., off-site use only.

Bldgs. 9017, 9019
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910102
Status: Underutilized
Comment: 6498 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

Bldgs. 9021, 9023, 9025
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910103
Status: Underutilized
Comment: 6498 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

Bldgs. 9027, 9031
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910104
Status: Underutilized
Comment: 6498 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

Bldgs. 9033, 9049
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910105
Status: Underutilized
Comment: 4332 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

Bldgs. 9051, 9100
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910106
Status: Underutilized
Comment: 8664 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

Bldgs. 9053, 9103
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910107
Status: Underutilized
Comment: 4332 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

Bldg. 9110
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910108
Status: Underutilized
Comment: 6498 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

Bldgs. 9113, 9115, 9117
Fort Leonard Wood
Pulaski, Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910109
Status: Underutilized
Comment: 4332 sq. ft., presence of asbestos/ lead paint, most recent use—family quarters, off-site use only.

New Jersey

Bldg. 117
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris, NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910110
Status: Excess
Comment: 17,458 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 119
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910111
Status: Excess
Comment: 8596 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1109
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910112
Status: Excess
Comment: 1140 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1111
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910113
Status: Excess
Comment: 1581 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1123
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910114
Status: Excess
Comment: 2465 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1125
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910115
Status: Excess
Comment: 2513 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1127
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910116
Status: Excess
Comment: 2098 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1130
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910117
Status: Excess
Comment: 1977 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1132
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910118
Status: Excess
Comment: 2307 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1138
Armament Research,
Development & Eng. Center
Picatinny Arsenal, Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910119
Status: Excess
Comment: 1893 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1140
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910120
Status: Excess
Comment: 1323 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1142
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910121
Status: Excess
Comment: 2018 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1144
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910122
Status: Excess
Comment: 1394 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1146
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910123

Status: Excess
Comment: 1365 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1147
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910124
Status: Excess
Comment: 1177 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1149
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910125
Status: Excess
Comment: 1421 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1393
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910126
Status: Excess
Comment: 1413 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 1398
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910127
Status: Excess
Comment: 1929 sq. ft., possible lead paint, most recent use—housing, off-site use only.

Bldg. 3327
Armament Research,
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910128
Status: Excess
Comment: 1512 sq. ft., possible lead paint, most recent use—housing, off-site use only.

17 Bldgs.
Armament Research
Development & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Location: 1112, 1114, 1116, 1120, 1124, 1126, 1139, 1141, 1145, 1148, 1104A, 1109A, 1140A, 1392A, 1393A, 1398A, 3326
Landholding Agency: Army
Property Number: 21199910129
Status: Excess
Comment: 210–1000 sq. ft., possible lead paint, most recent use—garages, off-site use only.

New Mexico

16 Bldgs., Type A
Kirtland AFB
Duplex Houses
Kirtland AFB Co: Bernalillo NM 87117–5000
Location: 2160–2162, 2157, 2155, 2148, 2139, 2137, 2130, 2129, 2117, 2113, 2109, 2107, 2102, 2100
Landholding Agency: Air Force
Property Number: 18199910013
Status: Unutilized
Comment: 2733 sq. ft., presence of lead, most recent use—residential, off-site use only.

12 Bldgs., Type B
Kirtland AFB
Duplex Houses
Kirtland AFB Co: Bernalillo NM 87117–5000
Location: 2158, 2149, 2147, 2136, 2132, 2125–2128, 2121, 2115, 2103
Landholding Agency: Air Force
Property Number: 18199910014
Status: Unutilized
Comment: 2735 sq. ft., presence of lead, most recent use—residential, off-site use only.

15 Bldgs., Type C
Kirtland AFB
Duplex Houses
Kirtland AFB Co: Bernalillo NM 87117–5000
Location: 2164, 2159, 2156, 2150, 2142, 2143, 2140, 2135, 2122–2124, 2120, 2110, 2108, 2104
Landholding Agency: Air Force
Property Number: 18199910015
Status: Unutilized
Comment: 2790 sq. ft., presence of lead, most recent use—residential, off-site use only.

6 Bldgs., Type D
Kirtland AFB
Duplex Houses
Kirtland AFB Co: Bernalillo NM 87117–5000
Location: 2165, 2163, 2144, 2131, 2106, 2105
Landholding Agency: Air Force
Property Number: 18199910016
Status: Unutilized
Comment: 2936 sq. ft., presence of lead, most recent use—residential, off-site use only.

9 Bldgs., Type E
Kirtland AFB
Single Units
Kirtland AFB Co: Bernalillo NM 87117–5000
Location: 2153, 2151, 2134, 2141, 2133, 2119, 2112, 2111, 2101
Landholding Agency: Air Force
Property Number: 18199910017
Status: Unutilized
Comment: 1482 sq. ft., presence of lead, most recent use—residential, off-site use only.

Roberts, Thomas A
#70, County Rd. 2900
Aztec, Co: San Juan, NM 87410–
Landholding Agency: Interior
Property Number: 61199910017
Status: Excess
Comment: 2895 sq. ft., most recent use—residential, off-site use only.

Oklahoma

Bldg. T–207
Fort Sill
Lawton, Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910130
Status: Unutilized
Comment: 19,531 sq. ft., possible asbestos/lead paint, most recent use—office, off-site only.

Bldgs. P–364, P–584, P–588
Fort Sill
Lawton, Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910131
Status: Unutilized
Comment: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only.

Bldg. P–599
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910132
Status: Unutilized
Comment: 1400 sq. ft., possible asbestos/lead paint, most recent use—clubhouse, off-site use only.

4 Bldgs.
Fort Sill
P–617, P–1114, P–1386, P–1608
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910133
Status: Unutilized
Comment: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only.

Bldgs. P–703, P–1816, T–1930
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910134
Status: Unutilized
Comment: 661 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. P–746
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910135
Status: Unutilized
Comment: 6299 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only.

Bldgs. P–1908, P–2078
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910136
Status: Unutilized
Comment: 106 & 131 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only.

Bldgs. T–1938, S–2101
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910137
Status: Unutilized
Comment: 964 & 1640 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–1941
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910138
Status: Unutilized
Comment: 1242 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only.

Bldg. T–2183
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army
Property Number: 21199910139
Status: Unutilized
Comment: 14,530 sq. ft., possible asbestos/lead paint, most recent use—repair shop, off-site use only.

Bldgs. P–2581, P–2773
Fort Sill
Lawton Co: Comanche, OK 73503–5100
Landholding Agency: Army

Property Number: 21199910140
Status: Unutilized
Comment: 4093 and 4129 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only.

Bldg. P–2582
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910141
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only.

Bldgs. S–2790, P–2906
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910142
Status: Unutilized
Comment: 1602 and 1390 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. P–2909
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910143
Status: Unutilized
Comment: 1236 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only.

Bldgs. P–2912, P–2921, P–2944
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910144
Status: Unutilized
Comment: 1390 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only.

Bldg. S–3169
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910145
Status: Unutilized
Comment: 6437 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only.

Bldg. P–2914
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910146
Status: Unutilized
Comment: 1236 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. P–3469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910147
Status: Unutilized
Comment: 3930 sq. ft., possible asbestos/lead paint, most recent use—car wash, off-site use only.

Bldg. S–3559
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910148
Status: Unutilized
Comment: 9462 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only.

Bldg. S–4064
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910149
Status: Unutilized
Comment: 1389 sq. ft., possible asbestos/lead paint, off-site use only.

Bldg. S–4610
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910150
Status: Unutilized
Comment: 3095 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only.

Bldg. T–4748
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910151
Status: Unutilized
Comment: 1896 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only.

Bldg. S–5086
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910152
Status: Unutilized
Comment: 6453 sq. ft., possible asbestos/lead paint, most recent use—maintenance shop, off-site use only.

Bldg. P–5101
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910153
Status: Unutilized
Comment: 82 sq. ft., possible asbestos/lead paint, most recent use—gas station, off-site use only.

Bldg. S–5401
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910154
Status: Unutilized
Comment: 3200 sq. ft., possible asbestos/lead paint, most recent use—clubhouse, off-site use only.

Bldg. P–5638
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910155
Status: Unutilized
Comment: 300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. S–6430
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910156
Status: Unutilized
Comment: 2080 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only.

Bldg. T–6461
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910157
Status: Unutilized
Comment: 200 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only.

Bldg. T–6462
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910158
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—control tower, off-site use only.

Bldg. P–7230
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910159
Status: Unutilized
Comment: 160 sq. ft., possible asbestos/lead paint, most recent use—transmitter bldg., off-site use only.

Bldg. TT120A
Fort A.P. Hill
Bowling Green Co: Caroline OK
Landholding Agency: Army
Property Number: 21199910160
Status: Unutilized
Comment: 2180 sq. ft., most recent use—storage, off-site use only.

Tennessee

01–200
Stones River Natl
Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61199910018
Status: Excess
Comment: 1596 sq. ft., most recent use—residential, off-site use only.

01–201
Stones River Natl
Battlefield
2042 Mansion Pike
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61199910019
Status: Excess
Comment: 3196 sq. ft., most recent use—residential, off-site use only.

Virginia

Bldg. MCE223
Naval Station Norfolk
Norfolk Co: VA 23511–2895
Landholding Agency: Navy
Property Number: 77199910053
Status: Excess
Comment: 256 sq. ft., presence of asbestos, most recent use—storage, off-site use only.

Bldg. MCE221
Naval Station Norfolk
Norfolk Co: VA 23511–2895
Landholding Agency: Navy
Property Number: 77199910054
Status: Excess
Comment: 4000 sq. ft., presence of asbestos, most recent use—storage, off-site use only.

Unsuitable Properties

Buildings (by State)

California

Old SF Mint
88 5th Street
San Francisco Co: CA 94103–
Landholding Agency: GSA
Property Number: 54199910017
Status: Excess
Reason: Extensive deterioration.
GSA Number: 9–G–CA–1531

Colorado

Bldg. 308A
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; secured area.

Bldg. 788
Rocky Flats Env. Tech. site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910017
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; secured area.

Hawaii

Bldg. 1740
U.S. Coast Guard Air Station
Barbers Point
Honolulu Co: HI 96862–5800
Landholding Agency: DOT
Property Number: 87199910002
Status: Unutilized
Reason: Secured area.

Idaho

Admin. Site #2, Lot #3
Bean Lane
Salmon Co: Lemhi ID 83467–
Landholding Agency: GSA
Property Number: 54199910019
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material.
GSA Number: 9–I–ID–543

Maine

Harold Slager Army Reserve Ctr
931 Union Street
Bangor Co: ME 04401–
Landholding Agency: GSA
Property Number: 54199910020
Status: Excess
Reason: Within airport runway clear zone.
GSA Number: 1–D–ME–627

Ohio

Bldg. 82A
Fernald Environmental Mgmt Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199910018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; secured area.

Texas

Weather Radar Tower
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199910050
Status: Unutilized
Reasons: Within airport runway clear zone; extensive deterioration.

Virginia

Bldg. SP76AQ
Naval Air Station
Norfolk Co: VA 23511–2797
Landholding Agency: Navy
Property Number: 77199910051
Status: Excess
Reason: Extensive deterioration.

Bldg. CA502
Naval Station Norfolk
Norfolk, VA 23511–
Landholding Agency: Navy
Property Number: 77199910052
Status: Excess
Reason: Secured area.

Land (by State)

Arkansas

0.426 acres
Former Lower Level Windshear
Alert Sys #4
Little Rock, Co: Pulaski, AR 57501–
Landholding Agency: GSA
Property Number: 54199910016
Status: Surplus
Reasons: Within airport runway clear zone; floodway.
GSA Number: 7–U–AR–555

California

Reclamation Unit T–2
Red Bluff, CA 96080–
Landholding Agency: GSA
Property Number: 54199910018
Status: Excess
Reason: Inaccessible.
GSA Number: 9–I–CA–1528

New York

Braddock Point Light Land
0.8 acres
Parma, NY 10950–
Landholding Agency: GSA
Property Number: 54199910021
Status: Excess
Reason: Inaccessible.
GSA Number: 1–U–NY–870

[FR Doc. 99–7143 Filed 3–25–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for Thirteen Plant Taxa From the Northern Channel Islands for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a Draft Recovery Plan for Thirteen Plants from the Northern Channel Islands. These plants occur on the Northern Channel Islands and Santa Catalina Island off the coast of California in Santa Barbara and Los Angeles Counties, California.

DATES: Comments received on the draft recovery plan by May 26, 1999 will be considered by the Service.

ADDRESSES: Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to the Field Supervisor, at the Ventura Fish and Wildlife Office: U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003 (phone: 805/644–1766).

FOR FURTHER INFORMATION CONTACT: Tim Thomas, Botanist, at the Ventura address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimated time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The 13 plants from the Northern Channel Islands addressed in this draft recovery plan were included on the list of endangered and threatened species

on July 31, 1997 (61FR40954). Hoffmann's rock-cress (*Arabis hoffmannii*) (Munz) Rollins, Santa Rosa Island manzanita (*Arctostaphylos confertiflora*) (Eastw.), island barberry (*Berberis pinnata* Lag. ssp. *insularis*) (Munz), soft-leaved paintbrush (*Castilleja mollis*) (Pennell), island bedstraw (*Galium buxifolium*) (Greene), Hoffmann's slender-flowered gilia (*Gilia tenuiflora* Benth. ssp. *hoffmannii*) (Eastw.) A.D. Grant & V.E. Grant, Santa Cruz Island bushmallow (*Malacothamnus fasciculatus*) (Torr. & A.Gray) (Greene ssp. *nesioticus*) (B.L. Rob. in A. Gray) Kearney, island malacothrix (*Malacothrix indecora* Greene), Santa Cruz Island malacothrix (*Malacothrix squalida* Greene), island phacelia (*Phacelia insularis* Munz ssp. *insularis*), and Santa Cruz Island fringepod (*Thysanocarpus conchuliferus* Greene) were listed as endangered and Santa Cruz Island dudleya (*Dudleya nesiotica* Moran) and island rush-rose (*Helianthemum greenei* Robinson) were listed as threatened. All 13 taxa are endemic to the Northern Channel Islands (Anacapa, Santa Cruz, Santa Rosa, and San Miguel), with the exception of two populations of *Helianthemum greenei* that occur on the more southerly island of Santa Catalina. The plants occur in a variety of habitats: coastal terrace, coastal bluff scrub, coastal sage scrub, and chaparral. All 13 plant species and their habitats have been variously affected or are currently threatened by one or more of the following—soil loss, historic and continuing habitat alteration by mammals alien to the Channel Islands (pigs, goats, sheep, donkeys, cattle, deer, elk, horses, bison); direct predation by these same alien mammals; habitat alteration by native seabirds; competition with alien plant taxa; and increased vulnerability to extinction due to reduced genetic viability, depressed reproductive vigor, and the chance of stochastic extinction resulting from small numbers of individuals and isolated populations.

The goal of this plan is to stabilize and protect existing populations to allow for the downlisting of *Arabis hoffmannii, Arctostaphylos confertiflora, Berberis pinnata* ssp. *insularis, Castilleja mollis, Galium buxifolium, Gilia tenuiflora* ssp. *hoffmannii, Malacothamnus fasciculatus* var. *nesioticus, Malacothrix indecora, Malacothrix squalida, Phacelia insularis* var. *insularis*, and *Thysanocarpus conchuliferus*, and the delisting of *Dudleya nesiotica* and *Helianthemum greenei*.

Public Comments Solicited

The Service solicits written comments on the draft recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 22, 1999.

Michael J. Spear,

California/Nevada Operations Manager, Sacramento, California

[FR Doc. 99–7390 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Availability of the Coquille Forest Resource Management Plan (CFRMP) Final Environmental Impact Statement (FEIS) for the 5,410 Acre Coquille Forest Near the Community of Bridge, in Coos County, OR

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) intends to file a Final Environmental Impact Statement (FEIS) for the Coquille Forest Resource Management Plan (CFRMP) with the Environmental Protection Agency. Both the FEIS and the Plan, which will provide guidance for resource management activities on the 5,410 acre Coquille Forest, are now available for review.

DATES: Written comments will be accepted through April 26, 1999.

ADDRESSES: Address written comments to Mr. Ronald D. Kortlever, Superintendent, Siletz Agency, Bureau of Indian Affairs, P.O. Box 569, Siletz, Oregon.

To obtain a copy of the FEIS or CFRMP, please write Mr. Gary Varner, Forester, at the above address, or telephone 541–444–2679. Copies of the FEIS and CFRMP have been sent to all agencies and individuals who participated in the scoping process or who have already requested copies of these documents.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Varner, 541–444–2679.

SUPPLEMENTARY INFORMATION: The BIA, through consultation with the Coquille Indian Tribe (Tribe), has developed the CFRMP in conformance with the requirements of the Coquille Restoration Act (Public Law 101–42), as amended by Pub. L. 104–208 of September 30, 1996 (25 U.S.C. 715c, 110 Stat. 3009–537). The Coquille Forest was created from a fraction of more than 300,000 acres that are under the jurisdiction of the Coos Bay District of the Bureau of Land Management (CBD/BLM). In September 1994, the CBD/BLM approved a Resource Management Plan, and its associated Environmental Impact Statement (EIS), that would provide guidance for the management of those 300,000+ acres for 10 to 15 years into the future. The BIA and the Tribe, through the Coquille Forest Resource Management Plan, have adopted the land allocations, management practices, standards and guidelines in the BLM's plan that are applicable to the 5,410 acre Coquille Forest. The CFRMP is materially the same as the CBD/BLM Resource Management Plan.

The Council on Environmental Quality (CEQ) regulations at 40 CFR Part 1506.3 allow federal agencies to adopt an EIS prepared by other federal agencies, if the proposed action is substantially the same as that of the issuing agency. An adopting agency that was not a cooperator in the original EIS must recirculate that EIS as an FEIS, with a 30 day review and comment period, before issuing a record of decision on the proposed action. The BIA is following this procedure by recirculating the BLM's EIS, which was approved two years before the statute authorizing the establishment of the Coquille Forest was enacted, along with the CFRMP.

This notice is furnished in accordance with Section 1503.1 of the CEQ regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: March 23, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–7513 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendments to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendments to the Lac du Flambeau Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1992, which was executed on December 18, 1998.

DATES: This action is effective March 26, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4066.

Dated: February 11, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–7514 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–931–6320–05; GP9–0099]

Seed Orchard Pest Management Programs at the Walter H. Horning, Charles A. Sprague, Travis Tyrrell, and Provolt Seed Orchards, on Lands Administered by the Bureau of Land Management, Clackamas, Josephine, Lane, and Jackson Counties, OR

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Department of Interior, Bureau of Land Management, (BLM) will prepare a draft and final environmental impact statement (EIS) on a proposed action to develop a pest management program at all four of its Oregon Seed Orchards: the Horning Seed Orchard near Colton, the Sprague Seed Orchard near Merlin, the Tyrrell Seed Orchard near Lorane, and the Provolt Seed Orchard near Grants Pass.

The BLM invites written comments on the scope of the analysis. In addition, the BLM gives notice of the environmental analysis and decision making process that will occur on the proposed action so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by May 10, 1999, to ensure timely consideration.

ADDRESSES: Send written comments to: Dennis Weber, Project Leader, Horning Seed Orchard, 27004 S. Sheckly Road, Colton, OR 97017.

FOR FURTHER INFORMATION CONTACT: Harvey Koester, Orchard Manager, Sprague and Provolt Seed Orchards (541) 770–2401; Glenn Miller, Orchard Manager, Tyrrell Seed Orchard, (541) 683–6445; or Jim Hallberg, Orchard Manager, Horning Seed Orchard, (503) 824–2151.

SUPPLEMENTARY INFORMATION: The BLM Seed Orchards are managed primarily for the production of Douglas-fir, and sugar pine seed. Minor species managed for seed production include western hemlock, noble fir, western red cedar, western white pine, ponderosa pine, incense cedar, and Port-Orford cedar. The seed is used to produce seedlings for reforestation on BLM lands in Oregon and for use in cooperative orchard efforts. Some of the seed is used in the tree improvement program to produce genetically superior trees. The primary objective of the orchards is to produce seed of high quality and sufficient quantity to meet the needs of the BLM and of their cooperative partnerships. Use of pest management technology and products is necessary to achieve this goal.

The BLM will conduct an environmental analysis to determine what type of pest management program will be used at the Horning, Sprague, Tyrrell, and Provolt Seed Orchards in western Oregon to produce seed and seedlings for the BLM in Oregon. The pest management practices that will be analyzed include, but are not limited to, control of unwanted vegetation by mechanical and chemical methods; control of diseases using sanitation, biological control organisms, and fungicides; control of insect pests with biological and chemical insecticides and use of sanitation; and control of animal pests through mechanical and preventative measures. Fertilization practices will also be considered in this analysis.

In preparing the environmental impact statement, the BLM will identify and consider a range of alternative pest management programs. One alternative will be a no action (continuation of the present pest management program) alternative. Another alternative will be a pest management program without the use of chemical pesticides. Other alternatives will be pest management programs comprised of various combinations of control methods.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7), which includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the environmental impact statement.
3. Defining the proper make up of the interdisciplinary team.
4. Exploring possible alternatives.
5. Identifying potential environmental effects.
6. Determining potential cooperating agencies.
7. Identifying groups or individuals interested or affected by the decision.

The BLM will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations interested in or affected by the proposed action.

Public participation will be solicited by person-to-person contact and/or by mail to known interested and affected publics and key contacts regarding scope of the analysis. In addition, news releases will be used to give the public general notice. Input from interested people and organizations will be used in preparation of the draft environmental impact statement.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by October 1999. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft environmental impact statement will be 60 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in the proposed action participate at that time. To be most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act 40 CFR 1503.3).

Following the comment period on the draft environmental impact statement, substantive comments will be analyzed, considered, and responded to by the BLM in preparing the final

environmental impact statement. The final environmental impact statement is scheduled to be completed by September 2000.

The responsible official will consider the comments and responses; environmental consequences discussed in the environmental impact statement; and applicable laws, regulations, and policies in making a decision regarding this proposal. The decision and rationale for the decision will be documented in the Record of Decision. A separate Record of Decision will be prepared for each orchard considered in the analysis. The responsible officials for each of these projects are as follows:

Van Manning, Salem District Manager, (Horning Seed Orchard),
Denis Williamson, Eugene District Manager, (Tyrrell Seed Orchard), and
Ronald Wenker, Medford District Manager, (Sprague and Provolt Seed Orchards).

Dated: March 15, 1999.

Mark Lawrence,

Acting District Manager, Salem District.

[FR Doc. 99–6836 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–050–5101–00–K038; WYW147148]

Notice of Intent, and Notice of Scoping Meetings and Comment Period; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to conduct an environmental analysis and prepare either an environmental assessment or environmental impact statement, and notice of scoping meetings and public comment period.

SUMMARY: In accordance with the National Environmental Policy Act, the Bureau of Land Management is directing the preparation of an environmental document for the construction, operation, and maintenance of a 24-inch diameter natural gas pipeline gathering system that would be approximately 127 miles in length. The proposed project is known as the Lost Creek Gathering System Project. The environmental document is being prepared as an environmental assessment, but may be advanced to the environmental impact statement level based on public scoping or if the environmental assessment concludes that significant issues or impacts are present. Public scoping meetings will be held for the proposed project and will include a public comment period.

DATES: Public scoping meetings will be at the Jeffrey Center, 315 W. Pine, Rawlins, Wyoming from 3:00 p.m. to 9:00 p.m. on April 13, 1999 and at the Riverton School District #25 Public Meeting Room, 121 N. 5th Street West, Riverton, Wyoming on April 14, 1999. The agenda for both meetings will be to conduct an open-house to receive interested parties between 3:00 p.m. to 5:30 p.m., followed by a formal presentation starting at 7:00 p.m., and concluding with a public comment period. The meeting will conclude at 9:00 p.m. Written comments on the proposed project will be accepted until April 30, 1999.

ADDRESSES: Any comments should be sent to Bureau of Land Management, Lander Field Office, Attention: Bill Bartlett, P.O. Box 589, Lander, Wyoming 82520. E-mail comments may be sent to Bill_Bartlett@blm.gov.

FOR FURTHER INFORMATION CONTACT: Bill Bartlett, (307) 332–8402.

SUPPLEMENTARY INFORMATION: Pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C.) as amended by the Act of November 16, 1973 (37 Stat. 587), the Lost Creek Gathering Company has applied for a right-of-way, serial number WYW147148, for the construction, operation, and maintenance of a natural gas gathering system. The proposed project crosses Federal, State, and private land. The proposed Lost Creek Gathering System Project is comprised of (1) A 127 mile, 24-inch diameter natural gas pipeline that would start at the Burlington Resources' Lost Cabin gas treating plant near Lost Cabin in Fremont County, would go south passing near Jeffrey City and would end at the Interstate 80 corridor near Western Gas Resources' Red Desert plant in Sweetwater County; (2) a 36 mile 12-inch diameter lateral that connects Snyder's Beaver Creek gas plant to the proposed 24-inch header within Fremont County; (3) dew-point control facilities at the southern terminus of the 24-inch header; and (4) a compressor station located at the southern terminus of the gathering system. Current compressor design calls for approximately 5,000 horsepower of compression. The pipeline would be able to deliver approximately 120 million cubic feet per day into the Colorado Interstate Gas (CIG) and Wyoming Interstate Gas Company (WIC) interstate pipelines without compression, and approximately 275 million cubic feet per day with compression. Additional smaller-diameter laterals could be added to this system after the right-of-way application for the Lost Creek project is filed with the BLM. Inclusion of additional laterals into the Lost Creek project will depend upon the progress of negotiations between Lost Creek and producers in these fields. Maps of the Lost Creek Gathering System Project, proposed and alternate routes, are available for viewing at the Bureau of Land Management, Lander Field Office, 1335 Main Street, Lander, Wyoming, and Rawlins Field Office, 1300 North Third Street, Rawlins, Wyoming.

Dated: March 19, 1999.

Ed Womack,

Acting Field Manager.

[FR Doc. 99–7380 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–010–07–1020–00–241A]

Northwest Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The next meeting of the Northwest Colorado Resource Advisory Council will be held on Tuesday May 4, 1999, at the U.S. Forest Service Office in Steamboat Springs, Colorado.

DATES: Tuesday, May 4, 1999.

ADDRESSES: For further information, contact David Atkins, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3074.

SUPPLEMENTARY INFORMATION: The Northwest Resource Advisory Council will meet on May 4, 1999, at the U.S. Forest Service Office, 925 Weiss Drive, Steamboat Springs, Colorado. The meeting will start at 9 a.m. and include discussions of the proposed statewide recreation guidelines, grazing permit renewals, fire planning, and the draft oil and gas regulations.

The meeting is open to the public. Interested persons may make oral statements at the meetings or submit written statements following the meeting. Per-person time limits for oral statements may be set to allow all interested persons an opportunity to speak.

Summary minutes of council meetings are maintained in both the Grand Junction and Craig District Offices. They are available for public inspection and reproduction during

regular business hours within thirty (30) days following the meeting.

Dated: March 22, 1999.

Mark T. Morse,

District Manager, Craig and Grand Junction Districts.

[FR Doc. 99–7379 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–010–1430–00; GP9–0093]

Meeting Notice for the Southeast Oregon Resource Advisory Council

AGENCY: Lakeview District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Southeast Oregon Resource Advisory Council will meet at the Burns District Office of the BLM, HC 74–12533 Hwy 20 West, Hines, Oregon, from 8 am to 4:30 pm, Pacific Standard Time, on Wednesday, April 28, 1999, and from 8:00 am to 12:00 pm on Thursday, April 29, 1999. Topics to be discussed by the Council include the Southeast Oregon Resource Management Plan, Oregon Department of Environmental Quality watershed basin issues, the Interior Columbia Basin Ecosystem Management Project, and such other matters as may reasonably come before the Council. The entire meeting is open to the public. Public comment is scheduled for 11:30 am to 12:00 noon (PST) on April 28, 1999.

DATES: March 15, 1999.

FOR FURTHER INFORMATION CONTACT: Sonya Hickman, Bureau of Land Management, Lakeview District Office, HC 10 Box 337, Lakeview, OR 97630 (Telephone: 541/947–2177).

Scott Florence,

Acting Designated Federal Official.

[FR Doc. 99–7386 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NV–030–1430–01; NVN 26693)

Notice of Realty Action; Recreation and Public Purposes Act Classification; Carson City, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described land, comprising 40.08 acres, has been examined and is determined to be suitable for classification for lease or conveyance pursuant to the authority in the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et. seq.*):

Mt. Diablo Meridian, Nevada

T. 15 N., R. 20 E.

Sec. 33, Lots 33–36, 49–52, W½SW¼NW¼.

Containing 40.08 acres.

SUPPLEMENTARY INFORMATION: The public land is located within the city of Carson City. The land is not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest. The Carson City Parks and Recreation Department has expressed an interest in constructing a park on the site.

The lease/patent, when issued will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

3. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable law and regulations to be established by the Secretary of the Interior.

4. Those rights for highway purposes granted to the United States Department of Transportation, Federal Highway Administration by Permit No. N44595.

5. Those rights for road purposes granted to Carson City by Permit No. N 36229.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws but not the mineral leasing laws, the material disposal laws, or the Geothermal Steam Act. The segregation shall terminate upon issuance of the conveyance document or publication in the **Federal Register** of an order specifying the date and time of opening.

DATES: Interested parties may submit comments until May 10, 1999.

ADDRESSES: Written comments should be sent to: Carson City Field Office, Bureau of Land Management, 5665 Morgan Mill Road, Carson City, NV 89701. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Charles J. Kihm, Realty Specialist, Bureau of Land Management, 5665 Morgan Mill Road, Carson City, Nevada 89701; (702) 885–6000.

Dated: March 16, 1999.

Meg Jensen,

Assistant Manager, Non-renewable Resources, Carson City Field Office.

[FR Doc. 99–7503 Filed 3–25–99; 8:45 am]

BILLING CODE 4810–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–1220–00]

Closure and Restriction Orders

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Firearm use restrictions for certain public lands within Shasta County, California.

SUMMARY: The BLM is restricting the use of firearms on certain public lands located within the Lower Clear Creek Greenbelt in Shasta County, California. All current and future BLM land located within the Lower Clear Creek Greenbelt within portions of M.D.M. Township 31 North, Range 6 West, sections 10, 11, 14, 15, 22, 23, 25, 26, 27, 34, 35, and 36; portions of M.D.M. Township 30 North, Range 6 West, section 1; portions of M.D.M. Township 31 North, Range 5 West, sections 31, 32, 33, 34, and 35, and portions of the San Buenaventura Land Grant within the Bottomlands area; portions of M.D.M. Township 30 North, Range 5 West, sections 5 and 6; are closed to firearm shooting. Firearm shooting is defined as the discharge of any pistol, firearm, airgun, musket or instrument of any kind, character or description, which throws a bullet or missile for any distance by means of the elastic force of air, except that use being conducted under the auspices of hunting.

All current and future BLM land located within the Horsetown-Clear Creek Preserve and the Clear Creek Bottomlands within portions of M.D.M. Township 31 North, Range 6 West, section 36 (east of Clear Creek and north of Clear Creek Road, and all BLM land south of Clear Creek Road); portions of M.D.M. Township 30 North, Range 6 West, section 1; portions of M.D.M. Township 30 North, Range 5 West, sections 5 and 6; portions of M.D.M. Township 31 North, Range 5 West, sections 31, 32, 33, 34, and 35, and

portions of land within the San Buenaventura Land Grant within the Bottomlands area are closed to hunting. Hunting is defined as the lawful pursuit or take of birds and mammals under regulations adopted by the California Fish and Game Commission under the authority of the California Fish and Game Code.

All current and future BLM land located within the Cloverdale Canyon area that are located south of Placer Road and east of Clear Creek within portions of M.D.M. Township 31 North, Range 6 West, sections 25 and 26 are closed to hunting. Hunting is defined as the lawful pursuit or take of birds and mammals under regulations adopted by the California Fish and Game Commission under the authority of the California Fish and Game Code.

All current and future BLM land located west of Clear Creek within the Cloverdale Canyon area within portions of M.D.M. Township 31 North, Range 6 West, sections 26, 27, 34, 35 and 36 (west of Clear Creek and north of Clear Creek Road) are closed to firearm hunting except for shotgun hunting. Maps showing the exact boundaries of the restriction areas are available at the BLM office in Redding, California.

BACKGROUND: The BLM prepared an environmental assessment (EA) and finding of no significant impact (FONSI) which analyzed the impacts of firearm use on BLM lands within the Lower Clear Creek Greenbelt. The EA and FONSI were prepared in response to a request for action from a Firearm-Use Subcommittee of the Lower Clear Creek Coordinated Resource Management Plan. The Subcommittee was composed of a diverse group of citizens including landowners, sportsmen, and other recreational users.

Restrictions analyzed within the EA are necessary to improve consistency with adjoining Federal lands and City of Redding restrictions under Redding City Code 7.04.090 and 10.58.010 which prohibit firearm shooting and hunting within the Redding City limits. The authority for these closures and rule makings is 43 CFR 8364.1. Any person who fails to comply with a closure order or rule making is subject to arrest and fines of up to $100,000 and/or imprisonment not to exceed 12 months.

DATES: These restrictions will take effect March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Charles M. Schultz, Field Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA 96002.

Charles M. Schultz,

Redding Area Manager.

[FR Doc. 99–7392 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT080–09–1060–00]

Bonanza Herd Area, UT; Wild Horse Maintenance; Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to establish a Herd Management Area (HMA) for wild horses including establishing the appropriate management level (AML) of wild horses within the Bonanza Herd Area (HA) and notice of intent to amend the Book Cliffs Resource Management Plan (RMP).

SUMMARY: This notice is intended to inform the public of an intent to establish an HMA within the Bonanza HA for the maintenance of wild horses. The number or AML of wild horses to be managed will also be determined and any adjustments in forage allocation. Forage allocation adjustments shall take into consideration the needs of wildlife and livestock. These proposed actions would require an amendment to the Book Cliffs Resource Management Plan (RMP).

SUPPLEMENTARY INFORMATION: The May, 1985, Record of Decision for the Book Cliffs Resource Management Plan called for gathering and removing all wild horses within the Bonanza HA. In 1986, the Bureau of Land Management (BLM) conducted a roundup to completely remove all of the horses. Ownership of the gathered wild horses was challenged by members of the Ute Tribe. Wild Horse Organized Assistance (WHOA) also challenged BLM's action to remove all wild horses from the Bonanza HA and pending a resolution, wild horses were returned to the range. Since 1986, the HA has been evaluated to determine its potential for long-term management of wild horses in terms of existing land ownership pattern, present, and planned uses. This data indicates that the HA is capable of supporting a viable wild horse population. The RMP amendment will be prepared under 43 CFR part 1610 to meet the requirement of section 202 of the Federal Land Policy and Management Act, and section 102 of the National Environmental Policy Act. This revision is necessary to update the decisions in the existing land use plan. Decisions generated during this planning process will supersede affected land use planning decisions presented in the 1985 Book Cliffs RMP that affects public lands within the Bonanza HA.

Public participation is being actively sought at this time to ensure the analysis address all issues, problems, and concerns from those interested and affected in the management of these public lands. The RMP amendment is a public process and the public is invited and encouraged to assist in the identification of issues and the scope of the planning amendment. A public open house will be held on April 9, 1999, from 3:00 p.m. to 8:00 p.m. at the Vernal Field Office, 170 S. 500 E., Vernal, Utah to discuss planning issues. Written comments may also be submitted to: Bureau of Land Management, Vernal Field Office, 170 S. 500 E., Vernal, Utah 84078–2799, web site http://ww.blm.gov/utah/vernal, or Fax: (435) 781–4410.

Written comments will be received through April 30, 1999. The open house also will be announced in local newspapers and through other local media.

Planning amendment documents will be prepared by an interdisciplinary team which includes specialists in rangeland, wild horses, minerals, vegetation, riparian values, cultural resources, recreation, wildlife habitats and special status animal and plant species. Other disciplines may be represented as necessary.

FOR FURTHER INFORMATION CONTACT: Dean L. Evans, Resource Advisor, Vernal Field Office, 170 South 500 East, Vernal, Utah 84078. Business hours are from 7:45 a.m. to 4:30 p.m., Monday through Friday, except legal holidays, telephone (435) 781–4430, fax (435) 781–4410.

Douglas M. Koza,

Acting State Director, Utah.

[FR Doc. 99–7391 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–61315]

Cancellation of Proposed Withdrawal; Nevada

AGENCY: Bureau of Land Management, Interior

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers has cancelled its

application (N–61315) to withdraw public lands in Clark County, Nevada, for flood control facilities. The application was filed on October 4, 1996. This application has been replaced by an application (N–63039) that was filed on November 19, 1998.

EFFECTIVE DATES: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 775–861–6532.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published as FR Doc. 96–30580 in the **Federal Register**, 61 FR 63858–63860, on December 2, 1996, for the Department of the Army, Corps of Engineers to withdraw approximately 2,370 acres of public lands for flood control facilities in Clark County, Nevada. This application has been cancelled and replaced by the application published as FR Doc. 98–31758 in the **Federal Register**, 63 FR 65811, on November 30, 1998.

The lands described in FR Doc. 96–30580, 61 FR 63858–63860, December 2, 1996, will remain closed to surface entry and mining in accordance with the provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105–263, 111 Stat. 2343 *et seq.* and the lands are hereby made available for disposal pursuant to said Act.

Dated: March 22, 1999.

Dennis J. Samuelson,

Acting Lands Team Lead.

[FR Doc. 99–7393 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from May 1, 1999, through October 31, 1999. The List of Restricted Joint Bidders published October 2, 1998, in the **Federal Register** at 63 FR 53097 covered the period of November 1, 1998, through April 30. 1999.

Group I. Exxon Corporation; Exxon San Joaquin Production Co.

Group II. Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.; Shell Frontier Oil & Gas Inc.; Shell Consolidated Energy Resources Inc.; Shell Land & Energy Company; Shell Onshore Ventures Inc.; Shell Deepwater Development Inc.; Shell Deepwater Production Inc.; Shell Offshore Properties and Capital II Inc.

Group III. Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc; Mobil Exploration and Producing North America Inc.

Group IV. BP America Inc.; The Standard Oil Co.; BP Exploration and Oil Inc.; and BP Exploration (Alaska) Inc.

Dated: March 19, 1999.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

[FR Doc. 99–7359 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Royalty Computation of Phosphate Production on Western Public Lands

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of adoption of method for determining value used to compute royalty payments on Federal phosphate ore mined on western public lands.

SUMMARY: This final notice provides a new method of determining the value of production used to compute royalties on phosphate ore produced from Federal leases on western public lands. The new method uses a weighted composite of two published indices and a price survey that are more closely related to the phosphate industry. This new method replaces the current method of valuation, which utilizes the Gross Domestic Product—Implicit Price Deflator (GDP–IPD) to annually adjust phosphate value.

DATES: Effective April 26, 1999.

ADDRESSES: Inquiries about this notice should be sent to: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; or e-Mail RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: Herbert B. Wincentsen, Chief, Solid Minerals Valuation and Reporting Branch, Minerals Management Service, P.O. Box 25165, MS 3153, Denver, Colorado 80225–0165, telephone (303) 275–7210.

SUPPLEMENTARY INFORMATION: On October 16, 1997, the Secretary of the Interior approved an April 16, 1997, recommendation from the Royalty Policy Committee (RPC) to revise the current method of adjusting the value used to compute royalty payments on Federal phosphate production. RPC is a committee of the Minerals Management Service Advisory Board (Board). The Board was created under the authority of the Federal Advisory Committee Act. The Board's purpose includes, in relevant part, providing advice to the Secretary, the Director, MMS, and other Department of the Interior officials on royalty management of Federal and Indian leases. RPC includes representatives of States which share in mineral revenues from Federal lands. Indian tribes and allottees whose mineral revenues MMS collects in trust, oil and gas and solid minerals producing industries who pay royalties, and the public.

The approved valuation changes based on the RPC recommendations were the following:

1. Discontinue the current indexing procedure that utilizes the GDP-IPD to annually adjust the phosphate value for royalty calculation purposes.

2. Determine phosphate value using a weighted composite index methodology with the following indices, published by the Bureau of Labor Statistics (BLS), and weights:

- The Chemical and Fertilizer Minerals Mining Index, Standard Industry Code (SIC) 147, weighted at 50 percent;
- The Phosphatic Fertilizers Index (SIC 2874), weighted at 25 percent; and
- The Phosphate Rock Index (SIC 1475), weighted at 25 percent.

Lessees would recalculate the phosphate unit value annually, as under the existing indexing procedure.

3. Continue using the weighted composite index methodology for 5 years, at which time MMS will examine the methodology and the values determined to assure there is a continued relationship to the marketplace.

4. Apply the composite index valuation methodology only to Federal phosphate production; there is no Indian phosphate production. State or fee phosphate leases are also unaffected unless the parties to a State or fee lease elect to use the Federal valuation methodology.

5. The recommended composite index methodology will not be retroactive. The methodology will become effective April 26, 1999.

Comments on Proposed Methodology

On March 24, 1998, MMS published a notice (63 FR 14131) proposing to revise the current method used to compute royalty on phosphate produced from western Federal lands. This notice requested comments on the revision with the comment period open to April 23, 1998. During the comment period, MMS received one comment from a phosphate producer who supported the proposed change in phosphate royalty valuation procedures. The commentor stated that although there was no perfect valuation method, the new western phosphate ore royalty valuation method proposed in the March 24, 1998, **Federal Register** notice will more reasonably correlate to general phosphate market changes. The commentor stated that the value received for their end product (phosphate based fertilizers) is no higher now than what they were receiving in 1979, yet the phosphate unit value generated by MMS's existing index-based method had almost doubled over that same period.

Discontinuance of Producer Price Index for Phosphate Rock

During the proposed notice comment period, we became aware that the BLS had discontinued the Phosphate Rock Index, SIC 1475. The BLS set the Phosphate Rock Index based on sales information that included data of crude phosphate ore, processed phosphate rock, washed or concentrated phosphate rock, dried phosphate rock, and primary products. Because there were very limited sales data voluntarily reported, BLS decided to discontinue publishing the index. The last Phosphate Rock Index, published in June 1997, was generated from one sale of phosphate primary products. The BLS stated they will probably not resume the survey over the next 5 years. Accordingly, we decided to replace the BLS Phosphate Rock Index for royalty valuation purposes.

We examined several alternatives to the discontinued BLS Phosphate Rock Index before concluding that the Phosphate Rock Price Index, as published by the United States Geological Survey (USGS) is a viable replacement. On August 21, 1998, we sent a letter to the RPC Phosphate Subcommittee members explaining our analysis. We requested review and comment on the proposed index replacement. We received one response from an Idaho phosphate company in favor of our proposal. No other comments were received.

Adoption of USGS Phosphate Rock Price Data

The USGS annually publishes phosphate rock prices in its "Minerals Yearbook." This publication was formerly released by the Bureau of Mines (BOM). However, USGS assumed responsibility for continued publication when BOM was abolished in 1996. We will use USGS when referring to published data (both pre- and post-1996) for the remainder of this notice.

To determine whether USGS's price survey of phosphate rock prices is comparable to BLS' data collections for phosphate rock, we researched price data beginning with 1982, the year BLS reset the Phosphate Rock Index to 100. To test whether USGS price surveys reasonably track with BLS price data, we used the following methodology:

- We set USGS's published 1982 price for phosphate rock of $25.50 per ton to 100. Therefore, for 1982, both BLS and USGS began with a unitless index figure of 100.
- We converted the new USGS published price to an index change using a direct proportion for each year after 1982. For example, in 1983, USGS published a price of $23.97 per ton. This equates to a proportioned index of 94 (23.97/25.50).
- We statistically compared the year-to-year percent change of these two indices. The overall index price trends, expressed as a percentage change of the indices of the BLS Phosphate Rock Index and the USGS Phosphate Rock Price Index, are similar with a correlation factor of 0.7928. This suggests that BLS and USGS were receiving and collecting similar data from the phosphate industry.

To determine how the old unit value (based on BLS' Phosphate Rock Index) correlates with the new unit value (based on USGS's Phosphate Rock Price Index), we performed a comparison of the two series of unit values using a percent difference plot. The unit values, as calculated by both the new indexed methodology and the existing GDP–IPD methodology, were equal at $0.5038/unit in 1987, thus 1987 was used as the base year for comparison.

The percent unit value difference for each series follows the formula:

$$\text{Current Year Difference} = \frac{(\text{Current Year Unit Value}) - (\text{Previous Year Unit Value}) \times 100 \text{ percent}}{\text{Previous Year Unit Value}}$$

A plot of the percent unit value differences for the period 1987 through 1997 indicates the two series of unit values are closely related and comparable, with a statistical correlation coefficient of 0.9837.

Table 1 shows the comparison of the old indexed unit value and the new indexed unit value as a percent difference based on the formula described above.

TABLE 1. COMPARISONS OF OLD AND NEW UNIT VALUE

Year	New unit value	Percent difference	Old unit value	Percent difference
1987	$0.5038	.....	$0.5038	.....
1988	0.5350	6.20	0.5310	5.40
1989	0.5583	4.35	0.5516	3.88
1990	0.5574	−0.16	0.5507	−0.16
1991	0.5644	1.25	0.5621	2.07
1992	0.5474	−3.00	0.5572	−0.87
1993	0.5174	−5.48	0.5254	−5.71
1994	0.5384	4.04	0.5435	3.44
1995	0.5743	6.68	0.5793	6.59
1996	0.6096	6.14	0.6112	5.51

TABLE 1. COMPARISONS OF OLD AND NEW UNIT VALUE—Continued

Year	New unit value	Percent difference	Old unit value	Percent difference
1997	0.5965	−214	0.5949	−2.67

Application of USGS Data

Based on the analysis above, Federal phosphate producers must use the same "composite index" methodology as originally proposed in the March 24, 1998 **Federal Register** Notice with the exception that the USGS Phosphate Rock Price Index replaces the now discontinued BLS Phosphate Rock Index (SIC 1475). As recommended by the RPC, we are adopting for valuation purposes the composite index from which each year's adjustment to the phosphate value would be derived and weighted as follows: 50-percent BLS Chemical and Fertilizer Minerals Mining Index; 25-percent BLS Phosphate Fertilizer Index; and 25-percent USGS Phosphate Rock Price Index.

Implementation and Annual Revision of New Unit Value

The unit value of phosphate ore using the composite index methodology is determined with reference to the prior year's composite index value compared to the base year's composite index value. Table 2 shows the new weighted composite index methodology and the computation of the index unit value:

For example:

$$\text{1998 Phosphate Unit Value} = \text{1987 Base Year Unit Value} \times \frac{\text{1997 Composite Index}}{\text{1987 Composite Index}}$$

$$\text{1998 Phosphate Unit Value} = \$0.5038/\text{Unit} \times \frac{112.39}{94.92} = \$0.5965/\text{Unit}$$

The new methodology will not be applied retroactively owing to the revised computation method provided in this notice for phosphate valuation. Phosphate producers will continue using the existing methodology until the first day of the first full month following the effective date of this final notice.

For clarification, we are providing an implementation strategy as follows:

For 1999 Phosphate Production

1. You must use the 1998 Phosphate Unit Value of $0.6858/Unit, as computed by MMS and distributed to the phosphate industry in May 1998, as an estimated value for 1999 production. The phosphate producers must continue using this value until the updated GDP–IPD index data becomes available and the 1999 Unit Value, using the existing methodology is calculated, (March–April 1999).

2. You must retroactively correct the estimated value for 1999 production when MMS notifies you. We will calculate the Unit Value for 1999, when the GDP–IPD index data becomes available, using the existing methodology and provide that value to phosphate producers. Producers must continue to use the 1999 Unit Value until the implementation date of the new methodology Unit Value. This implementation date will be the first full month following the effective date of this final notice.

Phosphate Unit Value From April 26, 1999

Use the new methodology Unit Value ($0.5965/Unit) for production occurring on or after April 26, 1999 until August 1, 1999. No production month will have more than one Unit Value under this implementation strategy.

Phosphate Value After August 1, 1999

You must use the revised Unit Value from August 1, 1999, through July 31, 2000. We will revise the phosphate Unit Value and distribute it by letter to the industry during July of each year with an effective date of August 1, of that same year. We will use this date because the annual BLS indices and the annual USGS phosphate rock prices that make up the composite index are published by June of each year. For example, MMS will calculate and distribute the 1999 Unit Value to the phosphate industry by July 1999. It becomes effective for production beginning August 1, 1999. You must calculate and pay royalties due for August production, using this 1999 Unit Value, no later than September 30, 1999. The 1999 Unit Value will remain in effect until July 31, 2000, when MMS will calculate the next unit value revision.

We will examine phosphate value computed under the new methodology through a market analysis every 5 years to ensure that the new valuation methodology is, in fact, reflecting changes in the western phosphate industry. Since the analysis that was part of the Phosphate Subcommittee's work occurred in 1996, MMS will examine and compare the values computed for phosphate ore to market data in 2001.

Dated: March 19, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–7394 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the twenty-ninth meeting of the Gettysburg National Military Park Advisory Commission.

DATE: The public meeting will be held on April 14, 1999, from 7:00 p.m. to 9:00 p.m.

LOCATION: The meeting will be held at the Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

AGENDA: Sub-committee Reports, General Management Plan, Federal Consistency Projects Within the Gettysburg Battlefield Historic District.

Operational Update on Park Activities, and Citizens Open Forum.

FOR FURTHER INFORMATION, CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: March 18, 1999.

David H. Dreier,

Acting Superintendent.

[FR Doc. 99–7388 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Nebraska State Museum, University of Nebraska-Lincoln, Lincoln, NE

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of University of Nebraska State Museum, University of Nebraska-Lincoln, Lincoln, NE.

A detailed assessment of the human remains was made by University of Nebraska professional staff in consultation with representatives of the Pawnee Tribe of Oklahoma.

In 1959, human remains representing five individuals were recovered from site 25BD1 overlooking Ponca Creek, Boyd County, NE during excavations conducted under the direction of T. Witty. No known individuals were identified. No associated funerary objects were present.

Based on ceramic and stone tool assemblages, site 25BD1 has been identified as an Initial Coalescent occupation dated to circa 1400 A.D.

In 1931, human remains representing one individual were recovered from Cache 3 of site 25BF1 near Sweetwater, NE during excavations conducted by W.R. Wedel under the direction of W.D. Strong. No known individuals were identified. No associated funerary objects were present.

Based on ceramic and stone tool assemblages, site 25BF1 has been identified as a Loup River Phase (Itskari Phase) occupation dating to between 1250-1450 A.D.

In 1940, human remains representing 20 individuals from site 25BO7, Boone County, NE were recovered by John Champe during University of Nebraska salvage archeology. No known individuals were identified. No associated funerary objects are present.

Based on burial location and skeletal morphology, these individuals have been determined to be Native American. The location of this site is close to a Central Plains Tradition village site, these individuals are believed to be associated with the Central Plains Tradition.

In 1935, human remains representing one individual were recovered from the Linwood site (25BU1), Butler County, NE by W.R. Wedel. No known individual was identified. No associated funerary objects are present.

Based on recorded associated funerary objects and manner of interment, this individual has been determined to be Native American. W.R. Wedel described an excavation by the Nebraska Archeological Survey in which a "flexed child burial" was found, along with trade material including iron hoes, axes, fragments of copper kettles, and bits of brass and glass. The University of Nebraska has determined that these human remains are most likely from the described child's burial. Wedel's report concludes that the Linwood site (25BU1) is a Pawnee village "very probably inhabited about the year 1800, and may date, in part, from a much earlier period."

At an unknown date, human remains representing one individual were recovered from the Ashland site (25CC1), Cass County, NE under unknown circumstances. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, museum records, and site information, this individual has been determined to be Native American, most likely from the Central Plains Tradition period. Based on material culture and site organization, the Ashland site (25CC1) has been identified as a multi-component site, including a Central Plains Tradition component.

At an unknown date, human remains representing two individuals were recovered from the Rock Bluff site (25CC31[25CC0]) overlooking the Missouri River in southern Cass County, NE. No information is available as to how or when these remains came into University of Nebraska State Museum collections. No known individuals were identified. No associated funerary objects are present.

Between 1914 and 1968, the University conducted excavations at the nearby Walker Glimore site, during which these human remains were most likely collected. Archeological evidence from these excavations indicates the site is attributable to the Nebraska Culture of the Central Plains Tradition.

In 1913, human remains representing 53 individuals from an ossuary (25CC9001) in Plattsmouth, NE were excavated by R.F. Gilder and others in an uncontrolled excavation following the discovery of the ossuary during a work project. No known individuals were identified. The associated funerary objects are 11 shell pendants or pendant fragments.

Based on burial location and manner of interment, this ossuary has been attributed to the Nebraska Culture within the Central Plains Tradition.

In 1934, human remains representing three individuals were excavated from Wiseman Village (25CD3) on the south bank of the Missouri River, Cedar County, NE under the direction of E.H. Bell of the University of Nebraska. No known individuals were identified. No associated funerary objects are present.

Based on ceramics and stone tool assemblages, the Wiseman Village site has been identified as probable St. Helena Phase occupation. The St. Helena Phase is a component of the Central Plains Tradition.

In 1934, human remains representing 137 individuals were recovered from Wiseman Mounds site (25CD4) under the direction of E.H. Bell of the University of Nebraska. No known individuals were identified. The two associated funerary objects are stone beads.

Based on probable association with the Wiseman village site, the Wiseman Mounds have been identified as having a Central Plains Tradition component. Based on the apparent age of the remains, these individuals have been determined to be Native American dating to the Central Plains Tradition period.

In 1941, human remains representing 200 individuals were recovered from Wynot Ossuary (25CD7), Cedar County, NE during excavations conducted by R.B. Cuming for the Nebraska State Archeological Survey. No known individuals were identified. The four associated funerary objects are shell beads.

Based on ceramics and stone tool assemblages present in the fill, the Wynot Ossuary has been identified as in use during the St. Helena Phase [1425-1500 A.D.] of the Central Plains Tradition. Based on archeological context, these individuals have been identified as Native American.

In 1978, human remains representing one individual were recovered from site 25CD13, Cedar County, NE by J.

Ludwickson of the University of Nebraska Department of Anthropology. No known individual was identified. No associated funerary objects were present.

Based on artifacts collected from the site, site 25CD13 has been identified as a Central Plains Tradition occupation. Based on archeological context and condition of the remains, this individual has been identified as Native American.

In 1931, human remains representing one individual were recovered from the Wolfe site (25CX2) near the mouth of Shell Creek, Colfax County, NE during excavations conducted by W.D. Strong and Waldo Wedel. No known individual was identified. No associated funerary objects are present.

Based on ceramic and stone tool assemblages, the Wolfe site has been identified as a Lower Loup period (1450-1550 A.D.) occupation of the Central Plains Tradition. Based on the dates for this site, this individual has been determined to be Native American.

In 1939, human remains representing two individuals were recovered from the Bobier site (25DK1A), Dakota County, NE during University of Nebraska/W.P.A. excavations conducted by S. Bartos, Jr. under the supervision of H. Angelino. No known individuals were identified. No associated funerary objects were present.

In 1939, human remains representing one individual were recovered from another part of the Bobier site (25DK1B), Dakota County, NE during excavations conducted by S. Bartos, Jr. No known individual was identified. No associated funerary objects were present.

Based on material culture of the sites, the Bobier sites have been identified as a Nebraska Phase (1050-1425 A.D.) of the Central Plains Tradition. Based on the dates for these sites, these individuals have been determined to be Native American.

In 1940, human remains representing 130 individuals were recovered from the Murphy Ossuary (25DK9), Dakota County, NE during excavations conducted by J. Champe. No known individuals were identified. No associated funerary objects are present.

Based on ceramics, stone tools, and burial pattern, the Murphy Ossuary has been identified as a St. Helena Phase (1425-1500 A.D.) occupation of the Central Plains Tradition. Based on the dates for this site, these individuals have been determined to be Native American.

In 1941, human remains representing 292 individuals were recovered from the Maxwell site (25DK13) near Homer, NE during University of Nebraska/W.P.A. excavations conducted by L. Bartos, Jr. under the direction of John L. Champe and Paul Cooper. No known individuals were identified. No associated funerary objects were present.

Based on bone preservation and ceramic sherds in fill, the Maxwell site has been identified as a Central Plains Tradition occupation (1050-1500 A.D.). Based on archeological context and dates for this site, these individuals have been determined to be Native American.

In 1941, human remains representing 16 individuals were recovered from an ossuary at the Hancock site (25DK14), Dakota County, NE during excavations conducted by S. Bartos, Jr. No known individuals were identified. No associated funerary objects were present.

Based on ceramic and stone tool assemblage, the Hancock site has been identified as a St. Helena Phase (1425-1500 A.D.) occupation of the Central Plains Tradition. Based on the dates for this site, these individuals have been determined to be Native American.

Before 1909, human remains representing 11 individuals were recovered from the "Watson House" site (25DOO), Omaha, NE during excavations conducted by R.F. Gilder. No known individuals were identified. No associated funerary objects are present.

Based on ceramic and stone tool assemblages, the "Watson House" site has been identified as a Nebraska Phase (1050-1425 A.D.) occupation of the Central Plains Tradition. Based on the dates for this site, these individuals have been determined to be Native American.

In 1913, human remains representing two individuals were recovered from site 25D0O (11-25-5-13) in Omaha, NE during house construction and donated to the University of Nebraska State Museum by R.H. Gilder. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the remains and known archeological sites in this area, site 25DO0 (11-25-5-13) has been identified as a Nebraska Culture (1050-1425 A.D.) occupation of the Central Plains Tradition. Based on the probable dates for this site, these individuals have been determined to be Native American.

In 1913, human remains representing one individual was excavated at 13th and Missouri Streets (25DO?2), Omaha, NE by R.F. Gilder. These human remains became part of the Wallace collection and were donated to the University of Nebraska State Museum in 1913. No known individual was identified. No associated funerary objects are present.

Based on the condition of the remains and the cultural material from this site, this burial has been determined to be Native American from the Nebraska Phase (1050-1425 A.D.) of the Central Plains Tradition.

In 1906, human remains representing 42 individuals were collected from site 25DO26, Gilder's Mound, Long's Hill, NE by R.F. Gilder. No known individuals were identified. No associated funerary objects are present.

This site is also known and the "Loess Man" site, due to the human remains being found in loess soil. Material culture collected from this site resemble Central Plains Tradition/Woodland materials on the basis of the poor to fair preservation. Based on the condition of the human remains and material culture from this site, these individuals have been determined to be Native American from the Nebraska Phase (1050-1425 A.D.) of the Central Plains Tradition.

At an unknown date, human remains representing one individual were collected at site 25FR0, four miles north of the Riverton highlands, Franklin County, NE by an unknown individual. No known individual was identified. The four associated funerary objects are coils of brass wire.

Based on the coils of brass wire and location of site 25FR0, this burial has been attributed to the historic Pawnee c.1750-1850 A.D.

In 1983, human remains representing one individual were recovered in the Upper Republican midden layer of site 25FT145, Frontier County, NE during excavations in a habitation area directed by T. Myers. No known individual was identified. No associated funerary objects are present.

Based on the ceramics recovered in the midden, site 25FT145 has been identified as an Upper Republican Culture occupation (950-1250 A.D.) of the Central Plains Tradition.

At an unknown date, human remains representing one individual were recovered from the Goodrich site (25GY21), Greeley County, NE by W.J. Hunt of the Department of Anthropology at the University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on material culture, the Goodrich site has been identified as a Central Plains Tradition (950-1450 A.D.) occupation. Based on the material culture of this site, this individual has been determined to be Native American.

In 1930, human remains representing four individuals were recovered from the Graham Ossuary site (25HN5),

Harlan County, NE during excavations conducted by W. Wedel under the direction of W.D. Strong. No known individuals were identified. The minimum of 100 associated funerary objects include ceramic fragments, shell beads, bone beads, bracelets, copper ornaments, ceramics, and stone tools.

Based on the material culture, the Graham site has been identified as a Upper Republican Phase occupation of the Central Plains Tradition. Based on the associated funerary objects, these individuals have been determined to be Native American.

In 1978, human remains representing one individual were recovered from the Schmidt site (25HW301), Howard County, NE by S. Holen and C. Roberts. No known individual was identified. No associated funerary objects are present.

Based on ceramic and stone tool assemblages, the Schmidt site has been identified as a Central Plains Tradition occupation. Based on the archeological context, this individual has been determined to be Native American.

During 1936-1938, human remains representing 15 individuals were recovered from the Ponca Fort site (25KX1), Knox County, NE during excavations conducted by the Nebraska State Archeological Survey under the direction of Perry Newell and S. Wimberly as part of WPA Official Project ι165-81-8095, Work Project ι3140. No known individuals were identified. No associated funerary objects are present.

Based on ceramics and stone tool assemblages, this portion of the Ponca Fort site has been identified as a Central Plains Tradition (950-1250 A.D.) occupation. Based on archeological context, poor preservation of the remains, poor dental health, and evidence of severe arthritis in one individual, these individuals have been determined to be Native American from the pre-contact period.

In 1961, human remains representing five individuals were recovered from site 25KX20, a small area of land extending into Lewis and Clark Lake near Crofton, NE during a survey conducted by P. Holder and R. Krause for the University of Nebraska Department of Anthropology. No known individuals were identified. No associated funerary objects were present.

Based on ceramics and stone tools, site 25KX20 has been identified as a Central Plains Tradition occupation dating to between (1050-1500 A.D.).

In 1913, human remains representing three individuals were recovered from a small house ruin (25SY0/7-12-13) on a ridge near Mill Hollow in Sarpy County, NE by R.F. Gilder. No known individuals were identified. No associated funerary objects are present.

Based on material culture, site 25SY0 has been identified as a Nebraska Culture (1050–1425 A.D.) occupation of the Central Plains Tradition. Based on the dates for this site, these individuals have been identified as Native American.

In 1914, human remains representing eight individuals were recovered from the Childs Point site (25SY0) overlooking the Missouri River in Sarpy County, NE under the direction of R.F. Gilder and were accessioned into the University of Nebraska State Museum. No known individuals were identified. No associated funerary objects were present.

Based on material culture, the Childs Point site has been identified as a Nebraska Phase (1050-1425 A.D.) occupation of the Central Plains Tradition. Based on the dates of this site, these individuals have been determined to be Native American.

During 1908-1917, human remains representing 46 individuals from the Wallace Mound site (25SY67) were excavated under the direction of R.F. Gilder and accessioned into the University of Nebraska State Museum. No known individuals were identified. No associated funerary objects were present.

In 1913, human remains representing six individuals were removed from the Swoboda site (25SY67/31-8-14), part of the Wallace Mounds site, Sarpy County, NE and were secured by Miss Edith Dennett who donated these remains to the University of Nebraska State Museum in 1914. No known individuals were identified. No associated funerary objects are present.

Based on the association with the Child's Point site, the Wallace Mound site has been identified as a Nebraska Culture (1050-1425 A.D.) occupation of the Central Plains Tradition. Based on the condition of the skeletal material, these individuals have been determined to be Native American.

In 1938 and 1939, human remains representing one individual were recovered from Cache Pit B of the Redbird site (25HT3), Holt County, NE during legally authorized excavations conducted by E. Bell for the W.P.A. Work Project ι4841. No known individual was identified. No associated funerary objects were present.

Based on material culture and geographical location, the Redbird site has been identified as an Extended Coalescent Tradition site. Based on the archeological context, material culture, and manner of interment this individual has been identified as Native American. Based on ceramic evidence and development, the Extended Coalescent Tradition has been identified as ancestral to the present-day Pawnee.

Based on continuities of ceramic decoration, stone tool form and function, architecture, chronology, mortuary custom, subsistence pattern, settlement pattern, and geographic location, the Central Plains Tradition is recognized by many anthropologists as ancestral to the present-day Pawnee and Arikara. Pawnee and Arikara oral traditions also indicate cultural affiliation between the earlier Central Plains Tradition and these present-day tribes.

Based on the above mentioned information, officials of the University of Nebraska have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 1,014 individuals of Native American ancestry. Officials of the University of Nebraska have also determined that, pursuant to 43 CFR 10.2 (d)(2), the approximately 121 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Nebraska have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Pawnee Tribe of Oklahoma.

This notice has been sent to officials of the Pawnee Tribe of Oklahoma, the Three Affiliated Tribes of the Fort Berthold Reservation, and the Wichita and Affiliated Tribes. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Priscilla Grew, University of Nebraska, 302 Canfield Administration Building, Lincoln, NE 68588-0433; telephone: (402) 472-3123, before April 26, 1999. Repatriation of the human remains and associated funerary objects to the Pawnee Tribe of Oklahoma may begin after that date if no additional claimants come forward.

The Ponca Tribe of Oklahoma notified the University of Nebraska-Lincoln by letter dated December 14, 1998 that the Tribe claims the human remains and associated funerary objects listed in this notice from the following sites: 25BD1; 25CD3; 25CD4; 25CD7; 25CD13; 25DK1A; 25DK1B; 25DK9; 25DK14; 25HT3; 25KX1; 25KX20; 25SY0(7-12-

13); 25SY0; 25SY67; and 25SY67(31-8-14).

The National Park Service is not responsible for the determinations within this notice.

Dated: March 17, 1999.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 99–7500 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items from Webster County, NE, in the Possession of the University of Nebraska State Museum, University of Nebraska-Lincoln, Lincoln, NE

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from Webster County, NE, in the possession of the University of Nebraska State Museum, University of Nebraska-Lincoln, Lincoln, NE which meet the definition of "unassociated funerary object" under Section 2 of the Act.

The eleven cultural items include fragments of a cradle board, glass beads, metal rings, and a wooden bowl.

In 1930, these eleven cultural items were excavated from three burials at site 25WT1, Webster County, NE by the Nebraska Archeological Survey under the direction of A.T. Hill. The human remains are not in the collections of the University of Nebraska-Lincoln.

Based on material culture and geographic location, site 25WT1 has been identified as a late-18th century Republican Band occupation. The Republican Band is one of the component bands of the present-day Pawnee Tribe of Oklahoma. Consultation with representatives of the Pawnee Tribe of Oklahoma has affirmed this affiliation.

Based on the above mentioned information, officials of the University of Nebraska have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these eleven cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the University of Nebraska have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Pawnee Tribe of Oklahoma.

This notice has been sent to officials of the Pawnee Tribe of Oklahoma, the Three Affiliated Tribes of the Fort Berthold Reservation, and the Wichita and Affiliated Tribes. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Dr. Priscilla Grew, University of Nebraska, 302 Canfield Administration Building, Lincoln, NE 68588-0433; telephone: (402) 472-3123, before April 26, 1999. Repatriation of the human remains and associated funerary objects to the Pawnee Tribe of Oklahoma may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: March 17, 1999.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 99–7501 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from LaCrosse, Wisconsin, in the Possession of the State Historical Society of Wisconsin, Madison, WI

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the State Historical Society of Wisconsin (Museum Division), Madison, WI.

A detailed assessment of the human remains was made by State Historical Society of Wisconsin professional staff in consultation with representatives of the Iowa Tribe of Oklahoma, Iowa Tribe of Kansas, Otoe-Missouria Tribe of Oklahoma, Ho-Chunk Nation of Wisconsin, and Winnebago Tribe of Nebraska.

During 1989-1991, human remains representing 46 individuals were recovered from the Gunderson Clinic site (47-Lc-0394) by field crews of the Mississippi Valley Archeological Center during parking lot expansion of the Gunderson Clinic, LaCrosse, WI. No known individuals were identified. The 38 associated funerary objects include ceramics, sherds, projectile point, scrapers, and flakes, shell, copper fragments, mammal bone, and wood fragments.

Based on ceramic typology, the Gunderson Clinic site has been identified as an Oneota occupation dating between 1300-1650 A.D. The Oneota tradition in western Wisconsin has generally been documented by native oral traditions, European explorers' accounts, historians, and anthropologists as ancestral to the present-day Iowa Tribes of Oklahoma and Kansas, the Ho-Chunk Nation of Wisconsin, and the Winnebago Tribe of Nebraska.

Based on the above mentioned information, officials of the State Historical Society of Wisconsin have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 46 individuals of Native American ancestry. Officials of the State Historical Society of Wisconsin have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 38 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the State Historical Society of Wisconsin have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Iowa Tribe of Oklahoma and the Ho-Chunk Nation of Wisconsin.

This notice has been sent to officials of the Iowa Tribe of Oklahoma, Iowa Tribe of Kansas, Otoe-Missouria Tribe of Oklahoma, Ho-Chunk Nation of Wisconsin, and Winnebago Tribe of Nebraska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact David Wooley, Curator of Anthropology, State Historical Society of Wisconsin, 816 State Street, Madison, WI 53706-1488; telephone: (608) 264-6574, before April 26, 1999. Repatriation of the human remains and associated funerary objects to the Iowa Tribe of Oklahoma and the Ho-Chunk Nation of Wisconsin may begin after

that date if no additional claimants come forward.

Dated: March 18, 1999.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 99–7502 Filed 3–25–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement; United States v. Signature Flight Support Corp. et al.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Signature Flight Support Corporation, et al.*, Civil Action No. 99–0537. On March 1, 1999, the United States filed a Complaint alleging that the proposed acquisition by Signature Flight Support Corporation ("Signature") of AMR Combs, Inc. ("Combs") would violate section 7 of the Clayton Act, 15 U.S.C. 18. Signature and Combs own and operate competing fixed base operators ("FBOs") that provide flight support services at various airports in the United States. The proposal Final Judgment orders Signature to sell actual or planned FBO businesses at Palm Springs Regional Airport, Bradley International Airport, and Denver Centennial Airport, along with certain tangible and intangible assets. Copies of the Complaint, Hold Separate Stipulation and Order, Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, NW., Washington, DC 20530 and at the office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within 60-days of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, 325 Seventh Street, NW., Suite 500, Washington, DC 20530 (telephone: (202) 307–6351).

Constance K. Robinson,

Director of Operations, Antitrust Division.

Hold Separate Stipulation and Order

It is hereby STIPULATED by and between the undersigned parties, subject to approval and entry by the Court, That:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. "Signature" means Signature Flight Support Corporation, a Delaware corporation with a principal place of business in Orlando, Florida, and its successors and assigns, its parents, subsidiaries, affiliates, and directors, officers, managers, agents, and employees acting for or on behalf of any of them.

B. "Combs" means AMR Combs, Inc., a Delaware corporation headquartered in Dallas, Texas, its successors, and assigns, subsidiaries, affiliates, and directors, officers, managers, agents, and employees acting for or on behalf of any of them. Combs is a wholly owned subsidiary of AMR Corporation, A Delaware corporation that has its principal place of business in Fort Worth, Texas, and is a party to the agreement to sell Combs to Signature.

C. The "Assets to be Divested" means all rights, titles and interests, including all fee, leasehold and real property rights, in the PSP Assets, the BDI, Assets and the APA Assets;

1. The "PSP Assets" means all tangible and intangible assets controlled by the existing Signature FBO at Palm Springs Regional Airport, as described in Appendix A to the Final Judgment.

2. The "BDL Assets" means all tangible and intangible assets controlled by the existing Combs FBO at Bradley International Airport, as described in Appendix B to the Final Judgment, but does not include the assets related to Combs' commercial jet fueling business, such as the bulk storage facility and fuel farm.

3. The "APA Assets" means all tangible and intangible assets controlled by the exiting Combs FBO at Centennial Airport, as described in Appendix C to the Final Judgment.

D. "APA Airport" means Centennial Airport, located near Denver, Colorado.

E. "BDL Airport" means Bradley International Airport, located near Hartford, Connecticut.

F. "PSP Airport" means Palm Springs Regional Airport, located two miles east of Palm Springs, California.

G. "FBO" means any or all services related to providing fixed based operator services to general aviation customers, including, but not limited to, selling fuel, leasing hangar, ramp, and office space, providing flight support services, performing maintenance, providing access to terminal facilities, or arranging for ancillary services such as rental cars or hotels.

H. "FBO Facility" means any and all tangible and intangible assets required to provide FBO services, including but not limited to office terminal space, hangars, ramps, a general aviation fuel farm for Jet A Fuel and aviation gas, and related fueling and maintenance equipment.

I. "SunBorne" means SunBorne Development Corporation, a real estate development company that conducts business in the Denver, Colorado area.

J. "SunBorne FBO Facility" means the FBO facility that is to be constructed at APA Airport by SunBorne Development Corporation. The SunBorne FBO facility is to consist of (1) an office/terminal facility to occupy the first floor (approximately 15,000 square feet) of a three-story building to be constructed by SunBorne; (2) one 25,000 square foot hanger to be constructed by SunBorne; (3) a general aviation fuel farm with storage for 40,000 gallons of Jet A fuel and 20,000 gallons of aviation gas to be constructed by Signature; and (4) a 10.8 acre ramp.

K. "SunBorne operator for the SunBorne FBO Facility" means a person who, with the approval of SunBorne and of the Arapahoe County Public Airport Authority, will operate the SunBorne FBO Facility in Signature's stead.

II. Objectives

The Final Judgment filed in this case is meant to ensure Signature's prompt divestiture and sale of the BDL Assets, the PSP Assets, and if necessary, the APA Assets, for the purpose of maintaining viable competitors in the provision of FBO services at BDL Airport, PSP Airport, and APA Airport. These actions will remedy the effects that the United States alleges would otherwise result from Signature's proposed acquisition of Combs.

This Hold Separate Stipulation and Order has two primary objectives. With respect to the BDL Assets and the PSP Assets, it ensures that, prior to such divestitures, each of the assets being divested be maintained as independent economically viable, ongoing business concerns, and that competition among FBO facilities at BDL Airport and at PSP Airport is maintained during the pendency of the divestitures. With

respect to the APA Assets, this Order permits Signature to conduct business at APA Airport using the APA Assets, pending competition of a new FBO facility at APA Airport (the SunBorne FBO Facility) that will either be operated by Signature or by a substitute operator. If Signature does not produce a substitute operator by a date set by the Final Judgment, Signature must divest the APA Assets by a later date set by the Final Judgment. This Order ensures that, prior to such divestiture, the APA Assets be maintained and operated in a fashion that preserves or improves their existing physical condition should Signature be required to divest.

III. Hold Separate Provisions for the BDL Assets and the PSP Assets

Unit the divestiture required by the Final Judgment has been accomplished;

A. Signature shall preserve, maintain, and operate the BDL Assets and the PSP Assets as independent competitors with management, sales, services, and operations held entirely separate, distinct and apart from those of Signature. Signature shall not coordinate the marketing or sale of services from the BDL Assets' and the PSP Assets' businesses with the FBO businesses at BDL Airport and PSP Airport that Signature will own as a result of the acquisition of Combs. Within twenty (20) calendar days of the filing of the Complaint in this matter. Signature will inform plaintiff of the steps taken to comply with this provision.

B. Signature shall take all steps necessary to ensure that the PSP Assets and the BDL Assets will be maintained and operated as independent, ongoing, economically viable and active competitors in the sale of FBO services at PSP Airport and at BDL Airport: that the management governing the PSP Assets and the BDL Assets will not be influenced by Signature; and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with the PSP Assets and the BDL Assets will be kept separate and apart from the operations of Signature. Signature's influence over the PSP Assets and the BDL Assets shall be limited to that necessary to carry out Signature's obligations under this Order and the Final Judgment. Signature may receive historical aggregate financial information (excluding pricing information) relating to the PSP Assets and the BDL Assets to the extent necessary to allow Signature to prepare financial reports, tax returns, personnel reports, and other necessary or legally required reports, and Signature shall use such information only for such purposes.

C. Signature shall use all reasonable efforts to maintain service levels at the FBO operations that represent the PSP Assets and the BDL Assets, and shall maintain, promotional advertising sales, technical assistance, marketing and merchandising support for the PSP Assets and the BDL Assets at current or previously approved levels, whichever are higher.

D. Signature shall provide and maintain sufficient working capital to maintain the PSP Assets and the BDL Assets as economically viable, ongoing businesses.

E. Signature shall provide and maintain sufficient lines and sources of credit to maintain the PSP Assets and the BDL Assets as economically viable, ongoing businesses.

F. Signature shall take all steps necessary to ensure that the PSP Assets and the BDL Assets are fully maintained and are in operable condition at no lower than current service capabilities, and shall maintain and adhere to normal repair and maintenance schedules for the PSP Assets and the BDL Assets.

G. Signature shall not, except as part of a divestiture approved by plaintiff, remove, sell, lease, assign, transfer, pledge or otherwise dispose of or pledge as collateral for loans, any PSP Assets or any BDL Assets.

H. Signature shall maintain, in accordance with sound accounting principles, separate, true, accurate and complete financial ledgers, books and records that report, on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, income, profit and loss of the PSP Assets and the BDL Assets.

I. Until such time as the PSP Assets and the BDL Assets are divested, except in the ordinary course of business or as is otherwise consistent with this Order. Signature shall not hire, transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any employees who on the date of the signing of this Agreement work on the sites where the PSP Assets or the BDL Assets are located.

V. Provisions for the APA Assets

Until the divestiture required by the Final Judgment has been accomplished:

A. Signature shall use all reasonable efforts to maintain service levels at the FBO operations that constitute the APA Assets, and shall maintain, promotional, advertising sales, technical assistance, marketing and merchandising support for the APA Assets at current or previously approved levels, whichever are higher.

B. Signature shall provide and maintain sufficient working capital to maintain the APA Assets as an economically viable, ongoing business.

C. Signature shall provide and maintain sufficient lines and sources of credit to maintain the APA Assets as an economically viable, ongoing business.

D. Signature shall take all steps necessary to ensure that the APA Assets are fully maintained and in operable condition at no lower than its current service capabilities, and shall maintain and adhere to normal repair and maintenance schedules for the APA Assets.

E. Signature shall not, except as part of a divestiture approved by plaintiff, remove, sell, lease, assign, transfer, pledge or otherwise dispose of or pledge as collateral for loans, any APA Assets.

F. Until such time as the APA Assets are divested, except in the ordinary course of business or as is otherwise consistent with this Order, Signature shall not hire, transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any employees, who on the date of the signing of this Agreement work on the site where the APA Assets are located.

G. Signature shall maintain, in accordance with sound accounting principles, separate, true, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, income, profit and loss of the APA Assets.

VI. Other Provisions

Until the divestiture required by the Final Judgment has been accomplished:

A. Signature shall take no action that would interfere with the ability of any trustee(s) appointed pursuant to the Final Judgment to complete the divestiture pursuant to the Final Judgment to suitable purchasers.

B. This Hold Separate Stipulation and Order shall remain in effect until the divestitures required by the Final Judgment are complete, or until further Order of the Court.

Respectfully submitted,

For Plaintiff United States of America.

Nina B. Hale,

Salvatore Massa,

Attorneys, U.S. Department of Justice, Antitrust Division, Transportation, Energy, and Agriculture Section, 325 Seventh Street, NW., Suite 500, Washington, DC 20530, (202) 307–6351.

For Defendant Signature Flight Support Corporation.

Bruce Van Allen,

President and Chief Operating Officer.

For Defendants AMR Combs, Inc. and AMR Corporation.

Eugene A. Burrus,

Esquire, AMR Corporation, P.O. Box 619616, MD 5675, Dallas Forth Worth Airport, TX 75261, (817) 967–1252.

Dated: March 2, 1999.

So Ordered:

Thomas F. Hogan for Judge Royce C. Lamberth,

United States District Judge.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court of the District of Columbia;

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court;

3. Defendant Signature (as defined in paragraph II.A of the proposed Final Judgment attached hereto) shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, or until expiration of time for all appeals of any court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court; provided, however, that Signature shall not be obligated to comply with Sections V through VIII of the proposed Final Judgment unless and until the closing of any transaction in which Signature directly or indirectly acquires all or any part of the assets or capital stock of Combs (as defined in paragraph II.B of the proposed Final Judgment attached hereto);

4. Defendants shall not consummate the transaction before the Court has signed this Stipulation and Order as well as the Hold Separate Stipulation and Order;

5. In the event plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding;

6. The defendant Signature represents that the divestitures ordered in the proposed Final Judgment can and will be made, and that the defendant Signature will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: March 1, 1999.

For Plaintiff United States of America:

Nina B. Hale,

Salvatore Massa,

Attorneys, U.S. Department of Justice, Antitrust Division, Transportation, Energy, and Agriculture Section, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530, (202) 307–6351.

For Defendant Signature Flight Support Corporation.

William Norfolk, Esq.,

Sullivan & Cromwell, 125 Broad Street, New Yor, New York 10004, 212–558–3512.

For Defendants AMR Combs, Inc. and AMR Corporation

Eugene A. Burrus, Esq.,

AMR Corporation, P.O. Box 619616, MD 5675, Dallas Fort Worth Airport, TX 75261, (817) 967–1252.

Final Judgment (Proposed)

Whereas, plaintiff, the United States of America ("United States"), filed its complaint in this action on March 1, 1999, and plaintiff and defendants, Signature Flight Support Corporation ("Signature"), AMR Combs, Inc. ("Combs") and AMR Corporation, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essence of this Final Judgment is prompt and certain divestiture of certain fixed based operator facilities to assure that competition is not substantially lessened;

And Whereas, plaintiff requires defendant Signature to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, defendants have represented to plaintiff that the divestitures ordered herein can and will be made, and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestitures or provisions contained below;

Now, Therefore, before taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties in this action. The Complaint states a claim upon which relief may be granted against the defendants, as defined below, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. "Signature" means Signature Flight Support Corporation, a Delaware corporation with a principal place of business in Orlando, Florida, and its successors and assigns, its parents, subsidiaries, affiliates, and directors, officers, managers, agents, and employees acting for or on behalf of any of them.

B. "Combs" means AMR Combs Inc., a Delaware corporation headquartered in Dallas, Texas, as well as its successors, assigns, subsidiaries, affiliates, and directors, officers, managers, agents, and employees acting for or on behalf of any of them. Combs is a wholly owned subsidiary of AMR Corporation, a Delaware corporation with its principal place of business in Fort Worth, Texas, and is a party to the agreement to sell Combs to Signature.

C. "APA Airport" means Centennial Airport, located near Denver, Colorado.

D. "BDL Airport" means Bradley International Airport, located near Hartford, Connecticut.

E. "PSP Airport" means Palm Springs Regional Airport, located two miles east of Palm Springs, California.

F. The "Assets to be Divested" means all rights, titles and interests, including all fee, leasehold and real property rights, in the PSP Assets, the BDL Assets, and the APA Assets, as defined below:

1. The "PSP Assets" means all tangible and intangible assets controlled by the existing Signature FBO at Palm Springs Airport, as described in Appendix A.

2. The "BDL Assets" means all tangible and intangible assets controlled by the existing Combs FBO at Bradley International Airport, as described in Appendix B, but does not include the assets related to Combs' commercial jet fueling business, such as the bulk fuel storage facility and the fuel farm.

3. The "APA Assets" means all tangible and intangible assets controlled by the existing Combs FBO at Denver Centennial Airport, as described in Appendix C.

G. "FBO" means any or all services related to providing fixed based operator services to general aviation customers, including, but not limited to, selling fuel, leasing hangar, ramp, and office space, providing flight support services, performing maintenance, providing access to terminal facilities, or arranging for ancillary services such as rental cars or hotels.

H. "FBO Facility" means any and all tangible and intangible assets required to provide FBO services, including but not limited to office/terminal space, hangars, ramps, a general aviation fuel farm for Jet A Fuel and aviation gas, and related fueling and maintenance equipment.

I. "SunBorne" means SunBorne Development Corporation, a real estate development company doing business in the Denver, Colorado area.

J. "SunBorne FBO Facility" means the FBO facility that is to be constructed at APA Airport by SunBorne. The SunBorne FBO facility is to consist of (1) an office/terminal facility to occupy the first floor (approximately 15,000 square feet) of a three-floor building to be constructed by SunBorne; (2) one 25,000 square foot hangar to be constructed by SunBorne; (3) a general aviation fuel farm with storage for 40,000 gallons of Jet A fuel and 20,000 gallons of aviation gas to be constructed by Signature; and (4) a 10.8 acre ramp.

K. "Substitute operator for the SunBorne FBO Facility" means a person who, with the approval of SunBorne and of the Arapahoe County Public Airport Authority, will operate the SunBorne FBO Facility in Signature's stead.

III. Applicability

A. The provisions of this Final Judgment apply to defendants, their successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Signature shall require, as a condition of the sales or other disposition(s) of all or substantially all of the Assets to be Divested, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

IV. The SunBorne FBO Facility

A. Signature shall have until September 1, 1999, to find a substitute operator for the SunBorne FBO Facility that is acceptable to the United States in its sole discretion. The United States, in its sole discretion, may extend the time period for finding a substitute operator by an additional period of time not to exceed thirty (30) calendar days.

V. Divestiture of the Assets

A. Signature is hereby ordered and directed in accordance with the terms of this Final Judgment, within one hundred eighty (180) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the PSP Assets and the BDL Assets as ongoing businesses to purchasers acceptable to the United States in its sole discretion. With respect to any of the PSP Assets and the BDL Assets to be divested in which Signature holds a leasehold interest, Signature must transfer the entire leasehold including all renewal or option rights.

B. In addition to divesting the PSP Assets and the BDL Assets, Signature shall provide to the purchaser of the BDL Assets (which includes all successors, assigns, parents, subsidiaries, affiliates, and directors, officers, managers, agents, and employees acting for or on behalf of the purchaser) the option of access to the existing Combs jet fuel bulk storage facility and fuel farm for two years. In the event that the purchaser exercises this option, such access shall be limited to the storage and delivery of the purchaser's owned Jet A fuel for use at the BDL Assets. To the extent Signature charges the purchaser of the BDL Assets for access, the service charge shall be commercially reasonable and shall be no greater than the fee Signature charges any other customer for the same types of services associated with such access.

C. In the event that Signature does not find a substitute operator for the SunBorne FBO Facility by the date set forth in Paragraph A of Section IV. Signature is hereby ordered and directed in accordance with the terms of this Final Judgment, by June 1, 2000, or within 10 (ten) calendar days after receipt of a certificate of occupancy by SunBorne Development Corporation for the SunBorne FBO facility, whichever is sooner, to divest the APA Assets as an ongoing business to a purchaser acceptable to the United States in its sole discretion. With respect to any of the APA Assets in which Signature holds a leasehold interest, Signature must transfer the entire leasehold including all renewal or option rights

D. Signature shall use its best efforts to facilitate the completion of the SunBorne FBO Facility.

E. Signature shall not take any action, direct or indirect, that will impede in any way the completion of the SunBorne FBO Facility.

F. The plaintiff may, in its sole discretion, relieve Signature of the obligation to divest the APA Assets based on the plaintiff's assessment of changed circumstances relating to the completion of the SunBorne FBO Facility.

G. Signature shall use its best efforts to accomplish each of the divestitures as expeditiously and timely as possible. The United States, in its sole discretion, may extend the time period for any of the divestitures in order to accommodate mandatory municipal, county, state or federal review.

H. In accomplishing each of the divestitures order by this Final Judgment. Signature promptly shall make known, by usual and customary means, the availability of each of Assets to be Divested described in the Final Judgment. Signature shall inform any person making any inquiry regarding a possible purchase that the sales are being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Signature shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding the Assets to be Divested customarily provided in a due diligence process, except such information subject to attorney-client

privilege or attorney work-product privilege. Signature shall make available such information to the plaintiff at the same time that such information is made available to any other person.

I. Signature shall not interfere with any negotiations by any purchaser to employ any employee who works at any of the Assets to be Divested, or whose principal responsibility is operating or managing any of the Assets to be Divested.

J. Signature shall permit prospective purchasers of each of the Assets to be Divested to have reasonable access to personnel and to make such inspection of each of the Assets to be Divested; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

K. Signature shall not take any action, direct or indirect, that will impede in any way the operation or value of the Assets to be Divested.

L. Unless the United States otherwise consents in writing, the divestitures pursuant to Section V, or by a trustee appointed pursuant to Section VI of this Final Judgment, shall include all of the Assets to be Divested, operated in place pursuant to the Hold Separate Stipulation and Order, and be accomplished by selling or otherwise conveying all of the Assets to be Divested to purchasers in such a way as to satisfy the United States, in its sole discretion, that each of the Assets to be Divested can and will be used by the purchasers as part of viable, ongoing businesses engaged in providing FBO services at PSP Airport, at BDL Airport, and at APA Airport. Each of the divestitures, whether pursuant to Section V or Section VI of this Final Judgment, shall be made to purchasers for whom it is demonstrated to the United States' sole satisfaction that: (1) The purchasers have the capability and intent of competing effectively in the provision of FBO services at PSP Airport, at BDL Airport, and at APA Airport; (2) the purchasers have or soon will have the managerial, operational, and financial capability to compete effectively in the provision of FBO services at PSP Airport, BDL Airport, and APA Airport; and (3) none of the terms of any agreement between the purchasers and Signature gives Signature the ability unreasonable to raise the purchasers' costs, to lower the purchasers' efficiency, or otherwise to interfere in the ability of the purchasers to complete effectively.

VI. Appointment of Trustee

A. In the event that Signature has not divested all of the Assets to be Divested within the times specified in Section V of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States to effect the divestitures of those Assets to be Divested that have not been timely divested.

B. After the appointment of a trustee becomes effective, only that trustee shall have the right to sell the particular Assets to be Divested (i.e., APA Assets, PSP Assets, and/or BDL Assets). The trustee shall have the power and authority to accomplish the divestiture(s) at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections V and VII of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section VI(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Signature any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the particular divestiture(s), and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the particular divestiture(s) at the earliest possible time to purchaser(s) acceptable to the United States in its sole discretion and shall have such other powers at this Court shall deem appropriate. Signature shall not object to a sale by trustee on any grounds other than the trustee's malfeasance. Any such objections by Signature must be conveyed in writing to plaintiff and the trustee within ten (10) days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. A trustee shall serve at the cost and expense of Signature, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Signature and the trust shall then be terminated. The compensation of the trustee and of professionals and agents retained by the trustee shall be reasonable in light of the value of each of the divested businesses and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the particular divestiture(s) and the speed with which it is accomplished.

D. Signature shall use its best efforts to assist the trustee in accomplishing the required divestiture(s), including its best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the Assets to be Divested, and Signature shall develop financial or other information relevant to the Assets to be Divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Signature shall permit prospective acquirers of each of the Assets to be Divested to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth that trustee's efforts to accomplish the particular divestiture(s) ordered under this Final Judgment; provided however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in any of the Assets to be Divested, and shall describe in detail each contact with any such person during this period. The trustee shall maintain full records of all efforts made to divest the particular Assets to be Divested.

F. If the trustee has not accomplished such divestiture(s) within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth: (1) The trustee's efforts to accomplish the required divestiture(s), (2) the reasons, in the trustee's judgment, why the required divestiture(s) have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such reports to the parties, who shall each have the right to be heard and

to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment for a period requested by the United States.

VII. Notification

Within two (2) business days following execution of a definitive agreement contingent upon compliance with the terms of this Final Judgment to effect, in whole or in part, the proposed divestitures pursuant to Sections V or VI of this Final Judgment, Signature or a trustee, whichever is then responsible for effecting the particular divestiture(s), shall notify plaintiff of the proposed divestiture(s). If a trustee is responsible, the trustee shall similarly notify Signature. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the particular Assets to be Divested that is the subject of the definitive agreement, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, the United States, in its sole discretion, may request from Signature, the proposed purchaser(s), or any other third party additional information concerning the proposed divestiture(s) and the proposed purchaser(s). Signature and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the plaintiff has been provided the additional information requested from Signature, the proposed purchaser(s), or any third party, whichever is later, the United States shall provide written notice to Signature and the trustee, if there is one, stating whether or not it objects to the proposed divestiture(s). If the United States provides written notice to Signature and the trustee that it does not object, then the divestiture(s) may be consummated, subject only to Signature's limited right to object to the sales under Section VI(B) of this Final Judgment. Absent written notice that the United States does not object to the proposed purchaser or upon objection by the United States, none of the divestitures proposed under Section V or Section VI shall be consummated. Upon objection by Signature under the provision in Section VI(B), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VIII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed whether pursuant to Section V or Section VI of this Final Judgment, Signature shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Section V or Section VI of this Final Judgment. Each such affidavit shall include, inter alia, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in each of the Assets to Divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that Signature has taken to solicit buyer(s) for each of the Assets to be Divested and to provide required information to prospective purchasers, including the limitations, if any, on such information.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Signature shall deliver to plaintiff an affidavit which describes in detail all actions Signature has taken and all steps Signature has implemented on an on-going basis to preserve each of the Assets to be Divested pursuant to Section IX of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. Relating to the PSP Assets and the BDL Assets, the affidavit also shall describe, but not be limited to, Signature's efforts to maintain and operate each of those Assets to be Divested as active competitors, maintain the management, staffing, research and development activities, sales, marketing, and pricing of each of those Assets to be Divested, and maintain the PSP and BDL FBO facilities in operation condition at current capacity configurations. Relating to the APA Assets, the affidavit shall describe, but not be limited to, Signature's efforts to maintain the management, staffing, research and development activities, sales, marketing, and pricing of the APA Assets, and maintain the APA FBO facility in an operable condition at current capacity configurations. Signature shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in Signature's earlier affidavit(s) filed pursuant to Section VIII(B) within fifteen (15) calendar days after the change is implemented.

C. Until one year after each divestiture has been completed, Signature shall preserve all records of all efforts made to preserve the Assets to be Divested and effect the divestitures.

IX. Hold Separate Order

Until the divestitures required by the Final Judgment have been accomplished. Signature shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Signature shall take no action that would jeopardize the divestiture of any of the Assets to Be Divested.

X. Financing

Signature is ordered and directed not to finance all or any part of any purchase by an acquirer made pursuant to Sections V or VI of this Final Judgment.

XI. Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Signature made to its principal offices, shall be permitted:

1. Access during office hours of Signature to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Signature, who may have counsel present, relating to any matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and

2. Subject to the reasonable convenience of Signature and without restraint or interference from them, to interview, either informally or on the record, its officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to Signature at its principal offices, Signature shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment and the Hold Separate Stipulation and Order.

C. No information nor any documents obtained by the means provided in Sections VIII or XI of this Final Judgment shall be divulged by a representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by any of the defendants to plaintiff, any of the defendants represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give ten (10) days notice to the defendant(s) prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

_____

United States District Judge

Appendix A—PSP Assets

"PSP Assets" means all rights, titles, and interests, including all fee, leasehold and real property rights, in the following assets owned or controlled by Signature that are used by Signature to provide fuel or other services to general aviation customers at PSP Airport.

1. The existing 8,000 square foot Signature terminal and office buildings.

2. Approximately 21,000 square feet of hangar space, consisting of the existing Signature hangar buildings and approximately 30,000 square feet of space prepared for hangar use.

3. The existing Signature above-ground fuel farm consisting of two 20,000 gallon Jet A fuel tanks and one 12,000 gallon avgas tank with fuel separator sump system that is adjacent to the t-hangars.

4. Approximately 40,000 square feet of ramp space adjacent to the foregoing buildings.

5. All equipment and supplies necessary and appropriate to support a viable FBO business at the foregoing facilities, including but not limited to, existing office furniture, lobby furniture, phone system, radios, televisions, towing equipment, golf carts, pickup trucks, refuellers, and ground power units.

6. Contracts (including, but not limited to, customer contracts) and customer lists related to this location.

7. Approximately 2.5 acres of parking space.

Appendix B—BDL Assets

"BDL Assets" means all rights, titles, and interests, including all fee, leasehold and real property rights, in the following assets owned or controlled by Combs that are used by Combs to provide fuel or other services to general aviation customers at BDL Airport.

1. The existing Combs terminal and office buildings.

2. Approximately 50,000 square feet of hangar space, consisting of the existing Combs hangar buildings: One 30,000 square foot hangar (Hangar 214); one 20,000 square foot hangar (Storage Hangar).

3. The existing Combs avgas tank, located adjacent to the commercial airline services building.

4. Approximately 366,000 square feet of ramp space adjacent to the foregoing buildings.

5. All equipment and supplies necessary and appropriate to support a viable FBO business at the foregoing facilities, including but not limited to, existing office furniture, lobby furniture, phone system, radios, televisions, towing equipment, golf carts, pickup trucks, refuellers, ground power units.

6. Contracts (including, but not limited to, customer contracts) and customer lists related to this location.

7. Approximately .9 acres of parking space.

Appendix C—APA Assets

"APA Assets" means all rights, titles, and interests, including all fee, leasehold and real property rights, in the following assets owned or controlled by Combs that are used by Combs to provide fuel or other services to general aviation customers at APA Airport.

1. The existing Combs terminal and office buildings.

2. Approximately 40,000 square feet of hangar space, consisting of the existing Combs hangar buildings: one hangar of 20,000 square feet (Hangar 9); one hangar of 20,000 square feet (Hangar 10).

3. The existing Combs fuel farm consisting of two 12,000 gallon Jet A tanks and one 10,000 gallon avgas tank located ¼ mile from the executive terminal between Peoria Street and Dove Valley Parkway.

4. Approximately 1,000,000 square feet of ramp space adjacent to the foregoing buildings.

5. All equipment and supplies necessary and appropriate to support a viable FBO business at the foregoing facilities, including but not limited to, existing office furniture, lobby furniture, phone system, radios, televisions, towing equipment, golf carts, pickup trucks, refuellers, and ground power units.

6. Contracts (including, but not limited to, customer contracts) and customer lists related to this location.

7. Approximately 5 acres of parking space.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On March 1, 1999, the United States filed a Complaint alleging that the proposed acquisition by Signature Flight Support Corporation ("Signature") of the flight support operations of AMR Combs, Inc. ("Combs"), a wholly owned indirect subsidiary of AMR Corporation, would violate Section 7 of the Clayton Act, 15 U.S.C. 18.

The Complaint alleges that Signature and Combs own and operate fixed base operator ("FBO") businesses at various airports around the country. Combs owns and operates eleven FBOs in the United States, including FBOs at Palm Springs Regional Airport ("PSP Airport"), Bradley International Airport ("BDL Airport"), and Denver Centennial Airport ("APA Airport"). The Complaint alleges that Signature and Combs are the only two providers of FBO services for general aviation customers at PSP Airport, located two miles east of Palm Springs, California, and BDL Airport, located near Hartford, Connecticut. the Complaint further alleges that the proposed acquisition will create a monopoly for Signature at those two airports, giving it significant power to raise prices and lower the quality of service. Thus, the proposed acquisition would have likely lessened competition substantially in the market for FBO services at PSP Airport and BDL Airport in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

The Complaint also alleges that the proposed acquisition would deny general aviation customers at APA Airport, where there are currently two

competing FBOs, the benefits of additional competition at the airport. In 2000, when a new FBO facility is built, Signature was to enter the market as the third FBO. The likely benefits to general aviation customers at APA Airport from competition among three FBOs would have been increased choice and lower prices for fuel and hangar rentals. Signature's proposed acquisition of the Combs FBO at APA Airport would have eliminated the likelihood of anticipated additional competition because entry by a different FBO is not likely. Signature is one of only a few firms positioned to make the necessary commitment for a start-up operation on the scale desired by the airport board. Accordingly, Signature's proposed acquisition would have lessened potential competition in the market for FBO services at APA Airport in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

The prayer for relief in the Complaint seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a preliminary and permanent injunction preventing Signature and Combs from consummating the proposed acquisition.

At the same time the Complaint was filed, the United States also filed a proposed settlement that would permit Signature to complete its acquisition of Combs, but requires divestitures that would preserve competition for general aviation customers at PSP Airport and at BDL Airport. With regard to APA Airport, the proposed settlement would require a divestiture unless another firm replaces Signature as the operator of the new FBO facility, thereby preserving the potential for competition among three FBOs for general aviation customers at APA Airport.

This settlement consists of a Hold Separate Stipulation and Order ("Hold Separate Order"), and a proposed Final Judgment. The proposed Final Judgment orders Signature to sell the FBO assets at two of the airport—PSP Airport and BDL Airport—to purchasers who have the capability to compete effectively in the provision of FBO services to general aviation customers at those airport. Signature will divest the existing Signature assets located at PSP ("the PSP Assets"). At BDL Airport, Signature will divest the existing Combs assets except for Combs' interests in a bulk jet fuel storage facility and a fuel farm, which is located in different parts of the airport from the Combs FBO facility ("the BDL Assets"). Signature must complete the divestitures of the PSP Assets and the BDL Assets before the later of one hundred and eighty (180) calendar days after filing of the Complaint, or five (5) days after entry of the Final Judgment, in accordance with the procedures specified in the proposed Final Judgment. If Signature should fail to accomplish the divestitures, a trustee appointed by the Court would be empowered to divest these assets.

With regard to APA Airport, the proposed Final Judgment takes into account two facts: the third FBO facility has not yet been built and Signature would occupy it as a tenant of the builder, a real estate developer called SunBorne Development Company ("SunBorne"). Accordingly, the proposed settlement permits Signature to occupy and operate the existing Combs FBO Facility at APA Airport ("the APA Assets") pending SunBorne's construction of the new FBO. Within ten days of presentation of a certificate of occupancy for the new FBO or June 1, 2000, whichever is sooner, Signature must divest the APA Assets and move into the new FBO facility, unless Signature has found a suitable firm to operate the new FBO facility in its stead.

The Hold Separate Order and the proposed Final Judgment also impose a hold separate agreement that requires defendant Signature to ensure that, until the divestitures mandated by the Final Judgment have been accomplished, the PSP Assets and the BDL Assets will be held separate and apart from, and operated independently of, Signature's other FBO assets and businesses. Similarly, the Hold Separate Order and the proposed Final Judgment require Signature to ensure that, if divestiture of the APA Assets is required, no steps will be taken that would denigrate their value.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Events Giving Rise to the Alleged Violation

A. The Parties and the Proposed Transaction

On December 14, 1998, Signature, AMR Services Holding Corp., and AMR Corporation (the parent of AMR Combs, Inc., and AMR Services Holding Corp.) entered into an agreement under which Signature would seek to acquire all of the capital stock of Combs for approximately $170 million.

Signature is a wholly owned subsidiary of BBA Group PLC, a British holding company. Signature is a Delaware corporation with its principal place of business in Orlando, Florida. Signature operates a nationwide network of forty-two FBOs throughout the United States, including facilities at PSP Airport and BDL Airport.

Combs is a wholly owned, indirect subsidiary of AMR Corporation, which is a Delaware corporation with its principal place of business in Forth Worth, Texas. Combs is a Delaware corporation, headquartered in Dallas, Texas. It owns and operates eleven FBOs throughout the United States, including ones at PSP Airport, BDL Airport, and APA Airport. Combs also manages two FBOs in Mexico and is an equity partner in an executive aviation center in Hong Kong.

B. The FBO Services Market

FBOs are facilities located at airports that provide flight support services, including aircraft fueling, ramp and hangar rentals, office space rentals, and other services to general aviation customers. General aviation customers include charter, private and corporate aircraft operators, as distinguished from scheduled commercial airlines.

FBOs sell aircraft fuel, as well as related support services such as ramp, hangar and office space rental. The largest source of revenues for an FBO is its fuel sales. FBOs sell Jet A fuel for jet aircraft, turboprops and helicopters, and avgas for smaller, piston driven planes. FBOs do not charge separately for many services offered to general aviation customers, such as use of customer and pilot lounges, baggage handling, and flight planning support, rather, they recover the costs for these services in the price that they charge for fuel. FBOs do charge separately for certain services, such as hangar rental, office space rental, ramp parking fees, catering, cleaning the aircraft, arranging ground transportation and maintenance on the aircraft. General aviation customers generally buy fuel from the same FBO from which they obtain those other services.

The Complaint alleges that the provision of FBO services to general aviation customers at each of the airports—PSP Airport, BDL Airport, and APA Airport—is a relevant market (*i.e.*, a line of commerce and a section of the country) under Section 7 of the Clayton Act. General aviation customers cannot obtain fuel, hangar, ramp and other services offered at PSP Airport, BDL Airport, or APA Airport, except through an FBO authorized to sell such products and services by the local airport

authority. Thus, general aviation customers have no alternatives to FBOs for these products and services when they land at PSP Airport, BDL Airport, or APA Airport.

The Complaint also alleges that FBOs at other airports would not provide economically practical alternatives for general aviation customers who currently use PSP Airport, BDL Airport, and APA Airport. Although there are other airports in the same regions as PSP Airport, BDL Airport, and APA Airport, those other airports are not economically viable substitutes for passengers flying into PSP Airport, BDL Airport, or APA Airport. General aviation customers use PSP Airport, BDL Airport, or APA Airport because of the airport's location, convenience and facilities. General aviation customers have selected these airports in part because of their proximity to their ultimate destination (whether their residence, business or other place); using a different airport would significantly increase their driving time, reducing the convenience of maintaining a corporate jet. There are not enough general aviation customers who have selected PSP Airport, BDL Airport, or APA Airport as their airport who would switch to other airports to prevent anticompetitive price increases for fuel and other services at PSP Airport, BDL Airport, or APA Airport.

C. Competition Between Signature and Combs

1. *PSP Airport and BDL Airport.* Signature and Combs are direct competitors in the provision of FBO services to general aviation customers at PSP Airport and BDL Airport. As the only two FBOs at PSP Airport and BDL Airport, Signature and Combs compete over price and service packages. General aviation customers have benefited from competition between Signature and Combs at PSP Airport and BDL Airport, receiving lower prices and improved FBO services. The acquisition would eliminate this competition, creating a monopoly in the market for FBO services to general aviation customers at PSP Airport and at BDL Airport.

The prospect of new entry is not likely to check Signature's resulting ability to raise prices or reduce service. The financial opportunity that would be created by the anticompetitive effect of this merger would not be great enough to induce a new entrant to make the investments needed to enter the FBO business at PSP Airport and BDL Airport. There are significant sunk costs involved in building an FBO, including the cost of building hangar and ramp facilities. The revenue a new FBO operation would have to generate to achieve an acceptable rate of return on such an investment exceeds the revenues a new entrant would likely earn. In particular, a new entrant would have to achieve a large enough share of market revenues to be able to cover the fixed (including sunk) costs of entry and be profitable at pre-merger prices. And, the airport authorities' minimum operating standards, which require an FBO to provide other services beyond hangar rental, fueling and maintenance, effectively raise the minimum viable scale of entry, making entry even more difficult. Therefore, new FBO entry on a scale sufficient to prevent a post-merger price increase is not likely to occur at PSP Airport and BDL Airport.

2. *APA Airport.* The market for FBO services at APA Airport is presently highly concentrated, with only two FBOs competing. Prior to its proposed acquisition of Combs, Signature was poised to enter as a third independent competitor early in 2000 when a new FBO facility is to be competed. In September of 1998, Signature signed a detailed letter of intent with SunBorne, the real estate developer, to enter as the tenant operator of an FBO facility at APA Airport in 2000.

For general aviation consumers, the addition of a third, independent FBO at APA Airport would increase consumer choice and would have likely resulted in increased price and quality competition to the benefit of general aviation customers at APA Airport.

Signature's acquisition of Combs significantly lessens the potential for competition among three FBOs at APA Airport. Entry by a different firm that would be the third independent FBO is not likely because Signature was one of only a few firms positioned to make the necessary commitment for a start-up operation.

D. Anticompetitive Consequences of the Acquisition

The Complaint alleges that Signature's acquisition of Combs would result in FBO monopolies at PSP Airport and at BDL Airport. The Complaint further alleges that Signature's acquisition of the Combs FBO at APA Airport would deprive general aviation customers of the benefits of additional competition from having three independent FBOs, rather than just two.

The Complaint alleges that the acquisition of Combs by Signature would substantially lessen competition and restrain trade unreasonably. The transaction would have eliminated actual competition between Signature and Combs in the market for FBO services at PSP Airport and BDL Airport, resulting in an increase in prices for fuel and other FBO services. In addition, potential competition at APA Airport would be substantially lessened, and prices for fuel and other FBO services sold to general aviation customers at APA Airport would not decrease.

III. Explanation of the Proposed Final Judgment

The United States brought this action because the effect of the acquisition of Combs by Signature may be substantially to lessen competition, in violation of Section 7 of the Clayton Act, in the markets for FBO services provided to general aviation customers at PSP Airport, BDL Airport, and APA Airport.

A. PSP Airport and BDL Airport Provisions

The risk to competition posed by this acquisition at PSP Airport and BDL Airport, however, would be eliminated if certain assets, leases, and agreements currently held by Signature or Combs to operate their PSP Airport and BDL Airport FBO businesses were sold and assigned to a purchaser that could operate them as an active, independent and financially viable competitor. To this end, the provisions of the proposed Final Judgment are designed to accomplish the sale and assignment of certain assets and leaseholds to such a purchaser and thereby prevent the anticompetitive effects of the proposed acquisition.

Section V of the proposed Final Judgment requires defendant Signature, within one hundred and eighty (180) calendar days after filing of the Complaint in this matter, or within five (5) days after notice of entry of the Final Judgment by the Court, whichever is later, to divest an FBO business at PSP Airport and an FBO business at BDL Airport, as set out in Section II.C (i.e., the PSP Assets and the BDL Assets) of the proposed Final Judgment. Unless the United States otherwise consents in writing, Signature is required to divest its present FBO business at PSP Airport, including all hangars, ramp and office space, fuel farms, and any related terminal and maintenance facilities located on the property it presently leases as well as any other leases or options on leases it possesses at PSP Airport.

At BDL Airport, Signature is required to divest Combs's present FBO operation, including all hangars, ramp and office space, and any related terminal and maintenance facilities located on the property Combs presently

leases, as well as any other leases or options on leases Combs possesses at BDL Airport. Combs does not have a jet fuel farm at its FBO location. It obtains fuel for its general aviation customers from its fuel farm located at BDL Airport's commercial terminal. Combs's fuel farm serves predominantly commercial aviation customers, and Combs's commercial fueling business is separate from its FBO business. The proposed Final Judgment requires Signature, which will own the fuel farm after the acquisition, to provide the purchaser of the Combs FBO business with non-discriminatory and unlimited access to the fuel farm at the commercial terminal for a minimum of two years. Access will be limited to the storage and delivery of the purchaser's owned Jet A fuel for FBO use at BDL Airport. Signature may charge the purchaser a commercially reasonable access charge that is not greater than what it charges others for the costs associated with the purchaser's use of the facilities. Of course, the purchaser of the Combs FBO business is free to build its own fuel farm (which it could do in relatively short amount of time for a moderate cost), or it may negotiate a longer term access agreement with Signature.

B. APA Airport Provisions

The risk to competition posed by this acquisition at APA Airport would be eliminated if the likelihood of entry by a third, independent FBO remains the same after the transaction as it was before. This could be accomplished in one of two ways: (1) Signature could go ahead with its plan to be the operator of the new FBO upon its completion, and sell the existing Combs FBO business ("the APA Assets") to a purchaser that could operate it as an independent and financially viable competitor; or (2) Signature could find a firm willing to operate the new FBO instead of Signature, in which case, Signature could operate the existing Combs business.

Accordingly, Section IV of the proposed Final Judgment gives Signature until September 1, 1999, to find a substitute operator for the new FBO facility. If Signature is unsuccessful, Section V of the proposed Final Judgment requires Signature to move into the new FBO facility and divest the APA Assets no later than June 1, 2000, or within ten days of receiving a certificate of occupancy from SunBorne. Section V further provides that if circumstances relating to the completion of the new FBO change, the United States may, in its discretion, relieve Signature of the obligation to sell the APA Assets. As a result of the obligations imposed on Signature, and the divestiture required by the proposed Final Judgment, general aviation customers at APA Airport will be able to reap the benefits of three competing FBOs in 2000.

C. General Divestiture Provisions

For each of the required divestitures, Signature shall divest such equipment and supplies as is necessary and appropriate to operate a viable FBO at PSP Airport, BDL Airport, and APA Airport. Signature shall transfer its contracts, including customer contracts, and customer lists, for providing FBO services at each airport. Together with the equipment, supplies and customer contracts and lists, and the commitment to access to the fuel farm at BDL Airport at a reasonable price, these assets will give qualified purchasers the means to establish themselves as competitive alternatives to Signature. Thus, as a result of the divestitures required by the proposed Final Judgment, general aviation consumers at PSP Airport and BDL Airport will continue to have a choice between two competitive FBOs, and at APA Airport, the likelihood of their having three competing FBOs has been maintained.

Under the proposed Final Judgment, Signature must take all reasonable steps necessary to accomplish quickly the divestitures of the PSP Assets, the BDL Assets, and the APA Assets, and shall cooperate with prospective purchasers by supplying all information relevant to the proposed sales. Should Signature fail to complete any of its divestitures within the required time periods, the Court will appoint, pursuant to Section VI, a trustee to accomplish the divestitures. The United States will have the discretion to delay the appointment of the trustee in order to permit other governmental review (such as the county or municipal airport authority).

Following the trustee's appointment, only the trustee will have the right to sell the divestiture assets, and defendant Signature will be required to pay for all of the trustee's sale-related expenses. The trustee's compensation will be structured to provide an incentive for the trustee to obtain the highest price for the assets to be divested, and to accomplish the divestitures as quickly as possible.

Section VII of the proposed Final Judgment would assure the United States an opportunity to review any proposed sale, whether by Signature or by the trustee, before it occurs. Under this provision, the United States is entitled to receive complete information regarding any proposed sale or any prospective purchaser prior to consummation. Upon objection by the United States to a sale of any of the divestiture assets by the defendant Signature, any proposed divestiture may not be completed. Should the United States object to a sale of any of the divested assets by the trustee, that sale shall not be consummated unless approved by the Court.

Pursuant to Section VI.F, should the trustee not accomplish the divestitures within six months of appointment, the trustee and the parties will make a recommendation to the Court, which shall enter such orders as it deems appropriate to carry out the purpose of the trust, which may include extending the term of the trustee's appointment.

Under Section IX of the proposed Final Judgment, defendant Signature must take certain steps to ensure that, until the required divestitures have been completed, the PSP Assets and the BDL Assets will be maintained as separate, ongoing, viable FBO businesses and kept distinct from Signature's other FBO operations. Until such divestitures, Signature must also continue to maintain and operate the divestiture assets as viable, independent competitors as PSP Airport and BDL Airport, using all reasonable efforts to maintain sales of FBO services to general aviation customers at PSP Airport and BDL Airport. Until the divestiture, Signature must maintain and operate the APA Assets as a viable entity, using all reasonable efforts to maintain its sales of FBO services to general aviation customers at APA Airport. Signature must maintain all three FBO businesses at PSP Airport, BDL Airport, and APA Airport, so that they continue to be stable, including maintaining all records, loans, and personnel for their operation.

Section XI requires the Signature to make available, upon request, the business records and the personnel of its businesses. This provision allows the United States to inspect Signature's facilities and ensure that Signature is complying with the requirements of the proposed Final Judgment. Section XIII of the proposed Final Judgment provides that it will expire on the tenth anniversary of its entry by the Court.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable

attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against the defendants.

V. Procedure for Commenting on the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trail on the merits of its Compliant against Signature and Combs. The Unites States is satisfied, however, the divestitures of the assets and other relief contained in the proposed Final Judgment will preserve viable competition in the provisions of FBO services to general aviation customers at PSP Airport, BDL Airport, and APA Airport that otherwise would be affected adversely by the acquisition. Thus, the compliance with the proposed Final Judgment and the completion of the sale required by the Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the government's Complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court *may* consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trail.

15 U.S.C. 16(e). As the United States Court of Appeals for the D.C. Circuit has held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir 1995).

In conducting this inquiry, "the court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." [1] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d at 1460–62. Precedent requires that

the balancing of competing social and political interest affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practicular practice or whether in mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omited.)." [3]

VIII. Determinative Materials and Documents

There are no materials or documents that the United States considered to be determinative in formulating this proposed Final Judgment. Accordingly,

---

[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9 *reprinted in* (1974) U.S. Code Cong. & Ad News 6535, 6538.

[2] *United States* v. *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716; *see also Microsoft*, 56 F.3d at 1461 (whether "the, remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.'") (citations omitted).

[3] *United States* v. *American Tel. and Tel. Co.*, 552 F.Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom, Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting United States* v. *Gillette Co., Supra*, 406 F.Supp. at 716; *United States* v. *Alcan Alumninum, Ltd.*, 605 F.Supp. 619, 622 (W.D. Ky. 1985)

none are being filed with this Competitive Impact Statement.

Dated: March 15, 1999.

Respectfully submitted,

Nina B. Hale,

Salvatore Massa,

Trial Attorneys, U.S. Department of Justice, Antitrust Division, Transportation, Energy and Agriculture Section, Suite 500, 325 Seventh Street, NW., Washington, DC 20530, (202) 307–6351.

[FR Doc. 99–7288 Filed 3–25–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98–36]

Francois J. Saculla, M.D., Revocation of Registration

On April 13, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Francois J. Saculla, M.D. (Respondent) of Racine, Wisconsin notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BS1404552, and deny any pending applications for renewal of his registration pursuant to 21 U.S.C. 823(f) and 824(a)(3), for reason that he is not currently authorized to handle controlled substances in the State of Wisconsin.

By letter dated May 21, 1998, but not filed with the Office of Administrative Law Judges until July 20, 1998, Respondent requested a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On August 20, 1998, the Government filed a Motion for Summary Disposition alleging that Respondent is not currently authorized to handle controlled substances in the state in which he is registered with DEA and therefore DEA cannot maintain his registration. Judge Bittner provided Respondent with an opportunity to respond to the Government's motion, but no such response was filed.

On October 14, 1998, Judge Bittner issued her Opinion and Recommended Decision finding that Respondent lacked authorization to handle controlled substances in Wisconsin; granting the Government's Motion for Summary Disposition; and recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her opinion, and on November 24, 1998, Judge Bittner transmitted the record of these proceedings to the then-Acting Deputy Administrator.

The Deputy Administrator has considered the record in its entirely, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that in a Final Decision and Order dated November 25, 1994, the State of Wisconsin, Medical Examining Board (Board) limited Respondent's license to practice medicine. The Board Order prohibited Respondent from treating any female patient; ordered that his entire practice be under the direct supervision of another physician; required that Respondent undergo psychological evaluation within 90 days; and advised that any additional limitations recommended by the psychologist would be adopted by the Board. In addition, costs were assessed against Respondent ion the amount of $22,000. The Order placed no limitations on Respondent's ability to handle controlled substances in Wisconsin. Therefore, Respondent presently possesses a limited license to practice medicine in Wisconsin.

However, in order to practice medicine in Wisconsin an individual must not only be licensed but must also possess a registration. Respondent's Wisconsin registration expired on November 1, 1995. Therefore, Respondent is unable to practice medicine in the State of Wisconsin. The Deputy Administrator finds that it is reasonable to infer that if Respondent is unable to practice medicine in Wisconsin, he is also not authorized to handle controlled substances in that state. In his request for a hearing, Respondent did not deny that he was not currently authorized to handle controlled substances in Washington.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D. 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in Wisconsin, where he is registered with DEA. Since Respondent lacks this state authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Bittner properly granted the Government's Motion for Summary Disposition. It is well settled that where there is no material question of fact involved, or when the material facts are agreed upon, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. Gilbert Ross, M.D., 61 FR 8664 (1996); Philip E. Kirk, M.D., 48 FR 32,887 (1993), aff'd sub nom Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BS1404552, previously issued to Francois J. Saculla, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective April 26, 1999.

Dated: March 22, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–7441 Filed 3–25–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 23, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Acting Departmental Clearance Officer, Pauline Perrow ((202) 219–5096 ext. 165) or by E-Mail to Perrow-Pauline@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM,

ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**. The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration (ESA).

Title: Report of Ventilatory Study (CM–907), Roentgenographic Interpretation (CM–933 and CM933b), Medical History and Examination for Coal Mine Workers' Compensation (CM–988) and Report of Arterial Blood Gas Study (CM–1159).

OMB Number: 1215–0090 (Extension).

Frequency: On-occasion.

Affected Public: Business or other for-profit; not-for-profit institutions;

Number of Respondents: 37,800.

Estimated Time Per Respondent:

CM–907 20 minutes
CM–933 05 minutes
CM–933b 05 minutes
CM–988 30 minutes
CM–1159 15 minutes

Total Burden Hours: 9,338.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: CM–907, Report of Ventilatory Study. When a miner applies for benefits, the Division of Coal Mine Workers' Compensation (DCMWC) schedules a series of diagnostic tests, one of which is a ventilatory study. The results of the study can be used to establish total disability, a criterion for entitlement. CM–933 & CM–933b, Roentgenographic Interpretation Form, This is the form used to record the results of diagnostic x-rays to determine the presence of pneumoconiosis, a criterion for entitlement.

CM–988, Report of Physical Examination, provides information concerning the physical examination required by DOL to establish the presence of pneumoconiosis, total disability, and the causal relationship between the miner's coal mine employment and pneumoconiosis, all of which are criteria for entitlement.

CM–1159, Report of Arterial Blood Gas Study. This form was designed to set forth the results of the arterial blood gas studies as required by the regulations.

Agency: Employment Standards Administration (ESA).

Title: Comparability of Current Work to Coal Mine Employment; (2) Coal Mine Employment Affidavit; (3) Affidavit of Deceased Miner's Condition.

OMB Number: 1215–0056 (Extension).

Frequency: On-occasion.

Affected Public: Individuals and households.

Number of Respondents: 3,336.

Estimated Time Per Respondent:

CM–913—30 minutes
CM–918—10 minutes
CM–1093—20 minutes

Total Burden Hours: 1,618.

Total Annualized Capital/startup costs: $0.

Total Annual (operating/maintaining): $1,200.

Description: CM–913, Comparability of Current Work to Coal Mine Employment, This form is used to compare coal mine with non-coal mine work. This equipment information, together with medical information, is used to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment, a criteria for entitlement.

CM–918, Coal Mine Employment Affidavit, used to gather coal mine employment evidence only when primary evidence, such as pay stubs, W–2 forms, employer and union records, and Social Security records are unavailable or incomplete.

CM–1093, Affidavit of Deceased Miners' Condition, an affidavit used to record lay medical evidence. It is used in survivor's claims in which evidence of the miners' medical condition is insufficient.

Pauline Perrow,

Acting Departmental Clearance Officer.

[FR Doc. 99–7472 Filed 3–25–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable of Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used

in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Pennsylvania
PA990005 (Mar. 12, 1999)
PA990030 (Mar. 12, 1999)
PA990031 (Mar. 12, 1999)
Virginia
VA990042 (Mar 12, 1999)

Volume III:

Florida
FL990001 (Mar. 12, 1999)
Georgia
GA990022 (Mar. 12, 1999)
GA990032 (Mar. 12, 1999)
GA990034 (Mar. 12, 1999)
GA990050 (Mar. 12, 1999)
GA990073 (Mar. 12, 1999)
GA990085 (Mar. 12, 1999)
GA990087 (Mar. 12, 1999)

Volume IV:

None

Volume V:

Iowa
IA990031 (Mar. 12, 1999)
Nebraska
NE990009 (Mar. 12, 1999)

Volume VI:

None

Volume VII:

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and Related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 18th day of March 1999.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–7146 Filed 3–25–99; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice [99–049]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Propulsion Systems Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Propulsion Systems Subcommittee meeting.

DATES: Tuesday, April 13, 1999, 8:00 a.m. to 4:30 p.m., Wednesday, April 14, 1999, 8:00 a.m. to 4:30 p.m., and Thursday, April 15, 8:00 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, John H. Glenn Research Center at Lewis Field, Building 86, Room 100, 21000 Brookpark Road, Cleveland, OH 44135.

FOR FURTHER INFORMATION CONTACT: Dr. Carol J. Russo, National Aeronautics and Space Administration, John H. Glenn Research Center at Lewis Field, 21000 Brookpark Road, Cleveland, OH 44135, 216/433–2965.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Overview
—Propulsion Systems Base R&T Program Review
—Focus Program Review

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: March 18, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–7356 Filed 3–25–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice [99–050]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA-NIH Advisory Subcommittee and Life Sciences Advisory Subcommittee; Joint Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA-NIH Advisory Subcommittee.

DATES: Monday, April 12, 1999, 9:00 a.m. to 5:00 p.m.; and Tuesday, April 13, 1999, 9:00 a.m. to 12:00 Noon.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW, MIC–5A, Room 5H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Joan Vernikos, Code UL, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0220.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Action Status
—NASA Life Sciences Division Update
—FASEB and ASCB Reports
—NIH–NASA Program Announcement
—NIH–NASA Knockout Workshop
—NASA Pillars of Biology
—International Space Station Status
—Preparation of Committee Findings and Recommendations
—Review of Committee Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 18, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–7357 Filed 3–25–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice [99–051]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Aerospace Medicine and Occupational Health Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Aerospace Medicine and Occupational Health Advisory Subcommittee.

DATES: Wednesday, April 14, 1999, 8:30 a.m. to 5:00 p.m.

ADDRESSES: Kennedy Space Center, Conference Room of Kennedy Space Center, Visitors Complex, Room 2001, Guest Operations Center, Kennedy Space Center, FL 32899.

FOR FURTHER INFORMATION CONTACT: Dr. Sam L. Pool, Code SA, Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058, 281–483–7109.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Status of Space Medicine Issues
—Review of Occupational Health Program Safety Plan of Excellence
—NASA Office of Health Affairs Update
—Occupational Health Continuing Education Series
—Preparation of Committee Findings and Recommendations
—Review of Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 18, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–7358 Filed 3–25–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Meeting

AGENCY: National Gambling Impact Study Commission, Report Subcommittee.

ACTION: Notice of public meeting.

SUMMARY: At the April 7–8 meeting of the Report Subcommittee of the National Gambling Impact Study Commission, established under Public Law 104–169, dated August 3, 1996, the Subcommittee will discuss draft chapters of the Final Report, concerning advertising/promotion, Internet gambling, sports wagering, pari-mutuel, lotteries, casinos, gambling regulation, and future research, among others. The Report Subcommittee will also discuss the integration of Commission-contracted studies into draft chapters, as well as discuss presentation of draft chapters to the full Commission for review.

DATES: Wednesday, April 7, 8:30 a.m. to 5:30 p.m., and Thursday, April 8, 8:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting site will be: Phoenix Park Hotel Powerscourt Room, 520 North Capitol Street, NW, Washington, DC 20001.

Written comments can be sent to the Commission at 800 North Capitol Street, NW, Suite 450, Washington, DC 20002.

STATUS: The meeting will be open to the public both days.

CONTACT PERSONS: For further information contact Craig Stevens at (202) 523–8217 or write to 800 North Capitol St., NW, Suite 450, Washington, DC 20002.

SUPPLEMENTARY INFORMATION: Seating may be limited to approximately 50 persons and will be available on a first-come first-served basis. Members of the media who plan to attend are kindly asked to contact Mr. Craig Stevens, Communications and Logistics Coordinator, at 202–523–8217 to make arrangements. For more information, please contact Mr. Craig Stevens at the Commission.

Tim Bidwill,

Special Assistant to the Chairman.

[FR Doc. 99–7517 Filed 3–25–99; 8:45 am]

BILLING CODE 6802–ET–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia H. Paige, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on Tuesday, January 5, 1999 (64 FR 536). Individual authorities established or revoked under Schedules A and B and established under Schedule C between December 1, 1998, and January 31, 1999, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked during December 1998 and January 1999.

Schedule B

No Schedule B authorities were established or revoked during December 1998 and January 1999.

Schedule C

The following Schedule C authorities were established during December 1998 and January 1999.

Department of the Air Force (DOD)

Special Advisor for International Affairs to the Assistant to the Vice President for National Security Affairs. Effective December 4, 1998.

Department of Agriculture

Deputy Press Secretary to the Director, Office of Communications. Effective January 8, 1999.

Confidential Assistant to the Deputy Administrator for Farm Programs. Effective January 14, 1999.

Staff Assistant to the Executive Director. Effective January 19, 1999.

Director, Office of Communications to the Deputy Under Secretary for Rural Development. Effective January 22, 1999.

Confidential Assistant to the Director, Office of Civil Rights. Effective January 26, 1999.

Confidential Assistant to the Administrator, Farm Service Agency. Effective January 27, 1999.

Department of the Army (DOD)

Personal and Confidential Assistant to the Under Secretary of the Army. Effective December 24, 1998.

Department of Commerce

Confidential Assistant to the Deputy Chief of Staff for External Affairs. Effective December 3, 1998.

Special Assistant to the General Counsel. Effective December 29, 1998.

Special Assistant to the General Counsel, Office of the General Counsel. Effective January 13, 1999.

Special Assistant to the Director, Office of Public Affairs. Effective January 13, 1999.

Assistant Director for Communications to the Director, Bureau of the Census. Effective January 13, 1999.

Senior Advisor to the Director, Minority Business Development Agency. Effective January 27, 1999.

Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective January 29, 1999.

Department of Defense

Personal and Confidential Assistant to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. Effective December 16, 1998.

Special Assistant to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. Effective January 28, 1999.

Staff Specialist to the Director, Legislative Affairs. Effective January 29, 1999.

Department of Education

Confidential Assistant to the Director, Executive Secretariat. Effective December 2, 1998.

Special Assistant to the Deputy Assistant Secretary for Regional and Community Services. Effective January 5, 1999.

Special Assistant to the Assistant Secretary for Postsecondary Education. Effective January 13, 1999.

Confidential Assistant to the Chief of Staff, Office of the Deputy Secretary. Effective January 13, 1999.

Department of Energy

Special Assistant to the Secretary of Energy. Effective December 16, 1998.

Executive Assistant to the Secretary of Energy. Effective December 16, 1998.

Special Assistant to the Director, Office of Worker and Community Transition. Effective December 22, 1998.

Special Executive Advisor to the Assistant Secretary for Fossil Energy. Effective January 5, 1999.

Special Assistant to the Director, Management and Administration. Effective January 14, 1999.

Special Assistant to the Secretary of Energy. Effective January 26, 1999.

Special Assistant to the Secretary of Energy. Effective January 26, 1999.

Executive Assistant to the Secretary of Energy. Effective January 27, 1999.

Senior Policy Advisor to the Secretary of Energy. Effective January 29, 1999.

Special Assistant to the Director, Office of Field Management. Effective January 29, 1999.

Special Assistant to the Director, Management and Administration. Effective January 29, 1999.

Department of Transportation

Director, Office of Congressional and Public Affairs to the Administrator, Maritime Administration. Effective January 13, 1999.

Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective January 20, 1999.

Department of Health and Human Services

Special Assistant to the Administrator, Substance Abuse and Mental Health Service Administration. Effective December 7, 1998.

Director of Speechwriting to the Deputy Assistant Secretary for Public Affairs (Media). Effective December 9, 1998.

Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for Children and Families, Administration for Children and Families. Effective December 22, 1998.

Special Assistant to the Assistant Secretary for Planning and Evaluation. Effective January 27, 1999.

Confidential Assistant to the Executive Secretary. Effective January 27, 1999.

Special Assistant to the Assistant Secretary for Children and Families. Effective January 27, 1999.

Department of Housing and Urban Development

Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective December 3, 1998.

Assistant Deputy Secretary for Field Policy and Management to the Deputy Secretary. Effective December 8, 1998.

Special Assistant to the Secretary's Representative, California State Office. Effective December 9, 1998.

Special Assistant to the Deputy Assistant Secretary for Public Affairs. Effective December 9, 1998.

General Deputy Assistant Secretary for Public Affairs to the Deputy

Assistant Secretary for Public Affairs. Effective December 18, 1998.

Deputy Assistant Secretary for Strategic Planning to the Assistant Secretary for Public Affairs. Effective January 4, 1999.

Special Assistant to the Deputy Assistant Secretary for Public Affairs. Effective January 5, 1999.

Secretary's Representative, Rocky Mountain Region, to the Deputy Secretary. Effective January 8, 1999.

Deputy Assistant Secretary for International Affairs to the Assistant Secretary for Policy Development and Research. Effective January 11, 1999.

Department of the Interior

Special Assistant to the Chief Biologist. Effective December 7, 1998.

Special Assistant to the Deputy Chief of Staff. Effective January 27, 1999.

Attorney Advisor (General) to the Solicitor. Effective January 29, 1999.

Department of Justice

Special Assistant to the Assistant Attorney General, Criminal Division. Effective December 1, 1998.

Staff Assistant to the Assistant to the Attorney General. Effective December 9, 1998.

Public Affairs Assistant to the Director, Office of Public Affairs. Effective December 18, 1998.

Staff Assistant to the Attorney General. Effective December 29, 1998.

Special Assistant to the Solicitor General. Effective December 29, 1998.

Special Assistant to the Assistant Attorney General for Civil Rights. Effective January 5, 1999.

Special Assistant to the Director, Community Relations Service. Effective January 22, 1999.

Department of Labor

Director of Policy to the Assistant Secretary for Occupational Safety and Health. Effective December 7, 1998.

Special Assistant to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective December 29, 1998.

Associate Director to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 15, 1999.

Staff Assistant to the Director of Public Liaison. Effective January 20, 1999.

Special Assistant to the Assistant Secretary for Policy. Effective January 20, 1999.

Special Assistant to the Deputy Under Secretary for International Labor Affairs. Effective January 21, 1999.

Special Assistant to the Assistant Secretary for Labor. Effective January 21, 1999.

Special Assistant to the Assistant Secretary for Occupational Safety and Health, Occupational Safety And Health Administration. Effective January 26, 1999.

Special Assistant to the White House Liaison. Effective January 26, 1999.

Associate Director for Congressional Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 27, 1999.

Department of the Navy (DOD)

Staff Assistant to the Assistant Secretary of the Navy (Manpower and Reserve Affairs). Effective January 28, 1999.

Department of State

Special Advisor to the Deputy Assistant Secretary. Effective December 2, 1998.

Special Assistant to the Chief of Protocol. Effective December 18, 1998.

Foreign Affairs Officer to the Deputy Secretary of State. Effective December 29, 1998.

Special Assistant to the Senior Advisor. Effective January 15, 1999.

Special Assistant to the Assistant Secretary for International Organization Affairs. Effective January 27, 1999.

Legislative Management Officer to the Assistant Secretary, Bureau of Legislative Affairs. Effective January 27, 1999.

Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs. Effective January 27, 1999.

Department of the Treasury

Special Assistant to the Assistant Secretary for Economic Policy. Effective December 31, 1998.

Special Assistant to the Assistant Secretary for Financial Institutions. Effective January 11, 1999.

Equal Employment Opportunity Commission

Special Assistant to the Chairman. Effective January 5, 1999.

Attorney-Advisor (Civil Rights) to the Chairwoman. Effective January 15, 1999.

Environmental Protection Agency

Senior Policy Advisor to the Regional Administrator. Effective December 24, 1998.

Assistant to the Deputy Administrator. Effective December 29, 1998.

Senior Policy Advisor to the Regional Administrator. Effective December 29, 1998.

Federal Emergency Management Agency

Policy Advisor to the Director, Office of Congressional and Legislative Affairs. Effective January 25, 1999.

Government Printing Office

Staff Assistant to the Public Printer. Effective December 10, 1998.

Occupational Safety and Health Review Commission

Counsel to the Member (Commissioner). Effective December 7, 1998.

Office of Personnel Management

Speech Writer to the Director of Communications. Effective December 4, 1998.

Special Assistant to the Deputy Director. Effective December 11, 1998.

Special Assistant to the Director of Congressional Relations. Effective January 5, 1999.

Office of the United States Trade Representative

Special Assistant to the Chief of Staff. Effective January 26, 1999.

United States Information Agency

Public Affairs Officer to the Voice of America Director. Effective January 15, 1999.

Senior Advisor to the Director, United States Information Agency. Effective January 27, 1999.

United States Tax Court

Secretary and Confidential Assistant to a Judge. Effective January 13, 1999.

United States Trade and Development Agency

Congressional Liaison Officer to the Director, Trade and Development Agency. Effective December 3, 1998.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–7417 Filed 3–25–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26992]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 19, 1999.

Notice is hereby given that the following filing(s) has/have been made

with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 13, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(s) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 13, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Public Service Company of Oklahoma (70–8887)

Public Service Company of Oklahoma ("PSO"), 212 East 6th Street, Tulsa, Oklahoma 74119–1212, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a post-effective amendment under sections 6(a), 7, and 12(b) of the Act and rules 45 and 54 under the Act.

By order dated December 30, 1996 (HCAR No. 26638) ("1996 Order"), PSO was authorized to make a capital contribution to, and consequently acquire a 4.9% voting and 70% economic interest in, Nuvest L.L.C. ("Nuvest"), which provides services to public utility companies through its subsidiaries, Numanco, Inc. and Numanco L.L.C. (All companies are collectively the "Numanco Companies".) The 1996 Order also authorized PSO to guarantee the obligations of the Numanco Companies up to an aggregate of $12 million.

PSO now proposes to increase: (1) its aggregate capital contribution in Nuvest by $4.3 million to $5 million; and (2) the aggregate amount of guarantees by $6 million to $18 million. PSO states that its 4.9% voting and 70% economic interests in Nuvest will remain unchanged by the increases in capital contributions and guarantees. PSO also states that the other owners of Nuvest will maintain a 30% economic interest as compensation for their day to day management and operation of the Numanco Companies.

Eastern Enterprises (70–9443)

Eastern Enterprises ("Eastern"), 9 Riverside Road, Weston, Massachusetts 02493, a Massachusetts public utility holding company exempt from registration under section 3(a)(1) of the Act by rule 2, has filed an application under section 9(a)(2) and 10 of the Act. Eastern requests Commission authorization to acquire all of the issued and outstanding common stock of Colonial Gas Company ("Colonial"), a Massachusetts gas utility ("Transaction"). Eastern also requests an order under section 3(a)(1) of the Act exempting it from all provisions of the Act except section 9(a)(2), after the Transaction.

Eastern has two public utility subsidiaries, the Boston Gas Company ("Boston Gas"), and the Essex Gas Company ("Essex Gas"). Together, Boston Gas and Essex Gas serve approximately 580,000 customers, all in central and eastern Massachusetts. Eastern has several direct and indirect nonutility subsidiaries engaged in providing energy services and other nonutility subsidiaries which engage in investment and real estate activities, installing and servicing HVAC equipment, automated meter reading services, and ownership of liquid natural gas storage facilities. Eastern had revenues of $973 million for the twelve months ended September 30, 1998. Eastern's nonutility subsidiaries contributed $262 million or approximately 26.9% of total revenues during this period.

Colonial serves approximately 151,000 customers in eastern Massachusetts. Colonial's revenues were approximately $178 million for the twelve months ended September 30, 1998. Colonial's nonutility subsidiaries contributed $2.7 million, approximately 1.5% of total revenues during this period. A portion of Colonial's service territory is contiguous to Boston Gas' and Essex Gas' service territories. Colonial has one active nonutility subsidiary, Transgas Inc., which provides over-the-road transportation of liquefied natural gas, propane, and similar commodities, and two inactive nonutility subsidiaries, CGI Transport Ltd and Colonial Energy. Colonial is subject to the retail ratemaking jurisdiction of the Massachusetts Department of Telecommunications and Energy.

The Trustees of Eastern approved the Transaction at a meeting held on October 28, 1998. No approval of the Transaction by Eastern's shareholders is required. However, on February 10, 1999, the shareholders of Eastern voted to approve the issuance of additional shares ("Eastern Common Stock") to complete the Transaction. Colonial's board of director approved the proposed merger at a meeting held on October 17, 1998, and Colonial's stockholders approved the Transaction on February 10, 1999.

Following the Transaction, Eastern will own all the outstanding capital stock of Colonial, and the former stockholders of Colonial will receive shares of Eastern Common Stock and/or cash. Eastern and Colonial have entered into an Agreement and Plan of Reorganization dated as of October 17, 1998 ("Agreement"). The Agreement provides, among other things, that Colonial will merge with and into a Massachusetts special purpose subsidiary of Eastern ("Newco") for purposes of the Transaction. Each outstanding share of Colonial will be converted into cash, shares of Eastern Common Stock, or a combination of both, having a value of $37.50 ("Exchange Value").[1] Outstanding debt securities of Colonial will not be affected and will remain outstanding under current terms and conditions.

Eastern is the sole stockholder of all issued and outstanding common stock of Boston Gas and Essex Gas, Massachusetts corporations engaged in the gas utility business. Together Boston Gas and Essex Gas serve approximately 580,000 customers, all in Massachusetts. Boston Gas has outstanding 1.2 million shares of nonvoting preferred stocks. Boston Gas had combined assets of $902 million at September 30, 1998 and combined revenues of $712 million for the twelve-month period ended September 30, 1998. Colonial has 8,845,315 shares of common stock issued and outstanding. Colonial has assets of $381 million as of September 30, 1998 and revenues of $178 million for the twelve-month period ended September 30, 1998. Colonial, Boston Gas and Essex Gas together will have *pro forma* combined assets of $1.5 billion and *pro forma* combined revenues of $890 million.

[1] The Exchange Value is subject to adjustment under certain circumstances and based on the quoted market price for Eastern Common Stock during a ten-day period preceding the effective date. The Agreement provides that, if the holder of Colonial stock electing to receive cash exceeds $150 million then that total will be prorated among the electing stockholders and the balance will be made up by Eastern Common Stock.

Eastern Common Stock is traded on the New York Stock Exchange, the Boston Stock Exchange and the Pacific Exchange. Based on reported closing price for Eastern Common Stock on the New York Stock Exchange and the number of shares of Colonial common stock outstanding on December 22, 1998, the Eastern Common Stock to be issued would have a market value of approximately $184 million and would constitute approximately 16.4% of Eastern's outstanding Common Stock.

Eastern requests an order granting it and all of its subsidiaries as such an exemption under section 3(a)(1) of the Act following the Transaction. Eastern states that it will continue to satisfy the requirements for exemption because it and each of its public utility subsidiaries currently are and will continue to be predominately intrastate in character and will continue to carry on their businesses substantially in Massachusetts, the state in which each is organized.

Consolidated Natural Gas Company, et al. (70–9321)

Consolidated Natural Gas Company ("CNG"), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222–3199, a registered holding company, and its nonutility subsidiary, CNG International Corporation ("CNG International"), Two Fountain Square, Suite 600, 11921 Freedom Drive, Reston, Virginia 20190–5608, have filed an application-declaration under sections 6(a)(2), 7, 9(a), 10, and 12(b) of the Act and rules 45 and 54 under the Act.

CNG and CNG International or any of CNG International's direct subsidiaries request authority, through December 31, 2003, to invest up to $750 million to acquire in areas outside the United States interests in entities other than foreign utility companies ("FUCOs") or exempt wholesale generators ("EWGs") engaged in activities permitted under section 2(a) of the Gas Related Activities Act of 1990 ("GRAA") and activities under section 2(b) of the GRAA and approved by order of the Commission under sections 9(a) and 10 of the Act ("Gas Related Activities"). In addition, CNG and CNG International request authority, through December 31, 2003, for CNG International and its subsidiaries to make investments in entities organized to participate in activities involving the transportation or storage of natural gas within the meaning of section 2(a) of the GRAA without any additional prior case-by-case approval of the Commission.

CNG and CNG International also propose, through December 31, 2003, to enter into guarantees and provide other credit support for obligations of CNG International or its subsidiaries. Credit support may be in the form of a guarantee of payment of a subsidiary capital contribution obligation or of a debt obligation issued by a subsidiary. Fixed income securities being guaranteed would not have a maturity in excess of 50 years, nor an effective cost of money in excess of 500 basis points over 30 year term U.S. Treasury securities. Any fees, commissions, penalties and expenses would not exceed fair, reasonable and customary fees, commissions, penalties and expenses comparable to those incurred at arms-length in similar transactions by similar companies in the relevant securities markets. The maximum aggregate limit on the credit support with respect to EWGs and FUCOs will be an amount equal to 50% of CNG's consolidated retained earnings, less the amount of guarantees and credit support previously given and outstanding on behalf of investments in EWGs and FUCOs. The maximum aggregate limit on all credit support for foreign Gas Related Activities will be $750 million at any one time outstanding.

As one source of financing for the proposed investments, CNG International proposes to issue and sell shares of its common stock, $10,000 par value per share. CNG International presently has authorized capital of 30,000 shares of its common stock, of which 21,555 shares are issued and outstanding. In order to accommodate future financings, CNG International proposes to amend its certificate of incorporation to increase its common stock equity authorization to 200,000 shares.

In order to fund the proposed investments, CNG and CNG International and its subsidiaries propose to issue and sell securities. It is anticipated that most of these financings will be intra-system financings exempt under rule 52 under the Act. To the extent an issuance and sale of securities is not exempt under rule 52, CNG and CNG International and its subsidiaries propose to issue and sell securities to finance acquisitions of entities engaged in foreign Gas Related Activities. It is stated that the pricing of these securities, and the fees and expenses for their issuance and sale, will not exceed the price, fees, and expenses of securities issued by companies of comparable credit quality. It is also stated that the terms, conditions, and features of these securities will be similar to those securities issued by companies of comparable credit quality. CNG and CNG International request that jurisdiction over the issuance and sale of these securities be reserved, pending completion of the record.

Enova Corporation (70–9471)

Enova Corporation ("Enova"), 101 Ash Street, San Diego, California 92101, a public utility holding company exempt from registration under section 3(a)(1) of the Act by rule 2, has filed an application under section 3(a)(1) of the Act for an order exempting it from all provisions of the Act, except section 9(a)(2).

Enova is organized under the laws of the State of California. Its only public utility company subsidiary is San Diego Gas & Electric Company ("SDG&E"), a California public utility. SDG&E provides electric and natural gas service in San Diego County and surrounding areas. Enova and SDG&E are predominantly intrastate. The application states that 99% of SDG&E's utility revenues, including 100% of its retail natural gas revenues, are from utility operations within the State of California.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7365 Filed 3–25–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23746; 812–11524]

Todd Investment Advisors, Inc.; Notice of Application

March 22, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") from section 15(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit the implementation, without prior shareholder approval, of a new investment sub-advisory agreement ("New Agreement") for a period of not more than 150 days beginning on the later of the date on which the acquisition by Fort Washington Investment Advisors, Inc. ("Fort Washington") of Todd Investment Advisors, Inc. ("Todd") is consummated or the date on which the requested order is issued and continuing through the date the New Agreement is approved or disapproved by the shareholders (but in no event later than September 9, 1999)

("Interim Period"). The order would also permit payment of all fees earned under the New Agreement during the Interim Period following shareholder approval.

FILING DATES: The application was filed on February 26, 1999. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in the notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1999, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicant, 3160 National City Tower, Louisville, Kentucky 40202.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942–0634, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. no. (202) 942–8090).

Applicant's Representations

1. Todd is an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act") and is a wholly-owned subsidiary of Stifel Financial Corp. ("Stifel"). Todd serves as investment sub-adviser to American Fidelity Dual Strategy Fund, Inc. ("Fund") and other institutional and individual clients. The Fund is an open-end management investment company registered under the Act. American Fidelity Assurance Company, an investment adviser registered under the Advisers Act, serves as the Fund's investment adviser ("Adviser"). Todd manages the assets of the Fund pursuant to an investment sub-advisory contract between Todd and the Adviser ("Existing Agreement").

2. Fort Washington is an investment adviser registered under the Advisers Act, and is a wholly-owned subsidiary of The Western and Southern Life Insurance Company ("Western Southern"). On January 27, 1999, Fort Washington and Stifel entered into an agreement pursuant to which Stifel will sell all of Todd's outstanding voting securities to Fort Washington (the "Transaction"). As a result of the consummation of the Transaction, Todd will become a wholly-owned subsidiary of Fort Washington. The Transaction is expected to be consummated on or about April 12, 1999 (the "Closing Date"). Todd states that the Transaction will result in an assignment, and thus automatic termination, of the Existing Agreement.

3. Todd requests an exemption to permit (i) the implementation during the Interim Period, prior to obtaining shareholder approval, of the New Agreement between the Adviser and Todd, and (ii) Todd to receive from the Fund, upon approval of the Fund's shareholders, any and all fees payable under the New Agreement during the Interim Period. The requested exemption would cover the Interim Period of not more than 150 days beginning on the later of the Closing Date or the date the requested order is issued [1] and continuing through the date the New Agreement is approved or disapproved by the shareholders of the Fund (but in no event later than September 9, 1999). The New Agreement will contain terms and conditions identical to those of the Existing Agreement, except for the effective and termination dates.

4. On February 24, 1999 the Fund's Board of Directors ("Board") met to consider and evaluate the New Agreement and to determine whether the terms of the New Agreement are in the best interests of the Fund and its shareholder. The Board, including a majority of the directors who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("Independent Directors"), voted to approve the New Agreement and to recommend that the Fund's shareholders approve the New Agreement. Proxy materials for the shareholder meetings are expected to be mailed on or about April 5, 1999, and the shareholder meeting is scheduled to be held on or about June 14, 1999.

5. Todd proposes to enter into an escrow arrangement with an unaffiliated financial institution. The fees earned by Todd during the Interim Period under the New Agreement would be paid into an interest-bearing escrow account. The amounts in the escrow account (including any interest earned) will be paid (i) to Todd only if shareholders of the Fund approve the New Agreement, or (ii) to the Fund if the Interim Period has ended and shareholders have not approved the New Agreement. Before any such payment is made, the Fund's Board will be notified.

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires that the written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company, and beneficial ownership of more than 25% of the voting securities of a company is presumed under section 2(a)(9) to reflect control. Todd states that the Transaction will result in an assignment of the Existing Agreement and its automatic termination.

2. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with an investment company is terminated, the adviser may continue to serve for up to 120 days under a written contract that has not been approved by the investment company's shareholders, provided that: (i) the new contract is approved by the company's board of directors (including a majority of the non-interested directors); (ii) the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by company's shareholders; and (iii) neither the adviser nor any controlling person of the adviser "directly or indirectly

[1] Todd states that if the Closing Date precedes the issuance of the requested order, it will continue to serve as investment sub-adviser after the Closing Date (and prior to the issuance of the order) in a manner consistent with its fiduciary duty to continue to provide investment sub-advisory services to the Fund even though shareholder approval of the New Agreement has not yet been secured. Todd also states that the Fund may be required to pay, with respect to the period until the receipt of the order, no more than the actual out-of-pocket costs to Todd for providing sub-advisory services.

receives money or other benefit" in connection with the assignment. Todd states that it may not rely on rule 15a–4 because of the benefits arising to Stifel, Todd's parent, in connection with the Transaction.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

4. Todd states that the requested relief satisfies this standard. Todd asserts that the structure and timing of the Transaction were determined by Fort Washington and Stifel in response to a number of factors beyond the scope of the Act and substantially unrelated to the Fund and that the parties wish to consummate the Transaction as expeditiously as possible to permit Fort Washington and Todd to take advantage of new business opportunities and to implement other business plans unrelated to the Fund.

5. Todd represents that under the New Agreement, during the Interim Period, the scope and quality of services provided to the Fund will be at least equivalent to the scope and quality of the services it previously provided. Todd states that if any material change in its personnel occurs during the Interim Period, Todd will apprise and consult with the Board to ensure that the Board, including a majority of the Independent Directors, are satisfied that the scope and quality of the sub-advisory services provided to the Fund will not be diminished. Todd also states that the compensation payable to it under the New Agreement will be no greater than the compensation that would have been paid to Todd under the Existing Agreement.

Applicant's Conditions

Todd agrees as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreement that is in effect during the Interim Period will have the same terms and conditions as the Existing Agreement with the exception of its effective and termination dates.

2. Fees payable to Todd by the Fund during the Interim Period will be maintained in an interest bearing escrow account with an unaffiliated financial institution. The amount in the escrow account, including any interest earned, will be paid to (i) Todd only if the shareholders of the Fund approve the New Agreement by the end of the Interim Period; or (ii) the Fund if the shareholders of the Fund do not approve the New Agreement by the end of the Interim Period. Before any such payment is made, the Fund's Board will be notified.

3. The Fund will convene a meeting of the shareholders to vote on approval of the New Agreement on or before the 150th day following the termination of the Existing Agreement (but in no event later than September 9, 1999).

4. Todd, Stifel, Fort Washington and Western Southern will bear the costs of preparing and filing this application and the costs relating to the solicitation of shareholder approval of the Fund's shareholders necessitated by the Transaction.

5. Todd will take all appropriate actions to ensure that the scope and quality of the sub-advisory services provided to the Fund during the Interim Period will be at least equivalent, in the judgment of the Board, including a majority of the Independent Directors, to the scope and quality of service previously provided. If any material change in Todd's personnel occurs during the Interim Period, Todd will apprise and consult with the Board to ensure that the Board, including a majority of the Independent Directors, are satisfied that the scope and quality of the sub-advisory services provided to the Fund will not be diminished.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7439 Filed 3–25–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41195; File No. SR–NASD–98–26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Amendment No. 6 to a Proposed Rule Change by the National Association of Securities Dealers, Inc. To Institute, on a Pilot Basis, New Primary Nasdaq Market Maker Standards for Nasdaq National Market Securities

March 19, 1999.

I. Introduction

On March 19, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to: (a) implement, on a pilot basis, new Primary Nasdaq Market Maker ("PMM") standards for all Nasdaq National Market ("NMM") securities; (b) extend the NASD's Short Sale Rule pilot until November 1, 1998; and (c) extend the suspension of existing PMM standards until May 1, 1998. On March 30, 1998, the Commission issued notice of the filing and approved, on an accelerated basis, the portions of the filing extending the NASD's Short Sale Rule pilot and the suspension of existing PMM standards.[3] The Short Sale Rule pilot and the suspension of existing PMM standards was subsequently extended until March 31, 1999.[4]

On March 19, 1999, Nasdaq proposed to (1) continue to suspend the current PMM standards until June 30, 1999, and (2) extend the NASD's Short Sale Rule pilot (including extending the amendment to the definition of "legal" short sale) until June 30, 1999.[5]

Background

Presently, NASD Rule 4612 provides that a member registered as a NASD market maker pursuant to NASD Rule 4611 may be deemed a PMM if that member meets certain threshold standards. The implementation of the SEC Order Handling Rules and what some perceive as a concurrent move toward a more order-driven, rather than a quote-driven, market raised questions about the continue relevance of those PMM standards. As a result, such standards were suspended beginning in early 1997.[6] Currently, all market makers are designated as PMMs.

[1] 14 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 39819 (March 30, 1998) 63 FR 16841 (April 6, 1998).

[4] *See* Exchange Act Release No. 40485 (September 25, 1998) 63 FR 52780 (October 1, 1998).

[5] *See* letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Richard Strasser, Assistant Director, Division of Market Regulation, SEC, dated March 19, 1999.

[6] *See* Exchange Act Release No. 38294 (February 14, 1997) 62 FR 8289 (February 24, 1997) (approving temporary suspension of PMM standards); Exchange Act Release No. 39198 (October 3, 1997) 62 FR 53365 (October 14, 1997) (extending suspension through April 1, 1998); Exchange Act Release No. 39819 (March 30, 1998) 63 FR 16841 (April 6, 1998) (extending suspension through May 1, 1998); Exchange Act Release No. 39936 (April 30, 1998) 63 FR 25253 (May 7, 1998) (extending suspension through July 1, 1998); Exchange Act Release No. 40140 (June 26, 1998) 63 FR 36464 (July 6, 1998) (extending suspension through October 1, 1998); Exchange Act Release No. 40485 (September 23, 1998) 63 FR 52780 (October 1, 1998) (extending suspension through March 31, 1999).

Since February 1997, Nasdaq has worked to develop PMM standards that are more meaningful in what may be an increasingly order-driven environment and that better identify firms engaged in responsible market making activities deserving of the benefits associated with being a PMM, such as being exempt from NASD Rule 3350, the Commission's Short Sale Rule. The NASD now proposes to extend the current suspension of the existing PMM standards.

In light of a substantial number of comments on the proposed new PMM standards, Nasdaq staff in August 1998 convened a subcommittee to develop new standards. Nasdaq expects that it will file an amendment to SR–NASD–98–26 to incorporate the new PMM standards that currently are being developed by the subcommittee, or in the alternative, that it will withdraw SR–NASD–98–26 and will submit the new PMM standards as a new filing.

For the reasons discussed below, the Commission has determined to grant accelerated approval of Nasdaq's request, in Amendment No. 6, to continue to suspend the current PMM standards and to extend the NASD's Short Sale Rule Pilot until June 30, 1999.

II. Proposed Rule Change

In the current amendment, Nasdaq is proposing to extend the Short Sale Rule pilot (including extending the amendment to the definition of "legal" short sale) and the suspension of existing PMM standards to allow more time to refine the PMM standards.

The proposed rule language, as amended, follows. Additions are italicized; deletions are bracketed.

NASD Rule 3350

(a)–(k) No Changes

(l) This Rule shall be in effect until [March 31, 1999] *June 30, 1999.*

III. Discussion

After careful consideration, the Commission has concluded, for the reasons set forth below, that the extension of the Short Sale Rule pilot and the suspension of the existing PMM standards until June 30, 1999, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder. In particular, the extension is consistent with Section 15A(b)(6)[7] of the Exchange Act. Section 15A(b)(6) requires that the NASD's rules be designed, among other things, to remove impediments to and perfect the mechanism of a free and open market and a national market system and to promote just and equitable principles of trade. The Commission believes that continuation of the Short Sale Rule pilot and the continued suspension of the current PMM standards will maintain the status quo while the Commission and the NASD review the operation of revised PMM standards, because the Commission's ultimate stance on the Short Sale Rule may be affected, in part, by the operation of revised PMM standards, it is reasonable to keep the Short Sale Rule pilot in place while work continues on the PMM standards. Furthermore, it is judicious, in the short term, to avoid reintroducing the previous PMM standards prior to the implementation of a new PMM pilot.

In finding that the suspension of the existing PMM standards is consistent with the Exchange Act, the Commission reserves judgment on the merits of the NASD's Short Sale Rule, any market maker exemptions to that rule, and the proposed new PMM standards. The Commission recognizes that the Short Sale Rule already has generated significant public comment. Such commentary, along with any further comment on the interaction of the Short Sale Rule with the proposed new PMM standards, will help guide the Commission's evaluation of the Short Sale Rule and new PMM standards. During the PMM pilot period, the Commission anticipates that the NASD will continue to address the Commission's questions and concerns and provide the Commission staff with any relevant information about the practical effects and the operation of the revised PMM standards and possible interaction between those standards and the NASD's Short Sale Rule.

The Commission finds good cause for approving the extension of the Short Sale Rule pilot (including extending the amendment to the definition of "legal" short sale) and the suspension of existing PMM standards prior to the 30th day after the date of publication of notice of the filing in the **Federal Register.** It could be disruptive to the Nasdaq market and confusing to market participants to reintroduce the previous PMM standards for a brief period prior to implementing a new PMM pilot.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 6, including whether the proposed Amendment is consistent with the Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–26 and should be submitted April 16, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[8] that Amendment No. 6 to the proposed rule change, SR–NASD–98–26, which extends the NASD Short Sale Rule pilot and the suspension of the current PMM standards to June 30, 1999, be and hereby is approved on an accelerated basis.[9]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 99–7364 Filed 3–25–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78o–3(b)(6).

[8] 15 U.S.C. 78s(b)(2)

[9] In approving Amendment No. 6, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before May 26, 1999.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S. W., Suite 5000, Washington, D. C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: "Assistance Application".

Form No: 2055.

Description of Respondents: Small Business Owners in the Washington Metropolitan Area.

Annual Responses: 500.

Annual Burden: 500.

Comments: Send all comments regarding this information collection to, Houston E. Gray, Assistant District Director, Office of Economic Development, Small Business Administration, 1110 Vermont Avenue N.W., Suite 900, Washington, D.C. 20416.

Phone No: 202–606–4000 ext. 259.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: March 22, 1999.

Vanessa Piccioni,

Acting Chief, Administrative Information Branch.

[FR Doc. 99–7375 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0586]

BOCNY, LLC.; Notice of Issuance of a Small Business Investment Company License

On June 3, 1998, an application was filed by BOCNY, LLC, at 10 East 53rd Street, 32nd Floor, New York, NY 10022, with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0586 on February 5, 1999, to BOCNY, LLC. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–7418 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

Small Business Administration

[License No. 05/75–0238]

InvestCare Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On May 26, 1998, an application was filed by InvestCare Partners, L.P., at 31500 Northwestern Highway, Suite 120, Farmington Hills, MI 48334, with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/75–0238 on February 5, 1999, to InvestCare Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–7419 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Applicant No. 99000298]

Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that KCEP Ventures II, L.P. ("KCEP II"), 233 West 47th Street, Kansas City, Missouri 64112, an applicant for a Federal License under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the completed financing of a small concern is seeking an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (1998)). An exemption may not be granted by SBA until Notices of this transaction have been published. KCEP II has provided equity financing to Organized Living, Inc., 9851 Lackman Road, Lenexa, Kansas 66215. The financing was completed for working capital purposes.

The financing is brought within the purview of section § 107.730(a)(1) of the Regulations because KCEP I, L.P., a Federal Licensee under the Act and an Associate of KCEP II, owns greater than 10 percent of Organized Living, Inc. and therefore Organized Living, Inc. is considered an Associate of KCEP II as defined in § 107.50 of the regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

A copy of this notice shall be published, in accordance with § 107.730(g), in the **Federal Register** by SBA.

Dated: March 18, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–7421 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

(Declaration of Disaster #3163)

State of Washington

Thurston and Kitsap Counties and the contiguous counties of Grays Harbor, Jefferson, King, Lewis, Mason, and Pierce in the State of Washington constitute a disaster area as a result of damages from floods, landslides, and high winds caused by winter storms beginning on January 29, 1999 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 17, 1999 and for economic injury until the close of business on December 17, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795. Sacramento, CA 95853–4795.

The interest rates are:

For Physical Damage:	
Homeowners with credit available elsewhere	6.375%
Homeowners without credit available elsewhere	3.188%
Businesses with credit available elsewhere	8.000%

Businesses and non-profit organizations without credit available elsewhere	4.000%
Others (including non-profit organizations) with credit available elsewhere	7.000%
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000%

The number assigned to this disaster for physical damage is 316311 and for economic injury the number is 9B4400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 17, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–7376 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0550]

KOCO Capital Company, L.P.; Notice of Surrender of License

Notice is hereby given that KOCO Capital Company, 111 Radio Circle, Mt. Kisco, New York 10549 has surrendered its license to operate as a small business investment company under the Business Investment Act of 1958, as amended (the Act). KOCO Capital Company, L.P. was licensed by the Small Business Administration on March 25, 1994.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was effective as of March 12, 1999, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–7420 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

Small Business Administration

5TLC Funding Corporation (License No. 02/02–0380); Notice of Surrender of License

Notice is hereby given that TLC Funding Corporation, 660 White Plains Road, Tarrytown, New York 10591 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). TLC Funding Corporation was licensed by the Small Business Administration on February 29, 1980.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the License was accepted on March 8, 1999. Accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 19, 1999.

Don A. Christensen,

Associate Administrator, for Investment.

[FR Doc. 99–7377 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Washington, D.C. District Advisory Council Public Meeting

The U.S. Small Business Administration Washington, D.C. District Advisory Council, located in the metropolitan area of Washington, D.C., will hold a public meeting from 9:00 a.m.—11:00 a.m., Wednesday, April 7, 1999, at Creative Associates, Inc., 5301 Wisconsin Avenue, N.W., Suite 700, Washington, D.C., to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Anita L. Irving, Public Information Officer, U.S. Small Business Administration, 1110 Vermont Avenue, N.W., Suite 900, (P.O. Box 34500), Washington, DC 20043–4500; telephone 202–606–4000, ext. 275.

Shirl Thomas,

Director of External Affairs.

[FR Doc. 99–7374 Filed 3–25–99; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of the notices. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. Request for Review of Hearing Decision/Order—0960–0277. The information collected on form HA–520 is needed to afford claimants their statutory right under the Social Security Act to request review of a hearing decision. The data will be used to determine the course of action appropriate to resolve each issue. The respondents are claimants denied or dissatisfied with a decision made regarding their claim.

Number of Respondents: 103,932.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 17,322 hours.

2. Statement Regarding Date of Birth and Citizenship—0960–0016. The information collected on form SSA–702 is used by the Social Security Administration in conjunction with other evidence to establish a claimant's age or citizenship when better proofs are not available. The respondents are individuals who have knowledge of the birth and citizenship of the applicant.

Number of Respondents: 1,200.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 200 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed after this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. Government Pension Questionnaire—0960–0160. The Social

Security Act and the Code of Federal Regulations provide that an individual receiving spouse's benefits and concurrently receiving a Government pension, based on the individual's own earnings, may have the Social Security benefits amount reduced by two-thirds of the pension amount. The data collected on Form SSA–3885 is used by the Social Security Administration (SSA) to determine if the individual's Social Security benefit will be reduced, the amount of reduction, the effective date of the reduction and if one of the exceptions in 20 CFR 404.408a applies. The respondents are individuals who are receiving (or will receive) Social Security spouse's benefits and also receive their own Government pension.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 12.5 minutes.

Estimated Average Burden: 6,250 hours.

2. Annual Registration Statement Identifying Separated Participants with Deferred Benefits, Schedule SSA—0960–0556. Schedule SSA is a form filed annually with the Internal Revenue Service (IRS) by pension plan administrators as part of a series of pension plan documents required by Section 6057 of the IRS Code. IRS forwards Schedule SSA to the Social Security Administration, which maintains it until a claim for social security benefits has been approved. At that time, SSA notifies the beneficiary of his/her potential eligibility for private pension plan benefits.

Number of Respondents: 107,174.

Frequency of Response: 1.

Average Burden Per Response: 17 minutes.

Estimated Annual Burden: 30,366 hours.

(SSA Address) Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

(OMB Address) Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

Dated: March 18, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–7161 Filed 3–25–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST 97–2684]

Proposed Revocation of the Certificate Authority of Kiwi International Holdings, Inc. d/b/a Kiwi International Air Lines, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 99–3–18).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding that Kiwi International Holdings, Inc. d/b/a Kiwi International Air Lines, Inc., has failed to demonstrate that it continues to be fit, willing, and able to conduct certificated air transportation operations and (2) proposing to revoke its section 41102 certificate.

DATES: Persons wishing to file objections should do so no later than April 6, 1999.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–97–2684 and addressed to the Department of Transportation Dockets SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia L. Thomas, Chief, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: March 23, 1999.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–7471 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Joint RTCA Special Committee 180 and EUROCAE Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held April 13–15, 1999, starting at 8:30 a.m., on April 13. The meeting will be held at Daimler Chrysler Aerospace Airbus, Huenefeldstrasse 1–5, Bremen D–28199, Germany. For prior notification to gain entry into the Daimler-Chrysler facility, contact Connie Beane, (425) 227–2796 (phone), (425) 227–1149 (fax), connie.beane@faa.gov (e-mail); or Cleland Newton, 011 44 16 84 89 50 71 (phone), 011 44 16 84 89 43 03 (fax), c.newton@eris.dera.gov.uk (e-mail) as soon as possible.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Leadership Team Meeting Report; (5) Review Action Items; (6) Review Issue Logs; (7) Issue Team Status; (8) Plenary Disposition of Document Comments; (9) New Items of Consensus; (10) Special Committee 190 Committee Activity Report; (11) Other Business; (12) Establish Agenda for Next Meeting; (13) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 22, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–7446 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 99–02–C–00–MSO To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Missoula International Airport, Submitted by Missoula County Airport Authority, Missoula, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Missoula International Airport under the provisions of 49

U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before April 26, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: David P. Gabbert, Manager; Helena Airports District Office, (HLN–ADO); Federal Aviation Administration; 2725 Skyway Drive, Suite 2, Helena, Montana 59602.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Peter J. Van Pelt, Director of Airports, at the following address: Missoula International Airport, 5225 Highway 10 West, Missoula, Montana 59802.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Missoula Internaitonal Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: David P. Gabbert, Manager at (406) 449–5271, Federal Aviation Administration, Helena Airports District Office, 2725 Skyway Drive, Suite 2, Helena, Montana 59602. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 99–02–C–00–MSO to impose and use PFC revenue at Missoula International Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 19, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by Missoula County Airport Authority, Missoula International Airport, Missoula, Montana was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 2, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1999.

Proposed charge expiration date: October 1, 2004.

Total requested for use approval: $2,705,000.

Brief description of proposed projects: 1. Terminal access road. 2. Land. 3. Security access system. 4. Terminal building work. 5. Apron rehabilitation.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Air taxi's and charters.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Missoula International Airport.

Issued in Renton, Washington on March 19, 1999.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 99–7457 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Thursday, April 22, 1999. The meeting begins at 1 p.m. The letter designations that follow each item mean the following: (I) Is an "information item;" (A) is an action item; (D) is a discussion item. This meeting includes the following items: (1) Introductions and ITS America Antitrust Policy and Conflict of Interest Statements; (2) Federal ITS Initiatives Report (I/D); (3) Review and Acceptance of Election Results (A); Then an Executive Session will be held for about 30 minutes. US DOT participants and observers are excused. Voting Board members and ITS America staff only. (4) Report of the Nomination Committee (I); (5) Election of New Officers of the Board of Directors (A); General Session reconvenes: Transfer of gavel from outgoing chairman to incoming chairman. (6) Appointment of At-Large Coordinating Council Members (A); (7) Appointment of State Chapters Council Officers (A); (8) Review and Approval of January 14, 1999 Board Meeting #29 Minutes (A); (9) Coordinating Council Report (I); (10) State Chapters Council Report/ Reorganization Proposal (I/D/A); (11) International Affairs Council Report (I); (12) National ITS Deployment Strategy Update (I); (13) Electronic Commerce Blue Ribbon Panel Report (I); (14) President's Report (External Issues); (15) Other Business; Business Session (US DOT participants excused; Board Members, ITS America Members and staff only.) (16) Report of the Finance Committee (A); (17) Report of the Audit Committee; (18) President's Report (I); (19) Appointment of New Board of Directors Committees (I); (20) Other Business; (21) Adjournment until August 8–10, 1999, Board of Directors Meeting #31 in Boston, MA.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on Thursday, April 22, 1999, from 1 p.m.–5 p.m.

ADDRESSES: Marriott Wardman Park Hotel, 2660 Woodley Road, NW, Washington, DC, Phone: (202) 328–2000. Fax: (202) 234–0015.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue, SW, Suite 800, Washington, DC 20024. Persons needing further information or to request to speak at this meeting should contact Marlene Vence-Crampton at ITS AMERICA by telephone at (202) 484–4847, or by Fax at (202) 484–3483. The DOT contact is Mary Pigott, FHWA, HVH–1, Washington, D.C. 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 17, 1999.

Jeffrey Paniati,

Deputy Director, ITS Joint Program Office.

[FR Doc. 99–7405 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement Program to Support Innovative Programs To Reduce Impaired Motorcycle Riding

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of a discretionary cooperative agreement program to support innovative programs to reduce impaired motorcycle riding.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to demonstrate and evaluate innovative programs designed to reduce the incidence of impaired motorcycle riding.

This notice solicits applications from public and private, non-profit and not-for-profit organizations, and governments and their agencies or a consortium of the above.

NHTSA anticipates funding up to three (3) projects for a period not to exceed three (3) years.

DATES: Applications must be received in the office designated below on or before 2:00 p.m. (EST), May 24, 1999.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), Attention: Lamont O. Norwood, 400 Seventh Street SW, Room 5301, Washington, DC, 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program Number DTNH22–99–H–05087.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Lamont O. Norwood, Office of Contracts and Procurement at (202) 366–8573, or by email at *lnorwood@nhtsa.dot.gov*. Programmatic questions relating to this cooperative agreement program should be directed to Joey W. Syner, Safety Countermeasures Division, NHTSA, 400 Seventh Street, SW (NTS–15), Washington, DC, 20590, by email at *jsyner@nhtsa.dot.gov*, or by phone at (202) 366–1770. Interested applicants are advised that no separate application package exists beyond the content of this announcement.

SUPPLEMENTARY INFORMATION:

Background

Motorcycling is a complex task requiring excellent coordination and motor skills. Alcohol diminishes the coordination and motor skills needed to maneuver a motorcycle safely. Even motorcyclists with blood alcohol concentrations (BAC) below the legal limit can be impaired, which affects riding and decision-making skills necessary to handle traffic situations on the highway. Research has shown that performance errors and reaction time may increase while operators are sobering up.

Motorcycle operators involved in fatal crashes have higher intoxication rates than any other motor vehicle operators. In 1997 almost 30 percent of all fatally injured motorcycle operators were intoxicated with a BAC of .10 g/dl or higher. An additional 11 percent had a lower alcohol level ≤.10 g/dl. Of the 876 motorcycle operators who died in single vehicle crashes almost half were intoxicated. Unfortunately these data have changed very little over the past 10 years. While the proportion of automobile drivers with a BAC ≥.10 who die in alcohol-related crashes has declined to the lowest level ever, the proportion of impaired motorcyclists dying in alcohol-related crashes has not shown similar reductions.

Programs designed to address impaired driving have little effect on motorcyclists. Motorcyclists do not consider themselves "drivers." They do not "drive" a motorcycle; they "ride" a motorcycle. As a result, messages that target drivers are not effective in addressing impaired riding issues.

Interventions designed for automobile drivers may not necessarily apply to motorcyclists; a prime example is the designated driver program. In this program, one person chooses not to drink alcohol in order to be responsible for safely transporting a group of friends or family members. This concept is not applicable in motorcycling, because motorcyclists generally ride alone on their motorcycle.

Another example of a program designed for automobile operators that may not be effective for motorcyclists is one where the driver allows a friend or companion to drive the vehicle home or voluntarily leaves the automobile parked for the night, and returns the next day to retrieve it. Such interventions are unlikely to occur for motorcyclists because a motorcycle operator is often unwilling to leave a vehicle parked overnight in an unsecured location and is less likely to allow another individual to operate his/her vehicle. Moreover, the individual accompanying the motorcyclist who has been drinking may not have the necessary skills or license needed to operate the motorcycle safely.

In 1995, a national goal was established to reduce alcohol-related fatalities to no more than 11,000 by the year 2005, a 37 percent decline from the 1994 level. Following the establishment of the goal, a conference was held to establish strategies for achieving this goal. Partners in Progress: An Impaired Driving Guide for Action provides a framework for future program initiatives to reduce impaired driving. That document provides strategies and action steps in seven areas: public education, individual responsibility, health care community, business and employers, legislation, enforcement and adjudication, and technology, as it is only through the broadest collective action that progress can be made in reducing impaired driving. (A copy of Partners in Progress: An Impaired Driving Guide for Action can be obtained from NHTSA's Office of Communication and Outreach by sending a fax to (202) 366–2062.)

Programs Addressing Impaired Riding

In 1996, the National Highway Traffic Safety Administration (NHTSA) awarded three grants to address impaired motorcycle riding issues. A preliminary review of the findings from this project found that the most effective programs were implemented at the local level; included a visible media (print and video) component; educated members of the local prosecution and judicial communities; and included partnerships with local law enforcement agencies, riding groups, and hospitality establishments.

Other programs have been developed by national and local organizations across the country. For example, the Motorcycle Safety Foundation includes a module on impairment in the basic rider education course taught in most rider education classes in the United States. This module addresses the effects of alcohol on the rider, the rider's ability to handle a motorcycle while impaired, and the deadly consequences of operating a motorcycle while impaired. The Wisconsin motorcycle rider education program has expanded this module into a stand alone unit that depicts the process a motorcyclist undergoes when arrested for riding under the influence of alcohol or other drugs, thus emphasizing the real-life consequences of riding under the influence.

Some motorcyclists believe that peer to peer programs are more effective than those delivered by non-motorcyclist groups. For example, one motorcycle group has adapted the Contract For Life, a program developed by Students Against Destructive Decisions, to

address the need of motorcyclists by promoting awareness and responsible use of alcohol. Another motorcycle group has developed a demonstration involving a motorcycle and .08 goggles. These goggles are designed to replicate the effects of walking, driving, or riding a motorcycle with blood alcohol level of .08 g/dl. Even though this project is in its early stages, and needs further refinement, it shows promise as an effective educational tool.

In some cases impaired driving programs have been adapted for use by motorcyclists. In Minnesota, a non-profit organization promotes an "800" number and organizes volunteers who will go to a bar or other location to pick up a motorcyclist who may have had too much to drink and get the rider and the motorcycle home safely. New Jersey's motorcycle safety program partnered with AAA to train tow truck operators to tow motorcycles, safely and with minimal damage. The New Jersey motorcycle safety program made the list of trained towing companies available to motorcycle clubs and hospitality establishments as a service to the motorcyclist. There are no data on these programs' effectiveness or how often they are utilized.

These are a few examples of approaches to reduce impaired motorcycle riding. Many other approaches may exist. To make an impact on the impaired riding problem it is necessary to identify both innovative and effective strategies and make this information available to the motorcycling community.

Purpose and Objectives

The purpose of this cooperative agreement program is to support the development, implementation, and evaluation of up to three (3) programs designed to reduce the incidence of impaired motorcycle riding and injuries and fatalities resulting from alcohol-related motorcycle crashes.

Specific objectives for this cooperative agreement program are as follows:

1. Identify a community that demonstrates the potential for successful implementation and evaluation of innovative approaches to reduce impaired motorcycle riding and the resulting injuries and fatalities associated with alcohol-related motorcycle crashes.

2. Use community data to define the problem, as appropriate. These data are to extend beyond police crash reports to the extent possible.

3. Actively engage the community to define the problem and potential solutions to the problem. The community may include but not be limited to, motorcyclists, law enforcement officials, traffic safety officials, prosecutors and judges, and health care and injury prevention professionals. The grantee shall develop strategies for ensuring community involvement in the process.

4. Implement a program to reduce the incidence of impaired motorcycle riding and the injuries and fatalities associated with alcohol-related motorcycle crashes. The intervention should be creative, based on data and citizen input and comprehensive in nature. The intervention should be designed to allow for easy implementation and replication.

5. Evaluate the effectiveness of the intervention. The evaluation should include process and outcome measures. The evaluation may include but not be limited to the following: what works, what does not work, how to engage partners, methods of overcoming barriers or challenges, and ways to turn challenges into opportunities.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of this cooperative agreement and to coordinate activities between the Grantee and NHTSA.

2. Provide information and technical assistance from government sources within available resources and as determined appropriate by the COTR.

3. Serve as a liaison between NHTSA Headquarters, Regional Offices, and others (Federal, state and local) interested in reducing impaired riding and the activities of the grantee.

4. Review and provide comments on program content, materials, and evaluation activities.

5. Stimulate the transfer of information among grant recipients and others engaged in motorcycle and impaired driving activities.

Availability of Funds

Approximately $250,000 to $300,000 is available to fund up to 3 demonstration and evaluation projects for a period of three (3) years. This stated range does not establish minimum or maximum funding levels. Given the amount of funds available for this effort, applicants are strongly encouraged to seek other funding opportunities to supplement the Federal funds. Preference will be given to applicants with cost sharing proposals. At the discretion of the government, funds may be obligated fully at the time of award of the cooperative agreement or incrementally over the period of the cooperative agreement. Nothing in this solicitation should be constructed as committing NHTSA to make any award.

Period of Performance

The period of performance for this cooperative agreement will be three (3) years from the effective date of award.

Eligibility Requirements

Applications may be submitted by public and private, non-profit and not-for-profit organizations, and governments and their agencies or a consortium of the above. Thus, universities, colleges, research institutions, hospitals, other public and private (non-or not-for-profit) organizations, and State and local governments are eligible to apply. Interested applicants are advised that no fee or profit will be allowed under this cooperative agreement program. Preference may be given to those that have proposed cost-sharing strategies and/or other proposed funding sources in addition to those in this announcement.

To be eligible to participate in this cooperative agreement, applicants must meet the following special competencies:

1. Demonstrate knowledge and familiarity with the impaired riding problem and other motorcycle safety issues within the community. Data sources must include local data sets and should (to the degree possible) extend beyond police crash reports to include injury data (e.g. motorcycle/alcohol-related injuries).

2. Demonstrate capability of technical and management skills to successfully design, conduct, and evaluate programs implemented in local communities. Demonstrate that such programs have resulted in timely, adequate and complete projects. Include a narrative description of the documented experience, clearly indicating the relationship to this project and providing details such as project description and sponsoring agency. References to completed final project reports should include author's name.

3. Demonstrate capacity to:

a. Design and implement innovative approaches for addressing difficult community problems;

b. Work successfully with motorcycling and other community groups;

c. Design comprehensive program evaluations; including collecting and

analyzing both quantitative and qualitative data; and

d. Synthesize, summarize, and report results which are useable and decision-oriented.

4. Demonstrate expertise in traffic safety, program development and implementation, and knowledge and experience in motorcycle safety issues, especially impaired riding.

5. Demonstrate ability and experience in working with local citizens in implementing solutions to traffic safety problem, especially impaired riding or driving.

6. Demonstrate experience in fostering outreach efforts to the media.

Application Procedure

Each applicant must submit one (1) original and two (2) copies of the application package to: Lamont O. Norwood, NHTSA, Office of Contracts and Procurement (NAD–30), 400 Seventh Street SW Room 5301, Washington DC 20590. Applications must include a completed Application for Federal Assistance (Standard Form 424—Revised 4/88). An additional two copies will facilitate the review process, but are not required.

Only complete packages received on or before 2:00 p.m. May 24, 1999 will be considered. No facsimile transmissions will be accepted. Due to the large number of actions being processed, applications must be typed on one side of the page only and a reference to NHTSA Cooperative Agreement Number DTNH22–99-H–05087. Unnecessarily elaborate applications beyond what is sufficient to present a complete and effective response to this invitation are not desired. Please direct cooperative agreement application questions to Lamont O. Norwood, at (202) 366–8573 or by email address lnorwood@nhtsa.dot.gov. Programmatic questions should be directed to Joey W. Syner, by email at jsyner@nhtsa.dot.gov, or by phone at (202) 366–1770.

Application Contents

A. The application package must be submitted with OMB Standard Form 424, (Rev 7–97 or 4–88, including 424A and 424B), Application for Federal Assistance, with the required information provided and the certified assurances included. While the Form 424–A deals with budget information, and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed breakout of the proposed costs (detail labor, including labor category, level of effort, and rate; direct materials, including itemized equipment; travel and transportation, including projected trips and number of people traveling; subcontractors/subgrants, with similar detail, if known; and overhead), as well as any costs the applicant proposes to contribute or obtain from other sources in support of the projects in the innovative project plan. The estimated costs should be separated and proposed on the basis of individual Federal fiscal years i.e. beginning October 1, 1999 through September 30, 2000; October 1, 2000 through September 30, 2001; etc.

B. Funding sources other than the funds being provided through this cooperative agreement are encouraged. Since activities may be performed with a variety of financial resources, applicants need to fully identify all project costs and their funding sources in the proposed budget. The proposed budget must identify all funding sources in sufficient detail to demonstrate that the overall objectives of the project will be met.

C. Program Narrative Statement: Proposal must fully describe the scope of the project, detailing the activities and costs for which funding is being requested. Also, applications for this program must include the following information in the program narrative statement:

1. A table of contents including page number references.

2. A description of the community in which the grantee proposes to implement an impaired riding program. For the purpose of this program a community includes a city, town or county, small metropolitan area or a group of cities, towns or counties in a particular region. It should be large enough so that the program can have a demonstrable effect on impaired riding. The description of the community should include, at a minimum, community demographics including motorcycle population, the community's impaired riding problem, data sources available, existing traffic safety programs, impaired driving programs and community resources.

3. A description of the program's goal and how the grantee plans to establish an impaired riding program in the proposed site. How will the grantee solicit the assistance and partner with local organizations, such as law enforcement agencies, and motorcycle rider groups? How will local motorcyclists become part of the process of problem identification and proposed solutions?

4. A description of the interventions or specific activities proposed to achieve the objectives of the program. What actions will be undertaken to reduce impaired riding? How will motorcyclists be involved with these activities? What groups are needed to ensure program success? To what degree has the buy-in of these groups been secured? How will the interventions be delivered? How will delivery be monitored? What are the expected results of the intervention?

5. A description of the process and outcome evaluation plan including the types of data that will be collected and all data collection procedures. A description of the data analysis procedures which will be conducted should be included.

6. A description of how the project will be managed, both at the grantee-level and at the community level. The application shall identify the proposed project manager and other personnel considered critical to the successful accomplishment of this project, including a brief description of their qualifications and respective organizational responsibilities. The role and responsibilities of the grantee, the community and any others included in the application package shall be specified. The proposed level of effort in performing the various activities shall also be identified.

7. A detailed explanation of time schedules, milestones, and product deliverables, including quarterly reports and draft and final reports. (See Terms and Conditions of Award.)

8. A separately-labeled section with information demonstrating that the applicant meets all of the special requirements outlined in the Eligibility Requirements section of this announcement.

D. Commitment and Support: A complete set of letters (form letters are not acceptable) from major partners, organizations, and groups proposed for involvement with this project shall detail what each partner is willing to do over the course of the project period. Included in this set of letters shall be a letter from the State Highway Safety Office and the State Motorcycle Safety Program Coordinator, supporting this program's effort.

Evaluation Criteria and Review Process

Each application package will be reviewed initially to confirm that the applicant is an eligible recipient, meets applicant competency factors listed in the Eligibility Requirements section, and has included all of the items specified in the Application Procedures section of this announcement. Each

complete application from an eligible recipient will then be evaluated by an Evaluation Committee. The applications will be evaluated using the following criteria:

A. Program Innovation (25 Percent)

The extent to which the applicant is knowledgeable about impaired riding/driving programs. The extent to which the applicant clearly identifies and explains creative approaches to address impaired riding. If building on an existing approach or program, what are the innovative, new, or creative features that makes this project different from what has been tried in the past? Has the applicant identified potential barriers associated with developing and implementing the new, creative approach? Has the applicant offered solutions for addressing the barriers? Has the applicant involved the motorcycling community, traditional traffic safety partners, and new non-traditional highway safety or motorcycle partners in the project? Has the applicant demonstrated how the project is adaptable to other jurisdictions at a reasonable cost?

B. Goals, Objectives, and Work Plan (20 Percent)

The extent to which the applicant's goals are clearly articulated and the objectives are time-phased, specific, action-oriented, measurable, and achievable. The extent to which the work plan will achieve an outcome-oriented result that will reduce impaired riding crashes, injuries, and fatalities resulting from alcohol-related traffic crashes. The work plan must address what the applicant proposes to develop and implement; how this will be accomplished; and must include the major tasks/milestones necessary to complete the project. This involves identification of, and solutions to, potential technical problems and critical issues related to successful completion of the project. The work plan will be evaluated with respect to its feasibility, realism, and ability to achieve desired outcomes.

C. Understanding the Community (15 Percent)

The extent to which the applicant has demonstrated an understanding of the proposed community, including the community's demographics, traffic safety problem, and resources (including data). The extent to which the applicant has identified partners and groups to work on the proposed project. Has the applicant specified who will be involved and what each will contribute to the project? What new or non-traditional partners has the applicant involved in the project?

D. Special Competencies (15 Percent)

The extent to which the applicant has met the special competencies (see Eligibility Requirements) including knowledge and familiarity with impaired riding and other motorcycle safety issues within the community; technical and management skills needed to successfully design, conduct, and evaluate programs implemented at the local level; ability to work with local citizens and the motorcycling community to implement programs; ability to design and implement approaches for addressing difficult community problems; and experience in fostering outreach to the media.

E. Project Management and Staffing (15 Percent)

The extent to which the proposed staff are clearly described, appropriately assigned, and have adequate skills and experiences. The extent to which the applicant has the capacity and facilities to design, implement, and evaluate the proposed project. The extent to which the applicant has provided details regarding the level of effort and allocation of time for each staff position. The applicant must furnish an organizational chart and résumés of each proposed staff member. Is the applicant's staffing plan reasonable for accomplishing the objectives of the project within the time frame set forth in the announcement?

Has the applicant's financial budget provided sufficient detail to allow NHTSA to determine that the estimated costs are reasonable and necessary to perform the proposed effort? Has financial or in-kind commitment of resources by the applicant's organization or other supporting organizations to support the project been clearly identified?

F. Evaluation Plan (10 Percent)

The extent to which the evaluation plan clearly articulates the project's potential to make a significant impact on reducing impaired motorcycle riding, crashes, and associated injuries and fatalities. The extent to which the evaluation plan will measure the effectiveness of the innovative, creative project. Has the applicant described the proposed evaluation design and the methods for measuring the outcomes of the proposed interventions (countermeasures)?

Are there sufficient data sources and is access ensured from appropriate owners or collectors of data to collect and appropriately analyze quantitative and qualitative data to measure the effectiveness of the innovative project?

Special Award Selection Factors

While not a requirement of this announcement, applicants are strongly urged to seek funds from other Federal, state, local, and private sources to augment those available under this announcement. For those application that are evaluated as meritorious for consideration of award, preference may be given to those that have proposed cost-sharing strategies and/or other proposed funding sources in addition to those in this announcement.

Terms and Conditions of Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation government wide Debarment and Suspension (Non-procurement) and Government-wide Requirement for Drug Free Work Place (Grants).

2. Reporting Requirements and Deliverables:

a. Quarterly Progress Reports must include a summary of the previous quarter's activities and accomplishments, as well as the proposed activities for the upcoming quarter. Any decisions and actions required in the upcoming quarter should be included in the report. Any problems and issues that may arise and need the Contracting Officer's Technical Representative (COTR) or Contracting Officer (CO) attention should be clearly identified in the quarterly report in a specific, identified section. The grantee shall supply the progress report to the COTR every ninety (90) days, following date of award.

b. Initial and Subsequent Meetings with COTR: The grantee will meet with the COTR and appropriate NHTSA staff in Washington DC at NHTSA's offices to discuss and refine the development, implementation, and evaluation of the project. The grantee will prepare a 20 to 30 minute presentation describing the project and will be prepared to answer questions from the COTR and others present at the briefing. After this initial meeting with the COTR, the grantee should meet at least once a year with the COTR in Washington DC at NHTSA's offices to discuss the project's progress and results. These meetings will be a minimum of 4 hours in length.

c. Revised Implementation and Evaluation Plan: The grantee will submit a revised program implementation and evaluation plan incorporating verbal and written

comments from the COTR. This revised plan is due no more than one (1) month from date of the initial meeting with COTR.

d. Draft Final Report: The grantee will prepare a Draft Final Report that includes a description of the innovative project, intervention strategies, program implementation, evaluation methodology, and findings from the program evaluation. With regard to technology transfer, it is important to know what worked and what did not work, under what circumstances, and what can be done to enhance replication in similar communities and what can be done to avoid potential problems for future replication of the project. The grantee will submit Draft Final Report to the COTR 60 days prior to the end of the performance period. The COTR will review the draft report and provide comments to the grantee within 30 days of receipt of the document.

e. Final Report: The grantee will revise the Draft Final Report to reflect the COTR's comments. The revised final report will be delivered to the COTR along with the following:

The print materials shall be provided to NHTSA in both camera ready and appropriate media formats (disk, CD-rom) with graphics and printing specifications to guide NHTSA's printing office and any outside organization implementing the program. Printing Specifications follow.

• Digital artwork for printing shall be provided to NHTSA on diskette (100MG Zip disk or 1GB Jaz disk). Files should be in current desktop design and publication programs, for example, Adobe Illustrator, Adobe Photoshop, Adobe Pagemaker, Macromedia Freehand, QuarkXPress. The grantee shall provide all supporting files and fonts (both screen and printers) needed for successful output, black and white laser separations of all pages, disk directory(s) with printing specifications provided to the Government Printing Office (GPO) on GPO Form 952 to guide NHTSA's printing office, GPO, and any outside organizations assisting with program production. The grantee shall confer with the COTR to verify all media format and language.

• Additionally, the program materials shall be submitted in the following format for placement on NHTSA's website on the world wide web.

—Original application format, for example, *pm5; *.doc; *.ppt; etc
—HTML level 3.2 or later
—A PDF file for viewing with Adobe Acrobat

All HTML deliverables must be delivered on either a standard 3.5" floppy disk or on a Windows 95 compatible formatted Iomega zip disk and labeled with the following information:

—Grantee's name and phone number
—Names of relevant files
—Application program and version used to create the file(s).

If the files exceed the capacity of a high density floppy, a Windows 95 compatible formatted Iomega zip disk is acceptable.

Graphics must be saved in Graphic Interchange Format (GIF) or Joint Photographic Expert Group (JPEG). Graphics should be prepared in the smallest size possible, without reducing the usefulness or the readability of the figure on the screen. Use GIF for solid color or black and white images, such as bar charts, maps, or diagrams. Use JPEG (highest resolution and lowest compression) for photographic images having a wider range of color or grey-scale tones. When in doubt, try both formats and use the one that gives the best image quality for the smallest file size. Graphic files can be embedded in the body of the text or linked form the body text in their own files: the latter is preferable when a figure needs to be viewed full screen (640 X 480 pixels) to be readable.

Tabular data must be displayed in HTML table format.

List data must be displayed in HTML list format.

Pre-formatted text is not acceptable.

Currently, frames are not acceptable.

JAVA, if used, must not affect the readability or usefulness of the document, only enhance it.

Table background colors may be used, but must not be relied upon (for example, a white document background with a table with colored background may look nice with white text, but the colored background doesn't show up on the user's browser the text shall be white against white and unreadable.)

All HTML documents must be saved in PC format and tested on a PC before delivery.

f. Final project briefing to NHTSA and a presentation to a national meeting: The grantee will deliver a briefing in Washington, DC at NHTSA's offices to the COTR and appropriate NHTSA staff to review the project implementation, evaluation, and results. This presentation shall last no less than 30 minutes and the grantee shall be prepared to answer questions from the briefing's attendees.

In consultation with the COTR, the grantee will select a national meeting to deliver a presentation of the project and it effectiveness.

g. An electronic Microsoft PowerPoint (97) presentation that NHTSA staff shall be able to use to brief senior staff or motorcycle partners at various meetings and conference.

3. During the effective performance period of the cooperative agreements awarded as a result of this announcement, the agreement as applicable to the grantee, shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreement, dated July 1995.

Issued on: March 23, 1999.

Rose A. McMurray,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 99–7407 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5143 [Notice No. 99–2]

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of filing requirements.

SUMMARY: The Hazardous Materials Registration Program will enter registration year 1999–2000 on July 1, 1999. Persons who transport or offer for transportation certain hazardous materials are required to annually file a registration statement and pay a fee to the Department of Transportation. Persons who registered for the 1998–99 registration year will be mailed a registration statement form and informational brochure in May.

FOR FURTHER INFORMATION CONTACT: David W. Donaldson, Office of Hazardous Materials Planning and Analysis, DHM–60 (202–366–4109), Hazardous Materials Safety, 400 Seventh Street SW, Washington, DC 20590–0001, or by E-mail to REGISTER@rspa.dot.gov.

SUPPLEMENTARY INFORMATION: This notice is intended to notify persons who transport or offer for transportation certain hazardous materials of an annual requirement to register with the Department of Transportation. Each person, as defined by the Federal hazardous materials transportation law (49 U.S.C. 5101 *et seq.*), who engages in any of the specified activities relating to the transportation of hazardous

materials is required to register annually with the Department of Transportation and pay a fee. The regulations implementing this program are in Title 49, Code of Federal Regulations, §§ 107.601–107.620.

Proceeds from the fee are used to fund grants to State, local, and Native American tribal governments for emergency response training and planning, and to provide related assistance, including the revision, publication, and distribution of the *North American Emergency Response Guidebook*. Grants were awarded to 50 states, the District of Columbia, four territories, and 15 Native American tribes during FY 1998. By law, 75 percent of the Federal grant monies awarded to the States is further distributed to local emergency response and planning agencies. Preliminary reports indicate that the FY 1997 funds helped to provide: (1) Training for approximately 117,000 emergency response personnel; (2) approximately 400 commodity flow studies and hazard analyses; (3) 7,350 emergency response plans updated or written for the first time; (4) assistance to 1,450 local emergency planning committees; and (5) 750 emergency exercises.

The persons affected by these regulations are those who offer or transport in commerce any of the following materials:

A. Any highway route-controlled quantity of a Class 7 (radioactive) material;

B. More than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

C. More than one liter (1.06 quarts) per package of a material extremely toxic by inhalation (that is, a "material poisonous by inhalation" that meets the criteria for "hazard zone A");

D. A hazardous material in a bulk packaging having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids; or

E. A shipment, in other than a bulk packaging, of 2,268 kilograms (5,000 pounds) gross weight or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class.

The following persons are excepted from the registration requirement:

A. Agencies of the Federal Government;

B. Agencies of States;

C. Agencies of political subdivisions of States;

D. Employees of those agencies listed in A, B, or C with respect to their official duties;

E. Hazmat employees, including the owner-operator of a motor vehicle which transports in commerce hazardous materials if that vehicle, at the time of those activities, is leased to a registered motor carrier under a 30-day or longer lease as prescribed in 49 CFR part 376 or an equivalent contractual relationship; and

F. Persons domiciled outside the United States whose only activity involving the transportation of hazardous materials within the United States is to offer hazardous materials for transportation in commerce from locations outside the United States, if the country in which they are domiciled does not impose registration or a fee upon U.S. companies for offering hazardous materials into that country. However, persons domiciled outside the United States who carry the types and quantities of hazardous materials that require registration within the United States are subject to the registration requirement.

The 1998–99 registration year ends on June 30, 1999. The 1999–2000 registration year will begin on July 1, 1999, and end on June 30, 2000. Any person who engages in any of the specified activities during the 1999–2000 registration year must file a registration statement and pay the associated fee of $300.00 before July 1, 1999, or before engaging in any of the activities, whichever is later. All persons who registered for the 1998–99 registration year will be mailed a registration statement form and an informational brochure in May 1999. Other persons wishing to obtain the form and any other information relating to this program should contact RSPA at the address given above. The brochure and form can also be downloaded from the RSPA registration Internet home page at http://hazmat.dot.gov/register.htm.

The registration requirements have not been amended for the 1999–2000 registration year, nor has the registration statement been revised materially. Registrants should file a registration statement and pay the associated fee at least four weeks before July 1, 1999, in order to ensure that a 1999–2000 certificate of registration has been obtained by that date to comply with the recordkeeping requirements. These include the requirement that the registration number be made available on board each truck and truck tractor (not including trailers and semi-trailers) and each vessel used to transport hazardous materials subject to the registration requirements. A certificate of registration is generally mailed within ten days of RSPA's receipt of a properly completed registration statement.

Persons who engage in any of the specified activities during a registration year are required to register for that year. Persons who engaged in these activities during registration year 1992–93 (September 16, 1992, through June 30, 1993), 1993–94 (July 1, 1993, through June 30, 1994), 1994–95 (July 1, 1994, through June 30, 1995), 1995–96 (July 1, 1995, through June 30, 1996), 1996–97 (July 1, 1996, through June 30, 1997), 1997–98 (July 1, 1997, through June 30, 1998), or 1998–99 (July 1, 1998, through June 30, 1999) and have not filed a registration statement and paid the associated fee of $300.00 for each year for which registration is required should contact RSPA to obtain the required form (DOT F 5800.2). A copy of the form that will be distributed for the 1999–2000 registration year may be used to register for previous years. Persons who fail to register for any registration year in which they engaged in such activities are subject to civil penalties for each day a covered activity is performed. The legal obligation to register for a year in which any specified activity was conducted does not end with the registration year.

Issued in Washington, DC, on March 22, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–7406 Filed 3–25–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–406 (Sub-No. 6X)]

Central Kansas Railway Limited Liability Co.—Abandonment Exemption—in Harper County, KS

Central Kansas Railway Limited Liability Company (CKR) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 8-mile line of its railroad on the Spring Branch between milepost 69.0 at Anthony and milepost 77.0 at Spring, in Harper County, KS. The line traverses United States Postal Service Zip Code 67003.

CKR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past two years; (3) no formal complaint

filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 25, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] any additional formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 5, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 15, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morell, Ball Janik LLP, 1455 F St., NW, Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CKR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 31, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CKR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CKR's filing of a notice of consummation by March 26, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: March 19, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–7330 Filed 3–25–99; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–29]

Guidelines for the Cancellation of Claims for Liquidated Damages and Mitigation of Penalties for Failure To Provide General Order Notifications or Failure To Take Possession of General Order Merchandise; Guidelines for Mitigation of Penalties for Delivery of Cargo Without Customs Authorization; Guidelines for Cancellation of Claims for Liquidated Damages for Failing To Deliver In-Bond Merchandise; Guidelines for Cancellation of Claims for Removal of Merchandise From Centralized Examination Stations, Container Freight Stations or Places of Examination

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Under the Omnibus Trade and Competitiveness Act of 1988, the Secretary of the Treasury is required to publish guidelines for the cancellation of bond charges. In Treasury Decision 98–74 (T.D. 98–74), the Secretary published amendments to the Customs Regulations regarding the obligation of carriers and certain related parties to provide notice to Customs and to a bonded warehouse of the presence of merchandise or baggage that has remained at the place of arrival or unlading beyond the time period provided by regulation without entry having been completed. The notice to the bonded warehouse proprietor initiates his obligation to arrange for transportation and storage of the unentered merchandise or baggage at the risk and expense of the consignee. The new regulations provide for the assessment of penalties or liquidated damages for failure to provide the required notice to Customs or to a bonded warehouse proprietor of the presence of unentered merchandise or baggage and for liquidated damages against the warehouse operator who fails to take required possession of the merchandise or baggage for which notification has been received.

This document publishes guidelines for the mitigation of penalties incurred by carriers for failing to provide appropriate notifications. It also publishes bond cancellation standards to be applied to claims for liquidated damages incurred by bonded carriers, custodians or warehouse operators who fail to comply with obligations to provide notification of the presence of unentered merchandise or to collect that merchandise about which notification has been received.

In addition, this document publishes new mitigation guidelines for penalties assessed against carriers and other parties for the delivery of cargo from the place of unlading without Customs authorization or delivery of cargo without examination. Inasmuch as these penalties are very similar to claims for liquidated damages assessed against in-bond carriers for nondelivery, shortage or delivery directly to the consignee, the bond cancellation standards for 19 CFR 18.8 in-bond violations which were published in T.D. 94–38 are revised by this document to be consistent with guidelines for the mitigation of the penalties assessed for delivery of cargo without Customs authorization. Additionally, this document amends T.D. 94–38 to revise bond cancellation standards for claims for liquidated damages arising from breach of the Basic Custodial Bond when cargo is removed from a Centralized Examination Station (CES) without authorization and standards for claims arising from breach of the Basic Importation Bond when merchandise is

not delivered to or is not held at the place of examination. Finally, the document provides for bond cancellation standards for claims for liquidated damages arising from the removal of merchandise from a Container Freight Station (CFS) without authorization.

EFFECTIVE DATE: These guidelines will take effect upon March 26, 1999 and shall be applicable to all cases which are currently open at the petition or supplemental petition stage. No second supplemental petitions will be accepted solely to gain the benefit of a less harsh guideline.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings (202) 927–2344.

SUPPLEMENTARY INFORMATION:

Background

Section 1904 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418) amended section 623 of the Tariff Act of 1930 (19 U.S.C. 1623) by adding the following sentence at the end of section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)):

> "In order to assure uniform, reasonable and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder."

In T.D. 94–38, dated April 11, 1994, the text of current guidelines for cancellation of claims for liquidated damages was published.

In a document published as Treasury Decision 98–74 (T.D. 98–74) in the **Federal Register** (63 FR 51283) on September 25, 1998, Customs promulgated amendments to its regulations which implemented section 656 of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, providing for penalties against the owner or master of any vessel or vehicle or the agent thereof for failure to notify Customs of any merchandise or baggage unladen for which entry is not made within the time period prescribed by law or regulation. The new regulations extend such liability to owners or pilots of aircraft or the agent thereof.

The new regulations require the owner, master, operator or pilot, or the agent thereof, of the arriving carrier, or any subsequent in-bond carrier or party who accepts custody under a Customs-authorized permit to transfer, to provide notice of the unentered merchandise or baggage to a bonded warehouse. The notice to the bonded warehouse proprietor initiates his obligation to arrange for transportation and storage of the unentered merchandise or baggage at the risk and expense of the consignee. The new regulations provide for penalties under 19 U.S.C. 1448 or liquidated damages under the International Carrier Bond (19 CFR 113.64) against the owner, master, operator or pilot of any conveyance, or agent thereof, for failure to provide the required notice to Customs or to a bonded warehouse proprietor. The new regulations provide for the assessment of liquidated damages under the Basic Custodial Bond (19 CFR 113.63) against any subsequent in-bond carrier or other party who accepts custody of the merchandise or baggage under a Customs-authorized permit to transfer who fails to notify Customs and a bonded warehouse of the presence of such unentered merchandise or baggage. Finally, the new regulations provide for liquidated damages under the Basic Custodial Bond (19 CFR 113.63) against the warehouse operator who fails to take required possession of the merchandise or baggage after receipt of notification.

This document publishes guidelines for the mitigation of those penalties incurred by carriers for failing to provide appropriate notifications. It also publishes bond cancellation standards to be applied to claims for liquidated damages incurred by arriving carriers, bonded carriers, custodians or warehouse operators who fail to comply with obligations to provide notification of the presence of unentered merchandise or to collect that merchandise about which notification has been received.

In addition to new guidelines required for these G.O. notification and merchandise collection violations, this document publishes new mitigation guidelines for penalties established against carriers and other parties for violation of 19 U.S.C. 1595a(b) for facilitating an importation contrary to law, specifically 19 U.S.C. 1448 for delivery of merchandise from the place of unlading without Customs authorization, and 19 U.S.C. 1499 for delivery of cargo without a requested Customs examination. Customs has found that the current guidelines for mitigation of these penalties do not provide a sufficient deterrent for parties who violate these provisions of law.

Additionally, these penalties are very similar to claims for liquidated damages assessed against in-bond carriers for failing to deliver, short delivery or delivery directly to the consignee of in-bond merchandise. In Customs view, both types of violations should be mitigated or canceled under the same standards. Accordingly, the bond cancellation standards for 19 CFR 18.8 in-bond violations which were published in T.D. 94–38, Section III., are revised and replaced by this document to be consistent with guidelines for the mitigation of the penalties assessed for delivery of cargo without Customs authorization.

This document also updates bond cancellation standards for claims for liquidated damages arising from breach of the Basic Custodial Bond when cargo is removed from a Centralized Examination Station (CES) without authorization. The bond cancellation standards for violations arising for removal of merchandise from a CES without authorization which were published in T.D. 94–38, Section XI., are revised and replaced by this document to be consistent with guidelines for the mitigation of the penalties assessed for delivery of cargo without Customs authorization.

The bond cancellation standards articulated in T.D. 94–38 did not include standards for removal of merchandise from a Container Freight Station (CFS). This document publishes standards for the removal of merchandise from a CFS.

Finally, this document updates bond cancellation standards for claims for liquidated damages arising from breach of the Basic Importation Bond when merchandise is not delivered to or is not held at the place of examination (19 CFR 113.62(f)). The cancellation standards which were published in T.D. 94–38, Section X., are revised and replaced by this document to be consistent with guidelines for the mitigation of the penalties assessed for delivery of cargo without Customs authorization.

The text of the guidelines is set forth below.

Dated: March 23, 1999.

Raymond W. Kelly,

Commissioner of Customs.

Guidelines for Cancellation of Claims for Liquidated Damages and Mitigation of Penalties for Failure To Provide General Order Notifications or Failure to Take Possession of General Order Merchandise; Guidelines for Mitigation of Penalties for Delivery of Cargo Without Customs Authorization; Guidelines for Cancellation of Claims for Liquidated Damages for Failing To Deliver In-Bond Merchandise; Guidelines for Cancellation of Claims for Removal of Merchandise from Centralized Examination Stations, Contained Freight Stations or Places of Examination

I. Penalties Against Carrier for Failure To Notify Customs of Presence of Unentered Merchandise

A. Assessment

Any merchandise or baggage regularly landed but not covered by a permit for its release will be allowed to remain at the place of unlading until the fifteenth calendar day after landing. No later than 20 calendar days after landing, the master, pilot, operator or owner of the conveyance or the agent thereof must notify Customs of any such merchandise or baggage for which entry has not been made. Such notification must be provided in writing or by any appropriate Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to $1,000 per bill of lading against the master, pilot, operator or owner of the conveyance or the agent thereof for violation of the provisions of title 19, United States Code, section 1448 (19 U.S.C. 1448). If the value of the merchandise on the bill is less than $1,000, the penalty will be equal to the value of such merchandise.

B. Mitigation

1. If notification of the presence of unentered merchandise is provided outside the time period allowed by law or regulation, the penalty may be mitigated to an amount between 10 and 50 percent of the assessment, but not less than $100 or the value of the merchandise (whichever is lower), depending on the presence of aggravating or mitigating circumstances.

2. If notification is not received, or if Customs discovers the presence of unentered merchandise after the time period for notification has expired, no mitigation will be afforded.

II. Claims for Liquidated Damages Assessed Against a Bonded Party for Failure To Notify Customs of the Presence of Unentered Merchandise

A. Assessment

Any merchandise or baggage that is taken into custody from an arriving carrier by any party under a Customs-authorized permit to transfer or in-bond entry may remain in the custody of that party for 15 calendar days after receipt under such permit to transfer or 15 calendar days after arrival at the port of destination. No later than 20 calendar days after receipt under the permit to transfer or 20 calendar days after arrival under bond at the port of destination, the party must notify Customs of any such merchandise or baggage for which entry has not been made. Such notification must be provided in writing or by any appropriate Customs-authorized electronic data interchange system. If the party fails to notify Customs of the unentered merchandise or baggage in the allotted time, he may be liable for the payment of liquidated damages equal to $1,000 per bill of lading for which notification is not given for violation of the provisions of 19 CFR 113.63(c)(4) and: 19 CFR 4.37(b), if original arrival is by vessel; 19 CFR 122.50(b), if original arrival is by air; or 19 CFR 123.10(b), if original arrival is by land carrier.

B. Mitigation

1. If notification of the presence of unentered merchandise is provided outside the time period allowed by law or regulation, the claim for liquidated damages may be canceled upon payment of an amount between 10 and 50 percent of the assessment, depending on the presence of aggravating or mitigating circumstances.

2. If notification is not received, or if Customs discovers the presence of unentered merchandise after the time period for notification has expired, no mitigation will be afforded.

III. Claims for Liquidated Damages Incurred by the Carrier or Other Party for Failure To Notify the Bonded Warehouse of the Presence of Unentered Merchandise

A. Assessment

In addition to the notification to Customs, the carrier (or any other party to whom custody of the unentered merchandise has been transferred by a Customs authorized permit to transfer or in-bond entry) must provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification must be provided in writing or by any appropriate Customs-authorized electronic data interchange system and must be provided within the 20-calendar day period. If the party to whom custody of the unentered merchandise or baggage has been transferred by a Customs-authorized permit to transfer or in-bond entry fails to notify a Customs-approved bonded warehouse of such merchandise or baggage within the applicable 20-calendar-day period, he may be liable for the payment of liquidated damages of $1,000 per bill of lading for which notification is not given. Liability of the arriving carrier would be under the provisions of 19 CFR 113.64(b) and: 19 CFR 4.37(c) if the original arrival was by vessel; 19 CFR 122.50(c) if the original arrival was by air; or 19 CFR 123.10(c) if the original arrival was by land carrier. Liability of the party to whom custody has been transferred by a Customs-authorized permit to transfer or in-bond entry would be under the provisions of 19 CFR 113.63(b), 19 CFR 113.63(c) and: 19 CFR 4.37(c) if the original arrival was by vessel; 19 CFR 122.50(c) if the original arrival was by air; or 19 CFR 123.10(c) if the original arrival was by land carrier.

B. Mitigation

1. If notification of the presence of unentered merchandise is provided to the bonded warehouse outside the time period allowed by law or regulation, the claim for liquidated damages may be canceled upon payment of an amount between 10 and 50 percent of the assessment, depending on the presence of aggravating or mitigating circumstances.

2. If notification is not received, or if Customs discovers the presence of unentered merchandise after the time period for notification has expired, no mitigation will be afforded.

IV. Claims for Liquidated Damages Against a Bonded Warehouse for Failure To Collect Unentered Merchandise for Which Notification Has Been Received

A. Assessment

If the bonded warehouse operator fails to take possession of unentered and unreleased merchandise or baggage within five calendar days after receipt of notification of the presence of such merchandise or baggage under this section, he may be liable for the payment of liquidated damages of $1,000 per bill of lading remaining uncollected. Liability would be under

19 CFR 113.63(a)(1) and: 19 CFR 4.37(d) if the original arrival was by vessel; 19 CFR 122.50(d) if the original arrival was by air; or 19 CFR 123.10(d) if the original arrival was by land carrier.

B. Mitigation

1. If the bonded warehouse operator takes possession of unentered merchandise outside the time period allowed by law or regulation, the claim for liquidated damages may be canceled upon payment of an amount between 10 and 50 percent of the assessment, depending on the presence of aggravating or mitigating circumstances.

2. If the bonded warehouse operator never takes possession of merchandise for which he has received appropriate notification, no mitigation will be afforded.

V. Delivery of Cargo Without Customs Authorization

A. Assessment

Penalties for removal of merchandise from the place of unlading without authorization will be assessed under the provisions of 19 U.S.C. 1595a(b) for violation of the provisions of 19 U.S.C. 1448 or penalties for delivery of merchandise without Customs examination will be assessed under the provisions of 19 U.S.C. 1595a(b) for violation of 19 U.S.C. 1499.

1. These penalties may be assessed against any party who is deemed to be responsible for the unauthorized removal or delivery.

2. Penalties are assessed in an amount equal to the domestic value of the merchandise removed or delivered without authorization.

3. Penalties of these types assessed against holders of international carrier bonds are secured by the terms and conditions of the bond up to the limit of the bond. Penalties may be collected in full from the violator. Collection from a surety is limited to the amount of the bond.

4. Double penalties should not be assessed, i.e., while the same misdelivery may be without Customs authorization and may involve avoidance of examination, only one assessment equal to the value of the merchandise should be made. If multiple assessments from the same transaction occur, mitigation should reflect the policy that only a single penalty should have been assessed.

B. Penalty Mitigation

1. If the violator can show that the violation occurred solely as a result of Customs error, the penalty should be canceled.

2. If the violator can show that the merchandise was never received or landed, the penalty should be mitigated without payment.

3. If the merchandise which was removed without authorization or delivered without examination could have been the subject of an informal entry, the penalty may be mitigated upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $100 and $500, depending on the presence of aggravating or mitigating factors.

4. If the violator comes forward and discloses the violation to Customs prior to Customs discovery of the violation, the penalty may be mitigated upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus $50.

5. If the merchandise which was removed without authorization was not designated for Customs examination and the violator can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the penalty may be mitigated upon payment of an amount between $250 and $2,000 depending on the presence of aggravating or mitigating factors.

6. If the merchandise which was removed without authorization was not designated for Customs examination and the violator cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the penalty may be mitigated upon payment of an amount between $300 and $2,500 depending on the presence of aggravating or mitigating factors.

7. If the merchandise which was removed without authorization or delivered without examination was designated for Customs examination and the violator can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the penalty may be mitigated upon payment of an amount between $2,500 and $20,000 depending on the presence of aggravating or mitigating factors. In no case shall the mitigated amount be lower than any costs chargeable to the importer which are incident to such examination. Conversely, the mitigated amount can never exceed the value of the shipment.

8. If the merchandise which was removed without authorization or delivered without examination was designated for Customs examination and the violator cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the penalty may be mitigated upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $3,000 and $25,000 depending on the presence of aggravating or mitigating factors. In no case shall the mitigated amount be lower than any costs chargeable to the importer which are incident to such Customs examination. Conversely, the mitigated amount can never exceed the value of the shipment.

9. If the violator has a history of removal of merchandise from the place of unlading without Customs authorization or delivery without Customs examination or particularly aggravating circumstances exist with regard to a violation, the Fines, Penalties and Forfeitures Officer may mitigate the penalty upon payment of a higher amount than that authorized by these guidelines; however, the advice of Headquarters, Office of Regulations and Rulings, Penalties Branch will be sought to determine appropriate mitigation.

10. Theft of merchandise from Customs custody. Merchandise which is stolen from the carrier prior to having been released by Customs shall be treated as having been delivered without Customs authorization. The carrier will be liable for penalties and mitigation will occur in accordance with these guidelines. It should also be noted that penalties under 19 USC 1595a(b) for violation of 19 USC 1448 or 1499 (as well as criminal sanctions under 18 U.S.C. 549) may also be assessed against the individuals who steal the merchandise from Customs custody. In those instances, no mitigation will be afforded to the person or persons primarily responsible for the illegal act. Aiders and abettors may receive mitigation to 25–50 percent of the penalty, depending upon the degree of complicity.

C. Mitigating and Aggravating Factors

1. Mitigating Factors

a. Violator inexperienced in the handling of cargo.

b. Violator has a general good performance and low error rate in the handling of cargo.

c. Violator demonstrates remedial action has been taken to prevent future violations.

2. Aggravating Factors

a. Violator refuses to cooperate with Customs or acts to impede Customs activity with regard to the case.

b. Violator has a rising error rate which is indicative of deteriorating performance in the handling of cargo.

D. Restricted or Prohibited Merchandise

If Customs has reason to believe that the merchandise which was removed from the place of unlading without authorization or which was delivered without examination may have been restricted or prohibited from entry, that will be considered an extraordinary aggravating factor and will result in either no mitigation or mitigation at the high end of the mitigation range.

VI. Guidelines for Cancellation of Claims for Shortage, Irregular Delivery, Non-Delivery or Delivery Directly to the Consignee of In-Bond Merchandise (19 CFR 18.8)

A. Assessment

All claims for liquidated damages assessed for breach of the provisions of 19 CFR 18.8 for shortage, irregular delivery, nondelivery or delivery directly to the consignee of in-bond merchandise will be assessed for the value of the merchandise or three times the value of the merchandise if the merchandise is restricted or is alcoholic beverages.

B. Documents Filed Late or Merchandise Delivered Late

1. Modified CF 5955A. Notices of liquidated damages incurred for documents filed late or merchandise delivered late this violation may be issued on a modified CF–5955A. If a modified form is issued, it shall specify two options from which the petitioner may choose to resolve the demand.

a. *Option 1.* The bond principal or surety may pay a specified sum within 60 days and the case will be closed. By electing this option in lieu of petitioning, the principal or surety waives the right to file a petition. He may, however, file a supplemental petition, if he does so in accordance with the Customs Regulations and has some new fact or information which merits consideration in accordance with these guidelines.

b. *Option 2.* The bond principal or surety may file a petition for relief. By filing a petition for relief, the petitioner will no longer be afforded the Option 1 mitigation amount. The Fines, Penalties and Forfeitures Officer will grant full relief when the petitioner demonstrates that the violation did not occur or that the violation occurred solely as a result of Customs error. If the petitioner fails to demonstrate that the violation did not occur or that the violation occurred solely as a result of Customs error, the Fines, Penalties and Forfeitures Officer may cancel the claim upon payment of an amount no less than $100 greater than the Option 1 amount.

2. If merchandise is delivered untimely to the port of destination or exportation (not within 15 days if transported by air, 30 days if transported by vehicle, or 60 days if transported by vessel) but is otherwise intact, the Fines, Penalties and Forfeitures Officer may cancel the claim upon payment of an amount between $100 or $500, depending on the presence of aggravating or mitigating factors.

3. If merchandise is delivered timely but the documentation is not filed with Customs within 2 days of arrival in the port of delivery, the Fines, Penalties and Forfeitures Officer may cancel the claim upon payment of an amount between $100 and $500, depending on the presence of aggravating or mitigating factors.

4. If the bonded carrier consistently fails to deliver paperwork timely and Customs business is impeded by these repeated failures, the Fines, Penalties and Forfeitures Officer may cancel any claim upon payment of a higher amount than the guidelines generally permit. The advice of Headquarters, Office of Regulations and Rulings, Penalties Branch, may be sought to determine appropriate mitigation.

C. Failure To Deliver, Shortage or Delivery Directly to the Consignee

1. If the in-bond carrier can show that the violation occurred solely as a result of Customs error, the claim for liquidated damages should be canceled without payment.

2. If the in-bond carrier can show that the merchandise was never received or landed, the claim for liquidated damages should be canceled without payment.

3. If the merchandise which was not delivered, delivered short or delivered directly to the consignee could have been the subject of an informal entry, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $100 and $500, depending on the presence of aggravating or mitigating factors.

4. If the in-bond carrier comes forward and discloses the violation to Customs prior to Customs discovery of the violation, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made, plus $50.

5. If the merchandise which was not delivered, delivered short or delivered directly to the consignee was not designated for Customs examination and the in-bond carrier can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount between $250 and $2,000 depending on the presence of aggravating or mitigating factors.

6. If the merchandise which was not delivered, delivered short or delivered directly to the consignee was not designated for Customs examination and the in-bond carrier cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $300 and $2,500 depending on the presence of aggravating or mitigating factors.

7. If the merchandise which was not delivered, delivered short or delivered directly to the consignee was designated for Customs examination and the in-bond carrier can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount between $2,500 and $20,000 depending on the presence of aggravating or mitigating factors. In no case should the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

8. If the merchandise which was not delivered, delivered short or delivered directly to the consignee was designated for Customs examination and the in-bond carrier cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $3,000 and $25,000 depending on the presence of aggravating or mitigating factors. In no case should the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such Customs

examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

9. If the in-bond carrier has a history of not delivering, delivering short or delivering directly to the consignee, or particularly aggravating circumstances exist with regard to a claim, the Fines, Penalties and Forfeitures Officer may cancel the claim for liquidated damages upon payment of a higher amount than that authorized by these guidelines; however, the advice of Headquarters, Office of Regulations and Rulings, Penalties Branch must be sought to determine appropriate mitigation.

10. Theft of in-bond merchandise. In-bond merchandise which is stolen from the carrier prior to having been delivered to Customs at the port of destination or exportation will be treated as having been not been delivered. The carrier will be liable for liquidated damages and mitigation will occur in accordance with these guidelines. It should also be noted that penalties under 19 U.S.C. 1595a(b) for violation of 19 USC 1448 or 1499 (as well as criminal sanctions under 18 U.S.C. 549) may also be assessed against the individuals who steal the merchandise from the bonded carrier. Claims assessed for theft of merchandise in those instances will be administered in accordance with guidelines articulated in Section V.B.10. above.

D. Mitigating and Aggravating Factors

1. Mitigating Factors

a. Carrier inexperienced in the handling of in-bond cargo.

b. Carrier has a general good performance and low error rate in the handling of in-bond cargo.

c. Carrier demonstrates remedial action has been taken to prevent future claims.

2. Aggravating Factors

a. Carrier refuses to cooperate with Customs or acts to impede Customs activity with regard to the case.

b. Carrier has a rising error rate which is indicative of deteriorating performance in the delivery of in-bond cargo.

E. Restricted or Prohibited Merchandise

If Customs has reason to believe that the merchandise which was not delivered, delivered short or delivered directly to the consignee may have been restricted or prohibited from entry, that will be considered an extraordinary aggravating factor and will result in either no mitigation or mitigation at the high end of the mitigation range.

VII. Guidelines for Cancellation of Claims Arising From the Failure of a Centralized Examination Station (CES) Operator To Deliver Merchandise To or Retain Merchandise at the CES (19 CFR 151.15, 19 CFR 113.63)

A. Assessment

Merchandise not delivered to or retained at a Centralized Examination Station (CES) by the CES operator will be the subject of a claim for liquidated damages for violation of the provisions of 19 CFR 151.15(b)(3) and 19 CFR 113.63(b)(2) equal to the value of the merchandise or three times the value of the merchandise if it is restricted or prohibited or is alcoholic beverages.

B. Mitigation of Claims Arising for Failure To Deliver Merchandise to the CES or Removal or Delivery of Merchandise From the CES Without Authorization

1. If the CES operator can show that the violation occurred solely as a result of Customs error, the claim for liquidated damages should be canceled without payment.

2. If the CES operator can show that the merchandise was never received or landed, the claim for liquidated damages should be canceled without payment.

3. If the merchandise which was not delivered to the CES or removed or delivered from the CES without authorization could have been the subject of an informal entry, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $100 and $500, depending on the presence of aggravating or mitigating factors.

4. If the CES operator comes forward and discloses the violation to Customs prior to Customs discovery of the violation, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made, plus $50.

5. By its very nature, merchandise not delivered to a CES or removed or delivered from a CES without authorization is designated for Customs examination. If the CES operator can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount between $2,500 and $20,000 depending on the presence of aggravating or mitigating factors. In no case shall the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

6. If the merchandise was not delivered to a CES or was removed or delivered from a CES without authorization, and the CES operator cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $3,000 and $25,000 depending on the presence of aggravating or mitigating factors. In no case should the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such Customs examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

7. If the CES operator has a history of receipting for merchandise which has not been delivered to the CES or allowing merchandise to be removed or delivered from the CES without authorization, or particularly aggravating circumstances exist with regard to a claim, the Fines, Penalties and Forfeitures Officer may cancel the claim for liquidated damages upon payment of a higher amount than that authorized by these guidelines; however, the advice of Headquarters, Office of Regulations and Rulings, Penalties Branch must be sought to determine appropriate mitigation.

8. Theft of bonded merchandise. Merchandise which is stolen from the CES shall be treated as having been removed without authorization. The CES operator will be liable for liquidated damages and mitigation will occur in accordance with these guidelines. It should also be noted that penalties under 19 USC 1595a(b) for violation of 19 USC 1448 or 1499 (as well as criminal sanctions under 18 U.S.C. 549) may also be assessed against the individuals who steal the merchandise from a CES. Claims for theft of merchandise in those instances will be administered in accordance with guidelines articulated in Section V.B.10. above.

C. Mitigating and Aggravating Factors

1. Mitigating Factors

a. CES operator is inexperienced in the handling of cargo.

b. CES operator has a general good performance and low error rate in the handling of cargo.

c. CES operator demonstrates remedial action has been taken to prevent future claims.

2. Aggravating Factors

a. CES operator refuses to cooperate with Customs or acts to impede Customs activity with regard to the case.

b. CES operator has a rising error rate which is indicative of deteriorating performance in the handling and safekeeping of cargo.

D. Restricted or Prohibited Merchandise

If Customs has reason to believe that the merchandise which was not delivered to a CES or was removed from the CES without authorization may have been restricted or prohibited from entry, that will be considered an extraordinary aggravating factor and will result in either no mitigation or mitigation at the high end of the mitigation range.

E. Failure To Maintain Records as Required by Regulation

1. If a CES operator fails to maintain records as required by Customs, claims for liquidated damages not involving merchandise for violation of 19 CFR 113.63(a)(3) and 19 CFR 118.4 will result.

2. If the breach resulted from clerical error, the claim may be canceled without payment.

3. If the breach resulted from negligence, the claim may be canceled upon payment of an amount between $100 and $250 per default, depending on the presence of aggravating or mitigating factors.

4. If the breach was intentional, no relief shall be granted.

VIII. Guidelines for Cancellation of Claims Arising From the Removal of Merchandise Without Authorization From a Container Freight Station (CFS) (19 CFR 113.63(b))

A. Assessment

Merchandise not retained at a Container Freight Station (CFS) by the CFS operator shall be the subject of a claim for liquidated damages for violation of the provisions of 19 CFR 113.63(b)(2) equal to the value of the merchandise or three times the value of the merchandise if it is restricted or prohibited or is alcoholic beverages.

B. Mitigation of Claims Arising for Removal or Delivery of Merchandise From the CFS Without Authorization

1. If the CFS operator can show that the violation occurred solely as a result of Customs error, the claim for liquidated damages should be canceled without payment.

2. If the CFS operator can show that the merchandise was never received or landed, the claim for liquidated damages should be canceled without payment.

3. If the merchandise which was removed or delivered from the CFS without authorization could have been the subject of an informal entry, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $100 and $500, depending on the presence of aggravating or mitigating factors.

4. If the CFS operator comes forward and discloses the violation to Customs prior to discovery of the violation by Customs, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made, plus $50.

5. If the merchandise which was removed or delivered from the CFS without authorization was not designated for Customs examination and the CFS operator can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount between $250 and $2,000 depending on the presence of aggravating or mitigating factors.

6. If the merchandise which was removed or delivered from the CFS without authorization was not designated for Customs examination and the CFS operator cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $300 and $2,500 depending on the presence of aggravating or mitigating factors.

7. If the merchandise removed or delivered from a CFS without authorization was designated for Customs examination and the CFS operator can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount between $2,500 and $20,000 depending on the presence of aggravating or mitigating factors. In no case should the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

8. If the merchandise which was removed or delivered from a CFS without authorization and was designated for Customs examination and the CFS operator cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $3,000 and $25,000 depending on the presence of aggravating or mitigating factors. In no case should the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such Customs examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

9. If the CFS operator has a history of receipting for merchandise which has been removed or delivered from the CFS without authorization or allowing merchandise to be removed from the CFS without authorization, or particularly aggravating circumstances exist with regard to a claim, the Fines, Penalties and Forfeitures Officer may cancel the claim for liquidated damages upon payment of a higher amount than that authorized by these guidelines; however, the advice of Headquarters, Office of Regulations and Rulings, Penalties Branch must be sought to determine appropriate mitigation.

10. Theft of merchandise from the CFS. Merchandise which is stolen from the CFS shall be treated as having been removed without authorization. The CFS operator will be liable for liquidated damages and mitigation will occur in accordance with these guidelines. It should also be noted that penalties under 19 USC 1595a(b) for violation of 19 USC 1448 or 1499 (as well as criminal sanctions under 18 U.S.C. 549) may also be assessed against the individuals who steal the merchandise from a CFS. Claims for theft of merchandise in those instances will be administered in accordance with guidelines articulated in Section V.B.10. above.

C. Mitigating and Aggravating Factors

1. Mitigating Factors

a. CFS operator is inexperienced in the handling of cargo.

b. CFS operator has a general good performance and a low error rate in the handling of cargo.

c. CFS operator demonstrates remedial action has been taken to prevent future claims.

2. Aggravating Factors

a. CFS operator refuses to cooperate with Customs or acts to impede Customs activity with regard to the case.

b. CFS operator has a rising error rate which is indicative of deteriorating performance in the handling and safekeeping of cargo.

D. Restricted or Prohibited Merchandise

If Customs has reason to believe that the merchandise which was removed from the CFS without authorization may have been restricted or prohibited from entry, that will be considered an extraordinary aggravating factor and will result in either no mitigation or mitigation at the high end of the mitigation range.

IX. Guidelines for Cancellation of Claims Arising From the Failure To Hold Merchandise at the Place of Examination (19 CFR 113.62(f))

A. Assessment

The importer of record (or Customs broker if the broker is acting as importer of record) may seek and obtain permission from Customs to have merchandise examined at a place other than at a wharf or other place in the charge of a Customs officer. The importer obligates the provisions of its basic importation bond guaranteeing to deliver the merchandise to the place of examination and hold it there until examination occurs. If merchandise which is to be held at the place of examination or delivered to the place of examination as obligated by the importer of record under the terms and conditions of the basic importation bond is not so held or delivered, a claim for liquidated damages arises for violation of the provisions of 19 CFR 113.62(f) equal to the value of the merchandise or three times the value of the merchandise if it is restricted or prohibited or is alcoholic beverages.

B. Mitigation of Claims Arising for Failure To Hold Merchandise at or Deliver Merchandise to the Place of Examination Pursuant to the Provisions of the Basic Importation Bond

1. If the importer of record can show that the violation occurred solely as a result of Customs error, the claim for liquidated damages should be canceled without payment.

2. If the importer of record can show that the merchandise was never received or landed, the claim for liquidated damages should be canceled without payment.

3. If the merchandise which was not held at or delivered to the place of examination could have been the subject of an informal entry, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $100 and $500, depending on the presence of aggravating or mitigating factors.

4. By its very nature, merchandise not held at or delivered to the place of examination is considered to be designated for Customs examination. If the importer of record can show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount between $2,500 and $20,000 depending on the presence of aggravating or mitigating factors. In no case should the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

5. If the merchandise was not held at or delivered to the place of examination and the importer of record cannot show that the merchandise was entered and duties, fees, taxes and charges paid thereon, the claim for liquidated damages may be canceled upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made plus an amount between $3,000 and $25,000 depending on the presence of aggravating or mitigating factors. In no case should the amount upon which the claim may be canceled be lower than any chargeable costs which are incident to such Customs examination. Conversely, the amount upon which the claim may be canceled can never exceed the value of the claim for liquidated damages.

6. If the importer of record has a history of not holding merchandise at or not delivering merchandise to the place of examination, or particularly aggravating circumstances exist with regard to a claim, the Fines, Penalties and Forfeitures Officer may cancel the claim for liquidated damages upon payment of a higher amount than that authorized by these guidelines; however, the advice of Headquarters, Office of Regulations and Rulings, Penalties Branch will be sought to determine appropriate mitigation.

7. Theft of merchandise from the place of examination or while being delivered to the place of examination. Merchandise which is stolen from the custody of the importer of record at or on its way to the place of examination will be treated as having been removed without authorization. The importer of record will be liable for liquidated damages and mitigation will occur in accordance with these guidelines. It should also be noted that penalties under 19 USC 1595a(b) for violation of 19 USC 1448 or 1499 (as well as criminal sanctions under 18 U.S.C. 549) may also be assessed against the individuals who steal the merchandise from the importer of record. Claims for theft of merchandise in those instances will be administered in accordance with guidelines articulated in Section V.B.10. above.

C. Mitigating and Aggravating Factors

1. Mitigating Factors

a. The importer of record is inexperienced in the handling of cargo.

b. The importer of record has a general good performance and a low error rate in the delivery and safekeeping of cargo.

c. The importer of record demonstrates remedial action has been taken to prevent future claims.

2. Aggravating Factors

a. The importer of record refuses to cooperate with Customs or acts to impede Customs activity with regard to the case.

b. The importer of record has a rising error rate which is indicative of deteriorating performance in the delivery and safekeeping of cargo.

D. Restricted or Prohibited Merchandise

If Customs has reason to believe that the merchandise which was not held at the place of examination or was not delivered to the place of examination may have been restricted or prohibited from entry, that will be considered an extraordinary aggravating factor and will result in either no mitigation or mitigation at the high end of the mitigation range.

E. Failure to Keep Customs Seal or Cording Intact

The importer of record also agrees to keep any Customs seals or cording intact until the merchandise is examined. For a violation which involves the failure to keep any Customs seal or cording intact until the

merchandise is examined, the claim will be canceled upon payment of an amount between $100 and $500 if there is no evidence to indicate the merchandise in the sealed or corded shipment was tampered with. If there is evidence of tampering, the claim will be canceled upon payment of an amount equal to the value of any missing merchandise. Tampering with seals also may result in criminal sanctions under 18 U.S.C. 549.

[FR Doc. 99–7410 Filed 3–26–99; 8:45 am]
BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Amendment Determinations: "Gustave Moreau: 1826–1898"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: On January 14, 1999, notice was published at page 2536 of the **Federal Register** Vol. 64, No. 9 by the United States Information Agency pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), to Pub. L. 89–249 relating to the exhibit "Gustave Moreau: 1826–1898." I hereby determine that five additional works of art to be included in the exhibit (see list) and imported from abroad for the temporary exhibition without profit within the United States, is of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of these works of art as part of the exhibit at the Metropolitan Museum of Art, New York, New York, on or about May 24, 1999, to on or about August 22, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of imported exhibit objects or for further information, contact Carol B. Epstein, Assistant General Counsel, Office of the General Counsel, 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: March 22, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–7411 Filed 3–25–99; 8:45 am]
BILLING CODE 8230–01–M

ew York,
on or about
ional
e
be
ister.

NTACT: For
exhibit
ion,
stant
e General
the address
n Agency,
on, DC

8:45 am]

federal register

Friday
March 26, 1999

Part II

Environmental Protection Agency

40 CFR Part 147

Underground Injection Control Program Revision; Aquifer Exemption Determination for Portions of the Lance Formation Aquifer in Wyoming; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[FRL–6316–4]

Underground Injection Control Program Revision; Aquifer Exemption Determination for Portions of the Lance Formation Aquifer in Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule—State program revision: aquifer exemption approval.

SUMMARY: The State of Wyoming has submitted a revision to its Underground Injection Control (UIC) Program, requesting that EPA approve an exemption from classification as an underground source of drinking water (USDW) portions of the Lance Formation in the Powder River Basin in Johnson County, Wyoming. The exemption area surrounds two Class I Non-Hazardous deep injection wells that will be used to dispose of operational bleed streams (excess fluids derived from the uranium mining) from commercial *in-situ* leaching uranium mining operations and fluids resulting from the ground water sweep (pumping out of contaminated fluids from the aquifer) operations for restoration of the Wasatch Formation aquifer being mined for uranium under a UIC Class III permit. After careful review of the exemption request and accompanying documents, EPA has determined that they contain sufficient information to meet the criteria for exempting portions of the Lance formation aquifer from the definition of a USDW. Based on the Wyoming Department of Environmental Quality (WDEQ) concurrence with the exemption, the request of the WDEQ director, the supporting technical documentation, and the lack of any public comment on the public notice to exempt the stated portions of the Lance Formation, EPA has decided to approve Wyoming's revision of its UIC program which exempts the designated portions of the Lance Formation from classification as an Underground Source of Drinking Water (USDW).

DATES: This rule shall become effective on April 26, 1999. In accordance with 40 CFR 23.7, this rule shall be considered promulgated for the purposes of judicial review at 1:00 p.m. Eastern Time on April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Valois Shea-Albin, US EPA Region VIII, 8P–W–GW, 999 18th Street, Suite 500, Denver, CO 80202; (303) 312–6276.

SUPPLEMENTARY INFORMATION:

Regulated—Entities—Entities potentially affected by this action include the Wyoming Department of Environmental Quality (WDEQ) and the COGEMA Mining Company. The latter requested the exemption and the former recommended the approval of the exemption in October 1997. Any effect on these two entities would be positive, as they will be able to operate the disposal wells that are used for disposal of excess fluid in the uranium mining process and the restoration of the aquifer being mined.

I. Introduction

The Underground Injection Control (UIC) Program, established by the Safe Drinking Water Act (SDWA), provides for the protection of underground sources of drinking water (USDWs) from potential contamination from injection well practices. The UIC program regulations also provide for exempting aquifers from the definition of USDW, in 40 CFR 144.3, so that injection can occur. The UIC regulations, specifically 40 CFR 144.7 and 146.4, define and provide criteria for exempting aquifers.

In October, 1997, COGEMA Mining, Inc., (COGEMA) and the Wyoming Department of Environmental Quality (WDEQ) requested that EPA approve an aquifer exemption for the Lance Formation in the areas encompassed by a radius of 1,320 feet surrounding two Class I non-hazardous injection wells, the COGEMA DW No. 1 and the Christensen 18–3, in Johnson County, WY. The proposed injection intervals are 3,818 to 6,320 feet and 4,009 to 6,496 feet in depth below ground surface, respectively. The total area of the Lance Formation included in the exemption is approximately 0.4 square miles (0.2 square miles for each well).

The Lance Formation fluids contain less than 3,000 mg/l Total Dissolved Solids (TDS) and the exemption is associated with a Class I [1] injection well permit. These two criteria dictate that this aquifer exemption be a substantial revision of the Wyoming Underground Injection Control (UIC) program approved under section 1422 of the Safe Drinking Water Act. Criteria for classification of a program revision as substantial or not are in UIC Guidance #34, Guidance for Review and Approval of State UIC Programs and Revisions to Approved State Programs. The procedures to follow to approve or disapprove substantial program revisions in the UIC program are in 40 CFR 145.32 and in UIC Guidance #34. The aquifer proposed for exemption has been determined by WDEQ to be too deep to be considered as an economically feasible source of drinking water. On August 27, 1998, EPA published in the **Federal Register** a notice (63 FR 45810) requesting public comment on a substantial revision to Wyoming's UIC program to exempt a portion of the Lance Formation from designation as an underground source of drinking water. There were no comments or requests for public hearing submitted as a result of this notice. EPA has examined the aquifer exemption request, the accompanying information, and responses from WDEQ and COGEMA to EPA requests for additional supporting information, and, for reasons described herein, approves this request to exempt the designated portions of the Lance Formation from classification as a USDW.

II. Background

COGEMA operates the Christensen Ranch *in-situ* leaching uranium mine within the Wasatch Sandstone Formation in Johnson and Campbell Counties, WY. The Wasatch Formation overlies the Lance Formation by about 2,600 feet at the mine site. The mining operation has comprised five well fields to date, two of which are currently producing, and three that have been mined out. The operation has reached the phase where large scale restoration of the ground water within the mined out well fields is being conducted simultaneously with mineral extraction in the two producing well fields.

Ground water restoration is conducted to return the ground water affected by mining to its baseline condition or to a condition consistent with its pre-mining or potential use upon completion of mining activities. After the restoration process is completed, the concentrations of contaminants are reduced to levels below drinking water standards. For the successful restoration of the ground water quality within the mined-out areas of the Wasatch Formation, a wastewater disposal capacity of 300 to 500 gallons per minute (gpm) will be required over the next 18 years. Additionally, this type of operation requires the bleed-off [2] of part of the

[1] Injection wells are divided into 5 classes. Class I wells are associated with the disposal of industrial, municipal or radioactive waste into formations below the lowermost USDW. These wells have very strict standards for siting, construction and operation.

[2] In order to prevent fluids in the underground formation from polluting adjacent aquifer portions, more fluid is extracted than is injected. In the process of leaching out the Uranium salts, the leaching agent is also replenished. The combination of excess fluid extracted and the equivalent of the fluid that is replenished is called the "bleed"

fluid extracted in order to keep underground water flow into the mining area and prevent the contamination of adjacent aquifers in the Wasatch Formation. To date, COGEMA has managed disposal of the fluid wastes under an NPDES permit to discharge to the surface, and through using evaporation ponds and limited non-hazardous Class I injection well disposal. The recent regulatory requirement that reduces the concentration of selenium that can be discharged to surface waters permitted under NPDES has force COGEMA to discontinue this type of discharge. After evaluating treatment methods to remove selenium from the wastewater in order to continue surface discharge, COGEMA found that reverse osmosis was the only method that consistently met the new selenium standard. The reverse osmosis process would treat 75% of the waste stream resulting in water of high enough quality for surface discharge. However, the high volume of remaining concentrated brine produced by the reverse osmosis process would still require the use of the two Class I injection wells and the aquifer exemption.

COGEMA was previously granted an aquifer exemption for the COGEMA DW No. 1 and the Christensen 18–3 wells to inject into the Teckla, Parkman, and Teapot Formations (between 3,000 and 10,000 TDS, containing traces of oil and gas, and too deep to be an economically feasible source of drinking water). The original exempted interval for the COGEMA DW No. 1 was 7,500 to 8,470 feet in depth and 7,631 to 8,604 feet in depth for the Christensen 18–3. Trial injection into these formations revealed they were only capable of receiving less than 10 gpm instead of the 75 to 150 gpm anticipated from the evaluation of porosity logs. As a result, the company has now requested a permit modification to inject into the Lance Formation, instead of the Teckla, Parkman and Teapot formations, an overlying geologic unit to the ones originally exempted.

III. Injectate

The fluid that will be injected (injectate) will consist of operational bleed streams from commercial *in-situ* leaching uranium mining operations as well as fluids from the restoration of the Wasatch formation. The constituents in the injectate include the following process and restoration bleed streams: normal overproduction (well field bleed) streams, laboratory wastewater, reverse osmosis brine, and ground water sweep [3] solutions. The bleed streams are defined as non-hazardous, and as beneficiation [4] wastes exempt from regulation as hazardous waste under the Resource Conservation and Recovery Act as stipulated by the Bevill Amendment (40 CFR 261.4(b)(7)).

IV. Basis for Approval of the Aquifer Exemption

The information provided by COGEMA in the reports included in the docket adequately addresses the requirements of 40 CFR 146.4 supporting approval of the aquifer exemption request for the Lance Formation.

Section 146.4 (a) The Formation Does Not Currently Serve as a Source for Drinking Water in the Vicinity of the Well Sites

There are no drinking water wells extracting water from the Lance formation in the intervals and areas that are recommended for exemption. Current information indicates that there are no wells that could be affected by the injection of the waste in the two injection wells in question. The general ground water flow in the area is from the West-North West, putting the proposed injection wells and the exemption formation "down-flow" (down gradient) and at a considerable distance from any water well developed in the Lance formation. The nearest documented water well completed in the Lance formation is over 24 miles to the west of the site. The exact use of this well is unknown, but appears to be associated with oil or gas development. Approximately 30 miles to the west, the Lance outcrops to the surface and wells developed there are for livestock use. Where the Lance Formation occurs near the surface at the western edge of the Powder River Basin 30 miles southwest of the exemption area, five wells extracted water from the Lance and Fox Hills formations to supply the municipalities of Midwest and Edgerton, WY, until 1997. At that time, the wells were abandoned because of low water productivity (40 gpm sustainable flow) and the expense of treatment that would be required to continue using these wells as a public water supply. The towns of Midwest and Edgerton have determined that piping in pre-treated water 50 miles from Casper, WY is more economically feasible than continuing operation of the wells completed in the Lance/Fox Hills formations, even at the relatively shallow depth of 1,500 to 2,000 feet. The capital costs associated with the development and operation of a new well field for the municipalities prevented them from taking this option. Therefore, the Lance is no longer supplying water to a public drinking water system within 30 miles of the aquifer exemption area.

Section 146.4(b)(2) The Formation Cannot and Will Not Serve as a Source of Drinking Water Because It Is Situated at a Depth or Location Which Makes Recovery of Water for Drinking Water Purposes Economically or Technologically Impractical

The depth of the Lance Formation within the aquifer exemption area ranges from 4,009 to 6,496 feet at the location of Christensen 18–3, and from 3,818 to 6,320 feet at the location of the COGEMA DW No. 1 well.

The Wasatch Formation overlies the Lance Formation in the aquifer exemption area and provides a shallower, potential water supply source available for use in the area. According to the USGS publications referenced by COGEMA, any water supply wells (aside from water flood wells related to oil production) in the aquifer exemption area are completed in the Wasatch Formation. The Wasatch Formation is a high quality, prolific aquifer, located at approximately 1,200 feet in depth or shallower throughout the Powder River Basin, which includes the aquifer exemption area. The Wasatch Formation, alone, contains a volume of water that would supply a population of approximately 1.3 million people for 100 years. Given this abundant, shallow supply of high quality ground water, it is reasonable to conclude that the deeper Lance Formation will never be required to provide drinking water in the area of the aquifer exemption.

COGEMA provided a cost evaluation for the capital costs and estimated operating costs for developing a private (50 gpm) and a public (750 gpm) drinking water well, including treatment costs based on the water quality analysis of samples collected from the Lance Formation as a water supply source within the aquifer exemption area. The costs to develop the Lance Formation within the exemption area were compared with estimated costs to develop the Wasatch Formation as an alternative public water supply (at the 750 gpm rate). The incremental cost increase to develop the

stream. This volume of fluid has to be treated and/or disposed in an environmentally safe process.

[3] The operator is required to restore the aquifer being mined for Uranium. To restore this aquifer, ground water is pumped out of the formation and treated and/or disposed. Eventually the water in the formation will be restored to a pre-agreed baseline.

[4] For a list of the processes included under beneficiation, please see Title 40 CFR 261.4(b)(7).

Lance Formation versus Wasatch Formation as a drinking water source for a public water supply is approximately $3,691,250. The incremental increase in operations and maintenance cost of using the Lance water over the Wasatch water as a drinking water source would be $2.40/1,000 gallons.

The Midwest-Edgerton public water supply scenario should be noted as the most compelling support for the approval of this aquifer exemption request and the infeasibility of using the Lance Formation as a public water supply. The five wells were abandoned in favor of piping drinking water in from Casper, WY. The decision to abandon these wells was based on the economic burden of treating the water and the low production rates of the wells, even though the costs of development had already been expended. Furthermore, the wells that used to serve the two municipalities tapped shallower portions of the Lance Formation as compared to any potential well tapping the Lance Formation within the aquifer exemption area. This added depth translates into significantly more expensive costs for the drilling and the operation of the wells.

In summary, the Lance Formation will never be considered to be an economically feasible source of drinking water in the area of the aquifer exemption due to the great depth, low water production capacity, and treatment costs that will be incurred as shown by the Midwest-Edgerton wells experience. The cost of developing the Lance Formation as a drinking water supply within the aquifer exemption area is high compared to that of developing shallow, more prolific, and higher quality sources of drinking water, such as the Wasatch Formation. The Wasatch is better suited for development in this area as a source of drinking water due to higher producing capability, significantly better water quality, and lower or no water treatment costs.

V. Regulatory Impact/Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045: Children's Health Protection

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13054 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks authorized by this action impact children. The rule authorizes injection in a formation that is deep underground and separated from any aquifer that can provide drinking water. Therefore, it does not present any foreseeable effect on children's health and well being.

C. Paperwork Reduction Act

There are no information collection requirements established by this rule. Therefore, the Paperwork Reduction Act does not apply.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA generally is required to conduct a regulatory flexibility analysis describing the impact of the regulatory action on small entities as part of rulemaking. However, under section 605(b) of the RFA, if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a regulatory flexibility analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. First, EPA is unaware of any small entities currently injecting into this aquifer, or using this aquifer as a source of drinking water. Furthermore, since this rule relieves existing regulatory requirements for entities injecting into the aquifer, this rule would have no regulatory impact on small entities, were there any.

E. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875 (48 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of the EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on a State, local or tribal government. The rule does not impose any enforceable duties on these entities. The rule merely approves a request, from the State of Wyoming, to exempt the designated portions of the Lance Formation from classification as an underground source of drinking water.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for

Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provision of Title II of the UMRA), for State, local or tribal governments, or the private sector. The rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affects small governments. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

G. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), the Agency is required to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

EPA does not believe that this rule addresses any technical standards subject to the NTTAA.

H. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. There are no tribal jurisdictions on or near the area of the exemption. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on April 26, 1999.

List of Subjects in 40 CFR Part 147

Environmental protection, Intergovernmental relations, Water supply.

Dated: March 22, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 147 is amended as follows:

PART 147—[AMENDED]

1. The authority citation for part 147 continues to read as follows:

Authority: 42 U.S.C. 300h; and 42 U.S.C. 6901 *et seq.*

Subpart ZZ—Wyoming

2. A new § 147.2555 is added to subpart ZZ to read as follows:

§ 147.2555 Aquifer exemptions since January 1, 1999.

In accordance with § 144.7(b) and § 146.4 of this chapter, the aquifers described in the following table are hereby exempted from the definition of an underground source of drinking water, as defined in 40 CFR 144.3:

Aquifer Exemptions Since January 1, 1999

Formation	Approx. depth	Location
Powder River Basin, only approximately 0.4 square miles of the Lance Formation which is less than 0.005% of the Basin at indicated depths and location..	3,800 to 6,800 feet from surface.	Two cylindrical volumes with centers in the wells COGEMA DW No. 1 and 18–3 Christensen respectively, and radius of 1,320 feet. Both wells are located in the Christensen Ranch, in Johnson County, WY. The COGEMA DW No. 1 well is located at approximately 450 feet West of N/S line and 100 feet North of E/W line of SE/4, NW/4, Section 7, T44N, R76W. The 18–3 Christensen well is located approximately 600 feet West of N/S line and 550 South of E/W line of NE/4, NW/4, Section 18, T44N, R76W.

[FR Doc. 99–7432 Filed 3–25–99; 8:45 am]
BILLING CODE 6560–50–P

in the wells
ensen respec-
wells are lo-
nson County,
ocated at ap-
and 100 feet
tion 7, T44N,
cated approxi-
50 South of E/
N, R76W.

federal register

Friday
March 26, 1999

Part III

The President

Proclamation 7175—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1999

VOL
64
ISS
58
MR
26
999
UMI

Title 3—

The Presi

Federal Register
Vol. 64, No. 58
Friday, March 26, 1999

Presidential Documents

Title 3—

The President

Proclamation 7175 of March 24, 1999

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1999

By the President of the United States of America

A Proclamation

America has deep roots in Greece, and today we celebrate the friendship, values, and aspirations our two countries have shared for more than 2 centuries. Greek thought and the passion for truth and justice deeply influenced many of our Nation's earliest and greatest leaders. The documents our founders wrote to establish our democracy and the political and legal institutions they created to preserve our independence and protect our rights reveal that influence.

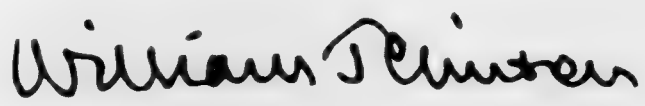
Later, recognizing this profound debt to Greek thought and culture and inspired by the struggle of modern Greece in the War of Greek Independence, many Americans left home to join in that distant fight for freedom between 1821 and 1832. In this century, the relationship between the Greek and American peoples deepened as we fought together in two world wars. The U.S. desire to help preserve freedom in Greece after the devastation of World War II moved President Truman to stand firm against isolationism and for postwar engagement abroad. Our nations stood together in Korea and in the Gulf War, and we continue to work shoulder-to-shoulder today in our efforts to find a lasting solution in the Balkans and to promote democracy around the world.

The bonds of family have further reinforced our ties of friendship and shared ideals. All across our Nation, Americans of Greek descent have brought their energy, grace, and determination to every field of endeavor, and they have added immeasurably to the richness and diversity of our national life. The sons and daughters of Greece have flourished in America, and with their help, America too has flourished.

Today, as we celebrate the 178th anniversary of the onset of modern Greece's struggle for independence, let us celebrate as well the great partnership between our nations and the precious heritage of freedom and democracy we share.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 25, 1999, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of March, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.



[FR Doc. 99–7705
Filed 3–25–99; 10:33 am]
Billing code 3195–01–P

Reade

CUSTOMER

Federal Regist
General Inform
aids

Laws

Presidential D
Executive orde
The United Sta

Other Services
Electronic and
Privacy Act Co
Public Laws U
TTY for the de

ELECTRONIC

World Wide W

Full text of the
publications:

http

Federal Registe
Inspection List

http

E-mail

PENS (Public L
service that del
Laws. To subsc

listp

with the text m

subs

Use listproc@lu
PENS. We cann

Reference ques
Federal Registe

info

The Federal Re
regulations.

FEDERAL RE

9905–10100
10101–10204
10205–10386
10387–10554
10555–10918
10919–11372
11373–11754
11755–12078
12079–12238
12239–12742
12743–12880
12881–13062
13063–13310
13311–13496
13497–13662
13663–13880
13881–14096
14097–14354
14355–14574
14575–14808

Reader Aids

Federal Register

Vol. 64, No. 58

Friday, March 26, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22
13881–14096	23
14097–14354	24
14355–14574	25
14575–14808	26

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100	12881
Proclamations:	
7168	10101
7169	10379
7170	10383
7171	10385
7172	11373
7173	12879
7174	14353
Executive Orders:	
12170 (See Notice of March 10, 1999)	12239
12852 (Amended by EO 13114)	10099
12957 (See Notice of March 10, 1999)	12239
12959 (See Notice of March 10, 1999)	12239
13059 (See Notice of March 10, 1999)	12239
13114	10099
Administrative Orders:	
Notice of March 10, 1999	12239
Presidential Determinations:	
No. 99–15 of February 26, 1999	11319
No. 99–16 of March 4, 1999	13495

5 CFR

532	9905, 9906
2635	13063
Proposed Rules:	
1620	13924
1650	13725

7 CFR

3	11755
51	14575
246	13311
360	12881
361	12881
782	12884
989	10919
1381	11755
1434	10923
1439	13497
1469	10929
1703	14355
Proposed Rules:	
301	11392
915	13123
916	11346
917	11346
944	14642
1065	13125
1301	12769
1703	14401
1823	10235
1956	10235
3400	14348

8 CFR

3	13663, 13881
103	13881
208	13884
235	13881
238	13881
240	13881
241	13881
253	13881
274a	11533
507	13881

9 CFR

52	13064
Proposed Rules:	
1	10400
3	10400
71	13726
80	13726
112	13365
113	10400, 14156
391	10402

10 CFR

708	12862
Proposed Rules:	
21	12117
50	12117
54	12117
63	10405
70	13368
707	11819

11 CFR

Proposed Rules:	
2	10405
4	10405
5	10405

12 CFR

3	10194
208	10194
225	10201
229	14577
325	10194
404	14373
405	14373
567	10194
960	12079
Proposed Rules:	
602	10954

13 CFR

123	13667

14 CFR

21	13501
25	10740
39	9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209,

10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504, 13667, 13669, 13882, 13884, 13886, 13889, 13890, 13892, 14097, 14578, 14580, 14583, 14585, 14588
71 .....10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672, 14306, 14589, 14590, 14591, 14592, 14593, 14594, 14595, 14596, 14597, 14598, 14599, 14600, 14601, 14602
73 .....12743, 13334, 13506, 14603, 14604
97 ....9912, 9914, 13334, 13336
204.....12084
257.....12838
258.....12854
399.....12838

Proposed Rules:
23.....14401
25.....14408
39 .....9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936
71 .....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404, 13938, 14410
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
744.....14605
752.....13338
772.....13338
774 .....10852, 12744, 13338
806.....10387
902.....14052

16 CFR

Proposed Rules:
Ch. I.....14156
241.....13368
256.....13369
1213.....10245, 14158
1500.....10245, 14158
1513.....10245, 14158
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230 .....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:
1.....14159
30.....14159
210.....10579
228.....10579
230.....12908, 14648
232.....12908
239.....11118, 12908
240 .....9948, 10579, 11124, 12127, 12908, 14648
270.....12908, 14648
274.....12908

19 CFR

Ch. I.....13673
133.....11376

Proposed Rules:
4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404 .....10103, 13677, 14606
416.....13677

21 CFR

5.....14098
26.....11376
50.....10942
101.....12886, 12887
173.....14608
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520 .....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556 .....10103, 13068, 13341, 13679
558 .....13068, 13069, 13341, 13342, 13679
701.....13254
806.....14098
812.....10942
874.....10947

Proposed Rules:
101.....14178
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774
1010.....14180
1040.....14180

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
35.....14381
203.....14568, 14572
234.....14572
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:
Ch. IX 13531, 13533
990.....12920

25 CFR

031.....13894
039.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR

1.....10218, 11378
54.....14382
602.....10218

Proposed Rules:
1 .....10262, 13939, 13940, 14306, 14412
20.....10964, 13940
25.....13940
31.....13940
40.....13940

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686

Proposed Rules:
25.....10262
302.....11821
549.....10095

29 CFR

96.....14538
99.....14538
1910.....13700, 13897
4044.....12745

30 CFR

256.....13343
914.....12890
934.....12896
938.....14610

Proposed Rules:
57.....14200
204.....13734
206.....12267
250.....13535
914.....14412
938.....12269

32 CFR

199.....11765, 13912
556.....14619

33 CFR

62.....10104
100 .....13913, 13914, 14382, 14384
117.....10104, 13514
165 .....11771, 12746, 13915, 14306
320.....11708
326.....11708
331.....11708

Proposed Rules:
110.....14414
117.....12795, 12797
155.....13734
162.....14414
165.....14414
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184

Proposed Rules:
303.....12674

36 CFR

61.....11736

Proposed Rules:
1091.....13752
1190.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111 .....10950, 12072, 14385

Proposed Rules:
111.....11402

40 CFR

52 .....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514, 13916, 14391, 14620, 14624
58.....10389
60 .....10105, 11536, 14393
62.....13075, 13517
63.....11536, 12762
80.....10366
81 .....11775, 12002, 12005, 12257, 13146
82.....10374
93.....13476
136.....10391, 13053
147.....14800
180 .....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106, 14098, 14099, 14101, 14104, 14106, 14626, 14632
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:
Ch. 1.....10066
52 ...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799
13372, 13375
13382, 13538
60.....
62.....
63.....
81 11822
82.....
94.....
97.....
136.....
194.....
271.....
372.....
435.....

41 CFR

101–49.....

42 CFR

Proposed Rules:
36.....
405.....
409.....
410.....
411.....
412.....
413.....
416.....
419.....
447.....
457.....
488.....
489.....
498.....
1003.....

43 CFR

4.....

Proposed Rules:
428.....
3100.....
3110.....
3120.....
3130.....
3140.....
3150.....
3160.....
3170.....
3180.....
3400.....
3420.....
3800.....

44 CFR

61.....
64.....
65 11378
67.....

Proposed Rules:
67.....
77.....
80.....

12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753, 14416, 14659, 14665
60 ..... 10119, 11555
62 13539
63 ..... 11555, 11560
81 ..... 11822, 12025, 13383, 13384
82 14417
94 10596
97 10118
136 10596
194 14418
271 ..... 10121, 14201
372 ..... 9957, 10597
435 10266

41 CFR

101–49 13700

42 CFR

Proposed Rules:
36 14560
405 14666
409 12277
410 12277
411 12277
412 12277
413 12277
416 12278
419 12277
447 10412
457 10412
488 ..... 12278, 13354
489 12277
498 12277
1003 12277

43 CFR

4 13362

Proposed Rules:
428 12141
3100 14666
3110 14666
3120 14666
3130 14666
3140 14666
3150 14666
3160 14666
3170 14666
3180 14666
3400 12142
3420 12142
3800 9960

44 CFR

61 13115
64 9919
65 ..... 11378, 11380, 11382, 11384
67 ..... 11386, 11388

Proposed Rules:
67 ..... 11403, 11409
77 10181
80 10181
81 10181
82 10181
83 10181
152 10181
207 10181
220 10181
221 10181
222 10181
301 10181
303 10181
306 10181
308 10181
320 10181
324 10181
325 10181
328 10181
333 10181
336 10181

45 CFR

60 9921
302 11802
303 ..... 11802, 11810
304 11802
1207 14113
1208 14123
1209 14133
2551 14113
2552 14123
2553 14133

Proposed Rules:
5 14668
92 10412
95 10412
1224 10872
1302 14202
2508 10872

46 CFR

502 9922
510 11156
514 11186
515 11156
520 11218
530 11186
535 11236
545 9922
565 10395
571 9922
572 11236
583 11156

Proposed Rules:
381 14676

47 CFR

25 14394
41 13916
51 14141
61 14394
64 ..... 13701, 14141
73 ..... 9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729, 14397
90 10395
95 14639

Proposed Rules:
1 9960
2 10266
51 14203
73 ..... 12922, 12923, 12924, 13756, 13757, 14419, 14420, 14421, 14422, 14423
95 10266

48 CFR

Ch. 1 ..... 10530, 10552
1 ..... 10531, 10548
4 10531
5 10535
8 10535
11 10538
12 ..... 10531, 10535
13 10538
14 10531
15 10544
16 10538
19 10535
22 10545
25 10548
26 10531
27 10531
31 10547
32 ..... 10531, 10548
41 10531
52 ..... 10531, 10535, 10538, 10545, 10548
53 ..... 10548, 10913, 12862
203 14397
211 14398
217 14399
252 ..... 14397, 14398
913 12862
915 12220
922 12862
970 ..... 12220, 12862
1804 14640
1806 10571
1807 14640
1815 10573
1819 10571
1822 14148
1835 14640
1842 10573
1852 ..... 10571, 10573
1872 14640

Proposed Rules:
204 14424
252 14424
970 14206

49 CFR

171 ..... 9923, 10742
172 10742
173 10742
174 10742
175 10742
176 10742
177 10742
178 10742
180 10742
531 12090
571 ..... 10786, 11724
575 11724
596 10786
1000–1199 10234
1420 13916

Proposed Rules:
17 14676
171 ..... 13856, 13943
173 13856
177 13856
178 13856
180 13856
192 12147
350 11414
571 ..... 9961, 10604, 13947, 14207
572 10965
585 13947
587 13947
591 13757
595 13947
1420 13948

50 CFR

17 13116
25 14149
36 ..... 14149, 14151
216 9925
217 14052
220 14052
221 14052
222 14052
223 ..... 14052, 14308, 14508, 14517, 14528
224 ..... 14052, 14308
225 14052
226 14052
227 14052
285 10576
300 13519
600 9932
622 ..... 13120, 13363, 13528
630 12903
648 14052
660 ..... 9932, 12092
678 14154
679 ..... 9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723, 14052, 14155
697 14052

Proposed Rules:
17 ..... 12924, 14209, 14424, 14676
216 9965
223 14329
224 14329
285 10438
600 ..... 10438, 12925
622 ..... 10612, 10613
630 10438
635 10438
644 10438
648 ..... 11431, 13392, 13952
660 ..... 10439, 12279, 14211
678 10438

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 26, 1999

COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Export or reexports, license requirement; entity list; published 3-26-99

DEFENSE DEPARTMENT
Army Department
Private organizations on Department of the Army installations; CFR Partsmo Removed; published 3-26-99

ENVIRONMENTAL PROTECTION AGENCY
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Arsanilic acid [(4-aminophenyl) arsonic acid]; published 3-26-99
Quinclorac; published 3-26-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food additives:
Secondary direct food additives permitted in food for human consumption—
Sulphopropyl cellulose; published 3-26-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Pennsylvania; published 3-26-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Acquisition regulations:
Internal programmatic approval documentation; published 3-26-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 2-19-99
Raytheon; published 2-10-99
Saab; published 2-19-99

TREASURY DEPARTMENT
Customs Service
Trademarks, trade names, and copyrights:
Gray market imports and other trademarked goods; published 2-24-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Nectarines and peaches grown in—
California; comments due by 3-29-99; published 3-8-99
Olives grown in—
California; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Animal welfare:
Rats and mice bred for use in research and birds; definition as animals; rulemaking petition; comments due by 3-29-99; published 1-28-99
Plant-related quarantine, domestic:
Citrus canker; comments due by 4-2-99; published 2-1-99
Plant-related quarantine, foreign:
Cut flowers; importation; comments due by 3-29-99; published 1-28-99

AGRICULTURE DEPARTMENT
Farm Service Agency
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Business-Cooperative Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Housing Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

AGRICULTURE DEPARTMENT
Rural Utilities Service
Program regulations:
Indian Tribes and tribal corporations; loan debt forgiveness; comments due by 4-2-99; published 3-3-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic coastal fisheries—
Atlantic sturgeon; comments due by 3-29-99; published 2-26-99
Northeastern United States fisheries—
Summer flounder, et al.; comments due by 3-29-99; published 1-27-99
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish; comments due by 3-29-99; published 2-10-99
West Coast States and Western Pacific Fisheries—
West Coast Salmon; comments due by 3-29-99; published 1-27-99
International fisheries regulations:
Pacific tuna; conservation and management measures; comments due by 3-29-99; published 2-25-99
Marine mammals:
Incidental taking—
BP Exploration; Beaufort Sea; offshore oil and gas platform construction and operation; comments due by 3-31-99; published 3-1-99

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
Federal claims collection; comments due by 3-29-99; published 1-28-99

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Conforming late offer treatment; comments due by 3-29-99; published 1-27-99
Interest and other financial costs; comments due by 3-30-99; published 1-29-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution; standards of performance for new stationary sources:
Steel plants; electric arc furnaces; comments due by 4-1-99; published 3-2-99
Air programs:
Fuels and fuel additives—
Methylcyclopentadienyl manganese tricarbonyl (MMT); Alternative Tier 2 health and exposure testing requirements; comments due by 3-30-99; published 2-9-99
Stratospheric ozone protection—
Montreal Protocol adjustment for 1999 interim reduction in Class I, Group VI controlled substances; comments due by 3-29-99; published 2-25-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 3-31-99; published 3-1-99
District of Columbia; comments due by 3-29-99; published 2-25-99
Louisiana; comments due by 3-29-99; published 2-25-99
Missouri; comments due by 3-29-99; published 2-26-99
New Jersey; comments due by 3-31-99; published 3-1-99
Hazardous waste program authorizations:
Michigan; comments due by 4-1-99; published 3-2-99
Wyoming; comments due by 3-29-99; published 2-25-99
Hazardous waste:
Lead-based paint debris; toxicity characteristic rule; temporary suspension; comments due by 4-2-99; published 2-12-99
Waste water treatment sludges from metal finishing industry; 180-day accumulation time; comments due by 4-2-99; published 2-1-99
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Azoxystrobin; comments due by 3-30-99; published 1-29-99
Fenbuconazole; comments due by 3-30-99; published 1-29-99
Lambda-cyha... comments ... 99; publish...
Toxic substanc...
Lead-based ...
Lead-base... manager... disposal; ... by 4-2-9... 12-99

FEDERAL COMMUNICAT... COMMISSION
Radio stations; assignments:
Colorado; co... 3-29-99; pu... 99
Idaho; comm... 29-99; pub...
Kansas; com... 3-29-99; pu... 99
Louisiana; co... 3-29-99; pu... 99
New Hampsh... due by 3-2... 2-17-99
New York; co... by 3-29-99... 17-99
North Dakota... due by 3-2... 2-17-99
Oregon; com... 3-29-99; pu... 99
Wisconsin; co... by 3-29-99... 17-99
Television broa...
Digital Televis... Industry Co... Committee; ... comments ... 99; publish...
Television statio... assignments:
Arkansas; co... 3-29-99; pu... 99

GENERAL SER... ADMINISTRATI...
Acquisition regu...
Federal Supp... multiple aw... contracts; s... administrati... clarifying m... requiremen... due by 4-2... 2-1-99
Federal Acquisi... (FAR):
Conforming la... treatment; ... by 3-29-99; ... 27-99
Interest and ... costs; comm...

Lambda-cyhalothrin; comments due by 3-30-99; published 1-29-99

Toxic substances:

Lead-based paint activities—

Lead-based paint debris; management and disposal; comments due by 4-2-99; published 2-12-99

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Colorado; comments due by 3-29-99; published 2-17-99

Idaho; comments due by 3-29-99; published 2-17-99

Kansas; comments due by 3-29-99; published 2-17-99

Louisiana; comments due by 3-29-99; published 2-17-99

New Hampshire; comments due by 3-29-99; published 2-17-99

New York; comments due by 3-29-99; published 2-17-99

North Dakota; comments due by 3-29-99; published 2-17-99

Oregon; comments due by 3-29-99; published 2-17-99

Wisconsin; comments due by 3-29-99; published 2-17-99

Television broadcasting:

Digital Television Service Industry Coordination Committee; establishment; comments due by 3-29-99; published 2-9-99

Television stations; table of assignments:

Arkansas; comments due by 3-29-99; published 2-17-99

GENERAL SERVICES ADMINISTRATION

Acquisition regulations:

Federal Supply Service multiple award schedule contracts; streamlining administration and clarifying marking requirements; comments due by 4-2-99; published 2-1-99

Federal Acquisition Regulation (FAR):

Conforming late offer treatment; comments due by 3-29-99; published 1-27-99

Interest and other financial costs; comments due by 3-30-99; published 1-29-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—

Dietary supplements; nutrition labeling on a 'per day' basis; comments due by 3-29-99; published 1-12-99

INTERIOR DEPARTMENT

Land Management Bureau

Minerals management:

Oil and gas leasing—

Performance standards in lieu of current prescriptive requirements; comments due by 4-2-99; published 12-3-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Findings on petitions, etc.—

Vermillion darter; comments due by 3-29-99; published 1-26-99

Santa Ana sucker; comments due by 3-29-99; published 1-26-99

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Aliens—

Temporary protected status; employment authorization fee requirements, etc.; comments due by 4-2-99; published 2-1-99

JUSTICE DEPARTMENT

Parole Commission

Federal prisoners; paroling and releasing, etc.:

District of Columbia Code; prisoners serving sentences; comments due by 3-31-99; published 2-4-99

LABOR DEPARTMENT

Pension and Welfare Benefits Administration

Employee Retirement Income Security Act:

Employee pension and welfare benefit plans; recordkeeping and disclosure requirements; use of electronic media; comments due by 3-29-99; published 1-28-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Conforming late offer treatment; comments due by 3-29-99; published 1-27-99

Interest and other financial costs; comments due by 3-30-99; published 1-29-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Truth in Savings Act—

Fee disclosure, dividend rates, annual percentage yield et al.; comments due by 3-29-99; published 12-29-98

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list addition; comments due by 3-29-99; published 1-11-99

SECURITIES AND EXCHANGE COMMISSION

Securities:

Sweden; securities exemption for purposes of trading futures contracts; comments due by 3-31-99; published 3-1-99

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:

Florida; comments due by 3-29-99; published 1-26-99

Boating safety:

Numbering undocumented vessels in Alaska; fee increase; comments due by 4-2-99; published 2-1-99

Regattas and marine parades:

Fleet's Albany Riverfest; comments due by 4-2-99; published 2-1-99

Hudson Valley Triathlon; comments due by 4-2-99; published 2-1-99

Tank vessels:

Tank barges; emergency control measures; comments due by 3-30-99; published 12-30-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 3-30-99; published 2-23-99

Bell Helicopter Textron, Inc.; comments due by 3-29-99; published 1-26-99

Boeing; comments due by 3-29-99; published 2-10-99

Hartzell Propeller Inc.; comments due by 3-29-99; published 1-27-99

McDonnell Douglas; comments due by 3-29-99; published 1-28-99

Class E airspace; comments due by 3-29-99; published 2-12-99

Class E airspace; correction; comments due by 3-29-99; published 2-19-99

TRANSPORTATION DEPARTMENT

Maritime Administration

Cargo preference—U.S.-flag commercial vessels:

Carriage of agricultural exports; comments due by 3-29-99; published 1-28-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Anthropomorphic test devices:

Occupant crash protection—

Hybrid III test dummies; 3-year-old child dummy; design and performance specifications; comments due by 3-29-99; published 1-28-99

Motor vehicle safety standards:

Occupant crash protection—

Child restraint systems; Federal regulatory review; comments due by 4-2-99; published 2-1-99

Vehicle certification—

Altered vehicles; certification labels contents requirements; comments due by 3-29-99; published 2-11-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Tax return preparers' signatures; retention; comments due by 3-31-99; published 12-31-98

TREASURY DEPARTMENT

United States Mint

Exchange of paper currency and coin:

Melting discontinuance and substitution of mechanical means to destroy mutilated coins; comments due by 3-29-99; published 1-27-99

VETERANS AFFAIRS DEPARTMENT

Acquisition regulations:

Tax-free tobacco products; comments due by 3-30-99; published 1-29-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 447/P.L. 106–3
To deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999. (Mar. 23, 1999; 113 Stat. 6)
Last List March 17, 1998

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listproc@lucky.fed.gov** with the text message:

subscribe PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

ws. To
E-mail to
ed.gov with
:

AWS-L Your

ce is strictly
ation of new
text of laws
hrough this
annot respond
es sent to

VOL
64
ISS
58
MR
26
999
UMI



Printed on recycled paper

3–29–99
Vol. 64 N

United State
Government
Printing Offi
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 204

OFFICIAL BUSINES
Penalty for private u

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

3–29–99
Vol. 64 No. 59

federal register

Monday
March 29, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
59
MR
29
999
UMI

3-29-99
Vol. 64
Pages 14

3–29–99
Vol. 64 No. 59
Pages 14809–15122

federal register

Monday
March 29, 1999

Briefings on how to use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

183-247 D-99 Signature 1

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche — **202–512–1800**

Assistance with public subscriptions — **512–1806**

General online information — **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche — **512–1800**

Assistance with public single copies — **512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche — **523–5243**

Assistance with Federal agency subscriptions — **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: April 20, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 59

Monday, March 29, 1999

Agency for Health Care Policy and Research
NOTICES
Committees; establishment, renewal, termination, etc.:
Health Care Policy, Research, and Evaluation National Advisory Council, 14921–14922

Agricultural Marketing Service
RULES
Olives grown in—
California, 14811–14813

Agriculture Department
See Agricultural Marketing Service
See Natural Resources Conservation Service
See Rural Utilities Service

Arms Control and Disarmament Agency
NOTICES
Meetings:
Director's Advisory Committee, 14857

Children and Families Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14922
Submission for OMB review; comment request, 14922–14923
Grants and cooperative agreements; availability, etc.:
Community Services Office—
Assets for Independence Demonstration Program, 14923–14931

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Alaska, 14857–14858
Nevada, 14858
Washington, 14858

Commerce Department
See Economic Development Administration
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
See Navy Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14887–14888
Meetings:
National Security Senior Advisory Board, 14888

Economic Development Administration
NOTICES
Trade adjustment assistance eligibility determination petitions:
Novtex, Inc., et al., 14858–14859

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Bilingual education and minority languages affairs—
Bilingual training for all teachers, 15093–15117
Postsecondary education—
Preparing tomorrow's teachers to use technology, 14889–14891

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Hydrogen Technical Advisory Panel, 14891

Energy Information Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14891–14893

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
New Jersey, 14832–14834
NOTICES
Superfund; response and remedial actions, proposed settlements, etc.:
Osage Metals Site, KS, 14914–14915

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Air traffic operating and flight rules, etc.:
Anchorage, AK; terminal area description revised, 14971–14978
Serbia-Montenegro; flights within territory and airspace; prohibition (SFAR No. 84), 15119–15121
Airworthiness directives:
Eurocopter France, 14822–14824
Industrie Aeronautiche e Meccaniche, 14824–14826
SOCATA-Groupe Aerospatiale, 14820–14822
Airworthiness standards:
Special conditions—
Learjet model 35, 35A, 36, and 36A airplanes, 14818–14820
Standard instrument approach procedures, 14826–14829
NOTICES
Exemption petitions; summary and disposition, 14960–14963

Federal Communications Commission
RULES
Common carrier services:
Personal communications services—
Communications Assistance for Law Enforcement Act: implementation, 14834–14835

NOTICES
Common carrier services:
Paging control operations licenses—
San Mateo, CA; waiver, 14915–14916

Federal Deposit Insurance Corporation
PROPOSED RULES
Minimum security devices and procedures and Bank Secrecy Act:
Insured nonmember banks; Know Your Customer programs development, 14845

Federal Emergency Management Agency
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14916–14917
Submission for OMB review; comment request, 14917
Disaster and emergency areas:
California, 14917–14918
New York, 14918
Wyoming, 14918–14919
Flood insurance program:
Flood map changes, 14979–15091

Federal Energy Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14893–14895
Electric rate and corporate regulation filings:
Avista Corp., et al., 14900–14903
Commonwealth Edison Co. et al., 14903–14905
Cordova Energy Co LLC et al., 14905–14907
Energy National, Inc., et al., 14907–14909
Environmental statements; availability, etc.:
Oxford County, ME; White's Brook Micro Hydroelectric Project; David Head, 14909–14910
Hydroelectric applications, 14910–14912
Meetings; Sunshine Act, 14912–14914
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 14895
El Paso Natural Gas Co., 14895–14896
Florida Gas Transmission Co., 14896–14897
Granite State Gas Transmission, Inc., 14897
Great Lakes Gas Transmission Limited Partnership, 14897
Las Cruces, NM, 14897–14898
Mid Louisiana Gas Co., 14898
Northern Natural Gas Co., 14899
Portland Natural Gas Transmission System, 14899
Southern Natural Gas Co., 14899–14900

Federal Housing Finance Board
NOTICES
Privacy Act:
Systems of records, 14919–14920

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 14920
Permissible nonbanking activities, 14920–14921
Meetings; Sunshine Act, 14921

Federal Trade Commission
RULES
Practice and procedure:
Former members and employees; appearances before Commission; post-employment restrictions, 14829–14830

Fish and Wildlife Service
NOTICES
Marine mammals permit applications, 14886
Meetings:
Klamath Fishery Management Council, 14936

Food and Drug Administration
RULES
Medical devices:
Class II devices; premarket notification exemption, 14830–14831

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Florida, 14859
New Jersey, 14860

General Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14887–14888

Health and Human Services Department
See Agency for Health Care Policy and Research
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration

Health Care Financing Administration
NOTICES
Medicaid:
State allotments for payment of Medicare Part B premiums for qualifying individuals (1999 FY), 14931–14934

Housing and Urban Development Department
RULES
Public and Indian housing:
Certificate and voucher programs (Section 8)—
Conforming rule; technical amendment, 14831–14832
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14934
Grant and cooperative agreement awards:
Lead-based paint hazard control—
City and county of San Francisco, CA, 14934–14936

Immigration and Naturalization Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14939
Submission for OMB review; comment request, 14939–14941

Indian Affairs Bureau
NOTICES
Grants and cooperative agreements; availability, etc.:
Replacement school construction FY 99, 14936–14937

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
NOTICES
National Historic Landmark Districts:
Place de France, New Orleans, LA; relocation of Jeanne d'Arc statue to French Quarter, 14936

Internal Revenue Service
PROPOSED RULES
Income taxes:
Consolidated return regulations—
S corporation acquisition by consolidated group member; hearing cancelled, 14846

International Trade Administration
NOTICES
Antidumping:
Corrosion-resistant carbon steel flat products from—
Japan, 14862–14863
Emulsion styrene-butadiene rubber from—
Brazil, 14863–14865
Korea, 14865–14872
Mexico, 14872–14884
Antidumping and countervailing duties:
Administrative review requests, 14860–14862
Countervailing duties:
Agricultural tillage tools from—
Brazil, 14884
Live swine from—
Canada, 14884

Justice Department
See Immigration and Naturalization Service

Land Management Bureau
NOTICES
Withdrawal and reservation of lands:
New Mexico, 14937–14938

National Aeronautics and Space Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14887–14888
Meetings:
NASA Advisory Council, 14941

National Highway Traffic Safety Administration
NOTICES
Motor vehicle theft prevention standards; exemption petitions, etc.:
General Motors Corp., 14963–14965

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Deep-water species, 14840–14841
Northeastern United States fisheries—
Atlantic sea scallop, 14835–14840
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Northeast multispecies, 14846–14856
NOTICES
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Essential fish habitat, 14884–14885
Permits:
Experimental fishing, 14885–14886
Marine mammals, 14886–14887

National Park Service
NOTICES
National Register of Historic Places:
Pending nominations, 14938–14939

National Science Foundation
NOTICES
Meetings:
Civil and Mechanicial Systems Special Emphasis Panel, 14941
Design, Manufacturing, and Industrial Innovation Special Emphasis Panel, 14941–14942
Experimental and Integrative Activities Special Emphasis Panel, 14942
Graduate Education Special Emphasis Panel, 14942
Neuroscience Advisory Panel, 14942–14943
U.S. National Assessment Synthesis Team, 14943

Natural Resources Conservation Service
NOTICES
Field office technical guides; changes:
Florida, 14857

Navy Department
NOTICES
Meetings:
Ocean Research Advisory Panel, 14888
Privacy Act:
Systems of records, 14889

Northeast Dairy Compact Commission
NOTICES
Meetings, 14943

Nuclear Regulatory Commission
RULES
Production and utilization facilities; domestic licensing:
Nuclear power reactors—
Emergency preparedness programs, safeguards contingency plans, and security programs; licensees' independent reviews and audits, 14814–14818
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14943–14944
Environmental statements; availability, etc.:
Duke Energy Corp., 14950–14951
Reports and guidance documents; availability, etc.:
Radiological Assessments for Clearance of Equipment and Materials From Nuclear Facilities, 14952
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 14944–14946
Energy, U.S. Department of; Idaho Operations Office, 14946
Pacific Gas and Electric Co., 14946–14950
Wolf Creek Nuclear Operating Corp., 14950

Personnel Management Office
PROPOSED RULES
Employment:
Selective Service Law—
Statutory bar to appointment of persons who fail to register, 14842–14845

Presidential Documents
ADMINISTRATIVE ORDERS
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999:
Delegation of authority to Secretary of State (Memorandum of March 23, 1999), 14809

Public Health Service
See Agency for Health Care Policy and Research
See Food and Drug Administration

Research and Special Programs Administration
NOTICES
Hazardous materials transportation:
Preemption determinations, 14965–14968

Rural Utilities Service
RULES
Electric loans:
Electric standards and specifications for materials and construction—
Electric overhead distribution lines; specifications and drawings (24.9/14.4 kV to 69 kV and 115 kV to 230 kV), 14813

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
Chartwell Dividend & Income Fund, Inc., 14952–14953
Tradepoint Financial Networks plc, 14953–14959

Small Business Administration
NOTICES
Applications, hearings, determinations, etc.:
Leg Partners Debenture SBIC, L.P., 14960
Leg Partners III, SBIC, L.P., 14960
Wasatch Venture Fund II, L.L.C., 14960

State Department
NOTICES
Meetings:
Universal Postal Union; international postal issues, 14960

Thrift Supervision Office
PROPOSED RULES
Operations:
Savings associations; Know Your Customer programs development, 14845–14846

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration

Treasury Department
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14968–14969

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Alfred Hitchcock: Behind the Silhouette, 14969

Separate Parts In This Issue

Part II
Department of Transportation, Federal Aviation Administration, 14971–14978

Part III
Department of Commerce, Federal Emergency Management Agency, 14979–15091

Part IV
Department of Education, 15093–15117

Part V
Department of Transportation, Federal Aviation Administration, 15119–15121

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PAR
A cumulativ
Reader Aids
3 CFR
Administrati
Memorandum
March 23, 1
5 CFR
Proposed Ru
300
7 CFR
932
1728
10 CFR
50
73
12 CFR
Proposed Ru
326
563
14 CFR
25
39 (3 docum
91
93
97 (2 docum
16 CFR
4
21 CFR
874
24 CFR
882
26 CFR
Proposed Ru
1
40 CFR
52
47 CFR
0
50 CFR
648
679
Proposed Ru
648

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandum:
March 23, 1999 14809

5 CFR
Proposed Rules:
300.....14842

7 CFR
932.....14811
1728.....14813

10 CFR
50.....14814
73.....14814

12 CFR
Proposed Rules:
326.....14845
563.....14845

14 CFR
25.....14818
39 (3 documents) 14820, 14822, 14824
91.....15120
93.....14972
97 (2 documents) 14826, 14828

16 CFR
4.....14829

21 CFR
874.....14830

24 CFR
882.....14831

26 CFR
Proposed Rules:
1.....14846

40 CFR
52.....14832

47 CFR
0.....14834

50 CFR
648.....14835
679.....14840
Proposed Rules:
648.....14846

UMI
VOL
64
ISS
59
MR
29
999
UMI

Federal Re
Vol. 64, N
Monday, M

Title 3—

The Pr

[FR Doc. 99–
Filed 3–26–9
Billing code

Federal Register
Vol. 64, No. 59
Monday, March 29, 1999

Presidential Documents

Title 3—

The President

Memorandum of March 23, 1999

Delegation of Authority Under Section 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as Enacted in Public Law 105–277)

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate the functions and authorities conferred upon the President by section 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as enacted in Public Law 105–277) to the Secretary of State, who is authorized to redelegate these functions and authorities consistent with applicable law. This delegation shall apply to the enterprise funds established by the Support for East European Democracy (SEED) Act of 1989, Public Law 101–179, as amended, and the FREEDOM Support Act, Public Law 102–511, as amended. The functions and authorities under section 577 shall be exercised in consultation with the Assistant to the President for National Security Affairs and the Director of the Office of Management and Budget.

Any reference in this memorandum to the provision of any Act shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, March 23, 1999.

[FR Doc. 99–7757
Filed 3–26–99; 8:45 am]
Billing code 4710–10–M

UMI

VOL

64

ISS

59

MR

29

999

UMI

Rule

This sectio
contains re
applicability
are keyed t
Federal Re
50 titles pu

The Code o
the Superin
new books
REGISTER

DEPARTM

Agricultu

7 CFR Par

[Docket No

**Olives Gr
Assessm**

AGENCY: A
USDA.

ACTION: Fi

SUMMARY:
assessmen
per ton of
California
under Mar
1999 and s
Committee
administra
which regu
grown in C
assess oliv
Committee
reasonable
the progra
January 1 a
assessmen
indefinitel
suspended

EFFECTIVE

FOR FURTH

Diane Purv
Terry Vaw
California
and Vegeta
2202 Mont
Fresno, Ca
(559) 487–
George Kel
Marketing
Branch, Fr
AMS, USD
96456, Was
telephone:
720–5698.

information
regulation,
complying

Rules and Regulations

Federal Register
Vol. 64, No. 59
Monday, March 29, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV99–932–1 FR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate from $17.10 to $26.18 per ton of olives established for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1999 and subsequent fiscal years. The Committee is responsible for local administration of the marketing order which regulates the handling of olives grown in California. Authorization to assess olive handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: March 30, 1999.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, and Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901; Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay__N__Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable olives beginning on January 1, 1999, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 1999 and subsequent fiscal years from $17.10 per ton to $26.18 per ton of olives.

The California olive marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California olives. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998 and subsequent fiscal years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on December 10, 1998, and unanimously recommended 1999 expenditures of $1,845,185 and an assessment rate of $26.18 per ton of olives. In comparison, last year's budgeted expenditures were $1,750,000. The assessment rate of $26.18 is $9.08 higher than the rate currently in effect. A higher assessment rate is needed because:

(1) Assessable tonnage is down for the second year in a row due in large part this crop year to adverse conditions created by the weather phenomenon El Nino. Assessable tonnage in 1996 totaled 144,075 tons, in 1997 it totaled 85,585 tons, and in 1998 the assessable tonnage totaled 67,990 tons; and

(2) Rather than reduce 1999 expenditures, the Committee determined that more funds are needed to continue the development of an improved mechanical olive harvester that can efficiently harvest most orchard configurations. The California olive

industry recognized that it needs to make reducing harvesting costs a top priority if it is to remain competitive with imports. Consequently, after considerable discussion, the Committee recommended increasing the $52,000 1999 Research Fund initially suggested by Committee members by an additional $250,000. The additional $250,000 is to be used specifically for the purpose of further development of a mechanical harvester that can be more effectively utilized by growers throughout the California olive industry while at the same time reducing harvesting costs.

The following table compares major budget expenditure recommendations for the 1999 fiscal year with those from last year:

Budget expenditure	1998	1999
Administration ...	$357,900	$346,485
Research	50,000	302,000
Market Development	1,308,500	1,190,500

The assessment rate recommended by the Committee was derived by considering anticipated expenses, actual receipts of olives, and additional pertinent factors. The quantity of assessable olives for the 1999 fiscal year is 67,990 tons which should provide $1,779,978 in assessment income. Income derived from handler assessments, interest, and carryover of reserve funds should be adequate to cover budgeted expenses. Funds in the reserve (currently $316,409) would be kept within the maximum permitted by the order (approximately one fiscal year's expenses, § 932.40).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1999 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,200 producers of olives in the production area and 3 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of olive producers may be classified as small entities, while none of the olive handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1999 and subsequent fiscal years from $17.10 per ton to $26.18 per ton of olives. The Committee unanimously recommended 1999 expenditures of $1,845,185 and an assessment rate of $26.18 per ton. The assessment rate of $26.18 is $9.08 higher than the 1998 rate. The quantity of assessable olives for the 1999 fiscal year is 67,990 tons. Thus, the $26.18 rate should provide $1,779,978 in assessment income and be adequate to meet this year's budgeted expenses, when combined with funds from the authorized reserve and interest income.

The following table compares major budget expenditure recommendations for the 1999 fiscal year with those from last year:

Budget expenditure	1998	1999
Administration ...	$357,900	$346,485
Research	50,000	302,000
Market Development	1,308,500	1,190,500

A higher assessment rate is needed for 1999 because:

(1) Assessable tonnage is down for the second year in a row due in large part this crop year to adverse conditions created by the weather phenomenon El Nino. Assessable tonnage in 1996 totaled 144,075 tons, in 1997 it totaled 85,585 tons, and in 1998 the assessable tonnage totaled 67,990 tons; and

(2) Rather than reduce 1999 expenditures, the Committee determined that more funds are needed to continue the development of an improved mechanical olive harvester that can efficiently harvest most orchard configurations. The California olive industry recognized that it needs to make reducing harvesting costs a top priority if it is to remain competitive with imports. Consequently, after considerable discussion, the Committee recommended increasing the $52,000 1999 Research Fund initially suggested by Committee members by an additional $250,000. The additional $250,000 is to be used specifically for the purpose of further development of a mechanical harvester that can be more effectively utilized by growers throughout the California olive industry while at the same time reducing harvesting costs.

The Committee reviewed and unanimously recommended 1999 expenditures of $1,845,185 which included the $250,000 increase in research development of an improved mechanical olive harvester. To finance this additional research allotment, the Committee considered reducing the Market Development budget item by amounts ranging from $100,000 to $309,530. The prevailing opinion was that the money allocated for 1999 Market Development recommended by the Marketing Subcommittee remain the same ($1,190,500) as initially suggested, which is $118,000 less than budgeted for 1998. The Committee members believed that the Administrative Budget had already been reduced as low as possible ($11,415 less than for 1998). The only other alternative was to increase the assessment rate. The assessment rate of $26.18 per ton of assessable olives was then derived by considering anticipated expenses, actual receipts of olives, and additional pertinent factors.

Based on a review of historical and preliminary marketing and price information, grower revenue for the 1998–99 crop year (August 1 through July 31) is estimated to be approximately $39,500,000. Therefore, the estimated assessment revenue of $1,779,978 for the 1999 fiscal year will be approximately 4.5 percent of grower revenue.

This action increases the assessment obligation imposed on handlers. While

assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California olive industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 10, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This final rule imposes no additional reporting or recordkeeping requirements on California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the Federal Register on January 28, 1999 (64 FR 4350). Copies of the proposed rule were also mailed or sent via facsimile to all olive handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending March 1, 1999, was provided for interested persons to respond to the proposal. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to begin assessing handlers at the $26.18 per ton rate as soon as possible to generate sufficient funds to pay its expenses; (2) the 1999 fiscal year began on January 1, 1999, and the order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during the current crop year (August 1, 1998–July 31, 1999); and (3) all three handlers are represented on the Committee and participated in deliberations. Also, a 30-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 1999, an assessment rate of $26.18 per ton is established for assessable olives grown in California.

Dated: March 24, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–7650 Filed 3–26–99; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1728

Electronic Overhead Distribution Lines; Specifications and Drawings for 24.9/14.4 kV Line Construction

AGENCY: Rural Utilities Service, USDA.

ACTION: Compliance with Bulletin 50–5 or 1728F–803.

SUMMARY: In 1998 the Rural Utilities Service (RUS) updated and revised its bulletin of specifications and drawings for 24.9/14.4 kV overhead distribution line construction. The bulletin, formerly named Bulletin 50–5, was renamed "RUS Bulletin 1728F–803; Specifications and Drawings for 24.9/14.4 kV Line Construction." This bulletin is incorporated by reference in 7 CFR Part 1728. As published in the **Federal Register**, Vol. 63, No. 251, Thursday, December 31, 1998, this bulletin was approved by the Director of the Federal Register effective February 1, 1999.

To allow borrowers to conduct an orderly transition from the old bulletin to the new construction assemblies and assembly numbers, it is acceptable to RUS for borrowers to utilize construction drawings in either Bulletin 50–5 or the new Bulletin 1728F–803 until December 31, 1999. After December 31, 1999, only Bulletin 1728F–803 standard drawings shall be used.

It is anticipated that this action will also allow borrowers sufficient time to make necessary changes in engineering and accounting procedures and associated computer software.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. James K. Bohlik, Electrical Engineer, Distribution Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, STOP 1569, Washington, DC 20250–1569. Telephone: (202) 720–1967. Fax: (202) 720–7491.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936 as amended (7 U.S.C. 901 *et seq.*), the Rural Utilities Service (RUS) amended 7 CFR Chapter XVII, Part 1728, Electric Standards and Specification for Materials and Construction, by revising RUS Bulletin 50–5 (D–803), Specification and Drawings for 14.4/24.9 kV Line Construction, and renumbered it as RUS Bulletin 1728F–803. RUS maintains a system of bulletins that contains construction standards and specifications for materials and equipment. These standards and specifications apply to system facilities constructed by RUS electric and telecommunications borrowers in accordance with the RUS loan contract, and contains standard construction units, material, and equipment units commonly used in RUS electric and telecommunication borrowers' systems.

RUS Bulletin 1728F–803 provides dimensioned drawings of standard assembly units and specifications for the construction of 24.9/14.4 kV overhead electric distribution lines. RUS changed the bulletin number from RUS Bulletin 50–5 to RUS Bulletin 1728F–803. The change in the bulletin number and reformatting was necessary to conform to RUS' new publications and directives system. This bulletin is incorporated by reference in 7 CFR part 1728.97. It may be purchased from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7954.

Dated: March 23, 1999.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 99–7649 Filed 3–26–99; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 73

RIN 3150–AF63

Frequency of Reviews and Audits for Emergency Preparedness Programs, Safeguards Contingency Plans, and Security Programs for Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to allow nuclear power reactor licensees the option to change the frequency of licensees' independent reviews and audits of their emergency preparedness programs, safeguards contingency plans, and security programs. The amendment allows nuclear power reactor licensees to elect to conduct program reviews and audits either at intervals not to exceed 12 months as is currently required, or as necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect the emergency preparedness program, the safeguards contingency plan, and security program, but no longer than 12 months after the change. In any case, each element of the emergency preparedness program, the safeguards contingency plan, and the security program must be reviewed at least every 24 months. This action will reduce the regulatory burden on licensees without compromising public health and safety.

EFFECTIVE DATE: April 28, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra D. Frattali, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–3703, e-mail sdf@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1997 (62 FR 40978), the NRC published a proposed rule in the **Federal Register** to amend the NRC's regulations for the frequency of program reviews and audits for emergency preparedness programs, safeguards contingency plans, and security programs at nuclear power reactors. This rulemaking was developed in response to two petitions for rulemaking submitted by Virginia Power Company, PRM 50–59 and PRM 50–60. These petitions were published for public comment by the NRC in the **Federal Register** (59 FR 23641; April 13, 1994, and 59 FR 17449; May 6, 1994, respectively). This final rule grants the petitioner's request in each of these petitions with some additional qualifications and conditions. This final rule completes NRC action on PRM–50–59 and PRM–50–60.

As written, the proposed rule would have required all power reactor licensees to conduct program reviews and audits in response to program performance indicators or after a significant change in personnel, procedures, equipment, or facilities, but in no case less frequently than every 24 months. Although the proposed rule was a reduction in the burden on the power reactor licensees, the requirements might have constituted a backfit for some licensees as they would be required to make procedural changes and possibly take other actions. Therefore, the final rule has been modified to allow the licensees the option of continuing to use the current regulations and thus a backfit analysis is not required for this proposed action.

The following sections of 10 CFR Parts 50 and 73 are amended by this rulemaking: requirements pertaining to the review frequency of safeguards contingency plans by power reactor licensees contained in § 50.54(p)(3) and in Appendix C to Part 73;[1] requirements for security program reviews contained in § 73.55(g)(4); and requirements pertaining to the frequency of program reviews of the emergency preparedness program by nuclear power reactor licensees contained in § 50.54(t).

Public Comments

Ten public comments were received, one from an Agreement State, one from a utility industry group, and eight from licensees. The only comment that did not support the rulemaking was from the State of Illinois, the Agreement State. The utility group supported the rule with comments. Of the eight licensee commenters that supported the rulemaking, two supported the rulemaking with no additional comments, three supported the rulemaking with additional comments, one supported the industry group's comments and two supported the industry group's comments with additional comments. The NRC had specifically requested public comments on performance indicators appropriate for the emergency preparedness and security programs that would amplify the regulation. Three of the industry commenters responded to this request, but only one suggested specific performance indicators.

Copies of the letters are available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW (Lower Level), Washington, DC.

The public comments were grouped and are discussed below.

Comment Resolution

Performance Indicators

Performance indicators are used by nuclear operating organizations to provide a quantitative indication of plant performance. A performance indicator is a parameter derived from plant performance data that can be correlated with individual plant regulatory and safety performance. Licensees typically utilize performance indicators to gain additional perspective on plant activities and to provide an indication of the possible need to adjust priorities and resources to achieve improved overall performance. Performance indicators as related to this rulemaking refer to numerical parameters generally derived from quantitative data to monitor the performance and gain insight to the effectiveness of the emergency preparedness and security programs.

Performance indicators are usually derived from data in a way that provides measurement of success in a summary fashion. Some examples of performance indicators for emergency preparedness are:

- Emergency response facility availability,
- Completeness of emergency preparedness duty roster personnel training,
- Quality of response to declared plant emergencies,
- Timeliness of corrective action closure,
- Measure of state and local interface, and
- Percentage of drill objectives successfully demonstrated.

Some examples of performance indicators for physical security programs (including safeguards contingency plans) are:

- Exercise and drill performance
- Instances of unescorted access granted incorrectly,
- Instances of uncompensated degradation of security equipment,
- Compensatory hours expended due to equipment failures,

[1] Note that this appendix is currently cited by both § 73.46, which applies to nuclear fuel licensees, and § 73.55, which applies to nuclear power reactor licensees. This rulemaking applies only to nuclear power reactors.

- Test failures involving security equipment,
- False/nuisance alarm rates, and
- Nature, frequency, and type of equipment failures.

Performance indicators are generally intended to monitor success in performing an activity relative to a success level identified as acceptable. For a performance indicator to be meaningful a level of acceptable success is identified. This may be based on historical success levels, common industry success levels, design parameters, management expectations, improvement goals, or other such bases. Performance that is indicated as being below the acceptable success level would indicate the need for a program review or audit of the affected area.

The proposed rule specifically requested suggestions for performance indicators. Only one commenter replied directly with suggestions for emergency preparedness indicators. This commenter also indicated that the performance indicators for security would be difficult to manage and an industry consensus would be extremely difficult to reach on this issue. The commenter noted that some performance indicators for security are tracked differently between plants or not at all. One commenter wanted performance standards or measurements to be defined and approved in industry guidelines. One commenter wanted each utility to be allowed to develop its own performance indicators. The industry group stated its interest in developing industry guidance for this new approach. Because of the licensees' experience in implementing and performing self-assessment of their programs, the NRC has decided that at this time it will be the responsibility of the individual utilities to define their own performance indicators. Industry development of performance indicators is to be encouraged.

Additional information concerning performance indicators is included in the Inspection and Enforcement section.

Audit Frequency

The State of Illinois commented that the current requirement for annual emergency preparedness audits [2] does not constitute an excessive burden, especially when offsite agencies must certify annually that their emergency preparedness plan meets NUREG–0654 Rev.1/FEMA–REP–1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," [3] and that a review every 24 months is not sufficiently frequent to ensure that all the multiple and complex aspects of an emergency preparedness plan remain current. Another commenter believed that specifying any maximum frequency is not necessary but, if one is specified, it should be defined in an industry developed standard. Another commenter specifically stated that performance-based testing to correct demonstrated weaknesses is significantly better than schedule-driven audits but did not object to the 24-month requirement. The other commenters agreed with the rule as written.

The comments of the State of Illinois in response to the original publication of the petitions were the same as the State's comments in response to the proposed rulemaking. In each comment, Illinois expressed concern with lengthening the period between reviews. This concern was addressed by clarifying that more frequent, focused program reviews and audits may be required, based on an assessment of security or emergency preparedness by the licensee against performance indicators or after a change in licensee personnel, procedures, equipment, or facilities that potentially could adversely affect emergency preparedness or security. Although some commenters believed that there should be no maximum audit period specified, most commenters had no problem with the proposed frequency of not less than 24 months. The final rule retains this specified frequency.

Audit Procedures

One commenter said that the rule would add an additional layer of requirements, especially in security. This commenter wanted to eliminate the requirement to audit [4] in response to a significant change in personnel, procedures, equipment, or facilities. The commenter also wanted a clear specification in the rule that the audit frequency should be altered only after the licensee has determined that a significant change has occurred. The rule change has been made an additional voluntary option. The licensee has the option to maintain the current review intervals, which does not add an additional layer of requirements. Alternatively, under the new option, it is the licensee who determines when a review is necessary, and the rule language has been changed to replace the phrase "significant change in personnel, procedures equipment or facilities" with "a change in personnel, procedures, equipment or facilities, that potentially could adversely affect emergency preparedness or security."

One commenter wanted to eliminate all the requirements for audits. One commenter wanted clear and standard criteria for emergency preparedness audits. One commenter wanted the level of independence required for reviewers and the qualifications of the persons conducting the reviews to be clarified. Finally, one commenter observed that the review of performance should be against the emergency plan.

If the licensee chooses to maintain the current rule intervals, there is no additional layer of requirements. The final rule adds a voluntary option. If the licensee chooses to implement it, it relaxes the existing requirement for frequency of audits, and provides decision criteria for determining when focused audits need to be conducted, but makes no changes in how those audits and reviews are conducted.

Definitions and Clarifications

There were a few requests from commenters to define the terms "significant," "significant change," "as necessary," and "reasonably practical." The terms "significant" and "significant change" in the rule language have been replaced with the words "a change that potentially could adversely affect emergency preparedness or security." The term "as necessary" is a function of the nature of the change. The scope and depth of the review would be expected to vary with the change. Thus, judgment will need to be exercised in making the decisions. Similarly, "reasonably practicable" is a function of the significance of the change and needs to be factored into the scope and depth of review. Other changes in the rule language from the proposed rule were editorial in nature to make the rule language more understandable.

Another commenter observed that the NRC should use the terms "review" and "audit" consistently. The Commission notes that the emergency planning regulations use the term "program reviews," and the security program and safeguards contingency plan regulations also use "reviews." When describing the requirements for a "review" of the physical security plan, the regulations use the term "audits" for some of the requirements. These amendments do not change the use of any of these terms from the previous text of the rule, and are consistent with other NRC regulatory usage of these terms.

[2] Although the commenter used the term "audits," the term used in the emergency planning regulations is "reviews."

[3] Available from the National Technical Information Service, Springfield, VA 22161.

[4] See footnote 2.

The NRC does not require that the reviews and audits addressed in this rulemaking be performed by the QA organization in accordance with the QA program commitments for the conduct of the audits. The NRC expects these audits to be conducted by individuals who are qualified (technically competent) in the subjects being audited and are independent of the program to ensure objectivity and no conflict of interest. At the licensee's option, the QA organization may perform, lead, or assist in these audits.

Regulatory Action

The public comments have been considered as discussed above, and the final rule amendment is promulgated as a voluntary option, with changes made to the proposed rule language to clarify the requirements and address public comments. One comment, that the NRC should implement performance-based regulations across the full spectrum of emergency preparedness and security requirements, is beyond the scope of this rulemaking. These revisions are consistent with those requested in the two petitions for rulemaking (PRM 50–59 and PRM 50–60) and will promote performance-based rather than compliance-based review and audit activities.

Inspection and Enforcement

This rulemaking revises the regulations to allow licensees the option to conduct focused program reviews and audits of their emergency preparedness programs, safeguards contingency plans, and security programs as needed, either based on an assessment by the licensee against performance indicators or in response to a change in personnel, procedures, equipment, or facilities, that potentially could adversely affect emergency preparedness or security, and it requires in any case that all program elements be reviewed and audited at least every 24 months. The focused program reviews by the licensees following changes in licensee personnel, procedures, or equipment that potentially could adversely affect emergency preparedness or security are to be performed as soon as reasonably practicable, but no later than 12 months after the changes. Inspection procedures will be changed to reflect the revised rule. The NRC will review the performance indicators developed by licensees choosing this option and observe whether and to what extent these performance indicators are assisting licensees in conducting their program reviews. The NRC will use this experience to determine if specific and additional guidance should be developed.

The Commission recognizes that licensees will need to exercise judgement in light of the nature of the variety of changes that may occur and the difficulty of defining in advance, except in general terms, the threshold of changes that potentially could adversely affect emergency preparedness and security. Accordingly, where the licensee has made a good faith effort in making the judgements needed to comply with this rule, the staff intends not to make citations unless the licensee's actions were clearly unreasonable. In the absence of willfulness, these violations are expected to be Severity Level IV violations.

Environmental Impact: Categorical Exclusion

The Commission has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(I.). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval numbers 3150–0002 and 3150–0011.

If the licensee chooses the option of focused reviews and audits as the final rule allows, the public burden for this information collection is expected to be decreased by approximately 275 hours per licensee per year. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection.

Send comments on any aspect of this information collection, including suggestions for further reducing the burden, to the Records Management Branch (T–6 F 33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@nrc.gov; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0002, –0011), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

This rulemaking revises the regulations to allow licensees to conduct program reviews and audits of their emergency preparedness programs, safeguards contingency plans, and security programs either:

(i) At intervals not to exceed 12 months as is currently required, or

(ii) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect the emergency preparedness program, the safeguards contingency plan, and the security program, but no longer than 12 months after the change. In any case, each element of the emergency preparedness program, the safeguards contingency plan, and the security program must be reviewed at least every 24 months .

The optional changes, if elected by the licensee, represent a potential cost savings because it is anticipated that fewer reviews and audits will be necessary. Most licensees include the safeguards contingency plan as part of the physical security program, and one audit (review) covers both. Information provided by licensees on the cost for conducting reviews and audits of the licensee emergency preparedness and physical security programs varies, but is estimated to cost approximately $15,000 per annual review or audit, for a total of $30,000 annually for both audits (reviews). Each element of the program is audited (reviewed) at least once every 24 months. The potential maximum savings of 50 percent to licensees in the emergency preparedness and physical security program audit costs is an estimated $30,000 per licensee every 24 months. The total cost savings to the industry is approximately $1.1M per year. Even if some elements of the programs are audited more frequently, the cost to the licensee will likely be less than auditing the entire program every year. Limited focused audits that address changes in personnel, procedures, equipment, or facilities, that potentially could adversely affect emergency preparedness or security, will cost about $5,000 per year if they are needed. There is no additional cost anticipated for collecting and analyzing program performance indicators since most licensees already do so in some fashion.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. This final rule affects only licensees authorized to operate nuclear power reactors. These licensees do not fall within the scope of the definition of "small entities" under the size standards developed by the NRC and codified in 10 CFR 2.810.

Backfit Analysis

In the proposed rule, the NRC took the position that the backfit rule, 10 CFR 50.109, did not apply because it did not propose new requirements on existing 10 CFR Part 50 licensees except to reduce the frequency with which licensees conduct independent reviews and audits of their emergency preparedness programs, safeguards contingency plans, and security programs. Since this action did not impose any new or increased requirements in this area, no backfit was intended or approved in connection with this rule change. Therefore, a backfit analysis was not prepared for this amendment. However, upon further review, the NRC has concluded that there is an insufficient basis to support the original position. Some licensees may not have performance indicators and may find it necessary to develop them. In such a case a backfit analysis would be required. Therefore, the final rule has been revised so that the changes are an additional voluntary option and power reactor licensees may elect to continue to follow the current requirements. Making the new requirements optional obviates the need for a backfit analysis for this proposed action.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a "major rule" and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and record keeping requirements.

10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and record keeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR Parts 50 and 73.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Section 50.37 also issued under E.O. 12829, 3 CFR 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR 1995 Comp., p. 391. Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

2. Section 50.54 is amended by revising paragraphs (p)(3) and (t), and adding (p)(4) to read as follows:

§ 50.54 Conditions of license.

* * * * *

(p) * * *

(3) The licensee shall provide for the development, revision, implementation, and maintenance of its safeguards contingency plan. The licensee shall ensure that all program elements are reviewed by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program either:

(i) At intervals not to exceed 12 months, or

(ii) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security, but no longer than 12 months after the change. In any case, all elements of the safeguards contingency plan must be reviewed at least once every 24 months.

(4) The review must include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards systems along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of 3 years.

* * * * *

(t)(1) The licensee shall provide for the development, revision, implementation, and maintenance of its emergency preparedness program. The licensee shall ensure that all program elements are reviewed by persons who have no direct responsibility for the implementation of the emergency preparedness program either:

(i) At intervals not to exceed 12 months or,

(ii) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect emergency preparedness, but no longer than 12 months after the change. In any case, all elements of the emergency preparedness program must be reviewed at least once every 24 months.

(2) The review must include an evaluation for adequacy of interfaces with State and local governments and of licensee drills, exercises, capabilities, and procedures. The results of the review, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and retained for a

period of 5 years. The part of the review involving the evaluation for adequacy of interface with State and local governments must be available to the appropriate State and local governments.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

3. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297(f)).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

4. Section 73.55 is amended by revising paragraph (g)(4) to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(g) * * *

(4)(1) The licensee shall review implementation of the security program by individuals who have no direct responsibility for the security program either:

(i) At intervals not to exceed 12 months, or

(ii) As necessary, based on an assessment by the licensee against performance indicators and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security but no longer than 12 months after the change. In any case, each element of the security program must be reviewed at least every 24 months.

(2) The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection, for a period of 3 years.

* * * * *

5. Appendix C to 10 CFR Part 73, Licensee Safeguards Contingency Plans, is amended by revising the section titled "Audit and Review" to read as follows:

Appendix C to Part 73—License Safeguards Contingency Plans

* * * * *

Audit and Review

(1) For nuclear facilities subject to the requirements of § 73.46, the licensee shall provide for a review of the safeguards contingency plan at intervals not to exceed 12 months. For nuclear power reactor licensees subject to the requirements of § 73.55, the licensee shall provide for a review of the safeguards contingency plan either:

(i) At intervals not to exceed 12 months, or

(ii) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security, but no longer than 12 months after the change. In any case, each element of the safeguards contingency plan must be reviewed at least every 24 months.

(2) A licensee subject to the requirements of either § 73.46 or § 73.55 shall ensure that the review of the safeguards contingency plan is by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities.

(3) The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. The report must be maintained in an auditable form, available for inspection for a period of 3 years.

Dated at Rockville, Maryland, this 9th day of March, 1999.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 99–7597 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 25

[Docket No. NM153, Special Conditions No. 25–143–SC]

Special Conditions: Learjet Model 35, 35A, 36, 36A Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Learjet Model 35, 35A, 36, 36A airplanes modified by Learjet, Inc. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

DATES: The effective date of these special conditions is March 19, 1999; Comments must be received on or before April 28, 1999.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM–7), Docket No. NM153, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM153. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ross Landes, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–1071; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions

number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM153." The postcard will be date stamped and returned to the commenter.

Background

On January 7, 1999, Learjet, Inc. applied for a supplemental type certificate (STC) to modify Learjet Model 35, 35A, 36, and 36A airplanes listed on Type Certificate A10CE. The modification incorporates the installation of dual LITEF LCR–92, Attitude and Heading Reference Systems (AHRS) that provide air data input to both pilot and copilot flight instruments displaying critical flight parameters (attitude) to the flightcrew. The AHRS can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Learjet, Inc. must show that the Learjet Model 35, 35A, 36, and 36A airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A10CE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The certification basis for the modified Learjet Model 35, 35A, 36, and 36A airplanes includes 14 CFR part 25, dated February 1, 1965, with Amendments 25–1 through 25–18, as amended by Type Certificate Data Sheet (TCDS) A10CE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Learjet Model 35, 35A, 36, and 36A airplanes because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Learjet, Inc. apply at a later date for a design change approval to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The modified Learjet Model 35, 35A, 36, and 36A airplanes will incorporate a new dual Attitude and Heading Reference System (AHRS) that performs critical functions and was not available at the time of certification of these airplanes. This system may be vulnerable to high intensity radiated fields (HIRF) external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Learjet Model 35, 35A, 36, and 36A which require that new electrical and electronic systems, such as the AHRS, that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1, *or* 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Field strength (volts per meter)	Frequency	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100

Field strength (volts per meter)	Frequency	
	Peak	Average
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

The threat levels identified above differ from those used in earlier special conditions. They are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee. In general, these standards are less critical than the threat level that was previously used as the basis for earlier special conditions.

Applicability

As discussed above, these special conditions are applicable to Learjet Model 35, 35A, 36, and 36A airplanes modified by Learjet, Inc. Learjet Inc. may apply at a later date for design change approval to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on Learjet Model 35, 35A, 36, and 36A airplanes modified by Learjet, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Learjet Model 35, 35A, 36, and 36A airplanes modified by Learjet, Inc.

Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF). Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

For the purpose of these special conditions, the following definition applies:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on March 19, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 99–7626 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–08–AD; Amendment 39–11096; AD 99–07–11]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe Aerospatiale Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all SOCATA—Groupe Aerospatiale (SOCATA) Model TBM 700 airplanes. This AD requires inspecting the left-hand and right-hand outboard hinge fittings of the horizontal stabilizer for cracks, and replacing any cracked fitting. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by this AD are intended to prevent structural damage to the stabilizer caused by outboard hinge fitting cracks, which could result in uncontrolled flight if the hinges break.

DATES: Effective April 16, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 16, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–08–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from SOCATA Groupe AEROSPATIALE, Customer

Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; telephone: (33) 5.62.41.73.00; facsimile: (33) 5.62.41.76.54; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 894–1160; facsimile: (954) 964–4191. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–08–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all SOCATA TBM 700 airplanes. The DGAC reports three incidents of cracked elevator hinge fittings of the horizontal stabilizer on military aircraft in France. The cracks were found during regular maintenance inspections and the cause of the cracks has not yet been determined.

Cracked elevator hinge fittings, if not detected and corrected in a timely manner, could result in structural damage to the stabilizer with possible uncontrolled flight if the hinges break.

Relevant Service Information

SOCATA has issued Alert Service Bulletin SB 70–077–55, dated February 1999, which specifies procedures for inspecting the following outboard hinge fittings of the horizontal stabilizer for cracks:

—*Left-hand (LH) outboard hinge fitting:* part number T700A5510065000; and
—*Right-hand (RH) outboard hinge fitting:* part number T700A5510065001.

This service bulletin also specifies replacing any cracked hinge fitting in accordance with the applicable maintenance manual.

The DGAC classified this service bulletin as mandatory and issued French AD T1999–060(A), dated February 1999, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other SOCATA Model TBM 700 airplanes of the same type design registered for operation in the United States, the FAA is issuing AD action. This AD requires inspecting the left-hand and right-hand outboard hinge fittings of the horizontal stabilizer for cracks, and replacing any cracked hinge fitting. Accomplishment of the inspection is required in accordance with SOCATA Alert Service Bulletin SB 70–077–55, dated February 1999. Any necessary replacement is required in accordance with the applicable maintenance manual.

Differences Between the French AD, the Service Bulletin, and This AD

French AD No. T1999–060(A), dated February 1999, requires inspecting the outboard hinge fittings prior to further flight for Model TBM 700 airplanes with over 100 hours total time-in-service (TIS) and registered for operation in France, and thereafter at every 100 hours TIS. SOCATA Alert Service Bulletin No. 70–077–55, dated February 1999, specifies these inspections at intervals of 300 hours TIS.

The FAA does not believe that there is justification to ground the affected airplanes and require the initial inspection prior to further flight. To assure that the inspection is accomplished on all of the affected airplanes in a timely manner without inadvertently grounding any of the affected airplanes, the FAA is requiring the initial inspection upon the accumulation of 300 hours TIS on the outboard hinge fittings of the horizontal stabilizer or within the next 25 hours TIS after the effective of the AD, whichever occurs later.

The FAA is not including a repetitive inspection requirement in this AD. The Administrative Procedure Act does not permit the FAA to "bootstrap" a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

After issuing this AD, the FAA may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require these inspections to be repetitive. Credit will be given in any subsequent action for the initial inspection done under this AD.

Determination of the Effective Date of the AD

Since a situation exists (possible uncontrolled flight) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must

submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–08–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–07–11 Socata—Groupe Aerospatiale: Amendment 39–11096; Docket No. 99–CE–08–AD.

Applicability: Model TBM 700 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent structural damage to the stabilizer caused by outboard hinge fitting cracks, which could result in uncontrolled flight if the hinges break, accomplish the following:

(a) Upon accumulating 300 hours time-in-service (TIS) on the outboard hinge fittings of the horizontal stabilizer or within the next 25 hours TIS after the effective date of this AD, whichever occurs later, inspect the outboard hinge fittings of the horizontal stabilizer (part numbers in paragraphs (a)(1) and (a)(2) of this AD) for cracks. Accomplish this inspection in accordance with the Accomplishment Instructions section of SOCATA Alert Service Bulletin SB 70–077–55, dated February 1999:

(1) *Left-hand (LH) outboard hinge fitting:* part number T700A5510065000; and

(2) *Right-hand (RH) outboard hinge fitting:* part number T700A5510065001.

(b) If any cracked outboard hinge fitting is found during the inspection required by paragraph (a) of this AD, prior to further flight, replace the cracked hinge fitting with an FAA-approved part that is free from cracks. Accomplish this replacement in accordance with the applicable maintenance manual.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to SOCATA Alert Service Bulletin SB 70–077–55, February 1999, should be directed to SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930–F65009 Tarbes Cedex, France; telephone: (33) 5.62.41.73.00; facsimile: (33) 5.62.41.76.54; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 894–1160; facsimile: (954) 964–4191. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The inspection required by this AD shall be done in accordance with SOCATA Alert Service Bulletin SB 70–077–55, February 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930–F65009 Tarbes Cedex, France; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French AD T1999–060(A), dated February 1999.

(g) This amendment becomes effective on April 16, 1999.

Issued in Kansas City, Missouri, on March 18, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7385 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–57–AD; Amendment 39–11093; AD 99–07–08]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA. 315B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Eurocopter France Model SA. 315B helicopters. This action requires inspecting the spar skin and main rotor blade (blade) root reinforcement strip area for bonding separation, corrosion, or a crack, and replacing the blade, if necessary. This amendment is prompted by the in-flight

failure of a blade. The actions specified in this AD are intended to detect bonding separation, corrosion, or a crack in the area of the blade root reinforcement strip, which could result in failure of the blade and subsequent loss of control of the helicopter.

DATES: Effective April 13, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 13, 1999.

Comments for inclusion in the Rules Docket must be received on or before May 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–57–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Direction Générale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Model SA. 315B helicopters. The DGAC advises that, due to the failure of a blade, the spar skin and blade root reinforcement strip area should be checked for separations, cracks, and corrosion.

Eurocopter France has issued Eurocopter SA 315 Service Bulletin No. 05.34, Revision No. 1, dated September 28, 1998 (SB). That SB specifies a check for bonding separation on both the spar skin and the reinforcement strip area, and a visual inspection for cracks or corrosion in the blade root area skin using a 3- to 7-power magnifying glass. The DGAC classified this SB as mandatory and issued DGAC AD 98–277–040(A), dated July 15, 1998, and 98–277–040(A)R1, dated December 16, 1998, in order to assure the continued airworthiness of these helicopters in France. The DGAC AD and the Eurocopter SB recommend accomplishing the initial inspection within 25 flying hours or 6 months, whichever occurs first. The FAA has determined that the initial inspection must be accomplished before further flight to ensure public safety.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, the initial inspections are required before further flight, and the repetitive inspections are required at intervals not to exceed 100 hours time-in-service (TIS) or 6 months, whichever occurs first, and this AD must be issued immediately.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA. 315B helicopters of the same type design registered in the United States, this AD is being issued to detect a bonding separation, corrosion, or a crack in the area of the blade root reinforcement strip, which could result in failure of the blade and loss of control of the helicopter. This AD requires inspecting each spar skin and blade root reinforcement strip area for a bonding separation, corrosion, or a crack, and replacing the blade if necessary. The actions are required to be accomplished in accordance with the SB described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment on this AD are impractical, and that good cause exists for making this amendment effective in less than 30 days.

Cost Impact

The FAA estimates that 33 helicopters will be affected by this AD, that it will take approximately 1.5 work hours to do the visual inspection, and 16.0 hours to replace a blade, if necessary, and that the average labor rate is $60 per work hour. Required parts will cost approximately $40,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,354,650 to conduct one inspection, and to replace one blade per helicopter.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–57–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA's Determination

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–07–08 Eurocopter France: Amendment 39–11093. Docket No. 98–SW–57–AD.

Applicability: Model SA. 315B helicopters, with main rotor blades, part number (P/N) 3160S11–10000—all part numbers, 3160S11–30000—all part numbers, 3160S11–35000—all part numbers, 3160S11–40000—all part numbers, 3160S11–45000—all part numbers, 3160S11–50000—all part numbers, or 3160S11–55000—all part numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect bonding separation, corrosion, or a crack in the area of the main rotor blade (blade) root reinforcement strip, which could result in failure of the blade and loss of control of the helicopter, accomplish the following:

(a) Before further flight, and thereafter at intervals not to exceed 100 hours time-in-service (TIS) or 6 months, whichever occurs first, inspect each blade spar skin and blade root reinforcement strip area for bonding separation, corrosion, or a crack in accordance with paragraphs 2.A. and 2.B. of the Accomplishment Instructions in Eurocopter SA 315 Service Bulletin No. 05.34, Revision No. 1, dated September 28, 1998 (SB), except that notification to Eurocopter La Courneuve, Department E/SRPT, is not required.

(1) For the hatched areas (15 × 50mm and 100 × 10mm) on the upper and lower surfaces, if bonding separation is found, replace the blade with an airworthy blade prior to further flight (refer to Figure 1 of the SB).

(2) Bonding separation in the non-hatched area (100 × 10mm) of the upper and lower surfaces is permissible but must be inspected using a tapping method at intervals not to exceed 25 hours TIS in order to monitor any propagation. If bonding separation reaches the hatched area, the blade must be replaced with an airworthy blade before further flight.

(b) Before further flight, and thereafter at intervals not to exceed 100 hours TIS or 6 months, whichever occurs first, visually inspect for a crack or corrosion on the upper and lower skin in the 100 × 100mm blade root area. If a crack or corrosion is detected, replace the blade with an airworthy blade prior to further flight (refer to Figure 1 of the SB).

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits will not be issued.

(e) The inspections shall be done in accordance with Eurocopter SA 315 Service Bulletin No. 05.34, Revision No. 1, dated September 28, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 13, 1999.

Note 3: The subject of this AD is addressed in Direction Générale De L'Aviation Civile (France) AD 98–277–040(A), dated July 15, 1998, and AD 98–277–040(A)R1, dated December 16, 1998.

Issued in Fort Worth, Texas, on March 18, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–7384 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–97–AD; Amendment 39–11095; AD 99–07–10]

RIN 2120–AA64

Airworthiness Directives; Industrie Aeronautiche e Meccaniche Model Piaggio P–180 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Industrie Aeronautiche e Meccaniche (I.A.M.) Model Piaggio P–180 airplanes. This AD requires inspecting the upper and lower engine nacelle inner panels for any loose or partially detached inner film, and removing any loose or partially detached inner film. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy. The actions specified by this AD are intended to prevent the accumulation of loose particles on the engine inlet screen caused by film delamination, which could result in reduced engine power and possible loss of airplane control.

DATES: Effective May 10, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 10, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from I.A.M. Rinaldo Piaggio S.p.A., Via Cibrario, 4 16154 Genoa, Italy. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the

Regional Counsel, Attention: Rules Docket No. 98–CE–97–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. David O. Keenan, Project Officer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all I.A.M. Model Piaggio P–180 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 30, 1998 (63 FR 71799). The NPRM proposed to require inspecting the upper and lower engine nacelle inner panels for any loose or partially detached inner film, and removing any loose or partially detached inner film. Accomplishment of the proposed actions as specified in the NPRM would be in accordance with Piaggio Service Bulletin (Mandatory) No.: SB–80–0101, Original Issue: May 6, 1998.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

Although the reduced engine power that will result if loose film particles accumulated on the engine inlet screen will only be unsafe during flight, this condition is not a result of the number of times the airplane is operated. The loose film occurs over time because of weather and climate conditions. For this reason, the FAA has determined that a compliance based on calendar time will be utilized in this AD in order to assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Cost Impact

The FAA estimates that 5 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 7 workhours per airplane to accomplish the inspection and film removal, and that the average labor rate is approximately $60 an hour. There are no parts required to accomplish this AD. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $2,100, or $420 per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–07–10 Industrie Aeronautiche e Meccaniche: Amendment 39–11095; Docket No. 98–CE–97–AD.

Applicability: Model Piaggio P–180 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the accumulation of loose particles on the engine inlet screen caused by film delamination, which could result in reduced engine power and possible loss of airplane control, accomplish the following:

(a) Within the next 6 calendar months after the effective date of this AD, inspect the upper and lower engine nacelle inner panels for any loose or partially detached inner film, in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Piaggio Service Bulletin (Mandatory) No.: SB–80–0101, Original Issue: May 6, 1998. Prior to further flight after the inspection, remove any loose or partially detached inner film in accordance with the service bulletin.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Piaggio Service Bulletin (Mandatory) No.: SB–80–0101, Original Issue: May 6, 1998, should be directed to I.A.M. Rinaldo Piaggio S.p.A., Via Cibrario, 4 16154 Genoa, Italy. This service information may be examined at the FAA, Central Region,

Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The inspection and modification required by this AD shall be done in accordance with Piaggio Service Bulletin (Mandatory) No.: SB–80–0101, Original Issue: May 6, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from I.A.M. Rinaldo Piaggio S.p.A., Via Cibrario, 4 16154 Genoa, Italy. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Italian AD 98–208, dated June 9, 1998.

(f) This amendment becomes effective on May 10, 1999.

Issued in Kansas City, Missouri, on March 18, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7382 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29502; Amdt. No. 1922]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not wa
regulatory e
impact is so
reason, the
amendment
economic in
number of s
criteria of th

List of Subj

Air Traffi
Navigation

FDC date
02/19/99 ....
03/03/99 ....
03/03/99 ....
03/04/99 ....
03/04/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/05/99 ....
03/08/99 ....
03/08/99 ....
03/08/99 ....
03/08/99 ....
03/08/99 ....
03/08/99 ....
03/08/99 ....
03/09/99 ....
03/09/99 ....
03/09/99 ....
03/09/99 ....
03/09/99 ....
03/09/99 ....
03/09/99 ....
03/09/99 ....
03/10/99 ....
03/10/99 ....
03/10/99 ....
03/10/99 ....
03/11/99 ....
03/12/99 ....
03/12/99 ....
03/16/99 ....

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on March 19, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * EFFECTIVE UPON PUBLICATION*

FDC date	State	City	Airport	FDC No.	SIAP
02/19/99	MI	LAKEVIEW	LAKEVIEW AIRPORT-GRIFFITH FIELD	9/1340	VOR/DME RWY 9, ORIG.
03/03/99	FL	TITUSVILLE	ARTHUR DUNN AIR PARK	9/1227	GPS RWY 15 ORIG.
03/03/99	FL	TITUSVILLE	ARTHUR DUNN AIR PARK	9/1228	GPS RWY 33, ORIG.
03/04/99	NY	NEW YORK	LA GUARDIA	9/1249	ILS RWY 13 ORIG.
03/04/99	VA	BRIDGEWATER	BRIDGEWATER AIR PARK	9/1238	NDB OR GPS-A AMDT 4A.
03/05/99	FL	MELBOURNE	MELBOURNE INTL	9/1272	GPS RWY 9L ORIG-A.
03/05/99	FL	MELBOURNE	MELBOURNE INTL	9/1273	GPS RWY 27R ORIG.
03/05/99	FL	MELBOURNE	MELBOURNE INTL	9/1274	NDB OR GPS RWY 9R AMDT 14A.
03/05/99	FL	MELBOURNE	MELBOURNE INTL	9/1275	VOR RWY 9R AMDT 19B.
03/05/99	FL	MELBOURNE	MELBOURNE INTL	9/1276	VOR OR GPS RWY 27L AMDT 11C.
03/05/99	FL	MELBOURNE	MELBOURNE INTL	9/1277	LOC BC RWY 27L AMDT 8D.
03/05/99	FL	MELBOURNE	MELBOURNE INTL	9/1278	ILS RWY 9R AMDT 10B.
03/05/99	KS	INDEPENDENCE	INDEPENDENCE MUNI	9/1263	GPS RWY 35, ORIG.
03/05/99	KS	INDEPENDENCE	INDEPENDENCE MUNI	9/1264	ILS RWY 35, ORIG.
03/05/99	KS	INDEPENDENCE	INDEPENDENCE MUNI	9/1265	NDB RWY 35, ORIG.
03/05/99	SD	YANKTON	CHAN GURNEY MUNI	9/1279	ILS RWY 31, AMDT 3.
03/05/99	SD	YANKTON	CHAN GURNEY MUNI	9/1280	VOR OR GPS RWY 13, AMDT 2.
03/05/99	SD	YANKTON	CHAN GURNEY MUNI	9/1281	VOR RWY 31, AMDT 3.
03/05/99	SD	YANKTON	CHAN GURNEY MUNI	9/1282	NDB OR GPS RWY 31, AMDT 2.
03/05/99	VA	LOUISA	LOUISA COUNTY/FREEMAN FIELD	9/1290	NDB OR GPS RWY 27 ORIG-A.
03/05/99	VA	LOUISA	LOUISA COUNTY/FREEMAN FIELD	9/1291	LOC RWY 27 ORIG.
03/08/99	IA	DECORAH	DECORAH MUNI	9/1324	VOR/DME RNAV OR GPS RWY 29, AMDT 3.
03/08/99	IA	DECORAH	DECORAH MUNI	9/1325	NDB RWY 29, ORIG.
03/08/99	IA	DECORAH	DECORAH MUNI	9/1326	VOR RWY 29, AMDT 3.
03/08/99	IA	ESTHERVILLE	ESTHERVILLE MUNI	9/1327	VOR OR GPS RWY 16, AMDT 4A.
03/08/99	IA	ESTHERVILLE	ESTHERVILLE MUNI	9/1328	NDB OR GPS RWY 34, ORIG-A.
03/08/99	IA	ESTHERVILLE	ESTHERVILLE MUNI	9/1329	VOR RWY 34, AMDT 6A.
03/08/99	VA	FREDERICKSBURG.	SHANNON	9/1332	NDB RWY 24 AMDT 2.
03/09/99	IA	FORT DODGE	FORT DODGE REGIONAL	9/1354	VOR/DME RNAV OR GPS RWY 24, AMDT 5A.
03/09/99	IA	FORT DODGE	FORT DODGE REGIONAL	9/1356	NDB RWY 6, AMDT 6.
03/09/99	IA	FORT DODGE	FORT DODGE REGIONAL	9/1357	VOR/DME RNAV OR GPS RWY 6, AMDT 6.
03/09/99	IA	FORT DODGE	FORT DODGE REGIONAL	9/1358	VOR/DME OR GPS RWY 30, AMDT 9.
03/09/99	IA	FORT DODGE	FORT DODGE REGIONAL	9/1359	ILS RWY 6, AMDT 6A.
03/09/99	IA	FORT DODGE	FORT DODGE REGIONAL	9/1360	VOR OR GPS RWY 12, AMDT 14.
03/09/99	SC	CLEMSON	CLEMSON-OCONEE COUNTY REGIONAL.	9/1349	NDB OR GPS-A, AMDT 5A.
03/09/99	SC	CLEMSON	CLEMSON-OCONEE COUNTY REGIONAL.	9/1350	GPS RWY 7, ORIG.
03/10/99	ND	GRAND FORKS	GRAND FORKS INTL	9/1383	LOC BC RWY 17R, AMDT 12.
03/10/99	ND	MINOT	MINOT INTL	9/1381	LOC BC RWY 13, AMDT 6.
03/10/99	OH	PORTSMOUTH	GREATER PORTSMOUTH REGIONAL	9/1400	GPS RWY 36, AMDT 1.
03/10/99	OH	PORTSMOUTH	GREATER PORTSMOUTH REGIONAL	9/1401	VOR/DME RNAV OR GPS RWY 18, AMDT 6.
03/11/99	OH	BARNESVILLE	BARNESVILLE-BRADFIELD	9/1437	VOR/DME RWY 27, ORIG.
03/12/99	CA	BAKERSFIELD	MEADOWS FIELD	9/1465	ILS RWY 30R AMDT 27B.
03/12/99	MT	WOLF POINT	L.M. CLAYTON	9/1461	NDB OR GPS RWY 29, AMDT 2.
03/16/99	NC	SOUTHERN PINES	MOORE COUNTY	9/1578	GPS RWY 23, ORIG.

FDC date	State	City	Airport	FDC No.	SIAP
03/16/99	TN	MEMPHIS	MEMPHIS INTL	9/1541	ILS RWY 36R (CAT I, II, III) AMDT 1A.

[FR Doc. 99–7628 Filed 3–26–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29501; Amdt. No. 1921]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the a mandatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on March 19, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing,

amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV/ § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective April 22, 1999*

Shelbyville, IN, Shelbyville Muni, VOR RWY 19, Orig
Shelbyville, IN, Shelbyville Muni, VOR OR GPS RWY 18, Amdt 9, CANCELLED
Burlington, NC, Burlington-Alamance Regional, NDB RWY 6, Orig
Burlington, NC, Burlington-Alamance Regional, NDB RWY 6, Amdt 4, CANCELLED

* * * *Effective May 20, 1999*

Anaktuvuk Pass, AK, Anaktuvuk Pass, NDB-B, Orig
Anaktuvuk Pass, AK, Anaktuvuk Pass, GPS-A, Orig
Nome, AK, Nome, MLS RWY 9, Orig, CANCELLED
Port Heiden, AK, Port Heiden, VOR/DME RWY 13, Amdt 1
Port Heiden, AK, Port Heiden, NDB RWY 5, Amdt 5
Port Heiden, AK, Port Heiden, NDB/DME RWY 5, Amdt 2
Port Heiden, AK, Port Heiden, NDB RWY 13, Amdt 5
Port Heiden, AK, Port Heiden, NDB/DME RWY 13, Amdt 2
Port Heiden, AK, Port Heiden, MLS RWY 5, Orig
Port Heiden, AK, Port Heiden, GPS RWY 5, Orig
Port Heiden, AK, Port Heiden, GPS RWY 13, Orig
Soldotna, AK, Soldotna, VOR OR GPS-A, Amdt 6
Soldotna, AK, Soldotna, NDB/DME RWY 7, Amdt 1
Soldotna, AK, Soldotna, NDB RWY 25, Amdt 2
Soldotna, AK, Soldotna, VOR/DME RNAV OR GPS RWY 7, Amdt 3, CANCELLED
Soldotna, AK, Soldotna, VOR/DME RNAV RWY 25, Amdt 3, CANCELLED
Soldotna, AK, Soldotna, GPS RWY 7, Orig
Soldotna, AK, Soldotna, GPS RWY 25, Orig
Unalakleet, AK, Unalakleet, MLS RWY 14, Orig, CANCELLED
Sedona, AZ, NDB OR GPS-A, Amdt 3, CANCELLED
Bonifay, FL, Tri-County, NDB OR GPS-A, Amdt 1
Stuart, FL, Witham Field, GPS RWY 12, Orig
Stuart, FL, Witham Field, GPS RWY 30, Amdt 1
Zephyrhills, FL, Zephyrhills Muni, GPS RWY 22, Orig
Zephyrhills, FL, Zephyrhills Muni, GPS RWY 18, Orig
Zephyrhills, FL, Zephyrhills Muni, GPS RWY 4, Orig
Zephyrhills, FL, Zephyrhills Muni, GPS RWY 36, Orig
Maquoketa, IA, Maquoketa Muni, VOR/DME RNAV OR GPS RWY 33, Orig-A, CANCELLED
Maquoketa, IA, Maquoketa Muni, NDB RWY 15, Amdt 3
Maquoketa, IA, Maquoketa Muni, GPS RWY 15, Orig
Maquoketa, IA, Maquoketa Muni, GPS RWY 33, Orig
Waterloo, IA, Waterloo Muni, GPS RWY 6, Orig
Flemingsbury, KY, Fleming-Mason, GPS RWY 7, Orig
Flemingsburg, KY, Fleming-Mason, GPS RWY 25, Orig
Palymra, NY, Palmyra Airpark, VOR OR GPS-A, Amdt 1, CANCELLED
Price, UT, Carbon County, VOR RWY 36, Amdt 1
Casper, WY, Natrona County Intl, GPS RWY 3, Orig

[FR Doc. 99–7627 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 4

Appearances Before the Commission; Restrictions As To Former Members and Employees

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule.

SUMMARY: The Commission is amending its rule governing the appearance of former members and employees, Rule 4.1(b), to more closely track the post-employment restrictions of the criminal conflict of interest statute, 18 U.S.C. 207.

EFFECTIVE DATE: These amendments are effective March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Ira S. Kaye, 202–326–2426, or Shira Pavis Minton, 202–326–2479, Attorneys, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Commission is revising paragraph (b) of Commission Rule 4.1, 16 CFR 4.1, which currently prohibits a former employee's participation, "behind-the-scenes," in a Commission matter that had been pending under his or her official responsibility before departing the Commission, provided that the former employee had not participated in the matter personally and substantially (which includes actively supervising it), and that nonpublic documents or information about the matter had not, and would not have been likely to have, come to the former employee's attention. Under these circumstances, the rule, like 18 U.S.C. 207, will permit a former employee to render in-house assistance in connection with the representation in question (see 5 CFR 2637.201(b)(6)). The rule, however, will continue to prohibit making an appearance before, or communication to, a member or employee of the Commission with the intent to influence that person in connection with the matter.

The Commission will continue to monitor closely the post-employment activites of its former employees. The Clearance Rule will continue to require them to file clearance requests before participating in matters that were pending in the Commission before they departed, even if they had not participated in those matters, and even if they plan to render only behind-the-scenes assistance.

The Commission also is deleting, from two paragraphs, language that it had added to the rule as part of its 1998 amendments. 63 FR 15758 (April 1, 1998). First, the Commission is deleting the last sentence of paragraph (b)(5)(vii) of the Rule to clarify that, although the rule generally allows former employees to participate in rulemaking proceedings, a former "senior employee" may not communicate with or appear before a Commission employee regarding any matter, including a rulemaking proceeding, within the first year after leaving the Commission. Second, the Commission is deleting from paragraph (b)(1)(iii) the words "and the employee left the Commission within the previous three years[.]" The amendment restores the Commission's authority to prohibit participation by a former employee who left more than three years earlier, where nonpublic documents or information that would still convey a present advantage would likely have come to her attention.

These rule amendments relate solely to agency practice, and, thus, are not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), or to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2).

The submissions required by the amended rule do not generally involve the "collection of information" as that term is defined by the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501–3520. Submission of a request for clearance to participate or a screening affidavit is ordinarily required only during the conduct of an administrative action or investigation involving a specific individual or entity. Such submissions are exempt from the coverage of the PRA. 5 CFR 1320.4(a)(2). To the limited extent that the rule could require a submission outside the context of an investigation or action involving a specific party, the information collection aspects of the rule have been cleared by the Office of Management and Budget and assigned OMB clearance no.3084–0047.

List of Subjects in 16 CFR Part 4

Administrative practice and procedure.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, subchapter A, of the Code of Federal Regulations as follows:

PART 4—MISCELLANEOUS RULES

1. The authority citation for part 4 continues to read as follows:

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46.

§ 4.1 [Amended]

2. Section 4.1(b)(1) introductory text is amended by adding, between the words "under" and "paragraph (b)(1)(iv)," the words "paragraph (b)(1)(ii) or".

3. Section 4.1(b)(1)(iii) is amended by removing the words "and the employee left the Commission within the previous three years".

4. Section 4.1(b)(5)(vii) is amended by removing the final sentence.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–7519 Filed 3–26–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 874

[Docket No. 98P–0833]

Medical Devices; Exemptions From Premarket Notification; Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is publishing an order granting a petition requesting exemption from the premarket notification requirements for audiometers with certain limitations. FDA is publishing this order in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (the 1976 amendments (Pub. L. 94–295)), as amended by the Safe Medical Devices Act of 1990 (the SMDA) (Pub. L. 101–629)), devices are to be classified into class I (general controls) if there is information showing that the general controls of the act are sufficient to ensure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life-sustaining or life-supporting device or is for a use that is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification report (510(k)) containing information that allows FDA to determine whether the new device is "substantially equivalent" within the meaning of section 513(i) of the act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Pub. L. 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the act. Section 510(m)(1) of the act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list for each type of class II device that does not require a report under section 510(k) of the act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the act provides that 1 day after date of publication of the list under section 510(m)(1) of the act, FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the agency issued on February 19, 1998, entitled "Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff." That guidance can be obtained through the World Wide Web on the CDRH home page at "http://www.fda.gov/cdrh" or by facsimile through CDRH Facts-on-Demand at 1–800–899–0381 or 301–827–0111. Specify "159" when prompted for the document shelf number.

III. Petitions

FDA has received a petition requesting an exemption from premarket notification for the audiometer (21 CFR 874.1050).

In the **Federal Register** of November 18, 1998 (63 FR 64091), FDA published a notice announcing that this petition had been received and providing an opportunity for interested persons to submit comments on the petition by December 18, 1998. FDA received one comment that supported the proposal. FDA has reviewed the petition and has determined that this device meets the criteria for exemption described previously, provided that certain conditions are met. The petitioner stated that manufacturers of audiometers voluntarily comply with a consensus standard for audiometers, American National Standards Institute (ANSI), S3.6 (R1996)[1]. FDA believes that compliance with this standard obviates the need for premarket notifications and is, therefore, issuing this order exempting these devices from the requirements of premarket notification, provided that they are in compliance with this standard, and is codifying this order in the Code of Federal Regulations. Audiometers that do not comply with this standard are not exempt from the premarket notification requirements. FDA also notes that otoacoustic emissions test devices are not exempt from the the premarket notification requirements. Because the otoacoustic emissions test device is not a type of audiometer, it is not completely covered by the ANSI standard and, therefore, is not subject to the exemption.

[1] The standard is available from the American National Standards Institute, Standards Secretariat, Acoustical Society of America, 120 Wall St., 32d Floor, New York, NY 10005–3993.

IV. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121) and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule will relieve a burden and simplify the marketing of these devices, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VI. Paperwork Reduction Act of 1995

FDA concludes that this final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 874

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 874 is amended as follows:

PART 874—EAR, NOSE, AND THROAT DEVICES

1. The authority citation for 21 CFR part 874 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 874.1050 is amended by revising paragraph (b) to read as follows:

§ 874.1050 Audiometer.

* * * * *

(b) *Classification.* Class II. Except for the otoacoustic emission device, the device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, if it is in compliance with American National Standard Institute S3.6–1996, "Specification for Audiometers," and subject to the limitations in § 874.9.

Dated: March 24, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–7746 Filed 3–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 882

[Docket No. FR–4054–C–05]

RIN 2577–AB63

Section 8 Certificate and Voucher Programs Conforming Rule; Technical Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; technical amendment.

SUMMARY: This document makes one technical amendment to the final rule that was published April 30, 1998 (63 FR 23826), which combined and conformed program regulations for the Section 8 certificate and voucher programs.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4204, 451 7th Street, SW, Washington, DC 20410. Her telephone numbers are (202) 708–2841 (voice) and (202) 708–0850 (TTY). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Need for Amendment

The Section 8 Certificate and Vouchers Programs Conforming Rule,

published on April 30, 1998 (63 FR 23826), was corrected by a document published on June 10, 1998 (63 FR 31624). A final rule was published on March 16, 1999 (64 FR 13056) correcting additional errors in the final rule. However, an additional erroneous cross-reference has been detected and HUD wants to make this correction immediately.

In § 882.401(a), there is a reference to "moderate rehabilitation as defined in § 882.402." That reference should have been to the actual location of definitions in part 882, which is § 882.102.

List of Subjects in 24 CFR Part 882

Grant programs—housing and community development, Homeless, Housing, Lead poisoning, Low- and moderate-income housing, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons stated above, part 882 of title 24 of the Code of Federal Regulations is amended as follows:

PART 882—SECTION 8 MODERATE REHABILITATION PROGRAMS

1. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§ 882.401 [Amended]

2. In § 882.401(a), the reference to "§ 882.402" is removed and a reference to "§ 882.102" is added in its place.

Dated: March 23, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–7613 Filed 3–26–99; 8:45 am]

BILLING CODE 4210–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ31–2–189, FRL–6313–9]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the New Jersey State Implementation Plan (SIP) for ozone. The State submitted this SIP revision as an amendment to New Jersey's statewide rule for the application of reasonably available control technology (RACT) to sources that emit oxides of nitrogen (NO_X). The intended affect of this SIP revision is to reduce emissions of NO_X in order to help attain the national ambient air quality standard for ozone.

EFFECTIVE DATE: This rule will become effective April 28, 1999.

ADDRESSES: Copies of the State submittal and other information are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ted Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION: On November 15, 1993, New Jersey submitted to EPA, as a revision to the SIP, Subchapter 19 of Chapter 27, Title 7 of the New Jersey Administrative Code. Subchapter 19 is entitled "Control and Prohibition of Air Pollution From Oxides of Nitrogen." This Subchapter provides the NO_X RACT requirements for New Jersey and became effective on December 20, 1993. On January 27, 1997 (62 FR 3804), EPA published approval of Subchapter 19 as part of the SIP.

On June 21, 1996, New Jersey submitted to EPA, as a revision to the SIP, the revisions to Subchapter 19. The June 1996 SIP submittal from New Jersey includes new provisions and amendments to Subchapter 19. The revisions apply to major stationary sources of NO_X and allow a facility to comply with Subchapter 19 with any of the following new provisions: seasonal fuel switching; the emergency use of fuel oil; an exemption for electric generating facilities during a maximum emergency generating alert; and phased compliance for facilities choosing to repower, facilities actively pursuing innovative control technology, or facilities that made a good faith effort to comply by May 31, 1995. On August 31, 1998, EPA published in the **Federal Register** (63 FR 46209) a Notice of Proposed Rulemaking (NPR) proposing to approve the June 21, 1996 revisions to Subchapter 19 and providing for a 30-day public comment period. EPA received no comments regarding the NPR. For a more detailed discussion of New Jersey's SIP submittal and EPA's action, the reader is referred to the NPR.

Conclusion

The EPA has evaluated the June 21, 1996 revision to Subchapter 19 for consistency with the Act's provisions, EPA regulations and policy and has determined that the revisions to this regulation are fully approvable. Therefore, this rule makes final the action proposed at 63 FR 46209.

Administrative Requirements

Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically

significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This SIP approval is not subject to E.O. 13045 because it approves a state program implementing a Federal standard.

Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 28, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 14, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(66) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(66) A revision to the New Jersey State Implementation Plan (SIP) for ozone

concerning revisions to the rule for requiring reasonably available control technology (RACT) for sources emitting oxides of nitrogen (NO_x) dated March 24, 1995, submitted by the New Jersey Department of Environmental Protection.

(i) Incorporation by reference:

(A) Title 7, Chapter 27, Subchapter 19, of the New Jersey Administrative Code entitled "Control and Prohibition of Air Pollution from Oxides of Nitrogen," effective April 17, 1995.

(ii) Additional information:

(A) June 21, 1996 letter from Robert C. Shinn, Jr., NJDEP, to Jeanne M. Fox, EPA, requesting EPA approval of revisions to Subchapter 19.

3. In § 52.1605 the table is amended by revising the entry for Subchapter 19 under the heading "Title 7, Chapter 27" to read as follows:

§ 52.1605 EPA-approved New Jersey regulations

State regulation	State effective date	EPA approved date	Comments
* * * * *			
Title 7, Chapter 27			
* * * * *			
Subchapter 19, "Control and Prohibition of Air Pollution from Oxides of Nitrogen".	Apr.17, 1995	Mar. 29, 1999 and FR page citation.	
* * * * *			

[FR Doc. 99–7427 Filed 3–26–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[CC Docket No. 97–213, DA 99–412]

Communications Assistance for Law Enforcement Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Chief, Office of Engineering and Technology granted five requests for confidential treatment to withhold data from routine public inspection filed by telecommunications equipment manufacturers: Alcatel Network Systems ("Alcatel"); Lucent Technologies Inc. ("Lucent"); Motorola, Inc. ("Motorola"); Northern Telecom Inc. ("Nortel Networks"); and Siemens Information and Communication Networks ("Siemens"). The material for which confidential treatment is sought contains detailed proprietary pricing estimates that constitute "trade secrets and commercial or financial information and privileged or confidential categories of materials not routinely available for public inspection.

DATES: Effective March 29, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, CC Docket 97–213, DA 99–412, adopted February 26, 1999, and released March 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room TW–A306), 445 12th Street, S.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036.

Summary of the Order

1. On December 14, 1998, requests for confidential treatment of data pursuant to section 0.459 of the Commission's Rules, *see generally Treatment of Confidential Information Submitted to the Commission, GC Docket No. 96–55, Report and Order*, 63 FR 44161, August 8, 1998, was filed in this proceeding by five telecommunications equipment manufacturers: Alcatel Network Systems ("Alcatel"); Lucent Technologies Inc. ("Lucent"); Motorola, Inc. ("Motorola"); Northern Telecom Inc. ("Nortel Networks"); and Siemens Information and Communication Networks ("Siemens"). Additionally, on January 29, 1999, Alcatel filed a second request for confidential treatment of data filed in this proceeding. We grant these requests and withhold the associated data from routine public inspection for the reasons stated below.

2. In the *Further Notice of Proposed Rulemaking* (Further NPRM), 63 FR 63639, November 16, 1998, in this proceeding, the Commission reached tentative conclusions regarding the technical requirements of the Communications Assistance for Law Enforcement Act ("CALEA") in relation to wireline, cellular, and broadband PCS telecommunications carriage, and sought comment on a range of related issues. The *Further NPRM* was initiated in response to industry adoption of an interim standard, known as J–STD–025, and petitions for rulemaking that were filed challenging J–STD–025's inclusion or exclusion of certain technical requirements. In the *Further NPRM*, the Commission stated that it did not intend to reexamine any of the uncontested technical requirements of the J–STD–025 standard but instead would make determinations only regarding whether each of the contested requirements meet the assistance capability requirements of section 103 of CALEA. These contested requirements are the location information and packet-mode provisions currently included within J–STD–025, and the nine "punch list" items that are currently not included but are sought by the law enforcement community.

3. Also in the *Further NPRM*, the Commission stated that, in its efforts to determine what features and capabilities fall within the parameters of CALEA, it must consider five specific factors, pursuant to section 107(b) of CALEA. These specific factors are that the features and capabilities: meet the assistance capability requirements of section 103 by cost-effective methods; protect the privacy and security of communications not authorized to be intercepted; minimize the cost of such compliance on residential ratepayers; serve the policy of the United States to encourage the provision of new technologies and services to the public; and provide a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under

section 103 during any transition period. The Commission strongly encouraged commenters to provide it with information as detailed and specific as possible, including in particular:

detailed comment regarding the costs of adding a feature to a telecommunications carrier's network and on what, if any, impact of such costs will have on residential ratepayers. Commenters should consider the costs to manufacturers in developing the equipment or software needed to implement the technical requirement, as well as the cost to carriers to install and deploy such equipment. Commenters should be specific as to which entities would incur the cost of adding particular features; *e.g.*, manufacturers, local exchange carriers (LECs), interexchange carriers (IXCs), or commercial mobile radio service (CMRS) providers, etc. Commenters should also be specific as to what costs would be incurred for hardware, as opposed to software upgrades to carriers' networks, and whether some of these upgrades would have other uses in the networks. If costs are likely to be passed on to residential ratepayers, those costs should be identified, as well as specific mechanisms that could be used to minimize such costs.

4. In response to the *Further NPRM*, on December 14, 1998, Alcatel, Lucent, Motorola, Nortel Networks, and Siemens filed specific cost data with a request that the data be treated as confidential material pursuant to section 0.459 of the Rules. Additionally, in response to a request of January 26, 1999, from the Commission's staff, on January 29, 1999. Alcatel filed additional cost data with a request that the data be treated as confidential material pursuant to section 0.459 of the Rules. Based on our review, we find that the requestors have complied with the provisions of section 0.459(a) that a copy of the request shall be attached to and cover all of the materials to which it applies and all copies of those materials, and with the provisions of section 0.459(b) that each request shall contain a statement of the reasons for withholding the materials from inspection and of the facts upon which those records are based. We further find that the material for which confidential treatment is sought contains detailed proprietary pricing estimates that, pursuant to section 0.457(d) of the Commission's Rules, constitute "trade secrets and commercial or financial information . . . and privileged or confidential categories of materials not routinely available for public inspection, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905." Therefore, we grant the requests to the extent they seek confidential treatment pursuant to the Commission's rules.

5. Finally, we recognize that while the Commission generally has not afforded confidential treatment to material submitted in rulemakings, granting confidential treatment under these unique circumstances will not deprive other interested parties of a meaningful opportunity to review and comment on the material. Specifically, we intend to aggregate the data, if possible, in a manner that does not reveal the confidential information so that we may release the aggregated data for public inspection and comment. In this respect, on January 26, 1999, the staff requested that each manufacturer supply clarifying information that will better enable us to aggregate the data supplied by them. The responses to the staff's request will also be accorded confidential treatment. In rendering our final decision, we intend to consider only the aggregated data and not the individual data provided by the manufacturers.

6. Accordingly, pursuant to section 0.459(d)(2) of the Commission's Rules, 47 CFR 0.459(d)(2) (1998), *it is ordered* that the requests for confidential treatment filed in this proceeding on December 14, 1998 by Alcatel Network Systems; Lucent Technologies Inc.; Motorola, Inc.; Northern Telecom Inc.; and Siemens Information and Communication Networks; and the request for confidential treatment filed in this proceeding on January 29, 1999 by Alcatel Network Systems *are granted* to the extent indicated.

7. A copy of the *Order* will be placed in the public file in lieu of the materials withheld from public inspection. Another copy will be forwarded to the General Counsel of the Commission.

List of Subjects in 47 CFR Part O

Classified information, Reporting and recordkeeping requirements.

Federal Communications Commission.

Bruce A. Franca,

Deputy, Office of Engineering and Technology.

[FR Doc. 99–7631 Filed 3–26–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981202293–9075–02; I.D. 110998F]

RIN 0648–AJ33

Fisheries of the Northeastern United States; Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final regulations to implement Amendment 7 to the Fishery Management Plan (FMP) for the Atlantic Sea Scallop Fishery. Amendment 7 and these final regulations reduce the fishing mortality rate in the Atlantic sea scallop fishery to eliminate overfishing and to rebuild the biomass in accordance with the requirements of the Sustainable Fisheries Act. Amendment 7 and these final regulations will reduce substantially the level of fishing for Atlantic sea scallops in the exclusive economic zone (EEZ) through fishing year 2008 by revising the current fishing effort reduction schedule. The allowable days-at-sea (DAS) for Atlantic sea scallop vessels will be reduced significantly starting with fishing year 2000. A less severe reduction is proposed for fishing year 1999. In addition, Amendment 7 and these final regulations further modify the annual monitoring process, increase the types of management measures that would be put into effect through framework adjustments, and continue two Mid-Atlantic closed areas until March 1, 2001. The intent of Amendment 7 and these final regulations is to eliminate overfishing and to rebuild the stocks.

DATES: Effective April 28, 1999, except that amendments to § 648.14(a)(110) and (a)(111) and § 648.57 are effective March 27, 1999, through March 1, 2001.

ADDRESSES: Copies of Amendment 7, its regulatory impact review (RIR), final regulatory flexibility analysis (FRFA), the final supplemental environmental impact statement (FSEIS), and the supporting documents for Amendment 7 are available from Paul J. Howard, Executive Director, New England Fisnery Management Council, 5 Broadway, Saugus, MA 01906–1036.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273.

SUPPLEMENTARY INFORMATION:
Amendment 7 to the FMP was prepared by the New England Fishery Management Council (Council) in consultation with the Mid-Atlantic Fishery Management Council. A notice of availability for the proposed amendment was published on November 18, 1998 (63 FR 64032). The comment period on the amendment ended January 19, 1999. A proposed rule, requesting public comment, was published on December 18, 1998 (63 FR 70093) with a comment period ending date of January 29, 1999. A complete discussion of the measures appears in the proposed rule and is not repeated here.

Approved Management Measures

This amendment does the following: (1) Redefines overfishing; (2) revises the existing fishing mortality reduction schedule through fishing year 2008 to reduce the allowable DAS for Atlantic sea scallop vessels in order to rebuild the scallop stock within 10 years; (3) establishes an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives; (4) continues the Mid-Atlantic closed areas in order to protect high concentrations of juvenile scallops; and (5) adds the following management measures to be implemented and adjusted through framework adjustment: Closed areas, changes in the overfishing definition, size restrictions, aquaculture projects, and four DAS management options, including leasing DAS. The stock rebuilding schedule will set the allocation for fishing year 1999 at 120 DAS for full-time vessels. The allocation for fishing year 2000 is reduced to 51 DAS for full-time vessels and will remain low for the remainder of the 10-year rebuilding period. The intent of Amendment 7 is to eliminate overfishing and to rebuild the stock consistent with new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Closed Areas

Under Amendment 7 and its implementing regulations, the two Mid-Atlantic area closures, which are currently in effect, will remain closed until March 1, 2001. These closures were implemented by interim rules (March 31, 1998, 63 FR 15324, and September 29, 1998, 63 FR 51862) to protect high concentrations of juvenile scallops, and are continued by this action. Fishers catching species other than scallops will not be excluded from the closed areas.

Comments and Responses

Eleven comments were received on Amendment 7 and its proposed regulations. Specific comments and responses on Amendment 7 and its proposed regulations are provided here.

Comment: Several commenters supported implementation of Amendment 7.

Response: The comments have been noted, and the amendment is approved.

Comment: Enforcing closed areas without the requirement of a vessel monitoring system (VMS) is problematic.

Response: Except for vessels that have declared out of the scallop fishery for repair or maintenance, all limited access full-time and part-time scallop vessels are required to install a VMS. The VMS units must be fully operational at all times and must transmit a signal indicating a vessel's accurate position at least every hour, 24 hours a day, without interruption, throughout the year. NMFS agrees that the requirement of VMS is needed for effective enforcement of closed areas.

Comment: NMFS should refrain from implementing further DAS reductions for one or two seasons and allow scallopers to continue at 142 DAS while plans for a vessel buyout are finalized.

Response: Under the baseline or status quo alternative, the DAS for full-time vessels would have been reduced from 142 to 80 for fishing year 1999–2000 in accordance with the fishing mortality reduction program established under Amendment 4 in 1994. To minimize the economic impacts of reduced DAS and still comply with the statutory requirements of the Magnuson-Stevens Act (rebuilding period be as short as possible), Amendment 7 contains an intermediate schedule in the first year of the rebuilding schedule that provides full-time scallop vessels with 120 DAS, a measure that would reduce the first year impacts on small entities compared to any of the other alternatives considered. This intermediate DAS allotment during the first year is designed to allow the Council to develop rotational scallop closed areas and the industry to develop a vessel buyback program while assuring that the overfished scallop stocks are rebuilt within 10 years. If scallopers were allowed to continue at 142 DAS for one or two additional fishing seasons as suggested by the commenter, overfishing of the resource would continue and the statutory requirements of the Magnuson-Stevens Act to rebuild the stock in as short a period as possible would not be met.

Comment: (1) Amendment 7 is illegally driven by economic and social factors, and (2) the commenter is opposed to reopening multispecies Closed Area I and Closed Area II because of the impact scallop dredges will have on the habitat and on displaced hook fishers.

Response: Amendment 7 is not illegally driven by economic and social factors. National standard 8 requires consideration of the needs of fishing communities in order to provide for sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities when considering conservation and management measures. This Amendment does not propose reopening the groundfish closed areas to scallop fishing, but merely provides a mechanism to do so via framework action.

Comment: Amendment 7 allows overfishing to continue for the first several years and assumes that multispecies Closed Area II will reopen without analyzing its impacts on the environment and essential fish habitat and by minimizing bycatch.

Response: Amendment 7 is consistent with Magnuson-Stevens Act and complies with the National Standard Guidelines (63 FR 24212, May 1, 1998) that allows consideration of the needs of fishing communities when adjusting the rebuilding period up to 10 years. Although the fishing mortality rate (F) reduction schedule specifies rates that exceed the recommended proxy reference point for a maximum mortality rate threshold of 0.24 for years 1999 to 2001, the F reduction schedule meets the 10-year stock rebuilding objective. The reductions in F under this amendment's rebuilding schedule are more pronounced than the status quo rebuilding schedule in all years except 1999.

This rule implements the basic elements of a system for opening and closing geographic areas that could be accomplished as part of the annual FMP monitoring and adjustment process. Amendment 7 does not assume that reopening of closed areas to scallop fishing will occur, but recognizes that such an action could occur. Amendment 7 does not specify specific openings or closures. Such openings and closures will need to be consistent with the F reduction schedule of this amendment, the national standards, including those regarding essential fish habitat and bycatch and the National Environmental Policy Act.

Comment: Amendment 7 focuses on depleted scallop beds and not on the Georges Bank closed areas. The commenter asserts the scallop fishery is not overfished.

Response: The management unit of the Atlantic Sea Scallop FMP consists of all populations of sea scallops throughout its range, including the area from the shoreline to the Northeast Peak of Georges Bank. Recent estimates of biomass on Georges Bank and in the Mid-Atlantic indicate that biomass is 17 and 11 percent of Bmax values for those areas, respectively. The B_{max} values are proxies for B_{msy}. Minimally, ¼ B_{max} (i.e., 25 percent B_{max}) needs to be reached before an overfished condition for sea scallops is eliminated in these resource management areas. The intent of Amendment 7 is to eliminate overfishing and to rebuild the stock for the overall scallop resource consistent with new requirements of the Magnuson-Stevens Act. The current F is 1.05 in the Mid-Atlantic, 0.51 on Georges Bank, and 0.94 for the overall scallop resource. The F to reduce overfishing and rebuild biomass in accordance with the Magnuson-Stevens Act requirements is currently estimated at 0.24 for the overall scallop resource.

Comment: Amendment 7 invokes a policy that has takings implications as set out in Executive Order (E.O.) 12630 and does not compensate for the takings.

Response: The Magnuson-Stevens Act at section 303(d) clearly provides that a limited access system shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited, and shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested." Amendment 4 changed the primary management strategy from a meat count (size) control management system to a DAS effort control program for all resource areas. It neither assigns any right of compensation, nor creates any right or title to or interest in the scallop resource. Amendment 7 adjusts the DAS reductions schedule to be consistent with new requirements of the Magnuson-Stevens Act. Therefore, the measures in Amendment 7 do not constitute takings for which compensation may be sought.

Comment: Amendment 7 does not comply with E.O. 12866 to maximize net benefits.

Response: E.O. 12866 states that agencies should assess all costs and benefits of available regulatory alternatives. Further, in choosing among regulatory alternatives, E.O. 12866 directs agencies to select the regulatory approach that maximizes net-benefits, including economic and environmental advantages, unless a statute requires another approach.

Amendment 7 is expected to produce a discounted net benefit of $53 million over the next 20 years. The net benefits are higher under Amendment 7 and the 7-year rebuilding period, compared to those under the 10-year rebuilding period. The 7-year option rebuilds stocks faster because it results in higher landings and landings per DAS in a shorter period compared to the 10-year option. However, the gradual reduction in effort under Amendment 7 from 142 DAS in 1998 to 120 DAS in 1999 for full-time vessels was adopted to mitigate the near-term social and economic costs for the scallop industry. Fleet revenues would decline by 61 percent in 1999 if the 7-year rebuilding schedule were adopted, compared to the 45 percent under Amendment 7 (Table 8.3.2 to Amendment 7, Vol I, sec. 8.3). Such a sharp reduction in annual fleet revenues would increase unemployment and the likelihood of vessel bankruptcies. Nevertheless, higher economic benefits from an accelerated fishing reduction program will occur during the latter stages of the 10-year rebuilding period.

Comment: Amendment 7 does not impose the least burden on society.

Response: To minimize the economic impacts of reduced DAS and still comply with the statutory requirements of national standard 1 (rebuilding period be as short as possible), Amendment 7 contains an intermediate schedule in year one of the rebuilding schedule that provides full-time scallop vessels with 120 DAS. This measure will reduce the first year impacts on small entities compared to any of the other alternatives considered. This intermediate DAS allotment in year one of the rebuilding schedule is designed to allow further consideration of measures by the Council to develop rotational fishing in areas closed to scallop fishing and provide time for the industry to develop a vessel buyback program, while assuring that the overfished scallop stocks are rebuilt within 10 years.

Comment: Amendment 7 has no RIR that describes the impact of management measures on small entities.

Response: Supplement 1 to the Amendment 7 FMP contains the RIR, including Initial Regulatory Flexibility Analysis (IRFA). The IRFA discusses the impact for small businesses in the scallop fishery of both the proposed action and alternative management options.

Comment: NMFS may not have fulfilled its obligations under the Regulatory Flexibility Act to consider significant alternatives to the proposed rule.

Response: The Council considered three alternatives that would meet the objectives to end overfishing and to rebuild the stock within a 10-year period. In response to comments, the Council chose an intermediate option that blended an ambitious rebuilding schedule in years 2 through 10 of the plan with a less onerous first-year implementation. A 10-year maximum rebuilding time frame mandated by the Magnuson-Stevens Act, as well as the low abundance of sea scallops, limits the number and range of possible rebuilding schedules and the resultant management measures that can be considered. The current suite of management measures in place for scallops relies on limitations of DAS to reduce fishing mortality. Proposed management alternatives, therefore, were limited to various schedules of DAS reductions to fishing mortality reductions. The status quo, a 10-year rebuilding schedule, and a 7-year rebuilding schedule are the alternatives considered to rebuild the stock.

Comment: Choosing an alternative that will reduce the DAS from 120 to 51 will be detrimental to small fishing businesses such as those in New Bedford, Massachusetts and might violate national standard 8 of the Magnuson-Stevens Act. NMFS should address an alternative to reopen the closed areas of Georges Bank.

Response: In approving Amendment 7, NMFS determined the amendment complied with each of the national standards. In making this determination, NMFS must take into account, among other things, the importance of fishery resources to affected fishing communities while at the same time ensuring that the conservation requirements and goals of the FMP are not compromised. The primary conservation goal of Amendment 7 is to rebuild the overfished stock of sea scallops within a 10-year rebuilding period, as required by the Magnuson-Stevens Act. Nevertheless the Council adopted and NMFS approved a rebuilding plan that only reduces the available DAS for vessels by a small amount in the first year, in the hope that a buyback program may be implemented soon and some reopening of portions of closed areas occur after sufficient analysis of effects of such an action are known. By reducing available DAS in the first year by a small amount and allowing for the possibility of a buyback program or area reopening to scallop

vessels. Amendment 7 seeks to meet the conservation goal in a way that reduces the impact on fishing communities. To include a specific reopening of portions of closed areas in Amendment 7 would have required the Council to consider the effects that these openings would have on scallop fishing mortality rates, bycatch of juvenile groundfish, effects on bottom habitat, and possible gear conflicts between mobile and fixed gear. During the development of Amendment 7, there was not enough data available to support the reopening of the closed areas, and the Council was working under a statutory requirement of the Magnuson-Stevens Act to submit a rebuilding plan for sea scallops by September 30, 1997. Subsequently, any reopening of closed areas would have been contrary to national standards 1 and 9.

NMFS worked with researchers from the Center for Marine Science and Technology of the University of Massachusetts Dartmouth and the Virginia Institute of Marine Science on a collaborative experimental fishery in Closed Area II of Georges Bank. The experimental fishery evaluates, on a limited basis, areas of abundance of sea scallops (in number and size), rates of bycatch of groundfish, and habitat considerations. The experimental fishery was conducted from August 28, 1998, through October 5, 1998. Therefore, the results were not available to the Council to consider as an alternative in Amendment 7. However, Amendment 7 contains a framework measure that would expedite future action by the Council to open the closed areas and establish new closed areas once the experimental fishery results are analyzed. To gain access to closed areas as soon as possible, the Council is now considering options for framework actions (for both the Atlantic Sea Scallop and Northeast Multispecies FMPs) to reopen to scallop fishing portions of some areas closed to fishing for groundfish protection. If approved, such framework actions might become effective as early as mid-1999. These framework actions would be followed by a more comprehensive FMP amendment to fully employ a rotational harvest strategy.

Comment: DAS reductions scheduled for year 2000 and thereafter should not be implemented but be replaced by an area management system.

Response: Replacing the DAS reductions scheduled for year 2000 and thereafter with an area management system goes beyond the scope of the management measures analyzed in Amendment 7. The Magnuson-Stevens Act requires that amendments or proposed rules specify a time period for ending overfishing that shall be as short as possible and not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or international management measures dictate otherwise. Furthermore, the low abundance of sea scallops limits the range of management measures. DAS is a useful management tool to control overall effort on the sea scallops stock, whereas, area openings and closures would assist in attaining B_{max} goals for the two different important management areas: Georges Bank and the Mid-Atlantic. The status quo, a 10-year rebuilding schedule, and a 7-year rebuilding schedule were the alternatives considered to rebuild the stock using an annual DAS schedule and an annual F schedule for the entire stock. As explained in the previous response to a comment, the Council is considering framework action to allow access to portions of Closed Area II (through both the Atlantic Sea Scallop and Northeast Multispecies Fishery Management Plans). If approved, these framework actions are likely to be in effect sometime this summer, followed by amendments to both FMPs to address a rotational harvest strategy for scallops and protection for groundfish and habitat.

Comment: The 1-year 120 DAS transitional period contained in Amendment 7 should be implemented before the Amendment's rebuilding provisions are fully implemented. The framework adjustment authority to develop rotational area management for the scallop fishery is a good management approach.

Response: The comments have been noted, and the 1-year 120 DAS transitional period and authority to reopen closed areas under frameworking are approved.

Classification

The Regional Administrator, Northeast Region, NMFS, determined that the amendment is necessary for the conservation and management of the Atlantic sea scallop fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The two Mid-Atlantic area closures expire on March 26, 1999. Uninterrupted protection of sea scallops in these areas is essential for replenishment of a large number of sea scallops in the Mid-Atlantic with a high reproductive potential in the near future. Hence, it is not practical to delay the effectiveness beyond March 26, 1999. Accordingly, the Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(d)(3), finds good cause to waive part of the 30-day delayed effectiveness period with respect to these closed areas so that they remain closed after March 26, 1999, without interruption. This waiver of the delayed effectiveness period does not apply to the additional measures under Amendment 7, which are effective April 28, 1999.

The Council prepared an FSEIS for this action; a notice of availability for the FSEIS was published on December 24, 1998 (63 FR 71285). The action will substantially reduce the level of fishing in the Atlantic sea scallop fishery in the EEZ.

This final rule has been determined to be significant for purposes of E.O. 12866.

To comply with the requirements of the RFA, the Council prepared an IRFA that describes the impact this proposed rule, if adopted, would have on small entities. The Council initially considered three alternatives: (1) A baseline or status quo alternative based upon management measures implemented under Amendment 4 to the FMP, (2) a 7-year rebuilding plan, and (3) a 10-year rebuilding plan. After receiving comments on the Draft Environmental Impact Statement for Amendment 7, the Council decided to add a new option as its preferred alternative that would still have an ambitious rebuilding schedule in years 2 through 10 of the plan but not in year one compared to the 7 and 10-year rebuilding plan. Under the baseline or status quo alternative, the DAS for full-time vessels would have been reduced from 142 in this current fishing year to 80 in year one of the plan to comply with Amendment 4. Instead, under the preferred alternative, the DAS for full-time vessels would be 120 in year one, a measure that would reduce the first year impacts on small entities compared to any of the other alternatives considered. The Council hopes that this will allow enough time for a buyout plan to be implemented for some vessels wishing to leave the sea scallop fishery (i.e., the total DAS available to the fishery would be divided among fewer vessels beginning in March 2000). Also, during the first year of effectiveness of the preferred alternative, enough data might be collected in areas currently closed to harvest of groundfish and sea scallops to allow for some rotational, seasonal openings of these areas to harvest scallops. This approach is designed to minimize economic impacts on small entities, especially in the first year that the Amendment is effective. Recognizing the limitations on implementing the Council's

recommendations under the Magnuson-Stevens Act, NMFS sought comments on these alternatives and on any others that may achieve the objectives of the rulemaking while minimizing its economic impact on small entities.

The proposed action would reduce the overall scallop revenues of the fleet by approximately 38 percent in the year 2000 (compared to the baseline) and by approximately 10 percent in the year 2007. A change in DAS is assumed to reduce a vessel's landings almost in the same proportion. Ex-vessel prices may increase to some extent as landings decrease. Of the full-time vessels, 184 of the 197 vessels derived more than 60 percent of their income from scallops in 1997. Of the 31 part-time vessels, 23 derived at least 31 percent of their income from scallops in 1997.

In the 1997 fishing year, there were only 26 vessels with limited access occasional permits, and only 5 of these vessels landed any scallops. These vessels did not have much dependence on the scallop fishery and derived less than 5 percent of their revenues from scallops. Therefore, this final rule is not expected to significantly affect occasional scallop permit holders except that in 1999, more than 2 percent of the full-time vessels may be forced to cease operations each year from the years 2000 through 2007.

With the exception of the running clock provision, the Monkfish FMP was approved by the Secretary of Commerce on March 3, 1999. The proposed rule to implement the Monkfish FMP was published in the **Federal Register** on February 16, 1999 (64 FR 7601). The comment period on the proposed rule ends March 26, 1999. Under the Monkfish FMP, scallop vessels will be restricted to landing their monkfish while using their scallop DAS. The percentage of total annual revenues from monkfish landed while not on scallop trips is 8.3 percent for full-time dredges, 7.9 percent for part-time dredges, and 0.2 percent for occasional dredges. The percent of total annual revenues for scallop trawlers is 12 percent for full-time vessels, 4 percent for part-time vessels and 6.1 percent for occasional vessels).

A copy of the IRFA analysis is available from the Council (see ADDRESSES). The Final Regulatory Flexibility Analysis incorporates the IRFA and its findings, and the responses to public comments that mentioned possible effects of Amendment 7 on small entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 24, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, paragraphs (a)(110) and (a)(111) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(110) Fish for, possess or retain sea scallops in or from the areas described in § 648.57.

(111) Transit or be in the areas described in § 648.57 with scallop gear that is not properly stowed as required in § 648.57 or a preponderance of the evidence of record shows there was a compelling safety reason.

* * * * *

3. In § 648.53, paragraph (b) is amended by revising the last sentence and the table to read as follows:

§ 648.53 DAS allocations.

* * * * *

(b) *DAS allocations.* * * * The annual allocations of DAS for each category of vessel for the fishing years indicated are as follows:

DAS category	1999–2000	2000–2001	2001–2002	2002–2003	2003–2004	2004–2005	2005–2006	2006–2007	2007–2008	2008+
Full-time	120	51	49	46	45	34	35	38	36	60
Part-time	48	20	19	18	18	14	14	15	17	24
Occasional	10	4	4	4	4	3	3	3	4	5

* * * * *

4. In § 648.55, revise paragraph (a) and the first sentence of paragraph (b); redesignate paragraph (h) as paragraph (j) and paragraphs (c) through (g) as paragraphs (d) through (h), respectively; add new paragraph (c); redesignate newly redesignated paragraph (d)(12) as paragraph (d)(21); add new paragraphs (d)(12) through (d)(20), and add new paragraph (i) to read as follows:

§ 648.55 Framework specifications.

(a) Annually, or upon a request from the NEFMC, the Regional Administrator will provide the NEFMC with information on the status of the scallop resource.

(b) Within 60 days of receipt of that information, the NEFMC PDT shall assess the condition of the scallop resource to determine the adequacy of the total allowable DAS reduction schedule, described in § 648.53(b), and of other management measures to achieve the stock-rebuilding objectives. * * *

(c) Based on this review, the NEFMC PDT shall recommend total allowable DAS reduction schedules and develop options necessary to achieve the FMP goals and objectives, which may include a preferred option. The NEFMC PDT must demonstrate through analysis and documentation that the options it develops are expected to meet the Scallop FMP goals and objectives. The range of options developed by the NEFMC PDT may include any of the management measures in the Scallop FMP, including, but not limited to the categories described in § 648.53(d).

(d) * * *

(12) Modifications to the overfishing definition.

(13) VMS Demarcation Line for DAS monitoring.

(14) DAS allocations by gear type.

(15) Temporary leasing of scallop DAS requiring full public hearings.

(16) Scallop size restrictions, except a minimum size or weight of individual scallop meats in the catch.

(17) Aquaculture enhancement measures and closures.

(18) Closed areas to lessen the amount of DAS reductions.

(19) Closed areas to increase the size of scallops caught.

(20) Modifications to the opening dates of closed areas.

* * * * *

(i) If the Regional Administrator concurs in the NEFMC's recommendation, a final rule shall be

published in the **Federal Register** on or about February 1 of each year. If the NEFMC fails to submit a recommendation to the Regional Administrator by December 1 that meets the FMP goals and objectives, the Regional Administrator may publish as a proposed rule one of the options reviewed and not rejected by the NEFMC, provided that the option meets the FMP objective and is consistent with other applicable law. If, after considering public comment, the Regional Administrator decides to approve the option published as a proposed rule, the action will be published as a final rule in the **Federal Register**.

* * * * *

5. Section 648.57 is added to read as follows:

§ 648.57 Closed areas.

(a) *Hudson Canyon South Closed Area.* Through March 1, 2001, no vessel may fish for, possess, or retain sea scallops in or from the area known as the Hudson Canyon South Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of §§ 648.23(b) and 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in possession of scallops in this area must stow scallop dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Hudson Canyon South Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
H1	39 30′ N.	73 10′ W.
H2	39 30′ N.	72 30′ W.
H3	38 30′ N.	73 30′ W.
H4	38 40′ N.	73 50′ W.

(b) *Virginia Beach Closed Area.* Through March 1, 2001, no vessel may fish for, possess, or retain sea scallops in or from the area known as the Virginia Beach Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of §§ 648.23(b) and 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in possession of scallops in this area must stow scallop dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Virginia Beach Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
V1	37 00′ N.	74 55′ W.
V2	37 00′ N.	74 35′ W.
V3	36 25′ N.	74 45′ W.
V4	36 25′ N.	74 55′ W.

[FR Doc. 99–7624 Filed 3–24–99; 3:25 pm]
BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 032399C]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified to the deep-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 24, 1999, until 1200 hrs, A.l.t., April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), for the first season, the period January 20, 1999, through March 31, 1999, as 100 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: All rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal

apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The first seasonal apportionment of the Pacific halibut bycatch allowance has been caught. Further delay would only result in overharvest,S which would disrupt the FMP's objective of apportioning Pacific halibut mortality allowances throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 23, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7607 Filed 3–24–99; 12:52 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 59
Monday, March 29, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 300

RIN 3206–AI52

Statutory Bar to Appointment of Persons Who Fail to Register Under Selective Service Law

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to delegate authority to executive agencies to determine whether a man's failure to register with the Selective Service System (Selective Service) was knowing and willful. This will permit faster decisions for job seekers as well as applicants, and reduce paperwork. The proposed regulations also delete duplicative material, eliminate the "Statement of Selective Service Registration," and include editorial changes.

DATES: Comments must be received on or before April 28, 1999.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6500, 1900 E Street, NW., Washington, DC 20415–9000.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole or Robert Grady on (202) 606–0830, TDD (202) 606–0023, or FAX (202) 606–0390.

SUPPLEMENTARY INFORMATION: In 1985, section 3328, "Selective Service registration," was added to title 5, United States Code. It provided that men born in 1960 or later who are required to, but did not register under section 3 of the Military Selective Service Act (50 U.S.C. App. 453), generally are ineligible for appointment to Federal executive agencies. A non-registrant who is not yet 26 years old may correct his ineligibility by registering. After age 26, a non-registrant can no longer register to correct his failure. In the latter situation, section 3328 authorized OPM alone to determine if an individual's failure to register was knowing and willful. A 1987 amendment of the law permitted OPM to delegate the adjudication responsibility to Federal executive agencies. Because the law was new and we had little experience in reviewing cases of non-registrants, we felt delegation was not appropriate at that time.

Delegation to Agencies

Based on our experience over the years, we now propose to delegate to agencies the decision-making authority for adjudicating cases of non-registrants to determine if their failure to register was knowing and willful. This delegation will permit faster decisions for job seekers as well as agencies, and reduce paperwork. The workload for an individual agency would be minimal. In fact, only a few agencies submitted cases to OPM on a recurring basis in the past.

OPM Experience in Adjudicating Cases

Most of the cases submitted to OPM for adjudication were obvious and decision-making was not difficult. Very few were adjudicated unfavorably. We often saw the same type of situation. For example, a large number of non-registrants had served in the military and did not realize that Selective Service registration was still required if they were released from active duty before age 26 and had never registered. Others were former non-immigrant aliens (e.g., those on student visas) who were initially exempt from registration. However, when they became permanent residents and their status changed, they were not aware they had an obligation to register. Occasionally a person entered the United States right before the deadline for registration. A few cases involved individuals with a physical disability who knew they would not be able to perform military service and believed the registration requirement did not apply to them. Some of the other cases involved unique circumstances. We based our decisions on a review of supporting documentation submitted with each case such as a written statement supplied by the applicant or employee, a copy of form DD 214 (Certificate of Release or Discharge from Active Duty), or a letter from the Selective Service rendering a favorable advisory opinion.

Consultation with the Selective Service

Non-registrants must provide a preponderance of evidence that their failure to register was not knowing and willful. In acting on individual cases, we routinely consulted with the Selective Service, and agencies will need to do likewise. To verify an individual's registration status, agencies should call Selective Service at (847) 688–6888. (Occasionally an applicant will state he did not register, when, in fact, he is registered.) Selective Service may also have other information in its records that may be helpful to agencies such as evidence that the individual was contacted about his registration responsibility (including the address used and number of times contacted), and it can verify an applicant's claim of being exempt from the registration requirement. Since OPM's regulations were developed in consultation with the Selective Service, we have listed some of the most common exemptions under Selective Service law directly in the regulations.

Elimination of "Applicant's Statement of Selective Service Registration Status"

OPM's current regulations, written in 1987, contain a self-certification statement of Selective Service registration to be completed by applicants and employees. Agencies reproduce this statement on a separate form. In 1987, the application for Federal employment, Standard Form 171, did not contain a question on Selective Service registration. Therefore, a separate form was necessary to collect the information required by 5 U.S.C. 3328. Today, agencies use different forms when considering employees for Federal jobs—the resume or the Optional Application for Federal Employment (OF 612), which are used to determine basic qualifications for positions, and a Declaration for Federal Employment (OF 306), used to determine an applicant's acceptability and suitability for Federal positions.

To streamline the application process and reduce paperwork, we are planning to eliminate the Applicant's Statement of Selective Service Registration and add a question on Selective Service registration to the OF 306. This form is completed by applicants who are under

serious employment consideration. It is completed early enough in the employment process so that if an agency encounters an applicant who did not register with the Selective Service, the agency would have sufficient time to determine if non-registration was knowing and willful prior to the individual's beginning his tour of duty. Since the revision of OF 306 requires approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act, OPM will request public comments at a later time through a separate notice to appear in the **Federal Register** relating specifically to revising the form.

Editorial Changes

The proposed regulations also contain editorial changes for clarity or to make them easier to read. We added paragraph headings so that information can be found more quickly, reformatted some of the material, and deleted the text of the statutory bar to appointing nonregistrants in executive agencies, because it is a duplication of 5 U.S.C. 3328.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations only affect Federal job applicants and employees.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 300

Freedom of information, Government employees, Reporting and recordkeeping requirements, Selective Service System.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM proposes to amend 5 CFR part 300 as follows:

PART 300—EMPLOYMENT (GENERAL)

1. The authority citation for Part 300 is revised to read as follows:

Authority: 5 U.S.C. 552, 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., page 218, unless otherwise noted.

Secs. 300.101 through 300.104 also issued under 5 U.S.C. 7201, 7204, and 7701; E.O. 11478, 3 CFR, 1966–1970 Comp., page 803.

Sec. 300.301 also issued under 5 U.S.C. 1104 and 3341.

Secs. 300.401 through 300.408 also issued under 5 U.S.C. 1302(c), 2301, and 2302.

Secs. 300.501 through 300.507 also issued under 5 U.S.C. 1103(a)(5).

Sec. 300.603 also issued under 5 U.S.C. 1104.

Secs. 300.701 through 300.707 also issued under 5 U.S.C. 3328.

2. Subpart G is revised to read as follows:

Subpart G—Statutory Bar to Appointment of Persons Who Fail to Register Under Selective Service Law

Sec.

300.701 Statutory requirement.
300.702 Coverage.
300.703 Definitions.
300.704 Considering applicants for employment.
300.705 Agency action after determining registration status.
300.706 Adjudication.
300.707 Termination of employment.

Subpart G—Statutory Bar to Appointment of Persons Who Fail to Register Under Selective Service Law

§ 300.701 Statutory requirement.

Section 3328 of title 5, United States Code, imposes compliance with Selective Service registration requirements as a condition of employment in executive agencies. This subpart contains the regulations that the Office of Personnel Management (OPM) has prescribed to carry out the statutory requirement.

§ 300.702 Coverage.

These regulations cover appointments in Federal executive agencies.

§ 300.703 Definitions.

In this subpart—

Appointment means any personnel action that brings onto the rolls of an executive agency as a civil service officer or employee as defined in 5 U.S.C. 2104 or 2105, respectively, a person who is not currently employed in that agency. It includes initial employment as well as transfer between agencies and subsequent employment after a break in service. Personnel actions that move an employee within an agency without a break in service are not covered. A break in service is a period of 4 or more calendar days during which an individual is no longer on the rolls of an executive agency.

Covered individual means a male—

(1) Whose application for appointment is under consideration by an executive agency or who is an employee of an executive agency;

(2) Who was born after December 31, 1959, and is at least 18 years of age or becomes 18 following appointment;

(3) Who is either a United States citizen or alien (including permanent residents, parolees; refugees, and applicants for asylum) residing in the U.S.; and

(4) Who is or was required to register under section 3 of the Military Selective Service Act (50 U.S.C. App. 453).

Executive agency (or agency) means an agency of the Government of the United States as defined in 5 U.S.C. 105.

Exemptions means those individuals determined to be excluded from the requirement under section 3 and 6(a) of the Military Selective Service Act (50 U.S.C. App. 453 and 456(a)) or Presidential proclamation. Some of the individuals exempt from registration include:

(1) Non-immigrant aliens admitted under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101) who are residing in the United States temporarily, such as those on visitor or student visas and members of diplomatic or trade missions and their families;

(2) Men who are unable to register due to circumstances beyond their control, such as being hospitalized, institutionalized, or incarcerated (although they must register within 30 days of their release if they are not 26 years of age);

(3) Members of the Armed Forces on full-time active duty from their 18th through their 26th birthday. This exemption also applies to cadets and midshipmen at the United States service academies; and

(4) Men who entered the U.S. for the first time after age 26.

Preponderance of the evidence means that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

Registrant means an individual registered under Selective Service law.

Selective Service law means the Military Selective Service Act, rules and regulations, issued thereunder, and proclamations of the President under the Act.

Selective Service System means the agency responsible for administering the registration system and for determining who is required to register and who is exempt.

§ 300.704 Considering applicants for appointment.

(a) *Requirement to determine registration status.* An executive agency must determine the registration status of each covered individual at an appropriate time during the

consideration process prior to appointment, and of each covered employee who becomes 18 after appointment. The individual must complete, sign, and date in ink Optional Form 306, Declaration for Federal Employment, or a form provided by the agency that requests information on registration status, unless the applicant furnishes other documentation as provided by paragraph (b) of this section.

(b) *Other acceptable proof of registration.* At his option, a covered individual may submit, in lieu of the forms described in paragraph (a) of this section, a copy of his Acknowledgement Letter or other proof of registration or exemption issued by the Selective Service System.

(c) *Failure to provide registration information.* An agency will give no further consideration for appointment to individuals who fail to provide the information on registration status described in paragraphs (a) and (b) of this section.

(d) *Prior evidence of registration.* An executive agency considering employment of a covered individual who is a current or former Federal employee, is not required to inquire about his registration status if it determined that the individual's Official Personnel Folder contains evidence indicating the individual is registered or was never required to register.

(e) *Individuals not yet eligible to register.* An agency hiring a male under the age of 18 must require the individual to provide proof that he registered with the Selective Service System within 6 months after his 18th birthday.

§ 300.705 Agency action after determining registration status.

(a) *Verifying registration status.* Agencies must resolve conflicts of information and other questions concerning an individual's registration status prior to appointment. An agency may verify an individual's registration status by requesting the individual provide proof of registration or exemption issued by the Selective Service System, or by contacting the Selective Service System directly.

(b) *When registration requirement has been met.* An agency may continue regular pre-employment consideration of individuals who have demonstrated they have registered or are exempt.

(c) *An individual under age 26 who did not register.* An agency will take the following actions when a covered individual who is required to register has not done so, and is under age 26:

(1) Advise him to register promptly and, if he wishes further consideration, to submit a new Optional Form 306, agency form or other appropriate document from the Selective Service immediately to the agency once he has registered. The agency may set a time limit for submitting this documentation.

(2) Provide written notice to an individual who still does not register after being informed of registration requirements, that he is ineligible for appointment according to 5 U.S.C. 3328 and will be given no further employment consideration.

(d) *An individual age 26 or over who did not register.* An agency will take the following actions when a covered individual who is age 26 or over was required to register prior to his 26th birthday, and has not done so:

(1) Provide written notice to the individual that, in accordance with 5 U.S.C. 3328, he is ineligible for appointment unless his failure to register was neither knowing nor willful and that the agency will decide whether this failure to register was knowing and willful if he submits a written request for such decision along with an explanation of his failure to register.

(2) Submit the individual's application, the Optional Form 306 or agency form, a copy of the written notice, his request for a decision and explanation of his failure to register, and any other papers pertinent to his registration status for determination to the official or employee the agency has designated to make determinations.

(3) An agency is not required to keep a vacancy open for an individual who seeks a determination.

(e) *Ineligibility for employment.* Individuals under age 26 described in paragraph (c) of this section who do not submit a documentation of registration or exception are not eligible for employment consideration, or continued employment if a current employee. Individuals age 26 or over described in paragraph (d) of this section are not eligible for employment consideration unless the agency finds that failure to register was neither knowing nor willful. Agencies are not required to follow the objection-to-eligibles procedures described in § 332.406 of this chapter concerning such individuals who were certified or otherwise referred by an OPM examining office or other office delegated examining authority by OPM. As part of its examining report, an agency will provide to the examining office a copy of the written notice sent to the individual.

§ 300.706 Adjudication.

(a) *Determining if non-registration was knowing and willful.* The official or employee designated by the employing agency will determine whether failure to register was knowing and willful when an individual has requested a decision and presented a written explanation, as described in § 300.705. The designated official or employee will make a determination based on the written explanation provided by the individual and any guidance the Office of Personnel Management and the Selective Service may provide. The burden of proof will be on the individual to show that failure to register was neither knowing nor willful.

(b) *Consultation with Selective Service System.* In making determinations, an agency should consult with the Selective Service System for any information that might be in its records which will assist in the adjudication process, e.g. evidence that the individual was contacted about his registration responsibility.

(c) *Written notification of determination.* The employing agency will notify the individual in writing of the determination. An individual may appeal an agency's determination by following the agency's administrative appeal process. The agency determination is final unless reconsidered by the Director of OPM or his or her designee. There is no further right to administrative review.

(d) *Determination by OPM.* The Director of OPM or his or her designee may reopen and reconsider a determination made by an agency. Individuals who believe they have been unfairly denied access to an agency's adjudication procedure may request a determination to be made by OPM.

(e) *Accepting the determination made by another agency.* A subsequent employing agency shall accept the determination of the initial employing agency, unless it can demonstrate to OPM that a different determination is clearly appropriate because it found additional or contradictory information since the original decision.

§ 300.707 Termination of employment.

A covered individual who is serving under an appointment made on or after November 8, 1985, and who is not exempt from registration, will be terminated by his agency under these regulations if he has not registered as required, unless he registers. If he is no longer eligible to register, the individual may continue serving *only* if the agency determines in response to his

explanation that his failure to register was neither knowing nor willful.

[FR Doc. 99–7416 Filed 3–26–99; 8:45 am]
BILLING CODE 6325–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 326

RIN 3064–AC19

Minimum Security Devices and Procedures and Bank Secrecy Act Compliance

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Withdrawal of notice of Proposed Rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) published a Notice of Proposed Rulemaking in the **Federal Register** on December 7, 1998. The proposed regulation would have required state nonmember banks to develop and maintain "Know Your Customer" programs. The FDIC received 254,394 comments from the public during the comment period. The overwhelming majority of the commenters were strongly opposed to the adoption of the proposed regulation. After considering the issues raised by the comments, and in view of the strong opposition to the proposed regulation, the FDIC is withdrawing the Notice of Proposed Rulemaking.

DATES: Proposed subpart C to part 326 is withdrawn on March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Carol A. Mesheske, Chief, Special Activities Section, Division of Supervision (202) 898–6750, or Karen L. Main, Counsel, Legal Division (202) 898–8838.

SUPPLEMENTARY INFORMATION:

I. Background

On December 7, 1998, the FDIC published a proposed amendment to Part 326 of the FDIC's Rules and Regulations, "Minimum Security Devices and Procedures and Bank Secrecy Act Compliance" (63 FR 67529, Dec. 7, 1998). The proposed amendment was intended to provide guidance to state nonmember banks to facilitate and ensure their compliance with existing federal reporting and recordkeeping requirements, such as those found in the Bank Secrecy Act. It was intended to help protect the integrity and reputation of the financial services industry and assist the government in its efforts to combat money laundering and other illegal activities that might be occurring through financial institutions.

The proposed amendment required each state nonmember bank to develop a program to determine the identity of its customers; determine its customers' sources of funds; determine the normal and expected transactions of its customers; monitor account activity for transactions that are inconsistent with those normal and expected transactions; and report any transactions of its customers that are determined to be suspicious, in accordance with the FDIC's existing suspicious activity reporting regulations.

The FDIC's proposal was substantially the same as the regulations proposed by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision in December 1998. The FDIC issued the proposed amendment pursuant to its authority under section 8(s)(1) of the Federal Deposit Insurance Act (FDI Act) (12 USC 1818(s)(1)), as amended by section 2596(a)(2) of the Crime Control Act of 1990 (Pub. L. 101–647), which requires the FDIC to issue regulations directing banks under its supervision to establish and maintain internal procedures reasonably designed to ensure and monitor compliance with the Bank Secrecy Act. The FDIC also relied on its general rulemaking authority under section 9(a) of the FDI Act (12 USC 1819(a)).

II. Comments Received

During the comment period, the FDIC received 254,394 comments from the public. Comments were received from community banks, multinational or large regional banks, members of Congress, trade and industry research groups, and regulatory bodies, as well as the general public. Only 105 commenters were in favor of the proposed regulation.

The overwhelming majority of commenters were individual, private citizens who voiced very strong opposition to the proposal as an invasion of personal privacy. Other issues raised by these commenters included that the FDIC lacked the authority to issue the proposal; the cost of any Know Your Customer program would be passed on to customers; and the regulation would be ineffective in preventing money laundering and other illicit financial activities.

Banks, bank holding companies and other banking trade groups that commented on the proposal uniformly opposed the proposed amendment. Their concerns included the following: (1) the regulation would be very costly to implement, especially for small banks; (2) the Know Your Customer program would invade customer privacy; (3) commercial banks would be unfairly disadvantaged and lose customers if all segments of the financial services industry are not covered; (4) compliance with the regulation would divert resources from Y2K preparation; (5) the FDIC lacks authority to adopt the regulation (6) public confidence in the banking industry would be harmed by the regulation; and (7) the regulation is both unnecessary and redundant, as banks are already familiar with their customers and have adequate procedures in place.

III. Paperwork Reduction Act

The FDIC submitted a collection of information associated with the Know Your Customer proposed rulemaking to the Office of Management and Budget for review. That request for review is withdrawn.

IV. Board Decision

The FDIC has carefully reviewed every comment received during the 90-day comment period. Based upon that review, and in light of the overwhelming objections raised by the public, the FDIC's Board of Directors has decided to withdraw the proposed regulation.

By Order of the Board of Directors.
Dated at Washington, D.C. this 23rd day of March, 1999.

Federal Deposit Insurance Corporation
Robert E. Feldman,
Executive Secretary.

[FR Doc. 99–7583 Filed 3–26–99; 8:45 am]
BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 99–12]

RIN 1550–AB15

Know Your Customer

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Office of Thrift Supervision ("OTS") published a Notice of Proposed Rulemaking in the **Federal Register** on December 7, 1998 that would have required savings associations to develop and maintain "Know Your Customer" programs. The Board of Governors of the Federal

Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency contemporaneously published similar proposals. Collectively, the banking agencies received over 200,000 comments from the public, the overwhelming majority of which were strongly opposed to the adoption of the proposed regulation. After considering the issues raised by the comments, and in view of the strong opposition to the proposed regulation, OTS is withdrawing the Notice of Proposed Rulemaking.

DATES: Proposed § 563.178 is withdrawn on March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Larry A. Clark, Director, Trust Programs, (202) 906–5628, Gary C. Jackson, Analyst, Compliance Policy and Specialty Examinations, (202) 906–5653, Christine Harrington, Counsel (Banking and Finance), (202) 906–7957, or Karen Osterloh, Assistant Chief Counsel, (202) 906–6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1998, OTS published a proposed "Know Your Customer" regulation (63 FR 67536, Dec. 7, 1998). The proposed regulation was intended to provide guidance to savings associations to facilitate and ensure their compliance with existing federal reporting and recordingkeeping requirements, such as those found in the Bank Secrecy Act. It was intended to help protect the integrity and reputation of the financial services industry as it combats money laundering and other illegal activities that might be occurring through financial institutions.

OTS received approximately 5,000 comments on the proposal. Comments came from individuals, depository institutions of all sizes, members of Congress, trade and industry research groups, and regulatory bodies. Very few commenters supported the proposed regulation.

The overwhelming majority of commenters were private citizens who strongly opposed the proposal as an invasion of personal privacy. Depository institutions, their holding companies, and industry trade groups commenting on the proposal also opposed the proposed regulation, arguing that the regulation would be very costly to implement, especially for small institutions; would invade customer privacy; and would unfairly disadvantage depository institutions if all segments of the financial services industry were not covered.

Withdrawal of the Proposed Rule

The OTS is sensitive both to the concerns raised by the commenters and to the need for a supervisory framework that ensures that the institutions we regulate adhere to the nation's anti-money laundering statutes, including the Bank Secrecy Act. OTS has carefully reviewed the comments received. After considering the concerns raised, we are convinced the proposed regulation does not strike the appropriate balance. Based upon that review, OTS withdraws its proposal published in the **Federal Register** on December 7, 1998, at 63 FR 67536.

By the Office of Thrift Supervision.
Dated: March 22, 1999.

Ellen Seidman,

Director.

[FR Doc. 99–7485 Filed 3–26–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106219–98]

RIN 1545–AW32

Acquisition of an S Corporation by a Member of a Consolidated Group; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under section 1502 providing specific rules that apply to the acquisition of the stock of an S corporation by an affiliate group of corporations that joins in the filing of a consolidated return.

DATES: The public hearing originally scheduled for Wednesday, March 31, 1999, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and/or notice of public hearing that appeared in the **Federal Register** on Thursday, December 17, 1998, (63 FR 69581), announced that a public hearing was scheduled for Wednesday, March 31, 1999, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 1502 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Wednesday, March 10, 1999. The outlines of topics to be addressed at the hearing were due on Wednesday, March 17, 1999.

The notice of proposed rulemaking and/or notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Friday, March 19, 1999, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, March 31, 1999, is cancelled.

Cynthia Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–7518 Filed 3–26–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990318076–9076–01; I.D. 030599A]

RIN 0648–AL72

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 27

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed 1999 target total allowable catch (TAC) levels and management measures; request for comments.

SUMMARY: NMFS issues this proposed rule to implement measures contained in Framework 27 to the Northeast Multispecies Fishery Management Plan (FMP). This action is necessary to address overfishing of several stocks, in particular Gulf of Maine (GOM) cod, and to achieve the rebuilding goals of the FMP for the 1999 multispecies fishing year. The primary management measures proposed in Framework 27 would establish GOM Rolling Closures of greater size and duration than the current GOM Inshore Closure Areas, reconfigure and increase the duration of the Cashes Ledge Closure Area, reduce the GOM cod trip limit to 200 lb/day

(90.7 kg/day), modify the haddock trip limit, increase the minimum square-mesh size to 6.5 inches (16.51 cm) for the Gulf of Maine/Georges Bank and Southern New England (SNE) Regulated Mesh Areas, and limit the diameter of roller and rockhopper gear to 12 inches (30.48 cm) in a designated GOM inshore area. Framework 27 also proposes a mechanism that would allow the Regional Administrator, Northeast Region, NMFS (Regional Administrator) to reduce the GOM cod landing limit to between 5 and 100 lbs (2.3 and 45.3 kg) when 30 percent of the Fmax GOM cod target TAC (402 mt) is harvested, depending upon the risk of exceeding the target TAC.

DATES: Comments must be received on or before April 13, 1999.

ADDRESSES: Comments on this proposed rule should be sent to Jon C. Rittgers, Acting Regional Administrator, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Proposed Rule for Multispecies Framework Adjustment 27."

Copies of Framework Adjustment 27, its Environmental Assessment, Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906.

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978–281–9279.

SUPPLEMENTARY INFORMATION: Amendment 7, which became effective on July 1, 1996, established a procedure for setting annual target TACs for the five primary stocks of cod, haddock, and yellowtail flounder (Georges Bank (GB) cod, GB haddock, GB yellowtail flounder, SNE yellowtail flounder, and GOM cod) and an aggregate TAC for the combined stocks of the other regulated multispecies, which are simultaneously managed under the FMP. A Multispecies Monitoring Committee (MSMC) was established to annually review the best available scientific information, adjust target TACs, and recommend management options to achieve plan objectives for the regulated multispecies. The MSMC annual review provides a process to evaluate the effectiveness of the multispecies management program and to make determinations on the need for annual adjustments to the program. Adjustments of the target TACs are calculated based on the biological reference points of F_{max} for GOM cod and F0.1 for the remaining stocks of cod, haddock, and yellowtail flounder.

Prior to the submission of the MSMC Report which contains advice for the 1999 fishing year, the New England Fishery Management Council (Council) received the results of the 27th Stock Assessment Workshop (SAW 27, 1998). SAW 27 indicated that the GOM cod stock is collapsing. The stock remains overexploited, recruitment continues to be at record low levels, spawning stock biomass is projected to decline to the lowest level ever observed, and total biomass has declined to an extremely low level. In response, the Council developed Framework Adjustment 26 that implemented additional GOM closures during the months of February, March, and April 1999 to provide protection to GOM cod during spawning aggregations (64 FR 2601, January 15, 1999). The MSMC report containing advice for the 1999 fishing year was presented at the December 9–10, 1998, Council meeting. It concluded that, at 0.82, the fishing mortality rate for GOM cod continues to be well above the overfishing definition of $F_{20\%}$ (0.37) and the Amendment 7 mortality target of F_{max} (0.29). In fact, the TAC associated with F_{max} (0.29) was exceeded in 1996 and in each year thereafter. In 1998, preliminary data indicates that 4,075 mt of GOM cod was landed against a TAC of 1,783 mt. Due to the critical condition of GOM cod, the Council voted that a more precautionary approach should be employed in establishing annual measures. Therefore, the Council adopted management measures in Framework 27 using $F_{0.1}$ (0.16) as a precautionary benchmark for GOM cod to ensure that the F_{max} mortality objective was not exceeded. Considering 1998 landings, the MSMC estimated that for this stock, a reduction in F of 56.2 percent is necessary to achieve F_{max} in the 1999 fishing year (i.e., ensure that F_{max} is not exceeded), and a reduction of 72.5 percent would be needed to achieve the more precautionary $F_{0.1}$ benchmark. A 21.9-percent reduction is necessary to achieve the $F_{0.1}$ objective for GB cod. The MSMC report also noted that stock status has improved for GB haddock, GB yellowtail flounder, and SNE yellowtail flounder, in part because the most recent annual fishing mortalities for these three stocks were below the Amendment 7 overfishing thresholds.

Based on projected 1999 stock sizes and Amendment 7's fishing mortality targets, the target TACs for the 1999 fishing year were proposed by the MSMC as follows:

Species/area	1999 target TACs (metric tons)	1998 target TACs (metnc tons)
Georges Bank cod	5,354	4,700
Georges Bank haddock	5,600	4,797
Georges Bank yellowtail flounder	2,725	2,145
Southern New England yellowtail flounder	1,115	814
Gulf of Maine cod (FMAX)	1,340	1,783
Gulf of Maine cod (F0.1)	782	1,783
Aggregate for remaining regulated species	25,500	25,500

In addition to recommending the target TACs, the MSMC report also provided the Council with six specific management options to keep the target TACs from being exceeded. These options were based on DAS reductions, trip limits, and area closures in various combinations. Five other management proposals were submitted to the Council by state or industry representatives for initial consideration for Framework 27.

The framework process requires the Council, when making specifically allowed adjustments to the FMP, to

develop and analyze the actions over the span of at least two Council meetings, where comments are accepted. The Council must provide the public with advance notice of both the framework proposals and the associated analysis, and provide an opportunity to comment on them specifically prior to and at the second Council meeting.

At the initial Framework Adjustment 27 meeting on December 10, 1998, the Council narrowed its management options to three. Two of the three options were industry proposals (prepared by the Gulf of Maine Fishermen's Alliance (GOMFA) and the Maine Department of Marine Resources (MDMR)), while the third was an MSMC option. The two industry proposals contained management measures that would affect different sectors of the GOM cod fishery in different ways. The GOMFA proposal incorporated larger geographic area closures of shorter duration extending eastward to the Hague Line and days-at-sea (DAS) reductions. The MDMR proposal contained smaller geographic closures of longer duration, which were chosen on the basis of historical cod landings and were predominantly in inshore areas. Both proposals also contained gear modifications and other measures.

The Council charged its Multispecies Oversight Committee (Committee) to consider each option individually based upon its ability to meet the precautionary F0.1 GOM cod benchmark. The MSMC option was chosen as a "fall-back" option because it had already been determined to meet the F0.1 benchmark.

The Committee met in December 1998 to discuss the three options. Representatives from GOMFA and MDMR were available at this meeting to clarify any questions regarding the proposals. After the Committee meeting, the Multispecies Plan Development Team met on January 6, 1999, to prepare the biological and economic analyses for the GOMFA and MDMR proposals.

The analyses for the GOMFA and MDMR proposals were available for the January 26, 1999, Committee meeting. The analyses indicated that both proposals achieved the $F_{0.1}$ GOM cod benchmark if combined with very low daily trip limits of 100–200 lb/day (45.3–90.7 kg/day). Because each proposal would affect different sectors of the fishery in different ways, the Committee was able to select neither one of the industry proposals as the Preferred Alternative. Similarly, a meeting of the Multispecies Industry Advisors, which had met the previous day, was evenly divided between the two proposals. The Committee recommended modifications to both proposals, and recommended that the Council consider these modified proposals, along with the initial MDMR plan for adoption.

The full Council met on January 28, 1999, to conduct the second and final meeting for Framework Adjustment 27. After a presentation of the latest stock assessment results (SAW 28) and after hearing public comments, the Council conducted a lengthy deliberation and ultimately approved a composite set of management measures for the GOM containing elements from both industry proposals, as well as the 200 lb/day (90.7 kg/day) GOM cod trip limit from the MSMC proposal.

Because the proposed measures differ from the options which had been analyzed for the Council's January 28, 1999, meeting, the Council requested publication of a proposed rule to solicit additional public comments. Because the public was notified of opportunities to comment throughout the multispecies framework process, the comment period is limited to 15 days.

The primary management measures in Framework 27 would establish GOM Rolling Closures of greater size and duration than the current GOM Inshore Closure Areas and reconfigure and increase the duration of the Cashes Ledge Closure Area. Framework 27 also reduces the GOM cod trip limit from 400 lb/day (181.4 kg/day) to 200 lb/day (90.7 kg/day). To further guard against exceeding the target TAC for GOM cod, Framework 27 would allow the Regional Administrator to reduce the GOM cod landing limit to between 5 and 100 lb (2.3 and 45.3 kg) when 30 percent of the F_{max} GOM cod TAC (402 mt in 1999) is harvested, depending upon the risk of exceeding the target TAC. This framework action also proposes a minimum square-mesh size increase from 6 inches (15.24 cm) to 6.5 inches (16.51 cm) for the GOM/GB and SNE Regulated Mesh Areas, to provide escape for juvenile GB cod and flatfish species.

The analysis conducted by the Northeast Fisheries Science Center of NMFS shows that the proposed closures and GOM cod trip limit contained in Framework 27 would meet the Amendment 7 F_{max} mortality reduction goal for that stock, because the precautionary $F_{0.1}$ benchmark is used.

Summary of Approved Measures

In summary, the proposed management measures in Framework 27 would do the following: (1) Replace the current GOM Inshore Closure Areas with larger and longer GOM Rolling Closure Areas; (2) reconfigure the area and increase the duration of the Cashes Ledge Closure Area; (3) maintain the current year-round Western GOM Closure Area; (4) eliminate the 1-month NE Closure Area; (5) exempt scallop dredge gear from the GOM Rolling Closure Areas and Cashes Ledge Closure Area; (6) reduce the daily GOM cod landing limit to 200 lb/day (90.7 kg/day); (7) authorize the Regional Administrator to reduce the GOM cod trip limit to between 5 and 100 lb (2.3–45.3 kg), when 30 percent of the GOM cod F_{MAX} target TAC is caught; (8) change the haddock trip daily limit to 2,000 lb/day (907.2 kg/day) with a 20,000-lb (9071.8-kg) trip limit, and authorize the Regional Administrator to adjust the haddock limit up or down based upon the likelihood of reaching the target TAC; (9) increase the minimum square-mesh size from 6 inches (15.24 cm) to 6.5 inches (16.51 cm) in the GOM/GB and SNE Regulated Mesh Areas; (10) eliminate the mesh restrictions in the Stellwagen Bank and Jeffreys Ledge Juvenile Protection Area; (11) limit the size of roller and rockhopper gear to a maximum diameter of 12 inches (30.48 cm) in a defined GOM inshore area; and (12) clarify the method of calculating the weight of fish parts, such as fillets and headed fish, for purposes of possession limits. In addition, this framework codifies a method of on-reel net stowage for vessels transiting the GOM Closure Areas. These measures are described in the following sections.

Area Closures and Exemptions

The closures proposed by Framework 27 would modify current GOM Inshore Closure Areas (now referred to as the GOM Rolling Closure Areas) by increasing their geographic size, primarily eastward and by increasing their duration from 1 to 2 months. In addition, this framework action would change the configuration and increase the duration (from 1 month to 4 months) of the Cashes Ledge Closure Area, add an additional 2-month closure encompassing portions of Massachusetts Bay from October 1 to November 30, and eliminate the 1-month multispecies Northeast Closure Area. The framework would maintain the existing year-round Western GOM Closure comprising parts of Stellwagen Bank, Jeffreys Ledge, and Wildcat Knoll. Exemptions to the GOM Rolling Closure Areas and Cashes Ledge Closure Area would remain the same, except that scallop dredge gear is proposed to be exempted gear in the newly closed areas when fishing under a scallop DAS or participating in the Scallop Dredge Fishery Exemption Area, provided that a vessel does not retain

any regulated multispecies during any part of a trip. At its February meeting, the Council clarified that "newly closed areas" refer only to the Rolling Closure Areas specified in Framework 27, as well as the Cashes Ledge Closure Area. It does not refer to Closed Areas I and II, the Nantucket Lightship Closed Area and the Western GOM Area Closure. Vessels may transit through any of the GOM Inshore Closure Areas, provided gear is stowed properly according to the regulations. This framework would also codify an additional method of on-reel net stowage for vessels transiting the GOM Rolling Closure Areas. For these areas, the requirement to remove the codend has been eliminated, provided that other requirements are met, including that the net is entirely covered, the towing wires are detached, and no containment rope or codend tripping device is attached to the codend.

GOM Cod Landing Limit

This action would reduce the GOM cod landing limit at the start of the fishing year to 200 lb/day (90.7 kg/day), or any part of a DAS. For instance, a vessel that has called-in to the multispecies DAS program at 3 p.m. on a Monday and ends its trip the next day (Tuesday) at 4 p.m. (accruing a total of 25 hours) may legally land up to 400 lb (181.4 kg) of cod on such a trip, but the vessel may not end any subsequent trip with cod on board until after 3 p.m. on the following day (Wednesday). As is currently the case, however, vessels may allow their DAS clock to run in order to account for any cod overages, provided they report their hail weight to the Regional Administrator, as described in the multispecies regulations. When 30 percent of the GOM cod F_{MAX} TAC (886,000 lb (402 mt), in 1999) is landed, the Regional Administrator could reduce the trip limit to an amount in the range of between 5 lb (2.3 kg) and 100 lb (45.3 kg), depending upon an evaluation of the risk of exceeding the target TAC.

Haddock Landing Limit

This proposed action would change the haddock landing limit to 2,000 lb (907.2 kg) per day, or any part of a DAS, up to 20,000 lb (9071.8 kg) per trip. When 75 percent of the target TAC for Georges Bank haddock for the 1999 fishing year is reached (9.3 million lb (4,200 mt)), the Regional Administrator is authorized to reduce the trip limit either to a 1,000 lb (453.6 kg) per trip possession limit restriction, or to a landing limit restriction of 1,000 lb/day (453.6 kg/day), with a 10,000 lb (4536.0 kg) maximum per trip, based on a determination of the risk of exceeding the target TAC. Beginning October 1, 1999, if the Regional Administrator projects that less than 75 percent of the target TAC will be harvested by April 30, 2000, NMFS may publish a notification in the **Federal Register** that, on a specific date, the limit shall be increased to an amount that the Regional Administrator projects will be sufficient to allow landings of at least 9.3 million lb (4,200 mt) by April 30, 2000.

Gear Restrictions

This proposed action contains two gear restrictions. The minimum square-mesh size for otter trawl vessels in the GOM/GB and SNE Regulated Mesh Areas would be increased from 6-inch (15.24 cm) square to 6.5-inch (16.51 cm) square. The diamond mesh size of 6 inches (15.24 cm) would remain unchanged. Concurrent with this change, the requirement to use a 6-inch (15.24 cm) square mesh only, in the Stellwagen Bank/Jeffreys Ledge Juvenile Protection Area, would be eliminated.

The other proposed gear restriction in this framework would limit the size of roller or rockhopper gear on trawl footropes to a maximum diameter of 12 inches (30.48 cm) within a newly established GOM/GB Inshore Restricted Roller Gear Area.

Calculation of the Weight of Fish Parts

Possession limits for regulated multispecies would be determined on the basis of the weight of whole, whole-gutted, or gilled fish. To provide clarification, this action would specify that the weight of parts of fish (including fillets and headed fish) will be multiplied by three to equate to the weight of whole, whole-gutted, or gilled fish.

Other Measures

This proposed rule also clarifies that measures concerning areas closed to gillnet gear to prevent right whale takes specified at § 648.87(b) apply to limited access multispecies permit holders using gillnet gear in the entire area described at § 648.87(b)(1) and (b)(2), including state waters.

Classification

This proposed rule has been determined to be significant for the purposes of E.O. 12866.

The Council prepared an IRFA that describes the impact of this proposed rule on small entities. It analyzed the impact of the measures (closed areas, trip limits, increased mesh size, restrictions on roller gear) on vessels. The analysis also examined impacts on dealers and processors. It initially concluded that the proposed action will have a significant economic impact on a substantial number of small entities.

Based upon calendar year 1997, 1729 vessels held limited access multispecies permits. Of these vessels, 1287 actually participated in the multispecies fishery and, thereby, constitute the universe of vessels. Of these vessels, 601 (47 percent) would be impacted by the measures because they fished within one or more of the GOM rolling closures and/or would be affected by the proposed trip limits. Using estimated proportional reductions in gross revenues from 1997 (i.e., excluding measures enacted in fishing year 1998 by Frameworks 25 and 26), 456 vessels out of a universe of 1287 vessels (35 percent) would be affected by a reduction in gross revenues of more than 5 percent as a result of Framework 27. When Framework 25 and 26 measures are included, 32 additional vessels are impacted by a reduction in gross revenues of more than 5 percent.

The impact of the proposed measures on profitability and on the financial viability of vessels in the northeast multispecies fishery was also analyzed. Compared to the 1997 baseline, the cumulative profitability for the median vessel was estimated to decline 66 percent from $21,409 to $7,282. A total of 115 vessels were found to be operating below break even (i.e., zero profit) as a result of the combined measures implemented by Frameworks 25 and 26. Carrying those losses forward into Framework 27 and adding the accumulated debt under Frameworks 25, 26, and 27 result in a total of 155 vessels that were estimated to be below break-even profit. Therefore, 155 out of 1287 vessels (12 percent), may not be able to maintain their economic viability and may be forced to cease their operations.

In terms of absolute numbers, Framework 27 impacts the most vessels in Massachusetts (317) followed by Maine (82), New Hampshire (35), New York (7), and Rhode Island (1). As a proportion of total vessels in a state, New Hampshire had the highest proportion (90 percent) of impacted vessels, followed by Massachusetts (79 percent) and Maine (74 percent).

The economic impacts of the increase in square-mesh size are expected to be small because, with the elimination of the Stellwagen Bank/Jeffreys Ledge Juvenile Protection Area, vessels will still be able to use existing 6-inch (15.24-cm) diamond mesh wherever they fish; and the cost of 6.5-inch (16.51-cm) square mesh is likely to be

similar to that of 6-inch (15.24-cm) mesh.

Depending upon current gear usage and fishing patterns, the requirement to use roller gear of a maximum 12-inch (30.48 cm) diameter in a defined GOM inshore area may result in vessels spending money on gear changes. The cost of gear changes is difficult to estimate because gear configurations vary by vessel and existing data are inadequate to determine gear usage at such a fine degree of resolution. However, if a vessel does have to purchase a new footrope with rollers, the onetime cost could range from $1,100 to $2,500.

Compared to the 1997 baseline, 186 dealers were estimated to be affected by the Framework 27 measures. Using estimated proportional reductions in gross revenues from a 1997 baseline (i.e., excluding Frameworks 25 and 26), 77 dealers out of these 186 dealers (41 percent) would be affected by a reduction in gross revenues of more than 5 percent as a result of Framework 27. When Framework 25 and 26 measures are included, 4 additional dealers are impacted by a reduction in gross revenues of more than 5 percent. However, dealers may have some flexibility by marketing alternative product lines or by obtaining product from alternative sources.

The impacts of the Framework 27 measures on processors are difficult to predict because the extent to which domestic and foreign imports can adequately offset local supply shortages is unknown. Nevertheless, processors in Maine, Massachusetts, and New Hampshire who rely on a stable supply of fresh groundfish to meet demands will likely be disproportionately affected by Framework 27.

Using a no-displacement model (i.e., vessels stop fishing and do not fish in other open areas), the decline in total revenues of the proposed action is estimated at $7.3 million. The impacts on net revenues (i.e., revenues minus costs), however, will be less than these levels since operating costs will also decline as effort is reduced by the closures under the no-displacement scenario. Assuming 50 percent displacement at 50 percent revenue per unit effort (i.e., 50 percent of vessels fish in other open areas and obtain 50 percent of the revenue they would have otherwise obtained in the closed area), the decline in total revenues of the proposed action is estimated at $5.5 million.

The impacts of the alternatives that were analyzed for Framework 27 are expected to be more severe than those of the proposed action, except for the GOMFA alternative. The proposed action considered these alternatives and their impacts, while attempting to reach the Amendment 7 rebuilding goals and minimizing the negative impacts on the fishing industry, to the extent practicable.

A copy of this analysis is available from the Council (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This proposed rule clarifies collection-of-information requirements subject to the PRA and which have been cleared by OMB, under OMB control number 0648–0202. The estimated response times are as follows:

1. Declaration of transit to another port under the exception to the cod landing limit requirement to remain in port (1 minute/response when made in conjunction with a cod hail line call, 3 minutes/response when made as a separate call).

2. Reporting of cod catch on board and to be off-loaded for vessels fishing north of the cod exemption line, specified at § 648.86(b)(1), while fishing under a NE multispecies DAS requires vessel notification (3 minutes/response).

3. The DAS call-in requirement for vessels under a DAS upon return to port (2 minutes/response).

This proposed rule also clarifies collection-of-information requirements subject to the PRA and which have been cleared by OMB, under OMB control number 0648–0351. The estimated response time includes marking of pelagic gillnet (1 minute/net).

The estimated response time includes the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding any of these burden estimates or any other aspect of the collection of information to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 24, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.2, the definition for "Gillnet gear capable of catching multispecies" is revised, and the definition for "Rockhopper and roller gear" is added to read as follows:

§ 648.2 Definitions.

* * * * *

Gillnet gear capable of catching multispecies means all gillnet gear except pelagic gillnet gear specified at § 648.81(g)(2)(ii) and pelagic gillnet gear that is designed to fish for and is used to fish for or catch tunas, swordfish, and sharks.

* * * * *

Rockhopper and roller gear means trawl gear configured with disks, rollers, or other similar shaped devices that are attached to the bottom belly of the trawl, contact the sea bottom, and that are designed to raise the bottom panel of the trawl off the ocean bottom so as to enable the gear to be fished on hard bottom.

* * * * *

3. In § 648.10, paragraph (f)(3)(ii) is revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(f) * * *

(3) * * *

(ii) A vessel subject to the cod landing limit restriction specified in § 648.86(b)(1)(i) that exceeds or is expected to exceed the allowable limit of cod based on the duration of the trip must enter port no later than 14 DAS after starting a multispecies DAS trip and must report, upon entering port and before offloading, its hailed weight of cod under the separate call-in system specified in § 648.86(b)(1)(ii)(B). Such vessel must remain in port, unless for transiting purposes as allowed in § 648.86(b)(3), until sufficient time has elapsed to account for and justify the amount of cod on board in accordance with § 648.86(b)(1)(ii), and may not begin its next fishing trip until such time that the vessel has called-out of the multispecies DAS program to end its trip.

4. In § 648.14, paragraphs (a)(43), (a)(52), (a)(90), (a)(101), (a)(104), (a)(112), (c)(10), (c)(24) and (c)(25) are revised and (a)(114) is added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(43) Violate any of the provisions of § 648.80, including paragraphs (a)(4), the Cultivator Shoals whiting fishery exemption area; (a)(8), Small Mesh Area 1/Small Mesh Area 2; (a)(9), the Nantucket Shoals dogfish fishery exemption area; (a)(11), the Nantucket Shoals mussel and sea urchin dredge exemption area; (a)(12), the GOM/GB monkfish gillnet exemption area; (a)(13), the GOM/GB dogfish gillnet exemption area; (b)(3), exemptions (small mesh); (b)(5), the SNE monkfish and skate trawl exemption area; (b)(6), the SNE monkfish and skate gillnet exemption area; (b)(7), the SNE dogfish gillnet exemption area; (b)(8), the SNE mussel and sea urchin dredge exemption area; or (b)(9), the SNE little tunny gillnet exemption area. A violation of any of these paragraphs is a separate violation.

* * * * *

(52) Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81 (g)(1) through (i)(1) during the time periods specified, except as provided in § 648.81(d), (g)(2), (h)(2) and (i)(2).

* * * * *

(90) Use, set, haul back, fish with, possess on board a vessel, unless stowed in accordance with § 648.81(e)(4), or fail to remove, sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(g)(2)(ii)), in the areas and for the times specified in § 648.87(a) and (b), except as provided in § 648.81(g)(2)(ii) and 648.87(a) and (b), or unless otherwise authorized in writing by the Regional Administrator.

* * * * *

(101) Enter, fail to remove gear from, or be in the areas described in § 648.81(g)(1) through (i)(1) during the time period specified, except as provided in § 648.81(d), (g)(2), (h)(2), and (i)(2).

* * * * *

(104) Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(a), (b), (c), (g), (h), and (i), unless otherwise specified in § 648.81(c)(2)(iii), (g)(2)(i), and (g)(2)(iii).

* * * * *

(112) Fish for, harvest, possess, or land in or from the EEZ, when fishing with trawl gear, any of the exempted species specified in § 648.80(a)(8)(i), unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(3)(ii) or (a)(8)(ii).

* * * * *

(114) Fish for, harvest, possess, or land any species of fish in or from the GOM/GB Inshore Restricted Roller Gear Area described in § 648.80(a)(2)(iv) with trawl gear where the diameter of any part of the trawl footrope, including discs, rollers or rockhoppers, is greater than 12 inches (30.48 cm).

* * * * *

(c) * * *

(10) Enter, fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from, or be in the areas, and for the times, described in § 648.87(a) and (b), except as provided in § 648.81(d) and (g)(2), and in § 648.87(a)(1)(ii).

* * * * *

(24) Enter port, while on a multispecies DAS trip, in possession of more than the allowable limit of cod specified in § 648.86(b)(1)(i) without reporting the cod hail weight, unless the vessel is fishing under the cod exemption specified in § 648.86(b)(2). Under no circumstances may such a trip exceed 14 days in length.

(25) Fail to remain in port for the appropriate time specified in § 648.86(b)(1)(ii)(A), except for transiting purposes, provided the vessel complies with § 648.86(b)(3).

* * * * *

5. In § 648.23, paragraph (b)(4) is revised and paragraph (b)(5) is added to read as follows:

§ 648.23 Gear restrictions.

* * * * *

(b) * * *

(4) *On-reel stowage for vessels transiting the GOM Rolling Closure Areas.* (i) The net is on a reel, and its entire surface is covered with canvas or other similar material that is securely bound;

(ii) The towing wires are detached from the doors; and (iii) No containment rope, codend tripping device, or other mechanism to close off the codend is attached to the codend.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the **Federal Register**.

* * * * *

6. In § 648.80, paragraphs (a)(2)(i), (a)(6)(i), (a)(8), (a)(10) introductory text, (a)(10)(i)(C), (a)(12) and (a)(13) introductory text, (b)(2)(i), (d)(2), (e)(2), (h), and (i)(8) are revised, paragraph (a)(5) is removed and reserved, and paragraph (a)(2)(iv) is added to read as follows:

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(2) * * *

(i) *Minimum mesh size.* Except as provided in paragraphs (a)(2)(i) and (iii) of this section, and unless otherwise restricted under paragraph (a)(2)(ii) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, midwater trawl, or purse seine on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM/GB Regulated Mesh Area is 6-inch (15.24-cm) diamond mesh or 6.5-inch (16.51 cm) square mesh throughout the entire net, or any combination thereof, provided the vessel complies with the requirements of paragraph (a)(iv) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 ft 2 (0.81 m 2)), or to vessels that have not been issued a multispecies permit and that are fishing exclusively in state waters.

* * * * *

(iv) *Rockhopper and roller gear restrictions.* For all trawl vessels fishing in the GOM/GB Inshore Restricted Roller Gear Area, the diameter of any part of the trawl footrope, including discs, rollers, or rockhoppers, must not exceed 12 inches (30.48 cm). Any gear on a vessel that does not meet the specifications in this paragraph must be stowed and not available for immediate use in accordance with one of the methods specified in § 648.23(b). The GOM/GB Inshore Restricted Roller Gear Area is defined by straight lines connecting the following points in the order stated:

Inshore Restricted Roller Gear Area

Point	N. lat.	W. long.
GM1	42°00′	[1]
GM2	42°00′	[2]
GM3	42°00′	[3]
GM23	42°00′	69°50′
GM24	43°00′	69°50′
GM11	43°00′	70°00′
GM17	43°30′	70°00′
GM18	43°30′	[4]

[1] Massachusetts shoreline.
[2] Cape Cod shoreline on Cape Cod Bay.
[3] Cape Cod shoreline on the Atlantic Ocean.
[4] Maine shoreline.

* * * * *

(5) [Reserved]

(6) * * * (i) Vessels fishing in the Small Mesh Northern Shrimp Fishery or the Small Mesh Area 1/Small Mesh Area 2 fishery, as specified in paragraphs (a)(3) and (a)(8) of this section, may transit through the Small Mesh Northern Shrimp Fishery Exemption Area as specified in paragraph (a)(3) of this section with nets

of mesh size smaller than the minimum mesh size specified in paragraph (a)(2) of this section, provided that the nets are stowed and not available for immediate use in accordance with one of the methods specified in § 648.23(b).

* * * * *

(8) *Small Mesh Area 1/Small Mesh Area 2.* (i) Unless otherwise prohibited in § 648.81, vessels subject to the minimum mesh size restrictions specified in paragraph (a)(2) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraph (a)(8)(ii) or (a)(3)(ii) of this section, from July 15 through November 15 when fishing in Small Mesh Area 1 and from January 1 through June 30 when fishing in Small Mesh Area 2. A vessel may not fish for, possess on board, or land any species of fish other than: Butterfish, dogfish, herring, mackerel, ocean pout, scup, squid, silver hake, and red hake, except for the following allowable incidental species (bycatch as the term is used elsewhere in this part), with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less. These areas are defined by straight lines connecting the following points in the order stated (copies of a chart depicting these areas are available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter)):

SMALL MESH AREA 1

Point	N. lat.	W. long.
SM1	43°03′	70°27′
SM2	42°57′	70°22′
SM3	42°47′	70°32′
SM4	42°45′	70°29′
SM5	42°43′	70°32′
SM6	42°44′	70°39′
SM7	42°49′	70°43′
SM8	42°50′	70°41′
SM9	42°53′	70°43′
SM10	42°55′	70°40′
SM11	42°59′	70°32′
SM1	43°03′	70°27′

Small Mesh Area 2

Point	N. lat.	W. long.
SM13	43°05.6′	69°55.0′
SM14	43°10.1′	69°43.3′
SM15	42°49.5′	69°40.0′
SM16	42°41.5′	69°40.0′
SM17	42°36.6′	69°55.0′

Small Mesh Area 2—Continued

Point	N. lat.	W. long.
SM13	4° 05.6′	69°55.0′

(ii) *Raised footrope trawl.* Vessels fishing with trawl gear must configure it in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (a)(8)(ii)(A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom:

(A) Eight inch (20.3 cm) diameter floats must be attached to the entire length of the headrope with a maximum spacing of 4 feet (12.2 cm) between floats;

(B) The ground gear must all be bare wire not larger than ½-inch (1.2 cm) for the top leg, not larger than 5/8-inch (1.6 cm) for the bottom leg, and not larger than 3/4-inch (1.9 cm) for the ground cables. The top and bottom legs must be equal in length with no extensions. The total length of ground cables and legs must not be greater than 40 fathoms from the doors to wingends;

(C) The footrope must be at least 20 feet (6.1 m) longer than the length of the headrope; and

(D) The sweep must be rigged so it is behind and below the footrope, and the footrope is off the bottom. This is accomplished by having the sweep longer than the footrope and having long dropper chains attaching the sweep to the footrope at regular intervals. The forward end of the sweep and footrope must be connected to the bottom leg at the same point. This attachment, in conjunction with the headrope flotation, keeps the footrope off the bottom. The sweep and its rigging must be made entirely of 5/16 inch (0.8 cm) diameter bare chain. No wrapping or cookies are allowed on the chain. The total length of the sweep must be at least 7 feet (2.1 m) longer than the total length of the footrope, or 3.5 feet (1.1 m) longer on each side. Drop chains must connect the footrope to the sweep chain, and the length of each drop chain must be at least 42 inches (106.7 cm). One drop chain must be hung from the center of the footrope to the center of the sweep, and one drop chain must be hung from each corner (the quarter or the junction of the bottom wing to the belly at the footrope). The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. Drop chains must be hung at 8 foot (2.4 m) intervals from the corners toward the wing ends. The distance of the drop chain that is nearest the wing end to the end of the footrope may differ from net to net. However, the sweep must be at least 3.5 feet (1.1 m) longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end.

* * * * *

(10) *Scallop Dredge Fishery Exemption within the GOM Small Mesh Northern Shrimp Fishery Exemption Area.* Unless otherwise prohibited in § 648.81, vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or have used up their DAS allocations, and vessels issued a general scallop permit, may fish in the GOM Small Mesh Northern Shrimp Fishery Exemption Area when not under a NE multispecies DAS providing the vessel complies with the requirements specified in paragraph (a)(10)(i) of this section. The GOM Scallop Dredge Fishery Exemption Area is the same as the area defined in paragraph (a)(3) of this section and designated as the Small Mesh Northern Shrimp Fishery Exemption Area.

(i) * * *

(C) The exemption does not apply to the Western GOM Area Closure specified in § 648.81(i).

* * * * *

(12) *GOM/GB Monkfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(12)(i) of this section. The GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area is defined by straight lines connecting the following points in the order stated:

N. lat.	*W. long.*
41°35′	70°00′
42°49.5′	70°00′
42°49.5′	69°40′
43°12′	69°00′
(1)	69°00′

(1) Due north to Maine shoreline.

* * * * *

(13) *GOM/GB Dogfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(13)(i) of this section. The area coordinates of the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption

Area are specified in paragraph (a)(12) of this section.

* * * * *

(b) * * *

(2) * * *

(i) *Minimum mesh size.* Except as provided in paragraphs (b)(2)(i) and (iii) of this section, and unless otherwise restricted under paragraph (b)(2)(ii) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, purse seine or midwater trawl, not stowed and not available for immediate use in accordance with § 648.23(b), by a vessel fishing under a DAS in the multispecies DAS program in the SNE regulated mesh area, is 6-inch (15.24–cm) diamond mesh or 6.5-inch (16.51 cm) square mesh throughout the entire net, or any combination thereof. This minimum mesh size restriction does not apply to vessels that have not been issued a multispecies permit and that are fishing exclusively in state waters.

* * * * *

(d) * * *

(2) When fishing under this exemption in the GOM/GB Regulated Mesh Area, and in the area described in § 648.81(c)(1), the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with all restrictions and conditions thereof.

* * * * *

(e) * * *

(2) When fishing under this exemption in the GOM/GB Regulated Mesh Area, the vessel has on board a letter of authorization issued by the Regional Administrator;

* * * * *

(h) *Scallop vessels.* (1) Except as provided in paragraph (h)(2) of this section, a scallop vessel that possesses a limited access scallop permit and either a multispecies combination vessel permit or a scallop multispecies possession limit permit, and that is fishing under a scallop DAS allocated under § 648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(a)(2) and (b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and provided the vessel has at least one standard tote on board.

(2) Combination vessels fishing under a NE multispecies DAS are subject to the gear restrictions specified in § 648.80 and may possess and land unlimited amounts of regulated species, unless otherwise restricted by § 648.86(b). Such vessels may simultaneously fish under a scallop DAS.

(i) * * *

(8) The vessel does not fish for, possess, or land any species of fish other than winter flounder and the exempted small mesh species specified under paragraphs (a)(3)(i), (a)(8)(i), (b)(3), and (c)(3) of this section when fishing in the areas specified under paragraphs (a)(3), (a)(8), (b)(1), and (c)(1) of this section, respectively. Vessels fishing under this exemption in New York and Connecticut state waters may also possess and retain skate as incidental take in this fishery.

* * * * *

7. In § 648.81, paragraphs (d), (g), (h) and (i)(2) are revised, paragraph (f) is removed and reserved, and paragraphs (n) and (o) are removed to read as follows:

§ 648.81 Closed areas.

* * * * *

(d) *Transiting.* Vessels may transit Closed Area I, the Nantucket Lightship Closed Area, the GOM Rolling Closure Areas, the Cashes Ledge Closure Area, and the Western GOM Closure Area, as defined in paragraphs (a)(1), (c)(1), (f)(1), (g)(1), (h)(1), and (i)(1), respectively, of this section, provided that their gear is stowed in accordance with the provisions of paragraph (e) of this section.

* * * * *

(f) [Reserved]

(g) *GOM Rolling Closure Areas.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, GOM Rolling Closure Areas I through V, as described in paragraphs (g)(1)(i) through (v) of this section, for the times specified in those paragraphs, except as specified in paragraphs (d), and (g)(2) of this section. A chart depicting these areas is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter)).

(i) *Rolling Closure Area I.* From March 1 through March 31, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area I, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA I

[March 1–March 31]

Point	N. lat.	W. long.
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM5	42°00′	68°30′
GM6	42°30′	68°30′
GM9	42°30′	(1)

(1) Massachusetts shoreline.
(2) Cape Cod shoreline on Cape Cod Bay.
(3) Cape Cod shoreline on the Atlantic Ocean.

(ii) *Rolling Closure Area II.* From April 1 through April 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area II, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA II

[April 1–April 30]

Point	N. lat.	W. long.
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM5	42°00′	68°30′
GM13	43°00′	68°30′
GM10	43°00′	(4)

(1) Massachusetts shoreline.
(2) Cape Cod shoreline on Cape Cod Bay.
(3) Cape Cod shoreline on the Atlantic Ocean.
(4) New Hampshire shoreline.

(iii) *Rolling Closure Area III.* From May 1 through May 31, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area III, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA III

[May 1–May 31]

Point	N. lat	W. long.
GM9	42°30′	(1)
GM6	42°30′	68°30′
GM14	43°30′	68°30′
GM18	43°30′	(2)

(1) Massachusetts shoreline.
(2) Maine shoreline.

(iv) *Rolling Closure Area IV.* From June 1 through June 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area IV, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA IV

[June 1–June 30]

Point	N. lat.	W. long.
GM10	43°00′	(1)
GM11	43°00′	70°00′
GM17	43°30′	70°00′
GM19	43°30′	67°32.0′ or (2)
GM20	44°00′	67°21.0′ or (2)
GM21	44°00′	69°00′
GM22	(3)	69°00′

(1) New Hampshire shoreline.
(2) U.S.-Canada maritime boundary.
(3) Maine shoreline.

(v) *Rolling Closure Area V.* From October 1 through November 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area V, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA V

[October 1–November 30]

Point	N. lat.	W. long.
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM4	42°00′	70°00′
GM8	42°30′	70°00′
GM9	42°30′	(1)

(1) Massachusetts shoreline.
(2) Cape Cod shoreline on Cape Cod Bay.
(3) Cape Cod shoreline on the Atlantic Ocean.

(2) Paragraph (g)(1) of this section does not apply to persons aboard fishing vessels or fishing vessels:

(i) That have not been issued a multispecies permit and that are fishing exclusively in state waters;

(ii) That are fishing with or using exempted gear as defined under this part, subject to the restrictions on midwater trawl gear in paragraph (a)(2)(iii) of this section, and excluding pelagic gillnet gear capable of catching multispecies, except for vessels fishing with a single pelagic gillnet, not longer than 300 ft (91.44 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.62 cm), provided:

(A) The net is attached to the boat and fished in the upper two-thirds of the water column;

(B) The net is marked with the owner's name and vessel identification number;

(C) There is no retention of regulated species; and

(D) There is no other gear on board capable of catching NE multispecies;

(iii) That are classified as charter, party, or recreational; or

(iv) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(10), provided the vessel does not retain any regulated multispecies during a trip, or on any part of a trip.

(h) *Cashes Ledge Closure Area.* (1) From July 1 through October 31, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Cashes Ledge Closure Area, as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (h)(2) of this section:

CASHES LEDGE CLOSURE AREA

[July 1–October 31]

Point	N. lat.	W. long.
CL1	43°07′	69°02′
CL2	42°49.5′	68°46′
CL3	42°46.5′	68°50.5′
CL4	42°43.5′	68°58.5′
CL5	42°42.5′	69°17.5′
CL6	42°49.5′	69°26′
CL1	43°07′	69°02′

A chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter)).

(2) Paragraph (h)(1) of this section does not apply to persons on fishing vessels or fishing vessels:

(i) That meet the criteria in paragraph (g)(2)(ii), (iii), or (iv) of this section.

(ii) [Reserved]

(i) * * *

(2) Paragraph (i)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraph (g)(2)(ii), (iii) or (iv) of this section.

* * * * *

8. In § 648.82, paragraph (b)(3)(i) is revised to read as follows:

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(b) * * *

(3) * * *

(i) *DAS allocation.* A vessel qualified and electing to fish under the small vessel category may retain up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, per trip without being subject to DAS restrictions, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(a)(2) and (b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip. Such a vessel is not subject to a possession limit for other NE multispecies.

* * * * *

9. In § 648.83, paragraphs (a)(2) and (b)(1) are revised to read as follows:

§ 648.83 Minimum fish sizes.

(a) * * *

(2) The minimum fish size applies to whole fish or to any part of a fish while possessed on board a vessel, except as provided in paragraph (b) of this section, and to whole, whole-gutted or gilled fish only, after landing. For purposes of determining the possession limit restrictions in § 648.86, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, will be multiplied by 3. Fish fillets, or parts of fish, must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. "Skin on" means the entire portion of the skin normally attached to the portion of the fish or to fish parts possessed is still attached.

(b) * * * (1) Each person aboard a vessel issued a multispecies limited access permit and fishing under the DAS program may possess up to 25 lb (11.3 kg) of fillets that measure less than the minimum size if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter. For purposes of determining the possession limit restrictions specified in § 648.86, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, will be multiplied by 3.

* * * * *

10. In § 648.86, the section heading, paragraphs (a)(1), (b)(1) heading, (b)(1)(i), (b)(1)(ii) introductory text, (b)(1)(ii)(A), (b)(3), and (c) are revised, paragraphs (b)(3)(ii) and (b)(4) are removed, and paragraph (d) is added to read as follows:

§ 648.86 Possession and landing restrictions.

* * * * *

(a) * * * (1) *NE multispecies DAS vessels.* (i) Except as provided in paragraphs (a)(ii) and (a)(iii) of this section, a vessel that fishes under a NE multispecies DAS may land up to 2,000 lb (907.2 kg) of haddock per DAS fished, or any part of a DAS fished, up to 20,000 lb (9071.8 kg) per trip, provided it has at least one standard tote on board. Haddock on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) When the Regional Administrator projects that 75 percent of the target TAC will be harvested (9.3 million lb

(4,200 mt) for the 1999 fishing year), NMFS may publish a notification in the **Federal Register** that, as of a specific date, the limit specified in paragraph (a)(1)(i) of this section is reduced to either a 1,000 lb (453.6 kg) per trip possession limit restriction, or to a landing limit restriction of 1,000 lb (453.6 kg) per DAS fished, 10,000 lb (4,536.0 kg) maximum, depending on the risk of exceeding the target TAC. Haddock on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection. Vessels subject to this landing limit must have at least one standard tote on board.

(iii) Paragraph (a)(1)(ii) of this section notwithstanding, beginning October 1, 1999, through April 30, 2000, if the Regional Administrator projects that less than 75 percent of the target TAC will be harvested (9.3 million lb (4,200 mt) for the 1999 fishing year) by April 30, 2000, NMFS may publish a notification in the **Federal Register** that, as of a specific date, the limit is increased to the amount that the Regional Administrator projects will be sufficient to allow harvesting of at least 9.3 million lb (4,200 mt) by April 30, 2000. Haddock on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection. Vessels subject to this landing limit must have at least one standard tote on board.

* * * * *

(b) * * * (1) *Landing limit.* (i) Except as provided in paragraphs (b)(1)(ii) and (b)(2) of this section, and subject to the cod landing limit call-in provision specified at § 648.10(f)(3)(i), a vessel fishing under a NE multispecies DAS may land up to 200 lb (90.7 kg) of cod per DAS, or any part of a DAS, unless otherwise specified in this paragraph. Vessels calling-out of the multispecies DAS program under § 648.10(c)(3) that have utilized part of a DAS (less than 24 hours) may land up to an additional 200 lb (90.7 kg) of cod for that part of a DAS; however, such vessels may not end any subsequent trip with cod on board within the 24-hour period following the beginning of the part of the DAS utilized (e.g., a vessel that has called-in to the multispecies DAS program at 3 p.m. on a Monday and ends its trip the next day (Tuesday) at 4 p.m. (accruing a total of 25 hours) may legally land up to 400 lb (181.4 kg) of cod on such a trip, but the vessel may not end any subsequent trip with cod on board until after 3 p.m. on the following day (Wednesday)). When the Regional Administrator projects when 30 percent of the FMAX target TAC will be harvested (886,000 lb (402 mt) for the 1999 fishing year), NMFS will publish a notification in the **Federal Register** that, as of a specific date, the limit is reduced to a specified amount between 5 lb (2.3 kg) and 100 lb (45.3 kg) per DAS, depending on the risk of exceeding the target TAC. Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel subject to the cod landing limit restrictions described in paragraph (b)(1)(i) of this section, and subject to the cod landing limit call-in provision specified at § 648.10(f)(3)(ii), may come into port with and offload cod in excess of the landing limit as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that:

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port to engage in fishing, unless transiting as allowed in paragraph (b)(3) of this section, until sufficient time has elapsed to account for and justify the amount of cod harvested at the time of offloading regardless of whether all of the cod on board is offloaded (e.g., a vessel subject to the landing limit restriction, described in paragraph (b)(1)(i) of this section, that has called-in to the multispecies DAS program at 3 p.m. on Monday and that fishes and comes back into port at 4 p.m. on Wednesday of that same week with 800 lb (362.9 kg) of cod to offload some or all of its catch cannot call-out of the DAS program or leave port until 3:01 p.m. the next day, Thursday (i.e., 3 days plus one minute)); and

* * * * *

(3) *Transiting.* A vessel that has exceeded the cod landing limit as specified in paragraph (b)(1) of this section, and is, therefore, subject to the requirement to remain in port for the period of time described in paragraph (b)(1)(ii)(A) of this section may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator (see Table 1 to § 600.502 of this chapter) either at the time the vessel reports its hailed weight of cod or at a later time prior to transiting and provides the following information: vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in § 648.81(e) and may not have any fish on board the vessel.

(c) *Other possession restrictions.* Vessels are subject to all other applicable possession limit restrictions of this part, as specified under § 648.82(b)(3), § 648.83(b)(1), § 648.88(a) and (c), and § 648.89(c).

(d) *Calculation of weight of fillets or parts of fish.* Possession limits described under this part are based on the weight of whole, whole-gutted, or gilled fish. For purposes of determining possession limit restrictions specified in paragraphs (a), (b), or (c) of this section, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, as allowed under § 648.83(a) and (b) will be multiplied by 3.

11. In § 648.87, introductory text for paragraphs (a) and (b) is revised, and paragraph (a)(4) is added to read as follows:

§ 648.87 Gillnet requirements to reduce or prevent marine mammal takes.

(a) *Areas closed to gillnet gear capable of catching multispecies to reduce harbor porpoise takes.* All persons owning or operating vessels in the EEZ portion of the areas and times specified in paragraphs (a)(1), (2), (3) and (4) of this section must remove all of their sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(g)(2)(ii)), and may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnet gear or other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnet gear (as described in § 648.81(g)(2)(ii)) in the EEZ portion of the areas and for the times specified in paragraphs (a)(1) through (a)(4) of this section. Also, all persons owning or operating vessels issued a limited access multispecies permit must remove all of their sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(g)(2)(ii)), from the areas and for the times specified in paragraphs (a)(1) through (a)(4) of this section, and may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnets or other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(g)(2)(ii)) in the areas and for the times specified in paragraphs (a)(1) through (a)(4) of this section.

* * * * *

(4) *NE Closure Area.* (1) From August 15 through September 13, of each fishing year, the restrictions and requirements specified in paragraph (a) of this section apply to the NE Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

NORTHEAST CLOSURE AREA

Point	N. lat.	W. long.
NE1	(1)	68°55.0′
NE2	43°29.6′	68°55.0′
NE3	44°04.4′	67°48.7′
NE4	44°06.9′	67°52.8′
NE5	44°31.2′	67°02.7′
NE6	(1)	67°02.7′

[1] Maine shoreline.

Copies of a chart depicting this area are available from the Regional Administrator upon request.

(b) *Areas closed to gillnet gear capable of catching multispecies to prevent right whale takes.* All persons owning or operating vessels must remove all of their sink gillnet gear and gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(g)(2)(ii)), from the EEZ portion of the areas and for the times specified in paragraphs (b)(1) and (b)(2) of this section, and may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnet gear or gillnet gear capable of catching multispecies, with the exception of single pelagic gillnet gear (as described in § 648.81(g)(2)(ii)) in the EEZ portion of the areas and for the times specified in paragraphs (b)(1) and (2) of this section. Also, all persons owning or operating vessels issued a limited access multispecies permit must remove all of their sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(g)(2)(ii)), from the areas and for the times specified in paragraphs (b)(1) and (b)(2) of this section, and, may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnet gear or other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(g)(2)(ii)) in the areas and for the times specified in paragraphs (b)(1) and (b)(2) of this section.

* * * * *

12. In § 648.88, paragraphs (a)(1) and (c) are revised to read as follows:

§ 648.88 Open access permit restrictions.

(a) * * *

(1) The vessel may possess and land up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, per trip, and unlimited amounts of the other NE multispecies, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(a)(2) and (b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and that the vessel does not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies, and provided it has at least one standard tote on board.

* * * * *

(c) *Scallop multispecies possession limit permit.* Unless otherwise prohibited in § 648.86(b), a vessel that has been issued a valid open access scallop multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated species per trip when fishing under a scallop DAS allocated under § 648.53, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(a)(2) and (b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and that the vessel does not fish for, possess, or land haddock from January 1 through June 30 as specified under § 648.86(a)(2)(i), and provided the vessel has at least one standard tote on board.

* * * * *

[FR Doc. 99–7655 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–22–P

Notice

This section o
contains docu
proposed rules
public. Notices
committee me
rulings, delega
petitions and a
statements of
examples of d
section.

DEPARTME

**Natural Res
Service in F**

**Notice of Pr
IV of the Fie
(FOTG) of th
Conservatio**

AGENCY: Nat
Conservatio
U.S. Departm

ACTION: Noti
proposed ch
FOTG of the
and commer

SUMMARY: It
Florida to is
conservation
Florida: Ani
(Code 575),
Fence (Code
Outlet (Code
Pumping Pla
533), Trough
Undergroun
and Sedime
Water Well
the FOTG.

DATES: Com
before April

FOR FURTHER
Inquire in w
State Conse
Conservatio
141510, Gai
1510. Copie
will be mad
request.

SUPPLEMENT
343 of the F
Improvemen
states that re
enactment o
technical gu
highly erodi
provisions o
available for
comment. F
NRCS in Flo

Notices

Federal Register

Vol. 64, No. 59

Monday, March 29, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service in Florida

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Florida

AGENCY: Natural Resources Conservation Service (NRCS) in Florida, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Florida for review and comment.

SUMMARY: It is the intention of NRCS in Florida to issue the following revised conservation practice standards for Florida: Animal Trails and Walkways (Code 575), Dry Hydrant, (Code 712), Fence (Code 382), Lined Waterway or Outlet (Code 468), Pipeline, Code 516, Pumping Plant for Water Control, (Code 533), Trough or Tank, (Code 614), Underground Outlet, Code 620), Water and Sediment Control Basin (Code 638), Water Well (Code 642) in Section IV of the FOTG.

DATES: Comments will be received on or before April 28, 1999.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to T. Niles Glasgow, State Conservationist, Natural Resources Conservation Service (NRCS), P.O. Box 141510, Gainesville, Florida 32614–1510. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Florida will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Florida regarding disposition of those comments and a final determination of change will be made.

Dated: March 8, 1999.

T. Niles Glasgow,

State Conservationist, Natural Resources Conservation Service, Gainesville, Florida.

[FR Doc. 99–6603 Filed 3–26–99; 8:45 am]

BILLING CODE 3410–16–M

ARMS CONTROL AND DISARMAMENT AGENCY

The Director's Advisory Committee; Notice of Closed Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. 2 section 10(a)(2)(1996), the U.S. Arms Control and Disarmament Agency (ACDA) announces the following Advisory Committee meetings:

Name: The Director's Advisory Committee (DirAC).

Dates and Places:

March 30, 1999, Fort Sill, Oklahoma
April 5, 1999, Offut Air Force Base, Omaha, Nebraska
May 10–11, 1999, State Department Building, 320 21st Street, NW, Room 4930, Washington, DC
June 7–8, 1999, Minot Air Force Base, Minot, North Dakota

Type of Meetings: Closed.

Contact: Robert Sherman, Executive Director, Director's Advisory Committee, Room 5844, Washington, DC 20451, (202) 647–4622.

Purpose of Advisory Committee: To advise the President, the Secretary of State, and the Director of the U.S. Arms Control and Disarmament Agency respecting scientific, technical, and policy matters affecting arms control, nonproliferation, and disarmament.

Purpose of the Meetings: The Committee will review specific arms control, nonproliferation, and verification issues. Members will be briefed on current U.S. policy and issues regarding negotiations such as the Comprehensive Test Ban Treaty and the Convention on Conventional Weapons. Members will also be briefed on issues regarding the Chemical and Biological Weapons Conventions. Members will exchange information and concepts with key ACDA and Livermore Laboratory personnel. All meetings will be held in Executive Session.

Reason for Closing: The DirAC members will be reviewing and discussing matters specifically authorized by Executive Order 12,958 to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meetings: The closing of the meetings is in: accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated March 23, 1999, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2 section 10(d)(1996).

Notice: This notice is being published less than 15 days before the first meeting because of recent changes in the location of the meetings.

Cathleen Lawrence,

Director of Administration.

March 24, 1999.

DETERMINATION OF CLOSE MEETINGS OF THE DIRECTOR'S ADVISORY COMMITTEE

The Director's Advisory Committee (DirAC) will hold meetings in Washington, DC. on May 10–11 1999, at Fort Sill, on March 30, 1999, at Offut Air Force Base, Nebraska on April 5, 1999 and at Minot Air Force Base, North Dakota on June 7–8, 1999.

The entire agenda of these meetings will be devoted to specific national security policy and arms control issues. Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2 section 10(d)(1996), I have determined that the meetings may be closed to the public in accordance with 5 U.S.C. 552b(c)(1). Materials to be discussed at the meetings have been properly classified and are specifically authorized under criteria established by Executive Order 12,958, 60 FR 19,825 (1995), to be kept secret in the interests of national defense and foreign policy.

This notice is being published less than 15 days before the first meeting because of recent change in location of the meetings.

John D. Holum,

Director.

[FR Doc. 99–7758 Filed 3–25–99; 8:45 am]

BILLING CODE 6820–32–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 3 p.m. on May 20, 1999, at the Anchorage Hilton Hotel, 500 West Third Avenue, Anchorage, Alaska 99501. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 18, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–7663 Filed 3–26–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nevada Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 12 p.m. on April 30, 1999, at the Southwest Gas Corporation, Building "A", 5241 Spring Mountain Road, Las Vegas, Nevada 89193. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 18, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–7664 Filed 3–26–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Washington Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 12 p.m. on May 5, 1999, at the Sixth Avenue Inn, 2000 6th Avenue, Seattle, Washington 98121. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 18, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–7665 Filed 3–26–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To Give Firms an Opportunity to Comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 2/20/99–3/15/99

Firm name	Address	Date petition accepted	Product
Novtex, Inc.	43 Print Work Dr., Adams, MA 01220	02/25/99	Narrow crochet ribbons, fabrics, trim and lace.
Realm Industries, Inc.	25 C Acorn St., Providence, RI 02904	02/25/99	Jewelry—necklaces, earings, pins and broaches.
Kamehameha Garment Co., Inc.	238 Sand Isl. Access Rd., Honolulu, HI 96819.	02/25/99	Aloha shirts.
Linscan Systems, Inc.	202 W. Ninth St., Rolla, MO 65402	02/25/99	Medical ultrasound equipment.
Centerline Circuits, Inc.	1820 Industrial Circle, Longmont, Co 80501.	02/26/99	Printed circuit boards.
Polytex Fibers, Inc.	9341 Baythrone, Houston, TX 77041	02/26/99	Woven ploypropylene bags.
Crown Tanks, Inc.	P. O. Box 990, Tauton, MA 02780	02/26/99	Heating oil storage tanks.
Plasticert, Inc.	3438 Bridgeview Rd., Stewartstown, PA 19763.	02/26/99	Plastic connectors.
Haas Tailoring, Inc.	3425 Sinclair Lane, Baltimore, MD 21213	02/26/99	Men's suits of wool and wool blends, jacket and trousers.
YKI Fisheries, Inc.	751 Ocean Cape Rd., Yakutat, AK 99689	03/15/99	Fresh and frozen salmon.
McCarthy-Sorensen Athletic, Inc.	1700 Pierce Ave., Marinette, WI 54143	03/05/99	Athletic uniforms (jerseys and vests) and socks.
Arcadia Supply, Inc.	67 Erie Boulevard, Albany, NY 12204	03/05/99	Aluminum brackets for mounting and fitting window treatment.
J-Star Industries, Inc.	801 Janesville Ave., Ft. Atkinson, WI 53538.	03/11/99	Power conditioning equipment.
Power Systems & Controls	3206 Lanvale Ave., Richmond, VA 23230	03/11/99	Agricultureal machines for handling animal feed and manure.
Gulf States Steel, Inc.	174 S. 26th Street, Gadsden, AL 35904	03/12/99	Carbon steel—plates and rolled sheet coils.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 2/20/99–3/15/99—Continued

Firm name	Address	Date petition accepted	Product
Brookman Cast Industries, Inc.	3530 Brady Court NE	03/15/99	Steel castings.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: March 18, 1999.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 99–7574 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 12–99]

Proposed Foreign-Trade Zone—Fort Lauderdale, FL, Area Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Fort Lauderdale, Florida, to establish a general-purpose foreign-trade zone at sites in the Fort Lauderdale, Florida, area, adjacent to the Port Everglades Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 19, 1999. The applicant is authorized to make the proposal under Section 288.36., Florida Statutes Annotated (1997).

The proposed zone would be the second general-purpose zone in the Port Everglades Customs port of entry area. The existing zone is FTZ 25 in Fort Lauderdale (Grantee: Port Everglades Port Authority, Board Order 113, 42 FR 61, 1/3/77).

The proposed new zone would consist of sites covering 1,328 acres in the Fort Lauderdale area: *Site 1a* (718 acres)—Fort Lauderdale Executive Airport complex (owned and operated by the City), Commerce Boulevard, Ft. Lauderdale; *Site 1b* (16 acres)—Highwoods site; *Site 1c* (16 acres)—Free Trade Ltd. site; *Site 1d* (4 acres)—Executive Airport Corporate Center site; *Site 1e* (112 acres)—Ft. Lauderdale Industrial Airpark; *Site 1f* (11 acres)—Financial Southern site; *Site 1g* (2 acres)—Gateway Executive Center site; *Site 1h* (2 acres)—Commercial Services International site; *Site 1i* (1 acre)—Miles of Tiles site; and, *Site 1j* (33 acres)—Calvary site; *Site 2* (11 acres)—CenterPort Industrial Park (owned by ProLogis), NW 8th Avenue, Ft. Lauderdale; *Site 3* (62 acres)—Port 95 Commerce Park (owned by ProLogis), I–95 and SW 42nd Street, Ft. Lauderdale; *Site 4* (278 acres)—Bergeron Park of Commerce & Industry (owned by Bergeron Properties & Investment Corp.), 19612 SW 69th Place, Ft. Lauderdale; *Site 5* (8 acres)—Harwood Business Park (owned by CMD Properties, Inc.), 3355 Enterprise Avenue, Weston; *Site 6* (6 acres)—Lincoln Park CRA (owned by the City), between NW 18th Avenue and NW 19th Avenue, Ft. Lauderdale; *Site 7* (10 acres)—Konover CRA (owned by Konover Property Trust/C.L. Capitol), IH–95 and Broward, Ft. Lauderdale; and, *Site 8* (38 acres)—Lauderdale Industrial Park (owned by Jesse Gaddis), southwest corner of NW 19th and NW 23rd, Ft. Lauderdale. Site 1, which includes Sites 1a–1j, involves the Fort Lauderdale Executive Airport and adjacent areas. Sites 6 and 7 are located in Community Redevelopment Areas that provide tax credits, tax refunds, and subsidized tax rates. Site 8 is a designated State Enterprise Zone.

The application indicates a need for additional foreign-trade zone services in the Greater Fort Lauderdale area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as decorative home accessories, medical equipment, furniture, apparel and marble/ceramic tile. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on April 28, 1999, 9:00 a.m., 100 N. Andrews Avenue, 8th Floor Conference Room, Fort Lauderdale, Florida 33301.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 28, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 14, 1999).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Fort Lauderdale Executive Airport, 1401 West Commercial Blvd., Suite 200, Fort Lauderdale, FL 33309.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 22, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–7523 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 11–99]

Foreign-Trade Zone 49, Newark/Elizabeth, New Jersey Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, requesting authority to expand its zone to include the jet fuel storage and distribution system at the Newark International Airport in the Cities of Newark and Elizabeth (Union and Essex Counties), New Jersey, within the Newark/New York Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 18, 1999.

FTZ 49 was approved on April 6, 1979 (Board Order 146, 44 FR 22502, 4/16/79) and expanded on May 26, 1983 (Board Order 211, 48 FR 24958, 6/3/83); October 23, 1987 (Board Order 365, 52 FR 41599, 10/29/87); and, April 19, 1990 (Board Order 470, 55 FR 17478, 4/25/90). The zone project currently consists of the following sites: *Site 1* (2,100 acres)—Port Newark/Elizabeth Port Authority Marine Terminal; *Site 2* (41 acres)—Global Terminal and Container Services facility on upper New York Bay in Jersey City/Bayonne, NJ; *Site 3* (124 acres)—Port Authority Industrial Park, adjacent to the Port Newark/Elizabeth Port Authority Marine Terminal; and, *Site 4* (145-acres)—Port Authority AutoMarine Terminal and adjacent 53-acre Greenville Industrial Park on Upper New York Bay's Port Jersey Channel in Bayonne and Jersey City, NJ.

The applicant is now requesting authority to expand the general-purpose zone to include the jet fuel storage and distribution system at the Newark International Airport in the Cities of Newark and Elizabeth (Union and Essex Counties), New Jersey. The system (40 acres) include the bulk jet fuel storage farm (34 acres), Union County; the jet fuel hydrant system (60 miles), Union and Essex Counties; and, the jet fuel selector (manifold) area (3 acres), Union County. These facilities consist primarily of storage tanks, pipelines, pumps, valves, filters, meters and related equipment. The facilities are owned by the applicant. The jet fuel system activity is currently handled by Ogden Aviation Service Company of New Jersey, Inc.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 28, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 14, 1999).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, One Gateway Center, 9th Floor, Newark, NJ 07102.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 18, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–7522 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (1997), for administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than February 29, 2000.

	Period to be reviewed
Antidumping Duty Proceedings	
INDIA: Stainless Steel Bar, A–533–810	2/1/98–1/31/99

	Period to be reviewed
Bhansali Bright Bars Pvt. Ltd.	
Chandan Steel Ltd.	
Ferro Alloys Corporation Limited	
Isibars Limited	
Jyoti Steel industries	
Madhya Pradesh Iron & Steel Company	
Panchmahal Steel Limited	
Parekh Bright Bars Pvt. Ltd.	
Shah Alloys Ltd.	
Sindia Steel Limited	
Venus Wire Industries Ltd.	
Viraj Impoexpo Ltd.	
INDIA: Forged Stainless Steel Flanges, A–533–809	2/1/98–1/31/99
Echjay Forgings Limited	
JAPAN: Mechanical Transfer Presses, A–588–810	2/1/98–1/31/99
Komatsu, Ltd.	
Ishikawajima-Harima Heavy Industries Co., Ltd.	
Hitachi Zosen Corporation	
JAPAN: Stainless Steel Bar, A–588–833	2/1/98–1/31/99
Aichi Steel Corporation	
PEOPLE'S REPUBLIC OF CHINA: Axes/adzes,[1] A–570–803	2/1/98–1/31/99
Shandong Machinery Import & Emport corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
THE PEOPLE'S REPUBLIC OF CHINA: Bars/wedges,[1] A–570–803	2/1/98–1/31/99
Shandong Machinery Import & Export Corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
THE PEOPLE'S REPUBLIC OF CHINA: Hammers/sledges,[1] A–570–803	2/1/98–1/31/99
Shandong Machinery Import & Export Corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
THE PEOPLE'S REPUBLIC OF CHINA: Picks/mattocks,[1] A–570–803	2/1/98–1/31/99
Shandong Machinery Import & Export Corp.	
Fujian Machinery & Equipment Import & Export Corp.	
Tianjin Machinery Import & Export Corp.	
Liaoning Machinery Import & Export Corp.	
Shandong Huarong General Group Corp.	
THE PEOPLE'S REPUBLIC OF CHINA: Paint Brushes,[2] A–570–501	2/1/98–1/31/99
Hunan Provincial Native Produce and Animal-By Products Import and Export Corporation	
Hebei Animal By-Product Import & Export Corporation	
THE PEOPLE'S REPUBLIC OF CHINA: Manganese Metal,[3] A–570–840	2/1/98–1/31/99
China National Electronics Import & Export Hunan Co.	
China Hunan International Economic Development (Group) Corporation	
China Metallurgical Import & Export Corporation Human Corporation and Hunan Nonferrous Metals Import & Export Assoc. Co.	
Minmetals Precious & Rare Minerals Import & Export Corp.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of certain heavy forged hand tools from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of a single PRC entity of which the named exporters are a part.

[2] If the above name company does not qualify for a separate rate, all other exporters of paint brushes from the People's Republic of China who have not qualified for separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part.

[3] If one of the above named companies does not qualify for a separate rate, all other exporters of manganese metal from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping

duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1996 or 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: March 19, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–7532 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances antidumping duty administrative review, and revocation in part of antidumping duty order.

SUMMARY: On February 2, 1999, the Department of Commerce (the Department) published a notice of initiation of a changed circumstances antidumping duty administrative review and preliminary results of review with intent to revoke, in part, the antidumping duty order on certain corrosion resistant carbon steel flat products from Japan. We are now revoking this order in part, with respect to corrosion-resistant steel flat products with certain dimensions and coatings as discussed below, based on the fact that domestic parties have expressed no interest in the importation or sale of this product, imported from Japan.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Doreen Chen or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0408, (202) 482–3818, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (April 1998).

SUPPLEMENTARY INFORMATION:

Background

On December 11, 1998, Uchiyama requested that the Department revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Specifically, Uchiyama requested that the Department revoke the order with respect to imports of subject merchandise meeting all of the following criteria: (1) Widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate. Uchiyama, a domestic manufacturer of rubber seals and metal inserts for ball bearings, is an importer of the products in question. The order with regard to imports of other types of corrosion resistant carbon steel flat products is not affected by this request.

On January 19, 1999, Inland Steel Industries, Inc. (Inland), LTV Steel Company (LTV), National Steel Corporation (National), and U.S. Steel Group, A Unit of USX Corporation (U.S. Steel), domestic interested parties in this case, submitted a letter indicating that they have no objection to the initiation of this changed circumstances review and no interest in maintaining the antidumping duty order on corrosion-resistant carbon steel flat products from Japan with respect to products meeting the specifications indicated above. We preliminarily determined that domestic producers' affirmative statement of no interest constituted changed circumstances sufficient to warrant a partial revocation of this order. Consequently, on February 2, 1999, the Department published a notice of initiation and preliminary results of changed circumstances antidumping duty administrative review and intent to revoke this order in part (64 FR 5024). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. We received no comments from interested parties.

Scope of Changed Circumstances Review

The merchandise covered by this changed circumstances review is certain corrosion-resistant carbon steel flat products from Japan. This changed circumstances administrative review covers all manufacturers/exporters of certain corrosion-resistant carbon steel flat products meeting the following specifications: (1) widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate.

Final Results of Review; Partial Revocation of Antidumping Duty Order

The affirmative statement of no interest by petitioners in certain corrosion resistant carbon steel flat products, as described above, produced in Japan, constitutes changed circumstances sufficient to warrant partial revocation of this order. Therefore, the Department is partially revoking the order on certain corrosion-resistant carbon steel flat products from Japan with regard to products which

meet the specifications detailed above, in accordance with sections 751 (b) and (d) and 782(h) of the Act and 19 CFR 351.216(d)(1). This partial revocation applies to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of this publication of final results.

This notice also serves as a reminder to parties subject to administrative protection orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1997). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This changed circumstances administrative review, partial revocation of the antidumping duty order and notice are in accordance with sections 751 (b) and (d) and 782(h) of the Act and sections 351.216 and 351.222(g) of the Department's regulations.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7521 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–827]

Notice of Final Determination of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or John Maloney, Office of AD/CVD Enforcement, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2613 or (202) 482–1503.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR part 351 (April 1998).

Final Determination

We determine that emulsion styrene-butadiene rubber (ESBR) from Brazil is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination in this investigation on October 28, 1998 (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Brazil*, 63 FR 59509 (November 4, 1998) (Preliminary Determination)), the following events have occurred:

On December 9, 1998, the sole respondent in this case, Petroflex Industria e Comercio S.A. (Petroflex), submitted a letter to the Department stating that Petroflex is "unable to receive Department personnel for verification as scheduled." Furthermore, Petroflex stated that the "company does not anticipate a significant reduction in the final margin to warrant further participation in the Department's investigation" and "has therefore decided to focus its efforts on the injury proceedings at the U.S. International Trade Commission." As a result of Petroflex's decision not to participate in verification, the information provided by the company, which was the basis of our preliminary determination, could not be verified. Therefore, we have applied facts otherwise available in our final determination. For a further discussion, see "Facts Available" section below.

We received a case brief from the petitioners on February 5, 1999. We received no case or rebuttal brief from Petroflex.

Scope of Investigation

For purposes of this investigation, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to this investigation are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber." ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1997 through March 31, 1998.

Facts Available

Section 776(a)(2) of the Act provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to certain exceptions contained in section 782, use facts otherwise available in reaching the applicable determination. In this case, Petroflex refused to allow the Department to verify the sales and cost of production data it provided in its questionnaire responses, thus rendering subsections 782(c)(1) and (e) inapplicable. Accordingly, we have determined that use of facts available is appropriate for Petroflex.

Section 776(b) of the Act provides that adverse inferences may be used

when an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994) (SAA). Petroflex's decision to refuse verification of its submitted data demonstrates that it has failed to act to the best of its ability to comply with a request for information under section 776 of the Act. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted. Consistent with Department practice in cases where the respondent refuses to participate, as adverse facts otherwise available, we have applied a margin based on the highest margin stated in the petition (there were no calculated margins in this investigation for us to consider). *See, e.g., Notice of Final Determination of Sales At Less Than Fair Value: Stainless Steel Wire Rod from Germany*, 63 FR 40433 (July 29, 1998).

Section 776(c) provides that, when the Department relies on secondary information, such as the petition, when resorting to the facts otherwise available, it must, to the extent practicable, corroborate that information using independent sources that are reasonably at its disposal. To corroborate secondary information, to the extent practicable, the Department will examine the reliability and relevance of the information to be used. With respect to the reliability aspect of corroboration, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*e.g.*, import statistics, call reports, and data from business contacts) as outlined below.

The petitioners identified Petroflex as the sole exporter and producer of ESBR from Brazil. The petitioners based export price on U.S. prices in call reports generated by the petitioners' sales personnel in the normal course of business and obtained from various customers for ESBR grades 1502 and 1712, two grades most commonly exported to the United States. The petitioners adjusted the delivered U.S. prices to ex-factory prices by deducting international freight and insurance expenses. The source of these expenses were official U.S. import statistics. For sales that did not specify "FOB Port" or "Delivered", the petitioners assumed the terms of these sales to be FOB Brazil and did not deduct international freight and insurance expenses. No other adjustments were made.

With respect to normal value, the petitioners obtained from a local business contact in Brazil prices for contemporaneous sales of ESBR grades 1502 and 1712 from Petroflex to a Brazilian customer. The petitioners adjusted these home market prices for estimated inland freight and credit expenses. The interest rates used in the calculation of credit expenses were obtained from publicly available information. The Brazilian inland freight expenses and credit terms were based on information obtained by local business contacts, as noted in an affidavit. After making adjustments for movement expenses and credit expenses, the petitioners calculated ex-factory normal values which were converted to U.S. dollars using publicly available exchange rates. *See Notice of Initiation of Antidumping Investigations: Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, and Mexico*, 63 FR 20575 (April 27, 1998), and "Office of Antidumping Investigations Initiation Checklist" dated April 21, 1998 (*Initiation Checklist*).

For purposes of the final determination, we reexamined the export price and normal value data provided in the petition in light of information obtained during the investigation and, to the extent that it could be corroborated, found that it continues to be reliable. For export prices, we attempted to corroborate the petition information by comparing the range of prices in the petition to U.S. Customs C.I.F. prices for the HTSUS number which includes subject merchandise (*i.e.*, subheading 4002.19.0010). The price quotes submitted by the petitioners are consistent with the U.S. import statistics. Additionally, the actual information submitted by Petroflex regarding U.S. price in this case, although not dispositive because it is unverified, tends to corroborate information submitted in the petition. With regard to normal value, information obtained from Petroflex during the investigation shows the prices calculated by the petitioners represent a reasonable range of prices for the sale of the foreign like product in the home market.

With respect to the relevance aspect of corroboration, the Department considers information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. In this proceeding, there was no information that indicated that the margins in the petition are not relevant. Thus, as the highest margin in the petition is reliable and relevant, the Department concludes that this margin has probative value and is sufficiently corroborated so that it may be used as facts available. *See*, the Memorandum to Louis Apple, Office Director from the Team on "The Application of Facts Available Rate and Corroboration of Secondary Information for Petroflex Industria e Comercio S.A." dated March 19, 1999.

The All-Others Rate

The foreign manufacturer/exporter in this investigation is being assigned a dumping margin on the basis of facts otherwise available. Section 735(c)(5) of the Act provides that, where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated. Where the data is not available to weight average the facts available rates, the SAA, at 873, provides that we may use other reasonable methods. In this case, the margin assigned to the only company investigated is based on adverse facts available. Therefore, consistent with the SAA, we are using an alternative method. As our alternative, we are basing the all others rate on a simple average of the margins in the petition, 43.85 percent.

Interested Party Comments

Comment Use of Facts Available for Petroflex

The petitioners argue that Petroflex refused to allow verification of its questionnaire responses and, therefore, the Department should base its final determination on total facts available. Further, the petitioners assert that Petroflex has not cooperated with the Department in this investigation and that adverse inferences are warranted in assigning a facts available margin to Petroflex. As adverse facts available, the petitioners urge the Department to assign the highest margin calculated in the petition.

DOC Position

We agree with the petitioners. As discussed above in the "Facts Available" section of the notice, as adverse facts available, we assigned the highest margin calculated in the petition, 71.08 percent, to Petroflex.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of emulsion styrene-butadiene from Brazil, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998, the date of publication of our preliminary determination in the **Federal Register**. For these entries, the Customs Service will require a cash deposit equal to the estimated amount by which the normal value exceeds the export price as shown below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
Petroflex Industria e Comercio S.A.	71.08
All Others	43.85

The all-others rate applies to all entries of subject merchandise except for the entries of merchandise produced by the exporter/manufacturer listed above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration

[FR Doc. 99–7525 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–833]

Notice of Final Determination of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or James Nunno, AD/CVD Enforcement Group II, Office V, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2613 or (202) 482–0783, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to 19 CFR Part 351 (April 1, 1998).

Final Determination

We determine that emulsion styrene-butadiene rubber (ESBR) from the Republic of Korea is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice, below.

Case History

Since the preliminary determination in this investigation on October 28, 1998 (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from the Republic of Korea*, 63 FR 59514 (November 4, 1998) (*Preliminary Notice*)), the following events have occurred:

In November 1998, we received a supplemental response to Section D of the Department's antidumping questionnaire from Korea Kumho Petrochemical Co. Ltd. (KKPC).

In January 1999, we verified the questionnaire responses of KKPC. In February 1999, we issued our verification reports for KKPC. Also in February 1999, KKPC submitted a revised sales database, reflecting verification revisions, at the Department's request.

On February 16, 1999, the petitioners (*i.e.*, Ameripol Synpol Corporation and DSM Copolymer), and KKPC submitted case briefs. On February 22, 1999, the petitioners and KKPC submitted rebuttal briefs. The Department held a public hearing on February 25, 1999.

Scope of Investigation

For purposes of this investigation, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to this investigation are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber." ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1997, through March 31, 1998.

Facts Available

The petition in this investigation named both KKPC and Hyundai Petrochemical Co., Ltd. (Hyundai) as producers/exporters of ESBR from Korea to the United States. On May 8, 1998, Hyundai requested that it be excluded from participation as a mandatory respondent. On May 12, 1998, the petitioners submitted a letter to the Department opposing Hyundai's exclusion from this proceeding. On May 13, 1998, the Department notified Hyundai that it was selected as a mandatory respondent. On May 21, 1998, the Department issued the antidumping duty questionnaire to both companies. Hyundai did not submit a response to the questionnaire. Consequently, for purposes of the preliminary determination, the Department based the antidumping margin for Hyundai on facts otherwise available and assigned it a margin of 118.88 percent, which was the higher of either the highest margin in the petition or the highest margin calculated for a respondent. *See Preliminary Notice.* Hyundai did not submit comments on the Department's preliminary determination and, thus, has continued not to participate in this investigation. Accordingly, for the final determination, the Department has continued to base the antidumping margin for this company on facts otherwise available and assigned it a margin of 118.88 percent, which was the higher of either the highest margin in the petition or the highest margin calculated for a respondent.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Investigation" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Fair Value Comparisons

To determine whether sales of ESBR from Korea to the United States were made at less than fair value, we compared the export price (EP) to the normal value (NV). Our calculations followed the methodologies described in the preliminary determination except as noted below under the "Export Price" and "Normal Value" sections of the notice.

Level of Trade

For purposes of the preliminary determination, we conducted a level of trade analysis for KKPC, and determined that the level of trade for all EP sales is the same as that of the home market sales. *See Preliminary Notice.* Based on our findings at verification, we find no indication that the level of trade for EP sales is different from that of the home market sales. Furthermore, neither the petitioners nor KKPC commented on the Department's level of trade determination. Therefore, for purposes of the final determination, we have continued to hold that a level of trade adjustment is not warranted for KKPC.

Export Price

In accordance with section 772(a) and (c) of the Act, we used EP methodology for KKPC because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated.

We calculated EP based on the same methodology used in the preliminary determination, with the following exceptions: (1) we recalculated U.S. credit expenses using the average short-term lending rates calculated by the Federal Reserve (*see Calculation Memorandum for the Final Determination for Korea Kumho Petrochemical Co., Ltd.* dated March 19, 1999 (*Final Calculation Memorandum*)); and (2) we adjusted the reported amounts for U.S. bank charges and packing expenses based on corrections presented at the start of verification.

Normal Value

We used the same methodology to calculate NV as that described in the preliminary determination, with the following exceptions: (1) we used the February 12, 1999, home market sales listing reflecting verification revisions, submitted at the Department's request; (2) we adjusted the reported amounts for home market inland freight charges and packing expenses based on corrections presented at the start of verification; and (3) we recalculated home market credit expenses denominated in U.S. dollars using the average short-term lending rates calculated by the Federal Reserve (*see Final Calculation Memorandum*). We continued to make no adjustment for imputed credit expenses related to the payment of value-added taxes (VAT), in accordance with our long-standing practice (*see* Comment 2 below). In those instances where KKPC did not report payment dates, we recalculated reported credit expenses using the date of the last day of the sales verification as the payment date.

Cost of Production

We calculated the cost of production (COP) based on the sum of KKPC's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative (SG&A) expenses and packing costs, in accordance with section 773(b)(3) of the Act. We relied on the submitted COPs, except for the following specific instances where we modified the margin calculation program to correct for certain adjustments and updated cost data based on verification findings (*see Final Calculation Memorandum*): (1) based on information obtained at verification, we adjusted KKPC's reported cost of manufacturing (COM) to reflect the POI costs (*see* Comment 5 below); (2) we recalculated KKPC's financial expense ratio used in the calculation of COP and CV on a consolidated basis (*see* Comment 6 below), and additionally, in accordance with Department practice to exclude exchange gains and losses from accounts receivable (*see* Comment 7 below, and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Korea*, 63 FR 40404, 40416 (July 29, 1998)); and (3) based on our analysis of KKPC's supplemental response to Section D of the Department's antidumping questionnaire, we determined that an adjustment to the direct labor costs reported in KKPC's COP and CV databases was unwarranted (see Comment 8 below).

We also conducted our sales below cost test in the same manner as that described in our preliminary determination. As with the preliminary determination, we found that, for certain grades of ESBR, more than 20 percent of KKPC's home market sales were at prices less than the COP within an extended period of time. *See* Section 773(b)(1)(A) of the Act. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We, therefore, disregarded the below-cost sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of KKPC's cost of materials, fabrication, SG&A expenses, profit, and

U.S. packing costs. We relied on the submitted CVs, except in the specific instance noted in the "Cost of Production" section above.

Currency Conversion

As noted in the *Preliminary Notice*, our preliminary analysis of Federal Reserve dollar-won exchange rate data showed that the won declined rapidly at the end of 1997, losing over 40 percent of its value between the beginning of November and the end of December. The decline was, in both speed and magnitude, many times more severe than any change in the dollar-won exchange rate during the previous eight years. Had the won rebounded quickly enough to recover all or almost all of the initial loss, the Department might have been inclined to view the won's decline at the end of 1997 as nothing more than a sudden, but only momentary drop, despite the magnitude of that drop. As it was, however, there was no significant rebound. We continue to determine that the decline in the won at the end of 1997 was so precipitous and large that the dollar-won exchange rate cannot reasonably be viewed as having simply fluctuated during this time, *i.e.*, as having experienced only a momentary drop in value. Therefore, for purposes of the final determination, the Department continued to use daily rates exclusively for currency conversion purposes for home market sales matched to U.S. sales occurring between November 1 and December 31, 1997. For sales occurring after December 31, but before March 1, 1998, the Department continued to rely on the standard exchange rate model, but used as the benchmark rate a (stationary) average of the daily rates over this period. In this manner, we used an "up-to-date" (post-precipitous drop) benchmark, but at the same time avoided undue day-to-day fluctuations in the exchange rates used. For sales occurring after March 1, the standard model and standard (rolling, 40-day) benchmark rate were used (*see* Comment 1 below).

Critical Circumstances

On September 24, 1998, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of ESBR from Korea. Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

For purposes of the preliminary determination, we found that no critical circumstances existed because there was no history of dumping, and the preliminary margins were insufficiently high to impute knowledge of dumping to exporters, producers, or importers of the subject merchandise. Because the margin remains insufficiently high to impute such knowledge, our final determination of critical circumstances remains negative (*see* Comment 4 below).

Verification

As provided in section 782(i) of the Act, we verified the information submitted by KKPC for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, and original source documents provided by KKPC.

Interested Party Comments

General Issues

Comment 1: Exchange Rate Methodology

The petitioners argue that the Department did not fully analyze its methodology for currency conversion used in the preliminary determination in which it modified the exchange rate database by using the actual daily exchange rates during the period of devaluation, November 1, 1997–December 31, 1997, to convert prices denominated in Korean won into U.S. dollars. The petitioners contend that the Department neither explained how it identified the devaluation of the Korean won as too precipitous and large to represent a fluctuation, nor did it cite any support for its decision to use a modified benchmark for sales after January 1, 1998, which provided no clear notice to interested parties as to what the official exchange rate would be on a particular date of sale. The petitioners argue that the Department's methodology used for the preliminary determination, in addition to being unnecessarily complex and unpredictable, is inconsistent with Congressional intent that the currency conversion process not distort dumping margins, and should, therefore, not be used for purposes of the final determination.

The petitioners contend that the Department should, instead, use its standard exchange rate model, which would treat the won as a fluctuating currency. As an alternative, the petitioners suggest that the Department apply its existing "sustained movement" analysis (used for situations in which a foreign currency appreciates against the U.S. dollar) to the period of devaluation in Korea. The petitioners claim that using this approach would deny an exporter the benefit of lower dumping margins when it is selling products in the United States at less than fair value, and would also provide a consistent treatment of both increases and decreases in the value of the foreign currency. Finally, the petitioners suggest that, as a third option, the Department limit the POI to the seven months preceding the devaluation of the won.

KKPC argues that the depreciation in the Korean won cannot be considered a "fluctuation" because its value at the end of March 1998, three months after the period of devaluation, was still 50 percent less than what it had been in October 1997, which is contrary to the definition of a fluctuation. Further, KKPC asserts that the Department's "sustained movement" analysis is designed to prevent artificial dumping margins created by appreciations in the foreign currency in situations in which there would ordinarily be no margins. KKPC contends that if the Department were to implement a "sustained movement" policy to devaluating currency situations, it would apply an exchange rate reflective of the pre-devaluation period to prices reflective of the won's devaluation, and would, thus, penalize exporters that immediately adjust their prices when the foreign currency depreciates in value instead of waiting to adjust prices until after the won rebounds in value. KKPC cites to recent cases involving currency depreciations in which the Department chose not to follow this approach (*e.g.*, *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 72268, 72269 (December 31, 1998)). Moreover, KKPC argues that the Department should not alter the POI because the Department's regulations require that the Department investigate sales during the four fiscal quarters prior to the filing of the petition. KKPC asserts that the petitioners had knowledge of the currency devaluation in Korea before filing the antidumping petition, and could have avoided a POI including the devaluation of the won by filing their petition at an earlier date.

DOC Position

We have continued to use the currency conversion methodology used for purposes of the preliminary determination, for the reasons explained in the *Preliminary Notice*. Although neither party requested that we use separate averaging periods, the petitioners did request that we consider using a truncated POI. Under section 777A(d)(1)(A) of the Act, the Department has wide latitude in calculating the average prices used to determine whether sales at less than fair value exist. More specifically, under 19 CFR 351.414(d)(3), the Department may use averaging periods shorter than the POI where NV, EP, or constructed export price varies significantly over the POI. In the instant case, NV (in dollars) in the last five months of the POI differs significantly from NV earlier in the POI due primarily to a significant change in the underlying dollar value of the won. In this case, the change is evidenced by the precipitous drop in the won's value that occurred in November and December 1997, without a quick, significant rebound. The won's value decreased by more than 40 percent in relation to the dollar in the span of these two months and remained substantially at this new lower value for the remainder of the POI. While we do not believe that it is appropriate in this case to ignore sales that occurred in the latter five months of the POI, and, thus, truncate the POI as the petitioners have proposed, it is appropriate to use two averaging periods to avoid the possibility of a distortion in the dumping calculation. Therefore, we have used two averaging periods for purposes of the final determination: April through October 1997, and November 1997 through March 1998.

We disagree with the petitioners' claim that we should not have modified the currency conversion model, as was done for purposes of the preliminary determination. As the petitioners themselves have acknowledged, "whenever the decline in the value of a foreign currency is so precipitous and large as to reasonably preclude the possibility that it is only fluctuating, the lower actual daily rates will be employed from the time of the large decline." *Exchange Rate Methodology*, Policy Bulletin, March 4, 1996. The petitioners dispute our interpretation of the movement in the dollar-won exchange rate during November and December of 1997 as so precipitous and large as to reasonably preclude the possibility that it was only fluctuating. However, as KKPC points out in its case brief, within an approximately two-month period, the won's value fell from 920 per U.S. dollar to 1700 per U.S. dollar. In addition, while the won recovered slightly after the rapid two-month decline, it did not regain its value of the period prior to the rapid devaluation. A devaluation of almost 50 percent over a period of two or three months cannot reasonably be seen as a mere fluctuation. Accordingly, the Department continued to apply the currency conversion methodology outlined above in the "Currency Conversion" section, and divided the POI into two separate averaging periods for purposes of the final determination.

Sales Issues

Comment 2: Calculation of Home Market Credit Expenses

According to KKPC, the Department erred in its decision to not include home market VAT in the price used as the basis for the calculation of home market credit expenses. KKPC explains that the purpose of calculating credit expenses is to determine the economic cost to the seller when it decides to allow the customer to delay its payment. KKPC asserts that the Department should calculate credit expenses based on the total price actually paid by the customer, because the cost to KKPC of the delayed payment must be measured by the total amount on which payment was delayed, which includes the tax-exclusive price, plus VAT. KKPC argues that calculating credit expenses on a tax-exclusive basis understates the economic effect of its decision to extend credit.

Furthermore, KKPC states that calculating credit expenses net of only VAT, without also deducting other costs borne by the seller, is incongruent with the Department's stated methodology in *Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, From the United Kingdom*, 58 FR 3253 (January 8, 1993)(*Sulphur Vat Dyes*). KKPC argues that the treatment of VAT should not differ from the treatment of other costs that the seller pays from the proceeds of the sale (*e.g.*, commissions), and asserts the Department has never calculated credit expenses net of such other costs.

KKPC cited cases in which the Department calculated credit expenses based on prices that include taxes (*e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Mexico*, 57 FR 42953 (September 17, 1992); *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From Brazil*, 56 FR 26977 (June 12, 1991); and *Notice of Final Results of Administrative Review of Antidumping Duty Order: Color Television Receivers from Korea*, 49 FR 50420 (December 28, 1984). KKPC contends that the Department's past practice on calculating credit expenses has been inconsistent, and that there is no rationale for excluding VAT from the total price paid by the customer.

The petitioners state that such a circumstance-of-sale adjustment for credit expenses relating to VAT is not warranted by the Department's regulations, and refer to the stated methodology concerning credit expense calculations in *Notice of Final Determination of Sales at Not Less Than Fair Value: Stainless Steel Bar from Italy*, 59 FR 66921 (December 28, 1994), in which the Department explained that the regulations contain no indication that an adjustment should be granted for a government imposed tax such as VAT, or for any type of so-called "opportunity cost." The petitioners assert that KKPC did not support its argument with any statutory or regulatory basis. In addition, the petitioners argue that KKPC supports its argument with cases that are outdated, and that the Department has since then reflected on the treatment of VAT for credit expense calculations and concluded that it should not make a circumstance-of-sale adjustment for imputed interest expenses related to the payment of VAT. Finally, the petitioners assert that the Department should continue to calculate credit expenses net of VAT, because these expenses do not bear a "direct relationship" to the sales in question, as defined by the Department's regulations.

DOC Position

We agree with the petitioners. As the petitioners noted, we have evaluated this issue in past cases, and have come to the conclusion that our regulations do not imply that we should treat the payment of VAT as an opportunity cost to the seller on behalf of the buyer (*See Sulfur Vat Dyes*). Furthermore, no statute or regulation requires us to include VAT in the home market credit expense calculation (*see Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 33041, 33050 (June 17, 1998)). As the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol. 1 (1994) (SAA) states at page 827, "[t]he deduction from normal value for indirect taxes constitutes a change from the existing statute. The change is intended to ensure that dumping

margins will be tax-neutral." Thus, Congress specifically intended for normal value to be tax-neutral. Accordingly, computing imputed credit expenses on a price that specifically includes an indirect tax such as the VAT, as KKPC insists that we do, would be clearly inconsistent with Congressional intent on this subject. For the final determination, we are following our established practice of excluding VAT from home market credit expense calculations for purposes of the final determination (*see Frozen Concentrated Orange Juice From Brazil: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 64 FR 5767, 5769 (February 5, 1999)).

Comment 3: Home Market Date of Sale

The petitioners argue that the Department should not use KKPC's invoice date as the date of sale for its larger home market customers, because the terms of sale are established at an earlier date (*i.e.*, the order date). The petitioners cite past cases in which the Department used a date other than the invoice date for the respondent's date of sale, and assert that the Department can appropriately use KKPC's order date as the date of sale. The petitioners state that at a minimum, because KKPC's order dates are not on the record, the Department should use KKPC's date of shipment as the date of sale, since this information is on the record of this proceeding. The petitioners explain that because of the currency crisis in Korea, the order date during this time period may precede the invoice date by more than a month, which can have a significant effect on the calculation of dumping margins.

KKPC asserts that it properly reported the invoice date as the date of sale for all sales to its larger home market customers, because in the normal course of business, such customers place orders and receive shipments throughout the month. KKPC maintains that it recognizes home market sales, and records them as sales in its accounting records, when it issues the invoice to the customer. In addition, KKPC states that reporting the shipment date for these sales based on the month-end invoice date understates the number of days between shipment and payment, reduces the amount of credit expense relating to the sale, and overstates the resulting dumping margin calculated for KKPC, since the average shipment date would be at the middle of the month. KKPC argues that the petitioners' allegation is untimely, because they had not contended its use of the invoice date as the date of sale until their case brief. Further, KKPC contends that using the invoice date is consistent with the Department's regulations, and that the petitioners did not provide a sufficient basis to use a different date. Finally, KKPC contests that, although the sales quantity can be tied to its transaction statements that are prepared for each shipment prior to invoicing, the invoice itself is the first document generated in its sales process which provides written evidence of the sales price charged to the customer. KKPC explains that the transaction statement and invoice relating to a specific shipment are always generated in the same month that the shipment is made, and, therefore, all of its relevant sales were included in the sales listing reported to the Department.

DOC Position

We agree with KKPC. The Department's current practice is to use invoice date as the date of sale, unless record evidence demonstrates that the material terms of sale, i.e., price and quantity, are established on a different date. *See* 19 CFR 351.401(i). The Department explained in the preamble to its regulations at 62 FR 27348 (May 19, 1997):

> * * * as a matter of commercial reality, the date on which the terms of a sale are first agreed is not necessarily the date on which those terms are finally established. In the Department's experience, price and quantity are often subject to continued negotiation between the buyer and the seller until a sale is invoiced.

As noted in its responses to Sections A, B, and C of our questionnaire, KKPC explained its above-stated invoicing methodology for its home market customers. Furthermore, we noted "* * * no inconsistencies between the information concerning the date of sale methodology in the company responses and the information gathered at verification." *See Sales Verification Report*, dated February 15, 1999, at page 9. During the course of this investigation, we found no indication that a different date is more suitable as a date of sale. We find that KKPC accurately reported the invoice date as the appropriate date of sale because the invoice date best reflected the date on which the essential terms of the sale were established.

Comment 4: Critical Circumstances

The petitioners request the Department reconsider their critical circumstances allegation, should it calculate a final dumping margin greater than 25 percent.

KKPC argues that even if the final calculated dumping margin, if any, exceeds 25 percent, there is no way that an importer knew or should have known that the subject merchandise was being sold at less than fair value. KKPC asserts that it is unfair for the Department to penalize importers with a retroactive assessment of duties when it changes its methodologies from the preliminary determination, which might cause the margin to exceed 25 percent, because an importer has limited information.

DOC Position

As stated above in the "Critical Circumstances" section of this notice, KKPC's margin does not exceed 25 percent for EP sales, and there are no CEP sales in this investigation. Therefore, we find both the petitioners' and KKPC's arguments to be moot in this case.

Cost Issues

Comment 5: Use of Fiscal Year Costs Versus POI Costs

According to KKPC, it correctly reported its costs based on the fiscal year (*i.e.*, January 1 through December 31, 1997) and not based on the POI, because, although KKPC calculates monthly ESBR manufacturing costs on a product-specific basis, the costs for certain expenses, such as severance and depreciation costs, are based on estimates. In addition, KKPC explains that its monthly ESBR manufacturing costs for materials and inventories are valued using a monthly moving average method, while the annual cost calculations use an annual average method. As a result, the summation of KKPC's monthly costs do not reconcile directly to the annual costs because the differences between the monthly costs through November and the annual costs are recorded as year-end adjustments to the December costs, which can lead to aberrant December costs.

Moreover, KKPC argues that the Department has allowed respondents to report fiscal year costs when the POI and fiscal year do not differ by more than a few months, citing *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 12725, 12734 (March 16, 1998), in which the Department granted the respondent's request to base its reported costs on its fiscal period rather than the period of review. KKPC asserts that it indicated its use of fiscal year data in its September 18, 1998, response to the Section D questionnaire, and that, although the petitioners asked the

Department to require KKPC to report POI costs, the Department did not request POI costs until verification. According to KKPC, it would be inappropriate for the Department to use the monthly POI costs now on the record, because the fiscal year 1997 covers nine months of the POI, and the monthly costs cannot be tied directly to its annual costs or to KKPC's financial statements.

The petitioners argue that, although KKPC has maintained that only its annual costs could be reconciled to its audited financial statements, information gathered at verification proves that the monthly cost statements could be reconciled to its financial statements. In support of its argument, the petitioners refer to the following items noted in the Department's *Cost Verification Report*, dated February 7, 1999: (1) KKPC's cost accounting system is integrated with its financial accounting system; (2) KKPC produces monthly trial balances, income statements, and COM statements; and (3) the unit costs calculated in the monthly COM statements match the unit costs as calculated in KKPC's reconciliation of reported costs to its annual COM statement. The petitioners assert that the monthly cost information reported to the Department at verification could have been provided at an earlier date, and that the Department should, therefore, consider the information to be submitted in an untimely fashion. In addition, the petitioners argue that in light of the increase in the COM during the first quarter of 1998, as noted in the *Cost Verification Report*, KKPC's decision to report fiscal year costs and not POI costs was intended to minimize its costs of production. The petitioners suggest that, consequently, the reported COMs should be rejected, and the Department should apply adverse facts available, using the rate of 118.88 percent for KKPC's sales of subject merchandise, as was applied to Hyundai.

The petitioners argue that if the Department decides not to reject KKPC's reported COMs, it should, at a minimum, adjust KKPC's reported COPs to reflect the differences in COM between the fiscal year 1997 and the POI. However, the petitioners state that an upward adjustment based on the percentage difference should not be used because of the devaluation of the Korean won at the end of the POI, which would benefit KKPC rather than penalize it. As an alternative, the petitioners suggest that, as adverse facts available, the Department should either: (1) limit the POI to the seven months prior to the devaluation of the won (*see* Comment 1 above); or (2) convert HM prices denominated in U.S. dollars to won both for purposes of the cost test, as well as for calculating NV. The petitioners explain that although KKPC has HM sales denominated in U.S. dollars, these US dollar prices reflect won-based prices that were converted to U.S. dollars for the convenience of KKPC's customers. The petitioners state that converting all HM prices into won would, therefore, be consistent with KKPC's pricing practice.

DOC Position

We disagree with the petitioners that we should reject KKPC's response in toto and apply total facts available for purposes of the final determination. We note that although the Department, in its May 21, 1998, Section D questionnaire at D–3, instructed KKPC to report its costs based on the costs incurred during the POI, KKPC reported its costs to the Department based on its fiscal year 1997. In its September 18, 1998, Section D response, KKPC stated that the company's cost accounting system calculates costs on an annual basis at the end of each fiscal year and these annual figures are the only calculations that reconcile to KKPC's audited financial statements (*See* pages 24 and 25 at footnote 9). KKPC further stated that while the company also calculates monthly product costs for management purposes, using the same methodologies used in the company's normal cost accounting system, these monthly management cost calculations are not used in KKPC's accounting systems and do not reconcile directly to the company's audited financial statements. Based on such claims, the Department did not require KKPC to report POI cost data subsequent to its September 18, 1998, submission. We note that the Department does allow a respondent to report fiscal year costs where there is only a few months difference between the POI and the company's fiscal year. In such instances, the Department will test the impact of the shift in the cost reporting period to ensure that the use of fiscal year costs is not distortive for purposes of our COP and CV analysis.

At the start of verification, contrary to its statements in its questionnaire responses, KKPC disclosed to Department officials that KKPC does, in fact, record monthly cost data in its accounting system. Consequently, we requested and reviewed KKPC's monthly cost data, noting that the monthly costs do reconcile to the company's audited financial statements, after accounting for year-end adjustments for certain expenses. During verification, we tested and compared the POI costs based on the monthly cost data to the reported fiscal year costs and noted that the per-unit COMs for each grade of ESBR for the POI were higher than the per-unit COMs for the fiscal year (*see Cost Verification Report* at pages 7 and 8 for a detailed discussion). Thus, in this instance, because the Department originally requested POI cost data, and our verification findings indicate that the use of the reported fiscal year cost data is distortive, we have used the verified POI cost data for purposes of the final determination, as facts available, in accordance with section 776(a) of the Act (*see Cost of Production and Constructed Value Calculation Adjustments for the Final Determination Memorandum*, dated March 19, 1999). *See e.g., Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand*, 60 FR 29553, 29568 (June 5, 1995) (where the Department disagreed with the respondent's reporting period for cost data, and used the costs obtained during the verification for purposes of the final determination).

Comment 6: Allocation of Financial Expenses to Investment Activities

KKPC argues that the Department erred in its calculation of financial expenses for purposes of the preliminary determination. KKPC calculated its financial expenses reported in the COP and CV data by allocating its total financial expenses between its investment activities and its manufacturing and sales activities, based on the ratio of the income generated by each of these lines of business. For purposes of the preliminary determination, the Department rejected KKPC's methodology and recalculated KKPC's financial expenses by allocating the company's total financial expenses over its cost of goods sold (*see Preliminary Notice* at 59517). KKPC, citing *Final Determination of Sales at Less than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Korea*, 55 FR 32659, 326678 (August 10, 1990) (*Sweaters from Korea*) and *Porcelain-on-Steel Cooking Ware from Mexico: Final Results of Antidumping Duty Administrative Review*, 58 FR 32095 (June 8, 1993), argues that the methodology adopted by the Department for its preliminary determination is not consistent with established Department practice. KKPC contends that, as the Department recognized in *Sweaters from Korea*, financial expenses incurred by a company relate both to the company's investment activities and to its

manufacturing and sales activities. Thus, KKPC asserts that an allocation that assigns all of the financial expenses to the company's manufacturing and sales activities is incorrect and urges the Department to revise its calculation of financial expenses for the final determination.

The petitioners argue that KKPC offers no compelling reason for the Department to deviate from its long-standing practice of allocating a company's total financial expenses over its cost of goods sold, and, therefore, urge the Department to deny KKPC's request for reallocation of its financial expenses to the company's investment activities.

DOC Position

We disagree with KKPC that we erred in rejecting its method of allocating interest expenses. As the Department has repeatedly stated, and the Court of International Trade has upheld, we

> recognize the fungible nature of a corporation's invested capital resources, including debt and equity, and we do not allocate corporate financing expenses to individual divisions of a corporation on the basis of sales per division. Instead, we allocate the interest expense related to the debt portion of the capitalization of the corporation, as appropriate, to the total operations of the consolidated corporation. More importantly, our established practice of requiring the use of consolidated financial statements recognizes: (1) the fungible nature of invested capital resources such as debt and equity of the controlling entity within a consolidated group of companies; and (2) that the controlling entity within a consolidated group has the power to determine the capital structure of each member company within its group (*see, e.g., Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands; Final Results of Antidumping Administrative Review*, 62 FR 38058 (July 16, 1997)).

E.I. Du Pont de Nemours & Co. v. *U.S.*, SLIP OP. 98–7 (CIT 1998).

In this instance, KKPC is asking that the Department deviate from its established practice of allocating financial expenses to the merchandise under investigation using consolidated results of operations (due to the proprietary nature of this issue, for a full explanation, please *see Memorandum to Louis Apple, Office Director, from Team*, dated March 19, 1999). Accordingly, for purposes of the final determination, we continued to rely on the interest expense calculation methodology used for purposes of the preliminary determination.

Comment 7: Treatment of Exchange Gains and Losses on Sales

KKPC argues that foreign exchange gains and losses arising from sales transactions should be included in the calculation of COP and CV. KKPC asserts that foreign exchange gains and losses on sales transactions relate to a company's general operations and, as such, should be included as part of the financial expense of the company. Furthermore, KKPC maintains that the treatment of exchange gains and losses on sales transactions as a cost of financing sales is inconsistent with the fundamental principle that money is fungible. Accordingly, KKPC argues that the Department's financial expense calculation should include all exchange gains and losses, including gains and losses that arise from sales transactions.

The petitioners maintain that KKPC presents no compelling justification for the Department to deviate from its long-standing policy of excluding exchange gains and losses on sales transactions from the calculation of COP and CV.

DOC Position

We disagree with KKPC. The Department typically only includes foreign exchange gains and losses in a respondent's financial expense if such gains and losses are related to the cost of acquiring debt. Moreover, it is the Department's normal practice to distinguish between exchange gains and losses realized or incurred in connection with sales transactions and those associated with purchase transactions. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Trinidad and Tobago*, 63 FR 9177, 9181 (February 24, 1998) (*Steel Wire Rod from Trinidad and Tobago*). The Department normally includes in its calculation of COP and CV foreign exchange gains and losses resulting from transactions related to a company's manufacturing activities (*e.g.*, purchases of inputs). We do not consider exchange gains and losses from sales transactions to be related to the manufacturing activities of the company. *See, e.g., Steel Wire Rod from Trinidad and Tobago*, 63 FR at 9181 and *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile*, 63 FR 31411, 31430 (June 9, 1998). Accordingly, for purposes of the final determination, we disallowed exchange gains and losses arising from sales transactions in the COP and CV calculation.

Alleged Clerical Errors Made in the Preliminary Determination Margin Calculation Program

Comment 8: Corrections to KKPC's Direct Labor Costs

In the preliminary determination, we recalculated KKPC's reported direct labor cost, because, based on information on the record at the time, we could not reconcile KKPC's reported direct labor costs to its total labor costs. KKPC notes that, subsequent to the Department's preliminary determination, the company provided a reconciliation of its direct labor costs to its total labor costs in its November 2, 1998, response to the Department's section D supplemental questionnaire. In addition, KKPC states that the Department verified that the direct labor costs were calculated correctly. Therefore, KKPC asserts that the Department should accept the reported direct labor costs and should, accordingly, correct the margin program.

DOC Position

We agree. We have made the appropriate corrections for purposes of the final determination.

Comment 9: Product Characteristics Used for Purposes of Model Matching

The petitioners argue that, for purposes of the preliminary determination, the Department improperly excluded grade as one of the matching criteria in performing its model matching. In addition, the petitioners claim that by excluding grade, the Department assigned one control number to two different ESBR products (*i.e.*, ESBR grades 1502 and 1507).

KKPC asserts that the Department clearly stated its intention to not include grade as a matching criterion, and that by not doing so, two products are treated as one product. KKPC argues that these do not constitute inadvertent or clerical errors, and that there is no basis for changing the matching criteria.

DOC Position

We agree with both the petitioners and KKPC, in part. In response to our April 28, 1998, letter to interested parties, in which we requested information concerning the product characteristics, the petitioners stated that "* * * any product matching that relied simply on the IISRP grading system as product matching criteria, rather than on the essential physical characteristics of ESBR product, would necessarily fail to match certain product sales that properly should be included

in the Department's matching analysis." We, therefore, used the product characteristics attached to the petitioners' aforementioned response as our matching criteria, and did not include grade as a product characteristic. Excluding the grade from the matching criteria was, therefore, not an inadvertent or clerical error.

However, based on the arguments raised in this proceeding, we have reexamined our matching criteria. We note that indeed two of KKPC's reported products are assigned one control number based on our matching criteria, as verified. *Sales Verification Report* at page 6. Based on KKPC's written description of ESBR grades 1502 and 1507, as noted in its June 18, 1998, response to Section A of the Department's questionnaire, grade 1507 has a "* * * lower mooney viscosity than the 1500 and 1502 grades." Based on our review of the record in this case, we find that the ranges for mooney viscosity, as defined by KKPC's standard specifications (and also reflected in the IISRP's *The Synthetic Rubber Manual*), are different for grades 1502 and 1507. In addition, there are cost and price differences between these two grades based on KKPC's submitted COPs and sales listings. Therefore, we recognize that mooney viscosity is an essential product characteristic that defines the grade, and conclude that KKPC's sales of grades 1502 and 1507 should be treated as two separate products for purposes of the final determination (*see Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review: Roller Chain, Other than Bicycle, from Japan*, 62 FR 60472, 60475 (November 10, 1997) (where the Department used additional product characteristics for the final results in order to prevent grouping of physically diverse chain as identical or similar merchandise)). In addition, for purposes of any future administrative reviews, the Department intends to include mooney viscosity as a product characteristic for matching purposes (*see Final Calculation Memorandum*).

Comment 10: Quantity Variable Used in the Margin Program

The petitioners argue that the Department made a certain inadvertent programming error in its preliminary margin calculation, and that the Department should correct this error for purposes of the final determination. Specifically, the petitioners note that the Department overstated the U.S. sales quantity by using an incorrect quantity variable.

DOC Position

We agree. We have made the appropriate corrections for purposes of the final determination (*see Final Calculation Memorandum*).

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of ESBR from Korea that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Korea Kumho Petrochemical Co., Ltd.	16.65
Hyundai Petrochemical Co., Ltd.	118.88
All Others	16.65

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act, from the calculation of the "All Others Rate."

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7526 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–821]

Notice of Final Determination of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or John Maloney, Import Administration: Group II, Office V, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–2613 or (202) 482–1503, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR part 351, 62 FR 27926 (May 19, 1997).

Final Determination

We determine that emulsion styrene-butadiene rubber (ESBR) from Mexico is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of

Liquidation" section of this notice, below.

Case History

Since the preliminary determination in this investigation on October 28, 1998 (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Mexico*, 63 FR 59519 (November 4, 1998) (Preliminary Determination)), the following events have occurred:

On November 23, 1998, we received revised factual information from Industrias Negromex, S.A. de C.V. (Negromex) regarding its sales responses. In December 1998 and January 1999, we conducted on-site verifications of questionnaire responses submitted by Negromex and its affiliated U.S. importer, GIRSA, Inc. (GIRSA). Also, in January and February 1999, we requested and received Negromex's revised home market and U.S. sales databases reflecting verification revisions. On February 10, 1998, the petitioners (*i.e.*, Ameripol Synpol Corporation and DSM Copolymer) and Negromex submitted case briefs. On February 17, 1999, the petitioners and Negromex submitted rebuttal briefs. We held a public hearing on February 22, 1999.

Scope of Investigation

For purposes of this investigation, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to this investigation are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber." ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1997, through March 31, 1998.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Investigation" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Fair Value Comparisons

To determine whether sales of ESBR from Mexico to the United States were made at less than fair value, we compared the Constructed Export Price (CEP) to the Normal Value (NV). Our calculations followed the methodologies described in the preliminary determination except as noted in the Constructed Export Price and Normal Value sections of this notice, below.

Level of Trade

In the preliminary determination, we conducted a level of trade analysis for Negromex. We determined that a level of trade adjustment was warranted in lieu of a CEP offset. *See* Department's October 28, 1998, Level of Trade Analysis Memorandum to the File from The Team through James Maeder. Both Negromex and the petitioners commented on this issue. We have determined that it is appropriate to continue to make a level of trade adjustment in lieu of a CEP offset in this case. *See* Comment 2 in the "Interested Party Comments" section of this notice, below. Accordingly, for purposes of the final determination, we continue to hold that a level of trade adjustment, when appropriate, is warranted for Negromex.

Constructed Export Price

As in the preliminary determination, we used CEP methodology for all sales by Negromex, in accordance with section 772(b) of the Act, because sales to the first unaffiliated purchaser took place after importation into the United States. We revised the U.S. indirect selling expense ratio of Negromex's affiliated importer, GIRSA, based on our findings at verification. *See* Comment 4 in the "Interested Party Comments" section of this notice, below. In addition, based on our findings at verification, we included a warranty expense in the United States in our calculation of CEP. Finally, we revised Negromex's reported date of sale, and we adjusted the quantity for one sale, for sales made under two long-term contracts consistent with our established date of sale methodology as discussed in Comment 3 in the "Interested Party Comments" section of this notice, below. *See also* Department's March 19, 1999, Final Determination Calculation Memorandum.

Normal Value

We used the same methodology to calculate NV as that described in the "Normal Value" section of the preliminary determination with the following exceptions:

For home market sales invoiced and paid in U.S. dollars, we used the reported dollar amount for purposes of calculating NV.

For one sale in the home market with no reported payment date, we used the last day of verification as the payment date.

Cost of Production

We calculated the cost of production (COP) based on the sum of Negromex's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative (SG&A) and financial expenses and packing costs, in accordance with section 773(b)(3) of the Act. We relied on the submitted COPs, with the following exceptions: (1) Based on our findings at verification, as facts available, we adjusted the reported cost of direct materials by increasing the cost of the portion of styrene purchased from an affiliated party (*see* Comment 7, below); (2) we revised the G&A expense ratio based on changes resulting from verification; and (3) we included a

portion of the reported gains and losses on monetary position in our calculation of financial expenses (*see* Comment 6, below).

Constructed Value

In accordance with section 773(e) of the Act, we calculated constructed value (CV) based on the sum of Negromex's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. We relied on Negromex's submitted CV except for the adjusted direct materials cost and G&A and financial expense ratios as noted in the "Cost of Production" section above.

Currency Conversion

As in the preliminary determination, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank in accordance with section 773A of the Act.

Interested Party Comments

Comment 1: Treatment of Additional Matching Criteria Proposed by Negromex

The petitioners argue that Negromex's proposal for the addition of five matching criteria (ash content, free soap content, styrene content variance, mooney viscosity variance, and vulcanization time tolerance) to the Department's model match was untimely. According to the petitioners, Negromex had the opportunity to suggest matching criteria from the onset of this investigation and, in fact, was requested to do so by the Department in a May 4, 1998, letter. Because Negromex did not respond to that request and, instead, proposed the five additional criteria after the issuance of the questionnaire, the petitioners assert that the Department must reject Negromex's argument for the additional criteria as late.

If the Department accepts Negromex's proposal as timely, the petitioners argue that any minor variations in ESBR resulting from customers' specifications should not lead the Department to treat ESBR with the same IISRP grade as distinct products. According to the petitioners, even though Negromex may make minor adjustments to its production process to meet customers' specifications, Negromex has not shown that such minor adjustments result in products different from the products produced within the same IISRP grade. The petitioners assert that the Department's practice is to consider physical characteristics of the final product, as opposed to minor adjustments to the production process, in selecting model matching criteria. *See Notice of Final Determination of Sales at Less than Fair Value: Stainless Steel Wire Rod from Japan*, 63 FR 40434, 40445 (July 29, 1998) (*SSWR from Japan*). The petitioners claim that a customer's specifications often call for a narrower range than Negromex's general specifications for the percentage content of a specific input of ESBR. However, the petitioners argue, it is likely that all ESBR produced by Negromex falls within that narrower range. As a result, the petitioners contend that ESBR with the same physical properties would be treated by the Department as different products and would lead the Department to improperly compare products based on customer specifications instead of comparing products according to significant physical properties.

The petitioners also argue that Negromex has not demonstrated any cost differences between ESBR produced for a customer's specifications and other ESBR with the same IISRP grade. According to the petitioners, the absence of cost differences distinguishes this case from *Notice of Final Determination of Sales at Less than Fair Value: Certain Pasta from Italy*, 61 FR 30326 (June 14, 1996) (*Pasta from Italy*), where the Department accepted an additional physical characteristic as a matching criterion because it materially affected the cost of production.

The petitioners further contend that, contrary to Negromex's claim, ESBR produced according to a customer's specifications is not different from general-specification ESBR simply because a customer will reject ESBR not meeting its specifications. According to the petitioners, differences between customer-specific and general-specification ESBR are only due to varying ranges of refinement that different customers require within the same IISRP grade and are insufficient to create different products for purposes of model matching. The petitioners assert that Negromex misinterpreted section 771(16)(A) of the Act, defining "identical" merchandise, when it argued that ESBR products are not identical unless they have identical chemical contents rather than allowable ranges of content within a grade. According to the petitioners, the Department determined that steel products with different widths were still identical if they were within the same width range set out in the Department's matching criteria. *See Certain Cold-Rolled Carbon Steel Flat Products from Germany; Final Results of Antidumping Duty Administrative Review*, 60 FR 65264, 65270 (December 19, 1995) (*Carbon Steel Germany*). The petitioners also assert that the Department has found that customer preferences should not be considered in determining identical merchandise. *See Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 18404, 18446 (April 15, 1997) (*Carbon Steel Korea*).

Negromex argues that it included additional product characteristics in response to the Department's questionnaire requesting inclusion of any characteristics relevant to identifying home market sales of identical merchandise. *See* Department's May 21, 1998, questionnaire at B6 and C6. Thus, Negromex asserts that its proposal for the inclusion of the five additional characteristics as matching criteria was timely and, furthermore, that the Department did not treat the information as untimely because the Department requested more information on those characteristics in the August 13, 1998, supplemental questionnaire and considered the inclusion of the characteristics as matching criteria for purposes of the preliminary determination.

According to Negromex, the Department's rejection of the five additional product characteristics in the preliminary determination resulted in all ESBR within an IISRP grade being treated as identical merchandise. Negromex asserts that such a result does not reflect commercial reality because each of the five additional product characteristics proposed by Negromex is essential in order to meet particular specifications of its customers. Negromex alleges that the record demonstrates that Negromex produces ESBR either according to general IISRP specifications or according to customers' proprietary specifications, and that its customers will reject merchandise if it does not meet specifications, even if the product meets the specifications of an IISRP grade. Negromex argues that the Department improperly treated proprietary-specification ESBR and general-specification ESBR as identical merchandise. Negromex contends that such a result is precluded by section 771(16)(A) of the Act and Department precedent that it is inconsistent to consider products sold according to different specifications as identical. *See Certain Cut-to-Length Carbon Steel Plate from Finland; Final Results of Antidumping Duty Administrative*

Review, 62 FR 18468, 18470–71 (April 15, 1997) (*Carbon Steel Finland*).

Negromex argues that, in order to compare only sales of physically identical merchandise, the Department's model matching criteria must incorporate all commercially significant physical characteristics of the products subject to investigation. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Antidumping Duty Administrative Review*, 63 FR 18879, 18881 (April 16, 1998) (*Lead and Bismuth*). Negromex further argues that Department precedent establishes that the creation of a product concordance relies on the matching of significant physical characteristics. *Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, from Japan*, 62 FR 60472, 60475 (November 10, 1997) (*Roller Chain*).

Negromex asserts that physical characteristics, as opposed to production costs, govern the identification of identical merchandise. On that issue, Negromex alleges that the Department has held that a common production process with identical production costs may produce distinct products with differing physical characteristics. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from India*, 63 FR 72246, 72250 (December 31, 1998); *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 63 FR 37334, 37335 (July 10, 1998) (*PET Film from Korea); Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile*, 63 FR 31411, 31416 (June 9, 1998). Additionally, Negromex asserts that the Department has accepted the principle by treating off-specification ESBR and on-specification ESBR as non-identical products in the preliminary determination, even though Negromex shows the same costs for those two product types.

Negromex argues that the five additional product characteristics are commercially significant and should be included in the Department's model match because each characteristic is critical to the manufacture of ESBR, the sale of ESBR, and the use of ESBR by Negromex's customers. *See* Negromex's September 3, 1998, submission at page B22. In addition, Negromex states that the *Synthetic Rubber Manual*, included in the petition, recognizes both styrene content variance and mooney viscosity as important physical characteristics of ESBR. Furthermore, Negromex argues that the record in this case establishes that it sells ESBR as either "off-specification," "general (IISRP) specification," or "proprietary specification," and that sales of proprietary-specification ESBR require it to produce several types of ESBR 1502 and 1712, which the Department verified. *See* December 22, 1998, Sales Verification Report at 10.

Negromex finally argues that the record shows that it must alter its production inputs and processes in order to meet customers' specifications, including specifications for the five proposed characteristics. In addition, Negromex asserts that the record shows that quality checks are made to ensure that a customer's specifications are met. All of this, Negromex urges, shows that the proposed five additional characteristics are commercially relevant and should be included by the Department's as model matching criteria for purposes of the final determination.

DOC Position

We agree with the petitioners that the addition of the five matching criteria proposed by Negromex (ash content, free soap content, styrene content variance, mooney viscosity variance, and vulcanization time tolerance) is not necessary to identify identical merchandise for model matching purposes in this case. As discussed in the preliminary determination, we determined that the ten product characteristics included in our questionnaire designate the IISRP ESBR grade and sufficiently defined identical products for matching purposes. *See* Preliminary Determination at 59522. After a review of Negromex's comments, we are not persuaded that their proposed criteria are necessary to appropriately match sales of subject merchandise in the United States with identical merchandise in the home market.

The Department has broad authority to determine model matching criteria and necessarily selects criteria on a case-by-case basis. The selection of appropriate matching criteria to define identical merchandise under section 771(16)(A) of the Act is based on meaningful physical characteristics and interested parties' comments. The Department does not attempt to account for every conceivable physical characteristic and may rely upon product standards when selecting matching criteria. The criteria selection process allows the Department to "draw reasonable distinctions between products for matching purposes, without attempting to account for every possible difference inherent in the merchandise." *Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Canada*, 63 FR 9182, 9197 (February 24, 1998) (*Wire Rod from Canada*). In this process, the Department matches products as "identical," consistent with section 771(16)(A) of the Act, even though they may contain minor physical differences. *Wire Rod from Canada* at 9197. Additionally, the Department has determined that a range of products can be treated as identical within the meaning of section 771(16)(A) of the Act. *Carbon Steel Germany* at 65271 (where the Department determined that steel products falling within the same width and thickness ranges were identical); *see also Carbon Steel Korea* at 18446 (where the Department treated products with distinct paint coatings as identical and noted that products do not have to be "technically substitutable, purchased by the same types of customers, or applied to the same end use" in order to be treated as "identical" merchandise within the meaning of section 771(16)(A) of the Act (citation omitted)).

In order to determine "meaningful physical characteristics" for selection in identifying identical merchandise, the Department has looked to both price differences in the marketplace and cost differences that may reflect different production processes. In *Pasta from Italy*, the Department found an additional proposed matching criterion, wheat quality, to be "commercially significant and an appropriate criterion for product matching" after finding that differences in wheat quality were reflected in wheat costs and pasta prices. *Pasta from Italy* at 30346; *see also Extruded Rubber Thread from Malaysia; Final Results of Antidumping Duty Administrative Review*, 62 FR 62547 (November 24, 1997) (where color was accepted as an appropriate matching criterion because it materially affected cost). However, costs are not always indicative of whether two products are identical, and we recognize that the same production process and costs can result in different products. For example, in *PET Film from Korea*, the Department found that the same costs and production process produced different products, but there the two products at issue were physically different grades of film of markedly different levels of quality and value. *PET Film from Korea* at 37335. Cases where the Department has found non-identical products with the same production process and costs usually involve seconds or other differences in

quality that affect value. *See Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile*, 63 FR 31411, 31416 (June 9, 1998) (where the Department found different grades of salmon from the same production process and with identical costs).

Even though product matching issues are decided on a case-by-case basis, we can take guidance from cases where the Department has addressed product matching issues involving products classified according to standardized grades. In such cases, the Department will typically match by grade, based on the appropriate physical characteristics describing the grade, but normally will not choose criteria to account for minor differences within a grade. For example, in *SSWR from Japan*, we selected the American Iron and Steel Institute (AISI) grade as a matching criterion in place of actual chemical content. In that case, we found that grade sufficiently defined the physical characteristics for matching purposes and decided that a type of steel with unique manufacturing processes was not a different product because the chemical content of that steel "falls within the ranges of established standard AISI steel grades." *SSWR from Japan* at 40445; *see also Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Taiwan*, 63 FR 40461 (July 29, 1998) (where the Department matched products as identical based on the grades of the product). However, where a product's characteristics are outside the permissible range of chemical content established by a defining grade or specification, we may reflect such a difference in our criteria if the difference is significant. In *SSWR from Japan*, we found that the respondents had appropriately reported their internal grades, in lieu of AISI grades, only when the chemical compositions of those internal products went beyond the range established by the standard AISI grade specifications. *SSWR from Japan* at 40436.

In this case, the ten matching criteria used by the Department in the preliminary determination, which are based on the IISRP standard grades, sufficiently take account of all the commercially meaningful physical characteristics for model matching. The five additional matching criteria proposed by Negromex are not necessary in this case to define identical products because they represent minor differences within ESBR grades. Rather, we find that the internationally-recognized grade classifications set forth by the IISRP provide an objective basis for appropriately distinguishing between different ESBR products.

We do not agree that subject merchandise produced according to proprietary specifications is a different product than merchandise produced according to Negromex's general specifications, which comport with an internationally-recognized IISRP standard grade. The record indicates that proprietary specifications only further refine the chemical ranges already defined by the general specifications for the ESBR grade. We found no cases where a customer's proprietary specifications for a characteristic went beyond the permissible range for that physical input (*e.g.*, styrene content variance) in Negromex's general specifications. The evidence on the record shows that proprietary-specification ESBR falls within permissible ranges for the percentage and variance of material inputs and finished product physical properties of general-specification ESBR. *See* Department's December 22, 1998, Sales Verification Report at verification exhibit 9; Department's February 2, 1999, Sales Verification Report at verification exhibit 10; and Negromex's June 18, 1998, submission at Exhibit 7. The facts on the record indicate that ESBR meeting a customer's proprietary specifications would also meet Negromex's general specifications. *See* December 22 Report at 10 and verification exhibit 9 and February 2 Report at verification exhibit 10.

We recognize that the exact measure of all chemical properties will differ among Negromex's various ESBR sales, even though ESBR with varying levels of those properties fall within one IISRP grade. The additional matching criteria proposed by Negromex would serve only to subdivide several ESBR sales falling within one IISRP standard grade into several "different" products for matching purposes. This would cause the Department to recognize "different" products based on the exactness of the chemical contents in customers' proprietary specifications, even though these chemical contents are within the range of the industry standard specification for a grade. Therefore, there is no reason to depart from the industry standard and accept criteria based on these minor differences reflected in customers' specifications.

We also disagree with Negromex that the "significance" of the additional criteria is undeniable based on the fact that its customers can reject merchandise for not meeting customer specifications (including the specifications for the proposed additional criteria). Although we recognize that customers can reject merchandise if it is not to their specifications, this fact, standing alone, is not a sufficient basis to determined that physical characteristics are "commercially significant."

Moreover, the proposed additional criteria are not meaningful physical characteristics because the minor differences that they represent within a grade have no cost effect. Negromex has reported the same cost for ESBR grade 1502, and the same cost for grade 1712, regardless of whether a particular sale of either grade is designated as general specification or proprietary specification. *See Pasta from Italy*. In addition, although, as discussed above, identical processes and costs may produce different products, such products are normally seconds or have a different quality level reflected in their value. While we have distinguished off-specification merchandise, *i.e.*, seconds, in our model matching, the record indicates that proprietary-specification ESBR is not a second and does not have a unique quality level demonstrated by a difference in value, and there are no cost differences. Therefore, we see no compelling reason to treat it as a different product. *See PET Film from Korea*.

Notably, Negromex has not argued any price differences for proprietary-specification ESBR that it alleges is a different product. As stated, a demonstration of price differences would have supported Negromex's argument that its additional criteria are meaningful physical characteristics. *See Pasta from Italy*.

Negromex asserts that *Roller Chain* supports acceptance of the additional matching criteria because they are "commercially significant." Negromex's reliance on *Roller Chain*, however, is misplaced because that case did not involve industry product standards or making distinctions between products that meet one industry grade. Rather, it involved making distinctions between physically diverse products. The minor variations at issue here are merely variations within an industry grade and do not result in physically diverse products.

Negromex also relies on *Lead and Bismuth* in its argument. In *Lead and Bismuth*, the Department determined that the impurity level in the steel (*i.e.*, residual value) was a significant physical characteristic even though there were no cost differences. As already stated, we necessarily choose matching criteria on a case-by-case basis because of myriad different products in antidumping investigations. The steel product in *Lead and Bismuth* was

highly specialized and, as a result, we found that impurities were a significant characteristic in that case despite the lack of cost differences. In this case, the proposed criteria represent only minor differences within grade specifications and are not meaningful physical characteristics. As a result, our decision is not inconsistent with *Lead and Bismuth*.

Additionally, Negromex argues that the decision in *Carbon Steel Finland* supports acceptance of their proposed criteria. However, in that case, the Department made identical matches based on national specifications which are analogous to industry standards such as IISRP ESBR grades. *Carbon Steel Finland* at 18470. The Department did not match in that case based on customer-specific specifications. Thus, we are not persuaded that we should accept criteria for matching based on customers' proprietary specifications.

We note that, as discussed in the companion case to this investigation on ESBR from the Republic of Korea, the Department determined that an additional physical characteristic, mooney viscosity, should be added as a model matching criterion because, in that case, mooney viscosity was the sole physical property that distinguished ESBR grades 1502 and 1507. In this case, we do not need any of the five additional criteria, including mooney viscosity, to differentiate ESBR grades. We will add mooney viscosity as a model matching criterion, if necessary, in any future administrative review.

For the reasons stated above, we find that the ten matching criteria included in our questionnaire are sufficient to identify identical ESBR for matching purposes in this investigation.

Finally, we disagree with the petitioners that Negromex's proposal for the addition of five matching criteria was untimely. The Department's May 21, 1998, questionnaire states, "[y]ou may add additional product characteristics." *See* the Department's May 21, 1998, questionnaire at pages B–6 and C–6. Negromex first provided information on the five proposed additional matching criteria in its July 13, 1998, response to the Department's questionnaire. As a result, Negromex's proposal for the addition of the five matching criteria was not untimely and was considered for purposes of the final determination in this investigation.

Comment 2: Negromex's Claim for a CEP Offset

Negromex asserts that there is no LOT in the home market comparable to the CEP level of trade and that the levels of trade in the home market are more advanced in the distribution chain than the CEP level of trade. Consequently, Negromex argues that the Department must grant a CEP offset under section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

Negromex claims that the record establishes that the home market end user and distributor levels of trade each constitutes a more advanced LOT than the CEP level of trade. Negromex states that it sells directly to unaffiliated distributors and end users in the home market. Negromex also states that GIRSA resells to both unaffiliated distributors and unaffiliated end users in the United States. According to Negromex, its sales to GIRSA (CEP sales) must be at a less advanced market stage than home market sales because GIRSA resells to the same types of customers that Negromex sells directly to in the home market. Negromex asserts that sales in the home market to distributors or end users cannot be at the same LOT as sales to GIRSA (CEP sales) because GIRSA resells to distributors and end users.

Negromex also argues that verified information on the record establishes that the home market levels of trade are more advanced than the CEP level of trade. According to Negromex, there are eighteen separate selling functions performed in support of ESBR sales in the home market and in the United States. Negromex asserts that sixteen of those eighteen functions were performed in support of sales to unaffiliated distributors and all eighteen were performed in support of sales to end users. Negromex claims that its submissions, and the Department's verification reports, confirm its claims. Negromex next asserts that, in contrast, it performs only four of the eighteen selling functions in support of its sales to GIRSA. *See* Negromex's November 23, 1998, submission at Exhibit 6. The remainder of the selling functions, argues Negromex, are performed by GIRSA on behalf of its U.S. customers. For selling functions shared by Negromex and GIRSA (*i.e.*, technical services, application advice, advertising and sales promotion), Negromex claims that such functions are not performed on sales to GIRSA. Further, Negromex argues that its advertising expenses in the United States should not be included within the CEP selling functions because those expenses are attributable to U.S. economic activity. *See* section 772(d) of the Act and 19 CFR 351.402(b). Finally, Negromex asserts that technical service and application advice by Negromex is rare. Thus, because of the limited number of selling functions performed at the CEP level of trade and the greater number performed by Negromex in the home market, Negromex argues that both home market levels of trade are at a more advance stage of distribution than the CEP level of trade. As a result, Negromex asserts that section 773(a)(7)(B) of the Act requires that the Department grant a CEP offset in this investigation.

The petitioners argue that the Department properly denied Negromex a CEP offset in the preliminary determination and should continue to do so for purposes of the final determination. According to the petitioners, under section 773(a)(7)(B) of the Act, a CEP offset may be made only when two conditions are satisfied. First, NV must be established at a level of trade that is more advanced than the level of trade of the CEP. Second, the information available does not provide the Department with a basis to quantify a LOT adjustment. The petitioners argue that neither condition has been met and, thus, no CEP offset should be granted.

The petitioners assert that, in the preliminary determination, the Department properly concluded that home markets sales made at the unaffiliated distributor level of trade were comparable to U.S. sales at the CEP level of trade. As a result, the petitioners claim that the first statutory condition for a CEP offset has not been met because there is a comparable level of trade in the home market to the CEP level of trade. In addition, the petitioners argue that the second statutory condition for a CEP offset was not met because, according to the petitioners, there is sufficient data on the record to determine the basis for a LOT adjustment.

The petitioners argue that Negromex performs the same types of selling activities at the same quality and intensity for both home market sales to unaffiliated distributors and CEP sales. According to the petitioners, Negromex has tried to change this "fact" by downplaying the extent of its selling activities supporting its CEP sales. The petitioners assert that, in general, Negromex understates its selling functions in support of CEP sales by portraying selling functions performed by Negromex as selling functions performed by GIRSA. Regarding technical service support specifically, the petitioners allege that, even if GIRSA handles some routine technical questions, the most important technical support comes from experts in Mexico.

The petitioners further assert that, contrary to Negromex's argument, Negromex's affiliation with GIRSA does not preclude comparability between

those sales and sales to unaffiliated customers in the home market. According to the petitioners, the affiliation of a purchaser is not relevant to whether the same LOT can be found. In addition, the petitioners claim that Negromex has not demonstrated any real differences between the home market unaffiliated distributor LOT and the CEP LOT. The petitioners argue that the Department's regulations require, at the minimum, "substantial differences" in selling activities to find a different LOT. *See* 19 CFR 351.412(c)(2). In addition, the petitioners assert that the Department requires purchasers at different places in the distribution chain and sellers performing qualitatively or quantitatively different functions in selling to them to find a different LOT. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Carbon Steel South Africa*). According to the petitioners, Negromex has not shown that its purchasers in the home and U.S. markets occupy different places in the distribution chain, nor has Negromex shown substantially different selling functions between sales to unaffiliated distributors and sales to GIRSA. As a result, the petitioners urge the Department to continue to find that the same LOT exists in both markets.

DOC Position

We disagree with Negromex. As we stated in our preliminary determination, in accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the LOT is also that of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer in the comparison market. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Carbon Steel South Africa*.

Negromex requested a CEP offset prior to our preliminary determination in this investigation. *See* Negromex's June 18, 1998, response at A13. We examined Negromex's claim based on the analysis described above. We compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, exclusive of economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market levels of trade constituted more advanced stages of distribution than the CEP level of trade. *See* Department's October 28, 1998, Level of Trade Analysis Memorandum to the File from The Team through James Maeder. We found that "one of the levels of trade in the home market, sales to unaffiliated distributors, was comparable to the CEP level of trade because of the similarities between the class of customer and distribution channel." Preliminary Determination at 59521. Negromex asserts that information placed on the record subsequent to the preliminary determination demonstrates that its home market sales were made at more advanced levels of trade than its sales to GIRSA. In light of the additional information on the record, we have revisited our LOT analysis.

We continue to find that Negromex sold to two levels of trade in the home market, the end user level of trade and the unaffiliated distributor level of trade. We find two distinct levels of trade in the home market because Negromex's sales to end users are at a more advanced stage in the chain of distribution and involve quantitatively and qualitatively more selling functions than its sales to unaffiliated distributors. In addition, we continue to find that Negromex's home market sales to unaffiliated distributors are made at a level of trade comparable to the CEP level of trade. Although Negromex may perform nominally more selling functions in support of its sales to the unaffiliated distributor LOT than it does in support of its sales to the CEP LOT, we are not persuaded that these differences in selling functions are so substantial as to result in two distinct levels of trade.

Differences in selling activities do not require us to find two distinct levels of trade. *See, e.g., Carbon Steel South Africa* at 61732 (where the Department found that differences in selling functions, even substantial differences, do not alone sufficiently establish a difference in the level of trade); *see also* 19 CFR 351.412(c)(2) ("substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing").

In reexamining this issue, we find that both Negromex's unaffiliated distributors and GIRSA are resellers of ESBR to unaffiliated end users and both occupy the same place along the chain of distribution. In fact, Negromex stated that GIRSA "is akin to that of a master distributor." Negromex's June 18, 1998, response at A18. Thus, we disagree with Negromex's argument that its sales to GIRSA are at a less advanced marketing stage because GIRSA, in turn, sells to the same types of customers as Negromex. Moreover, both Negromex's home market distributors and GIRSA provide significant services to their ESBR customers and both function at the same place in the chain of distribution for sales of ESBR in their respective markets.

Regarding the selling functions performed in support of Negromex's home market and CEP sales, for purposes of the preliminary determination, we found that Negromex performed analogous levels of selling functions in support of its home market sales to unaffiliated distributors and its CEP sales to GIRSA. *See* Preliminary Determination at 59521; *see also* the Department's October 28, 1998, Level of Trade Analysis Memorandum to the File through James Maeder. Our analysis of selling functions, both for the preliminary determination and for the final determination, focused specifically on home market sales to unaffiliated distributors for comparison to CEP sales. Negromex's arguments that its home market selling functions are not comparable to its CEP selling functions did not clearly distinguish between selling functions in support of sales to unaffiliated distributors as opposed to selling functions in support of sales to end users. In its case brief, Negromex argues that the levels of trade are not comparable "[w]hen the very limited number of selling functions performed by Negromex at the CEP level of trade on its sales to GIRSA, Inc. are compared to the full range of selling functions performed by Negromex on its sales to unaffiliated endusers and unaffiliated distributors in the home market." Negromex's February 10, 1999, Case Brief at 29. Selling functions performed in support of sales to end users,

however, are not relevant to our comparisons between the unaffiliated distributor LOT and the CEP LOT. We have focused our analysis on a comparison between the unaffiliated distributor LOT and the CEP level of trade.

Negromex reported revised selling functions information in its November 23, 1998, submission. The revised selling functions information differed from the information relied on for the preliminary determination (*see* Negromex's June 18, 1998, Section A response at Exhibit A–5) in two significant ways. First, in its November 23 submission, Negromex reports either "Yes" or "No" for a selling function, rather than the degree of a selling function (i.e., High, Medium, Low) as it had for some selling functions in its Section A response. Second, in its latter submission, Negromex reports eighteen selling functions instead of the eight reported in its Section A response. *See* Negromex's November 23, 1998, submission at pages 7–12 and Exhibit 6. We find, however, that, of the ten "additional" selling functions reported by Negromex, six out of the ten merely reflect subdivisions of selling functions already reported by Negromex in its June 18 response. For example, the "Inventory Maintenance" selling function originally reported became "Immediate Post Production Storage" and "Inventory Maintenance at Negromex Facilities."

Negromex argues that it performs fourteen selling functions in support of unaffiliated distributor sales but only four selling functions in support of CEP sales. However, our analysis of the information on the record indicates that the numerical disparity in the selling functions has been substantially overstated. For example, Negromex reports that it performs inventory maintenance at its facilities for sales to distributors, but not for sales to GIRSA. However, the Department learned at verification that "Negromex provides inventory maintenance at its plant for U.S. sales." Department's December 22, 1998, Sales Verification Report at 7–8. In addition, we found at verification that Negromex also performs technical service and application support functions from Mexico for its U.S. sales. *See* Department's February 2, 1999, Sales Verification Report at 7. As stated, a substantial difference in selling functions, *inter alia*, must exist in order for the Department to find a different LOT; a difference in the number of selling functions alone is not sufficient. Although there are some differences in selling functions between sales to distributors and sales to GIRSA, the differences are not substantial. For example, the degree of the selling function labeled "Collection," performed for distributors, was originally reported as "Low" and subsequently has been reported as "Yes." Negromex reports this as "No" for sales to GIRSA and relies on this as one of the differences between the selling functions, but we find that a small difference in collection levels is not a significant difference in selling activities. At verification, Negromex provided no evidence of substantial differences in these selling functions.

Finally, the four new selling functions claimed by Negromex (credit analysis, sales administration, post-sale customer service, and contract/purchase order negotiation), reported as performed in support of sales to distributors but not to GIRSA, are not significant selling activities and Negromex has not supplied any information to indicate otherwise.

We find that Negromex's sales to unaffiliated distributors in the home market and to GIRSA in the United States are made at the same point in the chain of distribution and involve selling functions that are not substantially different. As a result, we continue to find that the unaffiliated distributor LOT in the home market is comparable to the CEP level of trade. Consequently, we made a LOT adjustment if we compared sales in the United States to sales at the end user LOT in the home market based on the established pattern of price differences between the two levels of trade in the home market. Because we matched sales at the comparable home market LOT and made a LOT adjustment, if necessary, we did not make a CEP offset to NV.

Comment 3: Date of Sale for Long-Term Contracts

As found in the preliminary determination, Negromex's affiliated U.S. importer, GIRSA, sold ESBR during the POI to one U.S. customer under two long-term contracts. The terms of each year-long contract provided that the U.S. customer was obligated to purchase a minimum amount of ESBR during the contract's year-long duration. Prices for the minimum required annual quantities were established in the contracts based on a mathematical formula incorporating the published monthly monomer prices and prices of butadiene and styrene, two major inputs of ESBR.

Although Negromex originally acknowledged that these were long-term contracts and thus reported the contract date as the date of sale for the two contracts at issue, Negromex now argues that the Department should not use the contract date as the date of sale, but refers to these contracts as "consignment inventory contracts" and argues that these are not long-term contracts, but rather monthly sales based on the consignment terms of the contracts. Negromex contends that the Department's practice regarding consignment sales is to treat the date on which the customer withdraws inventory from consignment as the date of sale. *See Notice of Preliminary Results of Antidumping Duty Administrative Review: Ferrosilicon from Brazil*, 62 FR 16763, 16767 (April 8, 1997) *(Ferrosilicon from Brazil)*; *Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods from France*, 58 FR 68865, 68870 (December 29, 1993) (*Rods from France*). Under the contract terms, a monthly quantity (1/12th of the annual minimum quantity requirement) was set to be purchased and withdrawn from consignment with an allowable variance of plus or minus twenty percent each month. According to Negromex, the Department's precedent regarding consignment contracts should be followed in this case because the quantity under the contracts was not fixed on the dates of contract but on the dates when the customer removed merchandise from its consignment inventory. Negromex imputes the fifteenth of each month as the average date for all of the U.S. customer's withdrawals from consignment during every month and urges the Department to adopt the fifteenth of each POI month as the dates of sale for each of the contracts at issue.

Alternatively, if the Department determines that the date of sale was not governed by the contracts' monthly consignment inventory terms, Negromex argues that the Department should use the invoice dates as the dates of sale. Because GIRSA's U.S. customer often failed to meet the contracts' monthly purchase requirements, Negromex asserts that the contract date did not establish the quantity term and thus it was not a long-term contract. Therefore, according to Negromex, the contract date should not be used as the date of sale. In support of its position, Negromex references a case in which, because the customer's monthly purchases exceeded the contract's monthly quantity requirements, the Department determined that the date of sale was the invoice date. *See Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative*

Review, 63 FR 55578 (October 16, 1998) (*Tubes from Thailand*).

The petitioners urge the Department to continue to use the contract date as the date of sale for the two long-term contracts. In support of their position, the petitioners refer to the Department's statutory provisions which allow the Secretary to choose a date other than invoice date as the date of sale when another date more accurately reflects the final determination of a sale's material terms by an exporter or producer. *See* 19 CFR 351.402. The petitioners assert that the Department should use the contract date as the date of sale because that was the date on which the parties legally bound themselves to the essential terms of sale, i.e., price and quantity.

The petitioners assert that the Department's policy in deciding date of sale for long-term contracts with minimum quantity requirements has been to recognize the contract date as the date of sale for all merchandise sold up to the minimum quantity requirement. *See Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Japan*, 56 FR 12156 (March 22, 1991); *Titanium Sponge From Japan: Final Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke in Part*, 54 FR 13403, 13404 (April 3, 1989). *See also Toho Titanium Co., Ltd.* v. *U.S.*, 743 F. Supp. 888, 890–91 (CIT 1990). The petitioners argue that Negromex recognized that these were long-term contracts and therefore properly included sales made under the two long-term contracts invoiced after the POI in its response to the Department's Section C questionnaire. *See* Negromex's July 13, 1998, response at C14–C15.

According to the petitioners, *Tubes from Thailand* is unpersuasive because the facts of that case involved neither a long-term contract nor a minimum quantity requirement. Similarly, the petitioners assert that cases cited by Negromex dealing with consignment sales contracts are also irrelevant in this case because those cases did not involve long-term contracts with minimum quantity requirements, but rather were merely sales made on consignment. *See Ferrosilicon from Brazil; Rods from France*. The petitioners conclude that Negromex was unable to demonstrate why the Department should deviate from its practice of using contract date as the date of sale for long-term contracts and argue that the Department should continue using the contract date as the date of sale in this case.

DOC Position

We disagree with Negromex. As discussed in the preliminary determination, we followed our practice of using contract dates as the dates of sale for these two U.S. long-term contracts because we determined that price and quantity were fixed on the contract dates. We are not persuaded by Negromex's arguments that the quantity terms in the two contracts were not fixed and, consequently, these are not long-term contracts. Therefore, the average day of release from consignment each month is not the appropriate date of sale for sales under the two contracts.

Pursuant to 19 CFR 351.401(i), the date of sale is normally the date of invoice unless satisfactory evidence is presented that the material terms of sale, price and quantity, are established on some other date. *See also Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14067 (March 29, 1996). The Department has determined that a long-term contract's price term is fixed if it is established by a published source outside of the control of either party to the contract, such that there is nothing more that the parties need to negotiate concerning the price of the goods sold. *See Final Determination of Sales of Less Than Fair Value: Brass Sheet and Strip From France*, 52 FR 812, 814 (January 9, 1987). In addition, the Department has determined that, for a long-term contract with a minimum quantity requirement, the contract date is the date of sale for the minimum quantity specified in the contract. However, for situations in which a customer has not yet agreed to purchase quantities above the minimum requirement, the Department will use the date of invoice (or other appropriate date) as the date of sale for all amounts sold in excess of the minimum requirement. *See Titanium Sponge From Japan; Final Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke in Part*, 54 FR 13403, 13404 (April 3, 1989); *see also Toho Titanium Co., Ltd.* v. *U.S.*, 743 F. Supp. 888, 890–91 (CIT 1990).

Because the price terms of the long-term contracts in this investigation were based on a set formula of published monthly prices for major inputs which were outside either contracting party's control, we continue to find that the price was fixed on the contract dates. It was on the dates of contract, therefore, that Negromex, as the price discriminator, set the prices for these sales. Moreover, we are also unpersuaded that the minimum quantity was not fixed at the time of the contracts. Negromex points to the fact that the contracts indicate 1/12th of the annual quantity is to be purchased each month, with an acceptable variance of plus or minus twenty percent. However, although monthly quantities to be withdrawn under the year-long contracts deviated more than twenty percent for some months, the annual quantities set by the contracts were not subject to any variation and the full amount was required to be purchased during the contract year. Thus, the fact that any minimum monthly amount was not withdrawn from inventory does not negate the fact that the annual quantity term was fixed by the parties on the contract date, regardless of the actual terms of delivery thereafter. We disagree with Negromex that these are "consignment inventory contracts," and find that the monthly withdrawal terms are merely delivery terms which provide stability for both parties throughout the duration of these long-term contracts.

Moreover, Negromex's attempt to equate the types of consignment sales found in *Ferrosilicon from Brazil* and *Rods from France* is without merit given our facts because those cases did not deal with long-term contracts with established fixed minimum annual quantity requirements, but were merely sales from consignment, as pointed out by the petitioners. Finally, regarding Negromex's alternative argument if the Department does not find these to be merely consignment sales, *Tubes from Thailand* did not deal with a long-term contract, and the short-term contract at issue did not actually fix the quantity term. Thus, the Department appropriately used the invoice date as the date of sale in that case. Based on the evidence before us, we are not persuaded to change our practice on the date of sale issue in this case and, thus, have continued to use the contract dates as the dates of sale for the minimum quantity requirements of the two U.S. long-term contracts. However, as in the preliminary determination, for any quantity sold above the minimum contract requirements, we used the reported average day of withdrawal from consignment (the fifteenth day of the month preceding the invoice date) as the date of sale.

Comment 4: Calculation of Negromex's U.S. Indirect Selling Expense Factor

The petitioners contend that the Department should adjust GIRSA's indirect selling expense allocation because the Department was unable to verify GIRSA's allocation of indirect expenses between subject and non-subject merchandise. The petitioners

urge the Department to reallocate GIRSA's indirect selling expenses in accordance with the petitioners' calculation methodology as provided in their February 17, 1999, rebuttal brief.

Negromex contends that it correctly allocated the indirect selling expenses of GIRSA and that the Department should continue to use the reported allocation of indirect selling expenses in the final margin calculation. In its response, Negromex allocated GIRSA's indirect selling expenses among sales of all rubber products, including ESBR and non-subject merchandise. *See* Department's February 2, 1999, Sales Verification Report at 13. Negromex asserts that it correctly allocated GIRSA's indirect selling expenses attributable to all rubber sales based on GIRSA's accounting records and that the Department should not reallocate these indirect selling expenses.

DOC Position

We agree with the petitioners that we should reallocate Negromex's indirect selling expenses. At verification, GIRSA did not provide documentation supporting its allocation of indirect selling expenses. For example, GIRSA was unable to justify its allocation of all supplies and furniture depreciation expenses to sales of rubber products, including ESBR, and it could not support its allocation of no indirect selling expenses to certain non-subject merchandise. *See* Department's February 2, 1999, Sales Verification Report at 13. Therefore, because GIRSA was unable to substantiate its indirect selling expense allocation between rubber products and non-subject merchandise, we reallocated the total amount of indirect selling expenses for all GIRSA products over the total amount of GIRSA's POI sales for all products. *See* Department's February 2, 1999, Sales Verification Report at 14; *see also* Department's March 19, 1999, Final Determination Calculation Memorandum.

We note that the petitioners, in their rebuttal brief, recalculated GIRSA's indirect selling expense allocation using the same methodology as outlined by the Department in its verification report. However, upon reviewing the petitioners' calculation, we found clerical errors. Accordingly, we did not adopt the calculation provided by the petitioners. Instead, we applied the amount as calculated in our verification report. *See* Department's February 2, 1999, Sales Verification Report at 15.

Comment 5: Adjusting Normal Value for Export Rebates

Negromex grants rebates on ESBR sales to home market customers who incorporate the purchased ESBR into exported non-subject merchandise. Negromex's ESBR customers certify amounts of ESBR used in their exported finished goods, calculate their respective ESBR rebates, and submit rebate documentation for Negromex's approval. *See* Department's December 22, 1999, Sales Verification Report at 17. After approving a customer's export rebate calculation, Negromex applies an export rebate to the customer's next invoice and issues a credit note for the rebate upon the customer's request. *See* Department's December 22, 1999, Sales Verification Report at 17; *see also* Negromex's September 3, 1998, response at Exhibit SB–8.

The petitioners argue that the Department should not deduct these rebates from normal value, arguing that to do so would wrongly encourage "input dumping," a practice which promotes lower export prices in that raw material suppliers charge their customers less for raw materials incorporated into exported products. *See* Petitioners' February 10, 1999, Case Brief at 11. In this case, the petitioners assert that because Negromex's export rebates provide Negromex's customers opportunities to sell their goods at prices lower in foreign markets than in the Mexican market, the Department should follow its practice of denying price adjustments for export rebates, as the Department views these rebates as "input dumping." *See Notice of Final Determination of Sales at Less than Fair Value: Open-End Spun-Rayon Singles Yarn from Austria*, 62 FR 43701, 43708 (Aug. 15, 1997) (*Rayon Singles Yarn*); *Final Results of Antidumping Duty Administrative Review: Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan*, 56 FR 26382, 26383 (June 7, 1991) (*Carbon Steel Tubing Taiwan*).

Negromex asserts that the Department correctly adjusted normal value for the export rebates which Negromex grants its customers who incorporate ESBR into their exported products. According to Negromex, the petitioners are mistaken in analogizing their export rebates to "input dumping" because the Department has only applied the "input dumping" principle to deny a manufacturer's claim to normal value adjustments for export rebates it receives from suppliers. The Act, argues Negromex, mandates an adjustment of normal value for all price adjustments, including export-based rebates, in order to correctly compare normal value with prices at which ESBR is first sold in the United States. *See* Section 773(a)(1)(B) of the Act. Negromex notes that the Department has upheld adjustments for similar export-based rebates in recent decisions and maintains that the Department should follow its precedent of allowing export rebates in this case. *See Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 33041, 33045–46 (June 17, 1998) (*Tube from Mexico*).

DOC Position

We agree with Negromex. Section 773(a)(1)(B)(i) of the Act requires the Department to calculate normal value in a manner which most closely approximates "the price at which the foreign like product is first sold * * * for consumption in the exporting country. * * *" In order to accurately reflect the foreign like product's price, the Department must account for all price adjustments in calculating the home market product's normal value. *See* 19 CFR 351.401(c). Because rebates affect the price of subject merchandise in the home market, we agree that the export rebates should be deducted in the calculation of Negromex's normal value price in this case. *See* 19 CFR 351.401.

The petitioners' application of the "input dumping" concept to the circumstances of this case is misplaced. The Department has acknowledged that the practice by which raw materials suppliers price their raw materials differently based on whether customers incorporate the raw material into domestic or export products constitutes "input dumping." *Carbon Steel Tubing Taiwan* at 26383. The Department's policy consistently has been to deny finished goods manufacturers an adjustment to normal value for export rebates received from upstream raw material suppliers. *Carbon Steel Tubing Taiwan* at 26383; *Rayon Singles Yarn* at 43708. The issue facing the Department in this case, however, is not a finished goods manufacturer's claim for an adjustment to NV for export rebates granted by its raw material supplier. Instead, Negromex is claiming an adjustment to NV for an export rebate granted to its home market customers. Therefore, in keeping with our policy to allow respondents an adjustment to normal value for export rebates granted to downstream customers who incorporate the material into their exported products (*see Tube from Mexico* at 33045–46), for purposes of the final determination, we have continued

to adjust for export rebates in our calculation of normal value.

Comment 6: Gains and Losses on Monetary Position

Negromex contends that the Department should include the full amount of reported net gain on monetary position in its calculation of financial expenses. Negromex explains that these adjustments reflect the gain on holding net monetary liabilities against reduction in the value of the peso. According to Negromex, these inflation adjustments are required by Mexican generally accepted accounting principles (GAAP), and the Department's practice in Mexican cases is to include these adjustments in the calculation of financial expenses. *See Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 17148, 17160 (April 9, 1997) (*Cement from Mexico*).

The petitioners did not comment on this issue.

DOC Position

We agree with Negromex, in part. We agree that the gain on monetary position should be included in the financial expense calculation, but we disagree that it should be included in full. In accordance with section 773(f)(1)(A) of the Act, the Department's practice is to rely on costs derived from the respondent's books and records, as long as they: (1) Are prepared in accordance with the home country's generally accepted accounting principles ("GAAP"); (2) are based on allocations that have been historically used by the company; and (3) do not result in distorted production costs. Negromex has historically computed a net gain or loss on monetary position for financial reporting purposes in accordance with Mexican GAAP. This gain or loss reflects the impact of Mexican inflation during the year on holding monetary assets and liabilities.

In this instance, due to the inflation experienced in Mexico during the POI, we consider it reasonable to include in the interest expense computation the impact of holding monetary assets and liabilities throughout the year. Even though Negromex normally computes its net gain or loss on monetary position using all monetary assets and liabilities (both current and long-term), we computed the net gain amount using only Negromex's current monetary assets and liabilities. The gain on monetary position and the foreign exchange loss, in this case, are directly linked. That is, the same foreign-denominated debt caused both a foreign exchange loss and a gain on monetary position. The foreign exchange loss is driven by the devaluation of the peso as compared to other currencies whereas the gain on monetary position is driven by high inflation during the year. Consistent with our current practice of including in the interest expense calculation only a portion of the foreign exchange gains and losses related to foreign-denominated debt (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from the Republic of Korea*, 63 FR 8934, 8940 (February 23, 1998)), we only included a portion of the gain on monetary position related to Negromex's monetary assets and liabilities.

Our preferred method for computing the portion of foreign exchange gains and losses related to debt is to amortize the gains or losses over the remaining life of the foreign-denominated loans. Alternatively, the Department may, as was done in this case, determine the portion of the exchange gains or losses to include in the financing expense computation based on the ratio of the current portion of the foreign-denominated debt to total foreign denominated-debt, provided that it reasonably approximates the result of using the remaining life of the debt. *See Wire Rod from Canada* at 9187. Following this approach, we consider it appropriate to include in the net monetary gain or loss computation only those asset and liability amounts classified as current. To only include the current portion of the foreign exchange gains or losses related to debt but to include the entire gain or loss on monetary position would be unreasonable and distortive. We note that, in *Cement from Mexico*, we used both current and long-term monetary assets and liabilities to compute the gain on monetary position. However, we also included the foreign exchange gains and losses on both the current and long-term foreign denominated debt. Our practice has developed since that case in that we now only include a portion of the foreign exchange gains and losses related to foreign-denominated debt and thus we will only include a comparable portion of the gains or losses on monetary position.

Comment 7: Purchase of Styrene From an Affiliated Party

At verification, the Department discovered that Negromex purchased styrene, a major input in the production of ESBR, from an affiliated party, Resirene S.A. de C.V. (Resirene). This information was not reported to the Department in the company's questionnaire responses. The petitioners argue that Negromex failed to make timely disclosure of its purchases of styrene from Resirene, denying the Department and the petitioners a reasonable opportunity to analyze and address the costs of this input. The petitioners, citing to 19 CFR 351.407(b) (the major input rule), point out that, in dealing with transactions between affiliated companies, it is the Department's practice to value major inputs at the highest of the transfer price, market price, or actual production cost. However, the petitioners contend, lack of verifiable evidence from Negromex in this instance precludes an application of the major input rule.

According to the petitioners, the Department's attempt at verification to examine the nature of Negromex's transaction with Resirene and test the transfer price between the two companies does not establish an adequate basis for application of the major input rule. Specifically, the petitioners claim that the Department relied primarily upon oral explanations by Negromex's materials manager and faxed documents from Resirene (*i.e.*, Resirene's financial statements and a schedule of its purchases of styrene from unaffiliated suppliers during the POI). The petitioners note that the Department did not speak to anyone at Resirene and did not inspect any original documentation at that company, rendering the faxed documents obtained at verification unverified.

Furthermore, the petitioners assert that the transfer price between Negromex and Resirene, which according to Negromex's official represents Resirene's purchase price and cost of freight, does not cover Resirene's entire cost of obtaining the material, such as general and administrative expenses. Absent verified data concerning Resirene's full cost of purchasing styrene, the petitioners argue that Negromex's reported costs of styrene cannot be analyzed properly under the major input rule. Therefore, the petitioners urge the Department to use facts otherwise available in determining Negromex's costs of styrene for purposes of the final determination.

Negromex contends that it properly reported its styrene costs in its questionnaire response. Negromex notes that the cost of styrene recorded in the company's accounting system and included in the COP and CV data reported to the Department consists of two items: (1) The costs of styrene purchased from an unaffiliated company; and (2) the costs of styrene

purchased from its affiliate, Resirene. Negromex explains that it engages in a joint purchasing arrangement with Resirene under which Resirene purchases styrene from unaffiliated suppliers and resells it to Negromex. According to Negromex, Resirene's sales of styrene to Negromex are not included in Resirene's total sales and the costs are not included in the company's cost of sales, as they are merely pass-through transactions. Accordingly, Negromex contends that it would be inappropriate to include G&A expenses of Resirene to Negromex's purchases of styrene from Resirene.

DOC Position

We agree with the petitioners. In Section D of the Department's questionnaire, we instructed Negromex to identify inputs that the company receives from affiliated parties. *See* the Department's May 21, 1998, questionnaire at D–3. In its questionnaire response, Negromex stated that "[a]ll raw materials, service (water, electricity, and natural gas) and subcontractor inputs are purchased from non-affiliated parties. There were no purchases of any inputs used in the production or manufacture of ESBR 1502 or 1712 from affiliated parties" *See* Negromex's September 22, 1998, Section D response at D6. However, as noted above, we found at verification that Negromex purchased a portion of styrene used in the production of ESBR from Resirene.

Section 773(f)(3) of the Act provides that, if transactions between affiliated parties involve a major input, then the Department may value the major input based on cost of production if the cost is greater than the amount (higher of transfer price or market price) that would be determined under section 773(f)(2). Under this provision, the Department is required to review purchases from affiliated parties of major inputs in order to determine that they reasonably reflect a fair market value. In this instance, Negromex failed to provide information regarding its purchases of styrene from Resirene in its questionnaire responses, thus precluding the Department from adequately addressing this issue prior to verification. Furthermore, at verification, the information Negromex presented to the Department was insufficient to verify that Negromex's purchases of styrene from Resirene were at fair market value. Specifically, we were unable to review source documentation substantiating Negromex's claim that its styrene purchases from Resirene are merely "pass-through" transactions.

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsections 782(d) and (e), use facts otherwise available in reaching the applicable determination. In addition, section 776(b) provides that an adverse inference may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information.

As detailed above, Negromex withheld information concerning its purchases of styrene from an affiliated party in its questionnaire responses. Moreover, Negromex did not disclose this information at the start of verification, but rather it was discovered by the Department during verification, as described in the verification report. *See* Department's January 6, 1999, Cost Verification Report at 4. Under these circumstances, we were unable to obtain sufficient information needed to apply the major input rule, because, as described above, the information provided about Resirene at verification was not verified. Thus, we determine that use of partial facts available is appropriate in valuing the cost of styrene in our calculation of cost of production and constructed value. Furthermore, because Negromex failed to comply with the Department's request for information regarding purchases of inputs from affiliated parties, we find that it failed to cooperate to the best of its ability in providing this information, and therefore, adverse inferences are warranted. This is consistent with the Department's practice of applying adverse facts available when certain requested information is withheld by an interested party in its questionnaire response, but discovered at verification. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56620 (October 22, 1998); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Spain*, 63 FR 40391, 40396 (July 29, 1998). As facts available, we adjusted Negromex's reported direct materials cost by increasing the cost of the portion of styrene purchased from Resirene by the amount of Resirene's G&A expenses as computed from the company's 1997 financial statements. *See* Cost of Production and Constructed Value Calculation Adjustments for the Final Determination Memorandum, dated March 19, 1999.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of ESBR from Mexico that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted average margin percentage
Negromex	33.01
All Others	33.01

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act, from the calculation of the "All Others Rate."

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO)

of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7527 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–406]

Certain Agricultural Tillage Tools From Brazil; Rescission of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of countervailing duty administrative review.

SUMMARY: On November 30, 1998 (63 FR 65748), in response to a request from Marchesan Implementos e Máquinas Argícolas ("Marchesan") (respondent), the Department of Commerce (the Department) initiated an administrative review of the countervailing duty order on certain agricultural tillage tools from Brazil, for the period January 1, 1997 through December 31, 1997. In accordance with 19 CFR 351.213(d)(1), the Department is now rescinding this review because the respondent has withdrawn the request for review.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, (202) 482–3692, or Tipten Troidl, (202) 482–1767, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR Part 351 (1998).

Background

On October 29, 1998, the Department received a request to conduct an administrative review of the countervailing duty order from the respondent for the period January 1, 1997, through December 31, 1997. No other interested party requested a review of this countervailing duty order. On November 30, 1998, the Department published in the **Federal Register** (63 FR 65748) a notice of "Initiation of Countervailing Duty Administrative Review" initiating the administrative review of the respondent for that period. On March 1, 1999, respondent withdrew the request for review.

Section 19 CFR 351.213(d)(1) of the Department's regulations stipulates that the Secretary may permit a party that requests a review to withdraw the request not later than 90 days after the date of publication of the notice of initiation of the requested review. In this case, respondent has withdrawn the request for review within the 90-day period. No other interested party requested a review and we have received no other submissions regarding respondent's withdrawal of the request for review. Therefore, we are rescinding the review of the countervailing duty order on certain agricultural tillage tools from Brazil.

This notice is published in accordance with section 751 of the Act and section 19 CFR 351.213(d)(1).

Dated: March 19, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for AD/CVD Enforcement Group II.

[FR Doc. 99–7520 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–404]

Live Swine From Canada: Extension of Time Limit for Preliminary Results of Five-Year Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of extension of time limit for preliminary results of five-year ("sunset") review

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the sunset review on the countervailing duty order on live swine from Canada. Based on adequate responses from domestic and respondent interested parties, the Department is conducting a full sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy. As a result of this extension, the Department intends to issue its preliminary results not later than June 21, 1999.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230; telephone: (202) 482–6397, or (202) 482–1560 respectively.

Extension of Preliminary Results

The Department has determined that the sunset review of the countervailing duty order on live swine from Canada is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended ("the Act"), the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). *See* section 751(c)(6)(C) of the Act. The Department is extending the time limit for completion of the preliminary results of this review until not later than June 21, 1999, in accordance with section 751(c)(5)(B) of the Act. The final results of this review will, therefore, be due not later than October 28, 1999.

Dated: March 22, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7524 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110298A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Essential Fish Habitat Generic Amendment to the Fishery Management Plans of the U.S. Caribbean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of agency decision.

SUMMARY: NMFS announces the partial approval of the Essential Fish Habitat (EFH) Generic Amendment to the Fishery Management Plans (FMPs) of the U.S. Caribbean (Generic EFH

Amendment), as submitted by the Caribbean Fishery Management Council (Council).

ADDRESSES: Requests for copies of the Generic EFH Amendment (two volumes), which includes an environmental assessment, should be sent to the Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, Phone: 787–766–5926; FAX: 787–766–6239.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 727–570–5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, disapproval, or partial approval.

NMFS published guidelines to assist the regional fishery management councils in the description and identification of EFH in FMPs, including identification of adverse impacts from both fishing and non-fishing activities on EFH and identification of actions required to conserve and enhance EFH (62 FR 66531, December 19, 1997).

On November 20, 1998, NMFS published a notice of public availability of the Generic EFH amendment, and requested comments (63 FR 64463). A 60-day public comment period on the amendment ended on January 19, 1999. No regulations were published for this amendment. A summary of the comments received and NMFS' responses are provided below.

Agency Decision

After considering the Council's Generic EFH Amendment and the public comments received, NMFS advised the Council on February 18, 1999, that it had partially approved the amendment. Specifically, NMFS advised that the amendment was approved for its 17 selected species and corals but that EFH designations were lacking for the remaining managed species and approval of these designations was deferred to a subsequent amendment. NMFS advised the Council that as soon as possible it should identify and describe EFH for the remaining species or, alternatively, identify ecological relationships between the selected species and the remaining species in the FMPs' fishery management units in order to justify using the selected species as representatives. NMFS indicated that it would work with the Council to obtain necessary additional scientific information (and noted efforts underway) that will assist the Council in its completion of these EFH designations in the near future.

Comments and Responses

During the comment period on the Generic EFH Amendment, NMFS received two written comments.

Comment: Because a number of the species affected by the Generic EFH Amendment, including queen conch, are distributed both inside and outside U.S. waters in the Caribbean, cooperation with other governments in that region will be necessary to achieve effective conservation and management.

Response: NMFS agrees with this statement and plans to continue to assist in efforts to develop Caribbean-wide management plans for these species.

Comment: A commenter recommended disapproval of the fishing gear impact sections of the amendment. Although the commenter recognized that additional research is needed to fully evaluate effects of fishing gear on EFH, the commenter believes action must be taken now to mitigate adverse impacts on coral and other habitats. The commenter provided specific recommendations for action on limiting the use of traps and nets for the reef fish, spiny lobster and coral FMPs.

Response: NMFS believes that the Council could not have completed the biological and socioeconomic analyses needed to support management measures to limit fishing gear and still meet the mandated time frame of the EFH amendment. NMFS notes that the Council plans to address gear effects during 1999 and is preparing background documents for options regarding a trap reduction program for the reef fish and spiny lobster fisheries.

NMFS believes that the Council's EFH amendment adequately addresses fishing impacts on EFH and provides the basis for future actions when more information is available.

Comment: A commenter requested that the non-fishing related impact portion of the EFH amendment be disapproved because it does not include procedures for evaluating potential impacts of state and Federal permit applicants on a case-by-case basis. The commenter provided recommendations on procedures for consultations with other agencies on EFH, including the need for thorough public review of the process and its conclusions.

Response: The Magnuson-Stevens Act does not require the Councils to develop consultation procedures. NMFS has published procedures for Federal and state agencies and the Councils to use to coordinate, consult, or provide recommendations on Federal or state activities that may adversely impact EFH (50 CFR Part 600, Subpart K). Councils are encouraged to develop their own internal procedures for the development of Council recommendations but this is not a required element of their EFH amendments.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 23, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7652 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031899A]

IFQ Halibut Fisheries Off Alaska; Fisheries of the Exclusive Economic Zone Off Alaska; Application for an Experimental Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an experimental fishing permit.

SUMMARY: This notice announces receipt of an application from the Washington Sea Grant Program for an Experimental Fishing Permit (EFP). If awarded, this permit would be used to test the effectiveness of seabird avoidance measures in the hook-and-line groundfish fisheries of the Bering Sea and Aleutian Islands Area (BSAI) and the Gulf of Alaska (GOA) and in the Individual Fishing Quota (IFQ) Pacific halibut fishery off Alaska. It is intended to promote the objectives of the North Pacific Fishery Management Council (Council).

ADDRESSES: Copies of the EFP application are available by writing to Steven Pennoyer, Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Kim S. Rivera, 907–586–7424.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the GOA and the Fishery Management Plan for the Groundfish Fishery of the BSAI and the implementing regulations at 50 CFR 679.6 and 600.745(b) authorize issuance of EFPs to allow fishing that would otherwise be prohibited. Procedures for

issuing EFPs are contained in the implementing regulations.

NMFS received an application for an EFP from Edward F. Melvin, University of Washington, Washington Sea Grant Program, on February 23, 1999. The purpose of the EFP is to conduct an experiment to assess alternative seabird bycatch avoidance measures for hook-and-line gear fisheries off Alaska. Results from the experiment could be used by NMFS to establish more effective regulatory measures to reduce seabird bycatch in these fisheries.

In accordance with § 679.6(c)(2), NMFS has determined that the proposal warrants further consideration and has initiated consultation with the Council. The Council will consider the EFP application during its April 19–23, 1999, meeting, which will be held at the Hilton Hotel, Anchorage, AK. The applicant has been invited to appear in support of the application.

A copy of the application is available for review from the NMFS Regional Administrator (see **ADDRESSES**).

16 U.S.C. 1801 *et seq.*

Dated: March 23, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7653 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

[I.D. 031199B]

Marine Mammals; File No. 930–1486

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NMFS), Commerce: Fish and Wildlife Service (FWS), Interior.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that U.S. Geological Survey (USGS), Western Ecological Research Center, Dixon Field Station 6924 Tremont Road, Dixon, CA 95620 has applied in due form for a permit to take various cetacean and pinniped species, and southern sea otter and sea birds for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before April 28, 1999.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Chief, Branch of Permits, Office of Management Authority, FWS, 4401 N. Fairfax Drive, Room 432, Arlington, VA 22203 (1–800–358–2104).

Written comments or request for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 or Chief, Branch of Permits, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at NMFS (301) 713–0376 or FWS 703/358–2281, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Sara Shapiro, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR parts 216 and 18).

USGS requests authorization to conduct low altitude aerial surveys of marine mammals, including southern sea otters and sea birds in the Southern California Bight and adjacent waters.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of these applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 11, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

Dated:: March 19, 1999.

Margaret Tieger,

Chief, Branch of Permits, Office of Management Authority, Fish and Wildlife Service.

[FR Doc. 99–7651 Filed 3–26–99: 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032299C]

Marine Mammals; File No. P368D

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. James T. Harvey, Moss Landing Marine Laboratories, P.O. Box 450 Moss Landing, CA 95039–0450, has requested an amendment to scientific research Permit No. 938 (File No. P368D).

DATES: Written or telefaxed comments must be received on or before April 28, 1999.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided

the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 938, issued on February 9, 1995 (60 FR 7753) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 938 authorizes the Permit Holder to harass species of the suborders Mysticeti, Odontoceti, Pinnipedia, and the southern sea otter during: aerial and vessel surveys; behavioral observations (resulting from acoustical studies); photographic identification; and tagging (VHF and/or TDRs). The Holder may opportunistically tag with a VHF and or TDR: Mysticetes (except Northern right whales); Odontocetes (except killer and pilot whales, northern right whale dolphins, Dall's and harbor porpoise); and California sea lions. The Holder may continuously record and monitor acoustic signals (0.5–20kHz) while conducting shipboard surveys and is authorized to conduct these activities along the California coast.

The Permit Holder now requests authorization to: place VHF tags and TDRs on up to 20 killer whales (*Orcinus orca*) annually, off the California coast.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 24, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–7656 Filed 3–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 28, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness), ODUSD (Program Integration), Defense Manpower Data Center, ATTN: Dr. Jerome Lehnus, 1555 Wilson Blvd., Suite 701, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 696–7401.

Title and OMB Control Number: Youth Attitude Tracking Study (YATS), OMB Number 0704–0069.

Needs and Uses: This information collection requirement is necessary to enable DoD and the Recruiting Services to annually ascertain changes in youth attitudes that affect recruiting budgets, and to support analysis of recruiting incentives and diagnosis of recruiting difficulties. YATS provides an independent measure of youth awareness of DoD and Service recruiting advertising, and an efficient measure of potential incentives, such as increased educational benefits. The information is used to optimize allocation of resources and evaluate the effect of policy changes. It is used in preparing testimony for Congress on the state of recruiting.

Affected Public: Individuals and households.

Annual Burden Hours: 5,618.

Number of Respondents: 13,050.

Responses Per Respondent: 1.

Average Burden Per Response: 25.83 minutes.

Frequency: Annual/On Occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Each Fall, computer-assisted telephone interviews (CATI) are conducted with a representative sample of 10,000, 16 to 24 year-old men and women who have never served in the military. Additionally, up to 3,000 interviews are conducted in the Spring or Summer to support special needs. The interviews provide information needed to track propensity for military service, to evaluate recruiting efforts, and to determine youth attitudes and opinions relevant to recruiting policy decisions (e.g., the impact of educational benefits on propensity for military service). CATI technology is used to assure conversational, "user-friendly" interviews, and to focus questions on relevant subpopulations. YATS does not include intrusive questions of a personal nature. Results are disseminated only through reports of aggregate statistics and public-use data files which include no personally identifying information. Thus, the confidential nature of all responses is protected.

Dated: March 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–7605 Filed 3–26–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0142]

Proposed Collection; Comment Request Entitled Past Performance Information

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Past Performance Information. The clearance currently expires on July 31, 1999.

DATES: Comments may be submitted on or before May 28, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0142, Past Performance Information, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA, (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Past performance information is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts. When past performance is to be evaluated, the rule states that the solicitation shall afford offerors the opportunity to identify Federal, state and local government, and private contracts performed by offerors that were similar in nature to the contract being evaluated.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *2 hours* per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents *150,000;* responses per respondent, *4;* total annual responses, *600,000;* preparation hours per response, *2;* and total response burden hours, *1,200,000.*

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0142, Past Performance Information, in all correspondence.

Dated: March 24, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–7660 Filed 3–26–99; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Senior Advisory Board on National Security

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Policy).

ACTION: Notice of partially closed meeting.

SUMMARY: The Senior Advisory Board on National Security will meet in open and closed sessions on April 5–6, 1999. The Board was chartered by the Secretary of Defense to conduct a comprehensive review of the early twenty-first century global security environment; develop appropriate national security objectives and a strategy to attain these objectives; and recommend concomitant changes to the national security apparatus as necessary.

The Senior Advisory Board will meet in open session on the afternoon of 5 April with American business executives to discuss corporation forecasting methods and variables that corporations use in strategic planning. The closed session will occur on 6 April. At this session the Senior Advisory Board will review and discuss inputs for the Phase 1 report that the Study Group has prepared and that are based on classified material concerning global regional trends and possible conflict situations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C., Appendix II], it is anticipated that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1988), will be presented throughout the meeting on 6 April, and that, accordingly, the meeting will be closed to the public.

DATES: Monday, 5 April 1:30–5:00 p.m. (open); Tuesday, 6 April 8:30 a.m.–4:30 p.m. (closed).

ADDRESSES: Collins Hall, U.S. Army War College, Carlisle Barracks, PA.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Dunn, National Security Study Group, Suite 532, Crystal Mall, 3, 1931 Jefferson Davis Highway, Arlington, VA 22203–3805. Telephone 703–602–4175.

Dated: March 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–7604 Filed 3–26–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Ocean Research Advisory Panel

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Ocean Research Advisory Panel (ORAP) will meet to discuss National Oceanographic Partnership Program (NOPP) activities. All sessions of the meeting will remain open to the public.

DATES: The meeting will be held on Monday, April 12, 1999 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at The White House Conference Center, Truman Room, 726 Jackson Place, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Steven E. Ramberg, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5660, Telephone Number: (703) 696–4358.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of this meeting is to discuss NOPP activities. The meeting will include discussions on ocean observations, current and future NOPP activities, and other current issues in the ocean sciences community. In order to maintain the meeting time schedule, members of the public will be limited in their time to speak to the Panel. Members of the public should submit their comments one week in advance of the meeting to the meeting Point of Contact.

Dated: March 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, United States Navy, Federal Register Liaison Officer.

[FR Doc. 99–7662 Filed 3–26–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Delete record system notice.

SUMMARY: The Department of the Navy proposes to delete a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletion will be effective on April 28, 1999, unless comments are received that would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to delete a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered system report.

Dated: March 3, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME: Navy Debt Management and Collection System (NMCS) (February 22, 1993, 58 FR 10809).

Reason: The Defense Finance and Accounting Service established a Dod-wide system of records notice to cover individuals who are indebted to a DoD agency (T7332. Defense Debt Management System established April 8, 1997, at 62 FR 16793). Therefore, the Department of the Navy is deleting their notice.

[FR Doc. 99–7576 Filed 3–26–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.342]

Preparing Tomorrow's Teachers to Use Technology

AGENCY: Office of Postsecondary Education (OPE), Department of Education.

ACTION: Notice of requirements and invitation for applications for new awards for fiscal year (FY) 1999.

Purpose of Program: The Preparing Tomorrow's Teachers to Use Technology program provides grants to consortia that are helping future teachers become proficient in the use of modern learning technologies. This program addresses looming teacher shortages by developing well-qualified, technology-proficient teachers, who are prepared to teach in 21st century schools, particularly schools in low-income communities or rural areas. This program provides support for three types of grants: capacity building grants, implementation grants, and catalyst grants.

EFFECTIVE DATE: March 29, 1999.

Eligible Applicants: Only consortia may receive grants under this program. A consortium must include at least two members. Consortium members may include institutions of higher education (IHEs), Schools of Education, State educational agencies (SEAs), local educational agencies (LEAs), private schools, professional associations, foundations, museums, libraries, for profit agencies and organizations, nonprofit organizations, community-based organizations, and others.

Note: In each consortium a participating nonprofit member must be designated as the "applicant" for purposes of 34 CFR 75.128 and must act as the fiscal agent.

Deadline for Transmittal of Applications: June 4, 1999.

Deadline for Intergovernmental Review: August 3, 1999.

Applications Available: March 29, 1999.

Available Funds: $75,000,000.

Estimated Range of Awards: $50,000–$175,000 for capacity building grants, $200,000–$500,000 for implementation grants, and $500,000–$700,000 for catalyst grants.

Estimated Average Size of Awards: $120,000 for capacity building grants, $400,000 for implementation grants, and $600,000 for catalyst grants.

Estimated Number of Awards: 200 capacity building grants, 75 implementation grants, and 35 catalyst grants.

Project Period: 12 months for capacity building grants, 36 months for implementation grants, and 36 months for catalyst grants.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86.

Selection Criteria: The Secretary has selected criteria from 34 CFR 75.210 of EDGAR to evaluate applications for this competition. The selection criteria and factors to be used for this competition will be provided in the application package.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79 The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rulemaking documents. However, in accordance with section 437(d)(1) of the General Education Provisions Act, the Secretary has determined that, because it is not possible to offer the public an opportunity to comment on proposed rulemaking under the Preparing Tomorrow's Teachers to Use Technology grant program and still make awards by September 30, 1999, as required by law, it is desirable to waive public comment for the first-year competition of this new discretionary grant program.

This waiver applies only to the selection criteria, procedures, and requirements included in this notice for awarding FY 1999 grants. Any selection criteria and procedures that the Department establishes for the award of grants under this program in future years will be based on experiences with this FY 1999 award process and will be published in proposed form in the **Federal Register** with an opportunity for interested parties to comment.

General Requirements

In order to best effectuate the goals and objectives of these grants and to administer the program fairly, the Secretary defines an eligible applicant as a consortium composed of SEAs, LEAs, IHEs, or other public and private nonprofit or for profit agencies and organizations.

Additionally, the applicant, as used in 34 CFR 75.128, must be any nonprofit member of the consortium.

Finally, the Federal funds provided by these grants may not provide more than 50 percent of the total cost of any project funded by a grant under this program. The non-Federal share of the project costs may be in cash or in-kind contributions.

Indirect Costs

For purposes of indirect costs that may be charged to the grant, all funded projects are treated as "educational training grants." Therefore, consistent with 34 CFR 75.562, except for costs that may be incurred by SEAs or LEAs, a recipient's indirect cost rate is limited to the maximum of eight percent or the amount permitted by its negotiated indirect cost rate agreement, whichever is less.

Application Review Procedures

The Secretary announces the use of a multi-tier review process to evaluate all applications submitted for new awards under the FY 1999 Preparing Tomorrow's Teachers to Use Technology program. The Secretary takes this action to ensure a thorough review and assessment of the large number of applications that are expected to be received under the FY 1999 competition. This multi-tier review process does not affect the contents of applications in this competition.

Technical Assistance Workshops for Prospective Applicants

The Department of Education has scheduled seven regional technical assistance workshops between March 24 and April 9, 1999, to help prospective applicants to better understand the Department's approach to implementing the competitive grant process to be held this summer. Under the Preparing Tomorrow's Teachers to Use Technology program, applications by consortia must be received by June 4, 1999. At these workshops, the public will be able to learn more about the purposes and requirements of this program, how to apply for funds, program eligibility requirements, the application selection process, and considerations that might help them to improve the quality of their grant applications. Department of Education staff with expertise on these and other issues related to the Preparing Tomorrow's Teachers to Use Technology program will be available to answer any questions on these topics.

Participants may register for technical assistance workshops online at http://www.ed.gov/teachtech, by printing out a copy of the registration form from the website and faxing it to (202) 260–8412, or by calling 1–800–USA–LEARN for registration information.

The meeting sites are accessible to individuals with disabilities. The Department will provide a sign language interpreter at each of the scheduled workshops. An individual with a disability who will need an auxiliary aid or service other than an interpreter to participate in the meeting (e.g., assistive listening device or materials in an alternative format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dates and Locations

Workshop #1: Wednesday, March 24, 1999, Baltimore, MD, Sheraton Inner Harbour, 300 South Charles Street, Baltimore, MD 21201; Phone: (410) 962–8300;

Workshop #2: Tuesday, March 30, 1999, Boston, MA, Boston Marriott Hotel, Copley Place, 110 Huntington Avenue, Boston, MA, 02116; Phone: (617) 236–5800;

Workshop #3: Tuesday, April 6, 1999, Milwaukee, WI, The Four Points Hotel at Milwaukee Airport, 4747 South Howell Avenue, Milwaukee, WI 53207; Phone: (414) 481–8000;

Workshop #4: Tuesday, April 6, 1999, Portland, OR, Portland State University, Smith Center, Ballroom SMC 355, 1825 SW Broadway, Portland, OR 97201; Phone: (503) 725–4697;

Workshop #5: Thursday, April 8, 1999, Los Angeles, CA, Hilton Los Angeles Airport & Towers, 5711 West Century Boulevard, Los Angeles, CA 90045; Phone (310) 410–4000;

Workshop #6: Friday, April 9, 1999, Denver, CO, Adam's Mark Hotel, 1550 Court Place, Denver, CO 80202; Phone: (303) 893–3333; and

Workshop #7: Friday, April 9, 1999, Atlanta, GA, Westin Hotel at Atlanta Airport, 4736 Best Road, Atlanta, GA 30337; Phone: (404) 762–7676.

SUPPLEMENTARY INFORMATION: The Preparing Tomorrow's Teachers to Use Technology program is authorized under Title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6832). The statute authorizes the use of funds for activities such as the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning.

FOR APPLICATIONS OR INFORMATION CONTACT: For applications, telephone 1–800–USA–LEARN (1–800–872–5327) or fax requests to (202) 208–8412. The application package is also available from the Preparing Tomorrow's Teachers to Use Technology program web site at http://www.ed.gov/teachtech. For information contact Tom Carroll, Preparing Tomorrow's Teachers to Use Technology, U.S. Department of Education, 1280 Maryland Avenue, SW, Suite 600, Washington DC 20202–5131. Telephone: (202) 260–1365. E-mail: tom__carroll@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) via the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 6832.

Dated: March 24, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 99–7578 Filed 3–26–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Hydrogen Technical Advisory Panel; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Hydrogen Technical Advisory Panel. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, as amended), requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, April 6, 1999, 9 A.M.–5 P.M.; Wednesday, April 7, 1999, 9 A.M.–12:30 P.M.

ADDRESSES: Sheraton Premiere Hotel, Tyson's Corner, Vienna, Virginia, 22182; Telephone: 703–448–1234.

FOR FURTHER INFORMATION CONTACT: Neil Rossmeissl, Designated Alternate Federal Officer, Hydrogen Program Manager, EE–13, Office of Power Technologies, Department of Energy, Washington, D.C. 20585; Telephone: 202–586–8668.

SUPPLEMENTARY INFORMATION: Purpose of the Meeting: The major purpose of this meeting is to review the coordination of hydrogen related activities within the Department of Energy and between other government agencies, including the Department of Transportation and NASA. The discussion will also include the fuel cell fuel choice related to the method of suppling hydrogen to the fuel cell.

Tentative Agenda

Tuesday, April 6, 1999

9:00 am Introduction and Opening Comments—D. Nahmias
9:10 DOE Federal Report—N. Rossmeissl
9:30 Scenario Planning Committee Report—H. Wedaa
10:30 Break
11:00 Coordination Committee Report—H. Chum
12:00 pm Lunch
1:15 Research Success Story Award Presentation—C. Jensen
1:45 DOE/HQ Analysis and Outreach: Broad Based Solicitation Results—S. Gronich
2:30 World Energy Network Program Update—K. Okano
3:00 Break
3:15 Coordination
—Department of Transportation—W. Siegel
—NASA—N. Nijhawan
—DOE/Office of Transportation Technologies (OTT)—J. Milliken
4:00 Public Comments—Audience
4:30 HTAP Deliberation—Panel
5:00 Adjourn
6:00 Reception

Wednesday, April 7, 1999

8:30 am Fuel Cell Fuel Choice
—Framing the Fuel Choice Issue—J. Ohi
—Reformer Technology Options—N. Vanderborgh
—DOE/OTT Reformer R&D—J. Milliken
—Fuel Options for Fuel Cell Vehicles—S. Thomas
—Fuel Options for Fuel Cell Vehicles—M. Krumpelt
Moderated Discussion
10:45 Break
11:15 Evolution or Revolution: Renewables and Hydrogen in the Oil Industry—C. Flavin
11:45 Public Comments
12:00 pm HTAP Deliberations
12:30 pm Adjourn

Public Participation: This meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mr. Neil Rossmeissl's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentations in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that needed to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585 between 9 A.M. and 4 P.M., Monday through Friday, except Federal Holidays. Minutes will also be available by writing to Neil Rossmeissl, Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, or by calling (202) 586–8668.

Issued at Washington, DC on March 23, 1999.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–7648 Filed 3–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration, DOE.

ACTION: Agency information collection activities: Proposed collection; comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments on the proposed extensions and revisions of the Natural Gas Program Package Forms: EIA–176, "Annual Report of Natural and Supplemental Gas Supply and Disposition;" EIA–191, "Monthly Underground Gas Storage Report;" EIA–857, "Monthly Report of Natural Gas Purchases and Deliveries to Consumers;" and EIA–895, "Monthly Quantity of Natural Gas Report." In addition, EIA proposes extensions without revision of the EIA–191S, "Weekly Underground Gas Storage Report (Standby Form)," and EIA–857S, "Weekly Report of Natural Gas Supplies and Deliveries to Consumers (Standby Form)."

DATES: Written comments must be submitted on or before May 28, 1999. If you anticipate difficulty in submitting comments within the 60 days, contact the person identified below as soon as possible.

ADDRESSES: Send comments to Margaret Natof, Energy Information Administration, Office of Oil and Gas, Natural Gas Division, EI–44, Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Alternatively, Ms. Natof may be reached by phone at 202–586–6303, by e-mail at *margaret.natof@eia.doe.gov*, or by FAX at 202–585–4420.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ms. Natof at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the Department of Energy Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 *et seq.*) requires the Energy Information Administration (EIA) to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) for the collections under section 3507(h) of the Paperwork Reduction Act of 1995.

The individual forms are discussed in detail below:

Form EIA–176, "Annual Report of Natural and Supplemental Gas Supply and Disposition"

The Form EIA–176 provides the EIA with the major elements of information required in conjunction with data collected in other EIA surveys to develop gas supply and disposition balances and relevant cost, price, and related information at the State level.

The information collected on the Form EIA–176 is needed and used for the following purposes:

(1) To develop and make available to Congress, the States, and the public an accurate quantified overview of the supply of natural and supplemental gas available to each of the various States from all sources both internal and external to the State, and the manner in which such supply was utilized or otherwise disposed of,

(2) To determine the quantity of natural and supplemental gas consumed within each of the various States by market sector, the average prices for such gas, and the changes in consumption and price patterns over time, and

(3) For various EIA publications (including the *Natural Gas Annual (NGA), Natural Gas Monthly (NGM), Annual Energy Review (AER), Annual Energy Outlook (AEO), Short Term Energy Outlook (STEO), and the Monthly Energy Review (MER),* which are widely used by both public and private individuals and organizations.

EIA–191, "Monthly Underground Gas Storage Report'

Form EIA–191 requests monthly data on the location, capacity, and operations of all active underground natural gas storage fields. Storage data are a critical link in understanding the deliverability of the natural gas system of the United States and overall system operations.

The information collected on Form EIA–191 will be used in the following ways:

(1) To provide State-level data on underground natural gas storage with respect to injections, withdrawals, inventories, type of storage facility, location of facilities, and capacity for the EIA's *NGM, MER,* and *AER.* This monthly data collection also provides reliable baseline data on storage operations necessary for analyses, modeling, and comparison with normal industry operations in cases of severe weather, natural disaster, or other extreme circumstances,

(2) To provide data on underground natural gas storage inventories for the EIA's *AEO* and *STEO,* and

(3) To provide data on all aspects of underground natural gas storage to enable EIA and other elements of DOE to identify and assess the supplies of gas in storage by geographic location.

EIA–857, "Monthly Report of Natural Gas Purchases and Deliveries to Consumers

Monthly State-level data collected on Form EIA–857 consist of the average price of natural gas purchased by local distribution companies at their citygates, consumption of natural gas by sector, and average price by sector. These data are necessary to provide timely information needed to measure the combined impact of government, industry, and consumer actions; geographic location; interfuel competition; climatic conditions; and a host of other factors upon the natural gas industry and natural gas consumers.

The data collected on the Form EIA–857 are used to develop information for publication in EIA's NGM and MER, and to make the data available to Congress, State governments, industry, and the public.

Form EIA–895, "Monthly Quantity of Natural Gas Report"

Form EIA–895 collects monthly information from the appropriate State agencies concerning natural gas production. It provides details on gross withdrawals from gas and oil wells, on volumes vented and flared, used for repressuring, nonhydrocarbon gases removed, used as fuel on leases, and the amount of natural gas available for marketing. These data are routinely collected by the States for taxation and statistical purposes. The aggregate data are published in the NGM, NGA, MER, and *AER.*

Standby Forms EIA–857S, "Weekly Report of Natural Gas Supplies and Deliveries to Consumers," and EIA–191S, "Weekly Underground Gas Storage Report"

The standby Forms EIA–857S and EIA–191S are designed to fill gaps in the natural gas data collections where monthly data are not sufficient for informed responses to natural disasters, severe weather, or other catastrophic events. The data would permit EIA to monitor the impact of regional disruptions on a weekly basis when the EIA Administrator determines that conditions or events warrant more frequent data.

Data elements are similar to those on the "parent" Forms EIA–857 and EIA–191, except the weekly forms are simplified to the maximum extent possible. The standby forms are intended only for use as determined necessary in extreme situations. EIA would notify OMB of the intent to use the form(s), the region(s) affected, and the estimated burden before EIA would begin using the forms.

II. Current Actions

This notice includes a request for a three-year extension of all previously approved Natural Gas Program Package forms. EIA is proposing modifications to the Form EIA–176 and its instructions to simplify the form and instructions, clarify terms used in the form and instructions, change the reporting deadlines, collapse certain reporting categories, require the reporting of transportation revenues, and eliminate the short form. Proposed changes to Form EIA–857 include simplification and clarification of the form and its instructions, collapsing of certain data reporting lines, and a requirement for reporting of transportation revenues. For Forms EIA–191, and EIA–895, EIA is proposing minimal clarifications to the instructions. No changes are proposed

for the standby Forms EIA–857S and EIA–191S.

Significant changes proposed for the Form EIA–176 include:

(1) Changing the filing date from April 1 to March 1 following the end of the report year,

(2) Changing the extension-for-filing date from May 15 to April 1,

(3) Simplifying and clarifying the instructions, reporting requirements, and definitions of terms,

(4) Eliminating the requirement to distinguish between firm and interruptible deliveries, whether sold and delivered directly to consumers (Part V, line 5.4.1 through 5.4.6) or transported and delivered to consumers for the account of others (Part V, lines 7.4.1 through 7.4.6),

(5) Eliminating the requirement to distinguish between gas volumes delivered to commercial or industrial consumers having nonutility generation of electricity from those not generating electricity, whether sold and delivered directly to consumers (Part V, lines 5.4.2 and 5.4.3) or transported and delivered to consumers for the account of others (Part V, lines 7.4.2 and 7.4.3),

(6) Adding a requirement to report the cost or revenue for data items in Part V, 7.4.1 through 7.4.6, "Transported and delivered to consumers for the account of others," and

(7) Eliminating the short form version of the EIA–176.

Significant proposed changes to the Form EIA–857 include:

(1) Simplifying and clarifying the instructions, reporting requirements, and definitions of terms,

(2) Eliminating the requirement for respondents to distinguish between gas volumes delivered to commercial or industrial consumers having nonutility generation of electricity, whether sold and delivered directly to consumers (lines 7 through 10) or transported and delivered by consumers for the account of others (lines 14 through 17), and

(3) Adding a requirement to report revenues for all volumes of gas transported and delivered for the account of others to residential, commercial, or industrial consumers (lines 13 though 18).

III. Request for Comments

Prospective respondents and other interested persons are invited to comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments. Please indicate to which form(s) your comments apply.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can information be submitted by the due date?

C. Public reporting burden for this collection is estimated to average 20 hours for the annual EIA–176, 2 hours per month for the EIA–191, 3 hours per month for the EIA–857, and ½ hour per month for the EIA–895. Burden estimates for the Forms EIA–857S and EIA–191S would be determined and reported to the Office of Management and Budget at such time as the need to collect those data were invoked by the Administrator. The estimated burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information.

Please comment on (1) the accuracy of the agency's estimate and (2) how the agency could minimize the burden of the collecting this information, including the use of information technology.

D. The agency estimates respondents will incur no additional costs for reporting other than the hours required to complete the collection. What is the estimated: (1) Total dollar amount annualized for capital and start-up costs; and (2) recurring annual costs of operation and maintenance, and purchase of services associated with this data collection?

E. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User

A. Is the information useful at the levels of detail indicated on the form?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Sec. 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, March 23, 1999.

Lynda T. Carlson,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 99–7647 Filed 3–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC99–519–000; FERC–519]

Proposed Information Collection and Request for Comments

March 23, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comments on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before May 28, 1999.

ADDRESSES: Copies of the proposed collection of information can be obtained and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTRACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425 and by e-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC–519 (OMB No. 1902–0082) "Application for Sale, Lease or Other Docket No. IC99–519–000 Disposition, Merger or Consolidation of Facilities, or for Purchase or Acquisition of Securities of a Public Utility" is used by the Commission to implement the statutory provisions of Sections 203 and 318 of Part II of the Federal Power Act. Section 203 provides that the Commission's approval is required for transactions in which a public utility disposes of

jurisdictional facilities, merges such facilities with jurisdictional facilities owned by another person, or acquires the securities of another public utility. Under the statute, the Commission must find that a proposed transaction will be consistent with the public interest before it may approve such transaction.

Section 318 exempts certain persons from the requirements of Section 203 that would otherwise concurrently apply under the Public Utility Holding Act of 1935. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 33.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
125	1	80 hours	10,000 hours.

The Commission anticipates a minor increase in the burden hours to be reported for FERC–519. This is a result of an increase in the Docket No. IC99–519–000 number of mergers and the disposition of electric utility generation and transmission facilities as a result of restructuring of the electric industry.

Estimated total cost burden to respondents: 10,000 hours/2,080 hours per year × $109,889 per year = $528,313. The cost per respondent is equal to $4,227.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondent is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information, such as administrative costs and the cost for information technology. Indirect or overhead costs are cost incurred by an organization in support of Docket No. IC99–519–000 its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7635 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC99–520–000; FERC–520]

Proposed Information Collection and Request for Comments

March 23, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting pubic comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before May 28, 1999.

ADDRESSES: Copies of the proposed collection of information can be obtained and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425 and by e-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC–520 "Application for Authority to Hold Interlocking Directorate Positions" (OMB No. 1902–0083) is used by the Commission to implement the statutory provisions of Section 305(b) of the Federal Power Act. Section 305(b) makes the holding of certain defined interlocking corporate positions unlawful unless the Commission has authorized the interlocks to be held, and requires the applicant to show in a form and manner as prescribed by the Commission, that neither public nor private interests will be adversely affected by the holding of the position. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 45.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)x(2)x(3)
28	1	51.8 hours	1,450 hours.

The Commission anticipates an increase in the total burden hours due to changes in the wholesale marketplace. Specifically the number of participants (i.e. power marketers and independent power producers) is expected to increase.

Estimated cost burden to respondents: 1,450 hours/2,080 hours per year x $109,889 per year = $76,605. The cost per respondent is $2,736.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are cost incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7636 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–260–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

March 22, 1999.

Take notice that on March 16, 1999, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP99–260–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to modify the metering facilities at an existing interconnection with Southeastern Michigan Gas Company in St. Clair County, Michigan, under ANR's blanket certificate issued in Docket No. CP82–480–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

ANR proposes to construct and operate two additional 12-inch turbine meters at its Greenwood Interconnection. ANR states that upon completion of these reconfigured metering facilities, the total nominal capacity of the Greenwood Interconnection would be increased from approximately 200 MMcf/d to approximately 290 MMcf/d.

ANR states further that the total cost of the modifications would be approximately $360,000, for which ANR would be fully reimbursed.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–7546 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–261–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

March 23, 1999.

Take notice that on March 16, 1999, El Paso Natural Gas Company (El Paso), a Delaware corporation, whose mailing address is P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP99–261–000 a request pursuant to Sections 157.205 and 157.212 of Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) to certificate and to continue the operation of an existing delivery point located in El Paso County, Texas, installed under Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA), under El Paso's blanket certificate issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

The request for authorization states El Paso installed the Southern Union Gas Angel Park Delivery Point (Angel Park Delivery Point) under Section 311(a)

and has exclusively used this delivery point for the transportation and delivery of natural gas under Part 284, Subpart B. El Paso states that the regulatory restriction placed on the operation of a facility installed under Section 311(a) of the NGPA prohibits El Paso's shippers from utilizing this delivery point under any transportation arrangement other than a Subpart B transportation arrangement. In view of this limited service flexibility, El Paso states that certification of the Angel Park Delivery Point pursuant to Section 157.212 of the Commission's Regulations, is necessary and in the public interest.

El Paso states that the continued operation of the existing Angel Park Delivery Point under the NGA is not prohibited by El Paso's existing Volume No. 1–A FERC Gas Tariff. Other than the certification of service under Subpart G, this proposal will not result in any change in the transportation service or the total volumes delivered at the Angel Park Delivery Point. El Paso further states that it has sufficient capacity to accomplish the deliveries of the requested gas volumes without detriment or disadvantage to El Paso's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary

[FR Doc. 99–7548 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–255–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

Take notice that on March 15, 1999, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP99–255–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for authorization to upgrade an existing meter station in order to accommodate deliveries of natural gas to TECO Peoples Gas System, Inc. (TECO), in Duval County, Florida. FGT makes such request under its blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission. The filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

It is stated that TECO has requested FGT to upgrade an existing meter station, to allow for delivery of 6,100 Mcf per hour at a pressure of 480 psig under existing transportation service agreements by and between FGT and TECO. FGT avers that the existing capacity is 7,100 Mcf per hour delivered at a pressure of 250 psig. It is indicated that TECO will be upgrading the MAOP of their 18-inch pipeline over to the area of JEA's Northside Power Plant in order to serve new turbines that require 400 psig inlet pressure.

Specifically, FGT proposes to upgrade the meters, and modify the headers and valves in the Jacksonville Border Station to serve TECO. FGT further states that the upgrade to this existing meter station will not impact FGT's peak day or annual deliveries.

FGT states that the proposed upgrade to the Jacksonville Border Station, will be at the end of FGT's 16-inch Jacksonville Lateral near mile post 45.5. The estimated cost for upgrading the facilities is $273,507.—which FGT states will be reimbursed by TECO. It states that the end-use will be residential, industrial, electric generation and commercial.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 175.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7632 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–5–34–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 23, 1999.

Take notice that on March 17, 1999, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, effective April 1, 1999:

Thirty-Third Revised Sheet No. 8A
Tweny-Fourth Revised Sheet No. 8A.01
Twenty-Fifth Revised Sheet No. 8A.02
Twenty-Ninth Revised Sheet No. 8B
Twenty-Second Revised Sheet No. 8B.01

FGT states that in Docket No. TM99–4–34–000 filed on February 25, 1999, FGT filed to establish a Base Fuel Reimbursement Charge Percentage (Base FRCP) of 2.76% to become effective for the six-month Summer Period beginning April 1, 1999. On March 5, 1999 FGT submitted a Substitute Sheet 8A.01 to reflect conforming changes to FGT's underlying FTS–2 rates made in a separate concurrent filing. Both of these filings, with requested effective dates of April 1, 1999, are currently pending Commission approval. In the instant of filing, FGT states that it is filing a flex adjustment of <0.26>% to be effective April 1, 1999, which, when combined with the proposed Base FRCP of 2.76%, results in an Effective Fuel Reimbursement Charge Percentage of 2.50%. This is the same rate which is currently in effect.

FGT states that the tariff sheets listed above are being filed pursuant to Section 27.A.2.b of the General Terms and Conditions of FGT's Tariff, which provides for flex adjustments to the Base FRCP. Pursuant to the terms of Section 27.A.2.b, a flex adjustment shall become effective without prior FERC approval provided that such flex adjustment does not exceed 0.50%, is effective at the beginning of a month, is posted on FGT's EBB at least five working days prior to the nomination deadline, and is filed no more than sixty and at least seven days before the proposed effective date. FGT states that the instant filing

comports with these provisions and FGT has posted notice of the flex adjustment prior to the instant filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7646 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–153–013]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 23, 1999.

Take notice that on March 17, 1999, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the substitute revised tariff sheet listed below for effectiveness on April 1, 1999:

Substitute Ninth Revised Sheet No. 289

Granite State states that on March 2, 1999, it filed Ninth Revised Sheet No. 289 to reinstate in its tariff certain requirements of the Gas Industry Standard Board (GISB) for which Granite State had been granted an extension to comply. According to Granite State, it omitted two GISB Standards from the group of Standards it intended to reinstate: GISB Version 1.2, Standard 3.3.1 and 3.3.2. Granite State further states that the substitute revised tariff sheet submitted in the instant filing corrects the omission.

Granite State states that copies of its filing have been served on its firm and interruptible customers and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7645 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–220–001]

Great Lakes Gas Transmission Limited Partnership; Notice of Compliance Filing

March 23, 1999.

Take notice that on March 19, 1999, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective March 8, 1999:

Substitute Fourth Revised Sheet No. 23
Substitute Fifth Revised Sheet No. 27
Substitute Second Revised Sheet No. 46
Substitute Original Sheet No. 55A

Great Lakes states that these tariff sheets are being filed to comply with the Order issued by the Commission on March 5, 1999, in Great Lakes' proceeding to implement negotiated rates (Order). 86 FERC Para. 61,234 (1999). In the Order Great Lakes was directed to file tariff sheets that clarify how the NPV of negotiated rate bids at less than the maximum recourse rate will be determined and how bids using different rate forms will be evaluated under the right of first refusal procedures, for the purpose of evaluating the priority of shippers subject to bumping, and for determining the economic value of a request for available or unsubscribed capacity. Great Lakes states that above named tariff sheets comply with the Commission's Order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www/ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7641 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL99–10–002]

City of Las Cruces, New Mexico v. El Paso Electric Company; Notice of Filing

March 23, 1999.

Take notice that on February 26, 1999, El Paso Electric Company (EPE or company) filed pursuant to Ordering Paragraph (C) of the Order Directing Temporary Sale of Wholesale Power, subject to conditions issued in this proceeding on January 27, 1999, a cost based rate for the sale of electricity by EPE at wholesale to a municipal utility that is proposed to be established by the City of Las Cruces, New Mexico (Las Cruces) for a period of up to one year.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before April 2, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7549 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–224–001]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 23, 1999.

Take notice that on March 18, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of March 11, 1999:

Second Revised Sheet No. 1A

Mid Louisiana states that the purpose of this filing is to comply with the Commission's letter order dated March 11, 1999 in Docket No. RP99–224–000 wherein the Commission accepted for filing certain tariff sheets subject to Mid Louisiana's filing a revised Table of Contents referencing the removal of outdated material.

Mid Louisiana request that the Commission grant a waiver of Section 154.207 of the Commission's regulations (18 CFR 154.207) thereby allowing the indicated tariff sheet(s) be accepted to be effective March 11, 1999.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7642 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–225–001]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 23, 1999.

Take notice that on March 18, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of March 15, 1999:

First Revised Sheet No. 0

Mid Louisiana states that the purpose of this filing is to comply with the Commission's letter order dated March 11, 1999 in Docket No. RP99–225–000 wherein the Commission accepted for filing certain tariff sheets subject to Mid Louisiana's re-filing Sheet No. 0 as "First Revised".

Mid Louisiana requests that the Commission grant a waiver of Section 154.207 of the Commission's regulations (18 CFR 154.207) thereby allowing the indicated tariff sheet(s) be accepted to be effective March 15, 1999.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7643 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–151–008]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 23, 1999.

Take notice that on March 18, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1997:

Revised First Revised Sheet No. 143
Revised First Revised Sheet No. 157

Mid Louisiana states that the purpose of the filing is to re-submit for filing the above-referenced sheets with a corrected pagination as instructed by OPR directive issued March 16, 1999 in Docket No. RP97–151–007.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of Section 154.207, Notice Requirements and any other requirement of the Regulations in order to permit the tendered tariff sheet to become retroactively effective November 1, 1997, as submitted.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7644 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–258–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

March 22, 1999.

Take notice that on March 16, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed a request with the Commission in Docket No. CP99–258–000, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to relocate a town border station (TBS) to provide natural gas transportation service to Minnegasco, a Division of NorAm Energy Corp. (Minnegasco), authorized in blanket certificate issued in Docket No. CP82–401–000, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Northern proposes to relocate a TBS in Carver County Minnesota to provide natural gas transportation service to the communities of Mayer and New Germany, Minnesota through their Local Distribution Company, Minnegasco. Northern reports that the existing facility is located in a ditch, thereby creating maintenance difficulties, particularly during adverse weather conditions. Northern further proposes to relocate the existing TBS to a site located approximately 1,500 feet downstream of the current site utilizing existing facilities to the extent possible. Northern estimates the cost of the relocation of the TBS to be approximately $88,000.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Secretary.

[FR Doc. 99–7545 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–10–001]

Portland Natural Gas Transmission System; Notice of Filing

March 23, 1999.

Take notice that on March 16, 1999, Portland Natural Gas Transmission System submitted a compliance filing in response to the Commission's February 16, 1999 Order on Standards of Conduct, 86 FERC ¶ 61,160 (1999).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before April 7, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7634 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–257–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

March 23, 1999.

Take notice that on March 16, 1999, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP99–257–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon a measurement facility at a delivery point under Southern's blanket certificate issued in Docket No. CP82–406–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Southern states that it provided transportation service on behalf of Northern Natural Gas Company to the Allied Chemicals Corporation's Allied-Geismer Plant, pursuant to Commission Order in Docket No. CP82–101–000 dated April 9, 1982. The service expired under the terms of the Certificate Order on October 31, 1984. Accordingly, Southern requests authorization to abandon the Allied-Geismer Meter Station.

Southern states that it seeks to abandon the meter station at the delivery point because the meter station has not been operational for over ten years and the customer has not requested service from Southern. In addition, the service for which Southern constructed the facilities to serve the plant has expired by its own terms. The delivery point Southern seeks to abandon is designated as the Allied-Geismer Meter Station (Point Code 823600) and is located near Mile Post 36.159 on Southern's 20-inch Duck Lake-Franklinton Line in Iberville Parish, Louisiana.

The abandonment of the meter station facility is required by the present and future public convenience and necessity, will decrease maintenance costs for Southern and will not result in any termination of natural gas service. The proposed abandonment of the facility is not prohibited by any existing tariff of Southern. The rate schedule under which Southern provided service to the Meter Station has been canceled.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allow therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–7547 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–55–000, et al.]

Avista Corporation. et al.; Electric Rate and Corporate Regulation Filings

March 18, 1999.

Take notice that the following filings have been made with the Commission:

1. Avista Corporation

[Docket No. ER99–55–000]

Take notice that on March 15, 1999, Avista Corporation (Avista Corp.), tendered for filing a Revised Ancillary Services Market Study, and explanatory letter, in response to the deficiency letter issued in this docket on January 29, 1999.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. AES Redondo Beach, L.L.C.; AES Huntington Beach, L.L.C.; AES Alamitos, L.L.C.; El Segundo Power, LLC; Long Beach Generation, LLC; Ocean Vista Power Generation, L.L.C.; Mountain Vista Power Generation, L.L.C.; Alta Power Generation, L.L.C.; Oeste Power Generation, L.L.C.; Ormond Beach Power Generation, L.L.C.; Williams Energy Services Co.; Duke Energy Oakland, L.L.C.; Duke Energy Morro Bay, L.L.C.; Duke Energy Moss Landing, L.L.C.; Southern California Edison Co.

[Docket Nos. ER98–2843–006; ER98–2844–006; ER98–2883–006 (Not Consolidated); ER98–2971–008; ER98–2972–007 (Not Consolidated); ER98–2977–005; ER98–3106–003; ER98–3416–005; ER98–3417–005; ER98–3418–005 (Not Consolidated); and EL98–62–004]

Take notice that on March 10, 1999, the Market Monitoring Committee of the California Power Exchange Corporation ("PX") submitted for filing a report entitled "Second Report on Market Issues in the California Power Exchange Energy Markets." The report has been posted and is available to the public on the PX's website at http://www/calpx.com.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER99–871–000]

Take notice that on March 15, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing supplements to its amended filing of five Interchange Agreements. The Interchange Agreements are between Entergy Services, Inc., the Entergy Operating Companies and the following entities: Jacksonville Electric Authority, Commonwealth Edison Company, Wisconsin Electric Power Company, Virginia Electric and Power Company and Paragould City Light & Water.

Comment date: April 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Erie Boulevard Hydropower, L.P.

[Docket No. ER99–1764–000]

Take notice that on March 15, 1999, Erie Boulevard Hydropower, L.P. (Applicant), amended its February 8, 1999, filing under Section 205 of the Federal Power Act by withdrawing its request that the Commission accept the Transition Power Purchase Agreement (TPPA) under Section 205 of the Federal Power Act.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. ECONnergy PA, Inc.

[Docket No. ER99–1837–000]

Take notice that on March 15, 1999, ECONnergy PA, Inc., (ECONnergy PA), petitioned the Commission for acceptance of ECONnergy PA Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

ECONnergy PA intends to engage in wholesale electric power and energy purchases and sales as a marketer. ECONnergy PA is not in the business of generating or transmitting electric power. ECONnergy PA is a wholly-owned subsidiary of ECONnergy Energy Company, Inc.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Company

[Docket No. ER99–2130–000]

Take notice that on March 12, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing the following contracts between PG&E and the San Francisco Bay Area Rapid Transit District (BART): (1) a Service Agreement for Network Integration Transmission Service, and (2) a Network Operating Agreement.

PG&E is filing these signed Agreements to replace previously filed unsigned versions of the Agreements. The unsigned agreements were filed in compliance with the Commission's March 20, 1998 "Order Requiring Utility to Provide Network Transmission Service" in Docket No. EL98–10–000. This Order required PG&E to file, within thirty days of the March 20, 1998 Order, a network transmission service agreement for BART.

Copies of this filing have been served upon the California Public Utilities Commission, BART, the California Independent System Operator and other intervenors FERC Docket No. EL98–10-001.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Tampa Electric Company

[Docket No. ER99–2136–000]

Take notice that on March 15, 1999, Tampa Electric Company (Tampa Electric), tendered for filing a service agreement with the City of Lakeland, Florida (Lakeland) for Firm Point-to-Point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of February 15, 1999, for the service agreement, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Lakeland and the Florida Public Service Commission.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Otter Tail Power Company

[Docket No. ER99–2137–000]

Take notice that on March 15, 1999, Otter Tail Power Company (OTP), tendered for filing a transmission service agreement between itself and Otter Tail Wholesale Marketing. The agreement establishes Otter Tail Wholesale Marketing as a customer under OTP's transmission service tariff (FERC Electric Tariff, Original Volume No.7).

OTP respectfully requests an effective date sixty days after filing. OTP is authorized to state that Otter Tail Wholesale Marketing joins in the requested effective date.

Copies of the filing have been served on Otter Tail Wholesale Marketing,

Minnesota Public Utilities Commission, North Dakota Public Service Commission, and the South Dakota Public Utilities Commission.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Central Hudson Gas and Electric Corporation

[Docket No. ER99–2138–000]

Take notice that on March 15, 1999, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and DukeSolutions, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Madison Gas and Electric Company

[Docket No. ER99–2139–000]

Take notice that on March 15, 1999, Madison Gas and Electric Company (MGE), tendered for filing a service agreement under MGE's Power Sales Tariff with Wisconsin Public Power, Inc.

MGE requests an effective date 60 days from the filing date.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER99–2140–000]

Take notice that on March 15, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Cargill-Alliant, LLC (Cargill) for Firm Point-to-Point Transmission Service. This Transmission Service Agreement specifies that Cargill has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Cargill to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for Cargill as the parties may mutually agree.

Niagara Mohawk requests an effective date of March 5, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Cargill.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER99–2141–000]

Take notice that on March 15, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Cargill-Alliant, LLC (Cargill) for Non-Firm Point-to-Point Transmission Service. This Transmission Service Agreement specifies that Cargill has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Cargill to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for Cargill as the parties may mutually agree.

Niagara Mohawk requests an effective date of March 5, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Cargill.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99–2142–000]

Take notice that on March 15, 1999, Niagara Mohawk tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and DukeSolutions, Inc. This Transmission Service Agreement specifies that DukeSolutions, Inc., has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and DukeSolutions, Inc., to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for DukeSolutions, Inc., as the parties may mutually agree.

Niagara Mohawk requests an effective date of March 3, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and DukeSolutions, Inc.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Arizona Public Service Company

[Docket No. ER99–2143–000]

Take notice that on March 15, 1999, notice is hereby given that effective May 31, 1999, Rate Schedule FERC No. 208, effective date of June 1, 1993 and filed with the Federal Energy Regulatory Commission by Arizona Public Service Company is to be canceled.

Notice of the proposed cancellation has been served upon the following Navajo Tribal Utility Authority (NTUA), Mr. Walter Wolf, Esq. (Attorney for NTUA) and Arizona Corporation Commission.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Central Illinois Light Company

[Docket No. ER99–2144–000]

Take notice that on March 15, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and one service agreement with one new customer, Cinergy Services, Inc.

CILCO requested an effective date of March 10, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Northeast Utilities Service Company

[Docket No. ER99–2145–000]

Take notice that on March 15, 1999, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company and Holyoke Water Power Company, tendered for filing pursuant to Section 205 of the Federal Power Act and

Section 35.13 of the Commission's Regulations, a rate schedule change for sales of electric energy to City of Chicopee, Massachusetts Municipal Lighting Plant (Chicopee).

NUSCO states that a copy of this filing has been mailed to Chicopee.

NUSCO requests that the rate schedule change become effective on December 1, 1998.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Northeast Utilities Service Company

[Docket No. ER99–2146–000]

Take notice that on March 15, 1999, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company and Holyoke Water Power Company, tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's Regulations, a rate schedule change for sales of electric energy to City of Holyoke, Massachusetts Gas and Electric Department (Holyoke).

NUSCO states that a copy of this filing has been mailed to Holyoke.

NUSCO requests that the rate schedule change become effective on April 1, 1999.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Duquesne Light Company

[Docket No. ER99–2147–000]

Take notice that on March 15, 1999, Duquesne Light Company (DLC) filed a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated March 12, 1999, ACN Energy, Inc. under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds ACN Energy, Inc. as a customer under the Tariff.

DLC requests an effective date of March 12, 1999 for the Service Agreement.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Duquesne Light Company

[Docket No. ER99–2148–000]

Take notice that on March 15, 1999, Duquesne Light Company (Duquesne) tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with The Energy Authority, Inc. (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of March 12, 1999.

Copies of this filing were served upon Customer.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Duquesne Light Company

[Docket No. ER99–2149–000]

Take notice that on March 15, 1999, Duquesne Light Company (Duquesne) tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with DukeSolutions, Inc. (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of March 1, 1999.

Copies of this filing were served upon Customer.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Duquesne Light Company

[Docket No. ER99–2150–000]

Take notice that on March 15, 1999, Duquesne Light Company (Duquesne) tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with Northern Indiana Public Service Company (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of March 12, 1999.

Copies of this filing were served upon Customer.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Duquesne Light Company

[Docket No. ER99–2151–000]

Take notice that on March 15, 1999, Duquesne Light Company (Duquesne) tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with Pepco Services d/b/a Power Choice (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of March 1, 1999.

Copies of this filing were served upon Customer.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Duquesne Light Company

[Docket No. ER99–2152–000]

Take notice that on March 15, 1999, Duquesne Light Company (Duquesne) tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with PP&L EnergyPlus Co. (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of March 12, 1999.

Copies of this filing were served upon Customer.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Duquesne Light Company

[Docket No. ER99–2153–000]

Take notice that March 15, 1999, Duquesne Light Company (DLC) filed a Service Agreement for Non-firm Point-To-Point Transmission Service dated March 12, 1999 with Avista Energy, Inc. under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Avista Energy, Inc. as a customer under the Tariff.

DLC requests an effective date of March 12, 1999 for the Service Agreement.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. PP&L, Inc.

[Docket No. ER99–2154–000]

Take notice that on March 15, 1999, PP&L, Inc. (PP&L) filed a Service Agreement dated March 5, 1999, with Energy New England, LLC (ENE) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds ENE as an eligible customer under the Tariff.

PP&L requests an effective date of March 15, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to ENE and to the Pennsylvania Public Utility Commission.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Public Service Company of New Mexico

[Docket No. ER99–2155–000]

Take notice that on March 15, 1999, Public Service Company of New Mexico (PNM) submitted for filing executed Service Agreements, for Point-To-Point Transmission Service under the terms of PNM's Open Access Transmission Service Tariff, with PG&E Energy Trading—Power, L.P. (2 agreements, dated March 8, 1999 for Non-Firm and Firm Service). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Rocky Road Power, LLC

[Docket No. ER99–2157–000]

Take notice that on March 15, 1999, Rocky Road Power, LLC tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to become effective as of the date specified by the Federal Energy Regulatory Commission.

Rocky Road Power, LLC intends to sell electric power at wholesale at rates, terms, and conditions to be mutually agreed to with the purchasing party. Rate Schedule No. 1 provides for the sale of electric energy and capacity at agreed prices.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Big Rivers Electric Corporation

[Docket No. NJ98–5–002]

Take notice that on March 4, 1999, Big Rivers Electric Corporation filed revised standards of conduct and organizational charts in response to the Commission's February 12, 1999 Order on Standards of Conduct. 86 FERC ¶ 61,150 (1998).

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Ameren Services Company; Central Illinois Public Service Co.; Union Electric Company; Central Vermont Public Service; Corp.; Connecticut Valley Electric Co., Inc.; Duke Power Company; Nantahala Power and Light Company; Southern Company Services; Alabama Power Company; Georgia Power Company; Gulf Power Company; Mississippi Power Company; Savannah Electric and Power Company

[Docket Nos. OA97–271–003 and OA97–510–003; OA97–196–003; OA97–450–004; and OA97–398–003]

Take notice that between February 26 and March 1, 1999, Central Vermont Public Service Corporation and Connecticut Valley Electric Company, Inc., Duke Power Company and Nantahala Power and Light Company and Southern Company Services, on behalf of, Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company, filed revised standards of conduct and organizational charts in response to the Commission's January 28, 1999 Order on Standards of Conduct. 86 FERC ¶ 61,079 (1999).

The January 28, 1999 Order accepted the standards of conduct submitted by Ameren Services Company, on behalf of Central Illinois Public Service Co. and Union Electric Company, but required them to revise their organizational charts and job descriptions posted on OASIS within 30 days. These companies did not make any filings with the Commission (nor were they required to). However, by this notice, the public is invited to intervene, protest or comment regarding their revised organizational charts and job descriptions.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Central Illinois Light Company; QST Energy Trading, Inc.; Orange & Rockland Utilities, Inc.

[Docket Nos. OA97–451–004 and OA97–596–005; and OA97–121–004]

Take notice that on March 15, 1999, Central Illinois Light Company and QST Energy Trading, Inc. submitted revised standards of conduct in response to a January 15, 1999 Commission Order on Standards of Conduct. 86 FERC ¶ 61,044 (1999). On March 15, 1999, Orange & Rockland Utilities, Inc. submitted a filing providing notice that it revised the job descriptions on its OASIS in response to the January 15, 1999 Commission Order.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–7551 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2104–000, et al.]

Commonwealth Edison Company, et al.; Electric Rate and Corporate Regulation Filings

March 22, 1999.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Edison Company

[Docket No. ER99–2104–000]

Take notice that on March 17, 1999, Commonwealth Edison Company (ComEd), tendered for filing a revision to its Firm Service Agreement with Wisconsin Electric Power Company (WEPCO), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of March 1, 1999, for the revised service agreement, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on WEPCO.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. California Independent System Power Corporation

[Docket Nos. ER98–3760–000, EC96–19–000, and ER96–1663–000]

Take notice that on March 11, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Report on Outstanding Issues in the above-referenced docket. The ISO states that this filing was submitted to comply with the Commission's September 11, 1998, Order in this docket, 84 FERC ¶61,217 (1998).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: April 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Atlantic City Electric Company

[Docket No. ER97–3189–021 and OA97–573–001]

Take notice that on March 17, 1999, Atlantic City Electric Company filed a compliance refund report for Vineland Municipal Electric Utility required by the Commission's order in Atlantic City Electric Company, et al., 85 FERC ¶61,445 (December 24, 1998) and letter order approving the settlement in Docket No. ER97–3189–001, 85 FERC ¶61,346 (December 16, 1998).

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Nevada Power Company

[Docket No. ER99–2176–000]

Take notice that on March 17, 1999, Nevada Power Company (NPC), tendered for filing on behalf of the Navajo Project Participants the following amendments Amendment No. 6, to the Navajo Project Co-Tenancy Agreement, Amendment No. 2, to the Navajo Project Western Transmission System Operating Agreement, Amendment No. 5, to the Navajo Project Southern Transmission System Operating Agreement.

As one of the Operating Agents for the Navajo Project Western Transmission System, NPC is constructing the Crystal 500 kV Switchyard as a component of the Navajo Project. NPC is also looping in the Navajo-McCullough 500 kV line at the Crystal 500 kV Switchyard resulting in the formation of the Navajo-Crystal 500 kV line and the Crystal-McCullough 500 kV line. These Amendments establish the ownership, cost responsibilities, operation, maintenance and use of the Crystal 500 kV Switchyard. NPC requests the effective date for the subject amendments to coincide with the firm operation date of this project with such date currently scheduled for June 1, 1999.

A copy of this filing has been served on Arizona Public Service Company, the United States Bureau of Reclamation, Salt River Project Agricultural Improvement and Power District, the Department of Water and Power of the City of Los Angeles, Tucson Electric Power Company, the Arizona Corporation Commission, the Public Utilities Commission of Nevada, and the Bureau of Consumer Protection Utility Consumer's Advocate of Nevada.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Minnesota Power, Inc.

[Docket No. ER99–2177–000]

Take notice that on March 17, 1999, Minnesota Power, Inc., tendered for filing signed a Firm Point-to-Point Transmission Service Agreement and Specifications with Northern States Power Company under its Firm Point-to-Point Transmission Service to satisfy its filing requirements under this tariff.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Southwestern Public Service Co.

[Docket No. ER99–2178–000]

Take notice that on March 17, 1999, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed umbrella service agreement under Southwestern's market-based sales tariff with Public Service Company of New Mexico (PNM). This umbrella service agreement provides for Southwestern's sale and PNM's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Power Service Corp., on behalf of Monongahela Power Co., The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–2179–000]

Take notice that on March 17, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 19 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of March 16, 1999, to ConAgra Energy Services, Inc.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Electric Power Company

[Docket No. ER99–2180–000]

Take notice that on March 17, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing revisions to its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2). Revisions made to the Service Schedule C—Emergency Energy would allow the cost of Wisconsin Electric's retail interruptible service options to be recovered in its provision of Emergency Energy. The modification to Service Schedule C is in order to be prepared for any unusual electric supply and delivery challenges faced by utilities throughout the Midwest region this summer.

Wisconsin Electric respectfully requests an effective date May 1, 1999 and a termination date of September 30, 1998 when the conventional definition of out-of-pocket cost would then be restored for the Service Schedule C revisions. Wisconsin Electric requests waiver of the Commission's advance notice requirements.

Copies of the filing have been served on all current customers under the Coordination Sales Tariff, the Michigan Public Service Commission, and the Service Commission of Wisconsin.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. SIGCORP Energy Services, LLC

[Docket No. ER99–2181–000]

Take notice that on March 23, 1999, SIGCORP Energy Services, LLC (SIGCORP Energy), tendered for filing an application requesting acceptance of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed tariff would authorize SIGCORP Energy to engage in wholesale sales of capacity and energy to eligible customers at market-based rates as a power marketer.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Total Gas & Electricity (PA), Inc.

[Docket No. ER99–2182–000]

Take notice that on March 17, 1999, Total Gas & Electricity (PA), Inc. (TGE), petitioned the Commission for acceptance of TGE Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

TGE intends to engage in wholesale electric power and energy purchases and sales as a marketer. TGE is not in the business of generating or transmitting electric power.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. ECONnergy PA, Inc.

[Docket No. ER99–2183–000]

Take notice that on March 17, 1999, ECONnergy PA, Inc. (EPI), petitioned the Commission for acceptance of EPI Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

EPI intends to engage in wholesale electric power and energy purchases and sales as a marketer. EPI is not in the business of generating or transmitting electric power.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Consumers Energy Company

[Docket No. ER99–2184–000]

Take notice that on March 17, 1999, Consumers Energy Company tendered for filing a proposed amendment to its Open Access Transmission Tariff which would add a new Ancillary Service entitled Delivery Scheduling and Balancing Service. This Ancillary Service would address deviations between deliveries from a generator and the transmission customer's energy schedule which are not classified as Energy Imbalance Service.

Copies of the filing were served upon Consumers' transmission customers and the Michigan Public Service Commission.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Electric Power Company

[Docket No. ER99–2185–000]

Take notice that on March 17, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing short-term firm and non-firm Transmission Service Agreements between itself and Central Illinois Light Company, DukeSolutions, Inc., and the Tennessee Valley Authority. The Transmission Service Agreement allows these customers to receive transmission service under Wisconsin Energy Corporation Operating Companies' FERC Electric Tariff, Volume No. 1.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear.

Copies of the filing have been served on CILCO, DukeSolutions and TVA, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER99–2187–000]

Take notice that on March 17, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and Virginia Electric and Power Company (VEPCO), dated March 16, 1999. This Service Agreement specifies that VEPCO has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and VEPCO to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 16, 1999, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: April 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–7553 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–93–000, et al.]

Cordova Energy Company LLC., et al.; Electric Rate and Corporate Regulation Filings

March 17, 1999.

Take notice that the following filings have been made with the Commission:

1. Cordova Energy Company LLC

[Docket No. EG99–93–000]

Take notice that on March 12, 1999, Cordova Energy Company LLC (Cordova Energy) of 666 Grand Avenue, Des Moines, IA 50303–0657, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Cordova Energy, a limited liability company formed in Delaware, will own and operate a gas-fired electric generating facility with a capacity of approximately 500 MW to be located near Cordova, Illinois.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Niagara Mohawk Power Corporation; NRG Energy; Inc.; Huntley Power LLC and Dunkirk Power LLC

[Docket No. EC99–51–000]

Take notice that on March 15, 1999, Niagara Mohawk Power Corporation, NRG Energy, Inc., Huntley Power LLC, and Dunkirk Power LLC (collectively, the Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval to

transfer certain jurisdictional facilities associated with the sale by Niagara Mohawk Power Corporation of certain fossil-fueled generating facilities.

Comment date: April 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Westwood Operating Company, L.L.C.

[Docket No. EG99–94–000]

Take notice that on, March 15, 1999, Westwood Operating Company, L.L.C. (Applicant), 139 East Fourth Street, P.O. Box 960, Cincinnati, Ohio 45201, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant, a Delaware Limited Liability Company, is a wholly owned subsidiary of Cinergy Capital & Trading, Inc., an Indiana Corporation. Applicant will be engaged directly and exclusively in the business of operating a 30 MW waste coal-fired generating facility located in Schuylkill County, Pennsylvania.

Comment date: April 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. CinCap VI, L.L.C.

[Docket No. EG99–95–000]

Take notice that on, March 15, 1999, CinCap VI, L.L.C. (Applicant), 139 East Fourth Street, P.O. Box 960, Cincinnati, Ohio 45201, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant, a Delaware Limited Liability Company, is a wholly owned subsidiary of Cinergy Capital & Trading, Inc., an Indiana Corporation. Applicant will be engaged directly and exclusively in the business of owning a 30 MW waste coal-fired generating facility located in Schuylkill County, Pennsylvania.

Comment date: April 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Alternate Power Source, Inc.; Gateway Energy Marketing; Chicago Electric Trading, L.L.C.

[Docket Nos. ER96–1145–010; ER96–795–008; and ER90–225–035]

Take notice that on March 15, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/ online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

6. Conectiv Energy Supply, Inc.

[Docket No. ER98–2045–003]

Take notice that on March 15, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/ online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

7. Entergy Services, Inc.

[Docket No. ER99–871–000]

Take notice that on March 12, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing an amendment to its filing of five Interchange Agreements. The Interchange Agreements are between Entergy Services, Inc., the Entergy Operating Companies and the following entities: Jacksonville Electric Authority, Commonwealth Edison Company, Wisconsin Electric Power Company, Virginia Electric and Power Company and Paragould City Light & Water.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. LG&E–Westmoreland Rensselaer

[Docket No. ER99–1125–001]

Take notice that on March 12, 1999, LG&E–Westmoreland Rensselaer, in accordance with the Federal Energy Regulatory Commission's "Order Conditionally Accepting for Filing Proposed Market-Based Rates" issued on February 25, 1999, tendered for filing a revised rate schedule governing the wholesale sale of electric capacity and energy at market-based rates and code of conduct.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Mobile Energy Services Company, L.L.C.

[Docket No. ER99–1204–001]

Take notice that on March 12, 1999, Mobile Energy Services Company, L.L.C. (Mobile Energy), tendered for filing revised codes of conduct in compliance with the order issued by the Federal Energy Regulatory Commission on February 26, 1999, in the above-captioned docket. Mobile Energy Services Company, L.L.C., 86 FERC ¶ 61,196 (1999).

Copies of this filing were served on all parties designated on the official service list.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. West Texas Utilities Company

[Docket No. ER99–2128–000]

Take notice that on March 12, 1999, West Texas Utilities Company (WTU), tendered for filing two revised Delivery Point and Service Specifications sheets (Specification Sheets) for two Class B Ultimate Points of Delivery under the Service Agreement between WTU and Tex-La Electric Cooperative of Texas (Tex-La) under WTU's TR–1 Tariff.

WTU requests an effective date of September 1, 1998. Accordingly, WTU requests waiver of the Commission's notice requirements.

WTU states that copies of this filing have been served on Tex-La and the Public Utility Commission of Texas.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER99–2129–000]

Take notice that on March 12, 1999 Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Oglethorpe Power Corporation for the sale of power under Entergy Services' Rate Schedule SP.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PP&L, Inc.

[Docket No. ER99–2131–000]

Take notice that on March 12, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated February 18, 1999, with Southern Indiana Gas & Electric Company (SIGEC) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds SIGEC as an eligible customer under the Tariff.

PP&L requests an effective date of March 12, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to SIGEC and to the Pennsylvania Public Utility Commission.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Idaho Power Company

[Docket No. ER99–2132–000]

Take notice that on March 12, 1999, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and Flathead Electric.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Central Power and Light Company; West Texas Utilities Company; Public Service Company of Oklahoma; Southwestern Electric Power Company

[Docket No. ER99–2133–000]

Take notice that on March 12, 1999, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the "CSW Operating Companies"), tendered for filing service agreements under which the CSW Operating Companies will provide transmission and ancillary services to Merchant Energy Group of the Americas, Inc. (Merchant) and Southwestern Public Service Company (Southwestern) in accordance with the CSW Operating Companies' open access transmission service tariff. The CSW Operating Companies also tendered for filing notice of cancellation of the firm point-to-point transmission service agreement with Southwestern.

The CSW Operating Companies state that a copy of the filing has been served on Merchant and Southwestern.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Central Vermont Public Service Corporation

[Docket No. ER99–2134–000]

Take notice that on March 12, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Wisvest-Connecticut, L.L.C. under its FERC Electric Tariff No. 8.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on March 15, 1999.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Green Mountain Power Corporation

[Docket No. ER99–2135–000]

Take notice that on March 12, 1999, Green Mountain Power Corporation tendered for filing revisions to its Opportunity Transaction Tariff, FERC Electric Tariff No. 2.

Green Mountain requests an effective date of March 12, 1999.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Cordova Energy Company L.L.C.

[Docket No. ER99–2156–000]

Take notice that on March 12, 1999, Cordova Energy Company L.L.C. tendered for filing a proposed rate schedule that would permit it to make sales of energy and capacity at market-based rates and for certain waivers and blanket approvals. Cordova Energy Company L.L.C. is a wholly-owned indirect subsidiary of MidAmerican Energy Holdings Company.

Comment date: April 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–7550 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–52–000, et al.]

Energy National, Inc. et al.; Electric Rate and Corporate Regulation Filings

March 19, 1999.

Take notice that the following filings have been made with the Commission:

1. Energy National, Inc.

[Docket No. EC99–52–000]

Take notice that on March 17, 1999, Energy National, Inc., 1221 Nicollet Mall, Suite 700, Minneapolis, MN 55403–2445, filed with the Federal Energy Regulatory Commission an application for authorization to acquire securities of Bangor Hydro-Electric Company pursuant to § 203 of the Federal Power Act. No determination has been made that the submittal constitutes a complete filing.

Energy National, Inc. (ENI) is the holder of a Warrant To Purchase Common Stock (Warrant) issued by Bangor Hydro-Electric Company (Bangor Hydro) which grants certain rights to ENI to acquire the common stock of Bangor Hydro. The shares underlying the Warrant equal less than 4% of all issued and outstanding Bangor Hydro common stock. ENI is an indirect wholly owned subsidiary of Northern States Power Company, a public utility as defined under the Federal Power Act. Bangor Hydro is also a public utility as defined under the Federal Power Act.

ENI seeks a determination by the Commission that (1) it will not assert jurisdiction under section 203 of the Federal Power Act over the acquisition of Bangor Hydro securities by ENI pursuant to the Warrant, or (2) it approves such acquisition. ENI states that at any time it holds common stock of Bangor Hydro acquired pursuant to the Warrant that it will (1) not, nor will it permit any affiliate of ENI to, exercise any form of control over Bangor Hydro or Bangor Hydro's assets or business, directly or indirectly as a result of holding Bangor Hydro common stock,

and will not vote any of the shares, and (2) upon receipt of the Bangor Hydro common stock and subject to market conditions, immediately place the same for sale in regular stock market sales transactions, and as a result will, at any time, hold less than one percent of all outstanding Bangor Hydro common stock.

Comment date: April 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Milford Power Company

[Docket No. EG99–97–000]

Take notice that on March 16, 1999, Milford Power Company, LLC, 200 High Street, Boston, Massachusetts 02110, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The applicant is a Delaware limited liability company which proposes to construct and own a five hundred forty-four (544) megawatt natural gas-fired electric generation facility, including ancillary and appurtenant structures, on a site in the city of Milford, Connecticut.

Comment date: April 8, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. South Glens Falls Energy, LLC

[Docket No. ER99–1261–001]

Take notice that on March 16, 1999, South Glens Falls Energy, LLC (South Glens Falls), tendered for filing with the Federal Energy Regulatory Commission a compliance to the Commission's March 11, 1999 Order in the above-referenced Docket.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Trident Energy Marketing, Inc.

[Docket No. ER99–2069–000]

Take notice that on March 16, 1999, Trident Energy Marketing, Inc. (Trident), tendered for filing an amended petition with the Commission providing additional information concerning ownership, affiliation and business activity, to supplement Trident's Petition for a Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations, filed on March 5, 1999.

Trident intends to engage in wholesale electric power and energy purchases and sales as a marketer. Trident is not in the business of generating or transmitting electric power. Trident is a wholly owned subsidiary of Dahlen, Berg and Co., a Minneapolis based energy management services company engaged in the provision of energy consulting and energy management services.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER99–2158–000]

Take notice that on March 16, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. (Entergy Gulf States), tendered for filing an Interconnection and Operating Agreement between Entergy Gulf States and Huntsman Petrochemical Corporation.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corp. and Upper Peninsula Power Company

[Docket No. ER99–2159–000]

Take notice that on March 15, 1999, Wisconsin Public Service Corporation (WPSC) and Upper Peninsula Power Company (UPPCo) hereby filed a revised code of conduct between WPSC and UPPCo and their non-operating company affiliates, in order to include their new affiliates, PDI New England, Inc. (PDI–NE) and PDI Canada, Inc., (PDI–CAN). WPSC requested that the revised code of conduct become effective on April 25, 1999 the date on which PDI–NE and PDI–CAN have requested their market-based rates to become effective in Docket No. ER99–1936–000.

Comment date: April 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Astoria Power LLC

[Docket No. ER99–2160–000]

Take notice that on March 16, 1999, Astoria Power LLC (Seller), a limited liability company organized under the laws of the State of Delaware, petitioned the Commission for an order: (1) accepting Seller's proposed Rate Schedule FERC No. 1 (Market-Based Rate Schedule); (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations, and (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates. Seller is an indirect subsidiary of Northern States Power Company.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Arthur Kill Power LLC

[Docket No. ER99–2161–000]

Take notice that on March 16, 1999, Arthur Kill Power LLC (Seller), a limited liability company organized under the laws of the State of Delaware, petitioned the Commission for an order: (1) accepting Seller's proposed Rate Schedule FERC No. 1 (Market-Based Rate Schedule); (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations, and (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates. Seller is an indirect subsidiary of Northern States Power Company.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Huntley Power LLC

[Docket No. ER99–2162–000]

Take notice that on March 16, 1999, Huntley Power LLC (Seller), a limited liability company organized under the laws of the State of Delaware, petitioned the Commission for an order: (1) accepting Seller's proposed Rate Schedule FERC No. 1 (Market-Based Rate Schedule); (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations, and (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates. Seller is an indirect subsidiary of Northern States Power Company.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Great Bay Power Corporation

[Docket No. ER99–2163–000]

Take notice that on March 16, 1999, Great Bay Power Corporation (Great Bay), tendered for filing a service agreement between Wisvest-Connecticut, L.L.C., and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on July 24, 1998, in Docket No. ER98–3470–000.

The service agreement is proposed to be effective March 5, 1999.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Great Bay Power Corporation

[Docket No. ER99–2164–000]

Take notice that on March 16, 1999, Great Bay Power Corporation (Great

Bay), tendered for filing a service agreement between Griffin Energy Marketing, L.L.C., and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on July 24, 1998, in Docket No. ER98–3470–000.

The service agreement is proposed to be effective March 5, 1999.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Avista Corp.

[Docket No. ER99–2165–000]

Take notice that on March 16, 1999, Avista Corp. (AVA), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with PG&E Energy Trading-Power, L.P.

AVA requests the Service Agreement be given an effective date of March 2, 1999.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER99–2166–000]

Take notice that on March 16, 1999, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Non-Firm and Short-Term Firm Point-To-Point Transmission Service Agreements with Cargill-Alliant, LLC. (Cargill), Enron Power Marketing, Inc. (EPM), Pacific Power Marketing (PPM), Statoil Energy Inc. (Statoil), Tenaska Power Services Co. (Tenaska), and TransAlta Energy Marketing (U.S.) Inc. (TransAlta), under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Dunkirk Power LLC

[Docket No. ER99–2168–000]

Take notice that on March 16, 1999, Dunkirk Power LLC (Seller), a limited liability company organized under the laws of the State of Delaware, petitioned the Commission for an order: (1) accepting Seller's proposed Rate Schedule FERC No. 1 (Market-Based Rate Schedule); (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations, and (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates. Seller is an indirect subsidiary of Northern States Power Company.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Tampa Electric Company

[Docket No. ER99–2171–000]

Take notice that on March 16, 1999, Tampa Electric Company (Tampa Electric), tendered for filing an amendment to its contract with Koch Energy Trading, Inc. (Koch), for the purchase and sale of power and energy.

Tampa Electric proposes an effective date of May 16, 1999, for the contract amendment.

Copies of the filing have been served on Koch and the Florida Public Service Commission.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. New York State Electric & Gas Corporation Pennsylvania Electric Company

[Docket No. ER99–2174–000]

Take notice that March 16, 1999, New York State Electric & Gas Corporation (NYSEG) and Pennsylvania Electric Company (Penelec) on March 16, 1999, tendered for filing pursuant to Section 205 of the Federal Power Act the Operation and Maintenance Agreement by and between NYSEG and Penelec, d/b/a GPU Energy, dated as of March 16, 1999 for the Homer City Substation and a Notice of Cancellation of the Homer City Generating Station Operating Agreement.

NYSEG and Penelec request a waiver of the Commission's notice requirements to allow the filing to become effective as of the date of closing of the sale of the Homer City Generating Station.

Copies of this filing have been served upon the Pennsylvania Public Utility Commission and the New York State Public Service Commission.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. West Georgia Generating Company, L.P.

[Docket Nos. ER99–2186–000 and EG97–42–000]

Take notice that on March 16, 1999, West Georgia Generating Company L.P. (formerly Cataula Generating Company, L.P.) filed a Notice of Succession under Section 35.16 of the Commission's Regulations under the Federal Power Act to succeed to FERC Rate Schedule No. 1 and the exempt wholesale generator status of Cataula Generating Company, L.P. effective February 16, 1999. A copy of the notice is on file with the Secretary and open for public inspection.

Comment date: April 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–7552 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9384–001–ME]

David Head; Notice of Availability of Environmental Assessment

March 23, 1999.

An environmental assessment (EA) is available for public review. The EA is for an application to surrender the exemption for the White's Brook Micro Hydroelectric Project, located on White's Brook near the town of Gilead, in Oxford County, Maine.

The EA evaluates the environmental impacts that would result from the removal of all existing hydropower facilities at the site. The EA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, NE., Washington, DC 20426. Copies also may be obtained by calling the project manager, Lynn Miles at (202) 219–2671 or viewed on the web at http://www.ferc.fed.us/online/rims.htm. Please call (202) 208–2222 for assistance.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7637 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protests

March 23, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: P–11681–000.

c. Date filed: February 16, 1999.

d. Applicant: Universal Electric Power Corp.

e. Name of Project: Whitney Point Dam Project.

f. Location: At the existing U.S. Army Corps of Engineers' Whitney Point Dam on the Otselic River, near the village of Whitney Point, Broome County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. FERC Contact: Jack Duckworth (202) 219–2808 or E-mail to: Jack.Duckworth@FERC.fed.us.

j. Comment Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would use water from the existing U.S. Army Corps of Engineers' Whitney Point Dam, and would consist of the following facilities: (1) a steel penstock about 50 feet long and 72 inches in diameter from the outlet works to; (2) a new powerhouse, with exhaust apron, to be constructed on the downstream side of the dam below the outlet works, having an installed capacity of 975 kilowatts; (3) a new 1.5-mile-long, 14.7-kilovolt transmission line from the powerhouse to a substation in the Village of Whitney Point; and (4) appurtenant facilities. The project's proposed average annual energy generation is estimated to be 6.15 gigawatthours. The cost of the studies under the permit is estimated to be about $500,000.

l. This notice also consists of the following standard paragraphs : A5, A7, A9, A10, B, C, and D2.

m. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service on Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application

may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7638 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protests

March 23, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11682–000.

c. *Date filed:* February 16, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Murphy Dam Project.

f. *Location:* At the existing NH Department of Environmental Services' Murphy Dam on the Connecticut River, near the Town of Pittsburg, Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Jack Duckworth (202) 219–2808 or E-mail to: Jack.Duckworth@FERC.fed.us.

j. *Comment Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would use water from the existing NH Department of Environmental Services' Murphy Dam, and would consist of the following facilities: (1) the existing dam and outlet works; (2) a steel penstock about 50 feet long and 64 inches in diameter extending from the outlet works to; (3) a new powerhouse to be constructed on the downstream side of the dam, below the outlet works, having an installed capacity of 1.5 megawatts; (4) a new 900-foot-long, 14.7-kilovolt transmission line extending from the powerhouse to an existing transformer in the Town of Pittsburg; and (5) appurtenant facilities. The project's proposed average annual energy generation is estimated to be 9.2 gigawatthours. The cost of the studies under the permit is estimated to be about $800,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www/ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be

presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7639 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment to Article 405 and Plan of Operation

March 23, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Action:* Amendment to Article 405 and Plan of Operation.

b. *Project No:* 10867–014.

c. *Date Filed:* December 28, 1998.

d. *Licensee:* Holliday Historic Restoration Associates.

e. *Name of Project:* Holliday Hydroelectric Project.

f. *Location:* West Fork of the White River in Noblesville, Hamilton County, Indiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Licensee contact:* David Brown Kinloch, General Manager, Holliday Historic Restoration Associates, 414 South Wenzel Street, Louisville, KY 40204.

i. *FERC Contact:* Any questions on this notice should be addressed to John K. Novak, E-mail address john.novak@ferc.fed.us or telephone (202) 219–2828.

j. *Deadline for filing comments and or motions:* April 26, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, N.E., Washington, DC 20426.

Please include the project number (p–10867–014) on any comments or motions filed.

k. *Description of Amendment:* Licensee is requesting an amendment of Article 405 of the existing license to use the existing trashrack with a clear spacing of 2.5 inches instead of constructing a new angled trashrack with a clear spacing of 0.75 inches. Further, the licensee is requesting the deletion of the requirement for a 1.0 foot per second intake velocity at certain flow rates contained in the plan of operation developed in cooperation with the resource agencies and incorporated into the license. Licensee requests that turbine operation be governed by Article 402 which includes the requirement that water intake speeds be maintained at 1.5 feet per second or less to minimize fish entrainment. Licensee states that these changes are necessary in order for the turbines to operate efficiently. The use of the existing trashrack will help maintain the historic appearance of the project site which is listed on the National Register of Historic Places.

l. *Locations of applications:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call 202–208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h. above.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within with time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7640 Filed 3–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

March 24, 1999.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 31, 1999, 10:00 A.M.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 716th Meeting—March 31, 1999, Regular Meeting (10:00 a.m.)

CAH–1.
- Docket# P–460, 011, City of Tacoma, Washington
- Other#s P–460, 014, City of Tacoma, Washington

CAH–2.
- Docket# P–2403, 011, Bangor Hydro-Electric Company
- Other#s P–2403, 012, Bangor Hydro-Electric Company
- P–2534, 018, Bangor Hydro-Electric Company
- P–2534, 019, Bangor Hydro-Electric Company
- P–2710, 009, Bangor Hydro-Electric Company
- P–2710, 010, Bangor Hydro-Electric Company
- P–2712, 013 Bangor Hydro-Electric Company

P–2712, 014, Bangor Hydro-Electric Company
CAH–3.
Docket# P–184, 057, Pacific Gas and Electric Company and El Dorado Irrigation District

Consent Agenda—Electric

CAE–1.
Docket# ER99–1567, 000, Rockingham Power, L.L.C.
Other#S ER99–1695, 000, Elwood Energy LLC
ER99–1712, 000, Somerset Power LLC
ER99–1714, 000, Lake Road Generating Company, L.P.
ER99–1727, 000, Cincap VI, LLC
ER99–1757, 000, Empire District Electric Company
ER99–1785, 000, Duke Energy South Bay LLC
ER99–1812, 000, New England Partners, LLC
CAE–2. Docket# ER99–1618, 000, Atlantic City Electric Company
CAE–3. Docket# ER99–1663, 000, Montaup Electric Company
CAE–4. Docket# ER99–1862, 000, Rockgen Energy LLC
CAE–5. Docket# ER99–1791, 000, Mid-Continent Area Power Pool
CAE–6. Docket# ER99–954, 000, AYP Energy, Inc.
CAE–7. Docket# ER99–1659, 000, Central Power and Light Company, West Texas Utilities Company and Public Service Company of Oklahoma, et al.
Other#S ER99–1660, 000, Central Power and Light Company, West Texas Utilities Company and Public Service Company of Oklahoma, et al.
CAE–8.
Docket# ER96–58, 002, Allegheny Power Service Corporation on behalf of Monongahela Power Company, Potomac Edison Company and West Penn Power Company
Other#S ER99–237, 001, Allegheny Power Service Corporation on behalf of Monongahela Power Company, Potomac Edison Company and West Penn Power Company
CAE–9. Omitted
CAE–10.
Docket# EC99–11, 000, Jersey Central Power & Light Company
Other#S EL99–13, 000, Amergen Energy Company, LLC
ER99–754, 000, Amergen Energy Company, LLC
CAE–11.
Docket# ER99–1617, 000, Automated Power Exchange, Inc.
Other#S ER98–1033, 003, Automated Power Exchange, Inc.
ER98–1033, 005, Automated Power Exchange, Inc.
CAE–12.
Docket# ER96–1085, 000, South Carolina Electric & Gas Company
Other#S OA96–49, 000, South Carolina Electric & Gas Company
CAE–13.
Docket# TX93–2, 007, Cities of Bedford, Danville and Martinsville, Virginia, town of Richlands, Virginia and Blue Ridge Power Agency
Other#S EL94–59, 003, Cities of Bedford, Danville, and Martinsville, Virginia, et al. v. Appalachian Power Company
CAE–14.
Docket# ER96–1551, 000, Public Service company of New Mexico
Other#S OA96–202, 000, Public Service Company of New Mexico
OA96–202, 002, Public Service Company of New Mexico
CAE–15.
Docket# ER98–114, 000, Louisville Gas and Electric Company and Kentucky Utilities Company
CAE–16.
Docket# ER99–1374, 000, New England Power Pool
Other#S ER99–1556, 000, New England Power Pool
ER99–1609, 000, New England Power Pool
CAE–17.
Docket# EC97–56, 000, Western Resources, Inc. and Kansas City Power & Light Company
Other#S ER97–4669, 000, Western Resources, Inc. and Kansas City Power & Light Company
CAE–18.
Docket# OA96–74, 000, New England Power Company
Other#S ER97–253, 000, New England Power Company
ER97–1327, 000, New England Power Company
OA96–74, 001, New England Power Company
OA97–621, 000, New England Power Company
CAE–19.
Docket# EC99–18, 000, Boston Edison Company and Entergy Nuclear Generation Company
Other# S EL99–22, 000, Boston Edison Company
ER99–1023, 000, Boston Edison Company
CAE–20, Docket# ER99–647, 001, PJM Interconnection, L.L.C.
CAE–21.
Docket# ER92–323, 002, Appalachian Power Company
Other# S ER92–324, 002, Appalachian Power Company
CAE–22.
Docket# ER98–3853, 002, New England Power Pool
Other#S EL98–69, 001, Champion International Corporation and Bucksport Energy, L.L.C. V. ISO New England, Inc. and New England Power Pool, et al.
CAE–23.
Docket# ER99–473, 001, California Independent System Operator Corporation
Other# S EL99–47, 000, California Independent System Operator Corporation and Pacific Gas and Electric Company
ER99–418, 001, Pacific Gas and Electric Company
CAE–24.
Docket# EL98–32, 001, Utah Associated Municipal Power Systems V. Pacificorp
CAE–25.
Docket# EL98–17, 001, Potomac Electric Power Company V. Allegheny Power System
CAE–26.
Docket# ER98–3406, 001, New York State Electric & Gas Corporation
CAE–27.
Docket# EL98–78, 000, Public Service Company of New Mexico
Other# S EC99–19, 000, Public Service Company of New Mexico
CAE–28.
Docket# EL99–24, 000, Central Montana Electric Power Cooperative, Inc. V. Montana Power Company
Other# S ER98–2382, 000, Montana Power Company
CAE–29.
Docket# EL99–46, 000, Capacity Benefit Margin in Computing Available Transmission Capacity
CAE–30.
Docket# EL99–37, 000, AES Eastern Energy, L.P.
CAE–31.
Docket# EL99–2, 000, Illinois Municipal Electric Agency V. Illinois Power Company
Other# S EL99–2, 001, Illinois Municipal Electric Agency V. Illinois Power Company
CAE–32.
Docket# EL99–25, 000, Municipal Energy Agency of Mississippi and Lafayette Utilities System V. Entergy Services, Inc.
Other# S EL98–74, 000, South Mississippi Electric Power Association V. Entergy Services, Inc.
ER98–2910, 000, Entergy Services, Inc.
CAE–33. Docket# EL92–33, 004, Barton Village, Inc., Village of Enosburg Falls Water & Light Department and Village of Orleans, et al. V. Citizens Utilities Company
CAE–34.
Docket# EL99–30, 000, Western Power Trading Forum V. California Independent System Operator Corporation
Other# S ER99–921, 000, California Independent System Operator Corporation
CAE–35.
Docket# EL99–29, 000, Wolverine Power Supply Cooperative, Inc.
CAE–36.
Docket# NJ97–9, 004, Colorado Springs Utilities
Other# S NJ97–2, 004, Omaha Public Power District
NJ97–8 003 South Carolina Public Service Authority
NJ97–10 002 New York Power Authority
NJ97–13 004 Orlando Utilities Commission
NJ97–14 002 East Kentucky Power Cooperative, Inc.
CAE–37.
Docket# NJ98–4, 001, Long Island Power Authority and Long Island Lighting Company
Other# S NJ99–1, 000, United States Department of Energy—Western Area Power Administration
CAE–38.
Docket# IN99–2, 000, Communications of Market Information: Between Affiliates
CAE–39.
Docket# AC99–35, 000, Illinois Power Company
Other# S AC99–35, 001, Illinois Power Company

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP98–363, 000, Southern Natural Gas Company
Other# S RP99–253, 000, Southern Natural Gas Company
CAG–2.
Docket# RP98–364, 000, South Georgia Natural Gas Company
Other# S RP99–251, 000, South Georgia Natural Gas Company
CAG–3.
Docket# RP99–227, 000, High Island Offshore System
CAG–4.
Docket# RP99–237, 000, South Georgia Natural Gas Company
CAG–5.
Docket# RP99–238, 000, Sea Robin Pipeline Company
CAG–6.
Docket# RP99–241, 000, Southern Natural Gas Company
CAG–7. OMITTED
CAG–8. Docket# RP99–255,000, ANR Pipeline Company
CAG–9. Docket# RP99–256,000, ANR Pipeline Company
CAG–10. Docket# RP99–262,000, Algonquin Gas Transmission Company
CAG–11. Docket# TM99–2–48,000, ANR Pipeline Company
CAG–12. Omitted
CAG–13. Docket# TM99–6–29,000, Transcontinental Gas Pipe Line Corporation
CAG–14. Docket# RP99–240,000, Dynegy Midstream Pipeline, Inc.
CAG–15. Docket# RP99–244,000, Southwest Gas Storage Company
Other#S TM99–1–106,000, Southwest Gas Storage Company
CAG–16. Docket# RP99–245,000, Transwestern Pipeline Company
CAG–17. Docket# RP99–248,000, PG&E Gas Transmission, Northwest Corporation
CAG–18. Docket# RP99–249,000, Williston Basin Interstate Pipeline Company
CAG–19. Docket# RP98–131,002, Sumas International Pipeline Inc.
CAG–20. Docket# RP99–106,002, Transcolorado Gas Transmission Company
CAG–21. Docket# RS92–23,032, Tennessee Gas Pipeline Company
Other#S RS92–23 033, Tennessee Gas Pipeline Company
CAG–22. Docket# TM99–1–37,000, Northwest Pipeline Corporation
CAG–23. Docket# PR99–3,000, Bay Gas Storage Company, Ltd
CAG–24. Docket# RP96–290,000, Michigan Gas Storage Company
CAG–25. Omitted
CAG–26. Docket# RP99–179,001, Transcontinental Gas Pipe Line Corporation
CAG–27. Docket# RP99–166,002, Stingray Pipeline Company
CAG–28. Docket# RP97–431,007, Natural Gas Pipeline Company of America
CAG–29. Omitted
CAG–30. Docket# RP98–132,001, Mississippi River Transmission Corporation
CAG–31. Docket# RP98–356,002, Mississippi River Transmission Corporation
CAG–32. Docket# RM96–1 011, Standards for Business Practices of Interstate Natural Gas Pipelines
CAG–33. Docket# MG99–11,000, Transcontinental Gas Pipe Line Corporation
CAG–34. Docket# CP85–221,105, Frontier Gas Storage Company
CAG–35. Docket# CP96–152,010, Kansas Pipeline Company and Riverside Pipeline Company, L.P.
Other#S CP96–152,009, Kansas Pipeline Company and Riverside Pipeline Company, L.P.
CP96–152 011, Kansas Pipeline Company and Riverside Pipeline Company, L.P.
CP96–152 012, Kansas Pipeline Company and Riverside Pipeline Company, L.P.
CP97–738 006, Transok, Inc.
PR94–3 013, Kansok Partnership
RP95–212 009, Kansok Partnership, Kansas Pipeline Partnership and Riverside Pipeline Company, L.P.
RP95–395 009, Williams Natural Gas Company v. Kansas Pipeline Operating Company, Kansok Partnership and Kansas Pipeline Partnership, et al.
CAG–36.
Docket# CP96–809, 008, Maritimes & Northeast Pipeline, LLC
Other#S CP96–178, 008, Maritimes & Northeast Pipeline, LLC CP96–809, 007, Maritimes & Northeast Pipeline, LLC
CP97–238, 008, Maritimes & Northeast Pipeline, LLC
CP98–724,,000, Maritimes & Northeast Pipeline, LLC CP98–797, 000, Maritimes & Northeast Pipeline, LLC
CAG–37. Docket# CP98–128, 001, Wyoming Interstate Company, Ltd. and Colorado Interstate Gas Company
CAG–38. Docket# CP98–327, 001, Wyoming Interstate Company, Ltd. and Colorado Interstate Gas Company
CAG–39. Docket# CP98–546, 000, Columbia Gas Transmission Corporation
CAG–40. Docket# CP98–794, 000, Northwest Pipeline Corporation
CAG–41. Docket# CP98–795, 000, Transwestern Pipeline Company
Other#S CP99–123, 000, Union Pacific Highlands Gathering and Processing Company
CAG–42. Docket# CP99–152, 000, Canadian-Montana Pipe Line Corporation

Hydro Agenda

H–1. Reserved

Electric Agenda

E–1. Reserved

Regular Agenda—Miscellaneous

M–1. Docket# RM98–13, 000, Complaint Procedures
Final Rule.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1. Docket# RP94–365, 006, Williams Natural Gas Company
Order on Rehearing.
PR–2.
Docket# RP96–173, 002, Williams Natural Gas Company
OTHER#S RP89–183, 062, Williams Natural Gas Company
RP89–183, 063, Williams Natural Gas Company
RP89–183, 064, Williams Natural Gas Company
RP89–183, 065, Williams Natural Gas Company
RP89–183, 069, Williams Natural Gas Company
RP96–303, 000, Williams Natural Gas Company
RP96–400, 000, Williams Natural Gas Company
RP96–400, 001, Williams Natural Gas Company
RP97–220, 000, Williams Natural Gas Company
Order on Initial Decision.
PR–3. DOCKET# RP97–319, 000, Williams Gas Pipelines Central Inc.
OTHER#S RP89–183, 000, Williams Gas Pipelines Central Inc.
RP89–183, 002, Williams Natural Gas Company
RP97–407 000, Williams Gas Pipelines Central Inc.
RP98–12, 000, Williams Gas Pipelines Central Inc.
RP98–105, 000, Williams Gas Pipelines Central, Inc
RP98–165, 000, Williams Gas Pipelines Central, Inc
RP98–293, 000, Williams Gas Pipelines Central, Inc
RP99–16, 000, Williams Gas Pipelines Central, Inc
RP99–16, 002, Williams Gas Pipelines Central, Inc
RP99–194, 000, Williams Gas Pipelines Central, Inc
RP99–194, 001, Williams Gas Pipelines Central, Inc
Order Directing Further Proceedings.
PR–4. Docket# RP99–257, 000, Williams Gas Pipelines Central, Inc.
Other#S RP89–183, 085, Williams Gas Pipelines Central, Inc.
Order on Tariff Sheets.

II. Pipeline Certificate Matters

C–1. Reserved

David P. Boergers,

Secretary.

[FR Doc. 99–7745 Filed 3–25–99; 11:29 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6315–3]

Notice of Proposed Administrative Order on Consent Pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Osage Metals Superfund Site, Kansas City, KS, Docket No. CERCLA–7–99–0010

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative order on consent, Osage Metals Superfund Site, Kansas City, Kansas.

SUMMARY: Notice is hereby given that a proposed administrative order on consent regarding the Osage Metals Superfund Site, was signed by 21 private parties, approved by the United States Department of Justice (DOJ) on January 13, 1999, and signed by the United States Environmental Protection Agency (EPA) on February 25, 1999.

DATES: EPA will receive comments relating to the proposed agreement and covenant not to sue until April 28, 1999.

ADDRESSES: Comments should be addressed to Audrey Asher, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to *the Osage Metals Superfund Site Administrative Order on Consent, EPA Docket No. CERCLA–7–99–0010.*

The proposed agreement may be examined or obtained in person or by mail at the office of the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101 (913) 551–7255.

SUPPLEMENTARY INFORMATION: The proposed agreement concerns the 1.7-acre Osage Metals Superfund Site ("Site"), located at 120 Osage Avenue in Kansas City, Kansas. The Site was the location of metals salvage and reclamation facilities between 1948 and 1993. Samples taken at the Site in 1994 found polychlorinated biphenyls ("PCBs") in surface soils at levels as high as 334 mg/kg, and lead contamination in levels as high as 56,600 mg/kg. The EPA approved a removal action at the Site on February 13, 1995, and began cleanup in March of 1995. EPA completed its work in October 1995. No further response action is anticipated.

As of May 31, 1998, EPA and DOJ had incurred costs in excess of $1.3 million exclusive of interest. Each of the proposed settlors arranged for disposal of capacitors contaminated with PCBs with PCB Treatment, Inc. PCB Treatment, Inc. then arranged for disposal at the Site of scrap metal from the capacitors.

EPA has determined that any party who arranged for disposal of between 206 and 89,387 pounds of capacitors contributed a *de minimis* volume of waste to the Site and that such wastes are not more toxic than any other hazardous substance at the Site.

Each settlor will pay a share of costs based on its volumetric share of capacitor weight compared to all capacitor weight with an additional premium of 15%.

Through this settlement EPA will recover $14,000. EPA has recovered $80,000 through a consent decree with the former owner/operator and over $194,000 through Administrative Orders on Consent with other potentially responsible parties at the Site. Negotiations of other settlements with potentially responsible parties are pending.

Dated: March 15, 1999.

Dennis Grams,

Regional Administrator, Region VII.

[FR Doc. 99–7334 Filed 3–26–99; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–537]

Request for Waiver by San Mateo County, California, to Obtain a License for Thirty-one Frequencies Allocated for Paging Control Operations

AGENCY: Federal Communications Commission.

ACTION: Notice; comments requested.

SUMMARY: This document seeks comment on a waiver request by San Mateo County, California, to permit it to use thirty-one frequencies for public safety purposes that are now allocated for point-to-multipoint paging control operation in the San Francisco, California, area.

DATES: Comments are due on or before March 29, 1999, and reply comments are due on or before April 5, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, S.W., TW–325, Washington, D.C. 20554. SW, Washington, D.C. 20554. A copy of each filing should be sent to International Transcription Services, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800, and Peter J. Daronco, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, S.W., Room 4–C431, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Peter J. Daronco at the Public Safety and Private Wireless Division, Policy and Rules Branch (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice*, DA 99–537, released on March 18, 1999 (DA 99–357). The full text of the *Public Notice* is available for inspection and copying during normal business hours in the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 4–C207, Washington, D.C. 20554. The complete text of this *Public Notice* may also be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, NW, Washington, DC 20036, 202–857–3800. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at mcontee@fcc.gov.

1. On January 28, 1999, the County of San Mateo, California ("San Mateo County" or "the County") filed applications and a Request for Waiver ("Waiver Request") of section 22.621 of the Commission's rules, 47 CFR 22.621. San Mateo County requests a waiver to permit it to use thirty-one frequencies for public safety purposes that are now allocated for point-to-multipoint paging control operation in the San Francisco, California, area. The County states that these thirty-one frequencies are currently unassigned and it proposes to utilize this spectrum in the form of thirteen narrowband (12.5 kHz) channel pairs.

2. The County requests waiver of section 22.621, and any other Commission rules necessary to grant its applications, pursuant to Section 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. 337(c). Section 337(c) states that the Commission shall grant an application by an entity seeking to provide public safety services to the extent necessary to permit the use of unassigned frequencies, if the Commission makes five specific findings: (1) No other spectrum allocated for public safety use is immediately available; (2) there will be no harmful interference to other spectrum users entitled to protection; (3) public safety use of the frequencies is consistent with other public safety spectrum allocations in the geographic area in question; (4) the unassigned frequencies were allocated for their present use not less than two years prior to the grant of the application at issue; and (5) the grant of the application is consistent with the public interest. "Public safety services" are defined by 47 U.S.C. 337(f)(1) as services, the sole or principal purpose of which is to protect the safety of life, health, or property, that are provided by state or local governmental entities or by non-

governmental entities authorized by the governmental entity whose primary mission is the provision of such services, and that are not made commercially available to the public by the provider.

3. San Mateo County avers that the subject spectrum will be used to provide "public safety services" as defined by Section 337(f)(1), because it is a local governmental entity proposing a trunked system to serve its Sheriff's Department, Park Police, Emergency Medical Services Department, and perhaps other public safety agencies within the county. The County states that the public safety services at issue will not be made commercially available to the public by the County and that its application meets the other requirements of Section 337(c) in the following particulars: (a) no existing, suitable frequencies allocated to public safety are available to satisfy the requested public safety service use; (b) no harmful interference to other Commission licensees will occur and the County's proposed channel plan preserves a "guard" channel to avoid any potential for harmful interference; (c) use of the subject frequencies for public safety services is consistent with other allocations for the provision of such services in the geographic area for which the application is made because the requested frequencies are part of the 470–512 MHz band, which is already used extensively for public safety operations in the San Francisco area; (d) the Commission allocated the subject frequencies for paging control operations over five years prior to the date of the filing of the Request; and (e) the public interest will be served because the proposed system will allow the County to provide effective and efficient communications capability for its public safety communications operations whereas absent a waiver, the County will continue to face severe limitations in its ability to protect the safety of life, health and property.

4. Interested parties may file comments on the Waiver Request on or before March 29, 1999. Parties interested in submitting reply comments must do so on or before April 5, 1999. All comments should reference the subject Waiver Request by San Mateo County, California, DA 99–537, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW–325, Washington, D.C. 20554. A copy of each filing should be sent to International Transcription Services, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800, and Peter J. Daronco, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, S.W., Room 4–C431, Washington, D.C. 20554.

5. The full text of the Waiver Request, comments, and reply comments will be available for inspection and duplication during regular business hours in the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 4–C207, Washington, D.C. 20554. Copies also may be obtained from ITS.

6. Unless otherwise provided, requests for waiver of the Commission's rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under section 1.1208 of the Commission's rules, 47 CFR 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. *See* sections 1.1200(a) and 1.1206 of the Commission's rules, 47 CFR 1.1200(a), 1.1206. Therefore, subsequent to the release of this Public Notice, *ex parte* presentations that are made with respect to the issues involved in the subject Waiver Request will be allowed but must be disclosed in accordance with the requirements of section 1.1206(b) of the Commission's rules, 47 CFR 1206(b).

Federal Communications Commission.

Herbert W. Zeiler,

Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 99–7783 Filed 3–26–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–07]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* May 28, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Mark Holman, Chief, Mortgage Underwriting and Insurance Branch, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410, telephone (202) 708–2121. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Builder's Certification of Plans, Specifications and Site.

OMB Control Number, if applicable: 2502–0496.

Description of the need for the information and proposed use: This Notice requests an amendment to HUD–92541, Builder's Certification of Plans, Specifications, and Site to include an option for the builder to provide an evaluation certificate in lieu of a Letter of MAP Amendment (LOMA) or Letter of MAP Revision (LOMR) thus making it easier to comply with new regulations.

Agency Form Numbers, if applicable: HUD–92541.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 800, the total annual responses are 65,600, and the total annual hours of response are estimated at 16,400.

Status of the proposed information collection: Revision of currently approved collection.

Authority: The paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 16, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–7614 Filed 3–26–99; 8:45 am]

BILLING CODE 4210–27–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Federal Assistance for Offsite Radiological Emergency Planning and Preparedness under Executive Order 12657.

Type of Information Collection: Reinstatement, without change of a previously approved collection for which approval has expired.

OMB Number: 3067–0201.

Abstract: Executive Order 12657, dated November 18, 1998 charged FEMA and other Federal agencies with the emergency planning response in cases, where State and Local governments have declined or failed to prepare emergency plans. FEMA uses certain information from the licensee in order to form a decision as to whether or not a condition of "decline or fail" exists on the part of the State or Local government. Also, when a licensee requests Federal facilities or resources, FEMA will need information from the Nuclear Regulatory Commission (NRC) as to whether the licensee has made maximum use of its resources and the extent to which the licensee has complied with 10 CFR 50.47 (c) (1).

Affected Public: State, Local or Tribal Government.

Number of Respondents: 1 per year.

Estimated Time per Respondent: 160 hours.

Estimated Total Annual Burden Hours: 160 hours.

Frequency of Response: As needed.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

Dated: March 17, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–7618 Filed 3–26–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Write Your Own (WYO) Company Participation Criteria; New Application.

Type of Information Collection: Reinstatement, with change of a previously approved collection for which approval has expired.

OMB Number: 3067–0259.

Abstract: Under the WYO Program, private sector insurance companies may offer flood insurance to eligible property owners. The Federal government is a guarantor of flood insurance coverage for WYO companies, issued under the WYO arrangement. To determine eligibility for participation in the WYO program, the NFIP is requiring a one-time submission demonstrating their qualification for participation from each new company seeking entry into the Program.

Affected Public: Business or Other For-Profit.

Number of Respondents: 5.

Estimated Time per Respondent: 7 hours.

Estimated Total Annual Burden Hours: 35 hours.

Frequency of Response: One-time.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

Dated: March 17, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–7619 Filed 3–26–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1267–DR]

(California); Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1267–DR), dated February 9, 1999, and related determinations.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California is hereby amended to include

the following assistance: Crisis Counseling, Section 416; Temporary Housing, Section 408; Food Coupons and Distribution, Section 412; Food Commodities, Section 413(b); and the Hazard Mitigation Grant Program, Section 404, under the Stafford Act in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1999:

Crisis Counseling, Section 416; Temporary Housing, Section 408; Food Coupons and Distribution, Section 412; and Food Commodities, Section 413(b); for the counties of Fresno, Kern, Kings, Madera, Merced, Monterey, and Tulare (already designated for Disaster Unemployment Assistance, Section 410, and Mortgage and Rental Assistance, Section 408(b) of the Stafford Act.)

Temporary Housing, Section 408; Disaster Unemployment Assistance, Section 410; Crisis Counseling, Section 416; Food Coupons and Distribution, Section 412; and Food Commodities, Section 413(b), for Ventura County.

All counties within the State of California are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–7620 Filed 3–26–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3138–EM]

New York; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of New York (FEMA–3138–EM), dated March 10, 1999, and related determinations.

EFFECTIVE DATE: March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 10, 1999, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the impact in certain areas of the State of New York, resulting from the near record snow on March 3–6, 1999, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288 as amended, (''the Stafford Act''). I, therefore, declare that such an emergency exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide emergency protective measures under the Public Assistance program to save lives, protect public health and safety, and property. Other forms of assistance under Title V of the Stafford Act may be added at a later date, as you deem appropriate. You are further authorized to provide this emergency assistance in the affected areas for a period of 48 hours. You may extend the period of assistance, as warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Marianne C. Jackson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared emergency:

The counties of Livingston, Monroe, and Wayne for reimbursement for emergency protective measures under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–7622 Filed 3–26–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3138–EM]

New York; Amendment No. 1 to Notice of an Emergency

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of New York, (FEMA–3138–EM), dated March 10, 1999, and related determinations.

EFFECTIVE DATE: March 16, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of New York is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 10, 1999:

Ontario, Orleans and Wyoming Counties for reimbursement for emergency protective measures, Category B, under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–7623 Filed 3–26–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1268–DR]

Wyoming; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Wyoming, (FEMA–1268–DR), dated February 17, 1999, and related determinations.

EFFECTIVE DATE: March 15, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Wyoming is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 17, 1999:

Goshen County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–7621 Filed 3–26–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

[No. 99–N–2]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Board.

ACTION: Notice with request for comments.

SUMMARY: In accordance with the Privacy Act of 1974 (Privacy Act), the Federal Housing Finance Board (Finance Board) is providing notice of its intent to amend its system of records to reflect an agency reorganization and regulatory changes.

DATES: This amendment will become effective as proposed without further notice on April 28, 1999, unless comments dictate otherwise. The Finance Board will accept comments in writing on or before April 28, 1999.

ADDRESSES: Mail comments to Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Elaine L. Baker, Secretary to the Board and Associate Director, Executive Secretariat, Office of the Managing Director, by electronic mail at *bakere@fhfb.gov* or by telephone at 202/408–2837, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, by electronic mail at *kayej@fhfb.gov* or by telephone at 202/408–2505, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Pursuant to the requirements of the Privacy Act, the Finance Board is publishing a notice of an amendment to its system of records. *See* 5 U.S.C. 552a(e)(4) and (11). Some of the changes are being made to reflect an agency reorganization. More specifically, the Finance Board is amending its system of records to reflect the following organizational changes: (1) The name of the Executive Secretary has been changed to the Secretary to the Board; (2) the name of the Office of Human Resources has been changed to the Office of Resource Management; and (3) the duties of the Personnel Security Officer have been transferred from the Office of Resource Management to the Office of General Counsel.

The Finance Board also is amending its system of records to reflect regulatory changes. In 1995, the Finance Board eliminated the reporting form and the requirement that formerly appeared in part 922 of the Finance Board's regulations for members of the Board of Directors of the Finance Board annually to file financial disclosure reports. *See* 60 FR 49199 (Sept. 22, 1995). In 1998, the Finance Board removed the remainder of part 922, which concerned the financial interests of members of the Board of Directors. *See* 63 FR 65683 (Nov. 30, 1998). Since the Finance Board has eliminated all of its internal rules concerning financial disclosure reporting for members of the Board of Directors, the system of records entitled FHFB–5 Finance Board Director Financial Disclosure Records is no longer required. Accordingly, the Finance Board is amending its system of records to remove FHFB–5 in its entirety.

As part of the same 1998 rulemaking that removed part 922, the Finance Board amended its regulations concerning the election and appointment of Federal Home Loan Bank (FHLBank) directors. *Id.* Among other things, the Finance Board eliminated the rules concerning and the requirement for elective FHLBank directors to submit certain personal financial information to the Finance Board. Since the Finance Board no longer collects information from elective FHLBank directors, corresponding changes to the system of records entitled FHFB–4 Federal Home Loan Bank Directors Financial Disclosure Records are necessary.

For the reasons stated above, the Finance Board hereby amends its system of records originally published in the **Federal Register** in September 1995, *see* 60 FR 46120 (Sept. 5, 1995), as amended in December 1997, *see* 62 FR 66865 (Dec. 22, 1997), as follows:

1. Replace the term "Executive Secretary" everywhere it appears with the term "Secretary to the Board."

2. Amend the system of records entitled FHFB–2 General Travel and Transportation Files as follows:

FHFB–2

SYSTEM NAME:

General Travel and Transportation Files.

* * * * *

ROUTINE USES OF OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

8. OGE to provide the information necessary to support the Finance Board's semi-annual report concerning payments accepted under 31 U.S.C. 1353.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Resource Management, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

* * * * *

3. Amend the system of records entitled FHFB–3 Administrative Grievance Files as follows:

FHFB–3

SYSTEM NAME:

Administrative Grievance Files.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1422b(b)(1); 5 CFR part 771

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Resource Management, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

* * * * *

4. Amend the system of records entitled FHFB–4 Federal Home Loan Bank Directors Financial Disclosure Forms as follows:

FHFB–4

SYSTEM NAME:

Federal Home Loan Bank Appointive Director Eligibility Certification Forms.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Federal Home Loan Bank (FHLBank) appointive directors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain certifications of eligibility and information concerning the financial or other personal interests of current FHLBank appointive directors and their immediate families that may pose a conflict of interest under the conflicts of interest policy of the director's FHLBank.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1427(a) and (d); 12 CFR 932.10 and 932.11.

PURPOSE(S):

Records are collected to determine whether FHLBank appointive directors are in compliance with statutory and regulatory eligibility requirements.

* * * * *

RETENTION AND DISPOSAL:

Records pertaining to a particular individual are retained for the length of the individual's term of service as a FHLBank appointive director.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Public Affairs, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

* * * * *

5. Remove the system of records entitled FHFB–5 Finance Board Director Financial Disclosure Records.

6. Amend the system of records entitled FHFB–6 Board Directors as follows:

FHFB–6

SYSTEM NAME:

Board of Directors.

* * * * *

7. Amend the system of records entitled FHFB–7 Agency Personnel Investigative Records as follows:

FHFB–7

SYSTEM NAME:

Agency Personnel Investigative Records.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

* * * * *

Dated: March 19, 1999.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 99–7541 Filed 3–26–99; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 12, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Marquis W. Sauvage, Denver, Colorado, Alan, L. Sauvage, Las Vegas, Nevada, and Sauvage Stock Trust, Las Vegas, Nevada; to acquire voting shares of West Point Bancorp, Inc., West Point, Nebraska, and thereby indirectly acquire Dakota County State Bank, South Sioux City, Nebraska; Farmers & Merchants State Bank of Wayne, Wayne, Nebraska, and Farmers and Merchants National Bank, West Point, Nebraska.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Milton and Arlene Herbert, Myrtle Creek, Oregon; to acquire additional voting shares of Umpqua Holdings Corporation, Roseburg, Oregon, and thereby indirectly acquire South Umpqua Bank, Roseburg, Oregon.

Board of Governors of the Federal Reserve System, March 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7556 Filed 3–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 12, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. KeyCorp, Cleveland, Ohio, through its subsidiary, McDonald Investments, Inc., Cleveland, Ohio, to acquire NTH Holdings, Inc., Raleigh, North Carolina, and thereby indirectly acquire Trident Securities, Inc., Raleigh, North Carolina, and Trident Financial Corporation, Raleigh, North Carolina, and thereby engage in providing permissible trust company services, pursuant to § 225.28(b)(5) of Regulation Y; providing financial advisory services, pursuant to § 225.28(b)(6) of Regulation Y; providing agency transactional services for customer investments, pursuant to § 225.28(b)(7) of Regulation Y; in investment transactions as principal, pursuant to § 225.28(b)(8) of Regulation Y; underwriting (principally on a best efforts basis) and dealing in all types of debt and equity securities (other than ownership interests in open-end investment companies) on a limited basis and within the prudential framework previously imposed by the Board, and providing such services as

are a necessary incident thereto, *See J.P. Morgan & Co., Inc.*, 75 Fed. Res. Bull. 192 (1989).

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. National Australia Bank Limited, Melbourne, Australia; to acquire, indirectly through Homeside Lending, Inc., Jacksonville, Florida, certain assets of First Chicago NBD Mortgage Company, Troy, Michigan, and thereby engage in extending credit and servicing loans and activities related to extending credit, pursuant to §§ 225.28(b)(1) and 225.28(b)(2) of Regulation Y.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Cullen/Frost Bankers, Inc., San Antonio, Texas, and New Galveston Company, Wilmington, Delaware; to engage *de novo* through their subsidiary, Frost Securities, Inc., Dallas, Texas, in financial & investment advisory services, pursuant to § 225.28(b)(6) of Regulation Y; agency transactional services for customer investments, pursuant to § 225.28(b)(7) of Regulation Y; investment transactions as principal, pursuant to § 225.28(b)(8) of Regulation Y; extending credit and servicing loans and engaging in activities related to extending credit, pursuant to §§ 225.28(b)(1) and (2) of Regulation Y; underwriting and dealing in all types of debt and equity securities (other than ownership interests in open-end investment companies) on a limited basis and with the prudential framework previously imposed by the Board, and providing such services as are a necessary incident thereto, *See, J.P. Morgan & Co. Inc*, 75 Fed. Res. Bull. 192 (1989).

Board of Governors of the Federal Reserve System, March 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7555 Filed 3–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Thursday, April 1, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 25, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7737 Filed 3–25–99; 11:29 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

National Advisory Council for Health Care Policy, Research, and Evaluation: Request for Nominations for Public Members

AGENCY: Agency for Health Care Policy and Research, HH.

ACTION: Request for nominations for public members.

SUMMARY: 42 U.S.C. 299c, section 921 of the Public Health Service (PHS Act), established a National Advisory Council for Health Care Policy, Research, and Evaluation (the Council). The Council is to advise the Secretary and the Administrator, Agency for Health Care Policy and Research (AHCPR), on matters related to actions of the Agency to enhance the quality, improve outcomes, reduce costs of health care services, improve access to such services through scientific research, the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

Five current members' terms will expire in June 1999. We are seeking persons who are distinguished in the conduct of health services research, persons distinguished in the practice of medicine, persons distinguished in the fields of business, law, ethics, economics, social sciences, statistics, epidemiology, evaluation research, public policy, or persons to represent health care consumers' interests to fill these positions in accordance with the legislative mandate establishing the Council. Individuals with expertise in the Agency's areas of emphasis are particularly sought as specified in the summary paragraph above.

DATES: Nominations should be received on or before April 9, 1999.

ADDRESSES: Nominations should be sent to Ms. Anne Lebbon, AHCPR, 2101 East Jefferson Street, Suite 600, Rockville, Maryland 20852. Nominations also may be faces to (301) 443–0251.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Eder or Ms. Anne Lebbon, AHCPR, at (301) 594–6662.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 299c, section 921 of the PHS Act, provides that the National Advisory Council for Health Care Policy, Research, and Evaluation shall consist of 17 appropriately qualified representatives of the public appointed by the Secretary of Health and Human Services and five ex officio representatives from Federal agencies conducting or supporting health care research. The Council meets in the Washington, DC, metropolitan area, generally in Rockville, Maryland, approximately three times a year to provide broad guidance to the Secretary and AHCPR's Administrator on the direction and programs for AHCPR.

Of the five positions for which nominations are being sought, in accordance with the expertise required in the authorizing legislation, three are for individuals distinguished in health services research, one is for an individual distinguished in the practice of medicine, and one is for an individual distinguished in business, law, ethics, economics, or public policy.

Individuals selected by the Secretary to serve on the Council will be expected to attend their first meeting in the fall of 1999. Members generally serve 3-year terms. Appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council. Nominations shall include a copy of the nominee's resume or curriculum vitae, and state that the nominee is willing to serve as a member of the Council. Potential candidates will be asked to provide detailed information concerning their financial interests, consultant positions, and research grants and

contracts, to permit evaluation of possible sources of conflict of interest.

The Department is seeking a broad geographic representation and has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory bodies and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and/or physically handicapped candidates.

Dated: March 23, 1999.

John M. Eisenberg,

Administrator.

[FR Doc. 99–7558 Filed 3–26–99; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project

Title: AFC–696 Child Care Development Fund Financial Reporting Form.

OMB No.: 0970–0163.

Description: The form provides specific data regarding claims and provides a mechanism for States to request grant awards and certify the availability of State matching funds. Failure to collect this data would seriously compromise ACF's ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–696	54	4	8	1,728

Estimated Total Annual Burden Hours: 1,728.

In Compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 23, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–7539 Filed 3–26–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Title IV–B Five Year Plan, Annual Progress and Services Report and CFS–101

OMB No.: 0980–0047

Description: Under title IV–B, subparts 1 and 2, of the Social Security Act, States and Indian Tribes are to submit a five year Child and Family Services Plan, an Annual Progress and Services Report (APSR), and an annual budget request and estimated expenditure report (CFS–101). The plan is used by States and Indian Tribes to develop and implement services and describe coordination efforts with other Federal, state and local programs. The APSR is used to provide updates and changes in the goals and services under the five year plan. The CFS–101 will be submitted annually with the APSR to apply for appropriated funds for the next fiscal year.

Respondents: State, Local or Tribal Government

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours	Total annual burden hours
CFSP	300	1	250	75,000	15,000
APSP	300	1	120	36,000	36,000
CFS–101	300	1	5	1,500	1,500

Estimated Total Annual Burden Hours: 52,500.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of Information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Lori Scheck.

Dated: March 23, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–7540 Filed 3–26–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Clarification of Program Announcement No. OCS–99–04]

Assets for Independence Demonstration Program

AGENCY: Office of Community Services (OCS), ACF, DHHS.

ACTION: Notice of clarification of program announcement No. OCS–99–04 Assets for Independence Demonstration Program, published in the **Federal Register** of January 27, 1999; and additional guidance for program applicants.

SUMMARY: The Office of Community Services continues to consult and deliberate in an inclusive manner in planning for the new Assets for Independence Demonstration Program. This process has involved discussions with offices within and outside the Department of Health and Human Services, the Treasury Department, Congress, and State offices and practitioners in the field. To the extent possible we have taken these views and deliberations into account in the fashioning of the Assets for Independence Demonstration Program Announcement. In addition, since its publication we have received questions about the Program Announcement itself, which appeared in the **Federal Register** of January 27, 1999, Part VII, 64 FR 4257.

In the following clarifications and guidance we have sought to respond to the issues raised by all of the interested parties. The Clarifications in Part I, below clarify the following issues of interest to applicants for the Assets for Independence Demonstration Program:

A. Custodial Accounts. Applicants are advised that grantees will have the option of establishing Individual Development Accounts (IDA's) either as Trusts or as Custodial Accounts.

B. "Non-Federal Share Agreements" must include a schedule of deposits that will assure that there will be at all times in a Demonstration Project's Reserve Fund sufficient non-Federal matching contribution funds to equal the maximum amount pledged as matching contributions under the "Savings Plan Agreements" for all IDA's then open (which may be less than the $2000 for each account stated in the published Program Announcement).

C. The "Savings Plan Agreement", required under PART II Section G(3)(n) of the Program Announcement as part of the instrument creating the IDA, should, under item #2, set the matching contribution rate for the account up to a total of not more than $2000 in Federal grant funds, during the project period, rather than a total of all match funds as stated in the published Program Announcement. It should also include a new item #9 providing for withdrawal of savings if participant leaves the program.

D. Project and Budget Periods. Applicants are advised that they may submit applications for project and budget periods of up to five years, but of at least three years' duration.

E. Additional matching contributions. Applicants are advised that once the statutory requirement of equal matching contributions to IDA's from non-Federal sources and Federal grant funds is satisfied, additional matching contributions may be made from non-Federal sources or even from Federal sources such as TANF where the legislation or policies governing such programs so permit. In the case of TANF funds, such contributions would be limited to IDA's of TANF recipients.

F. Income eligibility. The actual income limits from IRS tables for the Section 32 Earned Income Tax Credit are set forth.

G. Earned Income. The pertinent language from Section 911(d)(2) of the Internal Revenue Code, defining "earned income", is set forth.

Part I. Clarification of Assets for Independence (IDA) Program Announcement Published in the Federal Register of 1/27/1999

A. Part II G. of the Program Announcement: (3) Establishment of Individual Development Accounts, and (4) Custodial Accounts

The Program Announcement as published treats "Custodial Accounts" in the traditional sense of accounts established on behalf of minors or persons with disabilities, who do not have the capacity to manage an account on their own behalf. The Announcement therefore included as paragraph (4) of PART II Section G a discussion of how such "custodial accounts" might be established; and in the preceding paragraph (3) it required that all other Individual Development Accounts (IDA's) be established as trusts pursuant to Section 404(5)(A) of the Assets for Independence Act (AFIA).

In continuing discussions by the IDA working group in OCS it has been suggested that the intent of subparagraphs (A) and (B) of section 404(5) of the AFIA, when taken together, was not to limit "Custodial Accounts" to accounts for minors or persons with disabilities, but to offer alternative methods for the establishment of all IDA's, either as trusts under subparagraph (A) or as "Custodial Accounts" under subparagraph (B). This position has been put forward by those who have pointed out that "trusts" and "trust instruments" have very special meaning under banking laws, requiring adherence to special regulations and reporting requirements which might result in banks being less willing to participate in the IDA program. This same concern has been expressed in communications from banks.

Consequently, we have reached the conclusion that the intent of Section 404(5)(B) of the AFIA is, indeed, to offer an alternative method for establishing IDA's, rather than simply to provide accounts for minors and disabled persons, while requiring that all other IDA's be trusts under subparagraph (A). It should be noted that under subparagraph (B) of the AFIA that a "Custodial Account" there described is subject to all of the requirements described in subparagraph (A) with the exceptions (1) that it is not called a trust; (2) that the assets of the account may be held by a "person" or institution other than a "Qualified Financial Institution" satisfactory to the Secretary; and (3) consequently that the custodian acting as trustee can be the Qualified Entity, or Grantee. Note that the

Secretary has nonetheless determined that the assets of the Individual Development Account must be held in an insured financial institution.

As a result of this interpretation, the following clarifications are made to the Program Announcement published on January 27, 1999:

(1) PART I. D. Definition of Terms should read:

* * * * *

(5) Individual Development Account means a trust or a custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust or custodial account meets the requirements of the AFI Act and of the Project Eligibility and Requirements set forth in this Announcement. [See PART II, Section G(3) and (4).

(2) PART II Section G Paragraph (3) should read as follows:

(3) Establishment of Individual Development Accounts. Grantees must create, through written governing instruments, either (a) Trusts under this paragraph, or (b) Custodial Accounts described in Paragraph (4) below, which will be Individual Development Accounts on behalf of Project Participants. Trustees of Trusts must be Qualified Financial Institutions. Custodians of Custodial Accounts may be Qualified Financial Institutions, other insured financial institutions satisfactory to the Secretary, or Demonstration Project Grantees. In every case the participating insured financial institution and the Demonstration Project Grantee shall be parties to the written governing instruments creating the Trust or Custodial Account, which must contain the following provisions:

* * * * *

(3) PART II G. Paragraph (4) of the Assets for Independence Act (IDA) Program Announcement, "Custodial Accounts", should read as follows:

"(4) Custodial Accounts. Notwithstanding the provisions of Paragraph (3), above, Grantees may, in the alternative, create, through written governing instruments, Custodial Accounts which shall be Individual Development Accounts on behalf of Project Participants, except that they will not be trusts. As in the case of trusts established under paragraph (3), the written governing instruments of the accounts must contain the requirements outlined in subparagraphs (a) through (h) of that paragraph, with the following exceptions. Whereas trustees of the trusts created under Paragraph (3) must be Qualified Financial Institutions, the assets of the custodial account may be held by a bank or another "person" (or institution) who demonstrates to the satisfaction of the Secretary that the manner in which the account will be administered will be consistent with the provisions of the AFIA, and that the IDA's will be created and maintained as described in paragraph (3) and section 404(5)(A) of the AFIA. In addition, in the case of a custodial account treated as a trust by reason of this paragraph, the custodian of such account may be the Project Grantee, provided that it can assure compliance with the requirements of Paragraph (3) above, and Section 404(5)(A) of the AFIA. These arrangements would place the "custodial" responsibilities with the grantee, and relieve financial institutions of trustee obligations. The Secretary has determined that the assets of any such accounts must be held in an insured financial institution and be subject to the provisions of Paragraph M, below, pertaining to agreements with applicants/grantees.

(4) PART II Section M of the Program Announcement should read as follows:

M. Agreements with Partnering Financial Institutions. All applicants under Priority Area 1.0 must enter into agreements with one or more insured Financial Institutions, in collaboration with which Reserve Funds and Individual Development Accounts will be established and maintained. To be considered for funding, an Application under Priority Area 1.0 must include a copy of an Agreement or Agreements with one or more partnering Qualified Financial Institutions (or in the case of Individual Development Accounts established as Custodial Accounts, an insured financial institution satisfactory to the Secretary), which state(s) that the accounting procedures to be followed in account management will conform to Guidelines established by the Secretary (which will be issued prior to grant awards and made available to grantees at time of award), and under which the partnering Financial Institution agrees to provide data and reports as requested by the applicant. In the case of IDA's established as Trusts under Section G(3), above, the partnering financial institution must be a Qualified Financial Institution as defined in PART I Section D(12). In the case of IDA's established as Custodial Accounts, the partnering financial institution must be insured and must meet the requirements of Section G(4), above, to the satisfaction of the Secretary. The Agreement may also include other services to be provided by the partnering Financial Institution that could strengthen the program, such as Financial Education Seminars, favorable pricing or matching contributions provided by the Financial Institution, and assistance in recruitment of Project Participants.

B. PART II I. of the Program Announcement: Non-Federal Matching Funds Requirements and PART IV D.(5) Pertaining to "Non-Federal Share Agreements"

In these sections of the Announcement, Applicants are told that applications must include "non-Federal Share Agreement(s)" with provider(s) of the required 100% non-Federal matching contribution(s) which must include "* * * (2) a schedule of deposits to the project's Reserve Fund of at least ten percent of the total committed for the entire project at the start of each of the five Project Years, plus any additional amounts needed to assure that there is at least $2000 of non-Federal matching contribution funds in the Reserve Fund for each Individual Development Account that has been opened; * * *".

Comments received from the field have pointed out that the effect of the quoted passage is to limit the number of Individual Development Accounts that could be opened by a grantee to the amount of their non-Federal matching contributions (which is equal to the amount of their grant) divided by 2000, even if the grantee contemplated a maximum non-Federal contribution to any one Individual Development Account of only $1000, thus limiting the grantee to opening but half of the number of accounts planned to be opened in the project. In other words, a grantee receiving Federal funds that would make $100,000 available for matching contributions—and hence an equal amount in non-Federal matching contributions—under the terms of the Announcement would be limited to 50 deposits of $2000 each, and hence could open no more than 50 accounts, even if the maximum matching contribution per account proposed by the grantee were $1000, with the expectation of opening 100 accounts.

The intent of the quoted passage in the Announcement was not to limit the number of accounts proposed to be opened by an applicant, but rather to assure that the Reserve Fund would have in it at all times the amounts necessary to meet the promised matching contributions to all Individual Development Accounts then open and maintained by the grantee.

In order to achieve this assurance and at the same time permit flexibility among applicants to design programs that best meet the needs of their communities, PART II I. and PART IV D (5) with reference to the "Non-Federal Share Agreement(s)" item (2) in each section, beginning "(2) a schedule of deposits * * *" should read as follows:

"* * * (2) a schedule of deposits to the projects's Reserve Fund of at least ten percent of the total committed for the entire project at the start of each of the five Project years, plus any additional amounts needed to assure that there are at all times in the Reserve Fund non-Federal matching contribution funds equal to the total amounts pledged as maximum matching contributions under the "Savings Plan Agreements" for all Individual Development Accounts then open and being maintained by the grantee as part of the demonstration project."

C. PART II Section G(3)(h) of the Program Announcement, Pertaining to "Savings Plan Agreement"

In this section of the Announcement, item (2) to be included in such Agreements is: "the rate at which participant savings will be matched (from one dollar to eight dollars for each dollar in savings deposited by Participant, up to a total of $2000 during the five-year project period)" (emphasis supplied). This limitation is inaccurate. The $2000 only applies to federal match, so the phrase should read: "up to a total of not more than $2000 in Federal grant funds matched by an equal amount in non-Federal contributions during the project period".

A prospective applicant has also asked whether and how a Project Participant can withdraw their personal savings from an IDA if they decide to leave the program, since withdrawals are only possible with the approval of the grantee. Clearly, a Participant may choose to leave the program, forfeiting any accrued matching contributions and income earned thereby; and the project grantee should in such a case approve the withdrawal by the Participant of his or her savings plus income.

Consequently, a new item #9 should be included in the description of the "Savings Plan Agreement" under PART II G (3)(h), as follows: "(9) a provision that should the Project Participant decide to leave the program, the grantee agrees that it will co-sign a withdrawal of the Participant's savings plus any income accrued thereon, with the understanding that the Participant thereby loses any right to receive matching contributions."

D. PART II Section C. Project and Budget Periods Under Priority Area 1.0

Several potential applicants have asked if grant applications can be for less than five year budget and project periods. In other words, does the Program Announcement intend to call for applications of up to five years. OCS has determined that applications may be for less than five years, provided they are for at least three years' duration. In other words, applications may be for project and budget periods of three to five years' duration.

As a result of this interpretation, the following clarifications are made to the Program Announcement published on January 27, 1999:

(1) PART II Section C should read as follows:

C. Project and Budget Periods under Priority Area 1.0. This announcement is inviting applications under Priority Area 1.0 for project and budget periods of up to five (5) years (but at least three (3) years). Grant actions, on a competitive basis, will award funds for the full project and budget periods of three to five years' duration. As noted below in Section E., subject to the availability of funds, grantees may be offered the opportunity to compete for supplementary funding in later years during the project.

Note: Applicants should be aware that OCS funds awarded pursuant to this Announcement will be from fiscal year (FY) 1999 funds and may not be expended after the end of a five year Project/Budget Period to support administration of the project or matching contributions to Individual Development Accounts which may be open at that time.

(2) PART II Section E should read as follows:

E. Funds Availability and Grant Amounts under Priority Area 1.0. In Fiscal Year 1999 approximately $7.44 million is available under Priority Area 1.0 for funding commitments to approximately 30 projects, not to exceed $500,000 and averaging a total of approximately $250,000 for the three- to five-year project. Applicants are reminded that grant awards are limited to the amount of committed non-Federal cash matching contributions, and are urged to make realistic projections of project needs over the duration of the project and propose project budgets accordingly. Draw-down of grant funds over the three- to five-year budget period will be permitted in amounts that will match non-Federal deposits into the Project Reserve Fund. (See PART II Section I.) As noted above, subject to availability of funds and the progress of individual demonstration projects, grantees may be offered the opportunity to compete for supplementary funding in later years during the project, if there were a determination that this would be in the best interest of the government.

E. Part II Section G(1)(b). Use of Amounts in the Reserve Fund; and Section G(5) Deposits in Individual Development Accounts. (a) Matching Contributions

Many persons now operating IDA programs and other potential applicants have asked whether programs could make greater non-Federal matching contributions to Individual Development Accounts (IDA's) than the amount of the match from Federal grant funds. A careful review of the AFI Act has led OCS to conclude that the intent of section 410(a) of the Act is to assure that for every dollar of Federal grant funds under the AFI Act deposited into or to the credit of an IDA there is similarly deposited a dollar from the non-Federal contributions described in sections 405(c)(4) and 406(b)(1) (the required 100% non-Federal share); and that once that matching contribution of equal amounts of non-Federal contributions and Federal grant funds is achieved, there is no reason why grantees cannot make additional contributions to the IDA accounts, from other non-Federal sources, or even from Federal sources such as TANF funds, where the legislation or policies governing such programs so permit.

As a result of this interpretation, the following clarifications are made to the Program Announcement published on January 27, 1999:

(1) Paragraph (A) of PART II Section G(1)(b), Use of Amounts in the Reserve Fund, should read as follows:

(A) at least 90.5% of the Federal grant funds in the Reserve Fund shall be used as matching contributions to Individual Development Accounts for Project Participants, matched by non-Federal contributions in accordance with Paragraph (5), below.

(2) Paragraph (5)(a) of PART II Section G(5), Deposits in Individual Development Accounts, should read as follows:

(a) Matching Contributions. Not less than once every three months during the demonstration project grantees will make deposits into Individual Development Accounts, or into a parallel account maintained by the grantee, as matching contributions to deposits from earned income made by Project Participants during the period since the previous deposit.

Note: Deposits made by Project Participants shall be deemed to have been

made from earned income so long as the Participant's earned income (as defined in Section 911(d)(2) of the Internal Revenue Code of 1986) during the period since the Participant's previous deposit in the account is greater than the amount of the current deposit. Matching contributions must be made to IDA's in equal amounts from Federal grant funds and the non-Federal public and private funds committed to the project as matching contributions, as described in Sections 405(c)(4) and 406(b)(1) of the AFI Act. Such matching contribution deposits by grantees may be from $0.50 to $4 in non-Federal funds and an equal amount in Federal grant funds, for each dollar of earned income deposited in the account by the Project Participant in whose name the account is established. Once such matching contribution deposits are made, grantees may make additional matching contributions to IDA's from other non-Federal sources, or other Federal sources such as TANF, where the legislation or policies governing such programs so permit. At the time matching contribution deposits are made, the grantee will also deposit into the Individual Development Account (or the parallel account) any interest or income that has accrued since the previous deposit on amounts previously deposited in or credited to that account.

F. PART II Section G(2)(a) of the Program Announcement: Participant Eligibility

This section describes income eligibility as not exceeding the earned income amount described in Section 32 of the Internal Revenue Code of 1986 which deals with the Earned Income Tax Credit. Because applicants/grantees may have difficulty in ascertaining this information, we are here providing the income limits of Section 32 as provided by the Internal Revenue Service:

The most recent EITC Earned Income Guidelines which set the limits on annual income for eligibility in the IDA Program are as follows:

—For a household without a child: $10,030.
—For a household with one child: $26,473.
—For a household with more than one child: $30,095.

Applicants are reminded that there is also an assets test for eligibility in the program.

G. PART II Section G(5) of the Program Announcement: Deposits in Individual Development Accounts; (a) Matching Contributions

This section of the Announcement requires, pursuant to the AFIA, that Participant deposits in IDA's be made from earned income (as defined in Section 911(d)(2) of the Internal Revenue Code of 1986). Because of the difficulty that some applicants might face in obtaining copies of this section of the code, OCS provides in this clarification the pertinent language of Section 911(d)(2), which provides, in relevant part "the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered".

PART II. Additional Guidance for Applicants Under the Assets for Independence (IDA) Demonstration Program Announcement Published in the Federal Register of January 27, 1999

In response to queries and comments from interested parties about the Assets For Independence Act and the Assets for Independence (IDA) Demonstration Program Announcement published in the **Federal Register** on January 27, 1999, OCS is pleased to provide the following additional guidance for the benefit of Applicants for the program. The Guidance material is presented in a question and answer format grouped according to Program Announcement sections and particular areas of interest.

In considering this new program and preparing applications for submission to OCS, applicants should bear in mind, first, that this is a demonstration program, which is seeking through evaluation to learn more about what works and what doesn't, and about the value of asset accumulation as a tool in assisting lower income individuals and families to achieve self-sufficiency; and second, that the Individual Development Account (IDA) is a tool, which when used in conjunction with other tools such as education, training, mentoring, family development, and other interventions found in successful income and capacity building programs, can lead to upward mobility and lasting economic independence for individuals and families.

A. Partnerships and Matching Funds

(1) Which Federal funds may be used as matching and which ones may not be used?

The Assets for Independence Act (AFIA) limits grant amounts to not more than "the aggregate of funds committed as matching contributions from non-Federal public or private sources". Under Appropriations Law, Federal funds can only be considered "non-Federal" for purposes of meeting a "non-Federal share requirement" if the authorizing legislation for such funds contains specific language to that effect. To the best of our knowledge the Community Development Block Grant (CDBG) funds are the only Federal funds that meet this requirement for the purposes of the AFIA. The CDBG statute specifically states that once those funds are received by the State they are to be considered State funds for matching purposes.

(2) Is it the intent of AFIA that the State agency(ies) have already established partnerships with specific not-for-profits prior to application, or is a plan for such considered acceptable?

Under Priority Area 1.0, and under Section 404(7) of the AFIA, a "Qualified Entity" is defined as "(I) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or (ii) a State or local agency, or a tribal government submitting an application under section 405 jointly with an organization described in clause (I)".

Whenever more than one entity submit applications jointly, one entity must be the lead applicant which signs the SF424 and is legally and fiscally responsible to OCS for implementation of the project. We expect that in most cases involving joint applications by not-for-profits and a State or local agency or Tribal government, one of the not-for-profit organization will be the lead applicant signing the SF424 Application for Federal Assistance, and which will establish a Reserve Fund. However, should the joint applicants agree, the State or local agency or Tribal government may be the lead applicant signing the SF424. In either case, a "plan" for partnership between a State agency and not-for-profit organizations would not be sufficient. (See Question 3, below)

(3) If a not-for-profit 501(c)(3) organization applies jointly with a State or local government agency does that organization need to establish a Reserve Fund with that agency as a partner?

If the not-for-profit agency is the lead applicant, it would establish a Reserve Fund; and if the State or local agency is providing non-Federal matching contributions, it would enter into a "Non Federal Share Agreement" with the not-for-profit entity. (See Question 2, above).

(4) If a State provides funding for IDA programs up to $1 million, after the enactment of the AFIA legislation, is it possible for that State, along with the non-profit entities, to apply for a waiver on program requirements from sections 407 through 411?

No. The Act "grandfathered" only State programs in effect as of October 27, 1998 and only those States may take advantage of Section 405(g) which permits States to avoid application of Sections 407 through 411 to the extent they are inconsistent with existing State statutory requirements.

(5) If an applicant obtains non-Federal funding that is restricted to only one or two of the "Qualified Expenditures" under the AFIA (e.g. home purchase or business capitalization), can it restrict all IDA's in its program if such restricted funds are the only non-Federal matching funds available to the program?

Applicants can design their programs as they wish, as long as they meet the AFIA/Announcement requirements. In other words, a given project does not have to offer IDA's for all of the qualified expenses.

(6) Will applications submitted individually by individual organizations within a State be subject to the same criteria as they would if they applied jointly submitting a statewide application?

Review criteria will be the same for either situation, unless the statewide application is one which falls under Priority Area 2.0, which requires that the State program have been in existence and funded at a level of at least $1 million as of October 27, 1998.

(7) How will applications from an individual organization weigh against an application from a State?

A State agency can only apply jointly with a 501(c)(3) organization. Otherwise, note the differences in the Grant Announcement between Priority Area 1.0 and Priority Area 2.0.

(8) Can the non-Federal matching requirement include prospective funding sources?

No. As stated in Part II (I) of the grant announcement, a non-Federal share agreement must include a commitment to provide funds contingent only on award of grant funds. The grantee must document the commitment of required match in order to receive Federal funds. Under section 406(b)(1) of the Assets for Independence Act Federal grants are limited in amount to no more than "the aggregate amount of funds committed as matching contributions from non-Federal public or private sector sources".

(9) What are the possible ways that a financial institution could participate with the nonprofit in assisting IDA holders?

Financial institutions may play an important role in collaborating with qualified entities to further the IDA program objectives. Some of the possible ways that financial institutions might assist include: Reducing fees, matching deposits, supporting the qualified entity's operating systems, helping with financial education, or engaging schools, churches, or other nonprofits for marketing and outreach. Some financial institutions are providing modest financial assistance to the nonprofit IDA sponsor for matching contributions.

(10) Will banks get Community Reinvestment Act credit for participating in IDA projects?

We expect that the Federal Financial Institutions Examination Council will soon provide guidance for financial institutions concerning whether individual development accounts may qualify for favorable consideration under the Community Reinvestment Act.

(11) Does the Reserve fund have to be established only in a Bank? Can we use a credit union or a money market fund?

A Qualified Financial Institution is one that is federally insured, or, if no federally insured institution is available, State insured. Credit unions would therefore be eligible while money market funds would not be. Note that if the grantee chooses to establish IDA's as "Custodial Accounts" rather than as Trusts, funds could be deposited in other financial institutions so long as they are insured. In any case the Financial Institution must also agree to provide the required evaluation data as provided in PART II Section M of the Program Announcement.

B. Federal Project Funds

(12) When does HHS expect to fund projects?

Funding decisions will be made no later than July 27, 1999. Grants should be awarded within 30 days thereafter, and in no case after September 30, 1999.

(13) Can one of the participants of a joint project mutually agree with its joint participants to receive more than its proportional share for program administration? (i.e., May a State or local government partner provide program administration at no cost to the project?)

No. Section 407(c)(3) of the AFIA states that if two or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share.

(14) How will grantees draw down their federal funds?

Project grantees are permitted to draw down grant funds over the five-year budget period in amounts that will match non-Federal deposits into the Reserve Fund (which must be in amounts of not less than 10% per project year of the total committed). The process for draw down of grant funds is accomplished through an account set up with the Payment Management System of the Department of Health and Human Services for which the grantee will receive instructions along with their notice of award.

(15) Are there limits on the investments a grantee can make?

The AFIA requires that the Secretary of Health and Human Services establish guidelines for investing amounts in the Reserve Fund in a manner that provides an appropriate balance between return, liquidity, and risk. Such guidelines will be made available at the time of the grant award.

(16) If grant money is left over in the Reserve fund at the end of the fifth project year, can the grantee consider those funds "expended" for those project participants who have been enrolled in an IDA but who have not completed their savings cycle or commitment?

No. Not if the funds have not been committed as matching contributions to specific Individual Development Accounts. Under section 407(d) of the AFIA such grant funds must be returned to the Secretary (see below). Those funds which have been committed as matching contributions to IDA's and deposited in or allocated to a parallel account, will be considered to have been "expended" or "obligated" by the grantee, and would consequently not be returned to the Secretary.

Section 407(d) of the Act requires that at the termination of the demonstration project (end of the five-year project period) the grantee shall return to the Secretary the amounts in the Reserve Fund attributable to the OCS grant. This will be an amount which would be the same percentage of the funds remaining in the Reserve Fund as the percentage of all funds deposited into the Reserve Fund represented by the OCS grant amount. As provided in the statute, the amount of remaining funds to be returned to the Secretary is arrived at by dividing the total of all funds deposited into the Reserve Fund during the course of the project, including both Federal and non-Federal funds, into the amount of the OCS grant, and multiplying that percentage by the amount in the Reserve Fund at the time of termination or the end of the project period.

(17) Will it be possible to apply for supplemental funds to pay for administrative services?

No. There are no supplemental funds to support administrative services. This is why applicants are encouraged to bring "additional resources" to the project, which may be cash or in-kind, Federal or non-Federal, so long as the uses to which Federal funds are put are permissible under the terms of the grant or contract that awarded those funds.

(18) Can a project use more than 7.5% of the Federal grant funds drawn down in one year of the project for support and administrative costs as long as they

do not use more than 7.5% of the Federal funds by the end of the project and budget period?

Yes.

(19) Can Federal IDA funds be used retroactively to fund accounts opened prior to receiving the grant?

Federal AFIA grant funds may not be used retroactively. In accordance with 45 CFR 74.28, a recipient may charge to the grant award only allowable costs resulting from obligations incurred during the approved funding period. The grantee may not use Federal grant funds to match any IDA deposits made prior to the grant award.

(20) Do childcare and transportation count as administrative expenses?

No. But we encourage applicants to find other resources to cover such expenses.

C. Project Qualifications

(21) Is an applicant with a 501(c)(3) application pending with the IRS eligible for this program?

No. The applicant must be an approved 501(c)(3) organization at the time the application is submitted.

(22) Will a grantee that is funded in year one have to recompete in year two to receive the same amount it received in year one? Or will it just have to compete for funds in addition to that base amount?

FY 1999 grantees will receive one grant of not more than $500,000 for a five-year demonstration project. OCS expects grants to average approximately $250,000. As noted in the Announcement, OCS, in later years, may invite requests for supplemental funding subject to a showing of need, availability of funds, and a determination that it is in the best interests of the government.

(23) Does the project summary count as part of the thirty pages?

No.

(24) If an applicant receives only 8 of the possible 15 points in Element IV for documenting the 100% non-federal match, and 2 additional points for meeting the Preferences required in the legislation, what happens to the other 5 possible points?

Under Element IV of the Review Criteria 8 points will be given to an application which mobilizes no more than the required 100% cash non-Federal match and meets the statutory preference. Award of the other 7 points will be based on judgment in the review process on the adequacy of additional resources, in cash and in-kind, to support the activities and interventions identified in sub-Element II (b) as part of the effort to achieve participant self-sufficiency. Under the statutory preference, an applicant that does not mobilize a proportionately greater amount of the required 100% cash match from the private sector as opposed to public sources will have its review score reduced by 2 points.

(25) Will application reviewers handicap scoring for rural areas without strong resource bases?

Rural areas will not be handicapped for evaluation purposes. However, rural applicants may want to contact their State Rural Development Council for assistance or the National Rural Development Partnership at (202) 690–4746 (http://www.rurdev.usda.gov/nrdp).

(26) Will a designated proportion of grantees be rural?

No, but geographic distribution is a consideration in funding decisions by OCS. Note that OCS is interested in funding a variety of projects that will reflect a diverse range of demographics, thus enriching the overall program evaluation.

(27) Is a credit union that is currently operating an IDA program eligible to apply for an IDA grant from HHS?

Credit unions, on their own, are not considered eligible applicants because they are not 501(c)(3) organizations. However, a credit union may collaborate with a qualified 501(c)(3) applicant as Qualified Financial Institution.

(28) Are Qualified Entities in the Trust Territories eligible to participate in this program?

Yes.

D. Participant Eligibility

(29) What are the Section 32 limits on income?

The most recent EITC Earned Income Guidelines that set the limits on annual income for eligibility in the IDA Program are as follows:

—For a household without a child: $10,030.
—For a household with one child: $26,473.
—For a household with more than one child: $30,095.

Applicants are reminded that there is also an assets test for eligibility in the program.

(30) If someone is eligible at the time of the initial entrance into the program, what happens if his or her situation changes before the program ends?

Grantees could choose to check an individual's financial eligibility yearly, but they are only obligated to do so once at the beginning of program administration.

(31) Do recent college graduates who are temporarily poor qualify?

See section 408 of the legislation. Any individual who is a member of a household that is eligible for assistance under TANF, or meets the Income and Net Worth Test shall be eligible to participate in a demonstration project under this title.

(32) Are there any restrictions for participants based on immigrant status?

If the entity that determines eligibility of program Participants is a nonprofit charitable organization, that entity is not required to verify the citizenship or immigration status of the participants, and thus individuals who otherwise meet program eligibility standards will be eligible to participate regardless of citizenship or immigration status. If, on the other hand, a state or local governmental entity determines eligibility of participants, verification procedures must be used to ensure that only citizens or qualified aliens receive services under the demonstration.

(33) Relocation: Would it be possible to enable participants who move out of an IDA project area to be able to continue to contribute to their accounts as long as these accounts are maintained in a participating financial institution?

AFIA does not allow individual participants to keep their accounts active once they move out of an IDA project area.

(34) How might young people and persons with disabilities participate in an IDA program?

Young persons and persons with disabilities can participate like any other eligible person so long as they have earned income from which to make deposits in an IDA. In addition, under section 404(8)(D) of the AFIA and PART II Section G (6)(d) of the Program Announcement, at the request of the Project Participant and with the written approval of a responsible official of the Grantee, amounts may be paid directly from an IDA into another IDA established for the benefit of the Participant's spouse or a dependent of the Participant.

(35) Do disability payments or small gifts from a participant's family count as "earned income"?

No. The AFIA refers to deposits by Project Participants from earned income "as defined in section 911(d)(2) of the Internal Revenue Code of 1986". The pertinent language of that section provides 'the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered * * *" These items do not meet that definition.

E. Account Structure

(36) What are the possible ways that a "custodial account" could be set up to satisfy the requirements of the statute?

See Section I. A. of this Notice. The Act does not restrict the IDA to one particular structure, but requires that the IDA be established as a trust or a custodial account. In either case, the same requirements set out in PART II Sections G and H would apply, except as noted here. For example, whether established as a trust or a custodial account, the provisions of PART II Section G (3) would apply, except that if established as a custodial account, the requirement under Paragraph (3) that the trustee must be a Qualified Financial Institution would not apply. If a custodial account, the custodian could be the Qualified Entity, or Grantee, and the assets of the account could be held by another person or institution who demonstrates to the satisfaction of the Secretary that the manner in which the account would be administered would be consistent with the provisions of the AFIA and the account would constitute an Individual Development Account as defined in the statute and the Program Announcement, except for the fact that it is not a trust. In the case of a Custodial Account the assets would still have to be held in an insured financial institution. In short, but for the name, the repository of account assets, and the "person" or institution who may be the custodian acting as a trustee, a Custodial Account must meet all of the requirements which must be met by an IDA established as a trust.

(37) What happens to an individual's account in the event of death?

Under Section 404(5)(A)(vi) of the AFIA and PART II Section G (3)(g) of the Program Announcement, the instrument establishing the IDA must include a provision in accordance with the direction of the Project Participant, that in the event of death, the assets of the account shall be transferred to another IDA established for an eligible individual. However, since the personal savings in the account and any income earned thereon belong to the Participant, he or she is free to choose to dispose of such savings as they may wish. If the Participant fails to designate another IDA or eligible individual, or chooses not to have the account transferred to another IDA but chooses to dispose of his or her own savings in some other way, then the accumulated matching contributions allocated to the account and any income earned on these contributions shall be returned to the Reserve Fund of the project.

(38) Are monthly deposits required?

No. Minimum and maximum monthly deposits by individual participants will be left to the discretion of the grantee and should be part of the Savings Plan Agreement. Section 410(a) of the AFIA states that not less than once every three months during each project year, each qualified entity shall make deposits into the IDA. Setting savings goals, including amount and frequency of deposits, is an important part of the program.

(39) Is an IDA attachable in a legal judgment?

The Assets for Independence Act does not address the issue of whether IDA's may be attached by creditors. Generally, accounts at financial institutions may be attached by judgment creditors unless there is a Federal or State statutory provision that protects the relevant payment or account from attachment. For example, Social Security benefits, Supplemental Security Income benefits, Veteran's benefits, and Federal Railroad Retirement Act of 1974 benefits are protected from attachment and the claims of judgment creditors by Federal law. See 42 U.S.C. 407(a); 42 U.S.C. 1383; 38 U.S.C. 530; and 45 U.S.C. 231m(a). The ownership of the IDA account may also impact the attachment question. In general, subject to the applicable State law, a judgment creditor could attach the individual's contribution account, but would not be permitted to attach the matching contributions in a parallel account, because such a parallel account is not owned by, or in the name of, the individual Project Participant. For this reason alone it is important that matching contributions be deposited in a parallel account rather than the IDA itself.

(40) What is the minimum/maximum length of time for an IDA?

There is no statutory minimum or maximum length of time for an IDA, other than duration of the demonstration project, which is five years. After that time, no Federal funds could be used to support an account. The length of time for each IDA shall be determined by the Program Participant and the grantee. We expect that most IDA's will last an average of one to three years.

(41) Deposits to IDA accounts are required to be by cash or checks. Are money orders or transfers from other bank accounts allowed?

Yes. The AFIA requires deposits to IDA's to be by cash or check. Money Orders are considered to be checks and are therefore acceptable. Electronic funds transfers are specifically identified in the Program Announcement as acceptable. Presumably transfers from other bank accounts would be electronic transfers.

(42) Is there a maximum amount that can be deposited each month or year?

No. Maximum monthly and yearly deposits by individual participants will be set out in the Savings Plan Agreement between the Participant and the Grantee. Note, however, that not more than $2000 of Federal funds for an individual or $4000 of Federal funds per household may be deposited into IDA's over the course of the project.

(43) When an IDA project ends, what entity will continue to exercise oversight over the savings accounts that have not yet been closed—both individual savings and those accounts that hold matching funds? What happens to an individual's account after the end of the project period if they are not yet ready to use the saved funds?

As noted below, grantees are admonished to schedule their account activities so that all IDA accounts will reach their maximum savings goal by the end of the five-year demonstration project. However, where this is not possible, or where circumstances prevent achieving that goal, grantees will be free to continue oversight of such accounts, but without the use or availability of Federal grant funds. Moreover, it could well be that at the end of the five-year project period, for one reason or another not all IDA accounts would have been paid out for Qualified Expenses even if the planned savings goals have been achieved.

In either of these cases, grantees must create escrow accounts for the funds, both savings and matching, in each IDA remaining at the close of the five-year project. Such escrow accounts shall be held by the partnering financial institution for the benefit of the named Project Participant, to be used only for a qualified expense as defined in the Assets for Independence Act and under the terms of the Savings Plan Agreement for that account.

Section 407(d) of the Assets For Independence Act (AFIA) states that any "unused" Federal grant funds remaining in the Reserve Fund shall be returned to the Secretary when the project terminates. However, grant funds committed to an IDA as match to participant savings would not be subject to being returned even though in a "virtual" parallel account.

(44) How does a project start 3–5 year IDA accounts in the last 2 years of a five-year project?

In accordance with appropriations law, Federal grant funds are no longer available after a five-year project period; therefore there can be no extension of these grants. It is anticipated that most IDA accounts will be scheduled to achieve their maximum matched savings within one to three years; and grantees should plan to schedule account activities so that all IDA accounts will reach their maximum

savings goal by the end of the demonstration project.

F. Participants' Use of IDA's

(45) Can qualified business capitalization expenses include an existing business or a business in which the IDA holder is a part-owner or partner?

Yes, qualified business capitalization expenses may include capitalization of an existing business and they may include capitalization of a business in which the IDA holder is a part-owner or partner. Applicants are reminded that they must have a business plan that meets the requirements of section 404(8)(C)(iv) of the AFIA and Part I, Section D (11)(C)(iv) of the Program Announcement.

(46) Do vocational expenses, GED fees and general professional licenses count as post-secondary expenses? What about computers for people who need them to attend college?

See the definitions in section 404 of the legislation, which are repeated in PART I, Section D (11) of the Program Announcement. General professional licenses and GED fees would not be considered post-secondary expenses (GED is for high school equivalency, which is secondary, not post-secondary). Under the terms of the AFIA, post-secondary educational expenses include (1) tuition and fees for enrollment or attendance of a student at an eligible educational institution (including post-secondary vocational education schools as defined in the Carl D. Perkins Vocational and Applied Technology Education Act); and (2) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution. Computers, including software would be considered qualified expenses as equipment.

(47) Does a "qualified first time homebuyer" include a person with a lease-to-own provision in their lease?

A "lease-to-own" provision is not an ownership interest. However, each lease should be carefully examined on a case-by-case basis to determine eligibility as a first-time homebuyer.

(48) Describe the mechanics of withdrawal.

Withdrawals from IDA's, which are limited to those for one or more Qualified Expenses or for an Emergency Withdrawal, require written approval of both the Project Participant and a Responsible Official of the project grantee. PART II Section G (3)(f) of the Program Announcement requires that the instrument establishing the Individual Development Account include a description of procedures governing the withdrawal of funds from the account. These procedures should identify the responsible official(s) of the grantee whose written approval will be required.

(49) If a Project Participant withdraws all of his or her funds does the Participant have to close the account?

If the Project Participant makes a withdrawal for one of the designated purposes, and sufficient time remains in the project, the participant may continue saving, subject to the overall matching restrictions, which limit total Federal grant fund contributions to $2000 per individual account over the course of the demonstration project. If the participant makes an emergency withdrawal they have up to 12 months to reimburse the account. Failing reimbursement, the grantee must close the account and return matching contributions and any accrued income to the Reserve Fund.

(50) What if there is a qualified emergency before the six-month restriction; can the participant make such a withdrawal?

No. Section 410(3)(d) of the AFIA states that no individual may withdraw funds from an IDA earlier than six months after the date on which the individual first deposits funds into the account. Under Sub-Element II (b) of the Program Elements and Review Criteria in PART III of the Program Announcement applicants are encouraged, under "aspect" (7) of the project narrative, to include plans for crisis intervention activities that can avoid emergency withdrawals which might jeopardize continued participation in the project. If a participant nonetheless needs to make such a withdrawal for emergency purposes during the first six months of their account, they would have to withdraw from the program. Re-entry into the program would be at the discretion of the grantee.

(51) Regarding emergency withdrawals, does "withdrawal of only those funds deposited by participants" include income generated by such deposits also?

Yes.

G. TANF and IDA Projects

(52) Can a TANF recipient use his or her benefit to contribute to an IDA?

Only earned income can be used to contribute to an IDA, and therefore, only individuals with earnings can participate in an IDA program. As stated in the Program Announcement, as long as a participant's earned income for the period in which a deposit is made is greater than the deposit amount, the deposit will be considered to be made out of earned income.

(53) Under AFIA, an individual's deposits, including any interest thereon, may be counted for the purpose of determining eligibility for any Federal or federally assisted program based on need, while TANF requires all funds (match, deposits and income) to be disregarded for determining eligibility for other means-tested programs. If an individual applies for a Federal means tested program and has an IDA account under TANF or AFIA, would those funds be taken into account in determining eligibility for the program?

The total TANF IDA and the matching funds in the AFIA IDA would be disregarded; the State may if it chooses disregard the Project Participant's savings in the AFIA IDA.

(54) Can Federal TANF and State MOE funds be used as the non-Federal share or match for IDA's established under the Assets for Independence Act?

No. A general principle of appropriations law holds that funds from one Federal program cannot be used as a non-Federal share or match for another Federal program unless authorized by statute. In the administration of TANF, Federal TANF funds can only be used as the non-Federal share or match for the Department of Transportation's Access to Jobs program. This exception to the principle may be found at section 3037(h)(2)(A)(ii) of the Transportation Equity Act for the 21st Century.

State funds used as the non-Federal share or match under the Assets for Independence Act cannot be credited as MOE expenditures. This is because of the statutory provision at section 409(a)(7)(iv)(IV) of the Social Security Act, which excludes expenditures from MOE of any State funds "expended as a condition of receiving Federal funds." Accordingly, State funds expended as the non-Federal share or match under the Assets for Independence Act cannot be counted as MOE under the TANF program.

However, as noted above under Part I E of this Notice, where a State TANF program includes IDA's as an allowable activity where TANF funds can be used to match savings of TANF recipients in an IDA, TANF funds may be deposited as an additional matching contribution to savings in an AFI Act IDA held by a TANF recipient, once the AFI Act matching requirements for equal contributions of non-Federal and Federal grant funds have been satisfied.

Dated: March 23, 1999.
Donald Sykes,
Director, Office of Community Services
[FR Doc. 99–7616 Filed 3–26–99; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2032–N]

RIN 0938–AJ28

Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.
ACTION: Notice.

SUMMARY: The Social Security Act provides for the Medicaid program to pay all or part of the Medicare Part B premiums for beneficiaries belonging to two specific eligibility groups of low-income Medicare beneficiaries, referred to as Qualifying Individuals (QIs). This notice announces the Federal fiscal year 1999 allotments that are available for State agencies to pay Medicare Part B premiums for these two eligibility groups.

EFFECTIVE DATE: This document is defined as a major rule under the congressional review provisions of 5 U.S.C. section 804(2). As indicated in the preamble of this notice, pursuant to section 5 U.S.C. section 808(2), for good cause we find that prior notice and comment procedures are unnecessary and impracticable. Pursuant to 5 U.S.C. section 808(2), this notice is effective October 1, 1998, for allotments for payment of Medicare Part B premiums for individuals in calendar year 1999 from the allocation for fiscal year 1999.

FOR FURTHER INFORMATION CONTACT: Miles McDermott, (410) 786–3722.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 37194, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara/index.html, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

I. Background

Section 1902 of the Social Security Act (the Act) sets forth the requirements for State plans to provide medical assistance. Prior to August 5, 1997, section 1902(a)(10)(E) of the Act specified that the State Medicaid plan must provide for Medicare cost-sharing for three eligibility groups of low-income Medicare beneficiaries. These three groups included qualified Medicare beneficiaries (QMBs), specified low-income Medicare beneficiaries (SLMBs), and qualified disabled and working individuals (QDWIs).

A QMB is an individual entitled to Medicare Part A with income at or below the Federal poverty level and resources below $4,000 for an individual and $6,000 for a couple. A SLMB is an individual who meets the QMB criteria, except that his or her income is between a State established level (at or below the Federal poverty level) and 120 percent of the Federal poverty level. A QDWI is an individual who is entitled to enroll in Medicare Part A, whose income does not exceed 200 percent of the Federal poverty level for a family of the size involved, whose resources do not exceed twice the amount allowed under the Supplementary Security Income (SSI) program, and who is not otherwise eligible for Medicaid. The definition of Medicare cost-sharing at section 1905(p)(3) of the Act includes payment for premiums for Medicare Part B.

Section 1902(a)(10)(E) of the Act requires States to provide for Medicaid payment of the Medicare Part B premiums for two additional eligibility groups of low-income Medicare beneficiaries, referred to as qualifying individuals (QIs).

Under section 1902(a)(10)(E)(iv)(I) of the Act, State agencies are required to pay the full amount of the Medicare Part B premium for selected QIs who would be QMBs except that their income level is at least 120 percent but less than 135 percent of the Federal poverty level for a family of the size involved. These individuals cannot otherwise be eligible for medical assistance under the approved State Medicaid plan.

The second group of QIs, under section 1902(a)(10)(E)(iv)(II) of the Act, includes Medicare beneficiaries who would be QMBs except that their income is between 135 percent and 175 percent of the Federal poverty level for a family of the size involved. These QIs may not be otherwise eligible for Medicaid under the approved State plan, but are eligible for a portion of Medicare cost-sharing consisting only of a percentage of the increase in the Medicare Part B premium attributable to the shift of Medicare home health coverage from Part A to Part B (as provided in section 4611 of the Balanced Budget Act of 1997 (BBA).

Section 1933(a) specifies that a State agency must provide, through a State plan amendment, for medical assistance to pay for the cost of Medicare cost-sharing on behalf of QIs who are selected to receive assistance.

Section 1933(b) of the Act sets forth the rules that State agencies must follow in selecting QIs and providing payment for Medicare Part B premiums. Specifically, the State agency must permit all QIs to apply for assistance and must select individuals on a first-come, first-served basis selecting QIs in the order in which they apply. Under section 1933(b)(2)(B) of the Act, when selecting persons who will receive assistance in the years after 1998, State agencies must give preference to those individuals who received assistance as QIs, QMBs, SLMBs, or QDWIs in the last month of the previous year and who continue to be (or become) QIs. Under section 1933(b)(4), persons selected to receive assistance in a calendar year are entitled to receive assistance for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year. Because the State's allotment is limited by law, section 1933(b)(3) of the Act provides that the State agency must limit the number of QIs so that the amount of assistance provided during

the year is approximately equal to the State's allotment for that year.

Section 1933(c) of the Act limits the total amount of Federal funds available for payment of Part B premiums each fiscal year and specifies the formula to be used to determine an allotment for each State from this total amount. For State agencies that execute a State plan amendment in accordance with section 1933(a) of the Act, a total of $1.5 billion was allocated over 5 years as follows: $200 million in FY 1998; $250 million in FY 1999; $300 million in FY 2000; $350 million in FY 2001; and $400 million in FY 2002.

The Federal matching rate for Medicaid payment of Medicare Part B premiums for QIs is 100 percent for expenditures up to the amount of the State's allotment. No Federal matching funds are available for expenditures in excess of the State's allotment amount. Administrative expenses associated with the payment of Medicare Part B premiums for QIs remain at the 50 percent matching level and may not be taken from the State's allotment.

The amount available for each fiscal year is to be allocated among States according to the formula set forth in section 1933(c)(2) of the Act. The formula provides for an amount to each State agency that is to be based on each State's share of the Secretary's estimate of the ratio of—

(1) An amount equal to the sum of the following:

(a) Twice the total number of individuals who meet all but the income requirements for QMBs, whose incomes are at least 120 percent but less than 135 percent of the Federal poverty level, and who are not otherwise eligible for Medicaid; and

(b) The total number of individuals in the State who meet all but the income requirements for QMBs, whose incomes are at least 135 percent but less than 175 percent of the Federal poverty level, and who are not otherwise eligible for Medicaid; to

(2) The sum of all of these individuals under item (1) for all eligible States.

II. Provisions of This Notice

This notice announces the availability of individual State allotments for Federal fiscal year 1999 for the Medicaid payment of Medicare Part B premiums for QIs identified under sections 1902(a)(10)(E)(iv)(I) and (II) of the Act. The formula used to calculate these allotments was described in detail in the announcement of the Federal fiscal year 1998 allotments (63 FR 3754, January 26, 1998), and, except for the incorporation of the latest data, has been used here without changes.

FY 1999 STATE ALLOTMENTS FOR PAYMENT OF PART B PREMIUMS UNDER SEC. 4732 OF THE BBA OF 1997

State	(a) M1[1]	(b) M2[2]	(c) 2×(a)+(b)	State share of (c) (percent)	State FY99 allocation ($000)
AK	0	3	3	0.05	116
AL	33	75	141	2.18	5,548
AR	25	37	87	1.35	3,368
AZ	16	62	94	1.46	3,639
CA	93	309	495	7.66	19,162
CO	15	27	57	0.88	2,207
CT	8	60	76	1.18	2,942
DC	2	4	8	0.12	310
DE	4	10	18	0.28	697
FL	98	262	458	7.09	17,730
GA	41	96	178	2.76	6,891
HI	4	10	18	0.28	697
IA	17	47	81	1.25	3,136
ID	4	17	25	0.39	968
IL	70	173	313	4.85	12,117
IN	28	107	163	2.52	6,310
KS	14	50	78	1.21	3,020
LA	32	57	121	1.87	4,684
MA	35	82	152	2.35	5,884
MD	21	71	113	1.75	4,374
ME	8	29	45	0.70	1,742
MI	52	127	231	3.58	8,942
MN	25	54	104	1.61	4,026
MO	26	88	140	2.17	5,420
MS	27	39	93	1.44	3,600
MT	6	16	28	0.43	1,084
NC	51	122	224	3.47	8,671
ND	6	13	26	0.39	968
NE	11	29	51	0.79	1,974
NH	8	19	35	0.54	1,355
NJ	48	129	225	3.48	8,710
NM	9	22	40	0.62	1,548
NV	7	18	32	0.50	1,239
NY	94	241	429	6.64	16,607
OH	62	180	304	4.71	11,768
OK	27	52	106	1.64	4,103
OR	20	55	95	1.47	3,678
PA	80	202	362	5.61	14,014
RI	7	20	34	0.53	1,316
SC	26	67	119	1.84	4,607
SD	5	10	20	0.31	774
TN	36	55	127	1.97	4,916
TX	80	208	368	5.70	14,246
UT	5	21	31	0.48	1,200

FY 1999 STATE ALLOTMENTS FOR PAYMENT OF PART B PREMIUMS UNDER SEC. 4732 OF THE BBA OF 1997—Continued

State	(a) M1[1]	(b) M2[2]	(c) 2×(a)+(b)	State share of (c) (percent)	State FY99 allocation ($000)
VA	12	73	97	1.50	3,755
VT	5	7	17	0.26	658
WA	12	54	78	1.21	3,020
WI	18	58	94	1.46	3,639
WV	20	40	80	1.24	3,097
WY	2	5	9	0.14	348
Total	1378	3702	6458	100.00	250,000

[1] Three-year average (1995–7) of number (000) of Medicare beneficiaries in State who are not enrolled in Medicaid but whose incomes are at least 120% but less than 135% of FPL.

[2] Three-year average (1995–7) of number (000) of Medicare beneficiaries in State who are not enrolled in Medicaid but whose incomes are least 135% but less than 175% of FPL.

III. Waiver of Advance Public Comment and 30-Day Delay in Effective Date

We ordinarily publish an advance notice in the **Federal Register** for a notice containing substantive determinations to provide a period for public comment. However, we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. In addition, we also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date.

We find good cause to waive notice and comment procedure for this final notice. The law sets out in detail the specific amounts available for each Federal fiscal year for Medicare Part B premiums for QIs and the formula that is used to determine individual State allotments. No public comments were received as a result of the January 26, 1998, **Federal Register** Notice of the FY 1998 State allotments. (63 FR 3754). In addition, the latest data from the U.S. Census Bureau on the number of possible QIs in the States used in the statutory formula, as discussed in section V. of this notice, is not available until too late in the calendar year. Therefore, it would be impracticable, unnecessary, and contrary to the public interest to submit this notice to the public for a notice and comment procedure.

Also, because States can begin making payments for Medicare Part B premiums for QIs as early January 1, 1999, we are not making the effective date of the notice the usual 30 days after publication. For the reasons discussed above, we find good cause to waive the usual 30-day delay.

IV. Effect of the Contract With America Advancement Act

Normally, under 5 U.S.C. section 801, as added by section 251 of Public Law 104–121, the effective date of a major rule is delayed 60 days for congressional review. This notice has been determined to be a major rule under 5 U.S.C. section 804(2) for purposes of congressional review. However, as indicated in section III of this notice, we have found that good cause exists to dispense with prior notice and comment procedures since they are unnecessary and impracticable under the circumstances. Pursuant to 5 U.S.C. section 808(2), a rule shall take effect at such time as the Federal agency promulgating the rule determines, if it finds, for good cause, that prior notice and comment procedures are unnecessary or impracticable. Accordingly, under the exemption provided in 5 U.S.C. section 808(2), this notice is effective January 1, 1999, for allotments for payments of Medicare Part B premiums for individuals in calendar year 1999 from the allotment for fiscal year 1999.

V. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered to be small entities.

This notice allocates, among the States, Federal funds to provide Medicaid payment for Medicare Part B premiums for two additional groups of low-income Medicare beneficiaries. The total amount of Federal funds available during a Federal fiscal year and the formula for determining individual State allotments are specified in the law. We have applied the statutory formula for the State allotments except for the use of specified data. Because the data specified in the law were not currently available, we have used comparable data from the U.S. Census Bureau on the number of possible QIs in the States, as described in detail in the January 26, 1998, **Federal Register** Notice of the FY 1998 State allotments. (63 FR 3754). These new allotments for FY 1999 incorporate the latest data from the Census Bureau covering 1995 through 1997, as specified in the footnote to the table above.

We believe the statutory provisions implemented in this notice will have a positive effect on States and individuals. Federal funding at the 100 percent matching rate is available for Medicare cost-sharing for Medicare Part B premium payments for QIs and a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid.

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act, because we have determined and certify that this notice will not have a significant economic impact on a

substantial number of small entities, or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Sections 1902(a)(10)(E) and 1933 of the Social Security Act (42 U.S.C. 1396a(a)(10)(E) and 1396x), and section 4732 of Public Law 105–33.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 16, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: December 10, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 99–7078 Filed 3–26–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–08]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* May 28, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Single Family Home Mortgage Insurance Division, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410, telephone (202) 708–2700 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Title I Property Improvement & Manufactured Home Loan Programs (24 CFR part 201).

OMB Control Number, if applicable: 2502–0328.

Description of the need for the information and proposed use: This Notice requests an amendment to HUD–92541, Builder's Certification of Plans, Specifications, and Site to include an option for the builder to provide an evaluation certificate in lieu of a Letter of MAP Amendment (LOMA) or Letter of MAP Revision (LOMR) thus making it easier to comply with new regulations.

Agency Form Numbers, if applicable: HUD–637, 646, 27029, 27030, 55013, 55014, 56001, 56001MH, 56002, 56002MH, 56004, 92802.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 304,185, the total annual responses are 349,970, and the total annual burden hours of response are estimated at 145,417.

Status of the proposed information collection: Extension of previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 17, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–7615 Filed 3–26–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Docket Nos. FR–4340–FA–07, FR–4363–FA–07, and FR–4368–FA–02)

Fiscal Year 1998 Announcements of Selection for Funding

AGENCY: Office of the Secretary—Office of Lead Hazard Control, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notices of Funding Availability for Lead-Based Paint Hazard Control in Privately Owned Housing; Lead Hazard Control Research; Local Lead Hazard Awareness; and National Lead Hazard Awareness. This announcement contains the names and addresses of the organizations selected for funding and the amounts.

FOR FURTHER INFORMATION CONTACT: Office of Lead Hazard Control of the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. For the Lead-Based Paint Hazard Control in Privately Owned Housing selections, contact Ellis Goldman at (202) 755–1785 x 112, for the Lead Hazard Control Research selections, contact Peter Ashley at (202) 755–1785 x 115; and for both the Local Lead Hazard Awareness and National Lead Hazard Awareness selections, contact Dolline Hatchett at (202) 755–1785, x 114. Hearing-and speech-impaired persons may access the number above via TTY by calling the toll free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Please note that this announcement covers grants which were awarded as a result of the SuperNOFAs published on March 31, 1998 (63 FR 15556). This is not related to the February 26, 1999 SuperNOFA for HUD funding.

Lead-Based Paint Hazard Control

The purpose of the competition under the Lead-Based Paint Hazard Control Grant Program was to award grant funding for the grant program for lead-based paint hazard control in low income private housing.

The 1998 Lead-Based Paint Hazard Control Grant Program selections announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published

on March 31,
Applications
on the basis
contained in
Twenty-on
selected to re
$50,000,000.
102(a)(4)(C)
Housing and
Reform Act
U.S.C. 3545),
publishing th
amounts as f
City and Cou
Mayor's Of
Ness Ave.,
$3,000,000
Riverside Co
Environme
Hygiene Se
Dr., Rivers
$2,595,788
Alameda Cou
Developme
Prevention
Embarcade
$1,200,000
City of New
Developme
Street, New
$1,060,180
Madison Cou
Edwardsvi
Jefferson Cou
527 W. Jeff
40202, $1,
Quincy Wey
Hancock S
$2,000,000
City of Malde
Authority,
Malden, M
City of Bosto
Neighborh
Street, Bos
State of Mary
Housing a
Developme
Developme
Communit
21032, $1,
State of Main
Authority,
ME 04330–
City of Durha
Departmen
Manager, 1
Durham, N
Westchester
Housing &
148 Martin
NY 10601,
City of Colun
& Developr
Columbus,
Franklin Cou
Columbus,
City of Harris
Building a

on March 31, 1998 (63 FR 15556). Applications were scored and selected on the basis of selection criteria contained in that Notice.

Twenty-one applicants have been selected to receive a total of $50,000,000. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing their names, addresses, and amounts as follows.

City and County of San Francisco, Mayor's Office of Housing, 25 Van Ness Ave., San Francisco, CA 94102, $3,000,000

Riverside County, Department of Environmental Health, Industrial Hygiene Section, 4065 County Circle Dr., Riverside, CA 92513–7600, $2,595,788

Alameda County, Community Development/Lead Poisoning Prevention Program, 2000 Embarcadero, Oakland, CA 94606, $1,200,000

City of New London, Office of Development and Planning, 181 State Street, New London, CT 06320, $1,060,180

Madison County, 130 Hillsboro Avenue, Edwardsville, IL 62025, $3,227,892

Jefferson County, Health Department, 527 W. Jefferson, Louisville, KY 40202, $1,060,180

Quincy Weymouth Consortium, 1305 Hancock Street, Quincy, MA 02169, $2,000,000

City of Malden, Malden Redevelopment Authority, Government Center, Malden, MA 02148, $1,772,800

City of Boston, Department of Neighborhood Development, 26 Court Street, Boston, MA 02108, $3,000,000

State of Maryland, Department of Housing and Community Development, Community Development Administration, 100 Community Place, Crownsville, MD 21032, $1,000,000

State of Maine, Maine State Housing Authority, 353 Water Street, Augusta, ME 04330–4633, $2,779,160

City of Durham, Durham Housing Department, Office of the City Manager, 101 City Hall Plaza, Durham, NC 27701, $2,409,561

Westchester County, Division of Housing & Community Development, 148 Martine Avenue, White Plains, NY 10601, $4,000,000

City of Columbus, Department of Trade & Development, 50 West Gay Street, Columbus, OH 43215, $1,124,223

Franklin County, 373 S. High Street, Columbus, OH 43215, $1,603,000

City of Harrisburg, Department of Building and Housing Development, Martin Luther King, Jr., City Government Center, 10 North Second Street, Harrisburg, PA 17101, $1,200,000

State of Rhode Island, Rhode Island Housing & Mortgage Finance, 44 Washington Street, Providence, RI 02903, $2,998,551

City of Providence, Department of Planning and Development, 400 Westminster Street, Providence, RI 02903, $3,968,665

City of San Antonio, Housing and Community Development, 419 S. Main, San Antonio, TX 78204, $4,000,000

State of Vermont, Vermont Housing and Conservation Board, 149 State Street, Montpelier, VT 05602, $3,000,000

City of Milwaukee, Childhood Lead Poisoning Prevention Program, Johnston Community Health Center, 1230 West Grant Street, Milwaukee, WI 53125–2798, $3,000,000

Lead Hazard Control Research

The purpose of the competition under the Lead Hazard Control Research Program was to award grant funding for research to improve the evaluation and control of residential lead-based paint hazards.

The 1998 Lead Hazard Control Research Grant Program selections announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published on June 1, 1998 (63 FR 29882). Applications were scored and selected on the basis of selection criteria contained in that Notice.

Seven applicants have been selected to receive a total of $3,203,512. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), Department is publishing their names, addresses, and amounts as follows.

Children's Hospital Medical Center, 3333 Burnet Avenue, Cincinnati, Ohio 45229–3039, $102,578

The Research Foundation of SUNY, Health Science Center of Syracuse, P.O. Box 9, Albany, NY 12201–0009, $190,337

University of Cincinnati, Department of Environmental Health, P.O. Box 670056, Cincinnati, OH 45267–0056, $1,085,376

University of California, Santa Cruz, 1156 High St., Santa Cruz, CA 95064, $138,388

Kennedy Krieger Research Institute, 707 N. Broadway, Baltimore, MD 21205, $1,174,813

St. Louis University School of Public Health, 3663 Lindell Blvd., St. Louis, MO 63108–3342, $343,000

Research Triangle Institute, P.O. Box 12194, Research Triangle Park, NC 27709, $169,020

Local Lead Hazard Awareness Campaign

The purpose of the competition under the Local Lead Hazard Awareness Grant Program was to provide grant funds to establish and operate lead hazard awareness campaigns in communities.

The 1998 Local Lead Hazard Awareness Grant Awards Program selections announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published on April 30, 1998 (63 FR 23951). Applications were scored and selected on the basis of selection criteria contained in that Notice.

Twelve applicants have been selected to receive a total of $1,615,417. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing their names, addresses, and amounts as follows.

Baltimore City Health Department, 210 Guilford Avenue, Baltimore, MD 21202, $200,000

City of Kansas City, 2400 Troost Avenue, Kansas City, MO 64108, $190,257

La Clinica del Pueblo, 1470 Irving Street, NW, Washington, DC 20010, $100,000

Kenosha County Division of Health, 714 52nd Street, Kenosha, WI 53140, $26,197

State of Vermont, Vermont Department of Health, 108 Cherry Street P.O. Box 70, Burlington, VT 54020, $108,579

City of Philadelphia, 2100 W. Girard Avenue, Philadelphia, PA 19130, $200,000

Children's Memorial Hospital, 2300 Children's Plaza, Chicago, IL 60614, $168,091

State of New Jersey, Department of Human Services, 1222 S. Warren Street, Trenton, NJ 08624, $170,591

Esperanza Community Housing Corporation, 2337 S. Figueroa Street, Los Angeles, CA 90007, $100,000

Lewis and Clark City Council Health Department, 1930 Ninth Avenue, Helena, MT 59601, $91,702

West Harlem Environmental Action, 271 West 125th Street, New York, NY 10027, $200,000

Consumer Action, 717 Market Street, San Francisco, CA 94103, $60,000

National Lead Hazard Control Awareness Campaign

The purpose of the competition under the National Lead Hazard Awareness

Campaign Grant Program was to award grant funding to implement media strategies for a national level lead hazard awareness campaign.

The 1998 National Lead Hazard Awareness Campaign Grant Program selections announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published on April 30, 1998 (63 FR 23951). Applications were scored and selected on the basis of selection criteria contained in that Notice.

Six applicants have been selected to receive a total of $1,468,366. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing their names, addresses, and amounts as follows.

Vanguard Communications, 1019 19th Street NW Suite 1200, Washington, DC 60143, $999,958

Consumer Research Council, 2233 Wisconsin Avenue, NW, Washington, DC 20007, $100,000

National Safety Council, 1121 Spring Lake Drive, Itasca, IL 60143, $100,000

Monsoon Microstudios, 948 N. 8th Street, Philadelphia, PA 19123, $100,000

Children's Television Workshop, 1633 Broadway, New York, NY 10019, $68,408

Henry J. Kaufman & Associates, 1424 16th Street, NW, Suite 604, Washington, DC 20036, $100,000

The Catalog of Federal Domestic Assistance number for this program is 14.900.

Dated: March 17, 1999.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 99–7612 Filed 3–26–99; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Proposed Relocation of Jeanne d'Arc Statue, Place de France, New Orleans, LA; Extension of Comment Period

AGENCY: Office of the Secretary, Interior.

ACTION: Extension of time for filing public comments

SUMMARY: The Office of the Secretary requested public comment on February 18, 1999 (64 **Federal Register** 8110–02) on a request from the City of New Orleans, Louisiana to relocate the Place de France, a statue of Jeanne d'Arc and two bronze cannons, currently located in the median between the International Trade Mart Building and the former Rivergate, to a new location in the Vieux Carre (the French Quarter), a National Historic Landmark District. At that time a comment period was announced and scheduled to end on March 22, 1999. Pursuant to a request to extend the deadline for filing comments, the Office of the Secretary has extended the deadline for comments by an additional fifteen (15) days in order to provide additional time for the public to review and provide comments to the Office of the Secretary.

DATES: The Department of the Interior will accept comments through April 6, 1999.

ADDRESSES: *Written comments should be submitted to:* Ms. Juliette Falkner, Director, Office of Executive Secretariat, Department of the Interior, 1849 C Street, NW. Mail Stop 7229, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ms. Geraldine Smith, Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, Louisiana 70130–1142, (504) 589–3882 (not a toll free number).

John Berry,

Assistant Secretary for Policy, Management and Budget, Department of the Interior.

[FR Doc. 99–7559 Filed 3–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fishes in the Klamath River Basin. The objective of this meeting is to finalize 1999 harvest management recommendations for Klamath fall chinook salmon, for presentation to the Pacific Fishery Management Council and other agencies. The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 6:00 pm to 10:00 pm on Monday, April 5, 1999.

PLACE: The meeting will be held at the Sacramento Red Lion Hotel, 1401 Arden Way, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006, Yreka, California 96097–1006, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: At the April 5, 1999, meeting, the Klamath Fishery Management Council may schedule short follow-up meetings to be held between April 6, 1999, and April 8, 1999, at the Sacramento Red Lion Hotel, 1401 Arden Way, Sacramento, California, where the Pacific Fishery Management Council will be meeting.

For background information on the Klamath Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: March 16, 1999.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations Office.

[FR Doc. 99–7572 Filed 3–26–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Construction of Replacement Education Facilities

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Call for applications and notice of revised instructions and ranking criteria.

SUMMARY: This Notice is the official call for applications for construction of Bureau-funded replacement education facilities. It also explains how to obtain copies of the revised publication, "Instructions and Application for Replacement School Construction 1999." Applications for construction of Bureau-funded replacement education facilities may be submitted in accordance with these 1999 revised instructions.

DATES: Applications must be received on or before July 16, 1999.

ADDRESSES: Copies of the revised instructions and ranking criteria are available upon request from the BIA Office of Indian Education Programs at 1849 C Street NW, MS–3512 MIB, Washington, DC 20240 or from 201 Third St. NW, Suite 510, Albuquerque, New Mexico 87102. The revised instructions are also available from BIA Area and Education line offices and from the BIA Facilities Management and Construction Center, 201 Third St. NW,

Suite 500, Albuquerque, New Mexico 87102.

All applications must be submitted to the BIA Office of Indian Education Programs at 201 Third St. NW, Suite 510, Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Questions regarding applications may be submitted to the attention of Dr. Kenneth G. Ross, Special Assistant to the Director, Office of Indian Education Programs, 201 Third St. NW, Suite 510, Albuquerque, New Mexico 87102, (505) 346–6544, Fax (505) 346–6553 or to applicable Education Line Officers whose addresses and phone numbers are available in Appendix A of the application document.

SUPPLEMENTARY INFORMATION: We published a notice in the **Federal Register** on November 17, 1998 (63 FR 63942), requesting comments on draft instructions governing the priority ranking process for construction of replacement education facilities and the criteria used in ranking applications. We have reviewed all written comments received and incorporated some of the comments in the revised instructions in this notice. The revised instructions entitled "Instructions and Application for Replacement School Construction 1999" are available at the address provided in the **ADDRESSES** section.

The revised process will not provide for new school starts nor grade level expansions. The revised procedures will provide more continuity, objectivity and accountability in the priority ranking for construction of replacement education facilities; address the handling of emergency needs; and accommodate federal/tribal financial partnerships for education construction projects.

We will send copies of the revised instructions to all BIA schools and schools that receive BIA funds under contract or grant. (Catalog of Federal Domestic Assistance Program Number: 15.062 "Replacement and Repair of Indian Schools.") Applications for construction of Bureau-funded replacement education facilities may be submitted in accordance with the 1999 revised instructions. This Notice is the official call for applications for construction of Bureau-funded replacement education facilities.

BIA's Office of Indian Education Programs' Line Officers will conduct training on the revised instructions and ranking criteria for all schools under their administrative jurisdiction. The BIA Education Line Officers, in March 1999, will canvas the schools to find out whether they intend to submit an official application for replacement school construction and to identify the person who will be the point of contact for correspondence. Each potential applicant mustsubmit their response to their Education Line Officer by close of business of the due date specified for that response. BIA will place all respondents on the mailing list and provide them with instructions and application forms.

We will send all potential applicants the specifics relating to training location, date, and times by certified mail. Applications will be accepted beginning June 28, 1999, until July 16, 1999. We will use the criteria in the revised instructions to review and evaluate all applications that we receive on or before the deadline.

This Notice is published under authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs in the Departmental Manual at 209 DM 8. 25 U.S.C. 2005(c) directed BIA to publish, in the **Federal Register**, the system used to determine priorities for school construction projects and to submit a current priority ranking for school construction projects at the time any budget request is presented to Congress. The Conference Report for the FY 1992 Interior and Related Agencies Appropriation Act, House Report No. 256, 102d Cong., 1st Sess. 46 (1991), indicated that Congress wanted the Department to revise the priority ranking process for new school construction. The Conference Report said that BIA should emphasize tribal consultation and improve the objectivity of the ranking process, provide continuity to the priority ranking list, and provide procedures for handling emergency needs. The Education Line Officers will conduct training for applicants on how to complete their applications. Tribes and BIA-funded school boards will receive advance, written notice of training session dates, times, and locations for tribes and schools under their respective jurisdictions.

Dated: March 22, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–7658 Filed 3–26–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–010–5700–77; NMNM 101506]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw approximately 7,346.99 acres of National Forest Service lands in aid of legislation for the Santo Domingo land claim settlement. This notice closes the land for up to 2 years from location and entry under the United States mining laws. the land will remain open to all other uses which may be made of National Forest Service lands.

DATES: Comments or requests for a meeting should be received on or before June 28, 1999.

ADDRESSES: Comments should be sent to Bob Armstrong, United States Forest Service, Lands and Minerals staff, 517 Gold Avenue, SW., Albuquerque, New Mexico 87102–0084.

FOR FURTHER INFORMATION CONTACT: Tim Vollman, Office of the Solicitor, Department of the Interior, 2400 Louisiana Blvd., NE., Albuquerque, New Mexico, (505) 346–2700 or Bob Armstrong at the above address or telephone (505) 842–3276.

SUPPLEMENTARY INFORMATION: The Forest Service has filed an application to withdraw the following described National Forest Service lands from location and entry under the United States mining laws, subject to valid existing rights.

New Mexico Principal Meridian

National Forest Service—Southwestern Region

T. 16 N., R. 4 E.
- Sec. 4, lots 1–7, inclusive, SW¼NE¼, W½SE¼, S½NW¼, and SW¼;
- Sec. 5, unsurveyed;
- Sec. 8, unsurveyed;
- Sec. 9, lots 5–9, inclusive W½.

T. 17 N., R. 4 E.
- Sec. 25, lots 1–4, inclusive, S½S½;
- Sec. 26, lots 1–4, inclusive S½S½;
- Sec. 27, lots 1–4, inclusive S½S½;
- Sec. 28, lots 1–4, inclusive S½S½; lots 1–4,
- Sec. 29, unsurveyed;
- Sec. 32, unsurveyed;
- Secs. 33 to 36, inclusive.

T. 15 N., R. 6 E.
- Sec. 10, NE¼NE¼ portion of lot 1;
- Sec. 11, lots 1–3, portions of lots 4 and 5, inclusive, SE¼ and NE¼SW¼;
- Sec. 12, lots 1–4, inclusive, S½
- Sec. 13, lots 1–4, inclusive, N½NE¼ and NE¼NW¼;
- Sec. 14, portions of lots 1 and 2.

T. 15 N., R. 7 E.
- Sec. 7, lots 1–4, inclusive, S½S½; (portion outside of the Santa Cruz Spring Tract)
- Sec. 8, lots 8 and 9, inclusive;
- Sec. 9 and 10, inclusive, unsurveyed;
- Sec. 17, lots 2, 3 and 6, inclusive;
- Sec. 18, lots 1, 2, 5 and 6, inclusive, N½NW¼ and NE½.

The areas described, including both surveyed and unsurveyed lands, aggregate approximately 7,346.99 in Sandoval and Santa Fe Counties.

The purpose of the proposed withdrawal is to protect the lands while legislation is being drafted to transfer these lands to the Santo Domingo Pueblo as part of the Pueblo's land claim settlement.

For a period of 90 days from the date of publication of the notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing by the date specified above, to the Forest Supervisor, Lands and Minerals, Southwestern Region.

Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of time and place will be published in the **Federal Register** and a newspaper in the general vicinity of the lands to be withdrawn at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the legislation enacted or a withdrawal is approved prior to the date.

Dated: March 16, 1999.

Steve Salzman,

Acting Albuquerque Field Manager.

[FR Doc. 99–7543 Filed 3–26–99; 8:45 am]

BILLING CODE 4310–AG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–010–1430–01; NMNM 101499]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 4,577.10 acres of public land in Sandoval County, New Mexico in aid of legislation for the Santo Domingo land claim settlement. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATES: Comments must be received by June 28, 1999.

ADDRESSES: Comments should be sent to the Albuquerque Field Office Manager, Albuquerque Field Office, BLM, 435 Montaño NE, Albuquerque, New Mexico 87107–4935.

FOR FURTHER INFORMATION CONTACT: Debby Lucero, BLM Albuquerque Field Office, 505–761–8787.

SUPPLEMENTARY INFORMATION: On March 12, 1999, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following describe public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights.

New Mexico Principal Meridian

T. 16 N., R. 4 E.
- Sec. 1, lots 1–7, inclusive, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
- Sec. 3, lots 1–4, inclusive, S½N½, and S½;
- Sec. 10, lots 5–8, inclusive, N½NE¼, SE¼NE¼, and NE¼NW¼;
- Sec. 11, lots 2 and 3, N½, N½SW¼, and SE¼;
- Sec. 12, lots 1–4, inclusive, W½E½, and W½;
- Sec 13, lots 6–12, inclusive, W½NE¼, N½NW¼, and SE¼NW¼;
- Sec. 14, lots 4 and 5.

T. 16 N., R. 5 E.
- Sec. 7, E½;
- Sec. 18, lot 1, N½, N½SW¼, SE¼SW¼, and SE¼;
- Sec. 19, lots 1–3, inclusive, and NE¼NE¼.

T. 14 N., R. 6 E.
- Sec. 6, lots 32–34 inclusive.

The area described contains approximately 4,577.10 acres in Sandoval County.

The purpose of the proposed withdrawal is to protect the lands while legislation is being drafted to transfer these lands to the Santo Domingo Pueblo as part of the Pueblo's land claim settlement.

For a period of 90 days from the date of publication of the notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Albuquerque Field Office Manager of the Bureau of Land Management at the above address.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the legislation enacted or a withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, and discretionary land use authorizations of a temporary nature with the approval of the authorized officer.

Dated: March 16, 1999.

Steve Salzman,

Acting Field Manager.

[FR Doc. 99–7544 Filed 3–26–99; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 20, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by April 13, 1999.

Carol D. Shull,

Keeper of the National Register.

Alaska

Anchorage Borough-Census Area

Anchorage Hotel Annex, 330 E St., Anchorage, 99000443

Colorado

Alamosa County

American National Bank Building, 500 State Ave., Alamosa, 99000446

Chaffee County

Jackson, F.A., House, 401 E. 1st St., Salida, 99000445

Dolores County

Dey Building, 3 N. Glasgow, Rico, 99000448

El Paso County

Taylor Memorial Chapel, 6145 Shoup Rd., Colorado Springs vicinity, 99000447

Weld County

Greeley High School, 1515 14th Ave., Greeley, 99000444

Connecticut

Fairfield County

South Main and Washington Streets Historic District (Boundary Increase II), Roughly along N. Main St. from Washington St. to Ann St., Norwalk, 99000449

Georgia

Greene Count

Woodville Ba
E. Peachtre
Woodville,

Iowa

Cass County

Chase, Charle
W. Ninth S

Hancock Cou

Stubbins, Geo
Britt, 99000

Lee County

Keokuk Unio
Keokuk, 99

Linn County

Evans Manuf
(Commerci
Cedar Rapi
Cedar Rapi

Poweshiek C

Marsh, E.A. a
833 East St

Kansas

Leavenworth

Western Bran
Volunteer
99000456

Missouri

Howard Cou

Fayette City
Park, Fayet

Montana

Flathead Cou

Porter Ranch
Kalispell, 9

New York

Kings County

Prospect Hall
99000460

Rockland Co

Rose, Willia
Stony Poin

North Caroli

Duplin Coun

Powers, Isaac
MPS) NC 1
and NC 4,

Pennsylvania

Bucks Count

Erwinna Hist
Headquart
Church, Te
Roaring Ro
99000462

Tennessee

Shelby Coun

Wells—Arrin
(Residentia

Georgia

Greene County

Woodville Baptist Church and School, Jct. of E. Peachtree Ave. and Chestnut St., Woodville, 99000455

Iowa

Cass County

Chase, Charles F. and and Ruth, House, 110 W. Ninth St., Atlantic, 99000451

Hancock County

Stubbins, George E., House, 248 1st Ave. SW, Britt, 99000453

Lee County

Keokuk Union Depot, 200 Exchange St., Keokuk, 99000452

Linn County

Evans Manufacturing Company Building (Commercial & Industrial Development of Cedar Rapids MPS) 301 Sixth Ave. SE, Cedar Rapids, 99000450

Poweshiek County

Marsh, E.A. and Rebecca (Johnson), House, 833 East St., Grinnell, 99000454

Kansas

Leavenworth County

Western Branch, National Home for Disabled Volunteer Soldiers, US 73, Leavenworth, 99000456

Missouri

Howard County

Fayette City Park Swimming Pool, Memorial Park, Fayette, 99000457

Montana

Flathead County

Porter Ranch Barn, North Somers Rd., Kalispell, 99000458

New York

Kings County

Prospect Hall, 263 Prospect Ave., Brooklyn, 99000460

Rockland County

Rose, William H., House, 110 Tomkin Ave., Stony Point, 99000459

North Carolina

Duplin County

Powers, Isaac M., House (Duplin County MPS) NC 1154, 0.8 mi. S of jct. of NC 1154 and NC 4, Wallace vicinity, 99000461

Pennsylvania

Bucks County

Erwinna Historic District, Roughly River Headquarters, Geigel Hill, Upper Tinicum Church, Tettemer, Permanent School and Roaring Rocks Rd., Tinicum Township, 99000462

Tennessee

Shelby County

Wells—Arrington Historic District (Residential Resources of Memphis MPS) 563–610 Arrington Ave. and 556–601 Wells Ave., Memphis, 99000463

[FR Doc. 99–7579 Filed 3–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection; Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements; Liquidated Damages.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Comments are encouraged and will be accepted for "sixty days" until May 28, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will be practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements; Liquidated Damages.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency form Number. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The Service will use the data collected by the carrier to query the Interagency Border inspection System (IBIS) to electronically access manifest and query results in advance of each flight's arrival. This information collection facilities rapid inspection at ports-of-entry.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 400 carrier agreements at 5 hours per response and 1,500,000 queries at .016 (1 minute) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 26,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan at 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: March 23, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.

[FR Doc. 99–7580 Filed 3–26–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Nonimmigrant Petition Based on Blanket L Petition.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 6, 1999 at 64 FR 911, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 28, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–129S, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection will be used by an employer to classify employees as L–1 nonimmigrant intracompany transferees under a blanket L petition approval. The INS will use the data on this form to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250,000 responses at 35 minutes (.583 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 145,750 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 23, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–7581 Filed 3–26–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review; Application for Waiver of Passport and/or Visa.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 6, 1999 at 64 FR 910, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comment. Comments are encouraged and will be accepted until April 28, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Application for Waiver of Passport and/or Visa.

(3) *Agency form number, if any, and the applicable component of the*

Department of Justice sponsoring the collection: Form I–193, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form will be used by an alien who wishes to waive the documentary requirements for passports and/or visas due to an unforeseen emergency. The Service will use the information to determine whether applicants are eligible for entry into the United States under 8 CFR Parts 212.1(b)(3) and 212.1(g).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,150 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 23, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–7582 Filed 3–26–99; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–052)]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee.

DATES: Wednesday, April 21, 1999, 9 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC–5B, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley M. Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202–358–0813.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Status of the Microgravity Research Advisory Subcommittee Recommendations

—Microgravity Program Status Report

—International Space Station Program Status Report

—Developments in Fundamental Physics

—Developments in Biotechnology

—Microgravity Initiatives for 2002

—Informal Discussion

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 22, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–7659 Filed 3–26–99; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date & Time: April 12 and 13, 1999; 8:30 a.m. to 4:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 330, Arlington, Virginia 22230.

Contact Person: Dr. Jorn Larsen-Basse, Control, Materials and Mechanics Cluster, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230. 703/306–1361, x5073.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Dated: March 23, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7564 Filed 3–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacturing, and Industrial Innovation, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Design, Manufacturing, and Industrial Innovation (1194).

Date & Time: April 14, 1999 and April 15, 1999.

Place: Room 370, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Darryl Gorman, Program Manager, Small Business Technology Transfer Program, Room 550, Division of Design, Manufacturing, and Industrial Innovation, National Science Foundation, 4201 Wilson Boulevard, VA 22230, telephone (703) 306–1395.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Small Business Technology Transfer (STTR) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 23, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7565 Filed 3–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Intergrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Experimental and Integrative Activities (1373).

Date and Time: April 12, 1999; 8:30 am to 5:00 pm.

Place: Room 1020 and 1105.17, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person(s): Dr. Anthony Maddox, Program Director, Division of Experimental and Integrative Activities, National Science Foundation, Room 1160, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE Experimental Partnerships proposals as part of the selection process for awards.

Reason for Closing: To proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(b)(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 23, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7566 Filed 3–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Graduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Graduate Education (57).

Date & Times: April 8 and 9, 1999, 8:00 a.m. to 5:00 p.m.

Place: NSF, Room 330, National Science Foundation, 4201 Wilson Blvd, Arlington, VA.

Type of Meeting: Closed.

Contact Persons: Dr. Sonia Ortega, Mrs. Carolyn Lyons-Piper and Mrs. Arneeta Speight, Division of Graduate Education, National Science Foundation, 4201 Wilson Blvd. Room 907N, Arlington, VA 22230, telephone (703) 306–1697.

Purpose of Meeting: To provide advice and recommendations concerning preproposals submitted to NSF for financial support.

Agency: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 23, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7563 Filed 3–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Neuroscience (1158).

Date and Time: April 29–30, 1999; 9:00 a.m. to 5:00 p.m.

Place: Room 630, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Christopher Platt, Program Director, Sensory Systems, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1424.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session. April 30, 1999; 2:00 p.m. to 3:00 p.m., to discuss goals and assessment procedures. *Closed Session.* April 29, 1999; 9:00 a.m. to 5:00 p.m.; April 30, 1999; 9:00 a.m. to 2:00 p.m., and 3:00 p.m. to 5:00 p.m. To review and evaluate Sensory Systems proposals as part of the selection process for awards..

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 23, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7561 Filed 3–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Neuroscience (1158).

Date and Time: April 15–16, 1999; 8:00 a.m. to 5:00 p.m.

Place: Room 680, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Lawrence Kromer, Program Director, Developmental Neuroscience, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session April 16, 1999; 11:00 a.m. to 12:00 p.m., to discuss goals and assessment procedures. closed session. April 15; 8:00 a.m. to 5:00 p.m., and April 16, 9:00 a.m. to 11:00 a.m. and 12:00 p.m. to 5:00 p.m. To review and evaluate Developmental Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 23, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7562 Filed 3–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

U.S. National Assessment Synthesis Team; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: U.S. National Assessment Synthesis Team (#5219).

Date & Time: April 12, 1999, 6:00–7:00 p.m.; April 13–15, 1999, 8:00 a.m.–5:00 p.m.

Place: Four Points by Sheraton Hotel, 1850 Cotillion Drive, Atlanta, Georgia.

Type of Meeting: Partially Closed.

Contact Person: Melissa J. Taylor, Office of the U.S. Global Change Research Program (USGCRP), 400 Virginia Avenue, SW, Suite 750, Washington, DC 20024. Tel: 202–314–2230; Fax: 202–488–8681; Email: mtaylor@usgrcp.gov. Interested persons should contact Ms. Taylor as soon as possible to assure space provisions are made for all participants and observers.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the interagency Subcommittee on Global Change Research on the design and conduct of the national effort to assess the consequences of climate variability and climate change for the United States.

Agenda

April 12:
- Closed session to discuss personnel matters

April 13:
- Meet with regions and sectors groups (morning)
- Discuss Synthesis Report regional chapters (afternoon)

April 14:
- Discuss Synthesis Report sectoral chapters (morning)
- General session on status of the Synthesis Report (afternoon)

April 15:
- Continue general discussion of the Synthesis Report, as well as next steps in the timetable

Reason for Closing: The personnel matters being discussed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: March 23, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–7560 Filed 3–26–99; 8:45 am]

BILLING CODE 7555–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider matters relating to administration and enforcement of the price regulation, including the reports and recommendations of the Commission's standing Committees. The Commission will also hold its deliberative meeting to consider whether the price regulation should be amended to change the method for determining the amount of the administrative assessment and whether to add a new regulation requiring milk handlers to make payment to the Compact Commission by electronic funds transfer.

DATES: The meeting is scheduled for Wednesday, April 7, 1999 to commence at the close of the public hearing for a proposed rule beginning at 9:00 a.m. as previously noticed at 64 FR12769 (March 15, 1999).

ADDRESSES: The meeting will be held at the Tuck Library, 30 Park Street, Concord, NH (exit 14 off I–93).

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, VT 05602. Telephone (802) 229–1941.

Authority: 7 U.S.C. 7256.

Dated: March 23, 1999.

Kenneth M. Becker,

Executive Director.

[FR Doc. 99–7573 Filed 3–26–99; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection:

NRC Form 313, "Application for Material License."

NRC Form 313A, "Training and Experience."

NRC Form 313B, "Preceptor Statement."

2. Current OMB Approval Number: 3150–0120.

3. How often the collection is required: There is a one-time submittal of information to receive a license. Once a specific license has been issued, there is a 10-year resubmittal of the information for renewal of the license. Amendments are submitted as needed by the licensee.

4. Who is required or asked to report: All applicants requesting a license, and licensees requesting renewal or amendment of a byproduct or source material license to possess, use, or distribute radioactive material.

5. The number of annual respondents: 17,958 (5,556 NRC licensees and 12,402 Agreement State licensees.) This is the total number of licensees which could potentially submit licensing actions.

6. The number of hours needed annually to complete the requirement or request: 66,652 (18,663 hours for NRC licensees and 47,989 hours for Agreement State licensees, an average of about 7.4 hours per response).

7. Abstract: All applicants must submit NRC Form 313 to obtain, renew, or amend a specific license to possess, use, or distribute byproduct or source material. NRC Form 313A, "Training and Experience," and NRC Form 313B, "Preceptor Statement," are used for 10 CFR Part 35, "Medical Use of Byproduct Material," applicants and licensees along with NRC Form 313 to obtain the above information. The information is reviewed by the NRC to determine whether the applicant is qualified by training and experience, and has equipment, facilities, and procedures which are adequate to protect the public health and safety of the public, and minimize danger to life or property.

Submit, by May 28, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, by telephone at 301–415–7233 or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 23rd day of March, 1999.

For the U. S. Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–7596 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454. STN 50–455, STN 50–456 and STN 50–457]

Commonwealth Edison Company; Notice of Consideration of Issuance of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–37, NPF–66, NPF–72, and NPF–77 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Byron Station, Unit Nos. 1 and 2, located in Ogle County, Illinois, and Braidwood Station, Unit Nos. 1 and 2, located in Will County, Illinois.

The proposed amendments would allow the use of the Gamma-Metrics Post Accident Neutron Monitors (PANMs) to provide neutron flux information during Operational Mode 6 (refueling).

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments requested involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The installed Westinghouse source range neutron flux monitors are boron trifluoride detectors operating in the proportional region of the gas filled detector characteristic curve. The detectors monitor the neutron flux in counts per second. The instrument range covers six decades (i.e., 1 to 1E06 counts per second (cps)). The installed source range Gamma-Metrics post accident neutron flux monitors (PANMs) are enriched U–235 fission chambers operating in the ion chamber region of the detector characteristic curve. The detectors monitor the neutron flux in counts per second. The instrument range covers six decades (i.e., 0.1 to 1E05 cps). The detectors provide continuous visual indication in the Main Control Room (MCR.) Both the Westinghouse and Gamma-Metrics PANM neutron detectors are designed in accordance with 10CFR50 Appendix A, General Design Criterion (GDC) 13, "Instrumentation and control," and GDC 29, "Protection against anticipated operational occurrences," and are functionally equivalent for this application.

The Technical Specifications Bases state that two operable source range neutron flux monitors are required to provide a signal to alert the operator to unexpected changes in core reactivity such as with a boron dilution accident or an improperly loaded fuel assembly. The use of source range neutron flux monitors, either Gamma-Metrics PANMs or Westinghouse, has no effect on the probability of a dilution accident or an improperly loaded fuel assembly, because the source range neutron flux monitors are not in any way the initiators of or precursor to either accident.

The use of source range neutron flux monitors, either Gamma-Metrics PAMNs or Westinghouse, has no effect on the consequences of a dilution accident or an improperly loaded fuel assembly. The need for a safety analysis for an uncontrolled boron dilution accident is eliminated by isolating all unborated water sources as required by LCO 3.9.2, "Unborated Water Source Isolation Valves." Thus boron dilution is not considered a credible accident during refueling.

UFSAR Section 15.4.7 does not credit the source range neutron flux monitors for prevention or detection of the improperly loaded fuel assembly. It instead credits administrative procedures (i.e., nuclear component transfer lists, core inventory verification, etc.) implemented during fuel loading. If a fuel assembly loading error occurred, it would be detected by a flux map, or the perturbations of the power distribution will be sufficiently small to be within the allowable uncertainties.

Therefore this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change to Technical Specification 3.9.3 does not involve any physical alteration of plant systems, structures, or components, or changes in parameters governing plant operation. This change will not result in a significant reduction in monitoring capability since both the Westinghouse and Gamma-Metrics PANM source range neutron flux monitors are functionally equivalent and both are Safety Category I (Class 1E) systems. These source range instrumentation systems are for monitoring neutron flux and criticality assessment. They are not relied upon to initiate automatic accident mitigation in Operational Mode 6. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Does the proposed change involve a significant reduction in a margin of safety?

The proposed change will still maintain the requirement for two source range neutron flux monitors for visual monitoring of core reactivity as currently discussed in the Bases for the affected Technical Specifications. The Gamma-Metrics PANMs use fission chambers as detectors that have a sensitivity of 4 cps/neutron-volt (cps/nv) for thermal neutrons and 2 cps/nv for fast neutrons. The Westinghouse source range neutron flux monitors have a sensitivity of 13 cps/nv. The Gamma-Metrics PANMs have a comparable range and accuracy (i.e., range of 0.1 to 1E05 cps with an accuracy of 2% of full scale) to that of the Westinghouse source range neutron flux monitors (i.e., 1 to 1E+6 cps with an accuracy of 3 percent of full scale). The fact that the Gamma-Metrics PANMs do not cover the range of 1E05 to 1E06 cps is insignificant in Operational Mode 6 due to the low count rates expected. Therefore, these changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments requested involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 28, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010 (for Byron) and the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481 (for Braidwood). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated March 22, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010 (for Byron) and the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481 (for Braidwood).

Dated at Rockville, Maryland, this 23rd day of March 1999.

For the Nuclear Regulatory Commission.

John B. Hickman,

Project Manager, Project Directorate III–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7601 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–20]

Department Of Energy, Idaho Operations Office Notice of Issuance of Materials License SNM–2508 for TMI–2 Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued a Materials License under the provisions of Title 10 of the Code of Federal Regulations, Part 72 (10 CFR Part 72), to the Department of Energy, Idaho Operations Office (DOE–ID), authorizing receipt and storage of spent fuel in an independent spent fuel storage installation (ISFSI) located at the Idaho National Engineering and Environmental Laboratory (INEEL), within the Idaho Nuclear Technology and Engineering Center (INTEC) site in Scoville, Idaho, as described in its application dated October 31, 1996, and Safety Analysis Report (SAR).

The function of the ISFSI is to provide interim storage of radioactive material from the Three Mile Island Unit 2 (TMI–2) reactor core damaged by the March 28, 1979, reactor accident, including the remains of 177 Babcock and Wilcox 15x15 fuel assemblies, 61 control rod assemblies, and miscellaneous irradiated core and core basket material. The material is contained within 265 fuel canisters, 12 knockout canisters, and 67 filter canisters which are used to confine the TMI–2 core debris in the absence of intact fuel assembly cladding. The cask that is authorized for use is the NUHOMS–12T designed by Transnuclear West, Inc. The license for an ISFSI under 10 CFR Part 72 is issued for 20 years, but the licensee may seek to renew the license, if necessary, prior to its expiration.

The Commission's Office of Nuclear Material Safety and Safeguards (NMSS) has completed its environmental, safeguards, and safety reviews in support of issuance of this license.

Following receipt of the application dated October 31, 1996, a "Notice of Consideration of Issuance of a Materials License for the Storage of Spent Fuel and Notice of Opportunity for a Hearing" was published in the **Federal Register** on January 13, 1997 (62 FR 1782). The "Final Environmental Impact Statement (FEIS) Related to the Construction and Operation of the TMI–2 Independent Spent Fuel Storage Installation," NUREG–1626, was issued and noticed in the **Federal Register** (63 FR 13077) on March 17, 1998, in accordance with 10 CFR Part 51. The scope of the FEIS included the construction and operation of an ISFSI on the INEEL site.

The staff has completed its safety review of the TMI–2 ISFSI site application and SAR. Materials License SNM–2508 and the NRC staff's "Safety Evaluation Report for the TMI–2 Independent Spent Fuel Storage Installation" were issued on March 19, 1999. Materials License SNM–2508, the staff's Environmental Impact Statement, Safety Evaluation Report, and other documents related to this action are available for public inspection and for copying for a fee at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555, and at the Local Public Document Room at the INEEL Technical Library, 1776 Science Center Drive, Idaho Falls, ID 83402.

Dated at Rockville, Maryland, this 19th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–7600 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–80 and 82, issued to Pacific Gas and Electric Company (PG&E or the licensee), for operation of the Diablo Canyon Power Plant, Units 1 and 2 (DCPP), located in San Luis Obispo County, California.

The initial notice of consideration of issuance of amendment to facility operating license and opportunity for hearing was originally published in the **Federal Register** (63 FR 55152) on October 14, 1998. The information included in the supplemental letters indicates that the original notice, that included 13 proposed beyond-scope issues (BSIs) to the Improved Technical Specifications (ITS) conversion, needs to be expanded (to add 15 new BSIs) and revised (to delete 8 previous BSIs) to include a total of 20 BSIs. This notice supercedes the previous notice.

The proposed amendment, requested by the licensee in a letter dated June 2, 1997, as supplemented by letters dated January 9, June 25, August 5, August 28, September 25, October 16, October 23, November 25, December 4, December 17, and December 30, 1998, and February 24 and March 10, 1999, would represent a full conversion from the current Technical Specifications (CTS) to a set of ITS based on NUREG–1431, "Standard Technical Specifications, Westinghouse Plants," Revision 1, dated April 1995. NUREG–1431 has been developed by the Commission's staff through working groups composed of both NRC staff members and industry representatives, and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve the Technical Specifications (TSs) for nuclear power plants. As part of this submittal, the licensee has applied the criteria contained in the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (Final Policy Statement)," published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the CTS, and, using NUREG–1431 as a basis, proposed an ITS for DCPP. The criteria in the Final Policy Statement were subsequently added to 10 CFR 50.36, "Technical Specifications," in a

rule change that was published in the **Federal Register** on July 19, 1995 (60 FR 36953) and became effective on August 18, 1995.

This conversion is a joint effort in concert with three other utilities: Texas Utilities Electric for Comanche Peak Steam Electric Station, Units 1 and 2 (Docket Nos. 50–445 and 446); Union Electric Company for Callaway Plant (Docket No. 50–483); and Wolf Creek Nuclear Operating Corporation for Wolf Creek Generating Station (Docket No. 50–482). This joint effort includes a common methodology for the licensees in marking-up the CTS and NUREG–1431 Specifications, and the NUREG–1431 Bases, that has been accepted by the staff. This includes the convention that, if the words in a CTS specification are not the same as the words in the ITS specification but they mean the same or have the same requirements as the words in the ITS specification, the licensees do not indicate or describe a change to the CTS.

This common methodology is discussed at the end of Enclosure 2, "Mark-Up of Current TS"; Enclosure 5a, "Mark-Up of NUREG–1431 Specifications"; and Enclosure 5b, "Mark-Up of NUREG–1431 Bases", for each of the 14 separate ITS sections that were submitted with the licensee's application. For each of the 14 ITS sections, there is also the following: Enclosure 1, the cross reference table, sorted by CTS and ITS Specifications; Enclosure 3, the description of the changes to the CTS section and the comparison table showing which plants (of the four licensees in the joint effort) that each change applies to; Enclosure 4, the no significant hazards consideration (NSHC) of 10 CFR 50.91 for the changes to the CTS with generic NSHCs for administrative, more restrictive, relocation, and moving-out-of-CTS changes, and individual NSHCs for less restrictive changes and with the organization of the NSHC evaluation discussed in the beginning of the enclosure; and Enclosure 6, the descriptions of the differences from NUREG–1431 specifications and the comparison table showing which plants (of the four licensees in the joint effort) that each difference applies to. Another convention of the common methodology is that the technical justifications for the less restrictive changes are included in the NSHCs.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG–1431 and does not involve technical changes to the existing TSs. The proposed changes include: (a) Providing the appropriate numbers, etc., for NUREG–1431 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant), (b) identifying plant-specific wording for system names, etc., and (c) changing NUREG–1431 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in the TSs. Relocated changes are those current TSs requirements that do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated to appropriate licensee-controlled documents.

The licensee's application of the screening criteria is described in Attachment 2 to its June 2, 1997, submittal, which is entitled, "General Description and Assessment." The affected structures, systems, components or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components, or variables will be relocated from the TS to administratively controlled documents such as the quality assurance program, the Final Safety Analysis Report (FSAR), the ITS Bases, the Equipment Control Guidelines (EGC) that is incorporated by reference in the FSAR, the Core Operating Limits Report (COLR), the Offsite Dose Calculation Manual (ODCM), the Inservice Testing (IST) Program, or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms, and may be made without prior NRC review and approval. In addition, the affected structures, systems, components, or variables are addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, and components described in the safety analyses. For each requirement in the CTS that is more restrictive than the corresponding requirement in NUREG–1431 that the licensee proposes to retain in the ITS, they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facility because of specific design features of the plant.

Less restrictive changes are those where CTS requirements are relaxed or eliminated, or new plant operational flexibility is provided. The more significant "less restrictive" requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TSs may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the Improved Standard Technical Specifications. Generic relaxations contained in NUREG–1431 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG–1431, thus providing a basis for these revised TS, or if relaxation of the requirements in the current TS is warranted based on the justification provided by the licensee.

These administrative, relocated, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

In addition to the proposed changes solely involving the conversion, there are also changes proposed that are

differences to the requirements in both the CTS and the Improved Standard Technical Specifications (NUREG–1431). The first five BSIs were included in the previous (superceded notice) and still apply to the conversion, however there are fourteen additional BSIs. The additional beyond-scope issues (BSIs) are discussed in the licensee's response to requests for additional information (RAIs) from the NRC staff. These proposed BSIs to the ITS conversion are as follows:

1. ITS 3.1.7. Adds a new action for more than one digital rod position indicator (DRPI) per group inoperable.

2. ITS Surveillance Requirements (SR) 3.2.1.1 and 3.2.1.2. Changes the frequency to allow 24 hours for verifying that the axial heat flux hot channel factor is within limit after achieving equilibrium conditions.

3. ITS SR 3.6.3.7. A note is added to not require leak rate test of containment purge valves with resilient seals when penetration flow path is isolated by test-tested blank flange.

4. ITS 3.1.3 and 5.6.5. Adds moderator temperature coefficient to the core operating limits report.

5. ITS 3.9.1 and 5.6.5. Adds refueling boron concentration to the core operating limits report.

The format for the fifteen BSIs listed below is the associated change number, RAI number, RAI response submittal date, and description of the change.

6. Change 2–17–LS–1 (CTS 6.0) in the application and difference 5.5–14 to the Improved Standard Technical Specifications (ITS 5.0), question Q5.5–2, response letter dated September 25, 1998. The proposed change adds an allowance to CTS SR 6.8.4.i for the reactor coolant pump flywheel inspection program (ITS 5.5.7) to permit an exception to the examination requirements specified in the CTS SR (i.e., regulatory position C.4.b of NRC Regulatory Guide (RG) 1.14, Revision 1) that is consistent with WCAP–14535, "Topical Report on Reactor Coolant Pump Flywheel Inspection Elimination."

7. Change 1–22–M (CTS 3/4.3), question Q3.3–49, response letter dated December 4, 1998. The proposed change is a revision to the original application. Quarterly channel operational tests (COTs) would be added to CTS Table 4.3–1 for the power range neutron flux-low and intermediate range neutron flux. The CTS only require a COT prior to startup for these functions. New Note 19 would be added to require that the new quarterly COT be performed within 12 hours after reducing power below P–10 for the power range and intermediate range instrumentation (P–10 is the dividing point marking the applicability for these trip functions), if not performed within the previous 92 days. New Note 20 would be added to state that the P–6 and P–10 interlocks are verified to be in their required state during all COTs on the power range neutron flux-low and intermediate range neutron flux trip functions.

8. Change 1–9–A (CTS 6.0), question Q5.2–1, response letter dated September 25, 1998. A new administrative change is added. The CTS 6.2.2.f requirements concerning overtime would be replaced by a reference to administrative procedures for the control of working hours.

9. Change 1–15–A (CTS 6.0), question Q5.2–1, response letter dated September 25, 1998. A new administrative change is added. The proposed change would revise CTS 6.2.4 to eliminate the title of Shift Technical Advisor. The engineering expertise is maintained on shift, but a separate individual would not be required as allowed by a Commission Policy Statement.

10. Change 2–18–A (CTS 6.0), question Q5.2–1, response letter dated September 25, 1998. A new administrative change is added. The dose rate limits in CTS 6.8.4.g on the Radioactive Effluent Controls Program for releases to areas beyond the site boundary would be revised to reflect 10 CFR Part 20 requirements.

11. Change 2–22–A (CTS 6.0), question Q5.2–1, response letter dated September 25, 1998. A new administrative change is added. The requirements in CTS 6.8.4.g on the Radioactive Effluents Controls Program would be revised to include clarification statements denoting that the provisions of CTS 4.0.2 and 4.0.3, which allow extensions to surveillance frequencies, are applicable to these activities.

12. Change 3–11–A (CTS 6.0), question Q5.2–1, response letter dated September 25, 1998. The proposed change is a revision to the original application. CTS 6.12, which provides high radiation area access control alternatives pursuant to 10 CFR 20.203(c)(2), would be revised to meet the current requirements in 10 CFR Part 20 and the guidance in NRC RG 8.38, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants," on such access controls.

13. Change 3–18–LS–5 (CTS 6.0), question Q5.2–1, response letter dated September 25, 1998. A new less restrictive change is added. The CTS 6.9.1.7 requirement to provide documentation of all challenges to the power operated relief valves (PORVs) and safety valves on the reactor coolant system would be deleted. This is based on NRC Generic Letter 97–02, "Revised Contents of the Monthly Operating Report," which reduced the requirements for submitting such information to the NRC. The GL did not include these valves for information to be submitted.

14. Change 4–8–LS–34 (CTS 3/4.4), question Q3.4.11–2, response letter dated September 25, 1998. The proposed change was requested in the original application. The proposed change would limit the CTS SRs 4.4.4.1.a and 4.4.4.2 requirements to perform the 92-day surveillance of the pressurizer PORV block valves and the 18-month surveillance of the pressurizer PORVs (i.e., perform one complete cycle of each valve) to only Modes 1 and 2.

15. Change 4–9–LS–36 (CTS 3/4.4), question Q3.4.11–4, response letter dated September 25, 1998. The proposed change is added. The proposed change would limit the CTS 4.4.4.2 requirement to perform the 92-day surveillance of the pressurizer PORV block valves in that the SR would not be performed if the PORV block valve is closed to meet Action a of CTS LCO 3.4.4. Action a is for an PORV being inoperable, but capable of being cycled.

16. Change 1–60–A (CTS 3/4.3), question TR 3.3–007, followup items letter dated December 30, 1998. A new administrative change (identified as TR 3.3–007 on the marked up pages) is added to be identified as Change 1–60–A to the CTS. The change would revise the frequency for performing the trip actuating device operational test (TADOT) in CTS Table 4.3–1 for the turbine trip (Functional units 17.a and 17.b) to be consistent with the modes for which the surveillance is required. This would add a footnote to the TADOT that states "Prior to exceeding the P–9 interlock whenever the unit has been in Mode 3."

17. Change 1–18–LS–11 (CTS 3/4.8). The proposed change was requested in the original application and addressed in Q3.8.1–18 of the March 10, 1999 letter. The change would revise the diesel generator (DG) loading requirements for the load rejection test in CTS SR 4.8.1.1.2.b.4 to specify a range of acceptable loads in kW without tripping instead of specifying only a single minimum acceptable kW load. The CTS require that the minimum load for the load rejection test in SR 4.8.1.1.2.b.4 is 2484 kW and the proposed range of loads is ≥2370 kW and ≤ 2610 kW.

18. Change 1–27–LS–9 (CTS 3/4.8). The proposed change was requested in the original application and addressed in Q3.8.1–18 of the March 10, 1999,

letter. The change would increase the maximum allowable DG voltage following load rejection in CTS SR 4.8.1.1.2.b.4 from 4580 to 6200 volts.

19. Change 1–76–LS–29 (CTS 3/4.8). The proposed change is added and addressed in Q3.8.1–33 of the March 10, 1999, letter. The change would remove the wording "during shutdown" from the frequency of CTS SR 4.8.1.1.1.b.1 for manual bus transfers, SR 4.8.1.1.2b.4 for emergency diesel generator (EDG) full load testing, and SR 4.8.1.1.2.b.8 for the EDG 24-hour load run testing. The change will facilitate post maintenance testing of an EDG without requiring a plant shutdown.

20. Change 1–3–LS1, (CTS 3/4.3), question Q 1–B GEN, response letter dated December 4, 1998. The proposed change would incorporate WCAP 13632–P–A, "Eliminate Response Time Testing of Pressure Sensors," into CTS SR 4.3.1.2 and SR 4.3.2.2, to state that the function shall be "verified" rather than "demonstrated." This changes the Bases for ITS SR 3.3.1.16 and SR 3.3.2.10 to allow the elimination of pressure sensor response time testing.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 28, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Christopher J. Warner, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated June 2, 1997, and supplemental letters dated January 9, June 25, August 5, August 28, September 25, October 16, October 23, November 25, December 4, December 17, and December 30, 1998, and February 24 and March 10, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 23rd day of March 1999.

For the Nuclear Regulatory Commission.

Steven D. Bloom,

Project Manager, Project Directorate IV–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7595 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 122 to Facility Operating License No. NPF–42 issued to the Wolf Creek Nuclear Operating Corporation (WCNOC or the licensee), which revised the technical specifications for operation of the Wolf Creek Generating Station (WCGS) located in Coffey County, Kansas.

The amendment is effective as of the date of issuance.

The amendment revises Technical Specification (TS) 4.7.3b., "Plant Systems—Component Cooling Water System—Surveillance Requirements," by deleting the requirement to perform the specified surveillances during shutdown.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 5, 1998 (63 FR 53471), February 26, 1999 (64 FR 9546), and March 1, 1999 (64 FR 10028). No request for a hearing or petition for leave to intervene was filed following these notices.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated May 15, 1997, as supplemented by letters dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, 1998 and January 15, 1999, (2) Amendment No. 122 to Facility Operating License No. NPF–42, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Licensing Project Management.

Dated at Rockville, Maryland, this 23rd day of March 1999.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

Project Manager, Project Directorate IV–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7599 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corporation; Oconee Nuclear Station, Units 1, 2, and 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Section 50.60 and Appendix G to the Duke Energy Corporation (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County, South Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the provisions in 10 CFR Part 50, Section 50.60 and Appendix G. The NRC has established requirements in 10 CFR Part 50 to protect the integrity of the reactor coolant pressure boundary (RCPB) in nuclear power plants. As part of these requirements, 10 CFR Part 50, Appendix G requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic, or leak rate, testing conditions. Specifically, 10 CFR Part 50, Appendix G states that "[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions." Pressurized water reactor licensees have installed cold overpressure mitigation systems/ low temperature overpressure protection (LTOP) systems in order to protect the RCPBs from being operated outside of the boundaries established by the P–T limit curves and to provide pressure relief of the RCPBs during low temperature overpressurization events. The licensee is required by the Oconee Units 1, 2, and 3 Technical Specifications (TSs) to update and submit the changes to its LTOP setpoints whenever the licensee is requesting approval for amendments to the P–T limit curves in the Oconee Units 1, 2, and 3 TSs.

As a result, to approve its amendments to the TS P–T limit curves, the licensee requested in its submittal dated October 15, 1998, that the staff exempt Oconee Units 1, 2, and 3 from the application of specific requirements of 10 CFR Part 50, Section 50.60 and Appendix G and substitute use of the American Society of Mechanical Engineers (ASME) Code Case N–514, "Low Temperature Overpressure Protection Section XI, Division 1." This would permit setting the pressure setpoint of the facility's LTOP such that the P–T limits required by 10 CFR Part 50, Appendix G could be exceeded by 10 percent during a low temperature pressure transient. The submittal was supplemented by letters dated December 15, 1998, and January 11 and 21, 1999.

The Need for the Proposed Action

The licensee has noted in its submittal of October 15, 1998, that the underlying purpose of the regulations is to establish limits to protect the RPVs from brittle failure during low temperature operation and that the LTOP provides a physical means of protecting these limits. As a means of determining the LTOP enable temperature, the licensee proposed to use the ASME Code Case N–514 to permit setting the pressure setpoint of the facility's LTOP such that the P–T limits required by 10 CFR Part 50, Appendix G could be exceeded by 10 percent during a low temperature pressure transient. The use of this Code

Case in lieu of 10 CFR Part 50, Appendix G requires approval of an exemption.

The Reactor Coolant System P–T operating window at low temperatures is defined by the LTOP setpoint. Implementation of an LTOP setpoint without the additional margin of 10 percent allowed by ASME Code Case N–514 would restrict the P–T operating window and would potentially result in undesired actuation of the LTOP system. This constitutes an unnecessary burden that can be alleviated by the application of the Code Case and reduce the potential for an undesired lift of the LTOP valve.

The licensee proposed that establishing the LTOP pressure setpoints in accordance with the provisions in Code Case N–514 would provide an acceptable level of safety against overpressurization events of the Oconee RPVs and that reactor vessel pressure would not exceed 110 percent of the P–T limit allowables, which would still provide an acceptable level of safety and mitigate the potential for an inadvertent actuation of the LTOP. The Code Case dictates that when the LTOP system is enabled, the peak pressure resulting from an LTOP design-basis transient will not exceed 110 percent of the pressure limits established by the P–T limit curves for the plant, as required by 10 CFR Part 50, Appendix G, and by Appendix G to the Code. The Code Case also requires that the LTOP system be enabled at a temperature of 200 °F, or at a temperature value equivalent to the sum of the limiting adjusted reference temperature (ART) + 50 °F, whichever is greater.

The staff has previously found for several other nuclear power plants that Code Case N–514 provides an "acceptable level of safety" based on the amount of conservatism that has been explicitly incorporated into the methodologies for generating P–T limit curves, as prescribed in 10 CFR Part 50, Appendix G; Appendix G to the Code; and Regulatory Guide (RG) 1.99, Rev. 2. The conservatism includes: (1) a safety factor of 2 on the pressure stresses; (2) a margin factor applied to the calculation of ART values in accordance with the methodology of RG 1.99, Rev. 2; (3) an assumed 1/4 thickness flaw with a 6:1 aspect ratio; and (4) a limiting material toughness based on dynamic crack arrest data.

The staff agrees that an exemption would be required to approve the use of Code Case N–514 in lieu of 10 CFR Part 50, Appendix G. The staff examined the licensee's rationale to support the exemption request and agrees that the use of Code Case N–514 would also meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR Part 50, Appendix G; Appendix G of the Code; and RG 1.99, Rev. 2, the staff concluded that permitting the LTOP setpoints to be established at the level specified in the Code Case (e.g., less than or equal to 110 percent of the limit defined by the P–T limit curves) would provide an adequate margin of safety against brittle failure of the RPVs. This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations.

Therefore, the staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that the methodology of Code Case N–514 may be used to establish the LTOP setpoints for the Oconee Units 1, 2, and 3 reactor coolant system.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that exemption from the requirements of 10 CFR Part 50, Section 50.60 and Appendix G, to permit the LTOP setpoints to be established in accordance with the Code Case (e.g., at a level less than or equal to 110 percent of the limit defined by the P–T limit curves), would provide an adequate margin of safety against brittle failure of the Oconee Units 1, 2, and 3 reactor vessels. The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological environmental impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impacts. Therefore, there are no significant nonradiological impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the "Final Environmental Statement Related to the Operation of the Oconee Nuclear Station, Units 1, 2, and 3," dated March 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on February 24, 1999, the staff consulted with the South Carolina State official, Henry Porter of the Division of Radioactive Waste Management, Bureau of Land and Waste Management, Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 15, 1998, as supplemented December 15, 1998, and January 11 and 21, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7598 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Radiological Assessments for Clearance of Equipment and Materials From Nuclear Facilities

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the availability for review and comment of a draft staff report, Radiological Assessments for Clearance of Equipment and Materials from Nuclear Facilities, NUREG–1640. This report provides dose information on the hypothetical use or processing of equipment, ferrous metals, copper, aluminum, and concrete that has associated radioactivity.

ADDRESSES: Copies of the draft NUREG–1640 may be examined or copied for a fee at the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555–0001. NRC documents may be inspected from 7:45am to 4:15pm, Monday through Friday, excluding Federal holidays in the lower level of the building at the address above.

Copies of NUREG–1640 may be requested in writing to: Reproduction and Distribution Services Section, OCIO, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 or e-mail: *Distribution@nrc.gov.*

The report is also available through the Internet at:

http://www.nrc.gov/NRC/NUREGS/SR1640/V1&2/index.html.

Comments will be reviewed, resolved as appropriate, and incorporated into the final report. Members of the public are invited to submit written comments to the Chief, Rules and Directives Branch, Division of Administrative Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

FOR FURTHER INFORMATION: For technical information contact (see **ADDRESSES** section above for directions on obtaining a copy of the report): Robert A. Meck, Phone: (301) 415–6205, U.S. Nuclear Regulatory Commission, M.S. T–9C24, Washington, DC 20555, e-mail *ram2@nrc.gov.*

SUPPLEMENTARY INFORMATION: This report calculates realistic estimates of the dose factors, for the average member of the critical group, potentially associated with the clearance of material and equipment. This report is intended to support NRC, which is currently in the preliminary stages of considering a rulemaking to set specific requirements for clearance, by providing a technical basis for evaluating environmental impacts associated with clearance. Realistic estimates of dose in this report were calculated using scenarios and models with parameters based on current general U.S. industry practice. The materials evaluated in the report include iron and steel, copper, aluminum, and concrete. Dose factors are expressed in terms of annual radiation dose (μSv/y) for each unit of radioactivity (Bq) on a unit surface area of equipment or scrap (cm^2) or in a unit of mass of scrap (g). The report presents the analyses and results of 79 scenarios to identify the critical group for each of the respective materials. The critical group is the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances (10 CFR 20.1003). The analyses were performed on a nuclide-by-nuclide basis for the nuclides that would be most likely associated with equipment and materials released from nuclear facilities. The work was developed and performed under a formal quality assurance and quality control program with cooperation and consultation from the EPA and the DOE. An independent peer review was performed and is reflected in this report. To be most useful, information submitted in comments requesting changes in the report should provide the technical rationale for the comment and be verifiable. The sources of data provided in support of the comment should be cited. It would also be useful if comments that suggest the use of additional scenarios also estimate the likelihood or frequency of scenario occurrence.

Title: Radiological Assessments for Clearance of Equipment and Materials from Nuclear Facilities.

Dated at Rockville, Maryland, this 23rd day of March, 1999.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 99–7594 Filed 3–26–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23749; 812–11290]

Chartwell Dividend and Income Fund, Inc.; Notice of Application

March 23, 1999.

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") granting an exemption from section 19(b) of the Act and rule 19b–1 under the Act.

SUMMARY OF APPLICATION: Applicant requests an order to permit it to make monthly distributions of long-term capital gains pursuant to a distribution policy with respect to its common stock.

FILING DATES: The application was filed on August 31, 1998 and amended on February 12, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549–0609. Applicant, c/o Henry S. Hilles, Jr., Drinker Biddle & Reath LLP, Philadelphia National Bank Building, 1345 Chestnut Street, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Timothy R. Kane, Senior Counsel, at (202) 942–0615, or Mary Kay French, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street N.W., Washington, D.C. 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. The Chartwell Dividend and Income Fund, Inc. ("Fund") is a closed-end management investment company registered under the Act and organized as a Maryland corporation. The Fund's primary investment objective is high current income; its secondary objective is capital appreciation. The Fund invests at least half of its total assets in dividend-paying equity securities and the remainder in debt securities. The Fund began operations on June 29, 1998, and its common shares are listed on the New York Stock Exchange.

Currently the Fund's common shares trade at a discount from net asset value ("NAV").

2. The Fund wishes to institute a fixed distributions policy under which the Fund would distribute to shareholders each month either a fixed dollar amount or a fixed percentage of its NAV at the time of declaration ("Distribution Policy"). Any amount paid under the Distribution Policy which exceeds the sum of the Fund's investment income and net realized capital gains will be treated as a return of capital. If the sum of the Fund's annual net investment income, net short-term realized capital gains, and net long-term capital gains exceeds the amount required to be paid under the Distribution Policy, the Fund intends to pay such excess to shareholders once a year but may, in its discretion, retain and not distribute net long-term capital gains to the extent of the excess. Applicant believes that the Distribution Policy will help avoid or reduce the discount from NAV at which its shares may trade.

3. The Fund's board of directors, including a majority of disinterested directors, approved the fixed monthly distributions policy at a meeting held on June 16, 1998. The board considered, among other factors, that the policy was believed to have a positive effect on the price of shares of funds with similar investment objectives and strategies to that of the Fund and was therefore in the best interests of the Fund's shareholders. The board also considered that the Distribution Policy would probably enable shareholders to better achieve their investment goals and would avoid burdening them with complicated tax returns.

4. The Fund requests an order to permit it, so long as it maintains in effect the Distribution Policy, to make up to twelve capital gains distributions (as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the "Code")) in any one taxable year.

Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the SEC may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b–1(a) permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Code. Rule 19b–1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. The Fund asserts that the limitation on the number of net long-term capital gains distributions in rule 19b–1 under the Act prohibits the Fund from including available net long-term capital gains in certain of its fixed distributions. The Fund further asserts that, in order to distribute all of its long-term capital gains within the limits on the number of long-term capital gains distributions in rule 19b–1, the Fund may be required to make certain of its fixed distributions in excess of the fixed percentage called for by its Distribution Policy.

3. The Fund believes that the concerns underlying section 19(b) and rule 19b–1 are not present in the Fund's situation. The Fund notes that one of these concerns is that shareholders might not be able to distinguish frequent distributions of capital pains an dividends from investment income. The Fund states that its prospectus has disclosed that the Fund intended to implement the Distribution Policy and described its provisions. In addition, the Distribution Policy will be described in the Fund's communications to its shareholders, including the Fund's quarterly reports and annual reports. The Fund also states that it will send to shareholders, with each distribution, information statements that comply with rule 19a–1 under the Act. The Fund also states that a statement showing the amount and source of distributions received during the year is included with the Fund's IRS Form 1099–DIV reports of distributions for that year sent to the Fund's shareholders who received distributions during the year (including shareholders who sold shares during the year).

4. The Fund notes that another concern underlying section 19(b) and rule 19b–1 is that frequent capital gains distributions could facilitate improper sales practices, including in particular, the practice of urging an investor to purchase fund shares on the basis of an upcoming distribution ("selling the dividend"), when the distribution would result in an immediate, corresponding reduction in a fund's NAV and would be, in effect, a return of the investor's capital. The Fund submits that this concern does not apply to closed-end investment companies, such as the Fund, that do not continuously distribute shares. The Fund states that the condition to the requested relief would further assure that the concern about selling the dividend would not arise in connection with a rights offering by the Fund.

5. The Fund states that increased administrative costs also are a concern underlying section 19(b) and rule 19b–1. The Fund asserts that this concern is not present because it will continue to make fixed distributions regardless of whether capital gains are included in any particular distribution.

6. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, the Fund believes that the requested exemption meets the standards set forth in section 6(c) of the Act.

Applicant's Condition

The Fund agrees that the order granting the requested relief shall terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by the Fund of its common stock other than: (1) a non-transferable rights offering to shareholders of the Fund, provided that such offering does not include solicitation by brokers or the payment of any commissions or underwriting fees; or (2) an offering in connection with a merger, consolidation, acquisition, or reorganization.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7611 Filed 3–26–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41199; International Series Release No. 1189; File No. 10–126]

Tradepoint Financial Networks plc; Order Granting Limited Volume Exemption From Registration as an Exchange Under Section 5 of the Securities Exchange Act

March 22, 1999.

I. Summary

Tradepoint Financial Networks plc ("Tradepoint" or the "Exchange") operates as a securities exchange from facilities in London under the marketing

name Tradepoint Stock Exchange. it is a Recognised Investment Exchange under section 37(3) of the U.K. Financial Services Act 1986. The Exchange does not have a physical trading floor; it is a screen-based electronic market for the trading of securities ("Tradepoint System"). All of the securities currently traded through the Tradepoint System are listed on the London Stock Exchange ("LSE"), which is the primary market for those securities.

By letter dated November 20, 1997, Tradepoint filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 5 of the Securities Exchange Act of 1934 ("Exchange Act"), an application for exemption from registration as a national securities exchange under Section 6 of the Exchange Act if Tradepoint operates the Tradepoint System in the United States. Tradepoint anticipates that the Exchange will account for limited volume in trading of securities.[1]

The Commission published Tradepoint's application for comment on July 2, 1998.[2] In response, the Commission received eight comment letters.[3] Based on its conclusion that Tradepoint will effect a limited volume of transactions and that it is practicable and not necessary or appropriate in the public interest or for the protection of investors for Tradepoint to register under Section 6 of the Exchange Act, the Commission hereby grants Tradepoint's application for exemption from registration as a national securities exchange.

II. Description of the Tradepoint System

The Exchange is an alternative market to the LSE. From its facilities in London, the Exchange supplies automated trading services to market-makers, broker-dealers and institutional investors (collectively, "Members") on identical terms and conditions. Potential Members must meet the eligibility requirements of the Exchange.[4] Status as a Member of the Exchange does not carry voting rights or any other rights, other than the right to trade using the Tradepoint System.[5]

The Tradepoint System provides to Exchange Members an electronic, order-driven market that handles order entry and management, information display, matching, execution, and immediate trade publication and settlement message routing for certain securities listed on the LSE.[6] Members are able to access the current market position in any security traded on the Exchange, monitor selected market information provided by the Exchange on a real time basis; enter or revise orders; send orders to the instant auction or periodic auction books for execution;[7] set up, access, and request trading and market reports; and input settlement routing instructions. In addition to these functions, the Exchange also supports order processing and management of the order book, order book display and updating, maintenance of individual trading status books, maintenance and updating of individual stock watch lists, and market supervision, surveillance and compliance. Most of these functions are controlled by the Exchange, but allow for some customization by the Member.

The Exchange maintains an electronic order book for each traded security, with Members entering bids or offers directly into the Tradepoint System. Orders with the same bid or offer price are prioritized according to the time they are entered into the Tradepoint System. The minimum display size for any order is 1,000 shares. The Exchange does not provide a facility for "reserve" orders. A Member may have software that controls sending an order, however, so that if a Member wishes to sell 10,000 shares in 1,000 share increments, the Member's software will route the next increment to the Exchange after the previous increment is executed. Newly routed orders are then placed at the end of the queue for time priority. The Tradepoint System is completely anonymous.[8]

Members of the Exchange are also able to enter "cross trades." Cross trades are trades between two customers of the same firm at a price between the bid and offer. To effect a cross trade, a Member will simultaneously enter a bid and an offer for a security, which will match after exposure to the electronic order book.[9] Thus, if there is no other superior price on the book, a cross trade will be entered into the Tradepoint System by the firm essentially for reporting purposes.

In addition, the Exchange may create a "specialist" capability for some of the stocks traded on the Exchange. The Exchange would enter into an arrangement with a specific Member ("Committed Liquidity Provider" or "CLP"), who would commit to providing liquidity with respect to a particular security. The CLP would function in a manner similar to that of a specialist on a U.S. exchange. The CLP's orders would be subject to the same price and time priorities as other system orders. As payment, the CLP would receive a percentage of the Exchange's net transaction fees resulting from execution of the orders entered by the CLP.

In order for a Member to access the Tradepoint System, he or she must have a Personal Identification Number, which is assigned by the Exchange.[10] Access to the Tradepoint System in the United Kingdom is currently available through an internal network of personal computers via a stand alone PC, through a separate application on an existing Reuters RT terminal, ICV-Topic 3 Trader workstation, through a Liberty InterTrade Direct Screen, or through a

---

[1] *See* Letter from Joseph S. Cohn, Davis Polk & Wardwell, counsel for Tradepoint, to Jonathan G. Katz, Secretary, dated November 20, 1997, available in the Commission's Public Reference Room (File No. 10–126). On April 6, 1998, Tradepoint filed an amendment to the filing. On June 30, 1998, Tradepoint filed a second amendment to the filing. Both amendments are also available in the Commission's Public Reference Room.

[2] Exchange Act Release No. 40161 (July 2, 1998), 63 FR 37146 (July 9, 1998) ("Tradepoint Notice"). The file number originally assigned to Tradepoint was 10–101. Tradepoint has been reassigned to File No. 10–126.

[3] Most commenters favored granting Tradepoint a low volume exemption from exchange registration. The comment letters are discussed in Section IV of this Order.

[4] These requirements are set forth in Tradepoint Market Rule 3.4 (*see* Exhibit A(2)(b) of Tradepoint's application). Both U.S. and non-U.S. applications must be authorized to conduct investment business, have arranged for clearing arrangements with an Exchange Clearing Member (a Member of the Exchange that is also a member of the London Clearing House, as more fully described below), and meet the standards of financial responsibility and operational capability prescribed by the Exchange.

[5] Tradepoint is listed on the Vancouver Stock Exchange and on the Alternative Investment Market of the LSE. The Exchange is a publicly held, for-profit company.

[6] Tradepoint does not list securities; it offers trading only in securities listed on other exchanges.

[7] The Exchange operates two types of auctions: instant and periodic. A security may be traded in either an instant auction or a periodic auction, but not both. In the instant auction, orders are matched electronically, in full or in part. Execution is automatic and continuous. Thus, a Member's orders are executed as soon as a contra-side order reaches the order book. The periodic auction is used for smaller capitalization and infrequently traded securities. It allows orders for these securities to accumulate over a period of time at the end of which the central computer matches qualifying buy and sell orders at a "balance price." *See* Section II of the Tradepoint Notice for a more complete description of the periodic auction.

[8] The Tradepoint Notice stated that the names of Members were revealed upon clearance and settlement. This is not the case. The names of Members are not revealed to each other at any point in the trading process.

[9] If there is a bid or an offer on the Exchange's book that matches either side of the cross trade, however, that bid or offer will have priority over the bid or offer that is part of the cross, and will receive execution. As a result some portion of that side of the trade will be left on the Exchange's book.

[10] All individuals who have access to the Tradepoint System must have completed training from representatives of the Exchange in the use of the Tradepoint System.

Bloomberg terminal. Access to the Tradepoint System in the United States will be either through a Bloomberg terminal or through a direct connection to the Exchange through an existing global private data network operator. In the future, the Exchange's screens may be accessible from other distributors of information services as well.

All trades executed on the Exchange must be registered with the London Clearing House ("LCH") for clearances and settlement through CREST [11] (with the exception of cross trades, which are settled as described below).[12] All Members (including U.S. Members)[13] must either be a member of the LCH ("Clearing Member") or have entered into a direct or indirect clearing arrangement with a Clearing Member ("Non-Clearing Member"). It is expected that U.S. Members will be Non-Clearing Members. Cross trades are settled directly through CREST by the Member that entered the trade (or by a sponsor of the Member that is a member of CREST). The LCH is not involved in the clearance and settlement of cross trades.

The settlement cycle in the U.K. is five business days, as opposed to three in the United States. U.S. Members' trades will not settle on the normal. U.S. cycle, but on the U.K. cycle.

III. Trading by U.S. Members

The Exchange will permit U.S. persons to become Members in accordance with its normal business procedures.[14] To comply with the U.S. securities laws, however, the Exchange will offer two different levels of service—one for all U.S. Members ("Public Market") and one limited to U.S. Members who are "qualified institutional buyers" ("QIBs") as defined in Rule 144A under the Securities Act of 1933 [15] ("Securities Act") (as may be amended from time to time), international agencies, and non-U.S. persons (within the meaning of Regulation S).[16] Bids and offers in U.K. securities registered under the Exchange Act, either in American Depositary Receipt ("ADR") form or in ordinary share form, will be available in the Public Market; bids and offers in those securities that are not registered under the Exchange Act will be available only to QIBs, non-U.S. persons, and international agencies ("QIB Market"). U.S. Members in the QIB Market will be required to resell any securities purchased on the Exchange through the Exchange or outside the United States. Such resales will be limited to other QIBs, international agencies, and non-U.S. persons.[17]

Other than these restrictions, U.S. Members will trade on the Exchange under the same terms as non-U.S. Members. U.S. Members will also trade on the Exchange during London business hours.[18] In addition, U.S. Members will be subject to the same fees as all other Members.[19]

IV. Comments

In response to the Tradepoint Notice, the Commission received eight comment letters.[20] In general, the commenters favored Tradepoint's application, stating that it will provide investors in the U.S. with greater opportunities to invest in foreign securities. A number of commenters stated that the Tradepoint System would enable broker-dealers in the U.S. to compete on equal footing with foreign broker-dealers with respect to trades in U.K. securities.[21] Commenters also stated that Tradepoint would reduce the costs of trading for investors, thereby increasing shareholder return.[22] In addition, commenters stated that making Tradepoint available to U.S. investors would increase transparency.[23] As further discussed below, only one commenter, the NYSE, objected to Tradepoint's application.[24]

One commenter stated that, although he strongly supports Tradepoint's application for exemption from registration, he believes that the low volume basis for exemption provided by Section 5 of the Exchange Act is

---

[11] The CREST system is operated by CRESTCo Limited, a corporation incorporated in England under the Companies Act of 1985. CRESTCo Limited was established by the Bank of England to provide facilities for the settlement of U.K. equity transactions in uncertificated form.

[12] After a trade is registered with the LCH, the LCH becomes the counterparty to both sides of that trade, guaranteeing settlement.

[13] A U.S. Members is Member who is accessing the Tradepoint System from within the U.S.

[14] The Exchange's rules for participation are set forth in Tradepoint Market Rules 3.4.1 and 3.4.2. The standards are objective, considering such factors as regulatory status and capital. The Commission expects that Tradepoint will admit applicants fairly based on these standards. A discriminatory denial of access to Tradepoint would constitute grounds for withdrawal of this Order. As a condition of the order, Tradepoint will be providing the Commission with a list of U.S. applicants who have been denied access to the Tradepoint System on a quarterly basis.

[15] 17 CFR 230.144A.

[16] A "non-U.S. person" within the meaning of Regulation S may include a U.S. broker-dealer that is acting as agent for an account held for the benefit of a non-U.S. person. This broker-dealer, when acting in its capacity as agent for this type of account, would have access to Tradepoint's QIB Market. The same broker-dealer may have accounts held for the benefit of U.S. persons as well. Such a broker-dealer would not be permitted to effect trades in the QIB Market for these accounts (unless the owners of those accounts are QIBs), or for its own proprietary account (unless it is a QIB).

[17] The Exchange generally will not provide access to U.S. Members to securities for which there is a U.S. transfer agent or that are eligible for deposit at a registered clearing agency. U.S. Members may have access to such securities, however, if the annual trading volume in the U.S. of such securities is less than ten percent of the securities' annual worldwide trading volume.

[18] The Exchange will be available to U.S. Members from 7:30 a.m. to 5:30 p.m. London time (2:30 a.m. to 12:30 p.m. Eastern standard time).

[19] *See* Exhibit N, Sections 4 and 6, of Tradepoint's Form 1 filing for the specific fees charged by the Exchange.

[20] *See* letters from: New York Stock Exchange, Inc. ("NYSE") dated August 10, 1998; Joan C. Conley, Corporate Secretary, National Association of Securities Dealers, Inc. ("NASD") dated August 10, 1998 (in reference to File No. S7–12–98); Professor Anthony Neuberger, London Business School dated July 9, 1998; Robin Fellgett, Deputy Director, HM Treasury ("Treasury") dated July 10, 1998; John Packett, Director, Union Securities (International) Ltd. ("Union) dated July 21, 1998; Kevin M. Foley, Bloomberg L.P. ("Bloomberg") dated August 10, 1998; Steve Klein, Director of Global Equity Trading, American Century Investment Management ("ACIM") dated August 3, 1998; and Benn Steil dated July 17, 1998. All of the letters are contained in Public File No. 10–126 in the Commission's Public Reference Room. The staff has also prepared a summary of comments which can be found in the file.

[21] Bloomberg Letter at 1; Treasury Letter at 1; Steil Letter at 1; Neuberger Letter at 1.

[22] *See* Steil Letter 1 (commenting that the Tradepoint system is a "low-cost non-intermediated" vehicle through which U.S. investors can trade U.K. equities, and stating that the availability of direct access electronic trading methods will enable fund managers to reduce trading costs considerably, resulting in increased return for fundholders); ACIM Letter at 1–2 (stating that it has supported and encouraged the creation of low-cost trading alternatives driven by evolving technological changes; that Tradepoint will provide a welcome alternative to traditional trading systems in the U.K.; and that Tradepoint's ability to succeed has been hampered by the "entrenched conservatism of local U.K. dealing practices combined with regulatory impediments to the expansion of a U.S. customer base"; also stating that it believes Tradepoint offers investors the benefit of direct, anonymous electronic access to a central limit order book in U.K. stocks with zero cost, apart from clearing fees, to the initiator of a bid or offer). *See also* Union Letter at 1 (stating that settlement guarantees by the London Clearing House minimize counterparty risk; noting that trades on the LSE currently carry no guarantees other than that of the broker; citing the fact that orders may be posted on the Tradepoint system anonymously; and stating that the Tradepoint system provides a lower cost alternative for U.S. investors to trade in U.K. securities); HM Letter at 1 (stating that it favors Tradepoint's application for exemption from registration under Section 5, and stating that Tradepoint's application is an example of the "potential benefits to investors and financial intermediaries from opening up the provision of exchange services to international operators"); Bloomberg Letter at 1 (stating that Tradepoint will provide U.S. broker-dealers with lower cost U.K. equity trading on behalf of their investor clients).

[23] Neuberger Letter at 1 (supporting Tradepoint's application because Tradepoint offers investors the opportunity to deal directly with the rest of the market by putting orders in at will and managing them over time; and stating that Tradepoint is a transparent market because all investors have access to the same information). *See also* Union Letter at 1 (stating that the Tradepoint system is transparent because most major U.K. institutions have access to Tradepoint's market display).

[24] *See infra* Sections IV.C and IV.D. for a discussion of the NYSE's comments.

fundamentally flawed in that a less liquid exchange, for that reason alone, does not provide investors better protection than a more liquid exchange.[25]

ACIM also questioned whether, in a broader sense, exemption under Section 5 is the optimum way for the Commission to balance its regulatory responsibilities with respect to investor protection against the benefits of innovation, competition, and lower costs.[26] ACIM stated that in theory, the more attractive the benefits of trading on Tradepoint, the more likely it is that an unanticipated number of investors will trade on the exchange, thus jeopardizing its low volume exception.[27]

Only the NASD directly addressed whether the volume levels the Commission proposed as the threshold for the low volume exemption were appropriate.[28] While the NASD stated that it is in favor of a low volume exemption for Tradepoint, it also noted that the Commission may be creating incentives for U.S. exchanges to create subsidiaries abroad to conduct activity in the U.S. through the low volume exemption.[29] The NASD also stated that it believes granting Tradepoint's application would pave the way for a U.S. market "to create an OTC Bulletin Board to publish quotations from NASD members, on a real-time basis, in unregistered foreign securities in another jurisdiction."[30]

The Commission believes that an exchange operated offshore but targeting U.S. persons, which is owned or controlled, directly or indirectly, through a financial interest or otherwise, by a U.S. national securities exchange or national securities association, would be considered a U.S. market operated by an SRO. As such, it would be subject to Commission oversight. The Commission notes that Tradepoint, as a condition to this Order, has agreed that it is subject to the Commission's jurisdiction.

[25] Steil Letter at 2. The Commission notes that the only statutory basis for granting an exemption from registration as a national securities exchange under Section 5 is low volume. The Commission has adopted new rules permitting, among other things, alternative trading systems to register as broker-dealers or as exchanges. *See* Exchange Act Release No. 40760 (Dec. 8, 1998), 63 FR 70844 (December 22, 1998) ("Regulation ATS Adopting Release").

[26] ACIM Letter at 2.

[27] ACIM Letter at 2.

[28] The NASD stated that it believes "the volume levels that the Commission proposed as the thresholds for the exemption are appropriate." NASD Letter at 9. The NASD Letter also expresses the views of NASD's subsidiaries, NASD Regulation, Inc. and The Nasdaq Stock Market, Inc.

[29] NASD Letter at 9.

[30] NASD Letter at 9.

V. Limited Volume Exemption

Section 5 of the Exchange Act requires that all exchanges subject to the jurisdiction of the United States either register with the Commission as a national securities exchange or obtain a Commission exemption from that requirement.[31] Section 5 authorizes the Commission to grant an exemption from registration if the Commission finds that, "by reason of the limited volume of transactions affected [the] exchange, it is not practicable and not necessary or appropriate in the public interest for the protection of investors" to require such registration.[32]

In the last sixty years, the Commission has granted one of the exemption from registration as a national securities exchange on the basis of low volume of the Arizona Stock Exchange ("AZX").[33] In its order granting a limited volume exemption from registration as an exchange to AZX,[34] the Commission used the volume levels of the fully regulated national securities exchanges at that time as the benchmark for low volume for AZX.[35] Consequently, AZX's exemption order was conditioned upon its volume staying below that of the national securities exchange with the lowest average daily trading volume.[36] AZX's trading is also limited to securities registered under the Exchange Act[37] that were also traded on registered U.S. exchanges or Nasdaq.

VI. Tradepoint Exemption

The Commission agrees with the majority of commenters that permitting the Exchange to operate in the U.S. on a low volume basis would provide U.S. investors with greater opportunities to invest in foreign securities. By providing direct access, the Exchange offers U.S. investors a lower cost trading alternative. As one commenter stated, Tradepoint offers investors an excellent low-cost non-intermediated mechanism for trading U.K. stocks.[38] Moreover, the Commission believes that given Tradepoint's limited size, it would be unnecessary to compel Tradepoint to satisfy all of the regulatory requirements imposed upon registered national securities exchanges under the Exchange Act. For example, if Tradepoint were to register as a national securities exchange under the Exchange Act, it would be required to become a self-regulatory organization, to file copies of proposed rules with the Commission for approval or disapproval,[39] to allow only broker-dealers to become members, and to trade only registered securities.[40] Because Tradepoint is regulated in the U.K. as an exchange, requiring Tradepoint to comply with the U.K. and U.S. regulation of exchanges might, at times, be inconsistent. In light of Tradepoint's anticipated limited volume of trading in the U.S., the Commission believes it would be impracticable and unnecessary to require Tradepoint to comply with all the requirements applicable to national securities exchanges. At the same time, the Commission is concerned with affording U.S. investors who use the Exchange with sufficient protection. Consequently, the Commission is imposing conditions in exempting Tradepoint from registration as a national securities exchange.

A. Volume Level

Trading volume in the United States is generally measured in number of shares. In the United Kingdom, the monetary value of trading is the common measure of a securities transaction and of overall market activity.[41] In the U.K., share prices are roughly one-seventh of what they are in the U.S. for a comparable security.[42]

[31] 15 U.S.C. 78e (1988).

[32] *Id.*

[33] *See* Exchange Act Release No. 28899 (Feb. 20, 1991), 56 FR 8377 (February 28, 1991) ("AZX Release"). AZX was originally named Wunsch Auction Systems, Inc.

[34] *See* AZX Release at note 33.

[35] *Id.*

[36] For calendar year 1990, this was the Cincinnati Stock Exchange ("CSE"). In 1990 the CSE's average daily trading volume, expressed in shares, was 1,238,241. In 1996, AZX's volume threshold was increased to 5,965,346 shares, which was the average daily trading volume of shares traded on the Philadelphia Stock Exchange ("Phlx") in 1995, the Phlx was the national securities exchange with the lowest average daily trading volume.

[37] As a condition to AZX's limited volume exemption, the Commission required "the effective registration of any security traded on [AZX] under sections 12(b) or 12(g) of the Act, or the provision of information with respect to the security pursuant to section 15(d) of the Act, or an exemption from registration because the security is a 'government security' as defined in section 3(a)(42)(A), (B), or (C) of the Act."

[38] Steil letter at 1.

[39] Section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1).

[40] Tradepoint's Members currently are both broker-dealers and institutions. Under Section 6 of the Exchange Act, registered exchanges may have only broker-dealer members. *See* Regulations ATS Adopting Release, *supra* note 25, at notes 363–374 and accompanying text.

[41] According to the Exchange, commissions in the United Kingdom are also based on a percentage of the share price, rather than on the number of shares purchased.

[42] In 1990, when AZX was granted an exemption, the average daily volume of all regional stock exchanges was 24.5 million shares and the average price of shares traded was $28.51. In 1997, the average daily volume of all regional stock exchanges was 59.2 million shares and the average price of shares traded was $42.20. In 1997, the

This difference in share price is also reflected in the trading ADRs in this country, where each ADR is generally a multiple of the ordinary shares that are traded on the LSE.[43]

In order to adjust for these factors, the Commission is granting the Exchange's application for exemption from exchange registration, using dollar value as a benchmark for volume, rather than average daily number of shares traded. This will permit the Exchange to operate in the U.S. under a benchmark which more appropriately reflects the difference in dollar value between U.S. and U.K. markets, and the difference in the way trading is measured in the U.K.

In addition, the Commission believes that it is appropriate to grant a low volume exemption only to an exchange that is a low volume exchange in its home country. The Commission believes that a U.S. limited volume exchange should not be owned, directly or indirectly, by a foreign exchange that has a significant market share in its home country. In 1997, LSE volume was 1.1 billion shares. The Exchange's volume was 3.1 million shares, significantly less than one percent of the LSE's average daily volume. The Commission is therefore conditioning the Exchange's operation in the U.S. upon it remaining a low volume exchange in the U.K.

Under the exemption, the Exchange will be exempt so long as:

(i) The average daily dollar value of trades (measured on a quarterly basis) involving a U.S. Member does not exceed $40 million;[44] and

(ii) Its worldwide average daily volume (measured on a quarterly basis) does not exceed ten percent of the average daily volume of the LSE.

The limitation on the Exchange's worldwide trading volume would ensure that the Commission could reevaluate the appropriateness of the low volume exemption should the Exchange achieve significant volume relative to the LSE.

B. QIB Access to Unregistered Securities

As noted above, under the terms of the Older the Commission is issuing today, Tradepoint will operate a QIB Market in the U.S. consisting of U.K. securities not registered under the Exchange Act.[45] Only QIBs, non-U.S. persons, and international agencies will have access to the screens displaying quotations in these securities, and securities purchased in the QIB Market must be resold through the Tradepoint QIB Market or otherwise outside the U.S. These conditions are designed to ensure that a public market does not develop in the U.S. in these unregistered securities. In its comment letter, the NYSE stated that it believes that any securities traded in the QIB Market should be limited to Rule 144A securities.[46] The NYSE stated that it believes that the Commission "limited private trading systems to Rule 144A securities in order to prevent the establishment of a semi-public market in unrestricted, but unregistered, foreign securities" and that absent an articulation by the Commission of a change in policy in this area, the QIB Market should be limited to Rule 144A securities.[47]

Tradepoint is not a system designed to trade Rule 144A or other types of "restricted" securities under the Securities Act. Rather, it is a system designed to trade securities that are freely tradable under the Securities Act but some of which are not registered under the Exchange Act. The Commission is imposing a number of requirements on that portion of the Tradepoint System through which foreign securities that are not registered under the Exchange Act will trade in order to assure against the establishment of a U.S. public market in those securities.

The Commission's approval in allowing Tradepoint to operate a closed QIB-only market in foreign securities that are not registered under the Exchange Act is premised on Tradepoint's continuing to qualify for the limited volume exemption from exchange registration as described in this Order. Were that exemption not available, and were Tradepoint therefore required to register as a national securities exchange, Tradepoint would not be permitted to trade unregistered foreign securities, whether in a QIB-only market or otherwise.

C. Dissemination of Quotation and Last Sale Information

In its comment letter, the NYSE also stated that it believes that Tradepoint must be required to disseminate quotation and last sale information for all registered Tradepoint securities that trade in the U.S. public market.[48] The NYSE noted that the 64[49] Tradepoint securities that are traded in ADR form in the U.S. should be subject to Rules 11Aa3–1[50] ("Last Sale Reporting Rule") and 11Ac1–1[51] ("Firm Quote Rule") under the Exchange Act. In the NYSE's view, if the Commission required Tradepoint to register as a national securities exchange, it would be subject to these rules with respect to the registered securities. The NYSE stated that it did not believe that if Tradepoint registered as a national securities exchange the fact that ADRs publicly traded in the U.S. are not fungible with the securities in the Tradepoint System and that Tradepoint securities are traded and quoted in pence, while the ADRs are traded and quoted in dollars, would be sufficient to exempt the Exchange from the Firm Quote and last Sale Reporting Rules.[52]

The Last Sale Reporting Rule requires registered national securities exchanges and associations to report transaction prices and volumes for listed equity and Nasdaq securities that trade in their markets. Similarly, the Firm Quote Rule requires registered national securities exchanges and associations to collect and disseminate quotation information for listed equity and Nasdaq securities that trade in their markets. By their terms, these rules do not apply to Tradepoint, if exempted, because the Last Sale Reporting Rule and the Firm Quote Rule apply only to registered national securities exchanges, not to

---

average daily volume on the LSE was 1.1 billion shares and the average price of shares traded was $6.04.

[43] For example, British Airways PLC ("BAB") is traded on the New York Stock Exchange ("NYE") in ADR form. The ADR ratio for BAB is 1:10; thus, each ADR is equivalent to ten ordinary shares. Glaxo Wellcome PLC ("GLX") is also traded on the NYSE in ADR form. The ADR ratio for GLX is 1:2. SmithKline Beecham PLC ("SBH") is also traded on the NYSE in ADR form. the ADR ratio for SBH is 1:5. These securities will all be available for trading through the Exchange in their ordinary share form in the U.S.

[44] The average price of shares traded on all regional changes in 1997 was $42.20. Thus, $40 million is equivalent to significantly less than 1.2 million shares a day, which was the original volume limitation placed on AZX.

[45] As of September 23, 1998, according to the Exchange, 75 securities whose issuers also have securities registered in the United States traded on Tradepoint. This number may change in the future, as issuers' registration status under the Exchange Act changes. As a condition to this Order, the Exchange is required to inform the Commission of any changes in the registration status of the securities it trades. As described above, the registration status of a given security under the Securities Act and under the Exchange Act has an effect on how it will be traded through the Tradepoint System in the U.S.

[46] "Rule 144A securities" are securities that have been sold by an issuer pursuant to a private offering exemption under the Securities Act and are eligible for resale under Securities Act Rule 144A.

[47] ?????

[48] NYSE Letter at 2–3.

[49] In its comment letter, the NYSE stated that 64 securities traded on Tradepoint also trade in the U.S. in ADR form. Tradepoint believes 75 securities are currently traded on Tradepoint whose issuers also have securities registered in the U.S. Some of these securities may be traded in ordinary share form in the U.S., which may explain the discrepancy between the numbers provided by Tradepoint and by the NYSE.

[50] 17 CFR 240.11Aa3–1.

[51] 17 CFR 204.11Ac1–1

[52] NYSE Letter at 2.

exempt exchanges.[53] In addition, requiring Tradepoint to report to the Consolidated Tape is impracticable. Prices on Tradepoint are quoted in decimals and in pence. Moreover, Tradepoint operates between the hours of 2:30 a.m. and 12:30 p.m. Eastern standard time; during much of this time, the Consolidated Tape is not operating.

The Commission agrees, however, that it is important that transaction information be available to investors and the public. Tradepoint currently disseminates transaction volume and price information via its internet website. Tradepoint has agreed to update this information every twenty minutes. There is no charge to access the site.[54] In addition, Tradepoint's trading information will be available via Bloomberg and Reuters to all subscribers of subscribers of those vendors on a real-time basis.[55]

D. Other Conditions

The Commission is also imposing other conditions on the Exchange beyond the low volume requirements discussed above. In considering for the first time a foreign exchange's operation in the United States, the Commission has considered both the need to protect U.S. investors and the interest of U.S. investors in gaining direct access to a foreign market. The Commission believes that when a foreign market seeks to operate in the United States—either as a registered exchange or pursuant to a limited volume exemption under Section 5 of the Exchange Act—that market must agree to comply with key provisions of the federal securities laws. When Tradepoint initially applied for an exemption last year, both its market rules and its member agreement included English Choice of law and choice of forum (arbitration in England) clauses. Under those provisions, a U.S. Member effectively would have waived its rights and protections under the federal securities laws. Such an outcome would have been inconsistent with investor protection, the public interest; and Section 29(a) of the Exchange Act, which provides: "any condition, stipulation, or provision binding any person to Waive compliance with any provision of this title or of any rule or regulation thereunder, or of any rule of an exchange required thereby shall be void."[56]

Accordingly, as a condition to the Commission's approval of Tradepoint's application, Tradepoint has agreed to amend its market rules and member agreement to include provisions that expressly preserve a U.S. Member's anti-fraud protections under the federal securities laws. All Tradepoint Members must agree to honor these provisions. In particular, Tradepoint's market rules and member agreement must make clear that, notwithstanding any other provision or rule, a court or tribunal with jurisdiction over any dispute arising out of or in connection with a transaction made on the Exchange shall apply the U.S. federal securities law statutes to any cause of action based upon fraudulent acts or omissions that either (a) occurred in the United States or (b) resulted in damages suffered in the United States. For example, a U.S. Member entering an order or executing a trade on Tradepoint would satisfy this requirement. It is the Commission's intention and expectation that these provisions will apply to U.S. Members and U.S. investors involved in or affected by a transaction that takes place over the Exchange, as well as to any other Member or person who is involved in or affected by such a transaction. THe "U.S. federal securities laws" include the statutes the Commission administers, the rules and regulations promulgated under such statutes, and Commission and judicial decisions applying and interpreting those statutes. Thus, what constitutes a "fraudulent act or omission" is determined by looking to Commission and Judicial decisions.

Invoking these provisions will require an allegation that a fraudulent act or omission has taken place, at least in part, in the U.S., or that damages occurred (*i.e.*, effects were felt) in the U.S. Such a claim could involve Members, investors, or the Exchange itself. For example, if a U.S. Member enters an order on Tradepoint on behalf of a customer based on oral, written, or electronic information the U.S. Member or customer alleges was misleading, either the U.S. Member or investor could invoke the market rules to preserve fraud claims under the federal securities laws.

Although the Exchange's market rules and member agreement require members to arbitrate their disputes in England, the Commission believes and expects that English arbitrators and courts will follow the above requirements and interpret and apply the U.S. federal securities laws as defined above. The Commission will monitor any litigation under this condition and reserves the right to modify or withdraw Tradepoint's exemption from exchange registration.

Other conditions will allow the Commission to monitor the Exchange for compliance with all applicable sections of the Securities Act and the Exchange Act (such as the anti-fraud and securities registration provisions), and will ensure that the Commission has access to books, records, and personnel of the Exchange should the need arise.[57] Specifically, the Commission is requiring the Exchange to keep and provide the following to the Commission upon request as a condition on the operation of the Exchange in the U.S.

(a) Daily summaries of trading and time-sequenced records of each transaction involving a U.S. Member;

(b) Information disseminated to U.S. Members, such as quotation and transaction information regarding securities traded through the Tradepoint System, as well as market notices to Members and other communications (such as to the trading hours);

(c) Daily pound and the equivalent dollar value of transactions, and daily share volume of business transacted through the Tradepoint System (separately for orders entered by non-U.S. and U.S. Members, and in the aggregate);

(d) A list of securities for which U.S. orders are accepted; and

(e) Copies of Member applications and standards for admission to the Exchange.

The Exchange will also be required to provide 30 days prior notice to the

---

[53] In the order granting AZX a limited volume exemption, the Commission noted that there was no real-time transaction reporting service, including the Consolidated Tape Association and Nasdaq, available to systems that trade outside the NYSE's normal trading hours. Exchange Act Release No. 28899 (February 20, 1991), 56 FR 8377 (February 28, 1991). In addition, the Commission notes that Tradepoint will not be trading "covered" securities within the meaning of the Firm Quote Rule.

[54] Prior to filing its application for exemption from registration with the Commission, Tradepoint updated this information on an hourly basis. Because U.S. exchanges generally provide this information without charge on a twenty minute delayed basis, Tradepoint agreed to modify its dissemination practices to more closely reflect those of U.S. exchanges. Tradepoint's website address is <http://www.tradepoint.co.uk>.

[55] Like U.S. market centers, Tradepoint charges a fee for real-time trade dissemination. Tradepoint has represented to the Commission that it will make its trading information available in real-time to any entity for a reasonable, non-discriminatory fee.

[56] 15 U.S.C. 78cc(a).

[57] The Commission is exempting the Exchange from Rules 6a–1, 6a–2, 6a–3 and 24b–1 under the Exchange Act. Rules 6a–1, 6a–2 and 6a–3 set froth the procedures regarding amendments and supplemental material exchanges must file. Essentially the same information required by these rules will be provided to the Commission by the Exchange under the other conditions. To require the Exchange to comply with these rules would be duplicative, and would not result in the Commission receiving the material in as useful a form as proposed under the conditions set forth here.

Commission of any material changes in the operation of the Tradepoint System. The Exchange will also provide the Commission with direct access to real-time quotes and trading information.

Furthermore, the Exchange will supply to the Commission on a quarterly basis within 30 days of the end of each quarter:

(a) Total volume and average daily volume of transactions effected through the system during the period and year-to-date aggregates of these numbers, expressed in:

(i) Number of units of securities (for transactions in common stock, number of ordinary shares; for transactions in securities other than stock, other appropriate commonly used measure of value of such securities);

(ii) Number of transactions; and

(iii) Monetary value (for transactions in common stock, pound value and equivalent dollar value; for transactions in securities other than stock, other appropriate commonly used measure of value of such securities and equivalent dollar value); and

(b) Records regarding the identity of U.S. Members in the Tradepoint System and the identity of those denied participation in the Tradepoint System and the reason for such denial, as well as a description of the reason for terminating a former U.S. Member's ability to use the Tradepoint System.

The Exchange will be required to provide separate unit, transaction, and monetary volume and average daily volume information for the period covered by the report reflecting:

(a) Tradepoint System activity in securities involving a U.S. Member and;

(b) Tradepoint System activity in securities not involving a U.S. Member.

The primary market and hours for each type of security will also be identified.

The Exchange will also adopt and implement procedures to conduct surveillance of trading by Exchange employees and requirements to ensure the non-disclosure of confidential information in the possession of Exchange employees.[58] In addition, in response to regulatory trading halts on U.S. markets, the Exchange will be required to either suspend trading on the Tradepoint System for U.S. Members or consult with the Commission with respect to a possible suspension of trading. As a condition to the exemption granted by this Order, Tradepoint must cooperate with any investigation in connection with trading on the Tradepoint System conducted by the Commission, including allowing Commission staff access to the facilities, books and records and other documents, as well as employees for interviews, and it will provide the Commission with any requested information (including documents) in connection with trading on the Tradepoint System. The Exchange will also be required to maintain an agent for service of process in the U.S. at all times that the Exchange is offering its services in the U.S.

The Exchange will adopt any necessary rule changes to conform its market rules and member agreement to the requirements, conditions, and language of this Order. An express condition of the Commission's approval is that the Exchange will have the capacity to enforce compliance by its Members with the rules of the Exchange with respect to the terms and conditions of this Order.

Finally, the Exchange will disclose to its U.S. Members, either by broadcasting over the Tradepoint System, or through such other means as it normally communicates with its Members, information regarding the trading priorities of the Exchange and the response time of orders entered into the Tradepoint System by U.S. Members as compared to the response time of orders entered by European or other non-U.S. Members. In addition, the Exchange will be required to disclose that the nature and timeliness of pre-trade and post-trade information provided by the Exchange differs from that provided by U.S. registered securities exchanges. Such information will include: (1) Notification that trades executed through the Exchange are not reported to the U.S. Consolidated Tape; (2) a description of clearance and settlement procedures and disclosure that the time for clearance and settlement under U.K. law is the date of the transaction plus five business days, as compared to three business days under U.S. law; and (3) disclosure of any Tradepoint System limitations affecting capacity to disseminate timely information or to handle Members' orders during peak or other periods.[59] The Exchange will also disclose to its U.S. Members risks that may arise due to capacity problems of the Tradepoint System.

This Order is subject to amendment if the Exchange offers trading in securities listed on any market (in the U.K. or otherwise) other than the LSE. The Exchange will also be required to continue to operate at all times in accordance with all applicable U.K. laws.

No provision contained in this Order or in any other agreement or document, nor any actions taken pursuant to them, shall be construed to affect or limit, or shall affect or limit, any right or responsibility of the Commission to take any action under the federal securities laws. The Commission's assessment of the impact of the trading of unregistered securities (*i.e.*, of both domestic and foreign issuers), and of the appropriate regulatory posture to these developments, is still ongoing. This issue, and the broader issues involving recent trends and initiatives that give U.S. investors greater and more instantaneous access to foreign securities markets, create tensions between competing Commission goals. The Commission, for example, wishes to foster developments that enable U.S. investors to execute securities trades more efficiently, but also desires that foreign securities traded in U.S. markets have full and fair disclosure. These tensions and issues will continue to be addressed by the Commission in the future, including issues raised by exempt exchanges such as Tradepoint, as well as alternative trading systems.

In light of the limited volume of trading anticipated to be done on the Exchange, and in the view of the regulatory protections over system activity that are either currently in place or that will be imposed by the Commission upon the Exchange in the form of conditions upon this exemption, the Commission finds that it is not practicable and not necessary or appropriate in the public interest or for the protection of investors to require Tradepoint to register as a national securities exchange.

VII. Conclusion

The Commission has reviewed Tradepoint's application for exemption from registration as a national securities exchange.

It is therefore ordered, pursuant to Section 5 of the Exchange Act, that Tradepoint's exemption from registration as a national securities exchange be granted, subject to the conditions contained in this Order.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7542 Filed 3–26–99; 8:45 am]

BILLING CODE 8010–01–M

[58] The Commission notes that Tradepoint already has such procedures in place.

[59] U.S. broker-dealers trading on behalf of U.S. customers should disclose to those customers any additional risks in executing customer orders for U.K. securities on Tradepoint, including the effects of Tradepoint's choice of law and forum clauses. Any U.S. Member entering orders in the Tradepoint System for the accounts of others may be required to register with the Commission as a broker-dealer unless an exception or exemption applies.

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0584]

Leg Partners Debenture SBIC, L.P.; Notice of Issuance of a Small Business Investment Company License

On June 25, 1998, an application was filed by Leg Partners Debenture SBIC, L.P., at 230 Park Avenue, 19th Floor, New York, NY 10169, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0584 on February 5, 1999, to Leg Partners Debenture SBIC, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–7609 Filed 3–26–99; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0585]

Leg Partners III, SBIC, L.P.; Notice of Issuance of a Small Business Investment Company License

On October 13, 1998, an application was filed by Leg Partners III, SBIC L.P., at 230 Park Avenue, 19th Floor, New York, NY 10169, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/72–0585 on February 5, 1999, to Leg Partners III, SBIC, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–7608 Filed 3–26–99; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[License No. 08/08–0154]

Wasatch Venture Fund II, L.L.C.; Notice of Issuance of a Small Business Investment Company License

On September 10, 1998, an application was filed by Wasatch Venture Fund II, L.L.C., at One South Main Street, Suite 1400, Salt Lake City, UT 1400, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/75–0238 on February 5, 1999, to InvestCare Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 18, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–7610 Filed 3–26–99; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF STATE

[Public Notice #3016]

Notice of Meetings

The U.S. Department of State will hold a briefing meeting April 15, 1999 for the public and for U.S. government agency representatives on international postal issues in the Universal Postal Union (UPU). The meeting will be part of the process of formulating U.S. policies in preparation for the Universal Postal Union Congress to be held in Beijing, China from August 23 through September 15, 1999. The agenda will include a briefing on the February UPU Council meetings and a review of the status of proposals for the UPU Congress. Participants will have a chance to express views during the meeting; written comments on subjects to be covered at the meeting will be accepted at any time before or after this meeting and will be made available to interested parties unless it is requested in writing that they not be made available.

Meeting Date and Time: April 15, 1999, 2–5 pm.

Meeting Place: Department of State, 2201 C Street NW, Room 1105, Washington, DC 20520.

Written Submissions should be sent to: UPU Action Officer, IO/T, Room 5336, Department of State, Washington, DC 20520.

Supplementary Information for Those Attending Briefing: Individuals or organization representatives with a substantive interest in international postal policies in the UPU may request to attend the meeting and join in the discussions. Entry into the State Department is controlled. Persons wishing to attend must send a fax to 202–647–8902 no later than noon April 13, 1999 including the name of the meeting, individual's name, affiliation, social security number and date of birth. One of the following valid photo ID's will be required for admittance: U.S. driver's license, U.S. passport, or U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Entrance is from the "C" Street lobby of the Department of State.

Dated: March 23, 1999.

S. Ahmed Meer,

Director, Office of Technical, Specialized Agencies.

[FR Doc. 99–7657 Filed 3–26–99; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–98–07]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 19, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on March 24, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29320.
Petitioner: Wisconsin Aviation, Inc. (WAI).
Sections of the FAR Affected: 14 CFR 135.163 and 135.181.
Description of Relief Sought: To permit WAI to conduct passenger-carrying operations in a single-engine aircraft in certain limited instrument flight rules conditions as were permitted previously by § 135.103. In addition, you request an exemption to allow WAI to conduct such operations without equipping its aircraft with two independent electrical power-generating sources, or a standby battery or alternate source of electrical power, and a redundant energy system for gyroscopic instruments.

Docket No.: 29321.
Petitioner: Atkin Air Charter Service.
Sections of the FAR Affected: 14 CFR 135.163 and 135.181.
Description of Relief Sought: To permit Atkin to conduct passenger-carrying operations in a single-engine aircraft in certain limited instrument flight rules conditions as were permitted previously by § 135.103.

Docket No.: 29324.
Petitioner: Centurion Flight Services, Inc.
Sections of the FAR Affected: 14 CFR 135.163, 135.181, and 135.421.
Description of Relief Sought: To permit CFS to conduct passenger-carrying operations in a single-engine aircraft in certain limited instrument flight rules conditions as were permitted previously by § 135.103.

Docket No.: 29332.
Petitioner: SkyWorld Aviation, Inc.
Sections of the FAR Affected: 14 CFR 135.163 and 135.181.
Description of Relief Sought: To permit SkyWorld to conduct such operations without equipping its aircraft with two independent electrical power-generating sources, or a standby battery or alternate source of electrical power, and a redundant energy system for gyroscopic instruments.

Docket No.: 29337.
Petitioner: Air San Luis (ASL).
Sections of the FAR Affected: 14 CFR 135.163 and 135.181.
Description of Relief Sought: To permit ASL to conduct passenger-carrying operations in a single-engine aircraft in certain limited instrument flight rules conditions as were permitted previously by § 135.103.

Docket No.: 29288.
Petitioner: Mr. Patrick J. Halloran.
Sections of the FAR Affected: 14 CFR 65.104(a)(2).
Description of Relief Sought: To permit Mr. Halloran to satisfy the eligibility requirement for a repairman certificate (experimental aircraft builder) without being considered the primary builder.

Dispositions of Petitions

Docket No.: 241.
Petitioner: Headquarters Air Force Flight Standards Agency.
Sections of the FAR Affected: 14 CFR 91.169(b).
Description of Relief Sought/ Disposition: To permit the Department of the Air Force Air Education and Training Command (formerly Air Training Command) to conduct local area and other flight training missions under instrument flight rules (IFR) without designating an alternate airport, subject to certain conditions and limitations.
Grant, October 23, 1998, Exemptions No. 49F.

Docket No.: 23495.
Petitioner: Department of the Army.
Sections of the FAR Affected: 14 CFR 91.209(a)(1) and (2).
To permit the Army to conduct certain military training operations at night without lighted aircraft position lights.
Grant, October 16, 1998, Exemption No. 3946F.

Docket No.: 23869.
Petitioner: The Uninsured Relative Workshop, Inc. (TURWI).
Sections of the FAR Affected: 14 CFR 105.43(a).
Description of Relief Sought/ Disposition: To permit employees, representatives, and other volunteer experimental parachute test jumpers under TURWI's control to make tandem parachute jumps while wearing a dual-harness, dual-parachute pack that has at least one main parachute and one approved auxiliary parachute. The exemption also permits pilots in command of aircraft involved in these operations to allow such persons to make these parachute jumps.
Grant, September 18, 1998, Exemption No. 4943K.

Docket No.: 25588.
Petitioner: The Soaring Society of America, Inc.
Sections of the FAR Affected: 14 CFR 45.11(a) and (d).
Description of Relief Sought/ Disposition: 14 CFR 45.11(a) and (d). To permit all owners, operators, and manufactures of gliders to continue to forgo the requirement to secure an identification plate or display the model and serial numbers on the exterior of the aircraft at specified locations.
Grant, October 27, 1998, Exemption No. 4988D.

Docket No.: 25886.
Petitioner: Washoe County Sheriff's Office.
Sections of the FAR Affected: 14 CFR 61.113(e).
Description of Relief Sought/ Disposition: To allow members of the Washoe County Sheriff's Air Squadron (Air Squadron) who hold private pilot certificates to be reimbursed for fuel, oil, and maintenance expenses incurred while performing search and location missions for the Sheriff's Office.
Grant, October 27, 1998, Exemption No. 6836.

Docket No.: 26490.
Petitioner: Delta Air Lines, Inc.
Sections of the FAR Affected: 14 CFR 121.310(m).
Description of Relief Sought/ Disposition: To permit Delta to operate certain L–1011–385–3 airplanes without conforming to the 60-feet required distance between emergency exists.
Grant, October 16, 1998, Exemption No. 5301D.

Docket No.: 26743.
Petitioner: The Goodyear Tire & Rubber Company.

Sections of the FAR Affected: 14 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit Goodyear to establish and maintain a number of fixed locations for the distribution of its repair station inspection procedures manual at each facility rather than providing a copy of the manual to each of its supervisory and inspection employees.

Grant, October 8, 1998, Exemption No. 5543C.

Docket No.: 27327.

Petitioner: Midway Aviation, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Midway to operate its Piper PA–23 Aztec (Registration No. N32RW, Serial No. 27–4667) without a TSO–C112 (Mode S) transponder installed.

Grant, October 27, 1998, Exemption No. 6835.

Docket No.: 27787.

Petitioner: Ameriflight, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Ameriflight to operate certain aircraft under the provisions of part 135 without a TSO–C112 (Mode S) transponder installed on each of those aircraft.

Grant, October 16, 1998, Exemption No. 6830.

Docket No.: 28099.

Petitioner: Delta Air Lines, Inc.

Sections of the FAR Affected: 14 CFR 25.791(a) and 121.317(a).

Description of Relief Sought/ Disposition: To permit Delta to operate its McDonnel Douglas MD–90 aircraft with "No Smoking" signs that always are illuminated.

Grant, October 16, 1998, Exemption No. 6034B.

Docket No.: 28492.

Petitioner: VARIG S. A.

Sections of the FAR Affected: 14 CFR 145.47(b).

Description of Relief Sought/ Disposition: To allow VARIG to use the calibration standards of the Instituto Nacional de Metrologia, Normalizacao e Qualidate Industrial (INMETRO), Brazil's national standards organization, in lieu of the calibration standards of the U.S. National Institute of Standards and Technology (NIST), to test its inspection and test equipment at its Sao Paulo facility.

Grant, October 8, 1998, Exemption No. 6831.

Docket No.: 28557.

Petitioner: Chromalloy Gas Turbine Corporation.

Sections of the FAR Affected: 14 CFR 43.9(a)(4), 43.11(a)(3), and 145.57(a).

Description of Relief Sought/ Disposition: To permit Chromalloy and other persons holding return-to-service authority under the relevant, respective inspection procedures manuals (IPMs) to use electronic signatures in lieu of physical signatures to satisfy the signature requirements of FAA Form 8130–3, Airworthiness Approval Tag.

Grant, September 29, 1998, Exemption No. 6513A.

Docket No.: 28696.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 25.1423(c).

Description of Relief Sought/ Disposition: To permit the accommodation of supernumerary animal handlers on DC–10 and MD–11 airplanes.

Partial Grant, August 28, 1998, Exemption No. 6652A.

Docket No.: 28853.

Petitioner: Sully Produits Speciaux.

Sections of the FAR Affected: 14 CFR 145.75(d).

Description of Relief Sought/ Disposition: To permit Sully to authorize its inspectors who cannot read, write, and understand English to approve parts for return to service with an FAA Form 8130–3, "Airworthiness Approval Tag."

Denial, October 8, 1998, Exemption No. 6832.

Docket No.: 29066.

Petitioner: Mr. James T. Hawkins.

Sections of the FAR Affected: 14 CFR 45.21(c)(2) and 45.29(c), (d), and (e).

Description of Relief Sought/ Disposition: To permit Mr. Hawkins to display aircraft registration markings on his Piper Archer aircraft (Registration No. N3578M, Serial No. 28–7890316) that are ornamental in nature and do not meet the width, thickness, and spacing requirements of part 45.

Denial September 3, 1998, Exemption No. 6818.

Docket No.: 29189.

Petitioner: Orange County Flight Center.

Sections of the FAR Affected: 14 CFR 141.77(a)(1).

Description of Relief Sought/ Disposition: To permit Orange County Flight Center (OCFC) to use Skyroamers Publications FAA-approved syllabus, which states that the planned training times in the syllabus are not minimum required flight times. The syllabus also would state that all part 141 training time requirements must be met for private pilot certification.

Denial, October 14, 1998, Exemption No. 6827.

Docket No.: 29203.

Petitioner: The Boeing Company.

Sections of the FAR Affected: 14 CFR 25.783(h), 25.807(d)(1), 25.810(a)(1), 25.812(e), 25.819(a), 25.857(e), and 25.1447(c)(1).

Description of Relief Sought/ Disposition: To permit carriage of supernumeraries on an all-freighter airplane, which is the direct reason for requesting exemption from 25.857(e).

Partial Grant, October 7, 1998, Exemption No. 6823.

Docket No.: 29204.

Petitioner: The Boeing Company.

Sections of the FAR Affected: 14 CFR 25.562(b)(2), 25.562(c)(5), and 25.562(c)(6).

Description of Relief Sought/ Disposition: To permit in pertinent part that where floor rails or floor fittings are used to attach the seating devices to the test fixture, the rails or fittings must be misaligned with respect to the adjacent set of rails or fittings; each occupant must be protected from serious head injury under the test conditions; protection must be provided to prevent axially compressive loads exceeding 2,250 pounds in each femur.

Partial Grant, October 1, 1998, Exemption No. 6819.

Docket No.: 29216.

Petitioner: Mid East Jet, Inc.

Sections of the FAR Affected: 14 CFR 25.813(a).

Description of Relief Sought/ Disposition: To permit the installation of doors between passenger compartments on a Boeing 757–200 series airplane.

Partial Grant, October 19, 1998, Exemption No. 6834.

Docket No.: 29238.

Petitioner: Flightstar Corporation.

Sections of the FAR Affected: 14 CFR 61.101(d)(7).

Description of Relief Sought/ Disposition: To permit all recreational pilots trained at the University of Illinois Willard Airport (CMI) to act as pilot in command (PIC) of an aircraft carrying a passenger to, from, and within the airspace surrounding CMI, which requires two-way radio communications with air traffic control (ATC).

Denial, October 14, 1998, Exemption No. 6825.

Docket No.: 29253.

Petitioner: Boeing Commercial Airplane Group.

Sections of the FAR Affected: 14 CFR 25.785(h)(2), 25.807(d)(7), 25.813(e), and 25.853(d).

Description of Relief Sought/ Disposition: To allow Boeing Commercial Airplane Group the

installation flight attendant seats that do not provide direct view, the installation of interior doors between passenger compartments, and interior materials that do not comply with heat release smoke emissions requirements on a Boeing 737–700 Increased Gross Weight Airplane.

Partial Grant, October 5, 1998, Exemption N. 6820.

Docket No.: 29266.
Petitioner: Embry-Riddle Aeronautical University.
Sections of the FAR Affected: 14 CFR 141 4(b)(1)(ii) of appendix D.
Description of Relief Sought/ Disposition: To permit Embry-Riddle Aeronautical University to allow its students who are adding a single-engine rating to a commercial pilot certificate with a multiengine rating to use time logged in a multiengine aircraft with retractable landing gear, flaps, and a controllable pitch propeller, or in a turbine-powered airplane to satisfy the requirements of Subpart F of 14 CFR part 61.

Denial, October 14, 1998, Exemption No. 6828.

Docket No.: 29285.
Petitioner: Mr. Peter F. Fichter.
Sections of the FAR Affected: 14 CFR 61.153(a).
Description of Relief Sought/ Disposition: To permit Mr. Fitcher to obtain an airline transport pilot (ATP) certificate before reaching 23 years of age.

Denial, October 14, 1998, Exemption No. 6828.

Docket No.: 29296.
Petitioner: Sky Walk, Inc.
Sections of the FAR Affected: 14 CFR Appendix B paragraph 2.
Description of Relief Sought/ Disposition: To permit Sky Walk to enroll a person without a student pilot certificate in the flight portion of Sky Walk's FAA-approved part 141 private pilot certificate (1) before the 11th flight hour of the course and (2) before any solo flight.

Denial, October 14, 1998, Exemption No. 6824.

Docket No.: 29301.
Petitioner: Raytheon E–Systems.
Sections of the FAR Affected: 14 CFR 25.562(c)(2) through (c)(4), 25.785(h)(2), 25813(e) and 25.853(d).
Description of Relief Sought/ Disposition: To permit installation of interior doors between passenger compartments, side facing divans, flight attendant seats that do not provide direct view, and interior materials that do not comply with heat release smoke emissions requirements on a Boeing 737–700 Increase Gross Weight (IGW) airplane.

Partial Grant, October 8, 1998, Exemption No. 6822.

Docket No.: 29326.
Petitioner: JetSun Aviation Centre.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit JetSun Aviation Centre operate its Beechcraft C–55 Baron (Registration No. N782B, Serial No. TE–247) without a TSO–C112 (Mode S) transponder installed.

Grant, October 27, 1998, Exemption No. 6838.

Docket No.: 29339.
Petitioner: Mr. Peter Fleischhacker.
Sections of the FAR Affected: 14 CFR 121.338(c).
Description of Relief Sought/ Disposition: To permit Mr. Fleischhacker to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Denial, October 23, 1998, Exemption No. 6837.

Docket No.: 29359.
Petitioner: Cedar Rapid Air Ambulance.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Cedar Rapids Air Ambulance to operate its Bell 407 helicopter (Registration No. N407LG, Serial No. 53143) without a TSO–C112 (Mode S) transponder installed.

Grant, October 15, 1998, Exemption No. 6829.

[FR Doc. 99–7630 Filed 3–26–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Modification of Exemption From the Vehicle Theft Prevention Standard; General Motors Corporation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for modification of a previously approved antitheft device.

SUMMARY: On May 15, 1995, NHTSA granted in full General Motors Corporation's (GM) petition for exemption from the parts-marking requirements of the vehicle theft prevention standard for the Chevrolet Lumina/Monte Carlo and Buick Regal car lines. This notice grants in full GM's petition for modification of the previously approved antitheft device for the Chevrolet Lumina/Monte Carlo line. This notice also acknowledges GM's notification that the nameplate for the Chevrolet Lumina/Monte Carlo line will be changed to the Chevrolet Impala/ Monte Carlo line beginning with model year (MY) 2000. The agency grants this petition for modification because it has determined that the modified antitheft device described in GM's petition to be placed on the car line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846, and her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In May of 1995, NHTSA published in the **Federal Register** a notice granting in full the petition from General Motors Corporation (GM) for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the MY 1996 Chevrolet Lumina/ Monte Carlo and Buick Regal car lines. (See 60 FR 25938, May 15, 1995). The agency determined that the "PASS-Key II" antitheft device, which GM intended to install on the Chevrolet Lumina/ Monte Carlo and Buick Regal lines as standard equipment, was likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

In its petition for MY 1996, GM included a detailed description of the components of PASS-Key II, including diagrams of components and their location in the vehicle. GM described PASS-Key II as passively activated. It also stated that the device utilized an electrically-coded ignition key, an ignition lock-cylinder and a decoder module.

On December 7, 1998, GM petitioned to modify the exemption granted for the Chevrolet Lumina/Monte Carlo car line to allow its new "Passlock" antitheft device to be used in place of the PASS-Key II device. GM's submission is considered a complete petition, as required by 49 CFR Part 543.9(d), in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. GM requested confidential treatment for some of the information and

attachments submitted in support of its petition. In a letter to GM dated February 12, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

GM's petition also informed the agency of its planned nameplate change for the four-door Chevrolet Lumina to the Chevrolet Impala nameplate beginning with the 2000 model year. GM stated that while the MY 2000 Impala will feature a new name and new styling, it will remain a continuation of the Chevrolet "W" platform and target the same market segment. GM also stated that the original Impala nameplate was discontinued in MY 1997 with the discontinuance of the Impala SS model, a performance model of its Caprice line. GM further stated that the resurrection of the Impala nameplate for application to its four-door Lumina would complete the renaming of the line which began with the renaming of its 2-door model as the Monte Carlo.

GM stated that for MY 2000, the Chevrolet Lumina/Monte Carlo (renamed Chevrolet Impala/Monte Carlo) line will utilize its "Passlock" antitheft device as standard equipment. The Passlock device provides the functionality of the "PASS-Key" devices but features a coded-lock cylinder instead of an electrically-coded ignition key. When the electronic sensor detects proper lock rotation, it sends a code to the body function controller. If the correct code is received, the controller enables fuel and starting of the vehicle. If an incorrect code is received, the controller disables fuel and starting of the vehicle for ten minutes and prevents any other attempts to start the vehicle during this time. The Passlock device is designed to be active at all times without direct intervention by the vehicle operator. The device is fully functional immediately after the ignition has been turned off, requiring no other operator action other than removing the key.

In order to ensure the reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided a detailed list of the tests conducted. GM believes that its device is reliable and durable since the device complied with its specified requirements for each test. Additionally, GM believes that the security of the vehicle will be protected in many ways by the installation of its modified device. Specifically, the Passlock device will protect the vehicle from any attempts to override the lock assembly by using an external magnet, forcibly removing the ignition lock cylinder, forcibly rotating the lock, bypassing the lock assembly electronics with an external lock assembly, or removing and subsequently applying the vehicle's battery power.

GM compared the Passlock device proposed for the Impala/Monte Carlo car line with its first generation PASS-Key, PASS-Key II, and PASS-Key III devices which the agency has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. GM believes that its Passlock device will be at least as effective as its PASS-Key, PASS-Key II, and PASS-Key III devices. However, as in the first and second-generation PASS-Key devices, as well as other comparable devices that have received full exemptions from the parts-marking requirements, the Passlock device does not provide an audible or visual alarm. Therefore, as with those, this device cannot perform one of the functions listed in 49 CFR § 543.6(a)(3)(ii), that is, to attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key. To substantiate its belief that an alarm system is not necessary for effective deterrence of vehicle theft, GM compared the reduction in thefts for Corvettes equipped *with* a passive antitheft device with an audible/visible alarm feature, and the Chevrolet Camaro and Pontiac Firebird lines equipped *with* a passive antitheft device *without* an alarm feature.

The agency notes that the reason that the vehicle lines whose theft data GM cites in support of its petition received only a partial exemption from parts-marking was that the agency did not believe that the antitheft devices on these vehicles (PASS-Key and PASS-Key II) by themselves would be as effective as parts-marking in deterring theft because they lacked an alarm system. On that basis, NHTSA decided to require GM to mark the vehicle's most interchangeable parts (the engine and the transmission), as a supplement to the antitheft device.

Since deciding those petitions, however, the agency became aware that theft data shows declining theft rates for GM vehicles equipped with either version of the PASS-Key device. Based on that data, it concluded that the lack of a visual or audio alarm had not prevented the antitheft system from being effective protection against theft and granted five GM petitions for full exemptions for car lines equipped with the PASS-Key II device. The following lines have been granted full exemptions: the Buick Riviera and Oldsmobile Aurora, beginning with MY 1995 (See 58 FR 44874; August 25, 1993); the Chevrolet Lumina/Monte Carlo and Buick Regal, beginning with MY 1996 (See 60 FR 25939; May 15, 1995) and the Cadillac Seville (antitheft device modification), beginning with MY 1998 (See 62 FR 20058; April 24, 1997). In all five of these instances, the agency concluded that a full exemption was warranted because PASS-Key II had shown itself as likely as parts-marking to be effective.

Additionally, the agency has granted four full exemptions for car lines equipped with the Passlock device. The following lines have been granted full exemptions: the Chevrolet Cavalier, beginning with MY 1997 (See 61 FR 12132; March 25, 1996); the Pontiac Sunfire, beginning with MY1998 (See 62 FR 20240; April 25, 1997); the Oldsmobile Alero, beginning with MY 1999 (See 63 FR 24587; May 4, 1998); and the Pontiac Grand Am, beginning with MY 2000 (See 63 FR 68503; December 11, 1998).

The agency concludes that, given the similarities between the Passlock device and the PASS-Key, PASS-Key II and PASS-Key III systems, it is reasonable to assume that the Passlock device, like those systems, will be as effective as parts-marking in deterring theft. Accordingly, it has granted this petition for exemption in full and will not require any parts to be marked on the Chevrolet Impala/Monte Carlo car line beginning with MY 2000.

The agency believes that the modified device will provide the other types of performance listed in 49 CFR 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that GM has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information GM provided about the Passlock device.

For the foregoing reasons, the agency hereby grants in full GM's petition for modification of an existing exemption for the MY 2000 Chevrolet Impala/Monte Carlo car line from the parts-marking requirements of 49 CFR Part 541.

If, in the future, GM decides not to use the exemption for these car lines, it must formally notify the agency, and, thereafter, the car lines must be fully marked as required by 49 CFR 541.5 and 49 CFR 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. § 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: March 23, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–7606 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–97–2968 (PDA–17(R))]

Preemption Determination No. PD–15(R); Public Utilities Commission of Ohio, Requirements for Cargo Tanks

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of administrative determination of preemption by RSPA's Associate Administrator for Hazardous Materials Safety.

APPLICANTS: William E. Comley, Inc. (WECCO) and TWC Transportation Corporation (TWC).

LOCAL LAWS AFFECTED: Ohio Admin. Code § 4901:2–05–02.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180.

MODES AFFECTED: Highway.

SUMMARY: Written requirements of the State of Ohio applicable to the transportation of hazardous materials are consistent with the HMR. There is insufficient evidence that the Public Utilities Commission of Ohio (PUCO) has applied or enforced requirements governing the transportation of hypochlorite solutions in any different manner than provided in the HMR.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

WECCO and TWC have applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts certain requirements of the State of Ohio, enforced by PUCO, with respect to cargo tank motor vehicles used to transport hypochlorite solutions. According to WECCO and TWC, PUCO has brought enforcement cases against these companies based on their use of a non-DOT specification cargo tank motor vehicle to transport hypochlorite solutions containing more than 5% but less than 16% available chlorine. On October 10, 1997, RSPA published a notice in the **Federal Register** inviting interested parties to submit comments on whether PUCO has required the use of a DOT specification cargo tank motor vehicle for transportation of hypochlorite solutions containing more than 5% but less than 16% available chlorine, after January 1, 1991. 62 FR 53049.

In that notice, RSPA also discussed the separate assertions by WECCO and TWC that PUCO has required cargo tank motor vehicles built under the MC 312 specification, that are unloaded at a pressure less than 15 psig, to be (1) designed and constructed in accordance with the ASME Code and (2) certified in some manner other than as specified in the HMR. That notice referred to the absence of any statement by WECCO and TWC that their trucks actually meet DOT's MC 312 specification; rather they indicated that they applied specification plates to their trucks to satisfy PUCO's alleged requirement for the use of a specification cargo tank motor vehicle to transport sodium hypochlorite with less than 16% available chlorine. As RSPA stated there:

> the misrepresentation of any packaging as qualified for the transportation of a hazardous material is a serious violation of both 49 U.S.C. 5104(a) and the HMR, whether or not that packaging is actually used for the transportation of hazardous materials. However, because there is no evidence that PUCO has enforced design, construction, and operational requirements for MC 312 specification cargo tanks against these companies in any manner different from that specified in the HMR, issues related to PUCO's assessment of penalties for misrepresenting cargo tank motor vehicles as meeting the MC 312 specification are not part of this proceeding.

62 FR at 53050.

In response to the October 10, 1997 public notice, PUCO and the National Tank Truck Carriers, Inc. submitted comments in opposition to the application. No comments were submitted by WECCO or TWC. No party submitted rebuttal comments, although PUCO submitted a further letter asking for a prompt dismissal of the application.

II. Federal Preemption

The Hazardous Materials Transportation Act (HMTA) was enacted in 1975 to give the Department of Transportation greater authority "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." Pub. L. 93–633 Section 102, 88 Stat. 2156, amended by Pub. L. 103–272 and codified as revised in 49 U.S.C. 5101. The HMTA "replace[d] a patchwork of state and federal laws and regulations * * * with a scheme of uniform, national regulations." *Southern Pac Transp. Co.* v. *Public Serv. Comm'n*, 909 F.2d 352, 353 (9th Cir. 1980). On July 5, 1994, the HMTA was among the many Federal laws relating to transportation that were revised, codified and enacted "without substantive change" by Public Law 103–272, 108 Stat. 745. The Federal hazardous material transportation law is now found in 49 U.S.C. Chapter 51.

A statutory provision for Federal preemption was central to the HMTA. In 1974, the Senate Commerce Committee "endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). More recently, a Federal Court of Appeals found that uniformity was the "linchpin" in the design of the HMTA, including the 1990 amendments which expanded the preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon*,

951 F.2d 1571, 1575 (10th Cir. 1991). In 1990, Congress specifically found that:

> (3) many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,
>
> (4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,
>
> (5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L.101–615 § 2, 104 Stat. 3244.

Following the 1990 amendments and the subsequent 1994 codification of the Federal hazardous material transportation law, in the absence of a waiver of preemption by DOT under 49 U.S.C. 5125(e), "a requirement of a State, political subdivision of a State, or Indian tribe" is explicitly preempted (unless it is authorized by another Federal law) if

> (1) Complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or
>
> (2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

49 U.S.C. 5125(a). These two paragraphs set forth the "dual compliance" and "obstacle" criteria which RSPA had applied in issuing inconsistency rulings before 1990. While advisory in nature, these inconsistency rulings were "an alternative to litigation for a determination of the relationship of Federal and State or local requirements" and also a possible "basis for an application * * * [for] a waiver of preemption." Inconsistency Ruling (IR) No. 2, Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas, etc. 44 FR 75566, 76657 (Dec. 20, 1979). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.*, 435 U.S. 151 (1978).

In the 1990 amendments, Congress also confirmed that there is no room for differences from Federal requirements in certain key matters involving the transportation of hazardous material. As now codified, a non-Federal requirement "about any of the following subjects, that is not substantively the same as a provision of this chapter or a regulation prescribed under this chapter," is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

> (A) The designation, description, and classification of hazardous material.
>
> (B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.
>
> (C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.
>
> (D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.
>
> (E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

49 U.S.C. 5125(b)(1). RSPA has defined "substantively the same" to mean "conforms in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted." 49 CFR 107.202(d).

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. This administrative determination replaced RSPA's process for issuing inconsistency rulings. The Secretary of Transportation has delegated to RSPA the authority to make determinations of preemption, except for those concerning highway routing which have been delegated to FHWA. 49 CFR 1.53(b). Under RSPA's regulations, preemption determinations are issued by RSPA's Associate Administrator for Hazardous Materials Safety. 49 CFR 107.209(a).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. *Id.* Following the receipt and consideration of written comments, RSPA publishes its determination in the **Federal Register**. *See* 49 CFR 107.209(d). A short period of time is allowed for filing of petitions for reconsideration. 49 CFR 107.211. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

RSPA's authority to issue preemption determinations does not provide a means for review or appeal of State enforcement proceedings, not does RSPA consider any of the State's procedural requirements applied in an enforcement proceedings. The filing of an application for a preemption determination does not operate to stay a State enforcement proceeding.

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon*, above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), RSPA is guided by the principles and policy set forth in Executive Order No. 12,612, entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA has implemented through its regulations.

III. Discussion

The State of Ohio has adopted (as State law) the requirements in the HMR applicable to highway transportation of hazardous materials, including hypochlorite solutions. Ohio Admin. Code 4901:2–05–02. Since January 1, 1991, the HMR have provided that hypochlorite solutions containing more than 5% but less than 16% available chlorine may be transported in "non-DOT specification cargo tank motor vehicles suitable for transport of liquids" and that also meet the general requirements for bulk packagings set forth in 49 CFR 173.24 and 173.24b. 49 CFR 173.241(b); *see also* 172.101 (Hazardous Materials Table). (At present, hypochlorite solutions up to 5% available chlorine are not subject to the HMR. During a transition period that continued until October 1, 1996, the HMR also authorized the transportation of hypochlorite solutions containing up to 7% available chlorine by weight transported in nonspecification cargo tanks that were "free from leaks and

[with] all discharge openings * * * securely closed during transportation." 49 CFR 173.510 (1990 ed.))

Accordingly, the written requirements of the State of Ohio are fully consistent with the HMR. The issue presented by the application and supporting documents submitted by WECCO and TWC is whether PUCO is applying and enforcing requirements for the transportation of hypochlorite solutions in a manner different than provided in the HMR and as adopted by Ohio. The documents submitted by WECCO and TWC, including opinions and orders of PUCO, indicate the following:

1. On June 3 and September 26, 1991, PUCO inspected WECCO's truck No. 88 and cited WECCO both times for several violations including transporting hypochlorite solution in an unauthorized package.

2. At the time of PUCO's 1991 inspections, truck No. 88 did not have any specification plate. Sometime thereafter, WECCO attached specification plates to its three cargo tanks, including truck No. 88.

3. In its December 17, 1992 Opinion and Order relating to the 1991 citations, PUCO stated that, "in order to be an authorized package for the transportation of sodium hypochlorite under HMR 49 C.F.R. 173.277(a)(9), respondent's tank must be classified as an MC 310, MC 311, MC 312 or DOT 412 cargo tank." PUCO also found that truck No. 88 "has several design flaws which prevent it from qualifying under the HMR as a specification MC 312 cargo tank." PUCO assessed a fine of $11,470 against WECCO, which included $10,750 for violations of 49 CFR 173.277, transporting hazardous material in an unauthorized package and willfully misrepresenting cargo tank certification. Of the total fine, $5,000 was suspended for six months.

4. On June 22, 1993, PUCO inspected truck No. 88, which had been transferred by WECCO to TWC, and cited TWC for eight violations including leaking closures, transporting hypochlorite solution in an unauthorized package, and misrepresenting that the package met the MC 312 specification. On PUCO's hazardous materials report form, the contents of the cargo tank are indicated as "Hypochlorite Solution, PG III."

5. On July 3, 1993, PUCO inspected TWC's truck No. 66 and cited TWC for seven violations including leaking closures, transporting hypochlorite solution in an unauthorized package, and misrepresenting that the package met the MC 312 specification. On WECCO's shipping paper attached to PUCO's hazardous materials report form, the hypochlorite solution is classed within "PG III."

6. In its October 25, 1995 Opinion and Order relating to the 1993 citations, PUCO found that "numerous defects for both cargo tanks [Nos. 88 and 66] * * * precluded either from meeting the specifications of an MC 312 cargo tank." PUCO also stated that whether or not TWC "need[ed] an MC 312 certified cargo tank to haul sodium hypochlorite solution of the concentration involved in these cases * * * is not an issue before us and respondent has not been charged with any such violation." PUCO assessed a total civil forfeiture of $14,290.50 against TWC for violations that included transporting hypochlorite solution in unauthorized packages and in tanks misrepresented as meeting MC 312 specifications, in violation of 49 CFR 173.33(a) and 49 CFR 171.2(c), respectively.

In its comments, PUCO states that "this case presents no preemption controversy." It summarizes its enforcement proceedings against WECCO and TWC and states that these companies failed to appeal the PUCO orders as provided by Ohio statutes. PUCO further denies that it has ever required any carrier of hypochlorite solutions, between 5% and 16% available chlorine, to use a DOT specification cargo tank motor vehicle. According to an affidavit from the Chief of the Hazardous Materials Division of PUCO's Transportation Department, a search of data covering all commercial vehicle inspections since January 1, 1991 failed to reveal any other instance where PUCO had cited a carrier for transporting Packing Group III hypochlorite solutions in an unauthorized cargo tank motor vehicle. Rather, PUCO stresses that the cargo tanks used by WECCO and TWC "contained a number of design flaws that rendered them unsuitable for hazardous materials carriage."

PUCO asserts that the principal issue in these enforcement proceedings was whether WECCO and TWC had misrepresented their cargo tank motor vehicles as meeting the MC 312 specification. It states that, in the proceedings that led to the December 17, 1992 Opinion and Order, WECCO presented no evidence as to the level of available chlorine in the sodium hypochlorite being transported. PUCO indicates that its October 25, 1995 Opinion and Order found that TWC's tanks were unauthorized because "Leakage was again discovered at several points along the tank's pressure and discharge system, and a strong chlorine odor was observed by the Commission's field safety inspector."

Both PUCO and NTTC argue that WECCO and TWC have improperly invoked RSPA's preemption determination process, and that the applicants' sole remedy is to appeal the PUCO enforcement orders as provided by Ohio law rather than to seek a determination from DOT.

Under all the information available in this case, it is unclear whether PUCO's December 17, 1992 and October 25, 1995 Opinions and Orders actually find that WECCO and TWC violated Ohio requirements by transporting sodium hypochlorite with less than 16% available chlorine in a non-DOT specification vehicle. Nonetheless, there is no evidence that PUCO applies or enforces a general requirement for the use of a DOT-specification cargo tank motor vehicle to transport hypochlorite solutions with less than 16% available chlorine. If PUCO misinterpreted or misapplied the HMR's requirements (as adopted in Ohio law) in the specific enforcement proceedings involving WECCO and TWC, those parties could have appealed the orders in those proceedings in accordance with Ohio law. This is not a ground for a finding of preemption, especially where (as here) the State's written requirement is identical to the HMR. In PD–14(R), Houston, Texas Fire Code Requirements on the Storage, Transportation, and Handling of Hazardous Materials, 63 FR 67506, 67510 n.4 (Dec. 7, 1998), petition for reconsideration pending, RSPA recently reiterated that,

> As a general matter, an inconsistent or erroneous interpretation of a non-Federal regulation should be addressed in the appropriate State or local forum, because "isolated instances of improper enforcement (e.g., misinterpretation of regulations) do not render such provisions inconsistent" with Federal hazardous material transportation law. IR–31, Louisiana Statutes and Regulations on Hazardous Materials Transportation, 55 FR 25572, 25584 (June 21, 1990), appeal dismissed as moot, 57 FR 41165 (Sept. 9, 1992), quoted in PD–4(R), California Requirements Applicable to Cargo Tanks Transporting Flammable and Combustible Liquids, 58 FR 48940 (Sept. 20, 1993), decision on reconsideration, 60 FR 8800 (Feb. 15, 1995).

IV. Ruling

Written requirements of the State of Ohio applicable to the transportation of hazardous materials are consistent with the HMR. There is insufficient evidence that PUCO has applied or enforced requirements governing the transportation of hypochlorite solutions in any different manner than provided in the HMR.

V. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a), "[a]ny person aggrieved" by this decision may file a petition for reconsideration within 20 days of publication of this decision in the **Federal Register**. Any party to this proceeding may seek review of RSPA's decision "in an appropriate district court of the United States * * * not later than 60 days after the decision becomes final." 49 U.S.C. 5125(f).

This decision will become RSPA's final decision 20 days after publication in the **Federal Register** if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5125(f).

If a petition for reconsideration of this decision is filed within 20 days of publication in the **Federal Register**, the action by RSPA's Associate Administrator for Hazardous Materials Safety on the petition for reconsideration will be RSPA's final decision. 49 CFR 107.211(d).

Issued in Washington, D.C. on March 23, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–7654 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 22, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 28, 1999 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0078.
Form Number: ATF F 1533 (5000.18).
Type of Review: Extension.
Title: Consent of Surety.
Description: A consent of surety is executed by both the bonding company and a proprietor and acts as a binding legal agreement between the two parties to extend the terms of a bond. A bond is necessary to cover specific liabilities on the revenue produced from untaxpaid commodities. The consent of surety is filed with ATF and a copy is retained by the ATF as long as it remains current and in force.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 2,000.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion, Other (with application and permit change).
Estimated Total Reporting Burden: 2,000 hours.
OMB Number: 1512–0100.
Form Number: ATF F 5000.29 and ATF F 5000.30.
Type of Review: Extension.
Title: Environmental Information (ATF F 5000.29); and Supplemental Information on Water Quality Considerations Under 33 U.S.C. 1341(a).
Description: ATF F 5000.29 and 5000.30 implement regulations of the Clean Water Act and the National Environmental Policy Act (NEPA). The NEPA authorizes ATF through ATF F 1740.1 to require license or permit application to state the location of existing or proposed activities concerned with land, air pollution, water and activities to ATF.
Respondent: Business or other for-profit.
Estimated Number of Respondents: 8,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,400 hours.
OMB Number: 1512–0418.
Form Number: ATF F 5000.12.
Type of Review: Extension.
Title: Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.
Description: Application to practice before the Bureau of Alcohol, Tobacco and Firearms is necessary so that the Bureau may evaluate the qualification of applicants in order to assure only competent, reputable persons are authorized to represent claimants.
Respondent: Business or other for-profit.
Estimated Number of Respondents: 8.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Other (initial application and renewal every 5 years).
Estimated Total Reporting Burden: 2 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 99–7602 Filed 3–26–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 28, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0819.
Regulation Project Number: 26 CFR 601.201.
Type of Review: Extension.
Title: Instructions for Requesting Rulings and Determination Letters.
Description: The National Office issues ruling letters and District Directors issue determination letters to taxpayers interpreting and applying the laws to a specific set of facts. The National Office also issues other types of letters. The procedural regulations set forth the instructions for requesting rulings and determinations.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 271,914.

Estimated Burden Hours Per Respondent: 55 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 248,496 hours.
OMB Number: 1545–0854.
Regulation Project Number: LR–1214 Final.
Type of Review: Extension.
Title: Discharge of Liens.
Description: The Internal Revenue Service needs this information to determine if the taxpayer has equity in the property. This information will be used to determine the amount, if any, to which the tax lien attaches.
Respondents: Business or other for-profit, Individuals or households, Farms.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Respondent: 24 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 200 hours.
OMB Number: 1545–1484.
Regulation Project Number: REG–242282–97 (formerly INTL–62–90, INTL–32–93, INTL–52–94) Final.
Type of Review: Extension.
Title: General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits; Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Part 35a and of Certain Regulations Under Income Tax Treaties.
Description: The regulations are needed to provide guidance relating to the withholding of income of nonresident alien individuals and foreign corporations.
Respondents: Business or other for-profit, Individuals or household, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents/Recordkeepers: 1.
Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 1 hour.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–7603 Filed 3–26–99; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: "Alfred Hitchcock: Behind the Silhouette"

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S. C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the ten works of art imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with a foreign lender. I also determine that the exhibition or display of the listed objects at The Museum of Modern Art of New York, from on or about April 15, 1999 to on or about August 17, 1999, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects or other information, please contact Lorie Nierenberg, Assistant General Counsel, Office of the General Counsel, 202/619–6084. The address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: March 24, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–7661 Filed 3–26–99; 8:45 am]

BILLING CODE 8230–01–M

VOL
64
ISS
59
MR
29
999
UMI

federal register

Monday
March 29, 1999

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93
Anchorage, Alaska, Terminal Area; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 29029; Amendment No. 93–77]

RIN 2120–AG45

Anchorage, Alaska, Terminal Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends regulations regarding aircraft operations in the Anchorage, Alaska, Terminal Area. Specifically, this action revises the description of the Anchorage, Alaska, Terminal Area and the Communications requirements for operating in the area; adds a new segment, with communication and operating requirements, east of Anchorage International Airport; changes the altitude requirement for one segment; makes minor editorial changes; and removes appendix A of part 93. In addition, this rule addresses two minor inadvertent omissions of information pertaining to the boundary realignments of the International and Bryant segments of the Alaska Terminal Area. The FAA is taking this action to enhance safety and to simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

EFFECTIVE DATE: 0901 UTC, June 17, 1999.

ADDRESSES: Any person may obtain a copy of this rule by submitting a request to the FAA, Office of Rulemaking, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the docket/amendment number of the rule. Persons interested in being placed on a mailing list for future rules should call the FAA's Office of Rulemaking, (202) 267–9677.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register's** electronic bulletin board service (telephone: 202–512–1661.

Internet users may reach the FAA's web page at http://www.faa.gov or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs for access to recently published rulemaking documents.

FOR FURTHER INFORMATION CONTACT: Bill Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1991, the FAA published, in the **Federal Register**, the Airspace Reclassification Final Rule (56 FR 65638). This rule reclassified various airspace designations and deleted the term "Airport Traffic Area." These changes were designed to apply to all similarly designated airspace areas. However, Title 14 of the Code of Federal Regulations (14 CFR) part 93, subpart D was not amended to reflect the airspace reclassification effort.

In this action, the FAA amends the regulations set forth at part 93, subpart D, to reflect airspace designations in the vicinity of Anchorage, Alaska. The FAA replaces the term "Airport Traffic Area" with the new term "Terminal Area" throughout part 93, subpart D. Additionally, this action deletes reference in part 93, subpart D, to Bryant airport traffic control tower (ATCT) which was decommissioned on September 27, 1995, and Anchorage Flight Service Station (FSS) which was decommissioned on June 19, 1993. When these facilities were decommissioned, no corresponding changes were initiated to amend part 93, subpart D, to reflect the closure. Further, this rule establishes a new Seward Highway segment with communication requirements for aircraft operating in this segment.

Public Input

On October 1, 1997, the FAA published a notice of proposed rulemaking in the **Federal Register** (Notice No. 97–14; 62 FR 51564) proposing to amend the regulations regarding the Anchorage, Alaska, Terminal Area, in the following manner: (1) revising the description of the Anchorage, Alaska, Terminal Area and the communication requirements for operating in the area; (2) adding a new segment with communication requirements east of Anchorage International Airport; (3) changing several altitude requirements; (4) modifying the vertical limits of certain segments; (5) updating the communications requirements for operations in several segments due to the decommissioning of certain air traffic control facilities; (6) removing appendix A of part 93; and (7) making minor editorial changes.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The FAA received 11 written comments in response to the proposal to modify the Anchorage, Alaska, Terminal Area (Notice 97–14). These commenters included the following parties: the Air Transport Association; Anchorage International Airport; Alaskan Aviation Safety Foundation; Alaska Airmen's Association, Inc.; Department of the Army; State of Alaska Department of Transportation and Public Facilities; and other concerned citizens. All comments received were considered before making a determination on this final rule. The following is an analysis of the substantive comments received and the Agency's responses.

Analysis of Comments

Lake Hood Segment

The FAA received several comments both opposing and/or supporting the proposal to revise the Lake Hood segment by raising the altitude to 1,000 feet mean sea level (MSL). Some of the commenters raised the following objections: (1) the resulting extended airport patterns would increase fuel costs; (2) the higher climb requirements would increase noise levels; (3) the reduced separation of aircraft operating into and out of Lake Hood and Anchorage International Airport would diminish safety; and (4) the use of special visual flight rules (VFR) procedures would be lost in minimal weather conditions.

The FAA, after further review and technical evaluation, agrees with those commenters objecting to the action and is, therefore, withdrawing the proposal to raise the Lake Hood segment altitude to 1,000 feet MSL.

Seward Segment

The FAA received several comments opposing the proposed establishment of the Seward segment because they did not believe that traffic volume warranted establishment of a new segment. These commenters suggested that leaving the temporary Class D in effect was sufficient to protect aircraft operations.

The FAA does not agree with these commenters. The Anchorage Class C airspace structure is nonstandard by design to accommodate military, general aviation, and commercial air carrier users flying in and out of the following six airports in the Anchorage Terminal Area: Anchorage International Airport; Merrill Field; Elmendorf Air Force Base (AFB); Lake Hood Seaplane Base; Lake Hood Airstrip; and Bryant Airport. The FAA, established temporary Class D airspace to accommodate construction

of Runway 14/32 at Anchorage International Airport. This airspace was established to ensure that aircraft operating east of the Seward Highway, not in Class C airspace, continue to receive traffic advisories and conflict alerts.

While the temporary Class D airspace was operational, Anchorage Approach Control, Lake Hood Tower, and Merrill Tower provided flight safety information such as traffic alerts, wake turbulence advisories, and other safety-related services to all IFR and VFR users in the airspace. The temporary Class D ATC communication and operating requirements provided greater safety for all the users of the airspace which prompted air traffic management to consider permanent operating requirements by converting the temporary Class D airspace to the Seward segment.

The departure/arrival corridor, however, does not meet all of the requirements for Class D airspace (ATC tower, airport, weather reporting) and therefore the Class D airspace designation was not considered as a permanent alternative. Consequently, the FAA has established the new Seward segment.

This new area is designed to accommodate users who do not wish to communicate with ATC. The area will allow aircraft to circumnavigate the segment without significant change to planned flight routes and/or use of operational procedures to enter or exit the segment.

Terminal Area Ceiling

Several commenters suggested that all segments of the Anchorage Terminal Area ceiling be made uniform and, further, recommended that it be no lower than 900 feet MSL and no higher than 1,200 feet MSL.

The FAA does not agree with these suggestions because of safety concerns. The special air traffic rules protecting the arrival and departure routes into and out of Anchorage International Airport and Elmendorf Air Force Base were adopted to meet the unique operational requirements of the six airports in the Anchorage Terminal Area. Due to the close proximity of these six airports, the potential for incidents or accidents between IFR and VFR aircraft would significantly increase if the ceiling altitudes were uniform. The FAA believes that by placing these special flight altitude restrictions on the various segments in the Anchorage Terminal Area, and implementing corresponding operating procedures, the air traffic system will be more efficient and airspace management for the Anchorage, Alaska, Terminal Area will improve.

Environmental Concerns

Several commenters expressed concern that noise levels would necessarily increase over the Seward segment, and questioned why an Environmental Impact Study (EIS) had not been prepared.

The FAA does not believe that noise will be increased due to the changes proposed since this action does not lower existing operational altitudes, nor does it change the special air traffic rules addressing operational altitudes.

FAA Order 1050.1, Policies and Procedures for Considering Environmental Impacts, categorically excludes certain airspace actions from an EIS when it is determined by the Agency that the action(s), individually or cumulatively, will not have a significant impact on the human environment. Thus, the FAA determined that an EIS was not necessary.

Common Traffic Advisory Frequency (CTAF)

Several commenters did not agree with the communication requirement for Merrill Field ATCT during the periods when it is not in operation. They suggested continued use of the voluntary CTAF when the Merrill Field ATCT is closed. Suggestions were also received to use Anchorage ATCT as the ATC contact frequency.

The FAA does not agree with these commenters. The communication requirements specified in this rule simplify communication procedures and provide ATC a direct means of conveying flight safety information such as traffic alerts, wake turbulence advisories, and other safety-related services to users of the airspace. Since CTAF is not an ATC frequency, ATC safety advisories are not available through that source.

The FAA believes that Anchorage Approach Control is the best ATC facility in the Anchorage Terminal Area to convey military, commercial air carrier and general aviation traffic alerts, wake turbulence advisories, and other safety-related services for Merrill Field users when the Merrill Field Tower is closed. Anchorage ATCT cannot perform this function because it would not be aware of all IFR and special VFR traffic arriving and departing Elmendorf AFB or Merrill Field. Anchorage Approach Control has that information and is equipped with radar to provide ATC services.

Special flight rules for arriving and departing the Anchorage Terminal Area are required by 14 CFR part 93. This rule requires that specific altitudes be used which provide minimum altitudes of 300 feet vertically for separation between segments. Anchorage Approach Control handles all IFR arrival and departure traffic into Anchorage International Airport, Elmendorf AFB, Merrill Field, Lake Hood airstrip, Lake Hood Seaplane Base, and Bryant Airport. During periods requiring special VFR flight procedures or IFR procedures in the Anchorage Terminal Area, Anchorage Approach Control provides ATC for the following events: separation between aircraft on the Elmendorf final approach to runway 5; departures from Elmendorf runway 23; aircraft flying over the Knik Arm in the Merrill Segment; and any aircraft on a deviation from procedures directed by this rule.

In consideration of the above, the FAA finds that the existing aircraft operating procedures in the Merrill segment, in conjunction with the communication procedures contained in this rule, meet ATC operational requirements and improve safety in the Anchorage, Alaska, Terminal Area.

Bryant and Elmendorf Segments

The FAA received two comments regarding proposed changes to the Bryant segment. One commenter suggested that the segment be eliminated since it has no control tower. Additionally, a comment from the U.S. Army requested that the Bryant segment remain published because of its importance to Army aviation requirements. The Army further recommended that the northern boundary of the Elmendorf segment be aligned with the adjoining restricted area 2203C (R–2203C).

Although the Bryant segment does not have an operational control tower, appropriate communication procedures are in place. The FAA concurs, therefore, with the U.S. Army's request to retain the Bryant segment and to align the northwestern boundary of the Elmendorf segment with R–2203C.

Appendix A

One commenter suggested that the FAA not remove the appendix (appendix A) from part 93, subpart D, which depicts the Anchorage, Alaska, Terminal Area and associated traffic patterns.

The FAA does not agree with this suggestion. The FAA is removing appendix A from part 93, subpart D, because graphical depictions of the Anchorage, Alaska, Terminal Area and associated airport traffic patterns are published on appropriate Alaska

aeronautical charts and publications that are readily available to the aviation community. Aeronautical publications (e.g., VFR Terminal Area Chart, Anchorage, Sectional Aeronautical Chart) are up-dated more frequently than the Code of Federal Regulations and, therefore, are a better source for this type of information.

The Rule

This action amends part 93, subpart D, regarding the Anchorage, Alaska, Terminal Area. Specifically, this action makes the following amendments: (1) revises the description of the Terminal Area; (2) reconfigures the boundaries of several existing segments; (3) updates certain communication requirements for operating in the Terminal Area due to the decommissioning of certain air traffic control facilities; (4) changes the altitude requirement of one segment; (5) adds a new segment, with communication requirements, east of Anchorage International Airport; (6) removes appendix A of part 93; and (7) makes minor editorial changes.

The FAA is taking this action to enhance safety, simplify aircraft operating procedures, and improve the efficiency of airspace management in the Terminal Area.

Section 93.51—Applicability

The FAA is replacing the term "Airport Traffic Area" with the new term "Terminal Area." This change incorporates terminology implemented by the Airspace Reclassification Final Rule and appears throughout part 93.

Section 93.53—Description of Area

The FAA is amending the description and boundaries of the Anchorages, Alaska, Terminal Area. Currently, § 93.53 describes the Terminal Area both in terms of its geographical boundaries and vertical dimensions. The FAA is limiting the description of the Terminal Area, in this section, to geographical boundaries and is deleting reference to any vertical dimension.

Section 93.55—Subdivision of Area: New Seward Highway Segment

The FAA is modifying the description of the Terminal Area segment areas described in § 93.55. Currently, the segment areas of the Anchorage Terminal Area are described by reference to geographical boundaries. The vertical dimensions of the segment areas as defined in the current § 93.53 provide a uniform altitude of up to 3,000 feet mean sea level (MSL). This section describes the segment areas geographically and vertically to conform with other operational changes within each segment and adds the Seward Highway segment by designating a new paragraph (f).

Section 93.57—General Rules: All Segments

This section describes general rules for operations conducted in all segments of the Terminal Area. The FAA is adding the Seward Highway segment to § 93.57(a) and § 93.57(e). The FAA is also adding the Bryant segment operational requirements to the exceptions listed in § 93.57(d) and § 93.57(e).

Section 93.59—General Rules: International Segment

In the NPRM, the FAA inadvertently omitted the proposal to redefine a portion of the International segment along the arc boundary of the Anchorage, Alaska, Terminal Area. Modification of the International segment reconfigures the outer area along the 5.2 nautical mile (NM) radius of the Anchorage International Airport to include a necessary extension where the arc terminates, to the north near Point MacKenzie, and to the south where it intercepts the New Seward Highway. The reconfiguration of the International segment along the 5.2 NM arc boundary coincides with the overlying and established Anchorage Class C airspace area. Incorporating this change simplifies the chart depiction; however, it does not modify existing aircraft operational or communication requirements to enter the segment or airspace area. Pilots who elect to operate in this area must follow existing procedures and guidelines as published in 14 CFR and/or other appropriate aeronautical publications.

Section 93.61—General Rules: Lake Hood Segment

In the NPRM, the FAA proposed raising the operational altitude in the Lake Hood segment from 600 to 1000 feet MSL. However, after further evaluation the FAA determined that modifying the Lake Hood segment would adversely impact established arrival and departure procedures into and out of the Lake Hood segment. Therefore, the FAA has withdrawn that portion of the proposal. The current procedures provide adequate altitude separation between Lake Hood arrivals and departures, thereby reducing the potential for altitude conflict in the vicinity of the Lake Hood and Merrill segments. In addition, the Lake Hood Segment procedures currently in effect allow General Aviation (GA) to operate below the arrival traffic to runway 14 into Anchorage International Airport.

Section 93.63—General Rules: Merrill Segment

The Merrill segment remains unchanged with the exception of the communication requirement for those times when Merrill Tower is not in operation. The FAA believes that the use of CTAF when the Merrill Tower is not in operation compromises safety because safety advisories such as traffic and wake turbulence are unavailable through CTAF since it is not an assigned or used ATC frequency. Therefore, the FAA is requiring operators to contact Anchorage Approach Control.

Section 93.65—General Rules: Elmendorf Segment

The special traffic operational altitude in the Elmendorf segment is raised from 700 to 800 feet MSL due to the growth of trees. The FAA determined that raising the altitude by 100 feet will give those operators who elect to operate within this segment additional maneuvering airspace for aircraft operations. Subparagraph (f) is added to inform users of the exclusionary area when aircraft operators are in VFR conditions in the vicinity of Sixmile Lake below 600', and to support communication procedures for Elmendorf AFB aircraft operators.

Section 93.67—General Rules: Bryant Segment

The southeastern boundary of the Bryant segment is reconfigured to support egress and ingress, as well as other flight operations into and out of the Bryant Army Heliport. Subparagraph (b) aircraft communication requirements and aircraft operating procedures are simplified due to the closure of the Bryant Tower.

Section 93.68—General Rules: Seward Segment

The Seward segment is established to enhance the efficiency of air traffic management due to the increase of both VFR and IFR aircraft operations. This action decreases the potential of incident or accident in this segment.

Section 93.69—General Rules: Lake Campbell and Sixmile Lake

The FAA is amending § 93.69 to remove the reference to appendix A. The discussion of § 93.69 changes was inadvertently left out of the NPRM; however, the Analysis of the Proposed Changes section in the NPRM did explain the rationale for deleting appendix A to part 93. Currently, there are aeronautical charts that graphically depict the Anchorage, Alaska, Terminal Area. These charts are updated

frequently without the requirement of any rulemaking action. Current information can be obtained by consulting appropriate Notices to Airmen and other flight information publications. Conversely, appendix A to part 93—Anchorage Airport Traffic Area: Traffic Patterns—requires rulemaking action to change, thus delaying essential aeronautical information required for the safety of flight. Therefore, appendix A has been removed from part 93.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this Rulemaking: (1) would generate benefits that justify its minimal costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would not constitute a barrier to international trade; and (5) would not contain any Federal intergovernmental or private sector mandate. All of these analyses have been prepared as a regulatory evaluation and are summarized below. A copy of the full regulatory evaluation has also been placed into the docket.

Agency Findings

The FAA finds that there is an increase in the number of transport category aircraft operating under IFR departing eastbound from Anchorage International Airport. This additional traffic volume increases the number of total aircraft operations and the operational complexity in the uncontrolled airspace east of Anchorage International Airport. In order to reduce the risk of a midair collision in that airspace, ATC is establishing a segment (Seward Highway segment) of the Anchorage Terminal airspace area to the east. Aircraft operating in the Terminal Area will be required to be in contact with ATC. Such contact provides pilots with positive ATC services, such as traffic alerts, separation, weather information, etc., thereby providing greater protection for all users of the airspace.

Section 93.57(e), requires that "each person piloting an aircraft shall maintain two-way radio communications with the control tower serving the segment containing the airport of landing or takeoff." This requirement imposes minimal, if any, additional costs on general aviation or air carrier operations. This cost determination is based on data contained in the most recently published General Aviation and Avionics Survey Report. The report indicates that nearly 100 percent of Alaskan general aviation aircraft operators are already equipped with two-way radios. The FAA has also determined that those few operators without two-way radios will not have to circumnavigate the airspace area, but can instead fly above the 3,000 feet MSL ceiling without significantly deviating from their regular flight paths. Section 93.57(d) describes general rules for operations conducted in all segments of the Terminal Area. This section will not impose any additional costs to operators. Section 93.65(c) raises the operational altitude from 700 to 800 feet MSL due to tree growth. The FAA has determined that a 100 feet increase will impose negligible increased costs to operators who elect to operate within the Elmendorf segment while maintaining an appropriate level of safety.

The FAA, on September 30, 1995, decomissioned the Bryant ATCT and established the Bryant Airport CTAF. The agency has determined that it will handle the current and projected aviation activity in the Seward Highway segment at the Anchorage International Airport ATC Facility, without additional staff or additional equipment.

In view of the minimal cost of compliance, enhanced safety, and simplified aircraft operating procedures covering the Anchorage, AK, Terminal Area, the FAA has determined that this rule is cost-beneficial.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a widerange of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Small entities will incur negligible, if any, cost with the implementation of this rule. This rule will impact operators of aircraft who do not meet Class D airspace navigational equipment standards (primarily part 135 aircraft without two-way radios). However, in Alaska, nearly 100 percent of aircraft operators already have this equipment and routinely fly into airspace where such equipment requirements are already in place. Also, those operators that do not have two-way radios can easily fly above the airspace where two-way radios are required. Accordingly, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

This rule will not impose a competitive disadvantage to either US air carriers doing business abroad or foreign air carriers doing business in the United States. This assessment is based on the fact that this rule will not impose additional costs on either US or foreign air carriers. This rule will have no effect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of united States aviation products or services in foreign countries.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more adjusted annually for inflation in any

one year by State, local, and tribal governments, in the aggregate, or by the private sector. Section 204(a) of the ACT, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon state, local, tribal governments, in the aggregate (of $100 million adjusted annually for inflation) in any one year. Section 203 of the ACT, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, in part, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental mandates, but does contain a private sector mandate. However, because expenditures by the private sector will not exceed $100 million annually, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air) and Reporting and recordkeeping requirements.

The Amendment

The FAA is amending Title 14 of the Code of Federal Regulations, subpart D, Anchorage, Alaska, Terminal Area as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Section 93.51 is revised to read as follows:

§ 93.51 Applicability.

This subpart prescribes special air traffic rules and traffic patterns for aircraft operating in the Anchorage, Alaska, Terminal Area.

3. Section 93.53 is revised to read as follows:

§ 93.53 Description of area.

The Anchorage, Alaska, Terminal Area is designated as that airspace extending upward from the surface to the upper limit of each of the segments described in § 93.55. It is bounded by a line beginning at Point MacKenzie, extending westerly along the bank of Knik Arm to a point intersecting the 350° bearing from the Anchorage International ATCT; thence north to intercept the 5.2-mile arc centered on the geographical center of Anchorage, Alaska, ATCT; thence counterclockwise along that arc to its intersection with a line bearing 180° from the intersection of the new Seward Highway and International Airport Road; thence due north to O'Malley Road; thence east along O'Malley Road to its intersection with Lake Otis Parkway; thence northerly along Lake Otis Parkway to its intersection with Abbott Road; thence east along Abbott Road to its intersection with Abbott Loop Road; thence north to its intersection with Tudor Road; thence easterly along Tudor Road to its intersection with Muldoon Road; thence northerly along Muldoon Road to the intersection of the Glenn Highway; thence north and east along the Glenn Highway to Ski Bowl Road; thence southeast along the Ski Bowl Road to a point one-half mile south of the Glenn Highway; thence north and east one-half mile south of and parallel to the Glenn Highway to its intersection with a line one-half mile east of and parallel to the Bryant Airport Runway 16/34 extended centerline; thence northeast along a line one-half mile east of and parallel to Bryant Airport Runway 16/34 extended centerline to lat. 61°16′13″N., long. 149°37′35″W.; thence west along lat. 61°17′13″N., to long. 149°43′08″W.; thence north along long. 149°43′08″W., to lat. 61°17′30″N.; thence to lat. 61°17′58″N., long 149°44′08″W.; thence to lat. 61°19′10″N., long. 149°46′44″W.; thence north along long. 149°46′44″W., to intercept the 4.7-mile radius arc centered on Elmendorf Air Force Base (AFB), Alaska; thence counterclockwise along the 4.7-mile radius arc to its intersection with the west bank of Knik Arm; thence southerly along the west bank of Knik Arm to the point of beginning.

4. Section 93.55 is revised to read as follows:

§ 93.55 Subdivision of Terminal Area.

The Anchorage, Alaska, Terminal Area is subdivided as follows:

(a) *International segment.* That area from the surface to and including 4,100 feet MSL, within a 5.2-mile radius of the Anchorage International ATCT; excluding that airspace east of the 350° bearing from the Anchorage International ATCT and north of the 090° bearing from the Anchorage International ATCT and east of a line bearing 180° and 360° from the intersection of the new Seward Highway and International Airport Road and the airspace extending upward from the surface to but not including 600 feet MSL, south of lat. 61°08′28″N.

(b) *Merrill segment.* That area from the surface to an including 2,500 feet MSL, within a line beginning at Point Noname; thence direct to the mouth of Ship Creek; thence direct to the intersection of the Glenn Highway and Muldoon Road; thence south along Muldoon Road to Tudor Road; thence west along Tudor Road to the new Seward Highway; thence direct to West Anchorage High School; thence direct to Point MacKenzie; thence via the north bank of Knik Arm to the point of beginning.

(c) *Lake Hood segment.* That area from the surface to and including 2,500 feet MSL, within a line beginning at Point MacKenzie; thence direct to West Anchorage High School; thence direct to the intersection of Tudor Road and the new Seward Highway; thence south along the new Seaward Highway to the 090° bearing from the Anchorage International ATCT; thence west direct to the Anchorage International ATCT; thence north along the 350° bearing from the Anchorage International ATCT to the north bank of Knik arm; thence via the north bank of Knik Arm to the point of beginning.

(d) *Elmendorf segment.* That area from the surface to and including 3,000 feet MSL, within a line beginning at Point Noname; thence via the north bank of Knik Arm to the intersection of the 4.7-mile radius of Elmendorf AFB; thence clockwise along the 4.7-mile radius of Elmendorf AFB to long. 149°46′44″W.; thence south along long. 149°46′44″W. to lat. 61°19′10″N.; thence to lat. 61°17′58″N., long. 149°44′08″W.; thence to lat. 61°17′30″N., long. 149°43′08″W.; thence south along long. 149°43′08″W. to the Glenn Highway; thence south and west along the Glenn Highway to Muldoon Road; thence direct to the mouth of Ship Creek; thence direct to the point of beginning.

(e) *Bryant segment.* That area from the surface to and including 2,000 feet MSL, within a line beginning at lat. 61°17′13″N., long. 149°43735″W.; thence west along lat. 61°17′13″N., to long. 149°43′08″W.; thence south along long. 149°43′08″W., to the Glenn Highway; thence north and east along the Glenn Highway to Ski Bowl Road;

thence southeast along the Ski Bowl Road to a point one-half mile south of the Glenn Highway; thence north and east one-half mile south of and parallel to the Glenn Highway to its intersection with a line one-half mile east of and parallel to the Bryant Airport Runway 16/34 extended centerline; thence northeast along a line one-half mile east of and parallel to Bryant Airport runway 16/34 extended centerline to the point of beginning.

(f) *Seward Highway segment.* That area from the surface to an including 4,100 feet MSL, within a line beginning at the intersection of a line bearing 180° from the intersection of the new Seward Highway and International Airport Road, and O'Malley Road; thence east along O'Malley Road to its intersection with Lake Otis Park Way, lat. 61°40723″N., long 149°50′03″W.; thence northerly along Lake Otis Park Way to its intersection with Abbott Road, lat. 61°08′14″N., long. 149°50′03″W.; thence east along Abbott Road to its intersection with Abbott Loop Road, lat. 61°08′14″N., long. 149°48′16″W.; thence due north to intersect with Tudor Rod, lat. 61°10′51″N., long. 149°48′16″W.; thence west along Tudor Road to its intersection with the new Seward Highway, lat. 61°10′51″N., long. 149°51′38″W.; thence south along the new Seward Highway to its intersection with a line bearing 180° and 360° from the intersection of the new Seward Highway and International Airport Road; thence south to the point of beginning.

5. Section 93.57 is revised to read as follows:

§ 93.57 General rule: All segments.

(a) Each person operating an aircraft to, from, or on an airport within the Anchorage, Alaska, Terminal Area shall operate that aircraft according to the rules set forth in this section and §§ 93.59, 93.61, 93.63, 93.65, 93.67, or 93.68 as applicable, unless otherwise authorized or required by ATC.

(b) Each person operating an airplane within the Anchorage, Alaska Terminal Area shall conform to the flow of traffic depicted on the appropriate aeronautical charts.

(c) Each person operating a helicopter shall operate it in a manner so as to avoid the flow of airplanes.

(d) Except as provided in § 93.65 (d) and (e), and § 93.67(b), each person operating an aircraft in the Anchorage, Alaska, Terminal Area shall operate that aircraft only within the designated segment containing the arrival or departure airport.

(e) Except as provided in §§ 93.63(d) and 93.67(b), each person operating an aircraft in the Anchorage, Alaska, Terminal Area shall maintain two-way radio communications with the ATCT serving the segment containing the arrival or departure airport.

6. Section 93.59 is revised to read as follows:

§ 93.59 General rules: International segment.

(a) No person may operate an aircraft at an altitude between 1,200 feet MSL and 2,000 feet MSL in that portion of this segment lying north of the midchannel of Knik Arm.

(b) Each person operating an airplane at a speed of more than 105 knots within this segment (except that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 1,600 feet MSL until maneuvering for a safe landing requires further descent.

(c) Each person operating an airplane at a speed of 105 knots or less within this segment (except that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 900 feet MSL until maneuvering for a safe landing requires further descent.

7. Section 93.61 is revised to read as follows:

§ 93.61 General rules: Lake Hood segment.

(a) No person may operate an aircraft at an altitude between 1,200 feet MSL and 2,000 feet MSL in that portion of this segment lying north of the midchannel of Knik Arm.

(b) Each person operating an airplane within this segment (except that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 600 feet MSL until maneuvering for a safe landing requires further descent.

8. Section 93.63 is revised to read as follows:

§ 93.63 General rules: Merrill segment.

(a) No person may operate an aircraft at an altitude between 600 feet MSL and 2,000 feet MSL in that portion of this segment lying north of the midchannel of Knik Arm.

(b) Each person operating an airplane at a speed of more than 105 knots within this segment (except for that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 1,200 feet MSL until maneuvering for a safe landing requires further descent.

(c) Each person operating an airplane at a speed of 105 knots or less within this segment (except for that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 900 feet MSL until maneuvering for a safe landing requires further descent.

(d) Whenever the Merrill ATCT is not operating, each person operating an aircraft either in that portion of the Merrill segment north of midchannel of Knik Arm, or in the Seward Highway segment at or below 1200 feet MSL, shall contact Anchorage Approach Control for wake turbulence and other advisories. Aircraft operating within the remainder of the segment should self-announce intentions on the Merrill Field CTAF.

9. Section 93.65 is revised to read as follows:

§ 93.65 General rules: Elmendorf segment.

(a) Each person operating a turbine-powered aircraft within this segment shall operate that aircraft at an altitude of at least 1,700 feet MSL until maneuvering for a safe landing requires further descent.

(b) Each person operating an airplane (other than turbine-powered aircraft) at a speed of more than 105 knots within this segment shall operate that airplane at an altitude of at least 1,200 feet MSL until maneuvering for a safe landing requires further descent.

(c) Each person operating an airplane (other than turbine-powered aircraft) at a speed of 105 knots or less within the segment shall operate that airplane at an altitude of at least 800 feet MSL until maneuvering for a safe landing requires further descent.

(d) A person landing or departing from Elmendorf AFB; may operate that aircraft at an altitude between 1,500 feet MSL and 1,700 feet MSL within that portion of the International and Lake Hood segments lying north of the midchannel of Knik Arm.

(e) A person landing or departing from Elmendorf AFB, may operate that aircraft at an altitude between 900 feet MSL and 1,700 feet MSL within that portion of the Merrill segment lying north of the midchannel of Knik Arm.

(f) A person operating in VFR conditions, at or below 600 feet MSL, north of a line beginning at the intersection of Farrell Road and the long. 149°43′08″W.; thence west along Farrell Road to the east end of Sixmile Lake; thence west along a line bearing on the middle of Lake Lorraine to the northwest bank of Knik Arm; is not required to establish two-way radio communications with ATC.

10. Section 93.67 is revised to read as follows:

§ 93.67 General rules: Bryant segment.

(a) Each person operating an airplane to or from the Bryant Airport shall

conform to the flow of traffic shown on the appropriate aeronautical charts, and while in the traffic pattern, shall operate that airplane at an altitude of at least 1,000 feet MSL until maneuvering for a safe landing requires further descent.

(b) Each person operating an aircraft within the Bryant segment should self-announce intentions on the Bryant Airport CTAF.

11. Section 93.68 is added to read as follows:

§ 93.68 General rules: Seward Highway segment.

(a) Each person operating an airplane in the Seward Highway segment shall operate that airplane at an altitude of at least 1,000 feet MSL unless maneuvering for a safe landing requires further descent.

(b) Each person operating an aircraft at or below 1,200 feet MSL that will transition to or from the Lake Hood or Merrill segment shall contact the appropriate ATCT prior to entering the Seward Highway segment. All other persons operating an airplane at or below 1,200 feet MSL in this segment shall contact Anchorage Approach Control.

(c) At all times, each person operating an aircraft above 1,200 MSL shall contact Anchorage Approach Control prior to entering the Seward Highway segment.

12. Section 93.69 is revised to read as follows:

§ 93.69 Special requirements, Lake Campbell and Sixmile Lake Airports.

Each person operating an aircraft to or from Lake Campbell or Sixmile Lake Airport shall conform to the flow of traffic for the Lake operations that are depicted on the appropriate aeronautical charts.

Appendix A—[Removed]

13. Appendix A, of part 93 is removed.

Issued in Washington, DC on March 24, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–7625 Filed 3–26–99; 8:45 am]

BILLING CODE 4910–13–M

federal register

Monday
March 29, 1999

Part III

Federal Emergency Management Agency

Compendium of Flood Map Changes; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Compendium of Flood Map Changes

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This Notice provides listings of changes made to National Flood Insurance Program (NFIP) maps produced by FEMA effective during the last 6 months of 1998.

DATES: The listings include changes to NFIP maps that became effective July 1, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Director, Technical Services Division, Mitigation Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202)646-2756.

SUPPLEMENTARY INFORMATION: In accordance with Section 1360(i) of the National Flood Insurance Reform Act of 1994, this Notice is provided to inform interested parties of changes made by FEMA to NFIP maps. The two listings provided show communities affected by map changes made by letter and communities affected by physical map changes. For each Letter of Map Change, the first listing provides the map panel(s) affected, effective (determination) date of the change, case number, and determination type. For each physical map change, the Map Revision listing provides the map panel(s) affected and the effective date of the change. The listing also identifies: (1) those panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate the Letters of Map Change issued before the effective date; and (2) those panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community. Future notices of changes to NFIP maps will be published approximately every 6 months.

Dated: March 23, 1999

Michael J. Armstrong,

Associate Director for Mitigation.

Two listings are provided below. The first listing includes all Letters of Map Change issued by FEMA from July 1 through December 31, 1998. The following types of letters are included in the listing:

Type	Description
01	Letter of Map Revision Based on Fill (218-65)
02	Letter of Map Amendment (218-70)
05	Letter of Map Revision With Base Flood Elevation Changes
06	Letter of Map Revision Without Base Flood Elevation Changes
08	Denial
12	Floodway Revision
17	Letter of Map Revision-inadvertent inclusion in floodway (218-65)
18	Letter of Map Revision-inadvertent inclusion in V zone (218-65)
19	Letter of Map Change Revalidation.

The second listing includes map panels that FEMA physically revised and republished from July 1 through December 31, 1998. For those map panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate Letters of Map Change issued before the effective date, two asterisks(**) are shown to the right of the map panel number. For those map panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community, three asterisks(***) are shown to the right of the map panel number.

Region	State	Community	Map panel	Determination date	Case No.	Type
01	CT	BERLIN, TOWN OF	0900220010D	28-JUL-98		02
01	CT	BERLIN, TOWN OF	0900220010D	16-OCT-98	98-01-1104A	02
01	CT	BERLIN, TOWN OF	0900220010D	04-AUG-98	98-01-706A	02
01	CT	CLINTON, TOWN OF	0900610006E	09-DEC-98	99-01-124A	02
01	CT	CROMWELL, TOWN OF	0901230010E	12-AUG-98	98-01-634A	02
01	CT	CROMWELL, TOWN OF	0901230005E	14-OCT-98	98-01-904A	02
01	CT	CROMWELL, TOWN OF	0901230005E	09-OCT-98	98-01-920A	02
01	CT	CROMWELL, TOWN OF	0901230010E	22-DEC-98	99-01-286A	02
01	CT	EAST GRANBY, TOWN OF	0900250005C	29-JUL-98	98-01-554A	02
01	CT	EAST HARTFORD, TOWN OF	0900260002D	16-OCT-98	98-01-1070A	02
01	CT	EAST HARTFORD, TOWN OF	0900260002D	22-JUL-98	98-01-708A	02
01	CT	FAIRFIELD, TOWN OF		30-OCT-98	98-01-1084A	02
01	CT	FAIRFIELD, TOWN OF	0900070009C	04-NOV-98	98-01-1100A	02
01	CT	GROTON, CITY OF	0901260002D	16-SEP-98	98-01-908A	02
01	CT	GUILFORD, TOWN OF	0900770005B	25-SEP-98	98-01-522A	02
01	CT	GUILFORD, TOWN OF	0900770005B	29-JUL-98	98-01-768A	02
01	CT	GUILFORD, TOWN OF	0900770010B	19-AUG-98	98-01-924A	02
01	CT	GUILFORD, TOWN OF	0900770015B	14-OCT-98	98-01-952A	02
01	CT	GUILFORD, TOWN OF	0900770015B	18-DEC-98	99-01-240A	02
01	CT	LYME, TOWN OF	0901270002A	02-OCT-98	98-01-1042A	02
01	CT	MARLBOROUGH, TOWN OF	0901480003C	15-JUL-98	98-01-628A	02
01	CT	MERIDEN, CITY OF	0900810006B	16-OCT-98	98-01-1022A	02
01	CT	MIDDLETOWN, CITY OF	0900680009B	09-OCT-98	98-01-608A	01
01	CT	MILFORD, CITY OF	0900820004D	25-NOV-98	99-01-038A	02
01	CT	NEW BRITAIN, CITY OF	0900320005C	07-AUG-98	98-01-856A	02
01	CT	NEW BRITAIN, CITY OF	0900320001C	25-NOV-98	99-01-138A	02
01	CT	NEW FAIRFIELD, TOWN OF	0901880010A	15-JUL-98	98-01-612A	02
01	CT	NEW HARTFORD, TOWN OF	0900480012B	02-DEC-98	99-01-156A	02
01	CT	NEW HAVEN, CITY OF	0900840005D	11-SEP-98	98-01-662A	01
01	CT	NEW HAVEN, CITY OF	0900840003C	07-JUL-98	98-01-812A	02
01	CT	NEW HAVEN, CITY OF	0900840003C	02-OCT-98	98-01-992A	02
01	CT	NORWALK, CITY OF	0900120005C	28-OCT-98	98-01-1094A	02
01	CT	NORWALK, CITY OF	0900120006C	04-SEP-98	98-01-720A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	CT	NORWALK, CITY OF	0900120010D	04-AUG-98	98-01-800A	02
01	CT	ORANGE, TOWN OF	0900870005C	07-OCT-98	98-01-762A	02
01	CT	PLYMOUTH, TOWN OF	0901380002B	21-OCT-98	98-01-1096A	02
01	CT	SIMSBURY, TOWN OF	0900350010C	20-NOV-98	99-01-074A	02
01	CT	SOUTHINGTON, TOWN OF	0900370009C	02-OCT-98	98-01-672A	02
01	CT	SOUTHINGTON, TOWN OF	0900370009C	24-NOV-98	99-01-170A	02
01	CT	STAFFORD, TOWN OF	0901520020B	18-SEP-98	98-01-818A	02
01	CT	STAMFORD, CITY OF	0900150007D	14-AUG-98	98-01-015P	08
01	CT	STAMFORD, CITY OF	0900150008D	02-JUL-98	98-01-578A	02
01	CT	STAMFORD, CITY OF	0900150005C	18-SEP-98	98-01-948A	02
01	CT	STAMFORD, CITY OF	0900150005C	04-DEC-98	99-01-176A	02
01	CT	STONINGTON, BOROUGH OF	0901930001F	22-DEC-98	99-01-146A	02
01	CT	STONINGTON, TOWN OF	0901060016F	07-OCT-98	98-01-1030A	02
01	CT	STONINGTON, TOWN OF	0901060016F	04-AUG-98	98-01-792A	02
01	CT	STONINGTON, TOWN OF	0901060012D	21-AUG-98	98-01-888A	02
01	CT	STONINGTON, TOWN OF	0901060012D	13-NOV-98	99-01-098A	02
01	CT	STRATFORD, TOWN OF	0900160002C	24-JUL-98	98-01-198A	02
01	CT	STRATFORD, TOWN OF	0900160002C	11-NOV-98	98-01-804A	02
01	CT	STRATFORD, TOWN OF	0900160003D	11-DEC-98	98-01-984A	02
01	CT	UNION, TOWN OF	090190 B	21-OCT-98	98-01-1072A	02
01	CT	WALLINGFORD, TOWN OF	0900900006C	18-SEP-98	98-01-596A	02
01	CT	WATERFORD, TOWN OF	0901070010C	02-SEP-98	98-01-906A	02
01	CT	WEST HAVEN, CITY OF	0900920002C	25-NOV-98	98-01-1126A	17
01	CT	WESTON, TOWN OF	0900180003C	22-DEC-98	99-01-222A	02
01	CT	WESTPORT, TOWN OF	0900190003C	28-OCT-98	98-01-1108A	02
01	CT	WESTPORT, TOWN OF	0900190003C	18-SEP-98	98-01-962A	02
01	CT	WETHERSFIELD, TOWN OF	0900400001B	09-DEC-98	98-01-980A	02
01	CT	WINCHESTER, TOWN OF	0901320002A	12-AUG-98	98-01-862A	02
01	MA	ACTON, TOWN OF	2501760005C	29-JUL-98	98-01-770A	02
01	MA	ADAMS, TOWN OF	2500160005B	09-DEC-98	98-01-1086A	17
01	MA	AMESBURY, TOWN OF	2500750004C	16-DEC-98	99-01-148A	02
01	MA	ASHLAND, TOWN OF	2501790002B	12-AUG-98	98-01-766A	02
01	MA	BARNSTABLE, TOWN OF	2500010022D	30-DEC-98	98-01-1020A	02
01	MA	BELLINGHAM, TOWN OF	2502320007B	04-NOV-98	98-01-914A	02
01	MA	BEVERLY, CITY OF	2500770006B	18-DEC-98	98-01-1002A	02
01	MA	BILLERICA, TOWN OF	2501830005C	06-NOV-98	98-01-1008A	02
01	MA	BOXFORD, TOWN OF	2500780012C	25-NOV-98	98-01-1014A	02
01	MA	BOXFORD, TOWN OF	2500780012C	10-JUL-98	98-01-728A	02
01	MA	BRAINTREE, TOWN OF	2502330010C	02-DEC-98	99-01-144A	02
01	MA	BRIDGEWATER, TOWN OF	2502600010B	16-SEP-98	98-01-988A	02
01	MA	BROCKTON, CITY OF	2502610005C	09-DEC-98	98-01-1080A	02
01	MA	BROCKTON, CITY OF	2502610010C	25-NOV-98	98-01-772A	02
01	MA	CHESTER, TOWN OF	2501360010B	09-SEP-98	98-01-810A	02
01	MA	CONCORD, TOWN OF	2501890005B	28-OCT-98	98-01-996A	02
01	MA	DANVERS, TOWN OF	2500790003B	25-SEP-98	98-01-440A	01
01	MA	DARTMOUTH, TOWN OF	2500510022E	20-NOV-98	99-01-090A	01
01	MA	DOVER, TOWN OF	2502380005C	22-JUL-98	98-01-470A	02
01	MA	EASTON, TOWN OF	2500530010D	02-DEC-98	99-01-118A	02
01	MA	EASTON, TOWN OF	2500530010D	02-DEC-98	99-01-128A	02
01	MA	FALMOUTH, TOWN OF	2552110012G	02-JUL-98	98-01-732A	02
01	MA	FALMOUTH, TOWN OF	2552110011F	26-AUG-98	98-01-798A	02
01	MA	FALMOUTH, TOWN OF	2552110008G	18-SEP-98	98-01-896A	02
01	MA	FRAMINGHAM, TOWN OF	2501930009C	16-OCT-98	98-01-1116A	02
01	MA	GEORGETOWN, TOWN OF	2500810010B	09-OCT-98	98-01-1066A	02
01	MA	GEORGETOWN, TOWN OF	2500810005B	02-JUL-98	98-01-200A	02
01	MA	GRANBY, TOWN OF	2501620010B	14-AUG-98	98-01-884A	02
01	MA	GROVELAND, TOWN OF	2500830005C	02-DEC-98	98-01-1110A	02
01	MA	HOLLAND, TOWN OF	2501410005B	16-OCT-98	98-01-1056A	02
01	MA	HOLLAND, TOWN OF	2501410005B	23-SEP-98	98-01-536A	02
01	MA	HOLLAND, TOWN OF	2501410005B	07-OCT-98	98-01-602A	02
01	MA	HOLLAND, TOWN OF	2501410005B	16-SEP-98	98-01-816A	02
01	MA	HOLLISTON, TOWN OF	2501950001B	07-AUG-98	98-01-784A	02
01	MA	HOLLISTON, TOWN OF	2501950004C	12-NOV-98	99-01-192A	02
01	MA	HUDSON, TOWN OF	2501970003B	04-DEC-98	99-01-186A	02
01	MA	LAKEVILLE, TOWN OF	2502710005C	11-NOV-98	98-01-826A	02
01	MA	LEXINGTON, TOWN OF	2501980005C	26-AUG-98	98-01-990A	02
01	MA	LOWELL, CITY OF	2502010006D	25-OCT-98	98-01-035P	05
01	MA	LOWELL, CITY OF	2502010006D	18-SEP-98	98-01-968A	02
01	MA	LYNNFIELD, TOWN OF	2500890005C	02-DEC-98	99-01-054A	02
01	MA	MASHPEE, TOWN OF	2500090009G	01-DEC-98	98-01-063P	06
01	MA	MERRIMAC, TOWN OF	2500920004B	23-SEP-98	98-01-1000A	02
01	MA	MILLBURY, TOWN OF	2503180005B	08-JUL-98	98-01-510A	02
01	MA •	NANTUCKET, TOWN OF	2502300011D	22-DEC-98	99-01-262A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	MA	NEWBURY, TOWN OF	2500960005C	11-NOV-98	98-01-900A	01
01	MA	NORTH ATTLEBOROUGH, TOWN OF	2500590010B	04-AUG-98	98-01-502A	02
01	MA	NORTH READING, TOWN OF	2502090001C	04-DEC-98	98-01-960A	02
01	MA	NORTHBOROUGH, TOWN OF	2503210001B	17-JUL-98	98-01-756A	02
01	MA	NORTHFIELD, TOWN OF	2501240004B	23-OCT-98	98-01-1106A	02
01	MA	ORLEANS, CITY OF	2500100003E	04-NOV-98	99-01-048A	02
01	MA	PITTSFIELD, CITY OF	2500370015D	02-JUL-98	98-01-636A	02
01	MA	QUINCY, CITY OF	2552190012C	07-OCT-98	98-01-686A	02
01	MA	QUINCY, CITY OF	2552190004C	04-AUG-98	98-01-852A	02
01	MA	QUINCY, CITY OF	2552190004C	02-SEP-98	98-01-912A	02
01	MA	RANDOLPH, TOWN OF	2502510003C	31-JUL-98	98-01-746A	02
01	MA	SHEFFIELD, TOWN OF	2500410009B	28-AUG-98	98-01-404A	01
01	MA	STOUGHTON, TOWN OF	2502530001B	08-JUL-98	98-01-454A	02
01	MA	SWAMPSCOTT, TOWN OF	2501050001C	04-NOV-98	98-01-1044A	02
01	MA	TEWKSBURY, TOWN OF	2502180001B	25-OCT-98	98-01-033P	05
01	MA	TEWKSBURY, TOWN OF	2502180001B	10-JUL-98	98-01-406A	02
01	MA	TOPSFIELD, TOWN OF		27-JUL-98		02
01	MA	TOPSFIELD, TOWN OF	2501060001D	27-JUL-98		02
01	MA	TOPSFIELD, TOWN OF	2501060001D	21-AUG-98	98-01-432A	02
01	MA	WAREHAM, TOWN OF	2552230011D	18-NOV-98	99-01-084A	02
01	MA	WELLESLEY, TOWN OF	2502550005B	06-NOV-98	98-01-538A	02
01	MA	WELLESLEY, TOWN OF	2502550005B	06-NOV-98	98-01-546A	02
01	MA	WESTWOOD, TOWN OF	2552250005C	06-NOV-98	98-01-682A	02
01	MA	WILLIAMSTOWN, TOWN OF	2500460020B	22-JUL-98	98-01-824A	02
01	ME	ALFRED, TOWN OF	2301910025C	22-DEC-98	98-01-414A	02
01	ME	BAR HARBOR, TOWN OF	2300640005B	07-AUG-98	98-01-848A	02
01	ME	BETHEL, TOWN OF	2300880010C	21-OCT-98	99-01-052A	02
01	ME	BIDDEFORD, CITY OF	2301450008B	29-JUL-98	98-01-680A	02
01	ME	BLUE HILL, TOWN OF	2302740020A	18-DEC-98	99-01-162A	02
01	ME	BROOKSVILLE, TOWN OF	2302760010B	09-DEC-98	99-01-142A	02
01	ME	CAMDEN, TOWN OF	2300740015B	22-DEC-98	99-01-226A	02
01	ME	CASCO, TOWN OF	2300440010B	18-SEP-98	98-01-930A	02
01	ME	CASTINE, TOWN OF	2302770005B	10-JUL-98	98-01-702A	02
01	ME	CHINA, TOWN OF	2302350005B	11-DEC-98	99-01-220A	02
01	ME	FREEPORT, TOWN OF	2300460011B	04-NOV-98	98-01-878A	02
01	ME	GARDINER, CITY OF	2300680002C	28-AUG-98	98-01-982A	02
01	ME	GREENWOOD, TOWN OF	230332 A	11-DEC-98	98-01-734A	02
01	ME	HARMONY, TOWN OF	230360 B	11-NOV-98	98-01-047P	05
01	ME	HARPSWELL, TOWN OF	2301690018B	25-NOV-98	98-01-053P	05
01	ME	HARPSWELL, TOWN OF	2301690014D	18-SEP-98	98-01-976A	02
01	ME	HARPSWELL, TOWN OF	2301690009B	11-NOV-98	99-01-064A	02
01	ME	JONESPORT, TOWN OF	2301380010D	04-SEP-98	98-01-041P	05
01	ME	LEBANON, TOWN OF	230193	11-SEP-98	98-01-814A	02
01	ME	MADISON, TOWN OF	2301260020C	11-NOV-98	99-01-076A	02
01	ME	MADISON, TOWN OF	2301260009C	17-DEC-98	99-01-282A	02
01	ME	MARIAVILLE, TOWN OF	230286	02-SEP-98	98-01-838A	02
01	ME	MARIAVILLE, TOWN OF	230286	11-DEC-98	99-01-058A	02
01	ME	MILFORD, TOWN OF	2301100004B	18-DEC-98	99-01-104A	02
01	ME	NEW GLOUCESTER, TOWN OF		17-JUL-98		02
01	ME	NEWCASTLE, TOWN OF	2302180001A	21-OCT-98	99-01-056A	02
01	ME	NEWRY, TOWN OF	230337 A	21-AUG-98	98-01-806A	02
01	ME	PENOBSCOT, TOWN OF	2302900005A	25-NOV-98	99-01-120A	18
01	ME	PERRY, TOWN OF	2303190005B	12-AUG-98	98-01-550A	02
01	ME	PORTLAND, CITY OF	2300510007B	17-JUL-98	98-01-780A	02
01	ME	PORTLAND, CITY OF	2300510004B	22-JUL-98	98-01-790A	02
01	ME	PORTLAND, CITY OF	2300510007B	24-JUL-98	98-01-830A	02
01	ME	PORTLAND, CITY OF	2300510007B	07-AUG-98	98-01-844A	02
01	ME	PORTLAND, CITY OF	2300510007B	12-AUG-98	98-01-864A	02
01	ME	PORTLAND, CITY OF	2300510007C	18-DEC-98	99-01-160A	02
01	ME	PORTLAND, CITY OF	2300510007C	30-DEC-98	99-01-260A	02
01	ME	RANGELEY, TOWN OF	230352 A	23-SEP-98	98-01-876A	02
01	ME	RANGELEY, TOWN OF	230352 A	11-DEC-98	99-01-168A	02
01	ME	ROXBURY, TOWN OF	230181 A	25-SEP-98	98-01-582A	02
01	ME	RUMFORD, TOWN OF	2300990014B	15-JUL-98	98-01-808A	02
01	ME	SANFORD, TOWN OF	2301560017E	09-DEC-98	98-01-868A	02
01	ME	SANFORD, TOWN OF	2301560017E	30-DEC-98	99-01-254A	02
01	ME	SCARBOROUGH, TOWN OF	2300520010D	12-AUG-98	98-01-828A	02
01	ME	SCARBOROUGH, TOWN OF	2300520021D	13-NOV-98	99-01-096A	02
01	ME	SORRENTO, TOWN OF	230292 A	22-JUL-98	98-01-632A	02
01	ME	SORRENTO, TOWN OF	230292 A	07-OCT-98	98-01-820A	02
01	ME	SOUTH PORTLAND, CITY OF	2300530009D	21-OCT-98	98-01-712A	02
01	ME	ST. ALBANS, TOWN OF	230369 A	09-OCT-98	98-01-886A	02
01	ME	ST. ALBANS, TOWN OF	230369 A	25-NOV-98	99-01-116A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	ME	STANDISH, TOWN OF	2302070040B	07-OCT-98	98-01-892A	02
01	ME	STANDISH, TOWN OF	2302070040B	18-SEP-98	98-01-918A	02
01	ME	STEUBEN, TOWN OF	230323 A	02-JUL-98	98-01-714A	02
01	ME	STOCKTON SPRINGS, TOWN OF	2302660001B	07-AUG-98	98-01-858A	02
01	ME	SURRY, TOWN OF	2302960010B	21-OCT-98	98-01-894A	18
01	ME	SWANVILLE,TOWN OF	230267 A	25-NOV-98	99-01-082A	02
01	ME	WATERBORO, TOWN OF	2301990007C	18-SEP-98	98-01-1018A	02
01	ME	WATERBORO, TOWN OF	2301990003C	09-DEC-98	99-01-210A	02
01	ME	WATERFORD, TOWN OF	2303430016A	16-DEC-98	99-01-204A	02
01	ME	WATERFORD, TOWN OF	2303430016A	09-DEC-98	99-01-206A	02
01	ME	WELLS, TOWN OF	2301580004B	11-NOV-98	98-01-842A	02
01	ME	WELLS, TOWN OF	2301580005B	11-NOV-98	98-01-842A	02
01	ME	WINDHAM, TOWN OF	2301890030B	14-AUG-98	98-01-558A	02
01	ME	WINDHAM, TOWN OF	2301890015B	26-AUG-98	98-01-954A	02
01	ME	WINDHAM, TOWN OF	2301890015B	06-NOV-98	99-01-050A	02
01	ME	WINTERVILLE PLANTATION	230450 A	04-SEP-98	98-01-978A	02
01	NH	BEDFORD, TOWN OF	3300830005C	16-DEC-98	99-01-228A	02
01	NH	BELMONT, TOWN OF	330002 B	30-OCT-98	98-01-1068A	02
01	NH	BELMONT, TOWN OF	330002 B	30-OCT-98	99-01-034A	02
01	NH	BRISTOL, TOWN OF	3300470007B	11-SEP-98	98-01-872A	02
01	NH	CONWAY, TOWN OF	3300110020B	02-DEC-98	98-01-1098A	02
01	NH	CONWAY, TOWN OF	3300110020B	09-SEP-98	98-01-986A	02
01	NH	DERRY, TOWN OF	3301280006B	18-DEC-98		02
01	NH	EPSOM, TOWN OF	3301120005B	25-SEP-98	98-01-618A	01
01	NH	ERROL, TOWN OF	330206 A	04-SEP-98	98-01-512A	02
01	NH	FRANKLIN, CITY OF	3301130010B	29-JUL-98	98-01-748A	02
01	NH	GILSUM, TOWN OF	3300210015B	30-SEP-98	98-01-1032A	02
01	NH	HEBRON, TOWN OF	3300580010B	05-AUG-98	98-01-654A	02
01	NH	HEBRON, TOWN OF	3300580010B	04-AUG-98	98-01-716A	02
01	NH	HOOKSETT, TOWN OF	3301150015C	30-DEC-98	99-01-070A	02
01	NH	MEREDITH, TOWN OF	3300060010B	22-DEC-98	99-01-278A	02
01	NH	MIDDLETON, TOWN OF	3302220001B	30-DEC-98	99-01-198A	02
01	NH	NEW DURHAM, TOWN OF	3302270010B	28-AUG-98	98-01-154A	02
01	NH	NEW LONDON, TOWN OF	3302300010B	07-AUG-98	98-01-530A	02
01	NH	NOTTINGHAM, TOWN OF	3301370020C	21-OCT-98	98-01-846A	02
01	NH	PLAINFIELD, TOWN OF	3301620020B	21-AUG-98	98-01-788A	02
01	NH	PORTSMOUTH, CITY OF	3301390025B	12-AUG-98	98-01-690A	02
01	NH	PORTSMOUTH, CITY OF	3301390008B	11-SEP-98	98-01-942A	02
01	NH	PORTSMOUTH, CITY OF	3301390008B	11-SEP-98	98-01-944A	02
01	NH	RAYMOND, TOWN OF	3301400005D	09-OCT-98	98-01-1060A	02
01	NH	SALEM, TOWN OF	3301420005C	23-OCT-98	98-01-966A	02
01	NH	SALEM, TOWN OF	3301420005C	23-OCT-98	99-01-068A	02
01	NH	WEBSTER, TOWN OF	3302360005B	12-AUG-98	98-01-106A	02
01	NH	WILMOT, TOWN OF	3301249999A	30-DEC-98	98-01-1120A	02
01	NH	WINCHESTER, TOWN OF	3300280020B	10-JUL-98	98-01-594A	02
01	NH	WOLFEBORO, TOWN OF	3302390015A	11-SEP-98	98-01-922A	02
01	RI	BARRINGTON, TOWN OF	44001C0007F	30-SEP-98	98-01-1074A	02
01	RI	BARRINGTON, TOWN OF	44001C0002F	09-DEC-98	98-01-880A	02
01	RI	BARRINGTON, TOWN OF	44001C0002F	13-NOV-98	98-01-998A	02
01	RI	CRANSTON, CITY OF	4453960006B	18-DEC-98	99-01-092A	02
01	RI	GLOCESTER, TOWN OF	4400340005C	22-JUL-98	98-01-778A	02
01	RI	GLOCESTER, TOWN OF	4400340010C	29-JUL-98	98-01-796A	02
01	RI	HOPKINTON, TOWN OF	4400280007B	30-DEC-98	99-01-060A	02
01	RI	MIDDLETOWN, TOWN OF	4454010003D	29-SEP-98	98-01-1054A	02
01	RI	NORTH KINGSTOWN, TOWN OF	4454040008B	29-JUL-98	98-01-374A	02
01	RI	SOUTH KINGSTOWN, TOWN OF	4454070032G	14-OCT-98	98-01-520A	02
01	RI	WARWICK, CITY OF	4454090006E	16-OCT-98	98-01-684A	02
01	RI	WEST WARWICK, TOWN OF	4400070002B	20-AUG-98	97-01-045P	05
01	VT	FAYSTON, TOWN OF	5003260011A	23-OCT-98	98-01-1112A	02
01	VT	JAMAICA, TOWN OF	5001310007C	04-SEP-98	98-01-898A	02
01	VT	LONDONDERRY, TOWN OF	5001320005C	02-OCT-98	98-01-420A	17
01	VT	MIDDLETOWN SPRINGS, TOWN OF	500261 A	23-SEP-98	98-01-926A	02
01	VT	MONKTON, TOWN OF	5001670005A	30-DEC-98	99-01-182A	02
01	VT	MONTPELIER, CITY OF	5055180002A	04-AUG-98	98-01-850A	02
01	VT	MONTPELIER, CITY OF	5055180002A	16-SEP-98	98-01-932A	02
01	VT	PITTSFORD, TOWN OF	5000980025B	07-OCT-98	98-01-958A	02
01	VT	RANDOLPH, TOWN OF	5000730003B	02-DEC-98	99-01-174A	02
01	VT	RICHMOND, TOWN OF	5000400008B	16-SEP-98	98-01-782A	02
01	VT	RICHMOND, TOWN OF	5000400008B	18-SEP-98	98-01-940A	02
01	VT	RUTLAND, CITY OF	5001010001C	02-DEC-98	99-01-154A	02
01	VT	RYEGATE, TOWN OF	5000300006B	10-DEC-98	99-01-040A	02
01	VT	STRAFFORD, TOWN OF	5002400005C	20-JUL-98	98-01-722A	02
01	VT	WALLINGFORD, TOWN OF	5001030005B	17-JUL-98	98-01-514A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
01	VT	WATERVILLE, TOWN OF	500233 A	16-SEP-98	98-01-866A	02
02	NJ	ABERDEEN, TOWNSHIP OF	3403120002B	23-SEP-98	98-02-1062A	02
02	NJ	ABSECON, CITY OF	340001 B	02-DEC-98	98-02-1174A	02
02	NJ	ABSECON, CITY OF	340001 B	12-AUG-98	98-02-748A	02
02	NJ	ALLOWAY, TOWNSHIP OF	3404130001B	02-JUL-98	98-02-842A	02
02	NJ	BERKELEY HEIGHTS, TOWNSHIP OF	3404590005C	07-OCT-98	98-02-1102A	02
02	NJ	BERKELEY HEIGHTS, TOWNSHIP OF	3404590005C	02-DEC-98	98-02-1184A	02
02	NJ	BERKELEY HEIGHTS, TOWNSHIP OF	3404590005C	30-OCT-98	98-02-1298A	02
02	NJ	BERKELEY, TOWNSHIP OF	3403690010C	22-JUL-98	98-02-638A	02
02	NJ	BLOOMFIELD, TOWN OF	3401780001B	04-AUG-98	98-02-902A	02
02	NJ	BORDENTOWN, TOWNSHIP OF	3400880004C	06-NOV-98	98-02-900A	02
02	NJ	BRICK, TOWNSHIP OF	3452850007E	18-SEP-98	98-02-1024A	02
02	NJ	BRICK, TOWNSHIP OF	3452850007E	29-JUL-98	98-02-776A	02
02	NJ	CARNEYS POINT, TOWNSHIP OF	3404240005B	04-NOV-98	99-02-084A	02
02	NJ	CINNAMINSON, TOWNSHIP OF	3400920005B	30-SEP-98	98-02-1042A	02
02	NJ	CRANFORD, TOWNSHIP OF	3452910001B	04-NOV-98	99-02-100A	02
02	NJ	DOVER, TOWNSHIP OF	3452930011D	14-JUL-98	98-02-007P	05
02	NJ	DOVER, TOWNSHIP OF	3452930003D	14-OCT-98	98-02-1168A	02
02	NJ	DOVER, TOWNSHIP OF	3452930011D	29-JUL-98	98-02-892A	02
02	NJ	DUNELLEN, BOROUGHS OF	3402590001B	08-JUL-98	98-02-716A	02
02	NJ	EDISON, TOWNSHIP OF	3402610003C	13-AUG-98	97-02-043P	05
02	NJ	EGG HARBOR, TOWNSHIP OF	3400070013B	02-JUL-98	98-02-816A	02
02	NJ	FAIR LAWN, BOROUGH OF	34003C0178F	30-SEP-98	98-02-1164A	02
02	NJ	FAIR LAWN, BOROUGH OF	34003C0167F	03-NOV-98	98-02-1292A	02
02	NJ	FAIR LAWN, BOROUGH OF	34003C0167F	17-JUL-98	98-02-884A	02
02	NJ	FAIR LAWN, BOROUGH OF	34003C0186F	07-AUG-98	98-02-886A	02
02	NJ	FAIR LAWN, BOROUGH OF	34003C0186F	11-DEC-98	99-02-184A	02
02	NJ	FARMINGDALE, BOROUGH OF	340296 B	04-SEP-98	98-02-966A	02
02	NJ	FRANKLIN, TOWNSHIP OF	3404340015C	08-JUL-98	98-02-846A	02
02	NJ	GLEN RIDGE BOROUGH, TOWNSHIP OF	3401830001B	25-NOV-98	99-02-106A	02
02	NJ	HACKENSACK MEADOWLANDS COMMISSION	34003C0262F	17-JUL-98	98-02-526A	02
02	NJ	HAMILTON, TOWNSHIP OF	3402460015C	02-OCT-98	98-02-1036A	02
02	NJ	HAMILTON, TOWNSHIP OF	3402460015C	31-JUL-98	98-02-840A	02
02	NJ	HAMILTON, TOWNSHIP OF	3402460005B	30-OCT-98	98-02-906A	02
02	NJ	HOBOKEN, CITY OF	3402220001B	16-OCT-98	98-02-852A	02
02	NJ	HOWELL, TOWNSHIP OF	3403010022B	17-NOV-98	98-02-818A	02
02	NJ	JEFFERSON, TOWNSHIP OF	3405220002B	25-NOV-98	99-02-104A	02
02	NJ	JEFFERSON, TOWNSHIP OF	3405220002B	25-NOV-98	99-02-130A	02
02	NJ	LIVINGSTON, TOWNSHIP OF	3401850002D	02-OCT-98	98-02-1090A	02
02	NJ	LONG BRANCH, CITY OF	3403070001C	22-DEC-98	99-02-180A	02
02	NJ	LOWER ALLOWAYS CREEK, TOWNSHIP OF	3404160006B	16-DEC-98	99-02-108A	02
02	NJ	MANALAPAN, TOWNSHIP OF	3403080001A	14-OCT-98	98-02-1176A	02
02	NJ	MANASQUAN, BOROUGH OF	3453030001C	18-SEP-98	98-02-980A	02
02	NJ	MANASQUAN, BOROUGH OF	3453030001C	25-NOV-98	99-02-102A	02
02	NJ	MANVILLE, BOROUGH OF	3404370001B	08-JUL-98	98-02-826A	02
02	NJ	MEDFORD, TOWNSHIP OF	3401040010B	02-DEC-98	98-02-1204A	02
02	NJ	MIDDLESEX, BOROUGH OF	3453050001B	11-SEP-98	98-02-1002A	01
02	NJ	MIDDLESEX, BOROUGH OF	3453050001B	04-AUG-98	98-02-768A	02
02	NJ	MONTVALE, BOROUGH OF	34003C0092F	12-AUG-98	98-02-932A	02
02	NJ	MONTVILLE, TOWNSHIP OF	3403490005C	30-OCT-98	98-02-1210A	02
02	NJ	MORRIS, TOWNSHIP OF	3403500004B	16-OCT-98	98-02-1214A	02
02	NJ	NATIONAL PARK, BOROUGH OF	3402090001C	23-OCT-98	98-02-1270A	02
02	NJ	NATIONAL PARK, BOROUGH OF	3402090001C	18-SEP-98	98-02-958A	02
02	NJ	NEPTUNE CITY, BOROUGH OF	340316 B	23-OCT-98	98-02-1242A	02
02	NJ	NEW BRUNSWICK, CITY OF	3402700001B	18-NOV-98	98-02-1284A	02
02	NJ	NEW MILFORD, BOROUGH OF	34003C0191F	21-OCT-98	98-02-1288A	02
02	NJ	NEW MILFORD, BOROUGH OF	34003C0184F	22-DEC-98	98-02-964A	02
02	NJ	NEW PROVIDENCE, BOROUGH OF	3453060001C	19-AUG-98	98-02-978A	02
02	NJ	NORTH WILDWOOD, CITY OF	3453080001D	04-AUG-98	98-02-037P	05
02	NJ	NORWOOD, BOROUGH OF	34003C0114F	16-OCT-98	98-02-1178A	01
02	NJ	PALMYRA, BOROUGH OF	3401100001C	25-NOV-98	99-02-122A	01
02	NJ	PARAMUS, BOROUGHS OF	34003C0179F	18-NOV-98	98-02-1240A	01
02	NJ	PASSAIC, TOWNSHIP OF	340356 A	11-DEC-98	99-02-036A	02
02	NJ	PASSAIC, TOWNSHIP OF	340356 A	20-NOV-98	99-02-082A	02
02	NJ	PEMBERTON, TOWNSHIP OF	3401120025A	09-SEP-98	98-02-918A	02
02	NJ	PENNSVILLE, TOWNSHIP OF	3405120003B	21-AUG-98	98-02-630A	02
02	NJ	PEQUANNOCK, VILLAGE OF	3453110003C	08-JUL-98	98-02-764A	02
02	NJ	POINT PLEASANT, BOROUGH OF	3453130001B	26-AUG-98	98-02-974A	02
02	NJ	POMPTON LAKES, BORO OF	3455280001E	17-AUG-98	98-02-938A	02
02	NJ	POMPTON LAKES, BORO OF	3455280001E	17-AUG-98	98-02-996A	02
02	NJ	RAHWAY, CITY OF	3453140001C	17-JUL-98	98-02-704A	02
02	NJ	RAMSEY, BOROUGH OF	34003C0078F	08-JUL-98	98-02-047A	02
02	NJ	RAMSEY, BOROUGH OF	34003C0067F	08-JUL-98	98-02-718A	01

Region	St
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NJ
02	NY
02	NY
02	NY

Region	State	Community	Map panel	Determination date	Case No.	Type
02	NJ	RAMSEY, BOROUGH OF	34003C0067F	09-SEP-98	98-02-856A	01
02	NJ	RARITAN, TOWNSHIP OF	3402400012A	15-JUL-98	98-02-582A	02
02	NJ	SAYREVILLE, BOROUGHS OF	3402760002C	12-AUG-98	98-02-928A	02
02	NJ	SCOTCH PLAINS, TOWNSHIP OF	3404740005B	18-SEP-98	98-02-1026A	02
02	NJ	SOUTH BRUNSWICK, TOWNSHIP OF	3402780002B	14-AUG-98	98-02-998A	02
02	NJ	SOUTH BRUNSWICK, TOWNSHIP OF	3402780010B	13-OCT-98	99-02-032A	02
02	NJ	SPRING LAKE, BOROUGH OF	3403290001D	18-NOV-98	99-02-124A	02
02	NJ	STAFFORD, TOWNSHIP OF	3403930030B	23-SEP-98	98-02-766A	02
02	NJ	TRENTON, CITY OF	3453250003C	25-AUG-98	98-02-065P	06
02	NJ	UPPER DEERFIELD, TOWNSHIP OF	340175 B	19-AUG-98	98-02-668A	02
02	NJ	VERNON, TOWNSHIP OF	3405610030A	02-DEC-98	99-02-118A	02
02	NJ	VINELAND, CITY OF	3401760020B	02-OCT-98	98-02-910A	02
02	NJ	VOORHEES, TOWNSHIP OF	3405380005A	21-OCT-98	98-02-934A	17
02	NJ	WALDWICK, BOROUGH OF	34003C0069F	04-DEC-98	99-02-052A	02
02	NJ	WALDWICK, BOROUGH OF	34003C0069G	11-DEC-98	99-02-254A	02
02	NJ	WAYNE, TOWNSHIP OF	3453270006C	30-DEC-98	99-02-150A	02
02	NJ	WESTVILLE, BOROUGH OF	3402150001B	23-SEP-98	98-02-1012A	02
02	NJ	WESTWOOD, BOROUGH OF	34003C0181F	12-AUG-98	98-02-462A	01
02	NJ	WINSLOW, TOWNSHIP OF	3401480005B	08-JUL-98	98-02-854A	02
02	NY	AMHERST, TOWN OF	3602260007E	19-AUG-98	98-02-1014A	02
02	NY	AMHERST, TOWN OF	3602260006E	09-SEP-98	98-02-1064A	02
02	NY	AMHERST, TOWN OF	3602260007E	20-NOV-98	98-02-1218A	02
02	NY	AMHERST, TOWN OF	3602260009E	04-AUG-98	98-02-838A	02
02	NY	AMHERST, TOWN OF	3602260004D	21-OCT-98	99-02-048A	02
02	NY	AMHERST, TOWN OF	3602260007E	21-OCT-98	99-02-048A	02
02	NY	AMHERST, TOWN OF	3602260007E	28-OCT-98	99-02-066A	02
02	NY	AMHERST, TOWN OF	3602260002E	25-NOV-98	99-02-142A	02
02	NY	AMHERST, TOWN OF	3602260003E	04-DEC-98	99-02-168A	02
02	NY	BAINBRIDGE, TOWN OF	3610850010D	23-SEP-98	98-02-992A	02
02	NY	BRONXVILLE, VILLAGE OF	3609050001B	30-OCT-98	98-02-1038A	02
02	NY	BROOKHAVEN,TOWN OF	36103C0695G	23-SEP-98	98-02-1044A	02
02	NY	BROOKHAVEN,TOWN OF	36103C0719G	07-OCT-98	98-02-1140A	02
02	NY	BROWNVILLE, TOWN OF	361063 C	24-JUL-98	98-02-894A	02
02	NY	BUFFALO, CITY OF	3602300010B	04-NOV-98	98-02-1030A	02
02	NY	BUFFALO, CITY OF	3602300010B	14-OCT-98	98-02-1086A	02
02	NY	BUFFALO, CITY OF	3602300010B	14-OCT-98	98-02-1152A	02
02	NY	BUFFALO, CITY OF	3602300010B	07-OCT-98	98-02-1154A	02
02	NY	BUFFALO, CITY OF	3602300010B	16-OCT-98	98-02-1156A	02
02	NY	BUFFALO, CITY OF	3602300010B	14-OCT-98	98-02-1158A	02
02	NY	BUFFALO, CITY OF	3602300010B	14-OCT-98	98-02-1160A	02
02	NY	BUFFALO, CITY OF	3602300010B	16-OCT-98	98-02-1162A	02
02	NY	BUFFALO, CITY OF	3602300010B	14-OCT-98	98-02-778A	02
02	NY	BUFFALO, CITY OF	3602300010B	18-DEC-98	99-02-128A	02
02	NY	BUFFALO, CITY OF	3602300010B	16-DEC-98	99-02-186A	02
02	NY	BUFFALO, CITY OF	3602300010B	30-DEC-98	99-02-232A	02
02	NY	CAMILLUS, TOWN OF	3605700004C	07-DEC-98	99-02-001P	05
01	NY	CAMILLUS, TOWN OF	3605700007C	07-DEC-98	99-02-001P	05
02	NY	CAMILLUS, TOWN OF	3605700010C	07-DEC-98	99-02-001P	05
02	NY	CAMILLUS, TOWN OF	3605700004C	30-DEC-98	99-02-216A	02
02	NY	CAPE VINCENT, TOWN OF	361062 C	14-OCT-98	98-02-936A	02
02	NY	CHEEKTOWAGA, TOWN OF	3602310005E	21-OCT-98	98-02-1054A	01
02	NY	CHESTER, TOWN OF	3608700010B	21-AUG-98	98-02-061A	02
02	NY	CHESTER, TOWN OF	3608700005B	31-JUL-98	98-02-702A	02
02	NY	CHESTER, TOWN OF	3608700010B	25-SEP-98	98-02-950A	01
02	NY	CICERO, TOWN OF	3605720004D	11-SEP-98	98-02-1018A	02
02	NY	CLARENCE, TOWN OF	3602320005C	18-SEP-98	98-02-1040A	02
02	NY	CLARENCE, TOWN OF	3602320013C	09-SEP-98	98-02-1048A	02
02	NY	CLARENCE, TOWN OF	3602320013C	16-SEP-98	98-02-1066A	02
02	NY	CLARENCE, TOWN OF	3602320005C	30-SEP-98	98-02-1082A	02
05	NY	CLARENCE, TOWN OF	3602320005C	14-OCT-98	98-02-1208A	02
01	NY	CLARENCE, TOWN OF	3602320005C	25-NOV-98	98-02-1216A	02
01	NY	CLARENCE, TOWN OF	3602320005C	11-NOV-98	98-02-1274A	02
01	NY	CLARENCE, TOWN OF	3602320013C	02-OCT-98	98-02-472A	01
02	NY	CLARENCE, TOWN OF	3602320011C	24-JUL-98	98-02-556A	17
02	NY	CLARENCE, TOWN OF	3602320013C	24-JUL-98	98-02-556A	17
02	NY	CLARENCE, TOWN OF	3602320013C	10-JUL-98	98-02-858A	02
02	NY	CLARENCE, TOWN OF	3602320011C	29-JUL-98	98-02-860A	02
02	NY	CLARENCE, TOWN OF	3602320005C	29-JUL-98	98-02-904A	02
02	NY	CLARENCE, TOWN OF	3602320013C	29-JUL-98	98-02-944A	02
02	NY	CLARENCE, TOWN OF	3602320011C	26-AUG-98	98-02-946A	17
02	NY	CLARENCE, TOWN OF	3602320013C	26-AUG-98	98-02-946A	17
02	NY	CLARENCE, TOWN OF	3602320005C	29-JUL-98	98-02-956A	02
02	NY	CLARKSTOWN, TOWN OF	3606790015D	17-JUL-98	98-02-280A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
02	NY	CLARKSTOWN, TOWN OF	3606790010D	08-JUL-98	98-02-682A	02
02	NY	CLERMONT, TOWNSHIP OF	3613150014B	25-SEP-98	98-02-1094A	01
02	NY	CLIFTON PARK, TOWN OF	36091C0670E	17-NOV-98	99-02-156A	02
02	NY	COPAKE, TOWN OF	360174 B	09-DEC-98	98-02-1300A	02
02	NY	CORINTH, TOWN OF	36091C0164E	04-NOV-98	98-02-1244A	02
02	NY	CORTLANDT, TOWN OF	3609060008B	28-OCT-98	98-02-1236A	02
02	NY	DOVER, TOWN OF	3613350008A	28-OCT-98	98-02-1088A	01
02	NY	EAST HAMPTON,TOWN OF	36103C0576G	06-NOV-98	98-02-1272A	02
02	NY	ELLERY, TOWN OF	3610720008B	09-SEP-98	98-02-740A	02
02	NY	ELLERY, TOWN OF	3610720016B	09-SEP-98	98-02-740A	02
02	NY	FREEPORT, VILLAGE OF	36059C0239F	16-DEC-98	98-02-1278A	02
02	NY	GARDINER, TOWN OF	3608560024C	04-NOV-98	98-02-1276A	02
02	NY	GREECE, TOWN OF	3604170006E	22-JUL-98	98-02-744A	17
02	NY	GREENWOOD LAKE, VILLAGE OF	3606160001B	30-DEC-98	99-02-210A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0238F	02-SEP-98	98-02-1050A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0304F	25-AUG-98	98-02-1084A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0243F	28-OCT-98	98-02-1294A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0242F	15-JUL-98	98-02-656A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0214G	04-NOV-98	99-02-054A	02
02	NY	HEMPSTEAD, TOWN OF	36059C0261F	18-DEC-98	99-02-208A	02
02	NY	HENRIETTE, TOWN OF	3604190005E	15-JUL-98	97-02-274A	01
02	NY	HENRIETTE, TOWN OF	3604190005E	24-JUL-98	98-02-890A	01
02	NY	HENRIETTE, TOWN OF	3604190005E	30-DEC-98	98-02-988A	01
02	NY	HENRIETTE, TOWN OF	3604190005E	17-DEC-98	99-02-202A	01
02	NY	HOMER, TOWN OF	3601810010B	07-OCT-98	98-02-1060A	02
02	NY	HOOSICK FALLS, VILLAGE OF	360674 B	26-AUG-98	98-02-952A	02
02	NY	HORICON, TOWN OF	360874 B	16-DEC-98	98-02-1222A	02
02	NY	HORSEHEADS, TOWN OF	3601530005C	02-JUL-98	98-02-332A	02
02	NY	IRONDEQUOIT, TOWN OF	3604220005B	02-OCT-98	98-02-1186A	02
02	NY	ISLIP,TOWNSHIP OF	36103C0878G	16-OCT-98	98-02-1282A	02
02	NY	LAKE LUZERNE, TOWN OF	3608780005B	11-DEC-98	98-02-1170A	02
02	NY	LINDENHURST, VILLAGE OF		09-OCT-98	98-02-067P	06
02	NY	LITTLE VALLEY, TOWN OF	3610660001B	24-JUL-98	98-02-868A	02
02	NY	LOCKE, TOWN OF	360114 B	13-NOV-98	99-02-034A	02
02	NY	LONG BEACH, CITY OF	36059C0308F	16-OCT-98	98-02-760A	02
02	NY	LONG BEACH, CITY OF	36059C0308F	04-DEC-98	99-02-068A	02
02	NY	MANLIUS, TOWN OF	3605840010D	12-AUG-98	98-02-646A	02
02	NY	MANLIUS, TOWN OF	3605840010D	23-OCT-98	98-02-670A	01
02	NY	MANLIUS, TOWN OF	3605840020D	07-AUG-98	98-02-730A	02
02	NY	MANLIUS, VILLAGE OF	3609770005C	27-OCT-98	99-02-090A	02
02	NY	MEXICO, VILLAGE OF	3614600001B	25-SEP-98	98-02-834A	02
02	NY	MONTEBELLO, VILLAGE OF	3616170002C	25-NOV-98	99-02-050A	02
02	NY	MONTGOMERY, TOWN OF	3606230014B	06-NOV-98	98-02-924A	02
02	NY	MONTGOMERY, VILLAGE OF	3606240001B	30-SEP-98	98-02-1190A	02
02	NY	NEW PALTZ, TOWN OF	3608590010D	04-NOV-98	98-02-1022A	02
02	NY	NEW PALTZ, TOWN OF	3608590010D	17-JUL-98	98-02-850A	02
02	NY	NEW YORK, CITY OF	3604970125D	23-OCT-98	98-02-1006A	02
02	NY	NEW YORK, CITY OF	3604970114D	14-OCT-98	98-02-1028A	02
02	NY	NEW YORK, CITY OF	3604970092C	25-SEP-98	98-02-1070A	02
02	NY	NEW YORK, CITY OF	3604970081C	30-SEP-98	98-02-1078A	02
02	NY	NEW YORK, CITY OF	3604970092C	02-OCT-98	98-02-1138A	02
02	NY	NEW YORK, CITY OF	3604970105C	16-DEC-98	98-02-1144A	02
02	NY	NEW YORK, CITY OF	3604970125D	30-OCT-98	98-02-1212A	02
02	NY	NEW YORK, CITY OF	3604970128D	02-DEC-98	98-02-1280A	02
02	NY	NEW YORK, CITY OF	3604970081C	02-JUL-98	98-02-662A	02
02	NY	NEW YORK, CITY OF	3604970092C	02-JUL-98	98-02-828A	02
02	NY	NEW YORK, CITY OF	3604970125D	11-SEP-98	98-02-866A	02
02	NY	NEW YORK, CITY OF	3604970128D	07-OCT-98	98-02-922A	02
02	NY	NEW YORK, CITY OF	3604970092C	18-SEP-98	98-02-968A	02
02	NY	NEW YORK, CITY OF	3604970128D	30-DEC-98	99-02-178A	02
02	NY	NEW YORK, CITY OF	3604970115B	16-DEC-98	99-02-194A	02
02	NY	NEWFANE, TOWN OF	3605040010B	04-NOV-98	98-02-1166A	02
02	NY	NIAGARA FALLS, CITY OF	3605060002B	30-OCT-98	98-02-1194A	02
02	NY	NIAGARA FALLS, CITY OF	3605060003C	22-JUL-98	98-02-820A	02
02	NY	ONONDAGA, TOWN OF	3605880010C	28-OCT-98	98-02-1200A	02
02	NY	OWEGO, TOWN OF	3608390020D	18-SEP-98	98-02-1076A	02
02	NY	OWEGO, TOWN OF	3608390020D	29-JUL-98	98-02-976A	02
02	NY	OYSTER BAY, TOWN OF	36059C0264F	23-SEP-98	98-02-1092A	02
02	NY	OYSTER BAY, TOWN OF	36059C0264F	28-OCT-98	98-02-1220A	02
02	NY	PAWLING, TOWN OF	3613410015B	30-DEC-98	99-02-174A	02
02	NY	PERINTON, TOWN OF	3604280005D	24-JUL-98	98-02-772A	02
02	NY	PUTNAM VALLEY, TOWN OF	3610300005B	24-JUL-98	98-02-448A	02
02	NY	PUTNAM, TOWN OF	3612360005B	21-OCT-98	98-02-1188A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
02	NY	PUTNAM, TOWN OF	3612360010B	21-OCT-98	98-02-1226A	02
02	NY	QUEENSBURY, TOWN OF	3608790020C	18-NOV-98	98-02-1224A	02
02	NY	RIVERHEAD, TOWN OF	36103C0428G	13-NOV-98	99-02-096A	02
02	NY	ROME, CITY OF	3605420013B	25-NOV-98	98-02-320A	01
02	NY	ROTTERDAM, TOWN OF	3607400012B	23-SEP-98	98-02-930A	02
02	NY	ROTTERDAM, TOWN OF	3607400009B	11-NOV-98	98-02-994A	02
02	NY	ROTTERDAM, TOWN OF	3607400012B	11-NOV-98	98-02-994A	02
02	NY	RYE, CITY OF	3609310002E	02-JUL-98	98-02-824A	02
02	NY	RYE, CITY OF	3609310001E	19-AUG-98	98-02-926A	02
02	NY	SALINA, TOWN OF	3605910001A	17-JUL-98	98-02-876A	02
02	NY	SARDINIA, TOWN OF	3602560010B	19-AUG-98	98-02-1010A	02
02	NY	SCHAGHTICOKE, TOWN OF	3611680016A	28-OCT-98	98-02-1286A	02
02	NY	SHELTER ISLAND, TOWN OF	36103C0186G	25-SEP-98	98-02-1100A	02
02	NY	SHERMAN,TOWN OF	361373 A	11-SEP-98	98-02-920A	02
02	NY	STILLWATER, TOWN OF	36091C0465E	19-AUG-98	98-02-984A	02
02	NY	STONY POINT, TOWN OF	3606930011C	15-JUL-98	98-02-540A	02
02	NY	UNADILLA, TOWN OF	3612810018B	07-OCT-98	98-02-1034A	01
02	NY	VARICK, TOWN OF	3607580005B	12-AUG-98	98-02-830A	02
02	NY	VERONA, TOWN OF	3605610034B	24-JUL-98	98-02-604A	02
02	NY	WAPPINGER, TOWN OF	3613870005A	16-OCT-98	98-02-1296A	02
02	NY	WEBB, TOWN OF	360321 A	09-OCT-98	98-02-942A	02
02	NY	WEBB, TOWN OF	360321 A	04-AUG-98	98-02-962A	02
02	NY	WEST SENECA, TOWN OF	3602620003B	11-NOV-98	98-02-1072A	02
02	NY	WHITE CREEK, TOWN OF	361238 B	14-AUG-98	98-02-516A	02
02	PR	PUERTO RICO,TERRITORY OF	7200000035D	09-OCT-98	98-02-1052A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000292C	02-OCT-98	98-02-1058A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000138B	11-NOV-98	98-02-1202A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000224B	16-OCT-98	98-02-1228A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000138B	26-AUG-98	98-02-458A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000035D	02-JUL-98	98-02-460A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000111C	02-OCT-98	98-02-466A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000112C	02-OCT-98	98-02-466A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000192B	02-SEP-98	98-02-470A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000197D	16-SEP-98	98-02-474A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000192B	14-OCT-98	98-02-538A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000218B	07-OCT-98	98-02-784A	02
02	PR	PUERTO RICO,TERRITORY OF	7200000047D	04-AUG-98	98-02-898A	01
02	PR	PUERTO RICO,TERRITORY OF	7200000053C	09-OCT-98	98-02-916A	02
02	PR	PUERTO RICO,TERRITORY OF	7200000049B	11-DEC-98	99-02-064A	02
03	DE	DOVER, CITY OF	1000060005C	21-OCT-98	98-03-1676A	02
03	DE	GEORGETOWN, TOWN OF	10005C0300F	15-JUL-98	98-03-914A	02
03	DE	KENT COUNTY *	1000010125B	07-OCT-98	98-03-1276A	02
03	DE	KENT COUNTY *	1000010130C	12-AUG-98	98-03-1430A	02
03	DE	KENT COUNTY *	1000010090B	30-OCT-98	98-03-1698A	02
03	DE	KENT COUNTY *	1000010080B	06-NOV-98	98-03-1840A	02
03	DE	LAUREL, TOWN OF	10005CIND0	21-SEP-98	R3-218-70-R	02
03	DE	NEW CASTLE COUNTY *	10003C0230F	14-DEC-98	97-03-091P	06
03	DE	NEW CASTLE COUNTY *	10003C0067F	17-JUL-98	98-03-1106A	02
03	DE	NEW CASTLE COUNTY *	10003C0230F	30-OCT-98	98-03-1406A	01
03	DE	NEW CASTLE COUNTY *	10003C0060F	07-AUG-98	98-03-1418A	02
03	DE	NEW CASTLE COUNTY *	10003C0060F	14-AUG-98	98-03-1448A	02
03	DE	NEW CASTLE COUNTY *	10003C0230F	25-NOV-98	98-03-1462A	01
03	DE	NEW CASTLE COUNTY *	10003C0067F	25-SEP-98	98-03-1624A	02
03	DE	NEW CASTLE COUNTY *	10003C0230F	06-NOV-98	98-03-1708A	02
03	DE	NEW CASTLE COUNTY *	10003C0066F	20-NOV-98	99-03-080A	02
03	DE	NEW CASTLE COUNTY *	10003C0060F	11-NOV-98	99-03-130A	02
03	DE	NEW CASTLE COUNTY *	10003C0066F	11-NOV-98	99-03-130A	02
03	DE	NEW CASTLE COUNTY *	10003C0059F	16-DEC-98	99-03-178A	02
03	DE	NEW CASTLE COUNTY *	10003C0059F	14-DEC-98	R3-218-70-R	02
03	DE	NEW CASTLE COUNTY *		14-DEC-98	R30218-70-R	02
03	DE	SUSSEX COUNTY*	10005C0275F	21-AUG-98	98-03-1222A	02
03	DE	SUSSEX COUNTY*	10005C0252F	04-SEP-98	98-03-1444A	02
03	DE	SUSSEX COUNTY*	10005C0250F	15-JUL-98	98-03-892A	02
03	DE	SUSSEX COUNTY*	10005C0125F	16-DEC-98	99-03-206A	02
03	DE	WILMINGTON, CITY OF	10003C0160F	30-DEC-98	99-03-120A	02
03	MD	ALLEGANY COUNTY *	2400010033B	07-OCT-98	98-03-1322A	17
03	MD	ALLEGANY COUNTY *	2400010041B	04-AUG-98	98-03-916A	*02
03	MD	ALLEGANY COUNTY *	2400010028A	26-OCT-98	99-03-084A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080011C	14-AUG-98	98-03-1022A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080044D	19-AUG-98	98-03-1146A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080059C	30-SEP-98	98-03-1256A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080014C	17-JUL-98	98-03-1296A	02
03	MD	ANNE ARUNDEL COUNTY *	2400080044D	15-OCT-98	98-03-1362A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
03	MD	ANNE ARUNDEL COUNTY *	2400080044D	16-SEP-98	98-03-1636A	02
03	MD	BALTIMORE COUNTY*	2400100390B	21-JUL-98	98-03-1264A	02
03	MD	BALTIMORE COUNTY*	2400100370B	21-OCT-98	98-03-1358A	02
03	MD	BALTIMORE COUNTY*	2400100210B	16-OCT-98	98-03-1582A	02
03	MD	BALTIMORE COUNTY*	2400100280B	04-DEC-98	98-03-1612A	02
03	MD	BALTIMORE COUNTY*	2400100220C	15-JUL-98	98-03-324A	02
03	MD	BALTIMORE COUNTY*	2400100370B	04-NOV-98	99-03-064A	02
03	MD	BALTIMORE COUNTY*	2400100435B	13-NOV-98	99-03-118A	02
03	MD	BALTIMORE COUNTY*	2400100315B	25-NOV-98	99-03-150A	02
03	MD	BALTIMORE COUNTY*	2400100455B	25-NOV-98	99-03-150A	02
03	MD	BALTIMORE COUNTY*	2400100440C	11-NOV-98	99-03-162A	02
03	MD	BALTIMORE, CITY OF	2400870012D	18-SEP-98	98-03-1550A	01
03	MD	CARROLL COUNTY *	2400150100B	30-DEC-98	99-03-038A	02
03	MD	CECIL COUNTY*	2400190041A	04-AUG-98	98-03-1174A	02
03	MD	CECIL COUNTY*	2400190044A	25-NOV-98	99-03-110A	02
03	MD	DORCHESTER COUNTY *	2400260175B	29-JUL-98	98-03-1070A	02
03	MD	FREDERICK COUNTY *	2400270180A	03-SEP-98	98-03-157P	06
03	MD	FREDERICK COUNTY *	2400270180A	06-NOV-98	98-03-161A	02
03	MD	GARRETT COUNTY *	2400340115B	22-DEC-98	98-03-1828A	02
03	MD	GARRETT COUNTY *	2400340090B	10-JUL-98	98-03-988A	02
03	MD	GARRETT COUNTY *	2400340037B	03-SEP-98	R3-218-70-R	02
03	MD	HARFORD COUNTY *	2400400015A	02-OCT-98	98-03-1116A	02
03	MD	HARFORD COUNTY *	2400400099A	25-NOV-98	98-03-1590A	02
03	MD	HOWARD COUNTY*	2400440023B	02-JUL-98	98-03-1078A	02
03	MD	HOWARD COUNTY*	2400440027C	28-OCT-98	98-03-1850A	02
03	MD	HOWARD COUNTY*	2400440027C	05-NOV-98	98-03-255P	05
03	MD	HOWARD COUNTY*	2400440023B	08-JUL-98	98-03-960A	02
03	MD	KENT COUNTY *	2400450040B	22-JUL-98	98-03-1112A	02
03	MD	KENT COUNTY *	2400450035B	14-AUG-98	98-03-1182A	02
03	MD	KENT COUNTY *	2400450035B	07-AUG-98	98-03-850A	02
03	MD	MONTGOMERY COUNTY *	2400490175C	17-JUL-98	98-03-1132A	02
03	MD	MONTGOMERY COUNTY *	2400490175C	25-NOV-98	98-03-552A	01
03	MD	PRINCE GEORGES COUNTY *	2452080095C	04-SEP-98	98-03-1460A	02
03	MD	QUEEN ANNES COUNTY	2400540045B	02-SEP-98	98-03-1514A	01
03	MD	RISING SUN, CITY OF	2401580001B	09-DEC-98	98-03-1700A	02
03	MD	SALISBURY, CITY OF	2400800003B	08-AUG-98	R3-218-70-R	02
03	MD	SOMERSET COUNTY *	2400610125D	14-OCT-98	98-03-1450A	02
03	MD	TALBOT COUNTY *	2400660022A	18-NOV-98	99-03-106A	02
03	MD	TALBOT COUNTY *	2400660023A	18-NOV-98	99-03-106A	02
03	MD	WASHINGTON COUNTY *	2400700090B	24-SEP-98	98-03-041P	05
03	MD	WASHINGTON COUNTY *	2400700095B	02-JUL-98	98-03-1086A	02
03	MD	WASHINGTON COUNTY *	2400700155A	24-JUL-98	R3-218-70-R	02
03	MD	WASHINGTON COUNTY *	2400700155A	24-JUL-98	R3-218-70-R	02
03	MD	WICOMICO COUNTY *	2400780027C	04-DEC-98	99-03-042A	01
03	PA	ABINGTON, TOWNSHIP OF	42091C0382E	11-DEC-98	99-03-136A	02
03	PA	ALSACE, TOWNSHIP OF	42011C0527E	29-JUL-98	98-03-1480A	02
03	PA	ALSACE, TOWNSHIP OF	42011C0367E	02-JUL-98	98-03-692A	02
03	PA	ALTOONA, CITY OF	4201590006C	11-DEC-98	98-03-1790A	01
03	PA	AMITY, TOWNSHIP OF	42011C0544E	29-JUL-98	98-03-1354A	02
03	PA	AMITY, TOWNSHIP OF	42011C0544E	12-AUG-98	98-03-1502A	02
03	PA	BENSALEM TOWNSHIP OF	4201810005D	23-SEP-98	98-03-1488A	02
03	PA	BETHEL PARK, BOROUGH OF	42003C0466E	02-DEC-98	99-03-144A	02
03	PA	BIRDSBORO BOROUGH OF	42011C0543E	26-AUG-98	98-03-1436A	02
03	PA	BIRMINGHAM, TOWNSHIP OF	42029C0362D	27-AUG-98	98-03-069P	06
03	PA	BIRMINGHAM, TOWNSHIP OF	42029C0364D	27-AUG-98	98-03-069P	06
03	PA	BLAKELY, BOROUGH OF	4205250005A	11-DEC-98	98-03-1742A	02
03	PA	BROTHERSVALLEY, TOWNSHIP OF	422511 A	26-AUG-98	98-03-1352A	02
03	PA	BUTLER, TOWNSHIP OF	4211380010B	14-OCT-98	98-03-1568A	17
03	PA	BUTLER, TOWNSHIP OF	422358 A	14-OCT-98	98-03-1568A	17
03	PA	CALN, TOWNSHIP OF	42029C0306D	07-AUG-98	98-03-1376A	02
03	PA	CECIL, TOWNSHIP OF	4221430005A	02-OCT-98	98-03-1410A	02
03	PA	CHARLESTOWN, TOWNSHIP OF	42029C0206D	14-OCT-98	98-03-510A	02
03	PA	CHARTIERS, TWONSHIP OF	4221440010B	09-OCT-98	98-03-1540A	17
03	PA	CHELTENHAM, TOWNSHIP OF	42091C0384E	16-SEP-98	98-03-1614A	02
03	PA	CHELTENHAM, TOWNSHIP OF		23-OCT-98	R3-218-70-R	02
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0559E	22-JUL-98	98-03-738A	02
03	PA	COLEBROOKDALE, TOWNSHIP OF	42011C0558E	14-AUG-98	98-03-746A	02
03	PA	CONCORD, TOWNSHIP OF	42045C0040D	18-SEP-98	98-03-1732A	02
03	PA	CONEMAUGH, TOWNSHIP OF	4220470005A	23-OCT-98	99-03-036A	02
03	PA	CONEWAGO, TOWNSHIP OF	4209180015B	25-SEP-98	98-03-898A	02
03	PA	CONEWAGO, TOWNSHIP OF	4209180015B	11-DEC-98	99-03-070A	02
03	PA	CONEWAGO, TOWNSHIP OF	4209180005B	25-NOV-98	99-03-116A	02
03	PA	COOLSPRING, TOWNSHIP OF	4218630005B	28-OCT-98	98-03-948A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
03	PA	DELMAR, TOWNSHIP OF	4211770015A	08-JUL-98	98-03-588A	02
03	PA	DOUGLASS, TOWNSHIP OF	42011C0558E	22-JUL-98	98-03-1440A	02
03	PA	EAST BRANDYWINE, TOWNSHIP OF	42029C0186D	07-OCT-98	98-03-1704A	02
03	PA	EAST GOSHEN, TOWNSHIP OF	42029C0218D	11-DEC-98	98-03-107P	06
03	PA	EAST GOSHEN, TOWNSHIP OF	42029C0356D	02-DEC-98	99-03-138A	02
03	PA	EAST HEMPFIELD, TOWNSHIP OF	4205480005B	09-SEP-98	98-03-1654A	02
03	PA	EAST VINCENT, TOWNSHIP OF	42029C0090D	13-JUL-98	98-03-013P	06
03	PA	EASTTOWN, TOWNSHIP OF	42029C0241D	09-JUL-98	98-03-023P	06
03	PA	EDINBORO, BOROUGH OF	4204480001B	21-OCT-98	98-03-1836A	02
03	PA	EXETER, TOWNSHIP OF	42011C0533E	19-AUG-98	98-03-1324A	02
03	PA	FALLS, TOWNSHIP OF	4201880004A	07-AUG-98	98-03-1180A	02
03	PA	FERGUSON, TOWNSHIP OF	4202600005D	03-SEP-98	98-03-039P	06
03	PA	FERGUSON, TOWNSHIP OF	4202600005D	08-JUL-98	98-03-096A	01
03	PA	FERGUSON, TOWNSHIP OF	4202600005D	18-DEC-98	98-03-1688A	02
03	PA	FLEETWOOD, BOROUGH OF	42011C0379E	22-JUL-98	98-03-1096A	02
03	PA	FORKS, TOWNSHIP OF	4219300010B	25-NOV-98	98-03-1772A	02
03	PA	FRANKLIN PARK, BOROUGH OF	42003C0177F	26-AUG-98	98-03-1446A	02
03	PA	GREENSBURG, CITY OF	42129C0408D	27-AUG-98	98-03-115P	06
03	PA	HAVERFORD, TOWNSHIP OF	42045C0014D	04-SEP-98	98-03-1702A	02
03	PA	HORSHAM, TOWNSHIP OF	42091C0292E	18-NOV-98	98-03-1846A	02
03	PA	JEFFERSON, TOWNSHIP OF	422050 A	06-NOV-98	98-03-1692A	02
03	PA	JERSEY SHORE, BOROUGH OF	420642 B	10-JUL-98	98-03-1064A	02
03	PA	JESSUP, BOROUGH OF	4205310005B	14-OCT-98	98-03-1746A	02
03	PA	JOHNSTOWN, CITY OF	4202310010C	04-AUG-98	98-03-1398A	02
03	PA	JOHNSTOWN, CITY OF	4202310005C	18-NOV-98	98-03-1750A	02
03	PA	JOHNSTOWN, CITY OF	4202310005C	25-NOV-98	99-03-222A	02
03	PA	KUTZTOWN, BOROUGH OF	42011C0194E	09-SEP-98	98-03-071P	06
03	PA	LAMAR, TOWNSHIP OF	4203270008C	02-DEC-98	98-03-430A	01
03	PA	LEACOCK, TOWNSHIP OF	4209580001B	30-DEC-98	98-03-1552A	02
03	PA	LEESPORT, BOROUGH OF	42011C0354E	04-AUG-98	98-03-666A	02
03	PA	LEHIGH, TOWNSHIP OF	4219310010A	07-AUG-98	98-03-1434A	02
03	PA	LIMERICK, TOWNSHIP OF	42091C0208E	07-OCT-98	98-03-1798A	02
03	PA	LITTLE BRITAIN, TOWNSHIP OF	4217750010B	12-AUG-98	98-03-1272A	02
03	PA	LOCK HAVEN, CITY OF	4203280001B	10-JUL-98	98-03-1234A	02
03	PA	LONGSWAMP, TOWNSHIP OF	42011C0220E	14-AUG-98	98-03-1438A	02
03	PA	LOWER ALSACE, TOWNSHIP OF	42011C0509E	22-JUL-98	98-03-976A	02
03	PA	LOWER BURRELL, CITY OF	42129C0078D	14-OCT-98	98-03-1374A	02
03	PA	LOWER BURRELL, CITY OF	42129C0078D	16-DEC-98	99-03-088A	02
03	PA	LOWER GWYNEDD, TOWNSHIP OF	42091C0259E	27-JUL-98	98-03-089P	06
03	PA	LOWER GWYNEDD, TOWNSHIP OF	42091C0267E	28-AUG-98	98-03-1492A	02
03	PA	LOWER HEIDELBERG, TOWNSHIP OF	42011C0480E	18-SEP-98	98-03-706A	02
03	PA	LOWER MACUNGIE, TOWNSHIP OF	420589 A	29-JUL-98	98-03-472A	17
03	PA	LOWER MAKEFIELD, TOWNSHIP OF	4201910002B	07-AUG-98	98-03-1050A	02
03	PA	LOWER MERION, TOWNSHIP OF	42091C0366E	17-JUL-98	98-03-1114A	02
03	PA	LOWER MERION, TOWNSHIP OF	42091C0362E	02-JUL-98	98-03-410A	02
03	PA	LOWER MERION, TOWNSHIP OF	42091C0432E	07-AUG-98	98-03-466A	02
03	PA	LOWER SOUTHAMPTON, TOWNSHIP OF	4201920005D	19-AUG-98	98-03-1316A	02
03	PA	LOWER SWATARA, TOWNSHIP OF	4203850010C	23-OCT-98	98-03-996A	02
03	PA	MAIDENCREEK, TOWNSHIP OF	42011C0358E	10-JUL-98	98-03-902A	02
03	PA	MANCHESTER, TOWNSHIP OF	4209310002B	21-AUG-98	98-03-1372A	01
03	PA	MAXATAWNY, TOWNSHIP OF	42011C0194E	09-SEP-98	98-03-071P	06
03	PA	MIDDLESEX, TOWNSHIP OF	4212290010B	16-DEC-98	R3-218	02
03	PA	MILTON, BOROUGH OF	4253840002C	29-JUL-98	98-03-1072A	01
03	PA	MONROE, TOWNSHIP OF	4211860005B	25-NOV-98	98-03-1602A	02
03	PA	MUHLENBERG, TOWNSHIP OF	42011C0364E	07-OCT-98	98-03-1674A	02
03	PA	NORTHAMPTON, BOROUGH OF	4207260005B	30-SEP-98	98-03-1084A	01
03	PA	NORTHAMPTON, TOWNSHIP OF	4209880010B	16-DEC-98	99-03-062A	02
03	PA	OLEY, TOWNSHIP OF	42011C0395E	18-SEP-98	98-03-1098A	02
03	PA	OLEY, TOWNSHIP OF	42011C0395E	14-OCT-98	98-03-776A	02
03	PA	PIKE, TOWNSHIP OF	42011C0412E	26-AUG-98	98-03-1408A	02
03	PA	RADNOR, TOWNSHIP OF	42045C0002D	17-NOV-98	98-03-1678A	02
03	PA	READING, CITY OF	42011C0512E	10-JUL-98	98-03-686A	02
03	PA	RICHMOND, TOWNSHIP OF	4208250020B	11-DEC-98	98-03-1584A	02
03	PA	RIDLEY, TOWNSHIP OF	42045C0046D	30-OCT-98	98-03-1696A	17
03	PA	ROBESON, TOWNSHIP OF	42011C0536E	17-NOV-98	99-03-202A	02
03	PA	ROCKLAND, TOWNSHIP OF	42011C0384E	02-DEC-98	98-03-1786A	02
03	PA	ROCKLAND, TOWNSHIP OF	42011C0384E	14-AUG-98	98-03-682A	02
03	PA	RUSCOMBMANOR, TOWNSHIP OF	42011C0379E	29-JUL-98	98-03-1474A	02
03	PA	SANDY LAKE, BOROUGH OF	4206770001B	23-OCT-98	98-03-1730A	02
03	PA	SCHUYLKILL, TOWNSHIP OF	4220200005A	23-OCT-98	98-03-1816A	02
03	PA	SILVER SPRING, TOWNSHIP OF	4203700020C	28-OCT-98	98-03-1800A	01
03	PA	SILVER SPRING, TOWNSHIP OF	4203700020C	24-JUL-98	98-03-974A	02
03	PA	SLATINGTON, BOROUGH OF	4205920001B	18-DEC-98	99-03-052A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
03	PA	SNOW SHOE, TOWNSHIP OF	4211980030B	07-OCT-98	98-03-1658A	02
03	PA	SOUTH HEIDELBERG, TOWNSHIP OF	42011C0490E	22-JUL-98	98-03-716A	02
03	PA	SOUTH LEBANON, TOWNSHIP OF	4205810008C	23-SEP-98	98-03-1486A	02
03	PA	SOUTH LEBANON, TOWNSHIP OF	4205810008C	21-OCT-98	99-03-044A	02
03	PA	SOUTH LEBANON, TOWNSHIP OF	4205810008C	04-NOV-98	99-03-086A	02
03	PA	SPRING, TOWNSHIP OF	42011C0484E	02-JUL-98	98-03-652A	01
03	PA	SPRING, TOWNSHIP OF	42011C0492E	02-JUL-98	98-03-684A	02
03	PA	SPRING, TOWNSHIP OF	42011C0491E	02-JUL-98	98-03-710A	02
03	PA	SPRING, TOWNSHIP OF	42011C0491E	10-JUL-98	98-03-714A	02
03	PA	SPRING, TOWNSHIP OF	42011C0491E	29-DEC-98	99-03-308A	02
03	PA	SPRINGETTSBURY, TOWNSHIP OF	4210310002B	10-JUL-98	97-03-093P	05
03	PA	SPRINGETTSBURY, TOWNSHIP OF	4210310002B	18-DEC-98	99-03-068A	02
03	PA	SPRINGFIELD, TOWNSHIP OF	42045C0023D	14-AUG-98	98-03-1156A	02
03	PA	SPRINGFIELD, TOWNSHIP OF	42045C0034D	18-DEC-98	98-03-1592A	02
03	PA	SPRINGFIELD, TOWNSHIP OF	42091C0379E	20-NOV-98	99-03-250A	02
03	PA	SUGARLOAF, TOWNSHIP OF		10-JUL-98	R3-218-70-R	02
03	PA	THORNBURY, TOWNSHIP OF	42029C0366D	10-JUL-98	98-03-1118A	02
03	PA	THORNBURY, TOWNSHIP OF	42029C0366D	06-NOV-98	98-03-1718A	02
03	PA	TOWAMENSING, TOWNSHIP OF	4214589999A	07-AUG-98	98-03-1076A	02
03	PA	TOWAMENSING, TOWNSHIP OF	4214589999A	29-JUL-98	98-03-1318A	02
03	PA	TRAPPE, BOROUGH OF	42091C0229E	08-JUL-98	98-03-918A	02
03	PA	UPPER ALLEN, TOWNSHIP OF	4203720010C	04-NOV-98	98-03-1542A	02
03	PA	UPPER DARBY, TOWNSHIP OF	42045C0025D	17-JUL-98	98-03-077P	05
03	PA	UPPER DUBLIN, TOWNSHIP OF	42091C0289E	30-JUL-98	98-03-1412A	02
03	PA	UPPER GWYNEDD, TOWNSHIP OF	42091C0256F	22-JUL-98	98-03-1000A	02
03	PA	UPPER GWYNEDD, TOWNSHIP OF	42091C0257E	10-SEP-98	98-03-217P	06
03	PA	UPPER MAKEFIELD, TOWNSHIP OF	4202070010B	14-OCT-98	98-03-1178A	02
03	PA	UPPER MERION, TOWNSHIP OF	42091C0353E	16-OCT-98	R3-218-70-R	02
03	PA	UPPER PROVIDENCE, TOWNSHIP OF	42045C0020D	16-DEC-98	98-03-1660A	02
03	PA	UPPER SOUTHAMPTON, TOWNSHIP OF	4209890001C	23-SEP-98	98-03-1370A	02
03	PA	UPPER UWCHLAN, TWP OF	42029C0178D	07-OCT-98	98-03-1526A	02
03	PA	UPPER UWCHLAN, TWP OF	42029C0180D	07-OCT-98	98-03-1526A	02
03	PA	WASHINGTON, TOWNSHIP OF	42011C0438E	17-NOV-98	99-03-164A	02
03	PA	WAYNE, TOWNSHIP OF	4212400026A	22-JUL-98	98-03-1304A	02
03	PA	WEST BRADFORD, TOWNSHIP OF	42029C0331D	04-DEC-98	99-03-236A	02
03	PA	WEST BRADFORD, TOWNSHIP OF	42029C0333D	04-DEC-98	99-03-236A	02
03	PA	WEST GOSHEN, TOWNSHIP OF	42029C0354D	07-AUG-98	98-03-1382A	02
03	PA	WEST PIKELAND, TOWNSHIP OF	42029C0201D	28-OCT-98	98-03-1604A	02
03	PA	WHITPAIN, TOWNSHIP OF	42091C0266E	11-SEP-98	98-03-235P	06
03	PA	WHITPAIN, TOWNSHIP OF	42091C0268E	11-SEP-98	98-03-235P	06
03	PA	WYOMISSING HILLS, BOROUGH OF	42011C0503E	02-JUL-98	98-03-766A	02
03	VA	ABINGDON, TOWN OF	5101690001B	25-NOV-98	98-03-187A	01
03	VA	ALBEMARLE COUNTY *	5100060185B	14-OCT-98	98-03-029P	05
03	VA	ALBEMARLE COUNTY *	5100060195B	14-OCT-98	98-03-029P	05
03	VA	ALEXANDRIA, CITY OF	5155190005D	04-NOV-98	99-03-100A	02
03	VA	ARLINGTON COUNTY *	5155200010B	16-OCT-98	98-03-1740A	02
03	VA	AUGUSTA COUNTY *	5100130180B	27-DEC-98	98-03-243P	05
03	VA	AUGUSTA COUNTY *	5100130185B	27-DEC-98	98-03-243P	05
03	VA	BEDFORD COUNTY *	5100160175A	09-OCT-98	98-03-1652A	02
03	VA	BEDFORD COUNTY *	5100160100A	14-OCT-98	98-03-1684A	02
03	VA	BEDFORD COUNTY *	5100160100A	02-JUL-98	98-03-634A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	17-JUL-98	98-03-1298A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	04-NOV-98	98-03-1830A	02
03	VA	CHESAPEAKE, CITY OF	510034 B	02-DEC-98	99-03-184A	02
03	VA	CHESTERFIELD COUNTY *	5100350089B	04-DEC-98	98-03-1384A	02
03	VA	CHESTERFIELD COUNTY *	5100350087B	16-DEC-98	98-03-1778A	02
03	VA	COVINGTON, CITY OF	5100400001B	28-AUG-98	98-03-1424A	02
03	VA	CRAIGSVILLE, TOWN OF	5100140001C	07-OCT-98	98-03-1644A	02
03	VA	CULPEPER, TOWN OF	5100420002B	11-SEP-98	98-03-1044A	02
03	VA	EDINBURG, TOWN OF	510213 A	17-JUL-98	98-03-540A	02
03	VA	FAIRFAX COUNTY *	5155250050D	29-JUL-98	98-03-1102A	02
03	VA	FAIRFAX COUNTY *	5155250025D	19-AUG-98	98-03-1104A	01
03	VA	FAIRFAX COUNTY *	5155250083D	17-JUL-98	98-03-1122A	02
03	VA	FAIRFAX COUNTY *	5155250100D	29-JUL-98	98-03-1128A	02
03	VA	FAIRFAX COUNTY *	5155250150D	08-JUL-98	98-03-1204A	02
03	VA	FAIRFAX COUNTY *	5155250025D	15-JUL-98	98-03-1214A	02
03	VA	FAIRFAX COUNTY *	5155250025D	15-JUL-98	98-03-1218A	02
03	VA	FAIRFAX COUNTY *	5155250075D	02-JUL-98	98-03-1232A	02
03	VA	FAIRFAX COUNTY *	5155250100D	14-AUG-98	98-03-1244A	02
03	VA	FAIRFAX COUNTY *	5155250117D	07-AUG-98	98-03-1254A	02
03	VA	FAIRFAX COUNTY *	5155250075D	17-JUL-98	98-03-1268A	02
03	VA	FAIRFAX COUNTY *	5155250075D	31-JUL-98	98-03-1274A	02
03	VA	FAIRFAX COUNTY *	5155250150D	07-OCT-98	98-03-1278A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
03	VA	FAIRFAX COUNTY *	5155250075D	14-AUG-98	98-03-1284A	02
03	VA	FAIRFAX COUNTY *	5155250075D	04-AUG-98	98-03-1300A	02
03	VA	FAIRFAX COUNTY *	5155250079D	07-AUG-98	98-03-1330A	02
03	VA	FAIRFAX COUNTY *	5155250100D	29-JUL-98	98-03-1332A	02
03	VA	FAIRFAX COUNTY *	5155250075D	04-AUG-98	98-03-1368A	02
03	VA	FAIRFAX COUNTY *	5155250125D	23-SEP-98	98-03-1390A	02
03	VA	FAIRFAX COUNTY *	5155250117D	04-AUG-98	98-03-1404A	02
03	VA	FAIRFAX COUNTY *	5155250025D	19-AUG-98	98-03-1416A	02
03	VA	FAIRFAX COUNTY *	5155250050D	11-NOV-98	98-03-1428A	02
03	VA	FAIRFAX COUNTY *	5155250100D	02-SEP-98	98-03-1452A	02
03	VA	FAIRFAX COUNTY *	5155250100D	26-AUG-98	98-03-1468A	02
03	VA	FAIRFAX COUNTY *	5155250050D	02-DEC-98	98-03-1476A	02
03	VA	FAIRFAX COUNTY *	5155250075D	25-SEP-98	98-03-1478A	02
03	VA	FAIRFAX COUNTY *	5155250117D	14-OCT-98	98-03-1518A	02
03	VA	FAIRFAX COUNTY *	5155250138D	26-AUG-98	98-03-1522A	02
03	VA	FAIRFAX COUNTY *	5155250100D	19-AUG-98	98-03-1530A	02
03	VA	FAIRFAX COUNTY *	5155250075D	21-AUG-98	98-03-1538A	02
03	VA	FAIRFAX COUNTY *	5155250150D	28-OCT-98	98-03-1548A	02
03	VA	FAIRFAX COUNTY *	5155250075D	11-SEP-98	98-03-1580A	02
03	VA	FAIRFAX COUNTY *	5155250075D	02-DEC-98	98-03-1596A	02
03	VA	FAIRFAX COUNTY *	5155250150D	23-SEP-98	98-03-1600A	02
03	VA	FAIRFAX COUNTY *	5155250050D	23-SEP-98	98-03-1620A	02
03	VA	FAIRFAX COUNTY *	5155250075D	18-SEP-98	98-03-1626A	02
03	VA	FAIRFAX COUNTY *	5155250100D	02-SEP-98	98-03-1628A	02
03	VA	FAIRFAX COUNTY *	5155250117D	07-OCT-98	98-03-1666A	02
03	VA	FAIRFAX COUNTY *	5155250083D	25-SEP-98	98-03-1680A	02
03	VA	FAIRFAX COUNTY *	5155250075D	18-SEP-98	98-03-1706A	02
03	VA	FAIRFAX COUNTY *	5155250100D	25-SEP-98	98-03-1716A	02
03	VA	FAIRFAX COUNTY *	5155250075D	25-SEP-98	98-03-1720A	02
03	VA	FAIRFAX COUNTY *	5155250150D	25-SEP-98	98-03-1752A	02
03	VA	FAIRFAX COUNTY *	5155250100D	23-OCT-98	98-03-1754A	02
03	VA	FAIRFAX COUNTY *	5155250025D	07-OCT-98	98-03-1756A	02
03	VA	FAIRFAX COUNTY *	5155250050D	16-OCT-98	98-03-1758A	02
03	VA	FAIRFAX COUNTY *	5155250075D	16-OCT-98	98-03-1760A	02
03	VA	FAIRFAX COUNTY *	5155250050D	02-OCT-98	98-03-1762A	02
03	VA	FAIRFAX COUNTY *	5155250025D	02-OCT-98	98-03-1764A	02
03	VA	FAIRFAX COUNTY *	5155250050D	09-OCT-98	98-03-1814A	02
03	VA	FAIRFAX COUNTY *	5155250050D	16-OCT-98	98-03-1822A	02
03	VA	FAIRFAX COUNTY *	5155250050D	16-OCT-98	98-03-1824A	02
03	VA	FAIRFAX COUNTY *	5155250025D	18-DEC-98	98-03-1826A	01
03	VA	FAIRFAX COUNTY *	5155250100D	11-DEC-98	98-03-1832A	02
03	VA	FAIRFAX COUNTY *	5155250100D	17-JUL-98	98-03-926A	02
03	VA	FAIRFAX COUNTY *	5155250100D	02-DEC-98	99-03-040A	02
03	VA	FAIRFAX COUNTY *	5155250075D	06-NOV-98	99-03-056A	02
03	VA	FAIRFAX COUNTY *	5155250100D	14-OCT-98	99-03-058A	02
03	VA	FAIRFAX COUNTY *	5155250025D	02-DEC-98	99-03-078A	02
03	VA	FAIRFAX COUNTY *	5155250100D	04-NOV-98	99-03-104A	02
03	VA	FAIRFAX COUNTY *	5155250083D	25-NOV-98	99-03-186A	02
03	VA	FAIRFAX COUNTY *	5155250100D	25-NOV-98	99-03-188A	02
03	VA	FAIRFAX COUNTY *	5155250150D	11-DEC-98	99-03-218A	02
03	VA	FAIRFAX COUNTY *	5155250087D	09-DEC-98	99-03-268A	02
03	VA	FAIRFAX COUNTY *	5155250025D	30-NOV-98	99-03-272A	01
03	VA	FAIRFAX COUNTY *	5155250050D	11-DEC-98	99-03-282A	02
03	VA	FAIRFAX COUNTY *	5155250100D	18-DEC-98	99-03-314A	02
03	VA	FAIRFAX COUNTY *	5155250150D	30-DEC-98	99-03-322A	02
03	VA	FAIRFAX COUNTY *	5155250050D	30-DEC-98	99-03-324A	02
03	VA	FAIRFAX, CITY OF	5155240005B	26-AUG-98	97-03-1054A	02
03	VA	FAIRFAX, CITY OF	5155240005B	08-JUL-98	98-03-1134A	02
03	VA	FAIRFAX, CITY OF	5155240005B	13-JUL-98	98-03-203P	06
03	VA	FAUQUIER COUNTY *	5100550355A	18-NOV-98	98-03-1034A	02
03	VA	FAUQUIER COUNTY *	5100550215A	17-JUL-98	98-03-1240A	02
03	VA	FAUQUIER COUNTY *	5100550425A	28-OCT-98	98-03-1844A	02
03	VA	FAUQUIER COUNTY *	5100550400A	30-SEP-98	98-03-840A	02
03	VA	FAUQUIER COUNTY *	5100550400A	18-NOV-98	99-03-192A	02
03	VA	FRANKLIN COUNTY *	5100610210A	24-JUL-98	98-03-1172A	02
03	VA	FRANKLIN COUNTY *	5100610210A	11-SEP-98	98-03-1394A	02
03	VA	FRANKLIN COUNTY *	5100610210A	06-NOV-98	98-03-1788A	02
03	VA	FRANKLIN COUNTY *	5100610250A	30-DEC-98	99-03-156A	02
03	VA	FREDERICK COUNTY *	5100630175B	30-OCT-98	98-03-1426A	02
03	VA	GLOUCESTER COUNTY*	5100710060B	16-OCT-98	98-03-1638A	02
03	VA	GOOCHLAND COUNTY *	5100720125A	25-SEP-98	98-03-818A	01
03	VA	HANOVER COUNTY *	5102370475A	23-OCT-98	98-03-1494A	02
03	VA	HENRICO COUNTY *	5100770100B	28-AUG-98	98-03-1126A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
03	VA	HENRICO COUNTY *	5100770050B	30-SEP-98	98-03-1286A	01
03	VA	HENRICO COUNTY *	5100770050B	14-AUG-98	98-03-1422A	02
03	VA	HENRICO COUNTY *	5100770025B	02-OCT-98	98-03-1766A	02
03	VA	HENRICO COUNTY *	5100770025B	02-JUL-98	98-03-542A	02
03	VA	HENRICO COUNTY *	5100770025B	28-AUG-98	98-03-544A	02
03	VA	HENRICO COUNTY *	5100770150B	30-DEC-98	R3-218-70	02
03	VA	ISLE OF WIGHT COUNTY *	5103030055B	08-JUL-98	98-03-964A	02
03	VA	LANCASTER COUNTY*	5100840030A	21-OCT-98	98-03-1520A	02
03	VA	LOUDOUN COUNTY *	5100900110C	11-AUG-98	98-03-061P	05
03	VA	LOUDOUN COUNTY *	5100900110C	12-AUG-98	98-03-1020A	02
03	VA	LOUDOUN COUNTY *	5100900115C	02-OCT-98	98-03-1032A	02
03	VA	LOUDOUN COUNTY *	5100900050C	03-NOV-98	98-03-123P	05
03	VA	LOUDOUN COUNTY *	5100900085C	03-NOV-98	98-03-123P	05
03	VA	LOUDOUN COUNTY *	5100900040C	03-NOV-98	98-03-125P	05
03	VA	LOUDOUN COUNTY *	5100900050C	03-NOV-98	98-03-125P	05
03	VA	LOUDOUN COUNTY *	5100900205C	03-NOV-98	98-03-129P	05
03	VA	LOUDOUN COUNTY *	5100900225C	03-NOV-98	98-03-129P	05
03	VA	LOUDOUN COUNTY *	5100900075C	27-OCT-98	98-03-133P	05
03	VA	LOUDOUN COUNTY *	5100900105C	23-OCT-98	98-03-135A	02
03	VA	LOUDOUN COUNTY *	5100900085C	03-NOV-98	98-03-137P	05
03	VA	LOUDOUN COUNTY *	5100900060C	26-AUG-98	98-03-1380A	02
03	VA	LOUDOUN COUNTY *	5100900110C	03-NOV-98	98-03-139P	06
03	VA	LOUDOUN COUNTY *	5100900110C	01-AUG-98	98-03-141P	06
03	VA	LOUDOUN COUNTY *	5100900110C	03-NOV-98	98-03-145P	06
03	VA	LOUDOUN COUNTY *	5100900075C	10-JUL-98	98-03-151P	06
03	VA	LOUDOUN COUNTY *	5100900175C	10-JUL-98	98-03-151P	06
03	VA	LOUDOUN COUNTY *	5100900110C	30-SEP-98	98-03-1570A	02
03	VA	LOUDOUN COUNTY *	5100900085C	28-AUG-98	98-03-1640A	02
03	VA	LOUDOUN COUNTY *	5100900110C	28-OCT-98	98-03-1738A	02
03	VA	LOUDOUN COUNTY *	5100900020C	09-DEC-98	99-03-090A	02
03	VA	LOUISA COUNTY *	51109C0300B	28-OCT-98	98-03-1724A	02
03	VA	LOUISA COUNTY *	51109C0125B	02-DEC-98	99-03-054A	02
03	VA	LYNCHBURG, CITY OF	5100930020C	02-OCT-98	98-03-1618A	01
03	VA	MONTGOMERY COUNTY *	5100990100B	04-NOV-98	98-03-1838A	02
03	VA	NELSON COUNTY *	5101020075A	16-DEC-98	99-03-112A	02
03	VA	NEWPORT NEWS, CITY OF	5101030016C	19-AUG-98	98-03-1328A	01
03	VA	NEWPORT NEWS, CITY OF	5101030014A	25-NOV-98	98-03-1768A	02
03	VA	NORTHUMBERLAND COUNTY *	5101070010C	18-NOV-98	99-03-140A	18
03	VA	OCCOQUAN, TOWN OF	51153C0217D	16-OCT-98	98-03-099P	06
03	VA	PORTSMOUTH, CITY OF	5155290055B	04-AUG-98	98-03-1402A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0217D	16-OCT-98	98-03-099P	06
03	VA	PRINCE WILLIAM COUNTY *	51153C0192D	02-JUL-98	98-03-1138A	01
03	VA	PRINCE WILLIAM COUNTY *	51153C0204D	10-JUL-98	98-03-1140A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0204D	25-SEP-98	98-03-1266A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0219D	14-AUG-98	98-03-1420A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0112D	26-NOV-98	98-03-163P	05
03	VA	PRINCE WILLIAM COUNTY *	51153C0212D	30-OCT-98	98-03-1820A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0060D	10-JUL-98	98-03-962A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0219D	04-NOV-98	99-03-050A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0307D	04-NOV-98	99-03-050A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0111D	18-NOV-98	99-03-096A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0316D	04-DEC-98	99-03-098A	01
03	VA	PRINCE WILLIAM COUNTY *	51153C0217D	16-DEC-98	99-03-248A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0212D	16-DEC-98	99-03-266A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0216D	18-DEC-98	99-03-278A	02
03	VA	PRINCE WILLIAM COUNTY *	51153C0060D	18-DEC-98	R3-218-70-R	02
03	VA	PULASKI COUNTY *	5101250200B	02-SEP-98	98-03-1490A	02
03	VA	ROANOKE, CITY OF	51161C0044D	29-JUL-98	98-03-1206A	17
03	VA	ROANOKE, CITY OF	51161C0023D	16-SEP-98	98-03-1630A	02
03	VA	ROCKBRIDGE COUNTY *	5102050225B	11-NOV-98	98-03-1606A	02
03	VA	ROCKINGHAM COUNTY*	5101330045B	11-SEP-98	98-03-1632A	02
03	VA	ROCKINGHAM COUNTY*	5101330092B	16-OCT-98	98-03-1806A	02
03	VA	ROCKINGHAM COUNTY*	5101330092B	03-SEP-98	R3-218-70-R	02
03	VA	SALEM, CITY OF	51161C0041D	23-OCT-98	98-03-1288A	01
03	VA	SHENANDOAH COUNTY *	5101470075B	28-OCT-98	98-03-1722A	02
03	VA	SHENANDOAH COUNTY *	5101470175B	14-OCT-98	99-03-032A	02
03	VA	SMYTH COUNTY *	5101840245A	23-OCT-98	99-03-082A	02
03	VA	SPOTSYLVANIA COUNTY*	5103080200C	28-AUG-98	98-03-1136A	01
03	VA	SPOTSYLVANIA COUNTY*	5103080225C	05-AUG-98	98-03-1292A	02
03	VA	SPOTSYLVANIA COUNTY*	5103080075C	16-DEC-98	98-03-1454A	01
03	VA	SPOTSYLVANIA COUNTY*	5103080200C	02-SEP-98	98-03-1572A	01
03	VA	SPOTSYLVANIA COUNTY*		05-AUG-98	98-03-644A	02
03	VA	STAFFORD COUNTY *	5101540220B	13-AUG-98	98-03-1302A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
03	VA	STAFFORD COUNTY *	5101540205B	18-SEP-98	98-03-1556A	17
03	VA	STAFFORD COUNTY *	5101540135D	11-DEC-98	99-03-208A	02
03	VA	STAUNTON, CITY OF	5101550001C	02-JUL-98	98-03-920A	02
03	VA	SUFFOLK, CITY OF	5101560004B	21-OCT-98	98-03-1736A	02
03	VA	SUSSEX COUNTY *	5101920025B	26-AUG-98	98-03-1484A	02
03	VA	TAZEWELL COUNTY *	5101600029B	12-AUG-98	98-03-946A	01
03	VA	VIRGINIA BEACH, CITY OF	5155310045E	15-JUL-98	98-03-1154A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310045E	04-SEP-98	98-03-1158A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310029E	14-AUG-98	98-03-1202A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310029E	12-AUG-98	98-03-1320A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310029E	16-OCT-98	98-03-1646A	02
03	VA	VIRGINIA BEACH, CITY OF	5155310045E	16-DEC-98	99-03-180A	02
03	VA	WAYNESBORO, CITY OF	5155320010B	07-OCT-98	98-03-1258A	02
03	VA	WAYNESBORO, CITY OF	5155320010B	07-OCT-98	98-03-1534A	02
03	VA	WESTMORELAND COUNTY*	5102500052C	11-SEP-98	98-03-1562A	02
03	VA	WISE COUNTY *	5101740326B	14-AUG-98	98-03-1442A	02
03	VA	WISE COUNTY *	5101740326B	18-SEP-98	98-03-1634A	02
03	VA	YORK COUNTY *	5101820041B	30-SEP-98	98-03-1642A	02
03	WV	BERKELEY COUNTY *	5402820078B	12-AUG-98	98-03-1396A	02
03	WV	BUFFALO, TOWN OF	5401660001B	22-JUL-98	98-03-1210A	02
03	WV	CHARLESTON, CITY OF	5400730003C	02-OCT-98	98-03-880A	02
03	WV	DANVILLE, TOWN OF	54005C0060C	24-JUL-98	98-03-1028A	02
03	WV	ELEANOR, TOWN OF	540222 B	07-AUG-98	98-03-1046A	02
03	WV	ELEANOR, TOWN OF	540222 B	28-OCT-98	98-03-1668A	02
03	WV	GRANT COUNTY*	5400380133B	21-OCT-98	98-03-1536A	02
03	WV	GREENBRIER COUNTY*	5400400250B	07-OCT-98	98-03-1774A	02
03	WV	HARDY COUNTY *	5400510060C	04-AUG-98	98-03-043P	05
03	WV	HARDY COUNTY *	5400510070C	04-AUG-98	98-03-043P	05
03	WV	JEFFERSON COUNTY *	5400650029B	17-AUG-98	98-03-1170A	02
03	WV	KANAWHA COUNTY *	5400700192C	24-JUL-98	98-03-1308A	02
03	WV	MARION COUNTY*	5400970085C	09-OCT-98	98-03-1464A	02
03	WV	MASON COUNTY *	5401120245A	10-JUL-98	98-03-1012A	02
03	WV	MASON COUNTY *	5401120245A	09-DEC-98	98-03-1802A	02
03	WV	MCMECHEN, CITY OF	5401100001C	07-OCT-98	98-03-1392A	02
03	WV	MONONGALIA COUNTY *	5401390107B	08-JUL-98	98-03-169P	05
03	WV	MOOREFIELD, TOWN OF	5400520005E	04-AUG-98	98-03-043P	05
03	WV	MULLENS, CITY OF	5402180001B	25-SEP-98	98-03-1608A	02
03	WV	NEW MARTINSVILLE, CITY OF	5402080002B	11-NOV-98	99-03-066A	02
03	WV	PUTNAM COUNTY*	5401640045A	10-JUL-98	98-03-972A	02
03	WV	RANDOLPH COUNTY *	5401750190A	11-NOV-98	98-03-1594A	02
03	WV	VIENNA, CITY OF	5402150002B	28-OCT-98	98-03-1780A	02
03	WV	WAYNE COUNTY*	5402000106B	02-JUL-98	98-03-576A	01
03	WV	WESTOVER, CITY OF	5402740001B	04-DEC-98	98-03-1792A	01
03	WV	WYOMING COUNTY *	5402170020B	29-JUL-98	98-03-468A	02
04	AL	DOTHAN, CITY OF	0101040023D	28-AUG-98	98-04-2240A	02
04	AL	HOMEWOOD, CITY OF	0150060002C	02-DEC-98	99-04-286A	02
04	AL	HUNTSVILLE, CITY OF	01089C0365D	30-DEC-98	98-04-187P	05
04	AL	HUNTSVILLE, CITY OF	01089C0455D	11-SEP-98	98-04-2232A	02
04	AL	HUNTSVILLE, CITY OF	01089C0456D	04-SEP-98	98-04-2278A	02
04	AL	HUNTSVILLE, CITY OF	01089C0456D	07-OCT-98	98-04-2906A	02
04	AL	HUNTSVILLE, CITY OF	01089C0456D	21-OCT-98	98-04-3020A	02
04	AL	HUNTSVILLE, CITY OF	01089C0331D	21-OCT-98	98-04-3082A	02
04	AL	HUNTSVILLE, CITY OF	01089C0340D	21-OCT-98	98-04-3172A	02
04	AL	HUNTSVILLE, CITY OF	01089C0362D	30-DEC-98	99-04-100A	01
04	AL	HUNTSVILLE, CITY OF	01089C0169D	20-NOV-98	99-04-150A	02
04	AL	HUNTSVILLE, CITY OF	01089C0340D	09-DEC-98	99-04-528A	02
04	AL	HUNTSVILLE, CITY OF	01089C0343D	30-DEC-98	99-04-904A	02
04	AL	HUNTSVILLE, CITY OF	01089C0340D	05-AUG-98	R4-941-136A	02
04	AL	JACKSONVILLE, CITY OF	0100220001B	16-JUL-98	R4-983-112	02
04	AL	JEFFERSON COUNTY *	0102170486B	02-DEC-98	98-04-1054A	17
04	AL	JEFFERSON COUNTY *	0102170193B	14-JUL-98	98-04-1968A	02
04	AL	LEE COUNTY *	0102500125C	14-DEC-98	99-04-1000A	02
04	AL	LEE COUNTY *	0102500125C	13-NOV-98	99-04-312A	02
04	AL	LIMESTONE COUNTY *	0103070100B	02-OCT-98	98-04-2262A	02
04	AL	MADISON COUNTY *	01089C0365D	30-DEC-98	98-04-187P	05
04	AL	MADISON COUNTY *	01089C0211D	25-NOV-98	99-04-362A	02
04	AL	MADISON, CITY OF	01089C0292D	30-DEC-98	98-04-1478A	02
04	AL	MADISON, CITY OF	01089C0284D	08-JUL-98	98-04-698A	01
04	AL	MADISON, CITY OF	01089C0282D	21-DEC-98	99-04-116A	02
04	AL	MARSHALL COUNTY *	0102750125B	25-SEP-98	98-04-2472A	02
04	AL	MONTGOMERY COUNTY *	01101C0070F	12-AUG-98	98-04-2266A	02
04	AL	MONTGOMERY COUNTY *	01101C0060F	11-DEC-98	98-04-2972A	02
04	AL	MONTGOMERY, CITY OF	01101C0070F	26-AUG-98	98-04-1530A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	AL	MONTGOMERY, CITY OF	01101C0065F	18-SEP-98	98-04-1784A	02
04	AL	MONTGOMERY, CITY OF	01101C0065F	21-AUG-98	98-04-2046A	02
04	AL	MONTGOMERY, CITY OF	01101C0070F	11-NOV-98	98-04-3080A	01
04	AL	MONTGOMERY, CITY OF	01101C0070F	11-NOV-98	99-04-234A	02
04	AL	MONTGOMERY, CITY OF	01101C0130F	31-AUG-98	R4-881-004A	01
04	AL	MONTGOMERY, CITY OF	01101C0070F	22-DEC-98	R4-974-005A	08
04	AL	MONTGOMERY, CITY OF	01101C0060F	23-JUL-98	R4-983-261	02
04	AL	MOODY, TOWN OF	0101870005E	30-OCT-98	98-04-1904A	01
04	AL	OPELIKA, CITY OF	0101450019B	11-SEP-98	98-04-2410A	02
04	AL	OXFORD, CITY OF	0100230004C	08-JUL-98	98-04-1088A	01
04	AL	OXFORD, CITY OF	0100230004C	13-AUG-98	98-04-135P	05
04	AL	OXFORD, CITY OF	0100230005C	13-AUG-98	98-04-135P	05
04	AL	PELHAM, TOWN OF	0101930001B	28-OCT-98	98-04-1432A	01
04	AL	PELHAM, TOWN OF	0101930001B	09-OCT-98	98-04-1606A	01
04	AL	PRATTVILLE, CITY OF	0100020005C	04-NOV-98	98-04-2964A	17
04	AL	SARALAND, CITY OF	0101710005B	14-JUL-98	R4-982-143	02
04	AL	SHELBY COUNTY*	0101910150B	10-AUG-98	98-04-1880A	02
04	AL	SHELBY COUNTY*	0101910150B	28-AUG-98	98-04-2076A	02
04	AL	SHELBY COUNTY*	0101910145B	06-NOV-98	98-04-2264A	02
04	AL	TALLADEGA COUNTY *	0102970050B	16-OCT-98	98-04-3092A	02
04	AL	TALLADEGA COUNTY *	0102970200B	11-SEP-98	98-04-696A	02
04	AL	TUSCALOOSA COUNTY *	0102010270B	28-OCT-98	98-04-1752A	02
04	AL	TUSCALOOSA COUNTY *	0102010375B	28-OCT-98	98-04-2866A	02
04	AL	TUSCALOOSA COUNTY *	0102010375B	17-NOV-98	99-04-380A	02
04	AL	WALKER COUNTY *	0103010215B	11-DEC-98	99-04-418A	02
04	FL	ALACHUA COUNTY*	1200010275A	07-OCT-98	98-04-2134A	02
04	FL	ALACHUA COUNTY*	1200010259A	08-DEC-98	98-04-2378A	01
04	FL	ALACHUA COUNTY*	1200010280A	08-DEC-98	98-04-2378A	01
04	FL	ALACHUA COUNTY*	1200010259A	18-SEP-98	98-04-2554A	02
04	FL	ALACHUA, CITY OF	1206640025A	23-JUL-98	R4-983-263	02
04	FL	BAY COUNTY*	1200040240D	18-SEP-98	98-04-2180A	02
04	FL	BOCA RATON, CITY OF	1201950004C	29-JUL-98	98-04-1410A	02
04	FL	BOCA RATON, CITY OF	1201950007C	15-JUL-98	98-04-1744A	02
04	FL	BOCA RATON, CITY OF	1201950002C	28-OCT-98	98-04-3196A	02
04	FL	BRADFORD COUNTY *	12007C0245D	05-AUG-98	R4-983-079	08
04	FL	BREVARD COUNTY *	12009C0295E	02-OCT-98	98-04-1218A	01
04	FL	BREVARD COUNTY *	12009C0430E	22-JUL-98	98-04-1388A	01
04	FL	BREVARD COUNTY *	12009C0607F	29-JUL-98	98-04-1600A	01
04	FL	BREVARD COUNTY *	12009C0430E	19-AUG-98	98-04-1714A	02
04	FL	BREVARD COUNTY *	12009C0441F	31-JUL-98	98-04-1746A	01
04	FL	BREVARD COUNTY *	12009C0290E	04-SEP-98	98-04-1768A	02
04	FL	BREVARD COUNTY *	12009C0615E	29-JUL-98	98-04-1816A	01
04	FL	BREVARD COUNTY *	12009C0441F	12-AUG-98	98-04-1930A	01
04	FL	BREVARD COUNTY *	12009C0365E	04-AUG-98	98-04-1978A	01
04	FL	BREVARD COUNTY *	12009C0441F	18-SEP-98	98-04-1984A	01
04	FL	BREVARD COUNTY *	12009C0441F	12-AUG-98	98-04-2092A	01
04	FL	BREVARD COUNTY *	12009C0260E	04-SEP-98	98-04-2332A	17
04	FL	BREVARD COUNTY *	12009C0435E	18-SEP-98	98-04-2404A	02
04	FL	BREVARD COUNTY *	12009C0615E	25-SEP-98	98-04-2414A	01
04	FL	BREVARD COUNTY *	12009C0607F	25-SEP-98	98-04-2416A	01
04	FL	BREVARD COUNTY *	12009C0190F	07-OCT-98	98-04-2438A	02
04	FL	BREVARD COUNTY *	12009C0370E	25-SEP-98	98-04-2592A	02
04	FL	BREVARD COUNTY *	12009C0260E	09-SEP-98	98-04-2760A	01
04	FL	BREVARD COUNTY *	12009C0441F	30-OCT-98	98-04-2860A	01
04	FL	BREVARD COUNTY *	12009C0275E	16-OCT-98	98-04-2934A	01
04	FL	BREVARD COUNTY *	12009C0441F	30-OCT-98	98-04-3022A	02
04	FL	BREVARD COUNTY *	12009C0275E	14-OCT-98	98-04-3086A	02
04	FL	BREVARD COUNTY *	12009C0290E	22-DEC-98	99-04-676A	02
04	FL	BREVARD COUNTY *	12009C0430E	11-DEC-98	99-04-684A	02
04	FL	BREVARD COUNTY *	12009C0441F	31-AUG-98	R4-924-062A	01
04	FL	BREVARD COUNTY *	12009C0190F	15-SEP-98	R4-983-059	02
04	FL	BREVARD COUNTY *	12009C0360E	20-JUL-98	R4-983-251	02
04	FL	BROWARD COUNTY*	12011C0306F	15-JUL-98	98-04-1462A	01
04	FL	BROWARD COUNTY*	12011C0285F	04-AUG-98	98-04-1720A	01
04	FL	BROWARD COUNTY*	12011C0285F	18-SEP-98	98-04-2602A	01
04	FL	BROWARD COUNTY*	12011C0285F	30-OCT-98	98-04-3146A	01
04	FL	BROWARD COUNTY*	12011C0285F	11-DEC-98	99-04-382A	01
04	FL	BROWARD COUNTY*	12011C0120F	05-AUG-98	R4-983-086	02
04	FL	CAPE CORAL, CITY OF	1250950035C	10-JUL-98	98-04-1466A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	02-JUL-98	98-04-1476A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	15-JUL-98	98-04-1486A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	24-JUL-98	98-04-1564A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	02-JUL-98	98-04-1624A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	CAPE CORAL, CITY OF	1250950035C	17-JUL-98	98-04-1626A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	24-JUL-98	98-04-1640A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	24-JUL-98	98-04-1644A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	19-AUG-98	98-04-1832A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	04-AUG-98	98-04-1906A	02
04	FL	CAPE CORAL, CITY OF	1250950030C	21-AUG-98	98-04-1990A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	21-AUG-98	98-04-1990A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	21-AUG-98	98-04-1990A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	02-SEP-98	98-04-2226A	01
04	FL	CAPE CORAL, CITY OF	1250950020C	23-SEP-98	98-04-2292A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	23-SEP-98	98-04-2292A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	23-SEP-98	98-04-2292A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	23-SEP-98	98-04-2292A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	26-AUG-98	98-04-2428A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	18-SEP-98	98-04-2540A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	18-SEP-98	98-04-2540A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	07-OCT-98	98-04-2754A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	07-OCT-98	98-04-2754A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	30-SEP-98	98-04-2844A	02
04	FL	CAPE CORAL, CITY OF	1250950035C	21-OCT-98	98-04-2888A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	21-OCT-98	98-04-2898A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	04-NOV-98	98-04-3006A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	23-OCT-98	98-04-3008A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	06-NOV-98	98-04-3136A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	06-NOV-98	98-04-3136A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	06-NOV-98	98-04-3138A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	25-NOV-98	98-04-3234A	02
04	FL	CAPE CORAL, CITY OF	1250950030C	25-NOV-98	99-04-182A	01
04	FL	CAPE CORAL, CITY OF	1250950025C	25-NOV-98	99-04-184A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	30-DEC-98	99-04-250A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	30-DEC-98	99-04-250A	01
04	FL	CAPE CORAL, CITY OF	1250950045C	30-DEC-98	99-04-250A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	30-DEC-98	99-04-250A	01
04	FL	CAPE CORAL, CITY OF	1250950045C	30-DEC-98	99-04-250A	01
04	FL	CAPE CORAL, CITY OF	1250950040C	30-DEC-98	99-04-442A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	30-DEC-98	99-04-446A	01
04	FL	CAPE CORAL, CITY OF	1250950045C	18-DEC-98	99-04-582A	01
04	FL	CAPE CORAL, CITY OF	1250950035C	30-DEC-98	99-04-746A	01
04	FL	CAPE CORAL, CITY OF	1250950030C	09-DEC-98	99-04-802A	01
04	FL	CASSELBERRY, CITY OF	12117C0140E	28-AUG-98	98-04-1666A	02
04	FL	CASSELBERRY, CITY OF	12117C0145E	04-NOV-98	98-04-3126A	02
04	FL	CASSELBERRY, CITY OF	12117C0145E	02-DEC-98	98-04-3144A	02
04	FL	CASSELBERRY, CITY OF	12117C0145E	14-AUG-98	98-04-374A	02
04	FL	CITRUS COUNTY *	1200630175B	18-DEC-98	98-04-2054A	02
04	FL	CITRUS COUNTY *	1200630260B	30-OCT-98	98-04-2528A	02
04	FL	CITRUS COUNTY *	1200630260B	06-NOV-98	98-04-2662A	02
04	FL	CITRUS COUNTY *	1200630270B	25-SEP-98	98-04-2664A	02
04	FL	CITRUS COUNTY *	1200630140B	04-NOV-98	98-04-2712A	02
04	FL	CITRUS COUNTY *	1200630300B	02-OCT-98	98-04-2800A	02
04	FL	CITRUS COUNTY *	1200630270B	30-OCT-98	98-04-2966A	02
04	FL	CITRUS COUNTY *	1200630255B	09-OCT-98	98-04-2968A	02
04	FL	CITRUS COUNTY *	1200630260B	28-OCT-98	98-04-3214A	02
04	FL	CITRUS COUNTY *	1200630260B	11-NOV-98	99-04-042A	02
04	FL	CITRUS COUNTY *	1200630300B	22-DEC-98	99-04-788A	02
04	FL	CITRUS COUNTY *	1200630270B	30-DEC-98	99-04-884A	02
04	FL	CITRUS COUNTY *	1200630300B	05-AUG-98	R4-983-111	02
04	FL	CITRUS COUNTY *	1200630260B	21-DEC-98	R4-983-141	02
04	FL	CITRUS COUNTY *	1200630255B	05-AUG-98	R4-983-230	02
04	FL	CITRUS COUNTY *	1200630260B	04-AUG-98	R4-983-255	02
04	FL	CLAY COUNTY *	1200640135D	06-NOV-98	98-04-1516A	01
04	FL	CLAY COUNTY *	1200640375D	30-OCT-98	99-04-130A	02
04	FL	CLAY COUNTY *	1200640325D	13-NOV-98	99-04-334A	02
04	FL	CLAY COUNTY *	1200640140D	25-NOV-98	99-04-468A	02
04	FL	CLAY COUNTY *	1200640140D	30-DEC-98	99-04-900A	02
04	FL	CLEARWATER, CITY OF	1250960018D	22-DEC-98	99-04-204A	02
04	FL	COCONUT CREEK, CITY OF	12011C0115F	26-AUG-98	98-04-1248A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	29-JUL-98	98-04-1894A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	21-OCT-98	98-04-3048A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	16-OCT-98	98-04-3128A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	23-SEP-98	98-04-818A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	12-AUG-98	98-04-820A	01
04	FL	COCONUT CREEK, CITY OF	12011C0115F	09-JUL-98	98-04-948A	01
04	FL	COLLIER COUNTY *	1200670605E	02-JUL-98	98-04-1540A	01
04	FL	COLLIER COUNTY *	1200670605E	02-JUL-98	98-04-1588A	01
04	FL	COLLIER COUNTY *	1200670605E	04-SEP-98	98-04-2504A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	COLLIER COUNTY *	1200670605E	09-SEP-98	98-04-2606A	01
04	FL	COLLIER COUNTY *	1200670605E	21-OCT-98	98-04-2848A	01
04	FL	COLLIER COUNTY *	1200670605E	21-OCT-98	98-04-2852A	01
04	FL	COLLIER COUNTY *	1200670605E	16-OCT-98	98-04-2870A	01
04	FL	COLLIER COUNTY *	1200670582F	07-OCT-98	98-04-2950A	01
04	FL	COLLIER COUNTY *	1200670582F	04-NOV-98	98-04-3176A	01
04	FL	COLLIER COUNTY *	1200670605E	18-NOV-98	99-04-104A	01
04	FL	COLLIER COUNTY *	1200670605E	18-NOV-98	99-04-110A	01
04	FL	COLUMBIA COUNTY*	1200700175B	30-SEP-98	98-04-2790A	02
04	FL	CORAL SPRINGS, CITY OF	12011C0105F	17-JUL-98	98-04-1500A	01
04	FL	DADE COUNTY*	12025C0080J	31-JUL-98	98-04-1558A	01
04	FL	DADE COUNTY*	12025C0265J	02-JUL-98	98-04-1628A	01
04	FL	DADE COUNTY*	12025C0255J	12-AUG-98	98-04-1794A	01
04	FL	DADE COUNTY*	12025C0090J	02-JUL-98	98-04-1878A	02
04	FL	DADE COUNTY*	12025C0268J	09-SEP-98	98-04-2056A	02
04	FL	DADE COUNTY*	12025C0265J	25-SEP-98	98-04-2172A	01
04	FL	DADE COUNTY*	12025C0075J	18-SEP-98	98-04-2244A	01
04	FL	DADE COUNTY*	12025C0265J	21-AUG-98	98-04-2432A	01
04	FL	DADE COUNTY*	12025C0165J	18-SEP-98	98-04-2598A	01
04	FL	DADE COUNTY*	12025C0075J	16-OCT-98	98-04-2628A	02
04	FL	DADE COUNTY*	12025C0255J	04-NOV-98	98-04-2652A	01
04	FL	DADE COUNTY*	12025C0080J	14-OCT-98	98-04-2928A	01
04	FL	DADE COUNTY*	12025C0255J	20-NOV-98	98-04-2942A	01
04	FL	DADE COUNTY*	12025C0170J	23-OCT-98	98-04-2988A	02
04	FL	DADE COUNTY*	12025C0170J	23-OCT-98	98-04-3000A	02
04	FL	DADE COUNTY*	12025C0265J	04-DEC-98	98-04-3038A	01
04	FL	DADE COUNTY*	12025C0265J	21-OCT-98	98-04-3050A	01
04	FL	DADE COUNTY*	12025C0075J	28-OCT-98	98-04-3102A	01
04	FL	DADE COUNTY*	12025C0190J	04-NOV-98	98-04-3114A	02
04	FL	DADE COUNTY*	12025C0265J	13-NOV-98	99-04-032A	01
04	FL	DADE COUNTY*	12025C0265J	04-DEC-98	99-04-082A	01
04	FL	DADE COUNTY*	12025C0083J	20-NOV-98	99-04-102A	02
04	FL	DADE COUNTY*	12025C0265J	04-DEC-98	99-04-252A	01
04	FL	DADE COUNTY*	12025C0278J	18-NOV-98	99-04-278A	02
04	FL	DADE COUNTY*	12025C0160J	22-DEC-98	99-04-336A	01
04	FL	DADE COUNTY*	12025C0260J	30-DEC-98	99-04-344A	02
04	FL	DADE COUNTY*	12025C0080J	25-NOV-98	99-04-630A	01
04	FL	DADE COUNTY*	12025C0265J	22-DEC-98	99-04-636A	01
04	FL	DADE COUNTY*	12025C0265J	20-NOV-98	99-04-662A	01
04	FL	DADE COUNTY*	12025C0260J	22-DEC-98	99-04-726A	02
04	FL	DADE COUNTY*	12025C0160J	30-DEC-98	99-04-834A	01
04	FL	DADE COUNTY*	12025C0255J	16-JUL-98	R4-902-042A	02
04	FL	DADE COUNTY*	12025C0083J	16-JUL-98	R4-982-162	02
04	FL	DANIA, CITY OF	12011C0306F	04-SEP-98	98-04-2090A	01
04	FL	DAVIE, CITY OF	12011C0195F	02-SEP-98	98-04-2198A	01
04	FL	DAYTONA BEACH, CITY OF	1250990015D	30-OCT-98	98-04-3040A	01
04	FL	DEBARY, CITY OF	1206720001F	02-DEC-98	99-04-146A	02
04	FL	DEBARY, CITY OF	1206720001F	11-DEC-98	99-04-614A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0108F	15-JUL-98	98-04-1456A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0120F	15-JUL-98	98-04-1456A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0108F	16-DEC-98	98-04-2994A	02
04	FL	DEERFIELD BEACH, CITY OF	12011C0108F	30-DEC-98	99-04-1048A	02
04	FL	DELRAY BEACH, CITY OF	1251020001D	18-NOV-98	99-04-148A	02
04	FL	ESCAMBIA COUNTY*	12033C0195E	07-AUG-98	98-04-2126A	02
04	FL	ESCAMBIA COUNTY*	12033C0240E	02-SEP-98	98-04-2418A	02
04	FL	ESCAMBIA COUNTY*	12033C0245E	13-NOV-98	98-04-2746A	01
04	FL	ESCAMBIA COUNTY*	12033C0195E	16-JUL-98	R4-983-226	02
04	FL	EUSTIS, CITY OF	1201340005B	30-DEC-98	98-04-3026A	02
04	FL	FORT LAUDERDALE, CITY OF	12011C0214F	20-NOV-98	98-04-1716A	02
04	FL	FORT LAUDERDALE, CITY OF	12011C0218F	14-OCT-98	98-04-2792A	02
04	FL	FORT WALTON BEACH, CITY OF	1201740005B	20-NOV-98	99-04-236A	02
04	FL	GADSDEN COUNTY *	1200910300A	04-NOV-98	98-04-3200A	02
04	FL	GAINESVILLE, CITY OF	1200010427A	22-JUL-98	97-04-067A	01
04	FL	GAINESVILLE, CITY OF	1200010280A	27-SEP-98	97-04-385P	05
04	FL	GAINESVILLE, CITY OF	1251070009C	27-SEP-98	97-04-385P	05
04	FL	GAINESVILLE, CITY OF	1200010280A	12-NOV-98	98-04-359P	06
04	FL	GLADES COUNTY *	1200950050B	15-JUL-98	98-04-1630A	02
04	FL	HERNANDO COUNTY *	1201100300B	21-AUG-98	98-04-2110A	02
04	FL	HERNANDO COUNTY *	1201100225B	11-SEP-98	98-04-2520A	02
04	FL	HERNANDO COUNTY *	1201100270B	02-OCT-98	98-04-2788A	02
04	FL	HERNANDO COUNTY *	1201100225B	16-DEC-98	98-04-2958A	02
04	FL	HERNANDO COUNTY *	1201100375B	16-DEC-98	98-04-2958A	02
04	FL	HIALEAH GARDENS, CITY OF	12025C0075J	10-JUL-98	98-04-942A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	HIALEAH, CITY OF	12025C0075J	02-SEP-98	98-04-1602A	01
04	FL	HIALEAH, CITY OF	12025C0180J	07-AUG-98	98-04-1608A	01
04	FL	HILLSBOROUGH COUNTY*	1201120190D	17-JUL-98	98-04-102A	01
04	FL	HILLSBOROUGH COUNTY*	1201120389D	02-JUL-98	98-04-1182A	01
04	FL	HILLSBOROUGH COUNTY*	1201120095C	08-JUL-98	98-04-1208A	01
04	FL	HILLSBOROUGH COUNTY*	1201120210E	12-AUG-98	98-04-1216A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	01-JUL-98	98-04-1526A	01
04	FL	HILLSBOROUGH COUNTY*	1201120190D	17-JUL-98	98-04-1560A	01
04	FL	HILLSBOROUGH COUNTY*	1201120045D	14-AUG-98	98-04-1616A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	24-JUL-98	98-04-1638A	01
04	FL	HILLSBOROUGH COUNTY*	1201120065D	29-JUL-98	98-04-1772A	01
04	FL	HILLSBOROUGH COUNTY*	1201120385E	29-JUL-98	98-04-1796A	01
04	FL	HILLSBOROUGH COUNTY*	1201120507C	17-JUL-98	98-04-1822A	01
04	FL	HILLSBOROUGH COUNTY*	1201120494C	22-JUL-98	98-04-1852A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	24-JUL-98	98-04-1860A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	04-AUG-98	98-04-1862A	01
04	FL	HILLSBOROUGH COUNTY*	1201120415C	29-JUL-98	98-04-1886A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	04-SEP-98	98-04-2082A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	02-SEP-98	98-04-2284A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	04-SEP-98	98-04-2286A	01
04	FL	HILLSBOROUGH COUNTY*	1201120065D	19-AUG-98	98-04-2354A	02
04	FL	HILLSBOROUGH COUNTY*	1201120395E	11-SEP-98	98-04-2494A	01
04	FL	HILLSBOROUGH COUNTY*	1201120507C	11-SEP-98	98-04-2494A	01
04	FL	HILLSBOROUGH COUNTY*	1201120190D	25-SEP-98	98-04-2514A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	02-OCT-98	98-04-2660A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	16-OCT-98	98-04-2756A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	09-OCT-98	98-04-2758A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	21-OCT-98	98-04-2818A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	30-SEP-98	98-04-2826A	01
04	FL	HILLSBOROUGH COUNTY*	1201120167C	04-NOV-98	98-04-2836A	01
04	FL	HILLSBOROUGH COUNTY*	1201120415C	11-DEC-98	98-04-2840A	01
04	FL	HILLSBOROUGH COUNTY*	1201120090E	28-OCT-98	98-04-2854A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	07-OCT-98	98-04-2886A	02
04	FL	HILLSBOROUGH COUNTY*	1201120185F	07-OCT-98	98-04-2918A	02
04	FL	HILLSBOROUGH COUNTY*	1201120530C	23-OCT-98	98-04-2922A	01
04	FL	HILLSBOROUGH COUNTY*	1201120090E	14-OCT-98	98-04-2952A	01
04	FL	HILLSBOROUGH COUNTY*	1201120494C	16-OCT-98	98-04-3036A	01
04	FL	HILLSBOROUGH COUNTY*	1201120090E	14-OCT-98	98-04-3046A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	28-OCT-98	98-04-3130A	01
04	FL	HILLSBOROUGH COUNTY*	1201120395E	28-OCT-98	98-04-3130A	01
04	FL	HILLSBOROUGH COUNTY*	1201120185F	09-DEC-98	98-04-3162A	02
04	FL	HILLSBOROUGH COUNTY*	1201120185F	15-DEC-98	98-04-3204A	02
04	FL	HILLSBOROUGH COUNTY*	1201120065D	28-OCT-98	98-04-3206A	02
04	FL	HILLSBOROUGH COUNTY*	1201120385E	30-DEC-98	98-04-3224A	02
04	FL	HILLSBOROUGH COUNTY*	1201120045D	02-JUL-98	98-04-938A	01
04	FL	HILLSBOROUGH COUNTY*	1201120160C	30-OCT-98	99-04-038A	01
04	FL	HILLSBOROUGH COUNTY*	1201120185F	13-NOV-98	99-04-066A	02
04	FL	HILLSBOROUGH COUNTY*	1201120160C	06-NOV-98	99-04-248A	01
04	FL	HILLSBOROUGH COUNTY*	1201120205D	09-DEC-98	99-04-274A	02
04	FL	HILLSBOROUGH COUNTY*	1201120180F	04-DEC-98	99-04-364A	01
04	FL	HILLSBOROUGH COUNTY*	1201120185F	11-DEC-98	99-04-536A	02
04	FL	HILLSBOROUGH COUNTY*	1201120185F	16-DEC-98	99-04-592A	02
04	FL	HILLSBOROUGH COUNTY*	1201120205D	16-DEC-98	99-04-592A	02
04	FL	HILLSBOROUGH COUNTY*	1201120395E	09-DEC-98	99-04-594A	01
04	FL	HILLSBOROUGH COUNTY*	1201120190D	11-DEC-98	99-04-632A	01
04	FL	HILLSBOROUGH COUNTY*	1201120387E	22-DEC-98	99-04-912A	01
04	FL	HILLSBOROUGH COUNTY*	1201120494C	22-DEC-98	99-04-954A	01
04	FL	HILLSBOROUGH COUNTY*	1201120045D	17-SEP-98	R4-982-205	02
04	FL	HILLSBOROUGH COUNTY*	1201120415C	08-JUL-98	R4-983-204	02
04	FL	HILLSBOROUGH COUNTY*	1201120415C	08-JUL-98	R4-983-205	02
04	FL	HILLSBOROUGH COUNTY*	1201120205D	08-JUL-98	R4-983-218	02
04	FL	INDIAN RIVER COUNTY *	12061C0168E	24-JUL-98	98-04-1836A	01
04	FL	INDIAN RIVER COUNTY *	12061C0168E	12-AUG-98	98-04-1932A	01
04	FL	INDIAN RIVER COUNTY *	12061C0168E	28-AUG-98	98-04-2644A	01
04	FL	INVERNESS, CITY OF	1203480001B	07-OCT-98	98-04-2098A	02
04	FL	ISLAMORADA, VILLAGE OF		01-OCT-98	98-04-357P	05
04	FL	JACKSON COUNTY *	12063C0175C	04-AUG-98	R4-983-146	08
04	FL	JACKSONVILLE, CITY OF	1200770050E	24-JUL-98	98-04-1028A	02
04	FL	JACKSONVILLE, CITY OF	1200770131E	24-JUL-98	98-04-1028A	02
04	FL	JACKSONVILLE, CITY OF	1200770154E	08-JUL-98	98-04-1132A	01
04	FL	JACKSONVILLE, CITY OF	1200770162E	08-JUL-98	98-04-1132A	01
04	FL	JACKSONVILLE, CITY OF	1200770232E	19-NOV-98	98-04-1612A	02
04	FL	JACKSONVILLE, CITY OF	1200770233E	31-JUL-98	98-04-1926A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	JACKSONVILLE, CITY OF	1200770204E	19-AUG-98	98-04-2050A	02
04	FL	JACKSONVILLE, CITY OF	1200770141E	21-AUG-98	98-04-2058A	02
04	FL	JACKSONVILLE, CITY OF	1200770237E	23-SEP-98	98-04-2194A	01
04	FL	JACKSONVILLE, CITY OF	1200770241E	22-DEC-98	99-04-028A	01
04	FL	JACKSONVILLE, CITY OF	1200770218E	11-DEC-98	99-04-710A	01
04	FL	JACKSONVILLE, CITY OF	1200770216E	19-AUG-98	R4-983-119A	02
04	FL	JACKSONVILLE, CITY OF	1200770216E	31-AUG-98	R4-983-253	02
04	FL	LAKE COUNTY *	1204210225B	07-AUG-98	98-04-1864A	01
04	FL	LAKE COUNTY *	1204210125B	19-AUG-98	98-04-1892A	01
04	FL	LAKE COUNTY *	1204210100B	12-AUG-98	98-04-1924A	01
04	FL	LAKE COUNTY *	1204210100B	12-AUG-98	98-04-1970A	01
04	FL	LAKE COUNTY *	1204210050B	28-AUG-98	98-04-2042A	02
04	FL	LAKE COUNTY *	1204210225B	12-AUG-98	98-04-2048A	02
04	FL	LAKE COUNTY *	1204210225B	23-SEP-98	98-04-2052A	02
04	FL	LAKE COUNTY *	1204210375B	04-SEP-98	98-04-2070A	02
04	FL	LAKE COUNTY *	1204210375B	29-JUL-98	98-04-2122A	02
04	FL	LAKE COUNTY *	1204210225B	28-AUG-98	98-04-2534A	02
04	FL	LAKE COUNTY *	1204210100B	25-SEP-98	98-04-2538A	02
04	FL	LAKE COUNTY *	1204210425B	08-SEP-98	98-04-263P	06
04	FL	LAKE COUNTY *	1204210325B	28-OCT-98	98-04-2722A	02
04	FL	LAKE COUNTY *	1204210225B	02-OCT-98	98-04-2914A	02
04	FL	LAKE COUNTY *	1204210325B	04-SEP-98	98-04-754A	01
04	FL	LAKE COUNTY *	1204210225B	30-OCT-98	99-04-126A	02
04	FL	LAKE COUNTY *	1204210200B	25-NOV-98	99-04-396A	02
04	FL	LAKE COUNTY *	1204210200B	20-NOV-98	99-04-398A	02
04	FL	LAKE COUNTY *	1204210100B	02-DEC-98	99-04-452A	02
04	FL	LAKE COUNTY *	1204210225B	11-DEC-98	99-04-556A	02
04	FL	LAKE COUNTY *	1204210200B	30-DEC-98	99-04-732A	02
04	FL	LAKE COUNTY *	1204210225B	15-SEP-98	R4-983-158	02
04	FL	LAKE COUNTY *	1204210150B	16-JUL-98	R4-983-224	02
04	FL	LAKE COUNTY *	1204210150B	23-JUL-98	R4-983-246	02
04	FL	LAKE COUNTY *	1204210125B	05-AUG-98	R4-983-266	02
04	FL	LAKE MARY, CITY OF	12117C0040E	14-AUG-98	98-04-2094A	01
04	FL	LAKE MARY, CITY OF	12117C0040E	30-SEP-98	98-04-2558A	02
04	FL	LAKE MARY, CITY OF	12117C0040E	16-DEC-98	98-04-2716A	01
04	FL	LAKE MARY, CITY OF	12117C0040E	16-DEC-98	98-04-2940A	02
04	FL	LAKE MARY, CITY OF	12117C0040E	28-OCT-98	98-04-3190A	01
04	FL	LAUDERHILL, CITY OF	12011C0205F	08-JUL-98	98-04-1584A	01
04	FL	LAUDERHILL, CITY OF	12011C0204F	18-SEP-98	98-04-2366A	02
04	FL	LAUDERHILL, CITY OF	12011C0204F	25-SEP-98	98-04-2574A	02
04	FL	LAUDERHILL, CITY OF	12011C0212F	22-DEC-98	98-04-2956A	01
04	FL	LAUDERHILL, CITY OF	12011C0205F	02-DEC-98	99-04-208A	02
04	FL	LEE COUNTY*	1251240225C	17-JUL-98	98-04-1524A	01
04	FL	LEE COUNTY*	1251240510C	02-JUL-98	98-04-1570A	01
04	FL	LEE COUNTY*	1251240510D	19-AUG-98	98-04-1980A	01
04	FL	LEE COUNTY*	1251240510D	26-AUG-98	98-04-2170A	01
04	FL	LEE COUNTY*	1251240325C	04-NOV-98	98-04-2224A	02
04	FL	LEE COUNTY*	1251240325C	18-SEP-98	98-04-2346A	01
04	FL	LEE COUNTY*	1251240510D	16-SEP-98	98-04-2426A	01
04	FL	LEE COUNTY*	1251240350B	21-OCT-98	98-04-2784A	01
04	FL	LEE COUNTY*	1251240510D	07-OCT-98	98-04-2838A	01
04	FL	LEE COUNTY*	1251240465C	18-NOV-98	98-04-3166A	02
04	FL	LEE COUNTY*	1251240325C	30-OCT-98	99-04-086A	01
04	FL	LEE COUNTY*	1251240510D	30-OCT-98	99-04-088A	01
04	FL	LEON COUNTY *	12073C0430D	14-OCT-98	98-04-3010A	02
04	FL	LEON COUNTY *	12073C0250D	28-OCT-98	99-04-142A	02
04	FL	LEON COUNTY *	12073C0115D	02-DEC-98	99-04-564A	02
04	FL	LEON COUNTY *	12073C0140D	18-DEC-98	99-04-690A	02
04	FL	LEON COUNTY *	12073C0120D	22-DEC-98	99-04-692A	02
04	FL	LEON COUNTY *	12073C0150D	04-AUG-98	R4-983-256	02
04	FL	LONGWOOD, CITY OF	12117C0130E	23-SEP-98	98-04-2704A	02
04	FL	MAITLAND, CITY OF	1201840005B	21-OCT-98	98-04-2626A	02
04	FL	MANATEE COUNTY *	1201530370C	02-OCT-98	98-04-1352A	01
04	FL	MANATEE COUNTY *	1201530370C	21-AUG-98	98-04-1912A	01
04	FL	MANATEE COUNTY *	1201530327C	19-AUG-98	98-04-1934A	02
04	FL	MANATEE COUNTY *	1201530337B	09-DEC-98	98-04-281P	05
04	FL	MANATEE COUNTY *	1201530169C	04-NOV-98	99-04-078A	02
04	FL	MARGATE, CITY OF	12011C0205F	02-OCT-98	98-04-2724A	02
04	FL	MARGATE, CITY OF	12011C0115F	21-OCT-98	98-04-3148A	02
04	FL	MARGATE, CITY OF	12011C0115F	16-OCT-98	98-04-3210A	02
04	FL	MARGATE, CITY OF	12011C0115F	04-DEC-98	99-04-432A	02
04	FL	MARION COUNTY *	1201600640B	30-SEP-98	98-04-1610A	01
04	FL	MARION COUNTY *	1201600650B	30-SEP-98	98-04-1610A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	MARION COUNTY *	1201600540B	11-SEP-98	98-04-2938A	02
04	FL	MARION COUNTY *	1201600300B	30-DEC-98	99-04-568A	02
04	FL	MARTIN COUNTY *	1201610160E	18-NOV-98	98-04-312A	01
04	FL	MELBOURNE, CITY OF	12009C0442F	30-DEC-98	99-04-972A	02
04	FL	MELBOURNE, CITY OF	12009C0441F	24-SEP-98	R4-942-041A	02
04	FL	MIRAMAR, CITY OF	12011C0315F	14-AUG-98	98-04-1484A	01
04	FL	MIRAMAR, CITY OF	12011C0295F	24-JUL-98	98-04-1650A	01
04	FL	MIRAMAR, CITY OF	12011C0295F	26-AUG-98	98-04-2290A	01
04	FL	MIRAMAR, CITY OF	12011C0295F	16-SEP-98	98-04-2542A	01
04	FL	MIRAMAR, CITY OF	12011C0295F	28-OCT-98	98-04-2862A	01
04	FL	MIRAMAR, CITY OF	12011C0295F	18-NOV-98	99-04-296A	01
04	FL	MIRAMAR, CITY OF	12011C0295F	04-DEC-98	99-04-394A	01
04	FL	MONROE COUNTY*	12087C1131G	25-NOV-98	99-04-420A	02
04	FL	MONROE COUNTY*	12087C1131G	08-JUL-98	R4-983-194	02
04	FL	OCOEE, CITY OF	1201850005B	18-NOV-98	98-04-2998A	02
04	FL	OCOEE, CITY OF	1201850005B	04-NOV-98	98-04-3230A	02
04	FL	OKALOOSA COUNTY *	1201730205E	15-JUL-98	98-04-1532A	01
04	FL	OKALOOSA COUNTY *	1201730205E	29-JUL-98	98-04-1722A	01
04	FL	OKALOOSA COUNTY *	1201730205E	26-AUG-98	98-04-2022A	01
04	FL	OKALOOSA COUNTY *	1201730210E	04-SEP-98	98-04-2032A	01
04	FL	OKALOOSA COUNTY *	1201730205E	18-DEC-98	99-04-558A	02
04	FL	OKALOOSA COUNTY *	1201730210E	04-AUG-98	R4-983-242	02
04	FL	OLDSMAR, CITY OF	1202500003B	12-AUG-98	98-04-1856A	01
04	FL	OLDSMAR, CITY OF	1202500004B	12-AUG-98	98-04-1856A	01
04	FL	OLDSMAR, CITY OF	1202500004B	04-SEP-98	98-04-2288A	01
04	FL	OLDSMAR, CITY OF	1202500003B	07-OCT-98	98-04-2772A	01
04	FL	OLDSMAR, CITY OF	1202500004B	07-OCT-98	98-04-2772A	01
04	FL	OLDSMAR, CITY OF	1202500003B	28-OCT-98	99-04-036A	01
04	FL	OLDSMAR, CITY OF	1202500004B	28-OCT-98	99-04-036A	01
04	FL	OLDSMAR, CITY OF	1202500003B	25-NOV-98	99-04-502A	01
04	FL	OLDSMAR, CITY OF	1202500004B	25-NOV-98	99-04-502A	01
04	FL	ORANGE COUNTY *	1201790250D	04-NOV-98	98-04-1384A	02
04	FL	ORANGE COUNTY *	1201790250D	16-SEP-98	98-04-1514A	01
04	FL	ORANGE COUNTY *	1201790225C	02-JUL-98	98-04-1568A	01
04	FL	ORANGE COUNTY *	1201790250D	02-JUL-98	98-04-1568A	01
04	FL	ORANGE COUNTY *	1201790250D	31-JUL-98	98-04-1662A	01
04	FL	ORANGE COUNTY *	1201790225C	14-AUG-98	98-04-1788A	02
04	FL	ORANGE COUNTY *	1201790175C	17-JUL-98	98-04-1800A	02
04	FL	ORANGE COUNTY *	1201790225C	04-AUG-98	98-04-1854A	02
04	FL	ORANGE COUNTY *	1201790175C	19-AUG-98	98-04-1992A	02
04	FL	ORANGE COUNTY *	1201790225C	14-OCT-98	98-04-2188A	01
04	FL	ORANGE COUNTY *	1201790250D	09-DEC-98	98-04-2196A	01
04	FL	ORANGE COUNTY *	1201790250D	14-AUG-98	98-04-2274A	02
04	FL	ORANGE COUNTY *	1201790425C	09-OCT-98	98-04-2300A	02
04	FL	ORANGE COUNTY *	1201790225C	18-SEP-98	98-04-2376A	02
04	FL	ORANGE COUNTY *	1201790225C	09-OCT-98	98-04-2490A	02
04	FL	ORANGE COUNTY *	1201790200D	04-SEP-98	98-04-2612A	02
04	FL	ORANGE COUNTY *	1201790250D	02-SEP-98	98-04-261A	02
04	FL	ORANGE COUNTY *	1201790375D	07-OCT-98	98-04-2658A	02
04	FL	ORANGE COUNTY *	1201790250D	02-OCT-98	98-04-2730A	02
04	FL	ORANGE COUNTY *	1201790175C	09-OCT-98	98-04-2798A	02
04	FL	ORANGE COUNTY *	1201790400C	07-OCT-98	98-04-2810A	02
04	FL	ORANGE COUNTY *	1201790375D	09-OCT-98	98-04-2832A	02
04	FL	ORANGE COUNTY *	1201790225C	18-NOV-98	98-04-2962A	01
04	FL	ORANGE COUNTY *	1201790375D	20-NOV-98	98-04-2976A	01
04	FL	ORANGE COUNTY *	1201790225C	07-OCT-98	98-04-3072A	02
04	FL	ORANGE COUNTY *	1201790175C	21-OCT-98	98-04-3120A	02
04	FL	ORANGE COUNTY *	1201790525B	28-OCT-98	98-04-3168A	02
04	FL	ORANGE COUNTY *	1201790250D	30-OCT-98	98-04-3218A	02
04	FL	ORANGE COUNTY *	1201790375D	30-OCT-98	98-04-3238A	02
04	FL	ORANGE COUNTY *	1201790375D	09-DEC-98	99-04-094A	02
04	FL	ORANGE COUNTY *	1201790350C	11-NOV-98	99-04-370A	02
04	FL	ORANGE COUNTY *	1201790375D	11-NOV-98	99-04-370A	02
04	FL	ORANGE COUNTY *	1201790400C	02-DEC-98	99-04-560A	01
04	FL	ORANGE COUNTY *	1201790375D	25-NOV-98	99-04-590A	02
04	FL	ORANGE COUNTY *	1201790225C	30-DEC-98	99-04-624A	02
04	FL	ORANGE COUNTY *	1201790375D	16-DEC-98	99-04-688A	02
04	FL	ORANGE COUNTY *	1201790350C	16-JUL-98	R4-982-248	02
04	FL	ORANGE COUNTY *	1201790400C	10-AUG-98	R4-983-178	02
04	FL	ORANGE COUNTY *	1201790375D	05-AUG-98	R4-983-195	02
04	FL	ORANGE COUNTY *	1201790200D	04-AUG-98	R4-983-265	02
04	FL	ORLANDO, CITY OF	1201860025D	12-AUG-98	98-04-1726A	02
04	FL	ORLANDO, CITY OF	1201860015D	07-AUG-98	98-04-1936A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	ORLANDO, CITY OF	1201860010D	18-DEC-98	99-04-018A	01
04	FL	OSCEOLA COUNTY *	1201890045C	30-OCT-98	98-04-1232A	01
04	FL	OSCEOLA COUNTY *	1201890120B	04-AUG-98	98-04-1908A	01
04	FL	OSCEOLA COUNTY *	1201890140B	04-AUG-98	98-04-1908A	01
04	FL	OSCEOLA COUNTY *	1201890140B	04-AUG-98	98-04-1910A	01
04	FL	OSCEOLA COUNTY *	1201890135C	14-OCT-98	98-04-2436A	02
04	FL	OSCEOLA COUNTY *	1201890120B	18-DEC-98	98-04-3178A	01
04	FL	OSCEOLA COUNTY *	1201890140B	18-DEC-98	98-04-3178A	01
04	FL	OSCEOLA COUNTY *	1201890025C	22-JUL-98	98-04-756A	01
04	FL	OSCEOLA COUNTY *	1201890130B	02-DEC-98	99-04-068A	02
04	FL	OSCEOLA COUNTY *	1201890120B	28-OCT-98	99-04-164A	02
04	FL	OSCEOLA COUNTY *	1201890140B	20-NOV-98	99-04-294A	02
04	FL	OSCEOLA COUNTY *	1201890120B	20-NOV-98	99-04-374A	02
04	FL	OSCEOLA COUNTY *	1201890075C	02-DEC-98	99-04-450A	02
04	FL	OSCEOLA COUNTY *	1201890045C	22-DEC-98	99-04-946A	01
04	FL	PALM BAY, CITY OF	12009C0580E	17-JUL-98	98-04-1750A	01
04	FL	PALM BEACH COUNTY *	1201920190B	17-SEP-98	97-04-1554P	05
04	FL	PALM BEACH COUNTY *	1201920240B	29-JUL-98	98-04-1046A	01
04	FL	PALM BEACH COUNTY *	1201920165B	09-SEP-98	98-04-1536A	02
04	FL	PALM BEACH COUNTY *	1201920100B	29-JUL-98	98-04-1896A	02
04	FL	PALM BEACH COUNTY *	1201920175B	14-AUG-98	98-04-1944A	02
04	FL	PALM BEACH COUNTY *	1201920205B	09-OCT-98	98-04-2358A	02
04	FL	PALM BEACH COUNTY *	1201920230B	02-DEC-98	98-04-2388A	01
04	FL	PALM BEACH COUNTY *	1201920190B	13-NOV-98	99-04-212A	01
04	FL	PANAMA CITY BEACH, CITY OF	1200130005C	25-NOV-98	98-04-2980A	02
04	FL	PANAMA CITY, CITY OF	1200120005D	21-AUG-98	98-04-1296A	02
04	FL	PASCO COUNTY *	1202300450E	04-AUG-98	98-04-1210A	01
04	FL	PASCO COUNTY *	1202300450E	15-JUL-98	98-04-1226A	01
04	FL	PASCO COUNTY *	1202300370D	18-SEP-98	98-04-1604A	01
04	FL	PASCO COUNTY *	1202300450E	18-SEP-98	98-04-1622A	01
04	FL	PASCO COUNTY *	1202300425E	07-AUG-98	98-04-1724A	01
04	FL	PASCO COUNTY *	1202300195D	14-AUG-98	98-04-1748A	02
04	FL	PASCO COUNTY *	1202300425E	02-OCT-98	98-04-1786A	01
04	FL	PASCO COUNTY *	1202300215D	29-JUL-98	98-04-1898A	02
04	FL	PASCO COUNTY *	1202300425E	14-AUG-98	98-04-1952A	01
04	FL	PASCO COUNTY *	1202300360D	17-AUG-98	98-04-2128A	02
04	FL	PASCO COUNTY *	1202300185D	16-SEP-98	98-04-2130A	02
04	FL	PASCO COUNTY *	1202300352C	02-SEP-98	98-04-2184A	02
04	FL	PASCO COUNTY *	1202300450E	13-NOV-98	98-04-2208A	01
04	FL	PASCO COUNTY *	1202300360D	13-NOV-98	98-04-2212A	01
04	FL	PASCO COUNTY *	1202300195D	19-AUG-98	98-04-2230A	02
04	FL	PASCO COUNTY *	1202300352C	09-SEP-98	98-04-2482A	02
04	FL	PASCO COUNTY *	1202300360D	23-SEP-98	98-04-2502A	01
04	FL	PASCO COUNTY *	1202300360D	14-OCT-98	98-04-2774A	02
04	FL	PASCO COUNTY *	1202300195D	14-OCT-98	98-04-2872A	02
04	FL	PASCO COUNTY *	1202300195D	30-SEP-98	98-04-2896A	02
04	FL	PASCO COUNTY *	1202300362D	13-NOV-98	98-04-2924A	02
04	FL	PASCO COUNTY *	1202300360D	20-NOV-98	98-04-3028A	02
04	FL	PASCO COUNTY *	1202300195D	06-NOV-98	98-04-3056A	01
04	FL	PASCO COUNTY *	1202300410E	25-SEP-98	98-04-3058A	01
04	FL	PASCO COUNTY *	1202300450E	11-NOV-98	98-04-3100A	01
04	FL	PASCO COUNTY *	1202300400D	06-NOV-98	98-04-3118A	02
04	FL	PASCO COUNTY *	1202300430E	18-SEP-98	98-04-313P	05
04	FL	PASCO COUNTY *	1202300362D	30-OCT-98	98-04-3160A	02
04	FL	PASCO COUNTY *	1202300450E	30-OCT-98	98-04-3174A	01
04	FL	PASCO COUNTY *	1202300425E	11-NOV-98	98-04-3192A	02
04	FL	PASCO COUNTY *	1202300352C	14-AUG-98	98-04-874A	01
04	FL	PASCO COUNTY *	1202300370D	13-NOV-98	99-04-090A	01
04	FL	PASCO COUNTY *	1202300425E	25-NOV-98	99-04-144A	02
04	FL	PASCO COUNTY *	1202300195D	30-OCT-98	99-04-196A	01
04	FL	PASCO COUNTY *	1202300425E	30-DEC-98	99-04-262A	02
04	FL	PASCO COUNTY *	1202300185D	09-DEC-98	99-04-424A	02
04	FL	PASCO COUNTY *	1202300360D	09-DEC-98	99-04-426A	02
04	FL	PASCO COUNTY *	1202300352C	02-DEC-98	99-04-476A	02
04	FL	PASCO COUNTY *	1202300450E	22-DEC-98	99-04-596A	01
04	FL	PASCO COUNTY *	1202300425E	16-DEC-98	99-04-702A	01
04	FL	PASCO COUNTY *	1202300425E	30-DEC-98	99-04-716A	02
04	FL	PASCO COUNTY *	1202300450E	30-DEC-98	99-04-914A	01
04	FL	PASCO COUNTY *	1202300189C	08-JUL-98	R4-983-157	02
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	26-AUG-98	98-04-1160A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	12-AUG-98	98-04-1866A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0285F	09-OCT-98	98-04-2216A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	09-OCT-98	98-04-2216A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	PEMBROKE PINES, CITY OF	12011C0285F	02-OCT-98	98-04-2334A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0290F	21-AUG-98	98-04-2348A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0295F	09-SEP-98	98-04-2752A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0290F	07-OCT-98	98-04-2892A	01
04	FL	PEMBROKE PINES, CITY OF	12011C0290F	19-OCT-98	99-04-162A	01
04	FL	PINELLAS COUNTY *	1251390077C	04-SEP-98	98-04-1304A	01
04	FL	PINELLAS COUNTY *	1251390079C	02-JUL-98	98-04-1374A	01
04	FL	PINELLAS COUNTY *	1251390126D	24-JUL-98	98-04-1730A	02
04	FL	PINELLAS COUNTY *	1251390039C	13-NOV-98	98-04-1808A	01
04	FL	PINELLAS COUNTY *	1251390081C	12-AUG-98	98-04-1858A	01
04	FL	PINELLAS COUNTY *	1251390143C	12-AUG-98	98-04-1982A	01
04	FL	PINELLAS COUNTY *	1251390077C	16-SEP-98	98-04-2026A	01
04	FL	PINELLAS COUNTY *	1251390093C	30-DEC-98	99-04-852A	02
04	FL	POLK COUNTY*	1202610550E	04-AUG-98	98-04-1280A	02
04	FL	POLK COUNTY*	1202610100B	26-AUG-98	98-04-1580A	02
04	FL	POLK COUNTY*	1202610750B	24-JUL-98	98-04-1700A	02
04	FL	POLK COUNTY*	1202610775B	17-JUL-98	98-04-232A	02
04	FL	POLK COUNTY*	1202610500D	18-DEC-98	98-04-2506A	02
04	FL	POLK COUNTY*	1202610550E	02-OCT-98	98-04-2732A	02
04	FL	POLK COUNTY*	1202610375D	28-OCT-98	98-04-2802A	02
04	FL	POLK COUNTY*	1202610475D	02-OCT-98	98-04-2834A	02
04	FL	POLK COUNTY*	1202610350B	30-OCT-98	99-04-112A	02
04	FL	POLK COUNTY*	1202610375D	21-DEC-98	99-04-436A	02
04	FL	POLK COUNTY*	1202610480D	05-AUG-98	R4-983-092	02
04	FL	POLK COUNTY*	1202610305B	16-JUL-98	R4-983-211	02
04	FL	POLK COUNTY*	1202610350B	20-JUL-98	R4-983-234	02
04	FL	PORT ORANGE, CITY OF	1251550408E	23-OCT-98	98-04-2682A	01
04	FL	PORT ORANGE, CITY OF	1251550409E	23-OCT-98	98-04-2682A	01
04	FL	PORT ORANGE, CITY OF	1251550416E	23-OCT-98	98-04-2682A	01
04	FL	PORT ORANGE, CITY OF	1251550425E	23-OCT-98	98-04-2682A	01
04	FL	PUTNAM COUNTY *	1202720150B	25-NOV-98	98-04-3198A	02
04	FL	ROCKLEDGE, CITY OF	12009C0355E	30-OCT-98	98-04-2808A	02
04	FL	ROCKLEDGE, CITY OF	12009C0350E	22-DEC-98	99-04-878A	02
04	FL	SAFETY HARBOR, CITY OF	1251390127D	21-AUG-98	98-04-1266A	17
04	FL	SANFORD, CITY OF	12117C0040E	08-JUL-98	98-04-1450A	02
04	FL	SANFORD, CITY OF	12117C0045E	16-SEP-98	98-04-2576A	02
04	FL	SARASOTA COUNTY *	1251440451D	04-NOV-98	98-04-2498A	02
04	FL	SARASOTA, CITY OF	1251500009B	02-SEP-98	98-04-1826A	02
04	FL	SEMINOLE COUNTY*	12117C0020E	12-AUG-98	98-04-1230A	01
04	FL	SEMINOLE COUNTY*	12117C0130E	28-AUG-98	98-04-1766A	02
04	FL	SEMINOLE COUNTY*	12117C0160E	04-SEP-98	98-04-1790A	02
04	FL	SEMINOLE COUNTY*	12117C0120E	09-DEC-98	98-04-2034A	01
04	FL	SEMINOLE COUNTY*	12117C0120E	19-AUG-98	98-04-2178A	02
04	FL	SEMINOLE COUNTY*	12117C0110E	16-DEC-98	98-04-2880A	02
04	FL	SEMINOLE COUNTY*	12117C0210E	16-OCT-98	98-04-3034A	02
04	FL	SEMINOLE COUNTY*	12117C0020E	09-DEC-98	98-04-3108A	02
04	FL	SEMINOLE COUNTY*	12117C0145E	04-NOV-98	98-04-3232A	02
04	FL	SEMINOLE COUNTY*	12117C0140E	25-SEP-98	R4-913-068A	02
04	FL	SEMINOLE COUNTY*	12117C0130E	05-AUG-98	R4-931-062A	01
04	FL	SEMINOLE COUNTY*	12117C0145E	16-JUL-98	R4-933-092A	02
04	FL	ST. AUGUSTINE BEACH, CITY OF	1251460001C	11-NOV-98	98-04-2930A	01
04	FL	ST. CLOUD, CITY OF	1201910005D	31-JUL-98	98-04-1572A	02
04	FL	ST. CLOUD, CITY OF	1201910005D	31-JUL-98	98-04-1988A	01
04	FL	ST. CLOUD, CITY OF	1201910005D	30-DEC-98	99-04-728A	02
04	FL	ST. JOHNS COUNTY *	1251470095D	10-JUL-98	98-04-1258A	01
04	FL	ST. JOHNS COUNTY *	1251470139D	04-NOV-98	98-04-2280A	02
04	FL	ST. JOHNS COUNTY *	1251470095D	23-SEP-98	98-04-2338A	01
04	FL	ST. JOHNS COUNTY *	1251470095D	18-NOV-98	98-04-2396A	01
04	FL	ST. JOHNS COUNTY *	1251470080D	28-OCT-98	98-04-2894A	02
04	FL	ST. JOHNS COUNTY *	1251470187D	18-DEC-98	99-04-224A	02
04	FL	ST. JOHNS COUNTY *	1251470231E	18-DEC-98	99-04-902A	02
04	FL	ST. JOHNS COUNTY *	1251470139D	14-JUL-98	R4-983-208	02
04	FL	SUMTER COUNTY *	1202960075B	06-NOV-98	98-04-2526A	02
04	FL	SUNRISE, CITY OF	12011C0195F	30-DEC-98	99-04-740A	02
04	FL	TALLAHASSEE, CITY OF	12073C0292D	11-DEC-98	98-04-2804A	02
04	FL	TALLAHASSEE, CITY OF	12073C0281D	16-OCT-98	98-04-3088A	02
04	FL	TALLAHASSEE, CITY OF	12073C0281D	05-AUG-98	R4-983-196	02
04	FL	TAMARAC, CITY OF	12011C0205F	19-AUG-98	98-04-1270A	01
04	FL	TAMARAC, CITY OF	12011C0205F	24-JUL-98	98-04-1502A	01
04	FL	TAMARAC, CITY OF	12011C0185F	16-OCT-98	98-04-3212A	02
04	FL	TITUSVILLE, CITY OF	12009C0115E	16-OCT-98	98-04-2796A	02
04	FL	TITUSVILLE, CITY OF	12009C0180E	05-AUG-98	R4-983-236	02
04	FL	UMATILLA, CITY OF	1201390005B	15-JUL-98	98-04-1676A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	FL	VERO BEACH, CITY OF	12061C0158E	17-JUL-98	R4-983-229	02
04	FL	VOLUSIA COUNTY*	1251550605E	06-NOV-98	98-04-3090A	02
04	FL	WAKULLA COUNTY *	1203150250B	30-SEP-98	R4-983-081	08
04	FL	WINTER HAVEN, CITY OF	1202710005B	13-NOV-98	98-04-2850A	02
04	FL	WINTER PARK, CITY OF		04-DEC-98	99-04-490A	02
04	FL	WINTER PARK, CITY OF	1201880005C	02-DEC-98	99-04-566A	02
04	FL	WINTER PARK, CITY OF	1201880005C	02-DEC-98	99-04-622A	02
04	FL	WINTER SPRINGS, CITY OF	12117C0145E	24-JUL-98	98-04-1704A	02
04	FL	WINTER SPRINGS, CITY OF	12117C0165E	19-AUG-98	98-04-2062A	02
04	FL	WINTER SPRINGS, CITY OF	12117C0135E	04-NOV-98	98-04-3032A	02
04	FL	WINTER SPRINGS, CITY OF	12117C0135E	09-DEC-98	99-04-016A	01
04	GA	ALPHARETTA, CITY OF		24-AUG-98	97-04-333P	05
04	GA	ALPHARETTA, CITY OF	13121C0059E	02-DEC-98	98-04-1634A	01
04	GA	ALPHARETTA, CITY OF	1300840001B	14-JUL-98	R4-983-210	02
04	GA	ATLANTA, CITY OF	13121C0233E	21-OCT-98	98-04-2884A	02
04	GA	ATLANTA, CITY OF	13121C0233E	23-OCT-98	98-04-2910A	02
04	GA	ATLANTA, CITY OF	13121C0262E	18-NOV-98	99-04-200A	02
04	GA	ATLANTA, CITY OF	13121C0253E	30-DEC-98	99-04-384A	02
04	GA	ATLANTA, CITY OF	13121C0233E	05-AUG-98	R4-931-100A	02
04	GA	ATLANTA, CITY OF	13121C0229E	16-JUL-98	R4-983-222	02
04	GA	ATLANTA, CITY OF	1351570000	16-JUL-98	R4-983-222	02
04	GA	BALDWIN COUNTY*	1300050050B	06-NOV-98	98-04-3066A	02
04	GA	BARROW COUNTY*	1304970075A	19-AUG-98	98-04-1872A	02
04	GA	BUFORD, CITY OF	1303230005A	10-NOV-98	98-04-297P	05
04	GA	CALHOUN, CITY OF	1300950004C	26-AUG-98	98-04-2160A	02
04	GA	CHAMBLEE, CITY OF	1300660001B	25-SEP-98	98-04-2258A	02
04	GA	CHATHAM COUNTY*	1300300075C	15-JUL-98	98-04-1322A	02
04	GA	CHATHAM COUNTY*	1300300080C	29-JUL-98	98-04-1444A	02
04	GA	CHATHAM COUNTY*	1300300020C	02-SEP-98	98-04-1820A	01
04	GA	CHATHAM COUNTY*	1300300075C	02-SEP-98	98-04-1820A	01
04	GA	CHATHAM COUNTY*	1300300115D	25-NOV-98	98-04-3012A	02
04	GA	CHEROKEE COUNTY*	13057C0235B	18-NOV-98	98-04-2132A	02
04	GA	CLAYTON COUNTY*	1300410060C	04-AUG-98	98-04-1938A	02
04	GA	CLAYTON COUNTY*	1300410015D	18-SEP-98	98-04-2158A	02
04	GA	CLAYTON COUNTY*	1300410055C	16-JUL-98	R4-983-219	02
04	GA	COBB COUNTY*	13067C0090F	04-SEP-98	98-04-1684A	02
04	GA	COBB COUNTY*	13067C0070F	11-SEP-98	98-04-1810A	02
04	GA	COBB COUNTY*	13067C0035F	02-OCT-98	98-04-1830A	02
04	GA	COBB COUNTY*	13067C0030F	09-SEP-98	98-04-1838A	01
04	GA	COBB COUNTY*	13067C0035F	23-OCT-98	98-04-1840A	02
04	GA	COBB COUNTY*	13067C0055F	18-NOV-98	98-04-2272A	02
04	GA	COBB COUNTY*	13067C0050F	26-AUG-98	98-04-2322A	02
04	GA	COBB COUNTY*	13067C0015F	26-AUG-98	98-04-2324A	02
04	GA	COBB COUNTY*	13067C0035F	18-DEC-98	98-04-2734A	02
04	GA	COBB COUNTY*	13067C0035F	30-OCT-98	98-04-2748A	02
04	GA	COBB COUNTY*	13067C0050F	09-OCT-98	98-04-3116A	02
04	GA	COBB COUNTY*	13067C0055F	25-NOV-98	98-04-3186A	17
04	GA	COBB COUNTY*	13067C0035F	22-DEC-98	99-04-138A	02
04	GA	COBB COUNTY*	13067C0035F	09-DEC-98	99-04-152A	02
04	GA	COBB COUNTY*	13067C0035F	04-DEC-98	99-04-188A	02
04	GA	COBB COUNTY*	13067C0075F	09-DEC-98	99-04-304A	02
04	GA	COBB COUNTY*	13067C0085F	01-DEC-98	99-04-320A	02
04	GA	COBB COUNTY*	13067C0070F	09-DEC-98	99-04-386A	02
04	GA	COBB COUNTY*	13067C0040F	19-NOV-98	99-04-400A	17
04	GA	COBB COUNTY*	13067C0015F	30-DEC-98	99-04-606A	02
04	GA	COBB COUNTY*	13067C0060F	05-AUG-98	R4-981-014	02
04	GA	COBB COUNTY*	13067C0090F	25-SEP-98	R4-981-221	02
04	GA	COBB COUNTY*	13067C0035F	13-JUL-98	R4-982-292	02
04	GA	COBB COUNTY*	13067C0015F	14-JUL-98	R4-983-207	02
04	GA	COBB COUNTY*	13067C0015F	05-AUG-98	R4-983-221	02
04	GA	COBB COUNTY*	13067C0010F	05-AUG-98	R4-983-223	02
04	GA	COBB COUNTY*	13067C0035F	05-AUG-98	R4-983-239	02
04	GA	COBB COUNTY*	13067C0090F	04-AUG-98	R4-983-260	02
04	GA	COLUMBIA COUNTY*	1300590080C	21-OCT-98	98-04-2714A	02
04	GA	COLUMBUS, CITY OF	1351580050D	11-NOV-98	98-04-3170A	02
04	GA	COLUMBUS, CITY OF	1351580075D	05-NOV-98	98-04-329P	06
04	GA	COLUMBUS, CITY OF	1351580045D	04-AUG-98	R4-983-257	02
04	GA	COVINGTON, CITY OF	1301440004B	10-AUG-98	R4-983-115	02
04	GA	COWETA COUNTY *	1302980100A	18-NOV-98	98-04-2276A	02
04	GA	CUMMING, CITY OF	13117C0115C	26-AUG-98	98-04-2142A	02
04	GA	DALTON, CITY OF	1301940005C	25-NOV-98	99-04-352A	02
04	GA	DEKALB COUNTY *	1300650004E	25-SEP-98	98-04-1448A	02
04	GA	DEKALB COUNTY *	1300650010C	31-JUL-98	98-04-1512A	02

Region	S
04	GA
04	GA
04	GA

Region	State	Community	Map panel	Determination date	Case No.	Type
04	GA	DEKALB COUNTY *	1300650011F	14-AUG-98	98-04-2080A	02
04	GA	DEKALB COUNTY *	1300650011F	16-OCT-98	98-04-2342A	02
04	GA	DEKALB COUNTY *	1300650014C	26-AUG-98	98-04-2364A	02
04	GA	DEKALB COUNTY *	1300650007C	14-OCT-98	98-04-2776A	02
04	GA	DEKALB COUNTY *	1300650004E	30-OCT-98	99-04-044A	02
04	GA	DEKALB COUNTY *	1300650003E	04-NOV-98	99-04-046A	02
04	GA	DEKALB COUNTY *	1300650005G	30-OCT-98	99-04-108A	02
04	GA	DEKALB COUNTY *	1300650003E	18-DEC-98	99-04-158A	02
04	GA	DEKALB COUNTY *	1300650005G	02-DEC-98	99-04-438A	02
04	GA	DEKALB COUNTY *	1300650011F	09-DEC-98	99-04-472A	02
04	GA	DEKALB COUNTY *	1300650003E	16-DEC-98	99-04-672A	02
04	GA	DEKALB COUNTY *	1300650004E	23-JUL-98	R4-983-268	02
04	GA	DEKALB COUNTY *	1300650008C	23-JUL-98	R4-983-269	02
04	GA	DULUTH, CITY OF	1300980003C	28-OCT-98	98-04-3222A	02
04	GA	DULUTH, CITY OF	1300980002C	23-OCT-98	99-04-118A	17
04	GA	EAST POINT, CITY OF	13121C0354E	25-SEP-98	R4-972-067	02
04	GA	FAIRBURN, CITY OF	13121C0454E	02-DEC-98	98-04-3158A	02
04	GA	FANNIN COUNTY	1302490100A	11-SEP-98	98-04-2270A	02
04	GA	FAYETTE COUNTY *	13113C0090D	07-OCT-98	98-04-2616A	02
04	GA	FAYETTE COUNTY *	13113C0045D	08-JUL-98	R4-983-197	02
04	GA	FLOYD COUNTY*	1300790165A	30-DEC-98	99-04-080A	02
04	GA	FORSYTH COUNTY *	13117C0155C	27-JUL-98	97-04-333P	05
04	GA	FORSYTH COUNTY *	13117C0080D	11-NOV-98	98-04-2104A	02
04	GA	FORSYTH COUNTY *	13117C0115C	30-OCT-98	99-04-128A	02
04	GA	FORSYTH COUNTY *	13117C0125C	09-DEC-98	99-04-552A	02
04	GA	FORT OGLETHORPE, CITY OF	1302480001B	22-OCT-98	98-04-111P	05
04	GA	FULTON COUNTY *	13117C0155C	24-AUG-98	97-04-333P	05
04	GA	FULTON COUNTY *	13121C0160E	16-DEC-98	99-04-242A	02
04	GA	FULTON COUNTY *	13121C0080E	18-DEC-98	99-04-514A	02
04	GA	FULTON COUNTY *	13121C0163E	22-DEC-98	99-04-576A	02
04	GA	FULTON COUNTY *	13121C0160E	22-DEC-98	99-04-814A	02
04	GA	FULTON COUNTY *	13121C0034E	06-AUG-98	R4-963-266A	02
04	GA	GLYNN COUNTY *	1300920213C	19-AUG-98	98-04-1758A	02
04	GA	GWINNETT COUNTY *	1303220190C	29-JUL-98	98-04-1424A	02
04	GA	GWINNETT COUNTY *	1303220160D	15-JUL-98	98-04-1562A	02
04	GA	GWINNETT COUNTY *	1303220170C	14-AUG-98	98-04-1754A	02
04	GA	GWINNETT COUNTY *	1303220190C	07-AUG-98	98-04-2008A	02
04	GA	GWINNETT COUNTY *	1303220185C	04-SEP-98	98-04-2302A	02
04	GA	GWINNETT COUNTY *	1303220190C	02-OCT-98	98-04-3134A	01
04	GA	GWINNETT COUNTY *	1303220195C	30-OCT-98	99-04-052A	17
04	GA	GWINNETT COUNTY *	1303220195C	11-NOV-98	99-04-076A	02
04	GA	GWINNETT COUNTY *	1303220205C	05-AUG-98	R4-983-272	02
04	GA	HALL COUNTY *	1304660150B	09-SEP-98	98-04-2106A	02
04	GA	HARRIS COUNTY*	1303380150A	25-SEP-98	98-04-2700A	02
04	GA	HARRIS COUNTY*	1303380150A	25-SEP-98	98-04-2736A	02
04	GA	HARRIS COUNTY*	1303380175A	10-AUG-98	R4-983-052	02
04	GA	HARRIS COUNTY*	1303380150A	14-JUL-98	R4-983-214	02
04	GA	HARRIS COUNTY*	1303380150A	23-JUL-98	R4-983-258	02
04	GA	HART COUNTY*	1304670002B	07-AUG-98	98-04-2330A	02
04	GA	KENNESAW, CITY OF	13067C0030F	21-AUG-98	98-04-2434A	02
04	GA	KENNESAW, CITY OF	13067C0030F	13-NOV-98	98-04-2638A	02
04	GA	LAWRENCEVILLE, CITY OF	1300990001B	09-DEC-98	99-04-700A	02
04	GA	MACON, CITY OF	1300110041D	12-AUG-98	97-04-159P	05
04	GA	MACON, CITY OF	1300110025D	02-SEP-98	98-04-2530A	02
04	GA	MARIETTA, CITY OF	13067C0035F	26-AUG-98	98-04-1154A	01
04	GA	MARIETTA, CITY OF	13067C0050F	16-DEC-98	99-04-214A	02
04	GA	MARIETTA, CITY OF	13067C0050F	22-DEC-98	99-04-898A	02
04	GA	MARIETTA, CITY OF	13067C0035F	10-AUG-98	R4-982-275	02
04	GA	PAULDING COUNTY *	1301470075A	16-SEP-98	98-04-2564A	02
04	GA	ROME, CITY OF	1300810010C	09-OCT-98	98-04-2328A	02
04	GA	ROSWELL, CITY OF	13121C0061E	11-NOV-98	98-04-2484A	02
04	GA	ROSWELL, CITY OF	13121C0034E	23-JUL-98	R4-983-270	02
04	GA	SAVANNAH, CITY OF	1300300020C	30-SEP-98	98-04-2718A	02
04	GA	SMYRNA, CITY OF	13067C0070F	07-OCT-98	98-04-2440A	02
04	GA	VALDOSTA, CITY OF	1302000005D	22-DEC-98	99-04-792A	02
04	GA	WALTON COUNTY *	13297C0080B	25-SEP-98	98-04-1688A	02
04	GA	WALTON COUNTY *	13297C0070B	05-DEC-98	98-04-289P	05
04	GA	WALTON COUNTY *	13297C0060B	24-SEP-98	R4-973-245	02
04	GA	WALTON COUNTY *	13297C0100B	02-NOV-98	R4-982-251	02
04	GA	WOODSTOCK, CITY OF	13057C0330B	18-NOV-98	98-04-2778A	02
04	KY	BENTON, CITY OF	210163 B	22-JUL-98	98-04-1112A	01
04	KY	BOONE COUNTY *	2100130110B	29-DEC-98	99-04-266A	02
04	KY	BOWLING GREEN, CITY OF	21227C0094D	13-NOV-98	98-04-2816A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	KY	BRECKINRIDGE COUNTY	2100250003A	02-SEP-98	98-04-1770A	02
04	KY	BULLITT COUNTY*	2100280005D	17-NOV-98	99-04-040A	01
04	KY	BULLITT COUNTY*	210273 B	17-NOV-98	99-04-040A	01
04	KY	CALLOWAY COUNTY *	2103130005A	10-AUG-98	R4-982-052	02
04	KY	COVINGTON, CITY OF	2101290005D	02-DEC-98	99-04-056A	02
04	KY	COVINGTON, CITY OF	2101290005D	02-DEC-98	99-04-332A	02
04	KY	FLEMINGSBURG, CITY OF	210068 B	10-JUL-98	98-04-1690A	02
04	KY	FRANKLIN COUNTY *	2102800030B	09-DEC-98	98-04-2368A	02
04	KY	HOPKINS COUNTY *	2101120090B	02-DEC-98	98-04-2646A	02
04	KY	JEFFERSON COUNTY*	21111C0165D	31-JUL-98	98-04-1674A	02
04	KY	JEFFERSON COUNTY*	21111C0165D	29-JUL-98	98-04-1682A	02
04	KY	JEFFERSON COUNTY*	21111C0190D	02-DEC-98	98-04-1742A	02
04	KY	JEFFERSON COUNTY*	21111C0085D	23-OCT-98	98-04-1874A	01
04	KY	JEFFERSON COUNTY*	21111C0190D	23-SEP-98	98-04-1888A	02
04	KY	JEFFERSON COUNTY*	21111C0095D	25-NOV-98	98-04-1900A	02
04	KY	JEFFERSON COUNTY*	21111C0095D	28-OCT-98	98-04-1964A	02
04	KY	JEFFERSON COUNTY*	21111C0260D	12-AUG-98	98-04-2074A	02
04	KY	JEFFERSON COUNTY*	21111C0085D	28-AUG-98	98-04-2152A	01
04	KY	JEFFERSON COUNTY*	21111C0080D	06-NOV-98	98-04-2356A	02
04	KY	JEFFERSON COUNTY*	21111C0165D	11-NOV-98	98-04-2460A	02
04	KY	JEFFERSON COUNTY*	21111C0190D	23-SEP-98	98-04-2588A	02
04	KY	JEFFERSON COUNTY*	21111C0180D	14-OCT-98	98-04-2640A	02
04	KY	JEFFERSON COUNTY*	21111C0170D	23-OCT-98	98-04-3062A	02
04	KY	JEFFERSON COUNTY*	21111C0085D	04-NOV-98	99-04-156A	02
04	KY	JEFFERSON COUNTY*	21111C0280D	18-NOV-98	99-04-378A	02
04	KY	JEFFERSON COUNTY*	21111C0080D	16-DEC-98	99-04-664A	02
04	KY	JEFFERSON COUNTY*	21111C0020D	11-DEC-98	99-04-704A	02
04	KY	JEFFERSON COUNTY*	21111C0115D	02-NOV-98	R4-961-053A	02
04	KY	JEFFERSON COUNTY*	21111C0020D	05-AUG-98	R4-974-093	02
04	KY	JEFFERSON COUNTY*	21111C0095D	15-SEP-98	R4-983-271	02
04	KY	KNOX COUNTY *	2101310130B	04-DEC-98	98-04-3182A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.	2100670060C	25-SEP-98	98-04-2242A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.	2100670060C	23-OCT-98	98-04-2412A	17
04	KY	LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.	2100670070C	25-NOV-98	98-04-2532A	02
04	KY	LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.	2100670060C	05-AUG-98	R4-983-225	02
04	KY	MARSHALL COUNTY *	2102520100B	19-AUG-98	98-04-1996A	02
04	KY	MARSHALL COUNTY *	2102520050B	02-JUL-98	98-04-986A	02
04	KY	MIDDLESBORO, CITY OF	2151900005B	02-SEP-98	98-04-2018A	02
04	KY	OLDHAM COUNTY*	2101850065B	08-JUL-98	98-04-1474A	01
04	KY	OWENSBORO, CITY OF	21059C0260C	29-JUL-98	98-04-1632A	02
04	KY	OWENSBORO, CITY OF	21059C0260C	15-JUL-98	98-04-1670A	02
04	KY	OWENSBORO, CITY OF	21059C0280C	18-SEP-98	98-04-1834A	01
04	KY	OWENSBORO, CITY OF	21059C0280C	09-SEP-98	98-04-2320A	02
04	KY	OWENSBORO, CITY OF	21059C0280C	09-DEC-98	99-04-268A	02
04	KY	POWELL COUNTY *	2101940050B	25-NOV-98	98-04-2458A	02
04	KY	WINCHESTER, CITY OF	2100560002B	16-JUL-98	R4-983-088	02
04	MS	BYHALIA,TOWN OF	2802740025B	09-SEP-98	98-04-091P	05
04	MS	COLUMBUS, CITY OF	28087C0105J	14-OCT-98	98-04-2548A	01
04	MS	DESOTO COUNTY *	28033C0045E	18-SEP-98	98-04-1596A	01
04	MS	DESOTO COUNTY *	28033C0040E	15-JUL-98	98-04-1702A	02
04	MS	DESOTO COUNTY *	28033C0040E	18-SEP-98	98-04-2202A	01
04	MS	DESOTO COUNTY *	28033C0040E	16-SEP-98	98-04-2204A	01
04	MS	DESOTO COUNTY *	28033C0065D	18-SEP-98	98-04-2400A	01
04	MS	HATTIESBURG, CITY OF	28035C0080C	08-JUL-98	98-04-884A	02
04	MS	HORN LAKE, CITY OF	28033C0040E	04-SEP-98	98-04-2624A	02
04	MS	LAFAYETTE COUNTY *	2800930125B	04-AUG-98	98-04-1736A	01
04	MS	LAMAR COUNTY *	28073C0060C	06-NOV-98	98-04-2250A	02
04	MS	LAMAR COUNTY *	28073C0035C	30-DEC-98	99-04-910A	02
04	MS	LAUDERDALE COUNTY *	28075C0050C	05-AUG-98	R4-983-215	02
04	MS	LAUDERDALE COUNTY *	28075C0075C	05-AUG-98	R4-983-215	02
04	MS	LAUREL,CITY OF	2800920003D	11-DEC-98	99-04-554A	02
04	MS	MADISON, CITY OF	28089C0320D	04-NOV-98	99-04-050A	02
04	MS	OLIVE BRANCH,TOWN OF	28033C0065D	07-JUL-98	98-04-225P	05
04	MS	PEARL, CITY OF	2801450005C	23-OCT-98	99-04-290A	01
04	MS	PICAYUNE, CITY OF	28109C0255D	30-DEC-98	98-04-2362A	02
04	MS	PICAYUNE, CITY OF	28109C0255D	04-DEC-98	99-04-092A	02
04	MS	PICAYUNE, CITY OF	28109C0261E	04-DEC-98	99-04-092A	02
04	MS	RANKIN COUNTY *	2801420070C	21-AUG-98	98-04-1594A	01
04	MS	RANKIN COUNTY *	2801420155B	16-OCT-98	98-04-3052A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	MS	RANKIN COUNTY *	2801420165C	16-OCT-98	98-04-3052A	01
04	MS	RANKIN COUNTY *	2801420070C	04-NOV-98	99-04-170A	01
04	MS	SOUTHHAVEN, CITY OF	28033C0041E	18-SEP-98	98-04-2200A	01
04	MS	SOUTHHAVEN, CITY OF	28033C0035E	29-DEC-98	98-04-2210A	01
04	MS	SOUTHHAVEN, CITY OF	28033C0030E	09-OCT-98	98-04-2386A	02
04	MS	SOUTHHAVEN, CITY OF	28033C0040E	25-SEP-98	98-04-2470A	02
04	MS	SOUTHHAVEN, CITY OF	28033C0041E	02-DEC-98	99-04-014A	01
04	MS	SOUTHHAVEN, CITY OF	28033C0043E	22-DEC-98	99-04-888A	02
04	MS	STARKVILLE, CITY OF	2801240003C	26-AUG-98	97-04-1126A	01
04	MS	STARKVILLE, CITY OF	2801240005C	26-AUG-98	97-04-1126A	01
04	MS	TUPELO, CITY OF	2801000020C	09-DEC-98	99-04-260A	02
04	MS	TUPELO, CITY OF	2801000040C	09-DEC-98	99-04-686A	02
04	MS	WARREN COUNTY*	2801980200B	04-SEP-98	98-04-2064A	02
04	MS	WARREN COUNTY*	2801980150B	04-NOV-98	98-04-2634A	02
04	MS	WASHINGTON COUNTY*	2801770140B	21-OCT-98	98-04-2174A	02
04	MS	WASHINGTON COUNTY*	2801770230B	21-OCT-98	98-04-2174A	02
04	MS	WATER VALLEY, CITY OF	280187 B	30-DEC-98	99-04-454A	02
04	NC	ALEXANDER COUNTY*	3703980003C	19-AUG-98	R4-983-036A	02
04	NC	ARCHDALE, CITY OF	3702730002B	06-AUG-98	98-04-259P	05
04	NC	BEAUFORT COUNTY*	3700130535B	04-NOV-98	99-04-186A	02
04	NC	BEAUFORT COUNTY*	3700130245B	16-DEC-98	99-04-784A	02
04	NC	BEAUFORT COUNTY*	3700130410B	16-DEC-98	99-04-784A	02
04	NC	BOILING SPRING LAKES, CITY OF	3704530020B	23-SEP-98	98-04-2068A	02
04	NC	BOILING SPRING LAKES, CITY OF	3704530020B	05-AUG-98	R4-983-237	02
04	NC	BRUNSWICK COUNTY*	3702950130C	19-AUG-98	98-04-1728A	02
04	NC	BRUNSWICK COUNTY*	3702950360E	30-DEC-98	99-04-748A	02
04	NC	BRYSON CITY, CITY OF	3702280005B	11-NOV-98	99-04-034A	01
04	NC	BUNCOMBE COUNTY *	37021C0455C	22-JUL-98	98-04-1918A	02
04	NC	BUNCOMBE COUNTY *	37021C0169C	02-SEP-98	98-04-2016A	02
04	NC	CABARRUS COUNTY *		10-DEC-98	96-04-225P	05
04	NC	CARTERET COUNTY *	3700430682C	30-DEC-98	99-04-392A	02
04	NC	CARTERET COUNTY *	3700430657C	28-SEP-98	R4-983-099	02
04	NC	CATAWBA COUNTY *	3700500040C	09-SEP-98	98-04-1902A	02
04	NC	CATAWBA COUNTY *	3700500350C	02-OCT-98	98-04-2488A	02
04	NC	CATAWBA COUNTY *	3700500350C	30-SEP-98	98-04-2578A	02
04	NC	CATAWBA COUNTY *	3700500350C	21-OCT-98	98-04-2874A	02
04	NC	CATAWBA COUNTY *	3700500020C	11-SEP-98	98-04-2944A	02
04	NC	CATAWBA COUNTY *	3700500350C	04-DEC-98	98-04-3150A	02
04	NC	CATAWBA COUNTY *	3700500325B	30-DEC-98	98-04-3180A	02
04	NC	CATAWBA COUNTY *	3700500325B	04-NOV-98	98-04-3202A	02
04	NC	CATAWBA COUNTY *	3700500325B	30-DEC-98	99-04-176A	02
04	NC	CATAWBA COUNTY *	3700500325B	04-DEC-98	99-04-302A	02
04	NC	CATAWBA COUNTY *	3700500325B	11-DEC-98	99-04-480A	02
04	NC	CATAWBA COUNTY *	3700500030C	16-DEC-98	99-04-874A	02
04	NC	CATAWBA COUNTY *	3700500200C	15-SEP-98	R4-974-223	02
04	NC	CATAWBA COUNTY *	3700500325B	25-SEP-98	R4-983-033	02
04	NC	CATAWBA COUNTY *		10-AUG-98	R4-983-142	02
04	NC	CATAWBA COUNTY *	3700500030B	23-JUL-98	R4-983-244	02
04	NC	CHAPEL HILL, TOWN OF	3701800004E	16-SEP-98	98-04-2512A	02
04	NC	CHAPEL HILL, TOWN OF	3701800002E	16-JUL-98	R4-981-140	02
04	NC	CHARLOTTE, CITY OF	3701590013B	28-AUG-98	98-04-081P	05
04	NC	CHARLOTTE, CITY OF	3701590014B	28-AUG-98	98-04-081P	05
04	NC	CHARLOTTE, CITY OF	3701590029B	11-DEC-98	99-04-280A	01
04	NC	CONCORD, CITY OF	37025C0082D	10-DEC-98	96-04-225P	05
04	NC	CONCORD, CITY OF	37025C0084D	10-DEC-98	96-04-225P	05
04	NC	CONCORD, CITY OF	37025C0088D	10-DEC-98	96-04-225P	05
04	NC	CONCORD, CITY OF	37025C0084D	06-NOV-98	99-04-106A	01
04	NC	CONCORD, CITY OF	37025C0084D	06-NOV-98	99-04-270A	01
04	NC	CONCORD, CITY OF	37025C0120D	18-NOV-98	99-04-356A	01
04	NC	CONCORD, CITY OF	37025C0084D	17-DEC-98	99-04-832A	01
04	NC	CRAVEN COUNTY*	3700720330B	30-OCT-98	98-04-2990A	02
04	NC	CRAVEN COUNTY*	3700720340B	02-DEC-98	98-04-3112A	02
04	NC	CUMBERLAND COUNTY *	3700760080B	09-DEC-98	98-04-2010A	02
04	NC	DARE COUNTY*	3753480215C	31-JUL-98	98-04-1914A	02
04	NC	DARE COUNTY*	3753480009D	09-OCT-98	98-04-2650A	18
04	NC	DARE COUNTY*	3753480220C	05-AUG-98	R4-982-197	02
04	NC	DAVIDSON COUNTY *	3703070150B	25-SEP-98	98-04-2508A	02
04	NC	DAVIDSON COUNTY *	3703070120B	06-NOV-98	98-04-2830A	02
04	NC	DAVIDSON COUNTY *	3703070150B	23-OCT-98	98-04-2858A	02
04	NC	DAVIDSON COUNTY *	3703070150B	05-AUG-98	R4-982-128	02
04	NC	DUPLIN COUNTY *	3700830200B	06-NOV-98	98-04-2582A	02
04	NC	DUPLIN COUNTY *	3700830275B	09-DEC-98	98-04-2584A	02
04	NC	DUPLIN COUNTY *	3700830175B	25-SEP-98	98-04-2824A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	NC	DUPLIN COUNTY *	3700830175B	07-OCT-98	98-04-2932A	02
04	NC	DUPLIN COUNTY *	3700830100B	06-NOV-98	98-04-2984A	02
04	NC	DUPLIN COUNTY *	3700830100B	04-DEC-98	98-04-2986A	01
04	NC	DUPLIN COUNTY *	3700830175B	30-OCT-98	99-04-060A	02
04	NC	DUPLIN COUNTY *	3700830100B	25-NOV-98	99-04-346A	02
04	NC	DUPLIN COUNTY *	3700830200B	30-DEC-98	99-04-890A	02
04	NC	DURHAM, CITY OF	37063C0064G	23-SEP-98	98-04-1954A	17
04	NC	DURHAM, CITY OF	37063C0069G	26-AUG-98	98-04-2138A	02
04	NC	DURHAM, CITY OF	37063C0153G	06-NOV-98	99-04-228A	01
04	NC	DURHAM, CITY OF	37063C0159G	25-NOV-98	99-04-366A	02
04	NC	DURHAM, CITY OF	37063C0154G	17-SEP-98	R4-982-264	08
04	NC	EMERALD ISLE, TOWN OF	3700470003D	18-NOV-98	98-04-3106A	02
04	NC	EMERALD ISLE, TOWN OF	3700470003C	14-JUL-98	R4-983-217	02
04	NC	FAYETTEVILLE, CITY OF	3700770013E	18-DEC-98	98-04-3064A	02
04	NC	FORSYTH COUNTY *	3753490135C	02-SEP-98	98-04-1986A	01
04	NC	FORSYTH COUNTY *		13-NOV-98	99-04-300A	02
04	NC	GASTON COUNTY *	3700990230C	18-DEC-98	98-04-3018A	02
04	NC	GOLDSBORO, CITY OF	3702550010C	30-DEC-98	98-04-2946A	02
04	NC	GOLDSBORO, CITY OF	3702550005D	11-DEC-98	99-04-218A	02
04	NC	GREENSBORO, CITY OF	3753510013C	17-JUL-98	R4-983-228	08
04	NC	HICKORY, CITY OF	3700540005B	02-JUL-98	98-04-1740A	02
04	NC	JACKSONVILLE, CITY OF	3701780006B	05-AUG-98	R4-983-005	02
04	NC	JONES COUNTY *	37103C0075C	04-DEC-98	98-04-2304A	02
04	NC	LENOIR COUNTY *	3701440035B	26-AUG-98	98-04-2066A	02
04	NC	LENOIR COUNTY *	3701440055B	09-OCT-98	98-04-2762A	02
04	NC	LENOIR COUNTY *	3701440035B	08-JUL-98	R4-983-203	02
04	NC	LEXINGTON, CITY OF	3700810005B	14-JUL-98	R4-983-110	02
04	NC	LEXINGTON, CITY OF	3700810005B	05-AUG-98	R4-983-120	02
04	NC	LINCOLN COUNTY *	3701460150C	06-NOV-98	98-04-2148A	02
04	NC	LONG BEACH, TOWN OF	3753540002D	19-AUG-98	98-04-1698A	02
04	NC	LONG BEACH, TOWN OF	3753540002D	19-AUG-98	98-04-2030A	18
04	NC	LUMBERTON, CITY OF	37155C0179D	25-NOV-98	98-04-2642A	01
04	NC	LUMBERTON, CITY OF	37155C0178D	11-DEC-98	99-04-744A	01
04	NC	LUMBERTON, CITY OF	37155C0179D	28-SEP-98	R4-982-176	02
04	NC	MECKLENBURG COUNTY *	3701580190B	29-JUL-98	97-04-1702A	01
04	NC	MECKLENBURG COUNTY *	3701580015C	12-AUG-98	98-04-2060A	02
04	NC	MECKLENBURG COUNTY *	3701580210B	18-NOV-98	98-04-2192A	02
04	NC	MECKLENBURG COUNTY *	3701580015B	04-AUG-98	R4-983-200	02
04	NC	MECKLENBURG COUNTY *	3701580170B	05-AUG-98	R4-983-220	02
04	NC	MONTGOMERY COUNTY	3703360025B	09-DEC-98	99-04-246A	02
04	NC	MOORE COUNTY *	37125C0180C	30-DEC-98	99-04-720A	02
04	NC	MORRISVILLE, TOWN OF	37183C0291E	01-JUL-98	98-04-075P	05
04	NC	NEW HANOVER COUNTY*	3701680105D	28-OCT-98	98-04-2468A	02
04	NC	NEW HANOVER COUNTY*	3701680082E	18-DEC-98	98-04-2882A	02
04	NC	NEW HANOVER COUNTY*	3701680105D	04-NOV-98	98-04-3216A	02
04	NC	NEW HANOVER COUNTY*	3701680090E	09-DEC-98	99-04-618A	02
04	NC	NEW HANOVER COUNTY*	3701680105D	05-AUG-98	R4-981-254	02
04	NC	NEW HANOVER COUNTY*	3701680045E	23-JUL-98	R4-983-245	02
04	NC	NEWTON, TOWN OF	3700570005B	06-NOV-98	98-04-2480A	02
04	NC	ONSLOW COUNTY*	3703400470D	16-SEP-98	98-04-2572A	02
04	NC	ONSLOW COUNTY*	3703400367D	16-JUL-98	R4-983-227	02
04	NC	ORANGE COUNTY *	3703420330B	21-OCT-98	99-04-072A	02
04	NC	PAMLICO COUNTY	3701810380B	19-AUG-98	98-04-1696A	02
04	NC	PENDER COUNTY*	3703440527C	31-JUL-98	98-04-2014A	02
04	NC	PENDER COUNTY*	3703440531C	12-AUG-98	98-04-2162A	02
04	NC	PENDER COUNTY*	3703440525C	07-OCT-98	98-04-2744A	02
04	NC	PENDER COUNTY*	3703440400B	22-DEC-98	99-04-310A	02
04	NC	PENDER COUNTY*	3703440528D	02-DEC-98	99-04-404A	02
04	NC	PENDER COUNTY*	3703440527C	02-DEC-98	99-04-626A	02
04	NC	PENDER COUNTY*	3703440531C	16-DEC-98	99-04-750A	02
04	NC	PERSON COUNTY*	37145C0025B	31-JUL-98	98-04-2154A	02
04	NC	PINEVILLE, TOWN OF	3701600005B	30-SEP-98	98-04-2604A	01
04	NC	PITT COUNTY *	3703720355B	24-JUL-98	98-04-1782A	02
04	NC	PITT COUNTY *	3703720375B	24-JUL-98	98-04-1850A	02
04	NC	PITT COUNTY *	3703720255C	02-OCT-98	98-04-1942A	02
04	NC	PITT COUNTY *	3703720265B	30-SEP-98	98-04-2402A	02
04	NC	PITT COUNTY *	3703720265B	11-NOV-98	98-04-2698A	02
04	NC	PITT COUNTY *	3703720260C	30-SEP-98	98-04-2726A	02
04	NC	PITT COUNTY *	3703720250C	09-DEC-98	98-04-3154A	02
04	NC	PITT COUNTY *	3703720280C	31-AUG-98	R4-983-176	02
04	NC	PLYMOUTH, TOWN OF	3702490003C	25-NOV-98	99-04-414A	02
04	NC	RALEIGH, CITY OF	37183C0507E	22-JUL-98	98-04-1170A	01
04	NC	RALEIGH, CITY OF	37183C0526E	22-JUL-98	98-04-1170A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
04	NC	RALEIGH, CITY OF	37183C0352E	21-JUL-98	98-04-1598A	01
04	NC	RALEIGH, CITY OF	37183C0329E	04-SEP-98	98-04-2120A	02
04	NC	RALEIGH, CITY OF	37183C0170E	18-DEC-98	99-04-030A	01
04	NC	RICHMOND COUNTY*	37153C0095C	18-DEC-98	99-04-084A	01
04	NC	ROCKY MOUNT, CITY OF	3700920005C	07-JUL-98	97-04-217P	05
04	NC	ROCKY MOUNT, CITY OF	3700920006C	07-JUL-98	97-04-217P	05
04	NC	ROCKY MOUNT, CITY OF	3700920004C	18-SEP-98	98-04-2228A	01
04	NC	ROCKY MOUNT, CITY OF	3700920004C	23-SEP-98	98-04-2446A	01
04	NC	SAMPSON COUNTY *	3702200125B	20-NOV-98	98-04-2586A	02
04	NC	SOUTHERN SHORES, TOWN OF	3704300001C	02-SEP-98	98-04-2360A	02
04	NC	SOUTHERN SHORES, TOWN OF	3704300001C	30-OCT-98	98-04-2936A	01
04	NC	STANLY COUNTY *	3703610050B	17-JUL-98	98-04-1762A	02
04	NC	TARBORO, TOWN OF	3700940005D	28-AUG-98	98-04-2012A	02
04	NC	UNION COUNTY *	37179C0060C	29-JUL-98	98-04-840A	02
04	NC	UNION COUNTY *	37179C0020C	30-SEP-98	R4-983-091	08
04	NC	WASHINGTON COUNTY*	3702470045B	02-SEP-98	98-04-2182A	02
04	NC	WILMINGTON, CITY OF	3701710005C	25-NOV-98	98-04-3184A	02
04	NC	WILSON, CITY OF	3702700005B	14-AUG-98	98-04-1920A	02
04	NC	WINDSOR, TOWN OF	3700190001C	05-AUG-98	R4-932-137A	02
04	NC	WINFALL, TOWN OF	3703450001A	21-OCT-98	98-04-2992A	02
04	NC	WINSTON-SALEM, CITY OF		06-NOV-98	98-04-179P	05
04	SC	ANDERSON COUNTY *	4500130230B	10-AUG-98	R4-983-123	02
04	SC	BERKELEY COUNTY *	4500290355C	02-JUL-98	98-04-1174A	02
04	SC	BERKELEY COUNTY *	4500290355C	08-OCT-98	98-04-2000A	02
04	SC	BERKELEY COUNTY *	4500290290C	26-AUG-98	98-04-2372A	02
04	SC	BERKELEY COUNTY *	4500290355C	26-AUG-98	98-04-2372A	02
04	SC	BERKELEY COUNTY *	4500290290C	15-JUL-98	98-04-436A	02
04	SC	BERKELEY COUNTY *	4500290280C	09-DEC-98	99-04-222A	02
04	SC	BERKELEY COUNTY *	4500290355C	18-DEC-98	99-04-856A	02
04	SC	BERKELEY COUNTY *	4500290290C	23-JUL-98	R4-983-247	02
04	SC	BERKELEY COUNTY *	4500290290C	23-JUL-98	R4-983-259	02
04	SC	CHARLESTON COUNTY*	4554130225G	17-SEP-98	R4-982-007	02
04	SC	CHARLESTON COUNTY*	4554130245F	05-AUG-98	R4-983-154	02
04	SC	CLARENDON COUNTY *	4500510225B	09-DEC-98	98-04-3156A	02
04	SC	COLUMBIA, CITY OF	45079C0040H	31-AUG-98	98-04-055P	06
04	SC	COLUMBIA, CITY OF	45079C0045G	31-AUG-98	98-04-055P	06
04	SC	COLUMBIA, CITY OF	45079C0080J	31-AUG-98	98-04-055P	06
04	SC	COLUMBIA, CITY OF	45079C0085G	31-AUG-98	98-04-055P	06
04	SC	DORCHESTER COUNTY *	4500680245C	07-AUG-98	98-04-1442A	02
04	SC	DORCHESTER COUNTY *	4500680245C	23-SEP-98	98-04-1734A	02
04	SC	DORCHESTER COUNTY *	4500680245C	11-NOV-98	98-04-2556A	17
04	SC	DORCHESTER COUNTY *	4500680265C	23-SEP-98	98-04-2764A	02
04	SC	DORCHESTER COUNTY *	4500680245C	06-NOV-98	98-04-3236A	02
04	SC	DORCHESTER COUNTY *	4500680245C	22-DEC-98	99-04-518A	02
04	SC	FLORENCE COUNTY *	4500760085B	19-AUG-98	98-04-2168A	02
04	SC	FLORENCE COUNTY *	4500760085B	09-OCT-98	98-04-2954A	02
04	SC	FOREST ACRES, CITY OF	45079C0113G	14-AUG-98	98-04-243P	06
04	SC	GEORGETOWN COUNTY *	4500850455E	16-SEP-98	98-04-2566A	02
04	SC	GREENVILLE COUNTY *	4500890155B	09-OCT-98	98-04-1956A	01
04	SC	GREENVILLE COUNTY *	4500890145B	26-AUG-98	98-04-2140A	02
04	SC	HORRY COUNTY *	45051C0302E	11-DEC-98	98-04-2384A	02
04	SC	KERSHAW COUNTY *	4501150250B	03-DEC-98	98-04-273A	02
04	SC	KERSHAW COUNTY *	4501150085B	11-NOV-98	98-04-2904A	02
04	SC	LEXINGTON COUNTY *	45063C0250F	14-OCT-98	98-04-2124A	02
04	SC	LEXINGTON COUNTY *	45063C0133F	04-SEP-98	98-04-2326A	17
04	SC	LEXINGTON COUNTY *	45063C0295F	30-DEC-98	98-04-2464A	02
04	SC	LEXINGTON COUNTY *	45063C0142F	16-SEP-98	98-04-2562A	02
04	SC	LEXINGTON COUNTY *	45063C0139F	26-AUG-98	98-04-912A	01
04	SC	LEXINGTON COUNTY *	45063C0125F	18-DEC-98	99-04-544A	02
04	SC	LEXINGTON, TOWN OF	45063C0250F	08-JUL-98	98-04-143P	06
04	SC	NEWBERRY COUNTY*	4502240225B	07-AUG-98	98-04-2036A	02
04	SC	NEWBERRY COUNTY*	4502240225B	14-AUG-98	98-04-2038A	02
04	SC	NEWBERRY COUNTY*	4502240225B	09-SEP-98	98-04-2408A	02
04	SC	NEWBERRY COUNTY*	4502240225B	08-JUL-98	R4-983-202	02
04	SC	NORTH AUGUSTA, CITY OF	4500070005D	23-JUL-98	R4-983-262	02
04	SC	RICHLAND COUNTY*	45079C0040H	31-AUG-98	98-04-055P	06
04	SC	RICHLAND COUNTY*	45079C0045G	31-AUG-98	98-04-055P	06
04	SC	RICHLAND COUNTY*	45079C0080J	31-AUG-98	98-04-055P	06
04	SC	RICHLAND COUNTY*	45079C0085G	31-AUG-98	98-04-055P	06
04	SC	RICHLAND COUNTY*	45079C0185G	28-OCT-98	98-04-2006A	02
04	SC	RICHLAND COUNTY*	45079C0025G	19-AUG-98	98-04-2260A	02
04	SC	RICHLAND COUNTY*	45079C0025G	25-SEP-98	R4-983-105	02
04	SC	RICHLAND COUNTY*	45079C0025G	30-SEP-98	R4-983-137	08

Region	State	Community	Map panel	Determination date	Case No.	Type
04	SC	RICHLAND COUNTY*	45079C0025G	20-JUL-98	R4-983-252	02
04	SC	SALUDA COUNTY	4502300002A	18-SEP-98	98-04-2406A	02
04	SC	SUMMERVILLE, TOWN OF	4500680245C	23-SEP-98	98-04-2252A	02
04	SC	SUMTER COUNTY *	4501820090B	15-JUL-98	98-04-1394A	01
04	SC	YORK COUNTY *	4501930125C	24-SEP-98	R4-974-126	02
04	SC	YORK COUNTY *	4501930125C	04-AUG-98	R4-982-155	02
04	SC	YORK COUNTY *	4501930050B	15-SEP-98	R4-983-235	02
04	TN	BARTLETT, CITY OF	47157C0150E	25-SEP-98	97-04-299P	05
04	TN	BENTON COUNTY	4702180025B	07-OCT-98	98-04-2794A	02
04	TN	BLOUNT COUNTY *	4703560125B	07-OCT-98	98-04-2570A	02
04	TN	BLOUNT COUNTY *	4703560025B	16-JUL-98	R4-983-212	02
04	TN	BRADLEY COUNTY *	4703570060B	25-SEP-98	98-04-2524A	02
04	TN	BRADLEY COUNTY *	4703570125B	28-SEP-98	R4-983-096	02
04	TN	BRENTWOOD, CITY OF	4702050005C	02-SEP-98	98-04-1660A	01
04	TN	BROWNSVILLE, CITY OF	4700870010C	30-JUL-98	98-04-147P	06
04	TN	CELINA, CITY OF	4700320005D	22-DEC-98	98-04-2926A	02
04	TN	CHATTANOOGA, CITY OF	4700720017E	02-JUL-98	97-04-748A	01
04	TN	CHATTANOOGA, CITY OF	4700720015B	29-JUL-98	98-04-1482A	01
04	TN	CHATTANOOGA, CITY OF	4700720017E	29-JUL-98	98-04-1884A	01
04	TN	CHATTANOOGA, CITY OF	4700720011C	23-OCT-98	98-04-3094A	01
04	TN	CLARKSVILLE, CITY OF	4701370013C	02-OCT-98	98-04-2112A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	07-OCT-98	98-04-2114A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	25-SEP-98	98-04-2370A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	20-NOV-98	98-04-2900A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	07-OCT-98	98-04-2912A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	11-NOV-98	98-04-2920A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	18-NOV-98	99-04-198A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	22-DEC-98	99-04-776A	02
04	TN	CLARKSVILLE, CITY OF	4701370013C	14-JUL-98	R4-983-213	02
04	TN	CLARKSVILLE, CITY OF	4701370009C	20-JUL-98	R4-983-254	02
04	TN	COCKE COUNTY*	47029C0130D	23-JUL-98	R4-983-243	02
04	TN	COLLIERVILLE, CITY OF	47157C0245E	11-SEP-98	97-04-1870A	01
04	TN	COLLIERVILLE, CITY OF	47157C0295E	04-AUG-98	98-04-1220A	01
04	TN	COLLIERVILLE, CITY OF	47157C0245E	04-AUG-98	98-04-1348A	01
04	TN	COLLIERVILLE, CITY OF	47157C0245E	04-AUG-98	98-04-1350A	01
04	TN	COLLIERVILLE, CITY OF	47157C0240E	12-JUL-98	98-04-1574A	01
04	TN	COLLIERVILLE, CITY OF	47157C0240E	17-JUL-98	98-04-1636A	01
04	TN	COLLIERVILLE, CITY OF	47157C0245E	04-SEP-98	98-04-1946A	02
04	TN	COLLIERVILLE, CITY OF	47157C0240E	18-SEP-98	98-04-3014A	01
04	TN	COLLIERVILLE, CITY OF	47157C0240E	23-SEP-98	98-04-3060A	01
04	TN	COLUMBIA, CITY OF	4754230005D	04-AUG-98	98-04-1646A	02
04	TN	DECATUR COUNTY	4700410003C	14-AUG-98	98-04-2004A	02
04	TN	DECATUR COUNTY	4700410002C	07-OCT-98	98-04-2430A	02
04	TN	DYER COUNTY *	4702840075B	28-AUG-98	98-04-1876A	02
04	TN	EAST RIDGE, CITY OF	4754240010D	02-OCT-98	98-04-2610A	02
04	TN	EAST RIDGE, CITY OF	4754240010D	24-JUL-98	98-04-604A	01
04	TN	EAST RIDGE, CITY OF	4754240010D	23-JUL-98	R4-983-267	02
04	TN	ESTILL SPRINGS, TOWN OF	470272 B	28-SEP-98	R4-981-267	02
04	TN	GATLINBURG, CITY OF	4754260002C	28-OCT-98	98-04-3004A	02
04	TN	GERMANTOWN, CITY OF	47157C0235E	12-AUG-98	98-04-1882A	01
04	TN	GERMANTOWN, CITY OF	47157C0235E	02-SEP-98	98-04-2474A	02
04	TN	GERMANTOWN, CITY OF	47157C0235E	16-OCT-98	98-04-3122A	17
04	TN	GERMANTOWN, CITY OF	47157C0235E	04-NOV-98	99-04-174A	17
04	TN	GERMANTOWN, CITY OF	47157C0230E	30-DEC-98	99-04-764A	02
04	TN	GERMANTOWN, CITY OF	47157C0235E	16-DEC-98	99-04-848A	01
04	TN	JACKSON, CITY OF	47113C0155D	10-DEC-98	99-04-820A	01
04	TN	KINGSPORT, CITY OF	4701840025C	18-DEC-98	99-04-368A	02
04	TN	KNOX COUNTY *	4754330045B	02-SEP-98	98-04-2442A	02
04	TN	KNOX COUNTY *	4754330060B	16-SEP-98	98-04-2770A	02
04	TN	KNOX COUNTY *	4754330170B	22-DEC-98	98-04-3188A	01
04	TN	KNOX COUNTY *	4754330215B	26-AUG-98	98-04-614A	02
04	TN	KNOX COUNTY *	4754330120B	04-DEC-98	99-04-022A	01
04	TN	KNOXVILLE, CITY OF	4754340025B	06-NOV-98	98-04-2916A	17
04	TN	MADISON COUNTY *	47113C0135D	09-DEC-98	98-04-1618A	01
04	TN	MADISON COUNTY *	47113C0155D	09-DEC-98	98-04-1618A	01
04	TN	MADISON COUNTY *	47113C0155D	20-OCT-98	98-04-2190A	01
04	TN	MANCHESTER, CITY OF	4700350001B	29-JUL-98	98-04-1718A	01
04	TN	MARTIN, CITY OF	4702020002C	11-DEC-98	99-04-422A	02
04	TN	MARTIN, CITY OF	4702020002C	14-JUL-98	R4-982-105	02
04	TN	MCMINN COUNTY*	4701260250B	11-AUG-98	98-04-2298A	02
04	TN	MEMPHIS, CITY OF	47157C0180E	22-DEC-98	99-04-390A	01
04	TN	MONTGOMERY COUNTY *	4701360050B	22-JUL-98	98-04-1828A	02
04	TN	MONTGOMERY COUNTY *	4701360050B	07-OCT-98	98-04-2656A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
04	TN	MONTGOMERY COUNTY *	4701360050B	23-JUL-98	R4-983-264	02
04	TN	MURFREESBORO, CITY OF	47149C0260E	16-SEP-98	98-04-1656A	01
04	TN	MURFREESBORO, CITY OF	47149C0260E	12-AUG-98	98-04-1658A	01
04	TN	MURFREESBORO, CITY OF	47149C0145E	17-JUL-98	98-04-1824A	01
04	TN	MURFREESBORO, CITY OF	47149C0145E	02-OCT-98	98-04-2096A	01
04	TN	MURFREESBORO, CITY OF	47149C0163E	02-DEC-98	98-04-2454A	01
04	TN	MURFREESBORO, CITY OF	47149C0260E	07-OCT-98	98-04-2856A	01
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400254C	12-AUG-98	98-04-1962A	01
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400177B	28-AUG-98	98-04-1972A	01
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400177B	28-AUG-98	98-04-1974A	01
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400259B	07-OCT-98	98-04-2720A	02
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400177B	19-NOV-98	99-04-588A	01
04	TN	NASHVILLE, CITY OF & DAVIDSON COUNTY	4700400257B	17-JUL-98	R4-983-179	02
04	TN	OLIVER SPRINGS, TOWN OF	4700050003B	23-SEP-98	98-04-2116A	02
04	TN	PUTNAM COUNTY *	4701490001A	05-AUG-98	98-04-1686A	02
04	TN	RED BANK, CITY OF	4700760002B	17-JUL-98	98-04-1812A	02
04	TN	RED BANK, CITY OF	4700760002B	18-SEP-98	98-04-2632A	02
04	TN	RUTHERFORD COUNTY *	47149C0135E	25-NOV-98	99-04-180A	02
04	TN	RUTHERFORD COUNTY *	47149C0385E	11-NOV-98	99-04-292A	17
04	TN	RUTHERFORD COUNTY *	47149C0135E	02-DEC-98	99-04-462A	02
04	TN	RUTHERFORD COUNTY *	47149C0135E	19-AUG-98	R4-904-007A	02
04	TN	SHELBY COUNTY *	47157C0150E	25-SEP-98	97-04-299P	05
04	TN	SHELBY COUNTY *	47157C0190E	14-OCT-98	98-04-1582A	01
04	TN	SHELBY COUNTY *	47157C0235E	10-JUL-98	98-04-1590A	01
04	TN	SHELBY COUNTY *	47157C0075E	23-SEP-98	98-04-2486A	02
04	TN	SHELBY COUNTY *	47157C0235E	02-OCT-98	98-04-2806A	02
04	TN	SHELBY COUNTY *	47157C0235E	18-SEP-98	98-04-2842A	02
04	TN	SHELBY COUNTY *	47157C0285E	02-DEC-98	99-04-516A	02
04	TN	SHELBY COUNTY *	47157C0110E	08-DEC-98	99-04-712A	02
04	TN	SHELBY COUNTY *	47157C0235E	02-NOV-98	R4-983-143	02
04	TN	SHELBY COUNTY *	47157C0145E	05-AUG-98	R4-983-198	08
04	TN	SULLIVAN COUNTY *	4701810110C	14-JUL-98	R4-983-209	02
04	TN	WILLIAMSON COUNTY *	4702040020C	26-AUG-98	98-04-1940A	02
04	TN	WILLIAMSON COUNTY *	4702040015C	07-OCT-98	98-04-3030A	02
04	TN	WILLIAMSON COUNTY *	4702040045D	28-SEP-98	R4-983-057	02
05	IL	ADAMS COUNTY*	1700010170C	31-JUL-98	98-05-4714A	02
05	IL	ALGONQUIN, VILLAGE OF	1704740002B	29-JUL-98	98-05-1484A	01
05	IL	ALGONQUIN, VILLAGE OF	1707320345C	29-JUL-98	98-05-1484A	01
05	IL	ALSIP, VILLAGE OF	1700550003C	24-JUL-98	98-05-4738A	02
05	IL	ANTIOCH, VILLAGE OF	17097C0026F	07-OCT-98	98-05-5404A	02
05	IL	AURORA, CITY OF	1703200015D	02-JUL-98	98-05-2870A	02
05	IL	AURORA, CITY OF	1703200025E	21-OCT-98	98-05-6886A	02
05	IL	AURORA, CITY OF	17197C0030E	02-DEC-98	99-05-264A	01
05	IL	BARRINGTON HILLS, VILLAGE OF	1700580002B	30-SEP-98	98-05-6168A	02
05	IL	BARRINGTON, VILLAGE OF	17097C0217F	16-DEC-98	97-05-351P	05
05	IL	BARRINGTON, VILLAGE OF	17097C0217F	08-JUL-98	98-05-4334A	17
05	IL	BARRINGTON, VILLAGE OF	17097C0217F	17-JUL-98	98-05-4706A	17
05	IL	BEACH PARK, VILLAGE OF	17097C0087F	22-JUL-98	98-05-4294A	02
05	IL	BELLEVILLE, CITY OF	1706180010B	29-JUL-98	98-05-2448A	02
05	IL	BELLWOOD, VILLAGE OF	1700610001B	07-OCT-98	98-05-5686A	02
05	IL	BELVIDERE, CITY OF	1700080003B	10-SEP-98	98-05-097P	05
05	IL	BENSENVILLE, VILLAGE OF	1702000003C	02-OCT-98	98-05-1954A	01
05	IL	BLOOMINGDALE, VILLAGE OF	1702010002B	29-JUL-98	98-05-5208A	02
05	IL	BLOOMINGTON, CITY OF	1704900010C	18-OCT-98		02
05	IL	BLOOMINGTON, CITY OF	1704900005C	11-SEP-98	98-05-2470A	01
05	IL	BLOOMINGTON, CITY OF	1704900010C	21-AUG-98	98-05-4556A	17
05	IL	BLOOMINGTON, CITY OF	1704900010C	30-OCT-98	98-05-5420A	17
05	IL	BLOOMINGTON, CITY OF	1704900005C	14-AUG-98	98-05-5754A	17
05	IL	BLUE ISLAND, CITY OF	1700640002C	19-AUG-98	98-05-5086A	02
05	IL	BRADLEY, VILLAGE OF	1703380001B	05-AUG-98	98-05-3266A	17
05	IL	BROOKFIELD, VILLAGE OF	1700660002B	07-OCT-98	98-05-3672A	02
05	IL	BUFFALO GROVE, VILLAGE OF	17097C0261F	10-JUL-98	98-05-4670A	17
05	IL	BUFFALO GROVE, VILLAGE OF	17097C0261F	11-SEP-98	98-05-5610A	02
05	IL	BUFFALO GROVE, VILLAGE OF	17097C0261F	11-NOV-98	99-05-092A	02
05	IL	BUFFALO GROVE, VILLAGE OF	17097C0253F	20-NOV-98	99-05-846A	01
05	IL	BYRON, CITY OF	1705260001B	24-JUL-98	98-05-5012A	02
05	IL	CALHOUN COUNTY *	1700180050B	30-DEC-98	98-05-6348A	02
05	IL	CALUMET CITY, CITY OF	1700720003D	12-AUG-98	98-05-3908A	02
05	IL	CALUMET CITY, CITY OF	1700720003D	26-AUG-98	98-05-5092A	02
05	IL	CARMI, CITY OF	1706810005B	30-DEC-98	99-05-1566A	02
05	IL	CARROLL COUNTY *	1700190125B	15-JUL-98	98-05-4000A	02
05	IL	CASEYVILLE, VILLAGE OF	1706210002A	02-JUL-98	98-05-4788A	02
05	IL	CHAMPAIGN COUNTY *	1708940095B	04-AUG-98	98-05-4648A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IL	CHAMPAIGN COUNTY *	1708940100B	31-JUL-98	98-05-5026A	02
05	IL	CHAMPAIGN COUNTY *	1708940225B	07-OCT-98	98-05-5386A	02
05	IL	CHAMPAIGN COUNTY *	1708940205B	30-DEC-98	99-05-1570A	02
05	IL	CHICAGO RIDGE, VILLAGE OF	1700760001B	30-DEC-98	99-05-458A	02
05	IL	CHICAGO, CITY OF	1700740009B	16-NOV-98	98-05-115P	05
05	IL	CHICAGO, CITY OF	1700810005C	16-NOV-98	98-05-115P	05
05	IL	CHICAGO, CITY OF	1701560001C	16-NOV-98	98-05-115P	05
05	IL	CLINTON COUNTY*	170044 B	02-JUL-98	98-05-3956A	02
05	IL	CLINTON COUNTY*	170049 B	02-JUL-98	98-05-3956A	02
05	IL	CLINTON COUNTY*	170044 B	14-AUG-98	98-05-5800A	02
05	IL	CLINTON, CITY OF	17039C0190D	04-AUG-98	98-05-165P	05
05	IL	CLINTON, CITY OF	17039C0190D	24-JUL-98	98-05-4910A	02
05	IL	COOK COUNTY *	1700540235C	31-JUL-98	98-05-4348A	02
05	IL	COOK COUNTY *	1700540220C	21-AUG-98	98-05-4678A	01
05	IL	COOK COUNTY *	1700540035B	14-AUG-98	98-05-5142A	02
05	IL	COOK COUNTY *	1700540040B	18-SEP-98	98-05-6032A	02
05	IL	COOK COUNTY *	1700540215B	11-NOV-98	98-05-6292A	17
05	IL	COOK COUNTY *	1700540215B	11-DEC-98	99-05-764A	02
05	IL	CRESTWOOD, VILLAGE OF	1700800001E	10-JUL-98	98-05-4252A	02
05	IL	CRYSTAL LAKE, CITY OF	1704760001C	08-JUL-98	98-05-4760A	02
05	IL	CRYSTAL LAKE, CITY OF	1704760003C	07-AUG-98	98-05-5096A	02
05	IL	CRYSTAL LAKE, CITY OF	1704760001C	23-SEP-98	98-05-6258A	02
05	IL	DANVILLE, CITY OF	1706620015C	07-OCT-98	98-05-6152A	02
05	IL	DANVILLE, CITY OF	1706620010C	23-SEP-98	98-05-6826A	02
05	IL	DE KALB, CITY OF	170808 B	23-OCT-98	98-05-6674A	01
05	IL	DECATUR, CITY OF	1704290020C	04-SEP-98	98-05-4146A	02
05	IL	DEERFIELD, VILLAGE OF	17097C0286F	04-SEP-98	98-05-3880A	01
05	IL	DEERFIELD, VILLAGE OF	17097C0286F	05-AUG-98	98-05-4444A	02
05	IL	DES PLAINES, CITY OF	1700810005C	09-DEC-98	98-05-6296A	02
05	IL	DEWITT COUNTY *	17039C0190D	04-AUG-98	98-05-165P	05
05	IL	DEWITT COUNTY *	17039C0190D	17-JUL-98	98-05-4624A	02
05	IL	DEWITT COUNTY *	17039C0235D	30-OCT-98	99-05-148A	02
05	IL	DOUGLAS COUNTY*	1701940050B	16-SEP-98	98-05-5708A	02
05	IL	DOUGLAS COUNTY*	1701940050B	23-SEP-98	98-05-5928A	02
05	IL	DOWNERS GROVE, VILLAGE OF	1702040004B	02-DEC-98	98-05-5868A	02
05	IL	DUPAGE COUNTY*	1701970030D	04-DEC-98	98-05-5766A	02
05	IL	DUPAGE COUNTY*	1701970060B	23-SEP-98	98-05-6186A	02
05	IL	EAST PEORIA, CITY OF	1706490015B	23-SEP-98	98-05-5820A	02
05	IL	EFFINGHAM COUNTY *	1702270001A	04-NOV-98	98-05-4906A	02
05	IL	EFFINGHAM, CITY OF	170229 B	04-AUG-98	98-05-4716A	02
05	IL	FAIRVIEW HGTS., CITY OF	1708950005A	02-OCT-98	98-05-5178A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	14-OCT-98	98-05-4438A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	14-AUG-98	98-05-5346A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0015F	07-OCT-98	98-05-6196A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	16-OCT-98	98-05-6564A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	21-OCT-98	98-05-6628A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	16-DEC-98	99-05-1158A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	30-OCT-98	99-05-120A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	30-DEC-98	99-05-1282A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	04-DEC-98	99-05-206A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	04-NOV-98	99-05-258A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0015F	18-NOV-98	99-05-390A	02
05	IL	FOX LAKE, VILLAGE OF	17097C0020F	25-NOV-98	99-05-794A	02
05	IL	FRANKFORT, VILLAGE OF	17197C0213E	22-JUL-98	98-05-089P	06
05	IL	FRANKFORT, VILLAGE OF	17197C0331E	11-SEP-98	98-05-5294A	02
05	IL	GERMANTOWN, VILLAGE OF	170044 B	02-JUL-98	98-05-3956A	02
05	IL	GERMANTOWN, VILLAGE OF	170049 B	02-JUL-98	98-05-3956A	02
05	IL	GERMANTOWN, VILLAGE OF	170049 B	15-JUL-98	98-05-5204A	02
05	IL	GLEN ELLYN, VILLAGE OF	1702070005C	08-JUL-98	98-05-4776A	02
05	IL	GLEN ELLYN, VILLAGE OF	1702070005C	13-NOV-98	99-05-508A	02
05	IL	GLENVIEW, VILLAGE OF	1700960003C	11-DEC-98	99-05-1106A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0131F	10-JUL-98	98-05-1850A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0131F	24-JUL-98	98-05-3982A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0131F	24-JUL-98	98-05-4534A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0133F	22-DEC-98	98-05-5048A	17
05	IL	GRAYSLAKE, VILLAGE OF	17097C0133F	07-OCT-98	98-05-6096A	02
05	IL	GRAYSLAKE, VILLAGE OF	17097C0132F	16-DEC-98	99-05-182A	01
05	IL	GREEN ROCK, CITY OF	1702850001C	17-JUL-98	98-05-4190A	02
05	IL	GRUNDY COUNTY *	1702560100C	17-JUL-98	98-05-4756A	02
05	IL	GRUNDY COUNTY *	1702560020D	12-AUG-98	98-05-4874A	02
05	IL	GRUNDY COUNTY *	1702560085C	29-JUL-98	98-05-5008A	01
05	IL	GRUNDY COUNTY *	1702560100C	23-OCT-98	98-05-5968A	02
05	IL	GURNEE, VILLAGE OF	17097C0157F	11-NOV-98	99-05-240A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IL	HAMPSHIRE, VILLAGE OF	1703270002C	31-JUL-98	98-05-4378A	01
05	IL	HAWTHORN WOODS, VILLAGE OF	17097C0229F	21-OCT-98	98-05-6480A	02
05	IL	HAWTHORN WOODS, VILLAGE OF	17097C0231F	09-DEC-98	98-05-6912A	01
05	IL	HAZEL CREST, VILLAGE OF	1701020002E	21-AUG-98	98-05-3478A	02
05	IL	HIGHLAND PARK, CITY OF	17097C0287F	24-JUL-98	98-05-3020A	01
05	IL	HIGHLAND PARK, CITY OF	17097C0287F	09-SEP-98	98-05-3610A	02
05	IL	HIGHLAND PARK, CITY OF	17097C0287F	04-DEC-98	99-05-472A	02
05	IL	HIGHLAND PARK, CITY OF	17097C0291F	16-DEC-98	99-05-906A	02
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070007C	11-SEP-98	98-05-4268A	02
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070007C	23-SEP-98	98-05-5836A	02
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070007C	02-OCT-98	98-05-6234A	02
05	IL	HOFFMAN ESTATES, VILLAGE OF	1701070008B	30-SEP-98	98-05-6524A	02
05	IL	HUNTLEY, VILLAGE OF	1704800004C	27-AUG-98	98-05-203P	06
05	IL	HUNTLEY, VILLAGE OF	1708960100C	27-AUG-98	98-05-203P	06
05	IL	IROQUOIS COUNTY*	17075C0105D	11-NOV-98	99-05-068A	02
05	IL	IROQUOIS COUNTY*	17075C0110D	11-NOV-98	99-05-068A	02
05	IL	IROQUOIS COUNTY*	17075C0120D	11-NOV-98	99-05-068A	02
05	IL	ISLAND LAKE, VILLAGE OF	1703700001B	18-DEC-98	99-05-130A	02
05	IL	ITASCA, VILLAGE OF	1702100002B	18-DEC-98	99-05-892A	02
05	IL	JACKSONVILLE, CITY OF	1705160020C	10-DEC-98	99-05-1096A	02
05	IL	JOLIET, CITY OF	17197C0143E	18-NOV-98	98-05-2472A	02
05	IL	JOLIET, CITY OF	17197C0141E	21-OCT-98	98-05-6842A	02
05	IL	JOLIET, CITY OF	17197C0144E	02-DEC-98	98-05-6996A	02
05	IL	KANE COUNTY *		27-AUG-98	98-05-203P	06
05	IL	KANE COUNTY *	1708960030A	21-AUG-98	98-05-4050A	02
05	IL	KANE COUNTY *	1708960107B	18-SEP-98	98-05-4422A	02
05	IL	KANE COUNTY *	1708960043B	02-JUL-98	98-05-4740A	02
05	IL	KANE COUNTY *	1708960043B	31-JUL-98	98-05-5006A	01
05	IL	KANE COUNTY *	1708960061B	19-AUG-98	98-05-5496A	02
05	IL	KANE COUNTY *	1708960061B	16-OCT-98	98-05-6720A	02
05	IL	KANE COUNTY *	1708960107B	09-OCT-98	98-05-6880A	02
05	IL	KANKAKEE COUNTY *	1703360155B	15-JUL-98	98-05-4072A	02
05	IL	KANKAKEE COUNTY *	1703360185C	23-SEP-98	98-05-6212A	02
05	IL	KANKAKEE COUNTY *	1703360185C	23-SEP-98	98-05-6462A	02
05	IL	KANKAKEE COUNTY *	1703360185C	30-OCT-98	98-05-6752A	02
05	IL	KANKAKEE COUNTY *	1703360185C	16-DEC-98	99-05-406A	02
05	IL	KANKAKEE COUNTY *	1703360185C	17-NOV-98	99-05-784A	02
05	IL	KENDALL COUNTY *	1703410015C	29-JUL-98	98-05-3388A	02
05	IL	LAKE COUNTY *	17097C0143F	30-SEP-98	98-05-3002A	02
05	IL	LAKE COUNTY *	17097C0068F	07-OCT-98	98-05-315P	05
05	IL	LAKE COUNTY *	17097C0019F	15-JUL-98	98-05-3352A	02
05	IL	LAKE COUNTY *	17097C0019F	15-JUL-98	98-05-3728A	02
05	IL	LAKE COUNTY *	17097C0162F	24-NOV-98	98-05-4024A	02
05	IL	LAKE COUNTY *	17097C0020F	29-JUL-98	98-05-4256A	02
05	IL	LAKE COUNTY *	17097C0020F	29-JUL-98	98-05-4692A	02
05	IL	LAKE COUNTY *	17097C0259F	24-JUL-98	98-05-5280A	02
05	IL	LAKE COUNTY *	17097C0114F	16-OCT-98	98-05-5564A	02
05	IL	LAKE COUNTY *	17097C0205F	16-OCT-98	98-05-5564A	02
05	IL	LAKE COUNTY *	17097C0020F	23-SEP-98	98-05-5890A	02
05	IL	LAKE COUNTY *	17097C0110G	28-OCT-98	98-05-5924A	02
05	IL	LAKE COUNTY *	17097C0206F	23-OCT-98	98-05-5930A	02
05	IL	LAKE COUNTY *	17097C0206F	18-NOV-98	98-05-5932A	02
05	IL	LAKE COUNTY *	17097C0205F	25-SEP-98	98-05-6072A	02
05	IL	LAKE COUNTY *	17097C0019F	23-SEP-98	98-05-6370A	02
05	IL	LAKE COUNTY *	17097C0110G	06-NOV-98	98-05-6372A	02
05	IL	LAKE COUNTY *	17097C0019F	09-DEC-98	98-05-6822A	02
05	IL	LAKE COUNTY *	17097C0028F	30-SEP-98	98-05-6846A	02
05	IL	LAKE COUNTY *	17097C0259F	11-DEC-98	98-05-6884A	02
05	IL	LAKE COUNTY *	17097C0020F	22-DEC-98	99-05-292A	02
05	IL	LAKE COUNTY *	17097C0019F	16-DEC-98	99-05-666A	02
05	IL	LAKE COUNTY *	17097C0162F	16-DEC-98	99-05-872A	02
05	IL	LAKE FOREST, CITY OF	17097C0276F	31-JUL-98	98-05-5120A	01
05	IL	LAKE FOREST, CITY OF	17097C0277F	09-OCT-98	98-05-5132A	02
05	IL	LAKE FOREST, CITY OF	17097C0279F	09-OCT-98	98-05-5132A	02
05	IL	LAKE FOREST, CITY OF	17097C0276F	30-DEC-98	98-05-5220A	01
05	IL	LAKE FOREST, CITY OF	17097C0259F	29-JUL-98	98-05-5304A	02
05	IL	LAKE FOREST, CITY OF	17097C0276F	30-SEP-98	98-05-6092A	02
05	IL	LANSING, VILLAGE OF	1701160005D	17-JUL-98	98-05-3208A	17
05	IL	LANSING, VILLAGE OF	1701160005D	22-JUL-98	98-05-4458A	02
05	IL	LANSING, VILLAGE OF	1701160005D	02-SEP-98	98-05-5962A	02
05	IL	LEE COUNTY*	1705250465A	02-JUL-98	98-05-4282A	02
05	IL	LEE COUNTY*	17103C0075D	02-JUL-98	98-05-4282A	02
05	IL	LEE COUNTY*	17103C0150D	30-OCT-98	98-05-5632A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IL	LEE COUNTY*	17103C0015D	02-OCT-98	98-05-6526A	02
05	IL	LEE COUNTY*	17103C0150D	09-DEC-98	99-05-1044A	02
05	IL	LIBERTYVILLE, VILLAGE OF	17097C0164F	12-AUG-98	98-05-2136A	02
05	IL	LISLE, VILLAGE OF	1701970055B	12-AUG-98	98-05-5188A	02
05	IL	LOCKPORT, CITY OF	17197C0156E	07-JUL-98	98-05-211P	06
05	IL	LOCKPORT, CITY OF	17197C0157E	07-JUL-98	98-05-211P	06
05	IL	LOCKPORT, CITY OF		15-OCT-98	98-05-339P	06
05	IL	LOCKPORT, CITY OF	17197C0157E	14-AUG-98	98-05-3988A	01
05	IL	LOCKPORT, CITY OF	17197C0158E	28-OCT-98	98-05-6062A	02
05	IL	LOMBARD, VILLAGE OF	1702120005B	24-JUL-98	98-05-2816A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0253F	28-OCT-98	98-05-7066A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0231F	16-DEC-98	99-05-1204A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0231F	30-DEC-98	99-05-1336A	02
05	IL	LONG GROVE, VILLAGE OF	17097C0231F	25-NOV-98	99-05-762A	02
05	IL	MADISON COUNTY *	1704360110B	22-JUL-98	98-05-3250A	02
05	IL	MADISON COUNTY *	1704360095B	11-SEP-98	98-05-3724A	02
05	IL	MADISON COUNTY *	1704360080B	28-OCT-98	98-05-4304A	02
05	IL	MADISON COUNTY *	1704360020B	14-AUG-98	98-05-4816A	02
05	IL	MADISON COUNTY *	1704360065B	29-JUL-98	98-05-5118A	02
05	IL	MADISON COUNTY *	1704360085B	29-JUL-98	98-05-5118A	02
05	IL	MADISON COUNTY *	1704360085B	23-SEP-98	98-05-6408A	02
05	IL	MADISON COUNTY *	1704360085B	18-NOV-98	98-05-6430A	02
05	IL	MADISON COUNTY *	1704360120B	23-OCT-98	98-05-6858A	01
05	IL	MARION, CITY OF	1707190003B	12-AUG-98	98-05-4900A	17
05	IL	MARION, CITY OF	1707190005B	10-JUL-98	98-05-4912A	01
05	IL	MARION, CITY OF	1707190005B	07-AUG-98	98-05-5666A	02
05	IL	MARSHALL COUNTY *	1709940100B	16-DEC-98	99-05-538A	02
05	IL	MCHENRY COUNTY*	1707320355B	02-JUL-98	98-05-1994A	02
05	IL	MCHENRY COUNTY*	1707320115B	05-AUG-98	98-05-4364A	02
05	IL	MCHENRY COUNTY*	1707320240B	23-SEP-98	98-05-4778A	02
05	IL	MCHENRY COUNTY*	1707320085C	19-AUG-98	98-05-4810A	02
05	IL	MCHENRY COUNTY*	1707320355B	31-JUL-98	98-05-4854A	02
05	IL	MCHENRY COUNTY*	1707320240B	16-OCT-98	98-05-5564A	02
05	IL	MCHENRY COUNTY*	1707320355B	16-OCT-98	98-05-5564A	02
05	IL	MCHENRY COUNTY*	17097C0114F	16-OCT-98	98-05-5564A	02
05	IL	MCHENRY COUNTY*	17097C0205F	16-OCT-98	98-05-5564A	02
05	IL	MCHENRY COUNTY*	1707320240B	30-OCT-98	98-05-5710A	17
05	IL	MCHENRY COUNTY*	1707320240B	09-OCT-98	98-05-5802A	02
05	IL	MCHENRY COUNTY*	1707320345C	02-OCT-98	98-05-5974A	01
05	IL	MCHENRY COUNTY*	1707320240B	04-NOV-98	98-05-6340A	02
05	IL	MCHENRY COUNTY*	1707320115B	06-NOV-98	98-05-6702A	01
05	IL	MCHENRY COUNTY*	1707320210B	11-NOV-98	98-05-6962A	02
05	IL	MCHENRY COUNTY*	1707320075B	18-DEC-98	98-05-7040A	02
05	IL	MCLEAN COUNTY *	1709310195B	18-NOV-98	98-05-3444A	01
05	IL	MCLEAN COUNTY *	1709310300B	16-SEP-98	98-05-4208A	02
05	IL	MCLEAN COUNTY *	1709310195B	09-SEP-98	98-05-4632A	17
05	IL	MCLEAN COUNTY *	1709310185B	18-NOV-98	98-05-5194A	01
05	IL	MERRIONETTE PARK, VILLAGE OF	170126 B	30-OCT-98	98-05-6712A	02
05	IL	MIDLOTHIAN, VILLAGE OF	1701270001C	14-AUG-98	98-05-2190A	17
05	IL	MIDLOTHIAN, VILLAGE OF	1701270001C	04-NOV-98	98-05-5712A	02
05	IL	MIDLOTHIAN, VILLAGE OF	1701270001C	30-SEP-98	98-05-6452A	01
05	IL	MOKENA, VILLAGE OF	17197C0195E	07-OCT-98	98-05-3920A	01
05	IL	MOLINE, CITY OF	1705910010B	04-SEP-98	98-05-4862A	02
05	IL	MOLINE, CITY OF	1705910010B	30-SEP-98	98-05-5698A	01
05	IL	MONROE COUNTY*	1705090075D	05-AUG-98	98-05-3142A	02
05	IL	MONROE COUNTY*	1705090035D	06-NOV-98	98-05-6390A	02
05	IL	MONTICELLO, CITY OF	1705500001C	28-AUG-98	98-05-3634A	02
05	IL	MORTON, VILLAGE OF	1706520004D	25-NOV-98	98-05-032P	06
05	IL	MOUNT PROSPECT, VILLAGE OF	1701290010B	02-JUL-98	98-05-3154A	02
05	IL	MOUNT PROSPECT, VILLAGE OF	1701290010B	13-NOV-98	98-05-6464A	02
05	IL	MUNDELEIN, VILLAGE OF	17097C0163F	30-OCT-98	98-05-5936A	01
05	IL	MUNDELEIN, VILLAGE OF	17097C0163F	11-NOV-98	98-05-6576A	02
05	IL	NAPERVILLE, CITY OF	1702130015C	07-JUL-98	98-05-197P	06
05	IL	NAPERVILLE, CITY OF	1702130020C	07-JUL-98	98-05-197P	06
05	IL	NAPERVILLE, CITY OF	1702130021C	07-JUL-98	98-05-197P	06
05	IL	NAPERVILLE, CITY OF	1702130021C	24-JUL-98	98-05-5538A	02
05	IL	NAPERVILLE, CITY OF	1702130016C	02-OCT-98	98-05-6324A	02
05	IL	NEW LENOX, VILLAGE OF	17197C0305E	31-JUL-98	98-05-5518A	02
05	IL	NORMAL, TOWN OF	1705020005B	08-JUL-98	98-05-4588A	02
05	IL	NORMAL, TOWN OF	1705020005B	05-AUG-98	98-05-4918A	02
05	IL	NORMAL, TOWN OF	1705020005B	28-OCT-98	98-05-6666A	17
05	IL	NORMAL, TOWN OF	1705020005B	16-DEC-98	99-05-234A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320003E	21-OCT-98	98-05-4200A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IL	NORTHBROOK, VILLAGE OF		21-OCT-98	98-05-5324A	17
05	IL	NORTHBROOK, VILLAGE OF	1701320010D	23-SEP-98	98-05-5406A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320008D	04-SEP-98	98-05-6064A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320003E	21-OCT-98	98-05-6690A	02
05	IL	NORTHBROOK, VILLAGE OF		30-OCT-98	98-05-6704A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320006E	22-DEC-98	99-05-1232A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320007E	04-DEC-98	99-05-600A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320007E	09-DEC-98	99-05-672A	02
05	IL	NORTHBROOK, VILLAGE OF	1701320007E	02-DEC-98	99-05-704A	02
05	IL	NORTHFIELD, VILLAGE OF	1701330001C	23-SEP-98	98-05-4576A	01
05	IL	NORTHFIELD, VILLAGE OF	1701330001C	23-OCT-98	98-05-5514A	02
05	IL	OAK BROOK, VILLAGE OF	1702140003B	11-NOV-98	98-05-5560A	01
05	IL	OAK BROOK, VILLAGE OF	1702140002B	25-SEP-98	98-05-5832A	02
05	IL	OAK FOREST, CITY OF	1701360005C	11-SEP-98	98-05-6078A	02
05	IL	OAK FOREST, CITY OF	1701360005C	18-NOV-98	99-05-078A	02
05	IL	OAK FOREST, CITY OF	1701360005C	09-DEC-98	99-05-718A	02
05	IL	OAK LAWN, VILLAGE OF	1701370004C	15-JUL-98	98-05-3704A	02
05	IL	OAK LAWN, VILLAGE OF	1701370001C	30-SEP-98	98-05-6386A	02
05	IL	OAK LAWN, VILLAGE OF	1701370001C	25-NOV-98	98-05-6932A	01
05	IL	OAKWOOD HILLS, VILLAGE OF	170831	16-DEC-98	99-05-638A	02
05	IL	OGLE COUNTY*	1705250465A	02-JUL-98	98-05-4282A	02
05	IL	OGLE COUNTY*	17103C0075D	02-JUL-98	98-05-4282A	02
05	IL	OGLE COUNTY*	1705250240A	26-AUG-98	98-05-5878A	02
05	IL	OGLE COUNTY*	1705250425A	30-NOV-98	99-05-1140A	02
05	IL	ORLAND HILLS, VILLAGE OF	1701720001B	25-SEP-98	98-05-4596A	02
05	IL	ORLAND PARK, VILLAGE OF	1700540215B	09-JUL-98	97-05-243P	05
05	IL	ORLAND PARK, VILLAGE OF	1700540215B	07-JUL-98	98-05-293P	05
05	IL	PALATINE, VILLAGE OF	1751700005B	29-OCT-98	98-05-039P	06
05	IL	PALATINE, VILLAGE OF	1751700005B	25-NOV-98	98-05-6972A	02
05	IL	PALOS HILLS, CITY OF	1701430003C	02-JUL-98	98-05-4112A	17
05	IL	PALOS HILLS, CITY OF	1701430003C	26-AUG-98	98-05-4780A	02
05	IL	PALOS HILLS, CITY OF	1701430003C	26-AUG-98	98-05-5352A	02
05	IL	PALOS HILLS, CITY OF	1701430003C	06-NOV-98	98-05-5704A	02
05	IL	PALOS HILLS, CITY OF	1701430001C	28-AUG-98	98-05-6056A	02
05	IL	PALOS HILLS, CITY OF	1701430001C	30-OCT-98	98-05-6504A	02
05	IL	PALOS HILLS, CITY OF	1701430003C	11-NOV-98	99-05-404A	02
05	IL	PARK CITY, CITY OF	17097C0157F	25-SEP-98	98-05-6216A	02
05	IL	PEORIA COUNTY *	1705330175B	25-SEP-98	98-05-4984A	02
05	IL	PEORIA COUNTY *	1705330125B	11-DEC-98	99-05-900A	17
05	IL	PEORIA, CITY OF	1705360015B	18-SEP-98	98-05-5628A	02
05	IL	PEORIA, CITY OF	1705360015B	04-NOV-98	98-05-6946A	02
05	IL	PEORIA, CITY OF	1705360020B	09-DEC-98	99-05-220A	02
05	IL	PEOTONE, VILLAGE OF	17197C0500E	30-OCT-98	98-05-6566A	02
05	IL	PIATT COUNTY*	1705420004B	07-AUG-98	98-05-4232A	02
05	IL	PIATT COUNTY*	1705420008B	11-NOV-98	98-05-5592A	02
05	IL	PLAINFIELD, VILLAGE OF	17197C0045E	22-JUL-98	98-05-199P	05
05	IL	PLAINFIELD, VILLAGE OF	17197C0038E	23-SEP-98	98-05-337P	05
05	IL	PLAINFIELD, VILLAGE OF	17197C0045E	19-AUG-98	98-05-3474A	02
05	IL	PONTIAC, CITY OF	1704260001C	15-JUL-98	98-05-2952A	02
05	IL	PONTIAC, CITY OF	1704260001C	25-SEP-98	98-05-6218A	02
05	IL	ROCK ISLAND COUNTY*	1705820200C	14-AUG-98	98-05-5300A	02
05	IL	ROCK ISLAND COUNTY*	1705820025B	11-NOV-98	98-05-5492A	02
05	IL	ROCK ISLAND COUNTY*	1705820125B	16-SEP-98	98-05-5520A	01
05	IL	ROCK ISLAND COUNTY*	1705820100C	30-SEP-98	98-05-6502A	02
05	IL	ROLLING MEADOWS, CITY OF	1701550005C	07-AUG-98	98-05-5396A	02
05	IL	ROMEOVILLE, VILLAGE OF	17197C0065E	28-OCT-98	98-05-4114A	01
05	IL	ROSEMONT, VILLAGE OF	1700740009B	16-NOV-98	98-05-115P	05
05	IL	ROSEMONT, VILLAGE OF	1701560001C	16-NOV-98	98-05-115P	05
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0127F	15-JUL-98	98-05-4728A	02
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0127F	24-JUL-98	98-05-4982A	02
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0126F	09-DEC-98	98-05-7056A	02
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0127F	09-DEC-98	99-05-174A	02
05	IL	ROUND LAKE BEACH, VILLAGE OF	17097C0127F	20-NOV-98	99-05-298A	17
05	IL	SANGAMON COUNTY *	1709120165C	23-OCT-98	98-05-1882A	02
05	IL	SANGAMON COUNTY *	1709120250C	30-SEP-98	98-05-6538A	01
05	IL	SANGAMON COUNTY *	1709120250C	23-OCT-98	99-05-070A	02
05	IL	SANGAMON COUNTY *	1708040005C	30-DEC-98	99-05-076A	02
05	IL	SANGAMON COUNTY *	1709120300C	30-DEC-98	99-05-076A	02
05	IL	SANGAMON COUNTY *	1709120250C	30-DEC-98	99-05-1496A	01
05	IL	SANGAMON COUNTY *	1709120250C	23-OCT-98	99-05-336A	01
05	IL	SLEEPY HOLLOW, VILLAGE OF	1703310001B	19-AUG-98	98-05-4950A	02
05	IL	SLEEPY HOLLOW, VILLAGE OF	1703310001B	18-SEP-98	98-05-6260A	02
05	IL	SOUTH HOLLAND, VILLAGE OF	1701630002C	02-SEP-98	98-05-5164A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IL	SOUTH HOLLAND, VILLAGE OF	1701630001C	07-AUG-98	98-05-5282A	02
05	IL	ST. CHARLES, CITY OF	1708960040A	17-JUL-98	98-05-4310A	01
05	IL	ST. CLAIR COUNTY *	1706160065A	07-AUG-98	98-05-3636A	02
05	IL	ST. CLAIR COUNTY *	1706160065A	04-SEP-98	98-05-5494A	02
05	IL	ST. CLAIR COUNTY *	1706160020B	30-JUL-98	98-05-5736A	02
05	IL	ST. CLAIR COUNTY *	1706160065A	30-OCT-98	98-05-5882A	02
05	IL	ST. CLAIR COUNTY *	1706160065A	25-SEP-98	98-05-6044A	02
05	IL	ST. CLAIR COUNTY *	1706160070B	25-NOV-98	98-05-6060A	02
05	IL	ST. CLAIR COUNTY *	1706160065A	23-SEP-98	98-05-6284A	02
05	IL	ST. CLAIR COUNTY *	1706160050A	02-DEC-98	99-05-1062A	02
05	IL	STARK COUNTY *	170613 A	07-OCT-98	98-05-5970A	02
05	IL	SWANSEA, VILLAGE OF	1706370001B	09-OCT-98	98-05-6426A	02
05	IL	TINLEY PARK, CITY OF	1701690005E	05-AUG-98	97-05-357P	05
05	IL	TINLEY PARK, CITY OF	1701690005E	13-NOV-98	98-05-7136A	02
05	IL	TUSCOLA, CITY OF	1701950005C	04-SEP-98	98-05-4730A	02
05	IL	TUSCOLA, CITY OF	1701950005C	17-JUL-98	98-05-5072A	02
05	IL	TUSCOLA, CITY OF	1701950005C	30-SEP-98	98-05-5314A	17
05	IL	UNION COUNTY*	1706560100B	22-DEC-98	99-05-924A	02
05	IL	VERNON HILLS, VILLAGE OF	17097C0252F	28-OCT-98	98-05-4102A	01
05	IL	VILLA GROVE, CITY OF	1701960001B	18-SEP-98	98-05-5424A	02
05	IL	VILLA GROVE, CITY OF	1701960001B	18-SEP-98	98-05-6274A	02
05	IL	VILLA GROVE, CITY OF	1701960001B	09-DEC-98	99-05-918A	02
05	IL	VILLA PARK, VILLAGE OF	1702170001B	10-JUL-98	98-05-5292A	02
05	IL	WAUCONDA, VILLAGE OF	17097C0119F	30-OCT-98	98-05-6076A	02
05	IL	WAUKEGAN, CITY OF	17097C0088F	04-AUG-98	98-05-1528A	02
05	IL	WHEATON, CITY OF	1702210005B	21-AUG-98	98-05-3668A	02
05	IL	WHEATON, CITY OF	1702210005B	09-OCT-98	98-05-6498A	02
05	IL	WHEELING, VILLAGE OF	1701730005C	14-AUG-98	98-05-5540A	01
05	IL	WHEELING, VILLAGE OF	1701730005C	21-OCT-98	98-05-6238A	02
05	IL	WILL COUNTY *	17197C0045E	05-NOV-98	98-05-257P	05
05	IL	WILL COUNTY *	17197C0405E	31-JUL-98	98-05-3070A	17
05	IL	WILL COUNTY *	17197C0430E	21-JUL-98	98-05-317P	06
05	IL	WILL COUNTY *	17197C0159E	15-OCT-98	98-05-339P	06
05	IL	WILL COUNTY *	17197C0580E	02-JUL-98	98-05-3620A	02
05	IL	WILL COUNTY *	17197C0045E	08-JUL-98	98-05-3928A	01
05	IL	WILL COUNTY *	17197C0350E	07-OCT-98	98-05-4140A	02
05	IL	WILL COUNTY *	17197C0310E	02-SEP-98	98-05-4266A	02
05	IL	WILL COUNTY *	17197C0420E	08-JUL-98	98-05-4762A	02
05	IL	WILL COUNTY *	17197C0218E	30-OCT-98	98-05-5618A	02
05	IL	WILL COUNTY *	17197C0141E	06-NOV-98	98-05-5726A	02
05	IL	WILL COUNTY *	17197C0033E	30-SEP-98	98-05-5848A	02
05	IL	WILL COUNTY *	17197C0039E	26-AUG-98	98-05-5850A	02
05	IL	WILL COUNTY *	17197C0045E	26-AUG-98	98-05-5850A	02
05	IL	WILL COUNTY *	17197C0090E	04-DEC-98	98-05-5862A	02
05	IL	WILL COUNTY *	17197C0195E	18-DEC-98	98-05-6562A	02
05	IL	WILL COUNTY *	17197C0030E	25-NOV-98	98-05-6644A	02
05	IL	WILL COUNTY *	17197C0440E	30-DEC-98	99-05-1056A	02
05	IL	WILL COUNTY *	17197C0030E	09-DEC-98	99-05-354A	02
05	IL	WILLIAMSON COUNTY *	1709340001B	09-SEP-98	98-05-4042A	01
05	IL	WILLOWBROOK, VILLAGE OF	1701970060B	21-JUL-98	97-05-209P	05
05	IL	WILLOWBROOK, VILLAGE OF	1702220002C	21-JUL-98	97-05-209P	05
05	IL	WINNEBAGO COUNTY *	1707200015B	10-JUL-98	98-05-4482A	02
05	IL	WINNETKA, VILLAGE OF	1701760003B	04-NOV-98	98-05-5796A	02
05	IL	WOOD RIVER, CITY OF	1704510005B	28-DEC-98	99-05-944A	02
05	IN	ADAMS COUNTY *	1804240020C	24-JUL-98	98-05-5126A	02
05	IN	ADAMS COUNTY *	1804240020C	24-JUL-98	98-05-5128A	02
05	IN	ADAMS COUNTY *	1804240020C	24-JUL-98	98-05-5130A	02
05	IN	ALLEN COUNTY *	18003C0170D	10-JUL-98	98-05-4218A	02
05	IN	ALLEN COUNTY *	18003C0430D	24-JUL-98	98-05-4486A	02
05	IN	ALLEN COUNTY *	18003C0155E	21-AUG-98	98-05-4522A	01
05	IN	ALLEN COUNTY *	18003C0430D	08-JUL-98	98-05-4748A	02
05	IN	ALLEN COUNTY *	18003C0155E	24-JUL-98	98-05-4838A	02
05	IN	ALLEN COUNTY *	18003C0145E	14-AUG-98	98-05-5042A	02
05	IN	ALLEN COUNTY *	18003C0165E	19-AUG-98	98-05-5066A	02
05	IN	ALLEN COUNTY *	18003C0315D	15-JUL-98	98-05-5394A	02
05	IN	ALLEN COUNTY *	18003C0170D	28-AUG-98	98-05-5466A	01
05	IN	ALLEN COUNTY *	18003C0285E	21-AUG-98	98-05-5488A	02
05	IN	ALLEN COUNTY *	18003C0170D	18-SEP-98	98-05-5696A	02
05	IN	ALLEN COUNTY *	18003C0285E	18-SEP-98	98-05-5696A	02
05	IN	ALLEN COUNTY *	18003C0145E	09-SEP-98	98-05-6228A	02
05	IN	ALLEN COUNTY *	18003C0155E	11-SEP-98	98-05-6416A	02
05	IN	ALLEN COUNTY *	18003C0170D	11-SEP-98	98-05-6458A	01
05	IN	ALLEN COUNTY *	18003C0155E	30-DEC-98	99-05-090A	17

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	ALLEN COUNTY *	18003C0135E	22-DEC-98	99-05-1070A	02
05	IN	ALLEN COUNTY *	18003C0135E	11-NOV-98	99-05-300A	02
05	IN	ALLEN COUNTY *	18003C0135E	18-NOV-98	99-05-314A	02
05	IN	ALLEN COUNTY *	18003C0135E	09-DEC-98	99-05-392A	02
05	IN	ALLEN COUNTY *	18003C0135E	30-DEC-98	99-05-480A	02
05	IN	ALLEN COUNTY *	18003C0135E	25-NOV-98	99-05-592A	02
05	IN	ALLEN COUNTY *	18003C0290D	09-DEC-98	99-05-774A	02
05	IN	BARTHOLOMEW COUNTY *	1800060100B	14-AUG-98	98-05-3546A	02
05	IN	BARTHOLOMEW COUNTY *	1800060075B	10-JUL-98	98-05-4578A	02
05	IN	BARTHOLOMEW COUNTY *	1800060075B	15-JUL-98	98-05-4750A	02
05	IN	BARTHOLOMEW COUNTY *	1800060050B	04-NOV-98	98-05-5506A	02
05	IN	BARTHOLOMEW COUNTY *	1800060050B	21-OCT-98	98-05-5998A	02
05	IN	BARTHOLOMEW COUNTY *	1800060025B	21-OCT-98	98-05-7042A	02
05	IN	BARTHOLOMEW COUNTY *	1800060100B	18-NOV-98	98-05-7060A	02
05	IN	BARTHOLOMEW COUNTY *	1800060150B	20-NOV-98	99-05-396A	02
05	IN	BARTHOLOMEW COUNTY *	1800060100B	02-DEC-98	99-05-528A	02
05	IN	BOONE COUNTY *	1800110020C	21-OCT-98	98-05-6028A	02
05	IN	BROWN COUNTY*	1851740015B	26-AUG-98	98-05-5616A	02
05	IN	BROWN COUNTY*	1851740080B	02-JUL-98	98-05-926A	17
05	IN	CARMEL, CITY OF	1800810013C	17-JUL-98	98-05-4958A	02
05	IN	CARMEL, CITY OF	1800810009C	22-JUL-98	98-05-5058A	02
05	IN	CARROLL COUNTY *	1800190025B	02-SEP-98	98-05-5430A	02
05	IN	CHESTERTON, TOWN OF	1802010005C	25-SEP-98	98-05-4836A	02
05	IN	CLARK COUNTY *	1804260050B	02-JUL-98	98-05-4408A	02
05	IN	CLARK COUNTY *	1804260175C	10-JUL-98	98-05-4808A	02
05	IN	CLARK COUNTY *	1804260175C	19-AUG-98	98-05-5190A	02
05	IN	CLARK COUNTY *	1804260175C	23-SEP-98	98-05-6578A	02
05	IN	CLARK COUNTY *	1804260125C	17-NOV-98	99-05-812A	02
05	IN	CLARK COUNTY *	1804260175C	02-DEC-98	99-05-832A	02
05	IN	COLUMBUS, CITY OF	1800070020D	08-JUL-98	98-05-1218A	01
05	IN	COLUMBUS, CITY OF	1800070010D	11-SEP-98	98-05-4234A	01
05	IN	COLUMBUS, CITY OF	1800070030D	07-OCT-98	98-05-5182A	02
05	IN	COLUMBUS, CITY OF	1800070020D	23-OCT-98	98-05-6248A	01
05	IN	COLUMBUS, CITY OF	1800070020D	23-OCT-98	98-05-6794A	02
05	IN	COLUMBUS, CITY OF	1800070020D	18-NOV-98	98-05-7128A	02
05	IN	COLUMBUS, CITY OF	1800070020D	18-DEC-98	99-05-1348A	02
05	IN	CROWN POINT, CITY OF	1801280005C	18-SEP-98	98-05-5946A	02
05	IN	CROWN POINT, CITY OF	1801280005C	18-SEP-98	98-05-6788A	02
05	IN	CROWN POINT, CITY OF	1801280005C	11-DEC-98	99-05-1036A	02
05	IN	CROWN POINT, CITY OF	1801280005C	25-NOV-98	99-05-662A	02
05	IN	DE KALB COUNTY *	1800440060B	25-SEP-98	98-05-5776A	02
05	IN	DE KALB COUNTY *	1800440125B	30-DEC-98	99-05-1288A	02
05	IN	DELAWARE COUNTY*	1800510125C	21-AUG-98	98-05-5032A	02
05	IN	ELKHART COUNTY *	1800560075A	29-JUL-98	98-05-4248A	02
05	IN	ELKHART COUNTY *	1800560075A	04-DEC-98	98-05-4694A	17
05	IN	ELKHART COUNTY *	1800560010B	07-OCT-98	98-05-5064A	17
05	IN	ELKHART COUNTY *	1800560005A	23-SEP-98	98-05-5474A	02
05	IN	ELKHART COUNTY *	1800560010B	28-AUG-98	98-05-5534A	02
05	IN	ELKHART COUNTY *	1800560010B	09-DEC-98	99-05-840A	02
05	IN	EVANSVILLE, CITY OF	1802570006B	26-AUG-98	98-05-5640A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	02-OCT-98	98-05-6476A	02
05	IN	EVANSVILLE, CITY OF	1802570004B	16-DEC-98	99-05-1196A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	04-NOV-98	99-05-124A	02
05	IN	EVANSVILLE, CITY OF	1802570001B	16-DEC-98	99-05-304A	01
05	IN	EVANSVILLE, CITY OF	1802570006B	09-DEC-98	99-05-636A	02
05	IN	EVANSVILLE, CITY OF	1802570005B	09-DEC-98	99-05-820A	02
05	IN	FAYETTE COUNTY *	1804170004B	02-OCT-98	98-05-4904A	02
05	IN	FLOYD COUNTY *	1804320050B	25-SEP-98	98-05-5954A	02
05	IN	FLOYD COUNTY *	1804320030B	02-DEC-98	98-05-6376A	17
05	IN	FORT WAYNE, CITY OF	18003C0165E	15-JUL-98	98-05-3326A	02
05	IN	FORT WAYNE, CITY OF	18003C0270E	14-AUG-98	98-05-4610A	02
05	IN	FORT WAYNE, CITY OF	18003C0260E	19-AUG-98	98-05-4758A	17
05	IN	FORT WAYNE, CITY OF	18003C0270E	17-JUL-98	98-05-4766A	02
05	IN	FORT WAYNE, CITY OF	18003C0260E	21-AUG-98	98-05-4964A	17
05	IN	FORT WAYNE, CITY OF	18003C0285E	04-SEP-98	98-05-5100A	02
05	IN	FORT WAYNE, CITY OF	18003C0260E	14-AUG-98	98-05-5318A	17
05	IN	FORT WAYNE, CITY OF	18003C0270E	04-SEP-98	98-05-5676A	02
05	IN	FORT WAYNE, CITY OF	18003C0290D	21-AUG-98	98-05-5746A	02
05	IN	FORT WAYNE, CITY OF	18003C0270E	21-OCT-98	98-05-5894A	02
05	IN	FORT WAYNE, CITY OF	18003C0270E	07-OCT-98	98-05-6134A	02
05	IN	FORT WAYNE, CITY OF	18003C0290D	11-NOV-98	98-05-6518A	02
05	IN	FORT WAYNE, CITY OF	18003C0165E	06-NOV-98	99-05-348A	02
05	IN	FORT WAYNE, CITY OF	18003C0165E	09-DEC-98	99-05-512A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	FORT WAYNE, CITY OF	18003C0270E	22-DEC-98	99-05-942A	02
05	IN	FRANKLIN, CITY OF	1801110100C	12-AUG-98	98-05-1308A	01
05	IN	FRANKLIN, CITY OF	1801140002B	28-AUG-98	98-05-3564A	01
05	IN	FRANKLIN, CITY OF	1801140002B	19-AUG-98	98-05-5544A	02
05	IN	FRANKLIN, CITY OF	1801140002B	11-NOV-98	98-05-5762A	17
05	IN	FULTON COUNTY *	1800700050B	16-OCT-98	98-05-6142A	02
05	IN	GRANT COUNTY*	1804350100B	24-JUL-98	98-05-2556A	02
05	IN	GREENFIELD, CITY OF	1800840009C	10-SEP-98	97-05-4248P	05
05	IN	GREENFIELD, CITY OF	1800840006C	02-JUL-98	98-05-3218A	02
05	IN	GREENFIELD, CITY OF	1800840006C	02-JUL-98	98-05-3922A	02
05	IN	GREENFIELD, CITY OF	1800840005C	16-SEP-98	98-05-5902A	02
05	IN	GREENFIELD, CITY OF	1800840006C	18-DEC-98	99-05-578A	02
05	IN	GREENWOOD, CITY OF	1801150004B	30-SEP-98	98-05-6136A	02
05	IN	HANCOCK COUNTY *	1804190075B	16-OCT-98	98-05-6582A	02
05	IN	HANCOCK COUNTY *	1804190100B	04-DEC-98	98-05-6892A	02
05	IN	HANCOCK COUNTY *	1804190100B	22-DEC-98	99-05-1494A	01
05	IN	HARRISON COUNTY *	1800850004B	19-AUG-98	98-05-5532A	02
05	IN	HENDRICKS COUNTY *	1804150050B	29-JUL-98	98-05-4548A	02
05	IN	HENDRICKS COUNTY *	1804150100B	12-AUG-98	98-05-4594A	17
05	IN	HENDRICKS COUNTY *	1804150100B	22-JUL-98	98-05-5050A	01
05	IN	HENDRICKS COUNTY *	1804150100B	04-SEP-98	98-05-5626A	02
05	IN	HENDRICKS COUNTY *	1804150100B	04-SEP-98	98-05-6144A	02
05	IN	HENDRICKS COUNTY *	1804150100B	23-SEP-98	98-05-6312A	02
05	IN	HENRY COUNTY*	18065C0050C	07-OCT-98	98-05-6414A	02
05	IN	HIGHLAND, TOWN OF	1851760001C	29-JUL-98	98-05-3156A	02
05	IN	HIGHLAND, TOWN OF	1851760001C	04-NOV-98	98-05-6764A	02
05	IN	HOWARD COUNTY *	1804140042B	15-JUL-98	98-05-1264A	02
05	IN	HOWARD COUNTY *	1804140027B	16-JUL-98	98-05-3890A	02
05	IN	INDIANAPOLIS, CITY OF	1801590030D	23-NOV-98	98-05-143P	06
05	IN	INDIANAPOLIS, CITY OF	1801590050D	23-NOV-98	98-05-143P	06
05	IN	INDIANAPOLIS, CITY OF	1801590090D	16-OCT-98	98-05-2094A	01
05	IN	INDIANAPOLIS, CITY OF	1801590030D	15-SEP-98	98-05-2428A	01
05	IN	INDIANAPOLIS, CITY OF	1801590095D	02-JUL-98	98-05-2604A	01
05	IN	INDIANAPOLIS, CITY OF	1801590035D	19-AUG-98	98-05-2648A	01
05	IN	INDIANAPOLIS, CITY OF	1801590095D	08-JUL-98	98-05-3098A	02
05	IN	INDIANAPOLIS, CITY OF	1801590040D	19-AUG-98	98-05-3468A	01
05	IN	INDIANAPOLIS, CITY OF	1801590010D	02-SEP-98	98-05-3750A	01
05	IN	INDIANAPOLIS, CITY OF	1801590050D	21-AUG-98	98-05-3754A	01
05	IN	INDIANAPOLIS, CITY OF	1801590070D	08-JUL-98	98-05-3888A	02
05	IN	INDIANAPOLIS, CITY OF	1801590095D	17-JUL-98	98-05-3904A	01
05	IN	INDIANAPOLIS, CITY OF	1801590050D	19-AUG-98	98-05-4184A	02
05	IN	INDIANAPOLIS, CITY OF	1801590060D	11-SEP-98	98-05-4292A	02
05	IN	INDIANAPOLIS, CITY OF	1801590090D	12-AUG-98	98-05-4374A	02
05	IN	INDIANAPOLIS, CITY OF	1801590010D	28-JUL-98	98-05-4424A	02
05	IN	INDIANAPOLIS, CITY OF	1801590045D	24-JUL-98	98-05-4426A	02
05	IN	INDIANAPOLIS, CITY OF	1801590065D	18-SEP-98	98-05-4582A	02
05	IN	INDIANAPOLIS, CITY OF	1801590015D	24-JUL-98	98-05-4772A	01
05	IN	INDIANAPOLIS, CITY OF	1801590070D	05-AUG-98	98-05-4864A	02
05	IN	INDIANAPOLIS, CITY OF	1801590060D	30-SEP-98	98-05-4876A	02
05	IN	INDIANAPOLIS, CITY OF	1801590060D	14-AUG-98	98-05-5144A	02
05	IN	INDIANAPOLIS, CITY OF	1801590035D	12-AUG-98	98-05-5186A	02
05	IN	INDIANAPOLIS, CITY OF	1801590030D	25-SEP-98	98-05-5226A	01
05	IN	INDIANAPOLIS, CITY OF	1801590075D	28-AUG-98	98-05-5296A	02
05	IN	INDIANAPOLIS, CITY OF	1801590010D	21-OCT-98	98-05-5822A	01
05	IN	INDIANAPOLIS, CITY OF	1801590020D	02-SEP-98	98-05-5978A	02
05	IN	INDIANAPOLIS, CITY OF	1801590035D	02-OCT-98	98-05-5990A	02
05	IN	INDIANAPOLIS, CITY OF	1801590095D	13-NOV-98	98-05-6280A	02
05	IN	INDIANAPOLIS, CITY OF	1801590040D	02-DEC-98	98-05-6298A	02
05	IN	INDIANAPOLIS, CITY OF	1801590035D	09-OCT-98	98-05-6396A	02
05	IN	INDIANAPOLIS, CITY OF	1801590045D	16-OCT-98	98-05-6648A	02
05	IN	INDIANAPOLIS, CITY OF	1801590070D	04-DEC-98	98-05-6818A	02
05	IN	INDIANAPOLIS, CITY OF	1801590090D	23-OCT-98	98-05-6840A	02
05	IN	INDIANAPOLIS, CITY OF	1801590030D	16-DEC-98	99-05-036A	02
05	IN	INDIANAPOLIS, CITY OF	1801590020D	09-OCT-98	99-05-098A	02
05	IN	INDIANAPOLIS, CITY OF	1801590090D	06-NOV-98	99-05-100A	01
05	IN	INDIANAPOLIS, CITY OF	1801590030D	18-DEC-98	99-05-104A	01
05	IN	INDIANAPOLIS, CITY OF	1801590010D	22-DEC-98	99-05-1126A	02
05	IN	INDIANAPOLIS, CITY OF	1801590065D	30-DEC-98	99-05-492A	02
05	IN	JACKSON COUNTY *	1804050110B	22-DEC-98	99-05-456A	01
05	IN	JACKSON COUNTY *	1804050130B	22-DEC-98	99-05-456A	01
05	IN	JOHNSON COUNTY *	1801110014C	21-OCT-98	98-05-4360A	02
05	IN	JOHNSON COUNTY *	1801110050C	22-JUL-98	98-05-4366A	02
05	IN	JOHNSON COUNTY *	1801110008C	21-AUG-98	98-05-4978A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	JOHNSON COUNTY *	1801110100C	30-DEC-98	98-05-5476A	01
05	IN	JOHNSON COUNTY *	1801110100C	04-SEP-98	98-05-5786A	02
05	IN	JOHNSON COUNTY *	1801110012C	06-NOV-98	98-05-6834A	02
05	IN	JOHNSON COUNTY *	1801110012C	16-DEC-98	99-05-190A	01
05	IN	KNOX COUNTY *	1804220175C	16-SEP-98	98-05-4980A	02
05	IN	KOSCIUSKO COUNTY*	18085C0040C	16-SEP-98	98-05-3170A	01
05	IN	KOSCIUSKO COUNTY*	18085C0100C	21-AUG-98	98-05-4712A	02
05	IN	KOSCIUSKO COUNTY*	18085C0045C	30-OCT-98	98-05-6174A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	18-SEP-98	98-05-6300A	02
05	IN	KOSCIUSKO COUNTY*	18085C0045C	23-SEP-98	98-05-6302A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	07-OCT-98	98-05-6332A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	21-OCT-98	98-05-6496A	02
05	IN	KOSCIUSKO COUNTY*	18085C0100C	04-DEC-98	98-05-6894A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	04-NOV-98	98-05-6974A	02
05	IN	KOSCIUSKO COUNTY*	18085C0080C	18-DEC-98	99-05-1110A	02
05	IN	KOSCIUSKO COUNTY*	18085C0100C	30-OCT-98	99-05-112A	02
05	IN	KOSCIUSKO COUNTY*	18085C0125C	30-DEC-98	99-05-1296A	02
05	IN	KOSCIUSKO COUNTY*	18085C0035C	13-NOV-98	99-05-544A	02
05	IN	KOSCIUSKO COUNTY*	18085C0080C	09-DEC-98	99-05-986A	02
05	IN	LA PORTE, CITY OF	1804900005C	20-NOV-98	98-05-6808A	02
05	IN	LAFAYETTE, CITY OF	1802530005B	12-AUG-98	98-05-259P	06
05	IN	LAFAYETTE, CITY OF	1804280055B	12-AUG-98	98-05-259P	06
05	IN	LAGRANGE COUNTY	1801250004B	29-JUL-98	98-05-4782A	02
05	IN	LAGRANGE COUNTY	1801250004B	26-AUG-98	98-05-5792A	02
05	IN	LAGRANGE COUNTY	1801250001B	02-SEP-98	98-05-5910A	02
05	IN	LAGRANGE COUNTY	1801250004B	25-NOV-98	98-05-6262A	02
05	IN	LAGRANGE COUNTY	1801250004B	02-OCT-98	98-05-6316A	02
05	IN	LEBANON, CITY OF	1800130002D	02-JUL-98	98-05-3236A	01
05	IN	LEBANON, CITY OF	1800130002D	02-JUL-98	98-05-4318A	02
05	IN	LEBANON, CITY OF	1800130002D	15-JUL-98	98-05-4970A	02
05	IN	LEBANON, CITY OF	1800130001D	25-SEP-98	98-05-5886A	02
05	IN	LEBANON, CITY OF	1800130001D	11-DEC-98	99-05-196A	01
05	IN	LIBERTY, TOWNSHIP OF	1804880002A	18-NOV-98	98-05-6954A	02
05	IN	LONG BEACH, TOWN OF	185177 A	09-DEC-98	99-05-286A	02
05	IN	MADISON COUNTY *	1804420003B	09-OCT-98	98-05-5122A	02
05	IN	MARSHALL COUNTY *	1804430060B	10-JUL-98	98-05-3878A	02
05	IN	MARSHALL COUNTY *	1804430025B	14-OCT-98	98-05-6696A	02
05	IN	MARSHALL COUNTY *	1804430055B	06-NOV-98	98-05-6904A	02
05	IN	MARSHALL COUNTY *	1804430065B	23-OCT-98	98-05-7134A	02
05	IN	MARTIN COUNTY*	1804790003B	14-AUG-98	98-05-5392A	02
05	IN	MARTINSVILLE, CITY OF	1801770015B	13-NOV-98	98-05-5426A	02
05	IN	MICHIGAN CITY, CITY OF	1801470015B	11-NOV-98	98-05-6178A	02
05	IN	MICHIGAN CITY, CITY OF	1801470015B	30-DEC-98	98-05-6654A	02
05	IN	MICHIGAN CITY, CITY OF	1801470015B	04-DEC-98	99-05-438A	02
05	IN	MONROE COUNTY*	1804440002B	29-JUL-98	98-05-3398A	02
05	IN	MONROE COUNTY*	1804440005B	20-NOV-98	98-05-7112A	02
05	IN	MORGAN COUNTY *	1801760050B	08-JUL-98	98-05-4600A	02
05	IN	MUNCIE, CITY OF	1800530011C	09-DEC-98	98-05-6668A	17
05	IN	MUNSTER, TOWN OF	1801390002B	12-AUG-98	98-05-3234A	02
05	IN	NEW ALBANY, CITY OF	1800620005C	30-SEP-98	98-05-6398A	02
05	IN	NEW ALBANY, CITY OF	1800620010C	28-OCT-98	98-05-6964A	02
05	IN	NEWBURGH, TOWN OF	1802760001B	10-JUL-98	98-05-4824A	02
05	IN	NEWBURGH, TOWN OF	1802760001B	28-AUG-98	98-05-5522A	02
05	IN	NEWBURGH, TOWN OF	1802760001B	02-OCT-98	98-05-6608A	02
05	IN	NEWBURGH, TOWN OF	1802760001B	09-DEC-98	99-05-870A	02
05	IN	NOBLE COUNTY *	1801830075B	29-JUL-98	98-05-5216A	02
05	IN	NOBLE COUNTY *	1801830075B	07-OCT-98	98-05-5896A	17
05	IN	NOBLE COUNTY *	1801830075B	25-SEP-98	98-05-5982A	02
05	IN	NOBLE COUNTY *	1801830100B	30-OCT-98	98-05-6772A	17
05	IN	NOBLESVILLE, CITY OF	1800820025E	10-JUL-98	98-05-1188A	01
05	IN	NOBLESVILLE, CITY OF	1800820030E	19-AUG-98	98-05-2192A	01
05	IN	NOBLESVILLE, CITY OF	1800820030E	12-AUG-98	98-05-4388A	01
05	IN	NOBLESVILLE, CITY OF	1800820005E	24-JUL-98	98-05-4848A	02
05	IN	NOBLESVILLE, CITY OF	1800820015E	02-DEC-98	98-05-4986A	02
05	IN	NOBLESVILLE, CITY OF	1800820020E	02-DEC-98	98-05-4986A	02
05	IN	NOBLESVILLE, CITY OF	1800820005E	11-SEP-98	98-05-5250A	02
05	IN	NOBLESVILLE, CITY OF	1800820025E	06-NOV-98	98-05-6308A	01
05	IN	NOBLESVILLE, CITY OF	1800820015E	18-SEP-98	98-05-6346A	02
05	IN	NOBLESVILLE, CITY OF	1800820025E	25-NOV-98	98-05-6734A	01
05	IN	NORTH MANCHESTER, TOWN OF	18169C0030D	04-NOV-98	98-05-6360A	17
05	IN	PARKE COUNTY *	1801920004A	02-SEP-98	98-05-6068A	02
05	IN	PERU, CITY OF	1801680005C	16-DEC-98	99-05-358A	02
05	IN	PORTER COUNTY *	1804250060B	26-AUG-98	98-05-5548A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	PORTER COUNTY *	1804250050B	16-DEC-98	99-05-854A	02
05	IN	PRINCETON, CITY OF	1800730010D	16-DEC-98	98-05-6956A	02
05	IN	PULASKI COUNTY*	1804820002B	05-AUG-98	98-05-3556A	02
05	IN	SCHERERVILLE, TOWN OF	1801420005B	25-SEP-98	98-05-6130A	02
05	IN	SEYMOUR, CITY OF	1800990004C	15-JUL-98	98-05-4942A	02
05	IN	SEYMOUR, CITY OF	1800990004C	07-AUG-98	98-05-5380A	02
05	IN	SEYMOUR, CITY OF	1800990004C	29-JUL-98	98-05-5444A	01
05	IN	SEYMOUR, CITY OF	1800990004C	28-AUG-98	98-05-6024A	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-SEP-98	98-05-6114A	02
05	IN	SEYMOUR, CITY OF	1800990004C	09-OCT-98	98-05-6128A	02
05	IN	SEYMOUR, CITY OF	1800990004C	07-OCT-98	98-05-6148A	02
05	IN	SEYMOUR, CITY OF	1800990004C	18-NOV-98	98-05-6468A	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-DEC-98	98-05-6652A	02
05	IN	SEYMOUR, CITY OF	1800990004C	06-NOV-98	98-05-7046A	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-DEC-98	99-05-424A	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-DEC-98	99-05-516A	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-DEC-98	99-05-548A	02
05	IN	SEYMOUR, CITY OF	1800990004C	02-DEC-98	99-05-590A	02
05	IN	SEYMOUR, CITY OF	1800990004C	11-DEC-98	99-05-910A	02
05	IN	SHELBY COUNTY *	1802350060B	30-DEC-98	99-05-1050A	02
05	IN	SHELBY COUNTY *	1802350080B	17-DEC-98	99-05-1290A	02
05	IN	SOUTH BEND, CITY OF	1802310006C	26-AUG-98	98-05-3778A	17
05	IN	ST. JOSEPH COUNTY*	1802240040B	14-OCT-98	98-05-6164A	02
05	IN	STEUBEN COUNTY*	1802430025B	24-JUL-98	98-05-3188A	02
05	IN	STEUBEN COUNTY*	1802430025B	08-JUL-98	98-05-3698A	02
05	IN	STEUBEN COUNTY*	1802430025B	15-JUL-98	98-05-4968A	02
05	IN	STEUBEN COUNTY*	1802430025B	16-SEP-98	98-05-5098A	02
05	IN	STEUBEN COUNTY*	1802430025B	26-AUG-98	98-05-5210A	02
05	IN	STEUBEN COUNTY*	1802430100B	12-AUG-98	98-05-5348A	02
05	IN	STEUBEN COUNTY*	1802430100B	12-AUG-98	98-05-5384A	02
05	IN	STEUBEN COUNTY*	1802430025B	30-OCT-98	98-05-6124A	02
05	IN	STEUBEN COUNTY*	1802430025B	07-OCT-98	98-05-6180A	02
05	IN	STEUBEN COUNTY*	1802430075B	18-SEP-98	98-05-6322A	02
05	IN	STEUBEN COUNTY*	1802430025B	07-OCT-98	98-05-6436A	02
05	IN	STEUBEN COUNTY*	1802430075B	21-OCT-98	98-05-6800A	02
05	IN	STEUBEN COUNTY*	1802430025B	28-OCT-98	98-05-6998A	02
05	IN	STEUBEN COUNTY*	1802430100B	28-OCT-98	98-05-7000A	02
05	IN	STEUBEN COUNTY*	1802430025B	21-OCT-98	98-05-7096A	02
05	IN	STEUBEN COUNTY*	1802430025B	25-NOV-98	99-05-380A	02
05	IN	STEUBEN COUNTY*	1802430025B	02-DEC-98	99-05-530A	02
05	IN	STEUBEN COUNTY*	1802430025B	25-NOV-98	99-05-660A	02
05	IN	SYRACUSE, TOWN OF	18085C0031C	18-DEC-98	99-05-994A	02
05	IN	TELL CITY, CITY OF	180197 B	26-AUG-98	98-05-3334A	02
05	IN	TELL CITY, CITY OF	180197 B	26-AUG-98	98-05-5550A	02
05	IN	TIPPECANOE COUNTY *	1804280015B	22-DEC-98	99-05-1022A	02
05	IN	TIPTON, CITY OF	1802550001C	25-SEP-98	98-05-5206A	02
05	IN	TIPTON, CITY OF	1802550001C	09-OCT-98	98-05-6252A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	18-SEP-98	98-05-3868A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	15-JUL-98	98-05-3944A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	21-AUG-98	98-05-4016A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	02-JUL-98	98-05-4238A	01
05	IN	VANDERBURGH COUNTY *	1802560075C	08-JUL-98	98-05-4356A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	08-JUL-98	98-05-4390A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	02-JUL-98	98-05-4392A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	14-AUG-98	98-05-4606A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	15-JUL-98	98-05-4710A	01
05	IN	VANDERBURGH COUNTY *	1802560015C	14-AUG-98	98-05-5198A	02
05	IN	VANDERBURGH COUNTY *	1802560075C	11-NOV-98	98-05-5410A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	21-AUG-98	98-05-5638A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	16-SEP-98	98-05-5772A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	04-NOV-98	98-05-5912A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	09-SEP-98	98-05-6010A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	02-OCT-98	98-05-6018A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	07-OCT-98	98-05-6208A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	04-NOV-98	98-05-6210A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	06-NOV-98	98-05-6958A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	11-NOV-98	98-05-7070A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	18-DEC-98	99-05-1188A	02
05	IN	VANDERBURGH COUNTY *	1802560100B	18-DEC-98	99-05-1190A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	25-NOV-98	99-05-146A	01
05	IN	VANDERBURGH COUNTY *	1802560025C	04-NOV-98	99-05-156A	02
05	IN	VANDERBURGH COUNTY *	1802560025C	18-NOV-98	99-05-274A	02
05	IN	VANDERBURGH COUNTY *	1802560100B	18-NOV-98	99-05-534A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	IN	VANDERBURGH COUNTY *	1802560025C	02-DEC-98	99-05-670A	02
05	IN	VANDERBURGH COUNTY *	1802560050B	02-DEC-98	99-05-686A	01
05	IN	VIGO COUNTY *	1802630135B	02-OCT-98	98-05-4948A	02
05	IN	WARRICK COUNTY *	1804180125B	11-SEP-98	98-05-4604A	02
05	IN	WARRICK COUNTY *	1804180175B	04-DEC-98	98-05-6016A	02
05	IN	WARSAW, CITY OF	18085C0078C	08-JUL-98	98-05-4764A	02
05	IN	WESTFIELD, TOWN OF	1800830013C	08-JUL-98	98-05-4542A	02
05	IN	WHITELAND, TOWN OF	1801180001A	06-NOV-98	98-05-6358A	01
05	IN	WHITELAND, TOWN OF	1801180001A	02-DEC-98	98-05-6688A	01
05	IN	WHITLEY COUNTY*	1802980001B	24-JUL-98	98-05-4306A	02
05	IN	WHITLEY COUNTY*	1802980002B	12-AUG-98	98-05-5116A	02
05	IN	WHITLEY COUNTY*	1802980002B	07-OCT-98	98-05-6380A	02
05	IN	WHITLEY COUNTY*	1802980002B	09-OCT-98	98-05-6434A	02
05	IN	WHITLEY COUNTY*	1802980001B	07-OCT-98	98-05-6686A	02
05	IN	WHITLEY COUNTY*	1802980002B	18-NOV-98	99-05-096A	02
05	IN	WHITLEY COUNTY*	1802980001B	09-DEC-98	99-05-802A	02
05	IN	WINONA LAKE, TOWN OF	18085C0086C	08-JUL-98	98-05-4240A	01
05	IN	WINONA LAKE, TOWN OF	18085C0086C	22-JUL-98	98-05-4960A	02
05	IN	WINONA LAKE, TOWN OF	18085C0090C	18-NOV-98	98-05-5948A	02
05	MI	ADRIAN, CITY OF	2601150002B	25-NOV-98	98-05-7114A	17
05	MI	ALBEE, TOWNSHIP OF	26145C0240D	10-JUL-98	98-05-4468A	02
05	MI	ALBEE, TOWNSHIP OF	26145C0245D	04-NOV-98	99-05-208A	02
05	MI	ALGONAC, CITY OF	2601910001C	23-OCT-98	98-05-6716A	02
05	MI	ALPENA, TOWNSHIP OF	2600110024B	07-OCT-98	98-05-6482A	02
05	MI	ARGENTINE, TOWNSHIP OF	2603920010A	30-OCT-98	98-05-6154A	02
05	MI	AU SABLE, TOWNSHIP OF	2600980004C	07-OCT-98	98-05-6036A	02
05	MI	AU SABLE, TOWNSHIP OF	2600980004C	02-SEP-98	98-05-6086A	01
05	MI	BALDWIN, TOWNSHIP OF	2600990007D	11-NOV-98	98-05-6640A	02
05	MI	BANGOR, TOWNSHIP OF	26017C0140D	18-DEC-98	99-05-780A	02
05	MI	BANKS, TOWNSHIP OF	2606430001B	25-SEP-98	98-05-3740A	02
05	MI	BAY CITY, CITY OF	26017C0205D	22-DEC-98	99-05-928A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740025B	29-JUL-98	98-05-4230A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740025B	21-AUG-98	98-05-5764A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740050B	18-SEP-98	98-05-5866A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740050B	07-OCT-98	98-05-6194A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740050B	04-NOV-98	98-05-6836A	02
05	MI	BAY MILLS, TOWNSHIP OF	2603740050B	18-DEC-98	99-05-828A	02
05	MI	BEAUGRAND, TOWNSHIP OF	2606460002B	25-SEP-98	98-05-3930A	02
05	MI	BEDFORD, TOWNSHIP OF	2601420009B	07-AUG-98	98-05-5034A	02
05	MI	BEDFORD, TOWNSHIP OF	2601420009B	15-JUL-98	98-05-856A	02
05	MI	BEDFORD, TOWNSHIP OF	2601420008B	30-DEC-98	99-05-868A	02
05	MI	BENONA, TOWNSHIP OF	260481 A	14-OCT-98	98-05-6058A	02
05	MI	BLOOMFIELD, TOWNSHIP OF	2601690016B	08-JUL-98	98-05-3814A	02
05	MI	BRIDGETON, TOWNSHIP OF	2604660005B	25-NOV-98	98-05-6182A	02
05	MI	BROWNSTOWN, CHARTERED TOWNSHIP OF	2602180010B	20-JUL-98	98-05-091P	05
05	MI	BRUCE, TOWNSHIP OF	2603750025A	25-SEP-98	98-05-6244A	02
05	MI	BUENA VISTA, TOWNSHIP OF	26145C0090D	02-SEP-98	98-05-5400A	02
05	MI	BUENA VISTA, TOWNSHIP OF	26145C0090D	11-SEP-98	98-05-6266A	02
05	MI	BUENA VISTA, TOWNSHIP OF	26145C0090D	25-NOV-98	99-05-498A	02
05	MI	CANNON, TOWNSHIP OF	2607340025A	11-SEP-98	98-05-5630A	02
05	MI	CANNON, TOWNSHIP OF	2607340025A	04-SEP-98	98-05-5680A	02
05	MI	CANTON, TOWNSHIP OF	2602190009B	17-AUG-98	97-05-205P	05
05	MI	CANTON, TOWNSHIP OF	2602190011B	18-DEC-98	98-05-2030A	01
05	MI	CANTON, TOWNSHIP OF	2602190008B	22-DEC-98	99-05-1314A	02
05	MI	CASCADE CHARTER, TOWNSHIP OF	2608140025A	16-SEP-98	98-05-4352A	02
05	MI	CASCADE CHARTER, TOWNSHIP OF	2608140025A	31-JUL-98	98-05-4546A	02
05	MI	CASCADE CHARTER, TOWNSHIP OF	2608140025A	28-OCT-98	98-05-6328A	02
05	MI	CASEVILLE, TOWNSHIP OF	2602570002A	21-OCT-98	98-05-6488A	02
05	MI	CHESTER, TOWNSHIP OF	2608290025A	18-SEP-98	98-05-5658A	02
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200005B	09-SEP-98	98-05-5232A	02
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200010B	30-DEC-98	98-05-6986A	02
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200010B	22-DEC-98	98-05-7122A	02
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200010B	20-NOV-98	99-05-464A	02
05	MI	CHESTERFIELD, TOWNSHIP OF	2601200010B	18-DEC-98	99-05-500A	01
05	MI	CHIKAMING, TOWNSHIP OF	2602580002B	08-DEC-98	98-05-3316A	02
05	MI	CLARK, TOWNSHIP OF	2607590050B	18-NOV-98	99-05-430A	02
05	MI	CLAY, TOWNSHIP OF	2601940002B	15-JUL-98	98-05-1176A	02
05	MI	CLEVELAND, TOWNSHIP OF	260302 A	18-DEC-98	98-05-6708A	02
05	MI	CLINTON, TOWNSHIP OF	2601210005E	19-AUG-98	98-05-3028A	17
05	MI	CLINTON, TOWNSHIP OF	2601210010D	02-JUL-98	98-05-4368A	02
05	MI	CLINTON, TOWNSHIP OF	2601210005E	19-AUG-98	98-05-4936A	02
05	MI	CLINTON, TOWNSHIP OF	2601210005E	09-SEP-98	98-05-5350A	02
05	MI	CLINTON, TOWNSHIP OF		12-AUG-98	98-05-5376A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MI	CLINTON, TOWNSHIP OF	2601210005E	11-NOV-98	99-05-140A	01
05	MI	COLDWATER, TOWNSHIP OF	2608260010A	02-SEP-98	98-05-5234A	02
05	MI	COLDWATER, TOWNSHIP OF	2608260010A	04-NOV-98	98-05-6784A	02
05	MI	COLON, TOWNSHIP OF	2605100005A	29-JUL-98	98-05-5090A	02
05	MI	COLUMBUS, TOWNSHIP OF	260507 A	11-NOV-98	99-05-042A	02
05	MI	COMMERCE, TOWNSHIP OF	2604730005B	02-DEC-98	98-05-5054A	02
05	MI	COMMERCE, TOWNSHIP OF	2604730005B	14-OCT-98	98-05-6758A	02
05	MI	COMMERCE, TOWNSHIP OF	2604730005B	21-OCT-98	99-05-040A	02
05	MI	CORUNNA, TOWNSHIP OF	2606020001A	12-AUG-98	98-05-3924A	02
05	MI	DEERFIELD, TOWNSHIP OF	26073C0285C	26-AUG-98	98-05-4802A	17
05	MI	DELHI, CHARTER TOWNSHIP OF	2600880005C	04-NOV-98	98-05-7124A	02
05	MI	DELTA, CHARTER TOWNSHIP OF	2600660005C	22-JUL-98	98-05-4962A	02
05	MI	EAST LANSING, CITY OF	2600890005B	08-JUL-98	98-05-2900A	02
05	MI	EAST LANSING, CITY OF	2600890005B	30-DEC-98	99-05-612A	17
05	MI	EVART, CITY OF	2603270001C	30-DEC-98	99-05-448A	02
05	MI	EVART, TOWNSHIP OF	2608100025A	30-DEC-98	99-05-134A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	04-SEP-98	98-05-5148A	02
05	MI	FABIUS, TOWNSHIP OF	2607810025A	29-JUL-98	98-05-5264A	02
05	MI	FARMINGTON HILLS, CITY OF	2601720005B	02-SEP-98	98-05-3926A	01
05	MI	FARMINGTON HILLS, CITY OF	2601720020B	09-OCT-98	98-05-6066A	02
05	MI	FLAT ROCK, CITY OF	2602240003B	06-NOV-98	98-05-6206A	02
05	MI	FLAT ROCK, CITY OF	2602240003B	02-DEC-98	99-05-374A	02
05	MI	FOWLERVILLE,VILLAGE OF	2604390001A	14-OCT-98	98-05-4132A	02
05	MI	FRANKENLUST, TOWNSHIP OF	26017C0200D	09-DEC-98	99-05-1080A	02
05	MI	FRASER, CITY OF	2601220001B	04-SEP-98	98-05-5284A	02
05	MI	FRASER, CITY OF	2601220001B	16-SEP-98	98-05-6200A	02
05	MI	FRASER, CITY OF	2601220001B	30-SEP-98	98-05-6378A	02
05	MI	FRASER, CITY OF	2601220001B	02-DEC-98	98-05-6506A	02
05	MI	FRASER, CITY OF	2601220001B	18-NOV-98	99-05-082A	02
05	MI	FRASER, TOWNSHIP OF	26017C0085D	25-NOV-98	99-05-428A	01
05	MI	FRENCHTOWN, TOWNSHIP OF	2601460004B	09-SEP-98	98-05-4078A	02
05	MI	FRUITLAND, TOWNSHIP OF	260265 B	30-OCT-98	98-05-6906A	02
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890003B	21-AUG-98	98-05-3164A	01
05	MI	GEORGETOWN, CHARTER TOWNSHIP OF	2605890003B	21-OCT-98	98-05-6900A	02
05	MI	GLADSTONE, CITY OF	26041C0607C	07-AUG-98	98-05-5028A	02
05	MI	GRAND HAVEN, TOWNSHIP OF	2602700005B	26-AUG-98	98-05-1124A	02
05	MI	GRAND HAVEN, TOWNSHIP OF	2602700005B	30-SEP-98	98-05-6474A	02
05	MI	GRAND HAVEN, TOWNSHIP OF	2602700005B	23-OCT-98	98-05-6948A	02
05	MI	GRANDVILLE, CITY OF	2602710002B	22-JUL-98	98-05-4382A	01
05	MI	GRANDVILLE, CITY OF	2602710002B	02-DEC-98	99-05-308A	02
05	MI	GREEN OAK, TOWNSHIP OF	2604400015B	25-NOV-98	98-05-5236A	02
05	MI	GREEN OAK, TOWNSHIP OF	2604400015B	14-OCT-98	98-05-6512A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	08-JUL-98	98-05-3984A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010007C	28-AUG-98	98-05-4892A	01
05	MI	GREENBUSH, TOWNSHIP OF	2600010007C	24-JUL-98	98-05-4998A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	21-AUG-98	98-05-5512A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	21-AUG-98	98-05-5530A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010007C	07-OCT-98	98-05-6494A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010004C	30-OCT-98	98-05-6950A	02
05	MI	GREENBUSH, TOWNSHIP OF	2600010007C	18-DEC-98	99-05-996A	02
05	MI	GROSSE POINTE PARK, CITY OF	2602300005B	16-JUL-98	98-05-5470A	02
05	MI	HAMBURG, TOWNSHIP OF	2601180010C	09-DEC-98	99-05-560A	02
05	MI	HAMPTON, TOWNSHIP OF	26017C0185D	22-JUL-98	98-05-2226A	02
05	MI	HAMPTON, TOWNSHIP OF	26017C0180D	30-SEP-98	98-05-6626A	02
05	MI	HAMPTON, TOWNSHIP OF	26017C0185D	18-NOV-98	99-05-604A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	21-AUG-98	98-05-3760A	01
05	MI	HARRISON, TOWNSHIP OF	2601230005C	19-AUG-98	98-05-5202A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	18-SEP-98	98-05-5388A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	28-AUG-98	98-05-5500A	01
05	MI	HARRISON, TOWNSHIP OF	2601230010C	28-AUG-98	98-05-5500A	01
05	MI	HARRISON, TOWNSHIP OF	2601230010C	04-SEP-98	98-05-5590A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	25-SEP-98	98-05-5662A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	18-SEP-98	98-05-5884A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	25-NOV-98	98-05-6550A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	02-OCT-98	98-05-6814A	01
05	MI	HARRISON, TOWNSHIP OF	2601230005C	09-DEC-98	99-05-1122A	02
05	MI	HARRISON, TOWNSHIP OF	2601230010C	11-DEC-98	99-05-226A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	04-DEC-98	99-05-248A	02
05	MI	HARRISON, TOWNSHIP OF	2601230005C	06-NOV-98	99-05-518A	02
05	MI	HIGHLAND, TOWNSHIP OF	2606500010A	11-DEC-98	99-05-038A	02
05	MI	HOLLAND, TOWNSHIP OF	2604920003D	04-DEC-98	98-05-7030A	01
05	MI	HOLLY, TOWNSHIP OF	2604740002B	23-SEP-98	98-05-4696A	02
05	MI	HOWELL, CITY OF	260441 A	22-DEC-98	99-05-1238A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MI	HUDSONVILLE, CITY OF	2604930002A	30-OCT-98	98-05-6730A	02
05	MI	IDA, TOWNSHIP OF	2601470005B	07-OCT-98	98-05-6768A	02
05	MI	IDA, TOWNSHIP OF	2601470005B	16-DEC-98	99-05-214A	01
05	MI	IDA, TOWNSHIP OF	2601470005B	11-DEC-98	99-05-318A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750006B	30-OCT-98	98-05-7050A	02
05	MI	INDEPENDENCE, TOWNSHIP OF	2604750008B	04-DEC-98	99-05-798A	02
05	MI	IONIA, CITY OF	2600970001C	23-OCT-98	98-05-6634A	02
05	MI	IONIA, CITY OF	2600970001C	28-OCT-98	98-05-6636A	02
05	MI	IONIA, CITY OF	2600970001C	28-OCT-98	98-05-6638A	02
05	MI	IONIA, CITY OF	2600970001C	30-DEC-98	99-05-1166A	01
05	MI	IONIA, CITY OF	2600970001C	30-DEC-98	99-05-1168A	01
05	MI	IONIA, CITY OF	2600970001C	30-DEC-98	99-05-1170A	01
05	MI	IRA, TOWNSHIP OF	2601990005B	30-DEC-98	99-05-296A	01
05	MI	ISABELLA, TOWNSHIP OF	26073C0200C	24-JUL-98	98-05-3140A	02
05	MI	JAMES, TOWNSHIP OF	26145C0185D	04-SEP-98	98-05-3514A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	02-SEP-98	98-05-5222A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	09-OCT-98	98-05-6000A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	16-SEP-98	98-05-6108A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	07-OCT-98	98-05-6118A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	25-SEP-98	98-05-6268A	02
05	MI	JAMES, TOWNSHIP OF	26145C0130D	02-OCT-98	98-05-6568A	02
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0080D	29-JUL-98	98-05-5224A	02
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0080D	07-OCT-98	98-05-6442A	02
05	MI	KOCHVILLE, TOWNSHIP OF	26145C0080D	07-OCT-98	98-05-6444A	02
05	MI	LAGRANGE, TOWNSHIP OF	260366 A	16-OCT-98	98-05-5958A	02
05	MI	LAKE, TOWNSHIP OF	260030 A	09-OCT-98	98-05-6646A	02
05	MI	LEELANAU, TOWNSHIP OF	260114 B	11-NOV-98	98-05-5452A	01
05	MI	LEELANAU, TOWNSHIP OF	260114 B	18-NOV-98	98-05-6872A	02
05	MI	LEXINGTON, TOWNSHIP OF	2607180005A	17-JUL-98	98-05-4088A	02
05	MI	LIVONIA, CITY OF	2602330002B	07-OCT-98	98-05-6166A	02
05	MI	LIVONIA, CITY OF	2602330002B	11-DEC-98	98-05-6934A	02
05	MI	LONG LAKE, TOWNSHIP OF	2607820025A	24-JUL-98	98-05-4994A	02
05	MI	LONG LAKE, TOWNSHIP OF	2607820025A	29-JUL-98	98-05-5060A	02
05	MI	LONG LAKE, TOWNSHIP OF	2607820025A	30-OCT-98	98-05-6952A	02
05	MI	LONG LAKE, TOWNSHIP OF	2607820025A	02-DEC-98	99-05-312A	02
05	MI	MACOMB, TOWNSHIP OF	2604450010B	06-NOV-98	98-05-209P	06
05	MI	MACOMB, TOWNSHIP OF	2604450010B	21-DEC-98	98-05-221P	06
05	MI	MACOMB, TOWNSHIP OF	2604450020B	07-JUL-98	98-05-227P	06
05	MI	MACOMB, TOWNSHIP OF	2604450010B	04-SEP-98	98-05-3014A	01
05	MI	MACOMB, TOWNSHIP OF	2604450020B	05-OCT-98	98-05-347P	05
05	MI	MACOMB, TOWNSHIP OF	2604450010B	02-DEC-98	98-05-359P	05
05	MI	MACOMB, TOWNSHIP OF	2604450010B	02-JUL-98	98-05-5014A	01
05	MI	MACOMB, TOWNSHIP OF	2604450010B	23-SEP-98	98-05-5740A	01
05	MI	MACOMB, TOWNSHIP OF	2604450020B	30-SEP-98	98-05-5860A	01
05	MI	MACOMB, TOWNSHIP OF	2604450020B	21-OCT-98	98-05-5966A	02
05	MI	MACOMB, TOWNSHIP OF	2604450010B	21-OCT-98	98-05-6492A	01
05	MI	MARQUETTE, CITY OF	2607160025B	28-AUG-98	97-05-4930A	02
05	MI	MENOMINEE, TOWNSHIP OF	2607020030B	17-JUL-98	98-05-3280A	02
05	MI	MENOMINEE, TOWNSHIP OF	2607020015B	08-JUL-98	98-05-3964A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	26-AUG-98	98-05-3534A	01
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	30-JUL-98	98-05-5732A	02
05	MI	MERIDIAN, CHARTER TOWNSHIP OF	2600930001A	07-OCT-98	98-05-6126A	02
05	MI	MIDLAND, CITY OF	2601400007D	12-AUG-98	98-05-5080A	02
05	MI	MIDLAND, CITY OF	2601400007D	04-AUG-98	98-05-5082A	02
05	MI	MIDLAND, CITY OF	2601400007D	05-AUG-98	98-05-5366A	02
05	MI	MIDLAND, CITY OF	2601400005D	14-AUG-98	98-05-5468A	02
05	MI	MIDLAND, CITY OF	2601400009D	23-SEP-98	98-05-6204A	02
05	MI	MIDLAND, CITY OF	2601400005D	23-OCT-98	98-05-6354A	02
05	MI	MIDLAND, CITY OF	2601400008D	16-OCT-98	98-05-6478A	02
05	MI	MIDLAND, CITY OF	2601400007D	04-NOV-98	98-05-6570A	02
05	MI	MIDLAND, CITY OF	2601400008D	09-OCT-98	98-05-6664A	02
05	MI	MIDLAND, CITY OF	2601400007D	14-OCT-98	98-05-6722A	02
05	MI	MIDLAND, CITY OF	2601400007D	13-NOV-98	99-05-270A	02
05	MI	MIDLAND, CITY OF	2601400005D	06-NOV-98	99-05-422A	02
05	MI	MIDLAND, CITY OF	2601400007D	20-NOV-98	99-05-432A	02
05	MI	MONROE, TOWNSHIP OF	2601540001A	02-JUL-98	98-05-4286A	02
05	MI	MONROE, TOWNSHIP OF	2601540001A	21-OCT-98	98-05-6202A	02
05	MI	MONTAGUE, CITY OF	2601600001B	02-JUL-98	98-05-5180A	01
05	MI	NILES, TOWNSHIP OF	260041 B	29-JUL-98	98-05-4138A	02
05	MI	NOTTAWA, TOWNSHIP OF	26073C0165C	03-DEC-98	99-05-388A	02
05	MI	NOVI, CITY OF	2601750007C	23-SEP-98	98-05-187A	17
05	MI	NOVI, CITY OF	2601750008C	08-JUL-98	98-05-2716A	02
05	MI	NOVI, CITY OF	2601750008C	04-AUG-98	98-05-4752A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MI	NOVI, CITY OF	2601750006C	14-OCT-98	98-05-6014A	02
05	MI	NOVI, CITY OF	2601750008C	30-DEC-98	99-05-122A	02
05	MI	NOVI, CITY OF	2601750009C	04-NOV-98	99-05-244A	17
05	MI	NOVI, CITY OF	2601750008C	18-NOV-98	99-05-408A	17
05	MI	NOVI, CITY OF	2601750008C	18-NOV-98	99-05-410A	02
05	MI	NOVI, CITY OF	2601750009C	16-DEC-98	99-05-776A	02
05	MI	ONEKAMA, TOWNSHIP OF	2602760001B	04-DEC-98	98-05-3490A	01
05	MI	OSCODA, TOWNSHIP OF	2601010025C	23-SEP-98	98-05-5804A	02
05	MI	OTSEGO, TOWNSHIP OF	2607400025A	16-DEC-98	99-05-352A	02
05	MI	OWOSSO, CITY OF	2605960002A	25-SEP-98	98-05-5752A	02
05	MI	PAW PAW, VILLAGE OF	260598 A	25-SEP-98	98-05-6236A	02
05	MI	PLAINFIELD, TOWNSHIP OF	2601090005B	17-JUL-98	98-05-4154A	02
05	MI	PLYMOUTH, TOWNSHIP OF	2602370005C	28-OCT-98	98-05-5742A	01
05	MI	PORT HURON, CITY OF	2602040005B	25-SEP-98	98-05-6412A	02
05	MI	PORTAGE, CITY OF	2605770003A	31-JUL-98	98-05-4018A	17
05	MI	PORTAGE, CITY OF	2605770006A	07-AUG-98	98-05-5382A	02
05	MI	RABER, TOWNSHIP OF	2607860025A	01-SEP-98	98-05-6446A	02
05	MI	RABER, TOWNSHIP OF	2607860025A	18-NOV-98	99-05-568A	02
05	MI	RAISINVILLE, TOWNSHIP OF	2601550020B	11-DEC-98	99-05-278A	02
05	MI	ROCHESTER HILLS, CITY OF	2604710015B	07-OCT-98	98-05-6374A	02
05	MI	ROCKWOOD, CITY OF	2602410005B	14-OCT-98	98-05-6242A	02
05	MI	SAGINAW, TOWNSHIP OF	26145C0130D	10-JUL-98	98-05-4898A	02
05	MI	SAGINAW, TOWNSHIP OF	26145C0130D	21-AUG-98	98-05-5508A	02
05	MI	SAGINAW, TOWNSHIP OF	26145C0070D	14-OCT-98	98-05-6728A	02
05	MI	SALEM,TOWNSHIP OF	2606360002B	08-JUL-98	98-05-2368A	02
05	MI	SELMA, TOWNSHIP OF	26165C0338C	12-AUG-98	98-05-4448A	02
05	MI	SELMA, TOWNSHIP OF	26165C0319C	11-AUG-98	98-05-5906A	02
05	MI	SELMA, TOWNSHIP OF	26165C0319C	28-OCT-98	98-05-7110A	02
05	MI	SIMS, TOWNSHIP OF	2600150004C	04-DEC-98	99-05-606A	02
05	MI	SPRING LAKE, VILLAGE OF	2602820001B	18-SEP-98	98-05-2424A	01
05	MI	ST. CHARLES, TOWNSHIP OF	26145C0230D	11-SEP-98	98-05-5510A	02
05	MI	ST. CHARLES, VILLAGE OF	26145C0230D	14-OCT-98	98-05-6440A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	08-JUL-98	98-05-4924A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	08-JUL-98	98-05-4928A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	15-JUL-98	98-05-4932A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	08-JUL-98	98-05-4940A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	26-AUG-98	98-05-5760A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	23-SEP-98	98-05-6198A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	09-OCT-98	98-05-6306A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	21-OCT-98	98-05-6650A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	28-OCT-98	98-05-6920A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	21-OCT-98	98-05-7028A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	18-DEC-98	99-05-1078A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	02-DEC-98	99-05-1094A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	30-DEC-98	99-05-138A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	30-DEC-98	99-05-1568A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	30-OCT-98	99-05-166A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	25-NOV-98	99-05-656A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	25-NOV-98	99-05-658A	02
05	MI	ST. CLAIR SHORES, CITY OF	2601270005B	04-DEC-98	99-05-756A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280010E	02-DEC-98	97-05-125P	05
05	MI	STERLING HEIGHTS, CITY OF	2601280005F	13-OCT-98	98-05-1712P	05
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	19-AUG-98	98-05-4638A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280020E	19-AUG-98	98-05-4638A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	10-JUL-98	98-05-4718A	17
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	23-OCT-98	98-05-5242A	01
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	14-OCT-98	98-05-6350A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	30-OCT-98	98-05-6936A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	30-OCT-98	98-05-6944A	02
05	MI	STERLING HEIGHTS, CITY OF	2601280015F	25-NOV-98	99-05-386A	02
05	MI	STOCKBRIDGE, VILLAGE OF	260573 A	02-SEP-98	98-05-5076A	02
05	MI	STOCKBRIDGE, VILLAGE OF	260573 A	28-OCT-98	98-05-7012A	02
05	MI	SWAN CREEK, TOWNSHIP OF	26145C0125D	28-OCT-98	98-05-6804A	02
05	MI	TALLMADGE, TOWNSHIP OF	2604940010B	20-NOV-98	98-05-6162A	02
05	MI	TAYLOR, CITY OF	2607280001B	29-JUL-98	98-05-2794A	02
05	MI	TAYLOR, CITY OF	2607280004A	28-OCT-98	98-05-7076A	01
05	MI	TAYMOUTH, TOWNSHIP OF	26145C0250D	23-OCT-98	99-05-324A	02
05	MI	THOMAS, TOWNSHIP OF	26145C0130D	08-JUL-98	98-05-4432A	02
05	MI	THOMAS, TOWNSHIP OF	26145C0125D	29-JUL-98	98-05-4434A	02
05	MI	THOMAS, TOWNSHIP OF	26145C0130D	09-OCT-98	98-05-6572A	02
05	MI	TITTABAWASEE, TOWNHIP OF	26145C0020D	23-SEP-98	98-05-4430A	02
05	MI	TORCH LAKE, TOWNSHIP OF	2604140025B	04-NOV-98	99-05-238A	02
05	MI	TROY, CITY OF	2601800006E	29-JUL-98	98-05-4536A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MI	TROY, CITY OF	2601800004E	10-JUL-98	98-05-4806A	02
05	MI	TROY, CITY OF	2601800004E	10-JUL-98	98-05-4870A	02
05	MI	TROY, CITY OF	2601800004E	11-DEC-98	98-05-5358A	17
05	MI	TROY, CITY OF	2601800002D	18-SEP-98	98-05-5976A	02
05	MI	TROY, CITY OF	2601800004E	23-SEP-98	98-05-6012A	02
05	MI	TROY, CITY OF	2601800002D	23-SEP-98	98-05-6160A	02
05	MI	TROY, CITY OF	2601800002D	23-SEP-98	98-05-6214A	02
05	MI	TROY, CITY OF	2601800004E	28-OCT-98	98-05-6326A	02
05	MI	TROY, CITY OF	2601800004E	23-SEP-98	98-05-6392A	17
05	MI	TROY, CITY OF	2601800004E	14-OCT-98	98-05-6528A	02
05	MI	TROY, CITY OF	2601800004E	02-OCT-98	98-05-6534A	02
05	MI	TROY, CITY OF	2601800004E	09-OCT-98	98-05-6756A	02
05	MI	TROY, CITY OF	2601800004E	16-OCT-98	98-05-6910A	02
05	MI	TROY, CITY OF	2601800004E	16-DEC-98	99-05-1150A	02
05	MI	TROY, CITY OF	2601800004E	25-NOV-98	99-05-294A	02
05	MI	TROY, CITY OF	2601800002D	09-DEC-98	99-05-452A	17
05	MI	TROY, CITY OF	2601800004E	02-DEC-98	99-05-706A	02
05	MI	TROY, CITY OF	2601800002D	09-DEC-98	99-05-950A	17
05	MI	VICTOR, TOWNSHIP OF	2607200010B	09-OCT-98	98-05-5290A	02
05	MI	VICTOR, TOWNSHIP OF	2607200010B	30-DEC-98	99-05-1386A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	05-AUG-98	98-05-4688A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	17-JUL-98	98-05-5070A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	07-AUG-98	98-05-5372A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840020B	19-AUG-98	98-05-5422A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	19-AUG-98	98-05-5622A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	09-SEP-98	98-05-5664A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840020B	30-OCT-98	98-05-5748A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840020B	09-OCT-98	98-05-5750A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840010B	23-OCT-98	98-05-5846A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840005B	07-OCT-98	98-05-7024A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840020B	30-DEC-98	99-05-1072A	02
05	MI	WATERFORD, CHARTER TOWNSHIP OF	2602840020B	16-DEC-98	99-05-356A	02
05	MI	WHITEFISH, TOWNSHIP OF	2603210100C	02-JUL-98	98-05-4030A	02
05	MI	WHITEFISH, TOWNSHIP OF	2603210100C	05-AUG-98	98-05-4152A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	24-JUL-98	98-05-4068A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	26-AUG-98	98-05-4992A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	26-AUG-98	98-05-5274A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	12-AUG-98	98-05-5330A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	12-AUG-98	98-05-5332A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	16-OCT-98	98-05-6034A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	28-OCT-98	98-05-6424A	02
05	MI	WHITEWATER, TOWNSHIP OF	2607940025A	18-DEC-98	99-05-984A	02
05	MI	WHITNEY, TOWNSHIP OF	2600180002C	25-NOV-98	98-05-6558A	02
05	MI	WILLIAMSTON, CITY OF	2600940001B	12-AUG-98	98-05-4974A	02
05	MI	WILLIAMSTOWN, TOWNSHIP OF	2600950010A	25-NOV-98	98-05-6682A	02
05	MI	WOLVERINE LAKE, VILLAGE OF	260480 A	19-AUG-98	98-05-5174A	02
05	MI	WOLVERINE LAKE, VILLAGE OF	260480 A	04-NOV-98	98-05-6400A	02
05	MI	WYANDOTTE, CITY OF	2602460001B	21-AUG-98	98-05-4110A	02
05	MI	WYOMING, CITY OF	2601110005C	30-SEP-98	98-05-5756A	02
05	MI	WYOMING, CITY OF	2601110005C	11-DEC-98	99-05-622A	01
05	MN	AITKIN COUNTY *	2706280205C	26-AUG-98	98-05-5694A	02
05	MN	AITKIN COUNTY *	2706280205C	20-NOV-98	98-05-7120A	02
05	MN	AITKIN COUNTY *	2706280215C	11-DEC-98	99-05-1042A	02
05	MN	AITKIN COUNTY *	2706280205C	22-DEC-98	99-05-1052A	02
05	MN	AITKIN COUNTY *	2706280350B	30-DEC-98	99-05-542A	02
05	MN	ANOKA COUNTY *	2700050050A	25-NOV-98	98-05-3382A	02
05	MN	BLAINE, CITY OF	2700070005C	18-DEC-98	98-05-2652A	01
05	MN	BLAINE, CITY OF	2700070010C	25-NOV-98	98-05-4040A	02
05	MN	BLAINE, CITY OF	2700070005C	14-AUG-98	98-05-5046A	02
05	MN	BLAINE, CITY OF	2700070010C	02-DEC-98	98-05-5094A	01
05	MN	BLAINE, CITY OF	2700070005C	14-AUG-98	98-05-5554A	02
05	MN	BLAINE, CITY OF	2700070005C	22-DEC-98	99-05-1114A	02
05	MN	BLAINE, CITY OF	2700070005C	11-NOV-98	99-05-186A	02
05	MN	BLAINE, CITY OF	2700070005C	04-DEC-98	99-05-470A	02
05	MN	BLAINE, CITY OF	2700070005C	18-NOV-98	99-05-484A	01
05	MN	BLAINE, CITY OF	2700070005C	30-DEC-98	99-05-624A	02
05	MN	BLAINE, CITY OF	2700070005C	04-DEC-98	99-05-750A	02
05	MN	BLAINE, CITY OF	2700070005C	04-DEC-98	99-05-886A	02
05	MN	BLUE EARTH COUNTY *	2752310075D	02-JUL-98	98-05-2968A	02
05	MN	BROOKLYN PARK, CITY OF	2701520003D	09-SEP-98	98-05-4514A	02
05	MN	BUFFALO, CITY OF	2705350001B	02-DEC-98	99-05-246A	02
05	MN	CARVER COUNTY*	2700490050C	16-OCT-98	98-05-3446A	02
05	MN	CHAMPLIN, CITY OF	2701530001A	04-NOV-98	98-05-6624A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MN	CHANHASSEN, CITY OF	2700510005B	28-OCT-98	98-05-5172A	02
05	MN	CHISAGO COUNTY *	2706820175C	29-JUL-98	98-05-5150A	02
05	MN	CHISAGO COUNTY *	2706820175C	28-AUG-98	98-05-5914A	02
05	MN	CHISAGO COUNTY *	2706820200C	22-DEC-98	98-05-6040A	02
05	MN	CHISAGO COUNTY *	2706820175C	04-DEC-98	98-05-6632A	01
05	MN	CHISAGO COUNTY *	2706820175C	06-NOV-98	99-05-184A	02
05	MN	CIRCLE PINES, CITY OF	2700090005A	21-AUG-98	98-05-5826A	17
05	MN	CLAY COUNTY *	2752350175C	18-DEC-98	98-05-6902A	02
05	MN	COON RAPIDS,CITY OF	2700110002A	29-JUL-98	98-05-2852A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	15-JUL-98	98-05-3596A	02
05	MN	COON RAPIDS,CITY OF	2700110002A	05-AUG-98	98-05-3624A	01
05	MN	COON RAPIDS,CITY OF	2700110002A	05-AUG-98	98-05-4494A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	21-AUG-98	98-05-5114A	01
05	MN	COON RAPIDS,CITY OF	2700110002A	24-JUL-98	98-05-5154A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	14-AUG-98	98-05-5266A	02
05	MN	COON RAPIDS,CITY OF	2700110002A	18-SEP-98	98-05-5994A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	28-AUG-98	98-05-6090A	02
05	MN	COON RAPIDS,CITY OF	2700110001A	23-OCT-98	98-05-6828A	01
05	MN	CROOKSTON, CITY OF	2703640002C	24-JUL-98	98-05-5170A	02
05	MN	CROSSLAKE, CITY OF	270095 B	08-JUL-98	98-05-3138A	02
05	MN	CROSSLAKE, CITY OF	270095 B	02-SEP-98	98-05-5316A	02
05	MN	CROW WING COUNTY *	2700910200B	23-SEP-98	98-05-5134A	02
05	MN	CROW WING COUNTY *	2700910200B	25-NOV-98	99-05-582A	02
05	MN	DAKOTA COUNTY *	2701010150B	18-SEP-98	98-05-5996A	02
05	MN	DELANO, CITY OF	2705390001C	25-NOV-98	99-05-368A	02
05	MN	DODGE COUNTY *	2705480125B	02-SEP-98	98-05-5972A	02
05	MN	EAST GRAND FORKS, CITY OF	2705030100B	06-NOV-98	97-05-199P	05
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	06-NOV-98	97-05-199P	05
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	26-AUG-98	98-05-4126A	02
05	MN	EAST GRAND FORKS, CITY OF	2752360005C	30-DEC-98	98-05-4654A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590010C	08-JUL-98	98-05-4720A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590010C	14-AUG-98	98-05-5200A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	02-SEP-98	98-05-5412A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	30-OCT-98	98-05-5784A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590005C	30-SEP-98	98-05-5842A	02
05	MN	EDEN PRAIRIE, CITY OF	2701590010C	04-DEC-98	99-05-742A	02
05	MN	GOODHUE COUNTY *	2701400125A	10-JUL-98	98-05-3530A	02
05	MN	GOODHUE COUNTY *	2701400125A	25-NOV-98	99-05-738A	02
05	MN	GREENWOOD, TOWNSHIP OF	2707360575C	02-SEP-98	98-05-5702A	02
05	MN	GREENWOOD, TOWNSHIP OF	2707360575C	07-OCT-98	98-05-6710A	02
05	MN	HAM LAKE, CITY OF	2706740005B	19-AUG-98	98-05-5108A	02
05	MN	HAM LAKE, CITY OF	2706740005B	19-AUG-98	98-05-5504A	02
05	MN	HAM LAKE, CITY OF	2706740005B	02-DEC-98	99-05-752A	02
05	MN	HAM LAKE, CITY OF	2706740010B	02-DEC-98	99-05-752A	02
05	MN	HASSAN, TOWNSHIP OF	2706780005C	23-SEP-98	98-05-4406A	02
05	MN	HASTINGS,CITY OF	2701050005D	08-JUL-98	98-05-3834A	02
05	MN	HERMANTOWN, CITY OF	2707080006B	02-OCT-98	98-05-6454A	01
05	MN	HUGO, CITY OF	2705040010C	04-NOV-98	98-05-7088A	02
05	MN	ISANTI COUNTY *	2701970055A	28-AUG-98	98-05-5880A	02
05	MN	ISANTI COUNTY *	2701970060B	04-DEC-98	98-05-7044A	02
05	MN	ISANTI COUNTY *	2701970040B	11-NOV-98	98-05-7064A	02
05	MN	ISANTI COUNTY *	2701970040B	16-OCT-98	98-05-7118A	02
05	MN	ISANTI COUNTY *	2701970035B	30-DEC-98	99-05-1156A	02
05	MN	ISANTI COUNTY *	2701970035B	30-DEC-98	99-05-1218A	02
05	MN	ISANTI COUNTY *	2701970060B	20-NOV-98	99-05-194A	02
05	MN	ISANTI COUNTY *	2701970025B	18-DEC-98	99-05-222A	02
05	MN	ISANTI COUNTY *	2701970010A	18-DEC-98	99-05-224A	02
05	MN	ISANTI COUNTY *	2701970035B	02-DEC-98	99-05-634A	02
05	MN	ITASCA COUNTY *	2702000775A	18-NOV-98	98-05-4916A	01
05	MN	KOOCHICHING COUNTY *	2702330006B	14-AUG-98	98-05-5158A	02
05	MN	KOOCHICHING COUNTY *	2702330006B	11-SEP-98	98-05-5984A	02
05	MN	KOOCHICHING COUNTY *	2702330006B	07-OCT-98	98-05-6672A	02
05	MN	LAKEVILLE, CITY OF	2701070004C	04-NOV-98	98-05-5598A	02
05	MN	LINDSTROM, CITY OF	2706830001A	03-DEC-98	99-05-1060A	02
05	MN	LINO LAKES, CITY OF	2700150005B	25-NOV-98	99-05-322A	02
05	MN	MAPLEWOOD, CITY OF	270378 C	16-DEC-98	99-05-556A	02
05	MN	MARINE-ON-ST. CROIX, CITY OF	270509 B	11-NOV-98	99-05-608A	02
05	MN	MEDINA, CITY OF	2701710004B	14-AUG-98	98-05-4410A	02
05	MN	MEEKER COUNTY *	2702800008B	11-NOV-98	98-05-7094A	02
05	MN	MINNETONKA, CITY OF	2701730002C	21-OCT-98	98-05-6778A	02
05	MN	MINNETONKA, CITY OF	2701730003C	29-DEC-98	99-05-788A	02
05	MN	MINNETRISTA, CITY OF	270175 B	14-AUG-98	98-05-5138A	02
05	MN	MOORHEAD, CITY OF	2752440005D	05-AUG-98	98-05-5000A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	MN	MOORHEAD, CITY OF	2752440010D	29-JUL-98	98-05-5018A	17
05	MN	MOORHEAD, CITY OF	2752440005D	07-AUG-98	98-05-5310A	02
05	MN	MOOSE LAKE, CITY OF	270045 B	09-OCT-98	98-05-6428A	02
05	MN	MORRISON COUNTY *	2706170225B	24-JUL-98	98-05-4574A	02
05	MN	MOUNDS VIEW, CITY OF	2703790001C	17-JUL-98	98-05-5038A	02
05	MN	MURRAY COUNTY *	2706450230A	04-DEC-98	98-05-7084A	01
05	MN	NOBLES COUNTY*	2706680100B	28-AUG-98	98-05-4130A	02
05	MN	OLMSTED COUNTY *	27109C0350D	23-SEP-98	98-05-2064A	02
05	MN	OLMSTED COUNTY *	27109C0025D	22-DEC-98	99-05-1120A	02
05	MN	PENNINGTON COUNTY *	27113C0160C	06-NOV-98	98-05-6288A	02
05	MN	PINE COUNTY *	2707040350B	25-NOV-98	98-05-6792A	02
05	MN	PINE COUNTY *	2707040340B	30-DEC-98	98-05-6832A	02
05	MN	PLYMOUTH, CITY OF	2701790005C	07-AUG-98	98-05-5022A	17
05	MN	POLK COUNTY *	2705030100B	06-NOV-98	98-05-113P	06
05	MN	POLK COUNTY *	2705030175B	26-AUG-98	98-05-4532A	02
05	MN	POLK COUNTY *	2705030175B	16-SEP-98	98-05-6232A	02
05	MN	PRIOR LAKE, CITY OF	2704320003C	29-JUL-98	98-05-3404A	02
05	MN	PRIOR LAKE, CITY OF	2704320002C	08-JUL-98	98-05-3632A	02
05	MN	PRIOR LAKE, CITY OF	2704320004C	19-AUG-98	98-05-4246A	02
05	MN	PRIOR LAKE, CITY OF	2704320004C	09-OCT-98	98-05-5450A	02
05	MN	RAMSEY, CITY OF	2706810020B	14-OCT-98	98-05-5068A	17
05	MN	RICE COUNTY *	2706460025C	16-SEP-98	98-05-5684A	02
05	MN	RICE COUNTY *	2706460025C	21-OCT-98	98-05-6104A	02
05	MN	RICE COUNTY *	2706460025C	02-DEC-98	99-05-160A	02
05	MN	ROCHESTER, CITY OF	27109C0144E	09-OCT-98	98-05-5838A	02
05	MN	ROCHESTER, CITY OF	27109C0306E	12-AUG-98	98-05-5920A	02
05	MN	ROCHESTER, CITY OF	27109C0164E	16-SEP-98	98-05-6276A	02
05	MN	ROCHESTER, CITY OF	27109C0164E	18-DEC-98	98-05-6410A	02
05	MN	SCOTT COUNTY*	2704280100C	22-JUL-98	98-05-2964A	02
05	MN	SCOTT COUNTY*	2704280050C	21-OCT-98	98-05-5844A	02
05	MN	SCOTT COUNTY*	2704280100C	09-DEC-98	98-05-7022A	02
05	MN	SHERBURNE COUNTY *	2704350065C	14-AUG-98	98-05-3368A	02
05	MN	SHERBURNE COUNTY *	2704350050C	07-AUG-98	98-05-4332A	02
05	MN	SHERBURNE COUNTY *	2704350050C	19-AUG-98	98 05-5044A	02
05	MN	SHERBURNE COUNTY *	2704350095C	09-OCT-98	98-05-6254A	02
05	MN	SHOREVIEW, CITY OF	2703840001B	14-AUG-98	98-05-3762A	01
05	MN	SHOREVIEW, CITY OF	2703840001B	26-AUG-98	98-05-5536A	02
05	MN	ST. LOUIS COUNTY *	2704160950C	14-OCT-98	98-05-6038A	02
05	MN	ST. LOUIS COUNTY *	2704161350C	04-NOV-98	98-05-6112A	02
05	MN	ST. LOUIS COUNTY *	2704160575C	11-DEC-98	98-05-6278A	02
05	MN	ST. LOUIS PARK, CITY OF	2701840005B	16-DEC-98	98-05-4868A	01
05	MN	ST. LOUIS PARK, CITY OF	2701840005B	25-SEP-98	98-05-5486A	02
05	MN	STEARNS COUNTY*	2705460265B	14-OCT-98	98-05-5030A	02
05	MN	THIEF RIVER FALLS, CITY OF	27113C0045C	09-OCT-98	98-05-6618A	02
05	MN	VADNAIS HEIGHTS, CITY OF	2703850001B	08-JUL-98	98-05-267P	06
05	MN	WABASHA COUNTY *	2704830135B	09-OCT-98	98-05-5682A	02
05	MN	WASHINGTON COUNTY *	2704990125B	29-JUL-98	98-05-4558A	02
05	MN	WASHINGTON COUNTY *	2704990125B	22-JUL-98	98-05-4726A	02
05	MN	WASHINGTON COUNTY *	2704990125B	23-SEP-98	98-05-4734A	02
05	MN	WASHINGTON COUNTY *	2704990025B	02-OCT-98	98-05-6472A	02
05	MN	WASHINGTON COUNTY *	2704990025B	16-OCT-98	98-05-6620A	02
05	MN	WASHINGTON COUNTY *	2704990025B	21-OCT-98	98-05-6866A	02
05	MN	WASHINGTON COUNTY *	2704990025B	21-OCT-98	98-05-6916A	02
05	MN	WASHINGTON COUNTY *	2704990125B	22-DEC-98	99-05-1180A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	17-JUL-98	98-05-4608A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	04-SEP-98	98-05-5454A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	07-OCT-98	98-05-6022A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	21-OCT-98	98-05-6970A	02
05	MN	WHITE BEAR,TOWNSHIP OF	2706880005B	18-DEC-98	99-05-566A	02
05	MN	WILKIN COUNTY *	2705190025A	16-SEP-98	98-05-4846A	02
05	MN	WORTHINGTON, CITY OF	2703210002B	02-SEP-98	98-05-109P	05
05	MN	WORTHINGTON, CITY OF	2703210003B	02-SEP-98	98-05-109P	05
05	MN	WORTHINGTON, CITY OF	2703210002B	14-AUG-98	98-05-4700A	02
05	MN	WRIGHT COUNTY *	2705340042C	20-NOV-98	98-05-7036A	02
05	OH	AKRON, CITY OF	3905230013B	07-AUG-98	98-05-4786A	02
05	OH	ALLIANCE, CITY OF	3905080001B	02-DEC-98	98-05-5758A	02
05	OH	ASHTABULA COUNTY *	3900100175B	08-JUL-98	98-05-3132A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	29-JUL-98	98-05-4966A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	22-JUL-98	98-05-5088A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	16-SEP-98	98-05-5812A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	07-OCT-98	98-05-5926A	02
05	OH	AUGLAIZE COUNTY *	39011C0090C	09-OCT-98	98-05-6532A	02
05	OH	AURORA, CITY OF	3904540001B	23-OCT-98	98-05-6976A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	OH	AURORA, CITY OF	3904540003B	23-OCT-98	98-05-6976A	02
05	OH	AVON, CITY OF	3903480005C	06-OCT-98	98-05-297P	05
05	OH	AVON, CITY OF	3903480005C	09-OCT-98	98-05-4668A	01
05	OH	AVON, CITY OF	3903480005C	17-JUL-98	98-05-4704A	02
05	OH	AVON, CITY OF	3903480005C	23-OCT-98	98-05-6546A	02
05	OH	BALTIC, VILLAGE OF	3908860001A	25-NOV-98	99-05-072A	02
05	OH	BAY VILLAGE, CITY OF	3900930002B	05-AUG-98	98-05-4612A	02
05	OH	BAY VILLAGE, CITY OF	3900930003B	22-DEC-98	98-05-6256A	02
05	OH	BAY VILLAGE, CITY OF	3900930003B	09-DEC-98	98-05-6598A	02
05	OH	BAY VILLAGE, CITY OF	3900930003B	09-DEC-98	98-05-6602A	02
05	OH	BAY VILLAGE, CITY OF	3900930003B	22-DEC-98	98-05-6684A	02
05	OH	BELLBROOK, CITY OF	3901940001B	09-SEP-98	98-05-5446A	02
05	OH	BELLBROOK, CITY OF	3901940001B	08-JUL-98	98-05-996A	01
05	OH	BELLEFONTAINE, CITY OF	3903400001C	09-DEC-98	98-05-5986A	02
05	OH	BUTLER COUNTY *	3900370050C	15-JUL-98	98-05-167P	05
05	OH	BUTLER COUNTY *	3900370070C	02-JUL-98	98-05-4302A	02
05	OH	BUTLER COUNTY *	3900370040C	21-OCT-98	98-05-5728A	02
05	OH	BUTLER COUNTY *	3900370070C	30-SEP-98	98-05-6586A	02
05	OH	BUTLER COUNTY *	3900370070C	02-DEC-98	99-05-326A	02
05	OH	BUTLER COUNTY *	3900370070C	30-DEC-98	99-05-328A	02
05	OH	BUTLER COUNTY *	3900370070C	16-DEC-98	99-05-330A	02
05	OH	BUTLER COUNTY *	3900370070C	18-DEC-98	99-05-504A	02
05	OH	BUTLER COUNTY *	3900370070C	17-NOV-98	99-05-782A	02
05	OH	CALEDONIA,VILLAGE OF	39101C0150C	19-AUG-98	98-05-4858A	02
05	OH	CARROLL COUNTY *	3907630075B	20-NOV-98	99-05-360A	02
05	OH	CENTERVILLE, CITY OF	3904080003C	02-JUL-98	98-05-3062A	02
05	OH	CHAMPAIGN COUNTY *	3900550105C	14-OCT-98	98-05-6816A	02
05	OH	CLARK COUNTY*	3907320180A	29-JUL-98	98-05-5168A	02
05	OH	CLARK COUNTY*	3907320180A	16-SEP-98	98-05-5594A	02
05	OH	COLUMBUS, CITY OF	39049C0120G	02-OCT-98	98-05-3484A	01
05	OH	COLUMBUS, CITY OF	39049C0210G	10-JUL-98	98-05-4652A	01
05	OH	COLUMBUS, CITY OF	39049C0295G	31-JUL-98	98-05-5040A	01
05	OH	COLUMBUS, CITY OF	39049C0270G	28-OCT-98	98-05-5336A	01
05	OH	COLUMBUS, CITY OF	39049C0270G	02-SEP-98	98-05-6138A	02
05	OH	COLUMBUS, CITY OF	39049C0180G	02-DEC-98	99-05-002A	01
05	OH	COLUMBUS, CITY OF	39049C0290G	22-DEC-98	99-05-1346A	02
05	OH	COLUMBUS, CITY OF	39049C0377H	22-DEC-98	99-05-1346A	02
05	OH	COLUMBUS, CITY OF	39049C0276G	25-NOV-98	99-05-494A	17
05	OH	COLUMBUS, CITY OF	39049C0290G	18-DEC-98	99-05-514A	01
05	OH	COLUMBUS, CITY OF	39049C0245G	13-NOV-98	99-05-630A	01
05	OH	CRESTON, VILLAGE OF	39169C0035C	17-JUL-98	98-05-2676A	02
05	OH	DARKE COUNTY *	3901370075C	30-DEC-98	99-05-1252A	02
05	OH	DAYTON, CITY OF	3904090010C	04-DEC-98	98-05-7086A	01
05	OH	DEFIANCE COUNTY *	3901430120B	02-JUL-98	98-05-4498A	02
05	OH	DEFIANCE COUNTY *	3901430120B	09-DEC-98	98-05-5690A	02
05	OH	DELAWARE COUNTY *	3901460070B	30-OCT-98	98-05-5828A	02
05	OH	DELTA, VILLAGE OF	3901830005C	02-JUL-98	98-05-4270A	02
05	OH	DUBLIN, CITY OF	39049C0107G	22-JUL-98	98-05-007P	05
05	OH	DUBLIN, CITY OF	39049C0106G	26-AUG-98	98-05-035P	06
05	OH	DUBLIN, CITY OF	39049C0107G	02-JUL-98	98-05-4180A	02
05	OH	DUBLIN, CITY OF	39049C0109G	17-JUL-98	98-05-5002A	02
05	OH	ERIE COUNTY *	3901530075C	05-AUG-98	98-05-2380A	02
05	OH	ERIE COUNTY *	3901530075C	14-AUG-98	98-05-3558A	02
05	OH	ERIE COUNTY *	3901530075C	13-NOV-98	98-05-4812A	02
05	OH	FAIRFIELD COUNTY *	3901580085D	14-DEC-98	98-05-371P	05
05	OH	FAIRFIELD COUNTY *	3901580185D	02-DEC-98	99-05-562A	02
05	OH	FAIRFIELD, CITY OF	3900380005B	25-SEP-98	98-05-6074A	02
05	OH	FAIRFIELD, CITY OF	3900380005B	11-NOV-98	99-05-062A	02
05	OH	FINDLAY, CITY	3902440005C	21-AUG-98	98-05-5354A	01
05	OH	FINDLAY, CITY	3902440005C	02-OCT-98	98-05-5586A	02
05	OH	FINDLAY, CITY	3902440004B	19-AUG-98	98-05-5636A	02
05	OH	FINDLAY, CITY	3902440005C	21-OCT-98	98-05-6246A	02
05	OH	FINDLAY, CITY	3902440005C	30-OCT-98	98-05-6714A	01
05	OH	FINDLAY, CITY	3902440008C	28-OCT-98	98-05-6966A	02
05	OH	FINDLAY, CITY	3902440004B	28-OCT-98	98-05-6968A	02
05	OH	FINDLAY, CITY	3902440005C	30-DEC-98	99-05-894A	02
05	OH	FRANKLIN COUNTY*	39049C0376H	22-JUL-98	98-05-4896A	17
05	OH	FRANKLIN COUNTY*	39049C0290G	21-AUG-98	98-05-5484A	02
05	OH	FRANKLIN COUNTY*	39049C0376H	16-DEC-98	99-05-874A	17
05	OH	FULTON COUNTY *	3901820100C	29-JUL-98	98-05-1916A	02
05	OH	FULTON COUNTY *	3901820135C	04-SEP-98	98-05-3864A	02
05	OH	FULTON COUNTY *	3901820050C	12-AUG-98	98-05-4860A	02
05	OH	GRANDVIEW HEIGHTS, CITY OF	39049C0235G	09-DEC-98	98-05-5714A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
05	OH	GREENE COUNTY *	3901930050B	02-OCT-98	98-05-6798A	02
05	OH	GROVE CITY, CITY OF	39049C0238G	28-SEP-98	98-05-129P	06
05	OH	GROVE CITY, CITY OF	39049C0327G	10-NOV-98	98-05-305P	05
05	OH	HAMILTON COUNTY *	3902040025B	02-JUL-98	98-05-3716A	02
05	OH	HAMILTON COUNTY *	3902040040C	09-SEP-98	98-05-4554A	02
05	OH	HAMILTON COUNTY *	3902040070B	09-OCT-98	98-05-5498A	02
05	OH	HAMILTON COUNTY *	3902040040C	04-NOV-98	98-05-6404A	02
05	OH	HAMILTON COUNTY *	3902040040C	18-DEC-98	99-05-1058A	02
05	OH	HANCOCK COUNTY *	3907670080B	14-OCT-98	98-05-6662A	02
05	OH	HANCOCK COUNTY *	3907670090B	13-NOV-98	99-05-176A	17
05	OH	HARRISON, CITY OF	3902200005C	18-NOV-98	99-05-218A	02
05	OH	HIGHLAND HEIGHTS, CITY OF	3901100002D	14-AUG-98	98-05-5362A	02
05	OH	HURON COUNTY*	3907700006B	25-NOV-98	99-05-786A	02
05	OH	KETTERING, CITY OF	3904120010B	04-NOV-98	98-05-7102A	02
05	OH	KNOX COUNTY *	3903060135C	05-AUG-98	98-05-5228A	02
05	OH	LAKE COUNTY *	3907710047C	30-DEC-98	98-05-385P	05
05	OH	LAKE COUNTY *	3907710047C	28-OCT-98	98-05-4620A	02
05	OH	LAKE COUNTY *	3907710009C	21-OCT-98	98-05-5308A	02
05	OH	LANCASTER, CITY OF	3901610003D	16-NOV-98	99-05-932A	02
05	OH	LAWRENCE COUNTY *	3903250180B	17-JUL-98	98-05-3292A	02
05	OH	LAWRENCE COUNTY *	3903250140B	10-JUL-98	98-05-4562A	02
05	OH	LICKING COUNTY *	3903280100B	24-JUL-98	98-05-4324A	02
05	OH	LICKING COUNTY *	3903280200B	25-NOV-98	98-05-4708A	02
05	OH	LOGAN COUNTY *	3907720025C	29-JUL-98	98-05-5184A	02
05	OH	LORAIN COUNTY*	3903460155B	21-OCT-98	98-05-6158A	02
05	OH	LORAIN COUNTY*	3903460115B	21-OCT-98	98-05-6320A	02
05	OH	LUCAS COUNTY*	3903590015B	12-AUG-98	98-05-4020A	01
05	OH	LUCAS COUNTY*	3903590065B	18-SEP-98	98-05-4504A	02
05	OH	LUCAS COUNTY*	3903590050B	26-AUG-98	98-05-4510A	02
05	OH	LUCAS COUNTY*	3903590050B	24-JUL-98	98-05-4512A	02
05	OH	LUCAS COUNTY*	3903590105B	31-JUL-98	98-05-4850A	02
05	OH	LUCAS COUNTY*	3903590050B	25-SEP-98	98-05-4976A	02
05	OH	LUCAS COUNTY*	3903590015B	22-DEC-98	99-05-792A	01
05	OH	MADISON COUNTY *	3907730050B	23-OCT-98	99-05-202A	02
05	OH	MAHONING COUNTY *	3903670125B	11-OCT-98	97-05-305P	05
05	OH	MAHONING COUNTY *	3903670050B	29-JUL-98	98-05-5176A	02
05	OH	MARION COUNTY*	39101C0125C	23-OCT-98	98-05-6596A	02
05	OH	MARTINS FERRY, CITY OF	3900290005B	29-JUL-98	98-05-5112A	02
05	OH	MAUMEE, CITY OF	3903600005B	18-SEP-98	98-05-5654A	01
05	OH	MAUMEE, CITY OF	3903600005B	16-SEP-98	98-05-5656A	01
05	OH	MAYFIELD, VILLAGE OF	390116 D	25-SEP-98	98-05-6330A	17
05	OH	MERCER COUNTY *	3903920100B	02-JUL-98	98-05-4148A	02
05	OH	MERCER COUNTY *	3903920100B	17-JUL-98	98-05-4206A	01
05	OH	MERCER COUNTY *	3903920100B	15-JUL-98	98-05-4258A	02
05	OH	MERCER COUNTY *	3903920100B	08-JUL-98	98-05-4412A	02
05	OH	MERCER COUNTY *	3903920100B	08-JUL-98	98-05-4420A	02
05	OH	MERCER COUNTY *	3903920100B	16-OCT-98	98-05-5252A	02
05	OH	MERCER COUNTY *	3903920100B	28-AUG-98	98-05-5456A	02
05	OH	MERCER COUNTY *	3903920100B	02-SEP-98	98-05-5678A	02
05	OH	MERCER COUNTY *	3903920100B	04-NOV-98	98-05-6862A	02
05	OH	MERCER COUNTY *	3903920100B	06-NOV-98	98-05-6870A	02
05	OH	MERCER COUNTY *	3903920100B	25-NOV-98	99-05-266A	02
05	OH	MERCER COUNTY *	3903920100B	04-DEC-98	99-05-806A	02
05	OH	MIAMI COUNTY *	3903980080B	30-SEP-98	98-05-5634A	02
05	OH	MIAMI COUNTY *	3903980075C	02-OCT-98	98-05-6438A	02
05	OH	MIAMI COUNTY *	3903980110C	30-DEC-98	99-05-952A	02
05	OH	MILFORD CENTER, VILLAGE OF	3906620001B	10-JUL-98	98-05-4584A	02
05	OH	MILLERSPORT, VILLAGE OF	3906899999A	30-OCT-98	98-05-7002A	02
05	OH	MOGADORE, VILLAGE OF	3905280001C	04-AUG-98	98-05-119P	06
05	OH	MONROE COUNTY *	3904040200B	29-JUL-98	98-05-3612A	02
05	OH	MONTGOMERY COUNTY *	3907750035C	22-JUL-98	98-05-4296A	02
05	OH	MONTGOMERY COUNTY *	3907750040C	04-AUG-98	98-05-5110A	02
05	OH	MONTGOMERY COUNTY *	3907750040C	25-AUG-98	98-05-886A	02
05	OH	MORROW COUNTY*	3908680001B	22-DEC-98	99-05-1038A	02
05	OH	NAPOLEON, CITY OF	3902660005D	07-AUG-98	98-05-5240A	02
05	OH	NILES, CITY OF	3905400001B	17-NOV-98	99-05-086A	02
05	OH	NORTH OLMSTED, CITY OF	3901200002C	21-OCT-98	98-05-6470A	17
05	OH	NORTH RIDGEVILLE, CITY OF	3903520005C	16-DEC-98	98-05-6770A	02
05	OH	OLMSTED FALLS, CITY OF	3906720001B	28-AUG-98	98-05-4162A	02
05	OH	OTTAWA COUNTY *	3904320025A	02-SEP-98	98-05-3566A	01
05	OH	OTTAWA COUNTY *	3904320050B	06-NOV-98	98-05-6786A	02
05	OH	OTTAWA COUNTY *	3904320200B	18-NOV-98	98-05-6848A	02
05	OH	OTTAWA COUNTY *	3904320050B	16-DEC-98	99-05-466A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	OH	OTTAWA, VILLAGE OF	3904720002C	09-SEP-98	98-05-5840A	02
05	OH	OTTAWA, VILLAGE OF	3904720002C	30-SEP-98	98-05-6556A	02
05	OH	PAULDING COUNTY *	3907770055C	19-AUG-98	98-05-5706A	02
05	OH	PICKERINGTON, VILLAGE OF	3901620005E	02-DEC-98	98-05-373P	05
05	OH	PORTAGE COUNTY*	390453 C	09-DEC-98	98-05-6132A	02
05	OH	PORTAGE COUNTY*	390453 C	30-DEC-98	98-05-6942A	02
05	OH	PORTAGE COUNTY*	390453 C	02-DEC-98	99-05-306A	02
05	OH	PREBLE COUNTY *	3904600010B	16-OCT-98	98-05-4166A	02
05	OH	PREBLE COUNTY *	3904600055B	16-DEC-98	99-05-1000A	02
05	OH	PUTNAM COUNTY *	3904650120B	15-JUL-98	98-05-4886A	02
05	OH	PUTNAM COUNTY *	3904650100B	18-SEP-98	98-05-5438A	02
05	OH	PUTNAM COUNTY *	3904650110B	18-SEP-98	98-05-6150A	02
05	OH	RICHLAND COUNTY*	3904760150B	22-DEC-98	99-05-252A	02
05	OH	SANDUSKY COUNTY *	3904860200B	10-JUL-98	98-05-3782A	02
05	OH	SANDUSKY COUNTY *	3904860120B	30-SEP-98	98-05-4144A	02
05	OH	SANDUSKY COUNTY *	3904860115B	22-JUL-98	98-05-4852A	02
05	OH	SENECA COUNTY *	3907790025B	06-NOV-98	98-05-7016A	02
05	OH	SHEFFIELD LAKE, CITY OF	3903550002B	18-SEP-98	98-05-5944A	02
05	OH	SHELBY, CITY OF	3904790001B	23-OCT-98	98-05-6874A	02
05	OH	SPRINGBORO, CITY OF	3905640002B	06-OCT-98	97-05-009P	05
05	OH	ST. MARYS, CITY OF	39011C0080C	05-AUG-98	98-05-3402A	02
05	OH	ST. MARYS, CITY OF	39011C0080C	17-JUL-98	98-05-4996A	02
05	OH	ST. MARYS, CITY OF	39011C0080C	05-AUG-98	98-05-5268A	02
05	OH	ST. MARYS, CITY OF	39011C0080C	30-OCT-98	98-05-6810A	02
05	OH	STARK COUNTY*	3907800038B	24-JUL-98	98-05-3586A	01
05	OH	STARK COUNTY*	3907800085B	08-JUL-98	98-05-4618A	02
05	OH	STARK COUNTY*	3907800200B	04-SEP-98	98-05-6116A	02
05	OH	STARK COUNTY*	3907800085B	13-NOV-98	98-05-7048A	02
05	OH	STARK COUNTY*	3907800036B	02-DEC-98	99-05-938A	02
05	OH	STRONGSVILLE, CITY OF	3901320005B	09-SEP-98	98-05-5546A	02
05	OH	SYLVANIA, CITY OF	3903640001B	25-SEP-98	98-05-1006A	01
05	OH	TOLEDO, CITY OF	3953730005A	02-JUL-98	98-05-3428A	02
05	OH	TOLEDO, CITY OF	3953730005A	02-JUL-98	98-05-3842A	02
05	OH	TOLEDO, CITY OF	3953730005A	02-JUL-98	98-05-4004A	02
05	OH	TOLEDO, CITY OF	3953730020A	05-AUG-98	98-05-4508A	02
05	OH	TOLEDO, CITY OF	3953730005A	23-SEP-98	98-05-5858A	02
05	OH	TOLEDO, CITY OF	3953730020A	30-DEC-98	98-05-6356A	01
05	OH	TOLEDO, CITY OF	3953730035A	11-NOV-98	98-05-6850A	02
05	OH	TOLEDO, CITY OF	3953730005A	11-DEC-98	98-05-6896A	02
05	OH	TOLEDO, CITY OF	3953730005A	13-NOV-98	99-05-102A	02
05	OH	TOLEDO, CITY OF	3953730005A	06-NOV-98	99-05-572A	01
05	OH	TOLEDO, CITY OF	3953730020A	16-DEC-98	99-05-728A	02
05	OH	TROY, CITY OF	3904020005B	24-JUL-98	98-05-4990A	02
05	OH	TROY, CITY OF	3904020005B	05-AUG-98	98-05-5416A	02
05	OH	TRUMBULL COUNTY *	3905350125B	15-JUL-98	98-05-4386A	02
05	OH	TUSCARAWAS COUNTY*	3907820200B	19-AUG-98	98-05-4202A	02
05	OH	TUSCARAWAS COUNTY*	3907820130B	18-DEC-98	99-05-346A	02
05	OH	TUSCARAWAS COUNTY*	3907820070B	18-DEC-98	99-05-882A	02
05	OH	UHRICHSVILLE, CITY OF	3905470005C	02-JUL-98	98-05-4646A	02
05	OH	VANDALIA, CITY OF	3904180003B	09-DEC-98	98-05-3686A	01
05	OH	WARREN COUNTY*	3907570010B	06-OCT-98	97-05-009P	05
05	OH	WESTERVILLE, CITY OF	39049C0157G	07-OCT-98	98-05-6406A	02
05	OH	WESTLAKE, CITY OF	3901360001C	11-DEC-98	98-05-5440A	01
05	OH	WESTLAKE, CITY OF	3901360006C	25-SEP-98	98-05-5588A	02
05	OH	WHITEHOUSE, VILLAGE OF	3906390002C	18-NOV-98	98-05-7138A	02
05	OH	WILLIAMS COUNTY*	3907850100B	31-JUL-98	98-05-4698A	02
05	OH	WILLOUGHBY, CITY OF	3903220003A	22-JUL-98	98-05-3786A	02
05	OH	WOOD COUNTY *	3908090012C	22-JUL-98	98-05-2402A	01
05	OH	WOOD COUNTY *	3908090050C	30-OCT-98	98-05-6342A	17
05	OH	WOOD COUNTY *	3908090012C	22-DEC-98	99-05-1102A	02
05	OH	WOOSTER, CITY OF	39169C0140C	18-SEP-98	98-05-6094A	01
05	OH	XENIA, CITY OF	3901970005B	03-DEC-98	99-05-898A	02
05	WI	BAYFIELD COUNTY *	5505390026B	08-JUL-98	98-05-4122A	02
05	WI	BAYFIELD COUNTY *	5505390026B	02-JUL-98	98-05-4128A	02
05	WI	BAYFIELD COUNTY *	5505390011B	30-SEP-98	98-05-6304A	02
05	WI	BAYFIELD COUNTY *	5505390011B	08-OCT-98	98-05-6486A	02
05	WI	BAYFIELD COUNTY *	5505390022B	30-SEP-98	98-05-6606A	02
05	WI	BEAVER DAM, CITY OF	5500950001D	04-NOV-98	98-05-7108A	17
05	WI	BEAVER DAM, CITY OF	5500950001D	11-DEC-98	99-05-804A	02
05	WI	BELOIT, CITY OF	5555440005B	07-OCT-98	98-05-6878A	01
05	WI	BIRCHWOOD, VILLAGE OF	550574 B	02-DEC-98	98-05-6750A	02
05	WI	BROOKFIELD, CITY OF	5504780010B	06-JUL-98	97-05-1082P	06
05	WI	BROOKFIELD, CITY OF	5504780005B	26-AUG-98	98-05-5472A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
05	WI	BROOKFIELD, CITY OF	5504780010B	07-OCT-98	99-05-032A	01
05	WI	BROWN COUNTY *	5500200100C	02-JUL-98	98-05-3374A	02
05	WI	BURNETT COUNTY *	5500320250B	26-AUG-98	98-05-5524A	02
05	WI	BURNETT COUNTY *	5500320500B	18-NOV-98	99-05-570A	02
05	WI	CAMBRIA, VILLAGE OF	5505810100C	14-AUG-98	98-05-4528A	02
05	WI	CHIPPEWA COUNTY *	5555490200C	10-JUL-98	98-05-3970A	02
05	WI	CHIPPEWA COUNTY *	5555490250C	23-DEC-98	98-05-415P	06
05	WI	CLARK COUNTY *	5500480350B	11-NOV-98	98-05-6394A	02
05	WI	COLUMBIA COUNTY *	5505810150C	29-JUL-98	98-05-4680A	02
05	WI	COLUMBIA COUNTY *	5505810075C	29-JUL-98	98-05-4702A	02
05	WI	COLUMBIA COUNTY *	5505810075C	30-OCT-98	98-05-6052A	02
05	WI	COLUMBIA COUNTY *	5505810250C	18-NOV-98	98-05-6760A	02
05	WI	DANE COUNTY*	5500770300A	04-DEC-98	98-05-4308A	02
05	WI	DANE COUNTY*	5500770025C	01-SEP-98	98-05-5258A	01
05	WI	DANE COUNTY*	5500770300A	30-DEC-98	99-05-382A	02
05	WI	DE FOREST, VILLAGE OF	5500820005C	10-JUL-98	98-05-3914A	02
05	WI	DE PERE, CITY OF	5500210005C	09-DEC-98	99-05-956A	02
05	WI	DOOR COUNTY *	5501090065A	02-SEP-98	98-05-3978A	02
05	WI	DOOR COUNTY *	5501090085A	23-SEP-98	98-05-5674A	02
05	WI	DOOR COUNTY *	5501090045A	04-DEC-98	99-05-1020A	02
05	WI	DOOR COUNTY *	5501090045A	23-OCT-98	99-05-178A	02
05	WI	DUNN COUNTY *	5501180125A	22-DEC-98	99-05-940A	17
05	WI	EAU CLAIRE COUNTY *	5555520040B	09-OCT-98	98-05-6382A	17
05	WI	EAU CLAIRE, CITY OF	5501280015D	26-AUG-98	98-05-5244A	02
05	WI	ELM GROVE, VILLAGE OF	5505780001B	31-JUL-98	98-05-4934A	02
05	WI	ELM GROVE, VILLAGE OF	5505780001B	14-OCT-98	98-05-5460A	02
05	WI	EPHRAIM, VILLAGE OF	5506110001A	15-JUL-98	98-05-3946A	01
05	WI	FALL RIVER, VILLAGE OF	550060 B	11-DEC-98	98-05-6050A	02
05	WI	FOND DU LAC COUNTY *	5501310120B	09-OCT-98	98-05-4622A	02
05	WI	FOND DU LAC COUNTY *	5501310185B	11-NOV-98	98-05-7020A	02
05	WI	FOND DU LAC COUNTY *	5501310015B	04-NOV-98	99-05-288A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	04-OCT-98	98-05-255P	05
05	WI	FOND DU LAC, CITY OF	5501360005D	21-OCT-98	98-05-6070A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	21-OCT-98	98-05-7004A	02
05	WI	FOND DU LAC, CITY OF	5501360005D	04-NOV-98	99-05-154A	02
05	WI	GLENDALE, CITY OF	5502750005C	11-DEC-98	98-05-5320A	02
05	WI	GREEN BAY, CITY OF	5500220025E	09-DEC-98	98-05-4914A	02
05	WI	GREEN BAY, CITY OF	5500220005E	15-JUL-98	98-05-4988A	02
05	WI	GREEN BAY, CITY OF	5500220010E	15-JUL-98	98-05-4988A	02
05	WI	GREEN BAY, CITY OF	5500220020E	22-DEC-98	99-05-1016A	02
05	WI	GREEN LAKE COUNTY *	5501650004A	10-JUL-98	98-05-2670A	02
05	WI	GREEN LAKE COUNTY *	5501650004A	07-AUG-98	98-05-5276A	02
05	WI	GREEN LAKE, CITY OF	550167 A	15-JUL-98	98-05-4742A	02
05	WI	GREENFIELD, CITY OF	5502770001B	05-AUG-98	98-05-4156A	02
05	WI	GRESHAM, VILLAGE OF	550418 B	02-JUL-98	98-05-4856A	02
05	WI	HALES CORNERS, VILLAGE OF	5505240001C	28-OCT-98	98-05-5624A	02
05	WI	HORTONVILLE, VILLAGE OF	5505290002A	16-SEP-98	98-05-5642A	02
05	WI	HOWARD, VILLAGE OF	5500230010B	15-JUL-98	98-05-2234A	17
05	WI	HOWARD, VILLAGE OF	5500230005B	19-AUG-98	98-05-4446A	02
05	WI	HOWARD, VILLAGE OF	5500230005B	22-JUL-98	98-05-5062A	02
05	WI	HOWARD, VILLAGE OF	5500230005B	12-AUG-98	98-05-5146A	02
05	WI	IOWA COUNTY *		29-JUL-98	98-05-3450A	02
05	WI	IRON COUNTY*	5501820008B	09-DEC-98	99-05-584A	02
05	WI	JEFFERSON COUNTY *	5501910200B	07-AUG-98	98-05-5312A	02
05	WI	JEFFERSON COUNTY *	5501910050B	09-OCT-98	98-05-5688A	17
05	WI	JEFFERSON COUNTY *	5501910200B	04-NOV-98	99-05-044A	02
05	WI	JEFFERSON COUNTY *	5501910250B	25-NOV-98	99-05-400A	02
05	WI	KENOSHA COUNTY *	5505230005B	26-AUG-98	98-05-5370A	02
05	WI	KENOSHA COUNTY *	5505230040B	18-NOV-98	98-05-5528A	02
05	WI	KENOSHA COUNTY *	5505230040B	14-OCT-98	98-05-6402A	02
05	WI	KEWASKUM, VILLAGE OF	5504740001C	29-JUL-98	98-05-4440A	02
05	WI	KEWASKUM, VILLAGE OF	5504740001C	04-NOV-98	98-05-6294A	02
05	WI	LA CROSSE COUNTY *	5502170120A	02-JUL-98	98-05-2990A	02
05	WI	LA CROSSE COUNTY *	5502170160A	29-JUL-98	98-05-4866A	02
05	WI	LA CROSSE COUNTY *	5502170120A	16-OCT-98	98-05-6812A	02
05	WI	LA CROSSE COUNTY *	5502170120A	09-DEC-98	99-05-1014A	02
05	WI	LA CROSSE COUNTY *	5502170120A	30-OCT-98	99-05-200A	02
05	WI	LA CROSSE COUNTY *	5502170065A	09-DEC-98	99-05-648A	02
05	WI	LA CROSSE COUNTY *	5502170120A	09-DEC-98	99-05-726A	02
05	WI	LA CROSSE, CITY OF	5555620008B	22-JUL-98	98-05-4380A	02
05	WI	LA CROSSE, CITY OF	5555620005B	09-SEP-98	98-05-5608A	17
05	WI	LA CROSSE, CITY OF	5555620005B	02-DEC-98	98-05-6856A	01
05	WI	MANITOWOC COUNTY *	5502360150A	07-AUG-98	98-05-3052A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	WI	MANITOWOC, CITY OF	550240 B	08-DEC-98	98-05-6680A	01
05	WI	MARATHON COUNTY *	5502450375B	24-JUL-98	98-05-2644A	01
05	WI	MARATHON COUNTY *	5502450375B	08-JUL-98	98-05-2710A	02
05	WI	MARATHON COUNTY *	5502450375B	07-AUG-98	98-05-3272A	02
05	WI	MARATHON COUNTY *	5502450375B	31-JUL-98	98-05-4170A	02
05	WI	MARATHON COUNTY *	5502450375B	29-JUL-98	98-05-4614A	02
05	WI	MARATHON COUNTY *	5502450375B	04-NOV-98	98-05-5612A	02
05	WI	MARATHON COUNTY *	5502450100B	02-OCT-98	98-05-6384A	02
05	WI	MARATHON COUNTY *	5502450375B	22-DEC-98	99-05-1326A	02
05	WI	MARINETTE COUNTY *	5502590725B	28-AUG-98	98-05-4342A	02
05	WI	MARINETTE COUNTY *	5502590765B	08-JUL-98	98-05-4350A	02
05	WI	MARINETTE COUNTY *	5502590890B	29-JUL-98	98-05-4452A	02
05	WI	MARINETTE COUNTY *	5502590765B	15-JUL-98	98-05-4474A	02
05	WI	MARINETTE COUNTY *	5502590755B	22-JUL-98	98-05-4952A	02
05	WI	MARINETTE COUNTY *	5502590575B	11-SEP-98	98-05-5660A	02
05	WI	MARQUETTE COUNTY*	5506010075B	29-JUL-98	98-05-5152A	02
05	WI	MARQUETTE COUNTY*	5506010125B	30-OCT-98	98-05-5162A	02
05	WI	MARQUETTE COUNTY*	5506010125B	31-JUL-98	98-05-5260A	02
05	WI	MARQUETTE COUNTY*	5506010075B	02-OCT-98	98-05-5724A	02
05	WI	MARQUETTE COUNTY*	5506010025B	30-DEC-98	98-05-6542A	02
05	WI	MAYVILLE, CITY OF	5501030003B	10-JUL-98	98-05-4880A	02
05	WI	MENASHA, CITY OF	5505100005C	24-JUL-98	98-05-4770A	02
05	WI	MENOMONEE FALLS, VILLAGE OF	5504830005C	04-NOV-98	98-05-6388A	02
05	WI	MEQUON, CITY OF	55089C0085D	14-AUG-98	98-05-4198A	02
05	WI	MERRIMAC, VILLAGE OF	550398 B	21-OCT-98	98-05-6048A	02
05	WI	MERRIMAC, VILLAGE OF	550398 B	09-DEC-98	99-05-1134A	02
05	WI	MONONA, CITY OF	5500880001B	22-DEC-98	99-05-1202A	01
05	WI	MUKWONAGO, VILLAGE OF	5504850002B	02-DEC-98	98-05-7080A	01
05	WI	MUSKEGO, CITY OF	5504860004B	16-SEP-98	98-05-3146A	02
05	WI	NEENAH, CITY OF	5505090002B	14-AUG-98	98-05-5342A	02
05	WI	NESHKORO, VILLAGE OF	550267 B	12-AUG-98	98-05-5414A	02
05	WI	NEW BERLIN, CITY OF	5504870002C	10-SEP-98	97-05-1678P	06
05	WI	NEW BERLIN, CITY OF	5504870004E	22-JUL-98	98-05-5254A	01
05	WI	NEW BERLIN, CITY OF	5504870004E	07-OCT-98	98-05-5874A	02
05	WI	OCONOMOWOC, CITY OF	5504880002B	02-DEC-98	98-05-6924A	02
05	WI	OCONTO COUNTY *	5502940125A	02-JUL-98	98-05-3500A	02
05	WI	OCONTO COUNTY *	5502940335A	14-AUG-98	98-05-5418A	02
05	WI	OCONTO COUNTY *	5502940125A	02-OCT-98	98-05-6364A	02
05	WI	ONEIDA COUNTY *	55085C0425B	14-AUG-98	98-05-4260A	02
05	WI	OSHKOSH, CITY OF	5505110010D	30-SEP-98	98-05-6220A	02
05	WI	OSHKOSH, CITY OF	5505110020D	30-SEP-98	98-05-6220A	02
05	WI	OUTAGAMIE COUNTY *	5503020150B	08-JUL-98	98-05-1622A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	02-JUL-98	98-05-3960A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	05-AUG-98	98-05-4972A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	29-JUL-98	98-05-5020A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	29-JUL-98	98-05-5278A	02
05	WI	OUTAGAMIE COUNTY *	5503020150B	16-SEP-98	98-05-5334A	02
05	WI	OUTAGAMIE COUNTY *	5503020110B	04-SEP-98	98-05-5720A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	26-AUG-98	98-05-5892A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	11-SEP-98	98-05-5908A	02
05	WI	OUTAGAMIE COUNTY *	5503020100C	11-SEP-98	98-05-5988A	02
05	WI	OUTAGAMIE COUNTY *	5503020110B	23-SEP-98	98-05-6318A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	02-OCT-98	98-05-6366A	02
05	WI	OUTAGAMIE COUNTY *	5503020100C	22-DEC-98	98-05-6612A	02
05	WI	OUTAGAMIE COUNTY *	5503020150B	30-OCT-98	98-05-7098A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	13-NOV-98	99-05-094A	02
05	WI	OUTAGAMIE COUNTY *	5503020110B	30-DEC-98	99-05-1046A	02
05	WI	OUTAGAMIE COUNTY *	5503020050B	18-NOV-98	99-05-344A	02
05	WI	OUTAGAMIE COUNTY *	5503020110B	02-DEC-98	99-05-588A	02
05	WI	OZAUKEE COUNTY *	55089C0058D	30-SEP-98	98-05-6184A	02
05	WI	PARDEEVILLE, VILLAGE OF	5500620001B	07-AUG-98	98-05-3844A	02
05	WI	PLAIN, VILLAGE OF	5504000001B	11-DEC-98	99-05-132A	02
05	WI	POLK COUNTY *	5505770280B	29-JUL-98	98-05-3076A	02
05	WI	PORTAGE COUNTY *	5505720050C	07-AUG-98	98-05-5428A	02
05	WI	PORTAGE COUNTY *	5505720100C	30-SEP-98	98-05-5596A	02
05	WI	PORTAGE COUNTY *	5505720150C	30-SEP-98	98-05-5952A	02
05	WI	PORTAGE COUNTY *	5505720150C	16-DEC-98	99-05-084A	02
05	WI	RACINE COUNTY *	5503470010B	02-JUL-98	98-05-1856A	01
05	WI	RACINE COUNTY *	5503470010B	08-JUL-98	98-05-2466A	02
05	WI	RACINE COUNTY *	5503470015B	14-AUG-98	98-05-3838A	02
05	WI	RACINE COUNTY *	5503470010B	02-JUL-98	98-05-3840A	02
05	WI	RACINE COUNTY *	5503470045B	02-JUL-98	98-05-4882A	02
05	WI	RACINE COUNTY *	5503470010B	29-JUL-98	98-05-5270A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
05	WI	RACINE COUNTY *	5503470045B	21-OCT-98	98-05-6694A	02
05	WI	RICHLAND COUNTY*	5503560175B	23-SEP-98	98-05-3494A	02
05	WI	RIVER HILLS, VILLAGE OF	5502800001B	20-NOV-98	98-05-5542A	01
05	WI	SAUK COUNTY *	5503910255B	14-AUG-98	98-05-3588A	02
05	WI	SAUK COUNTY *	5503910265B	07-AUG-98	98-05-3590A	02
05	WI	SAUK COUNTY *	5503910040B	29-JUL-98	98-05-4842A	02
05	WI	SAUK COUNTY *	5503910190B	05-AUG-98	98-05-4920A	02
05	WI	SAUK COUNTY *	5503910195B	04-AUG-98	98-05-5256A	02
05	WI	SAUK COUNTY *	5503910190B	21-AUG-98	98-05-5502A	02
05	WI	SAUK COUNTY *	5503910185B	18-SEP-98	98-05-5904A	02
05	WI	SAUK COUNTY *	5503910260B	07-OCT-98	98-05-5934A	02
05	WI	SAUK COUNTY *	5503910210B	25-NOV-98	98-05-6362A	02
05	WI	SAWYER COUNTY *	5505910200B	16-DEC-98	99-05-546A	02
05	WI	SCHOFIELD, CITY OF	5555790001C	19-AUG-98	98-05-5482A	02
05	WI	SHAWANO COUNTY *	5504120150B	29-JUL-98	98-05-4362A	02
05	WI	SHAWANO COUNTY *	5504120150B	29-JUL-98	98-05-4544A	02
05	WI	SHAWANO COUNTY *	5504120150B	14-AUG-98	98-05-4902A	02
05	WI	SHAWANO COUNTY *	5504120150B	25-SEP-98	98-05-5808A	02
05	WI	SHEBOYGAN COUNTY *	5504240085C	05-AUG-98	98-05-3980A	17
05	WI	SHEBOYGAN, CITY OF	5504300005D	09-SEP-98	98-05-5670A	17
05	WI	SHIOCTON, VILLAGE OF	5503090001B	09-OCT-98	98-05-5458A	02
05	WI	ST. CROIX COUNTY *	555578 B	16-OCT-98	98-05-4598A	02
05	WI	STURGEON BAY, CITY OF	5501110005B	12-AUG-98	98-05-5614A	02
05	WI	STURGEON BAY, CITY OF	5501110005B	30-SEP-98	98-05-6806A	02
05	WI	STURGEON BAY, CITY OF	5501110005B	30-DEC-98	99-05-170A	02
05	WI	TREMPEALEAU COUNTY *	555585 A	23-OCT-98	98-05-5378A	02
05	WI	TREMPEALEAU COUNTY *	555585 A	07-OCT-98	98-05-5898A	02
05	WI	TREMPEALEAU COUNTY *	555585 A	23-SEP-98	98-05-6460A	02
05	WI	TREMPEALEAU COUNTY *	555585 A	20-NOV-98	99-05-744A	02
05	WI	WALPACA COUNTY*	5504920155A	29-JUL-98	98-05-5166A	02
05	WI	WALPACA COUNTY*	5504920115A	23-OCT-98	98-05-6700A	02
05	WI	WALPACA COUNTY*	5504920155A	25-NOV-98	99-05-342A	02
05	WI	WALPACA COUNTY*	5504920205B	09-DEC-98	99-05-676A	02
05	WI	WALWORTH COUNTY *	5504620085B	25-SEP-98	98-05-5434A	02
05	WI	WASHBURN COUNTY	5506060100B	09-OCT-98	98-05-6530A	02
05	WI	WASHBURN COUNTY	5506060075B	14-OCT-98	98-05-6580A	02
05	WI	WASHINGTON COUNTY *	5504710040B	18-SEP-98	98-05-2984A	02
05	WI	WASHINGTON COUNTY *	5504710015B	13-NOV-98	99-05-242A	01
05	WI	WATERFORD, VILLAGE OF	5503540001B	17-JUL-98	98-05-3892A	02
05	WI	WAUKESHA COUNTY*	5504760015B	07-AUG-98	98-05-4160A	02
05	WI	WAUKESHA COUNTY*	5504760065B	17-JUL-98	98-05-4602A	02
05	WI	WAUKESHA COUNTY*	5504760015B	21-OCT-98	98-05-5238A	02
05	WI	WAUKESHA COUNTY*	5504760015B	26-AUG-98	98-05-5262A	02
05	WI	WAUKESHA COUNTY*	5504760090B	09-OCT-98	98-05-5480A	02
05	WI	WAUKESHA COUNTY*	5504760060B	16-SEP-98	98-05-6156A	02
05	WI	WAUKESHA COUNTY*	5504760040C	09-OCT-98	98-05-6748A	02
05	WI	WAUKESHA COUNTY*	5504760040C	04-NOV-98	99-05-046A	02
05	WI	WAUKESHA COUNTY*	5504760115B	11-DEC-98	99-05-338A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	09-OCT-98	98-05-3186A	01
05	WI	WINNEBAGO COUNTY *	5505370025C	17-JUL-98	98-05-5036A	02
05	WI	WINNEBAGO COUNTY *	5505370025C	24-JUL-98	98-05-5124A	02
05	WI	WINNEBAGO COUNTY *	5505370050C	23-SEP-98	98-05-6282A	02
05	WI	WINNEBAGO COUNTY *	5505370100C	28-OCT-98	98-05-6890A	02
05	WI	WINNEBAGO COUNTY *	5505370075C	25-NOV-98	98-05-6922A	02
05	WI	WOOD COUNTY *	55141C0200E	16-OCT-98	98-05-6030A	02
06	AR	AMAGON, CITY OF	0500970001B	20-OCT-98	98-06-2033A	02
06	AR	BATESVILLE, CITY OF	0500910005B	14-AUG-98	98-06-1525A	02
06	AR	BRINKLEY, CITY OF	050155B	23-JUL-98	98-06-1506A	02
06	AR	BRYANT, CITY OF	0503080001C	07-JUL-98	98-06-1118A	01
06	AR	BRYANT, CITY OF	0503080001C	08-DEC-98	99-06-247A	02
06	AR	CRITTENDEN COUNTY	0504290200B	18-DEC-98	98-06-396P	06
06	AR	CRITTENDEN COUNTY	0504290225B	18-DEC-98	98-06-396P	06
06	AR	DE QUEEN, CITY OF	050204B	17-DEC-98	99-06-013A	02
06	AR	EL DORADO, CITY OF	0502070010B	13-OCT-98	98-06-1782A	01
06	AR	FAYETTEVILLE, CITY OF	05143C0085C	17-DEC-98	98-06-1474P	05
06	AR	FORT SMITH, CITY OF	0550130005D	21-AUG-98	98-06-1658A	01
06	AR	FORT SMITH, CITY OF	0550130005D	10-SEP-98	98-06-1703A	02
06	AR	FORT SMITH, CITY OF	0550130005D	31-DEC-98	99-06-416A	01
06	AR	GARLAND COUNTY	05051C0050C	13-OCT-98	98-06-1830A	02
06	AR	GARLAND COUNTY	05051C0090C	01-DEC-98	99-06-017A	02
06	AR	GARLAND COUNTY	05051C0050C	22-OCT-98	99-06-077A	02
06	AR	GARLAND COUNTY	05051C0154C	09-DEC-98	99-06-285A	02
06	AR	GARLAND COUNTY	05051C0050C	14-DEC-98	99-06-307A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	AR	HEBER SPRINGS, CITY OF	0502400005B	02-DEC-98	99-06-209A	02
06	AR	HELENA, CITY OF	0501680005B	04-AUG-98	98-06-1396A	02
06	AR	HOT SPRINGS, CITY OF	05051C0158C	19-OCT-98	98-06-2015A	02
06	AR	HUMNOKE,CITY	050258A	17-AUG-98	98-06-1593A	02
06	AR	JACKSONVILLE, CITY OF	0501800005E	27-AUG-98	98-06-1113A	01
06	AR	JACKSONVILLE, CITY OF	0501800005E	14-AUG-98	98-06-1415A	01
06	AR	JACKSONVILLE, CITY OF	0501800005E	17-JUL-98	98-06-1472A	01
06	AR	JACKSONVILLE, CITY OF	0501800010E	09-JUL-98	98-06-1485A	02
06	AR	JACKSONVILLE, CITY OF	0501800010E	05-AUG-98	98-06-1540A	02
06	AR	JACKSONVILLE, CITY OF	0501800010E	25-SEP-98	98-06-1823A	02
06	AR	JACKSONVILLE, CITY OF	0501800010E	22-OCT-98	99-06-042A	01
06	AR	JACKSONVILLE, CITY OF	0501800005E	17-NOV-98	99-06-142A	01
06	AR	JACKSONVILLE, CITY OF	0501800005E	08-DEC-98	99-06-262A	01
06	AR	JONESBORO, CITY OF	05031C0152C	17-JUL-98	98-06-1253A	01
06	AR	JONESBORO, CITY OF	05031C0043C	17-JUL-98	98-06-1254A	01
06	AR	JONESBORO, CITY OF	05031C0131C	24-SEP-98	98-06-1649A	02
06	AR	JONESBORO, CITY OF	05031C0131C	19-AUG-98	98-06-1764A	01
06	AR	JONESBORO, CITY OF	05031C0039C	25-NOV-98	99-06-014A	02
06	AR	JONESBORO, CITY OF	05031C0131C	15-DEC-98	99-06-335A	02
06	AR	LEACHVILLE, CITY OF	050147B	15-DEC-98	99-06-365P	06
06	AR	LITTLE ROCK, CITY OF	0501810006E	03-SEP-98	98-06-1416A	02
06	AR	LITTLE ROCK, CITY OF	0501810006E	04-AUG-98	98-06-1533A	02
06	AR	LITTLE ROCK, CITY OF	0501810003E	24-DEC-98	99-06-330A	02
06	AR	LONOKE COUNTY	0504480365B	09-JUL-98	98-06-1329A	02
06	AR	LONOKE COUNTY	0504480135B	01-OCT-98	98-06-1888A	01
06	AR	LOWELL, CITY OF	05007C0165E	05-NOV-98	98-06-1988A	02
06	AR	MAUMELLE, CITY OF	0505770002A	02-DEC-98	98-06-2017A	01
06	AR	MISSISSIPPI COUNTY	0504520025D	15-DEC-98	99-06-365P	06
06	AR	MISSISSIPPI COUNTY	0504520125D	15-DEC-98	99-06-365P	06
06	AR	NORFORK, CITY OF	05005C0090D	25-NOV-98	99-06-158A	01
06	AR	PARAGOULD, CITY OF	0500850005D	11-DEC-98	99-06-201A	02
06	AR	PARAGOULD, CITY OF	0500850010D	11-DEC-98	99-06-201A	02
06	AR	PERRYVILLE, CITY OF	05105C0129B	06-OCT-98	98-06-1900A	02
06	AR	PINE BLUFF, CITY OF	0501090010B	07-JUL-98	98-06-1196A	02
06	AR	SEBASTIAN COUNTY	050462C	31-AUG-98	98-06-1445A	02
06	AR	SHERWOOD, CITY OF	0502350002E	04-NOV-98	98-06-1957A	02
06	AR	SHERWOOD, CITY OF	0502350001E	17-DEC-98	99-06-326A	02
06	AR	SPRINGDALE, CITY OF	05143C0101D	13-JUL-98	98-06-1318A	02
06	AR	SPRINGDALE, CITY OF	05007C0252E	13-AUG-98	98-06-1351A	02
06	AR	SPRINGDALE, CITY OF	05007C0252E	24-AUG-98	98-06-1789A	02
06	AR	STUTTGART, CITY OF	0500020005C	13-OCT-98	98-06-1698A	02
06	AR	VAN BUREN, CITY OF	05033C0170F	25-AUG-98	98-06-1464A	02
06	AR	VAN BUREN, CITY OF	05033C0170F	04-AUG-98	98-06-1470A	02
06	AR	WEST FORK, TOWN OF	05143C0170C	31-JUL-98	98-06-1228A	02
06	AR	WEST MEMPHIS, CITY OF	0500550003B	16-SEP-98	98-06-1791A	02
06	AR	WEST MEMPHIS, CITY OF	0500550008C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550009C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550012C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550014C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550016C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550017C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550018C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550019C	18-DEC-98	98-06-396P	05
06	AR	WEST MEMPHIS, CITY OF	0500550016C	23-NOV-98	99-06-181V	19
06	AR	WEST MEMPHIS, CITY OF	0500550018C	23-NOV-98	99-06-181V	19
06	AR	WHITE HALL, CITY OF	0503750002B	01-DEC-98	99-06-175A	02
06	LA	ACADIA PARISH	2200010075B	20-NOV-98	99-06-038A	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	21-JUL-98	98-06-1498A	02
06	LA	ALEXANDRIA, CITY OF	2201460015F	19-AUG-98	98-06-1757A	02
06	LA	ALLEN PARISH	2200090225B	16-OCT-98	98-06-2006A	02
06	LA	ALLEN PARISH	2200090225B	04-NOV-98	99-06-072A	02
06	LA	ASCENSION PARISH	2200130065C	06-JUL-98	98-06-1394A	02
06	LA	ASCENSION PARISH	2200130030C	01-DEC-98	98-06-1616A	02
06	LA	ASCENSION PARISH	2200130040B	17-SEP-98	98-06-1790A	02
06	LA	ASCENSION PARISH	2200130120C	09-OCT-98	98-06-1941A	01
06	LA	ASCENSION PARISH	2200130040B	13-OCT-98	98-06-1955A	02
06	LA	ASCENSION PARISH	2200130035C	22-OCT-98	98-06-2029A	02
06	LA	ASCENSION PARISH	2200130045C	01-DEC-98	99-06-145A	02
06	LA	ASCENSION PARISH	2200130040B	17-DEC-98	99-06-192A	02
06	LA	ASCENSION PARISH	2200130040B	30-DEC-98	99-06-211A	01
06	LA	ASCENSION PARISH	2200130120C	04-DEC-98	99-06-213A	01
06	LA	ASCENSION PARISH	2200130040B	15-DEC-98	99-06-334A	02
06	LA	AVOYELLES PARISH	2200190150B	07-JUL-98	98-06-1454A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	LA	BOSSIER CITY, CITY OF	2200330005C	28-JUL-98	98-06-1518A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	28-AUG-98	98-06-1642A	02
06	LA	BOSSIER CITY, CITY OF	2200330005C	17-SEP-98	98-06-1801A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	06-OCT-98	98-06-1919A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	20-NOV-98	99-06-134A	02
06	LA	BOSSIER CITY, CITY OF	2200330030C	08-DEC-98	99-06-230A	02
06	LA	BOSSIER PARISH	2200310285B	04-AUG-98	98-06-1280A	02
06	LA	BOSSIER PARISH	2200310475B	09-JUL-98	98-06-1436A	02
06	LA	BOSSIER PARISH	2200310285B	10-SEP-98	98-06-1610A	02
06	LA	BOSSIER PARISH	2200310315B	17-SEP-98	98-06-1611A	02
06	LA	BOSSIER PARISH	2200310390B	14-SEP-98	98-06-1780A	02
06	LA	BOSSIER PARISH	2200310390B	25-SEP-98	98-06-1856A	02
06	LA	BOSSIER PARISH	2200310390B	20-OCT-98	98-06-1947A	02
06	LA	BOSSIER PARISH	2200310220B	09-JUL-98	98-06-893A	02
06	LA	BOSSIER PARISH	2200310285B	13-NOV-98	99-06-097A	02
06	LA	BOSSIER PARISH	2200310395B	23-NOV-98	99-06-147A	02
06	LA	BOSSIER PARISH	2200310285B	23-NOV-98	99-06-148A	02
06	LA	BOSSIER PARISH	2200310390B	11-DEC-98	99-06-284A	02
06	LA	BOSSIER PARISH	2200310285B	15-DEC-98	99-06-309A	02
06	LA	BROUSSARD, TOWN OF	22055C0070G	04-SEP-98	98-06-1598A	02
06	LA	CADDO PARISH	2203610245C	27-AUG-98	98-06-1648A	02
06	LA	CADDO PARISH	2203610240C	02-DEC-98	98-06-1910A	02
06	LA	CALCASIEU PARISH	2200370575B	13-AUG-98	98-06-1578A	02
06	LA	CALCASIEU PARISH	2200370250D	17-SEP-98	98-06-1807A	02
06	LA	CALCASIEU PARISH	2200370125C	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370150C	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370200C	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370225D	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370250D	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370300C	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370350C	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370375C	10-JUL-98	98-06-817V	19
06	LA	CALCASIEU PARISH	2200370400D	10-JUL-98	98-06-817V	19
06	LA	EAST BATON ROUGE PARISH	2200580125C	14-AUG-98	98-06-1075A	01
06	LA	EAST BATON ROUGE PARISH	2200580100D	04-AUG-98	98-06-1536A	01
06	LA	EAST BATON ROUGE PARISH	2200580110D	07-OCT-98	98-06-1605A	01
06	LA	EAST BATON ROUGE PARISH	2200580115D	02-SEP-98	98-06-1700A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	10-SEP-98	98-06-1735A	02
06	LA	EAST BATON ROUGE PARISH	2200580115D	25-NOV-98	98-06-1940A	01
06	LA	EAST BATON ROUGE PARISH	2200580115D	25-NOV-98	98-06-1979A	01
06	LA	EAST BATON ROUGE PARISH	2200580110D	11-DEC-98	99-06-294A	02
06	LA	EAST BATON ROUGE PARISH	2200580100D	11-DEC-98	99-06-295A	02
06	LA	EAST BATON ROUGE PARISH	2200580095D	11-DEC-98	99-06-296A	02
06	LA	EAST BATON ROUGE PARISH	2200580110D	11-DEC-98	99-06-296A	02
06	LA	EVANGELINE PARISH	2200640007B	03-SEP-98	98-06-1651A	02
06	LA	EVANGELINE PARISH	2200640004B	26-OCT-98	98-06-1889A	02
06	LA	EVANGELINE PARISH	2200640007C	21-OCT-98	99-06-062V	19
06	LA	EVANGELINE PARISH	2200640007C	17-DEC-98	99-06-303A	02
06	LA	JEFFERSON DAVIS PARISH	2200950020B	28-AUG-98	98-06-1629A	02
06	LA	JEFFERSON DAVIS PARISH	2200950095B	14-SEP-98	98-06-1679A	02
06	LA	JEFFERSON DAVIS PARISH	2200950120B	06-OCT-98	98-06-1879A	02
06	LA	LAFAYETTE PARISH	22055C0060G	21-AUG-98	98-06-1609A	02
06	LA	LAFAYETTE PARISH	22055C0075G	02-SEP-98	98-06-1716A	01
06	LA	LAFAYETTE PARISH	22055C0065G	23-SEP-98	98-06-1833A	01
06	LA	LAFAYETTE PARISH	22055C0020G	22-OCT-98	98-06-1999A	01
06	LA	LAFAYETTE PARISH	22055C0080G	24-DEC-98	99-06-340A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	22-JUL-98	98-06-1442A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	07-AUG-98	98-06-1477A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	25-SEP-98	98-06-1537A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	15-SEP-98	98-06-1576A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	27-AUG-98	98-06-1627A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	10-SEP-98	98-06-1655A	02
06	LA	LAFAYETTE, CITY OF	22055C0025G	01-OCT-98	98-06-1896A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	06-OCT-98	98-06-1925A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	02-NOV-98	99-06-028A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	02-NOV-98	99-06-029A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	13-NOV-98	99-06-106A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	02-DEC-98	99-06-206A	02
06	LA	LAFAYETTE, CITY OF	22055C0045G	14-DEC-98	99-06-286A	02
06	LA	LAFOURCHE PARISH	2252020065C	25-SEP-98	98-06-1861A	02
06	LA	LAKE CHARLES, CITY OF	2200400010E	05-OCT-98	98-06-1634A	02
06	LA	LAKE CHARLES, CITY OF	2200400010E	16-OCT-98	98-06-1793A	02
06	LA	LAKE CHARLES, CITY OF	2200400010E	26-OCT-98	98-06-1851A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	LA	LIVINGSTON PARISH	2201130100B	21-AUG-98	98-06-1326A	02
06	LA	LIVINGSTON PARISH	2201130100B	05-AUG-98	98-06-1543A	01
06	LA	LIVINGSTON PARISH	2201130025B	07-AUG-98	98-06-1563A	02
06	LA	LIVINGSTON PARISH	2201130025B	21-SEP-98	98-06-1615A	02
06	LA	LIVINGSTON PARISH	2201130100B	27-AUG-98	98-06-1630A	02
06	LA	LIVINGSTON PARISH	2201130100B	17-SEP-98	98-06-1639A	01
06	LA	LIVINGSTON PARISH	2201130100B	31-AUG-98	98-06-1647A	02
06	LA	LIVINGSTON PARISH	2201130025B	09-SEP-98	98-06-1756A	01
06	LA	LIVINGSTON PARISH	2201130025B	05-OCT-98	98-06-1911A	02
06	LA	LIVINGSTON PARISH	2201130100B	20-OCT-98	98-06-2027A	02
06	LA	LIVINGSTON PARISH	2201130100B	05-NOV-98	99-06-083A	01
06	LA	LIVINGSTON PARISH	2201130025B	05-NOV-98	99-06-084A	02
06	LA	LIVINGSTON PARISH	2201130025B	05-NOV-98	99-06-085A	02
06	LA	LIVINGSTON PARISH	2201130100B	13-NOV-98	99-06-086A	02
06	LA	LIVINGSTON PARISH	2201130100B	15-DEC-98	99-06-293A	02
06	LA	MARKSVILLE, TOWN OF	2200220005B	15-OCT-98	98-06-1669A	01
06	LA	MARKSVILLE, TOWN OF	2200220005B	16-SEP-98	98-06-1714A	02
06	LA	NATCHITOCHES PARISH	2201290235B	27-AUG-98	98-06-1373A	02
06	LA	NATCHITOCHES PARISH	2201290175B	25-SEP-98	98-06-1653A	02
06	LA	NATCHITOCHES PARISH	2201290190B	03-SEP-98	98-06-1674A	02
06	LA	NATCHITOCHES PARISH	2201290125B	09-DEC-98	99-06-128A	02
06	LA	NATCHITOCHES PARISH	2201290235C	15-DEC-98	99-06-388V	19
06	LA	NATCHITOCHES PARISH	2201290255C	15-DEC-98	99-06-388V	19
06	LA	RAPIDES PARISH	2201450175B	08-JUL-98	98-06-1353A	02
06	LA	RAPIDES PARISH	2201450250C	21-JUL-98	98-06-1560A	02
06	LA	RAPIDES PARISH	2201450130C	25-AUG-98	98-06-1671A	02
06	LA	RAPIDES PARISH	2201450140D	08-DEC-98	99-06-237A	02
06	LA	RAPIDES PARISH	2201450250C	08-DEC-98	99-06-264A	02
06	LA	SHREVEPORT, CITY OF	2200360030E	21-AUG-98	98-06-1271A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	27-AUG-98	98-06-1628A	02
06	LA	SHREVEPORT, CITY OF	2200360029E	25-AUG-98	98-06-1664A	01
06	LA	SHREVEPORT, CITY OF	2200360028E	28-AUG-98	98-06-1683A	02
06	LA	SHREVEPORT, CITY OF	2200360030E	09-SEP-98	98-06-1694A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	10-SEP-98	98-06-1732A	02
06	LA	SHREVEPORT, CITY OF	2200360030E	10-SEP-98	98-06-1741A	02
06	LA	SHREVEPORT, CITY OF	2200360034E	25-SEP-98	98-06-1766A	02
06	LA	SHREVEPORT, CITY OF	2200360034E	13-OCT-98	98-06-1837A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	07-OCT-98	98-06-1933A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	19-OCT-98	98-06-2007A	02
06	LA	SHREVEPORT, CITY OF	2200360033E	13-JUL-98	98-06-937A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	30-OCT-98	99-06-045A	02
06	LA	SHREVEPORT, CITY OF	2200360033E	13-NOV-98	99-06-096A	02
06	LA	SHREVEPORT, CITY OF	2200360028E	15-DEC-98	99-06-154A	02
06	LA	SHREVEPORT, CITY OF	2200360030E	17-DEC-98	99-06-333A	02
06	LA	SHREVEPORT, CITY OF	2200360025C	30-DEC-98	99-06-408A	02
06	LA	SLIDELL, CITY OF	2252050440C	11-DEC-98	98-06-1877A	01
06	LA	ST. LANDRY PARISH	2201650325C	07-JUL-98	98-06-1262A	02
06	LA	ST. LANDRY PARISH	2201650400C	13-AUG-98	98-06-1483A	02
06	LA	ST. LANDRY PARISH	2201650450B	14-AUG-98	98-06-1589A	02
06	LA	ST. MARTIN PARISH	2201780150B	13-NOV-98	99-06-092A	02
06	LA	ST. TAMMANY PARISH	2252050210C	07-AUG-98	98-06-1562A	02
06	LA	ST. TAMMANY PARISH	2252050245C	21-SEP-98	98-06-1715A	02
06	LA	ST. TAMMANY PARISH	2252050175C	03-DEC-98	99-06-090A	02
06	LA	ST. TAMMANY PARISH	2252050240E	02-DEC-98	99-06-198A	02
06	LA	SULPHUR, CITY OF	2200410001C	22-SEP-98	98-06-1751V	19
06	LA	TANGIPAHOA PARISH	2202060165D	07-JUL-98	98-06-1122A	02
06	LA	TANGIPAHOA PARISH	2202060235D	08-OCT-98	98-06-1463A	02
06	LA	TANGIPAHOA PARISH	2202060175D	03-DEC-98	99-06-223A	02
06	LA	TANGIPAHOA PARISH	2202060175D	11-DEC-98	99-06-274A	02
06	LA	UNION PARISH	2203590010B	06-AUG-98	98-06-1565A	02
06	LA	WEBSTER PARISH	2203570025C	04-NOV-98	98-06-1977A	02
06	LA	WINN PARISH	2203690105B	07-JUL-98	98-06-1284A	02
06	LA	WINN PARISH	2203690070B	10-SEP-98	98-06-1759A	02
06	NM	ALAMOGORDO, CITY OF	3500450006C	07-JUL-98	98-06-1308A	02
06	NM	ALBUQUERQUE, CITY OF	35001C0109D	21-OCT-98	97-06-1337P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0116D	21-OCT-98	97-06-1337P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0117D	21-OCT-98	97-06-1337P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0128D	21-OCT-98	97-06-1337P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0113D	18-SEP-98	98-06-1065P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0114D	18-SEP-98	98-06-1065P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0357D	05-AUG-98	98-06-1298A	02
06	NM	ALBUQUERQUE, CITY OF	35001C0128D	11-SEP-98	98-06-660P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0129D	11-SEP-98	98-06-660P	05

Region	State	Community	Map panel	Determination date	Case No.	Type
06	NM	ALBUQUERQUE, CITY OF	35001C0133D	11-SEP-98	98-06-660P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0137D	11-SEP-98	98-06-660P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0141D	11-SEP-98	98-06-660P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0337D	17-JUL-98	98-06-781P	05
06	NM	ALBUQUERQUE, CITY OF	35001C0337D	08-DEC-98	99-06-231A	02
06	NM	BERNALILLO COUNTY	35001C0109D	21-OCT-98	97-06-1337P	05
06	NM	BERNALILLO COUNTY	35001C0116D	21-OCT-98	97-06-1337P	05
06	NM	BERNALILLO COUNTY	35001C0117D	21-OCT-98	97-06-1337P	05
06	NM	BERNALILLO COUNTY	35001C0128D	21-OCT-98	97-06-1337P	05
06	NM	BERNALILLO COUNTY	35001C0337D	05-OCT-98	98-06-1595A	01
06	NM	BERNALILLO COUNTY	35001C0331D	17-JUL-98	98-06-781P	05
06	NM	BERNALILLO COUNTY	35001C0336D	17-JUL-98	98-06-781P	05
06	NM	BERNALILLO COUNTY	35001C0339D	13-NOV-98	99-06-108A	02
06	NM	BERNALILLO COUNTY	35001C0531D	25-NOV-98	99-06-164A	02
06	NM	BERNALILLO COUNTY	35001C0341D	24-DEC-98	99-06-374A	02
06	NM	BERNALILLO, TOWN OF	35043C0908C	02-DEC-98	98-06-1650A	01
06	NM	CORRALES, VILLAGE OF	35043C0904C	21-OCT-98	97-06-1337P	05
06	NM	CORRALES, VILLAGE OF	35043C0912C	21-OCT-98	97-06-1337P	05
06	NM	CORRALES, VILLAGE OF	35043C0913C	21-OCT-98	97-06-1337P	05
06	NM	CORRALES, VILLAGE OF	35043C0914C	21-OCT-98	97-06-1337P	05
06	NM	CORRALES, VILLAGE OF	35043C0951C	21-OCT-98	97-06-1337P	05
06	NM	CORRALES, VILLAGE OF	35043C0912C	11-AUG-98	98-06-1377A	02
06	NM	FARMINGTON, CITY OF	3500670005D	06-JUL-98	98-06-1383A	02
06	NM	HOBBS, CITY OF	3500290015B	14-SEP-98	98-06-1570A	02
06	NM	HOBBS, CITY OF	3500290015B	02-OCT-98	98-06-1580A	02
06	NM	LAS CRUCES, CITY OF	35013C0632F	23-OCT-98	98-06-162P	05
06	NM	LAS CRUCES, CITY OF	35013C0634E	10-SEP-98	98-06-1740A	02
06	NM	LAS CRUCES, CITY OF	35013C0519F	21-SEP-98	98-06-1811A	02
06	NM	LAS CRUCES, CITY OF	35013C0632F	08-DEC-98	99-06-265A	01
06	NM	RIO RANCHO, CITY OF	35043C0904C	21-OCT-98	97-06-1337P	05
06	NM	RIO RANCHO, CITY OF	35043C0912C	21-OCT-98	97-06-1337P	05
06	NM	RIO RANCHO, CITY OF	35043C0913C	21-OCT-98	97-06-1337P	05
06	NM	RIO RANCHO, CITY OF	35043C0914C	21-OCT-98	97-06-1337P	05
06	NM	RIO RANCHO, CITY OF	35043C0951C	21-OCT-98	97-06-1337P	05
06	NM	SAN JUAN COUNTY	3500640150B	02-SEP-98	98-06-1713A	02
06	NM	SANTA FE, CITY OF	3500700008B	13-OCT-98	98-06-1956A	02
06	NM	TRUTH OR CONSEQUENCES, CITY OF	3500730005C	25-SEP-98	98-06-1868A	02
06	NM	VALENCIA COUNTY	3500860185C	17-NOV-98	99-06-124A	02
06	OK	BIXBY, TOWN OF	4002070005B	21-SEP-98	98-06-1613A	02
06	OK	BIXBY, TOWN OF	4002070005B	15-SEP-98	98-06-1775A	02
06	OK	BIXBY, TOWN OF	4002070010B	04-NOV-98	99-06-051A	02
06	OK	BROKEN ARROW, CITY OF	4002360004D	11-DEC-98	99-06-279A	02
06	OK	BROKEN ARROW, CITY OF	4002360004D	23-DEC-98	99-06-369A	02
06	OK	BRYAN COUNTY	40013C0100D	23-JUL-98	98-06-1509A	02
06	OK	CHICKASHA, CITY OF	4002340002D	20-NOV-98	99-06-059A	02
06	OK	CHOCTAW, CITY OF	4003570005B	04-NOV-98	99-06-055A	02
06	OK	CLEVELAND COUNTY	40027C0070F	17-NOV-98	99-06-127A	02
06	OK	COLLINSVILLE, CITY OF	4003600004A	08-DEC-98	99-06-242A	02
06	OK	COWETA, CITY OF	4002160001A	08-JUL-98	98-06-1421A	02
06	OK	CREEK COUNTY	4004900010B	25-AUG-98	98-06-1670A	02
06	OK	DELAWARE COUNTY	4005020075C	21-SEP-98	98-06-1665A	02
06	OK	DELAWARE COUNTY	4005020050C	04-DEC-98	99-06-215A	02
06	OK	DUNCAN, CITY OF	40137C0085D	21-SEP-98	98-06-1513A	17
06	OK	EDMOND, CITY OF	4002520025D	28-JUL-98	98-06-1512A	02
06	OK	EDMOND, CITY OF	4002520025D	25-SEP-98	98-06-1852A	02
06	OK	EDMOND, CITY OF	4002520025D	08-DEC-98	99-06-225A	02
06	OK	EDMOND, CITY OF	4002520025D	14-DEC-98	99-06-302A	01
06	OK	EDMOND, CITY OF	4002520020B	15-DEC-98	99-06-346A	02
06	OK	EDMOND, CITY OF	4002520025D	24-DEC-98	99-06-450A	01
06	OK	EL RENO, CITY OF	4053770025C	01-OCT-98	98-06-1897A	02
06	OK	EL RENO, CITY OF	4053770025C	11-DEC-98	99-06-113A	02
06	OK	GRADY COUNTY	4004830085C	22-JUL-98	98-06-1510A	02
06	OK	HARTSHORNE, CITY OF	4003870001B	22-SEP-98	98-06-1752V	19
06	OK	HENRYETTA, CITY OF	4001440003C	25-SEP-98	98-06-1822A	02
06	OK	KAY COUNTY	4004770175A	11-DEC-98	99-06-276A	02
06	OK	LAWTON, CITY OF	40031C0251C	05-AUG-98	98-06-1471A	01
06	OK	LAWTON, CITY OF	40031C0252C	28-JUL-98	98-06-1514A	02
06	OK	LAWTON, CITY OF	40031C0253D	30-JUL-98	98-06-1532A	01
06	OK	LAWTON, CITY OF	40031C0252C	20-NOV-98	98-06-1916A	02
06	OK	LAWTON, CITY OF	40031C0232C	13-OCT-98	98-06-1964A	02
06	OK	LAWTON, CITY OF	40031C0252C	02-DEC-98	99-06-182A	02
06	OK	MCCLAIN COUNTY	4005380100B	05-OCT-98	98-06-1906A	02
06	OK	MCCLAIN COUNTY	4005380100B	02-NOV-98	99-06-030A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	OK	MIDWEST CITY, CITY OF	4004050015E	28-AUG-98	98-06-1631A	02
06	OK	MOORE, CITY OF	40027C0039F	04-AUG-98	98-06-1423A	02
06	OK	MOORE, CITY OF	40027C0037F	13-OCT-98	98-06-1571A	02
06	OK	MOORE, CITY OF	40027C0037F	02-SEP-98	98-06-1709A	02
06	OK	MOORE, CITY OF	40027C0037F	19-OCT-98	98-06-2011A	02
06	OK	MOORE, CITY OF	40027C0029F	08-DEC-98	99-06-218A	02
06	OK	MUSKOGEE COUNTY	40101C0025D	08-DEC-98	99-06-155A	02
06	OK	MUSKOGEE, CITY OF	40101C0128D	26-OCT-98	98-06-1924A	02
06	OK	MUSTANG, CITY OF	4004090010B	02-SEP-98	98-06-1787A	02
06	OK	MUSTANG, CITY OF	4004090005A	24-SEP-98	98-06-1867A	01
06	OK	MUSTANG, CITY OF	4004090005A	08-DEC-98	99-06-238A	02
06	OK	NORMAN,CITY OF	40027C0095F	21-AUG-98	98-06-1604A	02
06	OK	NORMAN,CITY OF	40027C0080F	02-SEP-98	98-06-1706A	17
06	OK	NORMAN,CITY OF	40027C0085F	14-SEP-98	98-06-1742A	02
06	OK	NORMAN,CITY OF	40027C0080F	05-OCT-98	98-06-1765A	02
06	OK	NORMAN,CITY OF	40027C0095F	20-OCT-98	98-06-2028A	02
06	OK	NORMAN,CITY OF	40027C0095F	22-OCT-98	99-06-001A	02
06	OK	NORMAN,CITY OF	40027C0085F	02-DEC-98	99-06-207A	02
06	OK	NORMAN,CITY OF	40027C0095F	17-DEC-98	99-06-347A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780190F	04-AUG-98	97-06-785P	05
06	OK	OKLAHOMA CITY, CITY OF	4053780190F	06-NOV-98	98-06-1181P	05
06	OK	OKLAHOMA CITY, CITY OF	4053780265D	27-AUG-98	98-06-1302A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780200D	21-JUL-98	98-06-1328A	01
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	14-AUG-98	98-06-1492A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	14-AUG-98	98-06-1592A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	21-AUG-98	98-06-1607A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	27-AUG-98	98-06-1621A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	02-SEP-98	98-06-1710A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780110C	04-SEP-98	98-06-1717A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	26-OCT-98	98-06-1893A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	07-OCT-98	98-06-1926A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	06-OCT-98	98-06-1927A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780200D	02-NOV-98	98-06-1939P	05
06	OK	OKLAHOMA CITY, CITY OF	4053780235C	02-NOV-98	98-06-1939P	05
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	15-OCT-98	98-06-1983A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780125D	06-OCT-98	98-06-1992A	01
06	OK	OKLAHOMA CITY, CITY OF	4053780195C	19-OCT-98	98-06-2019A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	02-NOV-98	99-06-031A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780175F	02-NOV-98	99-06-036A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780130D	04-NOV-98	99-06-053A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780125D	04-NOV-98	99-06-054A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	05-NOV-98	99-06-079A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780170F	05-NOV-98	99-06-080A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780080C	15-DEC-98	99-06-081A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	05-NOV-98	99-06-082A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	13-NOV-98	99-06-115A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	20-NOV-98	99-06-133A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780225F	08-DEC-98	99-06-245A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780190F	14-DEC-98	99-06-275A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780155E	15-DEC-98	99-06-344A	02
06	OK	OKLAHOMA CITY, CITY OF	4053780160D	22-DEC-98	99-06-345A	02
06	OK	OKLAHOMA COUNTY	4004660215B	14-JUL-98	98-06-1430A	02
06	OK	OWASSO, CITY OF	4002100002D	08-DEC-98	99-06-224A	02
06	OK	PIEDMONT, CITY OF	4000270025C	25-SEP-98	98-06-1824A	02
06	OK	PIEDMONT, CITY OF	4000270025C	20-NOV-98	99-06-132A	02
06	OK	PRYOR CREEK,CITY OF	4001170002B	14-DEC-98	99-06-311A	02
06	OK	ROGERS COUNTY	4053790105C	12-AUG-98	98-06-1261A	02
06	OK	ROGERS COUNTY	4053790105C	22-JUL-98	98-06-1569A	02
06	OK	ROGERS COUNTY	4053790105C	05-AUG-98	98-06-1657A	02
06	OK	ROGERS COUNTY	4053790105C	24-AUG-98	98-06-1682A	02
06	OK	ROGERS COUNTY	4053790150B	09-OCT-98	98-06-1952A	02
06	OK	ROGERS COUNTY	4053790110C	17-NOV-98	99-06-126A	02
06	OK	ROGERS COUNTY	4053790050C	22-DEC-98	99-06-367A	02
06	OK	SEMINOLE COUNTY	40133C0128C	15-DEC-98	99-06-312A	02
06	OK	SHAWNEE, CITY OF	40125C0125D	25-SEP-98	98-06-1345P	06
06	OK	SHAWNEE, CITY OF	40125C0101D	12-AUG-98	98-06-1550A	02
06	OK	SHAWNEE, CITY OF	40125C0102D	14-AUG-98	98-06-933P	05
06	OK	SHAWNEE, CITY OF	40125C0102D	23-DEC-98	99-06-368A	02
06	OK	STILLWATER, CITY OF	4053800004E	10-SEP-98	98-06-1684A	02
06	OK	STILLWATER, CITY OF	4053800004E	15-OCT-98	98-06-1892A	01
06	OK	STILLWATER, CITY OF	4053800004E	09-OCT-98	98-06-1920A	02
06	OK	STILLWATER, CITY OF	4053800004E	19-OCT-98	98-06-2013A	02
06	OK	STILLWATER, CITY OF	4053800004E	02-NOV-98	99-06-032A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	OK	STILLWATER, CITY OF	4053800004E	23-NOV-98	99-06-060V	19
06	OK	STILLWATER, CITY OF	4053800004E	18-NOV-98	99-06-270A	02
06	OK	THE VILLAGE, CITY OF	4004200005A	13-NOV-98	99-06-120A	02
06	OK	TULSA COUNTY	4004620205C	14-DEC-98	99-06-323A	02
06	OK	TULSA, CITY OF	4053810085G	14-AUG-98	98-06-1175P	05
06	OK	TULSA, CITY OF	4053810090F	08-JUL-98	98-06-1344A	02
06	OK	TULSA, CITY OF	4053810070G	09-JUL-98	98-06-1444A	02
06	OK	TULSA, CITY OF	4053810065G	07-JUL-98	98-06-1481A	02
06	OK	TULSA, CITY OF	4053810065G	26-OCT-98	99-06-021A	02
06	OK	TULSA, CITY OF	4053810065G	08-DEC-98	99-06-135A	02
06	OK	TULSA, CITY OF	4053810090F	08-DEC-98	99-06-251A	02
06	OK	TULSA, CITY OF	4053810090F	15-DEC-98	99-06-313A	02
06	OK	TULSA, CITY OF	4053810090F	15-DEC-98	99-06-324A	02
06	OK	TULSA, CITY OF	4053810070G	15-DEC-98	99-06-343A	02
06	OK	TULSA, CITY OF	4053810070G	24-DEC-98	99-06-378A	02
06	OK	WAGONER COUNTY	4002150029B	25-SEP-98	98-06-1874A	17
06	OK	WARR ACRES, CITY OF	4004490001A	09-JUL-98	98-06-1428A	02
06	OK	WASHINGTON COUNTY	4004590100A	25-SEP-98	98-06-1863A	02
06	OK	WEATHERFORD, CITY OF	4000560002B	10-SEP-98	98-06-1748A	02
06	OK	WOODWARD, CITY OF	4002320002B	10-NOV-98	98-06-1783A	02
06	OK	YUKON, CITY OF	4000280010B	27-JUL-98	98-06-1511A	02
06	TX	ABILENE, CITY OF	4854500035D	05-NOV-98	98-06-1995A	02
06	TX	ALLEN, CITY OF	48085C0430G	25-SEP-98	98-06-1826A	02
06	TX	AMARILLO, CITY OF	4805290025A	01-DEC-98	98-06-2026A	01
06	TX	ARLINGTON, CITY OF	48439C0437H	07-JUL-98	98-06-1249A	02
06	TX	ARLINGTON, CITY OF	48439C0443H	19-AUG-98	98-06-1608A	01
06	TX	ARLINGTON, CITY OF	48439C0444H	21-SEP-98	98-06-1652A	02
06	TX	ARLINGTON, CITY OF	48439C0433H	19-OCT-98	98-06-1693P	06
06	TX	ARLINGTON, CITY OF	48439C0429H	30-SEP-98	98-06-1828A	02
06	TX	ARLINGTON, CITY OF	48439C0433H	17-NOV-98	99-06-125A	02
06	TX	ATHENS, CITY OF	48213C0160C	04-NOV-98	98-06-1850A	01
06	TX	AUSTIN, CITY OF	48453C0210F	15-OCT-98	98-06-1450A	02
06	TX	AUSTIN, CITY OF	48453C0160E	09-OCT-98	98-06-1834A	02
06	TX	AUSTIN, CITY OF	48453C0215F	06-OCT-98	98-06-1913A	02
06	TX	AUSTIN, CITY OF	48453C0235E	16-OCT-98	98-06-2000A	02
06	TX	AUSTIN, CITY OF	48453C0210F	16-OCT-98	98-06-2002A	02
06	TX	AUSTIN, CITY OF	48453C0235E	30-OCT-98	99-06-049A	02
06	TX	AUSTIN, CITY OF	48453C0210F	02-NOV-98	99-06-109A	02
06	TX	AUSTIN, CITY OF	48453C0200E	02-DEC-98	99-06-180A	02
06	TX	AUSTIN, CITY OF	48453C0200E	24-DEC-98	99-06-399A	02
06	TX	BASTROP COUNTY	48021C0050C	17-SEP-98	98-06-1753A	02
06	TX	BEDFORD, CITY OF	48439C0308H	23-JUL-98	98-06-1456A	02
06	TX	BEDFORD, CITY OF	48439C0308H	04-AUG-98	98-06-1522A	02
06	TX	BEDFORD, CITY OF	48439C0307H	09-OCT-98	98-06-1707A	02
06	TX	BEDFORD, CITY OF	48439C0307H	05-NOV-98	98-06-1990A	02
06	TX	BELL COUNTY	4807060130B	20-OCT-98	98-06-2010A	02
06	TX	BELLAIRE, CITY OF	48201C0855J	29-JUL-98	98-06-1521A	02
06	TX	BENBROOK, CITY OF	48439C0390H	23-NOV-98	99-06-151A	02
06	TX	BEXAR COUNTY	48029C0095E	20-AUG-98	98-06-1403P	06
06	TX	BEXAR COUNTY	48029C0241E	16-JUL-98	98-06-1482A	01
06	TX	BEXAR COUNTY	48029C0145E	28-JUL-98	98-06-1490P	06
06	TX	BEXAR COUNTY	48029C0477E	01-DEC-98	98-06-1758P	06
06	TX	BEXAR COUNTY	48029C0395E	16-OCT-98	98-06-1908A	02
06	TX	BEXAR COUNTY	48029C0085E	09-OCT-98	98-06-1966P	06
06	TX	BEXAR COUNTY	48029C0313E	25-SEP-98	98-06-1989P	06
06	TX	BEXAR COUNTY	48029C0085E	14-SEP-98	98-06-823P	06
06	TX	BORGER, CITY OF	4803740005C	07-JUL-98	98-06-1354A	01
06	TX	BREWSTER COUNTY	4800840200C	13-JUL-98	98-06-1466A	02
06	TX	BROWNSVILLE, CITY OF	4801010350B	21-JUL-98	98-06-1363A	01
06	TX	BROWNSVILLE, CITY OF	4801010350B	27-JUL-98	98-06-1465A	01
06	TX	BROWNSVILLE, CITY OF	4801010350B	13-OCT-98	98-06-1954A	01
06	TX	BRYAN, CITY OF	48041C0143C	07-JUL-98	98-06-1461A	02
06	TX	BRYAN, CITY OF	48041C0141C	18-SEP-98	98-06-1488P	05
06	TX	BURLESON, CITY OF	48251C0029H	13-OCT-98	98-06-1143P	05
06	TX	BURLESON, CITY OF	48251C0029H	19-OCT-98	98-06-1635A	02
06	TX	CAMERON COUNTY	4801010350B	05-OCT-98	98-06-1909A	02
06	TX	CARROLLTON, CITY OF	4801670005G	19-AUG-98	98-06-1389P	05
06	TX	CARROLLTON, CITY OF	4801670010E	19-AUG-98	98-06-1389P	05
06	TX	CARROLLTON, CITY OF	4801670005G	24-AUG-98	98-06-1676A	02
06	TX	CEDAR PARK, CITY OF	48491C0306C	11-AUG-98	98-06-1314P	05
06	TX	CEDAR PARK, CITY OF	48491C0306C	04-AUG-98	98-06-651P	06
06	TX	CHEROKEE COUNTY	4807390007B	14-AUG-98	98-06-1577A	02
06	TX	CIBOLO, CITY OF	4802670001C	03-NOV-98	99-06-015P	06

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	CIBOLO, CITY OF	4802670002C	03-NOV-98	99-06-015P	06
06	TX	COLLEGE STATION, CITY OF	48041C0144C	30-OCT-98	99-06-050A	02
06	TX	COLLEYVILLE, TOWN OF	48439C0215H	07-AUG-98	98-06-1561A	02
06	TX	COMAL COUNTY	4854630055D	09-OCT-98	98-06-1904A	02
06	TX	COPPELL, CITY OF	4801700010E	14-AUG-98	98-06-1538A	02
06	TX	CORINTH, TOWN OF	48121C0393E	14-AUG-98	98-06-1574A	02
06	TX	CORINTH, TOWN OF	48121C0393E	13-OCT-98	98-06-1891A	02
06	TX	CORPUS CHRISTI, CITY OF	4854640145C	07-OCT-98	98-06-1937A	02
06	TX	DALLAS, CITY OF	4801710010D	22-OCT-98	98-06-1317P	05
06	TX	DALLAS, CITY OF	4801710030D	22-OCT-98	98-06-1317P	05
06	TX	DALLAS, CITY OF	4801710090D	03-SEP-98	98-06-1588A	02
06	TX	DALLAS, CITY OF	4801710140D	29-SEP-98	98-06-1612A	02
06	TX	DALLAS, CITY OF	4801710100D	20-NOV-98	98-06-1708A	02
06	TX	DALLAS, CITY OF	4801710065C	09-SEP-98	98-06-1722A	02
06	TX	DALLAS, CITY OF	4801710170D	21-SEP-98	98-06-1736A	02
06	TX	DALLAS, CITY OF	4801710025C	21-SEP-98	98-06-1755A	02
06	TX	DALLAS, CITY OF	4801710090D	01-OCT-98	98-06-1804A	01
06	TX	DALLAS, CITY OF	4801710180D	23-SEP-98	98-06-1844A	02
06	TX	DALLAS, CITY OF	4801710140D	23-SEP-98	98-06-1846A	02
06	TX	DALLAS, CITY OF	4801710005C	15-OCT-98	98-06-1864A	02
06	TX	DALLAS, CITY OF	4801710010D	15-OCT-98	98-06-1864A	02
06	TX	DALLAS, CITY OF	4801710140D	30-SEP-98	98-06-1875P	06
06	TX	DALLAS, CITY OF	4801710055C	16-OCT-98	98-06-1942A	02
06	TX	DALLAS, CITY OF	4801710100D	09-OCT-98	98-06-1943A	02
06	TX	DALLAS, CITY OF	4801710025C	15-OCT-98	98-06-1981A	02
06	TX	DALLAS, CITY OF	4801710050D	10-JUL-98	98-06-807P	05
06	TX	DALLAS, CITY OF	4801710170D	11-DEC-98	99-06-068P	05
06	TX	DALLAS, CITY OF	4801710205D	11-DEC-98	99-06-068P	05
06	TX	DALLAS, CITY OF	4801710210C	11-DEC-98	99-06-068P	05
06	TX	DALLAS, CITY OF	4801710085D	13-NOV-98	99-06-087A	01
06	TX	DALLAS, CITY OF	4801710140D	11-DEC-98	99-06-193A	01
06	TX	DALLAS, CITY OF	4801710090D	14-DEC-98	99-06-256A	01
06	TX	DALWORTHINGTON GARDENS, TOWN OF	48439C0433H	19-OCT-98	98-06-1693P	05
06	TX	DALWORTHINGTON GARDENS, TOWN OF	48439C0441H	19-OCT-98	98-06-1693P	05
06	TX	DENTON COUNTY	48121C0565E	19-AUG-98	98-06-1389P	05
06	TX	DENTON COUNTY	48121C0570E	19-AUG-98	98-06-1389P	05
06	TX	DENTON COUNTY	48121C0705E	19-AUG-98	98-06-1389P	05
06	TX	DENTON COUNTY	48121C0710E	19-AUG-98	98-06-1389P	05
06	TX	DENTON COUNTY	48121C0505E	19-OCT-98	98-06-1491P	06
06	TX	DENTON COUNTY	48121C0205F	14-SEP-98	98-06-1738A	02
06	TX	DENTON COUNTY	48121C0405E	29-SEP-98	98-06-1880A	02
06	TX	DENTON COUNTY	48121C0500F	16-OCT-98	98-06-1885A	01
06	TX	DENTON COUNTY	48121C0510E	08-DEC-98	98-06-2014A	02
06	TX	DENTON COUNTY	48121C0070E	09-JUL-98	98-06-995A	02
06	TX	DENTON COUNTY	48121C0215F	05-NOV-98	99-06-046A	02
06	TX	DENTON COUNTY	48121C0355F	05-NOV-98	99-06-046A	02
06	TX	DENTON COUNTY	48121C0510E	31-DEC-98	99-06-412A	02
06	TX	DENTON, CITY OF	48121C0240F	07-AUG-98	98-06-1211A	01
06	TX	DENTON, CITY OF	48121C0380E	07-AUG-98	98-06-1211A	01
06	TX	DENTON, CITY OF	48121C0386E	24-AUG-98	98-06-1246P	05
06	TX	DENTON, CITY OF	48121C0355F	20-OCT-98	98-06-2034A	02
06	TX	DENTON, CITY OF	48121C0360E	20-OCT-98	98-06-2034A	02
06	TX	DENTON, CITY OF	48121C0380E	15-DEC-98	99-06-328A	01
06	TX	DENTON, CITY OF	48121C0380E	17-DEC-98	99-06-341A	02
06	TX	DESOTO, CITY OF	4801720020C	23-NOV-98	98-06-1931A	02
06	TX	EDINBURG,CITY OF	4803380005D	17-JUL-98	98-06-1499A	01
06	TX	EDINBURG,CITY OF	4803380005D	27-AUG-98	98-06-1711A	01
06	TX	EDINBURG,CITY OF	4803380005D	15-OCT-98	98-06-1970A	01
06	TX	EDINBURG,CITY OF	4803380005D	04-DEC-98	99-06-189A	01
06	TX	EDINBURG,CITY OF	4803380005D	18-DEC-98	99-06-401A	01
06	TX	EDINBURG,CITY OF	4803380015D	30-DEC-98	99-06-404A	02
06	TX	EL PASO, CITY OF	4802140022E	21-DEC-98	98-06-1106P	05
06	TX	EL PASO, CITY OF	4802140034B	03-AUG-98	98-06-1225A	01
06	TX	EL PASO, CITY OF	4802140048B	27-AUG-98	98-06-1600A	02
06	TX	EL PASO, CITY OF	4802140041B	13-OCT-98	98-06-1881A	01
06	TX	EL PASO, CITY OF	4802140021D	14-JUL-98	98-06-720A	01
06	TX	EL PASO, CITY OF	4802140044B	08-JUL-98	98-06-727A	02
06	TX	EL PASO, CITY OF	4802140033B	09-DEC-98	99-06-244A	02
06	TX	ELLIS COUNTY	4807980040B	21-SEP-98	98-06-1778A	02
06	TX	ELLIS COUNTY	4807980040B	23-NOV-98	99-06-157A	02
06	TX	ENCHANTED OAKS, TOWN OF	48213C0045D	18-AUG-98	98-06-1689V	19
06	TX	ERATH COUNTY	4802180003A	04-NOV-98	98-06-2020A	02
06	TX	FARMERS BRANCH, CITY OF	4801740005C	10-JUL-98	98-06-807P	05

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	FARMERSVILLE, CITY OF	48085C0375G	26-OCT-98	98-06-1725A	01
06	TX	FARMERSVILLE, CITY OF	48085C0375G	05-NOV-98	99-06-170A	01
06	TX	FIRST COLONY L.I.D.	48157C0255J	29-DEC-98	98-06-2022P	06
06	TX	FIRST COLONY L.I.D.	48157C0265J	29-DEC-98	98-06-2022P	06
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	09-JUL-98	98-06-1417A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	28-AUG-98	98-06-1636A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	05-OCT-98	98-06-1737A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0545E	16-OCT-98	98-06-2003A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0540E	02-DEC-98	99-06-176A	02
06	TX	FLOWER MOUND, TOWN OF	48121C0540E	30-DEC-98	99-06-373A	02
06	TX	FORT BEND COUNTY	48157C0205J	19-AUG-98	98-06-1068A	17
06	TX	FORT BEND COUNTY	48157C0015J	09-DEC-98	99-06-249A	02
06	TX	FORT BEND COUNTY	48157C0100J	09-DEC-98	99-06-249A	02
06	TX	FORT BEND COUNTY	48157C0205J	15-DEC-98	99-06-287A	17
06	TX	FORT BEND COUNTY L.I.D. ι2	48157C0255J	19-OCT-98	98-06-1784P	06
06	TX	FORT WORTH, CITY OF	48439C0395H	05-NOV-98	98-06-1044P	05
06	TX	FORT WORTH, CITY OF	48439C0170H	19-AUG-98	98-06-1597A	02
06	TX	FORT WORTH, CITY OF	48439C0282H	04-DEC-98	98-06-1620P	06
06	TX	FORT WORTH, CITY OF	48439C0285H	28-AUG-98	98-06-1641A	01
06	TX	FORT WORTH, CITY OF	48439C0245H	17-DEC-98	98-06-2004A	02
06	TX	FORT WORTH, CITY OF	48439C0170H	14-DEC-98	99-06-010P	05
06	TX	FORT WORTH, CITY OF	48439C0415H	10-NOV-98	99-06-047A	02
06	TX	FORT WORTH, CITY OF	48439C0295H	13-NOV-98	99-06-064A	02
06	TX	FORT WORTH, CITY OF	48439C0395H	20-NOV-98	99-06-141A	02
06	TX	FORT WORTH, CITY OF	48439C0395H	23-NOV-98	99-06-149A	02
06	TX	FORT WORTH, CITY OF	48439C0395H	30-DEC-98	99-06-407A	02
06	TX	FORT WORTH, CITY OF	48439C0395H	14-DEC-98	99-06-419A	02
06	TX	FRISCO, CITY OF	48085C0410G	02-NOV-98	99-06-024A	02
06	TX	GARLAND, CITY OF	4854710015D	08-JUL-98	98-06-1420A	02
06	TX	GARLAND, CITY OF	4854710015D	08-JUL-98	98-06-1443A	02
06	TX	GARLAND, CITY OF	4854710020D	21-AUG-98	98-06-1602A	02
06	TX	GARLAND, CITY OF	4854710015D	27-AUG-98	98-06-1626A	02
06	TX	GARLAND, CITY OF	4854710030E	14-AUG-98	98-06-1761A	02
06	TX	GARLAND, CITY OF	4854710015D	25-SEP-98	98-06-1845A	02
06	TX	GARLAND, CITY OF	4854710020D	25-SEP-98	98-06-1847A	02
06	TX	GARLAND, CITY OF	4854710005E	05-OCT-98	98-06-1898A	02
06	TX	GARLAND, CITY OF	4854710020D	05-OCT-98	98-06-1899A	02
06	TX	GARLAND, CITY OF	4854710015D	08-DEC-98	99-06-220A	02
06	TX	GARLAND, CITY OF	4854710020D	08-DEC-98	99-06-255A	02
06	TX	GARLAND, CITY OF	4854710015D	15-DEC-98	99-06-305A	02
06	TX	GARLAND, CITY OF	4854710015D	15-DEC-98	99-06-321A	02
06	TX	GILLESPIE COUNTY	4806960012B	23-JUL-98	98-06-1307A	02
06	TX	GILMER, CITY OF	480625B	09-JUL-98	98-06-1468A	02
06	TX	GILMER, CITY OF	480625B	27-AUG-98	98-06-1661A	02
06	TX	GRAFORD, TOWN OF	4809640001A	22-OCT-98	98-06-1873A	02
06	TX	GRANBURY, CITY OF	4803570005B	05-NOV-98	98-06-2025A	01
06	TX	GRAND PRAIRIE, CITY OF	4854720010F	08-JUL-98	98-06-1410A	02
06	TX	GRAND PRAIRIE, CITY OF	4854720010F	22-SEP-98	98-06-1803P	06
06	TX	GRAPEVINE, CITY OF	48439C0215H	09-JUL-98	98-06-1455A	02
06	TX	GRAPEVINE, CITY OF	48439C0205H	08-DEC-98	99-06-221A	02
06	TX	GUADALUPE COUNTY	4802660050B	03-NOV-98	98-06-2030P	06
06	TX	GUADALUPE COUNTY	4802660150C	03-NOV-98	98-06-2030P	06
06	TX	GUADALUPE COUNTY	4802660150C	02-DEC-98	99-06-094A	02
06	TX	GUN BARREL, CITY OF	48213C0030D	18-AUG-98	98-06-1689V	19
06	TX	GUN BARREL, CITY OF	48213C0035D	18-AUG-98	98-06-1689V	19
06	TX	HALLSVILLE, CITY OF	480848	20-NOV-98	98-06-1358P	06
06	TX	HARRIS COUNTY	48201C0290J	31-JUL-98	98-06-1364A	01
06	TX	HARRIS COUNTY	48201C0245J	13-JUL-98	98-06-1418A	02
06	TX	HARRIS COUNTY	48201C0445J	02-OCT-98	98-06-1473A	02
06	TX	HARRIS COUNTY	48201C0440J	21-JUL-98	98-06-1505A	02
06	TX	HARRIS COUNTY	48201C0455J	30-JUL-98	98-06-1523A	02
06	TX	HARRIS COUNTY	48201C0320J	27-AUG-98	98-06-1663A	02
06	TX	HARRIS COUNTY	48201C0440J	25-AUG-98	98-06-1672A	02
06	TX	HARRIS COUNTY	48201C0265J	17-AUG-98	98-06-1677A	02
06	TX	HARRIS COUNTY	48201C0265J	10-SEP-98	98-06-1746A	02
06	TX	HARRIS COUNTY	48201C0440J	21-SEP-98	98-06-1777A	02
06	TX	HARRIS COUNTY	48201C0310J	02-NOV-98	98-06-1859A	02
06	TX	HARRIS COUNTY	48201C0215J	20-OCT-98	98-06-1869A	01
06	TX	HARRIS COUNTY	48201C0615J	25-SEP-98	98-06-1872A	01
06	TX	HARRIS COUNTY	48201C0255J	20-OCT-98	98-06-1915A	01
06	TX	HARRIS COUNTY	48201C0445J	05-OCT-98	98-06-1917A	01
06	TX	HARRIS COUNTY	48201C0440J	06-OCT-98	98-06-1918A	02
06	TX	HARRIS COUNTY	48201C0435J	07-OCT-98	98-06-1929A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	HARRIS COUNTY	48201C0455J	01-DEC-98	98-06-1938A	02
06	TX	HARRIS COUNTY	48201C0245J	13-NOV-98	99-06-044A	01
06	TX	HARRIS COUNTY	48201C0260J	20-NOV-98	99-06-152A	02
06	TX	HARRIS COUNTY	48201C0265J	03-DEC-98	99-06-210A	02
06	TX	HARRIS COUNTY	48201C0265J	23-DEC-98	99-06-351A	01
06	TX	HARRIS COUNTY	48201C0735J	18-DEC-98	99-06-355A	01
06	TX	HARRIS COUNTY	48201C0430J	30-DEC-98	99-06-362A	02
06	TX	HARRIS COUNTY	48201C0260J	24-DEC-98	99-06-386A	02
06	TX	HAYS COUNTY	48209C0180E	06-NOV-98	98-06-1207P	05
06	TX	HAYS COUNTY	48209C0227E	31-JUL-98	98-06-1392A	02
06	TX	HAYS COUNTY	48209C0035E	26-OCT-98	99-06-022A	02
06	TX	HENDERSON COUNTY	48213C0030D	17-AUG-98	98-06-1566A	02
06	TX	HENDERSON COUNTY	48213C0150D	17-AUG-98	98-06-1567A	02
06	TX	HENDERSON COUNTY	48213C0175D	17-AUG-98	98-06-1568A	02
06	TX	HENDERSON COUNTY	48213C0030D	18-AUG-98	98-06-1689V	19
06	TX	HENDERSON COUNTY	48213C0035D	18-AUG-98	98-06-1689V	19
06	TX	HENDERSON COUNTY	48213C0040D	18-AUG-98	98-06-1689V	19
06	TX	HENDERSON COUNTY	48213C0045D	18-AUG-98	98-06-1689V	19
06	TX	HENDERSON COUNTY	48213C0075D	18-AUG-98	98-06-1689V	19
06	TX	HENDERSON COUNTY	48213C0150D	18-AUG-98	98-06-1689V	19
06	TX	HENDERSON COUNTY	48213C0175D	18-AUG-98	98-06-1689V	19
06	TX	HENDERSON COUNTY	48213C0225C	02-NOV-98	99-06-023A	02
06	TX	HIDALGO COUNTY	4803340375B	21-SEP-98	98-06-1842P	06
06	TX	HIDALGO COUNTY	4803340425C	02-NOV-98	98-06-1996A	02
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533F	21-SEP-98	98-06-1313P	05
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533F	07-OCT-98	98-06-1772A	02
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533F	16-OCT-98	98-06-1960A	02
06	TX	HIGHLAND VILLAGE, VILLAGE OF	48121C0533F	02-NOV-98	99-06-026A	02
06	TX	HILL COUNTY	4808570004A	02-SEP-98	98-06-1699A	02
06	TX	HOUSTON, CITY OF	48201C0885J	27-AUG-98	97-06-541P	05
06	TX	HOUSTON, CITY OF	48201C0895J	27-AUG-98	97-06-541P	05
06	TX	HOUSTON, CITY OF	48201C0905J	27-AUG-98	97-06-541P	05
06	TX	HOUSTON, CITY OF	48201C0915J	27-AUG-98	97-06-541P	05
06	TX	HOUSTON, CITY OF	48201C0635J	17-AUG-98	98-06-1081A	02
06	TX	HOUSTON, CITY OF	48201C0835J	14-SEP-98	98-06-1467A	01
06	TX	HOUSTON, CITY OF	48201C0855J	31-JUL-98	98-06-1504A	02
06	TX	HOUSTON, CITY OF	48201C0640J	22-JUL-98	98-06-1548A	02
06	TX	HOUSTON, CITY OF	48201C0885J	21-SEP-98	98-06-1638A	02
06	TX	HOUSTON, CITY OF	48201C0435J	10-SEP-98	98-06-1744A	01
06	TX	HOUSTON, CITY OF	48201C0435J	25-SEP-98	98-06-1818A	01
06	TX	HOUSTON, CITY OF	48201C0915J	04-NOV-98	98-06-1967A	02
06	TX	HOUSTON, CITY OF	48201C0830J	21-OCT-98	98-06-2031A	01
06	TX	HOUSTON, CITY OF	48201C0670J	22-OCT-98	99-06-003A	02
06	TX	HOUSTON, CITY OF	48201C0670J	13-NOV-98	99-06-052A	02
06	TX	HOUSTON, CITY OF	48201C0690J	13-NOV-98	99-06-052A	02
06	TX	HOUSTON, CITY OF	48201C0835J	25-NOV-98	99-06-185A	17
06	TX	HURST, CITY OF	48439C0312H	28-JUL-98	98-06-1519A	02
06	TX	IRVING, CITY OF	4801800035C	20-NOV-98	98-06-1945P	05
06	TX	IRVING, CITY OF	4801800045D	08-DEC-98	99-06-140A	01
06	TX	IRVING, CITY OF	4801800045D	24-DEC-98	99-06-383A	01
06	TX	JOSHUA, CITY OF	48251C0039F	08-DEC-98	98-06-1912A	02
06	TX	KELLER, CITY OF	48439C0190H	02-SEP-98	98-06-1726A	02
06	TX	KELLER, CITY OF	48439C0190H	14-SEP-98	98-06-1779A	02
06	TX	KELLER, CITY OF	48439C0190H	24-DEC-98	99-06-400A	02
06	TX	KENDALL COUNTY	4804170090B	02-DEC-98	99-06-048A	02
06	TX	KENNEDALE, CITY OF	48439C0440H	09-JUL-98	98-06-1250A	01
06	TX	KENNEDALE, CITY OF	48439C0439H	02-DEC-98	98-06-1603A	02
06	TX	KERRVILLE, CITY OF	4804200005D	25-NOV-98	99-06-165A	02
06	TX	KILLEEN, CITY OF	4800310008B	06-AUG-98	98-06-1529A	02
06	TX	KILLEEN, CITY OF	4800310005B	20-NOV-98	98-06-1812P	05
06	TX	KILLEEN, CITY OF	4800310007B	20-NOV-98	98-06-1812P	05
06	TX	KILLEEN, CITY OF	4800310008B	20-NOV-98	98-06-1812P	05
06	TX	KIRBY, CITY OF	48029C0459E	23-SEP-98	98-06-1836A	02
06	TX	KIRBY, CITY OF	48029C0457E	01-DEC-98	99-06-327A	02
06	TX	LAGO VISTA, CITY OF	48453C0320E	07-OCT-98	98-06-1930A	02
06	TX	LAKE RANSOM CANYON, VILLAGE OF	4815770001B	30-DEC-98	99-06-406A	02
06	TX	LAREDO, CITY OF	4806510005B	05-AUG-98	98-06-1547A	02
06	TX	LEAGUE CITY, CITY OF	4854880011C	28-JUL-98	98-06-1516A	01
06	TX	LEWISVILLE, CITY OF	48121C0533F	21-SEP-98	98-06-1313P	05
06	TX	LEWISVILLE, CITY OF	48121C0565E	19-AUG-98	98-06-1389P	05
06	TX	LEWISVILLE, CITY OF	48121C0570E	19-AUG-98	98-06-1389P	05
06	TX	LEWISVILLE, CITY OF	48121C0705E	19-AUG-98	98-06-1389P	05
06	TX	LEWISVILLE, CITY OF	48121C0710E	19-AUG-98	98-06-1389P	05

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	LEWISVILLE, CITY OF	48121C0545E	05-NOV-98	98-06-1528A	01
06	TX	LEWISVILLE, CITY OF	48121C0545E	21-AUG-98	98-06-1688A	17
06	TX	LEWISVILLE, CITY OF	48121C0545E	30-NOV-98	98-06-1962A	01
06	TX	LEWISVILLE, CITY OF	48121C0534E	16-OCT-98	98-06-1987A	02
06	TX	LEWISVILLE, CITY OF	48121C0534E	02-DEC-98	99-06-162A	01
06	TX	LLANO COUNTY	4812340225B	06-JUL-98	98-06-1190A	02
06	TX	LONGVIEW, CITY OF	4802640010D	25-SEP-98	98-06-1502A	02
06	TX	LOWRY CROSSING, CITY OF	48085C0325G	27-AUG-98	98-06-1508A	02
06	TX	LUBBOCK, CITY OF	4804520045C	04-AUG-98	98-06-1306A	01
06	TX	LUBBOCK, CITY OF	4804520040B	06-JUL-98	98-06-1404A	01
06	TX	LUBBOCK, CITY OF	4804520025C	07-AUG-98	98-06-1449A	02
06	TX	LUBBOCK, CITY OF	4804520045C	22-JUL-98	98-06-1501A	02
06	TX	LUBBOCK, CITY OF	4804520045C	14-AUG-98	98-06-1594A	02
06	TX	LUBBOCK, CITY OF	4804520045C	31-AUG-98	98-06-1646A	02
06	TX	LUBBOCK, CITY OF	4804520045C	27-AUG-98	98-06-1680A	02
06	TX	LUBBOCK, CITY OF	4804520020B	17-SEP-98	98-06-1808A	02
06	TX	LUBBOCK, CITY OF	4804520045C	21-SEP-98	98-06-1816A	02
06	TX	LUBBOCK, CITY OF	4804520025C	02-NOV-98	99-06-019A	02
06	TX	MANSFIELD, CITY OF	48439C0560H	04-AUG-98	98-06-1432P	05
06	TX	MANSFIELD, CITY OF	48439C0560H	14-AUG-98	98-06-1587A	02
06	TX	MANSFIELD, CITY OF	48439C0560H	17-SEP-98	98-06-1614A	02
06	TX	MANSFIELD, CITY OF	48439C0580H	23-NOV-98	99-06-002A	02
06	TX	MARBLE FALLS, CITY OF	48053C0312C	10-NOV-98	98-06-1858A	02
06	TX	MARBLE FALLS, CITY OF	48053C0312C	31-DEC-98	99-06-190A	02
06	TX	MARBLE FALLS, CITY OF	48053C0312C	08-DEC-98	99-06-232A	02
06	TX	MCALLEN, CITY OF	4803340425C	14-JUL-98	98-06-1380A	02
06	TX	MCALLEN, CITY OF	4803340425C	28-JUL-98	98-06-1585A	02
06	TX	MCKINNEY, CITY OF	48085C0285G	22-OCT-98	99-06-005A	01
06	TX	MCKINNEY, CITY OF	48085C0280G	08-DEC-98	99-06-243A	02
06	TX	MCKINNEY, CITY OF	48085C0305G	23-DEC-98	99-06-363A	02
06	TX	MCKINNEY, CITY OF	48085C0305G	23-DEC-98	99-06-364A	01
06	TX	MESQUITE, CITY OF	4854900005H	07-OCT-98	98-06-1785A	01
06	TX	MESQUITE, CITY OF	4854900005H	25-SEP-98	98-06-1825A	02
06	TX	MESQUITE, CITY OF	4854900005H	24-SEP-98	98-06-1832A	02
06	TX	MESQUITE, CITY OF	4854900005H	22-OCT-98	98-06-1998A	02
06	TX	MESQUITE, CITY OF	4854900005H	02-NOV-98	98-06-2035P	05
06	TX	MESQUITE, CITY OF	4854900005H	22-OCT-98	99-06-007A	17
06	TX	MESQUITE, CITY OF	4854900005H	11-DEC-98	99-06-183A	02
06	TX	MESQUITE, CITY OF	4854900005H	09-DEC-98	99-06-291A	01
06	TX	MIDLAND, CITY OF	48329C0019D	17-JUL-98	98-06-1476A	02
06	TX	MIDLAND, CITY OF	48329C0082C	02-SEP-98	98-06-1645A	02
06	TX	MIDLAND, CITY OF	48329C0101D	28-AUG-98	98-06-1702A	02
06	TX	MIDLAND, CITY OF	48329C0101D	10-SEP-98	98-06-1719A	02
06	TX	MIDLAND, CITY OF	48329C0019D	09-SEP-98	98-06-1721A	02
06	TX	MIDLAND, CITY OF	48329C0038C	10-SEP-98	98-06-1724A	01
06	TX	MIDLAND, CITY OF	48329C0082C	09-SEP-98	98-06-1739A	02
06	TX	MIDLAND, CITY OF	48329C0101D	25-SEP-98	98-06-1855A	02
06	TX	MIDLAND, CITY OF	48329C0019D	05-OCT-98	98-06-1905A	02
06	TX	MONTGOMERY COUNTY	48339C0195F	30-JUL-98	98-06-1171A	01
06	TX	MONTGOMERY COUNTY	48339C0365F	07-JUL-98	98-06-1333A	02
06	TX	MONTGOMERY COUNTY	48339C0355F	06-JUL-98	98-06-1439A	02
06	TX	MONTGOMERY COUNTY	48339C0520F	04-AUG-98	98-06-1475A	01
06	TX	MONTGOMERY COUNTY	48339C0510F	23-JUL-98	98-06-1497A	01
06	TX	MONTGOMERY COUNTY	48339C0510F	14-AUG-98	98-06-1659A	01
06	TX	MONTGOMERY COUNTY	48339C0510F	25-NOV-98	98-06-1673A	01
06	TX	MONTGOMERY COUNTY	48339C0510F	15-OCT-98	98-06-1685A	01
06	TX	MONTGOMERY COUNTY	48339C0355F	21-AUG-98	98-06-1690A	02
06	TX	MONTGOMERY COUNTY	48339C0539F	04-SEP-98	98-06-1747A	02
06	TX	MONTGOMERY COUNTY	48339C0520F	02-NOV-98	98-06-1985A	02
06	TX	MONTGOMERY COUNTY	48339C0389F	14-JUL-98	98-06-939P	05
06	TX	MONTGOMERY COUNTY	48339C0195F	19-AUG-98	98-06-940A	01
06	TX	MONTGOMERY COUNTY	48339C0195F	03-DEC-98	99-06-212A	01
06	TX	MONTGOMERY COUNTY	48339C0355F	08-DEC-98	99-06-266A	02
06	TX	MONTGOMERY COUNTY	48339C0370F	11-DEC-98	99-06-298A	02
06	TX	MOUNT PLEASANT, CITY OF	4806210005B	14-SEP-98	98-06-1786A	02
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0282H	03-NOV-98	99-06-009P	06
06	TX	NORTH RICHLAND HILLS, CITY OF	48439C0303H	14-DEC-98	99-06-301A	02
06	TX	NORTHLAKE, TOWN OF	48121C0505E	19-OCT-98	98-06-1491P	06
06	TX	NORTHLAKE, TOWN OF	48121C0495F	03-SEP-98	98-06-1541P	06
06	TX	OAK RIDGE NORTH, CITY OF	48339C0539F	13-NOV-98	99-06-093A	02
06	TX	ODESSA, CITY OF	48135C0170C	10-SEP-98	98-06-1771A	01
06	TX	ODESSA, CITY OF	48135C0135D	02-NOV-98	99-06-018A	02
06	TX	ODESSA, CITY OF	48135C0135D	21-OCT-98	99-06-063V	19

Region	State	Community	Map panel	Determination date	Case No.	Type
06	TX	ODESSA, CITY OF	48135C0170D	08-DEC-98	99-06-217A	02
06	TX	ODESSA, CITY OF	48135C0170D	08-DEC-98	99-06-229A	02
06	TX	ORANGE COUNTY	4805100100C	31-JUL-98	98-06-1424A	02
06	TX	PAMPA, CITY OF	480258B	14-SEP-98	98-06-1625A	02
06	TX	PANTEGO, TOWN OF	48439C0433H	12-AUG-98	98-06-1572A	02
06	TX	PASADENA, CITY OF	48201C1085J	08-JUL-98	98-06-1427A	01
06	TX	PAYNE SPRINGS, CITY OF	48213C0045D	18-AUG-98	98-06-1689V	19
06	TX	PFLUGERVILLE, CITY OF	48453C0075E	03-NOV-98	98-06-993P	06
06	TX	PLAINVIEW, CITY OF	4802750004B	01-DEC-98	99-06-006A	01
06	TX	PLANO, CITY OF	48085C0420G	12-AUG-98	98-06-1309A	02
06	TX	PLANO, CITY OF	48085C0440G	12-AUG-98	98-06-1309A	02
06	TX	PLANO, CITY OF	48085C0420G	30-JUL-98	98-06-1507A	02
06	TX	PLANO, CITY OF	48085C0420G	20-AUG-98	98-06-1601A	02
06	TX	PLANO, CITY OF	48085C0445G	24-AUG-98	98-06-1675A	02
06	TX	PLANO, CITY OF	48085C0420G	17-SEP-98	98-06-1704A	02
06	TX	PLANO, CITY OF	48085C0445G	10-SEP-98	98-06-1720A	02
06	TX	PLANO, CITY OF	48085C0410G	22-SEP-98	98-06-1796P	06
06	TX	PLANO, CITY OF	48085C0445G	25-SEP-98	98-06-1878A	02
06	TX	PLANO, CITY OF	48085C0440G	15-OCT-98	98-06-1951A	02
06	TX	PLANO, CITY OF	48085C0445G	15-OCT-98	98-06-1972A	17
06	TX	PLANO, CITY OF	48085C0420G	22-OCT-98	99-06-004A	02
06	TX	POLK COUNTY	4805260009B	13-AUG-98	98-06-800A	02
06	TX	RICHARDSON, CITY OF	4801840015C	10-NOV-98	99-06-043A	02
06	TX	RICHARDSON, CITY OF	4801840015C	13-NOV-98	99-06-069A	02
06	TX	RICHARDSON, CITY OF	4801840015C	13-NOV-98	99-06-099A	02
06	TX	RICHARDSON, CITY OF	4801840005C	01-DEC-98	99-06-112A	02
06	TX	RICHLAND HILLS, CITY OF	48439C0311H	19-OCT-98	98-06-2016A	02
06	TX	ROCKWALL, CITY OF	4805470005C	02-NOV-98	99-06-027A	02
06	TX	ROWLETT, CITY OF	4801850005C	06-JUL-98	98-06-1208A	01
06	TX	ROWLETT, CITY OF	4801850010C	06-JUL-98	98-06-1208A	01
06	TX	ROWLETT, CITY OF	4801850005C	26-OCT-98	98-06-1860A	01
06	TX	SACHSE, CITY OF	4801860005B	16-OCT-98	98-06-1687A	02
06	TX	SACHSE, CITY OF	4801860005B	20-OCT-98	98-06-2005A	02
06	TX	SAGINAW, CITY OF	48439C0260H	25-SEP-98	98-06-1788A	01
06	TX	SAN ANGELO, CITY OF	4806230025D	25-SEP-98	98-06-1397A	02
06	TX	SAN ANTONIO, CITY OF	48029C0284E	24-JUL-98	98-06-1503P	06
06	TX	SAN ANTONIO, CITY OF	48029C0289E	19-AUG-98	98-06-1527A	02
06	TX	SAN ANTONIO, CITY OF	48029C0140E	12-AUG-98	98-06-1530P	06
06	TX	SAN ANTONIO, CITY OF	48029C0145E	12-AUG-98	98-06-1530P	06
06	TX	SAN ANTONIO, CITY OF	48029C0607E	21-DEC-98	98-06-1559P	05
06	TX	SAN ANTONIO, CITY OF	48029C0626E	21-DEC-98	98-06-1559P	05
06	TX	SAN ANTONIO, CITY OF	48029C0628E	21-DEC-98	98-06-1559P	05
06	TX	SAN ANTONIO, CITY OF	48029C0477E	14-SEP-98	98-06-1618A	02
06	TX	SAN ANTONIO, CITY OF	48029C0405E	19-OCT-98	98-06-1914A	02
06	TX	SAN ANTONIO, CITY OF	48029C0243E	15-OCT-98	98-06-1958A	02
06	TX	SAN ANTONIO, CITY OF	48029C0259E	26-OCT-98	98-06-1986P	06
06	TX	SAN ANTONIO, CITY OF	48029C0427E	02-NOV-98	99-06-039A	02
06	TX	SAN ANTONIO, CITY OF	48029C0259E	20-NOV-98	99-06-146A	02
06	TX	SAN ANTONIO, CITY OF	48029C0261E	09-DEC-98	99-06-254A	02
06	TX	SAN ANTONIO, CITY OF	48029C0243E	15-DEC-98	99-06-317A	02
06	TX	SAN ANTONIO, CITY OF	48029C0244E	17-DEC-98	99-06-331A	02
06	TX	SAN ANTONIO, CITY OF	48029C0261E	23-DEC-98	99-06-379A	02
06	TX	SAN ANTONIO, CITY OF	48029C0283E	24-DEC-98	99-06-384A	02
06	TX	SCHERTZ, CITY OF	4802690005C	13-AUG-98	98-06-1251P	06
06	TX	SMITH COUNTY	4811850250B	14-AUG-98	98-06-1596A	02
06	TX	SMITH COUNTY	4811850170B	02-DEC-98	99-06-107A	02
06	TX	SOUTH HOUSTON,CITY OF	48201C0885J	27-AUG-98	97-06-541P	05
06	TX	SOUTH HOUSTON,CITY OF	48201C0895J	27-AUG-98	97-06-541P	05
06	TX	SOUTH HOUSTON,CITY OF	48201C0905J	27-AUG-98	97-06-541P	05
06	TX	SOUTH HOUSTON,CITY OF	48201C0915J	27-AUG-98	97-06-541P	05
06	TX	SOUTH LAKE, CITY OF	48439C0195H	13-AUG-98	98-06-1542P	06
06	TX	SOUTH LAKE, CITY OF	48439C0195H	10-SEP-98	98-06-1573A	01
06	TX	STEPHENS COUNTY	48429C0095C	25-NOV-98	99-06-163A	02
06	TX	SUNNYVALE, TOWN OF	4801880005B	06-OCT-98	98-06-1745A	01
06	TX	SUNRISE BEACH VILLAGE, CITY OF	4815310001B	07-OCT-98	98-06-1934A	02
06	TX	TARRANT COUNTY	48439C0170H	17-JUL-98	98-06-1372A	02
06	TX	TARRANT COUNTY	48439C0140H	22-DEC-98	99-06-171A	02
06	TX	TOOL, CITY OF	48213C0040D	18-AUG-98	98-06-1689V	19
06	TX	TOOL, CITY OF	48213C0040D	25-SEP-98	98-06-1865A	02
06	TX	TRAVIS COUNTY	48453C0250E	20-AUG-98	98-06-1599A	02
06	TX	TRAVIS COUNTY	48453C0205E	27-AUG-98	98-06-1633A	02
06	TX	TRAVIS COUNTY	48453C0300E	02-SEP-98	98-06-1701A	02
06	TX	TRAVIS COUNTY	48453C0080E	13-OCT-98	98-06-1795A	02

Region	Sta
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
07	IA
07	IA
07	IA

Region	State	Community	Map panel	Determination date	Case No	Type
06	TX	TRAVIS COUNTY	48453C0325E	07-OCT-98	98-06-1928A	02
06	TX	TRAVIS COUNTY	48453C0110E	26-OCT-98	98-06-2021P	05
06	TX	TRAVIS COUNTY	48453C0250E	08-DEC-98	99-06-268A	02
06	TX	TRAVIS COUNTY	48453C0065E	14-DEC-98	99-06-278A	02
06	TX	WACO, CITY OF	4804610003A	09-JUL-98	98-06-1388P	05
06	TX	WATAUGA, TOWN OF	48439C0301H	27-AUG-98	98-06-1369A	02
06	TX	WAXAHACHIE, CITY OF	4802110010C	08-DEC-98	99-06-257A	02
06	TX	WEST LAKE HILLS, CITY OF	48453C0205E	15-DEC-98	99-06-299A	01
06	TX	WICHITA FALLS, CITY OF	4806620030E	27-AUG-98	98-06-1667A	02
06	TX	WICHITA FALLS, CITY OF	4806620030E	01-DEC-98	99-06-078A	02
06	TX	WILLIAMSON COUNTY	48491C0335C	16-OCT-98	98-06-1882A	01
06	TX	WILLIAMSON COUNTY	48491C0306C	04-AUG-98	98-06-651P	06
06	TX	WILLIAMSON COUNTY	48491C0325D	20-NOV-98	99-06-144A	02
06	TX	WILLIAMSON COUNTY	48491C0250C	31-DEC-98	99-06-413A	02
06	TX	WOODCREEK, CITY OF	48209C0094E	02-NOV-98	98-06-1849A	02
07	IA	AMES, CITY OF	1902540004B	16-SEP-98	98-07-875A	02
07	IA	AMES, CITY OF	1902540006B	04-DEC-98	99-07-094A	01
07	IA	ANITA, CITY OF	190048B	03-AUG-98	98-07-722P	06
07	IA	ANKENY, CITY OF	1902260003B	20-OCT-98	97-07-480P	05
07	IA	ANKENY, CITY OF	1902260004B	20-OCT-98	97-07-480P	05
07	IA	ATLANTIC, CITY OF	1900490005B	21-SEP-98	98-07-721A	01
07	IA	BLACK HAWK COUNTY	1905350045B	17-SEP-98	98-07-886A	02
07	IA	BUCHANAN COUNTY	1908480004B	06-OCT-98	98-07-683A	01
07	IA	CAMANCHE, CITY OF	1900860005B	09-DEC-98	98-07-939A	01
07	IA	CEDAR COUNTY	190050B	27-AUG-98	98-07-635A	02
07	IA	CEDAR FALLS, CITY OF	1900170006B	13-JUL-98	98-07-682A	02
07	IA	CEDAR FALLS, CITY OF	1900170006B	20-AUG-98	98-07-765A	02
07	IA	CERRO GORDO COUNTY	1908530003A	12-AUG-98	98-07-690A	02
07	IA	CLAYTON COUNTY	1908580005C	27-AUG-98	98-07-785A	02
07	IA	CLEAR LAKE, CITY OF	1900590001B	17-JUL-98	98-07-705A	02
07	IA	CLEAR LAKE, CITY OF	1900590001B	13-AUG-98	98-07-794A	02
07	IA	CLEAR LAKE, CITY OF	1900590003B	02-SEP-98	98-07-844A	02
07	IA	CLEAR LAKE, CITY OF	1900590001B	30-DEC-98	99-07-067A	02
07	IA	CLEAR LAKE, CITY OF	1900590001B	17-DEC-98	99-07-162A	02
07	IA	CLINTON, CITY OF	1900880015C	08-DEC-98	99-07-073A	01
07	IA	CLIVE, CITY OF	1904880005C	09-JUL-98	98-07-570A	01
07	IA	CLIVE, CITY OF	1904880005C	10-SEP-98	98-07-861A	02
07	IA	CLIVE, CITY OF	1904880005C	25-SEP-98	98-07-890A	02
07	IA	CLIVE, CITY OF	1904880005C	07-OCT-98	98-07-942A	02
07	IA	CLIVE, CITY OF	1904880005C	16-DEC-98	99-07-152A	02
07	IA	CLIVE, CITY OF	1904880005C	28-DEC-98	99-07-182A	02
07	IA	DAVENPORT, CITY OF	1902420004C	17-JUL-98	98-07-525A	02
07	IA	DAVENPORT, CITY OF	1902420004C	09-JUL-98	98-07-550A	02
07	IA	DAVENPORT, CITY OF	1902420004C	17-JUL-98	98-07-706A	02
07	IA	DAVENPORT, CITY OF	1902420005B	12-AUG-98	98-07-744A	02
07	IA	DAVENPORT, CITY OF	1902420003B	25-AUG-98	98-07-770A	02
07	IA	DAVENPORT, CITY OF	1902420002B	09-SEP-98	98-07-806A	01
07	IA	DECORAH, CITY OF	190532	07-JUL-98	98-07-568A	02
07	IA	DES MOINES, CITY OF	1902270008D	16-OCT-98	98-07-824A	02
07	IA	DYERSVILLE, CITY OF	1901200001D	30-DEC-98	99-07-058A	01
07	IA	EARLY, CITY OF	190572A	30-DEC-98	99-07-219P	06
07	IA	FREDERICKSBURG, CITY OF	190066B	09-SEP-98	98-07-860A	02
07	IA	FREDERICKSBURG, CITY OF	190066B	18-NOV-98	99-07-088A	02
07	IA	GLENWOOD, CITY OF	1902030001B	13-JUL-98	98-07-661A	02
07	IA	GUTHRIE COUNTY	1908710004B	12-AUG-98	98-07-563A	02
07	IA	IOWA CITY, CITY OF	1901710005C	24-SEP-98	98-07-871A	02
07	IA	JONES COUNTY	1909190175B	08-DEC-98	98-07-926A	02
07	IA	LINN COUNTY	1908290095B	09-JUL-98	98-07-382A	02
07	IA	MARION, CITY OF	1901910004B	20-OCT-98	98-07-945A	02
07	IA	MASON CITY, CITY OF	1900600003B	10-SEP-98	98-07-742A	02
07	IA	MISSOURI VALLEY, CITY OF	1901470001B	02-DEC-98	98-07-784A	01
07	IA	NASHUA, CITY OF	1900680001B	10-SEP-98	98-07-865A	02
07	IA	NICHOLS, CITY OF	1902140001B	02-NOV-98	99-07-048A	02
07	IA	PLEASANT HILL, CITY OF	1904890002B	03-SEP-98	98-07-793A	01
07	IA	RED OAK, CITY OF	1902100002C	28-AUG-98	98-07-807A	02
07	IA	SCOTT COUNTY	1902390190C	05-NOV-98	99-07-060A	02
07	IA	SPENCER, CITY OF	1900710005B	23-JUL-98	98-07-694A	01
07	IA	SPENCER, CITY OF	1900710005B	14-AUG-98	98-07-755A	02
07	IA	SPENCER, CITY OF	1900710005B	14-SEP-98	98-07-835A	01
07	IA	SPENCER, CITY OF	1900710005B	17-SEP-98	98-07-892A	02
07	IA	SPENCER, CITY OF	1900710005B	30-DEC-98	99-07-161A	02
07	IA	SPENCER, CITY OF	1900710005B	30-DEC-98	99-07-177A	02
07	IA	WARREN COUNTY	19181C0075D	23-NOV-98	99-07-075V	19

Region	State	Community	Map panel	Determination date	Case No.	Type
07	IA	WATERLOO, CITY OF	1900250014E	30-JUL-98	98-07-466A	01
07	IA	WATERLOO, CITY OF	1900250005E	30-SEP-98	98-07-912A	02
07	IA	WATERLOO, CITY OF	1900250015E	30-SEP-98	98-07-920A	02
07	IA	WATERLOO, CITY OF	1900250005E	04-NOV-98	99-07-052A	02
07	IA	WAVERLY, CITY OF	19017C0054C	13-NOV-98	99-07-018P	06
07	IA	WHITING,CITY OF	1906840001B	25-SEP-98	98-07-938P	06
07	KS	ABILENE, CITY OF	20041C0070C	12-NOV-98	99-07-066A	01
07	KS	BARTON COUNTY	2000160390C	10-NOV-98	99-07-083A	02
07	KS	CHASE COUNTY	2000400003B	15-SEP-98	98-07-849A	02
07	KS	CHEROKEE COUNTY	2000440300B	10-SEP-98	98-07-831A	02
07	KS	DERBY, CITY OF	2003230001C	29-JUL-98	98-07-730A	02
07	KS	DERBY, CITY OF	2003230002C	23-JUL-98	98-07-731A	02
07	KS	DERBY, CITY OF	2003230001C	30-OCT-98	99-07-040A	02
07	KS	DESOTO, CITY OF	20091C0015D	04-AUG-98	98-07-791A	01
07	KS	DESOTO, CITY OF	20091C0055D	04-AUG-98	98-07-791A	01
07	KS	EDWARDSVILLE, CITY OF	2003620005B	03-DEC-98	98-07-747P	06
07	KS	EDWARDSVILLE, CITY OF	2003620005B	24-AUG-98	98-07-781A	02
07	KS	EL DORADO, CITY OF	2000390001C	17-NOV-98	99-07-056A	01
07	KS	FAIRWAY, CITY OF	20091C0042D	12-NOV-98	99-07-038A	02
07	KS	GREAT BEND, CITY OF	2000190020C	31-DEC-98	99-07-187A	02
07	KS	HALSTEAD, CITY OF	2001310001D	13-OCT-98	99-07-002V	19
07	KS	HARVEY COUNTY	2005850050B	06-JUL-98	98-07-660A	02
07	KS	HARVEY COUNTY	2005850125D	13-OCT-98	99-07-002V	19
07	KS	HARVEY COUNTY	2005850050B	08-DEC-98	99-07-113A	02
07	KS	HUTCHINSON, CITY OF	20155C0280D	09-DEC-98	99-07-146A	02
07	KS	JEFFERSON COUNTY	2001470125C	10-SEP-98	98-07-858A	02
07	KS	KANSAS CITY, CITY OF	2003630010A	03-DEC-98	98-07-747P	06
07	KS	KINGMAN, CITY OF	2001830002B	31-DEC-98	98-07-370P	05
07	KS	LEAWOOD, CITY OF	20091C0082E	14-AUG-98	98-07-767A	02
07	KS	LEAWOOD, CITY OF	20091C0094D	24-NOV-98	99-07-096A	02
07	KS	LENEXA, CITY OF	20091C0078D	02-SEP-98	98-07-572P	05
07	KS	LENEXA, CITY OF	20091C0079E	02-SEP-98	98-07-572P	05
07	KS	LENEXA, CITY OF	20091C0077D	09-SEP-98	98-07-676A	02
07	KS	LOUISVILLE, CITY OF	2002720001A	24-NOV-98	99-07-097A	17
07	KS	LYONS, CITY OF	2002950001C	02-DEC-98	99-07-131A	02
07	KS	MANHATTAN, CITY OF	2003000002D	16-DEC-98	99-07-141A	02
07	KS	MCPHERSON, CITY OF	2002170005D	17-JUL-98	98-07-701A	02
07	KS	MCPHERSON, CITY OF	2002170015D	28-AUG-98	98-07-803A	02
07	KS	MCPHERSON, CITY OF	2002170015D	17-AUG-98	98-07-805A	02
07	KS	MCPHERSON, CITY OF	2002170005D	24-SEP-98	98-07-870A	02
07	KS	MCPHERSON, CITY OF	2002170005D	17-SEP-98	98-07-887A	02
07	KS	MISSION, CITY OF	20091C0042D	03-SEP-98	98-07-838A	02
07	KS	MONTGOMERY COUNTY	2005950006B	13-AUG-98	98-07-558A	02
07	KS	NEWTON, CITY OF	2001330005C	27-AUG-98	98-07-788A	02
07	KS	NEWTON, CITY OF	2001330005C	24-AUG-98	98-07-800A	02
07	KS	NEWTON, CITY OF	2001330005C	02-NOV-98	99-07-054A	02
07	KS	NICKERSON, CITY OF	20155C0090D	28-AUG-98	98-07-804A	01
07	KS	OLATHE, CITY OF	20091C0090D	24-AUG-98	98-07-681P	05
07	KS	OVERLAND PARK, CITY OF	20091C0081E	13-JUL-98	98-07-571A	02
07	KS	PARK CITY, CITY OF	2009630001A	25-SEP-98	98-07-899A	02
07	KS	PITTSBURG, CITY OF	2000720005D	03-DEC-98	99-07-136A	02
07	KS	PRETTY PRAIRIE, CITY OF	20155C0620D	09-SEP-98	98-07-505A	02
07	KS	RENO COUNTY	20155C0315D	27-AUG-98	98-07-796A	02
07	KS	RENO COUNTY	20155C0140D	09-SEP-98	98-07-829A	17
07	KS	RENO COUNTY	20155C0145D	09-SEP-98	98-07-829A	17
07	KS	RENO COUNTY	20155C0315D	09-SEP-98	98-07-857A	02
07	KS	RENO COUNTY	20155C0315D	08-DEC-98	99-07-145A	02
07	KS	RILEY COUNTY	2002980070B	19-OCT-98	98-07-923A	02
07	KS	ROELAND PARK, CITY OF	20091C0042D	14-AUG-98	98-07-766A	02
07	KS	SALINA, CITY OF	2003190015B	06-JUL-98	98-07-666A	02
07	KS	SALINA, CITY OF	2003190015B	17-JUL-98	98-07-707A	02
07	KS	SALINA, CITY OF	2003190015B	17-JUL-98	98-07-709A	02
07	KS	SALINA, CITY OF	2003190015B	17-AUG-98	98-07-776A	02
07	KS	SALINA, CITY OF	2003190015B	09-SEP-98	98-07-777A	01
07	KS	SALINA, CITY OF	2003190015B	14-AUG-98	98-07-778A	02
07	KS	SALINA, CITY OF	2003190015B	12-AUG-98	98-07-779A	02
07	KS	SALINA, CITY OF	2003190015B	17-AUG-98	98-07-799A	02
07	KS	SALINA, CITY OF	2003190015B	17-AUG-98	98-07-812A	02
07	KS	SALINA, CITY OF	2003190015B	17-AUG-98	98-07-815A	02
07	KS	SALINA, CITY OF	2003190015B	19-AUG-98	98-07-817A	02
07	KS	SALINA, CITY OF	2003190015B	28-AUG-98	98-07-839A	02
07	KS	SALINA, CITY OF	2003190005B	28-AUG-98	98-07-843A	02
07	KS	SALINA, CITY OF	2003190015B	28-AUG-98	98-07-846A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
07	KS	SALINA, CITY OF	2003190015B	02-SEP-98	98-07-851A	02
07	KS	SALINA, CITY OF	2003190015B	17-SEP-98	98-07-893A	02
07	KS	SALINA, CITY OF	2003190015B	25-SEP-98	98-07-924A	02
07	KS	SALINA, CITY OF	2003190015B	07-OCT-98	98-07-944A	02
07	KS	SALINA, CITY OF	2003190015B	13-OCT-98	98-07-948A	02
07	KS	SALINA, CITY OF	2003190015B	13-OCT-98	99-07-004A	02
07	KS	SALINA, CITY OF	2003190015B	20-OCT-98	99-07-020A	02
07	KS	SALINA, CITY OF	2003190015B	21-OCT-98	99-07-023A	02
07	KS	SALINA, CITY OF	2003190015B	20-OCT-98	99-07-025A	02
07	KS	SALINA, CITY OF	2003190060B	21-OCT-98	99-07-032A	02
07	KS	SALINA, CITY OF	2003190015B	26-OCT-98	99-07-039A	02
07	KS	SALINA, CITY OF	2003190015B	02-NOV-98	99-07-042A	02
07	KS	SALINA, CITY OF	2003190015B	04-DEC-98	99-07-112A	02
07	KS	SALINA, CITY OF	2003190015B	02-DEC-98	99-07-124A	02
07	KS	SALINA, CITY OF	2003190015B	01-DEC-98	99-07-133A	02
07	KS	SALINA, CITY OF	2003190015B	16-DEC-98	99-07-149A	02
07	KS	SALINA, CITY OF	2003190015B	24-DEC-98	99-07-185A	02
07	KS	SALINA, CITY OF	2003190015B	24-DEC-98	99-07-194A	02
07	KS	SALINE COUNTY	2003160060B	07-AUG-98	98-07-745A	02
07	KS	SALINE COUNTY	2003160100B	12-NOV-98	99-07-069A	02
07	KS	SALINE COUNTY	2003160125B	24-DEC-98	99-07-079A	02
07	KS	SALINE COUNTY	2003160125B	25-NOV-98	99-07-119A	02
07	KS	SEDGWICK COUNTY	2003210225A	07-JUL-98	98-07-655A	02
07	KS	SEDGWICK COUNTY	2003210225A	14-AUG-98	98-07-753A	02
07	KS	SEDGWICK COUNTY	2003210125A	27-AUG-98	98-07-768A	02
07	KS	SEDGWICK COUNTY	2003210200A	04-AUG-98	98-07-792A	02
07	KS	SEDGWICK COUNTY	2003210125A	24-SEP-98	98-07-881A	02
07	KS	SEDGWICK COUNTY	2003210150A	30-SEP-98	98-07-911A	02
07	KS	SEDGWICK COUNTY	2003210200A	15-OCT-98	98-07-930A	02
07	KS	SEDGWICK COUNTY	2003210125A	22-OCT-98	99-07-035A	02
07	KS	SEDGWICK COUNTY	2003210150A	11-DEC-98	99-07-132A	02
07	KS	SEDGWICK COUNTY	2003210200A	17-DEC-98	99-07-159A	02
07	KS	SHAWNEE COUNTY	2003310135D	04-DEC-98	99-07-109A	02
07	KS	SHAWNEE, CITY OF	20091C0040D	24-JUL-98	98-07-516A	01
07	KS	SHAWNEE, CITY OF	20091C0040D	16-DEC-98	98-07-953A	01
07	KS	SUMNER COUNTY	20191C0400B	22-OCT-98	99-07-011A	02
07	KS	SUMNER COUNTY	20191C0105B	04-DEC-98	99-07-130A	02
07	KS	WICHITA, CITY OF	2003280015B	17-JUL-98	98-07-455A	01
07	KS	WICHITA, CITY OF	2003280030B	07-JUL-98	98-07-645A	17
07	KS	WICHITA, CITY OF	2003280015B	05-AUG-98	98-07-712A	02
07	KS	WICHITA, CITY OF	2003280030B	07-AUG-98	98-07-732A	02
07	KS	WICHITA, CITY OF	2003280020B	11-AUG-98	98-07-733A	02
07	KS	WICHITA, CITY OF	2003280020B	12-AUG-98	98-07-735A	02
07	KS	WICHITA, CITY OF	2003280035B	13-AUG-98	98-07-746A	17
07	KS	WICHITA, CITY OF	2003280035B	14-AUG-98	98-07-762A	02
07	KS	WICHITA, CITY OF	2003280015B	02-SEP-98	98-07-795A	02
07	KS	WICHITA, CITY OF	2003280020B	02-SEP-98	98-07-808A	02
07	KS	WICHITA, CITY OF	2003280030B	02-SEP-98	98-07-814A	17
07	KS	WICHITA, CITY OF	2003280035B	02-SEP-98	98-07-852A	02
07	KS	WICHITA, CITY OF	2003280020B	30-SEP-98	98-07-876A	02
07	KS	WICHITA, CITY OF	2003280035B	01-OCT-98	98-07-908A	02
07	KS	WICHITA, CITY OF	2003280010B	25-SEP-98	98-07-910A	02
07	KS	WICHITA, CITY OF	2003280035B	30-SEP-98	98-07-928A	02
07	KS	WICHITA, CITY OF	2003280030B	15-OCT-98	98-07-949A	02
07	KS	WICHITA, CITY OF	2003280035B	22-OCT-98	99-07-015A	02
07	KS	WICHITA, CITY OF	2003280005B	12-NOV-98	99-07-037A	02
07	KS	WICHITA, CITY OF	2003280035B	17-NOV-98	99-07-086A	02
07	KS	WICHITA, CITY OF	2003280035B	03-DEC-98	99-07-100A	02
07	KS	WICHITA, CITY OF	2003280035B	03-DEC-98	99-07-101A	02
07	KS	WICHITA, CITY OF	2003280125A	17-DEC-98	99-07-129A	01
07	KS	WINFIELD, CITY OF	2000710004B	14-JUL-98	98-07-486A	01
07	MO	ARNOLD, CITY OF	2901880002C	21-SEP-98	98-07-649P	06
07	MO	ARNOLD, CITY OF	2901880004C	21-SEP-98	98-07-649P	06
07	MO	ARNOLD, CITY OF	2901880001C	11-AUG-98	98-07-816A	02
07	MO	ARNOLD, CITY OF	2901880003C	23-DEC-98	99-07-223A	02
07	MO	BLUE SPRINGS, CITY OF	2901690005C	30-DEC-98	99-07-160A	02
07	MO	BUCHANAN COUNTY	2900400025B	26-OCT-98	98-07-925A	02
07	MO	BUTLER COUNTY	2900440080C	30-DEC-98	99-07-091A	02
07	MO	CAMDEN COUNTY	2907890006B	14-SEP-98	98-07-841A	02
07	MO	CAPE GIRARDEAU COUNTY	2907900095C	02-SEP-98	98-07-743A	02
07	MO	CARROLLTON, TOWN OF	2900580005B	13-AUG-98	98-07-758A	02
07	MO	CASS COUNTY	2907830100C	16-JUL-98	98-07-699A	02
07	MO	CASS COUNTY	2907830100C	16-SEP-98	98-07-888A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
07	MO	CHILLICOTHE, CITY OF	2902160005B	02-NOV-98	99-07-050A	02
07	MO	CLAY COUNTY	2900860050B	21-OCT-98	99-07-031A	02
07	MO	COLUMBIA, CITY OF	2900360016C	13-OCT-98	99-07-001A	02
07	MO	CRYSTAL CITY,CITY OF	2901890005C	05-AUG-98	98-07-719A	02
07	MO	DARDENNE PRAIRIE, TOWN OF	29183C0430E	14-SEP-98	98-07-508A	01
07	MO	DES PERES, CITY OF	29189C0279H	27-AUG-98	98-07-716A	01
07	MO	DUNKLIN COUNTY	2901220200B	30-OCT-98	99-07-047A	02
07	MO	EXCELSIOR SPRINGS, CITY OF	2900900002B	03-SEP-98	98-07-773A	02
07	MO	FENTON, CITY OF	29189C0289H	30-JUL-98	98-07-623A	01
07	MO	FERGUSON, CITY OF	29189C0181H	13-JUL-98	98-07-639A	02
07	MO	FRONTENAC, CITY OF	29189C0281H	13-OCT-98	99-07-017A	02
07	MO	GREENE COUNTY	2907820135B	11-DEC-98	99-07-128A	02
07	MO	GREENE COUNTY	2907820070B	24-DEC-98	99-07-183A	02
07	MO	INDEPENDENCE,CITY OF	2901720020D	03-AUG-98	98-07-711A	02
07	MO	INDEPENDENCE,CITY OF	2901720035D	12-NOV-98	98-07-941A	17
07	MO	INDEPENDENCE,CITY OF	2901720010D	22-OCT-98	99-07-016A	02
07	MO	JACKSON COUNTY	2904920210C	30-SEP-98	98-07-884A	02
07	MO	JEFFERSON COUNTY	2908080085C	16-JUL-98	98-07-618A	01
07	MO	JEFFERSON COUNTY	2908080120C	17-SEP-98	98-07-674A	02
07	MO	JEFFERSON COUNTY	2908080165B	17-JUL-98	98-07-703A	02
07	MO	JEFFERSON COUNTY	2908080085C	27-AUG-98	98-07-813A	02
07	MO	JEFFERSON COUNTY	2908080080C	14-SEP-98	98-07-866A	02
07	MO	JEFFERSON COUNTY	2908080085C	13-OCT-98	98-07-936A	02
07	MO	JEFFERSON COUNTY	2908080080C	02-NOV-98	99-07-046A	02
07	MO	JEFFERSON COUNTY	2908080155B	09-DEC-98	99-07-118A	02
07	MO	JOPLIN, CITY OF	2901830015C	12-NOV-98	99-07-063A	01
07	MO	KANSAS CITY, CITY OF	2901730105B	30-JUL-98	98-07-763A	17
07	MO	LADUE,CITY OF	29189C0188H	17-JUL-98	98-07-680A	02
07	MO	LADUE,CITY OF	29189C0188H	17-NOV-98	99-07-012A	02
07	MO	LAKE WINNEBAGO, CITY OF	2908770001A	14-AUG-98	98-07-754A	02
07	MO	LAKE WINNEBAGO, CITY OF	2908770001A	27-AUG-98	98-07-797A	02
07	MO	LINCOLN COUNTY	2908690120C	09-JUL-98	98-07-512A	02
07	MO	MANCHESTER, CITY OF	29189C0257H	30-SEP-98	98-07-906A	02
07	MO	MARION COUNTY	2902220002A	16-JUL-98	98-07-609A	02
07	MO	MARYLAND HEIGHTS, CITY OF	29189C0154H	10-DEC-98	99-07-184A	02
07	MO	MARYVILLE, CITY OF	290264B	03-AUG-98	98-07-679P	06
07	MO	MCDONALD COUNTY	2908170150A	24-AUG-98	98-07-648A	02
07	MO	MCDONALD COUNTY	2908170150A	13-JUL-98	98-07-671A	02
07	MO	MORGAN COUNTY	2902440200A	30-OCT-98	99-07-036A	02
07	MO	O'FALLON, CITY OF	29183C0239E	12-AUG-98	98-07-444A	01
07	MO	O'FALLON, CITY OF	29183C0237E	06-JUL-98	98-07-548A	02
07	MO	O'FALLON, CITY OF	29183C0241E	14-AUG-98	98-07-756A	02
07	MO	O'FALLON, CITY OF	29183C0430E	27-AUG-98	98-07-772A	02
07	MO	O'FALLON, CITY OF	29183C0239E	05-OCT-98	98-07-840A	01
07	MO	O'FALLON, CITY OF	29183C0235E	24-NOV-98	99-07-022A	01
07	MO	O'FALLON, CITY OF	29183C0237E	18-DEC-98	99-07-151A	01
07	MO	OLD MONROE, CITY OF	2902110001B	17-DEC-98	99-07-148A	02
07	MO	OZARK, CITY OF	2908470003A	24-AUG-98	98-07-729A	02
07	MO	PACIFIC, CITY OF	2901340001C	03-SEP-98	98-07-718A	02
07	MO	PACIFIC, CITY OF	2901340001C	18-NOV-98	98-07-748A	02
07	MO	PACIFIC, CITY OF	2901340001C	13-AUG-98	98-07-782A	02
07	MO	PACIFIC, CITY OF	2901340001C	17-DEC-98	99-07-111A	02
07	MO	PARIS, CITY OF	290241A	14-SEP-98	98-07-821A	02
07	MO	PECULIAR, CITY OF	2908780001A	14-SEP-98	98-07-850A	02
07	MO	PECULIAR, CITY OF	2908780001A	21-SEP-98	98-07-885A	02
07	MO	PEMISCOT COUNTY	2907790025B	21-OCT-98	99-07-013A	02
07	MO	PHELPS COUNTY	2908240225B	16-JUL-98	98-07-606A	02
07	MO	POPLAR BLUFF, CITY OF	2900470003C	03-SEP-98	98-07-845A	17
07	MO	SEDALIA, CITY OF	2902830001C	23-JUL-98	98-07-684A	02
07	MO	SPRINGFIELD, CITY OF	2901490007B	02-SEP-98	98-07-638A	17
07	MO	ST. CHARLES COUNTY	29183C0435E	23-DEC-98	99-07-043A	01
07	MO	ST. CHARLES COUNTY	29183C0268E	09-DEC-98	99-07-105A	02
07	MO	ST. CHARLES, CITY OF	29183C0286E	29-SEP-98	98-07-614A	01
07	MO	ST. CHARLES, CITY OF	29183C0286E	28-JUL-98	98-07-713A	02
07	MO	ST. CHARLES, CITY OF	29183C0267E	15-OCT-98	98-07-848A	02
07	MO	ST. CHARLES, CITY OF	29183C0267E	31-DEC-98	99-07-104A	02
07	MO	ST. CHARLES, CITY OF	29183C0286E	23-DEC-98	99-07-173A	02
07	MO	ST. CHARLES, CITY OF	29183C0286E	24-DEC-98	99-07-174A	02
07	MO	ST. FRANCOIS COUNTY	2908320100B	09-DEC-98	99-07-102A	02
07	MO	ST. JOSEPH, CITY OF	2900430010C	02-NOV-98	98-07-952A	02
07	MO	ST. LOUIS COUNTY	29189C0288H	27-JUL-98	98-07-567A	02
07	MO	ST. LOUIS COUNTY	29189C0278H	14-JUL-98	98-07-603A	01
07	MO	ST. LOUIS COUNTY	29189C0293H	28-JUL-98	98-07-720A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
07	MO	ST. LOUIS COUNTY	29189C0415H	14-SEP-98	98-07-862A	02
07	MO	ST. PETERS, CITY OF	29183C0244E	14-AUG-98	98-07-631A	01
07	MO	ST. PETERS, CITY OF	29183C0242E	17-JUL-98	98-07-647A	01
07	MO	ST. PETERS, CITY OF	29183C0263E	14-JUL-98	98-07-695A	02
07	MO	ST. PETERS, CITY OF	29183C0242E	24-AUG-98	98-07-809A	02
07	MO	ST. PETERS, CITY OF	29183C0244E	24-SEP-98	98-07-872A	02
07	MO	ST. PETERS, CITY OF	29183C0262E	24-SEP-98	98-07-873A	01
07	MO	ST. PETERS, CITY OF	29183C0244E	21-OCT-98	98-07-900A	01
07	MO	ST. PETERS, CITY OF	29183C0264E	12-NOV-98	99-07-030A	02
07	MO	STE. GENEVIEVE COUNTY	2908330050B	21-OCT-98	98-07-904A	02
07	MO	STODDARD COUNTY	2908450175B	15-OCT-98	98-07-891A	02
07	MO	UNIVERSITY CITY, CITY OF	29189C0191H	14-AUG-98	98-07-771A	02
07	MO	VALLEY PARK, CITY OF	29189C0278H	13-JUL-98	98-07-665A	01
07	MO	VALLEY PARK, CITY OF	29189C0278H	14-AUG-98	98-07-757A	01
07	MO	WARREN COUNTY	2904430125B	07-OCT-98	98-07-933A	02
07	MO	WARREN COUNTY	2904430075B	24-DEC-98	99-07-175A	02
07	MO	WASHINGTON, CITY OF	2901380003B	17-DEC-98	99-07-153A	02
07	MO	WASHINGTON, CITY OF	2901380001B	30-DEC-98	99-07-234A	02
07	MO	WEST PLAINS, CITY OF	2901660003D	14-SEP-98	98-07-828A	02
07	NE	BELLEVUE, CITY OF	31153C0065F	15-OCT-98	98-07-932A	02
07	NE	BELLEVUE, CITY OF	31153C0065F	12-NOV-98	99-07-084A	01
07	NE	CASS COUNTY	3104070025A	31-DEC-98	99-07-181A	01
07	NE	CENTRAL CITY, CITY OF	3101480005C	23-DEC-98	99-07-172A	02
07	NE	CERESCO, VILLAGE OF	3101970001A	13-OCT-98	98-07-913A	02
07	NE	CLARKS, VILLAGE OF	3101490005A	28-JUL-98	98-07-702A	02
07	NE	COLFAX COUNTY	3104260005B	22-OCT-98	99-07-007A	02
07	NE	CUMING COUNTY	3104270004B	08-OCT-98	98-07-937A	02
07	NE	CUMING COUNTY	3104270004B	02-NOV-98	99-07-053A	02
07	NE	DODGE COUNTY	3100680150B	06-JUL-98	98-07-669A	02
07	NE	DOUGLAS COUNTY	3100730125B	30-JUL-98	98-07-662A	17
07	NE	DOUGLAS COUNTY	3100730125B	12-NOV-98	98-07-832A	17
07	NE	FREMONT, CITY OF	3100690002C	02-NOV-98	99-07-026A	01
07	NE	GRAND ISLAND, CITY OF	3101030015B	14-JUL-98	98-07-675A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	14-JUL-98	98-07-686A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	16-JUL-98	98-07-691A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	13-AUG-98	98-07-750A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	13-AUG-98	98-07-751A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	14-AUG-98	98-07-752A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	24-AUG-98	98-07-786A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	27-AUG-98	98-07-787A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	27-AUG-98	98-07-801A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	09-SEP-98	98-07-834A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	10-SEP-98	98-07-837A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	15-SEP-98	98-07-853A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	21-SEP-98	98-07-854A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	09-SEP-98	98-07-855A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	09-SEP-98	98-07-856A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	09-SEP-98	98-07-859A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	25-SEP-98	98-07-878A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	17-SEP-98	98-07-880A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	21-SEP-98	98-07-882A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	24-SEP-98	98-07-914A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	23-SEP-98	98-07-915A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	23-SEP-98	98-07-916A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	25-SEP-98	98-07-917A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	07-OCT-98	98-07-940A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	15-OCT-98	98-07-950A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	15-OCT-98	98-07-954A	02
07	NE	GRAND ISLAND, CITY OF	3101030005B	21-OCT-98	99-07-029A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	12-NOV-98	99-07-080A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	17-NOV-98	99-07-082A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	24-NOV-98	99-07-093A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	01-DEC-98	99-07-114A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	04-DEC-98	99-07-115A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	25-NOV-98	99-07-122A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	25-NOV-98	99-07-123A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	04-DEC-98	99-07-137A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	09-DEC-98	99-07-142A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	16-DEC-98	99-07-155A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	16-DEC-98	99-07-156A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	18-DEC-98	99-07-166A	02
07	NE	GRAND ISLAND, CITY OF	3101030010B	18-DEC-98	99-07-180A	02
07	NE	GRAND ISLAND, CITY OF	3101030020B	24-DEC-98	99-07-201A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
07	NE	GRAND ISLAND, CITY OF	3101030015B	28-DEC-98	99-07-202A	02
07	NE	GRAND ISLAND, CITY OF	3101030015B	30-DEC-98	99-07-203A	02
07	NE	HALL COUNTY	3101000100C	17-NOV-98	99-07-081A	02
07	NE	HAMILTON COUNTY	3104410025A	27-AUG-98	98-07-775A	02
07	NE	HARTINGTON, CITY OF	3103760005A	12-NOV-98	99-07-062A	02
07	NE	HARTINGTON, CITY OF	3103760005A	08-DEC-98	99-07-125A	02
07	NE	HOWARD COUNTY	3104460100A	03-SEP-98	98-07-802A	02
07	NE	JUNIATA, VILLAGE OF	3102930001B	30-SEP-98	98-07-905A	02
07	NE	KEARNEY, CITY OF	3100160020C	07-JUL-98	98-07-654A	02
07	NE	KEARNEY, CITY OF	3100160020C	28-AUG-98	98-07-700A	02
07	NE	KEARNEY, CITY OF	3100160020C	27-AUG-98	98-07-780A	01
07	NE	LA VISTA, CITY OF	31153C0065F	29-SEP-98	98-07-820A	02
07	NE	LANCASTER COUNTY	3101340200B	23-DEC-98	99-07-116A	01
07	NE	LINCOLN, CITY OF	3152730025D	12-AUG-98	98-07-688A	02
07	NE	LINCOLN, CITY OF	3152730025D	14-SEP-98	98-07-689A	01
07	NE	LINCOLN, CITY OF	3152730037D	14-AUG-98	98-07-724A	02
07	NE	LINCOLN, CITY OF	3152730025D	28-AUG-98	98-07-810A	02
07	NE	LINCOLN, CITY OF	3152730025D	29-SEP-98	98-07-863A	01
07	NE	LINCOLN, CITY OF	3152730025D	06-OCT-98	98-07-879A	01
07	NE	LINCOLN, CITY OF	3152730025D	09-DEC-98	99-07-150A	02
07	NE	LINCOLN, CITY OF	3152730020D	31-DEC-98	99-07-235A	02
07	NE	MERRICK COUNTY	3104570175A	16-JUL-98	98-07-687A	02
07	NE	MERRICK COUNTY	3104570175B	07-AUG-98	98-07-740A	02
07	NE	MERRICK COUNTY	3104570150A	03-SEP-98	98-07-864A	02
07	NE	MERRICK COUNTY	3104570175B	13-OCT-98	99-07-003V	19
07	NE	MERRICK COUNTY	3104570200B	30-OCT-98	99-07-041A	02
07	NE	OMAHA, CITY OF	3152740050F	07-JUL-98	98-07-656A	02
07	NE	OMAHA, CITY OF	3152740045G	27-AUG-98	98-07-667P	06
07	NE	OMAHA, CITY OF	3152740045G	06-JUL-98	98-07-670A	02
07	NE	OMAHA, CITY OF	3152740030F	31-AUG-98	98-07-783A	02
07	NE	OMAHA, CITY OF	3152740030F	14-SEP-98	98-07-833A	02
07	NE	OMAHA, CITY OF	3152740025F	21-SEP-98	98-07-847A	02
07	NE	OMAHA, CITY OF	3152740050F	24-NOV-98	99-07-087A	02
07	NE	OMAHA, CITY OF	3152740045G	24-NOV-98	99-07-095A	02
07	NE	PAPILLION, CITY OF	31153C0045F	14-AUG-98	97-07-338P	05
07	NE	PAPILLION, CITY OF	31153C0065F	14-AUG-98	97-07-338P	05
07	NE	PAPILLION, CITY OF	31153C0065F	16-SEP-98	98-07-836A	01
07	NE	PLATTE COUNTY	3104670008B	13-AUG-98	98-07-826A	01
07	NE	PLATTE COUNTY	3104670008C	07-OCT-98	98-07-827V	19
07	NE	PLATTE COUNTY	3104670009C	07-OCT-98	98-07-827V	19
07	NE	PLATTE COUNTY	3104670009C	21-OCT-98	99-07-027A	02
07	NE	PLATTE COUNTY	3104670009C	09-DEC-98	99-07-164A	02
07	NE	SARPY COUNTY	31153C0045F	14-AUG-98	97-07-338P	05
07	NE	SARPY COUNTY	31153C0065F	14-AUG-98	97-07-338P	05
07	NE	SARPY COUNTY	31153C0135F	05-NOV-98	99-07-057A	02
07	NE	SARPY COUNTY	31153C0065F	12-NOV-98	99-07-085A	01
07	NE	SCHUYLER, CITY OF	3100460005B	17-JUL-98	98-07-708A	02
07	NE	SCHUYLER, CITY OF	3100460005B	27-AUG-98	98-07-798A	02
07	NE	SCHUYLER, CITY OF	3100460010B	25-SEP-98	98-07-867A	02
07	NE	SCHUYLER, CITY OF	3100460005B	19-OCT-98	98-07-934A	02
07	NE	SCHUYLER, CITY OF	3100460005B	12-NOV-98	98-07-943A	02
07	NE	SCHUYLER, CITY OF	3100460005B	12-NOV-98	99-07-008A	02
07	NE	SCHUYLER, CITY OF	3100460005B	15-OCT-98	99-07-009A	02
07	NE	SCHUYLER, CITY OF	3100460005B	30-DEC-98	99-07-195A	02
07	NE	SCHUYLER, CITY OF	3100460005B	31-DEC-98	99-07-196A	02
07	NE	SEWARD, CITY OF	3102100010C	17-AUG-98	98-07-774A	02
07	NE	YORK COUNTY	3104860005B	27-AUG-98	98-07-697A	02
08	CO	ADAMS COUNTY	08001C0730G	28-AUG-98	98-08-393A	17
08	CO	ARVADA, CITY OF	0850720006B	12-AUG-98	97-08-414P	05
08	CO	ARVADA, CITY OF	0850720002B	10-SEP-98	98-08-424A	01
08	CO	ARVADA, CITY OF	0850720002B	26-OCT-98	99-08-002A	02
08	CO	AURORA, CITY OF	0800020180F	23-NOV-98	99-08-037V	19
08	CO	AURORA, CITY OF	0800020185E	23-NOV-98	99-08-037V	19
08	CO	BLACK HAWK, CITY OF	0800760001B	09-NOV-98	98-08-310P	05
08	CO	BOULDER COUNTY	08013C0395F	20-OCT-98	98-08-409P	06
08	CO	BOULDER, CITY OF	08013C0395F	20-OCT-98	98-08-409P	06
08	CO	BROOMFIELD, CITY OF	0850730010D	16-JUL-98	98-08-260A	01
08	CO	BROOMFIELD, CITY OF	0850730020E	16-JUL-98	98-08-260A	01
08	CO	CANON CITY, CITY OF	0800680001D	02-NOV-98	99-08-020A	02
08	CO	CHAFFEE COUNTY	0802690400B	02-NOV-98	98-08-417A	02
08	CO	CHAFFEE COUNTY	0802690375B	15-OCT-98	98-08-466A	02
08	CO	CHAFFEE COUNTY	0802690400B	15-OCT-98	98-08-466A	02
08	CO	COLORADO SPRINGS, CITY OF	08041C0517F	01-JUL-98	98-08-135P	05

Region	Sta
08	CO
08	CO
08	CO

Region	State	Community	Map panel	Determination date	Case No.	Type
08	CO	COLORADO SPRINGS, CITY OF	08041C0742F	27-AUG-98	98-08-313P	06
08	CO	COLORADO SPRINGS, CITY OF	08041C0753F	27-AUG-98	98-08-313P	06
08	CO	COLORADO SPRINGS, CITY OF	08041C0761F	27-AUG-98	98-08-313P	06
08	CO	COLORADO SPRINGS, CITY OF	08041C0516F	21-JUL-98	98-08-362A	02
08	CO	COLORADO SPRINGS, CITY OF	08041C0513F	20-AUG-98	98-08-383A	02
08	CO	COLORADO SPRINGS, CITY OF	08041C0504F	10-AUG-98	98-08-391A	02
08	CO	COLORADO SPRINGS, CITY OF	08041C0726F	10-DEC-98	99-08-076A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460018C	13-AUG-98	98-08-375A	01
08	CO	DENVER, CITY AND COUNTY OF	0800460013C	07-OCT-98	98-08-396A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460018C	02-NOV-98	99-08-013A	02
08	CO	DENVER, CITY AND COUNTY OF	0800460019E	23-NOV-98	99-08-038V	19
08	CO	DOUGLAS COUNTY	0800490050C	13-AUG-98	98-08-346A	02
08	CO	EAGLE COUNTY	0800510240C	17-JUL-98	98-08-315A	02
08	CO	EL PASO COUNTY	08041C0277F	22-SEP-98	98-08-406A	02
08	CO	EL PASO COUNTY	08041C0276F	09-NOV-98	99-08-012P	05
08	CO	ERIE, TOWN OF	0801810001D	16-NOV-98	99-08-035P	06
08	CO	FORT COLLINS, CITY OF	0801020011C	18-NOV-98	99-08-039A	17
08	CO	FOUNTAIN, CITY OF	08041C0958F	23-SEP-98	98-08-430A	02
08	CO	FREDERICK, TOWN OF	0802440001B	30-DEC-98	99-08-101A	02
08	CO	GARFIELD COUNTY	0802051354B	21-AUG-98	98-08-415A	01
08	CO	GILPIN COUNTY	080075B	05-AUG-98	98-08-288A	01
08	CO	GUNNISON COUNTY	0800780615B	06-OCT-98	98-08-419A	01
08	CO	GUNNISON COUNTY	0800780475B	13-NOV-98	98-08-462A	02
08	CO	HINSDALE COUNTY	08053C0125B	28-AUG-98	98-08-418A	02
08	CO	JEFFERSON COUNTY	0800870380C	10-SEP-98	98-08-394A	01
08	CO	JEFFERSON COUNTY	0800870165B	03-DEC-98	99-08-001P	05
08	CO	JEFFERSON COUNTY	0800870170B	03-DEC-98	99-08-001P	05
08	CO	JEFFERSON COUNTY	0800870380C	20-NOV-98	99-08-056A	02
08	CO	LA PLATA COUNTY	0800970278C	13-OCT-98	99-08-006A	02
08	CO	LAKEWOOD, CITY OF	0850750005C	24-SEP-98	97-08-363P	05
08	CO	LAKEWOOD, CITY OF	0850750005C	02-DEC-98	99-08-030A	02
08	CO	LAKEWOOD, CITY OF	0850750005C	23-DEC-98	99-08-086A	02
08	CO	LARIMER COUNTY	0801010239C	09-OCT-98	98-08-426A	02
08	CO	LONGMONT, CITY OF	08013C0286F	18-AUG-98	98-08-386A	01
08	CO	LONGMONT, CITY OF	08013C0288F	05-OCT-98	98-08-460A	01
08	CO	LOVELAND, CITY OF	0801030010C	23-DEC-98	99-08-091A	02
08	CO	MEEKER, TOWN OF	0801510001B	06-AUG-98	98-08-126P	05
08	CO	OURAY COUNTY	0801360316A	09-NOV-98	98-08-333P	05
08	CO	OURAY, CITY OF	0801370316C	09-NOV-98	98-08-333P	05
08	CO	PARKER, TOWN OF	0803100185B	02-NOV-98	98-08-283A	02
08	CO	STEAMBOAT SPRINGS, TOWN OF	0801590003C	22-OCT-98	99-08-016A	02
08	CO	SUMMIT COUNTY	0802900192C	23-JUL-98	98-08-363A	02
08	CO	WELD COUNTY	0802660866C	02-OCT-98	98-08-405A	01
08	CO	WELD COUNTY	0802660750C	25-AUG-98	98-08-408A	02
08	CO	WELD COUNTY	0802660750C	18-SEP-98	98-08-448A	02
08	CO	WELLINGTON, TOWN OF	0801040001C	21-OCT-98	98-08-436A	02
08	MT	CARBON COUNTY	3001390040B	02-DEC-98	98-08-237A	02
08	MT	CASCADE COUNTY	3000080415B	04-SEP-98	98-08-425A	02
08	MT	FLATHEAD COUNTY	3000232305D	14-JUL-98	98-08-349A	02
08	MT	FLATHEAD COUNTY	3000231090C	05-AUG-98	98-08-361A	02
08	MT	FLATHEAD COUNTY	3000231810D	21-SEP-98	98-08-437A	02
08	MT	FLATHEAD COUNTY	3000231435C	02-NOV-98	99-08-021A	01
08	MT	FLATHEAD COUNTY	3000231420C	02-NOV-98	99-08-023A	02
08	MT	FLATHEAD COUNTY	3000231800C	13-NOV-98	99-08-036A	02
08	MT	JEFFERSON COUNTY	3001540550B	10-DEC-98	98-08-458A	02
08	MT	JEFFERSON COUNTY	3001540550B	19-NOV-98	99-08-007A	02
08	MT	LINCOLN COUNTY	3001570620B	09-SEP-98	98-08-432A	02
08	MT	LINCOLN COUNTY	3001570620B	22-OCT-98	99-08-005A	02
08	MT	LIVINGSTON, CITY OF	3000510005B	09-SEP-98	98-08-385A	02
08	MT	MILES CITY, CITY OF	3000140005C	07-AUG-98	98-08-389A	02
08	MT	MISSOULA COUNTY	30063C1770D	20-OCT-98	99-08-003A	01
08	MT	MISSOULA COUNTY	30063C1465D	01-DEC-98	99-08-057A	01
08	MT	MISSOULA, CITY OF	30063C1215D	07-OCT-98	98-08-469A	17
08	MT	PARK COUNTY	3001600024B	20-OCT-98	98-08-420A	02
08	MT	RED LODGE, CITY OF	3000070001B	01-OCT-98	98-08-402A	02
08	MT	ROUNDUP, CITY OF	3000500001B	01-DEC-98	99-08-052A	02
08	MT	ROUNDUP, CITY OF	3000500001B	08-DEC-98	99-08-075A	02
08	MT	THREE FORKS, TOWN OF	3000290001B	05-OCT-98	98-08-433A	02
08	MT	VALLEY COUNTY	3001710020B	23-JUL-98	98-08-322A	02
08	MT	YELLOWSTONE COUNTY	3001421020A	16-DEC-98	99-08-071A	02
08	ND	BISMARCK, CITY OF	3801490015A	17-JUL-98	98-08-336A	02
08	ND	BISMARCK, CITY OF	3801490020B	21-OCT-98	99-08-009V	19
08	ND	BISMARCK, CITY OF	3801490025A	20-NOV-98	99-08-027A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
08	ND	BURLEIGH COUNTY	3800170570A	02-NOV-98	98-08-473A	01
08	ND	DURBIN, TOWNSHIP OF	3803250025A	14-DEC-98	99-08-049A	02
08	ND	GRAND FORKS COUNTY	3800330004B	25-AUG-98	98-08-387A	02
08	ND	GRAND FORKS COUNTY	3800330007B	27-AUG-98	98-08-388A	02
08	ND	GRAND FORKS COUNTY	3800330004B	05-OCT-98	98-08-464A	02
08	ND	GRAND FORKS, CITY OF	3853650010D	30-DEC-98	99-08-089A	01
08	ND	HAZEN, CITY OF	3800670005D	10-DEC-98	99-08-073A	02
08	ND	MORTON COUNTY	3801480240A	24-DEC-98	99-08-024A	01
08	ND	NORMANNA, TOWNSHIP OF	3802640010B	13-OCT-98	98-08-422A	02
08	ND	THOMPSON, CITY OF	3802080001B	02-DEC-98	99-08-070A	02
08	SD	ABERDEEN, CITY OF	46013C0245C	21-SEP-98	98-08-438A	02
08	SD	DELL RAPIDS, CITY OF	4600590001A	15-SEP-98	98-08-445A	02
08	SD	ELK POINT, CITY OF	460242C	06-NOV-98	98-08-475A	01
08	SD	GROTON, CITY OF	46013C0352C	07-OCT-98	98-08-471A	02
08	SD	NORTH SIOUX CITY, CITY OF	4600870005C	06-NOV-98	99-08-034A	02
08	SD	NORTH SIOUX CITY, CITY OF	4600870005C	04-DEC-98	99-08-048A	02
08	SD	NORTH SIOUX CITY, CITY OF	4600870005C	19-NOV-98	99-08-051A	02
08	SD	RAPID CITY, CITY OF	4654200004F	10-AUG-98	98-08-390A	02
08	SD	SIOUX FALLS, CITY OF	4600600015C	16-NOV-98	99-08-017A	01
08	SD	SPEARFISH, CITY OF	4600460005D	27-AUG-98	98-08-374A	01
08	SD	WATERTOWN, CITY OF	4600160010B	31-AUG-98	98-08-353A	01
08	UT	ALPINE, CITY OF	4902280005A	06-JUL-98	98-08-225A	02
08	UT	BOX ELDER COUNTY	4900050044C	26-OCT-98	98-08-312P	06
08	UT	FAIRVIEW, CITY OF	490113B	28-AUG-98	98-08-413A	02
08	UT	GARFIELD COUNTY	4900650450B	16-OCT-98	98-08-468A	02
08	UT	NIBLEY, TOWN OF	490023A	14-DEC-98	98-08-444A	01
08	UT	NORTH OGDEN, CITY OF	4902140002B	21-AUG-98	98-08-412A	02
08	UT	OGDEN, CITY OF	4901890002B	27-JUL-98	98-08-306A	02
08	UT	PERRY CITY, CITY OF	4900100005B	26-OCT-98	98-08-312P	06
08	UT	RIVERTON, CITY OF	4901040002C	03-SEP-98	98-08-199P	06
08	UT	RIVERTON, CITY OF	4901040001C	02-SEP-98	98-08-367P	06
08	UT	RIVERTON, CITY OF	4901040002C	02-SEP-98	98-08-367P	06
08	UT	SALT LAKE COUNTY	4901020450B	03-SEP-98	98-08-199P	06
08	UT	SANPETE COUNTY	4901110007B	24-JUL-98	98-08-369A	02
08	UT	SOUTH JORDAN, CITY OF	4901070008C	03-SEP-98	98-08-199P	06
08	UT	SOUTH JORDAN, CITY OF	4901070008C	02-SEP-98	98-08-367P	06
08	UT	SOUTH JORDAN, CITY OF	4901070009C	02-SEP-98	98-08-367P	06
08	UT	SOUTH JORDAN, CITY OF	4901070009C	06-AUG-98	98-08-381A	02
08	UT	SOUTH JORDAN, CITY OF	4901070009C	08-DEC-98	99-08-055A	02
08	UT	ST. GEORGE, CITY OF	4901770003D	01-OCT-98	98-08-263P	06
08	UT	ST. GEORGE, CITY OF	4901770011D	01-OCT-98	98-08-263P	06
08	UT	SUMMIT COUNTY	4901340525B	20-OCT-98	98-08-352A	02
08	UT	TAYLORSVILLE, CITY OF	4901020291C	26-OCT-98	98-08-366A	01
08	UT	UINTAH COUNTY	4901470014C	11-AUG-98	98-08-379A	02
08	UT	UINTAH COUNTY	4901470014C	27-AUG-98	98-08-400A	02
08	UT	WEBER COUNTY	4901870225B	30-JUL-98	98-08-370A	02
08	UT	WEBER COUNTY	4901870250B	06-NOV-98	98-08-404A	02
08	UT	WELLSVILLE, CITY OF	4900310001B	09-SEP-98	98-08-421A	02
08	WY	CASPER, CITY OF	5600370010C	25-AUG-98	98-08-395A	02
08	WY	CASPER, CITY OF	5600370010C	29-SEP-98	98-08-450A	02
08	WY	CHEYENNE, CITY OF	5600300005E	09-OCT-98	98-08-224A	01
08	WY	GILLETTE, CITY OF	5600070005C	10-SEP-98	98-08-431A	02
08	WY	ROCK SPRINGS, CITY OF	5600510005E	01-DEC-98	99-08-044A	02
08	WY	SHERIDAN COUNTY	5600470027C	01-DEC-98	98-08-463A	02
08	WY	TETON COUNTY	56039C0655B	10-SEP-98	98-08-384A	02
08	WY	UINTA COUNTY	5600530275B	05-AUG-98	98-08-355A	02
08	WY	UINTA COUNTY	5600530150B	02-OCT-98	98-08-456A	02
08	WY	UINTA COUNTY	5600530150B	13-OCT-98	99-08-008A	02
08	WY	UINTA COUNTY	5600530275B	01-DEC-98	99-08-066A	02
08	WY	UINTA COUNTY	5600530150B	24-DEC-98	99-08-085A	02
09	AZ	AVONDALE, CITY OF	04013C2080G	19-AUG-98	98-09-813P	05
09	AZ	BULLHEAD CITY, CITY OF	0401250020F	04-SEP-98	98-09-430A	01
09	AZ	GILBERT, TOWN OF	04013C2660E	25-AUG-98	98-09-1008A	01
09	AZ	GILBERT, TOWN OF	04013C2655E	02-OCT-98	98-09-1139A	01
09	AZ	GILBERT, TOWN OF	04013C2190E	02-OCT-98	98-09-1140A	01
09	AZ	GILBERT, TOWN OF	04013C2660E	10-DEC-98	98-09-1143A	01
09	AZ	GILBERT, TOWN OF	04013C2660E	15-JUL-98	98-09-639P	05
09	AZ	GILBERT, TOWN OF	04013C2670F	15-JUL-98	98-09-639P	05
09	AZ	GILBERT, TOWN OF	04013C2660E	07-DEC-98	99-09-155A	01
09	AZ	GLENDALE, CITY OF	04013C1640D	13-JUL-98	98-09-821A	01
09	AZ	GLENDALE, CITY OF	04013C1645E	16-SEP-98	98-09-894A	02
09	AZ	GLENDALE, CITY OF	04013C1640D	23-SEP-98	98-09-901A	01
09	AZ	GLENDALE, CITY OF	04013C1640D	23-NOV-98	99-09-094A	01

Region	Sta
09	AZ
09	AZ
09	AZ

Region	State	Community	Map panel	Determination date	Case No.	Type
09	AZ	GOODYEAR, CITY OF	04013C2080G	02-NOV-98	99-09-058A	01
09	AZ	MARICOPA COUNTY	04013C0390E	23-SEP-98	97-09-1120P	05
09	AZ	MARICOPA COUNTY	04013C0770D	23-SEP-98	97-09-1120P	05
09	AZ	MARICOPA COUNTY	04013C0780F	23-SEP-98	97-09-1120P	05
09	AZ	MARICOPA COUNTY	04013C0790E	23-SEP-98	97-09-1120P	05
09	AZ	MARICOPA COUNTY	04013C2660E	15-JUL-98	98-09-639P	05
09	AZ	MARICOPA COUNTY	04013C2670F	15-JUL-98	98-09-639P	05
09	AZ	MESA, CITY OF	04013C2170E	29-SEP-98	98-09-1085A	02
09	AZ	MESA, CITY OF	04013C2195E	21-OCT-98	98-09-1128A	02
09	AZ	MESA, CITY OF	04013C2195E	02-OCT-98	98-09-1145A	02
09	AZ	MESA, CITY OF	04013C2205E	20-JUL-98	98-09-364P	05
09	AZ	MESA, CITY OF	04013C2215F	20-JUL-98	98-09-364P	05
09	AZ	MESA, CITY OF	04013C2195E	09-JUL-98	98-09-467A	02
09	AZ	MESA, CITY OF	04013C2205E	20-JUL-98	98-09-487P	05
09	AZ	MESA, CITY OF	04013C2185E	31-JUL-98	98-09-893A	02
09	AZ	MESA, CITY OF	04013C2185E	21-AUG-98	98-09-986A	02
09	AZ	MESA, CITY OF	04013C2215F	01-DEC-98	99-09-143A	02
09	AZ	MESA, CITY OF	04013C2185E	14-DEC-98	99-09-199A	02
09	AZ	NOGALES, CITY OF	0400910004B	18-NOV-98	98-09-962A	02
09	AZ	PHOENIX, CITY OF	04013C0770D	23-SEP-98	97-09-1120P	05
09	AZ	PHOENIX, CITY OF	04013C0780F	23-SEP-98	97-09-1120P	05
09	AZ	PHOENIX, CITY OF	04013C0790E	23-SEP-98	97-09-1120P	05
09	AZ	PHOENIX, CITY OF	04013C1205E	23-SEP-98	97-09-1120P	05
09	AZ	PHOENIX, CITY OF	04013C1185F	19-NOV-98	98-09-1096P	05
09	AZ	PHOENIX, CITY OF	04013C1195D	15-OCT-98	98-09-1165A	01
09	AZ	PHOENIX, CITY OF	04013C1215H	15-OCT-98	98-09-1165A	01
09	AZ	PHOENIX, CITY OF	04013C1655H	30-JUL-98	98-09-856A	02
09	AZ	PHOENIX, CITY OF	04013C1195D	05-AUG-98	98-09-876A	01
09	AZ	PHOENIX, CITY OF	04013C1215H	05-AUG-98	98-09-876A	01
09	AZ	PHOENIX, CITY OF	04013C2130E	06-AUG-98	98-09-886A	02
09	AZ	PHOENIX, CITY OF	04013C1670E	25-AUG-98	98-09-973A	02
09	AZ	PHOENIX, CITY OF	04013C1215H	28-AUG-98	98-09-997A	01
09	AZ	PHOENIX, CITY OF	04013C1670E	09-NOV-98	99-09-064A	02
09	AZ	PHOENIX, CITY OF	04013C1660F	12-NOV-98	99-09-080A	02
09	AZ	PHOENIX, CITY OF	04013C1680F	12-NOV-98	99-09-080A	02
09	AZ	PIMA COUNTY	0400731025C	11-SEP-98	98-09-1090A	02
09	AZ	PIMA COUNTY	0400731620D	09-NOV-98	98-09-1110A	02
09	AZ	PIMA COUNTY	0400732225C	28-DEC-98	98-09-1142P	05
09	AZ	PIMA COUNTY	0400731645D	17-JUL-98	98-09-447A	02
09	AZ	PIMA COUNTY	0400731630C	20-NOV-98	98-09-613P	05
09	AZ	PIMA COUNTY	0400731015E	14-JUL-98	98-09-645P	06
09	AZ	PIMA COUNTY	0400731020E	14-JUL-98	98-09-645P	06
09	AZ	PIMA COUNTY	0400731605E	14-JUL-98	98-09-645P	06
09	AZ	PIMA COUNTY	0400731020E	08-JUL-98	98-09-808P	06
09	AZ	PIMA COUNTY	0400731670E	13-AUG-98	98-09-957A	02
09	AZ	PIMA COUNTY	0400731610D	22-DEC-98	99-09-104P	06
09	AZ	PIMA COUNTY	0400731645D	14-DEC-98	99-09-157A	02
09	AZ	SCOTTSDALE, CITY OF	04013C2155E	17-SEP-98	98-09-1101A	02
09	AZ	SCOTTSDALE, CITY OF	04013C2155D	05-OCT-98	98-09-1127A	02
09	AZ	SCOTTSDALE, CITY OF	04013C2155E	09-OCT-98	99-09-012A	02
09	AZ	SIERRA VISTA, CITY OF	0400121232C	13-JUL-98	98-09-799A	02
09	AZ	SURPRISE, TOWN OF	04013C1145F	28-SEP-98	98-09-724P	06
09	AZ	TUCSON, CITY OF	0400760025H	23-SEP-98	98-09-1075A	02
09	AZ	TUCSON, CITY OF	0400760045G	29-SEP-98	98-09-1091A	02
09	AZ	TUCSON, CITY OF	0400760025H	25-SEP-98	98-09-1093A	02
09	AZ	TUCSON, CITY OF	0400760085F	11-DEC-98	98-09-1125P	06
09	AZ	TUCSON, CITY OF	0400760030H	06-AUG-98	98-09-658A	02
09	AZ	TUCSON, CITY OF	0400760020J	03-NOV-98	98-09-819P	05
09	AZ	TUCSON, CITY OF	0400760020J	25-AUG-98	98-09-897A	02
09	AZ	TUCSON, CITY OF	0400760065F	15-SEP-98	98-09-931A	01
09	AZ	TUCSON, CITY OF	0400760025H	25-AUG-98	98-09-940A	02
09	AZ	TUCSON, CITY OF	0400760030H	22-SEP-98	98-09-978A	02
09	AZ	TUCSON, CITY OF	0400760025H	13-OCT-98	99-09-006A	02
09	AZ	TUCSON, CITY OF	0400760020J	15-OCT-98	99-09-021A	02
09	AZ	TUCSON, CITY OF	0400760030H	06-NOV-98	99-09-089A	02
09	AZ	TUCSON, CITY OF	0400760020J	01-DEC-98	99-09-151A	02
09	AZ	TUCSON, CITY OF	0400760025H	08-DEC-98	99-09-183A	01
09	AZ	TUCSON, CITY OF	0400760020J	23-DEC-98	99-09-195A	02
09	AZ	YAVAPAI COUNTY	0400930865D	06-NOV-98	98-09-1028A	02
09	AZ	YAVAPAI COUNTY	0400930795C	25-SEP-98	98-09-1062A	02
09	AZ	YAVAPAI COUNTY	0400931105C	07-AUG-98	98-09-864P	06
09	CA	ANAHEIM, CITY OF	06059C0008F	13-OCT-98	99-09-014A	02
09	CA	ARCATA, CITY OF	0600610004E	27-AUG-98	98-09-489A	01

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	BARSTOW, CITY OF	06071C4527F	03-DEC-98	99-09-024A	01
09	CA	BUENA PARK, CITY OF	06059C0005E	05-OCT-98	98-09-1116A	01
09	CA	BUENA PARK, CITY OF	06059C0006E	05-OCT-98	98-09-1116A	01
09	CA	BUTTE COUNTY	06007C0325C	01-DEC-98	99-09-139A	02
09	CA	BUTTE COUNTY	06007C0510C	22-DEC-98	99-09-206A	02
09	CA	CARLSBAD, CITY OF	06073C1053F	27-AUG-98	98-09-936A	01
09	CA	CLEARLAKE, CITY OF	0607140005C	09-SEP-98	98-09-1066A	02
09	CA	CLOVERDALE, CITY OF	0603760001C	28-JUL-98	98-09-825A	01
09	CA	CONTRA COSTA COUNTY	0600250175B	05-OCT-98	98-09-1158A	01
09	CA	CONTRA COSTA COUNTY	0600250050B	10-SEP-98	98-09-880A	01
09	CA	CONTRA COSTA COUNTY	0600250475B	02-NOV-98	99-09-063A	02
09	CA	COSTA MESA, CITY OF	06059C0038F	23-DEC-98	99-09-217A	01
09	CA	DAVIS, CITY OF	0604230600C	11-SEP-98	98-09-1023A	01
09	CA	DELANO, CITY OF	0600750125B	04-SEP-98	98-09-890P	06
09	CA	DINUBA, CITY OF	0650660280B	28-JUL-98	98-09-826A	01
09	CA	DINUBA, CITY OF	0650660280B	22-OCT-98	99-09-034A	01
09	CA	DINUBA, CITY OF	0650660280B	06-NOV-98	99-09-079A	01
09	CA	DINUBA, CITY OF	0650660280B	14-DEC-98	99-09-185A	01
09	CA	DOWNEY, CITY OF	0606450005A	17-JUL-98	98-09-700A	02
09	CA	DOWNEY, CITY OF	0606450005A	08-DEC-98	99-09-168A	02
09	CA	DUBLIN, CITY OF	0607050001B	05-AUG-98	98-09-878A	02
09	CA	EL CAJON, CITY OF	06073C1662F	24-SEP-98	98-09-1095A	02
09	CA	EL DORADO COUNTY	0600400725C	06-AUG-98	98-09-817A	02
09	CA	EL DORADO COUNTY	0600400200B	07-DEC-98	99-09-107A	02
09	CA	EL DORADO COUNTY	0600400725C	10-DEC-98	99-09-178A	02
09	CA	EL DORADO COUNTY	0600400609B	15-DEC-98	99-09-196A	02
09	CA	ENCINITAS, CITY OF	06073C1044F	24-JUL-98	98-09-837A	02
09	CA	ESCONDIDO, CITY OF	06073C1083F	08-DEC-98	99-09-156A	01
09	CA	ETNA, CITY OF	0603640001B	28-AUG-98	98-09-992A	02
09	CA	FONTANA, CITY OF	06071C8654F	13-OCT-98	98-09-961A	02
09	CA	FONTANA, CITY OF	06071C8654F	23-NOV-98	99-09-133A	02
09	CA	FRESNO COUNTY	0650291240B	18-SEP-98	98-09-1051A	02
09	CA	FRESNO COUNTY	0650290915B	15-SEP-98	98-09-1056A	01
09	CA	FRESNO COUNTY	0650290905C	22-DEC-98	99-09-181A	02
09	CA	GILROY, CITY OF	0603400004D	09-JUL-98	98-09-546P	05
09	CA	GILROY, CITY OF	0603400001D	18-AUG-98	98-09-922V	19
09	CA	GILROY, CITY OF	0603400001D	18-AUG-98	98-09-922V	19
09	CA	GILROY, CITY OF	0603400001D	18-AUG-98	98-09-922V	19
09	CA	GILROY, CITY OF	0603400003E	18-AUG-98	98-09-922V	19
09	CA	GILROY, CITY OF	0603400004E	18-AUG-98	98-09-922V	19
09	CA	GILROY, CITY OF	0603400004E	18-AUG-98	98-09-922V	19
09	CA	GILROY, CITY OF	0603400004E	10-NOV-98	99-09-017P	05
09	CA	GRASS VALLEY, CITY OF	0602110003D	19-AUG-98	98-09-833A	02
09	CA	HEMET, CITY OF	0602530005D	01-DEC-98	99-09-116A	01
09	CA	HEMET, CITY OF	0602530005D	08-DEC-98	99-09-163A	01
09	CA	HEMET, CITY OF	0602530005D	08-DEC-98	99-09-165A	01
09	CA	HEMET, CITY OF	0602530005D	15-DEC-98	99-09-187A	02
09	CA	HUMBOLDT COUNTY	0600601375B	18-SEP-98	98-09-1069A	02
09	CA	HUMBOLDT COUNTY	0600600615C	09-JUL-98	98-09-786A	02
09	CA	HUMBOLDT COUNTY	0600600615C	02-NOV-98	99-09-057A	02
09	CA	HUMBOLDT COUNTY	0600600615C	23-DEC-98	99-09-201A	02
09	CA	IRVINE, CITY OF	06059C0039E	19-OCT-98	98-09-816P	06
09	CA	IRVINE, CITY OF	06059C0040E	19-OCT-98	98-09-816P	06
09	CA	IRVINE, CITY OF	06059C0049G	20-AUG-98	98-09-899P	06
09	CA	KERN COUNTY	0600751910B	24-NOV-98	98-09-993A	17
09	CA	LA QUINTA, CITY OF	0607090005B	09-JUL-98	98-09-701A	01
09	CA	LA QUINTA, CITY OF	0607090005B	08-DEC-98	99-09-074A	01
09	CA	LAGUNA BEACH, CITY OF	06059C0064E	16-JUL-98	98-09-805A	01
09	CA	LAGUNA HILLS, CITY OF	06059C0064E	21-AUG-98	98-09-1010A	01
09	CA	LAKE COUNTY	0600900840B	05-AUG-98	98-09-861A	01
09	CA	LAKEWOOD, CITY OF	0601300005A	01-OCT-98	98-09-1114A	02
09	CA	LAKEWOOD, CITY OF	0601300005A	06-JUL-98	98-09-642A	02
09	CA	LAKEWOOD, CITY OF	0601300005A	06-JUL-98	98-09-643A	02
09	CA	LAKEWOOD, CITY OF	0601300005A	06-JUL-98	98-09-644A	02
09	CA	LAKEWOOD, CITY OF	0601300005A	11-SEP-98	98-09-885A	02
09	CA	LANCASTER, CITY OF	0606720010B	15-SEP-98	98-09-1055A	02
09	CA	LARKSPUR, CITY OF	0650400001B	22-SEP-98	98-09-1034A	02
09	CA	LARKSPUR, CITY OF	0650400001B	02-NOV-98	99-09-020A	02
09	CA	LARKSPUR, CITY OF	0650400001B	20-OCT-98	99-09-046A	02
09	CA	LASSEN COUNTY	0600920525B	28-AUG-98	98-09-984A	02
09	CA	LASSEN COUNTY	0600920975B	08-DEC-98	99-09-146A	02
09	CA	LIVERMORE, CITY OF	0600080010B	09-JUL-98	98-09-812A	01
09	CA	LONG BEACH, CITY OF	0601360025C	07-JUL-98	98-09-064V	19

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	LOOMIS, TOWN OF	06061C0416F	10-SEP-98	98-09-1041A	01
09	CA	LOS ANGELES COUNTY	0650430340B	18-SEP-98	98-09-1022P	05
09	CA	LOS ANGELES COUNTY	0650431010C	01-OCT-98	98-09-1130A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	10-SEP-98	98-09-1015A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	10-SEP-98	98-09-1017A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	05-OCT-98	98-09-1133A	02
09	CA	LOS ANGELES, CITY OF	0601370054D	07-JUL-98	98-09-476V	19
09	CA	LOS ANGELES, CITY OF	0601370063D	07-JUL-98	98-09-476V	19
09	CA	LOS ANGELES, CITY OF	0601370072E	07-JUL-98	98-09-476V	19
09	CA	LOS ANGELES, CITY OF	0601370101D	07-JUL-98	98-09-476V	19
09	CA	LOS ANGELES, CITY OF	0601370071C	23-JUL-98	98-09-841A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	02-NOV-98	99-09-071A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	03-DEC-98	99-09-121A	02
09	CA	LOS ANGELES, CITY OF	0601370071C	24-NOV-98	99-09-144A	02
09	CA	LYNWOOD, CITY OF	0606350002C	20-OCT-98	98-09-1070A	02
09	CA	MADERA COUNTY	0601700750B	28-JUL-98	98-09-869A	01
09	CA	MARIN COUNTY	0601730257A	13-OCT-98	98-09-1163A	02
09	CA	MARIN COUNTY	0601730268B	09-JUL-98	98-09-818A	02
09	CA	MARTINEZ, CITY OF	0650440001A	08-DEC-98	99-09-159A	02
09	CA	MERCED COUNTY	06047C0420E	17-JUL-98	98-09-593A	01
09	CA	MERCED, CITY OF	06047C0440E	06-AUG-98	98-09-831A	01
09	CA	MERCED, CITY OF	06047C0440E	13-NOV-98	99-09-033A	01
09	CA	MERCED, CITY OF	06047C0440E	03-DEC-98	99-09-119A	01
09	CA	MILPITAS, CITY OF	0603440001G	10-SEP-98	98-09-1011A	02
09	CA	MILPITAS, CITY OF	0603440003G	09-OCT-98	98-09-1134A	01
09	CA	MILPITAS, CITY OF	0603440001G	17-JUL-98	98-09-473V	19
09	CA	MILPITAS, CITY OF	0603440003G	17-JUL-98	98-09-473V	19
09	CA	MILPITAS, CITY OF	0603440003G	30-JUL-98	98-09-696A	01
09	CA	MILPITAS, CITY OF	0603440001G	28-AUG-98	98-09-972A	02
09	CA	MILPITAS, CITY OF	0603440001G	26-OCT-98	99-09-054A	02
09	CA	MODOC COUNTY	0601920800B	18-NOV-98	98-09-1039A	02
09	CA	MONTEBELLO, CITY OF	0601410001C	07-JUL-98	98-09-477V	19
09	CA	MONTEBELLO, CITY OF	0601410001C	07-JUL-98	98-09-477V	19
09	CA	MONTEBELLO, CITY OF	0601410002C	07-JUL-98	98-09-477V	19
09	CA	MONTEBELLO, CITY OF	0601410002C	07-JUL-98	98-09-477V	19
09	CA	MONTEREY COUNTY	0601950138D	15-SEP-98	98-09-1046A	02
09	CA	MONTEREY COUNTY	0601950185D	28-JUL-98	98-09-610A	02
09	CA	MONTEREY COUNTY	0601950015E	23-DEC-98	99-09-098A	01
09	CA	MOORPARK, CITY OF	0607120005A	14-DEC-98	99-09-068P	06
09	CA	MORENO VALLEY, CITY OF	0650740030B	23-DEC-98	99-09-177A	02
09	CA	MOUNTAIN VIEW, CITY OF	0603470003D	07-DEC-98	99-09-153A	02
09	CA	MURRIETA, CITY OF	0607512740A	31-AUG-98	98-09-1053A	01
09	CA	MURRIETA, CITY OF	0607512740A	21-AUG-98	98-09-494A	01
09	CA	NAPA, CITY OF	0602070010C	28-AUG-98	98-09-1014A	02
09	CA	NAPA, CITY OF	0602070005C	15-SEP-98	98-09-1049A	02
09	CA	NAPA, CITY OF	0602070005C	06-OCT-98	98-09-1154A	02
09	CA	NAPA, CITY OF	0602070010C	06-AUG-98	98-09-568A	02
09	CA	NAPA, CITY OF	0602070005C	19-AUG-98	98-09-934A	02
09	CA	NAPA, CITY OF	0602070005C	19-AUG-98	98-09-959A	02
09	CA	NAPA, CITY OF	0602070005C	28-AUG-98	98-09-976A	02
09	CA	NAPA, CITY OF	0602070005C	03-DEC-98	99-09-022A	02
09	CA	NAPA, CITY OF	0602050430B	13-NOV-98	99-09-076A	01
09	CA	NAPA, CITY OF	0602070005C	12-NOV-98	99-09-092A	02
09	CA	NEVADA COUNTY	0602100504C	12-NOV-98	99-09-090A	02
09	CA	OCEANSIDE, CITY OF	06073C0752F	19-AUG-98	98-09-1005A	01
09	CA	OCEANSIDE, CITY OF	06073C0766F	14-SEP-98	98-09-1094A	01
09	CA	OCEANSIDE, CITY OF	06073C0766F	21-JUL-98	98-09-503A	01
09	CA	OCEANSIDE, CITY OF	06073C0752F	20-AUG-98	98-09-995A	01
09	CA	OCEANSIDE, CITY OF	06073C0464F	09-OCT-98	99-09-002A	02
09	CA	ORANGE COUNTY	06059C0031E	19-OCT-98	98-09-816P	06
09	CA	ORANGE COUNTY	06059C0040E	19-OCT-98	98-09-816P	06
09	CA	PALM SPRINGS, CITY OF	0602570006C	19-AUG-98	98-09-948A	02
09	CA	PALMDALE,CITY OF	0601440040D	15-SEP-98	98-09-1042A	01
09	CA	PALO ALTO, CITY OF	0603480003D	25-AUG-98	98-09-908A	02
09	CA	PALO ALTO, CITY OF	0603480003D	09-SEP-98	98-09-954A	01
09	CA	PALO ALTO, CITY OF	0603480003D	02-NOV-98	99-09-055A	02
09	CA	PERRIS, CITY OF	0602580010D	28-AUG-98	98-09-1021A	01
09	CA	PLACER COUNTY	06061C0418F	13-JUL-98	98-09-666A	02
09	CA	PLEASANTON, CITY OF	0600120002D	27-AUG-98	98-09-994A	01
09	CA	PLEASANTON, CITY OF	0600120003D	02-NOV-98	99-09-067A	02
09	CA	POWAY, CITY OF	06073C1358F	27-AUG-98	98-09-882A	02
09	CA	POWAY, CITY OF	06073C1358F	07-AUG-98	98-09-904A	02
09	CA	POWAY, CITY OF	06073C1093F	15-OCT-98	99-09-010A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	POWAY, CITY OF	06073C1093F	24-DEC-98	99-09-204A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C8628F	08-DEC-98	98-09-1074A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C7890F	05-AUG-98	98-09-879A	02
09	CA	RANCHO CUCAMONGA, CITY OF	06071C7890F	22-OCT-98	98-09-975A	02
09	CA	RED BLUFF, CITY OF	0650530002F	13-AUG-98	98-09-933A	02
09	CA	REDDING, CITY OF	0603600015C	27-AUG-98	97-09-1119P	05
09	CA	REDDING, CITY OF	0603600025D	21-AUG-98	98-09-891A	02
09	CA	REDDING, CITY OF	0603600025D	25-SEP-98	98-09-927A	02
09	CA	REDDING, CITY OF	0603600005C	25-SEP-98	98-09-979A	02
09	CA	REDDING, CITY OF	0603600020D	08-DEC-98	99-09-030A	17
09	CA	REDDING, CITY OF	0603600025D	06-NOV-98	99-09-081A	02
09	CA	REDLANDS, CITY OF	06071C8717F	18-AUG-98	98-09-951A	02
09	CA	REDLANDS, CITY OF	06071C8717F	22-OCT-98	99-09-042A	02
09	CA	RIVERSIDE COUNTY	0602452085C	15-OCT-98	98-09-1033A	02
09	CA	RIVERSIDE COUNTY	0602452710C	08-SEP-98	98-09-690P	06
09	CA	RIVERSIDE, CITY OF	0602600020B	15-DEC-98	99-09-191A	02
09	CA	ROSEVILLE, CITY OF	06061C0479F	18-SEP-98	98-09-1073A	02
09	CA	SACRAMENTO COUNTY	0602620185F	08-DEC-98	98-09-1045A	02
09	CA	SACRAMENTO COUNTY	0602620085E	25-SEP-98	98-09-1097A	02
09	CA	SACRAMENTO COUNTY	0602620065F	29-SEP-98	98-09-1098A	02
09	CA	SACRAMENTO COUNTY	0602620070D	29-SEP-98	98-09-1115A	01
09	CA	SACRAMENTO COUNTY	0602620340D	23-OCT-98	98-09-347P	05
09	CA	SACRAMENTO COUNTY	0602620055E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620060D	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620065F	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620070D	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620080D	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620090E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620095E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620115E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620185F	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620190E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620205E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620305F	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620310F	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620320E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620330D	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620335D	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620340D	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620475E	07-JUL-98	98-09-478V	19
09	CA	SACRAMENTO COUNTY	0602620090D	17-JUL-98	98-09-718A	01
09	CA	SACRAMENTO COUNTY	0602620085E	14-JUL-98	98-09-741A	02
09	CA	SACRAMENTO COUNTY	0602620185F	02-NOV-98	99-09-070A	02
09	CA	SACRAMENTO COUNTY	0602620090E	24-NOV-98	99-09-130A	02
09	CA	SACRAMENTO COUNTY	0602620085E	10-DEC-98	99-09-173A	17
09	CA	SACRAMENTO COUNTY	0602620065F	10-DEC-98	99-09-174A	01
09	CA	SACRAMENTO, CITY OF	0602660005F	07-JUL-98	98-09-479V	19
09	CA	SACRAMENTO, CITY OF	0602660010F	07-JUL-98	98-09-479V	19
09	CA	SACRAMENTO, CITY OF	0602660015F	07-JUL-98	98-09-479V	19
09	CA	SACRAMENTO, CITY OF	0602660030F	07-JUL-98	98-09-479V	19
09	CA	SACRAMENTO, CITY OF	0602660030F	03-NOV-98	99-09-035A	02
09	CA	SACRAMENTO, CITY OF	0602660015F	12-NOV-98	99-09-084A	01
09	CA	SACRAMENTO, CITY OF	0602660030F	12-NOV-98	99-09-084A	01
09	CA	SACRAMENTO, CITY OF	0602660020F	14-DEC-98	99-09-180A	02
09	CA	SACRAMENTO, CITY OF	0602660030F	23-DEC-98	99-09-250A	01
09	CA	SAN BERNARDINO COUNTY	06071C7245F	12-NOV-98	98-09-912A	02
09	CA	SAN BERNARDINO COUNTY	06071C7942F	07-DEC-98	99-09-128A	02
09	CA	SAN DIEGO COUNTY	06073C0525F	02-NOV-98	98-09-1144A	02
09	CA	SAN DIEGO COUNTY	06073C1931F	09-OCT-98	98-09-1159A	02
09	CA	SAN DIEGO COUNTY	06073C0778F	13-AUG-98	98-09-413P	05
09	CA	SAN DIEGO COUNTY	06073C0779F	13-AUG-98	98-09-413P	05
09	CA	SAN DIEGO COUNTY	06073C1907F	18-SEP-98	98-09-851P	06
09	CA	SAN DIEGO COUNTY	06073C1926F	18-SEP-98	98-09-851P	06
09	CA	SAN DIEGO COUNTY	06073C1660F	19-AUG-98	98-09-944A	02
09	CA	SAN DIEGO COUNTY	06073C1931F	15-OCT-98	98-09-989A	02
09	CA	SAN DIEGO COUNTY	06073C1931F	01-DEC-98	99-09-108A	02
09	CA	SAN DIEGO COUNTY	06073C1175F	15-DEC-98	99-09-182A	02
09	CA	SAN DIEGO, CITY OF	06073C1594F	25-SEP-98	98-09-1105A	02
09	CA	SAN DIEGO, CITY OF	06073C1594F	13-OCT-98	98-09-1141A	02
09	CA	SAN DIEGO, CITY OF	06073C2162F	19-OCT-98	98-09-843P	05
09	CA	SAN DIEGO, CITY OF	06073C2166F	19-OCT-98	98-09-843P	05
09	CA	SAN DIEGO, CITY OF	06073C1908F	21-JUL-98	98-09-852A	02
09	CA	SAN DIEGO, CITY OF	06073C1636F	24-AUG-98	98-09-888P	05

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	SAN DIEGO, CITY OF	06073C1317F	07-DEC-98	99-09-117A	02
09	CA	SAN DIEGO, CITY OF	06073C1087F	08-DEC-98	99-09-167A	02
09	CA	SAN JOAQUIN COUNTY	0602990145B	17-SEP-98	98-09-1076A	02
09	CA	SAN JOSE, CITY OF	0603490009G	11-SEP-98	98-09-1052A	02
09	CA	SAN JOSE, CITY OF	0603490009G	11-SEP-98	98-09-1065A	02
09	CA	SAN JOSE, CITY OF	0603490020F	25-SEP-98	98-09-1106A	02
09	CA	SAN JOSE, CITY OF	0603490020F	05-OCT-98	98-09-1129A	02
09	CA	SAN JOSE, CITY OF	0603490037D	14-JUL-98	98-09-839A	02
09	CA	SAN JOSE, CITY OF	0603490020F	20-AUG-98	98-09-855P	06
09	CA	SAN JOSE, CITY OF	0603490019E	06-AUG-98	98-09-898A	02
09	CA	SAN JOSE, CITY OF	0603490009G	18-AUG-98	98-09-923V	19
09	CA	SAN JOSE, CITY OF	0603490020F	18-AUG-98	98-09-923V	19
09	CA	SAN JOSE, CITY OF	0603490053E	18-AUG-98	98-09-923V	19
09	CA	SAN JOSE, CITY OF	0603490014E	28-AUG-98	98-09-945A	02
09	CA	SAN JOSE, CITY OF	0603490037D	18-AUG-98	98-09-966A	02
09	CA	SAN JOSE, CITY OF	0603370255E	25-AUG-98	98-09-968A	01
09	CA	SAN JOSE, CITY OF	0603490008F	15-OCT-98	99-09-011A	01
09	CA	SAN JOSE, CITY OF	0603490037D	22-OCT-98	99-09-053A	02
09	CA	SAN JOSE, CITY OF	0603370255E	24-NOV-98	99-09-134A	01
09	CA	SAN JOSE, CITY OF	0603490020F	24-NOV-98	99-09-140A	02
09	CA	SAN JOSE, CITY OF	0603490009G	22-DEC-98	99-09-205A	02
09	CA	SAN RAFAEL, CITY OF	0650580015B	02-NOV-98	99-09-061A	02
09	CA	SANTA ANA, CITY OF	06059C0028F	24-SEP-98	98-09-1004A	01
09	CA	SANTA BARBARA COUNTY	0603310730C	24-AUG-98	97-09-916P	05
09	CA	SANTA BARBARA COUNTY	0603310229C	09-JUL-98	98-09-752P	05
09	CA	SANTA BARBARA COUNTY	0603310233C	09-JUL-98	98-09-752P	05
09	CA	SANTA BARBARA COUNTY	0603310241C	09-JUL-98	98-09-752P	05
09	CA	SANTA BARBARA, CITY OF	0603350004D	10-SEP-98	98-09-1006A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	16-SEP-98	98-09-1032A	02
09	CA	SANTA BARBARA, CITY OF	0603350004D	06-OCT-98	98-09-1157A	02
09	CA	SANTA CLARA COUNTY	0603370645D	09-JUL-98	98-09-546P	05
09	CA	SANTA CLARA COUNTY	0603370760E	09-JUL-98	98-09-546P	05
09	CA	SANTA CLARA COUNTY	0603370255E	09-JUL-98	98-09-787A	02
09	CA	SANTA CLARA COUNTY	0603370620D	13-JUL-98	98-09-795A	02
09	CA	SANTA CLARA COUNTY	0603370220E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370220E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370445E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370445E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370620E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370620E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370620E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370645E	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370760F	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370760F	18-AUG-98	98-09-924V	19
09	CA	SANTA CLARA COUNTY	0603370645E	10-NOV-98	99-09-017P	05
09	CA	SANTA CLARA COUNTY	0603370760F	10-NOV-98	99-09-017P	05
09	CA	SANTA CLARA COUNTY	0603370255E	03-DEC-98	99-09-127A	02
09	CA	SANTA CLARA COUNTY	0603370630E	08-DEC-98	99-09-166A	02
09	CA	SANTA CLARA, CITY OF	0603500001C	11-SEP-98	98-09-1061A	02
09	CA	SANTA CLARA, CITY OF	0603500003C	24-SEP-98	98-09-1082A	02
09	CA	SANTA CLARA, CITY OF	0603500003C	13-AUG-98	98-09-909A	02
09	CA	SANTA CLARA, CITY OF	0603500001C	16-OCT-98	99-09-028A	02
09	CA	SANTA CLARA, CITY OF	0603500001C	26-OCT-98	99-09-052A	02
09	CA	SANTA CLARA, CITY OF	0603500001C	03-DEC-98	99-09-129A	02
09	CA	SANTA CLARITA, CITY OF	0607290365C	12-NOV-98	98-09-556P	05
09	CA	SANTA CRUZ COUNTY	0603530355B	03-DEC-98	98-09-1148A	02
09	CA	SANTA CRUZ COUNTY	0603530205B	27-AUG-98	98-09-760A	02
09	CA	SANTA CRUZ, CITY OF	0603550002B	18-AUG-98	98-09-935A	02
09	CA	SANTEE, CITY OF	06073C1653F	09-JUL-98	98-09-822A	02
09	CA	SHASTA COUNTY	0603580885E	29-SEP-98	98-09-1107A	02
09	CA	SHASTA COUNTY	0603580925B	29-SEP-98	98-09-1107A	02
09	CA	SHASTA COUNTY	0603580885E	06-OCT-98	98-09-1168A	02
09	CA	SHASTA LAKE, CITY OF	0603580515C	30-DEC-98	99-09-212A	02
09	CA	SIMI VALLEY, CITY OF	0604210008B	01-OCT-98	98-09-1137A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	15-SEP-98	98-09-542A	01
09	CA	SIMI VALLEY, CITY OF	0604210008B	15-SEP-98	98-09-542A	01
09	CA	SIMI VALLEY, CITY OF	0604210009B	27-JUL-98	98-09-834A	02
09	CA	SIMI VALLEY, CITY OF	0604210002B	21-JUL-98	98-09-835A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	17-JUL-98	98-09-847A	02
09	CA	SIMI VALLEY, CITY OF	0604210009B	05-AUG-98	98-09-883A	01
09	CA	SIMI VALLEY, CITY OF	0604210004B	19-AUG-98	98-09-926A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	09-OCT-98	99-09-004A	02
09	CA	SIMI VALLEY, CITY OF	0604210006B	03-NOV-98	99-09-007A	02
09	CA	SIMI VALLEY, CITY OF	0604210008B	02-NOV-98	99-09-041A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
09	CA	SIMI VALLEY, CITY OF	0604210004B	13-NOV-98	99-09-105A	02
09	CA	SIMI VALLEY, CITY OF	0604210004B	03-DEC-98	99-09-145A	02
09	CA	SIMI VALLEY, CITY OF	0604210008B	07-DEC-98	99-09-160A	02
09	CA	SISKIYOU COUNTY	0603620295B	21-SEP-98	98-09-1038A	02
09	CA	SISKIYOU COUNTY	0603621350B	24-SEP-98	98-09-1086A	02
09	CA	SOLANO COUNTY	0606310406B	02-NOV-98	99-09-059A	02
09	CA	SONOMA COUNTY	0603750365C	18-NOV-98	99-09-110A	02
09	CA	SONOMA COUNTY	0603750630B	08-DEC-98	99-09-149A	02
09	CA	SONOMA COUNTY	0603750515B	08-DEC-98	99-09-170A	02
09	CA	SONOMA, CITY OF	0603830005D	05-AUG-98	98-09-466A	02
09	CA	SUNNYVALE, CITY OF	0603520001D	21-JUL-98	98-09-849A	02
09	CA	SUNNYVALE, CITY OF	0603520001D	05-AUG-98	98-09-884A	02
09	CA	SUNNYVALE, CITY OF	0603520001D	19-AUG-98	98-09-928A	02
09	CA	SUNNYVALE, CITY OF	0603520001D	19-AUG-98	98-09-946A	02
09	CA	SUTTER CREEK, CITY OF	0604580005B	23-DEC-98	98-09-1136A	01
09	CA	TEHAMA COUNTY	0650640660C	28-AUG-98	98-09-1009A	02
09	CA	TEHAMA COUNTY	0650640290D	15-OCT-98	98-09-1162A	02
09	CA	TEHAMA COUNTY	0650640480D	15-OCT-98	98-09-1162A	02
09	CA	TEMECULA, CITY OF	0607420010B	19-AUG-98	98-09-895A	02
09	CA	TEMECULA, CITY OF	0607420010B	02-NOV-98	99-09-072A	01
09	CA	THOUSAND OAKS, CITY OF	0604220015B	29-SEP-98	98-09-1111A	02
09	CA	THOUSAND OAKS, CITY OF	0604220015B	28-AUG-98	98-09-955A	02
09	CA	TULARE COUNTY	0650661210B	24-SEP-98	98-09-1092A	01
09	CA	TULARE COUNTY	0650660650C	07-OCT-98	98-09-1102V	19
09	CA	TULARE COUNTY	0650660260B	15-DEC-98	99-09-118A	01
09	CA	UNION CITY, CITY OF	0600140010B	15-SEP-98	98-09-1067A	02
09	CA	UNION CITY, CITY OF	0600140010B	22-JUL-98	98-09-828A	01
09	CA	UNION CITY, CITY OF	0600140010B	31-AUG-98	98-09-987A	01
09	CA	VACAVILLE, CITY OF	0603730014C	24-NOV-98	99-09-132A	02
09	CA	VALLEJO, CITY OF	0603740005C	29-SEP-98	98-09-1063A	02
09	CA	VENTURA COUNTY	0604130790B	23-DEC-98	98-09-1155P	05
09	CA	VENTURA COUNTY	0604130935C	13-JUL-98	98-09-414P	06
09	CA	VENTURA COUNTY	0604130545C	24-JUL-98	98-09-848A	02
09	CA	VISALIA, CITY OF	0604090005C	25-AUG-98	98-09-1031A	01
09	CA	VISALIA, CITY OF	0604090005D	07-OCT-98	98-09-1103V	19
09	CA	VISALIA, CITY OF	0604090005D	07-OCT-98	98-09-1126A	01
09	CA	VISALIA, CITY OF	0604090010C	22-OCT-98	98-09-1149A	02
09	CA	VISALIA, CITY OF	0604090005D	19-AUG-98	98-09-947A	01
09	CA	VISALIA, CITY OF	0604090005C	19-AUG-98	98-09-965A	01
09	CA	VISALIA, CITY OF	0604090005D	10-DEC-98	99-09-172A	01
09	CA	VISTA, CITY OF	06073C0778F	13-AUG-98	98-09-413P	05
09	CA	VISTA, CITY OF	06073C0779F	13-AUG-98	98-09-413P	05
09	CA	WINTERS, CITY OF	0604250001C	23-NOV-98	99-09-096V	19
09	CA	YUCAIPA, CITY OF	06071C8740F	22-DEC-98	99-09-198A	01
09	HI	HAWAII COUNTY	1551660860C	25-SEP-98	98-09-1057A	02
09	HI	HONOLULU COUNTY	1500010060B	22-JUL-98	98-09-715A	02
09	HI	HONOLULU COUNTY	1500010120C	07-DEC-98	99-09-152A	02
09	HI	MAUI COUNTY	1500030153C	13-JUL-98	98-09-698P	05
09	NV	CLARK COUNTY	32003C2553D	28-AUG-98	97-09-1076P	05
09	NV	CLARK COUNTY	32003C2554D	28-AUG-98	97-09-1076P	05
09	NV	CLARK COUNTY	32003C2535D	29-SEP-98	98-09-1002A	02
09	NV	CLARK COUNTY	32003C2200D	24-NOV-98	98-09-1054P	06
09	NV	CLARK COUNTY	32003C2180D	30-NOV-98	98-09-1058P	06
09	NV	CLARK COUNTY	32003C2190D	07-AUG-98	98-09-225P	06
09	NV	CLARK COUNTY	32003C2200D	07-AUG-98	98-09-225P	06
09	NV	CLARK COUNTY	32003C2551D	07-AUG-98	98-09-225P	06
09	NV	CLARK COUNTY	32003C2552D	07-AUG-98	98-09-225P	06
09	NV	CLARK COUNTY	32003C2556D	07-AUG-98	98-09-225P	06
09	NV	CLARK COUNTY	32003C2557D	07-AUG-98	98-09-225P	06
09	NV	CLARK COUNTY	32003C2580D	07-AUG-98	98-09-225P	06
09	NV	CLARK COUNTY	32003C2568D	23-NOV-98	98-09-790P	06
09	NV	CLARK COUNTY	32003C2590D	15-SEP-98	98-09-829A	01
09	NV	CLARK COUNTY	32003C2568D	23-DEC-98	98-09-932A	01
09	NV	CLARK COUNTY	32003C2569D	23-DEC-98	98-09-932A	01
09	NV	CLARK COUNTY	32003C2585D	23-DEC-98	99-09-188A	01
09	NV	DOUGLAS COUNTY	32005C0015D	09-SEP-98	98-09-772A	02
09	NV	HENDERSON, CITY OF	32003C2590D	13-NOV-98	97-09-619P	06
09	NV	HENDERSON, CITY OF	32003C2615D	15-OCT-98	98-09-105P	06
09	NV	HENDERSON, CITY OF	32003C2595D	02-NOV-98	98-09-860P	06
09	NV	LAS VEGAS, CITY OF	32003C2180D	30-NOV-98	98-09-1058P	05
09	NV	LAS VEGAS, CITY OF	32003C2187D	30-NOV-98	98-09-1058P	05
09	NV	LAS VEGAS, CITY OF	32003C2155D	17-JUL-98	98-09-729A	01
09	NV	LAS VEGAS, CITY OF	32003C2160D	17-JUL-98	98-09-729A	01

Region	S
09	NV
09	NV
09	NV
09	NV
09	NV
09	NV
09	NV
09	NV
09	NV
09	NV
10	AK
10	AK
10	AK
10	AK
10	AK
10	AK
10	AK
10	AK
10	AK
10	ID
10	ID
10	ID

Region	State	Community	Map panel	Determination date	Case No.	Type
09	NV	LAS VEGAS, CITY OF	32003C2155D	14-JUL-98	98-09-788A	01
09	NV	LAS VEGAS, CITY OF	32003C2187D	30-NOV-98	98-09-982P	06
09	NV	LAS VEGAS, CITY OF	32003C2145D	30-DEC-98	99-09-088P	06
09	NV	NORTH LAS VEGAS, CITY OF	32003C2160D	25-SEP-98	98-09-1050A	01
09	NV	NYE COUNTY	3200184415C	21-AUG-98	98-09-838A	02
09	NV	RENO, CITY OF	32031C3176E	05-AUG-98	98-09-797A	01
09	NV	RENO, CITY OF	32031C3176E	03-DEC-98	99-09-114A	01
09	NV	WASHOE COUNTY	32031C2800E	09-JUL-98	98-09-784A	02
09	NV	WASHOE COUNTY	32031C3250E	25-SEP-98	98-09-952A	02
09	NV	WASHOE COUNTY	32031C2963E	08-DEC-98	99-09-062A	02
10	AK	ANCHORAGE, MUNICIPALITY OF	0200050241C	31-JUL-98	98-10-351A	02
10	AK	ANCHORAGE, MUNICIPALITY OF	0200050242B	19-OCT-98	98-10-412P	06
10	AK	ANCHORAGE, MUNICIPALITY OF	0200050230B	10-SEP-98	98-10-414A	02
10	AK	ANCHORAGE, MUNICIPALITY OF	0200050242B	25-NOV-98	99-10-051A	02
10	AK	FAIRBANKS-NORTH STAR BOROUGH	0250090212H	30-JUL-98	98-10-368A	02
10	AK	JUNEAU, CITY AND BOROUGH OF	0200090895B	10-DEC-98	98-10-411A	02
10	AK	KENAI PENINSULA BOROUGH	0200122525A	16-DEC-98	99-10-075A	02
10	AK	KENAI PENINSULA BOROUGH	0200122525A	16-DEC-98	99-10-076A	02
10	AK	KETCHIKAN GATEWAY BOROUGH	0200030001B	04-SEP-98	98-10-384A	02
10	AK	KETCHIKAN GATEWAY BOROUGH	0200030002B	10-SEP-98	98-10-421A	01
10	ID	ADA COUNTY	1600010155C	17-SEP-98	98-10-107P	06
10	ID	ADA COUNTY	1600010258C	25-NOV-98	98-10-432A	01
10	ID	ADA COUNTY	1600010258C	12-NOV-98	99-10-042A	02
10	ID	ARCO, CITY OF	1600340005B	23-SEP-98	98-10-449A	02
10	ID	BINGHAM COUNTY	1600180430B	08-JUL-98	98-10-342A	02
10	ID	BINGHAM COUNTY	1600180430C	28-OCT-98	99-10-020V	19
10	ID	BLAINE COUNTY	1651670268B	25-SEP-98	98-10-262A	02
10	ID	BLAINE COUNTY	1651670269B	25-SEP-98	98-10-262A	02
10	ID	BOISE COUNTY	16015C0419B	10-NOV-98	99-10-034A	02
10	ID	BONNER COUNTY	1602060325B	02-SEP-98	98-10-366A	02
10	ID	BONNER COUNTY	1602060300C	10-NOV-98	99-10-027A	02
10	ID	BONNER COUNTY	1602060285C	12-NOV-98	99-10-048A	02
10	ID	CANYON COUNTY	1602080075C	14-AUG-98	98-10-371A	02
10	ID	CANYON COUNTY	1602080229C	10-SEP-98	98-10-413A	02
10	ID	CANYON COUNTY	1602080020C	24-DEC-98	99-10-028A	02
10	ID	CASSIA COUNTY	1600410100B	09-OCT-98	98-10-480A	02
10	ID	EAGLE, CITY OF	1600010155C	17-SEP-98	98-10-107P	06
10	ID	HAILEY, CITY OF	1600220662D	23-DEC-98	99-10-114A	02
10	ID	IDAHO COUNTY	1602130675B	13-OCT-98	98-10-462A	02
10	ID	IDAHO COUNTY	1602130675B	30-OCT-98	99-10-039A	02
10	ID	KOOTENAI COUNTY	1600760160C	27-AUG-98	98-10-396A	02
10	ID	MCCALL, CITY OF	1602200325A	22-OCT-98	99-10-007A	02
10	ID	MIDDLETON, CITY OF	1600370001E	09-JUL-98	98-10-326A	01
10	ID	MIDDLETON, CITY OF	1600370001E	31-JUL-98	98-10-370A	01
10	ID	MOSCOW, CITY OF	1600900001C	09-SEP-98	98-10-393A	02
10	ID	SANDPOINT,CITY OF	1600250001C	04-NOV-98	98-10-476A	02
10	ID	SANDPOINT,CITY OF	1600250001C	17-NOV-98	98-10-486A	02
10	ID	SANDPOINT,CITY OF	1600250001C	10-NOV-98	99-10-036A	02
10	ID	TWIN FALLS COUNTY	1602310200B	12-NOV-98	98-10-466A	01
10	ID	VALLEY COUNTY	1602200475A	28-AUG-98	98-10-359A	02
10	ID	VALLEY COUNTY	1602200325A	01-OCT-98	98-10-424A	02
10	ID	WEISER,CITY OF	1601240005B	10-DEC-98	99-10-079A	02
10	OR	ALBANY, CITY OF	4100080050C	31-JUL-98	98-10-377A	02
10	OR	ALBANY, CITY OF	4100080050C	11-DEC-98	99-10-026A	02
10	OR	ALBANY, CITY OF	4100080050C	16-DEC-98	99-10-037A	02
10	OR	ALBANY, CITY OF	4101370002E	31-DEC-98	99-10-125A	01
10	OR	BAKER COUNTY	41001C0300C	02-NOV-98	99-10-010A	02
10	OR	BEAVERTON,CITY OF	4102400006C	16-OCT-98	99-10-002A	02
10	OR	BENTON COUNTY	4100080050C	07-OCT-98	98-10-418A	02
10	OR	CENTRAL POINT, CITY OF	4100920001C	18-DEC-98	99-10-101A	02
10	OR	CLACKAMAS COUNTY	4155880020A	21-SEP-98	98-10-429A	02
10	OR	CLATSOP COUNTY	4100270060A	04-NOV-98	98-10-018A	02
10	OR	COLUMBIA COUNTY	41009C0450C	08-OCT-98	98-10-472A	02
10	OR	COOS COUNTY	4100420165B	14-AUG-98	98-10-320A	02
10	OR	CORNELIUS, CITY OF	4102610001A	03-NOV-98	99-10-014A	02
10	OR	COTTAGE GROVE, CITY OF	4101200001B	15-SEP-98	98-10-436A	02
10	OR	DEPOE BAY, CITY OF	4102830001B	30-JUL-98	98-10-361A	02
10	OR	DEPOE BAY, CITY OF	4102830001B	21-OCT-98	98-10-491A	02
10	OR	DESCHUTES COUNTY	41017C0470C	25-SEP-98	98-10-338A	17
10	OR	DESCHUTES COUNTY	41017C0460D	31-DEC-98	99-10-092A	01
10	OR	DOUGLAS COUNTY	4100590930A	19-AUG-98	98-10-386A	02
10	OR	DOUGLAS COUNTY	4100590740B	24-DEC-98	99-10-086A	02
10	OR	EUGENE, CITY OF	4101220003B	13-AUG-98	98-10-398A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
10	OR	EUGENE, CITY OF	4101220004C	28-AUG-98	98-10-400A	02
10	OR	EUGENE, CITY OF	4101220004C	28-AUG-98	98-10-401A	02
10	OR	EUGENE, CITY OF	4155910355C	09-DEC-98	98-10-416A	01
10	OR	EUGENE, CITY OF	4155910355C	06-OCT-98	98-10-446A	02
10	OR	EUGENE, CITY OF	4155910355C	06-OCT-98	98-10-467A	02
10	OR	EUGENE, CITY OF	4155910355C	18-DEC-98	99-10-107A	02
10	OR	GRESHAM, CITY OF	4101810006E	16-SEP-98	98-R10-016	02
10	OR	HILLSBORO, CITY OF	4102380350B	14-JUL-98	98-10-356P	06
10	OR	HILLSBORO, CITY OF	4102430003B	10-DEC-98	99-10-082A	02
10	OR	JACKSON COUNTY	4155890412B	07-JUL-98	98-10-291A	02
10	OR	JACKSON COUNTY	4155890312B	17-JUL-98	98-10-350A	02
10	OR	JACKSON COUNTY	4155890414B	23-JUL-98	98-10-358A	02
10	OR	JACKSON COUNTY	4155890395B	08-DEC-98	99-10-033A	02
10	OR	JEFFERSON COUNTY	4101010375B	23-SEP-98	98-10-450A	02
10	OR	JOSEPHINE COUNTY	4155900150B	24-SEP-98	98-10-448A	02
10	OR	KEIZER, CITY OF	4102880005B	14-JUL-98	98-10-331A	01
10	OR	KEIZER, CITY OF	4102880005B	09-SEP-98	98-10-434A	02
10	OR	KEIZER, CITY OF	4102880005B	12-NOV-98	99-10-046A	02
10	OR	KEIZER, CITY OF	4102880005B	09-DEC-98	99-10-138A	02
10	OR	KEIZER, CITY OF	4102880005B	09-DEC-98	99-10-138A	02
10	OR	KLAMATH COUNTY	4101091050B	31-JUL-98	98-10-277A	02
10	OR	LAKE OSWEGO, CITY OF	4100180002C	20-OCT-98	98-10-453A	02
10	OR	LANE COUNTY	4155910355C	07-JUL-98	98-10-335A	02
10	OR	LANE COUNTY	4155910105C	07-JUL-98	98-10-344A	02
10	OR	LANE COUNTY	4155910870D	07-JUL-98	98-10-345A	02
10	OR	LANE COUNTY	4155910355C	23-JUL-98	98-10-374A	02
10	OR	LANE COUNTY	4155911125C	28-AUG-98	98-10-406A	02
10	OR	LANE COUNTY	4155911000C	15-SEP-98	98-10-417A	02
10	OR	LANE COUNTY	4155910100C	31-AUG-98	98-10-431A	02
10	OR	LANE COUNTY	4155910355C	15-OCT-98	98-10-481A	02
10	OR	LANE COUNTY	4155910395D	10-DEC-98	99-10-017A	02
10	OR	LANE COUNTY	4155910355C	12-NOV-98	99-10-019A	01
10	OR	LANE COUNTY	4155910610C	12-NOV-98	99-10-024A	02
10	OR	LANE COUNTY	4155910290D	17-DEC-98	99-10-078A	02
10	OR	LANE COUNTY	4155910530D	17-DEC-98	99-10-078A	02
10	OR	LANE COUNTY	4155910610C	23-DEC-98	99-10-096A	02
10	OR	LINCOLN CITY, CITY OF	4101300001C	18-AUG-98	98-10-399V	19
10	OR	LINCOLN CITY, CITY OF	4101300001C	16-DEC-98	99-10-090A	02
10	OR	LINCOLN CITY, CITY OF	4101300001C	23-DEC-98	99-10-119A	02
10	OR	LINCOLN COUNTY	4101290150B	10-DEC-98	98-10-309A	02
10	OR	LINCOLN COUNTY	4101290325B	13-NOV-98	98-10-488A	02
10	OR	LINCOLN COUNTY	4101290025B	09-DEC-98	99-10-071A	02
10	OR	LINCOLN COUNTY	4101290175B	31-DEC-98	99-10-126A	02
10	OR	MARION COUNTY	4101540175D	22-DEC-98	98-10-146P	05
10	OR	MARION COUNTY	4101540475B	17-DEC-98	99-10-089A	02
10	OR	MEDFORD, CITY OF	4100960008C	14-AUG-98	98-10-362A	02
10	OR	MEDFORD, CITY OF	4100960008C	27-AUG-98	98-10-405A	02
10	OR	MEDFORD, CITY OF	4155890416B	20-OCT-98	98-10-495A	02
10	OR	MILWAUKIE, CITY OF	4100190001B	24-DEC-98	99-10-104A	02
10	OR	MULTNOMAH COUNTY	4101790215B	04-DEC-98	99-10-064A	02
10	OR	MULTNOMAH COUNTY	4101790215B	04-DEC-98	99-10-069A	02
10	OR	NORTH BEND, CITY OF	4100480002B	10-SEP-98	98-10-419A	02
10	OR	POLK COUNTY	41053C0050C	23-SEP-98	98-10-427A	02
10	OR	POLK COUNTY	41053C0225C	30-SEP-98	98-10-439A	02
10	OR	POLK COUNTY	41053C0125C	24-DEC-98	99-10-117A	02
10	OR	PORTLAND, CITY OF	4101830047D	20-JUL-98	98-10-221A	02
10	OR	PORTLAND, CITY OF	4101830005C	09-SEP-98	98-10-395A	01
10	OR	PORTLAND, CITY OF	4101830010D	09-SEP-98	98-10-395A	01
10	OR	PORTLAND, CITY OF	4101830049D	30-SEP-98	98-10-403A	01
10	OR	PORTLAND, CITY OF	4101830047D	10-SEP-98	98-10-409A	02
10	OR	ROSEBURG, CITY OF	4100590930A	18-DEC-98	99-10-100A	02
10	OR	ROSEBURG, CITY OF	4100670005D	18-DEC-98	99-10-103A	02
10	OR	SALEM, CITY OF	4101670003F	22-DEC-98	98-10-146P	05
10	OR	SALEM, CITY OF	4101540125D	10-SEP-98	98-10-378A	02
10	OR	SCAPPOOSE, CITY OF	41009C0444C	28-JUL-98	98-10-367A	02
10	OR	SEASIDE, CITY OF	4100320001C	27-JUL-98	98-10-349A	01
10	OR	SEASIDE, CITY OF	4100320001C	12-NOV-98	98-10-485A	02
10	OR	TIGARD, CITY OF	4102760003B	16-OCT-98	98-10-487A	02
10	OR	TUALATIN, CITY OF	4102770001D	23-JUL-98	98-10-318A	01
10	OR	TUALATIN, CITY OF	4102770001D	31-DEC-98	98-10-469A	01
10	OR	TUALATIN, CITY OF	4102770002D	02-NOV-98	98-10-484A	02
10	OR	WASHINGTON COUNTY	4102380507B	17-JUL-98	98-10-352A	02
10	OR	WASHINGTON COUNTY	4102380475B	04-AUG-98	98-10-369A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
10	OR	WASHINGTON COUNTY	4102380364C	16-DEC-98	99-10-084A	02
10	OR	WASHINGTON COUNTY	4102380368B	18-DEC-98	99-10-087A	01
10	OR	WOODBURN, CITY OF	4101720001B	04-DEC-98	99-10-065A	02
10	OR	YAMHILL COUNTY	4102490300C	09-OCT-98	98-10-415A	02
10	WA	ABERDEEN, CITY OF	5300570409B	03-SEP-98	98-10-179P	05
10	WA	ABERDEEN, CITY OF	5300580001B	03-SEP-98	98-10-179P	05
10	WA	ABERDEEN, CITY OF	5300580002B	03-SEP-98	98-10-179P	05
10	WA	ABERDEEN, CITY OF	5300580003B	03-SEP-98	98-10-179P	05
10	WA	ABERDEEN, CITY OF	5300580004B	03-SEP-98	98-10-179P	05
10	WA	BELLEVUE, CITY OF	53033C0652F	10-SEP-98	98-10-131P	05
10	WA	BELLEVUE, CITY OF	53033C0659F	09-SEP-98	98-10-161P	06
10	WA	BELLEVUE, CITY OF	53033C0658F	19-OCT-98	98-10-433P	06
10	WA	BENTON CITY, TOWN OF	5300100001E	01-OCT-98	98-10-426A	02
10	WA	BENTON COUNTY	5302370636D	30-OCT-98	98-10-479A	02
10	WA	BENTON COUNTY	5302370325B	10-NOV-98	99-10-041A	02
10	WA	BURLINGTON, CITY OF	5301510235D	25-AUG-98	98-10-394A	02
10	WA	CASHMERE, CITY OF	5300150600A	24-DEC-98	99-10-113A	02
10	WA	CENTRALIA, CITY OF	5301030002B	28-DEC-98	99-10-122A	01
10	WA	CLALLAM COUNTY	5300210545D	07-JUL-98	98-10-343A	02
10	WA	CLALLAM COUNTY	5300210545D	30-OCT-98	99-10-016A	02
10	WA	CLARK COUNTY	5300240159B	24-SEP-98	98-10-440A	02
10	WA	COLUMBIA COUNTY	53013C0175B	05-OCT-98	98-10-454A	02
10	WA	COSMOPOLIS, TOWN OF	5300570409B	03-SEP-98	98-10-179P	05
10	WA	COSMOPOLIS, TOWN OF	5300590001B	03-SEP-98	98-10-179P	05
10	WA	DES MOINES, CITY OF	53033C0968F	28-JUL-98	98-10-372A	02
10	WA	EPHRATA, CITY OF	5300510002B	28-JUL-98	98-10-313P	06
10	WA	GRANT COUNTY	5300490250B	28-JUL-98	98-10-313P	06
10	WA	GRANT COUNTY	5300490350B	28-JUL-98	98-10-313P	06
10	WA	GRAYS HARBOR COUNTY	5300570325B	06-JUL-98	98-10-255A	02
10	WA	GRAYS HARBOR COUNTY	5300570455B	09-JUL-98	98-10-315A	02
10	WA	GRAYS HARBOR COUNTY	5300570366B	02-NOV-98	98-10-383A	02
10	WA	GRAYS HARBOR COUNTY	5300570427B	29-JUL-98	98-R10-014	02
10	WA	ISLAND COUNTY	53029C0445D	10-AUG-98	98-10-341A	02
10	WA	ISLAND COUNTY	53029C0115D	05-OCT-98	98-10-443P	06
10	WA	KENT, CITY OF	53033C0969F	16-DEC-98	99-10-003A	01
10	WA	KING COUNTY	53033C1515F	29-SEP-98	97-R10-042	01
10	WA	KING COUNTY	53033C1225F	17-SEP-98	98-10-330A	02
10	WA	KING COUNTY	53033C0709G	06-JUL-98	98-10-339A	02
10	WA	KING COUNTY	53033C0040F	14-JUL-98	98-10-353A	02
10	WA	KING COUNTY	53033C0615F	14-JUL-98	98-10-354A	02
10	WA	KING COUNTY	53033C0709G	05-AUG-98	98-10-382A	02
10	WA	KING COUNTY	53033C0658F	19-OCT-98	98-10-433P	06
10	WA	KING COUNTY	53033C1057G	02-SEP-98	98-10-437A	02
10	WA	KING COUNTY	53033C0379G	15-OCT-98	98-10-451A	02
10	WA	KING COUNTY	53033C0763G	16-DEC-98	99-10-081A	02
10	WA	KITSAP COUNTY	5300920375B	28-JUL-98	98-10-379A	02
10	WA	KITSAP COUNTY	5300920220B	23-SEP-98	98-10-420A	02
10	WA	KITSAP COUNTY	5300920220B	12-NOV-98	98-10-465A	02
10	WA	KITSAP COUNTY	5300920390B	10-NOV-98	99-10-035A	02
10	WA	KITTITAS COUNTY	5300950261B	19-NOV-98	99-10-049A	17
10	WA	KLICKITAT COUNTY	5300990025B	12-NOV-98	99-10-029A	02
10	WA	LEWIS COUNTY	5301020242B	07-JUL-98	98-10-340A	02
10	WA	LEWIS COUNTY	5301020230B	08-OCT-98	98-10-444A	02
10	WA	LEWIS COUNTY	5301020525B	18-NOV-98	98-10-463A	02
10	WA	MASON COUNTY	5301150120C	16-JUL-98	98-10-322A	02
10	WA	MASON COUNTY	5301150070C	19-AUG-98	98-10-387A	02
10	WA	MASON COUNTY	5301150275C	27-JUL-98	98-R10-013	02
10	WA	MASON COUNTY	5301150275C	30-SEP-98	98-R10-017	02
10	WA	MASON COUNTY	5301150200C	03-NOV-98	99-10-012A	02
10	WA	MOUNT VERNON, CITY OF	5301580001B	05-AUG-98	98-10-381A	02
10	WA	NORTH BEND, CITY OF	53033C0744G	12-NOV-98	98-10-468A	02
10	WA	OKANOGAN COUNTY	5301170350B	02-NOV-98	99-10-004A	02
10	WA	ORTING, TOWN OF	5301430001B	25-SEP-98	98-10-447A	02
10	WA	PEND OREILLE COUNTY	530131B	15-SEP-98	98-10-392A	02
10	WA	PIERCE COUNTY	530138IND0	28-AUG-98	97-R10-043	02
10	WA	PIERCE COUNTY	5301380326C	12-AUG-98	98-10-357A	01
10	WA	PIERCE COUNTY	5301380125C	26-OCT-98	98-10-473A	02
10	WA	PIERCE COUNTY	5301380363C	13-OCT-98	98-10-483A	02
10	WA	PIERCE COUNTY	5301380213C	04-NOV-98	99-10-009A	02
10	WA	RENTON, CITY OF	53033C0976F	25-AUG-98	98-10-422A	01
10	WA	SAN JUAN COUNTY	5301490005B	24-SEP-98	98-10-445A	02
10	WA	SKAGIT COUNTY	5301510250C	14-AUG-98	98-10-365A	02
10	WA	SKAGIT COUNTY	5301510250C	25-AUG-98	98-10-389A	02

Region	State	Community	Map panel	Determination date	Case No.	Type
10	WA	SKAMANIA COUNTY	5301600400B	03-DEC-98	99-10-053A	02
10	WA	SNOHOMISH COUNTY	5355340205B	08-JUL-98	98-10-347A	02
10	WA	SNOHOMISH COUNTY	5355340510B	14-JUL-98	98-10-348A	02
10	WA	SNOHOMISH COUNTY	5355340505B	13-OCT-98	98-10-364A	02
10	WA	SNOHOMISH COUNTY	5355340205B	17-NOV-98	99-10-008A	17
10	WA	SNOHOMISH COUNTY	5355340205B	23-DEC-98	99-10-102A	17
10	WA	SPOKANE COUNTY	5301740294C	08-JUL-98	98-10-360A	02
10	WA	SPOKANE COUNTY	5301740277B	16-OCT-98	98-10-456A	02
10	WA	SPOKANE COUNTY	5301740294C	04-DEC-98	99-10-062A	02
10	WA	SPOKANE COUNTY	5301740277B	09-DEC-98	99-10-063A	02
10	WA	SPOKANE COUNTY	5301740294C	16-DEC-98	99-10-093A	02
10	WA	SPOKANE COUNTY	5301740401C	23-DEC-98	99-10-110A	02
10	WA	SPOKANE COUNTY	5301740294C	23-DEC-98	99-10-112A	02
10	WA	STEVENS COUNTY	5301850525B	22-OCT-98	98-10-493A	02
10	WA	STEVENS COUNTY	5301850275B	28-DEC-98	99-10-021A	02
10	WA	THURSTON COUNTY	5301880475C	01-OCT-98	98-10-459A	02
10	WA	THURSTON COUNTY	5301880430C	15-OCT-98	99-10-015A	02
10	WA	WAITSBURG, CITY OF	5301960001B	08-DEC-98	99-10-038P	05
10	WA	WALLA WALLA COUNTY	5301940240B	08-DEC-98	99-10-038P	05
10	WA	WHATCOM COUNTY	530198B	12-AUG-98	98-10-289A	02
10	WA	WHITMAN COUNTY	5302050295B	09-SEP-98	98-10-410A	02
10	WA	WOODINVILLE, CITY OF	53033C0360F	17-NOV-98	99-10-056A	01

Region	State	Community	Panel	Panel date
01	CT	FAIRFIELD, TOWN OF	0900070001C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070002C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070003C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070004C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070005C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070006C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070007C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070008C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070009C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070010C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	0900070011C	06-OCT-98
01	CT	FAIRFIELD, TOWN OF	090007IND0	06-OCT-98
01	CT	PLYMOUTH, TOWN OF	0901380001C	06-NOV-98
01	CT	PLYMOUTH, TOWN OF	0901380002C	06-NOV-98
01	CT	PLYMOUTH, TOWN OF	0901380003C	06-NOV-98
01	CT	PLYMOUTH, TOWN OF	0901380004C	06-NOV-98
01	CT	PLYMOUTH, TOWN OF	0901380010C	06-NOV-98
01	CT	PLYMOUTH, TOWN OF	090138IND0	06-NOV-98
01	CT	SOUTHINGTON, TOWN OF	0900370002D	20-JUL-98
01	CT	SOUTHINGTON, TOWN OF	0900370005D	20-JUL-98
01	CT	SOUTHINGTON, TOWN OF	090037IND0	20-JUL-98
01	CT	WINDHAM, TOWN OF	0901190001D	06-NOV-98
01	CT	WINDHAM, TOWN OF	0901190002D	06-NOV-98
01	CT	WINDHAM, TOWN OF	0901190003D	06-NOV-98
01	CT	WINDHAM, TOWN OF	0901190004D	06-NOV-98
01	CT	WINDHAM, TOWN OF	0901190005D	06-NOV-98
01	CT	WINDHAM, TOWN OF	0901190006D	06-NOV-98
01	CT	WINDHAM, TOWN OF	0901190007D	06-NOV-98
01	CT	WINDHAM, TOWN OF	090119IND0	06-NOV-98
01	MA	CHATHAM, TOWN OF	2500040008E***	20-JUL-98
01	MA	CHATHAM, TOWN OF	2500040009E**	20-JUL-98
01	MA	CHATHAM, TOWN OF	250004IND0 **	20-JUL-98
01	MA	CHILMARK, TOWN OF	2500680006D**	20-JUL-98
01	MA	CHILMARK, TOWN OF	2500680010D**	20-JUL-98
01	MA	CHILMARK, TOWN OF	250068IND0 **	20-JUL-98
01	MA	EDGARTOWN, TOWN OF	2500690004G**	20-JUL-98
01	MA	EDGARTOWN, TOWN OF	250069IND0 **	20-JUL-98
01	MA	ESSEX, TOWN OF	2500800003D**	20-JUL-98
01	MA	ESSEX, TOWN OF	2500800004D**	20-JUL-98
01	MA	ESSEX, TOWN OF	250080IND0 **	20-JUL-98
01	MA	GLOUCESTER, CITY OF	2500820001E**	20-JUL-98
01	MA	GLOUCESTER, CITY OF	2500820006E**	20-JUL-98
01	MA	GLOUCESTER, CITY OF	250082IND0 **	20-JUL-98
01	MA	GOSNOLD, TOWN OF	2500710004E**	20-JUL-98
01	MA	GOSNOLD, TOWN OF	2500710005E**	20-JUL-98
01	MA	GOSNOLD, TOWN OF	250071IND0 **	20-JUL-98
01	MA	SUDBURY, TOWN OF	2502170001C	20-NOV-98

Region	State	Community	Panel	Panel date
01	MA	SUDBURY, TOWN OF	2502170002C	20-NOV-98
01	MA	SUDBURY, TOWN OF	2502170003C	20-NOV-98
01	MA	SUDBURY, TOWN OF	2502170004C	20-NOV-98
01	MA	SUDBURY, TOWN OF	2502170005C	20-NOV-98
01	MA	SUDBURY, TOWN OF	2502170006C	20-NOV-98
01	MA	SUDBURY, TOWN OF	250217IND0	20-NOV-98
01	MA	WEST TISBURY, TOWN OF	2500740012E**	20-JUL-98
01	MA	WEST TISBURY, TOWN OF	2500740015E**	20-JUL-98
01	MA	WEST TISBURY, TOWN OF	250074IND0 **	20-JUL-98
01	ME	DRESDEN, TOWN OF	2300840005C	06-JUL-98
01	ME	DRESDEN, TOWN OF	2300840010C	06-JUL-98
01	ME	DRESDEN, TOWN OF	2300840015C	06-JUL-98
01	ME	DRESDEN, TOWN OF	230084IND0	06-JUL-98
01	ME	HARPSWELL, TOWN OF	2301690013C**	20-JUL-98
01	ME	HARPSWELL, TOWN OF	2301690014D**	20-JUL-98
01	ME	HARPSWELL, TOWN OF	230169IND0 **	20-JUL-98
01	ME	PHIPPSBURG, TOWN OF	2301200011E	20-JUL-98
01	ME	PHIPPSBURG, TOWN OF	230120IND0	20-JUL-98
01	ME	PORTLAND, CITY OF	2300510002C	08-DEC-98
01	ME	PORTLAND, CITY OF	2300510006C	08-DEC-98
01	ME	PORTLAND, CITY OF	2300510007C	08-DEC-98
01	ME	PORTLAND, CITY OF	2300510012C	08-DEC-98
01	ME	PORTLAND, CITY OF	230051IND0	08-DEC-98
01	ME	SANFORD, TOWN OF	2301560010F	20-JUL-98
01	ME	SANFORD, TOWN OF	230156IND0	20-JUL-98
01	ME	SIDNEY,TOWN OF	2302470005C	20-NOV-98
01	ME	SIDNEY,TOWN OF	2302470010C	20-NOV-98
01	ME	SIDNEY,TOWN OF	2302470015C	20-NOV-98
01	ME	SIDNEY,TOWN OF	2302470020C	20-NOV-98
01	ME	SIDNEY,TOWN OF	2302470025C	20-NOV-98
01	ME	SIDNEY,TOWN OF	230247IND0	20-NOV-98
01	ME	UNION,TOWN OF	2300800005C	17-AUG-98
01	ME	UNION,TOWN OF	2300800010C	17-AUG-98
01	ME	UNION,TOWN OF	2300800015C	17-AUG-98
01	ME	UNION,TOWN OF	230080IND0	17-AUG-98
01	ME	VIENNA, TOWN OF	2302490005C	20-NOV-98
01	ME	VIENNA, TOWN OF	2302490010C	20-NOV-98
01	ME	VIENNA, TOWN OF	2302490015C	20-NOV-98
01	ME	VIENNA, TOWN OF	230249IND0	20-NOV-98
01	NH	HEBRON, TOWN OF	3300580010B	06-JUL-98
01	RI	PORTSMOUTH, TOWN OF	4454050002G**	20-JUL-98
01	RI	PORTSMOUTH, TOWN OF	445405IND0 **	20-JUL-98
02	NJ	ALLENDALE, BOROUGH OF	34003C0069G	08-DEC-98
02	NJ	ALLENDALE, BOROUGH OF	34003C0086G	08-DEC-98
02	NJ	ALLENDALE, BOROUGH OF	34003C0088G	08-DEC-98
02	NJ	ALLENDALE, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	BERGENFIELD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	BOGOTA, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	BRICK, TOWNSHIP OF	3452850006D	03-AUG-98
02	NJ	BRICK, TOWNSHIP OF	3452850007E	03-AUG-98
02	NJ	BRICK, TOWNSHIP OF	345285IND0	03-AUG-98
02	NJ	CARLSTADT, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	CLOSTER, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	CRESSKILL, BOROUGHS OF	34003CIND0 **	08-DEC-98
02	NJ	DEMAREST, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	DUMONT, BOROUGHS OF	34003CIND0 **	08-DEC-98
02	NJ	EAST PATERSON, BOROUGH	34003CIND0 **	08-DEC-98
02	NJ	EAST RUTHERFORD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	EDGEWATER, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	ELMWOOD PARK, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	EMERSON, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	ENGLEWOOD, CITY OF	34003CIND0 **	08-DEC-98
02	NJ	FAIR LAWN, BOROUGH OF	34003C0159G	08-DEC-98
02	NJ	FAIR LAWN, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	FAIRVIEW, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	FORT LEE, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	FRANKLIN LAKES, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	GARFIELD, CITY OF	34003CIND0 **	08-DEC-98
02	NJ	GLEN ROCK, BOROUGH OF	34003C0157G	08-DEC-98
02	NJ	GLEN ROCK, BOROUGH OF	34003C0159G	08-DEC-98
02	NJ	GLEN ROCK, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	HACKENSACK MEADOWLANDS COMMISS	34003CIND0 **	08-DEC-98
02	NJ	HACKENSACK, CITY OF	34003CIND0 **	08-DEC-98
02	NJ	HARRINGTON PARK, BOROUGH OF	34003CIND0 **	08-DEC-98

Region	State	Community	Panel	Panel date
02	NJ	HASBROUCK HEIGHTS, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	HAWORTH, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	HIGHLANDS, BOROUGH OF	3452970001B	22-DEC-98
02	NJ	HILLSDALE, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	HO-HO-KUS, BOROUGH OF	34003C0088G	08-DEC-98
02	NJ	HO-HO-KUS, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	LEONIA, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	LITTLE FERRY, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	LODI, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	LYNDHURST, TOWNSHIP OF	34003CIND0 **	08-DEC-98
02	NJ	MAHWAH, TOWNSHIP OF	34003C0069G	08-DEC-98
02	NJ	MAHWAH, TOWNSHIP OF	34003C0078G	08-DEC-98
02	NJ	MAHWAH, TOWNSHIP OF	34003CIND0	08-DEC-98
02	NJ	MAYWOOD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	MIDLAND PARK, BOROUGH OF	34003C0069G	08-DEC-98
02	NJ	MIDLAND PARK, BOROUGH OF	34003C0156G	08-DEC-98
02	NJ	MIDLAND PARK, BOROUGH OF	34003C0157G	08-DEC-98
02	NJ	MIDLAND PARK, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	MONTVALE, BOROUGH OF	34003C0079G	08-DEC-98
02	NJ	MONTVALE, BOROUGH OF	34003C0087G	08-DEC-98
02	NJ	MONTVALE, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	MOONACHIE, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	NEW MILFORD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	NORTH ARLINGTON, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	NORTH WILDWOOD, CITY OF	3453080001E	20-JUL-98
02	NJ	NORTHVALE, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	NORWOOD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	OAKLAND, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	OLD TAPPAN, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	ORADELL, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	PALISADES PARK, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	PARAMUS, BOROUGHS OF	34003CIND0 **	08-DEC-98
02	NJ	PARK RIDGE, BOROUGH OF	34003C0087G	08-DEC-98
02	NJ	PARK RIDGE, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	RAMSEY, BOROUGH OF	34003C0078G	08-DEC-98
02	NJ	RAMSEY, BOROUGH OF	34003C0086G	08-DEC-98
02	NJ	RAMSEY, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	RIDGEFIELD PARK, VILLAGE OF	34003CIND0 **	08-DEC-98
02	NJ	RIDGEFIELD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	RIDGEWOOD, VILLAGE OF	34003C0069G	08-DEC-98
02	NJ	RIDGEWOOD, VILLAGE OF	34003C0088G	08-DEC-98
02	NJ	RIDGEWOOD, VILLAGE OF	34003C0157G	08-DEC-98
02	NJ	RIDGEWOOD, VILLAGE OF	34003C0159G	08-DEC-98
02	NJ	RIDGEWOOD, VILLAGE OF	34003CIND0	08-DEC-98
02	NJ	RIVER EDGE, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	RIVER VALE, TOWNSHIP OF	34003CIND0 **	08-DEC-98
02	NJ	ROCHELLE PARK, TOWNSHIP OF	34003CIND0 **	08-DEC-98
02	NJ	ROCKLEIGH, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	RUTHERFORD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	SADDLE BROOK, TOWNSHIP OF	34003CIND0 **	08-DEC-98
02	NJ	SADDLE RIVER, BOROUGH OF	34003C0086G	08-DEC-98
02	NJ	SADDLE RIVER, BOROUGH OF	34003C0087G	08-DEC-98
02	NJ	SADDLE RIVER, BOROUGH OF	34003C0088G	08-DEC-98
02	NJ	SADDLE RIVER, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	SOUTH HACKENSACK, TOWNSHIP OF	34003CIND0 **	08-DEC-98
02	NJ	TEANECK, TOWNSHIP OF	34003CIND0 **	08-DEC-98
02	NJ	TENAFLY, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	TETERBORO, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	UPPER SADDLE RIVER, BOROUGH OF	34003C0078G	08-DEC-98
02	NJ	UPPER SADDLE RIVER, BOROUGH OF	34003C0079G	08-DEC-98
02	NJ	UPPER SADDLE RIVER, BOROUGH OF	34003C0086G	08-DEC-98
02	NJ	UPPER SADDLE RIVER, BOROUGH OF	34003C0087G	08-DEC-98
02	NJ	UPPER SADDLE RIVER, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	WALDWICK, BOROUGH OF	34003C0069G	08-DEC-98
02	NJ	WALDWICK, BOROUGH OF	34003C0088G	08-DEC-98
02	NJ	WALDWICK, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	WALLINGTON, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	WASHINGTON, TOWNSHIP OF	34003CIND0 **	08-DEC-98
02	NJ	WESTWOOD, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	WOOD-RIDGE, BOROUGH OF	34003CIND0 **	08-DEC-98
02	NJ	WOODCLIFF LAKE, BOROUGH OF	34003C0087G	08-DEC-98
02	NJ	WOODCLIFF LAKE, BOROUGH OF	34003CIND0	08-DEC-98
02	NJ	WYCKOFF, TOWNSHIP OF	34003C0069G	08-DEC-98
02	NJ	WYCKOFF, TOWNSHIP OF	34003C0156G	08-DEC-98

Region	State	Community	Panel	Panel date
02	NJ	WYCKOFF, TOWNSHIP OF	34003C0157G	08-DEC-98
02	NJ	WYCKOFF, TOWNSHIP OF	34003CIND0	08-DEC-98
02	NY	BAXTER ESTATES, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	BAXTER ESTATES, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	BAYVILLE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	BAYVILLE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	BELLEROSE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	BELLEROSE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	BROOKVILLE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	BROOKVILLE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	CAMDEN, TOWN OF	3605230015D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230020D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230040D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230060D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230080D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230082D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230085D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230090D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230095D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230101D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230102D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230103D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230104D	07-SEP-98
02	NY	CAMDEN, TOWN OF	3605230115D	07-SEP-98
02	NY	CAMDEN, TOWN OF	360523IND0	07-SEP-98
02	NY	CANTON, TOWN OF	3611720025B	17-AUG-98
02	NY	CANTON, TOWN OF	3611720056B	17-AUG-98
02	NY	CANTON, TOWN OF	3611720067B	17-AUG-98
02	NY	CANTON, TOWN OF	3611720075B	17-AUG-98
02	NY	CANTON, TOWN OF	361172IND0	17-AUG-98
02	NY	CEDARHURST, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	CEDARHURST, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	CENTRE ISLAND, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	CENTRE ISLAND, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	CONQUEST, TOWN OF	3601080005D	20-OCT-98
02	NY	CONQUEST, TOWN OF	3601080007D	20-OCT-98
02	NY	CONQUEST, TOWN OF	3601080008D	20-OCT-98
02	NY	CONQUEST, TOWN OF	360108IND0	20-OCT-98
02	NY	COVE NECK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	COVE NECK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	EAST HILLS, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	EAST HILLS, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	EAST ROCKAWAY, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	EAST ROCKAWAY, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	EAST WILLISTON, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	EAST WILLISTON, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	ENDICOTT, VILLAGE OF	3600450005B	07-SEP-98
02	NY	FARMINGDALE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	FARMINGDALE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	FLORAL PARK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	FLORAL PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	FLOWER HILL, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	FLOWER HILL, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	FREEPORT, VILLAGE OF	36059CIND1	20-JUL-98
02	NY	FREEPORT, VILLAGE OF	36059CIND2	20-JUL-98
02	NY	GARDEN CITY, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	GARDEN CITY, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	GLEN COVE, CITY OF	36059CIND1 **	20-JUL-98
02	NY	GLEN COVE, CITY OF	36059CIND2 **	20-JUL-98
02	NY	GREAT NECK ESTATES, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	GREAT NECK ESTATES, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	GREAT NECK PLAZA, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	GREAT NECK PLAZA, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	GREAT NECK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	GREAT NECK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	HEMPSTEAD, TOWN OF	36059CIND1 **	20-JUL-98
02	NY	HEMPSTEAD, TOWN OF	36059CIND2 **	20-JUL-98
02	NY	HEMPSTEAD, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	HEMPSTEAD, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	HERMON, VILLAGE OF	3614640001A**	03-AUG-98
02	NY	HEWLETT BAY PARK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	HEWLETT BAY PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	HEWLETT HARBOR, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	HEWLETT HARBOR, VILLAGE OF	36059CIND2 **	20-JUL-98

Region	State	Community	Panel	Panel date
02	NY	HEWLETT NECK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	HEWLETT NECK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	ISLAND PARK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	ISLAND PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	KENSINGTON, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	KENSINGTON, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	KINGS POINT, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	KINGS POINT, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	LAKE SUCCESS, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	LAKE SUCCESS, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	LATTINGTOWN, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	LATTINGTOWN, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	LAUREL HOLLOW, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	LAUREL HOLLOW, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	LAWRENCE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	LAWRENCE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	LEE, TOWN OF	3605320005C	03-AUG-98
02	NY	LEE, TOWN OF	3605320010C	03-AUG-98
02	NY	LEE, TOWN OF	3605320015C	03-AUG-98
02	NY	LEE, TOWN OF	3605320020C	03-AUG-98
02	NY	LEE, TOWN OF	3605320021C	03-AUG-98
02	NY	LEE, TOWN OF	3605320022C	03-AUG-98
02	NY	LEE, TOWN OF	3605320025C	03-AUG-98
02	NY	LEE, TOWN OF	3605320027C	03-AUG-98
02	NY	LEE, TOWN OF	3605320029C	03-AUG-98
02	NY	LEE, TOWN OF	3605320031C	03-AUG-98
02	NY	LEE, TOWN OF	3605320032C	03-AUG-98
02	NY	LEE, TOWN OF	3605320033C	03-AUG-98
02	NY	LEE, TOWN OF	3605320034C	03-AUG-98
02	NY	LEE, TOWN OF	3605320036C	03-AUG-98
02	NY	LEE, TOWN OF	3605320037C	03-AUG-98
02	NY	LEE, TOWN OF	3605320040C	03-AUG-98
02	NY	LEE, TOWN OF	360532IND0	03-AUG-98
02	NY	LONG BEACH, CITY OF	36059CIND1 **	20-JUL-98
02	NY	LONG BEACH, CITY OF	36059CIND2 **	20-JUL-98
02	NY	LYN BROOK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	LYN BROOK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	MALVERNE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	MALVERNE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	MANORHAVEN, VILLAGE OF	36059C0102G	20-JUL-98
02	NY	MANORHAVEN, VILLAGE OF	36059CIND1	20-JUL-98
02	NY	MANORHAVEN, VILLAGE OF	36059CIND2	20-JUL-98
02	NY	MASSAPEQUA PARK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	MASSAPEQUA PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	MATINECOCK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	MATINECOCK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	MILL NECK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	MILL NECK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	MINEDA, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	MINEDA, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	MUNSEY PARK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	MUNSEY PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	MUTTONTOWN, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	MUTTONTOWN, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	NEW HYDE PARK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	NEW HYDE PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	NORTH HEMPSTEAD, TOWN OF	36059C0102G	20-JUL-98
02	NY	NORTH HEMPSTEAD, TOWN OF	36059CIND1	20-JUL-98
02	NY	NORTH HEMPSTEAD, TOWN OF	36059CIND2	20-JUL-98
02	NY	NORTH HILLS, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	NORTH HILLS, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	OLD BROOKVILLE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	OLD BROOKVILLE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	OLD WESTBURY, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	OLD WESTBURY, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	OYSTER BAY COVE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	OYSTER BAY COVE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	OYSTER BAY, TOWN OF	36059CIND1 **	20-JUL-98
02	NY	OYSTER BAY, TOWN OF	36059CIND2 **	20-JUL-98
02	NY	PLANDOME HEIGHTS, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	PLANDOME HEIGHTS, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	PLANDOME MANOR, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	PLANDOME MANOR, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	PLANDOME, VILLAGE OF	36059CIND1 **	20-JUL-98

Region	State	Community	Panel	Panel date
02	NY	PLANDOME, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	PORT WASHINGTON NORTH, VILLAGE	36059C0102G	20-JUL-98
02	NY	PORT WASHINGTON NORTH, VILLAGE	36059CIND1	20-JUL-98
02	NY	PORT WASHINGTON NORTH, VILLAGE	36059CIND2	20-JUL-98
02	NY	ROCKVILLE CENTRE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	ROCKVILLE CENTRE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	ROME, CITY OF	3605420009C	21-SEP-98
02	NY	ROME, CITY OF	3605420017C	21-SEP-98
02	NY	ROME, CITY OF	360542IND0	21-SEP-98
02	NY	ROSLYN ESTATES, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	ROSLYN ESTATES, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	ROSLYN HARBOR, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	ROSLYN HARBOR, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	ROSLYN, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	RUSSELL GARDENS, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	RUSSELL GARDENS, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	SADDLE ROCK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	SADDLE ROCK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	SANDS POINT, VILLAGE OF	36059C0102G	20-JUL-98
02	NY	SANDS POINT, VILLAGE OF	36059CIND1	20-JUL-98
02	NY	SANDS POINT, VILLAGE OF	36059CIND2	20-JUL-98
02	NY	SEA CLIFF, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	SEA CLIFF, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	SOUTH FLORAL PARK, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	SOUTH FLORAL PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	STEWART MANOR, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	STEWART MANOR, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	THOMASTON, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	THOMASTON, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	TRENTON, TOWN OF	3605560004E	07-SEP-98
02	NY	TRENTON, TOWN OF	360556IND0	07-SEP-98
02	NY	UPPER BROOKVILLE, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	UPPER BROOKVILLE, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	VALLEY STREAM, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	VALLEY STREAM, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	WESTBURY, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	WESTBURY, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	WILLISTON PARK, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	WOODSBURGH, VILLAGE OF	36059CIND1 **	20-JUL-98
02	NY	WOODSBURGH, VILLAGE OF	36059CIND2 **	20-JUL-98
02	NY	YATES, TOWN OF	36059CIND1 **	20-JUL-98
02	VI	VIRGIN ISLANDS, COMMONWEALTH O	7800000090E**	20-JUL-98
02	VI	VIRGIN ISLANDS, COMMONWEALTH O	780000IND0 **	20-JUL-98
03	DE	ARDEN, TOWN OF	10003CIND0 **	03-AUG-98
03	DE	ARDENCROFT, VILLAGE OF	10003CIND0 **	03-AUG-98
03	DE	ARDENTOWN, VILLAGE OF	10003CIND0 **	03-AUG-98
03	DE	BELLEFONTE, TOWN OF	10003CIND0 **	03-AUG-98
03	DE	DELAWARE CITY, CITY OF	10003CIND0 **	03-AUG-98
03	DE	ELSMERE, TOWN OF	10003CIND0 **	03-AUG-98
03	DE	MIDDLETOWN, TOWN OF	10003CIND0 **	03-AUG-98
03	DE	NEW CASTLE COUNTY *	10003C0110G	03-AUG-98
03	DE	NEW CASTLE COUNTY *	10003C0120G	03-AUG-98
03	DE	NEW CASTLE COUNTY *	10003CIND0	03-AUG-98
03	DE	NEW CASTLE, CITY OF	10003CIND0 **	03-AUG-98
03	DE	NEWARK,CITY OF	10003C0110G	03-AUG-98
03	DE	NEWARK,CITY OF	10003C0120G	03-AUG-98
03	DE	NEWARK,CITY OF	10003CIND0	03-AUG-98
03	DE	NEWPORT, TOWN OF	10003CIND0 **	03-AUG-98
03	DE	ODESSA, TOWN OF	10003CIND0 **	03-AUG-98
03	DE	TOWNSEND, TOWN OF	10003CIND0 **	03-AUG-98
03	DE	WILMINGTON, CITY OF	10003CIND0 **	03-AUG-98
03	MD	CALVERT COUNTY*	2400110027D**	20-JUL-98
03	MD	CALVERT COUNTY*	2400110030E**	20-JUL-98
03	MD	CALVERT COUNTY*	240011IND0 **	20-JUL-98
03	MD	CAROLINE COUNTY *	2401300342C	07-SEP-98
03	MD	CAROLINE COUNTY *	2401300361C	07-SEP-98
03	MD	CAROLINE COUNTY *	240130IND0	07-SEP-98
03	MD	FEDERALSBURG, TOWN OF	2400130001B	07-SEP-98
03	MD	SOMERSET COUNTY *	2400610425C**	20-JUL-98
03	MD	SOMERSET COUNTY *	240061IND0 **	20-JUL-98
03	PA	ALLISON, TOWNSHIP OF	4215340005C	06-JUL-98
03	PA	CARROLL, TOWNSHIP OF	4219490016C	21-SEP-98
03	PA	CARROLL, TOWNSHIP OF	421949IND0	21-SEP-98
03	PA	REYNOLDSVILLE, BOROUGH OF	4205130001C	22-DEC-98

Region	State	Community	Panel	Panel date
03	PA	ST. MARYS, CITY OF	4204460004C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460005C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460008C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460009C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460010C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460011C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460012C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460013C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460014C	03-AUG-98
03	PA	ST. MARYS, CITY OF	4204460020C	03-AUG-98
03	PA	ST. MARYS, CITY OF	420446IND0	03-AUG-98
03	PA	STONYCREEK, TOWNSHIP OF	4202410001C**	06-NOV-98
03	PA	STONYCREEK, TOWNSHIP OF	4202410002C**	06-NOV-98
03	PA	STONYCREEK, TOWNSHIP OF	420241IND0 **	06-NOV-98
03	VA	ACCOMACK COUNTY *	5100010090D**	20-JUL-98
03	VA	ACCOMACK COUNTY *	510001IND0 **	20-JUL-98
03	VA	NORTHAMPTON COUNTY *	5101050005D**	20-JUL-98
03	VA	NORTHAMPTON COUNTY *	510105IND0 **	20-JUL-98
03	VA	NORTHUMBERLAND COUNTY *	5101070004D**	20-JUL-98
03	VA	NORTHUMBERLAND COUNTY *	510107IND0 **	20-JUL-98
03	VA	RAPPAHANNOCK COUNTY *	5101280007C	03-AUG-98
03	VA	RAPPAHANNOCK COUNTY *	5101280008C	03-AUG-98
03	VA	RAPPAHANNOCK COUNTY *	5101280009C	03-AUG-98
03	VA	RAPPAHANNOCK COUNTY *	5101280010C	03-AUG-98
03	VA	RAPPAHANNOCK COUNTY *	510128IND0	03-AUG-98
03	VA	RICHMOND, CITY OF	5101290010C**	20-JUL-98
03	VA	RICHMOND, CITY OF	5101290020C**	20-JUL-98
03	VA	RICHMOND, CITY OF	510129IND0 **	20-JUL-98
03	WV	BERKELEY COUNTY *	5402820038C	20-NOV-98
03	WV	BERKELEY COUNTY *	5402820076C	20-NOV-98
03	WV	BERKELEY COUNTY *	5402820077C	20-NOV-98
03	WV	BERKELEY COUNTY *	5402820078C	20-NOV-98
03	WV	BERKELEY COUNTY *	5402820081C	20-NOV-98
03	WV	BERKELEY COUNTY *	5402820083C	20-NOV-98
03	WV	BERKELEY COUNTY *	540282IND0	20-NOV-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0758J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0759J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0766J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0767J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0768J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0769J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0786J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0788J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0852J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0855J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0856J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0857J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0859J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0876J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097C0880J	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097CIND1	06-JUL-98
04	AL	BAYOU LA BATRE, CITY OF	01097CIND2	06-JUL-98
04	AL	CHICKASAW, CITY OF	01097C0436J	06-JUL-98
04	AL	CHICKASAW, CITY OF	01097C0437J	06-JUL-98
04	AL	CHICKASAW, CITY OF	01097C0438J	06-JUL-98
04	AL	CHICKASAW, CITY OF	01097C0439J	06-JUL-98
04	AL	CHICKASAW, CITY OF	01097CIND1	06-JUL-98
04	AL	CHICKASAW, CITY OF	01097CIND2	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0020J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0040J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0135J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0145J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0150J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0155J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0165J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097C0175J	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097CIND1	06-JUL-98
04	AL	CITRONELLE, CITY OF	01097CIND2	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0316J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0317J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0318J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0319J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0336J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0337J	06-JUL-98

Region
04 AL

Region	State	Community	Panel	Panel date
04	AL	CREOLA, CITY OF	01097C0338J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0339J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0431J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0432J	06-JUL-98
04	AL	CREOLA, CITY OF	01097C0451J	06-JUL-98
04	AL	CREOLA, CITY OF	01097CIND1	06-JUL-98
04	AL	CREOLA, CITY OF	01097CIND2	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0889J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0892J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0893J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0894J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0911J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0913J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0914J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0952J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0956J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0957J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0976J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0977J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0981J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C0982J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C1001J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097C1002J	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097CIND1	06-JUL-98
04	AL	DAUPHIN ISLAND, TOWN OF	01097CIND2	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0020J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0040J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0050J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0075J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0100J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0125J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0135J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0145J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0150J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0155J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0165J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0175J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0200J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0225J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0250J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0275J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0300J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0315J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0316J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0317J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0318J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0319J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0325J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0336J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0337J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0338J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0339J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0375J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0380J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0389J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0393J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0400J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0404J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0405J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0408J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0409J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0410J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0411J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0412J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0413J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0414J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0416J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0417J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0418J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0419J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0426J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0427J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0428J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0429J	06-JUL-98

Region	State	Community	Panel	Panel date
04	AL	MOBILE COUNTY*	01097C0431J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0432J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0433J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0434J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0436J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0437J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0438J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0439J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0441J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0442J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0443J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0444J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0451J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0455J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0465J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0500J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0507J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0509J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0517J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0519J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0525J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0526J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0527J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0528J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0529J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0531J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0532J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0533J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0534J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0536J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0537J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0538J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0539J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0541J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0542J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0543J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0544J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0551J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0552J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0553J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0554J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0556J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0557J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0558J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0559J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0561J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0562J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0563J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0564J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0566J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0567J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0568J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0625J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0632J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0642J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0644J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0650J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0651J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0652J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0653J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0654J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0656J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0657J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0658J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0659J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0661J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0662J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0663J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0664J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0666J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0667J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0668J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0669J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0676J	06-JUL-98

Region	State	Community	Panel	Panel date
04	AL	MOBILE COUNTY*	01097C0677J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0678J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0679J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0681J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0686J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0687J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0688J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0689J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0732J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0734J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0745J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0751J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0752J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0753J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0754J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0756J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0757J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0758J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0759J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0761J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0762J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0763J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0764J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0766J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0767J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0768J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0769J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0776J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0777J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0778J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0779J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0781J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0782J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0783J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0784J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0786J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0787J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0788J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0789J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0791J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0792J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0793J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0794J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0801J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0803J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0811J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0813J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0835J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0852J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0855J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0856J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0857J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0859J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0876J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0877J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0880J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0881J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0882J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0883J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0884J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0889J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0892J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0893J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0894J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0901J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0903J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0911J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0913J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0914J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0952J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0956J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0957J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0976J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0977J	06-JUL-98

Region	State	Community	Panel	Panel date
04	AL	MOBILE COUNTY*	01097C0981J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C0982J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C1001J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C1002J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C1003J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C1004J	06-JUL-98
04	AL	MOBILE COUNTY*	01097C1008J	06-JUL-98
04	AL	MOBILE COUNTY*	01097CIND1	06-JUL-98
04	AL	MOBILE COUNTY*	01097CIND2	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0429J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0431J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0433J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0434J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0437J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0439J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0441J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0442J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0443J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0444J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0455J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0465J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0526J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0527J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0529J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0531J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0532J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0533J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0534J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0537J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0539J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0541J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0542J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0543J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0544J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0551J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0552J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0553J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0554J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0556J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0557J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0558J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0559J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0561J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0562J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0563J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0564J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0566J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0567J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0568J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0651J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0652J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0656J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0657J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0659J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0676J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0677J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0678J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0679J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0681J	06-JUL-98
04	AL	MOBILE, CITY OF	01097C0687J	06-JUL-98
04	AL	MOBILE, CITY OF	01097CIND1	06-JUL-98
04	AL	MOBILE, CITY OF	01097CIND2	06-JUL-98
04	AL	MOUNT VERNON, TOWN OF	01097C0200J	06-JUL-98
04	AL	MOUNT VERNON, TOWN OF	01097CIND1	06-JUL-98
04	AL	MOUNT VERNON, TOWN OF	01097CIND2	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0408J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0409J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0416J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0417J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0418J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0419J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0428J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0436J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0437J	06-JUL-98

Region	State	Community	Panel	Panel date
04	AL	PRICHARD, CITY OF	01097C0438J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0439J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0531J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0532J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0551J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0552J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097C0556J	06-JUL-98
04	AL	PRICHARD, CITY OF	01097CIND1	06-JUL-98
04	AL	PRICHARD, CITY OF	01097CIND2	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0409J	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0410J	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0427J	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0428J	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0429J	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0433J	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0436J	06-JUL-98
04	AL	SARALAND, CITY OF	01097C0437J	06-JUL-98
04	AL	SARALAND, CITY OF	01097CIND1	06-JUL-98
04	AL	SARALAND, CITY OF	01097CIND2	06-JUL-98
04	AL	SATSUMA, CITY OF	01097C0318J	06-JUL-98
04	AL	SATSUMA, CITY OF	01097C0319J	06-JUL-98
04	AL	SATSUMA, CITY OF	01097C0427J	06-JUL-98
04	AL	SATSUMA, CITY OF	01097C0429J	06-JUL-98
04	AL	SATSUMA, CITY OF	01097C0431J	06-JUL-98
04	AL	SATSUMA, CITY OF	01097C0432J	06-JUL-98
04	AL	SATSUMA, CITY OF	01097C0433J	06-JUL-98
04	AL	SATSUMA, CITY OF	01097CIND1	06-JUL-98
04	AL	SATSUMA, CITY OF	01097CIND2	06-JUL-98
04	FL	CITRUS COUNTY *	1200630200C**	06-NOV-98
04	FL	CITRUS COUNTY *	1200630205C**	06-NOV-98
04	FL	CITRUS COUNTY *	1200630215C**	06-NOV-98
04	FL	CITRUS COUNTY *	120063IND0 **	06-NOV-98
04	FL	COLLIER COUNTY *	1200670803F**	20-JUL-98
04	FL	COLLIER COUNTY *	120067IND0 **	20-JUL-98
04	FL	FRANKLIN COUNTY *	1200880565D**	20-JUL-98
04	FL	FRANKLIN COUNTY *	120088IND0 **	20-JUL-98
04	FL	ISLAMORADA, VILLAGE OF	12087C0993H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C0994H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1114I**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1117H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1118I**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1127H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1128H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1129H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1131H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1132H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1326H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087C1327H**	22-DEC-98
04	FL	ISLAMORADA, VILLAGE OF	12087CIND0 **	22-DEC-98
04	FL	KEY COLONY BEACH, CITY OF	12087CIND0 **	22-DEC-98
04	FL	KEY WEST, CITY OF	12087CIND0 **	22-DEC-98
04	FL	LAYTON, CITY OF	12087CIND0 **	22-DEC-98
04	FL	LEE COUNTY*	1251240442C**	20-JUL-98
04	FL	LEE COUNTY*	1251240444D**	20-JUL-98
04	FL	LEE COUNTY*	1251240505E**	20-JUL-98
04	FL	LEE COUNTY*	1251240510D**	20-JUL-98
04	FL	LEE COUNTY*	1251240530C**	20-JUL-98
04	FL	LEE COUNTY*	125124IND0 **	20-JUL-98
04	FL	MONROE COUNTY*	12087C0993H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C0994H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1114I**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1117H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1118I**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1127H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1128H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1129H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1131H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1132H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1326H**	22-DEC-98
04	FL	MONROE COUNTY*	12087C1327H**	22-DEC-98
04	FL	MONROE COUNTY*	12087CIND0 **	22-DEC-98
04	FL	PALM SPRINGS, VILLAGE OF	1202230001D**	22-DEC-98
04	FL	SANTA ROSA COUNTY *	1202740270D**	20-JUL-98
04	FL	SANTA ROSA COUNTY *	1202740355D**	20-JUL-98

Region	State	Community	Panel	Panel date
04	FL	SANTA ROSA COUNTY *	120274IND0 **	20-JUL-98
04	GA	CHARLTON COUNTY*	13049C0025B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0050B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0075B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0100B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0125B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0150B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0175B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0200B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0225B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0250B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0275B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0300B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0325B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0345B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0350B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0355B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0360B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0365B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0400B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0410B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0420B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0425B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0440B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0450B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0460B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0470B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0475B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0480B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0485B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0490B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0495B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0510B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0520B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0525B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0535B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0555B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049C0560B	21-SEP-98
04	GA	CHARLTON COUNTY*	13049CIND0	21-SEP-98
04	GA	DULUTH, CITY OF	1300980001C	20-JUL-98
04	GA	DULUTH, CITY OF	1300980002C	20-JUL-98
04	GA	DULUTH, CITY OF	1300980003C	20-JUL-98
04	GA	DULUTH, CITY OF	1300980004C	20-JUL-98
04	GA	DULUTH, CITY OF	130098IND0	20-JUL-98
04	GA	FOLKSTON, CITY OF	13049C0350B	21-SEP-98
04	GA	FOLKSTON, CITY OF	13049C0355B	21-SEP-98
04	GA	FOLKSTON, CITY OF	13049CIND0	21-SEP-98
04	GA	GWINNETT COUNTY *	1303220045C	20-JUL-98
04	GA	GWINNETT COUNTY *	1303220160E	20-JUL-98
04	GA	GWINNETT COUNTY *	130322IND0	20-JUL-98
04	GA	HIAWASSEE, CITY OF	13281C0035C	06-JUL-98
04	GA	HIAWASSEE, CITY OF	13281C0045C	06-JUL-98
04	GA	HIAWASSEE, CITY OF	13281C0055C	06-JUL-98
04	GA	HIAWASSEE, CITY OF	13281C0065C	06-JUL-98
04	GA	HIAWASSEE, CITY OF	13281CIND0	06-JUL-98
04	GA	HOMELAND, TOWN OF	13049C0350B	21-SEP-98
04	GA	HOMELAND, TOWN OF	13049CIND0	21-SEP-98
04	GA	OMEGA, CITY OF	13277C0225D	17-AUG-98
04	GA	OMEGA, CITY OF	13277CIND0	17-AUG-98
04	GA	TIFT COUNTY *	13277C0025D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0050D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0075D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0100D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0113D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0114D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0115D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0120D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0125D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0130D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0140D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0150D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0175D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0200D	17-AUG-98
04	GA	TIFT COUNTY *	13277C0225D	17-AUG-98

Region
04 GA
04 KY

Region	State	Community	Panel	Panel date
04	GA	TIFT COUNTY *	13277C0250D	17-AUG-98
04	GA	TIFT COUNTY *	13277CIND0	17-AUG-98
04	GA	TIFTON, CITY OF	13277C0113D	17-AUG-98
04	GA	TIFTON, CITY OF	13277C0114D	17-AUG-98
04	GA	TIFTON, CITY OF	13277C0115D	17-AUG-98
04	GA	TIFTON, CITY OF	13277C0130D	17-AUG-98
04	GA	TIFTON, CITY OF	13277CIND0	17-AUG-98
04	GA	TOWNS COUNTY*	13281C0005C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0010C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0020C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0030C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0035C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0040C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0045C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0055C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0065C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0080C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0085C	06-JUL-98
04	GA	TOWNS COUNTY*	13281C0130C	06-JUL-98
04	GA	TOWNS COUNTY*	13281CIND0	06-JUL-98
04	GA	TY TY, CITY OF	13277C0100D	17-AUG-98
04	GA	TY TY, CITY OF	13277CIND0	17-AUG-98
04	GA	YOUNG HARRIS,CITY OF	13281C0030C	06-JUL-98
04	GA	YOUNG HARRIS,CITY OF	13281C0040C	06-JUL-98
04	GA	YOUNG HARRIS,CITY OF	13281CIND0	06-JUL-98
04	KY	BRECKINRIDGE COUNTY	2100250001B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100250002B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100250003B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100250004B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100250006B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100250007B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100250009B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100250010B***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	2100259999 ***	01-SEP-98
04	KY	BRECKINRIDGE COUNTY	210025IND0 ***	01-SEP-98
04	KY	CARROLL COUNTY	210045 B***	01-SEP-98
04	KY	CARROLL COUNTY	2100459999 ***	01-SEP-98
04	KY	COAL RUN, VILLAGE OF	21195C0114F	21-SEP-98
04	KY	COAL RUN, VILLAGE OF	21195C0118F	21-SEP-98
04	KY	COAL RUN, VILLAGE OF	21195CIND0	21-SEP-98
04	KY	ELKHORN CITY, CITY OF	21195C0486F	21-SEP-98
04	KY	ELKHORN CITY, CITY OF	21195C0487F	21-SEP-98
04	KY	ELKHORN CITY, CITY OF	21195CIND0	21-SEP-98
04	KY	FORT THOMAS, CITY OF	210038 C***	01-SEP-98
04	KY	FORT THOMAS, CITY OF	2100389999 ***	01-SEP-98
04	KY	PIKE COUNTY*	21195C0025F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0035F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0045F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0055F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0060F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0065F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0070F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0090F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0095F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0105F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0107F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0109F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0110F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0114F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0115F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0118F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0119F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0128F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0129F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0133F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0136F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0137F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0138F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0139F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0141F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0142F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0144F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0157F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0159F	21-SEP-98

Panel date
20-JUL-98
21-SEP-98
21-SEP-98
21-SEP

Region	State	Community	Panel	Panel date
04	KY	PIKE COUNTY*	21195C0161F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0163F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0167F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0175F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0179F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0180F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0181F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0182F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0184F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0187F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0191F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0192F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0193F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0194F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0211F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0212F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0215F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0220F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0240F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0281F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0282F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0283F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0284F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0291F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0292F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0293F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0294F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0301F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0305F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0310F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0311F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0315F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0320F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0350F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0357F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0375F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0400F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0409F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0416F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0417F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0426F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0427F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0428F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0429F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0431F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0436F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0437F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0438F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0439F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0453F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0454F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0456F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0457F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0458F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0459F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0461F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0462F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0463F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0464F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0468F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0469F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0478F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0486F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0487F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0488F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0500F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0525F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0555F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0557F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0560F	21-SEP-98
04	KY	PIKE COUNTY*	21195C0576F	21-SEP-98
04	KY	PIKE COUNTY*	21195CIND0	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195C0138F	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195C0281F	21-SEP-98

Region
04 KY
04 MS
04 NC

Region	State	Community	Panel	Panel date
04	KY	PIKEVILLE, CITY OF	21195C0282F	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195C0283F	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195C0284F	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195C0292F	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195C0301F	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195C0305F	21-SEP-98
04	KY	PIKEVILLE, CITY OF	21195CIND0	21-SEP-98
04	MS	COLUMBUS, CITY OF	28087C0045J	07-SEP-98
04	MS	COLUMBUS, CITY OF	28087C0065J	07-SEP-98
04	MS	COLUMBUS, CITY OF	28087C0105J	07-SEP-98
04	MS	COLUMBUS, CITY OF	28087CIND0	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0025J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0035J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0040J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0045J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0055J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0060J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0065J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0070J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0080J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0085J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0100J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0105J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0110J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0115J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0120J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0150J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087C0175J	07-SEP-98
04	MS	LOWNDES COUNTY *	28087CIND0	07-SEP-98
04	NC	ALAMANCE COUNTY*	37001C0010E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0019E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0020E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0038E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0039E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0040E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0045E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0050E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0063E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0064E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0070E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0075E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0081E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0082E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0083E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0084E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0091E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0092E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0095E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0101E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0102E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0103E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0104E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0106E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0107E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0108E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0109E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0111E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0112E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0113E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0116E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0117E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0118E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0119E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0126E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0127E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0128E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0129E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0131E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0132E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0133E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0134E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0136E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0137E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0138E	22-DEC-98

Region	State	Community	Panel	Panel date
04	NC	ALAMANCE COUNTY*	37001C0139E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0141E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0142E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0143E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0144E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0200E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0202E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0207E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0210E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0219E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0225E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0226E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0227E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0230E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0231E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0235E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0238E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0240E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0243E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0245E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0275E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0300E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0310E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0325E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001C0330E	22-DEC-98
04	NC	ALAMANCE COUNTY*	37001CIND0	22-DEC-98
04	NC	ALAMANCE, VILLAGE OF	37001C0092E	22-DEC-98
04	NC	ALAMANCE, VILLAGE OF	37001C0095E	22-DEC-98
04	NC	ALAMANCE, VILLAGE OF	37001C0111E	22-DEC-98
04	NC	ALAMANCE, VILLAGE OF	37001C0112E	22-DEC-98
04	NC	ALAMANCE, VILLAGE OF	37001C0113E	22-DEC-98
04	NC	ALAMANCE, VILLAGE OF	37001C0114E	22-DEC-98
04	NC	ALAMANCE, VILLAGE OF	37001CIND0	22-DEC-98
04	NC	ALEXANDER COUNTY*	3703980003C	20-JUL-98
04	NC	ALEXANDER COUNTY*	3703980004C	20-JUL-98
04	NC	ALEXANDER COUNTY*	370398IND0	20-JUL-98
04	NC	APEX, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	ATLANTIC BEACH, TOWN OF	3700440001D	06-NOV-98
04	NC	ATLANTIC BEACH, TOWN OF	3700440002E	06-NOV-98
04	NC	ATLANTIC BEACH, TOWN OF	370044IND0	06-NOV-98
04	NC	BEECH MOUNTAIN, TOWN OF	37189CIND0 **	21-SEP-98
04	NC	BETHANIA, TOWN OF	37067C0129H	20-OCT-98
04	NC	BETHANIA, TOWN OF	37067C0136H	20-OCT-98
04	NC	BETHANIA, TOWN OF	37067C0137H	20-OCT-98
04	NC	BETHANIA, TOWN OF	37067CIND0	20-OCT-98
04	NC	BLOWING ROCK, TOWN OF	37189CIND0 **	21-SEP-98
04	NC	BOGUE, TOWN OF	370043IND0 **	06-NOV-98
04	NC	BOONE, TOWN OF	37189CIND0 **	21-SEP-98
04	NC	BURLINGTON, CITY OF	37001C0038E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0039E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0045E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0083E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0084E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0092E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0101E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0102E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0103E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0104E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0106E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0107E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0108E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0109E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0111E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0112E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0114E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0116E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0126E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001C0128E	22-DEC-98
04	NC	BURLINGTON, CITY OF	37001CIND0	22-DEC-98
04	NC	CAJUN MOUNTAIN, TOWN OF	37027C0085E	03-AUG-98
04	NC	CAJUN MOUNTAIN, TOWN OF	37027CIND0	03-AUG-98
04	NC	CALDWELL COUNTY *	37027C0045E	03-AUG-98
04	NC	CALDWELL COUNTY *	37027C0085E	03-AUG-98
04	NC	CALDWELL COUNTY *	37027CIND0	03-AUG-98

Region	State	Community	Panel	Panel date
04	NC	CARTERET COUNTY *	3700430659D	06-NOV-98
04	NC	CARTERET COUNTY *	3700430667D	06-NOV-98
04	NC	CARTERET COUNTY *	3700430704E	06-NOV-98
04	NC	CARTERET COUNTY *	3700430708E	06-NOV-98
04	NC	CARTERET COUNTY *	370043IND0	06-NOV-98
04	NC	CARY, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	CATAWBA COUNTY *	3700500020C	07-SEP-98
04	NC	CATAWBA COUNTY *	3700500030C	07-SEP-98
04	NC	CATAWBA COUNTY *	3700500040C	07-SEP-98
04	NC	CATAWBA COUNTY *	3700500045C	07-SEP-98
04	NC	CATAWBA COUNTY *	3700500075C	07-SEP-98
04	NC	CATAWBA COUNTY *	3700500200C	07-SEP-98
04	NC	CATAWBA COUNTY *	3700500350C	07-SEP-98
04	NC	CATAWBA COUNTY *	370050IND0	07-SEP-98
04	NC	CEDAR POINT, TOWN OF	370043IND0 **	06-NOV-98
04	NC	ELON COLLEGE, TOWN OF	37001C0019E	22-DEC-98
04	NC	ELON COLLEGE, TOWN OF	37001C0038E	22-DEC-98
04	NC	ELON COLLEGE, TOWN OF	37001C0082E	22-DEC-98
04	NC	ELON COLLEGE, TOWN OF	37001C0083E	22-DEC-98
04	NC	ELON COLLEGE, TOWN OF	37001C0084E	22-DEC-98
04	NC	ELON COLLEGE, TOWN OF	37001C0101E	22-DEC-98
04	NC	ELON COLLEGE, TOWN OF	37001C0103E	22-DEC-98
04	NC	ELON COLLEGE, TOWN OF	37001CIND0	22-DEC-98
04	NC	EMERALD ISLE, TOWN OF	3700470001D	17-AUG-98
04	NC	EMERALD ISLE, TOWN OF	3700470002D	17-AUG-98
04	NC	EMERALD ISLE, TOWN OF	3700470003D	17-AUG-98
04	NC	EMERALD ISLE, TOWN OF	3700470004D	17-AUG-98
04	NC	EMERALD ISLE, TOWN OF	370047IND0	17-AUG-98
04	NC	FORSYTH COUNTY *	37067C0015H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0020H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0039H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0045H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0065H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0070H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0090H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0095H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0105H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0110H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0115H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0120H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0126H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0127H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0128H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0129H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0131H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0132H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0133H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0134H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0136H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0137H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0138H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0139H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0141H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0142H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0143H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0144H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0155H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0160H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0161H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0162H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0163H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0164H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0166H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0168H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0169H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0178H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0179H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0180H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0185H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0186H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0187H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0188H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0189H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0195H	20-OCT-98

Panel date
22-DEC-98
22-DEC-98
22-DEC-98

Region	State	Community	Panel	Panel date
04	NC	FORSYTH COUNTY *	37067C0210H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0220H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0230H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0232H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0234H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0235H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0240H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0241H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0242H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0243H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0244H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0251H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0252H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0253H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0254H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0256H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0257H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0258H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0259H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0261H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0262H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0263H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0264H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0266H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0267H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0268H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0269H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0276H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0277H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0278H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0279H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0281H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0282H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0283H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0284H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0286H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0287H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0288H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0289H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0291H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0292H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0293H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0294H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0301H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0302H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0303H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0304H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0306H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0308H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0311H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0312H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0313H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0314H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0316H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0318H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0335H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0352H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067C0376H	20-OCT-98
04	NC	FORSYTH COUNTY *	37067CIND0	20-OCT-98
04	NC	FUQUAY-VARINA, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	GAMEWELL, TOWN OF	37027CIND0	03-AUG-98
04	NC	GARNER, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	GASTON COUNTY *	3700990230C	20-JUL-98
04	NC	GASTON COUNTY *	3700990235C	20-JUL-98
04	NC	GASTON COUNTY *	370099IND0	20-JUL-98
04	NC	GIBSONVILLE, TOWN OF	37001C0019E	22-DEC-98
04	NC	GIBSONVILLE, TOWN OF	37001C0020E	22-DEC-98
04	NC	GIBSONVILLE, TOWN OF	37001C0077E	22-DEC-98
04	NC	GIBSONVILLE, TOWN OF	37001C0081E	22-DEC-98
04	NC	GIBSONVILLE, TOWN OF	37001C0082E	22-DEC-98
04	NC	GIBSONVILLE, TOWN OF	37001C0083E	22-DEC-98
04	NC	GIBSONVILLE, TOWN OF	37001C0084E	22-DEC-98
04	NC	GIBSONVILLE, TOWN OF	37001CIND0	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0108E	22-DEC-98

Region	State	Community	Panel	Panel date
04	NC	GRAHAM, CITY OF	37001C0109E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0114E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0116E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0117E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0118E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0119E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0128E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0129E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0136E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001C0137E	22-DEC-98
04	NC	GRAHAM, CITY OF	37001CIND0	22-DEC-98
04	NC	GRANITE FALLS, TOWN OF	37027C0045E**	03-AUG-98
04	NC	GRANITE FALLS, TOWN OF	37027CIND0 **	03-AUG-98
04	NC	GREEN LEVEL, TOWN OF	37001C0063E	22-DEC-98
04	NC	GREEN LEVEL, TOWN OF	37001C0064E	22-DEC-98
04	NC	GREEN LEVEL, TOWN OF	37001C0127E	22-DEC-98
04	NC	GREEN LEVEL, TOWN OF	37001CIND0	22-DEC-98
04	NC	GRIFTON, TOWN OF	3701920005D	20-NOV-98
04	NC	HAW RIVER, TOWN OF	37001C0063E	22-DEC-98
04	NC	HAW RIVER, TOWN OF	37001C0107E	22-DEC-98
04	NC	HAW RIVER, TOWN OF	37001C0109E	22-DEC-98
04	NC	HAW RIVER, TOWN OF	37001C0126E	22-DEC-98
04	NC	HAW RIVER, TOWN OF	37001C0127E	22-DEC-98
04	NC	HAW RIVER, TOWN OF	37001C0128E	22-DEC-98
04	NC	HAW RIVER, TOWN OF	37001C0129E	22-DEC-98
04	NC	HAW RIVER, TOWN OF	37001CIND0	22-DEC-98
04	NC	HAYWOOD COUNTY*	3701200160C	17-AUG-98
04	NC	HAYWOOD COUNTY*	3701200165C	17-AUG-98
04	NC	HAYWOOD COUNTY*	3701200170C	17-AUG-98
04	NC	HAYWOOD COUNTY*	3701200180C	17-AUG-98
04	NC	HAYWOOD COUNTY*	370120IND0	17-AUG-98
04	NC	HICKORY, CITY OF	3700540010C	08-DEC-98
04	NC	HICKORY, CITY OF	370054IND0	08-DEC-98
04	NC	HOLLY SPRINGS, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	HUDSON, TOWN OF	37027C0045E	03-AUG-98
04	NC	HUDSON, TOWN OF	37027C0085E	03-AUG-98
04	NC	HUDSON, TOWN OF	37027CIND0	03-AUG-98
04	NC	KERNERSVILLE, TOWN OF	37067C0188H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0189H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0195H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0301H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0302H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0303H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0304H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0306H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067C0308H	20-OCT-98
04	NC	KERNERSVILLE, TOWN OF	37067CIND0	20-OCT-98
04	NC	KING, CITY OF	3704580001B	20-OCT-98
04	NC	KING, CITY OF	3704580003B	20-OCT-98
04	NC	KING, CITY OF	370458IND0	20-OCT-98
04	NC	KNIGHTDALE, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	LENOIR, CITY OF	37027CIND0	03-AUG-98
04	NC	MEBANE, TOWN OF	37001C0070E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0129E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0131E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0132E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0133E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0134E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0137E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0141E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0142E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001C0151E	22-DEC-98
04	NC	MEBANE, TOWN OF	37001CIND0	22-DEC-98
04	NC	MECKLENBURG COUNTY *	3701580005C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	3701580010C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	3701580015C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	3701580020C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	3701580030C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	3701580045C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	3701580050C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	3701580170C	03-AUG-98
04	NC	MECKLENBURG COUNTY *	370158IND0	03-AUG-98
04	NC	MORRISVILLE, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	NEW HANOVER COUNTY*	3701680061F	20-JUL-98

Region	State	Community	Panel	Panel date
04	NC	NEW HANOVER COUNTY*	370168IND0	20-JUL-98
04	NC	PINE KNOLL SHORES, TOWN OF	3702670001E	06-NOV-98
04	NC	PINE KNOLL SHORES, TOWN OF	3702670002C	06-NOV-98
04	NC	PINE KNOLL SHORES, TOWN OF	370267IND0	06-NOV-98
04	NC	RALEIGH, CITY OF	37183C0337F	20-NOV-98
04	NC	RALEIGH, CITY OF	37183CIND0	20-NOV-98
04	NC	ROLESVILLE, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	SEVEN DEVILS, TOWN OF	37189C0166F**	21-SEP-98
04	NC	SEVEN DEVILS, TOWN OF	37189C0168F**	21-SEP-98
04	NC	SEVEN DEVILS, TOWN OF	37189CIND0 **	21-SEP-98
04	NC	WAKE COUNTY *	37183CIND0	20-NOV-98
04	NC	WAKE FOREST, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	WATAUGA COUNTY *	37189C0166F	21-SEP-98
04	NC	WATAUGA COUNTY *	37189C0167F	21-SEP-98
04	NC	WATAUGA COUNTY *	37189C0168F	21-SEP-98
04	NC	WATAUGA COUNTY *	37189C0169F	21-SEP-98
04	NC	WATAUGA COUNTY *	37189C0186F	21-SEP-98
04	NC	WATAUGA COUNTY *	37189CIND0	21-SEP-98
04	NC	WENDELL, TOWN OF	37183CIND0 **	20-NOV-98
04	NC	WHITEVILLE CITY OF	3700710001D	03-AUG-98
04	NC	WHITEVILLE CITY OF	3700710002D	03-AUG-98
04	NC	WHITEVILLE CITY OF	3700710004D	03-AUG-98
04	NC	WHITEVILLE CITY OF	3700710005D	03-AUG-98
04	NC	WHITEVILLE CITY OF	370071IND0	03-AUG-98
04	NC	WINSTON-SALEM, CITY OF	37067C0133H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0134H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0136H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0137H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0138H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0139H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0141H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0142H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0143H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0144H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0155H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0161H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0162H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0163H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0164H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0166H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0169H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0251H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0252H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0253H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0254H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0256H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0257H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0258H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0259H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0261H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0262H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0264H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0266H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0267H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0268H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0269H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0276H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0277H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0278H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0279H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0281H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0282H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0283H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0284H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0287H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0288H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067C0291H	20-OCT-98
04	NC	WINSTON-SALEM, CITY OF	37067CIND0	20-OCT-98
04	NC	WRIGHTSVILLE BEACH, TOWN OF	3753610001D**	20-JUL-98
04	NC	WRIGHTSVILLE BEACH, TOWN OF	375361IND0 **	20-JUL-98
04	NC	ZEBULON, TOWN OF	37183CIND0 **	20-NOV-98
04	TN	OAK RIDGE, CITY OF	4754410015E	06-JUL-98
04	TN	OAK RIDGE, CITY OF	475441IND0	06-JUL-98
05	IL	AMBOY, CITY OF	17103CIND0 **	06-JUL-98

Region	
05	IL
05	IL
05	IL

Region	State	Community	Panel	Panel date
05	IL	ASHTON, VILLAGE OF	17103CIND0 **	06-JUL-98
05	IL	COMPTON, VILLAGE OF	17103CIND0 **	06-JUL-98
05	IL	DIXON, CITY OF	17103C0010E**	06-JUL-98
05	IL	DIXON, CITY OF	17103C0016E**	06-JUL-98
05	IL	DIXON, CITY OF	17103C0018E**	06-JUL-98
05	IL	DIXON, CITY OF	17103C0020E**	06-JUL-98
05	IL	DIXON, CITY OF	17103CIND0 **	06-JUL-98
05	IL	GLENVIEW, VILLAGE OF	1700960003C	06-OCT-98
05	IL	GLENVIEW, VILLAGE OF	1700960004C	06-OCT-98
05	IL	GLENVIEW, VILLAGE OF	1700960005C	06-OCT-98
05	IL	GLENVIEW, VILLAGE OF	1700960007C	06-OCT-98
05	IL	GLENVIEW, VILLAGE OF	1700960008C	06-OCT-98
05	IL	GLENVIEW, VILLAGE OF	1700960009C	06-OCT-98
05	IL	GLENVIEW, VILLAGE OF	170096IND0	06-OCT-98
05	IL	LEE COUNTY*	17103C0010E**	06-JUL-98
05	IL	LEE COUNTY*	17103C0016E**	06-JUL-98
05	IL	LEE COUNTY*	17103C0018E**	06-JUL-98
05	IL	LEE COUNTY*	17103C0020E**	06-JUL-98
05	IL	LEE COUNTY*	17103CIND0 **	06-JUL-98
05	IL	NELSON, VILLAGE OF	17103CIND0 **	06-JUL-98
05	IL	NORTHBROOK, VILLAGE OF	1701320002E	20-OCT-98
05	IL	NORTHBROOK, VILLAGE OF	1701320003E	20-OCT-98
05	IL	NORTHBROOK, VILLAGE OF	1701320004E	20-OCT-98
05	IL	NORTHBROOK, VILLAGE OF	1701320006E	20-OCT-98
05	IL	NORTHBROOK, VILLAGE OF	1701320007E	20-OCT-98
05	IL	NORTHBROOK, VILLAGE OF	1701320008E	20-OCT-98
05	IL	NORTHBROOK, VILLAGE OF	170132IND0	20-OCT-98
05	IL	PAW PAW, VILLAGE OF	17103CIND0 **	06-JUL-98
05	IL	STEWARD, VILLAGE OF	17103CIND0 **	06-JUL-98
05	IL	SUBLETTE, VILLAGE OF	17103CIND0 **	06-JUL-98
05	IN	HUNTINGBURG, CITY OF	1803620005B	06-OCT-98
05	IN	HUNTINGBURG, CITY OF	1803620010B	06-OCT-98
05	IN	HUNTINGBURG, CITY OF	180362IND0	06-OCT-98
05	MI	ANTIOCH, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	BOON, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	BUCKLEY, VILLAGE OF	26165CIND0 **	03-AUG-98
05	MI	CADILLAC, CITY OF	26165C0339C	03-AUG-98
05	MI	CADILLAC, CITY OF	26165C0343C	03-AUG-98
05	MI	CADILLAC, CITY OF	26165C0344C	03-AUG-98
05	MI	CADILLAC, CITY OF	26165C0452C	03-AUG-98
05	MI	CADILLAC, CITY OF	26165C0456C	03-AUG-98
05	MI	CADILLAC, CITY OF	26165C0457C	03-AUG-98
05	MI	CADILLAC, CITY OF	26165CIND0	03-AUG-98
05	MI	CEDAR CREEK, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	CHERRY GROVE, TOWNSHIP OF	26165C0319C	03-AUG-98
05	MI	CHERRY GROVE, TOWNSHIP OF	26165C0338C	03-AUG-98
05	MI	CHERRY GROVE, TOWNSHIP OF	26165C0339C	03-AUG-98
05	MI	CHERRY GROVE, TOWNSHIP OF	26165C0432C	03-AUG-98
05	MI	CHERRY GROVE, TOWNSHIP OF	26165C0451C	03-AUG-98
05	MI	CHERRY GROVE, TOWNSHIP OF	26165C0452C	03-AUG-98
05	MI	CHERRY GROVE, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	CLAM LAKE, TOWNSHIP OF	26165C0339C	03-AUG-98
05	MI	CLAM LAKE, TOWNSHIP OF	26165C0343C	03-AUG-98
05	MI	CLAM LAKE, TOWNSHIP OF	26165C0344C	03-AUG-98
05	MI	CLAM LAKE, TOWNSHIP OF	26165C0452C	03-AUG-98
05	MI	CLAM LAKE, TOWNSHIP OF	26165C0456C	03-AUG-98
05	MI	CLAM LAKE, TOWNSHIP OF	26165C0457C	03-AUG-98
05	MI	CLAM LAKE, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	CLINTON, TOWNSHIP OF	2601210005E	17-AUG-98
05	MI	CLINTON, TOWNSHIP OF	2601210010E	17-AUG-98
05	MI	CLINTON, TOWNSHIP OF	260121IND0	17-AUG-98
05	MI	COLFAX, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	GREENWOOD, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	HANOVER, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	HARING, TOWNSHIP OF	26165C0339C	03-AUG-98
05	MI	HARING, TOWNSHIP OF	26165C0342C	03-AUG-98
05	MI	HARING, TOWNSHIP OF	26165C0343C	03-AUG-98
05	MI	HARING, TOWNSHIP OF	26165C0344C	03-AUG-98
05	MI	HARING, TOWNSHIP OF	26165C0361C	03-AUG-98
05	MI	HARING, TOWNSHIP OF	26165C0362C	03-AUG-98
05	MI	HARING, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	HARRIETTA, VILLAGE OF	26165CIND0	03-AUG-98
05	MI	HENDERSON, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	LIBERTY, TOWNSHIP OF	26165CIND0	03-AUG-98

Panel date
20-JUL-98
06-NOV-98
06-NOV-98
06-NOV-98
20-NOV-98
20-NOV-98
20-NOV-98
21-SEP-98
21-SEP-98
21-SEP-98
20-NOV-98
20-NOV-98
21-SEP-98
21-SEP-98
21-SEP-98
21-SEP-98
21-SEP-98
21-SEP-98
21-SEP-98
20-NOV-98
03-AUG-98
03-AUG-98
03-AUG-98
03-AUG-98
03-AUG-98
20-OCT-98
20-OCT-98
20-OCT

Region	State	Community	Panel	Panel date
05	MI	LOGAN, TOWNSHIP OF	2608110001A	07-SEP-98
05	MI	MANTON, CITY OF	26165CIND0	03-AUG-98
05	MI	MESICK, VILLAGE OF	26165CIND0	03-AUG-98
05	MI	SELMA, TOWNSHIP OF	26165C0319C	03-AUG-98
05	MI	SELMA, TOWNSHIP OF	26165C0336C	03-AUG-98
05	MI	SELMA, TOWNSHIP OF	26165C0338C	03-AUG-98
05	MI	SELMA, TOWNSHIP OF	26165C0339C	03-AUG-98
05	MI	SELMA, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	SLAGLE, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	SOUTH BRANCH, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	SPRINGVILLE, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MI	WEXFORD, TOWNSHIP OF	26165CIND0	03-AUG-98
05	MN	CHASKA, CITY OF	2752340002C	20-JUL-98
05	OH	CHAMPAIGN COUNTY *	3900550105C	03-AUG-98
05	OH	CHAMPAIGN COUNTY *	3900550115C	03-AUG-98
05	OH	CHAMPAIGN COUNTY *	3900550125C	03-AUG-98
05	OH	CHAMPAIGN COUNTY *	390055IND0	03-AUG-98
05	OH	CLARK COUNTY*	3907320165B	20-OCT-98
05	OH	CLARK COUNTY*	3907320170B	20-OCT-98
05	OH	CLARK COUNTY*	3907320280B	20-OCT-98
05	OH	CLARK COUNTY*	390732IND0	20-OCT-98
05	OH	TIPP CITY, CITY OF	3904010005D	08-DEC-98
05	WI	AVOCA, VILLAGE OF	5501730001C	21-SEP-98
05	WI	BOSCOBEL, CITY OF	5501480001D	06-OCT-98
05	WI	IOWA COUNTY *	5505220025B	21-SEP-98
05	WI	IOWA COUNTY *	5505220050B	21-SEP-98
05	WI	IOWA COUNTY *	5505220075B	21-SEP-98
05	WI	IOWA COUNTY *	550522IND0	21-SEP-98
05	WI	MANITOWOC COUNTY *	5502360180C	21-SEP-98
05	WI	MANITOWOC COUNTY *	5502360190C	21-SEP-98
05	WI	MANITOWOC COUNTY *	550236IND0	21-SEP-98
05	WI	MERRILL, CITY OF	5555650001B	20-JUL-98
05	WI	OCONTO COUNTY *	5502940355B	03-AUG-98
05	WI	OCONTO COUNTY *	550294IND0	03-AUG-98
05	WI	WESTFIELD, VILLAGE OF	5502690001C	03-AUG-98
06	AR	ADONA, CITY OF	05105C0107B	06-JUL-98
06	AR	ADONA, CITY OF	05105CIND0	06-JUL-98
06	AR	BIGELOW, TOWN OF	05105C0155B	06-JUL-98
06	AR	BIGELOW, TOWN OF	05105CIND0	06-JUL-98
06	AR	CASA, CITY OF	05105C0101B	06-JUL-98
06	AR	CASA, CITY OF	05105CIND0	06-JUL-98
06	AR	FOURCHE, CITY OF	05105C0155B	06-JUL-98
06	AR	FOURCHE, CITY OF	05105CIND0	06-JUL-98
06	AR	HOUSTON, TOWN OF	05105C0132B	06-JUL-98
06	AR	HOUSTON, TOWN OF	05105CIND0	06-JUL-98
06	AR	LAKE VIEW,CITY OF	0501690005B	21-SEP-98
06	AR	PERRY COUNTY	05105C0050B	06-JUL-98
06	AR	PERRY COUNTY	05105C0075B	06-JUL-98
06	AR	PERRY COUNTY	05105C0101B	06-JUL-98
06	AR	PERRY COUNTY	05105C0103B	06-JUL-98
06	AR	PERRY COUNTY	05105C0107B	06-JUL-98
06	AR	PERRY COUNTY	05105C0127B	06-JUL-98
06	AR	PERRY COUNTY	05105C0128B	06-JUL-98
06	AR	PERRY COUNTY	05105C0129B	06-JUL-98
06	AR	PERRY COUNTY	05105C0132B	06-JUL-98
06	AR	PERRY COUNTY	05105C0150B	06-JUL-98
06	AR	PERRY COUNTY	05105C0155B	06-JUL-98
06	AR	PERRY COUNTY	05105C0175B	06-JUL-98
06	AR	PERRY COUNTY	05105CIND0	06-JUL-98
06	AR	PERRY, TOWN OF	05105C0127B	06-JUL-98
06	AR	PERRY, TOWN OF	05105CIND0	06-JUL-98
06	AR	PERRYVILLE, CITY OF	05105C0127B	06-JUL-98
06	AR	PERRYVILLE, CITY OF	05105C0128B	06-JUL-98
06	AR	PERRYVILLE, CITY OF	05105C0129B	06-JUL-98
06	AR	PERRYVILLE, CITY OF	05105C0150B**	06-JUL-98
06	AR	PERRYVILLE, CITY OF	05105CIND0	06-JUL-98
06	AR	PHILLIPS COUNTY*	0501660025D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660050D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660065D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660075D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660100D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660125D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660150D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660175D	21-SEP-98

Region	
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	AR
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	LA
06	OK
06	OK
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX
06	TX

Region	State	Community	Panel	Panel date
06	AR	PHILLIPS COUNTY*	0501660200D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660250D	21-SEP-98
06	AR	PHILLIPS COUNTY*	0501660275C	21-SEP-98
06	AR	PHILLIPS COUNTY*	050166IND0	21-SEP-98
06	AR	PULASKI COUNTY *	0501790070D	20-JUL-98
06	AR	PULASKI COUNTY *	0501790240E**	20-JUL-98
06	AR	PULASKI COUNTY *	0501790245E	20-JUL-98
06	AR	PULASKI COUNTY *	050179IND0	20-JUL-98
06	AR	WEST HELENA, CITY OF	0501710001C	21-SEP-98
06	AR	WEST MEMPHIS, CITY OF	0500550004C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550005C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550008C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550009C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550011C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550012C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550014C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550016C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550017C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550018C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550019C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550036C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	0500550056C	20-NOV-98
06	AR	WEST MEMPHIS, CITY OF	050055IND0	20-NOV-98
06	LA	ACADIA PARISH*	2200010225C	20-NOV-98
06	LA	ACADIA PARISH*	220001IND0	20-NOV-98
06	LA	EVANGELINE PARISH*	2200640007C	20-OCT-98
06	LA	EVANGELINE PARISH*	220064IND0	20-OCT-98
06	LA	GREENWOOD, TOWN OF	2202920001A	03-AUG-98
06	LA	NATCHEZ, VILLAGE OF	2203700001C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290225C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290235C**	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290250C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290255C**	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290265C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290270C**	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290305C**	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290310C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290320C**	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290330C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290335C**	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290340C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290345C	08-DEC-98
06	LA	NATCHITOCHES PARISH*	2201290425C**	08-DEC-98
06	LA	NATCHITOCHES PARISH*	220129IND0	08-DEC-98
06	LA	RICHLAND PARISH*	220154 C	08-DEC-98
06	LA	ROBELINE, VILLAGE OF	2201330001C	06-OCT-98
06	LA	SULPHUR, CITY OF	2200410001C	21-SEP-98
06	LA	SULPHUR, CITY OF	220041IND0	21-SEP-98
06	LA	VILLE PLATTE, TOWN OF	2200700001C	20-OCT-98
06	OK	ALLEN, TOWN OF	4001740001C	03-AUG-98
06	OK	HARTSHORNE, CITY OF	4003870001B	21-SEP-98
06	TX	ANGELINA COUNTY *	4800070001C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070002C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070003C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070004C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070005C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070006C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070007C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070008C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070009C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070010C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070011C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070012C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800070013C***	01-JUL-98
06	TX	ANGELINA COUNTY *	4800079999 ***	01-JUL-98
06	TX	ANGELINA COUNTY *	480007IND0 ***	01-JUL-98
06	TX	ATHENS, CITY OF	48213C0175D	17-AUG-98
06	TX	ATHENS, CITY OF	48213CIND0	17-AUG-98
06	TX	BASTROP COUNTY *	48021C0015D	08-DEC-98
06	TX	BASTROP COUNTY *	48021C0020D	08-DEC-98
06	TX	BASTROP COUNTY *	48021C0085D	08-DEC-98
06	TX	BASTROP COUNTY *	48021CIND0	08-DEC-98
06	TX	BASTROP, CITY OF	48021CIND0	08-DEC-98
06	TX	BERRYVILLE, CITY OF	48213CIND0	17-AUG-98

Region	State	Community	Panel	Panel date
06	TX	BROWNSBORO, CITY OF	48213CIND0	17-AUG-98
06	TX	CADDO MILLS, CITY OF	48231CIND0	20-OCT-98
06	TX	CAMPBELL, TOWN OF	48231C0185F	20-OCT-98
06	TX	CAMPBELL, TOWN OF	48231CIND0	20-OCT-98
06	TX	CANEY CITY, CITY OF	48213C0150D	17-AUG-98
06	TX	CANEY CITY, CITY OF	48213C0175D	17-AUG-98
06	TX	CANEY CITY, CITY OF	48213CIND0	17-AUG-98
06	TX	CELESTE, CITY OF	48231CIND0	20-OCT-98
06	TX	CHANDLER, CITY OF	48213CIND0	17-AUG-98
06	TX	COFFEE CITY, CITY OF	48213CIND0	17-AUG-98
06	TX	COMMERCE, CITY OF	48231CIND0	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0100D	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0105D**	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0135D	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0140D	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0160D	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0165D	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0170D	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0175D	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0195D**	20-OCT-98
06	TX	ECTOR COUNTY*	48135C0210D	20-OCT-98
06	TX	ECTOR COUNTY*	48135CIND0	20-OCT-98
06	TX	ELGIN, CITY OF	48021CIND0	08-DEC-98
06	TX	ENCHANTED OAKS, TOWN OF	48213C0045D	17-AUG-98
06	TX	ENCHANTED OAKS, TOWN OF	48213CIND0	17-AUG-98
06	TX	EUSTACE, CITY OF	48213C0075D**	17-AUG-98
06	TX	EUSTACE, CITY OF	48213CIND0	17-AUG-98
06	TX	GONZALES COUNTY *	4802530050B**	20-NOV-98
06	TX	GONZALES COUNTY *	4802530075B	20-NOV-98
06	TX	GONZALES COUNTY *	480253IND0	20-NOV-98
06	TX	GREENVILLE, CITY OF	48231C0180F	20-OCT-98
06	TX	GREENVILLE, CITY OF	48231C0185F	20-OCT-98
06	TX	GREENVILLE, CITY OF	48231C0190F**	20-OCT-98
06	TX	GREENVILLE, CITY OF	48231CIND0	20-OCT-98
06	TX	GUADALUPE COUNTY *	4802660025D	20-NOV-98
06	TX	GUADALUPE COUNTY *	4802660075D	20-NOV-98
06	TX	GUADALUPE COUNTY *	4802660100D	20-NOV-98
06	TX	GUADALUPE COUNTY *	480266IND0	20-NOV-98
06	TX	GUN BARREL, CITY OF	48213C0030D	17-AUG-98
06	TX	GUN BARREL, CITY OF	48213C0035D	17-AUG-98
06	TX	GUN BARREL, CITY OF	48213C0040D	17-AUG-98
06	TX	GUN BARREL, CITY OF	48213C0045D	17-AUG-98
06	TX	GUN BARREL, CITY OF	48213CIND0	17-AUG-98
06	TX	HENDERSON COUNTY*	48213C0030D	17-AUG-98
06	TX	HENDERSON COUNTY*	48213C0035D	17-AUG-98
06	TX	HENDERSON COUNTY*	48213C0040D**	17-AUG-98
06	TX	HENDERSON COUNTY*	48213C0045D	17-AUG-98
06	TX	HENDERSON COUNTY*	48213C0075D	17-AUG-98
06	TX	HENDERSON COUNTY*	48213C0150D	17-AUG-98
06	TX	HENDERSON COUNTY*	48213C0175D	17-AUG-98
06	TX	HENDERSON COUNTY*	48213CIND0	17-AUG-98
06	TX	HUNT COUNTY*	48231C0180F	20-OCT-98
06	TX	HUNT COUNTY*	48231C0185F	20-OCT-98
06	TX	HUNT COUNTY*	48231C0190F	20-OCT-98
06	TX	HUNT COUNTY*	48231CIND0	20-OCT-98
06	TX	LOG CABIN, CITY OF	48213C0175D	17-AUG-98
06	TX	LOG CABIN, CITY OF	48213CIND0	17-AUG-98
06	TX	LONE OAK, CITY OF	48231CIND0	20-OCT-98
06	TX	LULING, CITY OF	4800960001C	08-DEC-98
06	TX	MALAKOFF, CITY OF	48213C0150D	17-AUG-98
06	TX	MALAKOFF, CITY OF	48213C0175D**	17-AUG-98
06	TX	MALAKOFF, CITY OF	48213CIND0	17-AUG-98
06	TX	MARTINDALE, TOWN OF	4815870005D	08-DEC-98
06	TX	MOORE STATION, CITY OF	48213CIND0	17-AUG-98
06	TX	MURCHISON, CITY OF	48213CIND0	17-AUG-98
06	TX	NEWTON COUNTY*	48351C0025C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0050C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0075C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0100C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0125C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0150C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0175C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0200C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0225C	21-SEP-98

Region	State	Community	Panel	Panel date
06	TX	NEWTON COUNTY*	48351C0250C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0275C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0285C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0300C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0305C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0325C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0350C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0375C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0400C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0425C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0450C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0475C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0500C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0525C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0550C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0575C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0600C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0625C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0650C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0675C	21-SEP-98
06	TX	NEWTON COUNTY*	48351C0700C	21-SEP-98
06	TX	NEWTON COUNTY*	48351CIND0	21-SEP-98
06	TX	NEWTON, CITY OF	48351C0250C	21-SEP-98
06	TX	NEWTON, CITY OF	48351C0285C	21-SEP-98
06	TX	NEWTON, CITY OF	48351C0305C	21-SEP-98
06	TX	NEWTON, CITY OF	48351C0325C	21-SEP-98
06	TX	NEWTON, CITY OF	48351CIND0	21-SEP-98
06	TX	ODESSA, CITY OF	48135C0100D	20-OCT-98
06	TX	ODESSA, CITY OF	48135C0135D	20-OCT-98
06	TX	ODESSA, CITY OF	48135C0140D	20-OCT-98
06	TX	ODESSA, CITY OF	48135C0160D	20-OCT-98
06	TX	ODESSA, CITY OF	48135C0165D	20-OCT-98
06	TX	ODESSA, CITY OF	48135C0170D	20-OCT-98
06	TX	ODESSA, CITY OF	48135C0175D	20-OCT-98
06	TX	ODESSA, CITY OF	48135C0210D	20-OCT-98
06	TX	ODESSA, CITY OF	48135CIND0	20-OCT-98
06	TX	PAYNE SPRINGS, CITY OF	48213C0045D	17-AUG-98
06	TX	PAYNE SPRINGS, CITY OF	48213C0075D**	17-AUG-98
06	TX	PAYNE SPRINGS, CITY OF	48213CIND0	17-AUG-98
06	TX	POYNOR, CITY OF	48213CIND0	17-AUG-98
06	TX	QUINLAN, CITY OF	48231CIND0	20-OCT-98
06	TX	SEVEN POINTS, CITY OF	48213C0030D	17-AUG-98
06	TX	SEVEN POINTS, CITY OF	48213C0040D**	17-AUG-98
06	TX	SEVEN POINTS, CITY OF	48213CIND0	17-AUG-98
06	TX	SMITHVILLE, CITY OF	48021CIND0	08-DEC-98
06	TX	STAR HARBOR, CITY OF	48213C0150D	17-AUG-98
06	TX	STAR HARBOR, CITY OF	48213C0175D	17-AUG-98
06	TX	STAR HARBOR, CITY OF	48213CIND0	17-AUG-98
06	TX	TOOL, CITY OF	48213C0030D	17-AUG-98
06	TX	TOOL, CITY OF	48213C0040D	17-AUG-98
06	TX	TOOL, CITY OF	48213C0045D**	17-AUG-98
06	TX	TOOL, CITY OF	48213CIND0	17-AUG-98
06	TX	TRINIDAD, CITY OF	48213C0150D	17-AUG-98
06	TX	TRINIDAD, CITY OF	48213CIND0	17-AUG-98
06	TX	VICTORIA COUNTY*	4806370100C	20-NOV-98
06	TX	VICTORIA COUNTY*	4806370125D	20-NOV-98
06	TX	WEST TAWAKONI, CITY OF	48231CIND0	20-OCT-98
07	IA	ACKWORTH, CITY OF	19181C0080D**	20-NOV-98
07	IA	ACKWORTH, CITY OF	19181CIND0	20-NOV-98
07	IA	BEVINGTON, CITY OF	19181C0053D**	20-NOV-98
07	IA	BEVINGTON, CITY OF	19181CIND0	20-NOV-98
07	IA	CARLISLE,CITY OF	19181C0030D	20-NOV-98
07	IA	CARLISLE,CITY OF	19181C0040D	20-NOV-98
07	IA	CARLISLE,CITY OF	19181CIND0	20-NOV-98
07	IA	CUMMING, CITY OF	19181C0005D	20-NOV-98
07	IA	CUMMING, CITY OF	19181C0015D	20-NOV-98
07	IA	CUMMING, CITY OF	19181CIND0	20-NOV-98
07	IA	HARTFORD, CITY OF	19181C0045D	20-NOV-98
07	IA	HARTFORD, CITY OF	19181CIND0	20-NOV-98
07	IA	INDIANOLA, CITY OF	19181C0060D**	20-NOV-98
07	IA	INDIANOLA, CITY OF	19181C0075D	20-NOV-98
07	IA	INDIANOLA, CITY OF	19181C0080D	20-NOV-98
07	IA	INDIANOLA, CITY OF	19181C0100D	20-NOV-98
07	IA	INDIANOLA, CITY OF	19181CIND0	20-NOV-98

Region	State	Community	Panel	Panel date
07	IA	LACONA, CITY OF	19181C0141D	20-NOV-98
07	IA	LACONA, CITY OF	19181C0142D	20-NOV-98
07	IA	LACONA, CITY OF	19181CIND0	20-NOV-98
07	IA	MARTENSDALE, CITY OF	19181C0051D**	20-NOV-98
07	IA	MARTENSDALE, CITY OF	19181C0052D**	20-NOV-98
07	IA	MARTENSDALE, CITY OF	19181C0053D**	20-NOV-98
07	IA	MARTENSDALE, CITY OF	19181C0054D**	20-NOV-98
07	IA	MARTENSDALE, CITY OF	19181CIND0	20-NOV-98
07	IA	MILO, TOWN OF	19181C0100D**	20-NOV-98
07	IA	MILO, TOWN OF	19181CIND0	20-NOV-98
07	IA	NEW VIRGINIA, TOWN OF	19181C0125D**	20-NOV-98
07	IA	NEW VIRGINIA, TOWN OF	19181CIND0	20-NOV-98
07	IA	NORWALK, CITY OF	19181C0005D	20-NOV-98
07	IA	NORWALK, CITY OF	19181C0010D	20-NOV-98
07	IA	NORWALK, CITY OF	19181C0015D	20-NOV-98
07	IA	NORWALK, CITY OF	19181C0020D	20-NOV-98
07	IA	NORWALK, CITY OF	19181CIND0	20-NOV-98
07	IA	SANDYVILLE, CITY OF	19181C0100D**	20-NOV-98
07	IA	SANDYVILLE, CITY OF	19181CIND0	20-NOV-98
07	IA	SPRING HILL, CITY OF	19181C0020D**	20-NOV-98
07	IA	SPRING HILL, CITY OF	19181CIND0	20-NOV-98
07	IA	ST. MARYS, CITY OF	19181C0075D**	20-NOV-98
07	IA	ST. MARYS, CITY OF	19181CIND0	20-NOV-98
07	IA	WARREN COUNTY *	19181C0005D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0010D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0015D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0020D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0030D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0035D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0040D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0045D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0051D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0052D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0053D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0054D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0060D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0075D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0080D	20-NOV-98
07	IA	WARREN COUNTY *	19181C0100D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0125D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0141D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0142D**	20-NOV-98
07	IA	WARREN COUNTY *	19181C0150D**	20-NOV-98
07	IA	WARREN COUNTY *	19181CIND0	20-NOV-98
07	KS	HALSTEAD, CITY OF	2001310001D	21-SEP-98
07	KS	HARVEY COUNTY*	2005850125D	21-SEP-98
07	KS	HARVEY COUNTY*	200585IND0	21-SEP-98
07	KS	KANSAS CITY, CITY OF	2003630005C	21-SEP-98
07	KS	KANSAS CITY, CITY OF	2003630015C	21-SEP-98
07	KS	KANSAS CITY, CITY OF	200363IND0	21-SEP-98
07	MO	FRANKLIN, CITY OF	2904820001B	20-JUL-98
07	NE	CENTRAL CITY, CITY OF	3101480005C	21-SEP-98
07	NE	COLUMBUS, CITY OF	3152720005D	21-SEP-98
07	NE	COLUMBUS, CITY OF	3152720010D	21-SEP-98
07	NE	COLUMBUS, CITY OF	3152720015D	21-SEP-98
07	NE	COLUMBUS, CITY OF	315272IND0	21-SEP-98
07	NE	MERRICK COUNTY *	3104570125B	21-SEP-98
07	NE	MERRICK COUNTY *	3104570175B	21-SEP-98
07	NE	MERRICK COUNTY *	3104570200B	21-SEP-98
07	NE	MERRICK COUNTY *	310457IND0	21-SEP-98
07	NE	PLATTE CENTER, VILLAGE OF	3101780001B	21-SEP-98
07	NE	PLATTE COUNTY *	3104670005C	21-SEP-98
07	NE	PLATTE COUNTY *	3104670008C	21-SEP-98
07	NE	PLATTE COUNTY *	3104670009C	21-SEP-98
07	NE	PLATTE COUNTY *	310467IND0	21-SEP-98
08	CO	AURORA, CITY OF	0800020180F	07-SEP-98
08	CO	AURORA, CITY OF	080002IND0	07-SEP-98
08	CO	DENVER, CITY AND COUNTY OF	0800460012F	07-SEP-98
08	CO	DENVER, CITY AND COUNTY OF	0800460016D	07-SEP-98
08	CO	DENVER, CITY AND COUNTY OF	0800460019E	07-SEP-98
08	CO	DENVER, CITY AND COUNTY OF	0800460020E	07-SEP-98
08	CO	DENVER, CITY AND COUNTY OF	0800460024E	07-SEP-98
08	CO	DENVER, CITY AND COUNTY OF	0800460025E	07-SEP-98
08	CO	DENVER, CITY AND COUNTY OF	080046IND0	07-SEP-98

Region	State	Community	Panel	Panel date
08	CO	WELLINGTON, TOWN OF	0801040001D	20-OCT-98
08	MT	DARBY, TOWN OF	30081C0390C	07-SEP-98
08	MT	DARBY, TOWN OF	30081CIND0	07-SEP-98
08	MT	HAMILTON, CITY OF	30081C0189C	07-SEP-98
08	MT	HAMILTON, CITY OF	30081C0277C	07-SEP-98
08	MT	HAMILTON, CITY OF	30081C0279C	07-SEP-98
08	MT	HAMILTON, CITY OF	30081CIND0	07-SEP-98
08	MT	PINESDALE, TOWN OF	30081C0180C**	07-SEP-98
08	MT	PINESDALE, TOWN OF	30081C0190C	07-SEP-98
08	MT	PINESDALE, TOWN OF	30081CIND0	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0035C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0045C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0110C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0120C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0180C**	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0185C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0189C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0190C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0195C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0277C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0279C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0290C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0380C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0390C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0480C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081C0485C	07-SEP-98
08	MT	RAVALLI COUNTY *	30081CIND0	07-SEP-98
08	MT	STEVENSVILLE, CITY OF	30081C0110C	07-SEP-98
08	MT	STEVENSVILLE, CITY OF	30081CIND0	07-SEP-98
08	ND	BISMARCK, CITY OF	3801490020B	20-OCT-98
08	ND	BISMARCK, CITY OF	3801490030B	20-OCT-98
08	ND	BISMARCK, CITY OF	380149IND0	20-OCT-98
08	SD	BIG STONE CITY, CITY OF	460156 A***	01-JUL-98
08	SD	BIG STONE CITY, CITY OF	4601569999 ***	01-JUL-98
08	SD	CHARLES MIX COUNTY *	4602570001B***	01-JUL-98
08	SD	CHARLES MIX COUNTY *	4602570002B***	01-JUL-98
08	SD	CHARLES MIX COUNTY *	4602570003B***	01-JUL-98
08	SD	CHARLES MIX COUNTY *	4602570004B***	01-JUL-98
08	SD	CHARLES MIX COUNTY *	4602570005B***	01-JUL-98
08	SD	CHARLES MIX COUNTY *	4602579999 ***	01-JUL-98
08	SD	CHARLES MIX COUNTY *	460257IND0 ***	01-JUL-98
08	SD	CLARK, CITY OF	460013 B***	01-JUL-98
08	SD	CLARK, CITY OF	4600139999 ***	01-JUL-98
08	SD	CRESBARD, TOWN OF	460107 A***	01-JUL-98
08	SD	CRESBARD, TOWN OF	4601079999 ***	01-JUL-98
08	SD	DUPREE, CITY OF	460169 A***	01-JUL-98
08	SD	DUPREE, CITY OF	4601699999 ***	01-JUL-98
08	SD	EAGLE BUTTE, TOWN OF	460170 B***	01-JUL-98
08	SD	EAGLE BUTTE, TOWN OF	4601709999 ***	01-JUL-98
08	SD	GARY, TOWN OF	460112 A***	01-JUL-98
08	SD	GARY, TOWN OF	4601129999 ***	01-JUL-98
08	SD	HANSON COUNTY *	4602700001B***	01-JUL-98
08	SD	HANSON COUNTY *	4602700002B***	01-JUL-98
08	SD	HANSON COUNTY *	4602700003B***	01-JUL-98
08	SD	HANSON COUNTY *	4602700004B***	01-JUL-98
08	SD	HANSON COUNTY *	4602700005B***	01-JUL-98
08	SD	HANSON COUNTY *	4602700006B***	01-JUL-98
08	SD	HANSON COUNTY *	4602709999 ***	01-JUL-98
08	SD	HERREID, CITY OF	460181 A***	01-JUL-98
08	SD	HERREID, CITY OF	4601819999 ***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710001B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710002B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710003B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710004B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710005B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710006B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710007B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710008B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710009B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602710010B***	01-JUL-98
08	SD	HUGHES COUNTY *	4602719999 ***	01-JUL-98
08	SD	WILLOW LAKE, TOWN OF	4600140001C***	01-JUL-98
08	SD	WILLOW LAKE, TOWN OF	4600149999 ***	01-JUL-98
08	UT	SEVIER COUNTY *	4901210016C	07-SEP-98

Region	State	Community	Panel	Panel date
08	UT	SEVIER COUNTY *	490121IND0	07-SEP-98
08	WY	BIG HORN COUNTY	5600040001B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040002B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040003B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040005B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040006B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040007B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040009B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040010B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040011B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040012B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040014B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040015B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040016B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040017B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040018B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040020B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040021B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040022B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040023B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040024B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040027B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040028B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040029B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040030B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040031B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040032B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040034B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040035B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040036B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040037B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040038B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600040039B***	01-NOV-98
08	WY	BIG HORN COUNTY	5600049999 ***	01-NOV-98
08	WY	BIG HORN COUNTY	560004IND0 ***	01-NOV-98
08	WY	COKEVILLE,TOWN OF	5600330001C	21-SEP-98
08	WY	DUBOIS, TOWN OF	560018 C***	01-NOV-98
08	WY	DUBOIS, TOWN OF	5600189999 ***	01-NOV-98
08	WY	LINCOLN COUNTY *	5600320785C	21-SEP-98
08	WY	LINCOLN COUNTY *	5600320800C**	21-SEP-98
08	WY	LINCOLN COUNTY *	560032IND0	21-SEP-98
08	WY	ROCK SPRINGS, CITY OF	5600510005E	20-JUL-98
09	AZ	QUARTZSITE, TOWN OF	0401340005A	22-DEC-98
09	AZ	QUARTZSITE, TOWN OF	040134IND0	22-DEC-98
09	CA	AGOURA HILLS, CITY OF	0650720001B	03-AUG-98
09	CA	AGOURA HILLS, CITY OF	065072IND0	03-AUG-98
09	CA	BELLFLOWER, CITY OF	0601020005A	06-JUL-98
09	CA	CARSON, CITY OF	0601070005A	06-JUL-98
09	CA	COLUSA COUNTY *	060022 D	03-AUG-98
09	CA	COLUSA, CITY OF	0600230001A	03-AUG-98
09	CA	COMPTON, CITY OF	0601110005A	06-JUL-98
09	CA	DIAMOND BAR, CITY OF	065043IND0	06-JUL-98
09	CA	DOWNEY, CITY OF	0606450005A	06-JUL-98
09	CA	FIREBAUGH, CITY OF	0600460005B	20-NOV-98
09	CA	FRESNO COUNTY *	0650290565C	20-NOV-98
09	CA	FRESNO COUNTY *	0650290805C	20-NOV-98
09	CA	FRESNO COUNTY *	065029IND0	20-NOV-98
09	CA	GARDENA, CITY OF	0601190001A	06-JUL-98
09	CA	GILROY, CITY OF	0603400001D	17-AUG-98
09	CA	GILROY, CITY OF	0603400002D	17-AUG-98
09	CA	GILROY, CITY OF	0603400003E	17-AUG-98
09	CA	GILROY, CITY OF	0603400004E	17-AUG-98
09	CA	GILROY, CITY OF	060340IND0	17-AUG-98
09	CA	LAKEWOOD, CITY OF	0601300005A	06-JUL-98
09	CA	LONG BEACH, CITY OF	0601360005C	06-JUL-98
09	CA	LONG BEACH, CITY OF	0601360010C	06-JUL-98
09	CA	LONG BEACH, CITY OF	0601360015C	06-JUL-98
09	CA	LONG BEACH, CITY OF	0601360020C	06-JUL-98
09	CA	LONG BEACH, CITY OF	0601360025C	06-JUL-98
09	CA	LONG BEACH, CITY OF	060136IND0	06-JUL-98
09	CA	LOS ANGELES COUNTY*	0650430940C	06-JUL-98
09	CA	LOS ANGELES COUNTY*	0650430945C	06-JUL-98
09	CA	LOS ANGELES COUNTY*	0650431010C	06-JUL-98
09	CA	LOS ANGELES COUNTY*	0650431030D	06-JUL-98

Region
09
09
09

Region	State	Community	Panel	Panel date
09	CA	LOS ANGELES COUNTY*	0650431035D	06-JUL-98
09	CA	LOS ANGELES COUNTY*	065043IND0	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370054D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370063D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370066D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370072E	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370075D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370099D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370100D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370101D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370102D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370105D	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370107E	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370108E	06-JUL-98
09	CA	LOS ANGELES, CITY OF	0601370110E	06-JUL-98
09	CA	LOS ANGELES, CITY OF	060137IND0	06-JUL-98
09	CA	LYNWOOD, CITY OF	0606350001C	06-JUL-98
09	CA	LYNWOOD, CITY OF	0606350002C	06-JUL-98
09	CA	LYNWOOD, CITY OF	060635IND0	06-JUL-98
09	CA	MADERA COUNTY*	0601700685C	20-NOV-98
09	CA	MADERA COUNTY*	060170IND0	20-NOV-98
09	CA	MALIBU, CITY OF	065043IND0	06-JUL-98
09	CA	MONTEBELLO, CITY OF	0601410001C	06-JUL-98
09	CA	MONTEBELLO, CITY OF	0601410002C	06-JUL-98
09	CA	MONTEBELLO, CITY OF	060141IND0	06-JUL-98
09	CA	MORGAN HILL, CITY OF	0603460001C	22-DEC-98
09	CA	MORGAN HILL, CITY OF	0603460002C	22-DEC-98
09	CA	MORGAN HILL, CITY OF	0603460003C	22-DEC-98
09	CA	MORGAN HILL, CITY OF	0603460004C	22-DEC-98
09	CA	MORGAN HILL, CITY OF	0603460005C	22-DEC-98
09	CA	MORGAN HILL, CITY OF	060346IND0	22-DEC-98
09	CA	PARAMOUNT, CITY OF	0650490001C	06-JUL-98
09	CA	PARAMOUNT, CITY OF	0650490002C	06-JUL-98
09	CA	PARAMOUNT, CITY OF	065049IND0	06-JUL-98
09	CA	PICO RIVERA, CITY OF	0601480005A	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620010E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620020E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620030E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620035E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620040E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620045E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620055E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620060D	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620065F	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620070D**	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620085E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620090E**	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620095E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620110D**	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620115E**	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620120D**	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620160F	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620185F	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620190E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620195F	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620205E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620210E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620215E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620275D**	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620285E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620305F	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620310F	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620320E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620330D	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620335D	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620340D	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620400D**	06-JUL-98
09	CA	SACRAMENTO COUNTY *	0602620475E	06-JUL-98
09	CA	SACRAMENTO COUNTY *	060262IND0	06-JUL-98
09	CA	SACRAMENTO, CITY OF	0602660005F	06-JUL-98
09	CA	SACRAMENTO, CITY OF	0602660010F	06-JUL-98
09	CA	SACRAMENTO, CITY OF	0602660015F	06-JUL-98
09	CA	SACRAMENTO, CITY OF	0602660020F	06-JUL-98
09	CA	SACRAMENTO, CITY OF	0602660025F	06-JUL-98

Panel date
07-SEP-98
01-NOV-98
01-NOV-98
01-NOV

Region	State	Community	Panel	Panel date
09	CA	SACRAMENTO, CITY OF	0602660030F	06-JUL-98
09	CA	SACRAMENTO, CITY OF	060266IND0	06-JUL-98
09	CA	SAN JOSE, CITY OF	0603490007G	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490009G	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490010E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490020F	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490021E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490028E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490032E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490033E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490039E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490042E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490047E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490048E	17-AUG-98
09	CA	SAN JOSE, CITY OF	0603490053E	17-AUG-98
09	CA	SAN JOSE, CITY OF	060349IND0	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370065G	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370220E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370405E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370445E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370465E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370605E**	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370610E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370620E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370630E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370640E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370645E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370755F	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370760F	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370765E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	0603370770E	17-AUG-98
09	CA	SANTA CLARA COUNTY*	060337IND0	17-AUG-98
09	CA	SOUTH GATE, CITY OF	0601630005A	06-JUL-98
09	CA	SUTTER COUNTY*	0603940250D	06-JUL-98
09	CA	SUTTER COUNTY*	0603940265D	06-JUL-98
09	CA	SUTTER COUNTY*	0603940280C	06-JUL-98
09	CA	SUTTER COUNTY*	0603940285D	06-JUL-98
09	CA	SUTTER COUNTY*	0603940305D	06-JUL-98
09	CA	SUTTER COUNTY*	060394IND0	06-JUL-98
09	CA	TULARE COUNTY*	0650660465C	06-OCT-98
09	CA	TULARE COUNTY*	0650660650C	06-OCT-98
09	CA	TULARE COUNTY*	065066IND0	06-OCT-98
09	CA	VISALIA, CITY OF	0604090005D	06-OCT-98
09	CA	VISALIA, CITY OF	060409IND0	06-OCT-98
09	CA	WESTLAKE, VILLAGE OF	065043IND0	06-JUL-98
09	CA	WINTERS, CITY OF	0604250001C	20-NOV-98
09	CA	YOLO COUNTY*	0604230320D	06-JUL-98
09	CA	YOLO COUNTY*	0604230450E	06-JUL-98
09	CA	YOLO COUNTY*	0604230475D	06-JUL-98
09	CA	YOLO COUNTY*	0604230585D	06-JUL-98
09	CA	YOLO COUNTY*	0604230595D**	06-JUL-98
09	CA	YOLO COUNTY*	0604230605E	06-JUL-98
09	CA	YOLO COUNTY*	0604230610E	06-JUL-98
09	CA	YOLO COUNTY*	0604230615D**	06-JUL-98
09	CA	YOLO COUNTY*	0604230620D**	06-JUL-98
09	CA	YOLO COUNTY*	0604230660D	06-JUL-98
09	CA	YOLO COUNTY*	060423IND0	06-JUL-98
09	HI	MAUI COUNTY *	1500030161C	03-AUG-98
09	HI	MAUI COUNTY *	1500030163C	03-AUG-98
09	HI	MAUI COUNTY *	150003IND0	03-AUG-98
09	NV	LYON COUNTY*	3200290035C	20-NOV-98
09	NV	LYON COUNTY*	3200290055C	20-NOV-98
09	NV	LYON COUNTY*	3200290075C**	20-NOV-98
09	NV	LYON COUNTY*	320029IND0	20-NOV-98
10	AK	EMMONAK, CITY OF	0201250001A	21-SEP-98
10	ID	BELLEVUE, CITY OF	1600210857D	20-JUL-98
10	ID	BELLEVUE, CITY OF	1600210859D	20-JUL-98
10	ID	BELLEVUE, CITY OF	1600210876D	20-JUL-98
10	ID	BELLEVUE, CITY OF	1600210878D	20-JUL-98
10	ID	BELLEVUE, CITY OF	160021IND0	20-JUL-98
10	ID	BINGHAM COUNTY *	1600180430C	20-OCT-98
10	ID	BINGHAM COUNTY *	1600180435C	20-OCT-98
10	ID	BINGHAM COUNTY *	1600180440C	20-OCT-98
10	ID	BINGHAM COUNTY *	160018IND0	20-OCT-98

Region	
10	ID
10	ID
10	ID
10	ID
10	ID
10	OR
10	OR
10	OR
10	WA
10	WA
10	WA

[FR Doc. 99–7

BILLING CODE C

Region	State	Community	Panel	Panel date
10	ID	BLACKFOOT, CITY OF	1600190001C**	20-OCT-98
10	ID	BLACKFOOT, CITY OF	1600190002C	20-OCT-98
10	ID	BLACKFOOT, CITY OF	160019IND0	20-OCT-98
10	ID	BLAINE COUNTY *	1651670857C	20-JUL-98
10	ID	BLAINE COUNTY *	165167IND0	20-JUL-98
10	OR	BURNS, CITY OF	4100840001D	22-DEC-98
10	OR	LINCOLN CITY, CITY OF	4101300001C	17-AUG-98
10	OR	TROUTDALE, CITY OF	4101840005D	03-AUG-98
10	WA	MASON COUNTY*	5301150175D	08-DEC-98
10	WA	MASON COUNTY*	5301150180D	08-DEC-98
10	WA	MASON COUNTY*	530115IND0	08-DEC-98

[FR Doc. 99–7617 Filed 3–26–99; 8:45 am]
BILLING CODE CODE 6718–04–F

Panel date
06-JUL-98
06-JUL-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
17-AUG-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-OCT-98
06-OCT-98
06-OCT-98
06-OCT-98
06-OCT-98
06-OCT-98
06-JUL-98
20-NOV-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
06-JUL-98
03-AUG-98
03-AUG-98
03-AUG-98
20-NOV-98
20-NOV-98
20-NOV-98
20-NOV-98
21-SEP-98
20-JUL-98
20-JUL-98
20-JUL-98
20-JUL-98
20-JUL-98
20-OCT-98
20-OCT-98
20-OCT-98
20-OCT-98

VOL
64
ISS
59
MR
29
999
UMI

federal register

Monday
March 29, 1999

Part IV

Department of Education

Bilingual Education: Training for All Teachers; Inviting Applications for New Awards for Fiscal Year 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.195B]

Bilingual Education: Training for All Teachers; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program.

Purpose of Program: This program provides grants to incorporate courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators, and other educational personnel in order to prepare such individuals to provide effective services to limited English proficient students. The program focuses on the development of coursework to prepare teachers or other educational personnel, who may not expect to become bilingual specialists, but who expect to serve LEP students. Funds under this program may be used to provide for the development of training programs in collaboration with other programs, such as programs authorized under Titles I and II of this is and under the Head Start Act.

Eligible Applicants: One or more institutions of higher education (IHEs); one or more local educational agencies (LEAs); one or more State educational agencies (SEAs); or one or more nonprofit organizations (NPOs) which have entered into consortia arrangements with an IHE, LEA, or SEA.

Deadline for Transmittal of Applications: April 15, 1999.

Deadline for Intergovernmental Review: June 15, 1999.

Available Funds: $3.6 million.

Estimated Range of Awards: $100,000–$300,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 18.

Note: The Department of Education is not bound by any estimates in this notice.

Project Period: Up to 36 Months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Description of Program: The statutory authorization for this program, and the application requirements that apply to this competition, are set forth in sections 7142 and 7146–7150 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (20 U.S.C. 7472 and 7476–7480), Pub. L. 103–382, enacted October 20, 1994.

Activities conducted under this program must assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, must lead to the awarding of college or university credit.

Priorities

Competitive Priority

The Secretary, under 34 CFR 75.105(c)(2)(i) and 34 CFR 299.3(b), gives preference to applications that meet the following competitive priority. The Secretary awards up to 3 points for an application that meets this competitive priority. These points are in addition to any points the application earns under the selection criteria for the program:

Projects that will contribute to a systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture, and are made an integral part of the Zone's or Community's comprehensive community revitalization strategies.

Note: A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided in the appendix to this notice.

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority receives no competitive or absolute preference over other applications. 34 CFR 75.105(c)(1):

Applicants that apply as a consortia to include one or more LEAs, SEAs, IHEs and which propose innovative ways to improve the preparation of ALL teachers related to the needs of limited English proficient students.

Selection Criteria

The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

(a) *Significance* (20 points). (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project the Secretary considers the likelihood that the proposed project will result in system change or improvement.

(Authority: 34 CFR 75.210 (b)(1) and (2)(v))

(b) *Need for project* (10 points). (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and the magnitude of those gaps or weaknesses.

(Authority: 34 CFR 75.210 (a)(1) and (2)(i) and (v))

(c) *Quality of the project design* (30 points). (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(v) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(vi) The extent to which the proposed project represents an exceptional approach for meeting the statutory purposes and requirements.

(Authority: 34 CFR 75.210(c)(1) and (2)(i), (ii), (xii), (xiii), (xiv), and (xvi))

(d) *Quality of project services* (5 points). (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(Authority: 34 CFR 75.210(d)(1) and (2))

(e) *Quality of project personnel* (10 points). (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel.

(Authority: 34 CFR 75.210(e)(1), (2) and (3)(ii))

(f) *Quality of the management plan.* (10 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of the procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(Authority: 34 CFR 75.210(g)(1) and (2)(i)(ii)(v))

(g) *Quality of the project evaluation.* (15 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(Authority: 34 CFR 75.210(h)(1) and (2)(iii), (iv), and (vi))

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372.

Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 3, 1998. 63 FR 59422 through 59455.

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.195A, U.S. Department of Education, Room 7E200, 400 Marvland Ave SW., Washington, D.C. 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern Standard Time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195B), Washington, D.C. 20202–4725, or

(2) Hand-deliver the original and two copies of the application by 4:30 p.m. (Eastern Standard Time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195B), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number and suffix letter, if any, of

the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice is divided into three parts, plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with Section 427 of the General Education Provisions Act, questions and answers on this program (located at the end of the notice) and various assurances, certifications, and required documentation. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials

a. Estimated Public Reporting Burden.
b. Group Application Certification.
c. Project Documentation.
d. Program Assurances.
e. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.
f. Certifications Regarding: Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.
g. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014) and instructions.

(**Note:** ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

h. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and two copies of the application. Please mark each application as original or copy. No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Cynthia Ryan (202) 205–8842 or Petraine Johnson (202) 205–8766 at U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this notice in an alternate format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to this Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pfd) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pfd you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pfd, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 7472.

Delia Pompa,

Director, Office of Bilingual Education and Minority Languages Affairs.

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0545. (Expiration Date: 03/31/2002) The time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651. If you have any comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–6510.

The following forms and other items must be included in the application:

1. Application for Federal Assistance (SF 424)
2. Group Application Certification (if applicable)
3. Budget Information (ED Form No. 524)
4. Itemized Budget for each year
5. Participant Data
6. Project Documentation
   Section A—Copy of Transmittal Letter to SEA requesting SEA to comment on application
   Section B—Documentation of Empowerment Zone or Enterprise Community—if applicable
7. Program Assurances
8. Non-Construction Programs (SF 424B)
9. Certifications Regarding Lobbying; Debarment Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013)
10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014)
11. Disclosure of Lobbying Activities (SF–LLL)
12. Table of Contents
13. One-page abstract (single-spaced)
14. Application Narrative (not to exceed 30 pages double-spaced, see instructions below)
15. One original and two copies of the application for transmittal to the Department's Application Control Center.

Mandatory Page Limits for the Application Narrative

The narrative is the section of the application where you address the selection criteria used by reviewers in evaluating the application. You must limit the narrative to the equivalent of no more than 30 pages, using the following standards:

(1) A page is 8.5″ × 11″, on one side only with 1″ margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all

text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables figures and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font. If you use a non-proportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to: the Application for Federal Assistance Form (ED 424); the Budget Information Form (ED 524) and attached itemization of costs; the other application forms and attachments to those forms; the assurances and certifications; or the one-page abstract and table of contents. The page limit applies only to item 14 in the Checklist for Applicants provided above.

IF, IN ORDER TO MEET THE PAGE LIMIT, YOU USE PRINT SIZE, SPACING, OR MARGINS SMALLER THAN THE STANDARD SPECIFIED IN THIS NOTICE, YOUR APPLICATION WILL NOT BE CONSIDERED FOR FUNDING.

Application Narrative and Abstract

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Provide position descriptions for key personnel. Prepare a one-page single-spaced abstract which summarizes the purpose, design and expected outcomes of the proposed project.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components. Prepare an itemized budget for each year of requested funding. Indirect costs for institutions of higher education which are the fiscal agents for Training for All Teachers Programs are limited to the lower of either 8% of a modified total direct cost base or the institution for higher education's actual indirect cost agreement. A modified direct cost base is defined as total direct costs less stipends, tuition and related fees and capital expenditures of $5,000 or more. (Authority: 34 CFR 75.562)

Final Application Preparation

Use the above checklist to verify that all items are addressed. Prepare one original with an original signature, and include three additional copies. Do not use elaborate bindings or covers. The application package must be mailed to the Application Control Center (ACC) and postmarked by the deadline date.

Submission of Application to State Educational Agency

Section 7146(a)(4) of the Elementary and Secondary Education Act of 1965, as amended, requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment (20 U.S.C. 7476(a)(4)). Section 75.156 of EDGAR requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). A copy of this letter should be attached to the Project Documentation Form contained in this application package. Applicants are reminded that the requirement for submission to the SEA and the requirements for Executive Order 12372 are two separate requirements.

Applicants that do not submit a copy of their application to their SEA will not be considered for funding.

Questions and Answers

May Training for All Teachers Include Providing Training Services for Teachers or Other Educational Personnel?

The primary purpose of the Training for All Teachers Program is to incorporate coursework and curricula related to the needs of LEP students into preservice and inservice professional development programs. However, in addition to improving coursework and curricula, grantees may, but are not required, provide training to participants during the course of the grant.

What are the Certification Requirements for the Training for all Teachers Program?

The Title VII Statute requires grantees to assist educational personnel in meeting State and local certification requirements. However, because certification requirements vary among states, applicants are given flexibility in designing activities that lead to meeting State and local certification requirements for bilingual education.

Coursework developed, revised, or offered must be part of a program which would lead to State and local certification. However, it is not a requirement that participants trained under the program complete certification requirements during the course of the grant.

What Information may be Helpful in Preparing the Application Narrative for a Training for All Teachers Program?

- In responding to the Selection criteria applicants may wish to consider the following questions as a guide for preparing the application narrative:
- What are the specific responsibilities of schools, districts, institutions of higher education and other partnership organizations in planning, implementing and evaluating the proposed program?
- How will the training curricula incorporate high standards for teaching and learning?
- How is the proposed program linked to the institution's overall plan to improve teacher preparation programs for all teachers related to the needs of Limited English Proficient students?
- How will the products of the proposed program be integrated into teacher preparation program activities for all teachers?
- How will the program assist in systemically reforming policies and practices in the LEA, SEA or IHE related to the training of teachers to improve instructional services for LEP students.
- What performance indicators will the proposed program use to support the effectiveness of the program?
- What professional development activities are planned for school staff development specialists, or for higher education faculty to ensure that they are effectively prepared to provide training to prepare all teachers related to the needs of LEP students.

In addition, applicants may wish to consider the Department of Education Professional Development Principles in planning a Training for All Teachers Program. The following are the Professional Development Principles:

Professional Development

- Focuses on teachers as central to student learning, yet includes all other members of the school community.
- Focuses on individual, collegial and organizational improvement.
- Respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community
- Reflects best available research and practice in teaching, learning, and leadership.
- Enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards.

- Promotes continuous inquiry and improvement embedded in the daily life of schools.
- Is planned collaboratively by those who will participate in and facilitate that development.
- Requires substantial time and other resources.
- Is driven by a coherent long-term plan.
- Is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and this assessment guides subsequent professional development efforts.

Empowerment Zones and Enterprise Communities

Empowerment Zones

(Listed Alphabetically by State)

California: Oakland
Georgia: Atlanta
Illinois: Chicago
Kansas: Kansas City
Kentucky: Kentucky Highlands Area (Clinton, Jackson, and Wayne Counties)
Maryland: Baltimore
Massachusetts: Boston
Michigan: Detroit
Mississippi: Mid-Delta Area (Bolivar, Holmes, Humphrey, and Leflore Counties)
Missouri: Kansas City
New Jersey: Camden
New York: Harlem, Bronx
Pennsylvania: Philadelphia
Texas: Houston, Rio Grande Valley Area (Cameron, Hidalgo, Starr and Willacy Counties)

Supplemental Empowerment Zones

(Listed alphabetically by State)

California: Los Angeles
Ohio: Cleveland

Enterprise Communities

(Listed Alphabetically by State)

Alabama: Birmingham, Chambers County, Greene County, Sumter County
Arizona: Arizona Border Area (Cochise, Santa Cruz, and Yuma Counties), Phoenix
Arkansas: East Central Area (Cross, Lee, Monroe, and St. Francis Counties), Mississippi County, Pulaski County
California: Imperial County, Los Angeles (Huntington Park), San Diego, San Francisco (Bayview, Hunters Point), Watsonville
Colorado: Denver
Connecticut: Bridgeport, New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County
Georgia: Central Savannah River Area (Burke, Hancock, Jefferson, McDuffie, Tallaferro, and Warrent Counties), Crisp County, Dooley County
Illinois: East St. Louis, Springfield
Indiana: Indianapolis
Iowa: Des Moines
Kentucky: Louisville, McCreary County
Louisiana: Macon Ridge Area (Catahouis, Concordia, Franklin, Morehouse, and Tensas Parishes), New Orleans, Northeast Delta Area (Madison Parish), Ouachita Parish
Massachusetts: Lowell, Springfield
Michigan: Five Cap, Flint, Muskegeon
Minnesota: Minneapolis, St. Paul
Mississippi: Jackson, North Delta Area (Panola, Quiman, and Tallahatchie Counties)
Missouri: East Prarie, St. Louis
Nebraska: Omaha
Nevada: Clark County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque, Moro County, Rio Arriba County, Taos County
New York: Albany, Buffalo, Kingston, Newburgh, Rochester, Schenectady, Troy
North Carolina: Charlotte, Edgecombe County, Halifax County, Robeson County, Wilson County
Ohio: Akron, Columbus, Greater Portsmouth Area (Scioto County)
Oklahoma: Choctaw County, McCurtain County, Oklahoma City
Oregon: Josephine County, Portland
Pennsylvania: Harrisburgh, Lock Haven, Pittsburgh
Rhode Island: Providence
South Carolina: Charleston, Williamsburg County
South Dakota: Beadle County, Spink County
Tennessee: Fayette County, Haywood County, Memphis, Nashville, Scott County
Texas: Dallas, El Paso, San Antonio, Waco
Utah: Ogden
Vermont: Burlington
Virginia: Ackomack County, Norfolk
Washington: Lower Yakima County, Seattle, Tacoma
West Virginia: Huntington, McDowell County, West Central Area (Braxton, Clay, Fayette, Nicholas, and Roane Counties)
Wisconsin: Milwaukee

BILLING CODE 4000–01–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name: _____

Address: _____

_____

City _____ State _____ County _____ ZIP Code + 4 _____ - _____

Organizational Unit

2. Applicant's D-U-N-S Number

3. Catalog of Federal Domestic Assistance #: 8 4 _ _ _ _ → Title: _____

4. Project Director: _____

Address: _____

City _____ State _____ ZIP Code + 4 _____ - _____

Tel. #: ( ) _____ - _____ Fax #: ( ) _____ - _____

E-Mail Address: _____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No

(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School District
I Public College or University
J Private, Non-Profit College or University
K Indian Tribe
L Individual
M Private, Profit-Making Organization
N Other *(Specify)*: _____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____

☐ No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates:

Start Date:	End Date:
___/___/_____	___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #: _____ *OR* b. Assurance of Compliance #: _____

c. IRB approval date: _____ { ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) _____ - _____ Fax #: ( ) _____ - _____

d. E-Mail Address:

e. **Signature of Authorized Representative** Date: ___/___/_____

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" **or** "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION BUDGET INFORMATION NON-CONSTRUCTION PROGRAMS	OMB Control No. 1880--0538 Expiration Date: 10/31/99
Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

U.S. DEPARTMENT OF EDUCATION BUDGET INFORMATION NON-CONSTRUCTION PROGRAMS	OMB Control No. 1880--0538 Expiration Date: 10/31/99
Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to average 15 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. If you have comments regarding the burden estimate or suggestions for reducing this burden, please write to the U.S. Department of Education, Washington, DC 20202-4651 or to the Office of Management and Budget, Paperwork Reduction Project 1840-0779, Washington, DC 20503.

This form is used by applicants requesting Federal assistance for non-construction programs administered by the Department of Education. Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing the form.

All applicants must complete Section B and provide a budget summary for each project year for which funding is requested. Provide budget categories in a manner consistent with your institution's budget policies.

Line 1 - Personnel. Show salaries to be paid to project personnel. Indicate the number of staff and the percentage of time to be devoted to the project.

Line 2 - Fringe Benefits. Show the rate and amount of fringe benefits. Fringe benefits should be for employees engaged in project activities and should be consistent with your institution's written policy.

Line 3 - Travel. Show travel costs for project personnel. Travel costs for key staff to attend conference(s) specified in the application should be listed separately. Show the basis for computation (e.g., six days at an estimated $X airfare, $X lodging, $X subsistence).

Line 4 - Equipment. Show the cost of non-expendable equipment to be purchased for the project. Non-expendable equipment is tangible property having a useful life of more than one year and an acquisition cost which equals the lesser of the capitalization level established by the organization for financial statement purposes, or $5,000. (Note: Organizations without a capitalization level for financial statement purposes may use $5,000.) Show the basis for computation. (Note: If the applicant organization's policy is more restrictive than the Federal definition, the more restrictive definition would apply.)

If you provide budget amounts for more than one project year, you should provide the same budget detail for each additional year. If you need additional space, please use the blank pages provided in the application kit. Please label any additional pages to indicate the budget category (1 through 11 or C) to which the information applies.

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Previous Edition Usable

Authorized for Local Reproduction

Standard Form 424B (Rev. 7-97)
Prescribed by OMB Circular A-102

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application ____ b. initial award c. post-award	**3. Report Type:** a. initial filing ____ b. material change **For material change only:** Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: ____ Prime ____ Subawardee Tier____ _, if Known: **Congressional District, if known:**		**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**
6. Federal Department/Agency:		**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known:*		**9. Award Amount,** *if known:* **$**
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*		**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.		**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____
Federal Use Only		**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

PARTICIPANT DATA

Note: This form must be completed by applicants under the following programs:

- **Teachers and Personnel Grants**
- **Career Ladder Program**

- **Number of proposed participants in each of the following categories**

Preservice Teachers	_____
Inservice Teachers	_____
Other Educational Personnel (Specify type of personnel below)	_____
_____	_____
_____	_____

- **Degree level(s) to be attained (if applicable)** _____

_____

- **Certification Type(s) to be attained** _____

_____

- **Language(s) of Participants (other than English)** _____

BILLING CODE 4000–01–C

Project Documentation

Note: Submit the appropriate documents and information as specified below for the following programs.

- Teachers and Personnel Grants.
- Career Ladder Program.

Section A

A copy of the transmittal letter requesting the appropriate State educational agency to comment on the application.

Section B

If applicable, identify on the line below the Empowerment Zone, Supplemental Empowerment Zone, or Enterprise Community that the proposed project will serve. (See the competitive priority and the list of designated Empowerment Zones in previous sections of this application package.)

Program Assurances

Note: The authorizing statute requires applicants under certain programs to provide assurances. These assurances are specified below under the relevant programs. If your application pertains to any of these programs, this form must be completed.

As the duly authorized representative of the applicant, I certify that the applicant, in regard to the program relevant to this application:

- Teachers and Personnel Grants.
- Career Ladder Program.

Will include, if applicable, as part of the project implementing a masters or doctoral-level program, a training practicum in a local school program serving children and youth of limited English proficiency.

(Authority: 20 U.S.C. 7426(g)(3))

_____

Authorized Representative

Name: _____

Signature: _____

Typed Name: _____

Date: _____

Applicant Organization: _____

[FR Doc. 99–7577 Filed 3–26–99; 8:45 am]

BILLING CODE 4000–01–U

UMI

VOL

64

ISS

59

MR

29

999

UMI

federal register

Monday
March 29, 1999

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29508; Special Federal Aviation Regulation (SFAR) No. 84]

RIN 2120–AG78

Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action prohibits flight operations within the territory and airspace of Serbia-Montenegro by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA unless that person is engaged in the operation of a U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is necessary to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of increased tensions due to the recent NATO military strikes against Serb forces in Serbia-Montenegro.

DATES: This action is effective March 25, 1999, and shall remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: (202) 367–8166.

SUPPLEMENTARY INFORMATION:

Availability of This Document

An electronic copy of this document may be downloaded, using a moderm and suitable communications software, from the FAA regulation section of the Fedworld electronic bulletin board service ((703) 321–3339), the Government Printing Office's (GPO) electronic bulletin board service ((202) 512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service ((800) 322–2722 or (202) 267–5948). Internet users may reach the FAA's web page at http://wwww.faa.gov or the GPO web page a http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave, SW, Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the docket number of this action.

Persons interested in being placed on the mailing list for future rules should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statues and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 1–888–551–1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at http://www.faa.gov and may send electronic inquiries to the following Internet address: 9–AWA–SBREF@faa.dot.gov.

Background

The FAA is responsible for the safety of flight in the United States and for the safety of US-registered aircraft and operators throughout the world. Section 40101(d)(1) of Title 49, United States Code (U.S.C.), declares, as a matter of policy, that the regulation of air commerce to promote safety is the public interest. Section 44701(a) of Title 49, U.S.C., provides the FAA with broad authority to carry out this policy by prescribing regulations governing the practices, methods, and procedures necessary to ensure safety in air commerce.

On March 24, 1999, NATO military forces conducted strikes against the Serb military in Serbia-Montenegro because of attacks upon the province of Kosovo. Consequently, there could be a hostile reaction from armed elements in Serbia-Montenegro. Therefore, the FAA has determined that the safe overslight of the territory of Serbia-Montenegro cannot be guaranteed.

Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce, I have determined that immediate action by the FAA is necessary to prevent the injury to or the loss of certain U.S.-registered aircraft and U.S. operators conducting flights in the territory and airspace of Serbia-Montenegro. I find that increased tensions resulting from the recent NATO military strikes in Serbia-Montenegro present an immediate hazard to the operation of U.S. civil aircraft, operators, and airmen within Serbia-Montenegro territory and airspace. Accordingly, I am ordering a prohibition of all flight operations within the territory and airspace of Serbia-Montenegro by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA unless that person is engaged in the operation of a U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is necessary to prevent an undue hazard to aircraft and to protect persons and property on board those aircraft. SRAF No. 84 shall remain in effect until further notice.

Because the circumstances described herein warrant immediately action by the FAA to maintain the safety of flight by the aforementioned persons within the territory and airspace of Serbia-Montenegro, I find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under section 40105 of Title 49, United States Code to ensure that I exercise my duties consistently with the obligations of the United States under international agreements. The Department of State has been advised of, and has no objections to, the action taken herein.

Regulatory Analyses

This rulemaking action is determined to be taken under an emergency situation within the meaning of Section 6(a)(3)(d) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Para. 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it

is not a significant rule within the meaning of either the Executive Order or DOT's policies and procedures. Accordingly, no regulatory analysis or evaluation accompanies the rule. The FAA certifies that this rule will not have a substantial impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980, as amended. It also will have no impact on international trade and creates no unfunded mandate on any entity.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR Part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 USC 106(g), 40103, 40113, 40120, 44101, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506, 47122, 47508, 47528–47531.

2. Special Federal Aviation Regulation (SFAR) No. 84 is added to read as follows:

Special Federal Aviation Regulation No. 84—Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro

1. *Applicability.* This rule applies to all U.S. air carriers and commercial operators, all persons exercising the privileges of an airman certificate issued by the FAA unless that person is engaged in the operation of a U.S.-registered aircraft for a foreign air carrier, and all operators using aircraft registered in the United States except where the operator of such aircraft is a foreign air carrier.

2. *Flight prohibition.* Except as provided in paragraph 3 and 4 of this SFAR, no person described in paragraph 1 may conduct flight operations within the territory and airspace of Serbia-Montenegro.

3. *Permitted operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations within the territory and airspace of Serbia-Montenegro where such operations are authorized either by exemption issued by the Administrator or by another agency of the United States Government with the approval of the FAA.

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR 121.557, 121.559, or 135.19, each person who deviates from this rule shall, within ten (10) days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation ad the reasons therefore.

5. *Expiration.* This Special Federal Aviation Regulation shall remain in effect until further notice.

Issued in Washington, DC on March 25, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–7784 Filed 3–25–99; 3:46 pm]

BILLING CODE 4910–13–M

VOL
64
ISS
59
MR
29
999
UMI

Read

CUSTOME
Federal Reg
General Info
aids
Laws
Presidential
Executive or
The United
Other Servi
Electronic a
Privacy Act
Public Laws
TTY for the

ELECTRON
World Wide
Full text of
publications
h
Federal Reg
Inspection I
h
E-mail
PENS (Publ
service that
Laws. To su
li
with the tex
s
Use listproc
PENS. We c
Reference q
Federal Reg
in
The Federal
regulations.

FEDERAL

9905–10100
10101–1020
10205–1038
10387–1055
10555–1091
10919–1137
11373–1175
11755–1207
12079–1223
12239–1274
12743–1288
12881–1306
13063–1331
13311–1349
13497–1366
13663–1388
13881–1409
14097–1435
14355–1457
14575–1480
14809–1512

Reader Aids

Federal Register

Vol. 64, No. 59

Monday, March 29, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22
13881–14096	23
14097–14354	24
14355–14574	25
14575–14808	26
14809–15122	29

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100	12881
Proclamations:	
7168	10101
7169	10379
7170	10383
7171	10385
7172	11373
7173	12879
7174	14353
Executive Orders:	
12170 (See Notice of March 10, 1999)	12239
12852 (Amended by EO 13114)	10099
12957 (See Notice of March 10, 1999)	12239
12959 (See Notice of March 10, 1999)	12239
13059 (See Notice of March 10, 1999)	12239
13114	10099
Administrative Orders:	
Notice of March 10, 1999	12239
Memorandum:	
March 23, 1999	14809
Presidential Determinations:	
No. 99–15 of February 26, 1999	11319
No. 99–16 of March 4, 1999	13495

5 CFR

532	9905, 9906
2635	13063
Proposed Rules:	
300	14842
1620	13924
1650	13725

7 CFR

3	11755
51	14575
246	13311
360	12881
361	12881
782	12884
932	14811
989	10919
1381	11755
1434	10923
1439	13497
1469	10929
1703	14355
1728	14813
Proposed Rules:	
301	11392
915	13123
916	11346
917	11346
944	14642
1065	13125
1301	12769
1703	14401
1823	10235
1956	10235
3400	14348

8 CFR

3	13663, 13881
103	13881
208	13881
235	13881
238	13881
240	13881
241	13881
253	13881
274a	11533
507	13881

9 CFR

52	13064
Proposed Rules:	
1	10400
3	10400
71	13726
80	13726
112	13365
113	10400, 14156
391	10402

10 CFR

50	14814
73	14814
708	12862
Proposed Rules:	
21	12117
50	12117
54	12117
63	10405
70	13368
707	11819

11 CFR

Proposed Rules:	
2	10405
4	10405
5	10405

12 CFR

3	10194
208	10194
225	10201
229	14577
325	10194
404	14373
405	14373
567	10194
960	12079
Proposed Rules:	
326	14845
563	14845
602	10954

13 CFR

123.....13667

14 CFR

21.....13501
25.....10740, 14818
39.....9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504, 13667, 13669, 13882, 13884, 13886, 13889, 13890, 13892, 14097, 14578, 14580, 14583, 14585, 14588, 14820, 14822, 14824
71.....10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672, 14306, 14589, 14590, 14591, 14592, 14593, 14594, 14595, 14596, 14597, 14598, 14599, 14600, 14601, 14602
73.....12743, 13334, 13506, 14603, 14604
91.....15120
93.....14972
97...9912, 9914, 13334, 13336, 14826, 14828
204.....12084
257.....12838
258.....12854
399.....12838

Proposed Rules:

23.....14401
25.....14408
39.....9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936
71.....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404, 13938, 14410
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
744.....14605
752.....13338
772.....13338
774.....10852, 12744, 13338
806.....10387
902.....14052

16 CFR

4.....14829

Proposed Rules:

Ch. I.....14156
241.....13368
256.....13369
1213.....10245, 14158
1500.....10245, 14158
1513.....10245, 14158
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230.....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:

1.....14159
30.....14159
210.....10579
228.....10579
230.....12908, 14648
232.....12908
239.....11118, 12908
240.....9948, 10579, 11124, 12127, 12908, 14648
270.....12908, 14648
274.....12908

19 CFR

Ch. I.....13673
133.....11376

Proposed Rules:

4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404.....10103, 13677, 14606
416.....13677

21 CFR

5.....14098
26.....11376
50.....10942
101.....12886, 12887
173.....14608
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520.....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556.....10103, 13068, 13341, 13679
558.....13068, 13069, 13341, 13342, 13679
701.....13254
806.....14098
812.....10942
874.....10947, 14830

Proposed Rules:

101.....14178
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774
1010.....14180
1040.....14180

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
35.....14381
203.....14568, 14572
234.....14572
882.....14831
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:

Ch. IX.....13531, 13533
990.....12920

25 CFR

31.....13894
39.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR

1.....10218, 11378
54.....14382
602.....10218

Proposed Rules:

1.....10262, 13939, 13940, 14306, 14412, 14846
20.....10964, 13940
25.....13940
31.....13940
40.....13940

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686

Proposed Rules:

25.....10262
302.....11821
549.....10095

29 CFR

96.....14538
99.....14538
1910.....13700, 13897
4044.....12745

30 CFR

256.....13343
914.....12890
934.....12896
938.....14610

Proposed Rules:

57.....14200
204.....13734
206.....12267
250.....13535
914.....14412
938.....12269

32 CFR

199.....11765, 13912
556.....14619

33 CFR

62.....10104
100.....13913, 13914, 14382, 14384
117.....10104, 13514
165.....11771, 12746, 13915, 14306
320.....11708
326.....11708
331.....11708

Proposed Rules:

110.....14414
117.....12795, 12797
155.....13734
162.....14414
165.....14414
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184

Proposed Rules:

303.....12674

36 CFR

61.....11736

Proposed Rules:

1091.....13752
1190.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111.....10950, 12072, 14385

Proposed Rules:

111.....11402

40 CFR

52.....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514, 13916, 14391, 14620, 14624, 14832
58.....10389
60.....10105, 11536, 14393
62.....13075, 13517
63.....11536, 12762
80.....10366
81.....11775, 12002, 12005, 12257, 13146
82.....10374
93.....13476

136.....10391, 13053
147.....14800
180.....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106, 14098, 14099, 14101, 14104, 14106, 14626, 14632
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:

Ch. 1.....10066
52...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753, 14416, 14659, 14665
60.....10119, 11555
62.....13539
63.....11555, 11560
81.....11822, 12025, 13383, 13384
82.....14417
94.....10596
97.....10118
136.....10596
194.....14418
271.....10121, 14201
372.....9957, 10597
435.....10266

41 CFR

101–49.....13700

42 CFR

Proposed Rules:

36.....14560
405.....14666
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277
498.....12277
1003.....12277

43 CFR

4.....13362

Proposed Rules:

428.....12141
3100.....14666
3110.....14666
3120.....14666
3130.....14666
3140.....14666
3150.....14666
3160.....14666
3170.....14666
3180.....14666
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919
65.....11378, 11380, 11382, 11384
67.....11386, 11388

Proposed Rules:

67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303.....11802, 11810
304.....11802
1207.....14113
1208.....14123
1209.....14133
2551.....14113
2552.....14123
2553.....14133

Proposed Rules:

5.....14668
92.....10412
95.....10412
1224.....10872
1302.....14202
2508.....10872

46 CFR

502.....9922
510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156

Proposed Rules:

381.....14676

47 CFR

0.....14834
25.....14394
41.....13916
51.....14141
61.....14394
64.....13701, 14141
73.....9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729, 14397
90.....10395
95.....14639

Proposed Rules:

1.....9960
2.....10266
51.....14203
73.....12922, 12923, 12924, 13756, 13757, 14419, 14420, 14421, 14422, 14423
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548
4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52.....10531, 10535, 10538, 10545, 10548
53.....10548, 10913, 12862
203.....14397
211.....14398
217.....14399
252.....14397, 14398
913.....12862
915.....12220
922.....12862
970.....12220, 12862
1804.....14640
1806.....10571
1807.....14640
1815.....10573
1819.....10571
1822.....14148
1835.....14640
1842.....10573
1852.....10571, 10573
1872.....14640

Proposed Rules:

204.....14424
252.....14424
970.....14206

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234
1420.....13916

Proposed Rules:

17.....14676
171.....13856, 13943
173.....13856
177.....13856
178.....13856
180.....13856
192.....12147
350.....11414
571.....9961, 10604, 13947, 14207
572.....10965
585.....13947
587.....13947
591.....13757
595.....13947
1420.....13948

50 CFR

17.....13116
25.....14149
36.....14149, 14151
216.....9925
217.....14052
220.....14052
221.....14052
222.....14052
223.....14052, 14308, 14508, 14517, 14528
224.....14052, 14308
225.....14052
226.....14052
227.....14052
285.....10576
300.....13519
600.....9932
622.....13120, 13363, 13528
630.....12903
648.....14052, 14835
660.....9932, 12092
678.....14154
679.....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723, 14052, 14155, 14840
697.....14052

Proposed Rules:

17.....12924, 14209, 14424, 14676
216.....9965
223.....14329
224.....14329
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648.....11431, 13392, 13952, 14846
660.....10439, 12279, 14211
678.....10438

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 29, 1999

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Beef promotion and research; published 1-26-99

Table grapes (European or vinifera type); grade standards; published 3-26-99

AGRICULTURE DEPARTMENT

Rural Utilities Service

Electric loans:

Electric standards and specifications for materials and construction—

Electric overhead distribution lines; specifications and drawings (24.9/14.4 kV to 69 kV and 115 kV to 230 kV); published 3-29-99

Telecommunications standards and specifications:

Materials, equipment, and construction—

Borrower contractual obligations; standard contract forms requirements; published 2-10-99

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Perchloroethylene emissions from dry cleaning facilities—

California; published 1-28-99

Air quality implementation plans; approval and promulgation; various States:

Maryland; published 1-26-99

Texas; published 1-26-99

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Missouri; published 1-26-99

Hazardous waste:

Municipal solid waste landfills and non-municipal waste disposal units; State permit program adequacy determination; State implementation rule

Amendments and technical corrections; published 1-28-99

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Personal communications services—

Communications Assistance for Law Enforcement Act; implementation; published 3-29-99

Radio stations; table of assignments:

Wyoming et al.; published 2-23-99

FEDERAL TRADE COMMISSION

Practice and procedure:

Former members and employees; appearances before Commission; post-employment restrictions; published 3-29-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Class II devices; premarket notification exemption; published 3-29-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Public and Indian housing:

Certificate and voucher programs (Section 8)—

Conforming rule; technical amendment; published 3-29-99

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:

Classification and program review; team meetings; published 2-25-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Avions Pierre Robin; published 1-26-99

Boeing; published 2-22-99

Empresa Brasileira de Aeronautica S.A.; published 3-23-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Karnal bunt disease—

Regulated areas reclassification; comments due by 4-8-99; published 3-9-99

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Onions; comments due by 4-5-99; published 2-18-99

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Inspection services; fee increase; comments due by 4-5-99; published 3-4-99

COMMERCE DEPARTMENT

Economic Development Administration

Economic Development Reform Act of 1998; implementation; comments due by 4-5-99; published 2-3-99

COMMERCE DEPARTMENT

Export Administration Bureau

Export licensing:

Commerce control list—

Missile technology controls changes; comments due by 4-9-99; published 2-8-99

COMMERCE DEPARTMENT

International Trade Administration

North American Free Trade Agreement (NAFTA); binational panel reviews:

Circular welded non-alloy steel pipe and tube from—

Mexico; comments due by 4-5-99; published 1-6-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

West Coast salmon; comments due by 4-5-99; published 3-4-99

COMMODITY FUTURES TRADING COMMISSION

Reporting requirements:

Large trader reports; reporting levels changes; comments due by 4-5-99; published 2-3-99

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Privacy Act; implementation; comments due by 4-5-99; published 3-5-99

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Open access same-time information systems (OASIS) and standards of conduct; implementation

Uniform business practices; comments due by 4-5-99; published 2-3-99

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Polymer and resin production facilities (Groups I and IV) and volatile organic compound (VOC) emissions from polymer manufacturing industry; comments due by 4-8-99; published 3-9-99

Polymer and resin √2√production facilities (Groups I and IV) and volatile organic compound (VOC) emissions from polymer manufacturing industry; comments due by 4-8-99; published 3-9-99

Air pollution control; new motor vehicles and engines:

New nonroad spark-ignition engines at or below 19 kilowatts; phase 2 emission standards; comments due by 4-5-99; published 2-3-99

Air quality implementation plans; approval and promulgation; various States:

Connecticut; comments due by 4-9-99; published 3-10-99

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Colorado; comments due by 4-9-99; published 3-10-99

Connecticut; comments due by 4-9-99; published 3-10-99

Hazardous wa
Identification
Exclusions
by 4-5-9
19-99
Superfund pro
Toxic chemi
reporting;
to-know—
Persistent
toxic (P
reportin
lowered
due by
publishe
Water program
Pollutants a
procedure
Mercury;
method;
by 4-5-9
5-99

FARM CREDI ADMINISTRA

Freedom of In
implementat
due by 4-7-9
8-99

FEDERAL COMMUNICA COMMISSION

Radio services
Personal ra
Medical in
commu
in 402-4
establis
commer
99; pub
Radio stations
assignments
California; c
4-5-99; pu
Colorado; co
4-5-99; pu
Illinois; com
5-99; pub
Iowa; comm
5-99; pub
Kansas; con
4-5-99; pu
Kentucky; c
4-5-99; pu
Montana; co
4-5-99; pu
Pennsylvani
due by 4-
2-23-99
Texas; com
5-99; pub
West Virgini
due by 4-
2-23-99
Wyoming; c
4-5-99; pu

FEDERAL EL COMMISSION

Freedom of In
implementat
due by 4-5-9
4-99

Hazardous waste:
Identification and listing—
Exclusions; comments due by 4-5-99; published 2-19-99
Superfund program:
Toxic chemical release reporting; community-right-to-know—
Persistent bioaccumulative toxic (PBT) chemicals; reporting thresholds lowered, etc.; comments due by 4-7-99; published 3-1-99
Water programs:
Pollutants analysis test procedures; guidelines—
Mercury; measurement method; comments due by 4-5-99; published 3-5-99

FARM CREDIT ADMINISTRATION
Freedom of Information Act; implementation; comments due by 4-7-99; published 3-8-99

FEDERAL COMMUNICATIONS COMMISSION
Radio services, special:
Personal radio services—
Medical implant communications service in 402-405 MHz band; establishment; comments due by 4-9-99; published 3-3-99
Radio stations; table of assignments:
California; comments due by 4-5-99; published 2-23-99
Colorado; comments due by 4-5-99; published 2-23-99
Illinois; comments due by 4-5-99; published 2-23-99
Iowa; comments due by 4-5-99; published 2-23-99
Kansas; comments due by 4-5-99; published 2-23-99
Kentucky; comments due by 4-5-99; published 2-23-99
Montana; comments due by 4-5-99; published 2-23-99
Pennsylvania; comments due by 4-5-99; published 2-23-99
Texas; comments due by 4-5-99; published 2-23-99
West Virginia; comments due by 4-5-99; published 2-23-99
Wyoming; comments due by 4-5-99; published 2-23-99

FEDERAL ELECTION COMMISSION
Freedom of Information Act; implementation; comments due by 4-5-99; published 3-4-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Children and Families Administration
Head Start Program:
Authorization of use of grant funds to finance construction and major renovation of facilities; comments due by 4-9-99; published 2-8-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Food labeling—
Dietary supplements; use of health claims based on authoritative statements; comments due by 4-6-99; published 1-21-99
Medical devices:
External penile rigidity devices; proposed classification; comments due by 4-5-99; published 1-4-99

INTERIOR DEPARTMENT
Land Management Bureau
Minerals management:
Oil and gas leasing—
Federal oil and gas resources; protection against drainage by operations on nearby lands resulting in lower royalties from Federal leases; correction; comments due by 4-5-99; published 1-13-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Indiana; comments due by 4-9-99; published 2-8-99

LEGAL SERVICES CORPORATION
Audit services:
Debarment, suspension, and removal of recipient auditors; comments due by 4-6-99; published 2-5-99

POSTAL SERVICE
Domestic Mail Manual:
Flat-size periodicals and standard mail; packaging material standards; comments due by 4-8-99; published 3-9-99

SECURITIES AND EXCHANGE COMMISSION
Securities:
Publication or submission of quotations without specified information; comments due by 4-7-99; published 3-8-99
Securities offerings, regulatory structure; modernization and clarification; comments due by 4-5-99; published 12-4-98
Takeovers and security holder communications; regulation modernization; comments due by 4-5-99; published 12-4-98

TRANSPORTATION DEPARTMENT
Disadvantaged business enterprise participation in DOT financial assistance programs; comments due by 4-5-99; published 2-2-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Allison Engine Co., Inc.; comments due by 4-5-99; published 2-4-99
Boeing; comments due by 4-5-99; published 2-4-99
McDonnell Douglas; comments due by 4-8-99; published 2-22-99
Raytheon; comments due by 4-8-99; published 2-5-99
Textron Lycoming; comments due by 4-5-99; published 2-3-99
Class E airspace; comments due by 4-9-99; published 3-10-99

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
American Automobile Labeling Act; implementation:
Motor vehicle content labeling; domestic and foreign parts content information; comments due by 4-9-99; published 2-8-99
Motor vehicle safety standards:
Air brake systems—
Air brake standard rulemaking petition; partial grant/partial denial; comments due by 4-5-99; published 2-3-99

TREASURY DEPARTMENT
Fiscal Service
Financial management services:
Federal payments by electronic funds transfer; access to accounts at financial institutions through payment service providers; comments due by 4-8-99; published 1-8-99

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Education tax credits; Hope scholarship credit and lifetime learning credit; guidance; comments due by 4-6-99; published 1-6-99
Fast-pay stock; recharacterizing financing arrangements; comments due by 4-6-99; published 1-6-99

TREASURY DEPARTMENT
Thrift Supervision Office
Regulated activities:
Exempt savings and loan holding companies and grandfathered activities; comments due by 4-9-99; published 2-8-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 540/P.L. 106–4
Nursing Home Resident Protection Amendments of 1999 (Mar. 25, 1999; 113 Stat. 7)

Last List March 26, 1998

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To

subscribe, send E-mail to **listproc@lucky.fed.gov** with the text message:

subscribe PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHEC

This checklis
published we
numbers, pric

An asterisk (*
week and wh
Office.

A checklist of
also appears
Affected), wh

The CFR is a
Office's GPO
index.html. F
Support Tean

The annual ra
$951.00 dom

Mail orders to
P.O. Box 371
accompanied
Account, VIS
telephoned to
512–1800 fro
charge orders

Title

1, 2 (2 Reser

3 (1997 Com
and Parts
101) .....

4 .....

5 Parts:
1–699 .....
700–1199 .....
1200–End. 6 (
Reserved)

7 Parts:
1–26 .....
27–52 .....
53–209 .....
210–299 .....
*300–399 .....
*400–699 .....
700–899 .....
900–999 .....
1000–1199 ...
1200–1599 ...
1600–1899 ...
1900–1939 ...
1940–1949 ...
1950–1999 ...
2000–End .....

8 .....

9 Parts:
1–199 .....
200–End .....

10 Parts:
0–50 .....
51–199 .....
200–499 .....
500–End .....

11 .....

12 Parts:
1–199 .....
200–219 .....
*220–299 .....
300–499 .....
*500–599 .....
600–End .....

13 .....

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1998
3 (1997 Compilation and Parts 100 and 101)	(869–034–00002–9)	19.00	[1] Jan. 1, 1998
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1998
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–034–00005–3)	26.00	Jan. 1, 1998
1200–End, 6 (6 Reserved)	(869–034–00006–1)	39.00	Jan. 1, 1998
7 Parts:			
1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–034–00010–0)	44.00	Jan. 1, 1998
*300–399	(869–038–00011–3)	25.00	Jan. 1, 1999
*400–699	(869–038–00012–1)	37.00	Jan. 1, 1999
700–899	(869–034–00013–4)	30.00	Jan. 1, 1998
900–999	(869–034–00014–2)	39.00	Jan. 1, 1998
1000–1199	(869–034–00015–1)	44.00	Jan. 1, 1998
1200–1599	(869–034–00016–9)	34.00	Jan. 1, 1998
1600–1899	(869–034–00017–7)	58.00	Jan. 1, 1998
1900–1939	(869–034–00018–5)	18.00	Jan. 1, 1998
1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–034–00029–1)	19.00	Jan. 1, 1998
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
*220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
*500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998
16 Parts:			
*0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	[1] 27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0-1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	34.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441–1.500	(869-034-00082-7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1998
28 Parts:			
0–42	(869–034–00098–3)	36.00	July 1, 1998
43–end	(869–034–00099–1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87–135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	18.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	29.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998
600–End	(869–034–00201–3)	33.00	Oct. 1, 1998

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869-034-00049-6)	46.00	Jan. 1, 1998
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.

Revision Date
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
[3] July 1, 1984
July 1, 1998
July 1, 1998
July 1, 1998
July 1, 1998
Oct. 1, 1998
Oct. 1, 1998
Oct.

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.



Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

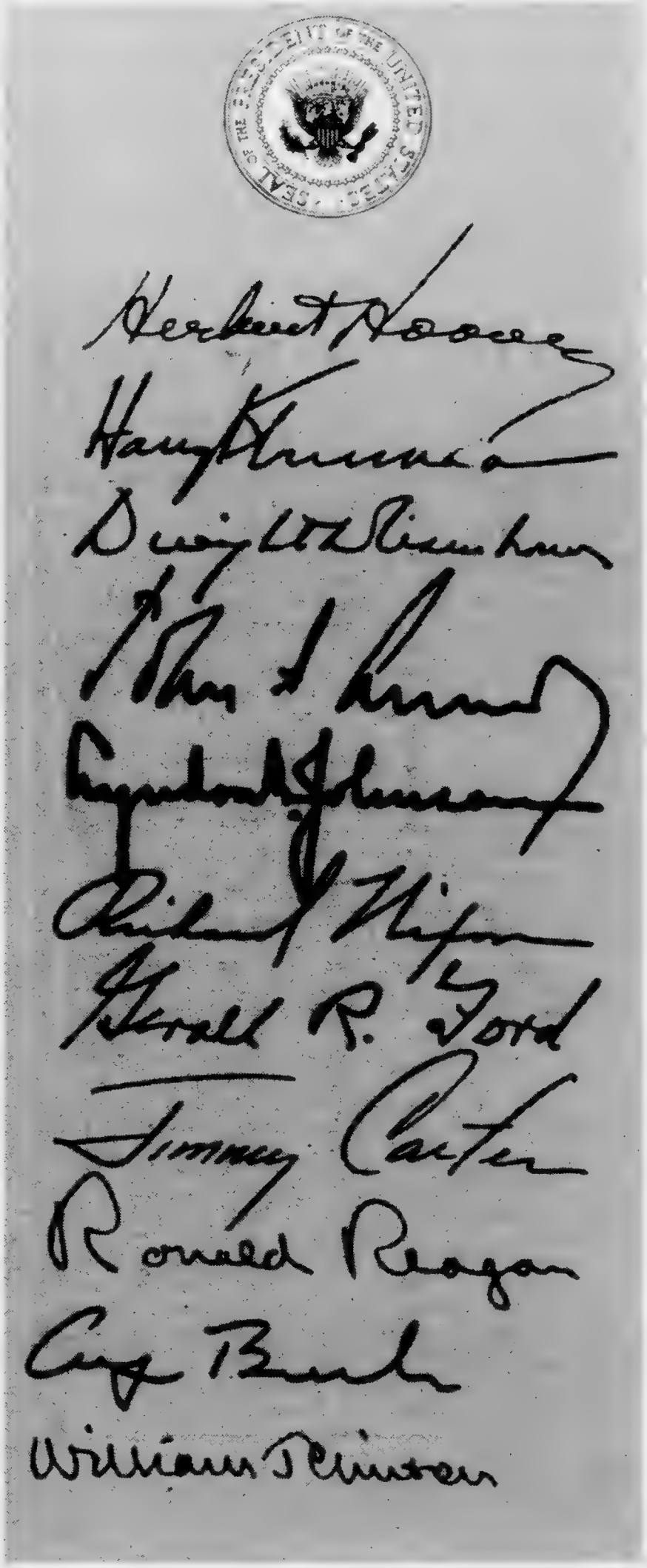
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	**$51.00**
1993 (Book II)	**$51.00**
1994 (Book I)	**$56.00**
1994 (Book II)	**$52.00**
1995 (Book I)	**$60.00**
1995 (Book II)	**$65.00**
1996 (Book I)	**$66.00**
1996 (Book II)	**$72.00**
1997 (Book I)	**$69.00**

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev. 3/3/99)

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

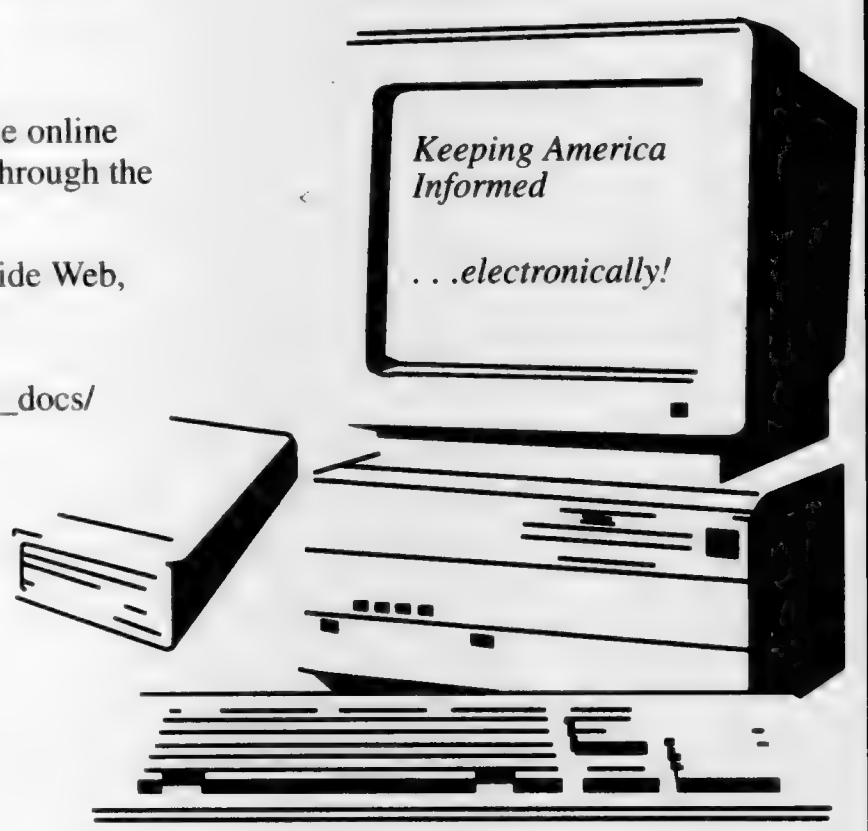
Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).



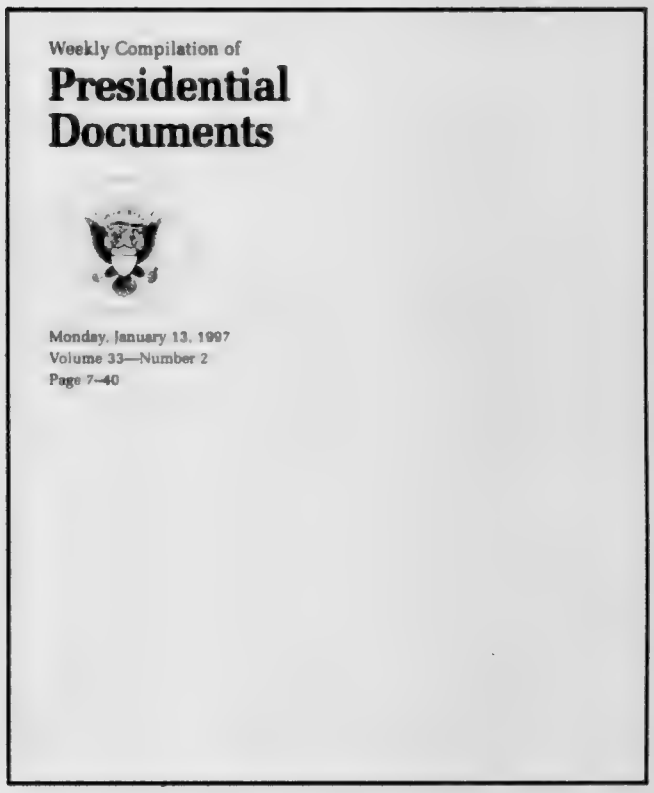
You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 11/3)

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
*** 5420**

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

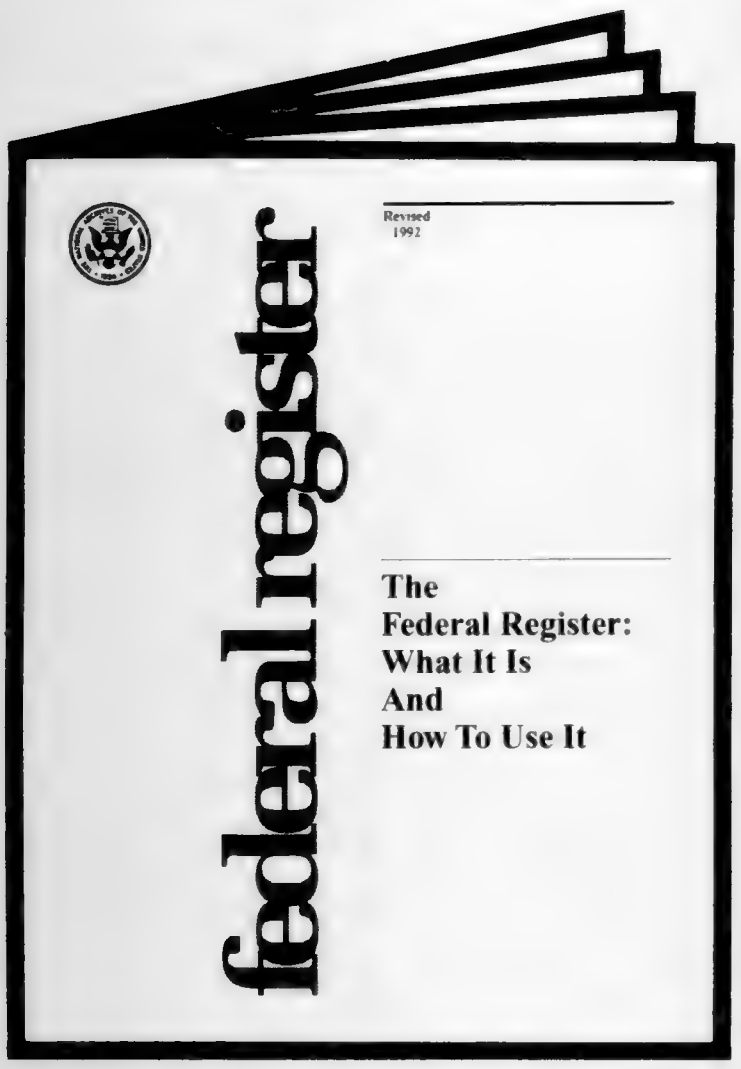
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature

11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a simple research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

Order Processing Code
*** 6173**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ copies of **The Federal Register – What it is and Hot To Use It,** at $7.00 per copy. Stock No. 069–000–00044–4.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature (Rev 11/3)

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

ion

—

e to
vide
d
tion

VISA

02) 512–2250
02) 512–1800

00044–4.

o change.

Documents

– ☐

hank you for your order!

(Rev 11/3)

250–7954

VOL
64
ISS
59
MR
29
999
UMI



Printed on recycled paper

3–30–99
Vol. 64

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

United Sta
Governme
Printing O
SUPERINTENDE
OF DOCUMENT
Washington, DC

OFFICIAL BUSI
Penalty for priva

3–30–99
Vol. 64 No. 60

federal register

Tuesday
March 30, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

VOL
64
ISS
60
MR
30
999
UMI

3–30–99
Vol. 64 No
Pages 15123–

3–30–99
Vol. 64 No. 60
Pages 15123–15284

federal register

Tuesday
March 30, 1999

Briefings on how to use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche — **202–512–1800**
Assistance with public subscriptions — **512–1806**
General online information — **202–512–1530; 1–888–293–6498**
Single copies/back copies:
Paper or fiche — **512–1800**
Assistance with public single copies — **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche — **523–5243**
Assistance with Federal agency subscriptions — **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: April 20, 1999 at 9:00 am.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 60

Tuesday, March 30, 1999

Agency for Toxic Substances and Disease Registry
NOTICES
Grants and cooperative agreements; availability, etc.:
Childhood Asthma and Hazardous Substances Applied Research and Development Program; correction, 15168
Hazardous substances releases and facilities:
Public health assessments and effects—
Quarterly listing, 15168–15169

Agriculture Department
See Cooperative State Research, Education, and Extension Service

Children and Families Administration
RULES
Child support enforcement program:
Grants to States for access and visitation programs; monitoring, evaluation, and reporting, 15132–15136

Comptroller of the Currency
PROPOSED RULES
Minimum security devices and procedures, reports of suspicious activities, and Bank Secrecy Act compliance program:
National banks; Know Your Customer programs development; withdrawn, 15137

Cooperative State Research, Education, and Extension Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Special Research Program—
Pest Management Alternatives Research; Food Quality Protection Act Issues, 15267–15274
Potato Research, 15257–15265

Defense Department
NOTICES
Arms sales notification; transmittal letter, etc., 15149–15153

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15153–15154
Grants and cooperative agreements; availability, etc.:
Institute for International Public Policy Program, 15279–15280

Employment and Training Administration
NOTICES
Adjustment assistance:
Ainge Enterprises, Inc., 15172–15173
ASM America, Inc., et al., 15173–15174
Buckeye, Inc., 15174
Cascade Steel Rolling Mills, Inc., 15174
Caza Drilling, Inc., 15174
Geneva Steel, 15174–15175
Heckett Multiserv, 15175
Kellwood Co., 15175
Kelly Springfield Tire et al., 15175–15177
Kentucky Apparel LLP, 15177
Meridian Dyed Yarn Group, 15177
Pool Co., 15177
Quebecor Printing Federated, Inc., et al., 15178
Schlumberger Oilfield Services, 15178
Simpson Pasadena Paper Co., 15178
Southwest Fashion, Inc., 15178–15179
Stanley Fastening Systems, 15179
VF Knitwear, Inc., 15179
Adjustment assistance and NAFTA transitional adjustment assistance:
Mitchell Manufacturing Group, 15172
United Technologies Automotive, 15171–15172
Agency information collection activities:
Proposed collection; comment request, 15179–15181
NAFTA transitional adjustment assistance:
Pillsbury Co., 15181
Southwest Fashions, Inc., 15181–15182
VF Knitwear, Inc., 15182

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
New nonroad spark-ignition nonhandheld engines at or below 19 kilowatts; phase 2 emission standards, 15207–15255
Air quality implementation plans; approval and promulgation; various States:
California, 15129–15132
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 15148
NOTICES
Clean Air Act:
Citizens suits; proposed settlements—
Sierra Club v. Browner, 15157
Meetings:
Clean Air Act Advisory Committee, 15157
Drinking water issues—
Ultraviolet radiation use for disinfection, 15157
Effluent guidelines plan; update, 15158–15159
Environmental Policy and Technology National Advisory Council, 15159
Science Advisory Board, 15160–15163

Executive Office of the President
See Management and Budget Office
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Empresa Brasileira de Aeronautica S.A.; correction, 15126–15127
PROPOSED RULES
Airworthiness directives:
Pratt & Whitney, 15137–15139
Class E airspace, 15139–15143

NOTICES
Passenger facility charges; applications, etc.:
Charlottesville-Albemarle Airport, VA, 15197

Federal Communications Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 15163
Meetings:
Network Reliability and Interoperability Council, 15163–15164

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
CNG Transmission Corp., 15154
Columbia Gas Transmission Corp., 15154–15155
El Paso Natural Gas Co., 15155
Midcoast Interstate Transmission, Inc., 15156
Mid-Continent Area Power Pool, 15155
National Fuel Gas Supply Corp., 15156
Northern Natural Gas Co., 15156

Federal Maritime Commission
NOTICES
Agreements filed, etc., 15164–15165
Freight forwarder licenses:
International Cargo Transporters, Inc., et al., 15165

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 15165
Formations, acquisitions, and mergers, 15165
Permissible nonbanking activities, 15165–15166
Meetings; Sunshine Act, 15166

Federal Trade Commission
NOTICES
Prohibited trade practices:
Zeneca Group PLC, 15166–15167

Federal Transit Administration
NOTICES
Environmental statements; notice of intent:
New York City, NY; subway service extension from Manhattan to LaGuardia Airport, 15197–15200

General Accounting Office
RULES
Personnel Appeals Board; procedural rules, 15125

General Services Administration
NOTICES
Transportation and property management:
Centralized household goods traffic management program, 15167–15168

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Children and Families Administration
See Indian Health Service

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Welfare-to-work rental voucher program (Section 8); tenant-based assistance; correction, 15170

Indian Health Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15169–15170

Interior Department
See Land Management Bureau

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15201–15205
Meetings:
Brooklyn District Citizen Advocacy Panel, 15205
Midwest District Citizen Advocacy Panel, 15205
Pacific-Northwest District Citizen Advocacy Panel, 15205

International Trade Commission
NOTICES
Meetings; Sunshine Act, 15171

Labor Department
See Employment and Training Administration
See Labor-Management Standards Office
See Mine Safety and Health Administration
See Pension and Welfare Benefits Administration

Labor-Management Standards Office
PROPOSED RULES
Transportation Equity Act for 21st Century; implementation:
Employee protections; certification requirements, 15275–15277

Land Management Bureau
NOTICES
Alaska Native claims selection:
Iliamna Natives Ltd., 15170–15171
Realty actions; sales, leases, etc.:
Arizona, 15171

Management and Budget Office
NOTICES
Commercial activities performance (Circular A-76); Federal pay raise assumptions and inflation factors update (Transmittal Memorandum No. 19), 15190–15191

Mine Safety and Health Administration
PROPOSED RULES
Coal, metal, and nonmetal mine safety and health:
Hazard communication, 15144–15148

National Mediation Board
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15182–15183

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Portland General Electric Co., 15183–15186
Wolf Creek Nuclear Operating Corp., 15186–15189
Meetings; Sunshine Act, 15189–15190
Regulatory guides; issuance, availability, and withdrawal, 15190

Office of Management and Budget
See Management and Budget Office

Pension and Welfare Benefits Administration
PROPOSED RULES
Employee Retirement Income Security Act:
Section 3(40) Collective Bargaining Agreements Negotiated Rulemaking Advisory Committee; meetings, 15143–15144

Presidential Documents
PROCLAMATIONS
Special observances:
Education and Sharing Day, U.S.A. (Proc. 7176), 15123–15124
EXECUTIVE ORDERS
Committees; establishment, renewal, termination, etc.:
Coast Guard, Interagency Task Force on the Roles and Missions of the U.S.; establishment (EO 13115), 15281–15284

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Indian Health Service

Securities and Exchange Commission
PROPOSED RULES
Securities:
Securities offerings, regulatory structure; modernization and clarification, 15143
NOTICES
Applications, hearings, determinations, etc.:
Security Benefit Life Insurance Co. et al., 15191–15197

State Department
NOTICES
Foreign Assistance Act; determinations:
Honduras, 15197

Surface Transportation Board
NOTICES
Meetings; Sunshine Act, 15200
Railroad operation, acquisition, construction, etc.:
Tulare Valley Railroad Co., 15200

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
See Surface Transportation Board
RULES
Computer reservation systems, carrier-owned
Expiration date extension, 15127–15129

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Degas and New Orleans: A French Impressionist in America, 15205–15206

Veterans Affairs Department
NOTICES
Meetings:
Cemeteries and Memorials Advisory Committee, 15206

Separate Parts In This Issue

Part II
Environmental Protection Agency, 15207–15255

Part III
Department of Agriculture, Cooperative State Research, Education and Extension Service, 15257–15265

Part IV
Department of Agriculture, Cooperative State Research, Education and Extension Service, 15267–15274

Part V
Department of Labor, Labor Standards Management Office, 15275–15277

Part VI
Department of Education, 15279–15280

Part VII
The President, 15281–15284

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7176.....15123
Executive Orders:
13115.....15283

4 CFR
27.....15125
28.....15125

12 CFR
Proposed Rules:
21.....15137

14 CFR
39.....15126
255.....15127
Proposed Rules:
39.....15137
71 (3 documents) 15139, 15140, 15142

17 CFR
Proposed Rules:
200.....15143
202.....15143
210.....15143
228.....15143
229.....15143
230.....15143
232.....15143
239.....15143
240.....15143
249.....15143

29 CFR
Proposed Rules:
215.....15276
2510.....15143

30 CFR
Proposed Rules:
56.....15144
57.....15144
77.....15144
120.....15144

40 CFR
52.....15129
90.....15208
Proposed Rules:
52.....15148

45 CFR
303.....15132

Federal Register
Vol. 64, No. 60
Tuesday, March 30, 1999

Presidential Documents

Title 3—

The President

Proclamation 7176 of March 25, 1999

Education and Sharing Day, U.S.A., 1999

By the President of the United States of America

A Proclamation

Our Nation was founded at a time of extraordinary change, as the world began to move from an agrarian to an industrial economy. Today, as we approach the 21st century, exciting innovations in science and technology are revolutionizing our society, and once again Americans must adapt to the demands of a new era. Beckoning us with exciting new challenges and far-reaching opportunities, our future depends as never before on our Nation's commitment to excellence in education.

Americans have met the dynamic changes in our society not only through education but also by finding strength in our shared goals and values. And, as we prepare for the challenges of a new millennium, these time-honored principles must remain an important part of our children's education. Far more than the accumulation of facts and figures, a well-rounded education that will serve our children throughout their lives must also include the wisdom and insights of past generations. Family members, teachers, administrators, and neighbors should share their experiences and ideals with young people to help them develop into mature, confident, and responsible adults.

An esteemed scholar and inspired religious leader, Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, devoted his life to empowering young people through education. His belief in the importance of intellectual and spiritual enlightenment led him to establish more than 2,000 educational and social institutions around the world. Promoting faith, family, and community, his work enriched our society and helped to lay the foundation for our continued progress.

On this day and throughout the year, let us rededicate ourselves to the ideals of education and sharing that were championed by Rabbi Schneerson and are embraced by compassionate leaders across our country. As our society continues to change and evolve, let us work with keen minds and warm hearts to forge a future of peace and prosperity for all our children.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 28, 1999, as Education and Sharing Day, U.S.A. I invite Government officials, educators, volunteers, and all of the people of the United States to observe this day with appropriate activities, programs, and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of March, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J Clinton

[FR Doc. 99–7906
Filed 3–29–99; 8:45 am]
Billing code 3195–01–P

Rules

This section of
contains regula
applicability and
are keyed to an
Federal Regula
50 titles pursua

The Code of Fe
the Superintend
new books are
REGISTER issu

GENERAL A

4 CFR Parts

**Personnel Ap
Rules**

AGENCY: Gene
Personnel Ap

ACTION: Interi
comments.

SUMMARY: Th
Office Person
has authority
employment
General Acco
agency), purs
Accounting C
1980. The PA
regulations, c
conform to B
that a quorum
Board may ex
Board, and th
may act in an
consideration
Board invites
amendment b

DATES: These
effective Mar
these regulati
the Board on
order to be co

ADDRESSES: C
to: Clerk, Ger
Personnel Ap
Union Center
Washington,
also be subm
transmission

FOR FURTHER
Don, Executi

SUPPLEMENTA
General Acco
Appeals Boar
Congress, pu
755, to hear a
employment-
GAO employ

Rules and Regulations

Federal Register
Vol. 64, No. 60
Tuesday, March 30, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

GENERAL ACCOUNTING OFFICE

4 CFR Parts 27 and 28

Personnel Appeals Board; Procedural Rules

AGENCY: General Accounting Office Personnel Appeals Board.

ACTION: Interim rule with request for comments.

SUMMARY: The General Accounting Office Personnel Appeals Board (PAB) has authority with respect to employment practices within the General Accounting Office (GAO or agency), pursuant to the General Accounting Office Personnel Act of 1980. The PAB hereby amends its regulations, on an interim basis, to conform to Board policy recognizing that a quorum of three members of the Board may exercise all the powers of the Board, and that a majority of a quorum may act in any matter requiring consideration by the full Board. The Board invites public comment on this amendment before it becomes final.

DATES: These interim regulations are effective March 30, 1999. Comments on these regulations must be received by the Board on or before June 1, 1999, in order to be considered.

ADDRESSES: Comments may be mailed to: Clerk, General Accounting Office Personnel Appeals Board, Suite 560, Union Center Plaza II, 441 G Street NW., Washington, DC 20548. Comments may also be submitted by facsimile transmission to 202–512–7525.

FOR FURTHER INFORMATION CONTACT: Beth Don, Executive Director, 202–512–6137.

SUPPLEMENTARY INFORMATION: The General Accounting Office Personnel Appeals Board is authorized by Congress, pursuant to 31 U.S.C. 751–755, to hear and decide certain employment-related cases brought by GAO employees and to exercise oversight over equal employment opportunity at the agency. By statute, the Board is composed of five members who serve five-year nonrenewable terms. 31 U.S.C. 751(a) and (c)(1). The statute contains no provision expressly governing Board procedures in the case of a vacancy in Board membership. The statute states that the Board may delegate to a member or panel of members the authority to act under its power to consider and order corrective and disciplinary action. 31 U.S.C. 753(c). A decision of a member or panel is final unless the Board reconsiders the decision either on motion of a party or on its own initiative. 31 U.S.C. 753(c). Further, the statute authorizes the Board to prescribe regulations providing for appeals and providing for the operating procedures of the Board. 31 U.S.C. 753(e).

The Board has followed the common law rule, set forth in Roberts Rules of Order and recognized by the Supreme Court in *FTC* v. *Flotill Products*, 389 U.S. 179 (1967), that a majority of a quorum constituted of a simple majority of a collective body may act for that body when the enabling statute is silent on the question. This principle was adopted by the Board as a policy statement on May 15, 1995. The amendment to the Board's regulations is intended to formalize the application of the common law rule to the Board's operating procedures. The Board is making this regulation effective immediately upon publication, on an interim basis, to conform the regulation to the Board's practice and to clarify who may act for the Board. The Board, however, welcomes public comment and will carefully consider all comments received before adopting this regulation in final form.

List of Subjects

4 CFR Part 27

Government employees, Organization and functions (government agencies).

4 CFR Part 28

Administrative practice and procedure, Equal employment opportunity, Government employees, Labor-management relations.

For the reasons set forth in the preamble, the General Accounting Office Personnel Appeals Board amends 4 CFR Chapter I, Subchapter B, as follows:

PART 27—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; ORGANIZATION

1. The authority citation for part 27 continues to read as follows:

Authority: 31 U.S.C. 753.

2. Section 27.1 is revised to read as follows:

§ 27.1 The Board.

The General Accounting Office Personnel Appeals Board, hereinafter the Board, is composed of five members appointed by the Comptroller General, in accordance with the provisions of 31 U.S.C. 751. For purposes of the regulations in this part and 4 CFR parts 28 and 29, a simple majority of the Board shall constitute a quorum and a majority of a quorum may act for the Board. The Board may designate a panel of its members or an individual Board member to take any action within the scope of the Board's authority, subject to later reconsideration by the Board.

PART 28—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; PROCEDURES APPLICABLE TO CLAIMS CONCERNING EMPLOYMENT PRACTICES AT THE GENERAL ACCOUNTING OFFICE

1. The authority citation for Part 28 continues to read as follows:

Authority: 31 U.S.C. 753.

2. Section 28.3 is amended by revising the definition of *Board* to read as follows:

§ 28.3 General definitions.

* * * * *

Board means the General Accounting Office Personnel Appeals Board as established by 31 U.S.C. 751 and explained in 4 CFR 27.1.

* * * * *

Michael Wolf,

Chair, Personnel Appeals Board, U.S. General Accounting Office.

[FR Doc 99–7741 Filed 3–29–99; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–265–AD; Amendment 39–11100; AD 99–02–18 R1]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This amendment corrects information in an existing airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that currently requires removing the thermal insulating blankets from the upper rear nacelle structure; re-positioning the engine exhaust duct; and replacing the engine exhaust bracket with a new engine exhaust bracket, if necessary. For certain airplanes, that amendment also currently requires installing new stainless steel plates onto the upper rear nacelle structure. The actions specified in that AD are intended to prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe. This amendment corrects the requirements of the existing AD by correcting affected spare part numbers of thermal insulating blankets. This amendment is prompted by review of the requirements of the existing AD.

DATES: Effective March 3, 1999.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of March 3, 1999 (64 FR 4029, January 27, 1999).

FOR FURTHER INFORMATION CONTACT: Linda M. Haynes, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6091; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: On January 15, 1999, the FAA issued AD 99–02–18, amendment 39–11012 (64 FR 4029, January 27, 1999), which is applicable to certain EMBRAER Model EMB–120 series airplanes. That AD requires removing the thermal insulating blankets from the upper rear nacelle structure; re-positioning the engine exhaust duct; and replacing the engine exhaust bracket with a new engine exhaust bracket, if necessary. For certain airplanes, that AD also requires installing new stainless steel plates onto the upper rear nacelle structure. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions required by that AD are intended to prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe.

As published, paragraph (d) of AD 99–02–18 contained two incorrect references to spare part numbers of thermal insulating blankets. The first incorrect reference was a typographical error that identified spare part number "120035413–001" as one of the blankets that, as of the effective date of the AD, shall not be installed on any airplane. That part number does not exist. The correct part number is identified in EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998 (which was referenced as the appropriate source of service information for accomplishment of the required actions) as "120–35413–001."

The second incorrect reference identified a spare part number (i.e., "120–35411–002") that does exist, but corresponds to a thermal insulating blanket that is not subject the identified unsafe condition of the AD. The correct spare part number is identified in the referenced service bulletin as "120–35413–002." Therefore, this action revises paragraph (d) of the AD to reference the correct spare part numbers identified above.

Action is taken herein to correct these requirements of AD 99–02–18 and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The final rule is being reprinted in its entirety for the convenience of affected operators. The effective date remains March 3, 1999.

Since this action only corrects a current requirement, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11012 (64 FR 4029, January 27, 1999), and by adding a new airworthiness directive (AD), amendment 39–11100, to read as follows:

99–02–18 R1 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–11100. Docket 98–NM–265–AD. Revises AD 99–02–18, Amendment 39–11012.

Applicability: Model EMB–120 series airplanes, serial numbers (S/N) 120003, 120004, and 120006 through 120336 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe, accomplish the following:

(a) For airplanes identified in "Part I" of the effectivity listing of EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) in accordance with the service bulletin.

(1) Remove the thermal insulating blankets from the upper rear nacelle structure.

(2) Install new stainless steel plates onto the upper rear nacelle structure.

(b) For airplanes identified in "Part II" of the effectivity listing of EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, remove the thermal insulating blankets from the upper rear nacelle structure in accordance with the service bulletin.

(c) For all airplanes: Prior to further flight following accomplishment of either paragraph (a) or (b) of this AD, as applicable,

re-position the engine exhaust duct with the use of shims in accordance with EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998. If it is not possible to re-position the engine exhaust duct with the use of shims as specified in the service bulletin, prior to further flight, replace the rear exhaust duct bracket with a new rear exhaust duct bracket, in accordance with the "**Note**" in paragraph 1.3.1.1 of the Planning section of the service bulletin.

(d) As of the effective date of this AD, no person shall install on any airplane a thermal insulating blanket having part number (P/N) 120–35411–025, –035, –036, 120–35413–001, or 120–35413–002.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with EMBRAER Service Bulletin S.B. 120–54–0035, Change 02, dated May 29, 1998. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 3, 1999 (64 FR 4029, January 27, 1999). Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) The effective date of this amendment remains March 3, 1999.

Issued in Renton, Washington, on March 23, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7689 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Docket No. OST–99–5132]

RIN 2105–AC75

Second Extension of Computer Reservations Systems Regulations

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department is revising its rules governing airline computer reservations systems (CRSs) to change the rules' expiration date for a second time. This revision changes the date from March 31, 1999, to March 31, 2000, to keep the rules from terminating on March 31, 1999. The rules will thus remain in effect while the Department continues out its reexamination of the need for CRS regulations. The Department finds that the current rules should be maintained because they are necessary for promoting airline competition and helping to ensure that consumers and their travel agents can obtain complete and accurate information on airline services. The Department previously extended the rules from December 31, 1997, to March 31, 1999.

DATES: This rule is effective on March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: Our CRS rules have always had an expiration date to ensure that we would periodically review the need for the rules and their effectiveness. In a 1997 rulemaking we changed the rules' expiration date from the original sunset date, December 31, 1997, to March 31, 1999. 62 FR 66272 (December 18, 1997).

We will not be able to complete our reexamination of the current rules by March 31, 1999. Because we believed that the current rules should be maintained pending our reexamination of the need for rules, we proposed to change the rules' expiration date to March 31, 2000, and gave interested persons an opportunity to comment on that proposal. 64 FR 9457 (February 26, 1999). We received comments from Amadeus Global Travel Distribution, Worldspan, the Association of Asia Pacific Airlines, and America West Airlines, all of which supported the proposal, as did Southwest Airlines, which filed a late reply.

Background

As explained in our notice proposing to revise the rules' expiration date, we have found that CRS rules are necessary to protect airline competition and to ensure that consumers can obtain accurate and complete information on airline services. 64 FR 9458–9459. CRSs have become essential for the marketing of airline services for almost all airlines operating in the United States, and market forces do not discipline the price and quality of service offered airlines by the CRSs. Travel agents rely on CRSs to provide airline information and bookings for their customers, and almost all airlines receive most of their bookings from travel agencies. The travel agencies' typical exclusive or predominant use of one system compels each airline to participate in an agency's system if it wishes to have its services readily saleable by that agency. Each system, moreover, is controlled by airlines or airline affiliates, who could use them to unreasonably prejudice the competitive position of other airlines or to provide misleading or inaccurate information to travel agents and their customers. For these reasons, we adopted rules regulating CRS operations in the United States, 57 FR 43780 (September 22, 1992). 64 FR 9458–9459.

Our rules included a sunset date, December 31, 1997, to ensure that we would reexamine whether the rules remained necessary and whether they were effective. 57 FR 43829–43830 (September 22, 1992). We have begun a reexamination of our current rules by publishing an advance notice of proposed rulemaking that invited interested persons to comment on whether we should readopt the rules and, if so, with what changes. 62 FR 47606 (September 10, 1997). Almost all of the parties responding to our advance notice of proposed rulemaking have urged us to maintain CRS rules, although these parties also argued that various changes should be made to the rules, mostly to strengthen them. 64 FR 9458.

Our Proposed Extension of the CRS Rules

Our inability to complete our reexamination of the rules by the original sunset date, December 31, 1997, caused us to change the sunset date to March 31, 1999. 62 FR 66272 (December 18, 1997).

We proposed again to change the expiration date for the rules to March 31, 2000, so that they would remain in effect pending our reexamination of our rules, since we could not complete that reexamination by March 31, 1999. 64 FR

9457 (February 26, 1999). The time and procedures required for that process made it impossible for us to meet that deadline. The proposed temporary extension of the current rules would maintain the status quo until we determine which rules, if any, should be adopted. As we explained, maintaining the rules in effect appeared to be necessary to protect airline competition and consumers against unreasonable practices. A short-term extension of the rules would protect airline competition and consumers against the injuries that would otherwise occur, given our earlier findings on the market power of the systems and each airline owner's potential interest in using its affiliated CRS to prejudice the competitive position of other airlines. Furthermore, allowing the current rules to expire could be disruptive, since the systems, airlines, and travel agencies have been conducting their operations in the expectation that each system will comply with the rules. 64 FR 9458.

Finally, we noted that maintaining the rules in effect appeared necessary to meet the United States' obligations under various treaties and bilateral air services agreements to assure foreign airlines a fair and equal opportunity to compete. 64 FR 9459.

We stated that we regret our inability to finish the reexamination of the rules by March 31, 1999. Recognizing the importance of having CRS rules that reflect current industry conditions, we explained that our review has taken more time than anticipated, in part due to recent developments in airline distribution. In addition, we have had to address other airline competition issues that appeared to be more urgent. We recognize that several parties were alleging that the compelling need for certain additional CRS regulations required us to act promptly on those issues without waiting for the completion of the overall reexamination of the rules. We are considering whether there were issues that should be addressed before we complete our overall reexamination of the rules. 64 FR 9458.

Due to the need to make the proposed amendment effective by March 31, 1999, we shortened the comment period to fourteen days. 64 FR 9457.

Comments

Four parties filed comments. The commenters are Amadeus Global Distribution System ("Amadeus"), Worldspan, America West Airlines, and the Association of Asia-Pacific Airlines ("Asia-Pacific Association"). Worldspan does not object to the proposed extension of the current rules, and the other three parties endorse our tentative conclusion that CRS rules remain necessary. Worldspan and the Asia-Pacific Association agree that our on-going review of our current rules will be a complex process and must be done carefully.

Three of the commenters urge us, however, to act promptly on some CRS issues before we complete our overall review of the rules. Amadeus contends that we should adopt a rule prohibiting the tying of a travel agency's ability to sell corporate discount fares with its choice of the system affiliated with the airline offering the discount fares. Worldspan objects to a piecemeal revision of the current rules; Worldspan asserts, however, that, if any issue is considered before the completion of the rules' overall reexamination, that issue should be the extension of the mandatory participation rule, 14 CFR Part 255.7(a), to cover airlines like Southwest that market one system without participating in other systems. America West argues that we should act immediately on its pending petitions for rules addressing the systems' high booking fees and the problems created for airlines by Internet booking services.

Southwest filed a reply which supports our proposed extension of the rules and argues that Worldspan's proposed rule would injure both Southwest and airline travellers.

Decision

We will change the rules' sunset date to March 31, 2000, as we proposed. Amadeus, Worldspan, America West, the Asia Pacific Association, and Southwest support our proposal, and no one has objected to it. The analysis underlying our proposal is consistent both with the findings made by us in earlier CRS rulemakings and with the position of almost all parties in the underlying rulemaking (Docket OST–97–2881) that CRS rules are still necessary. We will consider, however, whether CRS regulations are still needed as part of our overall reexamination of the CRS rules.

America West, Amadeus, and Worldspan each urge us to act quickly on the specific rule proposals of interest to it. We will consider their requests as part of our review of the comments and reply comments filed in the proceeding for reexamining all of the CRS rules. While we appreciate their interest in obtaining expedited action on certain issues, we note that their requests are generally controversial and opposed by other commenters.

Effective Date

We have determined for good cause to make this amendment effective on March 31, 1999, rather than thirty days after publication as required by the Administrative Procedure Act, 5 U.S.C. 553(d), except for good cause shown. Maintaining the current rules in effect on a continuing basis requires us to make this amendment effective by March 31, 1999. Since the amendment preserves the status quo, it will not require the systems, airlines, and travel agencies to change their operating methods. As a result, making the amendment effective less than thirty days after publication will not burden anyone.

Regulatory Process Matters

Regulatory Assessment

This rule is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and has not been reviewed by the Office of Management and Budget under that order. The proposal is also not significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034 (February 26, 1979).

In our notice of proposed rulemaking, we tentatively determined that maintaining the current rules should impose no significant costs on the CRSs. Since the systems have already taken all the steps necessary to comply with the rules' requirements on displays and functionality, continuing to comply with those rules would not impose a substantial burden on the systems. Keeping the rules in effect would benefit participating airlines, since they would otherwise be subjected to unreasonable terms for participation, and consumers, who might otherwise be given incomplete or inaccurate information on airline services. The rules also contain provisions that are designed to prevent abuses in the systems' competition with each other for travel agency subscribers. 64 FR 9459.

In our notice we also pointed out that our last comprehensive CRS rulemaking included an economic analysis that we believe remains applicable to our extension of the rules' expiration date. We concluded that no new economic analysis appeared to be necessary, but we stated that we would consider comments from any party on that analysis before we again revised the rules' sunset date. 64 FR 9459.

No one filed comments on the economic analysis. We will therefore base this rule on the analysis used in our last comprehensive CRS rulemaking. We will prepare a new

economic analysis as part of our review of the existing rules, if we determine that rules remain necessary.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Small Business Impact

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller U.S. and foreign airlines and smaller travel agencies.

Our notice of proposed rulemaking set forth the reasons for our proposed extension of the rules' expiration date and the objectives and legal basis for that proposed rule. We also noted that keeping the current rules in force would not modify the existing regulation of small businesses. We referred to the final rule in our last comprehensive CRS rulemaking, which contained an analysis that we used to determine that the rules would not have a significant economic impact on a substantial number of small entities. In proposing to revise the sunset date to March 31, 2000, we reasoned that that analysis appeared to remain valid for that proposed extension. We therefore adopted that analysis as our tentative regulatory flexibility statement but stated that we would consider any comments filed on that analysis in connection with this proposal. 64 FR 9459–9460.

We tentatively concluded that maintaining our existing CRS rules would primarily affect two types of small entities, smaller airlines and travel agencies. We further noted that the rule would also affect all small entities that purchase airline tickets, since airline fares may be somewhat lower than they would otherwise be, although the amount may not be large, if our CRS rules allowed airlines to operate more efficiently than they otherwise would. 64 FR 9459.

Keeping the rules in effect would benefit smaller airlines that have no ownership interest in a CRS, since the rules prohibit certain potential system practices that could injure their ability to operate profitably and compete successfully. The rules provide important protection to smaller airlines, for example, by barring display bias and discriminatory booking fees. If there were no rules, the systems' airline owners could use them to prejudice the competitive position of other airlines. *Ibid.*

The CRS rules additionally affect the operations of smaller travel agencies, primarily by prohibiting certain CRS practices that could unreasonably restrict the travel agencies' ability to use more than one system or to switch systems. The rules prohibit CRS contracts that have a term longer than five years, give travel agencies the right to use third-party hardware and software, and prohibit certain types of contract clauses, such as minimum use and parity clauses, that restrict an agency's ability to use multiple systems. By prohibiting display bias based on carrier identity, the rules also enable travel agencies to obtain more useful displays of airline services. 64 FR 9459–9460.

We invited interested persons to address our tentative conclusions under the Regulatory Flexibility Act in their comments submitted in response to this notice of proposed rulemaking. 64 FR 9460.

No one filed comments on our Regulatory Flexibility Act analysis. We will adopt the analysis set forth in the notice of proposed rulemaking.

Our proposed rule contained no direct reporting, recordkeeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

The Department certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act, Public Law 96–511, 44 U.S.C. Chapter 35.

Federalism Implications

This rule will have no substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, we have determined that the proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 255

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

Accordingly, the Department of Transportation amends 14 CFR Part 255, as follows:

PART 255—[AMENDED]

1. The authority citation for part 255 continues to read as follows:

Authority: 49 U.S.C. 40101, 40102, 40105, 40113, 41712.

2. Section 255.12 is revised to read as follows:

§ 255.12 Termination.

Unless extended, the rules in this part shall terminate on March 31, 2000.

Issued in Washington, D.C. on March 25, 1999, under authority delegated by 49 CFR 1.56a (h) 2.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–7753 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–62–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211–0127a; FRL–6313–4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; El Dorado County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The El Dorado County Air Pollution Control District (EDCAPCD), Rule 239 concerns control of emissions of oxides of nitrogen (NO_X) from natural gas-fired residential water heaters.

This approval action will incorporate this rule into the Federally approved SIP. The intended effect of approving of this rule is to regulate NO_X emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

DATES: This rule is effective on June 1, 1999 without further notice, unless EPA receives adverse comments by April 29, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901

Environmental Protection Agency, Air Docket (6102) 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

El Dorado County Environmental Management Department, Air Pollution Control District, 2850 Fairlane Court, Placerville, CA 95667

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP is EDCAPCD's Rule 239, Natural Gas-fired Residential Water Heaters. Rule 239 was submitted by the State of California to EPA on June 23, 1998.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

On November 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_X Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182 (f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X ("major" as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. El Dorado County Air Pollution Control District (EDCAPCD) is classified as serious [1]; therefore this area is subject to the RACT requirements of section 182(b)(2) cited below and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_X) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There are no major stationary sources covered by this rule; however, this rule is expected to achieve substantial reductions of NO_X because it applies to a large number of small sources.

This document addresses EPA's direct final action for EDCAPCD's Rule 239, Natural Gas-fired Residential Water Heaters. EDCAPCD's Rule 239 was first adopted on March 24, 1998.

The State of California submitted the rule to EPA for incorporation into its SIP on June 23, 1998. Rule 239 was found to be complete on August 25, 1998 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V [2] and is being finalized for approval into the SIP.

NO_X emissions contribute to the production of ground level ozone and smog. EDCAPCD's Rule 239 specifies exhaust emission standards for NO_X from natural gas-fired residential water heaters. This rule was originally adopted as part of District's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for this rule.

III. EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO_X Supplement (57 FR 55620) and various other EPA policy guidance documents.[3]

South Coast Air Quality Management District (SCAQMD) has developed a protocol document entitled Nitrogen Oxides Emissions Compliance Testing for Natural Gas-fired Water Heaters and Small Boilers jointly with the industry and replaces the ANSI requirements currently used by manufacturers. EPA has used SCAQMD's guidance document in evaluating EDCAPCD's Rule 239 for consistency with the enforceability requirements.

There is currently no version of EDCAPCD's Rule 239, Natural Gas-fired Residential Water Heaters, in the SIP. Rule 239 establishes NO_X and carbon monoxide (CO) emissions limits for natural gas-fired residential water heaters with rated heat inputs of greater than or equal to 75,000 Btu per hour.

The submitted rule includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_X).
- Administrative and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to applicable guidance regarding emission limits. Rule 239 strengthens the SIP through the addition of enforceable measures such as record keeping, test methods, definitions, and emissions limits. Incorporation of the rule into the SIP would decrease the NO_X emissions allowed by the SIP.

A detailed discussion of the sources controlled, the controls required, and justification can be found in the

[1] EDCAPCD area retained the designation of nonattainment and is classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy 52 FR 45044 (November 24, 1987); "Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

Technical Support Document (TSD) for Rule 229, dated December 30, 1998, which is available from the U.S. EPA Region IX office.

EPA has evaluated the submitted rule and has determined it consistent with the CAA, EPA regulations and EPA policy. Therefore, Rule 239, Natural Gas-fired Residential Water Heaters; is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_X Supplement to the General Preamble.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 1, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 11, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (256) (D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(256) * * *

(i) * * *

(D) El Dorado County Pollution Control District .

(*1*) Rule 239 adopted on March 24, 1998.

* * * * *

[FR Doc. 99–7668 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 303

RIN 0970–AB72

Child Support Enforcement Program; Grants to States for Access and Visitation Programs: Monitoring, Evaluation, and Reporting

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements provisions contained in section 391 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and establishes the requirements for State monitoring, reporting and evaluation of Grants to States for Access and Visitation Programs. Access and Visitation programs support and facilitate non-custodial parents' access to and visitation of their children by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup) and development of guidelines for visitation and alternative custody arrangements.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: David Arnaudo, OCSE, Division of Automation and Special Projects, (202) 401–5364. Hearing impaired individuals may call the Federal Dual Relay Service at 1–800–877–8339 between 8:00 a.m. and 7:00 p.m.

SUPPLEMENTARY INFORMATION:

Statutory Authority

The final regulations are published under the authority of section 469B of the Social Security Act (the Act), as added by section 391 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104–193), and section 1102 of the Act. Section 469B(e)(3) requires that each State receiving a grant for Access and Visitation Programs shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.

Background

Notice of Proposed Rulemaking

On March 31, 1998 a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register**. Public comments were formally requested. Comments received in response to this request are discussed and summarized below.

History of Federal Involvement in Access and Visitation

The Federal financial involvement in access and visitation began when the Family Support Act of 1988 (Pub. L. 100–485) authorized up to $4 million each year for fiscal years 1990 and 1991 for State demonstration projects to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders. The legislation required an evaluation of these projects and a Report to Congress on the findings. In October 1996, the Department of Health and Human Services transmitted to Congress the report entitled, "Evaluation of the Child Access Demonstration Projects". The report indicated that requiring both parents to attend mediation sessions and developing parenting plans was successful for cases without extensive long-term problems.

In September, 1996, the U.S. Commission on Child and Family Welfare submitted a report to the President and Congress which strongly endorsed additional emphases at all government levels, especially State and local levels, to ensure that each child from a divorced or unwed family have a parenting plan which encourages and enables both parents to stay emotionally involved with the child(ren).

Finally, PRWORA added a new provision at section 391 to award funds annually to States to establish and administer programs to support and facilitate non-custodial parents' (fathers or mothers) access to, and visitation of, their children. Activities funded by this program include mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision, neutral drop-off and pickup), development of guidelines for visitation and alternative custody arrangements. States may administer programs directly or through contracts or grants with courts, local public agencies, or nonprofit private entities; States are not required to

operate such programs on a statewide basis.

Under this provision, the amount of the grant to be made to the State shall be the lesser of 90 percent of State expenditures during the fiscal year for activities just described or the allotment to the State for the fiscal year. The Federal government will pay for 90 percent of project costs, up to the amount of the grant allotment. In other words, States are required to provide for at least ten percent of project funding even if they do not spend their entire allotment. The allotment would be determined as follows: an amount which bears the same ratio to $10,000,000 for grants as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States. Such allotments are to be adjusted so that no State is allotted less than $50,000 for fiscal years 1997 and 1998 or $100,000 for any succeeding fiscal year. These funds may not be used to supplant expenditures by the State for authorized activities; rather, States shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

In September 1997, the Office of Child Support Enforcement awarded 54 States and independent jurisdictions Access and Visitation Grants covering all the activities mentioned in the Act. A second round of grants was issued in September 1998; all States and Territories, except Guam, received grants. Guam did not apply.

Description of Regulatory Provisions

Paragraph 303.109(a) has been added to 45 CFR part 303 containing procedures for States to follow in monitoring, evaluating and reporting on their Grants for Access and Visitation Programs. This rule requires States to monitor all access and visitation programs to ensure that these programs are: (1) Providing services authorized under section 469B(a) of the Act; (2) being conducted efficiently and effectively; (3) complying with reporting and evaluation requirements, as set forth in paragraphs 303.109(b) and 303.109(c); and (4) providing appropriate safeguards to insure the safety of children and parents.

Paragraph 303.109(b) allows States to evaluate programs funded by section 469B of the Act, but does not *require* these programs to be evaluated. States are, however, required to assist in the evaluation of programs deemed significant or promising by the Department, as directed by program memorandum.

Paragraph 303.109(c) requires that States provide a detailed description of each funded program including such information as: service providers and administrators, service area, population served, program goals, application or referral process, referral agencies, nature of the program, activities provided, and length and features of a "completed" program. This paragraph also requires, with regard to programs which provide services: the number of applicants or referrals for each program, the total number of participating individuals and the number of persons completing program requirements by authorized activities (*e.g.*, mediation, education etc.). This information will help the Office of Child Support Enforcement assess: (1) The demand for the program, the effectiveness of outreach and ability of the program to meet demand; (2) the services being delivered and the number and the characteristics of the individuals being served; and (3) whether such individuals are completing standard program requirements.

Paragraph 303.109(c)(3) requires States to report information specified in paragraphs 303.109(c)(1) and (c)(2) annually, collected at a date and in a form as the Secretary may prescribe.

Response to Comments

We received comments from representatives of 14 States and local IV–D agencies, national organizations, advocacy groups and private citizens on the proposed rule published March 31, 1998, in the **Federal Register** (63 FR 15351–53). A summary of the comments received and our responses follows; similar or identical comments have been grouped together:

Comment: One commenter suggested that § 303.109(a) of the regulation calling for monitoring of "*all* access and visitation programs" should be restricted to mean only those programs funded by DHHS' grants to States for Access and Visitation Programs and other funded programs.

Response: In this final rule, OCSE states that: "The State must monitor all programs funded under Grants to States for Access and Visitation Programs * * *." This addresses the commenter's concern. In one section of the NPRM this qualifier, "funded under Grants to States for Access and Visitation Programs", was not used, thereby giving an inaccurate impression. It was not our intent to extend the monitoring requirement to other funded programs.

Comment: There was a concern among commenters that the regulation contains no requirement to monitor whether States are screening potential clients for domestic violence (spousal or child abuse) to ensure that the battered spouse is not put at further risk.

Response: We share the concerns for safety expressed by commentators who wrote about domestic violence. Access and visitation by a non-custodial parent can lead to dangerous situations for some parents and their children. The safety of the custodial parents and their children must be addressed when it is a problem. It is our intent to encourage States to ensure safety when necessary in implementing grants under this program. States should develop procedures to assess the degree of danger, weighing sensitively the assertions of both parents.

In response to the comments, we have added to the regulation a new requirement under § 303.109(a) requiring States to monitor programs to safeguard against domestic violence, as follows:

"(a) *Monitoring.* The State must monitor all programs funded under Grants to States for Access and Visitation Programs to ensure that the programs * * * *contain safeguards to ensure the safety of parents and children.*"

Comment: Several commenters suggested that the regulation require specific approaches for addressing problems that may occur in activities funded by these grants. Concerns were noted regarding mandated mediation and supervised transfer and visitation of children.

Response: Since we wish to provide maximum flexibility to the States, we have not required specific approaches to dealing with issues of domestic violence. Consistent with our authority under the Statute to regulate what the States need to monitor, we require States to monitor their grantees to ensure that there are procedures in place and being used to ensure safety.

Regarding mandated mediation, we wish to make clear that the statute does not mandate mediation for any particular clients. Mediation mandated by the courts for contending parents is one service that the States may chose to fund. We recognize that in some cases, mediation may be dangerous for the victim of abuse. There is also evidence that in some cases involving partner abuse, mediation has been effective. This is a service that warrants careful monitoring by States to ensure that safety assessments are conducted. When it is determined not to be warranted, alternative forms of conflict resolution should be used.

States may choose to use their grants to fund supervised transfer and visitation of children by non-custodial

parents. Neutral drop-off or pickup of children (supervised transfer) is designed to provide for the transfer of children without danger for the abused parent or hostile actions between the parents when domestic violence or other situations involving acrimony between parents exist. Supervised visitation is designed to promote and protect the safety of the visited child. States should monitor such programs when funded by this authority (as discussed above) to ensure that adequate and appropriate procedures are in place and being used to ensure safety.

Comment: Commenters suggested that grantees be required to consult local domestic violence agencies about appropriate procedures for identifying and assisting battered parents.

Response: Based on our experience with other service sectors that have addressed domestic violence, consultation with community based domestic violence experts is often very useful. While requiring such consultation would go beyond the scope of this regulation, we do believe domestic violence experts have important experience and knowledge that can be useful to access and visitation programs. We encourage all access and visitation grantees to hold consultations with experts in the field of domestic violence.

Comment: One commenter wanted to include domestic violence as one category of participant data reported.

Response: We have not included domestic violence as a category of participant data reported because the quality of information collected is not likely to be consistent or useful. It would be difficult to reach any agreement for reporting responses on how domestic violence should be defined or how the determination would be made that domestic violence had occurred. Additionally, services and targeted clientele will vary widely from State to State, and even within States, making comparisons even more inappropriate. We do encourage States to use their own State protocols and definitions of domestic violence to monitor and evaluate how their programs are protecting the safety of parents and children.

Comment: One commenter suggested that Grants for Access and Visitation Programs be conducted by those with domestic violence training.

Response: The legislation mandates that the Governor of each State determine the organizational entity responsible for the grant program. Each State has the flexibility and responsibility to determine the services to be provided and qualifications of the providers.

Comment: Another domestic violence related concern is that the final rule should acknowledge that domestic violence occurs in many of the access and visitation cases before the family court and, therefore, the statement that involvement by non-custodial parents is desirable for children should be dropped or amended.

Response: In response to the concern about domestic violence we have added to the regulations a requirement that all States monitor access and visitation programs to ensure that programs have safeguards to ensure the safety of parents and children.

Comment: One commenter stated that visitation and access should not be mandatory for the non-custodial parent. The commenter also suggests that evaluation requirements should look at the success of visitation and not just the number of visits.

Response: The Act does not require the noncustodial parent to visit the child; rather, it funds activities to facilitate and encourage non-custodial parents to participate in raising the child(ren) as determined appropriate by the parents and the court. There are no specific evaluation requirements placed on either State or Federal government evaluation activities regarding visitation programs or any other allowable services provided under the program. We would encourage any evaluators of visitation programs to carefully determine the most appropriate measures of success for program evaluation purposes.

Comment: One commenter had several suggestions:

(i) OCSE should include in the monitoring requirements that States assure that the Access and Visitation Programs funded under Federal grants do not merely replace existing programs.

Response: Section 469B(d) of the Act does not allow States to supplant or use Federal funds authorized under this Act to replace or displace State funds spent for the same purposes as specified by section 469B(a) of the Act. States must use these Federal grant funds to supplement these expenditures at a level at least equal to the level of such expenditures as existed in fiscal year 1995. States are required to follow all requirements in the statute, therefore, it is not necessary to repeat the requirement in the regulation.

(ii) OCSE should prohibit use of funds for programs that are available only to children of divorced or separated parents, on the one hand, or children of unmarried parents on the other hand.

Response: The philosophy of this Act is to allow States maximum flexibility. Some States may concentrate their efforts only on unwed families (or on divorced families) because there are already State programs serving other families. We would not want to limit the flexibility States have under this act to address unmet needs.

(iii) OCSE should require that the States report on the economic status of program participants.

Response: This has been done in the reporting requirements for a description of the program under § 303.109(c)(1) of this final regulation. Under these requirements States must report as follows:

(c) *Reporting:* the State must: report a detailed description of each program funded, providing the following information as appropriate: * * * population served (income * * *) * * *.

(iv) OCSE should involve experts on the life situations and needs of the children of unmarried parents in setting up their programs.

Response: The philosophy behind this program is to give the States maximum flexibility. Most States are delivering programs through experienced community-based organizations or court agencies.

Comment: One commenter noted that some States are using grant funds in the first year to assess which access and visitation program strategies to undertake; in such States there would be no reporting of cases. Reporting requirements are only where services are provided.

Response: It is appropriate to footnote any report with this information. Thus no change needs to be made to the regulation.

Comment: Two commenters had comments on reporting responsibilities and definitions as follows: In the requirement for description of project—§ 303.109(c)—an addition should be made for "outcome measures". There should be some data elements that measure whether the program is achieving its goals; the current data elements do not.

Response: We have chosen not to include outcome measures in our initial reporting requirements. First, States can and are providing a wide variety of services. It would be premature at this early stage of program implementation to specify a limited set of outcomes, that may or may not measure the outcomes or changes that States are attempting to achieve. Second, program outcomes in this area are often difficult and expensive to measure. Given the limited resources of this program it is more cost

effective to focus routine reporting on service delivery and use evaluation efforts to measure outcomes.

Comment: The data requirement for program "graduates" could be meaningless due to definitional inconsistencies between States and projects.

Response: For clarity, we have revised the wording to read: "Number of persons who have completed program requirements." Even though each program and project may have a different set of program requirements for recipients, this data element will measure the extent to which programs were successful in ensuring that participants completed these requirements.

Comment: In § 303.109(a) "effective" and "efficient" should be defined.

Response: Effective means whether the programs are actually doing what they are intended to do. Efficient means that they are accomplishing their mission using a reasonable amount of resources. Because each State may provide very different services there is no way to standardize these definitions for reporting purposes.

Comment: ACF should work with States to create a standardized database to track program information.

Response: Given the variety of programs, this is what we have attempted to do, while at the same time preserving State flexibility and minimizing burden.

Comment: "Urban/rural" as part of the required description of a project should be defined due to the different nature of rural and urban in States of different sizes.

Response: We are not making a change in the regulation. However, in the instructions that accompany the reporting form, we have indicated that an urban project is defined as operating within a Standard Metropolitan Statistical Area (SMSA) and that a rural project is defined as operating outside a SMSA. We have added the category "mixed" to cover a project area that serves both SMSA and non-SMSA areas.

Comment: There are two comments about reporting on the nature of the referral. One commenter suggested that the providers should have to report on the type of the referral. Another commenter indicated that in § 303.109(c)(2), referral reporting should distinguish between court-referred and self-referred.

Response: The regulation at § 303.109(c)(2) does indicate that the source of referral will be included in the reporting requirements. Source of referral will include such categories as courts, social services agencies, responsible fatherhood programs, churches and self-referral. Additionally, the reporting forms will indicate whether clients are receiving services on a mandatory or voluntary basis. In general, mandatory services will include services that a court or other agency requires an individual to participate in. Voluntary services will include non-mandatory referrals and self-referrals. We believe these two categories of source of referral and mandatory versus voluntary participation will provide us with the information we need about the nature of participation. Self-referred relates to individuals signing up for access and visitation services on their own accord or on a voluntary basis.

Comment: What is meant by program participant families and individuals?

Response: We have revised the final rule to ask only for information on individuals. We have done this to avoid confusion about reporting of families or individuals. This is because in some cases only the non custodial parent receives services. However, sometimes services would be received jointly by both ex-spouses or father and mother as in the case of mediation. Occasionally the child is involved. As such, if we use family as a measure of service, all three of these types could be considered a family; however, the service provider is not given credit for the differential costs of serving different numbers of people. Also, use of individual as opposed to families is easier to do if the family under consideration changes (e.g., if a man applies for services, and then the ex-spouse becomes involved etc.). As such, we would have the States count individuals only and not families; however, on the survey form we would have individuals identified as non-custodial parents, custodial parents and/or child(ren) to provide a more precise definition.

Comment: Does this language contemplate a father and his family in a supervised visitation program? How about a custodial parent? Do all individuals in a family have to be recorded? More precision is needed in defining individuals and families.

Response: As discussed above, we have changed reporting to count individuals only. As such, if a family of three (e.g., husband, ex-spouse, and child) is served, States would count three individuals and not one family. The individual becomes the service unit. In the survey form, individuals would be counted as non-custodial parents, custodial parents and/or child(ren).

In the case of supervised visitation, a non-custodial father and a child or children and a third person (the supervisor) are involved. However, only the non-custodial father and the child or children are served; this translates into two to three or more individual service units. The supervisor would not be considered a service unit since this is part of the service, not someone served.

Comment: The definition of when a program is significant to require an evaluation by the State should be defined. Will such evaluations be funded by the Federal government?

Response: The regulations permit, but do not require, States to evaluate their access and visitation programs. State initiated evaluations can be paid for out of State access and visitation grant funds or other State funds. States must cooperate in any federally initiated evaluations of the access and visitation grant program. It is not possible to determine in advance what type of programs might be considered significant or promising. These decisions will be based on our review of State program activities. Specific decisions regarding cost sharing will be made in the context of specific evaluation designs.

Comment: One commenter recommended that OCSE develop an on-line database for reporting of data. Client satisfaction should be reported.

Response: We will consider the suggestion for an on-line database. We have not included client satisfaction in the requirements since we wanted to avoid complexity and ambiguity.

Comment: One commenter believed that the requirement asking for information on race of recipients is inappropriate, and in many cases where work is handled by the phone, it would be awkward for mediators to ask the race question. The commenter recommended either eliminating this question or making it optional.

Response: We agree that there are circumstances in which it would be inappropriate or awkward. We will therefore include on the reporting form the designation "unknown" in recognition that sometimes this information cannot be collected.

Comment: One commenter felt that the State child support enforcement agency should not be required to report on the Access and Visitation Grants when the agency in the State administering this grant is not the child support agency.

Response: We agree. The reporting agency is the State agency administering the Access and Visitation Program. This, in many cases, is not the child support enforcement agency.

Comment: One commenter believed that enforcement of visitation rights is vital.

Response: Visitation enforcement is an allowable program activity under section 469B(a) of the Act. Since there are no specific reporting, monitoring, or evaluation provisions dealing with visitation enforcement in isolation, it is not specifically mentioned in the regulation.

Paperwork Reduction Act

The new regulation at § 303.109(c) contains an information collection requirement. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section to the Office of Management and Budget (OMB) for its review and has received approval. The OMB control number is 0970–0178.

Legal Significance Statement: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final regulation will not result in a significant impact on a substantial number of small entities. The primary impact of the regulation will be on State governments, which are not considered small entities under this Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that the rule is consistent with these priorities and principles. Statutory provisions require States that receive grants for child access and visitation programs to monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

The Department has determined that this final rule will not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of more than $100 million in any one year. The Department has determined that this rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

Congressional Review of Rulemaking

This rule is not a major rule as defined in Chapter 8 of 5 U.S.C. List of Subjects 45 CFR Part 303

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.597, Grants to States for Access and Visitation).

Dated: March 10, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

For reasons stated in the preamble, we are amending 45 CFR Part 303 as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation of Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. A new section 303.109 is added to read as follows:

§ 303.109 Procedures for State monitoring, evaluation and reporting on programs funded by Grants to States for Access and Visitation Programs.

(a) *Monitoring*. The State must monitor all programs funded under Grants to States for Access and Visitation Programs to ensure that the programs are providing services authorized in section 469B(a) of the Act, are being conducted in an effective and efficient manner, are complying with Federal evaluation and reporting requirements, and contain safeguards to insure the safety of parents and children.

(b) *Evaluation*. The State:

(1) May evaluate all programs funded under Grants to States for Access and Visitation Programs;

(2) Must assist in the evaluation of significant or promising projects as determined by the Secretary;

(c) *Reporting*. The State must:

(1) Report a detailed description of each program funded, providing the following information, as appropriate: service providers and administrators, service area (rural/urban), population served (income, race, marital status), program goals, application or referral process (including referral sources), voluntary or mandatory nature of the programs, types of activities, and length and features of a completed program;

(2) Report data including: the number of applicants/referrals for each program, the total number of participating individuals, and the number of persons who have completed program requirements by authorized activities (mediation—voluntary and mandatory, counseling, education, development of parenting plans, visitation enforcement—including monitoring, supervision and neutral drop-off and pickup) and development of guidelines for visitation and alternative custody arrangements; and

(3) Report the information required in paragraphs (c)(1) and (c)(2) of this section annually, at such time, and in such form, as the Secretary may require.

[FR Doc. 99–7667 Filed 3–29–99; 8:45 am]

BILLING CODE 4184–01–P

Propo

This section c
contains notic
issuance of ru
purpose of the
persons an op
rule making p
rules.

DEPARTME

Office of the
Currency

12 CFR Part

[Docket No. 9

RIN 1557–AB

"Know You

AGENCY: Off
Currency (O

ACTION: Noti
withdrawal.

SUMMARY: T
"Know You
was publish
OCC is takin
concerns ab
and likely b

DATES: The
on March 30

FOR FURTHER
Robert Pasle
Enforcemen
(202) 874–4
Compliance
or Susan Qu
874–4879, C
Policy; or M
Director, Le
Activities D
Office of the
Currency, 25
DC 20219.

SUPPLEMENT
December 7,
Reserve Boa
Deposit Insu
and the Offi
(OTS) (colle
published "
proposals.[1] "
have require
association t
designed to
customers; c
sources of fu
and expecte

[1] *See* 63 FR 6
FR 67529 (FDIC

Proposed Rules

Federal Register
Vol. 64, No. 60
Tuesday, March 30, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 21

[Docket No. 99–02]

RIN 1557–AB66

"Know Your Customer" Requirements

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The OCC is withdrawing the "Know Your Customer" proposal which was published December 7, 1998. The OCC is taking this action in response to concerns about the privacy implications and likely burden of the proposed rule.

DATES: The proposed rule is withdrawn on March 30, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Pasley, Assistant Director, Enforcement and Compliance Division (202) 874–4879; Thomas Fleming, Compliance Specialist (202) 874–4879, or Susan Quill, Compliance Expert (202) 874–4879, Community and Consumer Policy; or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division (202) 874–4879, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: On December 7, 1998, the OCC, the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) each published "Know Your Customer" proposals.[1] The proposed rules would have required each bank and savings association to develop a program designed to determine the identity of its customers; determine its customers' sources of funds; determine the normal and expected transactions of its customers; monitor account activity for transactions that are inconsistent with those normal and expected transactions; and report any transactions of its customers that were determined to be suspicious in accordance with the OCC's existing suspicious activity reporting regulations.

In response to its Know Your Customer proposal, the OCC received over 16,000 comments during the comment period, which closed on March 8, 1999. Virtually all of the commenters opposed adoption of the proposed rule. Commenters were concerned primarily about the privacy implications of the proposal and the burden it would impose on financial institutions.

The overwhelming majority of commenters were individual, private citizens who voiced very strong opposition to the proposal as an invasion of personal privacy. Other issues raised by these commenters included that the Agencies lack the authority to issue the proposal; the cost of any Know Your Customer program would be passed on to customers; and the regulation would be ineffective in preventing money laundering and other illicit financial activities.

Banks, bank holding companies, and banking trade groups that commented uniformly opposed the proposal. Their concerns included the following: (1) the regulation would be very costly to implement, especially for small banks; (2) the Know Your Customer program would invade customer privacy; (3) commercial banks would be unfairly disadvantaged and lose customers if all segments of the financial services industry are not covered; (4) compliance with the regulation would divert resources from Y2K preparation; (5) the Agencies lack authority to adopt the regulation; (6) public confidence in the banking industry would be harmed by the regulation; and (7) the regulation is both unnecessary and redundant, as banks are already familiar with their customers and have adequate procedures in place.

In light of the comments received, the OCC is withdrawing the proposal. While the OCC believes that banks should adopt their own policies and procedures to determine the identities of their customers, and should have systems and controls that will allow them to identify suspected illegal conduct, the large majority of national banks already have policies and processes in place to accomplish these objectives.

List of Subjects in 12 CFR Part 21

Bank Secrecy Act, Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

Authority and Issuance

For the reasons stated in the Preamble, under the authority vested in the OCC by 12 U.S.C. 93a, the OCC's notice of proposed rulemaking titled *"Know Your Customer" Requirements*, published on December 7, 1998, at 63 FR 67524, is withdrawn.

Dated: March 23, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 99–7767 Filed 3–29–99; 8:45 am]

BILLING CODE 4810–33–P

[1] *See* 63 FR 67524 (OCC); 63 FR 67516 (FRB); 63 FR 67529 (FDIC); 63 FR 67536 (OTS).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–69]

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD), applicable to Pratt & Whitney JT9D series turbofan engines, that currently requires initial and repetitive eddy current inspections (ECI) of 14th and 15th stage high pressure compressor (HPC) disks for cracks, and removal of cracked disks and replacement with serviceable parts. This action would revise the definition of a shop visit to make compliance less restrictive, and add references to a Nondestructive Inspection Procedure attached to applicable service bulletins. This proposal is prompted by feedback from operators saying that the shop visit definition in the current AD made AD compliance unnecessarily restrictive. The actions specified by the proposed AD are intended to prevent 14th and 15th stage HPC disk rupture, which

could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by April 29, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 95–ANE–69, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, Publications Department, Supervisor Technical Publications Distribution, M/S 132–30, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–69." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 95–ANE–69, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On October 5, 1998, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 98–21–22, Amendment 39–10830 (63 FR 55500, October 16, 1998), applicable to Pratt & Whitney (PW) Model JT9D–59A, –70A, –7Q, –7Q3, and JT9D–7R4 series turbofan engines, to require initial and repetitive eddy current inspections (ECI) of 14th and 15th high pressure compressor (HPC) disks for cracks. That action was prompted by reports of disk bore cracks found during shop inspections on both the 14th and 15th stage HPC disks. That condition, if not corrected, could result in 14th and 15th stage HPC disk rupture, which could result in an uncontained engine failure and damage to the aircraft.

Since the issuance of that AD, the FAA has received feedback that requests changing the definition of shop visit as published in the final rule, published October 16, 1998, to the wording used in the supplemental NPRM (SNPRM), published January 5, 1998. In writing the final rule, the FAA changed the definition of shop visit for clarification from the version published in the SNPRM, January 5, 1998. This change, in effect, made the definition of shop visit more restrictive. The final rule states in paragraph (e) "For the purpose of this AD, a shop visit is defined as the induction of an engine into the shop for scheduled maintenance." The SNPRM stated in paragraph (e) "For the purpose of this AD, a shop visit is defined as a low pressure turbine module removal from an uninstalled engine."

In order to conduct the repetitive inspections of 14th and 15th stage HPC disks for cracks when the opportunity presents itself when the low pressure turbine module is removed, typically when the engine is in the shop and maintenance work is being performed, and to be consistent with the risk analysis, the definition of shop visit is proposed to be changed to "For the purpose of this AD, a shop visit is defined as a low pressure turbine module removal".

In addition, this final rule adds references to the Nondestructive Inspection Procedure No. 858 (NDIP–858), dated November 7, 1995, attached to the various versions of the referenced service bulletins, which was inadvertently omitted from the current AD.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would revise AD 98–21–22 to revise the shop visit definition and add reference to NDIP–858.

Since this revised proposed rule would only change the definition of the shop visit and add reference to the NDIP, there is no effect on the economic analysis.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing 39–10830 (63 FR 55500, October 16, 1998), and by adding a new airworthiness directive, to read as follows:

Pratt & Whitney: Docket No. 95–ANE–69. Revises AD 98–2122, Amendment 39–10830.

Applicability: Pratt & Whitney (PW) Model JT9D–59A, –70A, –7Q, –7Q3, and JT9D–7R4 series turbofan engines, with the following 14th and 15th stage high pressure compressor (HPC) disks installed: Part Numbers (P/Ns) 5000814–01, 790014, 789914, 790114, 5000815–01, 5000815–021, 704315, 704315–001, 786215, 786215–001, 704314, 789814, and 790214. These engines are installed on but not limited to Airbus A300 and A310 series aircraft, Boeing 747 and 767 series aircraft, and McDonnell Douglas DC–10 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent 14th and 15th stage HPC disk rupture, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Inspect 14th stage HPC disks, P/N 5000814–01, in accordance with Nondestructive Inspection Procedure No. 858 (NDIP–858), dated November 7, 1995, attached to PW Alert Service Bulletin (ASB) No. JT9D–7R4–524, original issue dated December 13, 1995, or Revision 1, dated June 26, 1997, as follows:

(1) Perform an initial eddy current inspection (ECI) for cracks as follows:

(i) For disks with 7,000 or more cycles since new (CSN), and 3,000 or more cycles in service (CIS) since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 7,000 or more CSN, and less than 3,000 CIS since last shop visit, on the effective date of this AD, inspect within 4,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with less than 7,000 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 4,000 CIS since last shop visit, or 8,000 CSN, whichever occurs later.

(iv) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 4,000 CIS since last ECI.

(3) Prior to further flight, remove cracked disks and replace with serviceable parts.

(b) Inspect 14th stage HPC disks, P/N's 790014, 789914, 790114, and 15th stage HPC disks, P/N's 5000815–01, 5000815–021, 704315, 704315–001, 786215, and 786215–001, in accordance with NDIP–858, dated November 7, 1995, attached to PW ASB No. JT9D–7R4–A72–524, dated December 13, 1995, or Revision 1, dated June 26, 1997, or PW ASB No. A6232, dated December 13, 1995, or Revision 1, dated January 11, 1996, or Revision 2, June 26, 1997, as applicable, as follows:

(1) Perform an initial ECI for cracks as follows:

(i) For disks with 6,500 or more CSN, and 3,000 or more CIS since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 6,500 or more CSN, and less than 3,000 CIS since last shop visit, on the effective date of this AD, inspect within 4,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with less than 6,500 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 4,000 CIS since last shop visit, or 7,500 CSN, whichever occurs later.

(iv) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 4,000 CIS since last ECI.

(3) Prior to further flight, remove cracked disks and replace with serviceable parts.

(c) Inspect 14th stage HPC disks, P/N's 704314, 789814, and 790214, in accordance with NDIP–858, dated November 7, 1995, attached to PW ASB No. A6232, original issue, dated December 13, 1995, or Revision 1, dated January 11, 1996, or Revision 2, dated June 26, 1997, as follows:

(1) Perform an initial ECI for cracks as follows:

(i) For disks with 2,000 or more CSN, and 2,000 or more CIS since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 2,000 or more CSN, and less than 2,000 CIS since last shop visit, on the effective date of this AD, inspect within 3,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with 2,000 or more CSN, and no previous shop visits, inspect within 3,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(iv) For disks with less than 2,000 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 5,000 CSN.

(v) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 3,000 CIS since last ECI.

(3) Prior to further flight, remove cracked disks and replace with serviceable parts.

(d) Within 30 days of inspection, report inspection results on the form labeled "14th and 15th Stage HPC Disk Inspection Report," to Pratt & Whitney Customer Technical Support. The fax number is listed on that form which is attached to PW ASB No. JT9D–7R4–A72–524, Revision 1, dated June 26, 1997, or PW ASB No. A6232, Revision 2, June 26, 1997. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

(e) For the purpose of this AD, a shop visit is defined as a low pressure turbine module removal.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on March 23, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–7688 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–19]

Proposed Modification of Class E Airspace; Savanna, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Savanna, IL. A Global Positioning System (GPS)

Standards Instrument Approach Procedure (SIAP) to Runway (Rwy) 13 has been developed for Tri-Township Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before May 18, 1999.

ADDRESSES: Send comments to the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–19, 2300 East Devon Avenue, Des Plaines Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AGL–19." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM by submitting a request to the Federal Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Savanna, IL, to accommodate aircraft executing the proposed GPS Rwy 13 SIAP at Tri-Township Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Savanna IL [Revised]

Savanna, Tri-Township Airport, IL
(Lat. 42°02'45"N., long. 90°06'27"W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of the Tri-Township Airport.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7456 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–18]

Proposed Modification of Class E Airspace; Hamilton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Hamilton, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 11 has been developed for Hamilton-Fairfield Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before May 18, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rule Docket No. 99–AGL–18, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AGL–18." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Hamilton, OH, to accommodate aircraft executing the proposed GPS Rwy 11 SIAP at Hamilton-Fairfield Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Hamilton, OH [Revised]

Hamilton, Hamilton-Fairfield Airport OH
(Lat. 39° 21′ 52″N., long. 84° 34′ 29″W.)
Hamilton NDB
(Lat. 39° 22′ 21″N., long. 84° 34′ 21″W.)

That airspace extending upward from 700 feet above the surface within an 6.6-mile radius of the Hamilton-Fairfield Airport and within 2.9 miles either side of the 280° bearing from the Hamilton NDB, extending from the 6.6-mile radius to 10.0 miles west of the NDB, excluding that airspace within the Covington, KY, and Middletown, OH, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1998.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–7449 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–4]

Proposed Modification of Class E Airspace; Chico, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class E airspace area at Chico, CA. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 13L and GPS RWY 31R at Chico Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the GPS RWY 31R SIAP to Chico Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Chico Municipal Airport, Chico, CA.

DATES: Comments must be received on or before April 29, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 98–AWP–4, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, 90261.

The official docket may be examined in the Office of the Regional Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Air Traffic Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AWP–4." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by modifying the Class E airspace area at Chico, CA. The establishment of a GPS RWY 13L and GPS RWY 31R SIAP at Chico Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the new approach procedures at Chico Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS RWY 31R SIAP at Chicago Municipal Airport, Chico, CA. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Chico, CA [Revised]

Chico Municipal Airport, CA
(Lat. 39°47′44″N, long. 121°51′30″W)
Chico VOR/DME
(Lat. 39°47′23″N, long. 121°50′50″W)
Ranchaero Airport, CA
(Lat. 39°43′15″N, long. 121°52′04″W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Chico Municipal Airport and within 1.8 miles each side of the Chico VOR/DME 316° radial, extending from the 4.3-mile radius to 7 miles northwest of the Chico VOR/DME and that airspace 1.8 miles west and 3.5 miles east of the Chico VOR/DME 164° radial extending from the 4.3-mile radius to 6 miles south of the Chico VOR/DME and that airspace within 1.8 miles each side of the Chico VOR/DME 222° radial extending from the 4.3-mile radius to 6.6 miles southwest of the Chico VOR/DME, excluding the portion within a 1-mile radius of the Ranchaero Airport.

* * * * *

Issued in Los Angeles, California, on February 4, 1999.

Dawna J. Vicars,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 99–7629 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200, 202, 210, 228, 229, 230, 232, 239, 240 and 249

[Release Nos. 33–7659; 34–41207; IC–23751; File No. S7–30–98]

RIN 3235–AG83

The Regulation of Securities Offerings

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Rule; Extension of Comment Period.

SUMMARY: The Securities and Exchange Commission is extending the comment period for its proposals to modernize and clarify the regulatory structure for offerings under the Securities Act of 1933. Those proposals are in Securities Act Release No. 7606A (11/13/98), 63 FR 67174 (12/4/98) (the "Proposing Release"). The original comment deadline established by the Proposing Release was April 5, 1999. The new deadline is June 30, 1999.

DATES: Public comments are due on or before June 30, 1999.

ADDRESSES: Please send three copies of your comments to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, Mail Stop 0609, 450 Fifth Street, NW, Washington, DC 20549–0609. You can send comment letters electronically to the following e-mail address: rule-comments@sec.gov. The comment letter should refer to File Number S7–30–98. If you use e-mail, include this file number in the subject line. Anyone can inspect and copy comment letters in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. We will post comment letters submitted electronically on our Internet site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Anita Klein at (202) 942–2980 or David Maltz at (202) 942–1921, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: On November 13, 1998, the Commission issued the Proposing Release. It describes proposals to modernize and clarify the regulatory structure for offerings under the Securities Act of 1933 while maintaining investor protection. The proposals covered five major topics: Registration system reform; communications around the time of an offering; prospectus delivery requirements; integration of private and public offerings; and periodic reporting under the Securities Exchange Act of 1934. The deadline for submitting public comments established by the Proposing Release was April 5, 1999. The Commission has received requests to extend the deadline. We are therefore extending the comment period to June 30, 1999, so that commenters have adequate time to address the issues raised by the Proposing Release.

Dated: March 24, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–7684 Filed 3–29–99; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2510

RIN 1210–AA48

Plans Established or Maintained Pursuant to Collective Bargaining Agreements Under Section 3(40)(A) of ERISA

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Negotiated rulemaking advisory committee meeting.

SUMMARY: The Department of Labor's (Department) ERISA Section 3(40) Negotiated Rulemaking Advisory Committee (Committee) was established under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act (the FACA) to develop a proposed rule implementing the Employee Retirement Income Security Act of 1974 (ERISA), as amended. The purpose of the proposed rule is to establish a process and criteria for a finding by the Secretary of Labor that an agreement is a collective bargaining agreement for purposes of section 3(40) of ERISA. The proposed rule will also provide guidance for determining when an employee benefit plan is established or maintained under or pursuant to such an agreement. Employee benefit plans that are established or maintained for the purpose of providing benefits to the employees of more than one employer are "multiple employer welfare arrangements" (MEWAs) under section 3(40) of ERISA, and therefore are subject to certain state laws, unless they meet one of the exceptions set forth in section 3(40)(A). At issue in this regulation is the exception for plans or arrangements that are established or maintained under one or more agreements which the Secretary finds to be collective bargaining agreements. It is the view of the Department that it is necessary to distinguish organizations that provide benefits through collectively bargained employee representation from organizations that are primarily in the business of marketing commercial insurance products.

DATES: The Committee will meet from 8:30 am to approximately 5:00 pm on each day on Tuesday, April 20 and Wednesday, April 21, 1999.

ADDRESSES: This Committee meeting will be held in Conference Room N–4437 C/D, at the offices of the U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC, 20210. All interested parties are invited to attend this public meeting. Seating is limited and will be available on a first-come, first-serve basis. Individuals with disabilities wishing to attend who need special accommodations should contact, at least 4 business days in advance of the meeting, Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N–4611, 200 Constitution Avenue, NW, Washington, DC 20210 (telephone (202) 219–4600; fax (202) 219–7346). The date, location and time for subsequent Committee meetings will

be announced in advance in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N–4611, 200 Constitution Avenue, NW, Washington, DC 20210 (telephone (202) 219–4600; fax (202) 219–7346). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Minutes of all public meetings and other documents made available to the Committee will be available for public inspection and copying in the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW, Washington, DC from 8:30 a.m. to 4:30 p.m. Any written comments on these minutes should be directed to Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N–4611, 200 Constitution Avenue, NW, Washington, DC 20210 (telephone (202) 219–4600; fax (202) 219–7346). This is not a toll-free number.

Agenda

The Committee will continue to discuss the possible elements of a process and potential criteria for a finding by the Secretary of Labor that an agreement is a collective bargaining agreement for purposes of section 3(40) of ERISA (29 U.S.C. 1001 *et seq.*). Discussion of these issues is intended to help the Committee members define the scope of a possible proposed rule.

Members of the public may file a written statement pertaining to the subject of this meeting by submitting 15 copies on or before Tuesday, April 13, 1999, to Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N–4611, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives wishing to address the Committee should forward their request to Ms. Arzuaga or telephone (202) 219–4600. During each day of the negotiation session, time permitting, there shall be time for oral public comment. Members of the public are encouraged to keep oral statements brief, but extended written statements may be submitted for the record.

Organizations or individuals may also submit written statements for the record without presenting an oral statement. 15 copies of such statements should be sent to Ms. Arzuaga at the address above. Papers will be accepted and included in the record of the meeting if received on or before April 13, 1999.

Signed at Washington, DC, this 22nd day of March, 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99–7709 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, 77, and 120

RIN 1219–AA47

Hazard Communication

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document concerns the factual basis for our (MSHA's) certification that the proposed rule on hazard communication (hazcom proposal) for the mining industry would have no significant impact on small businesses; a preliminary determination that the hazcom proposal would not significantly or adversely impact the environment; the health of children; or State, local, and tribal governments; and an updated analysis of the information collection and paperwork burden under the Paperwork Reduction Act of 1995 (PRA 95). We are reopening the rulemaking record for the limited purpose of receiving comments on these items.

DATES: We must receive your comments by June 1, 1999.

ADDRESSES: You may use mail, facsimile (fax), or electronic mail to send your comments to MSHA. Clearly identify comments as such and send them—

(1) By mail to Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203;

(2) By fax to MSHA, Office of Standards, Regulations, and Variances, 703–235–5551; or

(3) By electronic mail to *comments@msha.gov*.

In addition, send your comments on the information collection requirements to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for MSHA, 725 17th Street NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carol J. Jones, 703–235–1910.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 1987, the United Mine Workers of America (UMWA) and the United Steelworkers of America (USWA) jointly petitioned MSHA to adapt the Occupational Safety and Health Administration's (OSHA's) Hazard Communication Standard (HCS) to both coal and metal/nonmetal (M/NM) mines and to propose it for the mining industry. They based their petition on the need for miners to be better informed about the chemical hazards in their workplace.

In response to this petition, we published an advance notice of proposed rulemaking (ANPRM) on hazard communication for the mining industry on March 30, 1988 (53 FR 10256); published the hazcom proposal on November 2, 1990 (55 FR 46400); and held three public hearings in 1991. The record closed on January 31, 1992.

The hazcom proposal would require an operator to develop and implement a hazcom program which includes—

(1) Evaluating the hazards of chemicals present at the mine and maintaining a list of those determined to be hazardous;

(2) Labeling containers of hazardous chemicals;

(3) Preparing or obtaining material safety data sheets (MSDS's) for each hazardous chemical;

(4) Training miners; and

(5) Providing access to the written materials.

An effective hazcom program increases both awareness and knowledge of the hazards of chemicals in the workplace. Awareness and knowledge of chemical hazards present in the workplace increase the likelihood that a miner will take appropriate precautions when working with or around chemicals. We believe that the use of these precautions will help reduce the incidence of chemically-related, occupational injuries and illnesses among miners.

Our hazcom proposal would integrate our existing labeling requirements into a new, comprehensive, hazcom program. We based the hazcom proposal on comments received in response to the ANPRM, as well as on our experience in the mining industry. We also considered relevant standards of other Federal agencies, including OSHA's experience with its HCS, and applicable legislation. MSHA's hazcom proposal is generally consistent with OSHA's HCS.

Although we are preparing the final rule, we first need to address several regulatory mandates, some of which were not in existence when we

published our hazcom proposal in 1990. These statutory mandates and Executive Orders require us to evaluate the impact of a regulatory action on small mines; State, local, and tribal governments; and the environment.

We recognize that the mining industry has changed since 1990 when we developed the Preliminary Regulatory Impact Analysis (PRIA) and published the hazcom proposal. Most of the changes, however, would decrease the total impact of the hazcom proposal on the mining industry. For example, the number of mines and miners has decreased while the number of independent contractors has increased. We believe that this change would decrease the impact of the hazcom proposal because fewer mines and miners generally mean fewer total compliance costs.

Additionally, independent contractors are more likely to have a hazcom program because they are more likely to work in operations under OSHA jurisdiction, as well as in mines under MSHA jurisdiction. Similarly, some mine operators already have a hazcom program as company policy, because the parent company also has operations in industries subject to OSHA's HCS, or the mine is located in a State with an individual State right-to-know law. We believe that these existing hazcom programs decrease the economic impact of MSHA's hazcom proposal on the mining industry.

Another change that affects the hazard communication environment is increased public awareness due to the length of time that the OSHA HCS has been in effect. There is an abundance of hazard communication information, supplies, training, and training aids readily available to the public off-the-shelf or through the Internet.

II. Specific Issues

A. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act (RFA) requires a regulatory agency to evaluate each proposed rule and to consider alternatives so as to minimize the rule's impact on small entities (businesses and local governments). In the preamble to our hazcom proposal, we certified that the hazcom proposal would not have a significant economic impact on a substantial number of small mining operations. The preamble also included a full discussion of our preliminary conclusions about regulatory alternatives and invited the public to comment. The preamble and PRIA, however, did not use the Small Business Administration's (SBA's) definition of a small entity. Under the RFA, we must use SBA's definition of a small entity in determining a rule's economic impact unless, after consultation with SBA and an opportunity for public comment, we establish another definition and publish the definition in the **Federal Register**. For the mining industry, SBA defines "small" as a business with 500 or fewer employees. To ensure that we comply with the RFA requirements, this notice informs you of the hazcom proposal's impact on "small" mines, using the SBA definition of a small entity, and provides you with an opportunity to comment.

In 1996, Congress enacted the Small Business Regulatory Enforcement Fairness Act (SBREFA) amending the RFA. SBREFA requires a regulatory agency to include in the preamble to a rule the factual basis for that agency's certification that the rule has no significant impact on a substantial number of small entities. The agency then must publish the factual basis in the **Federal Register**, followed by an opportunity for public comment. Although SBREFA did not exist when we published the hazcom proposal, we are now publishing the factual basis for our previous certification that the hazcom proposal poses "no significant impact," to give you an opportunity to comment on it.

Factual Basis for Certification of "No Significant Impact"

At the time we published the hazcom proposal, we defined a small mine to be one that employed fewer than 20 miners. To determine the costs for mines with 500 or fewer employees, we applied the same basic methodology that we had used in the PRIA to estimate the costs for mines with fewer than 20 employees. We used 1997 closeout data for numbers of mines and miners and current data for the cost of materials and labor.

Table I indicates the number of operations with 500 or fewer employees and the total number of employees at these operations. We substituted these figures for those that we had used in the original 1990 PRIA to estimate the impact on operations with fewer than 20 employees. We estimate that the annual cost of complying with the 1990 hazcom proposal for operations with 500 or fewer employees would be about $5.54 million annually: $1.20 million for coal operations and $4.34 million for M/NM operations.

TABLE I.—ANNUAL COMPLIANCE COSTS BY MINE SIZE*

Mine size (employment)	No. of mines		No. of miners		Annual compliance cost	
	Coal	M/NM	Coal	M/NM	Coal	M/NM
Small (1–500)	6,558	14,306	112,864	178,303	$1,197,241	$4,344,381
Large (>500)	11	35	6,179	28,190	32,033	195,775
All Operations	6,569	14,341	119,043	206,493	1,229,274	4,540,156

*Includes independent contractors and their employees.

Whether these compliance costs impose a "significant" impact on small entities depends on their effect on the profits, market share, and financial viability of small mines. To address these issues, we had to determine whether compliance with the hazcom proposal would place small mines at a significant competitive disadvantage relative to large mines or impose a significant cost burden on small mines.

The first step in this determination is to establish whether compliance with the hazcom proposal would impose substantial capital or first-year, start-up costs on small mines. Because financing is typically more difficult or more expensive to obtain for small mines than for large mines, initial costs may impose a greater burden on small mines than on large mines. The hazcom proposal, however, does not require engineering controls or other items requiring substantial initial capital expenditure that would place small mines at a competitive disadvantage relative to large mines.

The initial costs associated with the hazcom proposal are those necessary to develop and implement a hazard communication program. Based on our updated estimate of this cost on mines employing 500 or fewer employees, we

projected that the first-year, start-up costs would be about $900 to $1,200 per operation. Because this cost is less than one percent of the revenue for these mines, we believe that the hazcom proposal would not impose substantial capital or first-year, start-up costs on small mines.

The second step in this determination is to establish whether there are significant economies of scale in compliance that would place small mines at a competitive disadvantage relative to large mines. In the PRIA, we investigated economies of scale by calculating whether compliance costs are proportional to mine employment. As shown in Table II, the annual compliance cost per miner would be about $11 for small coal mines, $5 for large coal mines, $24 for small M/NM mines, and $7 for large M/NM mines. These compliance costs would be about twice as great per miner for small coal mines than for large coal mines and over three times greater per miner for small M/NM mines than for large M/NM mines. Although we believe that this difference may be significant, it is unlikely to provide strategic leverage because, as shown in Table II, both small coal mines and small M/NM mines generate over 95 percent of the revenues in their respective markets. Furthermore, as shown in Table II, total compliance costs would be about 18 times larger, on average, for a large coal mine than for a small coal mine and about 22 times larger, on average, for a large M/NM mine than for a small M/NM mine.

TABLE II.—COMPLIANCE COST PER MINER AND PER MINE*

Mine size (employment)	Average compliance cost per miner		Average compliance cost per mine		Total revenues (in millions)	
	Coal	M/NM	Coal	M/NM	Coal	M/NM
Small (1–500)	$11	$24	$183	$304	$18,680	$22,370
Large (>500)	5	7	2,912	5,594	1,980	2,630
All Operations	10	22	187	317	20,660	25,000

*Includes independent contractors and their employees.

The third step in this determination is to establish whether the compliance costs impose a significant burden on small mines in absolute terms. For this purpose, we examined compliance costs relative to revenues per small mine (or, equivalently, for all small mines). As shown in Table III, compliance costs represent only about 0.006 percent of the value of coal mine production and only about 0.019 percent of the value of M/NM mine production. Because the cost of the rule as a percentage of revenue would be considerably less than one percent, we believe that this result, in conjunction with the previous analysis, provides a reasonable basis for the certification of "no significant impact" in this case.

TABLE III.—COMPLIANCE COSTS COMPARED TO REVENUE*

Small mines (employing 1–500)	Average cost per mine	Revenue per mine (millions)	Total cost (millions)	Total revenue (millions)	Cost as % of revenue
Coal	$183	$2.848	$1.197	$18,680	0.006
M/NM	304	1.564	4.344	22,370	0.019

*Includes independent contractors and their employees.

B. Paperwork Reduction Act

When we published our hazcom proposal, the information collection and paperwork requirements were not an information collection burden under the 1980 Paperwork Reduction Act (PRA 80) because they were third-party disclosures. On August 29, 1995, the Office of Management and Budget (OMB) published a final rule in the **Federal Register** (60 FR 44978) implementing the new Paperwork Reduction Act of 1995 (PRA 95). These OMB rules expanded the definition of "information" to clarify that PRA 95 also covered Agency rules that required businesses or individuals to maintain information for the benefit of a third-party or the public, rather than the government. The requirements for information collection and dissemination in the hazcom proposal are now an information collection burden because of the expanded definition of "information" under PRA 95.

The collection of information contained in the hazcom proposal is subject to review by OMB under PRA 95. We will submit the proposed paperwork package to OMB for its review and approval under section 3507(o) of PRA 95. We describe the respondents and information collection requirements below with an estimate of the annual information collection burden. This estimate includes the time to inventory chemicals, determine the hazards of chemicals present, prepare or obtain labels or MSDS's as necessary, prepare training materials and train miners, and provide copies of written materials.

We further invite comment on—

(1) Whether this collection of information is necessary to protect miners;

(2) The accuracy of our estimate of the burden, including the validity of our methodology and assumptions;

(3) Ways to enhance the quality, usefulness, and clarity of the information; and

(4) Ways to minimize the burden on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology.

Description of requirements: The hazcom proposal is primarily an information collection and dissemination rule. The information collection and paperwork burden encompasses each section of this proposed part. These requirements are summarized in Table IV below.

TABLE IV.—DESCRIPTION OF INFORMATION COLLECTION PROVISIONS

Provision	Information collection burden
Written Hazard Communication Program	Preparation, administration, and annual review determine hazardous chemicals distribute written program when requested.
Training Program	Develop or obtain training courses and materials conduct initial training for miners administer re: training miners about changing hazards.
Material Safety Data Sheets	Develop for hazardous chemicals produced maintain availability and accuracy distribute to miners and reps, employers, and customers.
Labeling Containers	Prepare for chemicals produced maintain legibility and accuracy provide information to customers.
Trade Secrets	Provide confidential information when needed.

Description of respondents: The respondents are operators, including independent contractors. We estimate that this provision affects those operators who do not already have a hazcom program at their mines. For the purpose of the hazcom proposal, we estimated that 5 percent of small mines and 10 percent of large mines voluntarily have implemented all of the requirements in MSHA's hazcom proposal. In addition, some mines have implemented all or part of the requirements contained in the hazcom proposal to comply with State hazard communication or right-to-know laws.

The percentage of mines complying with these State laws varies depending on the type of mine and the specific provision. For example, some mines may keep MSDS's and label containers, but do not have a written program or conduct hazcom training for miners. Also, we assumed that all independent contractors conduct some work at locations under OSHA jurisdiction and would have an existing hazcom program. The contractor's hazcom program, however, may need modification for a particular mine. The magnitude of the burden for any individual mine operator or independent contractor, therefore, will vary greatly by the size, type, and location of the operation.

Information Collection Burden: The burden of the hazcom proposal is greater initially, when developing and implementing the program. Subsequent years, the burden is primarily for maintaining and administering the program. Because this hazcom proposal would not require any capital expenditures, we did not annualize these initial costs. The total estimated first-year, start-up information collection burden for the hazcom proposal is about 789,500 hours ($20.3 million labor cost) plus an associated cost of about $3,757,000. The total estimated annually recurring information collection burden for the second year and each year thereafter is about 230,700 hours ($5.2 million labor cost) plus an associated annual cost of about $578,000. Table V and Table VI summarize MSHA's estimate, by provision, of the information collection burden on the mining industry for the first year and annually thereafter.

TABLE V.—FIRST-YEAR INFORMATION COLLECTION BURDEN*

Provision	Number of respondents	Number of responses	Number of responses per respondent	Hours per response	Total hours	Associated costs**
Written Program	17,042	24,365	1.4	3.76	91,595	$397,748
Training	20,910	57,775	2.8	4.54	262,229	2,718,403
Hazard Determination and MSDS's	20,910	1,441,459	69	0.23	334,216	578,095
Labels	20,910	596,042	29	0.17	100,919	63,093
Trade Secrets	147	147	1.0	4.00	586	0
Total	20,910	2,119,787	101	0.37	789,544	3,757,339

* Discrepancies due to rounding.
** The cost associated with the information collection is for material, supplies, and copying expenses; it does not include the labor cost for the burden hours.

TABLE VI.—ANNUAL INFORMATION COLLECTION BURDEN*

Provision	Number of respondents	Number of responses	Number of responses per respondent	Hours per response	Total hours	Associated costs**
Written Program	4,364	4,364	1.0	3.79	16,544	$38,573
Training	4,440	11,113	2.5	4.61	51,282	7,502
Hazard Determination and MSDS's	20,910	952,722	46	0.13	125,517	339,631
Labels	2,267	60,693	27	0.61	36,768	192,257
Trade Secrets	147	147	1.0	4.00	586	0
Total	20,910	1,029,038	49	0.22	230,697	577,963

* Discrepancies due to rounding.
** The cost associated with the information collection is for material, supplies, and copying expenses; it does not include the labor cost for the burden hours.

C. Environmental Assessment

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) requires each Federal agency to consider the environmental effects of certain proposed actions. It requires further that these agencies prepare an Environmental Impact Statement for major actions significantly affecting the quality of the human environment. We have reviewed the hazcom proposal in accordance with the requirements of NEPA, the regulations of the Council on Environmental Quality (40 CFR part 1500), and the Department of Labor's NEPA regulations (29 CFR part 11). As a result of this review, we determined that this hazcom proposal would have no significant environmental impact.

D. Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the hazcom proposal for any potential environmental health and safety effects on children and have determined that it would have no adverse effects on children.

E. Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13084, we certify that the hazcom proposal would not impose substantial direct compliance costs on Indian tribal governments. We provided the public, including Indian tribal governments which operate mines, the opportunity to comment on the hazcom proposal and to participate in the public hearings.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires Federal agencies to consider the impact of proposed actions on State, local, and tribal governments. The hazcom proposal would impact about 200 sand and gravel or crushed stone operations that are run by State, local, or tribal governments. We have determined that the hazcom proposal does not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments of more than $100 million in the aggregate, or increased expenditures by the private sector of more than $100 million. Moreover, we have determined that the hazcom proposal does not significantly or uniquely affect small governments.

III. Request for Comments

Since we published our hazcom proposal in 1990, Congress has passed several legislative mandates and the President has issued several Executive Orders affecting the promulgation of regulations. In addition, we did not address a mandate that existed in 1990. With this in mind, we are reopening the rulemaking record for a limited time to provide the public an opportunity to comment on the hazcom proposal's economic and environmental impact and paperwork burden. Allowing time for additional public comments will not delay the promulgation of the final rule.

I encourage all interested parties to take advantage of this opportunity to provide information and express your concerns on the specific issues discussed here. If not responding by electronic mail, we would appreciate receiving your comments on a computer disk along with the original hard copy. Contact us with any questions about format.

You can obtain a copy of our hazcom proposal or PRIA by contacting us at the address or telephone number provided at the beginning of this notice.

Dated: March 23, 1999.

Marvin W. Nichols, Jr.,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 99–7683 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211–0127b; FRL–6313–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; El Dorado County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of oxides of nitrogen (NO_X) emissions from natural gas-fired residential water heaters within the El Dorado County Air Pollution Control District.

The intended effect of proposing approval of this rule is to regulate NO_X emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the final rules Section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by April 29, 1999.

ADDRESSES: Comments should be addressed to: Andrew Steckel, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

El Dorado County Environmental Management Department, Air Pollution Control District, 2850 Fairlane Court, Placerville, CA 95667

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION: This document concerns El Dorado County Air Pollution Control District's Rule 239, Natural Gas-fired Residential Water Heaters, submitted by the California Air Resources Board to EPA on June 23, 1998. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 11, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–7669 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

This section of th
contains docume
proposed rules th
public. Notices o
committee meeti
rulings, delegatio
petitions and app
statements of or
examples of doc
section.

Notices

Federal Register

Vol. 64, No. 60

Tuesday, March 30, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–08]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 Dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–08, with attached transmittal and policy justification.

Dated: March 24, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

BILLING CODE 6001–01–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

15 MAR 1999
In reply refer to:
I-99/02369

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-08 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Bahrain for defense articles and services estimated to cost $110 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Separate Cover:
Classified Annex

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-08

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Bahrain**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 17 million
Other	$ 93 million
TOTAL	$ 110 million

(iii) **Description of Articles or Services Offered:**
Twenty-six AIM-120B Advanced Medium Range Air-to-Air Missiles (AMRAAM), 50 launcher rails, Interrogator Friend or Foe, missile containers, integration of software, spare and repair parts, support and test equipment, maintenance and pilot training, software support, publications and technical documentation, U.S. Government and contractor technical assistance and other related elements of logistics and program support.

(iv) **Military Department: Air Force (YBI)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex under separate cover**

(vii) **Date Report Delivered to Congress: 15 MAR 1999**

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Bahrain - AIM-120B Advanced Medium Range Air-to-Air Missiles

The Government of Bahrain has requested a possible sale of 26 AIM-120B Advanced Medium Range Air-to-Air Missiles (AMRAAM), 50 launcher rails, Interrogator Friend or Foe, missile containers, integration of software, spare and repair parts, support and test equipment, maintenance and pilot training, software support, publications and technical documentation, U.S. Government and contractor technical assistance and other related elements of logistics and program support. The estimated cost is $110 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Bahrain will use these missiles to enhance the air-to-air self defense capability of its F-16 aircraft and to increase interoperability with U.S. forces. Bahrain will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Systems Company, Tucson, Arizona. There are no offset agreements proposed to be entered into in connection with this potential sale.

It is estimated that during implementation of this proposed sale a number of U.S. Government personnel and contractor representatives will be assigned to Bahrain or travel there intermittently.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

BILLING CODE 5001-10-C

[FR Doc. 99–7739 Filed 3–29–99; 8:45 am]
BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 25, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 1, 1999.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503. Comments regarding the regular clearance and requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat __Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: March 24, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: School Violence Prevention and Early Childhood Development Activities Under the Safe Schools/Healthy Students Initiative.

Abstract: Safe Schools/Healthy Students Initiative is to assist schools and communities to enhance and implement comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development. Eligible activities may include, but are not limited to, programs such as mentoring, conflict resolution, after school activities, multi-systemic therapy, functional family therapy, social skill building, school-based probation, student assistance, teen courts, truancy prevention, alternative education, developing information sharing systems, staff/professional development, hiring additional resource officers, etc.

Additional Information: This program is a collaborative effort between the Department of Justice, the Department of Health and Human Services and the Department of Education.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 425.

Burden Hours: 11,900.

[FR Doc. 99–7700 Filed 3–29–99; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 1, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address Pat__Sherrill@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process

would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 24, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New
Title: Early Childhood Longitudinal Study—Birth Cohort 2000, Field Test and Full Scale Data Collection
Frequency: On occasion
Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs
Reporting and Recordkeeping Hour Burden:

Responses: 2,280
Burden Hours: 3,082

Abstract: The Early Childhood Longitudinal Study—Birth Cohort 2000 (ECLS-B) is a component of the Early Childhood Longitudinal Studies program. Studies also include the Kindergarten Class of 1998–1999, currently underway. The ECLS program responds to increased policy interest in a critical period in the development of children, the years from zero to three. The principal purposes of the study are to assess children's health status and their growth and development in a variety of key domains that are critical for later school readiness and academic achievement. The key domains include physical health and growth, motor development, and social and emotional maturation.

The data set will provide a comprehensive and reliable longitudinal data set describing the growth of children, from birth through first grade. The data can also be used by a wide range of federal agencies on topics such as maternal and child health; childhood illnesses and disabilities; nonparental child care and early childhood education; health intervention; family economics and composition; welfare dependency; cultural diversity; and food and nutrition.

[FR Doc. 99–7701 Filed 3–29–99; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–406–022]

CNG Transmission Corporation; Notice of Report of Refund

March 24, 1999.

Take notice that on March 16, 1999, CNG Transmission Corporation (CNG), tendered for filing its report of refunds attributable to the resolution of the captioned proceedings. CNG states that the reported refunds reflect CNG's implementation of the rates contained in the Commission-approved Stipulation and Agreement filed on August 31, 1998 (the August 31 Stipulation).

CNG states that the purpose of this filing is to report refunds and associated interest that CNG ultimately resolved with its customers effective February 18, 1999. CNG further states that these refunds were made as a result of CNG's implementation of the settlement rates approved by Commission order dated November 24, 1998, in Docket Nos. RP97–406–000, et al. 85 FERC 61,261 (1998). As detailed in Attachment A to CNG's transmittal letter, CNG's total refund obligation consisted of a principal amount of $56,664,462.40, plus interest of $2,626,178.82 through February 18, 1999, for a total refund obligation of $59,290,641.22.

CNG states that copies of this letter of transmittal and summary workpapers are being mailed to affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 31, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–7698 Filed 3–29–99; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP94–2–007]

Columbia Gas Transmission Corporation; Notice of Refund Report

March 24, 1999.

Take notice that on February 23, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Federal Energy Regulatory Commission its Refund Report made to comply with the April 17, 1995 Settlement in Docket No. GP94–02, *et al.* as approved by the Commission on June 15, 1995.

Columbia states that on February 20, 1999 it made refunds, as billing credits, in the amount of $251,162.75. The refunds represent a deferred tax refund received from Trailblazer Pipeline Company. These refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G, Schedule 5 of the Settlement with FERC Interest.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 31, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceedings. Copies of this filing are

on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–7696 Filed 3–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP94–2–008]

Columbia Gas Transmission Corporation; Notice of Refund Report

March 24, 1999.

Take notice that on February 23, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Federal Energy Regulatory Commission its Refund Report made to comply with the April 17, 1995 Settlement in Docket No. GP94–02, *et al.* as approved by the Commission on June 15, 1995.

Columbia states that on January 20, 1999 it made refunds, as billing credits, in the amount of $58,460.04. The refunds represent a deferred tax refund received from Overthrust Pipeline Company. These refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G. Schedule 5 of the Settlement with FERC Interest.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 31, 1999. Protests will be considered by the Commission is determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–7697 Filed 3–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–267–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

March 24, 1999.

Take notice that on March 22, 1999, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP99–267–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to certificate and to continue the operation of an existing delivery point, installed under Section 311(a) of the Natural Gas Policy Act, under El Paso's blanket certificate issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

El Paso states that the Desert Hills Delivery Point was installed under Section 311(a) and has exclusively used this delivery point for the transportation and delivery of natural gas under Part 284, Subpart B on behalf of Southwest Gas Corporation. El Paso states that the regulatory restriction placed on the operation of a facility installed under Section 311(a) of the NGPA prohibits El Paso shippers from utilizing this delivery point under any transportation arrangement other than a Subpart B transportation arrangement. In view of this limited service flexibility, El Paso believes that certification of the Desert Hills Delivery Point, located in Maricopa County, Arizona, pursuant to Section 157.212 of the Commission's Regulations, is necessary and in the public interest. El Paso states that continued operation of the facility is not prohibited by El Paso's existing Volume No. 1–A FERC Gas Tariff. El Paso states that is has sufficient capacity to accomplish the deliveries without detriment or disadvantage to El Paso's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–7695 Filed 3–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–1525–000 and ER99–1992–000]

Mid-Continent Area Power Pool; Notice of Filing

March 23, 1999.

Take notice that on March 18, 1999, Mid-Continent Area Power Pool (MAPP), tendered for filing a letter informing the Commission of that on March 3, 1999, MAPP's Regional Transmission Committee passed a motion relevant to filings made in the above-referenced dockets.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before April 2, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7693 Filed 3–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–263–000]

Midcoast Interstate Transmission, Inc.; Notice of Request for Authorization Under Blanket Certificate

March 24, 1999.

Take notice that on March 19, 1999, Midcoast Interstate Transmission, Inc. (Midcoast), 3230 Second Street, Muscle Shoals, Alabama 355661, filed in FERC Docket No. CP99–263–000 a request pursuant to Sections 157.205 and 157.211, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to install and operate a new delivery point under Midcoast's blanket certificate issued in Docket No. CP85–359–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

Midcoast proposes to install and operate the facilities to accommodate natural gas deliveries to Alventia LLC (Alventia), a Delaware Limited Liability Corporation, at a plant being constructed in Morgan County, Alabama. Transportation service for Alventia will be provided pursuant to Rate Schedule FT of Midcoast's FERC Gas Tariff, Second Revised Volume No. 1. Midcoast states that Alventia acquired FT capacity on its system by a pre-arranged capacity release. Midcoast also states that its existing tariff does not prohibit the additional service.

Any person or the Commission's Staff may, within 45 days after issuance of the instant notice by the commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed in the time allowed, the proposed activity shall be deemed to be authorized affective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–7694 Filed 3–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–69–002]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

March 24, 1999.

Take notice that on February 18, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with a proposed effective date of November 1, 1998.

National Fuel states that this filing is being made in compliance with the Commission's Order issued on February 11, 1999, in the above-referenced docket [86 FERC ¶ 61,143 (1999)], which directed National Fuel to remove the rate component adjustment proposal from its *pro forma* service agreements. National Fuel further indicates that a recurring typographical error was also corrected.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 99–7699 Filed 3–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–265–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

March 24, 1999.

Take notice that on March 19, 1999, Northern Natural Gas Company (Northern), 11 South 103rd Street, Omaha, Nebraska, 68103–0330, filed a prior notice request with the Commission in Docket No. CP99–265–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon 13 small volume measuring stations located in Iowa, Kansas, Minnesota, and Nebraska, under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection. This filing may be viewed on the web at http:www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Northern proposes to abandon 13 small volume measuring stations based on requests from 13 end-users for the removal of the measuring stations from their property. Northern states that the measuring stations are located in Carrol County, Iowa; Ottawa County, Kansas; Freeborn, Le Sueur, Pine, Scott, and Sherburn Counties, Minnesota; and Gage, Jefferson, and Johnson Counties, Nebraska. Northern further states that it would spend $2,000 to remove these 13 farm taps from its customers' property.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (13 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7747 Filed 3–29–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMEN
AGENCY

[ERL–6317–1]

Proposed Set
Clean Air Act

AGENCY: Envi
Agency (EPA)
ACTION: Notic
request for pu

SUMMARY: In a
113(g) of the
(the "Act"), th
proposed cons
United States
Agency ("EPA
States District
Columbia on
lawsuit filed b
section 304(a)
7604(a) (*Sierr*
No. 98–1610).
EPA's alleged
regulations fo
categories and
of hazardous
pursuant to se
U.S.C. 7412(c
concerns EPA
promulgate re
1997, for spec
subcategories
air pollutants
regulation by
112(e)(3) of th
7412(e)(3). Th
provides that
regulations u
specified cate
by specified c

For a perio
following the
notice, you m
comments rel
consent decre
as a party to t
EPA or the De
withhold or w
proposed con
comments dis
circumstance
consent is ina
inadequate, o
requirements
the Departme
following the
consent is ina
consent decre
for issuing ce
section 112(d

EPA lodge
consent decr
United States
District of Co
You may also
Cochran, Air

ENVIRONMENTAL PROTECTION AGENCY

[ERL–6317–1]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, (the "Act"), this is a notice of a proposed consent decree, which the United States Environmental Protection Agency ("EPA") lodged with the United States District Court for the District of Columbia on March 12, 1999, in a lawsuit filed by the Sierra Club under section 304(a) of the Act, 42 U.S.C. 7604(a) (*Sierra Club* v. *Browner*, Civ. No. 98–1610). This lawsuit concerns EPA's alleged failure to promulgate regulations for fifty percent of the categories and subcategories of sources of hazardous air pollutants listed pursuant to section 112(c) of the Act, 42 U.S.C. 7412(c). The lawsuit also concerns EPA's alleged failure to promulgate regulations by November 15, 1997, for specific categories and subcategories of sources of hazardous air pollutants that EPA designated for regulation by that date under section 112(e)(3) of the Act, 42 U.S.C. 7412(e)(3). The proposed consent decree provides that EPA shall promulgate regulations under section 112(d) for specified categories and subcategories by specified deadlines..

For a period of thirty (30) days following the date of publication of this notice, you may submit written comments relating to the proposed consent decree if you were not named as a party to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will establish deadlines for issuing certain regulations under section 112(d) of the Act.

EPA lodged a copy of the proposed consent decree with the Clerk of the United States District Court for the District of Columbia on March 12, 1999. You may also obtain a copy from Phyllis Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260–7606. Send written comments to Diane McConkey at the address above. Comments must arrive no later than April 29, 1999.

Lisa K. Friedman,

Acting General Counsel.

[FR Doc. 99–7774 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6316–9]

Clean Air Act Advisory Committee; Mobile Sources Technical Review Subcommittee; Notification of Public Advisory Subcommittee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet on: Wednesday, April 14, 1999 from 9:30 a.m. to 3:00 p.m. Eastern Standard Time (registration at 8:30 a.m.) at: Holiday Inn—Eisenhower, 2460 Eisenhower Avenue, Alexandria, VA 22314–4695, Ph: (703) 960–3400; Fax: (703) 329–0953.

This is an open meeting and seating is on a first-come basis. During this meeting, the subcommittee will hear progress reports from its workgroups, updates and announcements of general interest such as the status of the Tier 2 rulemaking, the Clean Air Act Advisory Committee, the National Research Council's study of the MOBILE model, and discuss other current issues in the mobile source program, including a presentation on environmental justice.

Members of the public requesting further technical information should contact:

Mr. Philip A. Lorang, Designated Federal Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4374, Fax: 734/214–4821, email: lorang.phil@epa.gov

or

Mr. John T. White, Alternate Designated Federal Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4353, Fax: 734/214–4821, email: white.johnt@epa.gov

Background information can also be obtained by visiting the subcommittee's website at: http://transaq.ce.gatech.edu/epatac

Subcommittee members and interested parties requesting administrative information should contact: Ms. Jennifer Criss, FACA Management Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, FACA Help Line: 734/214–4518, Ph: 734/214–4029, Fax: 734/214–4821, email: criss.jennifer@epa.gov

Written comments of any length (with at least 20 copies provided) should be sent to the subcommitte no later than January 6, 1999.

The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Margo T. Oge,

Director, Office of Mobile Sources.

[FR Doc. 99–7775 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6316–8]

Notice of Public Meeting on Drinking Water Issues

Notice is hereby given that the U.S. Environmental Protection Agency (EPA) is holding a meeting on April 28–29, 1999, at Resolve, 1255 23rd St., NW, Suite 275, Washington, DC 20037, for the purpose of exchanging technical information on issues related to the use of ultraviolet (UV) radiation for disinfection of drinking water. The meeting will start at 8:30 a.m. on Wednesday, April 28 and will adjourn on Thursday, April 29 at 4:00 p.m. The meeting will provide an evaluation of the current status of knowledge and prioritize additional research needs related to selected aspects of UV disinfection of drinking water. The public is invited to attend the meeting as observers. Seating is very limited so advance registration is required.

For additional information about the meeting and to register, please contact Dan Schmelling of EPA's Office of Ground Water and Drinking Water at (202) 260–1439 or by e-mail at schmelling.dan@epamail.epa.gov.

Dated: March 23, 1999.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–7776 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6317–4]

Effluent Guidelines Plan Update and Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA announces several recent developments in the effluent guidelines program. The Agency is developing a proposed rule for the Construction and Development industry and announces a public meeting to discuss the project. EPA also initiated a preliminary study of the Aquaculture industry. Finally, EPA announces a revised deadline for the Iron and Steel Manufacturing rule.

DATES: The public meeting for the Construction and Development rulemaking will be held on April 20, 1999, from 9:00 a.m. to 12:00 noon.

ADDRESSES: The meeting will take place at the Voice of America Auditorium, Wilbur J. Cohen Federal Building, 300 block of C Street, SW (between 3rd and 4th Streets), Washington, DC. See **SUPPLEMENTARY INFORMATION** for details on parking and transit. Written inquiries may be sent to: Engineering and Analysis Division (4303), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For the Construction and Development rulemaking, contact Eric Strassler, telephone 202–260–7150, E-mail: strassler.eric@epa.gov. For the Aquaculture preliminary study, contact Michael Clipper, telephone 202–260–1278, E-mail: clipper.mike@epa.gov. For the Iron and Steel rulemaking, contact George Jett, telephone 202–260–7151, E-mail: jett.george@epa.gov. Fact sheets on these projects are available on EPA's website at http://www.epa.gov/OST/guide.

SUPPLEMENTARY INFORMATION: EPA published its 1998 Effluent Guidelines Plan on September 4, 1998 (63 FR 47285). The Plan described the Effluent Guidelines Program and listed regulations that the Agency was developing or intended to develop. As mentioned in the Plan, several of these regulation projects are required by a Consent Decree in *Natural Resources Defense Council et al* v. *Browner (D.D.C. 89–2980, January 31, 1992, as modified). Table 1 in the Plan listed deadlines for the rules, with a footnote explaining that EPA was discussing extensions to some deadlines with the plaintiffs. See 63 FR 47286.*

By court order dated November 18, 1998, the deadlines set forth in the Consent Decree for the Iron and Steel rule have been extended, to the dates noted below. The Agency has begun work on a new rulemaking project for the Construction and Development industry. The affected projects are listed in the following table.

MODIFICATIONS TO EFFLUENT GUIDELINES DEADLINES

Category	Proposal	Final action
Iron and Steel Manufacturing	10/00	4/02
Construction and Development	*12/00	*2/02

*EPA intends to pursue extensions to these deadlines.

Construction and Development Rule

EPA's new rulemaking project for the Construction and Development industry follows the Agency's publication of a *Preliminary Data Summary on Urban Storm Water Best Management Practices.* (Publication number pending. The report will be available on the EPA website at http://www.epa.gov/OST/stormwater). The regulations would apply to storm water discharges associated with construction activities, specifically for new development, as well as to those associated with re-development activities. The regulations would address storm water runoff from construction sites during the active phase of construction, as well as design considerations to minimize the adverse effects of post-construction runoff. Entities potentially affected by this rulemaking would include land developers, home builders, builders of commercial and industrial property, and other private and public sector construction site owners and operators.

EPA chose to begin development of effluent guidelines for the construction and development industry to support applicable state and local requirements for erosion and sediment controls and storm water best management practices (BMPs). State and local requirements vary widely, as does the performance of BMPs used. Sediment loadings from construction site discharges can be orders of magnitude higher than those associated with discharges from undisturbed areas. In addition, construction site runoff can contribute high loadings of nutrients and metals to receiving streams. Besides contributing pollutants, the increased runoff volumes and flow rates following development can cause significant degradation of receiving stream quality. Adverse impacts include: stream bed scouring and habitat degradation; shoreline erosion and stream bank widening; loss of fish populations and loss of sensitive aquatic species; increased frequency of downstream flooding; and aesthetic degradation.

EPA intends to evaluate the inclusion of design and maintenance criteria as minimum requirements for a variety of BMPs which are used at construction sites to prevent or mitigate the impacts of storm water discharges on surface water quality. Current requirements for construction site BMPs vary around the United States, ranging from local erosion and sediment control programs with detailed site plan requirements and BMP specifications, to communities with few or no requirements.

EPA also intends to develop effectiveness and applicability criteria for BMPs that are used to manage post-construction discharges. By incorporating more water-quality sensitive site design aspects during the planning phase of projects, the adverse impacts of post-construction discharges can be minimized substantially.

BMPs used during construction and development activities include temporary control measures, permanent control measures and low-impact land-use practices. Temporary control measures include sediment trapping devices (such as silt fences, vegetated filter strips and sediment basins) and erosion control devices (such as mulching, temporary re-vegetation, and application of erosion control mats and blankets). These measures are used primarily to prevent loss of soil during the active phase of construction. Permanent measures remain in place to manage runoff after completion of construction activities, and may include structural BMPs, such as extended detention wet ponds, constructed wetland systems, and sand filters. Low-impact development practices can be incorporated into a site design during the planning phase of the project, and may include restrictions on the amounts of impervious surfaces created, preservation of stream buffers and sensitive areas (such as natural wetlands and riparian corridors), restrictions on the disturbance of soil and vegetation, and maintenance of the natural infiltrative capacity of an area.

EPA intends to consider the merits and performance of all appropriate management measures that can be used to reduce the adverse impacts of storm water discharges from construction and development activities. The Agency does not envision requirements for use of particular BMPs at specific sites, but plans to assist builders in BMP selection by publishing data on the performance

to be expected of various BMP types. EPA hopes to build on the successes of some of the effective state and local programs currently in place around the country, and to establish nation-wide criteria to encourage improved BMP selection, design, implementation and maintenance. The effluent guidelines would also enhance the "menu" of municipal BMPs (associated with the proposed construction, as well as development and redevelopment "minimum measures") scheduled for release by the Agency under the NPDES "Phase II" storm water rule in 2000.

Aquaculture Preliminary Study

EPA conducts preliminary studies to evaluate existing information on wastewater discharges from industrial categories. The Agency has begun a study of Aquaculture, also known as fish farming, in response to comments received during the preparation of the 1998 Effluent Guidelines Plan.

EPA will summarize available information on aquaculture wastewater characterization; waste collection, storage, and treatment systems; and management practices. The Agency will include information on industry demographics, trends and economics. EPA will also examine environmental impacts that are associated with wastewater from aquaculture operations and existing case studies of the costs and benefits of controls to mitigate these impacts. This information may be used to inform future decisions on the need to regulate wastewater discharges from this industry.

Stakeholder Involvement in Effluent Guidelines Projects

EPA relies extensively on the participation of stakeholders as it develops effluent guidelines. The Agency will be identifying its information needs for the Construction and Development rule and the Aquaculture study, and will initiate a data sharing process that will actively involve interested participants from industry, citizen groups, state and local governments, other Federal agencies and researchers.

EPA will conduct a public meeting on the Construction and Development rulemaking project on April 20, 1999, from 9:00 a.m. to 12:00 noon, at the Voice of America Auditorium, Wilbur J. Cohen Federal Building, 300 block of C Street, SW (between 3rd and 4th Streets), Washington, DC. The closest Metro subway station is Federal Center, SW (2 blocks from the Auditorium). Limited public parking is available. Public garages are located at 301 4th St., SW; Virginia Ave. between 3rd and 4th St., SW; and 6th St. at C St., S.W. Agency staff will provide background on the effluent guidelines development process and identify data needs. EPA will answer questions and all stakeholders can participate in an informal discussion as time allows. This meeting is not a public hearing and the Agency will not be accepting formal testimony.

EPA welcomes suggestions on the development of effluent guidelines and preliminary studies. Internet web pages will be provided to explain the projects and distribute technical documents for review and comment. These web pages will be available through the Effluent Guidelines home page at http://www.epa.gov/OST/guide.

Dated: March 23, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–7772 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6317–2]

The National Advisory Council for Environmental Policy and Technology, (NACEPT) New Standing Committee on Sectors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Public Advisory for the NACEPT Standing Committee on Sectors Meeting; Open Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Standing Committee on Sectors will meet on the date and time described below. The meeting is open to the public. Seating at the meeting will be a first-come basis and limited time will be provided for public comment. For further information concerning this meeting, please contact the individual listed with the announcement below.

NACEPT Standing Committee on Sectors: April 15—April 16, 1999

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the NACEPT Standing Committee on Sectors on Thursday, April 15, 1999 from 9:00 a.m. EST to 5:30 p.m. EST on Friday, April 16, 1999 from 8:30 a.m. to 4:00 p.m. EST. The agenda for the meeting includes an orientation to NACEPT, review of the accomplishments of the Common Sense Initiative, discussion of the Committee's Charge, and discussion of the Sector Based Environmental Protection Action Plan for fiscal year 1999 and 2000. A formal Agenda will be available at the meeting.

The meeting will be held at the Hotel Washington located at 515–15th Street, NW, Washington, DC 20004 (Pennsylvania Avenue and 15th Street). The telephone number is 202-638–5900.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Pub. L. 92463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues. NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies that the Agency is developing.

In follow-up to completion of work by EPA's Common Sense Initiative (CSI) Council, the Administrator has asked NACEPT to create a new Standing Committee on Sectors. This will provide a continuing Federal Advisory Committee forum from which the Agency can continue to receive valuable multi-stakeholder advise and recommendations on sector approaches.

Based on the lessons learned in CSI and many other sector based programs, the Agency has developed a Sector Based Environmental Protection Action Plan to reinforce and expand sector based approaches to achieving environmental results. The Standing Committee on Sectors will, through NACEPT (the Council): (1) Continue to support the on-going CSI work, (2) support the implementation of the Action Plan, as noted above, and (3) serve as a vehicle to get stakeholder reaction and input on sector based issues in a timely way.

For further information concerning this NACEPT Standing Committee on Sectors meeting, contact Kathleen Bailey, Designated Federal Officer, on (202) 260–7417, or E-mail: bailey.kathleen@epa.gov.

Inspection of Subcommittee Documents

Documents relating to the above topics will be publicly available at the meeting. NACEPT Standing Committee on Sectors Subcommittee information can also be accessed electronically on our web site at http.//www.epa.gov/sectors.

Kathleen Bailey,

Designated Federal Officer.

[FR Doc. 99–7773 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6317–3]

Science Advisory Board; Notice of Public Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that two Subcommittees of the Advisory Council on Clean Air Compliance Analysis of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time and all meetings are open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating EPA Office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB Office. Details on availability are noted below.

Background

The Air Quality Models Subcommittee (AQMS) and the Health and Ecological Effects Subcommittee (HEES) (both part of the Science Advisory Board's (SAB) Advisory Council on Clean Air Compliance Analysis), will each hold public meetings on the dates and times described below. For further information concerning the specific meetings described in this section, please contact the individuals listed below. These public meetings are a follow-up to earlier Council, AQMS and HEES public meetings held on January 22 & 23, 1998 (AQMS), January 29 & 30, 1998 (HEES) and February 5 & 6, 1998 (Council) (See 62 FR 67363, Wednesday, December 24, 1997) pertaining to the ongoing review of the 1990 Clean Air Act Amendments (CAAA) Section 812 Prospective Study of Costs and Benefits. (See also earlier meetings pertaining to the Prospective Study as announced in 62 FR 10045, Wednesday, March 5, 1997; 62 FR 19320, April 21, 1997; and 62 FR 32605, June 16, 1997).

Consistent with the apparent Congressional intent behind Section 812 of the 1990 CAAA, and with the Environmental Protection Agency's (EPA's) judgments regarding the potential utility of a comprehensive economic assessment of the Clean Air Act, the four fundamental goals of the first Prospective Study to be submitted to Congress are stated succinctly as follows:

(a) To facilitate greater understanding of the value of America's overall investment in clean air, particularly the value of the additional requirements established by the 1990-CAAA (CAAA–90);

(b) To facilitate greater understanding of where future investments in air pollution control might yield the greatest reduction in adverse human health and/or environmental effects for the resources expended;

(c) To help evaluate the significance of potential new and emerging information pertaining to the benefits and costs of air pollution control;

(d) To help identify areas of economic and scientific research where additional effort might improve the comprehensiveness of and/or decrease the uncertainty associated with future estimates of the benefits and costs of air pollution control.

Pursuant to the above four goals, the Agency has embarked on and engaged the Council and its subcommittees in review of the Prospective Study activities. These activities involve a number of component studies, such as analytical design, scenario development, emissions profiles, air quality modeling, physical effects modeling, direct cost estimation, sector studies, air toxics analysis, economic valuation, comparison of benefits and costs, and report generation. Working drafts of relevant portions of these components, along with focused charges have been presented to the Council and its two subcommittees, the Air Quality Models Subcommittee (AQMS) and the Health and Ecological Effects Subcommittee (HEES). For the most recent reviews, the Council, AQMS and HEES prepared the following Advisories: (a) Prospective Study I: Advisory by the Air Quality Models Subcommittee on the Air Quality Models and Emissions Estimates Initial Studies, EPA–SAB–COUNCIL–ADV–98–02, September 9, 1998; (b) Advisory on the CAAA of 1990 Section 812 Prospective Study: Overview of Air Quality and Emissions Estimates Modeling, Health and Ecological Valuation Issues Initial Studies, EPA–SAB–COUNCIL–ADV–98–003, September 9, 1998; and (c) An SAB Advisory on the Health and Ecological Effects Initial Studies of the Section 812 Prospective Study: Report to Congress, EPA–SAB–COUNCIL–ADV–99–005, February 10, 1999. (See below for how to obtain copies of these reports from the SAB).

Upcoming meetings are described below. Other meetings, including a meeting of the full Council are in the planning stage and will take place this spring or summer. These meetings will be announced in a subsequent **Federal Register** Notice.

The draft document that presents, compiles and documents the results and methodologies used for the first draft of the Prospective Study: Report to Congress, including the Appendices to the draft, which are the subject of these reviews will be available upon request from the originating EPA office (See below for how to obtain copies from the EPA Program Office).

1. Health and Ecological Effects Subcommittee (HEES)

The Health and Ecological Effects Subcommittee (HEES) of the Advisory Council on Clean Air Compliance Analysis will review the draft Prospective Study: Report to Congress, with a focus on the health and ecological aspects of the Clean Air Act Amendments (CAAA) Section 812 Prospective Study data, emissions modeling assumptions, methodology, results and documentation of human health effects, ecological effects, and assessment of impact on stratospheric ozone. Specific review materials include: Draft Appendix D: Human Health Effects; Draft Appendix E: Ecological Effects; and Draft Appendix G: Stratospheric Ozone Assessment. The HEES will meet on Tuesday, April 20, 1999, from 9:30 am to 5:00 pm and Wednesday, April 21, 1999 from 9:00 am to 4:00 pm. The meeting will take place in the Latham Hotel, 3000 M Street, N.W., Washington, DC 20007; tel. (202) 726–5000.

The draft charge to the HEES is as follows:

It is respectfully requested that the Council—and its subsidiary HEES—review the forthcoming materials and provide advice to the Agency pursuant to the following general charge questions, consistent with the review responsibilities of the Council as defined in section 812 of the CAAA90:1.

(a) Are the input data used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(b) Are the models, and the methodologies they employ, used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(c) If the answers to either of the two questions above is negative, what specific alternative assumptions, data or methodologies does the Council recommend the Agency consider using for the first prospective analysis?

While the above charge defines the general scope of the advice requested from the Council and the HEES, a number of specific questions are presented below for which the Agency is particularly interested in obtaining

advice from the Council and HEES. In addition, further specific questions and issues may be presented for consideration to the Council and HEES during the discussions scheduled to take place on April 20–21, 1999.

(d) In response to the emergence of new information and analysis EPA has recently re-evaluated the literature and developed a new approach to estimating reductions in mortality resulting from decreased ozone concentrations. EPA proposes to use a Monte-Carlo based meta-analysis of the literature relating ozone concentrations and mortality, and requests comment on the following four issues:

(1) *Soundness of Approach*—Reviewers should address the suitability of the study authors' meta-analysis technique, and evaluate the method against other possible meta-analysis techniques.

(2) *Study Selection Criteria*—Reviewers should consider the appropriateness and comprehensiveness of the nine study selection criteria used in the meta-analysis, and/or suggest alternative or additional criteria where appropriate. In particular, EPA requests comments on the use of European studies to characterize US concentration-response functions.

(3) *Treatment of Uncertainty*—Reviewers should specifically address any concerns or problems associated with the authors' treatment of uncertainty surrounding reported ozone regression coefficients.

(4) *Interpretation of Results*—EPA seeks guidance on interpreting the meta-analysis results relative to the Pope PM study; i.e., the appropriateness of using these results to estimate the share of mortality attributable to ozone exposure, versus mortality incremental to the results of the Pope study.

(e) HEES encouraged EPA to evaluate a wide range of threshold assumptions in the PM mortality analysis. In response to HEES' comments on this issue, EPA performed a sensitivity analysis of thresholds below and above the annual PM2.5 standard of 15 $\mu g/m^3$. EPA requests guidance from the HEES on the following points:

(1) Clarification of the HEES analytic basis for rejecting use of the lowest observed effects level as estimated in the underlying health effects literature;

(2) Clarification of the analytic basis for any threshold greater than the 15 $\mu g/m^3$ level;

(3) Suggestions for an analytically defensible approach to developing concentration-response functions that correctly adjust for the threshold assumption. In particular, EPA requests advice on whether introducing a threshold implies changes to the functional form and slope of the C–R function that is derived from the underlying studies.

(f) Regarding assessment of the benefits of reductions in air toxics, EPA requests guidance and clarification from the HEES as to how in-depth review of high-risk HAPs can be used to generate estimates of avoided health impacts due to reductions in HAP exposure, given the scarcity of HAP monitoring data and HEES significant concerns about the reliability of HAP concentration estimates generated by the ASPEN model.

(g) In response to HEES recommendations, EPA is developing a qualitative characterization of regional variation in C–R functions. EPA requests guidance on specific studies that document the extent of regional variation.

(h) EPA requests HEES review of the proposed method to estimate changes in health risks among Canadians and Mexicans that would result from CAAA controls. EPA requests HEES comments on the validity and defensibility of the assumptions and methods proposed for estimating these effects and on the suitability of the approach.

(i) In response to HEES suggestions, EPA plans to: incorporate the revised Pope data; reduce PM-related neonatal mortality to an illustrative calculation; incorporate the most current research on CO-related health effects, chronic bronchitis incidence, and ozone-related emergency room visits for asthma; develop a summary table of uncertainties; and present non-monetized health benefit results relative to national incidence rates. EPA requests HEES review of these changes in the review material submitted to ensure they adequately reflect concerns expressed in previous HEES meetings.

(j) EPA requests SAB review of our ecological assessment framework. In particular, EPA has incorporated in the 812 report extensive discussion of: major stressors from air emissions subject to control under the CAAA and a broad range of possible impacts on ecosystem structure and function. EPA also requests review of our clarification of the selection process for identifying those elements of ecological impacts that we find suitable for quantification and monetization, based on the level of understanding of the effect and the ability to develop a defensible causal link between changes in air pollution emissions and specific ecological impacts.

(k) EPA requests review of other modifications incorporated in the ecological evaluation approach, including the following:

(1) Qualitative characterization of interaction between air toxics and acidification in aquatic systems;

(2) Quantitative accounting for lag times in the acidification analysis and qualitative characterization in other parts of the analysis;

(3) Quantitative consideration of nitrogen saturation of terrestrial ecosystems;

(4) Use of the PnET II model in place of the deSteiguer study for estimating the impacts of ozone exposure on commercial forest stands;

(5) The criteria for selection of case study estuaries and the treatment of case study results in the analysis of the impacts of nitrogen deposition;

(6) The rationale for considering the recreational fishing impacts of nitrogen deposition in a qualitative manner only.

2. Air Quality Models Subcommittee (AQMS)

The Air Quality Models Subcommittee (AQMS) of the Advisory Council on Clean Air Compliance Analysis will meet Tuesday, May 4, 1999, from 9:00 am to 5:00 pm and Wednesday, May 5, 1999 from 9:00 am to 4:00 pm. The meeting will take place in the Science Advisory Board Conference Room M3709, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

In this meeting, the AQMS will review the draft Clean Air Act Amendments (CAAA) Section 812 Prospective Study: Report to Congress with a focus on the data, emissions modeling assumptions, methodology, results and documentation. Specific review materials include: Draft Appendix A: Scenario Development and Emissions Modeling; Draft Appendix C: Air Quality Modeling; Memorandum "Use of a Homology Mapping Technique to Estimate Ozone and Particulate Matter; Concentrations for Unmonitored Areas," from Sharon G. Douglas, Robert K. Iwamiya, and Hans P. Deuel, dated: 26 March 1999; Excerpt from Draft Human Health Effects Appendix D describing VNA method. In previous public meetings of the Council (See 61 FR 54196, Thursday, October 17, 1996, and 62 FR 10045, Wednesday, March 5, 1997 for further information), the Council advised the Agency staff that the Subcommittee should review the emissions modeling information before proceeding to conduct any model runs. The May 5, 1997 public teleconference (See 62 FR 19320, Monday, April 21, 1997) of the AQMS was conducted for this purpose and produced a letter report (EPA–SAB–

COUNCIL–LTR–97–012, dated September 9, 1997, see below for ordering information).

The charge to the AQMS is as follows:

It is respectfully requested that the Council —and its subsidiary AQMS— review the forthcoming materials and provide advice to the Agency pursuant to the following general charge questions, consistent with the review responsibilities of the Council as defined in section 812 of the CAAA90:1

(a) Are the input data used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(b) Are the models, and the methodologies they employ, used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(c) If the answers to either of the two questions above is negative, what specific alternative assumptions, data or methodologies does the Council recommend the Agency consider using for the first prospective analysis?

While the above charge defines the general scope of the advice requested from the Council and the AQMS, several specific questions are presented below for which the Agency is particularly interested in obtaining advice from the Council and AQMS. In addition, further specific questions and issues may be presented for consideration to the Council and AQMS during the discussions scheduled to take place on May 4–5, 1999.

(d) Do the revisions made to the particulate matter emissions inventories—as described in the draft Report to Congress Emissions Appendix—adequately address the concerns raised by the Council and the AQMS during the January–February 1998 review meetings? If not, are there further adjustments which the Council and AQMS would recommend be made in future assessments; and do residual potential errors in the inventories warrant—in the judgment of the Council and AQMS—inclusion in EPA's pending report specific caveats regarding the magnitude and direction of potential biases which might be introduced through reliance on these inventories?

(e) The Project Team has used an expanded array of air quality model-derived adjustment factors to estimate changes relative to baseline air quality concentrations. Specifically, rather than a single adjustment factor applied in the Retrospective Study to estimate concentration changes across the entire range of initial ambient concentrations for a given pollutant, ten separate adjustment factors were calculated and applied based on decile midpoints generated by the relevant air quality model. Do the Council and AQMS consider this methodological change to reflect an improvement in the validity and reliability of projected concentration changes relative to the previous, single adjustment factor approach?

(f) The Project Team has used an alternative spatial interpolation method to estimate baseline air quality concentrations in locations which do not have adequate local monitoring data. In the Retrospective Study, complete representation of initial air quality conditions in the 48 contiguous states for each pollutant was obtained by simple spatial interpolation to each unmonitored or undermonitored location from the closest relevant, sufficiently operated monitor. Based on advice from the AQMS and Council pursuant to the January–February 1998 review meetings, the Project Team sought to develop an enhanced methodology based on a "space-time continuum" concept described by the AQMS. The "homology mapping technique" subsequently developed by the Project Team proved promising in initial validation tests; however the Project Team concluded that additional development and validation work should be completed before using the tool in the context of the section 812 studies. As an alternative, an enhanced version of the traditional spatial interpolation method was developed which relies on inverse distance-weighted interpolation from multiple surrounding monitors. This technique is referred to as "Voronoi Neighbor Averaging (VNA)". The Project Team requests advice from the Council and AQMS on the following two sub-questions:

(1) Do the Council and AQMS consider the homology mapping technique a reasonable adaptation of the space-time continuum concept previously advanced? If so, what specific additional development, testing, and validation steps do the Council and AQMS recommend be undertaken by the Project Team to facilitate potential use of this technique in future assessments?

(2) Do the Council and AQMS consider the change to the VNA approach to reflect an improvement in the validity and reliability of projected initial air quality concentration estimates relative to the previous, single monitor spatial interpolation method?

3. Air Quality Models Subcommittee: (AQMS)—Teleconference

The Air Quality Models Subcommittee (AQMS) of the Council will conduct a public teleconference on Thursday, June 3, 1999, from 11:00 am to 1:00 pm, Eastern Time, to review status of revisions to the draft Prospective Study: Report to Congress, as well as to conduct edits to its own draft report in review of the prospective study at the previously scheduled meeting on May 4 and 5, 1999 (see above). Please contact one of the SAB Staff contacts listed below to see if these drafts are available to the public at that time. This Teleconference will be hosted out of the Science Advisory Board Conference Room (Room M3709), U.S. Environmental Protection Agency, Washington, DC 20460.

FOR FURTHER INFORMATION:

(a) *Contacting Program Office Staff and Obtaining Review Materials*—To obtain copies of the draft documents pertaining to the CAA Section 812 Prospective Study, please contact Ms. Catrice Jefferson, Office Manager, Office of Policy Analysis and Review (OPAR), (Mail Code 6103), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Tel. (202) 260–5580; FAX (202) 260–9766, or via e-mail at <jefferson.catrice@epa.gov>. To discuss technical aspects of the draft document pertaining to the CAAA–90 Section 812 Prospective Study: Report to Congress, please contact Mr. James DeMocker, Office of Policy Analysis and Review (OPAR) (Mail Code 6103), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Tel. (202) 260–8980; FAX (202) 260–9766, or via e-mail at: <democker.jim@epa.gov>.

(b) *Contacting SAB Staff and Obtaining Meeting Information*—To obtain copies of the meeting agendas or rosters of participants, please contact Ms. Diana L. Pozun, Management Assistant to the Council, AQMS and HEES, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington, DC 20460; at Tel. (202) 260–8432; FAX (202) 260–7118; or via e-mail: <pozun.diana@epa.gov>. To discuss technical or logistical aspects of the AQMS and HEES subcommittee review process or to submit written comments, please contact Dr. K. Jack Kooyoomjian (Tel. (202) 260–2560; or via e-mail: <kooyoomjian.jack@epa.gov>), and/or Dr. Angela Nugent (Tel. (202) 260–4126; or via e-mail: <nugent.angela@epa.gov>), Designated Federal Officers to the Council, AQMS and HEES, Science Advisory Board

(1400), U.S. Environmental Protection Agency, Washington, DC 20460, FAX (202) 260–7118. To obtain information concerning the teleconference and how to participate in the SAB Conference Room or to call in, please contact Ms. Pozun.

(c) *Providing Public Comments to the SAB*—To request time to provide brief public comments at the meetings, please contact Ms. Diana L. Pozun *in writing* by mail, FAX or E-Mail at the addresses given above no later than one week prior to each of the meetings. Please be sure to specify which meeting(s) you wish to attend and provide comments, a summary of the issue you intend to present, your name and address (incl. phone, fax and e-mail) and the organization (if any) you will represent. Written comments should be submitted to Dr. Kooyoomjian at the above address prior to the meeting date.

(d) *Obtaining Copies of SAB Reports*—Copies of SAB prepared *final* reports mentioned in this **Federal Register** Notice may be obtained immediately from the SAB Home Page (www.epa.gov/sab)or by mail/fax from the SAB's Committee Evaluation and Support Staff at Tel. (202) 260–4126, or FAX (202) 260–1889. Please provide the SAB report number when making your request. *Draft* reports in progress can be obtained from Ms. Pozun once the Committee or Subcommittee Chair has released the draft.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board (SAB) expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, opportunities for oral comment at face-to-face meetings will be usually limited to ten minutes per speaker. At teleconference meetings, speakers will be usually limited to three minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting), may be mailed to the committees or its respective subcommittees prior to its meeting; comments received too close to the meeting date will normally be provided to the Council and its subcommittees at the meeting. Written comments may be provided up until the time of the meeting.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 24, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–7771 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 22, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 29, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0020.

Title: Application for Ground Station Authorization in the Aviation Services.

Form Number: FCC Form 406.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 1,600.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,600 hours.

Total Annual Cost: $126,880.

Needs and Uses: FCC rules require that applicants file the FCC Form 406 to apply for a new, modification, renewal with modification or for an assignment of authorization for a Ground station. FCC Form 406 also allows for a purpose of renewal for those licenses who did not receive the FCC's computer-generated renewal application (FCC Form 452R). This collection has been revised to delete the fee payment blocks (i.e., Fee Type Code, FCC Multiple, and Fee Due). The FCC Form 159, Fee Remittance Advice, is required with any payment to the FCC and the FCC Form 159 duplicates this information. A block has been added to the form for the applicant's e-mail address.

The information will be used by the Commission to determine whether the applicant is qualified to be licensed. Without such information the Commission could not determine whether to issue the licenses to the applicants and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. It will also be used to update the database and provide for proper use of the frequency spectrum, as well as for Compliance personnel in conjunction with field engineers for enforcement and interference resolution purposes.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7765 Filed 3–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee; Notice of Public Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public

Law 92–463, as amended, this notice advises interested persons of a meeting of the Network Reliability and Interoperability Council ("Council"), which will be held at the Federal Communications Commission in Washington, DC.

DATES: April 14, 1999 at 1:30 p.m.–3:30 p.m.

ADDRESSES: Federal Communications Commission, Commission Meeting Room, Room TW–C305, 445 12th St. SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marsha MacBride, Executive Director of the FCC Year 2000 Task Force and Designated Federal Officer of the Council, 445 12th St. SW, Washington, DC 20554; telephone (202) 418–2379, e-mail year2000@fcc.gov.

Press Contact, Audrey Spivak, Office of Public Affairs, 202–418–0512, aspivak@fcc.gov.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to explore and recommend measures that would enhance network reliability. One of the current issues before the Council is the risk that the Year 2000 date conversion problem presents for the telecommunications networks.

The agenda for the meeting is as follows: The Council will review progress reports of Focus Groups 1 and 2 which will give refined recommendations on and results from testing of the Year 2000 date conversion problem and the telecommunications networks. Focus Group 3 will provide a status report. Finally, NRSC will provide its quarterly report.

Information concerning the activities of NRIC can be reviewed at the Council's website <www.nric.org>. Material relevant to the April 14, 1999 meeting will be posted there.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. A live RealAudio feed will be available over the Internet; information on how to tune in can be found at the Commission's website <www.fcc.gov>.

The public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–7797 Filed 3–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011421–014
Title: East Coast of South America Discussion Agreement
Parties:
The Inter-American Freight Conference and its member lines:
Crowley American Transport, Inc.
Ivaran Lines Limited d/b/a as Ivaran Lines
Libra Navegacao S.A.
Alianca Transportes Maritimos SA
Columbus Line
Mexican Line Limited
APL Co. Pte Ltd.
P&O Nedlloyd B.V.
Pan American Independent Line
Digregoria de Navegacao
Zim Israel Navigation Co. Ltd.
DSR-Senator Line
A.P. Moller-Maersk Line
CSAV/Braztrans Joint Service
Sea-Land Service, Inc.
Euroatlantic Container Line S.A.
Mediterranean Shipping Co. S.A.
Amazon Line Ltd.
Synopsis: The proposed modification would authorize two or more of the parties, effective May 1, 1999, to jointly enter into service contracts and to establish voluntary service contract guidelines. The modification also authorizes the parties to charter space to and from members of the Inter-American Freight Conference on an ad hoc basis and to discuss the rationalization of vessels and other matters.

Agreement No.: 202–011528–009
Title: Japan/United States Eastbound Freight Conference
Parties:
American President Lines, Ltd.
Hapag-Lloyd Container Line GmbH
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Wilhelmsen Lines AS
Synopsis: The proposed agreement modification reduces the notice period for independent action from ten calendar days to five calendar days, revises the conference's service contract provisions to allow for joint and individual contracting, and permits the parties to establish voluntary guidelines regarding to their joint and individual service contracts.

Agreement No.: 217–011658
Title: Delmas/Wilhelmsen Slot Charter Agreement
Parties:
Delmas America Africa Line
Wilhelmsen Lines AS
Synopsis: The proposed Agreement authorizes the parties to charter or make space and slots available to and from each other in the trade between ports on the Atlantic and Gulf Coasts of the United States, and inland and coastal points served via those ports on the one hand, and ports in Africa with the range between, and including Senegal and the Congo, and inland and coastal points served via those ports on the other hand. The parties have requested expedited review.

Dated: March 24, 1999.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7671 Filed 3–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 232–011401–004
Title: MLL/H–L/Lykes Space Charter and Sailing Agreement

Parties:

Mexican Lines Limited

Hapag-Lloyd Container Linie GmbH

Lykes Lines Limited

Synopsis: The proposed modification would add Lykes Lines as a party and change the name of Transportacion Maritima Mexicana S.A. de C.V. to Mexican Lines Limited. It also restates the agreement and specifies both the number of vessels to be contributed by each party and the total amount of space to be exchanged.

Agreement No.: 301–201072

Title: New Orleans—Americana Ships Group Crane Lease Agreement

Parties:

Board of Commissioners of the Port of New Orleans

Americans Ships and its affiliates

Synopsis: The proposed agreement provides for the rental of a crane and runs through December 31, 1999

Dated: March 25, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7703 Filed 3–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

International Cargo Transporters, Inc., 2550 NW. 72nd Ave., Suite #109, Miami, FL 33122, Officers: Elizabeth Armenteros, President, Lourdes Castano, Vice President.

Golden Gate Shipping, Inc. d/b/a/ The Love Box, 405 N. Oak Street, Inglewood, CA 90302, Officers: Wenceslao Villaluz, President, Isabel Villaluz, Vice President.

Dated: March 24, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7670 Filed 3–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 13, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Thomas J. Pinnick, Ulysses, Kansas; to acquire Resource One, Inc., Ulysses, Kansas, and thereby indirectly acquire Grant County Bank, Ulysses, Kansas.

Board of Governors of the Federal Reserve System, March 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7743 Filed 3–29–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 23, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. BOK Financial Corporation, and BOKF Merger Corporation Number Nine, both of Tulsa Oklahoma; to acquire 100 percent of the voting shares of Chapparal Bancshares, Inc., Richardson, Texas; Chapparal Bancshares of Delaware, Dover, Delaware; Van Alstyne Financial Corporation, Van Alstyne, Texas; and thereby indirectly acquire Canyon Creek National Bank, Richardson, Texas; and First National Bank, Van Alstyne, Texas.

In connection with this proposal, BOKF Merger Corporation has applied to become a bank holding company.

Board of Governors of the Federal Reserve System, March 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7744 Filed 3–29–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated.

The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 23, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. NBC Capital Corporation, Starkville, Mississippi; to acquire FFBS Bancorp, Inc., Columbus, Mississippi, and First Federal Bank of Savings, Columbus, Mississippi, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7742 Filed 3–29–99; 8:45 am]

BILLING CODE 6210–01–F

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Sunshine Meeting Notice

TIME AND DATE: 10 a.m., Monday, April 5, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board, (202) 452–3204.

SUPPLEMENTARY INFORMATION: You may call (202) 452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–7921 Filed 3–26–99; 3:59 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 9910089]

Zeneca Group PLC.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 1, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Steven Berstein or David Inglefield, FTC/S–2308, 601 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–2423 or (202) 326–2637.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 25, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580 Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a proposed Consent Order from Respondent Zeneca Group PLC ("Zeneca"), which is designed to remedy the anticompetitive effects resulting from the merger of Zeneca and Astra AB ("Astra"). Under the terms of the agreement, Respondent will be required, among other things, to transfer and surrender all of Zeneca's rights and assets relating to levobupivacaine, a long-acting local anesthetic, to Chiroscience Group plc ("Chiroscience"), the developer of levobupivacaine.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the proposed Consent Order and the comments received, and will decide whether it should withdraw from the proposed Consent Order or make final the proposed Order.

Pursuant to a December 9, 1998, Merger Agreement and Plan of Merger, Zeneca agreed to acquire 100 percent of all issued shares of Astra stock for approximately $30.5 billion. Upon completion of the merger, Zeneca will be renamed AstraZeneca. The proposed Complaint alleges that the merger, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the U.S. market for long-acting local anesthetics.

Long-acting local anesthetics are pharmaceutical products used to relieve pain during the course of surgical or other medical procedures by blocking pain impulses from reaching the central nervous system. Long-acting local anesthetics have an effective duration of up to six to seven hours, and allow patients to remain awake and conscious throughout the medical procedure.

The U.S. market for long-acting local anesthetics is highly concentrated, with a pre-acquisition HHI of 6,682. Astra is the leading supplier of long-acting local anesthetics in the United States and worldwide, and is one of only two companies (along with Abbott Laboratories) with Food and Drug Administration ("FDA") approval for the manufacture and sale of long-acting local anesthetics in the United States. While Zeneca does not currently sell long-acting local anesthetics, it had entered into an agreement with Chiroscience to market and assist in the development of levobupivacaine (known commercially as Chirocaine), a new long-acting local anesthetic being developed by Chiroscience. Thus, through this agreement with Chiroscience, Zeneca is an actual potential competitor in the U.S. market for long-acting local anesthetics.

The impending introduction of levobupivacaine in 1999 was expected to result in increased competition in the U.S. market for long-acting local anesthetics, leading to lower prices and potential improvements in product safety. The proposed merger of Zeneca and Astra would eliminate this significant source of new competition and leave the long-acting local anesthetic market highly concentrated for the foreseeable future.

It is unlikely that this lost competition would have been replaced by new competitors due to the substantial barriers to entry that exist in the U.S. market for long-acting local anesthetics. A new entrant into this market would need to undertake the difficult, expensive and time-consuming process of researching and developing a new product, obtaining FDA approval and gaining customer acceptance. Because of the difficulty of accomplishing these tasks, new entry into this market, other than Zeneca's and Chiroscience's imminent introduction of levobupivacaine, would not be timely, likely or sufficient to deter or counteract the anticompetitive effects resulting from the merger.

The proposed Consent Order effectively remedies the merger's anticompetitive effects in the U.S. market for long-acting local anesthetics by requiring Zeneca to transfer and surrender all of its rights and assets relating to levobupivacaine to Chiroscience, the developer of levobupivacaine, no later than ten (10) business days after the date the Commission accepts the Consent Agreement for public comment. Under the terms of the Consent Order, Zeneca is required to transfer and surrender these assets pursuant to an agreement entered into between Chiroscience and Zeneca that is defined in the Agreement Containing Consent Order as the "Chiroscience/Zeneca Agreement." The assets to be transferred to Chiroscience consist principally of intellectual property and know-how and include, among other things, all of the applicable patents, trademarks, copyrights, technical information and market research relating to lovobupivacaine. In addition, the Consent Order requires Zeneca to comply with the other provisions of the Chiroscience/Zeneca Agreement. That agreement establishes, among other things, a trasitional period during which Zeneca is required to continue carrying our certain ongoing activities relating to the commercialization of levobupivacaine, including manufacturing, regulatory, clinical, development and marketing activities. The Chiroscience/Zeneca Agreement also contains provisions that will protect the confidentiality of any informaiton provided by Chiroscience to Zeneca in the past, or during the transitional period.

In addition, the Consent Order requires Zeneca to divest its approximately 3% investment interest in Chiroscience within four (4) months of the expiration of the Agreement Amending Share Subscription Agreement, as defined in the proposed Consent Order. Pending divestiture of this investment interest, the Order prohibits Zeneca from, directly or indirectly: (i) Exercising dominion or control over, or otherwise seeking to influence, the management, direction or supervision of the business of Chiroscience; (ii) seeking or obtaining representation on the Board of Directors of Chiroscience; (iii) exercising any voting rights attached to the investment interest; (iv) seeking or obtaining access to any confidential or proprietary informaiton of Chiroscience; or (v) taking any action or failing to take any action in a manner that would be incompatible with the status of Zeneca as a passive investor in Chiroscience.

The proposed Consent Order also requires Zeneca to provide the Commission a report of compliance with the Order within thirty (30) days following the date the Order becomes final and every ninety (90) days thereafter until its has complied with the terms of the Order. Finally, the Order allows the Commission to appoint an Interim Trustee to facilitate an orderly transfer of the levobupivacaine assets and to ensure that Zeneca carries out its obligations under the Consent Agreement and the Chiroscience/Zeneca Agreement.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary

[FR Doc. 99–7752 Filed 3–29–99; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Federal Supply Service; Revisions to the General Services Administration's (GSA's) Centralized Household Goods Traffic Management Program (CHAMP)

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of proposed program changes for comment.

SUMMARY: This notice invites comments on GSA's revised plan to increase the CHAMP shipment surcharge from $45 to $145 instead of $105 as proposed in our January 20, 1999, **Federal Register** notice published for comment (64 FR 3131). Further evaluation of the program's funding status has clearly demonstrated that this action is necessary to increase CHAMP funding to a level that will enable GSA to defray the program's expenses. This notice supersedes the January 20, 1999 **Federal Register** notice.

DATES: Please submit your comments by April 29, 1999.

ADDRESSES: Mail comments to the Transportation Management Division (FBF), General Services Administration, Washington, DC 20406, Attn: **Federal Register** Surcharge Increase Notice. GSA will consider your comments prior to implementing the proposed increase.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Senior Program Expert, Transportation Management Division, FSS/GSA, 703–305–5745.

SUPPLEMENTARY INFORMATION: GSA's CHAMP receives no Congressional funding and must depend on a shipment surcharge, currently $45, to defray its costs. The shipment surcharge has been in effect since 1996 and no longer fully funds program expenses. GSA published a notice for comment in the **Federal Register** on January 20, 1999 (64 FR 3131) announcing its plan to increase the shipment surcharge from $45 to $105, and to revise the Household Goods Tender of Service "shipment definition" for the purpose of assessing the surcharge on each component of a shipment (i.e.,

households, privately owned vehicle (POV), and unaccompanied baggage) to allow us to recoup program costs.

Agency/industry comments GSA received on the proposed changes and our own programmatic concerns suggest it is time for GSA to change the way CHAMP industrial funding fees are collected. We plan to work with our Federal agency and industry partners to develop and implement an alternative funding strategy by November 1, 1999. In the interim it is necessary for us to increase the shipment surcharge. Our ongoing analysis of the program's financial status clearly indicates that $105 would not adequately cover program expenses even with cost cutting measures we have identified and are proceeding to implement. Indeed, our in-depth analysis indicates we must increase the surcharge to $145 to adequately cover our expenses of maintaining this valuable program.

We do, however, withdraw the January 20th proposal to add the surcharge to POV and unaccompanied baggage shipments. Moreover, instead of a line-haul transportation rate increase to cover the $145 surcharge, GBL issuers are to include the surcharge as a separate line item on the GBL. Carriers then will bill Federal agencies for the surcharge as a separate line item on the SF–1113.

GSA is committed to providing a program that meets the needs of Federal agencies. The funding increase will be used to pay for personnel who directly support the program and activities associated with the development of program enhancements. Moreover, we are looking forward to working with our customer agency counterparts and industry partners to devise by November 1, 1999, a satisfactory approach to handling future funding for this important program.

Dated: March 25, 1999.

Barbara Vogt,

Deputy Assistant Commissioner, Office of Transportation and Property Management.

[FR Doc. 99–7826 Filed 3–29–99; 8:45 am]

BILLING CODE 6820–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 99059]

Childhood Asthma and Hazardous Substances Applied Research and Development Amendment

A notice announcing the availability of fiscal year 1999 funds for the Childhood Asthma and Hazardous Substances Applied Research and Development Program was published in the **Federal Register** on March 19, 1999, (Vol. 64 FR No. 53). The notice is amended as follows:

On page 13585, third column, after item G.4.d. add:

e. The extent to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

i. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

ii. The proposed justification when representation is limited or absent.

iii. A statement as to whether the design of the study is adequate to measure differences when warranted.

iv. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community (ies) and recognition of mutual benefits.

Under item G.6. change 9 per cent to 10 percent; delete item G.7. Minority Populations; and change the number for item 8. to 7.

Dated: March 24, 1999.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 99–7706 Filed 3–29–99; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–145]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period October 1998 through December 1998. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on January 28, 1999, (64 FR 4422). This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (42 CFR Part 90). This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)).

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605–6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assesssments Completed or Issued

Between October 1, 1998, and December 31, 1999, public health assessments were issued for the sites listed below:

NPL Sites

California

George Air F
(PB99–120

Hawaii

Naval Comp
Telecomm
NCTAMS
Wahiawa
Laulaulei–

Illinois

Janneson Wr
City—(PB9
Kaney Trans
(PB99–118
Lanson Chen
(PB99–110

Missouri

Armour Roa
(PB99–110

New Jersey

Grand Street
117152)

New York

GCL Tie and
113938)
Rowe Indust
Contamina
119521)

Pennsylvani

Salford Quar
Township-

Texas

Odessa Supe
Ground W
(PB99–123

Puerto Rico

V&M/Albald
Baja—(PB9
Vega Baja So
Abajo War
118903)

Section I .....
Section II .....
Section III .....
Contract .....
Affidavit .....
Lender Certific

* For ease of

NPL Sites

California

George Air Force Base—Victorville—(PB99–120982)

Hawaii

Naval Computer and Telecommunication Area (a/k/a NCTAMS EASTPAC Wahiawa—Wahiawa and NRTF Laulaulei—Laulaulei—(PB99–123093)

Illinois

Janneson Wright Corporation—Granite City—(PB99–115412)
Kaney Transportation—Rockford—(PB99–118754)
Lanson Chemical—East St. Louis—(PB99–110967)

Missouri

Armour Road Site—North Kansas City—(PB99–110934)

New Jersey

Grand Street Site—Hoboken—(PB99–117152)

New York

GCL Tie and Treating—Sidney—(PB99–113938)
Rowe Industries Groundwater Contamination—Sag Harbor—(PB99–119521)

Pennsylvania

Salford Quarry—Lower Salford Township—(PB99–120990)

Texas

Odessa Super Site (a/k/a Sprague Road Ground Water Plume)—Ector—(PB99–123085)

Puerto Rico

V&M/Albaldejo Farms Site—Vega Baja—(PB99–123325)
Vega Baja Solid Waste Disposal—Rio Abajo Ward/La Trocha—(PB99–118903)

Virginia

USAF Langley Air Force Base and NASA Research Center—Hampton—(PB99–105587)

West Virginia

Hanlin-Allied-Olin—Moundsville—(PB99–118747)

Non NPL Petitioned Sites

Alaska

Alaska Pulp Corporation—Sitka—(PB99–106734)

Georgia

Old Douglas Landfill (a/k/a Douglas County/Cedar Mountain Landfill)—Douglasville—(PB99–119208)

Dated: March 23, 1999.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 99–7692 Filed 3–29–99; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60-Day Proposed Collection: Indian Health Service, Scholarship and Loan Repayment Program

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, to provide a 60-day advance opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) is publishing for comment a summary of proposed information collection to be submitted to the Office of Management and Budget (OMB) for review.

Proposed Collections

Title: 09–17–0014, "Indian Health Service, Scholarship and Loan Repayment Program" *Type of Information Collection Request:* Revision of a currently approved collection. *Form Number:* None. *Need and Use of Information Collection:* The IHS Loan Repayment Program (LRP) identifies health professionals with pre-existing financial obligations for education expenses that meet program criteria and who are qualified and willing to serve at, often remote, IHS health care facilities. Under the program, eligible health professionals sign a contract under which the IHS agrees to repay part or all of their indebtedness for professional training education. In exchange, the health professionals agree to serve for a specified period of time in IHS health care facilities. Eligible health professionals must submit an application to participate in the program. The application requests personal, demographic and educational training information, including information on the educational loans of the individual for which repayment is being requested (i.e., date, amount, account number, purpose of each loan, interest rate, the current balance, etc.). The data collected is needed and used to evaluate applicant eligibility; rank and prioritize applicants by speciality; assign applicants to IHS health care facilities; determine payment amounts and schedules for paying the lending institutions; and to provide data and statistics for program management review and analysis. *Affected Public:* Individuals and households. *Type of Respondents:* Individuals. Table 1 below provides the following: types of data collection instruments, estimated number of respondents, number of responses per respondent, annual number of responses, average burden hour per response, and total annual burden hour.

TABLE 1.—ESTIMATED BURDEN HOURS

Data collection instrument	Estimated number of respondents	Responses per respondent	Average burden hour per response *	Total annual burden hrs
Section I	350	1	0.25 (15 mins).	
Section II	350	1	0.50 (30 mins).	
Section III	350	4	0.25 (15 mins).	
Contract	350	1	0.334 (20 mins).	
Affidavit	350	1	0.167 (10 mins).	
Lender Certificate	1400	1	0.25 (15 mins).	

* For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out the treatment outcome evaluation; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

SEND COMMENTS AND REQUESTS FOR FURTHER INFORMATION: Send your written comments, requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions to: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852–1601, call non-toll free (301) 443–5938, send via fax to (301) 443–21316, or send your e-mail requests, comments, and return address to: lhodahkw@hqe.ihs.gov.

COMMENT DUE DATE: Your comments regarding this information collection are best assured of having their full effect if received on or before June 1, 1999.

Dated: March 18, 1999.

Michael H. Trujillo,

Assistant Surgeon General Director.

[FR Doc. 99–7782 Filed 3–29–99; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4448–N–02]

Notice of Funding Availability for the Welfare-to-Work Section 8 Tenant-Based Assistance Program for Fiscal Year 1999; Technical Correction

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA); technical correction.

SUMMARY: On January 28, 1999, at 64 FR 4496, HUD published a NOFA that announced Fiscal Year (FY) 1999 funding of approximately $248.2 million to provide tenant-based rental assistance that will help eligible families make the transition from welfare to work. This notice makes technical corrections to that NOFA to remove an inconsistent requirement and clarify the eligibility of applicants for funding.

DATES: The original April 28, 1999 application deadline date and time is not changed. Please see the January 28, 1998 NOFA for specific details.

FOR FURTHER INFORMATION CONTACT: For answers to your questions, you may contact the Public and Indian Housing Information and Resource Center at 1–800–955–2232, or contact the Director of Public Housing, the Program Center Coordinator or the Office of Native American Program Administrator in your local HUD Office. Hearing-or speech-impaired individuals may call HUD's TTY number (202) 708–0770 or 1–800–877–8339 (the Federal Information Relay Service TTY). (Other than the "800" number, these numbers are not toll-free.) Information can also be accessed via the Internet through the HUD web site at http://www.hud.gov.

SUPPLEMENTARY INFORMATION: A Notice of Funding Availability (NOFA) that announced HUD's Fiscal Year (FY) 1999 Welfare-to-Work (WTW) Section 8 Tenant-Based Assistance Program funding of approximately $248.2 million was published on January 28, 1999 (64 FR 4496). This notice clarifies the program compliance and subcontractor designation requirements in section IV of that FY 1999 WTW NOFA. The introductory text of section IV.(E) is made consistent with paragraph IV.(E)(2)(b) by requiring a statement that outlines steps to resolve compliance instead of a proposal for management improvements. The term "unaddressed" is added to modify the conditions listed in paragraphs IV.(E)(1)(a) and redesignated IV.(E)(1)(b), as explained below, that trigger the compliance requirements.

Finally, the provision in paragraph IV.(E)(1)(b), which appears to be inconsistent with the threshold requirement at paragraph V.(B)(6, is removed. Paragraph IV.(E)(1)(b) would trigger the compliance requirements if the applicant demonstrated "[s]erious underutilization evidenced by fewer than 85 percent of budgeted rental certificates or vouchers under lease". The threshold requirement at paragraph V.(B)(6) would require an applicant to demonstrate a 90 percent leasing rate to be eligible for funding. To avoid any confusion that the designation of a subcontractor may make eligible an applicant that does not meet the 90 percent leasing rate threshold, paragraph IV.(E)(1)(b) is removed, and paragraph IV.(E)(1)(c) is redesignated as paragraph IV.(E)(1)(b).

Accordingly, FR Doc. 99–1985, the FY 1999 Welfare-to-Work (WTW) Section 8 Tenant-Based Assistance Program NOFA, published in the **Federal Register** on January 28, 1999 (64 FR 4496) is amended on page 4498, in column 2, by revising the introductory text and paragraph IV.(E)(1)(a), removing paragraph IV.(E)(1)(b), redesignating paragraph IV.(E)(1)(c) as paragraph IV.(E)(1)(b) and revising redesignated paragraph IV.(E)(1)(b), to read as follows:

(E) *Program Compliance and Designation of Subcontractor.* Immediately after the publication of this NOFA, the local HUD field office will notify, in writing, those HAs that are not eligible to apply without a subcontractor acceptable to HUD and a statement that outlines the steps being taken to resolve the compliance problems, as explained in this section.

(1) * * *

(a) Unaddressed material weaknesses or reportable conditions outstanding from Inspector General audit findings, or HUD management review findings for one or more of your Section 8 rental voucher, rental certificate or moderate rehabilitation programs; or

(b) Significant unaddressed findings in program compliance reviews.

* * * * *

Dated: March 23, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–7702 Filed 3–29–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–963–1410–00–P and AA–6670–A]

ALASKA; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Iliamna Natives Limited, for approximately 40 acres. The lands involved are in the vicinity of Iliamna, Alaska, within lot 7 of U.S. Survey No. 2466, Alaska, and more particularly

within the S of Sec. 11 and southerly of Iliamna-Nondalton Road and northerly of the Iliamna Spur Road, T. 5 S., R. 33 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Bristol Bay Times*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 29, 1999 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terrie D. Evarts,

Land Law Examiner, Branch of State and Project Adjudication.

[FR Doc. 99–7704 Filed 3–29–99; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–09–1430–00]

Notice of Realty Action; Noncompetitive Sale of Public Lands, Navajo County, AZ [AZA 30873]

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following lands in Navajo County, Arizona have been found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713), at not less than the appraised fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

Gila and Salt River Meridian, Arizona

T. 17 N., R. 21 E.,
Sec. 18, lots 1–4 incl., E½, E½W½.
Containing 638.360 acres, more or less.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to Navajo County. If a determination is reached that the subject parcel contains no known mineral values, the mineral interests may be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests.

The patent, when issued, will contain certain reservations to the United States. Detailed information concerning these reservations as well as specific conditions of the sale are available for review at the Safford Field Office, Bureau of Land Management, 711 14th Avenue, Safford, Arizona 85546.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Office Manager, Safford Field Office, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: March 15, 1999.

William T. Civish,

Field Office Manager.

[FR Doc 99–7766 Filed 3–29–99; 8:45 am]

BILLING CODE 4310–32–M

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 7, 1999 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–101 (Review)(Greige Polyester Cotton Printcloth from China)—briefing and vote.
5. Outstanding action jackets:

(1.) Document No. INV–99–045: Approval of institution of five-year reviews on Potassium Chloride, Certain Bearings, Internal Combustion Industrial Forklift Trucks, and Nitrile Rubber.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 24, 1999.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7868 Filed 3–26–99; 2:27 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 12, 1999 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731-TA–823–824 (Preliminary)(Certain Aperture Masks from Japan and Korea)—briefing and vote.
5. Outstanding action jackets:

(1.) Document No. INV–99–045: Approval of institution of five-year reviews on Potassium Chloride, Certain Bearings, Internal Combustion Industrial Forklift Trucks, and Nitrile Rubber.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 24, 1999.
By order of the Commission.

Donna R. Koehnke,

Secretary

[FR Doc. 99–7869 Filed 3–26–99; 2:27 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,803 and NAFTA–2574]

United Technologies Automotive, Bay City, Michigan; Notice of Negative Determination Regarding Application for Reconsideration

By application dated January 5, 1999, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment

Assistance (TAA) and NAFTA-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notices applicable to workers of the subject firm located in Bay City, Michigan, were signed on September 15, 1998. The TAA and NAFTA–TAA decisions were published in the **Federal Register** on October 9, 1998 (63 FR 54495) and September 28, 1998 (63 FR 51606), respectively.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers of United Technologies Automotive, Bay City, Michigan, producing automotive interior trim was denied because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The investigation revealed that none of the subject firm customers reported increased import purchases of articles like or directly competitive with those produced at United Technologies Automotive's Bay City plant.

The NAFTA–TAA petition for the same worker group was denied because criteria (3) and (4) of the group eligibility requirements in paragraph (a)(1) of Section 250 of the Trade Act, as amended, were not met. There was no shift of production from the subject firm to Canada or Mexico, nor did the company import automotive interior trim from Canada or Mexico. The subject firm is transferring production of automotive interior trim to other domestic plants of United Technologies. The Department conducted a survey of major customers of the subject firm regarding purchases of automotive interior trim. The survey revealed that the customers were not purchasing from Canada or Mexico automotive interior trim like or directly competitive with that produced in Bay City.

In support of their application for reconsideration, the petitioners assert that "tools and parts have been sent to Mexico and these parts are then sent back to the United States." Shipping information was attached to the application. The documents support evidence of shipments being made from Bay City to Mexico and other foreign countries, and thus must be considered exports. The Department did however, request that the subject firm provided additional information regarding the petitioners assertion that (1) machinery was transferred from Bay City to Mexico, and (2) product is being imported from Mexico. Review of the information provided by the subject firm revealed that some presses and related equipment were sent to Mexico, but the amount accounted for an insignificant portion of total Bay City assets. The company official once again confirmed that all of the Bay City automotive interior trim production was shifted to other domestic plants of United Technologies, and that none of the production in Mexico is returned to the United States.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, D.C. this 12th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7730 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,102 and NAFTA–02669]

Mitchell Manufacturing Group, a Lamont Group Company, Clare, MI; Notice of Revised Determination on Reconsideration

On March 2, 1999, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The Department initially denied TAA to workers of Mitchell Manufacturing Group, a Lamont Group Company, Clare, Michigan, producing automotive interior covers including soft trim (seat covers) because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department conducted further survey analysis of the major customer of Mitchell Manufacturing Group. The survey revealed that a former major customer changed manufacturers and the current manufacturer of seat covers is manufacturing those items in Mexico and importing the finished product into the U.S.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with seat covers, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Mitchell Manufacturing Group, a Lamont Group Company, Clare, Michigan. In accordance with the provisions of the Act, I make the following certification:

All workers of Mitchell Manufacturing Group, a Lamont Group Company, Clare, Michigan who became totally or partially separated from employment on or after October 2, 1997 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C. this 9th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7720 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,394]

Ainge Enterprises, Inc., Spanish Fork, Utah; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 21, 1998 in response to a worker petition which was filed on behalf of workers at the Ainge Enterprises, Inc., Spanish Fork, Utah.

An active certification covering the petitioning group of workers is already in effect (TA–W–34,034). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7728 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acing Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1999.

Interested person are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of February, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 2/22/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,664	ASM America, Inc (Comp)	Phoenix, AZ	02/12/1999	Capitol Equipment.
35,665	Triple A Trouser (UNITE)	Scranton, PA	01/22/1999	Men's Dress and Casual Trousers.
35,666	Mayflower Mfg. Co (UNITE)	Old Forge, PA	01/22/1999	Men's Dress and Casual Trousers.
35,667	Federal Mogul Friction (USWA)	New Castle, IN	02/08/1999	Heavy Duty Brake.
35,668	Pinson Mining Co. (Comp)	Winnemucca, NV	02/04/1999	Gold and Silver Mining.
35,669	Pathway Bellows, Inc (IBB)	Oak Ridge, TN	02/06/1999	Expansion Joints.
35,670	SGL Carbon Corp (ICWU)	Morgantown, NC	02/08/1999	Graphite Electrodes and Products.
35,671	Snap-On-Tools Co (Wrks)	Ottawa, IL	02/08/1999	Wire-Harnesses—Diagnostic Equipment.
35,672	Allvac Latrobe Plant (USWA)	Latrobe, PA	02/08/1999	Specialty Steels—Stainless.
35,673	Clayton Williams Energy (Wrks)	Midland, TX	02/08/1999	Exploration & Prod. of Oil and Gas.
35,674	Custom Engineering Co (Comp)	Erie, PA	02/08/1999	Fabrication of Oil Pans for Locomotives.
35,675	Connor Corp (PMMS)	Indianapolis, IN	02/04/1999	Battery Parts.
35,676	Texas Boot (Comp)	Smithville, TN	02/05/1999	Western Boots.
35,677	Schuylkill Haven Bleach (Comp)	Schuy'll Haven, PA	01/09/1999	Bleaching, Dyeing & Finishing Garments.
35,678	TerraTherm Environmental (Comp)	Houston, TX	02/01/1999	Provide Administrative Function Services.
35,679	Tektronix CNA (Comp)	Bend, OR	01/22/1999	Metallic & Optical Fault Locators.
35,680	Homestead Industries, Inc (UNITE)	Claremont, NH	02/01/1999	Wool for Ladies' Outerwear.
35,681	Apex Machine Shop, Inc (Wrks)	Williston, ND	02/03/1999	Downhole Drilling Tools.
35,682	Newport Steel Corp (Wrks)	Williston, ND	02/03/1999	Downhole Drilling Tools.
35,683	Franklin Dyed Yarns Co (Comp)	Greenville, SC	02/06/1999	Dyes Yarn.
35,684	Quaker State Corp (Comp)	Irving, TX	02/03/1999	Motor Oil.
35,685	Worcester Co (The) (Comp)	New York, NY	02/04/1999	Menswear Suiting—Worsted Wool
35,686	A. C. Railroad Service Co (Comp)	McKees Rocks, PA	01/29/1999	Steel.
35,687	Ensign Oil and Gas, Inc (Wrks)	Denver, CO	01/25/1999	Crude Oil, Natural Gas.
35,688	Tactyl Technologies, Inc (Comp)	Vista, CA	02/03/1999	Non-Latex Gloves.
35,689	AMP, Inc. (Wrks)	Seven Valleys, PA	02/01/1999	RF Coaxial Electrical Connectors.
35,690	Kleinert's, Inc of Ala. (Comp)	Elba, AL	02/01/1999	Children's Sportswear.
35,691	Star Tool (Wrks)	Hobbs, NM	01/22/1999	Exploration and Drilling Oil, Gas.
35,691A	Star Tool (Wrks)	Odessa, TX	01/22/1999	Exploration and Drilling Oil, Gas.
35,691B	Star Tool (Wrks)	Brownfield, TX	01/22/1999	Exploration and Drilling Oil, Gas.
35,692	Rock-Tenn Co. Converting (Wrks)	Otsego, MI	01/29/1999	Converted Paperboard Products.
35,693	Columbia Forest Products (Wrks)	New Freedom, PA	02/01/1999	Oak, Cherry and Hickory Veneer Panels.
35,694	Inland Paperboard & Pack (Wrks)	Orange, TX	02/03/1999	Brown, Mottled or White Paper for Boxes.
35,695	Fellowes Manufacturing (Comp)	Boone, NC	01/28/1999	Wood Racks for CD, Video, Cassettes.
35,696	FWA-JSM Drilling Co (Wrks)	Midland, TX	01/29/1999	Drilling Crude Oil, Natural Gas.
35,697	Wood Group Pressure (Comp)	Houston, TX	01/26/1999	Gas & Oilfield Equipment & Supplies.
35,698	Marquip, Inc (Wrks)	Phillips, WI	02/02/1999	Cardboard Making Machines.
35,699	Patterson Energy, Inc (Comp)	Snyder, TX	02/03/1999	Oilfield Drilling Services.
35,700	Wamaco, Inc. (UNITE)	New York, NY	01/28/1999	Gowns.
35,701	Ansell Edmont (UNITE)	Haynesville, LA	01/26/1999	Industrial Gloves.
35,702	HAPCO Screenprinting Inc (Comp)	Emmans, PA	02/02/1999	Screenprints Garments.
35,703	General Electric Ind. Sys (Wrks)	Jonesboro, AR	02/03/1999	Appliance Fan Motors.
35,704	Johnson and Johnson (Comp)	Arlington, TX	02/09/1999	Latex Surgical Gloves.

[FR Doc. 99–7718 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,586]

Buckeye, Incorporated, Midland, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Buckeye, Incorporated, Midland, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,586; Buckeye, Incorporated, Midland, Texas (March 16, 1999)

Signed at Washington, D.C. this 16th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7713 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,620]

Cascade Steel Rolling Mills, Incorporated McMinnville, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1999 in response to a worker petition which was filed on February 8, 1999 on behalf of workers at Cascade Steel Rolling Mills, Incorporated, located in McMinnville, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7710 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34, 955, et al.]

Caza Drilling, Inc., North Dakota Operations; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 21, 1998, applicable to workers of Caza Drilling, Inc., North Dakota Operations headquartered in Williston, North Dakota. The notice was published in the **Federal Register** on October 9, 1998 (63 FR 54495).

At the request of company, the Department reviewed the certification for workers of the subject firm. New findings revealed that the subject firm is headquartered in Denver, Colorado (TA–W–34,955). New findings also show that worker separations have occurred at Caza Drilling, operating at various locations in Colorado (excluding Denver), Utah, Wyoming, South Dakota, Washington, and Nevada. The workers are engaged in providing oil field services on a contractual basis for crude oil producers.

The intent of the Department's certification is to include all workers of Caza Drilling, Inc. adversely affected by increased import. Accordingly, the Department is amending the certification to cover workers of Caza Drilling, Inc. operating at various locations in Colorado (excluding Denver), Utah, Wyoming, South Dakota, Washington and Nevada.

The amended notice applicable to TA–W–34,955 is hereby issued as follows:

All workers of Caza Drilling, Inc., North Dakota Operations, headquartered in Denver, Colorado (TA–W–34,955) and operating at various locations in the State of Colorado (excluding Denver) (TA–W–34,955B), Utah (TA–W–34,955C), Wyoming (TA–W–34,955D), South Dakota (TA–W–34,955E), Washington (TA–W–34,955F) and Nevada (TA–W–34,955G) who became totally or partially separated from employment on or after August 26, 1997 through September 21, 2000, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7726 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,657]

Caza Drilling, Inc., Denver, Colorado; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 16, 1999 in response to a worker petition which was filed on behalf of workers at the Caza Drilling, Inc., Denver, Colorado.

An active certification covering the petitioning group of workers is already in effect (TA–W–34,955). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance, Office of Trade Adjustment Assistance.

[FR Doc. 99–7731 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,034]

Geneva Steel, Vineyard, Utah; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 23, 1998, applicable to all workers of Geneva Steel located in Vineyard, Utah. The notice was published in the **Federal Register** on November 10, 1998 (63 FR 63087).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information shows that employees of Ainge Enterprises, Inc., Spanish Fork, Utah were employed by Geneva Steel to prepare (cut) scrap steel for the blast furnaces used in the production of hot rolled steel products (plates, sheets, coils and pipes) at the Vineyard, Utah facility. Worker separations occurred at Ainge Enterprises, Inc. as a result of workers separations at Geneva Steel.

Based on these findings, the Department is amending the certification to include workers of Ainge Enterprises, Inc., Spanish Fork, Utah

employed by Geneva Steel, Vineyard, Utah.

The intent of the Department's certification is to include all workers of Geneva Steel adversely affected by imports.

The amended notice applicable to TA–W–35,034 is hereby issued as follows:

All workers of Geneva Steel, Vineyard, Utah and workers of Ainge Enterprises, Inc., Spanish Fork, Utah engaged in employment related to preparing (cutting) scrap steel for the blast furnaces used in the production of hot rolled steel products at Geneva Steel, Vineland, Utah who became totally or partially separated from employment on or after September 18, 1997 through October 23, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7727 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,034]

Geneva Steel, Including Workers of Heckett Multiserv, a Division of Harsco Corporation, Vineyard, UT; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 23, 1998, applicable to all workers of Geneva Steel located in Vineyard, Utah. The notice was published in the **Federal Register** on November 10, 1998 (63 FR 63087).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information shows that employees of Heckett Multiserv, a division of Harsco Corporation, Vineyard, Utah were employed by Geneva Steel to process slag products and provide scrap and metal reclamation from the blast furnaces used in the production of hot rolled steel products (plates, sheets, coils and pipes) at the Vineyard, Utah facility. Worker separations occurred at Heckett Multiserv as a result of workers separation at Geneva Steel.

Based on these findings, the Department is amending the certification to include workers of Heckett Multiserv, Vineyard, Utah employed at Geneva Steel, Vineyard, Utah.

The intent of the Department's certification is to include all workers of Geneva Steel adversely affected by imports.

The amended notice applicable to TA–W–35,034 is hereby issued as follows:

All workers of Geneva Steel and workers of Heckett Multiserv, a Division of Harsco Corporation, Vineyard, Utah engaged in employment related to processing slag products and providing scrap and metal reclamation from the blast furnaces for the production of hot rolled steel products at Geneva Steel, Vineyard, Utah who became totally or partially separated from employment on or after September 18, 1997 through October 23, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 9th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7729 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,763]

Heckett Multiserv, a Division of Harsco Corporation Vineyard, UT; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 8, 1999 in response to a worker petition which was filed on March 8, 1999 on behalf of workers at Heckett Multiserv, a division of Harsco Corporation, located in Vineyard, Utah.

An active certification covering the petitioning group of workers remains in effect (TA–W–35,034). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 9th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7721 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,662]

Kellwood Company, Spencer, WV; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 16, 1999 in response to a petition filed by AFL–CIO, Union of Needletrades, Industrial and Textile Employees (UNITE), Mid-Atlantic Regional Joint Board, Local 2363, on January 26, 1999 on behalf of workers at Kellwood Company, Spencer, West Virginia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7715 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade

Adjustment Assistance, at the address show below, not later than April 9, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 03/01/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,705	Kelly Springfield Tire (USWA)	Freeport, IL	02/11/1999	Tires.
35,706	Nooter Fabricators (Wkrs)	St. Louis, MO	02/04/1999	Steel Fabrication.
35,707	Wool Fashions, Inc (UNITE)	Hoboken, NJ	02/08/1999	Ladies' Coats.
35,708	Donohue Industries (PACE)	Sheldon, TX	01/30/1999	Market Pulp and Paper—Newsprint.
35,709	Handy Button Machine (Wkrs)	New York, NY	02/01/1999	Belt Buckles, Nailheads, Button Molds.
35,710	Forrest Yarns, Inc. (Co.)	Newport, ME	02/16/1999	Cone Yarn.
35,711	Halliburton (Co.)	Houston, TX	02/10/1999	Oil Drilling.
35,712	Cyprus Sierrita (Wkrs)	Green Valley, AZ	02/09/1999	Copper Mining.
35,713	Crete Oil Co., Inc. (Co.)	Robinson, IL	02/17/1999	Crude Oil.
35,714	Allegheny Ludlum Steel (USWA)	Wallingford, CT	02/11/1999	Stainless Steel Strip and Sheet.
35,715	Gulf Canada Resources (Wkrs)	Denver, CO	02/09/1999	Crude Oil, Natural Gas Liquids.
35,716	KLH Industries (Co.)	Clinton, MS	12/04/1999	Electrical Wiring Harness.
35,717	Blue Ridge Screen Print (Co.)	Stuart, VA	02/11/1999	Screenprinting.
35,718	H.B. and R., Inc. (Co.)	Dickinson, ND	02/11/1999	Oilfield Services.
35,719	CNB International (UAW)	Buffalo, NY	02/09/1999	Metal Forming Machinery.
35,720	Indera Mills Co. (Co.)	Winston Salem, NC	02/11/1999	Thermal Underwear.
35,721	Newark Paperboard, Inc. (Wkrs)	Woodburn, OR	02/02/1999	Paper Products Machinery.
35,722	Rostra Precision Controls (Wkrs)	Laurinburg, NC	02/11/1999	Modulators, Cruise Controls.
35,723	Litton ATD (Wkrs)	Grants Pass, OR	02/11/1999	Radar Warning Receivers.
35,724	IRI International Corp. (Co.)	Houston, TX	02/11/1999	Equipment—Petroleum Industry.
35,725	DLB Equities, L.L.C. (Co.)	Oklahoma City, OK	02/11/1999	Oil and Gas.
35,726	Ponderosa Fibres of PA (Wkrs)	Northampton, PA	02/09/1999	Recycles Mixed Office Waste Paper.
35,727	Martin Marietta Magnesia (Wkrs)	Manistee, MI	02/09/1999	Refractories Products.
35,728	Teledyne Ryan Aeronautica (Co.)	San Diego, CA	02/10/1999	Apache Hellicopter Fuselages.
35,729	Nabors Alaska Drilling (Co.)	Anchorage, AK	02/18/1999	Drilling Wells.
35,730	Medinas Concrete and Sand (Wkrs)	Questa, NM	02/08/1999	Mine Construction.
35,731	National Material Co. (USWA)	Arnold, PA	02/17/1999	Silicon Steel Service Center.
35,732	Westvaco Luke Mill (PACE)	Luke, MD	02/12/1999	Zinc Coated Papers.
35,733	Chinook Group (Wkrs)	North Branch, MN	02/09/1999	Choline Chloride Powder.
35,734	Basin Tools and Service (Wkrs)	Williston, ND	02/02/1999	Sells, rents Down Hole Tools.
35,735	McDowell County Apparel (Wkrs)	Bradshaw, WV	02/01/1999	Fleece Apparel.
35,736	Diamond Resources, Inc. (Wkrs)	Williston, ND	02/11/1999	Admin. Functions—Oil, Gas Leasing.
35,737	Weatherford, Inc. (Wkrs)	Williston, ND	02/09/1999	Oilfield Fishing & Rental.
35,738	Red Man Pipe and Supply (Wkrs)	Roosevelt, UT	02/11/1999	Line Pipe, Valves and Fittings.
35,739	Southwest Royalties (Wkrs)	Midland, TX	02/11/1999	Crude Oil, Natural Gas.
35,740	Borg Warner Automotive (Co.)	Sterling Hghts, MI	02/25/1999	Torque Converters.
35,741	Partners In Exploration (Co.)	Richardson, TX	02/16/1999	Oil and Gas Explorations.
35,742	Florida Canyon Mining (Co.)	Imlay, NV	02/11/1999	Gold Mining..
35,743	Advance Consultants (Co.)	Midland, TX	02/11/1999	On-Site Well Evaluation.
35,744	Petroglyph Operating Co. (Wkrs)	Hutchinson, KS	02/09/1999	Crude Oil.
35,745	Berk Knit Shirt (Co.)	Colon, MI	02/11/1999	Sportswear.
35,746	Boise Cascade Corp. (Co.)	Fisher, LA	02/08/1999	Lumber.
35,747	John Rems Corp. (The) (Co.)	Macungie, PA	02/03/1999	Thermal Underwear and Sleepwear.
35,748	Boones Bit Sewing (Co.)	Williston, ND	01/26/1999	Oil Drilling.
35,749	Regal Ware, Inc. (PACE)	Kewaskum, WI	02/16/1999	Drip Coffee Makers.
35,750	Cross Creek Apparel (Co.)	Mt. Airy, NC	02/01/1999	Knitted Shirts.
35,751	Baker Hughes—Centrilift (Wkrs)	Cody, Wy	02/04/1999	Submersible Oilfield Equipment.
35,752	Rhodia, Inc. (Co.)	Freeport, TX	02/01/1999	Rare Earth Chemical Compounds.
35,753	Molen Drilling (Wkrs)	Billings, MT	02/15/1999	Oil Drilling.
35,754	Shasta, Inc. (IAMAW)	Monaca, PA	02/15/1999	Semi-Finish Stainless Steel Products.
35,755	Smith Meter, Inc. (UAW)	Erie, PA	02/17/1999	Liquid Measuring Meters.
35,756	Ringo Drilling (Wkrs)	Abilene, TX	02/17/1999	Oil and Gas Drilling.
35,757	Vanport Manufacturing (Co.)	Boring, OR	02/18/1999	Dimension Lumber.
35,758	ASARCO Amarillo Copper (USWA)	Amarillo, TX	02/05/1999	Refined Copper.

[FR Doc. 99–7717 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,265, et al.]

Kentucky Apparel LLP; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 21, 1999, applicable to all workers of Kentucky Apparel LLP, located in Jamestown, Tennessee. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations occurred at the Summer Shade, Fountain Run, Tomkinsville and Gamaliel, Kentucky locations of Kentucky Apparel LLP. The workers produce denim jeans.

The intent of the Department's certification is to include all workers of Kentucky Apparel LLP who were adversely affected by increased imports of denim jeans. Accordingly, the Department is amending the certification to cover the workers of Kentucky Apparel LLP, Summer Shade, Fountain Run, Tompkinsville and Gamaliel, Kentucky.

The amended notice applicable to TA–W–35,265 is hereby issued as follows:

All workers of Kentucky Apparel LLP, Jamestown, Tennessee (TA–W–35,265), Summer Shade, Kentucky (TA–W–35,265A), Fountain Run, Kentucky (TA–W–35,265B), Tomkinsville, Kentucky (TA–W–35,265C) and Gamaliel, Kentucky (TA–W–35,265D) who became totally or partially separated from employment on or after April 30, 1998 through January 21, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of March, 1999.

Grand D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7735 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,683]

Meridian Dyed Yarn Group Franklyn Dyed Yarns Greenville, SC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 22, 1999, in response to a petition filed on the same date on behalf of workers at Franklyn Dyed Yarns, Greenville, South Carolina.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7716 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,125]

Pool Company, Headquartered in Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 10, 1998, applicable to all workers of Pool Company, headquartered in Houston, Texas and operating in Texas, Oklahoma, New Mexico, Montana and North Dakota. The notice was published in the **Federal Register** on December 23, 1998 (63 FR 71166).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at Pool Company operating at various locations in Alaska, Louisiana and California. The workers provide oilfield services related to the exploration and drilling of crude oil and natural gas.

The intent of the Department's certification is to include all workers of Pool Company adversely affected by increased imports.Accordingly, the Department is amending the certification to cover workers of Pool Company operating at various locations in Alaska, Louisiana and California.

The amended notice applicable to TA–W–35,125 is hereby issued as follows:

All workers of Pool Company, headquartered in Houston, Texas (TA–W–35,125), operating at various locations in Alaska (TA–W–35,125F), Lousiana (TA–W–35,125G), and California (TA–W–35,125H), who became totally or partially separated from employment on or after October 10, 1997 through December 10, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. This 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7725 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,845]

Pool Company (A/K/A Pool California Energy Services), Bakersfield, California; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 15, 1999 in response to a worker petition which was filed on behalf of workers at the Pool Company (a/k/a Pool California Energy Services), Bakersfield, California.

An active certification covering the petitioning group of workers is already in effect (TA–W–35,125H). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance, Office of Trade Adjustment Assistance.

[FR Doc. 99–7732 Filed 3–29–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,201 and TA–W–35,485]

Quebecor Printing Federated, Inc. and Quebecor Printing Providence, Inc., Providence, Rhode Island; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Quebecor Printing Federated, Inc. and Quebecor Printing Providence, Inc., both located in Providence, Rhode Island. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,201; Quebecor Printing Federated, Inc.
TA–W–35,485; Quebecor Printing Providence, Inc. Providence, Rhode Island (March 17, 1999)

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7714 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,463, et. al.]

Schlumberger Oilfield Services A/K/A Geco-Prakla, A/K/A IPM, A/K/A Product Centers A/K/A Geoquest, A/K/A Sedco-Forex, A/K/A Wireline A/K/A Shared Services Headquartered in Sugarland, TX, et. al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 26, 1999, applicable to all workers of Schlumberger Oilfield Services, a/k/a Dowell Schlumberger and a/k/a Anadrill Schlumberger, headquartered in Sugarland, Texas. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that Schlumberger Oilfield Services is comprised of other "also known as", firm entities; Geo-Prakla, IPM, Product Centers, GeoQuest, Sedco-Forex, Wireline and Shared Services. Findings also show that worker separations occurred at Schlumberger Oilfield Services operating at various locations in the above cited states. The workers provide oilfield and gas drilling and exploration services, as well as related support and warehouse duties.

The intent of the Department's certification is to include all workers of Schlumberger Oilfield Services, a/k/a Dowell Schulmberger, a/k/a Anadrill Schlumberger, a/k/a Geco-Prakla, a/k/a IMP, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline and a/k/a Shared Services adversely affected by imports. Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–35,463 is hereby issued as follows:

All workers of Schlumberger Oilfield Services, headquartered in Sugarland, Texas, a/k/a Dowell Schlumberger, a/k/a Anadrill Schlumberger (TA–W–35,463), a/k/a Geco-Prakla, a/k/a IPM, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline, and a/k/a Shared Services (TA–W–35,463) operating at various locations cited below who became totally or partially separated from employment on or after December 21, 1997 through January 26, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Wyoming TA–W–35,463B
California TA–W–35,463C
Alaska TA–W–35,463D
Colorado TA–W–35,463E
Arkansas TA–W–35,463F
Alabama TA–W–35,463G
North Dakota TA–W–35,463H
West Virginia TA–W–35,463I
Illinois TA–W–35,463J
Kansas TA–W–35,463K
Michigan TA–W–35,463L
Mississippi TA–W–35,463M
Utah TA–W–35,463N
Virginia TA–W–35,463O
New Jersey TA–W–35,463P
Pennsylvania TA–W–35,463Q

Signed at Washington, DC this 10th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7723 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,319]

Simpson Pasadena Paper Company, Pasadena, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Pasadena Paper Company, Pasadena, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,319; Pasadena Paper Company, Pasadena, Texas (March 15, 1999)

Signed at Washington, D.C. this 16th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7712 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,439]

Southwest Fashion, Inc., El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 19, 1999, applicable to workers of Southwest Fashion, Inc., El Paso, Texas. The notice was published in the **Federal Register** on January 29, 1999 (64 FR 4712).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce (cut) men's pants and some other apparel. New findings show that there was a previous certification covering the same work group, TA–W–32,684, issued on October 28, 1996. That certification expired October 28, 1998. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from October 28, 1998 to October 29, 1998, for the workers of Southwest Fashion, Inc., El Paso, Texas.

The amended notice applicable to TA–W–35,439 is hereby issued as follows:

All workers of Southwest Fashion, Inc., El Paso, Texas who became totally or partially separated from employment on or after October 29, 1998 through January 19, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7724 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,417 & TA–W–35417A]

Stanley Fastening Systems E. Greenwich, RI and N. Kingstown, RI Including Leased Workers of Olsen Staffing Services E. Greenwich RI, and N. Kingstown, RI, Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 19, 1999, applicable to all workers of Stanley Fastening Systems, located in E. Greenwich and N. Kingstown, Rhode Island. The notice was published in the **Federal Register** on January 29, 1999 (64 FR 4712).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that some employees of Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island were leased from Olsten Staffing Services to produce nails at the E. Greenwich and N. Kingstown, Rhode Island facilities. Worker separations occurred at Olsten Staffing Services as a result of workers separations at Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island.

Based on these findings, the Department is amending the certification to include workers of Olsten Staffing Services, leased to Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island.

The intent of the Department's certification is to include all workers of Stanley Fastening Systems adversely affected by imports.

The amended notice applicable to TA–W–35,417 is hereby issued as follows:

All workers of Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island and leased workers of Olsten Staffing Services, E. Greenwich and N. Kingstown, Rhode Island engaged in employment related to the production of nails for Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island who became totally or partially separated from employment on or after December 10, 1997 through January 19, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7722 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,567, et al.]

VF Knitwear, Inc., etc., Hillsville, Virginia; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 8, 1998, applicable to workers of VF Knitwear, Inc. located in Hillsville, Virginia. The notice was published in the **Federal Register** on July 13, 1998 (63 FR 37590).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations have occurred at the Commerce Plant, Commerce, Georgia and the Ferrum Plant, Ferrum, Virginia facilities of VF Knitwear, Inc. All workers will be separated from the Commerce, Georgia and Ferrum, Virginia locations when they close permanently in June, 1999. The workers are engaged in the production of t-shirts and fleecewear.

The intent of the Department's certification is to include all workers of VF Knitwear, Inc. adversely affected by increased imports. Accordingly, the Department is amending the certification to include workers of VF Knitwear, Inc., Commerce Plant, Commerce, Georgia and Ferrum Plant, Ferrum, Virginia.

The amended notice applicable to TA–W–34,567 is hereby issued as follows:

All workers of VF Knitwear, Inc., Hillsville, Virginia (TA–W–34,567) Commerce Plant, Commerce, Georgia (TA–W–35,567B) and Ferrum Plant, Ferrum, Virginia) (TA–W–34,567C) who became totally or partially separated from employment on or after May 11, 1997 through June 8, 2000, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C. this 11th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7733 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Survey of the Costs to States and Employers To Convert Existing Reports To Accommodate the Standardization and Expansion of Payroll Reporting

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed survey of States concerning estimated costs that States and employers will incur if they were to adopt the new standards being recommended by the Social Security Administration (SSA). A copy of the proposed survey follows in this document.

DATES: Written comments must be submitted on or before June 1, 1999.

Written comments should:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Rett Hensley, Unemployment Insurance Service, Employment and Training Administration, Department of Labor, Room S4015, 200 Constitution Ave, N.W., Washington, D.C., 20210; 202 219–5615 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The passage of welfare reform legislation, child support legislation and increased concern about unemployment insurance (UI) fraud and overpayments, has stimulated a movement toward adoption of a standardized payroll reporting format. In a cooperative effort to improve the welfare of children almost all States now report UI wages and benefit payments to the National Directory of New Hires (NDNH). The reporting began with States voluntarily reporting third quarter 1997 wages and fourth quarter 1997 benefit payments. The quarterly wage data reported from State maintained systems is already a vital source of information within the NDNH.

The NDNH, which is maintained by the Social Security Administration (SSA) on behalf of the Department of Health and Human Services (HHS), also stores information from W–2 forms. Unfortunately a lack of standardization in the reporting of name and social security number (SSN) information by the States makes matching the W–2 information with the State wage data difficult and diminishes the usefulness of the information in the data base. Recently the SSA took the lead in establishing a standard for storage of name and social security information. Employers will begin using the new standards for W–2's issued in 1999 to report wages earned in 1998. Listed below are some agencies that HHS indicates may probably benefit as a result of implementation of the plan for the new standards:

- State child support agencies (parent locator systems)
- Treasury (debt collections)
- SSA (Supplemental Security Income, disability, and retirement overpayment detection) and
- IRS (fraud detection, tax enforcement).
- States (fraud prevention and detection for UI, worker's compensation, Transitional Assistance for Needy Families, Foodstamps and Medicaid).

A system change of this magnitude will be very costly for some States to implement. Other States may already be using these or similar standards. The Office of Management and Budget, at the request of SSA asked the Department of Labor to include $40 million in its Fiscal Year 2000 budget request for States to use in adopting the new standards in payroll reporting. Since the $40 million is only a rough estimate of need, the Unemployment Insurance Service (UIS) must gather estimates from State Employment Security Agencies (SESAS) of the costs that States and their employers might expect to incur if they were to adopt the new standards. This information will produce a more accurate estimate of actual need in the event that all States implement this new standard. A survey form, which shows the standards, has been developed to assist in reporting these estimates. It is titled "Name Fields".

The survey also asks for an estimate of the cost a State agency and its employers might experience in gathering some new information concerning average wages, hours worked and the location of jobs. Having some knowledge of the potential cost of gathering this information will help in making future decisions on whether or not it is feasible to ask employers and States for this information. This second portion is title "Labor Market Information".

II. Current Actions

This is a request for OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 (c)(2)(A)).

Agency: Employment and Training Administration, Department of Labor.

Title: Survey of the Costs to States and Employers to Convert Existing Reports to Accommodate the Standardization and Expansion of Payroll Reporting.

Affected Public: State governments (State Employment Security Agencies) and employers.

Total Respondents: Fifty three State governments and, possibly, SESA-selected samples of employers.

Frequency: One time only.

Total Responses: Fifty three.

Average Time Per Response: 90 hours for "Name Fields" portion of survey. To estimate how much extra equipment and staff it will take to gather and store the additional name fields characters, each State would have to consult with its data processing units about equipment needs and programming requirements. Estimates would have to be produced, detailed and discussed. To obtain the impact on the State's employers, some discussions would need to take place with a number of employers and their data processing staff as well.

The complete the more difficult portion of the survey, "Labor Market Information", 180 hours is estimated. States will have to consider costs involved in: training employers and staff to granter and report *new data* (e.g., hours worked, weeks worked, occupational codes and FIPS codes) that they are not accustomed to working with; bringing about compliance by hiring additional staff to answer employer questions, and calling and training employers who fail to comply; and fir the purchase of additional equipment, redesigning forms and software, and hiring staff to process, store and forward the new data.

Total survey response time is estimated at 270 hours.

Estimated Total Burden Hours: 14,310 hours for 53 States.

The survey would look as follows:

Section One—Survey Concerning the Standardization of Name Fields

Please fill in the following table showing your estimate of the cost (for both your State and the employers of your State) of converting your existing system to the new standards shown below. You should assume that your State will be utilizing magnetic media to make your reports to the National Directory of New Hires.

Field	SESA's current character capability	New SSA standards field type	State's initial cost to change *	State's ongoing annual cost **	Employer's initial cost *	Employer's ongoing annual cost **	Total cost for first year
First Name		15 characters alpha					
Middle Name		15 characters alpha					
Last Name		20 characters alpha					
Suffix ***		4 characters numeric					
SSN		9 characters numeric					

* Consider the cost of additional computer storage equipment and programming.
** Consider the ongoing costs of entering additional data each quarter and maintaining the additional volume of records.
*** This is an optional field, for future use by SSA. It refers to Jr. or Sr. etc., after some names.

Section Two—Survey Concerning Collecting Labor Market Information

Some agencies have requested labor market information from UIS that is not currently available on most States' Contribution and Wage Reports. Your cost estimates for providing this information is requested to facilitate long term planning for labor market information needs. There are no immediate plans to begin requesting or utilizing this additional information.

Fields on the quarterly wage report	Anticipated characters needed	State's initial cost	State's ongoing annual cost	Employer's initial cost to add	Employer's ongoing annual cost	Total cost for first year
A column showing the quarterly hours worked per employee.	3 Characters.					
A column showing the weeks worked per employee ...	2 Characters.					
A column showing the occupational code of each employee.	6 Characters.					
A column showing the FIPS code or zip code of where each worker works.	5 Characters.					

Please use this space to make any comments or observations you wish to express about the survey.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 23, 1999.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 99–7777 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02858 & 0258A]

The Pillsbury Company, Etc.; Amended Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on February 11, 1998, applicable to workers of The Pillsbury Company, Haagen-Dazs Plant located in Woodbridge, New Jersey. The notice will be published soon in the **Federal Register**.

At the request of a State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at the Haagen-Dazs Warehouse Operation of The Pillsbury Company, Dayton, New Jersey when it closed in March, 1999. The Dayton, New Jersey location provided warehousing and distribution services for The Pillsbury Company, Haagen-Dazs's production facilities including Woodbridge, New Jersey. The workers are engaged in the production of ice cream products (gallons of ice cream, stick bars, pops and sorbet).

Accordingly, the Department is amending the certification to cover the workers of The Pillsbury Company, Haagen-Dazs Warehouse Operation, Dayton, New Jersey.

The intent of the Department's certification is to include all workers of The Pillsbury Company, Haagen-Dazs who were adversely affected by a shift of production to Canada.

The amended notice applicable to NAFTA–02858 is hereby issued as follows:

All workers of The Pillsbury Company, Haagen-Dazs Plant, Woodbridge, New Jersey (NAFTA–02858) and Haagen-Dazs Warehouse Operation, Dayton, New Jersey (NAFTA–2858A) who became totally or partially separated from employment on or after December 21, 1997 through February 11, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 19th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7734 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02814]

Southwest Fashions, Inc. El Paso, TX; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on January 19, 1999, applicable to all workers of Southwest Fashion, Inc., El Paso, Texas. The notice was published in the **Federal**

Register on January 29, 1999 (64 FR 4713).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce (cut) men's pants and some other apparel. New findings show that there was a previous certification covering the same worker group, NAFTA–01200, issued on October 23, 1996. That certification expired October 23, 1998. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from December 27, 1997 to October 24, 1998 for the workers of Southwest Fashion, Inc., El Paso Texas.

The amended notice applicable to NAFTA–02814 is hereby issued as follows:

All workers of Southwest Fashion, Inc., El Paso, Texas who became totally or partially separated from employment on or after October 24, 1998 through January 19, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade; Adjustment Assistance.

[FR Doc. 99–7711 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–2360, NAFTA–2360B and NAFTA–2360C]

VF Knitwear, Inc., Hillsville, VA Commerce Plant, Commerce, GA and Ferrum Plant, Ferrum, VA; Amended Certification Regarding Eligibility To Apply for NAFTA–Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on June 8, 1998, applicable to workers of VF Knitwear, Inc., Hillsville, Virginia. The notice was published in the **Federal Register** on July 13, 1998 (63 FR 37591).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations occurred at the Commerce Plant, Commerce, Georgia and the Ferrum Plant, Ferrum, Virginia facilities of VF Knitwear, Inc. All workers will be separated from the Commerce, Georgia and Ferrum, Virginia locations when they close permanently in June, 1999. The workers are engaged in the production of t-shirts and fleecewear.

The intent of the Department's certification is to include all workers of VF Knitwear, Inc. adversely affected by increased imports from Mexico. Accordingly, the Department is amending the certification to include workers of VF Knitwear, Inc., Commerce Plant, Commerce, Georgia and Ferrum Plant, Ferrum, Virginia.

The amended notice applicable to NAFTA–2360 is hereby issued as follows:

All workers of VF Knitwear, Inc., Hillsville, Virginia (NAFTA–2360), Commerce Plant, Commerce, Georgia (NAFTA–2360B) and Ferrum Plant, Ferrum, Virginia (NAFTA–2360C) who became totally or partially separated from employment on or after May 1, 1997 through June 8, 2000, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, D.C. this 11th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–7719 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL MEDIATION BOARD

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Application for Mediation Services, and Application for Investigation of Representation Dispute

ACTION: Notice.

SUMMARY: The National Mediation Board, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the National Mediation Board is soliciting comments concerning the proposed extension of the Application for Mediation Services, and the Application for Investigation of Representation Dispute.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before June 1, 1999.

Written comments should:

evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

enhance the quality, utility, and clarity of the information to be collected; and

minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Reba F. Streaker, Records Officer, National Mediation Board, 1301 K Street, N.W., Suite 250 East, Washington, DC 20572. Telephone No. (202) 692–5050 and FAX No. (202) 692–5086.

SUPPLEMENTARY INFORMATION:

A. Application for Mediation Services, NMB–2

I. Background

Section 5, First of the Railway Labor Act, 45 U.S.C., 155, First, provides that both, or either, of the parties to the labor-management dispute may invoke the mediation services of the National Mediation Board. Congress has determined that it is in the nation's best interest to provide for Governmental mediation as the primary dispute resolution mechanism to resolve labor-management disputes in the railroad and airline industries.

The Railway Labor Act is silent as to how the invocation of mediation is to be accomplished and the Board has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 CFR 1203.1, provides that applications for mediation services be made on printed forms which may be secured from the National Mediation Board. This section of the regulations provides that applications should be submitted in duplicate, show the exact nature of the dispute, the number of employees involved, name of the carrier and name of the labor organization, date of agreement between the parties, date and

copy of notice served by the invoking party to the other and date of final conference between the parties. The application should be signed by the highest officer of the carrier who has been designated to handle disputes under the Railway Labor Act or by the chief executive of the labor organization, whichever party files the application.

II. Current Actions

The extension of this form is necessary considering the information provided by the parties is used by the Board to structure a mediation process that will be productive to the parties and result in a settlement without resort to strike or lockout. The Board has been very successful in resolving labor disputes in the railroad and airline industries. Historically, some 97 percent of all NMB mediation cases have been successfully resolved without interruptions to public service. Since 1980, only slightly more than 1 percent of cases have involved a disruption of service. This success ratio would possibly be reduced if the Board was unable to collect the brief information that it does in the application for mediation services.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Agency: National Mediation Board.

Title of Form: Application for Mediation Services.

OMB Number: 3140–0001.

Agency Number: NMB–2.

Frequency: Daily.

Affected Public: Carrier and Union Officials, and employees of railroads and airlines.

Number of Respondents: 123 annually.

Estimated Time Per Respondent: The burden on the parties is minimal in completing the Application for Mediation Services. There is no improved technological method for obtaining this information.

Total Estimated Cost: $1040.00.

Total Burden Hours: 43.

B. Application for Investigation of Representation Dispute, NMB–3

I. Background

Section 2, Fourth of the Railway Labor Act, 45 U.S.C. 152, Fourth, provides that railroad and airline employees shall have the right to organize and bargain collectively through representatives of their own choosing. When a dispute arises among the employees as to who will be their bargaining representative, the National Mediation Board is required by Section 2, Ninth to investigate the dispute, to determine who is the authorized representative, if any, and to certify such representative to the employer. The Board's duties do not arise until its services have been invoked by a party to the dispute. The Railway Labor Act is silent as to how the invocation of a representation dispute is to be accomplished and the Board has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 CFR 1203.2 provides that requests to investigate representation disputes may be made on printed forms NMB–3. The application shows the name or description of the craft or class involved, the name of the invoking organization, the name of the organization currently representing the employees, if any, and the estimated number of employees in the craft or class involved. This basic information is essential to the Board in that it provides a short description of the particulars of dispute and the Board can begin determining what resources will be required to conduct an investigation.

II. Current Actions

The extension of this form is necessary considering the information is used by the Board in determining such matters as how many staff will be required to conduct an investigation and what other resources must be mobilized to complete our statutory responsibilities. Without this information, the Board would have to delay the commencement of the investigation, which is contrary to the intent of the Railway Labor Act.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Agency: National Mediation Board.

Title of Forms: Application for Investigation of Representation Dispute.

OMB Number: 3140–002.

Agency Number: NMB–3.

Frequency: Daily.

Affected Public: Union Officials, and employees of railroads and airlines.

Number of Respondents: 68 annually.

Estimated Time Per Respondent: The burden on the parties is minimal in completing the Application for Investigation of Representation Dispute. There is no improved technological method for obtaining this information.

Total Estimated Cost: $517.00.

Total Burden Hours: 24.50.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request, they will also become a matter of public record.

Reba Streaker,

Records Officer/Paperwork Clearance Officer

[FR Doc. 99–7763 Filed 3–29–99; 8:45 am]

BILLING CODE 7550–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–17]

Portland General Electric Company; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.82(e) to Portland General Electric Company (PGE). Exemption from 10 CFR 72.82(e) would release PGE from submitting the report of preoperational test acceptance criteria and test results concerning the operation of its independent spent fuel storage installation (ISFSI). The proposed ISFSI is to be located at the Trojan Nuclear Plant (Docket Nos. 72–17 and 50–344) in Columbia County, Oregon. The proposed ISFSI would store the spent nuclear fuel from the Trojan Nuclear Plant.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated February 10, 1998, PGE requested an exemption from the requirement of 10 CFR 72.82(e) to submit a report of the preoperational test acceptance criteria and test results at least 30 days prior to the receipt of spent fuel or high-level radioactive waste.

The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7 to release PGE from submitting a report to NRC in accordance with 10 CFR 72.82(e).

Need for the Proposed Action

The applicant is preparing to build and operate the Trojan ISFSI as described in its application and SAR, subject to approval of the pending licensing application. The exemption from 10 CFR 72.82(e) is necessary because PGE is preparing to transfer the spent nuclear fuel from its current location in the Trojan Nuclear Plant spent fuel pool to the Trojan ISFSI, immediately following the completion of the preoperational testing.

Environmental Impacts of the Proposed Action

Section 72.82(e) currently requires that a Part 72 licensee submit to NRC a report of preoperational test acceptance criteria and test results at least 30 days before the receipt of spent fuel into an ISFSI. As part of the review of the applicant's SAR, the staff determined that the scope of the preoperational testing was adequately described. In addition, the staff will be on site during the preoperational testing to both observe and conduct inspections. This allows the staff to conduct a direct observation and independent evaluation as to whether the applicant has developed, implemented, and evaluated preoperational testing activities. Therefore, the reports required by 10 CFR 72.82(e) are not necessary to provide a hold period for NRC staff review. Further, on September 14, 1998, the Commission issued a proposed rule (63 FR 49046) to eliminate 10 CFR 72.82(e). Applicants for a license are currently required to submit information on a preoperational test program as part of an SAR. The Commission's current practice is to maintain an extensive oversight (i.e., inspection) presence during the preoperational testing phase of the ISFSI; reviewing the acceptance criteria, preoperational test, and test results as they occur. In the proposed rule, the Commission states that it believes neither the report nor the 30-day hold period are needed for regulatory purposes and taking this action will relieve licensees from an unnecessary regulatory burden. A final rule to remove this regulation has not yet been issued by the Commission.

Alternative to the Proposed Action

Since there is no environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 72.82(e) exemption and require the report of preoperational test acceptance criteria and test results at least 30 days before the receipt of spent fuel into the ISFSI. This alternative would have the same environmental impact.

Agencies and Persons Consulted

On March 1, 1999, Adam Bless from the Oregon Office of Energy was contacted about this EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.82(e) will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72–17. For further details with respect to this action, see the application for an ISFSI license dated March 26, 1996, and the request for exemption dated February 10, 1998, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the Portland State University, Branford Price Millar Library, 934 SW Harrison, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–7760 Filed 3–29–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET 72–17]

Portland General Electric Company; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.124(b) to Portland General Electric Company (PGE). Exemption from10 CFR 72.124(b) would provide relief to PGE from the requirement to use positive means to verify the continued efficacy of neutron absorbing materials for spent fuel storage casks stored at an independent spent fuel storage installation (ISFSI) at the Trojan Nuclear Plant (Docket Nos. 72–17 and 50–344) in Columbia County, Oregon. The proposed ISFSI would store spent nuclear fuel from the Trojan Nuclear Plant.

Environmental Assessment (EA)

Identification of Proposed

By letter dated March 20, 1997, PGE requested an exemption from the requirement in 10 CFR 72.124(b) which states: "When practicable the design of an ISFSI or MRS must be based on favorable geometry, permanently fixed neutron absorbing materials (poisons), or both. Where solid neutron absorbing materials are used [as a means for criticality control], the design shall provide for positive means to verify their continued efficacy." Specifically, PGE is requesting exemption from the requirement to provide a positive means to verify the continued efficacy of neutron absorbing materials.

The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7 to release PGE from the requirement to use positive means to verify the continued efficacy of neutron absorbing materials for spent fuel storage casks stored at an ISFSI in accordance with 10 CFR 72.124(a).

Need for the Proposed Action

The applicant is preparing to build and operate the Trojan ISFSI as described in its application and SAR, subject to approval of the pending licensing application. The exemption to 10 CFR 72.124(b) is necessary because, while this requirement is appropriate for wet spent fuel storage systems, it is not appropriate for dry spent fuel storage systems such as the one PGE plans to use for storage of spent fuel at the Trojan ISFSI. Periodic verification of neutron poison effectiveness is neither necessary nor practical for these casks.

Environmental Impacts of the Proposed Action

Section 72.124(b) currently requires that where the design of an ISFSI uses solid neutron absorbing material as a method of criticality control, the design of the ISFSI shall provide a positive means to verify the continued efficacy of the absorbing material. On June 9, 1998, the Commission issued a proposed rule (63 FR 31364) to revise 10 CFR 72.124(b). The Commission proposed that for dry spent fuel storage systems, the continued efficacy of neutron absorbing material may be confirmed by a demonstration and analysis before use, showing that significant degradation of the material cannot occur over the life of the facility. The Commission stated in the proposed rule that the potentially corrosive environment under wet storage conditions is not present in dry storage systems because an inert environment is maintained. Under these conditions, there is no mechanism to significantly degrade the neutron absorbing material. Consequently, a positive means for verifying the continued efficacy of the

material is not required. A final rule to revise this regulation has not yet been issued by the Commission.

The review of the applicant's SAR showed that credit was taken for only 75% of the original neutron absorbing material being present and that the neutron flux produced by the spent nuclear fuel would deplete only a small percentage of neutron absorbing material during the expected life of this facility. The neutron absorbing material (poison) is in a form that exposure to the ambient atmosphere of the basket interior will not cause a significant deterioration of the structural properties of the material over the expected life of the facility.

Alternative to the Proposed Action

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 72.124(b) exemption and, therefore, not allow elimination of the requirement to verify the continued efficacy of neutron absorbing materials. This alternative would have the same or greater environmental impacts.

Agencies and Persons Consulted

On March 1, 1999, Adam Bless from the Oregon Office of Energy was contacted about this EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.124(b) will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72–17. For further details with respect to this action, see the application for an ISFSI license dated March 26, 1996, and the request for exemption dated March 20, 1997, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the Portland State University, Branford Price Millar Library, 934 SW Harrison, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–7761 Filed 3–29–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET 72–17]

Portland General Electric Company; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from certain requirements of 10 CFR 72.70(a), to Portland General Electric Company (PGE). Exemption from portions of 10 CFR 72.70(a) would release PGE from submitting the final Safety Analysis Report (SAR) at least 90 days prior to the receipt of fuel at its independent spent fuel storage installation (ISFSI) at the Trojan Nuclear Plant (Docket Nos. 72–17 and 50–344) in Columbia County, Oregon.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated February 9, 1999, PGE requested an exemption from the requirement in 10 CFR 72.70(a) which states, in part, that the ". . . information submitted in the Safety Analysis Report shall be updated and submitted to the Commission ". . . with final Safety Analysis Report completion and submittal to the Commission at least 90 days prior to the planned receipt of spent fuel . . ."

The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7 to release PGE from submitting the final SAR to NRC 90 days prior to receipt of spent fuel at the Trojan ISFSI in accordance with 10 CFR 72.70(a).

Need for the Proposed Action

The exemption from 10 CFR 72.70(a) is necessary because, while PGE has submitted all major changes to the SAR within the 90-day limit, a number of minor changes have been submitted in a timeframe that would not permit PGE to receive spent fuel at the ISFSI on its planned schedule if it must comply with the 90-day limit. A delay of 90 days to receive fuel at the Trojan ISFSI would cause an unnecessary burden to PGE.

Environmental Impacts of the Proposed Action

PGE last submitted a major revision to the SAR on October 31, 1998. Since that time PGE has submitted several minor changes to the SAR. NRC staff has reviewed all SAR changes through March 11, 1999, in consideration for issuing PGE a license, pursuant to 10 CFR Part 72, to operate an ISFSI at Trojan Nuclear Plant. Therefore, the staff has concluded that a period of 90 days would not be required to review the final SAR. Based on the review of the Trojan ISFSI SAR as supplemented through March 11, 1999, the staff further concluded that a period of 5 days would be sufficient to review the final SAR and, if necessary, take additional regulatory action prior to PGE receiving fuel at the Trojan ISFSI. Accordingly, the Commission concludes that this proposed exemption will have no significant environmental impacts.

Alternative to the Proposed Action

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 72.70(a) exemption and require the final SAR update at least 90 days before the receipt of spent fuel at the ISFSI. This alternative would also have no significant environmental impact.

Agencies and Persons Consulted

On March 1, 1999, Adam Bless from the Oregon Office of Energy was contacted about this EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, granting an exemption from 10 CFR 72.70(a) to release PGE from submitting the final SAR at least 90 days prior to the receipt of fuel at its ISFSI at the Trojan Nuclear Plant and instead require the final SAR be submitted at least 5 days prior to the receipt of fuel at the Trojan ISFSI will not significantly impact the quality of the human environment. Accordingly, the Commission concludes that an environmental impact statement is not required for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72–17. For further details with respect to this

action, see the application for an ISFSI license dated March 26, 1996, and the request for exemption dated February 9, 1999, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the Portland State University, Branford Price Millar Library, 934 SW Harrison, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–7762 Filed 3–29–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. NPF–42 that was issued to Wolf Creek Nuclear Operating Corporation (the licensee) for operation of the Wolf Creek Generating Station (WCGS), located in Coffey County, Kansas.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment will revise the current Technical Specifications (CTS) for WCGS in their entirety based on the guidance provided in NUREG–1431, "Standard Technical Specifications, Westinghouse Plants," Revision 1, dated April 1995, and in the Commission's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132). The proposed action is in accordance with the licensee's amendment request dated May 15, 1997, as supplemented by (1) the letters in 1998 dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, and (2) the letters in 1999 dated February 4 and March 5 (3 letters).

The Need for the Proposed Action

It has been recognized that nuclear safety in all nuclear power plants would benefit from an improvement and standardization of plant Technical Specifications (TS). The NRC's "Interim Policy Statement on Technical Specification Improvements for Nuclear Power Plants," (52 FR 3788) contained proposed criteria for defining the scope of TS. Later, the NRC's "FinalPolicy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132), incorporated lessons learned since publication of the interim policy statement and formed the basis for revisions to 10 CFR 50.36, "Technical Specifications." The "Final Rule" (60 FR 36953) codified criteria for determining the content of TS. To facilitate the development of standard TS for nuclear power reactors, each power reactor vendor owners' group (OG) and the NRC staff developed standard TS. For WCGS, the Improved Standard Technical Specifications (ISTS) are in NUREG–1431. This document formed the basis for the WCGS Improved Technical Specifications (ITS) conversion. The NRC Committee to Review Generic Requirements (CRGR) reviewed the ISTS, made note of its safety merits, and indicated its support of the conversion by operating plants to the ISTS.

Description of the Proposed Change

The proposed changes to the CTS are based on NUREG–1431 and on guidance provided by the Commission in its Final Policy Statement. The objective of the changes is to completely rewrite, reformat, and streamline the CTS (i.e., to convert the CTS to the ITS). Emphasis is placed on human factors principles to improve clarity and understanding of the TS. The Bases section of the ITS has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1431, portions of the CTS were also used as the basis for the development of the WCGS ITS. Plant-specific issues (e.g., unique design features, requirements, and operating practices) were discussed with the licensee, and generic matters with Westinghouse and other OGs.

This conversion is a joint effort in concert with three other utilities: Pacific Gas & Electric Company for Diablo Canyon Power Plant, Units 1 and 2 (Docket Nos. 50–275 and 50–323); TU Electric for Comanche Peak Steam Electric Station, Units 1 and 2 (Docket Nos. 50–445 and 50–446); and Union Electric Company for Callaway Plant, Unit 1 (Docket No. 50–483). It was a goal of the four utilities to make the ITS for all the plants as similar as possible. This joint effort includes a common methodology for the licensees in marking-up the CTS and NUREG–1431 specifications, and the NUREG–1431 Bases, that has been accepted by the staff.

This common methodology is discussed at the end of Enclosure 2, "Mark-Up of Current TS"; Enclosure 5a, "Mark-Up of NUREG–1431 Specifications"; and Enclosure 5b, "Mark-Up of NUREG–1431 Bases", for each of the 14 separate ITS sections that were submitted with the licensee's application. Each of the 14 ITS sections also includes the following enclosures:

- Enclosure 1, "Cross-Reference Table," provides the cross-reference table connecting each CTS specification (i.e., limiting condition for operation, required action, or surveillance requirement) to the associated ITS specification, sorted by both CTS and ITS specifications.
- Enclosures 3A and 3B, "Description of Changes to Current TS" and "Conversion Comparison Table," provides the description of the changes to the CTS section and the comparison table showing which plants (of the four licensees in the joint effort) that each change applies.
- Enclosure 4, "No Significant Hazards Considerations," provides the no significant hazards consideration (NHSC) of 10 CFR 50.91 for the changes to the CTS. A description of the NSHC organization is provided, followed by generic NHSCs for administrative, more restrictive, relocation, and moving-out-of-CTS changes, and individual NHSCs for less restrictive changes.
- Enclosures 6A and 6B, "Differences From NUREG–1431" and "Conversion Comparison Table," provides the descriptions of the differences from NUREG–1431 specifications and the comparison table showing which plants (of the four licensees in the joint effort) that each difference applies.

The common methodology includes the convention that, if the words in a CTS specification are not the same as the words in the ITS specification, but the CTS words have the same meaning or have the same requirements as the words in the ITS specification, then the licensees do not have to indicate or describe a change to the CTS. In general, only technical changes have been identified; however, some non-technical changes have also been identified. The portion of any specification which is being deleted is struck through (i.e., the deletion is annotated using the strike-out feature of the word processing computer program or crossed out by hand). Any text being added to a specification is shown by shading the text, placing a circle around the new

text, or by writing the text in by hand. The text being struck through or added is shown in the marked-up CTS and ISTS pages in Enclosures 2 (CTS pages) and 5 (ISTS and ISTS Bases pages) for each ITS section attachment to the application. Another convention of the common methodology is that the technical justifications for the less restrictive changes are in the NHSCs.

The proposed changes can be grouped into the following four categories: relocated requirements, administrative changes, less restrictive changes involving deletion of requirements, and more restrictive changes. These categories are as follows:

1. Relocated requirements (i.e., the licensee's "LG" or "R" changes) are items which are in the CTS but do not meet the criteria set forth in the Final Policy Statement. The Final Policy Statement establishes a specific set of objective criteria for determining which regulatory requirements and operating restrictions should be included in the TS. Relocation of requirements to documents with an established control program, controlled by the regulations or the TS, allows the TS to be reserved only for those conditions or limitations upon reactor operation which are necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety, thereby focusing the scope of the TS. In general, the proposed relocation of items from the CTS to the Updated Safety Analysis Report (USAR), appropriate plant-specific programs, station procedures, or ITS Bases follows the guidance of NUREG–1431. Once these items have been relocated to other licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC-approved control mechanisms, which provide appropriate procedural means to control changes by the licensee.

2. Administrative changes (i.e., the licensee's "A" changes) involve the reformatting and rewording of requirements, consistent with the style of the ISTS in NUREG–1431, to make the TS more readily understandable to station operators and other users. These changes are purely editorial in nature, or involve the movement or reformatting of requirements without affecting the technical content. Application of a standardized format and style will also help ensure consistency is achieved among specifications in the TS. During this reformatting and rewording process, no technical changes (either actual or interpretational) to the TS will be made unless they are identified and justified.

3. Less restrictive changes and the deletion of requirements involves portions of the CTS (i.e., the licensee's "LS" and "TR" changes) which (1) provide information that is descriptive in nature regarding the equipment, systems, actions, or surveillances, (2) provide little or no safety benefit, and (3) place an unnecessary burden on the licensee. This information is proposed to be deleted from the CTS and, in some instances, moved to the proposed Bases, USAR, or procedures. The removal of descriptive information to the Bases of the TS, USAR, or procedures is permissible because these documents will be controlled through a process that utilizes 10 CFR 50.59 and other NRC-approved control mechanisms. The relaxations of requirements were the result of generic NRC actions or other analyses. They will be justified on a case-by-case basis for the WCGS and described in the safety evaluation to be issued with the license amendment.

4. More restrictive requirements (i.e., the licensee's "M" changes) are proposed to be implemented in some areas to impose more stringent requirements than are in the CTS. In some cases, these more restrictive requirements are being imposed to be consistent with the ISTS. Such changes have been made after ensuring the previously evaluated safety analysis for the WCGS was not affected. Also, other more restrictive technical changes have been made to achieve consistency, correct discrepancies, and remove ambiguities from the TS. Examples of more restrictive requirements include: placing a Limiting Condition for Operation (LCO) on station equipment which is not required by the CTS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

There are twenty-two other proposed changes to the CTS that may be included in the proposed amendment to convert the CTS to the ITS. These are beyond scope issues (BSIs) in that they are changes to both the CTS and the ISTS. For the WCNGS, these are the following:

1. Change 1–05–M (CTS Section 3/4.4). The change would add a note under CTS 3.4.1.2 (ITS 3.4.5) to establish secondary side temperature restrictions on starting an idle reactor coolant pump when below the low temperature overpressurization arming temperature of 368 degrees F. The change would also add similar notes to CTS 3.4.1.3 and 3.4.1.4.1 (ITS 3.4.6 and 3.4.7). The notes would help ensure the assumptions in the WCNGS low temperature overpressurization event analysis remain valid.

2. Change 1–15–M (CTS Section 3/4.4). CTS Surveillance Requirements (SRs) 4.4.1.2.2 and 4.4.1.3.2 require steam generator (SG) levels to be periodically verified to be greater than or equal to 10 percent wide range water level. The proposed change would revise the SG level value to 6 percent narrow range water level. This change would help ensure that the SG level is sufficient to cover all SG tubes so that the SGs would provide an adequate heat sink for removal for decay heat. The proposed change would similarly revise CTS 3.4.1.4.b, which currently requires, for operational Mode 5, that the SG level be maintained greater than 10 percent wide range level. The change would increase this level value to greater than 66 percent wide range, which again would help ensure the SG tubes remain covered in Mode 5.

3. Change 7–10–LS–9 (CTS Section 3/4.6). The proposed change would add a note to CTS SRs 4.6.1.7.2 and 4.6.1.7.4 stating that containment purge valves with resilient seals are not required to be leak rate tested when the penetration flow path is isolated by leak-tested blank flange.

4. Change 2–20–A (2–20–A has two changes associated with it. This is the first of two.) (CTS Section 3/4.8). The proposed change would increase the minimum battery cell float voltages for DC sources in CTS Table 4.8–2 by 0.01 to 0.02 volts.

5. Change 2–20–A (Second change associated with 2–20–A) (CTS Section 3/4.8). A change would be made to decrease the total required battery terminal voltage for a DC subsystem in CTS SR 4.8.2.1. These proposed changes in minimum cell float voltage and corresponding total required battery voltage would reflect a recent design modification made by the licensee that replaced the Gould manufactured square cell batteries with AT&T manufactured round cell batteries.

6. Change 2–27–M (CTS Section 3/4.8). The proposed change would revise the battery performance discharge test acceptance criteria in CTS 4.8.2.1.e to reflect a recent design modification that replaced the Gould manufactured square cell batteries with AT&T manufactured round cell batteries.

The above six BSIs are given in the licensee's application. The remaining sixteen BSIs may have been revised by the licensee's responses to the NRC requests for additional information (RAIs). The format for the sixteen BSIs listed below is the associated change number, RAI number, RAI response

submittal date, and description of the change.

7. Change 1–22–M (CTS Section 3/4.3), question Q3.3–49, response letter dated November 24, 1998. The proposed change would add quarterly channel operational tests (COTs) to CTS Table 4.3–1 for the power range neutron flux-low, intermediate range neutron flux, and source range flux trip functions. The CTS only require a COT prior to startup for these functions. A new note (Note 19) would be added to require that the new quarterly COT be performed within 12 hours after reducing power below P–10 for the power range and intermediate range instrumentation if not performed within the previous 92 days (P–10 is the dividing point marking the applicability for these trip functions). A new note (Note 20) would also be added requiring the P–6 and P–10 interlocks be verified to be in their required state during all COTs on the power range neutron flux-low and intermediate range neutron flux trip functions.

8. Change 1–7–LS–3 (CTS Section 3/4.3), question Q3.3–107, response letter dated December 2, 1998. The proposed changes would (1) extend the completion time for CTS Action 3.b from no time specified to 24 hours for intermediate range channel restoration or changing the power level to either below P–6 or above P–10, (2) reduce the applicability of the intermediate range neutron flux channels and delete CTS Action 3.a as being outside the revised applicability, and (3) add a less restrictive new action that requires immediate suspension of operations involving positive reactivity additions and a power reduction below P–6 within 2 hours, but no longer requires a reduction to Mode 3.

9. Change 1–9–A (CTS Section 6.0), question Q5.2–1, response letter dated September 24, 1998. The proposed change would revise requirements concerning overtime control by replacing CTS 6.2.2.e with a reference to administrative procedures for the control of working hours.

10. Change 1–15–A (CTS Section 6.0), question Q5.2–1, response letter dated September 24, 1998. The proposed change would revise CTS 6.2.2.G to eliminate the title of Shift Technical Advisor. The engineering expertise is maintained on shift, but a separate individual would not be required as allowed by a Commission Policy Statement.

11. Change 2–18–A (CTS Section 6.0), question Q5.2–1, response letter dated September 24, 1998. The proposed change would revise the dose rate limits in the Radioactive Effluent Controls Program for releases to areas beyond the site boundary would be revised to reflect 10 CFR Part 20 requirements.

12. Change 2–22–A (CTS Section 6.0), question Q5.2–1, response letter dated September 24, 1998. The proposed change would revise the Radioactive Effluent Controls Program to include clarification statements denoting that the provisions of CTS 4.0.2 and 4.0.3, which allow extensions to surveillance frequencies, are applicable to these activities.

13. Change 3–11–A (CTS Section 6.0), question Q5.2–1, response letter dated September 24, 1998. CTS provides alternative high radiation area access control alternatives pursuant to 10 CFR 20.203(c)(2). The proposed change would revise CTS 6.12 to meet the current requirements in 10 CFR Part 20 and the guidance in NRC Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants" for such access controls.

14. Change 3–18–LS–5 (CTS Section 6.0), question Q5.2–1, response letter dated September 24, 1998. The proposed change would delete the CTS 6.9.1.8 requirement to provide documentation of all challenges to the power operated relief valves (PORVs) and safety valves on the reactor coolant system. This proposed change is based on Generic Letter 97–02, "Revised Contents of the Monthly Operating Report," which reduced the requirements for submitting such information to the NRC. GL 97–02 did not include these valves for information to be submitted.

15. Change 9–17–LS–24 (CTS Section 3/4.4), question Q3.4.12–5, response letter dated September 24, 1998. The proposed change would add four notes to CTS 3.4.9.3 to reflect CTS SR 4.5.3.2, LCO 3.5.4 actions, LCO 3.5.4 applicability notes and the accumulator action proposed under Change 9–10–M for CTS 3/4.4. Note 1 on centrifugal charging pump (CCP) swap operations would be a relaxation of the CTS because it would allow both CCPs to be capable of injecting into the RCS for up to 4 hours throughout low temperature protection applicability.

16. Change 10–20–LS–39 (CTS Section 3/4.7), question Q3.7.10–14, response letter dated October 16, 1998. The proposed change would revise and add an action to CTS LCOs 3.7.6 and 3.7.7 for ventilation system pressure envelope degradation that allows 24 hours to restore the control room pressure envelope through repairs before requiring the unit to perform an orderly shutdown. The new action has a longer allowed outage time than LCO 3.0.4 which the CTS would require to be entered immediately. The new action has a longer allowed outage time than LCO 3.0.4 which the CTS would require to be entered immediately. This change recognizes that the ventilation trains associated with the pressure envelope would still be operable.

17. Change 4–8–LS–34 (CTS Section 3/4.4), question Q3.4.11–2, response letter dated September 24, 1998. The proposed change would limit the CTS SRs 4.4.4.1 and 4.4.4.2 requirements to perform the 92-day surveillance of the pressurizer PORV block valves and the 18-month surveillance of the pressurizer PORVs (i.e., perform one complete cycle of each valve) to only Modes 1 and 2.

18. Change 4–9–LS–36 (CTS Section 3/4.4), question Q3.4.11–4, response letter dated September 24, 1998. The proposed change would add a note to CTS LCO 3.4.4 Action (d) that would state that the action does not apply when the PORV block valves are inoperable as a result of power being removed from the valves in accordance with Actions (b) and (c) for an inoperable PORV.

19. Change 1–60–A (CTS Section 3/4.3), question TR3.3–0073.3, response letter dated December 21, 1998. The proposed change would revise the frequency for conducting the trip actuating device operational test (TADOT) for the turbine trip of the reactor trip instrumentation surveillance requirements in CTS Table 4.3–1 from "prior to reactor startup" to "prior to exceeding the P–9 interlock whenever the unit has been in Mode 3."

20. Change 1–70–M (CTS Section 3/4.8), question Q3.8.2–04, response letter dated December 17, 1998. The proposed change would add shutdown requirements (including actions) for the load shedder and emergency load sequencer (LSELS) to CTS LCO 3.8.1.2 and surveillance requirements in SR 4.8.1.2. These requirements would reflect current practice.

21. Change 2–25–LS–23 (CTS Section 3/4.8), question Q3.8.4–08, response letter dated December 17, 1998. The proposed change would allow substitution of the service test with a performance discharge test in CTS 4.8.2.1.

22. Change 14–9–M (CTS Section 3/4.7), question Q3.7.16–3, response letter dated February 4, 1999. The proposed change would provide a new LCO, Actions and SRs based on the ISTS to impose limitations on the boron concentration in the fuel storage pool. The BSI for the conversion to ITS is that a minimum value for boron concentration would be added that is currently not in the CTS, and the

Actions would be revised to reflect additional regions of fuel storage based on approval of reracking the spent fuel pool prior to issuance of the ITS.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed conversion of the CTS to the ITS for WCGS, including the beyond scope issues discussed above. Changes which are administrative in nature have been found to have no effect on the technical content of the TS. The increased clarity and understanding these changes bring to the TS are expected to improve the operators' control of WCGS in normal and accident conditions.

Relocation of requirements from the CTS to other licensee-controlled documents does not change the requirements themselves. Future changes to these requirements may then be made by the licensee under 10 CFR 50.59 and other NRC-approved control mechanisms which will ensure continued maintenance of adequate requirements. All such relocations have been found consistent with the guidelines of NUREG–1431 and the Commission's Final Policy Statement.

Changes involving more restrictive requirements have been found to enhance station safety.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit, or to place an unnecessary burden on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic action, or of agreements reached during discussions with the OG, and found to be acceptable for WCGS. Generic relaxations contained in NUREG–1431 have been reviewed by the NRC staff and found to be acceptable.

In summary, the proposed revisions to the TS were found to provide control of station operations such that reasonable assurance will be provided that the health and safety of the public will be adequately protected.

The proposed action will not increase the probability or consequences of accidents, will not change the quantity or types of any effluent that may be released offsite, and will not significantly increase the occupational or public exposure. Also, these changes do not increase the licensed power and allowable effluents for the station. The changes will not create any new or unreviewed environmental impacts that were not considered in the Final Environmental Statement related to the operation of WCNGS, NUREG–0878, dated June 1982. Therefore, there are no significant radiological impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action only involves features located entirely within the restricted area for the station defined in 10 CFR Part 20 and does not involve any historic sites. The proposed action does not affect non-radiological station effluents and has no other environmental impact. It does not increase any discharge limit for the station. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the licensee's application would result in no change in current environment impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Wolf Creek Generating Station dated June 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on March 22, 1999, the staff consulted with the Kansas State official, Mr. Vick Cooper, Kansas Department of Health and Environment, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated May 15, 1997, as supplemented by (1) the letters in 1998 dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, and (2) the letters in 1999 dated February 4 and March 5 (3 letters) which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Project Directorate IV–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–7756 Filed 3–29–99; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of March 29, April 5, 12, and 19, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 29

There are no meetings scheduled for the Week of March 29.

Week of April 5—Tentative

There are no meetings scheduled for the Week of April 5.

Week of April 12—Tentative

Wednesday, April 14

9:00 a.m.—Briefing on Investigative Matters (Closed—Ex. 5 & 7).

11:00 a.m.—Briefing on Remaining Issues Related to Proposed Restart of Millstone Unit 2 (Public Meeting) (Contact: William Dean, 301–415–2240).

Thursday, April 15

2:00 p.m.—Briefing on Status of Uranium Recovery (Public Meeting) (Contact: King Stablein, 301–415–7238).

3:00 p.m.—Affirmation Session (Public Meeting) (If needed).

Friday, April 16

9:30 a.m.—Briefing on Rulemaking For Generally Licensed Devices (Public Meeting) (Contact: Patricia Holahan, 301–415–8125).

Week of April 19—Tentative

There are no meetings scheduled for the Week of April 19.

The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on March 19, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Briefing on Millstone Independent Review Team" (Closed—Ex. 2, 5 & 7), be held on March 19, and on less than one week's notice to the public.

By a vote of 5–0 on March 23, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Hydro Resources, Inc.—ENDAUM's and SRIC's Petition For Interlocutory Review of Presiding Officer's Order Concerning Technical Qualifications (March 3, 1999)" (PUBLIC MEETING) be held on March 23, and on less than one week's notice to the public.

By a vote of 5–0 on March 25, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Briefing on Millstone Independent Review Team" (Closed—Ex. 2, 5 & 7), be held on March 25, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or *dkw@nrc.gov*.

Dated: March 26, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–7872 Filed 3–26–99; 2:27 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1084 (which should be mentioned in all correspondence concerning this draft guide), is the Second Proposed Revision 3 of Regulatory Guide 1.8, "Qualification and Training of Personnel for Nuclear Power Plants." The guide will be in Division 1, "Power Reactors." This proposed revision is being developed to provide current guidance acceptable to the NRC staff regarding qualifications and training for nuclear power plant personnel. This regulatory guide would endorse an American Nuclear Society standard, ANSI/ANS–3.1–1993, "Selection, Qualification, and Training of Personnel for Nuclear Power Plants," with certain clarifications, additions, and exceptions.

The draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by May 20, 1999.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://ruleforum.llnl.gov/cgi-bin/library? source=*&library=rg__lib&file=*. This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov. For information about the draft guide and the related documents, contact Ms. I. Schoenfeld, (301)415–6778; e-mail ISS@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax to (301)415–2289, or by e-mail to <DISTRIBUTION@NRC.GOV>. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 10th day of March 1999.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 99–7755 Filed 3–29–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Performance of Commercial Activities

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Issuance of Transmittal Memorandum No. 19, amending OMB Circular No. A–76, "Performance of Commercial Activities."

SUMMARY: This Transmittal Memorandum updates the Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2000. In addition, the standard retirement cost factors for the weighted average CSRS/FERS pension and Federal retiree health cost numbers are revised.

DATES: All changes in the Transmittal Memorandum are effective immediately on March 30, 1999, and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date.

FOR FURTHER INFORMATION CONTACT: The Budget Analysis and Systems Division, NEOB Room 6002, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Tel. No. (202) 395–6104, FAX No. (202) 395–7230.

Availability

Copies of the current OMB Circular A–76 and the March 1996 OMB Circular A–76 Revised Supplemental Handbook may be obtained by contacting the Executive Office of the President, Office of Administration, Publications Office, Washington, DC 20503, at (202) 395–7332. These documents are also accessible on the OMB Home page. The online OMB Home page address (URL) is http:/www.whitehouse.gov/WH/EOP/omb.

Jacob J. Lew,

Director.

Executive Office of the President,

Office of Management and Budget, Washington, D.C. 20503

March 24, 1999.

Circular No. A–76 (Revised)
Transmittal Memorandum No. 19
To The Heads of Executive Departments and Agencies
Subject: Performance of Commercial Activities

This Transmittal Memorandum updates the Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2000.

The non-pay inflation factors are for purposes of A–76 cost comparison determinations only. They reflect the generic non-pay inflation assumptions used to develop the FY 2000 Budget baseline estimates required by law. The law requires that a specific inflation factor (GDP FY/FY chained price index) be used for this purpose. These inflation factors should not be viewed as estimates of expected inflation rates for major long-term procurement items or as an estimate of inflation for any particular agency's non-pay purchases mix.

Federal pay raise assumptions effective date	military/civilian (percent)
January 2000	4.4
January 2001	3.9
January 2002	3.9
January 2003	3.9
January 2004	3.9

Non-Pay Categories (Supplies and Equipment, etc.)
FY 1998—1.2%
FY 1999—1.3%
FY 2000—2.0%
FY 2001—2.1%
FY 2002—2.1%
FY 2003—2.1%
FY 2004—2.1%

Geographic pay differentials received in 1999 shall be included for the development of in-house personnel costs. The above pay raise factors shall be applied after consideration is given to the geographic pay differentials. The pay raise factors provided for 2000 and beyond shall be applied to all employees, with no assumption being made as to how they will be distributed between possible locality and ECI-based increases.

In addition, the standard retirement cost factors for the weighted average CSRS FERS pension and Federal retiree health cost numbers are reduced from those published in the March 1996 A–76 Supplemental Handbook. These numbers are being revised because of downward estimates in actuarial normal cost estimates, which more than offset the gradual shift toward FERS in the total. However, the post-retirement health cost was revised up by a full percentage point. The net result is that the cost factors provided at Part II, Chapter 2, paragraph B.6. f. 1.a., are up by 0.3 to 0.6 percentage points. In addition, the current benefit component for Federal employee insurance and health benefits at Part II, Chapter 2, paragraph 6. f. 1.b is revised up by 0.1 percentage points on the health side to 5.7 percent. The Medicare factor of 1.45 at Part II, Chapter 2, paragraph 6. f. 1.b and the cost of miscellaneous fringe benefits of 1.7 percent at Part II, Chapter 2, paragraph 6. f. 1.c ., are unchanged.

Current Handbook—as printed in the March 1996 Revised Supplemental Handbook at Part II, Chapter 2, Paragraph 6.f.1.a (page 20):
23.7% Regular (19.6 pension + 4.1 retiree health)
32.3% Air Traffic Controllers (28.2 pension + 4.1 retiree health)
37.7% Law Enforcement (33.6 pension + 4.1 retiree health)

Revised Handbook—as provided by this Transmittal at Part II, Chapter 2, Paragraph 6.f.1.a (page 20):
24.0% Regular (18.9 pension + 5.1 retiree health)
33.0% Air Traffic Controllers (27.9 pension + 5.1 retiree health)
38.2% Law Enforcement (33.1 pension + 5.1 retiree health)

Other Current Benefits—as provided at Part II, Chapter 2, Paragraph 6.f.1.b (page 20):
Current Handbook (March 1996) 5.6%
Revised per this Transmittal 5.7%

These updates are effective as follows: all changes in the Transmittal Memorandum are effective immediately and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date.

Agencies are reminded that OMB Circular No. A–76, Transmittal Memoranda 1 through Transmittal Memorandum 14 are canceled. Transmittal Memorandum No. 15 provided the Revised Supplemental Handbook, and is dated March 27, 1996 (**Federal Register**, April 1, 1996, pages 14338–14346). Transmittal Memoranda No. 16, 17 and 18, which provided the last three year's OMB Circular A–76 Federal pay raise and inflation factor assumptions are also canceled.

Sincerely,

Jacob J. Lew,

Director.

[FR Doc. 99–7666 Filed 3–29–99; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23750; File No. 812–11288]

Security Benefit Life Insurance Company, et al.

March 23, 1999.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemptions under the Investment Company Act of 1940 ("1940 Act".

APPLICANTS: Security Benefit Life Insurance Company ("Security Benefit"), T. Rowe Price Variable Annuity Account ("Separate Account"), First Security Benefit Life Insurance and Annuity Company of New York ("Security Benefit—NY," together with Security Benefit, the "Insurers"), T. Rowe Price Variable Annuity Account of First Security Benefit Life Insurance and Annuity Company of New York ("Separate Account—NY," together with Separate Account, the "Separate Accounts") and T. Rowe Price Investment Services, Inc. ("Distributor") (collectively referred to herein as "Applicants").

RELEVANT 1940 ACT SECTIONS: Exemption requested under Section 6(c) of the 1940 Act from Sections 2(a)(32), 22(c), 27(i)(2)(A) and Rule 22c–1 thereunder and an amendment of an Order of Approval requested under Section 11 of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order on behalf of themselves, on behalf of any other person that may become a principal underwriter for contracts issued by the Insurers ("Future Underwriters") that are similar in all material respects to the flexible premium deferred or single premium immediate variable annuity contracts described in the Application (the "Contracts"), and on behalf of such other separate accounts as the Insurers shall establish in the future, which at any time may offer variable annuity contracts on a basis which is similar in all material respects to the arrangements described with respect to the Contracts ("Other Separate Accounts") (a) exempting such persons from the provisions of Sections 2(a)(32), 22(c)

and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder, to the extent necessary to assess a withdrawal charge, as described herein, against Contract owners and (b) amending an Order of Approval, granted on April 4, 1995, pursuant to Section 11 of the 1940 Act, to approve, to the extent necessary, the terms of a payment arrangement whereby purchasers of Contracts may apply redemption proceeds from shares of a registered open-end investment company for which the Distributor serves as principal underwriter (the "T. Rowe Price Public Funds") as a premium payment for a Contract, a conversely, to apply the proceeds of a withdrawal or annuity payment under the Contracts to the purchase of shares of a T. Rowe Price Public Funds(s).

FILING DATE: The application was filed on August 27, 1998, amended and restated on January 20, 1999, and amended and restated on March 19, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 16, 1999, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearings requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Amy J. Lee, Esq., Security Benefit Life Insurance Company, 700 Harrison Street, Topeka, Kansas 66636, and Darrell N. Braman, Esq., T. Rowe Price Investment Services, Inc., 100 E. Pratt Street, Baltimore, Maryland 21202. Copies to Keith T. Robinson, Esq., Dechert Price & Rhoads, 1775 Eye Street, N.W., Washington, D.C. 20006–2401.

FOR FURTHER INFORMATION CONTACT: Martha Peterson, Attorney, or Susan Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth St., N.W., Washington, D.C. 20549–0609 (tel. (202) 942–8090).

Applicants' Representations

Background for Request for Exemptions From Certain Provisions of the 1940 Act

1. Security Benefit is a stock life insurance company organized under the laws of Kansas. Security Benefit is ultimately controlled by Security Benefit Mutual Holding Company, a Kansas mutual holding company. Security Benefit is licensed to conduct life insurance business in the District of Columbia and all state except new York.

2. Security Benefit—NY is a stock life insurance company organized under the laws of New York. Security Benefit—NY is a wholly owned subsidiary of Security Benefit Group, Inc., a financial services holding company which is wholly owned by Security Benefit. Security Benefit—NY offers the Contracts in New York and is admitted to do business in that state.

3. Each Separate Account is a unit investment trust and meets the definitions of "separate account" in Section 2(a)(37) under the 1940 Act. Each Separate Account is divided into subaccounts ("Subaccounts") that will invest exclusively in shares of the corresponding portfolio ("Portfolio") of one of the following mutual funds; (1) T. Rowe Price International Series, Inc.; (2) T. Rowe Price Equity Series, Inc. and (3) T. Rowe Price Fixed Income Series, Inc. (collectively the "Underlying Funds"). Each of the Underlying Funds is a Maryland corporation and is currently registered under the 1940 Act as an open-end management investment company.

4. The Distributor, a wholly-owned subsidiary of T. Rowe Price Associates, Inc.,, is the principal underwriter for the Contracts. The Distributor is registered as a broker-dealer under the Securities Exchange Act of 1934, as amended (the "1934 Act"), and is a member of the National Association of Securities Dealers, Inc. (the "NASD"). Each Future Underwriter will be registered as a broker-dealer under the 1934 Act and will be a member of the NASD.

5. The Contracts consist of flexible premium deferred variable annuity contracts currently issued by Security Benefit and Security Benefit—NY (the "Deferred Contracts") and single premium immediate variable annuity contracts to be issued by Security Benefit and Security Benefit—NY (the "Immediate Contracts").

6. The Contracts are available for purchase as non-tax qualified retirement plans. The Contracts are also eligible for use in connection with tax qualified retirement plans, including plans that meet the requirements of Section 408 of the Internal Revenue Code of 1986, as amended (the "Code").

7. The Deferred Contracts provide for accumulation of values on either a variable basis, a fixed basis or both during the accumulation phase of the Contracts. The Deferred and Immediate Contracts also provide several options for fixed or variable (or a combination of fixed and variable) annuity payments. Annuity payments are based on the annuity rates for the options provided. Payments made under fixed annuity options will be guaranteed by Security Benefit or Security Benefit—NY, as the case may be.

8. The net premium for Deferred and Immediate Contracts may be allocated to one or more of the Subaccounts of the Separate Account or Separate Account—NY, or the Insurer's general account, where such premium is credited with a fixed rate of interest. Each Subaccount of the Separate Account and Each Subaccount—NY of the Separate Account—NY, will invest exclusively in shares of the corresponding Portfolio of one of the Underlying Funds. Shares of each of the Portfolios are purchased by Security Benefit and Security Benefit—NY for the corresponding Subaccount or Subaccount—NY, respectively, at the Portfolio's net asset value per share, i.e., without any sales load. All dividends and capital gain distributions received from a Portfolio will be reinvested automatically in such Portfolio at net asset value per share, unless otherwise instructed by Security Benefit or Security Benefit—NY, as appropriate. Other insurance companies may invest in each Underlying Fund and Portfolio.

9. None of the Underlying Funds, the Portfolios or any investment adviser of a Portfolio is an affiliated person of Security Benefit or Security Benefit—NY, although it is possible that Security Benefit or Security Benefit—NY may be deemed to be an affiliated person of a Portfolios and an Underlying Fund at a future date by virtue of the Separate Account or Separate Account—NY's ownership of shares in Portfolio.

10. If any Owner (or Annuitant, if the Owner is not a natural person) dies during the accumulation phase under the Deferred Contracts, the Insurer will pay the death benefit proceeds to the Designated Beneficiary upon receipt of due proof of the Owner's death and instruction regarding payment of the Designated Beneficiary. The death benefit proceeds consist of the death benefit less any uncollected premium taxes. Under the Deferred and Immediate Contracts, in the event of the

Owner's death on or after the Annuity Payout Date, the death benefit is determined under the terms of the Annuity Option.

11. Under the Deferred Contracts, if the Annuitants dies during the Accumulation Period, the Owner may designate a new Annuitant within 30 days. If a new Annuitant is not named, the Issuer will designate the Owner as Annuitant.

12. The Contracts offer the following nine Annuity Options: Option 1—Life Income, Option 2—Life Income with Period Certain; Option 3—Life Income with Installment or Unit Refund; Option 4—Joint and Last Survivor, Option 5—Fixed Period; Option 6—Fixed Payment, Option 7—Age Recalculation; Option 8—Perod Certain; and Option 9—Life Income with Liquidity; Annuity Options 1 through 4 and 8 are available as either a fixed or variable annuity; Option 9 is available only as a variable annuity; and Options 5 through 7 are available as a fixed annuity, a variable annuity or a combination fixed and variable annuity.

13. Under the Deferred Contracts, the Owner may select the Annuity Payout Date and Annuity Option at the time of application. If no Annuity Payout Date is selected, the Annuity Payout Date will be the later of the Annuitant's seventieth birthday or the tenth annual Contract anniversary. If no Annuity Option is selected, the Insurer will use Life Income with 10 years period certain. The Owner may change the Annuity Payout Date, Annuity Option or Annuitant prior to the Annuity Payout Date.

14. Under the Immediate Contracts, the owner selects the Annuity Payout Date and Annuity Option at the time of application. The Annuity Payout Date must be within 30 days of the issue date. The Owner may not change the Annuity Payout Date, Annuity Option or Annuitant under the Immediate Contracts.

15. If a variable annuity under Option 1 through 4, 8 or 9 is selected, annuity payments are calculated on the basis of payment units. The number of payment units used to calculate each annuity payment is determined as of the Annuity Payout Date Account Value as of the Annuity Payout Date of the Deferred contracts, or the initial premium for the Immediate Contracts, less any premium taxes, is divided by $1,000 and the resulf is multiplied by the rate per $1,000 set forth in the annuity tables specified in the Contracts to determine the initial annuity payment for a variable annuity.

16. The initial variable annuity payment is divided by the value as of the Annuity Payout Date of the payment unit for the applicable Subaccount to determine the number of payment units to be used in calculating subsequent annuity payments. The number of payment units will remain constant for subsequent annuity payments, unless the Owner exchanges payment units among Subaccounts or makes a withdrawal under Option 8 or during the Liquidity Period under Option 9.

17. Subsequent annuity payments are calculated by multiplying the number of payment units allocated to a Subaccount by the value of the payment unit as of the date of the annuity payment. If the annuity payment is allocated to more than one Subaccount, the annuity payment is equal to the sum of the payment amount determined for each Subaccount. Annuity payments under Option 9 are made monthly, but the amount is reset only once each year on the 12-month anniversary of the Annuity Payout Date.

18. Option 9, designated the "Life Income with Liquidity Option," provides monthly annuity payments for the life of the annuitant or the lives of the annuitant and a joint annuitant with a period certain of 15 years (or a shorter period under certain circumstances).[1] Annuity payments under Option 9 are guaranteed never to be less than 80 percent of the initial annuity payment (the "Floor Payment"). The amount of annuity payments under Option 9 will remain level for 12-month intervals, subject to reset on each anniversary of the initial annuity payment. In the event of the death of a joint annuitant, annuity payments continue to the surviving joint annuitant at the level indicated at the time that Option is selected, which may be 100%, 75%, 66⅔%, or 50% of annuity payments.

19. Under Option 9, the Contract owner may allocate premium only to certain subaccounts of the relevant separate account, and no portion of the premium may be allocated to the Insurer's general account. The Contract owner may withdraw Account Value only during the Liquidity Period under Option 9. The Liquidity Period for the Immediate Contracts is the period from the date the Contract begins in force through the date preceding the 61st annuity payment. The Liquidity Period for the Deferred Contracts is the period from the Annuity Payout Date through the date preceding the 61st annuity payment.

20. Under the Deferred Contracts, full or partial withdrawals of Account Value are allowed at any time during the accumulation phase. Under the Deferred and Immediate Contracts, full and partial withdrawals of Account Value are allowed on or after the Annuity Payout Date under Annuity Option 5, 6, or 7 and during the Liquidity Period under Option 9. If a variable annuity under Annuity Option 8 is selected, the Owner may withdraw the present value of future annuity payments commuted at the assumed interest rate. Withdrawals under Option 9 are subject to a Withdrawal Charge discussed below.

21. The Insurer will deduct a daily charge from the assets of the Separate Account or the Separate Acount–NY for mortality and expense risks assumed by it under the Contracts. The mortality and expense risk under the Contracts during the accumulation phase of the Deferred Contracts and after the Annuity Payout Date for all options, except Option 9, is equal to an annual rate of 0.55% of the average daily net assets of each Subaccount or Subaccount–NY that funds the Contracts. The mortality and expense risk charge for Contracts that have annuitized under Option 9 is expected to be equal to an annual rate of 1.40% of the average daily net assets of each Subaccount or Subaccount–NY that funds such Contracts.

22. With respect to Option 9, the Insurer assumes the risks associated with guaranteeing that the annuity payment will never be less than the Floor Payment. The Insurer is entering into a reinsurance arrangement with an unaffiliated insurance company to support its guarantee of the Floor Payment, and the increased mortality and expense risk charge for Option 9 reflects the costs of such reinsurance. The reinsurer will charge the Insurer an asset-based charge equal to a certain percentage of assets allocated to Option 9 under the Contracts and the withdrawal charges imposed under the Contracts will also be paid to the reinsurer. The reinsurance cost will be based upon the reinsurer's estimate of the cost to purchase financial instruments to hedge against the risks assumed ("Hedge Costs"). The reinsurer also expects to profit from the reinsurance arrangement to the extent that it has accurately estimated the ongoing cost of hedging the risks assumed with respect to Option 9 under the Contracts. The reinsurer will agree to assume the risks, and not to increase the charges, during the life of any Contract issued under the arrangement. The Insurers may elect in the future to hedge the risks associated with Option

[1] The period certain may not extend beyond the life expectancy of the annuitant(s) for Contracts issued in connection with tax-qualified retirement plans.

9 themselves in lieu of entering into the reinsurance arrangement.

23. Various states and municipalities impose a tax on premiums on annuity contracts received by insurance companies. The Insurer assesses a premium tax charge to reimburse itself for premium taxes that it incurs. This charge will be deducted upon annuitization or upon full or partial withdrawal if premium taxes are incurred; however, the Insurer reserves the right to deduct premium taxes when due. Premium tax rates currently range from 0% to 3.5%, but are subject to change by a government entity.

24. The Insurer will deduct a Withdrawal Charge from full or partial withdrawals made during the Liquidity Period under Option 9. The Withdrawal Charge does not apply to any of the other annuity options under the Contracts. The Withdrawal Charge is based upon the year in which the withdrawal is made measured from the Annuity Payout Date. The Withdrawal Charge is applied to the amount of the withdrawal at a rate of 5 percent in the first year from the Annuity Payout Date, decreasing to 0 percent in the sixth year from the Annuity Payout Date. A partial withdrawal and any associated Withdrawal Charge is deducted from the Subaccounts in the same proportion as the withdrawal is allocated. A partial withdrawal under Option 9 will result in a reduction of the annuity payment, Floor Payment and payment units used to calculate annuity payments in the same proportion as the withdrawal reduces Account Value.

25. The Withdrawal Charges collected by the Insurers will be paid to the reinsurer each month pursuant to a reinsurance agreement, in whole or in part (depending upon the Subaccount from which the withdrawal is made), for assuming the risk associated with the Floor Payment under Option 9. The reinsurer purchases financial hedging instruments to hedge against the potential losses resulting from the risk assumed. The reinsurer bears the risk that the amount of the Floor Payment will exceed the amount of the annuity payment based upon the performance of the underlying Subaccount(s) and will pay any such shortfall to the Insurers. The Withdrawal Charge is designed so that if a Contract owner surrenders a Contract or withdraws from Account Value under Option 9 prior to expiration of the Liquidity Period, the reinsurer may recover the costs incurred in purchasing such financial hedging instruments.

The Withdrawal charge may be more or less than the Hedge Costs actually incurred by the reinsurer.

26. Each of Security Benefit and Security Benefit—NY guarantees that the charge for mortality and expense risk charges and the Withdrawal Charge will not increase with respect to a Contract once it has been issued. The charge may be increased with respect to new issues of the Contract

Background For Request for Amended Order

27. An Order of Approval pursuant to Section 11 of the 1940 Act was granted to Applicants on April 4, 1995 approving the terms of a payment arrangement whereby purchasers of Deferred Contracts would direct the Distributor to redeem shares of a T. Rowe Price Public Fund(s) and forward redemption proceeds therefore to an Insurer as a premium payment for a Deferred Contract, and conversely, to apply the proceeds of a withdrawal or an annuity payment from the Deferred Contracts to the purchase of shares of a T. Rowe Price Public Fund(s).

28. The Distributor proposes to make the payment arrangement available to owners and purchasers of the Immediate Contracts and any substantially similar variable contracts to be offered by Applicants. Use of this arrangement would be entirely elective; no Contract owner or purchaser would be required to use the payment arrangement to purchase a Contract or shares of a T. Rowe Price Public Fund.

29. Because the T. Rowe Price Public Funds do not impose sales load charges and the Contracts do not impose any sales load charges, Applicants represent that there is no possibility that any sales load would be deducted in connection with the application of redemption proceeds from a T. Rowe Price Public Fund to premium payments on a Contract or the application of withdrawal proceeds or annuity payments from a Contract to the purchase of shares of T. Rowe Price Public Fund. The Withdrawal Charge applicable to withdrawal under Option 9 is designed to recover the Hedge Costs of the reinsurer in connection with the Floor Payment and other guarantees associated with Option 9. Any exchanges deemed to be made in connection with the payment arrangement would be effected at net asset value, except where the Withdrawal Charge or premium tax may be deducted.

Applicants' Legal Analysis

For Exemption From Certain Provisions of the 1940 Act

1. Section 6(c) authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants state that because the provisions described below may be inconsistent with certain aspects of the Withdrawal Charge structure, Applicants are seeking exemptions from Sections 2(a)(32), 27(i)(2)(A) and 22(c) of the 1940 Act and Rule 22c–1 thereunder, to the extent necessary pursuant to Section 6(c) to assess the Withdrawal Charge against Contracts annuitized under Option 9 in the event of a surrender or partial withdrawal from the Contracts prior to expiration of the Liquidity Period. Applicants seek exemptions therefrom in order to avoid any questions concerning the Contracts' compliance with the 1940 Act and rules thereunder. Rule 6c–8 under the 1940 Act exempts a registered separate account and its depositor or principal underwriter from certain provisions of the Act to permit imposition of a deferred sales load on variable annuity contracts participating in such separate account. Applicants state that Rule 6c–8 was not available with respect to imposition of the Withdrawal Charge because it is a charge for an optional insurance benefit rather than a deferred sales load. For the reasons discussed below, Applicants assert that the deduction of the Withdrawal Charge is in the public interest and consistent with the protection of investors and purposes fairly intended by the 1940 Act. Applicants reserve the right to assert in any proceeding before the Commission or in any suit or action in any court that the Commission does not have authority to regulate such charges.

2. Section 2(a)(32) of the 1940 Act defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof. Applicants state that a charge such as the Withdrawal Charge may not be contemplated by Section 2(a)(32), and thus may be deemed inconsistent with the foregoing provision, to the extent that the charge can be viewed as causing a Contract to be redeemed at a price based on less than the current net asset value that is next computed after surrender or after partial withdrawal from the Contract. Although Applicants do not concede that relief is necessary,

Applicants request relief from Section 2(a)(32) to permit the deduction of the Withdrawal Charge.

3. As discussed above, Applicants state that the Withdrawal Charge compensates the Insurers (and indirectly the reinsurer) for the risks assumed should a Contract owner who selects Option 9 surrender or partially withdraw from a Contract during the Liquidity Period. Applicants assert that the Floor Payment represents an optional insurance benefit for which each insurer is entitled to receive compensation. Applicants further assert that the Withdrawal charge is not assessed at redemption for administrative expenses,[2] and that no portion of the Withdrawal charge is paid to, or otherwise used to offset the expenses of the Underlying Funds, their advisers or any of their affiliates. Applicants state that the deduction of the Withdrawal Charge is a legitimate charge for an optional insurance benefit under the Contracts. In this manner, Applicants argue that the Withdrawal charge is similar to other charges made by insurers, and approved by the Commission, at redemption for optional insurance benefits, such as enhanced death benefits.[3]

4. Moreover, Applicants submit that although Section 2(a)(32) does not specifically contemplate the imposition of a charge at the time of redemption, such a charge is not necessarily inconsistent with the definition of "redeemable security." Indeed, a withdrawal charge is little different, for this purpose, from the "redemption" charge authorized in Section 10(d)(4) of the 1940 Act. Applicants argue that Congress obviously intended that such a redemption charge, which is expressly described as a "discount from net asset value," be deemed consistent with the concept of "proportionate share" under Section 2(a)(32).

5. Consistent with Section 2(a)(32), therefore, Applicants submit that the Contracts are "redeemable securities." The Contracts provide for surrender and partial withdrawal of Account Value. The Contracts and the prospectuses for the Contracts will disclose the contingent nature of the Withdrawal Charge. Accordingly, Applicants state that there will be no restriction on, or impediment to, surrender or partial withdrawal that should cause the Contracts to be considered other than redeemable securities within the meaning of the 1940 Act and rules thereunder. Upon surrender or partial withdrawal of a Contract for which the Contract owner has annuitized under Option 9, Applicants state that Contract owners will receive their "proportionate share" of the Separate Account or Separate Account—NY; namely, the amount of the premium reduced by the amount of all applicable charges and increased or decreased by the amount of investment performance credited to the Contract.

6. Section 22(c) of the 1940 Act empowers the Commission to "make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company." Rule 22c–1 under the 1940 Act imposes requirements with respect to both the amount payable on redemption of a redeemable security and the time as of which such amount is calculated. Specifically, Rule 22c–1, in pertinent part, prohibits a registered investment company issuing a redeemable security and its principal underwriter from selling, redeeming, or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption, or of an order to purchaser or sell such security. Although Applicants do not concede that relief from Section 22(c) and Rule 22c–1 is necessary, to the extent that the imposition of the Withdrawal Charge may be viewed as causing a Contract to be redeemed at a price that is computed at less than current net asset value, Applicants request relief from Section 22(c) and Rule 22c–1.

7. Applicants submit that the deduction of the Withdrawal Charge will comply with the requirements of such rule. Regarding the amount payable, Applicants submit (as discussed above) that the assessment of the Withdrawal Charge upon surrender or partial withdrawal of a Contract for which the Owner has annuitized under Option 9 does not alter a Contract owner's current net asset value. Furthermore, consistent with the requirements of Rule 22c–1, Applicants will determine the net cash surrender value under a Contract in accordance with Rule 22c–1 on a basis next computed after receipt of a Contract owner's request for surrender or partial withdrawal. Accordingly, Applicants submit that they will comply with both the amount payable and timing requirement of Rule 22c–1.

8. In addition, Applicants assert that the deduction of the Withdrawal Charge is consistent with the policy behind Rule 22c–1. Applicants note that the Commission's purpose in adopting Rule 22c–1 was to minimize (i) dilution of the interest of other security holders and (ii) speculative trading practices that are unfair to such holders.[4] Applicants state that the Withdrawal Charge will in no way have the dilutive effect that Rule 22c–1 is designed to prohibit, because a surrendering Contract owner will "receive" no more than an amount equal to the Account Value determined pursuant to the formula set out in the Contract after receipt of the Owner's withdrawal request. Furthermore, Applicants state that variable annuities, by nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c–1 was aimed against and, even if they could be so used, the Withdrawal Charge would discourage, rather than encourage, any such trading.

9. Applicants assert that the deduction of the Withdrawal Charge upon surrender or partial withdrawal from Contracts for which the Owner has annuitized under Option 9 will be advantageous to Contract owners for a number of reasons. First, a deferred charge structure has long been accepted as an appropriate feature of variable annuities. The existence of products with deferred charges provides investors a valuable choice, and the Commission and its staff have supported efforts to expand investor choice without sacrificing investor protection.[5] In this context, Applicants state that a deferred charge structure also reinforces the intention that the product be held as a long-term investment.

10. Second, Applicants state that the amount of the Contract owners' premiums that will be allocated to the Separate Account or Separate Account—NY, and that will be available to earn a return for the Contract owners, will be greater than it would be if the charges were deducted from the premiums. Applicants note that the

---

[2] *John P. Reilly & Assoc.* (pub avail. July 12, 1979) ("a mutual fund may make a charge to cover administrative expenses associated with redemption, but if that charge should exceed 2 percent, its shares may not be considered redeemable").

[3] *United Investors Life Ins. Co.*, Investment Company Act Release No. 22715 (June 18, 1997) (order), Investment Company Act Release No. 22680 (May 22, 1997) (notice) (prorated optional death benefit charge assessed at contract surrender); *Companion Life Ins. Co.*, Investment Company Act Release No. 21944 (May 8, 1996) (order), Investment Company Act Release No. 21887 (Apr. 10, 1996) (notice) (prorated enhanced death benefit charge assessed at contract surrender); *United of Omaha*, Investment Company Act Release No. 21205 (July 15, 1995) (order), Investment Company Act Release No. 21153 (June 20, 1995) (notice) (prorated enhanced death benefit charge assessed at contract surrender).

[4] Investment Company Act Rel. No. 5519 at 1 (Oct. 16, 1968).

[5] *See Protecting Investors: A Half Century of Investment Company Regulation* (May 1992), Introd· ction of Richard C. Breeden, Chairman.

Commission recognized this in authorizing deferred sales charges for variable annuity contracts.[6]

11. Finally, Applicants state that the charge structure provides equitable treatment to all Contract owners who annuitize under Option 9. Applicants state the Option 9 charge structure was established so that an Insurer may recover its costs over the life of the Contract. If Contract owners who select Option 9 could surrender or partially withdraw from the Contracts prior to the Liquidity Period expiration date without the imposition of the Withdrawal Charge, the Insurer might not be able to fully recover its costs. Applicants note that the Insurers could have elected not to impose a Withdrawal Charge and simply to have imposed a higher mortality and expense risk charge. In this event the Insurer could be charging persisting Contract owners who choose Option 9 more than otherwise would be necessary to recover the costs attributable to such Contract owners. Accordingly, Applicants submit that the Contracts will satisfy the requirements of Rule 22c–1.

12. Applicants submit that the assessment of a Withdrawal Charge should not be construed as a restriction on redemption, and therefore, maintain that such contract is a redeemable security as required by Section 27(i)(2)(A) of the 1940 Act. Applicants also maintain that the Contracts for which Contract owners choose Option 9 are redeemable securities, and that the Withdrawal Charge upon surrender or partial withdrawal represents nothing more than the deduction of an insurance charge.

For an Amended Order

13. While Applicants do not concede that Commission approval is required for the payment arrangement described in its application, to avoid any possibility that questions may be raised as to the potential applicability of Section 11, the Applicants request that the Commission issue an amended order under Section 11, to the extent necessary, approving the terms of the payment arrangement summarized above. Applicants believe such approval is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

14. Section 11 does not set forth any specific standards for Commission approval of exchange offers. Applicants submit that the public policy underlying Section 11 may be inferred from Section 1(b)(1) of the 1940 Act and the legislative history of the 1940 Act for guidance in determining whether to grant approval of an exchange offer pursuant to Section 11 of the 1940 Act.

15. With respect to the concern articulated in Section 1(b)(1) that offeres of exchange offers may not receive sufficient disclosure, Applicants submit that investors for the Contracts will receive adequate, accurate and explicit information, fairly presented, concerning investment in the T. Rowe Price Public Funds and in the Contracts, and that the prospectus for the Contracts will disclose the principal tax consequences of the exchange offer. With respect to the concern reflected in the legislative history that exchange offers may be made to collect additional sales loads, Applicants assert that this concern is irrelevant to their circumstances. As noted above, the payment arrangement does not offer any opportunity for the imposition of any sales loads or other profits. The Withdrawal Charge applicable to withdrawals under Option 9 is designed to recover the Hedge Costs of the reinsurer in connection with the Floor Payment and other guarantees associated with Option 9; therefore, the Applicants do not derive any benefit or profit from the withdrawal charges. Accordingly, the Withdrawal Charge does not have the potential for abuse associated with a sales load.

16. Moreover, Applicants assert that the payment arrangement is designed for the convenience of investors—not to assess sales charges, the principal abuse at which Section 11 is directed. The payment arrangement offers Contract purchasers and owners the flexibility to make payments expeditiously with funds from any source chosen by them, including proceeds from redemptions of T. Rowe Price Public Fund share or under the Contracts. Applicants state that the payment arrangement is intended solely as an administrative convenience to allow those Contract purchasers and owners who from time to time are or become T. Rowe Price Public Fund shareholders to implement their investment decisions in accordance with their preferred methods.

17. Absent the payment arrangement, Applicants assert that investors would experience an investment delay. Investors who have already determined that a Contract would provide valuable benefits should not be forced to delay investment. Applicants argue that the payment arrangement therefore serves the public interest because it offers those investors who are so interested a means of minimizing the potential loss of return on the investment of their assets due to the delay from processing the liquidation of one investment and purchase of another. As indicated above, the payment arrangement would be wholly elective on the investor's part.

18. Applicants submit that the payment arrangement complies with the general principles of Section 11(a) and Rules 11a–2 and 11a–3. Any exchanges deemed to be made in connection with the payment arrangement would be effected at net asset values, except where the Withdrawal Charge or premium tax may be deducted. In those transactions in which Withdrawal Charge or premium tax may be deducted, Applicants state that the exchange arguably may not be deemed to be made at relative net asset value. However, Applicants state that Rule 11a–2 and Rule 11a–3 permit administrative fees to be deducted upon an exchange and utilization of the payment arrangement would not cause a premium tax or Withdrawal Charge to be deducted that would not have been deducted if the Contract Owner had not elected to utilize the payment arrangement.

Class Relief

19. Applicants seek the relief requested in the application not only with respect to themselves and the Contracts described above, but also with respect to Other Separate Accounts and Future Underwriters. Applicants represent that the terms of the relief requested with respect to Other Separate Accounts and Future Underwriters are consistent with standards set forth in Section 6(c) of the 1940 Act. Applicants state that the Commission has granted comparable class relief in the past.

20. Applicants state that without the requested relief, the Distributor and the Insurer would have to request and obtain Commission approval for any Future Underwriters and Other Separate Accounts that may be established in the future to fund the Contracts. Applicants assert that these additional requests would present no issues under the 1940 Act not already addressed in this application. Applicants state that if the Distributor and Insurer were to repeatedly seek exemptive relief with respect to the same issues addressed in this application, investors would not receive additional protection or benefit, and investors and Insurers could be

[6] Applicants state that the Commission has noted the argument that "a deferred sales load is more advantageous to investors that a front-end sales load because the amount of investors' money available for investment is not reduced as in the case of a front-end sales load." Investment Company Act Rel. NO. 13048 (Feb. 28, 1993) (proposing Rule 6c–8, subsequently adopted to permit contingent deferred sales loads in connection with variable annuity contracts).

disadvantaged by increased overhead costs. Applicants argue that the requested relief and order will promote competitiveness in the variable annuity market by obviating the filing of redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources and enhancing the Applicant's ability to effectively take advantage of business opportunities as such arise. Applicants submit, for all the reasons stated herein, that their request for approval is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and that an order of the Commission should, therefore, be granted.

Conclusion

For the reasons stated above, Applicants request that the Commission issue an order granting the exemptions and an amended order as described above. Applicants believe that the requested exemptions and the amended order, in accordance with the standards of Section 6(c), are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Divisions of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7685 Filed 3–29–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 3017]

National Interest Determination and Waiver of Section 620(q) of the Foreign Assistance Act of 1961, as Amended, Relating to Assistance to Honduras

Pursuant to the authority vested in me by Section 620(q) of the Foreign Assistance Act of 1961, as amended, Executive Order 12163, and the Department of State Delegation of Authority No. 145, I hereby determine that furnishing assistance to Honduras is in the national interest and that the Section's prohibition on assistance is waived. This determination shall be reported to Congress as required by law. The determination shall also be published in the **Federal Register**.

Dated: February 19, 1999.

Strobe Talbott,

Deputy Secretary of State.

[FR Doc. 99–7768 Filed 3–29–99; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (99–12–C–00–CHO) To Impose a Passenger Facility Charge (PFC) at Charlottesville-Albemarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice.

In notice document 99–6937 beginning on Page 13841 in the issue of Monday, March 22, 1999, under Notice of Intent to Rule on Application, the correct number should read "99–12–00–CHO". Under **SUPPLEMENTARY INFORMATION,** second paragraph the second sentence should read "The FAA will approve or disapprove the application, in whole or in part, no later than April 30, 1999".

DATES: Comments must be received on or before April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Art Winder, Project Manager, Washington, Airports District Office, 23723 Air Freight Lane 3911 Hartzdale Dr., Suite 1, Camp Hill, PA 17011. (717) 730–2832.

Issued in Jamaica, New York on March 23, 1999.

Thomas Felix,

Manager, Planning and Programming Branch, AEA–610, Eastern Region.

[FR Doc. 99–7764 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Alternatives Analysis/Environmental Impact Statement of the Extension of Subway Service From Manhattan to LaGuardia Airport

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an alternatives analysis/environmental impact statement (AA/EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Metropolitan Transportation Authority (MTA) New York City Transit (NYC Transit) intend to prepare an Alternatives Analysis/Environmental Impact Statement (AA/EIS) in accordance with the National Environmental Policy Act (NEPA) for transportation improvements in the corridor between LaGuardia Airport and Lower and Midtown Manhattan. MTA NYC Transit will ensure that the AA/EIS also satisfies the requirements of the New York State Environmental Quality Review Act. The work being performed will also satisfy the FTA's alternatives analysis requirements and guidelines.

This effort will be performed in cooperation with the Federal Aviation Administration (FAA), the Federal Highway Administration (FHWA), the Port Authority of New York and New Jersey, the New York City Departments of Transportation and City Planning and the New York State Department of Transportation. Other interested agencies and elected officials or bodies include the New York State Office of the Governor, the New York City Office of the Mayor, the Office of the Borough President of Queens, the New York City Planning Commission, and the New York City Council.

Its proximity to Manhattan makes LaGuardia Airport ideally suited to the Manhattan-bound business traveler. However, travelers to LaGuardia must use frequently congested highways (Grand Central Parkway, Brooklyn-Queens Expressway, Long Island Expressway) and river crossings (e.g. Midtown Tunnel, Tri-borough Bridge). Peak period travel times between Manhattan and LaGuardia are frequently an hour or more, and uncertainty regarding travel times forces travelers to set aside even more time to avoid missing flights or appointments in Manhattan. Unless corrective actions are taken, these access limitations will reduce both the airport's appeal to travelers and the attractiveness of the city as a national and international center.

Many other major cities in this country and abroad have direct rail rapid transit access to their airports. In contrast, transit service to LaGuardia is infrequent or inconvenient, with relatively high fares and lengthy and unreliable travel times in peak periods (since the available transit modes depend on the same congested highways and local streets). However, many LaGuardia passengers have origins or destinations within the Manhattan Central Business District (CBD), which has an extensive existing rail rapid transit network with extensions into Queens. This

combination forms an established base from which an attractive transit link to the airport could potentially be built.

Given these problems, the AA/EIS will evaluate public transit improvements in the corridor between Lower and Midtown Manhattan and LaGuardia Airport in Queens, New York. In particular, the focus will be on proposed extensions of existing rail rapid transit (subway) lines that presently operate in Manhattan and Queens, and which would be extended along a selected alignment to provide service to the airport.

Scoping of the AA/DEIS will be accomplished through correspondence with interested persons, organizations, and federal, state and local agencies, and through public meetings. See **SUPPLEMENTARY INFORMATION** below for details.

During the initial months of the AA/DEIS process, MTA NYC Transit will work with other agencies and with the general public to identify potentially feasible alternatives for providing prompt, reliable, dedicated access between Lower and Midtown Manhattan and LaGuardia Airport. These alternatives should take full advantage of the city's existing extensive public transit network, and provide travelers with a "single-seat ride" from points throughout the Manhattan CBD to the airport. Only those alternatives found to meet the project's needs, goals and objectives would receive detailed consideration in the AA/DEIS. In addition to possible new transit lines or services, the AA/DEIS will also evaluate a No-Build alternative and a Transportation System Management (TSM) alternative. See the Alternatives discussion under **SUPPLEMENTARY INFORMATION** below for details.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the MTA–NCY Transit offices by May 28, 1999. See **ADDRESSES** below.

Scoping Meetings: The public scoping meetings will be held on Tuesday, May 11, 1999 starting at 6PM (sign-in begins at 5PM) at the Steinway School (IS141) at 37–11 21st Avenue in Astoria, New York, and on Wednesday, May 12, 1999 starting at 6PM (sign-in begins at 5PM) at the Metropolitan Transportation Authority offices in Manhattan. See **ADDRESSES** below. People with special needs should contact Douglas Sussman at the Metropolitan Transportation Authority offices at the address below or by calling (212)–878–7483. Both meeting locations are accessible to people with disabilities. The Queens location can be accessed by subway (Astoria "N" line at the Ditmars Boulevard Station), and by the Q19A and Q101 bus lines, which also connect to the E and F subway lines at the Queens Plaza station, and to the #7 subway line at the Queensboro Plaza station. Limited public parking is available near the site. The Manhattan location is within several blocks of the #4, 5, 6 and 7 subway lines (at the Grand Central station) and the B, D and F lines at 42nd Street at 6th Avenue, and to numerous local bus routes on Sixth, Fifth and Madison Avenues and along 42nd Street.

The meetings will be held in an "open house" format, and project representatives will be available to discuss the project throughout the time period given. Informational displays and written materials will also be available. In addition to written comment, which may be made at the meeting or as described below, a stenographer will be available at the meetings to record comments.

ADDRESSES: Written comments on the project scope should be sent to Mr. Thomas R. Jablonski, Project Manager, MTA–NYC Transit, 130 Livingston Street, Room 7068–D, Brooklyn, New York 11201. The scoping meetings will be held at the following locations: Steinway School (IS 141), 37–11 21st Avenue, Astoria, New York 11370, and the Metropolitan Transportation Authority, 5th Floor Board Room, 347 Madison Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Brian P. Sterman, Federal Transit Administration, One Bowling Green, Room 429, New York, New York 10004–1415. (212)–668–2201.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and MTA–NYC Transit invite interested individuals, organizations and federal, state and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic or environmental issues related to the alternatives. Scoping comments may be made at the public scoping meeting or in writing. See **DATES** and **ADDRESSES** section above for locations and times. During scoping, comments should focus on identifying specific social, economic or environmental impacts to evaluate, and suggesting alternatives that are more cost effective or have less environmental impact while achieving the similar transportation goals and objectives.

Scoping materials will be available at the meetings or in advance of those meetings by contacting Mr. Thomas Jablonski at MTA–NYC Transit as indicated above.

II. Description of Study Area and Project Need

The study area and travel corridors involved are wholly within New York and Queens Counties. They primarily include Lower and Midtown Manhattan (the Central Business District (CBD) of Manhattan) and those portion of northern and northwestern Queens through which passengers and employees pass on their way to and from LaGuardia Airport. The Manhattan CBD is one of the largest and most dense employment concentrations in the world, but also includes a major residential population. The involved areas of Queens include numerous commercial and industrial centers as well as major residential areas.

Existing transit service between the Manhattan CBD and LaGuardia Airport includes: (a) Gray Line bus service from various CBD locations; (b) ferry service from Lower Manhattan to LaGuardia's Marine Air Terminal (MAT); and (c) local bus lines connecting existing subway lines to the airport (e.g., the Q33 and Q47 bus routes connecting with the "E," "F" and "R" subway lines at the Roosevelt Avenue station, the Q48 bus route from the "7" subway service at Main Street-Flushing, and the M60 bus route from the "N" subway service at the Astoria Boulevard station). The available paratransit services in this travel market include medallion taxis, private car and limousine services, and private vans and mini-buses operated by hotels and other Manhattan operations.

As noted above in the Summary section, all transit and paratransit modes serving the airport (except the ferry service to the MAT) must use combinations of local streets, arterials, highways and bridges and tunnels, many of which are highly congested during the travel periods when airport demand is the greatest. In addition to traffic congestion and the associated air and noise pollution, travel by these existing highway-dependent modes is often unrealible—a fundamental problem for time-sensitive air travelers.

Given the need to address these airport access problems, the primary goals for the LaGuardia Airport Subway Access (LASA) project are to (a) provide convenient, reliable and safe public transit access for airport passengers and employees between Lower and Midtown Manhattan and LaGuardia Airport, (b) develop public transit options providing a "one-seat" (i.e., transfer-free) trip between Lower and Midtown Manhattan and multiple LaGuardia

Airport terminals, (c) improve the quality of public transit service and reduce the travel time within the study corridor from LaGuardia Airport to the Manhattan CBD, (d) reduce the use of congested highway, river crossings, local streets and arterials by LaGuardia Airport passengers and employees, thereby reducing areawide traffic congestion, (e) increase mobility by better serving the critical Manhattan CBD-to-LaGuardia Airport travel market, and by creating improved connections within the region to the Manhattan CBD, (f) attract new ridership to public transit through the initiation of additional service to LaGuardia Airport, (g) minimize impacts to airport operations during and after construction, and ensure that proposed alignments do not preclude other planned improvements on- or off-airport, (h) promote and reinforce economic development and the quality of life in New York, (i) more efficiently accommodate forecasted growth in LaGuardia Airport passenger trips, (j) conform to the New York State Air Quality Implementation Plan (SIP) as required by the Clean Air Act Amendments of 1990, (k) avoid, minimize and mitigate degradation of the natural environment, and (j) provide reliable transit service that is compatible with existing transit systems in the region.

Adherence to these goals should help identify new services that take full advantage of the city's extensive transit network in the Manhattan CBD and Queens, maximize the potential for a "single-seat" ride from Lower and Midtown Manhattan to LaGuardia, preserve the city's quality of life while supporting economic development, and minimize the degradation of the natural environment.

The objectives to be used to facilitate the process of selecting a locally preferred alternative are to (a) identify viable alternatives that address the corridor's transportation problems while meeting the project's goals; (b) develop criteria for screening and evaluating the alternatives based upon the project's goals; (c) identify the anticipated impacts for each alternative with potential mitigation strategies; (d) initiate the development of cost/benefit projections that are used for project considerations; and (e) identify the locally preferred alternative for study in the FEIS.

III. Alternatives

The AA/DEIS process will include a review of proposed alternatives that could potentially meet the project's goals and objectives, and the selection of those alternatives that warrant detailed study in the AA/DEIS. This process will insure that all reasonable and feasible alternatives are considered. It is projected that the AA/DEIS will consider the following alternatives, at a minimum:

(1) *No Build Alternative,* representing future conditions in the travel corridors between the Manhattan CBD and LaGuardia Airport with no new transportation projects or services, other than those already committed to by local officials and agencies.

(2) *Transportation Systems Management (TSM) Alternative,* representing future conditions with the implementation of one or more lower-cost measures to improve the efficiency of existing transportation systems, rather than significantly expanding those systems (e.g., improvements to the existing express bus services, subway-to-bus connections to the airport, etc.).

(3) *Build Alternatives,* involving construction of facilities and implementation of associated transit services between the Manhattan CBD and LaGuardia Airport. In recent decades, the MTA, PANYNJ and other public agencies have performed extensive studies of possible transit connections to this airport. Based on those studies and on further studies by MTA NYC Transit of possible extensions of the BMT Broadway Astoria Line ("N" Train service), the following two subway alternatives are scheduled to be considered in the AA/DEIS. These are preliminary alignments for these alternatives, with further refinements expected throughout the AA/DEIS process in both the off- and on-airport sections:

- The 19th Avenue Alternative would be an extension of the BMT Broadway-Astoria Line ("N" Train service) beyond its present Ditmars Boulevard Terminus. From that point, the line would be extended northerly as a modern aerial transit guideway structure along the centerline of 31st Street up to 20th Avenue. From there, the alignment would curve easterly across the Con Edison property to 19th Avenue, where it would continue along the avenue. At 45th Street, the alignment would swing northerly and then enter a tunnel section, in which the alignment would remain as it crosses onto the airport property. After serving the Marine Air Terminal and passing around the runway at the airport's western end, the alignment would rise onto an aerial section, and extend to two other on-airport stations—one at the Central Terminal Building (CTB) and a second to jointly serve the USAir and Delta terminals.
- Sunnyside Yard Alternative would be a branch of the BMT Broadway-Astoria Line ("N" Train service) starting at the Queensboro Plaza Station in Long Island City. From that point, the alignment would extend as a modern aerial transit guideway structure along the northern side of the Sunnyside Yards, and would then pass over and run along the eastern side of AMTRAK's Northeast Corridor tracks. At approximately 30th Avenue, the alignment would turn east and run along the northern side of 30th Avenue before turning north along the Brooklyn-Queens Expressway (BQE). At that point, the alignment will enter a "depressed section" (where the tracks are below grade but in an "open cut" section rather than enclosed in a tunnel) as it travels along the southern side of the Grand Central Parkway (GCP). As it approaches the airport, the alignment would rise and cross over the GCP to enter the airport. On-airport stations are projected to be provided at the CTB and USAir/Delta terminals as noted above for the 19th Avenue Alternative.

(4) *Other Alternatives.* The FTA and MTA NYC Transit will review other possible Build alternatives that may be raised throughout the scoping process. Any other alternatives found to potentially meet the project's goals and objectives, as outlined above, would also be analyzed in the AA/DEIS.

IV. Probable Effects

The FTA and MTA NYC Transit plan to evaluate in the AA/DEIS all potentially significant social, economic and environmental impacts of the project alternatives. Impacts proposed for analysis include changes in the physical environment (air quality, noise, water quality, geology, visual); changes in the social environment (land use, residential, commercial or industrial displacement or disruption, changes in neighborhood character or cohesion); changes in traffic and pedestrian circulation (on local streets, highways and arterials, and at the airport) and associated changes in traffic congestion; impacts to parklands or historic sites; changes in transit service, mobility and patronage; capital, operating and maintenance costs for proposes transit services; and financial and fiscal implication. Impacts will be analyzed for both construction-period activities, and for long-term operation of the alternatives.

Construction-period impacts projected to be of importance for this project include noise and vibration, traffic diversions due to temporary roadway closures, temporary loss of on-street parking, and short-term

disruptions to subway service. Potential long-term impact of likely importance include traffic, parking and pedestrian flow impacts near stations (including on-airport locations), visual impacts due to the introduction or extension of transit lines into an area, noise impacts, and property acquisitions and residential or commercial displacement to provide space for alternatives' right-of-way or support facilities.

Each alternative will be analyzed for potential transportation, environmental, social, economic and financial impacts as required by current Federal (NEPA) and State (SEQRA) environmental laws and current Council on Environmental Quality (CEQ) and FTA guidelines and will be evaluated for it's ability to meet the project's goals.

V. FTA Procedures

In accordance with federal transportation planning regulations 23 CFR part 450, the AA/DEIS will include a comprehensive alternatives selection process, which will assess each possible alternative's ability to meet the project's goals and objectives, and determine those alternatives that warrant detailed analysis. Upon completion of the AA/DEIS, the MTA NYC Transit, in concert with other agencies and elected officials and bodies, will select a locally preferred alternative.

Then the MTA NYC Transit, as the project sponsor, will seek to continue the further engineering and preparation of the Final EIS. After consideration of the results of the FEIS, the FTA and MTA NYC Transit and the FAA will prepare required environmental decisions and Records of Decision (RODs). The publication of these RODs will clear the way for the final design and construction of the finally selected alternative.

Issued on March 25, 1999.

Letitia Thompson,

Regional Administrator, Federal Transit Administration.

[FR Doc. 99–7779 Filed 3–29–99; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Sunshine Act Meeting; Corrected Notice [1]

TIME AND DATE: 10:00 a.m. Thursday, March 25, 1999.

EX PARTE NO. 333: Meetings of the Board.

PLACE: Hearing Room, Surface Transportation Board, 1925 K Street, NW, Washington, D.C. 20423.

STATUS: The Board will meet to discuss among themselves the agenda item listed below. Although the conference is open for public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED: Finance Docket No. 33556, Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated— control— Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad; Finance Docket No. 33556 (Sub-No. 1), Canadian National Railway Company, Illinois Central Railroad Company, The Kansas City Southern Railway Company, and Gateway Western Railway Company—Terminal Trackage Rights—Union Pacific Railroad Company and Norfolk & Western Railway Company; STB Finance Docket No. 33556 (Sub-No. 2), Responsive Application—Ontario Michigan Rail Corporation; and, Finance Docket No. 33556 (Sub-No. 3), Responsive Application—Canadian Pacific Railway Company and St. Lawrence & Hudson Railway Company Limited.

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Office of Congressional and Public Services, Telephone: (202) 565–1594, TDD: (202) 565–1695.

Dated: March 22, 1999.

Vernon A. Williams,

Secretary.

[FR Doc. 99–7759 Filed 3–26–99; 11:58 am]

BILLING CODE 4915–00–P

[1] This corrects the notice serviced March 19, 1999, to include Finance Docket No. 33556 Sub Nos. 2 and 3.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33723]

San Joaquin Valley Railroad Company—Acquisition and Operation Exemption—Tulare Valley Railroad Company

San Joaquin Valley Railroad Company (SJVR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Tulare Valley Railroad Company (TVR) seven railroad line segments. The lines to be acquired and operated by SJVR are as follows: (1) on the Arvin Subdivision, TVR's undivided one-half interest in the line between milepost 316.78, at Magunden, and milepost 333.83, at Arvin, a distance of 17.05 miles in Kern County, CA; (2) on the Oil City Subdivision, TVR's undivided one-half interest in the line between milepost 308.09, at Oil Junction, and milepost 312.55, at Maltha, a distance of 4.46 miles in Kern County, CA; (3) on the Porterville Subdivision, the line between milepost 38.9, at Exeter, and milepost 47.2, at Lindsay, a distance of 8.3 miles in Tulare County, CA; (4) on the Visalia Subdivision, the line between milepost 23.8, at Visalia, and milepost 20.2, at Loma, a distance of 3.6 miles in Tulare County, CA; (5) on the Visalia Subdivision, the line between milepost 51.0, at Lacjac, and milepost 49.8, at Reedley, a distance of 1.2 miles in Tulare County, CA; (6) on the Cameo Rail Spur, the line between milepost 0.03+160, at Fresno, and milepost 6.0, near Fresno, a distance of about 5.97 miles in Fresno County, CA; and (7) on the Landco Spur, the line between milepost 113.70, near Bakersfield, and milepost 111.76, near Bakersfield, a distance of 1.94 miles in Kern County, CA.

Because the projected revenues of the rail lines to be operated will exceed $5 million, SJVR certified to the Board, on March 9, 1999, that the required notice of its acquisition had been posted at the workplace of the employees on the affected lines. On March 10, 1999, SJVR certified to the Board that it had served a copy of the notice on the national offices of the labor unions with employees on the affected lines. *See* 49 CFR 1150.42(e). The transaction is scheduled to be consummated on or after May 10, 1999.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33723, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., 1100 New York Avenue, NW, Suite 750 West, Washington, DC 20005–3934.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: March 23, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–7557 Filed 3–29–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8815

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8815, Exclusion of Interest From Certain U.S. Savings Bonds Issued After 1989.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Exclusion of Interest From Certain U.S. Savings Bonds Issued After 1989.

OMB Number: 1545–1173.

Form Number: 8815.

Abstract: If an individual redeems series I or series EE U.S. savings bonds issued after 1989 and pays qualified higher education expenses during the year, the interest on the bonds may be excludable from income. Form 8815 is used by the individual to figure the amount of savings bond interest that is excludable.

Current Actions: The title of Form 8815 is being changed to "Exclusion of Interest From Certain U.S. Savings Bonds Issued After 1989". This change is due to the issuance of the new series I U.S. savings bonds, and is effective for 1999. Form 8815 will be used to compute the exclusion of interest for both series EE savings bonds and the new series I savings bonds.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 2 hr., 2 min.

Estimated Total Annual Burden Hours: 50,920.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7672 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2441

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2441, Child and Dependent Care Expenses.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Child and Dependent Care Expenses.

OMB Number: 1545–0068.

Form Number: 2441.

Abstract: Internal Revenue Code section 21 allows a credit for certain child and dependent care expenses to be claimed on Form 1040 (reduced by employer-provided day care benefits excluded under Code section 129). Day care provider information must be reported to the IRS for both the credit and exclusion. Form 2441 is used to verify that the credit and exclusion are properly figured, and that day care provider information is reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,519,859.

Estimated Time Per Respondent: 2 hr., 19 min.

Estimated Total Annual Burden Hours: 15,060,874.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 16, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7673 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8848

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8848, Consent to Extend the Time To Assess the Branch Profits Tax Under Regulations Sections 1.884–2(a) and (c).

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Consent To Extend the Time To Assess the Branch Profits Tax Under Regulations Sections 1.884–2(a) and (c).

OMB Number: 1545–1407.

Form Number: 8848.

Abstract: Form 8848 is used by foreign corporations that have (a) completely terminated all of their U.S. trade or business within the meaning of temporary regulations section 1.884–2T(a) during the tax year or (b) transferred their U.S. assets to a domestic corporation in a transaction described in Code section 381(a), if the foreign corporation was engaged in a U.S. trade or business at that time.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 5 hr., 46 min.

Estimated Total Annual Burden Hours: 28,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7674 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8804, 8805, and 8813

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8804, Annual Return for Partnership Withholding Tax (Section 1446), Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax, and Form 8813, Partnership Withholding Tax Payment (Section 1446).

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Return for Partnership Withholding Tax (Section 1446) (Form 8804), Foreign Partner's Information Statement of Section 1446 Withholding Tax (Form 8805), and Partnership Withholding Tax Payment (Section 1446) (Form 8813).

OMB Number: 1545–1119.

Form Number: 8804, 8805, and 8813.

Abstract: Internal Revenue Code section 1446 requires partnerships that

are engaged in the conduct of a trade or business in the United States to pay a withholding tax if they have effectively connected taxable income that is allocable to foreign partners. The partnerships use Form 8813 to make payments of withholding tax to the IRS. They use Forms 8804 and 8805 to make annual reports to provide the IRS and affected partners with information to assure proper withholding, crediting to partners' accounts and compliance.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 24hr., 14 min.

Estimated Total Annual Burden Hours: 121,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 11, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7675 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 940–EZ

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 940-EZ, Employer's Annual Federal Unemployment (FUTA) Tax Return.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Federal Unemployment (FUTA) Tax return.

OMB Number: 1545–1110.

Form Number: Form 940–EZ.

Abstract: Form 940–EZ is a simplified version of Form 940 that most employers with uncomplicated tax situations (e.g., only paying unemployment contributions to one state and paying them on time) can use to pay their FUTA tax. Most small businesses and household employers use the form.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and farms.

Estimated Number of Respondents: 4,089,000.

Estimated Time Per Respondent: 7 hours, 50 minutes.

Estimated Total Annual Burden Hours: 32,075,163.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 24, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7677 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form CT–1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form

CT–1, Employer's Annual Railroad Retirement Tax Return.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Railroad Retirement Tax Return.

OMB Number: 1545–0001.

Form Number: Form CT–1.

Abstract: Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA) taxes. Form CT–1 is used for this purpose. The IRS uses the information to insure that the employer has paid the correct tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 2,387.

Estimated Time Per Respondent: 21 hours, 3 minutes.

Estimated Total Annual Burden Hours: 50,245.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 23, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7678 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Forms 941c and 941cPR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 941c, Supporting Statement To Correct Information, and Form 941cPR, Planilla Para La Correccion De Informacion.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 941c, Supporting Statement To Correct Information, and Form 941cPR, Planilla Para La Correccion De Informacion.

OMB Number: 1545–0256.

Form Number: Forms 941c and 941cPR.

Abstract: Form 941c (or Form 941cPR for use in Puerto Rico to correct FICA tax only) is used by employers to correct previously reported FICA or income tax data. The forms may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund, credit, or adjustment of FICA or income tax.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not-for profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 958,050.

Estimated Time Per Respondent: 9 hours, 7 minutes.

Estimated Total Annual Burden Hours: 8,728,727.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 22, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7682 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Brooklyn District.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday, April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Kevin McKeon at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday, April 9, 1999, 6 p.m. to 9 p.m. at 10 MetroTech Center, 6th Floor, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference space, notification of intent to attend the meeting must be made with Kevin McKeon. Mr. McKeon Can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 7 p.m. to 8 p.m. on Friday April 9, 1999. Individual comments will be limited to 5 minutes.

If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Kevin McKeon, CAP Office, P.O. Box R, Brooklyn, NY, 11202.

The Agenda will include the following: initial start up issues and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 22, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–7680 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Adovcacy Panel, Midwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Midwest District.

SUMMARY: An open meeting of the Midwest District Citizen Advocacy Panel will be held in Omaha, Nebraska.

DATES: The meeting will be held Thursday, April 22, 1999 and Friday, April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy McQuin at 1–888–912–1227 or 414–297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, April 22, 1999 12:00 noon to 8:00 p.m. and Friday, April 23, 1999 from 9:00 am to 2:00 p.m., in the, Best Western Central Executive Center, 3650 South 72nd Street @I–80, Omaha, Nebraska. Due to limited conference space, notification of intent to attend the meeting must be made with Sandy McQuin. Ms. McQuin can be reached at 1–888–912–1227 or 414–297–1604.

The Agenda will include the following: Establishing priority on sources of issues to be considered, discussion of issues presented to panel, and setting parameters for open public meeting to solicit comments from citizens.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 23, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–7681 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Pacific-Northwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Pacific-Northwest District.

SUMMARY: An open meeting of the Pacific-Northwest District Citizen Advocacy Panel will be held in Portland, Oregon.

DATES: The meeting will be held Saturday, April 24, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah A. Diamond at 1–888–912–1227 or 206–220–6099.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Saturday, April 24, 1999, 9 a.m. to 5 p.m. at the Riverside Inn, Columbia Room, 50 SW Morrison Street, Portland, OR 97204. Due to limited conference space, notification of intent to attend the meeting must be made with Deborah Diamond. Ms. Diamond can be reached at 1–888–912–1227 or 206–220–6099. The public is invited to make oral comments from 10 a.m. to 11 a.m. on Saturday, April 24, 1999. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 206–220–6099, or write Deborah Diamond, CAP Office, 915 2nd Avenue; M/S W–406, Seattle, WA 98174.

The Agenda will include the following: initial start up issues and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 10, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–7679 Filed 3–29–99; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: "Degas and New Orleans: A French Impressionist in America"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Degas and New Orleans: A French Impressionist in America," imported from abroad for the

temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed objects at The New Orleans Museum of Art, New Orleans, LA, from on or about May 1, 1999, to on or about August 29, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects and for further information, contact Ms. Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202/619–6982. The address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: March 24, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–7738 Filed 3–29–99; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held Tuesday, June 8 and Wednesday, June 9, 1999, at the Department of Veterans Affairs Headquarters, Room 230, 810 Vermont Avenue, NW., Washington, DC 20420. This will be the committee's second meeting of Fiscal Year 1999.

The purpose of the committee is to review the administration of VA's cemeteries and burial benefits program. The meeting will convene on Tuesday, June 8, at 8:15 a.m. (EDT) and adjourn at 5:30 p.m. (EDT). On Wednesday, June 9, the meeting will reconvene at 8:15 a.m. (EDT) and adjourn at 5:00 p.m. (EDT).

On Tuesday, June 8, the Committee will be updated on National Cemetery Administration (NCA) issues. Members will be briefed on operations at Quantico National Cemetery, and the NCA Operations Support Center, which is the location of the Systems Integration Center and the Centralized Contracting Division. Additionally, members will tour the cemetery and the NCA Operations Support Center.

On Wednesday, June 9, the Committee will reconvene for updates and reports on military honors, cemetery focus groups, the Visitor Comment Card survey, legislation on doubly marked graves and eligibility, cremation gardens and construction and dedications of new cemeteries.

The meeting will be open to the public. Individuals wishing to attend the meeting should contact Ms. Paige Lowther, National Cemetery Administration, [phone (202) 273–5164] no later than 12 noon (EDT), May 31, 1999.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Acting Under Secretary for Memorial Affairs, National Cemetery Administration (40), at 810 Vermont Avenue, NW, Washington, DC. 20420. In any such letters, the writers must fully identify themselves and state the organization, association or person(s) they represent. In addition, to the extent practicable, letters should indicate the subject matter to be discussed. Oral presentations should be limited to 10 minutes in duration. Individuals wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Acting Under Secretary for Memorial Affairs, National Cemetery Administration.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Acting Under Secretary for Memorial Affairs, National Cemetery Administration, by 12 noon (EDT), May 31, 1999. Oral statements will be heard between 1:00 p.m. and 1:30 p.m. (EDT), June 9, 1999, at Department of Veterans Affairs Headquarters, Room 230, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: March 23, 1999.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 99–7707 Filed 3–29–99; 8:45 am]

BILLING CODE 8320–01–M

ay attend,
ement with
wishing to
ee should
he Acting
rial Affairs,
stration (40),
W,
any such
ly identify
ganization,
y represent.
racticable,
subject
]
nited to 10
duals
ements to be
e must also
them to the
Memorial

ments as
ailed or
he Acting
rial Affairs,
stration, by
99. Oral
etween 1:00
une 9, 1999,
Affairs
10 Vermont
, DC 20420.

y.

er.
99; 8:45 am]

federal register

Tuesday
March 30, 1999

Part II

Environmental Protection Agency

40 CFR Part 90

Phase 2 Emission Standards for New Nonroad Spark-Ignition Nonhandheld Engines At or Below 19 Kilowatts; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 90

[FRL–6308–6]

RIN 2060–AE29

Phase 2 Emission Standards for New Nonroad Spark-Ignition Nonhandheld Engines At or Below 19 Kilowatts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA is finalizing a second phase of emission regulations to control emissions from new nonroad spark-ignition nonhandheld engines at or below 19 kilowatts (25 horsepower). These engines are used principally in lawn and garden equipment in applications such as lawnmowers and garden tractors. The standards will result in an estimated 59 percent reduction of emissions of hydrocarbons plus oxides of nitrogen from those achieved under the current Phase 1 standards applicable to nonhandheld engines. The standards will result in important reductions in emissions which contribute to excessively high ozone levels in many areas of the United States.

In compliance with the Paperwork Reduction Act, this document announces that the information collection requirements contained in this final rule have not been submitted to the Office of Management and Budget for approval.

DATES: The amendments to 40 CFR part 90 are effective June 1, 1999.

ADDRESSES: Materials relevant to this final rule, including the Final Regulatory Impact Analysis are contained in Public Docket A–96–55, located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

For further information on electronic availability of this final rulemaking, see **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Robert Larson, U.S. EPA, Engine Programs and Compliance Division, (734) 214–4277, larson.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Content of the Final Rule
A. Emission Standards and Related Provisions
1. Class Structure
2. HC+NO_X Emission Standards
3. NMHC+NO_X Standards for Class I and II Natural Gas Fueled Engines
4. CO Emission Standards
5. Useful Life Categories
6. Selection of Useful Life Category
7. Emission Standard Feasibility at Longer Useful Life
B. Averaging, Banking, and Trading
C. Test Procedures
D. Compliance Program
1. Certification
2. Production Line Testing—Cumulative Summation Procedure
3. Selective Enforcement Auditing
4. Voluntary In-Use Testing
E. Flexibilities
1. Carry-Over Certification
2. Small Volume Engine Manufacturer Definition
3. Small Volume Engine Family Definition
4. Flexibilities for Small Volume Engine Families and Small Volume Engine Manufacturers
5. Flexibilities for Small Volume Equipment Manufacturers and Small Volume Equipment Models
6. Small Volume Equipment Manufacturer Definition
7. Small Volume Equipment Model Definition
8. Hardship Provision
F. Nonregulatory Programs
1. Voluntary "Green" Labeling Program
2. Voluntary Fuel Spillage Reduction Program
G. General Provisions
1. Model Year and Annual Production Period Flexibilities
2. Definition of Handheld Engines
3. Small Displacement Nonhandheld Engine Class
4. Liquefied Petroleum Gas Fueled Indoor Power Equipment
5. Dealer Responsibility
6. Engines Used in Recreational Vehicles and Applicability of the Small SI Regulations to Model Airplanes
7. Engines Used in Rescue and Emergency Equipment
8. Replacement Engines
9. Record keeping and Information Requirements
10. Engine Labeling
11. Emission Warranty
12. Other
III. Projected Impacts
A. Environmental Benefit Assessment
1. Roles of HC and NO_X in Ozone Formation
2. Health and Welfare Effects of Tropospheric Ozone
3. Estimated Emissions Impact of Final Regulations
4. Health and Welfare Effects of CO Emissions
5. Health and Welfare Effects of Hazardous Air Pollutant Emissions
6. Particulate Matter
B. Costs and Cost-Effectiveness
1. Engine Technologies
2. Engine Costs
3. Equipment Costs
4. Operating Costs
5. Cost Per Engine and Cost-Effectiveness
IV. Public Participation
V. Administrative Requirements
A. Administrative Designation and Regulatory Analysis
B. Regulatory Flexibility
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act
E. Congressional Review Act
F. National Technology Transfer and Advancement Act
G. Executive Order 13045
H. Executive Order 12875: Enhancing the Intergovernmental Partnership
I. Executive Order 13084: Consultation and Coordination with Indian tribal Governments
VI. Statutory Authority

Regulated Entities

Entities potentially regulated by this action are those that manufacture or introduce into commerce new nonhandheld small spark-ignition nonroad engines or equipment. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Manufacturers or importers of new nonroad small (at or below 19 kW) spark-ignition nonhandheld engines and equipment.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your company is regulated by this action, you should carefully examine the applicability criteria in section § 90.1 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Obtaining Electronic Copies of the Regulatory Documents

The preamble, regulatory language and Final Regulatory Impact Analysis (Final RIA) are also available electronically from the EPA Internet Web site. This service is free of charge, except for any cost already incurred for Internet connectivity. The electronic version of this final rule is made available on the day of publication on the primary Web site listed below. The EPA Office of Mobile Sources also publishes **Federal Register** notices and related documents on the secondary Web site listed below.

1. http://www.epa.gov/docs/fedrgstr/EPA–AIR/
(either select desired date or use Search feature)
2. http://www.epa.gov/OMSWWW/
(look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.

I. Introduction

A. Background

On January 27, 1998, EPA issued a Notice of Proposed Rulemaking (NPRM) proposing a second phase of regulations to control emissions from new handheld and nonhandheld nonroad SI engines at or below 19 kilowatts (25 horsepower) ("small SI engines") (63 FR 3950). This action was preceded by a March 27, 1997, Advanced Notice of Proposed Rulemaking (62 FR 14740). EPA solicited comment on virtually all aspects of the NPRM. EPA held a public hearing on February 6, 1998, and the public comment period for the NPRM closed March 13, 1998. Today's action finalizes this rulemaking activity for nonhandheld engines in adopting a Phase 2 set of emission standards and compliance program requirements for Class I and Class II nonhandheld engines. EPA is not at this time finalizing a Phase 2 program for handheld engines, as described in more detail below. EPA will further address the Phase 2 program for handheld engines in future **Federal Register** notices.

Today's action is taken in response to Section 213(a)(3) of the Clean Air Act which requires EPA's standards for nonroad engines and vehicles to achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available, giving appropriate consideration to cost, lead time, noise, energy and safety factors. The standards and other compliance program requirements being adopted today satisfy this Clean Air Act mandate.

The NPRM contained lengthy discussion of the proposed standards, the expected costs of their implementation, and the potential costs and benefits of adopting more stringent standards such as those that were then under consideration by the California Air Resources Board (ARB). In the NPRM, EPA explicitly asked for comment regarding the level of the proposed standards and the impacts and timing for implementing more stringent standards, so as to allow it to establish the most appropriate standards in the final rule. In particular, EPA requested comment on the impacts and timing for implementing emission standards that would require the same types of technology as anticipated by proposed rules under consideration at that time by the California ARB.

After the close of the comment period and upon reviewing the information supplied during the comment period, EPA determined that it was desirable to get further details regarding the technological feasibility, cost and lead time implications of meeting standards more stringent than those contained in the NPRM. EPA's NPRM already contained estimates of the costs and feasibility of more stringent standards. Some commenters had charged that, based on these discussions, EPA's proposed standards would not be stringent enough to satisfy the stringency requirements of Clean Air Act Section 213(a)(3). For the purpose of gaining additional information on feasibility, cost and lead time implications of more stringent standards, EPA had several meetings, phone conversations, and written correspondence with specific engine manufacturers, with industry associations representing engine and equipment manufacturers, with developers of emission control technologies and suppliers of emission control hardware, with representatives of state regulatory associations, and with members of Congress. EPA also sought information relating to the impact on equipment manufacturers, if any, of changes in technology potentially required to meet more stringent standards than were contained in the NPRM. Additionally, EPA received numerous comments on the NPRM requesting closer harmonization with the compliance program provisions adopted by the State of California. In some cases, EPA also discussed these harmonization issues with manufacturers and industry association representatives to improve the Agency's understanding of the needs and benefits to the industry of such harmonization.

As EPA has stated on prior occasions, in adopting this final rule EPA wished to consider all relevant information that became available during the rule development process. This includes information received during the comment period on the NPRM, and, to the extent possible, important information which became available after the formal NPRM comment period had concluded. To the extent that post-NPRM information has expanded or updated the knowledge of the Agency regarding technological feasibility, production lead time estimates for incorporating improved designs, costs to manufacturers, costs to consumers and similar factors, it is reasonable to expect that the improved information may result in changing assessments of how a pending rule can best achieve regulatory goals compared to what had been expected at the time of the NPRM. This is especially true in the case of a rulemaking concerning an industry, like small SI engines, that is undergoing relatively rapid technological innovation.

EPA published a Notice of Availability highlighting the additional information gathered in response to the NPRM (see 63 FR 66081, December 1, 1998). After analyzing this information, the Agency concluded that more stringent standards for Class I nonhandheld engines, used in applications such as residential lawn mowers, consistent with those adopted by California are indeed achievable on the national scale. This final rule for nonhandheld engines adopts emission standards considerably more stringent than those proposed for Class I nonhandheld engines. The technologies (principally conversion of side-valve engines to clean overhead valve designs) that EPA anticipates will be used in achieving compliance with the Class I standard are well known and were discussed in the NPRM.

However, since the publication of the NPRM, there have been rapid advances in emission reduction technologies for handheld engines. EPA has received information which could potentially support handheld standards much more stringent that those proposed in the NPRM. In light of this new information, and in the interest of providing an opportunity for public comment on this new technology and on more stringent levels for handheld engine emission standards, EPA intends to address Phase 2 regulations for handheld engines (such as trimmers, brush cutters, and chainsaws) in a separate Supplemental Notice of Proposed Rulemaking (SNPRM) in June of 1999, with a final rule in March of 2000.

The reader is referred to the Notice of Availability, the NPRM itself, as well as to the docket for this rulemaking, for the range of additional information upon which the Agency has relied in adopting this final program for small SI nonhandheld engines.

B. Overview of Final Program

The following provides an overview of the provisions in these Phase 2 rules for nonhandheld engines. Additional

detail explaining the program as well as discussion of information and analyses which led to the adoption of these requirements is contained in subsequent sections.

As proposed and consistent with Phase 1 rules, these Phase 2 rules distinguish between engines used in handheld equipment and those used in nonhandheld equipment. In today's action, Phase 2 emission standards are set for distinct engine size categories referred to as "engine classes" within the nonhandheld engine equipment designation. The following table summarizes the HC+NO_X emission standards for Class I and Class II nonhandheld engines and when these standards take effect for each engine class.

TABLE 1.—PHASE 2 HC +NO_X EMISSION STANDARDS FOR CLASS I AND CLASS II

Engine class	NPRM		FRM	
	HC+NO_X (g/kW-hr)	Time line	HC+NO_X (g/kW-hr)	Time line
Class I	25.0	2001	16.1	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.
Class II	12.1	2001–2005	12.1	2001–2005.

As indicated in this table, the emission standards being finalized for Class I engines are considerably more stringent than the base emission levels included in the proposal. This reflects the Agency's analysis of the information EPA received in direct response to the questions posed in the NPRM concerning the desirability and feasibility of more stringent standards than the base levels proposed, as well as other information made available to the Agency before and since the proposal. The level of these standards will result in an estimated 59 percent annual reduction in combined hydrocarbon and oxides of nitrogen (HC+NO_X) emissions from these small SI nonhandheld engines compared to the Phase 1 emission requirements for these engines when the effects of this Phase 2 rule are fully phased in.

Another feature of the Phase 2 nonhandheld standards is that they are phased in over a number of years, allowing the manufacturers an orderly and efficient transition of engine designs and technologies from those complying with the existing Phase 1 standards to those necessary to meet the Phase 2 requirements. Thus, for example, the manufacturers of Class II engines are required to meet a gradually decreasing standard on average for this segment of their product line during model years 2001 through 2005. During this time frame, EPA anticipates that such a manufacturer would continue to change more and more of its Class II engines designs to designs capable of meeting the final 12.1 g/kW-hr standards, averaging emission performance with older designs and thus meeting on average the declining standard in effect for that model year (see preamble Section II.A.2). Finally, by 2005 in this example, the manufacturer would have had sufficient time and resources to change the designs and production tooling to meet the 12.1 g/kW-hr standard on average for all its Class II engines. Similarly, a two-stage schedule has been developed to uniquely meet the industry needs for converting the Class I engines. For these nonhandheld classes, EPA has concluded that the phased-in and two-stage implementation schedules are necessary in order to make the ultimate standards achievable through the application of the specific technologies that EPA analyzed for nonhandheld engines.

These standards and the other compliance program elements being adopted today also consider expected in-use deterioration. In contrast to the Phase 1 rules which only regulate the emission performance of engines when new, the Phase 2 standards being adopted today also reflect expected deterioration in emission performance as an engine is used. Manufacturers will be required to evaluate the emission deterioration performance of their engine designs and certify their designs to meet these standards after anticipated emission deterioration of a typical in-use engine over its useful life. Different useful life ranges have been adopted based on the type of engine and equipment in which the engine is installed. For example, a Class II nonhandheld engine will be certified for from 250 to 1000 hours of use based on design features and the intended use of the installation (a high priced piece of industrial equipment would more likely be equipped with an engine with design features intended to make it most durable and thus certified to the emission standards assuming 1000 hours of in-use operation, for example).

The certification program requires that the manufacturer determine an appropriate methodology for accumulating hours of operation to "age" an engine in a manner which duplicates the same type of wear and other deterioration mechanisms expected under typical consumer use which could affect emission performance. EPA expects bench testing will be used to conduct this aging operation because this can save time and perhaps money, but actual in-use operation (e.g., cutting grass) will also be allowed. Emission tests will be conducted when the engine is new and when it has finished accumulating the equivalent of its useful life. The engine must pass standards both when it is new and at the end of its designated useful life to qualify for certification. Additionally, the new engine and fully aged engine emission test levels are compared to determine the expected deterioration in emission performance for other engines of this design; such engines may be tested as they come off the end of a production line, in which case their new engine emission levels are adjusted by the deterioration factor determined from the certification engine to predict useful life emission performance.

Selection of engines for testing as they come off the production line will be conducted according to the provisions of the Production Line Testing (PLT) program. This program is explained in more detail in a following section but, briefly, its intent is to allow a sampling of engines as produced throughout the production period to be tested for emission performance to assure that the design intent as certified prior to production has been successfully transferred by the manufacturer to mass production in a production line setting. The volume of PLT testing required by the manufacturer depends on how close the test results from the initial engines tested are to the standards; if these test

engines indicate the design is particularly low emitting, few engines need be tested, while those designs with emission levels very close to the standards will need additional tests to make sure the design is being produced with acceptable emission performance.

While this compliance program will not require the manufacturer to conduct any in-use testing to verify continued satisfactory emission performance in the hands of typical consumers, an optional program for such in-use testing is being provided. EPA believes it is important for manufacturers to conduct in-use testing to assure the success of their designs and to factor back into their design and/or production process any information suggesting emission problems in the field. While not mandating such a program, EPA encourages such testing by allowing a manufacturer to avoid the cost of the PLT program for a portion of its product line by instead supplying data from in-use engines. Under this voluntary in-use testing program, up to twenty percent of the engine families certified in a year can be designated for in-use testing by the manufacturer. For these families, no PLT testing will be required for two model years including that model year. Instead, the manufacturer will select a minimum of three engines off the assembly line or from another source of new engines and emission test them when aged to at least 75 percent of their useful life under typical in-use operating conditions for this engine. The information relating to this in-use testing program will be shared with EPA. If any information derived from this program indicates a substantial in-use emission performance problem, EPA anticipates the manufacturer will seek to determine the nature of the emission performance problem and what corrective actions might be appropriate. EPA will offer its assistance in analysis of the reasons for unexpectedly high in-use emission performance and what actions might be appropriate for reducing these high emissions. Whether or not a manufacturer chooses to conduct such a voluntary in-use testing program, EPA may choose to conduct its own in-use compliance program. If EPA were to determine that an in-use noncompliance investigation was appropriate, the Agency expects it would conduct its own in-use testing program, separate from this voluntary manufacturer testing program, to determine whether a specific class or category of engines is complying with applicable in-use standards.

All these general provisions of this compliance program are also expected to become part of California's compliance program for these classes of small engines.[1] Importantly, the testing and data requirements, engine family descriptors, compliance statements and similar testing and information requirements of these federal Phase 2 nonhandheld regulations are, to the best of EPA's knowledge, the same general compliance program requirements adopted by the California ARB. This is advantageous to manufacturers marketing the same product designs in California as in the other states, as they need prepare only one set of certification application information, supplying one copy to the ARB for certification in the State of California and one copy to EPA for federal certification. This similar treatment under the regulations also extends to the PLT program and the optional in-use testing program, such that any test data and related information developed for the ARB should also satisfy the federal regulatory requirements being adopted today.

In addition to the regulatory provisions outlined above, this rule adopts special provisions for small volume engine manufacturers, small volume engine families produced by other engine manufacturers, and small volume equipment manufacturers who rely on other manufacturers to supply them with these small SI nonhandheld engines. These special small volume provisions lessen the demonstration requirements and in some cases delay the effective dates of the standards so as to smooth the transition to these Phase 2 requirements. This is especially important for these small volume applications since the eligible manufacturers involved may not have the resources to ensure that engines complying with these Phase 2 standards will be available under the time frames otherwise established under these regulations. Since these provisions are limited to small volume applications, the risk to air quality is negligible. However, without these provisions, the economic impacts to small volume manufacturers could be increased and the possibility of reduced product offering would be great, especially for those products intended to serve niche markets which satisfy special needs. These flexibilities are explained more fully in section II.B. and are detailed in the regulations.

[1] While the voluntary in-use test program may not be codified in the California ARB Tier 2 rules for these engines, the ARB has agreed to adopt this same voluntary in-use test program and allow for the same decreased PLT testing.

II. Content of the Final Rule

The following sections provide additional detail on the provisions of the final rule outlined above.

A. Emission Standards and Related Provisions

1. Class Structure

This final rule maintains the same basic class structure as implemented in the Phase 1 regulations for these nonhandheld engines. The Phase 1 rules established separate classes based on engine size in recognition of the greater difficulty in controlling emissions from smaller displacement engines compared to larger displacement engines. That rule also separated engine classes into those intended for use in equipment typically carried by the operator during its use such as chain saws or string trimmers (referred to as handheld equipment) and those engines normally used in equipment which is not carried by the operator including, for example, lawnmowers and generators (this equipment being referred to as nonhandheld). These usage distinctions seemed appropriate because the small engine industry is for the most part split between these two categories, with very few manufacturers making both handheld engines and nonhandheld engines, and because the nature of these two industry segments is quite different with, for example, the handheld engine manufacturers for the most part producing engines specifically for use in their own equipment (i.e., engine and equipment manufacturers) while nonhandheld engine manufacturers typically do not also make equipment but rather are suppliers of engines to the equipment industry; other characteristics important to regulatory analysis also differ between these two industry segments. Thus, it still seems appropriate to consider these industries separately, and thus the class structure adopted today maintains the distinction between handheld and nonhandheld classes, with today's rule establishing the Phase 2 program for nonhandheld Class I and Class II. In addition, as discussed above, a Phase 2 program for handheld engines is not being adopted in today's action, but will be addressed in future **Federal Register** notices.

2. $HC+NO_X$ Emission Standards

More stringent $HC+NO_X$ emission standards are being finalized for Class I engines than were proposed, and the $HC+NO_X$ emission standards for Class II engines are being adopted as proposed. The Clean Air Act at section 213 (a) (3) requires the Agency to adopt standards that result in the greatest emission

reductions achievable through the application of technology which the Administrator determines will be available, giving appropriate consideration to cost, lead time, noise, energy and safety factors. As a result of information now available, much of it in the form of comments received during the NPRM comment period, EPA has determined that standards more stringent than those proposed for Class I engines are feasible during the next decade. With the adoption of these Class I and Class II standards, emissions will be reduced an estimated 59 percent compared to the Phase 1 nonhandheld engines. The standards being adopted today reach the goal of maximum achievable reductions for nonhandheld engines under section 213 of the Clean Air Act. The nation should continue to benefit from improved emission performance for this category of engines at least through 2010 as these standards take effect and fleet turnover to cleaner engines occurs.

The following table compares the proposed levels of standards and the final levels of standards being adopted today.

TABLE 2.—PHASE 2 HC +NO_X EMISSION STANDARDS FOR CLASS I AND CLASS II

Engine Class	NPRM		FRM	
	HC+NO_X (g/kW-hr)	Time line	HC+NO_X (g/kW-hr)	Time line
Class I	25.0	2001	16.1	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.
Class II	12.1	2001–2005	12.1	2001–2005.

For Class I, the NPRM acknowledged that a standard of the level being adopted today was technically feasible. Indeed, one of the technology changes available to achieve these standards (adopting an overhead valve configuration) has already been done on some Class I engines and is also anticipated to be a primary choice for manufacturers of Class II engines to meet their Phase 2 emission levels. The issues impacting a decision on the most appropriate Class I standards, rather, concerned the lead time necessary for the industry to convert their Class I designs and production facilities to meet these standards, the cost of this conversion, and the subsequent potential adverse impact on sales of any such increase in cost passed along to consumers. Both the industry and EPA now have an improved understanding of the lead time necessary to convert Class I engines to designs capable of meeting these low emission standards and the costs that would result. While the manufacturers' uncertainties regarding consumer acceptance may not be fully resolved, EPA believes the anticipated price increases resulting from this action will not have a significant adverse impact on sales, principally due to the fact that once fleet turnover becomes significant and Class I overhead valve engine products do not have to compete with side-valve engine products, consumer acceptance of overhead valve engines should no longer be an issue. Furthermore, major manufacturers of Class I engines support the adoption of these standards in the time frame required[2]. Specifically, Class I engines must all meet the 16.1 g/kW-hr HC+NO_X standard starting with engines produced on or after August 1, 2007. Additionally, all new engine families first produced on or after August 1, 2003 will also need to comply with this standard. This latter provision recognizes that manufacturers adopting new engine designs in a time frame so close to the 2007 production requirement to meet the standard should be anticipating meeting that standard in their design strategy. Furthermore, sufficient time exists between now and August 1, 2003 to allow for new designs to meet the Phase 2 standard. Finally, EPA expects the manufacturers will take advantage of this production window between August 2003 and August 2007 to smooth the transition to a fully complying product line by August 2007 by phasing in production of Phase 2 engines during these four years. Thus, the environment should benefit by the early introduction of complying engines, and the manufacturers will benefit by the flexibility to introduce engines during this transition period in a manner and schedule which best fits their individual needs.

This standard for Class I engines is identical to the standard adopted by the State of California as part of its Tier 2 regulations for this class of small spark-ignition engines. However, these federal regulations tend to allow additional time in consideration of the need to convert perhaps additional designs not targeted, at least initially, for the California market, and of the significantly greater cost and logistical burden of converting production facilities to meet the much larger federal sales volumes. Nevertheless, this alignment in standards should assist the industry in targeting production and distribution of engines since, when fully implemented, an engine meeting California standards will also meet federal standards (and vice versa); such an engine can be sold anywhere in the United States.

While EPA anticipates manufacturers may choose to meet the Class I Phase 2 standard by converting their engines to OHV designs (similar to the case for Class II engines as explained in the NPRM), other options are also available such as the adoption of improved fuel metering and/or the use of a catalytic converter. The standards adopted today do not rely on only one technology, nor do they mandate use of any specific technology.

As proposed, the final rule adopts standards of 12.1 g/kW-hr HC+NO_X for Class II engines, phased in over the 2001 through 2005 model years. Again, when coupled with the actions being taken with regard to Class I engines, this standard and phase in schedule is technically feasible and provides sufficient lead time for changing engine designs and production facilities.

3. NMHC+NO_X Standards for Class I and II Natural Gas Fueled Engines

As proposed, EPA is adopting separate optional standards for small SI nonhandheld engines fueled by natural gas. For typical gasoline-fueled engines, the methane portion is around 5 to 10 percent of total hydrocarbons. However, for engines fueled with natural gas, the methane portion can be around 70 percent. The methane from these

[2] See docket A–96–55, memorandum IV–E–68, entitled "Meeting with Tecumseh Products Company, Briggs & Stratton and Latham & Watkins".

engines has a very low ozone forming potential compared to the other hydrocarbons in the engine's exhaust. Therefore, from an ozone forming potential perspective, it is appropriate to provide an alternative set of emission standards for engines fueled with natural gas. These standards have been adjusted to provide equivalent stringency to the HC+NO_X standards for gasoline-fueled engines as are being adopted today. Aside from these standards, all other aspects of this rule pertain equally to engines fueled with natural gas as those fueled with gasoline.

TABLE 3.—PHASE 2 NMHC +NO_X EMISSION STANDARDS FOR CLASS I AND II

Engine Class	NMHC+NO_X (g/kW-hr)	Time line
Class I	14.8	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.
Class II1	11.3	2001–2005.

4. CO Emission Standards

This final rule adopts the CO emission standards contained in the proposal for Class I and Class II engines (e.g., 610 g/kW-hr), and thereby maintains the same CO emission standard as in the Phase 1 rules (e.g., 519 g/kW-hr), when adjusted for deterioration. At this time, it does not appear that additional reductions in CO emissions from these engines will be needed to allow most areas of the country to attain the CO ambient air quality standard. However, it should be noted that many of the emission control techniques likely to be adopted to meet the Phase 2 HC+NO_X standards, in particular the conversion from side-valve to clean overhead valve designs, improved fuel metering, and combustion chamber improvements, should also result in lower CO emissions. So, although the final CO standard remains the same as the proposed standard, EPA expects some CO emission reduction will occur as a result of the technology adopted to comply with the more stringent HC+NO_X standards. EPA is not able at this time, however, to quantify the expected level of CO reductions to a sufficiently precise degree that the Agency can confidently set a more stringent standard than was proposed.

5. Useful Life Categories

Along with adopting a more stringent numerical standard for Class I engines, the minimum certification demonstration useful life has also been extended from 66 hours to 125 hours. The higher useful life designation is technically appropriate; the lower 66 hour value was proposed as a means of saving the industry cost during certification demonstration (see discussion in the NPRM, at 63 FR 3969). However, the extra cost is relatively small while the higher hours of operation provide an improved opportunity to assess emission deterioration. Additionally, the 125 hour designation is aligned with California's requirements. Thus, a manufacturer intending to sell Class I engines in both the State of California and federally (the vast majority of engines) would have to accumulate 125 hours of service during certification to meet the California requirement; in this case, no extra burden is placed on the manufacturer by adopting this requirement federally. The minimum certification demonstration useful life for Class II engines is 250 hours, as proposed.

6. Selection of Useful Life Category

EPA proposed that the engine manufacturers would be responsible for assuring that the correct useful life was used for certification demonstration and labeling purposes (see proposed 90.105(a)). Specific criteria were proposed which the manufacturers could use in documenting their determinations of useful life category selection. Comments received suggested such a requirement was overly rigid and unnecessary. EPA remains very concerned that the manufacturers select the most appropriate useful life category for each engine to assure it is properly evaluated during certification and to assure that any averaging, banking and trading program which allows the exchange of emission credits across engine families in different useful life categories is also fair and environmentally sound. However, so as not to add potentially unnecessary burden on the industry, these rules adopt a less rigid methodology for determining useful life categories. The proposal provided for EPA intervention in the selection of the appropriate useful life category for an engine. This potential intervention would have the effect of adding uncertainty for the manufacturer, and of limiting its ability to fully plan and execute in a timely fashion its product certification program. The program being adopted today rests the responsibility with the industry to make their best, most conscientious selection. We expect that manufacturers of Class I and II engines will have a good idea of the types of equipment their engines are typically used in and, from their marketing information, a reasonably accurate projection of the relative volumes in such typical applications. Additionally, based on design features these manufacturers build into their engines, they have a good idea of the expected useful life in such applications. Relying on this information, manufacturers should be able to make good selections of appropriate useful life categories for their engines. While these final rules leave that responsibility to the manufacturer, EPA expects to periodically review the manufacturers' decisions to assure ourselves that this regulation is being properly implemented and to determine whether modifications to these rules are appropriate. We note that this approach results in the same regulatory requirement as the State of California, eliminating any extra burden in this regard due to federal rules.

7. Emission Standards Feasibility at Longer Useful Life

In response to the NPRM, some commenters suggested the standard should be proportionately higher for engines certified to higher useful life ages. The reasoning given was that since engines are expected to have emissions deterioration with accumulation of hours of use, the more the hours of use the higher the amount of deterioration and thus the higher should be the standards. However, this presumes no design difference between an engine intended for a useful life of, for example, 250 hours versus one designed

for a useful life of 1000 hours. This is not the case. Engines designed for higher useful life markets have superior design features (such as advance fuel metering designs including fuel injection) which should result in an ability to calibrate for lower emissions when the engine is new and also have a lower rate of emission deterioration during service accumulation. The combined impact of such trends will allow engines designed for a high useful life to meet the same standards as engines designed for a shorter useful life. Thus, these final rules adopt the same standard for all engines in a nonhandheld class regardless of their intended useful life.

B. Averaging, Banking, and Trading

In this final rule, EPA is establishing a certification averaging, banking, and trading (ABT) program for Phase 2 nonroad SI nonhandheld engines at or below 19 kW. Averaging means the exchange of emission credits among engine families within a given engine manufacturer's product line. Averaging allows a manufacturer to certify one or more engine families to Family Emissions Limits (FELs) above the applicable emission standard. However, the increased emissions would have to be offset by one or more engine families certified to FELs below the same emission standard, such that the average emissions in a given model year from all of the manufacturer's families (weighted by various parameters including engine power, useful life, and number of engines produced) are at or below the level of the emission standard. Banking means the retention of emission credits by the engine manufacturer generating the credits for use in future model year averaging or trading. Trading means the exchange of emission credits between engine manufacturers which then can be used for averaging purposes, banked for future use, or traded to another engine manufacturer.

The new program would be the first ABT program for nonroad SI engines, since the Phase 1 rule did not include an ABT program. EPA believes this new program is an important element in making the stringent Phase 2 emissions standards adopted in this final rule achievable with regard to technological feasibility, lead time, and cost. The new ABT program is intended to enhance the flexibility offered to engine manufacturers that will be needed in changing their entire product lines to meet the stringent $HC+NO_X$ standards being adopted. The ABT program also encourages the early introduction of cleaner engines certified under the Phase 2 requirements, thus securing earlier emission benefits.

EPA believes that the new ABT program is consistent with the statutory requirements of section 213 of the Clean Air Act. Although the language of section 213 is silent on the issue of averaging, it allows EPA considerable discretion in determining what regulations are most appropriate for implementing section 213. The statute does not specify that a specific standard or technology must be implemented, and it requires EPA to consider costs, lead time, and other factors in making its determination of "the greatest degree of emissions reduction achievable through the application of technology which the Administrator determines will be available." Section 213(a)(3) also indicates that EPA's regulations may apply to nonroad engine classes in the aggregate, and need not apply to each nonroad engine individually. Finally, EPA believes the ABT program is consistent with the statutory requirements of the Clean Air Act.

The ABT program being finalized with today's action is similar in many ways to the program proposed for nonhandheld engines. Changes to the proposed program have been made in response to comments received on the proposal and the revised standards for Class I engines. The following discussion summarizes the main provisions of the ABT program being finalized and explains the main differences from the proposed ABT program.

As noted above, the ABT program will apply to Phase 2 small SI nonhandheld engines. The ABT program will be available for $HC+NO_X$ emissions but will not be available for CO emissions. The ABT program will also apply to natural gas-fueled engines. All credits for natural gas-fueled engines will be determined against the applicable $NMHC+NO_X$ standards. In addition, manufacturers will be allowed to freely exchange $NMHC+NO_X$ credits from engines fueled by natural gas with $HC+NO_X$ credits from engines fueled by fuels other than natural gas in the ABT program.

Cross-class exchange of ABT credits between nonhandheld engine families will not be restricted. EPA had proposed restricting using credits from Class I engines in determining compliance of Class II engines since the standard proposed for Class I engines was considerably less stringent than that proposed for Class II engines; it would have been quite easy to generate credits in Class I and use them to offset FELs above the standard for Class II engines. However, because of the tighter standards being adopted for Class I engines and the one restriction (discussed below) regarding generation of credits from Class II engines, EPA is far less concerned that credits from Class I could result in delays in technology improvement for Class II, and does not believe that any cross-class restrictions for nonhandheld engines are necessary. Therefore, all restrictions on cross-class credit exchanges for small SI nonhandheld engines have been eliminated.

As part of the ABT program, EPA is setting upper limits on the FEL values that may be declared by manufacturers under the Phase 2 standards. (The FEL is established by the manufacturer and takes the place of the emission standard for all compliance determinations.) The proposed FEL upper limits were based on the previous set of standards (i.e., the Phase 1 standards) for nonhandheld engines after accounting for in-use deterioration, which is typically how EPA establishes such limits. Therefore, EPA is adopting $HC+NO_X$ FEL upper limits of 32.2 g/kW-hr for Class I engines and 26.8 g/kW-hr for Class II engines as proposed, even though the $HC+NO_X$ emission standard adopted for Class I engines is more stringent than originally proposed.

EPA is finalizing one limitation that applies to Class II engines only. As proposed, because of concerns over the potential to generate significant credits from existing Phase 1 engines against the Phase 2 standards, EPA is requiring that a manufacturer's production-weighted average of $HC+NO_X$ FELs for Class II engines may not exceed 13.6 g/kW-hr in model year 2005, 13.1 g/kW-hr in model year 2006, and 12.6 g/kW-hr in model years 2007 and later. This calculation is based strictly on the FELs and does not allow the manufacturer to factor in the use of credits, as is done when a manufacturer demonstrates compliance with the $HC+NO_X$ standard of 12.1 g/kW-hr. EPA believes this approach will ensure that Class II engines are converted to OHV or OHV-comparable technology in a reasonable time frame while still encouraging the early introduction of cleaner, more durable technology and ensuring that manufacturers have the flexibility provided by an ABT program to comply with the new standards. For Class I, EPA does not have a similar concern since the standards being adopted are expected to provide only limited opportunity to generate large amounts of credits from existing engines.

All credits will be calculated based on the difference between the manufacturer-established FEL and the Phase 2 $HC+NO_X$ standard for the

applicable model year using the following equation.

Credits=(Standard—FEL)×Production×Power×Useful life×Load Factor

At the time of certification, manufacturers must also supply information to EPA on the terms used in the above noted equation. "Production" represents the manufacturer's U.S. production of engines for the given engine family, excluding exported engines and engines that will be sold in California. "Power" represents the maximum modal power of the certification test engine over the certification test cycle. "Useful Life" is the regulatory useful life established by the manufacturer for the given engine family. "Load Factor" is a constant that is dependent on the test cycle over which the engine is certified.

Under the new ABT program for small SI nonhandheld engines, credits will have an unlimited credit life and will not be discounted in any manner.

The equation being adopted for credit calculation in today's action has been revised from the proposal in two ways. First, EPA proposed that manufacturers use the 49-state sales of an engine family instead of 49-state production levels. However, because of the non-integrated nature of the nonroad small SI market, EPA believes it would be very difficult for manufacturers to determine actual sales. EPA believes that production levels should provide an appropriately accurate estimate of sales. Second, EPA proposed that manufacturers use a sales-weighted average maximum modal power for all of the engine configurations within an engine family as opposed to the maximum modal power of the certification test engine. Because a large fraction of engine families include multiple configurations, EPA believes it would create unnecessary burden on engine manufacturers to determine the maximum modal power of every engine configuration. Using a consistent approach for estimating the maximum modal power based on the certification test engine simplifies the program for manufacturers. At the same time, it should not have any significant impact on the relative number of credits generated under the program from engines with FELs below the standards versus engines with FELs above the standards.

Under the new ABT program, manufacturers of small SI nonhandheld engines will be allowed to use portions of the ABT program prior to implementation of the Phase 2 standards to provide an incentive to accelerate introduction of cleaner technologies into the marketplace. The Agency believes that making bankable credits available prior to the effective date of the new standards will reward those manufacturers who take on the responsibility of complying with the Phase 2 requirements sooner than required and will result in early environmental benefits. Under the early banking provisions for small SI engines, manufacturers will be allowed to begin using the averaging and banking portions of the ABT program beginning with the 1999 model year for engines certified to the Phase 2 requirements and produced after the effective date of this action. However, as was the case with certain provisions included in the proposal, the ability of a manufacturer to generate early credits also is being limited by the regulatory provisions being adopted today. The protocols adopted in these regulations assure that a manufacturer will only generate credits from engines cleaner than those otherwise anticipated to be available. In this way, manufacturers are rewarded for the extra effort of designing and producing lower emitting engines and the environment benefits from this extra effort. The regulatory provisions adopted today assure that the amount of credits received for the early introduction of a low emitting engine are appropriate considering both the current designs of engines and the changes in emission performance necessary to meet the Phase 2 standards as well as the degree to which the industry and consumers would benefit from the opportunity to generate early credits.

For Class I and Class II engines, manufacturers may generate early credits to be used for averaging or banking purposes from only those engine families certified with FELs at or below the final Phase 2 standard (i.e., 16.1 g/kW-hr $HC+NO_X$ for Class I engines, and 12.1 g/kW-hr $HC+NO_X$ for Class II engines (or 14.8 g/kW-hr $NMHC+NO_X$ for Class I and 11.3 g/kW-hr $NMHG+NO_X$ for Class II natural gas-fueled engines)). As proposed, all early credits for Class II engines will be calculated against the initial Phase 2 $HC+NO_X$ standard of 18.0 g/kW-hr. For Class I engines, because the Phase 2 standards initially only apply to new engine family designs produced for the first time on or after August 1, 2003, EPA will allow manufacturers to generate early credits from any other Class I engines (i.e., those produced before August 1, 2003) if they are certified with an FEL at or below 16.1 g/kW-hr; the amount of the credit will be determined by the difference between the engine family's FEL and a $HC+NO_X$ level of 20.5 g/kW-hr. The manufacturer may continue generating early credits from such Class I engine families for as long as it continues producing the engine family until August 1, 2007 since, at that time, all Class I engines families are subject to the Phase 2 standards. The 20.5 g/kW-hr level is based on the same assumption as the initial Class II phase-in standard that half of the engines are at the Phase 1 Class I standard and the other half are at the Phase 2 Class I standard adopted today. (Any Class I engine family for which a manufacturer wishes to start generating credits for the first time after August 1, 2003, will not be eligible for early credits. Such families will be eligible to generate credits under the standard provisions of the ABT program against the Phase 2 standard of 16.1 g/kW-hr.)

All engines for which the manufacturer generates early credits must comply with all requirements for Phase 2 engines (e.g., the Production Line Testing program requirements). Manufacturers of nonhandheld engines will not be allowed to trade their early engine credits to other manufacturers until the first effective model year of the Phase 2 standards for the applicable engine class.

To be eligible for early credits for an engine family, EPA had originally proposed that a nonhandheld engine manufacturer would have to certify and comply with the initial Phase 2 standards for its entire production line in the class containing that family. EPA proposed this requirement as a means of limiting the ability of the manufacturer to generate inappropriately large amounts of early credits. However, because EPA is adopting significantly tighter standards for Class I engines than originally proposed, the ability of the manufacturer of Class I engines to easily generate large amounts of early credits is greatly diminished. Additionally, EPA believes all current manufacturers of Class II engines would meet this requirement with their currently certified Phase 1 engines, in which case the proposed restriction would have no effect. Therefore, EPA is not adopting such a requirement in today's action.

In establishing the set of declining standards for Class II engines, EPA assumed a certain phase-in of OHV or comparably clean and durable technology during the transition years. In order to encourage manufacturers to meet the assumed phase-in schedule, EPA proposed to limit the use of credits in two situations that were dependent on whether the manufacturer met the

assumed OHV phase in schedule. First, manufacturers would only be allowed to trade credits from Class II engines to Class I engines if they met the assumed phase-in schedule. Second, manufacturers would only be allowed to use early banked Class II credits beginning in 2001 or later if they met the OHV or comparably clean engine production phase-in schedule estimates for that model year. Because EPA is finalizing significantly tighter Class I standards and because EPA is adopting caps on the long term levels of FELs, EPA does not believe that the proposed limits on the use of credits which were tied to whether a manufacturer was meeting the assumed OHV technology phase in are necessary. These aspects of the final rule should eliminate EPA's concern that introduction of OHV or comparably clean engine technology could be delayed. Therefore, EPA is not finalizing the limits on the use of credits that were dependent on a manufacturer showing compliance with the assumed OHV phase-in schedule for Class II engines.

As discussed in section II.E. of today's notice, EPA is finalizing several compliance flexibility provisions for engine manufacturers and equipment manufacturers that allow the limited use of Phase 1 engines in the Phase 2 time frame. Phase 1 engines sold by engine manufacturers under the flexibility provisions will be excluded from the ABT program. In other words, engine manufacturers will not have to use credits to certify Phase 1 engines used for the flexibility provisions even though they would likely exceed the newly adopted Phase 2 standards.

Another flexibility provision described in section II.E. of today's notice allows engine manufacturers to certify Class II side-valve engine families with annual sales of 1,000 units or less to an HC+NO_X cap of 24.0 g/kW-hr starting with the 2010 model year. For such engine families, the ABT program allows manufacturers to exclude such engine families for the 2010 model year and later. As noted in section II.E., EPA is dropping the portion of the proposed flexibility for small volume Class II SV engine families for model years 2001 through 2009 that would have allowed them to meet the 24.0 g/kW-hr HC plus NO_X level and be included in the ABT program (for model years 2001 through 2004) if they exceeded this level. In its place, the Agency is adopting a flexibility that allows small volume engine families to meet the Phase 1 requirements for model years 2001 through 2009. Class II SV engine families taking advantage of this flexibility during the 2001 to 2009 model years would be excluded from the ABT program.

As noted elsewhere in today's notice, EPA is adopting a number of provisions that address post-certification compliance aspects of the new standards for nonhandheld engines. In one specific case, EPA is allowing manufacturers to use credits from the certification ABT program to address excess emissions situations determined after the time of certification. As noted in the discussion on compliance, EPA does not believe that the typical type of enforcement action that could be taken when a substantial nonconformity is identified (i.e., an engine family recall order) would generally be workable for small SI engines given the nature of the market. Instead, for the purposes of implementing the PLT program, EPA is adopting provisions to allow manufacturers to use engine certification ABT credits to offset limited emission performance shortfalls for past production of engines determined through the PLT program as described in section II.D. of today's notice. Under the adopted provisions, manufacturers are allowed to use all engine credits available to them to offset such emission performance shortfalls without any cross-class restrictions.

EPA is not allowing manufacturers to automatically use ABT credits to remedy a past production nonconformance situation in the Selective Enforcement Audit (SEA) program. As described in today's action, EPA expects to primarily rely on the PLT program to monitor the emissions performance of production engines. However, EPA expects that SEAs may be conducted in certain cases. Therefore, as discussed in section II.D., if EPA determines that an engine family is not complying with the standards as the result of an SEA, EPA plans to work with the manufacturer on a case-by-case basis to determine an appropriate method for dealing with the nonconformity. The option(s) agreed upon by EPA and the engine manufacturer may, or may not, include the use of ABT credits to make up for any "lost" emission benefits uncovered by the SEA.

C. Test Procedures

The test procedure being adopted for the Phase 2 nonhandheld program is the steady state procedure currently used in Phase 1, with several modifications. These test procedure modifications were proposed for the reasons contained in the proposal (63 FR at 3976–77). No adverse comment was received on these proposals. First, engines equipped with an engine speed governor must use the governor to control engine speed during the test cycle modes with the exception of Mode 1 or Mode 6. Second, the proposed test procedure for NMHC is being adopted. This test procedure will allow proper measurement of methane emissions from spark-ignition engines and permit appropriate determination of the NMHC emission for natural gas-fueled engines. Additionally, several cycle operational modifications have also been adopted as recommended by EMA (see section 4 of the Summary and Analysis of Comments).

Finally, one comment was received in regards to special test procedures accepted by EPA during the Phase 1 rulemaking and their continued use into Phase 2. EPA will continue to accept special test procedures during Phase 2 (including those approved under Phase 1) as long as they continue to result in emission compliance determinations expected to be equivalent to those resulting from use of the Phase 2 test procedures. Under this approach, manufacturers who test their engines using fuel satisfying California's requirements are allowed, as under Phase 1 rules, to adjust their test results in a manner which EPA determines would yield the same emission levels had the engines been tested using the test fuels meeting the specifications in the federal regulations.

D. Compliance Program

The compliance program being adopted today for Phase 2 nonhandheld engines is comprised of three parts: a pre-production certification program during which the manufacturer evaluates the expected emission performance of the engine design including the durability of that emission performance; an assembly line test program which samples product coming off the assembly line to assure the design as certified continues to have acceptable emission performance when put into mass production; and a voluntary in-use test program during which participating manufacturers evaluate the in-use emission performance of their product under typical operating conditions. Standards have been set for each class. The manufacturer divides its product offering based upon specific design criteria which have a potential for significantly different emission performance; these subdivisions are called engine families. Each engine family is required to meet the standard applicable for the class in which that engine resides unless the manufacturer chooses to participate in the ABT program also being adopted today.

The ABT program has already been described (see section II.B. for discussion of the ABT program). The other provisions of the compliance program are explained in more detail below. In all cases, to the best of EPA's knowledge, the requirements of this federal compliance program are sufficiently similar to the requirements of the California Air Resources Board program for these engines such that for engine families sold in both the State of California and federally, the engines selected for testing, the test procedures under which they are tested and the data and other information required to be supplied by regulations will be the same under both programs. Thus, we expect that a manufacturer will compile one application for certification satisfying the information needs of both programs and thus saving the manufacturer time and expense. Similarly, the EPA and California compliance programs are expected to share information such that any production line testing or in-use testing conducted for one program will satisfy the similar needs of the other program, again minimizing the burden on the manufacturers.

1. Certification

This section addresses the certification program finalized today for nonhandheld engine manufacturers. The proposed rule discussed the certification program at 63 FR 3981. Several comments were submitted in response to the proposal. EPA addresses these comments and provides detailed explanations of why the Agency retained provisions as proposed or changed the proposed provisions in the Summary and Analysis of Comments document at section 5. The certification process as required in the Act is an annual process and requires that manufacturers demonstrate that regulated engines will meet appropriate standards throughout their useful lives. The Act prohibits the sale, importation or introduction into commerce of regulated engines when not covered by a certificate.

The proposal would have required nonhandheld engine manufacturers to estimate the in-use deterioration of their engine families by different methods depending on the type of engine technology (see 63 FR 3981). For manufacturers of nonhandheld side valve (SV) engines or engines with aftertreatment (i.e., catalysts), the proposal would have required that one engine from each engine family be either field aged or bench aged to its full useful life to demonstrate compliance. If a manufacturer were to choose the bench aging option, the emission results would have had to be adjusted using the field/bench adjustment program. The field/bench adjustment program was described in the proposal at 63 FR 3977. These results, either the field aged or adjusted bench aged, would have been used to calculate a deterioration factor which would then be applied to the results of testing done on new engines in the certification, PLT or SEA programs. For manufacturers of nonhandheld engines with overhead valve technology, the proposal would have allowed manufacturers to use an industry-wide assigned deterioration factor for certification. Manufacturers of overhead valve nonhandheld engines would have also been allowed under the proposal to establish their own deterioration factors by field aging a minimum of three engines per family to their full useful lives, provided they established deterioration factors for all of their engine families within a useful life category. Manufacturers of overhead valve engines would have been required to participate in an industry-wide Field Durability and In-use Performance Demonstration Program. This program is described in the proposal at 63 FR 3989 and its primary purpose was to verify whether the industry-wide assigned deterioration factors were appropriate.

EPA received a significant number of comments regarding the complexity of the proposed certification program, the inappropriateness of an assigned deterioration factor for all useful life categories for nonhandheld engines with overhead valve technology, the prohibitive expense of field aging engines, and the advantages of harmonizing EPA's final certification program with that of the California Air Resources Board. EPA now believes the complexity of the proposed program would make it difficult to manage and organize the certification program for both industry and the Agency. EPA also believes that harmonizing its programs with the California Air Resources Board will allow the industry to more efficiently comply with the final emission standards and requirements. Additionally, EPA is concerned the field/bench adjustment program may not be statistically reliable enough to establish appropriate deterioration factors (in an effort to control the cost of this program, only a minimum amount of data was proposed to be required; this small amount of data hurts the statistical reliability of any resulting decision).

Based on comments received and EPA's further evaluation of the proposed certification program, EPA is finalizing the certification program with the following significant changes to the proposal. These changes, and other less significant changes, are also discussed in the Summary and Analysis of Comments document. In today's final rule, EPA is adopting a significantly less complex certification program that harmonizes with the certification program adopted by the California Air Resources Board as part of its Tier 2 regulations. In this program, manufacturers of nonhandheld engines of all technologies are required to demonstrate that their regulated engines comply with appropriate emission standards throughout the engines' useful lives. To account for emission deterioration over time, manufacturers must establish deterioration factors for each regulated pollutant for each engine family. The final rule allows manufacturers to establish deterioration factors by using bench aging procedures which appropriately predict the in-use emission deterioration expected over the useful life of an engine or an in-use evaluation which directly accounts for this deterioration. As is the case with many EPA mobile source regulations, multiplicative deterioration factors may not be less than one. Additionally, where appropriate and with suitable justification, deterioration factors may be carried over from one model year to another and from one engine family to another.

Today's final rule also provides flexibility for small volume engine manufacturers and small volume engine families, allowing manufacturers to optionally use assigned deterioration factors established by the Agency. The deterioration factors, either assigned or generated, are used to determine whether an engine family complies with each emission standard in the certification program, the production line testing program, and the Selective Enforcement Auditing program.

As in Phase 1, manufacturers can submit certification applications to the Agency electronically, either on a computer disk or through electronic mail, making the certification application process efficient for both manufacturers and the Agency. Also, EPA and the California Air Resources Board will have a common application format allowing manufacturers to more easily apply for certification.

2. Production Line Testing—Cumulative Summation Procedure

This section addresses the production line testing (PLT) program finalized today for nonhandheld engine manufacturers. The proposed rule discussed the PLT program at 63 FR 3984–89. Several comments were

submitted in response to the proposal. EPA addresses these comments and provides detailed explanations of why the Agency retained provisions as proposed or changed the proposed provisions in the Summary and Analysis of Comments document at section 5. The PLT program adopted in today's rule requires manufacturers to conduct manufacturer-run testing programs using the Cumulative Summation Procedure (CumSum).[3] EPA is finalizing the program as proposed with the following significant modifications. These changes, and other less significant changes, are also discussed in the Summary and Analysis document. The proposal would have required manufacturers of handheld engine families to participate in the PLT program while allowing nonhandheld manufacturers the option of participating in the PLT program or electing to remain eligible for traditional Selective Enforcement Audits. EPA received comments both in favor of finalizing this option for nonhandheld manufacturers and removing this option and requiring all manufacturers, handheld and nonhandheld, to participate in the PLT program. Because the SEA program can only provide a single snapshot of a manufacturer's production, while the PLT program has the ability to evaluate a manufacturer's production throughout the model year, EPA believes that the PLT program provides a better evaluation of a manufacturer's production than the SEA program. Further, the PLT program does not disrupt a manufacturer's normal day to day activities. Therefore, the proposed option for nonhandheld manufacturers to elect to continue to rely on Selective Enforcement Audits is not being finalized, and nonhandheld manufacturers are required to conduct PLT programs using the CumSum approach in today's final rule.

The PLT proposal also included an opportunity for the Agency to approve alternative methods to the CumSum approach if those alternative methods met certain statistical criteria, including: the alternative methods produce substantially the same levels of producer and consumer risk as CumSum, provide for continuous sampling, and include an appropriate decision mechanism for determining noncompliance. EPA received comments in support of the proposal to allow manufacturers to submit alternative test schemes for PLT, but also suggesting that the above criteria were too restrictive and would result in a program so closely aligned with CumSum that, by implication, the manufacturer would have no reason to pursue the alternative. Therefore, these commenters recommended EPA should either make the criteria less restrictive, or remove the specific criteria altogether. EPA believes that the proposed criteria would be crucial to developing any alternative production line testing program, and that the Agency could not approve an alternative program with less restrictive criteria. EPA also believes the CumSum procedure is an accurate and appropriate production line testing program for those manufacturers covered by the production line testing requirements. Therefore, in response to industry comments suggesting that there would be little utility in being able to seek approval of alternate methods under EPA's proposed criteria, EPA is not adopting the proposed option that would have allowed manufacturers to apply for alternative PLT methods.

The CumSum program, as finalized, requires manufacturers to conduct testing on each of their engine families (except where relieved of this requirement under provisions granting small volume flexibility). The maximum sample size that could be required for each engine family is 30 engines or 1 percent of a family's projected production, and the number of tests ultimately required is determined by the results of the testing. EPA and the California ARB have harmonized their PLT programs and both will require manufacturers to use the CumSum procedure for testing production engines. Manufacturers will be able to submit PLT reports to the Agency electronically, either on a computer disk or through electronic mail, which will save both the industry and EPA time and money.

As mentioned in the discussion on ABT, above, manufacturers may, for a limited amount of production, use ABT credits to offset the estimated excess emission of previously produced noncomplying engine designs as determined in the PLT program. For future production, the manufacturer would be expected to correct the noncompliance problem causing the emission noncompliance either by changing the production process, changing the design (which would require recertification) or raising the FEL to compensate for the higher emissions (also requiring recertification). In the event a manufacturer raises an FEL as a result of a PLT failure, it may do so for future production as well as past production. EPA expects few instances in which the manufacturer will correct a PLT failure through raising the FEL since that would imply the manufacturer incorrectly set the initial FEL levels for that family; frequent use of this remedy would suggest the manufacturer was incapable of correctly setting the FELs for its product, in which case EPA would have to reconsider allowing a manufacturer to participate in the ABT program at its option. It should also be noted that, as proposed, compliance with the standards will be required of every covered engine. Thus, every engine that failed a PLT rest would be considered in noncompliance with the standards and must be brought into compliance. EPA's rules allowing the use of the average of tests to determine compliance with the PLT program is intended only as a tool to decide when it is appropriate to suspend or revoke the certificate of conformity for that engine family, and is not meant to imply that not all engines have to comply with the standards or applicable FEL.

Under the flexibilities section, we also note that small volume manufacturers and small volume engine families need not be included in the PLT program at the manufacturer's option. Finally, EPA proposed that exceptionally low emitting engines could also be exempted from PLT testing at the manufacturer's option, however, they would also not be able to generate ABT credits. Manufacturers have indicated that they would much rather have the credits available from a low emitting engine design than the alternative of reduced PLT testing. Therefore, this proposed option has not been adopted.

3. Selective Enforcement Auditing

The proposal discussed Selective Enforcement Auditing (SEA) at 63 FR 3987–88. The SEA program is not the Agency's preferred production line testing program for small nonhandheld engines, and the CumSum approach is being finalized as the PLT program that manufacturers will conduct. Specific comments submitted regarding SEA, and EPA's responses, are discussed in the Summary and Analysis of Comments document at section 5. The SEA program is included in today's final rule as a "backstop" to the CumSum program and would be used in cases where there is evidence of improper testing or of a nonconformity that is not being addressed by the CumSum program. The SEA program, as finalized, will also apply to engine

[3] The CumSum procedure has been promulgated for marine engines in EPA's spark-ignition marine rule at 40 CFR Part 91 (61 FR 52088, October 4, 1996). In this section, "PLT" refers to the manufacturer-run CumSum procedure. "PLT" does not include Selective Enforcement Auditing (SEA), which is addressed separately in Section II.D.3 of this preamble.

families optionally certified to the small volume manufacturer provisions and the small volume engine family provisions, in cases where manufacturers elect not to conduct PLT testing for such families. However, as for other families, EPA does not expect families certified under the small volume provisions will be routinely tested through an SEA program.

In contrast to the PLT program, manufacturers who fail an SEA will not have the automatic option of using ABT credits to remedy noncomplying engines already introduced into commerce. The PLT program was designed to allow a manufacturer to continually evaluate its entire production and quickly respond to the results throughout the model year. EPA believes that allowing a manufacturer to use credits, for a limited amount of engines, to remedy past production emission failures is consistent with the continual evaluation provided by the PLT program. The SEA program, in contrast, is designed to be a one time, unannounced inspection of a manufacturer's production line with definitive passing or failing results. EPA believes that is this type of a compliance program, where at most only a few engine families might be tested each year, manufacturers must place more emphasis on the transition from certification to the production line and must set initial FELs accurately. To encourage accurate FEL settings at the time of certification, the SEA program does not allow manufacturers to automatically remedy SEA failures by retroactively adjusting FELs. Remedies for the SEA failure are best determined on a case-by-case basis which might include the use of ABT credits if agreeable to both EPA and the manufacturers.

4. Voluntary In-Use Testing

This section addresses the voluntary in-use testing program finalized today for nonhandheld engine manufacturers. The proposed rule discussed the in-use testing program at 63 FR 3989. Several comments were submitted in response to the proposal. EPA addresses these comments and provides detailed explanations of why the Agency retained provisions as proposed or changed the proposed provisions in the Summary and Analysis of Comments document at section 5. The proposal would have required manufacturers of nonhandheld engines manufactured with overhead valve technology to conduct up to a total of 24 emissions tests on engines that were field aged to their full useful lives. The primary function of these in-use tests was to verify that the industry-wide deterioration factors predicted for the overhead valve engines were appropriate. Based on industry comments regarding the prohibitive expense of conducting field aged in-use tests, EPA is not adopting the proposed in-use programs in today's rule.

However, EPA still desires meaningful in-use data so that it can more appropriately assess the actual emissions inventory of this industry. Therefore, EPA is adopting a voluntary in-use testing program. The voluntary in-use testing program gives nonhandheld engine manufacturers the option of using a portion of their PLT resources to generate field aged emissions data. At the start of each model year, manufacturers may elect to place up to 20 percent of their engine families in this voluntary program. For those families in this program, manufacturers would not be required to conduct PLT for two model years, the current year and the subsequent year (the California Air Resources Board has indicated that they would also exempt families in this in-use testing program from their PLT requirements). Instead, manufacturers would place a minimum of three randomly selected production engines in existing consumer owned, independently owned, or manufacturer owned fleets. Manufacturers would install the engines in equipment that represents at least 50 percent of the production for an engine family and age the engine/equipment combination in actual field conditions to at least 75 percent of each engine's useful life. Once an engine in this program has been sufficiently field aged, the manufacturer would conduct an emissions test on that engine. Manufacturers would have three calendar years from the date they notified the Agency of their intent to include a family in the program to complete testing.

While this compliance program will not require the manufacturer to conduct any in-use testing to verify continued satisfactory emission performance in the hands of typical consumers, an optional program for such in-use testing is being provided. EPA believes it is important for manufacturers to conduct in-use testing to assure the success of their designs and to factor back into their design and/or production process any information suggesting emission problems in the field. If any information derived from this program indicates a substantial in-use emission performance problem, EPA anticipates the manufacturer will seek to determine the nature of the emission performance problem and what corrective actions might be appropriate. EPA will offer its assistance in analysis of the reasons for unexpectedly high in-use emission performance and what actions might be appropriate for reducing these high emissions. Whether or not a manufacturer chooses to conduct such a voluntary in-use testing program, EPA may choose to conduct its own in-use compliance program. If EPA were to determine that an in-use noncompliance investigation was appropriate, the Agency expects it would conduct its own in-use testing program, separate from this voluntary manufacturer testing program, to determine whether a specific class or category of engines is complying with applicable in-use standards.

Although EPA is not finalizing the mandatory in-use testing programs proposed, the Agency is finalizing the in-use noncompliance provisions as proposed (see 63 FR 4026: Subpart I 90.808). Under these provisions, if the Agency determines that a substantial number of engines within an engine family, although properly used and maintained, do not conform to the appropriate emission standards, the manufacturer will be required to remedy the problem and conduct a recall of the noncomplying engine family as required by CAA section 207. However, we also recognize the practical difficulty in implementing an effective recall program as it would likely be impossible to properly identify the owners of equipment using small engines (there is no national requirement to register the ownership of such equipment), and it is also highly questionable whether owners or operators of such equipment would respond to an emission-related recall notice. Therefore, under the final program EPA's intent is to allow manufacturers to nominate alternative remedial measures to address potential non-compliance situations, as the proposed rulemaking notice discussed (see 63 FR 3992). EPA expects that, if successfully implemented, the use of these alternatives should obviate the need for the Agency to make findings of substantial nonconformity. In evaluating these alternatives, EPA would consider those alternatives which (1) represent a new initiative that the manufacturer was not otherwise planning to perform at that time and that has a nexus to the emission problem demonstrated by the subject engine family; (2) cost substantially more than foregone compliance costs and consider the time value of the foregone compliance costs and the foregone environmental benefit of the subject family; (3) offset at least

100 percent of the exceedance of the standard or FEL; and (4) are able to be implemented effectively and expeditiously and completed in a reasonable time. These criteria would function as ground rules for evaluating projects to determine whether their nature and burden is appropriate to remedy the environmental impact of the nonconformity while providing assurance to the manufacturer that EPA would not require excessive projects.

In addition to being evaluated according to the above criteria, alternatives would be subject to a cost cap. EPA would apply a cost cap of 75 percent above and beyond the foregone costs adjusted to present value, provided the manufacturer can appropriately itemize and justify these costs. EPA believes that this is an appropriate value which is both "substantial" and sufficient to encourage manufacturers to produce emission durable engines.

Given the important role that alternative remedial measures may play, EPA intends to develop guidance regarding alternative remedial measures. EPA will seek the input of the regulated industry, as well as other concerned stakeholders, in developing such guidance.

E. Flexibilities

In the NPRM, EPA proposed a number of flexibilities to ease the transition from the Phase 1 to the Phase 2 program, to ensure that the Phase 2 standards are cost-effective and achievable, and to reduce the compliance burden while maintaining the environmental benefits of the rule. Several comments were received on the flexibilities proposed, some supporting the proposals and others offering recommended changes. In addition, the need for modifications to the proposed set of flexibilities evolved out of the investigations which led to other changes to the proposal including the adoption of more stringent Class I standards than were proposed. The following is a summary of the revised flexibilities for this rulemaking.

1. Carry-Over Certification

Consistent with other mobile source emission certification programs, EPA will allow a manufacturer to use test data and other relevant information from a previous model year certification program to satisfy the same requirements for the existing model year certification program as long as the data and other information are still valid. Such "carry-over" of data and information is common in mobile source programs where the engine family being certified in the current model year is identical to the engine family previously certified.

2. Small Volume Engine Manufacturer Definition

EPA proposed a number of flexibilities for engine manufacturers defined as small volume engine manufacturers; these flexibilities are identified in section II.E.4, below. While supporting these flexibilities, EMA and OPEI, on behalf of their members, commented that revisions to the definitions of small volume equipment manufacturer and small volume engine manufacturer were appropriate to protect the interests of engine manufacturers who would or would not meet the proposed definition. Specifically, EMA and OPEI recommended eliminating the "small engine manufacturer" definition altogether, and relying instead on an expanded definition of small volume engine family to meet the goal of assuring an adequate supply of engines for niche equipment applications, especially as produced by small volume equipment manufacturers. According to EMA and OPEI, providing any additional relief to small volume engine manufacturers would put these manufacturers at an unfair competitive advantage over engine manufacturers whose production volumes were too large to qualify for this relief.

The issue of the small volume engine family definition is discussed in the subsequent section. Regarding the availability of flexibilities targeted specifically for the small volume engine manufacturers, EPA remains convinced that the relatively small technical and production resources available to the smallest engine manufacturers makes their job of complying with Phase 2 emission standards significantly more difficult than for larger manufacturers with comparably greater technical and financial resources available to apply toward solving this problem. Consequently, without some additional flexibilities under these regulations, the small volume manufacturer would be much less likely to produce engines complying with the Phase 2 regulations or, if able to make the necessary design changes, would only be able to spread the cost of such changes over considerably fewer production engines. In such a case, not only would small volume engine manufacturers be financially stressed compared to their larger competitors, but they might need to pass along to their consumers a higher per unit price increase in an attempt to recover at least part of their cost of compliance. Higher price increases would make their product less competitive. In the extreme, either due to pricing pressures or simply due to the limitations in technical capability, without additional flexibilities, small volume engine manufacturers might not be able to continue providing engines to their customers. The engine manufacturers could go out of business and their customers could suffer from a lack of engine supply. This potential for loss in engine availability would more likely fall on the shoulders of small equipment manufacturers who provide niche products and who are the more typical customers of the small volume engine manufacturers.

EPA continues to believe flexibilities aimed at the small volume engine manufacturer are appropriate and is retaining the definition of small volume engine manufacturers as proposed. As proposed, to qualify as a small volume engine manufacturer a nonhandheld engine manufacturer may produce no more than 10,000 engines annually.

3. Small Volume Engine Family Definition

EPA proposed that manufacturers of small volume nonhandheld engine families (those families with annual production of 1000 units or less) be provided cost saving flexibilities. These flexibilities are described in section II.E.4. Without such flexibilities, the cost and other difficulties of modifying these small volume engine families to comply with the Phase 2 standards may be difficult enough that the manufacturer might either be unable to complete the modification of the engine design in time or may choose for economic reasons to discontinue production of the small volume engine family. The impact of such a scenario would of course fall on the engine manufacturer through reduced engine sales, but would also fall perhaps even more significantly on small volume equipment applications, the most typical use for these small volume engine families. Due to the unique character of these small volume equipment applications, it is quite possible the equipment manufacturer might not be able to find a suitable replacement engine. In such case, the equipment manufacturer would also be significantly impacted through lost sales, and consumers would be harmed through the loss in availability of the equipment.

As noted in the prior section, EMA and OPEI commented that EPA should redefine the small volume family production volume limit from the 1000 unit maximum proposed for nonhandheld engine families to a level of less than 5,000 units. Tecumseh

requested the addition of an option of 1 percent of a manufacturer's total production as the upper limit for determining small volume engine families.

EPA has re-examined the production limits for small volume engine families and has determined that the interests of preserving the availability of small volume families would be better served by raising the small volume engine family definition to 5,000 for nonhandheld engine families. A larger number of niche equipment applications will now be served and the risk of loss in engine availability reduced. At the same time, the potential for adverse emission impacts remains very small. Given this provision 99 percent of nonhandheld engines will still be covered by the full compliance program and subject to the earliest practical implementation of the rule.

The recommendation by Tecumseh to base the small volume definition optionally on a varying scale equal to one percent (1 percent) of the engine manufacturer's sales volume is rejected as departing from the basis that absolute size of the family dictates whether it is a niche application. Furthermore, a small volume engine definition based on the total production volume of the manufacturer would disproportionately benefit the largest manufacturers who, in all other respects, tend to be in the best position to comply with the Phase 2 regulations.

4. Flexibilities for Small Volume Engine Families and Small Volume Engine Manufacturers

The flexibilities proposed for small volume engine manufacturers and small volume engine families received general support in comments to the NPRM. One modification to the proposed flexibilities is being adopted. To provide additional time to convert the many small volume engine families to designs complying with the Phase 2 standards and to provide additional lead time for small volume manufacturers, EPA is now adopting a provision that would allow the use of Phase 1 engines through model year 2009. Therefore, all manufacturers will have until 2010 to certify small volume nonhandheld engine families to Phase 2 requirements. Similarly, small volume engine manufacturers will have until 2010 to certify all of their Class I and Class II engine families to Phase 2 requirements.

EPA proposed allowing small volume engine families and small volume engine manufacturers to continue producing Phase 1 engines until the last year of the phase in of the Phase 2 standard applicable to the engine's class. However, since the Class I standards being adopted today are significantly more stringent than the standards upon which this proposed flexibility was based, the number of engine families required to be modified and, especially, the degree of modification necessary has increased. This adds significantly to the technical and resource burden on the engine manufacturer. As anticipated in the proposal, EPA expects the major engine manufacturers will choose to modify their small volume engine families last as these represent niche markets. Additionally, these niche applications may represent some of the more difficult engine applications due to their unique requirements. The experience gained in designing, producing and getting in-use feedback on their larger engine family designs should be helpful in minimizing the cost and assuring the performance of the small volume engines. The design challenges for the small volume engine manufacturer have similarly increased suggesting more time to accomplish the transition to Phase 2 standards would be warranted. EPA expects manufacturers will take advantage of the extra time being adopted today to smooth the transition to Phase 2 standards by bringing the small volume engines into compliance throughout this time period. Due to the fact that the circumstances vary greatly from one manufacturer to another, it would be inappropriate to mandate a percent phase-in schedule or some other mandatory rate of phase-in for these small volume engine families and small volume manufacturers. Therefore, only a final compliance requirement of model year 2010 is being adopted. EPA has also considered the air quality impact of this flexibility and determined that one percent of the total small engine production is likely to take advantage of this option to delay compliance with the Phase 2 standards with a negligible impact on the emission benefits expected from this rule.

The following summarizes the flexibilities available to manufacturers of small volume engine families and small volume engine manufacturers for these engines.

a. Can certify to Phase 1 standards and regulations until 2010 for eligible engine families; these engine families are excluded from ABT;

b. Can certify using assigned deterioration factors;

c. Can elect to not participate in PLT; SEA is still applicable.

Regarding the exclusion from ABT of engine families which take advantage of delaying implementation of the Phase 2 standards, this provision is being adopted to protect against a situation in which a manufacturer may choose to redesign and produce a small volume engine family with low emissions (e.g., meeting the Phase 2 standards) but still certify it under these small volume provisions and generate credits all the way up to the Phase 1 standards level. Since this flexibility is intended to provide small volume manufacturers and manufacturers of small volume engine families the flexibility to delay implementation of the Phase 2 standard if necessary, it would be inappropriate and unfair to other manufacturers to also allow them to generate extra credits even after redesigning their product.

5. Flexibilities for Small Volume Equipment Manufacturers and Small Volume Equipment Models

EPA proposed flexibilities based upon equipment manufacturer needs aimed at assuring the continued supply under the Phase 2 regulations of engines for unique, typically small volume applications. These flexibilities included allowing the small volume equipment manufacturer to continue using Phase 1 compliant engines up until the third year after phase-in of the final Phase 2 standards for that engine class if the equipment manufacturer was unable to find a suitable Phase 2 engine before then. Second, EPA proposed to allow individual small volume equipment models to continue using Phase 1 compliant engines throughout the time period the Phase 2 regulation is in effect if no suitable Phase 2 engine was available and the equipment was in production at the time these Phase 2 rules were adopted. Finally, EPA proposed a hardship provision that would allow any equipment manufacturer for any of its applications to continue using a Phase 1 engine for up to one more year beyond the last phase-in of the final standard for that engine class if the requirement to otherwise use a Phase 2 compliant engine would cause substantial financial hardship.

In this final rule, EPA is adopting flexibilities which can be exercised by small volume equipment manufacturers. These flexibilities were supported by comments to the proposal and are adopted as proposed except that the criteria for determining whether someone is a small volume equipment manufacturer has been revised (see discussion in the following section II.E.6). Specifically, as proposed and for the reasons described in the proposal, the small volume equipment manufacturer will be allowed to use Phase 1 engines for up to three years beyond the last phase-in year for the standard applicable to that engine class

(or engine class and equipment category combination in the case of Class III and IV engines) if they demonstrate to EPA that no suitable Phase 2 engine is available. Secondly, small volume equipment models will be allowed to use Phase 1 compliant engines throughout the time the Phase 2 rule is in effect as long as that piece of equipment is in production as of the effective date of this rule and the manufacturer demonstrates to EPA that no suitable Phase 2 engine is available. Finally, EPA is adopting the hardship provision which will allow equipment manufacturers an additional year beyond the final phase-in of a standard to start using a Phase 2 compliant engine if they can demonstrate that earlier use would cause a significant financial hardship.

6. Small Volume Equipment Manufacturer Definition

EPA proposed that small volume equipment manufacturers would be defined as those whose annual production for sale in the U.S. across all models would be 2500 or fewer nonhandheld engines.

EMA and OPEI commented that the Small Business Administration definition of a small manufacturer should be used instead of the definition proposed by EPA for small volume equipment manufacturers. Under this definition, according to EMA and OPEI, equipment manufacturers who employed fewer than 500 persons would all be eligible for the small volume flexibilities. Alternatively, EMA and OPEI recommended that the small volume equipment manufacturer definition be expanded to include all equipment manufacturers using nonhandheld engines who produce 5000 or fewer units annually.

EPA has considered the recommendations received in comments to the NPRM and analyzed the production data available to the Agency. As explained in the proposal, opting to use a definition of 500 or fewer employees as recommended by EMA and OPEI would capture a group of equipment manufacturers with a wide-range of equipment production volumes including some who produce up to 700,000 units annually. It would also include a group of equipment manufacturers with a wide range of financial capabilities, including some which have much larger revenue streams compared to those that would be covered by the proposed definition. EPA believes the impact of this rule is more closely tied to the volume of units produced by the manufacturer (for example, if the equipment needed to be modified to accommodate a Phase 2 engine, the impact would best be analyzed as a per unit impact) than to the number of persons employed by a firm. Therefore, establishing flexibilities under these emission rules should be based on the production volume of the manufacturer, not the number of employees. However, EPA agrees there would be advantages in expanding the definition of small volume equipment manufacturer to include slightly larger manufacturers who are still, compared to the rest of the industry, amongst the smallest. Therefore, EPA is adopting a small volume equipment definition of 5000 or fewer annual production for equipment using nonhandheld engines. This limit covers approximately two percent of the annual sales in each category. Providing the flexibilities outlined above in section II.E.5 allows significant relief to these smallest equipment manufacturers while at the same time assuring the vast majority of equipment uses the lowest emitting engines available.

7. Small Volume Equipment Model Definition

The small volume equipment model definition proposed would cover nonhandheld models of 500 or less annual production. As proposed, such small volume equipment models can use Phase 1 engines throughout Phase 2 if the manufacturer of these equipment models can demonstrate no Phase 2 compliant engine is available for existing models; if the equipment is "significantly modified" then this exemption ends, since during this modification design accommodations could be made to accept an engine meeting Phase 2 standards. This provision was proposed to permit unnecessary equipment redesign when the emission benefit from such a redesign would be negligible.

Comments were received from EMA and OPEI recommending raising the production limit to 5000 units for nonhandheld applications rather than the 500 annual production limit proposed. EPA's analysis of production data indicates that the 500 cutoff would exempt less than approximately one percent of annual sales from required use of Phase 2 engines but approximately 73 percent of the equipment models, thus providing substantial relief to many small volume applications without compromising the air quality benefits of this final rule. In contrast, a level such as 5000 for the cutoff of a small volume equipment model definition would benefit more equipment manufacturers (up to 87 percent of the equipment models) but at a significant air quality loss, as up to six percent of the units sold could be exempt. This is too great of an emissions penalty and therefore this option is rejected. EPA is adopting as proposed a definition of small volume equipment model as 500 or fewer units annual production for nonhandheld equipment.

8. Hardship provision

EMA commented that manufacturers should not have to demonstrate a major impact on company solvency and that substantial negative economic impact or loss of market share should be enough in order to qualify for relief under the proposed hardship provision.

This hardship provision is intended to cover those extreme and unanticipated circumstances which, despite the equipment manufacturer's best efforts, place it in a situation where a lack of Phase 2 complying engines will cause such great harm to the company that the ability of the company to stay in business is at stake. It is not intended to protect an equipment manufacturer against any financial harm or potential loss of market share. EPA believes the original intent of this provision is reasonable and that the proposed criteria are reasonable. Equipment manufacturers in less dire situations may benefit from the other flexibilities being adopted today. The rules for this hardship provision are being adopted as proposed.

F. Nonregulatory Programs

EPA discussed a voluntary "green" labeling program and a voluntary fuel spillage and evaporative emission reduction program in the preamble to the NPRM. These programs are discussed in this section of the preamble. The particulate matter (PM) and hazardous air pollutant (HAP) testing program for handheld engines discussed in the NPRM will be addressed in the upcoming SNPRM for handheld engines.

1. Voluntary "Green" Labeling Program

EPA discussed the concept of a voluntary program for labeling engines with superior emission performance as a way of providing public recognition and also allowing consumers to easily determine which engines have especially clean emission performance. EPA discussed a threshold of around 50 percent of the proposed standard (e.g., around 12.5 g/kW–hr for Class I engines) as the level below which engines would qualify for "green" labeling. EPA requested comment on all aspects of the program, as well as indication of interest on the part of consumer groups, engine and

equipment manufacturers, and others in working with the Agency to develop and implement the program.

EPA received support for the voluntary "green" labeling program concept from several commenters, as well as suggestions for the design of such a program. Other commenters argued that a green labeling program is inconsistent with ABT, and still others supported a mandatory comprehensive labeling program to identify emissions levels above and below standards.

EPA remains committed to promoting clean technology, and is interested in developing a green labeling program for small SI engines in a way that does not confuse consumers or undermine environmental goals of the Phase 2 regulations. In the design of a program, it would be necessary to review appropriate levels for a green label, given the increased stringency of Class I standards in the final program, as well as to consider the appropriate interface between a green labeling program and the ABT program that is being finalized for nonhandheld engines. EPA will continue to pursue the development of voluntary green labeling program for small SI engines as a nonregulatory program.

2. Voluntary Fuel Spillage and Evaporative Emission Reduction Program

In the preamble to the NPRM, EPA discussed interest in involving stakeholders in the design of a voluntary fuel spillage and evaporative emission reduction program specifically for the small engine industry and its customers. EPA requested comment on the proposed voluntary partnership program, and indication of interest in participating in the partnership. Comments on this concept included both disappointment that EPA has not done more in these areas, as well as a willingness on the part of several commenters to work with EPA. EPA remains committed to developing voluntary programs to address fuel spillage and evaporative emission reductions, but these programs are not part of the regulations being adopted today. At this time, EPA has not been able to determine the technical feasibility of substantially controlling fuel spillage and evaporative emissions from the small engine equipment sector and therefore has not been able to determine that a program mandating such controls would be achievable for this industry.

G. General Provisions and Recommendations

In the NPRM for the Phase 2 program, EPA discussed a number of general provisions impacting Phase 2 engines, including: model year and annual production period flexibilities, definition of handheld engines, small displacement nonhandheld engine class, liquefied petroleum gas fueled indoor power equipment, dealer responsibility, engines used in recreational equipment, engines used in rescue and emergency equipment, and replacement engines. EPA received comments on several of these issues, as well as recommendations on other general issues. These general provisions and other recommendations and issues are discussed in this section of the preamble. See Section 8 of the Summary and Analysis of Comments for additional discussion of these issues.

1. Model Year Definition and Annual Production Period Flexibilities

The final program includes the same model year definition as was in effect for Phase 1, and annual production period flexibilities which were established under Phase 1 only for Class II engines. While EPA is finalizing the model year definition in effect for the Phase 1 program for the Phase 2 program, and is also finalizing flexibilities similar to those in Phase 1 for the start-up of the Phase 2 program for Class II nonhandheld engines, EPA is also clarifying in this final rule the standards to which Class II Phase 2 engine would be subject at the start-up of the program. Under the final rule, Class II engine families are required to be certified to the Phase 2 program by September 1, 2001. In addition, engine families first certified to the Phase 2 program on or before August 31, 2001, and designated as "2001 model year" families, are required to meet the 2001 emission standards (e.g., 18.0 g/kW–hr $HC+NO_X$). These engine families are also required to re-certify for the 2002 model year by January 1, 2002. Engine families first certified to the Phase 2 program on or before August 31, 2001, and designated as "2002 model year" families, are required to meet the 2002 model year standards (e.g., 16.6 g/kW–hr $HC+NO_X$).

2. Definition of Handheld Engine

EPA is finalizing the same definition for handheld engine as was in effect for Phase 1. Commenters suggested a displacement cutoff to determine which engines would meet less stringent "handheld" standards, but EPA is not adopting this suggestion. In response to comments from Honda and others, in a separate regulatory action, EPA intends to propose modifications to criteria for determining whether an engine could be classified as handheld that, if finalized, would be applicable for the remainder of Phase 1 and also apply for the Phase 2 program. The expected proposed modification would permit a manufacturer to exceed the weight limits (14 kg for generators or pumps, or 20 kg for one-person augers) in cases where the manufacturer could demonstrate that the extra weight was the result of using a four stroke engine or other technology cleaner than the otherwise currently allowed two stroke engine.

3. Small Displacement Nonhandheld Engine Class

EPA is not adopting a small displacement nonhandheld Class in today's rule. As discussed in the preamble to the NPRM, although EPA had considered establishing a new class for the smallest nonhandheld engines, such a class and separate standards for the class were not proposed. Rather, EPA requested comment on the need for such a class and what size engines should be included. Comments and additional information were received on this issue, some of which supported setting standards equivalent to the handheld standards for engines of the same displacement. EPA believes that the appropriate standards for these smallest nonhandheld engine classes should be considered in context with the standards adopted for similar size engines used in handheld applications. Therefore, EPA is deferring a decision on this issue and will reconsider it as part of the previously mentioned planned supplementary proposal for handheld engines.

4. Liquefied Petroleum Gas Fueled Indoor Power Equipment

As proposed, the final Phase 2 program is applicable to manufacturers of liquefied petroleum gas (LPG) fueled indoor power equipment. Comments to the NPRM on this issue included a suggestion that EPA exempt from regulation small manufacturers of propane-powered spark-ignited engines used solely for indoor applications and subject to OSHA indoor air quality standards and objections to EPA's assertion of jurisdiction over such equipment. The commenters suggested that since OSHA sets permissible exposure limits for indoor air toxins and since these particular pieces of equipment are designed solely for use indoors, EPA has neither the need nor the right to regulate such equipment. In

response, however, OSHA does not set equipment emission standards; EPA has that responsibility. Additionally, the emissions from this equipment can be effectively controlled through the EPA regulations being adopted today. While many of the manufacturers of propane-powered spark-ignition engines are small volume manufacturers, the regulations being adopted today also minimize the regulatory burden on these manufacturers.

Comments were also received requesting EPA regulations allow the testing and reporting of emission on a concentration basis rather than a mass basis. Measurement of concentration of emissions can be less expensive than mass emissions and EPA understands that at least some manufacturers of propane-powered spark-ignition engines are already using such equipment to check the performance of their engines after they have been converted to run on propane. However, while concentration measurements can give an indication of the emission performance of an engine, it is a far less adequate test than the mass-based emission test adopted with the Phase 1 rules and being continued with today's action.

Another comment came from a supplier of gasoline engines whose engines have been used in propane-powered equipment after conversion to run on this alternative fuel. This manufacturer is concerned that, even though it is not responsible for the changes made to the engine to allow use of propane, its name nevertheless remains on the engine after the conversion and it may be subject to warranty claims which result from the conversion and are therefore not the fault of the original engine manufacturer. Thus this original engine manufacturer requested EPA mandate that all companies which convert gasoline-fueled engines to run on propane be required to declare themselves engine manufacturers and satisfy the certification and other compliance responsibilities of this rule including emission warranty. Such persons or companies currently engaged in making these conversions have the option of not declaring themselves a manufacturer or certifying if they can assure themselves and EPA that the conversions they are making do not increase the emissions of the engine[4]. However, in making these modifications, the modifier also assumes responsibility for any emission-related problems due to the modification; such emission-related problems would not be the responsibility of the original engine manufacturer. While sympathetic toward the original engine manufacturer's concern of potentially increased warranty burden, EPA is retaining the policy of allowing modifications to certified engines so long as the modifier has good reason to believe such modifications do not increase emissions. Under such a policy, no emission increase should occur. Requiring the modifier to re-certify, in this case, would have no expected emission benefit but would add greatly to the burden on the modifier.

[4] See EPA publications "Mobile Source Enforcement Memorandum No. 1A" (6–25–74); "Addendum to Mobile Source Enforcement Memorandum 1A" (9–4–97); and, "Revision to Addendum to Mobile Source Enforcement Memorandum 1A" (6–1–98), docket A–96–55, items IV–B–02, IV–B–03 and IV–B–04 respectively.

5. Dealer Responsibility

The preamble to the proposed Phase 2 program clarified that the Phase 2 program adds no additional responsibilities for dealers. As in the NPRM, the final rule contains no new constraints or responsibilities for dealers and repair facilities beyond those contained in the Phase 1 rule.

6. Engines Used in Recreational Vehicles and Applicability of the Small SI Regulations to Model Airplanes

EPA is not adopting any revisions to the provisions relating to engines used in recreational vehicles established in the Phase 1 program. No revisions were proposed by the Phase 2 NPRM. EPA does intend to address recreational vehicle issues in a separate regulatory action. This separate rulemaking will address the applicability of the small SI regulations to engines used in model airplane applications, and EPA expects to propose to consider engines that serve "only to propel a flying vehicle * * * through air" to be recreational engines provided they also meet the other existing criteria that apply to that term. As "recreational" engines they would be effectively excluded from the small SI program.

7. Engines Used in Rescue and Emergency Equipment

EPA is finalizing the provision, as proposed, that for the remainder of Phase 1 as well as for Phase 2, exempts engines which are used exclusively in emergency and rescue equipment from compliance with any standards if the equipment manufacturer can demonstrate that no certified engine is available to power the equipment as safely and practically. No comments were received on this proposal.

8. Replacement Engines

EPA proposed to continue replacement engine provisions from the August 7, 1997 rulemaking (62 FR 42638), which amended the Phase 1 rule to allow engine manufacturers to sell uncertified engines from replacement purposes subject to certain controls designed to prevent abuse. In addition, the Phase 2 proposal contained additional safeguards and reporting and record keeping requirements to further ensure against abuse.

The final Phase 2 program for replacement engines goes beyond the August 7, 1997 rule in one area. It includes the amendment which permits uncontrolled engines to be sold for pre-regulatory equipment, and Phase 1 engines to be sold for equipment built with Phase 1 engines, subject to the above constraints (90.1003(b)(5)(iv)). The final rule does not include other provisions from the Phase 2 proposal that were added to the August 7, 1997 rule. Based on comments from manufacturers, and an assessment that eliminating these provisions will result in no loss of environmental benefits, EPA has decided to eliminate these other requirements in interest of reducing the record keeping and reporting burden on manufacturers. Note that EPA intends to propose minor modifications to the replacement engine regulations in a separate regulatory action in order to clarify the responsibilities of importers.

9. Record keeping and Information Requirements

The ICRs have been revised for final rule and estimate the average annual public reporting burden for the collection of information required under the rule for a typical engine manufacturer (see section V.C. of preamble). In addition, EPA has significantly streamlined the compliance program requirements for final rule.

10. Engine Labeling

EPA proposed two alternatives for engine labeling. These alternatives differed only in the treatment of useful life hours. As indicated in the preamble to the NPRM, EPA believes inclusion of the number of hours of emission compliance for which the engine is properly certified would provide an important tool to consumers in making their purchase decisions between competing engines. EPA anticipates manufacturers will use the useful life hours of the engine as a marketing tool. For example a manufacturer might advertise that an engine family is

certified as emissions durable to 1000 hours. Thus, inclusion of meaningful useful life hours would have the potential of providing a market place mechanism regarding manufacturers who design engines for longer useful life periods.

The two alternatives for designating useful life on the engine label were to (1) simply state the useful life hours or (2) use a designator of useful life hours, for example, A, B, or C, and then adding words on the label to direct the consumer to the owner's label for an explanation of the meaning of A, B and C. This latter option was proposed only for nonhandheld engines and was based on the concern expressed by nonhandheld engine manufacturers during the development of the Statement of Principles for these engines that consumers could be confused by the meaning of the useful life period if the specific number of hours was included on the label. However, as indicated in the preamble to the NPRM, EPA was concerned that an "A, B, C" designation may not provide the same useful information to the consumer as directly including the useful hours on the label and specifically requested comment on this issue.

In their comments on the proposal, EMA and OPEI indicated they remained concerned that consumers might believe the emissions compliance period could mean something else, for example, the expected life for which the engine would provide satisfactory product performance to the consumer. EMA and OPEI indicated "(c)onsumer purchasers are not sophisticated enough to understand the difference between the EPA term of art "useful life" and the expected time of ownership of their newly purchased lawnmower. Nor will they understand the difference between emission performance and product performance." Therefore, they recommended adopting an option whereby the engine manufacturer could indicate A, B, or C on its required engine label, make reference to the owner's manual for additional explanation and explain in the owner's manual the meaning of A, B, and C where it would be easier to provide an adequate explanation of the meaning behind an emission performance period. In contrast, the North American Equipment Dealers Association (NAEDA) commented that a buyer would not know the meaning of useful life designations such as A, B, or C prior to the purchase of the equipment since the explanation of these designations would only appear in the owner's manual which is not normally accessible to the consumer prior to purchase. Also, Honda commented specifically that engine labeling requirements should be harmonized between California and federal rules to allow an engine to be labeled for different standards and different classes. This recommendation from Honda aligns with numerous other general comments on the importance of harmonization between California and federal rules.

EPA remains concerned that an "A, B, C" designation of useful life may not be as informative of the expected emission performance period as a direct listing of the certified hours. Especially in light of NAEDA's comment, EPA is concerned about the ability of consumers to use such designations to make informed purchase decisions if their only source of explanation is the owner's manual. However, it is also not clear that including the hours listing directly on the label is the optimum alternative since, as suggested by EMA and OPEI comments, consumers may not fully understand the meaning of the emissions performance useful life hours listing and could instead, for example, believe the hours refer to perhaps a parts warranty period for the equipment in which the engine is installed. EPA is also aware of labeling options being considered by California that would allow removing the actual hours of operation from the engine label and including additional information on the product, perhaps not permanently affixed to the engine, which would satisfy the need to properly inform consumers. Allowing such labeling would also serve the goal of harmonization as supported by Honda.

Therefore, EPA is finalizing regulations which, as proposed, allow the manufacturer to use an engine label which includes the actual emissions period useful life as certified by the engine manufacturer or a label which includes an "A, B or C" designation and refers to the owners manual for further information. Based on conversations with both EMA and OPEI representatives, EPA also expects to work in partnership with the industry in developing consumer outreach material to better inform consumers of the emission improvements available through purchase of equipment using Phase 2 engines. EPA expects such outreach material will better serve the informational needs of consumers than the just relying on either of these labeling options. Additionally, the rules allow other labeling options which the Administrator determines satisfies the information intent of the label. This option is intended to allow for the nationwide use of the California labeling system. In evaluating the adequacy of an alternative label, EPA would consider the extent to which the manufacturer's alternative engine label combined with other readily accessible consumer information adequately informs the consumer of the emission performance of the engine.

11. Emission Warranty

As proposed, EPA is not adopting revisions to the base emission performance warranty period of two years of engine use from the date of sale for this nonhandheld program. EPA will address comments from handheld manufacturers that relate specifically to whether additional flexibility is needed for some handheld products in the supplemental proposal for the Phase 2 handheld program. In addition, EPA is not adopting the proposed separate Phase 1 and Phase 2 provisions which would have required differing warranty statements. The final provisions specifying what manufacturers must warrant, therefore, remains unchanged from the existing rule.

12. Other Issues

A number of other of issues were considered in the development of this final rule, based on comments received on the proposal. These include defect reporting requirements, aftermarket provisions, closed crankcase provisions and exclusion from $HC+NO_X$ standards for engines used exclusively in the wintertime, CO adjustments for open crankcase breathers, NO_X converter placement during testing, usage meters, and metric units. Comments received on these issues, and EPA's response to those comments, can be found in Section 8 of the Summary and Analysis of Comments document.

III. Projected Impacts

A. Environmental Benefit Assessment

National Ambient Air Quality Standards (NAAQS) have been set for criteria pollutants which adversely affect human health, vegetation, materials and visibility. Concentrations of ozone (O_3) are impacted by HC and NO_X emissions. Ambient concentrations of CO are, of course, impacted by CO emissions. EPA believes that the standards set in this rule would reduce emissions of HC and NO_X and help most areas of the nation in their progress towards compliance with the NAAQS for ozone. The following provides a summary of the roles of HC and NO_X in ozone formation, the estimated emissions impact of this rule, and the health and welfare effects of ozone, CO,

hazardous air pollutants, and particulate matter. Much of the evaluation of the health and environmental effects related to HC, NO_X and CO found in this section is also discussed in the Regulatory Impact Analysis (RIA).

1. Roles of HC and NO_X in Ozone Formation

Both HC and NO_X contribute to the formation of tropospheric ozone through a complex series of reactions. In a 1991 report, researchers emphasize that both HC and NO_X controls are needed in most areas of the United States.[5] EPA's primary reason for controlling emissions from small SI nonhandheld engines is the role of their HC emissions in forming ozone. Of the major air pollutants for which NAAQS have been designated under the CAA, the most widespread problem continues to be ozone, which is the most prevalent photochemical oxidant and an important component of smog. The primary ozone NAAQS represents the maximum level considered protective of public health by the EPA. Ozone is a product of the atmospheric chemical reactions involving oxides of nitrogen and volatile organic compounds. These reactions occur as atmospheric oxygen and sunlight interact with hydrocarbons and oxides of nitrogen from both mobile and stationary sources.

A critical part of this problem is the formation of ozone both in and downwind of large urban areas. Under certain weather conditions, the combination of NO_X and HC has resulted in urban and rural areas exceeding the national ambient ozone standard by as much as a factor of three. Thus it is important to control HC over wider regional areas if these areas are to come into compliance with the ozone NAAQS.

2. Health and Welfare Effects of Tropospheric Ozone

Ozone is a powerful oxidant causing lung damage and reduced respiratory function after relatively short periods of exposure (approximately one hour). The oxidizing effect of ozone can irritate the nose, mouth, and throat causing coughing, choking, and eye irritation. In addition, ozone can also impair lung function and subsequently reduce the respiratory system's resistance to disease, including bronchial infections such as pneumonia.

Elevated ozone levels can also cause aggravation of pre-existing respiratory conditions such as asthma.[6] Ozone can cause a reduction in performance during exercise even in healthy persons. In addition, ozone can also cause alterations in pulmonary and extra pulmonary (nervous system, blood, liver, endocrine) function.

The newly revised primary NAAQS[7] for ozone based on an 8-hour standard of 0.08 parts per million (ppm) is set at a level that, with an adequate margin of safety, is protective of public health. EPA also believes attainment of the new primary standard will substantially protect vegetation. Ozone effects on vegetation include reduction in agricultural and commercial forest yields, reduced growth and decreased survivability of tree seedlings, increased tree and plant susceptibility to disease, pests, and other environmental stresses, and potential long-term effects on forests and ecosystems.

High levels of ozone have been recorded even in relatively remote areas, since ozone and its precursors can travel hundreds of miles and persist for several days in the lower atmosphere. Ozone damage to plants, including both natural forest ecosystems and crops, occurs at ozone levels between 0.06 and 0.12 ppm.[8] Repeated exposure to ozone levels above 0.04 ppm can cause reductions in the yields of some crops above ten percent.[9] While strains of some crops are relatively resistant to ozone, many crops experience a loss in yield of 30 percent at ozone concentrations below the pre-revised primary NAAQS.[10] The value of crops lost to ozone damage, while difficult to estimate precisely, is on the order of $2 billion per year in the United States.[11] The effect of ozone on complex ecosystems such as forests is even more difficult to quantify. However, there is evidence that some forest types are negatively affected by ambient levels of ozone.[12] Specifically, in the San Bernadino Mountains of southern California, ozone is believed to be the agent responsible for the slow decline and death of ponderosa pine trees in these forests since 1962.[13]

Finally, by trapping energy radiated from the earth, tropospheric ozone may contribute to heating of the earth's surface, thereby contributing to global warming (that is, the greenhouse effect),[14] although tropospheric ozone is also known to reduce levels of UVB radiation reaching the earth's surface, the increase of which is expected to result from depletion of stratospheric ozone.[15]

3. Estimated Emissions Impact of the Final Regulation

The emission standards set by today's action should reduce average in-use exhaust HC+NO_X emissions from small SI nonhandheld engines approximately 59 percent beyond Phase 1 standards for nonhandheld engines by year 2027, by which time a complete fleet turnover is realized. This translates into an annual nationwide reduction of roughly 395,000 tons of exhaust HC+NO_X in year 2027 over that expected from Phase 1. Reductions in CO beyond Phase 1 levels, due to improved technology, are also to be expected by year 2027.

Along with the control of all hydrocarbons, these standards should be effective in reducing emissions of those hydrocarbons considered to be hazardous air pollutants (HAPs), including benzene and 1,3-butadiene. However, the magnitude of reduction would depend on whether the control technology reduces the individual HAPs in the same proportion as total hydrocarbons.

These emission reduction estimates are based on in-use population projections using growth estimates, engine attrition (scrappage), activity indicators and new and in-use engine emission factors. Data on activity indicators were based on the Phase 1 small SI regulation. Estimates of engine populations were based on population data available from the PSR databases[16] and data provided by Engine and Equipment manufacturers and on a study done for the California Air Resources Board by Booz Allen & Hamilton (BAH). Population projections into the future are based on a linear growth assumption. Attrition rates (based on the probability that an engine remains in service into a specific calendar year) for all engines included in this analysis are developed on the

---

[5] National Research Council, *Rethinking the Ozone Problem in Urban and Regional Air Pollution*, National Academy Press, 1991.

[6] United States Environmental Protection Agency, Review of the National Ambient Air Quality Standards for Ozone—Assessment of Scientific and Technical Information: OAQPS Staff Paper, EPA–450/2–92–001, June 1989, pp. VI–11 to 13.

[7] See 62 FR 38896, Friday, July 18, 1997.

[8] U.S. EPA, *Review of NAAQS for Ozone*, p. X–10.

[9] U.S. EPA, *Review of NAAQS for Ozone*, p. X–10.

[10] See 62 FR 38856, Friday, July 18, 1997.

[11] U.S. EPA, *Review of NAAQS for Ozone*, p. X–22.

[12] U.S. EPA, *Review of NAAQS for Ozone*, p. X–27.

[13] U.S. EPA, *Review of NAAQS for Ozone*, p. X–29.

[14] NRC, *Rethinking the Ozone Problem*, p. 22.

[15] *The New York Times*, September 15, 1992, p. C4.

[16] Power Systems Research, Engine Data and Parts Link data bases, St. Paul, Minnesota, 1992.

assumption that the equipment attrition function may be represented by a cumulative Normal distribution function. The in-use emission factor is based on a multiplicative deterioration factor which is a function of the square root of hours of equipment usage. 1992.

For the analysis summarized in Table 4, emission inventories were developed using EPA's NONROAD Model for the two regulated nonhandheld engine classes as well as for all pieces of equipment using engines covered by this rule. The total annual nationwide HC, NO_X and CO emissions from small SI nonhandheld engines included in this rule were estimated for both the baseline (that is, with Phase 1 controls applied) and controlled (Phase 2) scenarios.

For the controlled scenario, EPA assumed all nonhandheld engines would be converted to overhead valve technology. As for deterioration factors, they were determined in some cases using manufacturer-supplied confidential in-use emission data and for others EPA depended on relevant information from EPA's certification data base.

TABLE 4: PROJECTED ANNUAL NATIONWIDE EXHAUST HC+NO_X EMISSIONS

[Tons/year]

Year	Without proposed controls (Phase 1)	With proposed controls	Tons reduced from Phase 1 baseline	Percentage reduction
2000	427,063	427,063		
2005	453,129	347,065	106,064	23.4
2010	499,648	242,370	257,278	51.5
2015	547,514	226,571	320,943	58.6
2020	596,343	243,118	353,225	59.2
2025	651,818	269,871	381,947	59.3

4. Health and Welfare Effects of CO Emissions

Carbon monoxide (CO) is a colorless, odorless gas which can be emitted or otherwise enters into ambient air as a result of both natural processes and human activity. Although CO exists as a trace element in the troposphere, much of human exposure resulting in elevated levels of carboxyhemoglobin (COHb) in the blood is due to incomplete fossil fuel combustion, as occurs in small SI engines.

The concentration and direct health effect of CO exposure are especially important in small SI nonhandheld engines because the operator of a small SI engine application is typically near the equipment as it functions. In some applications, the operator must be adjacent to the exhaust outlet and is in the direct path of the exhaust as it leaves the engine. According to numbers published in the Nonroad Engine and Vehicle Emission Study (NEVES), a 4-stroke, 2.9 kW lawnmower engine emits 1051.1 g/hr CO.

The toxicity of CO effects on blood and tissues, and how these effects manifest themselves as organ function changes, have also been topics of substantial research efforts. Such studies provided information for establishing the National Ambient Air Quality Standard for CO. The current primary and secondary NAAQS for CO are 9 parts per million for the one-hour average and 35 parts per million for the eight-hour average.

5. Health and Welfare Effects of Hazardous Air Pollutant Emissions

The focus of today's action is reduction of HC emissions as part of the solution to the ozone nonattainment problem. However, direct health effects are also a reason for concern due to direct human exposure to emissions from small SI nonhandheld engines during operation of equipment using such engines. Of specific concern is the emission of hazardous air pollutants (HAPs). In some applications, the operator must be adjacent to the exhaust outlet and is in the direct path of the exhaust as it leaves the engine. Today's regulatory action should be effective in reducing HAPs such as benzene and 1,3-butadiene, in so far as these are components of the HC emissions being reduced by the Phase 2 standards.

Benzene is a clear, colorless, aromatic hydrocarbon which is both volatile and flammable. Benzene is present in both exhaust and evaporative emissions. Health effects caused by benzene emissions differ based on concentration and duration of exposure. The International Agency for Research on Cancer (IARC), classified benzene as a Group I carcinogen, namely an agent carcinogenic to humans. Occupational studies continue to provide the bulk of evidence of benzene's carcinogenicity. Workers are exposed at much higher levels than is the general public. Human epidemiologic studies of highly exposed occupational cohorts have demonstrated that exposure to benzene can cause acute nonlymphocytic leukemia and other blood disorders, that is, preleukemia and aplastic anemia. Additionally, changes in blood and bone marrow consistent with hematotoxicity are recognized in humans and experimental animals. Benzene has also been linked with genetic changes in humans and animals.

1,3-butadiene is a colorless, flammable gas at room temperature. This suspected human carcinogen is insoluble in water and its two conjugated double bonds make it highly reactive. 1,3-butadiene is formed in internal combustion engine exhaust by the incomplete combustion of the fuel and is assumed not present in evaporative and refueling emissions. The Health Risk Assessment of 1,3-Butadiene (EPA/600/P–98/001A, February 1998), concludes that 1,3-butadiene is a known human carcinogen, based on three types of evidence: (1) Excess leukemia in workers occupationally exposed to 1,3-butadiene (by inhalation), (2) occurrence of a variety of tumors in mice and rats by inhalation, and (3) evidence in animals and humans that 1,3-butadiene is metabolized into genotoxic metabolites. Other health effects due to very high levels of exposure include heart, blood and lung diseases.

Since air toxic levels generally decrease in proportion to overall emissions once emission control technology is applied, the amount of benzene and 1,3-butadiene produced by new small SI engines should diminish after this rule becomes effective. Consequently, exposure to HAPs from new nonhandheld engines would be reduced, as would associated health and

environmental effects. Although there is little data on direct health effects of small SI engines, the Swedish study concludes benzene emissions from chain saw engines as being rather high. No study has been conducted involving the health effects of HAP emissions specifically from nonhandheld engines.

6. Particulate Matter

Particulate matter, a term used for a mixture of solid particles and liquid droplets found in the air, has been linked to a range of serious respiratory health problems. These fine particles are of health concern because they easily reach the deepest recesses of the lungs. Batteries of scientific studies have linked particulate matter, especially fine particles (alone or in combination with other air pollutants), with a series of significant health problems including premature death, aggravated asthma and chronic bronchitis and increased hospital admissions. EPA has recently (July 1997) announced new NAAQS standards for particulate matter (PM) , by adding two new primary PM2.5 standards set at concentrations of 15 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean, and 65 $\mu g/m^3$, 24-hour average, to provide increased protection against the PM-related health effects found in community studies.

B. Cost and Cost-Effectiveness

EPA has calculated the cost-effectiveness of this rule by estimating costs and emission benefits for these engines. EPA made best estimates of the combination of technologies that an engine manufacturer might use to meet the new standards, best estimates of resultant changes to equipment design, engine manufacturer compliance program costs and engine fuel savings in order to assess the expected economic impact of the Phase 2 emission standards. Emission benefits are taken from the results of the environmental benefit assessment (see section III.A, above). The cost-effectiveness result of this rule is $852 per ton of $HC+NO_X$ when fuel savings are not taken into account. When fuel savings are also considered, the cost-effectiveness calculation results in—$507 per ton of $HC+NO_X$. This section describes the background and analysis behind these results.

The analysis for this rulemaking is based on data from engine families certified to EPA's Phase 1 standards, as of September 1998, and information on the latest technology development and related emission levels since the publication of the NPRM. The analysis does not include any production volumes that are covered by California ARB's standards. California ARB will implement emission standards for many of these engines prior to the federal Phase 2 regulations. Therefore, this rule only accounts for costs for each engine sold outside California and those engines sold in California that are not covered by the California ARB rules, such as those used in farm and construction equipment. Although EPA expects that engines already designed to meet California ARB's current standards would incur no additional design cost to meet federal standards, no effort was made to estimate which models would be sold in California and subject to California "Tier 1" standards.[19] Rather, for the purpose of this final rule, any Phase 1 engine design that would need to be modified to meet Phase 2 standards was assumed to incur the full cost of that modification, including design cost. Similarly, the cost to equipment manufacturers was assumed to be fully attributed to this federal rule even if an equipment manufacturer would have to make the same modifications in response to the California ARB regulation. The details of EPA's cost and cost-effectiveness analyses can be found in Chapters 4 and 7 of the Final Regulatory Impact Analysis (RIA) for this rule.

1. Engine Technologies

Table 5 lists the changes in technology, compared to Phase 1 engines, that have been considered in the cost estimation for this rulemaking. As discussed in section IV.A of this preamble, the standards would require different engine improvements amongst the nonhandheld and handheld engines and engine designs within those classes. For example, Class I and II side valve (SV) design engines are expected to require conversion to clean overhead valve (OHV) designs to reduce new engine out emissions and increase emission durability. Some OHV engine families in Class I and II are expected to decrease emissions through the use of enleanment, increased cooling and internal redesign such as piston ring design improvements. Additional detail regarding the impact of these modifications can be found in Chapters 3 and 4 for the Final RIA.

TABLE 5.—POTENTIAL TECHNOLOGY IMPROVEMENTS PER CLASS AND ENGINE DESIGN

Class	Engine design	Technologies
I	4 stroke—SV	Clean OHV or other innovative fuel system technologies.
I	4 stroke—OHV	Carburetor Improvements. Combustion Chamber Improvements and Intake System. Improved Oil Consumption (Piston oil control rings, valve stem seals).
I	2 stroke	Conversion to 4-stroke and clean OHV.
II	4 stroke—SV	Conversion to clean OHV.
II	4 stroke—OHV	Carburetor Improvements. Combustion Chamber Improvements and Intake System. Improved Oil Consumption (Piston oil control rings, valve stem seals).

[19] For purposes of analyzing small engine and equipment manufacturer impacts of this rule, including the benefits of the small volume flexibilities being adopted, EPA considered that those manufacturers who are located in California are likely to be marketing their engines and equipment in California and thus will be directly impacted by California's rules, not EPA's Phase 2 rules; this assumption, however, was not used in the development of the overall cost and cost effectiveness of EPA's Phase 2 rules. Therefore, these industry cost values are slightly overstated and the cost effectiveness numbers are slightly overstated.

2. Engine Costs

The engine cost increase is based on incremental purchase prices for new engines and is comprised of variable costs (for hardware, assembly time and compliance programs), and fixed costs (for R&D and retooling). Variable costs were applied on a per engine basis and fixed costs were amortized at seven percent over five years. Engine technology cost estimates were based on the study by ICF and EF&EE in October 1996 entitled "Cost Study for Phase Two Small Engine Emission Regulations" and confidential cost estimates provided by industry. Details of the assumed costs and analysis can be found in Chapters 4 and 7 of the RIA.

Analysis of the EPA Phase 1 certification database, as of September 1998, was conducted to determine a potential impact of the Phase 2 standards on each manufacturer assuming use of the ABT program available to engine manufacturers. While ABT is permitted across classes, this analysis considered only ABT within each class since some manufacturers produce substantially in only one nonhandheld class. The choice of technologies for emission improvement of these engine families was based on the engine family that would be most influential in reducing a manufacturer's overall average emission level within that class. In addition, costs in the NPRM for conversion from SV to OHV were updated based on a letter received from one major engine manufacturer which asserted the NPRM cost estimates were incomplete. The cost analysis was updated with consideration of confidential cost information from several engine manufacturers in order to most accurately reflect expected costs.

For Class I, review of the September 1998 EPA Phase 1 database showed that 31 percent of the engine families, 8 SV engine families and 11 Class I OHV engine families, will need to incorporate at least some of the technologies listed in Table 5. For Class II, review of the September 1998 EPA Phase 1 certification database shows that 17 percent of the engine families, 4 Class II SV engine families and 22 OHV engine families, will need to incorporate emission improvements from amongst those listed in Table 5. The incorporation of such technologies will require both variable and fixed expenditures.

The Phase 2 emission standards for this diverse industry will impact companies differently depending on a company's current product offering and related deteriorated emission characteristics used in establishing FELs for use in averaging emissions across engine families. Some large companies may improve the emission characteristics of their large volume engine families to provide credits for their smaller volume families. These companies may also improve a few engine families notably or all of their engine families slightly. The real world impact on engine manufacturers will be influenced by many factors including their ability to reduce the emissions from their major impact engine family in light of competition with others in the marketplace.

3. Equipment Costs

While equipment manufacturers would bear no responsibility for meeting emission standards, they may need to make changes in the design of their equipment models to accommodate the Phase 2 engines. EPA's treatment of the impacts of the program therefore includes an analysis of costs for equipment manufacturers. The 1996 PSR EOLINK database was utilized as the source of information for equipment manufacturers, with models and sales estimates covering all classes. The costs for equipment conversion for nonhandheld equipment was derived from the ICF/EF&EE cost study [20] and improved through the work by ICF and EPA on the small business impact analyses for this rulemaking. For Class I EPA conducted its own analysis using PSR estimated production data and employment and financial information from Dunn and Bradstreet. Full details of EPA's cost analysis can be found in Chapter 4 of the RIA. EPA has assumed that capital costs would be amortized at seven percent over ten years.

This rulemaking assumes that the majority of Class I engines will be converted from SV to OHV design in order to meet the emission standards. The major equipment types that use Class I engines are lawnmowers, generator sets, pumps, and tillers. For lawnmowers, it is assumed that the Class I engine redesign would have a minimal impact on equipment redesign for small volume manufacturers and a potential impact on larger volume manufacturers. This understanding is based on several factors. First, it is EPA's understanding that the smaller volume, and some larger volume, equipment manufacturers for niche markets allow space for a variety of engines to be used on their equipment. Therefore these equipment manufacturers will have nearly no equipment impacts. Second, it is EPA's understanding that some larger equipment manufacturers may have incorporated close packaging around the engine in order to be unique in the marketplace. However, the conversion from SV to OHV is not required until August 1, 2007 (except for new engine models initially produced on or after August 1, 2003) and therefore it is assumed that this long lead time will provide equipment manufacturers the time to incorporate equipment redesigns and replace tooling dies prior to this date and within the cycle of equipment redesign and/or tooling replacements. The same assumptions have been made for the applications of generator sets, pumps and tillers.

The Class II engine change from SV to OHV design will have a large impact on equipment changes. Review of the PSR database for equipment manufacturers that utilize Class II SV engines reveals that the majority (90 percent) of small engine equipment is produced from 32 companies with the remaining 353 companies representing only 10 percent of the overall production. EPA's work analyzing small business impacts, as summarized in the work with ICF Incorporated,[21] indicates that many of the small businesses, indicated by the PSR database to use SV Class II engines, have already converted or are in the process of converting to using OHV engine design due to market forces or changes in their engine manufacturer's offerings. These companies tend to produce professional or commercial equipment and competition has driven the use of OHV engines. The study also revealed that at least one equipment manufacturer that produces a large volume of equipment has already switched its lines from SV to OHV. For this analysis, EPA assumed that, except for this one large manufacturer, all other manufacturers will convert their engines to the use of OHV designs in direct response to this rule with all such cost attributable to this rule. EPA has assumed that any switch from SV to OHV engines by equipment manufacturers is a cost incurred due to this rulemaking. The cost estimates were based on equipment application (garden tractor, tiller, commercial turf, etc.) and in the case of the commercial turf equipment, on the power of the engine within that application.

[20] ICF and Engine, Fuel and Emissions Engineering, Incorporated; "Cost Study for Phase Two Small Engine Emission Regulations", Draft Final Report, October 25, 1996, in EPA Air Docket A–93–29, Item #II–A–04.

[21] "Small Business Impact Analysis of New Emission Standards for Small Spark-Ignition Nonroad Engines and Equipment", ICF Incorporated, September 1997, located in EPA Air Docket A- 96–55, Item#II–A–01 .

4. Operating Costs

The total life-cycle operating costs for this rulemaking include any expected decreases in fuel consumption. Life cycle costs have been calculated per class using the NONROAD emission model. The model calculates fuel savings from the years of implementation to 2027 and takes into account factors including equipment scrappage, projected yearly sales increase per equipment type and engine power. Details on the assumptions and calculations on fuel savings are included in Chapter 4 and 7 of the RIA.

A fuel consumption savings of 15 percent has been assumed from Class I and Class II SV engines as they are converted to OHV design. OHV designs are expected to result in improved fuel economy since data show that OHV engines can run at leaner air-to-fuel ratios than SV engines.

5. Cost Per Engine and Cost-Effectiveness

a. Cost Per Engine

Total costs for this rulemaking vary per year as engine families are phased-in to compliance with the Phase 2 standards over several years, capital costs are recovered and compliance programs are conducted. The term "uniform annualized cost" is used to express the cost of this rulemaking over the years of this analysis.

The methodology used for estimating the uniform annualized cost per engine is as follows. Cost estimates from 1995 to 1997, for technology and compliance programs respectively, were estimated and calculated to 1998 dollars through multiplication of the estimates by the applicable GDP implicit price deflators. The Phase 1 database was then analyzed, using ABT per manufacturer, to determine (1) the number of engine families per class, (2) the total number of engines per engine design, and (3) the year of technology implementation. The total estimated variable and capital costs per year were then calculated by multiplying the number of engine families and corresponding production volume by the fixed and variable costs per technology grouping, respectively. For compliance program costs, the costs for certification bench aging were estimated based on the number of families in the 1998 database and the expected certification date in the phase in. The variable costs are marked up to estimate cost to the consumer. Markups include 16 percent by the engine manufacturer, 5 percent by the equipment manufacturer and 5 percent by the mass merchandiser. All costs per year were then discounted seven percent to the first year of Phase 2 regulation per class, 2007 for Class I and 2001 for Class II. A uniform annualized cost was then calculated. Costs per engine are calculated from the uniform annualized cost for the first full year of implementation of the Phase 2 standard, 2007, and the last year of this analysis, 2027. The average cost per engine is calculated from these two values and the results are presented in Table 6 in 1998 dollars.

The yearly fuel savings (tons/yr) per class were calculated using the NONROAD model. The yearly fuel savings (tons/yr) from 2001–2027 were converted to savings ($) through conversion to gallons per year multiplied by $0.794 (a 1995 average refinery price to end user, without taxes adjusted to 1998 dollars). The yearly fuel savings were then discounted by 7 percent to the first year of Phase 2 regulation, for each Class. The yearly results were totaled and then divided by an annualized factor to yield the uniform annualized fuel savings. The fuel savings for each engine class was calculated for the production years of 2010 and 2025. The average of these two values was utilized as the average fuel savings per engine per class per year as is shown in Table 6.

The average resultant cost per engine class is calculated by subtracting the average fuel savings from the average cost, see Table 6. See Chapter 7 of the RIA for more details of this analysis.

TABLE 6.—ENGINE YEARLY FUEL SAVINGS AND RESULTANT COST PER ENGINE, ENGINE COSTS BASED ON UNIFORM ANNUALIZED COSTS

[1998$]

Class	Cost per engine	Savings per engine	Resultant cost per engine
I	$19.63	$14.22	$5.41
II	12.64	55.72	($43.08)

b. Cost-Effectiveness

EPA has estimated the cost-effectiveness (i.e., the cost per ton of emission reduction) of the $HC+NO_X$ standard over the typical lifetime of the nonhandheld equipment that would be covered by today's rule. EPA has examined the cost-effectiveness by performing a nationwide cost-effectiveness analysis in which the net present value of the cost of compliance per year is divided by the fleet turnover. The resultant cost-effectiveness is $852 cost/ton $HC+NO_X$ without fuel savings and −$507 with fuel savings. Chapter 7 of the RIA contains a more detailed discussion of the cost-effectiveness analysis.

The overall cost-effectiveness of this rule on $HC+NO_X$ emission reductions, with fuel savings, is shown in Table 7. Table 7 contains the cost effectiveness of other nonroad rulemakings, which reflect fuel savings, to which the cost-effectiveness of this rulemaking can be compared.

TABLE 7.—COST-EFFECTIVENESS OF THE PHASE 2 STANDARDS WITH FUEL SAVINGS COMPARED TO OTHER NONROAD RULES

Standard	NPV cost/NPV ton (With fuel savings)	Pollutants
Phase 2 Small SI Nonhandheld Engines <19 kW Phase 2	−$507	$HC+NO_X$
Small SI Engines <19 kW Phase 1	217	$HC+NO_X$
Spark Ignition Marine Engines	1000	HC

TABLE 7.—COST-EFFECTIVENESS OF THE PHASE 2 STANDARDS WITH FUEL SAVINGS COMPARED TO OTHER NONROAD RULES—Continued

Standard	NPV cost/NPV ton (With fuel savings)	Pollutants
Nonroad CI Tier 2/3 Standards	410–650	$HC+NO_x$

Note: Not all in the same year dollars Cost Per Engine and Cost-Effectiveness.

IV. Public Participation

The process for developing this final rule provided several opportunities for formal public comment. EPA published an Advance Notice of Proposed Rulemaking (ANPRM) in March 1997 (see 62 FR 14740, March 27, 1997) which announced the signing of two Statements of Principles (SOPs) with the small engine industry and several other interested parties. The ANPRM and included SOPs outlined programs which would increase the stringency of the small engine regulations compared to Phase 1 rules. Comments were received in response to this ANPRM which, in combination with the programs outlined in the ANPRM, formed the basis of the Notice of Proposed Rulemaking (NPRM) which was published in January 1998 (63 FR 3950, January 27, 1998). A public hearing was held on February 11, 1998 during which oral testimony was received on the proposal. Written comments were received during the formal comment period for the proposal and some additional written comments were received after the formal comment period closed. To expand upon comments received during the comment period and to address specific questions EPA had of the industry regarding technical feasibility and cost of some options for the final standards, EPA also solicited and received additional information after the close of the formal comment period and participated in a number of phone conversations and meetings with industry representatives for this purpose. All of this information including documentation of phone calls and meetings has been included in the docket for this final rule. Since considerable information was received after the formal comment period closed, a notice of availability of this supplemental information was also published on December 1, 1998 (63 FR 66081) alerting interested parties to the availability of this supplemental information. All information received, regardless of the date of receipt, was, to the maximum extent possible, considered in the development of this final rule. EPA has prepared a detailed Summary and Analysis of Comments document which describes the comments received since the publication of the NPRM and presents the Agency's response to each of these comments. The Summary and Analysis of Comments document is available in the docket for this rule.

V. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866, the Agency must assess whether this regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order (58 FR 51735, Oct. 4, 1993). The order defines "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this rulemaking is a "significant regulatory action" because the new standards and other regulatory provisions, are expected to have an annual effect on the economy in excess of $100 million. A Regulatory Impact Analysis has been prepared and is available in the docket associated with this rulemaking. This action was submitted to OMB for review as required by Executive Order 12866. Any written comments from OMB are in the public docket for this rulemaking.

B. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The Agency has also determined that this rule will not have a "significant impact on a substantial number of small entities."

EPA has identified industries that are subject to this rule and has contacted small entities and small entity representatives to gain a better understanding of potential impacts of the Phase 2 program on their businesses. This information was useful in estimating potential impacts of this rule on affected small entities, the details of which are more fully discussed in Chapter 8 of the Final RIA. Small not-for-profit organizations and small governmental jurisdictions are not expected to be impacted by this proposal. Thus EPA's impact analysis focuses on small businesses. For purposes of the impact analysis, "small business" is defined by number of employees, according to published Small Business Administration (SBA) definitions.

The Agency desires to minimize, to the extent appropriate, impacts on those companies which may be adversely affected, and to ensure that the emissions standards are achievable. Thus, flexibility provisions for the rule (discussed in section II.E.) were developed based on analysis of information gained through discussions with potentially affected small entities as well as analysis of other sources of information, as detailed in Chapter 8 of the Final RIA. Many of the flexibilities in today's rule should benefit both engine and equipment manufacturers qualifying as small.

The economic impact of the final rule on small engine and equipment manufacturers was evaluated using a "sales test" approach which calculates annualized compliance costs as a function of sales revenue. The ratio is an indication of the severity of the potential impacts. EPA expects that, at worst, four small engine manufacturers and 70 small equipment manufacturers would be impacted by more than one percent of their sales revenue. EPA

guidance provides that if fewer than 100 small entities are affected by more than one percent of their annual sales income, this does not amount to a "significant impact on a substantial number" of small entities. This base case analysis assumes that no manufacturers take advantage of the flexibilities being offered and that there would be no passthrough of costs in price increases, and can therefore be characterized as depicting worst-case impacts. Thus, EPA expects today's rule to have a minimal impact on small business entities.

However, EPA is finalizing a number of flexibilities to further reduce the burden of compliance on small-volume engine or equipment manufacturers and small-volume product lines. The Agency received a number of comments from engine manufacturers which were generally supportive of the flexibilities initially proposed, but which suggested changes in production caps and other provisions. EPA has incorporated many of these suggested changes to the extent possible, keeping in mind equity and air quality considerations. Given the flexibilities being afforded to the engine and equipment manufacturers, the results of the analysis suggest that of those small entities analyzed, only three small business engine manufacturers and three small business equipment manufacturers would likely experience an impact of greater than one percent of their sales revenue. These six companies represent only about three percent of the total number of small business manufacturers on which the analysis was based. Other outreach activities have also indicated that the impact of today's rule can be minimized given sufficient lead time to incorporate the new technology with normal model changes. Again, the Agency has not attempted to quantify the beneficial impact on small business manufacturers of the lead time provided (which can include delaying the impact of these rules up until the 2010 model year).

Some, but not all, of the flexibility provisions were considered in the impact assessment on small entities (see Chapter 8 of the Final RIA). Those flexibilities not considered include a hardship relief provision (described in section II.E.), which was developed to further ensure the standards can be achieved. Although it is difficult to project utilization of such a provision, EPA expects that it could further reduce the economic impact of the rule.

The results of the impact analysis show minimal impacts on small businesses. EPA expects that such impacts will be negligible if small companies take advantage of the above mentioned flexibilities, and if companies are able to pass through most of their costs through to customers, as was considered likely by most small companies contacted. Many of these entities are involved in filling niche markets, and are thus in a better position to pass these costs along to the ultimate consumers. Furthermore, EPA's outreach activities with small entities indicated that many engine and equipment manufacturers have already begun the switch from side-valve engine technology to producing or using overhead valve engine technology for reasons other than today's rule. They should therefore not incur substantial additional costs as a result of this program. The ample lead time being afforded by today's rule should also allow for an orderly transition to the more advanced technology.

C. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW., Washington, DC 20460, by e-mail at farmer.sandyepamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information planned to be collected via this final rule is necessary to assure that the engine manufacturers required to seek certification of their engines have fulfilled all the essential requirements of these regulations. In particular, this information will document the design of the engine for which certification is sought, the type(s) of equipment in which it is intended to be used and the emission performance of these engines based upon testing performed by or on behalf of the engine manufacturer. Additional, essential information is necessary to document the results of testing performed by the manufacturer under a mandated production line testing program to determine that the engines, as manufactured continue to have acceptable emission performance. Finally, if the manufacturer elects to conduct testing of in-use engines under a voluntary in-use testing program adopted in these final regulations, information is necessary to document the results of that in-use testing program.

Table 8 provides a listing of this rulemaking's information collection requirements along with the appropriate information collection request (ICR) numbers. The cost of this burden has been incorporated into the cost estimate for this rule. The Agency has estimated that the public reporting burden for the collection of information required under this rule would average approximately 156,816 hours annually for the industry at an estimated annual cost of $9,489,386. The hours spent by an individual manufacturer on information collection activities in any given year would be highly dependent upon manufacturer specific variables, such as the number of engine families, production changes, emission defects etc.

Table 8: Public Reporting Burden

Type of information	OMB Control No.
Certification	2060–0338
Averaging, banking and trading	2060–0338
Production line testing	N/A
Pre-certification and testing exemption	2060–0007
Engine exclusion determination	2060–0124
Emission defect information	2060–0048
Importation of nonconforming engines	2060–0294

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

D. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising and small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local and tribal governments or the private sector of greater than $100 million in any one year, the Agency has prepared a budgetary impact statement and has addressed the selection of the least costly, most cost-effective or least burdensome alternative. While this rule does not impose enforceable obligations on state, local, and tribal governments, which do not produce small SI nonhandheld engines or equipment, EPA has estimated the rule to cost the private sector an annualized cost of $230 million per year. However, the Agency has appropriately considered cost issues in developing this rule as required by section 213(a)(3) of the Clean Air Act, and has designed the rule such that it will in EPA's view be a cost-effective program. Because small governments would not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

The unfunded mandates statement under section 202 must include: (1) A citation of the statutory authority under which the rule is adopted; (2) an assessment of the costs and benefits of the rule including the effect of the mandate on health, safety and the environment; (3) where feasible, estimates of future compliance costs and disproportionate impacts upon particular geographic or social segments of the nation or industry; (4) where relevant, an estimate of the effect on the national economy; and (5) a description of the EPA's consultation with state, local, and tribal officials. Since this rule is estimated to impose costs to the private sector in excess of $100 million per year, it is considered a significant regulatory action. Therefore, EPA has prepared the following statement with respect to UMRA sections 202 through 205.

1. Statutory Authority

This rule establishes standards for emissions of $HC+NO_x$ and CO from small nonroad SI nonhandheld engines pursuant to section 213 of the Clean Air Act. Section 216 defines the terms "nonroad engine" and "nonroad vehicle." Section 213(a)(3) requires these standards to achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the engines or vehicles to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. Section 213(b) requires the standards to take effect at the earliest possible date considering the lead time necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety. Section 213(d) provides that the standards shall be subject to sections 206, 207, 208 and 209 of the CAA, with such modifications of the applicable regulations implementing such sections as the Administrator deems appropriate, and shall be enforced in the same manner as standards prescribed under section 202. Therefore, the statutory authority for this rule is as follows: sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act, as amended. Moreover, this rule is being issued pursuant to a court order entered in Sierra Club v. Browner, No. 93–0124 and consolidated cases (D.D.C.).

2. Social Costs and Benefits

The social costs and benefits of this rule are discussed in detail in sections III.A. and III.B. of this notice, and in Chapters 3 through 8 of the Final RIA. Those discussions are incorporated into this statement by reference.

3. Effects on the National Economy

As stated in the UMRA, macroeconomic effects tend to be measurable, in nationwide economic models, only if the economic effect of the regulation reaches 0.25 to 0.5 percent of gross domestic product (in the range of $15 billion to $30 billion). A regulation with a smaller aggregate effect is highly unlikely to have any measurable impact in macroeconomic terms unless it is highly focused on a particular geographic region or economic sector. Because the economic impact of the small SI nonhandheld engine Phase 2 rule is far less than these thresholds, no estimate of this rule's effect on the national economy has been conducted.

4. Consultation with Government Officials

Today's rule does not create a mandate on state, local or tribal governments, since it does not impose any enforceable duties on these entities which do not produce small SI nonhandheld engines or equipment. Thus, EPA did not consult with state, local or tribal governments in the context of discussing mandated costs that would apply to such governments. However, EPA did consult with state governmental representatives, and with representatives of associations representing state air regulatory agencies, in the contexts of developing the most stringent achievable regulations and of addressing state ozone attainment needs. The consulted entities include the California ARB, the Wisconsin DNR, and NESCAUM. These consultations are documented in the

record for this rule, and are reflected and discussed in the SOPs, the ANPRM, the NPRM, the Notice of Availability, and today's final rulemaking notice.

5. Regulatory Alternatives Considered

The Clean Air Act requires that standards under section 213(a)(3) result in the greatest degree of emission reductions achievable from available technology, considering costs, lead time, noise, energy and safety factors. While EPA has substantial discretion to weigh these different factors in setting standards under section 213(a)(3), EPA may not simply select the least costly, most cost-effective, or least burdensome method of achieving the objectives of the rule if such method does not obtain the greatest achievable emission reduction. In order to ensure the cost-effectiveness of this rule and still fulfill the intent of the Clean Air Act, EPA has adopted numerous flexibility provisions that reduce the burden of the Phase 2 program for small volume manufacturers and manufacturers of small volume models and families. These provisions are discussed in section II.E. of today's notice. Moreover, the technological options considered for the rule's standards and related provisions are discussed in section II.A. of the notice. Section II.B. discusses the ABT program adopted for the final rule, and section II.D. discusses the compliance program for Phase 2 nonhandheld engines. In EPA's view, these discussions demonstrate that the Agency is adopting the most cost-effective rule allowed under section 213(a)(3) for nonhandheld Phase 2 engines, and the Agency incorporates them into this statement.

E. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 1, 1999.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule involves technical standards. While commenters suggested the use of ISO 8178 test procedures for measuring emissions, the Agency has decided not to rely on the ISO procedures in this rulemaking. The Agency has determined that these procedures would be impractical because they rely too heavily on reference testing conditions. Since the test procedures in these regulations need to be used not only for certification, but also for production line testing, selective enforcement audits, and in-use testing, they must be broadly based. In-use testing is best done outside tightly controlled laboratory conditions so as to be representative of in-use conditions. EPA has determined that the ISO procedures are not sufficiently broadly usable in their current form for this program, and therefore cannot be adopted by reference. EPA has instead chosen to continue to rely on the procedures outlined in 40 CFR Part 90. EPA is hopeful that future ISO test procedures will be developed that are usable for the broad range of testing needed, and that such procedures could then be adopted by reference.

G. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Was initiated after April 21, 1997 or for which a Notice of Proposed Rulemaking was published after April 21, 1998; (2) is determined to be "economically significant" as defined under Executive Order 12866; and (3) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets all three criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045, because substantive actions were initiated before April 21, 1997 and EPA published a Notice of Proposed Rulemaking before April 21, 1998. Moreover, this rulemaking does not involve risk assessments in which EPA would consider risks to infants and children. This is because today's rule is intended to result in the greatest achievable emissions reductions that are technically feasible, rather than to achieve a threshold of protecting public health and the environment. Therefore, EPA does not have reason to believe this action involves environmental health and safety risks that present a disproportionate risk to children.

H. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities, which do not produce small SI nonhandheld engines or equipment. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

I. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected tribal governments and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments because it imposes no enforceable obligations on them. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VI. Statutory Authority

Authority for the actions set forth in this rule is granted to EPA by sections 202, 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

List of Subjects in 40 CFR Part 90

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Nonroad source pollution, Reporting and record keeping requirements, Research, Warranties.

Dated: March 3, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 90—CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

Subpart A—General

2. Section 90.1 is amended by removing the period at the end of paragraph (b)(5)(iv) and by adding a semicolon in its place and adding paragraphs (b)(6) and (d) and by revising paragraph (c) to read as follows:

§ 90.1 Applicability.

* * * * *

(b) * * *

(6) Engines that are used exclusively in emergency and rescue equipment where no certified engines are available to power the equipment safely and practically, but not including generators, alternators, compressors or pumps used to provide remote power to a rescue tool. The equipment manufacturer bears the responsibility to ascertain on an annual basis and maintain documentation available to the Administrator that no appropriate certified engine is available from any source.

(c) Engines subject to the provisions of this subpart are also subject to the provisions found in subparts B through M of this part, except that subparts C, H, and M of this part apply only to Phase 2 engines as defined in this subpart.

(d) Certain text in this part is identified as pertaining to Phase 1 or Phase 2 engines. Such text pertains only to engines of the specified Phase. If no indication of Phase is given, the text pertains to all engines, regardless of Phase.

3. Section 90.3 is amended by adding the following definitions in alphabetical order to read as follows:

§ 90.3 Definitions.

* * * * *

Aftertreatment means the passage of exhaust gases through a device or system such as a catalyst whose purpose is to chemically alter the gases prior to their release to the atmosphere.

* * * * *

DF or *df* means deterioration factor.

Eligible production or *U.S. production* means Phase 2 engines produced for purposes of being used in the United States, and includes any engine exported and subsequently imported in a new piece of equipment, but excludes any engine introduced into commerce, by itself or in a piece of equipment, for use in a state that has established its own emission requirements applicable to such engines pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act.

Equipment manufacturer means a manufacturer of equipment using engines covered by the provisions of this Part who does not also manufacture engines covered by the provisions of this Part.

* * * * *

Family Emission Limit or *FEL* means an emission level that is declared by the manufacturer to serve in lieu of an emission standard for the purposes of certification, production line testing, and Selective Enforcement Auditing for engines participating in the averaging, banking and trading program. A declared FEL will also serve in lieu of an emission standard where the manufacturer elects to perform voluntary in-use testing under this part. An FEL must be expressed to the same number of decimal places as the applicable emission standard.

* * * * *

HC+NO$_X$ means total hydrocarbons plus oxides of nitrogen.

* * * * *

New Class I engine family means any group of engines that employ a design that is different from engine families that the engine manufacturer has previously certified, and does not include any engine family certified on the basis of carryover data or any engine family that differs from another engine family solely as a result of a running change.

NMHC+NO$_X$ means nonmethane hydrocarbons plus oxides of nitrogen.

* * * * *

Overhead valve engine means an otto-cycle, four stroke engine in which the intake and exhaust valves are located above the combustion chamber within the cylinder head. Such engines are sometimes referred to as "valve-in-head" engines.

Phase 1 engine means any handheld or nonhandheld engine, that was produced under a certificate of conformity issued under the regulations in this part to the standard levels defined for Phase 1.

Phase 2 engine means any nonhandheld engine that was produced under a certificate of conformity under the regulations in this part to the standards defined for Phase 2 engines.

* * * * *

Round, rounded or rounding means, unless otherwise specified, that numbers will be rounded according to ASTM-E29–93a, which is incorporated by reference in this part pursuant to § 90.7.

* * * * *

Side valve engine means an otto-cycle, four stroke engine in which the intake and exhaust valves are located to the side of the cylinder, not within the cylinder head. Such engines are sometimes referred to as "L-head" engines.

Small volume engine family means any nonhandheld engine family whose eligible production in a given model year are projected at the time of certification to be no more than 5,000 engines.

Small volume engine manufacturer means, for nonhandheld engines, any engine manufacturer whose total eligible production of nonhandheld engines are projected at the time of certification of a given model year to be no more than 10,000 nonhandheld engines.

Small volume equipment manufacturer means, for nonhandheld equipment, any equipment manufacturer whose production of nonhandheld equipment subject to regulation under this part or powered by engines regulated under this part, does not exceed 5,000 pieces for a given model year or annual production period excluding that equipment intended for introduction into commerce for use in a state that has established its own emission requirements applicable to such equipment or engines in such equipment, pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act.

Small volume equipment model means, for nonhandheld equipment, any unique model of equipment whose production subject to regulations under this part or powered by engines regulated under this part, does not exceed 500 pieces for a given model year or annual production period excluding that equipment intended for introduction into commerce for use in a state that has established its own emission requirements applicable to such equipment or engines in such equipment, pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act.

* * * * *

Subpart B—Emission Standards and Certification Provisions

4. Section 90.103 is amended by revising paragraph (a) introductory text, and paragraphs (a)(3) and (a)(5) and by adding paragraphs (a)(6) through (a)(8) to read as follows:

§ 90.103 Exhaust emission standards.

(a) Exhaust emissions for new Phase 1 and Phase 2 nonroad spark ignition engines at or below 19 kilowatts (kW), shall not exceed the following levels. Throughout this part, NMHC+NO_X standards are applicable only to natural gas fueled engines at the option of the manufacturer, in lieu of HC+NO_X standards.

TABLE 1.—PHASE 1 EXHAUST EMISSION STANDARDS

[Grams per kilowatt-hour]

Engine displacement class	Hydrocarbons+oxides of nitrogen (HC+NO_X)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen (NO_X)
I	16.1	.....	519	.....
II	13.4	.....	519	.....
III	.....	295	805	5.36
IV	.....	241	805	5.36
V	.....	161	603	5.36

TABLE 2.—PHASE 2 CLASS I ENGINE EXHAUST EMISSION STANDARDS

[grams per kilowatt-hour]

Engine class	HC+NO_X	NMHC+NO_X	CO	Effective date
I	16.1	14.8	610	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.

TABLE 3.—PHASE 2 CLASS II ENGINE EXHAUST EMISSION STANDARDS BY MODEL YEAR

]grams per kilowatt-hour]

		Model Year				
Engine Class	Emission requirement	2001	2002	2003	2004	2005 and later
II	HC +NO_X	18.0	16.6	15.0	13.6	12.1
	NMHC+NO_X	16.7	15.3	14.0	12.7	11.3
	CO	610	610	610	610	610

* * * * *

(3) Notwithstanding paragraph (a)(2) of this section, two stroke engines used to power lawnmowers or other nonhandheld equipment may meet Phase 1 Class III, IV or V standards and requirements, as appropriate, through model year 2002 subject to the provisions of § 90.107(e), (f) and (h). Such engines shall not be included in any computations of Phase 2 averaging, banking, or trading credits or eligible production.

* * * * *

(5) Notwithstanding paragraph (a)(2) of this section, engines used exclusively to power products which are used

exclusively in wintertime, such as snowthrowers and ice augers, at the option of the engine manufacturer, need not certify to or comply with standards regulating emissions of HC, NO_X, $HC+NO_X$ or $NMHC+NO_X$, as applicable. If the manufacturer exercises the option to certify to standards regulating such emissions, such engines must meet such standards. If the engine is to be used in any equipment or vehicle other than an exclusively wintertime product such as a snowthrower or ice auger, it must be certified to the applicable standard regulating emissions of HC, NO_X, $HC+NO_X$ or $NMHC+NO_X$ as applicable.

(6) In lieu of certifying to the applicable Phase 2 standards, small volume engine manufacturers as defined in this part may, at their option, certify their engines families as Phase 1 engines until the 2010 model year. Such engines shall not exceed the applicable Phase 1 standards and are excluded from the averaging, banking and trading program and any related credit calculations. Beginning with the 2010 model year, these engines must meet the applicable Phase 2 standards.

(7) In lieu of certifying to the applicable Phase 2 standards, manufacturers of small volume engine families, as defined in this part may, at their option, certify their small volume engine families as Phase 1 engines until the 2010 model year. Such engines shall not exceed the applicable Phase 1 standards and are excluded from the averaging, banking and trading program and any related credit calculations. Beginning with the 2010 model year, these engines must meet the applicable Phase 2 standards.

(8) Notwithstanding the standards shown in Table 3 of this section, the $HC+NO_X$ ($NMHC+NO_X$) standard for Phase 2 Class II side valve engine families with annual production of 1000 or less shall be 24.0 g/kW-hr (22.0 g/kW-hr) for model years 2010 and later. Engines produced subject to this provision may not exceed this standard and are excluded from the averaging, banking and trading program and any related credit calculations.

* * * * *

5. Section 90.104 is amended by adding introductory text and adding paragraphs (d) through (h) to read as follows:

§ 90.104 Compliance with emission standards.

Paragraphs (a) through (c) of this section apply to Phase 1 engines only. Paragraphs (d) through (h) of this section apply only to Phase 2 engines.

* * * * *

(d) The exhaust emission standards (FELs, where applicable) for Phase 2 engines set forth in this part apply to the emissions of the engines for their full useful lives as determined pursuant to § 90.105.

(e) For all Phase 2 engines, if all test engines representing an engine family have emissions, when properly tested according to procedures in this part, less than or equal to each Phase 2 emission standard (FEL, where applicable) in a given engine class and given model year, when multiplicatively adjusted by the deterioration factor determined in this section, that family complies with that class of emission standards for purposes of certification. If any test engine representing an engine family has emissions adjusted multiplicatively by the deterioration factor determined in this section, greater than any one emission standard (FEL, where applicable) for a given displacement class, that family does not comply with that class of emission standards.

(f) Each engine manufacturer must comply with all provisions of the averaging, banking and trading program outlined in subpart C of this part for each engine family participating in that program.

(g)(1) Small volume engine manufacturers and small volume engine families may, at their option, take deterioration factors for $HC+NO_X$ ($NMHC+NO_X$) and CO from Table 1 of this section, or they may calculate deterioration factors for $HC+NO_X$ ($NMHC+NO_X$) and CO according to the process described in paragraph (h) of this section. For technologies that are not addressed in Table 1 of this section, the manufacturer may ask the Administrator to assign a deterioration factor prior to the time of certification.

(2) Table 1 follows:

TABLE 1: NONHANDHELD ENGINE $HC+NO_X$ ($NMHC+NO_X$) AND CO ASSIGNED DETERIORATION FACTORS FOR SMALL VOLUME MANUFACTURERS AND SMALL VOLUME ENGINE FAMILIES

Engine class	Side valve engines		Overhead valve engines		Engines with aftertreatment
	$HC+NO_X$ ($NMHC+NO_X$)	CO	$HC+NO_X$ ($NMHC+NO_X$)	CO	
Class I	2.1	1.1	1.5	1.1	Dfs must be calculated using the formula in § 90.104(g)(3).
Class II	1.6	1.1	1.4	1.1	

(3) Formula for calculating deterioration factors for engines with aftertreatment:

$DF = [(NE * EDF) - (CC * F)]/(NE - CC)$

Where:

DF = deterioration factor

NE = new engine emission levels prior to the catalyst (g/kW-hr)

EDF = deterioration factor for engines without catalyst as shown in Table 1

CC = amount converted at 0 hours in g/kW-hr

F = 0.8 for HC (NMHC) and 0.0 for NO_X for Class I and II engines

F = 0.8 for CO for all classes of engines

(h)(1) Manufacturers shall obtain an assigned df or calculate a df, as appropriate, for each regulated pollutant for all Phase 2 engine families. Such dfs shall be used for certification, production line testing, and Selective Enforcement Auditing.

(2) For engines not using assigned dfs from Table 1 of this section, dfs shall be determined as follows:

(i) On at least one test engine representing the configuration chosen to be the most likely to exceed $HC+NO_X$ ($NMHC+NO_X$) emission standards, (FELs where applicable), and constructed to be representative of production engines pursuant to § 90.117, conduct full Federal test procedure emission testing pursuant to the regulations of subpart E of this part at the number of hours representing stabilized emissions pursuant to § 90.118. If more than one engine is tested, average the results and round to the same number of decimal places contained in the applicable standard, expressed to one additional significant figure;

(ii) Conduct such emission testing again following aging the engine. The aging procedure should be designed to

allow the manufacturer to appropriately predict the in-use emission deterioration expected over the useful life of the engine, taking into account the type of wear and other deterioration mechanisms expected under typical consumer use which could affect emissions performance. If more than one engine is tested, average the results and round to the same number of decimal places contained in the applicable standard, expressed to one additional significant figure;

(iii) Divide the full useful life emissions (average emissions, if applicable) for each regulated pollutant by the stabilized emissions (average emissions, if applicable) and round to two significant figures. The resulting number shall be the df, unless it is less than 1.0, in which case the df shall be 1.0.

(iv) At the manufacturer's option additional emission test points can be scheduled between the stabilized emission test point and the full useful life test period. If intermediate tests are scheduled, the test points must be evenly spaced over the full useful life period (plus or minus 2 hours) and one such test point shall be at one-half of full useful life (plus or minus 2 hours). For each pollutant $HC+NO_X$ ($NMHC+NO_X$) and CO, a line must be fitted to the data points treating the initial test as occurring at hour zero, and using the method of least-squares. The deterioration factor is the calculated emissions durability period divided by the calculated emissions at zero hours.

(3) EPA may reject a df if it has evidence that the df is not appropriate for that family within 30 days of receipt from the manufacturer. The manufacturer must retain actual emission test data to support its choice of df and furnish that data to the Administrator upon request. Manufacturers may request approval by the Administrator of alternate procedures for determining deterioration. Any submitted df not rejected by EPA within 30 days shall be deemed to have been approved.

(4) Calculated deterioration factors may cover families and model years in addition to the one upon which they were generated if the manufacturer submits a justification acceptable to the Administrator in advance of certification that the affected engine families can be reasonably expected to have similar emission deterioration characteristics.

(5) Engine families that undergo running changes need not generate a new df if the manufacturer submits a justification acceptable to the Administrator concurrent with the running change that the affected engine families can be reasonably expected to have similar emission deterioration characteristics.

6. Section 90.105 is revised to read as follows:

§ 90.105 Useful life periods for Phase 2 engines.

(a) Manufacturers shall declare the applicable useful life category for each engine family at the time of certification as described in this section. Such category shall be the category which most closely approximates the expected useful lives of the equipment into which the engines are anticipated to be installed as determined by the engine manufacturer. Manufacturers shall retain data appropriate to support their choice of useful life category for each engine family. Such data shall be furnished to the Administrator upon request.

(1) For nonhandheld engines: Manufacturers shall select a useful life category from Table 1 of this section at the time of certification.

(2) Table 1 follows:

TABLE 1: USEFUL LIFE CATEGORIES FOR NONHANDHELD ENGINES [HOURS]

Class I	125	250	500
Class II	250	500	1000

(3) [Reserved]

(4) [Reserved]

(5) Data to support a manufacturer's choice of useful life category, for a given engine family, may include but are not limited to:

(i) Surveys of the life spans of the equipment in which the subject engines are installed;

(ii) Engineering evaluations of field aged engines to ascertain when engine performance deteriorates to the point where usefulness and/or reliability is impacted to a degree sufficient to necessitate overhaul or replacement;

(iii) Warranty statements and warranty periods;

(iv) Marketing materials regarding engine life;

(v) Failure reports from engine customers; and

(vi) Engineering evaluations of the durability, in hours, of specific engine technologies, engine materials or engine designs.

(b) [Reserved]

7. Section 90.106 is amended by revising paragraph (a) and adding new paragraph (b)(3) to read as follows:

§ 90.106 Certificate of conformity.

(a)(1) Except as provided in § 90.2(b), every manufacturer of new engines produced during or after model year 1997 must obtain a certificate of conformity covering such engines; however, engines manufactured during an annual production period beginning prior to September 1, 1996 are not required to be certified.

(2) Except as required in paragraph (b)(3) of this section, Class II engines manufactured during an annual production period beginning prior to September 1, 2000 are not required to meet Phase 2 requirements.

(b) * * *

(3) Manufacturers who commence an annual production period for a Class II engine family between January 1, 2000 and September 1, 2000 must meet Phase 2 requirements for that family only if that production period will exceed 12 months in length.

* * * * *

8. Section 90.107 is amended by removing the period at the end of paragraph (d)(5) and adding a semicolon in its place, by removing "and" at the end of paragraph (d)(9), by removing the period at the end of paragraph (d)(10) and adding a semicolon in its place, and by adding new paragraph (d)(11) to read as follows:

§ 90.107 Application for certification.

* * * * *

(d) * * *

(11) This paragraph (d)(11) is applicable only to Phase 2 engines.

(i) Engine manufacturers participating in the averaging, banking and trading program as described in subpart C of this part shall declare the applicable Family Emission Limit (FEL) for $HC+NO_X$ ($NMHC+NO_X$).

(ii) Provide the applicable useful life as determined under § 90.105.

* * * * *

9. Section 90.108 is amended by adding paragraphs (c) and (d) to read as follows:

§ 90.108 Certification.

* * * * *

(c) For certificates issued for engine families included in the averaging, banking and trading program as described in subpart C of this part:

(1) Failure to comply with all applicable averaging, banking and trading provisions in this part will be considered to be a failure to comply with the terms and conditions upon which the certificate was issued, and the certificate may be determined to be void *ab initio*.

(2) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was granted were satisfied or waived.

(d) The Administrator may, upon request by a manufacturer, waive any requirement of this part otherwise necessary for the issuance of a certificate. The Administrator may set such conditions in a certificate as he or she deems appropriate to assure that the waived requirements are either satisfied or are demonstrated, for the subject engines, to be inappropriate, irrelevant or met by the application of a different requirement under this chapter. The Administrator may indicate on such conditional certificates that failure to meet these conditions may result in suspension or revocation or the voiding *ab initio* of the certificate.

10. Section 90.113 is amended by revising the section heading and adding two sentences to the beginning of paragraph (a) to read as follows:

§ 90.113 In-use testing program for Phase 1 engines.

(a) This section applies only to Phase 1 engines. In-use testing provisions for Phase 2 engines are found in subpart M of this part. * * *

* * * * *

11. Section 90.114 is amended by removing "and" at the end of paragraph (c)(9), by removing the period at the end of paragraph (c)(10) and adding a semicolon in its place and by adding new paragraphs (c)(11) and (f) to read as follows:

§ 90.114 Requirement of certification—engine information label.

* * * * *

(c) * * *

(11) For Phase 2 engines, the useful life category as determined by the manufacturer pursuant to § 90.105. Such useful life category shall be shown by one of the following statements to be appended to the statement required under paragraph (c)(7) of this section:

(i) "EMISSIONS COMPLIANCE PERIOD: [useful life] HOURS"; or

(ii) "EMISSIONS COMPLIANCE PERIOD: CATEGORY [fill in C, B or A as indicated and appropriate from the tables in § 90.105], REFER TO OWNER'S MANUAL FOR FURTHER INFORMATION";

* * * * *

(f) Manufacturers electing to use the labeling language of paragraph (c)(11)(ii) of this section must provide in the documents intended to be conveyed to the ultimate purchaser, the statement:

(1) For nonhandheld engines: The Emissions Compliance Period referred to on the Emissions Compliance label indicates the number of operating hours for which the engine has been shown to meet Federal emission requirements. For engines less than 225 cc displacement, Category C=125 hours, B=250 hours and A=500 hours. For engines of 225 cc or more, Category C=250 hours, B=500 hours and A=1000 hours.

(2) [Reserved]

(3) The manufacturer must provide, in the same document as the statement in paragraph (f)(1) of this section, a statement of the engine's displacement or an explanation of how to readily determine the engine's displacement. The Administrator may approve alternate language to the statement in paragraph (f)(1) of this section, provided that the alternate language provides the ultimate purchaser with a clear description of the number of hours represented by each of the three letter categories for the subject engine's displacement.

12. Section 90.116 is amended by revising paragraph (d)(6) and (d)(7) and adding paragraphs (d)(8) through (d)(10) to read as follows:

§ 90.116 Certification procedure—determining engine displacement, engine class, and engine families.

* * * * *

(d) * * *

(6) The location of valves, where applicable, with respect to the cylinder (e.g. side valves or overhead valves);

(7) The number of catalytic converters, location, volume and composition;

(8) The thermal reactor characteristics;

(9) The fuel required (e.g. gasoline, natural gas, LPG); and

(10) The useful life category.

* * * * *

13. Section 90.117 is amended by revising paragraph (a) to read as follows:

§ 90.117 Certification procedure—test engine selection.

(a) For Phase 1 engines, the manufacturer must select, from each engine family, a test engine that the manufacturer determines to be most likely to exceed the emission standard. For Phase 2 engines, the manufacturer must select, from each engine family, a test engine of a configuration that the manufacturer determines to be most likely to exceed the $HC+NO_X$ ($NMHC+NO_X$) Family Emission Limit (FEL), or $HC+NO_X$ ($NMHC+NO_X$) standard if no FEL is applicable.

* * * * *

14. Section 90.118 is amended by revising the section heading and adding a new paragraph (e) to read as follows:

§ 90.118 Certification procedure—service accumulation and usage of deterioration factors.

* * * * *

(e) For purposes of establishing whether Phase 2 engines comply with applicable exhaust emission standards or FELs, the test results for each regulated pollutant as measured pursuant to § 90.119 shall be multiplied by the applicable df determined under § 90.104 (g) or (h). The product of the two numbers shall be rounded to the same number of decimal places contained in the applicable standard, and compared against the applicable standard or FEL, as appropriate.

15. Section 90.120 is amended by adding paragraph (c) to read as follows:

§ 90.120 Certification procedure—use of special test procedures.

* * * * *

(c) Optional procedures approved during Phase 1 can be carried over to Phase 2, following advance approval by the Administrator, to the extent the alternate procedure continues to yield results equal to the results from the specified test procedures in subpart E of this part.

16. Section 90.122 is amended by revising the first sentence of paragraph (a) and adding paragraph (d)(4) as follows:

§ 90.122 Amending the application and certificate of conformity.

(a) The engine manufacturer must notify the Administrator when either an engine is to be added to a certificate of conformity, an FEL is to be changed, or changes are to be made to a product line covered by a certificate of conformity.

* * *

* * * * *

(d)* * *

(4) If the Administrator determines that a revised FEL meets the requirements of this subpart and the Act, the appropriate certificate of conformity will be amended, or a new certificate will be issued to reflect the revised FEL. The certificate of conformity is revised conditional upon compliance with § 90.207(b).

* * * * *

17. Subpart C, which was formerly reserved, is added to part 90 to read as follows:

Subpart C—Certification Averaging, Banking, and Trading Provisions

Sec.

90.201 Applicability.
90.202 Definitions.
90.203 General provisions.
90.204 Averaging.
90.205 Banking.
90.206 Trading.
90.207 Credit calculation and manufacturer compliance with emission standards.
90.208 Certification.

90.209 Maintenance of records.
90.210 End-of-year and final reports.
90.211 Request for hearing.

Subpart C—Certification Averaging, Banking, and Trading Provisions

§ 90.201 Applicability.

The requirements of this subpart C are applicable to all Phase 2 spark-ignition engines subject to the provisions of subpart A of this part except as provided in § 90.103(a). These provisions are not applicable to any Phase 1 engines. Participation in the averaging, banking and trading program is voluntary, but if a manufacturer elects to participate, it must do so in compliance with the regulations set forth in this subpart. The provisions of this subpart are applicable for $HC+NO_X$ ($NMHC+NO_X$) emissions but not for CO emissions.

§ 90.202 Definitions.

The definitions in subpart A of this part apply to this subpart. The following definitions also apply to this subpart:

Averaging means the exchange of emission credits between engine families within a given manufacturer's product line.

Banking means the retention of emission credits by the manufacturer generating the emission credits or obtaining such credits through trading, for use in future model year averaging or trading as permitted in this part.

Emission credits represent the amount of emission reduction or exceedance, by an engine family, below or above the applicable $HC+NO_X$ ($NMHC+NO_X$) emission standard, respectively. FELs below the standard create "positive credits," while FELs above the standard create "negative credits." In addition, "projected credits" refer to emission credits based on the projected applicable production volume of the engine family. "Reserved credits" are emission credits generated within a model year waiting to be reported to EPA at the end of the model year. "Actual credits" refer to emission credits based on actual applicable production volume as contained in the end-of-year reports submitted to EPA. Some or all of these credits may be revoked if EPA review of the end-of-year reports or any subsequent audit action(s) reveals problems or errors of any nature with credit computations.

Trading means the exchange of emission credits between manufacturers.

§ 90.203 General provisions.

(a) The certification averaging, banking, and trading provisions for $HC+NO_X$ and $NMHC+NO_X$ emissions from eligible engines are described in this subpart.

(b) An engine family may use the averaging, banking and trading provisions for $HC+NO_X$ and $NMHC+NO_X$ emissions if it is subject to regulation under this part with certain exceptions specified in paragraph (c) of this section. $HC+NO_X$ and $NMHC+NO_X$ credits shall be interchangeable subject to the limitations on credit generation, credit usage, and other provisions described in this subpart.

(c) A manufacturer shall not include in its calculation of credit generation and may exclude from its calculation of credit usage, any new engines:

(1) Which are intended to be exported, unless the manufacturer has reason or should have reason to believe that such engines have been or will be imported in a piece of equipment; or

(2) Which are subject to state engine emission standards pursuant to a waiver granted by EPA under section 209(e) of the Act, unless the manufacturer demonstrates to the satisfaction of the Administrator that inclusion of these engines in averaging, banking and trading is appropriate.

(d) For an engine family using credits, a manufacturer may, at its option, include its entire production of that engine family in its calculation of credit usage for a given model year.

(e)(1) A manufacturer may certify engine families at Family Emission Limits (FELs) above or below the applicable emission standard subject to the limitation in paragraph (f) of this section, provided the summation of the manufacturer's projected balance of credits from all credit transactions for all engine classes in a given model year is greater than or equal to zero, as determined under § 90.207.

(2) A manufacturer of an engine family with an FEL exceeding the applicable emission standard must obtain positive emission credits sufficient to address the associated credit shortfall via averaging, banking, or trading.

(3) An engine family with an FEL below the applicable emission standard may generate positive emission credits for averaging, banking, or trading, or a combination thereof.

(4) In the case of a Selective Enforcement Audit (SEA) failure, credits may be used to cover subsequent production of engines for the family in question if the manufacturer elects to recertify to a higher FEL. Credits may not be used to remedy a nonconformity determined by an SEA, except that the Administrator may permit the use of credits to address a nonconformity determined by an SEA where the use of such credits is one component of a multi-part remedy for the previously produced engines and the remedy, including the use of credits and the quantity of credits being used, is such that the Administrator is satisfied that the manufacturer has strong and lasting incentive to accurately verify its new engine emission levels and will set or reset its FELs for current and future model years so that production line compliance is assured.

(5) In the case of a production line testing (PLT) failure pursuant to subpart H of this part, a manufacturer may revise the FEL based upon production line testing results obtained under subpart H of this part and upon Administrator approval pursuant to § 90.122(d). The manufacturer may use credits to cover both past production and subsequent production of the engines as needed as allowed under § 90.207(c).

(f) No Phase 2 engine family may have a $HC + NO_X$ FEL that is greater than 32.2 g/kW-hr for Class I engines and 26.8 g/kW-hr for Class II engines.

(g)(1) Credits generated in a given model year by an engine family subject to the Phase 2 emission requirements may only be used in averaging, banking or trading, as appropriate, for any other engine family for which the Phase 2 requirements are applicable. Credits generated in one model year may not be used for prior model years, except as allowed under § 90.207(c).

(2) For the 2005 model year and for each subsequent model year, manufacturers of Class II engines must provide a demonstration that the production weighted average FEL for $HC+NO_X$ (including $NMHC+NO_X$ FELs), for all of the manufacturer's Class II engines, will not exceed 13.6 g/kW-hr for the 2005 model year, 13.1 g/kW-hr for the 2006 model year and 12.6 g/kW-hr for the 2007 and each subsequent Phase 2 model year. Such demonstration shall be subject to the review and approval of the Administrator, shall be provided at the time of the first Class II certification of that model year and shall be based on projected eligible production for that model year.

(h) Manufacturers must demonstrate compliance under the averaging, banking, and trading provisions for a particular model year by 270 days after the end of the model year. Except as provided in § 90.207(c), an engine family generating negative credits for which the manufacturer does not obtain or generate an adequate number of positive credits by that date from the same or previous model year engines will violate the conditions of the

certificate of conformity. The certificate of conformity may be voided *ab initio* pursuant to § 90.123 for this engine family.

§ 90.204 Averaging.

(a) Negative credits from engine families with FELs above the applicable emission standard must be offset by positive credits from engine families having FELs below the applicable emission standard, as allowed under the provisions of this subpart. Averaging of credits in this manner is used to determine compliance under § 90.207(b).

(b) Cross-class averaging of credits is allowed across all classes of nonroad spark-ignition nonhandheld engines at or below 19 kW.

(c) Credits used in averaging for a given model year may be obtained from credits generated in the same model year by another engine family, credits banked in previous model years, or credits of the same or previous model year obtained through trading. The restrictions of this paragraph notwithstanding, credits from a given model year may be used to address credit needs of previous model year engines as allowed under § 90.207(c).

(d) The use of credits generated under the early banking provisions of § 90.205(b) is subject to regulations under this subpart.

§ 90.205 Banking.

(a)(1) Beginning August 1, 2007, a manufacturer of a Class I engine family with an FEL below the applicable emission standard for a given model year may bank credits in that model year for use in averaging and trading. For new Class I engine families initially produced during the period starting August 1, 2003 through July 31, 2007, a manufacturer of a Class I engine family with an FEL below the applicable emission standard for a given model year may bank credits in that model year for use in averaging and trading.

(2) [Reserved]

(3) Beginning with the 2001 model year, a manufacturer of a Class II engine family with an FEL below the applicable emission standard for a given model year may bank credits in that model year for use in averaging and trading.

(4) [Reserved]

(5) [Reserved]

(6) Negative credits may be banked only according to the requirements under § 90.207(c).

(b)(1) For Class I engine families initially produced during the period beginning with the 1999 model year and prior to August 1, 2003, a manufacturer may bank early credits for engines with HC + NO_X FELs below 16.1 g/kW-hr. All early credits for such Class I engines shall be calculated against a HC + NO_X level of 20.5 g/kW-hr and may continue to be calculated against the 20.5 g/kW-hr level until August 1, 2007.

(2) Beginning with the 1999 model year and prior to the applicable date listed in paragraph (a) of this section for Class II engines, a manufacturer may bank early credits for all Class II engines with HC+NO_X FELs below 12.1 g/kW-hr. All early credits for Class II engines shall be calculated against a HC+NO_X level of 18.0 g/kW-hr.

(3) [Reserved]

(4) [Reserved]

(5) [Reserved]

(6) Engines certified under the early banking provisions of this paragraph are subject to all of the requirements of this part applicable to Phase 2 engines.

(c) A manufacturer may bank actual credits only after the end of the model year and after EPA has reviewed the manufacturer's end-of-year reports. During the model year and before submittal of the end-of-year report, credits originally designated in the certification process for banking will be considered reserved and may be redesignated for trading or averaging in the end-of-year report and final report.

(d) Credits declared for banking from the previous model year that have not been reviewed by EPA may be used in averaging or trading transactions. However, such credits may be revoked at a later time following EPA review of the end-of-year report or any subsequent audit actions.

§ 90.206 Trading.

(a) An engine manufacturer may exchange emission credits with other engine manufacturers in trading.

(b) Credits for trading can be obtained from credits banked in previous model years or credits generated during the model year of the trading transaction.

(c) Traded credits can be used for averaging, banking, or further trading transactions.

(d) Traded credits are subject to the limitations on use for past model years, as set forth in § 90.204(c).

(e) In the event of a negative credit balance resulting from a transaction, both the buyer and the seller are liable, except in cases involving fraud. Certificates of all engine families participating in a negative trade may be voided *ab initio* pursuant to § 90.123.

§ 90.207 Credit calculation and manufacturer compliance with emission standards.

(a) For each engine family, HC+NO_X [NMHC+NO_X] certification emission credits (positive or negative) are to be calculated according to the following equation and rounded to the nearest gram. Consistent units are to be used throughout the equation.

Credits = Production x (Standard—FEL) x Power x Useful life x Load Factor

Where:

Production = eligible production as defined in this part. Annual production projections are used to project credit availability for initial certification. Eligible production volume is used in determining actual credits for end-of-year compliance determination.

Standard = the current and applicable Small SI engine HC+NO_X (NMHC+NO_X) emission standard in grams per kilowatt hour as determined in § 90.103 or, for early credits, the applicable emission level as specified in § 90.205(b).

FEL = the family emission limit for the engine family in grams per kilowatt hour.

Power = the maximum modal power of the certification test engine, in kilowatts, as calculated from the applicable federal test procedure as described in this part.

Useful Life = the useful life in hours corresponding to the useful life category for which the engine family was certified.

Load Factor = 47 percent (i.e., 0.47) for Test Cycle A and Test Cycle B. For approved alternate test procedures, the load factor must be calculated according to the following formula:

$$\sum_{i=1}^{n}(\%\text{MTT mode}_i)\times(\%\text{MTS mode}_i)\times(\text{WF mode}_i)\text{S}$$

Where:
%MTT mode$_i$ = percent of the maximum FTP torque for mode i.
%MTS mode$_i$ = percent of the maximum FTP engine rotational speed for mode i.
WF mode$_i$ = the weighting factor for mode i.

(b) Manufacturer compliance with the emission standards is determined on a corporate average basis at the end of each model year. A manufacturer is in compliance when the sum of positive and negative emission credits it holds is greater than or equal to zero, except that the sum of positive and negative credits may be less than zero as allowed under paragraph (c) of this section.

(c) If, as a result of production line testing as required in subpart H of this part, an engine family is determined to be in noncompliance pursuant to § 90.710, the manufacturer may raise its FEL for past and future production as necessary. Further, a manufacturer may carry a negative credit balance (known also as a credit deficit) for the subject class and model year and for the next three model years. The credit deficit may be no larger than that created by the nonconforming family. If the credit deficit still exists after the model year following the model year in which the nonconformity occurred, the manufacturer must obtain and apply credits to offset the remaining credit deficit at a rate of 1.2 grams for each gram of deficit within the next two model years. The provisions of this paragraph are subject to the limitations in paragraph (d) of this section.

(d) Regulations elsewhere in this part notwithstanding, if an engine manufacturer experiences two or more production line testing failures pursuant to the regulations in subpart H of this part in a given model year, the manufacturer may raise the FEL of previously produced engines only to the extent that such engines represent no more than 10 percent of the manufacturer's total eligible production for that model year, as determined on the date when the FEL is adjusted. For any additional engine families determined to be in noncompliance, the manufacturer must conduct offsetting projects approved in advance by the Administrator.

(e) If, as a result of production line testing under this subpart, a manufacturer desires to lower its FEL it may do so subject to § 90.708(c).

(f) Except as allowed at paragraph (c) of this section, when a manufacturer is not in compliance with the applicable emission standard by the date 270 days after the end of the model year, considering all credit calculations and transactions completed by then, the manufacturer will be in violation of the regulations in this part and EPA may, pursuant to § 90.123, void *ab initio* the certificates of engine families for which the manufacturer has not obtained sufficient positive emission credits.

§ 90.208 Certification.

(a) In the application for certification a manufacturer must:

(1) Submit a statement that the engines for which certification is requested will not, to the best of the manufacturer's belief, cause the manufacturer to be in noncompliance under § 90.207(b) when all credits are calculated for the manufacturer's engine families.

(2) Declare an FEL for each engine family for HC+NO_X (NMHC+NO_X). The FEL must have the same number of significant digits as the emission standard.

(3) Indicate the projected number of credits generated/needed for this family; the projected applicable eligible annual production volume, and the values required to calculate credits as given in § 90.207.

(4) Submit calculations in accordance with § 90.207 of projected emission credits (positive or negative) based on annual production projections for each family.

(5) (i) If the engine family is projected to have negative emission credits, state specifically the source (manufacturer/engine family or reserved) of the credits necessary to offset the credit deficit according to projected annual production.

(ii) If the engine family is projected to generate credits, state specifically (manufacturer/engine family or reserved) where the projected annual credits will be applied.

(iii) The manufacturer may supply the information required by this section in the form of a spreadsheet detailing the manufacturer's annual production plans and the credits generated or consumed by each engine family.

(b) All certificates issued are conditional upon manufacturer compliance with the provisions of this subpart both during and after the model year of production.

(c) Failure to comply with all provisions of this subpart will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be determined to be void *ab initio* pursuant to § 90.123.

(d) The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied or waived.

(e) Projected credits based on information supplied in the certification application may be used to obtain a certificate of conformity. However, any such credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps considered appropriate by the Administrator.

§ 90.209 Maintenance of records.

(a) The manufacturer must establish, maintain, and retain the following adequately organized and indexed records for each engine family:

(1) EPA engine family identification code;

(2) Family Emission Limit (FEL) or FELs where FEL changes have been implemented during the model year;

(3) Maximum modal power for the certification test engine;

(4) Projected production volume for the model year; and

(5) Records appropriate to establish the quantities of engines that constitute eligible production as defined in § 90.3 for each FEL.

(b) Any manufacturer producing an engine family participating in trading reserved credits must maintain the following records on an annual basis for each such engine family:

(1) The engine family;

(2) The actual applicable production volume;

(3) The values required to calculate credits as given in § 90.207;

(4) The resulting type and number of credits generated/required;

(5) How and where credit surpluses are dispersed; and

(6) How and through what means credit deficits are met.

(c) The manufacturer must retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model year report. Records may be retained as hard copy or reduced to microfilm, ADP diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(d) Nothing in this section limits the Administrator's discretion in requiring the manufacturer to retain additional records, or submit information not specifically required by this section, if otherwise permitted by law.

(e) Pursuant to a request made by the Administrator, the manufacturer must submit to the Administrator the information that the manufacturer is required to retain.

(f) EPA may, pursuant to § 90.123, void *ab initio* a certificate of conformity

for an engine family for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request.

§ 90.210 End-of-year and final reports.

(a) End-of-year and final reports must indicate the engine family, the engine class, the actual production volume, the values required to calculate credits as given in § 90.207, and the number of credits generated/required. Manufacturers must also submit how and where credit surpluses were dispersed (or are to be banked) and/or how and through what means credit deficits were met. Copies of contracts related to credit trading must be included or supplied by the broker, if applicable. The report must include a calculation of credit balances to show that the credit summation for all engines is equal to or greater than zero (or less than zero in cases of negative credit balances as permitted in § 90.207(c)). For model year 2005 and later, the report must include a calculation of the production weighted average $HC+NO_X$ (including $NMHC+NO_X$) FEL for Class II engine families to show compliance with the provisions of § 90.203(g)(2).

(b) The calculation of eligible production for end-of-year and final reports must be based on engines produced for the United States market, excluding engines which are subject to state emission standards pursuant to a waiver granted by EPA under section 209(e) of the Act. Upon advance written request, the Administrator will consider other methods to track engines for credit calculation purposes that provide high levels of confidence that eligible production or sales are accurately counted.

(c)(1)End-of-year reports must be submitted within 90 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403–J), U.S. Environmental Protection Agency, Washington, DC 20460.

(2) Unless otherwise approved by the Administrator, final reports must be submitted within 270 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403–J), U.S. Environmental Protection Agency, Washington, DC 20460.

(d) Failure by a manufacturer to submit any end-of-year or final reports in the specified time for any engines subject to regulation under this part is a violation of § 90.1003(a)(2) and section 213(d) of the Clean Air Act for each engine.

(e) A manufacturer generating credits for banking only who fails to submit end-of-year reports in the applicable specified time period (90 days after the end of the model year) may not use the credits until such reports are received and reviewed by EPA. Use of projected credits pending EPA review is not permitted in these circumstances.

(f) Errors discovered by EPA or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected in the final report.

(g) If EPA or the manufacturer determines that a reporting error occurred on an end-of-year or final report previously submitted to EPA under this section, the manufacturer's credits and credit calculations must be recalculated. Erroneous positive credits will be void except as provided in paragraph (h) of this section. Erroneous negative credit balances may be adjusted by EPA.

(h) If EPA review determines a reporting error in the manufacturer's favor (that is, resulting in an increased credit balance) or if the manufacturer discovers such an error within 270 days of the end of the model year, EPA shall restore the credits for use by the manufacturer.

§ 90.211 Request for hearing.

An engine manufacturer may request a hearing on the Administrator's voiding of the certificate under §§ 90.203(h), 90.206(e), 90.207(f), 90.208(c), or 90.209(f), pursuant to § 90.124. The procedures of § 90.125 shall apply to any such hearing.

Subpart D—Emission Test Equipment Provisions

18. Section 90.301 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 90.301 Applicability.

(a) This subpart describes the equipment required in order to perform exhaust emission tests on new nonroad spark-ignition engines and vehicles subject to the provisions of subpart A of this part. Certain text in this subpart is identified as pertaining to Phase 1 or Phase 2 engines. Such text pertains only to engines of the specified Phase. If no indication of Phase is given, the text pertains to all engines, regardless of Phase.

* * * * *

(d) For Phase 2 Class I, and Phase 2 Class II natural gas fueled engines, the following sections from 40 CFR Part 86 are applicable to this subpart. The requirements of these sections which pertain specifically to the measurement and calculation of non-methane hydrocarbon (NMHC) exhaust emissions from otto cycle heavy-duty engines must be followed when determining the NMHC exhaust emissions from Phase 2 Class I, and Phase 2 Class II natural gas fueled engines. Those sections are: 40 CFR 86.1306–90 Equipment required and specifications; overview, 40 CFR 86.1309–90 Exhaust gas sampling system; otto-cycle engines, 40 CFR 86.1311–94 Exhaust gas analytical system; CVS bag sampling, 40 CFR 86.1313–94(e) Fuel Specification—Natural gas-fuel, 40 CFR 86.1314–94 Analytical gases, 40 CFR 86.1316–94 Calibrations; frequency and overview, 40 CFR 86.1321–94 Hydrocarbon analyzer calibration, 40 CFR 86.1325–94 Methane analyzer calibration, 40 CFR 86.1327–94 Engine dynamometer test procedures, overview, 40 CFR 86.1340–94 Exhaust sample analysis, 40 CFR 86.1342–94 Calculations; exhaust emissions, 40 CFR 86.1344–94(d) Required information—Pre-test data, 40 CFR 86.1344–94(e) Required information—Test data.

19. Section 90.302 is revised to read as follows:

§ 90.302 Definitions.

The definitions in § 90.3 apply to this subpart. The following definitions also apply to this subpart.

Intermediate speed means the engine speed which is 85 percent of the rated speed.

Natural gas means a fuel whose primary constituent is methane.

Rated speed means the speed at which the manufacturer specifies the maximum rated power of an engine.

20. Section 90.308 is amended by revising paragraph (c) to read as follows:

§ 90.308 Lubricating oil and test fuels.

* * * * *

(c) *Test fuels—service accumulation and aging.* Unleaded gasoline representative of commercial gasoline generally available through retail outlets must be used in service accumulation and aging for gasoline-fueled spark-ignition engines. As an alternative, the certification test fuels specified under paragraph (b) of this section may be used for engine service accumulation and aging. Leaded fuel may not be used during service accumulation or aging.

21. Section 90.329 is amended by adding paragraph (c) to read as follows:

§ 90.329 Catalyst thermal stress test.

* * * * *

(c) *Phase 2 engines.* The catalyst thermal stress test is not required for engine families certified to the Phase 2 standards.

Subpart E—Gaseous Exhaust Test Procedures

22. Section 90.401 is amended by adding paragraphs (c) and (d) to read as follows:

§ 90.401 Applicability.

* * * * *

(c) Certain text in this subpart is identified as pertaining to Phase 1 or Phase 2 engines. Such text pertains only to engines of the specified Phase. If no indication of Phase is given, the text pertains to all engines, regardless of Phase.

(d) For Phase 2 Class I, and Phase 2 Class II natural gas fueled engines, the following sections from 40 CFR part 86 are applicable to this subpart. The requirements of these sections which pertain specifically to the measurement and calculation of non-methane hydrocarbon (NMHC) exhaust emissions from otto cycle heavy-duty engines must be followed when determining the NMHC exhaust emissions from Phase 2 Class I, and Phase 2 Class II natural gas fueled engines. Those sections are: 40 CFR 86.1327–94 Engine dynamometer test procedures, overview, 40 CFR 86.1340–94 Exhaust sample analysis, 40 CFR 86.1342–94 Calculations; exhaust emissions, 40 CFR 86.1344–94(d) Required information—Pre-test data, and 40 CFR 86.1344–94(e) Required information—Test data.

23. Section 90.404 is amended by adding a sentence after the first sentence of paragraph (b) to read as follows:

§ 90.404 Test procedure overview.

* * * * *

(b) * * * For Phase 2 Class I and Phase 2 Class II natural gas fueled engines the test is also designed to determine the brake-specific emissions of non-methane hydrocarbons. * * *

* * * * *

24. Section 90.409 is amended by revising paragraph (a)(3) to read as follows:

§ 90.409 Engine dynamometer test run.

(a) * * *

(3) For Phase 1 engines, at the manufacturer's option, the engine can be run with the throttle in a fixed position or by using the engine's governor (if the engine is manufactured with a governor). In either case, the engine speed and load must meet the requirements specified in paragraph (b)(12) of this section. For Phase 2 Class I and Phase 2 Class II engines equipped with an engine speed governor, the governor must be used to control engine speed during all test cycle modes except for Mode 1 or Mode 6, and no external throttle control may be used that interferes with the function of the engine's governor; a controller may be used to adjust the governor setting for the desired engine speed in Modes 2–5 or Modes 7–10; and during Mode 1 or Mode 6 fixed throttle operation may be used to determine the 100 percent torque value.

* * * * *

25. Section 90.410 is amended by revising paragraph (b) to read as follows:

§ 90.410 Engine test cycle.

* * * * *

(b) For Phase 1 engines and Phase 2 Class I and II engines not equipped with an engine speed governor, during each non-idle mode, hold both the specified speed and load within ± five percent of point. During the idle mode, hold speed within ± ten percent of the manufacturer's specified idle engine speed. For Phase 2 Class I and II engines equipped with an engine speed governor, during Mode 1 or Mode 6 hold both the specified speed and load within ± five percent of point, during Modes 2–3, or Modes 7–8 hold the specified load with ± five percent of point, during Modes 4–5 or Modes 9–10, hold the specified load within the larger range provided by +/−0.27Nm (+/−0.2 lb-ft), or +/−ten (10) percent of point, and during the idle mode hold the specified speed within ± ten percent of the manufacturer's specified idle engine speed (see Table 1 in Appendix A to subpart E of this part for a description of test Modes). The use of alternative test procedures is allowed if approved in advance by the Administrator.

* * * * *

26. Section 90.427 is amended by revising paragraph (a) to read as follows:

§ 90.427 Catalyst thermal stress resistance evaluation.

(a) The purpose of the evaluation procedure specified in this section is to determine the effect of thermal stress on catalyst conversion efficiency for Phase 1 engines. The thermal stress is imposed on the test catalyst by exposing it to quiescent heated air in an oven. The evaluation of the effect of such stress on catalyst performance is based on the resultant degradation of the efficiency with which the conversions of specific pollutants are promoted. The application of this evaluation procedure involves the several steps that are described in the following paragraphs.

* * * * *

Subpart F—Selective Enforcement Auditing

27. Section 90.503 is amended by revising paragraphs (f)(3) and (f)(4) to read as follows:

§ 90.503 Test orders.

* * * * *

(f) * * *

(3) Any SEA test order for which the family or configuration, as appropriate, fails under § 90.510 or for which testing is not completed will not be counted against the annual limit.

(4) When the annual limit has been met, the Administrator may issue additional test orders to test those families or configurations for which evidence exists indicating nonconformity, or for which the Administrator has reason to believe are not being appropriately represented or tested in Production Line Testing conducted under subpart H of this part, if applicable. An SEA test order issued pursuant to this provision will include a statement as to the reason for its issuance.

28. Section 90.509 is amended by revising paragraph (b) to read as follows:

§ 90.509 Calculation and reporting of test results.

* * * * *

(b)(1) Final test results are calculated by summing the initial test results derived in paragraph (a) of this section for each test engine, dividing by the number of tests conducted on the engine, and rounding to the same number of decimal places contained in the applicable standard. For Phase 2 engines only, this result shall be expressed to one additional significant figure.

(2) Final deteriorated test results (for Phase 2 test engines only) are calculated by applying the appropriate deterioration factors, from the certification process for the engine family, to the final test results, and rounding to the same number of decimal places contained in the applicable standard.

* * * * *

29. Section 90.510 is amended by revising paragraph (b) to read as follows:

§ 90.510 Compliance with acceptable quality level and passing and failing criteria for selective enforcement audits.

* * * * *

(b) For Phase I engines, a failed engine is an engine whose final test results pursuant to § 90.509(b), for one or more of the applicable pollutants exceed the emission standard. For Phase 2 engines, a failed engine is an engine whose final deteriorated test results pursuant to

§ 90.509(b), for one or more of the applicable pollutants exceed the emission standard (FEL, if applicable).

* * * * *

30. Section 90.512 is amended by revising paragraph (b) to read as follows:

§ 90.512 Request for public hearing.

* * * * *

(b)The manufacturer's request shall be filed with the Administrator not later than 15 days after the Administrator's notification of his or her decision to suspend, revoke or void, unless otherwise specified by the Administrator. The manufacturer shall simultaneously serve two copies of this request upon the Director of the Engine Programs and Compliance Division and file two copies with the Hearing Clerk of the Agency. Failure of the manufacturer to request a hearing within the time provided constitutes a waiver of the right to a hearing. Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his or her discretion and for good cause shown, grant the manufacturer a hearing to contest the suspension, revocation or voiding.

* * * * *

Subpart G—Importation of Nonconforming Engines

31. Section 90.612 is amended by revising paragraph (g) to read as follows:

§ 90.612 Exemptions and exclusions.

* * * * *

(g) Applications for exemptions and exclusions provided for in paragraphs (b), (c), and (e) of this section are to be mailed to: U.S. Environmental Protection Agency, Office of Mobile Sources, Engine Compliance Programs Group (6403–J), Washington, D.C. 20460, Attention: Imports.

32. Subpart H, which was previously "reserved", is added to part 90 to read as follows:

Subpart H—Manufacturer Production Line Testing Program

Sec.

90.701 Applicability.
90.702 Definitions.
90.703 Production line testing by the manufacturer.
90.704 Maintenance of records; submission of information.
90.705 Right of entry and access.
90.706 Engine sample selection.
90.707 Test procedures.
90.708 Cumulative Sum (CumSum) Procedure.
90.709 Calculation and reporting of test results.
90.710 Compliance with criteria for production line testing.
90.711 Suspension and revocation of certificates of conformity.
90.712 Request for public hearing.
90.713 Administrative procedures for public hearing.

Subpart H—Manufacturer Production Line Testing Program

§ 90.701 Applicability.

(a) The requirements of this subpart are applicable to all Phase 2 nonroad nonhandheld engines families subject to the provisions of subpart A of this part unless otherwise exempted in this subpart.

(b) The procedures described in this subpart are optional for small volume engine manufacturers and small volume engine families as defined in this part. Small volume engine manufacturers and small volume engine families for which the manufacturer opts not to conduct testing under this subpart pursuant to this paragraph shall remain subject to the Selective Enforcement Auditing procedures of subpart F of this part.

(c) Engine families for which the manufacturer opts to conduct in-use testing pursuant to subpart M of this part are exempt from this subpart, but shall remain subject to the Selective Enforcement Auditing procedures of subpart F of this part.

§ 90.702 Definitions.

The definitions in subpart A of this part apply to this subpart. The following definitions also apply to this subpart.

Configuration means any subclassification of an engine family which can be described on the basis of gross power, emission control system, governed speed, injector size, engine calibration, and other parameters as designated by the Administrator.

Test sample means the collection of engines selected from the population of an engine family for emission testing.

§ 90.703 Production line testing by the manufacturer.

(a) Manufacturers of small SI engines shall test production line engines from each engine family according to the provisions of this subpart.

(b) Production line engines must be tested using the test procedure specified in subpart E of this part except that the Administrator may approve minor variations that the Administrator deems necessary to facilitate efficient and economical testing where the manufacturer demonstrates to the satisfaction of the Administrator that such variations will not significantly impact the test results. Any adjustable engine parameter must be set to values or positions that are within the range recommended to the ultimate purchaser, unless otherwise specified by the Administrator. The Administrator may specify values within or without the range recommended to the ultimate purchaser.

§ 90.704 Maintenance of records; submission of information.

(a) The manufacturer of any new small SI engine subject to any of the provisions of this subpart must establish, maintain, and retain the following adequately organized and indexed records:

(1) *General records.* A description of all equipment used to test engines in accordance with § 90.703. Subpart D of this part sets forth relevant equipment requirements in §§ 90.304, 90.305, 90.306, 90.307, 90.308, 90.309, 90.310 and 90.313.

(2) *Individual records.* These records pertain to each production line test conducted pursuant to this subpart and include:

(i) The date, time, and location of each test;

(ii) The number of hours of service accumulated on the test engine when the test began and ended;

(iii) The names of all supervisory personnel involved in the conduct of the production line test;

(iv) A record and description of any adjustment, repair, preparation or modification performed prior to and/or subsequent to approval by the Administrator pursuant to § 90.707(b)(1), giving the date, associated time, justification, name(s) of the authorizing personnel, and names of all supervisory personnel responsible for the conduct of the repair;

(v) If applicable, the date the engine was shipped from the assembly plant, associated storage facility or port facility, and the date the engine was received at the testing facility;

(vi) A complete record of all emission tests performed pursuant to this subpart (except tests performed directly by EPA), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof, in accordance with the record requirements specified in §§ 90.405 and 90.406; and

(vii) A brief description of any significant events during testing not otherwise described under paragraph (a)(2) of this section, commencing with the test engine selection process and including such extraordinary events as engine damage during shipment.

(3) The manufacturer must establish, maintain and retain general records, pursuant to paragraph (a)(1) of this section, for each test cell that can be

used to perform emission testing under this subpart.

(b) The manufacturer must retain all records required to be maintained under this subpart for a period of one year after completion of all testing required for the engine family in a model year. Records may be retained as hard copy (i.e., on paper) or reduced to microfilm, floppy disk, or some other method of data storage, depending upon the manufacturer's record retention procedure; provided, that in every case, all the information contained in the hard copy is retained.

(c) The manufacturer must, upon request by the Administrator, submit the following information with regard to engine production:

(1) Projected production or actual production for each engine configuration within each engine family for which certification has been requested and/or approved;

(2) Number of engines, by configuration and assembly plant, scheduled for production or actually produced.

(d) Nothing in this section limits the Administrator's discretion to require a manufacturer to establish, maintain, retain or submit to EPA information not specified by this section and otherwise permitted by law.

(e) All reports, submissions, notifications, and requests for approval made under this subpart must be addressed to: Manager, Engine Compliance Programs Group (6403J), U.S. Environmental Protection Agency, Washington, DC 20460.

(f) The manufacturer must electronically submit the results of its production line testing using EPA's standardized format. The Administrator may exempt manufacturers from this requirement upon written request with supporting justification.

§ 90.705 Right of entry and access.

(a) To allow the Administrator to determine whether a manufacturer is complying with the provisions of this subpart or other subparts of this part, one or more EPA enforcement officers may enter during operating hours and upon presentation of credentials any of the following places:

(1) Any facility, including ports of entry, where any engine to be introduced into commerce or any emission-related component is manufactured, assembled, or stored;

(2) Any facility where any test conducted pursuant to this or any other subpart or any procedure or activity connected with such test is or was performed;

(3) Any facility where any test engine is present; and

(4) Any facility where any record required under § 90.704 or other document relating to this subpart or any other subpart of this part is located.

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA enforcement officers are authorized to perform the following inspection-related activities:

(1) To inspect and monitor any aspect of engine manufacture, assembly, storage, testing and other procedures, and to inspect and monitor the facilities in which these procedures are conducted;

(2) To inspect and monitor any aspect of engine test procedures or activities, including test engine selection, preparation and service accumulation, emission test cycles, and maintenance and verification of test equipment calibration;

(3) To inspect and make copies of any records or documents related to the assembly, storage, selection, and testing of an engine; and

(4) To inspect and photograph any part or aspect of any engine and any component used in the assembly thereof that is reasonably related to the purpose of the entry.

(c) EPA enforcement officers are authorized to obtain reasonable assistance without cost from those in charge of a facility to help the officers perform any function listed in this subpart and they are authorized to request the manufacturer to make arrangements with those in charge of a facility operated for the manufacturer's benefit to furnish reasonable assistance without cost to EPA.

(1) Reasonable assistance includes, but is not limited to, clerical, copying, interpretation and translation services; the making available on an EPA enforcement officer's request of personnel of the facility being inspected during their working hours to inform the EPA enforcement officer of how the facility operates and to answer the officer's questions; and the performance on request of emission tests on any engine which is being, has been, or will be used for production line or other testing.

(2) By written request, signed by the Assistant Administrator for Air and Radiation, and served on the manufacturer, a manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA enforcement officer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel.

(d) EPA enforcement officers are authorized to seek a warrant or court order authorizing the EPA enforcement officers to conduct the activities authorized in this section, as appropriate, to execute the functions specified in this section. EPA enforcement officers may proceed *ex parte* to obtain a warrant or court order whether or not the EPA enforcement officers first attempted to seek permission from the manufacturer or the party in charge of the facility(ies) in question to conduct the activities authorized in this section.

(e) A manufacturer must permit an EPA enforcement officer(s) who presents a warrant or court order to conduct the activities authorized in this section as described in the warrant or court order. The manufacturer must also cause those in charge of its facility or a facility operated for its benefit to permit entry and access as authorized in this section pursuant to a warrant or court order whether or not the manufacturer controls the facility. In the absence of a warrant or court order, an EPA enforcement officer(s) may conduct the activities authorized in this section only upon the consent of the manufacturer or the party in charge of the facility(ies) in question.

(f) It is not a violation of this part or the Clean Air Act for any person to refuse to permit an EPA enforcement officer(s) to conduct the activities authorized in this section if the officer(s) appears without a warrant or court order.

(g) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions where local law does not prohibit an EPA enforcement officer(s) from conducting the entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed local foreign law prohibits.

§ 90.706 Engine sample selection.

(a) At the start of each model year, the small SI engine manufacturer will begin to randomly select engines from each engine family for production line testing at a rate of one percent of the projected production of that family. Each engine will be selected from the end of the assembly line.

(1) *For newly certified engine families:* After two engines are tested, the manufacturer will calculate the required sample size for the model year for each pollutant ($HC+NO_X$($NMHC+NO_X$) and CO) according to the Sample Size

Equation in paragraph (b) of this section.

(2) *For carry-over engine families:* After one engine is tested, the manufacturer will combine the test with the last test result from the previous model year and then calculate the required sample size for the model year for each pollutant according to the Sample Size Equation in paragraph (b) of this section.

(b)(1) Manufacturers will calculate the required sample size for the model year for each pollutant for each engine family using the Sample Size Equation in this paragraph. N is calculated for each pollutant from each test result. The higher of the two values for the number N indicates the number of tests required for the model year for an engine family. N is recalculated for each pollutant after each test. Test results used to calculate the variables in the following Sample Size Equation must be final deteriorated test results as specified in § 90.709(c).

$$N = \left[\frac{(t_{95} * \sigma)^2}{(x - FEL)}\right] + 1$$

Where:

N = required sample size for the model year.

t_{95} = 95% confidence coefficient. It is dependent on the actual number of tests completed, n, as specified in the table in paragraph (b)(2) of this section. It defines one-tail, 95% confidence intervals.

σ = actual test sample standard deviation calculated from the following equation:

$$\sigma = \sqrt{\frac{\sum (X_i - x)^2}{n - 1}}$$

x_i = emission test result for an individual engine.

x = mean of emission test results of the actual sample.

FEL = Family Emission Limit or standard if no FEL.

n = The actual number of tests completed in an engine family.

(2) The following table specifies the Actual Number of Tests (n) & 1-tail Confidence Coefficients (t_{95}):

n	t_{95}	n	t_{95}	n	t_{95}
2	6.31	12	1.80	22	1.72
3	2.92	13	1.78	23	1.72
4	2.35	14	1.77	24	1.71
5	2.13	15	1.76	25	1.71
6	2.02	16	1.75	26	1.71
7	1.94	17	1.75	27	1.71
8	1.90	18	1.74	28	1.70
9	1.86	19	1.73	29	1.70
10	1.83	20	1.73	30	1.70
11	1.81	21	1.72	∞	1 645

(3) A manufacturer must distribute the testing of the remaining number of engines needed to meet the required sample size N, evenly throughout the remainder of the model year.

(4) After each new test, the required sample size, N, is recalculated using updated sample means, sample standard deviations and the appropriate 95% confidence coefficient.

(5) A manufacturer must continue testing and updating each engine family's sample size calculations according to paragraphs (b)(1) through (b)(4) of this section until a decision is made to stop testing as described in paragraph (b)(6) of this section or a noncompliance decision is made pursuant to § 90.710(b).

(6) If, at any time throughout the model year, the calculated required sample size, N, for an engine family is less than or equal to the actual sample size, n, and the sample mean, x, for HC + NO_X (NMHC+NO_X) and CO is less than or equal to the FEL or standard if no FEL, the manufacturer may stop testing that engine family.

(7) If, at any time throughout the model year, the sample mean, x, for HC + NO_X (NMHC+NO_X) or CO is greater than the FEL or standard if no FEL, the manufacturer must continue testing that engine family at the appropriate maximum sampling rate.

(8) The maximum required sample size for an engine family (regardless of the required sample size, N, as calculated in paragraph (b)(1) of this section) is the lesser of thirty tests per model year or one percent of projected annual production for that engine family for that model year.

(9) Manufacturers may elect to test additional engines. Additional engines, whether tested in accordance with the testing procedures specified in § 90.707 or not, may not be included in the Sample Size and Cumulative Sum equation calculations as defined in paragraph (b)(1) of this section and § 90.708(a), respectively. However, such additional test results may be used as appropriate to "bracket" or define the boundaries of the production duration of any emission nonconformity determined under this subpart. Such additional test data must be identified and provided to EPA with the submittal of the official CumSum results.

(c) The manufacturer must produce and assemble the test engines using its normal production and assembly process for engines to be distributed into commerce.

(d) No quality control, testing, or assembly procedures shall be used on any test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and assembly of all other engines of that family, unless the Administrator approves the modification in production or assembly procedures in advance.

§ 90.707 Test procedures.

(a)(1) For small SI engines subject to the provisions of this subpart, the prescribed test procedures are specified in subpart E of this part.

(2) The Administrator may, on the basis of a written application by a manufacturer, prescribe test procedures other than those specified in paragraph (a)(1) of this section for any small SI engine the Administrator determines is not susceptible to satisfactory testing using procedures specified in paragraph (a)(1) of this section.

(b)(1) The manufacturer may not adjust, repair, prepare, or modify any test engine and may not perform any emission test on any test engine unless this adjustment, repair, preparation, modification and/or test is documented in the manufacturer's engine assembly and inspection procedures and is actually performed by the manufacturer on every production line engine or unless this adjustment, repair,

preparation, modification and/or test is required or permitted under this subpart or is approved in advance by the Administrator.

(2) The Administrator may adjust or cause to be adjusted any engine parameter which the Administrator has determined to be subject to adjustment for certification, Production Line Testing and Selective Enforcement Audit testing, to any setting within the physically adjustable range of that parameter, as determined by the Administrator, prior to the performance of any test. However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator may not adjust it or require that it be adjusted to any setting which causes a lower engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter if the manufacturer had accumulated 12 hours of service on the engine under paragraph (c) of this section, all other parameters being identically adjusted for the purpose of the comparison. The manufacturer may be requested to supply information necessary to establish an alternate minimum idle speed. The Administrator, in making or specifying these adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emission performance characteristics as well as the likelihood that similar settings will occur on in-use engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and information from similar in-use engines.

(c) *Service accumulation.* (1) Unless otherwise approved by the Administrator, prior to performing exhaust emission production line testing, the manufacturer may accumulate up to 12 hours of service on each test engine. For catalyst-equipped engines, the manufacturer must accumulate a number of hours equal to the number of hours accumulated to represent stabilized emissions on the engine used to obtain certification.

(2) Service accumulation must be performed in a manner using good engineering judgment to obtain emission results representative of production line engines.

(d) Unless otherwise approved by the Administrator, the manufacturer may not perform any maintenance on test engines after selection for testing.

(e) If an engine is shipped to a remote facility for production line testing, and an adjustment or repair is necessary because of shipment, the engine manufacturer must perform the necessary adjustment or repair only after the initial test of the engine, except in cases where the Administrator has determined that the test would be impossible or unsafe to perform or would permanently damage the engine. Engine manufacturers must report to the Administrator, in the quarterly report required by § 90.709(e), all adjustments or repairs performed on test engines prior to each test.

(f) If an engine cannot complete the service accumulation or an emission test because of a malfunction, the manufacturer may request that the Administrator authorize either the repair of that engine or its deletion from the test sequence.

(g) *Testing.* A manufacturer must test engines with the test procedure specified in subpart E of this part to demonstrate compliance with the applicable FEL (or standard where there is no FEL). If alternate or special test procedures pursuant to regulations at § 90.120 are used in certification, then those alternate procedures must be used in production line testing.

(h) *Retesting.* (1) If an engine manufacturer reasonably determines that an emission test of an engine is invalid because of a procedural error, test equipment problem, or engine performance problem that causes the engine to be unable to safely perform a valid test, the engine may be retested. A test is not invalid simply because the emission results are high relative to other engines of the family. Emission results from all tests must be reported to EPA. The engine manufacturer must also include a detailed explanation of the reasons for invalidating any test in the quarterly report required in § 90.709(e). If a test is invalidated because of an engine performance problem, the manufacturer must document in detail the nature of the problem and the repairs performed in order to use the after-repair test results for the original test results.

(2) Routine retests may be conducted if the manufacturer conducts the same number of tests on all engines in the family. The results of these tests must be averaged according to procedures of § 90.709.

§ 90.708 Cumulative Sum (CumSum) procedure.

(a) (1) Manufacturers must construct separate CumSum Equations for each regulated pollutant ($HC+NO_X$ ($NMHC+NO_X$) and CO) for each engine family. Test results used to calculate the variables in the CumSum Equations must be final deteriorated test results as defined in § 90.709(c). The CumSum Equation is constructed as follows:

$C_i = \max[0\ 0R\ (C_{i-1} + X_i - (FEL+F))]$

Where:

C_i=The current CumSum statistic.

C_{i-1}=The previous CumSum statistic. Prior to any testing, the CumSum statistic=0 (i.e. $C_0=0$).

X_i=The current emission test result for an individual engine.

FEL=Family Emission Limit (the standard if no FEL).

$F=.25\times\sigma$.

(2) After each test pursuant to paragraph (a)(1) of this section, C_i is compared to the action limit, H, the quantity which the CumSum statistic must exceed, in two consecutive tests, before the engine family may be determined to be in noncompliance for a regulated pollutant for purposes of § 90.710.

Where:

H=The Action Limit. It is $5.0\times\sigma$, and is a function of the standard deviation, σ.

σ=is the sample standard deviation and is recalculated after each test.

(b) After each engine is tested, the CumSum statistic shall be promptly updated according to the CumSum Equation in paragraph (a) of this section.

(c)(1) If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in § 90.122(a) by performing an engine family modification (i.e. a change such as a running change involving a physical modification to an engine, a change in specification or setting, the addition of a new configuration, or the use of a different deterioration factor) with no changes to the FEL (where applicable), all previous sample size and CumSum statistic calculations for the model year will remain unchanged.

(2) If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in § 90.122 (a) by modifying its FEL (where applicable) for future production, as a result of an engine family modification, the manufacturer must continue its calculations by inserting the new FEL into the sample size equation as specified in § 90.706(b)(1) and into the CumSum equation in paragraph (a) of this section. All previous calculations remain unchanged. If the sample size calculation indicates that additional tests are required, then those tests must be performed. CumSum statistic calculations must not indicate that the family has exceeded the action limit for two consecutive tests. Where applicable,

the manufacturer's final credit report as required by § 90.210 must break out the credits that result from each FEL and corresponding CumSum analysis for the set of engines built to each FEL.

(3) If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in § 90.122 (a) (or for an affected part of the year's production in cases where there were one or more mid-year engine family modifications), by modifying its FEL (where applicable) for past and/or future production, without performing an engine modification, all previous sample size and CumSum statistic calculations for the model year must be recalculated using the new FEL. If the sample size calculation indicates that additional tests are required, then those tests must be performed. The CumSum statistic recalculation must not indicate that the family has exceeded the action limit for two consecutive tests. Where applicable, the manufacturer's final credit report as required by § 90.210 must break out the credits that result from each FEL and corresponding CumSum analysis for the set of engines built to each FEL.

§ 90.709 Calculation and reporting of test results.

(a) Initial test results are calculated following the applicable test procedure specified in § 90.707 (a). The manufacturer rounds these results to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure.

(b) Final test results are calculated by summing the initial test results derived in paragraph (a) of this section for each test engine, dividing by the number of tests conducted on the engine, and rounding to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(c) The final deteriorated test results for each test engine are calculated by applying the appropriate deterioration factors, derived in the certification process for the engine to the final test results, and rounding to the same number of decimal places contained in the applicable standard.

(d) If, at any time during the model year, the CumSum statistic exceeds the applicable action limit, H, in two consecutive tests for any regulated pollutant, ($HC+NO_X$ ($NMHC+NO_X$) or CO) the engine family may be determined to be in noncompliance and the manufacturer must notify EPA by contacting its official EPA certification representative within ten working days of such exceedance by the CumSum statistic.

(e) Within 45 calendar days of the end of each quarter, each engine manufacturer must submit to the Administrator a report which includes the following information:

(1) The location and description of the manufacturer's or other's exhaust emission test facilities which were utilized to conduct testing reported pursuant to this section;

(2) Total production and sample sizes, N and n, for each engine family;

(3) The FEL (standard, if no FEL) against which each engine family was tested;

(4) A description of the process to obtain engines on a random basis;

(5) A description of the test engines;

(6) For each test conducted:

(i) A description of the test engine, including:

(A) Configuration and engine family identification;

(B) Year, make, and build date;

(C) Engine identification number; and

(D) Number of hours of service accumulated on engine prior to testing;

(ii) Location where service accumulation was conducted and description of accumulation procedure and schedule;

(iii) Test number, date, test procedure used, initial test results before and after rounding, final test results before and after rounding and final deteriorated test results for all exhaust emission tests, whether valid or invalid, and the reason for invalidation, if applicable;

(iv) A complete description of any adjustment, modification, repair, preparation, maintenance, and/or testing which was performed on the test engine, was not reported pursuant to any other paragraph of this subpart, and will not be performed on all other production engines;

(v) A CumSum analysis, as required in § 90.708, of the production line test results for each engine family; and

(vi) Any other information the Administrator may request relevant to the determination whether the new engines being manufactured by the manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued;

(7) For each failed engine as defined in § 90.710(a), a description of the remedy and test results for all retests as required by § 90.711(g);

(8) The date of the end of the engine manufacturer's model year production for each engine family; and

(9) The following signed statement and endorsement by an authorized representative of the manufacturer:

This report is submitted pursuant to Sections 213 and 208 of the Clean Air Act. This production line testing program was conducted in complete conformance with all applicable regulations under 40 CFR Part 90. No emission-related changes to production processes or quality control procedures for the engine family tested have been made during this production line testing program that affect engines from the production line. All data and information reported herein is, to the best of (Company Name) knowledge, true and accurate. I am aware of the penalties associated with violations of the Clean Air Act and the regulations thereunder. (Authorized Company Representative.)

§ 90.710 Compliance with criteria for production line testing.

(a) A failed engine is one whose final deteriorated test results pursuant to § 90.709(c), for $HC+NO_X$ ($NMHC+NO_X$) or CO exceeds the applicable Family Emission Limit (FEL) or standard if no FEL.

(b) An engine family shall be determined to be in noncompliance, if at any time throughout the model year, the CumSum statistic, C_i, for $HC+NO_X$ ($NMHC+NO_X$) or CO, is greater than the action limit, H, for that pollutant, for two consecutive tests.

§ 90.711 Suspension and revocation of certificates of conformity.

(a) The certificate of conformity is suspended with respect to any engine failing pursuant to § 90.710(a) effective from the time that testing of that engine is completed.

(b) The Administrator may suspend the certificate of conformity for an engine family which is determined to be in noncompliance pursuant to § 90.710(b). This suspension will not occur before thirty days after the engine family is determined to be in noncompliance and the Administrator has notified the manufacturer of its intent to suspend. During this thirty day period the Administrator will work with the manufacturer to achieve appropriate production line changes to avoid the need to halt engine production, if possible. The Administrator will approve or disapprove any such production line changes proposed to address a family that has been determined to be in noncompliance under this subpart within 15 days of receipt. If the Administrator does not approve or disapprove such a proposed change within such time period, the proposed change shall be considered approved.

(c) If the results of testing pursuant to the regulations in this subpart indicate that engines of a particular family produced at one plant of a manufacturer do not conform to the regulations in this part with respect to which the certificate of conformity was issued, the Administrator may suspend the

certificate of conformity with respect to that family for engines manufactured by the manufacturer at all other plants.

(d) Notwithstanding the fact that engines described in the application for certification may be covered by a certificate of conformity, the Administrator may suspend such certificate immediately in whole or in part if the Administrator finds any one of the following infractions to be substantial:

(1) The manufacturer refuses to comply with any of the requirements of this subpart.

(2) The manufacturer submits false or incomplete information in any report or information provided to the Administrator under this subpart.

(3) The manufacturer renders inaccurate any test data submitted under this subpart.

(4) An EPA enforcement officer is denied the opportunity to conduct activities authorized in this subpart and a warrant or court order is presented to the manufacturer or the party in charge of the facility in question.

(5) An EPA enforcement officer is unable to conduct activities authorized in § 90.705 because a manufacturer has located its facility in a foreign jurisdiction where local law prohibits those activities.

(e) The Administrator shall notify the manufacturer in writing of any suspension or revocation of a certificate of conformity in whole or in part, except that the certificate is immediately suspended with respect to any failed engines as provided for in paragraph (a) of this section.

(f) The Administrator may revoke a certificate of conformity for an engine family after the certificate has been suspended pursuant to paragraph (b) or (c) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Administrator, is one requiring a design change or changes to the engine and/or emission control system as described in the application for certification of the affected engine family.

(g) Once a certificate has been suspended for a failed engine, as provided for in paragraph (a) of this section, the manufacturer must take the following actions before the certificate is reinstated for that failed engine:

(1) Remedy the nonconformity;

(2) Demonstrate that the engine conforms to the applicable standards (FELs, where applicable) by retesting the engine in accordance with these regulations; and

(3) Submit a written report to the Administrator, described in § 90.709(e)(7), after successful completion of testing on the failed engine, which contains a description of the remedy and test results for each engine in addition to other information that may be required by this part.

(h) Once a certificate for a failed engine family has been suspended pursuant to paragraph (b) or (c) of this section, the manufacturer must take the following actions before the Administrator will consider reinstating the certificate:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the engines, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented; and

(2) Demonstrate that the engine family for which the certificate of conformity has been suspended does in fact comply with the regulations of this part by testing as many engines as needed so that the CumSum statistic, as calculated in § 90.708(a), falls below the action limit. Such testing must comply with the provisions of this part. If the manufacturer elects to continue testing individual engines after suspension of a certificate, the certificate is reinstated for any engine actually determined to be in conformance with the Family Emission Limits (or standards if no FEL) through testing in accordance with the applicable test procedures, provided that the Administrator has not revoked the certificate pursuant to paragraph (f) of this section.

(i) Once the certificate has been revoked for an engine family, if the manufacturer desires to continue introduction into commerce of a modified version of that family, the following actions must be taken before the Administrator may issue a certificate for that modified family:

(1) If the Administrator determines that the proposed change(s) in engine design may have an effect on emission performance deterioration, the Administrator shall notify the manufacturer within five working days after receipt of the report in paragraph (h)(1) of this section whether subsequent testing under this subpart will be sufficient to evaluate the proposed change or changes or whether additional testing will be required;

(2) After implementing the change or changes intended to remedy the nonconformity, the manufacturer must demonstrate that the modified engine family does in fact conform with the regulations of this part by testing as many engines as needed from the modified engine family so that the CumSum statistic, as calculated in § 90.708(a) using the newly assigned FEL if applicable, falls below the action limit; and

(3) When the requirements of paragraphs (i)(1) and (i)(2) of this section are met, the Administrator shall reissue the certificate or issue a new certificate, as the case may be, to include that family. As long as the CumSum statistic remains above the action limit, the revocation remains in effect.

(j) At any time subsequent to a suspension of a certificate of conformity for a test engine pursuant to paragraph (a) of this section, but not later than 15 days (or such other period as may be allowed by the Administrator) after notification of the Administrator's decision to suspend or revoke a certificate of conformity in whole or in part pursuant to paragraph (b), (c), or (f) of this section, a manufacturer may request a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(k) Any suspension of a certificate of conformity under paragraph (d) of this section shall:

(1) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with §§ 90.712 and 90.713; and

(2) Not apply to engines no longer in the possession of the manufacturer.

(l) After the Administrator suspends or revokes a certificate of conformity pursuant to this section and prior to the commencement of a hearing under § 90.712, if the manufacturer demonstrates to the Administrator's satisfaction that the decision to suspend or revoke the certificate was based on erroneous information, the Administrator shall reinstate the certificate.

(m) To permit a manufacturer to avoid storing non-test engines while conducting subsequent testing of the noncomplying family, a manufacturer may request that the Administrator conditionally reinstate the certificate for that family. The Administrator may reinstate the certificate subject to the following condition: the manufacturer must commit to performing offsetting measures that remedy the nonconformity at no expense to the owners, and which are approved in advance by the Administrator for all engines of that family produced from the time the certificate is conditionally reinstated if the CumSum statistic does not fall below the action limit.

§ 90.712 Request for public hearing.

(a) If the manufacturer disagrees with the Administrator's decision to suspend or revoke a certificate or disputes the basis for an automatic suspension pursuant to § 90.711(a), the manufacturer may request a public hearing.

(b) The manufacturer's request shall be filed with the Administrator not later than 15 days after the Administrator's notification of his or her decision to suspend or revoke, unless otherwise specified by the Administrator. The manufacturer shall simultaneously serve two copies of this request upon the Manager of the Engine Compliance Programs Group and file two copies with the Hearing Clerk for the Agency. Failure of the manufacturer to request a hearing within the time provided constitutes a waiver of the right to a hearing. Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his or her discretion and for good cause shown, grant the manufacturer a hearing to contest the suspension or revocation.

(c) A manufacturer shall include in the request for a public hearing:

(1) A statement as to which engine configuration(s) within a family is to be the subject of the hearing; and

(2) A concise statement of the issues to be raised by the manufacturer at the hearing, except that in the case of the hearing requested under § 90.711(j), the hearing is restricted to the following issues:

(i) Whether tests have been properly conducted (specifically, whether the tests were conducted in accordance with applicable regulations under this part and whether test equipment was properly calibrated and functioning);

(ii) Whether sampling plans and statistical analyses have been properly applied (specifically, whether sampling procedures and statistical analyses specified in this subpart were followed and whether there exists a basis for distinguishing engines produced at plants other than the one from which engines were selected for testing which would invalidate the Administrator's decision under § 90.711(c));

(3) A statement specifying reasons why the manufacturer believes it will prevail on the merits of each of the issues raised; and

(4) A summary of the evidence which supports the manufacturer's position on each of the issues raised.

(d) A copy of all requests for public hearings will be kept on file in the Office of the Hearing Clerk and will be made available to the public during Agency business hours.

§ 90.713 Administrative procedures for public hearing.

The administrative procedures for a public hearing requested under this subpart shall be those procedures set forth in the regulations found at §§ 90.513 through 90.516. References in § 90.513 to § 90.511(j), § 90.512(c)(2), § 90.511(e), § 90.512, § 90.511(d), § 90.503, § 90.512(c) and § 90.512(b) shall be deemed to mean § 90.711(j), § 90.712(c)(2), § 90.711(e), § 90.712, § 90.711(d), § 90.703, and § 90.712(c) and § 90.712(b), respectively. References to "test orders" in § 90.513 are not applicable.

33. Subpart I is amended by revising the subpart heading to read as follows:

Subpart I—Emission-related Defect Reporting Requirements, Voluntary Emission Recall Program, Ordered Recalls

34. Section 90.801 is amended by designating the existing text as paragraph (a) and adding paragraphs (b), (c), (d), (e), (f) and (g) to read as follows:

§ 90.801 Applicability.

* * * * *

(b) Phase 2 engines subject to provisions of subpart B of this part are subject to recall regulations specified in 40 CFR part 85, subpart S, except as otherwise provided in this section.

(c) Reference to section 214 of the Clean Air Act in 40 CFR 85.1801(a) is deemed to mean section 216 of the Clean Air Act.

(d) Reference to section 202 of the Act in 40 CFR 85.1802(a) is deemed to mean section 213 of the Act.

(e) Reference to "family particulate emission limits" as defined in part 86 promulgated under section 202 of the Act" in 40 CFR 85.1803(a) and 85.1805(a)(1) is deemed to mean "family emission limits" as defined in subpart C of this part 90 promulgated under section 213 of the Act".

(f) Reference to "vehicles or engines" throughout 40 CFR part 85, subpart S is deemed to mean "Phase 2 nonroad small SI engines at or below 19 kW."

(g) In addition to the requirements in 40 CFR 85.1805(a)(9) for Phase 2 engines include a telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

35. Section 90.802 is amended by adding a sentence at the end of the introductory text to read as follows:

§ 90.802 Definitions.

* * * The definitions of 40 CFR 85.1801 also apply to this part.

* * * * *

36. Section 90.803 is amended by revising paragraph (c) to read as follows:

§ 90.803 Emission defect information report.

* * * * *

(c) The manufacturer must submit defect information reports to EPA's Engine Compliance Programs Group not more than 15 working days after an emission-related defect is found to affect 25 or more engines manufactured in the same certificate or model year. Information required by paragraph (d) of this section that is either not available within 15 working days or is significantly revised must be submitted to EPA's Engine Compliance Programs Group as it becomes available.

* * * * *

37. Section 90.805 is amended by revising paragraph (a) to read as follows:

§ 90.805 Reports, voluntary recall plan filing, record retention.

(a) Send the defect report, voluntary recall plan, and the voluntary recall progress report to: Group Manager, Engine Compliance Programs Group, (6403–J), Environmental Protection Agency, Washington, D.C. 20460.

* * * * *

38. A new § 90.808 is added to subpart I read as follows

§ 90.808 Ordered recall provisions.

(a) Effective with respect to Phase 2 small SI engines:

(1) If the Administrator determines that a substantial number of any class or category of engines, although properly maintained and used, do not conform to the regulations prescribed under section 213 of the Act when in actual use throughout their useful life (as defined under § 90.105), the Administrator shall immediately notify the manufacturer of such nonconformity and require the manufacturer to submit a plan for remedying the nonconformity of the engines with respect to which such notification is given.

(i) The manufacturer's plan shall provide that the nonconformity of any such engines which are properly used and maintained will be remedied at the expense of the manufacturer.

(ii) If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing, the Administrator withdraws such determination of nonconformity, the Administrator shall, within 60 days after the completion of

such hearing, order the manufacturer to provide prompt notification of such nonconformity in accordance with paragraph (a)(2) of this section. The manufacturer shall comply in all respects with the requirements of this subpart.

(2) Any notification required to be given by the manufacturer under paragraph (a)(1) of this section with respect to any class or category of engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as required in subparts I and M of this part.

(3)(i) Prior to an EPA ordered recall, the manufacturer may perform a voluntary emissions recall pursuant to regulations at § 90.804. Such manufacturer is subject to the reporting and recordkeeping requirements of § 90.805.

(ii) Once EPA determines that a substantial number of engines fail to conform with the requirements of section 213 of the Act or this part, the manufacturer will not have the option of a voluntary recall.

(b) The manufacturer bears all cost obligation a dealer incurs as a result of a requirement imposed by paragraph (a) of this section. The transfer of any such cost obligation from a manufacturer to a dealer through franchise or other agreement is prohibited.

(c) Any inspection of an engine for purposes of paragraph (a)(1) of this section, after its sale to the ultimate purchaser, is to be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any state or local inspection program.

Subpart J—Exclusion and Exemption of Nonroad Engines From Regulations

39. Section 90.905 is amended by revising paragraph (f) to read as follows:

§ 90.905 Testing exemption.

* * * * *

(f) A manufacturer of new nonroad engines may request a testing exemption to cover nonroad engines intended for use in test programs planned or anticipated over the course of a subsequent one-year period. Unless otherwise required by the Director, Engine Programs and Compliance Division, a manufacturer requesting such an exemption need only furnish the information required by paragraphs (a)(1) and (d)(2) of this section along with a description of the recordkeeping and control procedures that will be employed to assure that the engines are used for purposes consistent with § 90.1004(b).

40. Section 90.906 is amended by revising paragraphs (a) introductory text and (a)(3) introductory text to read as follows:

§ 90.906 Manufacturer-owned exemption and precertification exemption.

(a) Any manufacturer owned nonroad engine, as defined by § 90.902, is exempt from § 90.1003, without application, if the manufacturer complies with the following terms and conditions:

* * * * *

(3) Unless the requirement is waived or an alternative procedure is approved by the Director, Engine Programs and Compliance Division, the manufacturer must permanently affix a label to each nonroad engine on exempt status. This label should:

* * * * *

41. Section 90.909 is amended by revising paragraph (c) to read as follows:

§ 90.909 Export exemptions.

* * * * *

(c) EPA will maintain a list of foreign countries that have in force nonroad emission standards identical to U.S. EPA standards and have so notified EPA. This list may be obtained by writing to the following address: Group Manager, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403–J), Environmental Protection Agency, Washington, D.C. 20460. New nonroad engines exported to such countries must comply with U.S. EPA certification regulations.

* * * * *

42. Section 90.911 is revised to read as follows:

§ 90.911 Submission of exemption requests.

Requests for exemption or further information concerning exemptions and/or the exemption request review procedure should be addressed to: Group Manager, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403J), Environmental Protection Agency, Washington, D.C. 20460.

Subpart K—Prohibited Acts and General Enforcement Provisions

43. Section 90.1003 is amended by revising paragraphs (a)(2), (a)(4)(i), (b)(4), and (b)(5) and by redesignating paragraphs (a)(4)(iii) and (a)(4) (iv) as paragraphs (a)(4) (iv) and (a)(4)(v) respectively, and by adding new paragraphs (a)(4)(iii) and (b)(6) to read as follows:

§ 90.1003 Prohibited acts.

(a) * * *

(2) (i) For a person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under § 90.1004.

(ii) For a person to fail or refuse to permit entry, testing or inspection authorized under §§ 90.126, 90.506, 90.705, 90.1004, or 90.1207.

(iii) For a person to fail or refuse to perform tests or to have tests performed as required under §§ 90.119, 90.504, 90.703. 90.1004, 90.1204.

(iv) For a person to fail to establish or maintain records as required under §§ 90.209, 90.704, 90.805, or 90.1004.

(v) For a person to fail to submit a remedial plan as required under § 90.808.

* * * * *

(4)* * *

(i) To sell, offer for sale, or introduce or deliver into commerce, a nonroad engine unless the manufacturer has complied with the requirements of § 90.1103.

* * * * *

(iii) To fail or refuse to comply with the requirements of § 90.808.

* * * * *

(b)* * *

(4) Certified nonroad engines shall be used in all equipment or vehicles that are self-propelled, portable, transportable, or are intended to be propelled while performing their function, unless the manufacturer of the equipment or vehicle can prove that the vehicle or equipment will be used in a manner consistent with paragraph (2) of the definition of *Nonroad engine* in § 90.3. Nonroad vehicle and equipment manufacturers may continue to use noncertified nonroad engines built prior to the applicable implementation date of the Phase 1 rule until noncertified engine inventories are depleted; further after the applicable implementation of the Phase 2 regulations in this part, nonroad vehicle and equipment manufacturers may continue to use Phase 1 engines until Phase 1 engine inventories are depleted. Stockpiling (i.e., build up of an inventory of uncertified engines or Phase 1 engines beyond normal business practices to avoid or delay compliance with the Phase 1 or Phase 2 regulations in this part, respectively) will be considered a violation of this section.

(5) A new nonroad engine, intended solely to replace an engine in a piece of nonroad equipment that was originally produced with an engine manufactured prior to the applicable implementation date as described in §§ 90.2, 90.103 and 90.106, or with an engine that was

originally produced in a model year in which less stringent standards under this part were in effect, shall not be subject to the requirements of § 90.106 or prohibitions and provisions of paragraphs (a)(1) and (b)(4) of this section provided that:

(i) The engine manufacturer has ascertained that no engine produced by itself or the manufacturer of the engine that is being replaced, if different, and certified to the requirements of this subpart, is available with the appropriate physical or performance characteristics to repower the equipment; and

(ii) The engine manufacturer or its agent takes ownership and possession of the old engine in partial exchange for the replacement engine; and

(iii) The replacement engine is clearly labeled with the following language, or similar alternate language approved in advance by the Administrator: THIS ENGINE DOES NOT COMPLY WITH FEDERAL NONROAD OR ON-HIGHWAY EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE IN A NONROAD VEHICLE OR PIECE OF NONROAD EQUIPMENT WHOSE ORIGINAL ENGINE WAS NOT CERTIFIED, OR WAS CERTIFIED TO LESS STRINGENT EMISSION STANDARDS THAN THOSE THAT APPLY TO THE YEAR OF MANUFACTURE OF THIS ENGINE, IS A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY; and

(iv) Where the replacement engine is intended to replace an engine built after the applicable implementation date of regulations under this part, but built to less stringent emission standards than are currently applicable, the replacement engine shall be identical in all material respects to a certified configuration of the same or later model year as the engine being replaced.

(6)(i) Regulations elsewhere in this part notwithstanding, for three model years after the phase-in of Class I and Class II Phase 2 standards; i.e. through August 1, 2010 for Class I engines and through model year 2008 for Class II engines, small volume equipment manufacturers as defined in this part may continue to use, and engine manufacturers may continue to supply, engines certified to Phase 1 standards (or identified and labeled by their manufacturer to be identical to engines previously certified under Phase 1 standards), provided the equipment manufacturer has demonstrated to the satisfaction of the Administrator that no certified Phase 2 engine is available with suitable physical or performance characteristics to power a piece of equipment in production prior to the initial effective date of Phase 2 standards, as indicated in 90.103(a). The equipment manufacturer must also certify to the Administrator that the equipment model has not undergone any redesign which could have facilitated conversion of the equipment to accommodate a Phase 2 engine.

(ii) Regulations elsewhere in this part notwithstanding, for the duration of the Phase 2 rule in this part, equipment manufacturers who certify to the Administrator that annual eligible production of a particular model of equipment will not exceed 500 for a Class I model in production prior to August 1, 2007 or a Class II model in production prior to the 2001 model year, may continue to use in that model, and engine manufacturers may continue to supply, engines certified to Phase 1 requirements, (or identified and labeled by their manufacturer to be identical to engines previously certified under Phase 1 standards). To be eligible for this provision, the equipment manufacturer must have demonstrated to the satisfaction of the Administrator that no certified Phase 2 engine is available with suitable physical or performance characteristics to power the equipment. The equipment manufacturer must also certify to the Administrator that the equipment model has not undergone any redesign which could have facilitated conversion of the equipment to accommodate a Phase 2 engine.

(iii) An equipment manufacturer which is unable to obtain suitable Phase 2 engines and which can not obtain relief under any other provision of this part, may, prior to the date on which the manufacturer would become in noncompliance with the requirement to use Phase 2 engines, apply to the Administrator to be allowed to continue using Phase 1 engines, through August 1, 2008 for Class 1 engines and through the 2006 model year for Class II engines, subject to the following criteria:

(A) The inability to obtain Phase 2 engines is despite the manufacturer's best efforts and is the result of an extraordinary action on the part of the engine manufacturer that was outside the control of and could not be reasonably foreseen by the equipment manufacturer; such as canceled production or shipment, last minute certification failure, unforeseen engine cancellation, plant closing, work stoppage or other such circumstance; and

(B) the inability to market the particular equipment will bring substantial economic hardship to the equipment manufacturer resulting in a major impact on the equipment manufacturer's solvency.

(iv) The written permission from the Administrator to the equipment manufacturer shall serve as permission for the engine manufacturer to provide such Phase 1 engines required by the equipment manufacturers under this paragraph (b)(6) of this section. As Phase 1 engines, these engines are exempt from Production Line Testing requirements under subpart H of this part and in-use testing provisions under subpart M of this part, and are excluded from the certification averaging, banking and trading program of subpart C of this part.

Subpart L—Emission Warranty and Maintenance Instructions

44. Section 90.1103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 90.1103 Emission warranty, warranty period.

(a) Warranties imposed by this subpart shall be for the first two years of engine use from the date of sale to the ultimate purchaser.

(b) The manufacturer of each new nonroad engine must warrant to the ultimate purchaser and each subsequent purchaser that the engine is designed, built and equipped so as to conform at the time of sale with applicable regulations under section 213 of the Act, and the engine is free from defects in materials and workmanship which cause such engine to fail to conform with applicable regulations for its warranty period.

* * * * *

45. Section 90.1104 is amended by adding paragraph (e) to read as follows:

§ 90.1104 Furnishing of maintenance instructions to ultimate purchaser.

* * * * *

(e) If a manufacturer includes in an advertisement a statement respecting the cost or value of emission control devices or systems, the manufacturer shall set forth in the statement the cost or value attributed to these devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his or her representatives, has the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Act.

46. A new subpart, Subpart M is added to part 90 to read as follows:

Subpart M—Voluntary In-Use Testing

Sec.
90.1201 Applicability.
90.1202 Definitions.
90.1203 Voluntary Manufacturer In-use testing program.
90.1204 Maintenance, aging and testing of engines.
90.1205 In-use test program reporting requirements.
90.1206 Reserved.
90.1207 Entry and access.
90.1208—90.1249 [Reserved]

Subpart M—Voluntary In-Use Testing

§ 90.1201 Applicability.

The provisions of this subpart from § 90.1201 through § 90.1249 are applicable to all nonhandheld Phase 2 engines subject to the provisions of subpart A of this part.

§ 90.1202 Definitions.

For the purposes of this subpart, except as otherwise provided, the definitions in subparts A and C of this part apply to this subpart.

§ 90.1203 Voluntary Manufacturer In-Use Testing Program.

(a) Manufacturers may elect to participate in the voluntary in-use testing program by notifying the Administrator in writing of their intent to conduct emissions testing on in-use engines prior to the beginning of each model year. The notification must include a list of engine families the manufacturer has selected to include in the testing program.

(b) Each engine family included in the voluntary in-use testing program is exempted from the Production Line Testing requirements according to § 90.701(c) for two model years, the current model year and the subsequent model year. Manufacturers may only include up to twenty percent of their eligible engine families in this in-use testing program each model year.

(c) The manufacturer must randomly select or procure a minimum of three engines, from each family included in the voluntary program, for emissions testing. These three engines may be selected or procured from:

(1) Existing consumer or independently owned fleets,

(2) Existing manufacturer owned fleets, or

(3) The production line and placed into either manufacturer or consumer owned fleets. Although a minimum of three engines must be emissions tested from each engine family in this testing program, a manufacturer may elect to emissions test more than three engines per family.

(d) The manufacturer or the manufacturer's designee must:

(1) Age the selected engines in equipment representing the top 50 percent, by production, of available equipment for the engine family.

(2) Age the selected engines to at least 75 percent of each engines' useful life as determined pursuant to § 90.105.

(3) Age the engine/equipment combination in actual field conditions encountered with typical use of the equipment as described in the owner's manual or other literature sold with the equipment or engine.

(e) Documents obtained in the procurement or aging process must be maintained as required in § 90.121.

(f) The manufacturer must complete testing within three calendar years from the time they notified the Administrator of their intent to participate in the voluntary in-use testing program, unless otherwise approved by the Administrator; the Administrator will give such approval upon acceptance of documentation demonstrating that appropriate in-use testing will take a longer period of time.

§ 90.1204 Maintenance, aging and testing of engines.

(a) Prior to aging the engines and after appropriate stabilization, manufacturers may optionally conduct emissions testing on the engines, according to the test procedures described in subpart E of this part. These tests to serve as baseline references.

(b) Manufacturers must obtain information regarding the accumulated usage, maintenance, operating conditions, and storage of the test engines.

(1) The manufacturer may take reasonable measures to assure that the engines and equipment were properly used and maintained during the field aging process, but additional maintenance to that indicated in the owners manual or other literature sold with the equipment or engine is prohibited.

(2) Unless otherwise approved by the Administrator, once a manufacturer begins aging and/or testing an engine, the manufacturer may not remove that engine from the selected sample unless that engine experiences catastrophic mechanical failure or safety concerns requiring major engine repair.

(c) The manufacturer may perform minimal set-to-spec maintenance on components of a test engine that are not subject to parameter adjustment. Components subject to parameter adjustment must be sealed and tamperproof and may not be adjusted for testing. Unless otherwise approved by the Administrator, maintenance to any test engine may include only that which is listed in the owner's instructions for engines with the amount of service and age of the test engine.

(d) After aging each engine to at least 75 percent of the engine's useful life as determined pursuant to § 90.105, at least one valid emission test, according to the test procedure outlined in subpart E of this part, is required for each test engine. Data from other emission testing or performance testing performed on a test engine must be supplied to EPA, and may not be used for the purpose of determining the need for maintenance on an engine.

(e) Documents obtained in the procurement, aging, maintenance, or testing process must be maintained as required in § 90.121.

§ 90.1205 In-use test program reporting requirements.

(a) The manufacturer shall submit to the Administrator within ninety (90) days of completion of testing for a given model year's engines, all emission testing results generated from the voluntary in-use testing program. The following information must be reported for each test engine:

(1) Engine family;
(2) Model;
(3) Application;
(4) Engine serial number;
(5) Date of manufacture;
(6) Hours of use;
(7) Date and time of each test attempt;
(8) Results (if any) of each test attempt;
(9) Schedules, descriptions and justifications of all maintenance and/or adjustments performed;
(10) Schedules, descriptions and justifications of all modifications and/or repairs; and
(11) A listing of any test engines that were deleted from the aging process or testing process and technical justifications to support the deletion.

(b) All testing reports and requests for approvals made under this subpart shall be addressed to: Manager, Engine Compliance Programs Group (6403–J), U.S. Environmental Protection Agency, Washington, D.C. 20460.

§ 90.1206 [Reserved]

§ 90.1207 Entry and access.

(a) To allow the Administrator to determine whether a manufacturer is complying with the provisions under this subpart, EPA enforcement officers or their authorized representatives, upon presentation of credentials, shall be permitted entry, during operating hours, into any of the following places:

(1) Any facility where engines undergo or are undergoing aging, maintenance, repair, preparation for aging, selection for aging or emission testing.

(2) Any facility where records or documents related to any of activities described in paragraph (a)(1) of this section are kept.

(3) Any facility where any engine that is being tested or aged, was tested or aged or will be tested or aged is present.

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA enforcement officers or EPA authorized representatives are authorized to perform those activities set forth in § 90.705 (b) and also to inspect and make copies of records related to engine aging (service accumulation) and maintenance.

(c) The provisions of § 90.705(c), (d), (e), (f) and (g) also apply to entry and access under this subpart.

§§ 90.1208—90.1249 [Reserved]

[FR Doc. 99–6175 Filed 3–29–99; 8:45 am]

BILLING CODE 6560–50–P

VOL
64
ISS
60
MR
30
999
UMI

federal register

Tuesday
March 30, 1999

Part III

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Request for Proposals (RFP): Special Research Grants Program, Potato Research; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Request for Proposals (RFP): Special Research Grants Program, Potato Research

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of Request for Proposals and Request for Input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds and requests proposals for the Special Research Grants Program, Potato Research for fiscal year (FY) 1999. Subject to the availability of funds, the anticipated amount available for support of this program in FY 1999 is $1,216,279.

This notice sets out the objectives for these projects, the eligibility criteria for projects and applicants, the application procedures, and the set of instructions needed to apply for a Potato Research Project grant.

By this notice, the Cooperative State Research, Education, and Extension Service additionally solicits stakeholder input from any interested party regarding the FY 1999 request for proposals for the Special Research Grants Program, Potato Research, for use in the development of the next request for proposals for this program.

DATES: Applications must be received on or before May 14, 1999. Proposals received after May 14, 1999, will not be considered for funding.

ADDRESSES: Written comments regarding stakeholder input should be submitted by first-class mail to: Policy and Program Liaison Staff; Office of Extramural Programs; Competitive Research Grants and Awards Management; USDA–CSREES; STOP 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2299; or via e-mail to: RFP–OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year request for proposals to which you are responding.

FOR FURTHER INFORMATION CONTACT: Dr. James Parochetti; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2220; telephone: (202) 401–4354; Internet: jparochetti@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Part I—General Information
A. Legislative Authority
B. Definitions
C. Eligibility

Part II—Program Description
A. Purpose of the Program
B. Available Funds and Award Limitations
C. Applicant Peer Review Requirements

Part III—Content of a Proposal
A. Application for Funding (Form CSREES–661)
B. Table of Contents
C. Objectives
D. Progress Report
E. Procedures
F. Justification
G. Cooperation and Institutional Units Involved
H. Literature Review
I. Current Work
J. Facilities and Equipment
K. Project Timetable
L. Personnel Support
M. Collaborative and/or Subcontractual Arrangements
N. Budget (Form CSREES–55)
O. Current and Pending Support (Form CSREES–663)
P. Assurance Statement(s) (Form CSREES–662)
Q. Certifications
R. Compliance with the National Environmental Policy Act
S. Additions to Project Description

Part IV—How to Obtain Application Materials

Part V—Submission of a Proposal
A. What to Submit
B. Where and When to Submit
C. Acknowledgment of Proposals

Part VI—CSREES Selection Process and Evaluation Criteria
A. Selection Process
B. Evaluation Criteria

Part VII—Supplementary Information
A. Access to CSREES Peer Review Information
B. Grant Awards
C. Use of Funds; Changes
D. Other Federal Statutes and Regulations that Apply
E. Confidential Aspects of Proposals and Awards
F. Regulatory Information
G. Stakeholder Input

Part I—General Information

A. Legislative Authority

The authority for this program is contained in section (c)(1)(B) of the Competitive, Special, and Facilities Research Grant Act, in section 2 of Pub. L. No. 89–106, as amended (7 U.S.C. 450i(c)(1)(B)). The administrative regulations at 7 CFR part 3400 for Special Grants Programs awarded under the authority of section 2(c)(1)(A) of this Act (7 U.S.C. 450i(c)(1)(A)) do not apply to grants solicited and awarded under this RFP.

In accordance with the statutory authority, grants awarded under this program will be for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research programs that—(i) promote excellence in research on a regional and national level; (ii) promote the development of regional research centers; (iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and (iv) facilitate coordination and cooperation of research among States through regional research grants.

B. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) Administrator means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved may be delegated.

(2) Authorized departmental officer means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) Authorized organizational representative means the president, chief executive officer or functional equivalent of the applicant organization or the official, designated by the president, chief executive officer or functional equivalent of the applicant organization, who has the authority to commit the resources of the organization.

(4) Budget period means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) Department or USDA means the United States Department of Agriculture.

(6) Grantee means the entity designated in the grant award document as the responsible legal entity to which a grant is awarded.

(7) Peer review panel means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice on the scientific and technical merit of grant applications in those fields.

(8) Principal Investigator/Project Director means the single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the

direction and management of the project. Note that a proposal may have multiple secondary co-principal investigators/project directors but only one principal investigator/project director.

(9) Prior approval means written approval evidencing prior consent by an authorized departmental officer as defined in (2) above.

(10) Project means the particular activity within the scope of the program supported by a grant award.

(11) Project period means the total length of time that is approved by the Administrator for conducting the research project, as stated in the award document and modifications thereto, if any, during which Federal sponsorship begins and ends.

(12) Scientific peer review means an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work.

(13) Secretary means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved may be delegated.

C. Eligibility

Proposals may be submitted by State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962, as amended (16 U.S.C. 582a *et seq.*), and accredited schools or colleges of veterinary medicine. The proposals must be directly related to potato varietal development/testing. Although an applicant may be eligible based on its status as one of these entities, other factors may exclude an applicant from receiving Federal assistance under this program (e.g., debarment or suspension, a determination of non-responsibility based on submitted organizational management information).

Part II—Program Description

A. Purpose of the Program

Proposals are invited for competitive grant awards under the Special Research Grants Program, Potato Research for FY 1999. The purpose of this grant program is to support potato research that focuses on varietal development/testing. As used herein, varietal development/testing is research using traditional and biotechnological genetics to develop improved potato variety(ies). Aspects of evaluation, screening and testing must support or complement the development of improved varieties. This program is administered by CSREES of USDA.

B. Available Funds and Award Limitations

Funds will be awarded on a competitive basis to support regional research projects that are composed of potato research that focuses on varietal development/testing. For purposes of this program, regional research means research having application beyond the immediate State in which the awardee resides and performs the project. The total amount of funds available in FY 1999 for support of this program is approximately $1,216,279. Each proposal submitted in FY 1999 shall request funding for a period not to exceed one year. Funding for additional years will depend upon the availability of funds and progress toward objectives. FY 1999 awardees would need to recompete in future years for additional funding.

Under this program, and subject to the availability of funds, the Secretary may make grant awards for the support of research projects available for up to three years to further the program.

C. Applicant Peer Review Requirements

Subsection (c)(5) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. § 450i(c)), as amended by section 212 of the Agricultural Research, Extension, and Education Reform Act of 1998 ("1998 Act"), Pub. L. No. 105–185, requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement currently are the subject of a proposed rule making (64 FR 14347, March 24, 1999). The statute requires promulgation of a final rule prior to award of a grant under this program. The proposed rule would impose the following requirements for scientific peer review by applicants of proposed research projects:

1. *Credible and independent.* Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

2. *Notice of completion and retention of records.* A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. *Renewal and supplemental grants.* Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

4. *Scientific Peer Review.* Scientific peer review is an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be selected from an applicant organization or from outside the organization, but shall not include principal or co-principal investigators, collaborators or others involved in the preparation of the application under review.

Because of the nature of the rule making process, these requirements are subject to change based upon the comments received. Applicants whose proposals are recommended for funding must comply with the review requirements as promulgated in the final rule as a condition precedent to receiving an award under this RFP.

Part III—Content of a Proposal

All applications should be typed on 8 1/2" x 11" white paper, single-spaced, and on one side of the page only. It would be helpful if the name of the submitting institution were typed at the top of each page for easy identification in the event the proposal becomes disassembled while being reviewed. All proposals must contain the following forms and narrative information to assist CSREES personnel during the review and award processes:

A. Application for Funding (Form CSREES–661)

Each copy of each grant proposal must contain an Application for Funding, (Form CSREES–661). One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing principal investigator(s)/project director(s) and the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed principal investigator or co-principal investigator whose signature does not appear on Form CSREES–661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the Application for Funding form.

Form CSREES–661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations:

1. *Title of Project (Block 6).* The title of the project must be brief (80-character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as "investigation of" or "research on" should not be used.

2. *Program to Which You Are Applying (Block 7).* "Special Research Grants Program, Potato Research" should be inserted in this block. You may ignore the reference to a **Federal Register** announcement.

3. *Program Area and Number (Block 8).* The name of the program area, "Potato Research," should be inserted in this block. You should ignore references to the program number and the **Federal Register** announcement.

4. *Type of Award Request (Block 13).* If the project being proposed is a renewal of a grant that has been supported under the same program at any time during the previous five fiscal years, it is important that you show the latest grant number assigned to the project by CSREES.

5. *Principal Investigator(s) (Block 15).* The designation of excessive numbers of co-principal investigators creates problems during final review and award processes. Listing multiple co-principal investigators, beyond those required for genuine collaboration, is therefore discouraged.

6. *Type of Performing Organization (Block 18).* A check should be placed in the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 Land-Grant institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box "03" should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD #1 in Block 15.a.

7. *Other Possible Sponsors (Block 22).* List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES program manager as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided.

B. Table of Contents

For consistency and ease of locating information, each proposal submitted should contain a Table of Contents.

C. Objectives

Clear, concise, complete, and logically arranged statement(s) of the specific aims of the proposed effort must be included in all proposals. For renewal applications, a restatement of the objectives outlined in the active grant also should be provided.

D. Progress Report

If the proposal is a renewal of an existing project supported under the same program, include a clearly identified summary progress report describing the results to date. The progress report should contain the following information:

1. A comparison of actual accomplishments with the goals established for the active grant;
2. The reasons for slippage if established goals were not met;
3. Other pertinent information, including, when appropriate, cost analysis and explanation of cost overruns or unexpectedly high unit costs.

E. Procedures

The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

1. A description of the proposed investigations and/or experiments in the sequence in which it is planned to carry them out;
2. Techniques to be employed, including their feasibility;
3. Kinds of results expected;
4. Means by which data will be analyzed or interpreted;
5. Pitfalls which might be encountered; and
6. Limitations to proposed procedures.

F. Justification

This section should include in-depth information on the following, when applicable:

1. Estimates of the magnitude of the problem and its relevance to ongoing State-Federal food and agricultural research programs;
2. Importance of starting the work during the current fiscal year; and
3. Reasons for having the work performed by the proposing institution.

G. Cooperation and Institutional Units Involved

Cooperative and multi-state applications are encouraged. Identify each institutional unit contributing to the project. Identify each State in a multiple-state proposal and designate the lead State. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional unit of the project team, if applicable.

H. Literature Review

A summary of pertinent publications with emphasis on their relationship to the effort being proposed should be provided and should include all important and recent publications from other institutions, as well as those from the applicant institution. The citations themselves should be accurate, complete, and written in an acceptable journal format.

I. Current Work

Current unpublished institutional activities to date in the program area under which the proposal is being submitted should be described.

J. Facilities and Equipment

All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. Any potentially hazardous materials, procedures, situations, or activities, whether or not directly related to a particular phase of the effort, must be explained fully, along with an outline of

precautions to be exercised. Examples include work with toxic chemicals and experiments that may put human subjects or animals at risk.

All items of major instrumentation available for use or assignment to the proposed project also should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

K. Project Timetable

The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

L. Personnel Support

All senior personnel who are expected to be involved in the effort must be clearly identified. For each person, the following should be included:

1. An estimate of the time commitment involved;

2. Vitae of the principal investigator(s), senior associate(s), and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings; and

3. A chronological listing of the most representative publications during the past five years. This listing must be provided for each professional project member for whom a vita appears. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

M. Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with other individuals or organizations, such arrangements should be fully explained and justified. For purposes of proposal development, informal day-to-day contacts between key project personnel and outside experts are not considered to be collaborative arrangements and thus do not need to be detailed.

All anticipated subcontractual arrangements should be explained and justified in this section. A proposed statement of work, a curriculum vitae and a budget for each arrangement involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (e.g., requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR Part 3019—USDA Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR Part 3015.205, USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from 7 CFR Part 3019 Sections 40–48 (Procurement Standards) and Appendix A (Contract Provisions) should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension. This latter requirement is explained further under subsection Q of these guidelines.

N. Budget (Form CSREES–55)

Each proposal must contain a detailed budget (Form CSREES–55) for up to 12 months of support. Funds may be requested under any of the categories listed on the budget form, provided that the item or service for which support is sought is allowable under the enabling legislation and the applicable Federal cost principles and can be identified as necessary and reasonable for the successful conduct of the project.

The following guidelines should be used in developing your proposal budget:

1. *Salaries and Wages.* Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment. Salary funds requested must be consistent with the normal policies of the institution and with OMB Circular No. A–21, Cost Principles for Educational Institutions. Administrative and Clerical salaries are normally classified as indirect costs. (See Item 9. below.) However, if requested under A.2.e., they must be fully justified.

Note: In accordance with Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, tuition remission is not an allowable cost under Section 2(c)(1)(B) projects, and no funds will be approved for this purpose.

2. *Fringe Benefits.* Funds may be requested for fringe benefit costs if the usual accounting practices of your institution provide that institutional contributions to employee benefits (social security, retirement, etc.) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project. See OMB Circular No. A–21, Cost Principles for Educational Institutions, for further guidance in this area.

3. *Nonexpendable Equipment.* Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

Note: For projects awarded under the authority of Sec. 2(c)(1)(B) of Pub. L. No. 89–106, no funds will be awarded for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

4. *Materials and Supplies.* The types of expendable materials and supplies which are required to carry out the project should be indicated in general terms with estimated costs.

5. *Travel.* The type and extent of travel and its relationship to project objectives should be specified. Funds may be requested for field work or for travel to professional meetings. In the budget narrative, for both domestic and foreign travel, provide the purpose, the destination, method of travel, number of persons traveling, number of days, and estimated cost for each trip. If details of each trip are not known at the time of proposal submission, provide the basis for determining the amount requested.

Travel and subsistence should be in accordance with organizational policy. Irrespective of the organizational policy, allowances for airfare will not normally exceed round trip jet economy air accommodations. Please note that 7 CFR Part 3015.205 is applicable to air travel.

6. *Publication Costs/Page Charges.* Anticipated costs of preparing and publishing results of the research being proposed (including page charges, necessary illustrations, and the cost of a reasonable number of coverless reprints) may be estimated and charged against the grant.

7. *Computer (ADPE) Costs.* Reimbursement for the costs of using specialized facilities (such as a university- or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

8. *All Other Direct Costs.* Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified on a separate sheet of paper attached to Form CSREES–55. This applies to revised budgets as well, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, charges for consulting services, telephone, facsimile, e-mail, shipping costs, and fees for necessary laboratory analyses. You are encouraged to consult the "Instructions for Completing Form CSREES–55, Budget," of the Application Kit for detailed guidance relating to this budget category.

9. *Indirect Costs.* Pursuant to Section 1473 of the National Agriculture Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, indirect costs are not allowable costs under Section 2(c)(1)(B) projects, and no funds will be approved for this purpose. Further, costs that are a part of an institution's indirect cost pool (e.g., administrative or clerical salaries) may not be reclassified as direct costs for the purpose of making them allowable.

10. *Cost-sharing.* Cost-sharing is encouraged; however, cost-sharing is not required nor will it be a direct factor in the awarding of any grant.

O. Current and Pending Support (Form CSREES–663)

All proposals must contain Form CSREES–663 listing this proposal and any other current or pending support to which key project personnel have committed or are expected to commit portions of their time, whether or not salary support for the person(s) involved is included in the budget. This proposal should be identified in the pending section of this form.

P. Assurance Statement(s) (Form CSREES–662)

A number of situations encountered in the conduct of projects require special assurance, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will include the following:

1. *Recombinant DNA or RNA Research.* As stated in 7 CFR Part 3015.205(b)(3), all key personnel identified in the proposal and all signatory officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised. If your project proposes to use recombinant DNA or RNA techniques, the application must so indicate by checking the "yes" box in Block 19 of Form CSREES–661 (Application for Funding) and by completing Section A of Form CSREES–662 (Assurance Statement(s)). For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released.

2. *Animal Care.* Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel and all signatory officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1996, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary in 9 CFR Parts 1, 2, 3 and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals or activities, you must check the "yes" box in Block 20 of Form CSREES–661 and complete Section B of Form CSREES–662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

3. *Protection of Human Subjects.* Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. No. 93–348, as amended, and implementing regulations established by the Department under 7 CFR Part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the "yes" box in Block 21 of Form CSREES–661 and complete Section C of Form CSREES–662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

Q. Certifications

Note that by signing the Application for Funding form the applicant is providing the required certifications set forth in 7 CFR Part 3017, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR Part 3018, regarding Lobbying. The certification forms are included in this application package for informational purposes only. These forms should not be submitted with your proposal since by signing the Form CSREES–661 your organization is providing the required certifications.

If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

R. Compliance With the National Environmental Policy Act

As outlined in 7 CFR Part 3407 (CSREES's implementing regulations of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*)), environmental data or documentation for the proposed project is to be provided to CSREES in order to assist CSREES in carrying out its responsibilities under NEPA, which includes determining whether the project requires an Environmental Assessment or an Environmental Impact Statement or whether it can be excluded from this requirement on the basis of several categorical exclusions. To assist CSREES in this determination, the applicant should review the categories defined for exclusion to ascertain whether the proposed project may fall within one of the exclusions.

Form CSREES–1234, NEPA Exclusions Form (copy in Application Kit), indicating the applicant's opinion of whether or not the project falls within one or more categorical exclusions, along with supporting documentation, must be included in the proposal. The information submitted in association with NEPA compliance should be

identified in the Table of Contents as "NEPA Considerations" and Form CSREES–1234 and supporting documentation should be placed after the Form CSREES–661, Application for Funding, in the proposal.

The following Categorical Exclusions apply:

(1) USDA Categorical Exclusions (7 CFR 1b.3)

(i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions;

(ii) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(iii) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(iv) Educational and informational programs and activities;

(v) Civil and criminal law enforcement and investigative activities;

(vi) Activities which are advisory and consultative to other agencies and public and private entities; and

(vii) Activities related to trade representation and market development activities abroad.

(2) CSREES Categorical Exclusions (7 CFR 3407.6(a)(2))

Based on previous experience, the following categories of CSREES actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment:

(A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts;

(B) Surveys, inventories, and similar studies that have limited context and minimal intensity in terms of changes in the environment; and

(C) Testing outside of the laboratory, such as in small isolated field plots, which involves the routine use of familiar chemicals or biological materials.

(ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity.

Even though the applicant considers that a proposed project may fall within a categorical exclusion, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for a proposed project if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

S. Additions to Project Description

Each project description is expected to be complete in itself. However, in those instances in which the inclusion of additional information is necessary, the number of copies submitted should match the number of copies of the application requested in Part V(A) below. Each set of such materials must be identified with the title of the project and the name(s) of the principal investigator(s)/project director(s) as they appear on the "Application for Funding." Examples of additional materials include photographs that do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the body of the proposal.

Part IV—How To Obtain Application Materials

Copies of this solicitation and the Application Kit may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Unit, Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Ave., S.W.; Washington D.C. 20250–2245; Telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the Special Research Grants Program, Potato Research.

These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov which states that you want a copy of the application materials for the FY 1999 Special Research Grants Program, Potato Research. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Part V—Submission of a Proposal

A. What To Submit

An original and three copies of each grant proposal must be submitted. Proposals should contain all requested information when submitted. Each proposal should be typed on 8½″ x 11″ white paper, single-spaced, and on one side of the page only. Please note that the text of the proposal should be prepared using no type smaller than 12 point font size and one-inch margins. Staple each copy of the proposal in the upper left-hand corner. Please do not bind copies of the proposal.

B. Where and When To Submit

Proposals must be received on or before May 14, 1999, and submitted to the following mailing address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Ave., SW.; Washington, DC 20250–2245; Telephone: (202) 401–5048.

Note: Hand-delivered proposals or those delivered by overnight express service should be brought to the following address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit, Office of Extramural Programs; CSREES/USDA; Room 303, Aerospace Center; 901 D Street, SW.; Washington, DC 20024. The telephone number is (202) 401–5048.

C. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged in writing and this acknowledgment will contain a proposal identification number. Once your proposal has been assigned an identification number, please cite that number in future correspondence.

Part VI—CSREES Selection Process and Evaluation Criteria

A. Selection Process

Applicants should submit fully developed proposals that meet all the requirements set forth in this request for proposals.

Each proposal will be evaluated in a two-part process. First, each proposal will be screened to ensure that it meets the requirements as set forth in this request for proposals. Second, proposals that meet these requirements will be technically evaluated by a scientific peer review panel.

The individual panel members will be selected from among those persons recognized as specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of the proposals being reviewed. The individual views of the panel members will be used to determine which proposals should be recommended to the Administrator (or his designee) for final funding decisions.

There is no commitment by CSREES to fund any particular proposal or to make a specific number of awards. Care

will be taken to avoid actual and potential conflicts of interest among reviewers. Evaluations will be confidential to CSREES staff members, peer reviewers, and the proposed principal investigator(s), to the extent permitted by law.

B. Evaluation Criteria

1. Overall scientific and technical quality of the proposal—10 points.

2. Scientific and technical quality of the approach—10 points.

3. Relevance and importance of proposed research to solution of specific areas of inquiry, and application of expected results for States beyond the State in which the grantee resides and will perform the work—30 points.

4. Feasibility of attaining objectives; adequacy of professional training and experience, facilities and equipment; the cooperation and involvement of multiple institutions or states—50 points.

Part VII—Supplementary Information

A. Access to CSREES Scientific Peer Review Information

After final decisions have been announced, CSREES will, upon request, inform the principal investigator of the reasons for its decision on a proposal.

B. Grant Awards

1. General: Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program area and procedures set forth in this request for proposals. The date specified by the Administrator as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practicable so that project goals may be attained within the funded project period. All funds granted by CSREES under this request for proposals shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (Parts 3015, and 3019, of 7 CFR).

2. Organizational Management Information: Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant if such information has not been provided previously under this or another program for which the sponsoring agency, CSREES, is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by CSREES as part of the pre-award process.

3. Grant Award Document: The grant award document shall include at a minimum the following:

a. Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under this program;

b. Title of Project;

c. Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

d. Grant identification number assigned by the Department;

e. Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

f. Total amount of Departmental financial assistance approved by the Administrator during the project period;

g. Legal authority(ies) under which the grant is awarded;

h. Approved budget plan for categorizing project funds to accomplish the stated purpose of the grant award; and

i. Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

4. Notice of Grant Award: The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

5. CSREES will award standard grants to carry out this program. A standard grant is a funding mechanism whereby CSREES agrees to support a specified level of effort for a predetermined time period without any guarantee of additional support at a future date.

C. Use of Funds; Changes

Unless otherwise stipulated in the terms and conditions of the grant award, the following provisions apply:

1. Delegation of Fiscal Responsibility: The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

2. Changes in Project Plans:

a. The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer for a final determination.

b. Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Authorized Departmental Officer prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

c. Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

d. Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Authorized Departmental Officer prior to effecting such transfers.

e. Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the Authorized Departmental Officer determines may be necessary to complete or fulfill the purposes of an approved project. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the Authorized Departmental Officer, unless prescribed otherwise in the terms and conditions of a grant.

f. Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the authorized departmental officer prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal costs principles, Departmental regulations, or in the grant award document.

D. Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include but are not limited to:

7 CFR 1.1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3, implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of New Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052, 62 FR 45947—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Nonprofit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794, section 504 of the Rehabilitation Act of 1973, and 7 CFR Part 15B (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of CSREES's transactions, available to the public upon specific request. Information that the Secretary determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal.

The original copy of a proposal that does not result in a grant will be retained by CSREES for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

G. Stakeholder Input

CSREES is soliciting comments regarding this request for proposals from any interested party. These comments will be considered in the development of the next request for proposals for the program as needed. Such comments will be forwarded to the Secretary or his designee for use in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185). This section requires the Secretary to solicit and consider input on a current request for proposals from persons who conduct or use agricultural research, education, or extension for use in formulating the next year's request for proposals for an agricultural research program funded on a competitive basis.

In your comments, please include the name of the program and the fiscal year request for proposals to which you are responding. Comments are requested within six months from the issuance of the request for proposals. Comments received after that date will be considered to the extent practicable.

Done at Washington, D.C., this 19th day of March, 1999.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 99–7686 Filed 3–29–99; 8:45 am]

BILLING CODE 3410–22–P

UMI

VOL
64
ISS
60
MR
30
999
UMI

federal register

Tuesday
March 30, 1999

Part IV

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues for Fiscal Year 1999; Request for Proposals; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues for Fiscal Year 1999; Request for Proposals

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of availability of grant funds, request for proposals and request for input.

SUMMARY: Proposals are invited for competitive grant awards under the Special Research Grants Program titled "Pest Management Alternatives Program: Addressing Food Quality Protection Act Issues for Fiscal Year 1999." This program addresses anticipated changes in pest management on food, feed, livestock, and ornamental commodities resulting from implementation of the Food Quality Protection Act of 1996 (FQPA).

The goals of this program are to: (1) Develop and demonstrate alternatives and possible mitigation strategies to ensure that crop producers have reliable methods of managing pests; and (2) Develop crop profiles that summarize production practices, pesticide use/usage data, and available pest management alternatives for pesticides considered a high priority for tolerance reassessment under FQPA.

By this notice, the Cooperative State Research, Education, and Extension Service (CSREES) additionally solicits stakeholder input from any interested party regarding the FY 1999 solicitation of applications for use in the development of the next request for proposals for this program.

DATES: Proposals are due June 1, 1999.

ADDRESSES: Written comments regarding stakeholder input should be submitted by first-class mail to: Policy and Program Liaison Staff; Office of Extramural Programs; Competitive Research Grants and Awards Management; USDA–CSREES; STOP 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2299; or via e-mail to: RFP–OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year request for proposals to which you are responding.

FOR FURTHER INFORMATION CONTACT: Steve Yaninek, Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail Stop 2220; 1400 Independence Avenue, SW; Washington, D.C. 20250–2220. Telephone: (202) 401–6702; fax number: (202) 401-6869; e-mail address: syaninek@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Authority and Eligibility
Applicant Peer Review Requirements
Available Funding
Applicable Regulations
Program Description
Proposal Format
Compliance with the National Environmental Policy Act
CSREES Proposal Evaluation
Confidentiality
How to Obtain Application Materials
Proposal Submission
Stakeholder Input
Additional Information
Appendix I
Appendix II
Appendix III

Authority and Eligibility

This program is administered by CSREES, United States Department of Agriculture (USDA). The authority is contained in section (c)(1)(A) of the Competitive, Special, and Facilities Research Grant Act, in section 2 of Pub. L. No. 89–106, as amended (7 U.S.C. 450i(c)(1)(A)). Under this authority, subject to the availability of funds, the Secretary may make grants, for periods not to exceed three years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States.

Proposals from scientists affiliated with non-United States organizations are not eligible for funding nor are scientists who are directly or indirectly engaged in the development of pest management tactics for profit; however, their collaboration with funded projects is encouraged.

The Pest Management Alternatives Program was established to support the development and implementation of pest management alternatives when regulatory action by the Environmental Protection Agency (EPA) or voluntary cancellation by the registrant results in the unavailability of certain agricultural pesticides or pesticide uses. These activities pertain to pesticides identified for possible regulatory action under section 210 of the FQPA, Pub. L. No. 104–170, which amends the Federal Insecticide, Fungicide, and Rodenticide Act. The program has been developed pursuant to the Memorandum of Understanding (MOU) between USDA and EPA signed August 15, 1994, and amended April 18, 1996, which establishes a coordinated framework for these two agencies to support programs that make alternative pest management materials available to agricultural producers. In this MOU, USDA and EPA agreed to cooperate in conducting the research, technology transfer, and registration activities necessary to address pest management alternatives needed in agriculture. Because of the importance of FQPA, USDA created the Office of Pest Management Policy (OPMP) in 1997 to coordinate FQPA activities within the Department. OPMP found significant gaps in the information available on pesticide use/usage and requested help in developing crop profiles. This program responded in 1998 by linking up with the National Agricultural Pesticide Impact Assessment Program (NAPIAP) to help develop urgently needed crop profiles while continuing the development of critical mitigation strategies. This effort continues in 1999, but will be phased out in the future as the urgency declines and NAPIAP assumes primary responsibility for the profiles.

Applicant Peer Review Requirements

Subsection (c)(5) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. § 450i(c)), as amended by section 212 of the Agricultural Research, Extension, and Education Reform Act of 1998 ("1998 Act"), Pub. L. No. 105–185, requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement currently are the subject of a proposed rule making (64 FR 14347, March 24, 1999). The statute requires promulgation of a final rule prior to award of a grant under this program. The proposed rule would impose the following requirements for scientific peer review by applicants of proposed research projects:

1. *Credible and independent.* Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA

employees, but should not be conducted solely by USDA employees.

2. *Notice of completion and retention of records.* A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. *Renewal and supplemental grants.* Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

4. *Scientific Peer Review.* Scientific peer review is an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be selected from an applicant organization or from outside the organization, but shall not include principal or co-principal investigators, collaborators or others involved in the preparation of the application under review.

Because of the nature of the rule making process, these requirements are subject to change based upon the comments received. Applicants whose proposals are recommended for funding must comply with the review requirements as promulgated in the final rule as a condition precedent to receiving an award under this RFP.

Available Funding

The amount available for support of this program in fiscal year (FY) 1999 is approximately $1,500,000. It is anticipated that EPA will also provide support to the program. Section 711 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 1999, section 101(a) of Pub. L. No. 105–277, prohibits CSREES from paying indirect costs on competitively awarded research grants that exceed 14 percent of total Federal funds provided for each award under this program.

Applicable Regulations

This program is subject to the administrative provisions for the Special Research Grants Program found in 7 CFR Part 3400, which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, the processes regarding the awarding of grants, and regulations relating to the post-award administration of such grants. However, where there are differences between this RFP and the administrative provisions, this RFP shall take precedence to the extent that the administrative provisions authorize such deviations. Other Federal statutes and regulations apply to grant proposals considered for review or to grants awarded under this program. These include, but are not limited to:

7 CFR Part 3019—USDA Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and 7 CFR Part 3052—Audits of States, Local Governments, and Non-Profit Organizations.

Program Description

This competitive grants program supports efforts to modify existing pest management approaches or develop new methods that address needs created by the implementation of FQPA. The program also addresses the need for collection of information for regulatory decision making and for prioritization of research and education needs. This information includes crop profiles, pesticide use and usage on commodities (including livestock and ornamentals), potential alternatives for pesticides on EPA's priority list (see Appendix I), integrated pest management programs, pesticide resistance management strategies, and potential mitigation strategies for reducing dietary risk.

In FY 1999, CSREES will provide funding for projects that: (1) Identify and develop replacement or mitigation technologies for pesticides included on EPA's priority list (Appendix I) and/or (2) Develop crop profiles summarizing practices for specific commodities (including livestock and ornamentals) (see Appendix II). Proposals may develop replacement or mitigation technologies (Objective 1), develop crop profiles (Objective 2), or develop both replacement or mitigation technologies and crop profiles. Applicants that address only replacement or mitigation technologies are not restricted to the crops listed in Appendix II, but must document that a crop profile has been or is being developed, or provide compelling evidence otherwise as to the importance of their proposed research.

Proposals will show evidence that producers, commodity groups, and other affected user groups are involved in project design and will be supportive of the project if funded. Public-private partnerships and matching resources from non-Federal sources, including producer or commodity groups, are encouraged. Proposals should show potential for commercialization (including product registration if necessary) of any new technologies that are developed. Applicants are strongly encouraged to collaborate with staff involved in university Pesticide Impact Assessment Programs (PIAP) and Integrated Pest Management programs to develop crop profiles. The two objectives are described below.

I. Replacement or Mitigation Technologies

The focus should be on modification of existing approaches or introduction of new methods, especially biologically based methods, that can be rapidly brought to bear on pest management challenges resulting from implementation of FQPA. Durability and practicality of the proposed pest management option(s) or mitigation procedure(s), and compatibility with integrated pest management systems, are critical. Both technological and economic feasibility should be considered. Pest management alternatives or risk mitigation options identified should address various risk concerns including dietary, occupational and non-occupational exposure, ground and surface water, and other ecological risks. Applicants must document that a crop profile has been or is being developed for the crop targeted in the proposal, or provide compelling evidence otherwise as to the importance of their proposed research.

II. Crop Profiles

Profiles are needed for commodities (see Appendix II) that depend heavily on pesticides included on EPA's priority list (see Appendix I). Profiles should document the importance of priority pesticides to pest management on the commodities addressed by the proposal. Profiles should describe the production process and provide data on pesticide use (how, why, what, when and where pesticides are used) and usage (how much is used, e.g., percentage crop treated) patterns, pest management practices used by growers, and pest management practices ready for implementation but not yet widely used. Profiles should also indicate whether pesticides on the priority list

(Appendix I) are important to integrated pest management programs or to strategies to manage resistance to other pesticides, and whether there are any potential labeled or unlabeled alternatives (chemical or nonchemical) to replace priority list pesticides on a specific commodity. Alternatives can include other pesticides, biological controls, pest resistant varieties, or cultural practices. In addition, practices or procedures that have the potential to mitigate dietary risk from priority list pesticides should be described. Crop profiles should follow the format presented in Appendix III. Potentially affected growers or commodity groups must be involved in the development of crop profiles. While priority will be given to proposals addressing one or more commodities (see Appendix II) that depend heavily on pesticides included on EPA's priority list (see Appendix I), proposals addressing commodities not included in the list will be considered. Consult the website listed at the end of either Appendix II & III for a current list of crop profiles that are either completed or in progress to avoid duplicate efforts. Profiles must be completed within twelve months after receipt of funding.

Note: The development of replacements for methyl bromide is being supported by other agencies (e.g. see the USDA/ARS website: http://www.ars.usda.gov/is/cgi-bin/ffp.pl/is/np/mba/oct96/epa.htm?methyl bromide alternatives grants#first_hit") and will not be supported by the Pest Management Alternatives Program.

Proposal Format

Each project description shall be complete in itself. The administrative provisions governing the Special Research Grants Program, 7 CFR Part 3400, set forth instructions for the preparation of grant proposals. The following requirements deviate from those contained in section 3400.4(c). The following provisions of this solicitation shall apply. Proposals should adhere to the format requirements for the specific objective addressed by the proposal format below. Items three through six should be no more than 12 pages in length, numbered, and single-spaced with text on one side of the page using a 12 point (10 cpi) type font size and one-inch margins.

(1) *Application for Funding (Form CSREES–661).* All proposals must contain an Application for Funding (Form CSREES–661), which must be signed by the proposed principal investigator(s) and by the cognizant Authorized Organizational Representative who possesses the necessary authority to commit the applicant's time and other relevant resources. Principal investigators who do not sign the proposal cover sheet will not be listed on the grant document in the event an award is made. The title of the proposal must be brief (80-character maximum), yet represent the major emphasis of the project. Because this title will be used to provide information to those who may not be familiar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" or "research on" should not be used.

(2) *Table of Contents.* For ease in locating information, each proposal must contain a detailed table of contents just after the proposal cover page. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

(3) *Executive Summary.* Describe the project in terms that can be understood by a diverse audience of university personnel, producers, various public and private groups, budget staff, and the general public. This should be on a separate page, no more than one page in length and have the following format: Name(s) of principal investigator(s) and institutional affiliation, project title, key words, and project summary.

(4) *Problem Statement.* Identify the pest management problem addressed, its significance, and options for solution. Identify the commodity(ies) (from the commodity list for crop profiles, Appendix II) and the pesticides (from the priority list, Appendix I) that will be addressed by the proposed project. Proposals can address commodities not listed in Appendix II as long as priority pesticides are used in the production system. Describe the production area addressed (including acreage), frequency and severity of losses to pests controlled with priority pesticides (Appendix I), and the potential applicability to other production regions (if the proposal addresses Objective 1). For crop profiles, provide sources of data and other information on pesticide use, usage patterns, and pest management practices. As appropriate, proposals should address issues as they relate to current integrated pest management and crop production practices, technologic and economic feasibility of potential new practices, and their potential durability.

(5) *Objectives.* Provide clear, concise, complete, and logically arranged statements of the specific aims of the proposed effort.

(6) *Research, Education, and Technology Transfer Plan.* This section is only needed if the proposed project includes development of replacement or mitigation technologies (Objective 1). Proposals should provide a detailed plan for the research, education, and technology transfer required to implement the alternative solution in the field, and should identify milestones.

(7) *Literature Cited.* A concise list of key references cited in the proposal should be included in this section.

(8) *User Involvement.* Describe role of producers, commodity groups, and other end-users in identifying the need for the work being proposed, and their anticipated involvement in the project if funded. Competitive proposals will demonstrate involvement of affected user groups in project design, implementation, and funding.

(9) *Facilities and Equipment.* All facilities and major items of equipment that are available for use or assignment to the proposed research project during the requested period of support should be described. In addition, items of nonexpendable equipment necessary to conduct and successfully complete the proposed project should be listed with the amount and justification for each item.

(10) *Collaborative Arrangements.* If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations, agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Funding contributions by collaborators that will be used to accomplish the stated objectives should be identified. Evidence (i.e., letters of intent) should be provided to assure peer reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such a collaborative arrangement(s) has the potential for conflict(s) of interest.

(11) *Personnel Support.* To assist peer reviewers in assessing the competence and experience of the proposed project staff, key personnel who will be involved in the proposed project must be clearly identified. For each principal investigator involved, and for all senior associates and other professional personnel who are expected to work on the project, whether or not funds are sought for their support, the following should be included:

(i) An estimate of the time commitments necessary.

(ii) Curriculum vitae. The curriculum vitae should be limited to a presentation

of academic and research credentials, or commodity production knowledge or experience with that commodity (e.g., educational, employment and professional history, and honors and awards). Unless pertinent to the project, to personal status, or to the status of the organization, meetings attended, seminars given, or personal data such as birth date, marital status, or community activities should not be included. Each vitae shall be no more than two pages in length, excluding the publication lists.

(iii) Publication list(s). A chronological list of all publications in refereed journals during the past four years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these items usually appear in journals.

(12) *Budget.* A detailed budget is required for each year of requested support. In addition, a summary budget is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose (Form CSREES–55), along with instructions for completion, is included in the Application Kit and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute. However, the recovery of indirect costs under this program may not exceed the lesser of the grantee institution's official negotiated indirect cost rate or the equivalent of 14 percent of total Federal funds awarded. This limitation also applies to the recovery of indirect costs by any sub-awardee or subcontractor, and should be reflected in the sub-recipient budget.

Note: For projects awarded under the authority of Sec. 2(c)(1)(A) of Pub. L. No. 89–106, no funds will be awarded for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(13) *Research Involving Special Considerations.* If it is anticipated that the research project will involve recombinant DNA or RNA research, experimental vertebrate animals, or human subjects, an Assurance Statement, Form CSREES–662, must be completed and included in the proposal. Please note that grant funds will not be released until CSREES receives and approves documentation indicating approval by the appropriate institutional committee(s) regarding DNA or RNA research, animal care, or the protection of human subjects, as applicable.

(14) *Current and Pending Support.* All proposals must contain Form CSREES–663 listing this proposal and any other current public or private research support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for the person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the Administrator of CSREES for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program.

(15) *Additions to Project Description.* The Administrator of CSREES, the members of peer review groups, and the relevant program staff expect each project description to be complete given the page limit established in this section (Proposal Format). However, if the inclusion of additional information is necessary to ensure the equitable evaluation of the proposal (e.g., photographs that do not reproduce well, reprints, and other pertinent materials that are deemed to be unsuitable for inclusion in the text of the proposal), then 20 copies of the materials should be submitted. Each set of such materials must be identified with the name of the submitting organization, and the name(s) of the principal investigator(s). Information may not be appended to a proposal to circumvent page limitations prescribed for the project description. Extraneous materials will not be used during the peer review process.

Note: Specific organizational management information relating to an applicant shall be submitted on a one-time basis prior to the award of a grant for this program if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. If necessary, USDA will contact an applicant to request organizational management information once a proposal has been recommended for funding.

Compliance With the National Environmental Policy Act

As outlined in 7 CFR Part 3407 (CSREES's implementation of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*)), the environmental data or documentation for any proposed project is to be provided to CSREES in order to assist CSREES in carrying out its responsibilities under NEPA. In some cases, however, the preparation of environmental data or documentation may not be required. Certain categories of actions are excluded from the requirements of NEPA. The USDA and CSREES exclusions are listed in 7 CFR 1b.3 and 7 CFR 3407.6, respectively.

In order for CSREES to determine whether any further action is needed with respect to NEPA (e.g., preparation of an environmental assessment (EA) or environmental impact statement (EIS)), pertinent information regarding the possible environmental impacts of a proposed project is necessary; therefore, the National Environmental Policy Act Exclusions Form (Form CSREES–1234) provided in the Application Kit must be included in the proposal indicating whether the applicant is of the opinion that the project falls within one or more of the categorical exclusions. Form CSREES–1234 should follow Form CSREES–661, Application for Funding, in the proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an EA or an EIS is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

CSREES Proposal Evaluation

Priority will be given to proposals that address one or more of the commodities listed in Appendix II; however, proposals addressing commodities not included in this list will be considered. Proposals will be evaluated for relevancy (Criterion 1, 25 points) by representatives from USDA, EPA, appropriate farm and commodity organizations, and consumer groups. Methodology and scientific rigor (Criteria 2–6, 75 points) will be evaluated by a panel with appropriate expertise. Panel members will include representatives with appropriate science backgrounds from land-grant universities (including IPM, IR–4, and NAPIAP), USDA, EPA, and other organizations as needed. Funding determinations will come from a rank-ordered list of projects based on the

combined relevancy and scientific merit scores.

Proposals that will only develop Crop Profiles (Objective 2) will be evaluated as a separate group, and will not be scored on potential to reduce reliance (Criterion 4).

The following criteria will be used in evaluating proposals:

1. Relevance to Program Objectives (25 points). Factors that will be considered include: number of crops and pesticides addressed (particularly those listed in Appendices I and II), user involvement in planning and implementation, potential for rapid integration (within 2–3 years) into production practices, and demonstration of consideration of existing IPM programs.
2. Importance of the Problem (Problem Statement) (15 points).
3. Appropriateness of Methods in Meeting Objectives (20 points).
4. Potential to Reduce Reliance (20 points).
5. Level of User Involvement (10 points).
6. Appropriateness of the Budget (10 points).

Confidentiality

CSREES receives grant proposals in confidence and will protect the confidentiality of their contents to the maximum extent permitted by law. Information contained in unfunded proposals will remain the property of the applicant. However, CSREES will retain one copy of all proposals received for a one year period; extra copies will be destroyed.

When a proposal results in a grant, it becomes a part of the public record, available to the public upon specific request under the Freedom of Information Act (FOIA). Information that the Secretary of Agriculture determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked by the applicant with the term "confidential proprietary information."

How To Obtain Application Materials

Copies of this solicitation, the administrative provisions for the Program (7 CFR Part 3400), and the Application Kit, which contains required forms, certifications, and instructions for preparing and submitting applications for funding, may be obtained by contacting: Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture, Mail Stop 2245; 1400 Independence Avenue, SW; Washington, DC 20250–2245; telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the FY 1999 Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Proposal Submission

What To Submit

An original and 20 copies of a proposal must be submitted. Each copy must be stapled securely in the upper left-hand corner (DO NOT BIND). All copies of the proposal must be submitted in one package.

Where and When To Submit

Proposals must be postmarked by June 1, 1999. Proposals submitted by First Class mail must be sent to the following address: Special Research Grants—Pest Management Alternatives; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail Stop 2245; 1400 Independence Avenue, SW; Washington, DC 20250–2245; telephone: (202) 401–5048.

Proposals to be delivered by Express mail, courier service, or by hand must be sent to the following address: Special Research Grants—Pest Management Alternatives; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 303; 901 D Street, SW; Washington, DC 20024; telephone: (202) 401–5048.

Stakeholder Input

CSREES is soliciting comments regarding this solicitation of applications from any interested party. These comments will be considered in the development of the next request for proposals for the program. Such comments will be forwarded to the Secretary or his designee for use in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185). This section requires the Secretary to solicit and consider input on a current request for proposals from persons who conduct or use agricultural research, education, or extension for use in formulating the next request for proposals for an agricultural research program funded on a competitive basis.

In your comments, please include the name of the program and the fiscal year solicitation of applications to which you are responding. Comments are requested within six months from the issuance of the solicitation of applications. Comments received after that date will be considered to the extent practicable.

Additional Information

For reasons set forth in the final rule-related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Appendix I

Pesticides—Priority List of Pesticides: pesticides that will be first to undergo review of tolerances by EPA, as required the Food Quality Protection Act of 1996.

Abbreviations: AM = antimicrobial, I = insecticide, F = fungicide, IGR = insect growth regulator, H = herbicide, N = nematicide.

Organophosphates

Acephate—I
Azinphos-methyl—I
Bensulide—H
Chlorethoxyfos—I
Chlorpyrifos—I
Chlorpyrifos methyl—I
Coumaphos—I
DEF—Defoliant
Diazinon—I
Dichlorvos -I
Dicrotophos—I
Dimethoate—I
Disulfoton—I
Ethion—I
Ethoprop -I, N
Ethyl parathion—I
Fenamiphos—I, N
Fenitrothion—I
Fenthion—I
Fonofos -I
Isofenphos—I
Malathion -I
Methamidophos—I
Methidathion—I
Methyl parathion—I
Naled—I
Oxydemeton methyl—I
Phorate—I
Phosmet—I
Phostebupirim—
Pirimiphos meth
Profenofos—I
Propetamphos—
Sulfotepp—I
Sulprofos—I
Temephos—I
Terbufos—I
Tetrachlorvinph
Trichlorfon—I

Carbamates:

2EEEBC—F
Aldicarb—I, N
Asulam—H
Bendiocarb—I
Benomyl—F
Carbaryl—I
Carbendazim—
Carbofuran—I,
Chlorpropham—
Desmidipham—
Fenoxycarb—I
Formetanate HC
Methiocarb—I
Methomyl—I
Oxamyl—I, N
Phenmedipham
Propamocarb hy
Propoxur—I
Thiodicarb—I
Thiophanate m
Troysan KK—A

Potential Carci

Acetochlor—H
Aciflourfen sod
Alachlor—H
Amitrol—H
Cacodylic acid-
Captan—F
Chlorothalonil-
Creosote—woo
Cyproconazole-
Daminozide (A
ETO—fumigant
Fenoxycarb—I(
Folpet—F
Formaldehyde-
Heptachlor—I
Iprodione—F
Lactofen—H
Lindane—I
Mancozeb—F
Maneb—F
Metam sodium
Metiram—F
MGK repellent-
Orthophenylph
Oxythioquinox
Pentachlorophe
Pronamide—H
Propargite—I
Propoxur—I
Propylene oxid
Telone—N, soi
Terrazole—F
Thiodicarb—I
TPTH—F
Vinclozolin—F

Appendix II

Commodities determined tha commodities n

Phorate—I
Phosmet—I
Phostebupirim—I
Pirimiphos methyl -I
Profenofos—I
Propetamphos—I
Sulfotepp—I
Sulprofos—I
Temephos—I
Terbufos—I
Tetrachlorvinphos—I
Trichlorfon—I

Carbamates:

2EEEBC—F
Aldicarb—I, N
Asulam—H
Bendiocarb—I
Benomyl—F
Carbaryl—I
Carbendazim—F
Carbofuran—I, N
Chlorpropham—H
Desmidipham—H
Fenoxycarb—I
Formetanate HC—I
Methiocarb—I
Methomyl—I
Oxamyl—I, N
Phenmedipham—H
Propamocarb hydrochloride—F
Propoxur—I
Thiodicarb—I
Thiophanate methyl—F
Troysan KK—AM, F

Potential Carcinogens (B1's and B2's)

Acetochlor—H
Aciflourfen sodium—H
Alachlor—H
Amitrol—H
Cacodylic acid—H
Captan—F
Chlorothalonil—F
Creosote—wood preservative
Cyproconazole—F
Daminozide (Alar)—growth retardant
ETO—fumigant, sterilant
Fenoxycarb—IGR
Folpet—F
Formaldehyde—fumigant, germicide
Heptachlor—I
Iprodione—F
Lactofen—H
Lindane—I
Mancozeb—F
Maneb—F
Metam sodium—F, I, H, N, soil fumigant
Metiram—F
MGK repellent—repellent, synergist
Orthophenylphenol—AM, F, virucide
Oxythioquinox—I
Pentachlorophenol—F
Pronamide—H
Propargite—I
Propoxur—I
Propylene oxide—AM, I, F
Telone—N, soil fumigant
Terrazole—F
Thiodicarb—I
TPTH—F
Vinclozolin—F

Appendix II

Commodities—USDA and EPA have determined that production of the following commodities may depend heavily on the pesticides included on the priority list (Appendix I). The possible regulatory impacts of FQPA for these commodities are not known. To answer questions that may arise during FQPA implementation, crop profiles are critical for these commodities. Priority will be given to proposals that address one or more of the commodities on this list.

alfalfa (seed, forage)
artichoke
asparagus
avocado
barley
beans (dry, lima, snap)
beets
blackberry
blueberry
broccoli
brussels sprouts
canola
carrot
cauliflower
celery
citrus
clover seed
cole crops
collards
cranberry
cucumber
date
eggplant
endive
fig
filberts
garlic
green onions
greens
hazelnuts
hops
kale
kiwi
lettuce
livestock
mango
melons
mint
okra
onion
ornamentals (nursery, greenhouse)
parsley
peach
peanut
pear
peas (dry, green, processed)
peppers (bell, sweet, hot)
pineapple
pistachio
potato
pumpkin
radish
spinach
squash
stonefruit
sugarbeet
sweet potato
tomato
turnip
watermelon

Note: Applicants should refer to the National Agricultural Pesticide Impact Assessment Program (NAPIAP) website at: http://ipmwww.ncsu.edu/opmppiap for the latest update of completed and planned crop profiles.

Appendix III

Crop Profiles—FQPA instructs USDA and EPA to obtain pesticide use and usage data on major and minor crops. Of particular importance at this time are use and usage data for the organo-phosphates, carbamates, and possible carcinogens (B1's and B2's). These classes of pesticides have been identified as top priority at EPA for the tolerance reassessment process. These same pesticides are also vital to the production of many of our crops. Because some of these uses may be canceled it is important to identify where we stand now, where we need to be in the future, and what research efforts are needed to get us there as far as pest management practices are concerned. In order to better understand where future research efforts should lead it is necessary first to identify areas of critical need (i.e. those crops or situations where few if any alternative control measures are available to producers). To help USDA and EPA obtain this information "Crop Profiles" are being requested. It is the intent that "profiles" provide the complete production story for a commodity, including current pest management practices, and look at current research activities directed at finding replacement strategies for the pesticides of concern.

Crop profiles should include typical pesticide use information (not simply what appears on pesticide labels) and for consistency and ease of use should be presented in the following format:

Crop Profile for Commodity in State

Production Facts

- State's ranking in national production of the commodity.
- States contribution to total US production of that commodity (percent).
- Yearly production numbers (total acres grown; total acres harvested; cash value).
- Production costs on a yearly basis.
- Identify percent of crop destined for: fresh market, processing, feed, etc.

Production Regions

- Define the production regions for the commodity within your state.

Cultural Practices

- Describe the cultural practices used for producing this commodity within your state (e.g. Soil types, irrigation practices, land preparation, planting times, thinning practices, etc.).
- Highlight intrastate or regional differences if they exist.

Insect/Mite Control

- Identify and discuss the insect/mite pests on this commodity, include: frequency of occurrence (yearly, sporadic, weather related), the damage they do, percentage of acres infested with the pest (for each growing season or crop cycle), critical timing of control measures, yield losses attributed to each pest.
- Note any regional differences that may occur within your state.

Chemical Controls

- For each pest discussed above identify the active ingredients that are used to manage

that pest, include: chemical name, trade name, formulations, percent crop treated, type of application (aerial, ground, chemigation, banded, broadcast, in-furrow etc.), typical application rates, timing (pre-plant, foliar, 5-leaf stage, etc.), typical number of applications per growing season or crop cycle, typical pre-harvest interval, typical reentry intervals, etc.

- Identify any use of the chemical in IPM programs.
- Identify any use of the chemical in resistance management programs.
- Discuss efficacy issues for each active ingredient.

Alternatives

- Discuss availability and efficacy issues associated with the alternatives for the pest/pesticide combinations discussed above.

Cultural Control Practices

- Identify and discuss any cultural practices (e.g. planting dates, resistant varieties, row spacing) used to manage the pests.

Biological Controls

- Discuss any biological control programs that are relevant for the pest/commodity, include pheromone use if applicable.

Post Harvest Control Practices

- Discuss post harvest management practices that are relevant for the pest/commodity; include preharvest and/or post harvest practices that are used for post harvest pest management.

Other issues

- Discuss any export or food processor restrictions that may limit the use of a given active ingredient or management practice.
- Describe on-going research activities that address a possible replacement strategy for the chemical under discussion. If possible discuss time-frame for implementation.
- Discuss any other relevant issues involving pest management practices used on this commodity.

Weed Control

- Follow same format as for insects/mites.

Disease Control

- Follow same format as for insects/mites.

Nematode Control

- Follow same format as for insects/mites.

Key Contacts

- Identify commodity experts within your state.

Cite References

- Provide the sources for information used in preparing crop profiles.

The Pesticide Impact Assessment Program (PIAP) State Liaison Representative (SLR) will review the draft crop profiles before the final reports are submitted.

Send to: Wilfred Burr (202/720–8647 or wburr@ars.usda.gov), USDA Office of Pest Management Policy, Rm 0110 South Ag. Bldg., 1400 Independence Ave., Washington, DC 20250–0315.

Note: Applicants should refer to the National Agricultural Pesticide Impact Assessment Program (NAPIAP) website at: http://ipmwww.ncsu.edu/opmppiap for examples and the latest update of completed and planned crop profiles.

Done at Washington, DC, on this 19th day of March, 1999.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 99–7687 Filed 3–29–99; 8:45 am]

BILLING CODE 3410–22–P

nformation used

sment Program
tative (SLR)
files before the

720–8647 or
Office of Pest
South Ag.
e., Washington,

fer to the
le Impact
P) website at:
nppiap for
e of completed

n this 19th day

ative State
ension Service.
-99; 8:45 am]

federal register

Tuesday
March 30, 1999

Part V

Department of Labor

Office of Labor-Management Standards

29 CFR Part 215
Amendment to Section 5333 (b) Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA 21); Proposed Rule

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 215

RIN 1215–AB25

Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA 21)

AGENCY: Office of Labor-Management Standards, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Labor (DOL) is providing notice of an amendment to its procedural Guidelines for certification of certain Federal Transit Administration (FTA) projects in satisfaction of the requirements of Title 49 U.S.C., Chapter 53, Section 5333(b) (commonly referred to as "Section 13(c)"). This notice is necessitated by the introduction of three new programs under the Transportation Equity Act for the 21st Century (TEA–21), and the need to identify appropriate procedures for DOL's required certification of employee protections in connection with these projects.

DATES: Comments must be submitted by April 29, 1999.

ADDRESSES: Comments should be submitted to Kelley Andrews, Director, Statutory Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5603, Washington, DC 20210. Comments may also be submitted by facsimile to (202) 693–1342 or by e-mail to: kandrews@fenix2.dol–esa.gov.

FOR FURTHER INFORMATION CONTACT: Kelley Andrews, Director, Statutory Programs, (202) 693–0126.

SUPPLEMENTARY INFORMATION:

I. Background

The Transportation Equity Act for the 21st Century (TEA–21), signed into law by President Clinton on June 9, 1998, provides for three new transportation programs which require employee protection under section 5333(b). These are the Job Access and Reverse Commute Program (section 3037), the Over-the-Road Bus Accessibility Program (section 3038), and the State Infrastructure Bank Program (section 1511). Pursuant to section 5333(b), DOL must certify, when Federal funds are used to acquire, improve, or operate a transit system, that the requisite transit employee protective arrangements are in place protecting certain rights of mass transit employees affected by such assistance, as a condition of release of assistance by the Federal Transit Administration (FTA). These rights include the preservation of rights, privileges, and benefits under existing collective bargaining agreements, the continuation of collective bargaining rights, the protection of individual employees against a worsening of their positions related to employment, assurances of employment to employees of acquired mass transportation systems, priority of reemployment, and paid training or retraining.

For most programs funded by the FTA, DOL currently processes the employee protection certifications required under section 5333(b) in accordance with procedural Guidelines published at 29 CFR 215.3. DOL applies these procedures to the processing of all grants except section 5310, Elderly and Handicapped grants which do not require section 5333(b) certification, and section 5311 Non-Urban formula grants which are specifically exempted from processing under the Guidelines. Grants under section 5311 are automatically certified through the application of a warranty, while other grants are certified following referral procedures which afford the interested parties an opportunity to provide their views on substantive protections. The purpose of this notice is to amend the Guidelines to identify the certification processes which will be applicable for the Job Access and Reverse Commute Program, the Over-the-Road Bus Accessibility Program, and the State Infrastructure Bank Program. To accomplish this, DOL proposes to insert a new paragraph at § 215.3(a)(4) to identify programs and activities within programs which will not be subject to processing under the Guidelines. In addition, the last sentence of § 215.3(a)(3) will be omitted as extraneous. Finally, § 215.8 will be modified to update the room number and phone number of the Statutory Programs office.

II. Processing of Grants for New Programs

The Job Access and Reverse Commute Program provides funding to establish a regional approach to job access challenges and supports the implementation of a variety of transportation services that may be needed to connect welfare recipients to jobs and related employment activities. Metropolitan Planning Organizations will select applicants in areas serving populations of 200,000 or greater, and the states will select applicants in areas with populations under 200,000. The nature of recipients and the types of grants anticipated for applicants serving populations under 200,000 are similar to the small urban and rural program under section 5311. Although traditional transportation providers are eligible recipients under the program, it will probably have the most impact on existing transit employees where applicants are serving populations of 200,000 or more. *See* Federal Transit Administration, Job Access and Reverse Commute Competitive Grants; Notice, 63 FR 60168 (November 6, 1998). Accordingly, DOL intends to establish procedures similar to those for section 5311(f) for applicants serving populations under 200,000, and to apply the existing Guidelines procedures for applicants serving populations of 200,000 or more. This necessitates that DOL amend the Guidelines to exclude Job Access and Reverse Commute grants for applicants serving populations under 200,000 from coverage under the Guidelines.

The Over-the-Road Bus Accessibility Program provides funding to assist in financing the incremental capital and training costs associated with the Department of Transportation's implementation of its Final Rule on accessibility requirements for Over-The-Road-Buses (OTRB). DOL intends to follow existing referral procedures under the Guidelines for processing employee protection certifications for this program. Thus, amendment of the Guidelines is not necessary to address Over-the-Road Bus Accessibility grants.

The State Infrastructure Bank (SIB) Program provides for a revised pilot program without limitation on the amount of funds that may be used to capitalize the bank. SIBs do not make grants, but can provide assistance in a variety of ways, including loans and advances for projects with a repayment provision, subsidizing interest rates, and providing bond or other debt financing security. DOL will certify initial capitalization grants made by FTA to the SIBs by applying standard protections and specifying that the SIB may not release funds absent subsequent certifications for specific projects. When specific projects are identified, certification of labor protections for each project funded by the SIB transit account will be processed in accordance with DOL's Guidelines, thus permitting the interested parties an opportunity to provide their views on the protective arrangements proposed for application to the specific projects. This necessitates that DOL amend the Guidelines to exclude from coverage grants for the initial capitalization of SIBS.

III. Public Consultation

In establishing the process for certification of protections applicable for the Job Access and Reverse Commute Program, the Over-the-Road Bus Accessibility Program, and the State Infrastructure Bank Program, DOL herein seeks the views of stakeholders in the transportation industry including transportation providers, transit employee unions, and potentially affected transit employees. Although we will not be able to respond directly to individual comments, we will address comments collectively when we issue the final rule with respect to this proposed amendment to the Guidelines.

IV. Regulatory Procedures:

Regulatory Flexibility Act

This proposed rule addresses the procedural steps for obtaining the Department's certification that employee protection arrangements under the Federal Transit law are in place as required for three new programs funded under TEA–21. The amendment will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 605(b)) is not required. The Assistant Secretary for Employment Standards has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration.

Unfunded Mandates Reform

Executive Order 12875—This rule will not create an unfunded Federal mandate upon any State, local or tribal government.

Unfunded Mandates Reform Act of 1995—This rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of $100 million or more, or in increased expenditures by the private sector of $100 million or more.

Paperwork Reduction Act

These guidelines contain no information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 29 CFR Part 215

Grant administration; Grants—transportation; Labor-management relations; Labor unions; Mass transportation.

Accordingly, it is proposed that Chapter II of Title 29 of the *Code of Federal Regulations* be amended as follows.

PART 215—GUIDELINES, SECTION 5333(b), FEDERAL TRANSIT LAW

1. The authority citation for Part 215 continues to read as follows:

Authority: Secretary's Order 5–96, 62 FR 107, January 2, 1997.

2. Section 215.3 is amended by removing the last sentence in paragraph (a)(3) and by adding new paragraph (a)(4) to read as follows:

§ 215.3 Employees represented by a labor organization.

* * * * *

(a) * * *

(4) These procedures are not applicable to grants under section 5311; grants to applicants serving populations under 200,000 under the Job Access and Reverse Commute Program; or grants to capitalize SIB accounts under the State Infrastructure Bank Program.

3. Section 215.8 is revised to read as follows:

§ 215.8 Department of Labor contact.

Questions concerning the subject matter covered by this part should be addressed to Director, Statutory Programs, U.S. Department of Labor, Suite N5603, 200 Constitution Avenue, NW, Washington, DC 20210; phone number 202–693–0126.

Signed at Washington, DC this 24th day of March, 1999.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

[FR Doc. 99–7708 Filed 3–29–99; 8:45 am]

BILLING CODE 4510–27–P

VOL
64
ISS
60
MR
30
999
UMI

federal register

Tuesday
March 30, 1999

Part VI

Department of Education

Institute for International Public Policy Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No.84.269]

Institute for International Public Policy Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

Purpose of Program: To provide a grant that establishes an Institute for International Public Policy that will conduct a program to significantly increase the number of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States.

Eligible Applicants: Consortia consisting of one or more of the following entities: (1) An institution eligible for assistance under Part B of Title III of the Higher Education Act of 1965, as amended (HEA); (2) an institution of higher education that serves substantial numbers of African American or other underrepresented minority students; (3) an institution of higher education with programs in training foreign service professionals. ("Institution of higher education" is defined in section 101 of the HEA.)

Applications Available: March 31, 1999.

Deadline for Transmittal of Applications: May 7, 1999.

Deadline for Intergovernmental Review: July 7, 1999.

Estimated Amount of Awards: $1,000,000.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Note: The Department is not bound by any estimates in this notice.

SUPPLEMENTARY INFORMATION: The applicant's share of the total cost of carrying out a program supported by a grant under this section must be at least one-half of the amount of the grant. The non-Federal share of the cost may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Note: Because there are no program specific regulations for the Institute for International Public Policy Program, applicants are encouraged to read the authorizing statute in sections 621–628 of part C, Title VI, of the HEA.

FOR APPLICATIONS OR INFORMATION CONTACT: Ralph Hines, International Education and Graduate Programs Service, U.S. Department of Education, 400 Maryland Avenue, SW, Suite 600, Portals Building, Washington, DC 20202–5332. Telephone:(202) 401–9789. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to this Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have any questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1131–1131f.

Dated: March 24, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 99–7748 Filed 3–29–99; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Tuesday
March 30, 1999

Part VII

The President

Executive Order 13115—Interagency Task Force on the Roles and Missions of the United States Coast Guard

VOL
64
ISS
60
MR
30
999
UMI

Federal Regist
Vol. 64, No. 6
Tuesday, Marc

Title 3—

The Presi

Federal Register
Vol. 64, No. 60
Tuesday, March 30, 1999

Presidential Documents

Title 3—

The President

Executive Order 13115 of March 25, 1999

Interagency Task Force on the Roles and Missions of the United States Coast Guard

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. (a) The Interagency Task Force on the Roles and Missions of the United States Coast Guard is established.

(b) The Task Force shall be composed of one representative from the:

(1) Department of State;

(2) Department of Defense;

(3) Department of Justice;

(4) Department of Commerce;

(5) Department of Labor;

(6) Department of Transportation;

(7) Environmental Protection Agency;

(8) Office of Management and Budget;

(9) National Security Council;

(10) Council on Environmental Quality;

(11) Office of Cabinet Affairs;

(12) National Economic Council;

(13) Domestic Policy Council; and

(14) United States Coast Guard.

The Secretary of Transportation shall select from among the Task Force members a Chair and Vice Chair for the Task Force.

(c) The members of the Task Force shall be officials or employees of the Federal Government.

Sec. 2. *Functions.* (a) The Task Force shall report to the President through the Secretary of Transportation, and shall provide advice and recommendations regarding the appropriate roles and missions for the United States Coast Guard through the Year 2020. While the Task Force will comprehensively review all Coast Guard roles and missions, it will give special attention to the deepwater missions, which are those that generally occur beyond 50 nautical miles from U.S. shores.

(b) The Chair shall consult with the Secretary of Transportation, Commandant of the Coast Guard, and, as appropriate, other heads of departments and agencies. The Chair may invite experts to submit information to the Task Force and hold field briefings or visits.

(c) The Chair may acquire services or form teams to carry out the functions of the Task Force. The Task Force and/or the Task Force staff may travel as necessary to carry out the Task Force's functions.

Sec. 3. *Methodology.* (a) The Task Force will seek to identify and distinguish which Coast Guard roles, missions, and functions might be added or enhanced; might be maintained at current levels of performance; or might be reduced, eliminated, or moved to other private organizations or Government agencies. The Task Force also will consider whether current Coast

Guard roles, missions, and functions might be better performed by private organizations (by contract or otherwise), public authorities, local or State governments, or other Federal agencies. The Task Force will provide explicit reasons for its recommendations.

(b) The Task Force will establish explicit criteria for screening roles, missions, and functions to determine how and by whom they would be best performed.

(c) For those roles, missions, and functions that the Task Force recommends be performed by the Coast Guard, the Task Force will advise as to how they might be performed most effectively and efficiently.

(d) The Task Force will consider the impact on Coast Guard roles, missions, and functions of future prospects in various areas, including technology, demographics, the law of the sea, marine pollution, and national security.

(e) The Task Force shall review each of the Coast Guard's law enforcement and national security missions and functions according to the methodology described in this section. However, in conducting that review, the Task Force shall assume that the Coast Guard will remain a law enforcement agency and an armed force of the United States.

Sec. 4. *Administration.* (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Task Force such information with respect to the roles and missions of the Coast Guard as it may require to carry out its functions.

(b) The Coast Guard shall support the Task Force administratively and financially.

(c) The Secretary of Transportation shall appoint a Staff Director for the Task Force.

(d) Assigned staff shall possess a balanced and broad base of experience to include persons of experience in national security, military operations, foreign and domestic policy, international affairs, economic policy, environmental protection, and law enforcement. Staff members may include military members on active duty, Reserve members of any component, and Federal civilian employees.

Sec. 5. *General.* (a) The Task Force shall exist for a period of 6 months from its first meeting unless extended by the Secretary of Transportation and, at the conclusion, submit a written report as discussed in section 2 of this order.

(b) The recommendations of the Task Force will be considered in determining the appropriate level of investment in the Coast Guard's Deepwater Capability Replacement Project, a system of cutters and aircraft with an integrated command, control, communications, and sensor infrastructure. The Task Force may provide an interim report for use in preparation of the Federal budget for Fiscal Year 2001.

William J. Clinton

THE WHITE HOUSE,
March 25, 1999.

[FR Doc. 99–7999
Filed 3–29–99; 11:01 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 64, No. 60

Tuesday, March 30, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22
13881–14096	23
14097–14354	24
14355–14574	25
14575–14808	26
14809–15122	29
15123–15284	30

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100	12881
Proclamations:	
7168	10101
7169	10379
7170	10383
7171	10385
7172	11373
7173	12879
7174	14353
7175	14807
7176	15123
Executive Orders:	
12170 (See Notice of March 10, 1999)	12239
12852 (Amended by EO 13114)	10099
12957 (See Notice of March 10, 1999)	12239
12959 (See Notice of March 10, 1999)	12239
13059 (See Notice of March 10, 1999)	12239
13114	10099
13115	15283
Administrative Orders:	
Notice of March 10, 1999	12239
Memorandum:	
March 23, 1999	14809
Presidential Determinations:	
No. 99–15 of February 26, 1999	11319
No. 99–16 of March 4, 1999	13495

4 CFR

27	15125
28	15125

5 CFR

532	9905, 9906
2635	13063
Proposed Rules:	
300	14842
1620	13924
1650	13725

7 CFR

3	11755
51	14575
246	13311
360	12881
361	12881
782	12884
932	14811
989	10919
1381	11755
1434	10923
1439	13497
1469	10929
1703	14355
1728	14813
Proposed Rules:	
301	11392
915	13123
916	11346
917	11346
944	14642
1065	13125
1301	12769
1703	14401
1823	10235
1956	10235
3400	14348

8 CFR

3	13663, 13881
103	13881
208	13881
235	13881
238	13881
240	13881
241	13881
253	13881
274a	11533
507	13881

9 CFR

52	13064
Proposed Rules:	
1	10400
3	10400
71	13726
80	13726
112	13365
113	10400, 14156
391	10402

10 CFR

50	14814
73	14814
708	12862
Proposed Rules:	
21	12117
50	12117
54	12117
63	10405
70	13368
707	11819

11 CFR

Proposed Rules:	
2	10405
4	10405
5	10405

12 CFR

3	10194
208	10194
225	10201
229	14577
325	10194
404	14373

405.....14373
567.....10194
960.....12079
Proposed Rules:
21.....15137
326.....14845
563.....14845
602.....10954

13 CFR

123.....13667

14 CFR

21.....13501
25.....10740, 14818
39.....9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504, 13667, 13669, 13882, 13884, 13886, 13889, 13890, 13892, 14097, 14578, 14580, 14583, 14585, 14588, 14820, 14822, 14824, 15126
71.....10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672, 14306, 14589, 14590, 14591, 14592, 14593, 14594, 14595, 14596, 14597, 14598, 14599, 14600, 14601, 14602
73.....12743, 13334, 13506, 14603, 14604
91.....15120
93.....14972
97...9912, 9914, 13334, 13336, 14826, 14828
204.....12084
255.....15127
257.....12838
258.....12854
399.....12838
Proposed Rules:
23.....14401
25.....14408
39.....9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936, 15137
71.....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404, 13938, 14410, 15139, 15140, 15142
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
744.....14605
752.....13338
772.....13338
774.....10852, 12744, 13338
806.....10387
902.....14052

16 CFR

4.....14829
Proposed Rules:
Ch. I.....14156

241.....13368
256.....13369
1213.....10245, 14158
1500.....10245, 14158
1513.....10245, 14158
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230.....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065
Proposed Rules:
1.....14159
30.....14159
200.....15143
202.....15143
210.....10579, 15143
228.....10579, 15143
229.....15143
230.....12908, 14648, 15143
232.....12908, 15143
239.....11118, 12908, 15143
240.....9948, 10579, 11124, 12127, 12908, 14648, 15143
249.....15143
270.....12908, 14648
274.....12908

19 CFR

Ch. I.....13673
133.....11376
Proposed Rules:
4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404.....10103, 13677, 14606
416.....13677

21 CFR

5.....14098
26.....11376
50.....10942
101.....12886, 12887
173.....14608
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520.....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556.....10103, 13068, 13341, 13679
558.....13068, 13069, 13341, 13342, 13679
701.....13254
806.....14098
812.....10942
874.....10947, 14830
Proposed Rules:
101.....14178
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774
1010.....14180
1040.....14180

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
35.....14381
203.....14568, 14572
234.....14572
882.....14831
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080
Proposed Rules:
Ch. IX.....13531, 13533
990.....12920

25 CFR

31.....13894
39.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR

1.....10218, 11378
54.....14382
602.....10218
Proposed Rules:
1.....10262, 13939, 13940, 14306, 14412, 14846
20.....10964, 13940
25.....13940
31.....13940
40.....13940

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686
Proposed Rules:
25.....10262
302.....11821
549.....10095

29 CFR

96.....14538
99.....14538
1910.....13700, 13897
4044.....12745
Proposed Rules:
215.....15276
2510.....15143

30 CFR

256.....13343
914.....12890
934.....12896
938.....14610
Proposed Rules:
56.....15144
57.....14200, 15144
77.....15144
120.....15144
204.....13734
206.....12267
250.....13535
914.....14412
938.....12269

32 CFR

199.....11765, 13912
556.....14619

33 CFR

62.....10104
100.....13913, 13914, 14382, 14384
117.....10104, 13514
165.....11771, 12746, 13915, 14306
320.....11708
326.....11708
331.....11708
Proposed Rules:
110.....14414
117.....12795, 12797
155.....13734
162.....14414
165.....14414
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184
Proposed Rules:
303.....12674

36 CFR

61.....11736
Proposed Rules:
1091.....13752
1190.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111.....10950, 12072, 14385
Proposed Rules:
111.....11402

40 CFR

52.....99
12002, 120
12085, 120
12749, 127
13343, 133
13514, 139
146
58.....
60.....10
62.....
63.....
80.....
81.....117

82.....
90.....
93.....
136.....
147.....
180.....102
11782, 117
13078, 130
13097, 131
14099, 141

271.....
300.....
302.....
355.....
439.....
Proposed Rule
Ch. 1.....
52...9951, 99
10342, 118
12798, 127
13372, 133
13382, 135
146
60.....
62.....
63.....
81.....118

82.....
94.....
97.....
136.....
194.....
271.....
372.....
435.....

41 CFR

101–49.....

42 CFR

Proposed Rule
36.....
405.....
409.....
410.....
411.....
412.....
413.....
416.....
419.....
447.....
457.....
488.....
489.....
498.....
1003.....

43 CFR

4.....

40 CFR

52 .....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514, 13916, 14391, 14620, 14624, 14832, 15129
58.....10389
60 .....10105, 11536, 14393
62.....13075, 13517
63.....11536, 12762
80.....10366
81 .....11775, 12002, 12005, 12257, 13146
82.....10374
90.....15208
93.....13476
136.....10391, 13053
147.....14800
180 .....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106, 14098, 14099, 14101, 14104, 14106, 14626, 14632
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053

Proposed Rules:

Ch. 1 10066
52 ...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753, 14416, 14659, 14665, 15148
60.....10119, 11555
62.....13539
63.....11555, 11560
81 .....11822, 12025, 13383, 13384
82.....14417
94.....10596
97.....10118
136.....10596
194.....14418
271.....10121, 14201
372.....9957, 10597
435.....10266

41 CFR

101–49.....13700

42 CFR

Proposed Rules:

36.....14560
405.....14666
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277
498.....12277
1003.....12277

43 CFR

4.....13362

Proposed Rules:

428.....12141
3100.....14666
3110.....14666
3120.....14666
3130.....14666
3140.....14666
3150.....14666
3160.....14666
3170.....14666
3180.....14666
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919
65 .....11378, 11380, 11382, 11384
67.....11386, 11388

Proposed Rules:

67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303 .....11802, 11810, 15132
304.....11802
1207.....14113
1208.....14123
1209.....14133
2551.....14113
2552.....14123
2553.....14133

Proposed Rules:

5.....14668
92.....10412
95.....10412
1224.....10872
1302.....14202
2508.....10872

46 CFR

502.....9922
510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156

Proposed Rules:

381.....14676

47 CFR

0.....14834
25.....14394
41.....13916
51.....14141
61.....14394
64.....13701, 14141
73 .....9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729, 14397
90.....10395
95.....14639

Proposed Rules:

1.....9960
2.....10266
51.....14203
73 .....12922, 12923, 12924, 13756, 13757, 14419, 14420, 14421, 14422, 14423
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548
4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52 .....10531, 10535, 10538, 10545, 10548
53 .....10548, 10913, 12862
203.....14397
211.....14398
217.....14399
252.....14397, 14398
913.....12862
915.....12220
922.....12862
970.....12220, 12862
1804.....14640
1806.....10571
1807.....14640
1815.....10573
1819.....10571
1822.....14148
1835.....14640
1842.....10573
1852.....10571, 10573
1872.....14640

Proposed Rules:

204.....14424
252.....14424
970.....14206

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234
1420.....13916

Proposed Rules:

17.....14676
171.....13856, 13943
173.....13856
177.....13856
178.....13856
180.....13856
192.....12147
350.....11414
571 .....9961, 10604, 13947, 14207
572.....10965
585.....13947
587.....13947
591.....13757
595.....13947
1420.....13948

50 CFR

17.....13116
25.....14149
36.....14149, 14151
216.....9925
217.....14052
220.....14052
221.....14052
222.....14052
223 .....14052, 14308, 14508, 14517, 14528
224.....14052, 14308
225.....14052
226.....14052
227.....14052
285.....10576
300.....13519
600.....9932
622 .....13120, 13363, 13528
630.....12903
648.....14052, 14835
660.....9932, 12092
678.....14154
679 .....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723, 14052, 14155, 14840
697.....14052

Proposed Rules:

17 .....12924, 14209, 14424, 14676
216.....9965
223.....14329
224.....14329
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648 .....11431, 13392, 13952, 14846
660 .....10439, 12279, 14211
678.....10438

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 30, 1999

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Olives grown in—
California; published 3-29-99
ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Georgia; published 1-29-99
Hazardous waste program authorizations:
Nevada; published 1-29-99
GENERAL ACCOUNTING OFFICE
Procedural rules:
Personnel Appeals Board; published 3-30-99
TRANSPORTATION DEPARTMENT
Coast Guard
Tank vessels:
Tank barges; emergency control measures; published 12-30-98
TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards:
Occupant crash protection—
Child restraint systems; air bag warning label on rear-facing child seats; modification; correction; published 10-1-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
Karnal bunt disease—
Regulated areas reclassification; comments due by 4-8-99; published 3-9-99
AGRICULTURE DEPARTMENT
Federal Crop Insurance Corporation
Crop insurance regulations:
Onions; comments due by 4-5-99; published 2-18-99
AGRICULTURE DEPARTMENT
Food Safety and Inspection Service
Meat and poultry inspection:
Inspection services; fee increase; comments due by 4-5-99; published 3-4-99
COMMERCE DEPARTMENT
Economic Development Administration
Economic Development Reform Act of 1998; implementation; comments due by 4-5-99; published 2-3-99
COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Commerce control list—
Missile technology controls changes; comments due by 4-9-99; published 2-8-99
COMMERCE DEPARTMENT
International Trade Administration
North American Free Trade Agreement (NAFTA); binational panel reviews:
Circular welded non-alloy steel pipe and tube from—
Mexico; comments due by 4-5-99; published 1-6-99
COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
West Coast salmon; comments due by 4-5-99; published 3-4-99
COMMODITY FUTURES TRADING COMMISSION
Reporting requirements:
Large trader reports; reporting levels changes; comments due by 4-5-99; published 2-3-99
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
Privacy Act; implementation; comments due by 4-5-99; published 3-5-99
ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Electric utilities (Federal Power Act):
Open access same-time information systems (OASIS) and standards of conduct; implementation
Uniform business practices; comments due by 4-5-99; published 2-3-99
ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Polymer and resin production facilities (Groups I and IV) and volatile organic compound (VOC) emissions from polymer manufacturing industry; comments due by 4-8-99; published 3-9-99
Polymer and resin √2√production facilities (Groups I and IV) and volatile organic compound (VOC) emissions from polymer manufacturing industry; comments due by 4-8-99; published 3-9-99
Air pollution control; new motor vehicles and engines:
New nonroad spark-ignition engines at or below 19 kilowatts; phase 2 emission standards; comments due by 4-5-99; published 2-3-99
Air quality implementation plans; approval and promulgation; various States:
Connecticut; comments due by 4-9-99; published 3-10-99
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Colorado; comments due by 4-9-99; published 3-10-99
Connecticut; comments due by 4-9-99; published 3-10-99
Hazardous waste:
Identification and listing—
Exclusions; comments due by 4-5-99; published 2-19-99
Superfund program:
Toxic chemical release reporting; community-right-to-know—
Persistent bioaccumulative toxic (PBT) chemicals; reporting thresholds lowered, etc.; comments due by 4-7-99; published 3-1-99
Water programs:
Pollutants analysis test procedures; guidelines—
Mercury; measurement method; comments due by 4-5-99; published 3-5-99
FARM CREDIT ADMINISTRATION
Freedom of Information Act; implementation; comments due by 4-7-99; published 3-8-99
FEDERAL COMMUNICATIONS COMMISSION
Radio services, special:
Personal radio services—
Medical implant communications service in 402-405 MHz band; establishment; comments due by 4-9-99; published 3-3-99
Radio stations; table of assignments:
California; comments due by 4-5-99; published 2-23-99
Colorado; comments due by 4-5-99; published 2-23-99
Illinois; comments due by 4-5-99; published 2-23-99
Iowa; comments due by 4-5-99; published 2-23-99
Kansas; comments due by 4-5-99; published 2-23-99
Kentucky; comments due by 4-5-99; published 2-23-99
Montana; comments due by 4-5-99; published 2-23-99
Pennsylvania; comments due by 4-5-99; published 2-23-99
Texas; comments due by 4-5-99; published 2-23-99
West Virginia; comments due by 4-5-99; published 2-23-99
Wyoming; comments due by 4-5-99; published 2-23-99
FEDERAL ELECTION COMMISSION
Freedom of Information Act; implementation; comments due by 4-5-99; published 3-4-99
HEALTH AND HUMAN SERVICES DEPARTMENT
Children and Families Administration
Head Start Program:
Authorization of use of grant funds to finance construction and major renovation of facilities; comments due by 4-9-99; published 2-8-99
HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Food labeling—

Dietary supplements; use of health claims based on authoritative statements; comments due by 4-6-99; published 1-21-99

Medical devices:

External penile rigidity devices; proposed classification; comments due by 4-5-99; published 1-4-99

INTERIOR DEPARTMENT

Land Management Bureau

Minerals management:

Oil and gas leasing—

Federal oil and gas resources; protection against drainage by operations on nearby lands resulting in lower royalties from Federal leases; correction; comments due by 4-5-99; published 1-13-99

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Indiana; comments due by 4-9-99; published 2-8-99

LEGAL SERVICES CORPORATION

Audit services:

Debarment, suspension, and removal of recipient auditors; comments due by 4-6-99; published 2-5-99

POSTAL SERVICE

Domestic Mail Manual:

Flat-size periodicals and standard mail; packaging material standards; comments due by 4-8-99; published 3-9-99

SECURITIES AND EXCHANGE COMMISSION

Securities:

Publication or submission of quotations without specified information; comments due by 4-7-99; published 3-8-99

Securities offerings, regulatory structure; modernization and clarification; comments due by 4-5-99; published 12-4-98

Takeovers and security holder communications; regulation modernization; comments due by 4-5-99; published 12-4-98

TRANSPORTATION DEPARTMENT

Disadvantaged business enterprise participation in DOT financial assistance programs; comments due by 4-5-99; published 2-2-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Allison Engine Co., Inc.; comments due by 4-5-99; published 2-4-99

Boeing; comments due by 4-5-99; published 2-4-99

McDonnell Douglas; comments due by 4-8-99; published 2-22-99

Raytheon; comments due by 4-8-99; published 2-5-99

Textron Lycoming; comments due by 4-5-99; published 2-3-99

Class E airspace; comments due by 4-9-99; published 3-10-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

American Automobile Labeling Act; implementation:

Motor vehicle content labeling; domestic and foreign parts content information; comments due by 4-9-99; published 2-8-99

Motor vehicle safety standards:

Air brake systems—

Air brake standard rulemaking petition; partial grant/partial denial; comments due by 4-5-99; published 2-3-99

TREASURY DEPARTMENT

Fiscal Service

Financial management services:

Federal payments by electronic funds transfer; access to accounts at financial institutions through payment service providers; comments due by 4-8-99; published 1-8-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Education tax credits; Hope scholarship credit and lifetime learning credit; guidance; comments due by 4-6-99; published 1-6-99

Fast-pay stock; recharacterizing financing arrangements; comments due by 4-6-99; published 1-6-99

TREASURY DEPARTMENT

Thrift Supervision Office

Regulated activities:

Exempt savings and loan holding companies and grandfathered activities; comments due by 4-9-99; published 2-8-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 540/P.L. 106–4

Nursing Home Resident Protection Amendments of 1999 (Mar. 25, 1999; 113 Stat. 7)

Last List March 26, 1998

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listproc@lucky.fed.gov** with the text message:

subscribe PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

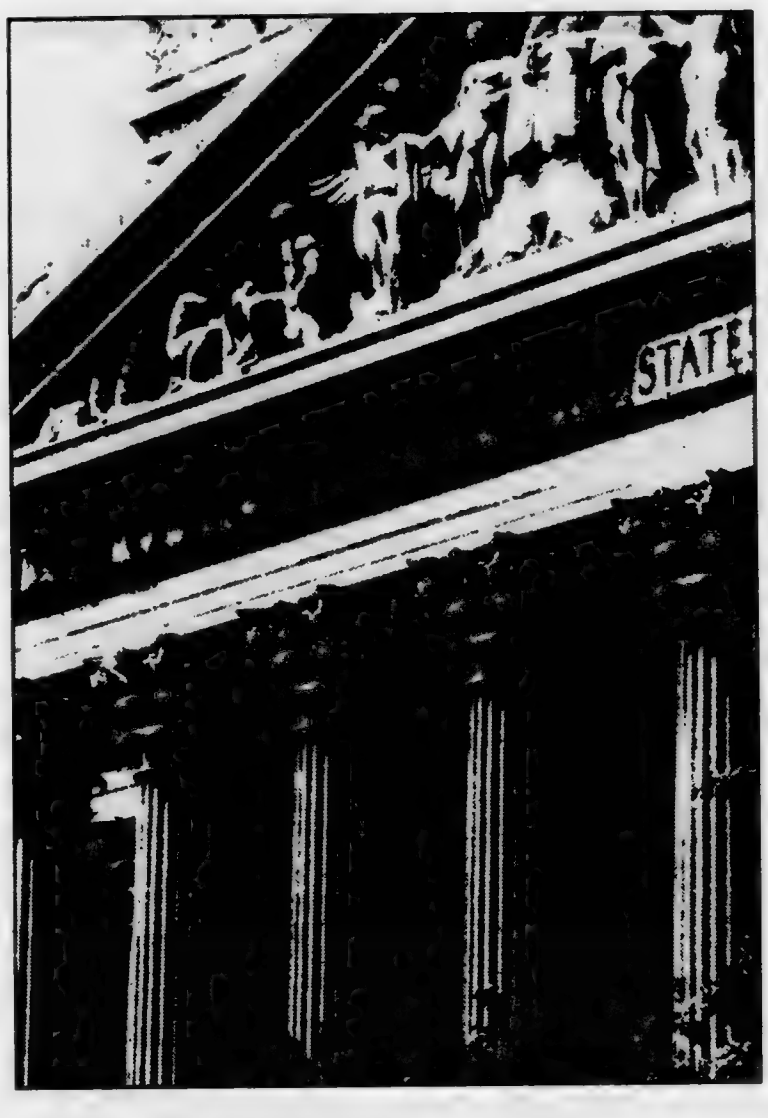
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5421**

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.

_____ **Federal Register Index** (FRUS) $25 per year.

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFR SMITH212J                    DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFRDO SMITH212J                  DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

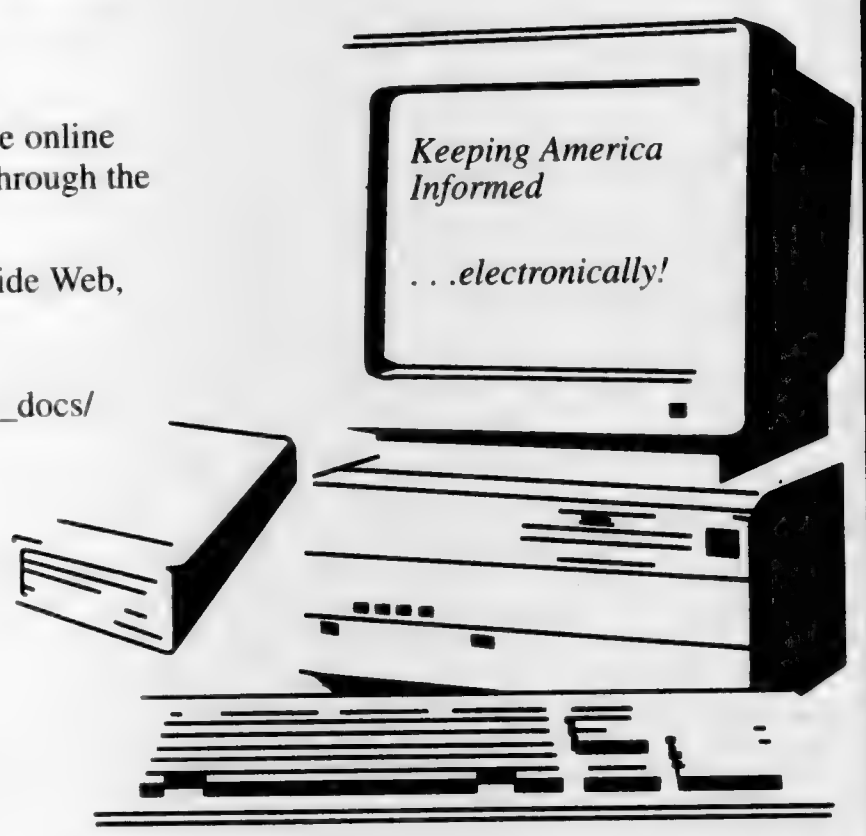
Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).



You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 11/3)



VOL
64
ISS
60
MR
30
999
JMI

Printed on recycled paper

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

3-31-99
Vol. 64 No

United State
Governmen
Printing Offi
SUPERINTENDEN
OF DOCUMENTS
Washington, DC 20

OFFICIAL BUSINE
Penalty for private

3-31-99
Vol. 64 No. 61

Federal Register

Wednesday
March 31, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
61
MR
31
999
UMI

3–31–99
Vol. 64 N
Pages 15285

3–31–99
Vol. 64 No. 61
Pages 15285–15632

federal register

Wednesday
March 31, 1999

Briefings on how to use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche — **202–512–1800**

Assistance with public subscriptions — **512–1806**

General online information — **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche — **512–1800**

Assistance with public single copies — **512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche — **523–5243**

Assistance with Federal agency subscriptions — **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: April 20, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 61

Wednesday, March 31, 1999

Actuaries, Joint Board for Enrollment
See Joint Board for Enrollment of Actuaries

Agricultural Research Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
United Agri Products, Inc., 15337

Agriculture Department
See Agricultural Research Service
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation
See Cooperative State Research, Education, and Extension Service
See Farm Service Agency
See Forest Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 15336–15337

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Brucellosis; procedures for retaining class free state status, 15296–15298
Brucellosis in cattle and bison—
State and area classification, 15298
NOTICES
Environmental statements; availability, etc.:
Genetically engineered organisms; field test permits—
AgrEvo USA Co., 15337–15338

Army Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Fort Totten, NY, 15353
Military Ocean Terminal, Bayonne, NJ, 15353–15354

Coast Guard
RULES
Ports and waterways safety:
First Coast Guard District navigable waters; regulated navigation area; correction, 15399
PROPOSED RULES
Anchorage regulations:
New York, 15322–15324

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Dominican Republic, 15350
Dominican Republic; correction, 15350

Commodity Credit Corporation
RULES
Loan and purchase program:
Tobacco, 15290–15296

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 15350

Consumer Product Safety Commission
NOTICES
All-terrain vehicles:
Action plan resolution; comment request, 15350–15351
Commission agenda and priorities; public hearing, 15351–15352

Cooperative State Research, Education, and Extension Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15338–15339

Customs Service
RULES
Merchandise remaining at place of arrival or unlading beyond lay order period; general order; penalties for failure to notify Customs
Correction, 15302–15303
Vessels in foreign and domestic trades:
Nations entitled to special tonnage tax exemptions; list—
Brazil; addition, 15301–15302

Defense Department
See Army Department
See Navy Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 15352–15353

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15354–15356
Submission for OMB review; comment request, 15356
Grants and cooperative agreements; availability, etc.:
Parental assistance program, 15607–15627

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Natural gas exportation and importation:
Enron Capital & Trade Resources Corp., 15357

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Fenbuconazole, 15304–15306

PROPOSED RULES
Superfund programs:
Toxic chemical release reporting; community-right-to-know—
Safety Kleen Corp., 15324–15334
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15361–15362
Grants and cooperative agreements; availability, etc.:
Chesapeake Bay program, 15362–15363
Pesticide registration, cancellation, etc.:
BioSafe Systems, 15363–15364
Environmental Biocontrol International et al., 15364–15365
Pesticides; experimental use permits, etc.:
AgrEvo USA Co., 15365–15366
Rhone-Poulence AG Co., 15365
Superfund; response and remedial actions, proposed settlements,etc.:
Cherokee Resource Superfund Site, NC, 15366
Sun Laboratories, 15366
Transport One Acid Spill Site, KY, 15366

Export Administration Bureau
NOTICES
Export privileges, actions affecting:
A.V.S. Armoured Vehicles' Systems. Inc., 15342–15343
Ames, Aldrich Hazen, 15344–15345
Nicholson, Harold J., 15345–15346

Farm Service Agency
RULES
Farm marketing quotas, acreage, allotments, and production adjustments:
Tobacco, 15290–15296

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 15298–15300
Class E airspace, 15300–15301
NOTICES
Meetings:
Satelite Operational Implementation Team; Global Positioning System/Wide Area and Local Area Augumentation Systems; capabilities, 15393–15394
Passenger facility charges; applications, etc.:
Tri-Cities Airport, WA, 15394

Federal Bureau of Investigation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15378–15380

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Alabama Power Co.; correction, 15399
Hydroelectric applications, 15359–15360
Applications, hearings, determinations, etc.:
Carolina Power & Light Co., et al., 15357
Columbia Gas Transmission Co., 15357–15358
Hubbardston Hydro Co., 15358
Pine Needle LNG Co., LLC, 15358
Southern Natural Gas Co., 15358–15359
Tennessee Gas Pipeline Co., 15359

Federal Highway Administration
RULES
Motor carrier safety standards:
Parts and accessories necessary for safe operation—
Lighting devices, reflectors, and electrical equipment, 15587–15606

Federal Maritime Commission
NOTICES
Freight forwarders licenses:
De La Vega Group Services, Inc., 15366

Federal Reserve System
PROPOSED RULES
Membership of State banking institutions; international banking operations; bank holding companies and change in bank control (Regulations H, K, and Y):
Domestic and foreign banking organizations; Know Your Customer programs development; withdrawn, 15310
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 15367
Permissible nonbanking activities, 15367

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
Big Muddy National Fish and Wildlife Refuge, MO, 15372–15373

Forest Service
NOTICES
Environmental statements; notice of intent:
Angelina, Sabine, and Sam Houston National Forests, TX, 15339–15342

General Services Administration
RULES
Acquisition regulations:
Small business subcontracting program, 15306–15307
Federal travel:
Privately owned automobile mileage reimbursement, 15629–15631

Geological Survey
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15373–15374

Health and Human Services Department
See National Institutes of Health

Hearings and Appeals Office, Energy Department
NOTICES
Decisions and orders, 15361

Housing and Urban Development Department
RULES
Mortgage and loan insurance programs:
Single family mortgage insurance—
Maximum mortgage limit and downpayment requirement; statutory changes, 15303
NOTICES
Grants and cooperative agreements; availability, etc.:
Housing assistance payments (Section 8)—
Mainstream housing opportunities for persons with disabilities, 15372

Immigration and Naturalization Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15380–15381

Indian Affairs Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 15374

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15395–15397

International Trade Administration
NOTICES
Antidumping:
Stainless steel plate in coils from—
Belgium, 15476–15493
Canada, 15457–15458
Italy, 15458–15459
Korea, 15443–15457
South Africa, 15459–15476
Taiwan, 15493–15508
Countervailing duties:
Stainless steel plate in coils from—
Belgium, 15567–15585
Italy, 15508–15530
Korea, 15530–15553
South Africa, 15553–15567

International Trade Commission
NOTICES
Import investigations:
Carbon steel wire rod from—
Argentina, 15375–15376
Harmonized Tariff Schedule—
Simplification, 15376–15377
Live swine from—
Canada, 15377–15378

Joint Board for Enrollment of Actuaries
NOTICES
Meetings:
Actuarial Examinations Advisory Committee, 15336

Justice Department
See Federal Bureau of Investigation
See Immigration and Naturalization Service
See Justice Programs Office

Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15381

Labor Department
See Occupational Safety and Health Administration
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
California, 15374–15375

Minerals Management Service
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
Bonus payments with bids, 15320–15322

National Institutes of Health
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15367–15368
Meetings:
Center for Scientific Review, 15368–15369
National Heart, Lung, and Blood Institute, 15369–15370
National Institute of Environmental Health Sciences, 15370
National Institute of Nursing Research, 15370
Organization, functions, and authority delegations:
Center for Information Technology, 15370–15372

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Eastern Bering Sea C.bairdi stock; overfishing, 15308–15309
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish; exempted fishing permits renewed, 15307–15308
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
New England Fishery Management Council; meetings, 15334–15335
NOTICES
Environmental statements; availability, etc.:
International Dolphin Conservation Program, 15346

Navy Department
NOTICES
Environmental statements; notice of intent:
Base realignment and closure—
Naval Air Station Whidbey Island, WA, 15354

Nuclear Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15381–15382

Occupational Safety and Health Administration
PROPOSED RULES
Safety and health standards, etc.:
Employer payment for personal protective equipment, 15401–15441

Patent and Trademark Office
NOTICES
Patents:
Human drug products—
Reexaminations; compliance with decision in case, In re Portola Packaging, Inc.; guidelines, 15346–15350

Pension and Welfare Benefits Administration
NOTICES
Meetings:
Medical Child Support Working Group, 15382–15383

Personnel Management Office
RULES
Employment:
Temporary appointment pending establishment of register (TAPER); promotion possibility for employees appointed as worker-trainees, 15285–15286
Retirement; health benefits, Federal employees; and life insurance, Federal employees:
District of Columbia; certain employees inclusion in or exclusion from coverage, 15286–15290

Public Health Service
See National Institutes of Health

Research and Special Programs Administration
NOTICES
Hazardous materials:
Safety advisories—
Compressed gas cylinders; unauthorized marking, 15394–15395

Securities and Exchange Commission
PROPOSED RULES
Securities:
Revised transfer agent form and related rule, 15310–15320
NOTICES
Meetings; Sunshine Act
Correction, 15399
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 15384–15386
National Association of Securities Dealers, Inc., 15386–15388
Pacific Exchange, Inc., 15388–15391
Philadelphia Stock Exchange, Inc., 15391–15393
Correction, 15399
Applications, hearings, determinations, etc.:
Public utility holding company filings, 15383–15384

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Surface coal mining and reclamation operations:
Ownership and control mining operations; definitions, permit requirements, enforcement actions, etc., 15322

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15397–15398

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Research and Special Programs Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 15393
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 15393

Treasury Department
See Customs Service
See Internal Revenue Service
See Thrift Supervision Office

Separate Parts In This Issue

Part II
Department of Labor, Occupation Safety and Health Administration, 15401–15441

Part III
Department of Commerce, International Trade Administration, 15443–15585

Part IV
Department of Transportation, Federal Highway Administration, 15587–15606

Part V
Department of Education, Parental Assistance Program, 15607–15627

Part VI
General Services Administration, 15629–15631

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS

A cumulative lis
Reader Aids se

5 CFR
316
831
837
842
846
870
890
7 CFR
723
1464
9 CFR
78 (2 document
12 CFR
Proposed Rules:
208
211
225
14 CFR
39
71 (3 document
17 CFR
Proposed Rules:
240
249b
19 CFR
4
144
24 CFR
203
204
29 CFR
Proposed Rules:
1910
1915
1917
1918
1926
30 CFR
Proposed Rules:
256
701
724
773
774
778
842
843
846
33 CFR
165
Proposed Rules:
110
40 CFR
180
Proposed Rules:
372
41 CFR
301-10
48 CFR
552
49 CFR
393
50 CFR
660
679
Proposed Rules:
648

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
316.....15285
831.....15286
837.....15286
842.....15286
846.....15286
870.....15286
890.....15286

7 CFR
723.....15290
1464.....15290

9 CFR
78 (2 documents).....15296, 15298

12 CFR
Proposed Rules:
208.....15310
211.....15310
225.....15310

14 CFR
39.....15298
71 (3 documents).....15300, 15301

17 CFR
Proposed Rules:
240.....15310
249b.....15310

19 CFR
4.....15301
144.....15302

24 CFR
203.....15303
204.....15303

29 CFR
Proposed Rules:
1910.....15402
1915.....15402
1917.....15402
1918.....15402
1926.....15402

30 CFR
Proposed Rules:
256.....15320
701.....15322
724.....15322
773.....15322
774.....15322
778.....15322
842.....15322
843.....15322
846.....15322

33 CFR
165.....15399
Proposed Rules:
110.....15322

40 CFR
180.....15304
Proposed Rules:
372.....15324

41 CFR
301-10.....15630

48 CFR
552.....15306

49 CFR
393.....15588

50 CFR
660.....15307
679.....15308
Proposed Rules:
648.....15334

VOL
64
ISS
61
MR
31
999
UMI

Rules

This section of
contains regula
applicability an
are keyed to a
Federal Regula
50 titles pursua

The Code of F
the Superinten
new books are
REGISTER iss

**OFFICE OF
MANAGEME**

5 CFR Part 3

RIN 3206–A14

Temporary a

AGENCY: Offi
Management

ACTION: Final

SUMMARY: Th
Management
regulations t
for promotion
as Worker-Tr
appointments
5, or equivale
Wage System

EFFECTIVE DA

FOR FURTHER
Diane Tyrrell
202–606–232

SUPPLEMENTA
November 18
published pr
received com
agency headq
components,
organization,
Following is
regulatory pr
comments.

**Providing Ad
Opportunity
Worker-Trai
(Temporary A
Establishmen**

We propose
grade level fo
WG–5, or equ
Wage System,
serving as Wo
TAPER autho
proposal, one
suggested tha
advancement
level, and one

Rules and Regulations

Federal Register
Vol. 64, No. 61
Wednesday, March 31, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 316

RIN 3206–A145

Temporary and Term Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to allow for the possibility for promotion of employees appointed as Worker-Trainees under TAPER appointments through grade GS–4, WG–5, or equivalent grades in the Federal Wage System.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Diane Tyrrell on 202–606–0830, FAX 202–606–2329, or TDD 202–606–0023.

SUPPLEMENTARY INFORMATION: On November 18, 1998, [63 FR 64008] OPM published proposed regulations and received comments from six Federal agency headquarters, six agency components, one employee organization, and one individual. Following is a summary of the regulatory provision and the relevant comments.

Providing Added Advancement Opportunity for Individuals Hired as Worker-Trainees Under the TAPER (Temporary Appointment Pending the Establishment of a Register) Authority

We proposed to raise the maximum grade level for promotion to the GS–4, WG–5, or equivalent in the Federal Wage System, for employees who are serving as Worker-Trainees under the TAPER authority. In response to this proposal, one agency component suggested that the opportunity for advancement be increased to the GS–5 level, and one agency headquarters suggested that there be no limitation on the grade level to which these employees may be promoted. These possibilities were considered during the development of the proposed regulatory change. Because these are trainee positions requiring minimal or limited skills, it would be inappropriate to permit promotions beyond the GS–4 and WG–5, or equivalent, as those levels do not reflect trainee level work. We have, therefore, not adopted these suggestions.

One agency component suggested that this regulatory provision be amended to permit initial appointments under the program be made up to the GS–3, and WG–4, or equivalent level in the Federal Wage System. This suggestion is not consistent with the intent of the Worker-Trainee program. This program is designed to provide a simple process to allow individuals with limited skills the opportunity to qualify and apply for positions in the Federal government. Those individuals who do possess skills which qualify them for higher level positions should be recruited using traditional competitive recruitment methods. We have not adopted this suggestion.

One agency requested that the regulatory change include a "grandfather clause" to enable those employees who are already employed under this program to be covered by this change. All employees serving as Worker-Trainees under the TAPER authority will be subject to the changes that are implemented in the final regulation. A grandfather clause is, therefore, unnecessary since all employees employed under the program would receive coverage under the regulatory change.

One agency component suggested modification of the Student Temporary Employment Program Authority which the agency has used in appointing welfare recipients under the President's Welfare to Work initiative. This request is outside the scope of this proposal.

One employee organization and one individual commenter expressed similar concerns about providing added advantage to those hired under the worker-trainee program as opposed to other employees who have not been afforded the same benefits. Their specific concern was with regard to the recruitment method and the perception that unfair advantage had been given to those hired under this program while involuntarily separated federal employees had not been given the same priority in hiring. These commenters also stated that they believe agencies created positions to be filled under this initiative and that the result of this regulation will be to provide additional advantage in the promotion process. They believe these program aspects provide added benefits that other employees do not have. In addressing these concerns, we would like to point out that recruitment for positions under the welfare to work initiative has been accomplished through typical recruitment methods. Federal regulations require the application of displaced employment program procedures as well as veterans preference in the recruitment process, thus providing the opportunity for involuntarily separated federal employees and veterans to receive the same priority and preference in the hiring process as they do for any other position. Positions filled under the worker-trainee program are primarily the result of reengineering existing positions, rather than creating new ones, thus allowing recruitment at lower levels in order to provide experience and training which will help to prepare these employees to perform the higher level duties and to qualify for consideration for promotion. This is the same process that is used when hiring employees into most entry level clerical and trainee positions which have promotion potential to higher grade levels and, therefore, subjects them to the same promotion process. The additional concerns that were raised by these commenters regarding the receipt by worker-trainees of benefits from outside sources and the benefits entitlements of employees under temporary versus TAPER appointments are outside the scope of this proposal.

After considering all of the comments, we believe our original proposal represents a reasonable compromise. Therefore, the final regulation will allow promotion of Worker-Trainees under the TAPER authority to be made up to the GS–4, WG–5 or equivalent level in the Federal Wage System.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities

because the regulation pertains only to Federal employees and agencies.

List of Subjects in 5 CFR Part 316

Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 316 of title 5, Code of Federal Regulations, as follows:

PART 316—TEMPORARY AND TERM EMPLOYMENT

1. The authority citation for part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, (3 CFR 1954–1958 Comp. Page 218).

2. Section 316.201 paragraph (b) is revised to read as follows:

§ 316.201 Purpose and duration.

* * * * *

(b) *Specific authority for Worker-Trainee positions.* Agencies may make TAPER appointments to positions at GS–1, WG–1, and WG–2 and may reassign or promote the appointees to other positions through grade GS–4, WG–5, or equivalent grades in the Federal Wage System consistent with § 330.501 of this chapter. Agencies are authorized to reassign or promote worker-trainees under this authority.

[FR Doc. 99–7789 Filed 3–30–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831, 837, 842, 846, 870, and 890

RIN 3206–AI55

Retirement, Health, and Life Insurance Coverage for Certain Employees of the District of Columbia under the District of Columbia Courts and Justice Technical Corrections Act of 1998

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to implement the District of Columbia Courts and Justice Technical Corrections Act of 1998. The effect of these regulations is to extend Federal retirement, health insurance, and life insurance coverage to employees of the Public Defender Service of the District of Columbia under section 7 of the Act, and to exclude certain former employees of the District of Columbia who are hired by the Department of Justice or by the Court Services and Offender Supervision Agency from Federal retirement coverage if they elect, under section 3 of the Act, to continue their coverage under a retirement system for employees of the District of Columbia.

DATES: Interim rules effective March 31, 1999; comments must be received on or before June 29, 1999.

ADDRESSES: Send comments to Mary Ellen Wilson, Retirement Policy Division, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington DC. Comments may also be submitted by electronic mail to *combox@opm.gov*.

FOR FURTHER INFORMATION CONTACT: For Parts 831, 837, 842, and 846: Robert Girouard, (202) 606–0299; and for Parts 870 and 890: Karen Leibach, (202) 606–0004.

SUPPLEMENTARY INFORMATION:

1. Background

The National Capital Revitalization and Self-Government Improvement Act of 1997 (the 1997 Act), title XI of Public Law 105–33, 111 Stat. 251 (August 5, 1997) provided for transfers of certain functions and liabilities from the government of the District of Columbia (DC) to the Federal Government.

Section 11201 of the 1997 Act provided for transfer of incarceration functions from the Lorton Correctional Complex, D.C. Department of Corrections, to the Bureau of Prisons, Department of Justice. Section 11202 established a Corrections Trustee to oversee the finances of the DC Department of Corrections during this transfer. Section 11232 established a Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee to manage the reorganization and transfer of the DC government's pretrial services, parole, adult probation, and offender supervision functions and funding.

The 1997 Act provided that a former Federal employee who, after a break in service of 3 days or less, is appointed as a Trustee under section 11202 or section 11232, or who becomes employed by the Trustee, shall be treated as a Federal employee for purposes of chapter 83 (Civil Service Retirement System—CSRS); chapter 84 (Federal Employees Retirement System—FERS); chapter 87 (Federal Employees' Group Life Insurance Program—FEGLI); and chapter 89 (Federal Employees Health Benefits program—FEHB) of title 5, United States Code.

Section 11233 of the 1997 Act provided for an Offender Supervision, Defender, and Court Services Agency to be established during the period beginning August 5, 1998 and ending August 5, 2000 to supervise offenders on probation, parole, and supervised release pursuant to the DC Code, subject to a certification that the Agency is ready to assume its duties.

Section 11246 of the 1997 Act provided for nonjudicial employees of the DC courts to be treated as Federal employees for purposes of chapters 81 (relating to compensation for work injuries), 83, 84, 87, and 89 of title 5, United States Code, and for judicial employees of the D.C. courts to be treated as Federal employees only for purposes of chapters 81, 87, and 89 of title 5. On September 30, 1997, OPM published interim regulations (at 62 FR 50995) to implement the retirement, health insurance, and life insurance provisions of the 1997 Act.

The District of Columbia Courts and Justice Technical Corrections Act of 1998 (the 1998 Act), Public Law 105–274, 112 Stat. 2419, was enacted on October 21, 1998. The 1998 Act made technical changes to the 1997 Act, extended Federal employee benefits to additional groups of DC government employees, and provided certain former DC Government employees who work for the Federal Government with the opportunity to continue their DC government benefits. OPM is issuing interim regulations to implement sections 3, 7(b), 7(c), and 7(e) of the 1998 Act.

2. Renaming of Agencies That Affects These Regulations

Section 7(b) and 7(c) of the 1998 Act changes the names of two agencies established by the 1997 Act. The former "Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee" is now known as the "Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee," and the former "Offender Supervision, Defender, and Court Services Agency" is now known as the "Court Services and Offender Supervision Agency." OPM is making technical revisions to sections 831.201, 842.107, 870.302, and 890.102 of Title 5, Code of Federal Regulations to implement these changes.

3. Retirement and Insurance Provisions for Certain Employees of the Department of Justice and the Court Services and Offender Supervision Agency

Section 3 of the 1998 Act provides that a former employee of the District of

Columbia who is hired by the Department of Justice or by the Court Services and Offender Supervision Agency may elect to retain retirement coverage under a retirement system for employees of the District of Columbia. Employees are eligible to make this election only if they were hired by the Department of Justice or by the Court Services and Offender Supervision Agency during the period beginning August 5, 1997, and ending on the later of 2 dates: (1) one year after the date on which the Lorton Correctional Complex is closed, or (2) one year after the date on which the Court Services and Offender Supervision Agency assumes its duties.

The election to participate in the District of Columbia's retirement system must occur no later than June 1, 1999 or 60 days after the date of the Federal appointment, whichever is later. The election remains in effect until the employee leaves the Department of Justice or the Court Services and Offender Supervision Agency.

Note that under section 11232(h) of the 1997 Act, the Court Services and Offender Supervision Agency cannot be established, and, by extension, cannot make any Federal appointments, until the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee certifies that the Agency is ready to assume its duties.

OPM is adding new sections 831.201(i) and 842.104(g) to Title 5, Code of Federal Regulations to exclude employees from CSRS and FERS who elect to retain coverage under a retirement system for employees of the District of Columbia. An employee who transfers from the DC government to a Federal Government position covered by CSRS or FERS will initially be placed under CSRS, CSRS-Offset, or FERS, as appropriate. If the employee subsequently elects to retain D.C. government retirement coverage within 60 days of appointment, the employee will be removed from CSRS, CSRS-Offset, or FERS and placed under a retirement plan for employees of the DC government, retroactive to the date of appointment.

OPM is required by section 3 of the 1998 Act to consult with the Department of Justice, the government of the District of Columbia, and the Court Services and Offender Supervision Agency prior to issuing regulations that implement section 3. OPM consulted with the Department of Justice, the Public Defender Service of the District of Columbia, and the Office of Personnel of the District of Columbia, and received their concurrence prior to issuing these regulations. Because the Court Services and Offender Supervision Agency does not yet exist, OPM consulted with its statutory predecessor, the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee, and received its concurrence prior to issuing these regulations.

4. Retirement and Insurance Provisions for the Public Defender Service of the District of Columbia

Sec. 7(e) of the 1998 Act provides that employees of the Public Defender Service of the District of Columbia are to be treated as Federal employees for purposes of chapters 81, 83, 84, 87, and 89 of title 5, United States Code, beginning the first month after the effective date of these regulations. OPM is revising section 831.201(g) of Title 5, Code of Federal Regulations to provide CSRS coverage to eligible employees of the Public Defender Service, and is adding a new section 842.108 to provide FERS coverage to eligible employees of the Public Defender Service. OPM is also revising section 846.201(d) to provide employees of the Public Defender Service who are automatically placed under CSRS or CSRS-Offset with an election opportunity to transfer to FERS.

OPM is also making technical and conforming revisions to sections 837.101 and 837.102 of Title 5, Code of Federal Regulations, concerning reemployment of annuitants.

OPM is revising sections 870.302 and 890.102 to show that employees of the Public Defender Service of the District of Columbia are no longer excluded from coverage under the Federal Employees' Group Life Insurance and Federal Employees Health Benefits Programs.

Waiver of General Notice of Proposed Rulemaking

Under section 553(b)(3)(B) and (d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making these rules effective in less than 30 days. These regulations will affect the retirement and insurance coverage of employees of the Public Defender Service of the District of Columbia on and after April 1, 1999, and the retirement coverage of certain employees of the Department of Justice and the Court Services and Offender Supervision Agency after March 31, 1999. Publication of a general notice on proposed rulemaking would be contrary to the public interest because it would delay the commencement of Federal retirement and insurance benefits for employees of the Public Defender Service of the District of Columbia, and because it would delay the opportunity for former employees of the District of Columbia who are appointed in Federal positions by the Department of Justice or by the Court Services and Offender Supervision Agency to elect to continue their coverage under a retirement system for employees of the District of Columbia.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects retirement and insurance benefits for certain employees of the Federal Government and the District of Columbia, and their survivors.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Parts 831, 837, 842, and 846

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM amends Parts 831, 837, 842, 846, 870, and 890 of Title 5 of the Code of Federal Regulations as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.114

also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174, 112 Stat. 58; § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; § 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; § 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228. 3 CFR 1964–1965 Comp. p. 317; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under section 11004 (c)(2) of Pub. L. 103–66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart B—Coverage

2. Amend § 831.201 to redesignate paragraphs (g)(3) through (g)(5) as paragraphs (g)(4) through (g)(6) respectively; revise new paragraph (g)(5); and add new paragraphs (g)(3) and (i) to read as follows:

§ 831.201 Exclusions from retirement coverage.

* * * * *

(g) * * *

(3) Effective on and after April 1, 1999, the effective date of section 7(e) of Pub. L. 105–274, 112 Stat. 2419, employees of the Public Defender Service of the District of Columbia employed in a position which is not excluded from CSRS under the provisions of this section;

* * * * *

(5) The District of Columbia Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee, authorized by section 11232 of Pub. L. 105–33, 111 Stat. 251, as amended by section 7(b) of Pub. L. 105–274, 112 Stat. 2419, and an employee of the Trustee, if the Trustee or employee is a former Federal employee appointed with a break in service of 3 days or less, and, in the case of an employee of the Trustee, is employed in a position which is not excluded from CSRS under the provisions of this section, and;

* * * * *

(i)(1) A former employee of the District of Columbia who is appointed in a Federal position by the Department of Justice, or by the Court Services and Offender Supervision Agency established by section 11233(a) of Pub. L. 105–33, 111 Stat. 251, as amended by section 7(c) of Pub. L. 105–274, 112 Stat. 2419, is excluded from CSRS beginning on the date of the Federal appointment, if the employee elects to continue coverage under a retirement system for employees of the District of Columbia under section 3 of Pub. L. 105–274, 112 Stat. 2419, and if the following conditions are met:

(i) The employee is hired by the Department of Justice or by the Court Services and Offender Supervision Agency during the period beginning August 5, 1997, and ending 1 year after the date on which the Lorton Correctional Complex is closed, or 1 year after the date on which the Court Services and Offender Supervision Agency assumes its duties, whichever is later; and

(ii) The employee elects to continue coverage under a retirement system for employees of the District of Columbia no later than June 1, 1999 or 60 days after the date of the Federal appointment, whichever is later.

(2) An individual's election to continue coverage under a retirement system for employees of the District of Columbia remains in effect until the individual separates from service with the Department of Justice or the Court Services and Offender Supervision Agency.

PART 837—REEMPLOYMENT OF ANNUITANTS

3. The authority citation for part 837 continues to read as follows:

Authority: 5 U.S.C. 8337, 8344, 8347, 8455, 8456, 8461, and 8468; and sec. 302, Pub. L. 99–335, 100 Stat. 514, as amended by Title I, sec. 134(a), Pub. L. 100–238, 101 Stat. 1762; Title V, sec. 529 [Title I, sec. 108(c)], Pub. L. 101–509, 104 Stat. 1427, 1450; Div. A, Title XII, sec. 1206(j)(3), Pub. L. 101–510, 104 Stat. 1664; Div. A., Title VI, sec. 655(c), Pub. L. 102–190, 105 Stat. 1392; sec. 8(a), Pub. L. 102–378, 106 Stat. 1359.

Subpart A—General Provisions

4. In § 837.101, paragraph (a)(2) is revised to read as follows:

§ 837.101 Applicability.

(a) * * *

(2) Reemployment of an annuitant by the government of the District of Columbia when the annuitant—

(i) Had been employed subject to CSRS by the District of Columbia prior to October 1, 1987;

(ii) Is an employee of the government of the District of Columbia not excluded from CSRS under § 831.201(g) or § 831.201(i); or

(iii) Is an employee of the District of Columbia who is deemed to be a Federal employee for FERS purposes under § 842.107 or § 842.108 of this chapter; and

* * * * *

5. In § 837.102, revise the definition of *Reemployed* to read as follows:

§ 837.102 Definitions.

* * * * *

Reemployed means reemployed in an appointive or elective position with the Federal Government, or reemployed in an appointive or elective position with the District of Columbia (when the annuitant was first employed subject to CSRS by the District of Columbia before October 1, 1987, or is an employee of the government of the District of Columbia not excluded from CSRS under § 831.201(g) or § 831.201(i) of this chapter, or is an employee of the government of the District of Columbia who is deemed to be a Federal employee for FERS purposes under § 842.107 or § 842.108 of this chapter), whether the position is subject to CSRS, FERS, or another retirement system, but does not include appointment as a Governor of the Board of Governors of the United States Postal Service, or reemployment under the provisions of law that exclude offset of pay by annuity, that is, sections 8344(i), (j), or (k), or 8468(f), (g), or (h) of title 5, United States Code.

* * * * *

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

6. The authority citation for section 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; § 842.108 also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; § 842.205 also issued under 5 U.S.C. 8414(b)(1)(B); § 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105–174, 112 Stat. 58; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; § 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; § 842.708 also issued under section

4005 of Pub. L. 101–239, 103 Stat. 2106 and section 7001 of Pub. L. 101–508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104.

Subpart A—Coverage

7. In § 842.104, add paragraph (g) to read as follows:

§ 842.104 Statutory exclusions.

* * * * *

(g) *Certain Federal employees who elect to continue coverage under a retirement system for employees of the District of Columbia.*

(1) A former employee of the District of Columbia who is appointed in a Federal position by the Department of Justice, or by the Court Services and Offender Supervision Agency established by section 11233(a) of Pub. L. 105–33, 111 Stat. 251, as amended by section 7(c) of Pub. L. 105–274, 112 Stat. 2419, is excluded from FERS coverage beginning on the date of the Federal appointment, if the employee elects to continue coverage under a retirement system for employees of the District of Columbia under section 3 of Pub. L. 105–274, 112 Stat. 2419, and if the following conditions are met:

(i) The employee is hired by the Department of Justice or by the Court Services and Offender Supervision Agency during the period beginning August 5, 1997, and ending 1 year after the date on which the Lorton Correctional Complex is closed, or 1 year after the date on which the Court Services and Offender Supervision Agency assumes its duties, whichever is later; and

(ii) The employee elects to continue coverage under a retirement system for employees of the District of Columbia no later than June 1, 1999 or 60 days after the date of the Federal appointment, whichever is later.

(2) An individual's election to continue coverage under a retirement system for employees of the District of Columbia remains in effect until the individual separates from service with the Department of Justice or the Court Services and Offender Supervision Agency.

8. In § 842.107, revise paragraph (c) to read as follows:

§ 842.107 Employees covered under the National Capital Revitalization and Self-Government Improvement Act of 1997.

* * * * *

(c) The District of Columbia Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee, authorized by section 11232 of Pub. L. 105–33, 111 Stat. 251, as amended by section 7(b) of Pub. L. 105–274, 112 Stat. 2419, and an employee of the Trustee, if the Trustee or employee is a former Federal employee appointed with a break in service of 3 days or less.

9. Add § 842.108 to subpart A to read as follows:

§ 842.108 Employees covered under the District of Columbia Courts and Justice Technical Corrections Act of 1998.

Employees of the Public Defender Service of the District of Columbia are deemed to be Federal employees for FERS purposes on and after April 1, 1999.

PART 846—FEDERAL EMPLOYEES RETIREMENT SYSTEM—ELECTIONS OF COVERAGE

10. The authority citation for section 846 is revised to read as follows:

Authority: 5 U.S.C. 8347(a) and 8461(g) and Title III of Pub. L. 99–335, 100 Stat. 517; § 846.201(b) also issued under 5 U.S.C. 7701(b)(2) and section 153 of Pub. L. 104–134, 110 Stat. 1321; § 846.201(d) also issued under section 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 846.201(d) also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; § 846.202 also issued under section 301(d)(3) of Pub. L. 99–335, 100 Stat. 517; § 846.726 also issued under 5 U.S.C. 1104; subpart G also issued under section 642 of Pub. L. 105–61, 111 Stat. 1272.

Subpart B—Elections

11. In § 846.201, paragraph (d)(1) is revised to read as follows:

§ 846.201 Elections to become subject to FERS.

* * * * *

(d) *Exceptions.* (1) An individual who is an employee of the government of the District of Columbia may not elect to become subject to FERS except an individual so employed who is covered by CSRS and eligible for FERS coverage by operation of section 11246 of Pub. L. 105–33, 111 Stat. 251, or section 7(e) of Pub. L. 105–274, 112 Stat. 2419.

* * * * *

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

12. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; § 870.302(c) also issued under 5 U.S.C. 7701(b)(2); subpart J also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 870.302 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251 and section 7(e) of Pub. L. 105–274, 112 Stat. 2419.

13. Section 870.302 is amended by revising paragraph (a)(3) to read as follows:

§ 870.302 Exclusions.

(a) * * *

(3) An individual first employed by the government of the District of Columbia on or after October 1, 1987. Exceptions:

(i) An employee of St. Elizabeths Hospital, who accepts employment with the District of Columbia Government following Federal employment without a break in service, as provided in section 6 of Pub. L. 98–621 (98 Stat. 3379);

(ii) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority (Authority), who makes an election under the Technical Corrections to Financial Responsibility and Management Assistance Act (section 153 of Pub. L. 104–134 (110 Stat. 1321)) to be considered a Federal employee for life insurance and other benefits purposes; employees of the Authority who are former Federal employees are subject to the provisions of §§ 870.503(d) and 870.705 of this part;

(iii) The Corrections Trustee and the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee and employees of these Trustees who accept employment with the District of Columbia government within 3 days after separating from the Federal Government;

(iv) Effective October 1, 1997, judicial and nonjudicial employees of the District of Columbia Courts, as provided by Pub. L. 105–33 (111 Stat. 251); and

(v) Effective April 1, 1999, employees of the Public Defender Service of the District of Columbia, as provided by Pub. L. 105–274 (112 Stat. 2419).

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

14. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403(p), 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251 and section 7(e) of Pub. L. 105–274, 112 Stat. 2419.

15. Section 890.102 is amended by revising paragraph (c)(8) to read as follows:

§ 890.102 Coverage.

* * * * *

(c) * * *

(8) An individual first employed by the government of the District of Columbia on or after October 1, 1987. However, this exclusion does not apply to:

(i) Employees of St. Elizabeths Hospital who accept offers of employment with the District of Columbia government without a break in service, as provided in section 6 of Pub. L. 98–621 (98 Stat. 3379);

(ii) The Corrections Trustee and the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee and employees of these Trustees who accept employment with the District of Columbia government within 3 days after separating from the Federal Government;

(iii) Effective October 1, 1997, judges and nonjudicial employees of the District of Columbia Courts, as provided by Pub. L. 105–33 (111 Stat. 251); and

(iv) Effective April 1, 1999, employees of the Public Defender Service of the District of Columbia, as provided by Pub. L. 105–274 (112 Stat. 2419).

[FR Doc. 99–7871 Filed 3–30–99; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AF 20

1998 Marketing Quotas and Price Support Levels for Fire-Cured (Type 21), Fire-Cured (Types 22–23), Maryland (Type 32), Dark Air-Cured (Types 35–36), Virginia Sun-Cured (Type 37), Cigar-Filler (Type 41), Cigar-Filler and Binder (Types 42–44 and 53–55), and Cigar Binder (Types 51–52) Tobaccos

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Affirmation of determination and final rule.

SUMMARY: The purpose of this notice is to codify the national marketing quotas and price support levels for the 1998 crops for several kinds of tobacco announced by press release on February 27, 1998.

In accordance with the Agricultural Adjustment Act of 1938, as amended (the 1938 Act), the Secretary determined the 1998 marketing quotas to be as follows: fire-cured (type 21), 2.725 million pounds; fire-cured (types 22–23), 44.6 million pounds; Maryland (type 32), 5.45 million pounds; dark air-cured (types 35–36), 11.15 million pounds; Virginia sun-cured (type 37), 165,000 pounds; cigar-filler (type 41), 0.665 million pounds; cigar-filler and binder (types 42–44 and 53–55), 6.63 million pounds; and cigar binder (types 51–52), 1.31 million pounds.

Quotas are necessary to adjust the production levels of certain tobaccos to more fully reflect supply and demand conditions, as provided by statute.

In accordance with the Agricultural Act of 1949 as amended (the 1949 Act), the Secretary determined the 1998 levels of price support to be as follows (in cents per pound): fire-cured (type 21), 153.6; fire-cured (types 22–23), 168.1; dark air-cured (types 35–36), 145.0; Virginia sun-cured (type 37), 136.0; and cigar-filler and binder (types 42–44 and 53–55), 121.2. Price support for Maryland (type 32), cigar-filler (type 41), and cigar binder (types 51–52) were not announced because producers of each of these kinds of tobacco had disapproved marketing quotas for many years and were not expected to approve quotas in separate referenda held on March 23–26, 1998. This notice also fixes a technical error in a section heading.

EFFECTIVE DATE: February 27, 1998.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514, telephone 202–720–5346. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice has been determined to be significant and was reviewed by OMB under Executive Order 12866.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Commodity Loans and Purchases—10.051.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Farm Service Agency (FSA) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of these determinations.

Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Statutory Background

This final rule is issued pursuant to the provisions of the 1938 Act and the 1949 Act.

On February 27, 1998, the Secretary determined and announced the national marketing quotas and price support levels for the 1998 crops of fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42–44 and 53–55) tobaccos. In addition, the Secretary announced marketing quotas for Maryland (type 32), cigar-filler (type 41) and cigar-binder (types 51–52). A number of related determinations were made at the same time which this final rule affirms. On the same date, the Secretary also announced that referenda would be conducted by mail with respect to Maryland (type 32), Virginia sun-cured (type 37), cigar-filler (type 41), and cigar-binder (types 51–52) tobaccos.

During March 23–26, 1998, eligible producers of Maryland (types 32), Virginia sun-cured (type 37), cigar-filler (type 41), and cigar binder (types 51–52) tobacco voted in separate referenda to determine whether such producers approved marketing quotas for the 1998, 1999, and 2000 marketing years (MY) for these tobaccos. Of the producers voting, 14.8 percent favored marketing quotas for Maryland (type 32) tobacco; 96.7 percent favored marketing quotas for Virginia sun-cured (type 37) tobacco; 9.1 percent favored marketing quotas for cigar-filler (type 41) tobacco; and 2.5 percent favored marketing quotas for cigar-filler (types 51–52) tobacco. Accordingly, among these tobaccos, quotas and price supports for only Virginia sun-cured (type 37) tobacco are in effect for the 1998 though 2000 MYs. For the other three kinds, neither marketing quotas nor price supports will be in effect for the next 3 MYs.

In accordance with section 312 of the 1938 Act, for tobaccos other than flue-

cured tobacco and burley tobacco, the Secretary of Agriculture is required to proclaim not later than March 1 of any MY a national marketing quota for those tobaccos for which either: (1) are tobaccos for which marketing quotas have been approved in the prior 3 years or (2) are tobaccos for which it has been 3 years since the last quota referendum. There is a vote on quotas for each kind in a 3-year cycle. With respect to Virginia sun-cured (type 37) tobacco, the 1997 MY was the last year of 3 consecutive years of quota. For Maryland (type 32), cigar-filler (type 41), and cigar binder (types 51–52) tobacco, all of which had been without quotas, 1998 represented the beginning of another 3 year cycle. Accordingly, marketing quotas for Maryland (type 32), Virginia sun-cured (type 37), cigar-filler (type 41) and cigar binder (types 51–52) tobaccos were proclaimed for each of the 3 MYs beginning October 1, 1998; October 1, 1999, and October 1, 2000, but subject to producer approval. As indicated, however, only Virginia sun-cured (type 37) producers approved quotas in the four referenda. Quotas for the other tobaccos covered by this notice were approved in referenda which were still effective.

Because of producer approval of quotas, sections 312 and 313 of the 1938 Act required that the Secretary also announce the reserve supply level and the total supply of fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar filler and binder (types 42–44 and 53–55) tobaccos for the MY beginning October 1, 1997. The Secretary also announced the amounts of the national marketing quotas, national acreage allotments, national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (1) new farms and (2) making corrections and adjusting inequities in old farm allotments.

Under the 1949 Act, price support is required to be made available for each crop of a kind of tobacco for which marketing quotas are in effect or for which marketing quotas have not been disapproved by producers. Since producers of Maryland (type 32), cigar filler (type 41), and cigar binder (types 51–52) tobacco disapproved quotas, price supports were not considered in this notice. With respect to the 1998 crops of the kinds of tobacco that are the subject of this notice which have approved national marketing quotas, the respective maximum levels of price support for these kinds of tobacco is determined in accordance with section 106 of the 1949 Act. Announcement of the price support levels for these five kinds of tobacco are normally made before the planting seasons. Under the provisions of Section 1108(c), of Pub. L. No. 99–272, the price support level announcements do not require prior rulemaking. For the 1998 crops, the price support announcements were made on February 27, 1998, at the same time the quota announcements were made. Quota and price support determinations for burley and flue-cured tobacco are made separately and are the subject of separate notices.

Statutory Provisions

Section 312(b) of the 1938 Act provides, in part, that the national marketing quota for a kind of tobacco is the total quantity of that kind of tobacco that may be marketed such that a supply of such tobacco equal to its reserve supply level is made available during the MY.

Section 313(g) of the 1938 Act provides that the Secretary may convert the national marketing quota into a national acreage allotment for apportionment to individual farms. Since producers of these kinds of tobacco generally produce considerably less than their respective national acreage allotments allow, a larger quota is necessary to make available production equal to the reserve supply level. Further, under section 312(b) of the 1938 Act the amount of the national marketing quota may, not later than the following March 1, be increased by not more than 20 percent over the straight formula amount if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Section 301(b)(14)(B) of the 1938 Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to ensure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. "Normal supply" is defined in section 301(b)(10)(B) of the 1938 Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover.

Normal year's domestic consumption is defined in section 301(b)(11)(B) of the 1938 Act as the average quantity produced and consumed in the United States during the 10 MYs immediately preceding the MY in which such consumption is determined, adjusted for current trends in such consumption. Normal year's exports is defined in section 301(b)(12) of the 1938 Act as the average quantity produced in and exported from the United States during the 10 MYs immediately preceding the MY in which such exports are determined, adjusted for current trends in such exports.

Also, under section 313(g) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that the national reserve, noted herein, for the 1998 crop of each of these kinds of tobacco is adequate for these purposes.

The Proposed Rule

On February 2, 1998, a proposed rule was published in the **Federal Register** (63 FR 5285) in which interested persons were requested to comment with respect to setting quotas for the tobacco kinds addressed in this notice.

Discussion of Comments

Seventeen written responses were received during the comment period which ended February 13, 1998. A summary of these comments by kind of tobacco follows:

(1) *Fire-cured (type 21) tobacco.* Three comments were received. All recommended a 15 percent increase in 1998 quotas.

(2) *Fire-cured (types 22–23) tobacco.* Five comments were received. All recommended no change in 1998 quotas.

(3) *Dark air-cured (types 35–36) tobacco.* Six comments were received. All recommended a 20 percent increase in the quota.

(4) *Virginia sun-cured (type 37) tobacco.* Three comments were received. They recommended a quota increase of 15 percent.

(5) *Cigar-filler and binder (types 42–44 and 53–55) tobacco.* No comments were received.

Quota and Related Determinations

The tobacco program is, through assessments, operated at no net cost to taxpayers other than the costs common to all price support operations. Accordingly producer comments are given considerable weight in this review. Based on a review of the comments received and the latest available statistics of the Federal Government, which appear to be the

most reliable data available, the following determinations were made for the five subject tobacco kinds:

(1) Fire-Cured (Type 21) Tobacco

The average annual quantity of fire-cured (type 21) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 0.8 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was 2.1 million pounds (farm sales weight basis). Both domestic use and exports have trended sharply downward. Because of these considerations, a normal year's domestic consumption has been determined to be 0.6 million pounds, and a normal year's exports have been determined to be 1.6 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 4.4 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 2.4 million pounds. The 1997 crop is estimated to be 2.0 million pounds. Therefore, total supply for the 1997 MY is 4.4 million pounds. During the 1997 MY, it is estimated that disappearance will total approximately 2.2 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 2.2 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 2.2 million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. More than 95 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 2.271 million pounds is necessary to make available production of 2.2 million pounds. As permitted by section 312(b) of the 1938 Act, it was further determined that the 1998 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the size of last year's quota, the comments, the long storage time for this tobacco and the possibility of changes in demand over expected demand. Thus, the national marketing quota for the 1998 crop is 2.725 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 2.725 million pounds by the 1993–97, 5-year national average yield of 1,594 pounds per acre results in a 1998 national acreage allotment of 1,709.54 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.15 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 9.25 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(2) Fire-Cured (Types 22–23) Tobacco

The average annual quantity of fire-cured (types 22–23) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 years preceding the 1997 MY was approximately 19.1 million pounds. The average annual quantity produced in the United States and exported during the 10 MYs preceding the 1997 MY was 15.8 million pounds (farm sales weight basis). Domestic use has trended upward while exports have varied. Because of these considerations, a normal year's domestic consumption has been determined to be 30.0 million pounds, and a normal year's exports have been determined to be 18.4 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 118.5 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 83.3 million pounds. The 1997 crop is estimated to be 40.0 million pounds. Therefore, total supply for the 1997 MY is 123.3 million pounds. During the 1997 MY, it is estimated that disappearance will total approximately 40.0 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 83.3 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 35.2 million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. About 95 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 37.2 million pounds is necessary to make available production of 35.2 million pounds.

Utilizing section 312(b) of the 1938 Act, it was further determined for the same reason as with fire-cured (type 21) tobacco, that the 1998 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. Thus, the national marketing quota for the 1998 crop is 44.6 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 44.6 million pounds by the 1993–97, 5-year average yield of 2,652 pounds per acre results in a 1998 national acreage allotment of 16,817.50 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 58.00 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(3) Dark Air-Cured (Types 35–36) Tobacco

The average annual quantity of dark air-cured (types 35–36) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 9.5 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was 1.5 million pounds (farm sales weight basis). Domestic use has been erratic while exports have trended downward. Because of these considerations, a normal year's domestic consumption has been determined to be 9.9 million pounds, and a normal year's exports have been determined to be 1.4 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 31.0 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 23.8 million pounds. The 1997 crop is estimated to be 8.7 million pounds. Therefore, total supply for the 1997 MY is 32.5 million pounds. During the 1997 MY, it is estimated that disappearance will total approximately 10.0 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 22.5 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 8.5

million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. About 90 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a national marketing quota of 9.29 million pounds is necessary to make available production of 8.5 million pounds. In accordance with section 312(b) of the 1938 Act, it has been further determined that the 1998 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the same factors as with fire-cured (type 21) tobacco and industry preferences. This results in a national marketing quota for the 1998 MY of 11.15 million pounds. Otherwise, the quota would be well below the level for the 1997 crop.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 11.15 million pounds by the 1993–97, 5-year average yield of 2,284 pounds per acre results in a 1998 national acreage allotment of 4,881.79 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.20 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 34.70 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(4) Virginia Sun-Cured (Type 37) Tobacco.

The average annual quantity of Virginia sun-cured (type 37) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 90,000 pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was approximately 90,000 pounds (farm sales weight basis). Both domestic use and exports have shown a sharp downward trend. Because of these considerations, a normal year's domestic consumption has been determined to be 30,000 pounds, and a normal year's exports have been determined to be 20,000 pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 121,000 pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 20,000 pounds. The 1997 crop is estimated to be 100,000 pounds. Therefore, total supply for the 1997 MY is 120,000 pounds. During the 1997 MY, it is estimated that disappearance will total approximately 120,000 pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 0 pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1997, is 121,000 pounds. This represents the quantity that may be marketed that will make available during the 1997 MY a supply equal to the reserve supply level. Less than three-quarters of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 163,000 pounds is necessary to make available production of 121,000 pounds. Thus, the national marketing quota for the 1998 crop is 163,000 pounds which is greater than the preceding quota by about 15 percent and should not unduly restrict marketings.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 163,000 pounds by the 1993–97, 5-year average yield of 1,376 pounds per acre results in a 1998 national acreage allotment of 118.46 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.15 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 0.57 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(5) Cigar-Filler and Binder (Types 42–44 and 53–55) Tobacco

The average annual quantity of cigar-filler and binder (types 42–44 and 53–55) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 12.1 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was less than 100,000 pounds (farm sales weight). Domestic use has trended downward and exports are very small. Thus, a normal year's domestic consumption has been determined to be 7.2 million pounds, and a normal year's exports has been determined to be zero pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 20.8 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 17.8 million pounds. The 1997 crop is estimated to be 5.5 million pounds. Therefore, total supply for the 1997 MY is 23.3 million pounds. During the 1997 MY, it is estimated that disappearance will total about 8.0 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 15.3 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 5.5 million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. Slightly more than 80 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 6.63 million pounds is necessary to make available production of 5.5 million pounds. This results in a 1998 national marketing quota of 6.63 million pounds. This determination reflects that there are short reserve supplies and takes into account possible changes in expected demand and the fact that even with this adjustment the 1998 quota will be less than the 1997 crop quota.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 6.63 million pounds by the 1993–97, 5-year average yield of 1,921 pounds per acre results in a 1998 national acreage allotment of 3,451.33 acres.

Pursuant to the provisions of section 313(g), of the 1938 Act, a national factor of 0.8 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 15.80 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(6) Referendum Results for Virginia Sun-Cured (type 37), Maryland (type 32), Cigar Filler (type 41), and Cigar Binder (types 51–52) Tobaccos

Because of the results of producer referenda, marketing quotas shall be in effect for the 1998 MY for Virginia sun-

cured (type 37). However, they will not be in effect for Maryland (type 32), cigar filler (type 41), nor cigar binder (types 51–52) tobacco. In referenda held March 23–26, 1998, 96.7 percent of Virginia sun-cured producers voted in favor of quotas. However, only 14.8 percent of Maryland (type 32), 9.1 percent of cigar filler (type 41), and 2.5 percent of cigar binder (types 51–52) producers voted for quotas.

REFERENDA DATA

Kind of tobacco	Total votes	Yes votes	No votes	% yes votes
Virginia sun-cured (type 37)	60	58	2	96.7
Maryland (type 32)	698	103	595	14.8
Cigar-filler (type 41)	230	21	209	9.1
Cigar-binder (types 51–52)	120	3	117	2.5

Price Support

Statutory Provisions

Section 106(f)(6)(A) of the 1949 Act provides that the level of support for the 1998 crop of a kind of tobacco (other than flue-cured and burley) shall be the level in cents per pound at which the 1997 crop of such kind of tobacco was supported, plus or minus, as appropriate, the amount by which (i) the basic support level for the 1998 crop, as it would otherwise be determined under section 106(b) of the 1949 Act, is greater or less than (ii) the support level for the 1997 crop, as it would otherwise be determined under section 106(b). To the extent that the price support level would be increased as a result of that comparison, section 106(f) provides that the increase may be modified using the provisions of 106(d). Under 106(d), the Secretary may reduce the level of support for grades the Secretary determines will likely be in excess supply so long as the weighted level of support for all grades maintains at least 65 percent of the increase in the price support (from the previous year). The Secretary must consult with the appropriate tobacco associations and take into consideration the supply, and anticipated demand for the tobacco, including the effect of the action on other kinds of quota tobacco. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary is required to consider the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco.

Section 106(b) of the 1949 Act provides that the "basic support level" for any year is determined by multiplying the support level for the 1959 crop of such kind of tobacco by the ratio of the average of the index of prices paid by farmers, including wage rates, interest and taxes (referred to as the "parity index") for the 3 previous calendar years to the average index of such prices paid by farmers, including wage rates, interest and taxes for the 1959 calendar year.

In addition, section 106(f)(6)(B) of the 1949 Act provides that to the extent requested by the board of directors of an association, through which price support is made available to producers (producer association), the Secretary may reduce the support level determined under section 106(f)(6)(A) of the 1949 Act for the respective kind of tobacco to more accurately reflect the market value and improve the marketability of such tobacco. Accordingly, the price support level for a kind of tobacco set forth in this rule could be reduced if such a request is made.

Price Support Determinations

The following levels of price support for the 1997 crops of various kinds of tobacco, which were determined in accordance with section 106(f)(6)(A) of the 1949 Act, are as follows:

Kind and type	Support level (cents per pound)
Fire-cured (type 21)	149.8
Fire-cured (types 22–23)	162.3
Dark air-cured (types 35–36)	139.8
Virginia sun-cured (type 37)	132.6
Cigar-filler and binder (types 42–44 and 53–55)	116.9

For the 1998 crop year:

(1) Average parity indexes for calendar year periods 1994–1996 and 1995–1997 are as follows:

Year	Index	Year	Index
1994	1,398	1995	1,437
1995	1,437	1996	1,504
1996	1,504	1997	1,527
Average	1,446	Average	1,489

(2) Average parity index, calendar year 1959 = 298.

(3) 1997 ratio of 1,446 to 298 = 4.85; 1998 ratio of 1,488 to 298 = 5.00.

(4) Ratios times 1959 support levels and 1998 increase in basic support levels are as follows:

Kind and type	1959 support level (¢/lb.)	Basic support level [1] 1997 (¢/lb.)	Basic support level [1] 1998 (¢/lb.)	Increase from 1996 to 1997 100% (¢/lb.)	Increase from 1996 to 1997 65% (¢/lb.)
Fire-cured (type 21)	38.8	188.2	194.0	5.8	3.8
Fire-cured (types 22–23)	38.8	188.2	194.0	5.8	3.8
Dark air-cured (types 35–36)	34.5	167.3	172.5	5.2	3.4
Virginia sun-cured (type 37)	34.5	167.3	172.5	5.2	3.4
Cigar-filler and binder (types 42–44, 54–55)	28.6	138.7	143.0	4.3	2.8

[1] 1997 ratio is 4.85, 1998 ration is 5.00.

The loan associations for Virginia fire-cured (type 21) and Virginia sun-cured (type 37) tobacco have accepted lower price support levels so their tobacco may remain competitive in world markets. Therefore, for fire-cured (type 21) tobacco and Virginia sun-cured (type 37) tobacco, the 1998-crop support levels were set so as to only add, over 1997-crop levels, 65 percent of the difference between the 1998 crop "basic support level" and the 1997-crop "basic support level." For the other tobaccos covered in this notice there was no such recommendation and the support levels were set accordingly. Accordingly, the price support levels for fire-cured (types 22–23), dark air-cured (types 35–36) and cigar filler and binder (types 42–44; 53–55) tobaccos were set to use the MY 1997 level of support increased by 100 percent of the difference between the MY 1998 "basic support level" and the MY 1997 "basic support level." Chewing tobacco, smoking tobacco, and snuff manufacturing formulas limit the substitutability of one of these kinds of tobacco for another. Cigarettes, the principal outlet for flue-cured and burley tobaccos, do not require any of these five kinds of tobacco in their blends.

Accordingly, the following price support determinations were announced on February 27, 1998, for the 1998 crops of the tobaccos which are the subject of this notice:

Kind and type	Support level (cents per pound)
Fire-cured (type 21)	153.6
Fire-cured (types 22–23)	168.1
Dark air-cured (types 35–36)	145.0
Virginia sun-cured (type 37)	136.0
Cigar-filler and binder (types 42–44 and 53–55)	121.2

Other Determinations

This rule also amends the heading in 7 CFR 1464.15 because of a technical error. Further, as to that determination and the others addressed in this notice which are driven by statutory deadlines and affect the marketing of current crops, it was determined that to the extent restrictions might otherwise apply, a delay in the effectiveness of the rule for additional notice and procedure would be contrary to the public interest, impracticable, and unnecessary. This conclusion is the same as to prior crop years and for all purposes including for purposes of the Small Business Regulatory Enforcement Act (Pub. L. 104–121). With respect to the quota and price support determinations, this conclusion as to further procedure is based on the statutory deadlines and other timing factors involved. For the other change, the conclusion is based on the technical nature of the change.

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 1464

Price support, Programs, Tobacco.

Accordingly, 7 CFR parts 723 and 1464 are amended to read as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b-1, 1314b-2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1377–1379, 1421, 1445–1, and 1445–2.

2. Section 723.113 is amended by adding paragraph (f) to read as follows:

§ 723.113 Fire-cured (type 21) tobacco.

* * * * *

(f) The 1998-crop national marketing quota is 2.725 million pounds.

3. Section 723.114 is amended by adding paragraph (f) to read as follows:

§ 723.114 Fire-cured (types 22–23) tobacco.

* * * * *

(f) The 1998-crop national marketing quota is 44.6 million pounds.

4. Section 723.115 is amended by adding paragraph (f) to read as follows:

§ 723.115 Dark air-cured (types 35–36) tobacco.

* * * * *

(f) The 1998-crop national marketing quota is 11.15 million pounds.

5. Section 723.116 is amended by adding paragraph (f) to read as follows:

§ 723.116 Sun-cured (type 37) tobacco.

* * * * *

(f) The 1998-crop national marketing quota is 163,000 pounds.

6. Section 723.117 is amended by adding paragraph (f) to read as follows:

§ 723.117 Cigar-filler and binder (types 42–44 and 53–55) tobacco.

* * * * *

(f) The 1998-crop national marketing quota is 6.63 million pounds.

PART 1464—TOBACCO

7. The authority citation for 7 CFR part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, and 1445–1; 15 U.S.C. 714b and 714c.

8. Section 1464.13 is amended by adding paragraph (f) to read as follows:

§ 1464.13 Fire-cured (type 21) tobacco.

* * * * *

(f) The 1998-crop national price support level is 153.6 cents per pound.

9. Section 1464.14 is amended by adding paragraph (f) to read as follows:

§ 1464.14 Fire-cured (types 22–23) tobacco.

* * * * *

(f) The 1998-crop national price support level is 168.1 cents per pound.

10. Section 1464.15 is amended by changing in the heading "types 22–23" to "types 35–36" and by adding paragraph (f) to read, in the amended section, as follows:

§ 1464.15 Dark air-cured (types 35–36) tobacco.

* * * * *

(f) The 1998-crop national price support level is 145.0 cents per pound.

11. Section 1464.16 is amended by adding paragraph (f) to read as follows:

§ 1464.16 Virginia sun-cured (type 37) tobacco.

* * * * *

(f) The 1998-crop national price support level is 136.0 cents per pound.

12. Section 1464.17 is amended by adding paragraph (f) to read as follows:

§ 1464.17 Cigar-filler and binder (types 42–44 and 53–55) tobacco.

* * * * *

(f) The 1998-crop national price support level is 121.2 cents per pound.

Signed at Washington, DC, on March 24, 1999.

Keith Kelly,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–7799 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98–060–2]

Brucellosis; Procedures for Retaining Class Free State Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the brucellosis regulations to allow a State to retain its Class Free status following the detection of an affected herd if the State meets certain conditions. These conditions, which include quarantining, testing, and depopulating the affected herd and conducting an investigation to ensure that brucellosis has not spread from the affected herd, will allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State. We believe that providing this option to States will encourage the prompt resolution of isolated cases of brucellosis and thus ensure the continued progress of State and Federal efforts toward the eradication of brucellosis in domestic cattle and bison herds. Without this change in the regulations, a State could lose its Class Free status following the detection of a single affected herd and will not have as great an incentive to take swift and decisive action to determine the source of the infection, eliminate the affected herd, and ensure that the disease had not spread to other herds in the State.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7708.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus Brucella. In its principal animal hosts, brucellosis is characterized by abortion and impaired fertility.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States (areas) according to the rate of *Brucella abortus* infection present and the general effectiveness of the brucellosis control and eradication program conducted in the State or area. The classifications are Class Free, Class A, Class B, and Class C; States or areas that do not meet the minimum standards for Class C may be placed under Federal quarantine. At this point in the cooperative State/Federal brucellosis eradication program, all States have achieved either Class Free or Class A status.

To maintain Class Free status, the regulations require, among other things, that a State must have a herd infection rate of 0.0 percent or 0 herds per 1,000. A State's herd infection rate is based on the number of herds found to have brucellosis reactors within the State during any 12 consecutive months due to field strain *Brucella abortus*. The required 0.0 percent herd infection rate means that a Class Free State would no longer qualify for Class Free status if a single brucellosis-affected herd was detected in the State. A downgrade in status from Class Free to Class A results in increased costs for States and their livestock owners, with most of those added costs arising from the increased testing requirements that accompany Class A status.

On September 17, 1998, we published in the **Federal Register** (63 FR 49670–49673, Docket No. 98–060–1) a proposed rule to amend the brucellosis regulations to allow a State to retain its Class Free status following the detection of a single affected herd if the State met certain conditions. As described in the proposed rule, those conditions, which include quarantining, testing, and depopulating the affected herd and conducting an investigation to ensure that brucellosis has not spread from the affected herd, would allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State.

We solicited comments concerning our proposal for 60 days ending on November 2, 1998. We received five comments by that date. They were from a State office of Federal land policy, a State game and fish agency, a State livestock board, a veterinary medical association, and a national milk producers association. All five commenters supported the proposed rule, although three of them asked for clarification of the following points:

Applicability. Two commenters asked that we clearly state that the provisions of the proposed rule would apply only to domestic livestock and not to wildlife.

The commenters' understanding of the applicability of these provisions is correct. The conditions that would have to be met for a State to retain its Class Free status—i.e., quarantining, testing, and depopulating the affected herd and investigating all adjacent, source, and contact herds to ensure the disease has not spread from the affected herd—simply could not be practically applied to wildlife. The provisions of this rule are applicable only to situations where a herd of domestic livestock in a Class Free State is found to be affected.

Start of the 60-day period. Because a State would be given 60 days following the identification of an infected animal to complete the requirements for retaining Class Free status, one commenter asked that we clearly define the phrase "identification of the infected animal." This commenter pointed out that in some cases, a reactor classification test occurs in which organisms cannot be cultured to differentiate whether Strain 19 or field strain *Brucella abortus* is involved, and those cases must be resolved by an epidemiological investigation. The commenter suggested that the 60-day

period should not begin until an investigation determines that an animal is infected with the field strain of *Brucella abortus* and is not reacting to an official brucellosis test due to its having been vaccinated with a Strain 19 vaccine.

The commenter's understanding of when the 60-day period would begin is correct. If an animal reacts to an official brucellosis test and we are able to determine, through culturing, that the animal is infected with field strain *Brucella abortus*, then the 60-day period would begin on the date of that laboratory confirmation. If culturing proves inconclusive and an investigation is necessary to resolve the case, then the 60-day period would not begin until the date that the investigating epidemiologist reports that the animal is a *Brucella abortus* reactor. If further investigation leads the epidemiologist to conclude that the animal is a Strain 19 associated reactor, the herd will not be considered an affected herd. To make this clearer, we have changed new paragraph § 78.1(b)(4) in this final rule so that it uses the words "within 60 days of the date an animal in the herd is determined to be infected" rather than "within 60 days of the identification of the infected animal."

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Producers and consumers have realized great financial savings from the success of the cooperative State/Federal brucellosis eradication program. Annual losses from lowered milk production, aborted calves and pigs, and reduced breeding efficiency have decreased from more than $400 million in 1952 to less than $1 million today. Studies indicate that if the brucellosis eradication program efforts were stopped, the costs of producing beef and milk could increase by an estimated $80 million annually in less than 10 years with the gradual spread of brucellosis.

This rule amends the brucellosis regulations to allow a State to retain its Class Free status following the detection of an affected herd if the State meets certain conditions. These conditions, which include depopulating the affected herd and taking measures to ensure that brucellosis has not spread from the affected herd, will allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State.

The entities potentially affected by this rule are the 43 States, Puerto Rico, and the U.S. Virgin Islands that currently hold Class Free status and the producers of livestock in those States and territories. The total number of cattle and bison in the United States was approximately 101.4 million in 1997, and was valued at about $53.2 billion. There were 1,167,910 U.S. operations with cattle and bison in 1997. Over 97 percent of these operations are considered to be small entities, with gross cash value of less than $500,000 each (USDA, National Agricultural Statistics Service, "Agricultural Statistics 1997," Washington, DC, 1997).

Allowing a State to retain its Class Free status under certain conditions can be expected to have an overall positive economic effect for several reasons. First, when a State's status is upgraded from Class A to Class Free, the State realizes a cost savings through the reduction in the required level of brucellosis ring test (BRT) surveillance. The BRT must be conducted in a Class A State or area at least four times per year at approximately 90-day intervals, with all herds producing milk for sale in the State being required to be included in at least three of the four brucellosis ring tests conducted each year. When a State attains Class Free status, the level of BRT surveillance is lowered to two brucellosis ring tests per year for each herd producing milk for sale in the State. Thus, allowing a State to retain its Class Free status will enable the State to avoid the added testing and personnel costs associated with the higher level of BRT surveillance required of Class A States.

Second, allowing a State to retain its Class Free status will mean that herd owners in the State can continue to avoid the costs of pre-movement testing of their test-eligible cattle and bison. In a Class A State, test-eligible cattle and bison offered for sale interstate from other than certified-free herds must test negative for brucellosis prior to movement. Because that testing is not required for test-eligible cattle and bison in Class Free States, herd owners in a State allowed to retain its Class Free status under the provisions of this rule will continue to be able to move their cattle or bison interstate without incurring the approximately $3.25 per-head cost of testing.

Finally, in those cases in which a brucellosis-affected herd is depopulated in order for a State to retain its Class Free status, the costs of that depopulation may be largely offset through the payment of Federal indemnity for the destroyed animals. Under the brucellosis indemnity regulations in 9 CFR part 51, any owner whose herd of cattle or bison is destroyed because of brucellosis is eligible for the payment of Federal indemnity. The rate of indemnity is set as either: (1) The appraised value of each animal, minus its salvage value; or (2) a fixed rate of no more than $250 per animal for bison and nonregistered cattle other than dairy cattle and $750 per animal for registered cattle and nonregistered dairy cattle.

Class Free States will not be required to pursue the option offered by this rule for retaining Class Free status following the detection of a brucellosis-affected herd. However, we believe that the economic benefits that a State can realize by taking action to avoid being downgraded to Class A status will far outweigh the costs of the herd depopulation, epidemiological investigation, and testing that will be required to retain Class Free status

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and

recordkeeping requirements, Transportation.

Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 78.1, in the definition of *Class Free State or area*, a new paragraph (b)(4) is added to read as follows:

§ 78.1 Definitions.

* * * * *

Class free State or area. * * *

(b) * * *

(4) *Retaining Class Free status.* (i) If a single herd in a Class Free State is found to be affected with brucellosis, the State may retain its Class Free status if it meets the conditions of this paragraph. A State may retain its status in this manner only once during any 2-year period. The following conditions must be satisfied within 60 days of the date an animal in the herd is determined to be infected:

(A) The affected herd must be immediately quarantined, tested for brucellosis, and depopulated; and

(B) An epidemiological investigation must be performed and the investigation must confirm that brucellosis has not spread from the affected herd. All herds on premises adjacent to the affected herd (adjacent herds), all herds from which animals may have been brought into the affected herd (source herds), and all herds that may have had contact with or accepted animals from the affected herd (contact herds) must be epidemiologically investigated, and each of those herds must be placed under an approved individual herd plan. If the investigating epidemiologist determines that a herd blood test for a particular adjacent herd, source herd, or contact herd is not warranted, the epidemiologist must include that determination, and the reasons supporting it, in the individual herd plan.

(ii) After the close of the 60-day period following the date an animal in the herd is determined to be infected, APHIS will conduct a review to confirm that the requirements of paragraph (b)(4)(i) have been satisfied and that the State is in compliance with all other applicable provisions.

* * * * *

Done in Washington, DC, this 24th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–7804 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98–097–2]

Brucellosis in Cattle; State and Area Classifications; Mississippi

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Mississippi from Class A to Class Free. We have determined that Mississippi meets the standards for Class Free status. The interim rule relieved certain restrictions on the interstate movement of cattle from Mississippi.

EFFECTIVE DATE: The interim rule became effective on October 7, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. R.T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231; (301) 734–7709; or e-mail: reed.t.rollo@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on October 7, 1998 (63 FR 53780–53781, Docket No. 98–097–1), we amended the brucellosis regulations in 9 CFR part 78 by removing Mississippi from the list of Class A States or areas in § 78.41(b) and adding it to the list of Class Free States or areas in § 78.41(a).

Comments on the interim rule were required to be received on or before December 7, 1998. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 63 FR 53780–53781 on October 7, 1998.

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 24th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–7802 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–87–AD; Amendment 39–11097; AD 99–07–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, -200, and -300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, -200, and -300 series airplanes, that requires repetitive inspections to detect cracking of certain lower lobe fuselage frames, and repair, if necessary. This amendment is prompted by reports indicating that fatigue cracks were found in lower lobe frames on the left side of the fuselage. The actions specified by this AD are intended to detect and correct fatigue cracking of certain lower lobe fuselage frames, which could lead to fatigue cracks in the fuselage skin, and consequent rapid decompression of the airplane.

DATES: Effective May 5, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director

of the Federal Register as of May 5, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, -200, and -300 series airplanes was published in the **Federal Register** on August 4, 1998 (63 FR 41483). That action proposed to require repetitive inspections to detect cracking of certain lower lobe fuselage frames, and repair, if necessary.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed Rule

Two commenters support the proposed rule.

Request To Increase the Threshold and Allow Discounting of Flights Below 2.0 PSI

One commenter requests that the proposed AD be revised to reflect the threshold of 16,000 flight cycles, as recommended in Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996 (which is referenced in the proposed AD as the appropriate source of service information for accomplishment of the required actions), and to allow discounting of flight cycles less than 2.0 pounds per square inch (psi). The commenter states that the critical crack is not a severed frame, but a severed frame with a skin crack. The commenter further states that there were no reports of skin cracking associated with the cracked frames, and that analysis shows that an existing skin crack at a severed frame will not grow to critical length prior to the inspection threshold identified in the referenced service bulletin. In addition, the fleet reports used in this analysis were adjusted to account for flights less that 2.0 psi.

The FAA does not concur with the commenter's request. As discussed under the heading "Differences Between the Proposed AD and Relevant Service Bulletin" in the preamble of the proposed AD, the FAA has received a report of cracking (i.e., a completely severed frame, consisting of the frame web, inner chord, and fail-safe chord) on an airplane that had accumulated only 15,227 total flight cycles. As a result, the FAA determined that a compliance threshold of 15,000 total flight cycles for initiating the required actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

In the same regard, the FAA does not find that allowing the discount of flight cycles below 2.0 psi would adequately address the unsafe condition. The FAA has received a report of two adjacent frames being completely severed on an airplane that had accumulated 12,817 full pressure cycles, plus 8,761 cycles at less than 2.0 psi differential pressure. As stated in the NPRM, this reported cracking is more indicative of the reported findings on airplanes that had accumulated 20,000 total flight cycles. If the FAA allowed the discount of flight cycles below 2.0 psi, as recommended in the referenced service bulletin, the identified unsafe condition on that airplane would go undetected for several thousand flight cycles. Therefore, the FAA finds that no change to the final rule is necessary.

Explanation of Changes Made to the Proposal

The FAA has revised paragraph (c)(1) of the final rule to also allow repair of any crack in the subject area to be accomplished in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that the change will neither increase the economic burden on any operator nor increase the scope of the AD.

Interim Action

This is considered to be interim action until the accomplishment of AD 93–08–12, amendment 39–8559 (58 FR 27927, May 12, 1993). That AD requires a detailed visual internal inspection to detect cracks in the Section 46 lower lobe frames, and repair, if necessary, in accordance with Boeing Service Bulletin 747–53–2349, dated June 27, 1991. The initial inspection required by AD 93–08–12 is required prior to the accumulation of 22,000 total flight cycles. The FAA now finds that earlier inspection (i.e., prior to accumulation of 15,000 total flight cycles) of the lower lobe frames is warranted, as required by this AD.

Cost Impact

There are approximately 452 Model Boeing 747–100, -200, and -300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 152 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $18,240, or $120 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–07–12 Boeing: Amendment 39–11097. Docket 97–NM–87–AD.

Applicability: Model 747–100, –200, and –300 series airplanes, as listed in Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of certain lower lobe fuselage frames, which could lead to fatigue cracks in the fuselage skin, and consequent rapid decompression of the airplane, accomplish the following:

Note 2: Although Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996, allows discount from the compliance threshold of all flight cycles at or below a cabin pressure differential of 2.0 pounds per square inch (psi), this AD requires that all flight cycles be counted.

(a) For airplanes on which the initial detailed visual internal inspection of the Section 46 lower lobe frames required by paragraph (a)(3) of AD 93–08–12, amendment 39–8559, has not been accomplished: Perform a detailed visual inspection to detect cracking of the lower lobe fuselage frames from Body Station 1820 to Body Station 2100, in accordance with Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996, at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD:

(1) Prior to the accumulation of 15,000 total flight cycles; or

(2) Within 1,500 flight cycles or 18 months after the effective date of this AD, whichever occurs first.

Note 3: Paragraph (a)(3) of AD 93–08–12 requires a detailed visual internal inspection to detect cracks in the Section 46 lower lobe frames, in accordance with Boeing Service Bulletin 747–53–2349, dated June 27, 1991. The initial inspection is required prior to the accumulation of 22,000 total flight cycles, or within 1,000 flight cycles after June 11, 1993 (the effective date of AD 93–08–12), whichever occurs later.

Repetitive Inspections

(b) If no cracking is detected during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles.

Corrective Actions

(c) If any cracking is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish paragraphs (c)(1) and (c)(2) of this AD:

(1) Within 20 inches of the crack location on the frame, perform a detailed visual inspection of the adjacent structure to detect cracking. If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; the Boeing 747 Structural Repair Manual; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

(2) Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 3,000 flight cycles.

Optional Terminating Inspection

(d) Accomplishment of the initial detailed visual internal inspection of the Section 46 lower lobe frames required by paragraph (a)(3) of AD 93–08–12 constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraphs (c)(1) and (d) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 5, 1999.

Issued in Renton, Washington, on March 22, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–7554 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–4]

Amendment to Class E Airspace; Mexico, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Mexico, MO.

DATES: The direct final rule published at 64 FR 6799 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 11, 1999 (64 FR 6799). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse

public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 16, 1999.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 99–7886 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–2]

Amendment to Class E Airspace; Grand Island, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Grand Island, NE.

DATES: The direct final rule published at 64 FR 3832 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 26, 1999 (64 FR 3832). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 16, 1999.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 99–7885 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–1]

Amendment to Class E Airspace; Perryville, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Perryville, MO.

DATES: The direct final rule published at 64 FR 3834 is effective on 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64016; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 26, 1999 (64 FR 3834). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit an adverse comment, were received within the comment period, the regulation would become effective on May 20, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 16, 1999.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 99–7884 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 99–32]

Addition of Brazil to the List of Nations Entitled to Reciprocal Exemption from the Payment of Special Tonnage Taxes

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to include Brazil in the list of nations whose vessels are entitled to reciprocal exemption from the payment of special tonnage taxes and light money. Brazil was recently removed from the list because the Department of State had informed Customs that Brazil had implemented a law discriminating against U.S. vessels in its preferential tax treatment of cargoes carried on certain specially-registered Brazilian vessels. However, the Department of State now informs Customs that recent actions by the Brazilian government have effectively eliminated this discriminatory tax treatment; thus, Brazil now qualifies for the exemption. Accordingly, Customs is restoring the exemption privileges to vessels of Brazil.

EFFECTIVE DATE: This amendment is effective, and the reciprocal privileges are restored to all Brazilian-registered vessels, as of March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, Entry Procedures and Carriers Branch, (202–927–2320).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton denominated "light money," on all foreign vessels which enter U.S. ports (46 U.S.C. App. 121 and 128).

Vessels of a foreign nation, however, may be exempted from the payment of such special tonnage taxes and light money upon presentation of satisfactory proof that no discriminatory duties of tonnage or impost are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. App. 141).

The list of nations whose vessels have been found to be reciprocally exempt from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money is found at § 4.22, Customs Regulations (19 CFR 4.22). Nations granted these commercial privileges that subsequently impose discriminatory

duties are subject to retaliatory suspension of the exemption from payment of special tonnage tax and light money (46 U.S.C. App. 141).

Brazil had previously been included in the list of nations in § 4.22 whose vessels are exempt from the payment of special tonnage taxes and light money (see T.D. 95–14, 60 FR 6966, dated February 6, 1995). However, Brazil was recently removed from the list because the Department of State had informed Customs that Brazil had enacted a law that discriminated against U.S. vessels and the vessels of other countries in its preferential tax treatment of cargoes carried by certain specially-registered Brazilian vessels (see T.D. 98–79, 63 FR 52967, dated October 2, 1998). Specifically, under that law, the dutiable value of imported merchandise carried by the specially-registered Brazilian vessels did not include freight charges, while identical imports carried by U.S. vessels or the vessels of other countries were subject to duty on freight charges. This violated the reciprocal nature of the exemption privilege granted, and, as such, Brazil no longer qualified for the exemption.

However, the Department of State has now informed Customs that the Brazilian government has since effectively eliminated the discriminatory tax treatment in question and that both the Department of State and the Department of Transportation's Maritime Administration support the restoration of Brazil to the list of nations whose vessels are exempt from the payment of special tonnage taxes and light money.

As a result, the Department of State, in accordance with 46 U.S.C. App. 141 and Executive Order 10289 of September 17, 1951 (16 FR 9499, 3 CFR 1949–1953 Comp. p. 787, as amended, see 3 U.S.C.A. 301 note), has recommended to the Secretary of the Treasury, through Customs, that Brazil be restored to the list of nations in § 4.22.

Finding

The Customs Service has determined that the vessels of Brazil are exempt from the payment of special tonnage taxes and light money, effective as of March 31, 1999, and that § 4.22 of the Customs Regulations should be amended accordingly. The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations Branch.

The Regulatory Flexibility Act, Executive Order 12866 and Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements

Because this amendment concerns a foreign affairs function of the United States, merely implements a statutory mandate, and involves a matter in which the general public has no significant interest, pursuant to 5 U.S.C. 553, notice and public procedure in this case are considered unnecessary; further, for the same reason, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor does the amendment meet the criteria for a "significant regulatory action" under E.O. 12866.

List of Subjects in 19 CFR Part 4

Cargo vessels, Customs duties and inspection, Entry, Maritime carriers, Vessels.

Amendment to the Regulations

Part 4, Customs Regulations (19 CFR part 4), is amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general and relevant specific authority citations for part 4 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.

* * * * *

Section 4.22 also issued under 46 U.S.C. App. 121, 128, 141;

* * * * *

§ 4.22 [Amended]

2. Section 4.22 is amended by adding "Brazil", in appropriate alphabetical order, to the list of nations entitled to exemption from special tonnage taxes and light money.

Dated: March 26, 1999.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 99–7916 Filed 3–30–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 144

[T.D. 98–74]

RIN 1515–AB99

Lay Order Period; General Order; Penalties; Correction

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to the document published in the **Federal Register** that adopted as a final rule, with some changes, proposed amendments to the Customs Regulations regarding, among other things, the obligation of the owner, master, pilot, operator, or agent of an arriving carrier to provide notice to Customs and to a bonded warehouse of the presence of merchandise or baggage that has remained at the place of arrival or unlading beyond the time period provided by regulation without entry having been completed. The correction involves a conforming change to the Customs Regulations pertaining to rewarehouse entries.

EFFECTIVE DATE: This correction is effective March 31, 1999.

FOR FURTHER INFORMATION CONTACT: For legal matters: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings (202) 927–2344.

For operational matters: Steven T. Soggin, Office of Field Operations, (202) 927–0765.

SUPPLEMENTARY INFORMATION:

Background

On September 25 1998, Customs published in the **Federal Register** (63 FR 51283) T.D. 98–74 which adopted as a final rule, with some changes, proposed amendments to the Customs Regulations regarding the obligation of the owner, master, pilot, operator, or agent of an arriving carrier to provide notice to Customs and to a bonded warehouse of the presence of merchandise or baggage that has remained at the place of arrival or unlading beyond the time period provided by the regulatory amendments (that is, the fifteenth calendar day after landing) without entry having been completed. The final regulatory texts specifically require one of the arriving carrier's obligated parties, or any party who takes custody from the arriving carrier under a Customs-authorized permit to transfer or in-bond entry, to provide notice of the unentered

merchandise or baggage to Customs and to a bonded warehouse no later than 20 calendar days after landing or after receipt under the permit to transfer or after arrival at the port of destination. The notice to the bonded warehouse proprietor initiates his obligation to arrange for transportation and storage of the unentered merchandise or baggage at the risk and expense of the consignee. The final regulatory texts also provide for penalties or liquidated damages against the owner or master of any conveyance, or agent thereof, for failure to provide the required notice to Customs or to a bonded warehouse proprietor. The final regulations further provide for the assessment of liquidated damages against any party who accepts custody of the merchandise or baggage under a Customs-authorized permit to transfer or in-bond entry and who fails to notify Customs and a bonded warehouse of the presence of such unentered merchandise or baggage and also against the warehouse operator who fails to take required possession of the merchandise or baggage.

The final regulatory texts as summarized above resulted from amendments to the underlying statutory authority effected by sections 656 and 658 contained within the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) and are primarily reflected in a revised § 4.37 (19 CFR 4.37) and in new §§ 122.50 and 123.10 (19 CFR 122.50 and 123.10), each of which is entitled "[g]eneral order." (T.D. 98–74 also included a number of conforming changes to the Customs Regulations in order to reflect a number of other statutory amendments and repeals effected by the Customs Modernization provisions and in order to reflect the recent recodification and reenactment of title 49, United States Code; the correction contained in this document bears no relationship to those other regulatory amendments.)

Although T.D. 98–74 also included a number of conforming regulatory changes to ensure consistency with the terms of revised § 4.37 and new §§ 122.50 and 123.10 (involving, for example, the removal or replacement of obsolete references to a "5-day" or "lay order" period or "extension" thereof), § 144.41(g) of the Customs Regulations (19 CFR 144.41(g)) was overlooked in this regard. This provision concerns the treatment of merchandise in a rewarehouse context. The present text, by referring to a rewarehouse entry not filed "before the expiration of 5 days after its arrival or any authorized extension," is inconsistent with, and thus could give rise to uncertainty regarding the proper and intended applicability of, §§ 4.37, 122.50 and 123.10 in a rewarehouse context. Therefore, T.D. 98–74 should have included an appropriate revision of § 144.41(g) to clarify the operation of those general order provisions in that specific context. This document corrects this oversight.

Correction of Publication

In the document published in the **Federal Register** as T.D. 98–74 on September 25, 1998 (63 FR 51283), on page 51290, in the third column, the following part 144 amendment is added in appropriate numerical order:

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. The authority citation for part 144 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1484, 1557, 1559, 1623, 1624.

* * * * *

2. In § 144.41, paragraph (g) is revised to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * *

(g) *Failure to enter.* If the rewarehouse entry is not filed within 15 calendar days after its arrival, the merchandise shall be disposed of in accordance with the applicable procedures in § 4.37 or § 122.50 or § 123.10 of this chapter. However, merchandise sent to a general order warehouse shall not be sold or otherwise disposed of as unclaimed until the expiration of the original 5-year period during which the merchandise may remain in warehouse under bond.

* * * * *

Dated: March 26, 1999.

John A. Durant,

Acting Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 99–7917 Filed 3–30–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 203 and 204

[Docket No. FR–4288–C–02]

RIN 2502–AH08

Builder Warranty for High-Ratio FHA-Insured Single Family Mortgages for New Homes

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule; technical correction.

SUMMARY: On March 25, 1999, HUD published an interim rule revising the warranty requirements applicable to high-ratio FHA-insured single family mortgages on new homes. This document corrects errors in the preamble to that interim rule.

EFFECTIVE DATE: April 27, 1999.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Home Mortgage Insurance Division, Room 9266, Department of Housing and Urban Development, 451 7th St., Washington, DC 20410, 202–708–2700. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

On March 25, 1999, 64 FR 14572, HUD published an interim rule revising the warranty requirements applicable to high-ratio FHA-insured single family mortgages on new homes. Two errors in the preamble for that interim rule need correction. In explaining the meaning of "new construction" or "new home", we inadvertently omitted a "not". In footnote 1, we provided an Internet address that cannot be accessed by non-HUD servers.

Accordingly, FR Doc. 99–7345, Builder Warranty for High-Ratio FHA-Insured Single Family Mortgages for New Homes (FR–4288–I–01), published in the **Federal Register** on March 25, 1999 (64 FR 14572), is corrected as follows:

1. On page 14572, second column, the second complete sentence is revised to read as follows: "(In this preamble, "new construction" or "new home" refers to any home that was not completed earlier than 1 year before the date of the application for mortgage insurance)."

2. On page 14572, third column, footnote 1, the Internet address is amended to read "http://www.hudclips.org/sub-nonhud/html/forms.htm".

Dated: March 26, 1999.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 99–7920 Filed 3–30–99; 8:45 am]

BILLING CODE 4210–27–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300824; FRL–6069–4]

RIN 2070–AB78

Fenbuconazole; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of the fungicide fenbuconazole and its metabolites in or on blueberry at 1.0 part per million (ppm) for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on blueberry. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective March 31, 1999. Objections and requests for hearings must be received by EPA, on or before June 1, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300824], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300824], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300824]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 286, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–308–9375, rosenblatt.dan@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of June 10, 1998 (63 FR 31633) (FRL–5791–5), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established a time-limited tolerance for the residues of fenbuconazole and its metabolites in or on blueberry at 1.0 ppm, with an expiration date of December 31, 1999. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of fenbuconazole on blueberry for this year growing season due to the fact that there are no registered alternatives to control mummy berry disease in blueberries. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of fenbuconazole on blueberry for control of mummy berry disease in blueberry.

EPA assessed the potential risks presented by residues of fenbuconazole in or on blueberry. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of June 10, 1998. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on blueberry after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 1, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the

provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300824] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance/exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely

affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 17, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a), and 371.

§ 180.480 [Amended]

2. In § 180.480, by amending the table in paragraph (b), for the commodity "blueberries" by changing the date "12/31/99" to read "12/31/00".

[FR Doc. 99–7436 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[APD 2800.12A, CHGE 82]

RIN 3090–AG96

General Services Administration Acquisition Regulation; Small Business Subcontracting Program

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to make the GSAR clauses consistent with FAC 97–10 of the Federal Acquisition Regulation (FAR).

DATES: Effective March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Rhonda Cundiff, GSA Acquisition Policy Division, (202) 501–0044.

SUPPLEMENTARY INFORMATION:

A. Background

This change updates GSAR clauses to include HUBZone small business concerns in subcontracting plan requirements.

B. Executive Order 12886

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804. The impact on small businesses derives from the changes made to the FAR rule, and the impacts were discussed in that rule's Final Regulatory Flexibility Analysis.

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 552

Government procurement.

Accordingly, 48 CFR 552 is amended as follows:

1. The authority citation for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 552 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 552.219–72 is revised to read as follows:

552.219–72 Notice to offerers of subcontracting plan requirements.

As prescribed in 519.708(a), insert the following provision:

Notice to Offerers of Subcontracting Plan Requirements (Mar 1999)

The General Services Administration (GSA) is committed to assuring that maximum practicable opportunity is provided to small, HUBZone small, small disadvantaged, and women-owned small business concerns to participate in the performance of this contract consistent with its efficient performance. GSA expects any subcontracting plan submitted pursuant to FAR 52.219–9, Small Business Subcontracting Plan, to reflect this commitment. Consequently, an offeror, other than a small business concern, before being awarded a contract exceeding $500,000 ($1,000,000 for construction), must demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors in the performance of this contract.

(End of Provision)

3. Section 552.219–73 is revised to read as follows:

552.219–73 Preparation, submission, and negotiation of subcontracting plans.

As prescribed in 519.708(b), insert the following provision:

Preparation, Submission, and Negotiation of Subcontracting Plans (Mar 1999)

(a) An offeror, other than a small business concern, submitting an offer that exceeds $500,000 ($1,000,000 for construction) shall submit a subcontracting plan with its initial offer. The subcontracting plan will be negotiated concurrently with price and any required technical and management proposals, unless the offeror submits a

previously-approved commercial products plan.

(b) Maximum practicable utilization of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors is a matter of national interest with both social and economic benefits. The General Services Administration (GSA) expects that an offeror's subcontracting plan will reflect a commitment to assuring that small, HUBZone small, small disadvantaged, and women-owned small business concerns are provided the maximum practicable opportunity, consistent with efficient contract performance, to participate as subcontractors in the performance of the resulting contract. An offeror submitting a commercial products plan can reflect this commitment through subcontracting opportunities it provides that relate to the offeror's production generally; i.e., for both its commercial and Government business.

(c) GSA believes that this potential contract provides significant opportunities for the use of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors. Consequently, in addressing the eleven elements described at FAR 52.219–9(d) of the clause in this contract entitled Small Business Subcontracting Plan, the offeror shall:

(1) Demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns in performing the contract.

(2) Include a description of the offeror's subcontracting strategies used in any previous contracts, significant achievements, and how this plan will build upon those earlier achievements.

(3) Demonstrate through its plan that it understands the small business subcontracting program's objectives and GSA's expectations, and it is committed to taking those actions necessary to meet these goals or objectives.

(d) In determining the acceptability of any subcontracting plan, the Contracting Officer will take each of the following actions:

(1) Review the plan to verify that the offeror demonstrates an understanding of the small business subcontracting program's objectives and GSA's expectations with respect to the program and has included all the information, goals, and assurances required by FAR 52.219–9.

(2) Consider previous goals and achievements of contractors in the same industry.

(3) Consider information and potential sources obtained from agencies administering national and local preference programs and other advocacy groups in evaluating whether the goals stated in the plan adequately reflect the anticipated potential for subcontracting to small, HUBZone small, small disadvantaged, and women-owned small business concerns.

(4) Review the offeror's description of its strategies, historical performance and significant achievements in placing subcontracts for the same or similar products or services with small, HUBZone small, small disadvantaged, and women-owned small business concerns. The offeror's description can apply to commercial as well as previous Government contracts.

(e) Failure to submit an acceptable subcontracting plan and/or correct deficiencies in a plan within the time specified by the Contracting Officer shall make the offeror ineligible for award.

(End of Provision)

4. Section 552.219–74 is revised to read as follows:

552.219–74 Goals for subcontracting plan.

As prescribed in 519.708(c), insert the following provision:

Goals for Subcontracting Plan (Mar 1999)

(a) Maximum practicable utilization of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors is a matter of national interest with both social and economic benefits.

(1) The General Services Administration's (GSA's) commitment to ensuring that maximum practicable opportunity is provided to small, HUBZone small, small disadvantaged, and women-owned small business concerns to participate as subcontractors in the performance of this contract, consistent with its efficient performance, must be reflected in the offeror's subcontracting plan submitted pursuant to the clause of this contract at FAR 52.219–9, Small Business Subcontracting Plan.

(2) In addressing the eleven elements described at FAR 52.219–9(d), the offeror shall demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns in performing this contract. An offeror submitting a commercial products plan can demonstrate its commitment in providing maximum practicable opportunities through subcontracting opportunities it provides to small, HUBZone small, small disadvantaged, and women-owned small business concerns that relate to the offeror's production generally; i.e., for both its commercial and Government business.

(3) The subcontracting plan shall include a description of the offeror's subcontracting strategies used in previous contracts and significant achievements, with an explanation of how this plan will build upon those earlier achievements. Additionally, the offeror shall demonstrate through its plan that it understands the small business subcontracting program's objectives, GSA's expectations, and is committed to taking those actions necessary to meet these goals or objectives.

(b) GSA believes that this contract provides significant opportunities for the use of small HUBZone small, small disadvantaged, and women-owned small business concerns and subcontractors. Accordingly, it is anticipated that an acceptable subcontracting plan will contain at least the following goals:

Small Business: _____percent
HUBZone Small Business: _____ percent
Small Disadvantaged Business: _____ percent
Women-Owned Small Business: _____ percent

Note: Target goals are expressed as a percentage of planned subcontracting dollars.

(c) In determining the acceptability of any subcontracting plan, the Contracting Officer will—

(1) Review the plan to verify that the offeror has demonstrated an understanding of the small business subcontracting program's objectives and GSA's expectations with respect to the programs and has included all the information, goals, and assurances required by FAR 52.219–9;

(2) Consider previous goals and achievements of contractors in the same industry;

(3) Consider information and potential sources obtained from agencies administering national and local preference programs and other advocacy groups in evaluating whether the goals stated in the plan adequately reflect the anticipated potential for subcontracting to small, HUBZone small, small disadvantaged, and women-owned small business concerns; and

(4) Review the offeror's description of its strategies, historical performance and significant achievements in placing subcontracts for the same or similar products or services with small, HUBZone small, small disadvantaged, and women-owned small business concerns. The offeror's description can apply to commercial as well as previous Government contracts.

(d) Failure to submit an acceptable subcontracting plan and/or correct deficiencies in a plan within the time specified by the Contracting Officer shall make the offeror ineligible for award.

(End of Provision)

Alternate I (DEC 1995)

As prescribed in 519.708(c), delete paragraph (b) of the basic provision and redesignate paragraphs (c) and (d) as paragraphs (b) and (c).

Dated: March 25, 1999.

Les Davison,

Acting Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 99–7828 Filed 3–30–99; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 032299A]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Renewal of Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration, NOAA, Commerce.

ACTION: Renewal of Exempted Fishing Permits (EFPs) for monitoring salmon bycatch in the Washington-Oregon-California (WOC) shore-based Pacific whiting fishery.

SUMMARY: NMFS announces the receipt of an application, and NMFS' intent to renew EFPs to vessels participating in an observation program to monitor the incidental take of salmon and groundfish in the shore-based component of the Pacific whiting fishery. These EFPs are necessary to allow trawl vessels fishing for Pacific whiting to delay sorting of prohibited species and groundfish catch in excess of cumulative trip limits until the point of offloading. These activities are otherwise prohibited by Federal regulations.

DATES: The EFPs will be effective no earlier than April 1, 1999, and would expire no later than May 31, 2000, but could be terminated earlier under terms and conditions of the EFPs and other applicable laws.

ADDRESSES: Copies of the EFPs are available from Katherine King, Northwest Region, NMFS, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Katherine King 206–526–6145.

SUPPLEMENTARY INFORMATION: This action is authorized by the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited.

NMFS received an application requesting renewal of these EFPs from the States of Washington, Oregon, and California at the March 8–12, 1999, Pacific Fishery Management Council (Council) meeting in Portland, OR. An opportunity for public testimony was provided during the Council meeting. The Council recommended that NMFS issue the EFPs, as requested by the States.

Renewal of these EFPs, to about 40 vessels, would continue an ongoing program to collect information on the bycatch of salmon and groundfish in whiting harvests delivered to shoreside processing facilities by domestic trawl vessels operating off WOC. Sorting the catch at sea can hurt the whiting quality because whiting deteriorates rapidly if it is not immediately chilled. Issuing EFPs will allow vessels to delay sorting of groundfish catch in excess of cumulative trip limits and prohibited species until offloading. Delaying sorting until offloading will allow state biologists to collect bycatch data for total catch estimates and will enable whiting quality to be maintained. Without an EFP, groundfish regulations at 50 CFR 660.306(b) require vessels to sort their prohibited species bycatch and return them to sea as soon as practicable with minimum injury. To allow state biologists to sample unsorted whiting, it is also necessary to include provisions for potential overages of groundfish trip limits which is prohibited by regulations at 50 CFR 660.306(h).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 25, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7889 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 032599B]

RIN 0648–AL89

Fisheries of the Exclusive Economic Zone Off Alaska; Overfished Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of overfished fishery.

SUMMARY: NMFS has identified the eastern Bering sea stock of *C. bairdi* as overfished. The identification of overfished stocks is required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA). The purpose of this notice is to notify the public that the North Pacific Fishery Management Council (Council) has been informed that the stock is overfished and has been directed to initiate action to end overfishing and rebuild the stock.

FOR FURTHER INFORMATION CONTACT: George H. Darcy, NMFS, 301/713-2341.

SUPPLEMENTARY INFORMATION:

Background

This action is required by the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) as amended by the SFA, which was signed into law on October 11, 1996. Section 304(e) of the Magnuson-Stevens Act requires that upon determination that a fishery is overfished, the Secretary of Commerce (Secretary) shall immediately notify the appropriate fishery management council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks. The fishery managment council has one year from the date of notification to prepare a plan to end overfishing in the fishery and to rebuild affected stocks.

On March 3, 1999, the Secretary approved Amendment 7 to the Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands (BSAI) (64 FR 11390, March 9, 1999). Pursuant to section 303(a)(10) of the Magnuson-Stevens Act, and the national standard guidelines (50 CFR part 600), the amendment revises the definitions of overfishing, maximum sustainable yield, and optimum yield for the king and Tanner crab fisheries in the BSAI. Under the new definitions, the eastern Bering Sea *C. bairdi* Tanner crab spawning biomass is below the minimum sustainable stock size threshold, and is deemed overfished. Pursuant to section 304 of the Magnuson-Stevens Act, NMFS notified the Council by letter on March 3, 1999, that the stock is overfished, as follows:

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501–2252

Dear Mr. Lauber:

I have approved Amendment 7 to the Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands and Amendment 6 to the FMP for the Scallop Fishery Off Alaska. These amendments revise the definitions of overfishing for the crab and scallop species or species groups in the FMPs. This action is necessary for compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and will advance the Council's ability to achieve, on a continuing basis, the optimum yield from fisheries under its jurisdiction.

A notice of availability for the proposed Amendments 7 and 6, which describes the proposed amendments and invited comments from the public, was published in the **Federal Register** at 63 FR 66112 on December 1, 1998. No regulatory changes are associated with these amendments. A Notice of Approval for the amendments will be published shortly in the **Federal Register**, informing the public of the approval decisions.

Based on the overfishing definitions contained in Amendment 7 to the crab FMP, we determine *C. bairdi* to be overfished. By March 3, 2000, the Council is required by section 304(e) of the Magnuson-Stevens Act to prepare and submit conservation and

management measures to end overfishing and rebuild the *C. bairdi* stock. The rebuilding program must be as short as possible, but not exceed 10 years, except if the biology of the stock or other environmental conditions dictate otherwise.

Sincerely,
Steven Pennoyer, Regional Administrator

Dated: March 25, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7888 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 61
Wednesday, March 31, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 211, and 225

[Regulations H, K and Y; Docket No. R–1019]

Membership of State Banking Institutions in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) published a Notice of Proposed Rulemaking in the **Federal Register** on December 7, 1998. The proposed regulation would have required state member banks, certain bank holding companies and their nonbank subsidiaries, certain U.S. branches and agencies and nonbank subsidiaries of foreign banks, and Edge and Agreement corporations (collectively referred to as a "bank" or "banks") to develop and maintain "Know Your Customer" programs. The Board received over 17,000 comments, the overwhelming majority of which were strongly opposed to the adoption of the proposed regulation. After considering the issues raised by the comments, and in view of the strong opposition to the proposed regulation, the Board is withdrawing the Notice of Proposed Rulemaking.

DATES: The proposed rule is withdrawn on March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Richard A. Small, Assistant Director, Division of Banking Supervision and Regulation, (202) 452–5235 or Pamela J. Johnson, Senior Anti-Money Laundering Coordinator, Division of Banking Supervision and Regulation, (202) 728–5829. For users of Telecommunications Devices for the Deaf (TDD) only contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On December 7, 1998, the Board published proposed revisions to Part 208 (Membership of State Banking Institutions in the Federal Reserve System (Regulation H)), Part 211 (International Banking Operations (Regulation K)) and Part 225 (Bank Holding Companies and Change in Bank Control (Regulation Y)) of the Board's Rules (63 FR 67516, December 7, 1998). The proposed revisions were intended to provide guidance to banks to facilitate and ensure their compliance with existing federal reporting and record keeping requirements, such as those found in the Bank Secrecy Act. It was intended to help protect the integrity and reputation of the financial services industry and assist the government in its efforts to combat money laundering and other illegal activities that might be occurring through financial institutions.

The Board's proposal was substantially the same as regulations proposed by the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision.

The Board received more than 17,000 comments. Comments were received from community, regional and multinational banks, members of Congress, trade and industry groups, as well as the general public.

The overwhelming majority of commenters were individual, private citizens who voiced strong opposition to the proposal as an invasion of personal privacy. Other issues raised by these commenters included the Board's authority to issue the proposal; the cost of any "Know Your Customer" program would be passed on to customers; and the regulation would be ineffective in preventing money laundering and other illicit financial activities.

Banks and trade associations that commented on the proposal uniformly opposed its implementation. Their arguments against the proposal included the following: (1) The regulation would be very costly to implement, especially for small banks; (2) a "Know Your Customer" program would invade customer privacy; (3) commercial banks would be unfairly disadvantaged and lose customers if all segments of the financial services industry were not covered; (4) compliance with the regulation would divert resources from Year 2000 preparation; (5) the Board lacked authority to adopt the regulation; (6) public confidence in the banking industry would be harmed by the regulation; and (7) the regulation is both unnecessary and redundant, as banks are already familiar with their customers and have adequate procedures in place.

The Board has carefully reviewed the comments received during the 90-day comment period. Based upon that review, and in light of the overwhelming objections raised by the public, the Board has decided to withdraw the proposed regulation.

By order of the Board of Governors of the Federal Reserve System, March 25, 1999.

Robert deV. Frierson,

Associate Secretary of the Board

[FR Doc. 99–7837 Filed 3–30–99; 8:45 am]

BILLING CODE 6210–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR PARTS 240 and 249b

[Release No. 34–41204; File No. S7–11–99]

RIN 3235–AH44

Revised Transfer Agent Form and Related Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (Commission) is publishing for comment its proposal to amend Rule 17Ac2–2 and related Form TA–2 and its proposal to rescind Rule 17a–24 under the Securities Exchange Act of 1934. The amendment would make technical corrections and provide greater clarity to Form TA–2. Accordingly, the amendments are designed to clarify filing requirements and instructions; eliminate or change ambiguous terms and phrases; delete certain redundant or unnecessary questions; and add questions that would help the Commission to more effectively monitor the transfer agent industry.

DATES: Comments are due on or before May 17, 1999.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G.

Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–11–99; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet Web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or Lori R. Bucci, Special Counsel, at 202/942–4187, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549–1001.

SUPPLEMENTARY INFORMATION:

I. Introduction

Transfer agents play an essential role in the processing of securities transactions and recordkeeping for securities issuers. The Commission is reviewing the regulations that apply to transfer agents to determine whether changes are necessary or appropriate. In this release, we propose a variety of amendments to Form TA–2,[1] the annual reporting mechanism for all registered transfer agents.

Form TA–2 has not been reviewed since it was adopted in 1986.[2] Since that time, a variety of ambiguities and inconsistencies in the form have come to light. Also, we believe that the quality of the data obtained from transfer agents can be improved. It is essential that the Commission receive accurate information that can be processed and evaluated efficiently by our staff because there is no self-regulatory organization for transfer agents, resulting in more direct oversight responsibility for the Commission and the other appropriate regulatory agencies (ARAs).[3] The amendments proposed today are intended to enhance our oversight capabilities.

[1] 17 CFR 249b.102.

[2] Securities Exchange Act Release No. 23084 (March 27, 1986), 51 FR 12124. Form TA–2 is referenced in 17 CFR 249b.102.

[3] The term "appropriate regulatory agency" is defined in Section 3(a)(34) of the Securities Exchange Act of 1934, 17 U.S.C. 78c(a)(34), and includes the Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

A. Rule 17Ac2–2 and Form TA–2

In 1975, Congress enacted legislation for the regulation of the securities processing industry.[4] The legislation requires transfer agents to register, and gives the ARAs the authority to develop registration requirements. Every transfer agent that is subject to registration must file a Form TA–1 with its ARA.[5] Congress gave the Commission broad rulemaking and enforcement authority over all transfer agents[6] although the bank regulatory agencies were given primary responsibility for oversight of bank transfer agents.[7]

In 1986, the Commission adopted Rule 17Ac2–2, which requires all registered transfer agents to file an annual report of their business activities on Form TA–2.[8] As part of the Commission's continuing efforts to improve and simplify rules and forms, the Commission proposes to amend Rule 17Ac2–2 and Form TA–2. The proposed amendments would allow the Commission to obtain clearer and more comprehensive information from transfer agents about their activities. Essentially, the proposed amendments would:

- elicit additional information regarding transfer agent business activities, such as direct purchase and dividend reinvestment plan accounts, buy-ins, and turnaround time for routine items;
- request more useful lost securityholder information;
- enhance service company information;
- eliminate the filing exception;
- clarify the filing requirements and instructions;
- conform reporting periods;
- delete unnecessary questions; and
- make technical changes.

B. Lost Securityholders

To address the problem of lost securityholders,[9] on October 1, 1997, the Commission adopted Rules 17Ad–17 and 17a–24.[10] Rule 17Ad–17 requires transfer agents to conduct data base searches in an effort to locate lost securityholders. Rule 17a–24 requires transfer agents to submit on Form TA–2 aggregate data regarding the accounts of lost securityholders.[11] The purpose of Rule 17a–24 is to gather data to assess the effectiveness of the search requirements of Rule 17Ad–17. As a result of its continuing review of this problem, the Commission now believes that it needs different information than that which is required by Rule 17a–24 to assess the effectiveness of the search requirements of Rule 17Ad–17. Therefore, the Commission is proposing to require transfer agents to report on Form TA–2 specific information about the results of the required data base searches for lost securityholders and to rescind Rule 17a–24.

II. Proposed Changes

A. Rule 17Ac2–2

Rule 17Ac2–2 requires every transfer agent to file Form TA–2 with the Commission by August 31 of each calendar year. The information furnished on Form TA–2 assists the Commission in its transfer agent oversight programs.

The Commission is proposing several modifications to Rule 17Ac2–2. First, to clarify whether a transfer agent must file Form TA–2 if it withdraws its registration during the filing period, Rule 17Ac2–2 would be amended to require every transfer agent that is registered on June 30 to file Form TA–2 by August 31 of that calendar year.

Second, current Rule 17Ac2–2 provides that a registered transfer agent is required to complete only Items 1 through 4 of Form TA–2 if it: received fewer than 500 items for transfer and fewer than 500 items for processing in the six months ending June 30, and did not maintain master securityholder files for more than 1,000 individual securityholder accounts as of June 30. The proposed amendment would revise

[4] Pub. L. 94–29 (June 4, 1975), known as the Securities Acts Amendments of 1975. The securities processing industry refers to both transfer agents and clearing agencies.

[5] Section 17A(c)(2) of the Exchange Act. Form TA–1 is referenced in 17 CFR 249b.100.

[6] Section 17A(d)(3) of the Exchange Act.

[7] Section 17A(d)(3)(A)(ii) of the Exchange Act.

[8] Securities Exchange Act Release No. 23084 (March 27, 1986), 51 FR 12124. Form TA–2 is referenced in 17 CFR 249b.102.

[9] Rule 17Ad–17 generally defines a "lost securityholder" as a securityholder to whom an item of correspondence that was sent to the securityholder at the address in the transfer agent's master securityholder file has been returned as undeliverable. Securities Exchange Act Release No. 39176 (October 1, 1997), 62 FR 52229. "Master securityholder file" is defined in Rule 17Ad–9(b) as the official list of individual securityholder accounts.

[10] Securities Exchange Act Release No. 39176 (October 1, 1997), 62 FR 52229. The Commission also adopted amendments to Rule 17Ad–7 incorporating the retention time periods for the records relating to compliance with Rule 17Ad–17.

[11] Rule 17a–24 requires registered transfer agents to report the number of lost securityholder accounts as of June 30 of each year and the percentage of total accounts represented by such lost securityholder accounts. These figures are broken down by the length of time the securityholder was classified as lost: one year or less; three years or less; five years or less; or more than five years. Rule 17a–24 also requires that transfer agents annually report information on lost securityholder accounts that escheated to state unclaimed property administrators.

this partial exception to the full filing requirement so that it applies to a registered transfer agent that received fewer than 1,000 items for transfer and fewer than 1,000 items for processing in the twelve months ending June 30 of the year for which the form is being filed.[12] Moving from a six month to a twelve month period would conform this exception to the rule's twelve month reporting period and would provide more complete records regarding the volume of items transferred and processed during the entire reporting period.

Third, Rule 17Ac2–2 currently requires the annual filing of Form TA–2 by all registered transfer agents except named transfer agents [13] that engage a service company [14] to perform all of their transfer and processing functions.[15] As a consequence, in processing Form TA–2 filings, the Commission's staff frequently cannot determine whether a transfer agent that did not file Form TA–2 is properly using the exception or has simply neglected to file. To address this problem, the proposed rule amendment would eliminate the exception.

A named transfer agent that engages a service company to perform all of its transfer and processing functions would be required to complete only the first four questions and the signature section of Form TA–2.[16] Currently, Rule 17Ac2–2 requires a named transfer agent that engages a service company to perform some but not all of its transfer and processing functions to file a Form TA–2 and to enter zero (0) for those questions that relate to functions performed by the service company on behalf of the named transfer agent. This requirement would not be changed by the proposed amendments. Therefore, as a result of the proposed amendments every registered transfer agent would be required to file a Form TA–2 annually.

B. Form TA–2

Current Form TA–2 contains questions regarding the volume and nature of a transfer agent's business activities. The Commission proposes to amend Form TA–2 to obtain more complete information regarding service companies, the transfer agent's amendments to its Form TA–1, direct purchase and dividend reinvestment plan accounts, buy-ins,[17] lost securityholders, and turnaround time for routine items. The proposal also includes numerous technical and conforming changes.

1. Form TA–2 Instructions

Currently, the box at the top left corner of the first page requests the month, day, and year of the filing period. This format enables registrants to put in a date other than the required reporting period. The box at the top left corner of every page of Form TA–2 would be changed to "For the reporting period ending June 30, *YYYY*." This change would help ensure that the correct reporting period for which Form TA–2 is being submitted is indicated.

For clarity and to ease filling out Form TA–2, the proposed form would add definitions for the following terms to the form's instructions: aged record difference, lost securityholder, named transfer agent, outside registrar, record difference, reporting period, and service company. These definitions are the same definitions currently set forth in the existing transfer agent rules. In addition, the proposal would revise the filing requirements to conform with the amendments to Rule 17Ac2–2 discussed above.

Currently, in determining the number of investment company securities for which they act as transfer agents, registrants are instructed to count each prospectus as one issue. The Commission believes that it is more informative to count investment company securities by CUSIP numbers rather than by prospectuses. Therefore, registrants would be instructed to count investment company securities as one issue per CUSIP number.

2. Form TA–2 Questions

Revised Form TA–2 would contain a question asking if the registrant has amended Form TA–1 as required by existing transfer agent rules.[18] In addition, the revised Form TA–2 would request that the transfer agent provide an explanation if it failed to file a required amendment to its Form TA–1. Form TA–2 also would contain a new question asking about the registrant's use of service companies. This information would help the Commission to obtain more complete information about transfer agents and their business activities.

Throughout the form, the request for numbers with "000s omitted" or "in millions—000,000s omitted" would be deleted to prevent confusion and to ease the staff's analysis. The amended Form TA–2 would request the actual figures with no zeros omitted.

Currently, Form TA–2 requests transfer agents to report the number of items received for transfer and processing during the six months ending June 30. The proposal would amend this reporting period from six months to twelve months ending June 30 in order to have a uniform annual reporting period.

Currently, Form TA–2 elicits information regarding only the number of issues for which dividend reinvestment plan services are provided. However, the number of transfer agents providing direct purchase and dividend reinvestment plan services and the number of direct purchase and dividend reinvestment plan accounts have increased substantially in recent years. Revised Form TA–2 would require that transfer agents reflect direct purchase and dividend reinvestment plan accounts in the total number of individual securityholder accounts maintained, and separately state the number of individual securityholder direct purchase and dividend reinvestment plan accounts.

Currently, Form TA–2 requests the percentage of individual securityholder accounts maintained in six categories: corporate equity securities, corporate debt securities, investment company securities, limited partnership securities, municipal debt securities, and other securities. Revised Form TA–2 would clarify the question by

---

[12] The master securityholder account element would not change. A transfer agent with this level of activity would be required to complet only Questions 1 through 5, 10, and 11 and the signature section of Form TA–2.

[13] "Named transfer agent" is defined in Rule 17Ad–9(j) as the registered transfer agent that is engaged by an issuer to perform transfer agent functions for an issue of securities but has engaged a service company to perform some or all of those functions. 17 CFR 240.17Ad–9(j).

[14] "Service company" is defined in Rule 17Ad–9(k) as the registered transfer agent engaged by a named transfer agent to perform transfer agent functions for that named transfer agent. 17 CFR 240.17Ad–9(k).

[15] 17 CFR 240.17Ac2–2.

[16] These questions on Form TA–2 would request basic information such as the transfer agent's name, its use of a service company, the name of its ARA, whether it filed any amendments to its registration, and the number of items it received for transfer and processing during the reporting period.

[17] Rule 17Ad–11(c)(2) generally requires that within ten business days following the end of each calendar quarter, every recordkeeping transfer agent shall report certain information when the aggregate market value of all buy-ins executed pursuant to Rule 240.17Ad–10(g) during that calendar quarter exceeds $100,000. 17 CFR 240.17Ad–11(c)(2).

[18] Transfer agents registered with the Commission are required by Rule 17Ac2–1(c) to amend Form TA–1 or the SEC Supplements to Form TA–1 within 60 calendar days following the date on which information reported therein became inaccurate, incomplete, or misleading. 17 CFR 240.17Ac2–1(c). Federal bank regulators (FBRs) also require their registrants to amend their Form TA–1 within 60 calendar days following the date on which the reported information became inaccurate, incomplete, or misleading. FBRs send copies of the submitted filings to the Commission on behalf of their registrants.

renaming one of the six categories. The category of investment company securities would be renamed as open-end investment company securities. In addition, for purposes of clarification, the Form TA–2 instructions would be amended to state that the corporate equity category would include closed-end investment company securities.

Currently, Form TA–2 requires the transfer agent to determine the number and type of securities issues for which it acted in various transfer agent capacities.[19] Form TA–2 directs the transfer agent to combine corporate debt and equity into one category. In order that the Commission have more precise information on a transfer agent's operations, revised Form TA–2 would require the transfer agent to report separately the number of corporate equity and corporate debt securities issues for which it acted in a specified capacity.[20]

Where a change in transfer agents for an issuer has occurred, current Form TA–2 requests information about the number and aggregate market value of (1) securities record differences[21] that the current transfer agent received as an out of balance issue from the prior transfer agent, and (2) securities record differences resulting from the current transfer agent. The format of this section has been confusing to many registrants. Therefore, because the Commission believes that the current record difference information is the most significant, the form would be revised to require reporting of the current number and aggregate market value of securities differences with no detail as to whether the securities differences occurred before or after the change in transfer agents.

Revised Form TA–2 would add a question about the number of quarterly reports that were filed and that should have been filed by the registrant with its ARA during the reporting period pursuant to Rule 127Ad–11(c)(2).[22] The addition of this question to Form TA–2 should help the Commission monitor registered transfer agent over-issuance and buy-in activities.

The proposal would eliminate the collection of information about transfer agent custodian (TAC) arrangements.[23] The current question tends to glean erroneous responses from many transfer agents while accurate information is readily obtainable from The Depository Trust Company.

As discussed above, the Commission proposes to use a uniform reporting period in Form TA–2. Accordingly, information relating to a transfer agent's dividend disbursement and interest paying agent activities, and information relating to the volume of openend investment company securities purchases and redemptions a transfer agent processes would be reported for the twelve months ending June 30 instead of for the preceding calendar year ending December 31.[24]

Current Form TA–2 requests both the number of transactions processed on a date other than the date of receipt of the order and the "number of transactions processed on other than on date of receipt of order, expressed as a percentage of total transactions processed." Because the Commission can compute the percentage based on other data in the form, the percentage inquiry would be eliminated.

Finally, the proposal would add a question regarding turnaround time. Revised Form TA–2 would ask transfer agents to report the number of months during the reporting period in which the registrant was not in compliance with the specified turnaround time for routine items pursuant to Rule 17Ad–2.[25] Revised Form TA–2 also would ask transfer agents to report the number of written notices the transfer agent filed and should have filed during the reporting period documenting its noncompliance with turnaround time for routine items pursuant to Rule 17Ad–2.

C. Rule 17a–24

Rule 17a–24 requires registered transfer agents to report the aggregate number of lost securityholder accounts as of June 30 of each year and the percentage of total accounts represented by such lost securityholder accounts. These figures currently must be reported for lost securityholder accounts outstanding for: one year or less, three years or less, five years or less, or more than five years. As noted in the adopting release, the Commission adopted Rule 17a–24 to require the reporting of information on aged lost securityholder accounts in order to assess the effectiveness of search techniques employed by transfer agents. Rule 17a–24 also requires information on lost securityholder accounts that escheated to state unclaimed property administrators.

In 1998, transfer agents were required to report information on the aging of lost securityholder accounts for the first time on Form TA–2. Transfer agent representatives, however, have informed Commission staff that compiling information on the aging of lost securityholder accounts has proved to be extremely difficult. Many transfer agents have indicated that their record systems are not designed to produce such information and that to program their systems to provide such information would be extremely burdensome and in some situations not possible.[26]

The Commission has reviewed the information required by Rule 17a–24. The Commission believes that the Commission should refine transfer agents' reporting requirements so that the information transfer agents are required to file would give a better indication of the effectiveness of the data base searches. The new reporting requirements should also be less burdensome for transfer agents to implement. Therefore, the Commission is proposing that: (1) transfer agents be required to report on Form TA–2 the number of lost securityholders for which a first and for which a second

---

[19] The identified capacities are: (a) receives items for transfer and maintains the master securityholder files; (b) receives items for transfer but does not maintain the master securityholder files; and (c) does not receive items for transfer but maintains the master securityholder files.

[20] The registrant would continue to report the number and type of other securities issues for which it acts in the specified transfer agent capacities.

[21] "Record difference," as defined in Rule 17Ad–9(g), occurs when either (1) the total number of shares or total principal dollar amount of securities in the master securityholder file does not equal the number of shares or principal dollar amount in the control book, or (2) the security transferred or redeemed contains certificate detail different from the certificate detail currently on the master securityholder file, which difference cannot be immediately resolved.

[22] 17 CFR 240.17Ad–11(c)(2). Generally, Rule 17Ad–11(c)(2) requires a transfer agent to file a report at the end of each quarter during which it has an aged record difference (*i.e.*, where the number of shares on the securityholder file does not equal the number of shares authorized and issued by the issuer). The report contains information such as the size and dollar value of the record difference, the reason for the record difference, and the size and dollar value of any buy-ins executed to remedy the record difference. (A buy-in is required when a registered transfer agent overissues shares. The registered transfer agent within 60 days of the discovery of such overissuance buys-in securities equal to the number of shares in the case of equity securities or equal to the principal dollar amount in the case of debt securities. 17 CFR 240.17Ad–10(g).)

[23] TAC agreements, which are more commonly referred to as fast automated securities transfer (FAST) accounts, exist between large transfer agents and The Depository Trust Company.

[24] Revised Form TA–2 would use the more commonly used industry term "purchases and redemptions" instead of "transactions" when referring to open-end investment company securities processing.

[25] Turnaround times for routine items are set forth in Rule 17Ad–2. 17 CFR 240.17Ad–2.

[26] Because of these conversations, the Commission believes that at this time transfer agents have not made or undertaken any major systems changes.

data base search has been conducted and for which a correct address has been obtained as a result of these searches; (2) transfer agents continue, as required by Rule 17a–24, to report on Form TA–2 the current number of lost securityholder accounts and the number of lost securityholder accounts that were remitted to the states during the last year; (3) the remaining information (*i.e.*, aging of lost securityholder accounts) will no longer be required; and (4) Rule 17a–24 then be rescinded.

III. General Request for Comments

The Commission solicits commenters' views on all aspects of the proposed amendments to Rule 17Ac2–2 and Form TA–2 and the proposed rescission of Rule 17a–24 under the Securities Exchange Act of 1934 (Exchange Act). In particular, the Commission requests comment as to whether the proposed amendments would provide the most effective means for the Commission to obtain adequate information regarding transfer agent operations. Are there other questions that the Commission could ask on Form TA–2 to obtain useful information on transfer agent operations? Is there other specific information regarding transfer agent operations that the Commission should require to be provided on Form TA–2?

In addition, the Commission requests comments on whether the proposed change to the information on lost securityholders collected on Form TA–2 would be a more effective method to track the effectiveness of transfer agents' data base searches than the account aging information currently required. Do transfer agents currently have the aging information readily available to report? Is the proposed change a more efficient and less costly method for transfer agents to report information on their outstanding lost securityholder accounts? What system changes and costs would transfer agents incur if they were only required to report the aging of lost securityholder accounts prospectively? (For example, it would only be five years from now that a transfer agent would be required to report the number of securityholder accounts that had been lost for five years.)

Finally, the Commission refers commenters to its policy statement establishing a regulatory moratorium to facilitate the year 2000 conversion.[27] The Commission anticipates that any amendments to Rule 17Ac2–2 and Form TA–2 would be adopted before the moratorium begins on June 1, 1999. However, the Commission requests comment on the specific extent to which the proposed amendments would require registered transfer agents to make major programming changes to their computer systems.

IV. Costs and Benefits of the Proposed Amendments and Their Effects on Competition

The Commission has identified certain costs and benefits relating to the proposals, which are discussed below, and encourages commenters to discuss any additional costs or benefits. In particular, the Commission requests comment on the potential costs for any necessary modifications to information gathering, management, and recordkeeping systems or procedures as well as any potential benefits resulting from the proposals for issuers, transfer agents, regulators, or others. Commenters should provide analysis and empirical data to support their views on the costs and benefits associated with the proposals.

A. Benefits

These amendments would help the Commission to:

- Keep complete records on all registered transfer agents. Currently, the Commission's staff cannot easily determine whether a transfer agent who did not file a Form TA–2 is properly using an applicable exception or whether the transfer agent has simply neglected to file.
- Use the information gathered from Form TA–2 to monitor the annual business activities of registered transfer agents, including the use of service companies, amendments to Form TA–1, direct purchase and dividend reinvestment plan accounts, buy-ins, and turnaround time for routine items.
- Achieve a consistent reporting period which should eliminate confusion from varying reporting periods. In addition, as the volume of transfer business may not be consistent throughout the entire reporting period, the current reporting requirement of only six months of data is potentially skewed.
- Elicit information regarding the data base searches for lost securityholders. This information should enable the Commission to assess the effectiveness of the search requirements of Rule 17Ad–17 and the scope of the lost securityholder problem.

B. Costs

The proposed amendments to Rule 17Ac2–2 and Form TA–2 should not result in any significant additional costs to transfer agents. The majority of information required by Form TA–2 is available in the internal files of the transfer agents, and a large portion of the information is already required by the Commission to be calculated or maintained.

The primary cost associated with the proposal is the time that it will take transfer agent personnel to complete the form and file it with the Commission. The amount of time needed to comply with the requirements of amended Rule 17Ac2–2 and Form TA–2 would vary. There are approximately 1,210 registered transfer agents. Of this number, approximately 300 registrants would be required to complete only Questions 1 through 4 and the signature section of amended Form TA–2. Based on their low volume of transfer business and number of shareholder accounts, approximately 410 registrants would be required to answer only Questions 1 through 5, 10, and 11 and the signature section. The remaining registrants, approximately 500, would be required to complete the entire Form TA–2.

Additionally, there may be some incremental cost associated with modifying computer systems to report all items for the twelve months ending June 30. This likely would require a simple, one-time change to database reporting functions and should have a negligible cost on transfer agents. The Commission seeks comment on this assumption and specifically requests empirical data on the cost of modifying systems to report all items for the twelve months ending June 30.

C. Effects on Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act precludes the Commission in amending rules under the Exchange Act from adopting any such rule or regulation that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[28] The Commission is considering the proposed amendments to Rule 17Ac2–2 and Form TA–2 in light of the standards cited in Section 23(a)(2). The Commission is proposing these amendments to enhance the Commission's ability to monitor more effectively the transfer agent industry. The amendments are also intended to make the Form TA–2 more efficient for

[27] Securities Exchange Commission Release Nos. 33–7568, 34–40377, 35–26912, IA–1749, and IC–23416 (August 27, 1998), 63 FR 47051. The policy is available at the Commission's website (www.sec.gov).

[28] 15 U.S.C. 78w(a)(2).

both the Commission and transfer agents. Because transfer agents of a similar size and with similar business are required to complete the form in the same manner, there should be no negative impact on competition. The Commission solicits commenters' views regarding the effects of the proposed amendments to Rule 17Ac2–2 and Form TA–2 on competition, efficiency, and capital formation. For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, we also seek comments on the proposed rule's potential impact (including any empirical data) on the economy on an annual basis, any increase in costs or prices for consumers, and any effect on competition, investment or innovation.

V. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory

Flexibility Analysis (IRFA), in accordance with the provisions of the Regulatory Flexibility Act,[29] regarding the proposed amendments to Rule 17Ac2–2 and Form TA–2 and the proposed rescission of Rule 17a-24 under the Exchange Act. As discussed more fully in the analysis, some of the transfer agents that the proposed amendments would affect are small entities, as defined by the Commission's rules.

The IRFA states the purpose of the proposal is to allow the Commission to obtain more comprehensive information from transfer agents about their activities while making Form TA–2 clearer and easier for transfer agents to complete. The proposed amendments would: elicit information regarding transfer agent business activities, such as direct purchase and dividend reinvestment plan accounts, buy-ins, and turnaround time for routine items; obtain more comprehensive lost securityholder information; enhance service company information; eliminate the filing exemption; clarify the filing requirements and instructions; conform reporting periods; delete unnecessary questions; and make technical changes.

The IRFA sets forth the statutory authority for the proposed amendments to Rule 17Ac2–2 and Form TA–2 and for the rescission of Rule 17a-24. The IRFA also discusses the effect of the proposal on transfer agents that are small entities pursuant to Rule 0–10(h) under the Exchange Act.[30] Rule 0–10(h) defines the term "small business" or "small organization" to include any transfer agent that: (1) received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); (2) maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); (3) only transferred items of issuers with total assets of $5 million or less; and (4) is not affiliated with any person (other than a natural person) that is not a small business or small organization under Rule 0–10.

When the Commission adopted the new definition of "small entity" with respect to transfer agents, the Commission estimated that approximately 180 registered transfer agents would qualify as small entities under Rule 0–10. As a result, the Commission estimates that 180 small entities would be subject to the requirements of the proposed amendments to Rule 17Ac2–2 and Form TA–2.

The proposed amendments to Rule 17Ac2–2 would provide that a registered transfer agent that received fewer than 1,000 items for transfer and fewer than 1,000 items for processing in the twelve months ending June 30, and did not maintain master securityholder files for more than 1,000 individual securityholder accounts as of June 30, would have to complete only a portion of Form TA–2. All "small entities" as defined by Rule 0–10 would continue to have reduced reporting requirements under the proposal.

The IRFA states that the proposal would impose new reporting and compliance requirements on certain transfer agents because it would eliminate the filing exception for named transfer agents using service companies and would require every registered transfer agent to file Form TA–2 annually. In addition, questions regarding the use of service companies, amendments to its Form TA–1, direct purchase and dividend reinvestment plan accounts, buy-ins, lost securityholders, and turnaround time for routine items would be added to Form TA–2. The IRFA states that the incremental annual burden on all "small entities" would be approximately 81 hours and $2,552. The IRFA also states that the proposed amendments to Rule 17Ac2–2 and Form TA–2 would not impose any other reporting, recordkeeping, or compliance requirements, and that the Commission believes that there are no rules that duplicate, overlap, or conflict with the proposed amendments.

The IRFA discusses the various alternatives considered by the Commission in connection with the proposed amendments to Rule 17Ac2–2 and Form TA–2 that might minimize the effect on small entities, including: (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources of small entities; (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed amendments for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule or any part thereof for small entities.

Taking into account the burden that would be imposed on small transfer agents, the Commission is proposing that transfer agents that meet the definition of a "small entity" still be required to respond to only a portion of Form TA–2. Therefore, small entities would be subject to a minimal amount of compliance cost under the proposal. Accordingly, the Commission has determined that it is not feasible to further clarify, consolidate, or simplify the proposed amendments for "small entities." The Commission also believes that it would be inconsistent with the purpose of the Exchange Act to exempt "small entities" from the proposed amendments or to use performance standards to specify different requirements for small entities.

The Commission encourages the submission of written comments with respect to any aspect of the IRFA. Comments should specify costs of compliance with the proposed amendments to Rule 17Ac2–2 and Form TA–2, suggest alternatives that would accomplish the objective of proposed amendments, or indicate how many small entities, if any, would be subject to the rule change. A copy of the IRFA may be obtained by contacting Lori R. Bucci, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–1001.

VI. Paperwork Reduction Act

Certain provisions of the proposed amendments to Rule 17Ac2–2 and Form TA–2 contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995,[31] and the Commission has submitted them to the Office of

---

[29] 5 U.S.C. 603.

[30] 17 CFR 240.0–10(h). The Commission recently amended this definition. Securities Exchange Commission Release Nos. 33–7548, 34–40122, IC–23272, and IA–1727 (June 24, 1998), 63 FR 35508.

[31] 44 U.S.C. 3501 *et seq.*

Management and Budget for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The Commission notes that it proposes to rescind Rule 17a–24. However, the Commission proposes to keep two questions generated by Rule 17a–24 on Form TA–2 and to add a question to Form TA–2 about the results of the required data base searches for lost securityholders. The title for the collection of information is: "Transfer Agents Annual Report 17 CFR 240.17Ac2–2, Form TA–2." The OMB control number for the collection of information is 3235–0337.

Under the proposed amendments, Rule 17Ac2–2 would require the collection of additional information on amended Form TA–2. First, the proposal would eliminate the filing exception for named transfer agents and would require every named transfer agent using a service company for all of its transfer and processing functions to complete only the first four questions and the signature section of Form TA–2, which request only simple information. Second, registered transfer agents that meet the criteria based on volume of transfer business and number of shareholder accounts would be required to Questions 1 through 5, 10, 11, and the signature section of Form TA–2. Finally, registered transfer agents that file a complete Form TA–2 would be required to respond to new questions regarding the use of service companies, amendments to Form TA–1, direct purchase and dividend reinvestment plan accounts, buy-ins, lost securityholders, and turnaround time for routine items.

The Commission uses the information on Form TA–2 to monitor the annual business activities of registered transfer agents. The proposed collection of information under amended Rule 17Ac2–2 and Form TA–2 is intended to facilitate greater accuracy of transfer agents' records. Furthermore, the information elicited from the additional question regarding lost securityholders should help the Commission to assess the effectiveness of the search requirements of Rule 17Ad–17 and the scope of the lost securityholder problem.

The collection of information required by the proposed amendments to Rule 17Ac2–2 and Form TA–2 should not result in any new significant burden to transfer agents. All information required by Form TA–2 is available in the internal files of the transfer agents and a large portion of the information is already required by existing Commission transfer agent rules to be calculated or maintained.

The amount of time needed to comply with the requirements of amended Rule 17Ac2–2 and Form TA–2 would vary. There are approximately 1,210 registered transfer agents. From this total number, approximately 300 registrants would be required to complete only Questions 1 through 4 and the signature section of amended Form TA–2, which the Commission estimates would take each registrant about 30 minutes, for a total of 150 hours (300 × .5 hours). Approximately 410 registrants would be required to answer Questions 1 through 5, 10, and 11 and the signature section, which the Commission estimates would take about 1 hour and 30 minutes, for a total of 615 hours (410 × 1.5 hours). The remaining registrants, approximately 500, would be required to complete the entire Form TA–2, which the Commission estimates would take about 6 hours, for a total of 3000 hours (500 × 6 hours). The Commission estimates that the total burden would be 3,765 hours (150 + 615 + 3000).[32]

The collection of information pursuant to the proposed amendments to Form TA–2 and Rule 17Ac2–2 does not contain any new recordkeeping requirements. Providing the information will be mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms for information technology.

Persons desiring to submit comments on the collection of information requirements should direct them to the following persons: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503; and Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, and refer to File No. S7–11-99. The Office of Management and Budget (OMB) is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release in the **Federal Register**, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of this publication.

[32] Based on an estimated average administrative labor cost of $31.50 per hour, the Commission's staff estimates that the total labor cost to the transfer agent industry for complying with Rule 17Ac2–2 and Form TA–2 would be $118,597.50 annually ($31.50 × 3,765).

VII. Statutory Basis

Pursuant to the Exchange Act and particularly Sections 17, 17A, and 23(a) thereof, 15 U.S.C. 78q, 78q–1, and 78w(a), the Commission proposes to amend § 240.17Ac2–2 and Form TA–2 (referenced in 17 CFR 249b.102) of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Parts in 240 and 249b

Reporting and recordkeeping requirements, Securities.

Text of Amendment

For the reasons set forth in the preamble, the Commission proposes to amend Chapter II of Title 17 of the *Code of Federal Regulations* as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j-1, 78k, 78k-1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78*ll*(d), 77mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

§ 240.17a-24 [Removed]

2. Section 240.17a–24 is removed.

3. Section 240.17Ac2–2 is revised to read as follows:

§ 240.17Ac2–2 Annual reporting requirement for registered transfer agents.

(a) Every transfer agent registered on June 30 shall file an annual report on Form TA–2 (§ 249b.102 of this chapter) by August 31 of that calendar year. Form TA–2 shall be completed in accordance with the instructions contained in the form.

(1) A registered transfer agent that received fewer than 1,000 items for transfer and fewer than 1,000 items for processing in the reporting period and that did not maintain master securityholder files for more than 1,000 individual securityholder accounts as of June 30 of the reporting period shall complete only Questions 1 through 5, 10, 11, and the signature section of Form TA–2 (§ 249b.102 of this chapter).

(2) A named transfer agent, as defined in § 240.17Ad–9(j), that engaged a service company, as defined in § 240.17Ad–9(k), to perform all of its transfer and processing functions during the reporting period shall complete only Questions 1 through 4 and the signature section of Form TA–2 (§ 249b.102 of this chapter).

(3) A named transfer agent, as defined in § 240.17Ad–9(j) that engaged a service company, as defined in § 240.17Ad–9(k), to perform some but not all of its transfer and processing functions during the reporting period shall complete all of Form TA–2, (§ 249b.102 of this chapter) but shall enter zero (0) for those questions which relate to functions performed by the service company on behalf of the named transfer agent.

(b) For purposes of this section, the term *reporting period* shall mean the 12 months ending June 30 of the year for which the form is being filed.

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

4. The authority citation for Part 249b continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

5. Form TA–2 (referenced in § 249b.102) is revised to read as follows:

[**Note:** Form TA–2 does not and the amendments will not appear in the Code of Federal Regulations.]

United States Securities and Exchange Commission, Washington, D.C. 20549

Instructions for Use of Form TA–2

Form TA–2 is to be used by transfer agents registered pursuant to Section 17A of the Securities Exchange Act of 1934 for filing the annual report of transfer agent activities.

ATTENTION: Certain sections of the Securities Exchange Act of 1934 applicable to transfer agents are referenced below. Transfer agents are urged to review all applicable provisions of the Securities Exchange Act of 1934, the Securities Act of 1933, and the Investment Company Act of 1940, as well as the applicable rules promulgated by the SEC under those Acts.

I. General Instructions for Filing and Amending Form TA–2.

A. *Terms and Abbreviations.* The following terms and abbreviations are used throughout these instructions:

1. "Act" means the Securities Exchange Act of 1934.

2. "Aged record difference", as defined in Rule 17Ad–11(a)(2), means a record difference that has existed for more than 30 calendar days.

3. "ARA" means the appropriate regulatory agency, as defined in Section 3(a)(34)(B) of the Act.

4. "Form TA–2" includes the Form TA–2 itself and any attachments.

5. "Lost securityholder", as defined in Rule 17Ad–17, means a securityholder: (i) to whom an item of correspondence that was sent to the securityholder at the address contained in the transfer agent's master securityholder file has been returned as undeliverable; provided, however, that if such item is re-sent within one month to the lost securityholder, the transfer agent may deem the securityholder to be a lost securityholder as of the day the re-sent item is returned as undeliverable; and (ii) for whom the transfer agent has not received information regarding the securityholder's new address.

6. "Named transfer agent", as defined in Rule 17Ad-9(j), means a registered transfer agent that has been engaged by an issuer to perform transfer agent functions for an issue of securities but has engaged a service company (another registered transfer agent) to perform some or all of those functions.

7. "Outside registrar", as defined in Rule 17Ad-1(b), means a transfer agent which performs only the registrar function for the certificate or certificates presented for transfer and includes the persons performing similar functions with respect to debt issues. See also Section 3(a)(25)(B) of the Act.

8. "Record difference" means any of the imbalances described in Rule 17Ad-9(g).

9. "Registrant" means the transfer agent on whose behalf the Form TA–2 is filed.

10. "Reporting period" means the 12 months ending June 30 of the year for which Form TA–2 is being filed.

11. "Rule" or "Rules" are found in Volume 17, Section 240 of the Code of Federal Regulations (CFR) (e.g., Rule 17Ad-1 is found at 17 CFR 240.17Ad-1).

12. "SEC" means the United States Securities and Exchange Commission.

13. "Service company" means the registered transfer agent engaged by a named transfer agent to perform transfer agent functions for that named transfer agent, as defined in Rule 17Ad-9(k).

14. "Transfer agent", as defined in Section 3(a)(25) of the Act, means any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer in at least one of the functions enumerated therein.

B. Who Must File; When to File

1. Every transfer agent that is registered on June 30 shall file Form TA–2 in accordance with the instructions contained therein by August 31 of that calendar year.

a. A registered transfer agent that received fewer than 1,000 items for transfer and fewer than 1,000 items for processing during the reporting period and that did not maintain master securityholder files for more than 1,000 individual securityholder accounts as of June 30 of the reporting period is required to complete only Questions 1 through 5, 10, and 11, and the signature section of Form TA–2.

b. A named transfer agent that engaged a service company to perform all of its transfer and processing functions during the reporting period is required to complete only Questions 1 through 4 and the signature section of Form TA–2.

c. A named transfer agent that engaged a service company to perform some but not all of its transfer and processing functions during the reporting period must complete all of Form TA–2 but should enter zero (0) for those questions that relate to functions performed by the service company on behalf of the named transfer agent.

2. The date on which any filing is actually received by the SEC is the Registrant's filing date provided that the filing complies with all applicable requirements. A filing that does not comply with applicable requirements may be rejected by the SEC. The SEC's receipt of a filing, however, shall not constitute an SEC finding that the filing has been filed as required or that the information therein is accurate, current, or complete.

C. Number of Copies; How and Where to File.

The Registrant must file the original and two copies of Form TA–2 with the SEC. The original copy of Form TA–2 must be manually signed and any additional copies may be photocopies of the signed original copy. All copies must be legible and on good quality 8½x11 inch white paper. The Registrant must keep an exact copy of any filing for its records.

The Registrant must file Form TA–2 directly with the SEC at: Securities and

Exchange Commission, Office of Filings and Information Services, Mail Stop A–2, 450 5th Street, N.W., Washington, DC 20549.

II. Special Instructions for Filing Form TA–2

A. Indicate the year for which Form TA–2 is filed in the box at the upper left hand corner. A transfer agent registered on June 30 shall file Form TA–2 by August 31 of that calendar year even if the transfer agent conducted business for less than the entire reporting period.

B. In answering Question 4, indicate the number of items received for transfer and the number of items received for processing during the reporting period. Omit the purchase and redemption of open-end investment company shares. Report those items in response to Question 9.

C. In answering Questions 5 and 6, include closed-end investment company securities in the corporate equity securities category.

In answering Question 5.a, include direct purchase and dividend reinvestment plan accounts in the total number of individual securityholder accounts maintained. In Question 5.b., include dividend reinvestment plan accounts only. In Question 5.c., include direct purchase plan accounts only. In Question 5.d., include American Depositary Receipts (ADRs) in the corporate equity or corporate debt category, as appropriate, and include direct purchase and dividend reinvestment plan accounts in the corporate equity or open-end investment company securities category, as appropriate.

In answering Question 6, all series of debt securities issued under a single indenture are to be counted as one issue. Open-end investment company securities portfolios are to be counted as one issue per CUSIP number.

D. In answering Question 8.c., exclude coupon payments and transfers of record ownership as a result of corporate actions.

E. In answering Question 9, exclude non-value transactions such as name or address changes.

III. Federal Information Law and Requirements

SEC's Collection of Information: An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Under Sections 17, 17A(c) and 23(a) of the Act and the rules and regulations thereunder, the SEC is authorized to solicit from registered transfer agents the information required to be supplied on Form TA–2. The filing of this Form is mandatory for all registered transfer agents. The information will be used for the principal purpose of regulating registered transfer agents but may be used for all routine uses of the SEC or of the ARAs. Information supplied on this Form will be included routinely in the public files of the ARAs and will be available for inspection by any interested person. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate on the application facing page of this Form, and any suggestions for reducing this burden. This collection of information has been reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. 3507. The applicable Privacy Act system of records is SEC–2. This form is subject to the routine uses set forth at 40 FR 39255 (Aug. 27, 1975) and 41 FR 5318 (Feb. 5, 1976).

File Number: _____

For the reporting period ending June 30, _____

United States Securities and Exchange Commission, Washington, D.C. 20549

FORM TA–2—Form for Reporting Activities of Transfer Agents Registered Pursuant to Section 17A of the Securities Exchange Act of 1934

1. Full name of Registrant as stated in Question 3 of Form TA–1: (Do not use Form TA–2 to change name or address.)

_____

2. a. During the reporting period, has the Registrant engaged a service company to perform any of its transfer and processing functions? (Check appropriate box.)

___ All ___ Some ___ None

b. If the answer to subsection (a) is all or some, list on the lines provided the name(s) and address(es) of all service company(ies) engaged.

_____

_____

_____

_____

_____

3. a. Appropriate regulatory agency (Check one box only.)

___ Comptroller of the Currency
___ Federal Deposit Insurance Corporation
___ Board of Governors of the Federal Reserve System
___ Securities and Exchange Commission

b. During the reporting period, has the Registrant amended Form TA–1 within 60 calendar days following the date on which information reported therein became inaccurate, incomplete, or misleading? (Check appropriate box.)

___ Yes, filed amendment(s)
___ No, failed to file amendment(s)
___ Not applicable

c. If the answer to subsection (b) is no, provide an explanation on the lines provided.

_____

_____

_____

_____

If the response to any question is none or zero, enter "0"

4. Number of items received during the reporting period:

a. Transfer ..... _____
b. Processing (outside registrar function) ..... _____

5. a. Number of individual securityholder accounts, including direct purchase and dividend reinvestment plan accounts, maintained as of June 30 .....
b. Number of individual securityholder dividend reinvestment plan accounts maintained as of June 30 .....
c. Number of individual securityholder direct purchase plan accounts maintained as of June 30 .....
d. Approximate percentage of individual securityholder accounts, including direct purchase and dividend reinvestment plan accounts, from subsection (a) maintained in the following categories as of June 30:.

Corporate equity securities	Corporate debt securities	Open-end investment company securities	Limited partnership securities	Municipal debt securities	Other securities

6. Number of securities issues for which Registrant acts in the following capacities, as of June 30:
a. Receives items for transfer and maintains the master securityholder files:
b. Receives items for transfer but does not maintain the master securityholder files:
c. Does not receive items for transfer but maintains the master securityholder files:

	Corporate equity securities	Corporate debt securities	Open-end investment company securities	Limited partnership securities	Municipal debt securities	Other securities
a.						
b.						
c.						

7. a. Number and aggregate market value of securities aged record differences, existing for more than 30 days, as of June 30:
i. Number of issues .....
ii. Market value (in dollars) .....
b. Number of quarterly reports regarding buy-ins filed by the Registrant with its ARA (including the SEC) during the reporting period pursuant to Rule 17Ad–11(c)(2) .....
c. During the reporting period, has the Registrant been notified by its ARA (including the SEC) that it failed to file quarterly reports regarding buy-ins pursuant to Rule 17Ad–11(c)(2)?.
___ Yes ___ No
d. If the answer to subsection (c) is yes, provide an explanation for each notification on the lines provided..

8. Scope of certain additional types of activities performed:
a. Number of issues for which dividend reinvestment plan services are provided, as of June 30 .....
b. Number of issues for which direct purchase plan services are provided, as of June 30 .....
c. Dividend disbursement and interest paying agent activities conducted during the reporting period:
i. number of issues .....
ii. amount (in dollars) .....

9. Number of open-end investment company securities purchases and redemptions ("transactions") excluding dividend and distribution postings processed during the reporting period:
a. Total number of transactions processed .....
b. Number of transactions processed on a date other than date of receipt of order ("as ofs") .....

10. a. Number of lost securityholder accounts as of June 30 .....
b. Percentage of total accounts represented by lost securityholder accounts as of June 30 .....
c. Number of lost securityholder accounts that have been remitted to states during the reporting period .....
d. Percentage of total accounts represented by lost securityholder accounts that have been remitted to states as of June 30

11. Number of lost securityholder accounts listed on the transfer agent's master securityholder files during the reporting period:
a. For which a first data base search has been conducted .....
b. For which a correct address has been obtained through the first data base search .....
c. For which a second data base search has been conducted .....
d. For which a correct address has been obtained through the second data base search .....

12. a. During the reporting period, has the Registrant (except when acting as an outside registrar) always been in compliance with the turnaround time for routine items as set forth in Rule 17Ad–2(a)?
___ Yes _____ No
If the answer to subsection (a) is no, complete subsections (i) through (iii).
i. Provide the number of months during the reporting period in which the Registrant was not in compliance with the turnaround time for routine items according to Rule 17Ad-2(a) .....
ii. Provide the number of written notices Registrant filed during the reporting period with the SEC and with its ARA pursuant to Rule 17Ad-2(c) that reported its noncompliance with turnaround time for routine items according to Rule 17Ad-2(a) .....
iii. Provide the number of times during the reporting period that the Registrant was notified by its ARA that it failed to file written notices with its ARA pursuant to Rule 17Ad-2(c) to report its noncompliance with turnaround time for routine items according to Rule 17Ad-2(a) .....
b. Has the Registrant, acting as an outside registrar, always been in compliance during the reporting period with the turnaround time for routine items as set forth in Rule 17Ad-2(b)?
___ Yes _____ No
If the answer to subsection (b) is no, complete subsections (i) through (iii).

i. Provide the number of months during the reporting period in which the Registrant was not in compliance with the turnaround time for routine items according to Rule 17Ad-2(b) .....

ii. Provide the number of written notices Registrant filed during the reporting period with the SEC and with its ARA pursuant to Rule 17Ad-2(d) that reported its noncompliance with turnaround time for routine items according to Rule 17Ad-2(b) .....

iii. Provide the number of times during the reporting period that the Registrant was notified by its ARA that it failed to file written notices with its ARA pursuant to Rule 17Ad-2(d) to report its noncompliance with turnaround time for routine items according to Rule 17Ad-2(b) .....

ATTENTION: INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)

SIGNATURE: The Registrant submitting this Form, and the person signing the Form, hereby represent that all the information contained in the Form is true, correct, and complete.

Manual signature of Official responsible for Form:

Title:

Telephone number:

Name of Official responsible for Form: (First name, Middle name, Last name)

Date signed (Month/Day/Year):

By the Commission.

Dated: March 23, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7840 Filed 3–30–99; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

RIN 1010–AC49

Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf—Bonus Payments with Bids

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: We are revising the current rule to allow us to require a specific payment method for 1/5 of the bonus payment due when we hold a sale to lease Federal offshore Outer Continental Shelf (OCS) lands. The current rule does not give us the authority to require bidders to use any single method for submitting 1/5 bonus payments with OCS bids. As electronic commerce becomes more efficient, reliable, and economical, we need to be able to require bidders to use automated payment methods when they are appropriate. This revision will allow us to require a specific form of bonus payment on a sale-by-sale basis to reduce the administrative burdens for both Government and industry.

DATES: We will consider all comments we receive by April 30, 1999. We will begin reviewing comments then and may not fully consider comments we receive after April 30, 1999.

ADDRESSES: If you wish to comment, you may submit your comments (three copies) by mail or hand-carry to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team.

FOR FURTHER INFORMATION CONTACT: Jan Arbegast, Program Analyst, at (703) 787–1227.

SUPPLEMENTARY INFORMATION: The Federal Government has been receiving bonus bid payments to acquire leases offered at OCS lease sales since the mid-1950s. Prospective bidders submit the required 1/5 bonus payment in the form of a check or bank draft, which accompanies a sealed bid on a specific offshore tract of land. Since August 1997, we have offered prospective bidders the option of using electronic funds transfer (EFT) to submit their 1/5 bonus payment rather than a check or bank draft. As technology has progressed and as banking transactions become routinely automated, we need to have in place a rule that allows us to require automated payment such as EFT or other methods that may be more efficient. This revision allows flexibility so that we can require the specific method of bonus payment that is most efficient and administratively advantageous to the Government and industry.

Procedural Matters

Public Comments Procedure

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Federalism (Executive Order (E.O.) 12612)

In accordance with E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

In accordance with E.O. 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Ultimately, this rule is administratively advantageous to prospective bidders on the OCS. It will save time and paperwork in their bid-preparation process and will also use current technology, improving efficiency both for industry and the Government.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Using EFT is common practice in private industry. Through the use of electronic commerce, we reduce the number of transactions required by bidders. This does not interfere with other agencies' actions.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This

rule has no effect on these programs or rights of the programs' recipients.

(4) This rule does not raise novel legal or policy issues. As previously stated, the intent of this rule is to give the Government flexibility in requiring a specific form of bonus payment, including EFT. It is commonplace in private industry and creates no novel policy issues.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of §§ 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

This regulation does not require information collection, and a submission under the PRA is not required.

Regulatory Flexibility Act (RFA)

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the RFA. (5 U.S.C. 601 *et seq.*). This revised rule does not have a significant effect on a substantial number of small entities. We are revising this rule to allow us the flexibility to select the method for a prospective bidder at an OCS lease sale to submit a bonus payment by the most efficient method. If we select EFT for the method of submitting bonus payments, any small company has access to a commercial bank that routinely uses EFT. All current lessees must transmit the remaining 80 percent of their bonus payment and their first year rental payment via EFT. The regulation has been effective since 1984. This should not be a significant burden. The cost for establishing an account for a small company should be nominal. The bank will charge a fee per wire transfer which may be as high as $30, but if a company has a large volume of wire transfers, the bank may only charge about a dollar or less per wire transfer. In the worst case scenario, if 30 small companies (average for recent sales) bid at $30 per EFT wire transfer, to total cost for all small companies for a typical sale is $900.

This rule only affects lessees on the OCS. We use Standard Industry Code 1381, Drilling Oil and Gas Wells, to characterize this group. There are 1,380 firms that drill oil and gas wells onshore and offshore. Of these, approximately 130 companies who are offshore lessees/operators need to follow our rule. According to Small Business Administration (SBA) estimates, 39 companies qualify as large firms and 91 as small firms. The SBA defines a small business as having either (a) annual revenues of $5 million or less for exploration service and field service companies, or (b) less than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

The rule gives us the flexibility to select the most efficient method for a bidder at an OCS lease sale to submit a bonus payment. We believe this efficiency is realized by both bidders and MMS. When using EFT, a bidder will need to advise its commercial bank to submit its bonus payment via EFT, which is now commonplace. When using EFT, the bidder will contact the MMS Royalty Management Office designated in the final sale notice for the proposed lease sale.

If EFT is used, overall lessee (prospective bidder's) costs will decrease as well as bid preparation time. This is not a major rule. The cost of implementation should be minimal, regardless of company size. Since one EFT transaction can be used per sale, and it costs $30 for the wire transfer compared to the administrative costs of preparing a cashier's check for each bid, there is little doubt that using EFT is more cost effective and more efficient.

The rule should not affect the price that a company will charge for its product or service. It should increase efficiency and decrease administrative burden. The rule should not cause any company to go out of business. In fact, this rule will give the MMS the ability to establish on a sale-by-sale basis, the most efficient and effective payment method for both MMS and industry. If EFT is used, hundreds of dollars in staff time may be saved by the MMS and industry.

Some small companies may consider a change in the method by which they submit bids at lease sales to be significant (from paper check to EFT). Other companies may think the change is trivial. Several small companies may experience a short-term effect as they revise current business practices. The rule should not have a significant economic effect on any company qualified to participate in OCS lease sales.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S.C. 804(2)) the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. This rule will increase the efficiency and reduce the administrative burden of both the Government and private industry.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will decrease costs and time for prospective bidders preparing for bid submission. It will reduce the Government's administrative burden as well. If EFT is used, the Government and industry will save potentially hundreds of dollars in bid preparation time and administrative costs. Since one EFT transaction can be used per sale, and it costs $30 for the wire transfer compared to the administrative costs of preparing a cashier's check for each bid, there is little doubt that using EFT is more cost effective and more efficient.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of U.S.-based enterprises to compete with foreign-based enterprises. The rule will increase productivity, innovation, and ability of U.S.-based enterprises.

Unfunded Mandate Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA. (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Environmental protection, Government contracts, Intergovernmental relations, Oil and gas exploration, Public lands-

mineral resources, Public lands-rights-of-way. Reporting and recordkeeping requirements, Surety bonds.

Dated: March 23, 1999.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR part 256 as follows:

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 256 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. In § 256.46, revise paragraph (b) to read as follows:

§ 256.46 Submission of bids.

* * * * *

(b) MMS requires a deposit for each bid. The notice of sale will specify the bid deposit amount and method of payment.

* * * * *

[FR Doc. 99–7894 Filed 3–30–99; 8:45 am]

BILLING CODE 4310–M–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 724, 773, 774, 778, 842, 843, and 846

RIN 1029–AB94

Application and Permit Information Requirements; Permit Eligibility; Definitions of Ownership and Control; the Applicant/Violator System; Alternative Enforcement Actions

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is reopening and extending the comment period for the proposed rule published on December 21, 1998 (63 FR 70580). The comment period originally closed on February 19, 1999, and was extended to March 25, 1999 (64 FR 8763; February 23, 1999). We are again reopening and extending the comment period for an additional 15 days.

DATES: We will accept written comments on the proposed rule until 5 p.m., Eastern time, on April 15, 1999.

ADDRESSES: You may mail or hand-deliver comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW, Washington, D.C. 20240. You may also submit comments to OSM via the Internet at: osmrules@osmre, gov.

FOR FURTHER INFORMATION CONTACT: Earl D. Bandy, Jr., Office of Surface Mining Reclamation and Enforcement, Applicant/Violator System Office, 2679 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2796 or (800) 643–9748. E-Mail: ebandy@osmre.gov.

SUPPLEMENTARY INFORMATION: In response to requests from members of the public, we are reopening and extending the public comment period for the proposed rule published on December 21, 1998 (63 FR 70580). We are extending the comment period an additional 15 days. In the rule, we are proposing revised permit eligibility requirements for surface coal mining operations under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). In particular, we propose to revise how ownership and control of mining operations is determined under section 510(c) of SMCRA so that applicants who are responsible for unabated violations do not receive new permits. We have designed this proposal to be effective, fair, and consistent with a 1997 decision by the U.S. Court of Appeals for the D.C. Circuit addressing ownership and control issues.

In addition, we are proposing other changes to other aspects of our regulations in response to comments we received when we sought public participation in developing this proposed rule. Our intent is to improve, clarify, and simplify current regulations as well as to reduce duplicative and burdensome permit information requirements.

Dated: March 25, 1999.

Stephen Sheffield,

Acting Assistant Director, Program Support.

[FR Doc. 99–7874 Filed 3–30–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD01–97–086]

Anchorage Grounds: Hudson River, Hyde Park, NY

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a change to proposed Anchorage 19–A in the Hudson River near Hyde Park, NY. This supplemental proposal is the result of comments received on the Notice of Proposed rulemaking. This proposal restricts vessels less than 20 meters in length from using Anchorage Ground 19–A without prior approval from the Captain of the Port, New York.

DATES: Comments must reach the Coast Guard on or before June 1, 1999.

ADDRESSES: Comments may be mailed to the Waterways Ovesight Branch (CGD01–97–086), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday thorugh Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4193.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–97–086) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will

aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Regulatory History

On July 20, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Anchorage Grounds; Hudson River, Hyde Park, NY in the **Federal Register** (63 FR 37297). The Coast Guard received two letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Hudson River Pilots Association requested that the Coast Guard establish a federal anchorage ground in the Hudson River near Hyde Park, New York. The closest anchorage to the requested anchorage is down river to anchorage number 17, the northern boundary of which lies between the Yonkers municipal pier and the pilot station just to the north. The area that the Pilots Association has suggested for consideration is bound by the following coordinates:

NW corner 41° 48′ 35″N 073° 57′ 00″W.
NE corner 41° 48′ 35″N 073° 56′ 44″W.
SE corner 41° 47′ 32″N 073° 56′ 50″W.
SW corner 41° 47′ 32″N 073° 57′ 10″W.
(NAD 1983)

The Coast Guard received two letters commenting on the proposed rule. Comments received prompted the Coast Guard to reevaluate the proposal.

One comment recommended that a minimum size of 65 feet in length be established for vessels authorized to use the anchorage because the smaller vessels would be less visible at anchor, even if they displayed the required lights or day shapes, and pose a potential hazard to mariners. The comment noted that the entire anchorage area. including the area outside the designated navigation channel, is routinely transited by vessels of various sizes and that the Special Anchorage Area at Hyde Park, NY, (33 CFR 110.60(p-3)) is available for use by vessels less than 65 feet in length. This Special Anchorage Area at Hyde Park, NY that the comment referred to was disestablished on June 1, 1998 (63 FR 23663). However, in response to these safety concerns, the Coast Guard re-evaluated the proposed rule. Upon further analysis, the Coast Guard also believes that safety concerns warrant a minimum vessel length restriction. The safety concerns stem from the high number of vessels that transit the area of the proposed anchorage and from background lighting on shore that will interfere with smaller vessel's anchorage lights. The Coast Guard is now proposing additional regulations to restrict vessels less than 20 meters in length from using this anchorage ground without prior approval from the Captain of the Port, New York. The Coast Guard believes this proposed restriction is reasonable given the noted safety concerns and that there are over 75 transient berths at 8 marinas within approximately 15 nautical miles of this anchorage ground for use by vessels less than 20 meters in length. Additionally, the Coast Guard is aware that transient vessels anchor to the east of Esopus Island in order to use the island as a breakwater to block the wake action caused by commercial shipping transiting the Hudson River. This protected area may be easily used by vessels less than 20 meters in length as an alternative to Anchorage 19–A because Esopus Island is approximately 500 yards north of Anchorage 19–A.

The comment also stated the anchorage ground is in a "No Discharge Zone", designated by the United States Environmental Protection Agency, and the discharge of waste from any marine sanitation device on board a vessel is prohibited. The Coast Guard agrees. However, the Coast Guard considers this to be purely informational and it does not need to be further addressed in this regulation.

Finally, the comment noted that masters of vessels at anchor in this anchorage ground should be aware that a Water Transportation Permit under Article 15 of the New York State Environmental Conservation Law is required for taking on water for ballast or any other uses within the waters of the State of New York. The information regarding Water Transportation Permits is not being addressed in this regulation as it already applies to all waters of New York State.

The second comment received in response to the NPRM agreed with the Coast Guard's determination that establishment of this anchorage ground is consistent with New York's Coastal Zone Management Plan. No changes to the proposed rule were suggested.

Discussion of Proposed Rule

The Coast Guard proposes to change the regulations governing proposed Anchorage Ground 19–A. Safety concerns regarding the size of vessels authorized to use the proposed anchorage ground were raised by one of the comments to the NPRM. The Coast Guard, after further analyzing the safety concerns associated with proposed Anchorage Ground 19–A, is proposing additional regulations to restrict vessels less than 20 meters in length from using this anchorage ground without prior approval from the Captain of the Port, New York.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the following reasons: due to icing of the river in winter months, the anchorage will be seasonal in nature, recreational traffic can still traverse the anchorage when necessary, there are over 75 transient berths at 8 marinas within approximately 15 nautical miles of this anchorage ground for vessels less than 20 meters in length to tie up in, and the anchorage ground permits unobstructed navigation in the western 350 yards of the Hudson River.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this proposed rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposed rule will not have a significant impact on a substantial number of small entities.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant

the preparation of a Federalism Assessment.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

The Coast Guard has considered the environmental impact of this proposed rule and concluded that under paragraph 2–1, paragraph 34(f), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR 110

Anchorage grounds.

Regulation

For the reasons discussed in the preamble, the Coast guard proposes to amend 33 CFR Part 110 as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. In § 110.155, add paragraph (c)(6) to read as follows:

§ 110.155 Port of New York.

* * * * *

(c) * * *

(6) Anchorage No. 19–A. An area located west of Hyde Park enclosed by the coordinates starting at 41° 48′ 35″N, 073° 57′ 00″W; to 41° 48′ 35″N, 073° 56′ 44″W; to 41° 47′ 32″N, 073° 56′ 50″W; to 41° 47′ 32″N, 073° 57′ 10″W; thence back to 41° 48′ 35″N, 073° 57′ 00″W (NAD 1983).

(i) No vessel may anchor in Anchorage 19–A form December 16 to the last day of February without permission from the Captain of the Port, New York.

(ii) No vessel less than 20 meters in length may anchor in Anchorage 19–A without prior approval of the Captain of the Port, New York.

* * * * *

Dated: March 22, 1999.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 99–7838 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400136; FRL–6051–1]

Combustion for Energy Recovery Toxic Release Inventory Reporting; Notice of Receipt of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of petition and request for comments.

SUMMARY: This document announces the receipt of a petition from Safety Kleen Corporation (Safety Kleen) requesting that EPA modify its current interpretation of combustion for energy recovery under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). The petition was submitted pursuant to sections 553(e) and 555(e) of the Administrative Procedure Act (APA). Also, as part of this document, EPA is publishing the main text of the petition. Finally, EPA is seeking comments from interested or potentially affected parties concerning issues associated with the current interpretation of combustion for energy.

DATES: Written comments in response to this request for comments must be received on or before June 1, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of this document.

FOR FURTHER INFORMATION CONTACT: For specific information regarding this document contact: Sara Hisel McCoy at (202) 260–7937, e-mail: hisel-mccoy.sara@epa.gov. For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St. SW., Washington DC 20460, Toll-free: 1–800–424–9346, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 800–553–7672.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Document Apply To Me?

This document does not make any changes to existing regulations, however you may be interested in this document if you combust toxic chemicals in waste on-site or transfer these toxic chemicals off-site for this purpose. Potentially interested categories and entities may include, but are not limited to the following:

Category	Examples of Potentially Interested Entities
Industry; facilities that manufacture, process, or otherwise use certain chemicals	Manufacturing, Metal mining, Coal mining, Electric utilities, Commercial hazardous waste treatment, Chemicals and allied products-wholesale, Petroleum bulk terminals and plants wholesale, and Solvent Recovery services
Facilities with hazardous waste incinerators	Facilities regulated under Subtitle C of the Resource Conservation and Recovery Act

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this document. Other types of entities not listed in this table may also be interested in this document. Additional businesses that may be interested in this document are those covered under 40 CFR part 372, subpart B. If you have any questions regarding whether a particular entity is covered by this section of the CFR, consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

B. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

1. *Electronically.* You may obtain electronic copies of this document as well as the appendices to the petition from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register** - Environmental Documents." You can also go directly to the "**Federal Register**" listings at http://www.epa.gov/fedrgstr/. You may also obtain electronic copies of the complete

petition and appendices at http://www.epa.gov/opptintr/tri/.

2. *In person or by phone.* If you have any questions or need additional information about this action, please contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. Copies of a complete petition including the appendices to the Safety Kleen petition are also available by calling the EPCRA Hotline at 1–800–424–9346, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 800–553–7672. In addition, the official record for this document, including the public version, has been established under docket control number OPPTS–400136. This record includes not only the documents physically contained in the docket, but all of the doucments included as references in those documents. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460. The TSCA Nonconfidential Information Center telephone number is 202-260–7099.

II. How Can I Respond To This Document?

A. How and To Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, OPPTS–400136, in your correspondence.

1. *By mail.* Submit written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: Document Control Office in Rm. G–099, East Tower, Waterside Mall, 401 M St., SW., Washington, DC, Telephone: 202–260–7093.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–400136. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit To the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section.

III. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals in amounts above reporting threshold levels, to report their releases of such chemicals annually. These facilities must also report other waste management activities for such chemicals, pursuant to section 6607 of the PPA, 42 U.S.C. 13106. Specifically, these facilities must report the quantities of toxic chemicals in wastes that are released (including disposed), treated for destruction, combusted for energy recovery or recycled on-site or transferred off-site for such purposes.

In the final industry expansion rule (62 FR 23891, May 1, 1997) (FRL–5578–3), EPA interpreted combustion for energy recovery to include the combustion of a section 313 chemical that is (1)(a) a Resource Conservation and Recovery Act (RCRA) hazardous waste or waste fuel, (b) a constituent of a RCRA hazardous waste or waste fuel, or (c) a spent or contaminated "otherwise used" material; and that (2) has a significant heating value and is combusted in an energy or materials recovery device. Also, currently EPA defines an energy recovery device as a boiler or industrial furnace as defined in 40 CFR 372.3.

On March 18, 1998, the Environmental Protection Agency received a petition from Safety Kleen Corporation requesting EPA to modify its guidance regarding EPA's interpretation of the term "combustion for energy recovery" under section 313 of the EPCRA and section 6607 of the PPA. (Note: At the time of the submission of this petition, the company that petitioned EPA was known as Laidlaw Environmental Services. Subsequent to this submission, the company has changed its name to Safety Kleen Corporation. Therefore the references in the text of the petition to Laidlaw Environmental Services refer to Safety Kleen Corporation).

EPA is reproducing Safety Kleen's petition in its entirety (except for the appendices and the table of contents) in Unit IV. of this document, to solicit public comment on its content. In addition, in Unit V. of this document, EPA is soliciting comment on specific issues associated with the petition on combustion for energy recovery.

IV. Safety Kleen's Petition

STATEMENT OF INTEREST

Laidlaw Environmental Services Inc., and its wholly-owned subsidiary companies, is a full service company engaged in the blending, incineration, treatment, disposal, destruction, and transportation of hazardous and toxic wastes. Our interests are directly affected by the issues addressed in this petition.

I. EXECUTIVE SUMMARY

In 1991, the EPA designated "Energy Recovery" as an acceptable method of handling toxic organic chemicals under the Toxic Release Inventory program. To receive credit for "Energy Recovery" a generator has to transfer energetic (> 5,000 Btus/lb) toxic organic chemicals to an "energy or materials recovery device". The Agency defines an "energy or materials recovery device" as a Boiler or Industrial Furnace.

Present guidance on "Energy Recovery" does not allow a generator to claim credit for the energy recovered when energetic toxic chemicals are used to destroy other toxic organics in a hazardous waste incinerator. This two-tiered approach to the recognition, or lack of recognition, of the process of "Energy Recovery", depending on the type of unit combusting the toxic organic chemicals has led to a situation where globally there is no reduction in the use of fossil fuel.

TRI data for 1991–95 show that annually larger quantities of energetic toxic organic chemicals are being transferred to EPA designated "energy or materials recovery devices", while reduced percentages of these same chemicals are being shipped to hazardous waste incinerators. While "energy or materials recovery devices" may be using less fossil fuel because they may be utilizing the energy from these toxic chemicals in their processes, incinerators have had to substitute fossil fuels on a Btu for Btu basis for every Btu of energetic toxic organic chemicals they have lost.

This situation has led to a game where a preferential designation has provided "energy or materials recovery devices" with an advantage in procuring high energy

organic chemicals, and incinerators have been placed at a comparative disadvantage in procuring these same chemicals. However, this is a "zero-sum game" because both EPA designated "energy or materials recovery devices" and incinerators utilize the energy from these chemicals in their process, and the movement of waste energy from one type of unit to the other also necessitates the movement of fossil fuel from one type of unit to another. In reality, there are no global net energy savings.

Laidlaw maintains that in light of the data presented in this petition, EPA should recognize that:

– Sufficient energy input is necessary to properly destroy all forms of toxic organic chemicals in a hazardous waste incinerator;

– Hazardous waste incinerators harness the Btus from high energy organics to destroy less energetic toxic organic chemicals;

– Incinerators are forced to use fossil fuels to supplement the energy input as the highest Btu energetic wastes are diverted from incinerators; and

– Hazardous waste incinerators perform "Energy Recovery" in the process of using high energy toxic organic chemicals to destroy low energy organics.

Laidlaw requests and recommends in this petition that the EPA modify its guidance on "Energy Recovery" to include the combustion of high energy toxic organic chemicals for the purpose of destroying low energy toxic organic chemicals in a hazardous waste incinerator.

II. THE EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT

The Emergency Planning and Community Right to Know Act ("EPCRA") was signed into law in 1986. The law was designed to prevent an occurrence in the U.S. of the type of tragedy that befell Bhopal, India just a couple of years prior to its passage. EPCRA was a comprehensive statute that greatly enhanced the knowledge of the states, local governments, workers, and citizens about the chemicals handled at facilities around the nation. This statute also put into place the mechanisms to handle unplanned releases of chemicals from a facility, so that threats to the local community, and workers would be minimized.

EPCRA, for the first time, provided minimum reporting requirements for facilities handling one or more "extremely hazardous substances" (defined in 40 CFR, Part 355, Appendices A and B) above a threshold limit. Depending on the specific section of EPCRA, a facility had to notify its State Emergency Response Commission ("SERC"), Local Emergency Planning Committee ("LEPC"), Local Fire Department, and/or the EPA about the extremely hazardous substances on-site. More Specifically, under EPCRA[1] a facility must report:

– EPCRA Sections 302–303: If a facility has one or more extremely hazardous substances on-site in quantities greater than a threshold level, it must notify its SERC and LEPC that it is subject to the emergency planning requirements of these sections, a facility representative must be designated to participate in the local emergency planning process, and the facility must provide information necessary for the development and implementation of a local emergency plan;

– EPCRA Section 304: The facility must notify the LEPC and SERC immediately after the release of any extremely hazardous substance, or CERCLA hazardous substance, at or above the Reportable Quantity ("RQ") established for the substance, the facility must furnish a written statement with details of the release after the initial notification;

– EPCRA Section 311: The facility must submit to the LEPC, SERC, and local fire department a list, or copies, of Material Data Safety Sheets ("MSDSs") for any Occupational Safety and Health Administration ("OSHA") defined hazardous chemicals or extremely hazardous substances that are present on-site above defined threshold limits;

– EPCRA Section 312: The facility must submit annually to the LEPC, SERC, and the local fire department a report on the hazardous chemicals or extremely hazardous substances on-site that includes the type of hazard the material may pose, quantities of the material stored on-site, and the location and type of storage for the materials; and

– EPCRA Section 313: Facilities in certain EPA defined SIC codes, meeting size and threshold requirements, are required to report annually to the EPA (and some states) the amounts of chemicals listed in EPCRA's Section 313 released or otherwise managed.

EPCRA's Section 313 (a copy of this section is included in this submission as Appendix 1) is more commonly known as the Toxic Release Inventory ("TRI") and is the subject of the information in this petition (the issues addressed in this petition are specific to TRI, and do not pertain to the other facets of EPCRA.)

III. THE TOXIC RELEASE INVENTORY

EPCRA established the legal framework for the Toxic Release Inventory The TRI program was designed to provide information to the public and regulators about the fate of designated toxic chemicals (chemicals referenced in Section 313) at a facility, local, state, and national level. The EPCRA statute required that this collected TRI information be maintained in a computer database, and be readily available to "any person" requesting it.

EPCRA outlined, at a minimum, the types of facility that had to submit TRI reports and the information to be contained on those reports. The statute provided discretion to the Environmental Protection Agency as to what types of facility they can require to report TRI information in the future, and the types of information they can require on the TRI report in the future. EPCRA also allowed the Agency, but to a lesser extent than in other areas, discretion to add or subtract chemicals from the Section 313 list.

TRI reporting by facilities was initially required for the calender year 1987, with subsequent reports required annually on a calender year basis. While TRI reporting was initially required only for facilities with SIC codes between 20 and 39 (these facilities also had to meet employee size and threshold limits for the quantity of Section 313 chemicals to qualify for reporting requirements), in May of 1997 the EPA finalized rulemaking that expanded the types of industries to be included in TRI reporting. At the time of this petition the facilities[1] meeting the following criteria are required to report TRI information:

– The facility must be in SIC code 10 (except 1011, 1081, and 1094), or 12 (except 1241), or 20–39 (manufacturing facilities), or 4911 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce), 4931 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) and 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce), or 4953 (limited to facilities regulated under RCRA subtitle C), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis) hereafter "covered SIC codes"; and,

– Facility must have 10 or more full-time employees (or the total hours worked by all employees is greater than 20,000 hours), and

– The facility manufactures (defined to include importation), or processes, or otherwise uses any Section 313 chemical in quantities greater than the established threshold in the course of a calendar year.

In addition to the recent industry expansion, other facets of the TRI program have changed over the years. The list of chemicals to be tracked for TRI purposes changes almost annually, and today this number is almost double the starting number. Also, the type of information required to be reported has changed over the years. Originally the EPCRA[2] statute required, at a minimum, the following information be included on each TRI report:

(g) Form

(1) Information required

Not later than June 1, 1987 the Administrator shall publish a uniform toxic chemical release form for facilities covered by this section. If the Administrator does not publish such a form, owners and operators of facilities subject to the requirements of this section shall provide the information required under this subsection by letter postmarked on or before the date on which the form is due. Such form shall -

(A) provide for the name and location of, and principal business activities at, the facility;

(B) include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the report, regarding the accuracy and completeness of the report; and

(C) provide for submission of each of the following items of information for each listed toxic chemical known to be present at the facility:

(I) Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical.

(ii) An estimate of the maximum amounts (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year.

(iii) For each wastestream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency

typically achieved by such methods for that wastestream.

(iv) The annual quantity of the toxic chemical entering each environmental medium.

The data outlined in sections i–iv was the basic TRI data mandated by EPCRA and these sections formed the basis for the original Form R (TRI reporting form) until reporting year 1991. In 1991 the next statute to impact TRI, the Pollution Prevention act of 1990, modified some of the reporting requirements for TRI.

IV. THE POLLUTION PREVENTION ACT OF 1990

In November, 1990 the Pollution Prevention Act of 1990 ("PPA") was signed into law (a copy of this Act is included in this submission as Appendix 2). This statute established pollution prevention as a "national objective", and noted[3]:

"There are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw materials use... The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction... Source reduction is fundamentally different and more desirable than waste management and pollution control."

The Pollution Prevention Act established a hierarchy of methods for dealing with real or potential pollutants. Following is an outline of this hierarchy in order of preference:

– Wherever feasible, pollution should be prevented or reduced at the source;

– Pollution that cannot be prevented should be recycled in an environmentally sound manner;

– Pollution that cannot be prevented or recycled should be treated; and

– Pollution that cannot be prevented, recycled, or treated should be disposed or released into the environment as a last resort.

In addition to this hierarchy, the Act[4] authorized a state grant program to promote source reduction by businesses, established the Office of Pollution Prevention and Toxics, an independent office to carry out the functions required by the PPA, and directed the EPA to:

– Facilitate the adoption of source reduction techniques by businesses and federal agencies;

– Establish standard methods of measurement for source reduction;

– Review regulations to determine their effect on source reduction;

– Investigate opportunities to use federal procurement to encourage source reduction;

– Develop improved methods for providing public access to data collected under federal environmental statutes;

– Develop a training program on source reduction opportunities, model source reduction auditing procedures, a source reduction clearinghouse, and an annual award program; and

– Report to Congress within 18 months, and biennially afterwards, on actions needed to implement a strategy to promote source reduction, and an assessment of the clearinghouse and grant program.

Finally, the PPA made the first statutorily mandated changes to the TRI reporting requirements since EPCRA established the requirement for TRI reporting in 1986. Under the Pollution Prevention Act, facilities already required to report TRI information to the EPA were now required to provide information on pollution prevention and recycling for each TRI chemical reported. Specifically, Section 6607 of the PPA[3] established the following requirements for source reduction and recycling data collection:

(a)Reporting Requirements- Each owner or operator of a facility required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA") for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calender year. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under section 313(c) of that Act. This section shall take effect with the annual report filed under section 313 for the first full calender year beginning after the enactment of this subtitle.

(b)Items Included in the Report- The toxic chemical source reduction and recycling report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of any chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calender year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under paragraph (7). When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made base on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calender year, the percentage change from the previous year, and the process of recycling used.

(3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(4) The amount expected to be reported under paragraph (1) and (2) for the two calender years immediately following the calender year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ration should be calculated to most closely reflect all activities involving the toxic chemical. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical. The Administrator is encouraged to develop production indexes to accommodate individual industries for use on a voluntary basis.

(6) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

(7) The amount of any toxic chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event, and is not associated with production processes during the reporting year.

(8)The amount of the chemical from the facility which is treated (at the facility or elsewhere) during such calender year and the percentage change from the previous year. For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c)SARA Provisions- The provisions of sections 322, 325 (c), and 326 of the Superfund Amendments and Reauthorization Act of 1986 shall apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of that Act. The Administrator may modify the form required for purposes of reporting information under section 313 of that Act to the extent he deems necessary to include the additional information required under this section.

(d) Additional Optional Information- Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other pollution control techniques in earlier years.

(e) Availability of Data- Subject to section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall make data collected under this section publicly available in the same manner as the data collected under section 313 of the Superfund Amendments and Reauthorization Act of 1986.

The new requirements of the PPA mandated that EPA make changes to the TRI reporting form and the program. EPA incorporated these changes in to the Form R for the 1991 reporting year. Although it was not specifically covered in the PPA, the Agency formalized the category of Energy Recovery at this time.

V. STRUCTURE OF TRI DATA REQUIREMENTS

Data for TRI reporting is submitted to the EPA on a completed "Form R" (a copy of the

1996 Form R is included in this submission as Appendix 3). Regulated facilities must submit a completed Form R to the EPA that summarizes activity for the previous calender year by July 1 of the subsequent calender year.

Form R is available both in electronic and hard copy form. The hard copy form is accompanied by a set of instructions[5] that include guidance on the most common TRI issues. TRI data requirements are listed on the Form R. The Form R is broken into two parts, Part I: Facility Identification Information, and Part II: Chemical Specific Information.

Part I is one page in length consisting of five sections that identify the reporting year; any trade secret information; the facility; the parent company; and a certification by a responsible official of the reporting entity.

Part II is specific to each chemical a facility is reporting. It is four pages long, and is broken into eight sections that identify the toxic chemical; the mixture it may be in; the activities and use(s) of the chemical at the facility; the maximum amount of the chemical on-site during the year; the quantity of the chemical released to each environmental media during the year; the quantity of the chemical transferred in waste to off-site locations; on-site treatment, energy recovery, or recycling processes for the chemical; and source reduction and recycling activities.

This petition is concerned with the definition of the information required in Part II of the Form R. Specifically this petition is requesting EPA reevaluate its definition of "Energy Recovery" and various types of "Incineration" that are used in Section 6: Transfers to Off-Site Locations in light of the data provided within this petition.

VI. TRI CATEGORIZATION OF OFF-SITE TRANSFERS

Data on transfers of toxic chemicals to off-site locations must be reported in Part II, Section 6 of Form R. Section 6 is itself composed of two primary subsections: 6.1 Discharges to Publicly Owned Treatment Works (POTWs); and 6.2 Transfers to other Off-Site Locations. This petition is concerned with the categorization of some of the data in subsection 6.2, specifically 6.2C "Type of Waste Treatment/ Disposal/ Recycling/ Energy Recovery" for transfers to other off-site locations.

In the instructions[5] for completing Form R, methods and codes are listed that are applicable to completing subsection 6.2C (a list of these methods and codes is included in this submission as Appendix 4). There are eight codes listed for Disposal, six codes listed for Waste Treatment, five codes for Recycling, and two codes for Energy Recovery. Within the method "Waste Treatment" there are two codes designated for Incineration:

– M50 Incineration/Thermal Treatment; and

– M54 Incineration/Insignificant Fuel Value

listed under the method of waste treatment. There is another code that could include toxic chemicals eventually bound for incineration, M95 Transfer to Waste Broker-Waste Treatment, however this code also includes toxic chemicals that are bound for several other types of treatment.

The method "Energy Recovery" contains two codes and they are solely for Energy Recovery:

– M56 Energy Recovery; and

– M92 Transfer to Waste Broker-Energy Recovery.

This method of "Energy Recovery" and its corresponding codes were not specifically mandated by either EPCRA or the PPA. In subsection 6.2C of Form R the EPA decided to go beyond the statutory mandates of the Pollution Prevention Act of 1990 and the Emergency Planning and Community Right to Know Act of 1986 and create a method of off-site transfer, Energy Recovery, that implies a positive connotation in comparison to Incineration, which is considered Waste Treatment.

Under the PPA, Waste Treatment is the third method in order of preference for dealing with toxic chemicals, behind source reduction and recycling. Energy Recovery is not listed in the PPA, or in EPCRA, but due to its recognition in TRI it is marketed by service providers and treated by generators and many states with hazardous waste taxes as a form of Recycling.

In the recent final rule[6] on the expansion of industries required to report TRI information, the Agency provided its general interpretation of what Energy Recovery is (page 23852):

"EPA believes that for the purposes of the PPA, reporting quantities "combusted for energy recovery" should be restricted to devices where energy is produced from the combustion of the toxic chemical and harnessed."

Several lines after this broad definition, the Agency becomes more specific:

"Specifically, EPA interprets "combustion for energy recovery" as the combustion of a toxic chemical that (1) is (I) a RCRA hazardous waste or waste fuel, (ii) a constituent of a RCRA hazardous waste or waste fuel, or (iii) a spent or contaminated "otherwise used" material; and that (2) has a heating value greater than or equal to 5,000 Btus per pound in an "energy or materials recovery device."... EPA considers an "energy or materials recovery device" to be an industrial furnace or boiler as defined in 40 CFR 372.3."

However, a toxic chemical combusted in an "energy or materials recovery device" can also be considered as being "treated for destruction" if the chemical contained less than 5,000 Btus per pound:

"EPA considers any toxic chemical that is burned and meets the criteria described in part (1) of the interpretation, but which has a heating value less than 5,000 Btus per pound, as provided in part (2) of the definition interpretation, to be "treated for destruction" rather than "combusted for energy recovery." This is regardless of the type of device in which it is combusted."

Therefore under EPA's guidance, an "energy or materials recovery device" can perform both Energy Recovery and Treatment for Destruction depending on the energy value of the toxic chemical being combusted.

In this same final rule EPA defines Treatment for Destruction as:

"Treatment for destruction means the destruction of the toxic chemical in waste such that the substance is no longer the toxic chemical subject to reporting under EPCRA section 313. This does not include the destruction of a toxic chemical in waste where the toxic chemical has a heat value greater than 5,000 British thermal units and is combusted in any device that is an industrial furnace or boiler as defined at 40 CFR 260.10."

Under this guidance on Treatment for Destruction and Energy Recovery, the determinant of whether the energy from a toxic chemical is "recovered" is the type of unit that performs the combustion, not whether the energy from the combustion is actually harnessed and used to replace fossil fuel.

VII. DESCRIPTION OF AN "ENERGY OR MATERIALS RECOVERY DEVICE"

EPA defines an "energy or materials recovery device" to be an industrial furnace or boiler as it is described in 40 CFR 372.3:

"(1) Boiler means an enclosed device using controlled flame combustion and having the following characteristics:

(I) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery sections(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(2) The unit is one which the Regional Administrator has determined, on a case-by-case basis, to be a boiler, after considering the standards in Sec. 260.32 of this chapter.

Industrial furnace means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

(1) Cement kilns.
(2) Lime kilns.
(3) Aggregate kilns.
(4) Phosphate kilns.
(5) Coke ovens.
(6) Blast furnaces.
(7) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces).
(8) Titanium dioxide chloride process oxidation reactors.
(9) Methane reforming furnaces.
(10) Pulping liquor recovery furnaces.
(11) Combustion devices used in the recovery of sulfur values from spent sulfuric acid.
(12) Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated.
(13) Such other devices as the Administrator may, after notice and comment, add to this list on the basis of one or more of the following factors:
(I) The design and use of the device primarily to accomplish recovery of material products;
(ii) The use of the device to burn or reduce raw materials to make a material product;
(iii) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;
(iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
(v) The use of the device in common industrial practice to produce a material product; and
(vi) Other factors, as appropriate."

The present guidance that the EPA uses for an "energy or materials recovery device" for the purposes of TRI reporting does not include the hazardous waste incinerator.

VIII. DESCRIPTION OF A HAZARDOUS WASTE INCINERATOR

A typical hazardous waste incinerator consists of a primary combustion chamber, secondary combustion chamber, and an air pollution control system.

The primary combustion chamber can be a rotary kiln, fluidized bed, fixed hearth, or liquid injection assembly. Typically, commercial incinerators utilize a rotary kiln as the primary combustion chamber, and this form of primary combustion chamber will be the one described in greater detail in this section.

Both solid and liquid wastes are introduced into the rotary kiln, in which the temperature is typically above 1800° F. Liquid wastes generally are pumped into the kiln through nozzles which atomize the waste into fine droplets for optimal combustion. Solid wastes are fed into the kiln either in bulk or containers (drums).

While the kiln is brought up to operating temperature utilizing fossil fuels such as natural gas or fuel oil, once the permitted temperature is reached operators try to maintain this temperature by feeding energetic liquid and solid wastes. If the wastes do not contain sufficient energy to maintain the permitted temperature the operator must supplement the waste feed with fossil fuels.

The kiln is set on an incline and rotates during operation causing the solid wastes fed into it to slowly migrate from the feed end to the discharge end utilizing gravity. The rotation and incline of the kiln tumbles the solid wastes inside assuring they are exposed on all sides to the high temperature and airflow in the kiln. A large fan draws excess air (containing oxygen) over the rotating solids and towards the secondary combustion chamber. The high temperature of the kiln causes the some of the organics in the waste feed to combust and be destroyed, while others volatilize and migrate with the combustion gas and excess air toward the secondary combustion chamber for combustion and destruction. Inorganic material that has not been volatilized is fed out of the discharge end of the kiln as ash into awaiting containers.

The secondary combustion chamber, often known as an afterburner, is brought up to permitted temperature along with the primary combustion chamber utilizing fossil fuels. Typically temperatures in the secondary combustion chamber are maintained at 2200° F. Once permitted temperature is achieved, the operator can begin feeding atomized energetic liquid wastes to maintain this temperature. If the liquid waste feed does not contain sufficient energy to maintain the permitted temperature, the operator will supplement this waste feed with fossil fuel.

The volatilized organics and excess air from the kiln are mixed with air and passed through the hot flame[1] of the secondary combustion chamber. Generally all feeds into the secondary combustion chamber are retained within it for 2.5–3 seconds. While the organic vapors are in the secondary combustion chamber the temperature, air turbulence, and excess oxygen work to break the chemical bonds of the organics to form primarily carbon dioxide, water, and acid gasses. In addition to these byproducts, some inorganic particulate matter is also mixing with the turbulent air of the secondary combustion chamber.

The combustion gas from the secondary combustion chamber flows to the air pollution control system (APCS) for cooling and cleansing prior to discharge to the atmosphere. APCSs have a variety of configurations, but their purpose is to cool and remove the acid gasses, particulate, and volatilized inorganics contained in the secondary combustion chamber off gasses.

IX. ENERGY REQUIREMENTS OF A HAZARDOUS WASTE INCINERATOR

Hazardous waste incinerators thermally decompose organic compounds. They do this by introducing the organic material into an environment where the temperature, residence time, air turbulence, and oxygen level are designed and controlled to achieve strict destruction and removal efficiencies ("DRE") for each permitted organic.

Hazardous waste incinerators are permitted to burn toxic chemicals after a lengthy and comprehensive permitting process. This process is overseen by the state and/or federal environmental agency. Towards the end of this process, a trial burn for the permitted incineration unit is conducted. The purpose of the trial burn is to verify that the unit meets state and federal guidelines, and to set the operating parameters the unit must operate under while destroying toxic chemicals. Once a trial burn is successfully completed and a permit is issued the incineration facility is allowed to combust hazardous waste under the terms of the permit and operating parameters of the trial burn.

As mentioned earlier, temperature, time, turbulence, and oxygen are four of the key conditions needed to properly destroy organic compounds. Generally to achieve good combustion of organics, incinerators must maintain a minimum temperature of greater than 2,000° F in the secondary combustion chamber, a residence time greater than a couple of seconds, and a minimum oxygen level of 3% in the post combustion zone. All permitted hazardous waste burning incinerators have operating parameters set around these numbers (there are many other operating parameters that must be met to combust toxic chemicals; however, for the purpose of this petition, these other parameters do not need to be listed).

An incinerator does not combust toxic chemicals until it is operating within the permitted parameters. To reach the temperature required for toxic chemical combustion the incinerator will burn fossil fuel, generally a combination of fuel oil and natural gas. Once the minimum temperature is reached (and all other parameters are within permitted levels), operators begin feeding toxic organic chemicals to the incinerator for combustion.

Just like the fossil fuel they are replacing, these toxic chemicals have energy content and provide energy to the incinerator to maintain the permitted temperature. However, waste toxic chemicals are significantly more variable than refined fossil fuels in their energy content and composition. The BTU content of toxic organic chemicals varies greatly depending on the composition of the compounds. The BTU content also varies depending on the purity of the organic and what impurities it is mixed with (soil, water, etc.).

Ideally, the incinerator operator tries to blend a mixture of relatively pure, high energy waste, with other lower energy wastes (highly chlorinated or fluorinated wastes, contaminated media, etc.) so that combustion of all toxic chemicals is achieved without the addition of fossil fuel. Remember, to combust wastes a minimum temperature must be maintained within the incinerator. The amount of energy required to do this is dependent on the size of the incinerator;

[1] The flame of the secondary combustion chamber is derived from the combustion of energetic liquid wastes, fossil fuel, or a combination of the two.

however, once the minimum temperature is achieved this energy can come from fossil fuel or the waste organic chemicals (if the waste has sufficient energy content).

Since the advent of the "Energy Recovery" designation for off-site transfers, data indicate that incinerators are using increasing quantities of fossil fuel to combust the less energetic organic wastes they are receiving. The "Energy Recovery" designation is not available for toxic chemicals shipped to incinerators, and because of this a distortion has occurred that preferentially directs high energy wastes to go to "energy or materials recovery devices". Incinerators are not considered "energy or materials recovery devices", and must replace these high energy wastes with fossil fuel to be able to burn the less energetic wastes they still receive.

X. IMPACT OF "ENERGY RECOVERY" DESIGNATION

The impact of providing the "Energy Recovery" designation for the transfer of TRI regulated toxic organic chemicals shipped to an "energy or materials recovery device" was steady and predictable. The favorable connotations of "Energy Recovery" has induced manufacturers to transfer their high energy wastes to "energy or materials recovery devices" from incinerators.

This shifting of waste to "energy or materials recovery devices" allows the manufacturer to achieve some of the recycling goals they have established. Also, the "Energy Recovery" designation has led, in some instances, to regressive state tax structures that tax waste going to an incinerator at a higher rate than waste going to "Energy Recovery"

With all of these incentives to ship high energy wastes to "energy or materials recovery devices", and what experience indicated was occurring in the marketplace and at incineration facilities, it appeared that larger quantities of organic TRI chemicals were going to "Energy Recovery". To test our hypothesis we queried the TRI database for trends in the Off-Site Transfer of organic chemicals. We queried the database for the total of all chemicals going to each type of off-site transfer for the years 1991–95 (1991 was the first year the "Energy Recovery" designation was formally available, and 1995 is the last year TRI data is now available.) For consistency and comparability of data, we searched for information only on the "core chemicals" that were listed for all five years.

The database we searched was the TRI database available through RTKnet. Following is the concluding data (a spreadsheet summarizing all of the data from this search is included as Appendix 5) we queried from this database.

Chart 1

TRI Core Chemicals Transferred to Energy Recovery, 1991-95

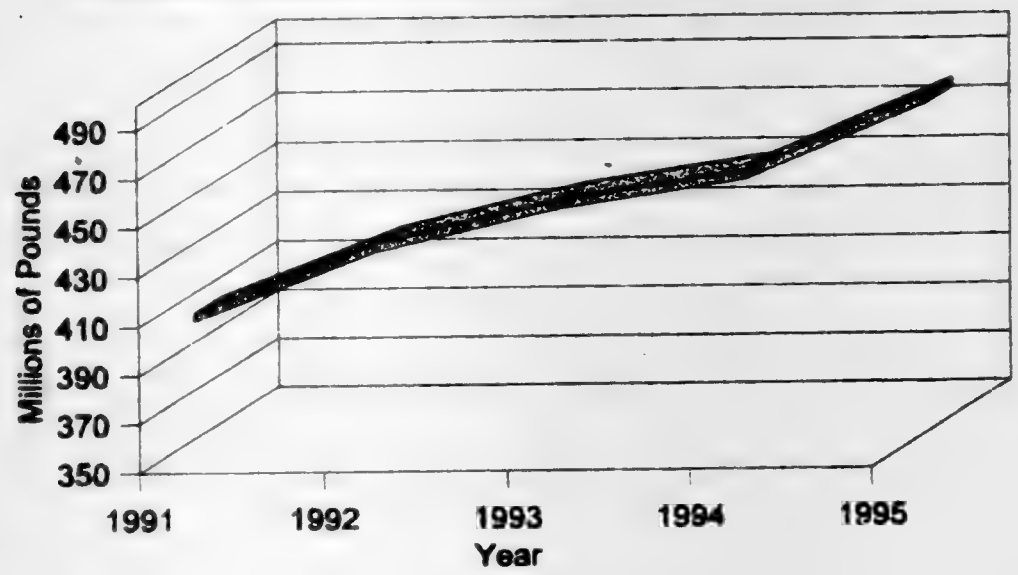


Table 1

YEAR	TOTAL POUNDS TRANSFERRED TO ENERGY RECOVERY
1991	400,285,225
1992	427,987,876
1993	445,839,753
1994	455,895,352
1995	486,366,712

As you can see from the above chart and table, there has been a steady increase in the quantity of TRI toxic chemicals being transferred off-site to energy recovery. Now lets contrast this to the data for TRI toxic chemicals being transferred to incineration.

Chart 2

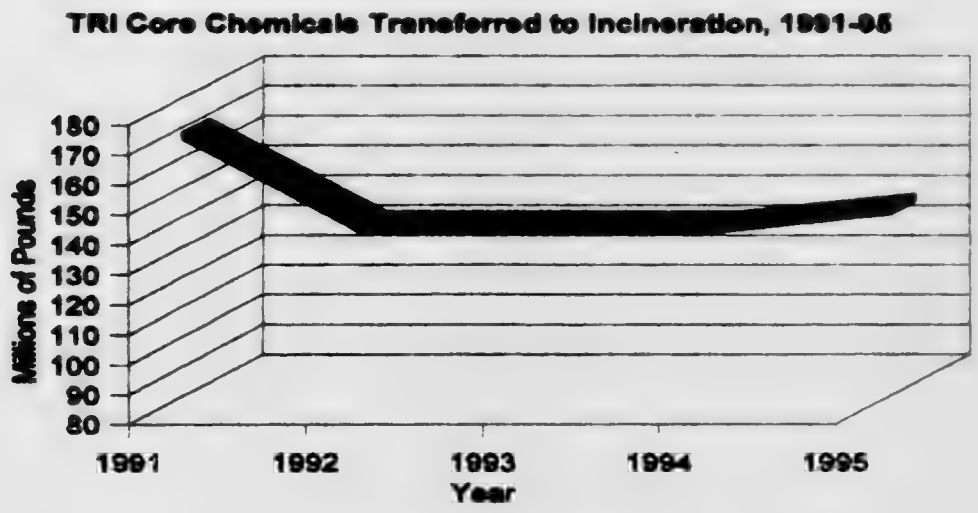


Table 2

YEAR	TOTAL POUNDS TRANSFERRED TO INCINERATION
1991	166,532,302
1992	135,767,217
1993	136,025,939

Table 2—Continued

YEAR	TOTAL POUNDS TRANSFERRED TO INCINERATION
1994	136,423,218
1995	141,932,667

In contrast to the data for Energy Recovery, the quantity of TRI toxic chemicals going to incineration has dropped significantly over the 1991–95 time frame. Most of this drop occurred in the 1991–92 time frame.

Chart 3

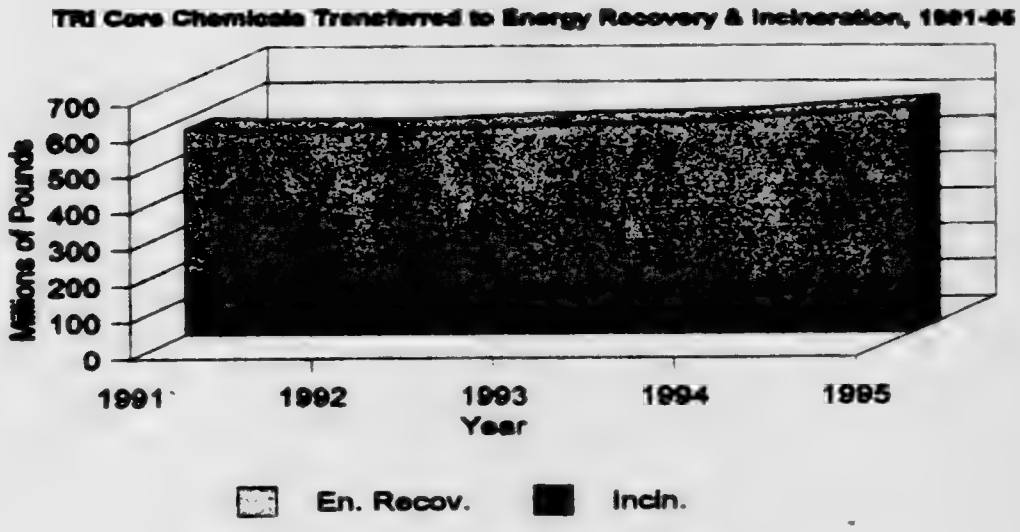


Table 3

YEAR	TOTAL POUNDS TRANSFERRED TO ENERGY RECOVERY AND INCINERATION	PERCENTAGE OF TOTAL POUNDS TRANSFERRED FROM ENERGY RECOVERY	PERCENTAGE OF TOTAL POUNDS TRANSFERRED FROM INCINERATION
1991	566,817,527	70.6%	29.4%
1992	563,755,093	75.9%	24.1%

Table 3—Continued

YEAR	TOTAL POUNDS TRANSFERRED TO ENERGY RECOVERY AND INCINERATION	PERCENTAGE OF TOTAL POUNDS TRANSFERRED FROM ENERGY RECOVERY	PERCENTAGE OF TOTAL POUNDS TRANSFERRED FROM INCINERATION
1993	581,865,692	76.6%	23.4%
1994	592,318,570	77.0%	23.0%
1995	628,299,379	77.4%	22.6%

Finally, combining the data for off-site transfers to incineration and energy recovery show that in every year but one (1992) the quantity of TRI toxic chemicals going to some form of combustion is increasing. While the total quantity going to combustion is increasing, the share, and total quantity, of these toxic chemicals going to incineration is decreasing and the share, and total quantity, going to energy recovery is increasing.

The data indicates that the positive connotation of the "Energy Recovery" designation has shifted large quantities of toxic chemicals away from incineration and into EPA classified "energy or materials recovery devices". This data then leads to a question of whether this movement of high energy wastes from incinerators to "energy or materials recovery devices" actually saves energy on a net basis, or just transfers the need for fossil fuel from "energy or materials recovery devices" to incinerators.

XI. INCINERATORS NEED HIGH ENERGY WASTE FUEL TO REPLACE FOSSIL FUEL

As stated in Section VIII of this petition, once an incinerator is operating within its permitted levels it can begin combusting toxic organic chemicals. Just like the fossil fuel they are replacing, these toxic chemicals have energy content and provide energy to the incinerator to maintain the permitted temperature. Ideally, the incinerator operator tries to blend a mixture of relatively pure, high energy waste, with other lower energy wastes (highly chlorinated or fluorinated wastes, contaminated media, etc.) so that combustion of all toxic chemicals is achieved without the addition of fossil fuel. Unfortunately, since the EPA designation of "Energy Recovery" is not available to incinerators, large quantities of high energy toxic chemicals have migrated from incinerators to "energy or materials recovery devices". This movement of energetic wastes away from incinerators forces the incinerator operator to find other sources of energy to maintain the unit within its permitted limits. The only other source of energy available is fossil fuel.

The data in this area confirms that from 1991–95 fossil fuel usage has increased at incineration sites (Laidlaw Environmental Services, Inc. raw data is attached as Appendix 6). Laidlaw combined supplemental energy use data from its subsidiaries that had the type of data needed, for the years 1991–95. These subsidiaries include Laidlaw Environmental Services (Bridgeport), Inc. located in Bridgeport NJ, and Laidlaw Environmental Services (Deer Park), Inc. located in Deer Park, TX. Together these facilities represent about 20% of the available commercial incineration capacity in the U.S. for the years 1991–95. What was found is entirely predictable based on the information already in this petition. Following is data on the Btus of fossil fuel that had to be added to the incinerator to fully combust a pound of toxic chemicals for the years 1991–95.

Chart 4

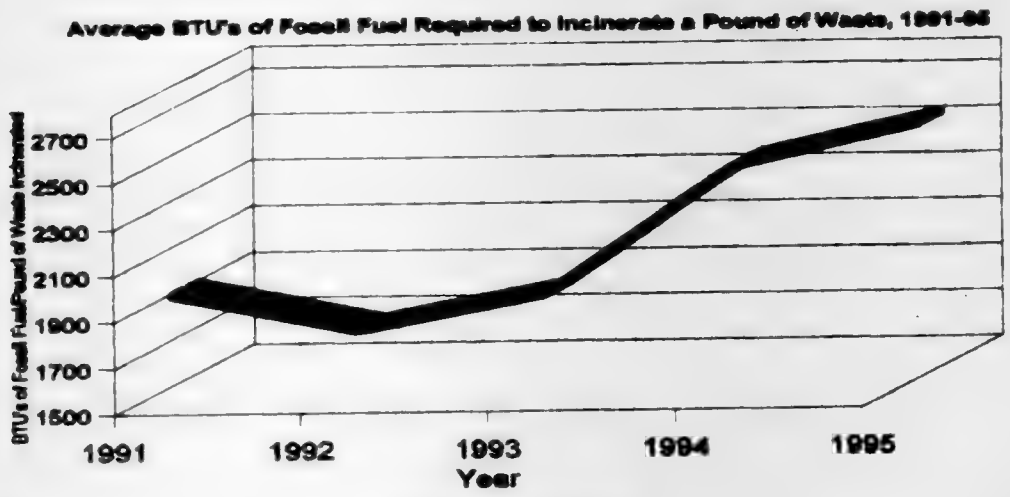


Table 4

YEAR	BTUs OF FOSSIL FUEL ADDED TO COMBUST 1 POUND OF TOXIC CHEMICALS
1991	1,894
1992	1,734
1993	1,882

Table 4—Continued

YEAR	BTUs OF FOSSIL FUEL ADDED TO COMBUST 1 POUND OF TOXIC CHEMICALS
1994	2,432
1995	2,605

The Btus of Fossil Fuel Added to Combust 1 Pound of Toxic Chemicals can also be converted into the total barrels of oil (equivalents) that are needed to combust waste at these facilities.

Chart 5

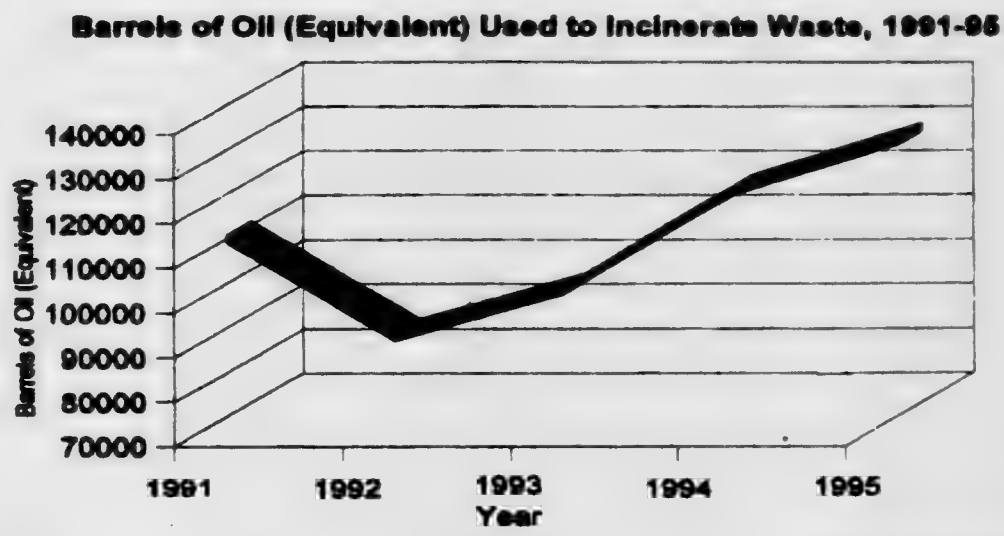


Table 5

YEAR	BARRELS OF OIL (EQUIVALENTS) USED TO COMBUST TOXIC CHEMICALS
1991	109,925
1992	87,931
1993	98,213
1994	120,398
1995	131,962

The above graphic and table indicate that the cited incineration facilities were utilizing 22,037 more barrels of oil (equivalent) to combust toxic chemicals in 1995 than in 1991. Due to their geographical location and size, the cited facilities should be fairly representative of the commercial hazardous waste incineration industry[2]. Therefore, extrapolating this data[3] would mean that in 1995 the entire commercial hazardous waste incineration industry needed a little over 110,000 more barrels of oil to combust the toxic chemicals they were receiving than they needed in 1991.

To compare the change in fossil fuel needs for incinerators between 1991 and 1995, a model was constructed that kept incineration's share of the TRI toxic chemical market the same in 1991 and 1995 we find:

[2]To determine the Barrels of Oil Equivalents multiply the BTUs from Table 4 times the total lbs. in Appendix 6, divide this number by 19,000 BTUs/lb oil, divide again by 7lbs/gallon, and divide again by 42 gallons/barrel.

[3]The cited facilities represented approximately 20% of the commercial incineration capacity, to extrapolate to the entire capacity the cited numbers are multiplied by five.

Table 6

INCINERATION'S 1991 SHARE	29.4%
INCINERATION'S 1995 SHARE	22.6%
INCINERATION'S 1995 POUNDS OF TRI TOXIC CHEMICALS	141,932,667
INCINERATION'S PROJECTED 1995 POUNDS OF TRI TOXIC CHEMICALS USING 1991 SHARE	184,720,017
DIFFERENCE IN POUNDS	42,787,350
ENERGY VALUE OF DIFFERENCE ASSUMING 15,000 BTU/LB	641,810,000,000 BTU's
BARRELS OF OIL EQUIVALENT OF ENERGY VALUE[4]	114,899

[4]Assumes oil is 19,000 Btus/lb, and has a density of 7 lbs./gal

This model is hypothetical, and only looks at the quantity of energetic toxic chemicals incinerators would receive if they maintained their 1991 share of the market.

However, the results are very interesting. The model's energy from toxic chemicals, 114,899 barrels of oil (equivalents), incinerator's lost because of the "Energy Recovery" designation given to "energy or materials recovery devices" is almost exactly equal to the additional amount of fossil fuel, 110,000 barrels of oil (equivalents), that incinerators had to burn in 1995.

This information strongly indicates that the "Energy Recovery" designation did not actually reduce the use of fossil fuels. It only shifted the high energy toxic chemicals from incinerators to "energy or materials recovery devices". The incinerators then had to replace the lost energy with fossil fuels of similar energy content.

XII. RECOMMENDATION TO EPA: EXPAND ENERGY RECOVERY TO INCLUDE COMBUSTION OF HIGH BTU WASTE AT INCINERATORS

The treatment method of "Energy Recovery" is not mandated by either EPCRA or the PPA. It was a designation that was created without statutory requirement. Unfortunately, while the idea of "Energy Recovery" is a noble one, the unintended impact over its first five years was to shift the high energy toxic chemicals from incinerators to "energy or materials recovery devices" designated by the EPA.

To properly destroy the remaining toxic chemicals they received, incinerators had to backfill the unit with an amount of fossil fuel comparable to the quantity of high energy toxic chemicals that were lost to "energy or materials recovery devices". On a global basis, there was no "Energy Recovery", only a shifting of demand for fossil fuel.

The main issue is what is an "energy or materials recovery device"? The EPA's guidance defines it primarily as a boiler or industrial furnace. However, this definition overlooks the fact that an incinerator requires energy to perform its designed task- the destruction of many of the most toxic organic chemicals known to humanity. In destroying these toxic chemicals, the incinerator is providing a valuable service to the environment, economy, and the nation, every bit as important as the manufacture of cement or steam.

To maintain, as the Agency does today, that energy from waste toxic chemicals is "Recovered" if it is used to manufacture steam or cement, but is "Treated for Destruction" if it is used to destroy other

toxic chemicals infers that harnessing energy for the proper destruction of organic chemicals is not recognized by the EPA as a valuable service.

We do not believe this is the Agency's position, only one that is implied by their present guidance on this issue. We believe it is important, both from a philosophical and a business point, that the EPA recognize that their present interpretation of "Energy Recovery" devalues the important service hazardous waste incinerators provide by destroying all forms of toxic organic chemicals, and only shifts the burden for fossil fuels from one type of thermal device to another. In light of the information provided in this petition, we strongly urge the EPA to address this matter by issuing guidance allowing the combustion of energetic toxic organic chemicals in an incinerator to be considered "Energy Recovery"

Endnotes

1. "Emergency Planning and Community Right to Know Act Section 313, Guidance for RCRA Subtitle C TSD Facilities and Solvent Recovery Facilities (Version 1.0)", United States Environmental Protection Agency, October, 1997
2. "The Emergency Planning and Community Right to Know Act of 1986", Public Law 99–499, Title III, Section 11023, Toxic Chemical Release Forms, October 17, 1986
3. "The Pollution Prevention Act of 1990", Public Law 101–508, Title VI, Sections 6601–6610, November 5, 1990
4. "Pollution Prevention Fact Sheet, Pollution Prevention Act of 1990", United States Environmental Protection Agency, September, 1993
5. "Toxic Chemical Release Inventory Reporting Form R and Instructions, Revised 1996 Version" United States Environmental Protection Agency, May 1997
6. "Addition of Facilities in Certain Industry Sectors; Revised Interpretation of Otherwise Use; Toxic Release Inventory Reporting; Community Right to Know; Final Rule" Federal Register, V 62, #84, May 1, 1997 Pages 23834–23892

V. Request for Comment

With regard to this interpretation of combustion for energy recovery and Safety Kleen's petition, EPA is requesting comment on several issues. These issues include:

1. Whether EPA should include incinerators as energy recovery units.
2. Whether EPA should include other types of combustion units under this designation.
3. Whether toxic chemicals with high British thermal units/pound values in wastes should be considered as replacements for fossil fuels in incinerators when the toxic chemical is in waste.
4. Whether EPA should distinguish between toxic chemicals in waste used to start up incinerators and toxic chemicals in waste used for maintaining combustion.

EPA is in the process of reproposing rulemaking pursuant to section 6607 of the PPA. When reviewing comments relating to a regulatory definition of "combustion for energy recovery," EPA will consider comments submitted in response to this document.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements, Superfund, Toxic chemicals.

Dated: March 19, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–7915 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 032299B]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting on April 14 and April 15, 1999, to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, April 14, 1999, at 9:30 a.m. and on Thursday, April 15, 1999, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Kennedy Plaza, Providence, RI; telephone (401) 421–0700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Wednesday, April 14, 1999

The meeting will begin with consideration of final action on Framework Adjustment 11 to the Fishery Management Plan (FMP) for the Atlantic Sea Scallop Fishery in conjunction with Framework Adjustment 29 to the Northeast Multispecies Fishery FMP. Management measures being considered would allow sea scallop dredge vessels in Closed Area II and possibly the Nantucket Lightship Closed Area—areas in which scallop fishing is now prohibited because of an associated groundfish bycatch. The Council will consider decisions/recommendations regarding groundfish and scallop conservation, habitat impacts, gear conflicts, enforceability, and the mandates of the Sustainable Fisheries Act. Measures may include, but are not limited to: A target scallop total allowable catch (TAC) in Closed Area II and the Nantucket Lightship Closed Area; trip allocations; days-at sea (DAS) adjustments for fishing inside versus outside the closed areas; trip limits, with trip declaration and notice of landing requirements; area restrictions on scallop fishing within Closed Area II and the Nantucket Lightship Area; gear restrictions to reduce bycatch, such as dredge twine top regulations; a demarcation line for counting DAS; a TAC set-aside for research and observation of fishing activity; and an adjustment to the 300–lb (136–kg) regulated species possession limit to reduce discards. Once this matter is concluded, the Sea Scallop Committee will identify and the Council will seek approval of issues to be addressed in Amendment 10 to the Sea Scallop FMP. Amendment 10 will be developed later this year and is expected to go into effect on or about March 1, 2000.

Thursday, April 15, 1999

The second session will begin with reports from the Council Chairman; the Executive Director; the Acting Regional Administrator, Northeast Region, NMFS (Acting Regional Administrator); the Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons; and representatives of the Coast Guard, the Atlantic States Marine Fisheries Commission, and the U.S. Fish and Wildlife Service. Following reports, the Chairman of the Groundfish Committee will seek approval of final action on Framework Adjustment 30 to the Northeast Multispecies FMP. Management measures would reduce fishing effort on Georges Bank cod by 22 percent in the 1999 fishing year through any of the following measures: DAS reductions, trip limits, closed areas, reductions in the amount of hook gear and gillnets

allowed, and a minimum size increase for cod to 21 inches (53 cm).

During the afternoon session, the Habitat Annual Review Report will be presented. This will consist of a review of habitat-related activities, on-going research projects, new and additional habitat-related information on the distribution and abundance of fish species, important areas and habitats, and impacts to fish habitat. There will be proposals for revising the Council's Essential Fish Habitat (EFH) designations and Habitat Areas of Particular Concern (HAPC). Options for minimizing fishing-related impacts to EFH and HAPC and a prioritized list of research and information needs will also be included. Following the annual review, the Habitat Committee may recommend action based on the information presented. The meeting will adjourn once any other outstanding Council business has been addressed.

Announcement of Experimental Fishery Application

The Acting Regional Administrator is considering renewal of an experimental fishing proposal that would involve fishing for, retention, and limited landings of various species of fish, including invertebrates and regulated multispecies, using small mesh in the Gulf of Maine/Georges Bank Regulated Mesh Area. The experimental fishery would be conducted by the Mount Desert Oceanarium to collect various species for public display. An exempted fishing permit would be issued to the participating vessel to exempt it from the possession limit, mesh size, minimum fish size, and DAS restrictions of the Northeast Multispecies FMP.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this document.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: March 25, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7890 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 61
Wednesday, March 31, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the Conference Room of William M. Mercer, Incorporated, 30th Floor, Conference Room 30C, 1166 Avenue of the Americas, New York, New York, on Monday, March 29, 1999, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Section 1242 (a)(1)(B).

We have determined as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that the subject of the meeting falls with the exception to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 24, 1999.

Patrick W. McDonough,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 99–7790 Filed 3–30–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 25, 1999.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Emergency Loan Policies, Procedures and Authorizations—7 CFR part 1945–D.

OMB Control Numbers: 0560–0159.

Summary of Collection: The Consolidated Farm and Rural Development Act of 1972 authorizes emergency loss loans to assist farmers who have suffered physical or production losses in areas declared by the President, designated by the Secretary of Agriculture, or named for physical loss loans by the Farm Service Agency (FSA) Administrator. Funds may be used to restore or replace essential property, pay all or part of production costs associated property, pay all or part of production costs associated with the disaster year, essential family living expenses, reorganize the farming operation, or refinance debts. Emergency loss loans are low interest direct loans which are made and serviced by FSA officials. FSA will document and verify the extent of losses suffered because of the natural disaster, and account for loan funds that will be disbursed to borrowers in more than one installment.

Need and Use of the Information: FSA will collect information using forms to determine an applicant's eligibility and property loss and account for loan funds that will be disbursed. The collected information will be used to protect the government's financial interests by ensuring that only farming operations which have suffered a 30 percent production loss are determined eligible for emergency loans.

Description of Respondents: Farms.

Number of Respondents: 3,100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4,960.

Agricultural Marketing Service

Title: Regulations Governing the Voluntary Grading of Shell Eggs.

OMB Control Number: 0581–0128.

Summary of Collection: The Agricultural Marketing Act of 1946 (60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627) (AMA) directs and authorizes the Department to develop standards of quality, grades, grading programs, and services to enable a more orderly marketing of agricultural products so trading may be facilitated and so consumers may be able to obtain products graded and identified under USDA programs with the confidence of receiving quality in accordance with the standards, grades, and regulations. The regulations provide a voluntary program for grading shell eggs on the basis of U.S. standards, grades, and weight classes. In addition, the shell egg industry and users of the products have requested that other types of voluntary services be developed and provided under these regulations; e.g., contract and specification acceptance services and certification of quantity. This voluntary grading service is available on a resident basis or a lot-fee bases. The Agricultural Marketing Service (AMS) will collect information using forms PY–100, PY–157, and PY–240.

Need and Use of the Information: AMS will collect information on the name, address, and the kind of services or benefits the respondents wish. The

information is used to administer and to conduct and carry out the grading services requested by the respondents. If the information is not collected, the Agency would not be able to provide the voluntary grading service authorized and requested by Congress under the AMA, to provide the types of services requested by industry, to administer the program, to ensure properly grade-labeled products, to calculate the cost of the service, and to collect for the cost furnishing service as required by section 203(h) of the AMA.

Description of Respondents: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 643.

Frequency of Responses: Reporting: On occasion; Semi-annually; Monthly; Annually; Other.

Total Burden Hours: 5,602.

Foreign Agricultural Service

Title: List of Commodities by Firm Available for Exporting.

OMB Control Number: 0551–0031.

Summary of Collection: The AgExport Connections Office of USDA's Foreign Agricultural Service (FAS) facilitates trade contracts between U.S. exporters and foreign buyers seeking U.S. food and agricultural products. Authority for this program falls under 7 U.S.C. Part 1761. The U.S. Supplier List (USL) and Foreign Buyer List (FBL) services are designed to help U.S. firms make contact with export agents, trading companies, importers and foreign buyers and create an opportunity to sell their products in overseas markets. This service provides the U.S. firm an opportunity to have a data record providing basic information about the company and the products it exports put into a USDA maintained database. FAS will collect information using a combination of forms and telephone interviews.

Need and Use of the Information: FAS will collect information on contact names, mailing addresses, telephone, fax, email, and websites. The main purposes of the USL and FBL services is to foster trade contacts in an effort to facilitate greater export of U.S. agriculture food, forestry, and fishery products. The databases are used to recruit U.S. exporters, importers, and buyers to participate in market development activities sponsored by USDA. These databases must be updated periodically to maintain the integrity and usefulness to the trade community.

Description of Respondents: Business or other for-profit.

Number of Respondents: 29,000.

Frequency of Responses: Reporting: On occasion; Semi-annually.

Total Burden Hours: 3,730.

Nancy B. Sternberg,

Department Clearance Officer.

[FR Doc. 99–7800 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that a Federally owned invention U.S. Patent No. 5,074,902 issued on December 24, 1991, entitled "Granular Products Containing Fungi Encapsulated in a Wheat Gluten Matrix for Biological Control of Weeds" is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to United Agri Products, Inc., of Greeley, Colorado, an exclusive license to S.N. 07/560,791.

DATES: Comments must be received on or before June 29, 1999.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as United Agri Products, Inc., has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 99–7801 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–114–2]

AgrEvo USA Co.; Availability of Determination of Nonregulated Status for Canola Genetically Engineered for Male Sterility, Fertility Restoration, and Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that certain canola transformation events developed by AgrEvo USA Company, which have been genetically engineered for male sterility, fertility restoration, and tolerance to the herbicide glufosinate, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by AgrEvo USA Company in its petition for a determination of nonregulated status and on our analysis of other scientific data. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: March 22, 1999.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, and the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Koehler, Biotechnology and Biological Analysis, PPQ, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–4886. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at

(301) 734–4885; e-mail: kay.peterson@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1998, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 98–278–01p) from AgrEvo USA Company (AgrEvo) of Wilmington, DE, seeking a determination that canola (*Brassica napus* L.) designated as In Vigor® Hybrid Canola Transformation Events MS8 and RF3 (transformation events), which have been genetically engineered for male sterility (MS8), fertility restoration (RF3), and tolerance to the herbicide glufosinate (both MS8 and RF3), do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

On December 8, 1998, APHIS published a notice in the **Federal Register** (63 FR 67643–67644, Docket No. 98–114–1) announcing that the AgrEvo petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject canola transformation events and food products derived from them. In the notice, APHIS solicited written comments from the public as to whether these canola transformation events posed a plant pest risk. The comments were to have been received by APHIS on or before February 8, 1999. APHIS received no comments on the subject petition during the designated 60-day comment period.

Analysis

The subject transformation events have been genetically engineered to contain a *barnase* gene (MS8) for male sterility or a *barstar* gene (RF3) for fertility restoration. The *barnase* gene expresses a ribonuclease that blocks pollen development and results in a male sterile plant, and the *barstar* gene encodes a specific inhibitor of this ribonuclease and restores fertility. The *barnase* and *barstar* genes were derived from *Bacillus amyloliquefaciens*, and are linked in the subject transformation events to the *bar* gene derived from *Streptomyces hygroscopicus*. The *bar* gene encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which confers tolerance to the herbicide glufosinate. The herbicide tolerance trait allows for selection of plants carrying the linked genes for pollination control during breeding and for tolerance to the herbicide during commercial cultivation. Expression of the added genes is controlled in part by gene sequences derived from *Arabidopsis thaliana, Nicotiana tabacum*, and the plant pathogen *Agrobacterium tumefaciens*. The *A. tumefaciens* method was used to transfer the added genes into the parental canola variety, Drakkar.

Canola transformation events MS8, RF3, and their hybrid combination MS8/RF3 have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences derived from a plant pathogen. However, evaluation of field data reports from field tests of these canola transformation events conducted under APHIS permits and notifications since 1997 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of the subject canola transformation events.

Determination

Based on its analysis of the data submitted by AgrEvo and a review of other scientific data and field tests of the subject canola, APHIS has determined that canola transformation events MS8, RF3, and their hybrid combination MS8/RF3: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than canola developed by traditional breeding techniques and are unlikely to increase the weediness potential for any other cultivated or wild species with which they can interbreed; (3) will not cause damage to raw or processed agricultural commodities; (4) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture; and (5) are unlikely to have any significant adverse impact on agricultural practices. Therefore, APHIS has concluded that the subject canola transformation events and any progeny derived from hybrid crosses with other canola varieties will be as safe to grow as canola in breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that AgrEvo's canola transformation events MS8, RF3, and their hybrid combination MS8/RF3 are no longer considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the subject canola transformation events or their progeny. However, importation of these canola transformation events or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that AgrEvo's canola transformation events MS8, RF3, and their hybrid combination MS8/RF3 and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 24th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–7803 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service, Notice of Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to request an extension of a currently approved information collection in support of Authorizations to use the 4–H Club Name and/or Emblem that expires May 31, 1999.

DATES: Comments on this notice must be received on or before June 4, 1999 to be assured for consideration.

FOR FURTHER INFORMATION CONTACT: Contact Dr. Alma C. Hobbs; Deputy

Administrator; Families, 4–H, and Nutrition; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; 1400 Independence Avenue, SW; Washington, DC 20250–2225; Telephone: (202) 720–2908; E-mail: ahobbs@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Title: Application for Authorization to Use the 4–H Name and/or Emblem.

OMB Number: 0524–0034.

Expiration Date of Approval: May 31, 1999.

Type of Request: Intent to extend a currently approved information collection.

Abstract: Use of the 4–H Name and/or Emblem is authorized by an Act of Congress, (Pub. L. 772, 80th Congress, Chapter 654, 2nd Session). Use of the 4–H Name and/or Emblem by anyone other than the 4–H Clubs and those duly authorized by them, representatives of the Department of Agriculture, the Land-Grant colleges and universities, and persons authorized by the Secretary of Agriculture is prohibited by the provisions of 18 U.S.C. 707. The Secretary of Agriculture has delegated authority to the Administrator of the Cooperative State Research, Education, and Extension Service to authorize others to use the 4–H Name and Emblem. The Administrator has promulgated regulations at 7 CFR Part 8 that govern such use. The regulatory requirements for use of the 4–H Name and/or Emblem reflect the high standards of 4–H and its educational goals and objectives. Anyone requesting authorization from the Administrator to use the 4–H Name and Emblem is asked to describe the proposed use in a formal application. The collection of this information is used to determine whether the applicant's proposed use will meet the regulatory requirements and whether an authorization for use should be granted.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .50 hours per response.

Respondents: Individuals or households, business or other for profit, not-for-profit institutions.

Estimated Number of Respondents: 40.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 20 hours.

Copies of this information collection can be obtained from Dr. Nancy Valentine, National 4–H Program Leader, 202–720–2908, nvalentine@reeusda.gov.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Dr. Alma C. Hobbs; Deputy Administrator; Families, 4–H, and Nutrition; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; 1400 Independence Avenue, SW; Washington, DC 20250–2225; Telephone: (202) 720–2908; Email: ahobbs@reeusda.gov.

All responses to this notice will be summarized and included in the request to OMB approval. All comments will become a matter of public record.

Done at Washington, DC, on this 25th day of March, 1999.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 99–7819 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Texas Blowdown Reforestation Project, National Forests and Grasslands in Texas, Angelina, Montgomery, Sabine, San Augustine, San Jucinto, and Walker Counties, Texas

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement

SUMMARY: The U.S. Department of Agriculture, Forest Service, National Forests and Grasslands in Texas (NFGT) will prepare an Environmental Impact Statement (EIS) to assess and disclose the environmental effects of site preparation and reforestation on windstorm-damaged areas in the Angelina, Sabine, and Sam Houston National Forests. The proposed actions include site preparation using mechanical methods and prescribed fire, alone or in combination, followed by natural regeneration and/or planting on about 32,750 acres of windstorm-damaged forests. The project will be implemented in accordance with the direction in the 1996 Revised Land and Resource Management Plan (the Plan) for the National Forests and Grasslands in Texas. Project activities will take place within Management Area 1—Upland Forest Ecosystems and Management Area 2—Red-cockaded Woodpecker (RCW) Emphasis.

In addition to the management activities proposed for reforestation, the EIS will assess and disclose the effects of amending the forest plan to allocate an additional 7,300 acres to Management Area 2 on the Sabine National Forest due to the changed conditions caused by the windstorm.

DATES: Written comments and suggestions concerning the scope of the analysis must be postmarked or received by April 30, 1999. The estimated date for filing the draft EIS is June 1999, followed by the final decision in September 1999.

ADDRESSES: The Responsible Official is Ronnie Raum, Forest Supervisor; National Forests and Grasslands in Texas; 701 North First Street; Lufkin, TX 75901. Written comments and suggestions concerning the scope of analysis may be sent to him at that address.

FOR FURTHER INFORMATION CONTACT: Keith Baker, Project Environmental Coordinator. Phone: 409–344–6205 (New Waverly, TX).

SUPPLEMENTARY INFORMATION: On the afternoon of February 10, 1998, a storm with hurricane-force winds struck the forests of deep east Texas. Approximately 103,000 acres of national forest land on the Angelina, Sabine, and Sam Houston National Forests were damaged by the windstorm. The Forest Service categorized the storm damage severity and extent on the three affected national forests as follows:

- Extensive damage—loss of greater than 60 percent of the existing trees (11,600 acres),
- Moderate damage—loss of 30 to 60 percent of the existing trees (65,400 acres), and
- Light damage—loss of 10 to 30 percent of the existing trees (26,000 acres).

The majority of lands affected by the storm are allocated under the Plan to Management Area 1 (upland forest ecosystems) and Management Area 2 (red-cockaded woodpecker emphasis). Other Management Areas (MAs) were also affected, including MA–4

(streamside management zones), MA–8 (special area management), MA–9 (recreation area management), and MA–10 (administrative and special use sites).

The Forest Service determined that an emergency response was needed to meet three objectives: (1) Reduce the potential for high intensity wildfires spreading into the intermingled private ownerships that include individual homes, subdivisions, and rural communities; (2) minimize further damage to RCW and bald eagle habitat; and (3) reduce the risk of anticipated bark beetle attack to living trees that could kill additional federal and private timber, RCW habitat, and bald eagle habitat. The Forest Service requested approval for alternative arrangements for compliance with the National Environmental Policy Act (NEPA) from the Council on Environmental Quality (CEQ) to expedite the removal of the blown down and damaged timber. On March 10, 1998, CEQ approved the Forest Service's request for alternative arrangements and the NFGT undertook actions to remove blown down and damaged trees to meet the three objectives. As part of these alternative arrangements, the Forest Service and CEQ agreed that the actions taken to reforest the damaged areas of the three affected national forests would be assessed in an Environmental Impact Statement.

On July 15, 1998, the Forest Service published a notice in the **Federal Register** about plans to develop a Changed Condition Analysis (CCA) covering the areas affected by the storm (63 FR 38153, Jul. 15, 1998). The Forest Service identified two objectives for analysis: (1) To provide the basis for site preparation and reforestation proposals in the storm-damaged area of the NFGT and (2) to analyze the need to adjust land allocations to MA–2 on the Angelina and Sabine NFs to meet Plan objectives for RCW habitat. After completion of the CAA, the Interdisciplinary Team (IDT) used a systematic procedure to develop a proposed action to start the NEPA process.

Proposed Action

Site Preparation and Reforestation

The Forest Service proposes to initiate site preparation and reforestation actions on the Angelina and Sabine National Forests in MA–1 and MA–2. The actions proposed will provide for the development of forested conditions appropriate for the sites based on the recent developed Ecological Classification System (ECS). The ESC was prepared in cooperation with the Nature Conservancy of Texas and the Kisatchie National Forest to describe the public and private forest lands of the western Louisiana and eastern Texas portions of the Western Gulf Coastal Plain. The ECS classifies land into ecological types through the integration of multiple components of the forest ecosystem—soils, physiography (topography and landform), and vegetation. A land classification based on these components reflects the differences in the major environmental characteristics of a site, and it provides information about the inherent potential of a site in terms of the types of vegetative communities it will support. The reforestation actions where proposed to develop the appropriate vegetation considering the ECS, the existing vegetation conditions, and the objectives and management direction of the Plan.

Only those damaged areas where the post-storm residual basal area (BA) is less than 60 square feet will receive unique actions. Damaged areas that exceed 60 BA will not be treated specifically to manipulate the existing forest type or tree species, but will be subject to application of prescribed fire to reduce storm-generated fuel buildup and/or control of midstory vegetation adverse to Red-cockaded woodpecker habitat. The Forest Service proposes to allow damaged areas on the Sam Houston National Forest to reforest naturally without active management to prepare sites or manipulate the plant species.

Within the Angelina and Sabine NFs the following actions are proposed;

- In areas the ECS indicates should be dominated by beech-white oak, mixed oaks, and sweetbay-swamp tupelo forest types and the forest type is not directly correlated to slope or topographical position the following actions will be taken:

(a) Within MA–2 allow the areas to regenerate naturally without site preparation or artificial planting. Allow fire on a 3 to 5 year rotation since these areas still contain a residual pine component that provides for RCW foraging. About 5250 acres would be treated in this manner.

(b) Within MA–1 allow the areas to regenerate naturally without site preparation or artificial planting. Only allow prescribed fire to back into these areas when adjoining areas have been designated for use of prescribed fire. About 3750 acres would be treated in this manner.

- In areas the ECS indicates should be dominated by shortleaf pine-longleaf pine-oak mixtures and the forest type is not directly correlated to slope or topographical position the following actions will be taken:

(a) Within MA–2 where the residual overstory basal area ranges from 0–30 square feet, conduct mechanical site preparation, allowing up to 20 BA of oaks in clumps or along drainages, plant longleaf pine, and prescribe burn every 3 to 5 years. Approximately 1150 acres would receive these treatments.

(b) Within MA–2 in the areas where the residual overstory basal exceeds 30 square feet and is less than about 40 square feet conduct mechanical site preparation, leaving no more than 10 BA of hardwoods in clumps and along drainages, allow for natural regeneration of pines to develop a two age stand, and prescribe burn every 3 to 5 years. In areas where basal area ranges from about 40–60 square feet prescribe burn only and allow for natural regeneration. About 850 acres would receive these treatments.

(c) Within MA–1 where the residual overstory basal area ranges from 0–30 square feet, commercially remove residual loblolly pine that will impede shortleaf-longleaf regeneration, then mechanically site prepare the areas, plant shortleaf pine or longleaf pine seedlings depending on the site suitability, and prescribe burn the areas on a 3 to 5 year rotation. About 1550 acres would receive these treatments.

(d) Within MA–1 where the residual overstory basal area exceeds 30 square feet and is less than about 40 square feet conduct mechanical site preparation, leaving no more than 10 BA of hardwoods in clumps and along drainages, plant longleaf pine in openings on suitable soil types. Where shortleaf pine should dominate allow for natural regeneration to develop a two age stand, and prescribe burn every 3 to 5 years. In areas where basal area ranges from about 40–60 square feet prescribe burn only and allow for natural regeneration. About 400 acres would be treated with this prescription.

- In areas the ECS indicates should be dominated by shortleaf pine-loblolly pine forest mixtures and the forest type is not directly correlated to slope or topographical position the following actions will be taken:

(a) Inside MA–2 where the residual overstory basal area ranges from 0–30 square feet, the areas would be site prepared using mechanical methods, shortleaf pine would be planted in openings on ridgetops and upper slopes, and prescribed burning would be conducted on a 3 to 5 year cycle. In areas where basal area ranges from about 40–60 square feet prescribe burn only and allow for natural regeneration.

These treatments would be implemented on about 1450 acres.

(b) Inside MA–2 in the areas where the residual overstory basal exceeds 30 square feet and is less than about 40 square feet conduct mechanical site preparation, leaving no more than 20 BA of hardwoods in clumps and along drainages, plant shortleaf pine in openings on ridgetops and upper slopes, and conduct prescribed burning on a 3 to 5 year cycle. About 1550 acres would receive these treatments.

(c) Within MA–1 where the residual overstory basal area ranges from 0–30 square feet, the areas would be site prepared using mechanical methods, prescribe burned, and shortleaf pine would be planted on ridgetops and upper slopes where no shortleaf pine seed source exists or where adequate seed source exists would be allowed to regenerate naturally. These treatments would be implemented on about 1450 acres.

(d) Within MA–1 where the residual overstory basal area ranges from 30–60 square feet, prescribe burn the areas to allow for natural regeneration and the development of two-age stands. About 1050 acres would be treated with this prescription.

- In areas the ECS indicates should be dominated by white oak-loblolly pine-sweetbay or white oak-loblolly pine-willow oak forest types and the forest type is directly correlated to slope or topographical position the following actions will be taken:

(a) Within MA–2 allow the areas to regenerate naturally without site preparation or artificial planting. Allow fire on a 3 to 5 years rotation since these areas still contain a residual pine component that provides for RCW foraging. About 550 acres would be treated in this manner.

(b) Within MA–1 allow the areas to regenerate naturally without site preparation or artificial planting. Only allow prescribed fire to back into these areas when adjoining areas have been designated for use of prescribed fire. About 400 acres would be treated in this manner.

- In areas the ECS indicates should be dominated by shortleaf pine-longleaf pine-oak mixtures and the forest type is correlated to slope or topographical position the following actions will be taken:

(a) Within MA–2 where the residual overstory basal area ranges from 0–30 square feet, conduct mechanical site preparation, plant longleaf pine on the site prepared areas, prescribe burn every 3 to 5 years, and limit hardwoods to the lower slope positions. Approximately 950 acres would receive these treatments.

(b) Within MA–2 in the areas where the residual overstory basal exceeds 30 square feet and is less than about 40 square feet conduct mechanical site preparation, leaving no more than 10 BA of hardwoods in clumps and along drainages, allow for natural regeneration of pines to develop a two age stand, and prescribe burn every 3 to 5 years. In areas where basal area ranges from about 40–60 square feet prescribe burn only and allow for natural regeneration. About 1300 acres would receive these treatments.

(c) Within MA–1 where the residual overstory basal area ranges from 0–30 square feet, commercially remove residual loblolly pine on ridges and upper slopes that will impede shortleaf-longleaf regeneration, then mechanically site prepare the areas, plant shortleaf pine or longleaf pine seedlings depending on soil type and slope position, and prescribe burn the areas on a 3 to 5 year rotation. About 3450 acres would receive these treatments.

(d) Within MA–1 where the residual overstory basal area ranges from 30–60 square feet, prescribe burn the areas to allow for natural regeneration and the development of two-age stands. About 2650 acres would be treated with this prescription.

- In areas the ECS indicates should be dominated by shortleaf pine-loblolly pine forest mixtures and the forest type is correlated to slope or topographical position the following actions will be taken:

(a) Inside MA–2 where the residual overstory basal area ranges from 0–30 square feet, the areas would be site prepared using mechanical methods, shortleaf pine would be planted in openings on ridgetops and upper slopes, and prescribed burning would be conducted on a 3 to 5 year cycle. These treatments would be implemented on about 750 acres.

(b) Inside MA–2 where the residual overstory basal area ranges from 30–60 square feet, conduct site preparation using mechanical methods, plant shortleaf pine in openings on ridgetops and upper slopes and allow natural regeneration elsewhere, and prescribed burning would be conducted on a 3 to 5 years cycle. About 1300 acres would receive these treatments.

(c) Within MA–1 where the residual overstory basal area ranges from 0–30 square feet, loblolly pine would be commercially removed from ridgetops and upper slopes, the areas would be site prepared using mechanical methods, prescribe burned, and shortleaf pine would be planted on ridgetops and upper slopes where no shortleaf pine seed source exists or where adequate seed source exists would be allowed to regenerate naturally. These treatments would be implemented on about 1450 acres.

(d) Within MA–1 where the residual overstory basal area ranges from 30–60 square feet, prescribe burn the areas to allow for natural regeneration and the development of two-age stands. About 1500 acres would be treated with this prescription.

These actions will result in different vegetation patterns in many areas than existed prior to the February, 1998, windstorm. Hardwoods will be more prevalent on sites where the FCS indicates this is appropriate, such as lower slopes and moister sites. On drier upland sites pines will dominate and hardwoods will be limited to clumps or in areas along minor drainages. Many areas will develop different stand structure because overstory trees will remain and the new trees will create two different ages of vegetation on the same site. Natural regeneration will be relied on where it is expected to result in the development of vegetation appropriate for the site. Planting of shortleaf pine and longleaf pine will be done where a seed source for these species does not exist and the ECS indicates they should exist.

Forest Plan Amendment (Non-Significant Amendment)

The Plan delineated approximately 18,360 acres of the Sabine National Forest as MA–2 in an area known as the Northern Sabine Habitat Management Area (HMA). The emphasis in MA–2 is the production of high quality habitat for the endangered redcockaded woodpecker; the size of the HMA was determined based on a population objective of 91 active RCW groups. The February 10 storm affected approximately 18,300 acres of the Northern Sabine HMA. Of this total, about 15,000 acres received moderate to extensive damage. Because of the habitat needs for the RCW, many of the acres that provided suitable habitat for the species prior to the storm may not provide such habitat now. the EIS will examine the consequences of adjusting the boundaries of MA–2 within the Northern Sabine HMA to include about 7,300 additional acres in Compartments 29, 35, 36, 45, 46, 47, and 54 to provide suitable habitat for the RCW to meet the population objective.

Public Involvement and Scoping

This environmental analysis and decision-making process will enable

interested and affected people to participate and contribute to the final decision. Public participation will begin with the publication of this NOI. Interested and affected individuals and organizations on each affected forest scoping list will be informed of the proposal and invited to submit comments. The Forest Service will also be seeking information, comments, and assistance from Federal, state, and local agencies. The information received will be used in the preparation of the draft and final EIS. At this time no scoping meetings are scheduled to be held to discuss the project. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating non-significant issues or those which have been covered by a relevant previous environmental process.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects).

Preliminary Issues

Several preliminary issues have been identified by the Forest Service. The issues are briefly described below:

Red-cockaded woodpecker—the storm adversely affected RCW habitat. What effect will reforestation activities have on habitat suitable for RCW foraging and nesting and the potential for RCW population growth in the short and long term?

Hardwoods—many hardwoods remain in the damaged areas. What effect would project activities have on the current and future hardwood composition of the storm-damaged areas? Will any areas be managed for pine-hardwood mixtures or only for hardwoods within the storm-affected areas?

Soil productivity—mechanical equipment used in site preparation could compact soils and prescribed fire could affect nutrient availability. What effect will mechanical site preparation and prescribed burning have on long-term soil productivity?

Water quality—site preparation activities could expose soil to erosion. What effects will mechanical site preparation and prescribed burning have on soil erosion and sedimentation?

Potential Alternatives: based on the preliminary issues, the following potential alternative themes have been identified:

No Action—no site preparation or planting activities would occur, nor would acreage adjustments be made to the Northern Sabine HMA. Only natural regeneration would be allowed in the damaged areas.

Limited Budget Theme—maintain the existing Northern Sabine HMA and maximize the pine regeneration if damaged areas within the HMA regardless of ECS considerations. Mechanical site preparation would be minimized and natural regeneration would be emphasized.

Reviewers Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the draft EIS 45-day coment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS of the merits of the alternatives formulated and discussed in the statement. Reviewer may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Responsible Official

Ronnie Raum, Forest Supervisor; National Forests and Grasslands in Texas; 701 North First Street, Lufkin, TX 75901 is the Responsible Official. As the Responsible Official, I will decide which, if any of the alternatives to be described in the draft Environmental Empact Statement will be implemented. I will document the decision and the reasons for my selection of the decision in the Record of Decision.

Dated: March 25, 1999.

Ronnie Raum,

Forest Supervisor.

[FR Doc. 99–7836 Filed 3–30–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Order Denying Permission To Apply For or Use Export Licenses; Action Affecting Export Privileges; A.V.S. Armoured Vehicles' Systems, Inc., Now Known as S.P.O. Spare Parts Logistics, Inc.

In the matter of: A.V.S. ARMOURED VEHICLES' SYSTEMS, INC., now known as S.P.L. SPARE PARTS LOGISTICS, INC. 1117 Old Country Road, Plainview, New York 11803.

On April 10, 1995, following a plea of guilty to one count of an information, A.V.S. Armoured Vehicles' Systems, Inc.[1] was convicted in the United States District Court for the Eastern District of New York of violating Section 38 of the Arms Export Control Act (22 U.S.C.A.

[1] On September 27, 1993, A.V.S. Armoured Vehicles' Systems, Inc. filed with the State of Delaware, Secretary of State, Division of Corporations, a Certificate of Amendment of the Certificate of Incorporation to change A.V.S. Armoured Vehicles' Systems, Inc's name to S.P.L. Spare Parts Logistics, Inc.

§ 2778 (1990 & Supp. 1998)) (the AECA). A.V.S. Armoured Vehicles' Systems, Inc. was convicted of knowingly and willfully making an untrue statement of a material fact on an export control document to the U.S. Department of State, Office of Defense Trade Control. Specifically, A.V.S. Armoured Vehicles' Systems, Inc. stated that the foreign end-user of replacement parts for the "Hawk" anti-aircraft missile system was the Government of Israel, when the actual end-use was not the Government of Israel.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (the Act,[2] provides that, at the discretion of the Secretary of Commerce,[3] no person convicted of violating Section 38 of the AECA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730–774 (1998)), (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating Section 38 of the AECA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of A.V.S. Armoured Vehicles' Systems, Inc.'s conviction for violating Section 38 of the AECA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny A.V.S. Armoured Vehicles' Systems, Inc., now known as S.P.P. Spare Parts Logistics, Inc., permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of five years from the date of its conviction. The five-year period ends on April 10, 2000. I have also decided to revoke all licenses issued pursuant to the Act in which A.V.S. Armoured Vehicles' Systems, Inc., now known as S.P.L. Spare Parts Logistics, Inc., had an interest at the time of its conviction.

Accordingly, it is hereby

Ordered

I. Until April 10, 2000, A.V.S. Armoured Vehicles' Systems, Inc., now known as S.P.L. Spare Parts Logistics, Inc., 1117 Old Country Road, Plainview, New York 11803, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "Item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilities that acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned; possessed of controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person is such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to A.V.S. Armoured Vehicles's Systems, Inc., now known as S.P.L. Spare Parts Logistics, Inc., by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until April 10, 2000.

VI. A copy of this Order shall be delivered to A.V.S. Armoured Vehicles' Systems, Inc., now known as S.P.L. Spare Parts Logistics, Inc. This Order shall be published in the **Federal Register**.

Dated: March 23, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 99–7879 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DT–M

[2] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR 44121, August 17, 1998), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[3] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Aldrich Hazen Ames, Also Known as "Kolokol" and as "K"; Order Denying Permission To Apply for or Use Export Licenses

Aldrich Hazen Ames, also known as "Kolokol" and as "K" currently incarcerated at: Allenwood USP, Inmate Number 40087–083, P.O. Box 3500, White Deer, Pennsylvania 17887.

On April 24, 1994, Aldrich Hazen Ames, also known as "Kolokol" and as "K" (Ames), was convicted in the United States District Court for the Eastern District of Virginia on, *inter alia*, once count of violating Section 794(c) of the Espionage Act (18 U.S.C.A. §§ 792–799 (1976 & Supp. 1998)). Ames was convicted of unlawfully and knowingly combining, conspiring, confederating and agreeing with other persons, both known and unknown, including officers of the intelligence services of the Union of Soviet Socialist Republics (U.S.S.R.) and later Russia, to knowingly and unlawfully communicate, deliver, and transmit to a foreign government, that is to U.S.S.R. and Russia, and to representatives, officers, and agents thereof, documents, writings, and information relating to the national defense of the United States with the intent and reason to believe that the same would be used to the injury of the United States and to the advantage of the U.S.S.R. and Russia.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating Sections 793, 794, or 798 of the Espionage Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (1998) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating Sections 793, 794, or 798 of the Espionage Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Ames's conviction for violating Section 793(c) of the Espionage Act, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Ames permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on April 24, 2004. I have also decided to revoke all licenses issued pursuant to the Act in which Ames had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until April 24, 2004, Aldrich Hazen Ames, also known as "Kolokol" and as "K," currently incarcerated at: Allenwood USP, Inmate Number 40087–083, P.O. Box 3500, White Deer, Pennsylvania 17887, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Ames by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), August 13, 1997 (3 CFR 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR. 44121, August 17, 1998), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

V. This Order is effective immediately and shall remain in effect until April 24, 2004.

VI. A copy of this Order shall be delivered to Ames. This Order shall be published in the **Federal Register**.

Dated: March 23, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 99–7881 Filed 3–30–99; 8:45 am]

BILLING CODE 3570–DT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Order Denying Permission To Apply for or Use Export Licenses; Action Affecting Export Privileges; Harold J. Nicholson, Also Known as "Nevil R. Strachey" and as "Batman"

In the Matter of: Harold J. Nicholson, also known as "Nevil R. Strachey" and as "Batman" currently incarcerated at: Sheridan Federal Correction Institute, Inmate Number 49535–083, 27072 Ballston Road, Sheridan, Oregon 97378, and with an address at: 1699 North Terry Sp 161, Eugene, Oregon 97492.

On June 5, 1997, Harold J. Nicholson, also known as "Nevil R. Strachey" and as "Batman" (Nicholson), was convicted in the United States District Court for the Eastern District of Virginia on one count of violating Sections 794(a) and (c) of the Espionage Act (18 U.S.C.A. §§ 792–799 (1976 & Supp. 1998)). Nicholson was convicted of unlawfully and knowingly combining, conspiring, confederating and agreeing with other persons, both known and unknown, including officers of the intelligence services of the Russian Federation, to knowingly and unlawfully communicate, deliver, and transmit, and attempt to communicate, deliver, and transmit, to representatives of a foreign government, specifically the Russian Federation, directly or indirectly, documents, photographic negatives and information relating to the national defense of the United States, with the intent and reason to believe that the same would be used to the injury of the United States and to the advantage of the Russian Federation.

Section 11(h) of the Export Administration of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating Sections 793, 794, or 798 of the Espionage Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 C.F.R. Part 730–774 (1998)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating Sections 793, 794, or 798 of the Espionage Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Nicholson's conviction for violating Sections 794(a) and (c) of the Espionage Act, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Nicholson permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on June 7, 2007. I have also decided to revoke all licenses pursuant to the Act in which Nicholson had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until June 7, 2007, Harold J. Nicholson, also known as "Nevil R. Strachey" and as "Batman," currently incarcerated at: Sheridan Federal Correction Institute, Inmate Number 49535–083, 27072 Ballston Raod, Sheridan, Oregon 97378, and with an address at: 1699 North Terry Sp 161, Eugene, Oregon 97492, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Apply for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation,

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR 44121, August 17, 1998), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Nicholson by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until June 7, 2007.

VI. A copy of this Order shall be delivered to Nicholson. This Order shall be published in the **Federal Register.**

Dated: March 23, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 99–7880 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032399B]

Taking and Importing of Marine Mammals; International Dolphin Conservation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability of initial research results from the International Dolphin Conservation Program survey of dolphins in the eastern tropical Pacific Ocean (ETP).

ADDRESSES: A copy of the research results may be found on the internet at http://swfsc.ucsd.edu/IDCPA/IDCPAfront.html. Copies may also be obtained from the Marine Mammal Division, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, P.O. Box 271, La Jolla, California 92038–0271 (fax 619–546–7003).

SUPPLEMENTARY INFORMATION: NMFS has conducted scientific research required by the Marine Mammal Protection Act, as amended by the International Dolphin Conservation Program Act ((IDCPA) 16 U.S.C 1414(a)). Under the IDCPA, NMFS is required to study the effects of intentional encirclement on dolphins incidentally taken in the tuna purse seine fishery in the ETP, and to conduct population abundance surveys and stress studies. The IDCPA requires the Secretary of Commerce to make an initial finding regarding whether intentional encirclement is having a significant adverse impact on any depleted dolphin stock in the ETP (16 U.S.C. 1385(g)). NMFS' report on the study has been delayed by 30 days while completing an additional independent peer review requested by Congress. NMFS expects to publish a notification of the Secretary's initial finding in early May.

Dated: March 24, 1999.

Linda A. Chaves,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–7887 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 990212048–9048–01]

Guidelines for Reexamination of Cases in View of In re Portola Packaging, Inc., 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997)

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice

SUMMARY: The Patent and Trademark Office (PTO) is publishing the final version of guidelines to be used by Office personnel in their review of requests for reexaminations and ongoing reexaminations for compliance with the decision in *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). Because these guidelines govern internal practices, they are exempt from notice and comment under 5 U.S.C. 553(b)(A).

DATES: The guidelines are effective March 31, 1999.

FOR FURTHER INFORMATION CONTACT: John M. Whealan by telephone at (703) 305–9035; by facsimile at (703) 305–9373; by mail addressed to Box 8, Commissioner of Patents and Trademarks, Washington, D.C. 20231; or by electronic mail at "john.whealan@uspto.gov".

SUPPLEMENTARY INFORMATION:

I. Discussion of Public Comments

Comments were received by the PTO from eight individuals and one bar association in response to the Request for Comments on Interim Guidelines for Reexamination of Cases in View of *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997), published June 15, 1998 (63 FR 32646). In general, six of the eight individual comments were critical of the guidelines; one individual comment was partially supportive of the guidelines and one suggested a legislative change; the comments from the bar association were in complete support of the guidelines. All of the comments have been carefully considered.

A. Below is a listing of comments along with a corresponding Office response explaining why each has not been adopted:

(1) Comment: Most of the critical comments suggest the Office is misinterpreting the "holding" of *Portola Packaging*. These comments believe *Portola Packaging* held that (i) the Office may not initiate a reexamination proceeding based solely on prior art previously cited during prosecution of the application which matured into the patent, regardless of whether that art was discussed, and (ii) no rejection can be made during a subsequent reexamination based solely on prior art cited during prosecution of the application which matured into the patent, even if that prior art was not previously discussed. Response: The Office views these positions as dicta and not the "holding" of *Portola Packaging*.

The Federal Circuit recently explained the difference between the holding of a case and dicta. See In re McGrew, 120 F.3d 1236, 1238–39, 43 USPQ2d 1632, 1635 (Fed. Cir. 1997). The Court explained that dicta consists of the statements in an opinion "upon a point or points not necessary to the decision of the case." *Id.* at 1238, 43 USPQ2d at 1635. The Court further explained that since "dictum is not authoritative," it need not be followed. *Id.*

The Office considers the portions of the *Portola Packaging* opinion relied on by the critical commenters as dicta and not the holding of the case. In *Portola Packaging*, the prior art relied upon in the reexamination (that was found by the Court to be improperly used) was not only cited, but it was also discussed and applied to reject claims during prosecution of the application which matured into the patent. Thus, *Portola Packaging* holds that a rejection in a reexamination proceeding may not be based solely on prior art that was previously applied to reject claims during prosecution of the application which matured into the patent. *Portola Packaging* does not, however, hold (as suggested by the commenters) that prior art in the record of the application that

matured into the patent, which was not discussed, may never form the sole basis for a rejection during a subsequent reexamination proceeding. Such a broad reading of *Portola Packaging* would encourage the practice of applicants citing numerous references during prosecution of an application to preclude subsequent reexamination based on those references. This practice of flooding the Office with references during prosecution of an application in order to prevent their subsequent use in reexamination could overwhelm the examination process and limit the effectiveness of reexamination.

(2) *Comment:* One comment went further and suggested that *Portola Packaging* precluded reexamination based on any reference which is not new art. Response: The Office disagrees with this comment in view of the interpretation of the holding of *Portola Packaging* set forth in the preceding paragraph.

(3) *Comment:* One comment suggested the elimination of the unusual fact pattern situations exemplified in Part E, since in their opinion, *Portolu Packaging* holds that previously cited art may never be relied on in a reexamination. *Response:* Once again, the Office views this position as dictum and not the holding of the case.

(4) *Comment:* One comment suggested the Office should seek a legislative overruling of the "holding" of *Portola Packaging. Response:* As the Office is following the holding of the case (as set forth above), the case need not be overruled. However, changes regarding the type of prior art that may be considered in reexamination proceedings may be proposed in upcoming legislation.

(5) *Comment:* One comment suggested that the form notices set forth in Section F may prompt an applicant to file a reissue application to resolve any issues that are precluded from resolution during reexamination. *Response:* The form notices in Section F have been modified to indicate that no patentability determination has been made in the reexamination (over prior art precluded by *Portola Packaging*). The notices do not suggest the filing of a reissue application. This of course would be an option open to the patent owner as *Portola Packaging* does not apply to reissue applications.

(6) *Comment:* One comment suggested that the practice of an examiner placing his initials next to a reference on an information disclosure statement (IDS), citation form PTOL–1449, or its equivalent, is sufficient to indicate that an examiner has considered the reference. *Response:* Where the IDS citations are submitted but not described, the examiner is only responsible for cursorily reviewing the references. The initials of the examiner on the PTOL–1449 indicate only that degree of review unless the reference is either applied against the claims, or discussed by the examiner as pertinent art of interest, in a subsequent office action.

As noted in (1) above, the prior art relied upon in the reexamination in *Portola Packaging* was not merely cited and initialed, but it was discussed and applied to reject claims in the application that matured into the patent. *Portola Packaging* does not hold that prior art that was of record but not discussed may not form the sole basis of a rejection of the claims. Accordingly, under *Portola Packaging* the mere presence of the examiner's initials next to a reference on an IDS citation does not preclude consideration of the reference in a subsequent reexamination proceeding.

(7) *Comment:* One comment suggested that the guidelines were inconsistent with *In re Hiniker Co.*, 150 F.3d 1362, 47 USPQ2d 1523 (Fed. Cir. 1998). *Response:* In *Hiniker*, the Federal Circuit affirmed a rejection in a reexamination proceeding which was based, in part, on new prior art. See 150 F.3d at 1367, 47 USPQ2d at 1527. *Hiniker*, therefore, does not preclude a rejection in a reexamination proceeding based on prior art that was cited but never discussed during the prosecution of the application which matured into the patent, since such a situation was not presented to the Court.

In *Hiniker*, the Court did state that *Portola Packaging* "held that prior art that was before the original examiner could not support a reexamination proceeding despite the fact that it was not the basis of a rejection in the original prosecution; as long as the art was before the original examiner, it would be considered 'old art.'" 150 F.3d at 1365–66, 47 USPQ2d at 1526 (citing *Portola Packaging*) (emphasis added). It is undisputed, however, that the prior art relied on to reject the claims in the reexamination proceeding in *Portola Packaging* was the same prior art that was relied on to reject claims during the prosecution of the application which matured into the patent. See *Portola Packaging*, 110 F.3d at 787, 42 USPQ2d at 1296–97. Accordingly, the *Hiniker* panel was not addressing the issue of prior art that was not discussed when it characterized the holding of *Portola Packaging* since it is clear that an "old art" rejection was at issue in *Portola Packaging*, whereas a "new art" rejection was at issue in *Hiniker*.

(8) *Comment:* One comment suggested that reexaminations should be the same as all other examinations. *Response:* Reexamination is based on patents and printed publications. Thus the scope of reexamination is narrower than that involved in the examination of a patent application. Certain issues of patentability that may be considered during prosecution of the application may not be considered during reexamination of the patent. If the patent owner desires consideration of questions of patentability not appropriate for reexamination, those issues can only be addressed in a reissue application filed under 35 U.S.C. 251.

(9) *Comment:* One comment queried whether applicants will now be required to discuss all references listed on an IDS statement. *Response:* There is no such requirement in the current rules. Under the guidelines set forth herein, however, references that are not discussed during the prosecution of an application which matures into a patent will not be precluded from consideration in a subsequent reexamination proceeding.

B. The following comments have been adopted to the extent indicated in the corresponding Office response:

(1) *Comment:* Two comments suggested that the statements in Section F to be used in denying or terminating a reexamination were misleading and could cast a shadow on the validity of the patent. One comment further proposed changing the language to, "No new patentability determination has been made in this reexamination proceeding." *Response:* The Office has considered these suggestions, and in an attempt to be more clear, has modified the language in Section F to be used in denying or terminating a reexamination proceeding.

C. The following comments supported the interim guidelines and suggested no changes:

(1) *Comment:* The comments from the bar association supported the guidelines as consistent with *Portola Packaging* and the legislative intent of the reexamination process to resolve validity questions efficiently and economically. In addition, the bar association felt the guidelines were consistent with the Federal Circuit decision in *In re Lonardo* 119 F.3d 960, 43 USPQ2d 1262 (Fed. Cir. 1997), *cert. denied*, 118 S. Ct. 1164 (1998).

(2) The bar association also commented that the guidelines (and in particular the unusual fact patterns set forth in Section E) are consistent with

the rebuttable presumption of administrative correctness relied on by the Court in *Portola Packaging*. Courts presume that Government officials have properly discharged their duties, absent clear evidence to the contrary. Thus, since the presumption of administrative correctness is rebuttable, the guidelines properly provide for reexamination based on a previously considered reference where the evidence clearly shows that the examiner did not appreciate the issue raised in the reexamination request during the prosecution of the application that matured into the patent.

II. Guidelines for Reexamination of Cases in View of In re Portola Packaging, Inc., 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997)

The following guidelines have been developed to assist Patent and Trademark Office (PTO) personnel in determining whether to order a reexamination or terminate an ongoing reexamination in view of the United States Court of Appeals for the Federal Circuit's decision in In re *Portola Packaging, Inc.*[1] These guidelines supersede and supplement any previous guidelines issued by the PTO with respect to reexamination. These guidelines apply to all reexaminations regardless of whether they are initiated by the Commissioner, requested by the patentee, or requested by a third party. These guidelines will be incorporated into Chapter 2200 of the Manual of Patent Examining Procedure (MPEP).

A. Explanation of Portola Packaging

In order for the PTO to conduct reexamination, prior art must raise a "substantial new question of patentability."[2] In *Portola Packaging*, the Federal Circuit held that a combination of two references that were relied upon individually to reject claims during the prosecution of the application which matured into the patent does not raise a substantial new question of patentability in a subsequent reexamination of the patent.[3] The Federal Circuit also held that an amendment of the claims during reexamination does not justify using old prior art to raise a substantial new question of patentability.[4] The Court explained that "a rejection made during reexamination does not raise a substantial new question of patentability if it is supported only by prior art previously considered by the PTO."[5]

B. General Principles Governing Compliance With Portola Packaging

If prior art was previously relied upon to reject a claim in a prior related PTO proceeding,[6] the PTO will not order or conduct reexamination based only on such prior art, regardless of whether that prior art is to be relied upon to reject the same or different claims in the reexamination.

If prior art was not relied upon to reject a claim, but was cited in the record of a prior related PTO proceeding, and its relevance to the patentability of any claim was actually discussed on the record,[7] the PTO will not order or conduct reexamination based only on such prior art.

In contrast, the PTO may order and conduct reexamination based on prior art that was cited but whose relevance to patentability of the claims was not discussed in any prior related PTO proceeding.

C. Procedures for Determining Whether a Reexamination May be Ordered in Compliance With Portola Packaging

PTO personnel must adhere to the following procedures when determining whether a reexamination may be ordered in compliance with the Federal Circuit's decision in *Portola Packaging*:

1. Read the reexamination request to identify the prior art on which the request is based.

2. Conduct any necessary search of the prior art relevant to the subject matter of the patent for which reexamination was requested.[8]

3. Read the prosecution histories of all prior related PTO proceedings.

4. Determine if the prior art in the reexamination request and the prior art found in any search was:

(a) relied upon to reject any claim in a prior related PTO proceeding; or

(b) cited and its relevance to patentability of any claim discussed in a prior related PTO proceeding.

5. Deny the reexamination request if the decision to order reexamination would be based only on prior art that was, in a prior related PTO proceeding, (a) relied upon to reject any claim, and/or (b) cited and its relevance to patentability of any claim discussed.[9]

6. Order reexamination if the decision to order reexamination would be based at least in part on prior art that was, in a prior related PTO proceeding, neither (a) relied upon to reject any claim, nor (b) cited and its relevance to patentability of any claim discussed and a substantial new question of patentability is raised with respect to any claim of the patent.[10]

D. Procedures for Determining Whether an Ongoing Reexamination Must Be Terminated in Compliance With Portola Packaging

PTO personnel must adhere to the following procedures when determining whether any current or future ongoing reexamination should be terminated in compliance with the Federal Circuit's decision in *Portola Packaging*:

1. Prior to making any rejection in an ongoing reexamination, determine for any prior related PTO proceeding what prior art was (a) relied upon to reject any claim or (b) cited and discussed.

2. Base any and all rejections of the patent claims under reexamination at least in part on prior art that was, in any prior related PTO proceeding, neither (a) relied upon to reject any claim, nor (b) cited and its relevance to patentability of any claim discussed.

3. Withdraw any rejections based only on prior art that was, in any prior related PTO proceeding, previously either (a) relied upon to reject any claim, or (b) cited and its relevance to patentability of any claim discussed.

4. Terminate reexaminations in which the only remaining rejections are entirely based on prior art that was, in any prior related PTO proceeding, previously (a) relied upon to reject any claim, and/or (b) cited and its relevance to patentability of a claim discussed.[11]

E. Application of Portola Packaging to Unusual Fact Patterns

The PTO recognizes that each case must be decided on its particular facts and that cases with unusual fact patterns will occur. In such a case, the reexamination should be brought to the attention of the Group Director who will then determine the appropriate action to be taken.

Unusual fact patterns may appear in cases in which prior art was relied upon to reject any claim or cited and discussed with respect to the patentability of a claim in a prior related PTO proceeding, but other evidence clearly shows that the examiner did not appreciate the issues raised in the reexamination request or the ongoing reexamination with respect to that art. Such other evidence may appear in the reexamination request, in the nature of the prior art, in the prosecution history of the prior examination, or in an admission by the patent owner, applicant, or inventor.[12]

For example, if a textbook was cited during prosecution of the application which matured into the patent, the record of that examination may show that only select information from the textbook was discussed with respect to

the patentability of the claims.[13] If a subsequent reexamination request relied upon other information in the textbook that actually teaches what is required by the claims, it may be appropriate to rely on this other information in the textbook to order and/or conduct reexamination.[14]

Another example involves the situation where an examiner discussed a reference in a prior PTO proceeding, but did not either reject a claim based upon the reference or maintain the rejection based on the mistaken belief that the reference did not qualify as prior art.[15] If the reexamination request were to explain how and why the reference actually does qualify as prior art, it may be appropriate to rely on the reference to order and/or conduct reexamination.[16]

Another example involves foreign language prior art references. If a foreign language prior art reference was cited and discussed in any prior PTO proceeding, *Portola Packaging* may not prohibit reexamination over a complete and accurate translation of that foreign language prior art reference. Specifically, if a reexamination request were to explain why a more complete and accurate translation of that same foreign language prior art reference actually teaches what is required by the patent claims, it may be appropriate to rely on the foreign language prior art reference to order and/or conduct reexamination.

Another example of an unusual fact pattern involves cumulative references. To the extent that a cumulative reference is repetitive of a prior art reference that was previously applied or discussed, *Portola Packaging* may prohibit reexamination of the patent claims based only on the repetitive reference.[17] However, it is expected that a repetitive reference which cannot be considered by the PTO during reexamination will be a rare occurrence since most references teach additional information or present information in a different way than other references, even though the references might address the same general subject matter.

F. Notices Regarding Compliance With Portola Packaging

1. If a request for reexamination is denied under C.5 above in order to comply with the Federal Circuit's decision in *Portola Packaging*, the notice of reexamination denial should state: "This reexamination request is denied based on *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). No patentability determination has been made in this reexamination proceeding."

2. If an ongoing reexamination is terminated under D.4 above in order to comply with the Federal Circuit's decision in *Portola Packaging*, the Notice of Intent to Issue a Reexamination Certificate should state: "This reexamination is terminated based on *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). No patentability determination has been made in this reexamination proceeding."

3. If a rejection in the reexamination has previously issued and that rejection is withdrawn under D.3 above in order to comply with the Federal Circuit's decision in *Portola Packaging*, the Office action withdrawing such rejection should state: "The rejection is withdrawn in view of *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997). No patentability determination of the claims of the patent in view of such prior art has been made in this reexamination proceeding." If multiple rejections have been made, the Office action should clarify which rejections are being withdrawn.

Dated: March 23, 1999.

Q. Todd Dickinson,

Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks.

Endnotes

1. 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir.), *reh'g in banc denied*, 122 F.3d 1473, 44 USPQ2d 1060 (1997).

2. 35 U.S.C. 304.

3. During the original prosecution of the application which led to the patent, the PTO had rejected the claims separately based upon the Hunter and Faulstich references. The PTO never applied the references in combination. During reexamination, Portola Packaging amended the patent claims, and for the first time the PTO rejected the amended patent claims based upon the Hunter and Faulstich references in combination. Despite these facts, the Federal Circuit determined that the PTO was precluded from conducting reexamination on those references. 110 F.3d at 790, 42 USPQ2d at 1299.

4. 110 F.3d at 791, 42 USPQ2d at 1299.

5. 110 F.3d at 791, 42 USPQ2d at 1300.

6. Prior related PTO proceedings include the application which matured into the patent that is being reexamined, any reissue application for the patent, and any reexamination proceeding for the patent.

7. The relevance of the prior art to patentability may be discussed by either the applicant, patentee, examiner, or any third party. However, 37 CFR 1.2 requires that all PTO business be transacted in writing. Thus, the PTO cannot presume that a prior art reference was previously relied upon to reject or discussed in a prior PTO proceeding if there is no basis in the written record to so conclude other than the examiner's initials or a check mark on a PTO 1449 form, or equivalent, submitted with an information disclosure statement. Thus, any discussion of prior art must appear on the record of a prior related PTO proceeding. Examples of generalized statements in a prior related PTO proceeding that would not preclude reexamination include statements that prior art is "cited to show the state of the art," "cited to show the background of the invention," or "cited of interest."

8. See 35 U.S.C. 303 ("On his own initiative, and any time, the Commissioner may determine whether a substantial new question of patentability is raised by patents and publication discovered by him. . . ."); see also MPEP § 2244 ("If the examiner believes that additional prior art patents and publications can be readily obtained by searching to supply any deficiencies in the prior art cited in the request, the examiner can perform such an additional search.").

9. See Portola Packaging, Inc., 110 F.3d at 790, 42 USPQ2d at 1299 (examiner presumed to have done his job). There may be unusual fact patterns and evidence which suggest that the examiner did not consider the prior art that was discussed in the prior PTO proceeding. These cases should be brought to the attention of the Group Director. For a discussion of the treatment of such cases, see section E above.

10. If not specified, a reexamination generally includes all claims. However, reexamination may be limited to specific claims. See 35 U.S.C. 304 (authorizing the power to grant reexamination for determination of a "substantial new question of patentability affecting any claim of a patent.") (emphasis added). Thus, the Commissioner may order reexamination confined to specific claims. However, reexamination is not necessarily limited to those questions set forth in the reexamination order. See 37 CFR 1.104(a) ("The examination shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed. * * *").

11. The Commissioner may conduct a search for new art to determine whether a substantial new question of patentability exists prior to terminating any ongoing reexamination proceeding. *See* 35 U.S.C. 303. See also 35 U.S.C. 305 (indicating that "reexamination will be conducted according to the procedures established for initial examination," thereby suggesting that the Commissioner may conduct a search during an ongoing reexamination proceeding).

12. See 37 CFR 1.104(c)(3).

13. The file history of the prior PTO proceeding should indicate which portion of the textbook was previously considered. See 37 CFR 1.98(a)(2)(ii) (an information disclosure statement must include a copy of each "publication or that portion which caused it to be listed") (emphasis added).

14. However, a reexamination request that merely provides a new interpretation of a reference already previously relied upon or actually discussed by the PTO does not

create a substantial new question of patentability.

15. For example, the examiner may not have believed that the reference qualified as prior art because: (i) the reference was undated or was believed to have a bad date; (ii) the applicant submitted a declaration believed to be sufficient to antedate the reference under 37 CFR 1.131; or (iii) the examiner attributed an incorrect filing date to the claimed invention.

16. For example, the request could: (i) verify the date of the reference; (ii) undermine the sufficiency of the declaration filed under 37 CFR 1.131; or (iii) explain the correct filing date accorded a claim.

17. For purposes of reexamination, a cumulative reference that is repetitive is one that substantially reiterates verbatim the teachings of a reference that was either previously relied upon or discussed in a prior PTO proceeding even though the title or the citation of the reference may be different.

[FR Doc. 99–7786 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 25, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 339/639 is being increased for swing, reducing the limit for Categories 342/642 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 63297, published on November 12, 1998.

D. Michael Hutchinson

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 25, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 5, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on March 31, 1999, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
339/639	1,216,161 dozen.
342/642	639,146 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 99–7891 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic; Correction

March 26, 1999.

In the notice published in the **Federal Register** on March 19, 1999 (64 FR 13548), 3rd column, 16th line down, correct "EFFECTIVE DATE: March 23, 1999." to read "EFFECTIVE DATE: March 26, 1999."

In the letter to the Commissioner of Customs published in the **Federal Register** on March 19, 1999 (64 FR 13548), page 13549, 1st Column, 4th line down, correct "Effective on March 23, 1999," to read "Effective on March 26, 1999,."

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.99–7892 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 64 F.R. 14707.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1:00 p.m., Tuesday, April 20, 1999.

CHANGES IN THE MEETING: The meeting to discuss proposed new rules concerning automated access to electronic boards of trade; otherwise, primarily operating outside the United States, and related proposed rule 1.71 was previously announced in error as closed. The meeting is an open meeting and will be held in the Lobby Level Hearing Room.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, (202) 418–5100.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 99–8001 Filed 3–29–99; 11:54 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

All-Terrain Vehicles; Commission Resolution

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission ("Commission") hereby announces its issuance of a Resolution commending Bombardier Inc. ("Bombardier") for the company's action plan regarding all-terrain vehicle ("ATV") safety.[1]

[1] Chairman Ann Brown and Commissioner Thomas H. Moore voted to approve the Resolution. Commissioner Mary Sheila Gall abstained from voting and issued a statement explaining the basis for her abstention. The statement of Commissioner Gall is available to the public through the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

Historical information regarding ATV safety-related actions by the Commission and other members of the ATV industry is included in the Commission's **Federal Register** notice of September 9, 1998 (63 FR 48199). That notice also requested public comment on whether the Commission should issue a Resolution commending certain members of the industry for their ATV action plans. After consideration of public comments, the Commission issued its Resolution commending such other industry members (63 FR 67861).

Bombardier's action plan is similar to action plans being carried out by other ATV manufacturers/distributors that the Commission commended. Therefore, the Commission views the public comments received in response to its **Federal Register** notice of September 9, 1998 as applicable to the question of whether the Commission should also commend Bombardier, and has considered those comments in deciding to issue this commendation. Accordingly, the Commission has determined that it is not necessary to solicit comment on whether it should issue its Resolution regarding Bombardier.

FOR FURTHER INFORMATION CONTACT: For information about the Resolution, call or write Leonard H. Goldstein, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; (301) 504–0980, Ext. 2202.

Dated: March 26, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Resolution of the United States Consumer Product Safety Commission Commending Bombardier Inc.

The United States Consumer Product Safety Commission (the "Commission"), by vote on March 19, 1999, *Resolves that:*

Whereas, Bombardier Inc. has announced its intention to sell ATVs in the United States; and

Whereas, Bombardier has agreed to undertake voluntary actions ("Bombardier's ATV Action Plan") that are comparable to those being undertaken by the current manufacturers and/or distributors of ATVs that the Commission has commended (See 63 FR 67861), including actions to (i) promote training, including through the offer of a cash incentive to first-time ATV purchasers, (ii) implement a multi-year information and education safety campaign emphasizing, among other things, the risks created when children younger than 16 operate or ride on adult-sized ATVs, (iii) not market, sell or offer to sell adult-size ATVs to or for use by children younger than 16, (iv) not market or sell three-wheel ATVs, (v) provide safety information on and with ATVs, including giving an ATV Safety Alert to each purchaser, (vi) retain the services of an independent organization to conduct the undercover monitoring of an agreed-upon minimum number of randomly selected dealers to monitor compliance with minimum age requirements, (vii) undertake various other safety measures, and (viii) notify the Commission at least 60 days in advance of any material changes to Bombardier's ATV Action Plan; and

Whereas, a copy of Bombardier's ATV Action Plan is available to the public upon request to the Commission's Office of the Secretary; and

Whereas, notwithstanding implementation of Bombardier's ATV Action Plan, the Commission reserves all its statutory enforcement, regulatory and oversight powers with respect to ATVs.

Now, therefore:

1. The Commission commends Bombardier for its ATV Action Plan, which the Commission believes will provide safety benefits to consumers.

2. The Commission will actively monitor the voluntary actions of Bombardier as well as those of the current manufacturers and/or distributors of ATVs by, among other things, increasing the undercover inspections it conducts of ATV dealerships to ensure compliance with age recommendations; increasing its inspections to ensure proper use of labels and hangtags; and collecting and assessing information regarding the effectiveness of training incentives. Other activities are set forth in the **Federal Register** notice of September 9, 1998 (63 FR 48199), which notified the public of the voluntary actions of the current manufacturers/distributors of ATVs. The Commission will take appropriate action based on the results of its monitoring activity. The Commission also will continue to track the death and injury rate associated with ATVs and reserves its authority to take action based on this data.

[FR Doc. 99–7903 Filed 3–30–99; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Commission Agenda and Priorities; Public Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Commission will conduct a public hearing to receive views form all interested parties about its agenda and priorities for Commission attention during fiscal year 2001, which begins October 1, 2000. Participation by members of the public is invited. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal year 2001 will become part of the public record.

DATES: The hearing will begin at 10 a.m. on April 29, 1999. Written comments and requests from members of the public desiring to make oral presentations must be received by the Office of the Secretary no later than April 15, 1999. Persons desiring to make oral presentations at this hearing must submit a written text of their presentations no later than April 22, 1999.

ADDRESSES: The hearing will be in room 420 of the East-West Towers Building, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments, requests to make oral presentations, and texts of oral presentations should be captioned "Agenda and Priorities" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments, requests, and texts of oral presentations may also be filed by telefacsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the hearing or to request an opportunity to make an oral presentation, call or write Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0800, extension 1232; telefax (301) 504–0127.

SUPPLEMENTARY INFORMATION: Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws it administers, and, to the extent feasible, to select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission shall conduct a public hearing and provide an opportunity for the submission of comments.

The Office of Management and Budget requires all Federal agencies to submit their budget requests 13 months before the beginning of each fiscal year. The

Commission is formulating its budget request for fiscal year 2001, which begins on October 1, 2000.

Accordingly, the Commission will conduct a public hearing on April 29, 1999 to receive comments from the public concerning its agenda and priorities for fiscal year 2001. The Commissioners desire to obtain the views of a wide range of interested persons including consumers; manufacturers, importers, distributors, and retailers of consumer products; members of the academic community; consumer advocates; and health and safety officers of state and local governments.

The Commission is charged by Congress with protecting the public from unreasonable risks of injury associated with consumer products. The Commission enforces and administers the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*); the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*); the Flammable Fabric Act (15 U.S.C. 1191 *et seq.*); the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*); and the Refrigerator Safety Act (15 U.S.C. 1211 *et seq.*). Standards and regulations issued under provisions of those statutes are codified in the Code of Federal Regulations, title 16, chapter II.

While the Commission has broad jurisdiction over products used by consumers, its staff and budget are limited. Section 4(j) of the CPSA expresses Congressional direction to the Commission to establish an agenda for action each fiscal year and, if feasible, to select from that agenda some of those projects for priority attention.

Persons who desire to take oral presentations at the hearing on April 29, 1999, should call or write Rockelle Hammon, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 504–0800, telefax (301) 504–0127, or e-mail, cpsc-cpsc-os@copsc.gov, no later than April 15, 1999.

Presentations should be limited to approximately ten minutes. Persons desiring to make oral presentations must submit the written text of their presentations to the Office of the Secretary not later than April 22, 1999. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. The hearing will begin at 10 a.m. on April 29, 1999 and will conclude the same day.

Dated: March 26, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–7904 Filed 3–30–99; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Medical Treatment Facility Incident Statement; AF Form 765; OMB Number 0701–0135.

Type of Request: Reinstatement.

Number of Respondents: 1.

Annual Responses: 13,200.

Annual Burden Per Response: 5 minutes.

Annual Burden Hours: 1,056.

Needs and Uses: The form is used by respondents (hospital employees, including non-governmental personnel and contractors) to report specific incidents that may have resulted in injury. It is not filed in a patient's record, but is kept by the medical treatment facility (MTF) Quality Service/Risk Manager until appropriate actions are completed to analyze the incident and determine whether corrective action is necessary to avoid repeat incidents. After completion and corrective action, if required, the form is retained for one year and then destroyed. Information recorded on the form is concise statements of facts. If the information is not collected as needed, MTFs will lose the opportunity to identify potential risks in the facilities.

Affected Public: Individuals or households.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments on recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 2202–4302.

Dated: March 24, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–7846 Filed 3–30–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Food/Exercise Diary, AF Form 3529; OMB Number 0701–0126.

Type of Request: Reinstatement.

Number of Respondents: 3,000.

Responses Per Respondent: 1.

Annual Responses: 3,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 750.

Needs and Uses: The information collection requirement is necessary to teach individuals on the USAF Weight Management Program and those on calorie-controlled diets to make an accurate objective self-analysis of their own food and exercise habits in order to take control of their own behavior and identify areas for lifestyle change. Respondents are medical beneficiaries referred to Nutritional Medicine for weight management counseling.

Affected Public: Individuals or households.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 24, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–7847 Filed 3–30–99; 8:45 am]

BILLING CODE 5001–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Nutritional Medicine Service Patient Evaluation; AF Forms 2503 and 2504; OMB Number 0701–0125.

Type of Request: Reinstatement.

Number of Respondents: 35,000.

Responses per Respondents: 1.

Annual Responses: 35,000.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 2,900.

Needs and Uses: The information collection requirement is necessary to gather information from inpatients concerning the quality of food served and the level of service provided by Nutritional Medicine Service on the AF Form 2503. The AF Form 2504 is used to gather information from dining room patrons on quality of food and service provided. This information is required by the Joint Commission on Accreditation of Healthcare Organizations for assessment of quality assurance in the hospital accreditation process. The information is used within individual military hospital settings only. Respondents are medical beneficiaries admitted to the hospital, or patrons consuming meals in the dining hall.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 24, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–7848 Filed 3–30–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Assessment (EA) on the Disposal and Reuse of Fort Totten, NY

AGENCY: Department of the Army, DOD.

ACTION: Notice of Availability.

SUMMARY: The proposed action evaluated by this EA is the disposal and reuse of Fort Totten, New York, in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510. The EA addresses the environmental consequences of the disposal and subsequent reuse of the 120 acres.

DATES: Interested parties are invited to review and submit comments on the Finding of No Significant Impact (FNSI) on or before April 30, 1999.

ADDRESSES: Copies of the Environmental Assessment can be obtained by writing to the U.S. Army Corps of Engineers, ATTN: Mr. Carl Burgamy, Jr., U.S. Army Engineer District, Mobile (CESAM–PD), 109 St. Joseph Street, Mobile, AL 36602.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Burgamy, Jr., by facsimile at (344) 690–2727.

SUPPLEMENTARY INFORMATION: The EA addresses the environmental consequences of the disposal and subsequent reuse of the 120 acres comprising Fort Totten, New York. The Army disposal action is analyzed in this EA with respect to three disposal alternatives: (1) The No Action Alternative, which entails maintaining the property in caretaker status after closure; (2) The Unencumbered Disposal Alternative, which entails transferring the property without the Army having created any encumbrances or with the Army's having removed encumbrances that could be removed; and (3) The Encumbered Disposal Alternative, which entails transferring the property to future owners with Army-imposed limitations, or encumbrances, on the future use of the property.

Additionally, this EA analyzes the potential environmental and socioeconomic consequences of three reuse alternatives, developed by the Fort Totten Local Redevelopment Authority: (1) Low Intensity Reuse Alternative; (2) Low-Medium Intensity Reuse Alternative; and (3) Medium Intensity Reuse Alternative. The resource areas evaluated for potential impacts by the proposed action (disposal) and the secondary action (reuse) include: Land Use; Climate; Air Quality; Noise; Geology, Soils, and Topography; Water Resources; Infrastructure; Hazardous and Toxic Substances; Biological Resources and Ecosystems; Cultural Resources; Sociological Environment; Economic Development; Quality of Life; Installation Agreements, and Permits and Regulatory Authorizations.

The Notice of Intent declaring the Army's intent to prepare an environmental assessment for the disposal of Fort Totten was published in the **Federal Register** on September 22, 1995.

Copies of the EA will be available for review at the following locations: Queens Borough Public Library, Long Island Division, 89–11 Merrick Boulevard, Jamaica, NY 11432; Bayside Branch of the Queens Borough Public Library, 214–20 Northern Boulevard, Bayside, NY 11361; Bay Terrace Branch of the Queens Borough Public Library, 18–36 Bell Boulevard, Bayside, NY 11360; Whitestone Branch of the Queens Borough Public Library, 151–10 14th Road, Whitestone, NY 11357.

Dated: March 25, 1999.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 99–7864 Filed 3–30–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Release of the Notice of Availability on the Draft Environmental Impact Statement (DEIS) on the Disposal and Reuse of the Military Ocean Terminal, Bayonne, NJ

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: This DEIS was prepared by the Army in compliance with the National Environmental Policy Act (NEPA) of 1969 and the President's Council on Environmental Quality. The closure of the Military Ocean Terminal, Bayonne, New Jersey (MOTBY) was

mandated in accordance with the recommendations of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended (the "BRAC law").

DATES: The review period for the DEIS will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency (EPA).

ADDRESSES: Questions and/or written comments regarding the DEIS, or a request for a copy of the document may be directed to: U.S. Army Corps of Engineers, ATTN: Dr. Susan Ivester Rees, U.S. Army Engineer District, Modile (CESAM–PD), 109 St. Joseph Street, Mobile, AL 36602.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Ivester Rees at 334–694–4141 or by facsimile at 334–690–2727.

SUPPLEMENTARY INFORMATION: The DEIS analyzes three alternative courses of action with respect to the disposal and subsequent reuse of the 676 acres (440 land acres and 236 submerged land acres) comprising the Military Ocean Terminal, Bayonne (MOTBY): (1) The no action alternative, under which the property would be maintained in a caretaker status after closure; (2) the unencumbered alternative, under which the Army would transfer the property without encumbrances, such as environmental restrictions and easements; and (3) the encumbered disposal alternative, under which the Army would transfer the property with various environmental restrictions and easement, limiting the future use of the property. Additionally, this DEIS analyzes the potential environmental and socioeconomic consequences of three community reuse alternatives: (1) low intensity reuse alternative; (2) Low-medium intensity reuse alternative; and (3) medium intensity reuse alternative.

The DEIS concludes the no action alternative is not reasonable since the closure of MOTBY is mandated by BRAC law, and the Army has no requirement to retain the property. The DEIS also concludes that the unencumbered disposal alternative is not feasible given environmental conditions and legal requirements.

The Army's preferred alternative course of action is the encumbered disposal of excess property. Possible encumbrances include: covenants and restrictions pertaining to asbestos-containing material; lead-based paint; floodplains; future remedial activities after transfer; wetlands and easements; and rights-of-way.

Community reuse of the MOTBY property is analyzed in the DEIS as a secondary action resulting from closure and disposal by the Army. While the Army does not control the community's reuse of the property, under NEPA, the Army is required to analyze the reasonably foreseeable impacts of its disposal action. The local community has established the Bayonne Local Redevelopment Authority (BLRA) to develop and implement a reuse plan for the installation. Approval and implementation of the reuse plan are within the discretion of the BLRA.

A public meeting will be held during the 45-day DEIS comment period to afford the public the opportunity to provide oral and written comments on the DEIS. The location and time of the meeting will be announced in local newspapers at least 15 days prior to the meeting. Verbal comments made at the public meeting and written comments received during the comment period will be used in the preparation of the Final EIS and Record of Decision.

Copies of the DEIS have been forwarded to the EPA, other Federal, state, and local agencies; public officials; and organizations and individuals who previously provided substantive comments in the EIS scoping process. Copies of the DEIS are available for review at the following libraries: The Bayonne Free Public Library, 697 Avenue C, Bayonne, NJ 07002–2806; the Jersey City Public Library, 472 Jersey Avenue, Jersey City, NJ 07302; and the Newark Public Library, 5 Washington Street, Newark, NJ 07102.

Dated: March 25, 1999.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA(I&E).

[FR Doc. 99–7865 Filed 3–30–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Termination of Environmental Impact Statement for Management of Aircraft Operations at Naval Air Station (NAS) Whidbey Island, Washington

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy, announced its intent to prepare an Environmental Impact Statement (EIS) for the management of air operations at NAS Whidbey Island. The Notice of Intent was published in the **Federal Register** on February 7, 1989. The EIS was to cover proposed air operations associated with increased training activity at Ault Field and Outlying Field (OLF) Coupeville. The Notice of Availability for the Draft EIS (DEIS) was published in the **Federal Register** on August 27, 1993. The DEIS was distributed to various federal, state, and local agencies, elected officials, special interest groups, interested individuals, and the media. Public hearings were held on September 29, 1993 and November 10, 1993.

At the time of the preparation of the DEIS, all Navy EA–6B Prowler electronic warfare squadrons and all west coast A–6E Intruder squadrons were stationed at NAS Whidbey Island. Ault Field and Outlying Field (OLF) Coupeville were used for aircraft training exercises on Whidbey Island.

Since the publication of the DEIS, the conditions at NAS Whidbey Island have changed significantly. All A–6E aircraft have been decommissioned and are no longer based at NAS Whidbey Island. Accordingly air operations at NAS Whidbey Island have been reduced 40–50% from 1988 levels.

The significant reduction in air operation activities has eliminated the need for proposed modifications to NAS Whidbey Island air operations. Therefore, the preparation of an EIS for Management of Aircraft Operations at NAS Whidbey Island is no longer required and the process is hereby terminated.

ADDRESSES: Questions regarding this notice may be directed to: Ms. Kathryn Souders, Environmental Affairs Director, NAS Whidbey Island at (360) 257–1009.

Dated: 25 March 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–7895 Filed 3–30–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information

collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 2, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 1, 1999.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503. Comments regarding the regular clearance and requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W. , Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: March 25, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Chief Information Officer

Type of Review: New.

Title: Year 2000 Assessment Survey of Postsecondary Educational Institutions.

Abstract: The Department of Education (ED) is actively participating on the President's Council on Year 2000 Conversion and this Year 2000 Assessment Survey is a Departmental, as well as a Council, initiative. ED is taking a proactive approach in requesting postsecondary educational institutions report on their Year 2000 readiness. ED needs to survey the progress of domestic (50 States, Guam, Puerto Rico, U.S. Virgin Islands, five U.S. Outlying Areas and the District of Columbia) postsecondary educational institutions and foreign postsecondary educational institutions attended by our students receiving federal financial aid. This will be done in order to ensure the successful operation of ED's programs and to report to the Office of Management and Budget, The President's Council on Year 2000 Conversion and other Year 2000 oversight authorities.

Additional Information: This survey is being submitted for emergency clearance, as it is a Year 2000 related data collection assessment effort. The year 2000 is only nine months away. Due to the short time period left before the Year 2000 and the urgency of achieving Year 2000 compliance of postsecondary educational institutions; we are requesting the 60-day and 30-day waiver for **Federal Register** Notices. This waiver is requested per emergency clearance of Year 2000 surveys under the Paperwork Reduction Act.

Frequency: As required by OMB, The President's Council on Year 2000 conversion and other Year 2000 oversight authorities.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 4,631.

Burden Hours: 30,102.

[FR Doc. 99–7820 Filed 3–30–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 1, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat __ Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere

with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 25, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: 1999–2000 Private School Survey.

Frequency: On occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions

Reporting and Recordkeeping Hour Burden:

Responses: 45,000.

Burden Hours: 16,667.

Abstract: The National Center for Education Statistics (NCES) collects information on private schools, both religious-affiliated and independent, every two years in order to maintain a universe frame of private schools that is of sufficient accuracy and completeness to serve as a sampling frame for NCES surveys of private schools and to generate biennial data on the total number of private schools, teachers, and students. Since 1980, this Elementary/Secondary data collection has formed the basis for national statistical data on private schools.

[FR Doc. 99–7821 Filed 3–30–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 30, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: March 25, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary.

Type of Review: Revision.

Title: Third National Even Start Evaluation: Performance Information Reporting System and Experimental Study.

Frequency: Annually.

Affected Public: Individuals or households; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,350.

Burden Hours: 63,503.

Abstract: The third national Even Start evaluation calls for two data collection activities: (1) The Even Start Performance Information Reporting System involves the refinement and maintenance of a data collection system, collection and analysis of descriptive and outcome data from all Even Start grantees, and training of local Even Start project directors in data collection and technical assistance to them. (2) the Even Start Experimental Study involves recruiting 20 projects to participate in an experimental evaluation of the effectiveness of Even Start, random assignment of new families to Even Start or control groups, and measurement of child, adult, and family outcomes in fall 1999 and spring 2000.

[FR Doc. 99–7822 Filed 3–30–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 99–19–NG]

Enron Capital & Trade Resources Corp.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it issued DOE/FE Order No. 1470 (Order 1470) on March 18, 1999, granting Enron Capitol & Trade Resources Corp. (ECT) long-term authorization to import up to 20,000 Mcf of natural gas per day (up to approximately 7.3 Bcf annually) from Canada. ECT is one of the largest buyers and sellers of natural gas in North America. The term of the authorization begins November 1, 1999, or when deliveries commence, whichever occurs later, and terminates 10 years following the commencement date. The natural gas will be imported under a supply arrangement with Enron Capital & Trade Resources Canada Corp. This natural gas may be imported at any point on the border of the United States and Canada.

Order 1470 may be found on the FE web site at http://www.fe.doe.gov, or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities docket room, 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0334, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., March 24, 1999.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import and Export Activities, Office of Fossil Energy.

[FR Doc. 99–7919 Filed 3–30–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. OA97–105–003; OA97–287–003; OA97–458–003; OA97–462–004; OA97–440–004; and OA97–446–003]

Carolina Power & Light Company; Central Power and Light Company; Public Service Company of Oklahoma; Southwestern Electric Power Company; West Texas Utilities Company; Entergy Services, Inc.; Entergy Arkansas, Inc.; Entergy Gulf States, Inc.; Entergy Louisiana, Inc.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Maine Electric Power Company; PECO Energy Company and UtiliCorp United, Inc; Notice of Filings

March 25, 1999.

Take notice that between March 12 to March 22, 1999, the companies listed in the above-captioned dockets filed revised standards of conduct under Order Nos. 889 *et seq.**

Any person desiring to be heard or to protest one or more of the filings should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211 or 385.214). All such motions to intervene or protest should be filed on or before 15 days from issuance. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7860 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

* Open Access Same-Time Information System (Formerly Real-Time Information Network) and Standards of Conduct, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991–June 1996 ¶ 31,035 (April 24, 1996); Order No. 889–A, *order on rehearing*, 62 FR 12484 (March 14, 1997), III FERC Stats. & Regs. ¶ 31,049 (March 4, 1997) (Order No. 889–A); Order No. 889–B, *rehearing denied*, 62 FR 64715 (December 9, 1997), 81 FERC ¶ 61,253 (November 25, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–264–000]

Columbia Gas Transmission Corporation; Notice of Application

March 25, 1999.

Take notice that on March 19, 1999, Columbia Gas Transmission Corporation (Columbia), 12801 Fairfax, Virginia 22030–1046, filed in Docket CP99–264–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon in place approximately 9.1 miles of 2-, 4-, 12-, and 18-inch pipelines and appurtenances located in Jackson County, West Virginia, all as more fully set forth in the application on file with the Federal Energy Regulatory Commission (Commission) and open to public inspection.

Columbia proposes to abandon in place approximately 9.1 miles of Line E which consists of 20-foot long joints with compression coupled pipeline. Columbia reports the pipeline was constructed prior to 1910 by one of Columbia's predecessors and is uncoated and lacks corrosion protection. Columbia continues that Line E was originally constructed to transport locally produced and purchased gas in the area of Roane County, West Virginia, to markets situated in the Jackson County, West Virginia, as well as certain Ohio Area Markets. Columbia further continues that due to declining supplies of gas in the original production area, as well as operational changes on Columbia's system which have occurred over time, the subject portion of Line E no longer serves the function for which it was originally constructed. Columbia further states that the pipeline is now inactive and the tap consumers once served from Line E now receive service from alternate fuels or other Local Distribution Companies. Columbia reports that as a result of these changes, there are no customers or consumers receiving service via the facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1999, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7859 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. UL96–18–005]

Hubbardston Hydro Company; Notice of Rejecting Request for Hearing

March 25, 1999.

On January 15, 1999, the Commission issued an order denying reconsideration of an order issued by the Acting Director, Office of Hydropower Licensing which found that the existing, unlicensed Hubbardston Project, located at Fish Creek in Ionia County, Michigan, is required to be licensed pursuant to Section 23(b)(1) of the Federal Power Act (FPA).[1] On February 23, 1999, Hubbardston Hydro Company (Hubbardston) filed a request for rehearing of the order denying reconsideration.

Section 313(a) of the EPA [2] required an aggrieved party to file a request for rehearing within 30 days after the issuance of the Commission's order, in this case by February 16, 1999. Because the 30-day deadline for requesting rehearing is statutorily based, it cannot be extended and Hubbardston's request for rehearing must be rejected as untimely.

This notice constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this notice pursuant to 18 CFR 385.713.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7862 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

[1] 16 U.S.C. 817(1).

[2] 16 U.S.C. 8251(a).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–52–003]

Pine Needle LNG Company, LLC; Notice of Initial Gas Tariff

March 25, 1999.

Take notice that on March 17, 1999, Pine Needle LNG Company, LLC (Pine Needle) filed to place into effect its FERC Gas Tariff, Original Volume No. 1, Original Sheet Nos 1 through 118 (Tariff). Pine Needle requests that its Tariff be made effective on May 1, 1999, which is the expected in service date for the Pine Needle facilities. The Tariff will allow Pine Needle to provide interstate service in compliance with the Commission orders issued on April 30, 1996 and November 27, 1996 in this proceeding.

Pine Needle states that the Tariff incorporates the revisions described in the April 30 order and is in compliance with the requirements of the Gas Institute Standards Board (GISB). The Tariff also includes a tariff sheet reflecting the initial rates based upon the actual cost of debt as required by Ordering Paragraph (L) of the April 30 order.

Pine Needle notes that Ordering Paragraph (D) of the April 30 order required Pine Needle to file its initial tariff 60 days prior to its projected in-service date. Pine Needle states that it was unable to meet this date and, after discussions with Commission staff, was granted permission to make the filing 45 days prior to the in-service date.

Pine Needle states that copies of this filing have been served on customers and interested state Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the Internet at http//www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7856 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–268–000]

Southern Natural Gas Company; Notice of Application

March 25, 1999.

Take notice that on March 22, 1999, Southern Natural Gas Company (Southern), AmSouth-Sonat Tower, Birmingham, Alabama 35203, filed in Docket No. CP99–268–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA), and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations seeking authorization to abandon by sale to J.R. Pounds, Inc. (Pounds), certain natural gas transmission facilities including pipelines, receiving stations, compressors, and appurtenant facilities located in or near the Dexter Field, Hub Field, and Sandy Hook Field in Marion and Walthall Counties, Mississippi, as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http:///www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Southern maintains that the proposed abandonment by sale to Pounds will not affect the capacity of Southern's pipeline system. Southern states that this abandonment is in the public interest because the sale of the facilities will reduce Southern's operation and maintenance costs, fuel and gas loss, and capital expenditures for upgrading of line and receiving stations through

the elimation of approximately 64.966 miles from Southern's pipeline system.

Any person desiring to be heard or make any protest with reference to said application should on or before April 15, 1999, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party of a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that abandonment of the facilities is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice so such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7858 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–266–000]

Tennessee Gas Pipeline Company; Notice of Application To Abandon

March 25, 1999.

Take notice that on March 22, 1998, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed under Section 7(b) of the Natural Gas Act, for authority to abandon by removal, certain facilities connected to its 30-inch mainline pipeline No. 100–3. The facilities are located in Wharton County, Texas, near milepost 16 – 3=4.62 on the mainline and are designated by Tennessee as the West Bernard facilities. They consist of a side valve, a riser, a ball valve, a check valve, a 4-inch meter and 16 feet of 2-inch station piping and appurtenances. Tennessee states that these facilities are no longer needed. This information is more fully set forth in the application which is on file with the Commission and open to public inspection. The application may also be viewed on the web at http//www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

Any person desiring to be heard or make any protest with reference to said application should on or before April 15, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protesters parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7857 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Surrender of License and Soliciting Comments, Motions to Intervene, and Protests

March 26, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of License.

b. *Project No:* 2596–004.

c. *Date Filed:* March 31, 1998.

d. *Applicant:* Rochester Gas and Electric Corporation.

e. *Name of Project:* Station No. 160.

f. *Location:* On the Genesee River, in Livingston County, New York. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. Hal F. Waggoner, Rochester Gas and, Electric, Corporation, 89 East Avenue, Rochester, NY 14649–0001, (716) 724–8105.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Papsidero, e-mail address: Thomas.Papsidero@ferc.fed.us, or telephone: (202) 219–2715.

j. *Deadline for filing comments and/or motions:* April 28, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, N.E., Washington, DC 20426.

Please include the project number (2596–004) on any comments or motions filed.

k. *Description of Surrender:* Rochester Gas and Electric Corporation, a corporation, requests to surrender the license for economic reasons.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/on;ine/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicated by writing to the Secretary of the Commission.

n. *This notice also consists of the following standard paragraphs:* B, C1, D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsible Documents—Any filings must bear in all capital letters the title "COMMENTS" "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTESTS", OR "MOTION TO INTERVENE", as applicable, and the project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments with the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7855 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Amend Schedule for Annual Winter Drawdowns and Soliciting Comments, Motions to Intervene, and Protests

March 25, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Exemption.

b. *Project No.:* 6299–013.

c. *Date Filed:* March 9, 1999.

d. *Applicant:* Dakota County Electric Cooperative and Goodhue County.

e. *Name of Project:* Lake Byllesby Project.

f. *Location:* The project is located on the Cannon River, Dakota and Goodhue Counties, Minnesota. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.104.

h. *Applicant Contact:* Mr. Stephen Sullivan, Dakota County Parks and Recreation, 8500 127th Street, East Hastings, MN 55033, (651) 438–4662.

i. *FERC Contact:* Any questions on this notice should be addressed to Diana Shannon at (202) 208–7774, or e-mail address diana.shannon@ferc.fed.us.

j. *Deadline for filing comments and or motions:* Apil 29, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, NE, Washington, DC 20426.

Please include the Project Number (6299–013) on any comments or motions filed.

k. *Description of Amendment:* The exemptee currently conducts annual winter drawdowns to 853.7 feet NGVD at the project. These drawdowns begin on November 1 at a rate of approximately 0.1 foot per day, and continue for 30 days. The reservoir is maintained at 853.7 feet NGVD until such time that increasing flow exceeds the project's capacity and raises the reservoir elevation to 856.7 feet NGVD. The exemptee requests to begin drawdowns on October 1, at a rate of approximately 0.05 foot per day, for approximately 60 days, and maintain the reservoir at 853.7 feet NGVD until May 15.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, at 888 First Street NE, Room 2A, Washington, DC, 20426, or by calling (202) 208–1371. The application may be viewed on the website at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. *This notice also consists of the following standard paragraphs:* B, C1 and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS"; "PROTESTS", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–7861 Filed 3–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of October 19 Through October 23, 1998

During the week of October 19 through October 23, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C. 20585–0107, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 108

Week of October 19 through October 23, 1998

AMERICAN ELECTRIC POWER COMPANY, INC., 10/20/98, VEA–0009

DOE denied an Appeal filed by American Electric Power Company, Inc. (AEP) under provisions of 10 C.F.R. Part 490 (Alternative Fuel Transportation Program). In its Appeal, AEP challenged a determination by the Office of Energy Efficiency and Renewable Energy (EE) which substantially denied a request for an exemption from the firm's 1998 Model Year (MY) alternative fuel vehicle (AFV) purchase requirement. In considering AEP's Appeal, DOE determined that EE was correct that AEP was required to attempt acquisition of non-electric AFVs after the firm determined that electric vehicles were unavailable, although the firm had elected the electric vehicle option under section 490.307. DOE further determined that AEP's constructive knowledge of this requirement coupled with the firm's failure to show "good faith efforts" to acquire non-electric AFVs disqualified the firm from receiving equitable exemption relief.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Co./Lou's Arco Service	RF304–15517	10/22/98
Enron Corp./W. Jayson Tusing	RR340–00003	10/22/98
Macmillard Oil Co./Parker Oil Co. et al	RF355–00004	10/19/98
Shell Oil Co./Plaquemine Oil Sales Corp	RF315–09975	10/21/98

Dismissals

The following submissions were dismissed.

Name	Case No.
City of Federal Way	VFA–0445
Cliff Sieling	VFA–0446
Coney Island Hospital	RG272–00165
Elview Construction, Inc	RF355–00027
Jacobson Warehouse Co., Inc	RF355–00034
Kuzzens, Inc	RF272–95307
Personnel Security Hearing	VSO–0224
322 Central Park West	RF272–95322

[FR Doc. 99–7918 Filed 3–30–99; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6318–1]

Notice of Proposed Administrative Settlement Pursuant to the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. 9673(d), notice is hereby given of a proposed administrative settlement ("Consent Agreement") concerning the Gila Tire Pile on the Gila River Indian Community Land located within the State of Arizona with the following parties: Maricopa County, Pinal County, and Blackwater Industrial Development Corporation. The settlement requires the respondents to remove the unburned tires from the site to an approved landfill facility no later than ten (10) days from the effective date of the Consent Agreement and to form a Working Committee with the Gila River Indian Community to establish a plan to remove and dispose of the burned tires no later than 160 days from the effective date of the Consent Agreement. In addition, the Consent Agreement requires Respondents to sample and characterize the burned tires within six (6) months from the date the Working Committee is formed, and provide to EPA, within twelve (12) months from the date that the Working Committee characterizes the burned tires, a work plan that identifies the preferred corrective measure and a schedule for implementation of the corrective measure. The corrective measure proposed for the burned tires shall be subject to EPA approval. Prior to approval, EPA will make the proposal available to the public for review and comment for thirty (30) days. After the close of the public comment period, EPA shall approve or modify the corrective measure. EPA shall then provide the respondents a sixty (60) day period to negotiate a modification of the agreement to include the implementation of the corrective measure. If agreement is not reached during this period, EPA reserves all rights it has to implement the corrective measure, including the issuance of a

unilateral administrative order directing respondents to implement the corrective measure. This settlement includes an EPA covenant not to sue the settling parties pursuant to Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973. For thirty (30) days following the date of publication of this notice, the Agency will receive written comment on the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or consideration which indicate that the proposed settlement is inappropriate, improper or inadequate. The Agency's response to any comments received will be available for public inspection at the Chandler Public Library located at 22 South Delaware Street, Chandler, AZ 85244 and at the U.S. Environmental Protection Agency Region 9 located at 75 Hawthorne Street, San Francisco, CA 94105 (in the library on the 13th floor). Commenters may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. Section 6973(d).

DATES: Comments must be submitted on or before April 30, 1999.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from Jean Killpack, Project Coordinator, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–2033. Comments should reference the Gila Tire Pile, located on the Gila River Indian Community Land within the State of Arizona and EPA docket number #7003–09–99–003. Comments should be addressed to Rich Vaille, Chief, State Programs and Compliance Branch, Waste Management Division, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Jean Killpack, Project Coordinator, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–2033.

SUPPLEMENTARY INFORMATION: On July 15, 1994, a user agreement was signed by Colinas Tire Recovery, Inc., and Blackwater Industrial Development Corporation, allowing for temporary storage of shredded tires by Colinas Tire Recovery on 10 acres of land located on the Gila River Indian Community reservation. The site is located two miles north of the City of Coolidge. During the year that followed the signing of the lease, approximately three million shredded tires (32,362 tons) collected from 14 Arizona Counties (excluding Pima County) were placed in 25 piles on the land by Colinas and its subcontractors.

On August 1, 1997, approximately two million tires caught on fire at the site. Thick black smoke, intense heat, high winds and dust created extreme conditions that hampered fire fighting efforts. The Gila River Indian Community, Pinal County, and the State of Arizona declared a State of Emergency. Air quality concerns and thick smoke required the evacuation of more than 300 people from the vicinity. To date, the burned tires still smolder.

EPA notified several Arizona Counties, two transporters, and Blackwater Industrial Development Corporation on June 1, 1998 that they were potentially responsible parties in the cleanup of the Gila Tire Pile, and requested a good faith offer to cleanup the site. On September 25, 1998, the Arizona counties, through Pinal County, submitted an offer to EPA which addressed the removal of the unburned tires and the cleanup of the burned tires. EPA accepted this offer and met with the Arizona Counties on December 8, 1998. EPA established a 60 day negotiation period to negotiate the terms of a Consent Agreement which reflected the September 25th good faith offer by the Counties. At the close of the 60 day period (February 8, 1999), EPA had not reached settlement with the Arizona Counties or transporters by the negotiation period deadline. EPA did reach a settlement with Respondent Blackwater Industrial Development Corporation.

On February 18, 1999, EPA issued a unilateral enforcement order to seven (7) Arizona Counties (Cochise, Coconino, Pinal, Maricopa, Mohave, Yavapai, Yuma) and two transporters (Colinas Tire Recovery, Inc., and REPCO Waste Recovery, Inc.) to remove the unburned tires and to submit a burned tire plan within certain time frames. The effective date of this order is March 19, 1999. However, prior to the unilateral enforcement order becoming effective, several respondents joined Blackwater Industrial Development Corporation and entered into the Consent Agreement with EPA. EPA has rescinded the unilateral enforcement order on March 18, 1999, and the Consent Agreement supersedes the enforcement order. EPA will issue a revised unilateral enforcement order to non-settling Respondents, as necessary.

Dated: March 22, 1999.

Alexis Strauss,

Acting Regional Administrator.

[FR Doc. 99–7909 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6318–2]

Chesapeake Bay Program

This notice is to request interested parties to submit their name and address to the U.S. Environmental Protection Agency's Chesapeake Bay Program (CBP) for the purpose of establishing a database for those interested in receiving Request for Proposals (RFPs) in order to apply for grants/cooperative agreements or interagency agreements. RFPs will be announced for several different themes in support for the Chesapeake Bay Program's goals.

Background

The Chesapeake Bay Program is the unique regional partnership which has been directing and conducting the restoration of the Chesapeake Bay. The Chesapeake Bay Program partners include the states of Maryland, Pennsylvania, and Virginia; the District of Columbia; the Chesapeake Bay Commission, a tri-state legislative body; the U.S. Environmental Protection Agency, representing the federal government; and participating advisory groups. The Chesapeake Bay Program's highest priority is to restore and protect the Bay's living resources and their habitats.

Eligibility

Only applicants/organizations that are colleges; universities; nonprofit organizations; or local, and state agencies are eligible to receive grants/cooperative agreements. Proposed work must be in support of Chesapeake Bay Program goals and commitments.

Goals of the Chesapeake Bay Program

The Chesapeake Bay Program has developed many goals and is implementing Bay-wide efforts to meet those goals. Some of the program's goals include: (1) Reduce nutrient loads (nitrogen and phosphorus to the Bay by 40% by 2000; (2) restore underwater grasses; (3) remove impediments to upstream fish migration; (4) manage the harvest of fish and shellfish to assure sustainability; (5) restore 2010 miles of riparian forest buffers along the Bay and its tributaries by 2010; (6) protect existing forest buffers; (7) encourage farmers to use nutrient management and other BMPs; (8) work with local governments to better manage the location and density of new development; (9) eliminate chemical toxicity in the Bay; (10) encourage businesses, communities and local

governments to practice pollution prevention; (11) encourage community-based activities; (12) develop and implement tributary strategies tailored to local needs; (13) provide for increased public access to Bay and its tributaries; and (14) educate the public about actions needed to protect and restore the Bay.

Themes

(1) Toxics: Implement critical elements of the Chesapeake Bay Basinwide Toxics Reduction and Prevention Strategy in order to ensure a Bay free of toxics; (2) nutrients: Sustain and accelerate efforts to meet the nutrient reduction goals in order to attain water quality conditions necessary to support the living resources of the Chesapeake Bay; (3) living resource/habitate restoration: Restore and protect living resources, their habits and ecological relationships; (4) land growth and stewardship: Encourage sustainable development patterns that integrate economic health, resource protection, and community participation; (5) monitoring: Integrate monitoring programs across the Chesapeake basin through the implementation of the Basin-wide Monitoring Strategy; (6) air: Link atmospheric deposition and loading of nutrients and chemical contaminants to effects on living resources and water quality in the Chesapeake Bay, its tributaries and watershed; (7) communication/outreach: Provide communication, outreach and education components of the Bay Program partnership; (8) modeling: Continue to develop, calibrate, and manage the application of linked airshed-watershed-estuarine hydrodynamic-water quality-living resources models to support the Bay Program's nutrient cap and for understanding the nutrient and sediment affects in the Chesapeake Bay system; and (9) data management: Implement distributed data and information servers networked to provide direct public access to synthesized Bay restoration and protection related data and information.

Submission

Clearly print or type your name, email address, organization, mailing address and what "Theme(s)" RFP you would be interested in receiving. Mail this information to: Environmental Protection Agency, Chesapeake Bay Program, (RFP Database), 410 Severn Ave, Suite 109, Annapolis, MD 21403 or access our website—www.chesapeakebay.net/rfp.htm. EPA will only accept addresses provided in writing, no phone calls.

William Matuszeski,

Director, Chesapeake Bay Program.

[FR Doc. 99–7913 Filed 3–30–99; 8:45 am]

BILLING CODE 6500–60–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30474; FRL–6070–9]

BioSafe Systems; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Oxidate Broad Spectrum Bactericide/Fungicide, containing an active ingredient involving a changed pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 30, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30474] File Symbol (70299–E) to: Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Anne Ball, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location/telephone number and e-mail address: Rm. 910W44, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA, 703–308–8717; e-mail: ball.anne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from BioSafe Systems, 80 Commerce St., Glastonbury, CT 06033, to register the pesticide product Oxidate Broad Spectrum Bactericide/Fungicide (EPA File Symbol 70299–E), containing the active ingredient hydrogen peroxide (hydrogen dioxide) at 27%. This application involves a changed use pattern for the active ingredient pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. In addition to the currently registered uses, Oxidate will be used as a fungicide and bactericide on growing crops such as (beans, broccoli, cauliflower, cabbage, citrus, curcurbits, onions, peppers, potatoes, tomatoes, apples, filberts, bananas, grapes, stonefruits, and postharvest potatoes). Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30474] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30474] Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: March 17, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–7914 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30459A/30417A/30443B; FRL–6059–5]

Certain Companies; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products Flight Control, For-Mite Formic Acid, and NewLeaf Plus Potatoes, containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Driss Benmhend	Rm. 902W37, CM #2, 703–308–9525, e-mail: benmhend.driss@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Linda Hollis	Rm. 9th fl., CM #2, 703–308–8733, e-mail: hollis.linda@epamail.epa.gov.	Do.
Diana Horne	Rm. 902, CM #2, 703–308–8367, e-mail: horne.diana@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register** Environmental Sub-Set entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

The following notices of application were published in the **Federal Register** containing active ingredients not included in any previously registered pesticide products:

1. EPA issued a notice, published the **Federal Register** of August 28, 1998 (63 FR 46016)(FRL–6024–6), which announced that Environmental Biocontrol International, 3521 Silverside Road, Suite 1-L, Wilmington, DE 19810, had submitted an application to register the pesticide product Flight Control (EPA File Symbol 69969–R) containing the active ingredient (9,10-anthraquinone at 50%.

The application was approved on December 16, 1998, as Flight Control for use to repel geese in terrestrial areas at airports, commercial, industrial, and municipal sites, dumpsites, landfills, golf courses, ornamental, and conifer nurseries (EPA Registration Number 69969–1). (Driss Benmhend)

2. EPA published a notice in the **Federal Register** of August 6, 1996 (61 FR 40840)(FRL–5389–2), announcing that Mann Lake Ltd., County Road and First St., Hackensack, MN 56452, had submitted an application to register the pesticide product Formite Formic Acid (EPA File Symbol 61671–G) containing the active ingredient formic acid at 65%.

The application was approved on January 28, 1999 following reformulation, as For-Mite Formic Acid for the control of tracheal mites and the suppression of varroa mites in honeybees (EPA Registration Number 61671–3). (Diana Horne)

3. EPA published a notice in the **Federal Register** of December 9, 1997 (62 FR 64831)(FRL–5756–3), announcing that Monsanto Company 700 14th St., NW., Suite 1100, Washington, DC 20005, had submitted an application to register the plant pesticide product Potato Leafroll Virus Replicase Protein (EPA File Symbol 524-UOI) containing the active ingredient Potato Leafroll Virus Replicase Protein and the genetic material necessary for its production at 0.03%.

The application was approved on November 18, 1998, as NewLeaf Plus Potatoes containing the active ingredient Potato Leafroll Virus Resistance Gene (also known as orf1/orf2 gene) and the genetic material necessary for its production. The name of the active ingredient was changed to more accurately reflect that part of the plant pesticide responsible for providing the product with its pesticidal properties. This pure form of the plant-pesticide, resistance gene as expressed in potato cells is for use on potatoes (EPA Registration Number 524–498). (Linda Hollis)

The Agency has considered all required data on risks associated with the proposed use of 9,10-anthraquinone, formic acid, and Potato Leafroll Virus Resistance Gene and the genetic material necessary for its production, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of 9,10-anthraquinone, formic acid, and Potato Leafroll Virus Resistance Gene and the genetic material necessary for its production when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in EPA Pesticide Fact Sheets on 9,10-anthraquinone, formic acid, and Potato Leafroll Virus Resistance Gene and the genetic material necessary for its production.

A copy of the fact sheets for each of the active ingredients, which provides a summary description of the pesticides, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved labels, the lists of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: March 9, 1999.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–7337 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–60–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50855; FRL–6069–9]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit to the following applicant. The permit is in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Rm. 241, CM #2, Arlington, VA, 703–305–6224, e-mail: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permit:

264–EUP–123. Issuance. Rhone-Poulenc AG Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. This experimental use permit allows the use of 280 pounds of the herbicide isoxaflutole [5-cyclopropyl-4-(2-methylsulfonyl-4-trifluoromethylbenzoyl) isoxazole] on 2,000 acres of field corn to evaluate the control of various weeds. The program is authorized only in the States of Alabama, Delaware, Georgia, Idaho, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Oregon, Pennsylvania, Utah, Virginia, Washington, and Wisconsin. The experimental use permit is effective from March 1, 1999 to March 1, 2000.

Persons wishing to review this experimental use permit are referred to the designated contact person. Inquires concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: March 23, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–7769 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50856; FRL–6070–8]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the designated person at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

45639–EUP–60. Extension. AgrEvo USA Company, Little Falls Centre One, 2711 Centerville Road, Wilmington, DE 19808. This experimental use permit allows the use of 3,797 pounds of the herbicide glufosinate-ammonium on 2,543 acres of canola, rice, and sugar beet to evaluate the control of weed in glufosinate-ammonium tolerant canola, rice, and sugar beet and to eliminate non-glufosinate-ammonium tolerant canola and rice in seed production. The program is authorized only in the States of Arkansas, California, Colorado, Florida, Idaho, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oregon, Texas, Washington, and Wyoming. The experimental use permit is effective from March 10, 1999 to November 30, 1999. This permit is being issued with the condition that all canola, rice, and sugar beet commodities will be destroyed, except glufosinate-ammonium tolerant canola, rice, and sugar beet seed propagated for planting. (Eugene Wilson, Rm. 235, CM #2, 703–305–6103, e-mail: wilson.eugene@epa.gov)

352–EUP–166. Issuance. E.I. du Pont de Nemours and Company, Dupont Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880–0038. This experimental use permit allows the use of 82.5 pounds of the insecticide indoxacarb on 150 acres of cotton on a crop destruct basis to evaluate the control of various insect pests. The program is authorized only in the States of Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from March 9, 1999 to March 9, 2000. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Ann Sibold, Rm. 212, CM #2, 703–305–6502, e-mail: sibold.ann@epa.gov)

Persons wishing to review these experimental use permits are referred to the designated contact person. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call

before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: March 17, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–7433 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6317–8]

Cherokee Resources Superfund Sites Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Settlement.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to settle claims for response costs under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9622(g), in a *de minimis* settlement with the following party: Textile Printing. These claims relate to removal and response actions undertaken by EPA at the Cherokee Resources Sites on Berryhill Road and Summit Avenue in Charlotte, Mecklenburg County, North Carolina. Previous notices have been given for phase one and phase two of the *de minimis* settlement. This is an addendum to the second and final phase of the *de minimis* settlement for these Sites.

EPA will consider public comments on the proposed settlement relating to this party which are received by EPA within thirty (30) days of the date of publication of this notice. EPA may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Waste Management Division, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3104, 404–562–8887.

Written comments may be submitted to Ms. Batchelor at the above address within thirty (30) days of the date of publication.

Dated: March 12, 1999.

Anita L. Davis,

Acting Chief, Program Services Branch, Waste Management Division.

[FR Doc. 99–7911 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6317–9]

Transport One Acid Spill Superfund Site; Mt. Vernon, Rockcastle County, KY; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Transport One Acid Spill Superfund Site (the "Site") located in Mt. Vernon, Rockcastle County, Kentucky with Transport One. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 526–8887.

Written comments may be submitted to Ms. Batchelor at the above address within 30 days of the date of publication.

Dated: March 16, 1999.

James L. Miller,

Acting Chief, Program Services Branch, Waste Management Division.

[FR Doc. 99–7912 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6317–7]

Sun Laboratories Superfund Site/ Atlanta, Georgia; Notice to Rescind Federal Register Notice Dated March 2, 1999

AGENCY: Environmental Protection Agency.

ACTION: Notice to Rescind Previous **Federal Register** Notice.

SUMMARY: On March 2, 1999 (64 FR 10145), the Environmental Protection Agency (EPA) published a Notice of Proposed Settlement for response costs incurred by EPA at the Sun Laboratories Site (Site) located in Atlanta, Georgia, with Nasaro Incorporated and Yoram Fishman. That notice was published prematurely. The purpose of this notice is to rescind EPA's March 2, 1999 **Federal Register** Notice regarding the settlement of response costs at the Site. The Notice of Proposed Settlement for the Site may be republished in the future following final approval of the settlement.

Dated: March 24, 1999.

Anita L. Davis,

Acting Chief, Program Services Branch, Waste Management Division.

[FR Doc. 99–7910 Filed 3–30–99; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

De La Vega Group Services, Inc., 2237 S.W. 11 Street, Miami, FL 33135, Officer: Manuel Enrique De La Vega, President.

Dated: March 26 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–7893 Filed 3–30–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for-approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 23, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire up to 13 percent of the voting shares of Michigan Community Bancorp, Limited, Sterling Heights, Michigan, and thereby indirectly acquire North Oakland Community Bank, Rochester Hills, Michigan, and Lakeside Community Bank, Sterling Heights, Michigan.

Board of Governors of the Federal Reserve System, March 25, 1999.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 99–7817 Filed 3–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 23, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Sandy Spring Bancorp, Inc., Olney, Maryland; to acquire Equitable Federal Savings Bank, Wheaton, Maryland, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 25, 1999.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 99–7818 Filed 3–30–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Data Collection Available for Public Comment and Recommendations

Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that Federal agencies provide a 60-day notice in the **Federal Register** concerning each proposed collection of information. The National Institute of Dental and Craniofacial Research (NIDCR) of the National Institutes of Health is publishing this notice to solicit public comment on a proposed revised data collection: The Impact and Costs of Sealants in Young Child Populations.

Comments are invited on: (a) The need for the information, (b) its practical utility, (c) the accuracy of the agency's burden estimate, and (d) ways to minimize burden on respondents. Send comments to Dr. Robert Selwitz, Office of Science Policy and Analysis, NIDCR, NIH, Natcher Building, Room 3AN–44J, 9000 Rockville Pike, Bethesda, MD 20892. Written comments must be received by June 1, 1999. To request a copy of the data collection plan and instrument, call Dr. Selwitaz on (301) 594-3977 (not a toll-free number).

Prposed Project

The Impact and Costs of Sealants in Young Child Populations—Revision—This study will assess the value (costs and effects) of providing dental sealants to the child populations with erupted permanent posterior teeth (approximaelty ages 6-12) under alternative financial support programs in existing oral health care delivery systems and across two socioeconomic groups. The primary objectives of the study are to determine if various levels of dental insurance influence the use of dental sealants, if costs affributable to sealants in a payment program provide value in teams of reduced caries, and if providing dental sealants to specific tooth surfaces of children merits the investment of limited resources within a larger oral health care program. The findings will provide valuable information concerning: 1. Real disease reductions possible using dental sealants for age-appropriate child populations within the existing oral health delivery system, 2. the costs of, and estimated savings from, providing sealants rather than restorative care, and 3. the marginal benefits and cost benefits of adding sealants to "normative" caries prevention efforts in age-appropriate child populations.

The number of required respondents has been reduced significantly due to the proposed modification of the approach to meeting the objectives of the study. Data gathered from approximately 400 children enrolled to date under the study's insurance coverage will be supplemented by administrative data already collected from large numbers of children who are receiving dental care through private

insurance, the Children's Health Insurance Program, and Medicaid. No contact with these children is required, and there will be no identifying information in the data obtained. The result of the proposed modification is that the respondent burden for the component of this study that involves direct contact with subjects is reduced to a small proportion of the original estimate. The burden estimates are as follows:

	No. of respondents	No. of responses per respondent	Avg/burden/ response (hours)
Parents	500	4	.125
Children	400	4	.129
Dentists	300	1	.033

Dated: March 18, 1999.

Yvonne H. du Buy,

Executive Officer, NIDCR.

[FR Doc. 99–7816 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 29, 1999.
Time: 11:00 AM to 12:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Garrett V. Keefer, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 1, 1999.
Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gopa Rakhit, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–1721.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 2, 1999.
Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gopal C. Sharma, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7816, Bethesda, MD 20892, (301) 435–1783.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ET1 (4M).
Date: April 2, 1999.
Time: 3:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 5, 1999.
Time: 11:00 AM to 1:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Sami A. Mayyasi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 5, 1999.
Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gopal C. Sharma, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7816, Bethesda, MD 20892, (301) 435–1783.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 AARR–4 (02).
Date: April 5, 1999.
Time: 2:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mohindar Poonian, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7852, Bethesda, MD 20892, (301) 435–1168, poonianm@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS5–09.
Date: April 6, 1999.
Time: 8:00 AM to 5:30 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Nancy Schinowara, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814 (301) 435–1173, shinowan@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 6, 1999.

Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Gertrude K. McFarland, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 6, 1999.
Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gopal C. Sharma, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7816, Bethesda, MD 20892, (301) 435–1783.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 AARR–3 (03).
Date: April 6, 1999.
Time: 1:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mohindar Poonian, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, (301) 435–1168, poonianm@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 6, 1999.
Time: 2:00 PM to 3:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Jay Cinque, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BM–2 03.
Date: April 7, 1999.
Time: 8:30 AM to 5:30 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: William C. Branche, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SB (2).
Date: April 7, 1999.
Time: 1:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Teresa Nesbitt, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, (301) 435–1172.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 24, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7812 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Refinement of New Assays for Direct Detection of Viral Nucleic Acids in Donated Organs.
Date: April 13, 1999.
Time: 8:30 AM to 11:30 AM.
Agenda: To review and evaluate contract proposals.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: David T. George, NIH, NHLBI, DEA, Review Branch, Rockledge Building II, Room 7188, 6701 Rockledge Drive, Bethesda, MD 20892–7924, 301/435–0288.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 23, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7813 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel The Sleep Heart Health Study.
Date: April 22, 1999.
Time: 8:00 AM to 1:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Valerie L. Prenger, Health Science Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge Center II, 6701

Rockledge Drive, Suite 7198, Bethesda, MD 20892–7924, (301) 435–0297.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 23, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7814 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, RFA ES99–002 Xenobiotics & Neurodevelopmental Abnormalities.

Date: April 22–23, 1999.

Time: April 22, 1999, 7 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Institute of Environmental Health Sciences, Building 101, Main Conference Room, South Campus, Research Triangle Park, NC 27709.

Time: April 23, 1999, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Institute of Environmental Health Sciences, Building 101, Main Conference Room, South Campus, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, P.O. Box 12233 EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: March 23, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7809 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, SBIR Phase 1 Contract Review.

Date: April 21, 1999.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Building 101 Conference Room, Research Triangle Park, NC 27709.

Contact Person: David Brown, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: March 23, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7810 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Nursing Research Special Emphasis Panel, March 4, 1999, 1:00 PM to March 4, 1999, 5:00 PM, Building 45, Room 3AN–18B, MD, 20892 which was published in the **Federal Register** on February 19, 1999, 64 FR 8393.

The meeting will be held on March 30 instead of March 4 as previously published. The meeting is closed to the public.

Dated: March 24, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–7811 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Organization, Functions, and Delegations of Authority

Part N, National Institutes of Health, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 64 FR 7205, February 12, 1999, and redesignated from Part HN as Part N at 60 FR 56605, November 9, 1995), is amended as set forth below to reflect the reorganization of the Center for Information Technology (CIT). (1) Revise CIT's functional statement. (2) In the Office of the Director, CIT, revise the functional statement for the Office of the Director (NU1, formerly HNU1); retitle the Office of Administrative Management (NU14, formerly HNU14) as the Office of the Deputy Director; establish the Office of the Chief Technology Officer (NU1–2, formerly HNU1–2) and the Office of the Deputy Chief Information Officer (NU13, formerly HNU13); and abolish the Office of Information Technology and Planning (NU18, formerly HNU18). (3) Retitle the Office of Computational Bioscience (NU2, formerly HNU2) as the Division

of Computational Bioscience and revise the functional statement. (4) Retitle the Office of Telecommunications Management (NU4, formerly HNU4) as the Division of Network Systems and Telecommunications and revise the functional statement. (5) Establish the Division of Customer Support (NU6, formerly HNU6), the Division of Computer System Services (NU7, formerly HNU7), and the Division of Enterprise and Custom Applications (NU8, formerly HNU8). (6) Abolish the Office of Computing Resources and Services (NU3, formerly HNU3) and the Office of Information Resources Management (NU5, formerly HNU5).

Section N–B, Organization and Functions, is amended as follows:

Under the heading Center for Information Technology (NU, formerly HNU), delete the organizations and functional statements in their entirety and replace with the following:

Center for Information Technology (NU, formerly HNU). (1) Provides leadership for the determination of NIH computational and telecommunications needs at all levels and oversees the development of appropriate infrastructure support to meet identified needs; (2) develops, operates, and maintains a state-of-the-art regional computer facility and provides overall guidance based on legislation and policy that is responsive to the NIH mission; (3) develops and provides NIH information technology (IT) policy to implement legislative mandates, such as those under the Clinger-Cohen Act; Presidential and other Administration initiatives; and DHHS, OMB, and other policy and administrative requirements; (4) provides leadership and focus within NIH for the development and implementation of policy and standards in the area of information technology by identifying, documenting, and communicating information technology issues, problems, and solutions to the NIH community in a comprehensive and meaningful way; (5) establishes and operates the necessary organization and infrastructure to assure appropriate security, connectivity, and inter-operability across the NIH Institutes and Centers; off-campus locations, and remote access; (6) collaborates on, and provides for, research activities in the computational biosciences and statistics; (7) develops, administers, and manages NIH systems, and provides consulting services to the ICs, in support of administrative and business applications; and (8) serves as a Federal Data Processing Center for administrative, biomedical, and statistical computing, provides data processing and high performance computing facilities and integrated telecommunications data networks, and provides services to the DHHS and other Federal agencies.

Office of the Director (NU1, formerly HNU1). (1) Plans, directs, coordinates, and evaluates the Center's programs, policies, and procedures; and (2) provides analysis and guidance in the development of systems for the effective use of IT techniques and equipment in support of NIH programs.

Office of the Chief Technology Officer (NU1–2, formerly HNU1–2). (1) Advises the Center Director on NIH computational and telecommunications needs; (2) provides analysis and guidance in the development of systems in support of NIH-wide IT initiatives; (3) evaluates new technologies to provide planning guidance for Center programs and services; and (4) coordinates IT architectural management for the NIH.

Office of the Deputy Chief Information Officer (NU13, formerly HNU13). (1) Advises the Chief Information Officer on the direction and management of significant NIH IT program and policy activities under the relevant Federal statutes, regulations and policies; (2) develops, implements, manages, and oversees NIH IT activities related to IT legislation, regulations, and NIH and other Federal policies; (3) directs NIH's IT capital planning processes with regard to major IT investments, and provides leadership to ICs in enhancing and strengthening their IT program management to ensure compliance with legislative and policy requirements; (4) serves as the principal NIH liaison to the DHHS, its OPDIVs, and other Federal agencies on IT matters; (5) identifies critical IT issues and analyzes, plans, leads, and manges NIH's implementation of special DHHS or Federal initiatives related to management of IT resources; and (6) collaborates with NIH functional managers responsible for IT-related areas, such as acquisition, automated information systems security, information collection, the Freedom of Information Act, and the Privacy Act.

Office of the Deputy Director (NU14, formerly HNU14). (1) Provides guidance and support to the Center Director on the administrative and business management aspects of the Center's programs, policies, and procedures; (2) plans and manages the administrative services for the Center; (3) coordinates development and oversight of the CIT budget; (4) advises on the management and optimal use of human resources; (5) coordinates the Center's response to NIH-wide management programs; (6) provides advice on internal information technology activities, including strategic planning, budget planning, performance measurement, capacity management, and coordination of the acquisition of information processing resources, and oversees the Center's IT programs for compliance with regulatory IT requirements; (7) plans and carries out information dissemination activities for the Center; and (8) provides contract coordination services to the Center.

Division of Computational Bioscience (NU2, formerly HNU2). (1) Coordinates and manages all Center activities related to the conduct and support of NIH research in the computational biosciences and statistics; (2) applies computing technology to research involving molecular structure determination and modeling, protein and DNA sequence analysis, and biomedical imaging; (3) conducts and supports research in mathematical theory and biophysical instrumentation to explain biological phenomena in terms of chemistry and physics; (4) conducts research and development in computer science and computational engineering; (5) promotes the application of high performance computing to biomedical research, evaluates the overall performance of these programs, and represents the Center to the Federal Program in High Performance Computing and Communication (HPCC); (6) operates the CIT High Performance Computing Platforms and supports the NIH distributed scientific workstation efforts; and (7) communicates and collaborates with researchers, both within and outside NIH, to obtain and provide information concerning the Center's ongoing and future research, and support for research.

Division of Network Systems and Telecommunications (NU4, formerly HNU14). (1) Directs the engineering, design, implementation and support of network infrastructure and services for the NIH wide area network (NIHnet) to facilitate the use of scientific, administrative, and other business applications; (2) manages and directs NIH telecommunications systems; (3) develops technical requirements for the NIH ICs and implements telecommunications programs to meet the needs of the NIH community; (4) serves as the focal point for telecommunications service orders; (5) develops and disseminates recommended standards, policies and procedures for the nationwide implementation and management of NIH networking and telecommunications systems; (6) researches, develops, and tests next-generation networking/ telecommunications technologies; (7)

develops and supports applications using new network technologies, such as telemedicine and video conferencing; (8) provides consulting, guidance and support to the ICs to meet their network requirements; (9) serves as liaison to the NIH ICs and other DHHS components on networking/telecommunications activities to improve information infrastructure; (10) develops, implements, and supports remote access services to NIHnet; (11) provides technical support for wireless services; and (12) provides 24-hour telephone/network support service.

Division of Customer Support (NU6, formerly HNU6). (1) Provides centralized, integrated computer support services to the NIH computing community; (2) advocates customer needs to CIT management and represents services and policies to the Center's customers; (3) plays an active and participatory role in support of desktop computing to the end-user, including the seamless migration of desktop technologies in the areas of software, hardware, Internet, communications, and access; (4) coordinates and oversees the CIT Training Program for the benefit of the NIH computing community; (5) manages NIH-wide HelpDesk and implements problem tracking systems; and (6) provides central account establishment and management services for access to CIT systems.

Division of Computer System Services (NU7, formerly HNU7). (1) Plans, implements, operates, and supports centrally owned or administered computing resources for NIH enterprises use, ensuring interoperability among those resources and between them and other computing facilities owned by customer organizations; (2) promotes awareness and efficient and effective use of these computing resources by customer personnel through training, presentations, consultations, and documentation; (3) investigates new and emerging computing requirements of customer programs; (4) conducts research and development to identify, evaluate, and adapt new computer architectures and technologies to meet identified customer requirements and to enhance current service offerings; and (5) where appropriate, manages and operates departmental computing resources for IC, Office, or Center use.

Division of Enterprise and Custom Applications (NU8, formerly HNU8). (1) Supports the NIH enterprise business process through the development and management of both transaction and decision-support environments for administrative and business applications of the NIH, such as procurement, budget, accounting and human resource activities; (2) provides systems analysis, programming and application services to the NIH ICs and other Federal agencies; (3) provides databases administration and management services to the NIH; (4) provides World Wide Web development and support services to the NIH community; and (5) provides consulting services to the NIH ICs for applications development.

Delegations of Authority Statement: All delegations and redelegations of authority to offices and employees of NIH which were in effect immediately prior to the effective date of this reorganization and are consistent with this reorganization shall continue in effect, pending further redelegation.

Dated: March 17, 1999.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 99–7815 Filed 3–30–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4415–N–02]

Notice of Funding Availability for Mainstream Housing Opportunities for Persons With Disabilities (Mainstream Program) Fiscal Year 1999: Extension of Application Deadline

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA): extension of application deadline.

SUMMARY: On March 8, 1999, HUD published a NOFA that announced Fiscal Year 1999 funding of approximately $48.5 million in five-year budget authority for approximately 1,600 rental vouchers to enable persons with disabilities (elderly and non-elderly) to rent affordable private housing. The March 8, 1999 NOFA set an application deadline of May 7, 1999. This notice extends the deadline to June 30, 1999.

APPLICATION DUE DATE: June 30, 1999.

ADDITIONAL INFORMATION: The application deadline for submission is being extended because of changes made this year from previous NOFAs for the Mainstream program. New for Fiscal Year 1999 is HUD's opening of the Mainstream Program to the receipt of applications from non-profit disability organizations that provide services to disabled families. Also new is HUD's encouragement to PHAs and non-profit disability organizations to view each other as a possible contract administrator, or to be otherwise involved in the administration of the Section 8 vouchers that either party might receive under this NOFA.

If you are interested in applying for funding under the Mainstream Program, please read the NOFA published on March 8, 1999, at 64 FR 11301, which will provide you with detailed information regarding the submission of an application, Section 8 program requirements, the application selection process to be used by HUD in selecting applications for funding, and other valuable information relative to a PHA's or non-profit disability organization's application submission and participation in the Mainstream Program.

FOR FURTHER INFORMATION CONTACT: George C. Hendrickson, Housing Program Specialist, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Room 4216, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–1872, ext. 4064. (The number listed above is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339 (this is a toll-free number).

Dated: March 24, 1999.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–7824 Filed 3–30–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability (NOA) of a Final Environmental Impact Statement on the Proposed Expansion of the Big Muddy National Fish and Wildlife Refuge in Missouri

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that a Final Environmental Impact Statement on the Proposed Expansion of the Big Muddy National Fish and Wildlife Refuge in Missouri will be available for public review beginning March 30, 1999. Comments and suggestions are invited.

DATES: Comments may be submitted until May 3, 1999, and will be considered during preparation of the Record of Decision.

ADDRESSES: Comments should be addressed to: Ms. Judy McClendon, U.S. Fish and Wildlife Service, 24385 State Highway 51, Puxico, Missouri 63960. Telephone: Toll-free 800/686–8339; or 573/222–6001. Individuals with speech or hearing impairments may call the Missouri Relay Services at 800/735–2966 (TTY). Fax: 573/222–6150. E-Mail: R3planning@fws.gov or judy__mcclendon@fws.mail.gov

FOR FURTHER INFORMATION CONTACT: Judy McClendon at the address, phone number, or E-Mail above. Individuals wishing copies of this Environmental Impact Statement (EIS) for review should immediately contact the above individual. Copies of the EIS or Summary have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

SUPPLEMENTARY INFORMATION: Ms. Judy McClendon, Wildlife Biologist, is the primary author of this document. The Fish and Wildlife Service (Service), Department of the Interior, has prepared a final EIS on the proposal to expand the Big Muddy National Fish and Wildlife Refuge in Missouri from its currently authorized 16,628 acres to a total of 60,000 acres.

The Big Muddy National Fish and Wildlife Refuge expansion would be accomplished by acquiring from willing sellers an additional 43,372 acres along the 20-county Missouri River floodplain from Kansas City, Missouri, to St. Louis, Missouri, and the lower 10 miles of major tributaries. Acquisition could include methods such as fee title purchase, easements or agreements with landowners, partnerships, or donations. Selection criteria, such as willing sellers, presence of remnant floodplain ecosystems, and potential ecosystem restoration capabilities, will be used to determine specific sites for acquisition. Management goals of the Big Muddy project are to restore acquired acreage to a natural floodplain condition which could include restoring bottomland forests, improve and restore wetland values, improve fishery and wildlife resources, and provide additional public use areas for fish and wildlife dependent recreation.

This action is designed to preserve and restore the natural river floodplain ecosystem, allow for management of viable and diverse fish and wildlife habitats, and provide for compatible fish and wildlife dependent recreation.

The major alternatives under consideration that were analyzed and evaluated during planning are: (A) No Action. The Big Muddy National Fish and Wildlife Refuge would not be expanded beyond the currently authorized 16,628 acres. This acreage figure amounts to 2.7 percent of the 800,000 acre floodplain in this reach of the Missouri River and is insufficient to protect the health of the Missouri River floodplain ecosystem; (B) Expand the Big Muddy National Fish and Wildlife Refuge to 60,000 acres by acquisition of 43,372 acres dispersed along the Missouri River corridor from its confluence with the Kansas River, near Kansas City, to its confluence with the Mississippi River, near St. Louis, Missouri. Expansion under Alternative B (Preferred) would allow approximately 8 percent of riverine habitat losses of the Missouri River and its floodplain from Kansas City to St. Louis, Missouri to be restored. This amount of floodplain ecosystem preservation, along with a combined 30,000 acres to be acquired by the U.S. Army Corps of Engineers and the Missouri Department of Conservation, will equal about 12 percent of the subject floodplain. Natural resource managers in the Midwest recommend preserving 10 to 20 percent of the floodplain.

Three other alternatives were considered but not analyzed. They include: (C) seek permanent protection of fish, wildlife, and habitats through cooperative agreements with landowners and other agencies with no acquisition of lands; (D) encourage private land programs to preserve or restore fish, wildlife, and their habitats without further acquisition; and (E) acquire the entire Missouri River floodplain from Kansas City to St. Louis, Missouri, about 800,000 acres.

Alternatives, C, D, And E were rejected because they did not have the capacity to address the Service's mandated responsibilities, did not provide permanent resource protection and restoration opportunities, failed to meet the purpose and need for which the Big Muddy National Fish and Wildlife Refuge was established, or were considered to be impractical and cost-prohibitive.

Other governmental agencies and members of the general public contributed to the planning and evaluation of the proposal and to the preparation of the EIS. The Notice of Intent to prepare the EIS was published in the **Federal Register** on November 28, 1995. Public open house meetings to receive comments on the Draft EIS were held in five locations in November 1997; a 90-day public comment period began in November 1997, and closed February 17, 1998. Over 500 comments were received and considered during preparation of the Final EIS. The Service gave presentations to county officials, conservation groups, other interested parties and the media, and informed the public through intermittent distribution of the *Big Muddy Update*. The Service's mailing list has over 1,800 names.

All comments received by May 3, 1999, will be considered in preparation of the Record of Decision for this proposed action.

Dated: March 22, 1999.

William F. Hartwig,

Regional Director.

[FR Doc. 99–7870 Filed 3–30–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Biological Resources Division; Request for Public Comments on Information Collection To Be Submitted to OMB for Review Under the Paperwork Reduction Act

A request extending the information collection described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive., Reston, Virginia, 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureaus, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Frogwatch USA.

Current OMB Approval Number: 1028–0072.

Summary: The collection of information referred to herein applies to a World-Wide Web site that permits individuals to submit records of the number of calling amphibians at wetlands. The Web site is termed Frogwatch USA. Information will be used by scientists and federal, state, and local agencies to identify wetlands showing significant declines in populations of amphibians.

Estimated Annual Number of Respondents: 500.

Estimated Annual Burden Hours: 3,625 hours.

Affected Public: Primarily U.S. residents.

For Further Information Contact: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313, or see the website at www.mp2–pwrc.usgs.gov/frogwatch/.

Dated: March 23, 1999.

Susan Haseltine,

Assistant Chief Biologist for Science.

[FR Doc. 99–7795 Filed 3–30–99; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reinstatement.

SUMMARY: This notice announces that the Bureau of Indian Affairs (BIA) has submitted the information collection request, OMB No. 1076–0017, for reinstatement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On June 5, 1998, the BIA published a Notice in the **Federal Register** (63 FR 30771) requesting comments on Application for Assistance/Services under the Financial Assistance and Social Services Program, the information collection proposed for reinstatement. One public comment was received during the 60-day comment period. The respondent recommended that the application form be divided into two separate forms, enlarging the print, and that Self-Governance Tribes be provided flexibility to develop their own forms. In response to the suggestions, the BIA stated that prior to 1992, there were two separate application forms. Based on the recommendations of a majority of tribes for brevity and ease of application, the forms were combined. The print is small because of the volume of information requested, but has been determined readable by users and caseworkers alike. Therefore, one comment was not sufficient to change the format. In response to the recommendation that the Self-Governance Tribes not be required to use the form, the BIA agrees that there is no statutory requirement for the Self-Governance Tribes to use the form. However, if the Tribes choose a different form, comparable data should be collected so that the information can be used for reporting and budget preparation purposes.

DATES: OMB is required to respond to this request within 60 days after publication of this notice in the **Federal Register**, but may respond after 30 days; therefore, your comments should be submitted to OMB by April 30, 1999 to assure maximum consideration.

ADDRESSES: Your comments and suggestions on the requirements should be made directly to the Attention: Desk Officer for the Department of the Interior, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street, NW, Washington, DC 20503. Please provide a copy to Mr. Larry Blair, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street NW, MS–4603-MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Copies of the collection of information may be obtained by contacting Larry Blair, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street NW, MS–4603–MIB, Washington, D.C. 20240. Telephone: (202) 208–2479.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is in compliance with 25 CFR Part 20. The information is used to determine eligibility for services and funding of welfare assistance funds which includes general assistance, child welfare assistance, and miscellaneous assistance. In addition, the BIA uses this data to measure program performance and for gathering data to prepare the annual program budget justification.

II. Request for Comments

We specifically request your comments be submitted to OMB as directed in the addresses section. Please send a copy to the BIA. Comments should be submitted within 30 days concerning the following:

1. Is the collection of information necessary for the proper performance of the functions of the BIA; does the information have practical utility;
2. Is BIA's estimate of the burden of the information collection accurate; are the methodology and assumptions used valid;
3. Can the quality, utility and clarity of the information collected be improved, and,
4. Can the burden of the information collection be minimized for those who are to respond; is the use of appropriate automated electronic, mechanical or other forms of information technology considered.

III. Data

Title of the Collection of Information: Department of the Interior, Bureau of Indian Affairs, Application for Financial Assistance and Social Services Program.

OMB Number: 1076–0017.

Affected Entities: Members of Indian tribes and their members who are living on a reservation or near-reservation.

Frequency of Response: Annual.

Estimated Number of Annual Responses: 200,000 applicants.

Estimated Time per Application: 15 minutes.

Estimated Total Annual Burden Hours: 50,000 hours.

Dated: March 25, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–7854 Filed 3–30–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–670–1430–00; CACA–40068]

Notice of Realty Action; Leasing of Public Lands for Compromise Settlement of Litigation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer a 20-year lease on a parcel of public land located in sections 10 and 15 of T. 17 S., R. 7 E., San Bernardino Meridian. This non-competitive lease is being offered as part of a court stipulation and order for compromise settlement of long standing litigation. The land has been examined and found suitable for leasing under the provision of Section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976, and 43 CFR Part 2920.

FOR FURTHER INFORMATION CONTACT: Lynda Kastoll, Realty Specialist, El Centro Field Office, 1661 South 4th Street, El Centro, CA 92243, (760) 337–4421.

SUPPLEMENTARY INFORMATION: The lease is intended to authorize existing improvements. The lease granted under this provision would be assignable and renewable in the same manner as other Part 2920 leases, subject to BLM approval, and other relevant provisions of Part 2920. No new development or surface disturbing activities except maintenance of improvements now in place shall be allowed without prior written approval from the BLM authorized officer. The subject of the lease is a narrow strip of land approximately 24 feet wide and 1,386 feet long, containing .76 acre, generally described as follows:

T. 17 S., R. 7 E., San Bernardino Meridian
Sec. 10, SW¼SW¼SW¼;
Sec. 15, NW¼NW¼NW¼NW¼;

as shown on the dependent resurvey of February 23, 1990.

Dated: March 24, 1999.

Elayn Briggs,

Acting Field Manager.

[FR Doc. 99–7875 Filed 3–30–99; 8:45 am]

BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–A (Review) and 731–TA–157 (Review)]

Carbon Steel Wire Rod From Argentina

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the suspended countervailing duty investigation and the antidumping duty order on carbon steel wire rod from Argentina.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether termination of the suspended countervailing duty investigation or revocation of the antidumping duty order on carbon steel wire rod from Argentina would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: March 23, 1999.

FOR FURTHER INFORMATION CONTACT: Sioban Maguire (202–708–4721), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1999, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (64 FR 8120, February 18, 1999). A record of the Commissioners' votes and the Commission's statement on adequacy are available from the Office of the Secretary and at the Commission's web site.

Participation in the Reviews and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the reviews will be placed in the nonpublic record on July 14, 1999, and a public version will be issued thereafter, pursuant to § 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on August 3, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 26, 1999. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 29, 1999, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing .

Written Submissions

Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.65 of the Commission's rules; the deadline for filing is July 23, 1999. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.67 of the Commission's rules. The deadline for filing posthearing briefs is August 12, 1999; witness testimony must be filed

no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before August 12, 1999. On September 24, 1999, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before September 29, 1999, but such final comments must not contain new factual information and must otherwise comply with § 207.68 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section § 207.62 of the Commission's rules.

Issued: March 26, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7877 Filed 3–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–388]

Simplification of the Harmonized Tariff Schedule of the United States

AGENCY: United States International Trade Commission.

ACTION: Release of proposed schedule for public comment.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2592), or staff members listed below. The O/TA&TA fax number is 202–205–2616. Mr. Rosengarden may also be reached via Internet e-mail at *rosengarden@usitc.gov*. Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on 202–205–1810. Media representatives should contact Margaret O'Laughlin, Public Affairs Officer (202–205–1819). This notice, and any subsequent notices published pursuant to section 332(g) of the Tariff Act of 1930, may be obtained from the ITC Internet web server: *http://www.usitc.gov*.

SUPPLEMENTARY INFORMATION: On November 5, 1997, the Commission instituted investigation No. 332–388, Simplification of the Harmonized Tariff Schedule of the United States (HTS); subsequently, on February 25, 1998, the Commission issued a revised schedule for the subject investigation. That revised schedule calls for the publication of draft HTS chapters for public comment on April 1, 1999, with the deadline for public comments being June 30, 1999.

The request letter directed the Commission to work to alleviate compliance and administrative burdens; to utilize concession duty-rate levels scheduled to be effective on January 1, 2004; to suggest simplification of the nomenclature structure without proposing duty-rate changes having a significant effect on U.S. industry and trade; to suggest appropriate ways to reflect column 2 (statutory) duty rates; to convert specific, compound and complex rates of duty to their ad valorem equivalents, where possible, using data for the three most recent calendar years; and to propose appropriate simplification of statistical reporting categories. However, for this initial draft, trade data for 1997 only have been used for such conversions; slight adjustments in the proposed rates should be expected when the complete data are employed.

Due to the length of the draft schedule and cross-reference table, they are being made available over the Internet only, and the electronic files in PDF format have been placed on the Commission's web site for inspection and/or downloading. A printed copy of the draft schedule has been placed in the Secretary's docket section, and a second copy is available in O/TA&TA. Questions may be directed to the following staff members:

General comments: Eugene A. Rosengarden, Director (202–205–2595) Office of Tariff Affairs and Trade Agreements

General legal notes: Janis L. Summers, Attorney-adviser (202–205–2605)

Chapters 1–24: Ronald H. Heller, Nomenclature Analyst (202–205–2596)

Chapters 25–26: Lawrence A. DiRicco, Nomenclature Analyst (202–205–2606)

Chapters 27–40: Frederick Schottman, Nomenclature Analyst (202–205–2077)

Chapters 41–49: Ronald H. Heller (202–205–2596)

Chapters 50–63: Janis L. Summers (202–205–2605)

Chapters 64–83: Lawrence A. DiRicco (202–205–2606)

Chapters 84–85: Craig M. Houser, Nomenclature Analyst (202–205–2597)

Chapters 86–89: Lawrence A. DiRicco (202–205–2606)

Chapters 90–91: Craig M. Houser (202–205–2597)

Chapters 92–97: Lawrence A. DiRicco (202–205–2606)

Statistical reporting: Gil Whitson (202–205–2602)

WRITTEN SUBMISSIONS: Interested persons or entities are invited to submit written statements on the draft simplified HTS. Written statements should be submitted as quickly as possible, and follow-up statements are permitted; but all statements must be received at the Commission by the close of business on June 30, 1999, in order to be considered and made part of the record. The Commission notes that it is particularly interested in receiving input from the private sector regarding the proposed treatment of particular goods, as well as general comments about the changes suggested by the draft simplified HTS. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

Issued: March 26, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7878 Filed 3–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–224 (Review)]

Live Swine From Canada

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the countervailing duty order on live swine from Canada.

SUMMARY: The Commission [1] hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty order on live swine from Canada would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: March 23, 1999.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On March 5, 1999, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (64 FR 12352, March 12, 1999). A record of the Commissioners' votes and the Commission's statement on adequacy are available from the Office of the Secretary and at the Commission's web site.

Participation in the Review and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the review will be placed in the nonpublic record on August 26, 1999, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on September 16, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 8, 1999. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 13, 1999, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.65 of the Commission's rules; the deadline for filing is September 2, 1999. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.67 of the Commission's rules. The deadline for filing posthearing briefs is October 5, 1999; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before October 5, 1999. On October 29, 1999, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 2, 1999, but such final comments must not contain new factual information and must otherwise comply with § 207.68 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a

[1] Commissioner Crawford is not participating in this review.

certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

Issued: March 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–7876 Filed 3–30–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Division; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of information collection under review: number of full-time law enforcement employees as of October 31.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until June 1, 1999.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Greg Scarbro (phone number and address listed below). Additional information as well as copies of the proposed information collection instrument with instructions are available by contacting Greg Scarbro, Unit Chief, telephone 304–625–4830, FBI, CJIS Division, Statistical Unit, E–3, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Overview of this information collection:

(1) Type of information collection: Reinstatement, without change, or a previously approved collection for which approval has expired.

(2) The title of the form/collection: Number of Full-Time Law Enforcement Employees as of October 31.

(3) The agency form number, if any, and applicable component of the department sponsoring the collection. Form 1–711a/1–711b/1–711c. Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. This collection is needed to collect information to determine the number of Civilian and sworn full-time law enforcement employees throughout the United States. Data are tabulated and published in the annual *Crime in the United States.*

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply: 17,667 agencies with 17,667 responses (including zero reports); and with an average of 8 minutes a year per responding agency devoted to compilation of data for this information collection.

(6) An estimate of the total public burden (in hours) associated with this collection: 2,356 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: March 26, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–7850 Filed 3–30–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Division; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of information collection under review: law enforcement officers killed and assaulted (LEOKA).

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until June 1, 1999.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Greg Scarbro (phone number and address listed below). Additional information as well as copies of the proposed information collection instrument with instructions are available by contacting Greg Scarbro, Unit Chief, telephone 304–625–4830, FBI, CJIS Division, Statistical Unit, E–3, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Overview of this information collection:

(1) Type of information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: Law Enforcement Officers Killed and Assaulted (LEOKA).

(3) The agency form number, if any, and applicable component of the department sponsoring the collection. Form: 1–705. Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. This collection is needed to provide data regarding Law Enforcement Offices Killed and Assaulted throughout the United States. Data is tabulated and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted.*

(5) The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(6) An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply: 17,667 agencies with 212,004 estimated annual responses (includes zero reports); and with an average completion time of 7 minutes a month per responding agency.

(7) An estimate of the total public burden (in hours) associated with this collection: 24,734 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: March 26, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–7851 Filed 3–30–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Division; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of information collection under review: Monthly return of arson offenses known to law enforcement.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until June 1, 1999.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Greg Scarbro (phone number and address listed below). Additional information as well as copies of the proposed information collection instrument with instructions are available by contacting Greg Scarbro, Unit Chief, telephone 304–625–4830, FBI, CJIS Division, Statistical Unit, E–3, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Overview of this information collection:

(1) Type of information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: Monthly Return of Arson Offenses Known to Law Enforcement.

(3) The agency form number, if any, and applicable component of the department sponsoring the collection. Form: 1–725. Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. This collection is needed to collect information on arson offenses committed throughout the United States. Data is tabulated and published in the annual *Crime in the United States.*

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply: 17,667 agencies with 212,004 estimated annual responses (includes zero reports); and with an average completion time of 9 minutes a month per report.

(6) An estimate of the total public burden (in hours) associated with this collection: 31,801 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: March 6, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–7852 Filed 3–30–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Division; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of information collection under review: Analysis of law enforcement officers killed and assaulted.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until June 1, 1999.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper information performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology,

e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Greg Scarbro (phone number and address listed below). Additional information as well as copies of the proposed information collection instrument with instructions are available by contacting Greg Scarbro, Unit Chief, telephone 304–625–4830, FBI, CJIS Division, Statistical Unit, E–3, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Overview of this information collection:

(1) Type of information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: Analysis of Law Enforcement Officers Killed and Assaulted.

(3) The agency form number, if any, and applicable component of the department sponsoring the collection. Form: 1–728. Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. Collection will be printed in English and Spanish. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Date is analyzed, tabulated, and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted*.

(5) The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity*.

(6) An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply: 17,667 agencies with 570 estimated annual responses (zero reports are not required); and with an average of 1 hour per report per responding agency.

(7) An estimate of the total public burden (in hours) associated with this collection: 570 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: March 26, 1999.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 99–7853 Filed 3–30–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Application for Transmission of Citizenship Through a Grandparent.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 6, 1999 at 64 FR 911, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 30, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

Type of Information Collection: Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Application of Transmission of Citizenship Through a Grandparent.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600/N–643, Adjudication Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The collection of this information is required by Section 322 of the Immigration and Nationality Technical Corrects Act of 1994 which allows for a United States citizen parent to use the citizen grandparents residence for transmission of citizenship onto his or her natural or adopted child.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 9,641 responses at 30 minutes (.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,820 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center,

1001 G Street, NW, Washington, DC 20530.

Dated: March 23, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–7796 Filed 3–30–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (Reinstatement, with change, of a previously approved collection for which approval has expired); Census of Jails, Form CJ–3, CJ–3 Addendum, CJ–3A, CJ–3B.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on January 22, 1999, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until April 30, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Extension of previously approved collection.

(2) *The title of the form/collection:* 1999 Census of Jails (CJ–3, CJ–3 Addendum, CJ–3A, CJ–3B).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal, state, local, and tribal governments; multi-jurisdictional jail facilities; private jail facilities.

The Census of Jails is the foundation for all national statistics on local jails and inmates. Whether the statistics are based on data reported by jail administrators from official records or on data reported by jail inmates in personal interviews, the census provides the frame from which to generalize to the nation and to track changes over time. Without a periodic census, sample surveys would be unreliable, and statistics would be based on a group of jails of unknown representativeness, that were simply convenient to contact and willing to respond. Previous censuses were conducted in 1970, 1972, 1978, 1983, 1988, and 1993. The censuses include all locally administered confinement facilities that hold inmates beyond arraignment and are staffed by municipal or county employees. The censuses also include jails operated under contract for local governments (17 in 1993). Reporting units are typically jurisdictions (regional, county, parish, or municipal jails), which may contain one or more jail facilities (sites with separate administrators, staff, and budgets). Data are provided by a reporter in each jurisdiction, usually a jail administrator or county sheriff. 42 U.S.C. 3732 et seq. authorizes the Bureau of Justice Statistics, U.S. Department of Justice to collect this information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that approximately 3,558 respondents will take an average of 1 hour to complete the census.

(6) *An estimate of the public burden (in hours) associated with the collection:* The total hour burden to complete the census is 3,289 public burden hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: March 26, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 99–7849 Filed 3–30–99; 8:45 am]

BILLING CODE 4410–18–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 30—Rules of General Applicability to Domestic Licensing of Byproduct Material.

2. Current OMB Approval Number: 3150–0017.

3. How often the collection is required: Required reports are collected

and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications are submitted every 10 years. Information submitted in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.

4. Who is required or asked to report: All persons applying for or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

5. The number of annual respondents: 5,529 NRC licensees and 16,000 Agreement State licensees.

6. The number of hours needed annually to complete the requirement or request: 46,937 hours for the NRC licensees (19,364 reporting + 27,573 recordkeeping) and 111,753 hours for the Agreement State licensees (38,344 reporting + 73,409 recordkeeping).

7. Abstract: 10 CFR Part 30 establishes requirements that are applicable to all persons in the United States governing domestic licensing of radioactive byproduct material. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination whether the possession, use, and transfer of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety.

Submit, by June 1, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/NEWS/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 25th day of March 1999.

For the U.S. Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–7841 Filed 3–30–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Medical Child Support Working Group

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), notice is given of the second meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998. The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments.

DATES: The meeting of the MCSWG will be held on Tuesday, April 13, 1999, from 11 a.m. to approximately 5:00 p.m.

ADDRESSES: The meeting will be held in Room N–3437, Conference Room A/B/C, at the offices of the U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC. All interested parties are invited to attend this public meeting. Seating may be limited and will be available on a first-come, first-serve basis. Persons needing special assistance, such as sign language interpretation or other special accommodation, should contact the Executive Director of the Medical Child Support Working Group, Office of Child Support Enforcement at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–6953; fax (202) 401–5559; e-mail: sweinstein@acf.dhhs.gov). These are not toll-free numbers. The date, location and time for subsequent MCSWG meetings will be announced in advance in the **Federal Register.**

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) (FACA), notice is given of a meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998 (Pub.L. 105–200).

The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. This report will include: (1) Recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677); (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program; (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's health plan, and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for services not covered under a child's existing health coverage; (5) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the

Social Security Act; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

The membership of the MCSWG was jointly appointed by the Secretaries of DOL and DHHS, and includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses and their trade and industry representatives and certified human resource and payroll professionals; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9) organizations representing State child support programs.

Agenda: The agenda for this meeting includes a discussion of the form and content of the National Medical Support Notice (Notice) mandated by section 401(b) of the Child Support Performance and Incentive Act. The Notice is to be jointly developed and promulgated by the Secretaries of DHHS and DOL as a means of enforcing the health care coverage provisions in a child support order. As time permits, the MCSWG may discuss the other items to be included in its report to the Secretaries as listed above.

Public Participation: Members of the public wishing to present oral statements to the MCSWG should forward their requests to Samara Weinstein, MCSWG Executive Director, as soon as possible and at least four days before the meeting. Such request should be made by telephone, fax machine, or mail, as shown above. Time permitting, the Chairs of the MCSWG will attempt to accommodate all such requests by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to five minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for distribution to the MCSWG membership and inclusion in the public record without presenting oral statements. Such written statements should be sent to the MCSWG Executive Director, as shown above, by mail or fax at least five business days before the meeting.

Minutes of all public meetings and other documents made available to the MCSWG will be available for public inspection and copying at both the DOL and DHHS. At DOL, these documents will be available at the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW, Washington, DC from 8:30 a.m. to 5:30 p.m. Questions regarding the availability of documents from DOL should be directed to Ms. Ellen Goodwin, Plan Benefits Security Division, Office of the Solicitor, Department of Labor (telephone (202) 219–4600, ext. 119). This is not a toll-free number. Any written comments on the minutes should be directed to Ms. Samara Weinstein, Executive Director of the Working Group, as shown above.

Signed at Washington, DC, this 25th day of March, 1999.

Leslie Kramerich,

Deputy Assistant Secretary for Policy, Pension and Welfare Benefits Administration.

[FR Doc. 99–7832 Filed 3–30–99; 8:45 am]

BILLING CODE 4510–29–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26994]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 25, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 19, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 19, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System (70–9441) Notice of Proposal To Amend Trust Agreement To Allow Proposed Merger and To Give Shareholders Certain Appraisal Rights; Order Authorizing Solicitation of Proxies

New England Electric System ("NEES"), a registered holding company, located at 25 Research Drive, Westborough, Massachusetts 01582, has filed a declaration under sections 6(a)(2), 7 and 12(e) of the Public Utility Holding Company Act of 1935, as amended ("Act"), and rules 62 and 65 under the Act.

NEES has entered into an Agreement and Plan of Merger, dated as of December 11, 1998 ("Merger Agreement") with The National Grid Group plc, a public limited company incorporated under the laws of England and Wales ("National Grid") and NGG Holdings LLC ("NGG Holdings"), a Massachusetts limited liability subsidiary of National Grid. On the closing date specified in the Merger Agreement, NGG Holdings intends to merge with and into NEES ("Merger"). NEES would be the surviving entity and a wholly owned subsidiary of National Grid. On December 14, 1998, NEES and National Grid publicly announced the proposed merger.[1]

NEES proposes to amend its Agreement and Declaration of Trust ("Trust Agreement") and to solicit proxies from its common shareholders for the purpose of obtaining required shareholder approvals related to the Merger. Specifically, NEES will seek shareholder approval of the Merger and of an amendment to the Trust Agreement ("Amendment")[2] The

[1] On February 1, 1999, NEES announced that it had entered into an agreement to merge with Eastern Utility Associates ("EUA"), under which NEES will acquire all outstanding shares of EUA for $31 per share subject to an upward adjustment. The NEES Agreement and Declaration of Trust does not require that NEES shareholders approve this type of merger and the merger between NEES and National Grid is not conditioned on the closing of the merger between NEES and EUA. However, the proxy statement for the approval of the NEES/National Grid merger will include a description of the proposed NEES/EUA merger.

[2] The Trust Agreement, which predates the Massachusetts statute permitting a Massachusetts limited liability company to merge with a Massachusetts business trust, currently does not give shareholders the ability to vote to merge with limited liability companies.

Amendment would allow a Massachusetts limited liability company, like NGG Holdings, to be merged into NEES, which is a Massachusetts business trust, upon consent of a majority of the shares outstanding and a two-thirds vote of the NEES board of directors. In addition, the Amendment would allow share holdings not consenting to a merger with a limited liability company to be given the same appraisal rights as stockholders of a Massachusetts business corporation. The Amendment, which would be effected regardless of whether the Merger is consummated, must be approved by an affirmative vote of a majority of the outstanding shares and by a two-thirds vote of the NEES board of directors.

The Merger must also be approved by an affirmative vote of a majority of the outstanding shares. The Merger is subject to a number of conditions, including the approval of the Commission under the Act and other regulatory approvals. NEES and National Grid will file an application-declaration with the Commission requesting authority to consummate the Merger and related transactions during the first quarter of 1999.

NEES requests that an order authorizing the solicitation of proxies be issued as soon as practicable under rule 62(d). It appears to the Commission that NEES' declaration regarding the proposed solicitation of proxies should be permitted to become effective immediately.

It is ordered, under rule 62 under the Act, that the declaration regarding the proposed solicitation of proxies can become effective immediately, subject to the terms and conditions contained in rule 24 under the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7839 Filed 3–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41200; File No. SR–BSE–99–3]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Limitations on Trading During Significant Market Moves

March 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 22, 1999, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend its market volatility rules to correspond with recent changes implemented by the New York Stock Exchange ("NYSE").

The text of the proposed rule change is below. Proposed new language is italicized and proposed deletions are in brackets.

* * * * *

CHAPTER II

Dealings on the Exchange

Limitations on Trading During Significant Market Moves

[Sec. 34B. On any day when the DJIA has advanced by 50 points or more from its closing value on the previous trading day, all index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index [2] must be entered with the instruction "buy minus". If, on that day, the DJIA subsequently reaches a value that is 25 points or less above the closing value on the previous trading day, this requirement shall not apply. This principal shall govern the imposition and removal of the buy minus requirement as to all subsequent movements in the DJIA on that day. On any day when the DJIA has declined by 50 points or more from its closing value on the previous trading day, all index arbitrage orders to sell must be entered with the instruction "sell plus". If, on that day, the DJIA subsequently reaches a value that is 25 points or less below the closing value on the previous, this requirement shall not apply. This principle shall govern the imposition and removal of the sell plus requirement as to all subsequent movements in the DJIA on that day. All orders containing the instruction buy minus or sell plus shall be executed as provided in Chapter I, Section 3.

[2] "Standard & Poor's 500 Stock Price Index" is a service mark of Standards & Poor's Corporation.]

[Supplemental Material

.01 "Index arbitrage" means an arbitrage trading strategy involving the purchase or sale of a group of stocks in conjunction with the purchase or sale, or intended purchase or sale, of one or more cash-settled options or futures contracts on index stock groups or options on any such futures contracts (collectively, "derivative index products") in an attempt to profit by the price difference between the group of stocks and the derivative index products. While the purchase or sale of the stocks must be in conjunction with the purchase or sale of the derivative index products, the transactions need not be executed contemporaneously to be considered index arbitrage.]

Sec. 34B. (a) All index arbitrage orders to sell any component stock of the S&P 500 Stock Price Index [2] must be entered with the instruction "sell plus" on any trading day when the Dow Jones Industrial Average declines below its closing value on the previous trading day by at least the "two-percent value" as calculated below. This index arbitrage order entry requirement shall remain in effect for the remainder of the trading day. However, the index arbitrage order entry requirement pursuant to this paragraph (a) shall be removed if the DJIA subsequently reaches a value below its closing value on the previous trading day that is a decline equal to the "one-percent value" or less as calculated below.

(b) All index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index must be entered with the instruction "buy minus" on any trading day with the DJIA advances above its closing value on the previous trading day by at least the "two-percent value" as calculated below. This index arbitrage order entry requirement shall remain in effect for the remainder of the trading day. however, the index arbitrage order entry requirement pursuant to this paragraph (b) shall be removed if the DJIA subsequently reaches a value above its closing value on the previous trading day that is an advance equal to the "one-percent value" or less as calculated below.

(c) The principles in paragraphs (a) and (b) shall govern the imposition and removal of the index arbitrage order requirements as to all subsequent movements in the DJIA on that day.

Supplementary material:

.10 The "two-percent value" shall be calculated at the beginning of each calendar quarter and shall be two-percent (2.0%), rounded down to the nearest ten points, of the average closing value of the DJIA for the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[2] "Standard & Poor's 500 Stock Price Index" is a service mark of Standards & Poor's Corporation.]

last month of the previous quarter. The "one-percent value" shall be one-half, rounded down to the nearest ten points, of the "two-percent value."

.20 The index arbitrage order entry restrictions shall not apply to index arbitrage market-at-the-close orders in liquidation of previously established stock positions against derivative index products entered on the last business day prior to the expiration or settlement of such derivative index products. Such orders shall be entered pursuant to each procedures as the Exchange may from time to time prescribe.

.30 All orders containing the instruction "buy minus" or "sell plus" shall be executed as provided in Chapter I, Section 3.

.40 Definitions. (a) For purpose of this Rule, "index arbitrage" means a trading strategy in which pricing is based on discrepancies between a "basket" or group of stocks and the derivative index product (i.e., a basis trade) involving the purchase or sale of a "basket" or group of stocks in conjunction with the purchase of sale, or intended purchase or sale, of one or more derivative index products in an attempt to profit by the price difference between the "basket" or group of stocks and the derivative index products. While the purchase of sale of the stocks must be in conjunction with the purchase or sale of derivative index products, the transactions need not be executed contemporaneously to be considered index arbitrage. The term "derivative index products" refers to cash-settled options or futures contracts on index stock groups, and options on any such futures contracts.

(b) "Program trading means either (A) index arbitrage or (B) any trading strategy involving the related purchase or sale of a "basket" or group of 15 or more stocks having a total market value of $1 million or more. Program trading includes the purchases or sales of stocks that are part of a coordinated trading strategy, even if the purchases or sales are neither entered or executed contemporaneously, nor part of a trading strategy involving options or futures contracts on an index stock group, or options on any such futures contracts, or otherwise relating to a stock market index.

(c) "Account on an individual investor" means an account covered by Section 11(a)(1)(E) of the Securities Exchange Act of 1934.

Stop Order Bans

Sec. 35(a). Whenever the primary market for a stock admitted to dealings on the Boston Stock Exchange institutes a stop and stop limit order ban, the Exchange will also ban such orders in the stock until such time as the ban in the primary market is lifted.

[(b) Whenever the New York Stock Exchange (NYSE) institutes a stop and stop limit order ban pursuant to NYSE Rule 80A, the BASE will also ban stop and stop limit orders for the remainder of the trading day, except that a member or member organization may enter a stop or stop limit order of 2,099 shares or less for the account of an individual investor pursuant to instructions received directly from the individual investor.

(i) An "account of the individual investor" means an account covered by Section 11(a)(1)(E) of the Securities Exchange Act of 1934.]

Supplementary Material:

Stop Order Ban Procedures

[.01. Whenever the New York Stock Exchange ("NYSE") implements a stop order ban pursuant to NYSE Rule 80A, the Boston Stock Exchange ("BSE") will also ban such orders as follows:

(i) Upon notice from the NYSE by announcement over the "hoot and holler system" that all new stop and stop limit orders in all stocks are banned for the remainder of the day (except for orders up to 2099 shares for the account of an individual investor), the BSE will announce to its floor and BEACON subscribers that a stop order ban in all stocks is in effect for the remainder of the day, except for orders up to 2099 shares for the accounts of individual investors.

(ii) The entry of stop and stop limit orders (other than orders up to 2099 shares for the accounts of individual investors) will be banned on the BSE for the remainder of the day. Any stop or stop limit orders received in the BEACON system will be rejected and the message "stop not accepted—ban in effect" will be sent back to the entering firm.

(iii) Any stop and stop limit orders residing on the specialists' books at the time the ban goes into effect will remain eligible for execution.]

[.02] *.01.* Whenever the primary market implements a stop order ban in an individual stock due to an unusually large accumulation of stop and stop limit orders, the BSE will also ban such orders as follows:

(i) Upon notice from the primary market by indication over the consolidated tape that stop and stop limit orders are banned in an individual stock, the Boston Stock Exchange will announce to its floor and BEACON subscribers that a stop order ban is in effect in the individual stock.

(ii) The entry of stop and stop limit orders will be banned until such time as the ban is lifted in the primary market and that information is disseminated on the consolidated tape. Any orders received in the BEACON system will be rejected and the message "stop not accepted—ban in effect" will be sent back to the entering firm.

(iii) Any stop and stop limit orders residing on the specialist's book at the time the ban goes into effect will be canceled by the Exchange. The cancellation message "U R Out" will be sent back to the entering firm.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend two BSE rules that limit certain types of trading during significant market moves.

Chapter II, Section 34B of the BSE's rules states that on any day where the Dow Jones Industrial Average ("DJIA") advances by more than 50 points from its closing value on the previous trading day, all index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index must be entered with the instruction "buy minus." Declines of 50 points from the previous trading day's closing value require that all index arbitrage orders to sell be entered with the instruction "sell plus." The stabilizing requirements associated with that 50 point "collar" are removed if the DJIA moves back to or within 25 points of the previous day's close. Until recently, the NYSE similarly restricted index arbitrage using a 50 point collar.

Chapter II, Section 35(b) and Supplementary Material .01 of the BSE's rules states that whenever the NYSE implements a stop order ban pursuant to NYSE Rule 80A, the BSE will also ban stop and stop limit orders for the remainder of the day, except for orders of 2099 shares or less for the account of an individual investor pursuant to instructions from that investor. Until recently, NYSE Rule 80A contained "sidecar" provisions that would be triggered if the primary S&P 500 futures contract declined by 12 points from the previous close. When a market decline triggered those sidecar procedures, the NYSE would divert program trading orders to a separate file for five minutes and would restrict the entry of stop orders or stop limit orders.

The Commission recently approved a proposed NYSE rule change that widened the 50 point collars and eliminated the sidecar provisions.[3] In lieu of the 50 point collars methodology for advances or declines, collars will now be based on a percentage of the average closing value of the DJIA. In particular, the collars would be imposed when the DJIA declines or advances from the prior day's close by an amount equal to two percent (rounded down to the nearest ten points) of the average

[3] Securities Exchange Act Release No. 41041 (February 11, 1999), 64 FR 8424 (February 19, 1999).

closing value. The collars would be removed when the DJIA comes back or retreats to a value which represents a decline or advance from the prior day's close by an amount equal to one half of the "two percent value" (rounded down to the nearest ten points). The proposed collars are to be calculated quarterly based on the average closing value of the DJIA for the last month of the previous calendar quarter.

The BSE proposed to modify Section 34B to reflect the NYSE rule change, by replacing the 50 point collar with a level based on two percent of the DJIA. When the DJIA declines by the "collar value," all index arbitrage orders to sell any component stock of the S&P 500 must be marked "sell plus" for the remainder of the day. If the DJIA advances by the "collar value," all index arbitrage orders to buy any component stock of the S&P 500 must be marked "buy minus" for the remainder of the trading day.

In addition, the BSE is proposing to delete the stop and stop limit order restrictions found in Section 35(b) and Supplementary Material .01, in response to the NYSE's elimination of the sidecar provisions of NYSE Rule 80A.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general,[4] and furthers the objectives of Section 6(b)(5) in particular,[5] in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission has concluded, for the reasons set forth below, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. Both BSE rules in question—the 50 point collar provision of Chapter II, Section 34B, and the "sidecar" stop and stop limit order restrictions of Chapter II, Section 35(b) and Supplementary Material .01—are substantially similar to recently changed NYSE rules. Modifying the BSE rules to conform to the counterpart NYSE rules will eliminate a needless disparity between the practices of the two exchanges. Moreover, the Commission noted in its order approving the proposed NYSE rule changes that the sidecar provisions appeared unnecessary and that eliminating them was in the public interest. The Commission also noted that widening the collar provisions represented an improvement over the earlier trading restrictions, and the Commission recommended that the NYSE periodically evaluate the continuing need for those restrictions on index arbitrage. The Commission believes that the same principles apply to the BSE.

The BSE has requested that the Commission grant accelerated approval of the proposed rule change to correspond with the NYSE's recent rule changes. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing in the **Federal Register**. The Commission has already approved an equivalent rule change for the NYSE after careful analysis of public comments. Moreover, maintaining the existing trading restrictions on the BSE, even after they have been relaxed on the NYSE, may affect broker-dealer order routing decisions in a way that is contrary to the competitive intent behind the National Market System.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–98–3 and should be submitted by April 21, 1999.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act[6] that the proposed rule change (SR–BSE–99–3) is hereby approved on an accelerated basis.[7]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7807 Filed 3–30–99; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41208; File No. SR–NASD–98–69]

Self-Regulatory Organizations; Order Approving Rule Change by the National Association of Securities Dealers, Inc. Relating to Trade Reporting

March 24, 1999.

I. Introduction

On August 10, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the trade reporting rules of the NASD to extend to market makers an exception to the reporting of riskless transactions in Nasdaq National Market, Nasdaq Smallcap, Nasdaq convertible debt, and non-Nasdaq OTC equity securities. The proposed rule change was published for comment in the **Federal Register** on September 4, 1998.[3] This order approves the proposal.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 40832 (August 28, 1998), 63 FR 47337.

II. Description of the Proposal

The rules for reporting trades in Nasdaq securities have long existed in their current form. The rules were broadly designed to capture all trading activity by broker-dealers, both dealer to dealer trades and traders with customers. These rules, and the trade reports that result, serve several important purposes. They form the basis for public dissemination of last sale transaction prices to the tape, thus providing transparency of the Nasdaq market. They are also an integral part of the audit trail used by the NASD in its regulatory efforts to surveil and regulate firms' activities. Given the historical structure of the dealer markets and the needs to provide a comprehensive view of all trading. NASD trade reporting rules currently require the reporting of all principal trades by market makers.

Non-market makers, however, generally do not report all principal trades under current rules, to the extent the trades are defined as "riskless"—that is, they involve a trade with another member, usually a market maker, that is used to offset a trade with a customer. Even though the non-market maker firm is involved in two separate trades against its principal account, it reports one transaction to the NASD.

In light of the growth and evolution of the structure of the Nasdaq market, and in particular the recent implementation of the SEC Order Handling Rules,[4] the NASD is proposing to extend this riskless principal exception to market makers as well. Thus, certain matching principal trades involving a market maker would be explicitly included within the riskless definition, and reported to the public tape only once.

For example, under the SEC Order Handling Rules, market makers now display certain customer limit orders in their public quotes.[5] Those orders are often filled by the market maker when that quote is accessed by another market participant.[6] Because market makers generally trade exclusively from a principal account, they engage in two separate principal trades: one with the other market participant, and then another directly with the customer. Both of these trades are reported by market makers under current rules. In effect, however, these two trades can be viewed as one event—the execution of a customer order upon the execution of an offsetting transaction obtained by the market maker. Under the proposed rule change, these two trades would be reported only once.

A riskless principal trade can also be viewed as one that involves two orders, the execution of one being dependent upon the receipt or execution of the other. For example, the execution of an institutional customer order may be dependent upon finding the other side, in whole or in part. To the extent that any of the order is offset with another principal execution, that portion would be deemed riskless and should be reported only once.

The effect of the proposed rule change can be illustrated in the following examples. A market maker (MMI) holds a customer limit order that is displayed in its quote to buy 1000 shares of ABCD at $10. MM2 sells 1000 shares to MMI at $10. MM2 reports the sale of 1000 shares, as required under current rules.[7] MM1 then fills its customer order for 1000 shares at the same price, exclusive of any mark-up or commission. Under the proposal, the first trade would continue to be reported (by the selling firm MM2 in this case, as required under current rules), but the second leg between MM1 and the customer would not be reported again, as it is deemed riskless. If the first execution were through a Nasdaq facility that automatically generates a trade report to the trade, such as SOES or SelectNet, no member would report at all. Of course, members may still need to submit a "clearing only" entry into ACT to complete the transaction with the customer, but these submissions are not reporting purposes. Thus, there will be no public trade report for the second leg of the transaction.

In another example, an institutional customer presents a large order to a market maker (MM1) to sell 100,000 shares of XYZZ, with instructions to work the order, subject to a price limit. The market maker may attempt to solicit interest from other parties to fill the institutional order, in whole or in part. The market maker may find a willing buyer, but for only 75,000 shares, at a price of $12 per share. The market maker may determine to fill the entire customer order for 100,000 shares at $12 per share at that time (exclusive of any markdown, commission equivalent, or other fee), by trading the 25,000 share balance out of inventory. Here, there will still be two separate trade reports under the proposal because only a portion of the customer execution is deemed riskless. The size of the trade reports, however, will be adjusted to exclude the riskless portion. Specifically, instead of MM1 reporting these as a market maker sell transaction of 75,000 shares and then a market maker buy from the customer for 100,000 shares, these trades would be reported under the proposal as a market maker sell transaction of 75,000 shares and then a market maker buy from the customer of only 25,000 shares.[8]

In another variation of the previous example, MM1, while holding the institutional customer order and working it on their behalf, may obtain several executions to satisfy the order by selling to other market participants at varying prices throughout the trading day. In this example, assume that the entire order is filled with these individual executions. Because MM1 is the seller in these executions, it has the trade reporting responsibility and will continue to report under current rules each individual component trade with other market participants as they occur. Under the proposal, however, MM1 would not report the transaction with the customer, as the executions used to satisfy the order already have been reported to the tape. The transactions, however, may be confirmed to the customer at an average price of the component executions, to the extent permissible under Rule 10b–10 of the Act.[9]

In addition, the NASD is clarifying the riskless principal trade reporting provision to ensure its consistent application to any order received by a member, regardless of the person or entity that it was received from. Specifically, while the current rule refers to orders received from a "customer," the proposed rule simply refers to "an order." Thus, a transaction is considered riskless regardless of

---

[4] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

[5] 17 CFR 240.11Ac1–4(b).

[6] In fact, NASD Rule IM–2110–2 (Limit Order Protection Rule) requires market makers to execute customer limit orders (regardless of whether the customer is theirs or that of another member) when trading as principal at prices that would satisfy the customer's limit order. *See* NASD Rule IM–2110–2; and Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

[7] *See, e.g.*, NASD Rule 4632(b), which requires the selling market maker to report in a transaction between two market makers.

[8] It should be noted that in this particular example, the market maker with the order is responsible for reporting both legs of the transaction. If the customer were *buying* stock in the same example, and the market maker first buys 75,000 shares from another market maker, the 75,000 share trade would be reported by the selling market maker under current NASD rules (*i.e.*, seller reports in a trade between two market makers). The market maker with the customer order would still report the 25,000 share trade.

[9] *See, e.g.*, SEC no-action letter from Catherine McGuire, SEC, to Eugene Lopez, the Nasdaq Stock Market, dated May 6, 1997 (permitting the issuance of a single confirmation at any average price and with multiple capacities for a single customer order effected with multiple executions).

whether the market maker is holding an order from a customer, another member, the customer of another member, or any other entity, including non-member broker-dealers. Furthermore, the text of the rule is being amended to more clearly provide that such trades are reported exclusive of any mark-up, mark-down, commission, or other fee.

III. Discussion

The Commission finds that the proposed rule change is consistent with Section 15A of the Act [10] and the rules and regulations thereunder. In particular, the Commission believes that the proposal is consistent with the Section 15A(b)(6) [11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[12]

The Commission agrees with the NASD that, for reporting purposes, it is appropriate to treat riskless principal trades as one trade. As the NASD noted, with the implementation of the SEC Order Handling rules, which generally require that a broker-dealer publish its customer's limit orders,[13] the number of riskless principal transactions executed by NASD member firms has increased. Reducing the number of transactions required to be reported should result in a corresponding reduction in transaction fees.

Moreover, current NASD rules for reporting principal transactions allow members that are not acting as market makers to report a riskless principal transaction as one transaction. In the past, the Commission has been concerned that a market maker making a continuous two-sided market might have difficulty identifying when a riskless principal transaction was effected. Accordingly, the principal trade reporting rule required members effecting riskless principal trades as a market maker to report both sides of the trade in an effort to avoid the possibility that compliance problems and interpretive difficulties would arise. Due to advances in the NASD's technology, however, the Commission believes that it is now appropriate for the NASD to allow a member acting as market maker to report riskless principal transactions as one transaction. The NASD has recently begun implementing its Order Audit Trail System [14] ("OATS"), which, among other things, requires market makers to record and report certain information with respect to each order, including the origin of the order (*i.e.*, in-house, customer, or another member). The implementation of OATS should assist the NASD in determining whether a trade is properly reported as a riskless principal transaction. For these reasons, the Commission believes that extending the riskless principal exception for trade reporting to market makers so that they can report certain matching principal trades only one is reasonable and consistent with the Act.[15]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2§ of the Act,[16] that the proposed rule change (SR–NASD–98–59) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7805 Filed 3–30–99; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78o–3.

[11] U.S.C. 78o–3(b)(6).

[12] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 240.11Ac1–4(b).

[14] OATS will be implemented in several phases. At this time, OATS reporting requirements have only been implemented for electronic orders received by ECNs and market makers in the securities in which they make a market. *See* Securities Exchange Act Release No. 39729 (March 6, 1998), 63 FR 12559 (March 13, 1998) (order approving File No. SR–NASD–97–56).

[15] The Commission notes that a riskless principal transaction is defined as a transaction where a member, after having received an order to buy a security, purchases the security as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the security as principal at the same price to satisfy the order to sell, excluding the mark-up or mark-down, commission-equivalent, or other fee. The Commission expects that the NASD will issue an interpretation giving examples of how mark-ups and other fees will be excluded for purposes of determining whether a trade is at the same price.

[16] 15 U.S.C. 78s(b)(2).

[17] For the Commission, he

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41206; File No. SR–PCX–99–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Matters Subject to Arbitration

March 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on February 3, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to change PCX Rule 12.1 to allow for claims related to employment, including sexual harassment, or any discrimination claim in violation of a statute, to be eligible for submission to arbitration only where all parties have agreed to arbitration after the claim has arisen. The text in brackets will be deleted, and the text in italics will be added. The text of the proposed rule change is as follows:

* * * * *

Matters Subject to Arbitration

Rule 12.1(a) No change.

(b) Any claim which is related to employment, including any sexual harassment or any discrimination claim in violation of a statute, will be eligible for submission to arbitration under this Rule only where all parties have agreed to arbitrate the claim after it has arisen.

[(b)]*(c)* Any dispute, claim or controversy between a customer or non-member and a member, member organization and/or associated person arising in connection with the securities business of such member, member organization and/or associated person shall be arbitrated under this Rule as provided by any duly executed and enforceable written document, or upon the request of the customer or non-member.

[(c) Any dispute, claim or controversy between a member and an employee of such member which is related to such employment shall, at the request of any such party, be submitted for arbitration in accordance with this Rule.]

(d)–(g) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

Background. The Exchange's Constitution, Article XII, states that "[a] dispute, claim or controversy arising in connection with the securities business of a member, member organization and/or associated person may be submitted to arbitration pursuant to the Rules of the Exchange." PCX Rule 12.1(a) restates the language of the Constitution, and further provides for arbitration of employment related claims in PCX Rule 12.1(c), by stating "[a]ny dispute, claim or controversy between a member and an employee of such member which is related to such employment shall, at the request of any such party, be submitted for arbitration in accordance with this Rule." The Exchange has long construed the term "employee' for purposes of PCX Rule 12.1(c) to mean registered representatives or other persons who are required to file a Form U–4 (Uniform Application for Securities Registration or Transfer) as a condition of employment with a member firm of the Exchange. The Form U–4 requires registered persons to submit to arbitration any claim that is required to be arbitrated under the rules of the self-regulatory organization with which they are registered.

Until the 1990's, PCX Rule 12.1(c) was generally used for the resolution of claims alleging breach of contract, compensation issues or wrongful discharge. However, in 1991 the United States Supreme Court held in *Gilmer* v. *Interstate/Johnson Lane Corp.*,[3] that pursuant to the language of the Form U–4 and New York Stock Exchange ("NYSE") Rule 347, a registered representative's Age Discrimination in Employment Act ("ADEA") claim was subject to compulsory arbitration.[4] NYSE Rule 347 specifically provides for the arbitration of "employment or termination of employment" matters. PCX Rule 12.1(c) likewise provides for the arbitration of matters "related to such employment." The ruling of the Court in *Gilmer*, which referred to the rules of the NYSE, can thus be applied to arbitration cases as administered by the Exchange, since both NYSE Rule 347 and PCX Rule 12.1(c) specifically require the arbitration of "employment" matters.[5]

In 1994, several years after the decision in *Gilmer*, the General Accounting Office ("GAO") released the findings of a two-year study on the results of employment discrimination disputes in the securities industry as administered by the various self-regulation organizations.[6] While the GAO did not address the adequacy of arbitration as a means of resolving employment discrimination disputes, it made several recommendations for improving the self-regulatory organization arbitration process as it related to employment discrimination claims. For example, the GAO recommended implementing a method of tracking employment discrimination claims, establishing formal standards for selecting arbitrator panels, or criteria for excluding arbitrators from the pool.[7]

In July 1997, the Equal Employment Opportunity Commission ("EEOC") issued a policy statement that mandatory pre-dispute agreements to arbitrate statutory discrimination claims are inconsistent with the purpose of federal civil rights laws.[8] The EEOC stated in its policy statement that "[t]he use of unilaterally imposed agreements mandating binding arbitration of employment discrimination disputes as a condition of employment harms both the individual civil rights claimant and the public interest in eradicating discrimination."[9] The EEOC further stated that "the use of these agreements is not limited to particular industries, but can be found in various sectors of the workforce, including, for example, the securities industry, retail, restaurant and hotel chains, health care, broadcasting, and security services.[10]

In October 1997, the NASD submitted a proposal to the Commission regarding the arbitration of statutory employment discrimination claims.[11] The NASD proposed to remove the requirement that registered representatives arbitrate statutory employment discrimination claims and to allow an employee to file such a claim in court unless he was obligated to arbitrate pursuant to a separate agreement between the parties, entered into before or after the dispute arose.[12] The proposal was approved June 22, 1998.

In September 1998, the NYSE filed a rule proposal regarding employment discrimination claims.[13] The NYSE filing was approved by the Commission on December 29, 1998.[14] In its rule filing, the NYSE proposed to create an exception to the rule requiring the arbitration of all employment-related claims of registered representatives. The NYSE proposed that "any claim alleging employment discrimination, including any sexual harassment claim, in violation of a statute shall be eligible for arbitration only where the parties have agreed to arbitrate the claim *after* it has arisen" (emphasis added).[15] Further, in conformity with the EEOC policy statement, the NYSE limited its forum to claims where the parties had agreed to arbitrate only after the dispute arose, thus providing additional safeguards to the employee that the self-regulatory organization arbitration process is entered into knowing by and voluntarily by the employee.[16]

Relevant Caselaw. In 1998, two federal courts supported the EEOC's position that mandatory pre-dispute agreements to arbitrate statutory discrimination claims are inconsistent with the purpose of federal civil rights laws. Prior to these decisions, federal courts had consistently upheld the arbitration of employment discrimination claims pursuant to the Form U–4.

First, in January 1998, in *Rosenberg* v. *Merrill Lynch*, 995 F. Supp. 190 (D.

---

[3] 500 U.S.C. 20 (1991).

[4] *Id.*

[5] Distinguish *Farrand* v. *Lutheran Bhd.*, 993 F.2d 1253 (7th Cir. 1993), where the court concluded that the then existing National Association of Securities Dealers, Inc. ("NASD") arbitration rules did not require "employment" disputes to be arbitrated, since the language of the rule only referred to "disputes arising out of or in connection with business transactions."

[6] Employment Discrimination: How Registered Representatives Fare in Discrimination Disputes, (GAO/HEHS–94–17, March 30, 1994).

[7] *Id.* at 11.

[8] Equal Employment Opportunity Commission Notice No. 915.002, July 10, 1997, ("Policy Statement on Mandatory Biding Arbitration of Employment Discrimination Disputes as a Condition of Employment").

[9] *Id.* at 22.

[10] *Id.* at 1.

[11] *See* Exchange Act Release No. 39421 (December 10, 1997), 62 FR 66164 (December 17, 1997) and Exchange Act Release No. 40109 (June 22, 1998), 63 FR 35299 (June 29, 1998).

[12] *Id.*

[13] *See* Exchange Act Release No. 40858 (December 29, 1998), 64 FR 1051 (January 7, 1999).

[14] *Id.*

[15] *Id.* at 1052, footnote 13. The NYSE qualified the "in violation of statute" language (as did the NASD) to include all federal, state and local anti-discrimination statutes.

[16] In December 1997, Gilbert F. Casellas, Chairman of the EEOC, wrote a comment letter to Jonathan G. Katz, Secretary of the SEC, regarding the pending NASD rule proposal. The EEOC reiterated its position "that *pre*-dispute arbitration agreements, particularly those that mandate binding arbitration of discrimination claims as a condition of employment, are contrary to the fundamental principles reflected in this nation's employment discrimination laws." The EEOC therefore recommended "that the proposed rule be revised to permit arbitration of statutory employment discrimination claims only under *post*-dispute arbitration agreements.

Mass. 1998), a Massachusetts district court, declined to compel arbitration of the Plaintiff's Title VII and ADEA claims pursuant to an agreement to arbitrate contained in a Form U–4 the plaintiff was required to sign as a condition of employment.[17]

On appeal, the United States Court of Appeals for the First Circuit found that the motion to compel arbitration was properly denied, but for reasons other than those stipulated to by the district court.[18] On a *de novo* review of the legal issues, the court found that what was at issue was whether the parties' arbitration agreement met the standard set forth in the 1991 CRA amendment to Title VII for enforcing arbitration clauses "where appropriate and to the extent authorized by law."[19] The court held that the standard was not met because "[a]t a minimum the words 'to the extent authorized by law' must mean that arbitration agreements that are unenforceable under the Federal Arbitration Act ("FAA") are also unenforceable when applied to claims under Title VII and the ADEA."[20] The court states that "[u]sing the 'to the extent authorized by law' standard of the 1991 CRA, we are doubtful that there was an enforceable contract."[21] Under common law contract principles and referring to general state common-law principles, the court further stated that it was "doubtful that there was an agreement to arbitrate Title VII and ADEA claims."[22] Finally, with regard to this issue, the court stated that the arbitration agreement was incomplete in that it failed to define the range of claims subject to arbitration.[23] Specifically, the court found that the agreement only referred to arbitration of claims that were required by NYSE rules, but that these rules were neither provided to the plaintiff nor explained to her.[24]

In the recent California case of *Craft* v. *Campbell Soup Co.*,[25] the U.S. Circuit Court of Appeals for the 9th Circuit considered the issue of whether the FAA broadly excludes arbitration agreements within contracts of employment. The Court held that prior cases and legislative history indicate that the FAA's arbitration clause was solely intended to bind merchants who were involved in commercial dealings and contracts involving interstate commerce and is thus inapplicable to labor and employment contract.[26]

In May 1998, the United States Court of Appeals for the 9th Circuit held, contrary to *Rosenberg*, that the 1991 CRA amendments to Title VII provide for the right to a jury trial in discrimination claims and that, in adopting them, "Congress intended to preclude compulsory arbitration of Title VII claims."[27] The Court also noted that following the 1991 CRA, the courts have held that claimants who do not "knowingly" agree to arbitrate Title VII claims cannot be required to submit to arbitration.[28] The Court held that employers could not compel employees to waive their right to a judicial forum under Title VII and, therefore, the plaintiff could not be compelled to arbitrate here statutory discrimination claims pursuant to a Form U–4 that she signed as a condition of employment.[29] Specifically, the Court held that under the Civil Rights Act of 1991, employers may not compel individuals to waive their right to bring future Title VII claims to court.[30]

Proposal. The Exchange is proposing an amendment to PCX Rule 12 to provide that "any claim which is related to employment, including any sexual harassment or discrimination claim in violation of a statute, will be eligible for submission to arbitration * * * only where all parties have agreed to arbitrate the claim after it has arisen." The new language excepts all employment related claims from arbitration at the Exchange, and specifically addresses claims alleging discrimination in violation of a statute, unless the parties have agreed to proceed with arbitration at the Exchange after the dispute has arisen.

By proposing these rule amendments, the Exchange is in conformity with the EEOC's "Policy Statement on Mandatory Binding Arbitration of Employment Discrimination Disputes as a Condition of Employment,"[31] and also goes further by proposing to except all employment claims from arbitration, unless the parties agree to arbitrate after the dispute has arisen.

The extension of the exception to all employment related claims will avoid the bifurcation of a single employment dispute. By requiring post-dispute agreement regarding whether any employment claim will be arbitrated, the parties can determine together whether the entire case should proceed through arbitration or the courts. Avoiding bifurcation will ultimately provide efficiency in the dispute resolution process, and save the parties significant time and money.

The majority of the Exchange's caseload arises from claims between customers or nonmembers and members or member organizations, pursuant to any written agreement to arbitrate or upon the demand of the customer or non-member.[32] Employment-related cases make up a very small percentage of the total caseload of the Exchange.[33] For example, from 1996 through 1998, of the total 174 cases filed, only 10 were employment-related cases alleging wrongful termination, breach of contract or other compensation issues. Only one of the 10 employment-related cases filed during those years alleged statutory discrimination.

The Exchange also proposes to delete Rule 12.1(c) so that the new proposed language and the existing language are not in conflict.

Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[34] in general, because it furthers the objectives of Section 6(b)(5) of the Act[35] in particular, in that it promotes just and equitable principles of trade by ensuring that members, member organizations and the public have a fair and impartial forum for the resolution of their disputes.

---

[17] *Rosenberg* v. *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 995 F. Supp. 190 (D. Mass. 1998); *Rosenberg* v. *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 976 F. Supp. 84 (D. Mass. 1997); *Rosenberg* v. *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 965 F. Supp. 190 (D. Mass. 1997).

[18] Upon review, the court stated that application of pre-dispute arbitration agreements to federal claims arising under Title VII and the ADEA are not precluded by the 1991 Civil Rights Act ("1991 CRA") amendments to Title VII or by the Older Workers Benefit Protection Act ("OWBPA") amendments to the ADEA, and that there is no "structural bias in the NYSE arbitration arbitral forum. *Rosenberg* v. *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 1998 LEXIS 32522, 4–5 (1st Cir.).

[19] *Id.* at 54.

[20] *Id.* at 55.

[21] *Id.* at 56.

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] 161 F.3d 1199 (9th Cir. 1998).

[26] 161 F.3d 1199; 1202–1203 (9th Cir. 1998).

[27] *Duffield* v. *Robertson, Stephens & Co.*, 144 F.3d 1182, 1199 (9th Cir. 1998), *cert. denied*, 67 U.S.L.W. 3113, 67 U.S.L.W. 3177 (U.S., Nov. 9, 1998)(Nos. 98–237–98–409).

[28] *Id.* at 1189.

[29] *Id.* at 1202–03.

[30] *Id.* at 1189.

[31] EEOC Notice No. 915.002, July 10, 1997.

[32] PCX Rule 12.1(b) provides: "Any dispute, claim or controversy between a customer or non-member and a member, member organization and/or associated person arising in connection with the securities business of such member, member organization and/or associated person shall be arbitrated under this Rule as provided by any duly executed and enforceable written document, or upon the request of the customer or non-member."

[33] Employment-related claims historically account for 2% or less of claims filed annually with the Exchange. Discrimination claims account for less than 1% of claims field annually.

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–99–02 and should be submitted by April 21, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[36]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7806 filed 3–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41201; File No. SR–PHLX–99–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Mandatory Trading Floor Training Requirements

March 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new Phlx Rule 625, Options Trading Floor Training. The proposed rule requires that all equity option and index option floor members and their respective personnel complete mandatory training related to that employee's function on the trading floor. The Exchange is also proposing to adopt new Option Floor Procedure Advice, F–30, Options Trading Floor Training and an accompanying fine schedule, such that a minor rule plan citation could be issued.[3] The text of the proposed new rule and new Option Floor Procedure Advice is as follows in italics:

Equity Option and Index Option Only

F–30—Options Trading Floor Training

All new equity option and index option floor members, whether specialists, floor brokers or Registered Options Traders, and their respective personnel, shall successfully complete mandatory training related to that employee's function on the trading floor. All current members and their respective personnel shall be subject to continuing mandatory training requirements in order to instruct these individuals on changes in existing automated systems or any new technology that is utilized by the Exchange.

Failure to attend the scheduled mandatory training described above may result in the issuance of a fine in accordance with the fine schedule below.

Fine Schedule (Implemented on a three year running calendar basis).

F–30

1st Occurrence: $250.00
2nd Occurrence: $350.00
3rd Occurrence: $500.00
4th Occurrence: Sanction is discretionary with Business Conduct Committee

Rule 625—Options Trading Floor Training

All new equity option and index option floor members, whether specialists, floor brokers or Registered Options Traders, and their respective personnel, shall successfully complete mandatory training related to that employee's function on the trading floor. All current members and their respective personnel shall be subject to continuing mandatory training requirements in order to instruct these individuals on changes in existing automated systems or any new technology that is utilized by the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule is to require all new option floor members, whether specialists, floor brokers, or

---

[36] 17 CFR 200.30–3(a)(12.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Phlx's minor rule violation enforcement and reporting plan ("Minor Rule Plan"), codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules. Rule 19d–1(c)(2) of the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d–1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

Registered Options Traders ("ROTs"), and their respective personnel, to attend mandatory training related to that employee's function on the trading floor. In addition, all current equity option and index option floor members and their respective personnel shall be subject to continuing training requirements. Currently, the Exchange believes that continued training requirements are necessary in order to instruct these individuals on changes in existing automated systems or new technology that is utilized by the Exchange. In this way, the proposed rule change will ensure that all members are familiar with any new technology or changes in existing technology.

Technology advances are ever-changing. In order to benefit users and remain competitive, the Exchange believes that it is imperative to continue to implement technology improvements and system enhancements. Moreover, these improvements and enhancements often provide for more efficient and quicker dissemination of information to the markets, thereby allowing investors to receive information on a more timely basis. Furthermore, technology improvements and system enhancements generally reduce the risk of clerical error. Therefore, mandated training will ensure that Exchange members and their respective personnel are proficient in using the new technology and will promote a more efficient trading environment.

Additionally, the training requirement would be incorporated as a Floor Procedure Advice, such that a minor rule plan citation could be issued.[4] Using the minor rule plan will enable the Exchange to quickly sanction members for non-compliance.[5] For example, if the staff discovers that an Exchange member has not participated in mandatory or continuing training requirements, a fine could be issued immediately. The issuance of a fine could alleviate situations where failure to participate in mandatory training is a recurring problem, because violations by a member organization would result in escalating fines, and, eventually, possible disciplinary action by the Exchange's Business Conduct Committee ("BCC"). For failure to attend an Exchange mandated training class, the Exchange proposes a fine of $250 for a first offense, $350 for a second offense, and $500 for a third offense. The sanction is discretionary with the BCC for a fourth offense. The Exchange believes that this type of violation is appropriate for the minor rule plan because it is objective and, thus violations are readily subject to verification.

For these reasons, the Exchange believes that the proposal to require attendance at training sessions is consistent with Section 6 of the Act,[6] in general, and with Section 6(b)(5),[7] in particular, in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade. Specifically, the Exchange believes that the proposal should promote a more efficient trading environment by (i) educating personnel regarding the use of improved technology and system enhancements; (ii) providing for quicker dissemination of information because the Exchange can train personnel as soon as changes are made; and (iii) lessen the risk of clerical errors. Moreover, mandatory training for equity option and index option floor members and their respective personnel is consistent with the provisions of Section 6(c)(3)(B) of the Act,[8] which makes it the responsibility of an exchange to prescribe standards of training, experience, and competence of persons associated with self-regulatory organization members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–99–06 and should be submitted by April 21, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Phlx's proposed rule change and believes, for the reasons set forth below, that the Phlx proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that, consistent with Section 6(b)(5) of the Act,[9] requiring members and those associated with members to attend continuing education classes on the operation of new technology will both promote just and equitable principles of trade and benefit investors. The proposed rule change will ensure that equity option and index option floor members, and their respective personnel, are trained on an ongoing basis to competently perform their duties using the latest technology employed by the Exchange. In this regard, the Exchange's efforts are consistent with the Securities Industry Continuing Education Program, which seeks to promote the protection of investors through periodic training of securities professionals.

Moreover, the Commission finds that mandating continuing education training for members and persons associated with members is consistent with the provisions of Section 6(c)(3)(B) of the Act,[10] which makes it the responsibility of an exchange to prescribe standards of training,

[4] The Phlx is also proposing to amend its minor rule plan to include the new advice.

[5] In a telephone conversation on March 19, 1999 between Cynthia Hoekstra, Counsel, Phlx, and Joseph Morra, Attorney, Division of Market Regulation, Commission, the Exchange explained the concept of a three-year running calendar basis as used in the Fine Schedule. The Exchange will impose sanctions on a three-year running cycle, by which a violation of the training requirements which occurs within three years of the first violation of the training requirements will be treated as a second occurrence, and any subsequent violation within three years of the previous violation of the training requirements will be subject to the next highest sanction specified in the Fine Schedule.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(c)(3)(B).

[9] 15 U.S.C. 78f(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

[10] 15 U.S.C. 78f(c)(3)(B).

experience, and competence for persons associated with self-regulatory organization members.

The Commission therefore finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.[11]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–99–06), be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority[13].

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–7808 Filed 3–30–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed during the week ending March 19, 1999.

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–5241.
Date Filed: March 15, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 Europe-South Asian Subcontinent dated March 12, 1999
Europe-South Asian Subcontinent Expedited Resolutions r1–r3
Intended effective date: April 15, 1999.

Docket Number: OST–99–5388.
Date Filed: March 18, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 EUR–AFR 0072 dated 26 February 1999 r1–r17.
PTC2 EUR–AFR 0073 dated 26 February 1999 r18–r36
PTC2 EUR–AFR 0074 dated 26 February 1999 r37–r54
PTC2 EUR–AFR 0075 dated 26 February 1999 r55–r67
PTC2 EUR–AFR 0076 dated 26 February 1999 r68–r79
PTC2 EUR–AFR 0071 dated 26 February 1999 r80–r86
TC2 Europe-Africa Resolutions r1–r86 Minutes
PTC2 EUR–AFR 0066 dated 19 February 1999. Tables
PTC2 EUR–AFR Fares 0042 dated 2 March 1999.
PTC2 EUR–AFR Fares 0043 dated 2 March 1999.
PTC2 EUR–AFR Fares 0044 dated 2 March 1999.
PTC2 EUR–AFR Fares 0045 dated 2 March 1999.
PTC2 EUR–AFR Fares 0046 dated 2 March 1999.
Intended effective date: 1 May 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–7896 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending March 19, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–5288.
Date Filed: March 16, 1999.
Due Date for Answers, Conforming Applications, or Motions To Modify Scope: April 13, 1999.
Description: Application of Ozark Air Lines, Inc. pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for a certificate of public convenience and necessity to engage in interstate scheduled and charter air transportation of persons, property and mail between Columbia, Missouri, Chicago, Illinois and Dallas Texas.

Docket Number: OST–99–5385.
Date Filed: March 18, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: April 15, 1999.
Description: Application of Britannia Airways AB pursuant to 49 U.S.C. Sections 41301 *et seq.* and Subpart Q, applies for a foreign air carrier permit authorizing it to engage in charter foreign air transportation of persons and their accompanying baggage, and property; (1) between a point or points in Sweden, Denmark and Norway and a point or points in the United States; (2) between a point or points in the United States and any point or points in a third country provided that such service constitutes part of a continuous operation that includes service to Sweden, Denmark and/or Norway for the purpose of carrying local traffic between Sweden, Denmark and Norway and the United States; and also authorizing the applicant to engage in other charter trips in foreign air transportation subject to the terms, conditions, and limitation of the Department's regulations governing charters.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–7897 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

The Federal Aviation Administration (FAA) Satellite Operational Implementation Team (SOIT) Hosted Forum on the Capabilities of the Global Positioning System (GPA)/Wide Area Augmentation System (WAAS) and Local Area Augmentation System (LAAS)

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of meeting.

NAME: FAA SOIT Forum on GPS/WAAS/LAAS Capabilities.

TIME AND DATE: 9:00 a.m.–5:00 p.m., May 17–18, 1999.

PLACE: The Holiday Inn Fair Oaks Hotel, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033.

STATUS: Open to the aviation industry with attendance limited to space available.

PURPOSE: The FAA SOIT will be hosting a public forum to discuss the FAA's GPS approval and WAAS/LAAS operational implementation plans. This meeting will be held in conjunction with a regularly scheduled meeting of the FAA SOIT and in response to aviation industry requests to the FAA Administrator. Formal presentations by the FAA will be followed by a question and answer session. Those planning to

[11] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] U.S.C. 78s(b)(2).

[17] CFR 200.30–3(a)(12).

attend are invited to submit proposal discussion topics.

Registration: Participants are requested to register their intent to attend this meeting by May 3, 1999. Names, affiliation, telephone and facsimile numbers should be sent to the point of contact listed below.

Point of Contact: Registration and submission of suggested discussion topics may be made to Mr. Steven Albers, phone (202) 267–7301, fax (202) 267–5086, or email at steven.CTR.albers@faa.gov.

Issued in Washington D.C. on March 22, 1999.

Hank Cabler,

SOIT Co-Chairman.

[FR Doc. 99–7882 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on PFC Application 99–03–C–00–PSC to Impose and use the revenue from a passenger facility charge (PFC) at Tri-Cities Airport, submitted by the Port of Pasco, Pasco, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use, the revenue from a PFC at TriCities Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 30, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

J. Wade Bryant, Manager, Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James L. Morasch, A.A.E., Director of Airports, at the following address; Tri-Cities Airport, 3601 North 20th Avenue, Pasco, WA 99301.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Tri-Cities Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (425) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 99–03–C–00–PSC to impose and use the revenue from a PFC at Tri-Cities Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 24, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Port of Pasco, Pasco, Washington, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 22, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: February 1, 2002

Proposed charge expiration date: September 1, 2003

Total estimated net PFC revenue: $740,000

Brief description of proposed project(s): Access road reconstruction; Terminal building upgrades; Loading bridge/mobile covered walkway; Security access system upgrade.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Regional, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Tri-Cities Airport.

Issued in Renton, Washington on March 24, 1999.

David A. Field,

Manager, Planning, Programming and Capacity Branch; Northwest Mountain Region.

[FR Doc. 99–7883 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5143 (Notice No. 99–3)]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking of high-pressure compressed gas cylinders. During November and December of 1998, RSPA conducted inspections of AAA Fire & Safety Company, Inc. (AAA), 48 East Newberry Road, Bloomfield, CT. The results of the inspections indicate that between the latter part of 1995 and August of 1998, AAA may have informed its customers that their cylinders had been hydrostatically retested by Aero All-Gas Company, Inc., Hartford, CT, when, in fact, the cylinders had not been retested by Aero All-Gas Company. There is no indication that Aero All-Gas Company had any involvement in the unauthorized marking of these compressed gas cylinders.

Without conducting hydrostatic retests, cylinders that should have been condemned may be returned to service. Serious personal injury, death, and property damage could result from rupture of a cylinder. Cylinders that have not been retested in accordance with the Hazardous Materials Regulations (HMR) may not be charged or filled with a hazardous material (compressed gas).

FOR FURTHER INFORMATION CONTACT: Chris Michalski, Hazardous Materials Enforcement Specialist, Eastern Region, telephone (609) 989–2256, fax (609) 989–2277, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, US Department of Transportation, 820 Bear Tavern Rd, Suite 306, West Trenton, NJ 08628.

SUPPLEMENTARY INFORMATION: During November and December 1998, RSPA inspectors conducted inspections pertaining to the cylinder testing operations of AAA Fire & Safety Co., Inc. (AAA), 48 East Newberry Road, Bloomfield, CT. The results of the inspections indicate that between the latter part of 1995 and August of 1998, AAA may have informed its customers that a number of high pressure compressed gas cylinders, primarily fire extinguishers, had been hydrostatically

retested by Aero All-Gas Company, Inc., Hartford, CT. The inspectors obtained evidence from several of AAA's customers that indicates that AAA supplied its customers with cylinders marked as having been properly retested, in accordance with the HMR, by Aero All-Gas Company. An inspection conducted at Aero All-Gas Company revealed that the cylinders in question had not been retested by Aero All-Gas Company and that Aero All-Gas Company had not authorized these particular cylinders to be marked with its retester identification number (RIN). The cylinders in question were stamped with Aero All-Gas Company's (RIN) "A393".

The markings appear in the following pattern:

A 3
X Y
3 9

Where A393 is Aero All-Gas Company's RIN, X is the month of the retest (i.e. 11) and Y is the year of the retest (i.e. 98).

Aero All-Gas Company is a DOT-approved cylinder retester, that conducts hydrostatic retesting. Most cylinders marked with Aero All-Gas Company's RIN have, in fact, been tested by Aero All-Gas Company. However, the results of the RSPA investigation appear to indicate that any cylinder that had been serviced by AAA and marked with Aero All-Gas Company's RIN between the latter part of 1995 and August of 1998 may not have been tested. RSPA inspectors have obtained a list of AAA's customers, and this safety notice will be mailed to everyone appearing on that list. Anyone concerned with a specific cylinder, marked as described above, can ask for a verification of Aero All-Gas Company's retest records by providing Mr. Michalski with the following information: cylinder serial number, DOT specification and the most recent retest markings (i.e. #389467, DOT-3AA1800, 10/98).

Anyone who has a cylinder that is marked with RIN A393 and dated between late 1995 and August 1998, and that was serviced during that time by AAA, should determine from Mr. Michalski whether that specific cylinder appears on Aero All Gas Company's retest records. Any such cylinder that does not appear on Aero All-Gas Company's retest records should be considered unsafe and not charged with a hazardous material unless first properly retested by a DOT-authorized retest facility. Filled cylinders (if filled with an atmospheric gas) described in this safety advisory should be vented or otherwise safely discharged, and then taken to a DOT-authorized cylinder retest facility for proper retest, to determine compliance with the HMR.

Under no circumstances should a cylinder described in this safety advisory, and verified as not appearing on Aero All-Gas Company's retest records, be filled, refilled or used for any purpose other than scrap, until it is reinspected and retested by a DOT-authorized retest facility.

Issued in Washington, DC on March 25, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–7798 Filed 3–30–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 637

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 637, Application for Registration (For Certain Excise Tax Activities).

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Registration (For Certain Excise Tax Activities).

OMB Number: 1545–0014.

Form Number: Form 637.

Abstract: Form 637 is used to apply for excise tax registration. The registration applies to a person required to be registered under Internal Revenue Code section 4101 for purposes of the federal excise tax on taxable fuel imposed under Code sections 4041 and 4081; and to certain manufacturers or sellers and purchasers that must register under Code section 4222 to be exempt from the excise tax on taxable articles. The data is used to determine if the applicant qualifies for the exemption. Taxable fuel producers are required by Code section 4101 to register with the Service before incurring any tax liability.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 13 hours, 53 minutes.

Estimated Total Annual Burden Hours: 27,780.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 24, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7898 Filed 3–30–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9041

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9041, Application for Electronic/ Magnetic Media Filing of Business and Employee Benefit Plan Returns.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Electronic/ Magnetic Media Filing of Business and Employee Benefit Plan Returns.

OMB Number: 1545–1079.

Form Number: Form 9041.

Abstract: Form 9041 is used by fiduciaries of estates and trusts, partnerships, and plan sponsors/ administrators as an application to file Forms 1041, 1065, 5500, 5500–C/R, or 5500–EZ electronically or on magnetic media; and by software firms, service bureaus, and electronic transmitters to develop auxiliary services.

Current Actions: Form 9041 is being revised to delete the checkbox on line 2 labeled Form 1065 (Paper Parent Option), because the IRS will no longer offer this filing option to partnerships.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 24, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7899 Filed 3–30–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099-DIV

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–DIV, Dividends and Distributions.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Dividends and Distributions.

OMB Number: 1545–0110.

Form Number: Form 1099–DIV.

Abstract: Form 1099–DIV is used by the IRS to insure that dividends are properly reported as required by Internal Revenue Code section 6042, that liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 111,922,150.

Estimated Time Per Response: 16 minutes.

Estimated Total Annual Burden Hours: 29,099,759.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 25, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7900 Filed 3–30–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8329 and 8330

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning Form 8329, Lender's Information Return for Mortgage Credit Certificates (MCCs) and Form 8330, Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 8329, Lender's Information Return for Mortgage Credit Certificates (MCCs) and Form 8330, Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

OMB Number: 1545–0922.

Form Number: Forms 8329 and 8330.

Abstract: Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to provide the IRS with information on the issuance of mortgage credit certificates (MCCs) authorized under Internal Revenue Code section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Responses: 10,000—Form 8329; 2,000—Form 8330.

Estimated Time Per Response: 5 hours, 41 minutes—Form 8329; 7 hours, 15 minutes—Form 8330.

Estimated Total Annual Burden Hours: 56,900—Form 8329; 14,500—Form 8330.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 25, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–7901 Filed 3–30–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on Voluntary Dissolution.

DATES: Submit written comments on or before June 1, 1999.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0066. Comments may be hand delivered to the Public Reference Room, lower level, 1700 G Street, NW. from 9:00 a.m. to 4:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail to public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments over 25 pages in length should be sent to FAX number (202) 906–6956. Comments are available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

Interested persons may also inspect copies of the Form with instructions at the Public Reference Room, Basement, 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202) 906–5660.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Examinations/ Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Dissolution.

OMB Number: 1550–0066.

Form Number: OTS Form 1499, also known as Form DV.

Abstract: 12 C.F.R. Section 546.4 provides for Federal associations to voluntarily dissolve through the submission of a statement of reasons and plan of dissolution. Approval is required by the board of directors, the OTS and the association's members. Plans for dissolution may be denied if the OTS believes the plan is not in the best interest of concerned parties.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Extension.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 81 hours.

Estimated Total Annual Burden Hours: 81 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: March 23, 1999.

Celia Winter,

Acting Director, Information Management and Services.

[FR Doc. 99–7794 Filed 3–30–99; 8:45 am]

BILLING CODE 6720–01–P

Corre

This section contains edito published Pro and Notice do prepared by t Register. Age issued as sig the appropria elsewhere in

DEPARTMI

Federal En Commissio

[Project No.

Alabama P Availability Assessmer

Correction

In notice appearing o Wednesday following c

On page 1 the docket n as set forth [FR Doc. C9–

BILLING CODE

SECURITIE COMMISSIO

Sunshine A

Correction

In notice appearing o Wednesday, following co

Corrections

Federal Register

Vol. 64, No. 61

Wednesday, March 31, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 349–051]

Alabama Power Company; Notice of Availability of Environmental Assessment

Correction

In notice document 99–7131, appearing on page 14227, in the issue of Wednesday March 24, 1999, make the following correction:

On page 14227, in the second column, the docket number is corrected to read as set forth above.

[FR Doc. C9–7131 Filed 3–30–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Correction

In notice document 99–5983 appearing on page 11976, in the issue of Wednesday, March 10, 1999, make the following correction:

On page 11976, in the third column, above the signature line, add "Dated: March 5, 1999."

[FR Doc. C9–5983 Filed 3–30–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41136; File No. SR–Phlx–99–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Changing the Required Minimum Value Size for an Opening Transaction in FLEX Equity Options

March 3, 1999.

Correction

In notice document 99–6045 beginning on page 12203, in the issue of Thursday, March 11, 1999, make the following correction:

On page 12203, in the first column, the docket number is corrected to read as set forth above.

[FR Doc. C9–6045 Filed 3–30–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–151]

RIN 2115–AE84

Regulated Navigation Area: Navigable Waters Within the First Coast Guard District

Correction

In rule document 99–6330 beginning on page 12746 in the issue of Monday, March 15, 1999, make the following correction(s):

1. On page 12747, in the second column, in the last paragraph, in the first line, "33 CFR 1654.100(d)(1)(i)" should read "33 CFR 165.100(d)(1)(i)".

2. On the same page, in the third column, in the first line, "while" should "While".

3. On the same page, in the same column, in the 11th line, "exemption" should read "exemptions".

4. On the same page, in the same column, in the 18th line, "(d)(1)(ii)" should read "(d)(1)(iii)".

5. On the same page, in the same column, in the second full paragraph, in the third line, "intend" should read "intends".

6. On the same page, in the same column, in the same paragraph, in the third line from the bottom, "addition" should read "additional".

7. On page 12748, in the third column, in the third full paragraph, in the 12th line, after "implications" add "for".

[FR Doc. C9–6330 Filed 3–30–99; 8:45 am]

BILLING CODE 1505–01–D

OMI

VOL
64
ISS
61
MR
31
999
UMI

federal register

Wednesday
March 31, 1999

Part II

Department of Labor

Occupation Safety and Health Administration

29 CFR Parts 1910, 1915, et al.
Employer Payment for Personal Protective Equipment; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, and 1926

[Docket S–042]

[RIN No. 1218-AB77]

Employer Payment For Personal Protective Equipment

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Proposed rule; scheduling of informal public hearing.

SUMMARY: Many Occupational Safety and Health Administration (OSHA) health, safety, maritime, and construction standards require employers to provide their employees with protective equipment, including personal protective equipment (PPE), when such equipment is necessary to protect employees from job-related injuries, illnesses, and fatalities.

These requirements are codified in Part 1910 (General Industry standards), Part 1915 (Shipyard standards), Part 1926 (Construction standards), Part 1917 (Marine Terminal standards), and Part 1918 (Longshoring standards) of Title 29 of the Code of Federal Regulations. These requirements address PPE of many kinds: hard hats, gloves, goggles, safety shoes, safety glasses, welding helmets and goggles, faceshields, chemical protective equipment and clothing, fall protection equipment, and so forth. The provisions in OSHA standards that require PPE generally state that the employer is to provide such PPE; however, some of these provisions do not specify that the employer is to provide such PPE at no cost to the employee.

In this rulemaking, OSHA is proposing regulatory language to clarify that, with only a few exceptions for specific types of PPE, the employer must pay for the PPE provided. OSHA is proposing to except in certain circumstances three specific kinds of PPE from this requirement: safety-toe protective footwear, prescription safety eyewear, and the logging boots required by 29 CFR 1910.266(d)(1)(v).

OSHA believes that the proposed rule will better implement the intent of the Occupational Safety and Health Act, make clear who is to pay for what kind of PPE, and improve protection to employees who must wear PPE.

The proposed rule would not require employers to provide PPE where none has been required before. Instead, the proposed rule merely stipulates that the employer must pay for all required PPE, except in the limited cases specified above. Since employers already pay for most of the required PPE, the proposed rule would shift to employers only the cost of that portion of PPE currently being paid for by their employees. Based on information from a number of surveys, studies, and a panel of PPE experts, OSHA believes that, even making worst case assumptions, this shift in costs from employees to employers will impose annualized costs of no more than $61.9 million across all affected industries. To the extent that the proposed rule enhances the use of PPE, employers will obtain about a three-fold return on their investment in PPE, i.e., will save an estimated three dollars in injury and illness costs for every dollar they invest in PPE.

OSHA is also scheduling an informal public hearing to provide interested parties the opportunity to orally present information and data related to the proposed rule.

DATES: Comments. Written comments on the proposed standard must be postmarked by June 14, 1999. Comments that are transmitted electronically through OSHA's internet site must be transmitted by June 14, 1999. The hearing is scheduled to begin at 9:30 a.m. on June 22, 1999.

Informal public hearing. Notices of intention to appear at the informal public hearing must be postmarked by June 1, 1999. Hearing participants requesting more than 10 minutes for their presentations, and participants who will submit documentary evidence at the hearing, must submit the full text of their testimony and all documentary evidence to the Docket Office, postmarked no later than June 14, 1999.

ADDRESSES: *Comments.* Submit four copies of written comments, notices of intention to appear at the informal public hearing, testimony, and documentary evidence to the OSHA Docket Office, Docket S–042, Room N–2625, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210. (Telephone: (202)693–2350) Please identify the document at the top of the first page as either a comment, notice of intention to appear, testimony, or documentary evidence. Comments of 10 pages or less may be faxed to the Docket Office, if followed by hard copy postmarked within two days. The OSHA Docket Office fax number is (202)693–1648.

Comments may also be submitted electronically through OSHA's Internet site at URL, http://www.osha-slc.gov/e-comments/e-comments-ppe.html. Please be aware that information such as studies, journal articles, and so forth cannot be attached to the electronic response and must be submitted in quadruplicate to the above address. Such attachments must clearly identify the respondent's electronic submission by name, date, and subject, so that they can be attached to the correct response.

Informal public hearing. The hearing will be held in the auditorium of the U.S. Department of Labor (Frances Perkins Building), 200 Constitution Avenue N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Friedman, OSHA Office of Information and Consumer Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 693–1999.

SUPPLEMENTARY INFORMATION:

I. Table of Contents

The preamble and proposed standard are organized into twelve sections as follows:

I. Table of Contents
II. Background
III. Legal Considerations
IV. Summary and Explanation of the Proposed Rule
  A. Introduction
  B. Reasons Why the Agency Believes that Employers Must Pay for PPE
  C. Scope of the Proposed Rulemaking
  D. Current OSHA Requirements Concerning Payment for PPE
  E. Advisory Committee on Construction Safety and Health
  F. Explanation of Proposed Requirement
V. Issues Pertaining to the Proposed Rule
VI. Preliminary Economic Analysis
VII. Public Participation
VIII. State-plan States
IX. OSHA's Supplementary Statement of Reasons For Its Interpretation of 29 CFR 1910.132(a)
X. List of Subjects in 29 CFR parts 1910, 1915, 1917, 1918, and 1926
XI. Authority and Signature
XII. Proposed Standards

II. Background

Employees often need to wear protective equipment, including personal protective equipment (PPE), to be protected from injury, illness, and death caused by exposure to workplace hazards. Throughout this document OSHA uses the abbreviation PPE to cover all types of protective equipment, including personal protective equipment, because the abbreviation is widely used and understood to include all such equipment. The abbreviation PPE includes protective equipment that an employee uses or wears, such as fall arrest systems, safety shoes, and protective gloves. There are many

situations in which PPE is necessary to protect employees from hazards. For example, protective gloves can protect hands from lacerations, burns, absorption of toxic chemicals, and abrasion. Safety shoes protect an employee's feet from being crushed by falling objects. Respirators can protect employees from being over-exposed to toxic substances. There are many other examples.

Many OSHA standards require employers to provide PPE to their employees. Some indicate in general terms when PPE is to be worn, and what is to be worn (see, for example, § 1910.132). Other provisions are very specific, such as 29 CFR 1910.266(d)(1)(iv), which requires chain saw operators to wear protective leggings during specific operations, and 29 CFR 1910.1027(g), which requires respiratory protection for workers exposed to cadmium above a certain PEL, and explicitly states that the employer must pay for the respirator.

OSHA derived its PPE standards from many sources. In its first two years, OSHA, pursuant to section 6(a) of the OSH Act, adopted many Federal and national consensus standards dealing with PPE that had been written by many different standards development committees. OSHA itself has been issuing both health and safety standards requiring appropriate PPE for 28 years. Because of the many sources for these standards, the language requiring the use of PPE has varied.

The language used in OSHA's PPE standards has generally been clear that the employer must provide the PPE and ensure that employees wear it. However, the regulatory language regarding the employer's obligation to pay for the PPE has varied.

OSHA's health standards issued after 1977 have made it clear both in the regulatory text and in the preamble that the employer is responsible for providing necessary PPE at no cost to the employee. See, for example, OSHA's inorganic arsenic standard issued in 1978 at 29 CFR 1910.1018(h)(2) (i) and (j), and the recent respirator standard, issued January 8, 1998 (63 FR 1152).

The regulatory text and preamble discussion for some safety standards have also been absolutely clear that the employer must both provide and pay for PPE. See, for example, the logging standard at 29 CFR 1910.266(d)(1)(iii) and (iv). The logging standard does, however, make an exception for certain types of logging boots (see 29 CFR 1910.266(d)(1)(v)). In the case of foot protection, such as logging boots, paragraph (d)(l)(v) of that standard leaves the issue of who pays for some kinds of logging boots open for negotiation and agreement between the employer and employee.

On the other hand, the regulatory text of some safety standards has been less clear. For example, 29 CFR 1910.132(a) is the general provision requiring employers to provide PPE when necessary to protect employees. This provision states that the PPE must be provided, used, and maintained in a sanitary and reliable condition. It does not specifically state that the employer must pay for it. In some cases, employers have interpreted this requirement to mean that they must pay for as well as provide the PPE, while in other cases, employers have understood this requirement to mean only that they must provide the PPE.

OSHA attempted to establish a policy and clarify the issue of payment for required PPE in a memorandum to its field staff dated October 18, 1994, "Employer Obligation to Pay for Personal Protective Equipment." OSHA stated that for all PPE standards the employer must both provide, and pay for, the required PPE, except in limited situations. The memorandum indicated that where PPE is very personal in nature and usable by the worker off the job, such as is often the case with steel-toe safety shoes (but not metatarsal foot protection), the issue of payment may be left to labor-management negotiations. This memorandum was intended to clarify the Agency's policy with regard to payment for required PPE.

Very recently, the Occupational Safety and Health Review Commission declined to accept as Agency policy the interpretation embodied in the 1994 memorandum as it applied to § 1910.132(a), OSHA's general PPE standard for general industry, in *Secretary of Labor* v. *Union Tank Car*, OSHRC Docket No. 96–0563. In that case, an employer was issued a citation for failing to pay for metatarsal foot protection and welding gloves. The Commission vacated the citation, finding that the Secretary had failed to adequately explain the policy outlined in the 1994 memorandum in light of several earlier letters of interpretation from OSHA that were inconsistent with that policy.

OSHA believes that it is important that the employer both provide and pay for PPE and ensure that employees wear it when necessary. OSHA believes that this view reflects the direction of the OSH Act and is consistent with the legislative history. Employers must maintain a safe place of work in all its aspects, and may not receive a competitive advantage by failing to pay for necessary safety equipment, including personal protective equipment. OSHA has considered the requirement for employer payment in many specific rulemakings and has concluded, based on the record in each case, that this requirement will increase employee protection.

The present proposal will also lead to greater consistency among OSHA standards. Accordingly, OSHA is proposing to require that the employer pay for all PPE required by OSHA standards, except for safety-toe protective footwear and prescription safety eyewear that meet all three of the following conditions: (1) the employer permits such footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site; and (3) such footwear or eyewear is not designed for special use on the job. Employers are not required to pay for the logging boots specified in 29 CFR 1910.266(d)(1)(v), as discussed above.

OSHA believes that the proposed requirement will better protect employees from work-related illness, injury, and death. Employers are in a better position to identify and select the correct equipment and to maintain it properly. They have the financial resources to purchase PPE of necessary quality and to pay for replacements as necessary. The statutory reasons for requiring the employer to pay for PPE are discussed at greater length in the Legal Considerations section of this preamble, and the health and safety reasons are discussed below, in the Summary and Explanation section of this preamble.

OSHA preliminarily concludes, for the reasons stated, that the Agency's standards should clearly require the employer to provide and pay for PPE. Accordingly, OSHA is proposing such a requirement. Rulemaking under section 6(b) of the Act will provide for full public input on all issues. The standard will, once promulgated, provide clear direction to employers and employees.

OSHA is proposing this requirement for general industry, construction, shipyards, longshoring, and marine terminals. OSHA has consulted the Advisory Committee for Construction Safety and Health on this proposal, as required by the Construction Safety Act.

OSHA requests comments on all relevant issues, including the specific issues listed in the Issues section of this preamble.

III. Legal Considerations

A. General Authority Under the OSH Act

The Occupational Safety and Health Act and the statute's legislative history demonstrate that employers are expected to pay the costs of complying with OSHA's safety and health standards. At section 2(a) of the OSH Act, Congress announced its determination that occupational injury and illness should be eliminated as much as possible: "The Congress finds that occupational injury and illness arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments." 29 U.S.C. 651(a). Congress therefore declared "it to be its purpose and policy . . . to assure so far as possible every working man and woman in the Nation safe and healthful working conditions." 29 U.S.C. 651(b).

To achieve this end, the Act directs that "employers shall comply with occupational safety and health standards . . . issued pursuant to this Act," 29 U.S.C. 654(a) (2), and limits OSHA's enforcement authority to employers. 29 U.S.C. 658, 659(a). See *United Steelworkers of America* v. Marshall, 647 F.2d 1189, 1230-1231 (D.C. Cir. 1980). This statutory scheme allocates to employers sole legal responsibility for achieving compliance with safety and health standards. *Atlantic & Gulf Stevedores* v. *OSHRC*, 534 F.2d 541, 533 (3d Cir. 1976). Because employers are charged with the responsibility for achieving safe and healthful workplaces, they must bear the concomitant financial obligation. *Id.* The Act's terms, including the definition in section 3(8) of an occupational safety and health standard as one which "requires . . . the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful places of employment," 29 U.S.C. 652(8), give OSHA broad discretion to devise means to achieve safe and healthful workplaces and to charge employers for the costs of reasonably necessary requirements. *United Steelworkers*, 647 F.2d at 1230–1231.

The employer's general financial responsibility is further evidenced in the Act's legislative history in the Cotton Dust decision (*American Textile Mfrs. Inst., Inc.* v. *Donovan*, 452 U.S. 490, 519–521(1980)), the Supreme Court interpreted the legislative history as showing that Congress was aware of the Act's potential to impose substantial costs on employers but believed such costs to be appropriate when necessary to create a safe and healthful working environment. Congress thus viewed the costs of health and safety as a cost of doing business. Senator Yarborough, a co-sponsor of the [Act], stated:

> We know the costs would be put into consumer goods but that is the price we should pay for the 80 million workers in America . . .

Senator Eagleton commented that:

> [the costs that will be incurred by employers in meeting the standards of health and safety to be established under this bill are, in my view, reasonable and necessary costs of doing business.

Other Members of Congress voiced similar views (*American Textile Mfrs. Inst., Inc.* v. *Donovan*, 452 U.S. 490, 519–521 (1980) (*ATMI*) (internal citations omitted, original emphasis)). See also *Forging Indus, Ass'n* v. *Secretary of Labor*, 773 F.2d 1436, 1451 (4th Cir. 1985) (en banc) (which stated that, in view of the Supreme Court's "clear statement" in *ATMI* about Congress' intent that employers bear the costs of safety and health, OSHA may logically require employers to pay for hearing protectors under the hearing conservation standard); S. Rep. No. 91–1282, 91st Cong. 2d Sess. 4 (1970), *reprinted in*, Senate Comm. On Labor and Public Welfare, 92nd Cong. 1st Sess., *Legislative History of the Occupational Safety and Health Act of 1970 (Legislative History)* 324, 510–511, 854, 1150, 1188, 1201.

Congress was also concerned that the costs imposed by OSHA rules be borne fairly by employers within and across all affected industries and believed that uniform enforcement was crucial to reduce or eliminate the disadvantage that a conscientious employer might experience where inter-industry or intra-industry competition is present. *Legislative History* at 854; *ATMI*, 452 U.S. at 521. It also recognized that many small firms might not be able to make the necessary investment in safety and health unless all firms were required to do so. *Legislative History* at 144. For these reasons, Congress did not intend to allow individual employers to decide who should pay the costs of complying with OSHA standards. See *United Steelworkers*, 647 F.2d at 1236; *Forging Indus. Ass'n*, 773 F.2d at 1451–1452.

B. Other Statutory Considerations

In *Industrial Union Department, AFL-CIO* v. *American Petroleum Institute*, 448 U.S. 607 (1980) (*Benzene*), the Supreme Court ruled that, before OSHA can issue a new standard, the Agency must find that the hazard being regulated poses a significant risk to workers and that a new, more protective, standard is "reasonably necessary and appropriate" to reduce that risk. The requirement to find a significant risk does not mean, however, that OSHA must "wait for deaths to occur before taking any action," *id.* at 655, or "support its findings with anything approaching scientific certainty." *Id.* at 656. "[T]he requirement that a 'significant' risk be identified is not a mathematical straightjacket." *Id.* at 655.

The Act allows OSHA substantial latitude to devise means to reduce or eliminate significant workplace hazards. Clearly, OSHA need not make individual quantitative or qualitative risk findings for every regulatory requirement in a standard. Once OSHA has determined that a significant risk of material impairment of health or well being is present, and will be redressed by a standard, the Agency is free to develop specific requirements that are reasonably related to the Act's and standard's remedial purpose. OSHA standards are often designed to reduce risk through an integrated system of safety practices, engineering controls, employee training, and other ancillary requirements. Courts have upheld individual requirements based on evidence that they increase the standard's effectiveness in reducing the risk posed by significant workplace hazards. See *Forging Indus. Ass'n.*, 773 F.2d at 1447–1452 (finding ancillary provisions of hearing conservation standard, including requirements for audiometric testing, monitoring, and employer payment for hearing protectors, reasonably related to the standard's purpose of achieving a safe work environment); *United Steelworkers*, 647 F.2d at 1237–1238 (finding lead standard's medical removal protection (MRP) provisions reasonable).

Similarly, the courts have held that the Agency must consider other ancillary provisions that could provide additional protection if the standard's exposure limits will not eliminate significant risk. *Building and Constr. Trades Dept. AFL–CIO* v. *Brock*, 838 F.2d 1258, 1271 (D.C. Cir. 1988). (Remand to consider including in asbestos standard additional provisions to reduce smoking-related asbestos risks); *National Grain & Feed Ass'n* v. *OSHA*, 866 F.2d 717, 734–735 (5th Cir. 1989) (directing OSHA to consider extending the action level for clean-up measures from certain priority areas to the entire facility where such an

extension might further reduce the risk of fire and explosions).

OSHA standards must also be technologically and economically feasible, and cost effective. A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that can reasonably be expected to be developed. *ATMI*, 452 U.S. at 513. A standard is economically feasible if industry can absorb or pass on the cost of compliance without threatening its long term profitability or competitive structure. *ATMI*, 452 U.S. at 530 n.55.

A standard is cost effective if the protective measures it requires are the least costly of the available alternatives that achieve the same level of protection. *ATMI*, 452 U.S. at 514 n.32; *International Union, UAW* v. *OSHA*, 37 F.3d 665, 668 (D.C. Cir. 1994). Finally, if OSHA promulgates a rule that differs substantially from an existing national consensus standard, the Agency must publish in the **Federal Register** a statement of reasons why the rule adopted will better effectuate the purposes of the Act than the national consensus standard. 29 U.S.C. 655(b)(8).

C. Historical Overview: OSHA's Determinations in Prior Rulemakings That Employers Should Pay for Necessary Personal Protective Equipment

Since 1978, OSHA has promulgated many occupational health and safety standards explicitly requiring employers to furnish personal protective equipment "at no cost to employees." [1]

In these rulemakings, OSHA has stated that language explicitly requiring that PPE be furnished without cost to employees is necessary to effectuate the purposes of the Act and to "clarif[y] OSHA's position which has long been implicit in health standards proceedings." See, *e.g.*, 42 FR 27387 (June 23, 1978) (cotton dust preamble); 43 FR 11523 (March 17, 1978) (dibromo-3-chloropropane preamble); 52 FR 46266 (Dec. 4, 1987) (formaldehyde preamble). OSHA has also concluded in its rulemaking on the Cancer Policy that personal protective equipment should be treated no differently from engineering controls for the purposes of cost-allocation (45 FR 5261, Jan. 22, 1980):

> The requirement that employers pay for protective equipment is a logical corollary of the accepted proposition that the employer must pay for engineering and work practice controls. There is no rational basis for distinguishing the use of personal protective equipment [from other controls]. The goal in each case is employee protection; consequently the responsibility of paying for the protection should, in each case, rest on the employer.

OSHA has further determined that requiring employers to pay for personal protective equipment contributes to increased health and safety protection in several ways. The employer is most knowledgeable about hazards existing in the workplace and is therefore best able to select and maintain appropriate protective equipment. Requiring employers to purchase personal protective equipment ensures that they retain control over the selection, issuance, maintenance, and use of the devices. See 43 FR 19619 (May 5, 1978) (inorganic arsenic preamble); 46 FR 4153 (hearing conservation preamble). Shifting the financial burden to employees, on the other hand, "risks losing the necessary control over the organized and consistent selection, issuance, maintenance and use of such equipment." 46 FR 4153 (hearing conservation preamble).

OSHA has also concluded that charging employers with the cost of personal protective equipment, as well as other requirements imposed by standards, is necessary to ensure the employee's voluntary cooperation in the employer's safety program. In requiring employers to pay for hearing protectors as part of the hearing conservation standard, OSHA relied upon the testimony of the director of the Safety and Health Department of the International Brotherhood of Teamsters:

> [an] employer's attempt to require its employees to purchase their own personal ear protective devices would cause resentment among the workers and clearly demonstrate to them the lack of commitment on the part of their employer in preventing hearing loss. Such a requirement *would discourage the use of ear protective devices and would create an adversarial atmosphere in regard to the hearing conservation program*. 46 FR 4153 (*emphasis added*).

OSHA has found that the need to ensure voluntary cooperation by employees was also an important reason to require employers to pay for other protections in standards, including medical examinations and medical removal protection (MRP). In promulgating the lead standard, OSHA relied upon extensive evidence that employees' fears of adverse economic consequences from participation in a medical surveillance program could seriously undermine efforts to improve employee health. 43 FR 54442–54449 (Nov. 21, 1978). OSHA cited data from numerous sources to show that employees' concerns about the possible loss of income would make them reluctant to participate meaningfully in any program that could lead to job transfer or removal. *Id.* OSHA promulgated the lead standard's M.R.P. provision "specifically to minimize the adverse impact of this factor on the level and quality of worker participation in the medical surveillance program." *Id.* at 54449.

Courts have upheld OSHA's statutory authority to charge employers with the costs of complying with standards and have affirmed the Agency's findings of benefits accruing from this requirement. In reviewing the lead standard, the D.C. Circuit found that "[the] scheme of the statute, manifested in both the express language and the legislative history . . . appears to permit OSHA to charge employers the cost of any new means it devises to protect workers." *United Steelworkers*, 647 F.2d at 1231. The court found reasonable OSHA's determination that wage retention and other M.R.P. benefits were necessary in view of employee resistance to programs that could result even in limited loss of earnings. *Id.* at 1237. Moreover, the court found that OSHA could legitimately consider benefits that were more indirect. It upheld the standard's requirement that employers pay for medical opinions from physicians who are selected by employees, in part because employees will be more likely to cooperate in, and improve the accuracy of, medical examinations performed by physicians they trust. *Id.* at 1239. See also *Forging Indus. Ass'n*, 773 F.2d at 1451–1452 (upholding the requirement in the hearing conservation standard that employers pay for hearing protectors).

Some have suggested that employee payment for PPE helps encourage employees to maintain their PPE properly. OSHA notes that employees, because their own safety is at stake, already have significant incentives to assure that PPE is maintained in a manner that assures that the PPE will

[1] See 29 CFR 1910.95(i)(1), (i)(3) (hearing conservation); 29 CFR 1910.1001(g)(1), (g)(2)(i), (h)(1) (asbestos); 29 CFR 1910.1018(h)(1), (h)(2)(i), (j)(1) (inorganic arsenic); 29 CFR 1910.1025(f)(1), (g)(1) (lead); 29 CFR 1910.1027(g)(1), (i)(1) (cadmium); 29 CFR 1910.1028(g)(1), (g)(2)(i), (h) (benzene); 29 CFR 1910.1030(d)(3)(i), (d)(3)(ii) (bloodborne pathogens); 29 CFR 1910.1043(f)(1), (f)(3) (cotton dust); 29 CFR 1910.1044(h)(1), (h)(2), (h)(3)(i), (j)(1) (1,2-dibromo-3-chloropropane); 29 CFR 1910.1045(h)(2)(i), (j)(1) (acrylonitrile); 29 CFR 1910.1047(g)(2)(i), (g)(4) (ethylene oxide); 29 CFR 1910.1048(g)(1), (h) (formaldehyde); 29 CFR 1910.1050(h)(2)(i), (i)(1) (4,4, methylenedianiline); 29 CFR 1910.1051(h)(1), (i) (1,3-butadiene); 29 CFR 1910.1052 (g)(1), (h)(1) (methylene chloride); 29 CFR 1910.146(d)(4)(iv) (confined spaces); 29 CFR 1910.156(e)(1)(i) (fire brigades); 29 CFR 1910.266(d)(1)(iii), (d)(1)(iv), (d)(1)(vi),(d)(1)(vii) (logging). See also OSHA's recently revised respiratory protection standard, promulgated January 8, 1998, 63 FR 1271.

function safely. Requiring employee payment for PPE could encourage employees to consider a trade-off between assuring the safety of the PPE and assuring its longevity, even though the PPE may be worn or damaged to the point that it no longer functions properly. Employee payment could also lead to perverse incentives for employers. Given a choice between engineering controls that the employer must pay for, and PPE that would be paid for by employees, employers would have a strong incentive to use PPE even though engineering controls would be more protective and might even be cheaper. OSHA views the theoretical loss of some employee incentive to maintain equipment as minor compared to the importance of assuring employers provide a safe and healthy workplace.

D. The Proposed PPE Revisions Comply With Statutory Criteria

OSHA believes that the proposed PPE revisions readily comply with the statutory criteria outlined above. In the Agency's view, the proposed language that, with certain exceptions, employers must provide personal protective equipment under existing standards "at no cost to employees," does no more than clarify a requirement legally implicit under the Act. Congress itself intended to impose the costs of safety and health on employers and charged employers with sole responsibility for compliance with standards. *ATMI*, 452 U.S. at 520–5211; *United Steelworkers*, 647 F.2d at 1231. The requirement that employers pay for the means necessary to achieve compliance is implicit in the statute itself, and therefore, is properly an implied term of every occupational safety or health standard.

Based on the OSH Act's implicit cost-allocation scheme, OSHA has interpreted standards requiring employers to "provide" personal protective equipment to mean that this equipment must be furnished to employees at no charge. For example, OSHA has interpreted the coke oven emissions standard, 29 CFR 1910.1029(h)(1), which states that "the employer shall provide and assure the use of appropriate protective clothing and equipment," to require that personal protective equipment be furnished at no charge to coke oven workers. The Occupational Safety and Health Review Commission held that interpreting "provide" to mean "pay for" was consistent with the statutory intent and with the Agency's prior published interpretation. *Secretary of Labor* v. *Erie Coke Corp.*, 15 O.S.H. Cas. (BNA) 1561, 1563–1565 (Review Comm. 1992).

OSHA has also interpreted its general personal protective equipment standards to require that equipment be furnished at no cost to employees. In 1994, OSHA issued a compliance memorandum entitled "Employer Obligation to Pay for Personal Protective Equipment." In this compliance memorandum, OSHA interpreted 29 CFR 1910.132, 29 CFR 1926.95, and other PPE standards to require employers to provide PPE at no cost to employees, except where the equipment is personal in nature and usable off the job.

OSHA recognizes that the Occupational Safety and Health Review Commission has subsequently rejected OSHA's policy interpretation of 29 CFR 1910.132 as requiring employer payment for PPE. See *Union Tank Car Co.*, OSHRC No. 96–0563 (assuming the 1994 memorandum represented a change in position, and finding that OSHA had not presented an adequate justification for the change).

Section IX of this preamble, *OSHA's Supplementary Statement of Reasons for its Interpretation of 29 CFR 1910.132(a)*, contains a detailed explanation of OSHA's interpretation of section 1910.132(a), which addresses in detail the Commission's concerns and demonstrates that the Agency's reading of its general personal protective equipment standard is consistent with the statutory scheme and is reasonable.

In OSHA's view, the proposed rule simply clarifies the employer's pre-existing obligations under the personal protective equipment standards. See *Edison Elec. Inst.* v. *OSHA*, 849 F.2d 611, 620 (D.C. Cir. 1988); *OSHA's Supplemental Statement of Reasons*. Assuming, however, that the language in existing § 1910.132 does not clearly convey a requirement for employer payment, the proposed rule is necessary and appropriate to conform the standard to the requirements of the statute and to the position the Agency has consistently adopted in rulemaking proceedings for more than twenty years.

The Agency believes, moreover, that implementation of the proposed revisions will contribute in a significant way to a safer work environment. The existing PPE standards reflect a determination that the use of PPE is necessary to reduce a significant risk of injury.[2] OSHA considers the proposed revisions to be ancillary requirements of the existing PPE standards. They are reasonably related to the existing standards' purpose of preventing injury by requiring the provision and use of appropriate personal protective equipment.

Moreover, OSHA believes that the principle expressed in *National Grain and Feed*, discussed above, provides analogous support for this proposed rule. In amending 29 CFR 1910.132 in 1994 to include new requirements for, among other things, hazard assessments and employee training, the Agency examined PPE use in general industry. OSHA found that, although the standard had been in effect since 1971, the data demonstrated that a significant risk of injury attributable to the non-use or misuse of PPE remained. See 59 FR 16335 (April 6, 1994). OSHA determined that compliance with the final rule would result in more widespread acceptance and use of appropriate PPE, and would, therefore, significantly reduce the risk of injury. However, OSHA did not find that compliance with the rule would eliminate the significant risk due to the non-use or misuse of PPE. As discussed below, there is evidence that requiring employers to pay for PPE will result in a further substantial reduction in the risk of non-use or misuse of PPE by centralizing the control over PPE programs, and by eliminating economic disincentives to the voluntary use of PPE. Cf. *National Grain and Feed*, 866 F.2d at 735.

As OSHA found in promulgating the hearing conservation standard, requiring employers to pay for personal protective equipment ensures that employers retain control over the selection, issuance, maintenance, and use of such equipment. OSHA believes that ensuring centralized control over these critical functions promotes a more organized and consistent approach to personal protective equipment requirements. See 46 FR 4153 (Jan 16, 1981). See also 43 FR 19619 (Inorganic Arsenic) (May 5, 1978).

OSHA also believes that employees are more likely to cooperate in achieving full compliance with existing standards if protective equipment is provided at no charge. The evidence adduced during the rulemaking for the lead standard demonstrated that many employees would be reluctant to participate fully in a program that could result in a loss of income. OSHA

[2] For existing standards adopted as national consensus or established Federal standards pursuant to section 6(a) of the Act, the determination of significant risk is implied in Congress's direction that such standards should be promulgated as "occupational safety or health standard[s]." 29 U.S.C. 655(a). The Court in *Benzene* interpreted the definition of "occupational safety and health standard" in section 3(8) of the Act to mean a standard that addresses a significant risk of harm. 448 U.S. at 639–642.

believes that this problem is not limited to MRP provisions. In *Secretary of Labor* v. *Phelps Dodge Corp.*, 11 O.S.H. Cas. (BNA) 1441, 1443 (Rev. Comm. 1983), the Review Commission held that the employer did not provide medical examinations under the Inorganic Arsenic standard "without cost to the employee" when it allowed employees to take examinations only during their free time and did not reimburse them for travel expenses or the time consumed in taking the examinations. The Commission noted the ALJ's finding that when employees were required to provide their own transportation to and from the hospital and to sacrifice their personal time to take examinations, 42% of them failed to participate.

Such evidence, showing that employees often make decisions that risk their health and safety to avoid suffering economic loss, is relevant to the proposed revision. It is certainly reasonable to believe that employees who are furnished personal protective equipment at no charge are more strongly motivated to wear it, and to replace it promptly when worn or damaged, than are employees who must purchase such equipment. Indeed, OSHA is aware of evidence presented in enforcement litigation that employees have continued to use worn-out or defective items of personal protective equipment because of the cost of replacing this equipment. In the *Union Tank* case, the employee representative presented an affidavit that some employees taped or wrapped wire around their damaged metatarsal safety boots in order to avoid having to pay up to $130 per pair to replace them. Similarly, in *Ormet Primary Aluminum Corp.*, OSHRC Docket No. 96–0470, an employee testified that he continued to wear safety boots, even though the protective steel toes were exposed and posed an electrocution hazard, because he could not afford a new pair. The employee also testified that some workers put a cement-like substance over the steel toes of their boots when the leather covering wore away, but that this practice was hazardous because the substance was flammable.

Based on the available evidence, OSHA preliminarily concludes that the proposed revisions will significantly enhance compliance with existing standards. OSHA estimates that the proposed rule will prevent over 47,000 injuries that occur annually as a result of the non-use or misuse of personal protective equipment, including seven fatal injuries. See Section VI., *Preliminary Economic Analysis*.

OSHA has also preliminarily concluded that excepting safety-toe footwear and prescription safety eyewear from the payment requirement is appropriate and does not conflict with the legislative intent. OSHA has long taken the position that employers should not be required to pay for safety-toe footwear because it is personal in nature and frequently worn off the job. See *The Budd Co.*, 1 O.S.H. Cas. (BNA) 1548 (Rev. Comm. 1974). OSHA believes that prescription safety eyewear shares these characteristics. Because of the special nature of safety-toe footwear and prescription safety eyewear, the statutory and policy reasons for requiring employers to pay for other types of PPE do not carry the same weight for these types of PPE[3]. OSHA believes that there is little statutory justification for requiring employers to pay for such personal equipment if it is used away from the workplace and if all three of the proposed conditions are met: (1) The employer permits the footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site; and (3) such footwear is not designed for special use on the job.

The Commission and one court of appeals have agreed with the Secretary's interpretation that 29 CFR 1910.132(a) does not require employees to pay for safety shoes. *The Budd Co.* O.S.H. Cas. (BNA) 1548 (Rev.Comm. 1974); 513 F.2d 201, 205 (3d Cir. 1975). See also *United Steelworkers*, 647 F.2d at 1231 n.66 (noting special character of safety-toe protective footwear which the employee would wear off-the-job as well as on-the-job). Moreover, OSHA's logging standard (see 29 CFR 1910.266 (d)(1)(v)) provides analogous support for the proposed exceptions for safety shoes and prescription safety eyewear. OSHA excepted logging boots from among the types of equipment that employers must provide at no cost under the logging standard, based in part on evidence that logging boots are personal in nature and used away from work. See 59 FR 51684 (Oct. 12, 1994). See also section IX., *OSHA's Supplementary Statement of Reasons for its Interpretation of 29 CFR 1910.132(a)*. The three conditions OSHA is proposing to apply to the exception for safety-toe footwear and prescription safety eyewear all relate to off-site use. For example, if the employer prohibits off-site use of the footwear or eyewear, employees would clearly not be able to wear it off the job, and the exception would not apply. Similarly, if the footwear or eyewear is used at work in a way that makes it unsafe for use off the job, e.g., safety-toe footwear is worn in a lead chromate pigment plant, it would be unsafe for the employee to wear it at home, and the exception would not apply. Finally, if the footwear or eyewear is designed for special use on the job, e.g., the eyewear is built into a welding mask, or the footwear has built-in metatarsal guards as well as safety-toes, it could not be worn off-site, and the exception would not apply.

If one or more of these conditions is not met for safety-toe footwear or prescription eyewear, the exception for these types of PPE does not apply, and the employer would be required to pay for the PPE.

For these reasons, OSHA has preliminarily concluded that employers should not be required to pay for safety-toe protective footwear and prescription safety eyewear, provided that all three of the excepted conditions are met. However, as discussed in other sections of this document, OSHA seeks comment on whether these exceptions, and the conditions restricting their applicability, are appropriate and whether other types of personal protective equipment should be excepted or other limiting conditions should be considered.

OSHA believes that compliance with the proposed standard is technologically feasible because the PPE affected by this rulemaking has already been shown to be technologically feasible in numerous other rulemakings, e.g., OSHA's 1994 PPE rulemaking and the individual rulemakings requiring particular types of PPE (e.g., fall protection in construction, and various shipyard employment standards). The affected PPE, as shown by the record evidence in these rulemakings, is widely manufactured, distributed, and used in workplaces in all industries. OSHA believes that the proposed standard is also economically feasible because the PPE of concern has been shown to be economically feasible in the earlier rulemakings referred to above and, additionally, for this proposed rule, as detailed in Section VI., *Preliminary Economic Analysis*. The proposed rule merely shifts some costs previously borne by employees to their employers.

[3] In her brief to the Commission in *Budd* filed in 1973, the Secretary stated her interpretation that 29 CFR 1910.132(a) does not require employers to pay for safety shoes. The Secretary noted that "safety shoes are purchased by size, are available in a variety of styles, and are frequently worn off the job, both for formal and casual wear. Furthermore, it is neither feasible for a different employee to wear the shoes each day nor feasible that upon resigning from the position an employee will leave the shoes behind to be worn by another individual." See Section IX., *OSHA's Supplemental Statement of Reasons For Its Interpretation of 29 CFR 1910.132(a)*.

Indeed, in its economic analyses of other rules requiring PPE, OSHA has always assumed that PPE would be paid for by the employer. The *Preliminary Economic Analysis* also indicates that to the extent that, the proposal enhances PPE use, employers will save money because their employees will avoid the injuries and illnesses that would otherwise continue to occur from the improper use of PPE. Finally, this preamble explains why the proposed regulatory text will enhance safety protection for workers and will better effectuate Congress' intent that employers pay for the costs of compliance with OSHA standards. 29 U.S.C. 655(b)(8). Accordingly, the proposed standard complies with all applicable statutory criteria.

IV. Summary and Explanation of the Proposed Rule

A. Introduction

OSHA is proposing to revise its standards requiring employers to provide PPE to clarify that the employer must pay for the PPE, except for safety-toe footwear and prescription safety eyewear that meets all three conditions—the employer permits off-site use, the footwear or eyewear is safe for off-site use, and the footwear or eyewear is not designed specially for on-site use. The logging boots required by 29 CFR 1910.266(d)(1)(v) are also excepted from the employer payment requirement. This proposal applies to standards in the following industry sectors: general industry, construction, and maritime (including shipyards, marine terminals, and longshoring operations). It does not apply to agriculture.

The Agency believes that requiring employers to pay for PPE is central to the effective implementation of the Act. As noted earlier in this preamble, OSHA is using the abbreviation PPE to cover all protective equipment, including personal protective equipment, that is provided to employees to protect them from workplace hazard. However, some inconsistent statements and interpretations by OSHA over the years regarding the Agency's PPE payment policy, and the recent *Union Tank* decision by the Review Commission, have now made it difficult for the Agency to uniformly enforce this policy.

Therefore, OSHA is proposing to resolve this issue by clearly identifying, through regulation, who is required to pay for PPE. OSHA intends this rulemaking to lead to the consistent application of the Agency's protective equipment requirements throughout the regulated community and by Agency compliance personnel. The rulemaking process will also give interested parties an opportunity to participate in the Agency's decisions through written comments and informal public hearings.

The following discussion presents the Agency's reasons and preliminary conclusions regarding the proposed revisions to its PPE standards, and explains the proposed requirements.

B. Reasons Why the Agency Believes That Employers Must Pay for PPE

1. *The OSHAct.* The Occupational Safety and Health Act of 1970 requires employers to provide a safe and healthful workplace for their employees. This mandate includes the financial obligation of employers to provide controls to address hazards that could cause injury or physical harm to their employees. (See the Legal Considerations section of this preamble for a more detailed discussion of the employer's obligation to pay for workplace protections.)

2. *PPE is also a hazard control measure.* Most standards require employers to implement engineering controls, such as ventilation or barriers, and administrative controls, such as regulated areas or danger zones, because these are typically thought to be the primary ways to reduce hazardous exposures to employees. There has never been any doubt that employers pay for these controls.

PPE is another type of control measure that is often necessary to reduce exposures to health and safety hazards. In many cases, PPE use supplements engineering, work practice, and administrative controls where such controls do not provide adequate protection. In some circumstances, such as in some maintenance work, PPE is used as the sole or primary means to protect employees. Consequently, it is appropriate for OSHA standards to require employers both to implement and to pay for PPE as a hazard control measure, just as they must do for engineering and administrative controls.

OSHA standards require many different types of PPE to protect employees from the variety of hazards in the workplace. Table I indicates the kinds of PPE required by OSHA standards.

TABLE I.—LIST OF PERSONAL PROTECTIVE EQUIPMENT

Personal fall arrest system
—Safety belts.
—Body belts.
—Lifelines.
—Lanyards.
—Harnesses.
—Pole climbing systems.
—Climbing spikes.
—Ladder safety device belts.
—Window cleaners' safety straps.
Face & eye protection
—Side shields.
—Goggles.
—Face shields/masks.
—Safety glasses.
—Welding goggles.
Hand protection and arm protection
—Gloves (disposable, fabric, leather mesh, aluminized, chemical resistant).
—Rubber sleeves.
—Hand shields.
Hearing protection
—Ear plugs.
—Ear muffs.
Head protection
—Headgear.
—Helmets.
—Hard hats.
—Welding helmets.
Foot protection
—Safety shoes.
—Safety boots.
—Logging boots.
—Shin covers.
—Shoe covers.
—Logging chaps & kevlar pants/leg protection.
—Metatarsal protection.
Respiratory protection
—Air-purifying respirators.
—Atmosphere-supplying respirators, including supplied-air respirators and self-contained breathing apparatus.
—Escape-only respirators.
—Filtering face pieces (dust masks).
Protective clothing
—Aprons.
—Encapsulating chemical protective suits.
—Flame resistant jackets and pants.
Fire fighting PPE
—Head protection.
—Face & eye protection.
—Protective coats and trousers.
—Foot protection.
—Hand protection.
—Proximity suits.
Protective equipment
—Insulating blankets.
—Matting.
—Barriers.
—Mouthpieces.
—Finger Cots.
Lifesaving equipment
—Life preservers.
—Life jackets.
—Reflective work vests.
—Ring life buoys.
—Retrieval systems.
Protective clothing for health-related substances
—Coveralls.
—Full body work clothing.
—Laboratory coats.
—Gowns.

TABLE I.—LIST OF PERSONAL PROTECTIVE EQUIPMENT—Continued

—Disposable paper clothing.
—Shoe covers.

3. *Employers are in the best position to provide the correct type of protective equipment and keep it in repair.* OSHA believes that requiring employers to pay for PPE will directly improve safety and health because the employer is in the best position to select, order, and obtain the proper type and design of PPE, ensure that it is of the necessary quality, and maintain it.

Employers are required to perform a hazard assessment of the workplace and select the correct type of PPE to protect employees from the hazards identified in that hazard assessment (§ 1910.132(d)). Employees often do not have the expertise to select the correct type of PPE, especially where the selection of appropriate PPE, such as fall protection equipment and respirators, may be complicated.

OSHA also believes that employers are in the best position to keep the PPE in repair. Employers are required to maintain PPE in a sanitary and reliable condition (§ 1910.132(a)). Because of this responsibility, OSHA believes that employers can maintain better control over the inventory of PPE by periodically inspecting the PPE and, when necessary, repairing or replacing it due to damage or normal wear and tear.

OSHA gave these reasons for requiring employers to pay for PPE in the final standard for logging operations (59 FR 51683, October 12, 1994). A number of commenters supported this reasoning.

OSHA first used this reasoning in rulemakings conducted in the 1970's. For example, the Inorganic Arsenic standard explicitly requires employers to pay for respirators, protective clothing, and protective equipment, including gloves, shoes, and face shields or goggles. 29 CFR 1910.1018(j)(1). The preamble to the rule states that it is the employer's obligation to provide protective equipment at no cost to the employee and that doing so puts the employer in the best position to provide the correct type of equipment and keep it in repair. 43 FR 19619 (May 5, 1978). OSHA applied the same reasoning in requiring employers to pay for respirators when necessary to protect employees from exposure to cotton dust. 43 FR 27387 (June 23, 1978). These standards were subsequently upheld on appeal.

In the recent respiratory protection standard, OSHA stated clearly that the employer must pay for any respirator required to be worn by employees. Although respirators are one of the more expensive types of PPE, there was no opposition to this requirement. 63 FR 1152, 1195, (January 8, 1998.)

4. *Requiring employees to pay for PPE may discourage their use of PPE.* Another reason for requiring the employer to pay for PPE is that employees may be discouraged from using necessary PPE if they are responsible for paying for it and must select and buy it.

In the preamble to the Hearing Conservation amendment, OSHA determined that employers should pay for hearing protectors based in part on the reasoning that permitting an employer to charge employees for hearing protectors could discourage the use of such devices and thereby undermine the effectiveness of the employer's hearing conservation program. 46 FR 4153 (January 16, 1981). The Fourth Circuit Court of Appeals upheld the standard's allocation of hearing protector costs to employers. *Forging Indus. Ass'n* v. *Secretary of Labor*, 773 F.2d 1436, 1451 (4th Cir. 1985)(en banc). The Court noted in that case that the Supreme Court's finding in *ATMI* left no doubt that Congress intended to impose compliance costs on employers and that "it is only logical that OSHA may require employers to absorb such costs." *Forging Indus. Ass'n*, 773 F.2d at 1451.

One of the reasons OSHA has given for medical removal protection (MRP) benefits in its lead and cadmium standards is to encourage employee participation in the medical surveillance programs mandated by those standards. MRP protects the wages and other benefits of employees removed from exposure to a toxic substance because of an exposure—related condition revealed by medical surveillance. In the preamble to the cadmium standard, OSHA stated "(MRP) . . . increase(s) employee participation and confidence in the standard's medical surveillance program." 57 FR 42101, 42367 (September 14, 1992). Analogous reasoning supports the proposed requirement that employers pay for PPE. OSHA believes that requiring employers to pay for PPE will increase the likelihood that the employees will use the PPE and have confidence in the employer's PPE program. The requirement for MRP and OSHA's rationale were both specifically upheld in the lead decision, *United Steelworkers* v. *Marshall*, 647 F.2d 1189, 1231 (D.C. Cir. 1980).

As discussed in the Background and Legal Considerations sections, OSHA has explicitly required employer payment for PPE in all health standards issued since 1977. This issue has been less clearly and directly addressed, however, in OSHA's safety standards. As discussed in the Background section, OSHA attempted to clear up any ambiguity in its 1994 memo to the field which stated that employer payment for PPE was generally required (with an exception for steel-toe safety footwear and prescription eyewear).

5. *Some State-Plan States already interpret their standards to require employers to pay for PPE.* Several States with OSHA-approved State-plans already require employers to pay for PPE. These requirements have provided protection to employees without posing feasibility problems for employers. For example, the State of North Carolina requires employers to provide, at no cost to the employee, all personal protective equipment that the employee does not wear off the job-site for use off the job. However, this State requirement applies only to general industry workplaces.

California standards are somewhat more extensive than those of North Carolina. Whenever California standards use the word "provide," California State Courts have uniformly interpreted the standards to mean that the employer pays for all PPE (including any replacement PPE) in all industry sectors. The only exceptions are for PPE that reflect "special preferences" by employees, such as prescription safety eyewear or shoes of higher quality than required, or that reflect the individual's style preference. Many other State-plan states, including Alaska, Arizona, Indiana, Kentucky, New York, and Minnesota, either require the employer to pay for all PPE or follow the practice outlined in Federal OSHA's 1994 memo to the field.

C. Scope of Proposed Rulemaking

The proposal applies to the following industry sectors: general industry, construction, and maritime (shipyard employment, marine terminals, and longshoring). It does not apply to agriculture because OSHA does not have general standards for PPE use in agriculture. However, some employees in agriculture are covered by two general industry standards, the logging standard (29 CFR 1910.266) and the cadmium standard (29 CFR 1910.1027), which specifically require employers to pay for required PPE (except in the case of the logging boots specified in 1910.266(d)(l)(v), which are specifically exempted from the requirements of the

proposed standard). The PPE requirements in these two standards will continue to apply in agriculture.

Even though the types of PPE may vary across and within industry sectors, the same OSHA policy considerations on payment apply to all of them. In addition, many OSHA safety and health standards already contain provisions requiring the employer to pay for protective equipment and PPE.

Table II lists many OSHA provisions requiring the use of protective equipment and PPE. The table identifies the provision, and the type of PPE required by that provision.

TABLE II.—PPE PROVISIONS IN OSHA STANDARDS

29 CFR OSHA references	Type of PPE
Part 1910—General Industry 6(a) Standards [1]	
§ 1910.28(g)(9)	Safetybelt and lifeline.
§ 1910.28(j)(4)	Safetybelt and lifeline.
§ 1910.94(c)(6)(iii)(a)	Air-supplied respirator.
§ 1910.94(d)(9)(ii)	Rubber and impervious boots.
§ 1910.94(d)(9)(iii)	Shoes.
§ 1910.94(d)(9)(iv)	Impervious gloves.
§ 1910.94(d)(9)(v)	Impervious aprons, coats.
§ 1910.94(d)(9)(vi)	Jackets, chemical goggles, face shields, respirators.
§ 1910.132(a)	Personal protective equipment, eye, face, head, extremities, protective clothing, and respiratory devices.
§ 1910.132(b)	Employee-owned PPE (any PPE owned by employees and used on the job-site).
§ 1910.218(a)(1)(iv)	Gloves, goggles, and aprons.
§ 1910.242(b)	PPE appropriate for hazards associated with the use of hand and portable powered tools and equipment.
§ 1910.243(d)(1)(ii)	Eye, face, head protection.
§ 1910.252(b)(1)(i)	Safetybelt, lifeline.
§ 1910.252(b)(2)(i)(A)	Welding helmet, hand shields.
§ 1910.252(b)(2)(i)(B)	Filter lens.
§ 1910.252(c)(4)(2)(ii)	Airline respirator.
§ 1910.252(c)(4)(iii)	SCBA.
§ 1910.252(c)(7)(iii)	Respirator.
§ 1910.261(b)(2)	Foot protection, shin guards, hardhats, noise attenuation.
§ 1910.261(b)(5)	Lifeline, safety harness.
§ 1910.261(c)(2)(vii)	Foot, head, eye protection.
§ 1910.261(c)(6)(ii)	Foot, head, eye protection.
§ 1910.261(c)(7)(ii)	Foot, head, eye protection.
§ 1910.261(d)(1)(i)	Respirators, goggles, protective masks.
§ 1910.261(d)(1)(ii)	Eye, face protection, clothing.
§ 1910.261(g)(2)(i),(ii),&(iii)	Gas mask, respirators, eye protection, safety belts, lifeline.
§ 1910.261(g)(4)	Respirators, lifebelts, lifelines.
§ 1910.261(g)(5)	Rubber boots, gloves, apron, eye protection.
§ 1910.261(g)(6)	Respirator.
§ 1910.261(g)(10)	Gas mask.
§ 1910.261(g)(15)(ii),(iii)&(v)	Respirator, lifeline, safetybelt.
§ 1910.261(g)(18)(i)&(ii)	Showers, bubblers.
§ 1910.261(h)(2)(iii)&(iv)	Gas mask, SCBA.
§ 1910.261(i)(4)	Eye, head, foot and shin protection.
§ 1910.261(k)(3)	Face shields, aprons, rubber gloves.
§ 1910.265(c)(21)(i)	Safetybelt, lifeline.
§ 1910.265(d)(2)(ii)(h)	Life ring and line.
§ 1910.265(d)(2)(iii)(g)	Buoyant devices.
§ 1910.335(a)(1)(i)	Electrical protective equipment.
§ 1910.335(a)(2)(i)	Protective shields, barriers, insulation.
§ 1910.66(j)	Personal fall arrest system.
§ 1910.67(c)(2)(v)	Bodybelt.
§ 1910.120(g)(3)(iii)	Positive pressure SCBA, airline.
§ 1910.120(g)(3)(iv)	Totally-encapsulated chemical suit.
§ 1910.120(c)(5(ii)	5-minute ESCBA.
§ 1910.120(c)(5)(iii)	Level B PPE.
§ 1910.120(q)(3)(iii)	Firefighting PPE.
§ 1910.120(q)(3)(iv)	Positive pressure SCBA.
§ 1910.133(a)(1)	Eye and face protection.
§ 1910.134	Respirators.
§ 1910.135	Protective helmet.
§ 1910.136	Foot protection.
§ 1910.137	Electrical protective equipment.
§ 1910.138	Hand protection.
§ 1910.146(k)(1)(i)	PPE, rescue equipment.
§ 1910.156(e)(1)(i)	Protective clothing.
§ 1910.156(e)(1)(ii)	Firefighting PPE.
§ 1910.156(f)(1)(i)	Respirators.
§ 1910.266(d)(1)(iii)	Hand protection.
§ 1910.266(d)(1)(iv)	Leg protection.

TABLE II.—PPE PROVISIONS IN OSHA STANDARDS—Continued

29 CFR OSHA references	Type of PPE
§1910.266(d)(1)(v)	Logging boots.
§1910.266(d)(1)(vi)	Head protection.
§1910.266(d)(1)(vii)	Eye and face protection.
§1910.268(g)(1)	Safetybelt and strap.
§1910.268(1)(i)	Head protection and eye protection.
§1910.272(g)(1)(iii)(B)	Respirator.
§1910.272(g)(2)	Body harness and lifeline.
§1910.94(a)(5)(i)	Respirators.
§1910.94(a)(5(iv)	Respirators.
§1910.94(a)(5)(v)(B)	Eye and face protection.
§1910.95(b)(1)	PPE (Hearing protection).
§1910.95(i)(1)	Hearing protection.
§1910.95(i)(3)	Hearing protection.
Part 1910 General Industry Health 6(b) Standards[1]	
§1910.134	Respirators.
§1910.1002	Protective equipment, Respirators.
§1910.1001(g)(2)(i)	Respirators.
§191.1001(h)(1)	Coveralls, gloves, head coverings, foot coverings, face shields, goggles.
§1910.1001(j)(7)(iii)(E)	PPE (for protection against asbestos).
§1910.1003(b)	Protective clothing, smocks, coveralls, gloves.
§1910.1003(c)(4)(iii)	Long-sleeved shirts, pants, boots.
§1910.1003(c)(4)(iv)	Respirators.
§1910.1003(c)(5)(i)	Gloves, boots, respirators.
§1910.1004	Respirators, protective clothing.
§1910.1006	Respirators, protective clothing.
§1910.1007	Respirators, protective clothing.
§1910.1008	Respirators, protective equipment.
§1910.1009	Respirators, protective equipment.
§1910.1010	Respirators, protective equipment.
§1910.1011	Respirators, protective equipment.
§1910.1012	Respirators, protective equipment.
§1910.1013	Respirators, protective equipment.
§1910.1014	Respirators, protective equipment.
§1910.1015	Respirators, protective equipment.
§1910.1016	Respirators, protective equipment.
§1910.1017	Respirators, protective equipment.
§1910.1018	Respirators, protective work clothing, eye and face protection.
§1910.1025	Respirators, protective work clothing.
§1910.1027	Respirators, protective work clothing, eye and face, head protection.
§1910.1028	Respirators, protective clothing, eye and face protection.
§1910.1029	Flame resistant pants, jacket, gloves, eye and face protection, insulated footwear, protective helmets.
§1910.1030	Gloves, gown, lab coat , face shield, masks, eye protection, mouthpieces, pocket mask.
§1910.1043	Respirators.
§1910.1044	Respirators, protective clothing, eye and face protection.
§1910.1045	Respirators, protective clothing and equipment.
§1910.1047	Respirators, protective clothing and equipment.
§1910.1048	Respirators, protective clothing and equipment.
§1910.1050	Respirators, aprons, coveralls, gloves, head coverings, foot coverings, face shields, chemical goggles, other PPE.
§1910.1051	Respirators, protective clothing, eye and face protection.
§1910.1052	Respirators, protective clothing, eye and face protection.
§1910.1200(h)(3)(iii)	PPE (for protection against hazardous chemicals).
§1910.1450(e)(3)(ii)	PPE (for protection against hazardous chemicals in laboratories).
§1910.1450(f)(4)(i)(C)	PPE (for protection against hazardous chemicals in laboratories).
§1910.1450(i)	Respirators.
Part 1915—Shipyard Employment 6(a) Standards[1]	
§1915.12(c)(4)(ii)	Respirators, other PPE.
§1915.12(e)(1)(i)	Respirators, other PPE.
§1915.13(b)(6)(iv)	Respirators, other PPE.
§1915.32(a)(3)	Respirators, protective clothing.
§1915.33(a)	Eye and face protection.
§1915.33(d)	Face protection.
§1915.33(e)	Face protection.
§1915.34(a)(1)	Goggles, face shields.
§1915.34(a)(4)	Respirators.
§1915.34(b)(1)	Respirators.
§1915.34(c)(3)(i)	Respirators.
§1915.34(c)(3)(ii)	Respirators.

TABLE II.—PPE PROVISIONS IN OSHA STANDARDS—Continued

29 CFR OSHA references	Type of PPE
§ 1915.34(c)(iii)	Respirators.
§ 1915.34(c)(iv)	Protective clothing, gloves.
§ 1915.34(c)(3)(v)	Safety belt.
§ 1915.35(a)(1)(i)	Respirators.
§ 1915.35(a)(1)(ii)	Respirators.
§ 1915.35(a)(1)(iii)	Respirators.
§ 1915.35(a)(2)	Respirators.
§ 1915.35(b)(9)	Eye, face, head, hand protection, protective clothing.
§ 1915.35(b)(13)	Respirators and protective clothing.
§ 1915.35(b)(14)	Respirators and protective clothing.
§ 1915.51(c)(3)	Respirators.
§ 1915.51(d)(2)	Respirators.
§ 1915.51(d)(3)	Respirators.
§ 1915.51(e)(1)(ii)	Eye protection, filter lenses.
§ 1915.51(e)(1)(iii)	Protective clothing.
§ 1915.51(f)(2)	Eye protection.
§ 1915.53(d)(1)	Respirators.
§ 1915.53(d)(2)	Respirators.
Part 1915—Shipyard employment 6(b) Standards [1]	
§ 1915.12(a)(3)(ii)	Respirators, other PPE.
§ 1915.152(a)	All PPE.
§ 1915.153(a)	Eye and face protection.
§ 1915.154	Respirators.
§ 1915.155	Head protection.
§ 1915.156	Foot protection.
§ 1915.157	Hand and body protection.
§ 1915.158	Personal flotation devices, life rings.
§ 1915.159	Personal fall arrest systems.
§ 1915.160	Positioning device systems.
Part 1917—Safety and Health Regulations for Marine Terminals 6(b) Standards [2]	
§ 1917.22(c)	Protective clothing.
§ 1917.23(d)(1)	Respirators, emergency protective equipment.
§ 1917.25(e)(1)	Respirators, emergency protective equipment.
§ 1917.26(f)	Personal flotation devices, safety belts.
§ 1917.49(i)(3)	Lifeline and safety harness.
§ 1917.73(a)(3)	Respirators.
§ 1917.73(c)	Respirators, lifeline, safety harness.
§ 1917.91(a)(1)	Eye and face protection.
§ 1917.92	Respirators.
§ 1917.93(a)	Head protection.
§ 1917.94(a)	Foot protection.
§ 1917.95(a)	Protective clothing.
§ 1917.95(b)	Personal flotation devices.
§ 1917.118(e)(1)	Ladder safety device.
§ 1917.126(b)	Personal flotation devices.
§ 1917.152(e)(8)(ii)	Eye protection, filter lenses.
§ 1917.152(e)(11)	Rubber pads, rubber boots.
§ 1917.152(f)	Respirators.
§ 1917.152(f)(4)	Eye, head, hand protection.
§ 1917.152(g)(3)	Respirators.
§ 1917.152(h)	Respirators, eye, face, head protection, filter lenses.
§ 1917. 154	PPE (For protection against hazards resulting from the use of compressed air).
Part 1918—Longshoring 6(b) Standards [1]	
§ 1918.101	Eye protection.
§ 1918.102	Respirators.
§ 1918.103	Protective clothing.
§ 1918.104	Foot protection.
§ 1918.105	Head protection.
§ 1918.106	Personal flotation devices
Part 1926 Construction 6(a) Standards [1]	
§ 1926.300(c)	PPE (for hazards from the use of hand and power tools).
§ 1926.304(e)	PPE (for hazards from the use of woodworking tools).
§ 1926.551(e)	Eye protection, hardhats.

TABLE II.—PPE PROVISIONS IN OSHA STANDARDS—Continued

29 CFR OSHA references	Type of PPE
Part 1926—Construction 6(b) Standards [1]	
§ 1926.52(b)	Hearing protection.
§ 1926.95(a)	General requirements for all PPE used in construction.
§ 1926.95(b)	Employee owned PPE.
§ 1926.95(c)	Design of PPE.
§ 1926.701(f)	Face and head protection.
§ 1926.800(d)(7)	PPE used in underground construction.
§ 1926 Subpart L	Personal fall arrest systems.
§ 1926 Subpart M	Personal fall arrest systems.

[1] A 6(a) standard is any standard that OSHA adopted from an existing Federal standard or a national consensus standard under Sec. 6(a) of the Act, i.e., without notice-and-comment rulemaking. A 6(b) standard is a standard that OSHA promulgated using the rulemaking process with public participation.

For all industry sectors, employers are in the best position to choose the proper type and quality of PPE, and to maintain the PPE selected. The same statutory considerations apply to all industry sectors, as discussed above in this preamble.

However, additional considerations apply to workplaces in construction, longshoring, and marine terminals: first, there is considerable turnover in these industries, and second, many of the affected businesses employ only a small number of employees. Based on OSHA's experience, safety-toe footwear is the type of PPE most often used in these industries and the type of PPE that employees are most often required to pay for at present. This equipment would be excluded from the "employer pays" requirement, provided that the three proposed conditions are met. Therefore, OSHA does not believe that its proposal will cause economic difficulties for employers in these sectors. See also section VI., *Preliminary Economic Analysis*.

D. Current OSHA Rrequirements Concerning Payment for PPE

Earlier OSHA standards promulgated under section 6(a) of the OSH Act (i.e., those standards adopted without notice-and-comment rulemaking and public participation) that required the use of PPE did not explicitly address the issue of who is required to pay for PPE. In 1978, however, several substance-specific health standards promulgated under section 6(b) of the OSH Act (i.e., promulgated using the full rulemaking process with public participation and comment) required employers to pay for PPE. Since that time, all OSHA health standards have explicitly required employers to pay for required PPE.

However, the safety standards promulgated under section 6(b) of the OSH Act have not been consistent with respect to the employer's responsibility to pay for PPE. Several of these standards require the employer to "provide" PPE, but do not explicitly state that the employer must pay for it. Other standards specifically require the employer to pay for all PPE. One standard, Logging Operations (§ 1910.266), requires the employer to pay for all PPE, with the exception of logging boots. The following are examples of OSHA's current PPE requirements.

Telecommunication standard. Paragraph (e) of § 1910.268 requires the employer to provide personal protective equipment, protective devices and special tools. However, this provision does not specifically state that the employer must pay for the PPE, even though it is common practice in the telecommunications industry for the employer to pay for all PPE except for safety-toe protective shoes (see the Regulatory Impact Analysis for that standard).

Electric Power Generation. Paragraph (g)(1) of § 1910.269 requires PPE to meet the requirements of subpart I of part 1910, but does not specify that the employer must pay for the PPE.

Maritime standards. Paragraph (a) of § 1915.152 (Shipyard standards) requires the employer to provide and ensure the use of PPE, but does not clearly state that the employer is required to pay for it.

Identical PPE standards apply to marine terminals (part 1917) and longshoring (part 1918). They state, in part: "The employer shall ensure that each affected employee wears* * *[PPE]." Again, the regulatory text does not state that the employer is required to pay for the PPE. However, the preamble to the marine terminals and longshoring standards does give guidance with respect to the payment for PPE issue (62 FR 40186–87):

> Although the equipment used in marine cargo handling operations often differs from that mentioned in the October 18 memorandum [OSHA Policy Memorandum, October 18, 1994] the same policy considerations apply in the Longshore and Marine Terminals standard PPE context. Therefore, OSHA will apply the above-stated policy when determining whether the employer is required to pay for a particular kind of PPE.

Therefore, OSHA's enforcement policy for marine terminals and longshoring requires employers to pay for all PPE except for safety-toe protective shoes and prescription safety glasses.

Subpart I of part 1910. On April 6, 1994, OSHA revised its general industry standards for PPE (59 FR 16362) and added new provisions for hazard assessment and training. The Agency had not proposed a requirement concerning the employer's responsibility to pay for PPE, and the subject was not an issue during the rulemaking.

Permit-required confined spaces (§ 1910.146). This standard specifically requires the employer to pay for PPE. It requires the employer to provide the equipment (including PPE) necessary for safe entry into, and rescue from, permit spaces at no cost to employees, to maintain the equipment properly, and to ensure its proper use by employees.

Logging operations. During the logging rulemaking, OSHA proposed that the employer provide PPE and assure its use. OSHA's intent was that the employer provide all PPE at no cost to employees. However, some commenters asserted that employers should not have to pay for all types of PPE used in logging operations.

After careful analysis of the rulemaking record, the Agency concluded that the employer should be required to pay for all PPE except for logging boots. OSHA noted that logging boots are customarily worn outside the workplace; are individually-fitted and therefore not usable by another

employee; and are used in an industry that has a high turnover rate.

E. Advisory Committee on Construction Safety and Health

The Advisory Committee on Construction Safety and Health (ACCSH) assists OSHA by providing comments and recommendations on proposed construction standards. Accordingly, the Agency provided ACCSH with the following draft revision of § 1926.95:

(d) *Payment for Protective Equipment.* All protective equipment, including personal protective equipment, required in this part, shall be provided by the employer at no cost to employees except for safety-toe protective footwear and prescription safety eyewear.

ACCSH considered the proposed language at its meeting on April 8, 1998.

ACCSH members expressed several concerns about the proposed language. Some members expressed the view that many employers were already paying for safety-toe shoes through collective bargaining agreements and that the new text might discourage them from continuing to do so (Tr. 53, 61).

Members also noted that prescription glasses are sometimes incorporated into respirator facepieces and would therefore be impractical for workers to use at home. They therefore asked why employers should not pay for that prescription eyewear (Tr. 47).

Other members of the committee mentioned the problem of employees who did not always bring their safety equipment to work. They noted that it would be expensive for an employer to have to replace that equipment frequently (Tr. 51–52).

Two resolutions were introduced. The first stated:

All protective equipment, including personal protective equipment, required in this part, shall be provided by the employer at no cost to the employees.

That resolution failed by a 6 to 7 vote.

The second resolution introduced read as follows:

The language currently in 1926.95 regarding personal protective equipment, is effective and is sufficient to protect the worker and provide the personal protective equipment. (We) recommend leav(ing) the language as is currently stated in 1926.95 (Tr. 62).

That resolution passed by a 6 to 2 vote.

Based on the recommendations and discussion of ACCSH, the Agency revised the draft regulatory text to reflect many of the Committee's concerns. OSHA is proposing the revised proposed regulatory text for general industry and maritime as well as the construction industry.

The Agency believes that the *Union Tank* decision has undercut OSHA's ability to enforce the standard as outlined in the 1994 memo. As discussed below, the proposed rule incorporates much of the 1994 memo into the text of the Agency's various protective equipment standards. OSHA believes that this action will carry out the recommendations of ACCSH effectively.

The proposed regulatory text now makes clear that the employer is not required to pay for safety-toe protective footwear and prescription safety eyewear unless: (1) The employer does not permit it to be worn off-site; (2) the footwear or eyewear is rendered unsafe for use off-site; or (3) the footwear or eyewear is designed for special use on the job. For example, contaminated safety-toe footwear would not be permitted to be worn off the job-site because it would be unsafe to do so, and prescription eyewear mounted inside a full-facepiece respirator would not be permitted for use off the job-site because it is designed for special use on-site. Consequently, the employer would be required to pay for the PPE in these two examples.

OSHA intends to require employers to pay for the initial issue of PPE and for replacement PPE that must be replaced due to normal wear and tear or occasional loss. Only in the rare case involving an employee who regularly fails to bring employer-supplied PPE to the job-site, or who regularly loses the equipment, would the employer be permitted to require the employee to pay for replacement PPE.

F. Explanation of Proposed Requirement

OSHA is proposing to add the following language to its general industry standards as § 1910.132(h):

All protective equipment, including personal protective equipment (PPE), required in this part, shall be provided by the employer at no cost to employees.

Exception: The employer is not required to pay for the logging boots required by 29 CFR § 1910.266(d)(1)(v). The employer is also not required to pay for safety-toe protective footwear, or for prescription safety eyewear, provided that all three of the following conditions are met: (1) the employer permits such footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and (3) such footwear or eyewear is not designed for special use on the job.

OSHA is proposing to add the same language (except for the first sentence of the exception, which applies only to the general industry workplaces covered by the logging standard) as shipyard § 1915.152(f) as marine terminal § 1917.96, as longshoring § 1918.106, and as construction § 1926.95(d).

The purpose of this language is to make clear that employers must provide and pay for all necessary PPE wherever such PPE is required by an OSHA standard, with the exceptions mentioned. The reasons for this proposal have been discussed above and are also found in the Legal Considerations section of this preamble, above.

The proposal is intended to cover every situation where an OSHA standard requires the use of PPE. OSHA preliminarily concludes that all the reasons why employers should provide and pay for PPE apply generally to all types of PPE. In other words, the reasons why an employer is in the best position to purchase the correct type and quality of wire mesh gloves to prevent finger lacerations also apply to the selection and purchase of the correct type and quality of fall protection harnesses and lanyards, respirators, and metatarsal foot protection. As noted, the proposal does contain exceptions and conditions to these exceptions. OSHA requests comment on whether other types of PPE should be excepted from the employer-payment principle and if so, why.

The proposed payment requirement in § 1910.132(h) applies to "all protective equipment required in this part." For example, part 1910 contains many different requirements for the use of PPE throughout general industry (see Table 2, above). Although the proposed regulatory language would be inserted only in § 1910.132 (which is in subpart I of part 1910), OSHA intends that employers pay for all PPE required throughout part 1910.

OSHA does not believe it necessary to specify in the proposed regulatory text that the employer ensure that employees use the required PPE and maintain it appropriately, because these concepts are already clearly stated in most of OSHA's PPE requirements. OSHA requests comments on the adequacy of this approach, and whether employee use and maintenance of PPE should be specifically required.

As discussed previously, some PPE requirements already include specific language requiring the employer to provide and pay for PPE (e.g., the language used in most health standards), while others use more ambiguous language. OSHA intends the proposed new language to cover all of the Agency's PPE requirements. OSHA believes that this approach will make the obligations of employers clear with regard to the provision and payment for PPE. The proposed language does not

affect or limit the "provide-and-pay" language in those regulatory provisions that already clearly state this requirement, such as 29 CFR 1910.266(d)(1)(v), 29 CFR 1910.1029(h)(1), 29 CFR 1910.146(d), and 29 CFR 1910.134(c).

The proposed provide-and-pay language also allows a reasonable degree of compliance flexibility. For example, the proposed language would permit an employer to send an employee to purchase appropriate PPE at a supply store if the employer paid for the employee's time and paid for the PPE.

The proposed requirement would also make the employer responsible to provide, and pay for, replacement PPE when the original PPE wears out from normal wear and tear or in the event of occasional loss or accidental damage by the employee. However, if an employee regularly and with unreasonable frequency loses or damages the PPE, the employer may request that the employee pay for the replacement PPE. This issue was discussed at the ACCSH meeting, as noted earlier. It is also important to note that current OSHA PPE standards (e.g., § 1910.132(f)(1)(v)) already require the employer to train employees in the proper care, maintenance, and useful life of PPE.

Exceptions

For the reasons discussed above, OSHA has preliminarily concluded that the Agency needs to codify the general principle that employers must both provide and pay for PPE. However, the Agency is also proposing exceptions to that rule. OSHA is not proposing to require employers to provide, or pay for, safety-toe protective footwear or prescription safety eyewear providing that the following three conditions are met: (1) the employer permits the footwear or eyewear to be worn off-site; (2) the footwear or eyewear is used on the job in a manner that does not make it unsafe for off-site use; and (3) the footwear or eyewear is not designed for special use on the job. In addition, as the current rule provides, general industry employers are not required to pay for the logging boots required by 29 CFR 1910.266(d)(1)(v).

Safety-toe protective footwear (safety shoes). This discussion of safety shoes pertains only to safety-toe protective footwear. It does not pertain to other types of foot protection, such as metatarsal or cut-resistant protective boots. (Logging boots are discussed below.)

OSHA considers safety shoes to be personal in nature. That is, safety shoes are not used by different employees. Instead, they are used by, and sized to fit, only one individual employee. Also, one employee's safety shoes are not generally used by other employees because of size and hygienic concerns. In addition, employees often wear safety shoes away from the job-site.

Safety shoes are widely available and are not difficult for the employee to select and purchase. Evidence presented in the Preliminary Economic Analysis also shows that it is customary in some workplaces for employees to pay for their safety-toe footwear. In addition, the OSHA policy memorandum of 1994 generally excepted safety-toe safety shoes from the employer payment requirement. For these reasons, OSHA is not proposing to include safety-toe safety shoes in the employer payment requirement if all three of the conditions are met.

Thus, the proposed exception would not apply to metatarsal protection (metatarsal guards or protective footwear that incorporates metatarsal protection) or special cut-resistant footwear because these kinds of footwear are not generally used off the worksite, and employers often re-issue metatarsal guards and cut-resistant footwear to subsequent employees. Also, the proposed exception would not apply to any safety-toe safety shoe that cannot safely be worn off the worksite. For example, the exception does not include safety shoes that have been worn in a regulated area where they may have been contaminated with a toxic substance. Employers must continue to provide and pay for these safety shoes because they are not safe for use off-site. However, the exception does not prohibit employers from paying for safety-toe safety footwear of any type, if they choose to do so.

Prescription safety eyewear. OSHA also considers prescription safety eyewear to be personal in nature. Prescription safety eyewear is, of course, designed for the use of a single individual. Other types of protective eyewear, such as goggles, generally remain at the job-site and can be cleaned and reissued for use by other employees.

Prescription safety eyewear is usually used both on and off the job-site. Additionally, regular prescription glasses can be worn underneath goggles and other protective eyewear that has been designed to accommodate them. Therefore, in this situation OSHA believes that employers should be required to pay only for the protective goggles. Employees can then decide either to purchase their own prescription safety glasses or to wear their own prescription glasses underneath the protective eyewear provided by the employer. Additionally, the employer may agree to pay all or part of the cost of prescription safety eyewear. However, the employer must pay for any prescription eyewear that is mounted inside the full-facepiece of a respirator, because such eyewear would fall under the "special use" condition of the proposed rule (this is also clearly required by the respirator standard). OSHA's position on this issue is discussed below in the Issues Section of this preamble.

The Agency realizes that there may be different opinions with respect to this proposal. Some may argue that requiring employers to pay for all PPE (including safety shoes and prescription safety eyewear) may lead to more employees wearing PPE and, consequently, may enhance employee safety. The Issues Section, below, requests comment on this issue.

OSHA emphasizes that payment for safety-toe footwear and prescription safety eyewear can be negotiated between management and labor. Also, this proposed rulemaking is not intended to affect any collective bargaining agreements, or any other responsibility to pay for safety-toe footwear and prescription safety eyewear in particular workplaces.

The Agency also emphasizes that this proposed rulemaking does not change the employer's obligation under the Act to ensure that all PPE, including employee-owned PPE, is worn when necessary, is adequate to protect employees from the hazard, and is properly maintained. If the employee chooses to furnish his or her personally-owned PPE, this rule does not require the employer to reimburse the employee for the cost of that equipment.

This proposed revision specifically restates the exception to the "employer pays" principle contained in the OSHA standard for logging operations (§ 1910.266(d)(1)(v)), which specifies that the employer is not required to pay for a certain type of foot protection (foot protection constructed of cut-resistant material to protect employees who operate chainsaws, etc.). OSHA considered that issue at length in the logging rulemaking and concluded that the evidence supported excluding that type of footwear from the general obligation that logging employers pay for logging PPE. See the discussion at 59 FR 51683–4 (Oct. 12, 1994).

V. Issues Pertaining to the Proposed Rule

OSHA requests comments, views, and data on all issues relevant to the proposed rule, including the following:

1. OSHA also considered proposing the following alternative regulatory text:

> The employer shall provide, at no cost to the employee, all protective equipment and personal protective equipment except for protective equipment which the employer demonstrates is personal in nature and customarily used off the job.

This provision is stated in general language and would have the advantage of providing some flexibility for specific workplace situations involving PPE. However, a major disadvantage of this approach is that it uses the terms "personal in nature" and "customarily used off the job," which OSHA would need to define and interpret. OSHA's proposed exception, which is more specific than the text of the alternative discussed above, provides greater certainty to employers and workers.

OSHA requests comments on the merits of both approaches, including views on how OSHA should interpret the regulatory text.

2. Are there other types of PPE, beside safety-toe safety footwear and prescription eyewear, that should be excepted from the proposed payment requirement? Why or why not? Please submit any available supporting documentation. Alternatively, should OSHA require employers to pay for all PPE, including safety-toe footwear and prescription safety eyewear? Why or why not?

3. OSHA realizes that there is frequent turnover in the construction industry, where employees frequently move from job-site to job-site. This is an important factor because an employer with a high-turnover workplace would have to buy PPE for more employees if the PPE was of the type that could only be used by one employee. OSHA requests comment on whether its proposed exceptions for safety-toe footwear and prescription safety eyewear are appropriate in the construction industry. Are there any other approaches to handle the turnover situation that would be protective of construction workers? Are there any other issues unique to the construction industry that should be considered in this rulemaking?

4. The longshoring and marine terminal industries have a unique employer-employee relationship in many ports. At some ports, employees are hired for a job through a labor pool, and the same employee may work for 5 different employers in the same week. How do these factors affect the issue of who is required to pay for PPE? Does the employer customarily pay for PPE in the maritime industry? Are there any other issues unique to the maritime industry that OSHA should consider in this rulemaking?

5. OSHA requests comments, information, and data on whether employee-owned PPE is less protective than employer-provided PPE, and under what circumstances.

6. The proposal covers protective equipment and personal protective equipment used in welding, including protective gloves. Does welding PPE create any unique problems on the PPE payment issue? Does the employee usually pay for welding PPE?

7. If an employee wants to use more costly PPE because of individual preference, should that employee be responsible for any difference in cost? Is there evidence that such "individualized" PPE has caused safety problems in the past?

8. Full-facepiece respirators present a unique problem for employees who need prescription glasses. The temples of the prescription glasses break the face-to-face piece seal and greatly reduce the protection afforded by the respirator. Special glasses and mounts inside the facepiece of the respirator are sometimes used to provide an adequate seal. Because of this special situation, OSHA believes that it is appropriate for the employer to provide and pay for the special-use prescription glasses used inside the respirator facepiece. Is it common industry practice for employers to pay for these special glasses? What is the typical cost for providing "insert-type" prescription glasses inside full-facepiece respirators?

9. OSHA's Preliminary Economic Analysis has found that this proposal will not impose significant impacts on firms in any industry segment or on affected small businesses. OSHA requests comments on the analysis and on any industry or subindustry that may have particular economic problems as a result of the proposed rule.

10. Should the standard require the employer to pay for inserts or other articles that are uniquely personalized components of personal protective equipment, such as head coverings used under welding helmets and custom prescription lens inserts worn under a welding helmet or a diving helmet?

11. OSHA intends to require employers to pay for the initial issue of PPE. Should employers also be required to pay for PPE that must be replaced due to normal wear and tear or occasional loss?

12. OSHA requests comments on the conclusions about the costs and benefits contained in the Preliminary Economic Analysis section.

VI. Preliminary Economic Analysis

It has been determined that this is a significant regulatory action under E.O. 12866, and a major rule under the Congressional Review provisions of the Small Business Regulatory Enforcement Fairness Act.

Introduction

OSHA has prepared this Preliminary Economic Analysis to examine the feasibility of the proposed rule on Employer Payment for Personal Protective Equipment and to meet the requirements of Executive Order 12866 and the Regulatory Flexibility Act (as amended). The proposed rule would require employers to pay for protective equipment, including personal protective equipment (PPE), when OSHA standards mandate that employers provide such equipment to their employees. The only PPE employers would not be required to pay for in certain circumstances are safety-toe footwear and prescription safety eyewear. OSHA is proposing to except PPE of these types providing that these types of PPE meet three conditions: (1) The employer permits them to be worn off-site; (2) they are not used on-site in a manner that renders them unsafe for use off-site; and (3) they are not designed for special on-site use. Logging boots are also specifically excepted from employer payment by 29 CFR 1910.266(d)(1)(v).

OSHA's requirements for PPE (again, OSHA is using the abbreviation "PPE" to cover all protective equipment, (including personal protective equipment) appear in many health, safety, maritime, and construction standards. In some cases, the standard is explicit in stating that employers are to provide the PPE at no cost to the employee (see, for example, OSHA's substance-specific health standards, which are codified in Subpart Z of 29 CFR 1910.1000). In other cases, however, such as in paragraph (a) of 29 CFR 1910.132 and paragraph (a) of 29 CFR 1926.28, who is required to pay for the PPE is not expressly specified. (For a complete list of OSHA's PPE requirements, see the Summary and Explanation for the proposed standard, above.)

The proposed rule would apply to general industry, construction, and maritime workplaces covered by the PPE provisions in existing OSHA standards.

The rule would clarify OSHA's intent that, with the exceptions noted, employers provide required PPE to their employees at no cost to those employees. The kinds of PPE addressed by OSHA's PPE standards include, for example, hard hats, safety shoes, gloves, safety glasses, goggles, faceshields, welding helmets and goggles, fall

protection equipment, and chemical suits. (A more detailed list of the kinds of PPE covered appears in the Summary and Explanation, above.)

Industry Profile

The proposed rule is concerned only with who pays for OSHA-required PPE; that is, it would not require employers to provide PPE where none has been required before. Instead, the proposed rule merely stipulates that required PPE be paid for by the employer, except in the case of safety-toe footwear and prescription safety eyewear that meets the three proposed conditions. In other words, the required PPE is currently being paid for either by the employer or the employee. The proposed rule would shift the costs of that portion of the PPE currently being paid for by the employee (except for safety-toe footwear and prescription safety eyewear meeting the proposed conditions) to their employers, as has been OSHA's intent. (See the Legal Considerations section of the preamble, above, for details of OSHA's legal interpretation of this issue.) To the extent that this rule has the effect of improving the quality of PPE being used or of ensuring that PPE is being used where it has not previously been used, such improved compliance would result both in additional benefits and costs to the economy. Nevertheless, to determine the extent of PPE usage and the potential magnitude of any shift in costs, OSHA has developed a profile of industry PPE use and payment patterns.

Data on PPE Usage Patterns

The data relied on to develop this industry profile derive from a number of sources, although the Agency relied on survey data for its estimates of use patterns for most types of PPE. The main source of information on PPE use patterns for general industry was a telephone survey of more than 5,000 employers conducted by OSHA in 1989 (ERG 1998), in support of the Agency's 1994 PPE rulemaking.[4] The survey yielded industry- and size-class-specific PPE use information for nearly all industries affected by that rulemaking and the current one. The survey provided information on PPE use in shipyards, within the context of SIC 37, Transportation Manufacturing. It did not, however, survey the construction industry.

Data on usage patterns in the construction industry derive primarily from a study done for the Office of Technology Assessment (OTA 1984) in 1982 by Springborne Associates. In this survey of employers, OTA provided estimates of the number of construction workers using various types of PPE. As with the 1989 PPE survey, the Agency assumes that the patterns of PPE usage (percentage of employees using PPE) within sectors of the construction industry have remained constant. The Agency believes that this is a reasonable assumption, in part because OSHA's construction rules governing PPE usage have remained the same since 1972. Further, the OTA survey reported that several types of PPE (e.g., hard hats, gloves, eye protection) are used by virtually all construction workers; thus it would be impossible for usage of these types of PPE to have increased significantly over time. The general assumption that PPE usage patterns have not changed significantly over time is supported by a recent OSHA analysis of respirator use patterns conducted for the Agency's final rule for respiratory protection (63 FR 1172, January 8, 1998). This analysis shows that respirator usage patterns have not changed substantially from those shown in the OTA report. A comparison of the OTA data for several other types of PPE (e.g., gloves, eye protection, faceshields, safety shoes and hard hats) with usage data from the 1989 PPE survey also indicated no clear shift in usage for these types of PPE. Thus, OSHA believes that these estimates of PPE usage in construction are reasonable. However, as will be discussed further below, OSHA is conducting a survey to gather more up-to-date information on PPE use and payment. This survey will be used to update the estimates of usage of PPE in construction.

To confirm the overall accuracy of the survey data on PPE use in construction, the Agency contacted several PPE distributors to obtain information on the market share for various PPE items in the construction industry, as compared to market share in other sectors. Comparing OSHA's estimates of the percentage of PPE costs attributable to construction with the distributors' estimates of the share of PPE sales occurring in the construction industry shows that OSHA's estimates of PPE use in construction are correct and may, if anything, be high. If OSHA's estimates are high, this analysis would tend to overstate the potential costs and impacts of the proposed rule on the construction industry. For example, OSHA's analysis estimates that approximately 25 percent of the costs of all PPE occur in the construction sector, while the distributors indicated that the construction sector accounted for 20 percent of the value of PPE sales.

Estimating use patterns for some specific types of PPE required additional analysis. For example, the OTA survey did not collect data on fall protection PPE. The number of employees using fall protection in construction was estimated from an analysis of occupational categories, based on data from BLS's 1994 Occupational Exposure Survey (OES)[5]. Additionally, the OES data allowed OSHA to estimate the number of workers requiring welding equipment in construction and in some industries not covered by the 1989 PPE survey (i.e., SICs 15, 16, 17, 46, 47, 59, 73, 87 and 89). Finally, because the OTA survey did not have data on the extent of the use of shoes with metatarsal guards, OSHA relied on the 1989 PPE survey data, which show that about 11 percent of all safety shoes have metatarsal guards; this percentage was applied to the OTA estimates of safety shoe usage to estimate metatarsal guard usage in the construction industry.

Table VI–1 shows OSHA's estimates of the extent of PPE use in the industries covered by the proposed rule. A total of 19.6 million workers are estimated to wear one or more kinds of PPE in these industries. Non-prescription safety glasses are worn by approximately 6.7 million workers, while 7.7 million workers wear hard hats and 10.6 million wear protective gloves of various kinds. Industries with the largest number of PPE-wearing employees include construction special trades (SIC 17), with 2.9 million such employees, building construction trades (SIC 15), with 1.2 million, wholesale trade—durable goods (SIC 50), with 1.6 million, and wholesale trade—non-durable goods (SIC 51), with 1.2 million PPE-wearing employees.

BILLING CODE 4510–26–P

[4] Some of the results from this survey were used in OSHA's background report in support of its 1994 PPE Regulatory Impact Assessment (OSHA 1994).

[5] For workers in some occupations, such as structural metal workers and roofers, all employees were assumed to use fall protection, clearly an overestimate. For workers in other occupations, 10–20 percent were assumed to use fall protection.

BILLING CODE 4510-26-C

TABLE VI-1

NUMBER OF EMPLOYEES USING PERSONAL PROTECTIVE EQUIPMENT

SIC	Industry	Total Employees	Hard Hats	Gloves	Non-Prescriptio Safety Glasses	Goggles	Faceshields	Welding Helmets & Goggles	Fall Protection	Chemical Protective Suits/Clothing	Safety Shoes with Metatarsal Guards	Total Affected Employees*
078	Landscape and horticultural services	294,854	69,599	114,069	38,490	44,696	11,120	3,032	12,638	13,229	7,192	157,359
08	Forestry	19,462	4,951	5,452	1,863	2,187	523	143	595	623	254	9,081
13	Oil and gas extraction	268,561	75,514	71,034	38,403	56,259	24,724	13,177	38,921	6,479	3,317	83,813
15	Building Construction	1,152,468	1,152,468	172,869	395,592	249,344	69,148	41,707	156,590	46,098	126,771	1,152,468
16	Heavy Construction	685,706	678,845	34,885	106,990	67,437	75,427	48,027	64,046	13,714	41,485	685,706
17	Construction Special Trades	2,851,908	2,851,908	2,851,908	953,527	601,015	424,013	496,169	440,296	57,039	156,843	2,851,908
20	Food and kindred products	1,488,686	260,960	417,299	122,661	120,900	58,185	64,904	28,476	47,106	16,345	918,010
21	Tobacco products	34,746	6,752	10,948	3,475	2,648	1,244	1,488	1,016	1,593	297	21,838
22	Textile mill products	617,799	4,391	55,537	59,012	66,810	21,107	5,101	3,399	2,155	8,069	332,472
23	Apparel and other textile products	923,168	805	31,109	25,184	17,449	56,926	3,082	428	723	1,088	194,704
24	Lumber and wood products	694,477	185,129	233,242	201,834	92,121	25,110	29,146	8,652	3,569	19,881	536,800
25	Furniture and fixtures	496,292	10,130	84,627	136,160	34,266	9,322	9,269	2,720	1,188	12,721	311,600
26	Paper and allied products	621,951	52,543	105,308	100,305	63,049	37,521	27,015	12,977	11,023	14,719	336,082
27	Printing and publishing	1,481,903	4,014	128,012	63,863	33,974	12,239	3,719	192	1,496	5,201	384,966
28	Chemicals and allied products	824,185	160,783	283,702	213,576	109,327	71,258	31,965	52,196	85,937	11,660	414,662
29	Petroleum and coal products	111,611	33,918	34,720	19,365	19,955	11,357	3,554	8,546	11,588	677	39,287
30	Rubber and miscellaneous plastics produc	946,129	9,556	207,304	205,132	39,530	25,315	14,795	5,883	9,576	3,249	553,554
31	Leather and leather products	99,616	109	3,335	3,178	1,864	5,818	400	51	76	85	21,664
32	Stone, clay, and glass products	472,321	127,218	180,737	135,843	55,430	32,106	21,139	8,747	11,530	20,615	320,051
33	Primary metal industries	665,649	216,374	358,771	282,986	62,153	57,934	33,760	22,533	12,030	158,449	492,677
34	Fabricated metal products	1,385,031	99,232	457,106	419,623	75,281	42,389	72,745	9,603	6,501	109,422	842,427
35	Industrial machinery and equipment	1,764,517	22,298	335,822	508,415	121,004	81,425	86,240	6,780	8,232	39,989	942,440
36	Electronic and other electronic equipment	1,432,316	22,545	272,652	312,449	44,779	36,871	24,119	6,492	27,967	5,223	689,079
37	Transportation equipment	1,554,040	76,503	519,315	493,880	109,314	89,904	63,553	27,468	22,942	32,010	960,677
38	Instruments and related products	820,640	12,230	130,176	159,456	58,004	27,060	10,662	4,522	25,821	5,784	343,987
39	Miscellaneous manufacturing industries	377,711	6,314	64,946	68,407	35,811	17,669	6,652	2,603	14,431	3,600	157,127
41	Local and interurban passenger transit	387,174	13,267	118,567	26,535	32,943	8,225	17,839	7,461	3,719	6,900	176,704
42	Trucking and warehousing	1,695,286	63,009	495,659	126,596	124,186	42,455	68,395	31,263	16,173	37,886	761,855
46	Pipelines, except natural gas	16,354	0	0	0	0	0	218	0	0	0	218
47	Transportation services	366,516	0	0	0	0	0	983	0	0	0	983
48	Communication	1,308,828	224,254	203,063	52,153	106,458	15,878	2,433	177,419	0	8,281	239,610
49	Electric, gas, and sanitary services	913,917	305,425	307,046	153,349	160,948	88,712	42,727	144,449	42,395	16,466	357,562
50	Wholesale trade - durable goods	3,499,652	425,495	825,980	440,925	615,210	280,593	429,629	52,978	71,057	14,583	1,629,167
51	Wholesale trade - nondurable goods	2,533,293	336,688	571,292	295,526	439,710	202,801	327,304	43,525	49,758	1,046	1,168,481
52	Building materials and garden supplies	728,024	116,799	259,794	92,354	126,163	27,661	23,331	7,920	0	35,380	332,370
55	Automotive dealers and service stations	2,096,587	20,564	420,949	310,260	299,233	149,981	162,560	121	51,833	22,417	773,688
59	Miscellaneous retail stores	2477297	0	0	0	0	0	153	0	0	0	153
73	Business services	6239707	0	0	0	0	0	7,241	0	0	0	7,241
75	Auto repair, services, and parking	935,968	9,002	184,273	135,819	130,991	65,655	23,331	53	22,690	14,543	338,687
76	Welding & other repair	25,305	5,623	15,100	9,688	10,683	9,384	25,305	2,947	207	1,264	25,305
87	Engineering & management services	2,692,666	0	0	0	0	0	2,812	0	0	0	2,812
89	Miscellaneous services	85,030	0	0	0	0	0	62	0	0	0	62
	TOTAL	48,087,351	7,665,215	10,566,608	6,712,813	4,231,133	2,217,001	2,247,013	1,394,507	700,499	963,713	19,566,465

Source: OSHA Office of Regulatory Analysis

Data on PPE Use

To derive
employer pa
to PPE, the A
sources: a n
bargaining a
information
States, infor
PPE survey
experts on P
1998).

The data
that most er
jurisdiction
PPE they pr
comply with
so because
agreements
contracts, a
if they pay
kinds of PP
can ensure
needed, and
procedures
maintaining
control wha
used, and th
assurance t
compliance
Other reaso
pay for PPE
panel conve
information
payment, a
• The em
injuries tha
by PPE use
• The em
from his/he
• The em
are aware o
know abou
• The em
the likelihoo
(ERG 1998)

A recent
bargaining
of contracts
equipment
PPE, while
agreements

Data on PPE Payment Patterns

To derive estimates of current employer payment patterns with regard to PPE, the Agency consulted several sources: a national study of collective bargaining agreements (BNA 1995), information from OSHA's State-plan States, information from OSHA's 1989 PPE survey (ERG 1998), and a panel of experts on PPE payment patterns (ERG 1998).

The data available to OSHA suggest that most employers in OSHA's jurisdiction are already paying for the PPE they provide to their employees to comply with OSHA standards. They do so because of labor-management agreements and collective bargaining contracts, and for other obvious reasons: if they pay for the PPE, they know what kinds of PPE their employees are using, can ensure that it is replaced when needed, and can require standardized procedures for cleaning, storing, and maintaining it. In other words, they can control what PPE is used and how it is used, and thus can have greater assurance that they are in fact in compliance with OSHA's standards. Other reasons why employers prefer to pay for PPE, according to the expert panel convened by OSHA to obtain information on PPE patterns of use and payment, are:

- The employer has experience with injuries that could have been prevented by PPE use;
- The employer has received input from his/her insurance carrier;
- The employer's staff and employees are aware of job-related hazards and know about PPE use; and
- The employer is concerned about the likelihood of an OSHA inspection (ERG 1998).

A recent study of collective bargaining agreements showed that 55% of contracts mentioning safety equipment require employers to pay for PPE, while only 11% of such agreements require the employee to pay for any PPE; this latter figure includes payment for all kinds of safety shoes. In addition, nearly half of all U.S. workers work in States covered by OSHA State plans. These States generally require employers to pay for mandatory PPE, with the exception, in some cases, of safety-toe footwear and prescription safety glasses. For example, Kentucky, which operates its own OSHA program under an approved State-plan, requires employers to pay for all required PPE except that which is personal in nature and is also used off the job. California has required employers to pay for all PPE, without exception, for many years. OSHA is currently reviewing the PPE payment policies of all of its State-plan partners; to date, all of the State plans responding have a policy of requiring employers to pay for most PPE items.

To develop detailed estimates of sectoral patterns of PPE payment, OSHA recently sponsored an expert panel of individual representatives from industry, labor, insurance companies, and safety equipment manufacturers and distributors. These individuals are recognized for their knowledge of PPE use and purchasing patterns in the general industry, construction, and maritime sectors. Many panelists indicated that the kinds of PPE that could potentially be affected by the proposed rule, i.e., those where a shift in costs from employees to employers could potentially occur, were hard hats, gloves, safety glasses (non-prescription), goggles, safety shoes (other than safety-toe safety shoes), welding hoods and goggles, faceshields, fall protection equipment, and chemical protective clothing. Based on the responses of individual members of the panel, this industry profile includes all the major types of PPE identified as having such potential. However, the Agency solicits comments on any types of PPE not included in this analysis, the extent of the use of such PPE in each affected industry, and the extent to which employers do not currently pay for such PPE, in each affected industry.

Table VI–2 summarizes the findings of the expert panel, which are presented as the percentage of all PPE costs currently estimated to be borne by employers, by industry and type of PPE. The table reports the median response, i.e., the median percentage reported by the experts in each case, except for manufacturing, where the panel estimated that 100% of costs for the affected kinds of PPE are being borne by employers (OSHA has reduced this to 95% to be conservative) and the service industries (where OSHA assumed that the percentages attributed by the experts to the wholesale trade industry would be applicable to all service industries). The panel's estimates of the percentage of PPE costs currently being borne by employers were generally highest for manufacturing and transportation and lowest for construction and shipyards, although estimates even within these industries varied widely by type of PPE. For example, the panel estimated that 87% of employers in the transportation industry currently pay for non-prescription safety eyewear, while 91.5% percent of these employers currently pay for chemical protective clothing. In construction, where the pattern of employer payment for PPE is generally lower than for other industries, 70% of employers are estimated currently to pay for non-prescription safety eyewear, while only 50% pay for gloves to protect against abrasion and laceration.

OSHA believes that Table VI–2 generally presents an accurate picture of current PPE payment patterns in various industries at the present time, comporting with the Agency's own experience. Thus the proposed rule, rather than representing a departure from current practice, will largely reflect it.

BILLING CODE 4510–26–P

UMI
31
1999
61
ISS
64
VOL

BILLING CODE 4510-26-C

TABLE VI-2

ESTIMATED PERCENTAGE OF PPE COST CURRENTLY BORNE BY EMPLOYERS, ON AVERAGE, BY INDUSTRY SECTOR*

PPE Type	Agricultural Services	Oil & Gas	Construction	Manufacturing	Shipyards	Longshoring	Transportation	Utilities	Wholesale
Non-prescription safety glasses	28.8%	87.0%	70.0%	95.0%	75.0%	100.0%	87.0%	91.3%	81.0%
Goggles	28.8%	87.3%	72.5%	95.0%	84.4%	100.0%	87.8%	83.8%	82.0%
Face shields	28.8%	87.3%	72.5%	95.0%	91.9%	100.0%	87.8%	83.8%	82.0%
Hard hats	43.0%	94.0%	73.8%	95.0%	86.3%	100.0%	90.3%	81.5%	83.0%
Gloves—chemical protection	82.5%	94.6%	78.8%	95.0%	90.6%	100.0%	89.5%	93.8%	81.0%
Gloves—abrasion/ laceration protect.	55.0%	85.1%	50.0%	95.0%	84.4%	100.0%	89.0%	87.5%	81.0%
Chemical protective clothing/equipmen	86.3%	99.6%	78.8%	95.0%	94.5%	100.0%	91.5%	95.6%	81.0%
Welding goggles	57.5%	90.1%	73.8%	95.0%	83.1%	100.0%	90.5%	83.8%	81.0%
Welding helmets	57.5%	90.1%	73.8%	95.0%	83.1%	100.0%	90.5%	83.8%	81.0%
Fall protection	82.5%	93.4%	76.3%	95.0%	75.0%	100.0%	90.8%	92.5%	77.0%
Safety shoes with metatarsal guards	40.0%	66.0%	26.3%	51.3%	48.8%	N/A	77.5%	72.5%	72.5%

*Based on median response of a panel of experts, with the exception of manufacturing, where 100% of the costs were indicated to be currently borne by employers for most items and OSHA reduced this to 95% to be conservative.

Source: OSHA, Office of Regulatory Analysis

In order t
Agency has
patterns of
OSHA is co
telephone s
workplaces
that questio
have the re
comment b
published.
survey will
update this
needed wit
patterns (T
patterns (T
survey is co
the record
comment o

Technologi

This rule
requiremen
of who pay
affected by
been found
feasible in
protective e
manufactu
workplaces
covered by
proposed r
technologic

Benefits of

Both OSH
experience
members o
that when e
and pay for
worn impro
replaced ap
one panel r

Our exper
factor in det
eye protecti
supervisor le
reinforces us
workers und
has replacem
available wh
damaged or
be a pattern
workforce. T
to accomplis
to buy their
feasible to p
workers for i
ensure that t
trained in th
employer do

Thus, tw
when empl
either the P
where it is
injury or ill
inappropria
these failur
are exposed
safety haza
in turn, res

In order to further ensure that the Agency has accurate data on current patterns of PPE payment and usage, OSHA is conducting a nationwide telephone survey of American workplaces dealing specifically with that question. The Agency intends to have the results available for review and comment before the final rule is published. The information from the survey will be used to modify and update this economic analysis as needed with respect to both PPE use patterns (Table VI–1) and PPE payment patterns (Table VI–2). When the PPE survey is completed, OSHA will reopen the record to enable the public to comment on the results.

Technological Feasibility

This rule does not change any PPE requirements, but affects only the issue of who pays for PPE. All of the PPE affected by this rulemaking has already been found to be technologically feasible in other rulemakings. Personal protective equipment is widely manufactured, distributed, and used in workplaces in all of the industries covered by OSHA standards. The proposed rule thus raises no issues of technological feasibility.

Benefits of the Proposed Rule

Both OSHA's own enforcement experience and the experience of members of OSHA's expert panel show that when employers do not provide and pay for PPE, it is often not worn, is worn improperly, or is not cared for and replaced appropriately. In the words of one panel member:

> Our experience has been that the biggest factor in determining proper, effective use of eye protection is effective supervision—if the supervisor leads by example; if he/she reinforces use of eye protection by the workers under his/her supervision; if he/she has replacement eye protection readily available when it gets scratched or otherwise damaged or lost—then there is more likely to be a pattern of effective use among the workforce. This is significantly more difficult to accomplish when employees are expected to buy their own PPE. (It is not generally feasible to provide PPE and then charge the workers for it.) . . . It is also difficult to ensure that the employees are properly trained in the care and use of PPE if the employer does not provide it. (ERG 1998)

Thus, two key problems can occur when employers fail to pay for PPE: either the PPE is not worn in cases where it is needed to protect against injury or illness, or the PPE is worn inappropriately. The consequences of these failures are the same: employees are exposed to chemical, physical, or safety hazards in the workplace, which, in turn, results in injuries, illnesses, and death (as documented in OSHA's recent respiratory protection rule (63 FR 1152, January 8, 1998). Another panel member tried to estimate the quantitative differences between employer and employee payment for PPE:

> When employees are made responsible for purchasing their own PPE, I believe that their probabilities of (1) actually purchasing PPE, and (2) purchasing appropriate PPE, are diminished because they must use some or all of their funds for this equipment, whereas they would rather save this money for their own purposes, and they simply don't have the resources to understand and choose among available PPE. There is always a reluctance to use one's own funds to pay for replacing or repairing workplace PPE. I believe that when employees are responsible for their own PPE that a higher incidence of non-use or misuse occurs. I would expect that figure would be approximately 40% for employee-purchased PPE versus 15 to 20% for employer-purchased PPE. (ERG 1998)

The estimates provided by this expert panelist are consistent with the statements of other panelists, as well as with OSHA's enforcement and regulatory experience. Most panel members indicated that if the employer did not pay for PPE, the PPE was not provided. To the extent that this is the case, OSHA's estimates may actually underestimate the effects of having employers pay for and provide PPE. To estimate the benefits of employer PPE payment, OSHA used the panel's estimates of the differences in effectiveness between employee-paid and employer-paid PPE, and the estimates of the total numbers of injuries, illnesses and deaths preventable by PPE that were developed for the 1994 PPE rulemaking. OSHA invites comment from those with experience in this area, to assist the Agency to refine, revise if necessary, or confirm the accuracy of this estimate, as discussed below.

In 1994, OSHA examined, for each body part, the number of injuries preventable by the then newly revised PPE rule [59 FR 16352]. OSHA reviewed 1,170 OSHA Form 200s describing almost 64,000 injuries; these forms had been submitted to OSHA in response to the 1989 PPE survey. The profile of injuries, as defined by body part, very closely tracked those in BLS's injury data base [OSHA 1994, pp. V–11–13]. Information on the nature of the injury and the circumstances surrounding the accident was used to determine the extent to which PPE would have prevented the injury. Most injuries were not considered preventable by PPE. For example, sprains and strains (nature), or injuries caused by overexertion (circumstance), were considered not to be preventable by PPE. Eye injuries, by contrast, tended to be highly preventable.

From these injury descriptions, it was possible to determine that approximately one-third of injuries in general industry were preventable with PPE. However, within this group, it was apparent that PPE could be particularly effective in protecting certain body parts. As indicated in the 1994 analysis [OSHA 1994, p. V–16], eye injuries were estimated to be 95 percent PPE preventable; foot and toe, 75 percent; face and ear, 68 percent; and hand and finger, 63 percent. Head injuries were judged to be 45 percent preventable. Over 90 percent of these injuries were incurred by production workers in the subset of high-hazard industries selected for study in the PPE survey; in other words, they reflect the sort of preventable process-related PPE injuries which § 1910.132 was intended to prevent. The full analysis of the injuries judged to be preventable through the proper use of PPE is presented in detail in the Regulatory Impact Assessment [OSHA 1994]. In that analysis, OSHA found that almost 900,000 injuries in the general industry and maritime sectors would be preventable by full compliance with the new PPE rule, i.e., that 900,000 injuries could have been prevented if employees had actually worn the appropriate protective equipment. This analysis did not cover the construction sector. OSHA assumed that the same preventability factors would apply in construction as in the general industry and maritime sectors.

For the analysis of the Employer Payment for PPE rule, OSHA took into consideration the fact that compliance with the rule will not be perfect and that the likelihood of full compliance is influenced by who pays for the PPE. Therefore, OSHA developed an estimate of the number of injuries, illnesses, and deaths potentially averted by this rule by combining the following information:[6]

---

[6] The number of injuries resulting from the lack of appropriate PPE can be determined by examining both the likelihood of employers not providing PPE under the two payment scenarios, and data on the current pattern of payment for PPE. The equation for a particular body part and relevant type of PPE can be described this way:

[(.4Ep/(.4Ep + .175En)] × total PPE-preventable injuries = # injuries among employees paying for their own PPE Where:

Ep = # of employees paying for their own PPE

En = # of employees not paying for their own PPE (employer paying)

Having determined the number of injuries falling into this group, it is possible to estimate the number of injuries preventable by reassigning payment responsibility to the employer. Once the number of injuries among the employee-paying group is derived, it has to be recognized that not all of these

Continued

(1) the number of injuries preventable through proper use of PPE, classified by type of PPE (from 1994 economic analysis);

(2) the expert panel member's estimate that PPE will be missing or used inappropriately 17.5% of the time when the employers pay for their employee's PPE;

(3) the expert panel member's estimate that PPE will be missing or used inappropriately 40% of the time when employees pay for their own PPE; and

(4) the number of employees with employer paid PPE (see the Industry Profile section of this analysis).

Table VI–3 presents the number of injuries preventable by this rulemaking in general industry and construction, by body part. This analysis indicates that the proposed rule would avert approximately 47,785 injuries annually.

Although the primary benefit of the proposed rule is that it will avert injuries and save their associated costs, there are cases where the lack of appropriate PPE has been fatal. At the time of the 1994 rulemaking, 24 fatal head injuries were considered to be preventable every year in general industry through the use of PPE. Based on that analysis, the Agency estimates that 6.9 percent of these cases, or an average of 1.7 (.069 × 24) fatal head injuries annually, will be averted by the proposed rule. According to BLS's Census of Fatal Occupational Injuries, there were 263 fatal head injuries in the construction industry in 1993, 44 of which were coded as "struck by" or "struck against." Since a larger portion of employees pay for their own PPE in construction, the impact of the proposed rule is likely to be greater in construction than in general industry. OSHA therefore estimates that 12.7 percent of these 44 fatalities are preventable, for a total of 5.6 (44 × .127) averted fatal head injuries annually. Therefore, in general industry and construction, the Agency estimates that approximately 7 (5.6 + 1.7) lives could be saved annually by compliance with the proposed rule.

The Agency also believes that the proposed rule will achieve substantial benefits in the area of fall protection, particularly in construction. The proposal would prevent a number of fatalities and severe injuries that are now occurring either because employee-provided PPE provides inadequate protection or because the employee arrives on site without the necessary PPE. For example, OSHA estimated in the Regulatory Impact Analysis for Subpart M that fall protection systems would prevent nearly 80 fatalities and 26,600 lost workdays annually. To the extent that employers provide more effective harnesses and lanyards than those currently being provided by employees, or ensure that this equipment is available for use by the employee, this rule will avert deaths and injuries caused by falls. However, at the current time the Agency does not have sufficient detail on these accidents to quantify the benefits of this effect.

TABLE VI–3.—INJURIES JUDGED TO BE PREVENTABLE IF EMPLOYERS ARE REQUIRED TO PAY FOR PPE NOW BEING PAID FOR BY EMPLOYERS

Body part	Injuries judged to be preventable by PPE	Percent of those judged to be preventable by this rule-making [1]	Total judged to be preventable and within scope of this rule-making	Total injuries judged to be preventable among employees paying for PPE	Injuries judged to be prevented by requiring employer payment for PPE
General Industry					
Eye	117,296	31.0	36,362	8,085	4,548
Face & ear	36,810	50.0	18,405	4,427	2,490
Head & neck	116,050	50.0	58,025	14,272	8,028
Hand & finger	281,221	50.0	140,611	30,771	17,309
Foot & toe	129,452	5.5	7,120	4,109	2,311
Subtotal	680,830	.....	260,522	61,665	34,686
Construction:					
Eye	25,524	31.0	7,912	3,824	2,151
Face & ear & head & neck	13,445	50.0	6,722	3,027	1,703
Hand & finger	44,589	50.0	22,295	15,509	8,724
Foot & toe	21,399	5.5	1,177	926	521
Subtotal	104,957	.....	38,106	23,286	13,098
Total	785,787	.....	298,629	84,951	47,785

[1] Only half of these injuries are judged to be within the direct coverage of this rule because employer payment rules already apply in State plan States; non-prescription safety glasses constitute approximately 62% of safety glasses; shoes with metatarsal guards account for 11% of all safety shoes.

Source: OSHA Office of Regulatory Analysis.

---

will be preventable by switching payment systems. Since the number of injuries was derived assuming that 60% of the employee-paying population is already wearing PPE, the proper comparison is between the 40% nonusage in the employee-paying population and the 17.5% nonusage in the employer-paying population. Therefore, the percentage of injuries remaining after switching to employer-payment would be .175/.4 or 44 percent of the original number of injuries among the employee-paying group. Thus, 1–0.175/.4 provides the percentage prevented. In the abstract, this equation is:

The number of injuries prevented by switching to employer payment= (# of PPE-related injuries occuring among the employee-paying group) × 1-(% of time PPE is not worn when employers pay / % of time PPE is not worn when employees pay))

Using the specific numbers in this analysis, this becomes:

The number of injuries prevented by switching to employer payment= (# of PPE-related injuries occurring among the employee-paying group) × (1-(.175/.4))

In other words, 56 percent (1-(.175/.4)) of these injuries would be preventable by switching payment patterns from employees to employers.

This analysis has included only half of the PPE-related injuries occurring currently in the United States because approximately half of all employees are already covered by employer payment requirements in State-plan States. This analysis also focuses only on those body parts, e.g., eyes, head, hand, foot, most likely to be protected by PPE.

Direct Savings Resulting From the Reduction in Injuries Attributable to the Proposed Rule

This section evaluates the direct savings associated with the injuries averted by the proposed rule; it does not attempt to place a monetary value on the lives that will be saved by compliance with the rule or on pain, suffering and other similar effects avoided. These other effects of occupational injuries and illnesses include the pain and suffering experienced by workers and their families, loss of esteem, disruption of family life, and feelings of anger and helplessness. Occupational injuries and illnesses impose an enormous burden on society in addition to the direct outlays of money for medical expenses, lost wages and production, and other purely economic effects.

Some aspects of the burden of occupational injuries and illnesses can be quantified in monetary terms. These aspects of the problem of work-related injuries and illnesses can be measured by the losses experienced by employees and by the other costs that are externalized to the rest of society. One consequence of the failure of PPE programs to prevent job-related injuries is the growth of enormously expensive income maintenance programs such as workers' compensation and long-term disability programs. These costs impose a burden on society separate from and in addition to the human toll in pain and suffering caused by workplace-related injuries.

One measure of some of the losses associated with lost time due to work-related injuries is the lost output of the worker, measured by the value the market places on his or her time. This value is measured as the worker's total wage plus fringe benefits. Other costs include: (1) Medical expenses, (2) costs of workers' compensation insurance administration, (3) indirect costs to employers (other than those for workers' compensation administration), and (4) legal expenses of employees.

OSHA estimates the value of lost output by starting with workers' compensation indemnity payments and then adding other losses associated with work-related illnesses and injuries. The Agency then follows four steps to arrive at a value for lost output:

(1) Calculate PPE-related illness and injury in terms of workers' compensation indemnity payments;

(2) Add the difference between the value of these indemnity payments and the worker's after-tax income, based on various studies comparing workers' compensation payments with after-tax income. This step estimates the magnitude of lost after-tax income;

(3) Add the estimated value of taxes, based on the typical value of taxes as a percentage of after-tax income. This step estimates the value of total income lost; and

(4) Add the value of fringe benefits, based on data on fringe benefits as a percentage of total income. This step estimates the total market value of the lost output.

In this approach, injuries are clearly undervalued, because OSHA assumes that the value associated with injuries is the same as the value of claims for workers' compensation. An analysis of workers' compensation claim data from the Argonaut Insurance Company for 1993 show that the weighted average claim value of the injuries shown in Table VI–3 is $2,408. Based on nationwide estimates from the U.S. Social Security Administration, an average of 58 percent of these payments are paid out for indemnity, and the remaining 42 percent are paid out for medical costs [USSA, 1993].

Indemnity/Lost Income

Workers' compensation indemnity payments typically take two forms: temporary total disability payments, which cover absences from work prior to the stabilization of the condition, and permanent disability payments, which compensate the worker for the long-term effects of a stabilized condition. On a nationwide basis, it is estimated that permanent disability payments account for 61.5 percent of all indemnity payments [Berkowitz and Burton].

The extent to which income is replaced by each type of indemnity payment (i.e., temporary or permanent) differs. First, although rules vary by State, temporary disability income is designed in most States to replace two-thirds of the worker's before-tax income. However, most States place a maximum and minimum on the amount of money paid out to the worker, regardless of his/her actual former income. Studies by the Worker Compensation Research Institute (WCRI) show that temporary total disability payments replace between 80 to 100 percent of the after-tax income of the majority of workers [WCRI, 1993]. From 3 to 44 percent of the workers receive less than 80 percent of their after-tax income, and from 0 to 16 percent receive more than 100 percent of their after-tax income. Unfortunately, WCRI does not provide estimates of the average replacement rates for all workers in a State. However, based on these data, it seems reasonable to assume that, on average, workers receive no more than 90 percent of their after-tax income while on temporary disability. On the other hand, data show that permanent partial disability payments replaced 75 percent of income lost in Wisconsin, 58 percent in Florida, and 45 percent in California [Berkowitz and Burton]. OSHA uses the simple average of these three—59 percent—to estimate the extent of after-tax income replacement for permanent partial disabilities [7].

Based on these data, OSHA estimated after-tax income from the total indemnities paid for injuries preventable by the proposed rule by assuming, based on estimates for all workers' compensation claims provided by Berkowitz and Burton, that temporary disabilities account for 38.5 percent of all PPE-preventable indemnity payments and replace 90 percent of after-tax income, and that permanent partial disabilities [8] account for 61.5 percent of PPE-preventable indemnity payments and replace 60 percent of after-tax income.

Fringe Benefits

In addition to after-tax income loss, lost output includes the value of taxes that would have been paid by the injured worker and fringe benefits that would have been paid by the worker's employer. Total income-based taxes (individual Social Security payments, Federal income tax, and State income tax) paid were assumed to be 30 percent of total income. Fringe benefits were estimated as 39 percent of before-tax income, based on the average fringe benefit data provided by BLS [BLS, 1997].

Tables VI–4 and VI–5 apply the estimation parameters developed above to calculate the total value of the lost output potentially associated with temporary and permanent partial disabilities, respectively, once the final standard has been fully implemented. As shown, the total value of the lost output associated with potentially avoidable accepted workers' compensation claims that result in temporary total disability is estimated at $55.8 million, and that associated with permanent partial disabilities at $129.7 million a year.

[7] The use of a simple average rather than a population-weighted average results in a lower estimate of income loss and is thus a conservative approach.

[8] Permanent "partial" disabilities include all permanent disabilities, ranging from 1 to 100 percent disabled.

TABLE VI–4.—VALUE OF LOST OUTPUT ASSOCIATED WITH TEMPORARY TOTAL DISABILITIES RESULTING FROM PPE-PREVENTABLE INJURIES

Type of benefit	Injuries/costs prevented
Total Number of PPE-Preventable Cases Annually ..	47,785
Weighted Average Total Cost per Claim	$2,408
Indemnity Share of Payment (58% of Total Claim)	$1,396
Medical Share of Payment (42% of Total Claim)	$1,011
Value of Temporary Total Disability Indemnity Payments [1]	$25,689,814
Lost-After-Tax Income Above the Value of Indemnity Payments [2]	$2,854,424
Lost Value of Tax Payments [3]	$11,866,247
Lost Value of Fringe Benefits [4]	$15,426,122
Total	$55,836,606

[1] Number of cases X indemnity payments per case X 38.5 percent indemnity value share attributable to temporary total disability.

[2] Temporary total disability payments have been estimated to equal 90 percent of lost after-tax income.

[3] Taxes are estimated to equal 30 percent of before-tax income.

[4] Fringe benefits=39 percent of wage income [BLS, 1995].

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis.

TABLE VI–5.—VALUE OF LOST OUTPUT ASSOCIATED WITH PERMANENT PARTIAL DISABILITIES RESULTING FROM PPE-PREVENTABLE INJURIES

Type of benefit	Injuries/costs prevented
Number of PPE-Preventable Injury Cases	47,785
Value of Indemnity Payments (Permanent Partial) [1]	$41,036,975
Lost-After-Tax Income Above the Value of Indemnity Payments [2]	$28,517,220
Lost Value of Tax Payments [3]	$26,142,441
Lost Value of Fringe Benefits [4]	$33,985,174

TABLE VI–5.—VALUE OF LOST OUTPUT ASSOCIATED WITH PERMANENT PARTIAL DISABILITIES RESULTING FROM PPE-PREVENTABLE INJURIES—Continued

Type of benefit	Injuries/costs prevented
Total	$129,681,810

[1] Number of cases prevented X indemnity payments per claim X 61.5 percent value share attributable to permanent partial disability.

[2] Permanent partial disability payments are estimated to equal 59 percent of the value of lost after-tax income.

[3] Taxes are estimated to be 30 percent of before tax income.

[4] Fringe benefits=39 percent of wage income (BLS, 1995].

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis.

Medical

Medical costs do not include any first-aid costs incurred by the employer and, in some cases, costs for transportation to a medical facility; however, most elements of medical costs are included in the share of payments paid for medical costs, estimated to be 42 percent of the cost of the claims. Costs for treating injuries will remain relatively constant, regardless of who is actually paying for the medical care (i.e., the employer through workers' compensation, or a medical insurer). As presented in Table VI–6, OSHA estimates the medical costs of injuries preventable by the proposed standard to be $48.3 million a year.

TABLE VI–6. ANNUAL SOCIAL BENEFITS ASSOCIATED WITH THE REDUCTION IN INJURIES AS A RESULT OF EMPLOYER PAYMENT FOR PPE

Type of benefit	Injuries/costs prevented
Lost Output Associated with Temporary Disabilities [1]	$55,836,606
Lost Output Associated with Permanent Disabilities [2]	129,681,810
Medical Costs [3]	48,319,399
Insurance Administrative Costs [4]	29,912,009
Indirect Costs [5]	23,929,607
Total	287,679,432

[1] Derived from Table VI–4.
[2] Derived from Table VI–5.
[3] Calculated by multiplying the number of injuries by the value of medical payments presented in Table VI–4.
[4] Calculated by multiplying the total value of claims times 26 percent.
[5] Calculated by multiplying the total value of workers' compensation medical and indemnity payments times 20.8 percent.

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis.

Administrative Costs

The administrative costs of workers' compensation insurance include all of the costs associated with the administration of workers' compensation insurance. Such costs include any funds spent directly on claims adjustment, as well as all other administrative costs incurred by the insurer in conjunction with experienced losses.

OSHA estimates the administrative costs of PPE-related injury claims as follows:

- Costs to private insurance companies are estimated, based on 1990 data, as 35.8 percent of the costs of incurred claims [Klein et al., 1993]. These costs include those for claims adjustment, sales, general expenses, taxes, licenses, and fees (historical data show that all of these elements of private insurance costs increase as the value of benefits paid out increases).
- Costs to State funds were estimated, based on 1990 data, as 17.8 percent of the costs of incurred claims [Klein et al., 1993]. These costs include those for claims administration and for costs labeled as "general costs."
- Costs to self-insured companies, estimated by the Social Security Administration to be 6.8 percent of the value of benefits paid in 1990 [Social Security Administration, 1993].

To estimate the aggregate value of the administrative costs of insurance, these costs are weighted by the value of the benefits payments made by each type of insurer (i.e., private insurer, state fund, etc.), based on 1990 data. This calculation is shown in Table VI–7, which indicates that estimated weighted administrative costs constitute 26 percent of the total value of claims. The total value of claims includes the value both of the indemnity and medical portions of insurance company payments. The costs shown in Table VI–7 represent the administrative costs associated with workers' compensation.

TABLE VI–7.—DERIVATION OF AVERAGE ADMINISTRATIVE COSTS AS A PERCENT OF THE VALUE OF CLAIMS, BY TYPE OF INSURANCE

Type of insurance	Administrative costs as a percentage of incurred claims [1] (1990)	Percentage of total benefits paid [2] (1990)	Weighted value
Private Insurance	35.5	58.1	20.6
State Fund	17.8	22.8	4.1
Self-Insurance	6.8	19.4	1.3
Total	.....	.....	26.0

[1] From Klein et al. (1993) for private insurance and State funds, and U.S. Social Security Administration (1993) for self-insurance.
[2] Values for administrative costs as a percent of incurred claims, weighted by total benefits paid.

It should be noted that cases that fall outside the workers' compensation system will typically have administrative costs associated with them—indeed, to the extent they are borne by private medical insurers, they will carry relatively greater administrative expenses than the average estimated here.

Indirect Costs

The term "indirect costs", describes the costs of work-related injuries that are borne directly by employers but are not included in workers' compensation claim costs. Such costs are best estimated by looking at the costs an employer actually incurs at the time a workers' compensation claim is filed. These costs include a number of social benefits, such as payments of sick leave to workers for absences that are shorter than the workers' compensation waiting period, losses in production associated with the injured workers' departure and return to work, losses in the productivity of other workers, and a wide variety of administrative costs other than those borne directly by the workers' compensation insurer, e.g., medical management costs for the injured worker. Based on a study [Hinze & Applegate] of indirect costs of injuries in the construction industry, OSHA estimates that indirect costs are 20.8 percent of the value of workers' compensation medical and indemnity payments, i.e., add up to an indirect cost multiplier of 1.21. As indicated in Table VI–6, the Agency estimates that this proposed revision to the PPE standard will save $23.9 million annually in these indirect costs.

Taken in its entirety, the proposed amendment to the PPE standard is estimated to save $287.7 million annually in direct costs savings by avoiding preventable injuries. These direct cost savings do not include the economic value of the loss of leisure time. They do not account for the burden of chores that are forced on other household members or hired out. The direct savings also do not include the value of preventing pain and suffering or loss of life.

Costs of Compliance

To assess the costs employers may incur to comply with the proposed rule, OSHA first estimated the total costs associated with PPE currently covered by OSHA PPE standards and affected by this rule. OSHA's estimates of the costs of all required PPE were derived from the PPE use estimates shown in Table VI–1, subtracting employees in State plan States, who, as indicated in the previous section, comprise approximately half of the affected workers. Unit costs for equipment were taken from the Agency's economic analysis (Ex. 56, Docket S–060) in support of the 1994 rulemaking that revised the personal protective equipment standard (29 CFR 1910.132). Data from that analysis were supplemented with new estimates of the unit costs of welding equipment and goggles, and of fall protection equipment (ERG 1998). All cost estimates were then updated to reflect 1998 prices.[9] This figure was then multiplied by the percentage of these costs not currently being borne by employers (see Table VI–2).

Table VI–8 shows the total annualized costs of compliance for the proposed rule, by industry and kind of PPE. Total annualized costs are $61.9 million. Gloves and safety shoes (with metatarsal guards) account for the largest portion of these costs, at $17.3 and $14.3 million, respectively; welding helmets/goggles account for an additional $10.2 million per year. These three types of PPE together account for 68 percent of all of the proposed rule's costs of compliance. Construction special trades (SIC 17), at $24.2 million, and building construction contractors (SIC 15), at $6.2 million, are the industries estimated to incur the greatest costs.

BILLING CODE 4510–26–P

[9] Annualized costs, updated from those used in the Final Regulatory Impact Analysis for the 1994 PPE rulemaking (OSHA 1994), are hard hats, $6.67; non-prescription safety glasses, $6.69; goggles, $15.07; gloves, $14.07; and faceshields, $13.45. According to the expert panel, welders need both helmets and goggles at different times of the year. Welding helmets were assumed to have a life expectancy of 5 years and to cost $32.00; welding goggles were assumed to be replaced every 3 months, and to cost $11.00 (these assumptions yield a combined annualized welding unit cost of $51.80). Fall protection (body harness and lanyard) is assumed to have a life expectancy of 5 years, and to cost $60.00 (harnesses) and $60.00 (lanyards), respectively, yielding a combined annualized fall protection unit cost of $29.27. Reusable chemical protective coveralls were assumed to have a life expectancy of one year and to cost $20.00, based on a current supply catalog (Lab Safety 1995). Safety shoes with metatarsal guards cost approximately $100 (ERG 1998); based on an average two year life (OSHA 1994) this yields an annualized cost of $55.17.

TABLE VI-8

ESTIMATED INCREMENTAL EMPLOYER COST OF PROVIDING PPE BY ITEM, AS REQUIRED BY PROPOSED PPE RULE

SIC	Industry	Hard Hats	Gloves	Safety Glasses	Goggles	Faceshields	Welding Helmets & Goggles	Fall Protection	Chemical Protective Suits/Clothing	Safety Shoes with Metatarsal Guards	Total Affected PPE
078	Landscape and horticultural services	$132,284	$377,297	$91,773	$239,976	$53,264	$33,382	$32,364	$18,189	$119,341	$1,097,870
08	Forestry	$9,410	$18,034	$4,443	$11,744	$2,507	$1,571	$1,523	$856	$4,216	$54,304
13	Oil and gas extraction	$15,108	$77,665	$16,707	$54,052	$21,192	$33,705	$37,733	$243	$31,187	$287,592
15	Building Construction	$1,008,762	$635,316	$397,149	$516,706	$127,838	$283,579	$544,220	$97,959	$2,585,524	$6,197,054
16	Heavy Construction	$594,197	$128,205	$107,411	$139,746	$139,447	$326,554	$222,590	$29,142	$846,096	$2,533,390
17	Construction Special Trades	$2,496,293	$10,481,107	$957,279	$1,245,459	$783,900	$3,373,622	$1,530,225	$121,208	$3,198,860	$24,187,953
20	Food and kindred products	$43,509	$153,363	$20,524	$45,552	$19,558	$84,058	$20,835	$4,711	$220,352	$612,461
21	Tobacco products	$1,126	$4,024	$582	$998	$418	$1,927	$744	$159	$3,998	$13,974
22	Textile mill products	$732	$20,411	$9,874	$25,172	$7,095	$6,607	$2,487	$215	$108,784	$181,377
23	Apparel and other textile products	$134	$11,433	$4,214	$6,574	$19,135	$3,992	$313	$72	$14,662	$60,530
24	Lumber and wood products	$30,866	$85,719	$33,771	$34,709	$8,441	$37,748	$6,330	$357	$268,030	$505,971
25	Furniture and fixtures	$1,689	$31,101	$22,783	$12,911	$3,134	$12,004	$1,990	$119	$171,501	$257,232
26	Paper and allied products	$8,760	$38,702	$16,783	$23,755	$12,612	$34,987	$9,495	$1,102	$198,433	$344,631
27	Printing and publishing	$669	$47,046	$10,686	$12,801	$4,114	$4,816	$141	$150	$70,125	$150,546
28	Chemicals and allied products	$26,807	$104,264	$35,736	$41,192	$23,953	$41,398	$38,191	$8,594	$157,199	$477,332
29	Petroleum and coal products	$5,655	$12,760	$3,240	$7,518	$3,818	$4,603	$6,253	$1,159	$9,131	$54,138
30	Rubber and miscellaneous plastics prod	$1,593	$76,187	$34,323	$14,894	$8,509	$19,162	$4,304	$958	$43,797	$203,726
31	Leather and leather products	$18	$1,226	$532	$702	$1,956	$518	$37	$8	$1,147	$6,143
32	Stone, clay, and glass products	$21,210	$66,423	$22,730	$20,885	$10,792	$27,378	$6,400	$1,153	$277,925	$454,896
33	Primary metal industries	$36,075	$131,853	$47,350	$23,418	$19,474	$43,723	$16,487	$1,203	$2,136,145	$2,455,727
34	Fabricated metal products	$16,544	$167,992	$70,212	$28,364	$14,249	$94,213	$7,026	$650	$1,475,182	$1,874,433
35	Industrial machinery and equipment	$3,718	$123,419	$85,069	$45,591	$27,370	$111,690	$4,961	$823	$539,111	$941,752
36	Electronic and other electronic equipme	$3,759	$100,203	$52,280	$16,872	$12,394	$31,236	$4,750	$2,797	$70,410	$294,700
37	Transportation equipment	$9,284	$157,854	$109,358	$34,065	$12,997	$73,523	$26,596	$3,340	$437,410	$864,426
38	Instruments and related products	$2,039	$47,841	$26,681	$21,854	$9,096	$13,808	$3,309	$2,582	$77,982	$205,192
39	Miscellaneous manufacturing industries	$1,053	$23,868	$11,446	$13,493	$5,939	$8,615	$1,904	$1,443	$48,539	$116,300
41	Local and interurban passenger transit	$4,313	$95,865	$11,544	$30,409	$6,774	$43,896	$10,099	$3,161	$42,932	$248,993
42	Trucking and warehousing	$20,485	$400,753	$55,048	$114,636	$34,963	$168,300	$42,317	$13,747	$235,738	$1,085,987
46	Pipelines, except natural gas	$0	$0	$0	$0	$0	$537	$0	$0	$0	$537
47	Transportation services	$0	$0	$0	$0	$0	$2,419	$0	$0	$0	$2,419
48	Communication	$138,338	$186,570	$15,271	$130,360	$17,346	$10,241	$194,718	$0	$62,976	$755,821
49	Electric, gas, and sanitary services	$188,411	$282,108	$44,903	$197,084	$96,913	$179,843	$158,533	$18,548	$125,223	$1,291,567
50	Wholesale trade - durable goods	$241,198	$1,153,519	$280,351	$834,463	$339,473	$2,114,387	$178,306	$135,009	$110,903	$5,387,610
51	Wholesale trade - nondurable goods	$190,857	$797,836	$187,903	$596,417	$245,410	$1,610,804	$146,492	$94,540	$7,957	$3,878,216
52	Building materials and garden supplies	$66,209	$362,814	$58,721	$171,126	$33,473	$114,823	$26,657	$0	$269,069	$1,102,892
55	Automotive dealers and service stations	$11,657	$587,874	$197,271	$405,876	$181,492	$800,026	$406	$98,482	$170,480	$2,453,565
59	Miscellaneous retail stores	$0	$0	$0	$0	$0	$753	$0	$0	$0	$753
73	Business services	$0	$0	$0	$0	$0	$35,636	$0	$0	$0	$35,636
75	Auto repair, services, and parking	$5,103	$257,346	$86,357	$177,675	$79,450	$350,217	$178	$43,111	$110,603	$1,110,039
76	Welding & other repair	$3,188	$21,088	$6,160	$14,490	$11,355	$56,107	$9,919	$393	$9,614	$132,315
87	Engineering & management services	$0	$0	$0	$0	$0	$13,840	$0	$0	$0	$13,840
89	Miscellaneous services	$0	$0	$0	$0	$0	$306	$0	$0	$0	$306
		$5,341,053	$17,269,084	$3,136,465	$5,311,541	$2,399,851	$10,196,407	$3,298,834	$706,184	$14,260,581	$61,934,145

Note: Columns and rows may not sum precisely due to rounding
Source: OSHA Office of Regulatory Analysis

BILLING CODE 4510-26-P

TABLE VI-9

COST OF THE PROPOSED PPE STANDARD AS A PERCENT OF REVENUES AND PROFITS OF AFFECTED ESTABLISHMENTS

$5,341,053	$17,269,084	$3,136,465	$5,311,541	$2,399,851	$10,196,407	$3,298,834	$706,184	$14,260,581	$61,934,145

Note: Columns and rows may not sum precisely due to rounding
Source: OSHA Office of Regulatory Analysis

BILLING CODE 4510-26-C

TABLE VI-9

COST OF THE PROPOSED PPE STANDARD AS A PERCENT OF REVENUES AND PROFITS OF AFFECTED ESTABLISHMENTS

SIC	INDUSTRY	Number of Affected Establishments	Annual Compliance Cost	Average Cost per Establishment	Average Sales per Establishment	Average Pre-Tax Profits per Establishment	Cost as Percent of: Revenue	Profit
078	Landscape and horticultural services	22,624	$1,097,870	$49	$255,843	$16,253	0.02%	0.35%
08	Forestry	821	$54,304	$66	NA	NA	NA	NA
13	Oil and gas extraction	2,962	$287,592	$97	$6,493,110	$570,586	0.00%	0.03%
15	Building Construction	94,247	$6,197,054	$66	$1,355,108	$57,393	0.00%	0.13%
16	Heavy Construction	17,744	$2,533,390	$143	$2,993,564	$206,107	0.00%	0.11%
17	Construction Special Trades	199,400	$24,187,953	$121	$646,775	$35,001	0.02%	0.41%
20	Food and kindred products	11,970	$612,461	$51	$14,642,402	$732,094	0.00%	0.01%
21	Tobacco products	339	$13,974	$41	$88,951,671	$12,264,130	0.00%	0.00%
22	Textile mill products	997	$181,377	$182	$9,943,687	$557,429	0.00%	0.05%
23	Apparel and other textile products	4,135	$60,530	$15	$2,721,259	$187,359	0.00%	0.01%
24	Lumber and wood products	18,169	$505,971	$28	$2,229,264	$164,448	0.00%	0.03%
25	Furniture and fixtures	5,516	$257,232	$47	$3,680,567	$271,508	0.00%	0.03%
26	Paper and allied products	3,075	$344,631	$112	$18,054,335	$902,685	0.00%	0.02%
27	Printing and publishing	13,097	$150,546	$11	$3,119,302	$271,012	0.00%	0.01%
28	Chemicals and allied products	7,331	$477,332	$65	$21,498,526	$1,368,040	0.00%	0.01%
29	Petroleum and coal products	3,629	$54,138	$15	$17,283,692	$864,154	0.00%	0.00%
30	Rubber and miscellaneous plastics pro	7,129	$203,726	$29	$6,330,960	$487,781	0.00%	0.01%
31	Leather and leather products	493	$6,143	$12	$3,640,190	$214,824	0.00%	0.01%
32	Stone, clay, and glass products	7,052	$454,896	$65	$4,163,365	$300,299	0.00%	0.04%
33	Primary metal industries	4,375	$2,455,727	$561	$15,232,602	$784,682	0.00%	0.11%
34	Fabricated metal products	13,908	$1,874,433	$135	$4,774,384	$344,371	0.00%	0.06%
35	Industrial machinery and equipment	21,995	$941,752	$43	$4,541,860	$335,045	0.00%	0.02%
36	Electronic and other electronic equipm	6,622	$294,700	$45	$11,093,186	$806,748	0.00%	0.01%
37	Transportation equipment	9,637	$864,426	$90	$28,134,011	$1,491,903	0.00%	0.01%
38	Instruments and related products	4,187	$205,192	$49	$11,346,901	$842,391	0.00%	0.01%
39	Miscellaneous manufacturing industri	5,461	$116,300	$21	$2,565,768	$222,920	0.00%	0.02%
41	Local and interurban passenger transit	4,284	$248,993	$58	$892,732	$39,910	0.01%	0.17%
42	Trucking and warehousing	27,079	$1,085,987	$40	$1,391,837	$72,372	0.00%	0.07%
46	Pipelines, except natural gas	32	$537	$17	$17,877,734	$5,850,694	0.00%	0.00%
47	Transportation services	13	$2,419	$180	$24,831,976	$1,504,916	0.00%	0.01%
48	Communication	9,499	$755,821	$80	$6,151,483	$2,013,142	0.00%	0.01%
49	Electric, gas, and sanitary services	6,463	$1,291,567	$200	$15,362,493	$931,027	0.00%	0.02%
50	Wholesale trade - durable goods	86,296	$5,387,610	$62	$4,908,643	$840,389	0.00%	0.01%
51	Wholesale trade - nondurable goods	47,635	$3,878,216	$81	$7,695,282	$734,523	0.00%	0.02%
52	Building materials and garden supplie	18,537	$1,102,892	$59	$1,751,380	$81,728	0.00%	0.10%
55	Automotive dealers and service station	62,021	$2,453,565	$40	$3,442,262	$146,029	0.00%	0.04%
59	Miscellaneous retail stores	6	$753	$125	$13,662,026	$1,304,057	0.00%	0.01%
73	Business Services	159	$35,636	$224	$11,682,236	$619,490	0.00%	0.05%
75	Auto repair, services, and parking	59,282	$1,110,039	$19	$430,710	$15,707	0.00%	0.14%
76	Welding & other repair	2,860	$132,315	$46	$298,464	$11,586	0.02%	0.47%
87	Engineering & Management Services	72	$13,840	$191	$17,873,531	$568,682	0.00%	0.05%
89	Miscellaneous Services	7	$306	$43	$4,109,167	$303,126	0.00%	0.01%
	TOTAL	811,081	$61,934,145	$76	$7,190,602	$664,562	0.00%	0.02%

Figures less than 0.005% round down to 0.00%.

Source: OSHA Office of Regulatory Analysis

Economic Impacts and Certification of No Significant Impact

OSHA analyzed the economic impacts of the proposed rule by calculating average annualized compliance costs as a percentage of the sales and profits of all establishments in affected industries. As shown in Table VI–9, annualized costs to employers for establishments in all affected industries are less than 0.01 percent of sales and only 0.02 percent of profits. Even in the most affected industry, Welding & Other Repair (SIC 76), annualized costs are still less than 0.5 percent of profits. Costs of this magnitude do not threaten the financial health of even the most marginal firm. Since most employers in most industries already pay for PPE, the major competitive effect of the rule is to limit any small short-term competitive advantage a few firms gain by not paying for PPE, i.e., by requiring their employees to pay for PPE that other employers in their industry pay for. As shown in the benefits section, many firms already pay for PPE because it proves cost-effective; many other firms may find that, when benefits as well as costs are considered, the costs of PPE are more than offset by these benefits.

OSHA also assessed the economic impacts of the proposed rule on small firms within each affected industry. Impacts on two sizes of small firm were estimated: those with fewer than 500 employees, and those with fewer than 20 employees. In using 500 employees and 20 employees to characterize firms for this screening analysis for impacts, OSHA is not proposing definitions of small business that are different from those established by the Small Business Administration (SBA) in its *Table of Size Standards*. The SBA size definitions are SIC-code specific, and are generally expressed either in terms of number of employees or as annual receipts. Instead, OSHA is using 500 employees and 20 employees as a simple method of screening for significant impacts across the large number of industries potentially affected by the proposed rule. Use of this approach avoids the need to interpolate because the underlying industry profile data do not correspond with the SIC-specific size categories established by the SBA. (OSHA notes that, for almost all of the industries affected by this rulemaking, the SBA size definitions fall within the 20- to 500-employee range.) OSHA believes that this screening approach will capture any significant impacts on small firms in affected industries. The Agency welcomes data supporting this assumption or data demonstrating that firms in the industry-specific size classes used by the SBA will experience significant impacts.

The results of these analyses (Tables VI–10 and VI–11, respectively) demonstrate that the annualized costs of compliance do not exceed 0.1 percent of sales or 1 percent of profits for small firms in any covered industry. Based on these analyses, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605) OSHA certifies that the proposed rule will not have a significant impact on a substantial number of small entities.

Because statistically meaningful survey data are available only at the two-digit Standard Industrial Classification level, OSHA has conducted this analysis of economic impacts at the 2-digit level. OSHA believes that this level of analysis adequately captures meaningful variations in economic impacts. Further, the costs are so low that even if a sub-industry were to have substantially higher costs as a percentage of sales or profits, the financial health of that sub-industry would not be in any danger. However, the Agency requests comment on any specific industry that may have an unusual pattern of PPE usage or payment that could lead to more severe impacts than those portrayed for its 2-digit sector.

To test its conclusions that the regulation is economically feasible and will not have a significant impact on a substantial number of small entities, the Agency performed sensitivity analyses relying on "worst case" scenarios. First, in order to test the potential impact on OSHA's estimates of errors in the expert panel's characterization of payment patterns, the Agency examined impacts across all industries using the extreme assumption that employers were not currently paying for any protective equipment. Under this extreme scenario, the proposed rule's costs of compliance would quadruple, but the impacts of even these costs in nearly all industries would still be below one percent of profits. The largest impacts would occur in SIC 76 (Welding & other repair), where costs under this extreme scenario would be less than 3 percent of profits.

Second, the Agency focused on the construction industry, which was not covered in OSHA's 1989 PPE use survey and is estimated in OSHA's analysis to account for half of the rule's costs of compliance, to see what the impacts would be under an extremely unlikely scenario that assumed that all construction employees wore all types of PPE.[10] Under this scenario, the largest impact would occur in SIC 17, where costs would equal 2.1 percent of profits. This result shows that, even if the Agency had no data on PPE usage in the construction industry and simply assumed that every employee in the sector used every possible type of PPE, the proposed standard would still be economically feasible and would not have a significant impact on a substantial number of small entities.

Third, the Agency has constructed a "worst-worst" case scenario for the construction industry; this scenario assumes that employees in this industry are wearing all types of PPE and pay for all of this PPE, i.e., that no employer currently pays anything for any type of PPE. Even under this scenario, the costs of the proposed rule would be less than 5 percent of profits and less than 1 percent of revenues for firms in all construction subsectors. This analysis shows that even if the Agency had no data on either PPE use or PPE payment patterns in the construction industry, it would still be reasonable to conclude that the proposed standard is economically feasible in the construction sector and that small firms in that sector would not experience significant impacts.

BILLING CODE 4510–26–P

TABLE VI-10

COST OF THE PROPOSED PPE STANDARD TO AFFECTED ENTERPRISE WITH FEWER THAN 500 EMPLOYEES AS A PERCENT OF REVENUES AND PROFITS

[10] This assumes that all construction employees need welding PPE, fall protection, chemical protective clothing and safety shoes with metatarsal guards and that the same workers need faceshields and standard goggles in addition to welding helmets and welding goggles.

TABLE VI-10

COST OF THE PROPOSED PPE STANDARD TO AFFECTED ENTERPRISE WITH FEWER THAN 500 EMPLOYEES AS A PERCENT OF REVENUES AND PROFITS

SIC	INDUSTRY	Number of Affected Enterprises	Annual Compliance Cost	Average Cost per Enterprise	Average Sales per Enterprise	Average Pre-Tax Profits per Enterprise	Cost as Percent of: Revenue	Profit
078	Landscape and horticultural services	22,995	$1,064,278	$46	$203,029	$12,897	0.02%	0.36%
08	Forestry	824	$48,688	$59	$556,040	$37,941	0.01%	0.16%
13	Oil and gas extraction	2,533	$258,734	$102	$2,073,259	$197,123	0.00%	0.05%
15	Building Construction	93,112	$4,790,195	$51	$1,190,588	$50,425	0.00%	0.10%
16	Heavy Construction	16,537	$1,836,181	$111	$2,464,742	$169,697	0.00%	0.07%
17	Construction Special Trades	197,372	$12,153,846	$62	$601,794	$32,567	0.01%	0.19%
20	Food and kindred products	6,292	$409,385	$65	$7,520,235	$406,820	0.00%	0.02%
21	Tobacco products	24	$4,353	$181	$11,835,119	$1,631,755	0.00%	0.01%
22	Textile mill products	1,140	$92,551	$81	$4,662,782	$282,815	0.00%	0.03%
23	Apparel and other textile products	4,132	$50,846	$12	$1,767,907	$98,999	0.00%	0.01%
24	Lumber and wood products	16,696	$469,448	$28	$1,621,362	$97,278	0.00%	0.03%
25	Furniture and fixtures	4,423	$223,139	$50	$2,278,053	$168,047	0.00%	0.03%
26	Paper and allied products	1,498	$260,100	$174	$8,176,155	$442,303	0.00%	0.04%
27	Printing and publishing	13,871	$132,501	$10	$1,415,333	$113,650	0.00%	0.01%
28	Chemicals and allied products	2,799	$238,746	$85	$8,705,825	$553,987	0.00%	0.02%
29	Petroleum and coal products	298	$45,071	$151	$14,282,763	$714,112	0.00%	0.02%
30	Rubber and miscellaneous plastics produc	5,116	$181,405	$35	$4,472,080	$344,559	0.00%	0.01%
31	Leather and leather products	314	$4,806	$15	$2,460,099	$134,181	0.00%	0.01%
32	Stone, clay, and glass products	4,507	$427,050	$95	$2,656,582	$191,616	0.00%	0.05%
33	Primary metal industries	2,070	$888,724	$429	$7,468,383	$416,258	0.01%	0.10%
34	Fabricated metal products	12,733	$1,741,611	$137	$3,109,554	$224,288	0.00%	0.06%
35	Industrial machinery and equipment	19,473	$805,426	$41	$2,167,640	$147,787	0.00%	0.03%
36	Electronic and other electronic equipment	4,745	$178,595	$38	$4,171,209	$328,216	0.00%	0.01%
37	Transportation equipment	3,803	$365,115	$96	$3,810,491	$218,627	0.00%	0.04%
38	Instruments and related products	3,160	$160,084	$51	$3,441,294	$276,423	0.00%	0.02%
39	Miscellaneous manufacturing industries	5,548	$112,787	$20	$1,642,138	$131,863	0.00%	0.02%
41	Local and interurban passenger transit	4,790	$221,257	$46	$646,961	$28,922	0.01%	0.16%
42	Trucking and warehousing	30,707	$847,105	$28	$894,533	$41,043	0.00%	0.07%
46	Pipelines, except natural gas	183	$894	$5	NA	NA	NA	NA
47	Transportation services	14	$2,236	$159	$25,351,523	$1,536,402	0.00%	0.01%
48	Communication	3,666	$489,750	$134	$2,194,304	$406,473	0.01%	0.03%
49	Electric, gas, and sanitary services	3,300	$920,246	$279	$4,038,145	$417,042	0.01%	0.07%
50	Wholesale trade - durable goods	84,969	$5,249,059	$62	$4,930,915	$282,912	0.00%	0.02%
51	Wholesale trade - nondurable goods	49,118	$3,763,134	$77	$7,337,144	$372,860	0.00%	0.02%
52	Building materials and garden supplies	17,228	$1,089,709	$63	$1,419,546	$55,112	0.00%	0.11%
55	Automotive dealers and service stations	47,392	$2,453,159	$52	$4,139,108	$131,693	0.00%	0.04%
59	Miscellaneous retail stores	135	$12,105	$90	$659,251	$34,901	0.01%	0.26%
73	Business Services	3,142	$319,069	$102	$680,308	$56,025	0.01%	0.18%
75	Auto repair, services, and parking	52,667	$1,109,861	$21	$406,108	$21,021	0.01%	0.10%
76	Welding & other repair	2,848	$126,171	$44	$300,365	$21,555	0.01%	0.21%
87	Engineering & Management Services	73	$13,122	$181	$635,837	$44,882	0.03%	0.40%
89	Miscellaneous Services	7	$251	$36	$526,769	$28,507	0.01%	0.13%

Figures less than 0.005% round down to 0.00%.

Source: OSHA Office of Regulatory Analysis

BILLING CODE 4510-26-C

TABLE VI-11

COST OF PROPOSED PPE STANDARD TO AFFECTED ENTERPRISES WITH FEWER THAN 20 EMPLOYEES AS A PERCENT OF REVENUES AND PROFITS

SIC	INDUSTRY	Number of Affected Enterprises	Annual Compliance Cost	Average Cost per Enterprise	Average Sales per Enterprise	Average Pre-Tax Profits per Enterprise	Cost as Percent of: Revenue	Profit
078	Landscape and horticultural services	21,647	$771,030	$36	$142,684	$9,064	0.02%	0.39%
08	Forestry	746	$25,162	$34	$327,420	$22,341	0.01%	0.15%
13	Oil and gas extraction	1,902	$50,582	$27	$939,464	$72,649	0.00%	0.04%
15	Building Construction	88,543	$2,658,102	$30	$638,583	$27,045	0.00%	0.11%
16	Heavy Construction	13,433	$455,798	$34	$777,749	$38,430	0.00%	0.09%
17	Construction Special Trades	183,519	$6,024,901	$33	$324,117	$17,540	0.01%	0.19%
20	Food and kindred products	4,022	$14,778	$4	$1,112,743	$43,200	0.00%	0.01%
21	Tobacco products	15	$37	$3	$1,157,051	$172,603	0.00%	0.00%
22	Textile mill products	355	$3,873	$11	$706,350	$30,746	0.00%	0.04%
23	Apparel and other textile products	2,406	$17,399	$7	$431,127	$21,302	0.00%	0.03%
24	Lumber and wood products	14,095	$128,006	$9	$549,424	$29,087	0.00%	0.03%
25	Furniture and fixtures	2,972	$16,399	$6	$443,302	$23,468	0.00%	0.02%
26	Paper and allied products	577	$5,546	$10	$1,061,389	$41,207	0.00%	0.02%
27	Printing and publishing	9,277	$24,233	$3	$416,601	$25,976	0.00%	0.01%
28	Chemicals and allied products	1,834	$30,561	$17	$1,665,517	$93,265	0.00%	0.02%
29	Petroleum and coal products	203	$7,808	$38	$3,359,261	$181,724	0.00%	0.02%
30	Rubber and miscellaneous plastics produc	2,586	$40,124	$16	$757,780	$41,901	0.00%	0.04%
31	Leather and leather products	182	$1,892	$10	$438,331	$18,564	0.00%	0.06%
32	Stone, clay, and glass products	3,111	$35,681	$11	$738,830	$38,245	0.00%	0.03%
33	Primary metal industries	1,040	$16,697	$16	$930,429	$37,217	0.00%	0.04%
34	Fabricated metal products	7,592	$143,755	$19	$663,340	$34,337	0.00%	0.06%
35	Industrial machinery and equipment	13,814	$345,096	$25	$526,351	$27,865	0.00%	0.09%
36	Electronic and other electronic equipment	2,653	$14,341	$5	$717,989	$40,545	0.00%	0.01%
37	Transportation equipment	2,547	$18,410	$7	$653,906	$26,925	0.00%	0.03%
38	Instruments and related products	2,033	$21,129	$10	$698,237	$40,251	0.00%	0.03%
39	Miscellaneous manufacturing industries	4,049	$45,401	$11	$456,063	$28,436	0.00%	0.04%
41	Local and interurban passenger transit	2,898	$82,169	$28	$197,133	$8,812	0.01%	0.32%
42	Trucking and warehousing	20,929	$433,794	$21	$405,150	$18,588	0.01%	0.11%
46	Pipelines, except natural gas	25	$2,348	$94	$2,414,152	$790,058	0.00%	0.01%
47	Transportation services	13	$1,216	$93	$269,219	$12,668	0.03%	0.73%
48	Communication	2,684	$136,329	$51	$657,195	$99,013	0.01%	0.05%
49	Electric, gas, and sanitary services	2,338	$114,833	$49	$904,668	$75,989	0.01%	0.06%
50	Wholesale trade - durable goods	61,286	$2,867,557	$47	$2,137,838	$99,762	0.00%	0.05%
51	Wholesale trade - nondurable goods	33,423	$1,498,042	$45	$3,148,919	$147,897	0.00%	0.03%
52	Building materials and garden supplies	13,880	$454,819	$33	$754,755	$29,302	0.00%	0.11%
55	Automotive dealers and service stations	40,367	$2,243,689	$56	$1,161,906	$28,705	0.00%	0.19%
59	Miscellaneous retail stores	6	$302	$53	$420,332	$22,252	0.01%	0.24%
73	Business services	138	$11,089	$80	$305,796	$25,182	0.03%	0.32%
75	Auto repair, services, and parking	50,844	$1,288,534	$25	$292,021	$15,115	0.01%	0.17%
76	Welding & misc. repair	2,753	$120,864	$44	$221,241	$15,876	0.02%	0.28%
87	Engineering & management servicest	66	$3,309	$50	$303,720	$21,438	0.02%	0.23%
89	Miscellaneous services	7	$207	$30	$312,370	$16,904	0.01%	0.18%

Figures less than 0.005% round down to 0.00%.

Source: OSHA Office of Regulatory Analysis

Environmental Impact Analysis.

OSHA has reviewed this proposed rule in accordance with the National Environmental Policy Act of 1969, 42 USC 4321 *et seq.*, the regulations of the Council on Environmental Quality, 40 CFR Part 1500, and the DOL procedures (29 CFR Part 11). As a result of this review, OSHA has determined that this action will have no significant impact on the quality of the human environment.

Unfunded Mandates Reform Act.

This proposed standard for Personal Payment for Personal Protective Equipment has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (2 USC 1501 *et seq.*) and Executive Order 12875 (58 FR 58093). The Preliminary Economic Analysis estimates that the expenditures for the proposed rule will not exceed the $100 million threshold (in 1995 dollars) of $62.3 million. Private sector employers, the only employers affected by the proposed rule, are not included in the definition of a Federal intergovernmental mandate under UMRA (Section 421(5) of UMRA). Consequently, the Agency has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. Section 202 of UMRA requires that agencies prepare a written statement only when a rule may result in Federal intergovernmental mandates that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires only that agencies develop a small government agency plan when they establish a rule that contains a Federal mandate. Because this proposed rule does not apply to State and local governments, and because the proposed rule is not a Federal intergovernmental mandate, this proposed rule will not require unfunded mandates under the terms of UMRA.

References for Preliminary Economic Analysis

Berkowitz, M., and Burton, J.F., Jr. *Permanent Disability Benefits in Workmen's Compensation.* Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 1987.

Michigan, State of. Department of Labor. Bureau of Labor and Industry Statistics. News Release, 1997.

Bureau of National Affairs. *Union Contracts.* Washington, DC: BNA Books, 1997.

Business Roundtable. *Construction Cost Control. Construction Industry Cost Effectiveness Project Report A-1.* 1982.

Chelius, J., Galvin, D., and Kalsbeek, W. *Disability Compensation Insurance: Who Pays and Why.* Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 1988.

Mid-March Construction Index. *Engineering News Record.* 1997.

Environmental Impact Analysis

OSHA has reviewed this proposed rule in accordance with the National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 CFR Part 1500), and DOL's NEPA procedures (29 CFR Part II). As a result of this review, OSHA has determined that this action will have no significant impact on the external environment.

Unfunded Mandates Analysis

This proposed rule on Employer Payment for Personal Protective Equipment has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA) (2 USC 1501 *et seq.*) and Executive Order 12875. As discussed in the Preliminary Economic Analysis, OSHA estimates that compliance with the proposed rule will require expenditures of $62.3 million per year by affected employers. Therefore, this proposed rule is not a Federal private sector mandate and is not a significant regulatory action within the meaning of Section 202 of UMRA. OSHA standards do not apply to State and local governments except in States that have voluntarily elected to adopt an OSHA State plan. Consequently, the proposed rule does not meet the definition of a "Federal intergovernmental mandate" (Section 421(5) of UMRA). In addition, the Agency has concluded that virtually all State-plan States, the only States in which this rule could have any effect on State and local government employers, already require that employers pay for required PPE. Thus, this rule will not have an impact on employers who are State and local governments. In sum, this proposed rule does not impose unfunded mandates within the meaning of UMRA.

References for the Preliminary Economic Analysis

Berkowitz, M., and Burton, J. *Permanent Partial Disability Benefits In Worker Compensation*. W. E. Upjohn Institute for Employment Research, Kalamazoo, Michigan, 1987.

Bureau of Labor Statistics, "Employer Costs for Employee Compensation Summary", News Release, October 21, 1997.

Bureau of National Affairs, *Basic Patterns in Union Contracts*, Fourteenth Edition, BNA Books, 1995.

Business Roundtable. *Improving Construction Safety Performance: A Construction Industry Cost Effectiveness Project*. Report A–3, January, 1982.

Chelius, J., Galvin, D., and Owens, P. Disability: It's more expensive than you think. Business & Health, pp. 78–84, Mid-March 1992.

Eastern Research Group, *Patterns of PPE Provision*, 1998.

Hinze, J. and Appelgate, L.L. *Costs of Construction Injuries*. Journal of Construction Engineering and Management 117(3):537-550, 1991.

Klein, R.W., Nordman, E.C., and Fritz, J.L. *Market Conditions in Workers' Compensation Insurance*. Interim Report Presented to the NAIC Workers' Compensation Task Force, July 9, 1993.

Lab Safety Supply, *General Safety Catalog—Personal & Environmental Safety*, Janesville, WI, January 1995.

Levitt, R.E., Parker, H.W., and Samelson, N.M. *Improving Construction Safety Performance: The User's Role*. Prepared under contract for The Business Roundtable Construction Industry Cost Effectiveness Project, August 1981.

Levitt, R.E., and Samelson, N.M. *Construction Safety Management*. McGraw-Hill Book Company, New York, New York, 1987.

Occupational Safety and Health Administration, Office of Regulatory Analysis, *Background Document to the Regulatory Impact and Regulatory Flexibility Assessment for the PPE Standard*, 1994, Exhibit 56, S–060.

Office of Technology Assessment, *Preventing Illness and Injury in the Workplace, Volume 2—Part B: Working Papers*, 1994; Exhibit 189, Docket H049.

U.S. Interdepartmental Workers Compensation Task Force. *Workers' Compensation Reform:* Challenge for the 80's. 1979.

U.S. Social Security Administration. *Annual Statistical Supplement to the Social Security Bulletin*. Washington, D.C., 1993.

Worker Compensation Research Institute. *Income Replacement in California*. December, 1993.

Bureau of National Affairs, *Basic Patterns in Union Contracts*, Fourteenth Edition, BNA Books, 1995.

VII. Public Participation

Written Comments

Interested parties are invited to submit written data, views, and comments with respect to this proposal. These comments must be postmarked by June 14, 1999. Written comments are to be submitted in quadruplicate, or in 1 original (hard copy) and 1 disk (3½" or 5¼") in WordPerfect 5.0, 5.1, 6.0, 8.0, or ASCII, to the Docket Office, Docket No. S–042, Room N2625, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, DC. 20210.

Comments may also be submitted electronically through OSHA's Internet site at URL, http://www.osha-slc.gov/e-comments/e-comments-ppe.html. Please be aware that information such as studies, journal articles, and so forth cannot be attached to the electronic response and must be submitted in quadruplicate to the above address. Such attachments must clearly identify the respondent's electronic submission by name, date, and subject, so that they can be attached to the correct response. These comments must be transmitted by June 14, 1999.

All comments, views, data, and arguments received within the specified comment period will be made part of the record and will be available for public inspection and copying at the above Docket Office address.

Notice of Intention To Appear at the Informal Hearing

Under section 6(b)(3) of the Occupational Safety and Health Act, OSHA is scheduling an informal public hearing to provide the public with an opportunity to testify on the issues raised by the proposed standard. The informal public hearing will be held in Washington, DC on June 22, 1999, and will extend through July 2, 1999, depending on the number of persons intending to participate.

The hearing will begin at 9:30 a.m. on June 22, 1999 in the auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

All persons who wish to participate in the hearing must file four copies of a notice of intention to appear. This notice must be postmarked on or before June 1, 1999. The notice of intention to appear, which will be available for inspection and copying at the OSHA Docket Office (Room N2625), telephone (202) 693–2350, must contain the following information:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The issues that will be addressed;
5. A brief statement of the position that will be taken with respect to each issue; and,
6. Whether the party intends to submit documentary evidence and, if so, a brief summary of it.

Mail the notice of intention to appear to: Docket Office, Docket S–042, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–2350.

A notice of intention to appear also may be transmitted by facsimile to (202) 693–1648 (Attention: Docket S–042), by June 1, 1999 provided that the original and 3 copies are sent to the same address and postmarked no more than 3 days later.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for a presentation at the

Figures less than 0.005% round down to 0.00%.

Source: OSHA Office of Regulatory Analysis

hearing, or who will submit documentary evidence, must provide in quadruplicate, the complete text of the testimony, including any documentary evidence to be presented at the hearing. One copy must not be stapled or bound and must be suitable for copying. These materials must be provided to the Docket Office at the address above and be postmarked no later than June 14, 1999.

Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. If the information contained in the submission does not justify the amount of time requested, the Agency will allocate a more appropriate amount of time and notify the participant of that fact prior to the informal public hearing.

Any party who has not substantially complied with this requirement may be limited to a 10 minute presentation, and may be requested to return for questioning at a later time.

Any party who has not filed a notice of intention to appear may be allowed to testify for no more than 10 minutes as time permits, at the discretion of the Administrative Law Judge, but will not be allowed to question witnesses.

Notices of intention to appear, testimony, and evidence will be available for copying at the Docket Office at the address noted above.

Conduct and Nature of the Hearing

The hearing will commence at 9:30 a.m. on June 22, 1999. At that time, any procedural matters pertaining to the proceeding will be resolved.

The nature of an informal rulemaking hearing is established in the legislative history of section 6 of the Occupational Safety and Health Act and is reflected in OSHA's rules of procedure for hearings (29 CFR 1911.15(a)). Although the presiding officer is an Administrative Law Judge (ALJ), and limited questioning by persons who have filed notices of intention to appear is allowed on crucial issues, the proceeding is informal and legislative in type. OSHA hearings provide interested persons with an opportunity to make effective oral presentations, without procedural restraints that unnecessarily impede or protract the rulemaking process.

Additionally, the hearing is primarily for information gathering and clarification. It is an informal administrative proceeding, rather than an adjudication. The technical rules of evidence, for example, do not apply. The regulations that govern OSHA hearings, combined with the pre-hearing guidelines that the ALJ will issue for this hearing, will ensure fairness and due process and also facilitate the development of a clear, accurate, and complete record. Questions of relevance, procedure, and participation generally will be decided in favor of the most effective development of the record.

The hearing will be conducted in accordance with 29 CFR part 1911. It should be noted that § 1911.4 specifies that the Assistant Secretary may, upon reasonable notice, issue alternative procedures to expedite proceedings or for other good cause.

The hearing will be presided over by an Administrative Law Judge who makes no decision or recommendation on the merits of OSHA's proposal. The responsibility of the Administrative Law Judge is to ensure that the hearing proceeds at a reasonable pace and in an orderly manner. The Administrative Law Judge, therefore, will have all of the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR part 1911, including the powers:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections, and comparable matters;
3. To confine the presentations to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. At the Judge's discretion, to question and permit the questioning of any witness and to limit the time for questioning; and,
6. At the Judge's discretion, to keep the record open for a reasonable, stated time (known as the post-hearing comment period) to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

OSHA recognizes that there may be interested persons who, through their knowledge of safety or their experience in the subject matter of this proceeding, would wish to endorse or support certain provisions in the proposed standard. OSHA welcomes such supportive comments in order that the record of this rulemaking will present a balanced picture of the public response on the issues involved.

VIII. State-Plan States

The 25 States and Territories with their own OSHA-approved occupational safety and health plans must revise their existing standards within six months of the publication date of the final standard or show OSHA why there is no need for action, e.g., because an existing State standard covering this area is already "at least as effective" as the revised Federal standard. These States are: Alaska, Arizona, California, Connecticut (State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

IX. OSHA's Supplementary Statement of Reasons for Its Interpretation of 29 CFR 1910.132(a)

This supplementary statement explains OSHA's interpretation that the general protective equipment standard, 29 CFR 1910.132(a), requires employers to provide protective equipment, including personal protective equipment, at no cost to employees, except for equipment that is personal in nature and normally used away from the worksite. (OSHA uses the abbreviation PPE to cover both protective equipment and personal protective equipment.) OSHA initially published this interpretation in an October 1994 memorandum to the field. In October 1997, the Occupational Safety and Health Review Commission decided that the Secretary had not adequately explained the basis for her interpretation, in light of a perceived conflict between the 1994 memorandum and interpretive statements made by OSHA officials in letters issued between 1974 and 1994. OSHA is including the following supplementary statement in this Notice of Proposed Rulemaking to set forth in detail the basis for its position on this important issue.

A. Background

OSHA's general protective equipment standard, 29 CFR 1910.132 states, in relevant part, as follows:

Section 1910.132 General Requirements

(a) *Application.* Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) *Employee-owned equipment.* Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

On October 18, 1994, Deputy Assistant Secretary James Stanley issued a memorandum to OSHA's regional administrators and heads of directorates announcing a uniform agency policy on employers' responsibility to pay for personal protective equipment under section 1910.132 and other standards requiring employers to "provide" such equipment. The interpretation outlined in the Deputy Assistant Secretary's memorandum requires employers to pay for all personal protective equipment that is necessary for the employee to do his or her job safely and in compliance with OSHA standards, except for equipment that is personal in nature and normally used away from the worksite such as steel-toe safety shoes. OSHA subsequently issued a compliance directive, STD 1–6.6, incorporating this interpretation and stating that violations of the policy would be cited.

In March 1996, OSHA issued a citation alleging that the Union Tank Car Company violated 29 CFR 1910.132(a) by requiring employees to pay for metatarsal safety shoes and welding gloves. Upon review, the Occupational Safety and Health Review Commission issued a decision vacating the citation. *Secretary of Labor* v. *Union Tank Car Co.*, 18 O.S.H. Cas. (BNA) 1067 (Rev. Comm. 1997). In *Union Tank*, the Commission stated that it had addressed the meaning of 29 CFR 1910.132 in *The Budd Company*, 1 O.S.H. Cas. (BNA) 1548 (Rev. Comm. 1974), and had concluded that the standard could not be interpreted to require employers to pay for personal protective equipment. 18 O.S.H. Cas. (BNA) at 1068. The Commission also noted that OSHA had issued at least five letters of interpretation between 1974 and 1994 stating that the standard does not specify who pays the cost of personal protective equipment. *Id.* Characterizing the Agency's approach in these letters as acquiescence in *Budd*, the Commission criticized OSHA for failing to provide an adequate explanation for the apparently new interpretation announced in the Stanley memorandum. The Commission noted that an agency changing its course "must supply a reasoned analysis indicating that prior policies and standards were being deliberately changed, not casually ignored." *Id.* at 1069.

The Secretary believes that requiring employers to pay for personal protective equipment that must be worn because of hazards in the workplace is central to the effective administration of the Act. While the Secretary believes that the interpretation announced in STD 1–6.6 is faithful both to the standards' plain language and to the legislative intent, she is mindful of the Commission's concern that the Agency has not provided an adequate explanation of the basis for this interpretation. To address these concerns, this supplementary statement reviews the history of prior interpretive statements and explains in detail the linguistic and policy bases for requiring employers to pay for personal protective equipment.

The following discussion is organized into two sections. Section II, below, explains the bases for the Secretary's interpretation, including the meaning of the word "provide" in the standard, the legislative intent that employers bear the costs of safety and health requirements, and the reasons why requiring employers to pay for personal protective equipment contributes in practical ways to increased safety protection for employees. Section III addresses the decisions issued by the Commission and the Third Circuit in *Budd*. The section examines in detail the separate rationales offered by the Commissioners in the case, and explains why those rationales (none of which commanded a Commission majority) are not Commission precedent, nor are they consistent with subsequent Federal and Commission case law. The section also addresses OSHA's prior statements regarding personal protective equipment and demonstrates that OSHA did not have a settled national policy on the standard's interpretation until 1994.

B. The Language and Purpose of the Standard, as Well as the Policy of the OSH Act, Support the Secretary's Construction

The Secretary's interpretation of section 1910.132 is that the employer's duty to "provide" personal protective equipment when hazards dictate its use includes the obligation to pay for the equipment. See *Borton, Inc.* v. *OSHRC*, 734 F.2d 508, 510 (10th Cir. 1984) (usual meaning of provide is "to furnish, supply, or make available"). *Accord, Usery* v. *Kennecott Copper Corp.*, 577 F.2d 1113, 1119 (10th Cir. 1978); *Secretary* v. *Baker Concrete Constr. Co.*, 17 O.S.H. Cas. (BNA) 1236, 1239. These definitions strongly imply that what is to be "provided" is to be given without cost to the recipient.

The Review Commission itself has found that "provide" includes the requirement to "pay for" under a standard closely analogous to section 1910.132. In *Secretary of Labor* v. *Erie Coke Corp.*, 15 O.S.H. Cas. (BNA) 1561 (Rev. Comm. 1992), the Commission addressed the meaning of 29 CFR 1910.1029(h)(1), which requires employers to "provide and assure the use of" appropriate personal protective equipment for coke oven workers. The Commission held that the plain meaning of "provide," as well as other factors, supported the Secretary's interpretation that flame resistant gloves must be furnished at no charge. Id. at 1563 (the dictionary definitions "suggest . . . that "provide" encompasses more that merely making items available").

Courts have relied upon this meaning in holding that safety equipment and other items to be "provided" under analogous state and Federal regulations must be furnished at no charge. In *Bendix Forest Prods. Corp.* v. *Division of Occupational Safety and Health*, 600 P.2d 1339 (Cal. 1979) (en banc), the California Supreme Court held that Cal/OSHA standards requiring employers to "furnish" and "provide" safety devices precluded employers from charging employees for personal protective equipment. The Court found, *inter alia*, that "a reasonable and ordinary interpretation of "furnish" . . . concomitantly requires the employer to pay for the safety equipment." *Id.* at 1344.[11] See also *Nelson* v. *Thornburg*, 567 F. Supp. 369, 379–82 (E.D. Pa. 1983), *aff'd*, 732 F.2d 146 (3d Cir), *cert. denied*, 469 U.S. 1188 (1985) (HHS regulations defining "reasonable accommodation" under section 504 of the Rehabilitation Act to include "the provision of readers" required employer to pay for readers to accommodate qualified blind employees, unless such costs would pose an undue burden).

The Secretary's construction that employers are responsible for the cost of personal protective equipment finds further support in the language and purpose of the OSH Act. A central principle embodied in the Act is that the fundamental duty of ensuring safe working conditions is to be borne by employers, not employees. Early in the Act's development, Federal appellate courts established that section 5(a), 29 U.S.C. 654(a), allocates to employers sole legal responsibility for achieving compliance with safety and health standards.[12] *Atlantic & Gulf Stevedores* v. *OSHRC*, 534 F.2d 541, 553 (3d Cir. 1976); *United Steelworkers of America* v. *Marshall*, 647 F.2d 1189, 1231 (D.C. Cir. 1980). These courts concluded that although section 5(b) nominally refers to

[11] The words "provide" and "furnish" are often used interchangeably. *Webster's Third New Int'l Dictionary, id.*

[12] Section 5(a)(2) of the Act provides, in relevant part, that "[each employer shall comply with occupational safety and health standards . . . issued pursuant to this Act." 29 U.S.C. 654(a)(2).

duties of employees as well as employers, the Act's substantive requirements and enforcement scheme [13] are directed only at employers. Accordingly, the statute's reference to employee duties is:

> essentially an exhortation to employees to cooperate in the standards and is not meant to diminish in any way the employer's compliance responsibilities or his responsibility to assure compliance by his own employees. Final responsibility for compliance with the requirements of this Act remains with the employer.

United Steelworkers, 647 F.2d at 1231. See also *Atlantic & Gulf Stevedores*, 534 F.2d at 553 (the Act's reference to employee duties in section 5(b) is "essentially devoid of content").

The legislative history demonstrates that employers' compliance responsibilities include the obligation to pay for devices and work practices necessary to render workplaces safe. The Supreme Court found that the legislative history:

> shows that Congress understood that the Act would create substantial costs for employers, yet intended to impose such costs when necessary to create a safe and healthful working environment. Congress viewed the costs of health and safety as a cost of doing business. Senator Yarborough, a cosponsor of the [Act], stated: "We know the costs would be put into consumer goods but that is the price we should pay for the 80 million workers in America . . . Senator Eagleton commented that "[t]he costs that will be incurred by employers in meeting the standards of health and safety to be established under this bill are, in my view, reasonable and necessary costs of doing business." Other Members of Congress voiced similar views.

American Textile Mfrs. Inst., Inc. v. *Donovan*, 452 U.S. 490, 519–521 (1980) (*ATMI*) (internal citations omitted, original emphasis). See also *Forging Indus. Ass'n* v. *Secretary of Labor*, 773 F.2d 1436, 1451 (4th Cir. 1985) (en banc) (in view of Supreme Court's "clear statement" in *ATMI* that Congress intended employers to bear the costs of safety and health, OSHA may logically require employers to bear the costs of hearing protectors under the hearing conservation standard).

The D.C. Circuit also found persuasive indications of Congress's intent to have employers bear general financial responsibility under the Act. It noted that the report of the Senate subcommittee from which the statute emerged stressed the need to place the cost of standards on employers:

> many employers—particularly smaller ones—simply cannot make the necessary investment in health and safety and survive competitively, unless all are compelled to do so. The competitive disadvantage of the more conscientious employer is especially evident where there is a long period between exposure to a hazard and manifestation of an illness. In such instances a particular employer has no economic incentive to invest in current precautions, not even in the reduction of workmen's compensation costs, because he will seldom have to pay for the consequences of his own neglect.

United Steelworkers, 647 F.2d at 1231 (quoting S. Rep. No. 91–1282, 91st Cong. 2d Sess. 4 (1970), *reprinted in*, Senate Comm. on Labor and Public Welfare, 92nd Cong. 1st Sess., *Legislative History of the Occupational Safety and Health Act of 1970*, at 144). See also *Legislative History* at 444, 1150.

Conspicuously absent from the legislative history is any indication from Congress that compliance costs should be borne by employees. Indeed, it is reasonably implicit in the statutory scheme that Congress sought to maintain the standard of living of working men and women and did not contemplate that employees' pay and benefits would be sacrificed to achieve safe and healthful workplaces. For example, the Senate report notes that employers are bound by the "general and common duty to bring no adverse effects to the life and health of their employees throughout the course of their employment. Employers have primary control of the work environment and should ensure that it is safe and healthful." *Legislative History* at 149.

In view of the OSH Act's structure and history, there is no serious dispute that employers must pay for engineering controls necessary to reduce exposures to toxic substances. See, *e.g. Budd*, 1 O.S.H. Cas. (BNA) at 1550, n.5. In the Secretary's view, there is no principled distinction between engineering controls, which employers undoubtedly must pay for, and the personal protective equipment for which payment is required under STD 1–6.6.[14] OSHA addressed this issue in rulemaking on the Cancer Policy in 1980 and found no distinction, for payment purposes, between engineering controls and personal protective equipment necessary to protect employees from exposure to carcinogenic substances. OSHA stated:

> [T]he requirement that employers pay for protective equipment is a logical corollary of the accepted proposition that the employer must pay for the institution of required engineering and work practice controls. To the extent that protective equipment, like engineering controls, is intended also to protect against . . . contamination, employers logically must pick up the expense. There is no rational basis for distinguishing . . . personal protective equipment [from engineering controls] The goal, in each case, is employee protection; consequently, the responsibility of paying for the protection should, in each case rest on the employer.

45 FR 5261 (January 22, 1980).[15]

OSHA has further determined, in rulemakings addressing specific hazards, that placing payment responsibility on the employer best carries out the Act's purpose of fostering employee safety. 29 U.S.C. 651(b). Requiring employers to pay for personal protective equipment contributes to increased health and safety protection in several practical ways. The employer is most knowledgeable about hazards existing in the workplace and is therefore best able to select and maintain appropriate protective equipment. Requiring employers to purchase personal protective equipment ensures that they retain control over the selection, issuance, maintenance and use of the devices. See 43 FR 19619 (May 5, 1978) (preamble to final rule on inorganic arsenic); 46 FR 4153 (January 16, 1981) (hearing conservation preamble). Shifting the financial burden to employees, on the other hand, "risks losing the necessary control over the organized and consistent selection, issuance, maintenance and use of such equipment." 46 FR 4153.

Employer payment for protective equipment also contributes to improved health and safety by removing economic disincentives to cooperation by employees. In promulgating requirements for medical surveillance and medical removal protection (MRP) for some health standards, OSHA found that employees would be reluctant voluntarily to cooperate in such programs if they believed that they would suffer a loss of income as a result. See, *e.g.*, 43 FR 54442–54449 (November 21, 1978) (attachments to lead

---

[13] Sections 9(a) and 10(a) provide for the issuance of citations and notifications of proposed penalties only to employers. 29 U.S.C. 658(a), 659(a). Similarly, section 10(a) refers only to employer contests of citations and proposed penalties. While employees may intervene in proceedings initiated by the employer, the only independent right granted employees is to contest the reasonableness of any time period fixed by the Secretary for abatement of a violation. 29 U.S.C. 659(c). Section 17 provides for the assessment of civil monetary penalties only against employers. 29 U.S.C. 666. See *Atlantic & Gulf Stevedores*, 534 F.2d at 553.

[14] OSHA recognizes that safety-toe shoes do possess special characteristics which distinguish them from other types of personal protective equipment for cost-allocation purposes. See, *e.g.*, *Budd*, 1 O.S.H. Cas. (BNA) at 1550 (distinguishing safety shoes, which are uniquely personal in nature and used away from work, from capital equipment, which employers ordinarily pay for).

[15] OSHA's approach to payment for PPE under health and safety standards is discussed in detail above.

preamble). See also *United Steelworkers of America*, 647 F.2d at 1230–12377 (finding lead standard's MRP provisions to be authorized under the statute and reasonable). OSHA has also required employers to provide medical examinations without cost to the employee in part to ensure employee cooperation in taking the exams. 43 FR 19624 (May 5, 1978) (preamble to inorganic arsenic standard). See also *Secretary of Labor* v. *Phelps Dodge Corp.*, 11 O.S.H. Cas. (BNA) 1441, 1443 (Rev. Comm. 1983) (noting ALJ's finding that when employees were required to provide their own transportation to and from the hospital and to sacrifice their personal time to take medical examinations for arsenic exposure, 42% of them failed to participate in the medical surveillance program).

OSHA considers that this evidence, which shows that employees make decisions that risk their health and safety to avoid suffering economic loss is relevant to the issue of payment for personal protective equipment. It is certainly reasonable to believe that employees who are furnished personal protective equipment at no charge are more strongly motivated to wear the devices, and to replace them when they wear out or are damaged, than are employees who must purchase these devices. In the *Union Tank* case, the employee representative presented an affidavit that some employees taped or wrapped wire around their damaged metatarsal safety boots in order to avoid having to pay up to $130 per pair to replace them. Similarly, in *Ormet Primary Aluminum Corp.*, OSHRC No. 96–0470, an employee testified that he continued to wear safety boots though the protective steel toes were exposed and posed an electrocution hazard because he could not afford a new pair. The employee also testified that some workers put a cement-like substance over the steel toes of their boots when the leather covering wore away, but that this practice was hazardous because the substance was flammable. Thus, the policy outlined in STD 1–6.6 is not only consistent with the plain meaning of the standard's text, it is supported by the statutory context and by significant practical safety considerations.

C. The Interpretation of § 1910.132 Announced in STD 1–6.6 is Supported by Better Reasoned Authority and Reflected OSHA's Initial Determination on an Appropriate National Policy Regarding Payment for Personal Protective Equipment Under the Standard

1. Introduction

This section addresses the grounds relied upon by the Commission in *Union Tank* for rejecting the Secretary's interpretation that section 1910.132(a) requires employers to pay for most types of personal protective equipment. The Commission first stated that in *Budd* it had determined that "provide" in section 1910.132(a) could not be interpreted to mean "pay for." 18 O.S.H. Cas. (BNA) at 1068. The Commission then stated that OSHA had, for twenty years, acquiesced in the interpretation of the standard announced in *Budd*. *Id.* at 1069. The Commission held that the Secretary's "new interpretation" of section 1910.132(a) announced in 1994 was unreasonable because it represented a change in policy without adequate explanation. *Id.* This holding was based on five letters of interpretation issued from 1976 to 1993 stating that the standard does not specify who pays for personal protective equipment.

The following sections address the *Budd* decisions, as well as other relevant precedent, and explain in detail why *Budd* did not announce an authoritative interpretation of section 1910.132(a). The sections also address the agency's prior approaches to the cost allocation issue.

During the period from 1974 through October 1994, OSHA made a variety of statements on the question of employer payment for personal protective equipment. OSHA concedes that the statements of some agency officials during this period are inconsistent with the interpretation outlined in STD 1–6.6. However, these letters do not amount to an authoritative agency interpretation that employers are not required to pay for personal protective equipment. During the period from 1978 through 1994, OSHA promulgated health standards, pursuant to section 6(b) of the OSH Act, requiring employers to pay for personal protective equipment. In these standards, OSHA interpreted the Act to require employers to pay for personal protective equipment to the same extent that they would be required to pay for engineering controls. Furthermore, during the relevant time period some OSHA officials interpreted section 1910.132 to require employers to pay for personal protective equipment, other than safety shoes, and one court of appeals noted that the Act's legislative history supported this interpretation. Considered as a whole, OSHA's actions during the period from 1974–1994 cannot reasonably be viewed as reflecting an official agency interpretation contrary to STD 1–6.6.

2. The Commission's *Budd* Decision

The Commission's decision in *Budd* arose from a citation alleging that the employer violated 29 CFR 1910.132(a) by failing to provide safety-toe shoes to its employees. Prior to the hearing, the employer moved to withdraw its notice of contest on the understanding that its obligation to provide safety shoes did not include the requirement to pay for them. The Secretary agreed that the employer was not required to pay for the shoes because of their special characteristic, as noted below; however, the union representing the employees objected on the ground that the standard required employer payment. The issue presented to the Commission was whether the employer's motion should be granted.

The Secretary stressed the special characteristics of safety shoes, including their use away from work, as the rationale for not requiring employers to pay for this specific type of protective equipment. In her brief in *Budd*, the Secretary stated that:

> by tradition, in this country shoes are considered unique items of a personal nature. Safety shoes are purchased by size, are available in a variety of styles, and are frequently worn off the job, both for formal and casual wear. Furthermore, it is neither feasible for a different employee to wear the shoes each day nor feasible that upon resigning from the position an employee will leave the shoes behind to be worn by another individual.

See Brief of the Secretary, served January 10, 1973, at 8. However, the Secretary emphasized that an interpretation requiring employers generally to provide personal protective equipment free of charge would be consistent with the statutory scheme. She noted that such an interpretation could improve safety and health by giving employees greater incentive to use personal protective equipment. *Id.* at 9. She also noted that the Act's legislative history demonstrated Congress's intent to place the costs of achieving safe and healthful workplaces upon employers. *Id.* at 10. The Secretary concluded that "[p]ersonal protective equipment cannot be segregated from equipment necessary to provide proper working conditions and therefore the purchase of such equipment by the employer was contemplated by the Act

in cases where a standard might require it." *Id.* at 10–11.

The Commission held that the employer's motion should be granted because section 1910.132(a) could not be interpreted to require the employer to pay for safety shoes. However, the Commission did not announce a majority rationale for this conclusion. Commissioners Van Namee and Cleary authored separate opinions explaining their different reasoning, while Commissioner Moran concurred in the determination on the motion without stating a rationale.[16]

Commissioner Van Namee reasoned that it would be anomalous to read section 1910.132(a) to require employers to provide or pay for personal protective equipment in light of the wording of section 1910.132(b), which contemplates the use of employee-provided equipment. 1 O.S.H. Cas. (BNA) at 1549, 1550. In the Commissioner's view, such a construction would render paragraph (b) meaningless. *Id.* at 1550. Thus, he interpreted section 1910.132(a) to mean that "where personal equipment is necessary, the employer shall ensure that it is used. If [the employer] provides such equipment, he is responsible for ensuring that it is 'provided, used and maintained in a sanitary and reliable condition.'" *Id.*

Commissioner Van Namee found support for his interpretation of section 1910.132(a) in the OSH Act's purpose of achieving safe workplaces, a purpose he believed to be unrelated to the question of payment. He stated that "[p]rescription of cost allocations is not essential to the effectuation of the Act's objectives. It is irrelevant for purposes of the Act who provides and pays for the equipment. Either employer or employee provision is consistent with the purpose of the Act." *Id.* Commissioner Van Namee also noted that the steel-toed safety shoes at issue were "uniquely personal" and could be used by employees away from the workplace. *Id.*, n. 5.

Commissioner Cleary concurred in the determination on a different basis. He concluded that section 1910.132(a) does impose a duty upon an employer to provide directly or indirectly the required personal protective equipment. *Id.* at 1552. He found that this reading was not inconsistent with the text of paragraph (b), because paragraph (b) imposes no duty upon employees to furnish the equipment. "Rather," Commissioner Cleary wrote, "what paragraph (b) seems to recognize is that equipment which is owned by employees may sometimes be used by the employees themselves . . . . When this occurs, the paragraph establishes a duty upon the employer to assure its adequacy. Under its express terms, paragraph (b) does not require employees to provide the equipment in the first instance." *Id.*

Commissioner Cleary found that the OSH Act "clearly contemplates that an employer will generally assume the costs of complying with its terms." *Id.* However, he concluded that the Commission lacked jurisdiction to provide relief as to costs in the *Budd* case because section 1910.132 did not, by its express terms, require employers to assume the costs of personal protective equipment. *Id.* In the Commissioner's view, the Commission lacked authority, in a proceeding to enforce a citation, to interpret the standard to require payment. *Id.* At the same time, the Commissioner noted that other relief might be available. He suggested that an employer's policy of requiring employees to pay for personal protective equipment could, in some cases, constitute a violation of section 11(c) of the OSH Act, which is enforced through actions in Federal district court. *Id.* at 1553.

3. The Court of Appeals' Affirmance

The Commission's decision was affirmed on appeal in *Budd* v. *OSHRC*, 513 F.2d 201 (3d Cir. 1975). The court found that the interpretation reached by the Commission and the Secretary that 29 CFR 1910.132 does not require employers to pay for safety-toe footwear was reasonable. 513 F.2d at 205. The court expressly reserved judgment on whether employers could be required to pay for other types of protective equipment. *Id.*

As support for affirmance of the Commission's order, the court found the joint position not inconsistent with the statutory scheme. The panel noted that Congress did not expressly require that the employer pay for protective equipment, and, in apparent agreement with Commissioner Van Namee's view, observed that "[t]his Act, unlike such legislation as the Fair Labor Standards Act, is not concerned with wages and hours, but rather with reducing the incidence of job-related injuries." *Id.* at 206. The court also found the joint position reasonable in light of the standard's language. It noted that the verbs "provided, used and maintained" in section 1910.132(a) are phrased in the passive voice without specifying whether the employer or the employee is to perform these functions, and that section 1910.132(b) contemplates that employees will provide some protective equipment. *Id.*

In sum, in *Budd*, the Secretary, the Commission and the Third Circuit agreed that 29 CFR 1910.132 does not require employers to pay for safety-toe shoes. However, neither the Commission decision nor the court decision is an authoritative interpretation of the standard as it applies to other types of personal protective equipment. In *Union Tank*, the Commission referred to Commissioner Van Namee's rationale as the *Commission's* holding on the meaning of section 1910.132(a). 18 O.S.H. Cas. (BNA) at 1068 (stating that, in *Budd*, "the Commission held that to read subpart (a) as requiring the employer to provide protective equipment would negate subpart (b), which contemplates the use of employee provided equipment"). This characterization is substantially flawed because no one opinion in *Budd* can be said to represent the Commission's official view. See *Atlantic Gulf & Stevedores* v. *OSHRC*, 534 F.2d at 546 (where Commission order affirms citation but each Commissioner files a separate opinion announcing a different rationale, no one opinion represents Commission consensus).

In sum, four different approaches to the payment issue emerged from the *Budd* litigation: (1) Employers should not be required to pay for personal protective equipment that is uniquely personal in nature and usable off the worksite, but may be required to pay for other types of PPE (the Secretary's position); (2) the OSH Act is indifferent to the question of who pays for personal protective equipment (the view of Commissioner Van Namee, supported by the court of appeals at least for safety shoes); (3) section 1910.132(a) cannot be interpreted to require employers to pay for personal protective equipment in light of the language of section 1910.132(b) (the view of Commissioner Van Namee); and (4) section 1910.132(a) cannot be interpreted to require employers to pay because it does not say so expressly (Commissioner Cleary's view).

4. OSHA's Interpretive Statements

From 1974 through 1994, OSHA embraced a variety of approaches to the issue of employer payment for personal protective equipment. In its most formal statements on the issue, made in the context of rulemaking proceedings on a broad spectrum of health hazards, OSHA determined that the Act generally contemplates employer payment of the

[16] Commissioner Moran joined the majority on the question of the disposition of the employer's motion to withdraw its notice of contest relating to 29 CFR 1910.132. He dissented from the Commission's decision on another cited violation, not relevant here.

costs of safety and health, including personal protective equipment. OSHA's determinations on employers' responsibility to pay for personal protective equipment, made on the record in rulemakings for specific standards, are discussed *infra*. Similarly, OSHA issued an Interpretive Instruction stating that under 29 CFR 1910.1029 (h)(1), personal protective equipment for coke oven workers must be furnished by employers at no charge. See *Erie Coke Corp.*, 15 O.S.H. Cas. (BNA) at 1563 (citing STD 1–6.4 (March 12, 1979)).

Prior to 1994, OSHA did not publish enforcement guidance on section 1910.132 in the Field Operations Manual or by interpretive memorandum. In some letters responding to requests for information, however, agency officials suggested that *Budd* foreclosed an interpretation of section 1910.132, or of OSHA personal protective equipment standards generally, requiring employers to pay for personal protective equipment. In other letters, OSHA noted that the standards do not specifically allocate the cost of such equipment to employers, and suggested that the issue be resolved through collective bargaining, where appropriate. Typical of this viewpoint is the September 2, 1976 letter to Adlai E. Stevenson quoted by the Commission in *Union Tank*.

On the other hand, OSHA continued at times to enforce the standard to require employers to pay for personal protective equipment. In September 1990, OSHA issued a citation to a meatpacking firm alleging that it violated section 1910.132(a) by charging its employees for repair or replacement of steel mesh gloves and plastic wrist bands used for protection against knife cuts.[17] A July 17, 1990 agency memorandum stated that although section 1910.132(a) does not specifically allocate the costs of personal protective equipment to employers, "it is our position that the employer is obligated to pay for PPE which is not worn off the worksite. This includes welding gloves, but not safety shoes . . ." [18] A May 20, 1994 agency letter responding to a request for information on OSHA's enforcement policy stated that the interpretation outlined in the agency's July 1990 memorandum "is still in effect."

Deputy Assistant Secretary Stanley's memorandum of October 1994 and the subsequent compliance directive STD 1–6.6 were intended to harmonize the different approaches to the question of employer responsibility for the costs of personal protective equipment. In requiring employers to pay for all except uniquely personal equipment, used off the worksite, the directive did not break new ground. Rather, the interpretation enunciated in the directive closely paralleled the interpretation in the July 1990 memorandum and the position taken in the Secretary's brief in *Budd*. This policy also reflected OSHA's formal position in rulemaking proceedings under section 6(b) that personal protective equipment, like engineering controls, must be paid for by employers unless special circumstances make it appropriate for employees to provide their own equipment. In stating that the matter of payment for items such as safety shoes and prescription eyewear may be left to negotiation, the Stanley memorandum recognizes the unfairness of requiring employers to pay for items of equipment that are normally used away from work, are purchased to fit particular employees, and are not, as a practical matter, reusable by other employees.

5. Why OSHA rejects the positions of Commissioners Van Namee and Cleary on the interpretation of section 1910.132 as it applies to PPE other than safety-toe shoes and prescription safety eyewear

The preceding discussion establishes two points of central importance in addressing the Commission's analysis in *Union Tank*. First, the Commission did not reach a consensus in *Budd* on the interpretation to be given section 1910.132(a) regarding payment for personal protective equipment other than safety shoes. The interpretation relied upon in *Union Tank* as the "holding" in *Budd* is, in fact, no more than the view of a single Commissioner. Second, the interpretation announced in STD 1–6.6 was not a wholly new policy, nor was it a change in OSHA's national policy since 1994. The statements in the agency letters relied upon by the Commission reflected the views of some officials that are at odds with the agency's positions taken (a) in rulemaking proceedings under the Act; (b) in its brief to the Commission in *Budd*; and (c) in a 1990 contested enforcement action before the Commission. Viewed in this context, the interpretation announced in the Deputy Assistant Secretary's memorandum, and formally published in STD 1–6.6, is OSHA's national policy, not a change in such policy.

The following sections examine the interpretive views expressed by the individual Commissioners in *Budd*. In light of the case law and other developments since *Budd*, the Secretary believes that the position she outlined in her Commission brief—that employers should not be required to pay for equipment that is uniquely personal in nature and usable off of the job—remains the only viable basis for the disposition of that case. To the extent that the positions outlined in the concurring opinions support an interpretation that section 1910.132 does not require employers to pay for any type of personal protective equipment, they are inconsistent with subsequent Federal court and Commission case law.

a. The Act is not indifferent to cost-allocation. Commissioner Van Namee's position that the OSH Act is indifferent to the question of who pays for equipment mandated by OSHA standards has been rejected by subsequent court and Commission decisions. That position ignores the extensive legislative history of the Act, discussed above, indicating Congress's intent to place fiscal responsibility for the safety of employees on industry, which can pass the costs to consumers. Based on this history, OSHA has promulgated numerous standards under section 6(b) of the Act, mandating that employers pay for protective devices and other requirements necessary for safety and health.

The lead standard (29 CFR 1910.1025), promulgated in 1978, clearly stated the principle that employers should bear the costs of requirements necessary to achievement of healthful working conditions. The standard requires that an employer who removes employees from their jobs because of high blood-lead levels must maintain the workers' earnings and seniority rights during removal for up to eighteen months. 29 CFR 1910.1025(k). The standard also requires employers to provide, at no charge to employees, respirators and protective clothing. 29 CFR 1910.1025 (f), (g). In the preamble to the Medical Removal Protection (MRP) provision, OSHA explained its determination that compliance costs were properly allocable to employers under the Act.

> OSHA has determined that the foregoing costs should be borne by employers in the first instance . . . MRP is meant to place those costs of worker protection directly on the industry at large rather than on the

[17] The citation was not contested, and thus became a final order of the Commission by operation of law. 29 U.S.C. 659(a).

[18] OSHA's issuance of the citation under section 1910.132(a) was in step with the agency's approach under other standards that do not expressly require employers to pay for personal protective equipment. In 1979, OSHA issued an interpretive Instruction clarifying that 29 CFR 1910.1029(h)(1), which states that the employer "shall provide" protective clothing and equipment, including flame resistant gloves, for coke oven workers, requires that this equipment be furnished at no cost to employees. OSHA Instruction STD 1–6.4 (March 12, 1979).

shoulders of individual workers unfortunate enough to be at risk of material impairment to health due to occupational exposure to lead. The costs of protecting worker health are appropriate costs of doing business, thus employers should properly bear the economic impact of temporary medical removals. The [OSH] Act . . . recognized that the costs which consumers pay for goods should reflect all costs of production, including costs associated with preventing . . . occupational disease. Under the Act, employers have the primary obligation to provide a safe and healthful work experience, [and] thus should incur the costs necessary to satisfy this obligation.

(43 FR 54449/3).

Beginning in 1978, OSHA determined that the costs of personal protective equipment necessary to guard employees against exposure to toxic substances should be paid for by employers. The standard on Inorganic Arsenic requires employers to pay for respirators, protective clothing and protective equipment, including gloves, shoes, and face shields or goggles. 29 CFR 1910.1018(j)(1). The preamble to the rule states that:

> the obligation is on the employer to provide protective equipment at no cost to the employee. In this way the employer is in the best position to provide the correct type of equipment and keep it in repair. Also, as the employer has permitted exposures to exceed the permissible exposure limits, the obligation properly rests on the employer.

43 FR 19619 (May 5, 1978). OSHA applied the same reasoning in requiring employers to pay for respirators when necessary to protect employees from exposure to cotton dust. 43 FR 27387/2 (June 23, 1978) (preamble to final rule on occupational exposure to cotton dust). The Cotton Dust preamble notes that the language requiring employers to provide respirators " 'at no cost to the employee' . . . makes explicit the position which has long been implicit in all OSHA health standard proceedings under section 6(b) of the Act" *Id.* OSHA expressed a similar view in the preamble for the 1,2–Dibromo-3-chloropropane (DBCP) standard. 43 FR 11523/3 (March 17, 1978).

In the following decades, OSHA has expanded its justification for explicitly requiring employers to bear the costs of necessary protective devices. In the preamble to the hearing conservation standard, OSHA determined that employers should pay for hearing protectors based in part on a commenter's statement that "where personal protective equipment is necessary to afford [a safe and healthful working] environment, it is . . . almost universally accepted that its purchase is the responsibility of the employer." 46 FR 4153 (January 16, 1981). The preamble also noted that permitting an employer to charge employees for hearing protectors could discourage the use of such devices and thereby undermine the effectiveness of the employer's hearing conservation programs. *Id.*

The formaldehyde standard, promulgated in 1987, expressly linked the question of payment for personal protective equipment and the employer's duty to "provide" such equipment under 29 CFR 1910.132. The formaldehyde standard requires employers to comply with 29 CFR 1910.132 and 1910.133 and specifies that the appropriate protective equipment is to be provided at no cost to the employee. 29 CFR 1910.148(h). The preamble to the formaldehyde standard stated that the standard "reminds all employers of their obligation to comply with . . . 29 CFR 1910.132 . . . and requires the employer to provide such clothing or equipment at no cost to the employee." 52 FR 46269/1 (December 4, 1987).

By 1991, OSHA's policy was firmly established. In the bloodborne pathogens standard, the Agency justified the requirement that employers pay for various items of specialized equipment necessary to protect health care workers from exposure to blood or other potentially infectious materials. The preamble states that:

> [i]t has been the Agency's longstanding policy to hold the employer responsible for controlling exposure to hazards in his or her workplace and to fulfill this responsibility at no cost to the employee. Therefore, the financial burden for purchasing and providing personal protective equipment rests upon the employer *just as it does for all other control measures (e.g., engineering controls).*

56 FR 64125/1 (December 6, 1991) (emphasis added).

This policy has been carried forward to the present. OSHA's standards for methylenedianiline, 29 CFR 1910.1050(h)(2)(i), (i)(1); cadmium, 29 CFR 1910.1027(g)(1), (i)(1); 1,3 butadiene, 29 CFR 1910.1051(h)(1), (i); and methylene chloride, 29 CFR 1910.1052(g)(1), (h)(1), promulgated between 1992 and 1997, all require employers to pay for respirators, protective clothing and personal protective equipment when such devices are necessary. OSHA's new Respiratory Protection standard, promulgated January 8, 1988, also requires employers to provide respirators, as well as training and medical evaluations, at no cost to the employees. 63 FR 1271 (January 8, 1988).

While OSHA has generally required employers to pay for all types of personal protective equipment, it has recognized an exception to the policy in certain circumstances. In the safety standard on logging operations, promulgated shortly before issuance of the Deputy Assistant Secretary's memorandum in October 1994, OSHA determined that logging employers should pay for protective equipment for the head, eyes, face, hands, and legs, but should not be required to pay for logging boots. OSHA excepted logging boots from among the types of equipment that employers must purchase for three reasons. First, the Agency found that the logging industry is highly transient and that logging boots, unlike other types of personal protective equipment, are not reusable. Therefore, OSHA concluded, "employers would have to purchase non-reusable logging boots costing $200 to $400 many times a year for newly-hired employees, even though there is a significant likelihood that these employees will remain in the job for only a short time." 59 FR 51684 (October 12, 1994).

OSHA also found that logging employees tend to move from one establishment to another, taking their logging boots with them as tools of the trade. OSHA noted that logging boots are readily portable, and, unlike head and leg protection, are sized to fit a particular employee. OSHA found that it was appropriate to allow employees to follow the established custom of taking their boots with them from job to job rather than requiring employers to provide logging boots. *Id.*

Finally, the Agency noted that there was evidence in the record that employees use their logging boots away from work, for such activities as hunting and cutting their own wood, and that there was not comparable evidence that employees also use other types of protective equipment off-site. *Id.* For all of these reasons, OSHA decided not to require employers to purchase logging boots. However, it found no basis to depart from its "long established policy" regarding the costs of other items of required personal protective equipment. *Id.*

Federal appellate courts have upheld OSHA's statutory authority to impose on employers the costs of requirements reasonably necessary for safe and healthful workplaces. In *United Steelworkers of America*, the D.C. Circuit upheld OSHA's authority to charge employers with the costs of MRP, finding that "the scheme of the statute, manifest in both the express language and the legislative history, appears to

permit OSHA to charge to employers the cost of any new means it devises to protect workers" 647 F.2d at 1231. The *United Steelworkers* court noted that the Third Circuit's decision in *Budd* should be confined to its facts, stating "[t]he court [in *Budd*] stressed the special character of protective devices which the employee would wear off-the-job as well as on-the-job and made clear it was expressing no opinion on the proper party to be charged for other devices and methods. Moreover, the court there failed to address the relevant parts of the legislative history." 647 F.2d at 1231–1232, n.66.

The Fourth Circuit upheld the hearing conservation standard's allocation of the costs of hearing protectors to employers in *Forging Indus. Ass'n* v. *Secretary of Labor*, 773 F.2d 1436, 1451 (4th Cir. 1985) (en banc). The *Forging Indus.* court noted that in view of the Supreme Court's finding in *ATMI* that Congress intended to impose compliance costs on employers, "it is only logical that OSHA may require employers to absorb such costs." 773 F.2d at 1451.

The Commission itself has squarely rejected the view that the Act is indifferent to cost allocation in *Erie Coke Corp.*, discussed *supra*, at p.4. In *Erie Coke*, the commission upheld the reasonableness of the Secretary's construction that the coke oven emissions standard at 29 CFR 1910.1029(h)(1)(ii) required employers to pay for flame resistant gloves. In doing so, the Commission addressed the legislative history and court precedent establishing that Congress intended employers to bear the costs of compliance with standards. The Commission stated: "[w]e agree with these courts of appeals that, based on the legislative history, Congress intended that the cost of compliance with OSHA would be uniformly reflected in the price of goods and services, so as not to place the safety-conscious employer at a competitive disadvantage." 15 O.S.H. Cas. (BNA) at 1565. Thus, Commissioner Van Namee's view that it is irrelevant under the Act whether employers or employees pay for protective devices finds no support in the statute and has been rejected by subsequent court and Commission case law.

b. Neither the language of section 1910.132(b), nor the use of the passive voice in section 1910.132(a) poses interpretive difficulties. The view of Commissioner Van Namee that section 1910.132(a) cannot be interpreted to require employers to "provide" personal protective equipment because section 1910.132(b) contemplates the use of employee-owned equipment, is similarly unsupported. If Commissioner Van Namee were correct that reading section 1910.132(a) to require employers to provide protective equipment would render section 1910.132(b) superfluous, it could only be because section 1910.132(b) itself imposes some duty upon employees to provide their own protective equipment. See 1 O.S.H. Cas. (BNA) at 1550. However, section 1910.132(b), by its terms, does not require employees to "provide" anything. As Commissioner Cleary correctly noted, section 1910.132(b)'s introductory phrase "where employees provide their own protective equipment . . ." is to be read, not as imposing a duty upon employees to furnish equipment, but rather, as recognizing that employees may sometimes wish to use their own equipment. See 1 O.S.H. Cas. (BNA) at 1552. Such use might occur, for example, if employee-owned equipment is more comfortable or provides a greater degree of protection than would be afforded by employer-provided equipment.[19] Thus read, in accordance with its terms, section 1910.132(b) poses no conflict with a reading of section 1910.132(a) that requires employers to provide personal protective equipment.

This result not only follows from the plain language of the standard: it is also compelled by case law, decided subsequent to *Budd*, rejecting the premise that the OSH Act imposes enforceable duties upon employees. In *Atlantic Gulf & Stevedores*, the Third Circuit expressly rejected Commissioner Van Namee's position, stated in his concurring opinion in that case, that the Act imposes enforceable compliance responsibilities upon employees. The court found that the "detailed scheme of enforcement set out in sections 9, 10 and 17 of the Act . . . is directed only against employers." 534 F.2d at 553. The court also found section 5(b) of the Act, upon which Commissioner Van Namee relied as a basis for his view, to be "essentially devoid of content." *Id.*

In *USWA*, the D.C. Circuit similarly concluded that the Act imposes compliance obligations exclusively upon employers. It found, based on the legislative history, that section 5(b) "is essentially an exhortation to employees to cooperate in standards and is not meant to diminish in any way the employer's compliance responsibilities or his responsibility to assure compliance by his own employees." 647 F.2d at 1231 (quoting legislative history). This case law necessarily precludes any reading of section 1910.132(b) that would impose a duty upon employees to provide protective equipment.

Considered in the statutory context of exclusive employer responsibilities, section 1910.132(a)'s language stating that personal protective equipment "shall be provided" is equivalent to a direction that "employers shall provide" the equipment. Though the paragraph itself lacks precision, the Act leaves no room for doubt about which actor—the employer or the employee—is to do the providing. Moreover, the standard, considered in its entirety, provides further assurance that employers are to provide protective equipment. Section 1910.132(d)(i)–(iii) requires employers to perform a hazard assessment of their workplaces and to "select and have each employee use" appropriate personal protective equipment. "Selection" and "provision" are closely related functions that should logically be performed by the same actor. It would be an anomalous reading that required the employer to "select" items of PPE suitable for each of its employees, yet required employees to "provide" such equipment. All of these reasons compel rejection of Commissioner Van Namee's position in favor of the Secretary's construction, accepted by Commissioner Cleary, that the standard requires employers to provide and pay for personal protective equipment when necessary to employee safety.[20]

c. The standard may be interpreted to require employer payment in the absence of explicit cost-allocation language. Finally, the position of Commissioner Cleary—that if the standard does not explicitly allocate the costs of personal protective equipment, the Commission cannot require employers to pay—must be rejected. Unquestionably, the Secretary possesses the power authoritatively to interpret ambiguous OSHA standards in an administrative adjudication before the Commission. *Martin* v. *OSHRC (CF& I*

[19] As Deputy Assistant Secretary Stanley noted in his 1994 memorandum, section 1910.132(b) permits employees to use their own equipment in some circumstances but does not specify that practice as the norm. "[I]nstead, the standard underscores the employer's obligation to assure that such equipment is adequate and that it is properly maintained."

[20] Section 1910.132(a)'s general requirement that personal protective equipment "shall be provided, used and maintained . . . ." is given additional specificity by the other standards in Subpart I, *Personal Protective Equipment*. These standards make clear that the duties listed in section 1910.132(a) fall upon employers. See, *e.g.*, section 1910.133(a) ("The employer shall ensure that each employee uses appropriate eye or face protection . . ."); section 1910.134 (a)(2) ("Respirators shall be provided by the employer when such equipment is necessary to protect the health of the employee"). The active and passive voices are used interchangeably in the standards comprising Subpart I.

Steel Corp.), 499 U.S. at 144, 151 (1991). The Secretary's interpretation may, as in *Budd*, be embodied initially in a citation, "a form expressly provided for by Congress." *Id.* at 157. It may also be disseminated by other means, including interpretive rules and enforcement guidelines. *Id.*

The Commission has held that the Secretary properly exercised her delegated interpretive authority to construe the word "provide" to mean "pay for." *Erie Coke Corp.* 15 O.S.H. Cas. (BNA) at 1563 (affirming Secretary's interpretation of coke oven emissions standard to require employers to pay for flame resistant gloves). Therefore, the Commission's authority is not limited to enforcement of explicit regulatory requirements, as Commissioner Cleary supposed.

Summary and Conclusion

The uniform interpretation of section 1910.132 announced in STD 1–6.6 is consistent with the standard's language and purpose, as well as with the statute's clear design to place fiscal responsibility for achievement of workplace safety on employers. The interpretation is also consistent with Federal appellate decisions recognizing the Secretary's statutory authority to charge employers with the cost of regulatory requirements and with the Commission's precedent in *Erie Coke Corp.* Finally, the interpretation is consistent with the result in *Budd* that employers need not pay for safety shoes. To the extent that the concurring rationales offered by Commissioners Van Namee and Cleary in *Budd* address payment for other types of personal protective equipment, the foregoing discussion demonstrates that the positions taken by these Commissioners are contrary to case law decided since *Budd* and to now-settled principles of regulatory construction.

The fact that some agency letters issued prior to Deputy Assistant Secretary Stanley's memorandum suggest agency acquiescence in the Commissioners' concurring opinions in *Budd*, does not render invalid the Secretary's interpretation here. These letters must be considered in the context of OSHA's overall approach to the payment issue in rulemaking under section 6(b) of the Act, and the Agency's 1990 interpretive memorandum and citation under section 1910.132(a). In this context, the letters reflected divergent positions within the Agency concerning the employer's duty to pay for personal protective equipment, rather than a settled agency interpretation. Significantly, when these letters were sent out, OSHA had not developed an authoritative, nationwide position on the allocation of such costs, Cf. *Drummond Coal Co.* v. *Hodel*, 796 F.2d 503, 508 (D.C. Cir. 1986) (regulatory interpretation given by some agency personnel in Alabama and relied upon by some Alabama companies for four years did not amount to a national policy which the Agency could not change without reasoned explanation). See also *Martin*, 144 U.S. at 157 (interpretive rules and agency enforcement guidelines contained in Field Operations Manual may be consulted by reviewing courts to determine consistency of interpretation advanced in enforcement litigation). In fact, OSHA did not develop such a position until the field directive (STD 1–6.6) in 1994.

Furthermore, the inconsistent statements prior to 1994 resulted, in substantial part, from the erroneous positions stated in the separate concurring opinions in *Budd:* that section 1910.132(a) either imposes no duty upon employers to provide personal protective equipment, or cannot be interpreted to require employers to pay for such equipment absent explicit cost allocation language.

The Supreme Court has observed that:

> The Secretary is not estopped from changing a view she believes to have been grounded upon a mistaken legal interpretation. Indeed, an administrative agency is not disqualified from changing its mind; and when it does, the courts still sit in review of the administrative decision and should not approach the statutory construction issue de novo and without regard to the administrative understanding of the statutes.

Good Samaritan Hospital v. *Shalala*, 508 U.S. 402, 418 (1993). And in the circumstances presented here, "where the Agency's interpretation of [its regulation] is at least as plausible as competing ones, there is little, if any, reason not to defer to its construction." *Id.* The interpretation in STD 1–6.6 is reasonable, even if it is not the only permissible reading of the standard.

X. List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, and 1926

Construction industry; Eye and face protection; Foot protection; General industry; Hand protection; Head protection; Longshoring operations; Marine terminals; Occupational safety and health; Personal protective equipment; Protective equipment; Safety glasses; Safety shoes; Shipyard industry.

XI. Authority

This document was prepared under the authority of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653,655, 657), section 107 of the Construction Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), section 41 of the Longshore and Harbor Workers Compensation Act (33 U.S.C. 941), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911, it is hereby proposed to amend 29 CFR parts 1910, 1915, 1917, 1918, and 1926 as set forth below.

Signed at Washington, D.C., this 18th day of March, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

XII. Proposed Standards

General Industry

PART 1910—[AMENDED]

29 CFR part 1910 is proposed to be amended as follows:

1. The authority citation for subpart I of 29 CFR part 1910 would be revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653,655,657); Secretary of Labor's Order No. 12–71 (36 FR 8754), No. 8–76 (41 FR 25059) No. 9–83 (48 FR 35736), No. 1–90 (55 FR 9033) and No. 6–96 (62 FR 111) as applicable, and 29 CFR Part 1911.

2. A new paragraph (h) would be added to § 1910.132, to read as follows:

§ 1910.132 General requirements.

* * * * *

(h) *Payment for protective equipment.* All protective equipment, including personal protective equipment (PPE), required in this part, shall be provided by the employer at no cost to employees. *Exception:* The employer is not required to pay for the logging boots required by 29 CFR § 1910.266(d)(1)(v). The employer is also not required to pay for safety-toe protective footwear, or for prescription safety eyewear, provided that all three of the following conditions are met:

(1) The employer permits such footwear or eyewear to be worn off the job-site;

(2) The footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and

(3) Such footwear or eyewear is not designed for special use on the job.

Shipyards

PART 1915—[AMENDED]

29 CFR Part 1915 is proposed to be amended as follows:

1. The Authority citation for Subpart I of 29 CFR Part 1915 would be revised to read as follows:

Authority: Secs. 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), Secretary of Labor's Order No. 8–76 (41 FR 25059), No. 9–83 (48 FR 35756), No. 1–90 (55 FR 9033) and No. 6–96 (62 FR 111) as applicable; and 29 CFR part 1911.

2. A new paragraph (f) would be added to § 1915.152, to read as follows:

§ 1915.152 General Requirements.

* * * * *

(f) *Payment for protective equipment.* All protective equipment, including personal protective equipment (PPE), required in this part, shall be provided by the employer at no cost to employees.

Exception: The employer is not required to pay for safety-toe protective footwear, or for prescription safety eyewear, provided that all three of the following conditions are met:

(1) The employer permits such footwear or eyewear to be worn off the job-site;

(2) The footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and

(3) Such footwear or eyewear is not designed for special use on the job.

Marine Terminals

PART 1917—[AMENDED]

29 CFR Part 1917 is proposed to be amended as follows:

1. The authority citation for Subpart E of 29 CFR part 1917 would continue to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 6–96 (62 FR 111), as applicable; and 29 CFR part 1911. Section 1917.28 also issued under 5 U.S.C. 553.

2. A new § 1917.96 would be added to supbart E, to read as follows:

§ 1917.96 Payment for protective equipment.

All protective equipment, including personal protective equipment (PPE), required in this part, shall be provided by the employer at no cost to employees. *Exception:* The employer is not required to pay for safety-toe protective footwear, or for prescription safety eyewear, provided that all three of the following conditions are met:

(a) The employer permits such footwear or eyewear to be worn off the job-site;

(b) The footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and

(c) Such footwear or eyewear is not designed for special use on the job.

Longshoring

PART 1918—[AMENDED]

29 CFR part 1918 is proposed to be amended as follows:

1. The authority citation for 29 CFR part 1918 would be revised to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Walsh-Healey Act, 41 U.S.C. 35 *et seq.*; Service Contract Act of 1965, 41 U.S.C. 351 *et seq.*; Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333; Sec. 41, Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 941; National Foundation of Arts and Humanities Act, 20 U.S.C. 951 et seq.; Secretary of Labor's Order No. 6–96 (62 FR 111) and 29 CFR part 1911.

2. A new § 1918.106 would be added, to read as follows:

§ 1918.106 Payment for protective equipment.

All protective equipment, including personal protective equipment (PPE), required in this part, shall be provided by the employer at no cost to employees. *Exception:* The employer is not required to pay for safety-toe protective footwear, or for prescription safety eyewear, provided that all three of the following conditions are met:

(a) The employer permits such footwear or eyewear to be worn off the job-site;

(b) The footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and

(c) Such footwear or eyewear is not designed for special use on the job.

Construction

PART 1926—[AMENDED]

29 CFR part 1926 is proposed to be amended as follows:

1. The authority citation for subpart E of part 1926 would be revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable; and 29 CFR part 1911.

2. A new paragraph (d) would be added to § 1926.95, to read as follows:

§ 1926.95 Criteria for personal protective equipment.

* * * * *

(d) *Payment for Protective Equipment.* All protective equipment, including personal protective equipment (PPE), required in this part, shall be provided by the employer at no cost to employees. *Exception:* The employer is not required to pay for safety-toe protective footwear, or for prescription safety eyewear, provided that all three of the following conditions are met:

(1) The employer permits such footwear or eyewear to be worn off the job-site;

(2) The footwear or eyewear is not used at work in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and

(3) Such footwear or eyewear is not designed for special use on the job.

[FR Doc. 99–7114 Filed 3–30–99; 8:45 am]

BILLING CODE 4510–26–P

UMI

VOL
64

ISS
61

MR
31

999

UMI

federal register

Wednesday
March 31, 1999

Part III

Department of Commerce

International Trade Administration

Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Belgium, Canada, Italy, Korea, South Africa and Taiwan; Notices

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–831]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils ("SSPC") from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0165 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR part 351 (1998).

Final Determination:

We determine that stainless steel plate in coils ("SSPC") from the Republic of Korea are being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination (*Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils ("SSPC") from the Republic of Korea* ("*Preliminary Determination*"), 63 FR 59535 (November 4, 1998)), the following events have occurred:

On November 5, 1998, petitioners alleged "significant ministerial errors" made in the Department's margin calculation for the preliminary determination. On November 6, 1998, respondent, Pohang Iron & Steel Co., Ltd. ("POSCO"), responded to petitioners" comments. On November 23, 1998, the Department found that the errors alleged by petitioners were policy decisions and not unintentional errors of the kind covered by the ministerial error provision (*see* 19 CFR 351.224(f)). *See Memorandum to Edward Yang: Stainless Steel Plate in Coils from the Republic of Korea—Analysis of Alleged Ministerial Errors*, dated November 23, 1998. POSCO submitted revisions and corrections to its questionnaire responses during October, November, and December 1998. During November 1998, we conducted the sales verification of POSCO's responses to the antidumping questionnaire. Following verification, we requested that POSCO submit a revised sales database, which POSCO submitted on November 30, 1998. During December 1998, the Department conducted the cost verification of POSCO's responses to the antidumping questionnaire. On December 18, 1998, the Department postponed the final determination to 135 days after publication of the preliminary determination (*see Postponement of Final Antidumping Determinations: Stainless Steel Plate in Coils from Canada, Italy, Republic of Korea, South Africa, and Taiwan*, 63 FR 70101. On January 5, 1999, we issued our sales verification report (*see Memorandum to the File: Report on the Sales Verification of Pohang Iron & Steel Company, Ltd.* ("*Sales Verification Report*"), dated January 5, 1999). Also, on January 12, 1999, we issued our cost verification report (*see Memorandum to the Neal Halper, Acting Director, Office of Accounting: Cost Verification Report—Pohang Iron and Steel Company, Ltd.* ("*Cost Verification Report*"), dated January 12, 1999. Finally, on January 14, 1999, the Department issued its report on the U.S. sales verification of Pohang Steel America ("POSAM") (*see Memorandum to the File: Report of the U.S. Sales Verification of Pohang Steel America* ("*POSAM Verification Report*"), dated January 14, 1999).

On January 19, 1999, petitioners withdrew their request for a public hearing. Petitioners and POSCO submitted case briefs on January 26, 1999, and rebuttal briefs on February 2, 1999.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, *etc.*) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Transactions Investigated

As in the preliminary determination, the Department has excluded POSCO's sales to the affiliated service centers and considered the affiliates' resales of the subject merchandise. Also, as discussed in Comment 11, the Department has included POSCO's local letter of credit ("local") sales in its margin analysis because these sales are consumed in the home market. Additionally, as described in Comment 2, the Department has determined that for U.S. and home market sales the date of invoice is the appropriate date of sale as this is the date on which the material terms of sale are set.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the *Scope of Investigation* section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product

on the basis of the characteristics listed in the antidumping duty questionnaire and the May 27, 1998 reporting instructions.

Fair Value Comparisons

To determine whether sales of SSPC from the Republic of Korea to the United States were made at less than fair value, we compared export price ("EP") or constructed export price ("CEP") to the Normal Value ("NV"), as described in the "Export Price/ Constructed Export Price" and "Normal Value" sections of this notice, below. In the preliminary determination, for all sales, we compared EP to NV. However, as discussed in Comment 4, the Department has found that POSCO's U.S. sales through POSAM constitute CEP sales and has compared CEP to NV for those sales. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs or CEPs for comparison to weighted-average NVs.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses ("SG&A") and profit. For EP, the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT from EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For the preliminary determination, we concluded that POSCO performed similar selling functions in the U.S. market and HM Channels 1 (sales from POSCO to the unaffiliated customer) and 2 (sales from POSCO Steel Sales & Services Co., Ltd. ("POSTEEL"), POSCO's affiliate responsible for the majority of home market sales and all U.S. sales, to the unaffiliated customer) and that a LOT adjustment was not warranted for comparisons between the U.S. market and HM Channels 1 and 2. No party to this investigation commented on this determination. However, as POSCO's response detailing the type of selling functions performed by the affiliated service centers (HM Channel 3) was not received until October 30, 1998, the Department could not make a determination for the preliminary determination whether the affiliated service centers' resales were sold at a different level of trade than other home market channels or U.S. channels. Additionally, as noted above, for the final determination we have classified POSCO's U.S. sales through POSAM as CEP sales.

In its October 30, 1998 supplemental response, POSCO stated that HM Channel 3 sales were made at the same LOT as the U.S. sales and other HM sales. It reported that the only selling functions performed by the service centers are inventorying the subject merchandise and arranging for freight. Additionally, POSCO indicated that the sales process is the same for both service centers: The customers contact the service centers by fax or phone. If the requested merchandise is in inventory, the service centers issue a shipping order sheet with the merchandise. If the merchandise is not in inventory, the service centers will order the merchandise from POSCO. At verification, the Department confirmed the selling functions performed by the affiliates. *See Sales Verification Report* at pg. 5. Therefore, we determine that selling functions performed in HM Channel 3 are similar to the selling functions performed in HM Channels 1 and 2: Freight and delivery, invoicing, sales negotiation, and limited amounts of market research, warranty services, and technical advice. Consequently, we find that the home market constitutes a single LOT.

In order to determine whether normal value was established at a different LOT than EP or CEP sales, we examined stages in the marketing process and selling functions along the chains of distribution between POSCO and its U.S. customers, and then compared those functions to the single LOT, we previously identified in the HM. In the U.S. we identified three channels of distribution: (1) Sales from POSTEEL directly to the unaffiliated U.S. customer (U.S. Channel 1); (2) sales from POSTEEL to POSAM to the unaffiliated U.S. customer (U.S. Channel 2); and (3) sales from POSTEEL to the unaffiliated Korean trading company (U.S. Channel 3). For the EP sales, U.S. Channels 1 and 3, we verified that POSTEEL arranges freight and delivery, and performs sales negotiation and invoicing. We also found that POSTEEL provides limited amounts of market research, warranties, and technical advice. In examining the LOT of the CEP sales (U.S. Channel 2), after deducting for economic activities which occurred in the United States, pursuant to section 772(d) of the Act, we found that POSTEEL performs the following activities: arranging for freight and delivery to the U.S. port, sales negotiation, and invoicing. Because of the similar selling functions performed between the EP sales (U.S. Channels 1 and 3) and the CEP sales (U.S. Channel 2), we find that all U.S. sales are made at a single LOT. Finally, because of the similarity in the chains of distribution and selling functions performed for sales in the home market and in the U.S., we find that no LOT adjustment or offset is necessary.

Export Price/Constructed Export Price

For those U.S. sales made through POSAM, we calculated CEP based on packed prices to unaffiliated customers in the United States. We made deductions for movement expenses in accordance with section 772 (c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, U.S. Customs Duty, and U.S. brokerage and wharfage charges. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activity occurring in the United States, including direct selling expenses (credit costs, bank charges, and U.S. commissions) and indirect selling expenses. Also, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act. Finally, we added to U.S. price an amount for duty drawback pursuant to section 772 (c)(1) (B) of the Act.

We calculated EP based on the same methodology used in the preliminary determination.

Normal Value

After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparison" sections of this notice.

1. Home Market Viability

As discussed in the preliminary determination, we determined that the home market was viable and no parties have contested that decision. For the final determination, we have based NV on home market sales.

2. Cost of Production Analysis

As discussed in the preliminary determination, we conducted an investigation to determine whether POSCO made sales of the foreign like product in the home market during the POI at prices below their cost of production ("COP"). In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of POSCO's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A, interest expenses, and packing costs. We used the information from POSCO's December 17, 1998 supplemental questionnaire response to calculate COP, except in the following instance.

POSCO purchased a significant amount of ferroalloys from an affiliated party during the POI. For each affiliated purchase, we compared the prices paid to affiliates to the average market price and to the affiliated party's cost of production. Where appropriate, we increased POSCO's per unit costs to the higher of transfer price, market price, or cost of production. *See Memorandum to Neal Halper, Acting Director, Office of Accounting: Cost of Production ("COP") and Constructed Value ("CV") Calculation Adjustments for the Final Determination of Pohang Iron & Steel Co., Ltd. ("POSCO")* ("*Cost Analysis Memorandum*"), dated March 19, 1999. *See also*, Comment 5.

3. Test of Home Market Sales Prices

As in our preliminary determination, we compared the weighted-average COP for POSCO, adjusted where appropriate (*see* above), to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges and direct and indirect selling expenses.

4. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities", as defined in section 773(b)(2)(C)(i) of the Act, within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases because we compared prices to weighted-average COPs for the POI , we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

Calculation of CV

As in our preliminary determination, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, interest expenses and profit. We calculated the COP included in the calculation of CV as noted above, in the "Calculation of COP" section of the notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Price-to-Price Comparisons

As in our preliminary determination, for those product comparisons for which there were sales at prices above the COP, we based NV on prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

We calculated NV based on the same methodology used in the preliminary determination, with three exceptions. Where appropriate, we deducted from NV the amount of indirect selling expenses capped by the amount of the U.S. commissions. Also, we recalculated POSCO's indirect selling expenses reported for HM Channel 1 sales (sales through POSCO) and HM Channel 2 and U.S. Channel 3 sales (sales through POSTEEL). As discussed in Comment 7, we determined that POSCO incorrectly excluded sales to affiliated parties in its calculation of POSCO's indirect selling expense ration. Also, at verification, the Department found that POSCO had included PSC division figures in its calculation of indirect selling expenses for domestic sales through POSTEEL, based on the fact that, in the flat-rolled cases, PSC had a role in selling the merchandise. However, POSCO acknowledged that these divisional expenses should not have been included in this calculation. *See Sales Verification Report* at pg. 15. Therefore, for the final determination, we have recalculated the indirect selling expense for HM Channel 2 sales and U.S. Channel 3 sales by excluding PSC division figures. Also, we added to NV an amount for duty drawback pursuant to section 772 (c)(1)(B) of the Act, where appropriate.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. If appropriate, we deducted from CV the amount of indirect selling expenses (adjusted as described in the "Price-to-Price Comparisons" section above) capped by the amount of the U.S. commissions.

Currency Conversion

In the preliminary determination, the Department determined that the decline in the won at the end of 1997 was so precipitous and large that the dollar-won exchange rate cannot reasonably be viewed as having simply fluctuated during this time, *i.e.*, as having experienced only a momentary drop in value. Therefore, the Department used daily rates exclusively for currency conversion purposes for HM sales matched to U.S. sales occurring between November 1 and December 31, 1997. *See Preliminary Determination* at 59539. As discussed in Comment 3, the Department continues to find that use of daily exchange rates is warranted during the November/December period.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and

original source documents provided by the respondent.

Interested Party Comments

Comment 1. Sales to a Bankrupt Customer. Petitioners argue that by excluding POSCO's sales to a U.S. customer that later went bankrupt and making no other adjustments to account for these unpaid sales, the Department failed to follow its own precedent. Citing *Color Television Receivers from the Republic of Korea: Final Results of Antidumping Administrative Review*, 61 FR 4408, 4412 (February 6, 1996) ("*Color Televisions*"), petitioners maintain that it is the Department's practice to treat sales to a bankrupt customer as a direct selling expense. They contend that had the Department based its treatment of these sales on *Color Televisions*, the preliminary margin would have been approximately 11 percent, not the 2.77 percent margin POSCO received in the preliminary determination. Furthermore, they allege that the domestic industry continues to suffer from less than fair value sales of SSPC from Korea, notwithstanding the Department's preliminary determination.

Petitioners contend that even if the Department disagrees with their argument that the sales were significant and were not "atypical", the Department must consider the cost of these sales to POSCO to be direct selling expenses. Petitioners claim that POSCO mis-characterized its sales to the bankrupt U.S. customer as insignificant. They maintain that these sales represent a significant portion of POSCO's U.S. sales by every measure, and as such, should have been included in the Department's analysis. They cite several cases in support of their contention that these sales are significant, including *Gulf States Tube Div.* v. *United States*, 981 F. Supp. 630 (CIT 1997). They maintain that prior to the URAA changes to the Act, the Department would consider respondent's request to exclude insignificant "outlier" sales, if the inclusion of such sales would significantly complicate reporting or calculation aspects of the proceeding. They explain that respondent bore the burden of establishing the necessity of the exclusion and the exclusion acknowledged two salient practices of the time: first, the Department looked at a six-month period of investigation; and second, the Department calculated a transaction-specific margin for each sale. Subsequent to the URAA, the Department uses a twelve month POI and calculates a weighted-average product specific margin. Based on the Department's current calculation methodology in which the Department seeks to capture a complete snapshot of a respondent's selling practices by using an expanded twelve-month period of investigation, petitioners question the Department's decision to exclude these sales due to their "atypical" nature.

Petitioners argue that sales to customers who cannot pay for the merchandise are an everyday occurrence, and companies such as POSCO anticipate this fact. Further, they note that POSCO has many accounts and reserves to deal with potential bad debts. *See* POSCO's Section A questionnaire at Exhibit A–12. Petitioners contend that the Department's treatment of these sales is analogous to the Department excluding sales to a home market customer because the customer receives a significantly lower price than other home market customers because it purchases in large quantities. They argue that despite being "atypical" of sales made during the 12-month period of investigation, the Department will not exclude these sales because these sales will continue to be weight-averaged with other sales and the customer will, presumably, continue to purchase in large quantities in the future. Citing POSCO's December 7, 1998 Supplemental Questionnaire Response in the investigation of Stainless Steel Sheet and Strip in Coils from Korea at pp. 4–5, petitioners note that POSCO made sales to this customer outside of the investigation. Furthermore, they speculate that POSCO continues to makes sales to this customer. Finally, they note that POSCO has stated that it expects to recoup some amount for the unpaid sales in bankruptcy court. *See Id.* at pg. 4.

Petitioners allege that the Department's classification of unpaid sales in the companion investigation of stainless steel sheet and strip in coils ("SSSS") from the Republic of Korea was incorrect. Although petitioners agree with the Department's decision to recognize the cost of these unpaid sales, they maintain that there was no basis for the Department to treat the cost of these sales as an indirect selling expense. They argue that the weaknesses in the Department's argument is apparent when one considers the reality under which these sales were made. First, they explain that POSCO classified (incorrectly, in petitioners' judgement) all of its U.S. sales as export price sales. They note that by treating these unpaid sales as an indirect selling expense, there is absolutely no consequence when an importer is not paid for merchandise. Additionally, they charge that POSCO must bear attorney fees, collections fees, court fees, and the cost of producing the merchandise. They maintain that these are clearly direct expenses, for if not for the customer's bankruptcy, POSCO would not incur the aforementioned charges. Petitioners argue that the best analogy for the expenses associated with these unpaid sales is a warranty expense. They explain that if the customer determined that the merchandise was defective, and failed to pay under a warranty agreement, the cost of the merchandise would be deducted as a warranty claim, a direct selling expense, charged against sales. They state that in SSSS from the Republic of Korea, the Department defined direct selling expenses as "a direct and unavoidable consequence of the sale (*i.e.*, in the absence of the sale these expenses would not be incurred)." *SSSS* at pg. 140. Petitioners argue that the facts in this case demonstrate that the loss resulting from these unpaid sales are "a direct and unavoidable consequence of the sale." Petitioners maintain that not only is there a clear, factual basis for treating these unpaid sales as a direct selling expense, but it is also the Department's policy to treat sales to a bankrupt customer as such, citing *CTVs from Korea*.

Additionally, petitioners allege that POSCO has failed to demonstrate that the cost of the unpaid sales are indirect selling expenses. Citing several cases, petitioners argue that Department precedent requires respondent to prove that the selling expenses incurred through sales to a bankrupt customer in the U.S. are indirect selling expenses. *See, e.g., Timken Co.* v. *United States*, 18 CIT 486,852 F.Supp. 1122, 1125 (1994); *Torrington Co.* v. *United States*, 17 CIT 672,832 F. Supp. 365,376,378 (1993) aff'd 68 F.3d 1347 (Fed. Cir. 1995); *Tapered Roller Bearings, Finished and Unfinished, and Parts thereof, from Japan: Final Results of Antidumping Duty Administrative Review*, 57 FR 4951, 4955 (Feb. 11, 1992). They maintain that in this case POSCO has only argued that these sales should be ignored.

In conclusion, petitioners argue that based on precedent which directs the Department to treat unpaid sales as direct selling expenses and the fact that POSCO has not demonstrated that the Department should treat these sales as indirect selling expenses, the Department must treat the cost of the unpaid sales as direct selling expenses for the final determination. Moreover, they maintain that the cost of these unpaid sales should be allocated to subject merchandise only. Citing *Smith Corona Group* v. *United States*, 1 Fed. Cir. (T) 130, 713 F.2d 1568, 1577 (1983),

they argue that a broader allocation would be inappropriate.

Respondent argues that the Department properly excluded U.S. sales for which no payment was made. They note that because the material terms of sale were finalized when POSCO shipped the merchandise, they properly reported these transactions as U.S. sales, as required under 19 U.S.C. 1677a(a) (1998). They explain that POSCO requested that the Department exclude these sales on the basis that the credit period associated with these sales would distort POSCO's margin. Respondent argues that the Department has the discretion to exclude U.S. sales in an investigation when it finds that the sales are atypical, not part of the respondent's ordinary business practice, and would undermine the fairness of the comparison, citing *Final Determination of Sales at Less than Fair Value: Fresh Cut Roses from Columbia*, 60 FR 6980, 7004 (February 6, 1995); and *Final Determination of Sales at Less Than Fair Value: Professional Electric Cutting and Sanding/Grinding Tools from Japan*, 58 FR 30144, 30146 (May 26, 1993). Respondent adds that the reason for this discretion is that the initial cash deposit rate is intended as an estimate of future behavior, which should not be calculated on extraordinary or unusual circumstances. Finally, respondent alleges that petitioners' suggestion that the Department excluded the bankrupt sales on the basis that the sales were "insignificant" was incorrect.

Respondent contends that when it delivers merchandise to a customer, it expects to be paid. Furthermore, respondent adds that the Department verified that POSAM does not have an account for bad debts or unpaid sales and that POSCO officials had never before sold merchandise to the U.S. through U.S. Channel 2 to a customer that did not pay. Respondent claims that petitioners' analogy in which a customer receives a discount for high volume sales is misleading. They note that volume discounts are negotiated and voluntary terms of sale and, as such, represent a type of selling practice. They argue that it is not a selling practice of POSCO's to sell to customers that do not pay. Moreover, respondent notes that although it continues to sell to this customer, it does so on a pre-paid cash basis. *See* POSCO's October 22, 1998 submission at pg. 4. Thus, POSCO argues that under these extraordinary circumstances, the Department correctly exercised its discretion and excluded these sales from its margin analysis.

POSCO argues that the fact that it has not yet been paid for these sales does not alter their character from a sale to a bad debt. Citing several cases, they explain that in administrative reviews, the Department normally leaves unpaid sales in the database and applies a credit expense for the period the sales remain unpaid. *See Brass Sheet and Strip from Sweden, Final Results of Antidumping Administrative Review ("Brass Sheet and Strip")*, 60 FR 3617, 3621 (January 18, 1995); *Polyethylene Terephthalate Film, Sheet and Strip from Korea: Final Results of Administrative Review*, 60 FR 42835, 42839 (August 17, 1995); and *Certain Internal-Combustion, Industrial Forklift Trucks from Japan; Final Results of Antidumping Administrative Review*, 57 FR 3167, 3173 (January 28, 1992). Also, respondent maintains that POSAM is in the process of collecting on unpaid invoices through bankruptcy proceedings and expects to be paid for these sales. *See POSAM Verification Report* at pg. 9. Respondent indicates that because POSCO has not accepted that payment will not be made on these sales, the Department cannot redefine these sales as bad debt.

However, respondent continues, even if these sales could be characterized as bad debt, they could not be treated as a direct selling expense. They argue that petitioners' reliance on *Color Televisions* is inapposite as it was an administrative review and the characterization of the bad debt was never in issue. POSCO contends that it is the Department's policy to treat recognized bad debt as an indirect selling expense, rather than a direct selling expense, citing *Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers from Colombia*, 52 FR 6842, 6850 (March 5, 1987); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Korea, 63 FR 40,404, 40406 (July 29, 1998)*; and *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, 19041 (April 30, 1996). Also, respondent notes that in the companion investigation of SSSS from the Republic of Korea, the Department classified the transfer cost of the unpaid sales as an indirect selling expense. Although respondent disputes the Department's characterization of these sales as bad debt, respondent maintains that the Department's logic was correct. Respondent adds that the cost incurred by POSAM, the transfer price, bears no direct relationship to any other sale, and that the cost would have been incurred even if POSCO made no other U.S. sales. Likewise, respondent maintains that had the sales been paid during the period of investigation, even petitioners would not suggest that the transfer price be deducted as a direct selling expense of those sales.

In conclusion, respondent argues that the Department should continue to exclude the bankrupt sales from its margin analysis as it did in the preliminary determination to avoid distortions to the margin. However, respondent maintains that in the event the Department determines that these unpaid sales should be treated as bad debt, the law mandates that the Department treat the cost of these sales as indirect selling expenses, as the Department did in the preliminary determination in the SSSS investigation.

Department's Position: We agree with petitioners in part. First, we find that the sales to the bankrupt customer for which payment was not received should be included in the margin analysis. In its U.S. sales file, POSCO reported the bankrupt sales as U.S. sales because the material terms of sale were final, as required under the statute. 19 U.S.C. 1677a(a) (1998). However, POSCO requested that the Department exclude these sales based POSCO's stated belief that payment could still be collected, and thus that the extensive credit period associated with the outstanding payment would distort its margin. It has been the Department's recent practice to calculate the credit period for sales not paid during the POI using the last day of verification as the date of payment. *See* Comment 8. We agree with POSCO, however, that employing such a methodology in this instance would be inappropriate, albeit for different reasons. In this case, the Department verified that POSAM had reversed the sales in its books at at year-end by issuing negative invoices to the customer for the unpaid merchandise in question. *See POSAM Verification Report* at pp. 8–9 and POSAM Verification Exhibit 5. Therefore, POSCO has effectively written-off the sales, its statements that it still expects payment notwithstanding. Consequently, the expense should be treated as bad debt.

It is the Department's practice to include sales which incur bad debt in the database and treat the bad debt as a direct selling expense when the expense is incurred on sales of subject merchandise. *See Color Televisions* at 4412. As stated above, at verification, the Department found that POSAM reversed the sales in its books at year-end by issuing negative invoices to the customer for the unpaid merchandise in

question. Thus, although POSAM does not maintain separate bad debt accounts, these sales have been effectively classified as a type of bad debt. Although we disregarded the sales in the preliminary determination, we find that the sales account for such a large percentage of POSCO's U.S. sales that they cannot be dismissed as abnormalities. Moreover, the price of the sales themselves is not necessarily distortive because, at the time they were made, POSCO was not aware that the customer would declare bankruptcy. Therefore, these sales must be included in the database. However, these sales led to a bad debt expense which is directly related to sales of the subject merchandise. *See, AOC International* v. *US*, 721 F. Supp. 314 (CIT 1989) and *Daewoo Electronics* v. *US*, 712 F. Supp. 931 (CIT 1989). For calculation, *see Analysis Memorandum*.

Comment 2. Date of Sale. Petitioners argue that both the Department's regulations and precedent recognize the Department's discretion in determining the appropriate date of sale. Moreover, they maintain that the facts of the record in this case clearly compel the Department to use order confirmation date as the date of sale. Moreover, citing *Budd Co.* v. *United States*, they contend that it would be an egregious error for the Department to convert orders that were agreed to at pre-currency-crisis prices using post-crisis exchange rates.

In its analysis of the sales examined by the Department during the verification, petitioners contend that some of the sales records contain documentation that is incomplete. For example, they cite documentation that is sparse, poorly copied, and either partially translated or not translated at all. They argue that without a complete record documenting the reasons for a material change in the terms of sale, they must assume that the change was part of the initial negotiations between the parties. Moreover, they maintain that it is incumbent upon the respondents to "prove" that the material terms of sale changed between the order date and the invoice date. Finally, with respect to changes in quantity, they allege that POSCO knew what the quantity shipped would be well before the actual shipment date. Additionally, petitioners maintain that orders are routinely filled using multiple invoices. In other words, an order for 75 metric tons may be filled with three separate shipments of 25 metric tons each. In any event, petitioners claim that without proof of agreed-upon quantity changes, the Department should examine only changes in price between the order date and invoice date.

Petitioners claim that where POSCO has provided adequate documentation, the record is clear that material terms of sale are set on order date, and that they do not change prior to shipment and invoice. They state that in all eight of the 13 U.S. sales where POSCO purportedly provided adequate documentation, it is clear that order date is the proper date of sale, and in five of the six home market sales with allegedly adequate sales documentation, it is clear that the terms of sale are set at order date.

POSCO responds that consistent with its regulations, the Department used invoice date as date of sale for both the U.S. and home market and thoroughly verified this issue during verification. POSCO maintains that at verification the Department verified that all POSCO's sales were subject to change between order date and shipment, verified the number of instances in which the materials terms of sale change during the POI, and verified that POSCO records invoice date as the date of sale in its records. POSCO explains that the Department's regulations state that "in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice as recorded in the exporter or producer's records kept in the ordinary course of business." 19 CFR 351.401(i) (1998). POSCO acknowledges that the Department may use a date other than invoice date as date of sale if it "is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." 19 CFR 351.401(i).

Respondent argues that the facts in this case do not warrant the Department using a date other than invoice date as the date of sale. Furthermore, respondent contends that petitioners' allegation that POSCO used the invoice date as date of sale due to the effect of exchange rates on margins is without merit. Although respondent disputes the fact that use of the invoice date requires that price and/or quantity change frequently between order date and invoice date, it maintains that there were a significant number of changes in the material terms of sale between order date and invoice date during the POI, citing POSCO's Sales Verification Exhibit 10; and *POSCO Sales Verification Report* at pg. 18. Also, with respect to petitioners' dismissal of the changes in quantity, respondent notes that it provided the Department with a breakdown of quantity changes by order, not shipment, as evidenced by the inclusion of contract number, line number, and shipment date for each transaction. POSCO argues that under these circumstances, the Department's rules and precedent support using invoice date as date of sale, citing *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada*, 64 FR 2173, 2178 (January 13, 1999). With respect to petitioners' allegation concerning the incompleteness of the sales records, POSCO responds that the verification report included no mention of these problems cited by petitioners. Furthermore, POSCO maintains that "the Department has no statutory obligation to verify why, in every instance, price and/or quantity changed." *See* POSCO's Rebuttal Brief at 16. Citing *Silicon Metal from Argentina; Final Results of Antidumping Administrative Review*, 58 FR 65336, 65340 (December 14, 1993), respondent notes that the Department is "not required to verify every figure reported in the questionnaire response. The process of verification involves spot-checking and cross-checking the information that the Department selects for emphasis in analyzing each specific response." POSCO concludes that based on the evidence the Department examined at verification, the Department should continue to use date of invoice as its date of sale for the final determination.

Department's Position: We agree with respondent. At verification, the Department throughly reviewed POSCO's claim that there were a significant number of changes in the material terms of sale (*e.g.*, price, quantity, physical specifications) between invoice date and order date. Moreover, we find petitioners' contention that the record supports use of order confirmation date as date of sale to be without merit.

Under the Department's regulations, we normally use date of invoice as the date of sale. 19 CFR 351.401(i). However, we may use another date, such as date of order confirmation, if that date better reflects the date on which the material terms of the sale were established. In adopting this regulation, we explained that the purpose was, whenever, possible, to establish a uniform event which could be used as the date of sale. *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27348–49 (May 19, 1997). We further explained that we do not treat an initial agreement as establishing the material terms of sale between the buyer and seller when changes to such an agreement are common, even if, for a particular sale, the terms did not actually change. Consequently, our analysis focuses on whether changes are sufficiently

common to allow us to conclude that initial agreements should not be considered to finally establish the material terms of sale. As discussed in detail in the *Analysis Memorandum* (at pp. 1–3), a review of the sales documentation supports POSCO's contention that certain material terms of sale (*i.e.*, price and quantity) are subject to change until the invoice date. In their analysis of sales documentation, petitioners focus on the price information listed on POSCO's and POSTEEL's order sheet. However, as POSCO explained, when price and/or quantity change subsequent to the date the order sheet is originally generated, POSCO simply changes the price on the order sheet. The date, however, remains the same. *See* POSCO's response to section B and C of the Department's supplemental questionnaire at pp. 6–7, dated August 26, 1998. There is, therefore, at all times just a single order sheet with a single price, giving the impression of no change over time.

Accordingly, due to the limitations of the order sheet, POSCO developed a methodology to determine the percentage of price changes between order date and invoice date. For example, POSCO calculated the number of price changes for U.S. sales of subject merchandise by manually comparing the purchase order to the commercial invoice issued by POSTEEL/POSAM. *See Sales Verification Report* at pg. 18. Also, for home market sales, POSCO calculated price changes subsequent to the original order sheet up to the invoice date by comparing monthly shipping lists (for both plate and sheet). *See, e.g.*, Sales Verification Exhibit 10 at pp. 42–44. Finally, POSCO calculated quantity changes by comparing the quantity ordered to the amount shipped. In instances where the quantity shipped was outside of POSCO's internal tolerances (which are often greater than the industry standard of plus or minus ten percent) or outside of the industry standard, POSCO determined that the quantity "changed" between order date and invoice date. The Department verified the methodology employed by POSCO for calculating changes in material terms of sale and noted no discrepancies. *See Sales Verification Report* at pg. 18.

Furthermore, we note that petitioners have not commented on POSCO's methodology. Indeed, petitioners have ignored this part of the Department's verification in its analysis of the appropriate date of sale in this investigation. We find that the record evidence cited by petitioners in their analysis does not support their conclusion that date of order is the appropriate date of sale. A review of the sales documentation supports the Department's finding at verification (for the Department's analysis of the sales documentation on the record of this investigation, *see Analysis Memorandum* at pp. 1–3). Although we agree with petitioners that it is likely that POSCO knew some time before actual shipment date how much would be shipped, we note that petitioners' have not proposed an alternative date to order date and invoice date. Also, we disagree with petitioners that respondent's methodology of calculating quantity changes is distortive, because (as we reviewed at verification) the "changes" are calculated based on a comparison of the quantity ordered to the total quantity shipped under that specific contract/line number. *See, e.g.*, Sales Verification Exhibit 6.

We also disagree with petitioners' arguments concerning the supposed incompleteness of the sales records. During the course of verification, it is normal for the Department to request additional information or documentation from a respondent. The sales verification of POSCO in this investigation was no exception. Had POSCO not provided the Department with the requested information or had the Department determined that the information provided was insufficient, this fact would have been duly noted in the verification report. In this case, the Department was satisfied as to the sufficiency of the information POSCO provided on the date of sale issue. We also note that because of the large number of documents examined during the course of verification, the Department does not necessarily take all documents viewed as verification "exhibits". Rather, the Department only takes copies of representative or particularly significant documents. Finally, we disagree with petitioners' assertion that the Department should have reviewed the reasons why changes in the essential terms of sale occurred. Nowhere in the Department's regulations, the statute, or Departmental practice is the cause of a change to an essential term of sale a relevant factor in determining the date of sale. Therefore, the reason for the change is immaterial to the Department's analysis; it is important that the terms of sale changed, not *why* they changed. Nevertheless, for several sales, the Department did review the cause for the material change in sale. *See, e.g.*, Sales Verification Exhibit 10 at pp. 5–6; POSAM Verification Exhibit 8; POSAM Verification Exhibit 9; and POSAM Verification Exhibit 10.

Therefore, based on the Department's findings at verification and the record evidence, the Department is satisfied that the date of invoice is the most appropriate measure of when POSCO establishes the material terms of sale. Accordingly, we have continued to use invoice date as the date of sale for the final determination.

Comment 3. Devaluation. Petitioners allege that the currency conversion methodology used by the Department in the preliminary determination does not adequately account for the sudden and dramatic drop in the value of the won during November and December 1997. Alternatively, petitioners propose that the Department calculate two, separate weighted-average price comparisons for each product under investigation; one for the first ten months of the POI, and another for the November-December period. Petitioners charge that failure to employ two comparison periods will result in the elimination of pre-existing dumping margins based solely on exchange rate changes, and not in any change in POSCO's pricing practice.

Petitioners argue that the statute and legislative history provide the Department with the authority to rely on multiple averaging periods. They maintain that section 777A (d)(1)(A) of the Act gives the Department the discretion to use varying methods for comparing prices in determining whether sales at less than fair value exist. Furthermore, they state that the SAA provides that in determining sales comparability for purposes of inclusion in a particular average, "time is a factor which may affect the comparability of sales." SAA at 842–843. Finally, petitioners note that in its *Notice of Proposed Rulemaking and Requests for Public Comment*, 61 FR 7308, 7349 (February 27, 1996), the Department stated that it has the discretion to use abbreviated time periods when the NV, EP, or CEP prices included in an averaging group differ significantly over the course of the POI.

In this case, petitioners argue that when NV is converted to U.S. dollars in the first ten months of the POI, the effect of time is nominal. However, when NV is converted during the last two months of the POI, they maintain that NV is dramatically reduced. Petitioners contend that the Department has exercised its authority to rely on multiple averaging periods in prior cases, citing *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14069 (March 29, 1996) ("*Polyvinyl Alcohol*"). In *Polyvinyl Alcohol*, the respondent entered into long-term contracts at the

end of the POI which served to drastically lower NV during the last six weeks of the POI. In the instant case, the Department found that "the change in selling practices enhanced the effect of time on price comparability" and used separate averaging periods. *See Id.*

Petitioners maintain that the case for using separate averaging periods in this investigation is even more compelling than the comparison case given that the dramatic decline in NV is solely a result of the currency conversion methodology employed by the Department, not any action undertaken by POSCO. They assert that the influence of time on the margin calculation is further exacerbated by the fact that POSCO's cost for raw materials, which are increasing as the won depreciates, are combined with pre-crisis raw material costs. They speculate that were separate costs available for the two averaging periods, all November/December NV's would be below POSCO's increasing costs, and that dumping would be found on comparisons between POSCO's U.S. prices and constructed value prices for that same period. Furthermore, they note that although POSCO is likely lowering its U.S. prices during this period, no dumping was found under the Department's current conversion methodology.

Citing *Melamine Chem. Inc.* v. *United States*, 732 F.2d 924, 929–932 (Fed. Cir. 1984), petitioners note that the Courts have recognized that dumping margins should not be "artificially" created simply due to unforseen changes in the exchange rate. Likewise, petitioners argue that dumping margins should not be "artificially" eliminated due to unforseen changes in the exchange rate. They maintain that in similar situations the Department adjusted a respondent's costs to account for extraordinary events which occurred during the period of investigation or review. As an example, petitioners cite the case of *Floral Trade Council* v. *United States* in which the Court recognized that the Department could take into account "extraordinary events" that were, among other things, "infrequent in occurrence" (16 CIT 1014, 1016–17 (1992)). They also note that the Department has made adjusts for extraordinary events in cases such as *Newspaper Presses from Japan. See Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Presses and Components Thereof, Whether Assembled or Unassembled, from Japan*, 61 FR 38139, 38153 (July 23, 1996). Also, petitioners state that these adjustments have included altering the period of investigation to account for extraordinary events. *See, e.g., Final Determination of Sales at Less Than Fair Value: Fresh Kiwi Fruit from New Zealand*, 57 FR 13695, 13697 (April 17, 1992); *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Antidumping Investigation of Color Negative Photographic Paper and Chemical Components Thereof from the Netherlands*, 59 FR 15,181, 16,192 (April 6, 1994). Finally, petitioners argue that the Department has consistently recognized and attempted to mitigate the effects of severe currency devaluation. They explain that in *Industrial Nitrocellulose from Brazil*, the Department accounted for the hyperinflation present during the period of investigation by calculating a separate foreign market value for each price list period. *See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Brazil*, 55 FR 23120 (June 6, 1990). They also note that in *Fresh Cut Flowers from Columbia*, the Department revised its methodology to account for the "devaluation of the Colombian currency." *See Certain Fresh Cut Flowers from Colombia: Final Results and Partial Recission of Antidumping Duty Administrative Review*, 62 FR 53287, 53297 (October 14, 1997). Acknowledging that the facts in this investigation are not identical to the facts in the cases cited, petitioners state that these cases demonstrate the Department's authority, under section 777 A(d)(1)(A) of the Act, to use a variety of methods to compare prices to determine whether sales at less than fair value exist, citing 19 U.S.C. 1677f-1(d)(1)(A).

In closing, petitioners argue that were it not for the rapid and unexpected devaluation of the won, POSCO's level of dumping would have been the same during the November and December 1997. They contend that the Department not only has the authority, but also the obligation, to rely on an alternative method to calculate dumping margins to ensure a fair result. They urge the Department to use two separate averaging periods to calculate dumping margins.

POSCO rebuts petitioners' assertion that the Department incorrectly applied its exchange rate policy in this case. POSCO maintains that petitioners' suggestion of an alternative comparison period is inapposite. POSCO explains that in addition to accounting for large fluctuations in the currency, the policy on currency conversion was also designed to "ensure that all exporters, when they set their U.S. prices and whether under order or not, can know with certainty the daily exchange rate the Department will use in a dumping analysis." See Policy *Bulletin 96–1 Currency Conversions*, 61 FR 9434 (March 8, 1996). Respondent argues that the facts in this case do not warrant the use of an adjusted comparison period. In addition, POSCO contends that the use of an alternative comparison period would eliminate the certainty created under currency conversion policy and result in artificial, exchange-rate based margins. Citing the Department's regulations, respondent maintains that the Department's policy is to establish an average price for all comparable sales across the entire period of investigation. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27473.

POSCO notes that in certain cases it is within the Department's discretion to use shorter comparison periods when prices or costs vary significantly over the twelve-month POI. However, citing the preliminary determination in *Certain Preserved Mushrooms from Indonesia*, respondent argues that the Department does not vary the averaging period due to exchange rate fluctuations alone. *See Notice of Preliminary Determination of Sales at Less Than Fair Value Postponement of Final Determination: Certain Preserved Mushrooms from Indonesia* ("*Mushrooms*"), 63 FR 41783, 41785 (August 5, 1998). POSCO explains that the Department distinguished *Mushrooms* from *Polyvinyl Alcohol* based on the fact that in *Polyvinyl Alcohol*, "the respondent changed the way it conducted business with its principal home market customers, including its price structure, while at the same time, U.S. prices and input cost trends moved in tandem." *See Id.* at 41785. As in *Mushrooms*, POSCO claims that petitioners have provided no evidence for, nor alleged, that POSCO changed its business practice or pricing structure during the POI. Also, POSCO argues that the cases cited by petitioners in their defense are not relevant to this case. For example, in *Kiwi Fruit* and *Color Negative Photographic Paper*, the issue concerned the appropriate period of review to use. Additionally, respondent notes that *Industrial Nitrocellulose from Brazil* was a pre-URAA case and, in any event, the economy was hyper-inflationary and the exchange rate was controlled by the government. Finally, POSCO maintains that in *Flowers from Colombia* there was never an issue of averaging periods. In closing, respondent argues that the Department has already developed a clear policy to address large and precipitous declines in the value of home market currencies and should continue to apply its currency

conversion policy to the facts of this case, using daily exchange rates for the November and December 1997 period.

Department's Position: We have continued to use daily exchange rates in this case, for the reasons explained in the preliminary determination. However, we agree with petitioners that separate averaging periods should be used. Under section 777A(d)(1)(A) of the Act, the Department has wide latitude in calculating the average prices used to determine whether sales at less than fair value exist. More specifically, under 19 CFR 351.414(d)(3), the Department may use averaging periods of less than the POI when normal value, export price, or constructed export price varies significantly over the POI. In the instant case, NV (in dollars) in the last two months of the POI differs significantly from NV earlier in the POI due primarily to a significant change in the underlying dollar value of the won. In this case, the change is evidenced by the precipitous drop in the won's value that began in November 1997 and continued through the end of the POI, without a quick, significant rebound. In the span of two months, the won's value decreased by more than 40 percent in relation to the dollar. Consequently, it is appropriate to use two averaging periods to avoid the possibility of a distortion in the dumping calculation. Moreover, we disagree with respondent's claim that the use of averaging periods is dependent upon a change in a respondent's selling practices. In the final determination of certain preserved mushrooms from Indonesia, the Department stated that "in addition to changes in selling practices, we believe that we should also consider other factors, such as prolonged large changes in exchange rates, in determining whether it is appropriate to use more than one averaging period." *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 72268, 72272 (December 31, 1998). Therefore, we have used two averaging periods for the final determination: January through October and November through December, 1997.

Comment 4 EP vs. CEP. Petitioners argue that Department should re-classify U.S. sales involving POSAM (i.e., U.S. Channel 2 sales) as CEP sales. They contend that it is indisputable that the activities performed by POSAM meet the criteria the Department has used for evaluating whether a U.S. subsidiary's involvement rises to the level of CEP classification for U.S. sales. Petitioners state that the Department has classified sales as CEP sales when the following criteria are met: (1) The U.S. subsidiary was the importer of record and took title to the merchandise; (2) the U.S. subsidiary financed the relevant sales transactions; (3) the U.S. subsidiary arranged and paid for further processing; and (4) the U.S. subsidiary assumed the seller's risk, citing *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 51882, 51885 (October 4, 1996); and *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Final Results*, 62 FR 18404 (April 15, 1997) ("*Carbon Steel from Korea*"). Additionally, petitioners note that in *Extruded Rubber Thread from Malaysia*, the Department determined that the sales in question were CEP sales, despite not being entered into a U.S. affiliate's inventory, when the U.S. sales force contacted the U.S. customer, negotiated sales terms, arranged for production and shipment, and issued final invoices and collected payment. See *Extruded Rubber Thread from Malaysia: Final Results of Antidumping Duty Administrative Review*, 63 FR 12752 (March 16, 1998). Petitioners also point to several other cases where the Department re-classified respondent's U.S. sales as CEP transactions because significant selling functions were performed in the United States. *See, e.g., Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany: Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 47446, 47448 (September 9, 1997); *Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations: Brake Drums and Brake Rotors from the People's Republic of China*, 61 FR 53190, 53194 (October 10, 1996); *Certain Cut-to-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review*, 62 FR 18390, 18392 (April 15, 1997); and *Sebacic Acid From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 10530, 10532 (March 7, 1997).

Furthermore, petitioners argue that based on the record evidence obtained, the Department should infer that POSAM is involved in setting U.S. prices. They claim that POSTEEL would not provide POSAM with quarterly price guides if POSAM were not meant to have at least some autonomy in day-to-day negotiations with customers, citing *POSAM Verification Report* at pg 7. Moreover, they argue that even if the Department remains unconvinced that POSAM sets prices, involvement in setting prices is not the only criterion for classifying a sale as CEP. Petitioners maintain that such activities as making contact with the U.S. customer, contacting the factory to arrange for production and shipment, and issuing the final invoice to, and collecting payment from, the customer all indicate that sales through POSAM are CEP transactions. Also, petitioners assert that the mere existence of a U.S. based subsidiary is itself a strong indicator that the activity of the sales force must be considered significant. Finally, petitioners propose that the Department adjust POSAM's indirect selling expenses for POSAM's sales to affiliates. Petitioners have provided this calculation on pages 40–41 of their case brief, dated January 26, 1999.

Respondent contends that the Department's classification of POSCO's U.S. sales through POSAM as EP sales in the preliminary determination was correct. Respondent argues that the EP classification is supported by the verified record evidence and is consistent with the Department's recent determination in *Stainless Steel Wire Rod from Korea* that U.S. sales through POSAM were properly classified as EP sales. *See* Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Korea ("*Stainless Steel Wire Rod*"), 63 Fr 40404, 40417–40418 (July 29, 1998). Respondent contends that in Stainless Steel Wire Rod, POSAM's role in sales from Changwon, a POSCO affiliate, was identical to its role in subject sales from POSTEEL. Furthermore, respondent notes that petitioners have failed to distinguish the wire rod determination from this determination.

Respondent argues that it has met the conditions of the three-prong test used by the Department in determining whether U.S. sales made by an affiliated U.S. importer prior to importation should be classified as EP or CEP sales. With respect to the first two criteria, respondent maintains that it is undisputed that POSCO's sales through POSAM were shipped directly from the manufacturer to the unaffiliated U.S. customer and that is the customary channel of distribution for U.S. sales. *Citing Preliminary Determination* at 59538. Finally, with respect to the final criterion, respondent contends that evidence on the record and verified by the Department demonstrates that POSAM's selling functions were limited to that of a processor of sales-related documentation and a communications link with POSCO's unaffiliated U.S. customer.

Respondent states that for U.S. sales through POSAM, POSTEEL determined price and terms of sale and performed all sales-related activities (with the exception of arranging for U.S. freight for certain delivered sales and extending credit for certain transactions). Citing *Groundwood Paper from Belgium*, respondent notes that the fact that an affiliated U.S. company quotes prices to U.S. customers on behalf of its affiliated exporter does not lead to CEP designation of the sale. See *Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Belgium*, 56 FR 56359, 56362 (November 4, 1991). Respondent also argues that the Department has determined that "identifying and maintaining contact with customer" is not sufficient in and of itself to warrant CEP treatment of a sale. *See Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Finland*, 56 FR 56359, 56363, 56371 (November 4, 1991); *see* also, *Stainless Steel Wire Rod* at 40417–19. Challenging petitioners' argument that the post-importation services performed by POSAM (*i.e.*, collecting payment and arranging for U.S. inland freight) are significant enough to warrant CEP treatment of the sales, respondent states that the Department has found that a branch office whose functions include "receiving orders, preparing and executing order confirmations, invoices, packing lists, and other sales-related documentation, and receiving and processing payments from customers," was not so substantial to conclude that it was more than a processor of documents or communications link. *See Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia*, 57 FR 38465, 38469 (August 25, 1992); *see* also, *Stainless Steel Wire Rod* at 40417–19. Additionally, respondent asserts that the Department has never classified a sale as CEP based on the U.S. affiliate's status as importer of record, citing *Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from France*, 56 FR 56384; *E.I. DuPont de Nemours & Co.* v. *United States*, 841 F. Supp. 1237, 1249–1250 (Ct. Int'l Trade 1994); *Independent Radionic Workers of America*, 19 CIT at pg. 375; and *Stainless Steel Wire Rod* at 40419. Finally, respondent disputes petitioners' contention that existence of a U.S.-based subsidiary is enough to warrant CEP treatment, and states that petitioners have greatly overstated the size and significance of POSAM.

Department's Position: We agree with petitioners that sales through POSAM are more appropriately treated as CEP transactions. Although the facts in this investigation are similar to the facts in the stainless steel wire rod determination cited by respondent, there are several significant differences on the record of the present case which lead the Department to change its decision from the preliminary determination and conclude that POSCO's U.S. sales through POSAM warrant classification as CEP sales.

The Department treats sales through an agent in the United States as CEP sales, unless the activities of the agent are merely ancillary to the sales process. Specifically, where sales are made prior to importation through a U.S. based affiliate to an unaffiliated customer in the United States, the Department examines several factors to determine whether these sales warrant classification as EP sales. These factors are: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer without being introduced into the physical inventory of the affiliated selling agent; (2) whether this sale is the customary commercial channel between the parties involved; and (3) whether the function of the U.S. selling agent is limited to that of a "processor of sales-related documentation" and a "communication link" with the unrelated U.S. buyer. Where the factors indicate that the activities of the U.S. selling agent are ancillary to the sale (*e.g.*, arranging transportation or customs clearance), we treat the transactions as EP sales. Where the U.S. selling agent is substantially involved in the sales process (*e.g.*, negotiating prices), we treat the transactions as CEP sales. *See Certain Cut-to-Length Carbon Steel Plate from Germany: Final Results of Antidumping Administrative Review*, 62 FR 18389, 18391 (April 15, 1997); *Mitsubishi Heavy Industries* v. *United States*, Slip Op. 98–82 at 6 (CIT, June 23, 1998).

We note that neither party has disputed that POSCO's U.S. sales through POSAM meet the first two criterion of the Department's standard. Therefore, the determining factor in this case is the degree of involvement by POSAM in the sales process. In the preliminary determination, the Department based its EP classification of sales through POSAM on POSCO's statement that POSTEEL determined price and terms of sale. However, in our preliminary determination, we noted that we would conduct an in-depth examination of the most appropriate classification of POSCO's U.S. sales through POSAM (*i.e.*, CEP versus EP) at verification. *See Preliminary Determination* at 59538.

Although it is clear that POSTEEL performs many selling activities for U.S. sales through POSAM, including undertaking business trips to meet with potential U.S. customers of the subject merchandise (*see* Sales Verification Exhibit 17), the record contradicts POSCO's assertion that POSAM is merely a processor of sales-related documentation. First, POSAM is the first and only point of contact for the U.S. unaffiliated customer. POSAM officials explained that because of the time zone difference and the cost of long distance, it would be expensive and inconvenient for the customer to contact POSTEEL directly. *See POSAM Verification Report* at pg. 6. While a U.S. affiliate may act as a communications link without transforming the sales into CEP, POSAM acts as more than a conduit between the unaffiliated U.S. customer and POSTEEL.

Also, as demonstrated by the unpaid sales to the bankrupt customer, POSAM incurs the "seller's risk" for U.S. Channel 2 sales. The record indicates that it was POSAM, not POSTEEL, who incurred the cost of the unpaid sales, as POSAM pre-pays POSTEEL. *See POSAM Verification Report* at pg. 9. Moreover, it is POSAM, not POSTEEL, who is responsible for collecting payment from the customer through bankruptcy proceedings. Bearing such financial risk is indicative of a seller, not a mere facilitator. This selling arrangement between POSAM and POSTEEL differs from the one between POSAM and Changwon, addressed in *Stainless Steel Wire Rod*, where the "U.S. customers remit payment to POSAM, which subsequently transfers the payment to POSTEEL, which, in turn, transfers it to Changwon." *See Stainless Steel Wire Rod* at 40419 (emphasis added). In addition, for one of the five sales examined by the Department during the POSAM verification, we found that POSAM was given discretion in adjusting the price of the sale. *See POSAM Verification Report* at pg. 5 and POSAM Verification Exhibit 10. Thus, although POSAM is not independent from POSTEEL, we believe that the record evidence shows that it has sales negotiating authority, at least in some instances.

Therefore, because of the significant risk incurred by POSAM in addition to its other selling activities, we find that POSAM's activities are more than ancillary to the sales process and have classified POSCO's U.S. sales through POSAM as CEP transactions. We note that the Department's classification of

POSCO's U.S. sales through POSAM as CEP transactions is consistent with the Department's decision in the third review of carbon steel flat products from Korea. *See Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13182–83 (March 18, 1998). Additionally, we disagree with petitioners that the reported indirect selling expenses for POSAM should be adjusted. Petitioners have not stated that POSCO's calculation was incorrect or is in any way distortive. We verified POSCO's calculation of POSAM's indirect selling expense at verification and noted no discrepancies. *See POSAM Verification Report* at pp. 5–6. Thus, for CEP sales, we have deducted an amount for indirect selling expenses incurred in the United States using POSCO's reported indirect selling expense for POSAM.

Comment 5. Affiliated Party Purchases. Petitioners argue that POSCO's purchases from affiliated parties should be valued at the higher of transfer price, the affiliate's COP, or market value. Petitioners listed five specific examples where the affiliate's COP was higher than the transfer price for the particular item purchased. Petitioners cite 19 U.S.C. 1677b(f)(3) as the basis for valuing the major input at the higher COP amount. 19 U.S.C. 1677b(f)(3) states, "If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the merchandise, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production."

POSCO argues that the price paid to the affiliated parties represents an arm's length transaction and the purchases do not qualify as major inputs. POSCO contends that prices for alloys are governed by the international market rather than by affiliation. According to POSCO, at verification the Department had the opportunity to compare the transfer price to the market price and concluded that there were minimal or no differences between the prices charged by affiliated and unaffiliated suppliers. Any differences between the price charged by the affiliate and the cost of that affiliate are connected with the world market and not with affiliation. POSCO asserts that no adjustment is necessary because, on average, it paid its affiliated suppliers a higher price than it paid to its unaffiliated suppliers. Furthermore, the impact on the cost of production would be so minor as to have virtually no effect on the final cost of production.

Department's Position: We agree with petitioners in part. In accordance with section 773(f)(3) of the Act, we have treated as major inputs materials that both were purchased from affiliated suppliers in significant quantities and represented a significant portion by value of the per-unit cost of SSPC. Accordingly, we have applied the higher of the materials' transfer price, cost of production or market value. Therefore, we have treated ferroalloys as major inputs and adjusted costs to reflect the higher of the input's cost, market price, or transfer price. In accordance with section 773(f)(2) of the Act, when the materials supplied by affiliated parties were not major inputs, we only compared transfer price to market price, when market price was available and cost was not necessary to establish market price. In this case, the relatively large percentage of purchases from unaffiliated suppliers, the relatively small percentage of the elements' value to the per-unit cost, and the relatively small difference between transfer price and market value, rendered any adjustment to cost insignificant. Moreover, our analysis (*see Cost Analysis Memorandum*) shows that on average the transfer price and market value for purchases from these affiliated and unaffiliated suppliers were comparable.

Comment 6. Credit Expense. Petitioners maintain that POSCO improperly excluded U.S. dollar denominated usance loans from its calculation of the home market interest rate. They argue that the Department should recalculate the home market interest rate. Also, petitioners state that if the Department uses the short-term interest rate provided by POSCO in determining the short-term interest rate for U.S. sales through POSTEEL, the Department should recalculate the interest rate based on the average monthly balance. Petitioners contend that POSCO's method of calculating its interest rate is only reasonable when a loan balance remains fairly constant; however, it will overstate the interest rate when the balance is declining and understate the interest rate when the balance is increasing. In their rebuttal brief, petitioners provide the calculation of POSTEEL's interest rate based on the average monthly loan balance. *See* Petitioners' Rebuttal Brief at pp. 4–6.

Respondent argues that it calculated its short-term interest rates for U.S. and home market sales in accordance with the Department's policy, citing *Import Administration Policy Bulletin 98–2* (February 23, 1998). POSCO notes that the home market interest rates submitted for POSCO (HM Channel 1) and POSTEEL (HM Channel 2) were based on the short-term, Korean won borrowings of each company during the POI. POSCO notes that U.S. market interest rates submitted for POSTEEL (U.S. Channel 1 and 3) and POSAM (U.S. Channel 2) were based on short-term, U.S. dollar denominated loans. Additionally, respondent states that at verification the Department confirmed that the short-term interest rate for U.S. sales through POSTEEL was denominated in U.S. dollars, citing *Sales Verification Report* at pg. 15.

Department's Position: We agree with respondent. The Department's stated policy on imputed credit expenses and interest rates is to "use a short-term interest rate tied to the currency in which the sales are denominated." *See Policy Bulletin 92–2* at pg. 6, dated February 23, 1998, which is an attachment to the *Analysis Memorandum*. During its verification of POSCO, the Department confirmed that the interest rates calculated by POSCO were based on short-term loans denominated in the currency in which the sales were made. *See, e.g., Sales Verification Report* at pp. 14–15 and Sales Verification Exhibit 40 and 41.

Also, we disagree with petitioners' argument that POSCO's calculation of POSTEEL's U.S. interest rate is distortive (*see Analysis Memorandum*). At verification, the Department confirmed that, in its normal course of business, POSCO records the monthly ending balance of its short-term borrowings. *See, e.g.*, Sales Verification Exhibit 39 and 40. Based on this and other information that is business proprietary; we find respondent's methodology of calculating POSTEEL's interest rate to be reasonable and have accepted respondent's reported credit expense for U.S. Channel 1 and 3 sales. For a further discussion of this issue, *see Analysis Memorandum*.

Comment 7. Indirect Selling Expenses. Petitioners argue that the Department should adjust POSCO's reported home market indirect selling expenses by allocating the indirect selling expense over sales both to affiliated and unaffiliated parties. Citing the Department's verification report, petitioners note that POSCO has excluded sales to affiliated parties from the denominator of its calculation of the home market indirect selling expense ratio. *See Sales Verification Report* at pg. 15. They state that if the Department

finds that POSCO misreported its home market indirect selling expense ratio or provided an incomplete record it should recalculate POSCO's indirect selling using information on the record of this investigation.

Respondent states that it reported all domestic selling expenses incurred during the POI, and allocated those expenses over the related sales. Respondent maintains that the domestic sales divisions do not "sell" to affiliated customers, but on the contrary, the affiliated customers are used as an extension of POSCO's sales division. As an example, respondent notes that the large majority of sales of the subject merchandise during the POI were made to POSTEEL, and that POSCO's involvement in POSTEEL's sales is limited to receiving the order and producing the merchandise. Thus, respondent continues that the focus of the domestic sales divisions is sales to unaffiliated customers and, by extension, the expenses incurred by those divisions are on sales to unaffiliated customers. Finally, respondent maintains that their allocation methodology is reasonable.

Department's Position: We agree with petitioners. At verification, POSCO provided no material support for its claim that sales to affiliated parties (*e.g.*, POSTEEL) should be excluded from the denominator of its home market indirect selling expense calculation other than to state that it "would not waste resources" on sales to affiliates. *See* Sales Verification Exhibit at pg. 15. Moreover, we note that it is standard Departmental practice to allocate indirect selling expenses over all sales. For its U.S. sales, POSCO has calculated the indirect selling expense ratio consistent with this methodology. *See* Sales Verification Exhibit 41 and POSAM Verification Exhibit 6. Additionally, at least some of the selling expenses reported by POSCO as indirect (*i.e.*, payroll) are associated with sales to affiliates and non-affiliates. Therefore, we have recalculated POSCO's reported indirect selling expense for HM Channel 1 sales by including POSCO's sales to affiliates. For calculation, *see Analysis Memorandum*.

Comment 8. Unpaid U.S. Sales. Petitioners argue that POSCO should not be permitted to estimate payment dates when payment has not been made. Citing *Sales Verification Report* at pg. 2. They advocate that the Department apply an adverse inference regarding the payment date for any unpaid sales.

POSCO responds that there is no basis on which to apply adverse inferences. Respondent explains that as it indicated to the Department during verification, it used the first day of verification as the payment date for the small portion of two sales that remained outstanding as of verification. *Citing Sales Verification Report* at pg. 2 and Sales Verification Exhibit 1. POSCO argues that this approach is consistent with the Department's normal treatment of unpaid sales. *Citing Stainless Steel Wire Rod from Japan*, 63 FR 40434, 40448 (July 29, 1998).

Department's Position: We disagree with respondent and petitioners. As noted by respondent, for the two sales which remained partially unpaid, POSCO did not estimate payment dates, but rather used the date of first date of the sales verification. However, the Department's recent practice regarding this issue has been to use the last day of verification as the date of payment for all unpaid sales. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Italy*, 62 FR 40422, 40428 (July 29, 1998); *Extruded Rubber Thread from Malaysia; Final Results of Antidumping Duty Administrative Review ("Extruded Rubber Thread from Malaysia")*, 63 FR 12752,12757 (March 16, 1998); and *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909 (February 23, 1998). Therefore, for the final determination, we are applying the last day of the U.S. sales verification (November 20, 1998) as the date of payment for the two unpaid U.S. sales. For the calculation of the credit period for these sales, *see Analysis Memorandum*, dated March 19, 1999.

Comment 9. Sales of Non-Prime Merchandise. Respondent argues that the Department should distinguish between prime and non-prime merchandise for purposes of the cost test and margin analysis in the final determination. Respondent maintains that it is the Department's policy to differentiate between prime and non-prime merchandise in its analysis. Citing *Memorandum from Roland L. MacDonald to Joseph A. Spetrini*, dated April 19, 1995 ("*Carbon Steel Memorandum*") and *Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands* ("*Carbon Steel from the Netherlands*)", 61 FR 48465, 48466 (September 13, 1996). A copy of the *Carbon Steel Memorandum* is an attachment to a *Memorandum to the File from Carrie Blozy*, dated March 19, 1999.

Petitioners support the Department's decision to "collapse" sales of prime and non-prime merchandise for purposes of the cost test. They note that in *Carbon Steel from the Netherlands*, the Department stated that it continues to follow *IPSCO* and that prime and secondary merchandise incur identical costs. See Id. at 48461–67. Moreover, in *Extruded Rubber Thread from Malaysia*, petitioners note that the Department stated that it is not its practice to distinguish prime and non-prime merchandise for the cost test. *See Extruded Rubber Thread from Malaysia at 12757*.

Department's Position: We agree with respondent. As noted in the *Carbon Steel Memorandum*, "separating prime and seconds for the cost test has the benefit of facilitating an untainted analysis of the majority of sales (prime merchandise)." *See Carbon Steel Memorandum* at pg. 4. Consistent with *Carbon Steel from the Netherlands* and *IPSCO*, in this case, POSCO has reported the same cost of production for sales of prime and non-prime merchandise. *See* Cost of Production Sales Listing which is attached to POSCO's December 17, 1999 submission. However, we do not regard prime and non-prime merchandise as identical. Finally, we note that the *Extruded Rubber Thread from Malaysia* case cited by petitioners has been taken out of the context in which it was made. The language quoted by petitioners merely states that the Department, consistent with the IPSCO case, calculated the same costs for prime and non-prime merchandise. However, while using the same costs, consistent with the *Carbon Steel Memorandum*, in *Extruded Rubber Thread from Malaysia*, the Department ran separate cost tests for prime and non-prime merchandise in order to avoid distortions. Thus, for the final determination, we have used POSCO's reported control numbers (which differentiate between prime and non-prime merchandise) in our margin analysis.

Comment 10. Local Letter of Credit Sales. POSCO argues that the Department should include local letter of credit sales ("local sales") in its calculation of normal value. Also, respondent maintains that its calculation of normal value should be based on the U.S. dollar price at which the local sales were invoiced. Respondent states that local customers pay POSCO in Korean won based on the U.S. dollar invoiced price. Moreover, respondent notes that it reported the U.S. dollar price for local sales consistent with the Department's requirements and practice. Respondent explains that in *Fresh Cut Roses from Colombia*, the respondent also invoiced home market sales in U.S. dollars but like POSCO, received payment from the

customer in the home market currency, pesos in that case. *See Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Colombia* (''*Fresh Cut Roses from Colombia*''), 60 FR 6980, 7006 (February 6, 1995). POSCO states that in this case, the Department accepted the U.S. prices for the calculation of normal value. *See Id.* Respondent contends that not using the U.S. dollar value in its calculation of normal value in this investigation could have a potentially significant distortive effect on the margin.

Although petitioners' support the inclusion of local sales in the analysis, they object to POSCO's request to use nominal dollar prices for home market customers. Instead, they recommend that the Department use the won price that the customers actually pay. They argue that it would be bad policy to use nominal prices in the margin analysis. Further, they continue that even if the Department were to find that in some instances use of the nominal price is warranted, the facts in this case do not support such a methodology. Petitioners allege that the *Fresh Cut Roses from Colombia* case cited by POSCO differs from this case in several important aspects. Specifically, in *Fresh Cut Roses from Colombia:* (a) The effect of inflation in Colombia was being taken into account in the Department's cost of production analysis and costs were being converted to dollars; (b) the Department stated that it had verified that the payments in pesos had reflected the prevailing dollar/peso exchange rates at the time of payment; and (c) all home market sales were invoiced in dollars and paid in pesos. *See Fresh Cut Roses from Colombia* at 6980. In contrast, they note that in this case the Department has not accounted for the effects of inflation on POSCO's costs and prices. Also, they state that the Department did not verify whether the exchange rates used were proper. Finally, they note that in this case, home market sales were also quoted in won. Therefore, because the Department has not accounted for inflation and did not verify the dollar won exchange rates used, petitioners argue that POSCO's dollar prices are meaningless because POSCO's customers pay in won.

Department's Position: We agree with both parties that local sales should be included in the margin analysis. At verification, the Department found that local sales were made to end-users and, as such, must be properly considered as home market sales. Accordingly, these sales should be accounted for in our margin analysis. However, we disagree with respondent that the Department should use the U.S. dollar invoiced price for the purposes of calculating normal value. Based upon the facts of the record, as discussed below, we find that it is more appropriate to use the won price in which the customer pays.

For HM sale number 1, POSCO provided an internal document which shows the exchange rates used by POSCO to convert U.S. dollar prices into Korean Won prices for the month of November 1997. *See* Sales Verification Exhibit 6. The record indicates that although customers are invoiced in U.S. dollars (for HM Channel 2 sales the shipping invoice also shows the won price), the customer pays in won, not U.S. dollars, and the sales value of the merchandise is charged to the sales ledger in won, based on the aforementioned exchange rate. See Id. Moreover, a comparison of the internal exchange rate used by POSCO to the market exchange rate used by the Department shows that the two exchange rates are quite dissimilar (*see Analysis Memorandum*). We note that this is in contrast to *Fresh Cut Roses from Colombia* in which the Department verified that the payment in pesos reflected the market exchange rate at the time of payment. See *Fresh Cut Roses from Colombia* at 6980. Therefore, for the final determination, we have used the won price for home market local sales.

Comment 11. Date of Sale—U.S. Channel 2. Petitioners allege that POSCO improperly reported POSTEEL's invoice to POSAM as the date of sale for U.S. Channel 2 sales. They maintain that the use of the date of POSTEEL's invoice to POSAM is incorrect because the price is a transfer price on an intra-company transaction. Conversely, they argue that it is the date on POSAM's invoice to its customer that controls whether a transaction was invoiced during the POI. Finally, they contend that to the extent that any U.S. sales were not reported based on POSCO's reporting of date of sale for U.S. Channel 2 sales, the Department should apply adverse facts available to the unreported quantity.

POSCO maintains that it properly used the date of POSTEEL's invoice to POSAM as the date of sale for U.S. Channel 2 sales because the material terms of sale were finalized upon shipment to the customer. Furthermore, respondent argues that it is the Department's well-established practice that the date of sale must precede or be equal to the date of shipment, citing *Certain Cold-Rolled and Corrosion Resistant Carbon Flat Products from Korea*, 63 FR 13170, 13172–3. POSCO notes that the date of shipment to the unaffiliated customer is the date that the merchandise left the Korean port of exportation for delivery to the unaffiliated U.S. customer. Moreover, respondent alleges that petitioners have ignored the statutory definition of export price and the Department' definition of date of sale.

Department's Position: We agree with petitioners. As noted in Comment 4, the Department has classified POSCO's U.S. sales through POSAM as CEP sales. Therefore, for U.S. Channel 2 sales we have used the date of POSAM's invoice to the unaffiliated customer as the date of sale.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from the Republic of Korea, that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998 (the date of publication of the preliminary determination in the **Federal Register**). The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Pohang Iron & Steel Co., Ltd. ..	16.26
All others	16.26

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7533 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–830]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–3833, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR part 351 (1998).

Final Determination

We determine that Stainless Steel Plate in Coils ("SSPC") from Canada is being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the Suspension of Liquidation section of this notice.

Case History

The preliminary determination in this investigation was published on November 4, 1998. *See* Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Canada, 63 FR 59527 (November 4, 1998) ("Preliminary Determination"). On November 5, 1998, Atlas Stainless Steels ("Atlas") requested a postponement of the final determination to 135 days after publication of the preliminary determination and an extension of the provisional measures to no more than six months, pursuant to 19 CFR 351.210(b)(2)(ii) and 351.210(e)(2). Because our preliminary determination was affirmative, and Atlas is a producer/exporter that accounts for a significant proportion of exports from Canada of the subject merchandise, the Department postponed the final determination until March 19, 1999. Notice of postponement was published in the **Federal Register** on December 18, 1998. *See* Postponement of Final Antidumping Determinations: Stainless Steel Plate in Coils from Canada, Italy, Republic of Korea, South Africa and Taiwan, 63 FR 70101.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1 through December 31, 1997.

Facts Available

In the Preliminary Determination, the Department based the margin on facts otherwise available under section 776(a)(2) of the Act because Atlas refused to respond to the Department's cost questionnaire. The Department also used an adverse inference under section 776(b) of the Act and used the highest rate alleged in the petition because Atlas did not cooperate to the best of its ability. Since then, no interested parties have provided comments on the Preliminary Determination and no request for a hearing has been received by the Department. Therefore, we are continuing to use as adverse facts available the highest rate alleged by petitioners.

The All Others Rate

The foreign manufacturer/exporter in this investigation is being assigned a dumping margin on the basis of adverse facts available. Section 735(c)(5) of the Act provides that, where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated All Others rate for exporters and producers not individually investigated. Therefore, consistent with the Statement of Administrative Action ("SAA") at 873, we are using an alternative method to establish the estimated All Others rate. In the Preliminary Determination, as an alternative, we based the All Others rate on a simple average of the margins in the petition. We received no comments on this issue, and therefore continue to use this basis for the final determination. As a result, the All Others rate is 11.10 percent.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) and 735(c)(4)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of SSPC from Canada, that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998 (the date of publication of the preliminary determination in the **Federal Register**). We will instruct the Customs Service to require a cash deposit equal to the percentage margins, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The dumping margins are as follows:

Exporter/manufacturer	Margin percentage
Atlas Stainless Steel (Sammi Atlas)	15.35
All Others	11.10

The All Others rate, which we derived from the average of the margins calculated in the petition, applies to all entries of subject merchandise other than those exported by the named respondent.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7534 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–822]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Lesley Stagliano or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0190 or (202) 482–3818, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR part 351 (1998).

Final Determination

We determine that Stainless Steel Plate in Coils ("SSPC") from Italy is being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the Suspension of Liquidation section of this notice.

Case History

The preliminary determination in this investigation was published on November 4, 1998 (see Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Italy, 63 FR 59530 (November 4, 1998) ("Preliminary Determination")). On November 16, 1998, Acciai Speciali Terni SpA ("AST") requested a postponement of the final determination to 135 days after publication of the Preliminary Determination and an extension of the provisional measures to no more than six months, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and 351.210(e)(2). Because our Preliminary Determination was affirmative, and AST is a producer/exporter that accounts for a significant proportion of exports from Italy of the subject merchandise, the Department postponed the final determination until March 19, 1999. Notice of postponement was published in the **Federal Register** on December 18, 1998. See Postponement of Final Antidumping Determinations: Stainless Steel Plate in Coils from Canada, Italy, Republic of Korea, South Africa and Taiwan, 63 FR 70101. No interested parties have provided comments on the Preliminary Determination and no request for a hearing has been received by the Department.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1 through December 31, 1997.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination. As discussed above, AST failed to respond to the Department's questionnaire. Accordingly, as in the Preliminary Determination, we have determined, .

under section 776(a)(2)(A) of the Act, that we must base our determination for that company on the facts available.

Section 776(b) of the Act further provides that adverse inferences may be used for a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information (*see* also the Statement of Administrative Action ("SAA"), accompanying the URAA, H. Doc. No. 316, 103rd Cong., 2d Sess. 870). Given its refusal to comply with the Department's request for information, AST has failed to cooperate to the best of its ability in this investigation. Therefore, the Department has determined that an adverse inference is warranted with respect to AST. As in the Preliminary Determination, the Department selected a margin of 45.09 percent, which was based on the highest margin alleged in the petition for any Italian producer. As discussed in the Preliminary Determination, the Department has, to the extent practicable, corroborated the information used as adverse facts available. Furthermore, no record evidence or argument has been submitted that would cause the Department to call into question the accuracy of the data in the petition. Therefore, we determine that the use of this margin as facts available for AST is appropriate.

For further discussion regarding the Department's use, and selection, of facts available for AST in this investigation, *see* Preliminary Determination, 63 FR at 59531–32.

The All Others Rate

The foreign manufacturer/exporter in this investigation is being assigned a dumping margin entirely on the basis of facts otherwise available. Section 735(c)(5)(B) of the Act provides that, where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated All Others rate for exporters and producers not individually investigated, including weight averaging zero and de minimis rates with the margins based on facts available. In this case, the margin assigned to the only company investigated is based on adverse facts available. Therefore, as stated in the Preliminary Determination, and consistent with the SAA at 873, we are using an alternative method. As our alternative, we are basing the All Others rate on a simple average of the margins in the petition, based both on price-to-price comparisons and constructed value. As a result, the All Others rate is 39.69 percent.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) and 735(c)(4)(A) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all entries of SSPC from Italy, that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998 (the date of publication of the Preliminary Determination in the **Federal Register**). We will instruct Customs to require a cash deposit or the posting of a bond equal to the percentage margins, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The dumping margins are as follows:

Exporter/manufacturer	Margin percentage
Acciai Speciali Terni SpA (AST)	45.09%
All Others	39.69%

The All Others rate, which we derived from the average of the margins calculated in the petition, applies to all entries of subject merchandise other than those exported by the named respondent.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7535 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–805]

Notice of Final Determination of Sales at Less Than Fair Value; Stainless Steel Plate in Coils From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (April 1, 1998).

Final Determination

We determine that stainless steel plate in coil (stainless coil) from South Africa is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on November 4, 1998. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From South Africa, 63 FR 59540 (Preliminary Determination). Since the publication of the Preliminary Determination the following events have occurred:

On November 5, 1998, the sole respondent in this investigation, Columbus Stainless (Columbus), requested postponement of the final determination, agreeing to the extension of preliminary measures, as required under section 735(a)(2) of the Tariff Act. Accordingly, we postponed the final

determination in this investigation on December 11, 1998. See Postponement of Final Antidumping Determinations: Stainless Steel Plate in Coils From Canada, Italy, Republic of Korea, South Africa and Taiwan, 63 FR 70101 (December 18, 1998).

The Department verified Columbus's section D (Cost of Production) questionnaire response between November 9 and 13, 1998 at Columbus's headquarters in Middelburg, South Africa; we then verified sections A (General Information), B (Home Market Sales) and C (U.S. Sales) of Columbus's responses on November 16 through 20, 1998. See Memorandum to Neal Halper, Acting Director, Office of Accounting; "Verification Report on the Cost of Production and Constructed Value Data Submitted by Columbus Stainless," January 15, 1999 (Cost Verification Report) and Memorandum For the File; "Verification of Columbus Stainless," January 14, 1999 (Sales Verification Report). Public versions of these, and all other Departmental memoranda referred to herein, are on file in room B–099 of the main Commerce building.

On December 4, 1998, Armco, Inc., J&L Specialty Steel, Inc., Lukens, Inc., North American Stainless, the United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union and Zanesville Armco Independent Organization, Inc. (petitioners) requested a public hearing in this case. However, on December 18, 1998, petitioners withdrew their request for a hearing and, as Columbus had not requested a hearing, none was held. On January 25, 1999, petitioners and Columbus filed case briefs in this matter; we received rebuttal briefs from petitioners and Columbus on February 1, 1999.

Scope of the Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1997 through December 31, 1997.

Fair Value Comparisons

To determine whether sales of stainless coil from South Africa to the United States were made at less than fair value, we compared export price (EP) to the normal value (NV), as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Tariff Act, we calculated weighted-average EPs for comparison to weighted-average NVs or constructed values (CVs).

Transactions Investigated

For its home market and U.S. sales Columbus reported the date of invoice as the date of sale, in keeping with the Department's stated preference for using the invoice date as the date of sale. As explained in response to *Comment 2*, below, for this final determination we have continued to rely upon Columbus's invoice dates in the home and U.S. markets as the date of sale. However, should this investigation result in an antidumping duty order, we intend to scrutinize further this issue in any subsequent segment of this proceeding involving Columbus.

Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by the respondent covered by the description in the "Scope of the Investigation" section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in Appendix V of the Department's May 27, 1998 antidumping questionnaire.

Level of Trade

In our preliminary determination we agreed with Columbus that one level of trade (LOT) existed for Columbus in the home market. Furthermore, we agreed with Columbus that its EP sales in the United States were at a single LOT, and that sales in both markets were at the same LOT. No party to this investigation commented on this issue and the Department has no new evidence to alter its conclusion. Therefore, as in the preliminary determination, we find that sales within or between the markets were made at the same LOT and, therefore, a LOT adjustment pursuant to section 773(a)(7)(A) of the Tariff Act is not appropriate.

Export Price

We calculated the price of United States sales based on EP, in accordance with section 772(a) of the Tariff Act, because the subject merchandise was sold to the first unaffiliated purchasers in the United States prior to the date of importation and because record evidence did not support basing price on constructed export price (CEP). We calculated EP using the same methodology employed in the preliminary determination with the following exceptions:

Based on information discovered at verification we made deductions from EP for unreported credit memos issued on certain U.S. sales of subject merchandise; we have disregarded any such credit memos issued for home market sales. *See Comment 3*, below.

We also recalculated Columbus's inventory carrying costs (ICC) based upon revisions to Columbus's reported cost of manufacture (COM) arising from verification. See Memorandum to Neal Halper, "Cost of production ('COP') and constructed value ('CV') Calculation Memorandum for Final Determination," March 19, 1999 (Cost Calculation Memorandum (Final)).

Normal Value

Home Market Viability

As discussed in the *Preliminary Determination*, in order to determine

whether the home market was viable for purposes of calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Tariff Act. As Columbus's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Therefore, we based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

Cost of Production Analysis

In response to a timely allegation by petitioners we conducted an investigation to determine whether Columbus made sales of the foreign like product during the POI at prices below its COP. In accordance with section 773(b)(3) of the Tariff Act we calculated the weighted-average COP based on the sum of Columbus's cost of materials, fabrication, general expenses, and packing costs. We relied on Columbus's submitted COP except in the following specific instances where the submitted costs were not appropriately quantified or valued:

We added depreciation expense to the reported COP and CV based on the ratio of depreciation expense to Columbus's variable overhead expenses. Likewise, we added certain additional depreciation expense to the reported COP and CV based on the ratio of this depreciation expense to variable overhead expenses. *See Comments 13* and *14*, below.

We increased the cost of Columbus's affiliated-party purchases of the raw material input ferrochrome. *See Comment 15.*

We increased Columbus's COP by adding the variances Columbus excluded from its reported costs. *See Comment 16.*

We reallocated variable overhead expenses based on differences in the cost of producing the subject merchandise arising from the differences in physical characteristics of specific plate products. *See Comment 17.*

We calculated a single COP for each product sold (*i.e.*, each CONNUM), weighted by quantity produced during the POI, rather than quantities sold, as originally reported by Columbus. *See Comment 18.*

Finally, we excluded certain selling expenses from the submitted general and administrative (G&A) expense ratio.

We compared the weighted-average COP for Columbus to home market sales prices of the foreign like product, as required under section 773(b) of the Tariff Act. In determining whether to disregard home market sales made at prices less than the COP we examined whether such sales were made (i) in substantial quantities within an extended period of time and (ii) at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared COP to home market prices, less any applicable movement charges, early payment and other discounts, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C)(i) of the Tariff Act, where less than twenty percent of a respondent's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in "substantial quantities." Where twenty percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determine such sales to have been made in substantial quantities, in accordance with section 773(b)(2)(C)(i) of the Tariff Act. In addition, we determine that such below-cost sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Tariff Act. In such cases, pursuant to section 773(b)(2)(D) of the Tariff Act, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time. Therefore, we disregard the below-cost sales. Where all sales of a specific product were at prices below the COP we disregard all sales of that product.

Our cost test for Columbus revealed that for certain products less than twenty percent of Columbus's home market sales were at prices below Columbus's COP. We retained all sales of those products in our analysis. For other products more than twenty percent of Columbus's sales were at prices below COP. In such cases we disregarded the below-cost sales, while retaining the above-cost sales for our analysis. See Memorandum For the File, "Antidumping Duty Investigation on Stainless Steel Plate in Coils from the Republic of South Africa—Final Determination Analysis for Columbus Stainless," March 19, 1999 (Final Determination Analysis Memorandum).

Price-to-Price Comparisons

For those products with home market prices at or above the COP, we based NV on Columbus's sales to unaffiliated home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Tariff Act. We continued to make circumstance-of-sale (COS) adjustments in accordance with section 773(a)(6)(c)(iii) of the Tariff Act, with the following exceptions.

As Columbus had no short-term rand-denominated borrowings, we recalculated home market credit expenses (and ICC) using publicly-available interest rates released by the South African Reserve Bank, as confirmed in the International Monetary Fund's International Financial Statistics series. *See Comment 5.*

We have reclassified certain home market advertising expenses as indirect selling expenses and, with the exception of direct advertising expenses incurred on sales of 3CR12 steel, are not deducting Columbus's advertising expenses from NV as a COS adjustment. *See Comment 7.*

Finally, we removed computer programming language calculating a "commission offset" to NV for commissions on U.S. sales based upon the conclusions outlined in response to *Comment 4.*

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a home market match of identical or similar merchandise. We calculated CV based on the costs of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. See section 773(e)(1). In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A expense and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in South Africa. We calculated the cost of materials, fabrication, and general expenses based upon the methodology described in the *"Cost of Production Analysis"* section, above. For selling expenses, we used the weighted-average home market selling expenses. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses from NV and adding U.S. direct selling expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Tariff Act.

Analysis of Interested Party Comments

Issues Relating to Sales

Comment 1: Use of Facts Available. Petitioners press for the use of partial adverse facts available in calculating Columbus's antidumping margin for this final determination, insisting that Columbus "failed to provide material information requested by the Department," and that much of the information Columbus did provide could not be verified. According to petitioners, these failures taint a broad range of both the sales and cost data submitted by Columbus during the course of this investigation. As examples petitioners charge Columbus with, *inter alia:*

- Failing to report properly home market and U.S. post-sale price adjustments;
- Failing to provide a verifiable short-term interest rate for rand-denominated loans for calculating home market credit and ICC and, further, failing to inform the Department of the nature of its actual borrowing during the POI;
- Improperly omitting certain expenses in its reported COP and CV data [1];
- For one raw material input, ferrochrome, reporting prices paid to an affiliated party which do not reflect arm's-length prices, and refusing to provide either the affiliate's COP for ferrochrome or its prices to unaffiliated customers for comparison purposes;
- Failing to account for the different work stations and processing times required in the production of each specific stainless steel plate product;
- Calculating weighted-average COP and CV data on the basis of sales quantity rather than production quantity, as required by the Department; and
- Failing to reconcile reported COP and CV to Columbus's audited financial statements.

See Petitioners' Case Brief, January 25, 1999, at 2 and 3.

Considered together, petitioners aver, these deficiencies necessitate the use of adverse facts available for all missing or unverifiable data. Further militating for the use of facts available, petitioners continue, is that each of these deficiencies was only disclosed during the Department's sales and cost verifications, in spite of numerous opportunities afforded Columbus by the Department to submit correct data in the form required. *Id.* at 4.

According to petitioners, "Columbus's behavior in this investigation cannot be characterized as a good faith effort to comply with the Department's investigation." Petitioners' Case Brief at 5. For example, petitioners contend that despite the Department's initial and supplemental requests for information on post-sale price adjustments in the home and U.S. markets, Columbus submitted no such data; however, petitioners note, at verification Columbus "was able to provide . . . 'a complete listing of all credit and debit notes issued during calendar 1997.'" *Id.* at 5, quoting the Department's Sales Verification Report at 35. Similarly, petitioners insist, the Department repeatedly requested that Columbus submit its average COP and CV data weighted on the basis of production quantities, as required by the Department. Instead, petitioners charge, Columbus used sales quantity as the weighting factor, withholding the production quantity until Columbus provided it in the course of the Department's cost verification (*i.e.*, over a month after the Department's preliminary determination). Petitioners charge Columbus with repeatedly failing to supply requested information in a timely manner, only to produce the information "with no apparent difficulty" once the Department uncovered the omissions during the sales and cost verifications. *Id.* at 6.

In light of what petitioners characterize as incomplete, untimely, and unverifiable sales and cost information, petitioners urge the Department to find that Columbus "failed to satisfy the requirements of section 782(e) of the (Tariff) Act." [2] *Id.* Following the statutory language, petitioners detail these alleged failings: first, according to petitioners, Columbus untimely submitted its COM. Second, petitioners charge Columbus with failing to provide cost data which could be reconciled with Columbus's audited financial statements. Third, petitioners allege, Columbus's responses are so incomplete they cannot reliably serve as a basis for reaching the final determination in this investigation. Fourth, petitioners suggest that the sales and cost verifications proved that Columbus failed to act to the best of its ability in responding to the Department's requests for information. Finally, petitioners aver, the Department cannot use the data as submitted by Columbus without undue difficulty, arguing, for example, that it would be "unduly burdensome" for the Department to search out appropriate arm's-length short-term interest rates as surrogates for the rates reported by Columbus. Petitioners' Case Brief at 6 and 7.

According to petitioners, the numerous material discrepancies in Columbus's questionnaire responses require the Department to make the adverse inferences called for in section 776(b) of the Tariff Act. Petitioners view these deficiencies, affecting such "core" issues as the cost test, calculation of CV, differences-in-merchandise (difmer) adjustments, and other sales adjustments, as clear demonstration that Columbus failed to act to the best of its ability by cooperating with the Department's requests for information. Citing the Statement of Administrative Action (SAA) accompanying the URAA, petitioners note that the Department "may employ adverse inferences about missing information to ensure that a party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." Petitioners' Case Brief at 8, quoting the SAA, as reprinted in H.R. Doc. No. 103–316 (1994). Therefore, petitioners conclude, the Department must apply adverse facts available "to situations where Columbus was unable to provide any evidence in support of its response." *Id.*

Columbus objects to these characterizations of its behavior in this proceeding, accusing petitioners of "occasional lapses of reason." Columbus's Rebuttal Brief at 1. Petitioners' sole end, Columbus maintains, is to persuade the Department to disregard verified information and to "punish" Columbus through the use of "unreasonable adverse inferences." Columbus rejects petitioners' efforts to "paint Columbus in the blackest of colors, making wild claims of 'non-cooperation' that have absolutely no basis in fact." This proceeding, Columbus suggests, is an investigation, not "a math test, for which the student is taken to task for every mistake." *Id.*

Columbus denies each of petitioners' contentions that it acted in bad faith, submitted untimely or incomplete information, or failed to cooperate by acting to the best of its ability in this proceeding. Petitioners' charges, Columbus maintains, "are either

[1] The precise nature of these expenses necessitates reference to business proprietary information. For a full discussion of these issues, see the Cost Verification Report.

[2] Briefly, section 782(e) of the Tariff Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by (the Department)" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information, and the Department can use the information without undue difficulties.

demonstrably false or are so distorted as to be unreconcilable with the facts." Columbus's Rebuttal Brief at 2.

Each claim of verification "failures" posited by petitioners, Columbus insists, is either untrue or represents an "inadvertent omission." *Id.* at 3. However unfortunate, Columbus submits, Columbus corrected these omissions immediately upon discovery. In Columbus's view there is no justification for disregarding Columbus's submitted and verified information in favor of facts available. In fact, Columbus maintains, petitioners attempt to use Columbus's responsiveness in identifying and correcting problems at verification as evidence that Columbus was uncooperative. Such a view, Columbus argues, "perversely twists" Columbus's cooperation, especially when considering that Columbus was undergoing a simultaneous countervailing duty investigation before the Department and a separate antidumping proceeding brought by the European Union. *Id.* at 4.

Columbus maintains that under the terms of sections 776 and 782 of the Tariff Act the Department must clear several statutory hurdles prior to resorting to facts available. Section 776(a), Columbus notes, limits the use of facts available to those situations where (i) necessary information is not on the record, (ii) an interested party withheld or refused to provide requested information, (iii) an interested party significantly impeded the proceeding, or (iv) the submitted information cannot be verified. Further, section 776(b) allows the use of adverse inferences only where "an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." Columbus's Rebuttal Brief at 5 and 6. Finally, Columbus argues, even in cases where a respondent's submitted information fails to meet all of the Department's requirements section 782(e) of the Tariff Act provides that the Department will "not decline" to use that information if:

> (1) The information is submitted by the deadline established for its submission,
>
> (2) The information can be verified,
>
> (3) The information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,
>
> (4) The interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and,
>
> (5) The information can be used without undue difficulties.
>
> Columbus's Rebuttal Brief at 6, quoting section 782(e) of the Tariff Act.

The use of adverse facts available in the instant case, Columbus avers, would meet none of these statutory requirements. According to Columbus, the record demonstrates that all necessary information was on the record, that Columbus responded in a timely manner by providing requested information, that Columbus did not impede the investigation, and that the Department was able to verify the submitted information. Any use of facts available, let alone adverse facts available, Columbus argues, would be "illegal." *Id.*

Columbus contends that the "punitive" use of facts available has been rejected by the courts. *Id.* at 7, citing *Magnesium Corporation of America* v. *United States*, 938 F. Supp. 835, 903 (CIT 1996), and *Taiwan International Standard Electronics, Ltd.* v. *United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990). Further, Columbus maintains, the use of adverse inferences is especially unwarranted here, as Columbus "*never* refused to cooperate." *Id.* (original emphasis). The use of adverse facts available in this case, Columbus continues, would also be contrary to Departmental practice in cases where a cooperative respondent nevertheless provided a deficient response. Columbus's Rebuttal Brief at 9, citing *Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 30326, 30329 (June 14, 1996). Columbus also cites *Circular Welded Non-Alloy Steel Pipe From South Africa*, (61 FR 24271, 24272, May 14, 1996), where the Department found a respondent's questionnaire response "unusable for purposes of margin calculations," yet did not draw adverse inferences in assigning facts available. *Id.*

Columbus concludes by asserting that "there is no justification or support whatsoever for the use of 'facts available' against Columbus," and urges the Department to incorporate Columbus's verified data into this final determination. Columbus's Rebuttal Brief at 11.

Department's Position: While the Department uncovered several deficiencies in Columbus's sales and cost data during the two verifications conducted at Middelburg, we believe petitioners' characterization of Columbus's cooperation throughout this proceeding is overdrawn. We agree with petitioners that Columbus, as described in the comments that follow, committed a number of errors in compiling its responses and in certain cases failed to follow the instructions provided in the Department's questionnaires. We have addressed each of these alleged shortcomings below and have, where appropriate, resorted to facts otherwise available, including adverse facts available, when faced with irreparable shortcomings in Columbus's responses. Overall, however, we find that Columbus attempted to cooperate in this proceeding and that the deficiencies in its responses, considered either singly or collectively, do not merit the application of adverse facts available in every instance.

Petitioners appear to portray Columbus's alacrity at verification in identifying and correcting problems at verification as evincing bad faith as, in petitioners' telling, Columbus had the correct information in its possession all along yet withheld it from the Department. We agree that Columbus clearly failed to respond completely to each item in the Department's questionnaire (by not reporting credit memos, for example) and we have treated these shortcomings appropriately. However, Columbus, a first-time respondent to our questionnaires, attempted to comply with our requests for information. The record indicates that for the most part the errors and omissions in Columbus's responses were inadvertent in nature. In certain instances Columbus readily conceded errors in its response, such as its failure to include depreciation costs in its COP and CV data.

For the purpose of this final determination, therefore, we have continued to rely upon Columbus's submitted sales and cost data, adjusted appropriately for any errors or omissions on Columbus's part.

Comment 2: Date of Sale. Both petitioners and Columbus offer arguments concerning the proper date of sale for this investigation. In the Preliminary Determination the Department relied upon the invoice date as the date of sale, in keeping with the Department's regulatory preference for using the invoice date as the date of sale absent evidence "that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." 19 CFR 351.401(i).

Petitioners argue that in this case all material terms of sale are set at the time Columbus issues its order acceptance, a document confirming the quantity, price, grade, dimensions, and payment and sale terms of each order, to its customer. Petitioners further note that nothing in the regulations requires the Department to accept the invoice date as the date of sale in all cases. Citing

Certain Welded Carbon Steel Pipes and Tubes From Thailand, 63 FR 55578 (October 16, 1998) (Carbon Steel Pipes From Thailand), petitioners argue that the Department accepts the invoice date as date of sale "unless the record evidence demonstrates that the material terms of sale, i.e., price and quantity, are established on a different date." Petitioners' Case Brief at 10, quoting Carbon Steel Pipes From Thailand at 63 FR 55587 and 55588. Even more on point, petitioners suggest, is the Department's ruling in Circular Welded Non-Alloy Steel Pipe From the Republic of Korea, 63 FR 32833 (June 16, 1998) (Korean Non-Alloy Steel Pipe) which cites the Department's discretion to "abandon the use of invoice date" if doing so prevents "inappropriate comparisons via the strict use of invoice date as the date of sale." *Id.*, quoting Korean Non-Alloy Steel Pipe at 63 FR 32835.

According to petitioners, the situation with respect to Columbus closely mirrors that found by the Department in Korean Non-Alloy Steel Pipe. Referring to the Department's findings during the sales verification of Columbus, petitioners note that upon receipt of an order Columbus conducts certain internal technical and credit checks and then issues an order acceptance reflecting the customer's purchase order number, customer information, payment and sales terms, quantities and prices. This demonstrates clearly, petitioners maintain, that the essential terms of sale are established upon issuance of the order acceptance. Such a conclusion, petitioners continue, is supported by Columbus's technical manager, who opined during a plant tour conducted as part of verification that changes to a production order are extremely rare once the order acceptance has been issued.

Columbus in its Case Brief argues, contra petitioners, that the invoice date represents the only appropriate date of sale for purposes of the final determination because "there can be changes to the price, volumes, specifications, or delivery terms (including partial non-delivery) up until that date." Columbus's Case Brief at 17. Further, Columbus avers, use of the invoice date is consistent both with Columbus's internal records kept in its ordinary course of business, and also with generally-accepted accounting principles (GAAP) in South Africa. Columbus suggests that, contrary to petitioners' assertions, the Department's sales verification found specific examples during the POI of changes to the material terms of sale occurring at points between the order acceptance date and the invoice date. Columbus's Case Brief at 18, citing the Sales Verification Report at 7 through 9. "This discussion," Columbus insists, "should settle the matter." *Id.*

With respect to the comments of Columbus's Technical Manager, Columbus dismisses the importance of these statements. According to Columbus the key to this passage in the Sales Verification Report is the qualifying phrase "to (his) knowledge . . ." Columbus insists that "many changes to the order . . . have nothing to do with the technical specifications of the product ordered. The technical manager would have no way of knowing about—and would not care about—such changes." Columbus's Case Brief at 18. Furthermore, Columbus avers, a customer's change in technical specifications could be satisfied by drawing merchandise from another order or from stock on hand; clearly, such changes in the material terms of sale would have no effect whatever upon Columbus's production schedule. *Id.* Columbus suggests that the resolution to this controversy over date of sale lies in Columbus's sales documentation and the Department's discussions with sales rather than production personnel. Accordingly, Columbus concludes, the Department should continue to use the date of invoice as the date of sale.

Department's Position: Petitioners have presented cogent arguments in this case in support of using the order confirmation date as the date of sale. They have pointed out that the respondent is a mill which largely produces the merchandise under investigation to fill specific orders. Therefore, as petitioners see it, once the mill has scheduled the casting of a specific stainless slab for rolling to a given stainless coil, little room remains for altering the essential terms of sale.

Columbus, for its part, has presented arguments that the material terms of sale are subject to change at any time between the order acceptance and invoice dates and has indicated that not all such changes would be reflected in the production department's order acceptance (for example, in cases where Columbus satisfied a changed order by either drawing merchandise from a different order already in production or from inventory, or in any cases involving price changes). Further, Columbus has noted that changes in prices "may be influenced by a number of factors, such as a change in market circumstances, a delay in production and therefore delivery, a non-conformance to quality, or a change in the circumstances of the buyer." Columbus's November 2, 1998 supplemental response at 3. Indeed, we observed evidence of each of these types of changes during the Department's sales verification. When pressed at verification Columbus was able to produce specific examples involving both subject stainless coil and non-subject cut-to-length stainless steel where the material terms of sale did, in fact, change after the order acceptance date and before final shipping and invoicing. See, e.g., the Sales Verification Report at 7 through 9 and Appendix III.

The Department's regulations establish a rebuttable presumption that the invoice date will serve as the date of sale unless record evidence demonstrates "that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." 19 CFR 351.401(i). "Our current practice, in a nutshell, is to use the date of invoice as the date of sale unless there is a compelling reason to do otherwise." Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 63 FR 13170, 13194 (March 18, 1998) (Korean Cold-Rolled Flat Products). After reviewing the evidence of record in this proceeding we have reached several conclusions. First, we agree with Columbus's assertion, borne out at verification, that its internal records and financial statements do not recognize a sale until dispatch and invoicing. For example, in an exchange with the Department over this issue Columbus noted that no merchandise leaves the mill (and, hence, no invoice will be issued) until Columbus has in hand a guarantee of payment, be it an irrevocable letter of credit or the extension of credit backed by an insurance policy against non-payment. Columbus stressed that "[i]t is that clear—no payment, no sale." Columbus's November 2, 1998 supplemental response at 4. Second, we find that Columbus has presented evidence that the material terms of sale are, in fact, subject to change after the order confirmation date. As noted, Columbus presented examples from the POI where either quantity or price or both changed after the order acceptance had been issued, but prior to the invoice date, including one reported U.S. transaction selected at random by the Department for a "surprise" sales trace. Thus, as we concluded in Korean Cold-Rolled Flat Products, "there is no record evidence indicating that a date other than the invoice date is the date after which the essential terms of sale could

not be changed." Id. at 13195 (emphasis added).

Petitioners' citation to Carbon Steel Pipes From Thailand is instructive in this matter. In that case petitioners argued for use of the respondent's contract date as the date of sale noting that by using the invoice date "(1) a different set of sales will be evaluated, (2) in a country subject to currency devaluation or inflation, the sales value may be distorted, and (3) incorrect dates lead to incorrect matching, all of which ultimately distorts the antidumping duty margin." Id. at 55587. The Department disagreed with petitioners in that case concluding that "[p]etitioners" claim that the contract date fixes prices and quantities is not supported by record evidence." Id. at 55588. As to the specific objections raised in Carbon Steel Pipes From Thailand to relying upon the invoice date as opposed to the order confirmation date, Columbus has adduced evidence that shifting to one or the other date of sale will not effect a substantive change in the Department's analysis. While a change to order acceptance date would mean that some transactions currently listed as taking place early in the POI would be omitted from our analysis, whereas other transactions presently considered as falling after the POI would be included, the resultant overall volumes under either scenario are comparable. See Columbus's November 2, 1998 supplemental response at 6 and Appendix 1. Furthermore, the relative lag between order acceptance and invoice dates on home market and U.S. sales do not differ to a significant degree.[3] Thus, the universe of sales subject to our analysis would not change substantially were we to opt for the order date as the date of sale. As for the second point noted in Carbon Steel Pipes From Thailand, the South African rand was stable against the U.S. dollar throughout our POI, as were interest rates in South Africa. Thus, concerns about devaluation and inflation are not at issue. As for the third point concerning model matching, the evidence of record indicates that Columbus sold the same limited number of grades of stainless steel in both the home and U.S. markets, thus attenuating fears that our model matches have been skewed by reliance on invoice date. As we concluded in Stainless Steel Wire Rod From Italy, "(g)iven the circumstances and the fact that we compared POI-average NVs to POI-average EPs, we find that no material distortion exists in our price-to-price comparisons." Notice of Final Determination of Sales At Less Than Fair Value: Stainless Steel Wire Rod From Italy, 63 FR 40422, 40425 (July 29, 1998).[4]

The record does not indicate that changes in the essential terms of sale between order acceptance and invoice dates occur with high frequency. However, there is sufficient evidence of record that changes can and do occur to militate against petitioners' contention that we must abandon the presumptive date of sale identified in the Department's regulations in favor of using Columbus's order acceptance date. Therefore, because Columbus's internal records kept in its normal course of business do not recognize any sale until the invoice is issued, and because Columbus has presented evidence that the essential terms of sale can and do change between issuance of the order acceptance and subsequent invoicing, we have continued to rely upon Columbus's reported invoice dates as the dates of sale for this final determination. In the event this investigation should result in the publication of an antidumping duty order, however, we intend to re-examine this issue thoroughly in any subsequent review involving Columbus.

Comment 3: Post-Sale Price Adjustments. Columbus and petitioners both comment in their case and rebuttal briefs upon the Department's findings at verification concerning certain unreported post-sale price adjustments. During the POI Columbus issued credit notes (i.e., credit memos) adjusting prices on certain transactions either as a result of price discrepancies or quality complaints. However, Columbus's questionnaire responses did not include a claim for home market credit notes, nor did Columbus report any credit notes for its U.S. sales. At verification the Department discovered a limited number of these credit notes relating to Columbus's home market and U.S. sales of stainless coil.

Columbus insists that the failure to report credit notes on sales of subject stainless coil stemmed from an inadvertent oversight. In Columbus's view, these omissions "were minor, were not to the benefit of Columbus, did not impede the investigation, and were remedied as soon as they were discovered." Columbus's Case Brief, Executive Summary at page i. Columbus attributes its failure to include these credit notes in its sales database to an absence of any direct link in Columbus's accounting system between the credit notes and the applicable invoice.

Columbus urges the Department to consider these credit notes in reaching its final determination in this case. However, Columbus asserts that the credit notes warrant differing treatment depending upon the market in which they were issued. Credit notes issued for home market sales, Columbus insists, should be treated as direct adjustments to price, as these represent corrections to incorrect price surcharges. In contrast, Columbus argues that credit notes issued for U.S. sales of subject coil should be afforded treatment as indirect selling expenses, as they represent voluntary "goodwill payments" arising from quality complaints. According to Columbus, credit notes on U.S. sales do not represent price adjustments, as the original price had been agreed upon and paid. Further, they do not arise from warranty payments since, Columbus insists, subject plate is not sold under warranty. Columbus's Case Brief at 2. Therefore, Columbus notes, it is under no legal obligation to issue these credits. Id. at 3. Citing Dry Cleaning Equipment From West Germany; Preliminary Results of Antidumping Duty Administrative Review, 52 FR 2124 (January 20, 1987), Columbus maintains that it is the Department's practice to treat voluntary goodwill payments as indirect selling expenses.

Petitioners argue to the contrary that Columbus did, in fact, have a means of linking all credit notes issued during the POI to the original sales invoices. Petitioners assert that Columbus "admitted" that it could tie these credit notes to their applicable invoices through the Mill Production Order (MPO), a document generated for each order in Columbus's normal course of business. Petitioners' Case Brief at 13, citing the Sales Verification Report at 35. Petitioners argue that Columbus "was aware that it had debit and credit notes that could and should have been reported to the Department in its home and U.S. market sales files." However, petitioners continue, Columbus "unilaterally decided not to report these data to the Department." *Id.* Accordingly, petitioners suggest that as partial facts available the Department should make adjustments only for debit notes issued in the home market and for credit notes issued on U.S. sales.

In its rebuttal brief petitioners reject Columbus's characterization of this omission as "minor and inadvertent." The Department's analysis, petitioners

[3] The exact numbers of days for the respective markets is business proprietary information. See Columbus's November 2, 1998 submission.

[4] It must be noted that in making this argument the Department agreed with petitioners that the customer's purchase order date, rather than respondent CAS's invoice date, represented the appropriate date of sale; that said, the point is no less relevant to the instant proceeding.

argue, hinges on determining the prices actually paid for the merchandise in the respective markets. According to petitioners, Columbus cannot rely upon the "excuse" that it has no direct link between its credit notes and the original invoices, suggesting that this is "true of many adjustments to price required by the statute." Petitioners" Rebuttal Brief at 13. Petitioners renew their proposal that the Department as adverse facts available consider only credit notes issued on U.S. sales and disregard those reported on home market sales. Further, in adjusting for the U.S. credit notes, petitioners urge the Department to disregard Columbus's "invitation" to treat these as indirect selling expenses: "[c]redit and debit notes are properly regarded as adjustments to gross price." Id. Petitioners also dismiss Columbus's suggestion that its U.S. credit notes were not price adjustments "since the price had been agreed to and paid." *Id.* at 14, quoting Columbus's Case Brief at 2 and 3. Rather, petitioners continue, by issuing a credit note Columbus was agreeing to a modification of the original price in response to customer complaints; in keeping with the Department's practice, petitioners conclude, these credit notes must be applied to particular sales.

Department's Position We agree with petitioners. The Department routinely asks respondents for information concerning billing adjustments and post-sale price adjustments during antidumping proceedings. For example, the Department's original antidumping questionnaire in this investigation asked Columbus to "[r]eport any price adjustments made for reasons other than discounts or rebates. State whether these billing adjustments are reflected in your gross unit price." Antidumping Questionnaire, May 27, 1998, at page B–20 (home market) and C–18 (United States). Columbus's response for the home market: "This field is not applicable. No price adjustments were done after invoicing. The price as reflected on the invoice is the price paid by the customer." Columbus's July 20, 1998 questionnaire response at B–27. Likewise for its U.S. sales Columbus reported that "(n)o price adjustments were made after invoicing." Id. at C–27. For both markets Columbus stated that it did not offer any discounts other than home market early payment and distributor discounts. Columbus also reported that it granted no rebates and incurred no warranty or technical service expenses in either market. Id. at B–30, B–41, B–42, and C–29 and C–46.

The Department's supplemental questionnaire asked several follow-up questions concerning both discounts and rebates in the home market. In its September 8, 1998 supplemental questionnaire response Columbus reiterated that it granted no rebates during the POI and noted that its export-promotion discounts did not apply to POI sales of subject merchandise. See Columbus's September 8, 1998 response at 26 and 27; see also the Department's Sales Verification Report at 51 ("Columbus did not include technical or warranty expenses in its home market or U.S. sales listings.").

At commencement of the Department's sales verification on November 16, 1998, consistent with our standard practice, we provided Columbus with the opportunity to submit any corrections of minor errors discovered while preparing for verification. Columbus submitted a single correction pertaining to its indirect selling expenses; Columbus again did not report any credit notes or price adjustments on either U.S. or HM sales. However, several days into the verification, during a lengthy discussion of quantity and value, Columbus produced a list of home market and U.S. credit notes. Columbus acknowledged that it "had made no provisions for credit or debit notes or returns," and further allowed that it could link any such credit or debit notes to the original invoices through the MPO, a document generated in its ordinary course of business. See Sales Verification Report at 35.

The findings at verification amply demonstrate that Columbus not only issued credit notes pertaining to sales of subject plate in coil during the POI, but had the means to link each credit note to the appropriate invoice through the MPO. The record is also clear that Columbus reported none of these notes in spite of our manifest instructions that it do so. In view of the evidence of record we find that Columbus failed to act to the best of its ability in responding to this portion of the Department's original antidumping questionnaire. Section 776(a)(2) of the Tariff Act holds that if an interested party withholds information that has been requested by the Department or fails to provide such information by the deadlines for submission, the Department shall use the facts otherwise available in reaching its final determination. See Section 776(a)(2)(A) and (B). Further, pursuant to section 776(b) of the Tariff Act, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department "may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available."

Furthermore, we find that the caveats set forth in section 782 governing the use of facts otherwise available are inapplicable in the instant case. In response to our direct requests that Columbus report home market and U.S. billing adjustments, rebates, and technical and warranty expenses, Columbus answered specifically that none of these applied to Columbus's sales during the POI. At no time prior to verification did Columbus acknowledge that it did, in fact, issue credit notes pertaining to quality complaints involving subject merchandise, nor did Columbus ever plead that it was unable to submit information regarding these "inapplicable" price adjustments. Furthermore, subsection 782(e) is inapposite as the Department is not "declin[ing] to consider information that is submitted" by Columbus. Columbus failed to submit this information in response to our requests. However, the information was belatedly provided by Columbus during the November 1998 verification and verified by the Department at that time.

Accordingly, as facts available in the instant case we have allocated each U.S. credit note to its applicable invoice and have deducted a transaction-specific per-ton amount for those credit notes. Furthermore, as an adverse inference, we are disallowing all credit notes claimed by Columbus for sales in the home market. As the SAA makes clear, the Department "may employ adverse inferences about missing information to ensure that a party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." SAA, as reprinted in H.R. Doc. No. 103–316 (1994). Columbus ignored our specific instructions that it report billing adjustments, including "any price adjustments made for reasons other than discounts or rebates." Thus, to insure that Columbus does not "obtain a more favorable result," we are allowing the U.S. credit notes while adopting the adverse inference that Columbus issued no credit notes in the home market. *See, e.g., Gray Portland Cement and Cement Clinker From Mexico,* 62 FR 17148, 17166, (April 9, 1997) (home market freight expenses disallowed because respondent's "reported data (were) inconsistent with the Department's explicit instructions").

Comment 4: U.S. Commissions. Claiming that it pays commissions in the U.S. market but none in the home market, Columbus notes that the Department's practice in such situations is to make an adjustment to NV—the

"commission offset"—to account for the U.S. commission. Columbus's Case Brief at 1, citing section 19 CFR 351.410(e) of the Department's regulations. The Department, in fact, described this offset in its October 27, 1998 Preliminary Analysis Memorandum. However, Columbus maintains, Columbus's reported gross unit prices for its U.S. sales do not include the commission amounts. Accordingly, Columbus asks that the Department add U.S. commissions to the gross unit U.S. prices before making price-to-price comparisons. Columbus notes that although the Department discovered at verification that Columbus had made "a small overstatement" of the commissions, nevertheless, Columbus concludes, "the Department was able to verify the correct calculation of this commission." *Id.* at 2 and n. 1.

Petitioners "do not disagree with Columbus's suggestion" to add U.S. commissions to the gross unit U.S. price. Petitioners' Rebuttal Brief at 1. However, petitioners assert that if the Department does so, it must also add U.S. commissions to the calculation of NV and CV to ensure the proper consideration of U.S. commissions in the Department's final determination.

Department's Position: We disagree with both Columbus and petitioners. Columbus's position notwithstanding, we do not find the adjustments claimed as U.S. commissions are commissions at all for purposes of an antidumping analysis. As instructed in the Department's questionnaire, Columbus reported in its U.S. sales listing its first sales to unaffiliated customers in the United States. See, e.g., Columbus's June 24, 1998 section A response at 17 through 19. In its supplemental response Columbus, noting that it considers these unaffiliated customers as its agents, nonetheless stated that it invoices and sells the merchandise to these customers and receives payment from them. These companies then resell the product to their unaffiliated customers. See Columbus's September 8, 1998 supplemental response at 47 and 48. Thus, throughout this investigation the U.S. sales prices which have been subject to our analysis have been those reported by Columbus to its named EP customers.

The amounts claimed as "commissions" for these transactions are not related in any way to the reported sales to Columbus's EP customers. Columbus has not reported any commissions paid in connection with its first sale to an unaffiliated party in the United States. Regardless of whether the amounts claimed by Columbus are commissions, or simply mark-ups passed on to the subsequent end-user customer, they are related to the resales by Columbus's EP customers, not the sales upon which our dumping analysis is based. We have accordingly limited our analysis of Columbus's EP transactions to those involving Columbus's first sales in the United States to unaffiliated parties and have not considered further the additional amounts claimed as commissions by Columbus.

Comment 5: Home Market Short-Term Interest Rates. Petitioners urge the Department to treat Columbus's home market short-term interest rate as "unverified" and to disallow entirely Columbus's claimed adjustments for home market credit expenses and ICC. Petitioners point to statements made by Columbus officials at verification that it had no short-term rand-denominated borrowing; Columbus claimed, therefore, to have used "call" rates, or interest rate quotes supplied by Columbus's banks, in calculating home market credit expenses and ICC. Petitioners' Case Brief at 15, quoting Columbus's Section B response at pages 38 and 46. Petitioners note Columbus's admission at verification that it solicits these "call" rates via telephone and maintains no documentation to support these numbers. "Without independent verification," petitioners insist, "the Department is not in a position to confirm the accuracy of the submitted data." As a result, petitioners conclude, the Department must treat Columbus's home market interest rates as "unverified" and deny the claimed adjustments for credit expenses and ICC.

Columbus argues in its case brief that rather than disregarding its claimed credit expense and ICC adjustments, the Department should rely upon the verified prime overdraft rates available in South Africa in the absence of any short-term rand-denominated borrowing by Columbus. Columbus insists that the Department verified fully that Columbus had no short-term borrowing in the home market currency; the Department's practice in such instances, Columbus maintains, is to base home market credit and ICC calculations upon the short-term interest rates generally available in the home market. Columbus's Case Brief at 6, citing Final Determination of Sales at Less Than Fair Value; Certain Pasta From Turkey, 61 FR 30309, 30324 (June 14, 1996), and Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand (Canned Pineapple Fruit), 60 FR 29553, 29557 (June 5, 1995). Therefore, Columbus concludes, the Department should rely upon the verified prime overdraft rates submitted by Columbus at verification. Id.

In rebuttal petitioners assert that the sales verification report clearly states that "no existing documentation supports these numbers." Petitioners' rebuttal brief at 2, quoting the Sales Verification Report at 46. Petitioners likewise describe as unavailing Columbus's attempts during verification to substantiate its prime overdraft rates, insisting that Columbus's short-term interest rates were not verified.

Columbus, in turn, argues in its rebuttal brief that its short-term interest rates were fully verified. Columbus acknowledges that its original response used "call" rates obtained by telephone by the Columbus official responsible for preparing Columbus's response. However, Columbus asserts, that official left the company and Columbus could not subsequently locate the underlying documentation for these rates. Therefore, in responding to the Department's October 15, 1998 supplemental questionnaire, and well prior to verification, Columbus provided prime overdraft rates "which represent the available short-term rand interest rates in South Africa." Columbus's Rebuttal Brief at 17. Columbus insists that these prime overdraft rates were documented and verified. Therefore, Columbus avers, these rates should be used in calculating home market credit expenses and ICC.

Department's Position: We agree with Columbus that the short-term prime overdraft rates available in South Africa should serve as the basis of Columbus's credit and ICC calculations in the absence of short-term borrowing in the home market. While petitioners note correctly that the Department could not verify the "call" rates used to calculate Columbus's credit and ICCs, as we will explain below, we do not believe this "failure" warrants application of adverse facts available. Columbus claimed at verification that the official responsible for compiling the "call" rates had since left Columbus's employ and that this individual's interest rate worksheets were no longer available. Thus, in response to our specific request, Columbus collected and presented information to substantiate the prime overdraft rates available to commercial borrowers in South Africa. We were able to document and verify these rates through records Columbus keeps in its normal course of business. Furthermore, we confirmed these rates using publicly-available data on interest rates in South Africa as published by the International Monetary Fund (the IMF) in its International Financial Statistics for September 1997, January

1998 and June 1998 (we selected all three volumes to capture monthly prime overdraft rates for each of the twelve months of calendar 1997).

According to Columbus, it originally obtained the "call" rates used in calculating credit and ICC expenses by telephoning its leading commercial bank and inquiring about the interest rates that would be available to Columbus if it were seeking short-term rand-denominated loans. The bank, after considering prevailing interest rates and Columbus's history with the institution, responded with the "call" rates originally submitted by Columbus on July 20, 1998. Thus, these "call" rates represented the interest rates available on rand-denominated loans specifically to Columbus from this bank. These were the rates we referred to in our verification report when we noted that "no existing documentation supports these numbers." Sales Verification Report at 46.

Once Columbus admitted during verification that it could not substantiate its credit expenses as reported using the "call" rates, it presented documentation on interest rates drawn from its internal cash management system. These rates coincide with those released by both the South African Reserve Bank and the IMF's International Financial Statistics. As discussed in the Sales Verification Report at pages 46 and 47, Columbus operates an internal system to manage daily cash flows which tracks the various interest rates available from certain commercial banks. This prime overdraft rate was constant from November 1996 [5] through October 20, 1997, at which point it changed once for the duration of the POI. See the Sales Verification Report and Exhibit 15 thereto.

The record establishes that Columbus had no short-term rand-denominated loans from unaffiliated lenders. The Department's antidumping duty questionnaire at page B–27 asked Columbus for information on its short-term interest expenses and instructed Columbus to "use a published commercial short-term lending rate" if it had no short-term borrowings during the POI. With no actual home-market short-term loans to serve as a basis for its interest rate, Columbus attempted to respond to this question by telephoning its bank and, in effect, asking this bank what interest rates would have been available to Columbus had it borrowed during the POI. In our October 15, 1998 supplemental questionnaire the Department subsequently asked Columbus to substantiate the rates quoted by this bank and to "provide South African interest rates for the POI obtained from publicly-available sources (such as those published on a monthly basis in business publications or released by the South African Reserve Bank)." October 15, 1998 supplemental questionnaire at 2. Columbus's response, while failing to indicate that its original interest rates could not be substantiated, nevertheless complied with our request for information on short-term interest rates available from the South African Reserve Bank.[6]

While it is true that we could not verify the "call" rates used in Columbus's original and revised home market sales listings, we must point out that these "call" rates bear no relationship to any actual short-term loans taken by Columbus, nor did Columbus fail to disclose any home market borrowing or otherwise misstate its short-term interest expenses. This is not a case where Columbus had short-term loans in the home market, incurred actual short-term interest expenses, and then was unable to substantiate these expenses at verification. Rather, in response to a direct question from the Department, Columbus attempted to respond to the best of its ability by determining precisely what rates it could have obtained had it actually borrowed money in the home market. Petitioners' suggested response would have the Department penalize Columbus for failing to provide substantiation for interest rates which, in effect, never existed outside of an informal inquiry from Columbus to its bank.

The Department has over time developed a policy to address specifically situations such as the instant case where a respondent has no short-term borrowing from unaffiliated parties in the currency of either the export market or the United States. On February 23, 1998, the Department promulgated Import Administration Policy Bulletin 98.2, "Imputed Credit Expenses and Interest Rates." As we explain in this document, the Department at one time calculated imputed interest expenses to reflect the "opportunity cost of money" incurred in extending credit by using the actual short-term interest rates incurred in the home market to calculate both home market and U.S. credit and ICC (except in exporter's sales price (now, CEP) situations, where we would use the short-term dollar-denominated interest rates for transactions in the United States). However, in 1990 the Court of Appeals for the Federal Circuit overturned this practice, stating that the cost of credit "must be imputed on the basis of usual and reasonable commercial behavior," and that the short-term interest rates used should conform with "commercial reality." *LMI-La Metalli Industriale S.p.A.* v. *United States*, 912 F.2d 455, 460 (Fed. Cir. 1990). Our policy bulletin concluded that "[i]n cases where a respondent has no short-term borrowings in the currency of the transaction, we will use publicly available information to establish a short-term interest rate applicable to the transaction." The bulletin further noted that in the rare cases where a respondent has no short-term loans from unaffiliated parties in the home market currency we will establish interest rates on a case-by-case basis "with a preference for published average short-term lending rates." Policy Bulletin 98.2 at 6.

As Columbus had no short-term rand-denominated loans from unaffiliated parties, the alternative, and the Department's stated preferences in such cases, is to use publicly-available interest rate information. Thus, for purposes of this final determination we have recalculated Columbus's home market credit expenses and ICC using the publicly-available rates of the South African Reserve Bank as confirmed by the IMF's International Financial Statistics.

Comment 6: Marketing and Market Development Costs. Petitioners urge the Department to recalculate Columbus's indirect selling expenses by deducting those expenses relating to "sales and marketing" and general market development. Petitioners note that the Department's Sales Verification Report described the cost centers identified by Columbus to determine the pool of expenses for use in calculating its indirect selling expenses. According to petitioners, Columbus added to its indirect selling expenses those costs relating to "general expenses and salaries pertaining to its market development cost centers." Petitioners' Case Brief at 14, quoting the Sales Verification Report at 53 and 54. However, petitioners insist that general expenses not related to sales of such or similar merchandise do not qualify for treatment as indirect selling expenses.

[5] The reference to "November 1997" at page 47 of the Sales Verification Report is a typographical error

[6] Columbus submitted information on prime overdraft rates drawn from the South African Reserve Bank's Worldwide Web site (*www.resbank.co.za*) at Exhibit 3 of its November 2, 1998 supplemental response. Columbus did not indicate that its reported short-term interest rates could no longer withstand verification, however, stating cryptically that "[t]he final credit expenses may have to be calculated based on the attached." Id. at 8.

Id. and n. 58, citing Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, *et al.*, 58 FR 39729, 39749 (July 26, 1993) (Antifriction Bearings). Rather, petitioners assert, the marketing and market development expenses at issue are by definition "general expenses," which should be included in the general and administrative (G&A) expenses used to adjust COP and CV. Id. Petitioners further accuse Columbus of including in its G&A calculation certain costs and revenue they characterize as "non-operating items." Petitioners' Case Brief at 25. Columbus's G&A ratio, petitioners insists, must be adjusted by excluding all such items.

Columbus argues that all expenses incurred by its sales department in "marketing, selling and promoting sales of subject merchandise are plainly selling expenses" which, Columbus maintains, should not be considered part of its G&A. Columbus's Rebuttal Brief at 15. Further, Columbus avers, in the sole case cited by petitioners to support the reclassification of its sales and marketing expenses, Antifriction Bearings, the Department concluded just the opposite, that the marketing and market development expenses at issue were, in fact, indirect selling expenses. "Expenses incurred to market and to expand and develop the market for Columbus's products," Columbus insists, "are plainly associated with sales of those products." Columbus's Rebuttal Brief at 16.

Treating these expenses as indirect selling expenses, Columbus argues, is consistent with the Department's own antidumping questionnaire. Further, Columbus asserts, petitioners' claim that these expenses should be classified as general expenses related to cost of production runs contrary to the Department's section D questionnaire, which defines "general expenses" as "period expenses which relate indirectly to the general production operations of the company." Columbus's Rebuttal Brief at 16, quoting the Department's questionnaire at D–25. According to Columbus, marketing and market development expenses intended to promote sales "do not belong in this category of expenses." Id. at 17.

Department's Position: We agree with Columbus. We reviewed the expenses at issue during both the sales and cost verifications in this case (see, e.g., the Sales Verification Report at 53 and 54—"we examined the various expenses and noted no discrepancies"). As noted in the Sales Verification Report, Columbus has established cost centers for its export marketing and for each of its local sales offices. In addition, Columbus relies on a separate cost center to accrue expenses relating to its market development efforts in South Africa. Because these costs are related, albeit indirectly, to promoting sales in the home market, as opposed to Columbus's general operation or its production of stainless steel, we have continued to treat these costs as indirect selling expenses for this final determination.

With respect to the amounts claimed by petitioners to be "non-operating items," our review of the relevant expenses and revenues indicates that these items relate to the general operations of the company as a whole and, therefore, are properly considered as part of Columbus's G&A.

Comment 7: Home Market Advertising Expenses. Columbus reported adjustments for home market advertising expenses claiming these were "assumed" on behalf of the buyer, thus warranting treatment as direct selling expenses pursuant to the COS provision of 19 CFR 351.410(d). These expenses fell into three categories: print advertising expenses, maintenance of a stadium box at the Ellis Park Stadium, and expenses arising from Columbus's sponsorship of an annual "3CR12 Squash Tourney."

Petitioners maintain that Columbus's various claimed advertising expenses qualify as indirect rather than direct selling expenses. According to petitioners, Columbus has failed to demonstrate that any of the expenses relating to its magazine advertisements, as well as those stemming from the publication of Contact, an in-house newsletter, qualify as direct selling expenses. Further, petitioners argue, Columbus uses the hospitality suite at Ellis Park Stadium to entertain Columbus's customers, including distributors, at rugby matches, not to entertain its customers' customers. Similarly, the 3CR12 Squash Tourney fails to qualify as a direct advertising expense because the tourney was open to users of stainless steel generally, and not limited to specifiers of the specialty 3CR12 product (or, for that matter, subject stainless steel plate in coil). Petitioners' Case Brief at 17. Therefore, petitioners conclude, the Department must disallow any adjustment for advertising as a direct selling expense and instead treat the expenses as indirect selling expenses in their entirety.

In their rebuttal brief petitioners note that to qualify for an adjustment as a direct selling expense, 19 CFR 351.410(d) requires advertising expenses to "bear a direct relationship to (a) particular sale" or to be "assumed by the seller on behalf of the buyer." Petitioners' Rebuttal Brief at 3, quoting 19 CFR 351.410(d). Petitioners point to the findings in the Department's Sales Verification Report as demonstrating that "all of Columbus'(s) claimed direct advertising expenses are general in nature, and fail to meet the criteria for consideration as an assumed selling expense." Id. at 4.

Columbus argues that its advertising expenses incurred in the home market are assumed on behalf of the buyer and merit adjustment under the COS provision. For example, Columbus asserts, expenses relating to the corporate box at the Ellis Park Stadium and those connected to the squash tournament sponsored by Columbus qualify as direct advertising expenses. Conceding that "some portion" of the magazine advertising purchased by Columbus, as well as an unspecified portion of the Ellis Park Stadium expenses, may appropriately be considered indirect in nature, Columbus nonetheless urges the Department to either treat advertising costs as direct expenses in their entirety or to "apportion them reasonably between 'assumed' and 'indirect' expenses." Columbus's Case Brief at 7.

In addition, Columbus notes that during the sales verification the Department discovered that some of the reported advertising expenses had been based upon budgeted, rather than actual, costs. Columbus urges the Department, therefore, to base any adjustment for advertising expenses upon the actual verified expenses in lieu of the incorrect budgeted amounts originally reported.

Finally, Columbus disagrees with petitioners' contention that these advertising expenses cannot be considered as direct selling expenses because the advertising at issue may reach a broader audience than purchasers of subject stainless steel plate in coil; Columbus asserts that in many cases the customers of Columbus's customers are purchasing merchandise which has been further processed so as to no longer constitute the foreign like product. Columbus's Rebuttal Brief at 18. Columbus maintains that whether the downstream sale comprises subject or non-subject merchandise has no bearing on the proper treatment of the advertising expenses assumed by Columbus on behalf of the buyer (i.e., Columbus's customers).

Department's Position: We agree in part with petitioners. We reviewed Columbus's claimed advertising expenses exhaustively at verification and found that most, if not all, of these

promotional expenses were incurred either in marketing to Columbus's customers, as in the case of the Ellis Park Stadium box, or as general corporate promotion in the case of Columbus's print advertising.

With respect to this last category of expenses, we reviewed numerous samples of Columbus's print advertising which reflected high-quality glossy art and copy suitable for publication as full-page advertisements. These advertisements are intended to promote either the benefits of stainless steel generally, or Columbus's image as a reliable supplier of high-quality stainless steel; by Columbus's own admission, most of these advertisements, including advertisements promoting sales of coiled hot-bands, are aimed at distributors; "Columbus acknowledged that end-users are not purchasing stainless coils, or large quantities of cut stainless sheet." Sales Verification Report at 49. Likewise, as petitioners note, Columbus's in-house publication Contact is addressed "to you, our valued customers." Columbus's September 8, 1998 supplemental response at Exhibit K. Thus, we conclude that Columbus's print advertising expenses are aimed primarily at Columbus's customers, with the remaining expenses promoting Columbus's general corporate image. As such, these expenses do not represent expenses assumed by Columbus on behalf of its customers, and do not merit treatment as a COS adjustment.

Similarly, the record indicates that the Ellis Park Stadium box is used primarily to entertain Columbus' customers at rugby matches. As Columbus noted, 13 of the 15 seats in the box are devoted to use by the local sales department. "Columbus claims that employees of catalytic converter companies, tanktainer manufacturers, and Columbus' distributors were the most common recipients of passes to the box." Sales Verification Report at 49. Thus, we find that these expenses represent indirect selling expenses incurred by Columbus in marketing stainless steel products to its customers, not direct selling expenses assumed by Columbus on behalf of its customers.

Finally, as regards the 3CR12 Squash Tourney, we discussed this tournament at verification with the public relations officials at Columbus and reviewed the list of participants included in the tourney's brochure. We confirmed that virtually all of the contestant teams represented mining companies or other end users of 3CR12 steel products. While Columbus acknowledged that "the scope of the tourney extended beyond end users of 3CR12," the very name of the tournament coupled with the makeup of the tournament's competitors makes it clear that these expenses were incurred to promote sales of 3CR12 stainless to end-user customers. The Court of International Trade addressed a similar issue in *Smith Corona Group* v. *United States*, 540 F. Supp. 1341 (CIT 1982), aff'd 713 F.2d 1568 (Fed. Cir. 1983). There, the Court found that

> [w]hile the challenged ads were not exclusively directed to the relevant merchandise, a portion of each advertising effort was. In a purely metaphysical sense, Smith Corona is correct in that the ad expense cannot be directly correlated with specific sales. Yet, the statute does not deal in imponderables.

In a later case involving the same parties, *Smith Corona* v. *United States*, 771 F. Supp. (CIT 1991), the Court likewise concluded that "(e)ven if the evidence that the advertisements contained institutional or corporate themes were substantial, it would still not undermine the agency's determination, for the existence of such themes does not necessarily diminish direct promotion therein of particular products."

As with Smith Corona's advertisements, so too Columbus' 3CR12 Squash Tourney is directed towards end users of 3CR12 steel, i.e., the customers of Columbus' customers. That Columbus realizes some measure of general corporate promotion at the same time "does not necessarily diminish direct promotion therein of particular products." Accordingly, while we have disallowed the balance of Columbus' claimed advertising expenses as COS adjustments, treating these instead as indirect selling expenses, we have treated the actual costs of sponsoring the 3CR12 Squash Tourney as direct selling expenses assumed by Columbus on behalf of its customers and have allocated these expenses over home market sales of 3CR12 steel only.

Comment 8: Other Direct Selling Expenses for 3CR12 Steel. Petitioners, noting that Columbus incurs certain expenses in the United States in selling 3CR12 stainless steel, argue that the Department must calculate an amount for "other direct" selling expenses for sales of this product. Petitioners' Case Brief at 17. These expenses, petitioners argue, include those relating to sales visits paid by employees of a wholly-owned Columbus subsidiary to its customer's customers. As such, petitioners insist, the costs relating to these visits represent direct expenses Columbus has assumed on behalf of its customer, an unaffiliated distributor.

In response Columbus avers that its expenses relating to U.S. sales of 3CR12 steel are indirect in nature, arising primarily from general market promotion for this specialty product. "[T]here is no indication," Columbus insists, "that the visits to the customers were an 'assumed' expense." Columbus' Rebuttal Brief at 18 and 19. Further, Columbus argues, the customer visits were just one of a range of activities of these employees. Even if the attendant expenses qualify as 'assumed' expenses, Columbus submits, the resulting adjustment "would plainly be de minimis," and could not support treating all fixed expenses in the U.S. as direct selling expenses. Id.

Department's Position. During our verification in Middelburg we reviewed the activities of personnel stationed in the United States and agree with Columbus that the expenses arising from these activities represent indirect selling expenses. Columbus maintains a wholly-owned subsidiary in the United Kingdom whose "sole function is the sale and distribution of 3CR12 and the development of the market for 3CR12, primarily in Europe." Columbus' September 8, 1998 supplemental response at 9. As Columbus explained at verification, the personnel maintained by Columbus' subsidiary have technical expertise necessary to develop the market for 3CR12, a unique, corrosion-resistant "utility" steel "which is used extensively in the mining, sugar, and coal industries, and in the manufacture of railway wagons, bus bodies and automobile frames." Columbus' June 24, 1998 section A response at 8, n.1. According to Columbus, it developed this grade of steel and currently holds patents and trademarks on it.

After successfully introducing the steel in South Africa, Columbus noted, it is now attempting to promote this grade in the export market, focusing on the same industry sectors. However, Columbus maintains, because of 3CR12's unique properties, for example, its weldability, it required individuals with specific technical expertise to promote sales of Columbus' 3CR12 products to its customers. See, e.g., Columbus' September 8, 1998 supplemental response at 9. At verification we confirmed that all sales and distribution of 3CR12 steel in the United States are the responsibility of an unaffiliated distributor which purchases the material from Columbus' wholly-owned subsidiary in the United Kingdom. The individuals stationed in the United States, on the other hand, act only to distribute technical information about 3CR12's characteristics to potential customers and to promote new

applications for a grade of steel that is relatively little-known in the United States.

Because there is no evidence of record that the expenses associated with the personnel stationed in the United States by Columbus' U.K. subsidiary are direct in nature or that these expenses were assumed by Columbus on behalf of its U.S. customers the expenses are properly considered indirect selling expenses, and have been so reported by Columbus. We have continued to treat these expenses as such for this final determination.

Comment 9: Inland Insurance Expenses Incurred In South Africa for U.S. Sales. According to petitioners, the Department should apply partial facts available to calculate inland insurance expenses incurred in South Africa for sales to the United States. Petitioners note that Columbus reported these insurance premiums using the policies' formula of multiplying a stated premium factor by 110 percent of the invoice value. However, petitioners accuse Columbus of: (i) Reporting an incorrect amount for inland insurance, (ii) reporting the premiums in the wrong currency, and (iii) failing to offset its premium expenses with a rebate Columbus received for overpayments of its premiums. Further clouding the issue, petitioners maintain, is that Columbus's insurance broker "was originally founded specifically to provide insurance underwriting for Columbus Joint Venture." Petitioners' Case Brief at 18, quoting the Sales Verification Report at 44. For these reasons petitioners insist that the Department should disregard Columbus' reported inland insurance, applying instead the highest reported insurance expense to all U.S. sales whose terms were either CFR or FOB.

Columbus accuses petitioners of distorting the Department's findings at verification with respect to its foreign inland insurance, asserting that it is "flatly wrong" that Columbus mis-reported this expense, used the inappropriate currency, or failed to account for a substantial rebate. According to Columbus, the company reported this expense "exactly as it is incurred," multiplying the premium rate by 110 percent of the invoice price. The reason Columbus is unable to trace specific insurance payments for specific shipments, Columbus explains, is that it pays these premiums in advance against anticipated shipments. The exact amount is adjusted after the fact to reconcile the pre-paid premiums based upon estimated shipments to those based upon actual shipments during the period. "It is absurd," Columbus complains, "to claim that this is a verification failure." Columbus' Rebuttal Brief at 19. Columbus also dismisses petitioners' insinuations that its insurance provider is affiliated with Columbus. The insurance brokerage's name was chosen, Columbus maintains, when the company was founded to provide insurance underwriting for Columbus Joint Venture and the name was thought to lend status to the new concern. There is no relationship, Columbus insists, between Columbus and its insurance broker. Id. at 20.

Department's Position. Petitioners' objections to Columbus' inland insurance expenses appear to arise from a misreading of the Department's Sales Verification Report. We verified fully Columbus' inland insurance expenses and noted no discrepancies in these expenses or the reporting methodology employed by Columbus. Calculating this insurance is simply a matter of multiplying the invoice value by 1.1 and multiplying that product by the premium rate specified in Columbus' insurance policy. As to petitioners' contention that Columbus reported this expense in the "wrong" currency, although Columbus remits its prospective payments in rand, the insurance premiums are based upon the value in U.S. dollars of each shipment and are properly reported in U.S. dollars. Further, as this expense is calculated as a fixed percentage of value multiplied by a fixed premium rate, whether Columbus reports it in dollars or in rand converted to dollars has no effect on our calculations. Finally, with respect to the rebate for overpayments of premiums, the Sales Verification Report failed to make clear that this represented monies paid in advance by Columbus but subsequently refunded by the insurance brokerage when Columbus' prospective payment based upon anticipated shipments exceeded the premium charges based upon actual shipments. This refund did not reflect a price concession by the insurance broker. Thus, the refund had no effect upon the inland insurance expenses reported by Columbus in its sales listings. Therefore, we have accepted Columbus' reported inland insurance amounts for this final determination.

Comment 10: Recalculation of Inventory Carrying Costs. Columbus points out that the COM used as the basis for calculating Columbus's ICC in its home market and U.S. databases has been subjected to several revisions as a result of supplemental cost questionnaires and the Department's cost verification. These "various adjustments to COM," Columbus asserts, explain why "Columbus was unable to reconstruct the reported ICC" at verification. Columbus's Case Brief at 5, quoting the Sales Verification Report at 53. Reconstructing the original ICC would not be helpful, Columbus insists, because changes resulting from the supplemental cost questionnaires and verification would necessitate a recalculation in any event. The only outstanding verification issue relating to ICC, Columbus maintains, is a discrepancy of one day between the weighted-average days in inventory. "Such a small difference does not mean," Columbus avers, "that Columbus" inventory carrying costs could not be verified." Id.

Department's Position: We agree with Columbus, and have used the revised COM calculated for this final determination as the basis for calculating Columbus's ICC. As explained in the comments under "Cost Issues," below, we have made a number of adjustments to Columbus's COP data as a result of either findings at the Department's cost verification or comments by the interested parties or both. See the Cost Verification Report and the Cost Calculation Memorandum (Final). Just as we have determined that it would be inappropriate to use Columbus's reported COM as the basis for its COP and CV data, it would likewise be inappropriate to use demonstrably inaccurate COM data as the basis for Columbus's ICC expenses. Accordingly, we are using Columbus's COM, as adjusted for this final determination, in calculating ICCs.

Comment 11: Other Corrections. Columbus, noting that the Department conducted separate sales and cost verifications, requests that any changes in Columbus's data arising from one verification be reflected in the data verified at the other. This is necessary, Columbus insists, to avoid double-counting any expenses. For example, Columbus continues, the Department found that certain public relations expenses had been included both as a general overhead cost in Columbus's COP data and as a direct selling expense in Columbus's home market sales data. Similarly, certain marketing expenses were reported as G&A in both the sections B and D responses. When adding these expenses to Columbus's indirect selling expenses, Columbus urges the Department to make an offsetting deduction from G&A in Columbus's reported COP to avoid double-counting.

Petitioners suggest without further elaboration that the Department correct a number of errors in Columbus's response, referring to various points in the Department's Sales Verification

Report. Petitioners' Case Brief at 19, citing pages 34 and 42, and Appendices IV, II and III of the Sales Verification Report.

Department's Position: As noted in the comments herein, we have attempted to adjust expenses appropriately to reflect any revaluations or recalculations performed on Columbus's sales and cost data. Wherever a recalculation has affected one set of data we have, as appropriate, made the corresponding adjustments to Columbus's other data.

As to petitioners' contentions, we are unable to find any specific errors needing remedy in the first two cites offered. The third citation involved installment payments for one home market sale; we have continued to rely upon the reported date of payment, as this represented the date of receipt of the customer's final payment. The fourth item related to wharfage expenses incurred on U.S. sales and we have adjusted this expense to reflect the actual verified amount. The final item concerns the reported date of payment for one U.S. transaction; we find that Columbus reported properly the payment date and no correction is necessary for this transaction.

Issues Relating to Cost of Production

Comment 12: Revaluation of Raw Material Costs. Columbus explains that its accounting system kept in its normal course of business records raw material costs as of the date the finished product is sold. These costs, in turn, form Columbus's cost of sales. Columbus will then adjust its raw material costs back to their "cost as purchased" by means of a revaluation adjustment. Columbus's Case Brief at 8. Columbus claims that the Department erred in its Cost Verification Report when it stated that Columbus's internal system for accounting for variances in raw material costs has no impact on Columbus's reported COP. Id., citing the Cost Verification Report at 8. It would be wrong, Columbus insists, for the Department to disregard the revaluation adjustment when calculating Columbus's COP.

Columbus notes that section 773(f)(1)(A) of the Tariff Act calls for the Department normally to calculate COP on the basis of the records of the exporter or producer, provided these records i) are kept in accordance with GAAP in exporting country, and ii) "reasonably reflect the costs associated with the production and sale of the merchandise." Columbus's Case Brief at 8, quoting section 773 of the Tariff Act. The company's records are kept in accordance with GAAP, Columbus submits, and include the provision for revaluation of raw material costs as part of its COP for sales made during the POI. By means of the revaluation adjustment, Columbus argues, Columbus's records "precisely track the actual costs incurred with respect to the subject merchandise." Id. at 9. Columbus asserts that stainless steel sold in, e.g., January would have been produced from raw materials purchased in a prior month; thus, valuing the raw material costs based upon the date of sale has the effect of distorting these costs. "It would be wrong," Columbus submits, "to assert that a sale is below cost because its price fails to cover, not the actual raw material cost of the product, but the cost of raw materials being purchased in January for production later in the year." Id. at 9.

Even if the Department concludes that only costs incurred during the POI (calendar 1997) should serve as the basis for COP for sales during the POI, disregarding the revaluation adjustment will not accomplish this end. As reported, Columbus argues, Columbus's revaluation adjustment includes not only adjustments between the last quarter of 1996 and the first quarter of 1997, but also the adjustments applied for each quarter of 1997 (i.e., during the POI). Thus, such a calculation would inappropriately include in Columbus's COP costs it did not incur with respect to producing the subject merchandise. Columbus's Case Brief at 10.

Petitioners suggest that Columbus has incorrectly included an accounting adjustment made to its cost of sales in its reported cost of production. "As we understand it," petitioners submit, Columbus's revaluation adjustments are applied to its finished goods inventory and its cost of goods sold (COGS), but not to its COP. The COP, petitioners aver, is "unaffected by this revaluation process." Petitioners' Rebuttal Brief at 7. Therefore, petitioners conclude, Columbus's revaluation adjustments must be excluded from Columbus's reported COP.

Department's Position: We disagree with Columbus that the revaluation adjustment should be included in reported COP and CV. The Department's long-standing practice is to calculate COP and CV based on the COM of the subject merchandise produced during the POI, rather than on the COGS during the POI, because the COM represents the costs incurred in manufacturing the product during the relevant period. The Department does not use the COGS because it includes the value of merchandise held in inventory at the beginning of the period and excludes the value of merchandise produced but not sold during the period. The value of the merchandise sold from beginning inventory reflects the COM of the previous period. Additionally, COGS may include inventory values that have been adjusted (e.g., through inventory write-down) to the lower of cost or market value and, therefore, do not reflect the actual production costs. This methodology is supported by section 773(b)(2)(D) of the Tariff Act, which states that the recovery of costs is provided for "(i)f prices which are below the per unit cost of production at the time of sale are above the weighted average per unit cost of production *for the period of investigation or review*." (emphasis added). Sections 773(b)(2)(D) and 773(e)(1) of the Tariff Act state that the cost of the products shall be determined "during a period which would ordinarily permit the production of the merchandise in the ordinary course of business." In the instant case using the COM during the POI covers the period needed to produce the subject merchandise just prior to export and excludes the changes in inventory. See Notice of Final Determination of Sales at less Than Fair Value: Certain Preserved Mushrooms from Indonesia, 63 FR 72268, 72273 (December 31, 1998).

We have used the reported COM incurred during the POI to calculate COP and CV because it was never revalued to current prices, and therefore does not need to be adjusted back to the original cost. The revaluation adjustment proposed by Columbus does not affect the reported COPs and CVs which are based on COM because, as Columbus notes, the revaluation adjustment is recorded as part of the COGS, not the COM. Therefore, we have not considered the revaluation adjustment in calculating COP and CV.

Comment 13: Inclusion of Depreciation Expenses in Cost of Production. Petitioners aver that Columbus's reported costs of manufacture must be adjusted to account for certain depreciation expenses excluded from the original COP data.[7] Petitioners note Columbus's suggestion at the cost verification that this amount be added to G&A expenses; however, petitioners argue, "depreciation expense is one component of COM," which in turn serves as the basis for calculating G&A

[7] Petitioners bracketed the word "depreciation" as business proprietary information subject to protection from disclosure under administrative protective order. However, Columbus in its Rebuttal Brief publicly disclosed the specific nature of the expenses; therefore, we are free to discuss the expense in this public forum. See Columbus's Rebuttal Brief at 20.

and interest expenses. Petitioners' Case Brief at 19 (original bracketing omitted). If the calculation of COM is flawed, petitioners note, any subsequent calculations based on that number will suffer the same defect. Petitioners recommend that the Department correct the error by including the omitted depreciation in Columbus's COM, thereby increasing the total costs.

Columbus acknowledges that it inadvertently excluded depreciation from its reported COP. Columbus attributed the oversight to a misunderstanding between Columbus officials as to the proper classification of the expense. Accordingly, Columbus points out, it presented its correction of this error at the start of the Department's cost verification. As to its suggestion that depreciation be included in the pool of G&A expenses, Columbus insists it offered this proposal "for simplicity's sake;" Columbus has no objection to including depreciation in COM as long as G&A and other adjustments to COP are calculated using the corrected COM. Columbus's Rebuttal Brief at 21.

Department's Position: We agree with petitioners and Columbus and have included Columbus's depreciation expenses in its COP and CV. See Comment 14, immediately below.

Comment 14: Inclusion of Additional Depreciation Expenses. Petitioners insist that Columbus's COP and CV data must also include additional depreciation expenses omitted by Columbus.[8] Petitioners insist that these expenses, attributable to a new production facility, are properly included in COP, arguing that Columbus's internal accounting system so treats these costs. Therefore, in accordance with Columbus's own accounting policies, the depreciation expenses at issue must be factored into the calculation of Columbus's COP.

Columbus notes that the Department's Cost Verification Report implies that the Department will add this depreciation to COP, and argues that it would be incorrect to include expenses not recognized by either Columbus's audited financial statements or South African GAAP. Citing section 773(f)(1)(a) of the Tariff Act, Columbus notes that COP will normally be calculated using the records kept by the exporter or producer if the records are kept in accordance with local GAAP and "reasonably reflect the costs associated with the production and sale of the merchandise." Further, the Department

> shall consider all available evidence on the proper allocation of costs * * * if such allocations have been historically used by the exporter or producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs.
>
> Columbus's Case Brief at 13, quoting section 773 of the Tariff Act.

Columbus avers that its cost accounting system, in full accordance with South African GAAP, does not consider the depreciation at issue a cost of production, but instead allocates the depreciation of assets over their average useful life. Accordingly, Columbus notes, it did not take the full charge for depreciation during its build-up to full design production capacity, but instead has spread its depreciation over the span of the useful life of the facility. Further, Columbus has historically treated these expenses in precisely this fashion. Consistent with the Department's determinations in Certain Preserved Mushrooms From Chile (63 FR 56613, 56620, October 22, 1998) and Static Random Access Memory Semiconductors From the Republic of Korea, (63 FR 8934, February 23, 1998), Columbus suggests, the Department must not adjust for these depreciation expenses.

In its rebuttal Columbus suggests that petitioners "completely misconstrue Columbus's financial statements" in arguing that Columbus's internal accounting policies support petitioners' proposed treatment of these expenses. Columbus's Rebuttal Brief at 21. Columbus accuses petitioners of quoting from the incorrect and irrelevant passage from Columbus's accounting policies and asserts that the depreciation expenses at issue are not properly considered part of Columbus's COP.

Petitioners reject Columbus's contention that its accounting for these expenses is either in accordance with South African GAAP or "reasonably reflect[s] the cost of producing the subject merchandise," citing Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Canada, 63 FR 9182, 9187 (February 24, 1998), and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From South Africa, 60 FR 22520, 22526 (May 8, 1995). Petitioners note that Columbus stated in its section A questionnaire response that it employs a straight-line method for depreciating assets. This, petitioners assert, is consistent with South African GAAP, which provides for the depreciation of plant and equipment "on a systematic basis over its useful life." Petitioners' Rebuttal Brief at 8, quoting South African GAAP, AC 123.44 (December 1994). The problem, petitioners maintain, is that South African GAAP defines "useful life" as either a specified period of time or the number of production units expected to be obtained. "Thus, the useful life can either be a period of time or a number of production or similar units, not a hybrid of the two." Id. at 9. Further, petitioners insist, under South African GAAP "straight-line depreciation results in a constant charge over the useful life of the asset." Id., quoting South African GAAP at AC 123.51 (petitioners' emphasis omitted). Petitioners suggest that U.S. GAAP further stipulates that straight-line depreciation "is a function of the passage of time and * * * is not affected by asset productivity, efficiency, or degree of use." Id., quoting Seidler, Lee J., and D.R. Carmichael, Accountant's Handbook, (New York, Ronald Press, 1981) (petitioners' emphasis omitted).

Petitioners conclude that Columbus's chosen method of accounting for its depreciation expenses significantly understates Columbus's COM. This "distortive" methodology, petitioners aver, should be rejected by including the additional depreciation in Columbus's costs.

Department's Position: We agree with petitioners that these depreciation amounts should be included in Columbus's cost of producing merchandise during the POI. In accordance with section 773(f)(1)(A) of the Tariff Act, the Department normally relies on data from a respondent's books and records if those records are prepared in accordance with the home country's GAAP, and where they reasonably reflect the costs of producing the merchandise. Typically, GAAP provides both respondents and the Department with a reasonably objective and predictable basis by which to compute costs for the merchandise under investigation. However, in those instances where the Department finds that a company's normal accounting practices result in a mis-allocation of production costs, the Department will adjust the respondent's costs or use alternative calculation methodologies that more accurately capture the actual costs incurred to produce the merchandise. See, e.g., New Minivans from Japan: Final Determination of Sales at Less Than Fair Value, 57 FR 21937, 21952 (May 26, 1992) (adjusting a respondent's U.S. further manufacturing costs because the company's normal accounting methodology did not result in an accurate measure of production costs)..

[8] The precise nature of these expenses involves discussion of business proprietary information. See Cost Calculation Memorandum (Final).

In the instant case we have determined that the exclusion of this depreciation expense would result in an understatement of the actual costs of producing the subject merchandise. We have therefore included this item in Columbus's COP. Further discussion of the precise nature of these depreciation expenses necessitates reference to business proprietary information. For a full discussion of this depreciation adjustment see the Department's Cost Calculation Memorandum (Final).

Comment 15: Columbus's Costs for Ferrochrome. Both petitioners and Columbus make affirmative arguments on Columbus's reported costs for input ferrochrome used in producing stainless steel. Petitioners, noting that Columbus purchases ferrochrome from an affiliated party, submit that Columbus should have reported the supplier's cost of production for ferrochrome and the supplier's prices for ferrochrome sold to unaffiliated customers. Despite the Department's specific requests (and petitioners' comments on this specific issue), petitioners maintain that Columbus failed to provide this information, relying instead upon the transfer prices between the affiliated supplier and Columbus to value its ferrochrome inputs. Petitioners argue that, consistent with the findings of the Department's cost verification, the Department must disregard the transfer prices between Columbus and its affiliated supplier and instead use market prices as quoted in the Metal Bulletin to value ferrochrome.

Conversely, Columbus argues that the Department should rely upon the ferrochrome prices it reported in its COP response. Columbus maintains that the reason it did not submit the cost and price data of its affiliated supplier is because it does not have access to the affiliated supplier's cost data, not due to any lack of willingness or diligence on its part. In any event, Columbus asserts, verification demonstrated that the prices Columbus paid the affiliate for ferrochrome were at arm's length, as required by the terms of the joint venture agreement. Columbus insists that the international benchmark price data it provided at verification further attest to the reasonableness of its reported ferrochrome costs. While claiming that Columbus has no access to its affiliated supplier's cost data, Columbus avers that it is clear that the supplier is a profitable concern. The supplier's financial statements, reviewed at the cost verification, reveal that ferrochrome production is a major business activity for the supplier and that Columbus was one of the supplier's largest purchasers of ferrochrome. According to Columbus, the supplier "is a profitable, successful supplier of ferrochrome, and it could not be so if it were selling ferrochrome below its cost of production." Columbus's Case Brief at 17. Further, Columbus charges, the suggestion that the supplier would sell ferrochrome at below-cost prices to an affiliate in which it has only a one-third share is "contrary to all evidence and to logic," as any such below-cost sales would redound to the benefit primarily of the other shareholders, and not to the supplier. Columbus closes by asserting that there is no evidence that the ferrochrome prices are not at arm's length or that these prices are below the supplier's cost of production. Therefore, Columbus insists, there are no grounds for disregarding the affiliated supplier's prices in valuing this input.

In rebuttal petitioners suggest Columbus's direct presentation "makes no new arguments, only repeat[ing] the ones the Department has rejected in the past." Petitioner's Rebuttal Brief at 10. In fact, petitioners continue, Columbus admits in its case brief that the so-called arm's-length prices it pays are then adjusted for certain expenses. Id. at 11 and n.38. "These adjustments," petitioners aver, "are exactly the kinds of things the Department wants and needs to scrutinize but could not because Columbus has not provided the necessary information." Further, in petitioners' view Columbus failed to demonstrate that it had no access to its affiliated supplier's cost data, and "totally disregarded petitioners' suggestion" that the affiliated supplier provide its cost data directly to the Department (thus bypassing its customer Columbus and protecting these data from disclosure). Petitioners also reject Columbus's argument that it would be neither reasonable nor logical for its affiliated supplier to provide Columbus ferrochrome at less than its cost of production. Rather, petitioners insist, "these intertwining relationships are exactly the reason the Department has requested the information" on the affiliate's cost and pricing to unaffiliated customers. Id. at 12 (original emphasis). Petitioners point to Columbus's "nebulous" price adjustments, inconsistent statements, and lack of documentation as bases for disregarding Columbus's acquisition prices for ferrochrome. As petitioners frame it, "Columbus has said, in effect, 'trust us.'" Id. The Department cannot do so, petitioners argue, and must therefore base ferrochrome costs on published market prices.

Columbus, in turn, claims it provided "everything it could" to support its contention that its ferrochrome costs reflected arm's-length and above-cost prices. The sole reason Columbus failed to provide the affiliated supplier's cost of production, Columbus avers, is that it simply did not have access to the information. Thus, Columbus insists, Columbus did not "choose not to, but could not supply" the requested data. Columbus's Rebuttal Brief at 23 (original emphasis). Columbus characterizes petitioners' comparison of its ferrochrome costs to international prices as spurious, accusing petitioners of comparing Columbus's ex-works price per metric ton of ferrochrome to the published delivered price per pound of chrome (ferrochrome is 52 percent chrome). If one converts Columbus's price appropriately and adjusts for commissions, international freight and delivery expenses, Columbus suggests, one arrives at a price "entirely in line with international prices." Id. Columbus reiterates that there is no evidentiary basis for the Department to believe or suspect that the affiliated supplier's prices for ferrochrome are below either its cost of production or arm's-length prices. The Department, therefore, must use Columbus's reported ferrochrome prices in calculating COP.

Department's Position: We agree with petitioners that, in accordance with section 776 of the Tariff Act, we should use the facts available to determine Columbus's ferrochrome costs. Sections 773(f)(2) and (3) of the Tariff Act specify the treatment of transactions between affiliated parties for purposes of reporting cost data (used in determining both COP and CV) to the Department. Section 773(f)(2) states that the Department may disregard such transactions if the amount representing that element (the transfer price) does not fairly reflect the amount usually reflected (typically the market price) in the market under consideration. Under these circumstances the Department may rely on the market price to value inputs purchased from affiliated parties.

Section 773(f)(3) states that if transactions between affiliated parties involve a major input, then the Department may value the major input based on its COP if the cost is greater than the amount that would be determined under 773(f)(2) (i.e., the higher of the transfer or market price). Additionally, section 773(f)(3) applies if the Department "has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the COP of such input," the Department may disregard that price. See also, 19 CFR 351.407(b) (the Department will determine the value of a major input purchased from an affiliate based upon the higher of

transfer price, market price, or the affiliate's cost of producing the input). The Department generally finds that such "reasonable grounds" exist where it has initiated a COP investigation of the subject merchandise (see, e.g., Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany: Final Results of Antidumping Duty Administrative Review, 63 FR 13217, 13218 (March 18, 1998), and Silicomanganese from Brazil; Final Results of Antidumping Duty Administrative Review, 62 FR 37869, 37871 (July 15, 1997).

Because petitioners timely filed an allegation of sales below cost providing "reasonable grounds to believe or suspect" that Columbus made sales of the foreign like product in South Africa at prices below its COP, on August 24, 1998, we directed Columbus to respond to section D of our original antidumping questionnaire. See Letter from Richard Weible to Columbus, August 24, 1998. That questionnaire explicitly instructed Columbus to report the unit COP incurred to produce the major inputs obtained from affiliated suppliers. Our October 7 and October 23, 1998, supplemental questionnaires reiterated this instruction specifically for the affiliated purchases of ferrochrome (see questions 13 and 8, respectively). Columbus asserted that it did not have access to the affiliate's COP of ferrochrome and argued that it was sufficient that the affiliated party transactions were at arm's length. However, Columbus failed to provide evidence that the prices it paid the affiliate for ferrochrome were at arm's length. Moreover, Columbus's argument that its purchases of ferrochrome from its affiliate were at arms's length prices does not satisfy the requirement that the transfer price be above the affiliated supplier's actual COP.

In the absence of COP for the major input ferrochrome, the Department was unable to perform an analysis to determine whether the transfer prices were at or above the affiliated supplier's COP. Section 776(a) of the Act requires that the Department use the facts otherwise available when necessary information is not on the record or an interested party withholds requested information, fails to provide such information in a timely manner, significantly impedes a proceeding, or provides information that cannot be verified.

Due to Columbus's failure to provide the affiliated party's ferrochrome COP we cannot determine whether the reported transfer prices are at or above COP. As a result we find that we must rely upon the facts otherwise available for the cost of ferrochrome purchased from the affiliate. In this case Columbus did not provide any evidence indicating that it even attempted to obtain the affiliate's COP data, or otherwise supporting its claim that it could not obtain the requested data. Therefore, we determine that Columbus failed to act to the best of its ability to comply with these requests for information; accordingly we are making an adverse inference in selecting among the facts otherwise available, as provided in section 776(b) of the Tariff Act.

Columbus's ferrochrome transfer price is below the international market price as published in the Metals Bulletin submitted by Columbus for the record of this investigation. We have therefore increased Columbus's prices for ferrochrome by adding the difference between Columbus's transfer price plus estimated freight and the market price (delivered, customer's works, major European destination) as published in the Metals Bulletin. We have not included the other adjustments proposed by Columbus (e.g., commissions) since it is not clear from the record to what extent these other items are included in the Metals Bulletin price. Finally, we note that, contrary to Columbus's assertion, a net profit reflected in the affiliated supplier's financial statements does not provide evidence that its transfer prices were above COP, since such aggregated revenue and cost-of-sales data would include all products sold by the affiliated supplier to all customers.

Comment 16: Allocation of Variances. Petitioners accuse Columbus of failing to allocate properly two specific variances by including these variances in its reported COP. "Since the amount should be included in Columbus's costs, and since the amount is known, the Department should adjust Columbus's COM by adding the (specific) variance(s) to it." Petitioners' Case Brief at 22 and 23.

Columbus agrees that it inadvertently omitted one variance and slightly understated another when preparing its COP response, and that both variances should be accounted for in correcting Columbus's COP. Columbus's Rebuttal Brief at 24.

Department's Position: We agree with Columbus and petitioner that these variances should be applied to the reported COM. Therefore, we have included both variances in the COM for this final determination.

Comment 17: Allocation of Costs Based on Product Characteristics. According to petitioners, Columbus failed to account for differing physical characteristics of its products in allocating its costs of production. Petitioners maintain that factors such as the processing steps (e.g., the number of passes through a given rolling mill) and processing times [9] will vary for different stainless steel products with these differences reflected in the costs of manufacture. Petitioners suggest that the Department can recalculate Columbus' COP by backing out certain costs associated with the different production cost centers (roughing mill, Steckel mill, annealing and pickling) and allocating them back on the basis of product specifications. For example, roughing and Steckel mill costs could be allocated on the basis of production quantities and either the number of passes, processing time, or both. It would be clearly wrong, petitioners insist, for merchandise with different specifications to have the same COP; the Department, therefore, must recalculate Columbus' COM to account for these differences.

Columbus argues that any significant cost differences attributable to physical differences have been captured by its normal cost accounting system. As for differences which are not captured, Columbus insists these differences are both insignificant and unquantifiable. Columbus' Rebuttal Brief at 25. For example, the number of passes required at the Steckel mill depends on such factors as the temperature and condition of the steel, and not just the final physical characteristics as the product passes to the next work station. Thus, Columbus submits, "[t]here is no straight correlation" between the product's physical characteristics and the processing time required at each station. Columbus maintains that it quite properly did not report cost differences which could not be substantiated through empirical observation or through Columbus' normal cost accounting system. Id. at 26.

Department's Position: We agree with petitioners that differences in the cost of producing the subject merchandise due to differences in physical characteristics should be accounted for in the reported COP and CV. While we have determined in this case that the cost differences due to certain physical characteristics are either insignificant or are adequately taken into account by Columbus' reporting methodology, we have adjusted the reported costs for certain other physical characteristics. A full

[9] Petitioners bracketed this information in keeping with the draft copy of the Cost Verification Report they had at the time they prepared their case and rebuttal briefs. Columbus, however, discusses this issue publicly. See, e.g., Columbus' Rebuttal Brief at 25.

discussion of this issue necessarily involves a discussion of business proprietary information; see the Cost Calculation Memorandum (Final).

Comment 18: COP Allocated on the Basis of Sales Volumes Rather than Production Volumes. Petitioners note that Columbus reported its weighted-average costs based on sales quantities rather than production quantities, as requested by the Department. Since the Department has data on Columbus' production quantities, petitioners insist, the Department should recalculate Columbus' weighted-average COP on that basis.

Columbus counters that its records kept in the normal course of business track costs based on tons sold, not tons produced. Further, Columbus avers, the Department is investigating sales during the POI, not production during the POI. To avoid distorting Columbus' costs, Columbus argues, the Department should calculate COP on the same basis as does Columbus in its ordinary course of business. Columbus' Rebuttal Brief at 26.

Department's Position: We agree with petitioners that costs should be weight-averaged using production quantities. As noted in Comment 12, above, it is the Department's long-standing practice to calculate COP and CV based on the cost of manufacturing the subject merchandise produced during the POI, rather than on a COGS figure and its associated sales quantity, which includes inventory changes during the POI. Moreover, since the costs the Department is relying upon only include the costs for products produced during the POI, the corresponding production quantities must also serve as the appropriate base for allocation. Therefore, we have used the quantities produced during the POI (i.e., the quantities corresponding to the submitted COM) rather than quantities sold to calculate weighted-average COP and CVs.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998, the date of publication of the Preliminary Determination in the **Federal Register**.

Article VI.5 of the General Agreement on Tariffs and Trade (GATT 1994) provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented in section 772(c)(1)(C) of the Tariff Act. Since antidumping duties cannot be assessed on the portion of the margin attributed to export subsidies there is no reason to require a cash deposit or bond for that amount. The Department has determined in its Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils From South Africa that the product under investigation benefitted from export subsidies. Normally, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below, minus the amount determined to constitute an export subsidy. See, e.g. Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy, 63 FR 49327 (September 15, 1998). Accordingly, for cash deposit purposes we are subtracting from Columbus' cash deposit rate that portion of the rate attributable to the export subsidies found in the countervailing duty investigation involving Columbus (i.e., 3.84 percent). We have made the same adjustment to the "All Others" cash deposit rate by subtracting the rate attributable to export subsidies found in the countervailing duty investigation of Columbus.

We will instruct the Customs Service to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the NV exceeds the EP, adjusted for the export subsidy rate, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin	Bonding/Cash Deposit Rate (percent)
Columbus Stainless	41.63%	37.79
All Others	41.63%	37.79

International Trade Commission Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (the Commission) of our determination. As our final determination is affirmative, the Commission will determine within 45 days after our final determination whether imports of stainless steel plate in coils are materially injuring, or threaten material injury to, the U.S. industry. If the Commission determines that material injury, or threat thereof, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the Commission determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7536 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Belgium

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia or Steve Bezirganian, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202)

482–2243 or (202) 482–0162, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

Final Determination

We determine that stainless steel plate in coils ("SSPC") from Belgium is being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination (*Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Belgium*, 63 FR 59532, November 4, 1998) ("*Preliminary Determination*"), the following events have occurred:

During November 1998, ALZ submitted responses to the sales and cost supplemental questionnaires issued by the Department. On November 20, 1998, petitioners submitted comments regarding the issue of date of sale and the Department's Belgium sales verification. On November 23, 1998, ALZ submitted corrections presumably discovered while preparing for the sales verification in Belgium. On November 30, 1998, ALZ submitted pre-verification changes and new factual information to supplement its cost of production ("COP") and constructed value ("CV") information. On December 3, 1998, petitioners submitted comments on ALZ's November 23, 1998, revised section B and C submission, and on ALZ's November 23 and 30, 1998 supplemental section D questionnaire responses. On January 6, 1999, ALZ submitted certain "corrections" to the U.S. sales database discovered while preparing for the U.S. sales verification of its U.S. sales affiliate, TrefilARBED, Inc. ("TrefilARBED"). On January 11, 1999, petitioners submitted comments regarding the Department's U.S. sales verification of TrefilARBED. Finally, on January 21, 1999, ALZ submitted new computer U.S. sales listings, which included data changes identified at the outset of the U.S. sales verification.

During December 1998 and January 1999, we conducted sales and cost verifications of ALZ's responses to the antidumping questionnaire. On January 13, 1999, we issued our cost verification report (see Memorandum to Neal Halper, Acting Director, Office of Accounting: Verification of Cost of Production and Constructed Value Data—ALZ, N.V.) ("*ALZ Cost Verification Report*"). On January 27, 1999, we issued our sales verifications reports (*see Memorandum to the File: Verification of ALZ, N.V.*) ("*ALZ Sales Verification Report*") and Memorandum to the File: U.S. Sales Verification Report (*TrefilARBED/ALZ*) ("*TrefilARBED Sales Verification Report*").

Petitioners and ALZ submitted case briefs on February 8, 1999, and rebuttal briefs on February 16, 1999. On February 12, 1999, petitioners withdrew their request for a public hearing.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the "Scope of Investigation" section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's May 27, 1998 antidumping duty questionnaire and reporting instructions ("*Original Questionnaire*").

Fair Value Comparisons

To determine whether sales of SSPC from Belgium to the United States were made at LTFV, we compared constructed export price ("CEP") to the Normal Value ("NV"), as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs for comparison to weighted-average NVs .

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses ("SG&A") and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a

LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We applied the aforementioned criteria in our preliminary results, and indicated that the information on the record does not reveal meaningful differences between selling functions performed in the U.S. and Belgian markets (*Preliminary Determination* at 59533–34). As we further explain this issue in response to Comment 2, below, we continue to find that there is no basis for determining different levels of trade in the two markets and, therefore, we have continued to treat all of ALZ's home market and U.S. sales at a single level of trade. Accordingly, we have not made a LOT adjustment or CEP offset in this final determination.

Constructed Export Price

We calculated CEP in accordance with section 772(b) of the Act because sales to the first unaffiliated purchaser took place after importation into the United States.

We calculated CEP based on the same methodology used in the preliminary determination, except as noted below in "Comments" and in the Final Sales Analysis Memorandum from Abdelali Elouaradia to Steven Presing, dated March 19, 1999 ("*Final Sales Analysis Memorandum*").

Normal Value

After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparisons" sections of this notice, below.

1. Home Market Viability

As discussed in the preliminary determination, we determined that the home market was viable. *See Preliminary Determination* at 59532. The parties did not contest the viability of the home market. Consequently, for the final determination, we have based NV on home market sales.

2. Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by grade, based on the sum of ALZ's cost of materials, fabrication, general expenses, and packing costs. We relied on ALZ's submitted COPs, except in the following specific instances where the submitted costs were not appropriately quantified or valued.

(a) As facts available ("FA") for ALZ's undisclosed purchases of scrap and alloys from affiliated suppliers, we applied the highest cost reported for these materials within each grade, to the control numbers ("CONNUMs") which represent that particular grade. We address this issue further in our response to comment 13 in the "Interested Party Comments" section of the notice.

(b) We revised ALZ's general and administrative ("G&A") expenses to exclude an offset for net exchange gains. We also included exchange gains and losses related to purchases and accounts payable, consistent with our general practice in the calculation of G&A expenses. *See* Memorandum from Taija Slaughter to Neal Halper: Final Cost Analysis, dated March 19, 1999 ("*Final Cost Analysis Memorandum*").

(c) We revised ALZ's financial expense ratio using the parent company's consolidated financial statements. *See Final Cost Analysis Memorandum* at 1.

We conducted our sales below cost test in the same manner as that described in our *Preliminary Determination* at 59534. As with the preliminary determination, we found that for certain models of SSPC, more than 20 percent of ALZ's home market sales were at prices less than the COP within an extended period of time. *See* section 773(b)(1)(A) of the Act. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining above cost sales as the basis for determining NV, in accordance with section 773(b) (1) of the Act.

3. Calculation of Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of ALZ's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. We relied on the submitted CVs, except for the specific instances noted in the "Cost of Production" section, above.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on prices to home market customers, none of which we found to be affiliated with ALZ. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We made deductions for billing adjustments (*i.e.*, adjustment for transportation, when customer picks up the merchandise, invoice correction, and alloy surcharge), early payment discounts, inland freight, and inland insurance. In addition, we made circumstance-of-sale adjustments for credit, where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the amount of indirect selling expenses capped by the amount of the U.S. commissions.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A of the Act.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by ALZ.

Interested Party Comments

Comment 1: Date of Sale. Citing *Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Administrative Review*, 63 FR 55578, 55587 (October 16, 1998) ("*Pipes and Tubes from Thailand*"), petitioners argue that the Department considers date of sale to be a factual issue, decided on a case-by-case basis. According to petitioners, the Department utilizes invoice date as date of sale only if the material terms of sale, i.e., price and quantity, are not established on a different date. Petitioners note that in *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea*, 63 FR 32833, 32836 (June 16, 1998) ("*Steel Pipe from Korea*"), the Department found that the use of a date other than invoice date as date of sale is appropriate due to prior setting of terms of sale, even if that may involve basing date of sale differently in different markets, where the sales processes are quite different.

Petitioners note that, in ALZ's February 8, 1999, brief at 2, ALZ acknowledged that the invoice date is the correct date of sale for U.S. sales unless a different date *better* reflects the sale. Petitioners point out that ALZ's references to the Department's *TrefilARBED Sales Verification Report*, as evidence that terms of sale frequently change subsequent to the submission of the purchase order, are actually references to statements made by the respondent at verification and recorded in the report, rather than conclusions made by the verifiers.

Petitioners point to *ALZ Sales Verification Report* at 6, referring to ALZ's comment made during verification, as confirmation of the overriding significance of order date in the context of date of sale: (1) ALZ production is always order driven; (2) customers' order information is closely reviewed by the sales and production planning departments before production and order confirmation; and (3) order confirmation is always sent to the customer. Petitioners reject, as unverified and contrary to industry practice, TrefilARBED's assertion that, in some instances, rather than submitting a purchase order, U.S. customers might have entered into a verbal agreement with respect to terms of sale with TrefilARBED. Petitioners also note that the respondent failed to provide purchase order numbers for most of the sales in the U.S. sales database, despite the Department's request for that information. Furthermore, petitioners state that *TrefilARBED Sales Verification Report*, at 11, indicates that ALZ made efforts to limit the fluctuation of prices for the U.S. market.

Petitioners next indicate that a long time lag exists between order and invoice date across all U.S. sales, and that this time lag is considerably greater, on average, for U.S. sales than for home market sales. Petitioners note that, for U.S. further-manufactured sales, an even longer time elapses between order date and invoice date because of the additional processing involved; thus, the use of invoice date as date of sale for such transactions would be especially distortive.

Petitioners point to the absence of changes in price and quantity between the final order date (whether it be the original one or the final change order), and assert, citing *Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Belgium*, 58 FR 37083, 37090 (July 9, 1993), that the Department considers invoice date to be inappropriate as date of sale if the order confirmation date, or in some instances, the change order date, was the time during which the terms of sale were set. Petitioners state that the sales trace documentation provided by ALZ was incomplete and insufficient. Moreover, when a specific sale record only shows the final ALZ/TrefilARBED invoice, the petitioners assert that the Department must assume that the material terms of sale remained the same from order to invoice. Petitioners note that TrefilARBED acknowledged that multiple invoices are routinely used to fill orders, which explains why ordered and invoiced quantities may vary. Petitioners also note that ALZ's mill test certificates indicate quantities, so quantities shipped would clearly be known prior to actual shipment.

Petitioners further argue that the record does not demonstrate that there was a change in material terms between order date and invoice date for a number of verified U.S. sales. Regarding several other U.S. sales, mentioned by ALZ in its brief as examples of changes between order and invoicing, petitioners argue that, for U.S. sale observations #734 and #735, the changes in quantity and price occurred soon after the original order, but long before the final invoicing. For U.S. sale observations #532 and #537, the change in quantity is handwritten on the order itself, which is dated several months before the invoice. Finally, petitioners note that the change in unit price from the purchase order to the invoice for U.S. sale #329 did not reflect a change in a material term but, rather, as noted in *TrefilARBED Sales Verification Report* at 37, TrefilARBED happened to record in its gross unit price a change in delivery terms that occurred subsequent to the purchase order. Petitioners indicate that such a change would normally have been recorded as a billing adjustment and, as such, it should not be considered a change in the material terms (*i.e.*, in price and quantity) of this sale. Petitioners conclude that all of the U.S. sales cited by ALZ in support of invoice date as date of sale actually support use of order date/change order date as the proper date of sale.

Petitioners argue that the information in the record does not demonstrate that, for various verified home market sales, any changes to the terms of sale have actually occurred between order date and invoice date. Rather, in those instances, the time lag between order and invoice date is very short, often only a few days. Regarding several other home market sales, mentioned by ALZ in its brief as examples of changes between order and invoicing, petitioners argue that for home market sale observations #77 and #78, although nominal changes were observed in the manner of calculating the alloy surcharge, the final alloy surcharge was consistent with that anticipated by the original order. Also, for home market sale #77 and #78, petitioners argue that the addition of specifications to which the product should be made, up through the day of invoicing, constitutes a change in ALZ's grade and clarifies the unusually long lag period between original order date and invoice date for the above-referenced home market sale observations, even if these changes do not change the classification of the product for Department purposes. Likewise, for home market sale observation #225, petitioners argue that the change in the number of standards to which the product should be made constitutes a change in the product itself, which explains the long lag between original order date and invoice date. For home market sale observation #232, petitioners note that the alloy surcharge was changed the day of invoicing, so that the invoice serves as the change of order and explains the lag of a few months between the order date and the invoice date.

Petitioners also discuss possible changes from the order date that are not mentioned by the respondent. Petitioners note that home market sale observation #50 appears to reflect a change in product dimension from the original order to the invoiced product which, while not referenced in the report and not significant enough to change the CONNUM for the sale, would constitute an actual change in terms, which helps explain the long time lag between the original order date and the invoice date. Petitioners add that home market sale observations #227 and #228 appear to be sales destined for export through trading companies, with ALZ's knowledge. Therefore, these sales are irrelevant in the context of home market date of sale because they are properly categorized as export sales. According to petitioners, this confusion demonstrates the unreliability of the database and is grounds for use of adverse FA across the entire home market database. Petitioners note that ALZ's statement at verification that there are quantity tolerances for sales is in stark contrast with ALZ's repeated assertions, prior to verification, that there were no quantity tolerances. Petitioners also note that ALZ's characterization of BILLAD2U as a field containing adjustments related to customer claims. Petitioners also assert

that another reported billing adjustment, BILLAD1U, must relate to errors in invoicing, even though it was characterized by ALZ as freight revenue obtained from U.S. customers and that, contrary to ALZ's assertion that it reported this value as a negative number because it increases sales revenue, they in fact reported this value as a positive number in some instances. Moreover, petitioners characterize ALZ's claim at verification (see *ALZ Sales Verification Report* at 21) that it "may even agree to renegotiate the {alloy} surcharge if it had agreed to ship and invoice the merchandise in one month, but ended up doing so in the following month," as an unproven assertion.

Petitioners conclude that ALZ failed to (1) provide order confirmation numbers for U.S. sales; (2) report the change order information when terms changed after the original order; (3) admit, until verification, that quantity tolerances were used; (4) provide the general terms of its U.S. and home market order confirmations (on the un-copied back of documents it copied for submission); (5) limit its home market sales database to exclude export sales; (6) provide correct home market order/invoicing time lags in various ways (such as false classification changes); (7) explain its change to home market billing adjustment BILLAD1U; and (8) fully translate documentation prepared for verification.

Citing the Department's regulations at 19 CFR 351.401(i) (1998), ALZ argues that the invoice date should be used as date of sale unless the Department is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. ALZ notes that the preamble to the Department's final regulations explains that the reason for normally using invoice date as date of sale is to simplify the reporting and verification of information. ALZ further indicates that, as a matter of commercial reality, the date on which the terms of a sale are first agreed to is not necessarily the date on which those terms are finally established. ALZ also points out that, in *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13194 (March 18, 1998), the Department confirmed its general practice of using the date of invoice as the date of sale unless there is a compelling reason to do otherwise. ALZ argues that such compelling reasons exist only for more complex sales processes (*e.g.*, sales involving long-term contracts, or sales of large, custom-made merchandise), rather than simple submissions of purchase orders and issuances of invoices, as in this investigation. ALZ notes that the *Original Questionnaire* indicated that the Department "will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business," as the date of sale. ALZ asserts that the invoice date ties easily to the financial records and thus simplifies verification. Moreover, ALZ claims that the record of this investigation shows that the invoice date is the only date that establishes the material terms of sale for ALZ's sales in Belgium and TrefilARBED's sales in the United States. ALZ argues that, in *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada*, 64 FR 2173, 2178 (January 13, 1999), the Department used invoice date as date of sale, where the respondent demonstrated at verification that there were changes in quantity between the order date and the invoice date. ALZ further notes that petitioners incorrectly cite to *Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Belgium*, 58 FR 37083 (July 9, 1993), to demonstrate that the Department found in previous cases that the terms of sale were established on the order confirmation or the change order date. This determination, ALZ notes, was made prior to the Department's change in regulations regarding date of sale, and, thus, is irrelevant to this case.

ALZ observes that the Department acknowledged in *ALZ Sales Verification Report*, at 24, that the company official made statements regarding changes in terms of sale involving quantity, base price, alloy surcharge price, delivery terms, or changes in grade. ALZ states that these changes were obvious in the sales traces selected by the Department: two sales observations with changes involving specification and alloy surcharge, one involving changes in specification, and one involving changes in delivery terms.

ALZ also notes that *TrefilARBED Sales Verification Report* at 15 notes that "there are often changes in price" and that "it is not unusual for there to be changes in quantities from the original amount ordered, that fall outside of the tolerances of the original ordered quantity." ALZ asserts that the verification report alludes to two U.S. sales observations with distinct changes to ordered quantity and to ordered unit price (#734 & #735), two with changes only in quantity (#532 & #537), and one with a change in unit price (reflecting a change in delivery terms which TrefilARBED recorded in a revised unit price).

ALZ asserts that the record shows, and petitioners acknowledge, that the material terms of ALZ's Belgian sales and TrefilARBED's U.S. sales frequently change after the initial purchase order. ALZ argues that petitioners' attempts to establish the date of sale as the date of the final purchase order (*i.e.*, the initial one, if unchanged until invoice, or otherwise the final change order) are meaningless, as evidenced by U.S. sales observations #734 & #735. According to ALZ, although one change order for those sales resulted in new terms, they were not the final terms, because there was another change subsequent to that. ALZ asserts that, even though in this instance the final change order was approximately three months before the invoice date, the fact remains that the terms of sale could have changed at any time until the invoice date. ALZ states that the Department observed at the home market verification that an entire order may be cancelled while the shipment is on the ocean en route to the customer.

ALZ further argues that, in *Steel Pipe from Korea*, the Department determined, on the basis of verified information, that the material terms of sale in the U.S. were set on contract date and any subsequent changes were usually immaterial in nature (or, if material, they rarely occurred). According to ALZ, *Steel Pipe from Korea* differs from this case, where the Department verified that changes were of material nature and occurred on many U.S. sales.

ALZ also disagrees with petitioners' argument that purchase order date should be used as date of sale for U.S. sales simply because there was a longer time lags between the purchase order date and the invoice date, as compared to home market sales where this time lag was shorter. ALZ notes that, in *Steel Pipe from Korea*, the Department used the purchase order date because of a long time lag. However, ALZ notes that, in that case, the respondent's sales process in the home market was to sell out of inventory. ALZ's sales in the home market, on the other hand, are made to order and, therefore, according to ALZ, the gap between the purchase order date and invoice date was longer in *Steel Pipe from Korea* than the gap between order date and invoice date for ALZ's home market and U.S. sales. Furthermore, ALZ argues that petitioners' calculations of the average differences in time lags between purchase order and invoice dates between U.S. and home market sales are

flawed because they employ weight-averaging, which gives more weight to back-to-back sales than inventory sales, thereby producing a longer overall average difference.

ALZ also questions petitioners' claim that certain ALZ home market time lags are "aberrationally long," and thus not representative, without considering certain U.S. sale time lags as similarly long. ALZ proposes to eliminate sales with aberrtionally long time lags from both the U.S. and home market sales data base, noting that the difference in average time lags for U.S. sales versus home market sales is reduced even further if sales with aberrationally long time lags are eliminated from the calculations.

Further, ALZ notes that *Steel Pipe from Korea* was an administrative review, in which the Department is more concerned with time lags than in investigations. In reviews, the Department makes weight-averaged comparisons on a monthly basis, but in an investigation it does so on an annual basis. According to ALZ, in *Steel Pipe from Korea*, at 32836, the Department explicitly noted the importance of monthly comparison in reviews, stating that "{i}f we were to use invoice date as the date of sale for both markets, we would effectively be comparing home market sales in any given month to U.S. sales whose material terms were set months earlier." Citing *Pipes and Tubes from Thailand*, ALZ notes that, even in reviews, the Department has used invoice date as date of sale when respondents are able to demonstrate that changes to the material terms of sale occur between the order date and the invoice date. ALZ states that, in that case, as in this investigation, the respondent's U.S. sales were made to order, indicating a longer time lag between purchase order and invoice for U.S. sales than home market sales for the Thai respondent.

Finally, ALZ disagrees with petitioners' assertion that it systematically refused to provide the purchase order numbers for certain U.S. sale observations. ALZ alleges that the Department never asked ALZ and TrefilARBED to submit purchase order numbers for U.S. sales but; rather, the Department simply requested that the company add a field to the sales databases to report the purchase order date. ALZ states that it voluntarily submitted the purchase order numbers for home market sales, but was unable to do so for U.S. sales as a result of the tremendous burden placed on TrefilARBED to respond to the Department's October 8, 1998, request for additional information. ALZ asserts that the exclusion of the order number did not impede or hinder the Department's verification at TrefilARBED.

Department's Position: We agree with both petitioners and ALZ that invoice date is the correct date of sale for ALZ's home market sales. However, we disagree with petitioners that the appropriate date of sale for the U.S. market is order date.

Under our current practice, as codified in the Department's Final Regulations at § 351.401(i), in identifying the date of sale of the subject merchandise, the Department will normally use the date of invoice, as recorded in the producer's records kept in the ordinary course of business. *See Pipes and Tubes from Thailand* at 55587. However, in some instances, it may not be appropriate to rely on the date of invoice as the date of sale, where the evidence indicates that the material terms of sale were established on some date other than invoice date. See Preamble to the Department's final regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997). Thus, despite the general presumption that the invoice date constitutes the date of sale, the Department may determine that this is not an appropriate date of sale, where the evidence of the respondent's selling practice points to a different date on which the material terms of sale were set.

In this investigation, in response to the *Original Questionnaire*, ALZ reported invoice date as the date of sale. To ascertain whether ALZ accurately reported the date of sale, the Department included in its October 8, 1998 supplemental questionnaire, a request for additional information regarding changes in terms of sale subsequent to order date. In its October 23, 1998 response, ALZ indicated that there were numerous instances in which terms such as price, quantity, product specification, and/or alloy surcharges changed subsequent to the original orders in the U.S. and home markets. ALZ cited specific figures for each type of change. For purposes of our preliminary determination, we accepted the date of invoice as the date of sale subject to verification. *See Preliminary Determination* at 59535.

At verification, we carefully examined ALZ's selling practices, namely, the manner in which ALZ records the sales in its financial records by date of invoice. For the home market, we reviewed several sales observations for which the product specifications (*i.e.*, later requests that the steel meet additional standard specifications) changed subsequent to the original order (*see ALZ Sales Verification Report* at 22–23 and at Verification Exhibit 27), and one sale observation for which there was a change in price at the time of invoicing (*id.* at 33–34). For many of the other home market sales we reviewed, the time lag between the order date and the invoice was just a few days, and, consequently, for those transactions there is no substantive difference between those dates for analytical purposes.

For the U.S. market, we reviewed several instances in which terms of sale changed subsequent to the original order. For two sale observations, for example, there were two changes—one to quantity (outside the standard tolerance), and one to price—spanning a period of several weeks after the original order (*see TrefilARBED Sales Verification Report* at 34). For several other sale observations, we noted two distinct changes to quantity subsequent to the original order (*id.* at 37), while for other sale observations there was a single change to quantity (*id.* at 36). For two additional sale observations, there was a change in price incorporated in the invoice, although this simply reflected a late change in delivery terms (*id.* at 37). Based on ALZ's representations, and as a result of our examination of ALZ's selling records kept in the ordinary course of business, we are satisfied that the date of invoice should be used as the date of sale because it best reflects the date on which material terms of sale were established for ALZ's U.S. and home market sales.

Consequently, we disagree with the petitioners' claim that the order date (or the final change order date) is the most appropriate date of sale for ALZ's U.S. sales because the terms would not change after that date. The fact that terms were often changing subsequent to the original order, and even after an initial change order, suggests that terms may continue to change, in some instances as late as the invoice date. For sales that we reviewed, we found this to be true for basic terms of sale such as price, quantity, and product specification. See *TrefilARBED Sales Verification Report* at 32–37.

The Department has indicated that time lags between order date and invoice date may be a factor used in its analysis of the appropriateness of invoice date as date of sale. *See Steel Pipe from Korea*, at 32835. However, the circumstances in *Steel Pipe from Korea* differ markedly from those in this case. In *Steel Pipe from Korea*, "{t}he material terms of sale in the United States are set on the contract date and any subsequent changes are usually

immaterial in nature or, if material, rarely occur." *Id.* at 32836. In this case, ALZ reported that there were numerous instances of changes in terms of sale after the initial order date, and, as noted above, we observed many such instances at verification.

We further disagree with the petitioners' reliance on *Steel Pipe from Korea* to support its argument that the longer time lag between the date of purchase order and the date of invoice for U.S. market, as compared to the time lag on the home market, justifies the use of order date as the date of sale. First, as noted above, in *Steel Pipe from Korea*, the Department verified that the changes to terms of sale were infrequent and not material in nature. Second, unlike this case, *Steel Pipe from Korea* involved an administrative review, where the Department makes monthly (rather than annual) weighted-average comparisons. Consequently, the differences in time lags between the markets were significant for comparison purposes. *Id.* In this case, the main impact of using a different date of sale would be on the number of U.S. sales analyzed.

Finally, we disagree with petitioners' assertion that ALZ's reported sales information was inaccurate and incomplete. During the course of sales verifications, the Department requested specific documentation from ALZ in support of its claim that the date of invoice should be used as the date of sale. ALZ complied with the verifiers' request for sales trace documentation (*see, e.g., TrefilARBED Sales Verification Report* at 15 and 32–37), and the Department utilized the purchase order, change order, and invoice information provided by ALZ as part of the basis for its decision on this issue. It is true that the use of quantity tolerances was only clarified at verification, but the lateness of this clarification did not in this instance hinder the Department's analysis with respect to date of sale. Furthermore, we do not observe any remaining ambiguities pertaining to ALZ descriptions of time lags between home market orders and invoices that would hinder our analysis in any way.

Regarding missing U.S. order confirmation numbers, the Department did not request such information in its October 8, 1998 supplemental questionnaire and, thus, it would not be reasonable to expect that ALZ must report it. As to the reporting of change order information, the record evidence indicates that ALZ did report the finalized order in its U.S. sales database (see *TrefilARBED Sales Verification Report* at 34, which indicates that for a sale involving a change order, the company reported the date of this final purchase order in the field ORDERDTE).

Regarding certain third country sales that respondent mistakenly reported in its home market sales database, we reject petitioners' assertion that this minor overreporting by ALZ constitutes grounds for adverse FA across the entire home market database. Neither the *ALZ Sales Verification Report* nor Verification Exhibit 6 suggests that more than a small portion of ALZ's total sales involved such arrangements, and we did not observe any indication at verification that other such third country sales had been included in the home market sales database. We have thus excluded home market sale observations #227 and #228 from the home market sales database.

Finally, no significant ambiguities remain with respect to U.S. billing adjustments reported by ALZ, and the Department has fully accounted for those adjustments in its calculations. *See, e.g., Final Sales Analysis Memorandum* at 4.

Comment 2: Level of Trade/CEP Offset. ALZ argues that the Department should reverse its preliminary decision to deny ALZ's claim for a CEP offset. ALZ notes that, pursuant to section 773(a), the Department will, to the extent practicable, base NV at the same level of trade as the EP and CEP. ALZ claims that in the case of CEP sales, the level of trade is based on the sale from the exporter to the affiliated importer, and that when U.S. sales and home market sales are not made at the same level of trade, an adjustment may be made to account for price differences between the levels of trade. ALZ notes that, because this difference cannot be quantified based on data on the record, the Department should grant ALZ a CEP offset.

ALZ states that, to evaluate differences in level of trade, the Department examines selling functions and the stages in the marketing process at each level of trade. ALZ asserts that the record of this investigation confirms that ALZ performs more selling functions on sales to its home market customers than to TrefilARBED (see ALZ's June 24, 1998, Section A response ("Section A Response") at A–14, A–15, and Exhibit A/3.c, and its October 7, 1998, supplemental questionnaire response ("*October Supplemental Response*") at Exhibit S2/17.a.). ALZ asserts that the Department was mistaken to conclude that ALZ's selling functions performed in connection with its sales to TrefilARBED are similar to functions performed by ALZ in connection with its sales to home market customers. ALZ also argues that its sales to its home market customers were at a more advanced stage of the marketing process than its sales to TrefilARBED, and that its indirect selling expenses for the former are higher than for the latter.

ALZ argues that page 6 of *ALZ Sales Verification Report* establishes that the most resource-intensive selling function, namely, sales negotiation with the final customer, is performed by ALZ for home market sales but not for U.S. sales. ALZ notes that page 11 of *TrefilARBED Sales Verification Report* indicates that ALZ and TrefilARBED agree on a certain aspect of the sales to the final customer, and this aspect is revised occasionally based on discussions between TrefilARBED and ALZ. ALZ states that Exhibit 12 from the *ALZ Sales Verification Report* demonstrates that ALZ's domestic sales department is larger and costlier than its non-EU export sales department.

ALZ further contends that it is responsible for handling customer claims for sales to home market customers, but generally it is not responsible for sales to TrefilARBED. ALZ states that, although its *Section A Response* at A–14 and Exhibit A/3.c indicate that ALZ handles all aspects of customer claims by Belgian customers, including the physical inspection of the merchandise and the negotiation and resolution of the claim, the *TrefilARBED Sales Verification Report* at 5 indicates that on U.S. sales, customer claims handled by TrefilARBED are negotiated with the customer by TrefilARBED.

Pointing to its *Section A Response* at A–14, A–15 and Exhibit A/3.c, ALZ also contends that it provides its home market customers with technical assistance and product instruction, which it does not provide to TrefilARBED. ALZ claims that, for U.S. sales, TrefilARBED assumes this function.

ALZ argues that the Department's preliminary analysis was based, in part, on an erroneous assumption that ALZ's selling expenses on sales to TrefilARBED were higher, on a per-kilogram basis, than its selling expenses on home market sales. ALZ asserts that this erroneous assumption was based on two factors. First, the Department's calculation was made on a per-kilogram basis rather than on a value basis. ALZ notes that it reported its indirect selling expenses on the value basis, and information on the record indicates that the expenses incurred by ALZ on home market sales were 22 percent higher than those incurred on U.S. sales. Second, ALZ argues that the Department's calculations incorporated

an error in ALZ's questionnaire responses, which the Department noted at verification; namely that the transfer price between ALZ and TrefilARBED, the value on which the expense was calculated in the earlier submissions, was actually stated in U.S. dollars per hundred weight rather than in Belgian francs per kilogram. ALZ states that, when this error is corrected, the average indirect selling expenses for ALZ's home market sales is higher than that for its U.S. sales, even when employing the Department's aforementioned flawed per-kilogram basis methodology.

Petitioners argue that ALZ did not demonstrate that the Department should reverse its preliminary decision that different LOTs do not exist in the home and U.S. markets. Petitioners state that, as the Department concluded prior to the preliminary determination, no meaningful differences in selling functions performed in the U.S. and Belgium exist and, therefore, no LOT adjustment is warranted.

Petitioners note that *TrefilARBED Sales Verification Report* at 7 contains ALZ's admission that "[f]or TrefilARBED, very much the same process as for Belgian customers occurs through the invoicing stage* * *." Petitioners contend that ALZ conducts oversight of TrefilARBED's negotiations with U.S. customers, and TrefilARBED provides information about its pricing to ALZ. ALZ, petitioners argue, has U.S. selling functions in its fulfillment of TrefilARBED's orders to ALZ, its continuous communications with TrefilARBED, and its monitoring of intra-company marketing agreements. Petitioners challenge ALZ's assertion that it has fully transferred to TrefilARBED responsibility for handling claims on U.S. sales, noting that when a quality claim is filed by U.S. customers, although the process is initiated at TrefilARBED, it is ALZ that must trace the particular shipment, skid and heat that resulted in the problems that U.S. customers report, and it is ALZ that must account for the validity of a given claim and take corrective measures where its production is found to be at fault.

Petitioners further state that ALZ failed to provide the requested level of detail with respect to the extent of differences among various selling functions, such as a designation of "high," "medium," or "low" levels as well as explanation and support for such designations. Petitioners add that ALZ, in its case brief, has misleadingly attempted to re-characterize undocumented assertions by its case officials at verification to make a pretense that new material evidence of significantly different selling functions was verified by the Department at verification.

Regarding ALZ's quantitative analysis of the relative levels of indirect selling expenses incurred by ALZ with respect to both markets, petitioners categorize respondent's methodology as flawed. First, petitioners argue that absolute values do not constitute an appropriate basis for this comparison because at issue in this case is the relationship between expenses and the activities. Second, petitioners argue that the values cited by ALZ for the respective home market and U.S. sales are incorrect. Petitioners contend that ALZ limited the U.S. value to the general wages element of indirect selling expenses, while ALZ derived the home market value by including such items as cars and other expenses that are applicable to U.S. sales, in whole or in part. Petitioners also note that the total invoice value used in the denominator of the calculation of the indirect selling expense factor for home market sales includes values for unreported transactions (*i.e.*, those invoiced to parties in Belgium, but shipped outside of Belgium). Petitioners also state that ALZ's calculations of the indirect selling expense factors were based on inconsistent numerators and denominators: ALZ divided SSPC-specific expenses by all-product invoice values, when it should have divided all-product expenses by all-product invoice values. The lack of verified, accurate SSPC-specific numerators and denominators, petitioners note, prevents an SSPC-specific calculation of the factors in question. Petitioners state that when value-based ratios are re-calculated based on total expenses over total turnover, the indirect selling expense ratio for U.S. sales is greater than that for home market sales.

Finally, with respect to ALZ's indirect selling expense factor calculations, the only expenses ALZ lists that relate to home market sales but not to U.S. sales involve two rental cars and annual guest passes to the ALZ soccer box in Genk. Petitioners state that these items cannot constitute the basis for more advanced selling functions, and by extension, the basis for a more advanced stage of marketing in Belgium.

Department's Position: The Department addressed, in detail, the alleged differences in selling functions claimed by ALZ in the Department's *CEP Memorandum*, dated October 27, 1998, which was prepared for purposes of the preliminary determination. ALZ has not attempted to refute the Department's evaluations of those alleged differences, except as indicated below. In its case brief, ALZ claims that differences pertaining to the extent of its involvement in sales negotiation, claims, and technical assistance in the two markets establish that its home market sales are at a different and more advanced level of trade than its U.S. sales. We reject this conclusion for the reasons described below.

Regarding differences in sales negotiation, we found that ALZ's sales process for its home market customers is very similar to its sales process for TrefilARBED. *See ALZ Sales Verification Report* at 7. We noted at verification that ALZ negotiates contracts with TradeARBED Luxembourg governing the relationship between ALZ and TrefilARBED, and that these contracts are subject to renewal and revision. *See ALZ Sales Verification Report* at 7. In addition, according to TrefilARBED, there are occasional revisions to base prices and extras prices for transactions between ALZ and TrefilARBED, and that sometimes such revisions result from discussions between ALZ and TrefilARBED. *See TrefilARBED Sales Verification Report* at 13. Furthermore, because TrefilARBED buys subject merchandise from sources other than ALZ (*see, e.g., id.* at 12), it is reasonable to assume that ALZ makes some effort to encourage TrefilARBED to purchase from ALZ.

We found that ALZ is involved not only with sales negotiation for transactions between itself and TrefilARBED, but also with TrefilARBED's sales to unaffiliated U.S. customers. This involvement appears to be critical. As noted by ALZ in its case brief at 6, TrefilARBED and ALZ agree on a certain aspect of TrefilARBED's U.S. sales which, if made public, according to the respondent, "would cause substantial harm to ALZ's competitive position" (see the cover letter to ALZ's Case Brief of February 8, 1999).

Finally, any difference in size between the non-EU export sales department (which handles U.S. sales) and the domestic sales department (which handles home market sales) is not directly relevant to our analysis, given that it does not demonstrate different levels of activity for particular home market and U.S. sales.

In conclusion, we find that ALZ is involved in comparable levels of sales negotiation activity for its sales of SSPC to TrefilARBED as it is for its sales of SSPC to home market customers.

With respect to ALZ's argument that customer claims handled by TrefilARBED are negotiated with the customer by TrefilARBED, the

information first submitted by ALZ in its *Section A Response* at Exhibit A/3.c suggests that some claims made by U.S. customers could be made with ALZ, and that TrefilARBED may make claims with ALZ.

Regarding technical assistance, ALZ has not provided information with respect to the differences in the level of assistance provided to home market customers. ALZ's admissions that (1) it does not maintain any type of relationship with its customers (*see* page B–10 of ALZ's September 4, 1998, submission ("*September Supplemental Response*")), and (2) it maintains a relationship with its customers with respect to customer category or end-use only to the extent that the customer will state what it will usually do with the material when first ordering from ALZ (*see October Supplemental Response* at 4–5) indicate that the level of technical assistance is not big. *ALZ Sales Verification Report* at 6 indicates that ALZ creates a customer-specific technical sheet for new customers, but it is not clear from the record that this function requires substantial effort or, furthermore, how typical it is for ALZ to gain new customers.

We agree with petitioners that there are a few categories of indirect selling expenses which ALZ includes in the buildup for its home market expenses but not for its U.S. sales. However, we disagree that the record evidence indicates that we should consider these expenses (*i.e.*, costs in connection with car rentals and a box at the local soccer stadium) as applicable to U.S. as well as home market sales. We consider these factors to be of minimal importance with regard to distinctions between levels of trade between markets.

ALZ argues that an error that it incorporated into its submission resulted in an overstatement of the ratio of ALZ U.S. indirect selling expenses to total U.S. sales (value or quantity), and that when this is accounted for, the revised ratio is less than the ratio of ALZ's home market indirect selling expenses to total home market sales (value or quantity). However, even if we were to correct such an error and utilize ALZ's methodology, we could not determine that different LOTs exist on this basis alone. First, ALZ's analysis is distorted because (1) it compares SSPC-specific indirect selling expenses to total (SSPC and non-SSPC) invoice values, and (2) it includes in total invoice the values associated with products invoiced in Belgium but shipped outside of Belgium. More importantly, even if a 22 percent difference existed, it would not be sufficient to warrant a determination of different LOTs, given that ALZ merely alleged that differences in numerous selling functions existed between both markets, but failed to demonstrate the relative magnitude of those differences or, in most if not all instances, that any differences existed at all. Consequently, ALZ failed to support its contention that different LOTs exist. Thus, consistent with our preliminary determination, we find that a CEP offset is unwarranted.

Comment 3: Foreign Brokerage/Handling and International Freight for U.S. Sales. Petitioners assert that ALZ had misreported its relationship to Transaf N.V. ("Transaf"). Petitioners note that, while ALZ falsely reported at page C–10 of *September Supplemental Response*, that it was not affiliated with Transaf, the Department verified that Transaf is five percent owned by ARBED and 95 percent owned by TradeARBED Luxembourg. Petitioners further indicate that, according to ALZ's submission, Transaf is primarily responsible for both foreign brokerage/handling and international freight for shipments to the Chicago area. Petitioners identify certain U.S. sales that were clearly destined to the Chicago area, based on the destination information provided in the U.S. sales database for various sales. Petitioners also note that the respondent did not provide the requested destination information for numerous U.S. sales, and that it is almost certain that Transaf was the broker for a significant portion of these sales as well. Petitioners indicate that the average freight charge of sales not identifiable as to the Chicago area is considerably above the average freight charge for virtually all sales identifiable as to the Chicago area, even though charges for transportation to Chicago, which is an inland destination, should be significantly higher than similar charges for east coast shipment. Consequently, petitioners argue, the misreporting of ALZ's relationship with Transaf provides grounds for the use of adverse FA, and petitioners state that the highest reported per kilogram expense for the field in question should be applied to all U.S. sale observations.

ALZ argues that petitioners have provided no support for their call for the application of adverse FA for ALZ's international freight and brokerage charges. ALZ contends that petitioners have exaggerated Transaf's role in U.S. sales. ALZ notes that it explained to the Department the reasons why only certain U.S. shipments were handled by Transaf. ALZ contends that petitioners are incorrect to assume that every sale to Chicago was shipped via Transaf when, in fact, not every sale in Chicago involved Transaf. Furthermore, ALZ argues, petitioners provide no support for their assertion that it is almost certain that Transaf was the broker for a significant portion of the sales for which no destination was reported. ALZ argues that the petitioners' arm's-length test is flawed because it is based on the assumption that the brokerage for all Chicago sales was done by an affiliated party. Furthermore, ALZ argues that the record demonstrates that shipments involving Transaf cannot be compared to other sales. ALZ states that the Department verified that most of Transaf's shipments are bulk shipments, while container shipments are not Transaf's primary concern. ALZ also states that the Department noted in *ALZ Sales Verification Report* at 28 that shipments to Chicago through Transaf were made in bulk shipments, typically without pallets. Therefore, ALZ concludes, the cost basis for shipments through Transaf were radically different from the cost basis for other shipments, both with respect to quantities shipped and with respect to packing materials.

Department's Position: We agree with the petitioners. In the Department's *Original Questionnaire* at A–4, we asked ALZ to report all of its affiliates, in addition to describing the nature of each affiliate's involvement with the product under investigation. In response, ALZ did not indicate that it was in any way affiliated with Transaf, a company from the same ARBED Group, which handles foreign brokerage and international freight for ALZ's U.S. sales. Subsequently, in its response to the Department's supplemental questionnaire, ALZ informed us that it was not affiliated with Transaf. *See September Supplemental Response* at C–10. ALZ reiterated this assertion at the outset of verification. *See ALZ Sales Verification Report* at 3. However, in the course of verification, when asked about the reference to Transaf on ARBED's website, ALZ finally admitted that it is affiliated with Transaf. *Id.* at 3–4. Because the record evidence is not clear to what extent brokerage/handling and international freight services were handled by Transaf, as opposed to other brokers, the Department is unable to identify with certainty the Transaf-related U.S. sale observations.

Section 776(a) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to

subsection 782(d) and (e), facts otherwise available in reaching the applicable determination. In addition, section 776(b) provides that an adverse inference may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information.

As detailed above, ALZ withheld information concerning its affiliation with Transaf, a company in charge of various brokerage/handling and international freight services for ALZ's U.S. sales. Moreover, ALZ did not admit that it was affiliated with Transaf until verification, when this relationship was established by the Department officials, as described in the verification report. *See ALZ Sales Verification Report* at 3. Moreover, contrary to ALZ's assertion, the Department did not verify that most of Transaf's shipments are bulk shipments or that container shipments are not Transaf's primary concern. Furthermore, the record does not demonstrate the extent to which certain pallets were used for shipments handled by affiliated brokers, as opposed to those handled by unaffiliated brokers, or the full extent to which variations in reported costs could reflect pallets or containerization costs. Claims relating to these issues were raised as late as verification and, thus, any supporting information in this connection would have been untimely under § 351.301(b)(1) of the Department's regulations. As a result, ALZ could not demonstrate, in a timely fashion, that (1) other brokers handled the brokerage/handling and international freight to the Chicago area, (2) Transaf was not involved with shipments to other destinations, or (3) Transaf charges to ALZ were at arm's length.

Under these circumstances, we were unable to identify which U.S. sale observations were handled by Transaf, and the absence of destination information for many of the sales further inhibits our effort to limit the application of FA to only a portion of the U.S. sales database. Furthermore, because ALZ failed to provide accurate and timely information regarding its affiliation with Transaf, despite our explicit requests, we find that it failed to cooperate to the best of its ability in providing this information and, therefore, an adverse inference is warranted. This is consistent with the Department's practice of applying adverse FA when certain requested information is withheld by an interested party in its questionnaire response, but discovered at verification. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile,* 63 FR 56613, 56620 (October 22, 1998); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Spain,* 63 FR 40391, 40396 (July 29, 1998). As partial adverse FA, we have assigned the highest reported per hundred weight brokerage/handling and international freight expense for the U.S. sales which can reasonably be assumed to have involved shipments to the Chicago area. For further explanation of the Department's methodology for this issue, see *Final Sales Analysis Memorandum* at 3.

Comment 4: Missing U.S. Warehouse Expenses. Petitioners allege that ALZ failed to report the U.S. warehouse expenses for some U.S. sales. According to petitioners, ALZ reported that TrefilARBED did not incur any warehousing for further-processed material during the POI. Petitioners observe, however, that if the merchandise leaves the warehouse without further manufacturing, ALZ is charged for storage. In addition, petitioners argue that the above sales have no reported warehouse expense, even though the data show that there were warehoused, rather than further manufactured. Consequently, petitioners argue, the Department should apply, as adverse FA, the highest single charge reported under the U.S. warehouse expense.

ALZ points to the Department's verification report which notes that when material is transferred to a customer at the warehouse/processing facility, TrefilARBED does not incur the warehousing expense. ALZ argues that if the Department uses FA, it should apply the average of all reported warehousing.

Department's Position: We partially agree with petitioners. While ALZ has indicated that there are circumstances in which TrefilARBED is not charged for warehousing, it is not clear that those circumstances were applicable to certain U.S. sales observations without a reported warehousing expense.

At the U.S. sales verification, TrefilARBED reiterated its explanations of U.S. warehousing expenses that had been originally provided in ALZ's questionnaire responses. *See TrefilARBED Sales Verification Report* at 12–13. TrefilARBED noted that, for certain warehousing locations, if the merchandise leaves the warehouse without having been further processed, TrefilARBED is charged a set per coil warehousing expense if it is shipped to the customer without further processing. If title to the merchandise is transferred by TrefilARBED to the customer at these facilities, TrefilARBED does not incur warehousing charges. Finally, if the merchandise at warehouses is further processed, TrefilARBED is not charged for warehousing.

For the few sale observations at one of the warehouses in question that did not involve steel that was further processed, and for which no warehousing expenses were reported, the record does not establish that title was transferred to the customer prior to leaving the warehouse. Consequently, to account for the missing warehouse expenses, we have decided to apply the set per coil fee amount for the warehouse in question as the basis for the unreported expense. Furthermore, in one instance involving a sale of unprocessed steel from a warehouse location not even covered by the aforementioned ALZ explanation regarding transfer of title, we have decided to apply a per pound storage expense charged by the warehouse in question for another transaction (see page 9 of Verification Exhibit 4 from the TrefilARBED sales verification).

Comment 5: Packing Costs. Petitioners argue that ALZ, despite repeated inquiries by both petitioners and the Department, reported and maintained distorted U.S. packing cost data in its U.S. sales databases, until the outset of verification, in an effort to minimize its preliminary duty rate. Petitioners state that ALZ was aware of the fact that ocean-going coils would require more expensive packing than those shipped to domestic customers.

According to petitioners, although ALZ acknowledged at the outset of verification that it had understated its U.S. unit packing costs (due to having characterized the reported figures as on a per kilogram basis when they in fact had been on a per pound basis), ALZ's reporting methodology continues to be flawed. Petitioners argue that ALZ calculated an average skid cost and divided it by the quantity of the particular product invoiced. Under this methodology, petitioners assert, the larger the coils packed, the less packing material and labor is absorbed. Petitioners note that larger coils would require more labor and material; thus, the use of an average skid cost is inappropriate.

Furthermore, petitioners argue that for U.S. sales, U.S. packing costs, for the most part, cannot be tied to values examined at verification. In addition, petitioners question why a particular sea-packing code does not apply to a single U.S. sale, and assert that certain calculated packing costs are nonsensical. Based on ALZ's assertion at verification (*see ALZ Sales Verification Report* at 28) petitioners

also question whether or not Transaf has passed along skid charges to ALZ. Assuming it has, petitioners query on what basis such charges could be presumed to have been at arm's-length. Finally, petitioners dispute ALZ's assertion that a certain packing type did not involve pallet costs.

Petitioners state that, given the small number of sales observations, ALZ could have provided transaction-specific packing costs. Petitioners state that, in light of ALZ's illogical constant-to-weight based allocations, its systematic misreporting of U.S. packing charges, its failure to report its affiliation with Transaf, and its unsupported claims regarding lack of pallet costs, the Department should apply adverse FA to all U.S. packing costs. Petitioners state that this should be based on the highest single reported U.S. packing charge. Alternatively, the Department should, at the least, apply that charge to all sales packed with no pallet costs and to all sales for which ALZ failed to report a packing type (*i.e.*, those ordered in 1997 but invoiced thereafter).

ALZ argues that its packing cost calculation methodology provides the most accurate measure of per-unit packing costs allowed by ALZ's records and accounting system, and accounts for cost differences between export and home market packing methods. Furthermore, ALZ states that the Department tied all of the reported packing costs directly to ALZ's income statement.

ALZ also argues that, when transaction-specific reporting is not feasible, the Department's regulations at section 351.401(a)(1) allow for expenses and price adjustments on an allocated basis. In addition, ALZ states that the Department neither requested transaction-specific packing costs, nor expressed any concern that the allocation methodology used by ALZ produced distorted results.

In addition, ALZ notes that, during verification, the company explained that the slight variation observed by the Department between reported and verified packing expenses was due to the truncation of the original per-unit packing expenses prior to their conversion to per-kilogram amounts.

Furthermore, ALZ argues that petitioners mistakenly infer which packing methods used include skids. Finally, ALZ asserts that for shipments made through Transaf, ALZ did not incur costs for pallets because shipments via Transaf are made in bulk.

Department's Position: We disagree with petitioners. First, the petitioners' assertion that ALZ intentionally understated its U.S. packing expenses in its initial responses in order to minimize the preliminary margin rate is unsubstantiated. The record evidence does not support the petitioners' claim that ALZ employed such a strategy, or that the magnitude of the initial understatement was such that it would have a major effect upon the margin.

Second, ALZ described its basic methodology for reporting packing expenses in its questionnaire responses, and the Department has found no grounds for rejecting either that methodology or the reported expenses specifically derived from that methodology. *See Section B Response* at 47. The Department conducted a thorough review of those reported expenses. At verification, the Department found no evidence that, for a given packing type, significantly greater labor or material expenses would be incurred for larger coils compared to smaller coils. *See ALZ Sales Verification Report* at 27. Contrary to petitioners' assertion, U.S. packing costs did, in fact, tie to values examined at verification, and the Department did not find any evidence of miscoding of packing type for U.S. sales. *Id.* at 28.

Moreover, contrary to the petitioners' allegation, there is no evidence on the record that any reported packing expenses for U.S. sales are understated. For almost all U.S. sale observations, the total reported packing expenses (kilograms times cost per/kg) is within the range of total per coil packing expenses. The only discrepancy in reported U.S. packing noted at verification involved rounding of numbers and, as such, it was minimal (see *ALZ Sales Verification Report* at 21). The remaining few U.S. sales observations with reported packing expenses outside the range of total per coil packing expenses involve disproportionately small quantities which may have been a fraction of an individual shipped coil and, therefore, would only absorb a portion of the total coil packing expenses.

Finally, the Department never requested that ALZ report transaction-specific packing expenses, and the petitioners provided neither rationale nor precedent for such reporting. With respect to any packing expenses that might have been incurred by Transaf in its brokering arrangements for ALZ, the Department has addressed Transaf-related expenses in Comment 3. Consequently, the Department has made no additional adjustments to ALZ's reported packing expenses.

Comment 6: Sales with no Reported Warehouse/Vendor Identification. Petitioners argue that ALZ did not report the warehouse location for a number of observations. Thus, none of the discussions and documentation for warehousing in the U.S. verification report could be tied to the U.S. sales database. As a result, the petitioners argue that the Department should apply to these sales, as adverse FA, the highest single charge reported under U.S. warehouse expense.

ALZ argues that (1) the information on the field WARELOCU is not a factor in the Department's antidumping duty calculation, and (2) the missing information did not hinder the Department's ability to verify the per-unit warehousing expenses for the selected sales.

Finally, ALZ states that the Department verified that TrefilARBED accurately reported the per-unit warehousing expense for two observations with no warehouse location. According to ALZ, FA is not warranted for TrefilARBED's warehousing expenses.

Department's Position: The Department agrees with petitioners that for some U.S. sale observations the warehouse location is missing. However, the Department did verify some sales for which the warehouse location was not reported and found no major discrepancies. *See TrefilARBED Sales Verification Report* at 36. Therefore, the Department will not use FA for sales with no warehouse location, but where a positive U.S. warehouse expense was reported.

As noted in Comment 4, ALZ provided two explanations for instances in which TrefilARBED would not have been charged for warehousing: if the material was further manufactured or if title to the material was transferred to the customer at the warehouse. However, we note that those explanations related only to warehousing performed by a particular company. Various U.S. sale observations involve merchandise that was warehoused, but for which ALZ failed to identify the warehouse location. While ALZ indicated that TrefilARBED did not incur any warehousing expenses for further processed material during the POI (see September Supplemental Response at 16), it did not state that transfer of title was relevant in the context of warehousing charges other than for the one particular warehousing company. Furthermore, no information exists on the record to indicate when title was transferred to the final customer.

Section 776(a) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such

information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to subsection 782(d) and (e), facts otherwise available in reaching the applicable determination. In addition, section 776(b) provides that an adverse inference may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information.

Despite having been given several opportunities, prior to verification, to explain its warehousing expenses in detail (see the *Original Questionnaire* under the U.S. warehousing expense field; the August 11, 1998 supplemental questionnaire at question 34; and the September 25, 1998 supplemental questionnaire at question 9), ALZ chose not to explain those charges for all of the warehouses it utilized. Moreover, the Department indicated in its U.S. sales verification outline that it was willing to review information regarding how the reported charges for warehousing of material not further processed were determined by the respondent for each of the six warehouses (*see, e.g., TrefilARBED Sales Verification Report* at 28). However, at verification, TrefilARBED failed to provide such information. In light of ALZ's failure to report the information repeatedly requested by the Department, we have determined that ALZ did not act to the best of its ability, and have assigned, as partial adverse FA, the highest reported U.S. warehousing expense to U.S. sales observations involving merchandise that was warehoused at an unidentified location, but for which no warehousing expense was reported. However, because ALZ stated that TrefilARBED did not incur any warehousing expenses for further processed material, we have not assigned any warehousing expenses to any such U.S. sale observations for which further manufacturing expenses were reported.

Comment 7: U.S. Brokerage and Handling Charges. Petitioners argue that, according to documentation examined by the Department, the value reported for U.S. brokerage and handling, for U.S. sales observation #30, was incorrectly derived. In addition, there is no discussion regarding the extent of the under-reporting. Therefore, petitioners argue that the Department should correct all of the reported U.S. brokerage and handling charges to reflect the under-reporting found in U.S. sales observation #30.

ALZ argues that the *TrefilARBED Sales Verification Report* provides no further discussion regarding the extent of the error found in U.S. sales observation #30, because the error was limited to this one sale. Furthermore, ALZ states that, at verification, the Department performed complete sale traces on 14 U.S. sale observations, where many charges including U.S. brokerage and handling charges were verified. Consequently, considering that the Department found only one discrepancy related to these charges, the application of FA of any kind is unwarranted.

Department's Position: We agree with ALZ that the use of FA is unwarranted for this expense. The Department reviewed numerous other sales traces and cited no discrepancies for those reported expenses. See *TrefilARBED Sales Verification Report* at 32–37. Consequently, the Department finds that petitioners' allegation is unsupported by record evidence and our verification findings. Therefore, the use of FA is unwarranted.

Comment 8: U.S. Indirect Selling Expenses. Petitioners argue that ALZ's calculation of the U.S. indirect selling expenses of its affiliate, TrefilARBED, is methodologically wrong. Petitioners assert that ALZ calculated these expenses using quantity as a basis, while the Department's questionnaire specifies that allocations should be based on the manner in which the seller incurs a given expense in the ordinary course of business. Petitioners assert that the rationale for a value-based calculation is that a higher-value product absorbs a greater absolute amount of costs. In support of this position, petitioners cite the following Department precedent: *Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review*, 63 FR 3085, 3088 (January 21, 1998) ("*Magnesium from China*"); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from India*, 60 FR 10545, 10547 (February 27, 1995); *Notice of Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*, 62 FR 9160, 9164 (February 28, 1997); and *Frozen Orange Juice Concentrate from Brazil; Final Results of Antidumping Duty Administrative Review*, 55 FR 26721, 26723 (June 29, 1990). Petitioners note that a respondent must calculate G&A expenses on an annual basis as a ratio of total G&A expenses divided by cost of sales, and such methodology logically applies to the reporting of SG&A by a sales affiliate. Therefore, petitioners argue, TrefilARBED, the selling agent, must report its total SG&A expenses on the basis of value of its merchandise, just as ALZ as a factory reports its G&A expenses on the same basis.

Petitioners also note that ALZ, when given the opportunity to explain its allocation of indirect selling expenses by quantity rather than value, only stated that a value-based allocation would result in a disproportionate allocation to SSPC relative to other products. Petitioners argue that this claim is unsupported by any findings at verification or elsewhere on the record.

In addition, petitioners challenge the completeness of the reported total TrefilARBED indirect selling expenses. Petitioners state that ALZ based part of its argument for not including TrefilARBED's net interest expenses in the TrefilARBED indirect selling expense calculation on the fact that all of TrefilARBED's financial expenses pertain to short-term debt. *See September Supplemental Response* at C–23 and C–24. Petitioners argue that because the Department found at verification that only a portion of TrefilARBED's interest expenses pertained to short-term debt (*see TrefilARBED Sales Verification Report* at 29), the Department should include in TrefilARBED's indirect selling expenses, as partial adverse FA, the entire interest expense. Alternatively, petitioners argue that the Department should include in TrefilARBED's indirect selling expenses, as non-adverse FA, the portion of TrefilARBED's interest expenses that cannot be classified as short-term interest expenses.

ALZ asserts that quantity is properly used to determine the correct amount of SG&A expenses to include in the calculation. ALZ adds that a comparison of the indirect selling expenses reported for U.S. observations 13 and 18 clearly demonstrates that, under TrefilARBED's value-based methodology, higher value sales do absorb a greater amount of selling expenses.

ALZ states that the Department verified that TrefilARBED's sales department is organized by product line (*see TrefilARBED Sales Verification Report* at 2), and argues that TrefilARBED's resources are not applied to the sales value of specific product lines, but rather on the need to handle the tonnage sold of a particular line. For example, ALZ notes, the resources needed for selling stainless steel plate in coils are not determined by the value of the product, but by the need to meet the customer's demands in terms of quantity. Consequently, the most appropriate method to allocate a portion

of TrefilARBED's total SG&A expenses to subject merchandise, ALZ argues, is to use quantity as the allocation factor.

Regarding interest expenses incurred by TrefilARBED, ALZ argues that the Department does not request or use such expenses in its calculations of U.S. affiliate indirect selling expenses, and that it is, in fact, the Department's stated practice to exclude all types of interest expenses from the calculation of SG&A. *See Final Determination of Sales at Less Than Fair Value: New Minivans from Japan*, 57 FR 21937, 21956 (May 26, 1992). Furthermore, ALZ argues that there is no evidence on the record indicating that items excluded from the interest rate calculation were long-term in nature, and the other interest expenses, as explained at verification, do not pertain to short-term loans (*see TrefilARBED Sales Verification Report* at 29–30), but they refer almost entirely to other short-term financing expenses. ALZ argues that, if the Department erroneously chooses to include some portion of TrefilARBED's interest expenses in the calculation of indirect selling expenses, it should limit that amount to total interest expenses minus total interest expenses on short-term loans used in the interest rate calculation. ALZ provides a calculation of this remainder, and an allocation of that amount to subject merchandise.

Department's Position: We agree with petitioners that the Department should use a value-based allocation rather than a quantity-based one. ALZ was given ample opportunity to explain its allocation methodology prior to verification, and the information provided did not justify the calculation of the indirect selling expense factor based on quantity. The initial *Section C Response* at Exhibit C/48.2 simply presented the quantity-based calculation. When asked why it employed such an allocation methodology, ALZ stated that allocating the expenses based on value would result in an "artificially high" allocation to SSPC and "would not be proportionate" to the company's expenses in terms of other products. However, ALZ did not explain the basis for these assertions. *See September Supplemental Response* at C–22. When asked further about the rationale for its quantity-based allocation methodology, ALZ stated that the amount of selling expenses incurred by TrefilARBED bears no relation to the sales value of any particular product line. ALZ noted that salaries, the largest component of TrefilARBED's SG&A, are not determined or paid according to product line, and that some salaries are paid to personnel not even involved with sales. *See October Supplemental Response* at 9. ALZ indicated that the same holds for all of the other SG&A expenses, such as rent, management fees, medical insurance, etc., and concluded that "[b]ecause all of TrefilARBED's sales are based on weight, quantity is the most accurate factor to use to allocate total SG&A expenses between subject and non-subject merchandise." *Id.* at 9–10.

As we explained in *Magnesium from China* at 3088, the Department's normal practice is to base calculations of SG&A factors based on value (cost), and ALZ has not provided a credible explanation of why the Department should utilize a quantity-based methodology in this instance. First, because it is clear that TrefilARBED's sales are based on price and value as much as they are on quantity, we find that ALZ's basic premise provides no basis for the use of a quantity-based allocation. Second, the fact that TrefilARBED's sales department is organized by product line does not demonstrate that a quantity-based allocation is appropriate. Finally, the record evidence does not demonstrate that TrefilARBED's resources are applied based on the need to handle the tonnage sold of a particular line. We note that ALZ's reference to U.S. sale observations #13 and #18 only shows that when a given indirect selling expense factor is applied to two sales, a higher indirect selling expense figure is calculated for the sale with the higher price. This does not negate the fact that the factor calculated by ALZ was based on a quantity-based allocation, rather than a value-based one. In conclusion, we agree with petitioners that the allocation should be based, in its entirety, upon value.

We disagree with ALZ that we do not include U.S. affiliate interest expenses in the calculation of indirect selling expenses. As the Department recently explained, it will include such interest expenses in the calculation of total indirect selling expenses to the extent that such expenses do not reflect the financing of inventory or accounts receivable, which would be reflected for reported sales in the imputed inventory carrying cost and imputed credit expense fields, and do not relate to non-subject merchandise. *See, also, Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 64 FR 12927, 12931–32 (March 16, 1999) ("Korean Flat-Rolled Steel"). *See, e.g., Certain Fresh Cut Flowers from Colombia; Final Results and Partial Recission of Antidumping Duty Administrative Review*, 62 FR 53287, 53294 (October 14, 1997); *Certain Cold-Rolled Carbon Steel Flat Products from Germany; Preliminary Results of Antidumping Duty Administrative Review, 60 FR 39355* (August 2, 1995), unchanged in *Certain Cold-Rolled Carbon Steel Flat Products from Germany; Final Results of Antidumping Duty Administrative Review*, 60 FR 65264, 65281 (December 19, 1995); and *Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled Carbon Steel Flat Products from Korea; Certain Corrosion-Resistant Carbon Steel Flat Products from Korea*, 63 FR 20572, 20573 (April 27, 1998).

In this case, the interest expenses cannot be determined to have reflected the financing of inventory or accounts receivable, and are not identifiable as related solely to non-subject merchandise. In our September 25, 1998 supplemental questionnaire we requested that ALZ "explain the extent to which the interest expenses incurred by TrefilARBED were associated with the financing of receivables, and the extent to which the interest expenses incurred by TrefilARBED were associated with non-subject merchandise." ALZ responded that most of the interest expense involves non-subject merchandise, but that it could not at that time indicate the extent to which these expenses related to subject merchandise. *See October Supplemental Response* at 11. Thus, in accordance with our practice, we decided to include them in the calculation of U.S. indirect selling expenses. However, because the Department did not find evidence that TrefilARBED's interest expenses related disproportionately to SSPC or to non-subject merchandise, we have concluded that these expenses, like other indirect selling expenses, should be allocated to SSPC based on the ratio of SSPC value to total product value.

We disagree with ALZ's assertion that interest expenses should not be included in the calculation of indirect selling expenses because of double-counting. As noted above, the Department has included U.S. affiliate interest expenses in the calculation of U.S. indirect selling expenses independent of our calculation of imputed credit expenses, even if the interest expenses in question constituted part of the basis for determining the interest rate used to calculate the imputed credit expenses. Regarding ALZ's assertion that virtually all of TrefilARBED's expenses involved short-term debt and, therefore, they should not be considered for inclusion in the calculation of indirect selling expenses, we note that the record evidence is not clear these interest

expenses reflected short-term debt. More importantly, the short-term or long-term nature of the debt is irrelevant in this context, given that either type may relate to subject merchandise and involve activities other than financing of inventory or receivables. Despite our request for more detail, the breakdown of the TrefilARBED interest expenses provided in the October *Supplemental Response* at Exhibit S2/13 does not indicate what portion of these expenses related to financing inventory or accounts receivable. Consequently, we agree with petitioners that we should include the entire interest expense figure in the calculation of total TrefilARBED indirect selling expenses, and have allocated them to subject merchandise on the same value-basis as that indicated above.

Finally, as noted in *TrefilARBED Sales Verification Report* at 2, some additional TrefilARBED expenses (related to insurance) should be included in the calculation of total indirect selling expenses. Those expenses have been included in the Department's recalculation for the final results.

Comment 9: Credit and Inventory Carrying Costs in Constructed Value. ALZ asserts that the Department inadvertently included credit and inventory carrying in its calculation of CV. ALZ notes that the statue directs the Department to calculate selling costs for CV value based upon the actual expenses of the company.

Petitioners did not comment on this issue.

Department's Position: We agree with ALZ. In accordance with section 773(e)(2)(A) of the Act, the calculation of CV should not include additions for imputed expenses. Consequently, we have changed our CV accordingly.

Comment 10: Changes to the Department's SAS Computer programing. First, petitioners assert that the kilogram/hundred weight conversion factor used in the preliminary determination margin calculation, 45.3579, should in fact be 45.3597.

Second, petitioners note that the Department should adjust its margin calculations to account for billing adjustment 3, which ALZ reported for the first time in its November 13, 1998 submission, but which was not used in the preliminary calculations. Petitioners state that this expense was reported as a negative value. Because it relates to further manufacturing the billing adjustment should be subtracted from (thereby increasing) the further manufacturing expense.

Third, petitioners assert that the Department should adjust its margin calculation program so that billing adjustments 1 and 2 are utilized in the calculation of net price for further manufacturing sales.

ALZ did not comment on the above issues.

Department's Position: We agree with petitioners, and have made the adjustments. However, we note that the formula cited by petitioners regarding the third change is not utilized in our calculations because ALZ coded all U.S. sales, whether or not further manufactured, as CEP sales, and adjustment for further manufacturing expenses is made in the CEP net price calculations.

In addition, the Department has also made changes pursuant to previous comments indicated above, and has also made some adjustments based on information noted at the sales verifications (see the *Final Sales Analysis Memorandum*). Adjustments to costs are discussed below and in the *Final Cost Analysis Memorandum*.

Comment 11: Unreported U.S. Sale. Petitioners argue that, as the Department noted during the TrefilARBED verification, ALZ failed to report one sale during the POI. Therefore, the Department should apply, as FA, the highest margin to the quantity of this sale.

ALZ argue that the Department should not apply adverse FA on the one unreported sale. ALZ notes that, if the Department uses invoice date as the date of sale, then this one sale will not be part of the POI. However, ALZ notes that if the Department decides to use order date as the date of sale, the Department should not apply FA for this one sale because the quantity and value are very small relative to the entire U.S. sales universe, and because ALZ has cooperated with the Department's requests for information throughout the investigation.

Department's Position: The Department has decided to use invoice date as date of sale in this case (see Comment 1). We verified that the one sale in question, which TrefilARBED identified at the outset of the TrefilARBED verification, was invoiced after the POI. *See TrefilARBED Sales Verification Report* at 3. Consequently, the sale in question is not needed for our analysis.

Comment 12: Major Inputs. ALZ argues that the hot rolling services provided by SwB, an affiliated company, occurred at prices that were above market prices and its affiliate's COP. Thus, according to ALZ, the Department has no grounds to adjust such transfer prices in accordance with sections 773(f)(2) and (3) of the Act. According to ALZ, the transactions used by the Department to determine market prices for the preliminary determination were not representative of those transactions with SwB. ALZ states that these transactions are not comparable because ALZ benefits from a large quantity contract with SwB for hot rolling services, while the unaffiliated customers use SwB's hot rolling services for small quantities only. According to ALZ, the appropriate market price is the price charged by its unaffiliated supplier, who performed the same hot rolling services as SwB for comparable quantities.

ALZ asserts that, if the Department continues to inflate ALZ's hot rolling service costs for the final determination, the percentage used to increase the costs should not be applied to the hot rolling fixed overhead field, the transportation costs within the hot rolling variable overhead field, or the percentage of merchandise hot-rolled by the unaffiliated party.

The petitioners contend that the Department correctly adjusted ALZ's affiliated hot rolling transactions for the preliminary determination. According to petitioners, to determine whether the transfer prices reflect arm's-length prices, the Department normally compares the transfer price to (1) the prices related suppliers charge to unrelated parties, or (2) the prices charged by unrelated suppliers to the respondent. Thus, the Department's reliance on prices SwB charges unaffiliated purchasers for its services is fully in accordance with its practice and the law. Petitioners claim that the best measure of market value for services SwB provided to its affiliate, ALZ, is in fact prices SwB charged unaffiliated customers for those same services. Petitioners contend that ALZ's claim that SwB hot rolled an uncomparable volume of material for unaffiliated customers is without merit. Petitioners maintain that the volume of material hot rolled by SwB for unaffiliated customers is commercially significant.

Department's Position: We agree with ALZ that the hot rolling services provided by its affiliate, SwB, occurred at above market prices and its affiliate's COP. Accordingly, we agree with ALZ that no adjustment is necessary. Section 773(f)(2) of the Act directs the Department to disregard transactions between affiliated parties if such transactions do not fairly reflect amounts usually reflected in sales of merchandise under consideration in the market under consideration. We consider the prices ALZ paid to its

unaffiliated supplier of hot rolling services to be the best indicator of market prices in this case. These prices are for comparable services provided by SwB, and are reflective of the market under consideration. Because we found, during verification, that sales between SwB and its unaffiliated customers represent sales to foreign customers (*see ALZ Cost Verification Report* at 18), we consider them not to be reflective of the market under consideration.

Comment 13: Affiliated Party Purchases. The petitioners argue that adverse FA should be applied to ALZ's COP due to ALZ's failure to disclose affiliated party purchases of certain raw materials it deems to be major inputs. According to petitioners, even though ALZ had over seven months to disclose that it purchased raw materials from affiliates, it was not until verification that this information was disclosed. Thus, according to petitioners, the Department was unable to adequately test these affiliated party raw material purchases to ensure that they occurred at arms-length prices and above its affiliated suppliers' actual COP. Given ALZ's numerous deficiencies, petitioners contend that the use of total FA is fully warranted. If the Department does not agree to apply total FA, petitioners propose the application of adverse FA on a product-specific basis. As adverse FA, petitioners contend that the Department should apply the highest reported cost for scrap and alloys by grade to all CONNUMs within that particular grade.

As further support for the application of adverse FA, petitioners claim that the undisclosed affiliated party purchases are major inputs as defined in the *Final Determination of Sales at Less than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan*, 61 FR 38139, 38162 (July 23, 1998), ("*LNPP's from Japan*"). According to petitioners, as set forth in *LNPP's from Japan*, a major input in this investigation accounts for five percent or more of any individual production stage, and any input that accounts for two percent of more of the total COP of the plate in coils.

For the final determination, ALZ argues that the Department should not consider the quantities of scrap and ferroalloys supplied by affiliated parties as representative amounts of a major input. ALZ contends that the amount of scrap and ferroalloys provided by affiliated suppliers for the subject merchandise is not a representative amount; therefore, ALZ did not disclose them as major input as requested by the Department's questionnaire.

Further, ALZ asserts that, for the final determination, if the Department decides to apply the major input rule to the affiliated purchases of raw materials, it should compare the transfer price to the market price. According to ALZ, at verification the Department had the opportunity to compare the transfer price to the market price, concluding that there were minimal or no differences between the prices charged by affiliated and unaffiliated suppliers. In addition, ALZ argues that, to compare scrap and ferroalloy prices for the same elements, the Department must take the price fluctuations into account and compare materials with similar chemical compositions.

With respect to the application of FA, ALZ maintains that, if the Department determines that FA must be applied, the FA adjustment should only be applied to the raw material inputs purchased from affiliated suppliers. ALZ notes that, for instance, in *Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China*, 62 FR 41347, 41356 (August 1, 1997), the Department decided that, because the respondent was cooperative in all other regards, it applied adverse FA only to one or two items. ALZ asserts that it has complied fully with all the Department's requests throughout the investigation. Thus, if the Department decides to apply FA, it should only be with respect to the raw material costs that are deemed deficient.

Department's Position: We agree with petitioners. In section D of the *Original Questionnaire*, we specifically instructed ALZ to identify all inputs obtained from affiliated parties. *See* Section D of the *Original Questionnaire*, at II.A.5. In its questionnaire response, ALZ stated that "it receives inputs from two affiliated parties for the production of subject merchandise : Stahlwerke Bremen (hot-rolling mill) and ALBUFIN (annealing and pickling of hot-rolled coils)." *See* ALZ's July 27, 1998, Section D response at 9. Subsequently, during the cost verification at ALZ's production facilities, the Department discovered that the company purchased raw materials from affiliated parties. *See ALZ Cost Verification Report* at 2. As a result of this untimely disclosure, the Department was not able to adequately test the affiliated party raw material purchases to ensure that they occurred at arm's-length prices and above the affiliated suppliers' actual COP.

Section 773(f)(3) of the Act provides that, where transactions between affiliated parties involve a major input, the Department may value the major input based on the COP if the cost is greater than the amount (higher of transfer price or market price) that would be determined under section 773(f)(2). Under this provision, the Department is required to review purchases from affiliated parties of major inputs in order to determine that they reasonably reflect a fair market value. In this instance, ALZ failed to provide in its questionnaire responses information regarding the company's purchases of raw materials from its affiliated supplier, thereby precluding the Department from adequately addressing this issue prior to verification. Furthermore, at verification, we obtained some raw material purchase price information from non-affiliates for certain raw materials. This information provided an idea of the significance of the unreported affiliated party raw material purchases; however, it was insufficient to verify that ALZ's purchases of these products from the affiliate were at fair market value.

Section 776(a) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to subsection 782 (d) and (e), facts otherwise available in reaching the applicable determination. In addition, section 776(b) provides that an adverse inference may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information.

As detailed above, ALZ withheld information concerning its purchases of raw materials from an affiliated party in its questionnaire responses. It was not until verification that the affiliated nature of the supplier relationship was discovered by the Department verifiers, as described in the verification report. *See ALZ Cost Verification Report* at 2. Under these circumstances, we were unable to obtain information needed to test affiliated party purchases because the data available to the Department did not allow the Department to isolate identical types of scrap and ferro-alloy purchases, in their entirety for the POI, to allow for a meaningful market value analysis. As a result, the Department is unable to determine whether the reported transfer prices for certain raw materials occurred at arm's-length prices. Thus, we determine that use of partial FA is appropriate in valuing the cost of certain raw materials in our calculation of the COP and CV.

Furthermore, in light of ALZ's failure to provide the data regarding purchases of inputs from affiliated parties, despite our specific instructions, we find that the company failed to cooperate to the best of its ability in providing this information and, therefore, adverse inferences in applying FA are warranted. This is consistent with the Department's practice of applying adverse FA when certain requested information is withheld by an interested party in its questionnaire response, but discovered at verification. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56620 (October 22, 1998); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Spain*, 63 FR 40391, 40396 (July 29, 1998). As partial adverse FA, we have applied the highest cost for scrap and alloys reported within each grade, to its respective materials fields in the COP and CV databases, for CONNUMs with the particular grade. *See Final Cost Analysis Memorandum* at 1.

Because we cannot adequately evaluate whether the unreported transactions with ALZ's affiliates occurred at market prices, we are unable to reach the question of whether the affiliated party purchases of raw materials constitute major inputs. It should be noted, however, that we disagree with petitioners' characterization that the Department's threshold for what constitutes a major input is outlined in *LNPPs from Japan*, (*i.e.*, an input that represents at least two percent of cost of manufacturing ("COM")). As stated in *LNPPs from Japan*, in a typical case in which subject merchandise only requires a few inputs, a threshold of two percent for defining a major input may be low. However, in that case, the product required thousands of inputs with no single input representing a large share of the total product cost. In addition, the company involved in the LNPP investigation obtained numerous inputs from affiliated suppliers, the sum of which represented a substantial portion of the total COM of LNPP. Thus, as the Department explained in *LNPP's from Japan*, the product under investigation in that case is very unique and our determination in that case should not be used as precedent for the major input rule. As we explained in the Preamble to the Departments regulations, the determination of whether an affiliated party input constitutes a "major input" is made on a case-by-case basis, and the decision depends on the nature of the input, the product under investigation, and the nature of the transactions and operations between the producer and the affiliated suppliers. *See* Preamble at 351.407.

Comment 14: Non-Prime Products. ALZ argues that the Department should accept the revised costs for non-prime products, which according to ALZ, accurately reflect the actual costs incurred to produce these products. ALZ stated that, originally, it incorrectly reported only the direct materials costs associated with the production of non-prime products. According to ALZ, it is the Department's practice to assign the same cost to prime and non-prime merchandise. As evidence of this, ALZ points to *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Determination of Sales at Less than Fair Value*, 61 FR 35177, 35182, (July 5, 1996) ("*PET film from Korea*"), in which the Department relied on equal costing for the production of prime and off-grade film. Thus, according to ALZ, for the final determination, the Department should use the revised COP and CV databases submitted by ALZ for non-prime merchandise.

Petitioners contend that ALZ succeeded in "capping" its preliminary rate by intentionally misreporting costs for non-prime merchandise. However, to avoid the use of FA for the final determination, ALZ reported actual non-prime costs, which will lower the overall profit level. Therefore, petitioners assert that the Department should consider the impact of ALZ's preliminary and intentional misreporting of non-prime costs in its final determination.

Department's Position: We agree with ALZ that non-prime products should reflect the actual costs incurred to produce the products. The Department recognizes that the same costs are incurred to produce non-prime and prime products of the same chemical composition. As stated in *PET Film from Korea* at 35182, the only difference between prime and non-prime products is that at the end of the production process the products are classified. Since we have found no problems with the revised reported costs for non-prime merchandise, for the final determination, we used the revised COP and CV databases for non-prime products. We note that there is no support on the record for petitioners' claim that ALZ intentionally misreported its costs for non-prime merchandise.

Comment 15: Depreciation. ALZ alleges that, in the preliminary determination, the Department double-counted depreciation expense in its cost calculation. According to ALZ, the Department included the field for depreciation in the cost calculation even though this field was already captured in the fixed overhead field. ALZ asserts that, for the final determination, the Department should correct the double-counting of depreciation by excluding the depreciation variable in the calculation of COP and CV.

Petitioners contend that ALZ's argument rests on the assumption that the values in the depreciation field for COP and CV duplicate the depreciation elements in each fixed overhead field. According to petitioners, ALZ did not apply the depreciation ratio to the "other variable overhead" costs. Petitioners claim that ALZ changed without explanation, the ratio applied to "other variable overhead" between the first COP and CV databases submitted and the latest cost submissions. Given that ALZ changed its methodology without informing the Department, petitioners submit that adverse FA should be used to calculate depreciation in the final determination. Moreover, petitioners assert that, if the Department determines that the use of adverse facts available is not warranted, at minimum, the Department should use the COP and CV databases which conform with the narrative submitted by ALZ.

Department's Position: We agree with ALZ that the depreciation fields in the COP and CV databases should be excluded from the cost calculation. At the preliminary determination, the Department was unable to thoroughly evaluate whether all of ALZ's depreciation costs were fully captured . However, at verification, the Department reviewed several cost build-ups for selected products (see ALZ's Cost Verification exhibits 12, 13, and 14) and determined that the depreciation costs were included in the fixed overhead field.

The petitioners' argument that ALZ changed the ratio which was applied to other variable overhead is without merit. As the Department examined at verification, and as ALZ demonstrated in its exhibits, the depreciation ratio was properly applied to the variable processing costs within the "other variable overhead" field (see ALZ's Cost Verification exhibits 12, 13, and 14).

Comment 16: Extraordinary Costs. ALZ argues that the Department should revise its costs for a certain product to exclude extraordinary costs incurred outside the ordinary course of business. Specifically, ALZ points to the fact that in order to comply with customer specifications, which were not known at the time the production of the product

began, the merchandise had to be sent to an outside processor, thus causing ALZ to incur extraordinary costs for this product. ALZ states that in the ordinary course of business it would not incur the extra costs to produce the coil. In support of its position ALZ cites section 773 (b)(3)(a) of the Act, in which it notes the Department is required by the statute to rely on costs that ordinarily permit the production of the product in the ordinary course of business. In addition, as evidence of this ALZ points to *Stainless Steel Wire Rod from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 40461, 40467, (July 29, 1998) ("*Wire Rod from Taiwan*") and *LNPP's from Japan*, 61 FR at 38153, in which the Department chose to exclude costs associated with unforseen events.

Petitioners contend that the Department should dismiss ALZ's claim of extraordinary costs and, instead, apply adverse facts available. Petitioners point out that, *LNPP's from Japan* and *Wire Rod from Taiwan*, the two cases cited by ALZ, dealt with accidents that were unexpected and unforeseen. Further, petitioners cite *Floral Trade Council* v. *United States*, 16 CIT 1014 (1992), under which the court established a two-prong test defining "extraordinary" events, namely, these events must be (1) infrequent in nature, and (2) unusual in occurrence. Petitioners argue that ALZ's series of business decisions giving rise to the additional costs do not rise to the general level of potential unpredictability of accidents, and have no credibility as unforseen, unpreventable and infrequent events.

Furthermore, petitioners argue that the Department should apply total adverse FA to ALZ's total costs or adverse FA to certain proprietary cost for ALZ, due to its failure to timely report affiliated party purchases for the extraordinary costs incurred by ALZ.

Department's Position: We agree with petitioners that the costs incurred by ALZ for outside processing are not extraordinary in nature. The Statement of Administrative Action (the SAA) at 832 states that "when an unforeseen disruption in production occurs which is beyond management's control * * * (the Department) will continue its current practice such as using the costs incurred for production prior to such unforeseen event." The Department's long-standing practice with regard to "unforeseen events" is to treat expense items as extraordinary only when they are both unusual in nature and infrequent in occurrence. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from India*, 63 FR 72246, 72251 (December 31, 1998) (the Department determined that death of the manager, flooding and crop disease were not extraordinary or unforeseen); *Notice of Final Determination of Sales at Less Than Fair Value: Static Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932–33 (February 23, 1998) (the Department denied a claim for an offset due to losses incurred because of a fire); and *Notice of Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Argentina*, 60 FR 33539, 33549 (June 28, 1998) (the Department rejected respondent's claim for an offset due to restructuring costs). Because adjustments of this type are, by definition, extraordinary, the Department makes its decisions regarding extraordinary costs on a case-by-case basis.

In this case, ALZ needed services from an outside processor in order to meet special requirements of one of its customers. The decisions to use an outside processor to do what was needed to meet the requirements of its customer was a business decision, not an extraordinary expense. ALZ's claim that it does not normally use outside processors to perform the service at issue does not make it an extraordinary event. As the court held in *Floral Trade Council* v. *United States* 63 F.3d 318 (Fed. Cir. 1995), extraordinary events must be infrequent in nature and unusual in occurrence. We do not consider a steel company needing specialized services from an outside processor to be infrequent in nature or unusual in occurrence. In fact, we consider this to be a routine event for a company in the steel industry. Furthermore, ALZ's reliance on section 773(b)(3)(a)'s requirement that the Department must rely on costs that permit the production of the product in the ordinary course of business is misplaced. We do not agree that the outside processing cost incurred by ALZ in order to meet its customer's requirements was outside the ordinary course of business. The obligation to comply with customer specifications throughout a production process is a normal part of doing business and does not place it outside of the ordinary course of business. Thus, for the final determination, we are not excluding the outside processing costs incurred to produce the product in question.

We disagree with the petitioners' assertion, however, that we should apply total adverse FA in calculating ALZ's dumping margin as a result of ALZ's acquiring these proprietary services from an affiliate. The Department was informed within a week prior to verification that the extraordinary costs incurred by ALZ were performed by an affiliated party. We have no reason to believe that the transfer price between ALZ and its affiliate for these services did not occur at arm's-length prices. The same affiliate that provided ALZ with hot rolling services also provided the proprietary service at issue. At verification we tested the appropriateness of the transfer prices between ALZ and its affiliate for the hot rolling services, noting that no adjustment was necessary (see Comment 12 above and *ALZ Cost Verification Report* at 18). We do not consider it necessary to test every transaction with an affiliate in order to conclude that all transactions with the affiliate can be relied upon. In this case, based on our findings at verification, we conclude that the transfer prices between ALZ and its affiliate for the proprietary services at issue can be relied upon based on the results of our testing of the hot rolling transfer prices between ALZ and the same affiliated supplier (*id.*).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from Belgium that are entered, or withdrawn from warehouse, for consumption on or after November 4, 1998 (the date of publication of the preliminary determination in the **Federal Register**). The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
ALZ, N.V	9.86
All Others	9.86

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S.

industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7537 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–830]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Gideon Katz or Michael Panfeld, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5255 or (202) 482–0172, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR part 351 (April 1998).

Final Determination

We determine that stainless steel plate in coils ("SSPC") from Taiwan is being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the amended preliminary determination (*Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Taiwan, (Amended Preliminary Determination)* (63 FR 66785, December 3, 1998), the following events have occurred: We conducted a cost verification of YUSCO's questionnaire response from November 30–December 4, 1998, and a sales verification of YUSCO from December 14–17, 1998. We also conducted verifications at Ta Chen Stainless Pipe, Co. from December 18–21, 1998 and Ta Chen International from January 12–15, 1999.

Petitioners and respondents submitted case briefs on February 8, 1999. On February 11, 1999, petitioners (the only party requesting a public hearing) withdrew their request for the public hearing. Petitioners and respondents submitted rebuttal briefs on February 16, 1999.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Facts Available

We determine that the use of facts available is appropriate for YUSCO in accordance with section 776(a) of the Act, because it failed to report all of its home market sales made during the POI.

Where necessary information is missing from the record, the Department may apply facts available under section 776 of the Act. Further, where that information is missing because a respondent has failed to cooperate to the best of its ability, section 776(b) of the Act authorizes the Department to use facts available that are adverse to the interests of that respondent, which may include information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. As described below in detail in Comment 1, YUSCO did not act to the best of its ability in the reporting of its home market sales. We have chosen the highest of the calculated petition margins for Taiwan of 8.02 percent as total adverse facts available.

Middleman Dumping

1. Dumping Calculation

As a result of further analysis and comments raised by interested parties, we have changed our middleman dumping methodology. As in our *Amended Preliminary Determination*, for the final determination, we have determined whether a substantial portion of Ta Chen's U.S. sales were below acquisition costs by comparing the total value of stainless steel plate sold below acquisition cost to the total value of all stainless steel plate sales made by Ta Chen during the POI. We first identified sales below acquisition cost by comparing Ta Chen's resale price for stainless steel plate sold during

the POI to its total acquisition cost for this merchandise. We used YUSCO's invoice price to Ta Chen as the basis for determining acquisition cost. However, unlike our *Amended Preliminary Determination*, we added to this cost an appropriate portion of Ta Chen's interest expense and general and administrative expenses (G&A) to obtain the total acquisition cost. We based the U.S. resale prices on Ta Chen's sales to unaffiliated customers in the United States. From that starting price we have continued to deduct further processing costs, discounts, movement expenses (freight, insurance, U.S. duties, and brokerage and handling fees), and the actual selling expenses incurred by Ta Chen (commissions, warehousing charges, bank charges, and indirect selling expenses), where applicable, as in our *Amended Preliminary Determination*. We then compared that price, after deductions, to the total acquisition cost. Based on this comparison, 44.53 percent of Ta Chen's resales to the United States were at prices below total acquisition cost. Therefore, we determine that Ta Chen made a substantial portion of its sales below total acquisition cost. As a result of this determination, we have examined whether Ta Chen's U.S. prices were substantially below its acquisition costs from YUSCO to determine whether Ta Chen engaged in middleman dumping during the POI. *See Comment 9.*

As we stated in the *Amended Preliminary Determination*, Congress has left to the Department the discretion to devise a methodology which would accurately capture middleman dumping. *See* S. Rep. No. 249, 96th Cong., 1st Sess. at 94 (1979) ("Senate Report"). To determine the magnitude of the losses incurred by Ta Chen in selling YUSCO's subject merchandise to the United States during the POI, we divided the amount of losses by the total sales value of all sales.

In the *Amended Preliminary Determination*, we calculated the amount of losses by comparing a weight-averaged adjusted U.S. price to the individual acquisition cost by model. We now believe this to be in error. Therefore, for the final determination, we are comparing a weighted-average adjusted U.S. price (as described above) to a weighted-average total acquisition cost (*i.e.*, invoice price plus an appropriate portion of Ta Chen's interest and G&A expenses). A weighted average to weighted average comparison is consistent with our methodology for calculating a margin in a less-than-fair-value investigation. *See* section 777A(d)(1)(A)(i).

Therefore, for the final determination, we multiplied the difference between the weighted-average adjusted U.S. price and the weighted-average total acquisition cost by the respective quantity of each U.S. model to determine the "amount of losses." Based upon this calculation, we have determined that Ta Chen's losses on U.S. sales of subject merchandise during the POI are 2.18 percent, which we deem to be substantial. *See* Comment 11. Therefore, we find that Ta Chen engaged in middleman dumping during the POI.

2. Cash Deposit Rate

Where a producer sells through an unaffiliated trading company and has knowledge that the merchandise is intended for the United States, we normally focus only on the producer's sales to the trading company to determine the margin of dumping. However, as we stated in our *Amended Preliminary Determination*, a producer may sell to an unaffiliated reseller, such as a trading company which in turn sells the producer's merchandise at prices below the trading company's acquisition costs, thereby engaging in middleman dumping. Where we find middleman dumping in an investigation, as here, we must calculate a cash deposit rate that reflects that middleman dumping, as well as any dumping which occurs from the producer to the trading company. Therefore, we have assigned a cash deposit rate of 10.20 percent to sales produced by YUSCO and sold to the United States through Ta Chen. This reflects YUSCO's margin on U.S. sales to Ta Chen as well as the middleman dumping by Ta Chen. *See* 19 CFR 351.106. Any sale of subject merchandise by YUSCO other than through Ta Chen will be subject to a deposit at the rate determined for YUSCO alone.

Interested Party Comments: YUSCO

Comment 1: Petitioners contend that a group of YUSCO's "indirect export sales" (which we call "scenario two" sales) are, in reality, unreported home market sales. Petitioners note that these sales differ from export sales in four respects: (1) These sales are not packed in the manner usually required for export; (2) these sales are shipped to the customer's warehouse in Taiwan; (3) these sales do not have a completed shipping number (unlike direct export sales); and (4) these sales are subject to domestic value-added tax (VAT) (unlike direct export sales). Moreover, petitioners maintain that YUSCO was unable to support its claim of knowledge that the merchandise was exported. Petitioners assert that without such proof and in light of the evidence gathered at verification, the Department should include these sales in YUSCO's home market database. Petitioners further argue that the Department should not allow any deductions from the gross unit price because these sales were unreported and YUSCO has not made a timely claim for adjustments.

YUSCO argues that the Department should treat YUSCO's scenario two sales as third country sales. The determining factor, according to YUSCO, is the extent of the producer's knowledge of the final destination of these sales at the time of sale. Respondent explains that the Department and the courts have, in similar cases, considered sales to home market customers as export sales when the producer knew at the time of sale that the merchandise would be exported. Respondent cites to several cases to illustrate its point, including *Certain Hot-Rolled Carbon Steel Flat Products from Korea*, 58 FR 37176 (July 9, 1993) (finding that a sale to a home market customer was an export sale where the customer had knowledge of export, but no specific knowledge of the customer's further manufacturing).

YUSCO claims that the Department verified that YUSCO did indeed know at the time of the sale that the scenario two sales were for export to third countries. YUSCO argues that the Department verified that YUSCO used information provided by customers at the time of order to assign order numbers, the prefix of which always begins with "U" (for export) and a country code, effectively labeling these sales as export sales, and that YUSCO's customers for scenario two sales handled Taiwan custom clearance, further demonstrating exportation.

YUSCO claims that contrary to petitioners' assertion, every government uniform invoice ("GUI") for scenario two sales has a shipping number followed by an asterisk, and that the asterisk is additional evidence that shows specific knowledge that the SSPC was destined for export. With regard to petitioners' claim that scenario two sales do not require any special export packing, YUSCO claims that nothing on the verified record indicates that packing specifications for scenario two sales were different from the packing specifications for direct export sales.

YUSCO argues that its collection of VAT from scenario two customers, and place of delivery of scenario two sales, are both irrelevant to the determination of the ultimate market for these sales, because, while it is YUSCO's responsibility to collect VAT from a

Taiwan company, in the end there is actually no VAT paid because the customer obtains a refund from the government. YUSCO cites *Antifriction Bearings (Other than Tapered Roller Bearings) an Parts Thereof from France, et al,* 60 FR 10900 (February 28, 1995), a case in which the Department determined that with regard to indirect export sales, the collection of VAT by the respondent is "not a determinant of the ultimate destination of the merchandise."

Department's Position

Application of Facts Available. Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Thus, pursuant to 776(a), the Department is required to apply, subject to section 782(d), facts otherwise available. Pursuant to section 782(e), the Department shall not decline to consider such information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

We find, based on the evidence set out below, that by not reporting a large portion of the home market database (so-called scenario two sales), YUSCO withheld information that had been requested by the Department (*i.e.,* all home market sales of the foreign like product) and did not act to the best of its ability in providing this information. Because the Department discovered the existence of these sales only at verification, this information was not provided in a timely manner (*i.e.,* in response to Section B of the Department's questionnaire). Furthermore, YUSCO's withholding of crucial information which the Department needed to calculate an accurate normal value significantly impeded the Department's investigation. Moreover, the Department cannot consider the information presented at verification because : (1) The information was not submitted by the established deadline; (2) the information discovered at verification is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; and (3) the information cannot be used without undue difficulties. As a result, we must rely on the facts otherwise available. Where the Department determines that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act provides that the Department may use an adverse inference in selecting from the facts available. *See, e.g., Roller Chain, Other Than Bicycle, From Japan; Final Results and Partial Recission of Antidumping Duty Administrative Review,* 63 FR 63671 (Nov. 16, 1998); *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–20 (Oct. 16, 1997). We have determined, as described below, that YUSCO failed to cooperate within the meaning of Section 776(b) and have applied as facts available the highest petition margin, 8.02%. *See e.g., Notice of Final Determination of Sales at Less than Fair Value: Certain Preserved Mushrooms from Chile,* 63 FR 56613, 56620 (October 22, 1998); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Spain,* 63 FR 40391, 40396 (July 29, 1998) (applying adverse facts available when certain requested information is withheld by an interested party in its questionnaire response, but discovered at verification). *See* Facts Available Memorandum from Rick Johnson to Edward Yang, March 19, 1999 for full discussion.

Total Facts Available

Section 773(a)(1)(B) of the Act requires that, in determining normal value, the Department use all sales of the foreign like product sold for consumption in the exporting country, provided the sales are in the usual commercial quantities, made in the ordinary course of trade and, to the extent practical, at the same level of trade as the export price or constructed export price sale. Our questionnaire requires that where the home market is viable, respondents report all sales of the foreign like product sold in the home market. *See* Questionnaire at B–1.

The Department's antidumping questionnaire issued to YUSCO, at B–1, notes that Section B of the questionnaire "provides instructions for reporting your sales of the foreign like product in your home market or a third-country market." Foreign like product, in turn, is defined in the glossary to the antidumping questionnaire as referring "to merchandise that is sold in the foreign market and that is identical or similar to the subject merchandise. When used in the questionnaire, foreign like product means all merchandise that is sold in the foreign market and that fits within the description of merchandise provided in Appendix III to the questionnaire. (Section 771(16) of the Act)." Therefore, it is clear from the instructions in the questionnaire that respondent is required to report all sales of subject merchandise in the foreign market. Furthermore, in explaining how to report customer codes for home market sales, the questionnaire states that, "{i}f known, identify customers that export some or all of their purchases of the foreign like product. Explain how you determined which sales were for consumption in the foreign market." *See* Questionnaire at page B–8. This instruction clearly places an obligation upon a respondent and contemplates, in accordance with the section 773(a)(1)(B) of the statute, that sales for consumption in the home market be reported as home market sales. Moreover, the questionnaire specifically asked respondent to identify customers that export and explain how it determined what sales were for home market consumption.

The record establishes that YUSCO failed to report a substantial portion of sales consumed by home market customers. Moreover, YUSCO failed to identify these customers and explain how it determined what sales to report. As a result, the Department was unaware of the existence of these so-called scenario two sales until verification. *See* Verification Report at 6. At verification, we found that YUSCO erroneously considered a substantial portion of its sales as third country export sales, even though they were sales to unaffiliated home market customers. *See* Verification Report at 6–7.

Further, we learned for the first time at verification that in determining that these scenario two sales were for export, YUSCO relied solely upon its internal classifications. Under YUSCO's system, sales with order numbers starting with "D" are home market sales and order numbers starting with "U" are destined for export. However, verification revealed that at least some portion of sales classified under "U" were consumed in the home market. YUSCO merely relied upon customers' statements that a product would be exported, without taking into account whether the customer would consume the SSPC by using it to produce non-

subject merchandise prior to export. YUSCO's internal classifications were therefore insufficient and unreliable in this regard.

We found at verification that one group of these scenario two sales, classified by YUSCO as "UZ sales," accounted for a substantial portion of all scenario two sales. We found that all the customers which made up this subgroup of UZ sales were pipe manufacturers located in the home market. *See* Verification Report at 7 and Exhibit 7. Therefore, it is clear that YUSCO knew or had reason to know that the sales of SSPC to these pipe customers would be used in Taiwan to manufacture non-subject merchandise (*i.e.*, consumed in Taiwan). *See* Verification Report at 7. The other scenario two sales (also substantial in number), which were coded by YUSCO with a "U" at the beginning of the order numbers, were also sales made to companies in Taiwan. *See* Verification Report at 6–7. YUSCO provided no information about these customers, except for one customer, which YUSCO stated generally further manufactures SSPC into sheet, *i.e.*, non-subject merchandise, before export. *See* September 4, 1998 YUSCO supplemental questionnaire response. Therefore, from what information was provided, YUSCO knew that at least some "U" sales of SSPC were consumed in the home market by Taiwan manufacturers of downstream products. Although we took as exhibits sales listings of UZ sales and other "U" sales, and while they provided information as to gross unit prices and quantity, YUSCO did not provide us with sufficient product or customer information to allow us to determine if the merchandise sold was exported or further manufactured into non-subject merchandise in Taiwan. *See* Verification Exhibits 7 and 8.

YUSCO argues that the so-called scenario two sales were "indirect export sales" ultimately destined for export to third countries by YUSCO's Taiwanese customers. Because, according to YUSCO, at the time of sale YUSCO had knowledge that these sales were ultimately for export to third countries, YUSCO claims that it was correct in not reporting these sales as home market sales, even though sales were made to home market customers and shipped within the home market. As noted above, the Department's questionnaire requires that *all* sales of the foreign like product in the home market be reported (except as specifically provided for in the questionnaire which do not obtain here) and places an obligation on the respondent to identify customers that export and explain how it determined sales were for consumption in the home market.

As noted above, under section 773(a)(1)(B), normal value is based on sales of the like product for consumption in the home market. Thus, sales should be excluded from the home market database only if a respondent knew or had reason to know that merchandise was not sold for home consumption. *See INA Walzlager Schaeffler Kg* v. *United States*, 957 F. Supp. 251 (CIT 1997). Therefore, only if YUSCO could demonstrate that it knew or had reason to know that merchandise subject to investigation was not sold for consumption in the home market under section 773(a)(1)(B) might it have been appropriate for YUSCO to omit these so-called scenario two sales as home market sales. In this case, substantial evidence establishes that this was not the case. It is without question that merchandise sold in the home market, even if ultimately destined for export, is consumed in the home market in producing non-subject merchandise prior to exportation. *See, e.g., Certain Hot-Rolled Carbon Steel Flat Products From Korea*, 58 FR 37176 (July 9, 1993)(Comment 9); *Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea*, 58 FR 15467 (March 23, 1993). Therefore, YUSCO should have reported as home market sales at least the portion of the scenario two sales (UZ sales) that were consumed in the home market, regardless of whether the non-subject merchandise made by these customers from YUSCO's merchandise was later exported, because YUSCO knew or had reason to know that its pipe customers would consume the SSPC in Taiwan to manufacture pipe.

With regard to the remaining high percentage of the non-reported "U" sales, it was incumbent upon YUSCO to demonstrate that it knew or had reason to know that such sales to Taiwan customers were not destined for home consumption. Because the Department first learned of these sales during verification, it was compelled to review very limited information. *See* Verification Report at 6. There was no information concerning the customers involved in these "U" sales from which we could determine if such customers were merely Taiwanese resellers of SSPC for export or producers which had used YUSCO's merchandise to manufacture non-subject merchandise in Taiwan. YUSCO had no sales contracts or commercial invoices for "U" sales to demonstrate its claim. The only evidence to which YUSCO could point to establish that these sales were destined for export was YUSCO's internal classifications, which categorized the sales as export sales. *See* Verification Report at 7. Although YUSCO's invoices did have an asterisk in the shipping number which we were told signified "indirect export", as stated, all sales were made to Taiwan customers, and YUSCO's classifications did not sufficiently describe the types of customers. *See* Verification Report at 7. Thus, from such classifications, one cannot distinguish whether the customer is a manufacturer (*e.g.* pipe producer) or a mere reseller. Moreover, no evidence at verification revealed that YUSCO packed such sales for export. *See* Verification Report at 7. Again, these same internal forms also characterized the other portion of the scenario two sales, "UZ" sales (which, as stated, were in and of themselves a substantial percentage of home market sales), as destined for export, while verification revealed that UZ sales were for consumption in the home market in producing non-subject merchandise (pipe) prior to export. *See* Verification Report at 7.

Because YUSCO's classification was inadequate, by relying on it YUSCO failed to comply to the best of its ability with the Department's instructions. Moreover, what information it did possess regarding its Taiwan customers indicates that its merchandise was consumed in the home market. Therefore, YUSCO should have reported such sales to the Department in its questionnaire response. Because of its failure to report a substantial portion of its home market sales to the Department, which the Department did not learn until verification, it was too late for the Department to verify and use these sales in determining normal value. The information available to the Department at verification only included gross prices and quantity; the merchandise sold was not sufficiently described to permit model-matching to U.S. sales (although the Department took a computer diskette containing information about physical characteristics of the scenario two sales at verification, the information was incomplete, not verified, and in any event could not be utilized without undue difficulty by the Department because it would have to be input manually). Therefore, we determine that the information is so incomplete that it cannot serve as a reliable basis for reaching our determination of normal value.

We note that petitioners' argument regarding VAT is not valid since although YUSCO collects VAT from Taiwan companies involved in indirect

exports, its customers are reimbursed by the Taiwan government upon exporting the merchandise.

We also note that the circumstances of this case are different from those articulated in *Certain Cut-To-Length Carbon Steel Flat Products from Korea*, 58 FR 37176, 183 (July 9, 1993), which YUSCO cites for support in deeming the scenario two sales as export sales. The crucial distinction is that, in that proceeding, the respondent had timely reported the sales at issue to the Department. Thus, the Department was able to collect information, later verified, which established that the sales at issue were home market sales because the respondent did not know or have reason to know at the time of sale that its merchandise was destined for export. The present case, to the contrary, involves a large number of unreported sales which the Department was unaware of until verification, and so was unable to verify the nature of the sales to determine whether to use the sales in calculating normal value. Moreover, what the Department did uncover at verification indicated that YUSCO was aware that, at a minimum, a substantial portion of scenario two sales ("UZ" sales) were for consumption in producing non-subject merchandise by YUSCO's Taiwan customers.

Adverse Facts Available

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition. Section 776(c) provides that, when the Department relies on secondary information, such as the petition, as facts available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870).

At the outset of this investigation, the Department examined the accuracy and adequacy of the price to price information in the petition. While we rejected the petition margins based on cost, we determined that the price to price comparisons constituted sufficient evidence of dumping to justify initiation. *See Antidumping Investigation Initiation Checklist; Stainless Steel Plate in Coils from Belgium, Canada, Italy, South Africa, South Korea and Taiwan, pages 14–16* (estimated margins for Taiwan ranged from .29% to 8.02%); *see also* petitioners' submission dated April 17, 1998 (amendment to petition regarding price information).

In order to determine the probative value of the petition margins for use as adverse facts available for the purposes of this determination, we have examined evidence supporting the petition calculations. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the U.S. price and normal value calculations on which the petition margin was based and compared the sources used in the petition to YUSCO's reported sales databases. Based on this analysis, we have successfully corroborated the information in the petition. *See* Facts Available Memorandum.

Therefore, we have chosen the highest of the calculated petition margins for Taiwan of 8.02 percent as total adverse facts available.

Comment 2: YUSCO argues that even if the Department makes an affirmative finding on middleman dumping by Ta Chen, the Department should assign and calculate an independent dumping margin for YUSCO based on the one reported U.S. sale made through a company in Taiwan other than Ta Chen. Ta Chen makes the same assertion. YUSCO claims that the Department verified that the sale in question was, in fact, a U.S. sale and that this sale was not made through Ta Chen. According to YUSCO, its order acceptance sheet for this sale shows its limited knowledge of the Taiwan company's further processing, as well as its knowledge that the merchandise would ultimately be sold to a U.S. customer. YUSCO argues that its lack of specific knowledge about its customer's further processing does not meet the Department's standard for "consumption" of SSPC in the home market.

YUSCO cites several instances in which it claims that the Department has considered a sale to a local customer as a U.S. sale where the respondent "is aware at the time of sale that the merchandise is ultimately destined for the United States": *Fresh Atlantic Salmon from Chile*, 63 FR 31411 (June 9, 1998); *Dynamic Random Access Memory Semiconductors of One Megabit or Above from the Republic of Korea*, 63 FR 50867 (September 23, 1998); *Yue Pak, Ltd.* v. *United States*, Slip. Op. 96–65 at 9 (CIT), aff'd. 1997 U.S. App. LEXIS 5425 (Fed. Cir. 1997); *Peer Bearing Co.* v. *United States*, 800 F. Supp. 959, 964 (CIT 1992).

YUSCO also cites the final determination in the LTFV investigations of *Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Korea* (58 FR 37176 (July 9, 1993)) to support its argument that the Department considers a sale to a local customer as an export sale where the respondent has specific knowledge that the merchandise would be exported, but had no specific knowledge regarding the customer's further manufacturing. YUSCO distinguishes these circumstances from those addressed in the preliminary determination in the LTFV investigation of *Stainless Steel Sheet and Strip in Coils from Korea*, (64 FR 137 (January 4, 1999)), in which sales to a further manufacturer/exporter in Korea were deemed home market sales because the respondent had specific knowledge that the subject merchandise would be further manufactured into non-subject merchandise prior to exportation. YUSCO concludes that since Ta Chen was not involved in this U.S. sale, the Department should assign and calculate an independent dumping margin rate for YUSCO based on this sale.

Petitioners argue that sales to home market customers that are further manufactured prior to export are reportable home market sales. In this case, continue petitioners, the sale in question should be considered a home market sale since YUSCO knew at the time of sale that the merchandise would be further manufactured in Taiwan into non-subject merchandise and then sold to the United States. Petitioners cite the preliminary determination in *Stainless Steel Sheet and Strip in Coils from Korea* (64 FR 137) in which the Department included as home market sales those sales of subject merchandise to Korean companies that respondent knew would further manufacture the subject merchandise into non-subject merchandise for export. Petitioners also point to two of YUSCO's submissions in which YUSCO stated that it knew at the time of sale that the SSPC would be consumed prior to exportation. *See* YUSCO's September 22, 1998 letter to the Department and YUSCO's September 4, 1998 supplemental questionnaire response.

Petitioners also claim that the sale in question should be classified as a home market sale because YUSCO considered it a domestic sale in its normal course of business, it did not require special export packing, it was shipped to a customer in Taiwan prior to export, it

did not have a complete shipping number in the Government Uniform Invoice ("GUI"), and the sale was subject to a value-added tax (VAT). Petitioners also refer to a Department memorandum to the file dated November 25, 1998 which states that evidence established that YUSCO knew that the SSPC would be further manufactured into non-subject merchandise.

Petitioners conclude that, even if the Department continues to classify this sale as a U.S. sale, it should disregard this sale for the final determination since it is an "outlier" sale, and thus not representative of YUSCO's normal selling behavior. Petitioners cite several cases in which the Department ruled similarly; including *Ipsco, Inc.* v. *United States*, 714 F. Supp. 1211, 1216 (CIT 1989); *Silicon Metal from Brazil: Notice of Final Results of Antidumping Duty Administrative Review*, 64 FR 6305 (February 9, 1999); and *Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished, from Japan; Final Results of Antidumping Duty Administrative Review*, 57 FR 4960 (February 11, 1992).

Department's Position: The accurate determination of which sales should be classified as home market sales and used to calculate normal value, and which sales should be classified as U.S. sales and used to calculate export price, is central to accurately determining antidumping margins. In determining whether a sale made prior to importation to a customer outside the United States should be considered a U.S. sale, section 772(a) requires that respondent know that subject merchandise, purchased by an unaffiliated reseller, is destined for exportation to the United States. Because the statute does not address how the Department is to determine if a respondent knew whether home market sales of subject merchandise were destined for the U.S. market, the Department has discretion in making this determination. It has been the Department's practice to examine the evidence on a case-by-case basis to determine whether the respondent knew or had reason to know that its sales of subject merchandise to an unaffiliated company in the home market were destined for export to the United States. *See, Ina Walzlager* v. *United States*, 957 F. Supp. 251 (CIT 1997)(standard for determining knowledge under section 773(a) is imputed knowledge, not actual knowledge); *Yue Pak* v. *United States*, Slip Op. 96–65 at 9 (CIT) (upholding the Department's interpretation of "for exportation to the United States" to mean that the reseller or manufacturer from whom the merchandise was purchased knew or should have known at the time of sale that the merchandise was being exported to the United States).

Based on the record evidence, it is clear that YUSCO knew or had reason to know that its sale of subject merchandise to a certain customer was not for export to the United States because it would be further manufactured in Taiwan into non-subject merchandise. The non-subject merchandise was then to be exported to the United States. *See* September 4, 1998 Supplemental Questionnaire Response, September 22, 1998 letter to the Department, and October 19, 1998 letter to the Department in which YUSCO states that it had general knowledge and an understanding that the SSPC would be used to manufacture non-subject merchandise prior to export to the United States. Therefore the sale in question is in fact a home market sale. *See Memorandum to Edward Yang: Stainless Steel Plate In Coils from Taiwan: YUSCO Sales*, November 25, 1998. Nevertheless, as we have applied total adverse facts available to YUSCO (see Comment 1), the classification of this sale as either U.S. or home market is irrelevant to the calculation of YUSCO's margin.

Comment 3: YUSCO states that the Department should calculate YUSCO's dumping margins incorporating its corrections to minor errors that it submitted at the commencement of both cost and sales verification. Petitioners state that the Department should include an unreported discount for one YUSCO U.S. sale, as noted in the verification report.

Department's Position: We agree with both YUSCO and petitioners. However, we have not made these corrections for the final determination, since we have applied total adverse facts available to YUSCO, as described in Comment 1.

Comment 4: Petitioners claim that during YUSCO's cost verification YUSCO failed to quantify differences between the reported and booked costs of manufacture. Although YUSCO offered "three contributing factors," state petitioners, YUSCO was unable to quantify the amounts related to each of the claimed reconciling items. Petitioners claim that the Department must thus adjust the reported total manufacturing costs ("TOTCOMs") to reflect the unreconciled difference.

YUSCO contends that the Department should reject petitioners' argument to increase YUSCO's TOTCOM since all elements of YUSCO's production costs were verified to have been included in YUSCO's calculation of TOTCOM by control number ("CONNUM"). YUSCO argues that the difference between the reported TOTCOM and the booked TOTCOM is a result of the exclusion of beginning work-in-process prices from the reported TOTCOM, and from the allocation of processing costs by processing time for the purpose of this investigation, and these adjustments have been quantified in the verified record. Furthermore, YUSCO claims that during verification it was not asked to quantify the difference between the reported and booked TOTCOMs by item, so it is not fair to say that the company was unable to quantify the difference by item.

Department's Position: We agree with petitioners that the unreconciled difference found between the costs in the accounting records and the reported costs should be included in the revised reported costs. As articulated in *Certain Cut-to-Length Carbon Steel Plate From Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 77, 78 (January 4, 1999) (Comment 1), the Department must assess the reasonableness of a respondent's cost allocation methodology according to section 773(f)(1)(A) of the Act. Before this can be done, however, the Department must ensure that the aggregate amount of costs incurred to produce the subject merchandise was properly reflected in the reported costs. In order to accomplish this, a reconciliation of the respondent's submitted COP and CV data to the company's audited financial statements, when such statements are available, is performed. YUSCO did not complete this reconciliation because it did not identify and quantify all differences shown on the reconciliation. As stated in *Certain Cut-to-Length Carbon Steel Plate From Mexico,* "[i]n situations where the respondent's total reported costs differ from the amounts reported in its financial statements, the overall cost reconciliation assists the Department in identifying and quantifying those differences in order to determine whether it was reasonable for the respondent to exclude certain costs for purposes of reporting COP and CV." As to YUSCO's argument that it was never asked to identify and quantify the unreconciled differences in its cost reconciliation, the Department requested YUSCO to quantify differences between its accounting records and reported costs in step III.D. of the cost verification agenda. While we agree with petitioners that the unreconciled difference found between the costs in the accounting records and the reported costs should be included in

the revised reported costs, based on our decision to apply total adverse facts available, this issue is moot.

Comment 5: Petitioners argue that the Department should include exchange gains and losses associated with notes payable instruments in YUSCO's net interest expense. According to petitioners, the Department discovered at the cost verification that YUSCO had excluded these exchange gains and losses from its financial expense rate, and that since net exchange losses related to notes payable is a cost incurred by the company as a whole for financing purposes, it should be included in the net interest expense calculation. Petitioners also assert that this result is consistent with the Department's cost questionnaire.

Respondents did not comment on this issue.

Department's Position: The Department agrees with petitioners that the current portion of the net exchange loss related to notes payable should be included in the financial expense rate calculation. As explained in *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile,* 63 FR 31430 (June 9, 1998) (Comment 24), the Department includes in the cost of production the amortized portion of foreign exchange losses resulting from loans. For this final determination, we would have amortized the net exchange losses generated from debt over the current maturities of the debt and included the amortized portion in YUSCO's financial expenses. However, based on our decision to apply total adverse facts available, this issue is moot.

Interested Party Comments Re: Ta Chen

Comment 6: Ta Chen contends that the transactions involving the subject merchandise do not fall within the ambit of any middleman dumping provision because: (1) The transactions involve a direct sale between a Taiwanese manufacturer and an unaffiliated U.S. buyer and (2) the Department cannot determine that middleman dumping is occurring because there is no middleman.

Ta Chen explains that Ta Chen is merely a processor of paperwork and a communications link and is acting as an agent of TCI, Ta Chen's U.S. affiliate. Ta Chen claims that TCI initiates all purchase requests from YUSCO and uses Ta Chen as a facilitator due to language barriers and time zone differences. Ta Chen further claims that there is a straight pass-through of the purchase price from YUSCO to TCI such that TCI incurs both the risk and the profit or loss on the sale.

Ta Chen states that the Department must recognize and follow commercial law in its administration of the antidumping laws. *See NSK* v. *United States,* 115 F. 3d 965 (Fed.Cir. 1997). Ta Chen claims that, under commercial law, a four-pronged test exists for determining whether an intermediary is acting as an agent or as a buyer. The test analyzes: (1) Whether the intermediary could or did provide instructions to the seller; (2) whether the intermediary was free to sell the items at any price it desired; (3) whether the intermediary could or did select its own customers; and (4) whether the intermediary could or did order the merchandise and have it delivered for its own inventory. Ta Chen claims that the Department generally follows this analysis in determining whether sales through a U.S. subsidiary should be treated as EP or CEP transactions. *See Stainless Steel Wire Rod from Spain,* 63 FR 40391, 40395. Ta Chen maintains that if the intermediary cannot perform these tasks and if there is a simultaneous passage of title and risk of loss from the seller to the intermediary to the buyer, then the intermediary is acting as an agent. Ta Chen states that an analysis of the record will show that the answers to these questions are negative and thus, Ta Chen is acting as an agent. Moreover, Ta Chen claims that based on the terms of sale from YUSCO to Ta Chen and from Ta Chen to TCI, there is a simultaneous transfer of title from YUSCO to TCI. In addition, Ta Chen claims that the terms of payment from TCI to Ta Chen are such that TCI assumes all risk of loss, and that furthermore, petitioners point to these same facts in their case brief. Thus, Ta Chen concludes that Ta Chen is acting as an agent of TCI.

Ta Chen states that the Tariff Act of 1930 allows only for dumping margin calculations with regard to producers and exporters. Ta Chen states that it is the Department's practice to treat manufacturers who have knowledge that the merchandise was exported to the United States as exporters, citing *AFBs from France,* 57 FR 28360 (Comment 18)(1992). According to Ta Chen, the record shows that the manufacturer, YUSCO, had such knowledge and therefore, would be treated as the exporter under the Department's normal practice. However, Ta Chen notes that the above practice has one exception, namely, middleman dumping.

Ta Chen argues that middleman dumping is a narrowly defined exception and does not apply in this case. Ta Chen points to the legislative history of the Trade Agreements Act of 1979 as evidence that middleman dumping is limited to the issues involved in *Voss International* v. *United States,* (*Voss*) C.D. 4801 (May 7, 1979), citing S. Rep. 249, 96th Cong., 1st Sess. 93–94 ("Senate Report")(July 17, 1979). Ta Chen argues that the authority to perform a middleman dumping analysis, borne out of the legislative history, does not operate as a broader grant of authority beyond the issues presented in *Voss* and the issues in *Voss* are not present in the instant case, citing *PQ Corp.* v. *United States,* 652 F. Supp. 724, 734, 11 CIT 53 (1987), because YUSCO did not make a sale to Ta Chen. Therefore, Ta Chen concludes, the Department does not have the authority to investigate Ta Chen nor does it have the authority to use TCI's U.S. resale prices in the calculation of a dumping margin.

Notwithstanding this conclusion, Ta Chen argues that if the Department wishes to take on a broader view of its ability to investigate middleman dumping, in the instant case there is no sale to a middleman outside the United States who then makes the first sale to the United States. Ta Chen again cites to the Senate Report at 93–94:

> Regulations should be issued, consistent with present practice, under which sales from the foreign producer to middlemen and any sales between middleman *before* sale to the first unrelated U.S. purchaser are examined to avoid below cost sales by the middlemen. (Emphasis added in Ta Chen brief)

Ta Chen asserts that this sentiment is repeated in the Statement of Administrative Action of the Trade Agreements Act of 1979, H. Doc. No. 153 (Pt.II), 96th Cong., 1st Sess. At 412, in the Department's determination in *Fuel Ethanol from Brazil; Final Determination of Sales at Less Than Fair Value,* (*Fuel Ethanol*) 51 FR 5572, 5577 (Feb. 14, 1986), and in the Department's own *Antidumping Manual.* Ta Chen claims that YUSCO sells directly to TCI, an unaffiliated U.S. customer, and therefore, there is no middleman.

Ta Chen argues that the Department has *not* considered a U.S. distributor which buys from a foreign manufacturer to be an "exporter" on the basis that the U.S. distributor is foreign-owned. Ta Chen states that to conclude otherwise would be contradictory because the U.S. distributor is clearly an "importer." Ta Chen points to the Department's statements in its middleman dumping initiation memorandum in the investigation of *Stainless Steel Sheet and Strip in Coils from Taiwan,* as suggesting that TCI could be subject to a middleman dumping investigation by virtue of the collapsing doctrine. Ta

Chen argues that if the Department applied the collapsing doctrine in this manner, it would render moot all EP/CEP analyses of sales between a foreign parent and its U.S. subsidiary. Because this is clearly not the case, Ta Chen argues that the collapsing analysis does not apply to a U.S. importer and its foreign-owned parent. Rather, Ta Chen states that the collapsing doctrine applies to situations where two producers, with their own production facilities, are considered to be one entity for purposes of issuing a duty margin. Finally, Ta Chen argues that to discriminate against U.S. corporations that are foreign-owned would be bad policy and contrary to free trade policies.

Petitioners argue that the Department should take into account Ta Chen's dumping of YUSCO's SSPC since the Department has the authority to consider and include in its dumping calculations price discrimination by a middleman who can be located anywhere in the world. Petitioner claims that the Department should follow standard procedures as employed in *Mitsui & Co.* v. *United States*, Court No. 90–12–00633 at 9–10 and in *Fuel Ethanol*, and compare the foreign manufacturer's net U.S. price to its normal value, compare the middleman's net U.S. price to its normal value, and then sum the dumping margins.

Petitioners cite the legislative history of section 772 of the Tariff Act of 1930, H.R. Rep. No. 317, 96th Cong., 1st Sess. 75 (1979); and the Senate Report to illustrate that Congress gave the Department the authority to investigate resales by middlemen. Petitioners further cite the Statement of Administrative Action of the Trade Agreements Act of 1979, H. Doc. No. 153 (Pt. II), 96th Cong., 1st Sess. 412 (1979) reprinted in 1979 U.S.C.C.A.N. at 682. They argue that this Statement reiterated that resales by middlemen are to be examined as possible below-cost sales, regardless of the location of the middleman.

Furthermore, petitioners claim that Ta Chen is incorrect in asserting that the Department should not consider Ta Chen's resales of YUSCO's SSPC to Ta Chen's unaffiliated U.S. customers. Petitioners point to the Trade Agreements Act of 1979, accompanying legislative history, and *Voss*, and claim that the legislative history at H.R. Rep. No. 317, *supra* at 75 and the Senate Report at 94 explicitly state that sales involving middlemen are to be examined to avoid below cost sales by middlemen. When middlemen sell above their costs, the courts and the legislative history state, according to petitioners, that the producer's price to the first unrelated middleman may be used as a purchase price, as found in *Sharp Corp.* v. *United States*, 63 F.3d 1097, 1093–94 (Fed. Cir. 1995); *Smith Corona Group* v. *United States*, 713 F.2d 1568, 1572 (Fed. Cir. 1983); *PQ Corp.* v. *United States*, 652 F. Supp. 724, 735 (CIT 1987), and H.R. Rep. No. 317, *supra* at 75; and the Senate Report at 94. In these cases, according to petitioners, sales to middlemen were not to be examined when any sales involving them appeared to be below cost. Petitioners claim the Department's decision in *Fuel Ethanol* was consistent with these authorities and precedents.

Petitioners hold that for these reasons, Ta Chen is in this case a middleman, not YUSCO's first unaffiliated U.S. customer as Ta Chen claims, and that the Department should reject Ta Chen's contentions that the middleman dumping provision is inapplicable here.

Alternatively, if the Department concludes that middleman dumping refers solely to middlemen outside of the United States, petitioners argue that the Department should still find that Ta Chen acted as a middleman for YUSCO and ascribe middleman dumping accordingly. Petitioners believe that, contrary to Ta Chen's claim that YUSCO sold its SSPC directly to TCI, the record shows that YUSCO's sales were to Ta Chen, which then resold the SSPC to TCI. *See* Petitioner's Rebuttal Brief at 15–17 (proprietary version). Petitioners claim that the verified record shows that Ta Chen was intimately involved in the purchase and intra-company resale to TCI of YUSCO's product, and that the verification report did not conclude that TCI buys plate from YUSCO, but merely states that Ta Chen officials claimed such during verification.

Petitioners claim that the three-pronged test which Ta Chen discusses and bases on AK *Steel Corp.* v. *United States*, Slip Op. 98–159 at 15 (Nov. 23, 1998), is not applicable here. They argue that this test is used merely to classify sales as CEP or EP, and that in either instance, the Department uses sales to unaffiliated U.S. customers. In this case, according to petitioners, the Department can determine whether a middleman has dumped only by examining each middleman resale leading to the ultimate sale to the unaffiliated U.S. customer. Petitioners further argue that even if this test were to be used, it would result in the Department's finding that Ta Chen was substantially involved in the purchase and resale of SSPC because its role in the sales process was similar to that of a selling agent in *Industrial Nitrocellulose from the United Kingdom*, who was deemed to be substantially involved in the sales process because its duties included sales solicitation and price negotiation.

Department's Position: We disagree with Ta Chen that it is not the middleman for resales of YUSCO's merchandise into the U.S. market. Evidence plainly establishes that for the purposes of conducting a middleman dumping investigation, there were sales of subject merchandise between YUSCO and Ta Chen which, in turn, Ta Chen resold into the United States through its U.S. affiliate, TCI. We find the activity engaged in by Ta Chen as that of a classic middleman and therefore subject to our scrutiny.

Where a producer sells its merchandise to an unaffiliated middleman, it has been the Department's long-standing practice normally to select as the U.S. price the price between the foreign producer and the unaffiliated middleman, provided that the foreign producer knew or had reason to know that its merchandise was destined for export to the United States. *See Antifriction Bearings From France*, 57 FR 28360 (1992) (Comment 18). However, if the middleman is reselling below cost, the sale between the producer and the middleman may not be an appropriate basis for establishing the total margin of any dumping that may have occurred. The legislative history to the 1979 Act makes clear that Congress recognized that middlemen may also be engaged in dumping and acknowledged that the Department had authority to investigate "sales from a foreign producer to middlemen and any sales between middlemen before sale to the first unrelated U.S. purchaser * * * to avoid below cost sales by the middlemen." *See* H.R. Rep. No. 317, 96th Cong., 1st Sess. 75 (1979); and the Senate Report. Therefore, there is no question that the Department has the authority to depart from its normal practice, where circumstances warrant, and investigate whether dumping is being masked or understated by middlemen. *See Fuel Ethanol* (the legislative history of the 1979 Act sustained the Treasury Department's practice of using the price between the manufacturer and unrelated trading company for exports to the U.S. when the manufacturer knew the destination at the time of sale to the exporter, but was not intended to bar us from looking at all facets of the transaction). Where the Department determines that a substantial portion of the middleman's resales in the United States was made at below the middleman's total acquisition costs and the middleman incurred substantial losses on those resales, middleman dumping has occurred and

the margin calculation is adjusted accordingly, *i.e.*, we look to the middleman's first sale to an unaffiliated customer. *See Amended Preliminary Determination; Fuel Ethanol;* and Comments 9 and 13.

Ta Chen acknowledges that the Department has the authority to conduct middleman dumping investigations but offers various arguments against applying middleman dumping to Ta Chen. Ta Chen mainly argues that if there was not a sale between YUSCO and Ta Chen, but Ta Chen merely acted as a selling agent for its wholly-owned U.S. affiliate, TCI, there can be no middleman and thus no middleman dumping.

Here, the verified evidence establishes that YUSCO made sales to Ta Chen, not directly to TCI. Contrary to Ta Chen's assertions otherwise, Ta Chen did take legal title to the merchandise. Even though YUSCO shipped the merchandise fob to TCI at a port in Taiwan, a purchaser need not take physical possession of merchandise to have legal title. Here, Ta Chen negotiated the sale with YUSCO, signed a sales contract with YUSCO, was invoiced by YUSCO, paid YUSCO for the merchandise in Taiwan dollars, paid bank charges on payments to YUSCO, entered these sales into Ta Chen's books, signed the export declaration, invoiced TCI, and undertook various other activities involved in exporting and transporting the merchandise. *See* Ta Chen's Verification report at 3, and YUSCO's Verification Report at 3 and Exhibit 11 (both reports dated January 28, 1999); *see also* Petitioners' Rebuttal Brief (proprietary version) at 15–17 (dated Feb. 16, 1999). Thus, the evidence is sufficient to establish that Ta Chen was acting as a middleman within the meaning of the antidumping law.

Further, trading companies such as Ta Chen have typically been the focus of the Department's investigation into middleman dumping allegations because most often trading companies engage in the "successive resales from the foreign producer to the first unrelated U.S. buyer," thus prompting our scrutiny. *See, e.g., Electrolytic Manganese Dioxide From Japan,* 58 FR 28551 (May 14, 1993); *Fuel Ethanol; PC Strand From Japan:* Final Results of Redetermination Pursuant to Court Remand, Court. No. 90–12–00633 (August 5, 1994); see also *Consolidated International Automotive, Inc.* v. *United States,* 809 F. Supp. 125, 130 (CIT 1992).

We also disagree that we should examine Ta Chen's role in the transaction chain by applying the criteria we normally use to determine if U.S. sales are EP or CEP sales. The EP/CEP analysis is used to determine if the selling activities of parties in the United States are more than ancillary to the transaction, in which case CEP methodology is warranted to take into account the selling expenses incurred in the United States when calculating the dumping margin. In contrast, the middleman dumping analysis is used to determine whether a transaction with a middleman is masking or understating any dumping. Regardless of whether Ta Chen calls itself an agent, it is a middleman and an appropriate subject of a middleman dumping inquiry. YUSCO invoiced Ta Chen for the merchandise and it was subsequently resold to an unaffiliated purchaser at less than the acquisition cost. This is precisely the type of situation cited by Congress when it addressed the middleman dumping concern. *See* H.R. Rep. No. 317 at 75. (*Voss* also involved the sale of subject merchandise by a producer to an unaffiliated trading company in the exporting country, which was then exported to the middleman's wholly-owned U.S. affiliate for resale to an unrelated U.S. customer). Therefore, Ta Chen's assertion that the Department's authority is limited to the issues presented by *Voss* is misplaced, because the issues in the instant case mirror those in *Voss*. YUSCO sold its merchandise to Ta Chen which, as the middleman, in turn sold it to the first unaffiliated U.S. customer through TCI.

Finally, given that we find that Ta Chen is a middleman, the question Ta Chen raises regarding the geographical location of the middleman is moot, since Ta Chen is located in the exporting country and hence clearly within the ambit of a middleman dumping investigation. *See e.g.,* Antidumping Manual, Chapter 7 at 5 (if the Department receives a documented allegation that the trading company located in the exporting country or a third country is reselling to the United States at prices which do not permit the recovery of its total acquisition costs, we will initiate a middleman dumping investigation).

Comment 7: Ta Chen states that this middleman dumping investigation was unlawfully initiated. Ta Chen states that the Department's standards for initiating such an investigation requires timely and convincing evidence of middleman dumping, citing *e.g., Certain Forged Steel Crankshafts From Japan,* 52 FR 36984, 36985, *Consolidated Int'l Automotive* v. *U.S.,* F. Supp. 125, 129–30 (CIT 1992), and *Mitsui & Co., Ltd.* v. *U.S.,* 18 CIT 185 (1994). Further, Ta Chen states that the petitioners have an obligation to submit such evidence that is reasonably available to them, citing *Electrolytic Manganese Dioxide From Japan,* 58 FR 28551 and *Certain Stainless Steel Cooking Ware From Korea,* 51 FR 24563–64. Ta Chen argues that there was no convincing evidence of actual middleman dumping nor did petitioners submit evidence reasonably available to them on the subject and thus, the Department's standards have not been met.

Ta Chen contends that the record does not establish that the alleged lost sale was due to a sale of Taiwanese-origin product. Ta Chen asserts that in petitioner's September 21, 1998 submission, petitioners acknowledged that the alleged lost sale possibly due to a sale of both (or, as respondents believe petitioners' statement implies, either) Taiwanese and Korean product. Ta Chen also argues that the product alleged to have been sold to Company X was T04L 3/16 to 1/2 inch plate. However, respondent argues that petitioners misstated this specification in its middleman dumping allegation as 0.1875 to 0.3125 inch product. *See, e.g.,* paragraph 5 of Exhibit 1 of petitioner's August 25, 1998 submission and petitioner's August 11, 1998 submission at 10. Regardless, Ta Chen argues that its sole Taiwanese supplier, YUSCO, does not produce or sell a product above 1/4 inch plate. Thus, Ta Chen argues that the alleged sale could not have been a sale of Taiwanese product. Thus, Ta Chen concludes, the convincing evidence standard has not been met.

Ta Chen also states that the Department initiated this middleman investigation based on a claim by petitioners that Ta Chen actually sold subject merchandise to Company X in October 1997. Ta Chen argues that both petitioners and the Department had available to them the knowledge that there was no such sale. Ta Chen states that this same "lost sale" was previously alleged in petitioner's March 31, 1998 antidumping petition to both the Department and the International Trade Commission (ITC). Ta Chen stated that the petition also included a contact name and phone number at Company X. Ta Chen claims that it made no sales whatsoever to Company X in October 1997 or at any other time. Moreover, Ta Chen suggests that a review of its sales listing will show that in October 1997, its lowest sales price was well above both the alleged price to company X and petitioner's alleged acquisition costs. Finally, Ta Chen states that the ITC contacted Company X regarding the alleged "lost sale" and that Company X denied the sale took place. Ta Chen

argues that because the results of the ITC's phone call were known to petitioners before it used this "lost sale" in its request to initiate a middleman dumping investigation, counsel for petitioners submitted a false representation to the Department.

Moreover, Ta Chen claims that petitioners did not satisfy their requirement to utilize sources readily available to them. Ta Chen states that the petitioners made only a single attempt to contact Company X themselves but were unsuccessful in attempting to reach a certain contact at Company X. Ta Chen asserts that it had subsequent contact with this individual and was aware of that individual's ready availability to speak with petitioners. However, respondent argues that petitioners never attempted to call back this individual. Thus, Ta Chen argues, petitioners did not make use of the sources readily available to them.

Petitioners argue that they met the Departmental requirement of "timely and convincing evidence that the trading company is in fact dumping." *See* Petitioners' Rebuttal Brief at page 27. Moreover, petitioners assert that evidence may be only that which is reasonably available to Commerce. On these accounts, petitioners defend their submissions as consistent with the standard required by the Department. Petitioners also assert that their evidence was advanced in good faith as the best information reasonably available to petitioners that pointed toward middleman dumping by Ta Chen, and furthermore, that Ta Chen has not shown this information to be false. Petitioners conclude that the reasonableness of the evidence provided is borne out by the fact that the Department indeed found middleman dumping in its *Amended Preliminary Determination*.

Department's Position: We disagree with Ta Chen that our initiation of a middleman dumping investigation was illegal and should be rescinded. As stated, Congress plainly intended for the Department to have the authority to both investigate middlemen and to avoid below cost sales by middlemen. *See Senate Report* at 412, ("successive resales from the foreign producer to the first unrelated U.S. buyer are examined to avoid sales by middlemen below their costs"). Through its administrative practice, the Department has developed a reasonable standard for analyzing allegations of middleman dumping.

As we stated in our memorandum initiating this middleman dumping investigation, the standards for initiating a middleman dumping allegation are similar to those of initiating a traditional antidumping investigation, in that we must have evidence to suspect that middleman dumping is occurring. *See Memorandum for Joseph Spetrini: Stainless Steel Plate in Coils From Taiwan: Whether To Initiate a Middleman Dumping Investigation* (Middleman Initiation Memo)(Aug. 25, 1998)(non-proprietary version on file in Rm. B–099 at the Department of Commerce). In analyzing whether to initiate we will evaluate information, either direct or circumstantial, and will require that petitioners provide supporting data on prices and costs which are reasonably available to them and that this information is convincing. *See Consolidated International Automotive, Inc.* v. *United States,* 809 F. Supp. 125, 130 (CIT 1992)(upholding the Department's refusal to initiate a middleman dumping investigation where petitioner only offered a theory, but no sufficient data); *Preliminary Determination of Sales at Less Than Fair Value; Stainless Steel Cooking Ware From the Republic of Korea,* 51 FR 24563 (July 7, 1986)(refusing to initiate because no documents submitted contained pricing or cost data); *Electrolytic Manganese Dioxide (EMD) From Japan; Final Results of Antidumping Administrative Review;* 58 FR 28551 (May 14, 1993)(the Department will not initiate on mere conjecture but requires convincing evidence presented by petitioners). Here, petitioners provided both timely price and cost information, reasonably available to them, which was supported by affidavits and which the Department reviewed and found credible and convincing. *See Middleman Initiation Memo.*

First, we disagree with Ta Chen's claim that the sale (which we viewed as an offer, see below) described in petitioner's affidavit to Company X was not of Taiwanese origin, and that the Department should have recognized this as the case because the "weekly report" (sales call report) attached to the affidavit described a product which was not in the range of thickness produced by YUSCO, Ta Chen's supplier. We looked at the grade, thickness, width and surface finish of the U.S. sale referred to in the affidavit, compared its characteristics to those of the three YUSCO reported control numbers (CONNUMS) which petitioner had relied upon in their analysis and found two of YUSCO's sales that were comparable. *See* Middleman Initiation Memo at 5. Further, contrary to Ta Chen's assertions otherwise, the product dimensions for the price quoted in the affidavit covered a product with a thickness between .1875 and *either* .3125 or .50. Ta Chen admits that YUSCO produced subject merchandise up to .25 inches in thickness. *See* Ta Chen Case Brief at 31 (Feb. 9, 1999). Therefore, regardless of the upper end of this product's thickness range, YUSCO produced product within the ranges described in both the affidavit and the accompanying weekly report. The affidavit clearly indicated that this alleged sale took place within the POI, and thus the information submitted by petitioners was also relevant to this investigation. As a result, the Department had reasonable evidence from which to conclude that this was merchandise produced by YUSCO.

Second, with regard to whether the sale alleged in the affidavit occurred, Ta Chen argues that this sale was never made and, as a result, the Department could have learned this had it contacted the affiant directly. However, we initiated our middleman dumping investigation on the basis that this was a price quote, but not necessarily a sale. *See* Middleman Initiation Memo at 4. The affidavit submitted by petitioners stated that the affiant believed there was a sale by Ta Chen of subject merchandise on a date within the POI; it did not say unequivocally that there was a completed sale. As in an antidumping investigation, the Department has the authority to initiate a middleman dumping investigation based upon an offer for sale. *See* section 731(1) ("a class or kind of foreign merchandise is being or is likely to be sold"); section 771(14) ("sold, or in the absence of sales, offered for sale"). Ta Chen has not argued that the transaction at issue was not an offer, but argues only that it was not a completed sale.

Moreover, at the time of the investigation, there was no reason for the Department to go beyond the affidavit and supporting weekly report as submitted by petitioners to confirm whether there was an offer for sale. As a matter of practice, when initiating an antidumping investigation the Department regularly relies upon U.S. price quotes (whether sales or offers) submitted in affidavits, provided the affidavit supplies sufficient and credible information. Here, the affidavit was submitted with a supporting call report by a U.S. customer in the business of selling the domestic like product who was generally familiar in the marketplace with Ta Chen and its 100 percent-owned U.S. affiliate, TCI, and with their U.S. pricing.

Further, Ta Chen did not raise its concerns to the Department regarding the alleged lost sale listed in the petition

for ITC purposes until after our initiation. *See* Letter from Ta Chen dated September 14, 1998 (Ta Chen claims that it did not receive the information it needed until after our initiation because it had not applied for an APO earlier, but we note that its wholly-owned affiliate, TCI, as the importer of record, is an interested party and it is incumbent upon an interested party to timely avail itself of access to proprietary information). However, there was no reason for the Department to have reviewed that information when it initiated the middleman dumping claim. The Department viewed this as an offer for sale and therefore evidence of a lost sale would not have been material. Additionally, as stated, there was no indication before the Department that the affidavit was untrustworthy or lacked merit. Finally, with regard to any information that petitioners may have possessed through the ITC proceeding that the price quote at issue was a lost sale prior to submitting it to the Department, we are not permitted access to proprietary ITC information, and therefore we have no means to arrive at the true state of the facts in this regard. However, as discussed, even if there was not a sale, it does not necessarily follow from Ta Chen's allegations that there was not an offer for sale and Ta Chen has not argued otherwise. As a result, we believe the middleman dumping investigation was properly initiated.

Comment 8: Ta Chen states that the bank charges reported under CREDIT1U and CREDIT2U fields are associated with the movement of funds between affiliated parties. Ta Chen argues that the Department does not deduct these in a below cost of production analysis because these charges are incurred as a result of internal business decisions. As such, the Department should not consider these in its below acquisition cost analysis.

Petitioners did not comment on this issue.

Department's Position: In the Department's *Memorandum to Edward Yang, Office Director: Analysis for the Amended Preliminary Determination of Stainless Steel Plate from Taiwan: Middleman Dumping Investigation,* November 25, 1998, at 1, we agreed with petitioners' allegation that a ministerial error had been made by failing to account for bank fees incurred in Taiwan and the United States. As we stated in the *Amended Preliminary Determination, "actual* selling expenses should be deducted in the middleman dumping analysis." *See Mitsui & Co., Ltd.* v. *United States,* Slip-Op. 97–49 (April 1997)(*Mitsui 1997*).

While Ta Chen argues that these bank charges are for movement of funds within Ta Chen, we note that these charges are incurred with respect to sales of subject merchandise. As Ta Chen stated on page 20 of its November 23, 1998 supplemental response, the bank charge incurred and paid in the United States has been calculated based on the Ta Chen invoice by actual weight, and is a fixed amount which does not vary with transaction value. For the bank charge incurred and paid in Taiwan, Ta Chen stated that this bank charge varies with the value of the transaction and thus is allocated over value.

The fact that these bank charges are costs that Ta Chen argues are "associated with internal movement of funds between affiliated parties" does nothing to negate the fact that these are actual costs incurred with respect to the sale of subject merchandise. These bank charges were actually incurred and would not have been incurred but for the fact that Ta Chen made U.S. sales of subject merchandise. Therefore, they are properly considered as direct selling expenses, and must be deducted from U.S. price in conducting our middleman dumping analysis.

Comment 9: Ta Chen argues that the Department should not consider Taiwanese-based selling expenses incurred prior to importation in its final determination since Ta Chen is a pipe manufacturer and is not in the coil business. Ta Chen bases its argument on the Department's precedent in *Fuel Ethanol.* If, however, the Department chooses to use Taiwanese general and administrative expenses, Ta Chen argues that the Department could add the additional expenses presented at the start of verification and could also increase this sum by the ratio of total administration expenses to total selling departmental expenses. Ta Chen points out that it is not unreasonable to believe that only two clerks in Taiwan are involved in SSPC since there were only a small number of invoices and the clerks acted merely as paper processors.

Petitioners argue that the Department should base Ta Chen's general and administrative expenses (G&A) for constructed value on Ta Chen's audited financial statement since this is required by the Department's questionnaire. Petitioners claim that the G&A that Ta Chen calculated is significantly understated because it only includes expenses associated with two clerks involved in SSPC sales and does not include expenses associated with Ta Chen's accounting, general management and legal departments. Petitioners cite *Mitsui 1997* as precedent for using constructed value in calculating normal value (and therefore, applying G &A) in a middleman dumping case. They continue by claiming that Ta Chen incorrectly relied on a statement in *Fuel Ethanol,* and that in *Fuel Ethanol* the Department did actually include the foreign G&A in the constructed value used in calculating the middleman dumping margin.

Department's Position: As we stated in our *Amended Preliminary Determination,* Congress has left to the Department the discretion to devise a methodology which would accurately capture middleman dumping. See Senate Report. In our *Amended Preliminary Determination,* to determine if Ta Chen's U.S. sales prices were substantially below its acquisition prices from YUSCO, we divided the amount of the losses by the total sales value for all sales. In our *Amended Preliminary Determination,* we calculated the amount of losses by taking the sum of the invoice price from YUSCO to Ta Chen, minus the adjusted U.S. sales price of each below cost sale. However, at that time we did not add any additional costs incurred by Ta Chen in purchasing YUSCO's merchandise. We now believe this was an error. Because Ta Chen incurred G&A expenses (including interest expenses) on its purchases of YUSCO merchandise, such costs must be added to the acquisition price (which is analogous to an input cost) from YUSCO in order to calculate Ta Chen's total acquisition costs regarding purchases of YUSCO's product. Only in this way can we determine the magnitude of losses Ta Chen absorbed in selling such merchandise in the United States and thus calculate the full extent of middleman dumping. This comports with how the Department determines whether sales are made below cost. *See* section 773(b)(3). Our antidumping manual also indicates that middleman dumping occurs where the middleman is not recovering its acquisition and selling costs. *See* Antidumping Manual Chapter 7. Therefore, to the extent that this methodology conflicts with our earlier approaches in *Fuel Ethanol* and *Mitsui 1997,* our determination supersedes both.

In *Fuel Ethanol,* after determining that the middleman was selling below acquisition cost by comparing its acquisition cost from unrelated suppliers to U.S. resale prices to the first unaffiliated customers, minus all costs and expenses incurred in selling the merchandise by the middleman and its U.S. affiliate to the United States, we found all home market sales by the middleman's parent to be below cost

and then calculated foreign market value based upon constructed value. However, it is the middleman's acquisition cost for purchases of subject merchandise and resales of that merchandise into the United States that are under scrutiny. Thus, the proper comparison is between the acquisition costs and the price of those resales. Comparing the middleman's home market sales of the foreign like product from all producers to U.S. resales is inappropriate. In *Mitsui 1997*, although we indicated that to complete our analysis we would require additional information about the middleman and its suppliers regarding sales, expenses and cost information to calculate foreign market value, we did not indicate that we would follow our approach in *Fuel Ethanol* in calculating the magnitude of losses to determine middleman dumping. We found that, based upon comparing the supplier's invoice price to the U.S. resale prices, the trading company had not made a substantial portion of resales at below acquisition cost.

Because we have Ta Chen's verified financial statements, we have Ta Chen's total expenses for all sales and its total cost of all goods. Relying upon this data, we arrived at a percentage of G&A expenses (including interest) for Ta Chen's purchases of YUSCO's merchandise which we have used in our calculation to determine middleman dumping, *i.e.*, the magnitude of losses sustained by Ta Chen in selling YUSCO's product into the United States. We do not agree with Ta Chen that it merely undertook minimal activities on behalf of TCI and, therefore, reject its call to add on G&A expenses only incurred for two clerks (See Comment 6).

Finally, as discussed in a previous portion of this notice ("Middleman Dumping") we note that we are also changing the methodology used to identify whether there was a substantial portion of resales by Ta Chen sold below its acquisition costs to mirror the methodology used to determine the magnitude of losses. In the *Amended Preliminary Determination*, we compared the U.S. resale price (after deductions as described) to the supplier's invoice price. However, as discussed above, we now believe that the acquisition price alone does not reflect all the costs associated with Ta Chen selling the foreign producer's merchandise to the United States. Because Ta Chen also incurred G&A and interest expenses, we will add such expenses to the acquisition price to arrive at the total acquisition cost (acquisition price plus associated G&A and interest costs) incurred by Ta Chen in selling this merchandise. We will continue to compare the total value of all sales below acquisition cost to the total value of all Ta Chen's resales to determine if there were a substantial portion of resales below acquisition cost. Our change in methodology results in a finding that 44.53 percent of resales were sold below acquisition cost, which we find is a substantial portion of Ta Chen's resales.

Comment 10: Ta Chen requests that the Department use YUSCO's selling prices rather than Ta Chen's reported acquisition costs in the final determination. Ta Chen makes this request based on a comparison of these costs and prices noted in the verification report, which revealed certain differences between YUSCO's selling price and Ta Chen's reported acquisition cost.

Petitioners argue that the Department should disregard Ta Chen's request for the Department to use YUSCO's reported selling prices to TCI rather than TCI's reporting of such prices since at verification the Department found no discrepancies with regard to Ta Chen's constructed value methodology.

Department's Position: We agree with petitioners and are continuing to use Ta Chen's reported acquisition prices. At verification, we found a significant number of discrepancies in attempting to verify Ta Chen's acquisition prices. However, because overall Ta Chen's reporting represents a conservative approach, we will continue to use Ta Chen's reported acquisition costs for this final determination.

Comment 11: Ta Chen argues that although the Department preliminarily determined that Ta Chen sold subject merchandise in substantial quantities and substantially below its cost of acquisition, the Department never articulated the rationale or the standard it used in determining what is substantial. Ta Chen contends that given a *de minimis* level of two percent, and given that "recognized authorities" and ITC Commissioners have observed that margins are not considered substantial until they exceed the 10 to 20 percent levels, a determination by the Department that three percent represents a substantial loss must be explained. Ta Chen also argues that since trading companies "typically" operate at low margins, and because TCI held the merchandise in inventory in the United States for a substantial amount of time, a three percent loss is reasonable given a (purported) 12 to 23 percent drop in the prices of subject merchandise during the POI.

Petitioners argue that the Department should not set a fixed numerical guideline to determine the existence of substantial losses since each case has its own circumstances. Additionally, Ta Chen has not demonstrated a meaningful correlation between the two percent *de minimis* standard for dumping margins and the middleman dumping criterion of substantial losses. Petitioners continue by claiming that contrary to Ta Chen's claim, Ta Chen should not be allowed to sell at below cost merely because it was following a downward market, and that Ta Chen's selling prices actually contributed to this downward market.

Department's Position: We agree with petitioners. There can be no single threshold which constitutes substantial losses with regard to middleman dumping because each case involves a unique set of circumstances. In this case, we find that 2.18 percent, as well as the three percent calculated in the *Amended Preliminary Determination*, constitutes substantial losses. As an initial matter, it is undisputed by both parties that such losses are above *de minimis*. See 19 CFR 351.106. Secondly, we note that Ta Chen's assertion that trading companies "typically" operate at low margins indicates that losses which may, on an absolute basis, be at seemingly lower levels may still be considered "substantial". Thirdly, it is our understanding that SSPC is traded as a commodity. Therefore, it is price sensitive and sales are thus often made or lost based on relatively small differences in price. Hence, such a percentage likely is significant in this industry.

Comment 12: Ta Chen requests that the Department clarify its instructions to the U.S. Customs Service to indicate the full name of Ta Chen Stainless Pipe, Ltd. because the *Amended Preliminary Determination* stated that "this investigation covers two respondents, Yieh United Steel Corporation and Ta Chen Stainless Steel Pipe, Ltd." However, the Department has established a deposit rate for Yieh United/Ta Chen.

Petitioners argue that the language should remain the same because the reference to "Ta Chen" is inclusive of both Ta Chen Stainless Pipe, Ltd. and TCI. Petitioners assert that this is appropriate given that these two companies are affiliated and that section 772 of the Tariff Act directs the Department to "examine sales from the foreign producer to middlemen (trading companies) and any sales between middlemen before sale to the first unrelated U.S. purchaser to avoid below cost sales by the middlemen."

Department's Position: We disagree with petitioners. Although in antidumping investigations we do assign channel-specific deposit rates on occasion, these are producer-exporter specific rates. While we believe that a rate including both YUSCO and Ta Chen is appropriate, as discussed in other sections of this notice, we do not believe it is appropriate to include TCI, because TCI is an importer and if it imports from another producer or reseller, it should, as any other importer, be subject to the cash deposit rate for that producer/reseller or the all others rate. Moreover, the importer-specific rates we calculate in an annual review are for purposes of assessing duties. Since we do not order the final assessment of duties in an investigation, this calculation does not apply. Therefore, for the final determination, we will continue to assign a deposit rate to "Ta Chen" with the understanding that this refers to only Ta Chen Stainless Pipe Co., Ltd. We also note that any sales by Ta Chen of subject merchandise produced by any party other than YUSCO will be subject to the all others rate.

Comment 13: Petitioners argue that the Department should recalculate Ta Chen's U.S. credit and U.S. inventory carrying expenses. Petitioners contend that Ta Chen failed to account for compensating balances required on its loans in Ta Chen's calculation of its short-term interest rate. In addition, petitioners request that the Department increase Ta Chen's credit expenses to account for the interest expenses and bank charges discovered at verification. Petitioners cite *Mitsui 1997* as a precedent for calculating normal value based on constructed value in a middleman dumping case.

Petitioners argue that the Department should calculate inventory carrying costs for the time the merchandise is in transit from Ta Chen's warehouse in Taiwan to the time of entry into TCI's inventory. Petitioners assert that this cost must be deducted from U.S. price as U.S. inventory carrying costs. This claim is based on Ta Chen's statements that title of the merchandise passes instantaneously from YUSCO to Ta Chen to TCI. Thus, the merchandise is in the inventory of TCI during shipment.

Ta Chen requests that, for reasons indicated in *Mitsui 1997*, the Department continue not to deduct imputed costs. Ta Chen claims that the concern related to middleman dumping is only whether the middleman is selling below cost, and thus any attempt to include constructed value or other imputed costs would be unlawful. Thus, since the interest expenses and inventory carrying costs (which are not even incurred in the United States, but rather on the ocean) that petitioners mention are only used in calculating imputed costs, Ta Chen argues that petitioners' argument is irrelevant.

Department's Position: As in our *Amended Preliminary Determination*, we have not included imputed credit expenses and inventory carrying costs in calculating U.S. resale prices because, as we stated, these expenses represent opportunity costs, not actual costs to the company. *See also Mitsui 1997*. In addition, as set out in our *Amended Preliminary Determination*, we will deduct from Ta Chen's U.S. resale the actual expenses incurred in selling the product in the United States. *See* Comment 9. We will not include imputed costs and expenses because we continue to believe that middleman dumping involves sales below the middleman's actual total acquisition costs and expenses and therefore to include imputed costs and expenses would be inappropriate. Similarly, because the focus of middleman dumping is solely on whether the merchandise was sold to the first unaffiliated party in the United States at prices below the middleman's total acquisition costs and expenses, instead of using constructed value, in calculating a middleman dumping margin, we have used a middleman acquisition price which, as stated, is analogous to the input cost, and the middleman's actual G&A and interest expenses. Taken together, these items encompass all costs associated with purchasing the merchandise.

As discussed in other sections of this notice, we will add to Ta Chen's acquisition price a portion of its total G&A expenses, including interest (allocable to sales of subject merchandise), because these are actual costs incurred by Ta Chen in purchasing YUSCO's merchandise. *See* Comments 9 and 20. This is also consistent with constructing costs in lieu of prices under section 773(b)(3), where only actual G&A including interest is used (and will not, therefore, include profit, see Comments 9 and 20).

Comment 14: Petitioners argue that the Department should recalculate Ta Chen's reported warehousing expenses to include building depreciation expenses and total interest for land and buildings associated with TCI's Los Angeles warehouse and then deduct these as direct selling expenses. With regard to the interest for land and building, petitioners' claim that this expense was calculated only for the square footage specifically attributable to coil, but that the Los Angeles warehouse expense was allocated over all merchandise.

Ta Chen states that the correct building depreciation expense for coil shipments from the Los Angeles warehouse can be calculated by multiplying the warehouse building mortgage interest rate by petitioners' estimate of 1997 warehouse building depreciation and then dividing by total pounds shipped.

Ta Chen points to the verification exhibits to show that, contrary to petitioners' claims, the Los Angeles warehouse interest expense was calculated correctly because both the mortgage interest and warehouse expense were allocated over only coil shipments.

Department's Position: Regarding the inclusion of building depreciation expenses, we agree with both Ta Chen and petitioners and have recalculated TCI's warehousing expenses accordingly. We also agree with Ta Chen with regard to the calculation of mortgage interest since, as seen in the verification exhibits, both the interest expense and warehouse expense were allocated over shipments of SSPC.

Comment 15: Petitioner claims that, in the final determination, we should deduct expenses related to an unreported Chicago warehouse discovered at verification.

Ta Chen argues that petitioners erroneously allocate the unreported Chicago warehouse's charge to the amount stored at the reported warehouse, and the fact that this one Chicago warehouse was not reported actually results in over-reported Ta Chen warehouse expenses.

Department's Position: We agree with Ta Chen. Petitioners' recalculation of per unit Chicago warehouse expenses does not account for the quantity stored at the unreported warehouse. Based on an exhibit taken at verification, we conclude that, in fact, Ta Chen's reported warehousing expenses for its warehouse activities in Chicago were conservative. We thus have not adjusted Ta Chen's warehousing expenses.

Comment 16: Petitioners argue that Ta Chen failed to account for all of its overhead expenses in calculating indirect selling expenses. Petitioners cite such expenses as utilities, property taxes, and security expenses as items which are general in nature. Petitioners request that the Department recalculate Ta Chen's indirect selling expenses as total selling expenses, including interest expenses, as a percentage of sales.

Ta Chen acknowledges that perhaps it should have allocated, to SSPC, expenses for charitable contributions,

postage & delivery, security, taxes & licenses, property taxes, and utilities. Ta Chen also claims, however, that for the other indirect expenses mentioned by petitioner there is no evidence that they are related to sales of SSPC, as the verification findings show, and that petitioners should have raised this argument before verification.

Department's Position: We agree with petitioners. In Exhibit 11 of its November 23,1998 supplemental, Ta Chen reported both an overall ratio of U.S. selling expenses for sales of all products and a ratio it represented as appropriate to sales of stainless steel coils. In its data submission, Ta Chen reported the latter. However, Ta Chen stated that "* * * it does not matter which figures are used, as far as the final dumping margin." *See*, November 23, 1998 submission at 24.

While the Department reviewed a portion of TCI's reported indirect selling expenses attributable to coil at verification, the nature of any verification includes the employment of spot-checking techniques, which are necessary given the extreme time constraints for a verification. Therefore, while the Department will generally find an item to be successfully "verified" based on successful spot-checks of data, such a conclusion becomes open to rebuttal if compelling evidence is presented after verification which calls into question any calculation. In this respect, in its rebuttal brief, TCI now admits that certain expenses had been erroneously excluded from its selling expense allocation for stainless steel coil. Thus, by Ta Chen's own admission, its calculation of indirect selling expenses for coils is flawed. Therefore, for this final determination, we have used TCI's overall operating costs as a percentage of sales as previously reported in Exhibit 11 of Ta Chen's November 23, 1998 supplemental response. This is in accordance with our normal practice. *See Yieh United Steel Corporation (YUSCO) and Ta Chen Stainless Pipe Co., Ltd. Analysis Memorandum for the Final Determination of the Less-Than-Fair-Value Investigation of Stainless Steel Plate in Coil from Taiwan* ("*Ta Chen Final Analysis Memo*"), March 19, 1999 at 3.

Comment 17: Petitioners argue that the Department should recalculate one CONNUM's acquisition cost in Ta Chen's constructed value worksheet to exclude the warranty claim since the payment of the warranty claim could not be verified and YUSCO stated that it did not accept any such warranty claim.

Ta Chen claims that this is irrelevant since the Department did not use constructed value in its middleman dumping margin analysis.

Department's Position: We agree with petitioner and have recalculated Ta Chen's acquisition price, accordingly. This so-called warranty claim is actually an offset to Ta Chen's acquisition price and is analogous to a billing adjustment on an input. Because we were unable to verify this offset claim, we are calculating a weighted-average acquisition price that excludes this offset.

Comment 18: Petitioners assert that although none were reported, Ta Chen's interest expenses for the constructed value calculation should be calculated by dividing the company's total net interest expense divided by its cost of sales, as required by the Department's questionnaire.

Ta Chen argues that an adjustment should not be made for Ta Chen's interest expenses based on the fact that Ta Chen guarantees TCI's loans. Ta Chen states that, as the record shows, Ta Chen never paid any of TCI's interest expense on TCI's loans.

Department's Position: We agree with petitioners. As described above (*see* Comment 6), Ta Chen plays an integral role in the purchase and resale of SSPC and therefore its interest expenses must be taken into account as part of total G&A expenses. *See* Comments 8, 13. As petitioners suggest and as the questionnaire prescribes, we have calculated Ta Chen's interest expenses by dividing the company's total net interest expense divided by its cost of sales. *See Ta Chen Final Analysis Memo*, at 2–3.

Comment 19: Petitioners state that the Department should correct Ta Chen's errors found at verification. Petitioners also contend that Ta Chen's latest submitted data is missing field INDIRS2U representing U.S. warehousing expenses. Petitioners request that the Department utilize all appropriate expenses in its final determination.

Ta Chen states that U.S. warehousing expenses were reported in field DIRSEL2U and that field INDIRS2U was erroneously included in its initial dataset.

Department's Position: We agree with petitioners and have corrected Ta Chen's errors found at verification. These errors include recalculation of U.S. repacking expenses, U.S. commissions, international freight, credit expenses and U.S. indirect selling expenses. However, we have not deducted the INDIRS2U field because the record does not support a conclusion that this field represents U.S. warehousing expenses or any other expense that has not already been accounted for in this final determination. In fact, the Department included the field INDIRS2U in its *Amended Preliminary Determination* calculations, since this field was included in the database which the Department used in its preliminary calculations. However, such inclusion was in error, because this information constituted unsolicited (as well as unexplained) new data (submitted October 14, 1998, in response to the Department's October 9, 1998 letter requesting unrelated information). Indeed, we note that Ta Chen excluded this field in its supplemental sales submission to the Department of November 23, 1998. However, due to time constraints, we were unable to use the November 23, 1998 database (*i.e.*, an updated database which excluded the field INDIRS2U) for the *Amended Preliminary Determination*. *See Ta Chen Final Analysis Memo*, at 3.

Comment 20: Petitioners argue that the Department should correct the "ministerial errors" found in the preliminary determination. One such alleged error is that the Department did not use the correct exchange rate in its analysis of whether Ta Chen engaged in middleman dumping. Petitioners contend that in that part of its analysis, the Department should have chosen, as the exchange rate, the date of YUSCO's sale to Ta Chen rather than on the date of TCI's resale in the United States. Petitioners support their argument by stating that the focus in middleman dumping is on whether Ta Chen covered its cost of acquisition with respect to the price paid by Ta Chen to YUSCO. Furthermore, they point to the *Amended Preliminary Determination* in which, the Department selected, as the exchange rate, the date of YUSCO's sale to Ta Chen in calculating the dumping margin attributable to YUSCO. Petitioners request that the Department consistently employ the date of sale for the transactions between YUSCO and Ta Chen in evaluating the extent of Ta Chen's middleman dumping.

Petitioners also argue that the Department did not correctly calculate the overall dumping margin for YUSCO/Ta Chen since the margin calculation on the sales between Ta Chen and its unaffiliated U.S. customers inadvertently omitted U.S. credit expenses, U.S. inventory carrying costs, CEP profit, inventory carrying costs incurred in Taiwan for U.S. sales, and indirect selling expenses incurred in Taiwan for U.S. sales. Additionally, claim petitioners, with regard to Ta

Chen's constructed value, the Department failed to include indirect selling expenses, G&A, interest expenses, and constructed value profit.

Ta Chen argues that the Department should use the exchange rate on the date TCI receives payment from its unaffiliated U.S. customer in converting Taiwanese acquisition costs and expenses into U.S. dollars. Ta Chen argues that use of this exchange rate would indicate the true profitability of the transaction because the SSPC was actually purchased from YUSCO in Taiwanese currency. To obtain the actual profit or loss from the perspective of a Taiwanese trading company, one would have to convert the U.S. dollars received and convert that to Taiwanese dollars based on the existing exchange rate to determine if the resale price was more than the acquisition price.

Department's Position: With respect to the appropriate exchange rate, we disagree with both petitioners and Ta Chen and have continued to apply the same currency conversion as that applied in our *Amended Preliminary Determination*. In that determination, we selected the exchange rate for converting the acquisition cost as the rate in effect on the date of Ta Chen's resales (through its 100 percent-owned affiliate, TCI) to its first unaffiliated U.S. customers. Using the same exchange rate for both transactions is in keeping with the statute and our normal practice of making an apples-to-apples comparison between prices and costs. *See* section 773A and *Mitsui 1997*. When calculating a constructed normal value, the Department uses the exchange rate based upon the date of the U.S. sale. *See* section 773A. In the case of middleman dumping, we are attempting to compare costs with prices—the acquisition costs, including actual G&A and interest expenses (*see* Comment 9)—with the resale price to the first unaffiliated U.S. customer (minus actual movement and selling expenses associated with selling the product in the United States). Therefore, because we are comparing costs with prices it is appropriate to follow our standard practice.

Moreover, it is only on the date of sale to the first unaffiliated U.S. customer that the middleman, in this case Ta Chen, will know whether or not it will recover its total acquisition costs on resale. It cannot know this on the date it acquires the merchandise. Therefore, because the basis of middleman dumping is to determine if the middleman is selling below its acquisition costs, the date of sale to the first unaffiliated U.S. customer is the appropriate date upon which to convert Ta Chen's acquisition costs into U.S. dollars.

Although Ta Chen acknowledges that to ensure an apples-to-apples comparison the Department must convert one side of the equation so that both are in the same currency, Ta Chen's suggestion to use the exchange rate on the date *payment is received* for the U.S. sale from the first unaffiliated customer is without merit. The suggestion ignores the statute, the regulations and our standard practice. In constructing a normal value in lieu of actual prices, the Department does not use the date of payment, but rather, as discussed, the date of the actual U.S. sale to the first unaffiliated customer. *See* section 773A; 19 CFR 351. 415(a)("in an antidumping proceeding, the Secretary will convert foreign currencies into United States dollars using the rate of exchange on the date of sale of subject merchandise").

We also disagree with respect to petitioners suggestion to deduct imputed selling expenses and CEP profit. Petitioners' argument that we must make these deductions in order to correctly calculate an overall dumping margin is misplaced because, although our calculations contain parallels to a "normal" dumping calculation, here, we are not trying to calculate a constructed normal value or an overall dumping margin. Rather, we are determining the magnitude of losses incurred by Ta Chen in selling the merchandise below its total acquisition cost. Likewise, we will not add to the total acquisition cost the profits gained by Ta Chen, as that would be contrary to the rationale for determining middleman dumping, which is solely to determine the extent of the losses the middleman is absorbing in selling merchandise from an unaffiliated supplier into the United States (*see* Comment 9). Finally, with respect to indirect selling expenses incurred in Taiwan, we note that Ta Chen reported that it had none. Therefore, as we describe in Comments 9 and 18, we are including G&A and interest expenses in calculating Ta Chen's total acquisition costs.

Comment 21: Ta Chen infers that petitioners are arguing that the Department should add YUSCO's and TCI's dumping margins together and base TCI's dumping margin on constructed value, including profit, for the final determination. Ta Chen argues that such a methodology leads to the double counting of margins since it adds the difference between normal value and the price paid by Ta Chen and the difference between normal value and the price paid to the first unaffiliated U.S. customer.

Department's Position: We disagree with Ta Chen and find that adding YUSCO's margin to Ta Chen's margin accurately calculates the extent of middleman dumping. Contrary to Ta Chen's claims, by adding the margins, we are adding the difference between normal value and the price paid by Ta Chen to the difference between Ta Chen's total acquisition cost and the price paid to the first unaffiliated U.S. customer. Doing so accounts for all transaction and all expenses, resulting in an accurate middleman dumping margin.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the amended preliminary determination in the **Federal Register**. The all others rate reflects an average of the non-de minimis margins alleged in the petition. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
YUSCO	8.02
YUSCO/Ta Chen	10.20
All Others	7.39

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the

suspension of liquidation. This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7538 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–823]

Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai, Craig W. Matney, Gregory W. Campbell, or Alysia Wilson, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4087, 482–1778, 482–2239, or 482–0108, respectively.

Final Determination

The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of stainless steel plate in coils from Italy. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

The Petitioners

The petition in this investigation was filed by Armco, Inc., J&L Specialty Steels, Inc., Lukens Inc., AFL–CIO/CLC (USWA), Butler Armco Independent Union and Zanesville Armco Independent Organization (the petitioners).

Case History

Since our preliminary determination on August 28, 1998 (*Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Plate in Coils from Italy*, 63 FR 47246, (September 4, 1998) (*Preliminary Determination*), the following events have occurred:

Between September 21 and October 16, 1998, we issued supplemental questionnaires to the Government of Italy (GOI), the European Commission (EC) and Acciai Speciali Terni (AST). We received responses to these requests between October 9 and November 4, 1998. We conducted verification in Belgium and Italy of the questionnaire responses of the EC, GOI, and AST from November 11 through November 24, 1998. On January 5, 1999, we postponed the final determination of this investigation until March 19, 1999 (*see Countervailing Duty Investigations of Stainless Steel Plate in Coils from Belgium, Italy, the Republic of Korea, and the Republic of South Africa: Notice of Extension of Time Limit for Final Determinations*, 64 FR 2195 (January 13, 1999)). The petitioners and AST filed case and rebuttal briefs on February 17 and February 23, 1999. A public hearing was held on February 25, 1999. After the hearing, at the Department's request, additional comments were submitted by petitioners and respondents on March 2, 1999. On March 12, 1999, the EC submitted additional comments.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1998).

Injury Test

Because Italy is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On May 28, 1998, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Italy of the subject merchandise (*see Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 63 FR 29251 (May 28, 1998)).

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1997.

Corporate History of AST

Prior to 1987, Terni, S.p.A, (Terni), a main operating subsidiary of Finsider, was the sole producer of stainless steel plate in coils in Italy. Finsider was a holding company that controlled all state-owned steel companies in Italy. Finsider, in turn, was wholly-owned by a government holding company, Istituto per la Ricostruzione Industriale (IRI). As part of a restructuring in 1987, Terni transferred its assets to a new company, Terni Acciai Speciali (TAS).

In 1988, another restructuring took place in which Finsider and its main operating companies (TAS, Italsider, and Nuova Deltasider) entered into liquidation and a new company, ILVA S.p.A., was formed. ILVA S.p.A. took over some of the assets and liabilities of the liquidating companies. With respect to TAS, part of its liabilities and the majority of its viable assets, including

all the assets associated with the production of plate, transferred to ILVA S.p.A. on January 1, 1989. ILVA S.p.A. became operational on the same day. Part of TAS's remaining assets and liabilities were transferred to ILVA S.p.A. on April 1, 1990. After that date, TAS no longer possessed any operating assets. Only certain non-operating assets remained in TAS.

From 1989 to 1993, ILVA S.p.A. consisted of several operating divisions. The Specialty Steels Division, located in Terni, produced subject merchandise. ILVA S.p.A. was also the majority owner of a large number of separately incorporated subsidiaries. Some of these subsidiaries produced various types of steel products. Others constituted service centers, trading companies, and an electric power company, among others. ILVA S.p.A. together with its subsidiaries constituted the ILVA Group (ILVA). ILVA was wholly-owned by IRI. All subsidies received prior to 1994 were received by ILVA or its predecessors.

In October 1993, ILVA entered into liquidation and became known as ILVA Residua. On December 31, 1993, two of ILVA's divisions were removed and separately incorporated: AST and ILVA Laminati Piani (ILP). ILVA's Specialty Steels Division was transferred to AST while its carbon steel flat products operations were placed in ILP. The remainder of ILVA's assets and liabilities, along with much of the redundant workforce, was left in ILVA Residua.

In December 1994, AST was sold to KAI Italia S.r.L. (KAI), a privately-held holding company jointly owned by German steelmaker Hoesch-Krupp (50 percent) and a consortium of private Italian companies called FAR Acciai (50 percent). Between 1995 and the POI, there were several restructurings/changes in ownership of AST and its parent companies. As a result, at the end of the POI, AST was owned 75 percent by Krupp Thyssen Stainless GmbH and 25 percent by Fintad Securities S.A.

Change in Ownership

In the General Issues Appendix (GIA), attached to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37217, 37226 (July 9, 1993)(Certain Steel from Austria), we applied a new methodology with respect to the treatment of subsidies received prior to the sale of a government-owned company to a private entity (privatization), or the spinning-off (*i.e.*, sale) of a productive unit from a government-owned company to a private entity.

Under this methodology, we estimate the portion of the purchase price attributable to prior subsidies. We do this by first dividing the sold company's subsidies by the company's net worth for each year during the period beginning with the earliest point at which nonrecurring subsidies would be attributable to the POI and ending one year prior to the sale of the company. We then take the simple average of these ratios. This averaged ratio serves as a reasonable estimate of the percent that subsidies constitute of the overall value of the company. Next, we multiply this ratio by the purchase price to derive the portion of the purchase price attributable to the payment of prior subsidies. Finally, we reduce the benefit streams of the prior subsidies by the ratio of the repayment amount to the net present value of all remaining benefits at the time the company is sold. For further discussion of our methodology, *see* the *Preliminary Determination*, 63 FR at 47247.

With respect to the spin-off of a productive unit, consistent with the Department's methodology set out above, we analyze the sales of a productive unit to determine what portion of the sale price of the productive unit can be attributable to the repayment of prior subsidies. To perform this calculation, we first determine the amount of the seller's subsidies that the spun-off productive unit could potentially take with it. To calculate this amount, we divide the value of the assets of the spun-off unit by the value of the assets of the company selling the unit. We then apply this ratio to the net present value of the seller's remaining subsidies. The result of this calculation yields the amount of remaining subsidies attributable to the spun off productive unit. We next estimate the portion of the purchase price going towards repayment of prior subsidies in accordance with the methodology set out above, and deduct it from the maximum amount of subsidies that could be attributable to the spun off productive unit. For further discussion of these issues, *see* Comment 1 below regarding the application of the methodology to an arm's-length sale of a company, Comment 2 with respect to the calculation of the ratio representing the percentage that subsidies constitute of the overall value of a company, and Comment 3 on the calculation of the purchase price used in the change-in-ownership methodology.

After the 1994 privatization of AST, there were numerous changes in the ownership structure of the parent companies of AST. Respondent argues that the Department should apply its change-in-ownership methodology to two of these transactions. Each of these sales involved minority owners selling their interests in AST's parent companies. In the *Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination; Stainless Steel Sheet and Strip from Italy*, 63 FR 63900, 63902 (November 17, 1998) (*Italian Sheet and Strip*), the Department applied its methodology to one transaction but did not have the information with which to do so for the other.

The petitioners oppose the application of the change-in-ownership methodology. They argue that ownership transactions that fail to transfer control of a company to an unrelated party do not warrant the application of the change-in-ownership methodology. The petitioners cite to *Inland Bar Co.* v. *United States (Inland Bar)*, 155 F.3d 1370, 1374 (Fed. Cir. 1998) in which it is stated that a purchaser's valuation of a company:

> will depend not only on the intrinsic value of the unit, but also on whether the purchaser opts to discharge the liability at purchase time rather than continuing to pay countervailing duties until the obligation expires. (*Id.* at 1374)

According to the petitioners, the Court's reasoning dictates that a purchaser must be able to value a company's assets and liabilities, assume the liabilities and opt to repay or reallocate the countervailing duty liability. In order to do this, the petitioners argue that a purchaser must take control of the company. In contrast, Krupp has controlled AST since the 1994 privatization and only strengthened its position by virtue of these post-privatization partial changes in ownership, explain the petitioners.

More specifically, AST's post-privatization partial changes in ownership involved transfers of only minority stakes, according to the petitioners. In such cases, argue the petitioners, the liability remains with the current majority owners while the minority purchaser simply buys into the subsidized company. As support, the petitioners cite to the GIA, 58 FR at 37273, where the Department stated:

> A change in ownership position, whereby a company's percentage of ownership fluctuates over time, is not a bona fide spin-off. Therefore, we did not perform the spin-off calculation with regard to change in ownership position.

The petitioners warn that application of the change-in-ownership methodology

in such small share transactions that do not affect the control of a company would create a loophole in the countervailing duty law whereby each share transaction on the open market would constitute a change in ownership. In effect, point out the petitioners, the privatization of a company via stock issuance would result in extinguishment of subsidies as each trade would result in a reallocation of those subsidies. The petitioners also state that continued application of the change-in ownership methodology involving minority transfers of ownership could also provide an incentive for majority owners to manipulate share transactions so as to eliminate countervailing duty liability.

Finally, the petitioners argue that AST's partial changes in ownership are distinguishable from those examined in *Industrial Phosphoric Acid from Israel: Final Results of Countervailing Duty Administrative Review*, 61 FR 53351, 53352 (October 11, 1996) (*IPA from Israel*) where the Department applied its change-in-ownership methodology to partial privatizations. Petitioner argues that AST's private transactions do not warrant any repayment of subsidies as would happen when a government sells a company (*see Delverde I* at 16–17). The petitioners also note that in *IPA from Israel* the partial changes in ownership for which the change-in-ownership methodology was applied occurred on the same level of analysis that the subsidy analysis was done. However, with AST, the petitioners argue that the partial changes in ownership occurred at a higher level than the level at which the subsidy analysis is properly done; thereby rendering the changes in ownership irrelevant for purposes of a change-in-ownership analysis.

AST argues that *IPA from Israel* clearly supports application of the change-in-ownership methodology to all transactions including partial changes in ownership unless application of the methodology would have no affect on the final margin. While the case at hand involves private-to-private partial changes in ownership and *IPA from Israel* involved a public-to-private one, AST notes that the Department has found the application of the change-in-ownership methodology to be appropriate in private-to-private transfers of total ownership (*see Final Affirmative Countervailing Duty Determination· Certain Pasta ("Pasta") From Italy*, 61 FR 30287, 30298 (June 14, 1996) (*Pasta From Italy*). Moreover, AST points out that the application of the change-in-ownership methodology in private-to-private transactions has been upheld by the CIT (*see Delverde, SrL. v. United States (Delverde II)*, 24 F. Supp. 2d 314 (CIT 1998).

As for the petitioners' reliance upon *Inland Bar* to show that control of the company must change in order for the change-in-ownership methodology to be applicable, AST states that it is misplaced. According to AST, the issue before the Court in *Inland Bar* was whether Commerce's repayment methodology as articulated in the GIA, was reasonable. AST also mentions that in *IPA from Israel*, there was no change in control yet the Department applied the change-in-ownership methodology. Because the change-in-ownership methodology seeks to determine what portion of the purchase price of a company is attributable to subsidy repayment, AST explains that its post-privatization changes in ownership should be accounted for in that the amount of money the owners of AST paid for the company was increased by virtue of these transactions.

For this final determination, we have determined that it is inappropriate to apply our change in ownership methodology to AST's post-privatization partial changes in ownership. While it is true that the Department has applied its change in ownership methodology to partial changes in ownership in the past, we agree with petitioners that the facts presented here are unique and require a different analysis. *IPA from Israel* involved the partial privatization of the company for which we were measuring countervailable subsidies. The transactions at issue in this case both involve the sale of a relatively small amount of shares by minority owners of a holding company two levels removed from the production of the subject merchandise. Given the flexibility that the statute has conferred upon the Department with respect to changes in ownership and the SAA's guidance that we should examine changes in ownership on a case-by-case basis, we have examined the unique facts of this case and find it inappropriate to apply our change in ownership methodology. It would be unreasonable and impracticable to reallocate subsidies every time a few shares change hands; therefore, we must distinguish the circumstances in which we will reallocate from those in which we will not. We need not set forth the exact parameters under which we would but, rather, we must examine the specific facts of each case. In this case, the ownership interest transferred is relatively small and so remote from the company upon which the subsidies were conferred that we do not think it appropriate to reallocate the subsidies.

We are not persuaded by petitioners' argument that a transaction must involve a transfer of control in order for our methodology to be applicable. However, we are deeply concerned that application of our methodology to sales of private minority share interests such as these could lead us toward the application of our methodology to daily transactions on the open market for publicly traded companies—a clearly absurd result that must be prevented. Moreover, for one of these transactions, we have less than perfect source documentation supporting the essential elements of the transaction. For these reasons, we have not applied our change in ownership methodology to the transactions at issue.

Subsidies Valuation Information

Benchmarks for Long-term Loans and Discount Rates: Consistent with the Department's finding in *Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy* 63 FR at 40474, 40477 (October 22, 1997) (*Wire Rod from Italy*), we have based our long-term benchmarks and discount rates on the Italian Bankers' Association (ABI) rate. Because the ABI rate represents a long-term interest rate provided to a bank's most preferred customers with established low-risk credit histories, commercial banks typically add a spread ranging from 0.55 percent to 4 percent onto the rate for other customers, depending on their financial health.

In years in which AST or its predecessor companies were creditworthy, we added the average of that spread to the ABI rate to calculate a nominal benchmark rate. In years in which AST or its predecessor companies were uncreditworthy (*see* Creditworthiness section below), we calculated the discount rates in accordance with our methodology for constructing a long-term interest rate benchmark for uncreditworthy companies. Specifically, we added to the ABI rate a spread of four percent in order to reflect the highest commercial interest rate available to companies in Italy. We added to this rate a risk premium equal to 12 percent of the ABI, as described in § 355.44(b)(6)(iv) of the Department's 1989 Proposed Regulations, (*see Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comment*, 54 FR 23366, 23374 (May 31, 1989) (*1989 Proposed Regulations*)). While the *1989 Proposed Regulations* are not controlling, they do represent the Department's practice for purposes of this investigation.

Additionally, information on the record of this case indicates that published ABI rates do not include amounts for fees, commissions and other borrowing expenses. Because such expenses raise the effective interest rate that a company would experience, and because it is the Department's practice to use effective interest rates, where possible, we are including an amount for these expenses in the calculation of our effective benchmark rates (*see* section 355.44(b)(8) of the *1989 Proposed Regulations* and *Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey*, 61 FR 30366, 30373 (June 14, 1996)). While we do not have information on the expenses that would be applied to long-term commercial loans, the GOI supplied information on the borrowing expenses on overdraft loans as an approximation of expenses on long-term commercial loans. This information shows that expenses on overdraft loans range from 6 to 11 percent of interest charged. Accordingly, we increased the nominal benchmark rate by 8.5 percent, which represents the average reported level of borrowing expenses, to arrive at an effective benchmark rate.

Allocation Period: In the past, the Department has relied upon information from the U.S. Internal Revenue Service (IRS) for the industry-specific average useful life of assets in determining the allocation period for non-recurring subsidies. *See* the GIA, 58 FR at 37227. In *British Steel plc* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (CIT) held that the IRS information did not necessarily reflect a reasonable period based on the actual commercial and competitive benefit of the subsidies to the recipients. In accordance with the CIT's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the court in *British Steel plc* v. *United States*, 929 F. Supp. 426, 439 (CIT 1996) (*British Steel II*). In recent countervailing duty investigations, it has been our practice to follow the court's decision in *British Steel II*, and to calculate a company-specific allocation period for all countervailable non-recurring subsidies.

After considering parties' comments and based upon our analysis of the data submitted by AST regarding the AUL of its assets, we are using a 12-year AUL for AST. This 12-year AUL is based on information in *Wire Rod from Italy*, 63 FR at 40477, and *Italian Sheet and Strip*, 63 FR at 63903, which we find to be a good estimate of the AUL of the Italian stainless steel industry. For an explanation of why we are rejecting AST's company-specific AUL, *see* Comment 6.

Equityworthiness

In measuring the benefit from a government equity infusion, the Department compares the price paid by the government for the equity to a market benchmark, if such a benchmark exists. In this case, a market benchmark does not exist. We therefore examined whether AST's predecessors were equityworthy in the years they received infusions. *See, Final Affirmative Countervailing Duty Determination: Steel Wire Rod From Trinidad and Tobago*, 62 FR 50003, 50004 (October 22, 1997) (*Wire Rod from Trinidad and Tobago*). In analyzing whether a company is equityworthy, the Department considers whether that company could have attracted investment capital from a reasonable private investor in the year of the government equity infusion, based on information available at that time. *See* GIA, 58 FR at 37244. Our review of the record has not led us to change our finding from that in *Wire Rod from Italy*, in which we found AST's predecessors unequityworthy from 1986 through 1988, and from 1991 through 1992, 63 FR 40474 at 40477.

Consistent with our equity methodology described in the GIA, 58 FR at 37239, we consider equity infusions into unequityworthy companies as infusions made on terms inconsistent with the usual practice of a private investor and, therefore, we have treated these infusions as grants. This methodology is based on the premise that a finding by the Department that a company is not equityworthy is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the year of the infusion. This determination is based on the information available at the time of the investment.

Creditworthiness

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France*, 58 FR 37304 (July 9, 1993) (*Certain Steel from France*); *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014 (Oct. 21, 1997).

Terni, TAS and ILVA were found to be uncreditworthy from 1986 through 1993 in *Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel From Italy*, 59 FR 18357, 18358 (April 18, 1994) (*Electrical Steel from Italy*) and in *Wire Rod from Italy*, 63 FR at 40477. No new information has been presented in this investigation that would lead us to reconsider these findings. (*See* Comment 13 below regarding the issue of AST's creditworthiness in 1993.) Therefore, consistent with our past practice, we continue to find Terni, TAS and ILVA uncreditworthy from 1986 through 1993. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil*, 58 FR 37295, 37297 (July 9, 1993). We did not analyze AST's creditworthiness in 1994 through 1997 because AST did not negotiate new loans with the GOI or EC during these years.

I. Programs Determined To Be Countervailable

GOI Programs

A. Equity Infusions to Terni, TAS and ILVA

The GOI, through IRI, provided new equity capital to Terni, TAS or ILVA in every year from 1986 through 1992, except in 1989 and 1990. We determine that these equity infusions constitute countervailable subsidies within the meaning of section 771(5) of the Act. These equity infusions constitute financial contributions, as described in section 771(5)(D)(i) of the Act, and because they were not consistent with the usual investment practices of private investors (*see* Equityworthiness section above) they confer a benefit within the meaning of section 771(5)(E)(i) of the Act. Because these equity infusions were limited to Finsider and its operating companies, TAS and ILVA, we determine that they are specific within the meaning of section 771(5A)(D) of the Act.

We have treated these equity infusions as non-recurring allocable benefits given in the year the infusion was received because each required a separate authorization. Because Terni, TAS and ILVA were uncreditworthy in the years of receipt, we used discount rates that include a risk premium to allocate the benefits over time.

For equity infusions originally provided to Terni and TAS, the predecessor companies that produced stainless steel, we examined these equity infusions as though they had

flowed directly through ILVA to AST when AST took all of the stainless steel assets out of ILVA. Accordingly, we did not apportion to the other operations of ILVA any part of the equity infusions originally provided directly to Terni or TAS. While we acknowledge that it would be our preference to look at equity infusions into ILVA as a whole and then apportion an amount to AST when it was spun-off from ILVA, we find our approach in this case to be the most feasible since information on equity infusions provided to the non-stainless operations of ILVA is not available. For the equity infusions to ILVA, however, we did apportion these by asset value to all ILVA operations in determining the amount applicable to AST because they were not tied to any specific product.

We applied the repayment portion of our change-in-ownership methodology to all of the equity infusions described above to determine the subsidy allocable to AST after it was sold. We divided this amount by AST's total consolidated sales during the POI. Accordingly, we determine the estimated net benefit to be 1.03 percent *ad valorem* for AST.

B. Benefits From the 1988–90 Restructuring of Finsider[1]

As discussed above in the Corporate History of AST section of this notice, the GOI liquidated Finsider and its main operating companies in 1988 and assembled the group's most productive assets into a new operating company, ILVA S.p.A. In 1990, additional assets and liabilities of TAS, Italsider and Finsider went to ILVA.

Not all of TAS's liabilities were transferred to ILVA S.p.A.; rather, many remained with TAS and had to be repaid, assumed or forgiven. In 1989, Finsider forgave 99,886 million lire of debt owed to it by TAS. Even with this debt forgiveness, a substantial amount of liabilities left over from the 1990 transfer of assets and liabilities to ILVA S.p.A. remained with TAS. In addition, losses associated with the transfer of assets to ILVA S.p.A. were left behind in TAS. These losses occurred because the value of the transferred assets was written down. As TAS gave up assets whose book values were higher than their appraised values, it was forced to absorb the losses. These losses were generated during two transfers as reflected in: (1) An extraordinary loss in TAS's 1988 Annual Report and (2) a reserve against anticipated losses posted in TAS's 1989 Annual Report with respect to the 1990 transfer.

Consistent with our treatment of the 1988–90 restructuring in the preliminary determination of this case and *Electrical Steel from Italy*, 59 FR at 18359, we determine that the debt and loss coverage provided to ILVA constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. The debt and loss coverage provided a financial contribution as described in section 771(5)(D)(ii) of the Act and provided a benefit to the recipient in the amount of the debt and loss coverage. Because this debt and loss coverage was limited to TAS, AST's predecessor, we determine that it is specific within the meaning of section 771(5A)(D) of the Act.

In calculating the benefit from this program, we followed our methodology in *Electrical Steel from Italy*, except for the correction of a calculation error which had the effect of double-counting the write-down from the first transfer of assets in 1988 by including it in the calculation of losses generated upon the second transfer of assets in 1990. We have treated Finsider's 1989 forgiveness of TAS' debt and the loss resulting from the 1989 write-down as grants received in 1989. The second asset write down and the debt outstanding after the 1990 transfer were treated as grants received in 1990. We treated these as non-recurring grants because they were one-time, extraordinary events. Because ILVA was uncreditworthy in these years, we used discount rates that include a risk premium to allocate the benefits over time. As with the equity infusions made into Terni and TAS, we have treated this debt and loss coverage as though they flowed directly through ILVA to AST, because we have no information on the debt and loss coverage provided to the non-stainless operations of ILVA. We applied the repayment portion of our change-in-ownership methodology to the debt and loss coverage to determine the amount of the subsidy allocable to AST after its privatization. We divided this amount by AST's total consolidated sales during the POI. Accordingly, we determine the estimated net benefit to be 2.81 percent *ad valorem* for AST.

C. Debt Forgiveness: ILVA-to-AST[2]

As of December 31, 1993, the majority of ILVA's viable manufacturing activities had been separately incorporated (or "demerged") into either AST or ILP; ILVA Residua was primarily a shell company with liabilities far exceeding assets, although it did contain some operating assets later spun-off. In contrast, AST and ILP, now ready for sale, had operating assets and relatively modest debt loads.

We determine that AST (and consequently the subject merchandise) received a countervailable subsidy in 1993 when the bulk of ILVA's debt was placed in ILVA Residua, rather than being proportionately allocated to AST and ILP. The amount of debt that should have been attributable to AST but was instead placed with ILVA Residua was equivalent to debt forgiveness for AST at the time of its demerger. In accordance with our past practice, debt forgiveness is treated as a grant which constitutes a financial contribution under section 771(5)(D)(i) of the ACT and provides a benefit in the amount of the debt forgiveness. Because the debt forgiveness was received only by privatized ILVA operations, we determine that it is specific under section 771(5A)(D) of the Act.

In the preliminary determination of *Italian Sheet and Strip*, 63 FR at 63904, the amount of liabilities that we attributed to AST was based on the EC's 9th Monitoring Report of the total cost of the liquidation process to the GOI. However, for this final determination, we have re-examined our methodology and determined that it is more appropriate to base our calculation on the gross liabilities left behind in ILVA Residua. *See* Comment 9 and the March 19, 1999 Memorandum on the 1993 Debt Forgiveness to Richard W. Moreland.

In calculating the amount of debt forgiveness attributable to AST, we started with the gross liabilities appearing on ILVA Residua's consolidated December 31, 1993 balance sheet. This balance sheet represents ILVA after the demergers of and associated debt transfers to AST and ILP. From these gross liabilities, we subtracted amounts for ILVA Residua's liquid assets (cash, bank accounts, etc.) and liabilities eventually transferred to the companies sold from ILVA Residua. We then subtracted the amount of the asset write-downs specifically attributable to AST, ILP and other companies, and attributed AST's portion of these write-downs to AST. Finally, we subtracted the amount of liabilities (*i.e.*, 253 billion lire) that was attributed to Cogne Acciai Speciali

[1] This program was referred to as Debt Forgiveness: Finsider-to-ILVA Restructuring in *Initiation of Countervailing Duty Investigations: Stainless Steel Plate in Coils from Belgium, Italy, the Republic of Korea, and the Republic of South Africa*, 63 FR 23272 (April 28, 1998) (*Initiation Notice*)

[2] Includes the following programs from the *Initiation Notice*: Working Capital Grants to ILVA, 1994 Debt Payment Assistance by IRI, and ILVA Restructuring and Liquidation Grant.

(CAS), an ILVA subsidiary that was left behind in ILVA Residua and spun-off. This amount was countervailed in *Wire Rod from Italy*, 63 FR at 40478. *See* Comments 10–14 below for further information on our calculation methodology.

The amount of liabilities remaining represents the pool of liabilities that are not individually attributable to specific ILVA assets. We apportioned this debt to AST, ILP and operations sold from ILVA Residua based on their relative asset values. We used the total consolidated asset values reported in AST and ILP's December 31, 1993 financial results, and used the sum of purchase price plus debts transferred as a surrogate for the asset value of the operations sold from ILVA Residua. Because we subtracted a specific amount of ILVA's gross liabilities attributed to CAS in *Wire Rod from Italy*, we did not include its assets in the amount of ILVA Residua's privatized assets. Also, consistent with *Italian Sheet and Strip*, we did not include in ILVA Residua's viable assets the assets of the one ILVA Residua company sold to IRI, because this sale does not represent a sale to a non-governmental entity.

We treated the debt forgiveness to AST as a non-recurring grant because it was a one-time, extraordinary event. The discount rate we used in our grant formula included a risk premium based on our determination that ILVA was uncreditworthy in 1993 (*see* Comment 13 below and March 19, 1999 Memorandum on the Appropriate basis for 1993 Creditworthiness Analysis of AST). We followed the methodology described in the Change in Ownership section above to determine the amount appropriately allocated to AST after its privatization. We divided this amount by AST's total consolidated sales during the POI. Accordingly, we determine the estimated net benefit to be 9.58 percent *ad valorem* for AST.

D. Law 796/76: Exchange Rate Guarantees

Law 796/76 established a program to minimize the risk of exchange rate fluctuations on foreign currency loans. All firms that contract foreign currency loans from the European Coal and Steel Community (ECSC) or the Council of Europe Resettlement Fund (CERF) could apply to the Ministry of the Treasury (MOT) to obtain an exchange rate guarantee. The MOT, through the Ufficio Italiano di Cambi (UIC), calculates loan payments based on the lira-foreign currency exchange rate in effect at the time the loan is disbursed (*i.e.*, the base rate). The program establishes a floor and ceiling for exchange rate fluctuations, limiting the maximum fluctuation a borrower would face to two percent above or below the base rate. If the lira depreciates more than two percent against the foreign currency, a borrower is still able to purchase foreign currency at the established (guaranteed) ceiling rate. The MOT absorbs the loss in the amount of the difference between the guaranteed rate and the actual rate. If the lira appreciates against the foreign currency, the MOT realizes a gain in the amount of the difference between the floor rate and the actual rate.

This program was terminated effective July 10, 1992, by Decree Law 333/92. However, the pre-existing exchange rate guarantees continue on any loans outstanding after that date. AST had two outstanding ECSC loans during the POI that benefitted from these guarantees.

We determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act, to the extent that the lira depreciates against the foreign currency beyond the two percent limit. When this occurs, the borrower receives a benefit in the amount of the difference between the guaranteed rate and the actual exchange rate.

In its responses to the Department's questionnaires, the GOI did not provide information regarding the types of enterprises that have used this program. However, during verification of the GOI, GOI officials explained that over the last decade, roughly half of all guarantees made under this program were given to coal and steel companies. This is consistent with the Department's finding in a previous proceeding that the Italian steel industry has been a dominant user of the exchange rate guarantees provided under Law 796/76. Therefore, we determine that the program is specific under section 771(5A)(D)(iii)(II) of the Act. *See Final Affirmative Countervailing Duty Determination: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Italy*, 60 FR 31996 (June 19, 1995).

Once a loan is approved for exchange rate guarantees, access to foreign exchange at the established rate is automatic and occurs at regular intervals throughout the life of the loan. Therefore, we are treating the benefits under this program as recurring grants. At verification, we found that AST paid a foreign exchange commission fee to the UIC for each payment made. We determine that this fee qualifies as an "* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy." *See* section 771(6)(A) of the Act. Thus, for the purposes of calculating the countervailable benefit, we have added the foreign exchange commission to the total amount AST paid under this program during the POI. *See Wire Rod from Italy*, 63 FR at 40479.

We have calculated the total countervailable benefit as the difference between the total loan payment due in foreign currency, converted at the current exchange rate, minus the sum of the total loan payment due in foreign currency converted at the guaranteed rate and the exchange rate commission. We divided this amount by AST's total consolidated sales during the POI. Accordingly, we determine the estimated net benefit to AST for this program to be 0.82 percent *ad valorem*.

E. Law 675/77

Law 675/77 was designed to provide GOI assistance in the restructuring and reconversion of Italian industries. There are six types of assistance available under this law: (1) Grants to pay interest on bank loans; (2) mortgage loans provided by the Ministry of Industry (MOI) at subsidized interest rates; (3) grants effectively to reduce interest payments on loans financed by IRI bond issues; (4) capital grants for the South; (5) value-added tax reductions on capital good purchases for companies in the South; and (6) personnel retraining grants.

Under Law 675/77, IRI issued bonds to finance restructuring measures of companies within the IRI group. The proceeds from the sale of the bonds were then re-lent to IRI companies. During the POI, AST had two outstanding loans financed by IRI bond issues. AST was responsible for making semi-annual interest payments and annual principal payments on these bond issues. In turn, AST applied for and received reimbursements from the GOI for interest and expenses that, when combined, exceed 5.275 percent semi-annually.

We determine that these loans constitute a countervailable subsidy within the meaning of section 771(5) of the Act. These loans provided a financial contribution as described in section 771(5)(D)(i) of the Act, and conferred a benefit to AST to the extent that the net interest rate was lower than the benchmark rate. With regard to specificity, a number of different industrial sectors have received benefits under Law 675/77. However, in *Electrical Steel from Italy*, the

Department determined that assistance under this law was specific because the steel industry was a dominant user of the program (the steel industry received 34 percent of the benefits). *See Electrical Steel from Italy*, 59 FR at 18361. In the instant proceeding, the GOI submitted similar information regarding the distribution of benefits under this program. At verification, the GOI stated that this program bestowed benefits on a limited number of industries, one of which was the steel industry. The new information submitted by the GOI is consistent with the information submitted in *Electrical Steel from Italy*. Therefore, consistent with our finding in *Electrical Steel from Italy*, we find the program to be specific within the meaning of section 771(5A)(D) of the Act.

To measure the benefit from these loans, we compared the benchmark interest rate to the amounts paid by AST, less the reimbursements applied for, on these loans during the POI. We divided the resulting difference by AST's total consolidated sales during the POI. In our calculations for the *Preliminary Determination*, we erred by applying the change-in-ownership methodology to these loans. The loans at issue here are variable-rate loans whose benefits are recurring/non-allocable in nature. Since recurring benefits are not affected by our change-in-ownership calculations, we have corrected our error by not reducing the benefits from Law 675/77 loans (*see* GIA, 58 FR at 37263).

We determine the estimated net benefit from this program to be 0.07 percent *ad valorem* for AST.

F. Law 10/91

The GOI provided funds to AST under Law 10/91 for the development of energy conserving technology. Law 10/91 authorized grants based on applications submitted in 1991 and 1992, and was intended to fund projects whose purpose was to save energy or promote the use of renewable energy sources.

This program was not included in the petition and, thus, not addressed in the Department's initial questionnaire. Rather, in response to a supplemental questionnaire issued after the preliminary determination, AST stated that it had received grants under Law 10/91 both prior to and after the POI. In *Italian Sheet and Strip*, 63 FR at 63907, we did not determine the specificity of the program given the limited information available on the record at the time. Since the preliminary determinations in *Italian Sheet and Strip* and the instant proceeding, we have collected and verified information regarding this program.

The aid AST received under Law 10/91, which constitutes a financial contribution under section 771(5)(D)(i) of the Act, provides a benefit in the amount of the grants received. Furthermore, we determine that Law 10/91 is specific within the meaning of section 771(5A)(D)(iii) of the Act. There is no indication that this program is *de jure* specific. However, based on an examination of all the grants approved at the same time as AST's project was approved, we find that both the steel industry and AST's predecessor, ILVA, received a predominate and disproportionate share of the benefits (*see* Memorandum to Susan H. Kuhbach from Team, dated February 19, 1999.) Therefore, we determine Law 10/91 grants to be countervailable.

We treated these grants to AST as non-recurring because they required separate approvals. Because the amount of grant AST received prior to the POI was less than 0.5 percent of its sales in the year of receipt, the benefit was expensed in that year. Section 355.44(b)(8) of the *1989 Proposed Regulations* and *Wire Rod from Canada* 62 FR at 54977. Accordingly, we determine the estimated net benefit in the POI to be 0.00 percent *ad valorem*.

G. Pre-Privatization Employment Benefits (Law 451/94)

Law 451/94 was created to conform with EC requirements of restructuring and capacity reduction of the Italian steel industry. Law 451/94 was passed in 1994 and enabled the Italian steel industry to implement workforce reductions by allowing steel workers to retire early. During the 1994–1996 period, Law 451/94 provided for the early retirement of up to 17,100 Italian steel workers. Benefits applied for during the 1994–1996 period continue until the employee reaches his/her natural retirement age, up to a maximum of ten years.

In the *Preliminary Determination*, the Department determined that the early retirement benefits provided under Law 451/94 are a countervailable subsidy under section 771(5) of the Act. Law 451/94 provides a financial contribution, as described in section 771(5)(D)(i) of the Act, because Law 451/94 relieves the company of costs it would have normally incurred. Also, because Law 451/94 was developed for and exclusively used by the steel industry, we determine that Law 451/94 is specific within the meaning of section 771 (5A)(D) of the Act. No new information has been submitted to warrant a reconsideration of this finding.

In the *Preliminary Determination*, we used the Cassa Integrazione Guadagni-Extraordinario ("CIG–E") program as our benchmark to determine what the obligations of Italian steel producers would have been when laying off workers. We compared the costs the steel companies would incur to lay off workers under the CIG–E program to the costs they incurred in laying off workers under Law 451/94. We found that the steel companies received a benefit by virtue of paying less under Law 451/94 than what they would have paid under CIG–E.

In *Italian Sheet and Strip*, 63 FR at 63908, we changed our benchmark because we learned that the CIG–E program applied in situations where the laid off workers were expected to return to their jobs after the layoff period. Since the workers retiring early under Law 451/94 were permanently separated from their company, we adopted the so-called "Mobility" provision as our benchmark. Like Law 451/94, the Mobility provision addressed permanent separations from a company.

Since then, we have learned more about the GOI's unemployment programs under Law 223 (including CIG–E and Mobility) and the early retirement program under Law 451/94. Based on this information, we do not believe that any of the alternatives described under Law 223 provides a benchmark *per se* for the costs that AST would incur in the absence of Law 451/94. As noted above, the CIG–E program addresses temporary lay offs. The Mobility provision serves merely to identify the minimum payment the company would incur when laying workers off permanently. Under the Mobility provision, the company is first directed to attempt to negotiate a settlement with the unions prior to laying-off workers permanently. Only if the negotiations fail will the company face the minimum payment required under Mobility.

Recognizing that AST would be required to enter into negotiations with the unions before laying off workers, the difficult issue for the Department is to determine what the outcome of those negotiations might have been absent Law 451/94. At one extreme, the unions might have succeeded in preventing any lay offs. If so, the benefit to AST would be the difference between what it would have cost to keep those workers on the payroll and what AST actually paid under Law 451/94. At the other extreme, the negotiations might have failed and AST would have incurred only the minimal costs described under Mobility.

Then the benefit to AST would have been the difference between what it would have paid under Mobility and what it actually paid under Law 451/94.

We have no basis for believing either of these extreme outcomes would have occurred. It is clear, given the EC regulations, that AST would have laid off workers. However, we do not believe that AST would simply have fired the workers without reaching accommodation with the unions. Statements by GOI officials at verification indicated that failure to negotiate a separation package with the union would lead to labor unrest, strikes, and lawsuits. Therefore, we have proceeded on the basis that AST's early retirees would have received some support from AST.

In attempting to determine the level of post employment support that AST would have negotiated with its unions, we looked to AST's own experience. As we learned at verification, by the end of 1993, the company had established a plan for the termination of redundant workers (as part of an overall ILVA plan). Under this plan, the early retirees would first be placed on CIG–E as a temporary measure and then they would receive benefits under Law 451/94. According to AST officials, the temporary measure was needed because "they were waiting for the passage of the early retirement program under Law 451/94, which at the time had not been implemented by the GOI."

This statement indicates that at the time an agreement was reached with the unions on the terms of the lay offs, AST and its workers were aware that benefits would be made available under Law 451/94. In such situations, i.e., where the company and its workers are aware at the time of their negotiations that the government will be making contributions to the workers' benefits, the Department's practice is to treat half of the amount paid by the government as benefitting the company. *See*, GIA, 58 FR at 37225. In the GIA, the Department stated that when the government's willingness to provide assistance is known at the time the contract is being negotiated, this assistance is likely to have an effect on the outcome of the negotiations. In these situations, the Department will assume that the difference between what the workers would have demanded and what the company would have preferred to have paid would have been split between the parties, with the result that one-half of the government payment goes to relieving the company of an obligation that would exist otherwise. *See*, GIA, 58 FR at 37256. This methodology was upheld in *LTV Steel Co.* v. *United States*, 985 F. Supp. 95, 116 (CIT 1997) (*LTV Steel*).

Therefore, with respect to AST and its workers, we determine that: (1) Under Italian Law 223, AST would have been required to negotiate with its unions about the level of benefits that would be made to workers permanently separated from the company, and (2) since AST and its unions were aware at the time of their negotiations that the GOI would be making payments to those workers under Law 451/94, the benefit to AST is one half of the amount paid to the workers by the GOI under Law 451/94. *See* Memorandum to Susan H. Kuhbach on Law 451/94–Early Retirement Benefits dated March 19, 1999.

Consistent with the Department's practice, we have treated benefits to AST under Law 451/94 as recurring grants expensed in the year of receipt. *See* GIA, 58 FR at 37226. To calculate the benefit received by AST during the POI, we multiplied the number of employees by employee type who retired early by the average salary by employee type. Since the GOI was making payments to these workers equaling 80 percent of their salary, and one-half of that amount was attributable to AST, we multiplied the total wages of the early retirees by 40 percent. We then divided this total amount by total consolidated sales during the POI. On this basis, we determine the estimated net benefit to AST during the POI to be 0.69 percent *ad valorem*.

H. Law 181/89: Worker Adjustment and Redevelopment Assistance[3]

Law 181/89 was implemented to ease the impact of employment reductions in the steel crisis areas of Naples, Taranto, Terni, and Genoa. The law targeted four activities: (1) Promotion of investment in reindustrialization, (2) promotion of employment, (3) promotion of worker retraining, and (4) early retirement. One of AST's subsidiaries received a grant under the reindustrialization component of Law 181/89 as partial compensation for acquiring equipment used in the processing of subject merchandise.

We determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. This grant under Law 181/89 constitutes a financial contribution under section 771(5)(D)(i) of the Act and provides a benefit in the amount of the grant received. Because assistance is limited to steel-related enterprises located in specified regions of Italy, we determine that the program is specific under section 771(5A)(D) of the Act.

The grant received by AST's subsidiary was disbursed in several tranches prior to the POI. We treated each of the tranche as non-recurring because they were all included in a single government grant approval which was exceptional. Consistent with the Department's methodology in the GIA, because the amount of each tranche, separately, was less than 0.5 percent of AST's sales in the corresponding year, we expensed the benefit of each tranche in that year. Consequently, we determine the estimated net benefit to AST in the POI for this program to be 0.00 percent *ad valorem*.

I. Law 488/92

Law 488/92 provides grants for industrial projects in depressed regions of Italy. the subsidy amount is based on the location of the investment and the size of the enterprise. The funds used to pay benefits under this program are derived in part from the GOI and in part from the Structural Funds of the European Union (EU). to be eligible for benefits under this program, the enterprise must be located in one of the regions in Italy identified as EU Structural Funds Objective 1, 2 or 5b.

We determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. The grants are a financial contribution under section 771(5)(D)(i) of the Act providing a benefit in the amount of the grant. Because assistance is limited to enterprises located in certain regions, we determine that the program is specific under section 771(5A)(D) of the Act.

According to AST officials, although the company has applied for aid under this program, no approval has yet been granted and no funds have yet been disbursed. Accordingly, we determine the estimated net benefit to AST in the POI for this program to be 0.00 percent *ad valorem*.

EU Programs

A. ECSC Article 54 Loans

Article 54 of the 1951 ECSC Treaty established a program to provide industrial investment loans directly to the member iron and steel industries to finance modernization and purchase new equipment. Eligible companies apply directly to the European Commission (EC) (which administers the ECSC) for up to 50 percent of the cost of an industrial investment project.

The Article 54 loans are generally financed on a "back-to-back" basis. In other words, upon granting loan

[3] Includes the Decree Law 120/89: Recovery Plan for Steel Industry program contained in *Initiation Notice*.

approval, the ECSC borrows funds (through loans or bond issues) at commercial rates in financial markets which it then immediately lends back out to steel companies at a slightly higher interest rate. The mark-up is sufficient to cover the costs of administering the Article 54 program.

We determine that these loans constitute a countervailable subsidy within the meaning of section 771(5) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act, which confers a benefit to the extent the interest rate is less than the benchmark interest rate. The Department has found Article 54 loans to be specific in several proceedings, including *Electrical Steel from Italy*, 59 FR at 18362, and *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy*, 58 FR 37327, 37335 (July 9, 1993), (*Certain Steel from Italy*) because loans under this program are provided only to iron and steel companies. The EC has also indicated on the record of this investigation that Article 54 loans are for steel undertakings. Therefore, we determine that this program is specific pursuant to section 771(5A)(D) of the Act.

AST had two long-term, fixed-rate loans outstanding during the POI, each one denominated in a foreign currency. Consistent with *Electrical Steel from Italy*, 59 FR at 18362, we have used the lira-denominated interest rate discussed in the Subsidies Valuation Information section of this notice as our benchmark interest rate because these loans effectively had fixed exchange rates. The interest rate charged on one of AST's two Article 54 loans was lowered part way through the life of the loan. Therefore, for the purpose of calculating the benefit, we have treated this loan as if it were contracted on the date of this rate adjustment. We used the outstanding principal as of that date as the new principal amount, to which the new, lower interest rate applied. As our interest rate benchmark for both loans, we used the long-term, lira-based rate in effect on the date the loan was contracted. Because ILVA was uncreditworthy in the year these loans were approved, the benchmark rate includes a risk premium.

To calculate the benefit under this program, pursuant to section 771(5)(E)(ii) of the Act, we employed the Department's standard long-term loan methodology. We calculated the grant equivalent and allocated it over the life of each loan. As with the equity infusions made into Terni and TAS, we have treated the benefits from these loans as though they flowed directly through ILVA to AST, because we have no information on such loans provided to the non-stainless operations of ILVA. We followed the methodology described in the Change in Ownership section above to determine the amount appropriately allocated to AST after its spin-off from ILVA. We divided this benefit by AST's total sales during the POI. Accordingly, we determine the estimated net benefit to AST for these two loans together to be 0.12 percent *ad valorem*.

B. European Social Fund

The European Social Fund (ESF), one of the Structural Funds operated by the EU, was established to improve workers' opportunities through training and to raise workers' standards of living throughout the European Community by increasing their employability. There are six different objectives identified by the Structural Funds: Objective 1 covers projects located in underdeveloped regions, Objective 2 addresses areas in industrial decline, Objective 3 relates to the employment of persons under 25, Objective 4 funds training for employees in companies undergoing restructuring, Objective 5 pertains to agricultural areas, and Objective 6 pertains to regions with very low population (*i.e.*, the far north).

During the POI, AST received ESF assistance for projects falling under Objectives 2 and 4. The Objective 2 funding was to retrain production, mechanical, electrical maintenance, and technical workers, and the Objective 4 funding was to train AST's workers to increase their productivity.

The Department considers worker training programs to provide a countervailable benefit to a company when the company is relieved of an obligation it would have otherwise incurred. *See Pasta From Italy*, 61 FR at 30294. Since companies normally incur the costs of training to enhance the job-related skills of their own employees, we determine that this ESF funding relieves AST of obligations it would have otherwise incurred.

Therefore, we determine that the ESF grants received by AST are countervailable within the meaning of section 771(5) of the Act. The ESF grants are a financial contribution as described in section 771(5)(D)(i) of the Act which provide a benefit to the recipient in the amount of the grants.

Consistent with prior cases, we have examined the specificity of the funding under each Objective separately. *See Wire Rod from Italy*, 63 FR at 40487. In this case, the Objective 2 grants received by AST were funded by the EU, the GOI, and the regional government of Umbria acting through the provincial government of Terni. In *Pasta From Italy*, 61 FR at 30291, the Department determined that Objective 2 funds provided by the EU and the GOI were regionally specific because they were limited to areas within Italy which are in industrial decline. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. The provincial government of Terni did not provide information on the distribution of its grants under Objective 2. Therefore, since the regional government failed to cooperate to the best of its ability by not supplying the requested information on the distribution of grants under Objective 2, we are assuming, as adverse facts available under section 776(b) of the Act, that the funds provided by the provincial government of Terni are specific.

In the case of Objective 4 funding, the Department has determined in past cases that the EU portion is *de jure* specific because its availability is limited on a regional basis within the EU. The GOI funding was also determined to be *de jure* specific because eligibility is limited to the center and north of Italy (non-Objective 1 regions). *See Wire Rod from Italy*, 63 FR at 40487. AST has argued that this decision is not reflective of the fact that ESF Objective 4 projects are funded throughout Italy and all Member States, albeit under the auspices of separate, regionally-limited documents (*see* Comment 15). We agree with AST that it may be appropriate for the Department to revisit its previous decision regarding the *de jure* specificity of assistance distributed under the ESF Objective 4 Single Programming Document (SPD) in Italy. Our decision in *Wire Rod* was premised upon our determination in the *Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada* 51 FR 10055 (March 24, 1986), (*Groundfish from Canada*). In that case, respondents argued that benefits provided under the General Development Agreement (GDA) and Economic and Regional Development Agreements (ERDA) were not specific because the federal government had negotiated these agreements with every province. We did not accept this argument because the GDAs and ERDAs "do not establish government programs, nor do they provide for the administration and funding of government programs." Instead, the Department analyzed the

specificity of the "subsidiary agreements" negotiated individually under the framework of the GDA and ERDA agreements.

In contrast to *Groundfish from Canada*, 51 FR at 10066, the agreements negotiated between the EU and the Member States (*i.e.*, Single Programming Documents and Community Support Frameworks) both establish government programs and provide for the administration and funding of such programs throughout the entirety of the European Union. Therefore, if we were to consider all the EU-Member State agreements together, we would arguably be unable to determine that the program is *de jure* specific.

Notwithstanding this argument, given the lack of information on the use of Objective 4 funds by either the EC or GOI, we must, as adverse facts available in the instant case, find the aid to be *de facto* specific. Both the EC and GOI stated that they were unable to provide the Department with the industry and region distribution information for each Objective 4 grant in Italy despite requests in our questionnaires and at verification. While the GOI, at verification, provided a list of grantees that received funds under the multiregional operating programs in non-Objective 1 regions, it declined the opportunity to identify the industry and region of such grantees (*see* February 3, 1999 memorandum on the Results of Verification of the GOI at 16). Furthermore, the regional governments have refused to cooperate to the best of their ability in this investigation despite Department requests. Therefore, we continue to find that the aid received by AST is specific.

The Department normally considers the benefits from worker training programs to be recurring. *See* GIA, 58 FR at 37255. However, consistent with the Department's determination in *Wire Rod from Italy*, 63 FR at 40488, that these grants relate to specific, individual projects, we have treated these grants as non-recurring grants because each required separate government approval. Because the amount of funding for each of AST's projects was less than 0.5 percent of AST's sales in the year of receipt, we have expensed these grants received in the year of receipt. Two of AST's grants were received during the POI. For these grants, we divided this benefit by AST's total sales during the POI and calculated an estimated net benefit of 0.01 percent *ad valorem* for ESF Objective 2 funds and 0.03 percent *ad valorem* for ESF Objective 4 funds.

II. Programs Determined To Be Not Countervailable

A. AST Participation in the THERMIE Program

The EU provided funds to AST for the development of a pilot plant through an EU program promoting research and development in the field of non-nuclear energy (THERMIE). The objective of the THERMIE program is to encourage the development of more efficient, cleaner, and safer technologies for energy production and use. The THERMIE program is part of a larger program categorized under the EU's Fourth Framework Programme which covers activities in research and technological development from 1994–1998.

The objective of AST's demonstration plant is to reduce energy consumption in the production of stainless steel by eliminating some of the traditional production steps through the adoption of "strip casting" technology. In *Italian Sheet and Strip*, as well as in the instant proceeding, the EU has requested noncountervailable (green light) treatment for this project as a research subsidy under section 771(5B)(B)(ii)(II) of the Act regarding precompetitive development activities.

In the instant proceeding and in *Italian Sheet and Strip*, the Department preliminarily determined that the THERMIE program did not merit green light treatment because it did not meet the statutory requirement that "the instruments, equipment, land or buildings be used exclusively and permanently (except when disposed on a commercial basis) for the research activity" (*see* section 771(5B)(B)(i) (II) of the Act). No new information has been submitted on the record in the instant proceeding to warrant a reconsideration of this finding.

However, in the preliminary determination we did not have sufficient information to determine if the technology and the demonstration plant provided a benefit to subject merchandise, nor did we have information on the distribution of project funds by industry or by company for the year in which AST's project was approved.

Since the preliminary determination, the EU has submitted information on the distribution of assistance under the THERMIE program for 1995 and 1996. Based on the information on the record, there is no indication that this program is *de jure* specific because eligibility is not limited to certain industries or groups thereof. Additionally, based on an examination of the distribution information, the program benefitted a large number of users in different industries, and neither AST nor the steel industry received a disproportionate share of the benefits (*see* Memorandum to Susan Kuhbach from Team, dated February 19, 1999.) Therefore, we determine that the THERMIE program is not specific within the meaning of section 771(5A)(D) of the Act and, consequently, not countervailable.

IV. Other Programs Examined

A. Loan to KAI for Purchase of AST

The government holding company, IRI, granted a loan to KAI for the purchase of AST. The loan had two basic components: an installment loan based on the up-front purchase price, and subsequent price adjustments. While the installment loan functioned as a long-term loan, the price adjustments were more akin to short-term extensions of credit. In addition, the terms of the price adjustments were independent of the terms of the installment loan. Accordingly, we regarded the price adjustments to be distinct from the installment loan.

We are not making a determination as to the countervailability of either the installment loan or the price adjustments since they separately yield no benefit. With respect to the installment loan, the full amount was paid off prior to the POI; hence there was no benefit during the POI. As for the short-term extensions of credit on the price adjustments, the benefit potentially attributable to AST during the POI, even using the most adverse of assumptions (e.g., no grace period), is 0.00 percent *ad valorem*, when rounded.

B. Brite-EuRam

At verification it was discovered that AST received a grant during the POI under the Brite-EuRam program administered by the EC. This program was not alleged in the petition. This program has been looked at by the Department once before in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 63 FR 18367, 18370 (April 15, 1998) (*1996 UK Lead and Bismuth*). However, in *1996 UK Lead and Bismuth*, the Department did not make a specificity determination with respect to Brite-EuRam assistance because the amount received by the respondent in that review was so small that it would not have impacted the *ad valorem* rate.

In this case, we have no information upon which to make a specificity determination. In addition, because the use of the Brite-EuRam program had not

been alleged or discovered in time to solicit adequate information from all of the necessary respondents, we have no basis upon which to use facts available with respect to this program. Accordingly, we are not making a determination on the countervailability of the Brite-EuRam program in this proceeding. Should an order be put in place, however, we will solicit information on the Brite-EuRam program in a future administrative review, if one is requested. *See* 19 CFR 351.311(c)(2).

V. Programs Determined To Be Not Used

GOI Programs

A. Benefits from the 1982 Transfer of Lovere and Trieste to Terni (called "Benefits Associated With the 1988–90 Restructuring" in the *Initiation Notice*)
B. Law 345/92: Benefits for Early Retirement
C. Law 706/85: Grants for Capacity Reduction
D. Law 46/82: Assistance for Capacity Reduction
E. Debt Forgiveness: 1981 Restructuring Plan
F. Law 675/77: Mortgage Loans, Personnel Retraining Aid and VAT Reductions
G. Law 193/84: Interest Payments, Closure Assistance and Early Retirement Benefits
H. Law 394/81: Export Marketing Grants and Loans
I. Law 341/95 and Circolare 50175/95
J. Law 227/77: Export Financing and Remission of Taxes

EU Programs

A. ECSC Article 56 Conversion Loans, Interest Rebates and Redeployment Aid
B. European Regional Development Fund
C. Resider II Program and Successors
D. 1993 EU Funds

Interested Party Comments

Comment 1. The Extinguishing v. Pass-Through of Subsidies during Privatization. AST emphasizes that section 771(5)(F) of the Act directs the Department to consider the facts of each change in ownership and permits the Department to find that subsidies may be extinguished in privatization transactions. In particular, AST argues that the Act does not allow the Department to ignore events subsequent to the receipt of a subsidy in the context of privatization. AST postures that the Department's present privatization methodology does not adequately address the question of whether subsidies are passed through to the purchaser of a privatized firm. Instead, the privatization methodology merely reduces the amount of subsidies that are attributed to the purchaser.

AST cites to section 771(5)(B) of the Act to show that for a subsidy to exist, a benefit must be conferred. In order to determine whether a benefit has been conferred, AST states the measure is that of benefit to recipient (section 771(5)(E) of the Act). While acknowledging that the Department's new regulations are not applicable in this case, AST looks to them as potentially instructive to the extent that they restate prior policy where they state that the Department normally will consider a benefit to be conferred where a firm pays less for its inputs than it otherwise would pay (19 CFR Section 351.503(b)). AST argues that if the normal benefit conferred by a subsidy is the artificially reduced cost to the company of an input, then the benefit no longer exists after a market-value privatization. AST points to the open bidding process used to select the ultimate buyer of AST as evidence that full market value was paid and argues accordingly, that prior subsidies were extinguished upon privatization.

The petitioners cite to section 771(5)(F) of the Act where it states that a change in ownership does not require an automatic finding of no pass through of subsidies, even if accomplished by an arm's-length transaction. In addition, the petitioners cite to the Statement of Administrative Action (SAA) which notes that the statutory provision is intended to "correct and prevent such an extreme interpretation" as the idea that subsidies are automatically eliminated in an arm's-length sale see SAA H.R. Rep. No. 103–316, at 928 (1994). Contrary to AST's claim that the Department has never really faced the issue of whether an arm's-length sale extinguishes subsidies under the URAA, the petitioners mention *Wire Rod from Italy* in which the Department rejected the assertion that an arm's-length privatization at market value extinguished prior subsidies. The petitioners also point out that the Department's repayment calculation was upheld by the CIT (*see Delverde II* and *British Steel PLC* v. *United States* (*British Steel IV*), 27 F. Supp 2d 209 (CIT 1998)). In particular, the petitioners quote *British Steel IV* where the court says at page 216:

> As the equations developed by Commerce satisfy the statutory goal of identifying the value of the net subsidies initially provided and as the equations identify a relationship between the net subsidies over time and the value of the corporation at privatization, this Court finds the equations developed by Commerce to apply its repayment methodology are a reasonable interpretation of the statute and are otherwise in accordance with law.

Department's Position. Under our existing methodology, we neither presume automatic extinguishment nor automatic pass through of prior subsidies in an arm's-length transaction. Instead, our methodology recognizes that a change in ownership has some impact on the allocation of previously bestowed subsidies and, through an analysis based on the facts of each transaction, determines the extent to which the subsidies pass through to the buyer. In the instant proceeding, the Department relied upon the pertinent facts of the case in determining whether the countervailable benefits received by AST predecessor companies passed through to AST. Following the GIA methodology, the Department subjected the level of previously bestowed subsidies and AST's purchase price to a specific, detailed analysis. This analysis resulted in a particular "pass through ratio" and a determination as to the extent of repayment of prior subsidies. On this basis, the Department determined that when AST was privatized a portion of the benefits received by ILVA passed through to AST and a portion were repaid to the government. This is consistent with our past practice and has been upheld in the Federal Circuit in *Saarstahl AG* v. *United States*, 78 F.3d 1539 (Fed. Cir. 1996) (*Saarstahl II*), *British Steel plc* v. *United States*, 127 F.3d 1471 (Fed. Cir. Oct. 24, 1997) (*British Steel II*) and *Delverde II*.

The Department rejects AST's argument that an arm's-length transaction at fair market value extinguishes any previously bestowed subsidies because no benefit was conferred. As explained in the Remand Determination Pursuant to *Delverde. SrL* v. *United States*, 989 F. Supp. 218 (CIT 1997), (*Delverde Remand*), the countervailable subsidy amount is fixed at the time that the government bestows the subsidy. The sale of a company, *per se*, does not and cannot eliminate this potential countervailability because the countervailing duty statute "does not permit the amount of the subsidy, including the allocated subsidy stream, to be revalued based upon subsequent events in the market place." GIA, 58 FR at 37263. The Federal Circuit *Saarstahl II* addressed the Department's privatization methodology and "specifically stated that the Department does not need to demonstrate competitive benefit."

Furthermore, AST's contention that the sale of AST was an arm's-length,

market-valued transaction does not demonstrate that previous subsidies were extinguished.[4] Section 771(5)(F) of the Act states that the change in ownership of the productive assets of a foreign enterprise does not require an automatic finding of no pass through even if accomplished through an arm's-length transaction. Section 771(5)(F) of the Act instead leaves the choice of methodology to the Department's discretion. Additionally, the SAA directs the Department to exercise its discretion in determining whether a privatization eliminates prior subsidies by considering the particular facts of each case. SAA at 928.

The Department's methodology requires it to consider and rely upon several facts particular to the change of ownership at issue. In this investigation, these facts included the nature of the previously bestowed subsidies, the amounts of those subsidies, the time when those subsidies were bestowed, the appropriate period for allocating the subsidies, the net worth over time of the company sold, and the amount of the purchase price. On the basis of these facts, the Department determined the ultimate repayment of the prior subsidies to the GOI. In sum, the Department considered all of the factual evidence presented by AST, and then properly followed its existing methodology. Furthermore, this methodology was upheld by the Federal Circuit in *Saarstahl II, British Steel II* and *(Delverde II).*

Comment 2. Calculation of "Gamma". Should the Department continue to find that subsidies were not extinguished during the arm's-length purchase of AST, AST argues that the Department should revise its calculation of "gamma," the measure of the percentage that prior subsidies constitute of the overall value of the company. Presently, gamma is calculated by taking the ratio of the nominal value of subsidies received each year over the company's net worth for every year in the AUL prior to privatization, and then taking a simple average of those ratios. AST argues that this calculation is distortive as evidenced by the fact that if gamma were multiplied by a firm's equity at any given date, the result would not equal the present value of the subsidy stream. Instead, AST proposes calculating gamma by taking the ratio of the present value of remaining subsidies to assets in the year of privatization. This asset-based calculation of gamma, argues AST, would result in a more reasonable standard upon which to measure the level of subsidization by more accurately measuring the amount of subsidies "imbedded" in the assets. According to AST, a buyer acquires assets, not the seller's equity, and the buyer's equity position is independent of the seller's. In addition, AST notes that equity as a percentage of assets can change drastically over time due to many factors, some of which are beyond the control of the company, as opposed to assets which are more constant. In addition to using assets as a reasonable basis upon which to measure subsidization, AST states that its proposed method for calculating gamma would be more consistent with the Department's grant amortization methodology which also assumes that benefits from grants extend over time as opposed to just the year of receipt.

The petitioners take issue with using the present value of subsides in the year of privatization as opposed to the nominal values received in the years preceding the same. According to the petitioners, using the present value in the year of privatization would be tantamount to "revaluing" the subsidies in a year other than that in which they were received. The petitioners argue that such a revaluation would be contrary to Department practice as articulated in the GIA, 58 FR at 37263, in which it is stated that the countervailable subsidy and the amount of it to be allocated over time are fixed at the time of bestowal. The petitioners also imply that performing such a revaluation would be equivalent to looking at the effects of the subsidies which is prohibited by section 771(5)(C)) of the Act. The petitioners emphasize that the Department's present methodology has been upheld by CIT. In addition, the petitioners point out that the Department rejected the use of the present value of remaining subsidies in *Wire Rod from Trinidad and Tobago,* 62 FR at 55011. In any event, the petitioners add that the Department's current methodology does, in effect, take into account the amortization of subsidies at the point when gamma is applied to determine the amount of repayment.

The petitioners claim that AST has not explained how assets, as opposed to net worth, would be a better measure of a company's value with respect to calculating the portion of the value attributable to subsidies. The petitioners state that a company's value depends upon both its assets and its liabilities. As for AST's concern about net worth being variable over time, the petitioners assert that variation in the nominal value of net worth is irrelevant in that it is the ratio of subsidies received to net worth that matters. The petitioners add that asset values, too, vary over time and can depend upon factors not necessarily related to the true value of that asset, such as the method of depreciation. Also, the petitioners state that assets are carried in a company's accounting records at historical cost which does not reflect current market value.

Department's Position: For this final determination, we have continued to calculate gamma using historical subsidy and net worth data. In considering parties arguments, we had to keep in mind that gamma is the measure of the level of past subsidies in a selling company and that it is ultimately applied to the purchase price.

Our current methodology for calculating gamma reasonably measures the level of subsides in the selling company by examining a range of years and has been upheld by the courts in *Saarstahl II, British Steel II* and *Delverde II.* AST has proposed using the net present value of the remaining benefit stream in the numerator mainly out of a concern that the application of gamma to the company's net worth should render the present value of the remaining benefits. In response, we note that while gamma itself is not a construction of the present value of the remaining benefits, the results of the gamma calculation are, however, applied to the present value. In this sense, our calculations, as a whole, do take into account the present value of remaining benefits.

Comment 3. Calculation of the Purchase Price. AST argues that the Department undervalued the subsidies repaid in the *Preliminary Determination* by basing the purchase price only on the cash paid for the company. Instead, AST suggests that the purchase price should also include the debt assumed by the purchasers as part of the sales transaction.

AST maintains that including assumed debt in the purchase price is appropriate because buyers and sellers are indifferent as to the mix of cash paid and debt assumed: a dollar of debt assumed, AST argues, is equivalent to a dollar of cash paid. If the buyers of ILVA's stainless division had offered

[4] For example, the precise selection criteria used by the GOI in selecting a buyer apparently were never made clear. Company officials at verification, for example, could not explain the basis upon which their bid was selected over other bids. Moreover, based on the questionnaire responses and verification, it is clear that the GOI required potential purchasers to make certain commitments with respect to the operations of the company after privatization. Additionally, based on statements made by company officials at verification, the GOI may have required that any potential bidder include some degree of participation by Italian companies. Given these circumstances, it could be argued that the price received by the GOI did not reflect the full market value of the company.

only the cash portion of their offer, and had not agreed to assume the debt, AST contends that their bid would not have been accepted.

To support its argument, AST offers the example of purchasing a house with an assumable mortgage. A person wanting to buy the house, according to AST, has several financing options: (1) Paying cash for the total sales price, (2) paying a down payment for some portion of the sales price and obtaining a new mortgage on the balance, or (3) assuming the existing mortgage and paying cash for the balance. AST states that in all cases, the purchase price of the home remains the same.

Moreover, by not including assumed debt in the purchase price the Department's privatization methodology for determining the amount of subsidies repaid will render different results depending upon the mix of assumed debt and cash required in a particular purchase.

The petitioners counter by stating that the cash price paid for a company already reflects the liabilities in that the price paid is the valuation by the buyer of the company as a whole, including assumed liabilities. In addition, the petitioners claim that it is the Department's well-established practice not to add assumed liabilities to the purchase price citing *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany*, 62 FR 55490, 55001 (October 22, 1997) (*Wire Rod from Germany*), and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Canada*, 62 FR 54972, 54986 (October 22, 1997) (*Wire Rod from Canada*), as two cases in which the Department expressly declined to make an upwards adjustment to price to account for assumed liabilities/obligations. In looking at AST's example of a home purchased with an assumable mortgage, the petitioners point out that the value of that home to the buyer is the net equity position—the difference between the value of the home and the mortgage. Additionally, the petitioners point out that the seller of the home only receives the amount of equity in the home and not the full market value.

Department's Position: We agree with the petitioners that the purchase price should include only the cash paid in the sales transaction. First, as noted by the petitioners, it has been the Department's normal practice not to include assumed debts in the purchase price. Second, the purchase price is multiplied by gamma to determine the amount of the purchase price which represents repayment or reallocation of remaining benefits. Given that, under the Department's current methodology, the gamma denominator is net worth (equity) which, in the case of the privatization of AST, equals the amount of cash that was transferred in the sales transaction, it would be incongruous to multiply gamma by a purchase price amount which includes cash and debt. Third, adding debt to the cash price would imply that some portion (depending on the gamma) of that debt can go towards repayment of subsidy benefits. However, debt assumption by the purchaser, particularly where the creditors are third parties, is not a means through which repayment or reallocation of subsidy benefits back to the seller can occur. Therefore, for the final determination, we have included only cash paid in the purchase price of the units sold in the 1990 and 1992 spin-offs and in the 1994 AST privatization.

Comment 4. Repayment in Spin-Off Transactions. AST suggests that the proper way to apportion untied grants between a company and spun-off division is simply on the basis of the percentage of assets. However, in the *Preliminary Determination* the Department did not simply stop there, explains AST, but further performed a "pass-through" analysis on the amount apportioned to the spun-off unit via assets to determine an even smaller portion of prior subsidies that would be ultimately attributable to the spun-off company. The difference between the amount apportioned by assets to the spun-off unit and the amount ultimately attributable to it was inexplicably not extinguished, claims AST. Instead of being taken out of the benefit stream as they should have been, states AST, the extinguished subsidies remained in the benefit stream of the selling company—AST.

The petitioners claim that AST does not understand the difference between a privatization transaction and a spin-off transaction. Only in a privatization context wherein the seller is the government can subsidies be repaid to the government, according to the petitioners. In spin-off transactions, claim the petitioners, subsidies are simply reallocated between the seller and the purchaser.

Department's Position. The Department's calculations in the *Preliminary Determination* properly accounted for all prior subsidies by means of our standard spin-off calculation. In spin-off transactions, such as those at issue, the benefits from prior subsidies are reallocated between buyers and sellers. Our spin-off calculation is not premised solely upon the value of assets spun-off. Rather, we use the ratio of the value of assets spun-off to the value of the selling company's total assets to derive the maximum amount of prior subsidies that can pass through to the purchaser. From this maximum amount, we subtract the amount of subsidies which remain with the seller based on our "gamma" calculation and the purchase price of the spun-off unit.

Comment 5: Sale of a Unit to a Government Agency. In the *Preliminary Determination*, explains AST, the Department failed to attribute a portion of prior subsidies to Verres when it was spun off from ILVA. Since subsidies travel with assets, the sale of Verres to a government agency is irrelevant and should not prohibit the attribution of subsidies to that productive unit, argues AST. In any event, AST states that ILVA eventually sold its share in Verres to a private company.

With respect to AST's claim that the spin-off methodology should be applied to the sale of Verres because there is no basis for treating a sale to a government agency differently from a sale to a private investor, the petitioners counter that the Department's practice has been not to consider transfers among related parties to constitute legitimate sales (*see* GIA, 58 FR at 37266).

Department's Position. We agree with petitioners that ILVA's sale of some of its shares in Verres to a government entity does not warrant the application of our spin-off methodology. Regarding the government-to-government aspect of the first transfer, the Department stated in the GIA, 58 FR at 37266:

> [T]he Department has not considered internal corporate restructurings that transfer or shuffle assets among related parties to constitute a "sale" for purposes of evaluating the extent to which subsidies pass through from one party to another. Legitimate "sales," for purposes of evaluating the pass-through of subsidies, must involve unrelated parties, one of which must be privately-owned.

ILVA was a wholly owned government entity. Therefore, the transfer of Verres shares from one government-owned entity to another is not a "sale" recognized under the criteria of the GIA.

With respect to the sale of ILVA's remaining shares in Verres to a private company, there is insufficient verified information on the record regarding the ultimate sale of Verres on which to base a spin-off calculation. We also note that, based on the limited information that is available for Verres, it appears that any application of our spin-off methodology in this case would probably have a minimal, if any, effect on the final estimated countervailing duty rate due to the relatively small size of the sale.

Comment 6: Use of Company-Specific AUL. The petitioners argue that AST has not fully accounted for and corrected all the data concerns raised by the Department in its preliminary determination. Specifically, argue the petitioners, the effects on financial reporting of the various changes in ownership of the stainless steel assets that now comprise AST cast doubt on the reliability of the data provided by AST. A clear indication of actual distortion from these restructurings, the petitioners assert, is that the largest fluctuations in AST's calculated annual AUL occur in the years surrounding the 1989 and 1993 restructurings. Moreover, the petitioners continue, AST's failure to include all of its depreciable assets (*e.g.*, industrial buildings) in its initial AUL calculation, its unwillingness to provide the tenth year of data, its (and its predecessors') use of certain accelerated depreciation methods, and its various practices regarding write-downs, render AST's company-specific AUL unusable.

AST, however, claims that it has sufficiently addressed the purported deficiencies in its company-specific AUL calculation, as cited by the Department in its preliminary determination and raised at verification. To support this contention, AST states the following: First, the Department verified that AST had not included accelerated depreciation in calculating its AUL. Second, the Department verified that the asset write-down undertaken in 1993 does not significantly impact the AUL calculation. Third, though the company-specific AUL is based on only 9 years of historical data, the Department has in the past acknowledged that an AUL based on fewer years would not necessarily be incorrect or inaccurate. Fourth, although the Department has noted that there was a significant variation in the annual gross asset-to-depreciation ratio, this fact alone is not a basis for rejecting the company-specific AUL. Finally, in the end the Department was able to completely verify the AUL asset and depreciation data submitted by AST. For these reasons, according to AST, the Department should use the revised AUL calculated by AST and verified by the Department.

AST further argues, however, that if the Department does reject AST's company-specific AUL as deficient, the Department should use a 12-year AUL rather than the 15 years indicated in the IRS tables. AST argues that given that the AUL of the other respondent in *Italian Sheet and Strip*, Arinox, is 12 years, and the AUL for all the respondents in *Wire Rod from Italy* was 12 years, this allocation period appears to represent an average for the Italian stainless steel industry in general. As such, this would be a more appropriate allocation period than the 15 years from the IRS tables.

In response, the petitioners, citing the *Countervailing Duties; Final Rule* 63 FR 65348 (November 25, 1998) (*New Regulations*), pre-1995 practice, and certain countervailing cases since 1995, argue that the Department's preference is to use the 15-year industry-wide AUL derived from the IRS tables, and claim that the Department should continue to do so in the instant proceeding. Though recognizing that these are not binding in the instant proceeding, the petitioner notes that according to the *New Regulations* at 65395 "the IRS tables method offers consistency and predictability and * * * it is simple to administer." Furthermore, the petitioners continue, the *Countervailing Duties; Proposed Rule*, 62 FR 8817, 8827 (February 26, 1997), (*1997 Proposed Regulations*) makes clear that the Department intends to reserve the option to use the IRS tables in determining AUL, if appropriate. *See* 62 FR at 8828. Finally, the petitioners note, in *Wire Rod from Italy* the Department stated that it would only use a company-specific AUL "where reasonable and practicable." *See* 63 FR at 40474.

Regarding subsidies that have been countervailed in prior proceedings, the petitioners argue that it is inappropriate to allocate the same subsidy over different periods in different proceedings. Given that some of the subsidies to AST were previously allocated over a 15-year period in *Electrical Steel*, petitioners state that allocating AST's subsidies over a 15-year AUL would be is consistent with the Department's practice of not altering the allocation period during the administrative review process under a countervailing duty order.

AST states that since the *Electrical Steel* decision, the courts have rejected the use of the IRS tables in favor of a company-specific approach for determining AUL (*see, e.g., British Steel I*). Accordingly, AST claims that it would be inappropriate to use the 15-year AUL from *Electrical Steel* since that was based on the IRS tables.

Department's Position. The Department has not used, in its final determination, AST's calculated, company-specific AUL. Though some of the other concerns noted in the *Preliminary Determination* regarding AST's AUL calculation remain, our decision not to use the company-specific AUL is primarily based on the large discontinuity over time in the annual ratios of asset value to depreciation amounts. Such discontinuity, apparently correlated with the changes in ownership, strongly indicates a disparity between the basis on which the AULs of ILVA and AST are based.

For our final determination, in lieu of an adequate company-specific AUL, we have used an allocation period of 12 years for AST as facts available. Twelve years represents a reasonable estimate of a general AUL for the Italian stainless steel industry, as supported by evidence in another case (*Wire Rod from Italy*) and by the company-specific verified data provided by another respondent, Arinox, in *Italian Sheet and Strip*.

With respect to the use of allocation periods from prior proceedings for subsidies previously countervailed, we find it unnecessary to resolve the issue in this case. The allocation period we find appropriate for AST is based on facts available. We believe that, as facts available, 12 years is more appropriate for AST than 15 years because the 15-year period is based upon the IRS tables and not the experience of Italian companies.

Comment 7: Revision of AST's Volume and Value Data. The petitioners object to AST's attempts to revise its volume and value data after the start of verification. Emphasizing that the purpose of verification is to "verify the accuracy and completeness of submitted factual information (19 CFR 351.307(d)(1998)), the petitioners argue that AST's revised numbers should be rejected. The petitioners take particular issue with AST's revisions which report volume and value data on a consolidated level when AST refused to provide full information on subsidies provided to AST's consolidated subsidiaries. According to the petitioners, the Department should not allow AST to dilute its margins via the use of consolidated volume and value data when the subsidiary companies are not included in the investigation by virtue of AST's withholding of information. To do so, object the petitioners, would provide respondents with an incentive to withhold information as was done here.

AST counters by saying that it provided its consolidated volume and value data during verification at the behest of the Department's verifiers. According to AST, the Department's regulations permit it to request factual information from parties at any time during the proceeding (*see* 19 CFR 351.303(b)(5)). AST adds that the information was verified and served on

the petitioners. Noting that under 19 CFR 351.301(c)(1), the petitioners were afforded ten days in which to rebut the information, AST points out that the petitioners failed to do so. AST additionally notes that the petitioners do not argue that using consolidated sales data is methodologically incorrect. As for the petitioners argument that AST should have reported information on subsidies received by its affiliates, AST explains that such information would be useless in this proceeding as these affiliates neither produce nor sell subject merchandise. Furthermore, AST states that it has reported all of its financial transactions with its related parties. Any information on programs utilized by AST and its affiliates that could conceivably benefit subject merchandise has already been provided, evaluated and verified, according to AST. Based on the foregoing, AST maintains that there is no basis upon which to apply facts available with respect to its volume and value information.

Department's Position: For purposes of this final determination, we are not rejecting AST's consolidated volume and value data. At verification, Department officials requested this data from AST recognizing that the use of consolidated data would be consistent with the Department's practice in certain circumstances. As for the petitioners' concerns regarding the dilution of the *ad valorem* rate due to the use of a consolidated sales value as the denominator in cases where only unconsolidated benefit information is being used in the numerator, we disagree that such dilution is occurring. With respect to all the subsidies received prior to AST's privatization, we believe that those subsidies should be allocated to AST on a consolidated basis. The only benefits relevant to this proceeding that AST received subsequent to its privatization are under Law 10/91, Law 451/94 and ESF. Regardless of whether the consolidated or unconsolidated data is used, Law 10/91 benefits are expensed prior to the POI. With respect to Law 451/94 and ESF benefits, AST provided information pertaining to benefits received by its consolidated operations.

Comment 8: Ratio Adjusting the Benefit Stream for the Sale of AST. AST claims that the Department erred in the *Preliminary Determination* in adjusting the future benefit stream for the sale of AST. In particular, AST states that instead of adjusting the benefit stream by the ratio of prior subsidies repaid to the present value of the benefit stream applicable to AST in the year of sale in accordance with Departmental practice, the Department mistakenly used the present value of the predecessor company's benefit stream in the denominator.

The petitioners counter that the Department's calculations in the *Preliminary Determination* did account for the fact that only a portion of ILVA's assets were spun-off with AST. Unlike the methodology proposed by AST, the Department followed the GIA by multiplying the net present value of the seller's remaining subsidies by the ratio of the assets of the spun-off unit to the assets of the selling company. Making AST's proposed change, claim the petitioners, would amount to reducing the subsidies attributable to AST's assets twice.

Department's Position: AST's proposed adjustment to our calculations would amount to reducing the subsidy benefit stream twice to account for the portion of assets taken by AST. We first apportioned the remaining benefit stream (not including the Terni/TAS equity infusions, benefits associated with the 1989/1990 restructuring and ECSC loans) between AST and ILVA, the seller, by multiplying the benefit stream by the ratio of AST's assets to ILVA's. Second, we reduced the benefit stream assigned to AST (inclusive of Terni/TAS equity infusions, benefits associated with the 1989/1990 restructuring and ECSC loans) to reflect any repayment of those subsidies via the purchase price. In addition to apportioning the remaining benefit stream by the AST asset ratio in the first step, AST's proposed adjustment would amount to apportioning the remaining benefit stream by the asset ratio an extra time in the second step. Accordingly, we have not made the adjustment requested by AST.

We note that in our *Preliminary Determination*, we erred in multiplying the AST asset ratio against all subsidies in ILVA, including benefits to Terni and TAS which are being attributed to AST in their entirety. (For further discussion, *see* the Equity Infusions to Terni, TAS and ILVA; Benefits from the 1988–90 Restructuring of Finsider; and ECSC Article 54 Loans sections of this notice.)

Comment 9: Use of Gross versus Net Debt in 1993 Debt Forgiveness Calculation. AST argues that the record of this case establishes a precise amount that represents the "actual cost to the GOI" for the liquidation of ILVA, based on the EC's strict monitoring. Assuming that the Department countervails these costs, AST argues that the Department cannot consider the benefit to the recipients to be larger than the amount calculated by the EC as the actual cost to the GOI.

AST states that in past cases, such as *Al Tech Specialty Steel Corp.* v. *United States*, 661 F. Supp. 1206, 1213 (CIT, 1987), the Department has concluded that it would be inappropriate to look behind the action of a tribunal charged with the administration of a liquidation process. AST states that the GOI would have been subject to significant legal penalty had it failed to abide by the requirements of the EC supervised liquidation. Thus, AST implicitly is arguing that the Department should accept the amount of remaining debt calculated by the EC, without examining the underlying calculation of this remaining debt figure.

Furthermore, AST asserts that, because buyers should be indifferent to the mix of cash paid and debts assumed in purchasing a company, the Department's methodology inappropriately attributes a greater amount of debt forgiveness to a company whose buyers assume less debt but pay a higher cash price. In fact, claims AST, if the GOI had paid down the same amount of ILVA's liabilities calculated as uncovered in the EC's Monitoring Reports prior to the liquidation process, each of the companies could have been "sold" entirely for a transfer of debt (*i.e.*, no cash transfer) in the amount of transferred assets. In this event, AST argues, there would be no residual debt, and the Department's methodology would lead it to countervail only the grant given prior to the liquidation process.

The petitioners state that the Department, consistent with its practice, should consider the total amount of ILVA's liabilities and losses forgiven on behalf of AST at the time of its spin-off as the benefit to AST. *See, e.g., Electrical Steel from Italy*, 59 FR at 18365, and *Certain Steel from Austria*, 58 FR at 37221. The petitioners assert that the income received as a result of the sales of ILVA's productive units should not be deducted from the gross amount of ILVA's losses and liabilities for three reasons. First, the petitioners argue, the debt forgiveness occurred prior to the actual sales of ILVA's productive units and, thus, should be treated separately. Second, the amount of income at the time of the sales was greater than it would have been without the debt reduction. Third, the Department's change-in-ownership methodology separately accounts for repayment of prior subsidies associated with the purchase price of the company sold.

Department's Position: We do not dispute AST's contention that the liquidation of ILVA Residua proceeded

as detailed in the EC monitoring reports, and that the final cost, after subtracting income earned from the sale of productive units, to the GOI for the liquidation was as reported in the EC monitoring reports. However, section 771(5)(E) of the Act directs the Department to calculate subsidies as the benefit to the recipient, rather than the cost to the government. (*See* Memorandum to Richard W. Moreland on 1993 Debt Forgiveness dated March 19, 1999). At the time of the demerger, AST clearly benefitted to the extent that it did not assume a proportional share of ILVA's liabilities. In fact, the cash transfer did not take place at the time of the demerger, but nearly a year later when AST was privatized. Furthermore, we note that the liquidation process did not proceed as in AST's hypothetical example. Rather, AST was left with a substantial positive equity position as a result of ILVA Residua's assumption of the vast majority of ILVA's liabilities, unlike the firm in AST's hypothetical.

We agree with the petitioners that it is the Department's practice to determine the size of the benefit to a respondent as the amount of liabilities that are not directly associated with any given assets and that the respondent should have taken. If such a firm is later sold, such as was the case with AST, the Department applies its change-in-ownership methodology to determine the portion of the purchase price attributable to the repayment of prior subsidies.

However, we disagree with the petitioners that the Department should countervail both the liabilities and accumulated losses on ILVA's balance sheet in 1993 because ILVA's gross liabilities already reflect such losses. While we agree it is the Department's practice to countervail grants to cover losses as well as grants to cover liabilities, ILVA did not receive a separate grant in 1993 to cover operating losses. However, if it had received such a grant, ILVA's gross liabilities would have been reduced or its liquid assets would have increased. Because such a grant was not received, ILVA's gross liabilities, after netting out its liquid assets, were higher than they would have been if such a grant had been received and, thus, the total debt forgiveness calculated by the Department already captures such losses.

Comment 10: 1993 Debt Forgiveness Apportionment. According to AST, the Department improperly apportioned ILVA's residual debt after the 1993 demergers based on total viable assets taken by AST and other ILVA operations. AST argues that because there is no record evidence attributing any of this residual debt to the operations assumed by AST, none of that debt should be attributed to it. For example, AST posits, if a government-owned company that consisted of two divisions of equal assets, one healthy and one unhealthy, were split into two, the Department's methodology would illogically allocate the old debts equally, thereby punishing the heathy company for the afflictions of the unhealthy one.

The petitioners state that AST did not provide any information to allow the Department to attribute specific ILVA liabilities to specific ILVA assets despite numerous requests for information such as the financial records of ILVA's specialty stainless steel division. Additionally, the petitioners assert that in various cases, the Department has attributed otherwise untied liabilities left behind in shell corporations to the operations that had been demerged. See *Certain Steel From Austria* at 37221 and *Wire Rod from Trinidad and Tobago* at 55006.

Department's Position: It is the Department's practice to allocate otherwise untied liabilities remaining in a shell corporation to the new, viable operations that had been removed from the predecessor company. In *Certain Steel from Austria*, the Department stated that it treated as debt forgiveness liabilities left behind in the predecessor company, even though there was no indication that these liabilities were specifically related to the operations taken by the new entity (*see* 58 FR at 37221). Therefore, consistent with our past practice, we have assigned a portion of these liabilities to AST based on its proportion of assets taken to the total viable assets of ILVA.

We note, however, that because losses attributable to the write down of AST's assets can be specifically identified, we have assigned those losses to AST. We have not assigned losses attributable to the write down of ILP or Residua's viable assets to AST.

Comment 11: ILVA Residua Asset Value. The petitioners argue that the Department misallocated the amount of debt forgiveness attributable to AST in 1993 in its most recent calculation of the benefit from this program in *Italian Sheet and Strip* by using an incorrect asset amount for ILVA Residua. The petitioners assert that by using the cash price plus the liabilities transferred as a surrogate for asset values in ILVA Residua the Department was inconsistent with its normal practice of excluding liabilities in the determination of the asset value of a company (*see Wire Rod from Trinidad and Tobago* 62 FR at 55012). Thus, the petitioners argue that the Department should only use the cash paid as a surrogate for the viable asset value of the operations sold from ILVA Residua.

AST responds that record evidence contradicts the petitioners' assertion that the value of the viable assets privatized from ILVA Residua is better represented only by the cash price of those assets rather than by the cash price plus debts transferred. Specifically, the asset value of Dalmine, the largest privatization from ILVA Residua, is approximately equal to the value used by the Department. Furthermore, AST argues that relying on only the cash price, in effect the net worth of each privatized unit, to value ILVA Residua's assets is inconsistent with the petitioners' assertion that the Department should use the total consolidated assets, rather than net worth, in compiling the remainder of ILVA's total viable assets. Finally, AST claims that the petitioners reach an erroneous conclusion that *Wire Rod from Trinidad and Tobago* requires the Department to estimate the asset value of a company solely based on its purchase price. AST states that in that case, the issue at hand was not raised because the purchase price did not include any assumption of debt.

Department's Position: For operations sold from ILVA Residua, the Department did not have the necessary asset values. Therefore, as a surrogate for the asset values of these companies, the Department used the cash price plus liabilities transferred. We believe this approach provides a reasonable surrogate asset value because the newly sold company's books will, by the basic accounting equation of "assets equal liabilities plus owners' equity," reflect an asset value that is equal to the debts transferred plus the cash purchase price. The debts transferred become the liabilities in the new company's books, while the cash purchase price becomes the owners' equity. If the assets transferred do not have a book value equal to the cash purchase price plus debts transferred, the new company will, in effect, write-up its asset value by crediting the difference as a goodwill asset. Thus, we have continued to use the cash price plus liabilities transferred as a surrogate for the asset values of the units sold from ILVA Residua.

Comment 12: Use of Consolidated Asset Values for 1993 Debt Forgiveness Calculation. AST argues that the Department improperly calculated the total viable assets of ILVA by using the unconsolidated financial statements of AST and ILP. This error led to an incorrect calculation of the proportion of total viable assets assumed by AST

and, thus, an incorrect assignment of debt forgiveness bestowed on AST, according to the company. AST notes that it provided the Department with the consolidated financial statements of AST and ILP during verification, and that the Department should correct its calculation based on the consolidated asset figures provided therein.

The petitioners agree with AST that the Department should use consolidated asset values in determining total viable ILVA assets. However, they argue that the Department should exclude the asset values for the companies sold out of ILVA Residua to ILP from ILP's consolidated assets in order to avoid double-counting. AST asserts, however, that these assets are not double-counted because they had not yet been sold to ILP by 1993. Therefore, they are not included in ILP's December 31, 1993 consolidated assets.

Department's Position: Consistent with our position in Comment 7, we have altered the calculation allocating the debt forgiveness to account for AST's and ILP's consolidated asset values. Furthermore, we agree with AST that because the companies purchased by ILP from ILVA Residua were purchased after 1993, they are not included in its 1993 consolidated assets. Therefore, our methodology does not double-count these assets.

Comment 13: 1993 Creditworthiness. AST notes that the Department used an uncreditworthy benchmark discount rate to allocate the benefit from the debt forgiveness imputed by the Department to AST as a result of its 1993 demerger from ILVA. AST points out that the Department stated in the *Preliminary Determination* that it would determine whether it would be more appropriate to analyze the creditworthiness of AST, rather than ILVA, in the final determination. Citing the preamble of the Department's new regulations (at 65366), AST states that it is the Department's practice to consider the creditworthiness of the firm receiving the aid, rather than the entity granting the aid.

The petitioners state that the Department should continue to consider the creditworthiness of ILVA, rather than AST, in determining the discount rate used to allocate the 1993 debt forgiveness attributable to AST. The petitioners state that because the GOI provided the debt forgiveness to ILVA Residua, it is appropriate to analyze the creditworthiness of ILVA. Additionally, the petitioners assert that it is illogical to evaluate AST's prospects after ILVA's debt had been lifted from its shoulders.

Department's Position: For the final determination, in allocating the benefit of the 1993 debt forgiveness, we have continued to base our creditworthiness analysis on ILVA as a whole. Our reasons are as follows: Contrary to AST's assertions, ILVA was not the provider of the debt forgiveness to AST. Rather, it was the GOI which ultimately assumed the losses involved in the privatization and liquidation of those units which originally comprised ILVA. All of ILVA, of which AST was but a part, directly benefitted from this GOI assumption of losses. Therefore, focusing on ILVA is in accordance with the Department's practice of focusing on the receiver of the benefit.

It would, moreover, be illogical for the Department to base, as AST argues, its creditworthiness analysis on AST's future financial data (i.e., AST's future prospects after the debt forgiveness had been granted) given the fact that these data were likely considerably impacted by the very program for which the creditworthiness analysis is necessary in the first place. Clearly, the shedding of billions of lire of debt would impact private, commercial lenders' views in deciding whether to loan funds to AST. However, it would be impracticable (if not impossible), based on the information available on the record, to construct what AST's future financial situation would have been absent the debt forgiveness.

Under its normal methodology for analyzing creditworthiness, the Department could, in theory, rely largely on AST's financial data prior to and contemporaneous with the granting of the debt forgiveness. However, this too would be impossible in this instance. AST's debt forgiveness occurred at the moment of the demerger, *i.e.*, at the point when ILVA's stainless steel operating unit was carved out and separately incorporated as AST. There is insufficient AST-specific financial data for the period prior to the demerger on which to base a creditworthiness analysis.

Therefore, because the appropriate level of creditworthiness analysis is the receiver of the debt forgiveness, and because there is insufficient "untainted" AST financial data both prior and subsequent to the debt forgiveness on which to base an AST-specific creditworthiness analysis, we have continued to base our 1993 creditworthiness determination on ILVA as a whole.

Comment 14: ILVA Asset Write-Downs. AST argues that the Department improperly countervailed asset write-downs in the calculation of the 1993 debt forgiveness because the write-downs are not countervailable. The company states that the write-downs did not provide a benefit to AST because the company is simply restating the value of the assets to reflect their market values. AST also asserts that even if one considered there to be a benefit associated with the write-downs, such write downs are generally available because all companies must restate the value of their assets when they are sold. Additionally, AST argues that even if the write-down of assets is treated as a subsidy, the Department must deduct the write-down from the loss incurred in the liquidation of ILVA to ensure that it is not double-counted.

The petitioners rebut AST's argument that write-downs should not be countervailable because they are routinely performed during asset sales. The petitioners argue that AST's focus on the write-downs is misplaced, because the Department's actual concern is not the write-down, but rather the additional loss generated by the write-down which had to be eventually covered by the GOI. Furthermore, the petitioners dispute AST's claim that the write-downs are double-counted in the Department's methodology. The petitioners state that this allegation is based on the fact that the Department excluded the amount of write-downs in its calculation of the debt forgiveness associated with the transfer of TAS's assets to ILVA in 1989 and 1990. The petitioners assert that the Department excluded these write-downs from the remaining liabilities because it captured them separately in the calculations of the loss coverage. However, in the case of the 1993 restructuring, the petitioners note, the Department has not countervailed the write-downs separately and is appropriately measuring the benefit by examining the debt assumed by the GOI.

AST also states that even if the Department finds the write-downs countervailable, the Department should separate all the ILVA write-downs from the other debt forgiveness and instead countervail only the portion of total write-downs attributable to AST assets. AST states that this suggested methodology is consistent with the Department's methodology in countervailing write-downs associated with TAS when it was merged into ILVA in 1989 and that the Department has the appropriate information on the record. Furthermore, AST reasons that for other liquidation losses, the Department should, where possible, attribute the losses to specific assets, only distributing losses that cannot be tied based on relative viable assets.

The petitioners counter that, according to generally accepted accounting principles, losses associated

with write-downs typically are assumed by the company as a whole, rather than tied to specific assets. Additionally, the petitioners note that in AST's calculation, most of the write-downs are left in ILVA Residua, rather than tied to specific assets and, therefore, should be attributed based on relative asset values consistent with the Department's standard debt forgiveness methodology.

Department's Position: We disagree with AST that the write-downs in question are not countervailable. Because the write-downs in question generated a loss that eventually was covered by the GOI through its debt forgiveness to ILVA, we find the write-downs countervailable. This approach is consistent with the treatment of write-downs in the 1988–90 restructuring in the instant case and in *Electrical Steel from Italy*.

However, we agree with AST that the Department should attribute the portion of ILVA's losses associated with the write down of assets to the specific written down assets and, thus, to the company who took those assets. This issue is addressed in more detail in the March 19, 1999 Memorandum on the 1993 Debt Forgiveness to Susan H. Kuhbach. We have modified our calculations accordingly.

Comment 15: ESF Objective 4 Specificity. AST states that the Department found ESF Objective 4 funding countervailable based on its erroneous conclusion that this aid is *de jure* limited to certain regions. AST asserts that Objective 4 funding is available throughout the EU Member States, and that the Department has acknowledged this in the instant case and in previous cases (see Wire Rod from Italy, 63 FR at 40487). Despite this acknowledgment, the Department has based its specificity finding on the fact that the EU has decided to detail its Objective 4 funding in separate documents for each Member State as well as two separate documents within Italy itself, one covering Objective 1 regions, and one covering non-Objective 1 regions. AST asserts that this "documentary distinction" does not alter the fact that Objective 4 aid is available to all regions for the same basic goal of reducing unemployment. Regardless of these documentary distinctions, AST claims that all Objective 4 aid is "integrally linked" and, thus, the Department must analyze its specificity on this basis.

AST states that in order to find a domestic subsidy *de jure* specific, section 771(5A)(D) of the Act requires that the granting authority "expressly limit access to the subsidy to an enterprise or industry" or that the subsidy be expressly limited to "an enterprise or industry located within a designated geographical region within the jurisdiction of the authority providing the subsidy." AST argues that neither of these criteria has been met for ESF Objective 4 funding because the ESF Objective 4 funds available to firms in non-Objective 1 regions are also available to firms in Objective 1 regions. Lastly, AST argues that there is no basis to find the Objective 4 funding *de facto* specific given that it is distributed to a wide variety of industries throughout Italy and the EU.

The petitioners argue that the Department should affirm its decision in *Preliminary Determination* that the funding that AST received under ESF Objective 4 is *de jure* specific. The petitioners assert that this finding is consistent with the Department's decision in *Wire Rod from Italy* which found that this funding was specific because the "EU negotiates a separate programming document to govern the implementation of the program with each Member State" and that different programming documents govern the distribution of aid in Objective 1 and non-Objective 1 regions. The petitioners assert that EC officials admitted at verification that aid approved under the programming document for Objective 1 regions has separate purposes, administration, and distribution requirements than aid approved under the programming document for non-Objective 1 regions. Lastly, the petitioners assert that because the aid in question was received by AST through Riconversider, a steel industry group, the aid is also specific because it was disbursed by a organization that by its nature limited its grants to the steel industry.

Department's Position: We agree with AST that it may be appropriate for the Department to revisit its previous decision regarding the *de jure* specificity of assistance distributed under the ESF Objective 4 SPD in Italy. Notwithstanding this argument, the facts of the instant case lead us to find that the Objective 4 funding received by AST was *de facto* specific, as facts available (*see* European Social Fund section above). For this reason, we have continued to countervail the aid in question. As discussed above, while there are separate agreements for different regions in the EC and within Italy, these agreements can be distinguished from the agreements discussed in *Groundfish from Canada*, 51 FR at 10066. Moreover, the statements by EC officials are taken out of context and would need to be examined against all the information before concluding that Objective 4 financing is *de jure* specific. Because we have considered this aid to be *de facto* specific, the petitioners last point is moot.

Comment 16: ESF Objective 3. The petitioners state that the Department should countervail the amount spent by AST on an ESF Objective 3 project for which it claimed reimbursement. The petitioners claim that AST was unable to provide any documentation showing that it did not, in fact, receive any reimbursement for the amount spent on the project.

In response, AST argues that it would be inappropriate for the Department to countervail assistance that AST did not receive. While AST does not dispute that it was unable to provide the Department with any specific document showing that it did not receive the Objective 3 assistance that it applied for, AST states that the Department, in its review of the company's financial statements, did not encounter any previously "unidentified governmental financial assistance."

Department's Position: We agree with AST that the Department should not countervail the amount of AST's request for ESF Objective 3 funds. While company officials were not able to provide direct documentation showing that AST's relatively small claim shown in its records for ESF Objective 3 funds was disapproved, we found no indication that this aid was received by AST during verification.

Comment 17: Law 10/91. AST states that funding under Law 10/91 is not limited to any industry or enterprise and, thus, should not be found countervailable. Furthermore, according to AST, Law 10/91 is the successor to Law 308/82 which the Department found not countervailable in *Pasta from Italy*, 63 FR at 30299, *Wire Rod from Italy*, 63 FR at 40488, and (*Certain Steel from Italy*).

The petitioners argue that, whether or not AST received benefits during the POI, the Department should find Law 10/91 *de facto* specific and, thus, countervailable consistent with the finding in its February 19, 1999 analysis memorandum that the steel industry received over half of all aid approvals in 1991 under this program and ILVA companies received over 40 percent of such approvals.

Department's Position: Consistent with the Department's February 19, 1999 analysis memorandum, we find that the funding received by AST under Law 10/91 is *de facto* specific based on the predominant and disproportionate use of this program by the steel industry and AST's predecessor, ILVA. In the

year that the aid in question was approved, the steel industry was approved for 50.52 percent and ILVA was approved for 43.52 percent. Just because a program may replace or succeed a non-specific program, the finding of non-specificity for the earlier program does not carry over to the replacement or successor program.

Comment 18: Specificity of THERMIE. AST argues that the Department should maintain its previous finding in the instant case that the THERMIE program is neither *de jure* nor *de facto* specific and, thus, find the program not countervailable for this final determination. The Department should reaffirm its previous finding, reinforced by a successful verification, that the THERMIE program has not been disproportionately or predominantly used by the steel industry or AST.

The petitioners argue that the Department should find the THERMIE sub-program, "Rational Use of Energy (RUE) in Industry," countervailable because AST's receipt of nearly a third of the funding under this subprogram constitutes disproportionate use. The petitioners state that the Department, in *Wire Rod from Italy*, recently found an Italian subsidy program *de facto* specific when a firm received about one-third of the total assistance (*see* 63 FR at 40483.) The petitioners add that AST's project was one of the three largest projects funded under the RUE in Industry program. Lastly, the petitioners note that the Department found at verification that several of the projects reported as approved by the EC, had in fact, not been funded; thereby increasing the concentration of AST's share of the reported funding.

AST does not dispute the usage figures presented by the petitioners, but states that they are incorrectly based on the usage of only one portion of the THERMIE program (RUE in Industry) and, thus, are legally irrelevant. AST argues that the THERMIE sub-programs are integrally linked and, therefore, the Department must view the usage data of the sub-programs collectively when considering its *de facto* specificity.

The petitioners note that the team recommended finding the RUE in Industry sub-program *de facto* specific in its *Italian Sheet and Strip* concurrence memorandum for the preliminary determination based on the same usage data cited by the petitioners. The petitioners suggest that the Department reverse its preliminary decision to analyze the usage data of the program as a whole, and return to analyzing the specificity based on RUE in Industry.

If the Department finds this program countervailable, the petitioners argue that the Department should consider AST, rather than AST and its partners, as the sole beneficiary of the EU assistance for the project funded because AST will retain the entire value of the project, including licensing rights, after its completion. However, AST argues that the petitioners' claim that AST will have the sole right to retain and exploit equipment and technology is completely false, and contradicted by the Department's verification report. AST notes that the verification report specifically states that "AST and its partners" will retain the equipment and technology from the project. Given this, should it find the assistance countervailable, the Department should only countervail the assistance actually attributable to AST.

Lastly, the petitioners state that the Department should find the grant to be tied to sheet and strip because the company admitted at verification that the technology would primarily benefit that product.

Department's Position: Consistent with our finding in *Italian Sheet and Strip*, 63 FR at 63907, and our February 19, 1999 Memorandum on the EC THERMIE Program, we continue to find that the THERMIE program is neither *de jure* nor *de facto* specific. We analyzed the usage data for the THERMIE program at verification, and found no discrepancies within the database of projects reported as approved by the EC. While we did note that a small number of the projects approved were not funded for a variety of reasons, this fact does not substantially alter the usage data reported.

We disagree with the petitioners that we should analyze the specificity of the aid received based on one of THERMIE's sub-programs, RUE in Industry. At verification with the EC, we found that the goals, project selection, and general administration of the programs did not vary significantly between the sub-programs, and that the classification into sub-programs was primarily for administrative convenience. According to the EC, while the technical evaluation of each project is handled by different individuals, this is a result of the need to have evaluators with highly technical specialties in order to evaluate the projects submitted. We also verified that the same level of funding and eligible expense restrictions applied across all three sub-programs, and that each sub-program was subject to the same EC regulations and application procedures (*see* Annex 12, 13, and 14 of the EC's initial questionnaire response).

Comment 19: Law 675 Bond Issues. AST requests that the Department change the methodology used for calculating the benefit for the loans it received under Law 675. Specifically, AST states that the Department should not include the interest accrued for the first semi-annual payment in the principal amount used to calculate the interest due on the second semi-annual payment, because, as verified, AST actually makes semi-annual payments.

Additionally, AST states that the Department, consistent with accrual accounting, should only account for the interest and fee reimbursements from the GOI accrued by AST for its repayments made in the POI, not for reimbursements actually received in the POI for previous year's accruals.

With regard to AST's second point, the petitioners argue that in determining the benefit from this program, the Department should countervail the amount of reimbursements actually received in the POI, rather than those accrued but not received.

Department's Position: We agree with AST's first point and have altered our calculations accordingly. With regard to AST's second point, it is the Department's practice to calculate the benefit from an interest rebate program using its loan methodology if the recipient knows at the time the loan is received that it will receive interest rebates (*see Certain Steel from Italy*, 58 FR at 37331, and *Pasta from Italy*, 61 FR at 30293). Because AST knew at the time it assumed-repayment of these bond issues from ILVA that it would receive reimbursements from the GOI for any payments above a certain interest rate, it is appropriate to treat this aid simply as a below benchmark interest rate loan.

Comment 20: 1988 Equity Infusion. According to AST, the Department incorrectly countervailed the September 1988 equity infusion received by ILVA because the infusion was received prior to ILVA becoming a steel company at the beginning of 1989. AST argues that the payment is instead tied to real estate management services because these services were ILVA's only activities at the time of the infusion.

The petitioners argue that the 1988 infusion should be countervailed by the Department because the Department typically treats equity infusions as untied subsidies, benefitting the company as a whole (*see 1989 Proposed CVD Regulations*, 54 FR at 23366, and *Countervailing Duties, Final Rule*, 63 FR 65348, 65400 (November 25, 1998)). Additionally, the petitioners state that the Department has countervailed this same infusion in *Electrical Steel from*

Italy and *Certain Steel from Italy*, and that in *Electrical Steel from Italy* the Department found in that ILVA was more than a real estate company in 1988, owning land, buildings, a plant and machinery.

Department's Position: We have continued to countervail the 1988 equity infusion to ILVA. As noted by petitioners, we consider equity infusions to be untied subsidies benefitting the total consolidated sales of the recipient company. In this case, AST has not provided any information indicating that the benefits of this equity infusion should be tied to non-steel activities.

Comment 21: Law 451/94. The petitioners argue that the Department must countervail early retirement benefits AST received under Law 451/94 because the program relieved AST of an obligation it would otherwise incur during the POI. The petitioners state that an affirmative finding of countervailable benefits under Law 451/94 is consistent with the Department's determination in *Wire Rod from Italy* and in the preliminary determination of this proceeding.

The petitioners note that in the preliminary determination for *Italian Sheet and Strip*, the Department inappropriately found that the Mobility program provided the most accurate benefit benchmark for this program. The petitioners maintain that verification confirms that the Mobility is an inappropriate benchmark by which to measure the benefit of Law 451/94 and a more appropriate benchmark is CIG–E. The petitioners point out that Law 451/94 and CIG–E have similar characteristics in that both are designed for companies which are undergoing structural, long-term problems. Additionally, the petitioners note that at verification an AST official confirmed that the company has placed redundant workers in the CIG-E program while waiting for the passage of Law 451/94.

Lastly, the petitioners object to AST's claims that it was under no legal obligation to retain its workers. First, the petitioners point out that the Department has determined in *Certain Steel from Italy* and *Wire Rod from Italy* that large Italian companies cannot simply lay-off workers. Second, the petitioners maintain that AST's argument misses the point because the obligation refers to the payment that a company would have to make absent government payments. The petitioners argue that record evidence confirms that in the normal course of business, Italian companies are obligated to make severance payments to laid-off workers and the fact that Law 451/94 reduced the financial obligation AST would incur is a countervailable benefit.

AST argues that Law 451/94 early retirement benefits to former AST employees are not countervailable because AST did not receive Law 451/94 benefits during the POI. AST points out that the Department correctly determined in *Italian Sheet and Strip* that since employees were eligible to apply for Law 451/94 only through 1996, AST could not have received benefits during the POI because the Department's practice is to treat employment benefits as recurring grants that are expensed in the year of receipt. AST further argues that as specified by the terms of the Law and AST's own records, all of AST's employees who chose to leave the company under Law 451/94 did so prior to the POI.

AST argues that its use of Law 451/94 did not benefit the company because AST's overall costs under Law 451/94 were greater than those the company would have incurred had it followed the normally applicable Mobility provisions under Law 223. Lastly, the respondents argue that Law 451/94 is not countervailable because AST was under no *de jure* or *de facto* obligation to retain workers. The respondents point out that in the past, the Department has concluded that Italian firms cannot simply fire workers. However, in the instant proceeding, the respondents note that the GOI has informed the Department that Italian companies are under no legal obligation to participate in the GOI's early retirement programs, and if an Italian company is unable to reach an agreement with worker unions and if there are no better means, then the company can fire employees. AST also argues that countervailing the Italian social safety net based on the vague perception that social or political conditions make it impossible to fire workers is inappropriate and unreasonable. Furthermore, AST states that the Department should not assume that it was impossible for AST to fire its workers had it chosen to do so. In fact, the Mobility program would have no purpose if, as a legal or practical matter, employees in Italy could not be fired.

Department's Position: As set forth in the program description for Law 451/94 above, the Department has determined that Law 451/94 provided a countervailable benefit to AST during the POI. Although AST employees applied for Law 451/94 from 1994 to 1996, AST has indicated that all of these employees received pre-pension payments from the GOI during the POI.

We do not dispute AST's argument that it can fire workers. However, as mandated by Law 223, AST was required to negotiate with the labor unions before it fired more than five employees in 120 days. As we stated in the program description above, the outcome of these negotiations is uncertain, and we have no basis for expecting either that AST would have been able to fire the total number of workers without additional payments over and above the standard Mobility costs or that the unions would have successfully negotiated no lay-offs. Since AST's own experience in laying-off employees indicated that its workers were aware beforehand of the GOI's forthcoming early retirement plan and the amount of the GOI's contribution to them, we applied our standard methodology as set forth in the GIA, 58 FR at 37256. See also *Certain Steel from Germany*, 58 FR at 32320–21. Furthermore, this methodology was upheld by the CIT in *LTV Steel*. For more information on this program see Memorandum to Richard Moreland regarding Law 451/94—Early Retirement Benefits dated March 19, 1999.

Comment 22: Law 675/77—Worker Training Program. The petitioners argue that, at verification, the Department confirmed that AST received grants under Law 675/77 between 1984 and 1987 for worker retraining. The petitioners allege that AST failed to document this assistance in its response to the Department's original and supplemental questionnaires. Because AST failed to supply information regarding these grants, the Department should resort to facts available for this program. Furthermore, the petitioners maintain that since several Departmental determinations indicate that benefits received under Law 675/77 are countervailable, the Department should countervail the worker retraining portion of Law 675/77 in the final determination and treat those benefits as a non-recurring grant.

AST argues that it has made available both in its submissions and at verification all factual information available to the company regarding the personnel retraining component of law 675/77. AST points out that these benefits were applied for and received by a predecessor to AST which ceased to exist years ago. Additionally, AST maintains that it is the Department's long-standing policy to treat worker retraining programs as recurring benefits and there is no support in law or Department practice for the treatment of this program as a non-recurring grant as suggested by the petitioners.

Department's Position: We agree with AST. At verification, AST officials indicated that an AST predecessor

company, Terni, received personnel retraining grants between 1984 and 1987. As pointed out by the respondent, it is the Department's practice to treat training benefits as recurring grants and expense the benefit in the year of receipt (*see* GIA at 37226). Furthermore, personnel retraining grants under Law 675/77 were countervailed in *Certain Steel from Italy*, 58 FR at 37331. In *Certain Steel from Italy*, the Department used best information available to determine the benefit provided by this program. However, in *Certain Steel from Italy*, the Department also determined that the treatment of benefits under this program as non-recurring was not appropriate. In the instant proceeding, there is no new information to warrant a reconsideration of this finding. Therefore, since the training grants in question were provided before the POI, there is no countervailable benefit derived from this program during the POI.

Comment 23: Law 796 Benefit Calculation. AST argues that the Department should revise its methodology for allocating the benefit AST received under the Law 796 exchange rate guarantees covering certain ECSC loans. AST notes that in the *Preliminary Determination*, the Department calculated the benefit from these exchange rate guarantees by multiplying the difference between the guaranteed and benchmark exchange rates by the sum of principal and interest paid during the POI. This, AST argues, is a reasonable approach where the loan repayment is structured such that there are regular installment payments of principal and interest. AST notes, however, at least one of its ECSC loans has a balloon payment, *i.e.*, the principal comes due in one lump payment at the end of the loan term. In the cases of balloon-payment loans, AST argues, the Department should treat exchange rate guarantee benefits as non-recurring and allocate these benefits over the full term of the loan.

The petitioners respond that the benefits provided under Law 796 do not stem from the nature of the loans themselves but, rather, from the exchange rate guarantees on those loans. The structure of the underlying loan, argue the petitioners, is not relevant to the analysis of the benefit from the guarantees. Therefore, the petitioners conclude, for its final determination the Department should continue to use the same methodology as that used in the *Preliminary Determination* for calculating the Law 796 benefits.

Department's Position: We agree with the petitioners that no change to the methodology used in the *Preliminary Determination* is warranted. As stated in the *Preliminary Determination*, once an ECSC loan is approved for an exchange rate guarantee, access to foreign exchange at the established rate is automatic and occurs at regular intervals throughout the life of the loan. Longstanding Department practice is to treat non-exceptional, automatically-approved benefits as recurring grants (*see* the Preamble to the *1989 Proposed Regulations*, 54 FR at 23376). Consistent with the Department's regulations, recurring benefits are expensed in the year in which the benefit is received. Accordingly, no change has been made to the Law 796 benefit calculation.

Comment 24: AST's Brite-EuRam Grant. The petitioners argue that the Department should countervail the grant received by AST under the EU's Brite-EuRam program that was discovered at verification. According to the petitioners, AST failed to submit information on this grant in its questionnaire responses and was unable at verification to provide information on the use of the aid and other materials relating to it.

In response, AST notes that the petitioners never requested the Department to investigate the Brite-EuRam program. Since it was not asked a single question regarding the Brite-EuRam program, AST maintains that it cannot be found to be uncooperative by not providing information on assistance received under this program. AST argues that any determination of countervailability of Brite-EuRam assistance should properly be done in the context of an administrative review, should one occur.

Department's Position: We agree with AST that any determination regarding the countervailability of assistance under the Brite-EuRam program cannot be done in the context of this investigation. During the course of this proceeding, the Department did not request information on this program from either the relevant government bodies or AST. Therefore, a finding that respondents were "uncooperative" would be inappropriate as would the application of facts available. We will, however, request information on the Brite-EuRam program in a future administrative review in the event one occurs.

Comment 25: ECSC Article 56 Aid. The petitioners argue that, based on information collected by the Department at the verification of the EC, its appears that Law 451/94 benefits were still being provided to AST during the POI. The information further suggests, the petitioners contend, that the GOI made additional severance payments related to ECSC Article 56(2)(b) on AST's behalf. All payments made by the GOI or the EC, the petitioners conclude, should be countervailed.

AST responds that the results of verification make clear that no additional Article 56 assistance, beyond that already countervailed under Law 451/94, has been given to AST. The petitioners' claims to the contrary, AST contends, merely represent a mis-reading of the verification report.

Department's Position: In the course of verifying both the EC and AST, we found no evidence suggesting that additional Article 56(2)(b) assistance has been given to AST beyond that already found countervailable under Law 451/94. At verification we learned that the Article 56(2)(b) program partially compensates the GOI for benefits the GOI has already paid out to workers under its Law 451/94 early retirement program. Moreover, the severance payments, referred to by the petitioners, are benefits stipulated under Law 451/94 and, therefore, have already been incorporated into our analysis of the Law 451/94 benefits.

Comment 26: ECSC Article 54 Loans. AST points out that a subsidy exists only where "a government of a country or any public entity" provides a "financial contribution" or "makes a payment to a funding mechanism to provide a financial contribution or entrusts or directs a private entity to make a financial contribution. * * *" AST then argues that ECSC Article 54 loans do not convey government funds to borrowers and that no financial contribution is provided from the treasury of any public or quasi-public entity. Rather, Article 54 loans are commercially obtained funds re-lent on a private, fully commercial basis. (The European Commission made a similar argument in a submission made prior to the briefing schedule.) Citing to the Department's prior treatment of the ECSC Article 56(2)(b) program (*see, e.g., Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany*, 58 FR 6233, 6236 (January 27, 1993)), AST maintains that if the program operates without government funds, it is the Department's practice to find no countervailable benefit. Finally, respondents argue that no public entity has "entrusted or directed" the ECSC to make Article 54 loans to AST.

Petitioners maintain that the Department has previously found that the ECSC met the definition of an "authority" capable of granting subsidy benefits (*see* section 771(5)(B) of the Act) and that the ECSC is, in fact, a public entity. Pointing out that the Department's verification found that

ECSC and European Community administrative functions are merged, petitioners argue that it is inconceivable that a purely private entity would be run by Commission officials as claimed by AST. Finally, petitioners argue that the new reference to "financial contribution" was not intended by Congress "to become a loophole when unfairly traded imports enter the United States and injure a U.S. industry." SAA at 926.

Department's Position: We determine that the ECSC is a public entity under sections 701(a)(1) and 771(5)(B) of the Act. It is part of the European Union, which undeniably is a particular form of governmental body. Neither AST nor the EC have contested this position. Rather, the issue raised is whether the ECSC has made a "financial contribution" to AST. Under the Act and the WTO Subsidies Agreement, a financial contribution includes the direct transfer of funds, such as the provision of loans. While AST and the EC have acknowledged that ECSC loans were provided to AST, they both attempt to make the case that because the loans were not financed directly from "the treasury of any public or quasi-public entity" they cannot be considered "financial contributions." However, we see no requirement in the WTO Subsidies Agreement nor the Act that the financial contribution must be funded in a particular manner. In fact, it is common practice for governments and other public entities to finance at least some of their operations via the issuance of bonds or other debt instruments, the proceeds of which are commonly used to fund normal government operations, including subsidy programs.

While this position may arguably conflict with the approach we have previously taken with respect to Article 56(2)(b), there are differences between the two programs. For example, the Article 56(2)(b) program has been funded directly by producer levies, while Article 54 loans, as noted above, are generally financed by means of "back-to-back loans." To the extent this fact fails to adequately distinguish the two programs, we may re-visit our prior reasoning with respect to the Article 56(2)(b) program in light of the new provisions of the WTO Subsidies Agreement and the changes to the Act made pursuant to the Uruguay Round Agreements Act.

Comment 27: Exclusion of Floor Plate from the Scope of the Investigation. AST requests that the Department exclude floor plate from the scope of the instant proceeding and the *Italian Sheet* investigation. AST argues that floor plate should not be included in the scope of these investigations because floor plate is not manufactured in the United States, it does not compete with any product manufactured in the United States or with imports of other covered products, and it is materially different from the other products subject to this investigation. Furthermore, AST argues that floor plate has only one end-use, which is as flooring material and cannot be used for any other application that requires a smooth surface, as is a common requirement of end-uses of stainless steel. Lastly, AST argues that the Department has the inherent authority to exclude products from the scope of an investigation that are not properly included therein.

The petitioners object to AST's request to exclude floor plate from the scope of both investigations. The petitioners argue that floor plate clearly falls within the scope of this case. Furthermore, the petitioners cite *Melamine Institutional Dinnerware Products from the People's Republic of China*, 62 FR 1708 (January 13, 1997), as evidence of the Department's clear and consistent practice of examining the interests of the domestic industry in defining the scope of a case. The petitioners point out that numerous requests to exclude certain products from the scope have been considered and, where there was no interest on the part of the domestic industry, petitioners have excluded such products from the scope as evidenced in the revisions to the initial scope definition set forth in *Italian Sheet and Strip*. The petitioners object to AST's argument that in order for a product to remain within the scope, the domestic industry must be currently producing it. The petitioners state that often products are included in the scope because they are similar to and competitive with the domestic like product. Furthermore, the petitioners point out that the International Trade Commission has preliminarily determined that stainless steel plate in coils produced by the domestic industry is a single domestic like product with all imported stainless steel coiled plate, including floor plate, *Certain Stainless Steel Plate From Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, International Trade Administration, Investigations Nos. 701–TA–376–379 (Preliminary) and Investigations Nos. 731–TA–788–793 (Preliminary) (Publication 3107; May 1998).

Department's position: We disagree with AST. Despite AST's arguments, the scope as set forth in the preliminary determination covers merchandise described as floor plate if it is more than 4.75 in thickness. The scope specifically describes the subject merchandise as "flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled." Additionally, the petitioners have objected to the exclusion of floor plate from the scope of the investigation. Therefore, the Department is not amending the scope of the investigation to exclude stainless steel floor plate.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examining relevant accounting records and original source documents. Our verification results are detailed in the public versions of the verification reports, which are on file in the Central Records Unit.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated an individual rate for AST. Because AST is the only respondent in this case, its rate serves as the all-others rate. We determine that the total estimated net countervailable subsidy rate is 15.16 percent *ad valorem* for AST and for all others.

In accordance with our *Preliminary Determination*, we instructed the U.S. Customs Service to suspend liquidation of all entries of stainless steel plate in coils from Italy, which were entered or withdrawn from warehouse, for consumption on or after September 4, 1998, the date of the publication of our *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after January 2, 1999, but to continue the suspension of liquidation of entries made between September 4, 1998 and January 1, 1999. We will reinstate suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7528 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–832]

Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel or Kristen Johnson, Office of CVD/AD Enforcement VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

Final Determination

The Department of Commerce (the Department) determines that countervailable subsidies are not being provided to producers and exporters of stainless steel plate in coils from the Republic of Korea.

Petitioners

The petition in this investigation was filed by Allegheny Ludlum Corporation, Armco Inc., J&L Specialty Steel, Inc., Lukens Inc., United Steel Workers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, Inc. (the petitioners).

Case History

Since the publication of our preliminary determination in this investigation on September 4, 1998 (63 FR 47253), the following events have occurred:

We conducted verification of the countervailing duty questionnaire responses from December 3 through December 18, 1998. Because the final determination of this countervailing duty investigation was aligned with the final antidumping duty determination (*see* 63 FR 47253), and the final antidumping duty determination was postponed (*see* 63 FR 59535), the Department on January 13, 1999, extended the final determination of this countervailing duty investigation until no later than March 19, 1999 (*see* 64 FR 2195). On January 27, February 2, 10, and 12, 1999, the Department released its verification reports to all interested parties. The Department issued decision memoranda on the issue of direction of credit by the Government of Korea (GOK) and the operations of the Korean domestic bond market on March 4 and March 9, 1999, respectively. Petitioners and respondents filed case briefs on March 5 and 10, 1999, and rebuttal briefs on March 10 and 12, 1999.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR Part 351 (April 1998).

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Injury Test

Because the Republic of Korea (Korea) is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, a U.S. industry. On May 28, 1998, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Korea of the subject merchandise (*See Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 63 FR 29251).

Period of Investigation

The period for which we are measuring subsidies (the POI) is calendar year 1997.

Subsidies Valuation Information

Benchmarks for Long-term Loans and Discount Rates: During the POI, Pohang Iron & Steel Company, Ltd. (POSCO) had a number of won-denominated and foreign currency-denominated long-term loans outstanding which the company received from government-owned banks, Korean commercial banks, overseas banks, and foreign banks with branches in Korea. A number of these loans were received prior to 1992. In the 1993 investigation of *Steel Products from Korea*, the Department determined that the GOK influenced the practices of lending institutions in Korea and controlled access to overseas foreign currency loans through 1991. *See Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea*, 58 FR at 37328, 37338 (July 9, 1993) (*Steel Products from Korea*), and the "Direction of Credit" section below. In that investigation, we determined that the best indicator of a market rate for long-term loans in Korea was the three-year corporate bond rate on the secondary market. Therefore, in the final determination of the instant investigation, to calculate the benefit which POSCO received from direct foreign currency loans and domestic foreign currency loans obtained prior to 1991, and still outstanding during the POI, we used as our benchmark the three-year corporate bond rate on the secondary market.

In this investigation, the Department also examined whether the GOK continued to control and/or influence the practices of lending institutions in Korea between 1992 and 1997. Based on our findings on this issue, discussed below in the "Direction of Credit" section of this notice, we are using the following benchmarks to calculate POSCO's benefit from long-term loans obtained in the years 1992 through 1997: (1) For countervailable, foreign-currency denominated loans, we are using POSCO's company-specific, weighted-average U.S. dollar denominated interest rate on the company's loans from foreign bank branches in Korea; (2) for countervailable won-denominated loans, we are using POSCO's company-specific three-year corporate bond rate. In the preliminary determination, we used a national average three-year corporate bond rate. *See Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 63 FR 47253, 47254 (September 4, 1998) *(Preliminary Determination)*. We continue to find that the Korean domestic bond market was not controlled by the GOK during the period 1992 through 1997, and that domestic bonds serve as an appropriate benchmark interest rate. *See Analysis Memorandum on the Korean Domestic Bond Market*, dated March 9, 1999, (public document on file in the Department's Central Records Unit, Room B–099 (CRU)). On February 5, 1999, POSCO submitted to the Department the company's average interest rate on corporate bonds for each year 1992 through 1997. *See* POSCO's February 5, 1999 Questionnaire Response (QR) (public version on file in the CRU). Because POSCO was unable to retrieve data on the bond issuance fees the company paid in the years 1992 through 1996, we have added to the average interest rate for each of those years the bond issuance fees that POSCO paid in 1997.

We are also using POSCO's three-year company-specific corporate bond rate as the discount rate to determine the benefit from non-recurring subsidies received between 1992 and 1997.

Benchmarks for Short-Term Financing: For those programs which require the application of a short-term interest rate benchmark, we used as our benchmark a company-specific weighted-average interest rate for commercial won-denominated loans for the POI. Each respondent provided to the Department its respective company-specific, short-term commercial interest rate. During our verification of Samsun Corporation (Samsun) on December 15, 1998, we learned that the weighted-average, short-term interest rate which Samsun had earlier submitted to the Department was incorrect. For the final calculations for this determination, we have used the interest rate obtained at verification.

Allocation Period: In the past, the Department has relied upon information from the U.S. Internal Revenue Service (IRS) for the industry-specific average useful life of assets in determining the allocation period for non-recurring subsidies. *See* the *General Issues Appendix (GIA)*, 58 FR at 37227, which is appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37225 (July 9, 1993). However, in *British Steel plc* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) held that the IRS information did not necessarily reflect a reasonable period based on the actual commercial and competitive benefit of the subsidies to the recipients. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc* v. *United States*, 929 F. Supp. 426, 439 (CIT 1996) (*British Steel II*). Thus, we are determining the allocation period for non-recurring subsidies using company-specific AUL data where reasonable and practicable. *See, e.g., Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Sweden*, 62 FR 16551 (April 7, 1997).

For the preliminary determination of this investigation, the Department followed the Court's decision in *British Steel I and II*. Using the AUL information which POSCO submitted, we calculated POSCO's AUL, excluding adjustments for special accelerated depreciation expenses and a depreciation of salvage value which the company reported. During verification, we reviewed POSCO's calculation of its average useful life of assets. In examining the company's calculations, we learned that the basis of the rates in the GOK's tax depreciation tables is the Japanese tax depreciation tables which were in existence at the time the GOK determined the useful life of assets in the 1950's. In order to determine whether the tax tables provide a reasonable estimation of POSCO's average useful life of assets, we examined POSCO's asset ledger. We verified through an examination of POSCO's asset ledgers that the depreciation schedule used by POSCO does not represent the actual useful life of the company's assets. *See* March 1, 1999 Supplement to the POSCO Verification Report, (public version on file in the CRU). For these reasons, we determine that it is not appropriate to use POSCO's AUL data to determine the average useful life of the company's assets. Therefore, for the final determination, as facts available, we have used the 15-year allocation period as reported in the IRS depreciation tables for the allocation of POSCO's non-recurring subsidies.

Treatment of Subsidies Received by Trading Companies: During the POI, POSCO, the only Korean steel producer of stainless steel plate in coils, exported the subject merchandise to the United

States through five trading companies: POSCO Steel Service & Sales Company, Ltd. (POSTEEL), Hyosung Corporation (Hyosung), Samsun, Samsung Corporation (Samsung), and Sunkyong Ltd. (Sunkyong). We required that the five trading companies provide responses to the Department's questionnaires with respect to the export subsidies under investigation. One of the trading companies, POSTEEL, is affiliated with POSCO within the meaning of section 771(33)(E) of the Act because POSCO owned 95.3 percent of POSTEEL's shares as of December 31, 1997. The other four trading companies are not affiliated with POSCO.

We required responses from the trading companies because the subject merchandise may be subsidized by means of subsidies provided separately to the exporter, in addition to any subsidies provided to the producer. All subsidies conferred on the production and exportation of the subject merchandise benefit the subject merchandise, even if it is exported to the United States by an unaffiliated trading company rather than by the producer itself. Therefore, the Department calculates countervailable subsidy rates on the subject merchandise by cumulating subsidies provided to the producer with those provided to the exporter.

Under § 351.107 of the Department's regulations, when the subject merchandise is exported to the United States by a company that is not the producer of the merchandise, the Department may establish a "combination" rate for each combination of an exporter and supplying producer. However, as noted in the "Explanation of the Final Rules" (the Preamble), there may be situations in which it is not appropriate or practicable to establish combination rates when the subject merchandise is exported by a trading company. In such situations, the Department will make exceptions to its combination rate approach on a case-by-case basis. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27303 (May 19, 1997).

In this investigation, we have determined that it is not appropriate to establish combination rates. This determination is based on two main facts: First, the majority of the subsidies conferred upon the subject merchandise were received by the producer, POSCO. Second, the difference in the levels of subsidies conferred upon the subject merchandise among the individual trading companies is insignificant. Therefore, combination rates would serve no practical purpose because the calculated subsidy rate for POSCO/Hyosung or POSCO/Sunkyong or POSCO and any of the other trading companies effectively would be the same rate. For these reasons, we have not calculated combination rates in this investigation. Instead, we have only calculated one rate for the subject merchandise, all of which is produced by POSCO.

To include the subsidies received by the trading companies, which are conferred upon the export of the subject merchandise, in the calculated *ad valorem* subsidy rate, we used the following methodology: For each of the five trading companies, we calculated the benefit attributable to the subject merchandise and factored that amount into the calculated subsidy rate for the producer. In each case, we determined the benefit received by the trading companies for each export subsidy and weight-averaged the benefit amounts by the relative share of each trading company's value of exports of the subject merchandise to the United States. This calculated *ad valorem* subsidy was then added to the subsidy calculated for POSCO. Thus, for each of the programs below, the listed *ad valorem* subsidy rate is cumulative of any countervailable subsidies received by both the trading companies and POSCO.

I. Programs Determined To Be Countervailable

A. Direction of Credit

In the 1993 investigation of *Steel Products from Korea*, the Department determined that (1) the GOK influenced the practices of lending institutions in Korea; (2) regulated long-term loans were provided to the steel industry on a selective basis; and (3) the selective provision of these regulated loans resulted in a countervailable benefit. *See Steel Products from Korea*, 58 FR at 37338. Accordingly, all long-term loans received by the producers/exporters of the subject merchandise were treated as countervailable. The determination in that investigation covered all long-term loans bestowed through 1991.

In the instant investigation, petitioners allege that the GOK continued to control the practices of lending institutions in Korea through the POI, and that the steel sector received a disproportionate share of low-cost, long-term credit, resulting in countervailable benefits being conferred on the producers/exporters of the subject merchandise. Petitioners assert, therefore, that the Department should countervail all long-term loans received by the producers/exporters of the subject merchandise that were still outstanding during the POI.

1. The GOK's Credit Policies Through 1991

As noted above, we previously found significant GOK control over the practices of lending institutions in Korea through 1991, the period investigated in *Steel Products From Korea*. This finding of control was determined to be sufficient to constitute a government program and government action. *See Steel Products from Korea*, 58 FR at 37342. We also determined that (1) the Korean steel sector, as a result of the GOK's credit policies and control over the Korean financial sector, received a disproportionate share of regulated long-term loans, so that the program was, in fact, specific, and (2) that the interest rates on those loans were inconsistent with commercial considerations. *Id.* at 37343. Thus, we countervailed all long-term loans received by the steel sector from all lending sources.

In this investigation, we provided the GOK with the opportunity to present new factual information concerning the government's credit policies prior to 1992, which we would consider along with our finding in the prior investigation. In the preliminary determination, we stated that respondents' information did not lead us to change our determination concerning the GOK's pre-1992 credit policies, as described in *Steel Products From Korea*. Moreover, respondents' arguments in their case brief have also not led us to change our preliminary determination concerning the GOK's pre-1992 credit policies. *See* the discussion under *Comment 1*, below ("The GOK's Pre-1992 Credit Policies: New Factual Information Concerning Foreign Currency Denominated Loans"). On this basis, we continue to find for this final determination that all regulated long-term loans provided to the producers/exporters of the subject merchandise through 1991, were provided to a specific enterprise or industry, or group thereof, within the meaning of section 771(5A)(D)(iii)(III) of the Act. This finding conforms with our determination in *Steel Products from Korea* (*see* 58 FR at 37342), which was upheld by the Court of International Trade in *British Steel plc* versus *United States*, 941 F. Supp 119 (CIT 1996) (*British Steel II*). Moreover, in accordance with section 771(5)(E)(ii) of the Act, a benefit has been conferred to the recipient to the extent that the regulated loans are provided at interest rates less than the benchmark rates

described under the "Subsidies Valuation" section, above.

POSCO was the only producer of the subject merchandise, and POSCO received long-term loans prior to 1992, that were still outstanding during the POI. These included loans with both fixed and variable interest rates. To determine the benefit from the regulated loans with fixed interest rates, we applied the Department's standard long-term loan methodology and calculated the grant equivalent for the loans. For POSCO's variable-rate loans, we compared the amount of interest paid during the POI on the regulated loans to the amount of interest that would have been paid at the benchmark rate. We then summed the benefit amounts from the loans attributable to the POI and divided the total benefit by POSCO's total sales. On this basis, we determine the net countervailable subsidy to be 0.17 percent *ad valorem*.

2. The GOK's Credit Policies From 1992 Through 1997

The Department's preliminary analysis of the GOK's credit policies from 1992 through 1997, is contained in the March 4, 1999, Memorandum Re: Analysis Concerning Post 1991 Direction of Credit, on file in the CRU (Credit Memo). As detailed in the Credit Memo, the Department preliminarily determined that the GOK continued to control directly and indirectly the lending practices of most sources of credit in Korea through the POI. The Department also preliminarily determined that GOK-regulated credit from domestic commercial banks and government-controlled banks such as the Korea Development Bank (KDB) was specific to the steel industry. This credit conferred a benefit on the producer/exporters of the subject merchandise in accordance with section 771(5)(E)(ii) of the Act, because the interest rates on the countervailable loans were less than the interest rates on comparable commercial loans. *See* Credit Memo at 15–17. Finally, we preliminarily found that POSCO's access to government-regulated foreign sources of credit did not confer a benefit to the recipient, as defined by section 771(5)(E)(ii) of the Act, and, as such, credit received by POSCO from these sources was found not countervailable. This determination was based on the fact that credit from Korean branches of foreign banks were not subject to the government's control and direction. Thus, POSCO's loans from these banks served as an appropriate benchmark to establish whether access to regulated foreign sources of funds conferred a benefit on respondent. On the basis of that comparison, we found that there was no benefit. *See id.* at 18. While some of the comments we received from the parties have led us to make minor modifications to our calculations, they have not led us to change the basic findings detailed in the Credit Memo.

In the preliminary determination we examined, as a separate program, loans provided under the Energy Savings Fund, and found that these loans were countervailable. *See Preliminary Determination*, 63 FR at 47256. However, on the basis of our findings detailed in the Credit Memo, we now determine that these loans are countervailable as directed credit, rather than as a separate program. These loans are policy loans provided by banks that are subject to the same GOK influence that is described in the Credit Memo. Accordingly, they are countervailable as directed credit, and we have included these loans in our benefit calculations. Thus, on the basis of our finding in the credit memo, and the modifications to the calculations discuss in the comments section, below, for the GOK's post-1991 credit policies, we determine a net countervailable subsidy of less than 0.005 percent *ad valorem*.

B. GOK Infrastructure Investments at Kwangyang Bay

In *Steel Products from Korea*, the Department investigated the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. We determined that the GOK's provision of infrastructure at Kwangyang Bay was countervailable because we found POSCO to be the predominant user of the GOK's investments. The Department has consistently held that a countervailable subsidy exists when benefits under a program are provided, or are required to be provided, in law or in fact, to a specific enterprise or industry or group of enterprises or industries. *See Steel Products from Korea*, 58 FR at 37346.

No new factual information or evidence of changed circumstances has been provided to the Department with respect to the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. Therefore, to determine the benefit from the GOK's investments to POSCO during the POI, we relied on the calculations performed in the 1993 investigation of *Steel Products from Korea*, which were placed on the record of this investigation by POSCO. In measuring the benefit from this program in the 1993 investigation, the Department treated the GOK's costs of constructing the infrastructure at Kwangyang Bay as untied, non-recurring grants in each year in which the costs were incurred.

To calculate the benefit conferred during the POI, we applied the Department's standard grant methodology and allocated the GOK's infrastructure investments over a 15-year allocation time period. See the allocation period discussion under the "Subsidies Valuation Information" section, above. We used as our discount rate the three-year corporate bond rate on the secondary market as used in *Steel Products from Korea*. We then summed the benefits received by POSCO during 1997, from each of the GOK's yearly investments over the period 1983–1991. We then divided the total benefit attributable to the POI by POSCO's total sales for 1997. On this basis, we determine a net countervailable subsidy of 0.29 percent *ad valorem* for the POI.

C. Short-Term Export Financing

The Department determined that the GOK's short-term export financing program was countervailable in *Steel Products from Korea* (*see* 58 FR at 37350). During the POI, POSCO was the only producer/exporter of the subject merchandise that used export financing.

In accordance with section 771(5A)(B) of the Act, this program constitutes an export subsidy because receipt of the financing is contingent upon export performance. A financial contribution is provided to POSCO under this program within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. To determine whether this export financing program confers a countervailable benefit to POSCO, we compared the interest rate POSCO paid on the export financing received under this program during the POI with the interest rate POSCO would have paid on a comparable short-term commercial loan. See discussion above in the "Subsidies Valuation Information" section with respect to short-term loan benchmark interest rates.

Because loans under this program are discounted (*i.e.*, interest is paid up-front at the time the loans are received), the effective rate paid by POSCO on its export financing is a discounted rate. Therefore, it was necessary to derive from POSCO's company-specific weighted-average interest rate for short-term won-denominated commercial loans, a discounted benchmark interest rate. We compared this discounted benchmark interest rate to the interest rates charged on the export financing and found that the program interest rates were lower than the benchmark rate. Therefore, in accordance with section 771(5)(E)(ii) of the Act, we determine that this program confers a

countervailable benefit because the interest rates charged on the loans were less than what POSCO would have had to pay on a comparable short-term commercial loan.

To calculate the benefit conferred by this program, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the applicable discounted benchmark interest rate. When the interest that would have been paid at the benchmark rate exceeded the interest that was paid at the program interest rate, the difference between those amounts is the benefit. Because POSCO was unable to segregate its production financing applicable to only subject merchandise exported to the United States, we divided the benefit derived from the loans by total exports. On this basis, we determine a net countervailable subsidy of less than 0.005 percent *ad valorem*.

D. Reserve for Export Loss

Under Article 16 of the Tax Exemption and Reduction Control Act (TERCL), a domestic person engaged in a foreign-currency earning business can establish a reserve amounting to the lesser of one percent of foreign exchange earnings or 50 percent of net income for the respective tax year. Losses accruing from the cancellation of an export contract, or from the execution of a disadvantageous export contract, may be offset by returning an equivalent amount from the reserve fund to the income account. Any amount that is not used to offset a loss must be returned to the income account and taxed over a three-year period, after a one-year grace period. All of the money in the reserve is eventually reported as income and subject to corporate tax either when it is used to offset export losses or when the grace period expires and the funds are returned to taxable income. The deferral of taxes owed amounts to an interest-free loan in the amount of the company's tax savings. During the POI, Samsun was the only exporter of the subject merchandise which used this program.

We determine that the Reserve for Export Loss program constitutes an export subsidy under section 771(5A)(B) of the Act because use of the program is contingent upon export performance. We also determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. The benefit provided by this program is the tax savings enjoyed by the company.

To determine the benefit conferred by this program, we calculated the tax savings by multiplying the balance amount of the reserve as of December 31, 1996, by the corporate tax rate for 1996. We treated the tax savings on these funds as a short-term interest-free loan. Accordingly, to determine the benefit, the amount of tax savings was multiplied by the company's weighted-average interest rate for short-term won-denominated commercial loans for the POI, as described in the "Subsidies Valuation Information" section, above. Using the methodology for calculating subsidies received by trading companies, which also is detailed in the "Subsidies Valuation Information" section of this notice, we determine a net countervailable subsidy of less than 0.005 percent *ad valorem*.

E. Reserve for Overseas Market Development

Article 17 of the TERCL operates in a manner similar to Article 16, discussed above. This provision allows a domestic person engaged in a foreign trade business to establish a reserve fund equal to one percent of its foreign exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning from the reserve, to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one-year grace period. As is the case with the Reserve for Export Loss, the balance of this reserve fund is not subject to corporate income tax during the grace period. However, all of the money in the reserve is eventually reported as income and subject to corporate tax either when it offsets overseas expenses or when the grace period expires. The deferral of taxes owed amounts to an interest-free loan equal to the company's tax savings. The following exporters of the subject merchandise used this program during the POI: Hyosung, POSTEEL, Samsun, Samsung, and Sunkyong.

We determine that the Reserve for Overseas Market Development program constitutes an export subsidy under section 771(5A)(B) of the Act because use of the program is contingent upon export performance. We also determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. The benefit provided by this program is the tax savings enjoyed by the companies.

To determine the benefits conferred by this program during the POI, we employed the same methodology used for determining the benefit from the Reserve for Export Loss program. Using the methodology for calculating subsidies received by trading companies, which is detailed in the "Subsidies Valuation Information" section of this notice, we determine a net countervailable subsidy of 0.01 percent *ad valorem*.

F. Investment Tax Credits

Under the TERCL, companies in Korea are allowed to claim investment tax credits for various kinds of investments. If the tax credits cannot all be used at the time they are claimed, then the company is authorized to carry them forward for use in subsequent tax years. During the POI, POSCO used various investment tax credits to reduce its 1996 net tax liability. In *Steel Products from Korea*, we found that investment tax credits were not countervailable (*see* 58 FR at 37351); however, there were changes in the statute effective in 1995, which have caused us to revisit the countervailability of the investment tax credits.

At verification, we received clarification of the particular investment tax credits which POSCO used in its fiscal year 1996 tax return which was filed during the POI. We learned that the company used the following tax credits: (1) Tax credits for investments in facilities for research and experiment under Article 10(1)(a) and Article 10(1)(b); (2) tax credits for investments in productivity improvement under Article 25; (3) tax credits for specific facility investments under Article 26; and (4) tax credits for temporary investments under Article 27.

Under these TERCL Articles, if a company invested in foreign-produced facilities (i.e., facilities produced in a foreign country), the company received a tax credit equal to either three or five percent of its investment. However, if a company invested in domestically-produced facilities (*i.e.*, facilities produced in Korea) under the same Articles, it received a 10 percent tax credit. Under section 771(5A)(C) of the Act, which became effective on January 1, 1995, a program that is contingent upon the use of domestic goods over imported goods is specific, within the meaning of the Act. Because Korean companies received a higher tax credit for investments made in domestically-produced facilities, we determine that investment tax credits received under Articles 10(1)(a), 10(1)(b), 25, 26, and 27 constitute import substitution subsidies under section 771(5A)(C) of the Act. In addition, because the GOK is foregoing the collection of tax revenue otherwise

due under this program, we determine that a financial contribution is provided under section 771(5)(D)(ii) of the Act. The benefit provided by this program is a reduction in taxes payable. Therefore, we determine that this program is countervailable.

To calculate the benefit from this tax credit program, we examined the amount of tax credits POSCO deducted from its taxes payable for the 1996 fiscal year. POSCO deducted from its 1996 taxes payable, all remaining credits earned in the years 1992, 1993, 1994, and a portion of credits earned in 1995. Therefore, we first determined the amount of the tax credits claimed which were based upon investments in domestically-produced facilities. We then calculated the additional amount of tax credits received by the company because it earned tax credits of 10 percent on such investments instead of a three or five percent tax credit. Next, we calculated the amount of the tax savings earned through the use of these tax credits during the POI and divided that amount by POSCO's total sales during the POI. On this basis, we determine a net countervailable subsidy of 0.18 percent *ad valorem*.

G. Electricity Discounts under the Requested Load Adjustment Program

Petitioners alleged that POSCO is receiving countervailable benefits in the form of utility rate discounts. The GOK reported that during the POI the government-owned Korea Electric Power Company (KEPCO) provided POSCO with three types of discounts under its tariff schedule. These three discounts were based on the following rate adjustment programs in KEPCO's tariff schedule: (1) Power Factor Adjustment; (2) Summer Vacation and Repair Adjustment; and (3) Requested Load Adjustment. *See* the discussion below in "Programs Determined To Be Not Countervailable" with respect to the Power Factor Adjustment and Summer Vacation and Repair Adjustment discount programs.

The GOK introduced the Requested Load Adjustment (RLA) discount in 1990, to address emergencies in KEPCO's ability to supply electricity. Under this program, customers with a contract demand of 5,000 KW or more, who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3,000 KW or more, are eligible to enter into a RLA contract with KEPCO. Customers who choose to participate in this program must reduce their load upon KEPCO's request, or pay a surcharge to KEPCO.

The RLA discount is provided based upon a contract of two months, normally July and August when the demand for electricity is greatest. Under this program, a basic discount of 440 won per KW is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load. During the POI, KEPCO granted 44 companies RLA discounts even though KEPCO did not request these companies to reduce their respective loads. The GOK reported that because KEPCO increased its capacity to supply electricity in 1997, it reduced the number of companies with which it maintained RLA contracts in 1997. In 1996, KEPCO had entered into RLA contracts with 232 companies.

At the preliminary determination, we found that discounts provided under the RLA were distributed to a limited number of customers, *i.e.*, a total of 44 customers during the POI. Therefore, we preliminarily determined that the RLA program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act. We also stated in the preliminary determination that, given the information the GOK provided on the record regarding KEPCO's increased capacity to supply electricity and the resulting decrease in KEPCO's need to enter into a large number of RLA contracts during the POI, we would further investigate the *de facto* specificity of this discount program at verification. We stated that it was the GOK's responsibility to demonstrate to the Department on what basis KEPCO chose the 44 customers with which it entered into RLA contracts during the POI.

Based on the information which we obtained at verification, we analyzed whether this electricity discount program is specific in fact (*de facto* specificity), within the meaning of section 771(5A)(D)(iii) of the Act. We find that the GOK failed to demonstrate to the Department a systematic procedure through which KEPCO selects those customers with which it enters into RLA contracts. The GOK simply stated that KEPCO enters into contracts with those companies which volunteer for the discount program. If KEPCO does not reach its targeted adjustment capacity with those companies which volunteered for the program, then KEPCO will solicit the participation of large companies. We note that KEPCO was unable to provide to the Department the percentage of 1997 RLA recipients which volunteered for the program and the percentage of those recipients which were persuaded to cooperate in the program. Therefore, we continue to find that the discounts provided under the RLA were distributed to a limited number of users. Given the data with respect to the small number of companies which received RLA electricity discounts during the POI, we determine that the RLA program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act. The benefit provided under this program is a discount on a company's monthly electricity charge. A financial contribution is provided to POSCO under this program within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue foregone by the government.

Because the electricity discounts are not "exceptional" benefits and are received automatically on a regular and predictable basis without further government approval, we determine that these discounts provide a recurring benefit to POSCO. Therefore, we have expensed the benefit from this program in the year of receipt. *See GIA*, 58 FR at 37226. To measure the benefit from this program, we summed the electricity discounts which POSCO received from KEPCO under the RLA program during the POI. We then divided that amount by POSCO's total sales value for 1997. On this basis, we determine a net countervailable subsidy of less than 0.005 percent *ad valorem*.

II. Programs Determined To Be Not Countervailable

A. Electricity Discounts Under the Power Factor Adjustment and Summer Vacation and Repair Adjustment Programs

The GOK reported that KEPCO provided POSCO with three types of discounts under its tariff schedule during the POI. These three discounts were based on the following rate adjustment programs in KEPCO's tariff schedule: (1) Power Factor Adjustment; (2) Summer Vacation and Repair Adjustment; and (3) Requested Load Adjustment. *See* the separate discussion above in regard to the countervailability of the "Requested Load Adjustment" program.

With respect to the Power Factor Adjustment (PFA) program, the GOK reported that the goal of the PFA is to improve the energy efficiency of KEPCO's customers which, in turn, provides savings to KEPCO in supplying electricity to its entire customer base. Customers who achieve a higher efficiency than the performance standard (*i.e.*, 90 percent) receive a discount on their base demand charge.

The GOK stated that the PFA is not a special program, but a normal factor used in the calculation of a customer's electricity charge which was introduced in 1989. The PFA is available to all

general, educational, industrial, agricultural, midnight power, and temporary customers who meet the eligibility criteria. The eligibility criteria are that a customer must: (1) Have a contract demand of 6 KW or more; (2) have a power factor that exceeds the 90 percent standard power factor; and (3) have proper facilities to measure its power factor. If these criteria are met, a customer always receives a PFA discount on its monthly electricity invoice. During the POI, over 600,000 customers were recipients of PFA discounts.

With the aim of curtailing KEPCO's summer load by encouraging customer vacations or the repair of their facilities during the summer months, the GOK introduced the Summer Vacation and Repair Adjustment program (VRA) in 1985. Under this program, a discount of 550 won per KW is given to customers, if they curtail their maximum demand by more than 50 percent, or 3,000 KW, through a load adjustment or maintenance shutdown of their production facilities during the summer months.

The GOK stated that the VRA discount program is available to all industrial and commercial customers with a contract demand of 500 KW or more. The GOK stated that the VRA is one of several programs that KEPCO operates as part of its broad long-term strategy of demand-side management which includes curtailing peak demand. The GOK submitted information demonstrating that over eight hundred customers, from a wide and diverse range of industries, received VRA discounts during the POI.

We analyzed whether these electricity discount programs are specific in law (*de jure* specificity), or in fact (*de facto* specificity), within the meaning of section 771(5A)(D)(i) and (iii) of the Act. First, we examined the eligibility criteria contained in the law. The Regulation on Electricity Supply and KEPCO's Rate Regulations for Electric Service identify companies within a broad range of industries as eligible to participate in the electricity discount programs. With respect to the PFA, all general, educational, industrial, agricultural, midnight power, and temporary customers who have the necessary contract demand are eligible to participate in the discount program. The VRA discount program is available to a wide variety of companies across all industries, provided that they have the required contract demand and can reduce their maximum demand by a certain percentage. Therefore, based on our analysis of the law, we determine that the PFA and VRA electricity programs are not *de jure* specific under section 771(5A)(D)(i) of the Act.

We also examined evidence regarding the usage of the discount electricity programs and found no predominant use by the steel industry. The information on the record demonstrates that discounts under the PFA and VRA are distributed to a large number of firms in a wide variety of industries. Therefore, after analyzing the data with respect to the large number of companies and diverse number of industries which received electricity discounts under these programs during the POI, we determine that the PFA and VRA programs are not *de facto* specific under section 771(5A)(D)(iii) of the Act. Accordingly, we determine that the PFA and VRA discount programs are not countervailable.

B. GOK Infrastructure Investments at Kwangyang Bay Post-1991

The GOK has made the following infrastructure investments at Kwangyang Bay since 1991: Construction of a road from Kwangyang to Jinwol, construction of a container terminal, and construction of the Jooam Dam. The GOK stated that pursuant to Article 29 of the Industrial Sites and Development Act, it is the national and local governments' responsibility to provide basic infrastructure facilities throughout the country, and the nature of the infrastructure depends on the specific needs of each area and/or the types of industries located in a particular area. The GOK provides services to companies through the use of the infrastructure facilities and charges fees for the services based on published tariff rates applicable to all users.

With respect to the GOK's post-1991 infrastructure investments at Kwangyang Bay, the GOK argues that the construction of the infrastructure was not for the benefit of POSCO. The GOK reported that the purpose of developing the Jooam Dam was to meet the rising demand for water by area businesses and households. The supply capacity of the Sueochon Dam, which was constructed prior to 1991, cannot meet the area's water needs and, therefore, a second dam in the Kwangyang Bay area was built. The GOK further reported that the Jooam Dam does not benefit POSCO because POSCO receives all of its water supply from the Sueochon Dam. At verification, we obtained information which demonstrates that the Jooam Dam's water pipe line connects neither to the Sueochon Dam nor to POSCO's steel mill at Kwangyang Bay. Accordingly, POSCO cannot source any of its water supply from the Jooam Dam and, therefore, the company is not benefitting from the GOK's construction of the Jooam Dam.

The GOK also constructed a container terminal at Kwangyang Bay to relieve congestion at the Pusan Port and to encourage the further commercial development of the region. The GOK stated that, given the nature of the merchandise imported, produced, and exported by POSCO at Kwangyang Bay, this container terminal cannot be used by POSCO's operations. According to the responses of the GOK and POSCO and the information obtained at verification, neither steel inputs nor steel products can be shipped through the container terminal at Kwangyang Bay. Given the nature of steel inputs (*e.g.*, bulk products like scrap) and finished steel products (*e.g.*, bundled bars and plate), products such as these would or could not be loaded or unloaded from a ship through a container terminal and, therefore, the facility is not used by steel producers.

The road from Kwangyang to Jinwol was constructed in 1993. The GOK stated that this is a general service, public access road available for, and used by, all residents and businesses in the area of Kwangyang Bay. According to the GOK, the reason for building the public highway was not to serve POSCO, but to provide general infrastructure to the area as part of the GOK's continuing development of the country and to relieve a transportation bottleneck. At verification, we obtained information on the road and learned that, in fact, it is utilized by both industries in the area to transport goods and by residents living in the Kwangyang Bay area.

Based on the information obtained at verification regarding the GOK's infrastructure investments at Kwangyang Bay since 1991, we determine that the GOK's investments in the Jooam Dam, the container terminal, and the public highway were not made for the benefit of POSCO. Therefore, we find that these investments are not providing countervailable benefits to POSCO.

C. Port Facility Fees

In the 1993 investigation of *Steel Products from Korea*, the Department found that POSCO, which built port berths at Kwangyang Bay but, by law, was required to deed them to the GOK, was exempt from paying fees for use of the berths. POSCO was the only company entitled to use the berths at the port facility free of charge. The Department determined that because this privilege was limited to POSCO, and because the privilege relieved

POSCO of costs it would otherwise have had to pay, POSCO's free use of the berths at Kwangyang Bay constituted a countervailable subsidy. The Department stated that each exemption from payment of the fees, or "reimbursement" to POSCO, creates a countervailable benefit because the GOK is relieving POSCO of an expense which the company would have otherwise incurred. *See Steel Products from Korea*, 58 FR at 37347–348.

With respect to the instant investigation, since 1991, POSCO, at its own expense, has built new port facilities at Kwangyang Bay. Because title to port facilities must be deeded to the GOK in accordance with the Harbor Act, POSCO transferred ownership of the facilities to the GOK.

In return, POSCO received the right to use the port facilities free of charge, and the ability to charge other users a usage fee until the company recovers all of its investment costs. At the preliminary determination, we determined that because POSCO is exempt from paying port facility fees, which it otherwise would have to pay, and the government is foregoing revenue that is otherwise due, POSCO's free usage of the port facilities provided a financial contribution to the company within the meaning of section 771(5)(D)(ii) of the Act. We also preliminarily found that the exemption from paying port facility charges is specific under section 771(5A)(D)(iii) of the Act, because POSCO was the only company exempt from paying these port facility fees during the POI.

Since our preliminary determination, we have gathered further information with respect to the Harbor Act and the number and types of companies which have built infrastructure which, as required by law, were subsequently transferred to the government. At verification, we learned that, because the government does not have sufficient funds to construct all of the infrastructure a company may need to operate its business, the GOK allows a company to construct, at its own expense, such infrastructure. However, the Harbor Act prohibits a private company from owning certain types of infrastructure, such as ports. Therefore, the company, upon completion of the project, must deed ownership of the infrastructure to the government pursuant to Article 17–1 of the Harbor Act. Because a company must transfer to the government its infrastructure investment, the GOK, under Articles 17–3 and 17–4 of the Harbor Act, grants the company free usage of the facility and the right to collect fees from other users of the facility until the company recovers its investment cost. Once a company has recovered its cost of constructing the infrastructure, the company must pay the same usage fees as other users of the infrastructure facility.

We verified that under the Harbor Act, any company within any industrial sector is eligible to construct infrastructure necessary for the operation of its business provided that it receives approval by the Administrator of the Maritime and Port Authority to build the facility. We learned that if the ownership of the infrastructure, which the company built, must transfer to the government, then the company, by law, has the right to free usage of that facility and the ability to collect fees from other users of the facility. The right of free usage and the ability to collect user fees are granted to every company which has to deed facilities to the GOK. The free usage and collection of user fees continues only until the company which built the facility recaptures its cost of constructing the facility.

Further, at verification we learned that in permitting a company to build infrastructure subject to the Harbor Act requirements, the GOK has in place a procedure for approving a company's investment costs and for monitoring the company's free usage and collection of user fees. Because the GOK allows a company, for a period of time, to use for free the infrastructure it built, the GOK, through the respective port authority, reviews each infrastructure project to assess the cost. The port authority then approves a certain monetary amount for the infrastructure through a settlement process with the company. A company can only receive free usage of a facility up to the monetary amount approved by the port authority.

At verification, we obtained documentation which indicates that since 1991, a diverse grouping of private sector companies across a broad range of industrial sectors have made a number of investments in infrastructure facilities at various ports in Korea, including at Kwangyang Bay. In each case, the company which built the infrastructure was required to transfer it to the GOK, and received free usage of the infrastructure and the ability to collect user fees from other companies until they recover their respective investment costs. POSCO was not the only company entitled to use a particular port facility infrastructure, which it built, free of charge.

As a result of the information obtained at verification, we have revisited our preliminary determination that POSCO's exemption from paying port facility charges is specific under section 771(5A)(D)(iii) of the Act. As discussed above, we verified that since 1991, a diverse grouping of private sector companies representing a wide cross-section of the economy have made a large number of investments in infrastructure facilities at various ports in Korea, including numerous investments at Kwangyang Bay. Those companies which built infrastructure that was transferred to the GOK, as required by the Harbor Act, received free usage of the infrastructure and the ability to collect user fees from other companies which use the facilities, until they recover their respective investment costs. POSCO is one of a large number of companies from a diverse range of industries to use this program. Accordingly, we determine that this program is not specific under section 771(5A)(D)(iii) of the Act. Therefore, we find that this program is not countervailable.

III. Programs Determined To Be Not Used

Based on the information provided in the responses and the results of verification, we determine that the companies under investigation either did not apply for or receive benefits under the following programs during the POI:

A. Tax Incentives for Highly-Advanced Technology Businesses under the Foreign Investment and Foreign Capital Inducement Act

B. Reserve for Investment under Article 43–5 of TERCL

C. Export Industry Facility Loans and Special Facility Loans

D. Export Insurance Rates Provided by the Korean Export Insurance Corporation

E. Excessive Duty Drawback

Petitioners alleged that under the Korean Customs Act, Korean producers/exporters may have received an excessive abatement, exemption, or refund of import duties payable on raw materials used in the production of exported goods. The Department has found that the drawback on imported raw materials is countervailable when the raw materials are not consumed in the production of the exported item and, therefore, the amount of duty drawback is excessive. In *Steel Products from Korea*, we determined that certain Korean steel producers/exporters received excessive duty drawback because they received duty drawback at a rate that exceeded the rate at which imported inputs were actually used. *See*

Steel Products from Korea, 58 FR at 37349.

At verification, we learned that the refund of duties only applies to imported raw materials that are physically incorporated into the finished merchandise. Items used to produce a product, but which do not become physically incorporated into the final product, do not qualify for duty drawback. We confirmed that the National Technology Institute (NTI) maintains a materials list for each product, and only materials and subsidy-materials that are physically incorporated into the final product are eligible for duty drawback.

We verified that the NTI routinely conducts surveys of producers of exported products to obtain their raw material input usage rate for manufacturing one unit of output. With this information, the NTI compiles a standard usage rate table for imported raw material inputs which is used to calculate a producer/exporter's duty drawback eligibility. In determining an input usage rate for a raw material, the NTI factors recoverable scrap into the calculation. In addition, the loss rate for each imported input is reflected in the input usage rate. At verification, the GOK confirmed that the factoring of reusable scrap into usage rates is done routinely for all products under Korea's duty drawback regime. We further verified that the NTI most recently completed a survey of POSCO in 1993, and because POSCO is the only producer of the subject merchandise, the standard input usage rate table for the subject merchandise is based on POSCO's actual production data.

We also confirmed during our verification of POSCO that there is no difference in the rate of import duty paid and the rate of drawback received. The rate of import duty is based on the imported materials and the rate of drawback depends on the exported merchandise and the usage rate of the imported materials. POSCO pays import duties based on the rate applicable to and the price of the imported raw material. POSCO then receives duty drawback based on the amount of that material consumed in the production of the finished product according to the standard input usage rate. Accordingly, the rate at which POSCO receives duty drawback is the amount of import duty paid on the amount of input consumed in producing the finished exported product.

Based on the information on the record, we determine that POSCO has not received duty drawback on imported raw materials that were not physically incorporated in the production of exported merchandise. As in *Steel Products from Korea*, we also determine that POSCO appropriately factored recovered scrap into its calculated usage rates and that the duty drawback rate applicable to POSCO takes into account recoverable scrap. *See Steel Products from Korea*, 58 FR at 37349. Therefore, we determine that POSCO has not received excessive duty drawback.

VI. Program Determined To Be Terminated

Unlimited Deduction of Overseas Entertainment Expenses

We verified that Article 18–2(5) of the Corporation Tax Law which provided for unlimited deductions of overseas entertainment expenses was repealed by the revisions to the law dated December 29, 1995. In calculating their 1996 income tax (which was filed during the POI) Korean exporters could no longer deduct overseas entertainment expenses without any limits.

Interested Party Comments

Comment 1: The GOK's Pre-1992 Credit Policies: New Factual Information Concerning Foreign Currency-Denominated Loans. Respondents assert that the Department ignored new factual information on the record of this proceeding concerning domestic foreign currency loans. Specifically, respondents submitted information indicating that from 1986 through 1988, interest rates on domestic foreign currency loans were only subject to an interest rate ceiling, and that after 1988, banks and other financial institutions were free to set the interest rates on these loans subject only to the ceiling established by the Interest Limitation Act. Respondents claim that the Department ignored this information and incorrectly assumed that the reimposition of interest rate ceilings on Korean won loans after a failed attempt at liberalization in 1988, also applied to domestic foreign currency loans. Respondents further state that the Department found at verification that the interest rate liberalization program applied solely to lending rates in Korean won. Therefore, respondents state, for all domestic foreign currency loans received prior to 1992, there is no basis for the Department's determination that interest rates on these loans were regulated and that these loans provided countervailable subsidies.

According to petitioners, the Department's finding that pre-1992 direct foreign loans provided a countervailable subsidy was correct and supported by the evidence on the record. Petitioners further state that respondents have provided no new evidence to disprove this finding and nothing in the new law is contrary to the Department's 1993 determination.

Department's Position: The alleged "new" information cited by respondents in their brief concerning interest rates on domestic foreign currency loans was in fact considered by the Department in *Steel Products From Korea*. The discussion addressing the GOK's strict control of interest rates specifically states that "[i]nterest rate ceilings on domestic foreign currency loans were also maintained until 1988." *See Steel Products From Korea*, 58 FR at 37341. Thus, the Department considered the fact that the *de jure* controls over domestic foreign currency loans were removed after 1988, in reaching its conclusion that these loans continued to be subject to indirect GOK influence. Moreover, respondents' contention that "window guidance" (*i.e.*, the GOK's indirect control over interest rates) applied only to domestic won loans is also without merit. The Department examined this issue and reached the opposite conclusion in *Steel Products From Korea*. Also, in this investigation, independent bankers stated that "interest rates were once again regulated until the early 1990s, through a system of 'window guidance.'" Under this system commercial banks were effectively directed by the government not to raise interest rates above a certain level. While this statement is contained within the discussion of the failed 1988 liberalization plan, the bankers did not distinguish between domestic and foreign rates of lending by domestic commercial banks. Finally, in calling for the prohibition of "window guidance" over financial institutions' loan rates, the Presidential Commission did not refer only to won-denominated rates. As noted above, the Department's finding in *Steel Products From Korea* took into account respondents "new" information. This finding has since been upheld by the Court in *British Steel plc* v. *United States*, 941 F. Supp 119 (CIT 1996) (*British Steel II*). For these reasons our finding concerning the countervailability of pre-1992 foreign currency denominated loans from domestic sources remains unchanged in this final determination.

Comment 2: The GOK's Pre-1992 Credit Policies: Whether Direct Foreign Loans Constitute a Financial Contribution Within the Meaning of the Act. According to respondents, the only government regulation of direct foreign loans consisted of an interest rate ceiling. Respondents state that the GOK could not, under its regulations, direct

or induce foreign lenders to provide loans to POSCO; nor could it regulate (and reduce) the interest rates these lenders would charge on such loans. Rather, these loans were negotiated directly between foreign banks and POSCO without the GOK's direct or indirect involvement. As such, respondents' state that the Department's preliminary finding that direct foreign loans are countervailable is in conflict with the "financial contribution" standard of section 771(5)(D)(i) of the Act. Respondents assert that direct foreign loans from foreign banks do not constitute countervailable subsidies because there is no government financial contribution. Respondents further claim that the Department did not explain in its preliminary determination how loans from foreign sources could constitute a financial contribution by the GOK. Moreover, respondents state that these loans do not meet the "entrusts or directs" standard of the Act, because (1) they can not be characterized as a contribution that "would normally be vested in the government," and (2) the requirement that the practice of lending by the foreign entity "does not differ in substance from practices normally followed by the government" is not met in this instance. Furthermore, because access to direct foreign loans was restricted by the GOK on the basis of a borrowers' ability to access the market without a government or bank guarantee, POSCO would have been able to receive direct foreign loans at the interest rates obtained on its own and without government involvement.

Respondents also address the Department's assertion in the new countervailing duty regulations (and the Statement of Administrative Action) that its indirect subsidy standard remains unchanged under the "financial contribution" standard of the Post-Uruguay Round law, specifically referring to the indirect subsidy practices countervailed in *Steel Products from Korea*.[1] Respondent's state that to simply subsume direct foreign loans from foreign entities within the broad claim of an unchanged indirect subsidy standard (and the endorsement in the SAA of *Steel Products From Korea*) is "overly simplistic and legally in error."

Petitioners dispute respondents' assertion that the GOK's control over access to direct foreign loans does not constitute a financial contribution, within the meaning of the Act. Petitioners state that this question has been answered by the SAA, which specifically references the Department's indirect subsidy findings in *Steel Products From Korea* to illustrate that the indirect subsidy standard includes the GOK's control over access to direct foreign loans. Petitioners contend that to accept respondents' argument would be to repudiate the interpretation of the statute in the SAA. Petitioners note, moreover, that the Department preliminarily has found in the Credit Memo that the GOK's control over the Korean financial system continued through the POI and included the control of access to direct foreign loans.

Department's Position: As petitioners correctly note, respondents' arguments concerning this issue have been fully answered by the Congress through its approval of the SAA and the *CVD Final Rule*.[2] In *Steel Products From Korea*, the finding of government control was determined to be sufficient to constitute a government program and government action, as defined by the Act. Moreover, in the preliminary determination, we did not revisit that prior determination, and also found that the subsidy identified meets the standard for a subsidy as defined by the post-URAA Act. *Preliminary Determination*, 63 FR at 47255.

While respondents contend that subsuming GOK-controlled access to direct foreign loans from foreign entities within the SAA's claim of an unchanged indirect subsidy standard is "overly simplistic and legally in error," the clear and unambiguous language of the SAA is that Congress intended the specific types of indirect subsidies found to be countervailable in *Steel Products From Korea* to continue to be covered by the Act, as amended by the URAA. The Department's final countervailable duty regulations are equally clear on this issue, the preamble of which confirms that the standard for finding indirect subsidies countervailable under the URAA-amended law "is no narrower than the prior U.S. standard for finding an indirect subsidy as described in *Steel Products from Korea*." *See CVD Final Rule*, 63 FR at 65349. For these reasons, we have not changed our preliminary determination concerning the countervailability of pre-1992 direct foreign loans.

Comment 3: The GOK's Pre-1992 Credit Policies: Whether Direct Foreign Loans Are Not Countervailable Pursuant to the Transnational Subsidies Rule. Respondents assert that pursuant to the so-called "transnational subsidies rule," funds provided from sources outside a country under investigation are not countervailable. Specifically, respondents state that section 701(a)(1) of the Act applies only to subsidies provided by the government of the country in question or an institution located in, or controlled by, that country. In support of this contention, respondents cite *North Star Steel* v. *United States*, 824 F. Supp. 1074 (CIT 1993) (North Star), in which the Court upheld the Department's determination that an Inter-American Development Bank loan guaranteed by the Government of Argentina on behalf of the recipient was not subject to the countervailing duty law. In particular, the CIT stated that "[t]his determination is consistent with the purpose of the countervailing duty law, which is "intended to offset the unfair competitive advantage that foreign producers would otherwise enjoy from * * * subsidies paid by their government.'" *North Star*, 824 F. Supp. at 1079 (quoting *Zenith Radio Corp.* v. *United States*, 437 U.S. 443, 456 (1978)). Respondents also cite a case in which the Department refused to initiate an investigation of private, foreign co-financing of a World bank project, stating that "[f]or the same reasons (applicable to funds from the World Bank), a loan granted by a group of Japanese banks and insurance companies (in the Philippines) * * * would not be countervailable." *See Initiation of Countervailing Duty Investigation: Certain Textiles and Textile Products from the Philippines*, 49 FR 34381 (1984). Petitioners assert that the Department's determination does not contravene the transnational subsidy rule because the subsidy in this case is based on controlled access to credit, and not on a differential in interest rates. The fact that the payment of the funds comes from a private source outside of Korea is irrelevant. According to petitioners, the case law cited by respondents does not involve situations in which a foreign government conferred countervailable subsidies by controlling access to third country financial sources. In addition, petitioners note that these cases predate the changes in the statute that expressly recognize indirect subsidies provided through private actors.

Department's Position: Respondents' assertion concerning the transnational subsidies rule is without merit. Respondents made this same argument in *Steel Products From Korea* (*see*, 58 FR at 37344). In upholding the

[1] *Countervailing Duties; Final Rule*. 63 65348, 349 (November 25, 1998) (*CVD Final Rule*); SAA at 926.

[2] Although the *CVD Final Rule* are not controlling in this investigation, they do represent a statement of the Department's practice and interpretations of the Act, as amended by the URAA.

Department's determination in *Steel Products From Korea*, the Court did not find in any way that the Department's determination with respect to direct foreign loans was in conflict with the transnational subsidies rule, as argued by respondents in that prior investigation. The cases cited by respondents are also not relevant to the facts of this investigation because those cases deal with funds from foreign governments or international lending or development institutions. This investigation, however, concerns the Korean government's control over access to funds from overseas private sources of credit.

More specifically, however, the Department rejected respondents' argument in *Steel Products From Korea*, because the benefit alleged was not the actual funding of direct foreign loans, but rather the "preferential access to loans that are not generally available to Korean borrowers." *Steel Products From Korea*, 58 FR at 37344. The GOK was found to control this access and because the steel industry received a disproportionate share of these low-cost funds, this preferential access was found to confer a countervailable benefit on the steel industry.

Nothing argued by respondents in this investigation would lead us to change that prior determination concerning direct foreign loans. Therefore, our preliminary determination remains unchanged.

Comment 4: The GOK's Pre-1992 Credit Policies: Benchmark Applied to Determine the Benefit From Foreign Currency-Denominated Loans. Respondents challenge the Department's use of a won-denominated benchmark to calculate the countervailable benefit from POSCO's outstanding pre-1992 long-term foreign currency-denominated loans. According to respondents, the Department's long established methodology is to compare countervailable loans with a benchmark in the same currency. Respondents cite the *Final Affirmative Countervailing Duty Determination: Certain Apparel from Thailand*, 50 FR 9818, 9824 (1985), which states that, the "benchmark must be applicable to loans denominated in the same currency as the loans under consideration." Respondents also note that this standard was articulated in the *Final Affirmative Countervailing Duty Determination: Cold-rolled Carbon Steel Flat-rolled Products from Argentina*, 49 FR 18006 (1984) (*Cold-Rolled Steel From Argentina*). In that case, the Department stated:

> [f]or loans denominated in a currency other than the currency of the country concerned in an investigation, the benchmark is selected from interest rates applicable to loans denominated in the same currency as the loan under consideration (where possible, interest rates on loans in that currency in the country where the loan was obtained; otherwise, loans in that currency in other countries, as best evidence). The subsidy for each year is calculated in the foreign currency and converted at an exchange rate applicable for each year. *Id.* at 18019.

Respondents contend that this policy was reiterated in the Department's new regulations, the preamble to which refers to the currency of the loans as one of "the three most important characteristics" in determining the benchmark. *CVD Final Rule*, 63 FR at 65363. Thus, respondents assert that the Department (1) did not consider any other commercially-viable alternatives (such as those rates "in other countries"); (2) ignored any reference to its long-standing policy of comparing loans in the same currency; and (3) provided no explanation for abandoning that policy. Accordingly, respondents state that the Department must revise its calculation of the benefit from foreign currency-denominated loans, using a benchmark that is in conformance with its policy and regulations.

Petitioners dispute respondents' benchmark argument, stating that respondents focused solely on currency and ignored the underlying principle of what the benchmark is intended to measure, namely the financing the company could have obtained on the market in lieu of the government-provided loans. In *Steel Products From Korea*, the Department had to determine what interest rate the company would have had to pay absent the GOK's policy and control over lending sources. Petitioners state that, because prior to 1992, all sources of foreign currency-denominated credit were found to be controlled by the GOK, these sources "in other countries" could not serve as a benchmark because they would not have been available to POSCO but for the approval by the Ministry of Finance and Economy (MOFE). Therefore, petitioners state, the Department chose the 3-year corporate bond rate. Record evidence in the current investigation also indicates that the bond market is the only commercial source (*i.e.*, free from GOK control) of long-term funding in Korea. Thus, petitioners assert, domestic bond rates reflect the most comparable, commercial financing that a company could obtain in the market absent the GOK's direction of credit and, therefore, are the most appropriate benchmark for POSCO's foreign currency loans and bonds both pre-and post-1992.

Department's Position: Respondents' arguments concerning the Department's methodology for measuring benefits from countervailable foreign currency-denominated long-term loans are partially correct. It is true that in most instances we measure the benefit from countervailable foreign currency loans by comparing such loans with a benchmark denominated in the same currency, provided the borrower would otherwise have had access to such foreign currency loans. However, in the context of the Korean financial system prior to 1992, this methodology is not appropriate. Specifically, in *Steel Products From Korea*, the Department found that all sources of foreign currency-denominated credit were subject to the government's control and direction. Therefore, these sources of foreign currency credit, including overseas markets, could not serve as an appropriate benchmark, as they were also found to be countervailable. In the absence of such a benchmark, the Department had to determine the rate that companies would have had to pay absent government control. That rate was the corporate bond yield on the secondary market. *See Steel Products From Korea*, 58 FR at 37346. Respondents assert that the Department did not consider any other commercially viable alternatives. Respondents ignore, however, the fact that the corporate bond yield on the secondary market was the only alternative, unregulated source and commercially viable source of financing in Korea. Accordingly, this was the only viable benchmark with which to measure the benefit from government-regulated sources of credit. Nothing argued by respondents in this investigation has led us to change our determination in *Steel Products From Korea*. Therefore, our finding concerning POSCO's pre-1992 foreign currency-denominated long-term loans remains unchanged in this final determination.

Comment 5: Post-1991 GOK Credit Policies: Whether Foreign Currency Loans From Domestic Branches of Foreign Banks are Countervailable. According to petitioners, the Department incorrectly found that domestic branches of foreign banks were not controlled and directed by the GOK. Petitioners state that the Department, in reaching its conclusion, relied only on a lack of any substantive discussion in the record concerning the influence of the GOK on foreign banks as affirmative evidence that no such controls exist. Petitioners further assert that there is little, if any, meaningful discussion

about the direct or indirect influence of GOK regulations and policies on the operation of foreign banks in Korea in the record, including the verification reports. Petitioners assert that record evidence in fact shows that foreign banks are subject to the same GOK controls and direction that applied to domestic commercial banks.

According to petitioners, the Department's assumption that, absent evidence to the contrary, GOK controls or influence over foreign commercial banks do not exist, is legally impermissible. In support, petitioners cite *Al Tech Specialty Steel* v. *United States*, where the CIT ruled that the Department may not simply infer the truth of certain facts from lack of any contradictory evidence on the record; rather, the Department is required to support or authenticate with record evidence (*i.e.*, verify) any factual assertion on which it relies. Slip Op. 98–136 at 9 (CIT 1998). Petitioners state that, in this case, the Department has violated that principle by failing to gather and verify the necessary facts in support of the conclusion reached. As such, the Department's conclusion is not based on substantial evidence on the record.

Petitioners further claim that the Department ignores record evidence that demonstrates GOK control over foreign banks in Korea. For example, petitioners state that foreign commercial banks are included within the OECD's analysis of commercial banks in its 1996 report. *OECD Economic Surveys: Korea 1996* at 41–42, submitted at Exhibit 20 of the March 31, 1998 Petition, on file in the CRU. Petitioners also claim that the Presidential Reports and the 1998 OECD Report recognize that foreign banks operating in Korea were subject to excessive control. Petitioners further state that the relevant banking legislation that restricts domestic commercial banks also restricts domestic branches of foreign banks operating in Korea. In particular, petitioners cite to the General Bank Act, the Bank of Korea Act, and the Foreign Exchange Management Law, noting that foreign banks are also subject to the provisions of these laws.

According to petitioners, foreign commercial banks must be subject to the same "window guidance" as domestic commercial banks to prevent interest rates from increasing. Petitioners point out that POSCO's interest rates from foreign commercial banks were lower than the company's rates for foreign securities. According to petitioners, risk-averse, profit-motivated foreign commercial banks would only charge such low interest rates in the Korean market if GOK policies restricted either the interest rates or borrowers' access to credit from those banks.

Moreover, petitioners state that foreign commercial banks in Korea could not have satisfied POSCO's demand for funds. In *Steel Products From Korea*, the Department specifically found that POSCO was unable to raise the large sums of money necessary for its credit needs from domestic banks. *See Steel Products From Korea*, 58 FR at 37345 (quoting, "the domestic foreign loan market could not have adequately supplied POSCO with the volume of, and/or terms of payment on, loans that POSCO required.") Petitioners note that foreign bank branches in Korea were responsible for less than 4 percent of total lending. *OECD 1996 Survey* at 42. According to petitioners, this is a direct result of government controls over the market.

Even if domestic branches of foreign commercial banks were not regulated by the GOK, petitioners state that they would be "inescapably influenced by the controls on every other sector of the banking industry." As such, they could not behave in a free market manner. For example, foreign banks would be no less influenced than their Korean counterparts by the lead of the Korean Development Bank and the Bank of Korea to extend credit to certain government favored projects. In light of the GOK's complete dominance over the financial system, petitioners state that it would be impossible for foreign commercial banks to operate free of the same constraints and influences that domestic banks were subject to.

Respondents assert that the record evidence cited by petitioners amounts to (1) generalities and speculation about the operation of the Korean banking system, and (2) lists of normal regulatory provisions of how banks must operate in Korea and basic foreign exchange controls applicable to them. Respondents contend that this "evidence" was not relied upon by the Department in its finding of control and direction of credit from GOK-owned and domestic commercial banks, and has no relevance with respect to direction of credit to the steel industry.

Respondents also note that petitioners fail to reveal any record evidence which betrays the means by which the GOK controls the lending of foreign bank branches so as to direct credit where the GOK allegedly intends it to go, such as to the steel industry. For example, the Department cited the bank ownership rules and the GOK's intervention in the appointment of banking officials as means by which the government could influence domestic bank lending practices. Respondents note that foreign banks, in contrast, are wholly-owned by their parent banks and appoint their own officials. Thus, this was not a way in which the GOK could influence their lending decisions. Respondents also indicate that foreign banks' most important source of funds is from their head offices, which provide them with both greater autonomy from the Korean banking system and a lower cost of funds than available to Korean commercial banks which, due to their credit ratings, borrow at rates that are comparable to the rates POSCO can obtain on its own.

Respondents dismiss as empty speculation and unsupported inference petitioners claim that even if foreign bank branches were not regulated in the same manner as domestic banks, they would have nonetheless been "influenced by the biases and controls built into the tightly controlled financial system." Respondents assert that such speculation is contradicted by the same OECD report cited by petitioners, which states that in the midst of a faltering economy, the foreign banks reportedly reduced their exposure. This indicates, respondents state, that foreign banks were acting not in a copycat manner, but prudently, and consistent with the GOK's view of the role of foreign banks in Korea, which "play a leading role in motivating domestic banks to improve their banking practices and managerial skills." GOK July 1, 1998, Questionnaire Response, Exhibit A–7 at 32, on file in the CRU.

Respondents also reject petitioners' theory that foreign commercial banks' lending rates were lower than those of POSCO's foreign securities because GOK policies required them to charge such low rates. According to respondents, the rational explanation for this differential is market competition, of which they state there is clear record evidence. Specifically, respondents cite POSCO's loan documents collected as verification exhibits. One of these, a domestic foreign currency loan from the Seoul branch of Chase Manhattan Bank, states that POSCO chose Chase as the lead bank for the loan because it offered the lowest rate compared to two other foreign bank branches. Respondents state that there is no evidence of government control of interest rates or direction of credit by these banks with respect to this loan. Rather, the banks all competed to provide funds to POSCO at relatively low rates and chose to lend to POSCO because they saw it as good business and a solid asset in their portfolio. To conclude otherwise, respondents state, is to suggest that the

GOK can somehow manage the terms of a syndicated loan. Respondents state that this and other record evidence indicates that the GOK does not, and does not need to, influence these banks to lend to POSCO. Rather, as was repeatedly noted at verification, and specifically noted in the Bankers Verification Report, "POSCO is one of the best companies in Korea and most commercial banks would like to lend to the company." Memorandum For David Mueller, Meetings with Commercial and Investment Banks and Research Institutes, 8 (February 2, 1999), on file in the CRU (Bankers Report).

Department's Position: Petitioners' contention that record evidence establishes that the Korean branches of foreign banks were subject to the same GOK controls and direction that applied to domestic commercial banks is not supported by the record. The record evidence cited by petitioners does not amount to GOK control and direction of these institutions' operations and lending practices.

First, the 1996 and 1998 OECD reports do not support petitioners' arguments. While the 1996 OECD report discusses funding levels by foreign banks in Korea, nowhere does that report state that these banks were subject to the GOK's control or direction. Moreover, the 1998 OECD Report, in discussing the weakness of the Korean banking system, and in attributing responsibility for that weakness partly to the government's direct and indirect intervention in the operations of commercial banks, mentions only domestic commercial banks, not foreign banks. In fact, the report discusses the inability of domestic commercial banks, after their privatization, to "develop the autonomy (from the government) needed in a market economy."

Petitioners reliance on the reports issued by the Presidential Commission for Financial Reform, quoted by the Department in the Credit Memo, is equally misplaced. The section of the Presidential Report titled "Deregulation of Access to Foreign Capital Markets," cited by petitioners refers to regulations governing access to foreign capital markets, not regulations governing foreign currency-denominated loans from domestic branches of foreign banks in Korea.[3] Regulations governing access to foreign capital markets are quite separate from those governing domestic branches of foreign banks in Korea. To the extent that the Presidential Commission addressed domestic foreign currency loans, it addressed the lifting of restrictions on the usage of these funds, which is limited mostly to the importation of machinery from abroad. This has nothing to do with any GOK controls over the operations of domestic branches of foreign banks.

Petitioners also support their argument with the contention that foreign banks are subject to some of the same regulatory provisions contained in the General Bank Act that govern domestic commercial banks. However, the Department's analysis in the Credit Memo did not rely on these regulatory provisions but on the record evidence that the GOK continued to influence the lending practices of these domestic commercial banks indirectly, in part because these banks did not develop autonomy from the government. As we explained in the Credit Memo, the weakness of domestic banks vis-a-vis the government was in part an outgrowth of the government's historical role in allocating credit in accordance with policy objectives. Also, the corporate governance structure of Korea's commercial banks (weak ownership structure, lack of autonomy in appointing banking officials) only contributed to their weakness vis-a-vis the government. The fact that the GOK's indirect involvement in commercial banking operations continued into the 1990s merely exacerbated this problem. *See* Credit Memo at 8–9. Foreign banks in Korea, however, were not subject to this same influence. Their source of funds was from their head offices and, as respondents correctly illustrate, the appointment of their senior officials was not subject to influence by the GOK. Petitioners proffer no evidence that foreign banks in Korea were "inescapably influenced by the controls on every other sector of the banking industry." Rather, they speculate that these banks would be no less influenced than their Korean counterparts by the lead of the Korean Development Bank and the Bank of Korea to extend credit to certain government-favored projects. This is not a conclusion reached by any of the commercial bankers at verification, and petitioners do not point to any evidence that would support this contention.

The fact that foreign banks in Korea did not account for a significant amount of total lending in Korea is not sufficient evidence to lead us to conclude that POSCO would not have been able to raise sufficient funds from this source. Rather, the record shows that benchmarks of foreign banks in Korea were a significant source of POSCO's borrowing, and credit from these banks was not regulated by the GOK. For these reasons, we disagree with petitioners' arguments that funding from domestic branches of foreign banks cannot serve as an appropriate benchmark to measure any potential benefit from regulated foreign currency-denominated sources of credit, *e.g.*, foreign securities from abroad.

Comment 6: Post-1991 GOK Credit Policies: Whether POSCO's Access To Foreign Securities Markets Results in Countervailable Benefits. According to petitioners, extensive record evidence, in particular the Department's findings at verification, shows that access to foreign sources of funds, including foreign securities, was strictly controlled by the GOK through the POI. Petitioners state that the Department in its Credit Memo recognized this control.

In addition, petitioners claim that the GOK's control over access to foreign funds constitutes a financial contribution within the meaning of the Act, in particular, the "entrusts or directs" standard of section 771(5)(B)(iii) of the Act. That this type of indirect program meets this standard was clearly stated in the SAA, petitioners note, which specifically referenced the Department's findings in *Steel Products From Korea* as an application of the "entrusts or directs" standard. Because the interest rates on foreign securities are lower than the rates charged on unregulated sources of credit in Korea, the GOK in effect is controlling access to preferential interest rates.

Finally, petitioners assert that access to foreign securities was provided on a specific basis to export and priority sectors in Korea. According to petitioners, statistics show that companies with substantial export earnings were given preferential access to foreign securities issuances. Therefore, petitioners claim that access to this source of funding is contingent, at least in part, on export performance. Even if the Department were to find that this access is not export contingent, petitioners argue that access was nonetheless *de facto* specific to the basic metals industry, which issued a disproportionate amount of foreign securities by Korean firms between 1992 and 1997.

Respondents dispute petitioners claim that access to foreign securities constitutes a financial contribution within the meaning of the Act, stating that petitioners' interpretation of the "entrust or directs" standard is unreasonable. Respondents state that this standard cannot encompass private actions by independent foreign parties that are consistent with market-oriented

[3] *Financial Reform in Korea: The First Report (Presidential Report I)* 22, (April 1997), Exhibit MOFE–9 of the MOFE Verification Report, on file in the CRU.

behavior at market-determined interest rates.

Respondents cite to *Zenith Radio Corp.* v. *United States*, 437 U.S. 443, 456 (1978), and section 701(a)(1) of the Act, for the proposition that the countervailing duty law does not apply to funds independently provided by foreign entities at market rates. Moreover, respondents note, the "entrusts or directs" standard on which petitioners rely includes the qualifier statement that such a practice "would normally be vested in the government." According to respondents, this language is directed at circumstances where the government controls the provider of the benefit and used the provider as a surrogate for government functions. In this case, respondents argue, foreign securities markets, and the interest rates set therein, are not controlled by the GOK. Therefore, respondents state, the "entrusts or directs" standard of the Act does not apply to foreign securities issuances.

Respondents also state that petitioners provide no legal standard for a countervailable benefit from foreign securities issuances because none exists. Specifically, respondents state that because foreign securities issuances are essentially unregulated "commercial loans" with market-determined interest rates not subject to GOK influence, no comparison with "a comparable commercial loan," within the meaning of section 771(5)(E)(ii) of the Act, is necessary to determine whether a benefit was conferred. According to respondents, this is supported by Article 14 of the SCM Agreement which states that it is a "loan by a government" that is to be compared to a commercial loan.

Respondents next assert that even without the GOK's approval regulations, POSCO would have obtained access to these foreign sources of funds. According to respondents, it is POSCO's excellent credit rating that allowed it to "get practically unrestricted access to these funds." Bankers Report at 10.

Respondents also take issue with petitioners' characterization of interest rates on foreign currency-denominated bonds as "preferential," which is based on the assertion that the appropriate comparison for these foreign-currency bonds issued in foreign markets is to domestic-currency bonds issued in the Korean market. However, respondents note that the Department rejected the comparison of foreign currency-denominated bonds to the interest rates on bonds issued in Korean won in its Credit Memo. As argued by respondents in *Comment 4*, above, the Department's own policy and regulations require, for benchmark purposes, the comparison of interest rates on loans under investigation be with a benchmark in the same currency. According to respondents, interest rates in different currencies are not directly comparable.

To illustrate the problem of making benchmark comparisons across currencies, respondents explain that if the Department were to adopt petitioners' methodology, it would find that bonds issued at market rates in Japanese yen provided greater subsidies (because of a greater interest rate differential) than bonds issued at market rates in U.S. dollars for no other reason than that the market interest rates for Japanese yen are lower. Respondents also note an additional problem with comparing the cost of funds in different currencies, namely the sometimes drastic change in the rates of exchange between currencies over the life of loans. Respondents explain that while the rate of change and even the direction of change may be unpredictable, the consequences of such changes can be considerable, as illustrated by the sharp depreciation in the exchange rate of the Korean won in late 1997. This depreciation made all liabilities, such as loans in foreign currencies incurred before the drop, far more costly than companies originally could have anticipated.

Department's Position. In the Credit Memo, we stated that there are three elements required to find a potential subsidy countervailable: (1) A financial contribution is made by a government or public body; (2) a benefit is conferred on the recipient; and (3) it is specific. If one of these three elements is not met, the subsidy is not countervailable. In accordance with section 771(5)(E)(ii) of the Act, we examined whether a benefit has been conferred on the recipient, POSCO, from foreign securities issued in overseas markets. We also preliminarily determined that POSCO's access to government-regulated foreign sources of credit did not confer a benefit to the recipient, as defined by section 771(5)(E)(ii) of the Act, and, as such, is not countervailable. *See* Credit Memo at 18. As discussed in *Comment 5*, above, we continue to find that branches of foreign banks are not subject to the GOK's control and direction. Therefore, we continue to find that POSCO's access to government-regulated foreign sources of credit did not confer a benefit to the recipient, because the rates obtained on foreign securities, even though limited in access, were not less than foreign currency loans available to POSCO in Korea. As such, there is no need to address the specific comments raised by petitioners and respondents above.

Comment 7: Post-1991 GOK Credit Policies: Whether POSCO's Direct Foreign Loans Received in 1997 Should be Countervailed in This Investigation. Petitioners argue that the Department incorrectly found in its preliminary determination that there was no benefit to POSCO from regulated direct foreign loans received in 1997. According to petitioners, the Department did not examine direct foreign loans received in 1997, because the company "did not pay interest on these loans until after the POI." According to petitioners, the Department should determine that the benefit to POSCO and the financial contribution are received in the year of the receipt of the loan rather than the year the interest is paid. Petitioners contend that this is consistent with the Department's policy on the valuation of subsidies as it was applied in this case for pre-1992 loans.

Respondents argue that contrary to petitioners' contentions, the interest rates on these loans are variable. Therefore, respondents contend that the Department correctly did not examine these loans, because no interest was paid during the POI. According to respondents, this approach is consistent with the Department's variable rate loan methodology.

Department's Position. We agree with respondents' contention that petitioners have incorrectly characterized these loans as fixed rate loans. Because these loans have variable interest rates, our methodology is to calculate the benefit at the time the interest on the loan is paid. For these reasons, we have not changed our preliminary findings concerning direct foreign loans received by POSCO in 1997.

Comment 8: Post-1991 GOK Credit Policies: The Appropriate Benchmark Interest Rate for POSCO's Long-Term Financing. Petitioners assert that, even if the Department determines in the final determination that the GOK's control over foreign commercial banks in Korea is not sufficient to constitute direction for purposes of section 771(5)(B)(iii) of the Act, the Department should conclude that the interest rates charged by those banks are not appropriate benchmarks. Petitioners claim that the maturity and the structure of the foreign bank loans, the other factors (apart from currency) the Department treats as being of primary importance, are not comparable commercial instruments to POSCO's foreign securities. Petitioners assert that the Department in its comparison has ignored this. Therefore, the Department should use the corporate bond rate as a source of capital apparently not under the GOK's direction.

Respondents' arguments concerning domestic branches of foreign banks, and the appropriate use of lending rates from these banks, are summarized under *Comment 6*, above. Respondents also dismiss petitioners' contention that bonds issued in domestic currency are more comparable in terms of their maturity and structure than the foreign currency benchmark chosen by the Department. Respondents note that domestic currency bonds are of shorter duration than POSCO's domestic foreign currency loans, which generally have maturities of five years or more. While petitioners correctly note that domestic and foreign bonds are similar in terms of structure (*i.e.*, fixed rate), respondents assert that this one common criterion is not a superior or sufficient basis for departing from the Department's long-standing practice of comparing loans with benchmarks in the same currency.

Department's Position. The fact that the maturity and structure of foreign securities may not be identical to long-term lending rates from foreign banks in Korea is not a reason to reject these rates as benchmarks and default to the won-denominated three-year corporate bond rate. In fact, contrary to petitioners's assertion, in terms of duration, foreign securities are closer in structure to long-term foreign currency loans from Korean branches of foreign banks than to domestic bonds, which have a maturity of three years, shorter than the duration of POSCO's foreign securities. As outlined by respondents, it is appropriate to compare government-regulated credit to a benchmark denominated in the same currency, if such a benchmark is available. This is in accordance with Department policy and past practice. *See e.g., CVD Final Rule*, 63 FR at 65363; *see also, Certain Apparel from Thailand*, 50 FR at 9824 (quoting, "benchmark must be applicable to loans denominated in the same currency as the loans under consideration)," and *Cold-Rolled Steel From Argentina*, 49 FR at 18019 (quoting, "the benchmark is selected from interest rates applicable to loans denominated in the same currency as the loan under consideration"). For these reasons, we have not changed our benchmark in this final determination.

Comment 9: Post-1991 GOK Credit Policies: Errors in POSCO's Loan Calculations. Petitioners claim that the Department understated the benefit conferred upon POSCO. First, petitioners state the Department applied the 1997 benchmark to all of POSCO's outstanding loans, which contradicts Department policy of using a fixed rate benchmark for variable rate loans in the year the loan was provided if a variable rate was not extended (19 CFR 351.505(a)(2)(iii) (1998)). Petitioners next state that the Department failed to include the relevant fees in the benchmark interest rate. Citing the Department's regulations, petitioners explain that it is appropriate to compare the effective interest rate on the government-provided loan, with an effective rate benchmark (19 CFR 355.44(8); 19 CFR 351.505(a)(1)(1998)). Because POSCO failed to provide fee information between 1992 and 1996, the Department should, petitioners state, apply the 1997 fee to all previous years; alternatively, the Department should use the higher of the company-specific rate and the national average in each year between 1992 and 1996, as adverse facts available. Finally, petitioners note several minor calculation errors that they state the Department should correct, *i.e.*, a "negative benefit" from one loan, which then was deducted from the total benefit provided to POSCO through these loans, and the exclusion of another loan from the Department's calculations.

Department's Position. We agree with the corrections recommended by petitioners. For the fees, we have applied 1997 fee to all years, as suggested by petitioners. *See also* the discussion under *Comment 13*, below.

Comment 10: Post-1991 GOK Credit Policies: Whether POSCO Received Disproportionate Benefits From GOK Regulated Long-Term Loans. According to respondents, the Department's Credit Memo analyzes lending to the basic metals sector as a whole but fails to directly analyze lending to POSCO, the producer of the subject merchandise. This analysis, respondents state, does not take into account the fact that POSCO borrowed very little from commercial banks during this period and its borrowings from the KDB declined and then stopped completely after 1995, so that POSCO's share of long-term loans was at or lower than its share of GDP during this whole period.

Rather than addressing this data, respondents assert that the Department merely relies on the GDP test to demonstrate that loans were provided disproportionately to the steel industry.

According to respondents, the GDP test was not a sufficient measure of disproportionality for the Department (citing *British Steel I*, 879 F. Supp. at 1323), and the Court was also unconvinced by the Department's finding of disproportionality in *Steel Products from Korea*. The Court remanded the case to the Department on the basis that "Commerce does not sufficiently explain in the *Korean Final Determination* the connection between the government *de facto* program and the steel industries' alleged preferential access to specific sources of credit." *British Steel I*, 879 F. Supp at 1325. Respondents note that the Department was upheld by the Court on its finding only after making additional claims that there was "aggressive targeting" of lending to POSCO for the construction of POSCO's Kwangyang mill.[4]

Respondents characterize the Department's conclusion of disproportionate use by the steel industry as "collective guilt," whereby even one long-term loan to POSCO, no matter how small, would be countervailable if the steel industry as a whole had received a disproportionately large share of long-term loans. However, respondents state that the appropriate legal standard is whether a domestic subsidy "is a specific subsidy, in law or in fact, to an enterprise or industry * * * ." (quoting section 771(5A)(D) of the Act). Because POSCO is "an enterprise, as defined by the statute, and constitutes "the industry" for which the Department must make a determination concerning the existence of a domestic subsidy from the purported directed credit, the Department must find that the subsidy is not specific to POSCO.

Respondents further assert that if the Department has sufficient data to determine whether a company received disproportionate benefits under a program, it must use that data. The fact that other companies' benefits were disproportionate, respondents state, can not be ascribed to a company whose benefits were not. Respondents link this analysis to certain Department methodologies that are also based on company-specific data, including benchmarks, average useful life of depreciable assets calculations, and the calculation of company-specific countervailing duty rates.

According to petitioners, respondents' contention that the Department must examine whether disproportionate benefits have been provided to POSCO is a misinterpretation of the law. In particular, petitioners state that the statute dictates that the Department will find *de facto* specificity when either an enterprise *or* an industry receives disproportionate benefits. The record, petitioners note, shows that the Korean iron and steel industry received a disproportionate amount of a subsidy. *See, e.g.*, Credit Memo at 15–16.

---

[4] *See Final Results of Redetermination Pursuant to Court Remand, British Steel plc* v. *United States, Consol. Ct. No. 93–0900550–CVD* at 49–50(April 20, 1995) (*Remand*); *British Steel PLC* v. *United States*, 914 F. Supp. 119, 130 (CIT 1995) (*British Steel II*) ("the nature of the nexus Commerce found in this case (was) purposeful targeting").

Accordingly, petitioners assert that the Department correctly found that POSCO, as a member of the iron and steel industry, has benefitted from the GOK's direction of credit in the form of access to preferred sources of credit.

In petitioners' view, the fact that POSCO may have received only one loan, as argued by respondents, is irrelevant. When a company receives a subsidy that confers a benefit that is *de facto* specific to its industry, that subsidy is countervailable. According to petitioners, the very purpose of the specificity analysis is to determine whether certain companies benefit when an enterprise or industry receive a *de jure* or *de facto* specific subsidy.

Petitioners also reject respondents assertion that POSCO's long-term loans declined during the 1992–97 period, because this is irrelevant to whether such loans were subsidies, specific to the steel industry, and countervailable as to POSCO. Moreover, petitioners state, the quantification of the subsidy rate for individual companies and the calculation of the amount of the benefit are unrelated to the specificity to a particular industry.

Petitioners further assert that the record in this investigation demonstrates disproportionality and targeting of the steel industry in the post-1992 period, in the same manner that was established in *Steel Products From Korea*. For example, petitioners refer to the lending practices of the Korea Development Bank as a demonstration of the GOK's policy of directed credit and the disproportionate lending to the steel sector. Petitioners also note that the KDB's business plans and lending guidelines, which are negotiated with and subject to the MOFE's final approval, reflect the GOK's policy objectives. Petitioners also cite statements by Korean bankers that the KDB's "business plans" serve as lending models for other banks in the Korean market, and that KDB funded projects represent an implicit guarantee for other domestic banks to follow the KDB's lead. Thus, petitioners state, the KDB is an important tool for the GOK's direction of credit in the Korean financial system, and record statistics illustrate that the iron and steel or basic metals sectors received a disproportionate amount of the KDB's lending.

Department's Position: We disagree with respondents' arguments. The fact that POSCO borrowed very little from those sources of credit that were found to be *de facto* specific to the steel industry during the relevant period is irrelevant. The clear language of the statute is that a subsidy is specific when "an enterprise *or* an industry receives a disproportionately large amount of the subsidy." Section 771(5A)(D)(iii)(III) of the Act (emphasis added). Thus, when a subsidy is specific to an industry, even if it is not specific to an enterprise that is part of that industry, the Department will find that subsidy to be countervailable, even if the actual subsidy to the enterprise is very small. While respondents may characterize this approach as "collective guilt," the Department has in numerous cases found countervailable relatively small subsidies to a respondent firm on the basis of disproportionate use by the industry to which the respondent belongs. Indeed, this is not an unusual fact pattern for *de facto* specificity findings, for example under large research and development programs. As such it is not surprising that under respondents' suggested approach, the Department would rarely find a subsidy to be *de facto*, because subsidies under a program are frequently not received on a disproportionate basis by an enterprise. Finally, we agree with petitioners that respondents' attempt to link certain methodologies that are conducted on a company-specific basis to the specificity analysis is also without merit. The quantification of the benefit is simply not germane to the Department's analysis concerning specificity.

Comment 11: Post-1991 GOK Credit Policies: Whether Long-Term Loans From the KDB Were Provided at Favorable Interest Rates. Respondents argue that the Department incorrectly used a domestic won-denominated benchmark to calculate the benefit from POSCO's countervailable foreign currency-denominated loans from domestic sources, including the KDB. Respondents' reasons for the appropriateness of comparing, in accordance with the Department's own policy and regulations, the interest rates on loans under investigation with a benchmark in the same currency, are discussed above under *Comment 4*. Respondents further note that the Department asserted and applied this principle in its Credit Memo when it compared the interest rates on POSCO's foreign securities with the interest rates on POSCO's foreign currency loans from foreign banks in Korea, which were found not to be not controlled or directed by the GOK during the years 1992 and 1997.

Accordingly, respondents assert, the Department should have used the dollar-based interest rates on these loans from foreign banks as benchmarks for POSCO's foreign currency loans from Korean banks. If this were done, the Department would find that there was no benefit to POSCO from the foreign currency loans it received from domestic banks, including the KDB. All of the loans at issue were variable rate loans, based on a spread above a base rate of either LIBOR or the KDB's own rate. This proves, respondents state, that loans from the KDB had become too expensive for POSCO compared to the alternatives.

Petitioners note that they have previously noted the errors in the Department's preliminary finding (that foreign banks in Korea are not subject to the GOK's control and direction and, therefore, the foreign bank interest rates are not an appropriate benchmark). *See Comment 5*, above. Therefore, petitioners state, the Department must not use this rate as a benchmark to determine the benefit from POSCO's access to foreign currency loans. Moreover, petitioners argue that the currency in which the loan is denominated is only one factor that the Department examines in determining an appropriate benchmark. The Department also examines the structure, maturity, principle amount, and availability of funds of the potential benchmark compared to the subsidized loan. Based on all these criteria, the Department should use the corporate bond rate in Korea as the only appropriate available benchmark. Accordingly, the Department should use the domestic corporate bond rate as the benchmark for all long-term financing. In so doing, the Department should find in its final determination that POSCO's foreign currency loans do provide a quantifiable and countervailable benefit.

Department's Position. We agree with respondents that the appropriate benchmark to use to determine the benefit from POSCO's foreign currency-denominated loans from the KDB and domestic commercial banks are the interest rates from unregulated foreign banks in Korea. As discussed under *Comment 8*, above, it is appropriate to compare countervailable foreign currency-denominated loans to a benchmark in the same currency. Accordingly, we have revised our calculations to reflect this change.

Comment 12: Average Useful Life. Petitioners note that, in the preliminary determination, the Department used a 12-year AUL, based on several adjustments to POSCO's calculations for certain special depreciation charges. They assert that the calculated AUL for POSCO remains distorted, however, in a way that cannot be rectified and, therefore, it should not be used in the final determination. Petitioners argue that the Department should use the 15-

year allocation period found in the IRS depreciation tables as the AUL for the final determination.

Petitioners state that POSCO's reported AUL remains distorted because of the company's revaluation of property, plant, and equipment under the Asset Revaluation Law. They argue that the information gathered at verification suggests that POSCO's AUL does not reflect the actual useful life of its assets, because assets which had been fully depreciated several years before remained in service. The Department, therefore, should reject POSCO's reported AUL, in accordance with its practice regarding distorted company-specific data. *See, e.g., Final Affirmative Countervailing Duty Determination: Steel Wire Rod From Germany*, 62 FR 54990, 54991 (Oct. 22, 1997) (*Steel Wire Rod From Germany*).

According to respondents, in applying an AUL for POSCO of 12 years at the preliminary determination, instead of the 9 years calculated by POSCO, the Department misunderstood the nature of the special depreciation claimed by POSCO and, therefore, disallowed it when performing its own AUL calculation. Respondents state that, at verification, POSCO explained and demonstrated the legal basis for the reported salvage value, special depreciation, and 1989 revaluation. Therefore, having addressed the Department's concerns, the Department should use POSCO's calculation of its AUL for allocating the benefits from any non-recurring subsidies.

In response to petitioners' argument, respondents state that any misunderstanding the Department manifested in the preliminary determination concerning POSCO's company-specific AUL data was resolved at verification. Therefore, petitioners' allegation of distortions with the company's data is incorrect. Further, they assert that the company-specific AUL data provided by POSCO permits calculation of an allocation period that is more reflective of any commercial and competitive benefit to POSCO than the arbitrary 15-year IRS period.

Department's Position. We agree with petitioners that it is not appropriate to use POSCO's AUL data to determine the average useful life of the company's assets. During verification, we reviewed POSCO's calculation of the company's average useful life of assets. In examining the company's calculations, we learned that the basis of the rates in the GOK's tax depreciation tables is the Japanese tax depreciation tables which were in existence at the time the GOK determined the useful life of assets in the 1950's. In order to determine whether the tax tables provide a reasonable estimation of POSCO's average useful life of assets, we examined POSCO's asset ledgers. We verified through an examination of POSCO's asset ledgers that the depreciation schedule used by POSCO does not represent the actual useful life of the company's assets. Therefore, we determine that it is not appropriate to use POSCO's AUL data. The available data does not permit the calculation of an accurate company-specific AUL in this investigation. In previous cases, the Department has recognized instances in which the company-specific AUL information cannot be used based on distortions in the data. *See, e.g., Steel Wire Rod from Germany*, 62 FR at 54991. Therefore, for the final determination, we used the 15-year allocation period as reported in the IRS depreciation tables for the allocation of POSCO's non-recurring subsidies.

Comment 13: Long-Term Interest Rate Benchmark. Petitioners state that POSCO failed to provide to the Department information on the fees applied to its bonds prior to 1997, stating that "the data on the bond issuance fees for the prior years (*i.e.*, 1992–1996) are difficult to retrieve from POSCO's records." Petitioners note that the Department's practice is to include all fees associated with debt obligations in order to compare effective interest rates on the subsidized loan or bond with an effective rate benchmark.

Petitioners assert that POSCO did not demonstrate that it was unable to provide the requested information; it merely asserted that providing the information would be "difficult." Accordingly, petitioners argue that the Department should find that POSCO did not act to the best of its ability to provide fee information for the 1992–1996 period and apply adverse facts available. As adverse facts available, petitioners argue that the Department should use the higher of (1) the national average rate or (2) add the percentage fees that POSCO reported in 1997, for each of the bonds issued in the years 1992 through 1996.

Respondents state that in POSCO's submission to the Department regarding the company's bond issuances, POSCO stated that "the average percentage cost of bond issuance fees is essentially the same for all years." Respondents contend that POSCO was clearly suggesting to the Department that adding the 1997 percentage fees to the average effective interest rates on its corporate bonds for each of the prior years was appropriate given that the relatively small bond issuance fees were difficult to obtain for the period 1992 through 1996.

Department's Position. In their submissions to the Department, respondents concede that the bond issuance fees which POSCO paid in 1997, are the appropriate basis for the adjustment to construct a long-term interest rate benchmark for the years 1992 through 1996. Therefore, in constructing the long-term interest rate benchmarks for the final determination, we have added to POSCO's average interest rate on its corporate bonds for each year 1992 through 1996, the bond issuance fees POSCO paid in 1997. *See* "Benchmarks for Long-term Loans and Discount Rates" section above for a further discussion of the Department's analysis.

Comment 14: Energy Savings Fund Loans. In their case brief, petitioners argue that while the Department accurately derived the grant equivalent for each of POSCO's Energy Savings Fund Loans (ESF loans), it miscalculated its allocation of the grant benefits by (1) not using the life of the loan as the allocation period, and (2) not starting the allocation of the loans in 1994. Petitioners assert that the Department should correct these errors in the final determination.

Petitioners also state that the Department is correct in countervailing the ESF loans provided to POSCO as the preferred terms of the loans were specific to POSCO and provided a benefit. Further, as policy loans, the ESF loans were monitored and implemented by the GOK. The GOK, in keeping with its policy of maintaining stringent controls on the Korean financial system, controlled the ESF loan program and determined the maximum interest rate for ESF loans. Therefore, the Department should affirm its preliminary determination that the ESF loans are countervailable because (1) the loans provided a benefit to POSCO, and (2) the loans were specific, in that POSCO was the only recipient of the preferential rate.

Respondents note that in the preliminary determination, the Department found that POSCO received two ESF loans and that the interest rates paid by POSCO on these loans were less than the 7.0 percent rate purportedly prescribed by the program. On this basis, the Department determined that these loans to POSCO were specific and, thus, countervailable. However, based on the Department's findings at verification with respect to the maximum interest rate prescribed by the program and the interest rates charged to POSCO, the respondents contend that

the Department should revisit its preliminary determination.

Respondents claim that the record evidence demonstrates that POSCO was treated in accordance with the lending guidelines set by the Korea Energy Management Corporation (KEMC), and in accordance with the commercial lending practices of the Korea Exchange Bank (KEB). Respondents state that while POSCO did receive an interest rate slightly lower than the ceiling amount set by the KEMC, this rate was set based upon the KEB's desire to induce future business from POSCO, and not upon any government-directed preferential basis. Moreover, the respondents state that the record demonstrates that ESF loans were not specifically provided to POSCO, as 80 percent of the ESF loans recommended by the KEMC each year were for small- and medium-size enterprises, not for POSCO or the steel industry. Accordingly, the Department should determine that ESF loans are not specific and thus not countervailable.

Department's Position. In the preliminary determination, we treated the ESF Loans as a separate program because, at that time, we required additional information on the GOK's credit policies during the period 1992 through 1997. As noted above in the "Direction of Credit" analysis section, we have determined that the GOK maintained direct control over many sources of long-term credit, including lending from government-owned and/or controlled banks during the years 1992 through 1997. We, therefore, find that all loans, including policy loans, such as the ESF loans, which POSCO received from government-owned and controlled banks are countervailable.

Given that the KEB, the bank from which POSCO received the ESF loans, is a government-owned bank, and the fact that loans under the ESF program are government policy loans, we have determined that it is not appropriate to treat the ESF loans as a separate program. Accordingly, ESF loans are countervailable based upon our analysis of the GOK's direction of credit. *See* "Direction of Credit" section above for a further discussion of the Department's analysis. The benefit from the ESF loans is included in the benefit calculation under the "Direction of Credit" program. In determining the benefit the loans provided to POSCO during the POI, we used the life of the loan as the allocation period and began the allocation in 1994, for the final calculations.

Comment 15: The GOK's Pre-1992 Investments Constitute Non-Countervailable "General Infrastructure". Respondents state that in the preliminary determination, the Department relied exclusively upon its decision in *Steel Products from Korea*, to find that the GOK's investments at Kwangyang Bay during the period 1983–1991, provided countervailable subsidies to POSCO. Respondents note that the final determination of *Steel Products from Korea*, however, was made under the Pre-Uruguay Round law and on a different factual record. Therefore, in order to carry out its statutory mandate, the Department must apply the Post-Uruguay Round law to the facts presented in this instant investigation, and revisit its preliminary determination. Under section 771(5)(B) of the Act, there is now a requirement that a financial contribution must be provided by the government in order for a countervailable subsidy to exist. Respondents further argue that under section 771(5)(D)(iii) of the Act, the term "financial contribution" does not include the provision of general infrastructure.

Respondents state that, although the Department's administrative determinations, and the statute itself, are silent as to the definition of "general infrastructure" under the new law, the Department's new CVD regulations are instructive. Respondents note that § 351.511(d) of the new regulations defines "general infrastructure" as "infrastructure that is created for the broad societal welfare of a country, region, state, or municipality." *See CVD Final Rules.*

Respondents explain that the GOK has established a system of national industrial estates as part of a broad plan for the efficient development of Korea. The Kwangyang Bay industrial estate, one of 200 industrial estates, was established under this national industrial estate program. They contend that when analyzed within the context of this national industrial estate system that is planned, created, and administered under central government control, it becomes obvious that these infrastructure investments constitute "general infrastructure." They assert that the record evidence demonstrates that these infrastructure investments are: (1) Generally available to all industries and companies in Korea, and (2) are provided to aid public welfare by advancing the economic development of Korea. Further, they note, as stated in Article 1 of the Industrial Sites and Development Act, "The purpose of this Act is to promote the balanced development of national land and sustained industrial progress through the efficient supply of industrial locations and appropriate placement of industry, thereby contributing to the sound development of the national economy." Therefore, respondents argue that under the Post-Uruguay Round law and the basic standard for general infrastructure articulated in § 351.511(d) of the new regulations, the GOK's pre-1992 infrastructure investments at Kwangyang Bay constitute non-countervailable "general infrastructure."

Petitioners note that the Department in the past has found that the Kwangyang Bay investments do not constitute general infrastructure. *See Preliminary Determination*, 63 FR at 47257, and *Steel Products from Korea*, 58 FR at 37346–47. Petitioners note that in *Steel Products from Korea*, the Department found that because the infrastructure provided to POSCO at the Kwangyang Bay Industrial Estate failed at least two of the three prongs of the infrastructure test, the provision of the infrastructure is specific. Petitioners argue that POSCO remains the primary user of the Kwangyang Bay port facilities, accounting for approximately 40 percent of all incoming and outgoing traffic between 1992 and 1997 and, therefore the Department should affirm its preliminary finding.

Department's Position. Respondents are correct when they assert that general infrastructure is not considered to be a financial contribution under 771(5)(D)(iii) of the Act. However, they are incorrect when they state that the infrastructure development at Kwangyang Bay constitutes general infrastructure. As respondents have acknowledged, the statute is silent as to the definition of "general infrastructure;" however, they note that the Department's new CVD regulations are instructive. *See CVD Final Rules*, 63 FR at 65412. While the new CVD regulations are not applicable to this case because this investigation was initiated before the effective date of these regulations, we are referring to them, in part, for guidance as to what constitutes "general infrastructure."

The new CVD regulations define general infrastructure as "infrastructure that is created for the broad societal welfare of a country, region, state or municipality." Thus, any infrastructure that does not satisfy this public welfare concept is not general infrastructure and is potentially countervailable. Therefore, the type of infrastructure *per se* is not dispositive of whether the government provision constitutes "general infrastructure." Rather, the key issue is whether the infrastructure is developed for the benefit of the society as a whole. For example, interstate highways, schools, health care facilities, sewage systems, or police protection

would constitute general infrastructure if we found that they were provided for the good of the public and were available to all citizens and members of the public. Infrastructure, such as industrial parks and ports, special purpose roads, and railroad spur lines that do not benefit society as a whole, does not constitute general infrastructure within the meaning of the new CVD regulations, and is countervailable if the infrastructure is provided to a specific enterprise or industry and confers a benefit.

The infrastructure provided at Kwangyang Bay was not provided for the good of the general public; instead, it was built to support POSCO; therefore, it does not constitute "general infrastructure." It is clear from the record that the infrastructure provided for POSCO's benefit at Kwangyang Bay is *de facto* specific, and that POSCO is the dominant user. *See Steel Products From Korea*, 53 FR at 37346–47. Therefore, the infrastructure at Kwangyang Bay is countervailable. Indeed, the "Explanation of the Final Rules" (the Preamble) to the new CVD regulations, which respondents assert are instructive on this issue, specifically cites to the infrastructure provided at Kwangyang Bay in *Steel Product From Korea* as an example of industrial parks, roads, rail lines, and ports that do not constitute "general infrastructure," and which are countervailable when provided to a specific enterprise or industry. *See CVD Final Rules*, 63 FR at 65378–79.

Comment 16: GOK's Pre-1992 Investments Are Not Countervailable Because They Are "Tied' To Kwangyang Bay. Respondents state that, in the preamble to the new regulations, the Department has adopted the practice of attributing subsidies that can be "tied" to particular products to those products. *See CVD Final Rules*, 63 FR at 65400. With respect to the instant investigation, respondents argue that the alleged subsidies are "tied" to the products that are produced at POSCO's Kwangyang Bay facility. Since the subject merchandise is not produced at the Kwangyang Bay facility, the subject merchandise does not benefit in any way from the allegedly subsidized general infrastructure at Kwangyang Bay. Respondents contend that it would run counter to the Department's practice, and common sense, to attribute countervailable benefits to products that cannot benefit from the alleged subsidies. They also note that under the Department's past practice, where a subsidy is "tied" only to non-subject merchandise, that subsidy is not attributed to the merchandise under investigation. *See Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India*, 62 FR 32297, 32302 (June 13, 1997).

Respondents argue that the Department was faced with a similar factual situation as the instant case in the *Final Affirmative Countervailing Duty Determination: Iron Ore Pellets from Brazil*, (*see*, 51 FR 21961, 21966 (June 17, 1986) (*Iron Ore Pellets from Brazil*)). In that case, petitioners argued that infrastructure and regional tax benefits provided to the Carajas mine project should be attributed to the respondent even though respondent did not produce (or intend to produce) subject merchandise at the Carajas mine project. The Department rejected petitioners' argument finding that the infrastructure and tax benefits were, by definition, only for the Carajas mine project. Because the respondent did not produce subject merchandise at the Carajas mine project, the Department did not consider this program countervailable with respect to subject merchandise.

Respondents contend that, rather than directly addressing the fact that the alleged subsidies are tied to Kwangyang Bay, the Department has instead mis-cited to its earlier finding in *Steel Products from Korea*. They note that in the preliminary determination of the instant investigation the Department claims that the alleged subsidy in *Steel Products from Korea* was treated as "untied." However, respondents state that nowhere in *Steel Products from Korea* does it state that the alleged subsidy was being treated as "untied." In fact, respondents state that the issue of whether the subsidies were tied or untied never arose in that investigation because the subject merchandise was produced at both of POSCO's steel facilities and, therefore, it was unnecessary for the Department to characterize the alleged subsidy as either "tied" or "untied." They argue that in mischaracterizing its finding in *Steel Products from Korea*, the Department is attempting to bootstrap that finding into the instant investigation.

In their rebuttal brief, petitioners reject the respondents' argument that the Department is attempting to bootstrap its finding in *Steel Products from Korea* into the instant investigation. In *Steel Products from Korea*, petitioners state that the Department, by dividing the benefit attributable to the POI by POSCO's total sales, clearly treated the grants as untied benefits. *See Steel Products from Korea*, 58 FR at 37347. Therefore, petitioners argue the Department should continue to find Kwangyang Bay infrastructure investments "untied" in the final determination.

Department's Position. First, we note that the attribution, or "tying," of a subsidy to a particular product or market is a long-standing policy of the Department, not one recently adopted in the new CVD regulations. Also, it has been the practice of the Department to attribute the benefit conferred from an "untied" domestic subsidy to the recipient's total sales. (This is how the subsidy rate was calculated for the Kwangyang Bay subsidy in *Steel Products from Korea*.) By contrast, if the subsidy was, for example, tied to export performance, then the Department would only attribute the benefit of the subsidy to the recipient's export sales.

Respondents' argument that the infrastructure subsidy provided to POSCO is tied to only certain of POSCO's production is flawed. Part of respondents' argument rests upon the premise that a regional subsidy can be tied to only the subsidy recipient's production in that region. If this allocation methodology were adopted and the Department tied regional subsidies to production in a particular region, the Department would essentially be forced to calculate factory-specific subsidy rates. In addition, if such a methodology were applied, then foreign companies could easily escape collection of countervailing duties by selling the production of a subsidized region domestically, while exporting from a facility in an unsubsidized region. This allocation methodology has been clearly rejected by the Department. *See, e.g., Final Negative Countervailing Duty Determination: Fresh Atlantic Salmon from Chile*, 63 FR 31437, 31445–46 (June 9, 1998) (stating, "[T]he Department does not tie the benefits of federally provided regional programs to the product produced in the specified regions.") Indeed, the Department has explicitly rejected this argument in the new CVD regulations cited by respondents in support of their argument on this issue. *See CVD Final Rules*, 63 FR at 65404. The infrastructure development at Kwangyang Bay provided a benefit to POSCO and, as discussed further below, the benefit from the subsidy is untied and is attributed to POSCO's total sales.

Respondents' argument is also flawed because respondents have misinterpreted the attribution methodology. Attribution of the benefit of a subsidy is based upon the information available at the time of bestowal. The concept of "tying" a

subsidy at the time of bestowal can be traced back to *Certain Steel Products from Belgium*. *See Final Affirmative Countervailing Duty Determination: Certain Steel Products from Belgium*, 47 FR 39304, 39317 (September 7, 1982). At the time of bestowal of the subsidy conferred by the Kwangyang Bay infrastructure, the benefit of the subsidy was to POSCO, not to a specific product line. Thus, the benefit cannot be tied to any specific product, but instead, is an untied benefit provided by the GOK to POSCO. *See Final Results of Redetermination Pursuant to Court Remand* (April 20, 1995) *in British Steel PLC, v. United States* Slip Op. 95–17 (February 9, 1995) at 35 and 36. Once it is determined that an untied subsidy has been provided to a firm, the Department will attribute that untied subsidy to the firm's total sales, even if the products produced by the firm differ significantly from the time when the subsidy was provided. The Department will not examine whether product lines have been expanded or terminated since the time of the subsidy's bestowal.

Finally, we note that respondents' reliance on *Iron Ore Pellets from Brazil* is misplaced. First, in both *Iron Ore Pellets from Brazil* and in the Kwangyang Bay subsidy at issue in this investigation, the determination of attribution of a subsidy was made at the time of bestowal, which is consistent with Department policy. Thus, in both cases, the Department applied the same standard in determining whether a subsidy was tied or untied. Second, the subsidy alleged in *Iron Ore Pellets from Brazil* was alleged to have been provided to an input into the subject merchandise, an issue distinct from the issue in the instant investigation. We further note that the treatment of input subsidies at issue in *Iron Ore Pellets from Brazil* has changed since 1986. *See e.g.*, § 351.525(b)(6)(iv) of the *CVD Final Rules and Final Results of Countervailing Duty Administrative Review: Industrial Phosphoric Acid from Israel*, 63 FR at 13626 (March 20, 1998). Thus, if the identical subsidy issue cited in *Iron Ore Pellets from Brazil* were before the Department today, it is uncertain whether the same decision would be made in 1999 as was made in 1986.

Comment 17: The Department Erred In Treating The Alleged Benefit To POSCO As A Grant. Respondents note that, in the preliminary determination, the Department determined that the GOK's costs of constructing the infrastructure at Kwangyang Bay constituted grants to POSCO. In treating these costs as grants to POSCO, respondents argue, the Department has ignored the fact that the GOK owns these facilities and charges POSCO the normal user fees for the services provided. They assert that it is erroneous as a matter of law and contrary to Department precedent to countervail as grants infrastructure that the respondent does not own and where normal user fees are paid to use the infrastructure services. (*Citing*, sections 771(5)(D)(i) and (E)(iv) of the Act, and the *Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid from Israel*, 52 FR 25447, 25451 (July 7, 1987) (*Industrial Phosphoric Acid from Israel*).)

Respondents contend that rather than treating the infrastructure investments as grants, the Department should have analyzed the issue as one of whether the infrastructure services were provided "for less than adequate remuneration," citing section 771(5)(E)(iv) of the Act. They note that adequacy of remuneration is the new statutory provision for determining whether the government's provision of a good or service constitutes a countervailable subsidy. According to section 771(5)(E) of the Act, the adequacy of remuneration with respect to a government's provision of a good or service shall be determined in relation to prevailing market conditions (*i.e.*, price, quality, availability, marketability, transportation, and other conditions of purchase or sale) for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review.

Respondents state that the Department addressed a similar issue in *Industrial Phosphoric Acid from Israel*. At issue in that case were certain rail lines built (and owned) by the Israeli government for "the almost exclusive use of a few chemical companies. *See Industrial Phosphoric Acid from Israel*, 52 FR at 25447. The Department recognized that any benefit to be derived from the infrastructure was related to the use of that infrastructure, and since the respondent in question paid for such use, the question was whether the payments for such use were higher or lower than those paid by other users for similar services. The Department determined that the rates paid were not preferential and, therefore, that no benefit or subsidy existed.

Respondents also state that in *Certain Steel Products from Brazil*, the Department applied a similar analysis. In that case, the Department determined that "The fees charged . . . reflected standard fees applied to all users of port facilities, thus, they are non-specific." *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Brazil*, 58 FR at 37295 (July 9, 1993) (*Certain Steel Products from Brazil*), and *Final Affirmative Countervailing Duty Determination: Carbon Steel Wire Rod from Trinidad and Tobago*, 49 FR 480, 486 (Jan. 4, 1984) (*Carbon Steel Wire Rod from Trinidad and Tobago*).

Respondents argue, in the alternative, that if the Department continues to treat these benefits as "grants," then these grants must be pro-rated based upon the actual benefit to POSCO. They note that the GOK provided information on the use of these facilities and, where possible, POSCO's portion of the total usage during the POI. Since POSCO is not the only company that benefits from the infrastructure investments at Kwangyang Bay, the Department cannot simply attribute the entire benefit from the GOK's infrastructure investments to POSCO. The benefit found must be allocated proportionate to POSCO's use of these facilities at Kwangyang Bay during the POI.

In their rebuttal brief, petitioners state that respondents are blurring the distinction between the original provision of specific infrastructure investments and the adequacy of remuneration of fees charged for the future use of the infrastructure. In addition, petitioners argue that the investment grants should not be "pro-rated" based on POSCO's use of the facilities, because POSCO is the dominant beneficiary. Petitioners note that in *Steel Products from Korea*, the Department determined that Kwangyang Bay was specifically designed for POSCO. *See Steel Products from Korea*, 58 FR at 37347.

Department's Position. The Kwangyang Bay infrastructure subsidy under investigation in *Steel Products from Korea* and in this investigation is not the fee charged by the government for use of rail and port facilities, as was the issue in the cases cited by respondents. Indeed, we found an alleged program providing "preferential" port charges to the Korean steel industry not to exist in *Steel Products from Korea*. Therefore, the cases cited by respondents are not relevant to the treatment of the Kwangyang Bay subsidy.

The benefit under this subsidy program to POSCO was the creation of Kwangyang Bay to support POSCO's construction of its second integrated steel mill. The building of this infrastructure to support POSCO's expansion, which was planned years before POSCO commenced production at Kwangyang Bay, was the benefit

countervailed in *Steel Products from Korea* and in this investigation. Thus, the benefit conferred by this subsidy program to POSCO, and the benefit that must be measured, is the construction of these facilities, rather than the fees charged to POSCO for their use. Therefore, it is reasonable to measure the benefit from this program by treating the costs of constructing the Kwangyang Bay facilities for POSCO as nonrecurring grants.

In addition, we also disagree with respondents' argument that we pro-rate this subsidy between POSCO and to other companies currently located at Kwangyang Bay. Again, respondents have misinterpreted the nature of the benefit. The infrastructure at Kwangyang Bay was built to support POSCO's expansion and its creation of its second integrated steel mill. Therefore, the program is a subsidy provided to POSCO, and the benefit from the program is properly attributed to POSCO.

Comment 18: POSCO'S Exemption From Port Facility Fees. Respondents note that in the preliminary determination, the Department determined that POSCO's exemption from paying port facility fees provides a countervailable subsidy to POSCO. In reaching this conclusion, respondents argue that the Department incorrectly determined that: (1) A "financial contribution" had been provided to POSCO because it was exempt from paying port facility fees that it otherwise would have to pay; and (2) that the subsidy was "specific" because POSCO was the only company exempt from paying port facility fees during the POI. Respondents also argue that in reaching this preliminary determination, the Department failed to address section 771(5)(B) of the Act, which requires that a government action must confer a benefit in order to be considered a countervailable subsidy.

As to the "financial contribution" requirement, the respondents argue that but for the existence of a law (*i.e.*, Article 17–1 of the Harbor Act) compelling POSCO to cede title to the port facilities it built to the GOK, the issue of these fees would not arise because POSCO would simply own the facilities outright (and not have to pay fees to itself). Because POSCO ceded title to the port facilities to the GOK, the Department claims that a benefit arises because POSCO does not currently pay fees to use the facilities it built. Respondents, however, argue that the GOK is merely recognizing POSCO's costs and the statutorily-authorized payment for construction costs incurred by a private party. Therefore, according to respondents, the port fee exemption does not constitute a "financial contribution" under the new law.

Moreover, respondents state that the Department verified that port fee exemptions are not limited to companies at Kwangyang Bay. Rather, this program is commonly used by the GOK with respect to all ports in Korea as a means of encouraging private companies to raise the capital to develop port facilities throughout the country. Respondents also argue that this verified information demonstrates that fee exemptions, *i.e.*, free usage, was not specific to POSCO because a variety of companies which built and reverted port facilities to the GOK under Article 17(1) of the Harbor Act received comparable exemptions. Therefore, the Department should find that POSCO's exemption from port fees does not constitute a countervailable subsidy.

Petitioners argue that the benefit conferred upon POSCO is the fact that at the end of its fee exemption and fee collection period, POSCO will have paid nothing to use the facilities which furthered the company's business interests. Moreover, petitioners argue that more than half of the fee exemptions provided at Kwangyang Bay were conferred upon POSCO. Petitioners assert that under the Department's *de facto* specificity analysis, POSCO has been the predominant beneficiary of fee exemptions at Kwangyang Bay.

Department's Position. We agree with respondents that the port fee exemption is not specific to POSCO because POSCO was not the only company exempt from paying port facility fees during the POI. At verification, we obtained information which indicated that port fee exemptions are not limited to companies at Kwangyang Bay. Moreover, the verified information demonstrates that fee exemptions were not specific to POSCO as a large number of companies from a diverse and broad range of industries built and transferred port facilities to the GOK under Article 17(1) of the Harbor Act received comparable exemptions. For a further discussion of the Department's analysis see the section "Port Facilities Fees" above.

Comment 19: Port Facility Fees Collected by POSCO. Petitioners state that in the preliminary determination the Department failed to countervail port facility fees which POSCO collected from other users during the POI. Petitioners state that in addition to the revenues foregone by the GOK for POSCO's free use of the facilities, the GOK authorized POSCO to collect fees from other users. They note that the Department confirmed at verification, the amount of fees which POSCO collected from other users during the POI. Petitioners argue that as with the exemption of port fees, POSCO has received a financial contribution that is recurring and specific to POSCO since no other company is eligible for this benefit with regard to these facilities. Therefore, in the final determination, the Department should countervail fees collected by POSCO.

Respondents state that Article 17(3) of the Harbor Act and the Regulations on 20-year Repayment of Investment provide that companies shall be reimbursed for their investments through the temporary exemption from paying port facility fees and the right to collect fees from other users. They assert that the fees collected from other users simply serve as an additional form of reimbursement permitted by the GOK until POSCO recoups its investment costs. They stress that this option is available to all companies that revert port facilities to the GOK. Moreover, as argued in POSCO's case brief, these fees do not constitute a financial contribution or benefit to POSCO.

Department's Position. The Department disagrees with petitioners and finds that the fees which POSCO collected from other users of the infrastructure facilities which the company build are not countervailable. For the same reasons as outlined above in the *Department's Position* to *Comment 18*, we determine that POSCO's ability to collect fees from other users is not specific under section 771(5A)(D)(iii) of the Act.

At verification, we learned that Article 17(3) of the Harbor Act and the companion Presidential Decree provide that companies shall be reimbursed for their investments through the temporary exemption from paying port facility fees and the right to collect fees from other users. All companies which build infrastructure that has to be transferred to the GOK receive free usage of the infrastructure and the ability to collect user fees from other companies which use the facilities, until the investment cost of the facility is recovered. The fees which POSCO collected from other users simply serve as an additional form of reimbursement permitted by the GOK until POSCO recoups its investment costs. This option is available to all companies that transfer port facilities to the GOK. Because, POSCO was only one of a large number of companies from a diverse and broad range of industries which was authorized to collect users fees, we determine that this program is not specific under section 771(5A)(D)(iii) of the Act. *See* the "Port

Facilities Fees" section above for a further discussion of the Department's analysis.

Comment 20: Adjustment of the Gross Countervailable Subsidy from the Investment Tax Credits. Respondents do not dispute the Department's preliminary finding that certain investment tax credits received by POSCO conferred countervailable subsidies during the POI, because the level of benefits received was contingent upon the use of domestic goods instead of imported goods. However, as a result of verification, the respondents argue that the Department needs to adjust the gross subsidy amounts calculated for certain years. In the preliminary determination, the Department noted that POSCO deducted from its tax return for fiscal year 1996 (filed during the POI in 1997) tax credits earned in the years 1992 through 1995, which had been carried forward and used in fiscal year 1996. As discussed in the preliminary determination, the Department "calculated the additional amount of tax credits received by the company because it earned tax credits of 10 percent on investments in domestically-produced facilities' rather than at the regular rates for the respective tax credits. The Department then calculated the portion of the total tax credits earned in each year attributable to the 10 percent rate and applied that percentage to the total of all tax credits claimed for that year during fiscal year 1996. On this basis, the Department calculated the countervailable subsidy from these investment tax credits for the POI.

Respondents presume that the Department chose this methodology for calculating the amount of the countervailable tax credits attributable to fiscal year 1996, because, although it knew the total amount of the tax credits from each year that were used in fiscal year 1996, it could not determine for every year which tax credits were being used. Respondents note that this problem was resolved at verification when POSCO provided a detailed breakdown, by TERCL article, of the amounts claimed for each tax credit in fiscal year 1996. With this verified information, they state, the Department need only determine the amount to be allocated to fiscal year 1996, for one tax credit earned in 1992, Article 26, and for one tax credit earned in 1995, Article 25. Respondents propose that in calculating the benefit conferred by the investment tax credits, the Department should use the subsidy amounts calculated in the Department's August 28, 1998 Calculation Memo for Article 71 in 1993, Articles 10(1)(a), 25, 26 and 27 in 1994, and Articles 10(1)(a), 10(1)(b) and 26 in 1995, in conjunction with the allocable amounts for Article 26 in 1992 and Article 25 in 1995, to calculate the total gross subsidy from investment tax credits which POSCO used in its fiscal year 1996 tax return.

Department's Position. We agree that, as a result of the information obtained at verification with respect to those specific investment tax credits which POSCO utilized in its 1996 tax return, the calculations for determining the benefit conferred by the investment tax credits during the POI should be revised. However, we disagree with the respondents' proposed methodology for calculating the benefit. Respondents have not demonstrated to the Department that their proposed methodology would more accurately calculate the benefit POSCO received through the use of investment tax credits, than the methodology employed by the Department in the preliminary determination.

As discussed above in the section "Investment Tax Credits," to calculate the benefit from this tax credit program, we examined the amount of tax credits POSCO deducted from its taxes payable for the 1996 fiscal year. POSCO deducted from its 1996 taxes payable all remaining credits earned in the years 1992, 1993, 1994, and a portion of credits earned in 1995. With this information, we first determined the amount of the tax credits claimed which were based upon the investment in domestically-produced facilities. We then calculated the additional amount of tax credits received by the company because it earned tax credits of 10 percent on investments in domestically-produced facilities instead of a three or five percent tax credit. Next, we calculated the amount of the tax savings earned through the use of these tax credits during the POI and divided that amount by POSCO's total sales for the POI. On this basis, we calculated the countervailable subsidy from these investment tax credits for the POI. *See* "Investment Tax Credits" section above for a further discussion of the Department's analysis.

Comment 21: Deduction of the Amount of the STRD Tax POSCO Paid On Certain Investment Tax Credits. Respondents explain that, pursuant to the Special Tax for Rural Development (STRD), certain investment tax credits are subject to a 20 percent surtax on the amount of tax exemptions claimed from the corporation income tax as a result of receiving tax credits. Respondents state that POSCO provided copies of its tax schedule from its fiscal year 1996 income tax return calculating the amount of the surtax and a copy of the law governing the STRD tax. As demonstrated in POSCO's calculation of its applicable STRD tax for fiscal year 1996, respondents state the total amount of tax credits claimed under TERCL Articles 25, 26, 27, and 88 in that year were subject to the STRD tax at the rate of 20 percent.

Respondents note that according to section 771(6) of the Act, the Department:

> may subtract from the gross countervailable subsidy the amount of—(A) any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy. * * *

Thus, respondents argue, section 771(6) of the Act, provides the legal basis for determining the amount of the net countervailable subsidy arising from the investment tax credits used by POSCO in fiscal year 1996.

Respondents state that POSCO was required to pay the 20 percent STRD tax in conjunction with its receipt of investment tax credits under TERCL Articles 25, 26 and 27. In the absence of these tax credits (as well as the tax credit under TERCL Article 88, which respondents claim the Department found to be not countervailable), POSCO would not have had to pay any STRD tax. Therefore, consistent with section 771(6), POSCO's receipt of the benefit from these tax credits was contingent upon its payment of the STRD tax. They argue that the obligation to pay the STRD tax is not a situation where there is any uncertainty as to the amount of the STRD tax due or the net benefit to POSCO from the tax credits. The payment of the STRD tax is not a secondary consequence of a tax program, where the effects "are too uncertain to be a necessary part of a subsidy calculation." (*Quoting, Michelin Tire Corp.* v. *United States*, 6 CIT 320, 328 (1983), vacated on other grounds, 9 CIT 38 (1985) (*Michelin Tire*).) They assert that the full tax consequences of using these investment tax credits are direct, known, and quantifiable at the time the tax credits are used. Respondents further note that a company can claim the tax credits only insofar as it has taxable income and, when it claims certain tax credits, there is a clear legal obligation to pay the STRD tax at a fixed percentage rate.

Petitioners argue that respondents' suggestion that the amount of STRD tax paid qualifies as a statutory offset to the investment tax credit benefits should be rejected by the Department. Petitioners assert that this type of "after-the-fact" tax does not qualify as a permissible

offset. They note that the statute specifically defines the type of offsets that can be subtracted from a countervailable benefit, (*i.e.*, application fee, deposit, or similar payment in order to qualify for, or receive the benefit). However, they note, the STRD is not mandatory prior to receipt of the subsidy, but rather, is a surtax levied post-receipt of the benefit.

Petitioners argue that respondents are asking the Department to examine the secondary tax effects of subsidies. Petitioners note that the Court has affirmed the Department's policy to disregard any secondary effect of a direct subsidy on a company'' financial performance. (*Citing, Saarstahl AG* v. *United States,* 78F.3d 1539, 1543 (Fed. Cir. 1996); *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India,* 63 FR 64050, 64054 (Nov. 18, 1998).) Therefore, petitioners argue that the Department must countervail in full the investment tax credit benefits.

Department's Position. We agree with petitioners. Not only is it the Department's long-standing policy to disregard secondary tax consequences of countervailable benefits, but the statute is also clear with regard to permissible offsets to subsidies. Section 771(6) of the Act provides an exclusive list of offsets which may be deducted from the amount of a gross subsidy, and a tax which is payable upon receipt of a benefit is not included in that list. For purposes of determining the net subsidy, the Department, pursuant to section 771(6), may subtract from the gross countervailable subsidy the amount of:

(A) Any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy,

(B) Any loss in the value of the countervailable subsidy resulting from its deferred receipt, if the deferral is mandated by Government order, and

(C) Export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the countervailable subsidy received.

In *Michelin Tire*, the Court upheld the Department's policy of disregarding secondary tax consequences, rejecting a claim that after-tax considerations should be included in the calculation of a subsidy. In its decision the Court stated that: ''(T)hese effects (secondary tax effects) are too uncertain to be considered a necessary part of a subsidy calculation in these circumstances.'' *See Michelin Tire*, 6 CIT 328. We note that the receipt of the investment tax credits are not contingent upon the payment of the STRD tax. The payment of STRD tax is a secondary tax effect. Thus, the payment of the STRD does not qualify as an offset which may be deducted from the amount of the gross subsidy. Therefore, based on the statute, case precedent, and the Department's policy to disregard secondary tax effects on subsidies, we have not altered our calculation of the countervailable subsidy which POSCO received from the investment tax credits during the POI.

Comment 22: Requested Load Adjustment Electricity Discount Program. Respondents note that, in the preliminary determination, the Department determined that discounts under the Requested Load Adjustment (RLA) program were countervailable because they were distributed to a limited number of customers during the POI. The Department stated, however, that it was going to further investigate the *de facto* specificity of this program at verification. Based upon the information that was obtained at verification, respondents argue, it is now clear that the RLA program is not *de facto* specific. Accordingly, in the final determination the Department should determine that the RLA program is not countervailable.

According to respondents, it is clear that Korea Electric Power Company (KEPCO) does not limit the availability of the RLA program. The Department learned at verification that some companies volunteer to participate in the RLA program, while KEPCO calls upon other companies to solicit their cooperation. In soliciting participants, KEPCO does not have a preference for companies in any particular industry sector as KEPCO contracts with any company willing to participate in the RLA program. The only limitations placed on availability arise from the threshold requirement that customers have a contract demand of 5,000 KW or more.

Second, respondents state that the verified record evidence demonstrates that during the 1995–1997 period a wide variety of users from various industries and all regions in Korea received benefits under the RLA program. While the number of recipients decreased significantly from 1996 to 1997, KEPCO officials explained that this was because KEPCO foresaw an increased ability to meet demand for electricity in 1997 and, therefore, decreased its targeted adjustment capacity, reducing the number of RLA participants needed. In 1997, 44 customers from various industries including textiles, electronics, cement and steel received benefits under the RLA during the POI.

Respondents state that another reason for the reduction in the number of participants was KEPCO's policy for reducing the administrative burdens of the RLA program by seeking out larger companies to participate in the RLA program so it can reach its targeted adjustment capacity with fewer participants. This policy, respondents explain, is why it may appear that a disproportionate number of the users are from the steel industry. In comparison to many other industries, steel companies require a large amount of electricity to power their machinery, plants, and furnaces. Since KEPCO is seeking to reduce the administrative burden of this program, it is only logical that they are going to seek out large electricity-intensive companies.

Accordingly, on the basis of the verified record evidence, respondents contend, the Department should determine that the RLA program is not *de facto* specific to POSCO or the steel industry, and thus not countervailable.

Petitioners state that of the 44 companies which received RLA discounts in 1997, a disproportionate amount of those benefits went to the iron and steel manufacturers. The second most represented industry which received discounts was the textile industry. Petitioners question why other ''electricity-intensive companies'' were not included in the list of the 44 companies which received discounts. Petitioners also note that KEPCO was unable to indicate what percentage of the 44 discount recipients were volunteers and what percentage was composed of selected participants. Petitioners assert that KEPCO must use discretion in allocating RLA discounts because of the limited number of users and the disproportionate use of the program by iron and steel manufacturers. Therefore, petitioners assert that the Department should uphold its preliminary determination and find that the RLA program is a *de facto* specific subsidy.

Department's Position. We disagree with the respondents and continue to find that the Request Load Adjustment electricity discount program is countervailable. We stated in the preliminary determination that, given the information the GOK provided on the record regarding KEPCO's increased capacity to supply electricity and the resulting decrease in KEPCO's need to enter into a large number of RLA contracts during the POI, we would further investigate the *de facto* specificity of this discount program at verification. We stated that it was the

GOK's responsibility to demonstrate to the Department on what basis KEPCO chose the 44 customers with which it entered into the RLA contracts during the POI.

However, at verification the GOK failed to demonstrate to the Department a systematic procedure through which KEPCO selects those customers with which it enters into RLA contracts. The GOK simply stated that KEPCO enters into contracts with those companies which volunteer for the discount program. If KEPCO does not reach its targeted adjustment capacity with those companies which volunteered for the program, then KEPCO will solicit the participation of large companies. We note that KEPCO was unable to provide to the Department the percentage of 1997 RLA recipients which volunteered for the program and the percentage of those recipients which were persuaded to cooperate in the program. Therefore, we continue to find that the discounts provided under the RLA were distributed to a limited number of users. Given the data with respect to the small number of companies which received RLA electricity discounts during the POI, we determine that the RLA program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act. *See* "Requested Load Adjustment Program" section above for the Department's complete analysis.

Verification. In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with the government and company officials, and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the CRU of the Department of Commerce (Room B–099).

Summary

In accordance with section 705(a)(3) of the Act, we determine that the total estimated net countervailable subsidy rate is 0.65 percent *ad valorem* which is *de minimis.* Therefore, we determine that no countervailable subsidies are being provided to the production or exportation of stainless steel plate in coils in Korea. Pursuant to section 705(c)(2) of the Act, this investigation will be terminated upon publication of the final negative determination in the **Federal Register**.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7529 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–791–806]

Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, Kathleen Lockard or Dana Mermelstein, Office of CVD/AD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

Final Determination

The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of stainless steel plate in coils from South Africa. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

Petitioners

The petition in this investigation was filed by Allegheny Ludlum Corporation, Armco, Inc., J&L Specialty Steel, Inc., Lukens, Inc., and United Steelworkers of America, AFL-CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization (the petitioners).

Case History

Since the publication of our preliminary determination in this investigation on September 9, 1998 (63 FR 47263), the following events have occurred.

We conducted verification of the countervailing duty questionnaire responses from November 2 through November 13, 1998. On January 2, 1999, we terminated the suspension of liquidation of all entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after that date, pursuant to section 703(d) of the Act. *See* the "Suspension of Liquidation" section of this notice. Because the final determination of this countervailing duty investigation was aligned with the final antidumping duty determination (*see* 63 FR 47263), and the final antidumping duty determination was postponed, the Department extended the final determination of the countervailing duty investigation until no later than March 19, 1999 (*see Countervailing Duty Investigations of Stainless Steel Plate in Coils from Belgium, Italy, the Republic of Korea, and the Republic of South Africa: Notice of Extension of Time Limit for Final Determinations*, 64 FR 2195 (January 13, 1999)). Petitioners, the Government of South Africa, and Columbus Stainless (the operating unit of Columbus Joint Venture) filed case briefs on January 11, 1999, and rebuttal briefs on January 19, 1999. A public hearing was held on January 21, 1999.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR 351 (1998).

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further

processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Injury Test

Because South Africa is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from South Africa materially injure, or threaten material injury to, a U.S. industry. On May 28, 1998, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from South Africa of the subject merchandise (*See Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 63 FR 29251).

Period of Investigation

The period for which we are measuring subsidies (the POI) is calendar year 1997.

Company History

In 1988, Samancor Limited (Samancor) and Highveld Steel and Vanadium (Highveld) formed the Columbus Joint Venture (CJV) to explore the possibility of establishing a 500,000-ton capacity, stainless steel facility in South Africa. In 1991, the partners examined the option of building a plant in South Africa and made a proposal to the Industrial Development Corporation of South Africa (IDC) that it take a capital stake in the joint venture. The IDC is a state-owned corporation, established in 1940 to further the economic development goals of the Government of South Africa (GOSA). The partners approached the IDC because it provides equity investments, and facilitates and guarantees financing for projects which contribute to the GOSA's economic development objectives. After being approached by the partners, the IDC performed a detailed analysis of the 1991 proposal and decided that it would participate in the investment subject to certain conditions: That the project be based on the expansion of an existing facility rather than on the construction of a new plant; and, that its implementation be delayed pending the establishment of a program providing tax benefits for capital investments.

To meet the IDC's condition, in October 1991, Samancor and Highveld purchased an existing stainless steel facility, the Middelburg Steel & Alloys (MS&A) company. In 1992, the partners again approached the IDC. Based on a revised proposal, the IDC conducted a detailed feasibility study to analyze the prospects for the venture. Based on the feasibility study, the IDC made a counterproposal which was accepted by the partners. (The counterproposal is detailed in the proprietary feasibility study. In general, it addresses the technical financial details of the IDC's participation in the CJV.) Samancor, Highveld, and the IDC entered into a new partnership agreement which is the basis for the current structure of the CJV. Effective January 1, 1993, the IDC became a one-third and equal partner in the venture.

The implementation of the CJV expansion project began in 1993 and was undertaken over the course of two and one-half years. The expansion was completed in 1995. Columbus Stainless, the operating unit of the CJV, produces a range of stainless steel products including subject merchandise.

Subsidies Valuation Information

Discount Rates: In identifying a discount rate, the Department's options are, in the following order of preference: (1) The cost of long-term fixed-rate debt of the firm in question, excluding loans found to confer a countervailable subsidy; (2) the average cost of long-term fixed-rate debt in the country in question; and (3) a rate which we consider to be most appropriate. *See Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments* 54 FR 23336, 23384 (May 31, 1989) (*1989 Proposed Regulations*). With respect to the Department's first preference, the only loans which Columbus had outstanding during the relevant period were loans guaranteed by the IDC/Impofin. *See* "IDC/Impofin Loan Guarantees" section below. With respect to the average cost of long-term fixed-rate debt in South Africa, because we were unable to obtain information about such debt for the purposes of the preliminary determination, we used the long-term government bond rate. We considered this rate to be the most appropriate rate as it was the only long-term fixed interest rate for which we had information during the relevant period. In the preliminary determination, we stated that we would seek a rate for the final determination that better reflects an average long-term commercial fixed interest rate in South Africa. Although we discussed commercial interest rates at length during our meetings with the IDC, the South African Reserve Bank, and commercial bankers, no information was provided that would enable us to determine a commercial long-term interest rate that could be used as the discount rate. As such, because the government bond rate does not represent a commercial rate, for purposes of this final determination, we have constructed a discount rate which we believe is more appropriate. For each of the years 1993 through 1997, we have averaged the government bond rate as reported by respondents with the "Lending Rate" reported in *International Financial Statistics*, December 1998, published by the International Monetary Fund. This publication indicates that the "Lending Rate" represents financing that "meets the short- and medium-term needs of the private sector." By averaging these two rates, we believe that we have identified a rate more appropriate than the rate used for the purposes of the preliminary determination, a rate which includes the necessary characteristics of both long-term borrowing and commercially-available interest rates. *See Department's Position* on *Comment 9* below.

Allocation Period: In the past, the Department has relied upon information from the U.S. Internal Revenue Service on the industry-specific average useful life of assets (AUL) in determining the allocation period for non-recurring subsidies. *See General Issues Appendix (GIA)*, 58 FR 37225, 37227, appended to the *Final Countervailing Duty Determination; Certain Steel Products*

from Austria, et al., 58 FR 37217 (July 9, 1993). However, in *British Steel plc* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the AUL of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc* v. *United States*, 929 F. Supp. 426, 439 (CIT 1996) (*British Steel II*). In accordance with our new practice following *British Steel II*, we intend to determine the allocation period for non-recurring subsidies using company-specific AUL data where reasonable and practicable. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16551, 16552 (April 7, 1997). When such data are not available (or are otherwise unusable), our practice is to rely upon the IRS depreciation tables.

Columbus did not provide the information necessary to calculate a company-specific AUL. Therefore, we are relying on the Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (Rev. Proc. 77–10, 1977–1, C.B. 548 (RR–38) (*IRS Tables*), which report a schedule of 15 years for the productive equipment used in the steel industry. *See* the *Department's Position* on *Comment 10* below.

I. Programs Determined To Be Countervailable

A. Section 37E Tax Allowances

The GOSA enacted Section 37E of the Income Tax Act in 1991 to promote capital investment and thereby foster long-term economic development. This program was intended as a "kick-start" for the South African economy and was limited to investments made between September 1991 and September 1993. The purpose of the program was to encourage investment in large industrial expansion projects in value-added sectors of the economy. For projects approved as valued-added processes, Section 37E allows for depreciation of capital assets and the deduction of pre-production interest and finance charges in advance, that is, in the year the costs are incurred rather than the year the assets go into use. The program also allows taxpayers in loss positions to receive "negotiable tax credit certificates" (NTCCs) in the amount of the cash value of the Section 37E tax deduction (*i.e.*, deduction multiplied by the tax rate). The NTCCs can be sold (normally at a small discount) to any other taxpayer, who then can use them to pay taxes. The program does not provide for accelerated depreciation, nor does it provide for additional finance charge-related deductions beyond those available under the South African tax code. The advantage to users of this program is the receipt of these tax deductions in advance, *i.e.*, when the expenses are incurred rather than when the equipment is put into use.

According to the questionnaire response, eligibility for Section 37E benefits was determined on a project-by-project basis by a committee appointed by the Minister of Finance in concurrence with the Minister of Trade and Industry. To demonstrate that their projects qualified for Section 37E, applicants were required to show: (1) That the project would add at least 35 percent to the value of the raw material or intermediate product processed; (2) that the project would be carried out on an internationally competitive scale; and (3) that the taxpayer would utilize foreign term credits, where possible, when financing the import of capital goods for the project. In addition, qualifying investments had to be made between September 12, 1991 and September 11, 1993.

The CJV began receiving Section 37E benefits in 1993, two years before the 1995 completion of the plant expansion. Because the CJV is a partnership rather than a tax-paying corporation, Section 37E benefits earned by the CJV are claimed by the partners.

When determining whether a program is countervailable, we must examine whether it is an export subsidy or whether it provides benefits to a specific enterprise, industry, or group thereof, either in law (*de jure* specificity) or in fact (*de facto* specificity). *See* Sections 771(5A)(A), (B), and (D) of the Act. For the *Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Determination: Stainless Steel Plate in Coils from South Africa*, 63 FR 47263, 47265 (September 4, 1998) (*Preliminary Determination*), we determined that Section 37E provided benefits which were *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act, because the number of users of the program was limited. (63 FR at 47265.) However, in the memorandum accompanying our preliminary determination, we noted that "... information on the record suggests that an applicant's export performance may have been considered during the approval process. While there is not enough information in the record at this time to conclude that benefits provided under Section 37E constitute a *de facto* export subsidy, we will continue to examine this question for the final determination." *See* August 28, 1998, Memorandum to Maria Harris Tildon, Acting Deputy Assistant Secretary for AD/CVD Enforcement II, "Decision Memorandum: Countervailing Duty Investigation of Stainless Steel Plate in Coils from South Africa" at 7, public version on file in the Central Records Unit, room B–099 of the main Commerce Building (CRU) (*Decision Memorandum*). Under section 771(5A)(B) of the Act, a subsidy is an export subsidy if it is, "in law or in fact, contingent upon export performance, alone or as 1 of 2 or more conditions."

We now have a fuller understanding of the legislation which implemented the program, amendments which were made to that legislation, and the timing of Columbus' application and approval for benefits under the program. At verification, we learned that Section 37E amending the Tax Act of 1962 was published in the *Official Gazette* on July 17, 1991 and became effective September 12, 1991. To be eligible for Section 37E, an applicant had to show that the planned investment was in a "beneficiation process," which was defined as a process which: "(a) Substantially adds to the value of the product processed; (b) is carried on on such a scale that it is competitive in the international market; and (c) is carried on with the intention of exporting at least 60 percent (or such lesser percentage as the committee may determine) by value of the product produced to countries outside the customs union." *See* the December 16, 1998, "Memorandum to David Mueller, Director, Office of CVD/AD Enforcement VI, on Countervailing Duty Investigation of Stainless Steel Plate in Coils from South Africa: Verification Report of the Government of South Africa," at 15 and Verification Exhibit SARS–1 at 3, public version on file in the CRU (*Government Verification Report*).

In 1992, the law was amended for the first time; the amendment was published on July 15, 1992, in the *Official Gazette* and was effective retroactively to March 18, 1992. The amendment broadened the definition of beneficiation of minerals in certain material respects and removed the committee's discretion to approve applicants intending to export less than 60 percent of production.

On July 20, 1993, the second amendment to Section 37E was

published in the *Gazette*. This amendment was effective retroactively to September 12, 1992. This amendment made a material change to the law because it removed the export performance eligibility criterion. The deletion of this requirement is documented in the *Explanatory Memorandum on the Taxation Laws Amendment Bill, 1993*. *See* Verification Exhibit SARS–1 at 11. Although this amendment was retroactive, companies that applied before July 20, 1993, addressed the export performance criterion in their applications for Section 37E benefits. Columbus' application for Section 37E benefits, which was filed on August 11,1992, specifically addressed this criterion and specified the portion of Columbus' production that was intended for export. Based on this application, Columbus was approved for Section 37E benefits on December 8, 1992, prior to the July, 20, 1993, amendment.

Although approved for Section 37E assistance on December 8, 1992, the exact amount of assistance to be provided was revised as the financial and technical aspects of the project developed (*e.g.*, contracts for the supply of equipment and financing arrangements were being finalized, enabling Columbus to identify the related costs and expenditures more accurately than they had in the initial August, 1992 application package). Columbus was in close communication with the relevant authorities throughout this period, and submitted an amended application on July 19, 1993. This application did not address any of the eligibility criteria, under the original law or the amended law, rather, it finalized information about the categorization of equipment and the costs of financing and amended the projected value of the Section 37E benefits.

The Inland Revenue authority notified Columbus of its approval of the exact amount of its Section 37E benefits on August 20, 1993. Nevertheless, when Columbus was initially approved for Section 37E benefits (on December 8, 1992), the approval was based on consideration of the export performance criterion, which was in effect at that time. Even though the law was subsequently amended to remove the export criterion, and this amendment was retroactive to September 12, 1992, Columbus was approved for Section 37E benefits before this amendment was implemented. Making the amendment to remove the export criterion retroactively effective does not undo the fact that when Columbus was approved, it had to meet an export performance criterion.

Moreover, even though Columbus amended its application on July 19, 1993, that submission was not a revised application package. It did not address all of the criteria that had to be met in order to be approved and that were addressed in the initial application (of August 11, 1992). Moreover, it did not remove the export performance information that was in the original application; rather, it contained a refinement of previously-provided financial and technical information, which was required by Inland Revenue to establish the final value of the Section 37E benefits Columbus would receive. Accordingly, based on these facts, we must conclude that the Section 37E assistance provided to Columbus constitutes an export subsidy within the meaning of section 771(5A)(B) of the Act.

The Section 37E program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as it constitutes revenue foregone by the GOSA. Because Section 37E allows companies to claim depreciation and finance-related deductions in advance of when such deductions would normally be allowed, the benefit within the meaning of section 771(5)(E) of the Act, is the value to the company of being able to claim the depreciation in advance. The Department normally considers that a benefit arises from a tax program in the amount of the difference between the taxes paid and the taxes that would have been paid absent the program. However, the Section 37E program does not operate as a normal tax program. According to the IDC, "[t]he accelerated tax allowances reduce the peak funding requirements of major capital investment projects." *See IDC 1992 Annual Report*, Annexure 7 of the July 31, 1998 Questionnaire Response, public version on file in the CRU. Through this program, capital requirements for investments are reduced, as evidenced by the partners' views that the program was essential in reducing the start-up costs of the venture. *See* Petition at Exhibit S–8, public version on file in CRU. Furthermore, there is a cash flow impact regardless of the company's tax position. As such, we consider that, although the Section 37E program is a "tax" program, it functions more like a capital contribution.

Since the Section 37E program reduces a company's capital requirements, and because the receipt of Section 37E benefits required express government approval, we determine that it is more appropriate to treat the benefits provided under Section 37E as a non-recurring subsidy. *See GIA*, 58 FR at 37226. Therefore, we determine that the Section 37E program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act.

To determine the benefit, we ascertained the value of the Section 37E allowances to the company. First, we calculated the cash value of each 37E claim by multiplying the total allowance claimed in each year by the relevant tax rate. Then, we determined the time value of obtaining the allowance in advance; in the preliminary determination, we used two years for discounting purposes, however, at verification we discovered that it was appropriate to use two years for one-third of the value of the allowances and three years for the remaining two-thirds. This change reflects the fact that since Columbus Stainless was commissioned October 1, 1995, and the IDC and Samancor's tax year ends June 30, these partners would have had to wait until June 30, 1996, *i.e.*, three years to take depreciation under the normal system (section 12(c)) while Highveld, which has a December 31 year-end, would have had to wait until December 31, 1995, *i.e.*, only two years. *See Department's Position* on *Comment 5* below. The difference between the tax value of the allowances and the tax value discounted to reflect the time-value of money is the benefit to the company, for each year in which Section 37E benefits are claimed. Finally, because we consider that the Section 37E assistance should be allocated over time as a non-recurring subsidy, we treated each year's benefit as a non-recurring grant using our standard grant methodology. Since Columbus did not report its AUL, we are relying on the *IRS Tables* for purposes of establishing the allocation period. The *IRS Tables* show a depreciation schedule of 15 years for the steel industry. *See Department's Position* on *Comment 10* below. We summed the benefit amounts allocated to the POI and divided by CJV's total export sales. Accordingly, we determine the net countervailable subsidy to be 3.84 percent *ad valorem*.

B. IDC/Impofin Loan Guarantees

The IDC and its wholly-owned subsidiary, Impofin, Ltd., facilitate and guarantee foreign credits for the importation of capital goods into South Africa. The program was established in 1989, and was designed to facilitate foreign lending to South African firms; the availability of foreign credit in South Africa was extremely limited at that time. The IDC/Impofin maintain

blanket credit lines with banks in numerous countries which are used in two ways. First, the IDC may act as an intermediary lending authority, borrowing funds through these credit lines from the foreign bank and then re-lending them to the South African firm. Second, based on these credit lines, the South African firm may negotiate its own financing directly with the foreign lender which is then guaranteed by the IDC. Any company seeking financing for the purchase of foreign capital equipment may apply to Impofin to use the program. Whether the financing is arranged through the IDC/Impofin or directly with the foreign lender, it is guaranteed through the IDC/Impofin program. The IDC charges a fee for its guaranteeing and facilitating services.

Columbus used the IDC/Impofin program to facilitate and to guarantee the financing of all of its foreign capital equipment sourcing. In the preliminary determination, we analyzed this program using our standard methodology for examining government-guaranteed loans and compared the benchmark interest rate to the interest rate charged by the lender on the guaranteed loans. However, based on information collected at verification, we now have a better understanding of this program and have revised our analysis of the program from the preliminary determination. Because these loans originate either with foreign government export credit agencies or offshore foreign banks in coordination with foreign government export credit agencies, which are not under the direction or control of the GOSA, the loans themselves are not countervailable. Thus, we find that it is not appropriate to compare the interest rates charged by offshore foreign banks to commercial interest rates in order to determine whether the program provides a financial contribution. However, the IDC did provide guarantees on these loans for a fee. This guarantee could constitute a financial contribution if the IDC charged less than what would have been charged by a commercial bank for a similar guarantee.

At verification, we sought information about commercial loan guarantee practices in South Africa at the time Columbus received the IDC/Impofin guarantees. We learned that such guarantees were available on only a limited basis in South Africa at the time. However, a commercial banker informed us that the rates for providing these types of guarantees would range between 0.25 and 0.50 percent; the banker further stated that the fee would vary based on the quality of the borrower and the size of the credit (a high-quality borrower would likely pay fees at the low end of the range; a borrower seeking guarantees for large credits would likely pay fees at the high end of the range). *See* December 17, 1998, "Memorandum for David Mueller, Director, Office of CVD/AD Enforcement VI, on Discussions with Private Sector and South African Reserve Bank" (*Banker's Verification Report*), a public document on file in the CRU. Since Columbus is a "high-quality" borrower but the size of the credits is large, we determine that the middle of this range, 0.375 percent, is a reasonable approximation of what a commercial bank would have charged Columbus for similar guarantees. Thus, when we compare what Columbus paid the IDC for the provision of guarantees, 0.25 percent, and what it would have paid a commercial bank, 0.375 percent, we find that the IDC did provide a financial contribution that confers a benefit within the meaning of the Act.

Next, we analyzed whether the program is specific in law (*de jure* specificity), or in fact (*de facto* specificity), within the meaning of subsections 771(5A)(D)(i) and (iii) of the Act. The enacting legislation for the IDC/Impofin program does not explicitly limit eligibility for these financing programs to an enterprise, industry, or group thereof. Thus, we find that the law is not *de jure* specific, and we must analyze whether the program meets the *de facto* criteria defined under section 771(5A)(D)(iii). In our *Preliminary Determination*, we examined information provided by the GOSA and found that since 1990, the "fabricated metal products" and "basic metal manufacture" industries have been predominant users of the program. These industries have received more than fifty percent, by value, of the total guaranteed loans awarded over the life of the program. Information provided by the GOSA in its case brief demonstrates that the steel industry (including stainless steel) has received more than half the total value of loan guarantees awarded over the life of the program, while all of the rest of the users of the program (industries including, but not limited to mining, agriculture, pulp and paper, oil, gas, chemical, vehicles, telecommunications, and aluminum smelting and fabrication) together accounted for less than half of the total value of loan guarantees awarded over the life of the program. This information clearly indicates that the steel industry is a predominant user of this program. On this basis, we find IDC/Impofin loan guarantees to be *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act. Therefore, we determine that the IDC/Impofin guarantees constitute a countervailable subsidy within the meaning of section 771(5) of the Act. (*See* the *Department's Position* on *Comment 6* below.)

Since the guarantee fees are paid every year the loan is outstanding, we calculated the benefit by subtracting what Columbus paid the IDC under this program from what it would have paid on a comparable commercial guarantee during the POI. We then divided the result by Columbus' total sales during the POI. Accordingly, we determine the net countervailable subsidy to be 0.09 percent *ad valorem* for Columbus.

II. Program Determined to be Non-Countervailable

IDC Participation in the Columbus Joint Venture

As discussed in the "Company History" Section above, in 1988, Highveld and Samancor formed the Columbus Joint Venture to explore the possibility of establishing a stainless steel facility in South Africa. In 1991, the partners proposed that the IDC make a capital investment in the venture. The IDC performed a detailed analysis of the 1991 proposal and decided to participate in the investment subject to certain conditions: that the project would be based on the expansion of an existing facility and that its implementation would be delayed pending the establishment of the Section 37E program. In 1992, after the partners acquired an existing facility for the purpose of implementing the IDC's recommendations, the partners approached the IDC with a revised proposal. Based on this proposal, the IDC and the two partners conducted a detailed feasibility study to identify the prospects for the venture. The IDC made a counterproposal which the partners accepted. Effective January 1, 1993, the IDC became a one-third and equal partner in the venture. Samancor, Highveld, and the IDC entered a new partnership agreement which is the basis for the current structure of the CJV.

The Department considers the government's provision of equity or start-up capital to constitute a benefit "if the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the country in which the equity infusion is made." *See* section 771(5)(E)(i) of the Act. The Department applies this standard in a case-by-case analysis of the commercial context in

which the investment decision is made. Thus, we must determine whether the IDC's decision to participate in the CJV was consistent with the usual investment practices of private investors in South Africa.

While Samancor and Highveld are both private investors, their participation in the venture, *per se*, is not an appropriate basis for determining whether the IDC's participation is consistent with usual investment practices. By the time the IDC decided to invest, Samancor and Highveld had been partners in this investment for five years. Both already had substantial stakes in the project, including the purchase of the MS&A facility in 1991. Thus, their evaluation of the CJV expansion project was affected by their interest in protecting their existing investment and they may have been willing to accept a higher level of risk than another private investor would. Therefore, their continued participation is not the appropriate background against which to examine the IDC's decision, and we have focused our analysis on the factors considered by the IDC in making its decision in order to determine whether it was consistent with the investment practices of a private investor.

As discussed above, in 1991 and 1992, the partners made detailed presentations to the IDC of the risks and projected returns of the project. The IDC agreed to participate in the venture subject to modifications designed to increase the rate of return of the project by lowering its initial capital requirements. In 1992, the IDC conducted a detailed feasibility study to analyze the strengths and weaknesses of the venture and to project its financial performance, based upon the expansion of the MS&A facility. This detailed analysis, which Columbus submitted for the record, is the primary basis for the IDC's decision to invest in the CJV.

Given the proprietary nature of the feasibility study, the specific analysis and projections contained in the study cannot be addressed in this public notice. At verification, we discussed at length this study and the analysis which preceded it. IDC officials explained how the IDC conducted its extensive analysis, and tested its projections for various changes in forecast market and economic circumstances. *See Government Verification Report* at 8–9. The study is based on reasonable assumptions and concludes that the CJV was a viable venture which would provide a positive real rate of return on the IDC's investment. The study concludes that the average nominal rate of return for the project would be 19.13 percent over an appropriate period.

We compared the projected return on the investment to information available for other investments in South Africa during this period. Because of the proprietary nature of the feasibility study, this analysis cannot be detailed in this public notice. *See Preliminary Determination*, 63 FR at 47262; *Decision Memorandum*. The nominal rate of return of 19.13 percent exceeds government bond yields. The projected real rate of return is comparable to returns provided by other investment instruments at the time. We examined the dividend yields on industrial and commercial shares as reported in the *Quarterly Bulletin* of the South Africa Reserve Bank (appended to the August 28, 1998 "Memorandum to the File on Calculations for the Preliminary Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from South Africa" (*Preliminary Calculation Memo*) public version on file in the CRU). We also examined the return on assets of non-financial private incorporated businesses as reported by the Reserve Bank of South Africa on its website: http://www.resbank.co.za (a printout of the information we examined is appended to *Preliminary Calculation Memo*). At verification, we gathered more information about the commercial investment climate in South Africa in order to inform our analysis for this final determination. *See Banker's Verification Report*. The information on the record indicates that the projected return was adequate and it supports a finding that the IDC's investment decision was consistent with the behavior of a reasonable private investor.

Finally, we examined the structure of the partnership itself, to determine whether the IDC assumed more than its share of the risks involved in the venture or less than its share of the potential earnings. The three partners contributed capital to the venture equally. They all account for one-third of the project's year-end results in their financial statements, in accordance with the normal practice for partnerships. They each hold the same number of seats on the CJV's board. To the extent that the IDC's commitments and obligations to the joint venture differ from the other partners, these differences reflect the IDC's role as an investor, in contrast to the other partner's experience in industrial operations. Furthermore, the IDC took steps to protect its level of risk from the investment. For example, where the IDC has assumed more than its pro-rata share of the risk, it has required commitments from the other two partners which result in the risk being shared equally.

While the partnership is structured so that the IDC's role in the CJV is slightly different from that of the other two partners, the agreement stipulates equal cash participation, equal representation on the Board of Directors, and equal distribution of any returns on the investments. In addition, the IDC protected its investment by requiring measures to ensure that the risks would be equally distributed among all of three partners. The IDC recommended ways to increase the project's earnings potential and negotiated safeguards in the partnership agreement. The IDC appears to have assumed only an amount of risk that is commensurate with its level of participation as a partner.

The IDC's decision to invest in the CJV appears to be based upon a reasonable analysis that the project was viable, an informed assessment that the IDC would realize a positive real rate of return on its investment, and a partnership based on the equal distribution of the risks. On this basis, we determine that the IDC's capital contribution into the CJV was not inconsistent with the normal practice of private investors in South Africa, and thus, does not constitute a countervailable subsidy within the meaning of the Act.

III. Programs Determined to be Not Used

Based on the information provided in the responses and the results of verification, we determine that Columbus did not apply for or receive benefits under the following programs during the POI:

A. Low Interest Rate Finance for the Promotion of Exports (which is the same program as the Low Interest Rate Scheme for the Promotion of Exports)
B. Competitiveness Fund
C. Export Assistance Under the Export Marketing Assistance and the Export Marketing and Investment Assistance Programs
D. Regional Industrial Development Program (RIDP)

IV. Programs Determined to be Terminated

Based on information obtained at verification, we determine that the following programs have been terminated.

A. Export Marketing Allowance
B. Multi-Shift Scheme

Interested Party Comments

Comment 1: IDC Participation in the Columbus Joint Venture: Petitioners contend that the Department did not adequately address all five factors of the test developed in Final Affirmative Countervailing Duty Determination: Certain Corrosion Resistant Carbon Steel Flat Products from New Zealand, 63 FR 37366 (July 9, 1993)(*New Zealand Steel*). Petitioners contend that the Department must examine the following five factors: (1) The (un)willingness of private sector participants to invest in the project; (2) the relative contributions of the partners and the expected returns; (3) the feasibility study; (4) the nature of the project (*i.e.*, the existence of non-commercial considerations); and, (5) the economic environment prevailing at the time in South Africa. In addition, petitioners urge the Department to consider the implementation of Section 37E as a factor which affected the IDC's investment. Petitioners argue that a full examination of the five factors must lead the Department to the conclusion that the IDC's investment was not consistent with commercial considerations, and therefore constitutes a countervailable subsidy. While petitioners urge the Department to apply all five factors, and to do so completely, petitioners suggest that the test be modified to account for the relevant facts of record and to comport more closely with commercial reality.

In examining the first factor, petitioners contend that record evidence shows that the private sector was unwilling to participate in the CJV project. With respect to the second factor, petitioners further argue that the Department should consider the expected returns from the project in the context of its associated risk, and this examination leads to the conclusion that the returns were relatively low. Petitioners also argue that the structure of the investment agreement itself, in particular Highveld and Samancor's option to buy out a portion of the IDC's ownership, was needed to protect the two partners from the significant risks at the outset of the project. With respect to *New Zealand Steel* factor three, petitioners argue that the IDC's feasibility study was flawed because it was not an independent analysis and includes consideration of government actions. In support of this contention, petitioners cite *Steel Wire Rod from Saudi Arabia* 51 FR 4206, 4209 (February 3, 1986) and *Steel Wire Rod from Trinidad & Tobago,* 49 FR 480, 483 (January 4, 1984), in which the Department established that only an independent feasibility study provides an objective analysis of a project's potential returns. According to petitioners, the fourth factor shows that the parties to the CJV made non-commercial decisions when they structured the venture as a partnership in order to maximize the tax benefits, despite statements in the feasibility study that advocate the contrary. Further, petitioners contend that the record shows that the CJV expansion would not have gone forward without the IDC's investment. With respect to the fifth factor, petitioners maintain that the Department should not consider the difficult economic conditions in the post-Apartheid era in which the investment was made, as this could create a loophole allowing foreign governments to subsidize without consequence simply by claiming that unique or difficult economic conditions exist. Finally, petitioners argue that the Department should consider an additional factor, that the investment was conditioned upon the receipt of Section 37E benefits which, petitioners argue, creates a rebuttable presumption that the investment is inconsistent with commercial considerations. For these reasons, petitioners conclude that the IDC's investment is inconsistent with commercial considerations.

The GOSA and Columbus (respondents) claim that the first *New Zealand Steel* factor addresses whether private-sector participants are willing to invest and not whether private-sector participants in addition to those already participating are willing to invest in a project. With respect to the second factor, respondents maintain that the record does not support petitioners' contention that the risk was extremely high. When considering the third factor, respondents argue that it is incorrect to liken the IDC's feasibility study with that analyzed in *New Zealand Steel*, because Section 37E had already been implemented unlike the commitments of the government in *New Zealand Steel*. In addition, respondents argue that the IDC feasibility study was objective and contained full analysis of the relevant considerations including a realistic projection of the stainless steel market. With respect to the "nature of the project," the structure and capitalization of the CJV, respondents note that it is common in South Africa to structure an undertaking as a joint venture rather than a company, and the IDC has often used this structure for other projects in which it is involved. Respondents argue that there is no evidence to conclude that the project would not have gone forward absent the IDC's participation. Lastly, respondents maintain that the final project study and the IDC's decision to participate in the CJV were not conditioned on the receipt of Section 37E benefits, as verification documents indicate.

Department's Position: As a threshold matter, the analysis conducted in *New Zealand Steel* does not constitute a "test," or establish a standard that the Department must follow in analyzing every joint venture in which a government or government entity participates, as petitioners suggest, and therefore their reliance on *New Zealand Steel* is misplaced. Petitioners' identification of the "five factors" is an inaccurate interpretation of the analysis in *New Zealand Steel*. Furthermore, the facts in this case are sufficiently different from those in *New Zealand Steel* to support a conclusion different from the one reached in that case, *i.e.*, that the IDC's investment in the CJV is not countervailable (*see* the "IDC Participation in the Columbus Joint Venture" section above). Nevertheless, we address the elements of petitioners' arguments below.

In *New Zealand Steel*, the Department did not directly address the unwillingness of the private sector to participate in the project. Rather, the Department determined that "the participation of NZS (the private sector participant) was not dispositive that the GONZ's investment was consistent with commercial considerations." *New Zealand Steel* at 37368. We made a similar finding in our preliminary determination: The continued participation of Highveld and Samancor "is not the appropriate background against which to examine the IDC's decision" because of the substantial resources the two partners already had at stake by this time. *Preliminary Determination* at 47266. We stand by this finding and therefore disagree with respondents' position that the participation of Highveld and Samancor by itself satisfies this factor. However, we also disagree with petitioners that the inability of Highveld and Samancor to secure a foreign partner (efforts to conclude a partnership arrangement with a Taiwanese company were unsuccessful) is dispositive of private sector unwillingness to invest in the project. At verification, we discussed the Taiwanese investor, and the record shows that the existing two partners were willing to use their substantial resources to provide certain guarantees for the Columbus project, but that the Taiwanese investor was unwilling to provide the same guarantees in return. The two existing partners were interested in finding another partner to share the risk equally. *See* December 18,

1998, "Memorandum to David Mueller, Director, Office of CVD/AD Enforcement VI, on Verification of Information Submitted by Columbus Stainless, Ltd. and the Columbus Joint Venture in the Countervailing Duty Investigation of Stainless Steel Plate in Coils from South Africa (C–791–806)" (*Company Verification Report*) at 10, public version on file in the CRU. Furthermore, despite the general optimism nascent in South Africa at the time, there were still very few companies with the resources necessary for the project, and two of those companies were already involved in the project through their subsidiaries, Highveld and Samancor.

As with the first factor, the second factor, the relative contributions and the expected returns, is not clearly identified or addressed in *New Zealand Steel*. Regardless, we reject petitioners' contention that we overlooked the risk and focused unduly on the return. Our preliminary determination stated that we found the returns projected in the IDC feasibility study were acceptable, and adequate to support the IDC's investment (*Preliminary Determination* at 47266). The feasibility study also contains an extensive analysis of the risk, which we discussed at length at verification. *Company Verification Report* at 9–10. In preparing the feasibility study, the IDC performed numerous sensitivity analyses to determine the result on projected returns of changes in variables related to the technical, marketing, and financial aspects of the project, including future demand for stainless steel, and world capacity for stainless steel production. The IDC determined that the investment provided acceptable returns even in the event of these contingencies. In addition, the IDC was deliberate and objective in evaluating the project and prepared more conservative projections (higher funding requirements and lower projected returns) than the two partners had, and still determined the project's risk/return profile to be within its investment parameters, parameters which we find to be comparable to those that a private investor would accept. In short, there is nothing about the project's risk vs. return that indicates the IDC's investment is inconsistent with the usual investment practice of private investors. Furthermore, it is not appropriate, as petitioners urge, to conclude that the lack of willingness on the part of the private sector indicates that the risks outweighed the returns. The appropriate focus of our analysis is the basis for the IDC's decision, the feasibility study. We also disagree with petitioners' contention that the buy-out provision is one which affords Highveld and Samancor undue protection from the project's risk. To the contrary, we believe this provision protects the IDC's investment and enables the IDC to recover most of its investment with a guaranteed return, an option not available to the other two partners. (At verification, IDC officials indicated that the IDC commonly seeks to recover its capital in the medium term so it can use its resources elsewhere. The IDC has begun to formalize this strategy, as indicated in the CJV Agreement. *See Government Verification Report* at 6.)

Unlike the first two "factors" petitioners identify in *New Zealand Steel*, the third factor, the feasibility study, is clearly identified and addressed in *New Zealand Steel* (58 FR at 37368). However, we find that the facts in *New Zealand Steel* differ considerably from those presented here. In that case, the Department discounted the objectivity of the feasibility study because so many of its assumptions and conclusions were premised on "the implementation of specific commitments by the GONZ, such as the assurance of certain financing, domestic market share, supply of raw materials, and favorable tax treatment, in their projections of the revenues of the project. Therefore, we find that the studies did not present an objective assessment of the viability of the project, based on market conditions." *Id.* The commitments of the GONZ were made solely for the benefit of the steel producer. In other words, a private investor, considering the same investment, would not have been able to control the variables as the GONZ could (market share, tax treatment, raw materials supply), and the projections in the feasibility study were premised on controlling those variables.

In this case, as discussed above, we find that the IDC's feasibility study was objective, and the availability of Section 37E benefits was objectively accounted for in the feasibility study. (As a tax-paying entity, the IDC appropriately analyzed the effects of this tax program.) As IDC officials explained at verification, "[a]lthough the absence of 37E would have meant a higher level of capital expenditures, the projections were still within the range of what the IDC was prepared to undertake." *Government Verification Report* at 10. Furthermore, we disagree with petitioners' assumption that the feasibility study was not objective because it was not independently prepared. At verification, an independent third party noted that "many commercial interests respect the IDC for its expertise in conducting feasibility studies." *Banker's Verification Report* at 2. As we noted in the *Preliminary Determination*, the IDC withheld its decision to participate subject to modifications in the proposed project. 63 FR at 47266. This IDC action supports a conclusion that the IDC was actively engaged in shaping the financial and operational structure of the project, in order to protect its investment, as a commercial investor would do. Thus, we determine that the analyses and conclusions contained in the feasibility study are objective, and support a determination that the IDC's investment was not inconsistent with the usual investment practice of private investors.

We disagree with petitioners that the "nature of the project," *i.e.*, its structure as a joint venture partnership, rather than as a corporation, indicates that the IDC's investment was inconsistent with commercial considerations. To the contrary, we agree with respondents that this structure supports a conclusion that the investment was not countervailable. Record evidence shows that the tax advantages of the partnership structure are clear, particularly for a capital-intensive start-up company expected to sustain tax losses for several years. The partners' interest in maximizing those tax advantages shows all three of them to be acting as commercial actors, and making commercially-consistent financial decisions. Furthermore, since we find that the feasibility study which provided the basis for the IDC's investment decision was objective and commercially consistent, it is not relevant to our analysis whether the project would have gone forward without the IDC's participation. However, we note that record evidence indicates that the two partners had enough at stake and the resources to go forward without the IDC; they ultimately had no reason to do so.

With respect to the fifth factor, we agree with respondents that we do not have before us any arguments with respect to the economic environment as a factor for analyzing the IDC's investment in Columbus. Furthermore, in *New Zealand Steel*, we stated that "analysis of the economic environment is irrelevant," 58 FR at 37369, and we find no reason to address that factor here.

Finally, we disagree with petitioners' argument that the IDC's investment was conditioned on the receipt of Section 37E benefits. While record evidence shows that this tax program enabled the partners to reduce their capital outlays, and that the IDC deferred its participation until that program was

implemented, the record also shows that the IDC did consider its investment in the absence of Section 37E and found that it provided acceptable returns nevertheless. The IDC's deferral was a commercially sound action taken to ensure that the IDC would be able to both consider all variables prior to making a final commitment and maximize its projected return.

Comment 2: Specificity of Section 37E and IDC/Impofin Programs: Respondents argue that, although the Department correctly found that both the Section 37E and the IDC/Impofin lending programs were not *de jure* specific, the Department's finding that the programs were *de facto* specific was incorrect. Respondents contend that the Department failed to satisfy the preconditions of any inquiry into the possibility of *de facto* specificity, which is only to be made when "there are reasons to believe that a subsidy may be specific as a matter of fact." *See* section 771(5A)(D)(iii) of the Act (implementing Article 2.1(c) of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement)). Respondents contend that the Department made no effort to satisfy this precondition in its preliminary determination and "leaped" from a determination of no *de jure* specificity to an application of the *de facto* specificity criteria without first identifying the reasons to believe that such specificity might exist. Thus, the Department's specificity finding is invalid as a matter of law.

Petitioners argue that respondents have overstated the statutory requirements. While both the statute and the SCM Agreement contain the "reasons to believe" language, the law does not require the Department to make or publish findings with respect to the "reasons to believe" that a subsidy may be *de facto* specific. Respondents' arguments read a requirement into the law that does not exist. In addition, petitioners argue that the Department's analysis of a domestic subsidy inherently demonstrates the agency's reasons to believe that a subsidy may be *de facto* specific. Petitioners cite the initiation standard (section 702(b)(1) of the Act) which instructs the Department to initiate an investigation when the elements necessary for the imposition of a countervailing duty are alleged, and conclude that a decision to initiate an investigation of a program implies that the Department has a reason to believe the subsidy may be *de facto* specific. Furthermore, petitioners note that the petition contained information which provided the Department with reasons to believe that both the Section 37E and the IDC/Impofin programs may be *de facto* specific.

Petitioners contend that respondents ignore the fact that a *de jure* specificity analysis necessarily involves examining whether there are reasons to believe that a subsidy may be specific as a matter of fact; in the context of specificity in general, the Department examines the same factual information: eligibility criteria, application process, program records, and the identity of recipients. Finally, petitioners note, and cite numerous examples of, the Department's longstanding practice of first examining whether a subsidy is *de jure* specific and then proceeding to the *de facto* analysis. Petitioners argue that if this practice conflicted with the SCM, this conflict would have been addressed in the Statement of Administrative Action (SAA), which instead affirms the Department's practice in analyzing the *de facto* specificity of domestic subsidies. Thus, petitioners reject respondents' argument that the Department's analyses and determinations that Section 37E and IDC/Impofin are *de facto* specific are inconsistent with both the statute and the SCM.

Department's Position: We disagree with respondent's interpretation of the "reasons to believe" language in section 771(5A)(D)(iii) of the Act. It is not stated as a precondition to a *de facto* analysis and we do not interpret it as such. While the language is part of the definition of *de facto* specificity it is not presented as a threshold requirement for positive evidence to justify an inquiry into how widely available a subsidy, in fact, is. The type of program itself (*e.g.*, a development loan program) may be sufficient reason to believe that it may, in fact, be limited to a specific industry or group of industries. In contrast, there is normally no reason to believe that other types of programs (*e.g.*, standard tax deductions) that are, *de jure*, available to all businesses would, in fact, be specific. Thus, the Department would not be required to perform a *de facto* analysis of such a program. The nature of the subsidy at issue here warrants a *de facto* analysis. Moreover, we note that the allegations in the petition would be sufficient to meet even the higher standard that respondent would have us employ.

Comment 3: de facto Specificity of Section 37E: Respondents argue that in finding Section 37E to be *de facto* specific, on the basis that the actual recipients of the subsidy, whether considered on an enterprise or an industry basis, are limited, the Department also ignored its statutory obligation to "take into account the extent of diversification of economic activities within the jurisdiction of the authority providing the subsidy, and the length of time during which the subsidy program has been in operation." *See* Section 771(5A)(D)(iii) of the Act. Respondents argue that the Department's failure to consider these conditions renders invalid the Department's finding that Section 37E is *de facto* specific. Respondents contend that if the Department takes these two factors into account, the Department will find that the recipients of Section 37E are not limited in number.

Respondents cite the verification report, which shows that nine industries in six (of eleven) provinces, have benefitted from Section 37E. Respondents argue that economic sanctions led to the diversification of the South African economy in the early 1990s, but that many of the industries were not world-competitive, relied on outdated technology, and were oriented to the domestic market, *i.e.*, these industries would not be viable in an open economy. Thus, very few companies were in a position to take advantage of Section 37E. Respondents note that the applicants for Section 37E were further limited by statutory criteria (to add at least 35 percent to the raw material value, to be internationally competitive, to use foreign credits to import capital goods), reflecting the GOSA's objective to encourage growth in capital investment and employment. Thus, the most likely projects to receive approval were "mega-projects" in terms of capital, cost, timing and output, and such projects were rare.

In addition, respondents note that Section 37E was in operation for only two years. The program's brief lifetime, therefore, further restricted the pool of potential claimants. Respondents have provided a letter from a former official of the Department of Trade and Industry (DTI) who was involved in the development and administration of Section 37E. This letter demonstrates, according to respondents, that given the economic conditions in South Africa at that time, 19 applications and 13 approvals were considerably more than had been expected. The 13 approved companies, according to the DTI official, reflected a spread of activity, size and geographic location, and viewed in the South African context, were not limited in number.

Petitioners argue that the GOSA's concession that the statutory criteria limited the number of companies that could receive Section 37E benefits supports a conclusion that Section 37E is *de jure* specific, regardless of the extent of economic diversification in

South Africa. Petitioners note that verification documents show that the original purpose of Section 37E-was to benefit mineral beneficiation projects, including Columbus. Petitioners further note that the GOSA's statement that the number of applicants was "considerably more than had been expected" implies that, contrary to GOSA's claim, the statute was implemented to assist a few select industries and was not intended as a broad-based economic stimulus. Thus, the Department should find not that the limited economic diversification curtailed the potential number of program beneficiaries, but that the law itself limited access to Section 37E, making it *de jure* specific.

Petitioners also argue that Section 37E is *de facto* specific. In making this argument, petitioners reject the GOSA's statement that because nine different industries benefitted, the program was widely used. Petitioners believe that the industrial breakdown provided by the GOSA incorrectly disaggregates the industry groups and that stainless steel, steel, aluminum, and ferrochrome should be considered as the "metals" industry, reducing to six the number of industries benefitting from Section 37E. Finally, petitioners cite to the IDC's 1997 Annual Report, which shows the IDC's involvement in many different sectors, in rejecting the GOSA's claim that there were few viable and diversified sectors in the South African economy.

Finally, petitioners maintain that the short operation period of Section 37E did not necessarily limit the number of program users. Petitioners argue that since not all of the companies that were approved for the program actually used it, some of the approved companies may have applied without any definite investment plan, merely to keep open the option to use the program in the future. Petitioners conclude that, paradoxically, the narrow window of 37E operation may have actually increased the number of applicants, rather than limiting it.

Department's Position: We note, as explained in the "Section 37E Tax Allowances" section above, that we have reconsidered our treatment of Section 37E and find, for purposes of our final determination, that it is specific because it constituted an export subsidy for purposes of section 771(5A) of the Act at the time the CJV partners applied and received approval for its benefits. Therefore, we need not address respondents' arguments with respect to the *de facto* specificity of Section 37E benefits.

Comment 4: Benefits Under Section 37E: Petitioners contend that the Department should recognize the benefit under the Section 37E program as the full amount of the tax allowances claimed by Columbus, rather than use the time-value of money approach which the Department used for the preliminary determination. Petitioners advance two arguments in support of this proposed approach. First, petitioners contend that the verified record questions whether the Columbus expansion project would have gone forward without the availability of the 37E program to reduce the expansion's capital requirements. This, in turn, raises doubts about the potential receipt by the CJV partners of section 12C depreciation allowances. In other words, petitioners argue that if the CJV expansion had not gone forward (which it did, petitioners contend, only because of the existence of the 37E program), then the CJV partners would never have claimed any tax allowances related to Columbus, even the depreciation allowances normally available to all taxpayers under section 12C. Thus, petitioners contend that the Department's preliminary determination was inappropriately premised on the assumption that Columbus was clearly otherwise entitled to receive normal depreciation allowances under section 12C. Petitioners also contend that the Department erroneously calculated the benefit as the difference between the depreciation allowances allowed under Section 37E and those normally available under section 12C (reducing the benefit to the time-value of money difference), rather than assuming that the full value of the allowances constituted a countervailable subsidy. In support of this argument, petitioners cite to the recently published countervailing duty regulations, which acknowledge the problems inherent in speculating upon future tax benefits to a company in relation to accelerated depreciation.

Second, petitioners argue that the Section 37E program provides for the accelerated write-off of assets and therefore should be treated as an accelerated depreciation program by the Department, that is, the full amount of the allowances should be treated as a grant in the year of receipt consistent with the Department's practice. Petitioners reject the Department's time-value of money approach with respect to Section 37E, claiming that the Department itself has consistently rejected such an approach to accelerated depreciation programs, and treated the benefits provided by those program as grants in the full amounts of the accelerated depreciation claims. The Department's rejection of this approach is explicit in the new countervailing duty regulations. *See Countervailing Duties; Final Rule*, 63 FR 65348, at 65376 (November 25, 1998) *New Regulations*. In conclusion, petitioners note that without Section 37E, there would have been no Columbus expansion, and therefore no depreciation allowances, either under Section 37E or 12C. Thus, the Department should not discount the value of these benefits based upon speculation about what Columbus may have received in the future under the South African tax code and should treat the full amount of the Section 37E allowances as grants in the years of receipt.

In addition, petitioners support the Department's treatment of benefits under Section 37E as non-recurring benefits.

Respondents argue that to capture the full amount of the Section 37E benefits, without recognizing the applicable time-value of money discount, is to ignore record evidence which shows that in the absence of Section 37E, deductions in the same value were fully allowable under section 12C from the date of Columbus' commissioning, October 1, 1995. This record evidence clearly shows, according to respondents, that the benefit is merely a matter of timing: under Section 37E, the Columbus partners were able to claim the depreciation allowances (available under both sections 37E and 12C) beginning at the time the relevant expenses were incurred, rather than waiting nearly two years until the equipment was in use.

Department's Position: We disagree with both of petitioners' arguments for treating the total value of Section 37E allowances as grants. First, whether the Columbus project would have gone forward absent the existence of the countervailable depreciation allowances under Section 37E is not relevant to our examination of the program and its benefits. While petitioners are correct in noting that, without the investment in the CJV, Columbus' partners would have claimed no depreciation allowances, either under Section 37E or the otherwise governing section 12C, it is not appropriate to speculate about the tax positions of the partners absent the investment which gave rise to the depreciation allowances (regardless of which provision of the tax code governed). It is the Department's long-standing practice to recognize that "a benefit exists to the extent that the taxes paid by a firm as a result of the program are less than the taxes a firm would have paid in the absence of the

program." *See 1989 Proposed Regulations* 54 FR at 23372. In other words, the Department appropriately focused on the Columbus expansion project, and compared the tax experience (in this case of the partners) under the countervailable Section 37E program with the experience which would have prevailed absent the program. In the factual circumstances in this case, the Columbus partners' tax experiences in the absence of the investment are not relevant in quantifying the benefit provided to respondents from the Section 37E program.

Furthermore, petitioners' statement that the Department wishes to avoid speculating on the future tax benefits to a company is misplaced for two reasons. In general, and consistent with the Department's practice of recognizing a benefit at the time that it is received, the Department avoids calculating tax benefits which are contingent on a company's future tax position—if a company is in a tax loss position during the POI or for a prolonged period, benefits from countervailable tax deductions or tax credit programs may not materialize. In particular, petitioners overlook two details in this case which remove any speculation from the Department's analysis: the existence of the Section 37E program reduced the partners' projection of the project's capital requirements and therefore resulted in a cash flow impact at the time the partners' investments were made (*see Preliminary Determination* at 47265); and, the provision of the Negotiable Tax Credit Certificates (NTCCs) which the users of the program could receive and convert into cash if they were in a tax-loss position (depreciation allowances under Section 12C can only be used as deductions to taxable income and therefore have no immediate value to taxpayers in tax-loss positions). Thus the cash-flow of the Section 37E benefits to the CJV partners is immediately measurable, and its timing is easily pinpointed; there is no speculation about the value of the countervailable allowances as there would be if the allowances were available only as deductions to taxable income and we were examining a company in a tax-loss position.

We also disagree with petitioners that it would be appropriate to treat the tax benefits under Section 37E as accelerated depreciation. As a threshold matter, Section 37E does not operate like an accelerated depreciation program, which allows its users to depreciate assets over an accelerated (*i.e.*, shorter) period of time. For example, where companies are normally allowed to depreciate equipment over 20 years, accelerated depreciation would allow for depreciation over ten years. Such a program would provide tax savings, vis-á-vis the normal depreciation schedule, over the period of the accelerated depreciation, in this example ten years. We would normally treat this tax savings as a recurring subsidy and allocate the benefits to the year in which tax savings were achieved.

However, we note that Section 37E does not function like an accelerated depreciation program. As respondents reported, and as was confirmed at verification, users of this program depreciate their capital equipment, buildings and machinery, over the same five-year period allowed under section 12C, the tax code provision governing depreciation. We agree with respondents that the advantage which Section 37E allows is that companies can begin depreciating equipment, buildings and machinery, in the year in which the purchases of the equipment are made, rather than having to wait until the equipment is in use, as they would under section 12C. As we verified in the case of Columbus, a large, capital-intensive project with a necessarily long construction period, the use of Section 37E enabled the partners to claim depreciation allowances two or three years in advance (depending on the partner's tax year). (Capital equipment purchases began in 1993 and the plant was officially commissioned on October 1, 1995. The plant's commissioning date was established by the South African tax authorities, as equipment purchases made beyond that date were not eligible for Section 37E depreciation.)

Thus, the benefits under this program are twofold: the opportunity to claim the depreciation allowances in advance of the time a company would otherwise be able to do so—that is, the time value of receiving the allowances in advance; and, the ability to turn the allowances into cash, through the use of the NTCCs, if a company has no tax liabilities to reduce with the depreciation allowances which would otherwise constitute tax deductions. Therefore, we will continue to use the calculation methodology we used for the purposes of the preliminary determination, with only the modifications indicated in the discussion of the program above and in the *Department's Position* on *Comment 5* below.

Comment 5: Calculation Methodology for Section 37E: Respondents note that if the Department persists in finding Section 37E benefits countervailable, the Department must correct errors in the calculation of the subsidy rate. Respondents argue that the Department should calculate the time-value of money, and thus the grant equivalents of Columbus' Section 37E advanced depreciation claims, only for Section 37E allowances claimed prior to the date of Columbus' official commissioning—October 1995. Respondents contend that depreciation claims for years after that date do not result in countervailable benefits to Columbus' partners because, after commissioning, the partners would have begun claiming depreciation of Columbus' assets under section 12C; these claims would have been in the same value as and contemporaneous to depreciation allowances claimed under Section 37E. Therefore, respondents contend that Columbus only benefitted from advanced depreciation under Section 37E for the years 1995/1996 (depending on the partners' respective tax years) and earlier. They propose that the benefit is limited to the time-value of money realized by the depreciation claims made for years for which Columbus otherwise could not have claimed depreciation.

Petitioners reject respondents' proposed corrections to the calculations on two accounts. First, petitioners reiterate their argument that the time-value of money treatment is flawed and has been rejected by the Department (*see Department's Position* on *Comment 4* above). Second, petitioners argue that respondents' proposed correction rests on an erroneous analytical assumption with respect to the timing of depreciation claims (the details of which are proprietary).

Department's Position: We disagree with respondents that Columbus benefitted from Section 37E only to the extent that the partners claimed depreciation allowances for years for which they otherwise could not have claimed depreciation allowances under section 12C. As explained above, by claiming depreciation in advance, Columbus' partners were able to realize capital savings which directly reduced the projects's financing requirements. Section 37E benefits were more than just a tax benefit. Therefore, the advanced depreciation claimed under Section 37E results in an ongoing benefit to the company, and the Department correctly found a benefit to Columbus in the advanced depreciation claimed under Section 37E throughout the length of the depreciation schedule. In other words, for each of the five years of the depreciation schedule, we calculated a grant equivalent; we then allocated each grant equivalent over the AUL of 15 years.

With regard to the contentions that the preliminary calculations contained errors, we have reviewed the calculation methodology used for our preliminary determination and have made corrections. For the preliminary determination, we incorrectly used two years as the sole basis for determining the time value, and thus the grant equivalent, of the advanced depreciation claimed under Section 37E by the three Columbus partners in each year of the depreciation schedule. We have adjusted our final calculations to reflect two years as the basis for calculating the time value of the yearly claims made by Highveld and three years as the basis for calculating the time value of the yearly claims made by Samancor and the IDC. This adjustment reflects the different tax years of the companies, the actual timing of the companies' tax claims, and their actual receipt of benefits under the program.

Comment 6: De Facto Specificity of IDC/Impofin Lending: Notwithstanding what respondents view as the Department's failure to satisfy the statutory preconditions to a *de facto* specificity analysis, discussed in *Comment 2* above, respondents argue that the IDC/Impofin program is not *de facto* specific. The preliminary determination was based on the fact that the "fabricated metal products" and the "basic metal products" industries are predominant users of the program and that these industries have received more than fifty percent, by value, of the total loan guarantees awarded over the life of the program. *Preliminary Determination* at 47266. Respondents argue that by examining value, the Department did not account for the three "mega projects" in the basic metal manufacture industries; these huge and extraordinary projects necessarily skew the results of any analysis based on value. Respondents note that in order to properly evaluate whether there is a predominant user of a program, one must analyze the number of loans and their distribution by industry, not the value of the loans and the distribution of that value by industry. Respondents cite verification documents which show no predominant user on this basis: 12 percent of approvals were for the basic metal manufacturing and fabricated metal products industries; the mining industry received 14.7 percent; the pulp and paper industry and the engine and vehicle industry each received 11.2 percent.

Respondents further note that the South African economy is dependent on the beneficiation of local raw materials for economic growth. The abundance of minerals and energy resources present competitive advantages for large-scale beneficiation; thus, investment in industrial infrastructure, in value terms, favors large beneficiation projects. These competitive advantages are centered in South Africa's basic metal manufacture industry. The fact that industrial development initiatives and the accompanying IDC/Impofin financing are weighted by value toward this industry does not indicate disproportionate use; rather, respondents conclude, it is a valid reflection of the sources available for beneficiation.

Petitioners note that respondents' comparison of the number of users, without examining the distribution of benefits, suggests not that the program was disproportionately used but rather that the steel industry was a dominant user of the program. Petitioners argue that the statute does not require the Department to make an exception for "mega projects" which may skew the distribution of benefits, and that this factor would necessarily lead the Department to a *de facto* specificity finding based on disproportionate use. According to petitioners, the Department cannot view only the number of projects without considering the relative weights of assistance by enterprise, industry, or group thereof. In addition, petitioners note that the Department's examination of IDC/Impofin financing over a seven-year period accounts for any "skewed" result caused by a mega-project in a particular year. Petitioners also note that the sectoral distribution of benefits was confirmed at verification.

Department's Position: We stand by our preliminary determination that the IDC/Impofin loan guarantee program provides benefits which are *de facto* specific to an enterprise, industry, or group thereof within the meaning of section 771(5A)(D)(iii) of the Act. We disagree with respondents' suggestion that the appropriate basis for our analysis is the number of loan guarantees and their distribution by industry and we note the Department's practice of examining the distribution of benefits, by value, when analyzing whether a program is *de facto* specific because an industry or group of industries is the predominant user of the program or receives a disproportionate share of the benefits granted under a program. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy*, 63 FR 40474, 40485 (July 29, 1998). Respondents' statement that there were three "mega-projects" which necessarily skewed the distribution of benefits in fact supports the Department's specificity finding. In our preliminary determination, we found that the information provided by the IDC regarding the distribution of benefits (by value) over the life of the program showed that the "basic metals manufacture industry" (which includes the manufacture of stainless steel) and the "fabricated metal products industry" together received more than half of the loan guarantees awarded over the life of the program. *See Preliminary Determination*, 63 FR at 47266. In fact, information which respondents submitted with their brief enables us to refine our finding of *de facto* specificity for this final determination. This information shows that, by value, the steel industry (including stainless steel) received more than half of all loan guarantee approvals (the rest of the industries using the program—including the mining, agriculture, and chemical industries, among others—together accounted for less than half of the loan approvals by value). This is clear evidence that the steel industry is a predominant user of this program and thus it is *de facto* specific. Furthermore, if we perform an analysis of the information which respondents presented in their case brief parallel to the analysis in our preliminary determination, this information shows that the basic metals manufacture and the fabricated metal products industries received more than three-quarters of all loan guarantee approvals, by value. Thus, these two industries together are clearly predominant users of the program.

By examining the distribution of benefits over time, the Department accounts for any anomalous industry-specific activity in a particular year. The fact that three mega-projects received the bulk of the loan guarantees supports our finding of *de facto* specificity based on predominant use, as these three projects are in the basic metal manufacture industry (basic iron and steel, stainless steel and aluminum). Finally, the information which respondents have provided with respect to the South African economy's dependence on the beneficiation of raw materials is not relevant to our analysis.

Comment 7: Calculation Methodology for IDC/Impofin Lending: Respondents argue that the interest rates which Columbus paid for IDC/Impofin financing were not preferential, as they were established by reference to independently-prescribed rates that reflected prevailing market conditions. The interest rates for the loans were either the Commercial Interest Reference Rate (CIRR) or the London Interbank Offered Rate (LIBOR) plus a

margin. The CIRR were fixed by the foreign export credit agency (ECA) for the full loan term at the time of the loan negotiation and contract; the LIBOR-based rates were variable rates.

For all of the loans, respondents note, Columbus paid to the foreign banks management and commitment fees, typically 0.5 percent and 0.25 percent, respectively, and to the IDC/Impofin a facility (guarantee) fee of 0.25 percent. Respondents argue that these fees were comparable to fees paid by other borrowers. In addition, for some of the loans, Columbus paid export credit insurance premiums to the banks, which in turn paid these fees to their respective export credit agencies. Respondents argue that there is no evidence in the record that the various fees and premiums paid by Columbus were preferential.

Petitioners argue that regardless of how the interest rates were established (by the CIRR or LIBOR), the verification report indicates that the rates were clearly not based upon loans to Columbus; rather they were "based on the risk associated with lending to the IDC." (*Government Verification Report* at 11–12.) Since, as the verification report indicates, "foreign banks like to use the IDC as a borrower because they do not have to investigate the credit of each borrowing firm," *id.*, petitioners argue that the interest rates paid by Columbus program are preferential.

Petitioners also contend that Columbus would not have received financing without the IDC and GOSA guarantees. Petitioners note that, because the IDC was a partner, Columbus did not have to formally apply for financing or undergo the IDC's risk assessment; foreign lenders required the IDC to guarantee the loans because Columbus had no established credit history; and, some countries required an additional back-up guarantee from the GOSA. *Id.* at 13. Petitioners contend that this information further demonstrates that IDC financing conferred a benefit.

Department's Position: As discussed in the "IDC/Impofin Loan Guarantee Program" section above, the Department has revised the analysis of the program from the preliminary determination. Because these loans originate either with foreign government export credit agencies or offshore foreign banks in coordination with foreign government export credit agencies, which are not under the direction or control of the GOSA, the loans themselves are not countervailable and it is inappropriate to compare the interest rates charged by offshore foreign banks to commercial interest rates in order to determine whether the program provides a benefit to Columbus. For the same reason, an examination of the fees paid to the foreign government banks is inappropriate. Thus, respondent's and petitioners' comments on the benchmark, fees to foreign government banks, and whether the program provides a benefit using this type of analysis, need not be addressed. Instead, we have determined that it is appropriate to focus on the fee charged by the IDC for the guarantee on these loans.

With respect to respondent's comment that there is no evidence that the fees charged by the IDC were preferential, we disagree. As discussed in greater detail in the "IDC/Impofin Loan Guarantee Program" section above, we have determined, based on conversations with an independent banker in South Africa, that a commercial bank would offer Columbus similar guarantees at a slightly higher rate, 0.375 percent. Thus, when we compare what Columbus paid the IDC for the provision of guarantees, 0.25 percent, and what it would have paid a commercial bank, 0.375 percent, we find that the IDC did provide a financial contribution that confers a benefit within the meaning of the Act.

Comment 8: IDC/Impofin Financing Calculation Adjustments: Petitioners argue that the Department's calculations for the IDC/Impofin financing understate the benefits to Columbus from this program. First, petitioners urge the Department to adhere to the preliminary determination, in which the Department stated that it would gather information about commercial fees and add an appropriate amount to the benchmark for the purposes of calculating the benefit for the final determination. Second, petitioners urge the Department to treat interest capitalizations not as interest payments but as increases in principal and to avoid double-counting the payment of capitalized interest in calculating the net present value. Third, in the absence of any record information regarding grace periods on loans in South Africa, petitioners argue that the Department should capture any countervailable benefits associated with the grace periods granted to Columbus for its IDC/Impofin financing. Fourth, the Department should correct errors which resulted in the finding of no benefit for some of the loan tranches examined. Finally, the Department should include in its loan calculations several loans, outstanding during the POI, which were omitted from Columbus' questionnaire responses and which were discovered at verification.

Respondents argue that since the Department's *de facto* specificity finding is in error, and the interest rates provided on the IDC/Impofin financing are not preferential, there is no need to comment on the manner in which the benefit should be calculated.

Department's Position: As discussed above, we have changed our analysis of the IDC/Impofin loan program. Thus, we need not address petitioners' comments with respect to adding fees to the benchmark, interest capitalization and grace periods. The Department did collect information about the guarantee fees that commercial banks charged, and based on this information, we have calculated a benefit comparing what Columbus paid the IDC to guarantee the loans under this program and what Columbus would have paid on comparable commercial guarantees. We have included the fees paid during the POI on loan tranches that were discovered at verification in our calculation of the benefit from the program.

With respect to Respondent's comment, we disagree. As discussed in the program description above and the *Department's Position* on *Comment 6* above, we find that the IDC/Impofin loan guarantee program is *de facto* specific.

Comment 9: Discount Rate: Petitioners argue that the Department should adjust the discount rate used in the preliminary determination because, although the Department relied on the long-term South African government bond rate as the discount rate, the Department noted its interest in finding a more appropriate rate for the final determination. Petitioners contend that discussions at verification of the Prime Overdraft rate (the rate at which commercial banks lend to their best customers), and the spreads added to it, support the use of this rate plus 50 to 60 basis points as the discount rate for the final determination.

Respondents note that the CIRR and LIBOR are the appropriate benchmark interest rates, and that application of these rates yields no countervailable benefits from the IDC/Impofin loans. Therefore, a benchmark based on South African lending rates is irrelevant.

Department's Position: Petitioners are correct that the Department expressed interest in finding an alternative discount rate for use in the final determination. However, as discussed in the section entitled "Discount Rates" above, we did not find an alternative long-term fixed interest rate. Thus, for the purposes of this final determination, we have constructed a discount rate by averaging the government bond rate as

reported by respondents with the "Lending Rate" reported in *International Financial Statistics*, December 1998, published by the International Monetary Fund. By averaging these two rates, we believe that we have identified a rate more appropriate than the rate used for the purposes of the preliminary determination, a rate which includes the necessary characteristics of both long-term borrowing and commercially-available interest rates.

We disagree with petitioners' suggestion of using the Prime Overdraft rate plus 50 to 60 basis points, as that rate is not a long-term fixed interest rate. Respondents' comment is misplaced as the original comment addressed the choice of discount rates for use in calculating the benefit from non-recurring subsides, not the benchmark used in calculating the benefit from the IDC/Impofin loan program. The calculation methodology for the IDC/Impofin loan program is discussed in the *Department's Position* on *Comment 8*, above.

Comment 10: Average Useful Life of Assets: Petitioners argue that the Department should use five years as the average useful life of assets (AUL), as facts available, for purposes of allocating non-recurring benefits over time. In support of this argument, petitioners note that Columbus did not provide information that would allow the Department to calculate an AUL, despite the Department's repeated requests for such information. Petitioners note that the statute justifies the Department's use of adverse facts available (*see* sections 776, 782(d) and (e) of the Act) because of Columbus' unwillingness to provide the requested information. Petitioners argue that five years is the appropriate AUL for two reasons: first, the Department confirmed at verification that Columbus depreciates assets for tax purposes over five years from the date of commissioning; second, Columbus' refusal to provide the information after a preliminary determination in which the Department used 15 years, as facts available and based on the IRS tables, supports the conclusion 15 years is more beneficial than the AUL that Columbus would have reported. Petitioners cite *D & L Supply Company* versus *United States*, 113 F. 3d 1220, 1223 (Fed. Cir. 1997) and *Censaldo Componenti S.p.A.* versus *United States*, 628 F. Supp. 198 (CIT 1986) to support their contention that Columbus should not be allowed to benefit from its refusal to cooperate with the Department's information requests.

Respondents argue that petitioners are incorrect in stating that Columbus has persistently failed to provide information about its AUL. Questionnaire responses indicate that Columbus depreciates buildings over 40 years and plant and machinery, vehicles and equipment over four to 25 years. Further, Columbus has consistently expressed its view that, since Columbus has never received a non-recurring grant or any other allocable subsidy from the GOSA, further information about its AUL is unnecessary. Thus, petitioners inappropriately draw an adverse inference from Columbus' carefully explained response.

Department's Position: We disagree with petitioners. Using five years as the allocation period for any non-recurring grants received by Columbus is unwarranted for two reasons. First, respondents did provide information about their general depreciation practices: buildings are depreciated over 40 years and plant and machinery, vehicles and equipment are depreciated over four to 25 years. While this information does not enable the Department to calculate an *average* useful life of assets, it does not warrant the use of an adverse inference in determining Columbus' AUL, as petitioner urges. Second, five years is not at all relevant to the actual average useful life of assets in the steel industry. Thus, without a basis for calculating a company-specific AUL, we find that the most reasonable alternative is to rely on the *IRS Tables*, which do reflect a reasonable determination of the AUL of assets in the steel industry. In addition, using 15 years as the allocation period is reasonable in light of the information which Columbus did provide about its depreciation practices. Further, the "Allocation Period" section above discusses the Department's practice of determining the allocation period for non-recurring subsidies using company-specific AUL data where reasonable and practicable, and relying on the *IRS Tables* when company-specific AUL data are not available or otherwise cannot be used.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with the government and company officials, and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the CRU.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated an individual subsidy rate for Columbus Stainless, the operating unit of the Columbus Joint Venture. Because this is the only company under investigation, Columbus' rate serves as the all-others rate. We determine that the total estimated net countervailable subsidy rate is 3.93 percent *ad valorem* for Columbus.

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of stainless steel plate in coils from South Africa which were entered, or withdrawn from warehouse, for consumption on or after September 4, 1998, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after January 2, 1999, but to continue the suspension of liquidation of entries made between September 4, 1998, and January 1, 1999. We will reinstate suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does

exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7530 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–809]

Final Affirmative Countervailing Duty Determination; Stainless Steel Plate in Coils from Belgium

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Zak Smith, Stephanie Hoffman, James Breeden, or Melani Miller, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0189, 482–4198, 482–1174, or 482–0116, respectively.

Final Determination

The Department of Commerce determines that countervailable subsidies are being provided to producers and exporters of stainless steel plate in coils from Belgium. For information on the estimated countervailing duty rates, please see the *Suspension of Liquidation* section of this notice.

Petitioners

The petition in this investigation was filed on March 31, 1998, by Armco, Inc., Lukens Inc., Butler Armco Independent Union, Zanesville Armco Independent Organization, and the United Steelworkers of America, AFL-CIO/CLC ("the petitioners").

Case History

Since the publication of the preliminary determination in the **Federal Register** on September 4, 1998 (63 FR 47239) ("*Preliminary Determination*"), the following events have occurred:

We conducted verification in Belgium of the questionnaire responses from the Government of Flanders ("GOF"), the Government of Belgium ("GOB"), SIDMAR N.V. ("Sidmar"), and ALZ N.V. ("ALZ") from November 9 through November 20, 1998. We postponed the final determination of this investigation until March 19, 1999 (*see Countervailing Duty Investigations of Stainless Steel Plate in Coils From Belgium, Italy, the Republic of Korea, and the Republic of South Africa; Notice of Extension of Time Limit for Final Determinations*, 64 FR 2195 (January 13, 1999)). The petitioners and ALZ filed case briefs on February 10, the GOB filed a case brief on February 11, and we received rebuttal briefs from the petitioners and ALZ on February 18, 1999.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to the regulations codified at 19 CFR part 351 (April 1998).

Scope of Investigation

For purposes of this investigation, the product covered is stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Injury Test

Because Belgium is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission ("ITC") is required to determine whether imports of the subject merchandise from Belgium materially injure, or threaten material injury to, a U.S. industry. *See* section 701(a)(2) of the Act. On May 28, 1998, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Belgium of the subject merchandise (*see* 63 FR 29251 (May 28, 1998)).

Period of Investigation

The period for which we are measuring subsidies (the "POI") is calendar year 1997.

Subsidies Valuation Information

Responding Producers

The GOB identified one producer of the subject merchandise that exported to the United States during the POI, ALZ. There are also two subsidiaries of ALZ which are involved in the production of the subject merchandise, ALBUFIN N.V. ("Albufin") and AL-FIN N.V. ("Alfin"), and we have included any subsidies to these companies in the subsidy rate for ALZ. Furthermore, Sidmar owns either directly or indirectly 100 percent of ALZ's voting shares and is the overall majority shareholder of ALZ.

Benchmarks for Long-term Loans and Discount Rates

ALZ and Sidmar reported that they obtained long-term commercial loans contemporaneously with the receipt of certain government loans or grants. Where appropriate, we have used these

company-specific interest rates as the long-term loan benchmark interest rate or discount rate (*see* Comments 5 and 6, below). For those years in which ALZ or Sidmar did not receive commercial loans, we are using national average rates for long-term, fixed-rate debt. In the *Preliminary Determination*, we used rates reported by the GOF as the national average rates. However, as explained in the *Interested Party Comments* section below, we determine that those rates are inappropriate benchmarks and have changed our national average benchmarks for this final determination. For further discussion on benchmarks and discount rates, *see* Comment 4 in the *Interested Party Comments* section below.

Allocation Period

In the past, the Department has relied upon information from the U.S. Internal Revenue Service on the industry-specific average useful life of assets in determining the allocation period for non-recurring subsidies (see the General Issues Appendix ("*GIA*") to the Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria, 58 FR 37217, 37225 (July 9, 1993)). However, in British Steel plc v. United States, 879 F. Supp. 1254 (CIT 1995) ("British Steel I"), the U.S. Court of International Trade ("CIT") ruled against this allocation methodology. In accordance with the CIT's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the average useful life ("AUL") of non-renewable physical assets. This remand determination was affirmed by the CIT on June 4, 1996. *See* British Steel plc v. United States, 929 F. Supp. 426, 439 (CIT 1996) ("British Steel II"). In recent countervailing duty investigations, it has been our practice to follow the CIT's decision in British Steel II, and to calculated a company-specific allocation period for all countervailable non-recurring subsidies. Thus, for purposes of this investigation we have determined the allocation period for non-recurring subsidies using company-specific AUL data because it was reasonable and practicable to do so.

As in the Preliminary Determination, we determine that the AUL for ALZ is 15 years. In a change from the Preliminary Determination however, we have allocated non-tied subsidies received by Sidmar over Sidmar's AUL, 19 years.

Equity Methodology

Consistent with the Department's methodology, the first question in analyzing an equity infusion is whether, at the time of infusion, there was a market price for newly-issued equity (*see* GIA, 58 FR 37239). The Department will find an equity investment to be inconsistent with the usual practice of a private investor if the market-determined price for equity is less than the price paid by the government for the same form of equity purchased directly from the firm. In this investigation, for those years in which market prices do not exist, the Department has conducted an equityworthiness analysis of the firm as described in the GIA, 58 FR at 37239. *See 1985 Debt to Equity Conversion and Purchase of ALZ Shares* in the program descriptions, below.

I. Programs Determined To Be Countervailable

A. Regional Subsidies under the Economic Expansion Law of 1970

The 1970 Law offers various incentives to enterprises located within designated disadvantaged regions. While the 1970 Law is currently administered by the GOF, the GOB originally oversaw the implementation of 1970 Law benefits to disadvantaged regions throughout Belgium. Pursuant to the overall devolution of power from the GOB to the regional governments since the early 1980s, the authority to administer the 1970 Law has been transferred to the regional governments. With respect to Flanders, many of the 1970 Law subsidy programs have been implemented and administered by the GOF since the late 1980s and the "execution modalities" have been amended by several Flemish decrees. Currently, funding for programs under the 1970 Law is included in a lump sum amount from the GOB as part of the funds needed to finance the overall operation of the GOF. The GOF retains full authority over the distribution of funds within its budget.

ALZ received several types of assistance under the 1970 Law (the initiation and Preliminary Determination notices identified these subsidies as: 1993 Expansion Grant, 1994 Environmental Grants, Investment and Interest Subsidies, Accelerated Depreciation, and *Real Estate Tax Exemption*). Most of this assistance was provided after the GOF assumed control of the subsidy programs. Therefore, we are treating the GOF as the authority providing these subsidies. However, ALZ received one grant in 1983 (identified in the initiation notice as Investment and Interest Subsidies). Because this grant was received prior to the GOF takeover of 1970 Law authority, we consider this one grant as having been bestowed by the GOB.

The GOF framework of economic expansion consists of the 1970 Law (for medium and large-sized businesses located in a disadvantaged region), the Act of August 4, 1978 ("1978 Act," for small businesses and one-man companies), and the 1993 Economic Expansion Decree ("1993 Decree," for medium and large-sized businesses not eligible for assistance under the 1970 Law). The 1993 Decree replaced the Economic Expansion Law of 1959 ("1959 Law") which was repealed in 1991. These laws offer various subsidies designed to promote expansion, employment, investment, research and development, and conformance with environmental standards (Vlaams Reglement betreffende de Milieuvergunning, "VLAREM"). Because the 1970 Law is part of a framework of economic expansion, the question arises whether particular assistance provided under the various laws should be considered one program for specificity purposes.

In the Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium, 58 FR 37273 (July 9, 1993) ("Certain Steel"), we determined that assistance provided under the 1970 Law complemented that provided under the 1959 Law, because it generally increased the amount of assistance for companies located in certain development zones. Subsidies provided pursuant to the 1959 Law were found not countervailable in the Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium, September 7, 1982 (47 FR 39305) ("Belgian Steel") because they were not specific. Therefore, in Certain Steel, we countervailed benefits under the 1970 Law only to the extent they exceeded benefits available under the 1959 Law (*see* Certain Steel at 37275 and 37289 and § 355.44(n) of the Department's *1989 Proposed Regulations* (Proposed Rules, Department of Commerce, International Trade Administration, Countervailing Duties, 54 FR 23366, 23380 (May 31, 1989))).

ALZ has argued for the same treatment in this case. However, as noted above, the 1959 Law was repealed in 1991 and replaced with the Flemish 1993 Decree. Therefore, the question is whether subsidies provided under the current economic expansion laws—the 1978 Act, the 1993 Decree and the 1970 Law—should be considered as one program for specificity purposes. We examined each subsidy received by ALZ and Albufin under the context of all three laws and determine that environmental grants and

environmental real estate tax exemptions provided pursuant to these laws are integrally linked. For further discussion, see Comment 17 in the *Interested Party Comments* and the Memorandum to Richard Moreland, "Specificity of Assistance Provided Pursuant to the Economic Expansion Laws," dated March 19, 1999 ("Economic Expansion Memorandum"). Moreover, we determine that these programs are not specific and, therefore, not countervailable. For further discussion, *see* Comments 18 and 20 in the *Interested Party Comments* section.

The other subsidies received by Albufin under the 1970 Law (*i.e.*, the 1993 Expansion Grant, the *Real Estate Tax Exemption* for Albufin's expansion investment, and Accelerated Depreciation) are either not available to large companies under the 1993 Decree or the 1978 Act, or, in the case of the 1993 Expansion Grant, the 1993 Decree was not in effect at the time the subsidy was approved. Therefore, we determine that these subsidies provided under the 1970 Law cannot be integrally linked with the 1993 Decree or the 1978 Act. For further discussion, *see* Comment 17 in the *Interested Party Comments* section and the Economic Expansion Memorandum.

1. 1993 Expansion Grant

The GOF gave Albufin a cash grant in 1994 to construct an annealing and pickling line. The grant is a financial contribution as described in section 771(5)(D)(i) of the Act which provides a benefit to the recipient in the amount of the grant. Expansion grants are only available to large firms under the 1970 Law, and as noted above, benefits under the 1970 Law are available only to firms in certain regions of Flanders. On this basis, we determine that this program is specific under section 771(5A)(D)(iv) of the Act. Therefore, the 1993 Expansion Grant received by Albufin is countervailable within the meaning of section 771(5) of the Act.

We further determine that this grant is non-recurring because the company could not expect to receive it on an ongoing basis. Because the benefit to Albufin was below 0.50 percent of ALZ's sales in the year of receipt, we expensed the grant in that year. Thus, Albufin received no benefit during the POI.

2. Investment and Interest Subsidies

The petitioners alleged that ALZ's financial statements for 1996 and 1997 show entries for "investment subsidies" and "interest subsidies." According to ALZ, the majority of these figures are captured under the heading 1994 Environmental Grants (addressed below). However, as mentioned above, in 1983, ALZ received one cash grant from the GOB under the old system of assistance. At that time, the 1959 Law was still in effect.

We determine that this grant received by ALZ is countervailable within the meaning of section 771(5) of the Act. The 1983 grant is a financial contribution as described in section 771(5)(D)(i) of the Act. Because the countervailable portion of the assistance was received from the GOB pursuant to the 1970 Law and, as mentioned above, benefits under the 1970 Law were available only to firms in certain regions of the country, we determine that the program is specific under section 771(5A)(D)(iv) of the Act.

Furthermore, because cash grants of this nature were also available to companies under the 1959 Law, we determine that only the difference in the assistance level between the two laws constitutes a countervailable benefit (*see* Certain Steel, 58 FR 37273, 37275). To derive the benefit, we calculated the difference in the benefit level between what was actually granted pursuant to the 1970 Law and what could have been received pursuant to the 1959 Law.

We further determine that this grant is non-recurring because it was not provided on an ongoing basis. In calculating the benefit, we applied the Department's standard grant methodology. We divided the benefit attributable to the POI by ALZ's total sales during the POI. On this basis, we determine the countervailable subsidy to be 0.02 percent ad valorem.

3. Accelerated Depreciation

Article 15 of the 1970 Law allows certain companies to declare twice the standard depreciation for assets acquired using grants bestowed under the law. The tax benefit is a financial contribution as described in section 771(5)(D)(ii) of the Act which provides a benefit to the recipient in the amount of the tax savings. Because only enterprises situated in certain development zones are eligible to apply for accelerated depreciation, we determine that the program is specific under section 771(5A)(D)(iv) of the Act. Therefore, we determine that this tax benefit received by ALZ is countervailable within the meaning of section 771(5) of the Act.

Albufin, an ALZ subsidiary, received tax savings under this program during the POI. In calculating the benefit, we treated the tax savings as a recurring benefit and divided it by ALZ's total sales during the POI. On this basis, we determine the countervailable subsidy to be 0.50 percent *ad valorem*.

4. Expansion Real Estate Tax Exemption

Pursuant to Article 16 of the 1970 Law, assets acquired using benefits received under the 1970 Law may be exempted from real estate taxes for up to five years, depending on the extent to which objectives of the 1970 Law are achieved. Albufin utilized this tax exemption for an expansion project.

The expansion real estate tax exemption received by Albufin is a financial contribution as described in section 771(5)(D)(ii) of the Act which provides a benefit to the recipient in the amount of the tax savings. As noted above, only the 1970 Law provides tax exemptions for expansion investments to large enterprises. Because the 1970 Law only provides subsidies to companies located in certain regions, we determine that this expansion real estate tax exemption is specific under section 771(5A)(D)(iv) of the Act. Therefore, we determine that the expansion real estate tax exemption received by Albufin is countervailable within the meaning of section 771(5) of the Act.

Albufin received tax savings under this program during the POI. In calculating the benefit, we treated the tax savings as a recurring benefit and divided it by ALZ's total sales during the POI. On this basis, we determine the countervailable subsidy to be 0.09 percent *ad valorem*.

B. 1985 ALZ Share Subscriptions and Subsequent Transactions (identified in the initiation notice as 1985 Debt to Equity Conversion and Purchase of ALZ Shares)

In 1985, the GOB made three share subscriptions in ALZ pursuant to the Royal Decree No. 245 of December 31, 1983. This Royal Decree allowed the GOB to make preference share subscriptions in the steel industry as long as the subscriptions did not exceed one-half of the social capital of the company. The Nationale Maatschappig voor de Herstructurering van de Nationale Sectoren ("NMNS"), the government agency purchasing the shares, acquired common shares and preference shares through this plan.

In analyzing whether these share purchases conferred a benefit on ALZ, we must determine whether the GOB investment was inconsistent with the usual investment practice of private investors in Belgium. Neither ALZ's common nor preference shares were publicly traded. Therefore, we have analyzed the circumstances of the transaction.

According to ALZ, the price at which the GOB purchased shares in ALZ was determined by two separate studies as discussed in ALZ's shareholders' meeting of September 26, 1985. These studies were performed by an independent accounting firm and a group of experts selected by ALZ. In addition, we have performed our own analysis of ALZ's financial health at the time of the stock purchase. This analysis indicates that the company was equityworthy.

Pursuant to the Department's equity methodology, a finding of equityworthiness means that the Department need not inquire further regarding the commercial soundness of a government's purchase of common shares. Hence, we determine that the GOB's 1985 purchase of common shares was consistent with the usual investment practice of private investors in Belgium.

With respect to ALZ's preference shares, we have applied the standard established in *Aimcor* v. *the United States*, 871 F. Supp. 447, 454 (CIT 1994) and *Geneva Steel et al.* v. *United States*, 914 F. Supp. 563, 582 (CIT 1996) ("*Geneva Steel*") and analyzed the characteristics and the subscription price of the preference stock purchased by the GOB. Although the record evidence is mixed, on balance, we have determined that the terms at which the GOB ultimately purchased the preference shares was consistent with the usual investment practice of private investors in Belgium (*see* memorandum from Team to Richard Moreland, "ALZ Preference Shares," public version, dated March 19, 1999).

In 1987, the GOB sold ALZ's common shares purchased under the Royal Decree No. 245 to Kempense Investeringsvennootschap ("KIV"), a company controlled by Sidmar. Based on the relevant record evidence concerning this transaction, we have concluded that the GOB did not behave as a private investor when selling its shares because it accepted a lower price than it otherwise could have obtained for the shares. Specifically, the GOB agreed to sell its shares of ALZ common stock at the value assigned by a statutory auditor. However, the valuation methodology used by the auditor failed to reflect the market value of the stock. This is evident because in a relatively contemporaneous transaction a private seller of ALZ's shares obtained a much higher value. Also, circumstances surrounding the GOB's sale of shares to KIV indicate that the GOB may have been willing to accept less than the fair value of its shares in order to ensure that the shares were purchased by a Belgian company.

We have determined that the GOB's sale of ALZ's common shares to Sidmar constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act. As discussed above, benefits under Royal Decree No. 245 are available only to the steel sector. On this basis, we determine that the program is specific under section 771(5A)(D) of the Act.

To calculate the benefits, we took the difference between market value for ALZ's common stock and the price paid by Sidmar for the stock. We then applied the Department's standard grant methodology and divided the benefit attributable to the POI by Sidmar's total consolidated sales during the POI. On this basis, we determine the countervailable subsidy to be 0.09 percent *ad valorem*.

In addition, we determined in our *Preliminary Determination* that Sidmar received a countervailable benefit via the creation of a joint venture between Sidmar and the GOB. In this transaction, the GOB contributed its ALZ preference shares in exchange for shares in the joint venture. However, the Department verified that this transaction was structured in such a way that the government maintained ownership of ALZ's preference shares. Moreover, it was established at verification that Sidmar does not control the company. Thus, Sidmar neither controls the ALZ preference shares contributed to this company nor can profit from the shares. Accordingly, contrary to our *Preliminary Determination*, we determine that Sidmar did not "acquire" the preference shares originally purchased by the GOB. Therefore, no countervailable benefit was conferred upon Sidmar through the creation of the joint venture by Sidmar and the GOB.

C. Societe Nationale de Credite a l'Industrie ("SNCI") Loans

SNCI was a public credit institution, which, through medium- and long-term financing, encouraged the development and growth of industrial and commercial enterprises in Belgium. SNCI was organized as a limited liability company and, until 1997, was 50-percent owned by the Belgian government. ALZ received investment loans from SNCI which were outstanding during the POI. All SNCI loans received by ALZ and outstanding during the POI were approved and disbursed after 1986.

In *Certain Steel*, we examined whether investment loans from SNCI were specific by analyzing whether the steel industry received a disproportionate share of loans outstanding (58 FR 37273, 37280–37281). We compared the steel industry's share of outstanding loans to the share of outstanding loans provided to all other users of the program. Although SNCI made loans to many sectors of the Belgian economy, we determined that the steel industry had received a disproportionately large share of investment loans outstanding in years prior to 1987. However, we did not find disproportionality in 1987 and 1988 as the steel industry's share of benefits dropped significantly.

In the *Preliminary Determination*, we followed the same analysis employed in *Certain Steel* and examined data on outstanding SNCI investment loans in 1989 and 1990, and preliminarily determined that the steel industry did not receive a disproportionate share of benefits in those years. Therefore, for loans approved between 1987 and 1990, we preliminarily determined that SNCI investment loans were non-specific and, therefore, not countervailable.

In a change from the analysis used in *Certain Steel* and the *Preliminary Determination*, we have focused our analysis on the steel industry's share of loans approved in a given year rather than that industry's share of loans outstanding in a given year. We believe the former provides a better indication of whether loans are limited to specific industries. Loans outstanding can be affected by other factors besides the approval process which are not relevant to a specificity determination, such as the terms of loans. Therefore, for the final determination, we are modifying our analysis to examine the percentage of loans approved for the basic metals industry in each year. On this basis, we determine that the steel industry did not receive a disproportionate share of SNCI loans for the years 1987 through 1990. *See* Memorandum to Richard Moreland, "Specificity of SNCI Loans," dated March 19, 1999 ("*SNCI Memorandum*").

Since the *Preliminary Determination*, the petitioners provided information indicating that the steel industry's share of SNCI loans was not completely captured in the data used by the Department because it did not include loans provided to the steel industry through "coordination centers." SNCI classifies loans to coordination centers as loans to the "banking and finance, insurance, business services, and renting" sector. Therefore, the petitioners argue that the data should be

adjusted to account for all loans provided to the steel industry.

The data we are using for our final determination (loans approved) also do not include loans provided to the metals industry through coordination centers. However, we observed that in the one instance where loans through coordination centers are accounted for in the statistics reflecting loans outstanding, the increase in the metals industry's share was not significant. *See* Comment 12 in the *Interested Party Comments* section. Therefore, although we do not have information on loans approved through coordination centers, based upon the information on the record, we determine that their effect would not alter our specificity determination for the years 1987 through 1990. *See SNCI Memorandum.*

For the period 1991–1995, the GOB did not provide any industry usage information for SNCI loans. We requested this information from the GOB in both the original and supplemental questionnaires as well as in the verification outline. The GOB did provide information for 1996 and 1997, however, these figures could not be verified. Because the GOB failed to provide verifiable information with respect to the loans provided since 1991, the Department must use facts available in determining whether these loans are specific. *See* section 776(a) of the Act. Moreover, the GOB did not provide an adequate explanation as to why it was unable to supply the requested information. GOB officials simply stated that they did not have access to the necessary information. Therefore, we determine that the GOB did not act to the best of its ability and, pursuant to section 776(b) of the Act, are applying adverse inferences to determine that SNCI loans provided after 1991 are specific under section 771(5A)(D)(iii) of the Act. For further discussion, *see* Comment 12 in the *Interested Party Comments* section.

To calculate the subsidy conferred by these loans, we used our long-term fixed-rate loan methodology. Because the interest rates on ALZ's loans were periodically revised, we examined the fixed segment which included the POI. We measured the cost savings to ALZ in each year of this segment. We then took the present value of each of these amounts as of the time the interest rate was revised. Finally, using the benchmark as a discount rate, we allocated the subsidy over the period of the segment. We then divided the benefit attributable to the POI by ALZ's total 1997 sales. On this basis, we determine the countervailable subsidy to be 0.04 percent *ad valorem.*

D. Belgian Industrial Finance Company ("Belfin") Loans

Belfin was established by Royal Decree on June 29, 1981, as a mixed corporation with 50 percent GOB participation and 50 percent private industry participation. In *Certain Steel*, we determined that Belfin's objective is to finance investments needed for the restructuring and development of various sectors of industry, commerce, and state services. Belfin borrows money in Belgium and on international markets, with the benefit of government guarantees, in order to obtain the funds needed to make loans to Belgian companies. The government's guarantee makes it possible for Belfin to borrow at favorable interest rates and to pass the savings along when it lends the funds to Belgian companies. Belfin loans to Belgian companies are not guaranteed by the GOB. Moreover, these loans carry a one percent commission which is used to maintain a guarantee fund to support the GOB's guarantee of Belfin's borrowing. ALZ received Belfin loans which were outstanding during the POI.

We determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. These loans provide a financial contribution, as described in section 771(5)(D)(i) of the Act, with the benefit equal to the difference between the benchmark rate and the rate ALZ pays on these loans. Although the objective of Belfin loans is to assist the restructuring and development of various sectors, steel companies are the predominant recipients of Belfin loans. Therefore, we determine that the Belfin loans to the steel industry are specific under section 771(5A) of the Act.

To measure the benefit on these loans, we used our long-term fixed-rate loan methodology. We divided the subsidy allocated to the POI by ALZ's total 1997 sales. On this basis, we determine the countervailable subsidy to be 0.00 percent *ad valorem.*

E. Industrial Reconversion Zones

Alfin

Alfin was established as a "proper" reconversion company in 1985 under the reconversion program "Herstelwet 1984." It was financed by a government agency, Nationale Investeringsmaatschappij ("NIM") and ALZ. In exchange for its investment, NIM received preferred non-voting shares and a two percent annual return on its investment. ALZ is obligated to repurchase all of the shares purchased by NIM at the issued price over a ten-year period.

We have used the hierarchical criteria discussed in the "Classification of Hybrid Financial Instruments Issue" section of the *GIA* to examine these shares and find that they constitute debt instruments because they have a fixed repayment period.

We determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act. Moreover, because benefits under the "Herstelwet 1984" law are limited to firms in certain regions of the country, we determine that this program is specific under section 771(5A)(D)(iv) of the Act.

To measure the benefit of this loan, we used our long-term fixed-rate loan methodology. We divided the subsidy allocated to the POI by ALZ's total 1997 sales. On this basis, we determine the countervailable subsidy to be 0.00 percent *ad valorem.*

Albufin

Albufin was established as an "improper" reconversion company in 1989, also under the reconversion program "Herstelwet 1984." It received its initial capital from the government (NIM), the Sidmar Group (FININDUS), a private company (Klockner Stahl) and ALZ. Because Klockner Stahl was a private company at the time of Albufin's establishment, and it invested on the same terms as the government, we determine that there is no countervailable benefit resulting from the establishment of the company. However, as an "improper" reconversion company, Albufin benefits from a tax exemption on dividend payments and is exempt from the capital registration tax. We determine that these tax benefits received by Albufin are countervailable subsidies within the meaning of section 771(5) of the Act. The tax benefits are a financial contribution as described in section 771(5)(D)(ii) of the Act which provide a benefit to the recipient in the amount of the tax savings. Because benefits under the "Herstelwet 1984" law are limited to firms in certain regions of the country, we determine that this program is specific under section 771(5A)(D)(iv) of the Act.

During the POI, Albufin did not receive tax savings under the capital registration tax but did benefit from the exemption on dividend payments. To measure the benefit from this tax exemption, we treated the tax savings as a recurring benefit and divided them by ALZ's total sales during the POI. On this

basis, we determine the countervailable subsidy to be 0.05 percent *ad valorem*.

F. Subsidies Provided to Sidmar that are Attributable to ALZ

As discussed in the "*Responding Producers*" section above, Sidmar owns either directly or indirectly 100 percent of ALZ's voting shares and is the overall majority shareholder of ALZ. In *Certain Steel* and in the Department's redetermination on remand of *Certain Steel*, we found that Sidmar received several countervailable benefits that were attributable to the entire Sidmar group. Because ALZ is a fully consolidated subsidiary of Sidmar, any untied subsidies provided to Sidmar are attributable to ALZ (*see Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 63 FR 18367 (April 15, 1998) ("*UK Lead and Bismuth*")). Thus, we determine that the following two programs provide countervailable benefits to ALZ via its parent company, Sidmar.

1. Assumption of Sidmar's Debt

Between 1979 and 1983, the GOB assumed the interest costs associated with medium- and long-term loans for certain steel producers, including Sidmar. In exchange for the GOB's assumption of financing costs, Sidmar agreed to the conditional issuance of convertible profit sharing bonds ("OCPCs") to the GOB. In 1985, Sidmar and the GOB agreed to substitute *parts beneficiaires* ("PBs") for the OCPCs.

Consistent with *Certain Steel* and the attendant litigation, we determine that the GOB's initial assumption of interest costs was specific under section 771(5A) of the Act. Furthermore, we determine that the OCPCs are properly classifiable as debt and that the conversion of OCPCs to PBS constituted a debt to equity conversion. Comparing the price paid for the PBs to an adjusted market value of Sidmar's common stock, we determine that the debt to equity conversion provided a benefit to Sidmar as the share transactions were on terms inconsistent with the usual practice of a private investor. *See Amended Final Affirmative Countervailing Duty Determinations; Certain Carbon Steel Products From Belgium*, 62 FR 37880 (July 15, 1997).

We determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act. As discussed above, benefits under this program were available only to certain steel producers. On this basis, we determine that the program is specific under section 771(5A)(D)(i) of the Act.

To measure the benefit from the debt to equity conversion, we calculated the premium paid by the government as the difference between the price paid by the government for the PBs and the adjusted market price of the common shares. We then applied the Department's standard grant methodology and divided the benefit attributable to the POI by Sidmar's total consolidated sales during the POI. On this basis, we determine the countervailable subsidy to be 0.56 percent *ad valorem*.

2. SidInvest

The right to establish "Invests" was limited to the five national industries, including the steel industry. SIDINVEST N.V. ("SidInvest") was incorporated on August 31, 1982, as a holding company jointly owned by Sidmar and the Societe Nationale d'Investissement, S.A. ("SNI") (a government financing agency). SidInvest was given drawing rights on SNI to finance specific projects. The drawing rights took the form of conditional refundable advances ("CRAs"), which were interest-free, but repayable to SNI based on a company's profitability.

SidInvest made periodic repayments of the CRAs it had drawn from SNI. However, in 1987, the GOB moved to accelerate the repayment of the CRAs. The government agency NMNS and SidInvest discussed two options including (i) paying back the CRAs at a rate of three percent per year and (ii) repaying immediately the discounted value calculated as if the full amount were due 32 years later. In early 1988, under the first option, SidInvest agreed to pay back the outstanding balance on the CRAs at a rate of 3 percent per year.

Later, in July 1988, an agreement was reached for NMNS to become a shareholder in SidInvest by contributing the CRAs owed to the government by SidInvest in exchange for SidInvest stock. In a second agreement, through a series of transactions the Sidmar group then repurchased the SidInvest shares obtained by NMNS.

Consistent with *Certain Steel*, we determine that the CRAs were interest-free loans with no fixed repayment. However, the various agreements that took place on July 29, 1988, changed the CRAs. First, it was agreed that repayment would be achieved over 32 years. Second, the GOB swapped that repayment obligation for shares in SidInvest and sold those shares back to various members of the Sidmar group. The benefit to Sidmar in these transactions was that it was able to purchase the GOB's shares at too low a price. This occurred because: (i) The GOB agreed to accept in payment the net present value of the amount due in 32 years and (ii) it calculated the net present value using a non-commercial interest rate. The combination of these two elements of the July 29, 1988, agreements meant that the GOB forgave a considerable portion of the amount it had loaned thru the CRAs.

We determine that this debt cancellation provides a countervailable subsidy within the meaning of section 771(5) of the Act. It is a financial contribution within the meaning of section 771(5)(D)(i) of the Act. Moreover, because the right to establish "Invests" (and, consequently, any forgiveness of loans given to the Invests) was limited to the five national sectors, we view this debt cancellation as being limited to a specific group of industries. On this basis, we determine that the benefit is specific under section 771(5A)(D) of the Act.

To measure the benefit arising from the events of July 29, 1988, we have deducted from SidInvest's outstanding indebtedness the cash received by the GOB. We have treated the remainder as a grant and allocated the benefit over Sidmar's AUL. We divided the total benefit attributable to the POI by Sidmar's consolidated total sales during the POI. On this basis, we determine the countervailable subsidy to be 0.47 percent ad valorem.

The analysis here differs from that followed in Certain Steel. In Certain Steel, we considered the events of July 29, 1988, to constitute two separate events, the creation of a zero-interest, 32-year loan and the use of a non-commercial interest rate to calculate the benefit. Although useful as an analytical tool, the approach in Certain Steel was flawed because it created a loan that was basically repaid the same day. Under our standard loan methodology this countervailable loan would cease to be countervailable the same day it was forgiven. To avoid such an anomaly, we have revised our analytical approach, as described above, to capture the full benefit to Sidmar of this transaction.

II. Programs Determined To Be Not Countervailable

A. 1994 Environmental Grants

Pursuant to the 1970 Law, ALZ received several grants for environmental investments undertaken to conform its operations with VLAREM. As noted above, we determine that environmental grants available under the 1970 Law are integrally linked with those available

under the 1993 Decree and the 1978 Act. Because the combination of these laws makes this assistance available to everyone in Flanders, we determine that these grants are not de jure specific. *See*, also, Comment 17 in the *Interest Party Comments* section.

We also examined usage data provided by the GOF for the years 1995–1997 and further determine that these grants are not de facto specific. Therefore, the 1994 environmental grants are not countervailable. *See also* Economic Expansion Memorandum.

The GOF requested green light treatment for environmental grants. Because these grants are not specific, the green light issue is moot.

B. Environmental Real Estate Tax Exemption

We preliminarily determined that ALZ did not benefit from this program. However, at verification we learned that real estate taxes are paid separately from taxes on revenue and that ALZ did benefit from these environmental tax exemptions. Accordingly, for purposes of our final determination, we have analyzed the countervailability of the environmental real estate tax exemptions received by ALZ.

As noted above, we determine that environmental real estate tax exemptions available under the 1970 Law are integrally linked with those available under the 1993 Decree and the 1978 Act. Because the environmental tax exemptions under the 1970 Law, the 1978 Act, and the 1993 Decree are generally available, these environmental tax exemptions are not de jure specific. Moreover, following the same analysis employed for the 1994 Environmental Grants, we determine that these environmental tax exemptions are also not de facto specific under section 771(5A)(D)(iii) of the Act. Therefore, the environmental real estate tax exemptions received by ALZ are not countervailable. *See* Comments 17 and 20 in the *Interested Party Comments* section and Economic Expansion Memorandum.

III. Programs Determined To Be Not Used

Based upon the information provided in the responses, we determine that neither Sidmar nor ALZ applied for or received attributable benefits under the following programs during the POI.

A. Government of Belgium Programs

1. Subsidies Provided to Sidmar that are Potentially Attributable to ALZ
   a. Water Purification Grants
2. Societe Nationale pour la Reconstruction des Secteurs Nationaux ("SNSN")

B. Government of Flanders Programs

1. Regional subsidies under the 1970 Law
   a. Corporate Income Tax Exemption
   b. Capital Registration Tax Exemption
   c. Government Loan Guarantees
2. Special Depreciation Allowance
3. Preferential Short-Term Export Credit
4. Interest Rate Rebates

C. Programs of the European Commission

1. ECSC Article 54 Loans and Interest Rebates
2. ECSC Article 56 Conversion Loans, Interest Rebates and Redeployment Aid
3. European Social Fund Grants
4. European Regional Development Fund Grants
5. Resider II Program

Interested Party Comments

Comment 1: Sidmar's Sales Denominator. The petitioners argue that Sidmar's sales denominator should be adjusted to exclude production that occurred outside of Belgium because the subsidies provided to Sidmar were not intended to benefit non-Belgian production. In support of their argument, the petitioners cite 19 CFR 351.525(7) of the Department's new regulations, which states that if a firm has production facilities in two or more countries, the Department will attribute these subsidies to products produced by the firm within the country of the government that granted the subsidy. (*See* Countervailing Duties; Final Rule, 63 FR 65348, 65417 (November 25, 1998) ("Final CVD Regulations")).

Department Position: We have used Sidmar's sales denominator exclusive of all non-Belgian production for purposes of attributing the subsidies provided to Sidmar. We believe that it is reasonable to presume that the government of a country normally provides subsidies for the general purpose of promoting the economic health of that country. *See* GIA at 37231. Sidmar has not offered any information rebutting this presumption.

Comment 2: Sidmar Sales Denominator—Transportation Expenses. The petitioners argue that the Department should calculate subsidy benefits to ALZ and Sidmar on an f.o.b. basis rather than on the basis of the companies' accounting and financial statements. The petitioners note that the Final CVD Regulations are clear that sales values should be determined on an f.o.b. basis. While ALZ appears to have provided an f.o.b. based sales figure at verification, the petitioners contend that Sidmar calculated its sales figure on a c.i.f. basis. According to the petitioners, Sidmar's calculation of the total sales figure for the Sidmar Group's Belgian-located companies is based on the companies' revenues, which are reported on a c.i.f. basis. Accordingly, the petitioners argue that transportation costs should be subtracted from this calculation in order to derive the appropriate f.o.b. sales value.

ALZ argues that the Department verified that there is no method for calculating a consolidated f.o.b. figure for the Sidmar Group, a holding company consisting of Sidmar NV and other steel related companies. ALZ notes that Sidmar rarely sells on an f.o.b. basis because its main markets are in Europe, with the result that its products do not go through a port. Furthermore, the Department verified that the type of information Sidmar receives in order to calculate the consolidated financial statements does not provide any figures on transportation costs.

The respondent further argues that using Sidmar NV's cost information to adjust the Sidmar Group's consolidated figures, as recommended by petitioners, serves to overestimate the transportation costs contained in the consolidated revenue figure. ALZ notes that the companies included in the consolidated group are involved in a wide variety of activities, some of which do not incur any transportation expenses. Accordingly, it is not reasonable to assume that all of these companies would incur transportation costs at the same level as Sidmar NV. Consequently, according to ALZ, the petitioners' calculation derives an ex-factory amount as opposed to an f.o.b. amount. Moreover, the petitioners' calculation understates even the ex-factory amount by deducting transportation expenses from companies that incur none.

Department Position: In cases where the company's sales are not recorded on an f.o.b. basis, the Department adjusts the sales value to conform with the Department's longstanding practice of calculating an f.o.b.-based ad valorem subsidy rate, which is consistent with the assessment of the countervailing duties. Accordingly, we have adjusted certain sales figures of Sidmar's Belgian-located companies by the ratio of Sidmar NV's transportation expenses to its total sales. However, we have not adjusted the sales figures of companies that are not involved in production or manufacturing because these companies incur little to no transportation expenses. We believe this to be the most

accurate estimate of the f.o.b. value of Sidmar's sales.

Comment 3: Sidmar Sales Denominator—Other Income. The petitioners argue that the Sidmar Group sales figure includes additional income that is inappropriately reported. The petitioners note that Sidmar officials calculated the total sales figure for the Group's Belgian-located companies by adding accounts 70 ("Turnover") and 74 ("Other Operating Income: Miscellaneous") for each company. The petitioners argue that account 74 includes various forms of revenue that were derived from sources that bear no relation to Sidmar's operations. Accordingly, these sources of revenue could not have benefitted from the subsidies under investigation. Therefore, account 74 should be removed from Sidmar's sales figure.

ALZ counters that it is necessary to include "Other Operating Income" in order to consolidate the revenues of the Sidmar Group's Belgian companies. The respondent explains that it totaled the revenues of the Sidmar Group companies located in Belgium and reduced this amount by each company's intra-group acquisitions. However, the cost accounts used to calculate intra-group transactions do not correspond exactly to accounts 70 and 74. The respondent notes that while cost accounts beginning with the number 60, in which Sidmar subsidiaries record purchases, correspond mostly to 70 accounts, some of the items included therein correspond to items recorded in the 74 account. Cost accounts beginning with the number 61 reflect other costs corresponding to account 74. Consequently, reducing the 70 revenue account by the 60 account serves to understate revenue because some of the items recorded in the 60 accounts correspond to revenues recorded in the 74 accounts. Therefore, in order to achieve complete correspondence between revenues and expenditures, the respondent totaled accounts 70 and 74 and deducted from that combined total the intra-group acquisitions reflected in accounts 60 and 61. ALZ notes that this was the most accurate calculation of the Sidmar Group's Belgian sales given the accounting records of each company.

Department's Position: We verified that the entries recorded in Sidmar's account 74 include non-operational income. We did not request nor collect additional information as to revenue recorded in account 74 by the Sidmar Group's Belgian subsidiaries and there is no indication that all of the Sidmar Group companies record their revenue using the same accounting standard. As noted by respondents, simply deducting the 60 account from the 70 account results in an understatement of Sidmar's operating income. Thus, for purposes of our final determination, we have retained in Sidmar's sales denominator the revenue from account 74 because this is the most accurate information on the record.

Comment 4: Loan Benchmarks and Discount Rates. Both the petitioners and ALZ argue that the national average, long-term benchmark interest rates used in the Preliminary Determination are inappropriate because they are rates for all outstanding government loans, not commercial loans extended in a particular year. The petitioners suggest that the Department should use the SNCI rates collected at verification plus a 15 point spread for the years 1982 to 1997.

ALZ states that because prime rates are set each day, the Department should use the prime rate provided by Kredietbank and Generale Bank for the specific day that a loan was approved or an interest rate was revised. Because these rates are provided for the specific day and length of the loan, they are the best approximations of a commercially available interest rate. Short of using these rates, ALZ argues that the Department should calculate an annual average interest rate from the prime rates collected at verification. Prior to 1991, when prime rates are not available, ALZ argues that the Department should approximate a prime rate from the SNCI rate as was done in Certain Steel.

Department's Position: We agree that the rates used in the Preliminary Determination are inappropriate benchmarks because they represent rates for total government debt outstanding. Therefore, we are changing our benchmark rates for the final determination to reflect long-term national averages for commercial debt taken out in each year. For years in which there was no company-specific benchmark and in which a prime rate is available (*i.e.*, 1991–1993 and 1995–1997), we have used the prime rate plus a 15 point spread as our benchmark. This methodology comports with information collected at verification (*see* Appendix I of the Memorandum to Susan Kuhbach, "Verification Report for a Private Commercial Bank," dated January 25, 1999). However, we are not using the prime rate for the specific day that the interest rate on the subsidized loan was revised because the Department's practice is to use an annual average interest rate during the year in which the loan was received. *See* Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy 63 FR 40474 (July 29, 1998) ("Wire Rod from Italy").

For the period prior to 1991, when Belgium did not publish a prime rate, we are using the national average interest rate calculated in the Certain Steel investigation and used in the recently published administrative review of that case. Consistent with both of those proceedings, we are using Kredietbank rates for the years 1982 to 1990, which were supplied in the Certain Steel investigation, and adding a margin of 15 points to these rates. *See* Certain Steel, 37288–37289 and Cut-to-Length Carbon Steel Plate From Belgium; Final Results of Countervailing Duty Administrative Review, 64 FR 12982, 12987 (March 16, 1999).

We did not approximate a prime rate for the years prior to 1991 as ALZ suggested. Although we did construct a prime rate in Certain Steel, we only did so to calculate a margin for uncreditworthiness, not to calculate the benchmark rate. As stated above, for benchmark rates prior to 1991, we used the Kredietbank rates from Certain Steel plus a spread.

Comment 5: ALZ Company-Specific Benchmarks. The petitioners argue that company-specific benchmark rates used by the Department in the Preliminary Determination for ALZ in 1989 and 1993 are not appropriate benchmarks because they are based on a loan which is not a true commercial loan. The petitioners maintain that the loan originally taken out in 1989 by ALZ, and revised in 1993, should not be used because it was linked to a project which also received SNCI financing two years earlier. According to the petitioners, because both the private bank loan and the SNCI loan were taken out to finance the same project, they are part of a consortium loan and the participation of SNCI may have affected the terms of the private bank loan. Moreover, the petitioners argue that the interest rate revision on this loan used to determine the 1993 benchmark rate for ALZ was not applicable until 1994 and, therefore, should not be used as a benchmark for 1993. Instead of using these aforementioned company-specific rates, the Department should use the SNCI rates collected from Kredietbank for the years 1982 to 1997.

It is ALZ's position that its 1989 loan is a commercial loan and the fact that an SNCI loan was taken out two years earlier to finance the same project should have no bearing. In addition, the relevant date in determining benchmarks is the date on which the rate is established. Therefore, the interest rate revision in 1993 is applicable to 1993.

Department's Position: It is the Department's policy to use a company-specific benchmark rate to determine the benefit conferred by a government loan program. *See, e.g.,* Certain Iron-Metal Castings from India; Final Results and Partial Rescission of Countervailing Duty Administrative Review, 63 FR 64050, 64057 (November 18, 1998). Therefore, where available, we have used ALZ's loans as benchmarks. We disagree with the petitioners that ALZ's 1989 loan was not a commercial loan merely because the loan was used to finance a project which received SNCI financing years earlier. When the loan contract was reviewed at verification, there was nothing in the document to indicate that the loan was not a commercial loan or was in any way connected with the SNCI loan. Therefore, consistent with the Department's practice, we are using ALZ's 1989 loan as a company-specific benchmark.

With regard to the 1993 interest rate revision, we agree with the petitioners that while the interest rate revision occurred in 1993 it did not go into effect until 1994. Given that this was an interest rate revision to an ongoing loan, and the revision would not apply until the next year, we are treating this revised rate as a 1994 benchmark. Therefore, we are including this interest rate in our calculation of the company-specific benchmark for 1994.

Comment 6: Sidmar Company-Specific Benchmarks. The petitioners argue that the company-specific benchmark rate used by the Department in the Preliminary Determination for Sidmar in 1988 is not an appropriate benchmark because Sidmar's loan does not represent comparable commercial financing in terms of structure and maturity. Specifically, the petitioners maintain that one of Sidmar's loans was not a fixed-rate loan. The petitioners also state that the maturities of two of Sidmar's loans used as benchmarks are not comparable to the maturity of the subsidized loan. Therefore, the petitioners state that the Department should reject Sidmar's 1988 company-specific rate.

With respect to Sidmar's 1988 loans, ALZ contends that the national average interest rate for five-year loans is not more comparable to the subsidized loan than Sidmar's company-specific rate. Therefore, the Department should continue to use Sidmar's loans for 1988.

Department's Position: As noted in the comment above, it is the Department's policy to use a company-specific benchmark rate in determining the benefit conferred by a government loan program. Therefore, where available, we used Sidmar loans as benchmarks. However, we agree with the petitioners that one of Sidmar's loans taken out in 1988 is not a long-term, fixed-rate loan. Therefore, it does not provide an appropriate benchmark for our purposes and we are excluding that loan from our benchmark calculation. Consequently, we are using a recalculated company-specific benchmark rate for Sidmar in 1988. We agree with the respondents that Sidmar's company-specific rate calculated from its other 1988 loans is a more appropriate benchmark than a national average benchmark. The maturity of Sidmar's loans and the maturity of the national average interest rate (five-years) do not differ enough to warrant deviating from the Department's preference for using company-specific benchmarks when available.

Comment 7: Government Equity Infusions In Sidmar. The petitioners allege that the GOB equity infusion into Sidmar in 1984 was made on terms inconsistent with the usual investment practice of private investors and, therefore, constitute countervailable studies. The petitioners base their argument on the GOB's decision to invest in these companies without evaluating information typically examined by private investors. In support of their position, the petitioners refer to § 351.507(a)(4)(ii) of the Final CVD Regulations, which state that the government investor must provide "the information and analysis completed prior to the infusion and * * * absent the existence or provision of an objective analysis, containing information examined by potential private investors considering an equity investment, the Secretary will normally consider that the equity infusion provides a countervailable benefit." The petitioners argue that the information on the record demonstrates that the GOB failed to meet this standard when it invested in Sidmar.

Specifically, the petitioners note that the GOB made substantial equity investments in Sidmar pursuant to the Claes and Gandois plans. The petitioners assert that information on the record establishes that the objective of these programs was to restructure and revitalize the Belgian steel industry. Thus, the objective and circumstances surrounding the investments render it contrary to the behavior of a normal private investor. Moreover, the Department previously found the Gandois Plan to provide countervailable benefits to steel companies because it was "commissioned and adopted by the GOB * * * specifically to assist the Belgian Steel industry." *See* Certain Steel at 37277. The petitioners argue that consistent with the GOB's primary objective of restructuring the Belgian steel industry regardless of the commercial soundness of its investments, the GOB failed to conduct objective analyses containing information typically examined by private investors.

ALZ counters that the petitioners' attempt to include a new allegation regarding the GOB's purchase of Sidmar's common and preference shares in 1984 should be rejected. Pursuant to § 351.301(d)(4)(i)(A) of the Department's regulations, the time limit for making new allegations is 40 days before the scheduled date of the preliminary determination. Moreover, ALZ notes that in Certain Steel, the Department refused to examine the common share transaction and determined that no countervailable subsidy arose from the preferred share transactions.

Department Position: With respect to the Sidmar share transactions, our regulations (at § 351.301(d)(4)(i)(A)) are clear regarding the time limit for making new allegations. The petitioners first made this allegation in their case brief. Thus, for purposes of our final determination, we have not conducted an investigation of the Sidmar share transactions because the petitioners did not meet this regulatory deadline.

Comment 8: GOB Decision to Invest in ALZ. With respect to the ALZ's common and preference shares purchased in 1985, the petitioners contend that the GOB's share valuation methodology and objectives were inconsistent with the actions of a reasonable private investor. The petitioners argue that by valuing ALZ's shares based on the replacement value of its assets, the GOB failed to consider factors that would provide a commercial rationale for the investment, such as financial performance. Furthermore, the petitioners allege that the GOB was not commercially motivated when it purchased ALZ's common stock in order to obtain a blocking share of the company's equity. The petitioners assert that the GOB's objective to block decisions made by ALZ's major stockholders is inconsistent with the usual investment practice of private investors.

ALZ argues that the petitioners ignore the evidence on the record regarding the valuation studies conducted in preparation for ALZ's share subscription. Citing the minutes of ALZ's General Shareholders' meeting, at which it was determined to issue the shares and permit the GOB to subscribe them, the respondent notes that return on investment was considered in

determining the value of the shares issued, contrary to petitioners' contention.

In addition, ALZ objects to the petitioners' allegation that the GOB's purchase of ALZ's common stock in order to gain a blocking share of the company's equity is inconsistent with the Department's private investor standard. ALZ argues that private investors frequently purchase equity in a company specifically in order to obtain a blocking share and, thus, gain a measure of control.

Department Position: The objective of the Department's private investor standard is to determine if a particular investment reflects a rational assessment of whether a reasonable return on the investment would be generated in a reasonable period of time. *See* GIA 58 FR 37217, 37249. As noted by respondents, return on investment was analyzed by the statutory auditor in determining the value of the preference shares. Thus, the GOB's share valuation methodology was consistent with our private investor standard.

Furthermore, the petitioners indicate that methodologies which focus on earnings and financial performance are typically used by private investors for purposes of valuing private companies. However, this represents only one of the valuation approaches available to private investors. The replacement value methodology used to estimate the value of the preference shares is a common approach for valuing privately held companies and, therefore, consistent with the actions of a private investor.

Finally, we agree with the respondent that the GOB's purchase of ALZ common shares for purposes of obtaining a blocking share is not inconsistent with the actions of a private investor. As verified by the Department, the GOB obtained a blocking share in order to protect its investment in ALZ. Thus, we determine that the GOB's purchase of ALZ common shares was consistent with the usual practice of a private investor.

Comment 9: The Formation of Sidfin International. ALZ argues that neither it nor Sidmar received a countervailable benefit through the formation of the joint venture, Sidfin International, because Sidmar did not acquire ALZ's preference shares. ALZ notes that the Department verified that the joint venture was neither controlled by Sidmar nor was Sidmar able to benefit from the returns associated with ALZ's preferred shares. Thus, regardless of the valuation of the shares performed in 1993 at the time of Sidfin creation, Sidmar received no benefit from this transaction.

ALZ further argues that the valuation of ALZ's preference shares in this transaction was consistent with a reasonable private investor standard. ALZ notes that the parties involved in this transaction, including the private company Sidmar, valued their assets according to the same standards. The valuation of the assets contributed was also reviewed by a statutory auditor. In addition, the respondent contends that the Department has previously accepted the use of net present value as a reasonable valuation approach for a private investor. *See* Certain Steel, 37278.

The petitioners argue that Sidmar's audited financial statements clearly indicate that Sidfin International is controlled only by Sidmar. The admission by Sidmar in a public document provides unbiased documentary evidence that, while Sidmar owned only half of Sidfin International's shares, it effectively controlled all of the company. The petitioners rely on statements made during verification as further indication that Sidmar controlled Sidfin.

Furthermore, the petitioners contend that contrary to respondent's claim, private investors do not employ the valuation methodology used in this transaction. In support of its argument, ALZ refers to Accounting Principles Board Opinion 16 which explains that the NPV is used in the context of business combinations to assign a value to debt instruments. Conversely, marketable securities such as ALZ's preference shares should be valued at the current net realizable value of the shares. In the case of ALZ's preference shares, the current net realizable value was the market value of the shares at the time of the transaction. Thus, for purposes of measuring the benefit conferred by the 1993 capitalization of Sidfin International, the petitioners argue that the Department should use the market value of ALZ's preference shares in 1993 as the benchmark share price rather than the 1985 subscription price.

Department's Position: As noted above, we have determined that the 1993 capitalization of Sidfin International did not involve a sale of shares or any other potentially countervailable event. Consequently, the valuation methodologies used in this transaction are irrelevant.

Comment 10: GOB Sale of Common Share—Consistency With Actions of a Private Investor. ALZ argues that the GOB's 1987 sale of ALZ's common stock to KIV/Sidmar was consistent with the actions of a reasonable private investor. ALZ contends that the 1987 transactions reflect pre-existing contractual relationships among ALZ's shareholders which limited the potential buyers of the GOB's shares and, thus, affected the GOB's sale of its shares. According to ALZ, these contractual relationships created constraints on the GOB's freedom to transfer the shares but such constraints were common private investor practices among the entities involved in this transaction.

ALZ explains that, as required by the rights of preemption agreed to in 1980 by the GOB, KIV and Klockner Stahl, the GOB was obligated to offer its shares of ALZ first to KIV and then to Klockner Stahl before it could sell the shares to an outside party. Thus, the GOB structured the sale such that it sold the shares to KIV. Subsequently, Sidmar gained control of these shares when it acquired KIV. ALZ argues that the structure of this transaction enabled the GOB to sell freely without violating Klockner Stahl's preemption rights.

The petitioners counter that the respondent's argument ignores the fact that the GOB structured the 1987 transaction to account for noncommercial concerns regarding the nationality of potential buyers. The petitioners argue that a private investor would not share the GOB's concern regarding the nationality of a potential investor. Rather, private investors would seek to obtain the highest return for their investment. As a result, the GOB neglected a potentially higher purchase price offered by Klockner Stahl due to its concern regarding the nationality of the investor and, instead, accepted the discounted price paid by Sidmar. Thus, the sale of ALZ's common shares by the GOB to Sidmar was not consistent with actions of a reasonable private investor.

Department Position: Although the preemption agreements affected the transferability of ALZ's shares, the GOB elected not to pursue a potentially higher offer by Klockner Stahl and, instead, accepted the discounted offer by Sidmar. Moreover, record evidence indicates that the GOB and Sidmar structured the 1987 sale of ALZ common shares to account for noncommercial concerns regarding the nationality of potential buyers. Accordingly, we have determined that the GOB did not act as a reasonable private investor.

Comment 11: GOB Sale of Common Shares. ALZ argues that, consistent with the actions of a private investor, the GOB negotiated a purchase price for ALZ common shares in ALZ with KIV/Sidmar. After evaluating the offer and

gaining an understanding with Sidmar regarding the protection of the GOB's interests in the preferred shares which it retained, the GOB determined that the price offered for its shares was reasonable. Moreover, a statutory auditor valued the same number of shares held by KIV in ALZ at the same price.

In addition, the respondent maintains that the ALZ stock Sidmar purchased later in 1987, which the Department used as a benchmark in its preliminary determination, is not comparable. ALZ argues that this sale was not constrained by the preemption agreements of 1980. Thus, it is logical that a private investor would require a higher price for its shares under these circumstances. The respondent also notes that it is reasonable to assume that Sidmar was willing to pay a higher price for the shares because it was consolidating its holdings in ALZ at the time.

The petitioners assert that the purchase price was significantly below the market-determined prices paid at the time of, and prior to, the transaction in question. According to the petitioners, the arguments offered by the respondent are unsubstantiated and, furthermore, conflict with the evidence on the record.

The petitioners further argue that the share purchase used as the benchmark in the Preliminary Determination reflects the market value of ALZ stock because it was negotiated between private companies unrelated to each other. Given the disparity between the price at which the GOB sold the shares to Sidmar, the Department should consider the share price received by the GOB to be below the market-determined share price.

Department Position: We agree with the petitioners that, while the GOB agreed to sell its shares of ALZ's common stock at the same value assigned by a statutory auditor to KIV's shares of ALZ stock, the valuation methodology used by the auditor failed to reflect the market value of the stock. Pursuant to the Department's equity methodology, we have compared the price at which the GOB sold its shares of ALZ common stock against a contemporaneous market transaction for purposes of measuring the countervailable benefit.

With respect to the market benchmark used in our Preliminary Determination, the relevant record evidence indicates that the preemption agreements did affect the transferability of ALZ's shares. However, these agreements did not meaningfully restrict the ability of the GOB to sell to Klockner Stahl and, thereby, to obtain the market price of the shares. Consequently, the market transaction involving ALZ's common shares absent these contractual constraints represents a comparable benchmark. Thus, we have continued to use this transaction as our market benchmark in our final determination.

Comment 12: SNCI Loans. As noted above in the *SNCI Loan* section, the petitioners argue that the Department erred in its Preliminary Determination when it found SNCI loans provided between 1987 and 1990 to be non-specific, because the usage data did not include all loans provided to the steel industry.

The petitioners further argue that, with respect to SNCI loans approved after 1990, the respondents have failed to provide any breakdown of benefits by industrial sector between 1991 and 1995, and have failed to document how they derived the percentages reported for 1996 and 1997. Given the respondents' failure to provide the information necessary to conduct a specificity analysis, the Department should apply adverse facts available and countervail all SNCI loans provided to ALZ between 1990 and 1997.

ALZ argues that in Certain Steel, the Department found that SNCI loans not expressly given under a government plan were not specific in 1987 and 1988, and in its Preliminary Determination, the Department extended this finding to include 1989 and 1990. Moreover, ALZ notes that an SNCI official explained at verification that SNCI treated investment loans to the steel industry in the same manner as loans to any other industry and that the steel industry could not have been given a disproportionate share of SNCI loans. Therefore, ALZ contends that the Department should determine that SNCI loans are not specific to the steel industry.

ALZ further argues that the lack of information on loans through coordination centers should not lead to a determination that loans to the steel industry are specific because any industry can have a coordination center. Therefore, the respondent reasons that if loans to the steel industry are underreported because of coordination centers, likewise the loans to all industries are also underreported.

Moreover, ALZ maintains that the use of adverse facts available is not appropriate in this case. It argues that U.S. law requires that for adverse inferences to be applied in this case, the Department must find that a respondent has "failed to cooperate by not acting to the best of its ability to comply with a request for information" from the Department. *See* section 776(b) of the Act. ALZ states that the GOB attempted to accommodate the Department's request for information and verification, but the requested information is not available because SNCI no longer aggregates the loan usage data in the format requested. ALZ argues that the respondents have acted to the best of their ability, and the Department should not view any deficiencies in the information they have provided as a cause for applying adverse inferences in this case.

Department's Position: We agree with the petitioners that loans provided to the steel industry through coordination centers should be included in the specificity analysis. However, the petitioners' argument overstates the effect of loans through coordination centers on the percentage of loans to the steel industry. The 1990 SNCI annual report provides specific information on this issue and indicates that when coordination center loans to the steel industry are included in the calculation for 1990, the steel industry's share of SNCI loans increases by 2.3 percent. Instead of employing the petitioners' suggestion to include all coordination center loans to industrial sectors and adding 10 percentage points to the calculation of loans provided to the steel industry, we are accounting for coordination centers by using the information specific to the steel industry.

In addition, we modified our final analysis to include the percentage of loans approved in each year, as well as the percentage of loans outstanding. When both statistics are taken into account, the percentage of SNCI loans directed toward the steel industry greatly decreases. Therefore, for the years in which ALZ received SNCI loans and for which we have the relevant information (*i.e.*, 1987 through 1990), we do not find SNCI loans to be specific to the steel industry. (*See*, also, SNCI Memorandum.)

In response to ALZ's argument that, based upon comments at verification, the steel industry did not receive a disproportionate share of SNCI loans, we have already determined that SNCI investment loans provided in the years 1987–1990 are not specific. However, as noted above in the *SNCI Loans* section, the Department repeatedly requested information on the breakdown of loans in the years 1991–1997. The GOB did not provide any information for the years 1991–1995 and was unable to provide verifiable figures for 1996 and 1997. Therefore, the comments made at verification are completely unsubstantiated with respect to these years. Moreover, the GOB never

explained why it could not provide the required data. While SNCI may not aggregate the information in the manner requested by the Department, the GOB never indicated why the usage information could not be collected through other sources. As a result, we determine that the GOB did not act to the best of its ability with respect to providing the requested information and, pursuant to section 776(b) of the Act, we are applying adverse inferences in those years and determine that SNCI investment loans are *de facto* specific for the years 1991–1997.

Comment 13: Fictive Withholding Tax. The petitioners argue that the Department's calculation methodology for SNCI loans should include benefits from the Fictive Withholding Tax ("FWT"). The FWT permitted lending institutions to deduct a certain percentage of the taxes due on interest income from loans to coordination centers and to pass those savings on to the coordination centers. As a result, the petitioners argue, the GOB provides a financial contribution to the borrower through the lender.

ALZ states that the FWT was available for loans provided to coordination centers through any lending institution, not just SNCI. Therefore, the benefits from FWT are not specific. In addition, the FWT was abolished in 1991 and the ALZ group did not benefit from it after 1995. Therefore, the program was terminated prior to the POI. Lastly, ALZ argues that the FWT had no effect on interest rates paid by ALZ, Alfin and Albufin from SNCI. The Department verified that the coordination centers did not pass on the savings to the ultimate borrowers, but instead retained those savings. Thus, ALZ, Alfin, and Albufin did not benefit from the FWT during the time it was in effect and the Department should use the interest rates actually paid by the ultimate borrowers.

The petitioners counter that ALZ's attempt to distinguish between the rates paid by Al-Center (ALZ's coordination center) and the rates paid by ALZ, Alfin and Albufin admits to the preferentiality of the loan terms, in particular through the FWT.

Department's Position: The FWT only applied to loans taken out by coordination centers such as Al-Center. Al-Center took out SNCI loans under investigation in the years 1987, 1989 and 1990. Because we have already determined that SNCI loans provided in those years are not specific, this issue is moot.

Comment 14: GOB Control of SNCI. ALZ argues that SNCI acts like any other commercial entity and partial government ownership does not change this fact. ALZ cites to Certain Granite Products from Italy, (Final Negative Countervailing Duty Determination: Certain Granite Products from Italy, 53 FR 27197, 27202 (July 19, 1988)) where it is stated that the Department's practice has been to find that "long-term lending * * * in which (a government) has direct or indirect ownership, that involves no government program" does not confer countervailable subsidies. Moreover, ALZ cites to the final concurrence memorandum in Certain Steel in which the Department found that "fifty percent government ownership does not necessarily lead to the conclusion that SNCI operates in other than a commercial fashion." Further, ALZ contends that SNCI was purchased by ASLK prior to the approval of ALZ's 1997 loan from SNCI. Therefore, SNCI was not "government-controlled" or "government-owned" and this loan is not countervailable.

The petitioners state that because ASLK itself was partially owned by the GOB, the sale of SNCI to ASLK did not eliminate the GOB control and, to the extent it was provided on preferential terms, the 1997 loan is countervailable. Moreover, the fact that SNCI was not acting as a "commercial lender" is apparent from the interest rates charged on ALZ's investment loans. The preferential terms associated with ALZ's SNCI loans prove that SNCI provided ALZ with a countervailable benefit.

Department's Position: We agree that fifty percent GOB ownership of SNCI does not, in and of itself render SNCI loans countervailable. However, the fact that SNCI was providing loans at rates lower than those otherwise available does indicate that SNCI was not acting as a commercial entity. We have examined the record evidence and determined that SNCI loans provided between 1991 and 1997 contain all the elements of a countervailable subsidy (*i.e.*, specificity, financial contribution, and benefit).

We agree with the petitioners that although ASLK purchased 99 percent of SNCI in 1995, ASLK continued to remain under GOB control through the fall of 1997. Because ALZ's loan was approved in early 1997, SNCI cannot be considered beyond the control of the government at that time and the purchase of SNCI by ASLK does not diminish the potential countervailability of the loan.

Benefits Received Pursuant to the 1970 Law

Comment 15: Interest Rebate. The petitioners argue that the Department should countervail the interest rate subsidy found at verification even though the relevant loan is no longer outstanding. The petitioners base this argument on the Department's practice to treat interest rate rebates as a grant if the company does not know if the government will provide the rebate when the firm agrees to the terms of the loan. Consequently, because the government approval for this interest rebate occurred after the loan was approved, the Department should treat the interest subsidy as a non-recurring grant.

ALZ argues that it did not report this interest subsidy because it was for a loan which is no longer outstanding. Moreover, ALZ points out that the Department made a specific decision to treat interest subsidies under the 1970 Law as interest rebates and not grants in Certain Steel. ALZ argues that in that case, the Department did so because, although the government approval occurred after the loan was granted, this approval was merely a "rubber stamp" and companies were reasonably certain that their application would be approved at the time they withdrew the loan. In addition, they knew the precise amount of the rebate they would receive and the length of time that it would remain in effect.

Department's Position: In the concurrence memorandum for Certain Steel, the Department stated that "although applicants for the interest rebate did not receive approval of their applications until about 60 days after receipt of the loan in question, they were, nonetheless, reasonably certain that their application would be approved. In addition, they knew the precise amount of the rebate they would receive and the length of time that it would remain in effect. Therefore, we (view) these rebates as interest reductions rather than grants." Based upon our analysis of the interest rebates in question in Certain Steel, we agree with the respondent. Because the loan in question was no longer outstanding during the POI, we find that ALZ did not benefit from the interest rebate at issue during the POI.

Comment 16: Applicability of Integral Linkage Analysis. The petitioners argue that in Certain Steel, the Department stated that it would not conduct an integral linkage analysis of the 1970 Law due to the fact that the law was specific in that it provided benefits only to firms in certain regions. The petitioners state that no evidence has been placed on the record to support a different conclusion in this proceeding. Therefore, the Department should determine that the subsidies provided pursuant to the 1970 Law are provided

to a specific enterprise or industry or group of enterprises or industries.

ALZ argues that the Department found in Certain Steel that the 1959 Law complemented the 1970 Law and, hence, the two should be considered together when determining benefit levels. The same situation now exists with respect to the 1993 Decree and the 1970 Law, in ALZ's view. Therefore, ALZ argues, nothing changed with the replacement of the 1959 Law by the 1993 Decree—except the level of benefits.

Department's Position: In Certain Steel, we were examining a situation where firms qualifying for benefits under the 1970 Law would also qualify for benefits which were "generally available" under the 1959 Law. In situations where a firm can qualify for the same benefit (or virtually the same benefit) under two laws, the issue is not one of integral linkage, but one of "tiered benefits." Hence, as the Department stated in Certain Steel, "* * * the question of linkage does not apply here." Instead, we stated, "we have determined to countervail benefits under the 1970 Law only to the extent that they exceed benefits available under the 1959 Law. This approach is in accordance with our treatment of programs with tiered levels of benefits in Granite from Italy." (*See* Certain Steel at 37289)

In this proceeding, the 1959 Law was replaced by the 1993 Decree. To apply the same analysis would require the Department to determine that the 1993 Decree is generally available (*i.e.*, neither *de jure* nor *de facto* specific). ALZ did not receive any benefits under the 1993 Decree and the record evidence does not allow the Department to fully analyze the specificity of the 1993 Decree. The data that is on the record includes subsidies provided under both the 1993 Decree and the 1970 Law and does not distinguish between the monies provided under each law. Moreover, the 1993 Decree states that benefits under it are provided for investments "which do not fall under" the 1970 Law. This implies that investments eligible to receive assistance under the 1970 Law would not receive assistance under the 1993 Decree. Therefore, the tiered benefits analysis is not applicable in this case.

Therefore, in order to view subsidies provided under more than one law as constituting a single program, the Department must determine that those subsidies are integrally linked. In response to the petitioners' argument that benefits under the 1970 Law will always be regionally specific, we acknowledge that the 1970 Law provides benefits only to specific regions. However, the regional specificity aspect may be removed when the 1970 Law is combined with the 1993 Decree and the 1978 Act. *See, also,* the Department's Position in Comment 18.

Comment 17: Integral Linkage. The petitioners argue that the 1993 Decree should not affect the countervailability of subsidies received pursuant to the 1970 Law. Although the 1993 Decree replaced the 1959 Law, it did so because a 1991 EC Directive stated that the 1959 Law had to be revised and benefit levels reduced to be consistent with European regulations. The petitioners argue that by itself, this fact suggests that the benefits under the 1993 Decree are more limited than those available under the 1959 Law. The petitioners state that the 1993 Decree is distinctly different from both the 1970 Law and the 1959 Law, which was found noncountervailable in the 1983 Belgian Steel case. Therefore, the Department should not treat the 1993 Decree in the same manner that it treated the 1959 Law in Certain Steel.

The petitioners argue that the eligibility criteria and the benefits provided under the 1993 Decree are different from those under the 1970 Law or the 1959 Law. Therefore, the benefits received by ALZ pursuant to the 1970 Law after the 1959 Law was repealed should be countervailed in their entirety. However, the petitioners do not disagree with the Department's conclusion in Certain Steel and the Preliminary Determination that 1970 Law benefits are not specific when assessed against the type and level of benefits available under the 1959 Law.

ALZ and the GOB state that the Laws of 1959, 1970, the 1978 Act and the 1993 Decree are all part of the same GOF comprehensive program of economic expansion and should be considered together in determining benefits. Moreover, the record evidence makes clear that the 1993 Decree replaced the 1959 Law and the only part that the 1991 EC directive required to change and, therefore, the only point that differs between the two laws is the level of benefits. The GOB further argues that it is common knowledge in Belgium that the GOF intended the 1993 Decree to replace the 1959 Law and that the benefits available under the 1993 Decree are the same ones that were available under the 1959 Law. The record evidence dictates that the Department must consider the economic expansion laws as a whole when analyzing any benefits received under the 1970 Law. Therefore, consistent with the Department's treatment of the 1959 Law in Belgian Steel and Certain Steel and with the facts of this case, the Department should only countervail benefits under the 1970 Law to the extent they exceed those available under the 1993 Decree.

Department's Position: In Belgian Steel, the Department found the 1959 Law to be not specific. In Certain Steel, we countervailed benefits provided under the 1970 Law only to the extent they exceeded those available under the 1959 Law. The 1959 Law was replaced with the 1993 Decree and the record evidence suggests that the 1959 Law, the 1970 Law, and the 1993 Decree all have similar types of benefits. In addition, the 1978 Act provides the same types of benefits to small companies. Moreover, the level and type of environmental assistance provided under all laws is identical.

Section 355.43(b)(6) of the Department's 1989 Proposed Regulations requires that in determining whether two programs are integrally linked, the Secretary will examine factors such as "the administration of the programs, evidence of a government policy to treat industries equally, the purposes of the programs, and the manner of funding the programs." The evidence on the record of this proceeding suggests that, since their inceptions, the 1970 Law, the 1978 Act, and the 1993 Decree are related to each other and complement each other in the types of subsidies offered and the goals they seek to achieve. The 1970 Law targets development zones, while the 1978 Act and the 1993 Decree offer assistance to companies that cannot receive assistance under the 1970 Law. The Department confirmed at verification that from the time the GOF assumed authority for economic expansion, all laws, including the 1993 Decree, have promoted similar objectives and have been administered by the same authority. Moreover, all applicants go through the same approval process, use the same application form for assistance (the application form for the 1978 Act is less detailed than the one for the 1970 Law and the 1993 Decree), and receive their funding from the same source.

Consistent with Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews (61 FR 52408, 52415 (October 7, 1996)) which stated that an integral linkage analysis should be performed on a "program by program" basis, the Department considered particular types of assistance under the 1993 Decree, the 1970 Law, and the 1978 Act separately to determine whether such programs under each law (*i.e.*, expansion grants, environmental grants, etc.) are integrally linked for specificity purposes. Given

this analysis, when looking at the subsidies received by ALZ and Albufin, we determine that the environmental grants available under the 1993 Decree, the 1970 Law, and the 1978 Act are integrally linked. Likewise, the environmental real estate tax exemptions available under all three laws are also integrally linked. Consequently, for purposes of this investigation, we consider environmental grants available under all three laws to constitute a single program. Likewise, we consider environmental real estate tax exemptions available under all three laws to constitute a single program. For further information on integral linkage, *see* Economic Expansion Memorandum.

Comment 18: Specificity of Environmental Grants. ALZ argues that the 1994 Environmental Grants are not countervailable because the evidence on the record shows that they are not de jure or de facto specific when examined in the context of the 1970 Law, the 1978 Act, and the 1993 Decree.

Department's Position: As noted in Comment 17 above, we determine that the environmental grants available under the 1970 Law are integrally linked with those available under the 1993 Decree and the 1978 Act. Since environmental grants under all of these laws are generally available, these grants are not de jure specific. Moreover, after analyzing the usage data for the environmental grants bestowed under the 1993 Decree and the 1970 Law, we observed that these environmental grants are provided to 35 distinct industry groupings and that the steel industry did not receive a disproportionate share of benefits. Therefore, we determine that the environmental grants are also not de facto specific. For further discussion, *see* Economic Expansion Memorandum.

Comment 19: Green Light Treatment for Environmental Grants. We received several comments from interested parties on green light issues. ALZ and the GOB argued that the environmental grants qualified for green light treatment under section 771(5B)(D) of the Act. The petitioners disputed this assertion and argued that all of the criteria for green light treatment had not been met. Specifically, the petitioners argued that the assertion that there was no manufacturing cost savings had not been sufficiently documented.

Department's Position: Although the Department conducted some green light analysis in the Preliminary Determination, we did not make a green light determination because more information was needed. Because in the final determination we determine that the environmental grants are not specific, the Department need not determine whether this subsidy meets all the criteria for green light treatment.

Comment 20: Real Estate Tax Exemptions. ALZ argues that the environmental real estate tax exemption is not specific and, therefore, does not provide a countervailable subsidy. In support of its argument, ALZ notes that the Department verified that ALZ's real estate tax exemptions were tied to the environmental projects approved for assistance under the 1970 Law. Moreover, the Department verified that the 1993 Decree, the 1970 Law, and the 1978 Law allow the same real estate tax exemption for ecological adaptions. Thus, the environmental real estate tax exemption is neither de jure nor de facto specific because any company in Flanders that made ecological adaptions can qualify for the real estate tax exemption.

Should the Department determine that the real estate tax exemption is countervailable, ALZ argues that the alleged subsidy rate should be calculated only on those investments eligible for the exemption. ALZ explains that it initially calculated the tax exemption for all investments approved to receive this exemption because it does not track the amount of taxes not paid. However, certain investments were not eligible for the exemption during the POI because they had not been completed by 1996. Thus, the calculations were corrected and resubmitted. ALZ contends that the Department should use the corrected figures for purposes of calculating the alleged benefit.

The petitioners comment that ALZ failed to address the expansion real estate tax exemptions received by Albufin in conjunction with the 1993 Expansion Grant. The Department preliminarily determined that the 1993 Expansion Grant conferred a countervailable benefit upon Albufin. Accordingly, the Department should continue to countervail the real estate tax exemptions benefits provided to Albufin for purposes of its final determination.

Department Position: As stated above, we've determined that the environmental real estate tax exemptions received by ALZ are not specific and, therefore, not countervailable. *See, also,* Economic Expansion Memorandum at 10.

With respect to the expansion real estate tax exemption received by Albufin, we affirm our preliminary determination that this subsidy is regionally specific because only the 1970 Law provides expansion real estate tax exemptions to large-sized enterprises. Therefore, firms must be situated in a development zone to receive this real estate tax exemption. Since the expansion real estate tax exemption received by Albufin is specific, we are continuing to countervail it.

Comment 21: Accelerated Depreciation Methodology. ALZ and the GOB argue that accelerated depreciation should be treated as a tax deferral rather than a tax exemption. In support of its argument, ALZ refers to the Department's 1997 proposed rules, in which the Department recognized that its existing methodology "focused on the tax savings, but has not acknowledged the later tax increases." *See* Countervailing Duties, 62 FR 8818, 8835 (February 26, 1997). Furthermore, ALZ contends that the treatment of accelerated depreciation as a tax deferral rather than a tax exemption is a basic accounting principle. *See* A.N. Mosich and E. John Larsen, Intermediate Accounting, (6th ed. 1987), 617. ALZ further argues that the U.S. tax law and U.S. courts have also recognized that accelerated depreciation in a tax deferral rather than a tax exemption. In order to calculate the benefit, ALZ suggests treating the deferred taxes as an interest-free contingent loan. This methodology allows the Department the opportunity to address changes in the tax laws or a company's financial position.

The petitioners argue that the Department should reject ALZ's argument because it contradicts the agency's longstanding approach to measuring benefits from accelerated depreciation. The petitioners refer to the Final CVD Regulations, in which the Department reaffirmed its practice of treating accelerated depreciation as a tax exemption without regard for any later tax increases that may be incurred. *See* Final CVD Regulations, 65376. According to the Department, the speculation inherent in giving a company credit for a contingent tax liability that it may never incur supports the continued treatment of accelerated depreciation benefits as tax exemptions. *See* Extruded Rubber Thread from Malaysia, 57 FR 38472 (August 25, 1992).

The petitioners also contend that ALZ has offered no evidence that compels the Department to modify its current methodology. Rather, the petitioners note that the respondent relies primarily on authorities such as accounting texts and the U.S. tax law, none of which are concerned with the implications of accelerated depreciation benefits in the context of the countervailing duty law.

Therefore, the Department should continue to use its current methodology for purposes of its final determination.

Department Position: It is our practice to treat the tax savings from accelerated depreciation as a tax exemption rather than a tax deferral because we cannot be certain that the benefits of an accelerated depreciation program will be offset by higher taxes in the future. *See* Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Germany, 58 FR 37315, 37324–25, (July 9, 1993). Such factors as changes in tax provisions and government tax policies, the provision of additional future tax benefits, or the possibility that the recipient company is in a tax loss position in the future might prevent higher taxes from materializing. Therefore, for purposes of our final determination, we have continued to countervail the tax savings received from accelerated depreciation.

Comment 22: Accelerated Depreciation—Albufin. ALZ contends that even if the Department continues to treat accelerated depreciation as a tax exemption rather than a tax deferral, Albufin did not benefit from this program after 1997. The respondent notes that in fiscal year 1997 Albufin decided not to participate in this program. Therefore, there is no benefit from accelerated depreciation after the POI. Consequently, no benefit from accelerated depreciation is applicable to any entries potentially subject to countervailing duties.

The petitioners contend that the respondent's argument conflicts with Department practice. Citing 19 CFR 351.509(b), the petitioners assert that Albufin received a benefit in 1997 in conjunction with taxes paid for the 1996 tax year when it filed its tax return in 1997. According to the petitioners, the fact that Albufin did not apply for accelerated depreciation with respect to taxes incurred in 1997 and payable in 1998 has no bearing on the POI.

Department Position: We agree with petitioners. Pursuant to § 355.48(b)(4) of the 1989 Proposed Regulations, the Secretary normally will consider the benefit as having been received on the date on which the recipient firm would otherwise have had to pay the taxes associated with the exemption or remission. Normally, this date will be the date on which the firm filed its tax return. Therefore, for purposes of our final results, we have countervailed the benefit Albufin received in conjunction with taxes paid in 1997 for the 1996 fiscal year.

Comment 23: Treatment of Public Investment in Alfin. ALZ argues that the Department's classification of the NIM's investment in Alfin as a loan was inappropriate and that the Department should instead treat it as a noncountervailable equity investment. In the first instance, ALZ argues that, under the Department's hybrid financial instrument methodology, NIM's investment should be treated as equity because each criterion of the Department's analysis of hybrid financial instruments indicates that the investment was equity and not debt.

With respect to the first criterion (Expiration/Maturity Date/Repayment Obligation), ALZ states that NIM's shares in Alfin are properly characterized as equity because they do not have an expiration/maturity date nor is there a repayment obligation on the part of the "debtor." Specifically, ALZ argues that, unlike a loan which has a specific expiration date, the shares in question never expire, rather they are being purchased by ALZ (a private shareholder) and not being repaid by Alfin (the supposed "debtor"). According to respondent, because ALZ's purchase does not eliminate the shares, a repayment is not indicated. ALZ also argues that, while its requirement to purchase the shares is legally enforceable in court, it differs from the requirement to repay a debt because no legal action can be taken against the "debtor," Alfin.

ALZ argues that because NIM's dividends are paid from profit, must be specifically declared by the board, and are conditional rather than guaranteed, NIM's shares are properly characterized as equity rather than debt under the second criterion (Guaranteed Interest or Dividends). As for the third criterion (Ownership Rights), ALZ argues that NIM does have ownership rights, as evidenced by NIM's appointment of half of the Board of Directors and by the fact that the shares carry a dividend and, thus, NIM has a claim on the profits of the firm. As for the last criterion (Seniority), ALZ states that NIM's shares do not have a liquidation priority over other shares and, thus, creditors would come before NIM in the event of a liquidation which indicates that the shares are properly characterized as equity.

ALZ also argues that, when applying the hybrid financial instrument methodology, the Department should review all the relevant characteristics of a financial instrument rather than apply a strict hierarchy. ALZ notes that while the Department has stated that it will end its analysis when a characteristic is clearly indicative of debt or equity, its practice has been to review all of the relevant characteristics in making a determination. ALZ cites to the GIA (at 37254) where the Department made a determination in the Final Affirmative Countervailing Duty Determinations: Certain Steel Products From France, 58 FR 37304 (July 9, 1993) on more than one criteria. In further support of its argument, ALZ cites to the CIT's decision in Inland Steel, 967 F. Supp. at 1273, in which the CIT discussed characteristics outside of the Department's stated hierarchy. ALZ also cites to the preamble of the final regulations in which the Department stated that it would be premature to codify the treatment of its hierarchy. Thus, ALZ contends that the Department does not have a practice of adhering to a strict hierarchy or of examining only the above four criteria and, thus, the Department should consider all relevant characteristics and determine that, when viewed in their entirety, Alfin's shares must be classified as equity.

Finally, ALZ argues that NIM's investment was consistent with that of a reasonable private investor and, thus, does not provide a countervailable subsidy. ALZ contends that it is the Department's practice to compare the price paid by the private investor with that paid by the government. If this practice is followed, ALZ notes, the Department will find that the terms of shares subscribed to by NIM were better than the terms of those purchased by the private investor. Thus, because NIM paid the same price paid by the private investor the transaction did not provide a countervailable subsidy.

The petitioners argue that the Department's treatment of NIM's investment as debt instead of equity was appropriate and consistent with Department practice. Specifically, petitioners note that the Department states in the GIA that "once a characteristic is clearly indicative of debt or equity, we will stop our analysis and categorize the hybrid as debt or equity." Thus, according to petitioners, to the extent that NIM's investment had a repayment obligation it should be classified as debt. The petitioners argue that the Department verified that ALZ is required to repay the principal over the course of ten years and, thus, NIM's shares contain a repayment obligation and are more appropriately categorized as debt.

The petitioners also disagree with ALZ's contention that because ALZ (the private shareholder) is buying the shares from NIM instead of Alfin (the "debtor") it is not a debt instrument. The petitioners state that the Department's hierarchy does not require that repayment be made by the debtor

because the key fact is that the shares have a repayment obligation.

Finally, the petitioners argue that if the Department does categorize NIM's investment in Alfin as equity instead of debt, the Department should find the investment inconsistent with the practice of private investors and not use ALZ's subscription in Alfin as a benchmark. On the latter point, petitioners argue that in fact NIM did not purchase its shares on the same terms as ALZ, but paid a significant premium. In the petitioners' view this demonstrates that NIM's involvement was on noncommercial terms. According to petitioners, because NIM involved itself in a noncommercial manner it impacted the reasonableness of the investment and, thus, altered ALZ's evaluation of the commercial reasonableness of the project. Thus, the petitioners argue that the share price paid by ALZ is distorted and unacceptable as a commercial benchmark.

Further, the petitioners argue that NIM's investment was inconsistent with the practice of private investors, for two additional reasons. First, NIM failed to evaluate the commercial reasonableness of its investment prior to making its decision. Second, the shares purchased by NIM offered an unreasonably low rate of return. Based on these factors, petitioners argue that NIM's investment was inconsistent with the practice of private investors and, thus, countervailable.

Department's Position: We are continuing to categorize NIM's investment in Alfin as debt. As stated in the GIA (at 37254), "even if the instrument has no pre-set repayment date, but a repayment obligation exists when the instrument is provided, the instrument has characteristics more in line with loans then equity." NIM's investment in Alfin was in accordance with the Economic Recovery Law of July 31, 1984 (Herstelwet 1984). Under the law, the contract amongst the parties must contain an undertaking by the private shareholders that they will repurchase the shares representing the public contribution at the issuing price. Furthermore, "the repurchase must be effected at the rate of one-tenth per year, from the fourth to the thirteenth calendar year following that in which the shares were issued." Additionally, we found at verification that ALZ, in accordance with the contract, has been repurchasing the shares. Thus, a repayment obligation clearly existed with a pre-set repayment date. Based on the above, we find that the instrument has characteristics more in line with a loan than equity.

With respect to ALZ's argument that the Department must look at all relevant information in making such a determination, we note that our practice is to consider, in order, the four criteria for determining the nature of hybrid financial instruments and stop our analysis when one characteristic is clearly indicative of debt or equity. In this case, ALZ's repayment obligation is clearly indicative of debt under the first criterion and, thus, it is not necessary to address the other criteria. Even if other evidence reflects equity rather than debt, we have found that a repayment obligation bears such significance and outweighs other evidence that the instrument should be properly categorized as debt. In Geneva Steel, the CIT held that this hierarchical method of classifying hybrid instruments is based on a permissible construction of the Act and is in accord with Congressional intent. *See* Geneva Steel at 578–79. Thus, in reviewing all relevant information on the record, we continue to find that this financial instrument is properly classified as debt.

Because we are affirming our preliminary determination that this financial instrument is properly treated as a loan, it is not necessary to address the other issues raised by ALZ and petitioners with respect to the commercial reasonableness of NIM's investment.

Comment 24: Attribution of Sidmar and Sidmar Group Subsidies to ALZ. ALZ argues that while a company may exercise considerable control over its consolidated subsidiaries, if there is an insufficient identity of interests between the parent and its subsidiary, the Department has not allocated untied subsidies to the subsidiary. *See* Wire Rod from Italy (in which we stated, "if there is an insufficient identity of interest among the corporate group, the Department will consider these facts and determine whether it is appropriate to attribute subsidies to the consolidated group holdings"). Respondent argues that such a situation exists here in that Sidmar and ALZ have an insufficient identity of purpose. ALZ notes that Sidmar has considerable interests in other businesses, is a producer of carbon steel, and does not produce stainless steel. Further, ALZ notes that both companies use different distribution systems for their products. ALZ also points out that Sidmar's ownership interest in ALZ was insignificant when the the alleged subsides were provided.

ALZ notes that if the Department finds a countervailable subsidy provided to a company within the Sidmar Group, the Department must base any attribution analysis on the relationship between ALZ and the company in question, not between Sidmar and ALZ. Specifically, ALZ argues that because SidInvest and ALZ have never had any direct ownership interest in one another, the Department's practice with respect to parent companies does not apply to this situation. While ALZ admits that the two companies may be affiliated, it notes that the Department's practice has been to consider subsidies to affiliated parties only when both parties are involved in the production or distribution of the subject merchandise or if there is a specific pass-through of subsidies. ALZ argues that neither of these two situations exists with respect to SidInvest and ALZ and, moreover, there is no convergence of interests between the two companies, as SidInvest's list of investments does not indicate significant involvement in steel production or distribution.

ALZ makes a similar argument with respect to the relationship between it and Sidfin. Specifically, ALZ notes that while Sidfin does have an ownership interest in ALZ, the interest is not controlling and, thus, no cross-ownership is indicated. Also, ALZ argues that it did not receive any financing nor waive any obligation out of the government's transaction with Sidfin and, thus, no benefit can be attributed to ALZ. Finally, ALZ argues that Sidmar's 1985 debt-to-equity conversion should not be attributed to ALZ because the assumption of the loans was tied to Sidmar's carbon steel activities.

The petitioners argue that while Sidmar and ALZ may produce different products and use different distribution systems, these facts have no bearing on the question of whether subsidies provided to Sidmar should be attributed to ALZ. The petitioners note that the Department has a basic rule for determining whether subsidies should be attributed amongst companies when cross-ownership exists. Specifically, the petitioners cite to the Department's Final CVD Regulations which state that subsidies should be attributed when "the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same ways it can use its own assets (or subsidy benefits)." See Final CVD Regulations, § 351.525(b)(6)(vi). The petitioners note that since 1987 Sidmar has, either directly or indirectly, controlled ALZ. Prior to 1987, according to the petitioners, both Sidmar and ALZ were under common ownership of

either the GOB or Arbed. Based on the above, the petitioners argue that this overlapping ownership is sufficient to attribute subsidies received by Sidmar to ALZ.

On a specific level, the petitioners argue that SidInvest's relationship with ALZ is sufficient to allocate subsidies received by SidInvest to ALZ. They base this argument on the fact that Sidmar has a common ownership interest in both SidInvest and ALZ, thereby establishing a degree of cross-ownership that supports attribution of subsidies received by SidInvest to ALZ. The petitioners argue that while SidInvest is not the parent of ALZ and SidInvest has no ownership or control over ALZ, such facts have no bearing on the Department's attribution of subsidies because SidInvest is a non-producing financial subsidiary of Sidmar. Given this status, petitioners argue that SidInvest is more properly treated as a holding or parent company and, thus, any benefits it receives are attributable to ALZ. Petitioners point to *Wire Rod from Italy*, in which the Department attributed equity infusions received by different companies, all of whom were owned by a government holding company, in support of their argument.

With respect to subsidies received by Sidfin, the petitioners argue that the record establishes that Sidfin is a non-producing holding company controlled by the GOB and that the GOB also controls a significant portion of ALZ. Thus, the petitioners contend that because Sidfin is a non-producing holding company, subsidies related to Sidfin are attributable to ALZ's sales. Furthermore, the petitioners argue that Sidfin's degree of ownership in ALZ is adequate to establish cross-ownership and, thus, subsidies should be attributed between these companies.

With respect to ALZ's argument Sidmar's 1985 debt-to-equity conversion should not be attributed to ALZ because the benefit was tied to Sidmar's carbon steel activities, the petitioners argue that the subsidy was provided in conjunction with the government's restructuring plans for the entire steel sector, not just carbon steel. Secondly, the petitioners note that the Department treated the subsidy as a debt-to-equity conversion in the *Preliminary Determination* and, therefore, it is an untied subsidy.

Department's Position: As in the *Preliminary Determination*, we are attributing the benefits from non-recurring untied subsidies received by Sidmar, including subsidies related to SidInvest to the consolidated operations of the Sidmar Group which includes ALZ. This is consistent with the Department's practice that attributes untied subsidies to the company's total domestically-produced sales. *See GIA* at 37267.

With respect to the subsidies received by Sidmar, when the parent company of a consolidated group receives untied subsidies, such as equity infusions, these domestic subsidies are normally attributed to the consolidated group. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 62 FR 53306, 53311 (October 14, 1997). In this case, we have attributed untied subsidies received by Sidmar to the consolidated sales of that company, including the sales of ALZ. We disagree with ALZ that there is an insufficient identity of interest between ALZ and Sidmar to do this. Sidmar currently owns 100 percent of ALZ's voting shares. Also, Sidmar apparently saw that its business interests would be advanced by making ALZ part of the Sidmar Group because it moved from a minority ownership position to a 100 percent ownership interest over time.

With respect to subsidies received by SidInvest, consistent with *Certain Steel*, we are treating the subsidies received as untied benefits to the Sidmar Group. Thus, because ALZ is a member of the Sidmar Group, benefits are properly attributed to ALZ. Specifically, in *Certain Steel*, we stated, ". . . any subsidies provided to SidInvest are not tied to SidInvest or to the specific activities in which it invested. Instead, any benefits flow to the Sidmar Group as a whole." *See Certain Steel* at 37282.

Finally, as we have not found any benefits resulting from the Sidfin transactions, it is not necessary to discuss their attribution.

Comment 25: SidInvest Transactions. ALZ argues that, in the *Preliminary Determination*, the Department overstated the amount of benefit provided to ALZ through the SidInvest transactions. ALZ notes that the Department's practice is to find that the benefit from a loan lasts for the life of the loan. Thus, according to ALZ, the Department inappropriately allocated benefits from the creation of the 32 year loan to the POI. Specifically, ALZ argues that since 1988 the loan has been off SidInvest's books and, thus, under the Department's practice there can be no benefit from this loan since 1988.

ALZ also argues that the Department should make the following calculation changes. First, it argues that when conducting the expense test, the Department should use the consolidated sales of the Sidmar Group because any benefit found to have been provided from the SidInvest transaction is attributable to the entire group. Lastly, ALZ argues that the Department did not take into account a payment by SidInvest, and the payment should be deducted from the difference between the net present value of the balance of the outstanding loan and the shares received by the government in return for the loan.

The petitioners state that the Department should affirm its treatment of the SidInvest transactions in the *Preliminary Determination*. However, petitioners argue that if the Department finds that the benefit from the 32 year loan ceased in 1988, the Department should treat the transaction as a debt-to-equity conversion. According to petitioners, the agreement between the GOB and SidInvest indicates that the government's contribution to SidInvest was made up of the balance of debt instruments that comprised the 32 year loan. Furthermore, petitioners argue that the debt-to-equity conversion was made on terms inconsistent with the practice of private investors because there is no evidence that the GOB based its decision on any studies that provided an objective assessment of the investment and because the GOB sold its shares to Sidmar at a price below their commercial value.

Department's Position: We are continuing to find a benefit arising from these transactions. However, as discussed above, we have revisited our analytical approach. We believe the revised approach more accurately reflects the benefit to Sidmar from the transactions that occurred on July 29, 1988. In particular, we are no longer treating the first step in this transaction as the creation of a 32-year loan. Instead, we now consider that the series of transactions effectively canceled the debt owed to the GOB by SidInvest, and we have treated the amount of debt forgiveness as a grant.

We agree with ALZ that the benefits incurred from the SidInvest transactions are attributable to the entire group and, thus, when determining whether the benefit should be expensed in the year of receipt, we have used the consolidated sales of the Sidmar Group. However, upon conducting the expense test we have not found that the subsidy is expensed in the year of receipt, rather the benefit is being allocated over Sidmar's AUL.

With respect to the payment made by SidInvest to the government, we agree that the payment should be taken into account and have done so for purposes of this final determination. However, while ALZ has argued that the payment should be deducted from the difference

between the net present value of the balance of the outstanding loan and the shares received by the government in return for the loan as it was in 1988, we have instead deducted the payment prior to the creation of the loan. The transactions in question occurred on the same day. On that day SidInvest made various cash payments to the government. We view the cash payments made on that day as reductions in the total amount of money owed to the government by SidInvest. If we were to deduct the payment after taking the net present value, the benefit conferred to SidInvest by the transactions would be understated.

Comment 26: Assumption of Sidmar's Debt. ALZ and the GOB argue that the Department should not have initiated an investigation of this program because the Department determined in *Certain Steel* that it did not provide a countervailable subsidy and the petitioners have not provided any new information that would change that determination. ALZ argues that the reliance on a redetermination that was later vacated as new information is inappropriate because any decision that was vacated should be treated as if it never existed. Thus, ALZ argues that no new information was ever presented in this case that would justify the Department's departure from its normal practice to not reconsider a determination unless new information is presented. ALZ further argues that, in investigating this program, the Department has deviated from the Act and the WTO Agreement on Subsidies and Countervailing Measures because both require a petition to include sufficient evidence of a subsidy. When the Department receives a petition that does not meet this requirement, ALZ argues that the Department should not initiate an investigation and, thus, in this case the Department must terminate its investigation immediately.

ALZ also argues that the GOB's receipt of the PBs was consistent with a reasonable private investor standard because the value of the shares received by the government was consistent with the GOB's financial contribution. Specifically, ALZ cites to the different terms of the shares and notes that all of the terms are consistent with commercial considerations and, thus, consistent with *Aimcor*, we should not find a countervailable subsidy from the issuance of the PBs.

The petitioners argue that the Department properly initiated an investigation of this program because the petition contained sufficient evidence of a subsidy. The petitioners note that in their petition they cited to the *Amended Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Products from Belgium*, 62 FR 37880 (July 15, 1997), in which the Department concluded that the debt to equity conversion was inconsistent with commercial considerations. The petitioners disagree with ALZ's contention that this determination should not be relevant because of the order of vacatur. Rather, the petitioners note that the Department has already rejected ALZ's argument on this point when it was raised following the initiation.

The petitioners also argue that ALZ's argument is not consistent with *Aimcor*, because in the *Aimcor* decision the CIT noted that even if a company is equityworthy, it does not necessarily follow that a purchase of stock from such a company is consistent with commercial considerations. The petitioners then note that in this case the issue before the Department is not whether the terms were consistent with commercial considerations, but whether the investment price paid by the GOB was more than the value of the shares received by the GOB.

Department's Position: ALZ is incorrect in stating that the petitioners did not provide sufficient evidence of a subsidy. In fact, the petitioners cited to our amended final determination, in which we found that Sidmar received a countervailable subsidy from this program. The fact that the decision affirming our remand was vacated does not nullify the factual record and development of agency practice resulting from the proceeding. *See* Memorandum to Richard Moreland, "Initiation of Certain Programs Alleged to benefit ALZ," dated June 18, 1998. The petitioners are also correct in noting that the issue at question is not whether the terms of the PBs were consistent with the reasonable private investor standard, but rather if the price paid for the PBs was consistent with the price a reasonable private investor would pay. In this case, the record indicates that the share transactions were on terms inconsistent with the usual practice of a private investor because the government paid more for the shares than a reasonable private investor would pay. Thus, a countervailable subsidy was provided to Sidmar.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce, Room B–099.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated an individual subsidy rate for ALZ, the sole manufacturer of the subject merchandise. Because ALZ is the only respondent in this case, ALZ's rate will also serve as the "all others" rate. We determine that the total estimated net countervailable subsidy rate is 1.82 percent *ad valorem* for ALZ.

In accordance with our preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of stainless steel plate in coils from Belgium which were entered or withdrawn from warehouse for consumption on or after September 4, 1998, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after January 2, 1999, but to continue the suspension of liquidation of entries made between September 4, 1998 and January 1, 1999. We will reinstate suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be

terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to Administrative Protective Order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7531 Filed 3–30–99; 8:45 am]

BILLING CODE 3510–DS–P

VOL
64
ISS
61
MR
31
999
UMI

federal register

Wednesday
March 31, 1999

Part IV

Department of Transportation

Federal Highway Administration

49 CFR Part 393

Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

[FHWA Docket No. MC–94–1; FHWA–1997–2222]

RIN 2125–AD27

Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSRs) to require that motor carriers engaged in interstate commerce install retroreflective tape or reflex reflectors on the sides and rear of semitrailers and trailers that were manufactured prior to December 1, 1993, have an overall width of 2,032 mm (80 inches) or more, and a gross vehicle weight rating (GVWR) of 4,536 kg (10,001 pounds) or more. The FHWA is requiring that motor carriers install retroreflective tape or reflex reflectors within two years of the effective date of this rule. The agency is allowing motor carriers a certain amount of flexibility in terms of the colors or color combinations during a 10-year period beginning on the effective date of this rule, but is requiring that all older trailers be equipped with conspicuity treatments identical to those mandated for new trailers at the end of the 10-year period. The locations at which the retroreflective tape or reflex reflectors must be applied to trailers during the phase-in period is specified. This rulemaking is intended to help motorists detect trailers at night and under other conditions of reduced visibility, thereby reducing the incidence of passenger vehicles colliding with the sides or rear of trailers.

DATES: The effective date for this rule is June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HCS–10, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments that were submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590-001, in response to previous rulemaking notices concerning the docket referenced at the beginning of this notice by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

On December 10, 1992, the National Highway Traffic Safety Administration (NHTSA) amended Federal Motor Vehicle Safety Standard (FMVSS) No. 108 (49 CFR 571.108), to require that trailers with an overall width of 2,032 mm (80 inches) or more and a GVWR greater than 4,536 kg (10,000 pounds), except trailers manufactured exclusively for use as offices or dwellings, be equipped on the sides and rear with a means for increasing their conspicuity (57 FR 58406). Trailer manufacturers are given a choice of installing either red and white retroreflective sheeting or reflex reflectors arranged in a red and white pattern. Manufacturers of retroreflective sheeting or reflex reflectors intended for use in satisfying these requirements must certify compliance of their product with FMVSS No. 108, whether the material is used as original or replacement equipment. The effective date for the final rule was December 1, 1993.

Summary of the NHTSA Rulemaking

The NHTSA issued an advance notice of proposed rulemaking (ANPRM) on May 27, 1980, requesting comments on methods to reduce the incidence and severity of collisions between passenger cars and large trailers during conditions of darkness or reduced visibility (45 FR 35405). The use of retroreflective materials was considered a possible solution.

Between 1980 and 1985, the NHTSA conducted a fleet study in which retroreflective material was placed on van-type trailers in a manner designed to increase their conspicuity during conditions of darkness or reduced visibility. The treatment of the trailers consisted of outlining the rear perimeter, and delineating the lower sides with retroreflective tape. The authors of the study concluded that truck-trailer combinations equipped with retroreflective material were involved in 15 percent fewer accidents (in which a trailer was struck in the side or rear by a passenger car at nighttime) than combinations that were not equipped with the material. This research is documented in the following research reports: "Improved Commercial Vehicle Conspicuity and Signaling Systems, Task I—Accident Analysis and Functional Requirements," March 1981 (DOT HS 806–100); "Improved Commercial Vehicle Conspicuity and Signaling Systems, Task II—Analyses, Experiments and Design Recommendations," October 1981, (DOT HS 806–098); and, "Improved Commercial Vehicle Conspicuity and Signaling Systems, Task III—Field Test Evaluation of Vehicle Reflectorization Effectiveness," September 1985 (DOT HS–806–923). A copy of each of the reports is in the docket.

On September 18, 1987, the NHTSA published a notice discussing the results from the fleet study and requesting comments on the research as well as information from motor carriers about their experiences using reflective material to enhance conspicuity (52 FR 35345).

In response to the NHTSA fleet study, Congress included in the Motor Carrier Safety Act of 1990 (Pub. L. 101–500, 104 Stat. 1218), a provision directing the Secretary of Transportation (Secretary) to initiate a rulemaking on the need to adopt methods for making commercial motor vehicles more visible to motorists. The rulemaking was required to begin no later than February 3, 1991, and to be completed no later than November 3, 1992.

Between March 1990 and September 1991, the NHTSA conducted additional research on trailer conspicuity. The purpose of the research program was to define a range of minimally acceptable large truck conspicuity enhancements that could be used as a basis for developing Federal regulations. A number of laboratory and field studies were carried out to assess the value of using a pattern of retroreflective sheeting, the form the pattern should take, the placement of the treatment on the trailer, the effect of retroreflective markings on the detection and identification of stop and turn signals, and the trade-off between the width and retroreflective intensity of the treatment

material. In addition, field surveys were conducted to assess the effect of environmental dirt on the performance of the marking systems and the durability of retroreflective materials when used on commercial motor vehicles.

The final report for the research conducted between 1990 and 1991 ("Performance Requirements for Large Truck Conspicuity Enhancements," March 1992, (DOT HS 807 815)) includes recommendations that the retroreflective tape be at least two inches in width, applied in a red and white pattern (continuous or broken strip) along the bottom of the trailer on the sides, with a continuous strip along the bottom of the rear of the trailer. The authors also recommend white corner markers at the top of trailers. In addition, the report provides recommendations concerning minimum retroreflectivity levels, taking into account the effects of environmental dirt, aging, and orientation of the marked vehicle. A copy of the final report is in the docket.

On December 4, 1991, the NHTSA published a notice of proposed rulemaking (NPRM) based upon the research conducted between 1990 and 1991 (56 FR 63474). The NHTSA considered its NPRM, which was part of a rulemaking initiated before the enactment of the Motor Carrier Safety Act of 1990, to be responsive to the congressional mandate and its December 10, 1992, final rule as the completion of the rulemaking mandated by Congress.

Current FHWA Requirements for Trailer Conspicuity

The FHWA is responsible for establishing standards for commercial motor vehicles operated in interstate commerce. Commercial motor vehicles subject to the FMCSRs must meet the requirements of 49 CFR parts 393 (Parts and Accessories Necessary for Safe Operation) and 396 (Inspection, Repair, and Maintenance). The requirements for lamps and reflective devices are contained in §§ 393.11 through 393.26.

Section 393.11 of the FMCSRs requires that all lighting devices on commercial motor vehicles placed in operation after March 7, 1989, meet the requirements of FMVSS No. 108 in effect at the time the vehicle was manufactured. Therefore, trailers manufactured on or after December 1, 1993, the effective date of the NHTSA requirement for retroreflective tape or reflex reflectors, must have retroreflective tape or reflex reflectors of the type and in the locations specified in FMVSS No. 108 in order to comply with the FHWA's requirements.

On April 14, 1997, the FHWA published a notice of proposed rulemaking in which the agency proposed general amendments to part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation (62 FR 18170). The proposed amendments covered a wide range of topics, including conspicuity treatments on trailers manufactured on or after December 1, 1993. To make certain that all motor carriers operating trailers subject to the FMCSRs are aware of their responsibility to maintain the conspicuity treatment, the FHWA proposed the addition of detailed language under § 393.11. The FHWA would cross-reference the specific paragraphs of FMVSS No. 108 related to the applicability of NHTSA's trailer conspicuity standards, the required locations for the conspicuity material, and the certification and marking requirements.

FHWA Rulemaking and Congressional Action Concerning Retrofitting

On January 19, 1994, the FHWA published an ANPRM requesting comments on issues related to the application of conspicuity treatments to trailers manufactured prior to the effective date of the NHTSA's final rule on trailer conspicuity (59 FR 2811). The agency requested that commenters respond, at a minimum, to several specific questions listed in the notice. In addition to responding to those specific questions, the FHWA encouraged commenters to include a discussion of any other issues that the commenters believed were relevant to the rulemaking.

On August 6, 1996, the FHWA published a notice announcing that the agency had completed its review of the comments received in response to the ANPRM and that it would issue a notice of proposed rulemaking (61 FR 40781).

The Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107) was enacted on June 9, 1998. Section 4025 requires that the Secretary issue a final rule regarding the conspicuity of trailers manufactured before December 1, 1993, within one year of the enactment of TEA–21. The Secretary must consider, at a minimum:

(1) The cost-effectiveness of any requirement to retrofit trailers manufactured before December 1, 1993.

(2) The extent to which motor carriers have voluntarily taken steps to increase equipment visibility.

(3) Regulatory flexibility to accommodate differing trailer designs and configurations, such as tank trucks.

On June 19, 1998, the FHWA published a notice of proposed rulemaking to require motor carriers to install retroreflective tape or reflex reflectors within two years of the effective date of the final rule (63 FR 33611). The agency proposed allowing motor carriers a certain amount of flexibility in terms of the colors or color combinations during a 10-year period beginning on the effective date of the final rule, but requiring all older trailers to be equipped with conspicuity treatments identical to those mandated for new trailers at the end of the 10-year period. The proposal also specified the locations at which the retroreflective material would have to be applied to trailers during the phase-in period.

Although the FHWA drafted the NPRM prior to the enactment of the TEA–21, the agency reviewed section 4025 of the TEA–21 prior to publishing the NPRM. The FHWA considered the NPRM to be consistent with the three statutory criteria. The final rule being adopted today fulfills the requirements of the TEA–21.

Discussion of Responses to the NPRM

The FHWA received 700 comments in response to the NPRM. The strongest voice of support came from concerned citizens—a total of 652 responses. The FHWA received 549 responses from the Amy Elizabeth Corbin Foundation for the Promotion of Highway Safety, an organization established in memory of an 18-year old who was killed in a collision with a tractor-semitrailer that blocked the road as the truck driver was making a turn across a highway. Another 72 responses were on behalf of Stacey Balascio, a 24-year old passenger who died when the car she was riding in struck the rear of a parked tractor-semitrailer. The FHWA received several letters from the family and friends of Carl Hall, who was killed in a collision with a tractor-semitrailer that blocked the road as the truck driver backed the vehicle into a driveway. The remaining comments from concerned citizens included letters from families and friends of other accident victims, survivors of collisions between passenger cars and tractor-semitrailer combination vehicles, and individuals who saw a recent network television news program that discussed the FHWA's rulemaking concerning trailer conspicuity.

As indicated in the preamble to the NPRM, the FHWA has the greatest sympathy for the losses suffered by these respondents. The goal of this

rulemaking is to reduce the number of such accidents, but rules must be based on consideration of evidence and data submitted. Since these commenters did not include information concerning technical or economic aspects of retrofitting trailers with conspicuity treatments, the remainder of this preamble will focus on those issues. The agency, however, has not ignored the concerns of those whose tragic personal experiences led them to support this rulemaking.

In addition to concerned citizens, the FHWA received comments from 15 members of Congress. The agency received letters from Senators Edward M. Kennedy, John F. Kerry, Rick Santorum, and Arlen Specter. The agency received comments from the following members of the House of Representatives: William D. Delahunt; Barney Frank; James C. Greenwood, Joseph P. Kennedy, II; Edward J. Markey; James P. McGovern; Martin T. Meechan; John Joseph Moakley; Richard E. Neal; John W. Olver; and John F. Tierney. All of the members of Congress who submitted comments in response to the NPRM supported the rulemaking and encouraged the FHWA to expedite the issuance of the final rule.

The specific concerns or issues raised by the commenters that discussed technical or economic issues are discussed in the following sections.

General Comments Concerning Technical and Economic Issues

The agency received comments from 3M; Advocates for Highway and Auto Safety (Advocates); American Association of Motor Vehicle Administrators (AAMVA); American President Lines, Ltd. (APL); the American Trucking Associations, Inc. (ATA); the Canadian Council of Motor Transport Administrators (CCMTA); Citizens for Reliable and Safe Highways (CRASH); the Commercial Vehicle Safety Alliance (CVSA); Farmland Industries, Inc.; Georgia Public Service Commission; GROWMARK, Inc.; the Insurance Institute for Highway Safety (IIHS); the International Association of Chiefs of Police (IACP); National Association of Governors' Highway Safety Representatives (NAGHSR); National Automobile Dealers Association (NADA); the National Private Truck Council (NPTC); the National Sheriff's Association; the National Tank Truck Carriers, Inc. (NTTC); David L. Narkiewicz; Northland Insurance Companies; the Owner Operator Independent Drivers Association, Inc. (OOIDA); Parents Against Tired Truckers (PATT); Reflexite; Salisbury Area Chamber of Commerce; Sate-Lite; Shannon & Peters, Attorneys at Law; S.O.S. Transportation, Inc.; Transport Canada; the Transportation Safety Equipment Institute (TSEI); the Underride Network; XTRA Corporation (XTRA); and Yellow Corporation (Yellow).

Generally, almost all of the commenters supported the concept of using conspicuity treatments of some form to help motorists detect trailers at nighttime and under other conditions of reduced visibility. However, almost all of the commenters believed the agency's proposal would either provide the motor carrier industry with too much flexibility (e.g., allowing the use of alternative colors during the proposed transition period), or not provide the motor carrier industry with enough time to comply with the rule (e.g., requiring that the industry complete the retrofitting within two years of the effective date, and mandating the use of red and white conspicuity treatments 10 years after the effective date of the rule).

Accident Data

The ATA, CRASH, and Yellow provided comments about accident statistics concerning passenger cars striking the sides and rear of semitrailers and trailers. The ATA and Yellow argued that there is insufficient data to support the FHWA's rulemaking and to assess the effectiveness of the NHTSA's requirements for trailers manufactured on or after December 1, 1993. CRASH believes the FHWA's analysis of accident data may have resulted in the agency underestimating the safety benefits of the conspicuity retrofitting rule.

Yellow stated:

In evaluating the effectiveness of the proposed retrofit program we do not agree with FHWA that there is sufficient safety data to support the requirement to retrofit pre-1993 trailers. Since the early 1990's Yellow has been concerned with the visibility of our trailer fleet. We have taken steps to improve the safety of these vehicles by utilizing white trailers, placing reflective unit numbers on the nose and rear of each unit and recently side logos with company identification.

These safety features have improved the visibility of all trailers, yet we find no clear evidence that trailers equipped with additional conspicuity tape have fewer accidents. Nighttime accidents involving passenger cars and trailers have numerous contributing factors. We [cannot] mitigate the fact that automobiles do strike commercial vehicles through the use of conspicuity tape.

While the rulemaking recognizes certain existing conspicuity applications, it does not give full credit to other reflective application that provides improved visibility, yet fails to meet the NHTSA standards. The adage of "one size fits all" is not responsive to current trailer application such as corporate logos, trailer color or trailer types. A van trailer does not have the visibility problems as say a flatbed trailer. FHWA, in relying on safety to support the need for retroreflective tape applications, has not fully taken into consideration differing types of trailers, current reflective applications and trailer colors in its proposed rulemaking.

The ATA stated:

All new trailers built after December 1, 1993, have had to incorporate either red and white striped tape or strip reflectors on their sides and rear. This means that every new trailer placed on the highway in 1994 and 1995 incorporates such markings. Moreover, the total portion of such vehicles in the national trailer fleet is growing year-by-year. Yet the FARS data quoted in the docket shows:

NIGHTTIME CAR INTO TRUCK COLLISIONS

FARS data	Side	Rear	Total
1994	119	173	292
1995	115	200	315

The data seems to indicate 8 percent more fatal accidents happened the second year after adding reflective materials to new trailers. Given that the statistics are for the first two years following the mandate of the new requirements and the sample is extremely small, the proper interpretation may be that there has been no difference. As tragic as they are, these are small numbers. With such a little universe, it will always be hard to show results with statistical significance.

To put the totality of car striking trailer accidents into further perspective, consider that in 1996 there were around 4.3 million registered commercial trailers. That same year there were 364,000 total collisions involving trucks. These incidents included both trucks and trailers and they occurred at all hours. If we say they only applied to trailers and divide the two figures together; we can conservatively project a collision involvement for any specific trailer of once every 12 years.

The point of these examples is that there is very little likelihood of any given trailer being involved in an accident. . . .

Citizens for Reliable and Safe Highways believes there is sufficient data to support the FHWA's conspicuity retrofitting rulemaking but indicated the agency underestimated the safety benefits of the rulemaking. CRASH stated:

In fact the projected safety benefits of trailer conspicuity material that meets the NHTSA requirement are too low because many rear and side underride crashes caused by truck invisibility are not reported as such. Previous to 1994, FARS [Fatality Analysis Reporting System] coded only catastrophic underride crashes with passenger compartment intrusion as "underride." In 1994 the National Center for Statistics and Analysis (NCSA) within NHTSA changed FARS so that it would include underride without passenger compartment intrusion in the data elements. However, according to Insurance Institute for Highway Safety (IIHS), "these crashes are still being substantially undercounted." IIHS has shown that FARS reflects only a small portion of the fatal underride crashes recorded in independent databases such as NASS and CDS. A comparison of IIHS's estimated 248 rear fatal underride crashes each year from 1988 to 1993 to NHTSA's estimate of 60 shows that FARS is undercounting rear underride fatalities by a factor of 4. The National Center for Statistics and Analysis has, "examined and confirmed the assertions made by IIHS." The benefits of taping trailers are higher than estimated by the FHWA.

The FHWA disagrees with the ATA's and Yellow's assertions that the magnitude of the problem does not warrant mandating the retrofit of semitrailers and trailers manufactured before December 1, 1993. The FHWA has reviewed data from the NHTSA's FARS and General Estimates System (GES) for 1993 through 1997, and the data suggests that motorists have trouble detecting semitrailers and trailers at nighttime. The nighttime incidence of passenger vehicles colliding with combination vehicles has fluctuated from 1993 through 1997, but a significant number of these collisions occurred each year.

NIGHTTIME CAR INTO COMBINATION VEHICLE FATAL COLLISIONS

FARS data	Side	Rear	Total
1993	119	222	341
1994	119	173	292
1995	115	200	315
1996	118	170	288
1997	127	198	325

ESTIMATE OF NUMBER OF NIGHTTIME CAR INTO COMBINATION VEHICLE COLLISIONS WITH A NON-FATAL INJURY OR PROPERTY DAMAGE ONLY

GES data	Side	Rear	Total
1993	3,032	2,594	5,626
1994	3,546	3,154	6,700
1995	2,331	2,443	4,774
1996	3,690	2,561	6,251
1997	3,053	2,086	5,139

The FHWA believes the ATA's comments about the accident statistics are misleading. Because of the year-to-year fluctuations shown in the preceding tables it is inappropriate to attempt, at this time, to draw conclusions from the FARS and GES data on the effectiveness of the NHTSA's requirements for conspicuity treatments. In addition, consideration must be given to factors such as the percentage of the U.S. fleet of semitrailers and trailers equipped with conspicuity treatments that conform to the NHTSA requirements, the percentage of vehicles equipped with some other form of conspicuity treatment, and the percentage of vehicles that are not equipped with retroreflective sheeting or reflex reflectors.

The agency notes that 1994 is the first full calendar year in which all new semitrailers and trailers were required to be equipped with conspicuity treatments. The preamble to the NPRM indicated that an estimated 2.1 million trailers and semitrailers were being operated in interstate commerce as of January 1994.

The agency estimates that there are approximately 2.56 million semitrailers and trailers currently in operation. By January 1, 2001, that figure will increase to approximately 2.69 million as 480,000 new semitrailers and trailers are added to the fleet and 350,000 of vehicles are retired from revenue service. Approximately 1.6 million of these semitrailers and trailers were manufactured after December of 1993, and are, therefore, already equipped with conspicuity treatments. The remaining 1.02 million trailers were manufactured before December 1, 1993. The FHWA estimates that 20 percent of these trailers already have conspicuity treatments . Therefore, approximately 815,000 trailers will have to be retrofitted within two years.

Although the ATA indicated in its comments that as of 1996 there were 4.3 million commercial trailers registered in the United States, the FHWA believes this figure greatly exceeds the actual number of semitrailers and trailers operated by interstate motor carriers, and is far in excess of the number of trailers that would be subject to this rule.

The FHWA acknowledged in both its preliminary and final regulatory evaluations that there is uncertainty about the exact number of trailers in use. According to the agency's publication "Highway Statistics 1994" (FHWA-PL-95-042) 4.12 million commercial trailers and semitrailers were registered in 1994; "Highway Statistics 1997" (FHWA-PL-98-020) indicates 4.45 million commercial trailers and semitrailers were registered in 1997. However, some States do not require annual registration of trailers and some States do not send their figures to the FHWA. The FHWA must estimate the number of trailers in these States.

In addition, States appear to have different definitions of commercial trailers, which could result in the inclusion of semitrailers and trailers exempt from the retrofitting requirements. Another consideration is

that many semitrailers are used as offices or in other non-highway capacities. Finally, only semitrailers and trailers operated by motor carriers in interstate commerce are subject to this regulation. State registration data does not generally distinguish between semitrailers and trailers operated in interstate commerce and those operated in intrastate commerce.

Because of shortcomings of the registration data, the FHWA based its estimate of the number of trailers in operation on the average life of trailers, and trailer production data. The NHTSA's final regulatory evaluation estimated that the average trailer has a useable service life of approximately 14 years. Tank trailers are both more expensive and sturdier than other types of trailers, and they have a useful life of approximately 20 years.

Based upon the Census Bureau's Current Industrial Reports data on the number of trailers sold in the United States, and the average useful service life estimates, the FHWA estimates that 2.69 million semitrailers and trailers will be in use by the year 2001. However, more than half of these semitrailers and trailers will be manufactured after 1993 and will already be equipped with retroreflective sheeting. The agency believes 815,000 pre-1994 semitrailers and trailers will still be in use and have to be retrofitted. Therefore, the FHWA does not agree with the ATA's estimate of the number of trailers in operation in the U.S., and considers its estimate of the probability of any given trailer being involved in a visibility-related accident to be based upon an incomplete analysis.

The FHWA has considered the number of new semitrailers and trailers placed in operation each year and believes they constitute less than 10 percent of the total population of such vehicles during a given year. Since 1994 through 1998 are the only complete calendar years during which new semitrailers and trailers were equipped with conspicuity treatments, and since the average useful service life of a trailer is 14 years (approximately 20 years for cargo tank trailers), there is a significant population of semitrailers and trailers in operation today that were not subject to the NHTSA requirements for conspicuity treatments at the time of manufacture. While some of these vehicles may have been voluntarily retrofitted or removed from revenue service, the agency believes that most of these vehicles currently do not have conspicuity treatments that would satisfy the requirements being adopted today. Therefore, this rulemaking is needed to ensure that older trailers are retrofitted with conspicuity treatments to reduce significantly the incidence of passenger vehicles colliding with combination vehicles at nighttime and under other conditions of reduced visibility.

With regard to Yellow's comments about using white trailers, reflective unit numbers on the nose and rear of trailers, and reflective corporate logos, the FHWA does not consider these steps to be a sufficient response to the problem of motorists colliding with semitrailers and trailers at nighttime and under other conditions of reduced visibility. The FHWA is not aware of research that quantifies the safety benefits of retroreflective logos on the sides and rear commercial motor vehicles, or that identifies a correlation between trailer color and the incidence of passenger vehicles colliding with combination vehicles.

The FHWA considers Yellow's evaluation of its program to prevent nighttime collisions inconclusive since no data or detailed information was provided in support of the statements. The information that needs to be evaluated includes: the total number of trailers operated; the total number of trailers on which these countermeasures were in use; daytime and nighttime exposure data (miles traveled with a distinction between urban and rural roads) for the trailers that have the countermeasures and trailers that do not; the color of the trailers; and the colors and sizes of the logos. The before-and-after accident experience should also be examined. Yellow did not indicate that this type of information was collected and analyzed, or that such information would be made available for review by the FHWA.

As for CRASH's comment about the FHWA underestimating the safety benefits of the rulemaking, the FHWA considers debates about the total number of rear and side underride accidents to have little if any relevance to this rulemaking. The FHWA examined the FARS and GES data to gather information on the total number of accidents per year in which a passenger vehicle struck the side or rear of a combination vehicle. The agency did not attempt to estimate the number of these accidents in which underride occurred, or in which a portion of the commercial motor vehicle penetrated the passenger compartment, because accidents involving side and rear underride are included in the larger set of data concerning collisions with the sides and rear of semitrailers and trailers. While a detailed analysis of side and rear underride accident data would be appropriate if the FHWA's rulemaking concerned side or rear impact guards intended to reduce the incidence (daytime and nighttime) of passenger compartment intrusion during underride accidents, this type of analysis is not necessary for a rulemaking intended to reduce the incidence of passenger vehicles striking semitrailers and trailers by increasing their visibility.

Disagreement with NHTSA's Research Findings

The ATA, CCMTA, and Transport Canada disagreed with the NHTSA research reports cited by the FHWA in the preamble to the NPRM. The ATA does not believe the research proved the effectiveness of conspicuity treatments, and all three commenters believe the research did not provide justification for the selection of the red-and-white pattern for conspicuity treatments. The ATA stated:

> The preamble [to the NPRM] makes several references to the National Highway Traffic [Safety] Administration tests of conspicuity enhancement. FHWA noted there was no questioning of results of these tests. This is incorrect. The methods, sample sizes and conclusions of the tests have all been disputed. Since there was discussion of NHTSA's research at the time the agency made changes to FMVSS 108, no further critique appeared necessary for this proceeding. The purpose of FHWA's NPRM is not to change FMVSS 108.
>
> However, FHWA raised the issue of NHTSA's test program in the preamble to this NPRM. Because there were implications that this work was unchallenged and establishes a need for retrofitting, we will review its past criticisms.
>
> NHTSA ran two types of experiments that led to its selection of the horizontal, red and white stripe conspicuity enhancement requirements in Federal Motor Vehicle Safety Standard (FMVSS) 108. They conducted laboratory and field tests to find what patterns people could identify as trailers. There was also an on-highway evaluation to see if the patterns selected from the laboratory tests would have an impact on accident rates.
>
> Inadequate sample size was a criticism of both types of experiments. There were questions of the laboratory and field tests because they did not contain enough persons from a wide cross section of drivers. The use of too few vehicles for too short a time in too few operations resulted in the statistical significance of the on-highway evaluations being assailed. The criticisms called into question such things as the impact of the so-called "moth effect" and if there were more effective markings.

The ATA cited research performed in Canada as a part of its rationale for disagreeing with the NHTSA's research recommendations for the use of the red-and-white pattern. The ATA stated:

Subsequent testing done in Canada indicated that NHTSA's selected red and white markings were quite inferior to all-white patterns. The Transportation Group of the University of New Brunswick conducted this work titled "Effectiveness of Heavy Truck Conspicuity Treatments Under Different Weather Conditions." NHTSA did not specifically study the red and white patterns under various weather conditions as did New Brunswick. This work alone opens the question of whether NHTSA selected the optimum conspicuity treatment.

The ATA believes the researchers' recommendations for the use of a red-and-white pattern resulted in the establishment of manufacturing standards that were contrary to long-standing principles regarding the use of red reflective material on the sides of commercial motor vehicles. The ATA stated:

> Until NHTSA's requirement for side mounted red and white strips of reflective markings, red mandated devices only faced the rear of a vehicle. FHWA established red-means-rear because it helps approaching drivers define the truck's direction of travel. Under inclement conditions, such as approaching a foggy intersection, this visual clue can be very important.
>
> In establishing a red and white pattern of reflective materials for both the sides and rear of a trailer, NHTSA destroyed the long held convention established by FHWA. Given their action on red, side-facing markings, we find it surprising that NHTSA believes strongly in the effectiveness of standardized reflectorized colors and patterns. The agency certainly showed no qualm about changing a FHWA created and maintained convention that enabled drivers to know they were facing the rear of a vehicle.
>
> NHTSA is still studying the effectiveness of its trailer conspicuity requirements. The agency is conducting an accident review in two states to gain insight on the involvement of marked and unmarked trailers. Florida began collecting information for this study in July and Pennsylvania started in December of 1997. The scheduled completion for this work is in September of 2000. Presently those involved indicate it is much too early to draw any conclusions.
>
> One can conclude that NHTSA did research before changing FMVSS 108 to require conspicuity markings. There are still questions on whether the colors and configurations selected were correct. This calls into question the need to retrofit all trailers in the manner proposed by this docket.

Transport Canada and the Canadian Council of Motor Transport Administrators expressed concerns about the FHWA's proposal to mandate the use of red-and-white conspicuity treatments at the end of the 10-year transition period, citing Canadian research concerning conspicuity. Transport Canada provided a copy of "The Perceptual Basis of Heavy Vehicle Conspicuity and the Role of Retroreflective Materials In Increasing Driver Decision Sight Distances' prepared by Carleton University of Ottawa, Ontario, in support of its position. Transport Canada stated:

> [Canadian Motor Vehicle Safety Standard (CMVSS) No. 108] requires a red and white stripe on the rear underride guard in order to provide a red marking to identify the rear of the vehicle. Research conducted for Transport Canada by Carleton University, described in the enclosed report, showed that all-white markings are more effective and are visible at greater distances than the red and white pattern. Although the research did not specifically investigate yellow material, the Canadian regulation included yellow material as an option because the effectiveness of yellow material exceeds the average of the red and white material, and yellow is widely recognized as a warning colour.

The FHWA considers the NHTSA's research results to be reliable indicators of the potential safety benefits of the use of retroreflective materials in preventing passenger cars from crashing into the sides or rear of trailers. As the FHWA indicated in the preamble to the NPRM, it is very important to note that the authors of the NHTSA's research reports acknowledged that an "emphasis was placed on deriving an improved and practical pattern, rather than some optimum pattern." While it is true that an "optimum pattern" —optimum for visibility, but not necessarily for hazard recognition—could differ from the pattern required by the NHTSA for new semitrailers and trailers, the FHWA supports the NHTSA selection of the red-and-white pattern as the standard for conspicuity treatments and is requiring older trailers to be equipped with this pattern at the end of the 10-year transition period. The agency believes highway safety will be improved by putting into place a deadline that will discourage motor carriers from retrofitting their vehicles with colors other than red and white, and will ensure that all semitrailers and trailers operated in the United States are equipped with the standard conspicuity treatment within 10 years of the effective date of this rule.

The FHWA has discussed this subject with NHTSA and fully understands that the principal reason for NHTSA's requirement of a red-and-white pattern was to make the reflective image on the side of a trailer recognizable to motorists. Since the side conspicuity treatment consists of a single line of material, a distinct color pattern, less ambiguous than solid white or yellow, was established so that motorists would learn to associate it with trailers. A red-and-white pattern was chosen because it was already commonly associated with danger. This color combination is widely recognized and associated with highway hazard warning signs, such as, stop signs and railroad grade crossing gates.

The FHWA has reviewed the Carleton University research report cited by Transport Canada and does not believe it requires a result different from the one announced in this final rule. Alternative markings, though highly visible, do not convey the same message or warning as two-color markings. The FHWA believes the methodology used in the NHTSA research was acceptable for the stated objectives of the research, and that the conclusions and recommendations in the reports were appropriate based upon the work performed.

It is unlikely that any single research program concerning conspicuity would result in conclusions and recommendations acceptable to all interested parties. Citing differences between United States, Canadian, and European researchers' methodology and opinions does not, in and of itself, disprove the results of the NHTSA research that the FHWA has cited in support of this rulemaking. None of the commenters to this rulemaking docket have identified flaws in the research methodology for the work performed between 1980 and 1985, or the work performed between 1990 and 1991. Therefore, in the absence of substantive information or data that would call into question the conclusions and recommendations presented in the NHTSA research reports, the agency is issuing the final rule consistent with the NHTSA requirements for new vehicles.

Allowing Motor Carriers Flexibility in the Use of Alternative Colors

A number of commenters disagreed with the FHWA's proposal to allow motor carriers to use colors or color combinations other than red and white during a 10-year transition period beginning on the effective date of the rule. The AAMVA stated:

> [O]ur main concern with the proposed rule is its allowance of non-standard colors for reflective materials. Many states require red or amber reflective material on the sides of trailers, and allow only red reflective material on the rear, unless provided for elsewhere in federal law. We are especially concerned about those carriers that may incorporate blue or green reflective material, as these colors are commonly reserved by states for the exclusive use of police, fire and ambulance vehicles.
>
> In addition the Motor Vehicle Safety Act (Canada) permits the use of conspicuity markings with colors other than those permitted by FMVSS 108. The final rule should perm[illegible] the operation of Canadian

trailers which are in compliance with Canada Motor Vehicle Safety Standard (CMVSS) 108, as it pertains to conspicuity markings, regardless of the year of manufacture of the trailer.

In all cases where retrofitting has been or will be performed, the final rule should encourage, in the strongest language possible, ONLY the use of colors that comply with FMVSS 108 or CMVSS 108. However, for the locations specified by the final rule, the use of blue and green reflective material should be expressly prohibited. For older trailers not already retrofitted, this means that the addition of these two colors would not be allowed. For older trailers that have been retrofitted, we believe that the final rule should require removal of blue and green reflective material within two years of the effective date of the final rule, to be replaced with colors otherwise allowed.

The Advocates stated:

Advocates strongly opposes the agency's decision to allow substantial deviations from the NHTSA requirements for tape and reflector colors, sizes, and locations over a 10-year period. In effect, FHWA has proposed the establishment of [an] independent rationale for conspicuity benefits that fundamentally departs from the basis for the tape and reflectors selected by NHTSA in its 1992 final rule. As a result, the FHWA proposal abridges the purposes of NHTSA's regulation by underwriting protracted deviations from the conspicuity protocol called for by NHTSA in Federal Motor Vehicle Safety Standard No. 108. Advocates disagrees with FHWA's assertion in this note that "this proposal will [not] inhibit NHTSA's goal of having the public learn to associate a long red and white line of retroreflective sheeting (or reflex reflectors) with the side of a trailer." Id. at 33617.

To the contrary, the attenuated approach to full compliance with the contours of NHTSA's Standard No. 108 proposed in this notice will accomplish exactly the result of diluting the important safety message intended by the uniform conspicuity enhancement mandated by the December 1992 final rule. Since FHWA itself has acknowledged that no carrier has expressed interest in a conspicuity retrofitted color combination other than red and white, the agency is proposing to undermine the more rapid securement of safety benefits, as well as to dilute the safety message to other vehicle operators achieved by the NHTSA final conspicuity rule, simply for the sake of offsetting industry cost burdens.

As indicated in the preamble to the NPRM, the FHWA agrees with commenters who argue that all older trailers should be retrofitted with red-and-white conspicuity treatments. However, the agency does not intend to penalize motor carriers that have voluntarily retrofitted their trailers with conspicuity treatments of alternative colors. The FHWA is allowing these carriers 10 years to continue to use the non-conforming colors. The end of the 10-year period coincides with the expected end of the useful service life of the vehicles in question (except tank trailers).

The NHTSA in its final regulatory evaluation estimated that the average trailer has a useful service life of approximately 14 years. Commenters to both the NHTSA's NPRM and the FHWA's ANPRM generally agreed with this estimate. Tank trailers are both more expensive and more durable than other types of trailers and are believed to have a useful life of approximately 20 years. The NHTSA requirements cover trailers manufactured on or after December 1, 1993, which means that the 14-year useful service life on most trailers manufactured shortly before this date would be reached around the year 2007. The useful service life of most tank trailers would be reached around the year 2013. Therefore, the 10-year period will help to ensure that motor carriers operating trailers equipped with non-conforming conspicuity treatments will not be penalized by the retrofitting rulemaking. However, if these carriers choose to continue operating these trailers at the end of the 10-year period, the vehicles will have to be retrofitted with a conspicuity treatment that conforms to the NHTSA standard.

For carriers operating tank trailers equipped with non-conforming conspicuity treatments, the old treatments will have to be replaced with a conforming conspicuity treatment in the year 2009, at the end of the ten-year transition period, and approximately 4 years before most of these vehicles would be retired from revenue service.

As discussed in the preceding section of this notice, the NHTSA's research suggests that there are potential safety benefits from the use of other color combinations. While the FHWA fully supports the NHTSA's decision to require the red-and-white pattern on newly manufactured trailers, attempting to immediately extend that requirement to trailers that are already equipped with a different conspicuity scheme would not result in a cost effective improvement in safety. The FHWA is not aware of data that would enable the agency to conclude that the level of effectiveness of the alternative color schemes on older trailers is unacceptable for use during the proposed 10-year transition period.

With regard to the AAMVA's comments about blue and green reflective material, the FHWA does not intend to prohibit motor carriers from using conspicuity treatments that include blue or green. Since the FHWA did not prohibit these carriers from using blue and green colors for retroreflective sheeting prior to this rulemaking, it would be inappropriate to prohibit the use of these before the end of the ten-year transition period.

States have the authority to prohibit the use of blue and green reflective materials if they believe such action is necessary. Interstate motor carriers are responsible for complying with Federal regulations, as well as applicable State requirements. Therefore, if a State has a law or regulation that limits the use of blue and green reflective materials to emergency vehicles, motor carriers operating in that State must comply. The FHWA does not believe that additional Federal action is required.

Two-Year Deadline for Equipping Vehicles With Conspicuity Treatments

Several commenters requested that the FHWA provide motor carriers more than two years to comply with the retrofitting requirement. American President Lines believes it needs at least three years to retrofit all of its intermodal container chassis. Farmland believes carriers should have up to four years to complete the retrofitting of semitrailers and trailers. The ATA, CVSA, GROWMARK, NTTC, XTRA, and Yellow believe the industry should be given 5 years. The TSEI indicated that it supports the two-year deadline but would also support three or four years.

American President Lines stated:

Although APL understands the reasons for the proposed rule, because of the geographic scope of APL's routes and the size of its fleet, APL foresees extensive logistical difficulties in assuring that, in the normal course of business, APL can transport all of its pre-1994 chassis to locations where retroreflective tape or reflex can be installed within two years of the effective date of the final rule. APL is seriously concerned that, in order to meet the two year rule, it would be required to significantly disrupt the normal flow of business, taking chassis out of service when they would not otherwise be required to be taken out of service.

Given the severe demands on the intermodal system in today's environment caused by a number of factors, APL believes it is particularly important that companies be given adequate time to do the installations without creating further constraints on the transportation system by requiring companies to withdraw equipment from service to install tape or reflectors.

XTRA stated:

Practical considerations must not be ignored, particularly in connection with the pace of work necessary to perform the retrofitting within the two-year period allowed for trailers that lack any sort of reflective conspicuity marking. Reflective tape cannot be installed in ambient temperatures below 60 degrees Fahrenheit. At cooler temperatures, the tape will not adhere to trailer surfaces, at least not for very

long, requiring further applications and expense. XTRA has only two repair facilities, at Chicago and Fairmont City, Illinois, at which reflective tape could be applied indoors during the cold weather months in the Middle West. Even at that, the facilities could not handle more than a small part of the 31,500 unmarked trailers in the next two years. Each trailer retrofitted at one of those facilities during the months October through March would require 24 hours of indoor storage in order to achieve the temperature needed for tape application.

This limited window of opportunity within which the application of reflective tape to trailer surfaces is feasible demonstrates that XTRA requires more than two years for accomplishment of the retrofitting task presented by its 31,500 trailers. XTRA strongly recommends that FHWA extend that period to five years. The requested extension of time is reasonable in the circumstances: a shorter period would certainly produce both greater costs and unsatisfactory results. Greater costs would arise from employee overtime and business disruption caused by the compression of the work into the warm weather months. Unsatisfactory results, in terms of short-lived tape applications and repeat orders, would arise from the performance of work in unfavorable weather conditions, if done under deadline pressures in cold weather months.

The ATA stated:

So far our estimates require four hours of open shop time per trailer. This requirement grows and becomes especially critical in places where ambient temperatures remain below 60 degrees Fahrenheit for long periods. Once the temperature dips below that level it is necessary to bring trailers in and warm them prior to the application of reflective tape. The two hours could easily be tripled if surfaces have to be raised to 60 degrees Fahrenheit from something below freezing. This greatly increases in-shop time and makes reflective material application impracticable during certain portions of the year. Other factors adding to this time include shuttling the trailers in and out, purging certain tank trailers, and the indoor period needed for paint to properly cure during low outside temperatures.

The ATA also expressed concern that maintenance resources would have to be diverted from routine duties to complete the retrofitting within two years. The ATA stated:

We have not seen an analysis of the safety lost by diverting the attention of 3,700 people from routine maintenance duties and into retrofitting reflective materials to trailers. Nowhere in its cost-benefit analysis of this proposal did the agency indicate it contemplated the hiring of a new workforce to perform the trailer retrofit. There were no costs shown for hiring persons and no discussions of from where an additional 3,700 technicians might come. We believe the agency has assumed it is possible to set aside the work normally accomplished by these technicians while they perform retrofitting of reflective materials to older trailers.

This is not a viable alternative. The industry cannot divert the normal maintenance duties of 3,700 technicians without adverse consequences. It is possible to safely accommodate new jobs like retrofitting reflective materials to trailers but not as quickly as suggested in this proposal. Once again the answer to a problem posed by this NPRM is to provide more time to complete the retrofit of older trailers with reflective materials.

We believe it is necessary to have five years to complete a retrofit of reflective materials to trailers built before December of 1993. This time allotment will enable completing the process without a negative impact on safety caused by either a shortage of shop space or technicians.

The FHWA has considered the comments from motor carriers and industry groups but believes the problem of passenger cars colliding with semitrailers and trailers at nighttime and under other conditions of reduced visibility requires a more immediate response than the commenters have suggested. The motor carrier industry has had sufficient time to recognize the safety benefits of conspicuity treatments and voluntarily to begin the process of retrofitting the semitrailers and trailers manufactured before December 1, 1993. The NHTSA issued its final rule in 1992 sending a clear signal to the motor carrier industry that a significant reduction in the incidence of passenger cars colliding into semitrailers and trailers can be achieved through the use of conspicuity treatments. Yet, many motor carriers have not begun to retrofit their semitrailers and trailers.

The opportunity for voluntary action at the convenience of the industry has passed and a Federal mandate is necessary. It is inappropriate to extend the amount of time motor carriers have to comply with the requirements of this rule given the amount of time motor carriers have had to voluntarily retrofit their older trailers. The agency acknowledges that retrofitting the population of older trailers is no small challenge and that the costs to the industry in general, and larger fleets in particular, is significant. However, the safety benefits outweigh the costs.

The FHWA recognizes that some trailer leasing operations, such as, XTRA have a trailers-to-maintenance facilities ratio that would make retrofitting a large number of trailers within a two-year period extremely difficult. The FHWA does not believe this is sufficient cause to delay the compliance date for retrofitting older trailers. The FHWA believes leasing companies and their motor carrier clients can work together to accomplish the retrofitting. For example, leasing companies can provide some of their clients with discounts if the clients retrofit the trailers.

With regard to the ATA's comments about diverting maintenance resources, the FHWA does not believe the requirements of this rule will force motor carriers to choose between retrofitting trailers with conspicuity treatments and maintaining safety-critical equipment, such as, brake systems, steering, suspension, etc. Motor carriers are responsible for keeping each commercial motor vehicle in safe and proper operating condition at all times. Each motor carrier must assess its maintenance needs and hire the staff necessary to operate its inspection, repair, and maintenance facilities.

In some cases, it may be necessary to hire additional staff to comply with this rule. However, the agency does not believe the personnel used for retrofitting trailers have to be permanent, full-time employees, or highly skilled workers. The agency is not aware of any data that would support the ATA's estimate of 3,700 additional maintenance workers as being required to complete the retrofitting within a two-year period.

Ten-Year Deadline for the Use of Red and White Conspicuity Treatments

Several commenters discussed the FHWA's proposal for a ten-year transition period during which motor carriers would be allowed to use alternative colors and color combinations to satisfy the retrofitting requirements. The Advocates believe motor carriers should be given a transition period, but the duration should be limited to four years rather than 10 years. GROWMARK, OOIDA, and 3M support the ten-year transition period. The ATA and NPTC believe alternative colors and color combinations should be allowed indefinitely.

The Advocates stated:

The proposed 10-year delay in producing important safety benefits from uniform conspicuity treatments will allow the great majority of existing trailers, especially vans, to be operated through the remainder of their useful service lives without ever conforming to the dictates of FMVSS No. 108.

The Advocates disagreed with the FHWA's argument that alternative colors and color combinations may also have safety benefits, but recognized the need for a transition period. The Advocates stated:

Advocates concedes that some reasonable period for retrofitting in-service trailers is needed to mitigate industry burdens, but not one so long as to result in a regulation whose real effect will be the retirement of the great

majority of in-service trailers without the chance of their being subject to the retroreflectorization specified in current federal regulation.

The NPTC requested that the FHWA extend or eliminate the ten-year phase-in deadline: The NPTC stated:

> First, the number of trailers involved in a retrofit ten years after FHWA issues a final rule will be very small because:
>
> 1. Every new trailer built since January 1, 1994, meets FMVSS 108.
>
> 2. If the retrofit becomes effective in 1999, the exemption will end in 2009 when trailers built in [1993] or earlier will be at least 16 years old at that time.
>
> 3. FHWA indicated the life of the majority of trailers is 14 years.
>
> 4. The cost of keeping an inventory of many colors of retroreflective tape will become cost-prohibitive and cause most fleet operators to choose the standard red and white.
>
> By the time trailers reach the end of the ten-year exemption period they most likely will be used in limited service due to their age and condition. Since older trailers have had more exposure to damaging conditions, they are likely to cost more to prepare for retrofitting. More expensive repairs combined with a return to limited service means that complete retrofitting in order to change the color of the retroreflective material will not be cost-effective.
>
> The primary reason given for the ten-year limit for conspicuity treatments in colors other than red and white is ultimately for marking uniformity. This uniformity has not been proven necessary to improve safety. Also by the year 2009 the number of trailers having other than red and white retroreflective materials will be very small, yet these trailers will still have retroreflective markings, just of a different color.

The FHWA is retaining the ten-year deadline for motor carriers to use conspicuity treatments that conform to the NHTSA standard for new semitrailers and trailers. The FHWA believes the safety benefits of requiring conspicuity treatments will be enhanced if those treatments are uniform in colors and patterns. Having a standard conspicuity treatment will help to ensure that motorists learn to associate the red-and-white pattern with semitrailers and trailers.

The ten-year deadline serves as a deterrent to the use of alternative colors by motor carriers operating semitrailers and trailers that are not currently equipped with any form of conspicuity treatment. Motor carriers that anticipate using their older trailers beyond the year 2009 will recognize the easiest way to comply with the final rule is to use the red-and-white pattern. The transition period helps to ensure that the number of trailers for which the replacement of alternative color conspicuity treatments is kept to a minimum.

The FHWA believes the transition period is sufficient to ensure that most motor carriers are not penalized for voluntarily retrofitting their semitrailers and trailers with alternative colors or patterns. The agency recognizes that some motor carriers will be forced to replace their conspicuity treatments in order to comply with the requirements for the year 2009 and beyond. The FHWA believes the final rule represents a balance between regulatory flexibility and the need for having a standard conspicuity treatment for commercial motor vehicles.

Conspicuity Treatments for Single-Unit Trucks, Truck Tractors, and Cargo Containers

Some of the commenters to the NPRM believe the FHWA should expand the scope of the rulemaking to include single-unit trucks and truck tractors. One commenter believes the FHWA should require conspicuity treatments on intermodal cargo containers.

Citizens for Reliable and Safe Highways (CRASH) stated:

> CRASH . . . advocates that the FHWA rule should apply not only to all trailers and semitrailers manufactured prior to December 1, 1993, which have an overall width of 2,032 mm (80 inches) or more and a gross vehicle weight rating of 4,536 kg (10,001 pounds) or more, but also to single unit trucks. The FHWA claims that no one has provided data to prove that a retrofitting requirement for single-unit trucks would be a cost-effective solution to the problem of passenger vehicles colliding with single-unit trucks. The data is already presented in the FHWA notice; the same data that shows tractor trailers are more visible with red and white tape on them proves that single unit trucks would be more visible with red and white tape on them.

The Advocates stated:

> Advocates would like to address FHWA's pre-emptive repudiation of the need for retrofitting single-unit trucks with conspicuity markings. We are especially perplexed over FHWA's declaration that the issue is out of bounds because this proposed rule; as well as its preceding ANPRM, did not entertain the conspicuity retrofit of single-unit trucks in part because there is no existing NHTSA regulation requiring single-unit trucks to be fitted with conspicuity treatments which FHWA could emulate for in-service motor carriers.
>
> Yet FHWA proceeds to review the data for single-unit truck crash involvements with passenger vehicles for the purpose of demonstrating that there purportedly are insufficient benefits to justify a retrofit of existing vehicles. However, FHWA's logic clearly is also intended to forswear equipping even new single-unit trucks with conspicuity enhancement. This exercise prejudices a topic which properly should be left to NHTSA, the agency that has not closed the door on the potential for requiring single-unit trucks to be equipped with retroreflectorized enhancements. Advocates would like to stress here that FHWA's argument that trailers are overrepresented in both rear and side impacts by passenger vehicles cannot by itself demonstrate that the benefits of providing similar conspicuity markings for single-unit trucks are not sustainable. If this argument were used as a paradigm, many of the regulations issued by NHTSA would have been mooted prior even to ventilation through proposed rulemaking. . . .

In addition to expressing concerns about the need for conspicuity treatments on single-unit trucks, the Advocates discussed the need for retrofitting truck tractors. The Advocates stated:

> Advocates also wants to emphasize that FHWA in this proposed rule ignores the need to increase the conspicuity of truck tractors, especially those operating bobtail. FHWA could have simultaneously initiated rulemaking to institute overall fleet conspicuity enhancements in a single policy action. Instead, the agency has ignored and deferred action on this important safety need. FHWA has already delayed the enlargement of benefits resulting from improved heavy vehicle conspicuity for the entire operating combination truck fleet by allowing five and one-half years to elapse before it has even tendered a proposal for retrofitting existing trailers and semitrailers. Given the additional time necessary to issue a final rule with a further delay in effective date for the onset of compliance, Advocates is concerned that FHWA will take another several years to propose the retrofit of existing truck tractors. Since the agency has correctly argued that conspicuity benefits from the use of retroreflectorized tape and reflex reflectors are a valid policy axiom despite the current lack of definitive studies on the affirmative value of NHTSA's 1992 final rule, Advocates sees no reason for the agency to defer rulemaking on conspicuity retrofits for truck tractors. See *id.* at 33615. NHTSA's regulation governing truck tractor conspicuity has been in place since August 8, 1996 (61 FR 41355 *et seq.*). It would be irresponsible for FHWA to wait until well into the 21st century to issue a proposal mandating the conspicuity retrofit of truck tractors manufactured prior to July 1, 1997, the effective date of NHTSA's final rule on truck tractor conspicuity enhancement.

3M also expressed concerns about retrofitting truck tractors, but added that the FHWA should require retroreflective sheeting on intermodal cargo containers. 3M stated:

> We question the absence of requirements for making tractors and unitized shipping containers used as trailers. The NHTSA has acknowledged that tractors without trailers are over represented in accident statistics. According to the NHTSA docket no. 80–9; notice 13, 60 percent of fatalities and 41 percent of the injuries associated with crashes in which a truck tractor is struck in the rear occur at night. The NHTSA uses "the research on reflective conspicuity for trailers, which have similar proportion of fatal

collisions at night, as a sufficient basis for the tractor conspicuity rule." We believe that the retrofitting of tractors could be combined with the retrofitting of trailers. The more consistent the regulations are among agencies, the better.

Unitized shipping containers, once mounted on chassis are, for all intents and purposes, vehicles. The U.S. DOT report HS 806 923 indicated an 18 percent overall reduction of collisions in which other vehicles struck reflectorized tractor-trailer units. It is reasonable to assume this same result would be accomplished for shipping containers mounted on chassis because, to other drivers, the shipping containers are indistinguishable from integral trailers.

The FHWA does not intend, at this time, to propose conspicuity treatments on single-unit trucks. This rulemaking is not intended to serve as a forum for resolving complaints about the NHTSA's conspicuity rulemaking. The NHTSA provided all interested parties with the opportunity to comment on the amendments to FMVSS No. 108 during its rulemaking on trailer conspicuity.

The data presented in the NPRM, and the data presented in this final rule indicate that a significant number of passenger vehicles crash into the sides and rear of single-unit trucks at nighttime. While research indicates that conspicuity treatments are an effective means to help motorists detect vehicles at nighttime, there is no indication that the safety benefits from requiring every single-unit truck operated in interstate commerce to be equipped with retroreflective sheeting or reflex reflectors exceeds the costs of retrofitting these vehicles. Commenters have not provided data to prove that a retrofitting requirement for single-unit trucks would be cost-effective.

The NHTSA's accident data (FARS and GES) indicate that combination vehicles are over represented in collisions involving passenger vehicles striking the sides or rear of commercial motor vehicles. This means that the number of accidents in which a passenger vehicle strikes a combination vehicle (a single-unit truck pulling a trailer(s), or a truck-tractor pulling a trailer(s)) exceeds the amount that one would expect if one looked at the percentage of the registered commercial vehicle fleet that is listed in the combination-vehicle category.

In 1997, there were an estimated 20,357 nighttime accidents in which one commercial motor vehicle and one passenger vehicle were involved. All of these accidents resulted in a fatality, injury, or one of the vehicles incurring damage severe enough to require that the vehicle be towed from the accident scene. In 5,139 of these accidents, a passenger vehicle rear-ended a trailer (2,086 cases) or struck the side of the trailer (3,053 cases). By comparison, in 2,856 of the 20,357 nighttime accidents a passenger vehicle rear-ended a single-unit truck or truck-tractor (1,430 cases) or struck the side of the single-unit vehicle (1,426 cases).

Looking at the 1997 FARS data, there were 994 fatal nighttime accidents involving one commercial motor vehicle and one passenger vehicle. In 316 of these accidents, a passenger vehicle rear-ended a trailer (198 cases) or struck the side of the trailer (118 cases). By comparison, in 53 of these nighttime accidents a passenger vehicle rear-ended a single-unit truck or truck tractor (37 cases), or struck the side of the single-unit vehicle (16 cases).

The 1997 nighttime accident statistics indicate that the frequency with which passenger vehicles strike the rear of trailers is 1.46 times the frequency with which passenger vehicles strike the rear of single-unit vehicles. The frequency with which passenger vehicles strike the side of a combination vehicle is 2.14 times the frequency with which passenger vehicles strike the side of a single-unit vehicle. The FARS data for 1997 show that frequency of fatal nighttime accidents involving a passenger vehicle striking the side of a combination vehicle is more than seven times the rate at which passenger vehicles strike the side of a single-unit commercial motor vehicle. The frequency of fatal nighttime accidents involving a passenger vehicle rear-ending a combination vehicle is more than five times the rate at which passenger vehicles strike the rear of a single-unit commercial motor vehicle.

The difference between the nighttime accident involvement for combination vehicles and single-unit vehicles is especially important because the number of registered single-unit trucks (4,219,920) is 2.63 times the number of combination trucks (1,607,183).[1] Therefore, combination vehicles represent approximately 27 percent of the fleet, but 64 percent (5,139 out of 7,995 cases) of nighttime accidents in which a passenger car struck the side or rear of a commercial motor vehicle. Looking at the fatal nighttime accidents, combination vehicles were involved in 85 percent (316 out of 369 cases) of the incidents in which a passenger vehicle struck the side or rear of a commercial motor vehicle. Based upon this data, the FHWA has decided to limit the retrofitting rulemaking to semitrailers and trailers.

This decision does not preclude any future consideration by the NHTSA of a requirement for conspicuity treatments on single-unit trucks, or a future rulemaking by the FHWA to require some form of conspicuity retrofitting for these vehicles. The FHWA's decision is based upon the data currently available. If, at some point in the future, information becomes available suggesting that the benefits from a retrofitting rulemaking exceeds the costs, the agency will consider initiating a rulemaking at that time.

With regard to the commenters requesting that the FHWA require retrofitting of truck-tractors, the FHWA must emphasize that this rulemaking is not intended to resolve all conspicuity-related issues concerning commercial motor vehicles. The agency initiated this rulemaking before the NHTSA established conspicuity requirements for truck-tractors, and elected to focus its resources on the completion of its trailer conspicuity retrofitting rulemaking prior to attempting to assess the cost-effectiveness of a truck-tractor retrofitting rulemaking.

The FHWA notes that the IIHS has submitted a petition for rulemaking to require motor carriers to retrofit truck-tractors manufactured before July 1, 1997, with retroreflective sheeting or reflex reflectors on the rear of the cab, and mud flap brackets. The agency is reviewing the petition and will, if the petition is determined to have merit, issue a notice requesting public comment on this topic.

In response to 3M's comments about intermodal cargo containers, the FHWA does not intend to require retroreflective sheeting on cargo containers. The FHWA is not aware of data that would suggest that the current requirements for lighting devices, reflectors, and conspicuity treatments on intermodal container chassis (and other trailers used to transport intermodal cargo containers) are insufficient to help motorists detect loaded container chassis at nighttime and under other conditions of reduced visibility.

The FHWA believes a rulemaking to require conspicuity treatments on intermodal cargo containers would have significant legal, economic, and international implications. Intermodal cargo containers are considered cargo and such a rulemaking would result in requiring motor carriers to mark their client's cargo irrespective of the client's wishes. This would be particularly difficult to accomplish if the FHWA does not have the statutory authority to

[1] "Summary of Medium and Heavy Truck Crashes in 1990," National Highway Traffic Safety Administration, February 1993 (DOT HS 807 953).

regulate the owners of the intermodal cargo containers.

Since intermodal cargo containers are often imported from and exported to destinations around the world, the FHWA and the motor carrier industry would need international cooperation from companies and governments to ensure that containers were equipped with conspicuity treatments before being shipped to the United States. If the containers were not equipped with conspicuity treatments prior to arrival at a U.S. port, entities in the U.S. would have to absorb the economic burden of applying retroreflective sheeting to the containers.

Another potential complication concerns international standards or foreign laws that would prohibit the marking of the containers with retroreflective sheeting. The FHWA would have to consult with numerous foreign governments to ensure that the agency's actions did not conflict with the laws of other countries.

The FHWA notes that 3M did not provide any data to suggest that the incidence of passenger vehicles colliding with intermodal container chassis could be significantly reduced by the addition of retroreflective sheeting on the cargo containers they are used to transport. Furthermore, 3M has not provided information that would suggest that the FHWA could build an international coalition of businesses and governments that would support such a requirement to ensure that U.S. companies are not placed at an economic disadvantage.

The FHWA acknowledges that there may be safety benefits to applying conspicuity treatments to intermodal cargo containers, but does not believe that the mere assumption of safety benefits satisfies the agency's obligation to quantify the benefits of the rulemaking and to prove that the benefits exceed the costs to the transportation industry and U.S. consumers.

Harmonization with Canadian Requirements

Several commenters discussed Canadian requirements for conspicuity treatments on semitrailers and trailers. Transport Canada and CCMTA explained the current Canadian requirements for new semitrailers and trailers, and trailers manufactured prior to the effective date of the Canadian rules for new vehicles. CCMTA stated:

> Canadian governments support the objectives of this rulemaking given that similar requirements are being introduced in the regulations of Canadian provinces and territories. Transport Canada, the federal agency which has similar responsibilities to NHTSA in the development and promulgation of new vehicle manufacturing standards has mandated effective January 24, 1997 that all new trailers manufactured for sale in Canada be equipped with reflective tape or reflex reflectors per Canadian Motor Vehicle Safety Standard (CMVSS) 108. A review of the Canadian and US provisions applying to new vehicles indicates the requirements are almost identical. The Canadian manufacturing requirements while specifying a red and white pattern do however permit other colours and colour combinations which attract attention more effectively than the basic red and white pattern outlined in the US rule. Copies of this research will be forwarded under separate cover by Transport Canada. Canadian governments are concerned the present rulemaking is unduly restrictive in prescribing that only one color scheme or combination may be used to meet US requirements. This would seem to preclude the possibility of innovation as it relates to other colour schemes or combinations which might prove to be more effective in enhancing the conspicuity of commercial vehicles in future years.
>
> The retro-fitting of trailers with reflective tape or reflex reflectors would not normally fall under the jurisdiction of Transport Canada. The setting of in-use motor vehicle standards is generally the responsibility of the provincial and territorial governments of Canada. In 1995, a CCMTA Project Group consisting of a number of jurisdictional and industry representatives undertook to review whether reflective tape and reflex reflectors should be retroactively mandated on commercial trailers in Canada. A copy of the final report has been enclosed. This report provides a cost/benefit analysis and a review of various implementation options. Following discussion among government and industry stakeholders CCMTA in May 1997 adopted the following implementation schedule for mandating retro-fitting reflective tape or reflex reflectors on trailers in service:
>
> 1. All trailers manufactured on, or after December 1, 1993 will be required to be equipped with reflective tape or reflex reflectors by January 1, 1999; and,
> 2. All trailers manufactured before December 1, 1993 will be required to be equipped with reflective tape or reflex reflectors by January 1, 2002.

The CCMTA indicated that Canadian jurisdictions believe that harmonization between U.S. and Canadian conspicuity requirements is important. CCMTA stated:

> Canadian governments are concerned that opportunities to better coordinate the introduction of these requirements between the US and Canada to cause minimum disruption to the cross border traffic between the two countries may have been missed. Canadian jurisdictions have agreed to allow a one year period of "soft enforcement" on the January 1, 1999 deadline. Operators of vehicles without reflective tape will be advised of the requirements when stopped at roadside inspections and this will continue until January 1, 2000. At this point operating a trailer without reflective material will become an offense, subject to fines for violation of the respective vehicle standards in each jurisdiction. It is anticipated this will have little or no impact on US trailer owners operating vehicles manufactured after December 1, 1993 as these vehicles have all presumably been equipped with reflective tape or reflex reflectors.
>
> CCMTA is however concerned that Canadian requirements will have an impact on US operators with respect to the second implementation date in Canada of January 1, 2002 for vehicles manufactured prior to December 1, 1993. The current NPRM does not set an effective date apart from two years after the publication of the final rule. Depending on the date set for implementation of the final rule, a significant number of US trailer owners who operate equipment into Canada could become subject to Canadian rules prior to the implementation of the US rule. This will also hold true for a significant number of Canadian trailers operating into [the] US unless steps are taken to harmonize the implementation dates. CCMTA is unable to provide a precise estimate of affected trailers and carriers at this juncture. CCMTA believes further efforts should be undertaken by our respective officials to harmonize the effective dates of our respective rules.

The FHWA supports the goal of harmonizing safety regulations, but does not intend to modify U.S. requirements (neither the substance of the rules nor the implementation dates) solely for the sake of harmonization. Improving highway safety is the FHWA's top priority.

The NHTSA, through FMVSS No. 108, has established the red-and-white pattern as the U.S. standard for semitrailers and trailers manufactured on or after December 1, 1993, and truck tractors manufactured on or after July 1, 1997. The FHWA is requiring that within 2 years of the effective date June 1, 1999 of this rulemaking, motor carriers have their semitrailers and trailers, manufactured before December 1, 1993, equipped with retroreflective sheeting or reflex reflectors. The FHWA will allow, during a 10-year transition period beginning on the effective date of this final rule, the industry a certain amount of flexibility in terms the colors and color combinations they may use to avoid penalizing motor carriers that have voluntarily retrofitted their semitrailers and trailers with conspicuity treatments that differ from the NHTSA requirement for new vehicles. However, the agency encourages motor carriers to use the red-and-white pattern as required on new vehicles, and is putting into place a deadline that will ensure uniformity in conspicuity treatments on semitrailers and trailers.

The FHWA recognizes that Transport Canada's requirements for new trailers

provides four options for colors and color combinations for conspicuity treatments. All four options may be used to satisfy the FHWA's retrofitting requirements during the 10-year transition period.

The FHWA has indicated in correspondence with Transport Canada that the agency will not accept the alternative colors allowed by Canada on trailers manufactured on or after December 1, 1993. The FHWA has advised Transport Canada that vehicles operated by Canada-based motor carriers must comply with the same conspicuity requirements applicable to the U.S. motor carriers. Therefore, Canada-based motor carriers operating semitrailers and trailers manufactured on or after December 1, 1993, must ensure that those vehicles meet the requirements of FMVSS No. 108 if those vehicles are used in the United States.

The FHWA believes the NHTSA rationale of establishing uniformity to ensure that motorists learn to associate the red-and-white pattern with commercial motor vehicles is reasonable. The agency does not believe that allowing four different color schemes indefinitely will result in an equal or greater level of motorists' recognition.

On the subject of implementation dates, the FHWA believes the problem of passenger cars colliding with certain commercial motor vehicles requires more immediate action than that planned by the jurisdictions in Canada. The NHTSA requires conspicuity treatments on semitrailers and trailers manufactured on or after December 1, 1993, and truck tractors manufactured on or after July 1, 1997. Through this rulemaking, the FHWA is requiring conspicuity treatments on semitrailers and trailers manufactured before December 1, 1993, and motor carriers must complete the retrofitting within two years after the effective date. The FHWA's requirement for retrofitting will be enforced beginning in the year 2001, several months prior to the Canadian deadline of January 1, 2002, for retrofitting vehicles manufactured before December 1, 1993. Since there are no discernible safety or economic benefits to delaying the effective date of the FHWA requirements for retrofitting, or the deadline for motor carrier compliance, the FHWA will not adjust its schedule to match the Canadian schedule.

The FHWA is committed to working closely with its Canadian and Mexican counterparts on highway safety issues and believes harmonization should be pursued whenever practicable. The agency does not believe this rule will impede cross-border commerce or place an undue burden on either the U.S. or Canadian motor carrier industries.

Exemptions for Certain Motor Carrier Operations and Certain Types of Trailers

A number of industry commenters discussed the need for exemptions to the conspicuity requirements. These commenters discussed a range of motor carrier operations and types of trailers.

The NPTC indicated that certain trailers lack a suitable location for mounting retroreflective materials. The NPTC stated:

> Some tank trailers have no continual horizontal surface upon which to mount retroreflective materials either along the side or across the rear. This is a reason why TEA–21 specifically mentions tank trucks in its call for FHWA to provide regulatory flexibility to accommodate trailers of different designs and configurations.
>
> Low-platform trailers have D-rings for load securement and swing arms mounted along the trailer's sides that disallow suitable locations for the placement of retroreflective materials. Swing arms are devices that provide a structure on which to place planking to extend trailer width and accommodate wider loads, such as earth-moving equipment and cranes, when swung out from the trailer side. Cleaning rust from the trailer sides behind these attachments would be very difficult. Additionally, the D-rings and swing arms will partially hide and quickly damage any retroreflective material added in these locations.
>
> In the aforementioned cases, trailer manufacturers have changed designs for the successful application of retroreflective materials on new trailers. In some instances they have added new structures whose only purposes are to accommodate the mounting of such material. Fleet operators attempting to retrofit older trailer designs may be unable to modify older trailers by simply adding a piece of sheet metal to accommodate retroreflective materials.

The ATA believes the operational conditions to which some trailers are subjected makes it impractical to retrofit the vehicles. The ATA stated:

> There are certain trailers that, by reason of their condition or service, are unsuitable for retrofit of reflective materials. Tank trailers used to spread cement powders for stabilization of a highway's subsurface are an example. This equipment works over open dirt. It quickly becomes crusted with an extremely hard-to-remove mixture of dirt and cement. Chipping, acid treatment and painting are necessary before installation of reflective materials. Once returned to service, a dirt and cement crust soon covers the trailers and their new reflective material.
>
> Another operation where vocational use nullifies reflective material effectiveness is the transport of hot-mix asphalt (see Attachment A; pictures 35–43). This is the material used to make roads. The temperature of hot-mix carried in trailers is over 300 degrees Fahrenheit. Materials in both tape and plastic reflectorized strips deform at these temperatures. Besides destroying those reflective materials that it contacts, the hot-mix also makes trailer surfaces unsuitable for their application. The rear of hot-mix trailers will require much preparation prior to successful application of reflective materials. Once placed in that location the material will have a short life.
>
> There is no chance there will be a cost-effective return from placing reflective materials on vehicles whose use destines them to rapidly become covered in visibility blocking material. We do not believe the Congress meant DOT to mandate retrofitting reflective materials in such cases.

The FHWA recognizes the concerns the motor carrier industry has about technical problems applying conspicuity treatments to older trailers and maintaining conspicuity treatments on trailers operated in tough work environments that could adversely impact the durability or visibility of the retroreflective sheeting or reflex reflectors. The FHWA must emphasize that the agency is requiring motor carriers to retrofit the same types of semitrailers and trailers on which the NHTSA requires manufacturers to install conspicuity treatments. The FHWA did not propose including any trailer types or configurations that were exempt from FMVSS No. 108, or exempt from the conspicuity requirements in FMVSS No. 108.

Interstate motor carriers are currently required under 49 CFR 393.11 to maintain the conspicuity treatments on the semitrailers and trailers manufactured on or after December 1, 1993. Commenters have not explained why it is possible for the manufacturers to comply with the NHTSA requirement and motor carriers to maintain the conspicuity treatments as required by the FHWA, but impractical and burdensome to retrofit the older versions of these semitrailers and trailers.

The FHWA acknowledges that some trailer manufacturers may have included special mounting devices to comply with the NHTSA's conspicuity requirements. However, the agency believes motor carriers should be capable of meeting the requirements of this rule by doing the same things vehicle manufacturers did to comply with the NHTSA requirements. The FHWA is not aware of any trailer manufacturers that have made significant design changes for the purpose of complying with the NHTSA's conspicuity rule. Therefore, the agency does not believe motor carriers have to invest significant resources to find a practical and effective means to attach retroreflective

sheeting or reflex reflectors to the vehicles described.

Interpretation of the Transportation Equity Act for the 21st Century

The ATA indicated that it believes the FHWA is not required to issue a final rule concerning conspicuity based upon its reading of the House of Representatives conference report (H.R. Conf. Rep. No. 105–550, at 499–500 (1998)) on the TEA–21.

The FHWA has reviewed the conference report and believes the explicit language in section 4025 of the TEA–21 requires that the agency issue a final rule regarding the conspicuity of trailers manufactured before December 1, 1993. The content of that rule is not mandated by section 4025, but the agency is required to consider certain factors if it decides to require retrofitting. There is no conflict between the statutory language and the conference report.

The FHWA initiated this rulemaking under the statutory authority provided by 49 U.S.C. 31136 and 31505, and issued its NPRM under the same statutory authority. The agency developed the NPRM based upon the agency's analysis of the comments received in response to the ANPRM, accident data, and a preliminary regulatory evaluation. The agency published an announcement of its decision to issue an NPRM prior to the drafting of the TEA–21 (61 FR 40781, August 6, 1996). The TEA–21 does not preclude the agency from issuing a final rule provided the final rule satisfies the three criteria of section 4025. The FHWA has determined that this final rule is consistent with the requirements of the TEA–21.

Economic Impacts of the Rulemaking

The ATA and NPTC disagreed with the FHWA's estimates of the costs of the rule. The ATA stated:

> The 1996 ATA "F&OS Motor Carrier Annual Report" recorded an average revenue per ton for 505 fleets of $54. Derivation of that average came from figures that ranged from $8 to $950 per ton. The 505 fleets also reported an average load of 30,000 pounds. From those figures, the cost of missing a load with each of the 1.4 million trailers FHWA estimates will need retrofitting with reflective materials is $1 billion. This expense, for just lost revenue, dwarfs the agency's estimate for the complete retrofitting job and points out our concerns with the costs presented in the NPRM.

The NPTC stated:

> Based on polling of NPTC member companies, we have found that fully-loaded labor hour costs are closer to $35.00 per hour. As a result, total per trailer retrofit costs would be from 7.5 to 9.5 percent greater than FHWA's estimates shown in [the NPRM].

The NPTC believes the economic impact on private motor carriers of property will be greater than the impact on for-hire motor carriers. The NPTC stated:

> Private fleets will incur significant downtime expense retrofitting pre-1993 trailers with conspicuity treatments. Whereas most for-hire fleets typically have two or more trailers per power unit, that ratio is much lower for private fleets. Private fleets typically have specialized equipment and cannot justify the expense of extra trailer equipment. As a result, placing trailers out of service to complete the proposed conspicuity retrofit could potentially cause a severe backlog of product at distribution centers and manufacturing facilities. This backlog could prove to be a serious economic hardship to private fleet operators due to canceled orders, etc.
>
> Additionally, [FHWA] greatly underestimates just the revenue lost during the time required for retrofitting. For trailers with extensive surface preparation requirements, the total time for performing retrofitting would be well over the FHWA's two-three hour estimates. Further, more than one work session will be required to conduct such tasks as surface preparation and repainting. As a result, retrofitting cannot be accomplished in a single step and extensive downtime will occur as part of a paint curing process or waiting for available shop space to complete application of reflective materials.

The FHWA does not believe this rule will result in motor carriers losing business either through lost loads in the case of for-hire carriers of property, or canceled orders for private motor carriers of property. The final rule is applicable to all interstate motor carriers operating semitrailers and trailers manufactured before December 1, 1993. For motor carriers operating trailers that are not currently equipped with any form of conspicuity treatment or retroreflective sheeting in locations that do not satisfy the requirements of this rule, the economic consequences are more immediate than those for a motor carrier that can take advantage of the ten-year transition period. Motor carriers that have not already equipped their older trailers with retroreflective sheeting or reflex reflectors must invest the necessary resources to complete the retrofitting process within two years of the effective date of this rule.

The FHWA does not believe that the final rule will have a disproportionate impact on any segment of the motor carrier industry. The agency recognizes that trailers will have to be taken out of revenue service while the retrofitting is being done but believes most motor carriers should be able to perform the retrofit while the trailer is in the shop for maintenance and repairs. The agency does not believe motor carrier managers would be unable to piggyback retrofitting onto the many non-revenue hours devoted to routine maintenance during the two-year period allowed by this rule. The job will require careful planning, but the rule allows ample time for that.

The FHWA disagrees with the ATA's estimate of the opportunity cost, or lost revenues. The $1 billion estimate was not derived in a statistically valid manner; it simply assumes that every trailer to be retrofitted will lose an opportunity to carry a load. The estimates presented in the NPRM, and accompanying preliminary regulatory evaluation (PRE), are much more representative of the actual opportunity costs that most motor carriers will experience.

The FHWA has prepared a final regulatory evaluation (FRE) to accompany this rulemaking notice. A copy of the FRE is included in the docket. The FHWA estimates that the total cost of this rule will be $228 million. This estimate is based upon the assumption that approximately 815,000 trailers will be covered by the rule. The FHWA estimates that the benefits of the rule will be approximately $360 million. A detailed discussion of how the FHWA prepared its estimates is provided later in this notice for interested parties that are not able to review the FRE.

The FHWA recognizes the difficulties that motor carriers have had retrofitting conspicuity treatments to older trailers. The agency has considered the technical problems associated with installing conspicuity treatments as part of the process for preparing the FRE. The agency has also considered the scheduling problems cited by the commenters and used this information as one of the factors for deciding to adopt a two-year phase-in period for installing retroreflective materials on trailers that are not equipped with any form of conspicuity treatment, and a 10-year transition period to replace non-conforming treatments with retroreflective material that conforms to the NHTSA requirement.

Summary of the FHWA's Rationale for Issuing the Final Rule

The FHWA recognizes the technical and economic concerns of commenters opposed to a retrofitting requirement. However, based upon the information currently available, the agency believes that retrofitting of trailers with conspicuity treatments will provide significant safety benefits. Retrofitting appears to be cost-effective and technically feasible.

Three key issues were considered in determining whether to issue a final rule. The first issue is the cost of installing retroreflective material on older vehicles. The FHWA recognizes that the surfaces of many of the older trailers will require preparation (e.g., removal of oxidation, pre-treating, etc.) to ensure that the retroreflective tape adheres. In many cases the trailer will have to be removed from revenue service to complete the retrofit. Therefore, the final rule provides a two-year phase-in period to allow motor carriers to complete the retrofitting at routine maintenance intervals. The FHWA estimates that the total cost (conspicuity material, labor, and the loss in revenues) for retrofitting a 45–53 foot trailer would be approximately $314, with the cost for shorter trailers being less.

The second issue is the voluntary use of retroreflective material on older trailers by certain fleets. A large number of fleets have been using conspicuity treatments on their trailers since the mid-1980's. However, many of the color schemes, as well as the levels of reflectivity of the tape used on the older trailers, differ from the NHTSA requirements for trailers manufactured on or after December 1, 1993. If these operators were required to replace the retroreflective materials that they voluntarily installed to improve safety, it would have the effect of penalizing motor carriers that demonstrated an extra level of safety consciousness. Such an action would also discourage motor carriers from future efforts to explore innovative approaches to improving safety. With this in mind, the FHWA is allowing motor carriers 10 years to replace alternative conspicuity treatments applied to trailers manufactured before December 1, 1993, with treatments that conform to the NHTSA requirements for new trailers.

The third issue, but certainly not the least important, concerns the projected safety benefits of trailer conspicuity material that meets the NHTSA requirement. The NHTSA estimates that retroreflective tape could lead to a 25 percent reduction in rear end collisions and a 15 percent reduction in side impact collisions. From data available at the time of the NHTSA's final rule implementing conspicuity enhancements, tractor-trailer combinations were involved annually in about 11,000 accidents in which they were struck in the side or rear at night. Within this group of accidents, about 8,700 injuries and about 540 fatalities occurred. The NHTSA indicated that the conspicuity requirements, when fully implemented, are expected to prevent, annually, 2,113 of these accidents. The NHTSA estimated 1,315 fewer injuries and about 80 fewer fatalities would occur.

In 1997, there were an estimated 20,357 nighttime accidents in which one commercial motor vehicle and one passenger vehicle were involved. All of these accidents resulted in a fatality, injury, or one of the vehicles incurring damage severe enough to require that the vehicle be towed from the accident scene. In 5,139 of these accidents, a passenger vehicle rear-ended a trailer (2,086 cases) or struck the side of the trailer (3,053 cases).

Looking at the 1997 FARS data, there were 994 fatal nighttime accidents involving one commercial motor vehicle and one passenger vehicle. In 316 of these accidents, a passenger vehicle rear-ended a trailer (198 cases) or struck the side of the trailer (118 cases).

FHWA Estimates of the Costs and Benefits

The FHWA has completed a final regulatory evaluation comparing the projected safety benefits of a retrofitting requirement to the potential economic impact on the motor carrier industry. The following discussion summarizes the FHWA's analysis. A copy of the complete FRE is available for review in the docket.

The agency analyzed and compared the estimated costs and benefits of two-, three-, and five-year phase-in period options for a retrofitting requirement, proposed a two-year phase-in period for trailers that are not currently equipped with retroreflective sheeting, and is adopting a final rule consistent with the proposal. The FHWA estimates that the total costs for motor carriers to comply with the conspicuity requirements within a two-year period will be $228 million, with the safety benefits (fatalities and injuries prevented) and economic benefits (property damage prevented) totaling $360 million. The FHWA estimates that this final rule will apply to approximately 1.02 million trailers, of which approximately 20 percent already have conspicuity treatments. It is estimated that the rule will, over a ten year period, prevent 102 fatalities and 1,766 injuries associated with passenger cars colliding with semitrailers and trailers. In addition, this rule will prevent approximately 2,556 property damage only (PDO) accidents. The FHWA believes the projected safety benefits (in terms of accidents prevented and lives saved) outweigh the economic burden on the motor carrier industry. The following section provides a detailed discussion of how the FHWA prepared its estimates of the costs and benefits.

The costs are considered one-time costs in that the conspicuity treatments will not need to be replaced during the remaining years of the useful service lives of the trailers that would be subject to the retrofitting requirement. The estimates for the benefits are the total expected benefits over the remaining years of the useful service lives of the trailers that would be retrofitted.

Generally, there are three types of costs associated with retrofitting: the tape or reflex reflectors; the labor required to apply it; and, the opportunity cost of withdrawing the trailer from revenue-producing service. The following describes how the FHWA arrived at its estimates for the different types of costs and benefits.

Costs for Retroreflective Sheeting

The NHTSA's preliminary regulatory evaluation used a tape cost of $.675 per linear foot for 50 mm (2-inch) wide tape. Based upon comments to the NHTSA rulemaking and further analysis, the NHTSA adjusted this figure to $1.29 in its final regulatory evaluation.

The amount of tape required to retrofit a trailer varies with its size. For example, a 28-foot trailer would need 47 feet of tape: 14 feet of material per side (because the rule would require that at least 50 percent of the length of the trailer must be covered); an 8-foot strip along the bottom of the rear; 2 pairs of one foot strips for the outline of the upper rear, and approximately seven feet of material for the underride guard. (The estimated cost for retrofitting a rear underride guard that does not require complete refurbishment was included in the FRE, although the FHWA is not requiring motor carriers to install conspicuity materials on the underride guard. Actual costs to motor carriers will therefore be slightly lower than the estimates given in the FRE.) By contrast, a 48-foot trailer would require the use of an additional 10 feet of material for each side of the trailer or a total of 67 feet of tape.

The NHTSA estimated that the total cost for the tape would be $60.84 for 28-foot trailers, $77.67 for 40–42 foot trailers, and $86.73 for 45–53 foot trailers. The FHWA adjusted these figures in the NPRM to account for inflation between 1992, when the NHTSA's final regulatory evaluation was completed, and 1995. This adjustment, based upon the producer price index for industrial commodities (See Table b63 from the "Economic Report of the President," 1996, ISBN 0-16–048501–0), increased the costs to $65.04 for 28-foot trailers, $83.03 for

40–42 foot trailers, and $92.71 for 45–53 foot trailers. The FHWA has revised the estimate presented in the NPRM to account for changes in the price levels between 1995 and 1997, with the result being $66.18 for 28-foot trailers, $84.48 for 40–42 foot trailers, and $94.33 for 45–53 foot trailers. A more detailed explanation is provided in the final regulatory evaluation.

Cost for Labor to Apply the Retroreflective Sheeting to the Trailers

The FHWA used an average wage of $25 per hour in the preliminary regulatory evaluation, including both wages and fringe benefits. The agency has reviewed the Bureau of Labor Statistics' 1996 Occupational Compensation Survey and other information and has lowered the assumed wage rate to $20 for the final regulatory evaluation.

The NHTSA estimated that it takes 30 minutes to install tape on a trailer. While this is a reasonable estimate for factory installed tape, the FHWA recognizes that it would take longer to retrofit a trailer. Trailers will generally have to be prepared and cleaned for the conspicuity treatment. Trailers which have holes and other damage may require more extensive repairs.

The comments to the ANPRM and NPRM, as well as observations by the FHWA staff during a 1994 site visit to a Roadway terminal (documentation of the visit is included in the docket file), indicate that the amount of time required to retrofit a trailer will vary significantly with trailer type and condition. For example, trailers with outer posts may require more extensive work than trailers with smooth exterior surfaces.

Taking into account these considerations, the FHWA estimates that the retrofitting process for the average 28-foot trailer would take 3 hours to complete. The agency estimates that the time required to retrofit 40–42 foot and 45–53 foot trailers would be 3.5 and 4 hours, respectively. The estimates for the time required to complete the retrofitting were increased for the final regulatory evaluation in response to the wide range of estimates provided by the commenters in response to the NPRM. The FHWA's estimates of labor costs are $60, $70, and $80 for the 28–, 40–42, and 45–53 foot trailers, respectively.

Opportunity Costs

Estimating the value of revenue that cannot be generated while the trailer is being retrofitted is difficult because of the variety of trailer types, the variety of motor carrier operations and the rates that are charged, and the overall manner in which some trailers are used—being left idle at the motor carrier's terminals for periods of time that may be as short as a few hours to several days.

The FHWA believes that it is more likely than not that a large percentage of trailers would have to undergo routine repair and/or maintenance at some point during the two-year phase-in period. Retrofitting trailers at the same time that repairs or maintenance are performed would result in negligible opportunity cost since the trailers would not be generating revenue in any case. Even the trailers that do not require routine repairs may be idle at some point during the phase-in period and could be retrofitted at minimal opportunity cost.

The FHWA does not have the detailed information required to develop a comprehensive model of opportunity costs. Therefore, the agency constructed a simple model of the form $150/(1.5 X logarithm of the phase-in period). The opportunity costs for a two-year phase-in period are estimated at $140.

Number of Trailers

The FHWA estimates that 2.69 million trailers and semitrailers will be in use by the year 2001. However, more than half of these trailers will be post-1993 trailers, which already have the required retroreflective sheeting. The agency believes 1.02 million of the 2.69 million trailers and semitrailers will be pre-1994 trailers, and approximately 20 percent of these vehicles will already have some form of conspicuity treatment. Approximately 815,000 trailers and semitrailers will have to be retrofitted. A detailed discussion on how the agency prepared its estimate is provided in the FRE.

Total Costs for Retrofitting Trailers

Based upon the information currently available concerning the costs for retroreflective sheeting, labor, and opportunity costs, and the estimates of the number of trailers for which motor carriers will be required to take some type of actions to comply with the proposed requirements, the FHWA believes the total costs for retrofitting will be $228 million. It should be noted that opportunity cost makes up approximately 60 percent of the total cost. These estimates are for a 10-year period discounted at a 7-percent rate.

Benefits of a Retrofitting Requirement

The estimated benefits of this rulemaking are a reduction in the number of fatalities, injuries, and property damage only incidents caused by nighttime accidents in which a passenger car collides with the rear or side of a trailer. The FHWA estimates that over a 10-year period, a total of 102 fatalities and 1,766 injuries will be prevented because of this rule. The following table shows the number of accidents and injuries prevented. The net present value of this level of accident reduction is $360 million.

The reduction in fatalities comprises the largest component of benefits. The second largest component is maximum adjusted injury scale (MAIS) 3 accidents.[2]

DISTRIBUTION OF DOLLAR AMOUNTS OF BENEFITS

Severity	Number	Percent total benefits
PDO	2,556	3.1
MAIS 1	1,372	5.6
MAIS 2	257	7.3
MAIS 3	111	11.1
MAIS 4	17	4.2
MAIS 5	9	4.7
Fatality	102	64

Benefits are spread unevenly over the 10-year analysis period. Benefits are expected to peak two years after the effective date of the final rule, after which there is a slow decline. Two years after the effective date of the final rule, all trailers covered by the retrofitting requirement will have conspicuity treatments. As the population of pre-1993 trailers decreases, the benefits of the retrofitting rule will decline. This pattern holds for both discounted and non-discounted dollars, as well as for accidents. By the middle of the year 2001, all trailers will be equipped with conspicuity treatments, and nighttime accidents should fall by 15 percent (for retrofitted trailers still in use).

SUMMARY OF COSTS AND BENEFITS OF CONSPICUITY RETROFIT OPTIONS

Options for retrofitting phase-in period	2 years	5 years
Estimated number of trailers that would have to be retrofitted	815,000	502,000

[2] The Abbreviated Injury Scale (AIS) was developed by the American Medical Association and the American Association for Automotive Medicine to measure the threat to life of an accident. The MAIS refers to the maximum (most severe) injury sustained in a crash. The scale ranges from 0 for no injury to 6 for a fatality. A more detailed discussion of MAIS, including examples of the types of injuries that are included in each of the levels, is included in the FHWA's preliminary regulatory evaluation for this rulemaking. A copy of the PRE is contained in FHWA Docket No. MC–94–1; 97–2222.

SUMMARY OF COSTS AND BENEFITS OF CONSPICUITY RETROFIT OPTIONS—Continued

Options for retrofitting phase-in period	2 years	5 years
Estimated benefits ($ millions)	$360	$172
Estimated costs ($ millions)	$228	$82
Estimated Net Benefit ($ millions)	$132	$90
Benefit-to-cost ratio	1.58	2.10
Fatalities prevented (during a 10-year period)	102	51
Injuries prevented (during a 10-year period)	1,766	876

The benefit of this regulation results from an expected 15 percent reduction in nighttime side and rear crashes into trailers, and an expected 19 percent reduction in the severity of certain property damage only accidents. These estimates come from the NHTSA, which performed extensive fleet evaluations in the 1980's. According to the NHTSA, these kinds of accidents result in an average of 536 fatalities annually, and almost 8,800 injuries, most of which are minor. This proposal would prevent approximately 102 fatalities over a 10-year period.

The monetary value of these benefits range from over $360 million for the 2-year phase in to $172 for the 5 year phase in. Under all of the phase-in options considered in this rulemaking, the ratio of the benefits-to-costs exceeds 1.5, with the ratio increasing as the phase-in period is extended. More importantly, all three scenarios yield net benefits (benefits minus costs) in excess of $90 million, with net benefits increasing to more than $132 million as the phase-in period is shortened to two years.

Discussion of the Requirements of the Final Rule

The FHWA is amending the FMCSRs by adding § 393.13, Retroreflective sheeting and reflex reflectors, requirements for semitrailers and trailers manufactured before December 1, 1993. This section is being added to subpart B of part 393, Lighting Devices, Reflectors, and Electrical Equipment. Paragraph (a) provides the applicability for § 393.13. The requirements do not apply to trailers that are manufactured exclusively for use as offices or dwellings because these types of trailers are rarely transported at night. The FHWA is excluding pole trailers (as defined in § 390.5) from the conspicuity requirements because these trailers generally do not have side and rear surfaces to which conspicuity treatments could be applied in a cost-effective manner. The agency notes that § 393.11 does require lamps and reflectors on pole trailers and requests comments on whether retrofitting of conspicuity materials should be required on all pole trailers, including those that are currently manufactured without any type of conspicuity treatment.

In addition, the FHWA is excluding trailers that are being towed in a driveaway-towaway operation (as defined in § 390.5). This is not a blanket exception for certain types of trailers, but an exception that covers certain movements of trailers. Examples of the types of transportation that are covered include movements between a dealership or other entity selling or leasing the trailer and a purchaser or lessee, to a maintenance/repair facility for the repair of disabling damage (as defined in § 390.5).

Paragraph (b) encourages motor carriers to retrofit their trailers with a conspicuity system that meets all of the requirements applicable to trailers manufactured on or after December 1, 1993, but allows the use of alternate color or color combination of retroreflective sheeting or reflex reflectors during a 10-year transition period. At the end of the 10-year period, all trailers are required to have conspicuity treatments identical to the NHTSA requirements. Although the FHWA is allowing motor carriers a certain amount of flexibility with regard to the colors of retroreflective tape or reflex reflectors, the locations for the conspicuity treatments are required to conform to those specified in the NHTSA regulations.

Paragraph (c) covers the locations for retroreflective sheeting, excluding the use of the reflective material on the rear underride device. Paragraph (d) specifies the locations for the arrays of reflex reflectors, excluding the use of reflex reflectors on the rear underride device. The FHWA recognizes the concerns that motor carriers have about conspicuity treatments on the rear impact guards or rear underride devices. Consequently, the agency decided not to require motor carriers to apply conspicuity material to the rear underride device.

With regard to the compliance date for the retrofitting requirements, the FHWA is allowing motor carriers 2 years from the effective date of the final rule to retrofit trailers operated in interstate commerce. Motor carriers are allowed 10 years from the effective date of the final rule to replace non-conforming conspicuity treatments with ones that meet the NHTSA requirements for newly manufactured trailers.

Applicability to Canadian and Mexican Vehicles

The final rule is applicable to trailers operated in the United States by Canada- and Mexico-based motor carriers. Although the Provincial and Territorial governments of Canada are implementing conspicuity retrofitting requirements which would not be enforced until January 1, 2002, and the Federal government of Mexico has not indicated whether it intends to require retrofitting of the trailers operating in their countries, the FHWA believes that it is appropriate to require retrofitting of conspicuity treatments on foreign-based trailers manufactured prior to December 1, 1993, if those vehicles are operated within the United States. This decision is consistent with the applicability of the requirements of parts 393 and 396 of the FMCSRs and ensures that all commercial motor vehicles operating in interstate or foreign commerce within the United States are required to meet the same safety standards.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and significant within the meaning of Department of Transportation regulatory policies and procedures. The FHWA has prepared a final economic assessment of the economic impact the regulatory changes will have on the motor carrier industry. A copy of the final assessment is included in the docket file.

The FHWA estimates that the total costs for motor carriers to comply with the proposed requirements within a 2-year period will be $228 million, with the safety and economic benefits totaling $360 million. The FHWA estimates that this rulemaking will apply to 815,000 trailers. It is estimated that the rule will, over a 10-year period, prevent 102 fatalities and 1,766 injuries associated with passenger cars colliding with trailers. In addition, this rule would prevent approximately 2,556 property damage only accidents.

The costs are considered one-time costs in that the conspicuity treatments will not need to be replaced during the remaining years of the useful service lives of the trailers that would be subject to the retrofitting requirement. The estimates for the benefits are the total

expected benefits over the remaining years of useful service lives of the trailers that will be retrofitted. A copy of the FHWA's final regulatory evaluation has been placed in the docket.

Regulatory Flexibility Act

The FHWA has evaluated the effects of the regulatory changes on small entities. A copy of the analysis on the small entity impact is provided in the docket file. Generally, the costs per trailer for retrofitting is expected to be comparable, but not necessarily identical, for both large motor carriers and small motor carriers. For example, large carriers will be able to obtain discounts when ordering conspicuity materials in bulk. The costs for the retroreflective tape needed to comply with the proposed requirement is $66.18 for 28 foot trailers, $84.48 for 40–42 foot trailers, and $94.33 for 45–53 foot trailers. The FHWA's estimates of labor costs are $60, $70, and $80 for the 28-, 40–42, and 45–53 foot trailers, respectively. The FHWA believes the opportunity cost is approximately $140 per trailer. Therefore, the costs per trailer for small entities is $266 for 28-foot trailers, $294 for 40–42 foot trailers, and $314 for 45–53 foot trailers. The costs only apply to small entities that have trailers that were manufactured before December 1, 1993, and have not already been retrofitted with a conspicuity system that will satisfy the requirements of this rule. Furthermore, the costs will only be applicable if the small entities intend to continue to operate these older trailers after the 2-year phase-in period.

As of September 1996, the FHWA estimates that there were approximately 382,128 interstate motor carriers. Of these carriers, 136,360 own, term-lease or trip-lease 6 or fewer trailers (68,405 have 1 trailer, 45,770 have 2–3 trailers, and 22,185 have 4–6 trailers). The number of motor carriers that own, term-lease or trip-lease more than 6 trailers, but fewer than 21 is 21,793 (6,658 carriers have 7–8 trailers, 6,197 have 9–11 trailers, 3,887 carriers have 12–14 trailers, 2,779 carriers have 15–17 trailers, and 2,272 carriers have 18–20 trailers). If only those motor carriers that own, term-lease, or trip-lease 20 or fewer trailers are considered small entities, this rulemaking could have an economic impact on up to 158,153 small entities.

The economic impact on each of the motor carriers will vary depending on the number of trailers that the carrier would be responsible for retrofitting by the end of the 2-year phase-in period, and the size of those trailers. If, for example, the carrier only operates one 45–53 foot trailer, the total economic impact will be $314. If the carrier operates 20 such trailers that have to be retrofitted, the total economic impact would be $ 6,280.

The Small Business Administration (SBA), which oversees agencies' compliance with the Regulatory Flexibility Act, has published guidelines to classify small business. The SBA has indicated that for entities engaged in motor freight transportation and warehousing, small businesses are those with $18.5 million or fewer dollars in annual receipts. Therefore, if the motor carrier described in the preceding example is a private motor carrier with its principal business being something other than transportation, and operates 20, 45–53 foot trailers and has annual receipts of $18.5 million, the total economic impact would be less than one-tenth of one percent of the private motor carrier's annual receipts ($6,280/$18.5 million). If this carrier operated 100 trailers and had annual receipts of $18.5 million, the economic impact would be approximately two-tenths of one percent of the carrier's annual receipts ($31,400/$18.5 million).

Based on its analysis summarized above, the FHWA believes that this rule will affect a substantial number of small entities, but will not have a significant impact on these entities. The FHWA, in compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601–612), has considered the economic impacts of these requirements on small entities and certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action does not have any effect on the quality of the environment.

Unfunded Mandates Reform Act

This rule does not impose any unfunded mandates on State, local, or tribal governments as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532–1538). However, this rule will impose a Federal mandate on the private sector requiring expenditure by motor carriers of $100 million or more in any one year. Therefore, the FHWA has prepared a separate written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. A copy of the FHWA's Regulatory Accountability and Reform Analyses is included in the docket.

The FHWA considered several regulatory alternatives and believes that this rule adopts the least burdensome alternative that achieves the objectives of the rule.

The FHWA estimates that the conspicuity retrofitting rule will cost the public approximately $228 million over two years. The cost applies only to motor carriers subject to the Federal Motor Carrier Safety Regulations. The agency estimates that the 10-year discounted monetary value of the benefits (fatalities and injuries prevented, property damage savings) is $360 million.

The FHWA analyzed and compared the estimated costs and benefits of two-, three-, and five-year phase-in period options for a retrofitting requirement to determine the least costly alternative for improving highway safety. The agency also considered the color-prescriptive requirements to determine the least burdensome alternative for reducing the incidence of passenger vehicles colliding with semitrailers and trailers at nighttime and under other conditions of reduced visibility. The agency proposed a two-year phase-in period for trailers that are not currently equipped with retroreflective sheeting, and a 10-year transition period for trailers that are equipped with alternative colors or

color combinations. The agency is adopting a final rule consistent with the proposal.

The three-, and five-year phase-in periods would have reduced the total costs of the rule but not the burden on individual motor carriers operating pre-1994 trailers at the end of these phase-in periods. Moreover, these alternatives would also reduce the benefits of retrofitting trailers. The agency has determined that it is in the public interest to require motor carriers to retrofit their trailers within two years of the effective date of the final rule to save additional lives, and prevent additional injuries and property-damage only accidents.

The two-year option provides for increased safety benefits over those estimated for the three-, and five-year options. Both the costs and benefits would drop significantly with a three- or five-year phase-in period, as the number of trailers to be retrofit and the number of fatalities, injuries, and property-damage only accidents avoided would be reduced. Generally, the longer the phase-in period, the less benefit there is to completing the rulemaking as the population of pre-1994 trailers decreases every year. Therefore, the agency believes there is good cause for not choosing the least costly option.

With regard to the burden on the motor carrier industry, the final rule includes a 10-year transition period to ensure that most motor carriers are not penalized for voluntarily retrofitting their semitrailers and trailers with alternative colors or patterns. The agency recognizes that some motor carriers will be forced to replace their conspicuity treatments in order to comply with the requirements for the year 2009 and beyond. The FHWA believes the final rule represents a balance between regulatory flexibility and the need for having a standard conspicuity treatment for commercial motor vehicles, and is the least burdensome alternative that achieves the objectives of the rule.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Reflectors.

Issued on: March 26, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, chapter III, as follows:

PART 393—[AMENDED]

1. The authority citation for part 393 continues to read as follows:

Authority: Section 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); 49 U.S.C. 31136 and 31502; 49 CFR 1.48.

2. Section 393.13 is added to read as follows:

§ 393.13. Retroreflective sheeting and reflex reflectors, requirements for semitrailers and trailers manufactured before December 1, 1993.

(a) *Applicability.* All trailers and semitrailers manufactured prior to December 1, 1993, which have an overall width of 2,032 mm (80 inches) or more and a gross vehicle weight rating of 4,536 kg (10,001 pounds) or more, except trailers that are manufactured exclusively for use as offices or dwellings, pole trailers (as defined in § 390.5), and trailers transported in a driveaway-towaway operation, must be equipped with retroreflective sheeting or an array of reflex reflectors that meet the requirements of this section. Motor carriers have until June 1, 2001 to comply with the requirements of this section.

(b) *Retroreflective sheeting and reflex reflectors.* Motor carriers are encouraged to retrofit their trailers with a conspicuity system that meets all of the requirements applicable to trailers manufactured on or after December 1, 1993, including the use of retroreflective sheeting or reflex reflectors in a red and white pattern (see Federal Motor Vehicle Safety Standard No. 108 (49 CFR 571.108), S5.7, *Conspicuity systems*). Motor carriers which do not retrofit their trailers to meet the requirements of FMVSS No. 108, for example by using an alternative color pattern, must comply with the remainder of this paragraph and with paragraph (c) or (d) of this section. Retroreflective sheeting or reflex reflectors in colors or color combinations other than red and white may be used on the sides or lower rear area of the semitrailer or trailer until June 1, 2009. The alternate color or color combination must be uniform along the sides and lower rear area of the trailer. The retroreflective sheeting or reflex reflectors on the upper rear area of the trailer must be white and conform to the requirements of FMVSS No. 108 (S5.7). Red retroreflective sheeting or reflex reflectors shall not be used along the sides of the trailer unless it is used as part of a red and white pattern. Retroreflective sheeting shall have a width of at least 50 mm (2 inches).

(c) *Locations for retroreflective sheeting.*

(1) *Sides.* Retroreflective sheeting shall be applied to each side of the trailer or semitrailer. Each strip of retroreflective sheeting shall be positioned as horizontally as practicable, beginning and ending as close to the front and rear as practicable. The strip need not be continuous but the sum of the length of all of the segments shall be at least half of the length of the trailer and the spaces between the segments of the strip shall be distributed as evenly as practicable. The centerline for each strip of retroreflective sheeting shall be between 375 mm (15 inches) and 1,525 mm (60 inches) above the road surface when measured with the trailer empty or unladen, or as close as practicable to this area. If necessary to clear rivet heads or other similar obstructions, 50 mm (2 inches) wide retroreflective sheeting may be separated into two 25 mm (1 inch) wide strips of the same length and color, separated by a space of not more than 25 mm (1 inch).

(2) *Lower rear area.* The rear of each trailer and semitrailer must be equipped with retroreflective sheeting. Each strip of retroreflective sheeting shall be positioned as horizontally as practicable, extending across the full width of the trailer, beginning and ending as close to the extreme edges as practicable. The centerline for each of the strips of retroreflective sheeting shall be between 375 mm (15 inches) and 1,525 mm (60 inches) above the road surface when measured with the trailer empty or unladen, or as close as practicable to this area.

(3) *Upper rear area.* Two pairs of white strips of retroreflective sheeting, each pair consisting of strips 300 mm (12 inches) long, must be positioned horizontally and vertically on the right and left upper corners of the rear of the body of each trailer and semitrailer, as close as practicable to the top of the trailer and as far apart as practicable. If the perimeter of the body, as viewed from the rear, is not square or rectangular, the strips may be applied along the perimeter, as close as practicable to the uppermost and outermost areas of the rear of the body on the left and right sides.

(d) *Locations for reflex reflectors.*

(1) *Sides.* Reflex reflectors shall be applied to each side of the trailer or semitrailer. Each array of reflex reflectors shall be positioned as horizontally as practicable, beginning and ending as close to the front and rear as practicable. The array need not be continuous but the sum of the length of all of the array segments shall be at least half of the length of the trailer and the spaces between the segments of the strip shall be distributed as evenly as practicable. The centerline for each array of reflex reflectors shall be between 375 mm (15 inches) and 1,525 mm (60 inches) above the road surface when measured with the trailer empty or unladen, or as close as practicable to this area. The center of each reflector shall not be more than 100 mm (4 inches) from the center of each adjacent reflector in the segment of the array. If reflex reflectors are arranged in an alternating color pattern, the length of reflectors of the first color shall be as close as practicable to the length of the reflectors of the second color.

(2) *Lower rear area.* The rear of each trailer and semitrailer must be equipped with reflex reflectors. Each array of reflex reflectors shall be positioned as horizontally as practicable, extending across the full width of the trailer, beginning and ending as close to the extreme edges as practicable. The centerline for each array of reflex reflectors shall be between 375 mm (15 inches) and 1,525 mm (60 inches) above the road surface when measured with the trailer empty or unladen, or as close as practicable to this area. The center of each reflector shall not be more than 100 mm (4 inches) from the center of each adjacent reflector in the segment of the array.

(3) *Upper rear area.* Two pairs of white reflex reflector arrays, each pair at least 300 mm (12 inches) long, must be positioned horizontally and vertically on the right and left upper corners of the rear of the body of each trailer and semitrailer, as close as practicable to the top of the trailer and as far apart as practicable. If the perimeter of the body, as viewed from the rear, is not square or rectangular, the arrays may be applied along the perimeter, as close as practicable to the uppermost and outermost areas of the rear of the body on the left and right sides. The center of each reflector shall not be more than 100 mm (4 inches) from the center of each adjacent reflector in the segment of the array.

[FR Doc. 99–7827 Filed 3–26–99; 11:50 am]

BILLING CODE 4910–22–P

pairs of
each pair at
g, must be
vertically
orners of the
er and
icable to the
part as
of the body,
ot square
y be
as close as
and
f the body
he center of
ore than
center of
e segment of

9; 11:50 am]

Federal Register

Wednesday
March 31, 1999

Part V

Department of Education

Parental Assistance Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

DEPARTMENT OF EDUCATION

[CFDA No.: 84.310A]

Parental Assistance Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

Note To Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To assist nonprofit organizations, and nonprofit organizations in consortia with local educational agencies (LEAs), in establishing parental information and resource centers that would (1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children; (2) strengthen partnerships between parents and professionals in meeting the educational needs of children aged birth through five years and the working relationship between home and school; and (3) enhance the developmental progress of the children assisted under the program.

Eligible Applicants: Nonprofit organizations, and nonprofit organizations in consortia with LEAs, in the following jurisdictions are eligible to apply for funding: California, Colorado, the District of Columbia, Florida, Georgia, Hawaii, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Vermont, Washington, and Wisconsin.

The statute requires the Secretary to ensure that grants are distributed, to the greatest extent possible, to all geographic regions of the United States. Consistent with this statutory requirement, this competition is for eligible applicants in the District of Columbia and the States identified in the preceding paragraph. Grantees in the other States, the Commonwealth of Puerto Rico, and the outlying areas are eligible for continuation awards.

An LEA, by itself, is not eligible for an award. However, an LEA may be part of a consortium with a nonprofit organization that applies. In those instances, the award would be made to the nonprofit organization, which would serve as the fiscal agent.

For purposes of this competition, nonprofit organizations do not include institutions of higher education, State educational agencies, LEAs, intermediate school districts, government entities, or hospitals.

Deadline for Transmittal of Applications: April 30, 1999.

Deadline for Intergovernmental Review: April 30, 1999.

Available Funds: $18,000,000.

Estimated Range of Awards: $200,000 to $750,000.

(**Note:** Due to anticipated variances in the scope of proposed activities and the number of program beneficiaries, the estimated range is very broad.)

Estimated Number of Awards: 28.

Note: These estimates are projections for the guidance of potential applicants. The Department of Education is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 81, 82, and 85.

Note: The regulations in 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) apply to an LEA that is part of a consortium receiving assistance.

Description of Program: Under the Parental Assistance Program, authorized by Title IV of the Goals 2000: Educate America Act (Pub. L. 103–227) (20 U.S.C. 5801 *et seq.*) (the Act), grants are awarded to nonprofit organizations (and nonprofit organizations in consortia with LEAs) to establish and fund parent information and resource centers that provide training, information, and support to (a) parents of children aged birth through five years; (b) parents of children enrolled in elementary and secondary schools; and (c) individuals who work with these parents.

Organizations seeking funding must have the capacity to deliver services of sufficient size, scope, and quality to reach substantial numbers of children and families from diverse populations throughout the State, with a particular focus on parents who are educationally and economically disadvantaged. In providing these services, the organizations must network with clearinghouses, parent centers served under the Individuals with Disabilities Act, parent groups, other organizations and agencies, and parents of elementary and secondary school children.

Using research-based practices and technological advances, the organizations should provide a mix of direct training services and statewide information and support services to address the needs of the targeted populations. Entities with established statewide organizational structures and proven effectiveness may be more likely to successfully address these needs.

Applicants should be aware that section 1118(g) of the Elementary and Secondary Education Act, as amended by the Improving America's Schools Act of 1994, requires schools and districts receiving Title I funds to assist parents and parent organizations by informing them of the existence and purpose of the parent information and resource center in their State, providing them with a description of the services and programs provided by the center, advising parents on how to use the center, and helping them contact the center. Consequently, applicants should be prepared to address the demand for their services created by this requirement.

Use of Funds: Grant funds received under this program may be used—

(a) For parent training, information, and support programs that assist parents to—

(1) Better understand their children's educational needs;

(2) Provide follow-up support for their children's educational achievement;

(3) Communicate more effectively with teachers, counselors, administrators, and other professional educators and support staff;

(4) Participate in the design and provision of assistance to students who are not making adequate educational progress;

(5) Obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents of children aged birth through five years and parents of children in elementary and secondary schools;

(6) Seek technical assistance regarding compliance with the requirements of title IV and of other Federal programs relevant to achieving the National Education Goals;

(7) Participate in State and local decisionmaking;

(8) Train other parents; and

(9) Plan, implement, and fund activities that coordinate the education of their children with other Federal programs that serve their children or their families; and

(b) To include State or local educational personnel where such participation will further the activities assisted under the grant.

Program Requirements: Each grantee must—

(a)(1) Be governed by a board of directors the membership of which includes parents; or

(2) Be an organization that represents the interests of parents;

(b) Establish a special advisory committee the membership of which includes—

(1) Parents of children aged birth through five years and parents of children enrolled in elementary and secondary schools; and

(2) Representatives of educational professionals with expertise in improving services for disadvantaged children; and

(3) A broad representation of minority, low-income, and other individuals and groups that have an interest in compensatory education and family literacy;

(c) Use at least one-half the funds provided in the grant in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

(d) Operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(e) Serve both urban and rural areas;

(f) Design a center that meets the unique training, information, and support needs of parents of children aged birth through five years and of parents of children enrolled in elementary and secondary schools, particularly parents who are economically or educationally disadvantaged;

(g) Demonstrate the capacity and expertise to conduct the effective training information and support activities for which assistance is sought;

(h) Network with—

(1) Clearinghouses;

(2) Parent centers for the parents of infants, toddlers, children, and youth with disabilities served under section 631(e) of the Individuals with Disabilities Act;

(3) Other organizations and agencies;

(4) Established national, State, and local parent groups representing the full range of parents of children aged birth through five years; and

(5) Parents of children enrolled in elementary and secondary schools;

(i) Focus on serving parents of children aged birth through five years and parents of children enrolled in elementary and secondary schools, who are parents of low-income, minority, and limited English proficient children; and

(j) Use part of the funds received under this program to establish, expand, or operate Parents as Teachers (PAT) programs or Home Instruction Programs for Preschool Youngsters (HIPPY) programs, as defined in section 405 of the Act.

The statute does not require a specific amount or percentage of funds to be spent on PAT or HIPPY programs. However, the PAT and HIPPY programs, like the other components of the center, should be integrated with the center's overall activities. On an average, grantees have used approximately one-third of their grant to support PAT and/or HIPPY programs. (A brief description of the PAT and HIPPY programs may be found in the appendix.)

To be eligible for funding, an applicant must meet each of the statutory requirements referenced above. Each application for assistance must include assurances that the grantee will comply with these requirements.

Non-Federal Contribution: To be eligible for a continuation award, in each fiscal year after the first fiscal year a grantee receives assistance under this program, the grantee must demonstrate that a portion of the services provided by the grantee will be supported through non-Federal contributions. Those contributions may be in cash or in kind.

Selection Criteria

The Secretary will use the following selection criteria and factors from 34 CFR 75.210 to evaluate applications under this competition.

The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parenthesis with the criterion. The criteria and factors are as follows:

(a) *Need for project.* (20 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Quality of the project design.* (22 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs,

(iii) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements.

(iv) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, state, and federal resources.

(c) *Quality of project services.* (20 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(ii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(iv) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(v) The extent to which the services to be provided by the proposed project are focused on those with greatest needs.

(d) *Quality of project personnel.* (9 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of the project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(e) *Adequacy of resources.* (7 points) (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(iii) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of federal funding.

(f) *Quality of the project evaluation.* (22 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(**Note:** In designing their evaluation plans, applicants are encouraged to consider the sample performance measures included in the Appendix.)

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 3, 1998 (63 FR 59452 through 54455).

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, area-wide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.310A, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW, Washington, D.C. 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # 84.310A), Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # 84.310A), Room #3633, Regional Office Building #3, 7th and D Streets, SW, Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 12/98)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form 524) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013–6190).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and

the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Daisy Greenfield, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202–6400. Telephone: (202) 401–0039.

Individuals who use a telecommunication devise for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Easter time, Monday through Friday. Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
htt://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 5911 *et seq.*

Dated: March 25, 1999.

Judith A. Johnson,

Acting Assistant Secretary, Elementary and Secondary Education.

Instructions For Application Narrative

Before preparing the Application Narrative an applicant should read carefully the authorizing statute and the information in this notice, including the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;
2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and
3. Include any other pertinent information that might assist the Secretary in reviewing the application.

The Secretary strongly requests the applicant to limit the Application Narrative to no more than 20 double-spaced, typed pages (on one side only), although the Secretary will consider applications of greater length. The Department has found that successful applications for similar programs generally meet this page limit.

Estimated Public Reporting Burden

The time required to complete this collection of information is estimated to average 48 hours per response, including the time to review instructions, search existing data sources, gather the data needed, and complete and review the collection of information. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 1810–0578. Expiration date: March 31, 2002.

If you have any comments or concerns regarding the status of your individual submission of this form, write directly to: Daisy Greenfield, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Appendix

Descriptions of the Parents as Teachers (PAT) and the Home Instructional Program for Preschool Youngsters (HIPPY)

Parents as Teachers (PAT)

Parents as Teachers (PAT) is an early childhood parent education and family support program designed to empower all parents to give their child the best possible start in life. The program provides parents with information on child development from birth to age 5 and suggests learning opportunities that encourage the development of language, intellect, and physical and social skills. PAT National is located in Missouri and since 1985 has served more than a half million Missouri families. The program has also been replicated in 43 other states, Washington, DC, Australia, England, New Zealand and the West Indies.

Major components of the program include personalized home visits by certified parent educators, group meetings for parents to share information, developmental and health screenings, referrals to other community services not offered by PAT, and administrative and clerical support. Programs may be designed to provide weekly, biweekly or monthly home visits. The parent educator would invest approximately 1073 hours making home visits, planning and keeping records, traveling, conducting group meetings, etc. to provide a year-round (1 month start-up, 11 month service delivery) program for 30 families (including additional visits for selected families).

For additional information call (314) 432–4330, write to Parents as Teachers National Center, Inc., 10176 Corporate Square Drive, Suite 230, St. Louis, Missouri 63132, or visit the web site at www.patn.org.

Home Instruction Program for Preschool Youngsters

The Home Instruction Program for Preschool Youngsters (HIPPY) is a home-based, early intervention program that provides parents with the training and materials to engage in daily learning experiences with their preschoolers, ages three, four and five. HIPPY, USA is located, in New York City and is the national network, technical assistance, and training program that supports the growth and development of new sites, as well as the current 121 local organizations serving over 15,000 families in 28 States, the District of Columbia and Guam.

Major components of the program include paraprofessional home visits, group meetings for parents to share information, training, curriculum, research evaluation and technical assistance. Paraprofessional home visitors train parents to use developmentally appropriate and culturally sensitive HIPPY materials as the basis of these opportunities for learning and time together as a family. Programs may be designed to provide weekly or biweekly home visits, and biweekly or monthly group meetings. A paraprofessional working 20 hours per week could serve 12–15 families, making home visits, conducting group meetings, traveling, completing weekly reports, etc. A program coordinator would be responsible for administering the HIPPY program, supervising and monitoring the paraprofessionals, and record keeping. For additional information, please call (212) 532–7730, write to HIPPY USA, 220 East 23rd Street, Suite 300, New York, New York 10010, or visit the web site at www.c3pg.com.

Performance Measures

Parental Information and Resources Centers (PIRCs)

The Government Performance and Results Act (GPRA) of 1993 places new management expectations and requirements on Federal departments and agencies by creating a framework for more effective planning, budgeting, program evaluation, and fiscal accountability for Federal programs. The intent of the Act is to improve public

confidence by holding departments and agencies accountable for achieving program results. Departments must set program goals and objectives and measure and report on their achievements. One important source of program information on successes and lessons learned is the project evaluation and other information collected under individual grants.

In addition, the U.S. Department of Education is committed to forging a new partnership with grantees that is focused on results. The Department is required to publish performance standards and measures as a part of the program announcement to enable applicants to develop applications that incorporate such standards. After the competition for awards is completed, the Department will work cooperatively with grantees to develop performance agreements that include the performance standards to measure progress toward meeting project objectives. These performance agreements will be developed within 60 days after grants are awarded.

The Department has identified four performance objectives for the Parental Assistance Program: (1) to increase the number and types of partnerships between parents and schools, (2) to increase parents' awareness of education issues, (3) to establish, expand or operate Parents As Teachers (PAT) and/or Home Instruction Programs for Preschool Youngsters (HIPPY), and (4) to develop and sustain partnerships/networks with other organizations, agencies, and parent centers. These performance objectives and others that are directly related to the purposes of the authorizing legislation shall form the basis of the performance agreement that all discretionary grantees will develop in cooperation with the Department.

To assist applicants in understanding how a performance agreement might be developed, we are providing a sample template (see Table 1). The sample identifies the key components of a performance plan (objectives, indicators, baseline data, desired outcomes, and source, periodicity, next update of data) and an example of each component. Applicants may incorporate all or parts of the examples on the sample template along with additional objectives in their application; applicants may also use another similar format. It is important, however, that all applications are not only developed to achieve successful project outcomes, but that they also include a process to measure progress towards attaining those outcomes.

The performance agreements will be used during the life of the grant to ensure that project outcomes are achieved. Progress will be assessed via regularly scheduled communication, which may include telephone calls, letters, and site visits, between Department staff and the project director. Where sufficient progress is not being achieved, the Department and the grantee will work together to identify strategies and resources to overcome challenges and resolve problems. When necessary, the Department and the grantee may modify the performance agreements.

Sample Template Performance Agreement Parental Information and Resource Assistance Centers (PIRCS)

Program Purpose: To assist nonprofit organizations and nonprofit organizations in consortia with local education agencies in establishing parental information and resource assistance centers to increase knowledge of and confidence in child-rearing activities, and strengthen partnerships between parents and professionals in meeting the educational needs of children, the working relationship between home and school; and enhancing the developmental progress of the children assisted under the program.

Objective (examples:)	Performance indicators (examples:)	Baseline data (examples:)	Desired outcome (examples:)	Data source, periodicity, next update (examples:)
1. To increase the number and types of partnerships between parents and schools.	1.1 Parents and school personnel, particularly those in Title I schools, will report greater levels of parent involvement in their child's school and learning after receiving services through the PIRC.	1.1 In year 1999, 50% of parents and school personnel, particularly those in Title I schools reported greater levels of parental involvement in their child's school and learning after receiving services through the PIRC.	1.1 In year 2000, 80% of parents and school personnel, particularly those in Title I schools, reported greater levels of parental involvement in their child's school and learning after receiving services through the PIRC.	1.1 Survey of Parents and School Personnel, 1999, 2000.
	1.2 PIRCs will provide information and support to schools to develop strategies to encourage ongoing parental involvement in school activities (e.g. working with children at home on homework and reading, making parent aware of chances to volunteer at school).	1.2 Descriptive information of parental involvement strategies used in a sampling of schools.	1.2 Descriptive information of changes in parental involvement in a sampling of schools.	1.2 Anecdotal information, informal case studies of a sampling of schools.
	1.3 Other.			
2. To increase parents' awareness of education issues.	2.1 Parents that the PIRC serve will report that they are more knowledgeable about education issues after receiving information and services through the PIRC.	2.1 In 1999, 50% of parents served reported that they are knowledgeable about education issues.	2.1 In 2000, 85% of parents served will report that they are knowledgeable about education issues after receiving information and services through the PIRC.	2.1 Customer survey, 1999, Workshop pre and post test measures of parents' knowledge.
	2.2 There will be an increase in the number of parents receiving information about how to help their child succeed in school.	2.2 In 1998, 50,000 parents received materials and information that informed them of education issues via the PIRC.	2.2 In 1999, 75,000 parents will receive materials and information regarding education via the PIRC.	2.2 Web site hits, toll free number, mailing lists.
	2.3 Other.			

SAMPLE TEMPLATE PERFORMANCE AGREEMENT PARENTAL INFORMATION AND RESOURCE ASSISTANCE CENTERS (PIRCS)—Continued

Program Purpose: To assist nonprofit organizations and nonprofit organizations in consortia with local education agencies in establishing parental information and resource assistance centers to increase knowledge of and confidence in child-rearing activities, and strengthen partnerships between parents and professionals in meeting the educational needs of children, the working relationship between home and school; and enhancing the developmental progress of the children assisted under the program.

Objective (examples:)	Performance indicators (examples:)	Baseline data (examples:)	Desired outcome (examples:)	Data source, periodicity, next update (examples:)
3. To establish, expand or operate Parents As Teachers (PAT) and Home Instructional Programs for Preschool Youngsters (HIPPY) services.	3.1 The number of families participating in PAT/HIPPY will increase.	3.1 In 1998, 150 families in the states participated in PAT/ HIPPY programs.	3.1 In 2000, 200 families in the state participated in PAT/ HIPPY programs.	3.1 Parent educator logs PAT/HIPPY.
	3.2 The number of parents that can demonstrate developmentally appropriate parenting behavior as defined by PAT/ HIPPY will increase.	3.2 In 1999, PAT/HIPPY parent educators will observe and document 150 parents demonstrating developmentally appropriate parenting behavior.	3.2 In 2000, PAT/HIPPY parent educators will observe and document 200 parents demonstrating developmentally appropriate parenting behavior.	3.2 Observation records of PAT/ HIPPY parent educators.
	3.3 Other.			
4. To develop and sustain partnerships/networks with other organizations, agencies, and parent centers (e.g. schools, school districts, PTAs national coalition of Title I schools etc.).	4.1 There will be an increase in the number and types of partnerships/networks that the PIRC identifies, develops and sustains with other organizations, agencies and parent centers.	4.1 In 1999, the PIRC will identify the number and types of partnerships/networks with other organizations, agencies and parent centers.	4.1 In 2000, the PIRC will identify, develop and sustain an increased number and various types of partnerships/networks with other organizations, agencies and parent centers.	4.1 List of organizations participating in partnerships and networks.
	4.2 The number of collaborative efforts jointly undertaken by the PIRC and partners will increase.	4.2 In 1999, 50 collaborative efforts will be undertaken by the PIRC and partners.	4.2 In 2000, 60 collaborative efforts will be jointly undertaken by the PIRC and partners.	4.2 List of partners and the type of parenting activities jointly developed and implemented.
	4.3 ther.			

BILLING CODE 4000-01-U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:_____
Address:_____
_____
_____ State _____ County _____ ZIP Code + 4 - _____
City

Organizational Unit
_____

2. Applicant's D-U-N-S Number [ ][ ][ ][ ][ ][ ][ ][ ][ ]

3. Catalog of Federal Domestic Assistance #: 8 4 . 3 1 0 A → Title: Parental Assistance Program

4. Project Director:_____
Address:_____
_____
_____ State _____ ZIP Code + 4 - _____
City
Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____
E-Mail Address:_____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:_____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

10. Proposed Project Dates: **Start Date:** ___/___/_____ **End Date:** ___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #: _____ *OR* b. Assurance of Compliance #: _____
c. IRB approval date: _____ { ☐ Full IRB **or** ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

d. E-Mail Address:

e. **Signature of Authorized Representative** Date: ___/___/_____

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Previous Edition Usable **Authorized for Local Reproduction** **Standard Form 424B (Rev. 7-97)**
Prescribed by OMB Circular A-102

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application _____ b. initial award c. post-award	**3. Report Type:** a. initial filing _____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

[FR Doc. 99–7785 Filed 3–30–99; 8:45 am]
BILLING CODE 4000–01–C

VOL
64
ISS
61
MR
31
999
UMI

federal register

Wednesday
March 31, 1999

Part VI

General Services Administration

41 CFR Part 301–10
Federal Travel Regulation; Privately Owned Automobile Mileage Reimbursement; Final Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–10

[FTR Amendment 78—1998 Edition]

RIN 3090–AG89

Federal Travel Regulation; Privately Owned Automobile Mileage Reimbursement

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule decreases the mileage reimbursement rate for use of a privately owned automobile (POA) on official business to reflect current costs of operation as determined in a cost study conducted by the General Services Administration (GSA). The governing regulation is revised to decrease the mileage allowance for use of a POA from 32.5 to 31 cents per mile.

DATES: This final rule is effective April 1, 1999, and applies to official travel performed on or after April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Devoanna R. Reels at 202–501–3781.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to 5 U.S.C. 5707(b), the Administrator of General Services has the responsibility to establish the privately owned vehicle (POV) mileage reimbursement rates. Separate rates are set for automobiles (including trucks), motorcycles, and airplanes. In order to set these rates, GSA is required to conduct periodic investigations, in consultation with the Secretaries of Defense and Transportation, and representatives of Government employee organizations, of the cost of travel and the operation of POVs to employees while engaged on official business. As required, GSA conducted an investigation of the costs of operating a POA and is reporting the cost per mile determination. The results of the investigation have been reported to Congress and a copy of the report appears as an attachment to this document. GSA's cost study shows the per-mile operating costs of a POA to be 31 cents. Additionally, as provided in 5 U.S.C. 5704(a)(1), the automobile reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Service (IRS). The IRS has announced a new single standard mileage rate for automobiles of 31 cents effective April 1, 1999. With regard to motorcycles and airplanes, the mileage rates established by GSA will remain the same.

B. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act does not apply.

C. Executive Order 12866

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Reform Act

This rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 301–10

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, 41 CFR part 301–10 is amended to read as follows:

PART 301–10—TRANSPORTATION EXPENSES

1. The authority citation for 41 CFR part 301–10 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); 49 U.S.C. 40118.

2. Section 301–10.303 is amended by revising the entry "Privately owned automobile" in the table to read as follows:

§ 301–10.303 What am I reimbursed when use of a POV is determined by my agency to be advantageous to the Government?

For use of a	Your reimbursement is
* * * * *	
Privately owned automobile	[1] 31
* * * * *	

[1] Cents per mile.

Dated: March 24, 1999.

David J. Barram,

Administrator of General Services.

Attachment to Preamble—Report to Congress on the Costs of Operating Privately Owned Vehicles

Subparagraph (b)(1)(A) of section 5707 of Title 5, United States Code, requires the Administrator of General Services, in consultation with the Secretaries of Defense and Transportation and representatives of Government employee organizations, to conduct periodic investigations of the cost of travel and the operation of privately owned vehicles (airplanes, automobiles, and motorcycles) to Government employees while on official business, to report the results of the investigations to Congress at least once a year, and to publish the report in the **Federal Register**. This report is being published to comply with the requirements of the law.

Dated: March 24, 1999.

David J. Barram,

Administrator of General Services.

Report To Congress

Subparagraph (b)(1)(A) of section 5707 of Title 5, United States Code, requires that the Administrator of General Services, in consultation with the Secretaries of Defense and Transportation and representatives of Government employee organizations, conduct periodic investigations of the cost of travel and the operation of privately owned vehicles (POVs) (airplanes, automobiles, and motorcycles) to Government employees while on official business and report the results to Congress at least once a year. Subparagraph (b)(2)(B) of section 5707 of Title 5, United States Code, further requires that the Administrator of General Services determine the average, actual cost per mile for the use of each type of POV based on the results of the cost investigation. Such figures must be reported to Congress within 5 working days after the cost determination has been made in accordance with 5 U.S.C. 5707(b)(2)(C).

Pursuant to the requirements of subparagraph (b)(1)(A) of Section 5707 of Title 5, United States Code, the General Services Administration (GSA), in consultation with the Secretaries of Defense and Transportation and representatives of Government employee organizations, conducted an investigation of the cost of operating a privately owned automobile (POA). GSA's cost study shows the per-mile operating costs of a PAO to be 31 cents. Additionally, as provided in 5 U.S.C. 5704(a)(1), the automobile reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Service (IRS). The IRS has announced a new single standard mileage rate for automobiles of 31 cents effective April 1, 1999.

As required, GSA is reporting the results of the investigation and the cost per mile determination. Based on the cost study conducted by GSA, I have determined the per-mile operating costs of a PAO to be 31 cents. With regard to motorcycles and

airplanes, the mileage rates established by GSA will remain the same.

I will issue a regulation to decrease the current 32.5 cents to 31 cents per mile for POAs. This report to Congress on the cost of operating POAs will be published in the **Federal Register**.

[FR Doc. 99–7830 Filed 3–30–99; 8:45 am]

BILLING CODE 6820–34–P

VOL
64
ISS
61
MR
31
999
UMI

Reade

CUSTOMER

Federal Regis
General Infor
aids

Laws

Presidential D
Executive ord
The United St

Other Service
Electronic and
Privacy Act C
Public Laws U
TTY for the d

ELECTRONIC

World Wide W
Full text of th
publications:
htt
Federal Regist
Inspection Lis
htt

E-mail

PENS (Public
service that de
Laws. To subs
list
with the text
sub
Use listproc@
PENS. We can

Reference que
Federal Regist
inf
The Federal R
regulations.

FEDERAL R

9905–10100...
10101–10204...
10205–10386...
10387–10554...
10555–10918...
10919–11372...
11373–11754...
11755–12078...
12079–12238...
12239–12742...
12743–12880...
12881–13062...
13063–13310...
13311–13496...
13497–13662...
13663–13880...
13881–14096...
14097–14354...
14355–14574...
14575–14808...
14809–15122...
15123–15284...
15285–15632...

Reader Aids

Federal Register

Vol. 64, No. 61

Wednesday, March 31, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, MARCH

9905–10100	1
10101–10204	2
10205–10386	3
10387–10554	4
10555–10918	5
10919–11372	8
11373–11754	9
11755–12078	10
12079–12238	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13496	18
13497–13662	19
13663–13880	22
13881–14096	23
14097–14354	24
14355–14574	25
14575–14808	26
14809–15122	29
15123–15284	30
15285–15632	31

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

100	12881
Proclamations:	
7168	10101
7169	10379
7170	10383
7171	10385
7172	11373
7173	12879
7174	14353
7175	14807
7176	15123
Executive Orders:	
12170 (See Notice of March 10, 1999)	12239
12852 (Amended by EO 13114)	10099
12957 (See Notice of March 10, 1999)	12239
12959 (See Notice of March 10, 1999)	12239
13059 (See Notice of March 10, 1999)	12239
13114	10099
13115	15283
Administrative Orders:	
Notice of March 10, 1999	12239
Memorandum:	
March 23, 1999	14809
Presidential Determinations:	
No. 99–15 of February 26, 1999	11319
No. 99–16 of March 4, 1999	13495

4 CFR

27	15125
28	15125

5 CFR

316	15285
532	9905, 9906
831	15286
837	15286
842	15286
846	15286
870	15286
890	15286
2635	13063
Proposed Rules:	
300	14842
1620	13924
1650	13725

7 CFR

3	11755
51	14575
246	13311
360	12881
361	12881
723	15290
782	12884
932	14811
989	10919
1381	11755
1434	10923
1439	13497
1464	15290
1469	10929
1703	14355
1728	14813
Proposed Rules:	
301	11392
915	13123
916	11346
917	11346
944	14642
1065	13125
1301	12769
1703	14401
1823	10235
1956	10235
3400	14348

8 CFR

3	13663, 13881
103	13881
208	13881
235	13881
238	13881
240	13881
241	13881
253	13881
274a	11533
507	13881

9 CFR

52	13064
78	15296, 15298
Proposed Rules:	
1	10400
3	10400
71	13726
80	13726
112	13365
113	10400, 14156
391	10402

10 CFR

50	14814
73	14814
708	12862
Proposed Rules:	
21	12117
50	12117
54	12117
63	10405
70	13368
707	11819

11 CFR

Proposed Rules:	
2	10405
4	10405

5.....10405

12 CFR

3.....10194
208.....10194
225.....10201
229.....14577
325.....10194
404.....14373
405.....14373
567.....10194
960.....12079

Proposed Rules:

21.....15137
208.....15310
211.....15310
225.....15310
326.....14845
563.....14845
602.....10954

13 CFR

123.....13667

14 CFR

21.....13501
25.....10740, 14818
39 .....9906, 9908, 9910, 9911, 9912, 10205, 10208, 10209, 10211, 10213, 10216, 10555, 10557, 10560, 10935, 11375, 11533, 11757, 11759, 11761, 11764, 12241, 12242, 12244, 12247, 12249, 12252, 12743, 13325, 13326, 13328, 13330, 13502, 13504, 13667, 13669, 13882, 13884, 13886, 13889, 13890, 13892, 14097, 14578, 14580, 14583, 14585, 14588, 14820, 14822, 14824, 15126, 15298
71 .....10387, 10562, 10563, 10740, 10937, 10938, 10939, 10940, 12084, 12254, 12255, 13333, 13504, 13671, 13672, 14306, 14589, 14590, 14591, 14592, 14593, 14594, 14595, 14596, 14597, 14598, 14599, 14600, 14601, 14602, 15300, 15301
73 .....12743, 13334, 13506, 14603, 14604
91.....15120
93.....14972
97 ...9912, 9914, 13334, 13336, 14826, 14828
204.....12084
255.....15127
257.....12838
258.....12854
399.....12838

Proposed Rules:

23.....14401
25.....14408
39 .....9939, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936, 15137
71 .....9940, 10238, 10239, 10241, 10242, 10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 12404, 13938, 14410, 15139, 15140, 15142
129.....13880

15 CFR

734.....13338
740.....13338
742.....13338
744.....14605
752.....13338
772.....13338
774 .....10852, 12744, 13338
806.....10387
902.....14052

16 CFR

4.....14829

Proposed Rules:

Ch. I.....14156
241.....13368
256.....13369
1213.....10245, 14158
1500.....10245, 14158
1513.....10245, 14158
1615.....10963, 13126
1616.....10963, 13126
1630.....13132
1631.....13132
1632.....13137

17 CFR

202.....13065
228.....11103
229.....11103
230 .....11090, 11095, 11103
239.....11103, 11118
240.....10564, 13065
242.....13065
249.....13065

Proposed Rules:

1.....14159
30.....14159
200.....15143
202.....15143
210.....10579, 15143
228.....10579, 15143
229.....15143
230 .....12908, 14648, 15143
232.....12908, 15143
239 .....11118, 12908, 15143
240 .....9948, 10579, 11124, 12127, 12908, 14648, 15143, 15310
249.....15143
249b.....15310
270.....12908, 14648
274.....12908

19 CFR

Ch. I.....13673
4.....15301
133.....11376
144.....15302

Proposed Rules:

4.....13370
24.....13141
146.....13142

20 CFR

10.....12684
404 .....10103, 13677, 14606
416.....13677

21 CFR

5.....14098
26.....11376
50.....10942
101.....12886, 12887
173.....14608
177.....10943
178.....13506
201.....13066, 13254
216.....10944
330.....13254
331.....13254
341.....13254
346.....13254
355.....13254
358.....13254
369.....13254
520 .....10103, 10389, 13068, 13340, 13341, 13508, 13678
522.....13508, 13509
556 .....10103, 13068, 13341, 13679
558 .....13068, 13069, 13341, 13342, 13679
701.....13254
806.....14098
812.....10942
874.....10947, 14830

Proposed Rules:

101.....14178
864.....12774
866.....12774
868.....12774
870.....12774
872.....12774
874.....12774
876.....12774
878.....12774
884.....12774
886.....12774
888.....12774
1010.....14180
1040.....14180

22 CFR

41.....13510
121.....13679
124.....13679
171.....10949

24 CFR

5.....13056
35.....14381
203 .....14568, 14572, 15303
204.....15303
234.....14572
882.....14831
887.....13056
941.....13510
982.....13056
984.....13056
3500.....10080

Proposed Rules:

Ch. IX 13531, 13533
990.....12920

25 CFR

31.....13894
39.....13894
111.....13894
112.....13894
115.....13894
140.....13894
151.....13894
152.....13894
160.....13894
162.....13894
226.....13894
256.....13894
273.....13894
275.....13894
276.....13894

26 CFR

1.....10218, 11378
54.....14382
602.....10218

Proposed Rules:

1 .....10262, 13939, 13940, 14306, 14412, 14846
20.....10964, 13940
25.....13940
31.....13940
40.....13940

27 CFR

9.....13511
13.....10949
24.....13682

28 CFR

79.....13686

Proposed Rules:

25.....10262
302.....11821
549.....10095

29 CFR

96.....14538
99.....14538
1910.....13700, 13897
4044.....12745

Proposed Rules:

215.....15276
1910.....15402
1915.....15402
1917.....15402
1918.....15402
1926.....15402
2510.....15143

30 CFR

256.....13343, 15320
701.....15322
724.....15322
773.....15322
774.....15322
778.....15322
842.....15322
843.....15322
846.....15322
914.....12890
934.....12896
938.....14610

Proposed Rules:

56.....15144
57.....14200, 15144
77.....15144
120.....15144
204.....13734
206.....12267
250.....13535
914.....14412
938.....12269

32 CFR

199.....11765, 13912
556.....14619

33 CFR

62.....10104
100 .....13913, 13914, 14382, 14384
117.....10104, 13514
165 .....11771, 12746, 13915, 14306, 15399
320.....11708
326.....11708
331.....11708

Proposed Rules:
110.....
117.....
155.....
162.....
165.....
167.....

34 CFR

300.....
303.....
648.....
694.....

Proposed Rules:
303.....

36 CFR

61.....

Proposed Rules:
1091.....
1190.....

37 CFR

1.....
201.....
202.....

39 CFR

20.....
111 1095

Proposed Rules:
111.....

40 CFR

52 9916
12002, 12005
12085, 12087
12749, 12751
13343, 13346
13514, 13916
14624
58.....
60 10105
62.....
63.....
80.....
81 11775
82.....
90.....
93.....
136.....
147.....
180 10227
11782, 11789
13078, 13086
13097, 13103
14099, 14101
14626
271.....
300.....
302.....
355.....
439.....

Proposed Rules:
Ch. 1 .....
52 ...9951, 9952
10342, 11822
12798, 12799
13372, 13375
13382, 13538
14659
60.....
62.....
63.....

Proposed Rules:
110.....14414, 15322
117.....12795, 12797
155.....13734
162.....14414
165.....14414
167.....12139

34 CFR

300.....12406
303.....12406
648.....13486
694.....10184
Proposed Rules:
303.....12674

36 CFR

61.....11736
Proposed Rules:
1091.....13752
1190.....13752

37 CFR

1.....12900
201.....12902
202.....12902

39 CFR

20.....9915, 10219
111.....10950, 12072, 14385
Proposed Rules:
111.....11402

40 CFR

52.....9916, 11773, 11775, 12002, 12005, 12015, 12019, 12085, 12087, 12256, 12257, 12749, 12751, 12759, 13070, 13343, 13346, 13348, 13351, 13514, 13916, 14391, 14620, 14624, 14832, 15129
58.....10389
60.....10105, 11536, 14393
62.....13075, 13517
63.....11536, 12762
80.....10366
81.....11775, 12002, 12005, 12257, 13146
82.....10374
90.....15208
93.....13476
136.....10391, 13053
147.....14800
180.....10227, 10233, 10567, 11782, 11789, 11792, 11799, 13078, 13086, 13088, 13094, 13097, 13103, 13106, 14098, 14099, 14101, 14104, 14106, 14626, 14632, 15304
271.....10111
300.....11801
302.....13113
355.....13113
439.....10391, 13053
Proposed Rules:
Ch. 1.....10066
52...9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753, 14416, 14659, 14665, 15148
60.....10119, 11555
62.....13539
63.....11555, 11560
81.....11822, 12025, 13383, 13384
82.....14417
94.....10596
97.....10118
136.....10596
194.....14418
271.....10121, 14201
372.....9957, 10597, 15324
435.....10266

41 CFR

101–49.....13700
301–10.....15630

42 CFR

Proposed Rules:
36.....14560
405.....14666
409.....12277
410.....12277
411.....12277
412.....12277
413.....12277
416.....12278
419.....12277
447.....10412
457.....10412
488.....12278, 13354
489.....12277
498.....12277
1003.....12277

43 CFR

4.....13362
Proposed Rules:
428.....12141
3100.....14666
3110.....14666
3120.....14666
3130.....14666
3140.....14666
3150.....14666
3160.....14666
3170.....14666
3180.....14666
3400.....12142
3420.....12142
3800.....9960

44 CFR

61.....13115
64.....9919
65.....11378, 11380, 11382, 11384
67.....11386, 11388
Proposed Rules:
67.....11403, 11409
77.....10181
80.....10181
81.....10181
82.....10181
83.....10181
152.....10181
207.....10181
220.....10181
221.....10181
222.....10181
301.....10181
303.....10181
306.....10181
308.....10181
320.....10181
324.....10181
325.....10181
328.....10181
333.....10181
336.....10181

45 CFR

60.....9921
302.....11802
303.....11802, 11810, 15132
304.....11802
1207.....14113
1208.....14123
1209.....14133
2551.....14113
2552.....14123
2553.....14133
Proposed Rules:
5.....14668
92.....10412
95.....10412
1224.....10872
1302.....14202
2508.....10872

46 CFR

502.....9922
510.....11156
514.....11186
515.....11156
520.....11218
530.....11186
535.....11236
545.....9922
565.....10395
571.....9922
572.....11236
583.....11156
Proposed Rules:
381.....14676

47 CFR

0.....14834
25.....14394
41.....13916
51.....14141
61.....14394
64.....13701, 14141
73.....9923, 12767, 12902, 12903, 13719, 13720, 13721, 13722, 13729, 14397
90.....10395
95.....14639
Proposed Rules:
1.....9960
2.....10266
51.....14203
73.....12922, 12923, 12924, 13756, 13757, 14419, 14420, 14421, 14422, 14423
95.....10266

48 CFR

Ch. 1.....10530, 10552
1.....10531, 10548
4.....10531
5.....10535
8.....10535
11.....10538
12.....10531, 10535
13.....10538
14.....10531
15.....10544
16.....10538
19.....10535
22.....10545
25.....10548
26.....10531
27.....10531
31.....10547
32.....10531, 10548
41.....10531
52.....10531, 10535, 10538, 10545, 10548
53.....10548, 10913, 12862
203.....14397
211.....14398
217.....14399
252.....14397, 14398
552.....15306
913.....12862
915.....12220
922.....12862
970.....12220, 12862
1804.....14640
1806.....10571
1807.....14640
1815.....10573
1819.....10571
1822.....14148
1835.....14640
1842.....10573
1852.....10571, 10573
1872.....14640
Proposed Rules:
204.....14424
252.....14424
970.....14206

49 CFR

171.....9923, 10742
172.....10742
173.....10742
174.....10742
175.....10742
176.....10742
177.....10742
178.....10742
180.....10742
393.....15588
531.....12090
571.....10786, 11724
575.....11724
596.....10786
1000–1199.....10234
1420.....13916
Proposed Rules:
17.....14676
171.....13856, 13943
173.....13856
177.....13856
178.....13856
180.....13856
192.....12147
350.....11414
571.....9961, 10604, 13947, 14207
572.....10965
585.....13947
587.....13947
591.....13757
595.....13947
1420.....13948

50 CFR

17.....13116
25.....14149
36.....14149, 14151
216.....9925
217.....14052
220.....14052
221.....14052
222.....14052
223.....14052, 14308, 14508, 14517, 14528

224.....14052, 14308
225.....14052
226.....14052
227.....14052
285.....10576
300.....13519
600.....9932
622 .....13120, 13363, 13528
630.....12903
648.....14052, 14835
660 .....9932, 12092, 15307
678.....14154
679 .....9937, 10397, 10398, 10952, 11390, 12093, 12094, 12103, 12265, 12767, 12768, 13121, 13122, 13723, 14052, 14155, 14840, 15308
697.....14052

Proposed Rules:
17 .....12924, 14209, 14424, 14676
216.....9965
223.....14329
224.....14329
285.....10438
600.....10438, 12925
622.....10612, 10613
630.....10438
635.....10438
644.....10438
648 .....11431, 13392, 13952, 14846, 15334
660 .....10439, 12279, 14211
678.....10438

REMINDER
The items in
editorially co
to Federal R
Inclusion or
this list has
significance.

**RULES GO
EFFECT M**

COMMERCE
**National Oc
Atmospheric**
Fishery cons
manageme
Atlantic sw
published
International
regulations
Pacific hali
catch sh
Correctio
31-98

DEFENSE D
Acquisition re
Central co
registratio
31-98

**ENVIRONME
PROTECTIO**
Hazardous w
authorizatio
Tennessee
98
Hazardous w
State unde
tank prog
Puerto R
30-98
Puerto R
30-98

**FEDERAL
COMMUNICA
COMMISSIO**
Common car
InterLATA
party pre
Correctio
31-98

**GOVERNME
OFFICE**
Conflict of int
3-31-98

**HEALTH AN
SERVICES D**
**Food and Dr
Administratio**
Animal drugs,
related pro
New drug a
Chlortetra
publish

**NATIONAL A
AND SPACE
ADMINISTRA**
Acquisition re

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 31, 1998

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic swordfish fishery; published 3-16-98
International fisheries regulations:
Pacific halibut fisheries; catch sharing plans
Correction; published 3-31-98

DEFENSE DEPARTMENT
Acquisition regulations:
Central contractor registration; published 3-31-98

ENVIRONMENTAL PROTECTION AGENCY
Hazardous waste program authorizations:
Tennessee; published 1-30-98
Hazardous waste:
State underground storage tank program approvals—
Puerto Rico; published 1-30-98
Puerto Rico; published 1-30-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
InterLATA 0+ calls; billed party preference
Correction; published 3-31-98

GOVERNMENT ETHICS OFFICE
Conflict of interests; published 3-31-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Chlortetracycline; published 3-31-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Acquisition regulations:
Contract administration and audit services; published 3-31-98
Submission of vouchers for payment; published 3-31-98

SECURITIES AND EXCHANGE COMMISSION
Securities:
Beneficial ownership in publicly-held companies; reporting requirements
Correction; published 3-31-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Empresa Brasileira de Aeronautica S.A.; published 3-16-98
GKN Westland Helicopters Ltd.; published 3-16-98

TREASURY DEPARTMENT
Internal Revenue Service
Excise taxes:
Deposit procedures; published 3-31-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Onions, imported, and onions grown in—
Idaho and Oregon; comments due by 4-6-98; published 2-3-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Halibut donation program; comments due by 4-6-98; published 2-4-98
Northeastern United States fisheries—
Atlantic surf clam and ocean quahog; comments due by 4-10-98; published 2-9-98

COMMERCE DEPARTMENT
Patent and Trademark Office
Patent cases:
Continued prosecution application practice; changes; comments due by 4-6-98; published 2-4-98

CONSUMER PRODUCT SAFETY COMMISSION
Consumer Product Safety Act and Federal Hazardous Substances Act:
Bunk beds; safety standards; comments due by 4-7-98; published 1-22-98

DEFENSE DEPARTMENT
Army Department
Decorations, medals, awards:
Heraldic items; manufacture, sale, wear, commercial use and quality control; comments due by 4-10-98; published 3-11-98

DEFENSE DEPARTMENT
Defense Logistics Agency
Privacy Act; implementation; comments due by 4-6-98; published 3-6-98

DEFENSE DEPARTMENT
Acquisition regulations:
Domestic source restrictions waiver; comments due by 4-6-98; published 2-4-98
Federal Acquisition Regulation (FAR):
Progress payments; comments due by 4-6-98; published 3-5-98

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Oil and natural gas production and natural gas transmission and storage; comments due by 4-7-98; published 2-6-98
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Arkansas; comments due by 4-9-98; published 3-10-98
Air quality implementation plans; approval and promulgation; various States:
Alaska; comments due by 4-10-98; published 3-11-98
Calfifornia: comments due by 4-10-98; published 3-11-98
California; comments due by 4-7-98; published 2-6-98
Illinois; comments due by 4-10-98; published 3-11-98
Louisiana; comments due by 4-8-98; published 3-9-98
New Hampshire; comments due by 4-9-98; published 3-10-98
Pennsylvania; comments due by 4-8-98; published 3-9-98
Texas; comments due by 4-10-98; published 3-11-98
Virginia; comments due by 4-10-98; published 3-11-98
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Illinois; comments due by 4-10-98; published 3-11-98
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Oxyfluorfen; comments due by 4-6-98; published 2-4-98
Terbacil; comments due by 4-6-98; published 2-4-98
Toxic substances:
Significant new uses—
Sinorhizobium meliloti strain RMBPC-2; comments due by 4-9-98; published 3-10-98
Water pollution control:
National pollutant discharge elimination system (NPDES)—
Storm water program (Phase I); polluted runoff reduction from priority sources; comments due by 4-9-98; published 1-9-98

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Kentucky; comments due by 4-6-98; published 2-20-98

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Progress payments; comments due by 4-6-98; published 3-5-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food additives:
Acidified sodium chlorite solutions; comments due by 4-6-98; published 3-6-98
Human drugs:
Total parenteral nutrition; aluminum in large and small volume parenterals; labeling requirements; comments due by 4-6-98; published 1-5-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Mortgage and loan insurance programs:
Indian reservations—
Single family mortgages under section 248 of

National Housing Act; authority to insure suspension; comments due by 4-6-98; published 2-3-98

INTERIOR DEPARTMENT
Minerals Management Service
Royalty management:
Oil valuation; Federal leases and Federal royalty oil sale; comments due by 4-7-98; published 3-24-98

LEGAL SERVICES CORPORATION
Freedom of Information Act; implementation; comments due by 4-8-98; published 3-9-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Progress payments; comments due by 4-6-98; published 3-5-98

POSTAL SERVICE
Domestic Mail Manual:
Mixed BMC/ADC pallets of packages and flats; elimination of mailer options; comments due by 4-6-98; published 2-18-98
Nonprofit standard mail rate matter; eligibility requirements; comments due by 4-6-98; published 3-6-98
International Mail Manual:
Global priority mail flat rate box rates; comments due by 4-6-98; published 2-3-98

SECURITIES AND EXCHANGE COMMISSION
Securities:
Over-the-counter derivatives dealers; capital requirements for broker-dealers; net capital rule; comments due by 4-6-98; published 3-6-98

SMALL BUSINESS ADMINISTRATION
Small business size standards:
Size standard changes for engineering services, architectural services, and surveying and mapping services; comments due by 4-6-98; published 2-3-98

TRANSPORTATION DEPARTMENT
Coast Guard
Anchorage regulations:
Connecticut; comments due by 4-7-98; published 2-6-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 4-6-98; published 3-6-98
AlliedSignal Aerospace; comments due by 4-10-98; published 2-4-98
Boeing; comments due by 4-6-98; published 2-4-98
Bombardier; comments due by 4-6-98; published 3-6-98
Burkhart Grob Luft-und Raumfahrt; comments due by 4-10-98; published 3-6-98
Construcciones Aeronauticas, S.A.; comments due by 4-9-98; published 3-10-98
Eurocopter France; comments due by 4-6-98; published 3-5-98
Industrie Aeronautiche e Meccaniche Rinaldo Piaggio S.p.A.; comments due by 4-10-98; published 3-2-98
McDonnell Douglas; comments due by 4-6-98; published 2-19-98
Class E airspace; comments due by 4-6-98; published 2-13-98

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Fuel economy standards:
Automobili Lamborghini S.p.A./Vector Aeromotive Corp.; exemption request; comments due by 4-6-98; published 2-4-98

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Pipeline safety:
Hazardous liquid transportation—
Older hazardous liquid and carbon dioxide pipelines; pressure testing; risk-based alternative; comments due by 4-6-98; published 2-5-98

TREASURY DEPARTMENT
Community Development Financial Institutions Fund
Bank enterprise award program; comments due by 4-6-98; published 12-5-97

TREASURY DEPARTMENT
Internal Revenue Service
Excise taxes:
Group health plans; continuation coverage requirements; comments due by 4-7-98; published 1-7-98
Income taxes:
Interest abatement; comments due by 4-8-98; published 1-8-98
Qualified zone academy bonds; comments due by 4-7-98; published 1-7-98
Reorganizations; nonqualified preferred stock; cross-reference; comments due by 4-6-98; published 1-6-98

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 540/P.L. 106–4

Nursing Home Resident Protection Amendments of 1999 (Mar. 25, 1999; 113 Stat. 7)

Last List March 26, 1998

Public Laws Electronic Notification Service (PENS)

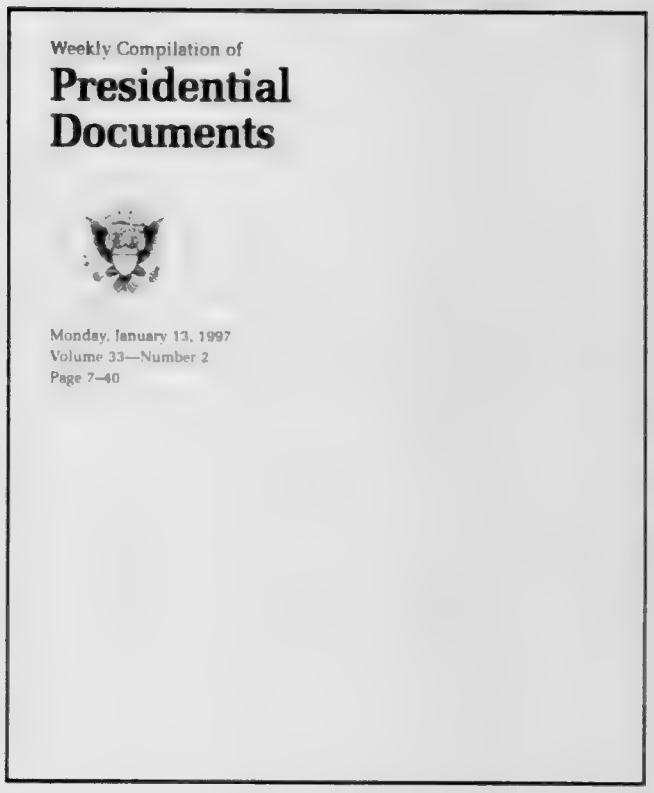
PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listproc@lucky.fed.gov** with the text message:

subscribe PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
*** 5420**

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

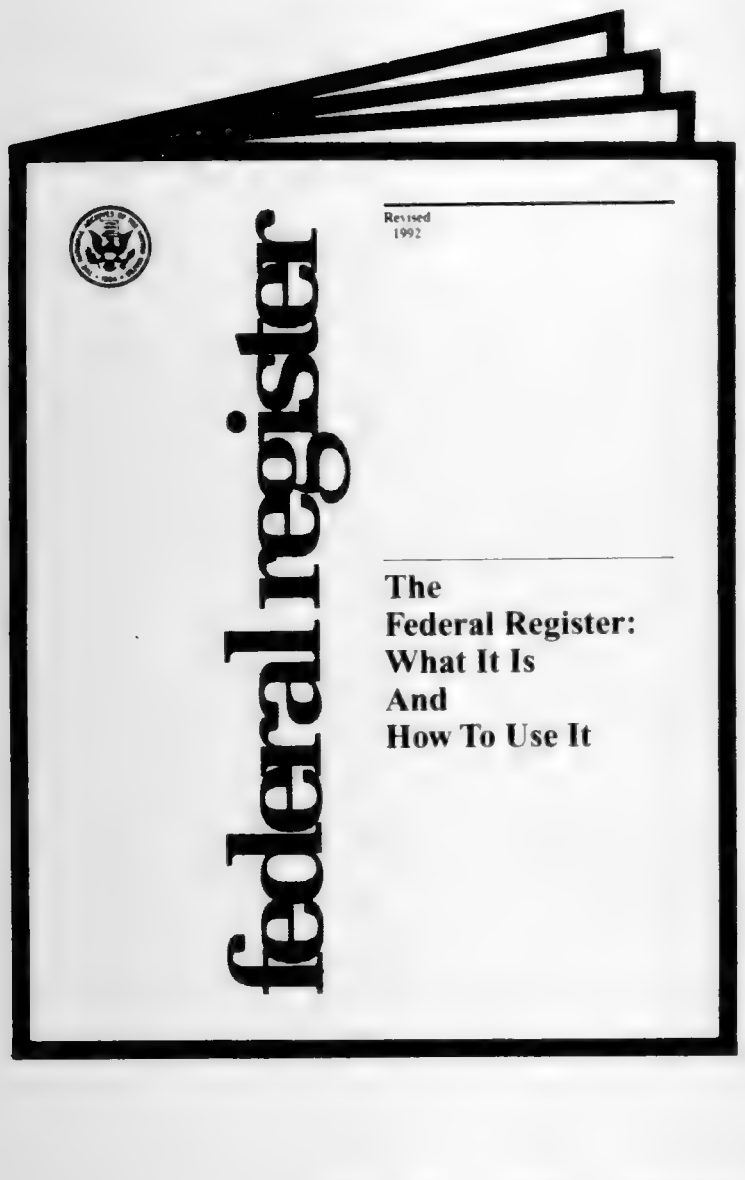
Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a simple research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

Order Processing Code
*** 6173**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ copies of **The Federal Register – What it is and Hot To Use It,** at $7.00 per copy. Stock No. 069–000–00044–4.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature (Rev.11/3)

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

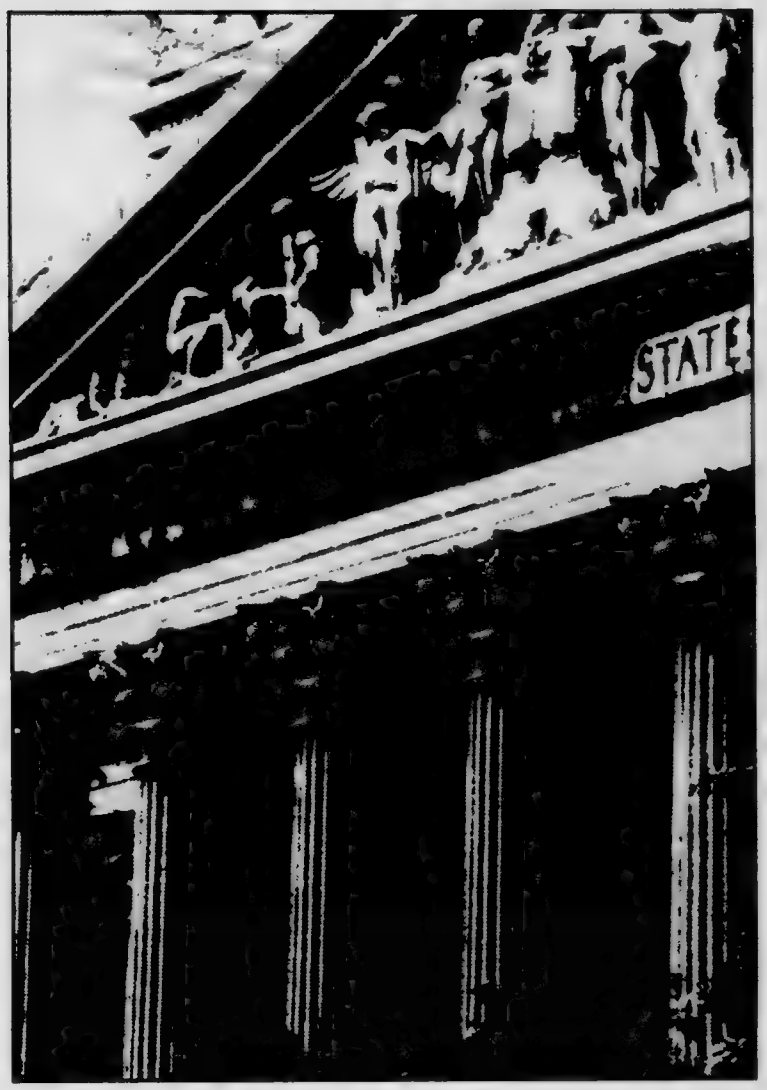
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.
$27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.
$25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.
_____ **Federal Register Index** (FRUS) $25 per year.

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature

1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        DEC97 R 1
AFR SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        DEC97 R 1
AFRDO SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

ERVICE

VISA

02) 512–2250
02) 512–1800

to change.

Documents

hank you for your order!

11/3

250–7954

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.



Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5419**

Charge your order. It's Easy! MasterCard VISA
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

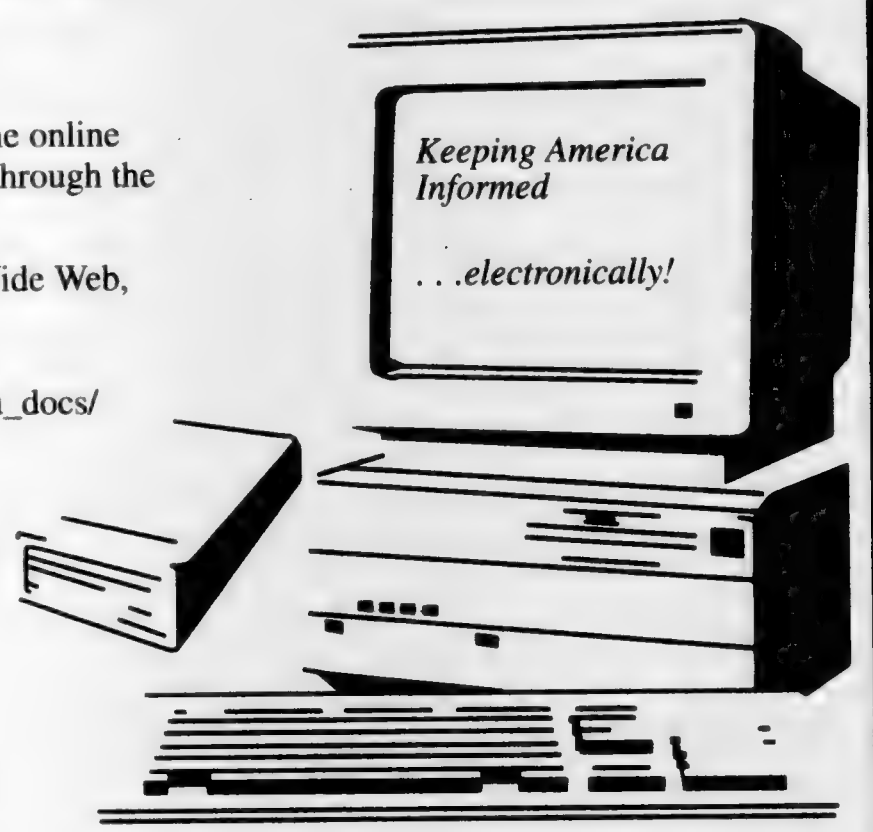
Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).



You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

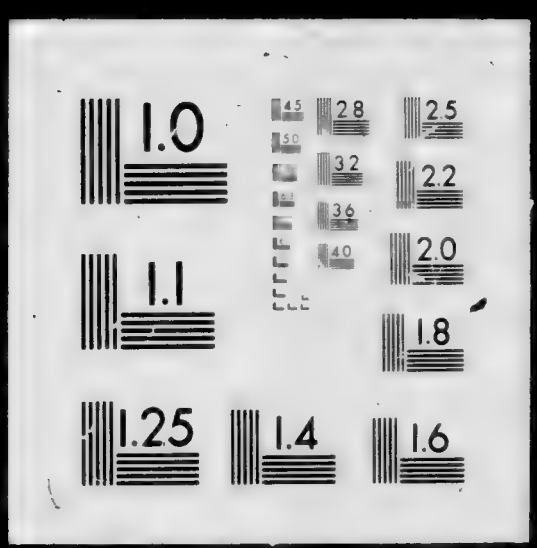
(Rev. 11/3)



VOL
64
ISS
61
MR
31
999
UMI



Printed on recycled paper


1.0
1.1
1.25
1.4
1.6
1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0
4.5
5.0

code of

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

code of federal regulations

LSA

List of CFR Sections Affected

January 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
ISSN 0097-6326

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106



code of

code of federal regulations

LSA

List of CFR Sections Affected

January 1999

Title 1–16
Changes January 2, 1999
through January 29, 1999

Title 17–27
Changes April 1, 1998
through January 29, 1999

Title 28–41
Changes July 1, 1998
through January 29, 1999

Title 42–50
Changes October 1, 1998
through January 29, 1999

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (63 FR for 1998, 64 FR for 1999) and the page number. Example: 24727 in bold cite as 63 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Brian Swidal. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1998
3 (1997 Compilation and Parts 100 and 101)	(869–034–00002–9)	19.00	[1] Jan. 1, 1998
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1998
5 Parts:			
1–699	(869–034–00004–5)	35.00	Jan. 1, 1998
700–1199	(869–034–00005–3)	26.00	Jan. 1, 1998
1200–End, 6 (6 Reserved)	(869–034–00006–1)	39.00	Jan. 1, 1998
7 Parts:			
1–26	(869–034–00007–0)	24.00	Jan. 1, 1998
27–52	(869–034–00008–8)	30.00	Jan. 1, 1998
53–209	(869–034–00009–6)	20.00	Jan. 1, 1998
210–299	(869–034–00010–0)	44.00	Jan. 1, 1998
300–399	(869–034–00011–8)	24.00	Jan. 1, 1998
400–699	(869–034–00012–6)	33.00	Jan. 1, 1998
700–899	(869–034–00013–4)	30.00	Jan. 1, 1998
900–999	(869–034–00014–2)	39.00	Jan. 1, 1998
1000–1199	(869–034–00015–1)	44.00	Jan. 1, 1998
1200–1599	(869–034–00016–9)	34.00	Jan. 1, 1998
1600–1899	(869–034–00017–7)	58.00	Jan. 1, 1998
1900–1939	(869–034–00018–5)	18.00	Jan. 1, 1998
1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–034–00029–1)	19.00	Jan. 1, 1998
12 Parts:			
1–199	(869–034–00030–4)	17.00	Jan. 1, 1998
200–219	(869–034–00031–2)	21.00	Jan. 1, 1998
220–299	(869–034–00032–1)	39.00	Jan. 1, 1998
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
500–599	(869–034–00034–7)	24.00	Jan. 1, 1998
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
1200–End	(869–034–00041–0)	23.00	Jan. 1, 1998
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
16 Parts:			
0–999	(869–034–00045–2)	30.00	Jan. 1, 1998
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0–1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441–1.500	(869–034–00082–7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1998
28 Parts:.			
0–42	(869–034–00098–3)	36.00	July 1, 1998
43–end	(869–034–00099–1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–032–00163–4)	31.00	Oct. 1, 1997
1000–end	(869–032–00164–2)	50.00	Oct. 1, 1997
44	(869–032–00165–1)	31.00	Oct. 1, 1997
45 Parts:			

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1–199	(869–032–00166–9)	30.00	Oct. 1, 1997
200–499	(869–032–00167–7)	18.00	Oct. 1, 1997
500–1199	(869–032–00168–5)	29.00	Oct. 1, 1997
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–032–00174–0)	15.00	Oct. 1, 1997
156–165	(869–032–00175–8)	20.00	Oct. 1, 1997
166–199	(869–032–00176–6)	26.00	Oct. 1, 1997
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–032–00181–2)	23.00	Oct. 1, 1997
70–79	(869–032–00182–1)	33.00	Oct. 1, 1997
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–032–00186–3)	35.00	Oct. 1, 1997
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–032–00189–8)	33.00	Oct. 1, 1997
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–032–00192–8)	50.00	Oct. 1, 1997
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–032–00194–4)	43.00	Oct. 1, 1997
400–999	(869–032–00195–2)	49.00	Oct. 1, 1997
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–032–00197–9)	14.00	Oct. 1, 1997
50 Parts:			
1–199	(869–032–00198–7)	41.00	Oct. 1, 1997
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998
600–End	(869–032–00200–2)	29.00	Oct. 1, 1997
CFR Index and Findings Aids	(869–034–00049–6)	46.00	Jan. 1, 1998
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5]No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6]No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	607.00		
Yearly subscription (without FR Index and LSA)	555.00		
Individual copies	8.00		daily
LSA (List of CFR Sections Affected):			
Yearly subscription	27.00		
Federal Register Index:			
Yearly subscription	25.00		
CFR Index and Finding Aids	47.00		1998

C

TITLE 1-

No am
published
since Jan

T

There
title.

TIT

Pr

Executiv

11348 *See*
12543 *See*
12544 *See*
12947 *See*
13099 *See*
13110 .....
13111 .....

Proclam

7162.....
7163.....

Adminis

Notices:

Dec. 30,
Jan. 20,

Presiden

No. 99-9

No am
publishe
since Ja

TITL

Chap
Man

550.101—
thor
550.103 A
550.111 (
teri
550.181 E
550.182
nate

CHANGES JANUARY 4, 1999 THROUGH JANUARY 29, 1999

TITLE 1—GENERAL PROVISIONS

No amendments to 1 CFR have been published in the FEDERAL REGISTER since January 1, 1999.

TITLE 2—[RESERVED]

There is no regulatory text to this title.

TITLE 3—THE PRESIDENT

Presidential Documents

Executive Orders

11348 *See* EO 13111 2793
12543 *See* Notice of Dec. 30, 1998 383
12544 *See* Notice of Dec. 30, 1998 383
12947 *See* Notice of Jan. 20, 1999 3393
13099 *See* Notice of Jan. 20, 1999 3393
13110 2419
13111 2793

Proclamations

7162 2989
7163 2991

Administrative Orders

Notices:

Dec. 30, 1998 383
Jan. 20, 1999 3393

Presidential Determinations:

No. 99-9 of Dec. 24, 1998 983

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER since January 1, 1999.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

550.101—550.187 (Subpart A) Authority citation revised 4519
550.103 Amended; interim 4519
550.111 (f) revised; (h) added; interim 4520
550.181 Revised; interim 4520
550.182 (b) through (f) redesignated as (c) through (g); new (b) added; (a) and new (d) revised; interim 4520
550.184 (e) revised; interim 4520
550.185 (a) revised; interim 4521
550.186 (b) revised; interim 4521
550.901—550.907 (Subpart I) Appendix A amended 1502

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634.304 (f)(3)(iii) amended 2422
2634.904 (b) amended 2422
2635.207 (b)(7) note amended 2422
2635.902 (o) and (z) amended; (q) revised 2422
2636.303 (a) introductory text revised; (a)(4) amended 2422

Proposed Rules:

731 4336

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.1—1.23 (Subpart A) Authority citation revised 3395
1.1—1.23 (Subpart A) Appendix A amended 3395

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

59 Technical correction 3340

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

254.5 (b) amended 1098

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

301 Authority citation revised 744

CHANGES JANUARY 4, 1999 THROUGH JANUARY 29, 1999

TITLE 7 Chapter III—Con.

301.2 Amended 744
301.45 Regulation at 63 FR 38280 confirmed 4286
301.45–3 Regulation at 63 FR 38280 confirmed 4286
301.50–3 (c) amended; (d) removed; interim 387
317.2 (l) introductory text revised 744
318.17 Revised 744
318.23 Revised 744
319.56–2 (h) revised 2994
320 Authority citation revised 745
320.1 (b)(4) removed 745
320.4 Amended 745
353.1 Amended 1105
353.7 (a)(4), (b)(4) and (c)(4) amended 1105
353.8 Added 1105
381 Authority citation revised 745
381.1 (b) amended 745
381.125 (b) introductory text amended 746
381.150 Revised 746

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

801.6 Regulation at 63 FR 34554 confirmed 731

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.350 Regulation at 63 FR 51518 confirmed 3814
930 Marketing percentages 392
932.159 Revised; interim 4288
932.160 Removed; interim 4288
982 Marketing percentages 2425
985 Marketing percentages 2802
989.212 Regulation at 63 FR 56785 confirmed 2428
989.213 Regulation at 63 FR 56785 confirmed 2428
993.347 Revised 3623

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1260.141 (a) revised 3815

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1464.101 (b) amended 2803

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1788 Revised 2

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1951.951 Amended; interim 393
1951.952 Amended; interim 394
1951.953 (b) revised; interim 394
1951.954 (a)(1), (5), (7), (b)(2), (4) and (5) revised; interim 394

Proposed Rules:

47 4342
300 2151
319 ..... 2151, 3049, 4347
782 2152
932 4350
981 430
993 3660
1307 4353
1308 4353

TITLE 8—ALIENS AND NATIONALITY

No amendments to 8 CFR have been published in the FEDERAL REGISTER since January 1, 1999.

CHANGES JANUARY 4, 1999 THROUGH JANUARY 29, 1999

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

50.1 Regulation at 63 FR 72122 eff. 2-1-99 3340
52 Added; interim 2549
77.1—77.6 (Subpart A) Regulation at 63 FR 72122 eff. 2-1-99 3340
77.1 Regulation at 63 FR 72122 eff. 2-1-99 3340
77.3 Regulation at 63 FR 72122 eff. 2-1-99 3340
77.6 Regulation at 63 FR 72122 eff. 2-1-99 3340
77.7 Regulation at 63 FR 72122 eff. 2-1-99 3340
77.8—77.18 (Subpart B) Regulation at 63 FR 72122 eff. 2-1-99 3340
78.41 Regulation at 63 FR 44545 confirmed 395
78.43 Regulation at 63 FR 44777 confirmed 5
Regulation at 63 FR 53782 confirmed 5
91.1 Regulation at 63 FR 72129 eff. 2-1-99 3340
91.7 Regulation at 63 FR 72129 eff. 2-1-99 3340

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

Chapter III Policy statement 2803
Technical correction 3340

Proposed Rules:

1 4356
3 4356
93 2449

TITLE 10—ENERGY

Chapter II—Department of Energy (Parts 200—699)

600.27 (b)(2)(i)(B) amended 4029

Proposed Rules:

30 3790
31 3052
32 3052
40 3790
50 ..... 57, 432, 3790, 3791
70 ..... 1542, 3790, 3791
72 1542
430 ..... 1272, 1545

TITLE 11—FEDERAL ELECTIONS

No amendments to 11 CFR have been published in the FEDERAL REGISTER since January 1, 1999.

TITLE 12—BANKS AND BANKING

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

563 Authority citation revised 2809
563.134 Removed 2809
563.140—563.146 (Subpart E) Revised 2809
563b.3 (g)(2) amended 2810

Chapter IX—Federal Housing Finance Board (Parts 900—999)

960.7 Corrected 2550

Proposed Rules:

701 ..... 57, 58, 776
713 58
715 776
741 ..... 58, 776

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

120.10 Amended 2117
120.111 Amended 2117
120.131 Revised 2117
120.801 (a) amended; (c)(3) revised 2118
120.802 Amended 2118
120.862 (b)(3) amended; (b)(7) revised 2118
120.870 (a)(1) revised; (c) added 2118
120.883 Revised 2118
120.884 (e) removed 2118
120.910 Revised 2118
120.920 Revised 2118

CHANGES JANUARY 4, 1999 THROUGH JANUARY 29, 1999

TITLE 13 Chapter I—Con.

120.921 (d) and (e) redesignated as (e) and (f); new (d) added; new (e) and new (f) revised.....2118
120.971 (a)(2) amended; (a)(3) and (d)(2) revised 2119
120.972 Redesignated as 120.973; new 120.973 added 2119
120.973 Redesignated from 120.972 2119

Proposed Rules:

121 2153
125 2153
134 3454
140 3454

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

25 Special FAA conditions 3201
39.13 .....7, 395, 750, 752, 986, 987, 990, 1107, 1109, 1111, 1114, 1115, 1117, 1119, 1503, 1716, 2014, 2036, 2059, 2081, 2552, 2554, 2556, 2557, 2559, 2560, 2562, 2811, 2815, 2816, 2818, 2820, 2822, 3203, 3205, 3816, 3818, 3820, 3823, 3825, 3827, 4030, 4289, 4291, 4293, 4522, 4524, 4526
Corrected 395, 2428
71.1 .....8—13, 1717, 2119, 2120, 2563—2566, 2824, 2825, 2826, 2828, 3010, 3011, 3207—3210, 3397, 3398, 3829—3833, 3835, 3836, 4530
Corrected 3590, 3591
73.25 3624
73.56 4534
91.1 (a) revised; (c) added 1079
91.11 Heading revised 1079
91.701—91.715 (Subpart H) Heading revised 1079
91.701 Revised 1079
91.702 Added 1079
97.21—97.35 .....1718, 1725, 2829, 2831
121 SFAR No. 36 amended 960
Technical correction 3837
121.306 Added 1080
121.580 Added 1080
125 Heading revised 1080
125.1 (a) revised; (d) added 1080
125.204 Added 1080
125.328 Added 1080
135 SFAR No. 36 amended 960
Heading revised 1080
Technical correction 3837
135.120 Added 1080
135.144 Added 1080
145 SFAR No. 36 amended 960
Technical correction 3837

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

201.1 (b) amended 3212
212.10 (a) and (f)(1) amended 3213

Proposed Rules:

39 .....435, 438, 441, 443, 445, 785, 787, 1545, 1549, 1552, 2157, 2161, 2863, 3052, 3054, 3226, 4061, 4367, 4370, 4372
71 .....60, 447, 1142, 1554, 1555, 1557—1565, 2449, 2450, 2452, 2453, 2605, 2864, 2866, 3228, 3664—3666
93 .....2086, 3055
234 3883
389 3229

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

740 Authority citation revised 2430
740.7 (d)(4) redesignated as (d)(5); new (d)(4) and (5)(v)(A)(*8*) note added; new (d)(5)(iii), (v) introductory text and (A) introductory amended; new (d)(5)(v)(B) revised; interim 2430
742 Authority citation revised 2430
742.12 (b)(3)(i)(C) and (iv)(B) revised; interim 2431
742.15 Second (b)(6)(v) redesignated as (b)(6)(vi).....3214
742 Supplement No. 4 amended 3214
743.1 (b) amended 3214
744 Authority citation revised 1121
744.13 Added; interim 1121
744.14 Added; interim 1122
748 Authority citation revised 2430
748.9 (b)(2)(i)(*1*) removed; (b)(2)(i)(*2*) and (*3*) redesignated as (b)(2)(i)(A) and (B); interim 2431

CHANGES JANUARY 4, 1999 THROUGH JANUARY 29, 1999

748.10 (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3) added; new (b)(4) introductory text revised; interim 2431
772 Authority citation revised 1121
Amended; interim 1122

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table amended (OMB numbers) 14, 3627, 4036

Proposed Rules:

806 2454

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

4.8 (b)(4) and (6) revised 3012
4.11 (a)(1)(i)(A), (B), (iii)(A), (2)(i)(A), (B) and (ii)(A) revised; (a)(1)(i)(E) and (iii)(D) redesignated as (a)(1)(i)(F) and (iii)(E); new (a)(1)(i)(E), new (iii)(D) and (h) added 3013
4.13 (c) and (i)(1) amended 3014
305 Appendix H corrected 926

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1615.1 Introductory text, (o) introductory text, (1) and (3) revised 2838
1615.64 (d) introductory text revised 2832
1616.2 Introductory text, (m) introductory text, (1) and (3) revised 2841
1616.65 (d) introductory text revised 2833

Proposed Rules:

0—999 (Ch. I) 3668
308 61
1213 3456
1500 3456
1513 3456
1615 2867
1616 2867



TITLE 17
SECU

Chapter
Trading
1—199)

1 Technica
1.3 (gg)(2)(i
1.12 (b)(2) r
(a)(1) and
(2) redo
(2); (b
throug
(i)(2) a
.....
1.17 (c)(5)(i
(a)(1)(i)(I
(h)(2)(v
(B)(2),
and (v)
1.35 (a–1)(1
(a–1)(5)
(a–1)(5)(i
correct
1.41 (k)(1) r
(f)(10) ad
1.55 (a)(1) r
1.63 (a)(2) r
1.69 Added
(a)(8) co
3.11 (c)(1)(
(C)
(c)(1)(i
moved
nated
3.12 (d)(1)(
and (2
(i)(1)(v
redesi
3.13 Added
3.14 Added
3.40 (a) rev
3.44 (a)(2)
4.24 (j)(1)(v
(v)(3) i
vised;
4.25 (c)(5)
vised;
10.1 (d) an
redesi
(i); ne
10.9 (b) rev
10.12 (a)(2)
10.21 Revi
Correcte

NOTE: Bold

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Technical correction **51124**
1.3 (gg)(2)(iv) revised **32730**
1.12 (b)(2) revised **32731**
(a)(1) and (e) revised; (h)(1) and (2) redesignated as (i)(1) and (2); (b)(4), (c), (d), (f)(1) through (5), (g)(2) and new (i)(2) amended; new (h) added **45715**
1.17 (c)(5)(iii) removed **32726**
(a)(1)(i)(B), (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) revised **32731**
1.35 (a–1)(1), (2)(i) and (4) revised; (a–1)(5) added **45709**
(a–1)(5)(i)(D), (ii)(H) and (I) corrected **49955**
1.41 (k)(1) revised **33848**
(f)(10) added 22
1.55 (a)(1) revised **52157**
1.63 (a)(2) revised 23
1.69 Added 23
(a)(8) corrected 3340
3.11 (c)(1)(i)(A), (B), (ii)(A), (B), (C) and (2)(ii) revised; (c)(1)(i)(C) and (ii)(D) removed; (c)(1)(ii)(E) redesignated as (c)(1)(ii)(D) 1727
3.12 (d)(1)(iv), (v), (d)(3), (i)(1)(v) and (2) revised; (d)(1)(vi) and (i)(1)(vi) removed; (i)(1)(vii) redesignated as (i)(1)(vi) 1727
3.13 Added; interim **18830**
3.14 Added; interim **18831**
3.40 (a) revised 1728
3.44 (a)(2) and (3) revised 1728
4.24 (j)(1)(v) corrected **24390**
(v)(3) introductory text revised; eff. 4–30–99 ..... **58303**
4.25 (c)(5) introductory text revised; eff. 4–30–99 ..... **58303**
10.1 (d) amended; (e) through (h) redesignated as (f) through (i); new (e) added **55791**
10.9 (b) revised **55791**
10.12 (a)(2) revised **55791**
10.21 Revised **55791**
Corrected **68829**
10.22 (b) introductory text amended; (b)(1) and (2) added **55791**
10.24 (a), (b) and (c) revised **55791**
10.26 (b) amended **55791**
10.41 (f) and (g) redesignated as (g) and (h); new (f) added **55791**
10.42 (b) and (c) redesignated as (c) and (e); (a), new (c) and new (e)(1) revised; new (b), (d) and (f) added **55792**
(b)(7) and (c)(1)(iii) corrected **68829**
10.66 (b) revised **55793**
(b) corrected **68829**
10.68 (a)(1), (2), (b)(3), (c) heading and (1) revised; (c)(2), (e)(1) and (f) amended **55794**
(c)(2) heading and (f) corrected **68829**
10.84 (b) revised **55794**
Heading corrected **68829**
10.101 (b)(1) revised **55794**
10.102 (a) and (d)(2) revised; (b)(3) redesignated as (b)(4); new (b)(3) and (5) added; (e)(1) and (2) amended **55794**
(e) correctly designated **58811**
(a)(1), (2) and (b)(3) corrected **68829**
10.106 Heading revised; existing text designated as (a); (a) heading, (b) and (c) added **55795**
(c) corrected **68829**
10.110—10.113 (Subpart I) Added **55795**
Correctly designated **58811**
10.111 Heading corrected **68829**
10 Appendix A added **55796**
Appendix A corrected **68829**
32.2 Revised; interim **18832**
32.13 Added; interim **18832**
33.4 Introductory text amended; interim **18834**
(a)(2) removed **32732**
33.7 (b) amended **32732**
140.99 Added **68181**
140.735–4 (b)(3) and (c)(5) introductory text revised **32733**
145 Authority citation revised 25
145.5 Introductory text, (d)(1)(i)(B) through (F) and (H) amended; (d)(1) introductory text removed; (g) revised 25
145.6 (a) amended 26
145.9 (d)(1) and (e)(1) amended; (d)(4), (6), (7) and (8) revised;

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 17 Chapter I—Con.

(d)(10) removed; (d)(11) redesignated as (d)(10) 26
145 Appendixes A and B amended 27
147.3 (b)(4)(i) introductory text removed; (b)(4)(i)(A)(*2*) through (*6*) and (*8*) amended 27

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.30–3 (a)(7)(iv) amended; (a)(7)(v), (64), (65) and (66) added **59394**
201.102 (e)(1)(iv) added **57172**
201.210 (a)(1) and (c) introductory text revised; (c)(3) added **63405**
201.221 Heading, (a) and (d) revised **63405**
202.3 (b) revised; eff. 4–21–99 ..... **70916**
210.3–03 (e) amended 1734
210.12–16 Table amended 1734
229.101 (b) introductory text, (1) and (d) revised; (c)(1) introductory text, (i), (ii), (iv), (v) and instructions amended 1734
229.102 Amended 1735
230.157 Heading and (b) revised **35514**
230.497 (k)(2)(ii) corrected **19286**
230.498 (b) and (c)(3) corrected **19286**
231 Interpretive releases **41404**
232.101 (a)(1)(iii) revised; (b)(7) removed; (b)(8) redesignated as (b)(7) 2849
232.301 Revised **29105**
239.15A Form N–1A corrected **19286**
240.0–10 Heading, (a), (b), (e), (g)(2), (3) and (i) revised; (h)(2) and (3) redesignated as (h)(3) and (4); (h)(2), (j) and (k) added **35514**
240.3a1–1 Added; eff. 4–21–99 ..... **70917**
240.3b–12 Added **59394**
240.3b–13 Added **59395**
240.3b–14 Added **59395**
240.3b–15 Added **59395**
240.3b–16 Added; eff. 4–21–99 ..... **70918**
240.6a–1 Heading, (a) and (b) revised; eff. 4–21–99 ..... **70918**
240.6a–2 Revised; eff. 4–21–99 ..... **70918**
240.6a–3 Revised; eff. 4–21–99 ..... **70919**
240.8c–1 (b)(1) revised **59395**
240.11a1–6 Added **59396**
240.11Ac1–1 (c)(5)(ii)(A), (B) introductory text, (*1*) and (*2*) redesignated as (c)(5)(ii)(A)(*1*), (*2*) introductory text, (*i*) and (*ii*); new (c)(5)(ii)(A)(*2*)(*ii*) amended; new (c)(5)(ii)(B) added; eff. 4–21–99 ..... **70919**
240.14a–4 (c) introductory text and (1) revised; (c)(2) through (5) redesignated as (c)(4) through (7); new (c)(2) and (3) added **29118**
(c)(2)(iii) corrected **50622**
240.13f–1 (a) redesignated as (a)(1); (a)(2) added 2849
240.13f–2 Removed 2849
240.14a–5 (e) revised; (f) added **29118**
(d) corrected **46881**
240.14a–8 Revised **29119**
(c), (h)(2), (i)(2) note, (5) and (9) corrected **50622**
(m)(2) corrected **50623**
240.14a–101 Amended 1735
240.15a–1 Added **59396**
240.15b1–1 (a) revised **59397**
240.15b9–2 Added **59397**
240.15c2–1 (b)(1) revised **59397**
240.15c2–5 (d) added **59397**
240.15c3–1 (a) introductory text amended; (a)(5) and (c)(15) added **59397**
240.15c3–1f Added **59398**
240.15c3–3 (a)(1) revised; (h) amended **59399**
240.15c3–4 Added **59400**
240.17a–3 (a)(4)(vi) and (10) amended **59401**
240.17a–4 (b)(8) introductory text and (xv) amended; (b)(10) added **59401**
(b)(1) revised; (b)(10) added; eff. 4–21–99 ..... **70919**
240.17a–5 (e)(5) added **37673**
(e)(5)(vi) added **59213**
(o) added **59401**
240.17a–11 (b) redesignated as (b)(1); (b)(2) and (c)(4) added; (c) introductory text, (e) introductory text and (h) amended; (c)(3) revised **59401**
240.17a–12 Added **59401**
240.17Ad–18 Added **37693**
(f) added **58635**
240.17a–23 Removed; eff. 4–21–99 ..... **70920**
240.19b–4 (e) through (h) redesignated as (f) through (i); new (e) added **70967**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

240.19b–5 Added; eff. 4–21–99 ..... **70920**
240.36a1–1 Added **59404**
240.36a1–2 Added **59404**
240.819 Form 19b–4 amended **70967**
241 Interpretative releases ... **17943, 41404**
242 Authority citation revised **70921**
Heading revised; eff. 4–21–99 ..... **70921**
242.300—242.303 Undesignated center heading and sections added; eff. 4–21–99 ..... **70922**
242.301 Eff. in part 4–1–00 ..... **70922**
249 Technical correction **42229**
249.1 Revised; eff. 4–21–99 ..... **70925**
249.1a Removed; eff. 4–21–99 ..... **70933**
249.220f Form 20–F amended 1735
249.325 Form 13F revised 2849
249.326 Removed 2853
249.617 Amended **59404**
Form X–17A–5 corrected **63143**
249.618 Added **37674**
249.619 Added **37694**
249.636 Removed; eff. 4–21–99 ..... **70933**
249.637 Added; eff. 4–21–99 ..... **70933**
249.638 Added; eff. 4–21–99 ..... **70943**
249.820 Added **70967**
249.821 Added; eff. 4–21–99 ..... **70946**
270 Compliance date extension **29345**
270.0–10 Revised **35514**
271 Interpretive releases **41404**
274.11A Form N–1A corrected **19286**
274.24 Form 24F–2 amended **62937**
274 Appendix A corrected **19286**
275 Authority citation revised **39027**
275.0–7 Revised **35515**
275.202 (a)(1)–1 amended 2567
275.203A–1 (b)(2), (c) and (d) amended **39716**
275.203A–2 Introductory text, (b) introductory text, (1) and (3) revised; (e) added **39715**
(d)(2) and (3) amended **39716**
275.203A–3 Introductory text and (a) revised **39715**
275.203A–5 Removed **39716**
275.204–1 (c) added 2567
275.205–3 Revised **39027**
275.205–5 Added **54312**
275.206(4)–3 (a)(1)(ii)(D) amedned **39716**
276 Interpretive releases **39508, 41404**
279.1 Form ADV amended **39716**
Form ADV amended 2121
279.3 Removed **39716**
279.9 Added **54312**

Chapter IV—Department of the Treasury (Parts 400—499)

405.2 (a)(11) and (12) redesignated as (a)(15) and (16); new (a)(11) through (14) added 1737

Proposed Rules:

1–199 (Ch. I) **33297, 41982**
1 ..... **24142, 30668, 38525, 42600, 49883**
3 ..... **51048**
5 ..... **38537**
10 ..... **16453, 30675**
17 ..... **38525, 49883**
18 ..... **38525, 49883**
30 ..... **39779, 51051** 1566
34 ..... **26114, 34335, 49681**
35 ..... **26114, 34335, 49681**
150 ..... **38525, 49883**
200—299 (Ch. II) **72217**
200 ..... **67174, 67331, 69136**
201 ..... **23504, 29301, 33305, 39054, 46716**
202 ..... **67174**
210 ..... **35886, 67174**
228 ..... **67174**
229 ..... **35886, 67174, 67331**
230 ..... **29168, 36136, 67174, 67331, 69136**
232 ..... **67174, 67331, 69236**
239 ..... **67174, 67331, 69136**
240 ..... **19430, 19693, 23504, 23584, 29301, 32628, 35886, 36138, 37709, 37710, 47209, 54404, 59911, 63222, 67174, 67331, 69136**
242 ..... **23504, 29301**
249 ..... **23504, 23584, 29301, 35886, 67174, 69136**
260 ..... **69136**
270 ..... **40231, 69236**
274 ..... **69236**
275 ..... **36632**
279 ..... **36632**
405 ..... **53326**

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

11 Appendix A revised **66004**
35 Order on rehearing **66011**
35.14 (a)(7) amended **53809**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 18 Chapter I—Con.

37 Clarification **32611**
Order **38884, 54258**
46.6 (d)(1) revised; (d)(2) redesignated as (d)(3); new (d)(2) added **72169**
131.31 Revised **72169**
161.3 (l) added **43079**
284 Order **30127, 71014**
284.10 (a)(6) and (c) added; (b)(1) revised **20095**
(b)(1)(i) revised **39514**
(c)(3)(i)(B) revised **53576**
381.302 (a) amended **44995**
381.303 (a) amended **44995**
381.304 (a) amended **44996**
381.305 (a) amended **44996**
381.403 Amended **44996**
381.505 (a) amended **44996**
381.801 Amended **44996**

Chapter III—Delaware River Basin Commission (Parts 400—499)

401.0 Correctly designated; CFR correction **44777**
401.35 (b)(18) and (d) corrected; CFR correction **44777**
401.36 (c) corrected; CFR correction **44777**
401.71—401.78 (Subpart E) Heading revised **45943**
401.72 Amended **45943**
401.73 (b) corrected; CFR correction **44777**
401.74 (b)(6) revised **45943**
401.82 (a) corrected; CFR correction **44777**
401.106 Amended **45943**
401.112 (e) revised **45943**

Chapter VIII—Susquehanna River Basin Commission (Parts 800—899)

803.3 Amended **32124**

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.1—1301.10 (Subpart A) Revised **4044**

Proposed Rules:

1—399 (Ch. I) **30675, 42974**
2 ..... **55682, 66772**
3 ..... **57081**
4 ..... **52853, 57086, 59916**
1b **41982**
33 ..... **20340**
37 ..... **42296**
153 ..... **52853, 55682, 57086, 59916**
157 ..... **52853, 55682, 57086, 59916, 66772**
161 ..... **27526, 55562, 55563, 63425, 71806** 789
181 ..... **51547**
250 ..... **51547, 55562, 55563, 63425, 71806** 789
284 ..... **19861, 51547, 55562, 55563, 55682, 63425, 66772, 71043, 71806** 789
292 ..... **51310**
341 ..... **57081**
342 ..... **57081**
343 ..... **41982, 57081**
346 ..... **57081**
357 ..... **57081**
362 ..... **57081**
375 ..... **52853, 55682, 57086, 59916, 66772**
380 ..... **55682, 55715, 66772**
381 ..... **66772**
385 ..... **27529, 41982, 51312, 55682, 57081, 66772**
430 1763
1301 ..... **47448**

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Authority citation amended **51287**
4.6 (c) amended **51287**
4.7a (a) amended **51287**
4.22 Amended **52968**
4.36 (c) amended **51287**
4.37 Revised **51287**
10 Authority citation amended **51292**
10.1 (a) introductory text and (b) amended **16416**
10.5 Heading revised; (d) through (g) amended **29954**
10.6 Amended **29954**
10.201—10.208 Undesignated center heading and sections added **51292**
12.74 Revised **29122**
18 Authority citation amended **51288**
18.2 (a)(1) amended **51288**
18.11 (a) amended **51288**
18.12 (a) amended; (d) revised; (e) removed **51288**
18.25 (e) removed **51288**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

19.4 (b)(4)(i)(B) amended; (b)(5) revised 32944
24 Authority citation amended 55332
24.22 (d)(5) and (g)(6) amended 32944
24.24 (d)(3)(ii) and (e)(2) removed; (d)(3)(iii), (e)(3), (4) and (5) redesignated as (d)(3)(ii), (e)(2), (3) and (4); (g), (h)(1) and (i) amended 40823
24.25 (a), (b)(2) and (c)(4) amended; interim 29125
24.26 Added; interim 29125
24.33 (c)(5) amended 71372
101.3 Regulation at 62 FR 37133 eff. date confirmed 23214
(b)(1) amended 24746, 40824
111.1 Amended 32944
111.21 Existing text designated as (a); (a) amended; (b) and (c) added 32945
111.22 Removed 32945
111.23 (a)(1) revised; (b), (c), (d) and (f) removed; (e) redesignated as (b); new (b) amended 32945
113.62 (j) revised 32945
118 Authority citation revised 16684
118.1 Amended 16684
118.4 (g) amended 16684
118.11 (b) and (g) amended 16684
122 Authority citation revised 51288
122.2 Amended 51288
122.15 Regulation at 62 FR 37133 eff. date confirmed 23214
122.49 (f) amended 51288
122.50 Added 51288
122.117 (b)(1) amended 51289
122.120 (d)(1) amended 51289
122.161 Amended 51289
122.165 (a) and (b) amended 51289
123 Authority citation amended 16416, 51289
Authority citation amended 31
123.1 (a)(2) amended 51289
123.4 (b) amended 16416
123.10 Added 51289
123.71—123.72 (Subpart H) Redesignated as 123.81—123.82 (Subpart I) 31
123.71—123.76 (Subpart H) Added 31
123.81—123.82 (Subpart I) Redesignated from 123.71—123.72 (Subpart H) 31
127.2 (b) amended 51290
127.4 Amended 51290
127.11 Amended 51290
127.28 (d) amended 51290
128.24 (a) amended 16417
133 Authority citation amended 51297
133.25 Revised 51297
141.82 (d) amended 16417
142.23 Amended 19399
142.41 Amended 33
142.47 (b) amended 33
143.21 (a), (b), (c), (f) and (g) amended 16417
143.22 Amended 16417
143.23 (d) and (i) amended 16417
143.26 (a) amended 16417
143.32 (n) amended 32945
143.35 Revised 32945
143.36 (a) amended; (c) introductory text revised 32945
143.37 (c) and (d) removed; (a) revised 32945
143.38 Removed 32945
143.39 Revised 32945
145.4 (c) amended 16417
145.12 (a)(2), (3), (b)(1) and (c) amended 16417
145.35 Amended 16417
145.41 Amended 16417
148.23 (c)(1) and (2) heading and introductory text amended 16417
148.67 (b) amended 51290
162 Heading revised 32945
Technical correction 36992
162.0 Revised 32945
162.1—162.8 (Subpart A) Heading revised 32946
162.1a Removed 32946
162.1b Removed 32946
162.1c Removed 32946
162.1d Removed 32946
162.1e Removed 32946
162.1f Removed 32946
162.1g Removed 32946
162.1h Removed 32946
162.1i Removed 32946
162.23 (a)(2) and (3) amended; (a)(4) added 1123
162.71 (e) removed 29131
162.74 Revised 29131
(a)(1), (c) and (f) corrected 35798
163 Added 32946
163.6 (b)(2)(ii) corrected 34808
178 Technical correction 36992
178.2 Table amended (OMB numbers) 29133, 32955, 51290, 51295
Table amended (OMB numbers) 34

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 19 Chapter I—Con.

181.12 (a)(1) introductory text and (b)(1) amended **32955**
181.13 Amended **32955**
181.22 (a) amended **32955**
191.3 (a)(3) amended **27489**
191.6 (c)(3) amended **27489**
191.14 (c)(3)(iii)(D) and (iv)(C) amended **27489**
191.92 (g) amended **27489**
191 Appendix A amended **65060**
192.4 Amended **51290**

Chapter II—United States International Trade Commission (Parts 200—299)

201.7 (b) amended **29351**
201.10 Revised **29347**
201.11 (b)(4) and (5) added **30607**
201.17 Revised **29347**
201.18 (b) and (c) revised **29348**
201.20 (b)(1)(ii), (iii) and (3)(i) revised **29348**
201.22—201.33 (Subpart D) Revised **29348**
205.3 (a)(1), (2), (b) and (d) amended **29351**
207.3 (b) revised **30607**
207.45 (a) revised **30607**
207.46 (g) revised **30607**
207.60—207.69 (Subpart F) Added **30608**

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

351.102 Amended **65407**
351.103 Revised **24401**
351.301 (d)(6) and (7) added **65417**
351.304 Added **24401**
351.305 Added **24402**
351.306 Added **24403**
351.501—351.527 (Subpart E) Added **65407**
351.702 Added **65417**
354 Authority citation revised **24403**
354 Nomenclature change **24403**
354.1 Amended **24403**
354.2 Revised **24403**
354.3 (a)(3) and (4) revised; (a)(5) added **24404**
354.5 (a), (b), (c), (d)(1), (2) and (7) revised; (d)(8) removed; (d)(9) redesignated as (d)(8) **24404**
354.6 Revised **24404**
354.7 (b) revised **24405**
354.9 (b) revised **24405**
354.15 (e) removed **24405**
354.17 (b) amended **24405**
354.18 Added **24405**
354.19 Added **24405**

Proposed Rules:

4 ..... **36379**
113 ..... **31385**
123 ..... **27533**
151 ..... **31385**
162 ..... **51868**
171 ..... **51868, 57628**
191 ..... **51868**

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

10 Authority citation revised **56754**
Revised **65306**
10.7 (a) corrected **71202**
10.12 Revised **56754**
10.102 (a), (b)(1), (2) and (3) corrected **71202**
10.112 (a) and (b) corrected **71202**
10.215 (b) corrected **71202**
10.216 (b)(3) corrected **71202**
10.331 (a) corrected **71202**
25 Revised **65340**

Chapter II—Railroad Retirement Board (Parts 200—399)

200.3 Revised **17326**
Redesignated as 209.5; new 209.3 added **32613**
209.4 Redesignated as 209.6; new 209.4 added **32613**
209.5 Redesignated as 209.7; new 209.5 redesignated from 209.3 ..... **32613**
209.6 Redesignated as 209.8; new 209.6 redesignated from 209.4 and revised **32613**
209.7 Redesignated as 209.9; new 209.7 redesignated from 209.5 and revised **32613**
209.8 Removed; new 209.8 redesignated from 209.6 and revised **32613**
209.9 Redesignated as 209.10; new 209.9 redesignated from 209.7; (c) revised **32613**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

209.10 Redesignated as 209.11; new 209.10 redesignated from 209.9 and amended 32613
209.11 Redesignated as 209.12; new 209.11 redesignated from 209.10 and revised 32613
209.12 Redesignated as 209.13; new 209.12 redesignated from 209.11 and revised 32613
209.13 Removed; new 209.13 redesignated from 209.12 32613
(b) revised 32614
209.14 Revised 32614
209.15 Amended 32614
216.74 Revised 17326
255.8 Revised 29548

Chapter III—Social Security Administration (Parts 400—499)

402.30 Amended 35132
402.35 (d) added 35132
402.40 (h) added 35132
402.45 (d) added 35132
402.100 Heading and (b) revised 35132
402.105 Redesignated from first 402.110 35132
402.110 First 402.110 redesignated as 402.105 35132
402.115 Removed 35132
402.120 Removed 35132
402.130 Revised 35132
402.140 Revised 35133
402.145 Revised 35133
402.150 (a) revised; (b) removed; (c) redesignated as (b) 35133
402.160 (b) and (c) revised 35134
404.354 Revised 57593
404.355 Revised 57593
404.356 Amended 57594
404.942 (g) revised 35516
404.969 Revised 36570
404.985 Revised 24932
404.1501—404.1599 (Subpart P) Appendix 1 amended 30411
404.1740 Revised 41416
404.1745 Revised 41416
404.1750 (a) and (d) revised 41417
404.1765 (a) and (g)(3) revised; (e) amended 41417
404.1770 (a)(3) amended; (b)(3) revised 41417
404.1799 (c) and (e) amended 41417
416.420 (a) revised 33546
416.1130 (a) revised 33546
416.1442 (g) revised 35516
416.1469 Revised 36571
416.1485 Revised 24933
416.1540 Revised 41417
416.1545 Revised 41418
416.1550 (a) and (d) revised 41418
416.1565 (a) and (g)(3) revised; (e) amended 41418
416.1599 (c) and (e) amended 41418
416.2010 (b)(1)(iii) amended; (b)(1)(iv) revised; (b)(1)(v) through (x) added 33849
422.103 (b)(3) and (c)(3) added; (e) revised 56554
422.104 (a)(3) and (b) revised 56554
422.105 Revised 56554
422.106 (a) revised; (b) removed; (c) redesignated as (b) 56555
422.107 (a) revised; (e) amended 56555
422.110 Revised 56555
422.701—422.710 (Subpart H) Added 57058

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

646 Added; interim 15988

Proposed Rules:

404 ..... 31680, 54417, 71237
416 ..... 32161, 42601, 54417
422 71237
654 53244
655 53244
..... 628
656 628

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

2 Authority citation revised 398
2.10 (b)(2) revised 51299
3 Authority citation revised 26697
Authority citation revised 398
3.2 (k) amended; eff. 5-20-99 398
5 Effective date confirmation 48576
5.20 (h) revised 41960
5.31 (f)(2)(iii) and (iv) removed 26697
(f)(2)(v), (vi) and (vii) amended; eff. 5-20-99 398
5.33 (c) reinstated; CFR correction 51299
5.53 (a)(1) and (b)(1)(i) revised 27207

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 21 Chapter I—Con.

5.70 Amended; eff. 5–20–99 398
5.73 Removed 26697
5.74 Removed 26697
5.75 Removed; eff. 5–20–99....398
5.76 Removed; eff. 5–20–99....398
5.83 Heading, (c)(1), (2) and (d) revised 70650
5.84 Heading, (a)(1) and (3) revised 70650
5.200 Revised....18314
5.210 Revised....18317
5.215 Revised....18317
10 Authority citation revised....32735
Effective date confirmation....48576
10.50 (c)(10) removed....26697
(a)(2) amended; (c)(11) removed; eff. 5–20–99 398
10.55 (c) amended; eff. 5–20–99 398
10.75 (b) amended....32735
Regulation at 63 FR 32735 withdrawn....50757
(b) redesignated as (b)(1); new (b)(2) added....63982
10.80 (g) amended; eff. 5–20–99 398
12 Authority citation revised....399
12.20 (a) introductory text and (2)(i) amended; (c) removed; eff. 5–20–99 399
12.24 (b)(6) and (c) amended; eff. 5–20–99....399
12.87 (d) amended; eff. 5–20–99 399
16 Effective date confirmation 48576
Authority citation revised....64581
16.1 (b)(2) amended....26697
(b)(2) amended; interim....64581
(b)(2) amended; eff. 5–20–99 399
20 Authority citation revised....399
20.100 (c)(20) and (21) removed; eff. 5–20–99 399
20.117 (a)(3) amended; eff. 5–20–99 399
25 Effective date confirmation 48576
25.5 (b)(1) amended; eff. 5–20–99....399
25.31 (f) amended....26697
(f) and (h) removed; (g) and (i) through (l) redesignated as (f) and (g) through (j); eff. 5–20–99....399
26 Added....60141
50 Authority citation revised....26697
Effective date confirmation....48576
Authority citation revised....399
50.1 (a) amended....26697
(a) amended; eff. 5–20–99 399
50.3 (b)(11) removed; (c) amended; eff. 5–20–99 399
50.23 (d)(1) amended; eff. 5–20–99 399
54 Effective date confirmation 48576
Authority citation revised....399
54.2 (d) and (e) revised 72181
54.4 (a) corrected....35134
(a) amended; eff. 5–20–99 399
56 Authority citation revised....26698
Authority citation revised....399
56.101 (a) amended; eff. 5–20–99....399
56.102 (b)(10) removed; (b)(11) through (21) redesignated as (b)(10) through (20); (c) amended; eff. 5–20–99....399
58 Authority citation revised....26698
Authority citation revised....399
58.1 (a) amended; eff. 5–20–99....399
58.3 (e)(9) removed; eff. 5–20–99....399
60 Authority citation revised....399
60.3 (b)(5), (10), (11)(i) and (12)(i) amended; eff. 5–20–99....399
60.22 (a)(1) and (2) revised; eff. 5–20–99....400
70.10 Heading and (b) heading revised; (b)(1), (2) and (3) amended; eff. 5–20–99....400
71 Authority citation revised....26698
Authority citation revised....400
71.2 (a) amended; eff. 5–20–99....400
73.75 Regulation at 63 FR 14817 confirmed....51299
74.3602 (b)(2)(v) added....20098
Regulation at 63 FR 20098 confirmed 45943
99 Added....64581
101 Technical correction....17327
Food labeling prohibitions....34084, 34092, 34097, 34101, 34104, 34107, 34110, 34112, 34115
Comment periods reopened....48428
Workshop....57594
Uniform compliance date establishment....71015
101.13 (g) introductory text and (h) introductory text removed; (g)(1), (2) and (3) redesignated as (h)(4)(i), (ii) and (iii); (h)(1) and new (4)(i), (ii) and (iii) revised; (j)(2)(ii), (p)(2), (q)(2), (3)(ii), (5)(i) and (6) amended 26980
101.14 (e)(3) amended 26980
101.17 (g) added....37055
(g)(7)(i)(B) corrected....63982
101.36 (b)(3)(ii)(B), (C) and (iii) revised 30620

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

101.54 (d)(2) revised **26980**
101.62 (d)(1)(ii)(D), (2)(iii)(C), (iv)(C), (4)(ii)(C) and (5)(ii)(C) amended **26980**
101.69 (c), (d), (l), (m)(4), (n)(3), (4), (o)(3) and (4) amended; (m)(3) revised; (m)(4)(iii) and (5) added **26719**
(m)(3) and (4)(iii) corrected **40024**
101.70 (j)(2) and (4)(ii) revised; (j)(3)(iii) added **26719**
(j)(3)(iii) corrected **40024**
165 Effective date confirmation **42198**
165.110 (b)(4)(iii)(A) table and (C) table amended; (b)(4)(iii)(G)(*3*)(*iv*) note removed **25769**
Regulation at 63 FR 25769 eff. date corrected to 2–2–98 ..... **30621**
172.155 (c)(1) revised **66015**
172.345 (b) revised 1758
172.665 (d)(2) revised 1758
172.723 (b)(3) revised 1759
172.800 Regulation at 60 FR 21702 eff. date confirmed; (c)(13) added **36362**
172.831 Added **16433**
172.841 (a)(2) and (b) revised **57597**
172.878 (c) table amended **66014**
173.300 (b) revised **38747**
173.310 (c) table amended 1759
173.340 (a)(4) introductory text revised; (a)(4) table amended **29134**
175.105 (c)(5) table amended **37248, 51527, 56788**
175.125 (a)(8) added; (b)(1) revised **51528**
175.300 (b)(3)(vii)(*a*) amended **59707**
(b)(3)(xxviii)(*a*) **71017**
(b)(3)(vii)(*a*) corrected; CFR correction 4535
175.320 (b)(3) table amended **71017**
(b)(3) table amended 2568
176.170 (b)(2) table amended **69551**
176.180 (b)(2) table amended **59709, 63408**
177.1390 (c)(2)(vii) added; (c)(3)(i)(*a*)(*1*) revised **55943**
177.1430 (b) table amended **36175**
177.2415 Added **20315**
178.2010 (b) table amended ... **27836, 29136, 35135, 36177, 36178, 43875, 45716, 55945**
(b) table corrected; CFR correction **49285**
(b) table amended 34, 2854
178.3130 (b) table amended **38748**
(b) corrected; CFR correction 4535
178.3295 Table amended **56789, 68392**
178.3297 (e) table amended ... **43874, 55946, 59215, 59710**
178.3400 (c) table amended **29551**
178.3620 (c)(3) corrected; CFR correction 4535
178.3725 Table amended **35799**
178.3910 (a)(2) table corrected; CFR correction 4535
179 Technical correction **46388**
179.26 (c)(1) amended **43876**
184.1007 (b)(1), (6) and (7) revised 1759
184.1257 (b) introductory text and (1) revised 1759
184.1259 (b)(3) revised 1760
184.1282 (b) revised 1760
184.1293 (b) revised 1760
184.1420 Added **24419**
184.1428 (a) amended 405
184.1530 (b) revised 1760
184.1699 (b) revised 1760
184.1702 Added **28895**
184.1979 (b)(1) introductory text and (2) revised 1760
184.1979a (b)(1) introductory text and (2) revised 1761
184.1979b (b)(1) introductory text and (2) revised 1761
184.1979c (b)(1) introductory text and (2) revised 1761
200 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 400
200.15 Revised **26698**
201 Authority citation revised **26698**
Effective date confirmation **48576**
Stay of compliance **67399**
Authority citation revised 400
201.23 Added **66668**
201.50 (b) amended **26698**
201.57 (f)(2) revised; eff. 6–1–99 ..... **66396**
201.59 (a)(1) revised; eff. 5–20–99 400
201.100 (c)(2) amended **26698**
(c)(2) and (d)(1) amended; eff. 5–20–99 400
201.150 (e) through (h) removed; eff. 5–20–99 400
201.307 Added **27843**
201.322 Added; eff. 4–23–99 ..... **56801**
202 Authority citation revised 400

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 21 Chapter I—Con.

202.1 (e)(4)(ii) removed; (e)(4)(iii) redesignated as (e)(4)(ii); new (e)(4)(ii), (6)(i), (ii)(*a*), (*b*) and (xvii) amended; eff. 5–20–99 400
206 Authority citation revised 400
207 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 400
207.20 (c) amended; eff. 5–20–99 400
207.21 (a) amended; eff. 5–20–99 400
207.25 (b)(2), (4), (5) and (6) amended **26698**
(b)(2), (4), (5) and (6) amended; eff. 5–20–99 400
207.31 (a)(1), (2), (3) and (c) amended **26698**
(a)(1), (2), (3) and (c) amended; eff. 5–20–99 400
207.37 (a)(2)(i) amended; eff. 5–20–99 400
208 Added; eff. 6–1–99 ..... **66396**
210 Authority citation revised **26698**
Authority citation revised 401
211 Authority citation revised **26698**
Authority citation revised 401
211.132 Heading revised; (a), (d) introductory text and (2) amended; (b) and (c) revised **59470**
299.4 (d) amended; eff. 5–20–99 401
300 Authority citation revised 401
300.50 (b) amended; eff. 5–20–99 401
310 Authority citation revised **26698**
Authority citation revised 401
310.502 (a) introductory text revised; (b) removed; eff. 5–20–99 401
310.545 (a)(27), (28) and (d)(28) added; (d) introductory text revised **19802**
(a)(6)(ii)(B) amended **40649**
(a)(23) and (24) redesignated as (a)(23)(i) and (24)(i); (a)(23)(i) heading, (ii), (24)(i) heading, (ii) and (d)(26) added; (d)(11) revised **44998**
(a)(12)(iv) redesignated as (a)(12)(iv)(A); (a)(12)(iv)(A) heading, (d) introductory text and (i) revised; (a)(12)(iv)(B) and (d)(29) added 4540
312 Authority citation revised **26698**, **65675**
Authority citation revised 401
312.2 (a) and (d) amended; eff. 5–20–99 401
312.3 Amended; eff. 5–20–99 401
312.23 (a)(10)(iii) redesignated as (a)(10)(iv); new (a)(10)(iii) added **66669**
312.42 (e) revised; eff. 4–28–99 ..... **68678**
312.47 (b)(1)(i) and (2) heading revised; (b)(1)(iv), (v) and (2) introductory text amended; (b)(2)(iii) redesignated as (b)(2)(iv); new (b)(2)(iii) added **66669**
312.80—312.88 (Subpart E) Authority citation revised 401
312.81 Introductory text amended; eff. 5–20–99 401
312.82 (a) and (b) amended **66669**
312.110 (b)(4) revised; (b)(5) removed; eff. 5–20–99 401
312.120 (a) amended; eff. 5–20–99 401
312.130 (b) amended; eff. 5–20–99 401
312.500—310.546 (Subpart E) Authority citation revised **26698**
314 Authority citation revised **26698**, **59712**
Effective date confirmation **48576**
Authority citation revised 401
Heading revised; eff. 5–20–99 401
314.1 (a) revised; eff. 5–20–99 401
314.50 Introductory text, (d)(5)(vi)(*b*) and (l)(1) amended; (c)(2)(i) and (e)(2)(ii) revised; eff. 6–1–99 ..... **66398**
(d)(7) added **66670**
(d) introductory text amended; eff. 5–20–99 401
314.55 Added **66670**
314.70 (b)(3) revised; eff. 6–1–99 ..... **66399**
314.81 (b)(2)(i) and (vii) revised; (b)(2)(vi)(*c*) added **66670**
(a) amended; eff. 5–20–99 401
314.92 (a)(2) removed; eff. 5–20–99 401
314.94 (a)(8) revised; eff. 6–1–99 ..... **66399**
(c) and (d)(3) removed; eff. 5–20–99 401
314.96 (c) removed; eff. 5–20–99 401
314.98 (a) and (c) amended; eff. 5–20–99 401
314.100 (a) amended; eff. 5–20–99 402
314.101 Heading revised; (a)(2) amended; eff. 5–20–99 402
314.105 (a) and (b) amended; eff. 5–20–99 402

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

314.107 (c)(1) and (4) amended; interim **59712**
314.110 (a)(2), (4) and (5) amended; eff. 5–20–99 402
314.120 (a) introductory text, (3) and (5) amended; (a)(4) removed; eff. 5–20–99 402
314.125 Heading revised; (a) introductory text, (2) and (b)(2) amended; eff. 5–20–99 402
314.126 (a) amended; eff. 5–20–99 402
314.150 (a) introductory text and (b) introductory text amended; eff. 5–20–99 402
314.170 Amended **26698**
Amended; eff. 5–20–99 402
314.300 (Subpart F) Removed; eff. 5–20–99 402
314.410 Heading revised; (a)(1) introductory text, (i) and (b)(1) amended; (b)(3) revised; eff. 5–20–99 402
314.430 (f)(6) amended **26698**
(e)(8) removed; (f)(6) amended; eff. 5–20–99 402
314.500 Amended; eff. 5–20–99 402
314.530 (a) amended; eff. 5–20–99 402
316.3 (b)(9) amended; eff. 5–20–99 402
320 Authority citation revised 402
320.38 (a) amended; eff. 5–20–99 402
320.63 Amended; eff. 5–20–99 402
333.103 (a) and (b) designation removed; eff. 5–20–99 403
333.110 (a) through (f) amended; eff. 5–20–99 403
333.120 (a)(1) through (12) and (b)(1) through (6) amended; eff. 5–20–99 403
341.20 (b)(1) revised **40650**
341.80 (c)(2)(ii), (vii), (d)(2)(i) and (viii) heading revised **40650**
343 Added; eff. 10–25–99 ..... **56814**
343.80 (a)(1) corrected **66015**
(a)(2) corrected **66016**
358 Technical correction **46389**
358.610 Revised **43303**
369 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 403
369.5 Removed **26698**
369.21 Amended **26698**
429 Removed **26698**
Effective date confirmation **48576**
430 Removed **26068**
Effective date confirmation **48576**
431 Removed **26068**
Effective date confirmation **48576**
432 Removed **26068**
Effective date confirmation **48576**
433 Removed **26068**
Effective date confirmation **48576**
436 Removed **26068**
Effective date confirmation **48576**
440 Removed **26068**
Effective date confirmation **48576**
441 Removed **26068**
Effective date confirmation **48576**
442 Removed **26068**
Effective date confirmation **48576**
443 Removed **26068**
Effective date confirmation **48576**
444 Removed **26068**
Effective date confirmation **48576**
446 Removed **26068**
Effective date confirmation **48576**
448 Removed **26068**
Effective date confirmation **48576**
449 Removed **26068**
Effective date confirmation **48576**
450 Removed **26068**
Effective date confirmation **48576**
452 Removed **26069**
Effective date confirmation **48576**
453 Removed **26069**
Effective date confirmation **48576**
455 Removed **26069**
Effective date confirmation **48576**
460 Removed **26069**
Effective date confirmation **48576**
510.45 Removed; eff. 5–20–99 403
510.105 (c)(2) revised **32980**
510.106 Revised **32980**
510.110 (e) and (f) amended; eff. 5–20–99 403
510.600 (c)(1) table and (2) table amended ... **24106, 25164, 26981, 27844, 27845, 29551, 31624, 31931, 36178, 41188, 44381, 44382, 51821, 59216, 65553**
514.10 Removed; eff. 5–20–99 403
520 Technical correction **46652**
520.45a (a)(4)(i)(*1*) designation and (*2*) removed; (b)(1) revised 1504
520.154a (a) amended; (d)(4) added **38474**
520.452 Added **41419**
520.455 Added 1762
520.580 (b)(1) amended **26981**
520.870 Added **51300**
520.905a (a) removed; (b), (c) and (d)(3) redesignated as (a), (b)

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 21 Chapter I—Con.

and (d)(4); (d)(2) heading revised; (d)(2)(i)(A), (B), (ii) introductory text, (A) and (B) redesignated as (d)(2)(ii), (iii), (3)(i), (ii) and (iii); new (c) and new (d)(3) heading added **63983**
520.905c (d)(1)(iii) added **31624**
520.1195 (b) amended **38474**
520.1204 (a) amended; eff. 5–20–99 403
520.1242a (a) and (d) removed; (b), (c), (e) and (f) redesignated as (a) through (d); new (a), (b), (c), (d)(1)(i), (iii) and (2)(i) revised; new (d)(2)(iii) added **59713**
520.1263a (a) revised; eff. 5–20–99 403
520.1263b (a) amended; eff. 5–20–99 403
520.1288 Revised **52968**
520.1445 (a) and (c) heading revised; (d) added **29352**
(c) removed; (d) revised **41189**
520.1446 (c) redesignated as (d); new (d) revised **41190**
520.1484 (b) revised; (c)(3) amended **17329**
520.1485 (d)(3) amended **45944**
520.1660c Heading, (a) and (b) revised; (c) removed; (d) and (e) redesignated as (c) and (d); new (d)(3) amended **70334**
520.1660d (a)(3) revised **44384**
520.1720a (b)(3) amended **36178**
520.2043 (a)(2) revised **39727**
(b)(2) amended **45945**
520.2098 (b) amended **29551**
(d)(2) and (d)(3) redesignated as (d)(1)(i) and (ii); new (d)(2) added 2122
520.2158a (b) amended **51821**
520.2158b (d) correctly added; CFR correction 4540
520.2220a (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) **59714**
522 Technical correction **46652**
522.84 Added **44382**
522.90b (b) revised **41420**
522.246 (b) revised **66432**
522.314 (d)(2) added **53578**
522.770 (d)(1)(ii) revised **68183**
522.533 Added **44383**
522.812 (a) revised; (d)(1), (2) and (3) redesignated as (d)(1)(i), (ii) and (iii); (c), new (d)(1) heading and new (2) added **49003**
522.955 (d)(1)(iii) amended **26981**
(d)(1)(i) revised; (d)(1)(iii) amended **41191**
522.970 (c) redesignated as (d); new (c) added; (b) and new (d) revised **38749**
522.1044 (b)(3) amended **59714**
(b)(4) revised **68182**
522.1081 (a)(2)(ii) amended **51822**
522.1086 (b) amended; (c) redesignated as (d) **29352**
522.1145 (a)(2) revised; (f) added **59216**
522.1182 (b)(2)(i) amended **53578**
522.1183 (b) removed; (e)(1) amended **44384**
522.1204 (a) revised; eff. 5–20–99 403
522.1222a (c) amended **51822, 65553**
522.1289 Added **29552**
522.1484 (a) amended; eff. 5–20–99 403
522.1660 (c) added; (d)(1) heading revised; (d)(1)(iii) amended **52158**
522.1940 (d)(3) added **45945**
522.2005 (b) amended **24420**
522.2120 Amended **24107**
522.2121 Added **24107**
522.2478 (c)(2) added **63789**
524.770 (d)(2) revised **68183**
524.814 (d)(2) revised **59715**
524.1044g (b) amended **31932**
524.1193 (b) and (d)(2) revised **44385**
524.1200a (a)(1) and (2) designation removed; eff. 5–20–99 404
524.1200b (a) revised; eff. 5–20–99 404
524.1204 (a)(1) removed; (a)(2)(i), (ii), (iii) and (3) redesignated as (a)(1)(i), (ii), (iii) and (2); eff. 5–20–99 404
524.2101 (c) amended **26981**
529.360 (a) amended; eff. 5–20–99 404
529.469 Added **25164**
529.1030 (c) redesignated as (d); (b)(1), (2), new (d) introductory text, (1) and (2)(i) revised; (d)(2)(iv) and (v) added **38304**
529.1186 (b) revised **24106**
556.34 Revised 1504
556.113 Revised **53579**
556.150 Revised **52158**
(b) revised **57246**
556.225 Revised **68184**
556.227 Revised **59715**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

556.228 Undesignated text designated as (a); new introductory text, (a) heading and (b) added 49003
556.283 Revised 41191
556.286 Added 38750
556.344 Revised 54352
556.500 Revised 52158, 57246
556.600 Revised 24107
(c) corrected 38304
556.720 Revised 52158, 57246
558 Technical correction 46389
558.15 (g)(1) table and (2) table amended 992
558.58 (d)(1)(iii) table amended 27845
558.76 (d)(3)(xv) added 38475
(d)(3)(xv) added 38750
(d)(3)(xvi) added 39028
(d)(1) table amended 40825, 44385
(d)(3)(xvii) correctly designated 48576
(d)(3)(xviii) added 51824
558.78 (d)(3) revised 19185
(a)(2), (d)(1) table and (2)(ii) amended 27845
558.95 (d)(4)(iv) added 18836
(d)(1)(xi)(*b*) and (xii)(*b*) amended 27845
(d)(4)(i)(*b*), (ii)(*b*), (iii) introductory text, (*d*), (iv) introductory text and (*c*) amended 44385
558.115 (d)(1)(ii) and (2)(ii) revised 59216
558.120 (d)(1)(iii)(*b*) amended 27845
558.128 (a)(1) and (d)(1) table amended 27845
(d)(1) table amended 57246, 65554
558.145 (a)(1) and (2) amended 27845
558.175 (d)(1)(iii)(*b*) and (iv)(*b*) amended 17948, 27845
558.195 (d) table amended 17948, 27845, 38475, 51824
558.300 (c) redesignated as (d); new (d) introductory text added; new (d)(1) revised 54353
558.305 (a) amended 27845
558.311 (e)(1)(ii) table amended 17948
(b)(2) through (7), (e)(1)(v) table, (2)(v) and (3)(v) amended 27845
558.325 (c)(3)(xii) revised 57248
558.340 (a) amended 27845
558.342 (d)(3)(ii) and (6)(ii) amended 27845
(d)(8) added 41191
(c) and (d)(3)(ii) amended 66018
558.355 (a) amended 24420
(b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*) and (xvi)(*b*) amended 27845
(f)(2)(iii) added 52969
(b)(11) and (f)(1)(xiv)(*b*) amended 70335
(f)(3)(ii)(*b*) amended 2855
558.363 (a)(6), (d)(1)(viii) and (ix) added 51823
(d)(2) revised 57248
558.366 (c) table amended 57249
558.369 (c) removed; (d) introductory text revised; (d)(1), (2) and (3) redesignated as (d)(1)(i), (ii) and (iii); (d)(1) heading and (2) added 39028
558.450 (d)(3)(iii) added 41192
558.460 (b) and (c) redesignated as (c) and (d); new (b) added; (d)(1) table revised 36179
558.515 (d)(1)(iv)(*b*) amended 17948
(a) and (d)(1)(vi)(*b*) amended 27845
558.530 (c) removed; (d)(5)(x) revised 38476
558.550 (a)(1), (d)(1)(vii)(*c*), (ix)(*c*), (xv)(*c*) and (xvi)(*c*) amended 27846
(a) revised; (d)(1)(xv)(*c*) amended 65554
(a)(3) revised 66432
558.575 (a)(1) and (2) amended 27846
558.582 (a) amended 27846
558.600 (c)(4)(ii) amended 27846, 52969
558.680 (c)(1) table amended 38750
564 Removed 4294
573.460 (b)(1), (2)(ii), (iii) and (3)(iv) revised; (b)(2)(iv) added 53580
601 Authority citation revised 66671
601.2 (a) introductory text amended; (c)(1)(viii) revised; eff. 6-1-99 66399
601.12 (f)(1) amended; (f)(3)(i) revised; eff. 6-1-99 66399
601.27 Added 66671
601.37 Added 66671
606.121 (e)(1)(ii) amended 16685
610.11 (g) revised 19403
Regulation at 63 FR 19403 withdrawn in part 41718
610.30 Amended 16685
610.60 (a)(7) added; eff. 6-1-99 66400
640.2 (e)(3) amended 16685
640.17 Amended 16685
640.24 (b) amended 16685

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 21 Chapter I—Con.

640.64 (c)(2) amended **16685**
640.69 (b) amended **16685**
640.70 (a)(3) amended **16685**
640.74 (b)(2) amended **16685**
640.101 (a) amended **16685**
640.102 (c) and (e) amended **16685**
640.104 (a) amended **16685**
800 Authority citation revised **26699**
Authority citation revised 404
801 Interpretation **24934**
Economic analysis statement **29552, 46171, 50660**
Authority citation revised 404
801.437 Note added **46175**
803.1 (a) revised **26074**
Regulation at 63 FR 26074 withdrawn **45717**
803.3 (c) introductory text amended; (m) through (ee) redesignated as (n) through (ff); (c)(1), new (p) introductory text, (1) and (r)(2) revised; (g) and new (m) added **26074**
Regulation at 63 FR 26074 withdrawn **45717**
803.9 (c)(2) amended; (c)(3) removed; (c)(4) redesignated as (c)(3) **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.10 Heading, (a)(2) and (c)(5) revised; (b) added **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.11 Amended **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.12 (b) revised **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.17 Introductory text amended **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.18 Heading, (b)(1)(ii) and (2) revised; (a), (b)(1) introductory text and (c) amended; (d) added **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.19 (b) and (c) amended **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.20 (a) introductory text and (2) amended; (a)(1) revised; (b)(2) added **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.22 (a) and (b)(1) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.33 Heading revised; (a) introductory text, (2), (5), (7) introductory text, (vi) and (c) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.40—803.43 (Subpart D) Added **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.56 Introductory text, (a) and (b) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.57 (a), (b), (c)(1) and (d) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**
804 Heading revised **26077**
Regulation at 63 FR 26077 withdrawn **45717**
804.1 (a) revised **26077**
Regulation at 63 FR 26077 withdrawn **45717**
804.3 (d) revised; (m)(1) and (2) amended **26077**
Regulation at 63 FR 26077 withdrawn **45717**
804.25 (a)(1) and (2) amended; (c) removed **26077**
Regulation at 63 FR 26077 withdrawn **45717**
806 Heading revised **42232**
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 ..... **63983**
806.1 (a) and (b)(1) revised **42232**
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 ..... **63983**
806.2 (f) revised **42232**
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 ..... **63983**
806.10 Regulation at 62 FR 27191 eff. 5-18-98 ..... **18836**
(a), (b), (c) introductory text and (2) revised; (c)(4), (d) and (e) amended **42232**
806.20 Regulation at 62 FR 27191 eff. 5-18-98 ..... **18836**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

(a) and (c) revised 42233
Regulation at 63 FR 42233 eff. date delayed to 2-22-99 63983
806.30 Revised 42233
Regulation at 63 FR 42233 eff. date delayed to 2-22-99 63983
807 Heading revised 51826
Effective date confirmation 1762
807.3 (d)(2) and (g) revised; (s) added 51826
807.20 (a)(4) revised; (c) removed; (d) redesignated as (c); (c)(3) added 51826
Corrected 65555
807.22 (c) amended 51826
807.25 (f)(3) amended; eff. 5-20-99 404
809 Authority citation revised 404
809.5 Removed; eff. 5-20-99 404
809.6 Removed; eff. 5-20-99 404
812 Authority citation revised 26699
Authority citation revised 404
812.35 (a) revised 64625
814.39 (a) introductory text and (4) revised; (f) added 20533
Regulation at 63 FR 20533 withdrawn 42699
(a) introductory text revised; (a)(4) removed; (a)(5) through (8) redesignated as (a)(4) through (7); (f) added 54044
814.100 (a)(2) and (d) revised; (e) added 19188
Regulation at 63 FR 19188 withdrawn 40825
(a)(2) and (d) revised; (e) added 59220
814.104 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b)(5) and new (d) revised; new (c) amended 19189
Regulation at 63 FR 19189 withdrawn 40825
(b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b)(5) and new (d) revised; new (c) amended 59220
814.106 Revised 19189
Regulation at 63 FR 19189 withdrawn 40825
Revised 59220
814.108 Revised 19189
Regulation at 63 FR 19189 withdrawn 40825
Revised 59220
814.112 (a) introductory text and (b) revised 19189
Regulation at 63 FR 19189 withdrawn 40825
(a) introductory text, (1) and (b) revised 59221
814.114 Revised 19189
Regulation at 63 FR 19189 withdrawn 40825
Revised 59221
814.116 (a) and (d) amended; (e) added 19189
Regulation at 63 FR 19189 withdrawn 40825
(a) and (d) amended; (e) added 59221
814.118 (e) revised 19189
Regulation at 63 FR 19189 withdrawn 40825
(a)(8) revised; (e) removed 59221
814.120 Revised 19189
Regulation at 63 FR 19189 withdrawn 40825
Revised 59221
814.124 (a) amended 19190
Regulation at 63 FR 19190 withdrawn 40825
(a) amended 59221
814.126 (a) amended; (b) revised 19190
Regulation at 63 FR 19190 withdrawn 40825
(a) amended; (b) revised 59221
860.84 (a) amended; eff. 5-20-99 404
862.9 Heading revised; introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59224
862.1440 (b) revised 59225
862.1635 (b) revised 59225
862.1715 (b) revised 1124
862.1825 Added 40366
864.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59225
864.1860 Added 30142
864.6100 (b) revised 59225
864.6400 (b) revised 59225
864.9160 (b) revised 59225
864.9550 (b) revised 59226
864.9575 (b) revised 59226
864.9600 (b) revised 59226
864.9700 (b) revised 59226

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 21 Chapter I—Con.

866.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59226**
866.3060 (b) revised **59226**
866.3085 (b) revised **59226**
866.3135 (b) revised **59226**
866.3165 (b) revised **59226**
866.3220 (b) revised **59226**
866.3280 (b) revised **59226**
866.3300 (b) revised **59226**
866.3320 (b) revised **59227**
866.3350 (b) revised **59227**
866.3415 (b) revised **59227**
866.3550 (b) revised **59227**
866.3660 (b) revised **59227**
866.3930 (b) revised **59227**
866.5040 (b) revised **59227**
866.5320 (b) revised **59227**
866.5380 (b) revised **59227**
866.5460 (b) revised **59227**
866.5490 (b) revised **59227**
868 Preamendment device retention **35516**
872.1870 Added **59717**
872.3940 (c) revised **71746**
872.3950 (c) revised **71746**
872.3960 (c) revised **71746**
872.3970 (c) revised **71746**
876.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59227**
876.1620 (b) revised **59228**
876.1800 (b) revised **59228**
876.2040 (b)(1) revised **59228**
876.4370 (b)(1) revised **59228**
876.4650 (b) revised **59228**
876.4680 (b) revised **59228**
876.4890 (b)(1) revised **59228**
876.5250 (b)(1) revised **59228**
878.5360 Revised **57060**
880.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59228**
880.2200 (b) revised **59228**
880.2920 (b) revised **59228**
880.2930 Added **59718**
880.5100 (b) revised **59229**
880.5140 (b) revised **59229**
880.5475 (b) revised **59229**
880.5500 (b) revised **59229**
880.5550 (b) revised **59229**
880.5960 Added **59718**
880.6470 (b) revised **59229**
880.6775 (b) revised **59229**
880.6910 (b) revised **59229**
880.6990 Added **59718**
882.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59229**
882.5050 (b) revised **59229**
882.5970 Added **40651**
884 Preamendment device retention **35516**
884.6100—884.6190 (Subpart G) Added **48436**
886.9 Heading revised; introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59229**
886.3100 (b) revised **59230**
886.3130 (b) revised **59230**
886.3800 (b) revised **59230**
888.3070 Added **40040**
890 Preamendment device retention **35516**
890.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59230**
890.1925 (b) revised **59230**
890.3500 (b) revised **59231**
890.3525 (b) revised **59231**
890.3710 (b) revised **59231**
890.3725 (b) revised **59231**
890.5160 (b) revised **59231**
890.5170 (b) revised **59231**
890.5225 (b) revised **59231**
890.5720 (b) revised **59231**
890.5740 (b) revised **59231**
892.9 Heading revised; introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59231**
892.1980 (b) revised **59231**
892.2010 Added **23387**
(a) and (b) corrected **44998**
892.2020 Added **23387**
(a) and (b) corrected **44998**
892.2030 Added **23387**
892.2040 Added **23387**
892.2050 Added **23387**
892.5050 (b) revised **1125**
900.2 (d) revised; eff. 4–28–99 ..... **56558**
900.12 (a)(2)(ii), (c)(4)(i), (d)(2) and (e)(10) amended; (a)(2)(iv)(A), (3)(iii)(B), (c)(4)(ii), (e)(1) introductory

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

text, (8)(ii)(A) and (f)(3) revised; eff. 4–28–99; (e)(4)(iii)(B) revised; eff. 10–28–02 ..... **56558**
1240 Technical correction **29591**
1240.70 Removed **26078**
1270.33 (b)(1) amended **16685**

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1308.4 (e)(7) through (11) redesignated as (e)(8) through (12); new (e)(7) added 4052

Proposed Rules:

1 ..... **64930**
2 ..... **51322**
..... 448
3 ..... **26690, 40858, 42773, 46718**
..... 448
5 ..... **26690, 40858, 42773, 46718**
..... 448
10 ..... **26690, 32772, 40858, 42773, 46718, 50815, 69575**
..... 448
12 448
14 ..... **69575**
16 ..... **26690, 31143, 35551, 69575**
..... 448
20 ..... **40069, 40858, 42773, 46718**
..... 448
25 ..... **26690**
..... 448
26 ..... **17744**
50 ..... **26690**
..... 448
54 448
56 ..... **26690**
..... 448
58 ..... **26690**
..... 448
60 448
70 ..... **30150**
..... 448
71 ..... **26690**
..... 448
73 ..... **30150**
74 ..... **30150**
80 ..... **30150**
81 ..... **30150**
82 ..... **30150**
99 ..... **31143, 35551**
100 ..... **27502**
101 ..... **20486, 23624, 24254, 24593, 27016, 30150, 45427, 62977**
..... 1765, 3250
102 ..... **20148**
120 ..... **20450, 24254, 37057, 40072, 69579**
165 ..... **25789**
178 ..... **30150**
200 ..... **26690**
..... 448
201 ..... **26690, 30150**
..... 448
202 448
206 448
207 ..... **26690, 26744, 40858, 42773, 46718, 68212**
..... 448
210 ..... **26690**
..... 448
211 ..... **26690**
..... 448
216 ..... **54082, 55564**
..... 996
299 448
300 448
310 ..... **26690, 33592, 40858, 42773, 46718, 59746**
..... 448
312 ..... **26690, 40858, 42773, 46718, 68710**
..... 448
314 ..... **26690, 59746, 64222**
..... 448
315 ..... **28301, 41219, 55067**
..... 457
316 ..... **40858, 42773, 46718**
..... 448
320 ..... **64222**
..... 448
333 448
334 ..... **27886, 33592, 67817**
341 ..... **38762**
352 ..... **56584**
369 ..... **26690**
..... 448
429 ..... **26690**
430 ..... **26127**
431 ..... **26127**
432 ..... **26127**
433 ..... **26127**
436 ..... **26127**
440 ..... **26127**
441 ..... **26127**
442 ..... **26127**
443 ..... **26127**
444 ..... **26127**
446 ..... **26127**
448 ..... **26127**
449 ..... **26127**
450 ..... **26127**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 21 *Proposed Rules:—Con.*

452.....26127
453.....26127
455.....26127
460.....26127
510.....448
514.....448
520.....448
522.....448
524.....448
529.....448
600.....40858, 42773, 46718, 59746
601.....28301, 40858, 41219, 42773, 46718, 55067
.....457
607.....40858, 42773, 46718
610.....19431, 40858, 42773, 46718
640.....40858, 42773, 46718
660.....40858, 42773, 46718
701.....30160
800.....26690
.....448
801.....448, 3255
803.....26129
804.....26129
806.....42300
807.....26744, 51874, 65566, 68212
.....448
808.....39789
809.....29174
.....448
812.....26690, 38131
.....448
814.....19196, 20558
820.....29364
860.....448
862.....63222
864.....29174, 63222
868.....44177, 63222
870.....63222
872.....53859, 63222
874.....25794, 40673, 63222
876.....63222
.....62
878.....63222
880.....59917, 63222
882.....40673, 63222
884.....44177, 63222
886.....63222
888.....63222
890.....40677, 44177, 63222
892.....63222
900.....59750
1020.....57957
1271.....26744, 68212
1300.....49506
1308.....18170, 59751
1310.....49506, 55811, 63253
1312.....59751

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

40.11 Regulation at 62 FR 67567 confirmed.....64625
40.22 Regulation at 62 FR 67567 confirmed.....64625
40.52 Regulation at 62 FR 67567 confirmed.....64625
40.61 Regulation at 62 FR 67567 confirmed.....64625
40.62 Regulation at 62 FR 67567 confirmed.....64625
40.66 Regulation at 62 FR 67567 confirmed.....64625
40.67 Regulation at 62 FR 67567 confirmed.....64625
40.68 Regulation at 63 FR 670 confirmed.....36366
40.91 Regulation at 62 FR 67567 confirmed; (a) revised.....64625
40.92 Regulation at 62 FR 67567 confirmed.....64625
40.93 Regulation at 62 FR 67567 confirmed.....64625
40.104 Regulation at 62 FR 67567 confirmed.....64625
40.105 Regulation at 62 FR 67567 confirmed.....64625
40.204 Removed.....16686
41 Authority citation revised.....48577
41.2 (g)(3) and (4) redesignated as (g)(5) and (6); new (g)(3) and (4) added.....16893
Regulation at 62 FR 51031 confirmed.....35
41.3 (e) amended.....48577
41.12 Table amended.....48578
41.21 Heading revised.....48578
41.32 Revised.....16893
41.33 Revised.....16894
41.101 Regulation at 63 FR 671 confirmed; (c)(1) amended.....36366
41.107 (c) redesignated as (c)(1); (c)(2) added; interim.....24108
(c)(2)(i) revised.....52969
41.121 Regulation at 63 FR 671 confirmed.....36366
41.122 (a)(4) and (h)(9) added.....16895
42.22 (c) removed; (d) redesignated as (c).....48578

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

42.32 (d)(5) revised 68393
42.51 (a)(2) and (d) removed; (a)(1) introductory text, (i), and (ii) redesignated as (a) introductory text, (1) and (2) 48578
42.54 (a)(2) amended 48578
42.64 (b) amended 48578
50 Authority citation revised 20315
50.40 (a) amended 20315
51.70 Regulation at 62 FR 62695 confirmed 44777
51.80 Regulation at 62 FR 62695 confirmed 44777
93 Authority citation revised 16687
93.1 (a), (b), (c) and (e) amended 16687
121.1 Amended 17330
140 Added 36574

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

228.11 (e) revised 38751
228.13 (b) amended 72181
228.21 (a) amended; (c)(4) revised 38759
228.51 (a) introductory text and (1) revised 38751
228.53 Introductory text and (a) revised 38752

Chapter V—United States Information Agency (Parts 500—599)

503 Authority citation revised 67576
503.1 (b) amended 67576
503.2 Amended; (b) and (e)(2) revised 67576
503.3 (d) amended 67577
503.4 (b)(1) revised; (b)(3) redesignated as (b)(3)(i); (b)(3)(ii) and (iii) added 67577
503.7 (c)(2) and (e)(3) revised 67577
503.8 (d)(5)(vi) amended; (d)(5)(vii) added 67577
503.9 Added 71587
514 Suspension of applicability 34276
Policy statement 42233
514.90 (Subpart H) Added; interim 34810

Proposed Rules:

171 789
201 49682
503 15800
706 68213
713 68213

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

655.601 (a) revised 33549
658 Authority citation revised 70652, 71747
658.5 Amended 70652
658.13 (b)(3) revised 70653
658.17 (i) and (k) revised 70653
658 Appendixes A and C amended 70653
Appendix A amended 71748

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1225 Added; interim 46886
1240 Added; interim 57909
1270 (Subchapter D) Added; interim 53585
1275 Added; interim 55802

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1313 Revised; interim 71587
1335 Added; interim 54048
1340 Added 46392
1345 Added; interim 52597

Proposed Rules:

1—199 (Ch. I) 52206
655 ..... 31950, 31957
658 ..... 27228, 64434
710 71238
712 71238
713 71238
1331 ..... 33220, 44415

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended **23853**
5.214 Amended **23853**
5.403 (a) revised; (b) amended **23853**
5.520 (c)(1)(ii) and (2)(i) revised **23853**
5.701—5.705 (Subpart G) Added **46577**
5.801 Added **46591**
(c) revised 1505
6 Added 3797
8.28 (a)(5) revised **23853**
50.19 (b)(17) revised; interim **48990**

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

180 Heading revised 3801
180.100 (c) amended 3801
180.105 (a)(3) and (4) amended; (a)(5) added 3801
180.310 (a) revised 3801
180.415 Heading and (a) revised 3802

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.3—200.106 (Subpart A) Heading revised **46592**
200.36 Added **46592**
200.120—200.121 (Subpart B) Added 4769
201.20 Regulation at 62 FR 65181 confirmed **44361**
201.26 Regulation at 62 FR 65181 confirmed **44361**
202.2 Regulation at 62 FR 65181 confirmed **44361**
202.3 Regulation at 62 FR 65181 confirmed **44361**
202.5 Regulation at 62 FR 65181 confirmed **44361**
202.7 Regulation at 62 FR 65182 confirmed; (a) amended **44361**
203.3 Regulation at 62 FR 65182 confirmed **44361**
203.4 Regulation at 62 FR 65182 confirmed **44361**
203.255 (b)(5) revised; interim **29507**
206.3 Amended 2987
206.29 Added 2987
206.32 Added 2988
206.41 (b) revised 2988
206.43 Added 2988
206.45 (e) revised; interim **17656**
207.256 Revised 4769
207.256a Revised 4770
207.258 (a) and (b)(1) revised 4770
207.260 Added **46578**
236.1 Heading revised; (b) redesignated as (c); new (b) added **46592**
246.20 Revised **64803**
266.505 (b)(6) removed **46578**
(b)(7) revised **46593**
266.507 Added **45678**
266.510 (a) revised **46578**

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

320.5 (a) amended; (e) and (f) added (OMB number); interim **51251**
320.13 Revised; interim **51251**

Chapter IV—Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)

Chapter IV Established; interim **48943**
401 Forums **50527**
Technical correction **55333**
401.99 (b) introductory text corrected **71373**
401.100 Heading corrected **71373**
401.201 (b) corrected **71373**
401.300 Corrected **71373**
401.400 (b) corrected **71373**
401.403 (b)(2) corrected **71373**
401.411 (a) corrected **71373**
401.461 (b)(4) corrected **71373**
401.472 (a)(1) corrected **71374**
401.552 Corrected **71374**
402 Forums **50527**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

Technical correction 55333
402.1 Corrected 71374
402.5 (c)(3) corrected 71374
402.6 (b) corrected 71374

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

Chapter V Clarification 35135
570.415 (k)(3)(ii) revised 31869
570.416 Regulation at 63 FR 9683 confirmed 48438
570.602 Revised 3802
570.913 (a) heading added; (a) introductory text revised 3802
598 Added; interim 19155
Regulation at 63 FR 19155 confirmed 52969
598.200 OMB number 53262
598.205 OMB number 53262
598.210 OMB number 53262
598.215 OMB number 53262
598.415 OMB number 53262
598.430 OMB number 53262

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

Chapter VIII Heading revised 64803
880.201 Amended 46578
880.207 (a) removed 46578
880.601 (d)(1) revised 46593
881.201 Amended 46578
881.207 (a) removed 46578
882 Heading and authority citation revised 23853
882.101 Revised 23853
882.102 Revised 23853
(b) amended 46578
882.106 Removed 23854
882.108 Removed 23854
882.109 Removed 23854
882.110 Removed 23854
882.111 Removed 23854
882.112 Redesignated as 882.414 23854
882.118 Removed 23854
882.201—882.219 (Subpart B) Removed 23854
882.217 Redesignated as 882.517 23854
882.301—882.335 (Subpart C) Removed 23854
882.401 Revised 23854
882.402 Removed 23854
882.404 Revised 23854, 46579
882.406 Redesignated as 882.810 23857
882.407 Revised 23855
882.411 (c) amended 23855
882.413 (c) removed 23855
882.414 Redesignated from 882.112 23854
882.501 Removed 23855
882.502 Removed 23855
882.503 Removed 23855
882.504 Removed 23855
882.505 Removed 23855
882.506 Removed 23855
882.508 Removed 23855
882.511 Heading revised; (a) through (e) redesignated as (b) through (f); new (a) added 23855
882.514 (a)(1), (d)(1) introductory text, (iv) and (v) amended; (d)(2)(vi) redesignated as (d)(1)(vi); (e) revised 23855
882.515 (b) amended; (c) redesignated as (d); new (c) added 23855
882.517 Redesignated from 882.217 23854
882.601—882.606 (Subpart F) Removed 23854
882.701—882.759 (Subpart G) Removed 23854
882.802 Amended 23855
882.803 (b) revised 23855, 46579
882.805 (d)(1)(i)(B) amended; (c) revised 23855
882.806 Heading, (a)(3) and (4) revised; (a)(2) amended; (a)(2) undesignated text designated as (a)(2)(ii); (a)(2)(i) added 23856
882.807 (a) and (d) revised 23856
882.808 (d), (i)(1), (3) and (o) amended; (b)(4), (c) and (i)(2) revised 23857
882.810 Removed; new 882.810 redesignated from 882.406; new (g)(1)(iii)(C) amended 23857
883.302 Amended 46579
883.310 (a)(1) and (b)(1) removed 46579
884.102 Amended 46579

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 24 Chapter VIII—Con.

884.110 (b) revised **46579**
886.102 Amended **46579**
886.113 Heading, (a), (b) and (n) introductory text revised; introductory text, (c) through (h) and (j) through (m) removed **46579**
886.302 Amended **46580**
886.307 Heading, (a), (b), (m) introductory text and (n) introductory text revised; introductory text, (c) through (h), (j) through (l), (o) and (p) removed **46580**
886.318 (d)(1) revised **46593**
888 Fair market rent schedules **51224, 52858**
891.180 Added **46580**
891.185 Added **64803**

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1099)

901.1 (c)(1) existing text designated as (c)(1)(ii); (c)(1)(i) added **46617**
902 Added **46617**
965.601 (Subpart F) Added **46580**
968.103 (e)(3) and (4) redesignated as (e)(4) and (5); new (e)(3) and (f)(4) added **46107**
968.112 (f)(4) amended **46108**
982 Authority citation revised **23857**
982.4 Revised **23857**
Corrected **31625**
982.53 (a) revised **23859**
982.54 (d)(7) revised; (d)(15) through (19) redesignated as (d)(18) through (22); new (d)(15), (16) and (17) added **23859**
982.102 (d) removed **23895**
982.152 (a)(3) added; (c)(1) revised **23860**
982.153 (a) designation and (b) removed **23860**
982.158 (f)(6) amended; (f)(7) redesignated as (f)(8); new (f)(7) added **23860**
(a) amended **46593**
982.204 (c) revised **23860**
982.205 Heading and (c) revised **23860**
982.206 (b)(1) amended; (a)(2) revised **23860**
982.207 (c) redesignated as (d); new (c) added **23860**
982.302 (a) revised **23860**
982.303 (b)(1) amended; (b)(2) revised **23860**
982.306 (d) and (e) redesignated as (e) and (f); new (d) added **27437**
982.316 Added **23860**
Corrected **31625**
982.352 (c)(7) revised; (c)(8) amended; (c)(9) redesignated as (c)(12); new (c)(9), (10) and (11) added **23860**
982.401 (a)(1) amended **23861**
982.402 (c) revised **23861**
982.451 (a) removed; (b) and (c) redesignated as (a) and (b) **23861**
982.452 (b)(2) revised **23861**
982.501—982.517 (Subpart K) Added **23861**
982.552 (a)(1) revised **23865**
982.601—982.624 (Subpart M) Added **23865**
982.623 (b)(2)(i) corrected **31625**
983.1 Revised **23870**
983.2 Introductory text amended **23870**
983.3 (d) added **23870**
983.5 Revised **23870, 46580**
983.7 (b) introductory text and (7) revised; (b)(5) amended; (d) and (f) removed; (b)(8) and (c) added; (c) and (g) redesignated as (d) and (f) **23870**
983.10 (g)(1)(iii)(B) amended **23871**
983.12 Revised **23871**
983.13 Revised **23871**
983.14 Removed **23871**
983.51 (d) introductory text revised **23871**
983.52 (a) and (c) amended **23871**
983.55 (a) and (b) amended **23871**
983.101 (b)(3) amended **23871**
983.103 (d) amended **23871**
983.151 (b)(3) amended **23871**
983.201 Revised **23871**
983.202 Amended **23871**
983.203 (a)(1), (b), (d)(6) and (g)(1) amended **23871**
983.204 (e) added **23871**
983.205 Removed; new 983.205 redesignated from 983.206 ..... **23871**
983.206 Redesignated as 983.205; new 983.206 redesignated from 983.207 ..... **23871**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

983.207 Redesignated as 983.206; new 983.207 redesignated from 983.208 and revised 23871
983.208 Redesignated as 983.207 23871
983.251—983.262 (Subpart F) Added 23871
985 Added 48555
985.102 Stayed 48560
985.103 Stayed 48560
985.105 (a), (b), (d) and (e) stayed 48560
985.107 Stayed 48560
1000.516 Revised 3015
1005.101 Revised; interim 48990
1005.103 Amended; interim 48990
1005.104 (d) and (e) revised; interim 48990
1005.105 (d)(2), (3), (4), (e) and (f) revised; interim 48990
1005.106 Revised; interim 48990
1005.107 (a)(1) and (b) introductory text revised; (b)(2) amended; interim 48991
1005.111 Revised; interim 48991
1005.112 Amended; interim 48991

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1710.20 (a) amended 54332
1710.35 (a) revised 54332

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3280 Interpretive Bulletin 26386

Proposed Rules:

5 ..... 35650, 35662, 41754, 58675
6 26022
35 54422
36 54422
37 54422
50 30046
55 30046
58 30046
91 ..... 57882, 71405
180 26022
200 ..... 26702, 32958, 35662, 41754
203 24736
207 ..... 26702, 35650, 41754
236 ..... 35662, 41754
266 ..... 35650, 35662, 41754
291 ..... 29496, 35650
570 ..... 26022, 57882, 71405
880 ..... 35650, 35662, 41754
881 ..... 35650, 41754
882 ..... 35650, 41754
883 ..... 35650, 41754
884 ..... 35650, 41754
886 ..... 35650, 35662
888 24846
891 41754
901 ..... 35672, 40682
965 ..... 35650, 41754
982 ..... 35662, 41754
983 ..... 35650, 41754
3280 ..... 26392, 58570
3282 54528

TITLE 25—INDIANS

Chapter III—National Indian Gaming Commission (Parts 500—599)

514 Technical correction 17489
518 Added 41969
542 Added 596

Proposed Rules:

1—299 (Ch. I) 69580
11 32631
61 36866
291 19693
542 42940

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1--799)

1 Authority citation amended 16898, 30623, 33555, 36180, 41421, 44389, 47173, 50144, 52600, 55023, 56562, 68680, 70337, 70340, 72182
Technical correction 58811
Authority citation amended 1509
1.32-3T Added 34596
1.62-2 (m) amended 52600
1.62-2T Added 52600
1.108-4 Added 56562

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 26 Chapter I—Con.

1.108–5 Redesignated from 1.108(c)–1 ..... **56563**
1.108–6 Added **56563**
1.108(a)–1 Removed **56563**
1.108(a)–2 Removed **56563**
1.108(b)–1 Removed **56563**
1.108(c)–1 Redesignated as 1.108–5 ..... **56563**
1.148–5 (d)(6)(iii) revised; (e)(2)(iv) added **71751**
1.163–5 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.165–12 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.195–1 Added **69555**
1.274(d)–1 (b) added **52601**
Corrected **58811**
1.274(d)–1T Added **52601**
(a)(1) and (2) corrected **64187**
1.337(d)–4 Added **71594**
1.367(a)–1T (a), (c)(1) and (3)(ii)(C) concluding text amended; (b)(2)(i) and concluding text removed; (c)(2) revised **33555**
1.367(a)–3 (a), (b) and (d) revised; (c)(1)(iii)(B) amended; (e) through (h) removed; new (e), (f) and (g) added **33556**
1.367(a)–3T Removed **33561**
1.367(a)–8 Added **33562**
1.367(b)–1 Added **33566**
1.367(b)–4 Added **33567**
1.367(b)–7 (a) and (b) added **33568**
1.367(d)–1T (a) amended **33568**
1.368–1 (e)(6) Example 2 revised **50758**
1.401(a)–20 Amended **70338**
1.401(a)(4)–4 (b)(2)(ii)(C) amended **70338**
1.401(a)(26)–4 (d)(2) amended **70338**
1.401(a)(26)–6 (c)(4) amended **70338**
1.402(a)–1 (b)(2)(ii)(*d*) and (c) reinstated; CFR correction **43303**
1.411(a)–7 (d)(4)(i) amended **70337**
1.411(a)–7T Added **70337**
1.411(a)–11 (c)(2)(ii) revised; (c)(2)(iii), (iv), (v) and (8) added **70011**
(b), (c)(3) and (7) amended **70338**
1.411(a)–11T Removed **70011**
Added **70338**
1.411(d)–4 Amended **30623, 47173, 70338**
Amended 1126
1.411(d)–4T Added **47173**
1.411(d)–4T Removed 1127
1.411(d)–6 Added **68680**
1.411(d)–6T Removed **68680**
1.417(e)–1 (d) revised **16898**
(b)(3) revised; (b)(4) added **70011**
(b)(2)(i) amended **70338**
1.417(e)–1T (d) revised **16902**
(b)(3) and (4) removed **70012**
1.460–0 Amended **36181**
1.460–6 (j) added **36181**
1.460–6T Removed **36181**
1.465–27 Added **41421**
1.469–10 Revised **69553**
1.529–1 (c) corrected **55918**
1.664–1 (a)(7) and (d)(1)(iii) added; (f)(4) added **68191**
1.664–2 (a)(1)(i) revised **68191**
1.664–3 (a)(1)(i)(*a*), (*b*)(*1*) and (*2*) revised; (a)(1)(i)(*b*)(*3*), (*4*), (*5*) and (c) through (*l*) added; (a)(1)(iv) amended **68192**
1.861–8 (e)(7)(iii) added; (e)(8) revised 1509
1.861–8T (e)(8) added; (h) amended 1509
1.861–18 Added **52977**
(i)(4) Examples 1 and 2 corrected **64868**
1.863–3 (f) revised; (h) amended **55023**
1.865–1T Added 1509
1.865–2 Added 1511
1.865–2T Added 1514
1.871–6 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.871–7 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.871–14 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
(h) revised; eff. 1–1–00 ..... **72184**
(c)(2)(iii) and (3)(ii) Example amended; eff. 1–1–00 ..... **72187**
1.881–3 (a)(2)(ii)(B)(*3*) redesignated as (a)(3) **67578**
1.904–0 Amended 1515
1.904–4 (c)(1), (2) and (3)(iii) revised; (c)(3)(iv) and (8) Examples 11, 12 and 13 added 1515
1.927(e)–1T Removed **50144**
1.927(e)–1 Added **50144**
1.936–6 (a)(5) amended **55025**
1.936–11T Added **44389**
1.985–1 Corrected **15760**
(b)(2)(ii)(C)(*1*) heading and (*2*) correctly added **15761**
(c)(6) amended **40368**
1.985–4 (a) amended **40368**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

1.985–7 (b)(3), (c)(5) and (d)(5) corrected 15761
1.985–8T Added 40368
(c)(3)(iv)(B) corrected 55333
1.1001–5T Added 40369
1.1016–7 Removed 56563
1.1016–8 Removed 56563
1.1017–1 Revised 56563
1.1017–2 Removed 56565
1.1441–1 Regulation at 62 FR 53424 eff. date delayed to 1–1–00 72183
(f) revised; eff. 1–1–00 72184
(b)(2)(iii)(B), (iv)(E), (3)(iii)(B), (C), (x) Examples 1, 2 and 3, (4)(i), (xix), (5)(viii), (7)(v) Examples 1 and 2, (c)(6)(ii)(B), (e)(4)(ii)(A), (vi), (ix)(A)(*2*), (5)(i), (v)(A), (B) introductory text, (*1*) and (C) amended; eff. 1–1–00 72187
1.1441–2 Regulation at 62 FR 53444 eff. date delayed to 1–1–00 72183
(a), (b)(1)(ii), (3)(iv) and (f) amended; eff. 1–1–00 72187
1.1441–3 Regulation at 62 FR 53446 eff. date delayed to 1–1–00 72183
(h) amended; eff. 1–1–00 72187
1.1441–4 Regulation at 62 FR 53450 eff. date delayed to 1–1–00 72183
(g) revised; eff. 1–1–00 72184
(a)(2)(i) amended; eff. 1–1–00 72188
1.1441–4T Regulation at 62 FR 53452 eff. date delayed to 1–1–00 72183
1.1441–5 Regulation at 62 FR 53452 eff. date delayed to 1–1–00 72183
(g) revised; eff. 1–1–00 72185
(a)(6), (c)(2)(ii)(B), (3)(iii)(D) and (d)(4) Example 2 amended; eff. 1–1–00 72188
1.1441–6 Regulation at 62 FR 53458 eff. date delayed to 1–1–00 72183
(g) revised; eff. 1–1–00 72185
(b)(1), (c)(2)(ii) and (d) amended; eff. 1–1–00 72188
1.1441–7 Regulation at 62 FR 53462 eff. date delayed to 1–1–00 72183
(g) amended; eff. 1–1–00 72188
1.1441–8 Regulation at 62 FR 53464 eff. date delayed to 1–1–00 72183
(f) revised; eff. 1–1–00 72185
1.1441–9 Regulation at 62 FR 53465 eff. date delayed to 1–1–00 72183
(d) revised; eff. 1–1–00 72185
1.1442–1 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
1.1442–2 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
1.1442–3 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
1.1443–1 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
(c) revised; eff. 1–1–00 72186
1.1445–5 Regulation at 62 FR 53467 eff. date delayed to 1–1–00 72183
1.1461–1 Regulation at 62 FR 53467 eff. date delayed to 1–1–00 72183
(b)(2)(v), (vi) heading, (c)(4)(iv) and (i) amended; eff.1–1–00 72188
1.1461–2 Regulation at 62 FR 53470 eff. date delayed to 1–1–00 72183
(a)(1), (3), (4) Examples 1, 2 and 3 and (d) amended; eff. 1–1–00 72188
1.1461–3 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
1.1461–4 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
1.1462–1 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
(c) amended; eff. 1–1–00 72188
1.1463–1 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
(a) and (b) amended; eff. 1–1–00 72188
1.1464–1 (b) amended; eff. 1–1–00 72188
1.1502–3T (c)(4) amended 71590
1.1502–9 (a) amended 71590
1.1502–9T (b)(1)(v) revised; (b)(1)(vi) added 71590
1.6038B–1 Added 33568

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 26 Chapter I—Con.

1.6038B–1T Heading, (a) through (b)(2), (c) introductory text and (f) revised; (b)(3) redesignated as (b)(4); new (b)(3), (c)(6) and (g) added **33570**
1.6041–1 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 ..... **72183**
1.6041–2 Regulation at 62 FR 53472 eff. date delayed to 1–1–00 ..... **72183**
1.6041–3 Regulation at 62 FR 53472 eff. date delayed to 1–1–00 ..... **72183**
Introductory text amended; eff. 1–1–00 ..... **72186**
1.6041–4 Regulation at 62 FR 53473 eff. date delayed to 1–1–00 ..... **72183**
(d) amended; eff. 1–1–00 ..... **72188**
1.6041A–1 (d)(3)(i)(B), (iv) and (v) amended; eff. 1–1–00 ..... **72188**
1.6041–7 Regulation at 62 FR 53473 eff. date delayed to 1–1–00 ..... **72183**
1.6041–8 Regulation at 62 FR 53474 eff. date delayed to 1–1–00 ..... **72183**
1.6041A–1 Regulation at 62 FR 53474 eff. date delayed to 1–1–00 ..... **72183**
1.6042–2 Regulation at 62 FR 53474 eff. date delayed to 1–1–00 ..... **72183**
1.6042–3 Regulation at 62 FR 53475 eff. date delayed to 1–1–00 ..... **72183**
(b)(5) revised; eff. 1–1–00 ..... **72186**
1.6042–4 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
1.6043–2 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
(a) amended; eff. 1–1–00 ..... **72188**
1.6044–2 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
1.6044–3 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
1.6044–5 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
1.6045–1 (l) revised; (q) amended **35519**
Regulation at 62 FR 53477 eff. date delayed to 1–1–00 ..... **72183**
(g)(5) revised; eff. 1–1–00 ..... **72186**
(d)(6)(ii)(B), (g)(3)(iv) and (4) Example 7 amended; eff. 1–1–00 ..... **72188**
1.6045–1T Removed **35519**
Regulation at 62 FR 53480 withdrawn **72183**
1.6045–2 (g)(2) revised; (i) amended **35519**
Regulation at 62 FR 53480 eff. date delayed to 1–1–00 ..... **72183**
1.6045–2T Removed **35519**
Regulation at 62 FR 53480 withdrawn **72183**
1.6049–4 Regulation at 62 FR 53480 eff. date delayed to 1–1–00 ..... **72183**
(c)(1)(ii)(A) and (d)(3)(ii)(B) amended; eff. 1–1–00 ..... **72188**
1.6049–5 Regulation at 62 FR 53483 eff. date delayed to 1–1–00 ..... **72183**
(g) revised; eff. 1–1–00 ..... **72186**
(b)(12), (c)(4)(i), (ii), (v), (2)(ii), (e)(1)(i) introductory text, (ii), (4), and (5) Examples 5 and 9 amended; eff. 1–1–00 ..... **72188**
1.6049–6 Regulation at 62 FR 53491 eff. date delayed to 1–1–00 ..... **72183**
1.6049–7 Regulation at 62 FR 53491 eff. date delayed to 1–1–00 ..... **72183**
1.6049–8 Regulation at 62 FR 53491 eff. date delayed to 1–1–00 ..... **72183**
1.6050A–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
1.6050H–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
1.6050N–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
(e) amended; eff. 1–1–00 ..... **72188**
1.6071–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
1.6091–1 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
1.6662–0 Amended **66434**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

1.6662–2 (d)(1) and (2) amended; (d)(4) added **66434**
1.6662–3 (b)(1) introductory text amended; (b)(3) revised **66434**
1.6662–4 (d)(2) amended; (e)(3) added **66435**
1.6662–7 (d) revised **66435**
1.6664–0 Amended **66435**
1.6664–4 (g) revised **66435**
1.6695–1 (b)(4)(i) revised **72182**
1.6695–1T Added **72182**
1.6695–2T Added **70340**
1.7702B–1 Added **68186**
1.7702B–2 Added **68187**
1.7704–3 Added **69553**
7.367(b)–1 (a) and (c)(1) revised; authority citation removed **33570**
7.367(b)–4 (a) and (b) revised; authority citation removed **33570**
7.367(b)–7 (a) revised; authority citation removed **33570**
20.2044–1 (e) Example 8 added **44393**
20.2044–1T Removed **44393**
20.2056(b)–(7) (d)(3) and (h) Example 6 revised **44393**
20.2056(b)–7T Removed **44393**
20.2056(b)–10 Revised **44393**
20.2056(b)–10T Removed **44393**
25.2702–1 (c)(3) revised **68194**
31 Authority citation amended **32735**
31.3121(b)(7)–2 (d)(2)(i) amended **70338**
31.3121(v)(2)–1 Added 4547
31.3121(v)(2)–2 Added 4567
31.3306(r)(2)–1 Added 4541
31.3401(a)(6)–1 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
(e) and (f) amended; eff. 1–1–00 ..... **72189**
31.3406–0 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
31.3406(d)–3 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
31.3406(g)–1 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
(e) and (d) amended; eff. 1–1–00 ..... **72189**
31.3406(h)–2 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
(d) amended; eff. 1–1–00 ..... **72189**
31.6302–1 (f)(4) amended **32736**
31.6302–1T Added **32736**
31.6413(a)–3 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
31.9999–0 Removal at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
Amended; eff. 1–1–00 ..... **72189**
35a.9999–0 Removal at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–1 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–2 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–3 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–3A Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–4T Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–5 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
48 Authority citation amended **35801**
48.4081–1T Added **35801**
48.4082–6T Added **35801**
48.4082–7T Added **35801**
48.4082–8T Added **35801**
Corrected **45910**
48.4082–9T Added **35802**
48.4082–10T Added **35802**
48.4091–3T Added **35802**
48.4101–2T Added **35803**
48.4101–3T Added **35803**
48.6427–10T Added **35804**
48.6427–11T Added **35804**
(c)(4) corrected **45910**
54 Authority citation amended **57553**
54.9801–1T (a) revised; (c) amended; interim **57553**
54.9801–2T Introductory text revised; interim **57554**
54.9811–1 Added; interim **57554**
54.9831–1T (b)(1) revised; interim **57556**
145.4052–1 (a)(2)(ii) redesignated as (a)(2)(ii)(A); new (a)(2)(ii)(A) amended; (a)(2)(ii)(B) added **35804**
301 Authority citation amended **70013**
Authority citation amended 2569

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 26 Chapter I—Con.

301.6011–2 (a)(1), (b)(1), (2), (c)(1) heading, (i), (iii), (2), (d), (f), (g) heading and (2) revised; (c)(1)(iv) added; (c)(3) and (4) removed; (e) amended....35519
301.6011–2T Removed....35520
301.6103(j)(1)–1 (b)(3) and (6)(i)(A) revised....3632
301.6103(j)(1)–1T Added....3632
301.6103(k)(9)–1T Added....68996
301.6109–1 Regulation at 62 FR 53494 eff. date delayed to 1–1–00....72183
301.6114–1 Regulation at 62 FR 53495 eff. date delayed to 1–1–00....72183
(b)(4)(ii)(C) introductory text and (D) amended; eff. 1–1–00....72189
301.6221–1T (c) redesignated as (e); new (c) and (d) added....3838
301.6223(c)–1T (c) amended....3838
301.6224(c)–3T Heading, (b), (c)(3)(ii) and (d) Example 1 revised....3839
301.6229(b)–2T Added....3839
301.6229(f)–1T Added....3839
301.6231(a)(1)–1T (a)(1) amended; (a)(3) removed; (a)(4) redesignated as (a)(3)....3839
301.6231(a)(6)–1T (a) revised; (c) removed....3840
301.6231(a)(7)–1 (p)(2) and (r)(1) amended....3840
301.6231(a)(7)–1T Added....3840
301.6311–2T Added....68996
301.6320–1T Added....3399
301.6330–1T Amended....3407
301.6402–3 Regulation at 62 FR 53495 eff. date delayed to 1–1–00....72183
301.6404–2 Added....70013
301.6404–2T Removed....70015
301.6721–0 Regulation at 62 FR 53496 eff. date delayed to 1–1–00....72183
301.6724–1 Regulation at 62 FR 53496 eff. date delayed to 1–1–00....72183
(g)(2) and (3) amended; eff. 1–1–00....72189
301.7502–1 (d) and (e) redesignated as (e) and (f); new (d) added....2569
301.7502–1T Added....2569
301.7623–1 Revised....44778
301.7623–1T Removed....44779
301.9100–13T Removed....56565
502 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
503 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
509.1—509.10 (Subpart) Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
509.103 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
509.117 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
509.119 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
509.122 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
513.1 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
513.2 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
513.3 Regulation at 62 FR 53497 eff. date delayed to 1–1–00....72183
513.4 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
513.5 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.1—514.10 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.20 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.21 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.22 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.23 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.24 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.25 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.26 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.27 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.28 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.29 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.30 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.31 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183
514.32 Regulation at 62 FR 53498 eff. date delayed to 1–1–00....72183

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

514.101—514.117 (Subpart) Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
516 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
517 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
520 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
521.1—521.8 (Subpart) Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
521.103 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
602.101 (c) table amended (OMB numbers) **30624, 33570, 34596, 35805, 35806, 36181, 44393, 44779, 52982, 55025, 56565, 68194, 68684, 69555, 70012, 70341, 71596, 71752**
Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
(c) table amended (OMB numbers) 4568

Proposed Rules:

1—799 (Ch. I) **44181**
1 ..... **17973, 19694, 19864, 20156, 24765, 25796, 27534, 28958, 29961, 32164, 33595, 34615, 34616, 37296, 38139, 40383, 41754, 43353, 43354, 44416, 45019, 46937, 47214, 47455, 48144, 48148, 48154, 50816, 52660, 55355, 55564, 56878, 57636, 58811, 63016, 65566, 66503, 67634, 69581, 69584, 70071, 70354, 70356, 70357, 71047, 71609, 72218**
..... 790, 794, 805, 1143, 1148, 1571, 2164, 3257, 3457, 4374
20 ..... **69248, 70701**
25 ..... **70701**
31 ..... **32774, 50819**
35 ..... **70071**
48 ..... **35893**
49 ..... **69585**
53 ..... **41486, 53862**
54 ..... **57565**
261 ..... **43361**
301 ..... **37296, 41486, 43354, 46205, 56878, 69031, 70701**
..... 1148, 2606, 3461, 3462, 3669, 3886
801 457

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4 Compliance date postponment 753
4.21 (e)(5) amended **44782**
4.24 (b)(1) amended **44783**
4.40 (d) added 2128
4.50 (c) added 2128
5.46 (d) revised 2129
5.51 (e) added 2129
5.55 (d) added 2129
7.31 (d) added 2129
7.41 Revised 2129
9.75 (b)(17) amended; (c) introductory text and (2) through (13) revised; (b)(19) through (41) and new (c)(14), (15) and (16) added; (c)(14) through (40) redesignated as (c)(17) through (43) 3023
9.93 (c)(11), (17) and (18) revised; (c)(19) added **16904**
9.156 Added **33853**
9.157 Added 3024
9.159 Added **16904**
13 Added 2129
19.11 Amended **44783**
19.633 (c) added 2134
19.641 Revised 2134
24.10 Amended **44783**
24.76 Heading revised **44783**
24.257 (a)(3)(iii) revised; (a)(3)(iv) and (c) added; OMB number **44783**
24.278 (d) revised **44783**
53.11 Amended **52603**
53.61 (b) revised **52603**
55.11 Amended **45001**
55.30 (a), (b) and (d) introductory text amended; (c)(4) and (d)(3) revised **45002**
55.41 (b)(2) revised **45002**
55.42 Revised **45002**
55.43 Revised **45002**
55.45 (b) amended **45002**
55.46 (b) revised **45002**
55.51 Revised **45002**
55.63 (d) heading revised **45002**
55.102 Revised **45002**
55.103 (a)(1) and (2) revised **45003**
55.105 (d) revised **45003**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH JANUARY 29, 1999

TITLE 27 Chapter I—Con.

55.122 (b)(4), (5), (c)(4) and (5) amended **45003**
55.123 (b)(3), (4), (c)(4), (5) and (d)(3) amended **45003**
55.124 (b)(4), (5), (c)(4) and (5) amended **45003**
55.125 (a) amended; (b) removed; (c) through (f) redesignated as (b) through (e); heading, (a) introductory text, new (b)(4) and (5) revised **45003**
55.127 Amended **45003**
55.141 (a)(7) revised **45003**
55.163 Amended **45003**
55.201 (d) revised; (f) added; OMB number **45003**
55.202 (b) revised **45003**
55.206 (b) amended **45003**
55.218 Amended **45003**
55.221 Heading, (a) and (d) revised **45004**
55.222 Amended **45004**
55.223 Table amended **45004**
55.224 Table amended **45004**
178.1 (a) revised **35522**
178.11 Amended **35522, 58278**
178.32 (a)(7), (8)(iii)(B), (d)(7), (8)(ii)(B) amended; (a)(9) and (d)(9) added **35522**
178.50 (b) and (c) amended; (d) added **35523**
178.73 Revised **58278**
178.74 Revised **58278**
178.78 Revised **58278**
178.96 (b) amended; (c) revised **58278**
178.97 Revised **58278**
178.99 (c)(7) and (8)(ii)(B) amended; (c)(9) added **35523**
178.100 (a) existing text designated as (a)(1); (a)(2) added; (c) revised **35523**
178.102 Revised **58279**
178.103 Added **37742**
178.124 (c) revised; (d), (e) and (f) amended; OMB number **58279**
178.124a (e) introductory text amended **58280**
178.125a Amended **58280**
178.129 (b) revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added **58280**
178.130 (a)(1) amended **35523**
Removed **58280**
178.131 Revised **58280**
178.134 Added **35523**
178.141 Introductory text revised **35523**
178.144 (c)(6) and (7) amended; (c)(8) added **35523**
178.150 Revised **58280**
179.86 Amended **58281**
194 Authority citation revised **44783**
194.239—194.241 Undesignated center heading and sections removed **44784**
250.11 Amended **44784**
251.11 Amended **44784**

Proposed Rules:

4 ..... **27017, 44819, 49883, 59921**
..... 813
9 ..... **45427, 48658**
19 ..... **44819, 59921, 65720**
24 ..... **44819, 59921**
178 ..... **35551, 59921**
194 ..... **44819, 59921**
250 ..... **44819, 59921**
251 ..... **44819, 59921**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29—0.29j (Subpart E-4) Added 36847
0.29e (a)(1) corrected 40788
0.39c Removed; interim 62938
0.96 (f) and (s) removed; (g) through (v) redesignated as (f) through (t) 4295
0.100 (b) amended 4295
0.115 Revised 51519
0.116 Amended 51519
2.1—2.67 Designated as Subpart A; heading added; interim 39176
2.20 Amended; interim 39176
2.62 Redesignated as 2.68 (Subpart B); new 2.62 redesignated from 2.63; interim 39176
2.63 Redesignated as 2.62; new 2.63 redesignated from 2.64; interim 39176
2.64 Redesignated as 2.63; new 2.64 redesignated from 2.65; interim 39176
2.65 Redesignated as 2.64; new 2.65 redesignated from 2.66; interim 39176
2.66 Redesignated as 2.65; new 2.66 redesignated from 2.67; interim 39176
2.67 Redesignated as 2.66; interim 39176
2.68 (Subpart B) Redesignated from 2.62; interim 39176
2.70—2.89 (Subpart C) Added; interim 39176
2.80 (f) table revised; interim 57061
16.2 (b)(9) corrected 51401
16.3 (a) corrected; CFR correction 51300
(a) corrected 51401
16.8 (c) corrected 51401
16.11 (b)(7) correctly revised 36295
(e), (g), (i)(1) and (3) corrected 51401
16.40 (a), (b)(1) and (2) corrected 51401
16.41 (a) and (c) corrected; CFR correction 51300
(a) and (d) corrected 51401
16.42 (b) and (c) heading corrected 51401
16.50 (a) corrected 51401
16.54 (c)(4) corrected 51401
16.96 (p) and (q) added 65062
16 Appendix I corrected 51401
23 Policy clarification 71752
25 Added 58307
27 Added; interim 62938
33 Heading and authority citation revised 50761
33.1—33.80 Designated as Subpart A 50761
33.1—33.3 (Subpart A) Designation removed 50761
33.1 Amended 50761
33.3 Amended 50761
33.10—33.12 (Subpart B) Designation removed 50761
33.20—33.23 (Subpart C) Designation removed 50761
33.30—33.32 (Subpart D) Designation removed 50761
33.40—33.41 (Subpart E) Designation removed 50761
33.40 Amended 50761
33.50—33.52 (Subpart F) Designation removed 50761
33.60—33.61 (Subpart G) Designation removed 50761
33.70—33.71 (Subpart H) Designation removed 50761
33.80 (Subpart I) Designation removed 50761
33.100—33.103 (Subpart B) Added 50761
36.407 Revised 64837, 64838
92 Heading and authority citation revised 50146
92.1—92.6 Designated as Subpart A 50146
92.7—92.13 (Subpart B) Added 50146

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

500.1 (d) revised 55775
503 Revised 55775
545.26 (e) revised 67560
551.90 (Subpart I) Revised 55774
571.71—571.72 (Subpart H) Added; interim 69387

Proposed Rules:

16 68217
23 38765
25 43893
31 55069
302 1082

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 28 *Proposed Rules:—Con.*

551 65502

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

44 Added 70261
70a Redesignated as part 71 56741
71 Redesignated from part 70a and revised 56741

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

406.10 OMB number 46888
408.13 OMB number 46888

Chapter XXVII—Federal Mine Safety and Health Review Commission (Parts 2700—2799)

2704 Authority citation revised 63175
2704.100 Revised 63175
2704.102 Revised 63175
2704.104 (b) through (e) revised; (f) and (g) removed 63175
2704.105 Revised 63176
2704.106 Revised 63176
2704.107 (a) revised 63176
2704.108 Revised 63176
2704.201—2704.206 (Supart B) Revised 63176
2704.305 Revised 63177
2704.307 Revised 63177
2704.308 (c) revised 63178

Chapter X—National Mediation Board (Parts 1200—1299)

1208 Authority citation revised 44394
1208.2 Revised 44394
1208.6 Revised 44395

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910 Meeting 39029
Authority citation corrected 62
1910.16 (a)(2)(x) and (b)(2)(xiv) added; (b)(2)(xii) and (xiii)(D) amended 66270
1910.176—1910.184 (Subpart N) Authority citation revised 66270
1910.178 (l) revised; Appendix A added 66270
1910.1052(d)(3), (j)(9)(i)(A), (B) and (n)(2) revised; (j)(10) through (14) added 50729
1910.141—1910.147 (Subpart J) Authority citation revised 66038
1910.146 (c)(5)(i)(E), (ii)(C), (F), (H), (7)(iii), (e)(3), (k)(1), (2) and (3)(i) revised; (d)(3)(ii) through (v) redesignated as (d)(3)(iii) through (vi); new (d)(3)(ii), (5)(iv), (v), (vi) and (l) added 66038
Note amended; Appendix F added 66039
1915 Meeting 39029
Authority citation revised 66274
1915.120 Added 66274
1917.1 (a)(2)(xii) and (xiii)(D) amended; (a)(2)(xiv) added 66274
1918 Authority citation revised 66274
1918.1 (b)(8) and (9)(iv) amended; (b)(10) added 66274
1926 Meeting 39029
1926.600—1926.606 (Subpart O) Authority citation revised 66274
1926.602 (d) added 66274
1952.354 (b) revised 53281
1952.355 (b) amended 53281

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520.102-3 (u) revised; interim 48375
2590 Authority citation revised 57556
2590.711 Revised; interim 57556

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

4007.11 (a)(1) and (2)(ii) amended; (c)(1) revised 68685
4011 Appendix A amended 38306
Appendix B amended 63179
4022 Appendix amended 63179
4022.7 (b)(1) revised; (d) added 38306
4041A.43 (b)(1) amended 38306
4044.52 (b) introductory text revised 38306
4044.54 Amended 38306
4044 Appendix B amended 38083, 43623, 49286, 55334, 63409, 68999
Appendix B corrected 58101

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

Appendix D amended 63180
Appendix B amended 2570
4050.2 Amended 38306
4050.5 (a)(2) amended 38306
4050 Appendix A amended 38306
4281.13 (a) introductory text amended; (b) removed; (a)(1) through (5) redesignated as (a) through (e) 38307
4281.14 Heading and (a) amended 38307
4281.15 Removed 38307

Proposed Rules:

35 71714
56 40800
57 40800
77 40800
578 71405
579 71405
1915 41755
1926 43452
2510 ..... 50542, 64667
..... 3463
2520 ..... 48376, 58335, 68370
..... 4506
2560 ..... 48390, 58335
..... 65
4022 ..... 57228, 57229
4044 ..... 57228, 57229
4050 57229

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

21 Removed 47119
24 Removed 47119
48.2 (a)(1) introductory text amended; (a)(1)(ii) removed; (a)(1)(iii) redesignated as (a)(1)(ii); (a)(2) and (b) revised 53759
48.3 (a) introductory text amended 53759
48.5 (d) revised 53760
48.6 Heading, (a), (b) introductory text and (7) revised; (b)(8) and (9) redesignated as (b)(12) and (13); new (b)(8), new (9), (10), (11), (c), (d) and (e) added 53760
48.8 (c) revised 53760
48.22 (a)(1) introductory text amended 53759
(a)(1)(ii) removed; (a)(1)(iii) redesignated as (a)(1)(ii); (a)(2) and (b) revised 53760
48.23 (a) introductory text amended 53759
48.25 (d) revised 53760
48.26 Heading, (a), (b) introductory text, (5) and (7) revised; (b)(8) redesignated as (b)(12); new (b)(8), (9), (10), (11), (c), (d) and (e) added 53760
48.28 (c) revised 53761
75.161 Revised; eff. 10-6-99 53761
75.506 (d) revised 47119
75.1909 (c)(5) correctly revised; CFR correction 50993
77.107-1 Revised; eff. 10-6-99 53761
77.109 Removed 53761
77.1713 (d)(3) and (4) revised; (d)(5) added 58613

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

203.50—203.91 (Subpart B) Heading amended 57249
203.50 (a) amended 57249
203.84 (b) introductory text amended; (b)(7) and (c) revised 57249
250.101 (e) Table 1 amended 37068
250.806 (a)(3) revised 37068
250.1000 (c) revised 43880
250.1001 Amended 43881
250.1007 Heading and (a) introductory text revised; (a)(2) amended 43881
250.1404 (d) added 42711
253 Added (OMB numbers pending) 42711
Workshop 43624
253.15 (f) corrected 48578

Chapter VI—Bureau of Mines, Department of the Interior (Parts 600—699)

602 Removed; interim 40178
Regulation at 63 FR 40178 confirmed 66762

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 30

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

901.15 Table amended **35807, 66987**
904.15 Table amended **49430, 65067**
913.25 Table amended 3419
914.15 Table amended **39729, 51829**
914.16 (n), (p) and (gg) removed **51829**
917.15 Table amended **40827, 41427**
917.16 (b) removed **40827**
(n) added **41427**
917.17 (a) removed **40827**
Corrected **47091**
917.30 Added **53257**
918.15 Table corrected **38881**
924.10 (b) removed **43320**
924.15 Table amended **43321**
924.16 (a) and (e) removed; (f) through (n) added **43321**
926.10 (a) revised 3610
926.15 Table amended 3610, 3615
926.16 (f) through (j) removed; (k) added 3610
(l) added 3615
926.21 Added 3610
926.30 Revised **40794**
934.15 Table amended **49434**
Table amended 1130
934.16 (y) and (z) removed **49434**
(aa) and (bb) removed 1130
935.15 Table amended **51833, 66989**
936.15 Table amended **42579**
Table amended 3423
943.25 Table amended **65070**
944.15 Table amended **63611**
944.16 (f) removed **63611**
Correctly removed **66989**
948.15 Table amended **37777**
948.16 (nnn) and (ooo) revised; (ppp) removed **37777**

Proposed Rules:

26 ..... **47120**
29 ..... **47120**
46 ..... **59258**
56 ..... **45973**
57 ..... **45973, 47120, 58104**
70 ..... **47123**
71 ..... **47123**
72 ..... **37796, 41755, 55811**
75 ..... **37796, 38066, 41755, 47120, 47122, 55811**
77 ..... **45973**
90 ..... **47123**
204 3360
206 ..... **36868, 38355, 40073**
208 ..... 1930, 3262
241 ..... 1930, 3262
242 ..... 1930, 3262
243 ..... 1930, 3262
250 ..... 1930, 3262
290 ..... 1930, 3262
701 ..... **70580**
707 ..... **40871, 46951**
724 ..... **70580**
773 ..... **70580**
774 ..... **70580**
778 ..... **70580**
842 ..... **70580**
843 ..... **70580**
846 ..... **70580**
874 ..... **40871, 46951**
901 ..... **45192**
902 ..... **42774**
904 ..... **41506, 48661**
913 ..... **63628, 63630, 68218**
915 ..... **55025, 59627**
917 ..... **45430**
..... 816, 3670, 4604
920 ..... **50176**
924 ..... **44192**
926 ..... **66079**
931 ..... **66772, 66774**
934 ..... **50177**
935 ..... **53618**
936 ..... **55979, 65149**
938 ..... **40237, 45199, 45973, 51324, 59259**
943 ..... **53003**
944 ..... **36868**
946 ..... **71047, 71049**
948 ..... **39790, 68221**
950 ..... **40384, 70080**

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103 Technical correction **37777**
103.22 Revised **50156**

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

208 Revised **51502**
225 Revised 4763

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

285 Regulation at 62 FR 34179 confirmed 46140
Authority citation revised 67756, 72094
285.1 Regulation at 62 FR 36210 confirmed; (a) amended; (g), (m), (n) and (o) revised; (j)(5) added 46145
285.3 Added 72094
285.4 Added 44988
Regulation at 63 FR 44988 confirmed 71204
285.13 Added 67756
317 Authority citation revised 38041, 64550
317.0 Revised 38041
317.1 (d) revised 38041
Revised; interim 64550
317.2 Revised; interim 64550
317.3 (a) introductory text revised; (b) and (c) amended; interim 64550
317.6 (b) revised; interim 64550
317.8 Appendix amended 38041
Appendix amended; interim 64550
317.9 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended 38041
321 Authority citation revised 38042
321.0 (a) and (b) revised 38042
321.1 (o) revised 38042
321.3 (c) revised 38042
321.6 Revised 38042
321.7 (a) and (g) revised 38042
321.9 (a) revised 38042
321.12 Revised 38042
321.25 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended 38042
321 Appendix amended 38042, 38043
330 Authority citation revised 38044
330.1 (f) revised 38044
330.5 (a) revised 38044
330.6 (a) revised 38044
330.7 Revised 38044
330.8 Revised 38044
330.9 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended 38044
330.10 Revised 38044
351.1 Revised; interim 64551
351.5 Revised; interim 64551
353 Authority citation revised 64551
353.6 (b)(4) amended; interim 64551
353.13 (c)(3) amended; interim 64551
353.21 (a) revised; interim 64551
353.27 Revised; interim 64551
356.2 Amended 3634
356.20 (b) revised 3634
356.21 (a) amended 3634
356.23 Revised 3634
356 Appendix B and Exhibit A amended 3634
357 Determination 35807, 50159
357 Appendix B amended 69191
359 Added 38044
359.2 (e)(1)(i) through (v) revised 45946
359.3 (b)(1) revised 45947
360 Added 38049
370 Authority citation revised 64552
Heading revised; interim 64552
370.0—370.1 (Subpart A) Revised; interim 64552
370.20—370.25 (Subpart C) Heading revised; interim 64553
370.30—370.31 (Subpart D) Redesignated as 370.60—370.61 (Subpart F); interim 64553
370.30—370.38 (Subpart D) Added; interim 64553
370.50—370.57 (Subpart E) Added; interim 64554

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

501.803 Correctly revised 35809
515.560 Corrected 35808
538 Added 35810
560 Authority citation revised 62941
560.525 Corrected 35808
560.603 Revised 62941
575 Authority citation revised 62942
575.522 (a)(2) and (3) amended; (a)(4) added 62942
585 Authority citation revised 59884
585.528 Heading revised; (d) added 59884
586 Added 54576

Chapter VII—Federal Law Enforcement Training Center, Department of the Treasury (Parts 700--799)

700 Revised 39730

Proposed Rules:

1 71050
..... 1152

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 31 *Proposed Rules:—Con.*

100 4063
103 37085
200—399 (Ch. II) 1149
212 54426
285 ..... 41688, 44991

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

41 Removed 56081
83 Removed 43624
84 Removed 43624
199.2 (b) amended 59232
199.4 (g)(48) revised 59232
199.6 (a)(11) removed; (a)(12) redesignated as (a)(11) 48445
199.8 (b)(3)(iii), (iv) and (v) revised 59232
199.9 (m) added 48445
199.14 (a)(1) introductory text, (i)(C)(*6*)(*iv*), (ii)(C)(*10*) and (iii)(D)(*1*) amended; (a)(1)(ii)(C)(*2*), (*3*), (*4*), (iii)(B), (D)(*5*), (E)(*1*)(*i*)(*A*), (*B*), (*ii*)(*A*), (*B*), (G)(*3*) introductory text, (d)(3)(iv) and (h) introductory text revised; (a)(1)(ii)(D)(*5*) through (*8*) redesignated as (a)(1)(ii)(D)(*6*) through (*9*); new (a)(1)(ii)(D)(*5*) and (h)(1)(iii)(D) added 48446
(h)(1)(i)(D) added 56082
199.15 (b)(4)(iii)(B), (c)(2), (d)(2)(iii), (e)(3)(i) and (ii) revised 48447
199.18 (d)(3)(v) introductory text revised 48448
204.4 (c)(1)(vii) thorugh (ix) corrected 36992
204.6 (a)(1), (4) and (b)(1)(v) corrected 36992
204.8 Corrected 36992
216 Revised 56821
234.1 Amended 49003
234.7 (e) amended 49003
234.13 (e) amended 49003
234.17 (b)(3)(i), (ii), (c)(1)(ii), (2), (3)(i), (ii), (4) introductory text and (ii) amended 49003
270.2 (c) through (k) redesignated as (e) through (m); new (c) and (d) added; interim 68194
270.6 (b)(2) amended; (b)(3) and (4) added; interim 68195
270.8 Amended 68195
270.11 Revised 68195
270 Appendix A amended 68195
286 Revised 65420
286.4 (d)(3)(ii)(B) correctly designated 67724
286.24 (f)(2) corrected 67724
290.4 Amended 1130
290.5 (a) amended 1130
290.6 (a)(1)(i), (2) introductory text, (3) introductory text, (iii) and (b)(2)(iii) amended; (a)(3)(vii) removed; (a)(3)(viii) redesignated as (vii) 1130
290.7 (b), (d), (e)(1), (3), (f)(4), (5)(i)(D), (ii) introductory text and (iv) amended 1131
290 Appendixes A and B amended 1131
311.7 (c)(7) removed 59718
318 Heading revised 60212
318.1 (b)(1), (c) and (d) amended 60212
318.2 Amended 60212, 60213
318.3 (a) through (d) amended 60212
(d) footnote 1 amended 60213
318.4 (a) amended 60212
(d) amended 60213
318.5 (a) amended 60212
318.6 (a) amended 60212
(b) amended 60213
318.8 (b) amended 60213
318.9 (a), (b) introductory text, (1) and (4) amended 60212
318.10 Amended 60212
318.11 (a), (b), (d) introductory text and (3)(i) amended 60212

Chapter V—Department of the Army (Parts 400—699)

588 Removed 37069
655 Revised 53810

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Tables One and Three amended 44785
Table Four amended 2571
Tables One and Five amended 2572
Table Five amended 2573
Tables Four and Five amended 3424

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

888g Removed 68685

Chapter XIX—Central Intelligence Agency (Parts 1900—1999)

1903 Revised 44786

Proposed Rules:

44 45975
199 36651
299 52208
581 51875
655 37296

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

66.05–100 (a) removed; (b) through (j) redesignated as (a) through (i); new (i) revised 55947
100 Temporary regulations list 45171, 70015
Regulation at 63 FR 33032 eff. date delayed to 1–2–00 71754
100.35–T05–045 Added (temporary) 36850
100.35–T05–47 Added (temporary) 36851
100.35–T05–063 Added (temporary) 40653
100.35–T05–093 Added (temporary) 59233
100.35–T05–100 Added (temporary) 69000
100.35–T05–106 Added (temporary) 71220
100.35T–07–008 Added (temporary) 36182
Revised (temporary) 50161
100.35T–07–049 Added (temporary) 43322
100.35T–07–059 Added (temporary) 53587
100.35T07–068 Added (temporary) 63612
100.35T–07–075 Added (temporary) 67401
100.35–T08–040 Added (temporary) 38752
100.35–T08–051 Added (temporary) 49004
100.35–T08–054 Added (temporary) 47426
100.35–T08–058 Added (temporary) 48579
100.35–T08–060 Added (temporary) 50160
100.01—100.50 (Subpart A) Regulation at 63 FR 33032 eff. date delayed to 1–2–00 71754
100.01 Regulation at 63 FR 33032 eff. date delayed to 1–2–00 71754
100.05 Regulation at 63 FR 33032 eff. date delayed to 1–2–00 71754
100.15 Regulation at 63 FR 33032 eff. date delayed to 1–2–00 71754
100.17 Regulation at 63 FR 33032 eff. date delayed to 1–2–00 71754
100.18 Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.19 Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.25 Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.30 Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.35 Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.50 Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.100—100.1306 (Subpart B) Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.100 Regulation at 63 FR 33033 eff. date delayed to 1–2–00 71754
100.109 Added 37492
100.114 Implementation (temporary) 45395
100.116 Added 37249
100.201 Implementation (temporary) 36182, 36183
Removed 70654
100.501 Implementation (temporary) 36849
100.505 (b) revised 39236
100.509 (a)(1), (b)(2) introductory text and (c) revised; Table 1 added 42580
100.710 Revised 41719
100.734 Added 3841
100.801 Table 1 revised 70654
100.1101 Implementation (temporary) 38308
100.1102 Table 1 amended 37491
110.157 (b)(11) added; eff. 10–6–98 to 12–8–98 55028

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 33 Chapter I—Con.

117 Temporary drawbridge operation regulations.....37251, 39029, 40654, 40655, 41720, 43080, 45395, 47174, 49287, 53281, 54353, 63180, 64628, 64868, 68685, 69193, 70018, 71754
Temporary drawbridge operation regulations.....35, 3424
117.5-T-08-077 Added (temporary).....72190
117.5-T-08-079 Added (temporary).....406
117.253 (a) suspended; (c) added; eff. 3-11-98 through 11-23-98.....45397
(a) suspended; (c) added; eff. 12-4-98 through 1-31-99.....69192
117.261 (u), (v) and (w) revised.....60214
117.268 Added.....67402
117.393 (c) suspended; (e) added; eff. 12-3-98 to 2-1-99.....1517
117.451 (b) suspended; (f) added (temporary).....57251
117.459 Revised.....40654
117.465 (g) added; eff. 10-5-98 through 11-6-98.....47428
(g) added (temporary).....51302
(a) revised.....55031
117.467 (b) suspended; (c) added; eff. 7-6-98 through 11-10-98.....35821
(b) suspended; (c) added; eff. 12-14-98 through 3-20-99.....69557
117.599 (a) designation and (b) removed.....69001
117.619 Revised.....70662
117.683 Redesignated as 117.682; new 117.683 redesignated from 117.684.....49822
117.684 Redesignated as 117.683; 117.684 added.....49822
117.685 Revised.....49822
117.721 Added.....43323
117.733 (k) added; eff. 10-19-98 through 5-14-99.....54354
117.822 Revised.....37251
117.955 (a) revised; interim.....55030
Regulation at 63 FR 55030 confirmed.....406
117.991 Removed.....47427
117.997 (a) through (h) redesignated as (b) through (i); new (a) added.....55948
117.1097 Revised.....49288
117.T408 Added (temporary).....64188
120 Regulation at 61 FR 37652 confirmed.....53590
120.100 Heading revised.....53590
120.110 Amended.....53590
120.200 Revised.....53590
120.210 Revised.....53590
120.220 Revised.....53590
120.300 Revised.....53590
120.303 Added.....53591
120.305 Revised.....53591
120.307 Revised.....53591
120.309 Revised.....53591
128 Regulation at 61 FR 37654 confirmed.....53590
128.100 Heading revised.....53591
128.110 Revised.....53591
128.200 Revised.....53591
128.210 Revised.....53592
128.220 Revised.....53592
128.300 Revised.....53592
128.305 Redesignated as 128.307; new 128.305 added.....53592
128.307 Redesignated as 128.309; redesignated from 128.305; new 128.307 revised.....53592
128.309 Redesignated as 128.311; new 128.309 redesignated from 128.307.....53592
Revised.....53593
128.311 Redesignated from 128.309.....53592
Heading revised.....53593
155 Authority citation revised.....71763
155.140 (b) introductory text amended.....71763
155.230 Revised; interim; eff. in part 12-11-00.....71763
155.710 (e) introductory text, (1), (2) and (3) revised.....35826
155.715 Added.....35826
160.207 (d) and (e) revised.....44117
165 Temporary regulations list.....45171, 70015
Authority citation revised.....71770
165.T01-002 Added (temporary).....4053
165.T01-080 Added (temporary).....40656
165.T01-082 Added (temporary).....39238
165.T01-083 Added (temporary).....39237
165.T01-102 Added (temporary).....42234
165.T01-113 Added (temporary).....45949
165.T01-114 Added (temporary).....46178
165.T01-115 Added (temporary).....45177
165.T01-123 Added (temporary).....45948
165.T01-130 Added (temporary).....46889
165.T01-131 Added (temporary).....46890
165.T01-140 Added (temporary).....55533
165.T01-144 Added (temporary).....49823
165.T01-157 Added (temporary).....59720
165.T01-CGD1-171 Added (temporary.....68686

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

165.T01–CGD1–183 Added (temporary) 2432
165.T01–184 Added (temporary) 4054
165.T05–084 Added (temporary) **55029**
165.T07–013 Heading and (a) revised (temporary) **38477**
165.T07–023 Added (temporary) **46176**
165.T07–053 Added (temporary) **47429**
165.T07–065 Added (temporary) **56083**
165.T08–024 Added (temporary) **36852**
165.T08–038 Added (Temporary) **37493**
165.T08–047 Added (temporary) **46891**
165.T11–089 Added (temporary) **46653**
165.T17–003 Added (temporary) **45950**
(b) corrected **53593**
165.100 Added **71770**
165.514 Added **58636**
165.1115 Added **38754**
165.1116 Added **38308**
Correctly designated **46889**
165.1310 Added; interim **52609**

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

334.155 Added **68140**

Chapter IV—Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

402.100 Corrected **36992**
402.210 Corrected **36992**
402.211 Corrected **36992**
402.320 Corrected **36992**
402.428 Corrected **36992**

Proposed Rules:

1—199 (Ch. I) **36384, 64937**
1—124 2868
55 ..... **51878**
100 ..... **36197, 46206, 50179, 63426, 65636**
..... 66
110 ..... **37297, 39651**
..... 3888, 3889
117 ..... **43126, 45978, 45980, 48453, 50821, 57963, 58676, 60226, 64022**
..... 1155, 3464
126 ..... **57964**
..... 1770
165 ..... **39256, 40583, 42304, 47455, 54639, 70707, 72219**
181 ..... **63638**

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

74 OMB circular applicability **36144**
80 OMB circular applicability **36144**

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200.8 (c)(1) revised; (c)(3)(ii)(B)(*3*) added **54997**
200.28 (a)(2)(iii) removed **54997**
200.63 Revised **54997**

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.2 Amended **40622**
600.9 (b)(2)(ii) amended **40622**
600.40 (a)(1)(iv)(A) and (B) amended; (a)(1)(iv)(C) removed **40622**
600.41 (a)(1)(ii)(F) and (G) amended; (a)(1)(ii)(H) and (e)(3) removed **40623**
600.55 (a)(5)(i)(A) amended **40623**
650 Authority citation revised 3198
650.1 Authority citation revised; (a) authority citation removed 3198
(a) amended 3199
650.2 Authority citation revised; (a) amended; (d)(1)(iv) revised 3199
650.3 Authority citation revised 3198
650.4 Amended 3199
650.5 Authority citation revised 3199
650.10 Authority citation revised 3198
650.20 Authority citation revised; (c) amended 3199
650.30 Amended; authority citation revised 3199
650.31 Authority citation revised 3198
650.32 Authority citation revised 3199

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 34 Chapter VI—Con.

650.33 Authority citation revised 3199
650.34 Authority citation revised 3199
650.35 Authority citation revised 3198
650.36 Authority citation revised 3199
650.37 Authority citation revised 3199
650.40 Authority citation revised 3199
650.41 Authority citation revised; (a) amended 3199
650.42 Authority citation revised 3199
650.43 Authority citation revised 3199
650.44 Authority citation revised 3199
662 Revised **46361**
663 Revised **46363**
664 Revised **46366**
668.1 (c)(3), (7) and (11) removed; (c)(4), (5), (6), (8), (9), (10) and (12) redesignated as (c)(3) through (8) and (10); new (c)(9) added **40623**
668.2 (b) amended **40623**
668.8 (d)(3) amended **40623**
668.13 (a)(4)(i) introductory text and (d)(2)(i) amended **40623**
668.14 (b)(4)(ii) removed; (b)(4)(iii) through (vi) redesignated as (b)(4)(ii) through (v); new (b)(4)(ii), (7), (15), (17) and (23) amended; (b)(8), (11) and (16) revised **40623**
668.16 (e)(2)(i) and (j)(1) amended; (m)(1) introductory text, (i) and authority citation revised **40624**
668.17 Heading, (h) and (i) revised **56759**
668.19 (a)(3)(iv), (v) and (vi) amended **40624**
668.20 (c) introductory text and (d)(2) revised **40624**
668.21 (a)(1) amended **40624**
668.22 (c)(2)(ii) revised; (f)(1)(ii), (2)(i), (g)(2)(ii)(B), (3)(ii) and (h)(1) introductory text, (iv), (v), (vi), (2)(ii) through (v) and (i) amended; **40624**
668.25 (c)(4) introductory text and (ii) amended **40624**
668.26 (b)(4), (6), (c)(2), (d)(2) introductory text, (3) introductory text and (i) amended **40624**
668.32 (c)(1) and (k)(5) amended **40624**
668.42 (b) introductory text revised **40625**
668.43 (c)(6) amended **40625**
668.46 (a)(1), (2)(ii), (5)(i) and (ii) amended **40625**
668.48 Note amended **40625**
668.49 (a)(1)(iii) and (b) amended; (a)(1)(vi) added; (d) revised **40625**
668.51 (a) amended **40625**
668.54 (a)(2)(i) amended **40625**
668.55 (c) introductory text, (1), (2) and (d)(2) amended **40625**
668.58 (a)(1)(i), (2)(ii)(A) and (iii) revised; (a)(1)(ii), (iii), (c), (d)(1) and (2) amended; (a)(1)(iv) added **40625**
668.59 (b)(1), (c) introductory text and (1)(ii) amended; (d)(1) revised **40625**
668.60 (b) introductory text, (1)(i)(A), (B), (D), (iii) and (d) amended; (b)(1)(i)(C), (ii) and (e)(2) revised **40625**
668.61 (a)(2)(ii)(B) and (b) amended; (b) redesignated as (b)(1); (b)(2) added **40626**
668.81 (e) removed **40626**
668.83 (c)(2)(i)(B), (iii)(D) and (d)(1)(iii) amended **40626**
668.94 (a) introductory text and (5) amended **40626**
668.130 (a) and (b) amended **40626**
668.131 Amended **40626**
668.132 (a)(2) and (b) amended **40626**
668.133 (a) introductory text and (1)(i) amended **40626**
668.134 (a) introductory text, (1), (3), (b)(1) and (2) amended **40626**
668.136 (a) and (b) introductory text amended **40626**
668.137 (a) and (b) amended **40626**
668.138 (a) and (b) revised **40626**
668.139 (b) and (d) revised **40626**
668.166 (a)(1) amended **40626**
668.167 (a)(3) revised **40626**
668.171 OMB number **40348**
668.172 (c)(5)(ii) amended; OMB number **40348**
668.173 (b) revised **40348**
668.174 OMB number **40348**
(c)(3)(i), (ii), (iii), (iv) introductory text and (B) amended **40349**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

668.175 OMB number **40348**
(f), (2)(i), (3)(i), (ii), (g)(1)(i)(A) and (ii) amended **40349**
668 Appendix G amended **40349**
674.19 (b)(5) correctly removed; CFR correction **55948**
675.26 (d) revised **52855**
685 Appendix A revised **39010**

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

702 Added **57573**

Proposed Rules:

303 ..... **43866**
304 ..... **37466**
361 ..... **55292**
600—699 (Ch. VI) **59922, 71206**
668 ..... **37714**
674 ..... **49798**
682 ..... **49798**

TITLE 35—PANAMA CANAL

Proposed Rules:

117 ..... **56589**

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

200.7 (a) revised **53811**
200.8 Revised **53812**
(a) corrected **60049**
223.118 Revised **411**
242 Meetings **46394**
242.1—242.9 (Subpart A) Revised **1286**
242.10—242.20 (Subpart B) Revised **1289**
242.22—242.24 (Subpart C) Revised **1293**
242.25 (k)(9)(ii) table, (10)(ii) table and (23)(iii) table amended; eff. 7-1-98 through 6-30-99 ..... **46150**
(k)(26)(iii) table amended; eff. 7-1-98 through 6-30-99 ..... **46151**
242.26 Revised **1302**
242.27 Revised **1311**
251.51 Amended **65964**
251.54 Revised **65964**
251.56 (a) and (d)(2) revised **65967**
251.57 (a) revised; (h) removed; (i) redesignated as (h) **65967**
251.59 Revised **65967**
251.60 (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i); (a)(2), (b), (e), (f) and new (g), (h) and (i) revised **65968**
251.61 (c) revised **65968**
251.64 (a) amended **65968**
251.65 Revised **65968**

Chapter III—Corps of Engineers, Department of the Army (Parts 300—399)

327.30 Appendixes A and C amended; eff. 8-17-98 ..... **35828**

Chapter VIII—Advisory Council on Historic Preservation (Parts 800—899)

811 Revised **54355**

Chapter X—Presidio Trust (Parts 1000—1099)

1007 Added **71774**
1008 Added **71779**
1009 Added **71784**

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1152 Removed **70342**
1191.2 Revised **64837, 64838**
1192.31 (c) revised **51697, 51702**
1192.153 (c) revised; (d) added **51698, 51702**
1192.157 (b) revised **51698, 51702**
1192.159 Revised **51698, 51702**
1192.161 Added **51700, 51702**
1192 Figures 1 and 2 added **51701, 51702**
Appendix A amended **51702, 51702**

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1202 Revised **70342**
1220.40 Amended **35829**
1220.54 Amended **35829**
1222.20 (b)(3) amended **35829**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 36 Chapter XII—Con.

1228.26 Amended **35829**
1228.46 Amended **35829**
1228.50 Amended **35829**
1228.54 Amended **35829**
1228.60 Amended **35829**
1228.74 Amended **35829**
1228.78 Amended **35829**
1228.92 Amended **35829**
1228.94 Amended **35829**
1228.104 Amended **35829**
1228.124 Amended **35829**
1228.152 Amended **35829**
1228.154 Amended **35829**
1228.156 Amended **35829**
1228.190 Amended **35829**
1228.222 (a)(3) amended **35829**
1228.224 Amended **35829**
1230.7 Amended **35829**
1230.50 Amended **35830**
1234.10 (a) amended **35830**
1238.2 Amended **35830**

Proposed Rules:

1 ..... **49312**
3 ..... **49312**
13 ..... **68666**
..... 1573
59 ..... **67635**
242 ..... **40682, 43990**
..... 4604
1001 ..... **50024, 64023**
..... 2870
1002 ..... **50024, 64023**
..... 2870
1003 ..... **50024, 64023**
..... 2870
1004 ..... **50024, 64023**
..... 2870
1005 ..... **50024, 64023**
..... 2870
1006 ..... **50024, 64023**
..... 2870
1007 ..... **50024**
1008 ..... **50024**
1009 ..... **50024**
1190 ..... **39542, 51881, 70359**
1191 ..... **39542, 51881, 70359**
1202 ..... **45433**
1254 ..... **42776**
1281 ..... **45203**

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.14 Regulation at 63 FR 29617 confirmed **66041**
1.16 (a) through (d) and (f) through (j) revised **39733, 67579**
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.17 (a)(1) through (5), (b), (c), (d), (l), (m), (r) and (s) revised **39733, 67580**
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.18 Revised **39733, 67580**
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.20 (d) through (g) revised **39733, 67580**
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.21 (a)(6)(ii) revised **39734, 67580**
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.53 Regulation at 63 FR 5734 confirmed **36185**
1.412 Regulation at 63 FR 29617 confirmed **66041**
1.416 Regulation at 63 FR 29617 confirmed **66041**
1.419 Regulation at 63 FR 29617 confirmed **66041**
1.431 Regulation at 63 FR 29618 confirmed **66041**
1.432 Regulation at 63 FR 29618 confirmed **66041**
1.435 Regulation at 63 FR 29618 confirmed **66041**
1.445 Regulation at 63 FR 29619 confirmed **66041**
1.451 Regulation at 63 FR 29619 confirmed **66041**
1.461 Regulation at 63 FR 29619 confirmed **66041**
1.465 Regulation at 63 FR 29619 confirmed **66041**
1.471 Regulation at 63 FR 29619 confirmed **66041**
1.480 Regulation at 63 FR 29619 confirmed **66041**
1.481 Regulation at 63 FR 29619 confirmed **66041**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

1.484 Regulation at 63 FR 29619 confirmed 66041
1.485 Regulation at 63 FR 29620 confirmed 66041
1.492 (a) through (d) revised 39734, 67580
(a)(5) corrected 46892
Regulation at 63 FR 39733 eff. date delayed to 10-10-98 52610
1.494 Regulation at 63 FR 29620 confirmed 66041
1.495 Regulation at 63 FR 29620 confirmed 66041
1.801—1.825 (Subpart G) Appendix B removed 48448
2.76 (a), (g) and (h) revised 48097
2.85 (e) revised 48097
2.87 (c) revised 48097
2.101 (d)(1) revised 48097
2.102 (d) revised 48097
2.111 (b) and (c)(1) revised 48097
2.117 (a) and (b) revised 48097
2.119 (d) revised 48097
2.120 (e) and (h) redesignated as (e)(1) and (h)(1); (e)(2) and (h)(2) added; (a), new (e)(1), (g)(1) and new (h)(1) revised 48098
(a) revised 52159
2.121 (a)(1), (c) and (d) revised 48099
2.122 (b)(1), (d)(1) and (2) revised 48099
2.123 (b) and (f) revised 48099
2.125 (c) revised 48099
2.127 (a), (b), (d), (e)(1) and (f) revised 48099
(a) revised 52159
2.134 (a) revised 48100
2.146 (e)(1) revised 48100
3 Heading revised 52159
3.41 Revised 48100, 52159

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.5 (b)(2)(ii) and (iii)(A) revised; interim 59236
(b)(2)(iii)(A) amended 66042
201.17 (h)(2)(iv) amended 39738
201.22 (e)(1) revised 66042
201.38 Added; interim 59234
201.39 Added; interim 71787
251.2 (b) through (g) redesignated as (c) through (h); new (b) added; new (c) revised 65556
251.58 (c) amended 65556
251.60 Amended 65556
251.61 (a) revised 65556
251.62 (a) amended 65557
253.3 Added 49836
253.5 (c)(1), (2) and (3) revised 66042
256.2 (a)(1) and (c) amended 39739

Proposed Rules:

1 53498
201 ..... 47215, 65567, 69251
251 70080
..... 3055, 3746
285 71249

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

3.256 Revised; interim 53595
3.311 (b)(2)(xxi) and (xxii) amended; (b)(2)(xx)(iii) and (xxiv) added 50994
3.358 Heading and (a) revised 45006
Heading and (a) revised 1131
3.361 Added 45006
Removed 1132
3.362 Added 45007
Removed 1132
3.363 Added 45007
Removed 1132
3.800 Introductory text added 45007
Introductory text removed 1132
3.811 Heading, (a) heading and authority citation revised; (d) redesignated as (e); new (d) added 62943
4.104 Amended 37779
17.55 Introductory text amended; (h) removed; (i), (j) and (k) redesignated as (h), (i) and (j) 39515
17.56 Redesignated as 17.57; new 17.56 added 39515
17.57 Redesignated from 17.56 39515
17.84 Removed 48102
17.96 Introductory text amended; (a) authority citation removed; authority citation added 37780
17.128 Revised 39515
17.270—17.278 Undesignated center heading and sections added 48102
20.609 (c)(4) added 2138
20.1400—20.1411 (Subpart O) Added 2139

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 38 Chapter I—Con.

21.3023 Heading, (c) introductory text and (1) revised; (c)(3) amended; OMB number **45718**
21.3045 (h) revised **67778**
21.3131 (a) revised **67778**
21.3300 (c) amended **67779**
21.3333 (a) and (b)(1) amended **67779**
21.4000—21.4279 (Subpart D) Authority citation revised **35831**
21.4008 Amended; eff. 7–31–98 ..... **35831**
21.4133 Removed; eff. 7–31–98 ..... **35831**
21.4134 Removed; eff. 7–31–98 ..... **35831**
21.4135 (f), (j)(1), (k) heading and (1) revised; (j) introductory text and (k) introductory text added; eff. 7–31–98 ..... **35831**
21.4146 (e) amended; eff. 7–31–98 ..... **35831**
21.4152 (b)(2) amended; eff. 7–31–98 ..... **35831**
21.4202 (a) and (b) removed; eff. 7–31–98 ..... **35831**
21.4207 Removed; eff. 7–31–98 ..... **35831**
21.4208 Removed; eff. 7–31–98 ..... **35831**
21.4210 Added; eff. 7–31–98 ..... **35831**
21.4211 Added; eff. 7–31–98 ..... **35833**
21.4212 Added; eff. 7–31–98 ..... **35834**
21.4213 Added; eff. 7–31–98 ..... **35834**
21.4214 Added; eff. 7–31–98 ..... **35834**
21.4215 Added; eff. 7–31–98 ..... **35836**
21.4216 Added; eff. 7–31–98 ..... **35836**
21.5001—21.5296 (Subpart G) Authority citation revised **35836**
21.5130 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); eff. 7–31–98 ..... **35836**
21.5200 Introductory text amended; (h) removed; (i) revised; (j) redesignated as (h); new (j) through (o) added; eff. 7–31–98 ..... **35836**
21.7000—21.7320 (Subpart K) Authority citation revised **35837**
21.7042 Heading, (d)(2) and (3) revised; (d)(4) and authority citation added; OMB number **45718**
21.7133 Revised; eff. 7–31–98 ..... **35837**
21.7135 (i) introductory text, (1), (2), (j)(1) and (k)(1) amended; eff. 7–31–98 ..... **35837**
21.7158 Heading, (b)(2) and authority citation revised; eff. 7–31–98 ..... **35837**
21.7500—21.7807 (Subpart L) Authority citation revised **35837, 45718**
21.7540 (c) and (d) authority citation revised; OMB number **45718**
21.7624 (b) amended; eff. 7–31–98 ..... **35837**
21.7633 Revised; eff. 7–31–98 ..... **35837**
21.7635 (e) introductory text, (1), (2), (f)(1) and (g)(1) amended; eff. 7–31–98 ..... **35837**
21.7658 Heading, (b) heading and (2) revised; (b)(1) introductory text, (i) and (ii) amended; eff. 7–31–98 ..... **35837**

Proposed Rules:

1 ..... **48455**
2 ..... **48455**
3 ..... **58336**
14 ..... **59495**
17 ..... **37299, 54756, 58677, 60227**
21 ..... **63253**
51 ..... **60227**

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

6.4 Revised **57912**
20 IMM amended; incorporation by reference; interim **37252, 40181, 41427, 44789, 66043**
IMM stayed in part; incorporation by reference **38478**
IMM amended; incorporation by reference **40181, 41427**
IMM amended; incorporation by reference 2856
111 DMM amended; incorporation by reference **37254, 37967, 38084, 38310, 39239, 40828, 55475, 56567, 57598, 71374**
DMM amended; incorporation by reference 39, 2141
233 Authority citation revised **52159**
233.2 (b)(2) amended **52159**
241.4 Revised **46656**
491 Revised **67403**
501.29 Added **53812**
775—778 (Subchapter K) Heading revised **45719**
775 Heading and authority citation revised **45719**
775.1 Revised **45719**
775.3 Revised **45719**
775.4 (a) and (b) redesignated as 775.5 and 775.6; new 775.4 added **45719**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

775.5 Redesignated as 775.8; new 775.5 redesignated from 775.4(a) and revised 45719
775.6 Redesignated as 775.9; new 775.6 redesignated from 775.4(b) 45719
Revised 45720
775.7 Redesignated as 775.10 45719
Added 45721
775.8 Redesignated as 775.11 45719
775.9 Redesignated as 775.12 45719
(a)(1), (4), (b)(2), (3) introductory text and (i) revised; (b)(1) amended 45721
775.10 Redesignated as 775.13 45719
(a)(4) added 45722
775.11 Redesignated as 775.14 45719
(a)(1) amended; (b)(2)(ii), (c)(2), (4), (5) introductory text, (iv) and (d)(1) revised 45722
775.13 (a)(4) revised 45722
775.14 (b) revised 45722
777 Transfered to subchapter K 45722
778 Transfered to subchapter K 45722
952.4 Revised 66050
952.8 (a) amended 66050
952.14 Revised 66050
952.15 (c) amended 66050
953.2 Revised 66050
953.8 Revised 66050
953.9 (a)(3) amended 66050
954.4 Revised 66050
954.11 Revised 66050
954.12 (c) amended 66050
955.1 (b)(1) and (d)(5) revised 66050
955.18 Amended 66050
955.29 Amended 66050
956.3 (c) revised 66051
956.13 (a) revised 66051
957.1 Amended 66051
957.2 Amended 66051
957.3 (a) and (g) revised; (b) and (f) amended; 66051
957.4 (a), (c) and (d) amended 66051
957.5 Amended 66051
957.7 Amended 66051
957.8 Amended 66051
957.9 Amended 66051
957.10 Amended 66051
957.13 (a) revised; (b) introductory text and (3) amended 66051
957.14 (e) amended 66051
957.15 (f) and (h) amended 66051
957.16 (e) amended 66051
957.18 (a) amended 66051
957.19 (a) and (b) amended 66051
957.20 (a) amended 66051
957.23 Amended 66051
957.26 Amended 66051
957.27 Amended 66051
958.3 (a) amended 66052
958.4 Amended 66052
958.13 Amended 66052
959.3 Revised 66052
959.5 (a) amended 66052
959.6 Amended 66052
959.7 Amended 66052
959.8 Amended 66052
959.9 Amended 66052
959.10 (a) amended 66052
959.11 (a), (b) and (d) amended 66052
959.13 Revised 66052
959.14 Amended 66052
959.16 (b)(6) and (8) amended 66052
959.17 (e) amended 66052
959.20 (a) amended 66052
959.21 (a) and (b) amended 66052
959.22 (a) and (b) amended 66052
959.23 (a) and (c) amended 66052
959.24 Amended 66052
959.27 Amended 66052
959.30 Amended 66052
960.22 Amended 66052
961.3 (g) revised 66053
961.4 (a) amended 66053
962.2 (j) revised 66053
962.22 (b) amended 66053
963 Heading revised 66053
963.3 (a) amended 66053
963.7 Revised 66053
963.8 (c) amended 66053
963.22 Amended 66053
964.3 (a) amended 66053
964.4 Amended 66053
964.22 Amended 66053
965.2 Amended 66053
965.3 Amended 66053
965.8 (b) revised 66053
965.14 Amended 66053
966.3 (i) amended 66053
966.4 (b) amended 66053

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.61—3001.69c (Subpart C) Appendix A amended 39030
Appendix A amended 1392
Appendix A corrected 4493, 4494

Proposed Rules:

20 ..... 65153, 67017

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 39 *Proposed Rules:—Con.*

111 ..... **45440, 46719, 57970**
501 ..... **46728**
502 ..... **46719, 46728**
3001 ..... **46732, 47456, 71251**

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

Chapter I Product categories final listing **48792**
1.25 (e)(1) revised **67780**
9.1 Table amended (OMB numbers) **39739, 40657, 44132, 48815, 48831, 50326, 53995, 56995, 69463, 69515, 71374**
Table amended (OMB numbers) 3028
51.121 Added **57491**
(e)(4) introductory text and (f)(2)(ii) revised **71225**
51.122 Added **57496**
52 State implementation plan determinations ... **39515, 49434, 63986, 69557, 69559**
Comment period extension **58637**
State implementation plan determinations 754
52.50 (c)(72) added **49006**
Redesignated as 52.69; new 52.50 added **70672**
52.69 Redesignated from 52.50; heading and (a) revised **70672**
52.70 (c)(28) added **63986**
52.76 Existing text designated as (a); (b) added **50764**
52.123 (h) added **41350**
52.124 (c) added **41350**
52.127 Added **41350**
52.128 Added **41350**
Appendix A corrected **43449**
52.170 Redesignated as 52.200; new 52.170 added **56827**
52.200 Redesignated from 52.170; heading and (a) revised **56827**
52.220 (c)(247)(i)(A)(*2*) added **39751**
(c)(239)(i)(E)(*4*) added **40829**
(c)(194)(i)(G) added **40831**
(c)(244)(i)(A)(*2*) added **42721**
(c)(187)(i)(C)(*2*) added **42723**
(c)(241)(i)(A)(*3*) added **42726**
(c)(188)(i)(C)(*2*) added **43629**
(c)(197)(i)(C)(*2*), (225)(i)(A)(*3*) and (231)(i)(B)(*3*) added **43884**
(c)(242)(i)(A)(*1*), (248)(i)(A)(*2*), (B)(*1*) and (254)(i)(A)(*2*) added **43887**
(c)(240)(i)(A)(*5*) and (244)(i)(C) added **44135**
(c)(29)(vi)(B) and (164)(i)(C)(*3*) added **44398**
(c)(207)(i)(C)(*6*), (241)(i)(C) and (244)(i)(D) added **44790**
(c)(169) added **46662**
(c)(199)(i)(E)(*1*) added **46891**
(c)(184)(i)(C)(*2*) and (254)(i)(F) added **47182**
(c)(256) added **51835**
(c)(255)(i)(A)(*2*) added **60216**
(c)(231)(i)(B)(*4*), (248)(i)(C), (254)(i)(A)(*3*), (C)(*2*) and (255) added **63414**
(c)(225)(i)(F) added **66760**
(c)(187)(i)(B)(*2*) and (256)(i)(B)(*1*) added **67422**
(c)(194)(i)(H), (248)(i)(A)(*3*), (B)(*2*) and (257) added **67787**
(c)(24)(vii)(E), (52)(i)(C), (67)(iii)(C), (75)(iii), (101)(ii)(F) and (140)(ii)(B) added **70350**
(c)(254)(i)(G)(*1*) added **72197**
(c)(254)(i)(E) added **72200**
(c)(6)(xv)(A) and (254)(i)(H)(*1*) added 1521
(c)(127)(vii)(E), (187)(i)(C)(*3*) and (215)(i)(A)(*5*) added 2144
(c)(254)(i)(A)(*4*) added 2575
(c)(198)(i)(J)(*3*) added 2577
(c)(232)(i)(A)(*2*) added 3216
(c)(182)(i)(B)(*6*) and (199)(i)(A)(*8*) added 3852
52.222 (a)(5) added **50766**
(a)(4) and (b)(2) added **50769**
52.348 Existing text designated as (a); (b) added **38089**
52.374 Revised **58643**
52.376 (a) and (b) revised; (d) added **53286**
(a) and (d) revised; (e) and (f) added **58643**
52.420 Redesignated as 52.465; new 52.420 added **67410**
52.465 Redesignated from 52.420; heading and (a) revised **67410**
52.470 Redesignated as 52.515; new 52.470 added **67417**
52.473 Existing text designated as (a); (b) added **36585**
52.474 (c) added **36858**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

52.515 Redesignated from 52.470; heading and (a) revised **67417**
52.520 (c)(95) added **56573**
(c)(101) added 994
52.570 (c)(49) added **45176**
Regulation at 63 FR 45176 withdrawn **52983**
52.582 (c) added 4570
52.719 (a) revised **47434**
52.720 (c)(144) added 2581
(c)(145) added 2584
52.725 (f) added **47434**
52.726 (s) added; eff. 8–31–98 ..... **35844**
(u) and (v) added 759
52.770 (c)(123) added; eff. 8–31–98 ..... **35839**
52.777 (t) added **40044**
52.920 (c)(89) added **39741**
(c)(87) added **39743**
(c)(91) added **46898**
(c)(92) added **67591**
(c)(88) added 417
52.938 Added **40046**
52.970 (c)(77) added **47431**
Redesignated as 52.999; new 52.970 added **63183**
(c) table amended 415
52.999 Redesignated from 52.970; heading and (a) revised **63183**
52.1020 (c)(39) added **42728**
Regulation at 63 FR 42727 withdrawn **53596**
52.1031 Table amended **42728**
52.1070 (c)(130) added **45399**
(c)(131) and (132) added **46663**
(c)(133), (134) and (135) added **47179**
Regulation at 63 FR 45399 withdrawn **54355**
(c)(140) added **59722**
(c)(136) added **67784**
(c)(130) added **70669**
(c)(141) added 3855
52.1072 (d) added **47179**
52.1073 (e) added **47179**
52.1075 (f) added **36858**
52.1076 Heading revised; existing text designated as (a); (b) added **67782**
52.1174 (q) removed **40371**
52.1220 (c)(46) added **54587**
52.1320 (c)(106) added **36854**
(c)(107) added **38756**
(c)(108) added **45727**
(c)(109) added **65560**
(c)(111) added **67594**
(c)(110) added **70667**
52.1340 Added 3859
52.1520 (c)(53) and (58) added **67407**
52.1570 (c)(64) added **55953**
(c)(65) added **62954**
Regulation at 63 FR 55953 withdrawn **69193**
52.1580 (b) revised **45401**
52.1581 Added **45401**
52.1582 (e) added **45402**
(f) added **45404**
52.1605 Table amended **62954**
52.1620 Redesignated as 52.1640; new 52.1620 added **37495**
(c) table amended **48109**
52.1623 Added **48109**
52.1640 Redesignated from 52.1620; heading and (a) revised **37495**
52.1670 (c)(94) added **46659**
52.1679 Table amended **65559**
52.1770 (c)(96) added **72193**
52.1820 (c)(30) added **45727**
52.1835 Added **45727**
52.1885 (a)(8) added **36587**
(a)(9) added **37258**
(a)(10) added **44400**
52.1970 (c)(126) added **39747**
52.2020 (c)(135) added **47436**
(c)(134) added **54052**
(c)(136) added **59887**
(c)(137) added **66758**
52.2026 (a)(1), (3), (4), (5), (b)(2), (3), (4), (6), (11), (12) and (13) removed **46667**
(a)(2) amended **46668**
Introductory text revised; (b)(1), (5), (7) through (10) and (14) removed **49441**
Regulation at 63 FR 49441 withdrawn **56086**
52.2059 (b) added **47436**
52.2070 (c)(50) revised **67600**
52.2084 (a)(2) removed **67600**
Corrected 926
52.2086 (d) added **67600**
52.2120 (c) table amended **67586**
(e) added **70022**
52.2170 (c)(17) added **55807**
52.2220 (c)(162) added **54055**
(c)(163) added **70664**
(c)(164) added **72195**
52.2270 (c)(111) added; eff. 8–31–98 ..... **35841**
(c)(114) added **56085**
Regulation at 63 FR 35841 eff. 11–4–98 ..... **59471**
(c)(113) added **62947**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 40 Chapter I—Con.

(c)(105) added 3847
(c)(112) added 4298
52.2309 (e) added **62947**
52.2320 (c)(40) added **43627**
(c)(39) added 3224
52.2420 (c)(128) added 3427
52.2425 (d) added **36858**
52.2470 (c)(78) added **64188**
58.31 (a) revised 3034
58.34 (a) revised 3034
58.41 (b) revised 3035
58 Appendix D amended 3030, 3035
Appendixes E and G amended 3036
59 Added **48815**
59.104 (a)(2) corrected **64761**
59.201—59.214 (Subpart C) Added **48831**
59.202 Corrected **52319**
59.204 (c)(1) corrected **52319**
59.208 (e)(1) corrected; (j) correctly designated **52319**
59.400—59.413 (Subpart D) Added **48877**
59.400—59.413 (Subpart D) Appendix D corrected **55175**
60 Authority delegation notices **50162, 50163, 70675**
Interpretation **53288**
60.4 (c) table amended **45727**
(c) table corrected **49382, 56707**
60.40a (b) revised **49453**
60.41a Amended **49453**
60.44a (a) introductory text and (c) introductory text revised; (d) added **49453**
60.46a (i) added **49454**
60.47a (c) revised; (k) and (l) added **49454**
60.49a (i) amended; (j) added **49454**
60.40b (h) and (i) added **49454**
60.44b (a) introductory text, (b) introductory text, (c), and (e) introductory text revised; (l) added **49454**
60.48b (b) revised **49455**
60.49b (v) added **49455**
60.533 (l)(1)(ii) revised **64874**
60.538 (e) revised **64874**
61 Authority delegation notice **70675**
61.04 (a) amended; (b)(WW)(ii), (iii) and (vii) revised; (b)(WW)(viii) removed; (c) redesignated as (c)(8); (c) introductory text and (10) added **66059**
62.02 (a) revised; (g) added **63201**
62.13 Added **63201**
(a) amended **66061**
62.100 (b)(3) and (c)(3) added **54058**
(b)(4) and (c)(4) added **63990**
62.103 Undesignated center heading and section added **54058**
62.104 Undesignated center heading and section added **63990**
62.1350—62.1352 Unesignated center heading and sections added **40373**
62.2600 (b)(5) and (c)(4) added **63416**
62.2607 Undesignated center heading and section added **63416**
62.3330—62.3332 Undesignated center heading and sections added **64632**
62.4845 (b)(4) and (c)(3) added **68397**
62.4975 Undesignated center heading and section added **68397**
62.5860—62.5862 Undesignated center heading and sections added **40052**
62.5870—62.5872 Undesignated center heading and sections added **43083**
62.6350 (b)(3) added **45727**
62.6600—62.6602 (Subpart BB) Added **36861**
62.8103 Undesignated center heading and section added **41429**
62.8870—62.8872 Undesignated center heading and sections added **42238**
62.9100 (b)(3) and (c)(3) added **59890**
62.9150 Undesignated center heading and section added **59890**
62.10100 (b)(3) and (c)(3) amended **40048**
62.10150 Undesignated center heading and section added **40049**
62.10626 Undesignated center heading and section added **70026**
62.10627 Undesignated center heading and section added **70026**
62.10628 Undesignated center heading and section added **70027**
62.11610 Added **47437**
(d) correctly removed **54058**
62.14100—62.14109 (Subpart FFF) Added **63202**
63 Authority delegation notices **64632, 70675**
63.14 (b)(19) and (c)(3) added **50326**
(b) introductory text revised; (b)(20) and (e) added **53996**
(d)(1) revised 4300
63.99 (a)(3) added **38480**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

(a)(3) revised **63993**
(a)(47) added **66061**
(a)(5)(ii) introductory text and (A) introductory text revised; (a)(5)(ii)(A)(*1*)(*i*) and (B)(*1*)(*i*) amended; (a)(5)(ii)(D) added 4300
63.111 Amended **67792**
63.145 (h) introductory text and (2) revised **67793**
63.110—63.152 (Subpart G) Appendix amended **67793**
63.360 (g)(1), (2) and (3) revised; (g)(4), (5) and (6) added **66994**
63.404 Introductory text and (b) revised; (c) and (d) added **39519**
63.440 (d)(3)(ii) introductory text and (B) revised **71389**
63.446 (i) correctly revised **42239**
(g) revised **49459**
63.447 (d)(1) correctly revised **42239**
63.460 (c) and (d) revised; (g) added **68400**
63.470 Removed **68400**
63.541 (c) added 4572
63.542 Amended **45011**
63.543 (g) revised **45011**
63.544 (g) redesignated as (h); new (g) added **45011**
63.546 (a) revised **45011**
(a) revised 4572
63.547 (b) revised **45011**
63.548 (e) introductory text revised; (k) added **45011**
63.640 (k)(2)(vii), (n)(1), (3), (6) and (o)(2) revised; (n)(8), (9) and (r) added **44140**
63.641 Amended **44141**
63.644 (a) amended **44141**
63.645 (f)(4) amended; (f)(5) revised **44141**
63.648 (e) revised **44141**
63.654 (a) and (h)(6) amended; (d)(1), (f) introductory text and (1)(i)(A) revised; (f)(6) added **44141**
63.640—63.679 (Subpart CC) Appendix amended **44142, 44143**
63.741 (f) and (i) amended; (j) revised **46532**
63.742 Amended **46533**
63.744 (b)(3) amended; (c)(5) added; Table 1 revised **46533**
63.745 (c)(1) through (4) and (g)(2)(v) revised **46533**
63.746 (b)(4)(ii)(C) added **46533**
63.750 (b)(2) and (i)(2)(iv) amended **46534**
63.751 (b)(6)(iv) redesignated as (b)(6)(v); (b)(6)(iii)(D), (c)(2) and (d) revised; new (b)(6)(iv) revised **46534**
63.752 (c)(2) introductory text, (d)(2), (3) and (e)(7) revised **46534**
63.753 (c)(1)(vi) and (d)(1)(vii) revised **46535**
63.801 Amended **71380**
63.803 (c)(1), (d), (f), (i), (j) and (l)(6) revised **71380**
63.800—63.808 (Subpart J) Table 2 revised **71381**
Tables 4 and 5 revised **71382**
Table 6 revised **71383**
63.1250—63.1261 (Subpart GGG) Added **50326**
63.1290—63.1309 (Subpart III) Added **53996**
63 Appendix A amended **46535**
Appendix C amended **67794**
68 Delagation request **55954**
68.3 Amended 979
68.10 (d)(1) revised 979
68.42 (b)(3) revised; (b)(4) through (10) redesignated as (b)(5) through (11); new (b)(4) added 979
68.79 (a) revised 979
68.150 (e) added 979
68.151 Added 979
68.152 Added 980
68.160 (b)(1), (7) and (12) revised; (b)(14) through (18) added 980
68.165 (b) revised 980
68.170 (b) revised 980
68.175 (b) revised 980
68.180 (b) revised 980
69 Authority citation revised **49465**
69.51 (Subpart E) Added **49465**
70 Appendix A amended **40054, 50773**
70.5 (c) reinstated in part; CFR correction **64869**
72.2 Amended **57498, 68404**
73.10 (b)(1) and (2) amended; (b) Table 2 and (3) revised; (c) and (d) removed **51714**
73.11 Removed **51765**
73.12 (b) removed **51765**
73.13 (b) removed **51765**
73.16 Removed **51765**
73.19 (a)(5) revised; (b) removed **51765**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 40 Chapter I—Con.

73.21 (a), (b) and (c)(1) table amended; (a) table added; (c)(2) revised **51765**
73.27 (a)(3) removed; (a)(2), (b)(2) through (5) and (c)(2) through (5) revised **51765**
73.34 (c)(4) amended **68404**
73.50 (b)(2) redesignated as (b)(3); (b)(2) added **68404**
73.70 (b) revised **51766**
75.1 (a) revised **57498**
75.2 (a) revised; (c) added **57499**
75.4 (a) introductory text revised **57499**
75.6 (f) added **57499**
75.11 (d)(2) amended; (d)(3) added **57499**
75.12 Heading revised; (d) redesignated as (e); new (d) added **57499**
75.13 (d) added **57499**
75.17 Introductory text added **57499**
75.19 Added **57500**
75.20 (h) added **57506**
75.24 (d) revised **57506**
75.70—75.75 (Subpart H) Added **57507**
Appendix A amended **57512**
Appendixes C, D and F amended **57513**
79.57 (e)(2)(iii)(C) and (v)(B) removed; (e)(2)(iv)(B) and (vi)(B) revised **63792**
79.62 (d)(1)(ii)(B) revised **63793**
79.66 (e)(5)(iii)(B) amended **63793**
80 Technical correction **54753**
80.29 (a)(1) introductory text revised **49465**
80.46 (f)(3) and (g)(9) revised **63793**
80.70 (m) amended **43049**
(k) revised **52104**
81 Attainment status determinations **64415**
81.305 Amended **37279, 39751**
81.307 Amended **53287, 58644**
81.310 Amended 995
81.313 Amended **59731**
81.315 Amended **39435**
81.318 Amended **39436, 44145**
Corrected **42489**
81.323 Amended **39436**
81.326 Amended 3859
81.333 Amended **39436**
81.336 Amended **39437**
81.345 Amended 3225
82 Determination **42728**
82.1 Revised **41642**
82.2 Removed **41642**
82.3 Amended **41642**
Regulation at 63 FR 41642 withdrawn in part **53290**
82.4 (d) and (e) revised; (f) through (k) and (l) through (s) redesignated as (g) through (l) and (n) through (u); (d), (e), new (j) and (t) revised; (f), (m), (l)(4), (t)(3) and (u)(3) added **41642**
Regulation at 63 FR 41642 withdrawn in part **53290**
(t)(2) table revised 1096
82.9 Heading, (a) and (c) revised; (g) added **41643**
Regulation at 63 FR 41643 withdrawn in part **53290**
82.12 (a)(3) added **41645**
Regulation at 63 FR 41643 withdrawn in part **53290**
82.13 (f)(2)(xvii), (g)(1)(xvii), (4)(xiv), (xv), (w), (x) and (z) added; (f)(3)(v) removed; (f)(3)(vi) through (xiii), second (g)(3), and (w) redesignated as (f)(3)(v) through (xii), (g)(4) and (y); (b), (f)(1)(iv), (2) introductory text, (xiv), new (3)(xi), (xii), (xiii), (g)(1)(vii), (xvi), (2), first (3), (h)(8), (i) introductory text, (m), (u) and (v) revised; **41646**
Regulation at 63 FR 41646 withdrawn in part **53290**
82.1—82.13 (Subpart A) Appendix C revised **41648**
Appendixes J and K added **41651**
Regulations at 63 FR 41648 and 41651 withdrawn in part **53290**
82.170—82.184 (Subpart G) Appendix E added; interim 3865
Appendix F added; interim 3868
86 Heading revised **56995**
86.1 (b)(2) table amended; (b)(5) added **70694**
86.094–21 (i) removed **70694**
86.095–35 (i) revised **70694**
86.098–17 (b)(2) through (i) and (j) revised **70694**
86.099–17 Added **70694**
86.099–30 Added **70697**
86.884–8 (c)(4) table amended **56995**
(c)(4) table corrected **63967**
89 Heading revised **56995**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

Nomenclature change **56996**
89.1 (a) and (b)(4) revised; (b)(3) amended; (b)(5) added **56996**
89.2 Amended **56996**
89.3 Amended **56997**
89.4 Removed **56997**
89.6 (b)(1) introductory text amended; (b)(1) table revised **56997**
89.101–96 Redesignated as 89.101 ..... **56995**
89.101 Redesignated from 89.101–96 ..... **56995**
89.102–96 Redesignated as 89.102 ..... **56995**
89.102 Redesignated from 89.102–96 ..... **56995**
Heading and (a) revised; (c) through (h) added **56997**
89.103–96 Redesignated as 89.103 ..... **56995**
89.103 Redesignated from 89.103–96 ..... **56995**
89.104–96 Redesignated as 89.104 ..... **56995**
89.104 Redesignated from 89.104–96 ..... **56995**
(a), (b) and (c) revised **56998**
89.105–96 Redesignated as 89.105 ..... **56995**
89.105 Redesignated from 89.105–96 ..... **56995**
89.106–96 Redesignated as 89.106 ..... **56995**
89.106 Redesignated from 89.106–96 ..... **56995**
89.107–96 Redesignated as 89.107 ..... **56995**
89.107 Redesignated from 89.101–97 ..... **56995**
89.108–96 Redesignated as 89.108 ..... **56995**
89.108 Redesignated from 89.108–96 ..... **56995**
89.109–96 Redesignated as 89.109 ..... **56995**
89.109 Redesignated from 89.109–96 ..... **56995**
Revised **56999**
89.110–96 Redesignated as 89.110 ..... **56995**
89.110 Redesignated from 89.110–96 ..... **56995**
(b)(9) and (10) amended; (b)(11) and (12) added **57000**
89.111–96 Redesignated as 89.111 ..... **56995**
89.111 Redesignated from 89.111–96 ..... **56995**
89.112–96 Redesignated as 89.112 ..... **56995**
89.112 Redesignated from 89.112–96 ..... **56995**
(a), (b) and (d) revised; (e) and (f) added **57000**
89.113–96 Redesignated as 89.113 ..... **56995**
89.113 Redesignated from 89.113–96 ..... **56995**
(b) revised; (c) added **57003**
89.114–96 Redesignated as 89.114 ..... **56995**
89.114 Redesignated from 89.114–96 ..... **56995**
Heading, (a) and (b) heading revised **57003**
89.115–96 Redesignated as 89.115 ..... **56995**
89.115 Redesignated from 89.115–96 ..... **56995**
89.116–96 Redesignated as 89.116 ..... **56995**
89.116 Redesignated from 89.116–96 ..... **56995**
(e) added **57003**
89.117–96 Redesignated as 89.117 ..... **56995**
89.117 Redesignated from 89.117–96 ..... **56995**
(a) revised; (d) added **57003**
89.118–96 Redesignated as 89.118 ..... **56995**
89.118 Redesignated from 89.118–96 ..... **56995**
Heading revised; introductory text and (e) added **57003**
89.119–96 Redesignated as 89.119 ..... **56995**
89.119 Redesignated from 89.119–96 ..... **56995**
(d) revised **57004**
89.120–96 Redesignated as 89.120 ..... **56995**
89.120 Redesignated from 89.120–96 ..... **56995**
(c) revised; (e) added **57004**
89.121–96 Redesignated as 89.121 ..... **56995**
89.121 Redesignated from 89.121–96 ..... **56995**
89.122–96 Redesignated as 89.122 ..... **56995**
89.122 Redesignated from 89.122–96 ..... **56995**
89.123–96 Redesignated as 89.123 ..... **56995**
89.123 Redesignated from 89.123–96 ..... **56995**
89.124–96 Redesignated as 89.124 ..... **56995**
89.124 Redesignated from 89.124–96 ..... **56995**
(a)(3) added **57005**
89.125–96 Redesignated as 89.125 ..... **56995**
89.125 Redesignated from 89.125–96 ..... **56995**
(b) revised **57005**
89.126–96 Redesignated as 89.126 ..... **56995**
89.126 Redesignated from 89.126–96 ..... **56995**
(c) revised **57005**
89.127–96 Redesignated as 89.127 ..... **56995**
89.127 Redesignated from 89.127–96 ..... **56995**
89.128–96 Redesignated as 89.128 ..... **56995**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 40 Chapter I—Con.

89.128 Redesignated from 89.128–96 ..... **56995**
89.129–96 Redesignated as 89.129 ..... **56995**
89.129 Redesignated from 89.129–96 ..... **56995**
89.130 Added **57005**
89.201–96 Redesignated as 89.201 ..... **56995**
89.201 Redesignated from 89.201–96 ..... **56995**
89.202–96 Redesignated as 89.202 ..... **56995**
89.202 Redesignated from 89.202–96 ..... **56995**
89.203–96 Redesignated as 89.203 ..... **56995**
89.203 Redesignated from 89.203–96 ..... **56995**
Revised **57006**
89.204–96 Redesignated as 89.204 ..... **56995**
89.204 Redesignated from 89.204–96 ..... **56995**
Revised **57007**
89.205–96 Redesignated as 89.205 ..... **56995**
89.205 Redesignated from 89.205–96 ..... **56995**
Revised **57008**
89.206–96 Redesignated as 89.206 ..... **56995**
89.206 Redesignated from 89.206–96 ..... **56995**
Revised **57008**
89.207–96 Redesignated as 89.207 ..... **56995**
89.207 Redesignated from 89.207–96 ..... **56995**
Revised **57008**
89.208–96 Redesignated as 89.208 ..... **56995**
89.208 Redesignated from 89.208–96 ..... **56995**
Revised **57009**
89.209–96 Redesignated as 89.209 ..... **56995**
89.209 Redesignated from 89.209–96 ..... **56995**
(a) revised **57009**
89.210–96 Redesignated as 89.210 ..... **56995**
89.210 Redesignated from 89.210–96 ..... **56995**
(b) and (c) revised **57009**
89.211–96 Redesignated as 89.211 ..... **56995**
89.211 Redesignated from 89.211–96 ..... **56995**
(a) and (c) revised **57009**
89.212–96 Redesignated as 89.212 ..... **56995**
89.212 Redesignated from 89.212–96 ..... **56995**
Revised **57010**
89.301–96 Redesignated as 89.301 ..... **56995**
89.301 Redesignated from 89.301–96 ..... **56995**
89.302–96 Redesignated as 89.302 ..... **56995**
89.302 Redesignated from 89.302–96 ..... **56995**
Revised **57010**
89.303–96 Redesignated as 89.303 ..... **56995**
89.303 Redesignated from 89.303–96 ..... **56995**
89.304–96 Redesignated as 89.304 ..... **56995**
89.304 Redesignated from 89.304–96 ..... **56995**
(c) revised **57010**
89.305–96 Redesignated as 89.305 ..... **56995**
89.305 Redesignated from 89.305–96 ..... **56995**
89.306–96 Redesignated as 89.306 ..... **56995**
89.306 Redesignated from 89.306–96 ..... **56995**
89.307–96 Redesignated as 89.307 ..... **56995**
89.307 Redesignated from 89.307–96 ..... **56995**
(b)(7) and (8) revised **57010**
89.308–96 Redesignated as 89.308 ..... **56995**
89.308 Redesignated from 89.308–96 ..... **56995**
(b) revised **57010**
89.309–96 Redesignated as 89.309 ..... **56995**
89.309 Redesignated from 89.309–96 ..... **56995**
(a)(3) removed; (a)(4)(iii), (5)(i)(C) and (D) revised **57010**
89.310–96 Redesignated as 89.310 ..... **56995**
89.310 Redesignated from 89.310–96 ..... **56995**
(a)(1) and (c) revised **57010**
89.311–96 Redesignated as 89.311 ..... **56995**
89.311 Redesignated from 89.311–96 ..... **56995**
89.312–96 Redesignated as 89.312 ..... **56995**
89.312 Redesignated from 89.312–96 ..... **56995**
(b)(2) removed; (c)(2), (d) and (f) revised; (g) added **57010**
89.313–96 Redesignated as 89.313 ..... **56995**
89.313 Redesignated from 89.313–96 ..... **56995**
89.314–96 Redesignated as 89.314 ..... **56995**
89.314 Redesignated from 89.314–96 ..... **56995**
(a) and (b) revised **57011**
89.315–96 Redesignated as 89.315 ..... **56995**
89.315 Redesignated from 89.315–96 ..... **56995**
89.316–96 Redesignated as 89.316 ..... **56995**
89.316 Redesignated from 89.316–96 ..... **56995**
(b) removed **57011**
89.317–96 Redesignated as 89.317 ..... **56995**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

89.317 Redesignated from 89.317–96 56995
(g), (h) and (k) revised 57011
89.318–96 Redesignated as 89.318 56995
89.318 Redesignated from 89.318–96 56995
(c)(2) heading, (i) and (iv) revised 57011
(c)(2)(iv)(B) corrected 58101
89.319–96 Redesignated as 89.319 56995
89.319 Redesignated from 89.319–96 56995
(b)(1), (2), (c), (d) heading, introductory text, (2) and (6) revised 57011
89.320–96 Redesignated as 89.320 56995
89.320 Redesignated from 89.320–96 56995
(c) revised 57012
89.321–96 Redesignated as 89.321 56995
89.321 Redesignated from 89.321–96 56995
(c) revised 57012
89.322–96 Redesignated as 89.322 56995
89.322 Redesignated from 89.322–96 56995
(a) revised 57012
89.323–96 Redesignated as 89.323 56995
89.323 Redesignated from 89.323–96 56995
89.324–96 Redesignated as 89.324 56995
89.324 Redesignated from 89.324–96 56995
Revised 57013
89.325–96 Redesignated as 89.325 56995
89.325 Redesignated from 89.325–96 56995
89.326–96 Redesignated as 89.326 56995
89.326 Redesignated from 89.326–96 56995
89.327–96 Redesignated as 89.327 56995
89.327 Redesignated from 89.327–96 56995
89.328–96 Redesignated as 89.328 56995
89.328 Redesignated from 89.328–96 56995
(b)(1) and (2) revised 57013
89.329–96 Redesignated as 89.329 56995
89.329 Redesignated from 89.329–96 56995
89.330–96 Redesignated as 89.330 56995
89.330 Redesignated from 89.330–96 56995
(b)(2) revised; (b)(3) added 57013
89.331–96 Redesignated as 89.331 56995
89.331 Redesignated from 89.331–96 56995
89.301—89.331 (Subpart D) Appendix A amended 57013
89.401–96 Redesignated as 89.401 56995
89.401 Redesignated from 89.401–96 56995
(b) revised 57015
89.402–96 Redesignated as 89.402 56995
89.402 Redesignated from 89.402–96 56995
Revised 57015
89.403–96 Redesignated as 89.403 56995
89.403 Redesignated from 89.403–96 56995
89.404–96 Redesignated as 89.404 56995
89.404 Redesignated from 89.404–96 56995
(b) revised; (e) removed 57015
89.405–96 Redesignated as 89.405 56995
89.405 Redesignated from 89.405–96 56995
(d), (e) and (f) revised 57015
89.406–96 Redesignated as 89.406 56995
89.406 Redesignated from 89.406–96 56995
(b) and (c)(1) revised 57015
89.407–96 Redesignated as 89.407 56996
89.407 Redesignated from 89.407–96 56996
(a), (c) and (d)(2) revised 57015
89.408–96 Redesignated as 89.408 56996
89.408 Redesignated from 89.408–96 56996
(e) revised 57016
89.409–96 Redesignated as 89.409 56996
89.409 Redesignated from 89.409–96 56996
89.410–96 Redesignated as 89.410 56996
89.410 Redesignated from 89.410–96 56996
(a), (b) and (c) revised 57016
89.411–96 Redesignated as 89.411 56996
89.411 Redesignated from 89.411–96 56996
(d)(5) and (e)(5) revised 57016
89.412–96 Redesignated as 89.412 56996
89.412 Redesignated from 89.412–96 56996
(c)(3) revised; (g)(1) removed 57016
89.413–96 Redesignated as 89.413 56996
89.413 Redesignated from 89.413–96 56996
(d) revised; (e) removed 57016
89.414–96 Redesignated as 89.414 56996

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 40 Chapter I—Con.

89.414 Redesignated from 89.414–96 ..... **56996**
(a) revised **57017**
89.415–96 Redesignated as 89.415 ..... **56996**
89.415 Redesignated from 89.415–96 ..... **56996**
Revised **57017**
89.416–96 Redesignated as 89.416 ..... **56996**
89.416 Redesignated from 89.416–96 ..... **56996**
89.417–96 Redesignated as 89.417 ..... **56996**
89.417 Redesignated from 89.417–96 ..... **56996**
89.418–96 Redesignated as 89.418 ..... **56996**
89.418 Redesignated from 89.418–96 ..... **56996**
(b), (c), (d), (e) table, (f) introductory text, (1) and (g) revised **57017**
89.419–96 Redesignated as 89.419 ..... **56996**
89.419 Redesignated from 89.419–96 ..... **56996**
89.420–96 Redesignated as 89.420 ..... **56996**
89.420 Redesignated from 89.420–96 ..... **56996**
(a) introductory text revised **57018**
89.421–96 Redesignated as 89.421 ..... **56996**
89.421 Redesignated from 89.421–96 ..... **56996**
89.422–96 Redesignated as 89.422 ..... **56996**
89.422 Redesignated from 89.422–96 ..... **56996**
(d)(3) table amended **57016**
89.423–96 Redesignated as 89.423 ..... **56996**
89.423 Redesignated from 89.423–96 ..... **56996**
Removed **57018**
89.424–96 Redesignated as 89.424 ..... **56996**
89.424 Redesignated from 89.424–96 ..... **56996**
(a), (d)(6) and (e) revised; (d)(3) amended **57018**
89.425–96 Redesignated as 89.425 ..... **56996**
89.425 Redesignated from 89.425–96 ..... **56996**
Removed **57019**
89.401—89.425 (Subpart E) Appendix B revised **57019**
89.501–96 Redesignated as 89.501 ..... **56996**
89.501 Redesignated from 89.501–96 ..... **56996**
89.502–96 Redesignated as 89.502 ..... **56996**
89.502 Redesignated from 89.502–96 ..... **56996**
89.503–96 Redesignated as 89.503 ..... **56996**
89.503 Redesignated from 89.503–96 ..... **56996**
89.504–96 Redesignated as 89.504 ..... **56996**
89.504 Redesignated from 89.504–96 ..... **56996**
89.505–96 Redesignated as 89.505 ..... **56996**
89.505 Redesignated from 89.505–96 ..... **56996**
(e) revised **57020**
89.506–96 Redesignated as 89.506 ..... **56996**
89.506 Redesignated from 89.506–96 ..... **56996**
(g) revised **57020**
89.507–96 Redesignated as 89.507 ..... **56996**
89.507 Redesignated from 89.507–96 ..... **56996**
89.508–96 Redesignated as 89.508 ..... **56996**
89.508 Redesignated from 89.508–96 ..... **56996**
89.509–96 Redesignated as 89.509 ..... **56996**
89.509 Redesignated from 89.509–96 ..... **56996**
(a) and (b) revised **57020**
89.510–96 Redesignated as 89.510 ..... **56996**
89.510 Redesignated from 89.510–96 ..... **56996**
89.511–96 Redesignated as 89.511 ..... **56996**
89.511 Redesignated from 89.511–96 ..... **56996**
89.512–96 Redesignated as 89.512 ..... **56996**
89.512 Redesignated from 89.512–96 ..... **56996**
(b) revised **57020**
89.513–96 Redesignated as 89.513 ..... **56996**
89.513 Redesignated from 89.513–96 ..... **56996**
(e)(2) revised **57020**
89.514–96 Redesignated as 89.514 ..... **56996**
89.514 Redesignated from 89.514–96 ..... **56996**
89.515–96 Redesignated as 89.515 ..... **56996**
89.515 Redesignated from 89.515–96 ..... **56996**
89.516–96 Redesignated as 89.516 ..... **56996**
89.516 Redesignated from 89.516–96 ..... **56996**
89.601–96 Redesignated as 89.601 ..... **56996**
89.601 Redesignated from 89.601–96 ..... **56996**
89.602–96 Redesignated as 89.602 ..... **56996**
89.602 Redesignated from 89.602–96 ..... **56996**
Amended **57020**
89.603–96 Redesignated as 89.603 ..... **56996**
89.603 Redesignated from 89.603–96 ..... **56996**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

(d) revised 57021
89.604–96 Redesignated as 89.604 56996
89.604 Redesignated from 89.604–96 56996
(c)(4) and (d) revised 57021
89.605–96 Redesignated as 89.605 56996
89.605 Redesignated from 89.605–96 56996
(a)(2)(i), (3)(vi) and (c) revised 57021
89.606–96 Redesignated as 89.606 56996
89.606 Redesignated from 89.606–96 56996
89.607–96 Redesignated as 89.607 56996
89.607 Redesignated from 89.607–96 56996
89.608–96 Redesignated as 89.608 56996
89.608 Redesignated from 89.608–96 56996
89.609–96 Redesignated as 89.609 56996
89.609 Redesignated from 89.609–96 56996
(d) revised 57021
89.610–96 Redesignated as 89.610 56996
89.610 Redesignated from 89.610–96 56996
(b)(1) revised 57021
89.611–96 Redesignated as 89.611 56996
89.611 Redesignated from 89.611–96 56996
(g) revised 57022
89.612–96 Redesignated as 89.612 56996
89.612 Redesignated from 89.612–96 56996
89.613–96 Redesignated as 89.613 56996
89.613 Redesignated from 89.613–96 56996
89.903 (b) revised 57022
89.905 (f) revised 57022
89.906 (a)(3) introductory text, (iii)(D) and (b) revised 57022
89.911 Revised 57022
89.1003 (a)(3), (5), (6), (b)(4) and (7) revised 57022
89.1007 (c) revised 57023
96 Added 57514
96.42 (f) amended 71225
123.1 (a) and (c) revised 45122
123.2 Revised 45122
123.22 (f) removed; (g) redesignated as (f) 45122
123.24 (d)(8) removed 45122
123.25 (a) introductory text and (37) revised 45122
123.26 (e)(5) revised 45122
123.42 Introductory text revised 45122
123.44 (d)(1), (2), (e) and (j) revised 45122
123.45 (e) removed 45123
123.62 (b)(3) and (c) revised 45123
123.63 (a) introductory text and (4) revised 45123
123.64 (a) introductory text and (b)(1) revised 45123
136.3 (e) corrected 38756
Table 1C corrected; CFR correction 44146
(a) introductory text and (b) introductory text revised; Table 1F and (b)(40) added 50423
141 Authority citation revised 43846, 44526
141.2 Amended 69463, 69515
141.4 (a) revised 43846
141.12 Revised 69463
141.21 (f)(3) revised; (f)(5), (6)(i), (ii) and (8) amended 47107
Regulation at 63 FR 47107 withdrawn 72200
141.23 (a)(4)(iii), (k)(1) table, (2), (3)(i), (ii) introductory text revised 47107
Regulation at 63 FR 47107 withdrawn 72200
141.24 (e), (f)(14)(ii), (17)(i)(A), (B), (ii)(A), (h)(10)(ii), (13) introductory text, (i), (19)(i)(A) and (B) introductory text revised 47110
Regulation at 63 FR 47110 withdrawn 72200
141.30 (d) and (f) amended; (h) added 69464
141.32 (a) heading, (1)(iii) introductory text and (c) amended; (a)(1)(iii)(E) and (e)(76) through (81) added 69464
(e)(10) revised 69515
141.40 (g) and (n)(11) introductory text revised; (n)(11) table amended 47112
Regulation at 63 FR 47112 withdrawn 72200
(l) amended 1498
141.50—141.54 (Subpart F) Heading revised 69465
141.52 Table amended 69515
141.53 Added 69465
141.54 Added 69465
141.60—141.65 (Subpart G) Heading revised 69465
141.64 Added 69465

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 40 Chapter I—Con.

141.65 Added **69465**
141.70 (d) added **69516**
141.71 (b)(6) revised **69516**
141.73 (a)(3) added; (d) revised **69516**
141.74 (a) introductory text and (2) amended; (a)(1) table revised **47113**
Regulation at 63 FR 47113 withdrawn **72200**
141.89 (a)(1)(i) and (ii)(B) amended **47113**
Regulation at 63 FR 47113 withdrawn **72200**
141.130—141.135 (Subpart L) Added **69466**
141.151—141.155 (Subpart O) Added (OMB numbers pending) **44526**
141.153 (d)(4)(v)(C) amended **69516**
141.154 (e) added **69475**
141.170—141.175 (Subpart P) Added **69516**
142 Authority citation revised **44535**
142.10 (d) revised **43846**
(b)(6)(vii) added **44535**
142.14 (d)(12) through (16) added **69475**
(a)(3), (4)(i) and (ii) introductory text revised; (a)(7) added **69519**
142.15 (c)(5) added **69520**
142.16 (f) added **44535**
(h) added **69475**
(b)(1) redesignated as (b)(1)(i); (b)(1)(ii), (3) and (g) added **69520**
142.20 Revised **43847**
142.40—142.46 (Subpart E) Heading revised **43847**
142.42 (c) revised **43847**
142.50 Revised **43847**
142.53 (c)(1) revised **43848**
142.55 (b) revised; (c) removed **43848**
142.56 Revised **43848**
142.72 Introductory text revised **44535**
142.78 (b) revised **44536, 71374**
142.78 (b) revised **71374**
142.201—142.208 (Subpart J) Removed **48077**
142.301—142.313 (Subpart K) Added **43848**
143.4 (b) table revised **47113**
Regulation at 63 FR 47113 withdrawn **72200**
148.18 (i) added **42184**
Regulation at 63 FR 35149 eff. date corrected to 11–4–98 ..... **42581**
159.159 (a) introductory text revised **41193**
180.2 (a) revised **57066**
180.103 (a) table amended **57072**
180.106 (a) table amended **57072**
180.110 (a) table amended **57072**
180.114 Revised **57072**
180.115 Removed **57066**
180.118 Removed **57066**
180.121 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57073**
180.145 (a)(1) table amended **57073**
Regulation at 63 FR 57073 withdrawn in part 4311
180.148 Removed **57066**
180.158 Removed **57066**
180.159 Removed **57066**
180.162 Removed **57066**
180.170 Removed **57073**
180.171 Removed **57066**
180.173 (a) table revised **57073**
180.175 (b) table amended **53817**
180.176 Existing text designated as (a); (b) added **54369**
180.178 Revised **57073**
180.181 Existing text designated as (a); (a) heading added; table revised **57073**
180.183 (a) table amended **57073**
180.188 Removed **57073**
180.198 Heading and table revised **57073**
180.200 (a)(1) revised **57073**
180.204 Added **70030**
180.205 (b) table amended **54360**
180.206 (a) table amended **57074**
180.207 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.209 (a) table amended **57074**
180.211 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.213 (a)(1) table revised **57074**
180.214 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.215 Existing text designated as (a)(1) and (2); (a) heading added; (a)(1) table amended **57074**
180.217 Existing text designated as (a) and revised **57074**
180.219 Removed **57066**

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

180.220 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.222 (a) table amended **57075**
180.227 (a) heading and (1) designation added; (b) and (c) redesignated as (a)(2) and (3); new (a)(1) and (2) amended; new (a)(3) revised 789
180.229 Existing text designated as (a); (a) heading added; (a) table amended **57075**
180.231 Existing text designated as (a); (a) heading added **57075**
180.235 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.239 Table amended **57066**
180.242 (a)(1) table amended **57075**
(b) table amended **66996**
180.254 (a) table amended **57075**
180.258 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.261 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.262 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.263 Table amended **57066**
Table corrected 3423
180.284 Revised **45182**
(b) table amended **67799**
180.292 Existing designated as (a); (d) added; (a)(2) and (3) redesignated from 185.4850 and 186.4850 425
180.293 (b) amended **42249**
180.297 Existing text designated as (a); (a) heading added; (a) table amended **57075**
180.298 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.306 Removed **57066**
180.314 Table amended **57075**
180.317 Heading and (a) introductory text revised; (b) redesignated as (c); (a) heading and new (b) added **49487**
180.319 Table amended **57066**
Revised **57076**
180.320 Removed **57076**
180.321 Removed **57066**
180.325 Table amended **57066**
180.326 Removed **57066**
180.330 (a) table amended **57076**
180.341 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.346 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.347 Removed **57066**
180.349 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57076**
180.350 (a) heading added; (a) table amended; (b) removed **57076**
180.353 (b) table revised **49472**
180.357 Removed **57066**
180.358 Removed **57076**
180.364 (a)(1) designation and (2) added **54066**
180.366 Removed **57076**
180.368 (b) table amended **48594, 66437**
180.370 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.374 Removed **57077**
180.384 Existing text designated as (a); (b) added **51847**
180.385 Existing text designated as (a); (a) heading added; (a) table amended **57077**
180.386 Removed **57077**
180.387 Removed **57077**
180.395 (b) table amended **65073**
180.410 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57077**
180.412 (a) table and (c) table amended **54073**
180.414 (b) amended **54362**
180.416 Existing text designated as (a); (a) heading added; (a) table amended **57077**
180.417 (b) amended **45406**
180.418 (a)(1) table amended **48579**
180.434 (b) table amended 3002

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 40 *Proposed Rules:—Con.*

43897, 44192, 44208, 44211, 44213, 44417, 44820, 44822, 45032, 45443, 45779, 46209, 46732, 46733, 46953, 46954, 47216, 47217, 47458, 47459, 49053, 49056, 49058, 49517, 50180, 50823, 50824, 51325, 51882, 52213, 53350, 54089, 54645, 55812, 55983, 56127, 56292, 56394, 56590, 56881, 57086, 58678, 59754, 59923, 59924, 60256, 63428, 64228, 65567, 66776, 67439, 67638, 67639, 67817, 67818, 68415, 69589, 69594, 70086, 70359, 70709, 71807, 71815, 72222, 72223
.....67, 464, 465, 818, 820, 1003, 1573, 1770, 2165, 2416, 2455, 2610, 2611, 3263, 3271, 3272, 3465, 3890, 3891, 3896, 3901, 3906, 3908, 4379, 4605

55.....**41991**
58.....**67818**
.....3056
60.....**45779, 50824, 57748, 67988**
.....2460
61.....**57748, 66083**
.....2460
62.....**36871, 40073, 40074, 40386, 41508, 42310, 43127, 45208, 47459, 54090, 59928, 63429, 64023, 64667, 68418, 69364, 70086**
63.....**38544, 39543, 41508, 45036, 48890, 54646, 55178, 55812, 56707, 57748, 64024, 64668, 65725, 66083, 66084, 68833, 69251, 71408**
.....1780, 1880, 2460, 2611, 4379
65.....**57748**
.....2460
68.....**55983**
70.....**40053, 40951**
72.....**41358, 45037**
73.....**41358, 45037**
76.....**45032**
79.....**63807**
80.....**49317, 63807**
81.....**39258, 39793, 44214, 53350, 57086, 58678, 64437, 69598**
.....1003, 3272, 3908
82.....**41652, 42791, 64437**
.....3272
86.....**38767, 39654, 48464, 48664**
90.....**66081**
94.....**68508**
96.....**45032**
97.....**52213, 56292**
.....2416
98.....**52213, 56394**
.....2416
131.....**36742**
135.....**48078**
136.....**36810**
141.....**37797, 41134, 44214, 47115, 69256**
.....1499, 2538
142.....**37797, 47115, 69256**
144.....**40586, 51882**
145.....**40586, 51882**
146.....**40586, 51882**
152.....**67834**
156.....**67834**
180.....**37307, 40239, 48664, 55565, 56882**
.....1157
185.....**55565**
239.....4379
247.....**45558**
260.....**66101, 70233**
261.....**37797, 38139, 42190, 66101, 70233, 70360**
262.....**66101, 67562, 71411**
264.....**37309, 66101, 67562, 71411**
265.....**37309, 67562, 71411**
268.....**41536, 56886, 66101**
269.....**66101**
270.....**67562, 71411**
271.....**36652, 44218, 49884, 50545, 52214, 56128, 56891, 57996, 66101**
.....4605
272.....2166
281.....**37309, 40683**
300.....**37085, 39545, 40247, 40685, 40687, 43898, 43900, 44218, 45780, 49321, 51882, 53005, 55985, 55986, 64668, 65161, 67834, 68712, 69032, 69601, 71052**
.....2950
302.....**69169**
.....1780
372.....688
437.....2280
441.....**71054**
442.....**50545**
455.....**39444**
721.....**48157, 49518, 57089**
.....4605
745.....**39262, 46734, 52662, 57636, 59754, 64670, 70087, 70190**
.....2460
799.....**54646, 54649**
1700 (Ch. VII).....**45298**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH JANUARY 29, 1999

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60–1—60–999)

60–250 Regulation at 45 FR 86259 withdrawn; revised 59642
60–30 Regulation at 45 FR 86251 withdrawn in part 59642
60–741 Appendix C amended 59659

Chapter 101—Federal Property Management Regulations (Parts 101–1—101–99)

101–11 Regulation at 61 FR 41001 eff. date extended to 12–31–99 2858
101–20.105–3 Revised 35846
101–37.1100—101–37.1109 (Subpart 101–37.11) Revised 43638
101–43.000 Revised 41433
101–43.600—101–43.603 (Subpart 101–43.6) Removed 41433
101–43.4801 (d) revised; (e) amended 40058
(c) removed; (d) and (e) redesignated as (c) and (d); new (c) table amended 41433
Regulation at 63 FR 40058 withdrawn 65710
101–44.400—101–44.403 (Subpart 101–44.4) Revised 56090
101–42—101–49 (Subchapter H Appendix) Temporary Reg. H–29 eff. date extended to 1–15–00 1139
105–60 Revised 56839

Chapter 300—General (Parts 300–1—300–70)

300–2.22 Table revised 2433
300–3.1 Amended 66474
Amended 2434

Chapter 301—Travel Allowances (Parts 301–1—301–99)

301–3 Removed 63419
301–10.131—301–10.143 Undesignated center heading and sections added 63419
301–10.303 Amended 47438
301–11.18 Table revised 66475
301–11.27 Revised 66475
301–11.30 Revised 66475
301–11.31 Added 66475
301–12.1 Revised 66475
Chapter 301 Appendix A revised 66475

Chapter 303—Payment of Expenses Connected with the Death of Certain Employees (Parts 303–1—303–2)

303–1 Removed 2434
303–2 Removed 2434
303–70 Added 2434

Proposed Rules:

101–35 66102
101–42 68136
101–43 ..... 68136, 71686
101–44 42310
101–47 42792
Ch. 300 45781
Ch. 303 45781

NOTE: Boldface page numbers indicate 1998 changes.

CH

TITLE

Chapter
Departm
Human

50.401 Revi
50.402 Revi
50.403 Ame
50.404 (a)
vised;
50.405 Ame
50.406 (a),
(e) am
68a Added

Chapter
ing Ad
of Hea
(Parts 4

400.200 Cor
Amended
402 Added.
403 Techni
405 Techni
405.400—40
Added
405.517 Rev
405.520 Add
409 Comme
409.10 (a)(1
(a)(8) a
409.20 (a)
(1) th
(a)(8) a
410 Techni
Commen
410.1 (a) ar
410.32 (d)(
.....
(a)(3) am
410.40 Revi
410.41 Adde
410.59 Adde
410.60 Revi
410.61 Hea
(d) rev
410.62 Hea
(d) add
410.74 Adde
410.75 Adde
410.76 Adde
410.77 Adde
410.78 Adde
410.150 (b)(

NOTE: Boldfa

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

50.401 Revised 66062
50.402 Revised 66062
50.403 Amended 66062
50.404 (a) introductory text revised; (b) amended 66062
50.405 Amended 66063
50.406 (a), (c), (d) and (g) revised; (e) amended 66063
68a Added 58312

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

400.200 Corrected 52611
Amended 68690
402 Added 68690
403 Technical correction 52610
405 Technical correction 52614
405.400—405.455 (Subpart D) Added 58901
405.517 Revised 58905
405.520 Added 58905
409 Comment period reopening 65560
409.10 (a)(1) through (6) amended; (a)(8) added 3648
409.20 (a) introductory text and (1) through (6) amended; (a)(8) added 3648
410 Technical correction 52610
Comment period reopening 65560
410.1 (a) amended 58905
410.32 (d)(7) correctly designated 53307
(a)(3) amended 58906
410.40 Revised 3648
410.41 Added 3649
410.59 Added 58906
410.60 Revised 58906
410.61 Heading and (a) through (d) revised 58907
410.62 Heading and (a)(3) revised; (d) added 58907
410.74 Added 58907
410.75 Added 58908
410.76 Added 58908
410.77 Added 58909
410.78 Added 58909
410.150 (b)(15) and (16) added 58910
410.152 (a)(1)(v) revised 58910
411 Technical correction 52610
Comment period reopening 65560
412 Technical correction 52614
Hospital wage data revisions 64191
413 Technical correction 52614
Comment period reopening 65560
413.125 Existing text designated as (a); (b) added 58910
413.333 Corrected 53307
414.1 Amended 58910
414.20—414.62 Designated as Subpart B and heading added 58910
414.22 Introductory text revised; (b)(5) added 58910
414.32 Heading and (b) revised 58911
414.34 Heading revised; (a)(2)(iii) added 58911
414.52 Heading and introductory text revised; (d) added 58911
414.56 Revised 58911
414.65 Added 58911
415.110 Revised 58912
417.600 Revised 52611
417.602 Reinstated 52611
417.604 Reinstated 52611
417.605 Reinstated 52611
417.606 Reinstated 52611
417.608 Reinstated 52611
417.609 Reinstated 52611
417.610 Reinstated 52611
417.612 Reinstated 52611
417.614 Reinstated 52611
417.616 Reinstated 52611
417.617 Reinstated 52611
417.618 Reinstated 52611
417.620 Reinstated 52611
417.622 Reinstated 52611
417.624 Reinstated 52611
417.626 Reinstated 52611
417.630 Reinstated 52611
417.632 Reinstated 52611
417.634 Reinstated 52611
417.636 Reinstated 52611
417.638 Reinstated 52611
417.800 Corrected 52611
422.50—422.80 (Subpart B) Heading corrected 52611
422.50 (a) introductory text and (1) corrected 52611
422.54 (d)(2)(i) corrected 52611
422.56 (d) corrected 52612
422.60 (a)(1), (b)(1), (c)(1) and (e)(4)(i) corrected; (f) correctly added 52612
(e)(4)(i) corrected 54526

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 42 Chapter IV—Con.

422.62 (b) introductory text, (c), (d) heading, (1) and (2) introductory text corrected **52612**
422.66 (f) correctly added **52612**
422.74 (b)(3) corrected **52612**
422.80 (c)(3), (d), (e)(1)(iv), (3)(i) and (f) corrected **52612**
422.110 (c) corrected **52612**
422.112 Correctly revised **52612**
422.250 (b) correctly revised **52612**
422.268 (b) corrected **52613**
422.308 (b) correctly designated as (b)(1); (b)(2) correctly added **52613**
422.310 (c)(4) corrected **52614**
422.502 (a)(2), (3)(i) and (4) corrected; (m) correctly designated as (l)(4) **52614**
422.550 (b)(1) corrected **52614**
422.608 Heading corrected **52614**
422.612 (a)(1), (b) heading and introductory text corrected **52614**
422.616 (a) corrected **52614**
422.620 (a) corrected **52614**
422.622 (c)(1)(i) corrected **52614**
422.752 (a)(6) corrected **52614**
424 Comment period reopening **65560**
424.20 Corrected **53307**
424.24 (a)(2) correctly revised **53307**
(c) introductory text, (1)(ii), (iii), (3)(i), (ii), (4), (f)(2) and (3) revised **58912**
424.124 (c)(2) amended 3649
440.160 Revised **64198**
441.151 (b) and (c) revised; (d) added **64198**
483 Comment period reopening **65560**
483.20 (b)(2) introductory text revised **53307**
484.11 Added; interim 3763
484.18 (c) revised 3784
484.20 Added; interim 3763
484.55 Added 3784
485.705 Revised **58912**
485.711 (b)(3) revised **58913**
488 Authority citation revised 3763
488.68 Added; interim 3763
489 Comment period reopening **65560**
493.1202 Heading amended **55034**
493.1203 Heading amended **55034**
493.1443 (b)(3)(ii) introductory text and (C) amended **55034**

Chapter V—Office of Inspector General–Health Care, Department of Health and Human Services (Parts 1000—1999)

1001.102 (b)(4) revised **57918**
1001.2001 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added **57918**

Proposed Rules:

5 ..... **58679**
51c **58679**
63 ..... **58336**
400—499 (Ch. IV) 69
405 3474
409 ..... **63429**
..... 1784
410 ..... **63429**
..... 1784
411 ..... **63429**
..... 1784
412 ..... **63429**
..... 1784
413 ..... **63429**
..... 1784
416 ..... **52663, 63430**
..... 1785
419 ..... **63429**
..... 1784
488 ..... **52663, 63430**
..... 1785
489 ..... **63429**
..... 1784
498 ..... **63429**
..... 1784
1001 ..... **68223**
1003 ..... **63429**
..... 1784

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2200.0–7 (b) revised; eff. 11–2–98 ..... **52617**
2210 Removed; eff. 11–2–98 ..... **52617**
2240 Removed; eff. 11–2–98 ..... **52617**
2250 Removed; eff. 11–2–98 ..... **52617**
2270 Removed; eff. 11–2–98 ..... **52617**
3100 Authority citation revised **52952**
3100.4 Added; eff. 11–2–98 ..... **52952**
3150 Authority citation revised **52952**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

3152.6 (b) revised **52952**
3160 Authority citation revised **52952**
3162.8 Removed; eff. 11-2-98 ..... **52952**
3180 Authority citation revised **52952**
3181.2 Amended; eff. 11-2-98 ..... **52953**
3195 Regulation at 63 FR 40178 confirmed **66762**
3200 Authority citation revised **52953**
3255.13 Added; eff. 11-2-98 ..... **52953**
3255.14 Added; eff. 11-2-98 ..... **52953**
3255.15 Added; eff. 11-2-98 ..... **52953**
3500 Authority citation revised **52953**
3500.5 Revised; eff. 11-2-98 ..... **52953**
3500.5-1 Added; eff. 11-2-98 ..... **52953**
3500.5-2 Added; eff. 11-2-98 ..... **52953**
3510 Authority citation revised **52954**
3514.5 Revised; eff. 11-2-98 ..... **52954**
3520 Authority citation revised **52954**
3524.5 Revised; eff. 11-2-98 ..... **52954**
3530 Authority citation revised **52954**
3534.5 Revised; eff. 11-2-98 ..... **52954**
3540 Authority citation revised **52954**
3544.5 Revised; eff. 11-2-98 ..... **52954**
3550 Authority citation revised **52954**
3554.5 Revised; eff. 11-2-98 ..... **52954**
3580 Authority citation revised **52954**
3585.5-9 Revised; eff. 11-2-98 ..... **52954**
3590 Authority citation revised **52954**
3590.1 Removed; eff. 11-2-98 ..... **52954**
3600 Authority citation added **52954**
3600.0-8 Added; eff. 11-2-98 ..... **52954**
3602.2 (a) amended; eff. 11-2-98 ..... **52954**
3800 Authority citation revised **52954**
3802.6 Revised; eff. 11-2-98 ..... **52954**
3860 Authority citation revised **52955**
3862.9 Added; eff. 11-2-98 ..... **52955**
4300 Revised **55550**

Proposed Rules:

4 ..... 1930, 3262
39 ..... **67834**
428 ..... **64154**
..... 2870
3100 ..... **66776, 66840**
..... 2166
3106 ..... **66776**
..... 2166
3130 ..... **66776, 66840**
3160 ..... **66776, 66840**
3110 ..... **66840**
3120 ..... **66840**
3130 2166
3140 ..... **66840**
3150 ..... **66840**
3160 2166
3170 ..... **66840**
3180 ..... **66840**

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

64.6 Table amended ... **54370, 54372, 55957, 59236, 63797, 70036, 70038**
65.4 Flood elevation determinations **54374, 54377, 55035, 58316, 58319, 64418, 64419, 67002, 67004**
Flood elevation determinations 1522, 3045
67.11 Flood elevation determinations **54378, 55038, 58322, 64421, 67005**
Flood elevation determinations 1523, 3045, 3047
206.200 (b) revised; interim **64425**
206.201 (i) and (j) revised; interim **64425**
206.202 Revised; interim **64425**
206.207 Reinstated; CFR correction **71026**
206.228 (a)(2)(i) revised; interim **64426**
354 Revised; interim **69003**

Proposed Rules:

61 3909
62 ..... **63431, 63432**
67 ..... **54427, 55072, 58338, 64441, 67026**
..... 1573, 3056
206 3910

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Service (Parts 1—199)

144.101 Revised; interim **57558**
144.102 (b) revised; interim **57558**
146.101 (a) revised; (b)(2), (3) and (4) redesignated as (b)(3), (4) and (5); new (b)(2) added; interim **57559**
146.130 Added; interim **57559**
148.101 Revised; interim **57561**
148.102 (a) heading, (2) and (b) revised; interim **57562**
148.170 (Subpart C) Added; interim **57562**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 45

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

276 Added; interim **57926**

Chapter XII—Corporation for National and Community Service (Parts 1200—1299)

1201 Authority citation revised **64199**
1201.2 (b) and (c) added **64199**

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1606 Revised **64643**
1623 Revised **64648**
1625 Removed **64646**

Chapter XXV—Corporation for National and Community Service (Parts 2500—2599)

2500 Removed **66063**
2501 Removed **66063**
2502 Removed **66063**
2503 Removed **66063**
2504 Removed **66063**
2505 Removed **66063**
2506 Removed **66063**
Added; interim 4316

Proposed Rules:

60 ..... **71255**
61 ..... **58341, 71819**
400 1159
401 1159
1628 ..... **56591**
1635 ..... **56594**

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

2.10-1 Regulation at 62 FR 19232 confirmed **59474**
2.10-5 Regulation at 62 FR 19232 confirmed; (c)(2) revised **59474**
2.10-25 Regulation at 62 FR 19232 confirmed; amended **59474**
2.10-101 Regulation at 62 FR 19232 confirmed **59474**
15.1050 Added **57255**
28.130 (d) amended; eff. 11-2-98 ..... **52813**
30.01-5 Regulation at 61 FR 25286 confirmed **52813**
30.01-6 Regulation at 61 FR 25286 confirmed **52813**
31.01-1 Regulation at 61 FR 25286 confirmed **52813**
31.05-1 Regulation at 61 FR 25286 confirmed **52813**
31.36-1 (Subpart 31.36) Regulation at 61 FR 25286 confirmed **52813**
32 Authority citation revised **71764**
32.15-15 (a) and (d) revised; (e) and (f) added; interim; eff. 12-11-00 ..... **71764**
33 Regulation at 61 FR 25286 confirmed **52813**
35.07-10 Regulation at 61 FR 25286 confirmed **52813**
35.10-1 Regulation at 61 FR 25286 confirmed **52813**
35.10-5 Regulation at 61 FR 25287 confirmed **52813**
35.10-6 Regulation at 61 FR 25287 confirmed **52813**
35.10-7 Regulation at 61 FR 25287 confirmed **52813**
35.10-9 Regulation at 61 FR 25287 confirmed **52813**
35.10-20 Regulation at 61 FR 25287 confirmed **52813**
35.10-25 Regulation at 61 FR 25287 confirmed **52813**
35.10-30 Regulation at 61 FR 25287 confirmed **52813**
35.30-50 Regulation at 61 FR 25287 confirmed **52813**
35.30-55 Regulation at 61 FR 25287 confirmed **52813**
35.40-1—35.40-40 (Subpart 35.40) Regulation at 61 FR 25287 confirmed **52813**
35.40-40 Regulation at 61 FR 25287 confirmed **52813**
70.05-10 Regulation at 61 FR 25287 confirmed **52813**
70.10-3 Regulation at 61 FR 25287 confirmed **52813**
70.10-34 Regulation at 61 FR 25287 confirmed **52813**
70.10-35 Regulation at 61 FR 25287 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

70.10–43 Regulation at 61 FR 25287 confirmed....52813
70.28–1 (Subpart 70.28) Regulation at 61 FR 25287 confirmed....52813
71.15–1 Regulation at 61 FR 25287 confirmed....52813
71.20–20 Regulation at 61 FR 25287 confirmed....52813
71.25–15 Regulation at 61 FR 25287 confirmed....52813
75 Regulation at 61 FR 25288 confirmed....52813
77.06–1 (Subpart 77.06) Regulation at 61 FR 25288 confirmed....52813
78.13–1 Regulation at 61 FR 25288 confirmed....52813
78.13–5 Regulation at 61 FR 25288 confirmed....52813
78.13–10 Regulation at 61 FR 25288 confirmed....52813
78.13–15 Regulation at 61 FR 25288 confirmed....52813
78.13–20 Regulation at 61 FR 25288 confirmed....52813
78.14–1—78.14–20 (Subpart 78.14) Regulation at 61 FR 25288 confirmed....52813
78.17–40 Regulation at 61 FR 25288 confirmed....52813
78.17–50 Regulation at 61 FR 25288 confirmed....52813
78.17–52 Regulation at 61 FR 25288 confirmed....52813
78.17–55 Regulation at 61 FR 25288 confirmed....52813
78.17–60 Regulation at 61 FR 25288 confirmed....52813
78.17–70 Regulation at 61 FR 25288 confirmed....52813
78.17–85 Regulation at 61 FR 25288 confirmed....52813
78.17–90 Regulation at 61 FR 25288 confirmed....52813
78.37–5 Regulation at 61 FR 25288 confirmed....52813
78.47–43 Regulation at 61 FR 25288 confirmed....52813
78.47–45 Regulation at 61 FR 25288 confirmed....52813
78.47–47 Regulation at 61 FR 25288 confirmed....52813
78.47–50 Regulation at 61 FR 25288 confirmed....52813
78.47–51 Regulation at 61 FR 25288 confirmed....52813
78.47–60 Regulation at 61 FR 25288 confirmed....52813
78.47–63 Regulation at 61 FR 25288 confirmed....52813
78.47–65 Regulation at 61 FR 25288 confirmed....52813
78.47–72 Regulation at 61 FR 25288 confirmed....52813
78.49–1 (Subpart 78.49) Regulation at 61 FR 25288 confirmed....52813
78.87–1—78.87–20 (Subpart 78.87) Regulation at 61 FR 25288 confirmed....52813
90.05–10 Regulation at 61 FR 25288 confirmed....52813
90.10–3 Regulation at 61 FR 25288 confirmed....52813
90.10–29 Regulation at 61 FR 25288 confirmed....52813
90.27–1 (Subpart 90.27) Regulation at 61 FR 25288 confirmed....52813
91.15–1 Regulation at 61 FR 25289 confirmed....52813
91.20–20 Regulation at 61 FR 25289 confirmed....52813
91.25–15 Regulation at 61 FR 25289 confirmed....52813
94 Regulation at 61 FR 25289 confirmed....52813
96.06–1 (Subpart 90.06) Regulation at 61 FR 25289 confirmed....52813
97.13–1 Regulation at 61 FR 25289 confirmed....52813
97.13–5 Regulation at 61 FR 25289 confirmed....52813
97.13–10 Regulation at 61 FR 25289 confirmed....52813
97.13–15 Regulation at 61 FR 25289 confirmed....52813
97.13–20 Regulation at 61 FR 25289 confirmed....52813
97.14–1—97.14–20 (Subpart 97.14) Regulation at 61 FR 25289 confirmed....52813
97.15–25 Regulation at 61 FR 25289 confirmed....52813
97.15–35 Regulation at 61 FR 25289 confirmed....52813
97.15–37 Regulation at 61 FR 25289 confirmed....52813

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 46 Chapter I—Con.

97.15–40 Regulation at 61 FR 25289 confirmed **52813**
97.15–45 Regulation at 61 FR 25289 confirmed **52813**
97.15–50 Regulation at 61 FR 25289 confirmed **52813**
97.15–65 Regulation at 61 FR 25289 confirmed **52813**
97.15–70 Regulation at 61 FR 25289 confirmed **52813**
97.35–5 Regulation at 61 FR 25289 confirmed **52813**
97.37–37 Regulation at 61 FR 25289 confirmed **52813**
97.37–40 Regulation at 61 FR 25289 confirmed **52813**
97.37–42 Regulation at 61 FR 25289 confirmed **52813**
97.37–43 Regulation at 61 FR 25289 confirmed **52813**
97.37–55 Regulation at 61 FR 25289 confirmed **52813**
97.39–1 (Supbart 97.39) Regulation at 61 FR 25289 confirmed **52813**
97.85–1—97.85–10 (Subpart 97.85) Regulation at 61 FR 25289 confirmed **52813**
107 Authority citation revised **52813**
107.111 Regulation at 61 FR 25289 confirmed **52813**
Amended; eff. 11–2–98 ..... **52814**
107.231 Regulation at 61 FR 25290 confirmed **52813**
(w) removed; eff. 11–2–98 ..... **52814**
107.239 Regulation at 61 FR 25290 confirmed **52813**
107.243 Regulation at 61 FR 25290 confirmed **52813**
107.305 Regulation at 61 FR 25290 confirmed **52813**
(cc) revised; eff. 11–2–98 ..... **52814**
108.101 Regulation at 61 FR 25290 confirmed **52813**
108.103 Regulation at 61 FR 25291 confirmed **52813**
108.105 Regulation at 61 FR 25291 confirmed **52813**
108.500—108.597 (Subpart E) Regulation at 61 FR 25291 confirmed **52813**
108.500 (a) and (b) revised; eff. 11–2–98 ..... **52814**
108.540 (h)(3) and (4) revised; eff. 11–2–98 ..... **52814**
108.565 (a)(3) revised; eff. 11–2–98 ..... **52814**
108.570 (c)(1) amended; eff. 11–2–98 ..... **52814**
108.575 Table amended; eff. 11–2–98 ..... **52814**
108.580 (b)(3)(i) and (c)(2)(i) revised; eff. 11–2–98 ..... **52814**
108.645 Regulation at 61 FR 25298 confirmed **52813**
(a)(1)(ii), (2) and (b)(2) revised; eff. 11–2–98 ..... **52815**
108.646 Regulation at 61 FR 25298 confirmed **52813**
(c) revised; eff. 11–2–98 ..... **52815**
108.647 Regulation at 61 FR 25298 confirmed **52813**
108.649 Regulation at 61 FR 25298 confirmed **52813**
(b), (c), (e)(1) and (g) revised; eff. 11–2–98 ..... **52815**
108.650 Regulation at 61 FR 25299 confirmed **52813**
108.655 Regulation at 61 FR 25298 confirmed **52813**
108.901 (Subpart J) Regulation at 61 FR 25298 confirmed **52813**
(b) introductory text, (6) introductory text, (ix), (x), (7) introductory text and (c) introductory text; eff. 11–2–98 ..... **52815**
109.207 Regulation at 61 FR 25298 confirmed **52813**
109.208 Regulation at 61 FR 25298 confirmed **52813**
109.213 Regulation at 61 FR 25298 confirmed **52813**
(a)(2)(vi), (ix), (b), (c)(2), (d)(5), (7), (f)(2)(vii), (g)(7)(v)(G) and (h)(1)(iv) revised; eff. 11–2–98 ..... **52815**
109.215 Regulation at 61 FR 25301 confirmed **52813**
109.217 Regulation at 61 FR 25301 confirmed **52813**
109.219 Regulation at 61 FR 25301 confirmed **52813**
109.221 Regulation at 61 FR 25301 confirmed **52813**
109.225 Regulation at 61 FR 25301 confirmed **52813**
109.301 Regulation at 61 FR 25301 confirmed **52813**
(d)(2) and (g)(4) revised; eff. 11–2–98 ..... **52816**
109.305 Regulation at 61 FR 25302 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

109.307 Regulation at 61 FR 25302 confirmed....52813
109.313 Regulation at 61 FR 25302 confirmed....52813
109.314 Regulation at 61 FR 25302 confirmed....52813
109.317 Regulation at 61 FR 25302 confirmed....52813
109.320 Regulation at 61 FR 25302 confirmed....52813
109.321 Regulation at 61 FR 25302 confirmed....52813
109.323 Regulation at 61 FR 25302 confirmed....52813
109.325 Regulation at 61 FR 25303 confirmed....52813
109.341 Regulation at 61 FR 25303 confirmed....52813
109.425 Regulation at 61 FR 25303 confirmed....52813
Revised; eff. 11-2-98....52816
109.433 Regulation at 61 FR 25303 confirmed....52813
109.501 Regulation at 61 FR 25303 confirmed....52813
109.503 (Subpart E) Regulation at 61 FR 25303 confirmed....52813
109.505 Regulation at 61 FR 25303 confirmed....52813
125.160 Regulation at 61 FR 25303 confirmed....52813
133 Regulation at 61 FR 25304 confirmed....52813
133.70 (a)(3)(ii), (b)(4), (c)(3) and (4) revised; eff. 11-2-98....52816
133.130 (a)(2) revised; eff. 11-2-98....52816
133.150 (c)(6) revised; eff. 11-2-98....52816
133.160 (a) revised; eff. 11-2-98....52816
167.05-25 Regulation at 61 FR 25311 confirmed....52813
167.05-35 Regulation at 61 FR 25311 confirmed....52813
167.15-28 Regulation at 61 FR 25311 confirmed....52813
167.35-1 Regulation at 61 FR 25311 confirmed....52813
167.35-2 Regulation at 61 FR 25311 confirmed....52813
167.35-3 Regulation at 61 FR 25311 confirmed....52813
167.35-5 Regulation at 61 FR 25311 confirmed....52813
167.35-10 Regulation at 61 FR 25311 confirmed....52813
167.35-15 Regulation at 61 FR 25311 confirmed....52813
167.35-20 Regulation at 61 FR 25311 confirmed....52813
167.35-25 Regulation at 61 FR 25311 confirmed....52813
167.35-30 Regulation at 61 FR 25311 confirmed....52813
167.35-35 Regulation at 61 FR 25311 confirmed....52813
167.35-40 Regulation at 61 FR 25311 confirmed....52813
167.35-45 Regulation at 61 FR 25311 confirmed....52813
167.35-50 Regulation at 61 FR 25311 confirmed....52813
167.35-60 Regulation at 61 FR 25311 confirmed....52813
167.35-65 Regulation at 61 FR 25311 confirmed....52813
167.35-70 Regulation at 61 FR 25311 confirmed....52813
167.35-72 Regulation at 61 FR 25311 confirmed....52813
167.35-75 Regulation at 61 FR 25311 confirmed....52813
167.35-80 Regulation at 61 FR 25311 confirmed....52813
167.35-85 Regulation at 61 FR 25311 confirmed....52813
167.35-90 Regulation at 61 FR 25311 confirmed....52813
167.55-5 Regulation at 61 FR 25311 confirmed....52813
167.65-1 Regulation at 61 FR 25311 confirmed....52813
167.65-55 Regulation at 61 FR 25311 confirmed....52813
168.05-5 Regulation at 61 FR 25312 confirmed....52813
Amended; eff. 11-2-98....52816
168.10-1 Regulation at 61 FR 25312 confirmed....52813
168.10-5 Regulation at 61 FR 25312 confirmed....52813
188.10-5 Regulation at 61 FR 25312 confirmed....52813
188.10-52 Regulation at 61 FR 25312 confirmed....52813
188.10-53 Regulation at 61 FR 25312 confirmed....52813
188.27-1 (Subpart 188.27) Regulation at 61 FR 25312 confirmed....52813
189.15-1 Regulation at 61 FR 25312 confirmed....52813
189.20-20 Regulation at 61 FR 25312 confirmed....52813

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 46 Chapter I—Con.

189.25–15 Regulation at 61 FR 25312 confirmed **52813**
192 Regulation at 61 FR 25312 confirmed **52813**
195.06–1 (Subpart 195.06) Regulation at 61 FR 25312 confirmed **52813**
196.13–1 Regulation at 61 FR 25313 confirmed **52813**
196.13–5 Regulation at 61 FR 25313 confirmed **52813**
196.13–10 Regulation at 61 FR 25313 confirmed **52813**
196.13–15 Regulation at 61 FR 25313 confirmed **52813**
196.13–20 Regulation at 61 FR 25313 confirmed **52813**
196.14–1—196.14–20 (Subpart 196.14) Regulation at 61 FR 25313 confirmed **52813**
196.15–25 Regulation at 61 FR 25313 confirmed **52813**
196.15–35 Regulation at 61 FR 25313 confirmed **52813**
196.15–37 Regulation at 61 FR 25313 confirmed **52813**
196.15–40 Regulation at 61 FR 25313 confirmed **52813**
196.15–45 Regulation at 61 FR 25313 confirmed **52813**
196.15–50 Regulation at 61 FR 25313 confirmed **52813**
196.15–65 Regulation at 61 FR 25313 confirmed **52813**
196.15–70 Regulation at 61 FR 25313 confirmed **52813**
196.35–5 Regulation at 61 FR 25313 confirmed **52813**
196.37–37 Regulation at 61 FR 25313 confirmed **52813**
196.37–40 Regulation at 61 FR 25313 confirmed **52813**
196.37–43 Regulation at 61 FR 25313 confirmed **52813**
196.37–49 Regulation at 61 FR 25313 confirmed **52813**
196.39–1 (Subpart 196.39) Regulation at 61 FR 25313 confirmed **52813**
196.90–1—196.90–10 (Subpart 196.90) Regulation at 61 FR 25313 confirmed **52813**
199 Regulation at 61 FR 25313 confirmed **52813**
199.03 (b)(9) and (10) revised; eff. 11–2–98 ..... **52816**
199.10 Revised; eff. 11–2–98 ..... **52817**
Table correctly revised **56066**
(a) table amended **63798**
199.70 (b)(2)(ii) removed; (a)(2) and (c)(3) revised; eff. 11–2–98 ..... **52818**
(a)(2) corrected **56066**
199.80 (b)(4) revised; eff. 11–2–98 ..... **52818**
199.100 (f) revised; eff. 11–2–98 ..... **52819**
199.110 (f)(4) amended; eff. 11–2–98 ..... **52819**
199.140 (a)(1) revised; eff. 11–2–98 ..... **52819**
199.153 (f) revised; (h)(1), (2) and (i) amended; eff. 11–2–98 ..... **52819**
199.175 (b)(21)(i)(B) revised; eff. 11–2–98 ..... **52819**
199.176 (a)(1)(ii), (2) and (b)(2) revised; eff. 11–2–98 ..... **52819**
199.180 (a)(2)(vi), (ix), (d)(11) and (f)(2)(i) revised; eff. 11–2–98 ..... **52819**
199.190 (d)(2) and (g)(4) revised; eff. 11–2–98 ..... **52819**
199.610 (a) revised; eff. 11–2–98 ..... **52819**
199.620 (a) table and (e) revised; (k)(2)(1) redesignated as (l); (o) and (p) added **52820**
Table corrected **56066**
199.630 (a) table, (c), (d)(2), (f) introductory text, (2)(iv) and (g) revised; (l) and (m) added **52821**
Table corrected **56067**
(a) table amended **63798**
199.640 (h)(2) revised; (i)(2) table amended; eff. 11–2–98 ..... **52821**

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

351 Authority citation amended **55039**
351.1 Authority citation removed **55039**
351.2 (a) revised; authority citation removed **55039**

Chapter III—Saint Lawrence Seaway Development Corporation (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

401 Annual review findings **68697**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

Chapter IV—Federal Maritime Commission (Parts 500—599)

503 Authority citation revised 53308
503.21—503.24 (Subpart C) Revised 53308
503.31—503.34 (Subpart D) Revised 53310
510 Waiver 64876
514 Waiver 64876
582 Waiver 64876

Proposed Rules:

16 71257
45 ..... 58679, 71411
249 1175
381 4382
401 1585
502 66512
510 70710
514 ..... 70368, 71062
515 70710
520 70368
..... 2615
525 69603
530 71062
535 69034
545 66512
550 67030
551 67030
555 67030
560 67030
565 67030
571 66512
572 69034
583 70710
585 67030
586 67030
587 67030
588 67030

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.121 (b) revised 68918
0.401 (b)(3) added 68919
0.408 Revised (OMB numbers) 52618
(b) table revised (OMB numbers) 68919
0.453 (g)(1) removed; (h) introductory text and (1) revised 68919
0.482 Revised 68919
0.491 Revised 68919
0.601 (b) amended 2149
0.605 (e) amended 2150
1 Nomenclature change 54077
Order 63612
Authority citation revised 67429, 71036
1.4 (f) amended 68919, 70047
1.41 Amended 68919
1.45 Introductory text amended; (a), (b) and (c) revised 68919
1.49 (e) amended 68920
1.50 Revised 68920
1.51 (f), (g) and (h) added 68920
1.52 Amended 68920
1.83 (b) amended 68920
1.84 Removed 68920
1.85 Revised 68920
1.106 (o) added 68920
1.115 Regulation at 63 FR 41446 eff. 10–5–98 52983
1.419 (e) revised 56091
1.720 Regulation at 63 FR 41446 eff. 10–5–98 52983
1.721 Regulation at 63 FR 41446 eff. 10–5–98 52983
1.724 Regulation at 63 FR 41446 eff. 10–5–98 52983
1.726 Regulation at 63 FR 41447 eff. 10–5–98 52983
1.727 Regulation at 63 FR 41447 eff. 10–5–98 52983
1.729 Regulation at 63 FR 41447 eff. 10–5–98 52983
1.730 Regulation at 63 FR 41448 eff. 10–5–98 52983
1.733 Regulation at 63 FR 41449 eff. 10–5–98 52983
1.821 Revised 68920
1.823 Removed 68920
1.825 Removed 68920
1.901 Revised 68921
1.902 Added 68921
1.903 Added 68921
1.907 Added 68921
1.911 Revised 68922
1.912 Removed 68922
1.913 Revised 68922
1.914 Removed 68923
1.915 Added 68923
1.916 Removed 68923
1.917 Added 68923
1.918 Removed 68923
1.919 Added 68923
1.921 Removed 68924
1.922 Removed 68924
1.923 Revised 68924

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 47 Chapter I—Con.

1.924 Revised 68924
1.925 Revised 68926
1.926 Revised 68927
1.927 Added 68927
1.929 Added 68927
1.931 Revised 68928
1.933 Revised 68929
1.934 Revised 68930
1.935 Added 68931
1.937 Added 68931
1.939 Added 68931
1.945 Added 68932
1.946 Added 68933
1.947 Added 68933
1.948 Added 68933
1.949 Added 68934
1.951 Revised 68934
1.952 Removed 68934
1.953 Removed 68934
1.955 Revised 68934
1.956 Added 68935
1.957 Added 68935
1.958 Removed 68935
1.959 Removed 68935
1.961 Removed 68935
1.962 Removed 68935
1.971 Removed 68935
1.972 Removed 68935
1.973 Removed 68935
1.981 Revised 68935
1.1102 Revised 68935
1.1111 (b) amended; (c) added 68941
1.1152 Revised 68941
1.1307 (b)(1) Table 1 amended (OMB number pending) 65099
Regulation at 63 FR 65099 eff. date corrected to 2-8-99 4054
1.2003 Amended 68942
1.2107 (e) added 68942
1.2111 (a) amended 68942
1.4000 Revised (effective date pending) 67429
Revised 71036
2 Nomenclature change 54077
Authority citation revised 58650
Order 63798
Rule confirmation 69562
2.103 Revised 58650
2.106 Table amended 2587, 2591
5 Revised 64202
13.5 Revised 68942
13.9 (d), (e) and (f) redesignated as (e), (f) and (g); (b), (c) and new (f) introductory text revised; new (d) added 68942
13.13 (d), (e) and (f) removed; 68942
13.17 (b), (c) and (d) revised 68943
20 Nomenclature change 54077
21.2 Amended 65100
Regulation at 63 FR 65100 eff. date corrected to 2-8-99 4054
21.11 (f) and (g) redesignated as (e) and (f); heading, (a), (d) and new (e) revised 65100
Regulation at 63 FR 65100 eff. date corrected to 2-8-99 4054
21.27 (d) added (OMB number pending) 65101
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.30 (a)(4) revised 65101
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.31 (e)(6)(iv) revised 65101
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.42 (b)(3) revised; (c)(8) added (OMB number pending) 6510
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.101 (a) Footnote 2 revised 65101
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.118 (c) revised 65101
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.201 Revised (OMB number pending) 65101
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.304 Revised (OMB number pending) 65102
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.900 Revised (OMB number pending) 65102
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.901 (a), (b), (d) and Note 1 revised; (g) added (OMB number pending) 65102
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.902 Heading, (b)(3), (4), (5)(i), (f)(1) and (2) revised; (b)(7) and (l) added 65102
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.903 (a) and (b)(1) revised; (d) added (OMB number pending) 65103

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

Regulation at 63 FR 65103 eff. date corrected to 2-8-99 4054
21.904 Revised **65103**
Regulation at 63 FR 65103 eff. date corrected to 2-8-99 4054
21.905 (b) revised; (d) added (OMB number pending) **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.906 (a) and (d) revised (OMB number pending) **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.907 Removed **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.908 (b) redesignated as (a); heading and new (a) revised; (c), (d) and (e) removed; new (b) through (e) added **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.909 Revised (OMB number pending) **65105**
Regulation at 63 FR 65105 eff. date corrected to 2-8-99 4054
21.910 Heading, introductory text, (a) and (b) introductory text revised; (d) added **65109**
Regulation at 63 FR 65109 eff. date corrected to 2-8-99 4054
21.913 Revised (OMB number pending) **65109**
Regulation at 63 FR 65109 eff. date corrected to 2-8-99 4054
21.925 (b) revised **65112**
Regulation at 63 FR 65112 eff. date corrected to 2-8-99 4054
21.938 (b) introductory text, (c)(4), (e) and (f) revised **65112**
Regulation at 63 FR 65112 eff. date corrected to 2-8-99 4054
21.940 Added (OMB number pending) **65112**
Second 21.940 correctly redesignated as 21.949 4055
21.949 Correctly redesignated from second 21.940 4055
22.99 Amended **68943**
22.101 Removed **68943**
22.103 Removed **68943**
22.105 Removed **68943**
22.106 Removed **68943**
22.108 Removed **68943**
22.115 Removed **68943**
22.117 Removed **68943**
22.119 Removed **68943**
22.120 Removed **68943**
22.121 Removed **68943**
22.122 Removed **68943**
22.123 Removed **68943**
22.124 Removed **68943**
22.125 Removed **68943**
22.127 Removed **68943**
22.128 Removed **68943**
22.129 Removed **68943**
22.130 Removed **68943**
22.131 (b) introductory text, (1), (c) introductory text, (1) and (2) revised; (d)(3) removed **68943**
22.132 Removed **68943**
22.135 Removed **68943**
22.137 Removed **68943**
22.139 Removed **68943**
22.142 Removed **68943**
22.144 Removed **68943**
22.145 Removed **68943**
22.150 (d) introductory text amended **68944**
22.163 Removed **68944**
22.165 (b) and (e) revised **68944**
22.213 Removed **68944**
22.221 (b) revised **68944**
22.315 Removed **68944**
22.317 Amended **68944**
22.323 (d) revised **68944**
22.352 (c)(6) revised **68944**
22.369 Removed **68944**
22.411 (d)(1) revised **68944**
22.413 (b)(1) revised **68944**
22.415 (b)(1) revised **68944**
22.417 (b)(1) revised **68944**
22.503 (k) revised **68945**
22.507 (c) revised **68945**
22.529 (a) and (b) introductory text amended; (b)(1), (3) introductory text, (i) and (iii) revised **68945**
22.531 (c) revised **68945**
22.539 Introductory text revised **68945**
22.577 (b) amended; (d) revised **68945**
22.625 (b)(1) revised **68946**
22.627 (b)(1)(i) and (2) revised **68946**
22.657 (a), (d), (e)(1) and (f) revised **68947**
22.659 (b)(1) and (c)(1) revised **68947**
22.709 Introductory text, (b) introductory text, (1) and (2) revised (effective date pending in part) **68948**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 47 Chapter I—Con.

22.803 Introductory text, (a) introductory text, (b) introductory text, (1) and (2) revised (effective date pending in part) 68948
22.821 Removed 68948
22.859 Introductory text and table revised 68948
22.873 (a) and (b) revised 68950
22.875 (d)(7) removed (effective date pending in part) 68951
22.907 (b) revised 68951
22.911 (b) amended 68951
22.929 Revised (effective date pending in part) 68951
22.935 (a) amended 68951
22.936 (a) amended 68951
22.941 (b) amended; (c) revised 68951
22.944 Removed 68951
22.946 Introductory text and (b) removed; (a) introductory text revised; (a)(1) redesignated as (b) 68951
22.947 (b) introductory text amended 68951
22.953 (a) and (b) revised; (c) added 68951
22.966 Removed 68952
24 Order 63612
24.2 (b) amended 68952
24.5 Amended 68952
24.11 (a) revised 68952
24.18 Removed 68952
24.202 Introductory text amended 68952
24.307 Revised 68952
24.405 Removed 68952
24.406 Removed 68952
24.409 Removed 68952
24.411 Removed 68952
24.413 Removed 68952
24.419 Removed 68952
24.420 Removed 68952
24.421 Removed 68952
24.422 Removed 68953
24.423 Removed 68953
24.425 Removed 68953
24.426 Removed 68953
24.427 Removed 68953
24.428 Removed 68953
24.429 Removed 68953
24.432 Removed 68953
24.439 Removed 68953
24.443 Removed 68953
24.444 Removed 68953
24.714 (b)(1) revised 68953
24.803 Removed 68953
24.805 Removed 68953
24.806 Removed 68953
24.809 Removed 68953
24.811 Removed 68953
24.813 Removed 68953
24.819 Removed 68953
24.820 Removed 68953
24.821 Removed 68953
24.822 Removed 68953
24.823 Removed 68953
24.825 Removed 68953
24.826 Removed 68953
24.827 Removed 68953
24.828 Removed 68953
24.829 Removed 68953
24.832 Removed 68953
24.839 (a), (b) and (c) removed; (d) and (e) redesignated as (a) and (b) 68953
24.844 Removed 68953
25.202 (a)(1) table revised 2591
26.2 (b) amended 68953
26.4 Amended 56577, 68953
26.11 (a) revised 68953
26.56 Added 71041
26.104 (e) revised 68953
26.203 Revised 56578
26.204 Removed 56578
26.205 Revised 56578
26.206 Revised 56578
26.207 Revised 56578, 68954
26.208 Revised 56578
26.209 (b)(2) revised 68954
26.210 Revised 56578
26.303 Removed 68954
26.304 Removed 68954
26.305 Removed 68954
26.306 Removed 68954
26.307 (a) revised 56578
Removed 68954
26.309 Removed 71041
26.310 Removed 68954
26.311 Removed 68954
26.312 Removed 68954
26.313 Removed 56578
Removed 68954
26.314 Removed 68954
26.315 Removed 68954
26.316 Removed 68954
26.317 Revised 56578
Removed 68954
26.318 Removed 68954
26.319 Removed 68954
26.320 Revised 56578
Removed 68954

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

26.322 Removed **68954**
26.323 (a) revised **68954**
26.324 Removed **68954**
26.325 Removed **68954**
26.326 Removed **68954**
27.3 (b) amended **68954**
27.4 Amended **68954**
27.11 (a) revised **68954**
27.15 (b)(1) revised **68954**
27.59 Removed **68954**
27.61 Removed **68954**
27.62 Removed **68954**
27.207 Removed **68954**
27.301 Removed **68954**
27.303 Removed **68954**
27.304 Removed **68954**
27.306 Removed **68954**
27.307 Removed **68954**
27.310 Removed **68955**
27.311 Removed **68955**
27.312 Removed **68955**
27.313 Removed **68955**
27.314 Removed **68955**
27.315 Removed **68955**
27.316 Removed **68955**
27.317 Removed **68955**
27.319 Removed **68955**
27.320 Removed **68955**
27.322 Removed **68955**
27.324 Removed **68955**
27.325 Removed **68955**
36 Order **63993**
36.601 Amended **64651**
52.19 (a) revised **63617**
52.21 (c) and (q) revised **68203**
52.27 Revised **68203**
52.31 (a), (b) and (e) revised **68204**
54 Order **63993**
Guidelines **68208**
54.5 Amended **70571**
54.504 (b)(1), (2)(vii), (3) and (c) amended; (b)(4) revised **70572**
54.505 (b)(3) and (c) amended **70572**
54.507 (e), (f), (g) introductory text and (1) amended; (c), (g)(2)(i) and (iv) revised **70572**
54.509 (b) amended; (c) revised **70572**
54.511 (c)(3) amended **70572**
54.515 (a) and (b) revised; (c) and (d) removed **67009**
54.516 (b) amended **70572**
54.603 (a)(1) through (5) amended **70572**
54.604 (c) amended **70572**
(d) revised 2594
54.605 (e) amended **70572**
54.609 (b) amended **70572**
54.619 (b) and (d) amended **70572**
54.623 (c), (e) and (f) amended **70572**
(b) and (c) revised 2594
54.625 (a) amended **70572**
54.701 Revised **70572**
54.702 Added **70573**
54.703 Revised (effective date pending in part) **70573**
54.704 Added **70574**
54.705 Revised **70574**
54.706 Added **70575**
54.708 Added **70576**
54.709 (a)(2) amended; (a)(3) revised **70576**
54.711 (a) and (b) revised **67009**
(b) amended **70576**
54.715 Revised **70576**
54.717 Added **70576**
54.719—54.725 (Subpart I) Added **70577**
54.719 Added **70577**
54.721 Added (effective date pending) **70578**
54.722 Added **70578**
54.723 Added **70578**
54.724 Added **70578**
64 Order **54379**
64.604 (c)(4)(iii)(1) revised **67010**
68.300 (c) added 3048
69 Order **63993**
69.153 (c) introductory text, (2), (d)(1) introductory text, (ii), (2) introductory text, (ii) and (e) revised **55335**
69.600 Removed **70578**
69.603 (c), (d) and (e) removed **70578**
69.613 Removed **70578**
69.614 Removed **70578**
69.615 Removed **70578**
69.616 (e) added **67010**
Removed **70578**
69.617 Removed **70578**
69.618 Removed **70578**
69.619 Removed **70578**
69.620 Removed **70578**
69.621 Removed **70578**
69.622 Removed **70578**
69.623 Removed **70578**
73 Actions on petitions **54380, 71389**
Order **65710**
Actions on petitions 3650
73.202 (b) table amended ..... **52984, 54379, 54600, 55807—55809, 55958, 55959, 57609, 57610, 59238, 59239, 62956, 62957, 63617—63619, 64877, 67430**
(b) table amended ... 995, 2858, 3874, 3875

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 47 Chapter I—Con.

73.316 (c) revised **70047**
73.622 (b) amended 4326
(e) revised 4327
73.623 (f) redesignated as (g); new (f) added 4327
73.624 (g) added **69216**
(b) revised 4327
73.1030 (a) revised **70048**
73.1125 Regulation at 63 FR 49497 eff. 10–30–98 ..... **56578**
73.1675 (a) revised **70049**
73.3500 Existing text designated as (a); (b) added **70049**
73.3526 Regulation at 63 FR 49497 eff. 10–30–98 ..... **56578**
(e)(11)(iii) revised **70049**
Regulation at 63 FR 70049 eff. 12–31–98 ..... **71789**
73.3527 Regulation at 63 FR 49499 eff. 10–30–98 ..... **56578**
73.3534 Revised **70049**
73.3535 Removed **70049**
73.3550 Revised **71603**
73.3597 (c)(1)(iii) added **70050**
73.3598 Revised **70050**
73.3599 Removed **70050**
73.3613 (b)(7) added **70050**
73.3615 (a) introductory text, (1), (3)(i)(A), (c), (d) introductory text, (e) and (f) revised; (a)(2) amended **70050**
Regulation at 63 FR 70050 eff. in part 12–31–98 ..... **71789**
74 Rule confirmation **69562**
74.406 (d)(1) revised 4327
74.725 Added **70578**
74.783 (e) revised **71604**
74.901 Amended **65113**
Regulation at 63 FR 65113 eff. date corrected to 2-8-99 4054
74.902 (f) through (j) redesignated as (g) through (k); (c), (d) and (e) revised; new (f) added (OMB number pending) **65113**
74.903 (a)(1), (2), (3), (b) introductory text, (1), (2), (4), (5), (c) and (d) revised; (a)(6) added; (e) and (f) removed **65114**
Regulation at 63 FR 65114 eff. date corrected to 2-8-99 4054
74.911 (a)(1) revised; (d) added (OMB number pending) **65115**
Regulation at 63 FR 65115 eff. date corrected to 2-8-99 4054
74.912 Added **65115**
Regulation at 63 FR 65115 eff. date corrected to 2-8-99 4054
74.931 (d), (e), (f) through (k) redesignated as (b), (c) and (e) through (j); new (b) and new (c) revised; new (d) added (OMB number pending) **65116**
Regulation at 63 FR 65116 eff. date corrected to 2-8-99 4054
74.935 (a) and (b) revised **65117**
Regulation at 63 FR 65117 eff. date corrected to 2-8-99 4054
74.936 Revised (OMB number pending) **65117**
Regulation at 63 FR 65117 eff. date corrected to 2-8-99 4054
74.937 (a) amended; (b) revised **65118**
Regulation at 63 FR 65118 eff. date corrected to 2-8-99 4054
74.938 Revised **65119**
Regulation at 63 FR 65119 eff. date corrected to 2-8-99 4054
74.939 Revised (OMB number pending) **65119**
Regulation at 63 FR 65119 eff. date corrected to 2-8-99 4054
74.940 Added (OMB number pending) **65124**
Second 74.940 correctly redesignated as 74.949 4055
74.949 Correctly redesignated from second 74.940 4055
74.950 Removed **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.951 (b) revised (OMB number pending) **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.952 Revised **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.961 (a) revised **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.965 Revised (OMB number pending) **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.982 (b) revised; (g) added **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.985 Revised (OMB number pending) **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

74.986 (a) introductory text revised; (a)(8) added **65127**
Regulation at 63 FR 65127 eff. date corrected to 2-8-99 4054
74 Index amended **65127**
Regulation at 63 FR 65127 eff. date corrected to 2-8-99 4054
76.1003 Regulation at 63 FR 45739 eff. 12-23-98 2595
78 Rule confirmation **69562**
79.1 (b), (d)(3), (7), (8), (9) and (e)(3) revised; (d)(13) and (e)(10) added **55962**
80.3 (k) revised **68955**
80.19 Removed **68955**
80.21 (a), (b) and (f) removed; (c), (d) and (e) redesignated as (a), (b) and (c); introductory text and new (c) revised (effective date pending) **68955**
80.23 Removed **68955**
80.25 (a) and (b) revised **68955**
80.29 Removed **68955**
80.31 Revised **68955**
80.33 (b) introductory text and (c) introductory text revised (effective date pending) **68955**
80.45 Revised **68955**
80.49 Revised **68955**
80.51 (a) removed **68955**
80.53 Revised (effective date pending) **68956**
80.56 Removed **68956**
80.57 (b)(6) revised; (c)(6) amended **68956**
80.59 (c) revised **68956**
80.383 (a) table amended **53313**
80.469 (c) revised (effective date pending) **68956**
80.511 (c) revised (effective date pending) **68956**
80.513 (c)(1) amended (effective date pending) **68956**
80.514 Introductory text revised **68956**
80.553 Introductory text revised **68956**
80.605 (a) and (c)(9) revised; (d) amended (effective date pending) **68956**
87.17 Revised **68957**
87.21 Removed **68957**
87.23 Removed **68957**
87.25 Introductory text removed; (b) revised **68957**
87.27 (a) and (b) revised **68957**
87.31 Removed **68957**
87.33 Removed **68957**
87.35 Revised **68957**
87.37 (a) introductory text revised **68957**
87.45 Revised **68957**
87.51 (a) removed **68957**
87.79 Removed **68957**
87.137 (d) removed **68957**
87.187 (bb) and (cc) revised **68957**
87.215 (d) amended (effective date pending) **68957**
87.239 Revised **68957**
87.301 (b) revised **68957**
87.307 (d) introductory text revised **68958**
87.321 Revised **68958**
87.323 (b) amended **68958**
87.347 (b)(1), (2), (3) and (c) revised (effective date pending) **68958**
87.419 (b) revised **68958**
87.421 (b) revised **68958**
87.423 Revised **68958**
87.447 Introductory text revised **68958**
87.473 (a) removed; (b) and (c) redesignated as (a) and (b) **68958**
87.475 (a) amended **68958**
87.481 (a) introductory text and (4) revised **68958**
87.527 (b) revised **68958**
90 Authority citation revised **58651**
90.5 (b), (i)(1) and (m) revised **68958**
90.7 Amended **68958**
90.20 (c)(3) table amended; (d)(77) added **58651**
90.22 Revised **68958**
90.35 (c)(61)(iv) revised **68959**
90.111 Revised **68963**
90.113 Removed **68963**
90.117 Removed **68963**
90.119 Revised **68963**
90.123 Removed **68963**
90.125 Removed **68963**
90.127 Revised **68963**
90.129 Introductory text revised; (c) and (e) removed **68963**
90.131 Removed **68963**
90.135 Revised **68963**
90.137 (a) introductory text revised **68963**
90.139 Removed **68963**
90.141 Removed **68964**
90.143 Removed **68964**
90.145 Removed **68964**
90.147 Removed **68964**
90.149 (a) revised; (b) removed **68964**
90.151 Removed **68964**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 47 Chapter I—Con.

90.153 Removed **68964**
90.155 (d) revised **68964**
90.157 Revised **68964**
90.159 (a), (b) introductory text, (c), (d) and note revised **68964**
90.160 Removed **68965**
90.161 Removed **68965**
90.162 Removed **68965**
90.163 Removed **68965**
90.164 Removed **68965**
90.165 Introductory text, (b) introductory text, (1), (c) introductory text and (1) revised; (d)(3) removed **68965**
90.166 Removed **68965**
90.167 Revised **68965**
90.175 Introductory text, (b), (e) and (f) revised **68965**
90.177 Removed **68965**
90.187 (a) revised **68965**
90.203 (a) introductory text revised; (l) added **64208**
90.205 (l) revised **58651**
90.237 (b) removed **68965**
90.241 (c)(7) revised **68965**
90.248 Added **64208**
90.259 Revised **64209**
90.273 (c) revised **68965**
90.303 Revised **68965**
90.350 Revised **68965**
90.365 (a)(1), (b) and (d)(2) revised; (d)(1)(ii) removed; (d)(1)(iii) redesignated as (d)(1)(ii) **68966**
90.437 (c) revised; (d) removed **68966**
90.477 (a) introductory text and (d)(3) revised **68966**
90.501 Revised **68967**
90.521—90.551 (Subpart R) Added **58651**
90.523 Regulation at 63 FR 58651 eff. 1-20-98 3048
90.527 Regulation at 63 FR 58652 eff. 1-20-98 3048
90.545 Regulation at 63 FR 58656 eff. 1-20-98 3048
90.551 Regulation at 63 FR 58658 eff. 1-20-98 3048
90.601 Revised **68967**
90.605 Revised **68967**
90.607 (b)(1) and (c)(1) revised; (d) removed **68967**
90.609 (a) removed **68967**
90.611 Removed **68967**
90.619 (d)(5) amended **68968**
90.621 Table 1 amended; (b)(3), (e)(5) and (f)(1) revised **68968**
90.625 (a) amended (effective date pending) **68969**
90.629 (c) amended **68969**
90.631 (d) amended; (f) revised **68969**
90.635 Table 1 revised **68969**
90.645 (g) and (h) amended **68970**
90.651 Revised **68970**
90.655 Amended **68970**
90.657 Removed **68970**
90.658 (a) revised **68970**
90.659 Removed **68970**
90.683 (a)(4) revised; (a)(5) removed (effective date pending) **68970**
90.687 Amended **68970**
90.693 (b) and (c) revised **68970**
90.701 (a) revised **68971**
90.705 Revised **68971**
90.711 (a) introductory text revised; (a)(5) removed **68971**
90.733 (h)(2) revised **68971**
90.737 (d) and (e) revised **68971**
90.741 Revised **68971**
90.751 Revised **68973**
90.753 (d) and (e) revised **68973**
90.755 Removed **68973**
90.763 (b)(4) revised (effective date pending) **68973**
90.767 (c) revised **68973**
90.769 (c) revised **68973**
90.911 (b)(1) amended **68973**
90.1013 Revised **68973**
90.1019 (d) removed; (e) redesignated as (d); heading, (a), (b), (c) and new (d) revised **68973**
90.1023 (b) introductory text revised **68974**
95 Nomenclature change **54077**
95.1—95.7 Undesignated center heading removed **68974**
95.5 Revised **68974**
95.7 (b) amended **68974**
95.21—95.61 Undesignated center heading removed **68974**
95.71—95.89 Undesignated center heading removed **68974**
95.101—95.143 Undesignated center heading removed **68974**
95.171—95.181 Undesignated center heading removed **68974**
95.21 Revised **68974**
95.23 (b) revised; (d) removed **68974**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

95.25 (a) introductory text, (d)(2)(i) and (f) revised; (c) removed 68974
95.29 (a), (b), (e) introductory text and (2) revised; (c) and (d) removed 68974
95.31 Removed 68975
95.33 (b) removed 68975
95.35 Removed 68975
95.37 Removed 68975
95.39 Removed 68975
95.41 Removed 68975
95.42 Removed 68975
95.43 Removed 68975
95.45 Revised 68975
95.47 Removed 68975
95.49 Removed 68975
95.51 Revised 68975
95.53 Removed 68975
95.55 Removed 68975
95.57 Removed 68975
95.59 Removed 68975
95.61 Removed 68975
95.71 Removed 68975
95.72 Removed 68975
95.73 Removed 68975
95.75 Removed 68975
95.77 Removed 68975
95.79 Removed 68975
95.83 Removed 68975
95.85 Removed 68975
95.87 Removed 68975
95.89 Removed 68975
95.101 (a) revised 68975
95.103 Revised 68975
95.105 Revised 68975
95.107 Removed 68975
95.109 Removed 68975
95.111 Removed 68975
95.113 Removed 68975
95.115 Amended 68975
95.117 Revised 68975
95.119 (a) introductory text, (b) and (d) revised 68975
95.121 Removed 68975
95.123 Removed 68975
95.125 Removed 68975
95.127 Removed 68975
95.129 Revised 68975
95.131 Removed 68975
95.133 Removed 68975
95.135 (b) removed; (d) revised 68976
95.137 Removed 68976
95.139 (b) removed; (c) redesignated as (b) 68976
95.171 Revised 68976
95.173 Removed 68976
95.175 Removed 68976
95.177 Removed 68976
95.179 (a) introductory text, (b) introductory text and (1) revised; (f) removed 68976
95.181 (f) revised; (i) and (j) removed 68976
95.183 Added 68976
95.1—95.181 (Subpart A) Appendix A amended; Appendix B removed 68976
95.192 (b) and (c) removed 68976
95.217 (b) revised 68976
95.225 Revised 68976
95.419 (b) revised 68976
95.428 Revised 68976
95.801 Revised 68977
95.811 (a) revised; (b) amended 68977
95.815 Revised 68977
95.816 (c)(2)(ii) revised 68977
95.817 Removed 68977
95.819 (c) amended 68977
95.821 Removed 68977
95.833 (b) introductory text amended 68977
95.839 Removed 68977
95.840 Removed 68977
95.841 Removed 68977
97 Nomenclature change 54077
97.3 Amended 68977
97.5 (a) introductory text, (b), (c) and (d) revised; (e) added 68977
97.7 Revised 68978
97.9 Revised 68978
97.13 (a) revised; (b) and (c)(2) amended 68978
97.15 Revised 68978
97.17 Revised 68978
97.19 (a), (b), (c) and (d)(1) revised 68978
97.21 Revised 68979
97.23 Revised 68979
97.25 Revised 68979
97.27 Heading and (a) introductory text revised 68979
97.29 Revised 68979
97.107 Revised 68979
97.119 (g) revised 68980
97.201 (a) revised 68980
97.203 (a) revised 68980
97.205 (f) and (h) removed 68980
97.207 (g) introductory text, (h) and (i) revised 68980

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 47 Chapter I—Con.

97.301 (a) introductory text and (b) introductory text revised **68980**
97.505 (a)(10) revised **68980**
97.509 (i) revised **68980**
97.519 (b) introductory text, (1), (2) and (3) revised **68981**
101 Rule confirmation **69562**
101.1 (a) and (b) redesignated as (b) and (c); new (a) added **68981**
101.3 Amended **68981**
101.5 (a) and (c) removed; (b) revised **68981**
101.9 Removed **68981**
101.11 Removed **68981**
101.13 Removed **68981**
101.15 Removed **68981**
101.19 Removed **68981**
101.21 (a), (c) and (d) removed; (b), (e) and (g) revised **68981**
101.23 Revised **68981**
101.25 Removed **68981**
101.27 Removed **68981**
101.29 Removed **68981**
101.31 (a), (c), (d) removed; (b) and (e) redesignated as (a) and (b); heading and new (a)(1)(i), (2), (3) introductory text, (vii), (6) and (b)(1)(v) revised; new (b)(1)(vi) and (3) amended **68981**
101.33 Removed **68982**
101.35 Removed **68982**
101.37 Removed **68982**
101.39 Removed **68982**
101.41 Removed **68982**
101.43 Removed **68982**
101.45 (b) introductory text, (d), (f) introductory text, (1), (2) and (4) revised; (h) removed **68982**
101.47 Removed **68982**
101.51 (a)(3) revised **68982**
101.53 Removed **68982**
101.55 (b) removed **68982**
101.56 (a)(2)(ii) amended; (a)(3) removed **68982**
101.57 Removed **68982**
101.59 Removed **68982**
101.61 Revised (effective date pending) **68982**
101.63 (b), (d) and (e) revised **68983**
101.65 Revised **68983**
101.103 (d)(1) amended **68983**
101.105 (c)(3) introductory text amended **68983**
101.121 Removed **68983**
101.123 Removed **68983**
101.127 Removed **68983**
101.129 (b) removed **68983**
101.205 (a) and (c) revised **68983**
101.305 (a), (b), (c) and (d)(1) revised **68983**
101.413 (a) introductory text revised **68983**
101.503 Amended **68983**
101.701 (c) revised (effective date pending) **68983**
101.705 Revised **68984**
101.815 (a)(2) and (b) revised **68984**
101.817 (a) introductory text revised **68984**
101.1009 (a)(1)(iii) and (b) revised **68984**
101.1015 Removed **68984**
101.1017 (a), (b)(2) and (c)(2) revised **68984**
101.1106 Removed **68984**

Proposed Rules:

0—199 (Ch. I) **56892, 59755, 70089**
0 ..... **53619, 66104**
..... 2461
1 ..... **53350, 54090, 70090**
..... 204
2 ..... **65726, 69606**
..... 1786, 2462
20 ..... **52665, 70727**
..... 3478
22 ..... **53350, 70727**
25 ..... **54100, 63258**
..... 1786
32 ..... **56900**
36 ..... **67837**
43 ..... **54090, 56900**
52 ..... **54090**
54 ..... **54090, 58685, 67837, 68224**
61 ..... **54430**
62 ..... **68714**
64 ..... **54090, 55077, 63639**
65 ..... **55988, 68418**
69 ..... **54430**
73 ..... **53008, 53009, 54431, 55831, 57637, 58358, 59262, 59263, 59928, 63016, 64941, 66104, 67036, 67439, 67449, 68424, 68425, 68718—68722, 68729, 69607—69609, 71412—71415**
..... 2461, 3913
74 ..... **58358, 66104, 68729, 69606**
76 2461
78 ..... **69606**
87 ..... **65726**
90 ..... **58685, 65568**

NOTE: **Boldface page numbers indicate 1998 changes.**

.....1003, 3480
101 .....53350, 69606

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Federal Acquisition Circular No. 97–08 58586
Small entity compliance guide 58608, 70306
Federal Acquisition Circular No. 97–10 70264
1.106 Table amended (OMB numbers); interim 58588
Table amended (OMB numbers) 58602, 70292
2.101 Amended; interim 58591
4.203 Revised; interim 58588
4.500—4.502 (Subpart 4.5) Revised; interim 58592
4.900—4.905 (Subpart 4.9) Revised; interim 58589
5.101 (a)(2)(ii) revised; (a)(2)(iv) amended; interim 58592
5.102 (a)(2) and (7) revised; interim 58592
5.202 (a)(13) revised; (a)(14) removed; (a)(15) redesignated as (a)(14); interim 58592
(a)(2) through (12) and (14) amended; interim 58593
5.203 (b) revised; interim 58592
Introductory text, (a) introductory text, (c), (d), (e) and (g) amended; interim 58593
5.205 (d)(2) amended; interim 58593
5.207 (c)(2)(xi), (e)(3) and (h) amended; interim 58593
(d) revised; interim 70266
5.301 (b)(7) revised; interim 58593
5.503 (a)(2) revised; interim 58593
6.205 Added; interim 70267
6.302–3 (a)(2)(iii) revised 58594
(a)(2) introductory text, (i) and (ii) amended 58602
6.302–5 (b)(6) added; interim 70267
7.105 (b)(1) amended; interim 70267
8.404 (a) amended; interim 70267
9.104–3 (b) amended; interim 70267
12.301 (b)(2) amended; interim 70267
13.003 (c) removed; (d) through (i) redesignated as (c) through (h); new (f) and new (h)(3) revised; interim 58593
(b)(2) redesignated as (b)(3); new (b)(2) added; interim 70267
13.005 (a)(9) added; interim 70267
13.102 (a) introductory text revised; interim 58593
13.104 (b) amended; interim 58593
13.105 (a)(1) revised; interim 58593
13.106–1 (c)(1)(ii) and (f) revised; interim 58593
13.106–2 (b)(3) introductory text revised; interim 58593
13.106–3 (e) added; interim 58589
(c) revised; interim 58593
13.307 (b)(1) amended; interim 58593
14.201–6 (b)(2) removed; interim 58589
14.205–1 (a) amended; interim 58594
14.206 Removed; interim 70267
14.400 Amended; interim 58594
14.407–4 (a) amended 58602
14.502 (b)(5) redesignated as (b)(6); new (b)(5) added; interim 70267
15.209 (d) removed; interim 58589
15.404–1 (a)(7) amended 58602
15.408 (g) revised 58596
15.503 (a)(2) revised; interim 70267
16.504 (a) introductory text and (1) amended; (a)(4)(ii) revised 70282
19.000 (a)(3) and (8) revised; interim 70268
19.001 Amended; interim 70268, 71723
19.102 (f)(4) amended 58602
(g) amended 70292
19.201 (b) amended 56738
(a) and (c) amended; (d)(4), (6), (7)(ii), (8) and (9) revised; interim 70268
19.202 Amended; interim 70268
19.202–2 Introductory text revised; (a) amended; interim 70268
19.202–4 Introductory text revised; interim 70268
19.202–5 (a) and (b) revised; interim 70268
19.202–6 Introductory text removed; (a) revised; interim 70268
19.301—19.306 (Subpart 19.3) Heading revised; interim 70268
19.301 (d) amended; interim 70268
19.306 (b) amended 56738
Redesignated as 19.307; new 19.306 added; interim 70269

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 48 Chapter 1—Con.

19.307 Redesignated from 19.306; heading and (a) revised; interim **70269**
19.402 (c)(1) revised; interim **70269**
19.501 (a) and (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and new (h) revised; interim **70269**
19.502–1 Revised; interim **70270**
19.502–2 (a), (c) and (d) amended; interim **70270**
19.502–4 (a) amended; interim **70270**
19.502–5 (b), (c) and (g) amended; interim **70270**
(e) amended **70292**
19.503 Heading revised; (a), (b), (c) introductory text and (d) amended; interim **70270**
19.507 Heading revised; (a) amended; interim **70270**
19.701—19.708 (Subpart 19.7) Heading revised; interim **70270**
19.702 Introductory text and (b)(4) revised; interim **70270**
19.703 (a) introductory text and (1) revised; (b) amended; interim **70270**
(b) revised; interim **71723**
19.704 (a)(1), (2), (3), (6), (8), (9) and (11) revised; (b) amended; interim **70271**
19.705–2 (d) amended; interim **70271**
19.705–4 (b), (c), (d)(1) and (6) amended; (d)(5) revised; interim **70271**
19.705–6 (a) and (b) revised; interim **70271**
19.705–7 (a) and (f) introductory text revised; (d) amended; interim **70272**
19.706 (b) and (c) revised; interim **70272**
19.708 Heading revised; (a) introductory text, (c)(1), (2) and (3) amended; (b) revised; interim **70272**
19.800 (d) added; interim **70272**
19.803 (c) amended; interim **70272**
19.804–2 (a)(12) revised; interim **70272**
19.1004 Amended **58602**
19.1006 (b)(1) amended; interim **70272**
19.1102 (b) revised; interim **70272**
19.1202–2 (b)(1) revised; interim **70272**
19.1202–4 (c) added; interim **71723**
19.1301—19.1308 (Subpart 19.13) Added; interim **70272**
22.800 Amended **70283**
22.801 Revised **70283**
22.802 (a) and (b) amended **70283**
(b) and (c) amended **70285**
22.803 (b) amended; (d) revised **70283**
(a)(1), (2) and (b) amended **70285**
22.804–1 Revised **70284**
22.804–2 (b) amended **70284**
22.805 (a)(4) through (8) redesignated as (a)(5) through (9); (a) introductory text, (1), (2), (3) and new (5) introductory text, (ii), (v) and (6) through (9) revised; new (a)(4) added; (b) amended **70284**
22.806 Revised **70284**
22.807 (a)(1), (b)(1), (3) and (6) amended; (a)(2), (b)(5), (c) and (d) introductory text revised; (d)(2) removed **70284**
(a) introductory text, (b)(2), (3) and (4) amended **70285**
22.808 Amended **70285**
22.809 Introductory text, (a) and (d) amended **70285**
Introductory text, (c) and (d) amended **70285**
22.810 (a), (c) and (e) revised; (b) and (f) amended; (g) removed; (h) redesignated as (g) **70285**
22.1400—22.1408 (Subpart 22.14) Regulation at 63 FR 34074 confirmed **58599**
22.1400 Regulation at 63 FR 34074 confirmed **58599**
22.1401 Regulation at 63 FR 34074 confirmed **58599**
22.1402 Regulation at 63 FR 34074 confirmed **58599**
22.1403 Regulation at 63 FR 34074 confirmed **58599**
22.1404 Regulation at 63 FR 34074 confirmed **58599**
22.1405 Regulation at 63 FR 34074 confirmed **58599**
22.1406 Regulation at 63 FR 34074 confirmed **58599**
22.1407 Regulation at 63 FR 34074 confirmed **58599**
22.1408 Regulation at 63 FR 34074 confirmed **58599**
24.202 (c) added **58594**
26.104 (a) amended; interim **70274**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

31.001 Amended **58596**
31.201–5 Amended **58596**
31.201–6 (j)(1) through (6) revised **58597**
31.205–5 Removed **58599**
31.205–6 Regulation at 63 FR 9067 confirmed; (k) heading and (p)(2)(ii) revised; (p)(2)(iv) added **70287**
31.205–47 (b) introductory text and (e)(3) revised; (c) redesignated as (c)(1); (c)(2) added **58600**
31.1103 (a) amended; interim **58594**
32.703–3 Revised **58601**
32.705–1 (b) revised **58603**
32.905 (a) introductory text revised **58602**
32.908 (a)(3) and (c)(3) added **58602**
(a)(3) and (c)(3) amended **70292**
33.104 (e) amended **58603**
33.201 Amended **58594**
33.204 Amended **58595**
33.207 (a) revised **58595**
33.214 (a)(3) and (4) amended; (a)(5) removed; (b) revised; (f) and (g) added **58595**
36.601–4 (a)(4) amended **58603**
37.106 (b) revised **58601**
37.602–3 Amended **70292**
41.103 (a)(2) and (3) amended **58603**
42.203 Amended **70292**
44.302 Revised **70288**
44.303 Introductory text revised **70288**
46.202–4 Revised **70289**
46.311 Revised **70289**
46.402 (e) and (g) removed; (f) and (h) redesignated as (e) and (f); new (e) amended **70290**
48.104–3 Regulation at 63 FR 34079 confirmed **70291**
52.204–3 Revised; interim **58589**
52.212–3 Amended; interim **58590, 70274**
Amended **70285**
52.212–5 Regulation at 63 FR 34075 confirmed **58599**
Amended **58603, 70292**
Amended; interim **70274**
52.213–4 Regulation at 63 FR 34075 confirmed **58599**
52.214–2 Removed; interim **58590**
52.215–4 Removed; interim **58590**
52.215–15 Revised **58598**
52.219–1 Amended; interim **70274**
52.219–2 Introductory text amended; interim **70274**
52.219–3 Added; interim **70274**
52.219–4 Added; interim **70275**
52.219–8 Revised; interim **70275**
Amended; interim **71723**
Amended; interim 3196
52.219–9 Amended; interim **70276**
Amended **70293**
52.219–10 Amended; interim **70277**
52.219–16 Amended; interim **70277**
52.219–22 Introductory text amended; interim **70277**
52.219–25 Amended; interim **71723**
52.222–21 Revised **70285**
52.222–22 Amended; introductory text revised **70286**
52.222–23 Amended; heading and introductory text revised **70286**
52.222–24 Revised **70286**
52.222–25 Introductory text revised **70286**
52.222–26 Amended; introductory text revised **70286**
52.222–27 Amended; introductory text revised **70286**
52.222–28 Removed **70286**
52.222–29 Revised **70286**
52.222–36 Regulation at 63 FR 34075 confirmed **58599**
52.222–37 Amended **70293**
52.226–1 Amended; interim **70277**
52.233–1 Amended **58595**
52.244–6 Amended **58603**
52.246–11 Revised **70289**
52.247–48 Revised **70292**
53.219 (a) revised; (b) amended; interim **70277**
53.228 (h) and (i) revised **58603**
(a), (b), (c), (e), (j) and (m) revised **70293**
53.301–24 Revised **70293**
53.301–25 Revised **70296**
53.301–25A Revised **70298**
53.301–28 Revised **70300**
53.301–273 Revised **58603**
53.301–274 Revised **58605**
53.301–275 Revised **70302**
53.301–294 Revised; interim **70277**
53.301–295 Revised; interim **70280**
53.301–1416 Revised **70304**

Chapter 2—Department of Defense (Parts 200—299)

204.101 (a)(i) revised **69006**
204.670–2 (c) revised 2595
204.804–1 Amended 2596
206.302–4 Revised **67803**
208.405–2 Revised 2596

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 48 Chapter 2—Con.

208.7204 (a) revised....2596
208.7305 (a)(3) revised....2596
209.104–1 Regulation at 63 FR 14837 confirmed....**64427**
209.104–70 Regulation at 63 FR 14837 confirmed....**64427**
209.405–2 Regulation at 63 FR 14837 confirmed....**64427**
209.409 Regulation at 63 FR 14837 confirmed....**64427**
212.503 (c)(ii) amended....**55040**
213 Regulation at 63 FR 33587 confirmed....**64427**
Revised....2596
215 Revised....**55041**
215.304 Revised; interim....**64428**
215.404–4 (b)(1) introductory text, (c)(2) introductory text, (A) and (B) revised....**63799**
215.404–72 Revised....**63799**
215.404–75 Redesignated as 215.404–76; new 215.404–75 added....**63800**
215.404–76 Redesignated from 215.404–75....**63800**
216.203–4 (a) introductory text amended; (a)(i) and (b)(i) revised....2597
217.401 Revised; interim....**64429**
217.7103–3 (b) revised....**55052**
(b) correctly revised....**56290**
217.7103–4 Revised....**55052**
217.7302 (b) revised....2597
217.7404–3 (a) introductory text and (1) revised....**67803**
217.7404–5 (b) revised....**67804**
217.7406 (b) amended....**55052**
217.7504 (a)(2) revised....2598
219.001 Revised; interim....**64429**
219.201 (c) and (d) redesignated as (d) and (e); new (d)(9)(A) revised....2598
219.702 Regulation at 63 FR 14640 confirmed....**64427**
219.708 (c)(1) revised; (c)(2) removed; interim....**64429**
219.800 Regulation at 63 FR 33587 confirmed....**64427**
219.804–2 Regulation at 63 FR 33587 confirmed....**64427**
219.804–3 Regulation at 63 FR 33587 confirmed....**64427**
219.805 Regulation at 63 FR 33588 confirmed....**64427**
219.805–2 Regulation at 63 FR 33588 confirmed....**64427**
219.806 Regulation at 63 FR 33588 confirmed....**64427**
219.808 Regulation at 63 FR 33588 confirmed....**64427**
219.808–1 Regulation at 63 FR 33588 confirmed....**64427**
219.811 Regulation at 63 FR 33588 confirmed....**64427**
219.811–1 Regulation at 63 FR 33588 confirmed....**64427**
219.811–2 Regulation at 63 FR 33588 confirmed....**64427**
219.811–3 Regulation at 63 FR 33588 confirmed....**64427**
219.812 Regulation at 63 FR 33588 confirmed....**64427**
219.1203—219.1204 (Subpart 219.12) Added; interim....**64429**
223.570–4 (b) revised....2598
223.7000—223.7002 (Subpart 223.70) Removed....**67804**
225.105 (5)(ii)(B) revised....2598
225.770–3 (a) revised....2598
225.872–3 (g) amended....**55052**
225.872–6 (c) introductory text amended....**55052**
225.7002–2 (k) added; interim....2599
225.7005 Regulation at 63 FR 43888 confirmed....**64427**
225.7007–4 Regulation at 63 FR 43888 confirmed....**64427**
225.7010–3 Regulation at 63 FR 43888 confirmed....**64427**
225.7016–1 Regulation at 63 FR 43888 confirmed....**64427**
225.7016–2 Regulation at 63 FR 43888 confirmed....**64427**
225.7016–3 Regulation at 63 FR 43888 confirmed....**64427**
225.7019–1 Regulation at 63 FR 43888 confirmed....**64427**
225.7019–3 Regulation at 63 FR 43888 confirmed....**64427**
225.7022–1 Regulation at 63 FR 43888 confirmed....**64427**
225.7022–2 Regulation at 63 FR 43888 confirmed....**64427**
225.7022–3 Regulation at 63 FR 43888 confirmed....**64427**
226.7007 (b) revised; interim....**64429**
227.7203–10 (a)(1) amended....**55052**
228.370 (f) revised....**69006**
230.7002 (b) amended....**55052**
230.7004–1 Heading and (a) amended....**55052**
230.7103 Amended....**55052**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

231.205–6 Regulation at 63 FR 63036 confirmed **64427**
231.205–70 Regulation at 63 FR 7309 confirmed **64427**
232.905 (f)(6) revised **69007**
235.015–71 Removed **69007**
235.7000—235.7003–4 (Subpart 235.70) Regulation at 63 FR 34605 confirmed **64427**
237.7302 Amended 2598
236.102 Regulation at 63 FR 11538 confirmed **64427**
236.274 Regulation at 63 FR 11538 confirmed **64427**
236.570 Regulation at 63 FR 11538 confirmed **64427**
236.601 (1)(ii) amended **69008**
236.602–1 (a)(i)(6)(C) revised; interim **64430**
237.106 Revised **67805**
237.270 Correctly removed; CFR correction **54078**
237.270–1 Correctly removed; CFR correction **54078**
237.270–2 Correctly removed; CFR correction **54078**
237.270–3 Correctly removed; CFR correction **54078**
237.270–4 Correctly removed; CFR correction **54078**
237.7204 Amended **55052**
242.203 (a)(ii)(P) and (Q) amended; (a)(i)(R) removed 2598
242.7205 (b)(4)(iv) amended **55052**
246.370 (b)(1) revised 2598
247.271–3 (b)(1) and (2)(iv)(B) revised 2598
247.572–2 (f)(3)(i) amended; (f)(3)(ii) revised **55052**
247.573 (a), (b) and (c) revised 2598
252.209–7001 Regulation at 63 FR 14837 confirmed **64427**
252.209.7004 Regulation at 63 FR 14837 confirmed **64427**
252.212–7001 Amended; interim **64430**
252.215–7000 Introductory text amended **55052**
252.215–7002 Amended; introductory text revised **55052**
252.217–7027 Amended **55052**
252.219–7005 Amended **55052**
Removed; interim **64430**
252.219–7009 Regulation at 63 FR 33588 confirmed **64427**
252.219–7010 Regulation at 63 FR 33588 confirmed **64427**
252.219–7011 Regulation at 63 FR 33588 confirmed **64427**
252.223–7005 Removed **67804**
252.225–7012 Amended; interim 2599
252.225–7016 Regulation at 63 FR 43889 confirmed **64427**
252.225–7029 Regulation at 63 FR 43889 confirmed **64427**
252.228–7006 Amended **69006**
252.236–7010 Regulation at 63 FR 11544 confirmed **64427**
252.236–7012 Regulation at 63 FR 11544 confirmed **64427**
252.243–7000 Amended **55052**
253 Note removed **69007**
253.204–70 (b)(6)(i) introductory text amended **55052**
(b)(5)(ii)(A), (B)(*1*), (13)(i)(A), (B) introductory text, (C), (E), (G), (iv)(I), (14)(iii), (iv), (d)(5)(vi), (e)(1), (2) and (3) amended **60217**
Regulation at 63 FR 33589 confirmed **64427**
(d)(5)(iv)(A)(*2*) amended 2598
253.204–71 Regulation at 63 FR 33589 confirmed **64427**
(a)(3) introductory text, (g)(2)(ii)(C) and (i)(1) revised 2598
253.213 (e) redesignated as (f); heading and new (f) introductory text and (1) revised 2599
253.213–70 (e) amended 2600
253.215–70 (a), (b)(4), (c)(12) and (14) revised; (b)(7) removed; (b)(8) and (9) redesignated as (b)(7) and (8); (c)(15) and (16) amended **55052**
(b)(4) amended **63800**
Chapter 2 Appendix I amended; interim **64430**
Appendix G amended **71231**

Chapter 8—Department of Veterans Affairs (Parts 800—899)

801.000 Amended **69217**
801.101 (a) amended **69217**
801.102 Redesignated as 801.103 ..... **69217**
801.103 Redesignated as 801.104; new 801.103 redesignated from 801.102 and amended **69217**
801.104 Redesignated from 801.103; (a) amended **69217**
801.301–70 (b)(2) amended **69217**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 48 Chapter 8—Con.

801.303 Heading revised....69217
801.601—801.690–6 (Subpart 801.6) Heading revised....69217
801.602–3 (a)(2) and (b)(2) amended....69217
801.603–71 (b) amended; (c), (d) and (e) removed....69217
801.670–1 Amended....69217
801.670–2 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2)....69217
801.670–3 (a) amended....69217
801.670–4 (a)(1), (2), (b)(1), (2) and (c) amended....69217
801.670–5 (a)(3) through (6), (8), (9) and (b) amended....69218
801.680 (c) and (d) amended....69218
801.690–3 (c) introductory text, (1) and (2) amended....69218
801.690–4 (c)(1)(i) amended; (c)(3)(ii) revised....69218
801.690–6 (b) amended....69218
803.101–3 (b) amended....69218
803.405 Redesignated from 803.409....69218
803.409 Redesignated as 803.405....69218
803.7000 Introductory text amended....69218
805.205 Amended....69218
806.302–3 Amended....69218
806.302–5 (a), (b), (c) introductory text, (1), (2), (4), (5) and (6) amended; (c)(3) revised....69218
806.304 (a)(1)(i) and (2)(i) amended....69218
806.501 (b) amended....69218
806.570 Heading revised; introductory text amended....69218
808.001 (a)(4) amended....69219
808.401 Amended....69219
808.404–1 (a) and (b) amended....69219
808.404–3 Amended....69219
814.201 (a) amended....69219
814.304–4 Amended....69219
814.403 Amended....69219
814.404–1 (b) amended....69219
814.404–70 Amended....69219
814.406 Redesignated as 814.407....69219
814.406–3 (a), (b) and (c) amended....69219
814.406–4 (a), (b) and (c) amended....69219
814.407 Redesignated as 814.408; new 814.407 redesignated from 814.406....69219
814.407–70 Redesignated as 814.408–70....69219
814.407–71 Redesignated as 814.408–71....69219
814.408 Redesignated as 814.409; new 814.408 redesignated from 814.407....69219
814.408–70 Redesignated from 814.407–70....69219
814.408–71 Redesignated from 814.407–71....69219
814.409 Redesignated from 814.408....69219
817.102 Redesignated as 817.105....69219
817.102–1 Redesignated as 817.105–1....69219
817.105 Redesignated from 817.105....69219
817.105–1 Redesignated from 817.105–1; (b)(2) and (c) amended....69219
819 Authority citation revised....69219
819.201 (a), (b) and (d) amended....69219
819.202–5 (c) introductory text, (g) and (h) amended; (c)(6) removed; (c)(7) through (12) redesignated as (c)(6) through (11)....69219
819.202–70 Introductory text, (a), (c), (j) and (k) amended....69220
819.502–2 (b) removed; (c) and (d) redesignated as (b) and (c)....69220
819.502–3 Revised....69220
819.602–3 (a) through (d) amended....69220
819.801 (b) and (d) amended....69220
819.804 Amended; heading revised....69220
819.806 Redesignated from 819.806–3 and heading revised....69220
819.806–3 Redesignated as 819.806....69220
819.807–70 Amended; heading revised....69220
819.7004 Amended....69220
822.478 (a), (b) and (c) amended....69220
825 Authority citation revised....69220
825.102–70 (b) and (c) amended....69220
825.105 Amended....69220
825.202–70 (b) and (c) amended....69220
825.203 Amended....69220
825.302–70 Amended....69220
825.701 Removed....69220
825.703 Amended....69220
825.870 Amended....69220

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

825.901 Redesignated from 825.902; heading revised; existing text designated as (a) and amended; (b) added 69220
825.902 Redesignated as 825.901 69220
825.904 Removed 69221
828.106–6 Amended 69221
828.7100 (a) and (c) amended 69221
828.7101 (b) amended 69221
828.7102 (a) introductory text, (1) and (b) introductory text amended 69221
831 Authority citation revised 69221
831.7001–4 (a) and (b)(2) amended 69221
831.7001–5 (b) amended 69221
832 Authority citation revised 69221
832.502–2 Amended 69221
832.805–70 (b) amended 69221
833.104 (a)(1), (2), (b) and (c) amended 69221
833.212 (a) and (b)(4) amended 69221
836.208 Amended 69221
836.209 Amended 69221
836.602–2 (a) and (b) amended 69221
838.606–72 Amended 69221
837.203—873.271–4 (Subpart 837.2) Heading revised 69221
837.203 Revised 69221
837.270 (a) introductory text, (1), (3), (c) and (d) amended; (e) revised 69221
837.271 Removed 69222
837.271–1 Removed 69222
837.271–2 Removed 69222
837.271–3 Removed 69222
837.271–4 Removed 69222
837.403 Amended 69222
837.7001 Amended 69222
837.7002 Amended 69222
837.7003 (a), (b) introductory text, (5), (c) and (d) amended; (e) revised 69222
842 Authority citation revised 69222
842.102 (b) amended 69222
842.202 Amended 69222
842.705 (b) amended 69222
842.801–70 Amended 69222
842.1203 Amended 69222
846.408–70 (b) introductory text amended 69222
846.408–71 (a) amended 69222
846.471 (a) and (b) amended 69222
847 Authority citation revised 69222
847.303–1 (b) amended 69222
847.305–70 Amended 69222
849 Authority citation revised 69222
849.106 Amended 69222
849.107 Amended 69223
849.111–70 Amended 69223
849.111–72 (c) amended 69223
852.203–71 Amended 69223
852.211–70 (d) amended 69223
852.216–70 (a) amended 69223
852.222–70 Amended 69223
852.236–88 Introductory text, (a) and (b) amended 69223
852.236–89 Amended 69223
852.247–70 Amended 69223
852.270–3 Heading revised 69223
852.271–73 Amended 69223
853 Authority citation revised 69223
853.107 Amended 69223
870 Authority citation revised 69223
870.114–3 Introductory text amended 69223
870.114–4 Amended 69223
870.115 (a) amended 69223
871.102 (a) amended 69223

Chapter 9—Department of Energy (Parts 900—999)

903.104–3 Added 56851
915 Revised 56851
916.504—916.505 Designated as Subpart 916.5 and heading added 56860
919.602–1 (a)(2) amended 56860
919.805–2 Revised 56860
935.016 Removed 56860
935.016–1 Removed 56860
935.016–2 Removed 56860
935.016–8 Removed 56860
970.15404–4—970.15407–2–3 (Subpart 970.15) Revised 56861
970.3102–1 (c) amended 56867
970.3102–15 (b)(1) and (2) amended 56867
970.5202 Revised 56867
970.5204–9 Amended 56867
970.5204–15 Amended 56867
970.5204–22 Amended 56867
970.5204–44 Amended 56867
970.5204–54 Amended 56867
970.5204–76 Amended 56867

Chapter 12—Department of Transportation (Parts 1200—1299)

1201.103 Removed 2436
1201.201–1 (d) removed 2436
1201.301 (a)(2) and (b) added 2436

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 48 Chapter 12—Con.

1205.9000 (Subpart 1205.90) Revised 2436
1206.9000 (Subpart 1206.90) Revised 2436
1211.204–90 Revised 2437
1213.106—1213.106–190 (Subpart 1203.1) Revised 2437
1213.302—1213.302–590 (Subpart 1213.3) Added 2437
1215 Revised 2437
1237.104 Revised 2438
1237.104–90 Revised 2438
1237.104–91 Revised 2438
1237.9000 (Subpart 1237.90) Revised 2438
1252.211–71 Amended 2439
1252.215–70 Amended 2439
1252.216–71 Amended 2439
1252.216–72 Amended 2439
1252.216–73 Amended 2439
1252.211–90 Added 2439
1252.213–90 Revised 2439
1252.220–90 Revised 2439
1252.228–90 Revised 2439
1252.237–90 Revised 2439
1252.237–91 Revised 2440
1252.237–92 Revised 2440
1252.237–93 Revised 2440
1252.237–94 Revised 2440
1252.237–95 Revised 2440
1252.237–96 Revised 2440
1252.237–97 Revised 2440
1252.237–98 Revised 2440
1252.237–99 Revised 2440
1252 Appendix redesignated from 1253 appendix in part; new appendix revised 2442
1253.215 Removed 2441
1253.215–270 Removed 2441
1253.3 Appendix redesignated in part as 1253 appendix 2442

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

1516.405 (b) amended 3876
1552.216–75 Revised 3876
1552.242–70 Amended 3876

Chapter 16—Office of Personnel Management Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)

1609.7101—1609.7101–2 (Subpart 1609.71) Added **55337**
1632.170 (a) and (b)(1) revised **55338**
1652.232–70 Amended **55339**
1652.232–71 Amended **55339**
1652.244–70 Amended **55339**
1652.370 Table amended **55339**

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1804.203 Added 1528
1804.904 (Subpart 1804.9) Added 1528
1817.7300—1817.7302 (Subpart 1873.73) Added **56091**
1827.301 Amended **63209**
1834.003 (a) revised **56093**
1834.7001—1834.7004 (Subpart 1834.70) Removed **56093**
1852.217–71 Added **56093**
1852.217–72 Added **56093**
1852.227–70 Amended **63209**
1852.234–70 Removed **56094**
1852.234–71 Removed **56094**
1871.204 Revised **71604**
1871.401–6 (a)(2) amended **71604**
(a)(2) correctly revised; (a)(3) correctly added; CFR correction 1529

Chapter 53—Department of the Air Force Federal Acquisition Regulation Supplement (Parts 5300—5399)

5315 Removed 995
5316 Removed **67600**
5350 Removed **71390**

Proposed Rules:

8 ..... **57568**
11 ..... **63778, 68344**
14 4248
15 4248
17 3618
28 ..... **71710**
31 ..... 3380, 4760
36 ..... **71710**
42 ..... **57568**
44 ..... **71710**
46 ..... **57878**
49 ..... **71710**
52 ..... **63778, 68344, 71710, 71711** 3618, 3786, 4248
204 2617
212 2617
213 2617

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

231 ..... **65727**
252 2617
253 2617
300—399 (Ch. III) 1344
601 ..... **65728**
602 ..... **65728**
603 ..... **65728**
604 ..... **65728**
605 ..... **65728**
606 ..... **65728**
608 ..... **65728**
609 ..... **65728**
610 ..... **65728**
611 ..... **65728**
613 ..... **65728**
614 ..... **65728**
615 ..... **65728**
616 ..... **65728**
617 ..... **65728**
619 ..... **65728**
622 ..... **65728**
623 ..... **65728**
625 ..... **65728**
626 ..... **65728**
628 ..... **65728**
629 ..... **65728**
630 ..... **65728**
631 ..... **65728**
632 ..... **65728**
633 ..... **65728**
634 ..... **65728**
636 ..... **65728**
637 ..... **65728**
639 ..... **65728**
641 ..... **65728**
642 ..... **65728**
643 ..... **65728**
644 ..... **65728**
645 ..... **65728**
646 ..... **65728**
647 ..... **65728**
649 ..... **65728**
652 ..... **65728**
653 ..... **65728**
700—799 (Ch. VII) **59501**
712 ..... **59501**
727 ..... **59501**
742 ..... **59501, 64539**
752 ..... **59501**
801 ..... **60256**
806 ..... **60256**
812 ..... **60256**
829 4607
837 ..... **60256**
852 ..... **60256**
873 ..... **60256**
909 ..... **60268**
970 ..... **60268, 64024**
1201 ..... **52666**
1205 ..... **52666**
1206 ..... **52666**
1211 ..... **52666**
1213 ..... **52666**
1215 ..... **52666**
1237 ..... **52666**
1252 ..... **52666**
1253 ..... **52666**
1503 ..... **71415**
1515 ..... **71415**
1526 ..... **67845**
1537 3060
1552 ..... **67845, 71415**
..... 3060
1842 ..... **63654**
1852 ..... **63654**
2000—2099 (Ch. 20) **67726**

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.46 (ppp) added **59475**
(ppp) correctly designated 3876
1.49 (kk) added **57610**
1.66 (bb) added 2150
37.15 Revised **64837, 64838**
40.29 (e)(1) table and (f)(1) table amended **65129**

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.503 (a)(3) amended **52846**
107.606 (a)(5) amended **52847**
171.7 (a)(3) table amended **52847, 57930**
171.8 Amended **52847**
171.11 (d)(4)(ii) revised **57930**
171.14 (c)(1) revised **52847**
172.101 (c)(11) introductory text, (f) and table amended **52847**
172.101 Table amended **52849**
172.102 (c)(1) amended **52849**
172.203 (m)(1) amended **52849**
172.400a (a)(7) amended **52849**
172.504 Table amended **52849**
173.6 (c)(2) amended **52849**
173.33 (a)(3) amended **52849**
173.34 (e)(18)(i) table amended **52849**
173.58 (a) introductory text amended **52849**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 49 Chapter I—Con.

173.62 (c) table amended **52849**
173.247 (a) amended **52849**
173.403 Amended **52849**
173.416 (f) amended **52849**
173.422 (b)(1) amended **52849**
173.425 Table 7 amended **52849**
173.427 (a)(3) amended **52849**
173.433 (g) table amended **52849**
173.461 (a) introductory text and (b) amended **52850**
175.700 (b) amended **52850**
176.704 (e)(1) and (f) table amended **52850**
177 Response to petitions **58323**
177.835 (g) introductory text amended **52850**
177.842 (a) amended **52850**
177.843 (c) amended **52850**
177.854 Introductory text removed **52850**
178.338 Heading amended **52850**
179 Authority citation revised **52850**
179.2 (a)(2) revised **52850**
179.3 (a) revised **52850**
179.4 (a) amended; (b) revised **52850**
179.5 (a) and (b) revised **52850**
179.100—179.103–5 (Subpart C) Heading revised **52850**
180.403 Introductory text amended **52850**
180.417 (a)(3)(ii) amended **52850**
180.509 (c)(3)(ii) amended **52851**
180.515 (b) amended **52851**
195 Response to petitions **63210**
195.302 (b)(4) added; (a) amended; (c) introductory text revised **59479**
195.303 Redesignated as 195.304; new 195.303 added **59480**
195.304 Redesignated as 195.305; new 195.304 redesignated from 195.303 ..... **59480**
195.305 Redesignated from 195.304 ..... **59480**
195.406 (a)(4) amended **59480**
195 Appendix B added **59480**
199 Announcement **58324**

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

213.57 (g)(4) corrected **54078**
213.345 (d) corrected **54078**
219 Determination **71789**
219.5 Amended; interim **71791**
219.201 (a)(1) introductory text, (2) and (4) revised; interim **71791**
225.19 (c) amended; interim **71791**
225 Appendix B amended; interim **71791**
268 Added; interim **54606**

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

381 Added; interim **67608**
383.7 Removed; interim **67612**
385 Appendix B amended **62959**
395 Deadline extension **71791**

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

538.5 (b) added **66068**
538.6 Revised **66069**
538.7 Added **66069**
544.5 (a) revised **70053**
544 Appendixes A, B and C revised **70053**
555 Heading and authority citation revised **2861**
555.1 Revised **2861**
555.2 Existing text designated as (a); (b) added **2861**
555.3 Revised **2861**
555.4 Amended **2861**
555.5 Heading, (b) introductory text and (5) amended; (a) and (b)(7) revised **2861**
555.6 Heading, (a)(1)(v), (2)(iv), (b)(5), (c)(5) and (d)(4) amended; (b) introductory text, (1), (2) introductory text, (i), (iii), (4), (c)(1), (2) introductory text, (iv), (d) introductory text, (1) introductory text, (ii), (iv) and (v) revised **2861**
555.7 (b), (c), (d) introductory text and (e) amended **2861**
Heading and (a) revised **2862**
555.8 (e) and (f)(1) amended **2861**
555.10 (a) amended **2862**
571 Policy statement **59482**
571.108 Amended **63801**
571.208 Amended **53851, 71394**
Amended **2448**
571.213 Regulations at 62 FR 18724 and 30466 confirmed **52629**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

Amended; eff. 3-30-99 52630
571.221 Amended; eff. 5-5-00 59740
571.304 Amended 66765
571 Figure 6 revised 71395
572.31 (a)(1), (3) and (4) revised; (b) removed 53851
572.34 (b) revised 53851
580 Authority citation revised 52632
580.16 Regulation at 62 FR 47765 confirmed 52632
580.17 Regulation at 62 FR 47765 confirmed; (a)(3) revised 52632
581 Authority citation revised 2862
581.4 Amended 2862
581.8 Added 2862

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

639 Authority citation revised 68366
639.1 Revised 68366
639.3 Revised 68367
639.5 Revised 68367
639.13 (a) revised 68367
653.7 Amended 426
653.45 (d) added 67613
654.7 Amended 426
654.33 (d) added 67613

Chapter VIII—National Transportation Safety Board (Parts 800—899)

800.2 Introductory text and (b) through (j) revised; (k) added 71605
800.24 (j) added 71606
800.25 Heading and introductory text revised 71606
800.26 Revised 71606
800.28 Added 71606
800 Appendix amended 71606
831.3 Revised 71606
831.11 (a)(2) revised 71606
835 Authority citation revised 71607
835.1 Revised 71607
835.2 Revised 71607
835.3 (c) through (f) added 71607
835.4 (a) revised 71607
835.5 Heading, (a), (c) and (d) revised 71607
835.6 Revised 71607
835.7 Revised 71608
835.8 Revised 71608
835.9 Revised 71608
835.10 Added 71608
835.11 Added 71608

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1146 Added 71401
1147 Added 71402

Proposed Rules:

105 68624
106 68624
107 ..... 58358, 68624, 72224
171 ..... 58358, 59505, 72224, 70, 1789
172 ..... 58358, 72224
173 ..... 58358, 72224
177 ..... 58358, 59505, 72224, 70
178 ..... 58358, 59505, 72224, 70
180 ..... 58358, 59505, 72224, 70
192 57269
193 70735
195 57269
229 ..... 54104, 3273
230 1791
231 ..... 54104, 3273
232 ..... 54104, 3273
243 59928
244 72225
395 ..... 54432, 68729
396 54432
571 ..... 54652, 57089, 57091, 57638, 60270, 63258, 68233, 68729, 70380
572 4385
574 55832
585 57091
587 57091
595 57091
1106 72225
1146 ..... 55996, 58358
1312 66521
1420 ..... 59263, 65163

NOTE: **Boldface page numbers indicate 1998 changes.**

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

2.2 (a), (c), (d) and (e) revised.....**52633**
10.21 (b) revised.....**52633**
13.5 Revised.....**52634**
14.3 Revised.....**52634**
15.4 Added.....**52634**
15.21 (c) revised.....**52634**
16.22 (a) and (d) revised.....**52634**
17 Petition finding **67613, 67618**
17.8 Added.....**52635**
17.11 (h) table amended.....**52837, 57619, 64799, 69021, 70062**
17.12 (h) table amended.....**53615, 54956, 54970, 54994, 59244**
17.22 (a)(1) introductory text and (b)(1) introductory text revised; (a)(1)(ix) and (b)(1)(iv) removed.....**52635**
17.32 (a)(1)(ix) and (b)(1)(iv) removed; (a)(1) introductory text and (b)(1)(i) revised.....**52635**
17.44 (v) correctly added; CFR correction **63421**
17.62 (a)(3)(iii) removed; (a) introductory text and (4) revised.....**52635**
17.72 (a) introductory text and (4) revised; (a)(3)(iii) removed.....**52636**
17.84 (g) revised.....**52837**
17.108 (a)(7) and figure revised.....**55556**
18.30 (i)(1) introductory text revised 1539
18.121—18.129 (Subpart J) Revised; eff. 1-28-99 through 1-30-00.....4334
20.21 (j)(2) revised.....**54019**
(j) introductory text revised; (j)(3) added.....**54026**
(j) introductory text revised; (j)(4) added.....**67624**
20.104 Seasonal hunting adjustments **63584**
20.105 Seasonal hunting adjustments **63584**
21.4 Revised.....**52637**
21.23 (b) introductory text revised **52637**
21.24 (b) introductory text revised **52637**
21.25 (b) introductory text revised **52637**
21.27 (b) introductory text revised **52637**
21.30 (b) introductory text revised **52637**
21.41 (b) introductory text revised **52637**
22.4 Added.....**52637**
22.21 (a) introductory text revised **52638**
22.22 (a) introductory text revised **52638**
22.23 (a) introductory text revised **52638**
22.24 (a) introductory text revised **52638**
22.25 (a) introductory text revised **52638**
23.15 (c) introductory text revised and (g) added.....**52638**
23.23 (f) table amended **58327, 63214**
(d) revised; (f) table amended **63212**
23.53 Revised.....774
100.1—100.9 (Subpart A) Revised 1286
100.10—100.20 (Subpart B) Revised 1289
100.22—100.24 (Subpart C) Revised 1293
100.26 Revised.....1302
100.27 Revised.....1311

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

216 Workshop.....**52984, 56094, 67624**
216.3 Amended (temporary).....**66076**
216.161—216.166 (Subpart O) Added (temporary).....**66076**
217 Temporary regulations **55053, 62959, 66766**
Exemption.....**57620**
227 Workshop.....**52984, 56094, 67624**
Temporary regulations....**55053, 62959, 66766**
Exemption.....**57620**
229.2 Amended.....**66487**
229.3 (k) through (p) added **66487**
229.31 (c)(2) and (3) revised; (c)(4) and (5) redesignated as (c)(7) and (8); new (c)(4), (5) and (6) added; interim 3432

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

229.33 Added **66487**
(a)(2) and (5) corrected **71042**
229.34 Added **66489**
229 Figure 1 revised; interim 3434
230 Quotas **65129**
260 Inspection fees **69021**
285 Temporary regulations **54078, 55339**
Catch limit adjustment **71792**

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

300 Inseason adjustment **64005**
300.13 (a)(1) introductory text revised 15
300.14 Added 15
300.15 (c) added 15
300.16 Revised 15
300.17 Added 15

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Workshop **52984, 56094, 67624**
Temporary regulations **53313**
Fishing restrictions **64209**
Specifications 1316
600.10 Amended 4036
600.215 Revised 4600
600.225 (b)(4) amended; (b)(8) revised **64185**
600.235 Revised **64185**
600.725 (v) added 4037
600.747 Added 4043
622 Temporary regulations **58327**
Regulation at 63 FR 27500 eff. date extended to 5-15-99 ..... **64430**
Temporary regulations 3650
622.4 (a)(2)(x) added **57590**
622.5 (a)(1)(v) amended **57590**
622.6 (a)(1)(i) introductory text amended **57590**
622.7 (a), (b), (c) and (z) amended **57590**
622.8 (a) amended **57590**
622.17 Revised **57590**
622.30 (d) added 3627
622.31 (a) amended **57590**
622.34 (l) suspended; (m) added; interim; eff. 1-1-99 through 6-29-99 ..... **72203**
622.35 (f) amended **57590**
(e)(1)(xxx) through (xxxix) added; (e)(2)(i) revised; (e)(2)(iv) amended **71794**
622.36 (a) heading added; (b) revised 3627
622.37 (e) revised 3628
622.38 (a) revised; (e) removed; (f) through (i) redesignated as (e) through (h) 3628
622.39 (b)(1)(iii) suspended; (b)(1)(vi) added; eff. 1-1-99 through 6-29-99 ..... **72203**
(a)(1) amended; (d)(1)(i) and (ii) revised; (d)(1)(vi), (vii) and (viii) added 3628
622.40 (c)(3)(ii) amended; (d)(2)(ii) revised **57590**
(b)(3)(i) revised 3628
622.41 Regulation at 63 FR 27500 eff. date extended to 5-15-99 ..... **64430**
(d)(6) added 3628
622.42 (e)(3) added 3629
622.43 (a)(5) and (b)(1) revised 3629
622.45 (f)(2) amended **57590**
(d)(5) and (6) revised 3629
622 Appendix D amended and suspended in part; interim; eff. 11-27-98 through 5-15-99 ..... **64431, 64432**
Appendix C amended 3630
630 Quotas **66490**
630.3 (b) amended 4059
630.22 Revised 4059
630.24 (a)(1), (b)(2) and (e)(1) revised; (a)(3) and (f) removed 4059
630.25 Heading, (a)(1) and (c) added; (d) introductory text revised 4059
644.26 (b) removed; interim **63422**
648 Quotas **56867, 57622, 59492, 64006, 68404, 70351, 71794**
Deferral of IVR system reporting requirements **57931**
Temporary regulations **64433**
Temporary regulations 427
Specifications 1139
Quotas 2600
648.2 Amended; eff. 11-1-98 ..... **52640**
Amended **58329**
648.4 (c)(2)(iii)(A), (iv)(B) and (e)(1)(iv) amended **58329**
648.7 (a)(1) heading, (i), (3)(i), (ii), (b)(1)(i) and (f)(1) revised; (a)(1) introductory text

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

TITLE 50 Chapter VI—Con.

amended; (a)(2) redesignated as (a)(3); (a)(2) and (g) revised; (b)(1)(iii) removed; eff. 11–1–98 ..... **52640**
(b)(1)(i) and (iii) amended **58329**
648.9 Heading, (a) (b) introductory text, (1), (3) through (6), (8), (9) and (d) through (g) amended; (b)(2), (7) and (c) revised; **58329**
648.10 (a), (b) introductory text, (1), (2), (4), (5), (c) introductory text, (e) introductory text, (1) introductory text, (ii) and (f)(1) amended **58329**
648.14 (a)(8) revised; eff. 11–1–98 ..... **52641**
(a)(7), (c)(2) introductory text, (i), (ii), (h)(3) and (4) amended **58329**
(a)(52), (101) and (104) revised 2603
648.80 (a)(8)(iii) and (10)(i)(C) revised 2603
648.81 (d) and (g)(1) introductory text revised; (o) added 2603
Corrected 4060
648.123 (a)(1) revised **72203**
660 Temporary regulations **53313, 53317, 55558**
Fishing restrictions **64209**
Specifications 1316
660.89 Added **55810**
660.306 Regulation at 63 FR 36617 eff. date extended to 7–2–99 45
660.350 Regulation at 63 FR 36617 eff. date extended to 7–2–99 45
679 Temporary regulations ..... **52658, 52659, 52985, 52986, 53317, 53318, 53340—53342, 56095, 57255, 58658, 59244, 63221, 64652, 65129, 66768, 68210**
Reallocation **54381, 63801**
Specifications and fishery management measures 46, 50
Temporary regulations ... 427, 428, 3658, 4602
Multispecies community development plan 1539
679.1 (j) added; eff. 1–1–00 ..... **52652**
(c) heading revised 3652
679.2 Amended; eff. 1–1–99 ..... **52652**
Corrected and amended **64878**
Amended; interim; eff. 1–20–99 through 7–19–99 3437
Corrected; CFR correction 3453
Amended 3652, 3657
Amended; interim; eff. in part 1–21–99 through 7–20–99 3881
679.4 (a)(6) and (k) added; eff. in part 1–1–99 and in part 1–1–00 ..... **52654**
(k) correctly designated **54753**
(k)(1)(i), (ii), (2) introductory text, (3)(ii)(A)(*1*), (*2*), (*3*), (B), (4) introductory text, (i)(A) introductory text, (B) introductory text, (ii) introductory text, (iii), (iv) introductory text, (v) introductory text, (5) introductory text and (i) introductory text amended **64878**
(k)(5)(ii) introductory text and (8)(iv) introductory text amended **64879**
(c) heading, (1)(ii), (iii)(E), (6) and (7) revised 3652
679.7 (i) added; eff. 1–1–99 ..... **52657**
(i) correctly designated **54753**
(i)(1)(i), (ii), (iii) and (2) amended **64879**
(b) suspended; (i) added; interim; eff. 1–20–99 through 7–19–99 3442
(a)(7) revised 3657
(d)(24) removed; (d)(25) through (28) redesignated as (d)(24) through (27); interim 3882
679.20 (g)(3) corrected **54610**
(d)(1)(iv) added; interim; eff. 1–20–99 through 7–19–99 3437
(a)(5)(i)(A) and (ii)(B) suspended; (a)(5)(i)(C) and (ii)(C) added; interim; eff. 1–20–99 through 7–19–99 3442
(a)(8) and (c)(2)(ii)(A) revised 3451
(a)(6), (b)(2) and (c)(4) revised 3658
(b)(1)(iii)(A) suspended; (b)(1)(iii)(D) added; interim; eff. 1–21–99 through 7–20–99 3882
679.21 (e)(3)(v) and (7)(ix) added; interim; eff. 1–20–99 through 7–19–99 3437
679.22 (a)(7) and (b)(2) suspended; (a)(8)(iv), (11) and (b)(3) added; interim; eff. 1–20–99 through 7–19–99 3443
(a)(7) and (8) revised 3451
(a)(5) revised 3658

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH JANUARY 29, 1999

679.23 (d)(2) and (e)(2) suspended; (d)(3) and (e)(4) added; interim; eff. 1–20–99 through 7–19–99 3444
(e)(3) redesignated as (e)(4); new (e)(3) added 3452
(e)(2) revised 3658
679.30 (a)(4) revised; interim 3882
679.31 (a) amended; interim 3882
679.32 (a)(1) revised; (a)(2), (3) and (e) suspended; (a)(4) and (g) added; interim; eff. in part 1–21–99 through 7–20–99 3882
679.42 (c)(2) introductory text corrected; (c)(2)(ii) correctly removed **54611**
679.43 (p) added; eff. 1–1–99 ..... **52657**
(p) amended **64879**
679.50 Heading, (i)(1)(i) and (iii) revised **69025**
(c)(5) added; interim; eff. 1–20–99 through 7–19–99 3437
(c)(4) revised; interim 3882
679 Table 1 correctly revised **54612**
Tables 3 and 10 corrected **54613**
Table 12 correctly revised **54614**
Tables 4 and 6 suspended; Tables 12 and 13 added; interim; eff. 1–20–99 through 7–19–99 3444
Table 5 revised 3452

Proposed Rules:

17 ..... **53010, 53620, 53623, 56361, 54660, 54972, 55839, 56128, 56134, 57640, 57642, 58692, 63657, 63659, 63661, 64449, 65164, 65165, 66777, 67640, 70745, 71424, 71820, 71838, 71855** 821, 2167, 3913, 3915, 3923, 4607
18 ..... **63812**
20 ..... **53635, 54753, 55840, 60271, 60278, 67037** 821, 822
21 ..... **60278** 822
100 4604
216 ..... **64228**
222 ..... **53635, 58701**
227 ..... **53635, 56596, 58701** 465
285 ..... **57093** 3154
300 ..... **64031**
600 ..... **52676** 3154
622 ..... **60287, 63276, 64031, 66522, 70093** 2620
630 ..... **54661, 55572, 55998, 57093** 3154
635 3154
644 ..... **54433** 3154
648 ..... **52676, 55355, 55357, 56135, 63434, 63436, 63819, 64032, 64539, 65571, 66110, 66524, 67450, 70093** 471, 823, 2466, 3480, 4065
649 ..... **55357, 63436** 2708
660 ..... **53636, 58359, 59758, 64033, 66111, 69134** 823, 1341, 2467, 4065
678 ..... **57093** 3154
679 ..... **56601, 57094, 57996, 60288, 63442, 64033, 66112, 69256, 71867, 71876** 2870
697 2708

NOTE: **Boldface page numbers indicate 1998 changes.**

1998

63 FR Page	
15739–16084	Apr. 1
16085–16386	2
16387–16668	3
16669–16876	6
16877–17047	7
17049–17305	8
17307–17665	9
17667–17930	10
17931–18115	13
18117–18306	14
18307–18815	15
18817–19166	16
19167–19378	17
19379–19650	20
19651–19793	21
19795–20052	22
20053–20294	23
20295–20512	24
20513–20684	27
23195–23368	28
23369–23642	29
23643–24096	30
24097–24381	May 1
24383–24737	4
24739–24910	5
24911–25152	6
25153–25386	7
25387–25746	8
25747–26061	11
26063–26419	12
26421–26709	13
26711–26954	14
26955–27192	15
27193–27437	18
27439–27661	19
27663–27814	20
27815–28215	21
28217–28473	22
28475–28888	26
28889–29088	27
29089–29337	28
29339–29528	29
29529–29932	June 1
29933–30097	2
30099–30364	3
30365–30576	4
30577–31096	5
31097–31329	8
31331–31589	9
31591–31886	10
31887–32107	11
32109–32592	12
32593–32699	15
32701–32963	16
32965–33230	17
33231–33522	18
33523–33832	19
33833–34117	22
34119–34254	23
34255–34547	24
34549–34775	25
34777–35116	26
35117–35498	27
35499–35785	30
35787–36149	July 1
36151–36338	2
36339–36539	6
36541–36829	7
36831–37057	8
37059–37242	9
37243–37474	10
37475–37754	13
37755–38071	14
38073–38275	15
38277–38549	16
38461–38735	17
38737–39013	20
39015–39207	21
39209–39474	22
39475–39695	23
39697–40006	24
40007–40166	27
40167–40356	28
40357–40626	29
40631–40807	30
40805–41175	31
41177–41385	Aug. 3
41387–41706	4
41707–41955	5
41957–42199	6
42201–42565	7
42567–42679	10
42681–43065	11
43067–43285	12
43287–43602	13
43603–43866	14
43867–44121	17
44123–44361	18
44363–44536	19
44537–44772	20
44773–44991	21
44993–45166	24
45167–45389	25
45391–45659	26
45661–45931	27
45933–46155	28
46157–46383	31
46385–46627	Sept. 1
46629–46859	2
46861–47126	3
47127–47418	4
47419–48080	8
48081–48416	9
48417–48569	10
48571–48994	11
48995–49262	14
49263–49410	15
49411–4965	
49653–4981	
49819–5012	
50127–5046	
50461–5074	
50743–5096	
50965–5126	
51269–5150	
51511–5177	
51777–5213	
52131–5257	
52579–5295	
52957–5326	
53271–5354	
53543–5377	
53779–5402	
54027–5433	
54341–5455	
54553–5500	
55005–5532	
55321–5549	
55497–5577	
55779–5593	
55935–5607	
56081–5653	
56535–5678	
56781–5704	
57045–5723	
57233–5757	
57577–5789	
57891–5828	
58283–5861	
58619–5920	
59203–5945	
59457–5968	
59691–5987	
59875–6020	
60203–6044	
62919–6311	
63121–6338	
63385–6358	
63591–6377	
63781–6396	
63969–6416	
64169–6440	
64409–6458	
64589–6483	
64839–6504	

49411–49651	16
49653–49818	17
49819–50125	18
50127–50460	21
50461–50741	22
50743–50964	23
50965–51267	24
51269–51509	25
51511–51776	28
51777–52130	29
52131–52577	30
52579–52955	Oct. 1
52957–53269	2
53271–53542	5
53543–53778	6
53779–54026	7
54027–54339	8
54341–54552	9
54553–55003	13
55005–55320	14
55321–55496	15
55497–55778	16
55779–55933	19
55935–56079	20
56081–56534	21
56535–56780	22
56781–57044	23
57045–57231	26
57233–57575	27
57577–57890	28
57891–58281	29
58283–58617	30
58619–59201	Nov. 2
59203–59455	3
59457–59689	4
59691–59874	5
59875–60201	6
60203–60448	9
62919–63119	10
63121–63383	12
63385–63589	13
63591–63779	16
63781–63967	17
63969–64168	18
64169–64408	19
64409–64588	20
64589–64838	23
64839–65042	24
65043–65516	25
65517–65636	27
65637–65993	30
65995–66403	Dec. 1
66405–66703	2
66705–66975	3
66977–67398	4
67399–67571	7
67573–67763	8
67765–68160	9
68161–68390	10
68391–68668	11
68669–68988	14
68989–69175	15
69177–69537	16
69539–69989	17
69991–70307	18
70309–70628	21
70629–70987	22
70989–71208	23
71209–71367	24
71369–71570	28
71571–71724	29
71725–72096	30
72097–72356	31

1999

64 FR Page

1–383	Jan. 4
385–729	5
731–983	6
985–1096	7
1097–1499	8
1501–1713	11
1715–2114	12
2115–2418	13
2419–2544	14
2545–2797	15
2799–2988	19
2989–3200	20
3201–3391	21
3393–3619	22
3621–3805	25
3807–4027	26
4029–4284	27
4285–4516	28
4517–4776	29

code of

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

code of federal regulations

LSA

List of CFR Sections Affected

February 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106


code of

code of federal regulations

LSA

List of CFR Sections Affected

February 1999

Title 1–16
Changes January 2, 1999
through February 26, 1999

Title 17–27
Changes April 1, 1998
through February 26, 1999

Title 28–41
Changes July 1, 1998
through February 26, 1999

Title 42–50
Changes October 1, 1998
through February 26, 1999

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (63 FR for 1998, 64 FR for 1999) and the page number. Example: 24727 in bold cite as 63 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1998
3 (1997 Compilation and Parts 100 and 101)	(869–034–00002–9)	19.00	[1] Jan. 1, 1998
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1998
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–034–00005–3)	26.00	Jan. 1, 1998
1200–End, 6 (6 Reserved)	(869–034–00006–1)	39.00	Jan. 1, 1998
7 Parts:			
1–26	(869–034–00007–0)	24.00	Jan. 1, 1998
27–52	(869–034–00008–8)	30.00	Jan. 1, 1998
53–209	(869–034–00009–6)	20.00	Jan. 1, 1998
210–299	(869–034–00010–0)	44.00	Jan. 1, 1998
300–399	(869–034–00011–8)	24.00	Jan. 1, 1998
400–699	(869–034–00012–6)	33.00	Jan. 1, 1998
700–899	(869–034–00013–4)	30.00	Jan. 1, 1998
900–999	(869–034–00014–2)	39.00	Jan. 1, 1998
1000–1199	(869–034–00015–1)	44.00	Jan. 1, 1998
1200–1599	(869–034–00016–9)	34.00	Jan. 1, 1998
1600–1899	(869–034–00017–7)	58.00	Jan. 1, 1998
1900–1939	(869–034–00018–5)	18.00	Jan. 1, 1998
1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–034–00029–1)	19.00	Jan. 1, 1998
12 Parts:			
1–199	(869–034–00030–4)	17.00	Jan. 1, 1998
200–219	(869–034–00031–2)	21.00	Jan. 1, 1998
220–299	(869–034–00032–1)	39.00	Jan. 1, 1998
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
500–599	(869–034–00034–7)	24.00	Jan. 1, 1998
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
1200–End	(869–034–00041–0)	23.00	Jan. 1, 1998
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
16 Parts:			
0–999	(869–034–00045–2)	30.00	Jan. 1, 1998
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0–1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441–1.500	(869–034–00082–7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1998
28 Parts:.			
0–42	(869–034–00098–3)	36.00	July 1, 1998
43-end	(869-034-00099-1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	18.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	29.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998
600–End	(869–034–00201–3)	33.00	Oct. 1, 1998
CFR Index and Findings Aids	(869–034–00049–6)	46.00	Jan. 1, 1998
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5]No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6]No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	607.00		
Yearly subscription (without FR Index and LSA)	555.00		
Individual copies	8.00		daily
LSA (List of CFR Sections Affected):			
Yearly subscription	27.00		
Federal Register Index:			
Yearly subscription	25.00		
CFR Index and Finding Aids	46.00		1998

CH

TITLE 1—

No amen
published
since Janu

TIT

There is
title.

TITLE

Pres

Executive

11348 *See* E
11987 Revo
12543 *See* N
.....
12544 *See* N
.....
12947 *See* N
.....
13035 Amer
13099 *See* N
.....
13110 .....
13111 .....
13112 .....
13113 .....

Proclamat

7162.....
7163.....
7164.....
7165.....
7166.....
7167.....

Administra

Notices:

Dec. 30, 199
Jan. 20, 199
Feb. 24, 199

Presidentia

No. 99–9 of
No. 99–10 o
No. 99–11 o
No. 99–12 o
No. 99–13 o
No. 99–14 o

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

TITLE 1—GENERAL PROVISIONS

No amendments to 1 CFR have been published in the FEDERAL REGISTER since January 1, 1999.

TITLE 2—[RESERVED]

There is no regulatory text to this title.

TITLE 3—THE PRESIDENT

Presidential Documents

Executive Orders

11348 *See* EO 13111 2793
11987 Revoked by EO 13112 6183
12543 *See* Notice of Dec. 30, 1998 383
12544 *See* Notice of Dec. 30, 1998 383
12947 *See* Notice of Jan. 20, 1999 3393
13035 Amended by EO 13113 7489
13099 *See* Notice of Jan. 20, 1999 3393
13110 2419
13111 2793
13112 6183
13113 7489

Proclamations

7162 2989
7163 2991
7164 5583
7165 5585
7166 6181
7167 6777

Administrative Orders

Notices:

Dec. 30, 1998 383
Jan. 20, 1999 3393
Feb. 24, 1999 9903

Presidential Determinations:

No. 99–9 of Dec. 24, 1998 983
No. 99–10 of Jan. 25, 1999 5925
No. 99–11 of Jan. 28, 1999 6773
No. 99–12 of Feb. 3, 1999 6779
No. 99–13 of Feb. 4, 1999 6781
No. 99–14 of Feb. 16, 1999 9263

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER since January 1, 1999.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

550.101—550.187 (Subpart A) Authority citation revised 4519
550.103 Amended; interim 4519
550.111 (f) revised; (h) added; interim 4520
550.181 Revised; interim 4520
550.182 (b) through (f) redesignated as (c) through (g); new (b) added; (a) and new (d) revised; interim 4520
550.184 (e) revised; interim 4520
550.185 (a) revised; interim 4521
550.186 (b) revised; interim 4521
550.901—550.907 (Subpart I) Appendix A amended 1502

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634.304 (f)(3)(iii) amended 2422
2634.904 (b) amended 2422
2635.207 (b)(7) note amended 2422
2635.902 (o) and (z) amended; (q) revised 2422
2636.303 (a) introductory text revised; (a)(4) amended 2422
2641 Appendix B amended 5710

Proposed Rules:

731 4336
1651 6818

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.1—1.23 (Subpart A) Authority citation revised 3395

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

TITLE 7 Subtitle A—Con.

1.1—1.23 (Subpart A) Appendix A amended 3395

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

59 Technical correction 3340

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

254.5 (b) amended 1098

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

301.45 Regulation at 63 FR 38280 confirmed 4286
301.45–3 Regulation at 63 FR 38280 confirmed 4286
301.50–3 (c) amended; (d) removed; interim 387
301.75–4 (a) revised; interim 4780
319.56–2 (h) revised 2994
353.1 Amended 1105
353.7 (a)(4), (b)(4) and (c)(4) amended 1105
353.8 Added 1105

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

761 Added; interim 6496
762 Added 7378

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended 6783
800.86 (c)(2) Table 4 revised 6783
801.6 Regulation at 63 FR 34554 confirmed 731
868.91 Revised 7058

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.350 Regulation at 63 FR 51518 confirmed 3814
930 Marketing percentages 392
932.159 Revised; interim 4288
(a) revised; (f) removed; (d) and (e) redesignated as (e) and (f); new (d) added 9268
932.160 Removed; interim 4288
956.15 Added 4933
956.16 Added 4933
956.20 (a) amended 4933
956.60 Added 4933
956.62 Revised 4933
956.64 Revised 4934
956.70 Undesignated center heading added 4934
982 Marketing percentages 2425
985 Marketing percentages 2802
989.212 Regulation at 63 FR 56785 confirmed 2428
989.213 Regulation at 63 FR 56785 confirmed 2428
993.347 Revised 3623
Revised; interim 9056

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1065.2 (a) suspended in part 4959

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1260.141 (a) revised 3815

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1464.101 (b) amended 2803

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1530 Revised 7062

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1755.26 Added 6500
1755.27 Added 6500
1755.28 Added 6500
1755.29 Added 6500
1755.30 Added 6501
1755.93 Removed 6501
1755.217 Removed 6501
1755.525 Removed 6501
1788 Revised 2

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1951.951 Amended; interim 393
1951.952 Amended; interim 394
1951.953 (b) revised; interim 394
1951.954 (a)(1), (5), (7), (b)(2), (4) and (5) revised; interim 394
1980.1 Revised 7402
1980.6 (a) and (b) amended 7402
1980.11 Amended 7402
1980.13 (b) introductory text amended; (b)(4) introductory text revised 7402
1980.20 (a) introductory text amended 7402
1980.21 Revised 7402
1980.22 (a) revised; (b) introductory text and (3) amended 7402
1980.46 Removed 7402
1980.60 Heading, (a) introductory text, (1), (6), (7), (9) through (12), (b) and (c) amended 7402
1980.61 (a)(2) and (c) removed; (a)(3) and (d) through (h) redesignated as (a)(2) and (c) through (g); heading, (a)(1), new (2), (b)(1), (3), (4), new (c) and new (d) amended 7402
1980.61 (f) and (g) amended 7403
1980.62 Amended 7403
1980.63 (a) amended 7403
1980.64 (a) and (b) amended 7403
1980.65 Amended 7403
1980.66 Amended 7403
1980.67 (a) and (b) amended 7403
1980.68 Amended 7403
1980.83 Regulation at 56 FR 8259 confirmed 7378
(a) amended 7403
1980.84 Heading, (b)(1)(iv), (v) and (4) amended 7403
1980.100 Regulation at 56 FR 8260 confirmed 7378
1980.1—1980.100 (Subpart A) Regulations at 56 FR 8261 and 8263 confirmed 7378
Appendixes D through L removed 7403
1980.101 Regulation at 56 FR 8264 confirmed 7378
1980.110 Regulation at 56 FR 8264 confirmed 7378
1980.113 Regulation at 56 FR 8264 confirmed 7378
1980.115 Regulation at 56 FR 8264 confirmed 7378
1980.122 Regulation at 56 FR 8264 confirmed 7378
1980.124 Regulation at 56 FR 8264 confirmed 7378
1980.125 Regulation at 56 FR 8264 confirmed 7378
1980.145 Regulation at 56 FR 8264 confirmed 7378
1980.175 Regulation at 56 FR 8264 confirmed 7378
1980.200 Regulation at 56 FR 8264 confirmed 7378
1980.101—1980.200 (Subpart B) Regulations at 56 FR 8265, 8266 and 8271 confirmed 7378
1980.340 Regulation at 56 FR 8271 confirmed 7378
1980.354 Regulation at 56 FR 8271 confirmed 7378
1980.424 Regulation at 56 FR 8271 confirmed 7378
1980.451 Regulation at 56 FR 8271 confirmed 7378
1980.452 Regulation at 56 FR 8271 confirmed 7378
1980.628 Regulation at 56 FR 8271 confirmed 7378
1980.646 Regulation at 56 FR 8271 confirmed 7378
1980.648 Regulation at 56 FR 8271 confirmed 7378

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

TITLE 7 Chapter XVIII—Con.

1980.853 Regulation at 56 FR 8271 confirmed....7378

Proposed Rules:

27—209 (Ch. I)....8014
47....4342
274....8733
300....2151
319....2151, 3049, 4347
457....8015
723....9452
782....2152
900—999 (Ch. IX)....8014
932....4350
981....430
993....3660
1000—1199 (Ch. X)....8014
1200—1299 (Ch. XI)....8014
1307....4353
1308....4353
1755....6577

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

3.23 Heading revised; (b)(4)(i) amended; interim....8487
3.42 (d) and (f) revised; interim....8487
103.12 (a)(5) revised; interim....8487
208.1 Revised; interim....8487
208.2 (a), (b)(1)(ii) and (3) revised; interim....8487
208.4 (a) introductory text and (b)(2) revised; interim....8488
208.5 (b)(1) introductory text revised; interim....8488
208.11 (b)(2) revised; interim....8488
208.12 (a) revised; interim....8488
208.13 (c)(1) revised; interim....8488
208.16 (c) and (d) redesignated as (d) and (e); heading, (a), (b) introductory text and new (d) and (e) revised; new (c) and (f) added; interim....8488
208.17 Revised; interim....8489
208.18 Redesignated as 208.19; new 208.18 added; interim....8490
208.19 Redesignated as 208.20; new 208.19 redesignated from 208.18; interim....8490
Revised; interim....8492
208.20 Redesignated as 208.21; new 208.20 redesignated from 208.19; interim....8490
208.21 Redesignated as 208.22; new 208.21 redesignated from 208.20; interim....8490
Revised; interim....8492
208.22 Redesignated as 208.23; new 208.22 redesignated from 208.21; interim....8490
208.23 Redesignated from 208.22; interim....8490
208.30 (b), (d), (e), (f)(1), (2) and (3) revised; interim....8492
208.31 Added; interim....8493
212.1 (b) revised; interim....7990
235.1 (d)(4) revised; interim....8494
235.3 (b)(4) introductory text and (i)(D) revised; interim....8494
235.6 (a)(1)(ii), (iii) and (2)(i) revised; interim....8494
235.8 (b)(4) added; interim....8494
238.1 (b)(2)(i) and (c)(1) revised; (f)(3) added; interim....8494
240.1 (a) revised; interim....8495
241.8 (d) revised; interim....8495
241.11 (d)(1) revised; interim....8495
244.1 Amended; interim....4781
244.6 Revised; interim....4781
244.10 Heading, (a), (b), (d)(2), (f)(2)(iii) and (4)(ii) amended; interim....4782
244.12 (a) amended; interim....4782
244.15 (a) amended; interim....4782
244.18 (b) amended; interim....4782
253.1 (f) revised; interim....8495
274a.2 (b)(1)(vi)(B) and (C) revised; interim....6189
312.1 (b)(3) amended....7993
312.2 (b)(1) and (2) amended....7993
499.1 Table amended....7993
507 Added; interim....8496

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

50.1 Regulation at 63 FR 72122 eff. 2-1-99....3340
52 Added; interim....2549

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

77.1—77.6 (Subpart A) Regulation at 63 FR 72122 eff. 2–1–99 3340
77.1 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.3 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.6 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.7 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.8—77.18 (Subpart B) Regulation at 63 FR 72122 eff. 2–1–99 3340
78.41 Regulation at 63 FR 44545 confirmed 395
78.43 Regulation at 63 FR 44777 confirmed 5
Regulation at 63 FR 53782 confirmed 5
91.1 Regulation at 63 FR 72129 eff. 2–1–99 3340
91.7 Regulation at 63 FR 72129 eff. 2–1–99 3340

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

Chapter III Policy statement 2803
Technical correction 3340
301 Authority citation revised 744
301.2 Amended 744
317.2 (l) introductory text revised 744
318.17 Revised 744
318.23 Revised 744
320 Authority citation revised 745
320.1 (b)(4) removed 745
320.4 Amended 745
381 Authority citation revised 745
381.1 (b) amended 745
381.125 (b) introductory text amended 746
381.150 Revised 746

Proposed Rules:

1 4356
3 ..... 4356, 8735
93 2449
94 ..... 7816, 8755
317 9089
318 9089
381 9089

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

50.54 (a)(3) revised; (a)(4) added 9034

Chapter II—Department of Energy (Parts 200—699)

600.27 (b)(2)(i)(B) amended 4029

Proposed Rules:

2 ..... 8640, 9219
19 ..... 8640, 9219
20 ..... 8640, 9219
21 ..... 8640, 9219
30 ..... 3790, 8640, 9219
31 3052
32 3052
35 5721
40 ..... 3790, 8640, 9219
50 ..... 57, 432, 3790, 3791, 5623, 9035
51 ..... 8640, 9219, 9884
60 ..... 8640, 9219
61 ..... 8640, 9219
63 ..... 8640, 9219
70 ..... 1542, 3790, 3791
72 1542
430 ..... 1272, 1545

TITLE 11—FEDERAL ELECTIONS

Proposed Rules:

100 ..... 5200, 8270
114 8270
9003 8270
9004 8270
9007 8270
9008 8270
9032 8270
9033 8270
9034 8270
9035 8270
9036 8270
9038 8270

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

220 OTC margin stock lists 8711

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

TITLE 12

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

561.13 Removed 6503
561.47 Removed 6503
561.48 Removed 6503
563 Authority citation revised 2809
563.134 Removed 2809
563.140—563.146 (Subpart E) Revised 2809
563b.3 (g)(2) amended 2810

Chapter VI—Farm Credit Administration (Parts 600—699)

611.310—611.340 (Subpart C) Regulation at 63 FR 64843 eff. 2-11-99 6784
611.330 Regulation at 63 FR 64843 eff. 2-11-99 6784
611.340 Regulation at 63 FR 64843 eff. 2-11-99 6784
611.505 Regulation at 63 FR 64844 eff. 2-11-99 6784
611.1122 Regulation at 63 FR 64844 eff. 2-11-99 6784

Chapter VII—National Credit Union Administration (Parts 700—799)

701.21 (c)(7)(ii)(C) Revised 5929

Chapter IX—Federal Housing Finance Board (Parts 900—999)

904.9 (f)(2) revised 5930
960.7 Corrected 2550

Proposed Rules:

229 9105
584 5982
615 8018
701 ..... 57, 58, 776
713 58
715 776
741 ..... 58, 776
910 6819

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

120.10 Amended 2117
120.111 Amended 2117
120.131 Revised 2117
120.414 Undesignated center heading and section redesignated from 120.430; undesignated center heading revised 6509
120.420 Undesignated center heading and section revised 6507
120.421 Added 6508
120.422 Added 6508
120.423 Added 6508
120.424 Added 6508
120.425 Added 6508
120.426 Added 6509
120.427 Added 6509
120.428 Added 6509
120.430 Section and undesignated center heading redesignated as 120.414 6509
120.430—120.435 Undesignated center heading and sections added 6509
120.453 (a) and (b) revised; (c) removed 6510
120.801 (a) amended; (c)(3) revised 2118
120.802 Amended 2118
120.862 (b)(3) amended; (b)(7) revised 2118
120.870 (a)(1) revised; (c) added 2118
120.883 Revised 2118
120.884 (e) removed 2118
120.910 Revised 2118
120.920 Revised 2118
120.921 (d) and (e) redesignated as (e) and (f); new (d) added; new (e) and new (f) revised 2118
120.971 (a)(2) amended; (a)(3) and (d)(2) revised 2119
120.972 Redesignated as 120.973; new 120.973 added 2119
120.973 Redesignated from 120.972 2119

Chapter III—Economic Development Administration, Department of Commerce (Parts 300—399)

Chapter III Revised; interim 5352

Proposed Rules:

107 6256

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

121 2153
125 2153
134 3454
140 3454

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Technical correction 7066
23 Special FAA conditions 6510
25 Special FAA conditions 3201
25.145 (c)(3) concluding text designated as (d); (c) introductory text and new (d) revised 6164
34.1 Amended 5558
34.2 Amended 5559
34.31 (d) and (e)(3) revised 5559
34.60 (c) revised 5559
34.61 Revised 5559
34.62 (a)(2) revised 5559
34.64 Revised 5559
34.71 Revised 5559
34.82 Revised 5560
34.89 Revised 5560
39.13 .....7, 395, 750, 752, 986, 987, 990, 1107, 1109, 1111, 1114, 1115, 1117, 1119, 1503, 1716, 2014, 2036, 2059, 2081, 2552, 2554, 2556, 2557, 2559, 2560, 2562, 2811, 2815, 2816, 2818, 2820, 2822, 3203, 3205, 3816, 3818, 3820, 3823, 3825, 3827, 4030, 4289, 4291, 4293, 4522, 4524, 4526, 4964, 5150, 5588, 5589, 5591, 5593, 5711, 6190, 6513, 6515, 6517, 6520, 6524, 6785, 6787, 6790, 6792, 7492, 7493, 7496, 7499, 7772, 7774, 7776, 8226, 8229, 8231, 8232, 8500, 8501, 8713, 9057
Corrected 395, 2428, 5093, 7994, 8233, 8234
71.1 .....8—13, 1717, 2119, 2120, 2563—2566, 2824, 2825, 2826, 2828, 3010, 3011, 3207—3210, 3397, 3398, 3829—3833, 3835, 3836, 4530, 4782—4784, 5151, 5713, 5931, 6795, 6797—6800, 7500, 7995, 8234, 8502—8509, 8714, 9268—9270
Corrected 3590, 3591, 4785, 5151, 6138
73.25 3624
73.48 7778
73.56 4534
91 Technical correction 7066
91.1 (a) revised; (c) added 1079
91.11 Heading revised 1079
91.701—91.715 (Subpart H) Heading revised 1079
91.701 Revised 1079
91.702 Added 1079
93 SFAR No. 50-2 amended 5154
93.301 Regulation at 61 FR 69330 eff. date delayed to 1-31-00 5154
93.305 Regulation at 61 FR 69330 eff. date delayed to 1-31-00 5154
93.307 Regulation at 61 FR 69330 eff. date delayed to 1-31-00 5154
95 8235
97.21—97.35 .....1718, 1725, 2829, 2831, 5155, 5595, 7779, 7780, 7782
121 SFAR No. 36 amended 960
Technical correction 3837, 7066
SFAR No. 50-2 amended 5154
121.306 Added 1080
121.580 Added 1080
125 Heading revised 1080
Technical correction 7066
125.1 (a) revised; (d) added 1080
125.204 Added 1080
125.328 Added 1080
135 SFAR No. 36 amended 960
Heading revised 1080
Technical correction 3837, 7066
SFAR No. 50-2 amended 5154
135.120 Added 1080
135.144 Added 1080
145 SFAR No. 36 amended 960
Technical correction 3837

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

201.1 (b) amended 3212
212.10 (a) and (f)(1) amended 3213

Proposed Rules:

39 .....435, 438, 441, 443, 445, 785, 787, 1545, 1549, 1552, 2157, 2161, 2863, 3052, 3054, 3226, 4061, 4367, 4370, 4372, 4791, 5985, 6259, 6577, 7822, 7827, 7829, 7830, 8020, 8022, 8024, 8026, 8027, 8029, 8530, 8762, 9453
71 .....60, 447, 1142, 1554, 1555, 1557—1565, 2449, 2450, 2452, 2453, 2605, 2864, 2866, 3228, 3664—3666, 4793—4800,

CHANGES JANUARY 4, 1999 THROUGH FEBRUARY 26, 1999

TITLE 14 *Proposed Rules:—Con.*

5093, 6579—6583, 6823, 7141—7143, 7558, 8031, 8167, 8271, 8272, 8445
73.....9455
93.....2086, 3055
234.....3883
255.....9457
382.....7833
389.....3229

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

740 Authority citation revised.....2430
740.7 (d)(4) redesignated as (d)(5); new (d)(4) and (5)(v)(A)(*8*) note added; new (d)(5)(iii), (v) introductory text and (A) introductory amended; new (d)(5)(v)(B) revised; interim.....2430
742 Authority citation revised.....2430
742.12 (b)(3)(i)(C) and (iv)(B) revised; interim.....2431
742.15 Second (b)(6)(v) redesignated as (b)(6)(vi).....3214
742 Supplement No. 4 amended.....3214
743.1 (b) amended.....3214
744 Authority citation revised.....1121
744.13 Added; interim.....1121
744.14 Added; interim.....1122
748 Authority citation revised.....2430
748.9 (b)(2)(i)(*1*) removed; (b)(2)(i)(*2*) and (*3*) redesignated as (b)(2)(i)(A) and (B); interim.....2431
748.10 (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3) added; new (b)(4) introductory text revised; interim.....2431
772 Authority citation revised.....1121, 5932
Amended; interim.....1122, 5932
774 Authority citation revised.....5932
Supplement No. 1, Category 1 (ECCN 1B115, 1C111, 1C118, 1E001 and 1E101) amended; interim.....5932

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table amended (OMB numbers).....14, 3627, 4036

Proposed Rules:

30.....7412
806.....2454

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

4.8 (b)(4) and (6) revised.....3012
4.11 (a)(1)(i)(A), (B), (iii)(A), (2)(i)(A), (B) and (ii)(A) revised; (a)(1)(i)(E) and (iii)(D) redesignated as (a)(1)(i)(F) and (iii)(E); new (a)(1)(i)(E), new (iii)(D) and (h) added.....3013
4.13 (c) and (i)(1) amended.....3014
305.9 (a) revised.....7785
305 Appendix H corrected.....926

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1615.1 Introductory text, (o) introductory text, (1) and (3) revised.....2838
1615.64 (d) introductory text revised.....2832
1616.2 Introductory text, (m) introductory text, (1) and (3) revised.....2841
1616.65 (d) introductory text revised.....2833

Proposed Rules:

0—999 (Ch. I).....3668
308.....61
1213.....3456
1500.....3456
1513.....3456
1615.....2867
1616.....2867

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Technical correction **51124**
1.3 (gg)(2)(iv) revised **32730**
1.12 (b)(2) revised **32731**
(a)(1) and (e) revised; (h)(1) and (2) redesignated as (i)(1) and (2); (b)(4), (c), (d), (f)(1) through (5), (g)(2) and new (i)(2) amended; new (h) added **45715**
1.17 (c)(5)(iii) removed **32726**
(a)(1)(i)(B), (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) revised **32731**
1.35 (a–1)(1), (2)(i) and (4) revised; (a–1)(5) added **45709**
(a–1)(5)(i)(D), (ii)(H) and (I) corrected **49955**
1.41 (k)(1) revised **33848**
(f)(10) added 22
1.55 (a)(1) revised **52157**
1.63 (a)(2) revised 23
1.69 Added 23
(a)(8) corrected 3340
3.11 (c)(1)(i)(A), (B), (ii)(A), (B), (C) and (2)(ii) revised; (c)(1)(i)(C) and (ii)(D) removed; (c)(1)(ii)(E) redesignated as (c)(1)(ii)(D) 1727
3.12 (d)(1)(iv), (v), (d)(3), (i)(1)(v) and (2) revised; (d)(1)(vi) and (i)(1)(vi) removed; (i)(1)(vii) redesignated as (i)(1)(vi) 1727
3.13 Added; interim **18830**
3.14 Added; interim **18831**
3.40 (a) revised 1728
3.44 (a)(2) and (3) revised 1728
4.24 (j)(1)(v) corrected **24390**
(v)(3) introductory text revised; eff. 4–30–99 ..... **58303**
4.25 (c)(5) introductory text revised; eff. 4–30–99 ..... **58303**
10.1 (d) amended; (e) through (h) redesignated as (f) through (i); new (e) added **55791**
10.9 (b) revised **55791**
10.12 (a)(2) revised **55791**
10.21 Revised **55791**
Corrected **68829**
10.22 (b) introductory text amended; (b)(1) and (2) added **55791**
10.24 (a), (b) and (c) revised **55791**
10.26 (b) amended **55791**
10.41 (f) and (g) redesignated as (g) and (h); new (f) added **55791**
10.42 (b) and (c) redesignated as (c) and (e); (a), new (c) and new (e)(1) revised; new (b), (d) and (f) added **55792**
(b)(7) and (c)(1)(iii) corrected **68829**
10.66 (b) revised **55793**
(b) corrected **68829**
10.68 (a)(1), (2), (b)(3), (c) heading and (1) revised; (c)(2), (e)(1) and (f) amended **55794**
(c)(2) heading and (f) corrected **68829**
10.84 (b) revised **55794**
Heading corrected **68829**
10.101 (b)(1) revised **55794**
10.102 (a) and (d)(2) revised; (b)(3) redesignated as (b)(4); new (b)(3) and (5) added; (e)(1) and (2) amended **55794**
(e) correctly designated **58811**
(a)(1), (2) and (b)(3) corrected **68829**
10.106 Heading revised; existing text designated as (a); (a) heading, (b) and (c) added **55795**
(c) corrected **68829**
10.110—10.113 (Subpart I) Added **55795**
Correctly designated **58811**
10.111 Heading corrected **68829**
10 Appendix A added **55796**
Appendix A corrected **68829**
32.2 Revised; interim **18832**
32.13 Added; interim **18832**
33.4 Introductory text amended; interim **18834**
(a)(2) removed **32732**
33.7 (b) amended **32732**
140.99 Added **68181**
140.735–4 (b)(3) and (c)(5) introductory text revised **32733**
145 Authority citation revised 25
145.5 Introductory text, (d)(1)(i)(B) through (F) and (H) amended; (d)(1) introductory text removed; (g) revised 25
145.6 (a) amended 26

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 17 Chapter I—Con.

145.9 (d)(1) and (e)(1) amended; (d)(4), (6), (7) and (8) revised; (d)(10) removed; (d)(11) redesignated as (d)(10) 26
145 Appendixes A and B amended 27
147.3 (b)(4)(i) introductory text removed; (b)(4)(i)(A)(*2*) through (*6*) and (*8*) amended 27

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.30–3 (a)(7)(iv) amended; (a)(7)(v), (64), (65) and (66) added **59394**
201.102 (e)(1)(iv) added **57172**
201.210 (a)(1) and (c) introductory text revised; (c)(3) added **63405**
201.221 Heading, (a) and (d) revised **63405**
202.3 (b) revised; eff. 4–21–99 ..... **70916**
210.3–03 (e) amended 1734
210.12–16 Table amended 1734
229.101 (b) introductory text, (1) and (d) revised; (c)(1) introductory text, (i), (ii), (iv), (v) and instructions amended 1734
229.102 Amended 1735
230.157 Heading and (b) revised **35514**
230.497 (k)(2)(ii) corrected **19286**
230.498 (b) and (c)(3) corrected **19286**
231 Interpretive releases **41404**
232.101 (a)(1)(iii) revised; (b)(7) removed; (b)(8) redesignated as (b)(7) 2849
232.301 Revised **29105**
239.15A Form N–1A corrected **19286**
240.0–10 Heading, (a), (b), (e), (g)(2), (3) and (i) revised; (h)(2) and (3) redesignated as (h)(3) and (4); (h)(2), (j) and (k) added **35514**
240.3a1–1 Added; eff. 4–21–99 ..... **70917**
240.3b–12 Added **59394**
240.3b–13 Added **59395**
240.3b–14 Added **59395**
240.3b–15 Added **59395**
240.3b–16 Added; eff. 4–21–99 ..... **70918**
240.6a–1 Heading, (a) and (b) revised; eff. 4–21–99 ..... **70918**
240.6a–2 Revised; eff. 4–21–99 ..... **70918**
240.6a–3 Revised; eff. 4–21–99 ..... **70919**
240.8c–1 (b)(1) revised **59395**
240.11a1–6 Added **59396**
240.11Ac1–1 (c)(5)(ii)(A), (B) introductory text, (*1*) and (*2*) redesignated as (c)(5)(ii)(A)(*1*), (*2*) introductory text, (*i*) and (*ii*); new (c)(5)(ii)(A)(*2*)(*ii*) amended; new (c)(5)(ii)(B) added; eff. 4–21–99 ..... **70919**
240.14a–4 (c) introductory text and (i) revised; (c)(2) through (5) redesignated as (c)(4) through (7); new (c)(2) and (3) added **29118**
(c)(2)(iii) corrected **50622**
240.13f–1 (a) redesignated as (a)(1); (a)(2) added 2849
240.13f–2 Removed 2849
240.14a–5 (e) revised; (f) added **29118**
(d) corrected **46881**
240.14a–8 Revised **29119**
(c), (h)(2), (i)(2) note, (5) and (9) corrected **50622**
(m)(2) corrected **50623**
240.14a–101 Amended 1735
240.15a–1 Added **59396**
240.15b1–1 (a) revised **59397**
240.15b9–2 Added **59397**
240.15c2–1 (b)(1) revised **59397**
240.15c2–5 (d) added **59397**
240.15c3–1 (a) introductory text amended; (a)(5) and (c)(15) added **59397**
240.15c3–1f Added **59398**
240.15c3–3 (a)(1) revised; (h) amended **59399**
240.15c3–4 Added **59400**
240.17a–3 (a)(4)(vi) and (10) amended **59401**
240.17a–4 (b)(8) introductory text and (xv) amended; (b)(10) added **59401**
(b)(1) revised; (b)(10) added; eff. 4–21–99 ..... **70919**
240.17a–5 (e)(5) added **37673**
(e)(5)(vi) added **59213**
(o) added **59401**
240.17a–11 (b) redesignated as (b)(1); (b)(2) and (c)(4) added; (c) introductory text, (e) introductory text and (h) amended; (c)(3) revised **59401**
240.17a–12 Added **59401**
240.17Ad–18 Added **37693**
(f) added **58635**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

240.17a-23 Removed; eff. 4-21-99 ..... **70920**
240.19b-4 (e) through (h) redesignated as (f) through (i); new (e) added **70967**
240.19b-5 Added; eff. 4-21-99 ..... **70920**
240.36a1-1 Added **59404**
240.36a1-2 Added **59404**
240.819 Form 19b-4 amended **70967**
241 Interpretative releases ... **17943, 41404**
242 Authority citation revised **70921**
Heading revised; eff. 4-21-99 ..... **70921**
242.300—242.303 Undesignated center heading and sections added; eff. 4-21-99 ..... **70922**
242.301 Eff. in part 4-1-00 ..... **70922**
249 Technical correction **42229**
249.1 Revised; eff. 4-21-99 ..... **70925**
249.1a Removed; eff. 4-21-99 ..... **70933**
249.220f Form 20-F amended 1735
249.325 Form 13F revised 2849
Form 13F corrected 5865
249.326 Removed 2853
249.617 Amended **59404**
Form X-17A-5 corrected **63143**
249.618 Added **37674**
249.619 Added **37694**
249.636 Removed; eff. 4-21-99 ..... **70933**
249.637 Added; eff. 4-21-99 ..... **70933**
249.638 Added; eff. 4-21-99 ..... **70943**
249.820 Added **70967**
249.821 Added; eff. 4-21-99 ..... **70946**
270 Compliance date extension **29345**
Compliance date extension 5156
270.0-10 Revised **35514**
271 Interpretive releases **41404**
274.11A Form N-1A corrected **19286**
274.24 Form 24F-2 amended **62937**
274 Appendix A corrected **19286**
275 Authority citation revised **39027**
275.0-7 Revised **35515**
275.202 (a)(1)-1 amended 2567
275.203A-1 (b)(2), (c) and (d) amended **39716**
275.203A-2 Introductory text, (b) introductory text, (1) and (3) revised; (e) added **39715**
(d)(2) and (3) amended **39716**
275.203A-3 Introductory text and (a) revised **39715**
275.203A-5 Removed **39716**
275.204-1 (c) added 2567
275.205-3 Revised **39027**
275.205-5 Added **54312**
275.206(4)-3 (a)(1)(ii)(D) amednded **39716**
276 Interpretive releases **39508, 41404**
279.1 Form ADV amended **39716**
Form ADV amended 2121
279.3 Removed **39716**
279.9 Added **54312**

Chapter IV—Department of the Treasury (Parts 400—499)

405.2 (a)(11) and (12) redesignated as (a)(15) and (16); new (a)(11) through (14) added 1737

Proposed Rules:

1-199 (Ch. I) **33297, 41982**
1 ..... **24142, 30668, 38525, 42600, 49883**
3 ..... **51048**
5 ..... **38537**
10 ..... **16453, 30675**
15 5200
17 ..... **38525, 49883**
..... 5200
18 ..... **38525, 49883**
30 ..... **39779, 51051**
..... 1566
34 ..... **26114, 34335, 49681**
35 ..... **26114, 34335, 49681**
150 ..... **38525, 49883**
200—299 (Ch. II) **72217**
200 ..... **67174, 67331, 69136**
201 ..... **23504, 29301, 33305, 39054, 46716**
202 ..... **67174**
210 ..... **35886, 67174**
..... 6261
228 ..... **67174**
..... 6261
229 ..... **35886, 67174, 67331**
..... 6261
230 ..... **29168, 36136, 67174, 67331, 69136**
..... 6261
232 ..... **67174, 67331, 69236**
239 ..... **67174, 67331, 69136**
..... 6261
240 ..... **19430, 19693, 23504, 23584, 29301, 32628, 35886, 36138, 37709, 37710, 47209, 54404, 59911, 63222, 67174, 67331, 69136**
..... 6261
242 ..... **23504, 29301**
249 ..... **23504, 23584, 29301, 35886, 67174, 69136**
..... 6261
260 ..... **69136**
..... 6261
270 ..... **40231, 69236**
274 ..... **69236**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 17 *Proposed Rules:—Con.*

275 ..... **36632**
..... 5722
279 ..... **36632**
..... 5722
405 ..... **53326**

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

11 Appendix A revised **66004**
35 Order on rehearing **66011**
35.14 (a)(7) amended **53809**
37 Clarification **32611**
Order **38884, 54258**
Order 7995
46.6 (d)(1) revised; (d)(2) redesignated as (d)(3); new (d)(2) added **72169**
131.31 Revised **72169**
157.208 (d) Table 1 revised 8239
161.3 (l) added **43079**
284 Order **30127, 71014**
Order 5157
284.10 (a)(6) and (c) added; (b)(1) revised **20095**
(b)(1)(i) revised **39514**
(c)(3)(i)(B) revised **53576**
381.302 (a) amended **44995**
381.303 (a) amended **44995**
381.304 (a) amended **44996**
381.305 (a) amended **44996**
381.403 Amended **44996**
381.505 (a) amended **44996**
381.801 Amended **44996**

Chapter III—Delaware River Basin Commission (Parts 400—499)

401.0 Correctly designated; CFR correction **44777**
401.35 (b)(18) and (d) corrected; CFR correction **44777**
401.36 (c) corrected; CFR correction **44777**
401.71—401.78 (Subpart E) Heading revised **45943**
401.72 Amended **45943**
401.73 (b) corrected; CFR correction **44777**
401.74 (b)(6) revised **45943**
401.82 (a) corrected; CFR correction **44777**
401.106 Amended **45943**
401.112 (e) revised **45943**

Chapter VIII—Susquehanna River Basin Commission (Parts 800—899)

803.3 Amended **32124**

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.1—1301.10 (Subpart A) Revised 4044

Proposed Rules:

1—399 (Ch. I) **30675, 42974**
2 ..... **55682, 66772**
3 ..... **57081**
4 ..... **52853, 57086, 59916**
1b **41982**
33 ..... **20340**
37 ..... **42296**
..... 5206
153 ..... **52853, 55682, 57086, 59916**
157 ..... **52853, 55682, 57086, 59916, 66772**
161 ..... **27526, 55562, 55563, 63425, 71806**
..... 789
181 ..... **51547**
250 ..... **51547, 55562, 55563, 63425, 71806**
..... 789
284 ..... **19861, 51547, 55562, 55563, 55682, 63425, 66772, 71043, 71806**
..... 789
292 ..... **51310**
341 ..... **57081**
342 ..... **57081**
343 ..... **41982, 57081**
346 ..... **57081**
357 ..... **57081**
362 ..... **57081**
375 ..... **52853, 55682, 57086, 59916, 66772**
380 ..... **55682, 55715, 66772**
381 ..... **66772**
385 ..... **27529, 41982, 51312, 55682, 57081, 66772**
430 1763
1301 ..... **47448**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Authority citation amended **51287**
4.6 (c) amended **51287**
4.7a (a) amended **51287**
4.22 Amended **52968**
4.36 (c) amended **51287**
4.37 Revised **51287**
10 Authority citation amended **51292**
10.1 (a) introductory text and (b) amended **16416**
10.5 Heading revised; (d) through (g) amended **29954**
10.6 Amended **29954**
10.201—10.208 Undesignated center heading and sections added **51292**
12.74 Revised **29122**
18 Authority citation amended **51288**
18.2 (a)(1) amended **51288**
18.11 (a) amended **51288**
18.12 (a) amended; (d) revised; (e) removed **51288**
18.25 (e) removed **51288**
19.4 (b)(4)(i)(B) amended; (b)(5) revised **32944**
24 Authority citation amended **55332**
24.22 (d)(5) and (g)(6) amended **32944**
24.24 (d)(3)(ii) and (e)(2) removed; (d)(3)(iii), (e)(3), (4) and (5) redesignated as (d)(3)(ii), (e)(2), (3) and (4); (g), (h)(1) and (i) amended **40823**
24.25 (a), (b)(2) and (c)(4) amended; interim **29125**
Regulation at 63 FR 29125 confirmed 7501
24.26 Added; interim **29125**
Regulation at 63 FR 29125 confirmed 7501
24.33 (c)(5) amended **71372**
101.3 Regulation at 62 FR 37133 eff. date confirmed **23214**
(b)(1) amended **24746, 40824**
(b)(1) amended 7502
111.1 Amended **32944**
111.21 Existing text designated as (a); (a) amended; (b) and (c) added **32945**
111.22 Removed **32945**
111.23 (a)(1) revised; (b), (c), (d) and (f) removed; (e) redesignated as (b); new (b) amended **32945**
113.62 (j) revised **32945**
118 Authority citation revised **16684**
118.1 Amended **16684**
118.4 (g) amended **16684**
118.11 (b) and (g) amended **16684**
122 Authority citation revised **51288**
122.2 Amended **51288**
122.15 Regulation at 62 FR 37133 eff. date confirmed **23214**
(b) amended 7502
122.49 (f) amended **51288**
122.50 Added **51288**
122.117 (b)(1) amended **51289**
122.120 (d)(1) amended **51289**
122.161 Amended **51289**
122.165 (a) and (b) amended **51289**
123 Authority citation amended **16416, 51289**
Authority citation amended 31
123.1 (a)(2) amended **51289**
123.4 (b) amended **16416**
123.10 Added **51289**
123.14 (c)(1) revised 7504
123.16 (b) revised 7504
123.71—123.72 (Subpart H) Redesignated as 123.81—123.82 (Subpart I) 31
123.71—123.76 (Subpart H) Added 31
123.81—123.82 (Subpart I) Redesignated from 123.71—123.72 (Subpart H) 31
127.2 (b) amended **51290**
127.4 Amended **51290**
127.11 Amended **51290**
127.28 (d) amended **51290**
128.24 (a) amended **16417**
133 Authority citation amended **51297**
Authority citation amended 9062
133.2 (e) and (f) added 9062
133.21—133.27 (Subpart C) Revised 9062
133.25 Revised **51297**
141.82 (d) amended **16417**
142.23 Amended **19399**
142.41 Amended 33
142.47 (b) amended 33
143.21 (a), (b), (c), (f) and (g) amended **16417**
143.22 Amended **16417**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 19 Chapter I—Con.

143.23 (d) and (i) amended **16417**
143.26 (a) amended **16417**
143.32 (n) amended **32945**
143.35 Revised **32945**
143.36 (a) amended; (c) introductory text revised **32945**
143.37 (c) and (d) removed; (a) revised **32945**
143.38 Removed **32945**
143.39 Revised **32945**
145.4 (c) amended **16417**
145.12 (a)(2), (3), (b)(1) and (c) amended **16417**
145.35 Amended **16417**
145.41 Amended **16417**
146.40 (c)(3) correctly revised 6801
148.23 (c)(1) and (2) heading and introductory text amended **16417**
148.67 (b) amended **51290**
162 Heading revised **32945**
Technical correction **36992**
162.0 Revised **32945**
162.1—162.8 (Subpart A) Heading revised **32946**
162.1a Removed **32946**
162.1b Removed **32946**
162.1c Removed **32946**
162.1d Removed **32946**
162.1e Removed **32946**
162.1f Removed **32946**
162.1g Removed **32946**
162.1h Removed **32946**
162.1i Removed **32946**
162.23 (a)(2) and (3) amended; (a)(4) added 1123
162.71 (e) removed **29131**
162.74 Revised **29131**
(a)(1), (c) and (f) corrected **35798**
163 Added **32946**
163.6 (b)(2)(ii) corrected **34808**
178 Technical correction **36992**
178.2 Table amended (OMB numbers) **29133, 32955, 51290, 51295**
Table amended (OMB numbers) 34, 7501
181.12 (a)(1) introductory text and (b)(1) amended **32955**
181.13 Amended **32955**
181.22 (a) amended **32955**
191.3 (a)(3) amended **27489**
191.6 (c)(3) amended **27489**
191.14 (c)(3)(iii)(D) and (iv)(C) amended **27489**
191.92 (g) amended **27489**
191 Appendix A amended **65060**
192.4 Amended **51290**

Chapter II—United States International Trade Commission (Parts 200—299)

201.7 (b) amended **29351**
201.10 Revised **29347**
201.11 (b)(4) and (5) added **30607**
201.17 Revised **29347**
201.18 (b) and (c) revised **29348**
201.20 (b)(1)(ii), (iii) and (3)(i) revised **29348**
201.22—201.33 (Subpart D) Revised **29348**
205.3 (a)(1), (2), (b) and (d) amended **29351**
207.3 (b) revised **30607**
207.45 (a) revised **30607**
207.46 (g) revised **30607**
207.60—207.69 (Subpart F) Added **30608**

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

351.102 Amended **65407**
351.103 Revised **24401**
351.301 (d)(6) and (7) added **65417**
351.304 Added **24401**
351.305 Added **24402**
351.306 Added **24403**
351.501—351.527 (Subpart E) Added **65407**
351.702 Added **65417**
354 Authority citation revised **24403**
354 Nomenclature change **24403**
354.1 Amended **24403**
354.2 Revised **24403**
354.3 (a)(3) and (4) revised; (a)(5) added **24404**
354.5 (a), (b), (c), (d)(1), (2) and (7) revised; (d)(8) removed; (d)(9) redesignated as (d)(8) **24404**
354.6 Revised **24404**
354.7 (b) revised **24405**
354.9 (b) revised **24405**
354.15 (e) removed **24405**
354.17 (b) amended **24405**
354.18 Added **24405**
354.19 Added **24405**

Proposed Rules:

4 ..... **36379**
..... 7422
101 7422
113 ..... **31385**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

123 27533
151 31385
162 51868
171 ..... 51868, 57628
191 51868
192 7422

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

10 Authority citation revised 56754
Revised 65306
10.7 (a) corrected 71202
10.12 Revised 56754
10.102 (a), (b)(1), (2) and (3) corrected 71202
10.112 (a) and (b) corrected 71202
10.215 (b) corrected 71202
10.216 (b)(3) corrected 71202
10.331 (a) corrected 71202
25 Revised 65340

Chapter II—Railroad Retirement Board (Parts 200—399)

200.3 Revised 17326
Redesignated as 209.5; new 209.3 added 32613
209.4 Redesignated as 209.6; new 209.4 added 32613
209.5 Redesignated as 209.7; new 209.5 redesignated from 209.3 32613
209.6 Redesignated as 209.8; new 209.6 redesignated from 209.4 and revised 32613
209.7 Redesignated as 209.9; new 209.7 redesignated from 209.5 and revised 32613
209.8 Removed; new 209.8 redesignated from 209.6 and revised 32613
209.9 Redesignated as 209.10; new 209.9 redesignated from 209.7; (c) revised 32613
209.10 Redesignated as 209.11; new 209.10 redesignated from 209.9 and amended 32613
209.11 Redesignated as 209.12; new 209.11 redesignated from 209.10 and revised 32613
209.12 Redesignated as 209.13; new 209.12 redesignated from 209.11 and revised 32613
209.13 Removed; new 209.13 redesignated from 209.12 32613
(b) revised 32614
209.14 Revised 32614
209.15 Amended 32614
216.74 Revised 17326
255.8 Revised 29548

Chapter III—Social Security Administration (Parts 400—499)

402.30 Amended 35132
402.35 (d) added 35132
402.40 (h) added 35132
402.45 (d) added 35132
402.100 Heading and (b) revised 35132
402.105 Redesignated from first 402.110 35132
402.110 First 402.110 redesignated as 402.105 35132
402.115 Removed 35132
402.120 Removed 35132
402.130 Revised 35132
402.140 Revised 35133
402.145 Revised 35133
402.150 (a) revised; (b) removed; (c) redesignated as (b) 35133
402.160 (b) and (c) revised 35134
404.354 Revised 57593
404.355 Revised 57593
404.356 Amended 57594
404.942 (g) revised 35516
404.969 Revised 36570
404.985 Revised 24932
404.1501—404.1599 (Subpart P) Appendix 1 amended 30411
404.1740 Revised 41416
404.1745 Revised 41416
404.1750 (a) and (d) revised 41417
404.1765 (a) and (g)(3) revised; (e) amended 41417
404.1770 (a)(3) amended; (b)(3) revised 41417
404.1799 (c) and (e) amended 41417
416.420 (a) revised 33546
416.1130 (a) revised 33546
416.1442 (g) revised 35516
416.1469 Revised 36571
416.1485 Revised 24933
416.1540 Revised 41417
416.1545 Revised 41418
416.1550 (a) and (d) revised 41418
416.1565 (a) and (g)(3) revised; (e) amended 41418

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 20 Chapter III—Con.

416.1599 (c) and (e) amended **41418**
416.2010 (b)(1)(iii) amended; (b)(1)(iv) revised; (b)(1)(v) through (x) added **33849**
422.103 (b)(3) and (c)(3) added; (e) revised **56554**
422.104 (a)(3) and (b) revised **56554**
422.105 Revised **56554**
422.106 (a) revised; (b) removed; (c) redesignated as (b) **56555**
422.107 (a) revised; (e) amended **56555**
422.110 Revised **56555**
422.701—422.710 (Subpart H) Added **57058**

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

646 Added; interim **15988**

Proposed Rules:

404 ..... **31680, 54417, 71237** 6824, 7559
416 ..... **32161, 42601, 54417** 7559
422 ..... **71237**
654 ..... **53244**
655 ..... **53244** 628, 5725
656 ..... 628, 5725

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

2 Authority citation revised 398
2.10 (b)(2) revised **51299**
3 Authority citation revised **26697**
Authority citation revised 398
3.2 (k) amended; eff. 5–20–99 398
5 Effective date confirmation **48576**
5.20 (h) revised **41960**
5.22 (a)(10)(v) revised; (a)(10)(vi) added 4965
5.23 (c)(5) added 4965
5.31 (f)(2)(iii) and (iv) removed **26697**
(f)(2)(v), (vi) and (vii) amended; eff. 5–20–99 398
5.33 (c) reinstated; CFR correction **51299**
5.37 (a)(2)(iv) and (b)(4) added 4965
5.53 (a)(1) and (b)(1)(i) revised **27207**
5.70 Amended; eff. 5–20–99 398
5.73 Removed **26697**
5.74 Removed **26697**
5.75 Removed; eff. 5–20–99 398
5.76 Removed; eff. 5–20–99 398
5.78 Removed; eff. 5–20–99 398
5.83 Heading, (c)(1), (2) and (d) revised **70650**
5.84 Heading, (a)(1) and (3) revised **70650**
5.98 Revised 4965
5.200 Revised **18314**
5.210 Revised **18317**
5.215 Revised **18317**
10 Authority citation revised **32735**
Effective date confirmation **48576**
10.50 (c)(10) removed **26697**
(a)(2) amended; (c)(11) removed; eff. 5–20–99 398
10.55 (c) amended; eff. 5–20–99 398
10.75 (b) amended **32735**
Regulation at 63 FR 32735 withdrawn **50757**
(b) redesignated as (b)(1); new (b)(2) added **63982**
10.80 (g) amended; eff. 5–20–99 398
12 Authority citation revised 399
12.20 (a) introductory text and (2)(i) amended; (c) removed; eff. 5–20–99 399
12.24 (b)(6) and (c) amended; eff. 5–20–99 399
12.87 (d) amended; eff. 5–20–99 399
16 Effective date confirmation **48576**
Authority citation revised **64581**
16.1 (b)(2) amended **26697**
(b)(2) amended; interim **64581**
(b)(2) amended; eff. 5–20–99 399
20 Authority citation revised 399
20.100 (c)(20) and (21) removed; eff. 5–20–99 399
20.117 (a)(3) amended; eff. 5–20–99 399
25 Effective date confirmation **48576**
25.5 (b)(1) amended; eff. 5–20–99 399
25.31 (f) amended **26697**
(f) and (h) removed; (g) and (i) through (l) redesignated as (f) and (g) through (j); eff. 5–20–99 399
26 Added **60141**
50 Authority citation revised **26697**
Effective date confirmation **48576**
Authority citation revised 399

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

50.1 (a) amended **26697**
(a) amended; eff. 5–20–99 399
50.3 (b)(11) removed; (c) amended; eff. 5–20–99 399
50.23 (d)(1) amended; eff. 5–20–99 399
54 Effective date confirmation **48576**
Authority citation revised 399
54.2 (d) and (e) revised **72181**
54.4 (a) corrected **35134**
(a) amended; eff. 5–20–99 399
56 Authority citation revised **26698**
Authority citation revised 399
56.101 (a) amended; eff. 5–20–99 399
56.102 (b)(10) removed; (b)(11) through (21) redesignated as (b)(10) through (20); (c) amended; eff. 5–20–99 399
58 Authority citation revised **26698**
Authority citation revised 399
58.1 (a) amended; eff. 5–20–99 399
58.3 (e)(9) removed; eff. 5–20–99 399
60 Authority citation revised 399
60.3 (b)(5), (10), (11)(i) and (12)(i) amended; eff. 5–20–99 399
60.22 (a)(1) and (2) revised; eff. 5–20–99 400
70.10 Heading and (b) heading revised; (b)(1), (2) and (3) amended; eff. 5–20–99 400
71 Authority citation revised **26698**
Authority citation revised 400
71.2 (a) amended; eff. 5–20–99 400
73 Technical correction **51299**
73.75 Regulation at 63 FR 14817 confirmed **51299**
74.3602 (b)(2)(v) added **20098**
Regulation at 63 FR 20098 confirmed **45943**
99 Added **64581**
101 Technical correction **17327**
Food labeling prohibitions **34084, 34092, 34097, 34101, 34104, 34107, 34110, 34112, 34115**
Comment periods reopened **48428**
Workshop **57594**
Uniform compliance date establishment **71015**
101.13 (g) introductory text and (h) introductory text removed; (g)(1), (2) and (3) redesignated as (h)(4)(i), (ii) and (iii); (h)(1) and new (4)(i), (ii) and (iii) revised; (j)(2)(ii), (p)(2), (q)(2), (3)(ii), (5)(i) and (6) amended **26980**
101.14 (e)(3) amended **26980**
101.17 (g) added **37055**
(g)(7)(i)(B) corrected **63982**
101.36 (b)(3)(ii)(B), (C) and (iii) revised **30620**
101.54 (d)(2) revised **26980**
101.62 (d)(1)(ii)(D), (2)(iii)(C), (iv)(C), (4)(ii)(C) and (5)(ii)(C) amended **26980**
101.69 (c), (d), (l), (m)(4), (n)(3), (4), (o)(3) and (4) amended; (m)(3) revised; (m)(4)(iii) and (5) added **26719**
(m)(3) and (4)(iii) corrected **40024**
101.70 (j)(2) and (4)(ii) revised; (j)(3)(iii) added **26719**
(j)(3)(iii) corrected **40024**
165 Effective date confirmation **42198**
165.110 (b)(4)(iii)(A) table and (C) table amended; (b)(4)(iii)(G)(*3*)(*iv*) note removed **25769**
Regulation at 63 FR 25769 eff. date corrected to 2–2–98 ..... **30621**
172.155 (c)(1) revised **66015**
172.345 (b) revised 1758
172.665 (d)(2) revised 1758
172.723 (b)(3) revised 1759
172.800 Regulation at 60 FR 21702 eff. date confirmed; (c)(13) added **36362**
172.831 Added **16433**
172.841 (a)(2) and (b) revised **57597**
172.878 (c) table amended **66014**
173.300 (b) revised **38747**
173.310 (c) table amended 1759
173.340 (a)(4) introductory text revised; (a)(4) table amended **29134**
175.105 (c)(5) table amended **37248, 51527, 56788**
175.125 (a)(8) added; (b)(1) revised **51528**
175.300 (b)(3)(vii)(*a*) amended **59707**
(b)(3)(xxviii)(*a*) **71017**
(b)(3)(vii)(*a*) corrected; CFR correction 4535
175.320 (b)(3) table amended **71017**
(b)(3) table amended 2568
176.170 (b)(2) table amended **69551**
176.180 (b)(2) table amended **59709, 63408**
177.1390 (c)(2)(vii) added; (c)(3)(i)(*a*)(*1*) revised **55943**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 21 Chapter I—Con.

(c)(1)(i)(*e*) redesignated as (c)(1)(i)(*f*); new (c)(1)(i)(*e*) added 4785
177.1430 (b) table amended **36175**
177.1500 (b) table amended 4786
177.2415 Added **20315**
178.2010 (b) table amended ... **27836, 29136, 35135, 36177, 36178, 43875, 45716, 55945**
(b) table corrected; CFR correction **49285**
(b) table amended 34, 2854
178.3130 (b) table amended **38748**
(b) corrected; CFR correction 4535
178.3295 Table amended **56789, 68392**
178.3297 (e) table amended ... **43874, 55946, 59215, 59710**
178.3400 (c) table amended **29551**
178.3620 (c)(3) corrected; CFR correction 4535
178.3725 Table amended **35799**
178.3910 (a)(2) table corrected; CFR correction 4535
179 Technical correction **46388**
179.26 (c)(1) amended **43876**
184.1007 (b)(1), (6) and (7) revised 1759
184.1257 (b) introductory text and (1) revised 1759
184.1259 (b)(3) revised 1760
184.1282 (b) revised 1760
184.1293 (b) revised 1760
184.1420 Added **24419**
184.1428 (a) amended 405
184.1530 (b) revised 1760
184.1699 (b) revised 1760
184.1702 Added **28895**
184.1979 (b)(1) introductory text and (2) revised 1760
184.1979a (b)(1) introductory text and (2) revised 1761
184.1979b (b)(1) introductory text and (2) revised 1761
Corrected 7066
184.1979c (b)(1) introductory text and (2) revised 1761
200 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 400
200.15 Revised **26698**
201 Authority citation revised **26698**
Effective date confirmation **48576**
Stay of compliance **67399**
Authority citation revised 400
201.23 Added **66668**
201.50 (b) amended **26698**
201.57 (f)(2) revised; eff. 6-1-99 ..... **66396**
201.59 (a)(1) revised; eff. 5-20-99 400
201.100 (c)(2) amended **26698**
(c)(2) and (d)(1) amended; eff. 5-20-99 400
201.150 (e) through (h) removed; eff. 5-20-99 400
201.307 Added **27843**
201.322 Added; eff. 4-23-99 ..... **56801**
202 Authority citation revised 400
202.1 (e)(4)(ii) removed; (e)(4)(iii) redesignated as (e)(4)(ii); new (e)(4)(ii), (6)(i), (ii)(*a*), (*b*) and (xvii) amended; eff. 5-20-99 400
206 Authority citation revised 400
207 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 400
207.20 (c) amended; eff. 5-20-99 400
207.21 (a) amended; eff. 5-20-99 400
207.25 (b)(2), (4), (5) and (6) amended **26698**
(b)(2), (4), (5) and (6) amended; eff. 5-20-99 400
207.31 (a)(1), (2), (3) and (c) amended **26698**
(a)(1), (2), (3) and (c) amended; eff. 5-20-99 400
207.37 (a)(2)(i) amended; eff. 5-20-99 400
208 Added; eff. 6-1-99 ..... **66396**
210 Authority citation revised **26698**
Authority citation revised 401
211 Authority citation revised **26698**
Authority citation revised 401
211.132 Heading revised; (a), (d) introductory text and (2) amended; (b) and (c) revised **59470**
299.4 (d) amended; eff. 5-20-99 401
300 Authority citation revised 401
300.50 (b) amended; eff. 5-20-99 401
310 Authority citation revised **26698**
Authority citation revised 401
310.502 (a) introductory text revised; (b) removed; eff. 5-20-99 401
310.545 (a)(27), (28) and (d)(28) added; (d) introductory text revised **19802**
(a)(6)(ii)(B) amended **40649**
(a)(23) and (24) redesignated as (a)(23)(i) and (24)(i); (a)(23)(i) heading, (ii), (24)(i) heading,

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

(ii) and (d)(26) added; (d)(11) revised **44998**
(a)(12)(iv) redesignated as (a)(12)(iv)(A); (a)(12)(iv)(A) heading, (d) introductory text and (1) revised; (a)(12)(iv)(B) and (d)(29) added 4540
312 Authority citation revised **26698**, **68678**
Authority citation revised 401
312.2 (a) and (d) amended; eff. 5-20-99 401
312.3 Amended; eff. 5-20-99 401
312.23 (a)(10)(iii) redesignated as (a)(10)(iv); new (a)(10)(iii) added **66669**
312.42 (e) revised; eff. 4-28-99 ..... **68678**
312.47 (b)(1)(i) and (2) heading revised; (b)(1)(iv), (v) and (2) introductory text amended; (b)(2)(iii) redesignated as (b)(2)(iv); new (b)(2)(iii) added **66669**
312.80—312.88 (Subpart E) Authority citation revised 401
312.81 Introductory text amended; eff. 5-20-99 401
312.82 (a) and (b) amended **66669**
312.110 (b)(4) revised; (b)(5) removed; eff. 5-20-99 401
312.120 (a) amended; eff. 5-20-99 401
312.130 (b) amended; eff. 5-20-99 401
312.500—310.546 (Subpart E) Authority citation revised **26698**
314 Authority citation revised **26698**, **59712**
Effective date confirmation **48576**
Authority citation revised 401
Heading revised; eff. 5-20-99 401
314.1 (a) revised; eff. 5-20-99 401
314.50 Introductory text, (d)(5)(vi)(*b*) and (l)(1) amended; (c)(2)(i) and (e)(2)(ii) revised; eff. 6-1-99 ..... **66398**
(d)(7) added **66670**
(d) introductory text amended; eff. 5-20-99 401
314.55 Added **66670**
314.70 (b)(3) revised; eff. 6-1-99 ..... **66399**
314.81 (b)(2)(i) and (vii) revised; (b)(2)(vi)(c) added **66670**
(a) amended; eff. 5-20-99 401
314.92 (a)(2) removed; eff. 5-20-99 401
314.94 (a)(8) revised; eff. 6-1-99 ..... **66399**
(c) and (d)(3) removed; eff. 5-20-99 401
314.96 (c) removed; eff. 5-20-99 401
314.98 (a) and (c) amended; eff. 5-20-99 401
314.100 (a) amended; eff. 5-20-99 402
314.101 Heading revised; (a)(2) amended; eff. 5-20-99 402
314.105 (a) and (b) amended; eff. 5-20-99 402
314.107 (c)(1) and (4) amended; interim **59712**
314.110 (a)(2), (4) and (5) amended; eff. 5-20-99 402
314.120 (a) introductory text, (3) and (5) amended; (a)(4) removed; eff. 5-20-99 402
314.125 Heading revised; (a) introductory text, (2) and (b)(2) amended; eff. 5-20-99 402
314.126 (a) amended; eff. 5-20-99 402
314.150 (a) introductory text and (b) introductory text amended; eff. 5-20-99 402
314.170 Amended **26698**
Amended; eff. 5-20-99 402
314.300 (Subpart F) Removed; eff. 5-20-99 402
314.410 Heading revised; (a)(1) introductory text, (i) and (b)(1) amended; (b)(3) revised; eff. 5-20-99 402
314.430 (f)(6) amended **26698**
(e)(8) removed; (f)(6) amended; eff. 5-20-99 402
314.500 Amended; eff. 5-20-99 402
314.530 (a) amended; eff. 5-20-99 402
316.3 (b)(9) amended; eff. 5-20-99 402
320 Authority citation revised 402
320.38 (a) amended; eff. 5-20-99 402
320.63 Amended; eff. 5-20-99 402
333.103 (a) and (b) designation removed; eff. 5-20-99 403
333.110 (a) through (f) amended; eff. 5-20-99 403
333.120 (a)(1) through (12) and (b)(1) through (6) amended; eff. 5-20-99 403
341.20 (b)(1) revised **40650**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 21 Chapter I—Con.

341.80 (c)(2)(ii), (vii), (d)(2)(i) and (viii) heading revised **40650**
343 Added; eff. 10–25–99 ..... **56814**
343.80 (a)(1) corrected **66015**
(a)(2) corrected **66016**
358 Technical correction **46389**
358.610 Revised **43303**
369 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 403
369.5 Removed **26698**
369.21 Amended **26698**
429 Removed **26698**
Effective date confirmation **48576**
430 Removed **26068**
Effective date confirmation **48576**
431 Removed **26068**
Effective date confirmation **48576**
432 Removed **26068**
Effective date confirmation **48576**
433 Removed **26068**
Effective date confirmation **48576**
436 Removed **26068**
Effective date confirmation **48576**
440 Removed **26068**
Effective date confirmation **48576**
441 Removed **26068**
Effective date confirmation **48576**
442 Removed **26068**
Effective date confirmation **48576**
443 Removed **26068**
Effective date confirmation **48576**
444 Removed **26068**
Effective date confirmation **48576**
446 Removed **26068**
Effective date confirmation **48576**
448 Removed **26068**
Effective date confirmation **48576**
449 Removed **26068**
Effective date confirmation **48576**
450 Removed **26068**
Effective date confirmation **48576**
452 Removed **26069**
Effective date confirmation **48576**
453 Removed **26069**
Effective date confirmation **48576**
455 Removed **26069**
Effective date confirmation **48576**
460 Removed **26069**
Effective date confirmation **48576**
510.45 Removed; eff. 5–20–99 403
510.105 (c)(2) revised **32980**
510.106 Revised **32980**
510.110 (e) and (f) amended; eff. 5–20–99 403
510.600 (c)(1) table and (2) table amended ... **24106, 25164, 26981, 27844, 27845, 29551, 31624, 31931, 36178, 41188, 44381, 44382, 51821, 59216, 65553**
514.10 Removed; eff. 5–20–99 403
520 Technical correction **46652**
520.45a (a)(4)(i)(*1*) designation and (*2*) removed; (b)(1) revised 1504
520.154a (a) amended; (d)(4) added **38474**
520.452 Added **41419**
520.455 Added 1762
520.580 (b)(1) amended **26981**
520.870 Added **51300**
520.905a (a) removed; (b), (c) and (d)(3) redesignated as (a), (b) and (d)(4); (d)(2) heading revised; (d)(2)(i)(A), (B), (ii) introductory text, (A) and (B) redesignated as (d)(2)(ii), (iii), (3)(i), (ii) and (iii); new (c) and new (d)(3) heading added **63983**
520.905c (d)(1)(iii) added **31624**
520.1195 (b) amended **38474**
520.1204 (a) amended; eff. 5–20–99 403
520.1242a (a) and (d) removed; (b), (c), (e) and (f) redesignated as (a) through (d); new (a), (b), (c), (d)(1)(i), (iii) and (2)(i) revised; new (d)(2)(iii) added **59713**
520.1263a (a) revised; eff. 5–20–99 403
520.1263b (a) amended; eff. 5–20–99 403
520.1288 Revised **52968**
520.1445 (a) and (c) heading revised; (d) added **29352**
(c) removed; (d) revised **41189**
520.1446 (c) redesignated as (d); new (d) revised **41190**
520.1484 (b) revised; (c)(3) amended **17329**
520.1485 (d)(3) amended **45944**
520.1660c Heading, (a) and (b) revised; (c) removed; (d) and (e) redesignated as (c) and (d); new (d)(3) amended **70334**
520.1660d (a)(3) revised **44384**
520.1720a (b)(3) amended **36178**
520.2043 (a)(2) revised **39727**
(b)(2) amended **45945**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

520.2098 (b) amended **29551**
(d)(2) and (d)(3) redesignated as (d)(1)(i) and (ii); new (d)(2) added 2122
520.2158a (b) amended **51821**
520.2158b (d) correctly added; CFR correction 4540
520.2220a (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) **59714**
522 Technical correction **46652**
522.84 Added **44382**
522.90b (b) revised **41420**
522.246 (b) revised **66432**
522.314 (d)(2) added **53578**
522.770 (d)(1)(ii) revised **68183**
522.533 Added **44383**
522.812 (a) revised; (d)(1), (2) and (3) redesignated as (d)(1)(i), (ii) and (iii); (c), new (d)(1) heading and new (2) added **49003**
522.955 (d)(1)(iii) amended **26981**
(d)(1)(i) revised; (d)(1)(iii) amended **41191**
(d)(1)(i) revised; (d)(1)(ii) redesignated as (d)(1)(i)(B); (d)(1)(ii)(A) and (B) added 5596
(d)(1)(i)(B) revised 9435
522.970 (c) redesignated as (d); new (c) added; (b) and new (d) revised **38749**
522.1044 (b)(3) amended **59714**
(b)(4) revised **68182**
522.1081 (a)(2)(ii) amended **51822**
522.1086 (b) amended; (c) redesignated as (d) **29352**
522.1145 (a)(2) revised; (f) added **59216**
522.1182 (b)(2)(i) amended **53578**
522.1183 (b) removed; (e)(1) amended **44384**
522.1204 (a) revised; eff. 5–20–99 403
522.1222a (c) amended **51822, 65553**
522.1289 Added **29552**
522.1484 (a) amended; eff. 5–20–99 403
522.1660 (c) added; (d)(1) heading revised; (d)(1)(iii) amended **52158**
522.1940 (d)(3) added **45945**
522.2005 (b) amended **24420**
522.2120 Amended **24107**
522.2121 Added **24107**
522.2478 (c)(2) added **63789**
524.770 (d)(2) revised **68183**
524.814 (d)(2) revised **59715**
524.1044g (b) amended **31932**
524.1193 (b) and (d)(2) revised **44385**
524.1200a (a)(1) and (2) designation removed; eff. 5–20–99 404
524.1200b (a) revised; eff. 5–20–99 404
524.1204 (a)(1) removed; (a)(2)(i), (ii), (iii) and (3) redesignated as (a)(1)(i), (ii), (iii) and (2); eff. 5–20–99 404
524.2101 (c) amended **26981**
529.360 (a) amended; eff. 5–20–99 404
529.469 Added **25164**
529.1030 (c) redesignated as (d); (b)(1), (2), new (d) introductory text, (1) and (2)(i) revised; (d)(2)(iv) and (v) added **38304**
529.1186 (b) revised **24106**
556.34 Revised 1504
556.113 Revised **53579**
556.150 Revised **52158**
(b) revised **57246**
556.225 Revised **68184**
556.227 Revised **59715**
556.228 Undesignated text designated as (a); new introductory text, (a) heading and (b) added **49003**
556.283 Revised **41191**
556.286 Added **38750**
556.344 Revised **54352**
556.420 Revised 5159
556.500 Revised **52158, 57246**
556.600 Revised **24107**
(c) corrected **38304**
556.720 Revised **52158, 57246**
558 Technical correction **46389**
558.15 (g)(1) table and (2) table amended 992
558.58 (d)(1)(iii) table amended **27845**
558.76 (d)(3)(xv) added **38475**
(d)(3)(xv) added **38750**
(d)(3)(xvi) added **39028**
(d)(1) table amended **40825, 44385**
(d)(3)(xvii) correctly designated **48576**
(d)(3)(xviii) added **51824**
(d)(3)(xix) added 4966
558.78 (d)(3) revised **19185**
(a)(2), (d)(1) table and (2)(ii) amended **27845**
558.95 (d)(4)(iv) added **18836**
(d)(1)(xi)(*b*) and (xii)(*b*) amended **27845**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 21 Chapter I—Con.

(d)(4)(i)(*b*), (ii)(*b*), (iii) introductory text, (*d*), (iv) introductory text and (*c*) amended **44385**
558.115 (d)(1)(ii) and (2)(ii) revised **59216**
558.120 (d)(1)(iii)(*b*) amended **27845**
558.128 (a)(1) and (d)(1) table amended **27845**
(d)(1) table amended **57246, 65554**
558.145 (a)(1) and (2) amended **27845**
558.175 (d)(1)(iii)(*b*) and (iv)(*b*) amended **17948, 27845**
558.195 (d) table amended **17948, 27845, 38475, 51824**
558.300 (c) redesignated as (d); new (d) introductory text added; new (d)(1) revised **54353**
558.305 (a) amended **27845**
558.311 (e)(1)(ii) table amended **17948**
(b)(2) through (7), (e)(1)(v) table, (2)(v) and (3)(v) amended **27845**
558.325 (c)(3)(xii) revised **57248**
558.340 (a) amended **27845**
558.342 (d)(3)(ii) and (6)(ii) amended **27845**
(d)(8) added **41191**
(c) and (d)(3)(ii) amended **66018**
558.355 (a) amended **24420**
(b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*) and (xvi)(*b*) amended **27845**
(f)(2)(iii) added **52969**
(b)(11) and (f)(1)(xiv)(*b*) amended **70335**
(f)(3)(ii)(*b*) amended 2855
(d)(7)(ii), (f)(3)(iii)(*a*), (*b*), (vi)(*a*), (*b*), (vii)(*a*) and (*b*) revised; (f)(3)(xi) added 5159
(b)(11) amended; (f)(1)(xxvi) and (xxvii) added 5597
558.363 (a)(6), (d)(1)(viii) and (ix) added **51823**
(d)(2) revised **57248**
(d)(2)(ii) added 4966
558.366 (c) table amended **57249**
(c) table amended 4966
558.369 (c) removed; (d) introductory text revised; (d)(1), (2) and (3) redesignated as (d)(1)(i), (ii) and (iii); (d)(1) heading and (2) added **39028**
558.450 (d)(3)(iii) added **41192**
558.460 (b) and (c) redesignated as (c) and (d); new (b) added; (d)(1) table revised **36179**
558.515 (d)(1)(iv)(*b*) amended **17948**
(a) and (d)(1)(vi)(*b*) amended **27845**
558.530 (c) removed; (d)(5)(x) revised **38476**
558.550 (a)(1), (d)(1)(vii)(*c*), (ix)(*c*), (xv)(*c*) and (xvi)(*c*) amended **27846**
(a) revised; (d)(1)(xv)(*c*) amended **65554**
(a)(3) revised **66432**
558.575 (a)(1) and (2) amended **27846**
558.582 (a) amended **27846**
558.600 (c)(4)(ii) amended **27846, 52969**
558.680 (c)(1) table amended **38750**
564 Removed 4294
Technical correction 6801
573.460 (b)(1), (2)(ii), (iii) and (3)(iv) revised; (b)(2)(iv) added **53580**
601 Authority citation revised **66671**
601.2 (a) introductory text amended; (c)(1)(viii) revised; eff. 6-1-99 ..... **66399**
601.12 (f)(1) amended; (f)(3)(i) revised; eff. 6-1-99 ..... **66399**
601.27 Added **66671**
601.37 Added **66671**
606.121 (e)(1)(ii) amended **16685**
610.11 (g) revised **19403**
Regulation at 63 FR 19403 withdrawn in part **41718**
610.30 Amended **16685**
610.60 (a)(7) added; eff. 6-1-99 ..... **66400**
640.2 (e)(3) amended **16685**
640.17 Amended **16685**
640.24 (b) amended **16685**
640.64 (c)(2) amended **16685**
640.69 (b) amended **16685**
640.70 (a)(3) amended **16685**
640.74 (b)(2) amended **16685**
640.101 (a) amended **16685**
640.102 (c) and (e) amended **16685**
640.104 (a) amended **16685**
800 Authority citation revised **26699**
Authority citation revised 404
801 Interpretation **24934**
Economic analysis statement **29552, 46171, 50660**
Authority citation revised 404
801.437 Note added **46175**
803.1 (a) revised **26074**
Regulation at 63 FR 26074 withdrawn **45717**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

803.3 (c) introductory text amended; (m) through (ee) redesignated as (n) through (ff); (c)(1), new (p) introductory text, (1) and (r)(2) revised; (g) and new (m) added 26074
Regulation at 63 FR 26074 withdrawn 45717
803.9 (c)(2) amended; (c)(3) removed; (c)(4) redesignated as (c)(3) 26075
Regulation at 63 FR 26075 withdrawn 45717
803.10 Heading, (a)(2) and (c)(5) revised; (b) added 26075
Regulation at 63 FR 26075 withdrawn 45717
803.11 Amended 26075
Regulation at 63 FR 26075 withdrawn 45717
803.12 (b) revised 26075
Regulation at 63 FR 26075 withdrawn 45717
803.17 Introductory text amended 26075
Regulation at 63 FR 26075 withdrawn 45717
803.18 Heading, (b)(1)(ii) and (2) revised; (a), (b)(1) introductory text and (c) amended; (d) added 26075
Regulation at 63 FR 26075 withdrawn 45717
803.19 (b) and (c) amended 26075
Regulation at 63 FR 26075 withdrawn 45717
803.20 (a) introductory text and (2) amended; (a)(1) revised; (b)(2) added 26075
Regulation at 63 FR 26075 withdrawn 45717
803.22 (a) and (b)(1) amended 26076
Regulation at 63 FR 26076 withdrawn 45717
803.33 Heading revised; (a) introductory text, (2), (5), (7) introductory text, (vi) and (c) amended 26076
Regulation at 63 FR 26076 withdrawn 45717
803.40—803.43 (Subpart D) Added 26076
Regulation at 63 FR 26076 withdrawn 45717
803.56 Introductory text, (a) and (b) amended 26076
Regulation at 63 FR 26076 withdrawn 45717
803.57 (a), (b), (c)(1) and (d) amended 26076
Regulation at 63 FR 26076 withdrawn 45717
804 Heading revised 26077
Regulation at 63 FR 26077 withdrawn 45717
804.1 (a) revised 26077
Regulation at 63 FR 26077 withdrawn 45717
804.3 (d) revised; (m)(1) and (2) amended 26077
Regulation at 63 FR 26077 withdrawn 45717
804.25 (a)(1) and (2) amended; (c) removed 26077
Regulation at 63 FR 26077 withdrawn 45717
806 Heading revised 42232
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 63983
806.1 (a) and (b)(1) revised 42232
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 63983
806.2 (f) revised 42232
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 63983
806.10 Regulation at 62 FR 27191 eff. 5-18-98 18836
(a), (b), (c) introductory text and (2) revised; (c)(4), (d) and (e) amended 42232
806.20 Regulation at 62 FR 27191 eff. 5-18-98 18836
(a) and (c) revised 42233
Regulation at 63 FR 42233 eff. date delayed to 2-22-99 63983
806.30 Revised 42233
Regulation at 63 FR 42233 eff. date delayed to 2-22-99 63983
807 Heading revised 51826
Effective date confirmation 1762
807.3 (d)(2) and (g) revised; (s) added 51826
807.20 (a)(4) revised; (c) removed; (d) redesignated as (c); (c)(3) added 51826
Corrected 65555
807.22 (c) amended 51826
807.25 (f)(3) amended; eff. 5-20-99 404
809 Authority citation revised 404

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 21 Chapter I—Con.

809.5 Removed; eff. 5–20–99 404
809.6 Removed; eff. 5–20–99 404
812 Authority citation revised **26699**
Authority citation revised 404
812.35 (a) revised **64625**
814.39 (a) introductory text and (4) revised; (f) added **20533**
Regulation at 63 FR 20533 withdrawn **42699**
(a) introductory text revised; (a)(4) removed; (a)(5) through (8) redesignated as (a)(4) through (7); (f) added **54044**
814.100 (a)(2) and (d) revised; (e) added **19188**
Regulation at 63 FR 19188 withdrawn **40825**
(a)(2) and (d) revised; (e) added **59220**
814.104 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b)(5) and new (d) revised; new (c) amended **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b)(5) and new (d) revised; new (c) amended **59220**
814.106 Revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
Revised **59220**
814.108 Revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
Revised **59220**
814.112 (a) introductory text and (b) revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(a) introductory text, (1) and (b) revised **59221**
814.114 Revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
Revised **59221**
814.116 (a) and (d) amended; (e) added **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(a) and (d) amended; (e) added **59221**
814.118 (e) revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(a)(8) revised; (e) removed **59221**
814.120 Revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
Revised **59221**
814.124 (a) amended **19190**
Regulation at 63 FR 19190 withdrawn **40825**
(a) amended **59221**
814.126 (a) amended; (b) revised **19190**
Regulation at 63 FR 19190 withdrawn **40825**
(a) amended; (b) revised **59221**
860.84 (a) amended; eff. 5–20–99 404
862.9 Heading revised; introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59224**
862.1440 (b) revised **59225**
862.1635 (b) revised **59225**
862.1715 (b) revised 1124
862.1825 Added **40366**
864.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59225**
864.1860 Added **30142**
864.6100 (b) revised **59225**
864.6400 (b) revised **59225**
864.9160 (b) revised **59225**
864.9550 (b) revised **59226**
864.9575 (b) revised **59226**
864.9600 (b) revised **59226**
864.9700 (b) revised **59226**
866.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59226**
866.3060 (b) revised **59226**
866.3085 (b) revised **59226**
866.3135 (b) revised **59226**
866.3165 (b) revised **59226**
866.3220 (b) revised **59226**
866.3280 (b) revised **59226**
866.3300 (b) revised **59226**
866.3320 (b) revised **59227**
866.3350 (b) revised **59227**
866.3415 (b) revised **59227**
866.3550 (b) revised **59227**
866.3660 (b) revised **59227**
866.3930 (b) revised **59227**
866.5040 (b) revised **59227**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

866.5320 (b) revised 59227
866.5380 (b) revised 59227
866.5460 (b) revised 59227
866.5490 (b) revised 59227
868 Preamendment device retention 35516
872.1870 Added 59717
872.3940 (c) revised 71746
872.3950 (c) revised 71746
872.3960 (c) revised 71746
872.3970 (c) revised 71746
876.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59227
876.1620 (b) revised 59228
876.1800 (b) revised 59228
876.2040 (b)(1) revised 59228
876.4370 (b)(1) revised 59228
876.4650 (b) revised 59228
876.4680 (b) revised 59228
876.4890 (b)(1) revised 59228
876.5250 (b)(1) revised 59228
878.5360 Revised 57060
880.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59228
880.2200 (b) revised 59228
880.2920 (b) revised 59228
880.2930 Added 59718
880.5100 (b) revised 59229
880.5140 (b) revised 59229
880.5475 (b) revised 59229
880.5500 (b) revised 59229
880.5550 (b) revised 59229
880.5960 Added 59718
880.6470 (b) revised 59229
880.6775 (b) revised 59229
880.6910 (b) revised 59229
880.6990 Added 59718
882.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59229
882.5050 (b) revised 59229
882.5970 Added 40651
884 Preamendment device retention 35516
884.6100—884.6190 (Subpart G) Added 48436
886.9 Heading revised; introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59229
886.3100 (b) revised 59230
886.3130 (b) revised 59230
886.3800 (b) revised 59230
888.3070 Added 40040
890 Preamendment device retention 35516
890.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59230
890.1925 (b) revised 59230
890.3500 (b) revised 59231
890.3525 (b) revised 59231
890.3710 (b) revised 59231
890.3725 (b) revised 59231
890.5160 (b) revised 59231
890.5170 (b) revised 59231
890.5225 (b) revised 59231
890.5720 (b) revised 59231
890.5740 (b) revised 59231
892.9 Heading revised; introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59231
892.1980 (b) revised 59231
892.2010 Added 23387
(a) and (b) corrected 44998
892.2020 Added 23387
(a) and (b) corrected 44998
892.2030 Added 23387
892.2040 Added 23387
892.2050 Added 23387
892.5050 (b) revised 1125
900.2 (d) revised; eff. 4–28–99 56558
900.12 (a)(2)(ii), (c)(4)(i), (d)(2) and (e)(10) amended; (a)(2)(iv)(A), (3)(iii)(B), (c)(4)(ii), (e)(1) introductory text, (8)(ii)(A) and (f)(3) revised; eff. 4–28–99; (e)(4)(iii)(B) revised; eff. 10–28–02 56558
1240 Technical correction 29591
1240.70 Removed 26078
1270.33 (b)(1) amended 16685

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1308.4 (e)(7) through (11) redesignated as (e)(8) through (12); new (e)(7) added 4052

Proposed Rules:

1 64930

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 21 *Proposed Rules:—Con.*

2 ..... **51322**
..... 448
3 ..... **26690, 40858, 42773, 46718**
..... 448
5 ..... **26690, 40858, 42773, 46718**
..... 448
10 ..... **26690, 32772, 40858, 42773, 46718, 50815, 69575**
..... 448
12 448
14 ..... **69575**
16 ..... **26690, 31143, 35551, 69575**
..... 448
20 ..... **40069, 40858, 42773, 46718**
..... 448
25 ..... **26690**
..... 448
26 ..... **17744**
50 ..... **26690**
..... 448
54 448
56 ..... **26690**
..... 448
58 ..... **26690**
..... 448
60 448
70 ..... **30150**
..... 448
71 ..... **26690**
..... 448
73 ..... **30150**
74 ..... **30150**
80 ..... **30150**
81 ..... **30150**
82 ..... **30150**
99 ..... **31143, 35551**
100 ..... **27502**
101 ..... **20486, 23624, 24254, 24593, 27016, 30150, 45427, 62977**
..... 1765, 3250
102 ..... **20148**
120 ..... **20450, 24254, 37057, 40072, 69579**
165 ..... **25789**
178 ..... **30150**
179 7834
200 ..... **26690**
..... 448
201 ..... **26690, 30150**
..... 448
202 448
206 448
207 ..... **26690, 26744, 40858, 42773, 46718, 68212**
..... 448
210 ..... **26690**
..... 448
211 ..... **26690**
..... 448
216 ..... **54082, 55564**
..... 996
299 448
300 448
310 ..... **26690, 33592, 40858, 42773, 46718, 59746**
..... 448
312 ..... **26690, 40858, 42773, 46718, 68710**
..... 448
314 ..... **26690, 59746, 64222**
..... 448
315 ..... **28301, 41219, 55067**
..... 457, 7561
316 ..... **40858, 42773, 46718**
..... 448
320 ..... **64222**
..... 448
333 448
334 ..... **27886, 33592, 67817**
341 ..... **38762**
352 ..... **56584**
369 ..... **26690**
..... 448
429 ..... **26690**
430 ..... **26127**
431 ..... **26127**
432 ..... **26127**
433 ..... **26127**
436 ..... **26127**
440 ..... **26127**
441 ..... **26127**
442 ..... **26127**
443 ..... **26127**
444 ..... **26127**
446 ..... **26127**
448 ..... **26127**
449 ..... **26127**
450 ..... **26127**
452 ..... **26127**
453 ..... **26127**
455 ..... **26127**
460 ..... **26127**
510 448
514 448
520 448
522 448
524 448
529 448
600 ..... **40858, 42773, 46718, 59746**
601 ..... **28301, 40858, 41219, 42773, 46718, 55067**
..... 457, 7561
607 ..... **40858, 42773, 46718**
610 ..... **19431, 40858, 42773, 46718**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

640 ..... **40858, 42773, 46718**
660 ..... **40858, 42773, 46718**
701 ..... **30160**
800 ..... **26690**
..... 448
801 ..... 448, 3255
803 ..... **26129**
804 ..... **26129**
806 ..... **42300**
807 ..... **26744, 51874, 65566, 68212**
..... 448
808 ..... **39789**
809 ..... **29174**
..... 448
812 ..... **26690, 38131**
..... 448
814 ..... **19196, 20558**
820 ..... **29364**
860 448
862 ..... **63222**
864 ..... **29174, 63222**
868 ..... **44177, 63222**
870 ..... **63222**
872 ..... **53859, 63222**
874 ..... **25794, 40673, 63222**
876 ..... **63222**
..... 62, 5987
878 ..... **63222**
880 ..... **59917, 63222**
882 ..... **40673, 63222**
884 ..... **44177, 63222**
886 ..... **63222**
888 ..... **63222**
890 ..... **40677, 44177, 63222**
892 ..... **63222**
900 ..... **59750**
1020 ..... **57957**
..... 6288
1271 ..... **26744, 68212**
1300 ..... **49506**
..... 7144
1308 ..... **18170, 59751**
1310 ..... **49506, 55811, 63253**
..... 7144
1312 ..... **59751**

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

40.11 Regulation at 62 FR 67567 confirmed **64625**
40.22 Regulation at 62 FR 67567 confirmed **64625**
40.52 Regulation at 62 FR 67567 confirmed **64625**
40.61 Regulation at 62 FR 67567 confirmed **64625**
40.62 Regulation at 62 FR 67567 confirmed **64625**
40.66 Regulation at 62 FR 67567 confirmed **64625**
40.67 Regulation at 62 FR 67567 confirmed **64625**
40.68 Regulation at 63 FR 670 confirmed **36366**
40.91 Regulation at 62 FR 67567 confirmed; (a) revised **64625**
40.92 Regulation at 62 FR 67567 confirmed **64625**
40.93 Regulation at 62 FR 67567 confirmed **64625**
40.104 Regulation at 62 FR 67567 confirmed **64625**
40.105 Regulation at 62 FR 67567 confirmed **64625**
40.204 Removed **16686**
41 Authority citation revised **48577**
41.2 (g)(3) and (4) redesignated as (g)(5) and (6); new (g)(3) and (4) added **16893**
Regulation at 62 FR 51031 confirmed 35
(f) revised; interim 7999
41.3 (e) amended **48577**
41.12 Table amended **48578**
41.21 Heading revised **48578**
41.32 Revised **16893**
41.33 Revised **16894**
41.101 Regulation at 63 FR 671 confirmed; (c)(1) amended **36366**
41.107 (c) redesignated as (c)(1); (c)(2) added; interim **24108**
(c)(2)(i) revised **52969**
41.121 Regulation at 63 FR 671 confirmed **36366**
41.122 (a)(4) and (h)(9) added **16895**
42.22 (c) removed; (d) redesignated as (c) **48578**
42.32 (d)(5) revised **68393**
42.51 (a)(2) and (d) removed; (a)(1) introductory text, (i), and (ii) redesignated as (a) introductory text, (1) and (2) **48578**
42.54 (a)(2) amended **48578**
42.64 (b) amended **48578**
50 Authority citation revised **20315**
50.40 (a) amended **20315**
51.70 Regulation at 62 FR 62695 confirmed **44777**
51.80 Regulation at 62 FR 62695 confirmed **44777**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 22 Chapter I—Con.

93 Authority citation revised **16687**
93.1 (a), (b), (c) and (e) amended **16687**
95 Added **9437**
121.1 Amended **17330**
140 Added **36574**

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

228.11 (e) revised **38751**
228.13 (b) amended **72181**
228.21 (a) amended; (c)(4) revised **38759**
228.51 (a) introductory text and (1) revised **38751**
228.53 Introductory text and (a) revised **38752**

Chapter V—United States Information Agency (Parts 500—599)

503 Authority citation revised **67576**
503.1 (b) amended **67576**
503.2 Amended; (b) and (e)(2) revised **67576**
503.3 (d) amended **67577**
503.4 (b)(1) revised; (b)(3) redesignated as (b)(3)(i); (b)(3)(ii) and (iii) added **67577**
503.7 (c)(2) and (e)(3) revised **67577**
503.8 (d)(5)(vi) amended; (d)(5)(vii) added **67577**
503.9 Added **71587**
514 Suspension of applicability **34276**
Policy statement **42233**
514.90 (Subpart H) Added; interim **34810**
Regulation at 63 FR 34810 confirmed 6191

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

706 Authority citation revised 8239
706.22 Introductory text and (a) through (f) redesignated as (a) introductory text and (1) through (6); new (b) added 8241
713 Added 8241

Proposed Rules:

22 6585
50 5725
51 5725
171 789
201 ..... **49682**
503 ..... **15800**
706 ..... **68213**
713 ..... **68213**

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

23 Comment period reopening 8714
655.601 (a) revised **33549**
658 Authority citation revised **70652, 71747**
658.5 Amended **70652**
658.13 (b)(3) revised **70653**
658.17 (i) and (k) revised **70653**
658 Appendixes A and C amended **70653**
Appendix A amended **71748**

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1225 Added; interim **46886**
1240 Added; interim **57909**
1270 (Subchapter D) Added; interim **53585**
1275 Added; interim **55802**

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1313 Revised; interim **71587**
1335 Added; interim **54048**
1340 Added **46392**
1345 Added; interim **52597**

Proposed Rules:

1—199 (Ch. I) **52206**
180 5996
655 ..... **31950, 31957**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

658 ..... **27228, 64434**
710 ..... **71238**
712 ..... **71238**
713 ..... **71238**
1331 ..... **33220, 44415**

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended **23853**
5.214 Amended **23853**
5.403 (a) revised; (b) amended **23853**
5.520 (c)(1)(ii) and (2)(i) revised **23853**
5.701—5.705 (Subpart G) Added **46577**
5.801 Added **46591**
(c) revised 1505
6 Added 3797
8.28 (a)(5) revised **23853**
50.19 (b)(17) revised; interim **48990**

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

180 Heading revised 3801
180.100 (c) amended 3801
180.105 (a)(3) and (4) amended; (a)(5) added 3801
180.310 (a) revised 3801
180.415 Heading and (a) revised 3802
180.670 (b)(3)(iii) introductory text revised 6754
180.671 Added 6754

Chapter II—Office of Assistant Secretary for Housing–Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.3—200.106 (Subpart A) Heading revised **46592**
200.36 Added **46592**
200.120—200.121 (Subpart B) Added 4769
201.20 Regulation at 62 FR 65181 confirmed **44361**
201.26 Regulation at 62 FR 65181 confirmed **44361**
202.2 Regulation at 62 FR 65181 confirmed **44361**
202.3 Regulation at 62 FR 65181 confirmed **44361**
202.5 Regulation at 62 FR 65181 confirmed **44361**
202.7 Regulation at 62 FR 65182 confirmed; (a) amended **44361**
203.3 Regulation at 62 FR 65182 confirmed **44361**
203.4 Regulation at 62 FR 65182 confirmed **44361**
203.255 (b)(5) revised; interim **29507**
206.3 Amended 2987
206.29 Added 2987
206.32 Added 2988
206.41 (b) revised 2988
206.43 Added 2988
206.45 (e) revised; interim **17656**
207.256 Revised 4769
207.256a Revised 4770
207.258 (a) and (b)(1) revised 4770
207.260 Added **46578**
236.1 Heading revised; (b) redesignated as (c); new (b) added **46592**
246.20 Revised **64803**
266.505 (b)(6) removed **46578**
(b)(7) revised **46593**
266.507 Added **45678**
266.510 (a) revised **46578**
291 Authority citation revised 6479
291.1—291.10 (Subpart A) Revised 6479
291.90—291.100 (Subpart B) Revised 6480
291.200—291.210 (Subpart C) Revised 6481
291.405 Added 6482

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

320.5 (a) amended; (e) and (f) added (OMB number); interim **51251**
320.13 Revised; interim **51251**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 24

Chapter IV—Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)

Chapter IV Established; interim 48943
401 Forums 50527
Technical correction 55333
401.99 (b) introductory text corrected 71373
401.100 Heading corrected 71373
401.201 (b) corrected 71373
401.300 Corrected 71373
401.400 (b) corrected 71373
401.403 (b)(2) corrected 71373
401.411 (a) corrected 71373
401.461 (b)(4) corrected 71373
401.472 (a)(1) corrected 71374
401.552 Corrected 71374
402 Forums 50527
Technical correction 55333
402.1 Corrected 71374
402.5 (c)(3) corrected 71374
402.6 (b) corrected 71374

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

Chapter V Clarification 35135
570.415 (k)(3)(ii) revised 31869
570.416 Regulation at 63 FR 9683 confirmed 48438
570.602 Revised 3802
570.913 (a) heading added; (a) introductory text revised 3802
598 Added; interim 19155
Regulation at 63 FR 19155 confirmed 52969
598.200 OMB number 53262
598.205 OMB number 53262
598.210 OMB number 53262
598.215 OMB number 53262
598.415 OMB number 53262
598.430 OMB number 53262

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

Chapter VIII Heading revised 64803
880.201 Amended 46578
880.207 (a) removed 46578
880.601 (d)(1) revised 46593
881.201 Amended 46578
881.207 (a) removed 46578
882 Heading and authority citation revised 23853
882.101 Revised 23853
882.102 Revised 23853
(b) amended 46578
882.106 Removed 23854
882.108 Removed 23854
882.109 Removed 23854
882.110 Removed 23854
882.111 Removed 23854
882.112 Redesignated as 882.414 23854
882.118 Removed 23854
882.201—882.219 (Subpart B) Removed 23854
882.217 Redesignated as 882.517 23854
882.301—882.335 (Subpart C) Removed 23854
882.401 Revised 23854
882.402 Removed 23854
882.404 Revised 23854, 46579
882.406 Redesignated as 882.810 23857
882.407 Revised 23855
882.411 (c) amended 23855
882.413 (c) removed 23855
882.414 Redesignated from 882.112 23854
882.501 Removed 23855
882.502 Removed 23855
882.503 Removed 23855
882.504 Removed 23855
882.505 Removed 23855
882.506 Removed 23855
882.508 Removed 23855
882.511 Heading revised; (a) through (e) redesignated as (b) through (f); new (a) added 23855

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

882.514 (a)(1), (d)(1) introductory text, (iv) and (v) amended; (d)(2)(vi) redesignated as (d)(1)(vi); (e) revised **23855**
882.515 (b) amended; (c) redesignated as (d); new (c) added **23855**
882.517 Redesignated from 882.217 ..... **23854**
882.601—882.606 (Subpart F) Removed **23854**
882.701—882.759 (Subpart G) Removed **23854**
882.802 Amended **23855**
882.803 (b) revised **23855, 46579**
882.805 (d)(1)(i)(B) amended; (c) revised **23855**
882.806 Heading, (a)(3) and (4) revised; (a)(2) amended; (a)(2) undesignated text designated as (a)(2)(ii); (a)(2)(i) added **23856**
882.807 (a) and (d) revised **23856**
882.808 (d), (i)(1), (3) and (o) amended; (b)(4), (c) and (i)(2) revised **23857**
882.810 Removed; new 882.810 redesignated from 882.406; new (g)(1)(iii)(C) amended **23857**
883.302 Amended **46579**
883.310 (a)(1) and (b)(1) removed **46579**
884.102 Amended **46579**
884.110 (b) revised **46579**
886.102 Amended **46579**
886.113 Heading, (a), (b) and (n) introductory text revised; introductory text, (c) through (h) and (j) through (m) removed **46579**
886.302 Amended **46580**
886.307 Heading, (a), (b), (m) introductory text and (n) introductory text revised; introductory text, (c) through (h), (j) through (l), (o) and (p) removed **46580**
886.318 (d)(1) revised **46593**
888 Fair market rent schedules **51224, 52858**
891.180 Added **46580**
891.185 Added **64803**

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1099)

901.1 (c)(1) existing text designated as (c)(1)(ii); (c)(1)(i) added **46617**
902 Added **46617**
903 Added **8181**
965.601 (Subpart F) Added **46580**
968.103 (e)(3) and (4) redesignated as (e)(4) and (5); new (e)(3) and (f)(4) added **46107**
968.112 (f)(4) amended **46108**
982 Authority citation revised **23857**
982.4 Revised **23857**
Corrected **31625**
982.53 (a) revised **23859**
982.54 (d)(7) revised; (d)(15) through (19) redesignated as (d)(18) through (22); new (d)(15), (16) and (17) added **23859**
982.102 (d) removed **23895**
982.152 (a)(3) added; (c)(1) revised **23860**
982.153 (a) designation and (b) removed **23860**
982.158 (f)(6) amended; (f)(7) redesignated as (f)(8); new (f)(7) added **23860**
(a) amended **46593**
982.204 (c) revised **23860**
982.205 Heading and (c) revised **23860**
982.206 (b)(1) amended; (a)(2) revised **23860**
982.207 (c) redesignated as (d); new (c) added **23860**
982.302 (a) revised **23860**
982.303 (b)(1) amended; (b)(2) revised **23860**
982.306 (d) and (e) redesignated as (e) and (f); new (d) added **27437**
982.316 Added **23860**
Corrected **31625**
982.352 (c)(7) revised; (c)(8) amended; (c)(9) redesignated as (c)(12); new (c)(9), (10) and (11) added **23860**
982.401 (a)(1) amended **23861**
982.402 (c) revised **23861**
982.451 (a) removed; (b) and (c) redesignated as (a) and (b) **23861**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 24 Chapter IX—Con.

982.452 (b)(2) revised **23861**
982.501—982.517 (Subpart K) Added **23861**
982.552 (a)(1) revised **23865**
982.601—982.624 (Subpart M) Added **23865**
982.623 (b)(2)(i) corrected **31625**
983.1 Revised **23870**
983.2 Introductory text amended **23870**
983.3 (d) added **23870**
983.5 Revised **23870, 46580**
983.7 (b) introductory text and (7) revised; (b)(5) amended; (d) and (f) removed; (b)(8) and (c) added; (c) and (g) redesignated as (d) and (f) **23870**
983.10 (g)(1)(iii)(B) amended **23871**
983.12 Revised **23871**
983.13 Revised **23871**
983.14 Removed **23871**
983.51 (d) introductory text revised **23871**
983.52 (a) and (c) amended **23871**
983.55 (a) and (b) amended **23871**
983.101 (b)(3) amended **23871**
983.103 (d) amended **23871**
983.151 (b)(3) amended **23871**
983.201 Revised **23871**
983.202 Amended **23871**
983.203 (a)(1), (b), (d)(6) and (g)(1) amended **23871**
983.204 (e) added **23871**
983.205 Removed; new 983.205 redesignated from 983.206 ..... **23871**
983.206 Redesignated as 983.205; new 983.206 redesignated from 983.207 ..... **23871**
983.207 Redesignated as 983.206; new 983.207 redesignated from 983.208 and revised **23871**
983.208 Redesignated as 983.207 ..... **23871**
983.251—983.262 (Subpart F) Added **23871**
985 Added **48555**
985.102 Stayed **48560**
985.103 Stayed **48560**
985.105 (a), (b), (d) and (e) stayed **48560**
985.107 Stayed **48560**
1000.516 Revised 3015
1005.101 Revised; interim **48990**
1005.103 Amended; interim **48990**
1005.104 (d) and (e) revised; interim **48990**
1005.105 (d)(2), (3), (4), (e) and (f) revised; interim **48990**
1005.106 Revised; interim **48990**
1005.107 (a)(1) and (b) introductory text revised; (b)(2) amended; interim **48991**
1005.111 Revised; interim **48991**
1005.112 Amended; interim **48991**

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1710.20 (a) amended **54332**
1710.35 (a) revised **54332**

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3280 Interpretive Bulletin **26386**

Proposed Rules:

5 ..... **35650, 35662, 41754, 58675**
6 ..... **26022a**
35 ..... **54422**
36 ..... **54422**
37 ..... **54422**
50 ..... **30046**
55 ..... **30046**
58 ..... **30046**
91 ..... **57882, 71405**
180 ..... **26022**
200 ..... **26702, 32958, 35662, 41754**
203 ..... **24736**
..... 7726, 8532
207 ..... **26702, 35650, 41754**
236 ..... **35662, 41754**
266 ..... **35650, 35662, 41754**
291 ..... **29496, 35650**
570 ..... **26022, 57882, 71405**
761 8210
880 ..... **35650, 35662, 41754**
881 ..... **35650, 41754**
882 ..... **35650, 41754**
883 ..... **35650, 41754**
884 ..... **35650, 41754**
886 ..... **35650, 35662**
888 ..... **24846**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

891 41754
901 ..... 35672, 40682
965 ..... 35650, 41754
982 ..... 35662, 41754
983 ..... 35650, 41754
990 ..... 5570, 6138
3280 ..... 26392, 58570
3282 54528

TITLE 25—INDIANS

Chapter III—National Indian Gaming Commission (Parts 500—599)

514 Technical correction 17489
518 Added 41969
542 Added 596
Technical correction 4966

Proposed Rules:

1—299 (Ch. I) 69580
11 32631
61 36866
170 6825
291 19693
542 42940

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1--799)

1 Authority citation amended 16898, 30623, 33555, 36180, 41421, 44389, 47173, 50144, 52600, 55023, 56562, 68680, 70337, 70340, 71954, 72182
Technical correction 58811
Authority citation amended 1509, 5601, 5715
1.32–3T Added 34596
1.62–2 (m) amended 52600
1.62–2T Added 52600
1.108–4 Added 56562
1.108–5 Redesignated from 1.108(c)–1 56563
1.108–6 Added 56563
1.108(a)–1 Removed 56563
1.108(a)–2 Removed 56563
1.108(b)–1 Removed 56563
1.108(c)–1 Redesignated as 1.108–5 56563
1.148–5 (d)(6)(iii) revised; (e)(2)(iv) added 71751
1.163–5 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 72183
1.165–12 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 72183
1.195–1 Added 69555
1.274(d)–1 (b) added 52601
Corrected 58811
1.274(d)–1T Added 52601
(a)(1) and (2) corrected 64187
1.337(d)–4 Added 71594
1.367(a)–1T (a), (c)(1) and (3)(ii)(C) concluding text amended; (b)(2)(i) and concluding text removed; (c)(2) revised 33555
1.367(a)–3 (a), (b) and (d) revised; (c)(1)(iii)(B) amended; (e) through (h) removed; new (e), (f) and (g) added 33556
1.367(a)–3T Removed 33561
1.367(a)–8 Added 33562
1.367(b)–1 Added 33566
1.367(b)–4 Added 33567
1.367(b)–7 (a) and (b) added 33568
1.367(d)–1T (a) amended 33568
1.368–1 (e)(6) Example 2 revised 50758
1.401(a)–20 Amended 70338
1.401(a)(4)–4 (b)(2)(ii)(C) amended 70338
1.401(a)(26)–4 (d)(2) amended 70338
1.401(a)(26)–6 (c)(4) amended 70338
1.402(a)–1 (b)(2)(ii)(*d*) and (c) reinstated; CFR correction 43303
1.408A–0 Added 5601
1.408A–1 Added 5601
1.408A–2 Added 5601
1.408A–3 Added 5601
1.408A–4 Added 5603
1.408A–5 Added 5605
1.408A–6 Added 5607
1.408A–7 Added 5610
1.408A–8 Added 5610
1.408A–9 Added 5611
1.411(a)–7 (d)(4)(i) amended 70337
1.411(a)–7T Added 70337
1.411(a)–11 (c)(2)(ii) revised; (c)(2)(iii), (iv), (v) and (8) added 70011
(b), (c)(3) and (7) amended 70338
1.411(a)–11T Removed 70011
Added 70338
1.411(d)–4 Amended 30623, 47173, 70338
Amended 1126
1.411(d)–4T Added 47173

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 26 Chapter I—Con.

1.411(d)–4T Removed 1127
1.411(d)–6 Added **68680**
1.411(d)–6T Removed **68680**
1.417(e)–1 (d) revised **16898**
(b)(3) revised; (b)(4) added **70011**
(b)(2)(i) amended **70338**
1.417(e)–1T (d) revised **16902**
(b)(3) and (4) removed **70012**
1.460–0 Amended **36181**
1.460–6 (j) added **36181**
1.460–6T Removed **36181**
1.465–27 Added **41421**
1.469–10 Revised **69553**
1.664–1 (a)(7) and (d)(1)(iii) added; (f)(4) added **68191**
1.664–2 (a)(1)(i) revised **68191**
1.664–3 (a)(1)(i)(*a*), (*b*)(*1*) and (*2*) revised; (a)(1)(i)(*b*)(*3*), (*4*), (*5*) and (*c*) through (*l*) added; (a)(1)(iv) amended **68192**
1.861–8 (e)(7)(iii) added; (e)(8) revised 1509
1.861–8T (e)(8) added; (h) amended 1509
1.861–18 Added **52977**
(i)(4) Examples 1 and 2 corrected **64868**
1.863–3 (f) revised; (h) amended **55023**
1.865–1T Added 1509
1.865–2 Added 1511
1.865–2T Added 1514
1.871–6 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.871–7 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.871–14 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
(h) revised; eff. 1–1–00 ..... **72184**
(c)(2)(iii) and (3)(ii) Example amended; eff. 1–1–00 ..... **72187**
1.881–3 (a)(2)(ii)(B)(*3*) redesignated as (a)(3) **67578**
1.904–0 Amended 1515
1.904–4 (c)(1), (2) and (3)(iii) revised; (c)(3)(iv) and (8) Examples 11, 12 and 13 added 1515
1.927(e)–1T Removed **50144**
1.927(e)–1 Added **50144**
1.936–6 (a)(5) amended **55025**
1.936–11T Added **44389**
1.985–1 Corrected **15760**
(b)(2)(ii)(C)(*1*) heading and (*2*) correctly added **15761**
(c)(6) amended **40368**
1.985–4 (a) amended **40368**
1.985–7 (b)(3), (c)(5) and (d)(5) corrected **15761**
1.985–8T Added **40368**
(c)(3)(iv)(B) corrected **55333**
1.1001–5T Added **40369**
1.1016–7 Removed **56563**
1.1016–8 Removed **56563**
1.1017–1 Revised **56563**
1.1017–2 Removed **56565**
1.1441–0 Regulation at 62 FR 53421 eff. date delayed to 1–1–00 ..... **72183**
1.1441–1 Regulation at 62 FR 53424 eff. date delayed to 1–1–00 ..... **72183**
(f) revised; eff. 1–1–00 ..... **72184**
(b)(2)(iii)(B), (iv)(E), (3)(iii)(B), (C), (x) Examples 1, 2 and 3, (4)(i), (xix), (5)(viii), (7)(v) Examples 1 and 2, (c)(6)(ii)(B), (e)(4)(ii)(A), (vi), (ix)(A)(*2*), (5)(i), (v)(A), (B) introductory text, (*1*) and (C) amended; eff. 1–1–00 ..... **72187**
1.1441–2 Regulation at 62 FR 53444 eff. date delayed to 1–1–00 ..... **72183**
(a), (b)(1)(ii), (3)(iv) and (f) amended; eff. 1–1–00 ..... **72187**
1.1441–3 Regulation at 62 FR 53446 eff. date delayed to 1–1–00 ..... **72183**
(h) amended; eff. 1–1–00 ..... **72187**
1.1441–4 Regulation at 62 FR 53450 eff. date delayed to 1–1–00 ..... **72183**
(g) revised; eff. 1–1–00 ..... **72184**
(a)(2)(i) amended; eff. 1–1–00 ..... **72188**
1.1441–4T Regulation at 62 FR 53452 eff. date delayed to 1–1–00 ..... **72183**
1.1441–5 Regulation at 62 FR 53452 eff. date delayed to 1–1–00 ..... **72183**
(g) revised; eff. 1–1–00 ..... **72185**
(a)(6), (c)(2)(ii)(B), (3)(iii)(D) and (d)(4) Example 2 amended; eff. 1–1–00 ..... **72188**
1.1441–6 Regulation at 62 FR 53458 eff. date delayed to 1–1–00 ..... **72183**
(g) revised; eff. 1–1–00 ..... **72185**
(b)(1), (c)(2)(ii) and (d) amended; eff. 1–1–00 ..... **72188**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

1.1441–7 Regulation at 62 FR 53462 eff. date delayed to 1–1–00 72183
(g) amended; eff. 1–1–00 72188
1.1441–8 Regulation at 62 FR 53464 eff. date delayed to 1–1–00 72183
(f) revised; eff. 1–1–00 72185
1.1441–8T Regulation at 62 FR 53464 eff. date delayed to 1–1–00 72183
1.1441–9 Regulation at 62 FR 53465 eff. date delayed to 1–1–00 72183
(d) revised; eff. 1–1–00 72185
1.1442–1 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
1.1442–2 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
1.1442–3 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
1.1443–1 Regulation at 62 FR 53466 eff. date delayed to 1–1–00 72183
(c) revised; eff. 1–1–00 72186
1.1445–5 Regulation at 62 FR 53467 eff. date delayed to 1–1–00 72183
1.1461–1 Regulation at 62 FR 53467 eff. date delayed to 1–1–00 72183
(b)(2)(v), (vi) heading, (c)(4)(iv) and (i) amended; eff.1–1–00 72188
1.1461–2 Regulation at 62 FR 53470 eff. date delayed to 1–1–00 72183
(a)(1), (3), (4) Examples 1, 2 and 3 and (d) amended; eff. 1–1–00 72188
1.1461–3 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
1.1461–4 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
1.1462–1 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
(c) amended; eff. 1–1–00 72188
1.1463–1 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
(a) and (b) amended; eff. 1–1–00 72188
1.1464–1 (b) amended; eff. 1–1–00 72188
1.1502–3T (c)(4) amended 71590
1.1502–9 (a) amended 71590
1.1502–9T (b)(1)(v) revised; (b)(1)(vi) added 71590
1.6038B–1 Added 33568
Heading and (g) revised; (b)(1)(i) and (c) amended; (b)(3) added 5715
1.6038B–1T Heading, (a) through (b)(2), (c) introductory text and (f) revised; (b)(3) redesignated as (b)(4); new (b)(3), (c)(6) and (g) added 33570
1.6038B–2 Added 5715
1.6041–1 Regulation at 62 FR 53471 eff. date delayed to 1–1–00 72183
1.6041–2 Regulation at 62 FR 53472 eff. date delayed to 1–1–00 72183
1.6041–3 Regulation at 62 FR 53472 eff. date delayed to 1–1–00 72183
Introductory text amended; eff. 1–1–00 72186
1.6041–4 Regulation at 62 FR 53473 eff. date delayed to 1–1–00 72183
(d) amended; eff. 1–1–00 72188
1.6041A–1 (d)(3)(i)(B), (iv) and (v) amended; eff. 1–1–00 72188
1.6041–7 Regulation at 62 FR 53473 eff. date delayed to 1–1–00 72183
1.6041–8 Regulation at 62 FR 53474 eff. date delayed to 1–1–00 72183
1.6041A–1 Regulation at 62 FR 53474 eff. date delayed to 1–1–00 72183
1.6042–2 Regulation at 62 FR 53474 eff. date delayed to 1–1–00 72183
1.6042–3 Regulation at 62 FR 53475 eff. date delayed to 1–1–00 72183
(b)(5) revised; eff. 1–1–00 72186
1.6042–4 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 72183

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 26 Chapter I—Con.

1.6043–2 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
(a) amended; eff. 1–1–00 ..... **72188**
1.6044–2 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
1.6044–3 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
1.6044–5 Regulation at 62 FR 53476 eff. date delayed to 1–1–00 ..... **72183**
1.6045–1 (l) revised; (q) amended **35519**
Regulation at 62 FR 53477 eff. date delayed to 1–1–00 ..... **72183**
(g)(5) revised; eff. 1–1–00 ..... **72186**
(d)(6)(ii)(B), (g)(3)(iv) and (4) Example 7 amended; eff. 1–1–00 ..... **72188**
1.6045–1T Removed **35519**
Regulation at 62 FR 53480 withdrawn **72183**
1.6045–2 (g)(2) revised; (i) amended **35519**
Regulation at 62 FR 53480 eff. date delayed to 1–1–00 ..... **72183**
1.6045–2T Removed **35519**
Regulation at 62 FR 53480 withdrawn **72183**
1.6049–4 Regulation at 62 FR 53480 eff. date delayed to 1–1–00 ..... **72183**
(c)(1)(ii)(A) and (d)(3)(ii)(B) amended; eff. 1–1–00 ..... **72188**
1.6049–5 Regulation at 62 FR 53483 eff. date delayed to 1–1–00 ..... **72183**
(g) revised; eff. 1–1–00 ..... **72186**
(b)(12), (c)(4)(i), (ii), (v), (d)(2)(ii), (e)(1)(i) introductory text, (ii), (4), and (5) Examples 5 and 9 amended; eff. 1–1–00 ..... **72188**
1.6049–6 Regulation at 62 FR 53491 eff. date delayed to 1–1–00 ..... **72183**
1.6049–7 Regulation at 62 FR 53491 eff. date delayed to 1–1–00 ..... **72183**
1.6049–8 Regulation at 62 FR 53491 eff. date delayed to 1–1–00 ..... **72183**
1.6050A–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
1.6050H–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
1.6050N–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
(e) amended; eff. 1–1–00 ..... **72188**
1.6071–1 Regulation at 62 FR 53492 eff. date delayed to 1–1–00 ..... **72183**
1.6091–1 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
1.6662–0 Amended **66434**
1.6662–2 (d)(1) and (2) amended; (d)(4) added **66434**
1.6662–3 (b)(1) introductory text amended; (b)(3) revised **66434**
1.6662–4 (d)(2) amended; (e)(3) added **66435**
1.6662–7 (d) revised **66435**
1.6664–0 Amended **66435**
1.6664–4 (g) revised **66435**
1.6695–1 (b)(4)(i) revised **72182**
1.6695–1T Added **72182**
1.6695–2T Added **70340**
1.7702B–1 Added **68186**
1.7702B–2 Added **68187**
1.7704–3 Added **69553**
7.367(b)–1 (a) and (c)(1) revised; authority citation removed **33570**
7.367(b)–4 (a) and (b) revised; authority citation removed **33570**
7.367(b)–7 (a) revised; authority citation removed **33570**
20.2044–1 (e) Example 8 added **44393**
20.2044–1T Removed **44393**
20.2056(b)–(7) (d)(3) and (h) Example 6 revised **44393**
20.2056(b)–7T Removed **44393**
20.2056(b)–10 Revised **44393**
20.2056(b)–10T Removed **44393**
25.2702–1 (c)(3) revised **68194**
31 Authority citation amended **32735**
31.3121(b)(7)–2 (d)(2)(i) amended **70338**
31.3121(v)(2)–1 Added 4547
31.3121(v)(2)–2 Added 4567
31.3306(r)(2)–1 Added 4541
31.3401(a)(6)–1 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

(e) and (f) amended; eff. 1-1-00 72189
31.3406-0 Regulation at 62 FR 53493 eff. date delayed to 1-1-00 72183
31.3406(d)-3 Regulation at 62 FR 53493 eff. date delayed to 1-1-00 72183
31.3406(g)-1 Regulation at 62 FR 53493 eff. date delayed to 1-1-00 72183
(e) and (d) amended; eff. 1-1-00 72189
31.3406(h)-2 Regulation at 62 FR 53493 eff. date delayed to 1-1-00 72183
(d) amended; eff. 1-1-00 72189
31.6302-1 (f)(4) amended 32736
31.6302-1T Added 32736
31.6413(a)-3 Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
31.9999-0 Removal at 62 FR 53494 eff. date delayed to 1-1-00 72183
Amended; eff. 1-1-00 72189
35a.9999-0 Removal at 62 FR 53494 eff. date delayed to 1-1-00 72183
35a.9999-1 Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
35a.9999-2 Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
35a.9999-3 Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
35a.9999-3A Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
35a.9999-4T Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
35a.9999-5 Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
48 Authority citation amended 35801
48.4081-1T Added 35801
48.4082-6T Added 35801
48.4082-7T Added 35801
48.4082-8T Added 35801
Corrected 45910
48.4082-9T Added 35802
48.4082-10T Added 35802
48.4091-3T Added 35802
48.4101-2T Added 35803
48.4101-3T Added 35803
48.6427-10T Added 35804
48.6427-11T Added 35804
(c)(4) corrected 45910
54 Authority citation amended 57553
Authority citation amended 5173
54.4980B-0 Added 5173
54.4980B-1 Added 5173
54.4980B-2 Added 5174
54.4980B-3 Added 5176
54.4980B-4 Added 5178
54.4980B-5 Added 5180
54.4980B-6 Added 5182
54.4980B-7 Added 5184
54.4980B-8 Added 5186
54.9801-1T (a) revised; (c) amended; interim 57553
54.9801-2T Introductory text revised; interim 57554
54.9811-1 Added; interim 57554
54.9831-1T (b)(1) revised; interim 57556
145.4052-1 (a)(2)(ii) redesignated as (a)(2)(ii)(A); new (a)(2)(ii)(A) amended; (a)(2)(ii)(B) added 35804
301 Authority citation amended 70013
Authority citation amended 2569
301.6011-2 (a)(1), (b)(1), (2), (c)(1) heading, (i), (iii), (2), (d), (f), (g) heading and (2) revised; (c)(1)(iv) added; (c)(3) and (4) removed; (e) amended 35519
301.6011-2T Removed 35520
301.6103(j)(1)-1 (b)(3) and (6)(i)(A) revised 3632
301.6103(j)(1)-1T Added 3632
301.6103(k)(9)-1T Added 68996
301.6109-1 Regulation at 62 FR 53494 eff. date delayed to 1-1-00 72183
301.6114-1 Regulation at 62 FR 53495 eff. date delayed to 1-1-00 72183
(b)(4)(ii)(C) introductory text and (D) amended; eff. 1-1-00 72189
301.6221-1T (c) redesignated as (e); new (c) and (d) added 3838
301.6223(c)-1T (c) amended 3838
301.6224(c)-3T Heading, (b), (c)(3)(ii) and (d) Example 1 revised 3839
301.6229(b)-2T Added 3839

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 26 Chapter I—Con.

301.6229(f)–1T Added 3839
301.6231(a)(1)–1T (a)(1) amended; (a)(3) removed; (a)(4) redesignated as (a)(3) 3839
301.6231(a)(6)–1T (a) revised; (c) removed 3840
301.6231(a)(7)–1 (p)(2) and (r)(1) amended.....3840
301.6231(a)(7)–1T Added 3840
301.6311–2T Added **68996**
301.6320–1T Added 3399
301.6330–1T Amended 3407
301.6402–3 Regulation at 62 FR 53495 eff. date delayed to 1–1–00 .....**72183**
301.6404–2 Added.....**70013**
301.6404–2T Removed **70015**
301.6721–0 Regulation at 62 FR 53496 eff. date delayed to 1–1–00 .....**72183**
301.6724–1 Regulation at 62 FR 53496 eff. date delayed to 1–1–00 .....**72183**
(g)(2) and (3) amended; eff. 1–1–00 .....**72189**
301.7502–1 (d) and (e) redesignated as (e) and (f); new (d) added 2569
301.7502–1T Added 2569
301.7623–1 Revised.....**44778**
301.7623–1T Removed **44779**
301.7701–5 Amended 4970
301.7701–7 Added 4970
301.9100–13T Removed.....**56565**
502 Regulation at 62 FR 53497 eff. date delayed to 1–1–00.....**72183**
503 Regulation at 62 FR 53497 eff. date delayed to 1–1–00.....**72183**
509.1—509.10 (Subpart) Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
509.103 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
509.117 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
509.119 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
509.122 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
513.1 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
513.2 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
513.3 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 .....**72183**
513.4 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
513.5 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.1—514.10 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.20 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.21 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.22 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.23 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.24 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.25 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.26 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.27 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.28 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.29 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.30 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.31 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.32 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
514.101—514.117 (Subpart) Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
516 Regulation at 62 FR 53498 eff. date delayed to 1–1–00.....**72183**
517 Regulation at 62 FR 53498 eff. date delayed to 1–1–00.....**72183**
520 Regulation at 62 FR 53498 eff. date delayed to 1–1–00.....**72183**
521.1—521.8 (Subpart) Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
521.103 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 .....**72183**
602.101 (c) table amended (OMB numbers).....**30624, 33570, 34596, 35805, 35806, 36181, 44393, 44779, 52982, 55025, 56565, 68194, 68684, 69555, 70012, 70341, 71596, 71752**
Regulation at 62 FR 53498 eff. date delayed to 1–1–00.....**72183**
(c) table amended (OMB numbers).....4568, 4975, 5188, 5611, 5717

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

Proposed Rules:

1—799 (Ch. I) **44181**
1 ..... **17973, 19694, 19864, 20156, 24765, 25796, 27534, 28958, 29961, 32164, 33595, 34615, 34616, 37296, 38139, 40383, 41754, 43353, 43354, 44416, 45019, 46937, 47214, 47455, 48144, 48148, 48154, 50816, 52660, 55355, 55564, 55918, 56878, 57636, 58811, 63016, 65566, 66503, 67634, 69581, 69584, 70071, 70354, 70356, 70357, 71047, 71609, 72218**
..... 790, 794, 805, 1143, 1148, 1571, 2164, 3257, 3457, 4374, 4801, 5012, 5015
20 ..... **69248, 70701**
25 ..... **70701**
31 ..... **32774, 50819**
35 ..... **70071**
48 ..... **35893**
49 ..... **69585**
53 ..... **41486, 53862**
..... 5727
54 ..... **57565**
..... 5237
261 ..... **43361**
301 ..... **37296, 41486, 43354, 46205, 56878, 69031, 70701**
..... 1148, 2606, 3461, 3462, 3669, 3886
801 457

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4 Compliance date postponment 753
4.21 (e)(5) amended **44782**
4.24 (b)(1) amended **44783**
4.40 (d) added 2128
4.50 (c) added 2128
5.46 (d) revised 2129
5.51 (e) added 2129
5.55 (d) added 2129
7.31 (d) added 2129
7.41 Revised 2129
9.75 (b)(17) amended; (c) introductory text and (2) through (13) revised; (b)(19) through (41) and new (c)(14), (15) and (16) added; (c)(14) through (40) redesignated as (c)(17) through (43) 3023
9.93 (c)(11), (17) and (18) revised; (c)(19) added **16904**
9.154 Added; eff. 4-19-99 7787
9.156 Added **33853**
9.157 Added 3024
9.159 Added **16904**
13 Added 2129
19.11 Amended **44783**
19.633 (c) added 2134
19.641 Revised 2134
24.10 Amended **44783**
24.76 Heading revised **44783**
24.257 (a)(3)(iii) revised; (a)(3)(iv) and (c) added; OMB number **44783**
24.278 (d) revised **44783**
53.11 Amended **52603**
53.61 (b) revised **52603**
55.11 Amended **45001**
55.30 (a), (b) and (d) introductory text amended; (c)(4) and (d)(3) revised **45002**
55.41 (b)(2) revised **45002**
55.42 Revised **45002**
55.43 Revised **45002**
55.45 (b) amended **45002**
55.46 (b) revised **45002**
55.51 Revised **45002**
55.63 (d) heading revised **45002**
55.102 Revised **45002**
55.103 (a)(1) and (2) revised **45003**
55.105 (d) revised **45003**
55.122 (b)(4), (5), (c)(4) and (5) amended **45003**
55.123 (b)(3), (4), (c)(4), (5) and (d)(3) amended **45003**
55.124 (b)(4), (5), (c)(4) and (5) amended **45003**
55.125 (a)(1) and (4) amended; (b) removed; (c) through (f) redesignated as (b) through (e); heading, (a) introductory text, new (b)(4) and (5) revised **45003**
55.127 Amended **45003**
55.141 (a)(7) revised **45003**
55.163 Amended **45003**
55.201 (d) revised; (f) added; OMB number **45003**
55.202 (b) revised **45003**
55.206 (b) amended **45003**
55.218 Table amended **45003**
55.221 Heading, (a) and (d) revised **45004**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 27 Chapter I—Con.

55.222 Table amended **45004**
55.223 Table amended **45004**
55.224 Table amended **45004**
178.1 (a) revised **35522**
178.11 Amended **35522, 58278**
178.32 (a)(7), (8)(iii)(B), (d)(7), (8)(ii)(B) amended; (a)(9) and (d)(9) added **35522**
178.50 (b) and (c) amended; (d) added **35523**
178.73 Revised **58278**
178.74 Revised **58278**
178.78 Revised **58278**
178.96 (b) amended; (c) revised **58278**
178.97 Revised **58278**
178.99 (c)(7) and (8)(ii)(B) amended; (c)(9) added **35523**
178.100 (a) existing text designated as (a)(1); (a)(2) added; (c) revised **35523**
178.102 Revised **58279**
178.103 Added **37742**
178.124 (c) revised; (d), (e) and (f) amended; OMB number **58279**
178.124a (e) introductory text amended **58280**
178.125a (a) introductory text amended **58280**
178.129 (b) revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; OMB number **58280**
178.130 (a)(1) amended **35523**
Removed **58280**
178.131 Revised **58280**
178.134 Added **35523**
178.141 Introductory text revised **35523**
178.144 (c)(6) and (7) amended; (c)(8) added **35523**
178.150 Revised **58280**
179.86 Amended **58281**
194 Authority citation revised **44783**
194.239—194.241 Undesignated center heading and sections removed **44784**
250.11 Amended **44784**
251.11 Amended **44784**

Proposed Rules:

4 ..... **27017, 44819, 49883, 59921** 813, 6486
5 6486
7 6486
9 ..... **45427, 48658**
19 ..... **44819, 59921, 65720**
24 ..... **44819, 59921**
178 ..... **35551, 59921**
194 ..... **44819, 59921**
250 ..... **44819, 59921**
251 ..... **44819, 59921**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29—0.29j (Subpart E-4) Added **36847**
0.29e (a)(1) corrected **40788**
0.39c Removed; interim **62938**
0.96 (f) and (s) removed; (g) through (v) redesignated as (f) through (t) 4295
0.100 (b) amended 4295
0.115 Revised **51519**
0.116 Amended **51519**
0.132 (b), (c) and (d) revised; (e) removed 6526
2.1—2.67 Designated as Subpart A; heading added; interim **39176**
2.20 Amended; interim **39176**
2.62 Redesignated as 2.68 (Subpart B); new 2.62 redesignated from 2.63; interim **39176**
(c) added; interim 5613
2.63 Redesignated as 2.62; new 2.63 redesignated from 2.64; interim **39176**
2.64 Redesignated as 2.63; new 2.64 redesignated from 2.65; interim **39176**
2.65 Redesignated as 2.64; new 2.65 redesignated from 2.66; interim **39176**
2.66 Redesignated as 2.65; new 2.66 redesignated from 2.67; interim **39176**
2.67 Redesignated as 2.66; interim **39176**
2.68 (Subpart B) Redesignated from 2.62; interim **39176**
2.70—2.89 (Subpart C) Added; interim **39176**
2.71 (b) revised; interim 5613
2.75 (a) revised; interim 5613
2.76 (c) and (d) redesignated as (d) and (e); new (c) added; interim 5613
2.77 (a) and (e) amended; (c) revised; interim 5614
2.78 (d) amended; interim 5614
2.80 (f) table revised; interim **57061**
(f) table amended; interim 5613
(g) heading and (6) revised; interim 5614
2.87 Revised; interim 5613
2.89 Amended; interim 5614
16.2 (b)(9) corrected **51401**
16.3 (a) corrected; CFR correction **51300**
(a) corrected **51401**
16.8 (c) corrected **51401**
16.11 (b)(7) correctly revised **36295**
(e), (g), (i)(1) and (3) corrected **51401**
16.40 (a), (b)(1) and (2) corrected **51401**
16.41 (a) and (c) corrected; CFR correction **51300**
(a) and (d) corrected **51401**
16.42 (b) and (c) heading corrected **51401**
16.50 (a) corrected **51401**
16.54 (c)(4) corrected **51401**
16.96 (p) and (q) added **65062**
16 Appendix I corrected **51401**
23 Policy clarification **71752**
25 Added **58307**
27 Added; interim **62938**
33 Heading and authority citation revised **50761**
33.1—33.80 Designated as Subpart A **50761**
33.1—33.3 (Subpart A) Designation removed **50761**
33.1 Amended **50761**
33.3 Amended **50761**
33.10—33.12 (Subpart B) Designation removed **50761**
33.20—33.23 (Subpart C) Designation removed **50761**
33.30—33.32 (Subpart D) Designation removed **50761**
33.40—33.41 (Subpart E) Designation removed **50761**
33.40 Amended **50761**
33.50—33.52 (Subpart F) Designation removed **50761**
33.60—33.61 (Subpart G) Designation removed **50761**
33.70—33.71 (Subpart H) Designation removed **50761**
33.80 (Subpart I) Designation removed **50761**
33.100—33.103 (Subpart B) Added **50761**
36.407 Revised **64837, 64838**
68 Heading revised; interim 7073
68.1 Revised; interim 7073
68.2 Revised; interim 7073
68.3 Revised; interim 7074
68.6 Revised; interim 7074
68.7 Revised; interim 7074

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 28 Chapter I—Con.

68.9 Revised; interim 7075
68.10 Revised; interim 7075
68.14 Revised; interim 7075
68.22 Revised; interim 7076
68.23 Revised; interim 7076
68.24 Revised; interim 7077
68.27 Revised; interim 7077
68.33 Revised; interim 7077
68.38 Revised; interim 7078
68.42 Revised; interim 7079
68.52 Revised; interim 7079
68.53 Revised; interim 7081
68.54 Revised; interim 7082
68.55 Added; interim 7082
68.56 Added; interim 7083
68.57 Added; interim 7083
68.58 Added; interim 7083
92 Heading and authority citation revised **50146**
92.1—92.6 Designated as Subpart A **50146**
92.7—92.13 (Subpart B) Added **50146**

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

500.1 (d) revised **55775**
503 Revised **55775**
545.26 (e) revised **67560**
551.22 Regulation at 59 FR 62968 confirmed 9430
551.23 Regulation at 59 FR 62968 confirmed 9430
551.24 Regulation at 59 FR 62968 confirmed 9430
551.90 (Subpart I) Revised **55774**
571.71—571.72 (Subpart H) Added; interim **69387**

Proposed Rules:

16 ..... **68217**
23 ..... **38765**
25 ..... **43893**
..... 7562
31 ..... **55069**
302 1082
511 9431
551 ..... **65502**
541 9432
552 9431

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

44 Added **70261**
70a Redesignated as part 71 ..... **56741**
71 Redesignated from part 70a and revised **56741**

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

406.10 OMB number **46888**
408.13 OMB number **46888**

Chapter X—National Mediation Board (Parts 1200—1299)

1208 Authority citation revised **44394**
1208.2 Revised **44394**
1208.6 Revised **44395**

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910 Meeting **39029**
Authority citation corrected 62
1910.16 (a)(2)(x) and (b)(2)(xiv) added; (b)(2)(xii) and (xiii)(D) amended **66270**
1910.141—1910.147 (Subpart J) Authority citation revised **66038**
1910.146 (c)(5)(i)(E), (ii)(C), (F), (H), (7)(iii), (e)(3), (k)(1), (2) and (3)(i) revised; (d)(3)(ii) through (v) redesignated as (d)(3)(iii) through (vi); new (d)(3)(ii), (5)(iv), (v), (vi) and (l) added **66038**
Note amended; Appendix F added **66039**
1910.176—1910.184 (Subpart N) Authority citation revised **66270**
1910.178 (l) revised; Appendix A added **66270**
1910.1052(d)(3), (j)(9)(i)(A), (B) and (n)(2) revised; (j)(10) through (14) added **50729**
1915 Meeting **39029**
Authority citation revised **66274**
1915.120 Added **66274**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

1917.1 (a)(2)(xii) and (xiii)(D) amended; (a)(2)(xiv) added **66274**
1918 Authority citation revised **66274**
1918.1 (b)(8) and (9)(iv) amended; (b)(10) added **66274**
1926 Meeting **39029**
1926.600—1926.606 (Subpart O) Authority citation revised **66274**
1926.602 (d) added **66274**
1952.354 (b) revised **53281**
1952.355 (b) amended **53281**

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.120 (Subpart H) Added; eff. 2-19-99 through 2-22-00 8246

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520.102-3 (u) revised; interim **48375**
2590 Authority citation revised **57556**
2590.711 Revised; interim **57556**

Chapter XXVII—Federal Mine Safety and Health Review Commission (Parts 2700—2799)

2704 Authority citation revised **63175**
2704.100 Revised **63175**
2704.102 Revised **63175**
2704.104 (b) through (e) revised; (f) and (g) removed **63175**
2704.105 Revised **63176**
2704.106 Revised **63176**
2704.107 (a) revised **63176**
2704.108 Revised **63176**
2704.201—2704.206 (Supart B) Revised **63176**
2704.305 Revised **63177**
2704.307 Revised **63177**
2704.308 (c) revised **63178**

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

4007.11 (a)(1) and (2)(ii) amended; (c)(1) revised **68685**
4011 Appendix A amended **38306**
Appendix B amended **63179**
4022 Appendix amended **63179**
4022.7 (b)(1) revised; (d) added **38306**
4041A.43 (b)(1) amended **38306**
4044.52 (b) introductory text revised **38306**
4044.54 Amended **38306**
4044 Appendix B amended **38083, 43623, 49286, 55334, 63409, 68999**
Appendix B corrected **58101**
Appendix D amended **63180**
Appendix B amended 2570, 7084
4050.2 Amended **38306**
4050.5 (a)(2) amended **38306**
4050 Appendix A amended **38306**
4281.13 (a) introductory text amended; (b) removed; (a)(1) through (5) redesignated as (a) through (e) **38307**
4281.14 Heading and (a) amended **38307**
4281.15 Removed **38307**

Proposed Rules:

35 ..... **71714**
56 ..... **40800**
57 ..... **40800**
77 ..... **40800**
578 ..... **71405**
579 ..... **71405**
1915 ..... **41755**
1926 ..... **43452**
2510 ..... **50542, 64667**, 3463
2520 ..... **48376, 58335, 68370**, 4506
2560 ..... **48390, 58335**, 65
4022 ..... **57228, 57229**
4044 ..... **57228, 57229**
4050 ..... **57229**

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

21 Removed **47119**
24 Removed **47119**
48 Authority citation revised **53759**
48.2 (a)(1) introductory text amended; (a)(1)(ii) removed; (a)(1)(iii) redesignated as (a)(1)(ii); (a)(2) and (b) revised **53759**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 30 Chapter I—Con.

48.3 (a) introductory text amended **53759**
48.5 (d) revised **53760**
48.6 Heading, (a), (b) introductory text and (7) revised; (b)(8) and (9) redesignated as (b)(12) and (13); new (b)(8), new (9), (10), (11), (c), (d) and (e) added **53760**
48.8 (c) revised **53760**
48.22 (a)(1) introductory text amended **53759**
(a)(1)(ii) removed; (a)(1)(iii) redesignated as (a)(1)(ii); (a)(2) and (b) revised **53760**
48.23 (a) introductory text amended **53759**
48.25 (d) revised **53760**
48.26 Heading, (a), (b) introductory text, (5) and (7) revised; (b)(8) redesignated as (b)(12); new (b)(8), (9), (10), (11), (c), (d) and (e) added **53760**
48.28 (c) revised **53761**
75.161 Revised; eff. 10-6-99 ..... **53761**
75.506 (d) revised **47119**
75.1909 (c)(5) correctly revised; CFR correction **50993**
77 Authority citation revised **58613**
77.107-1 Revised; eff. 10-6-99 ..... **53761**
77.109 Removed **53761**
77.1713 (d)(3) and (4) revised; (d)(5) added **58613**

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

203.50—203.91 (Subpart B) Heading amended **57249**
203.50 (a) amended **57249**
203.84 (b) introductory text amended; (b)(7) and (c) revised **57249**
250.101 (e) Table 1 amended **37068**
250.204 (b)(1)(vii) amended 9065
250.413 (c) amended 9065
250.604 Amended 9065
250.806 (a)(3) revised **37068**
250.900 (b) amended 9065
250.901 (b)(3)(iv) amended 9065
250.911 (b)(4)(ii) amended 9065
250.1000 (c) revised **43880**
250.1001 Amended **43881**
250.1007 Heading and (a) introductory text revised; (a)(2) amended **43881**
250.1009 (b)(2) revised 9065
250.1403 Revised 9065
250.1404 (d) added **42711**
(b) revised 9066
250.1406 (b) revised 9066
253 Added (OMB numbers pending) **42711**
Workshop **43624**
253.15 (f) corrected **48578**
256.52 (b) revised; (c) and (h)(2) amended 9066
256.56 (a)(1) amended 9066
256.70 Amended 9066
256.73 (a) and (b) amended 9066
256.76 (a)(3) amended 9066
270.6 Amended 9066
270.7 Amended 9066
282.28 (a) amended 9066

Chapter VI—Bureau of Mines, Department of the Interior (Parts 600—699)

602 Removed; interim **40178**
Regulation at 63 FR 40178 confirmed **66762**

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

707.5 Amended 7482
707.10 Revised 7482
874.10 Added 7482
874.17 Added 7483
901.15 Table amended **35807, 66987**
902.15 Table amended 8514
902.16 (b)(8) revised 8514
904.15 Table amended **49430, 65067**
913.15 Table amended 6200
913.16 Removed 6201
913.25 Table amended 3419
914.15 Table amended **39729, 51829**
914.16 (n), (p) and (gg) removed **51829**
917.15 Table amended **40827, 41427**
917.16 (b) removed **40827**
(n) added **41427**
917.17 (a) removed **40827**
Corrected **47091**
917.30 Added **53257**
918.15 Table corrected **38881**
924.10 (b) removed **43320**
924.15 Table amended **43321**
924.16 (a) and (e) removed; (f) through (n) added **43321**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

926.10 (a) revised 3610
926.15 Table amended 3610, 3615
926.16 (f) through (j) removed; (k) added 3610
(l) added 3615
926.21 Added 3610
926.30 Revised **40794**
934.15 Table amended **49434**
Table amended 1130
934.16 (y) and (z) removed **49434**
(aa) and (bb) removed 1130
935.15 Table amended **51833, 66989**
936.15 Table amended **42579**
Table amended 3423
943.25 Table amended **65070**
944.15 Table amended **63611**
944.16 (f) removed **63611**
Correctly removed **66989**
944.25 Table amended 8517
948.15 Table amended **37777**
Table amended 6217
948.16 (nnn) and (ooo) revised; (ppp) removed **37777**
(www) through (hhhh) added 6217

Proposed Rules:

26 ..... **47120**
29 ..... **47120**
46 ..... **59258**
56 ..... **45973**
57 ..... **45973, 47120, 58104**
..... 7144
70 ..... **47123**
71 ..... **47123**
72 ..... **37796, 41755, 55811**
..... 7144
75 ..... **37796, 38066, 41755, 47120, 47122, 55811**
..... 7144
77 ..... **45973**
90 ..... **47123**
204 3360
206 ..... **36868, 38355, 40073**
208 ..... 1930, 3262
227 6586
241 ..... 1930, 3262
242 ..... 1930, 3262
243 ..... 1930, 3262
250 ..... 1930, 3262, 7837
290 ..... 1930, 3262
700 8464
701 ..... **70580**
..... 8763
707 ..... **40871, 46951**
724 ..... **70580**
..... 8763
740 8464
746 8464
750 8464
773 ..... **70580**
..... 8763
774 ..... **70580**
..... 8763
778 ..... **70580**
..... 8763
842 ..... **70580**
..... 8763
843 ..... **70580**
..... 8763
846 ..... **70580**
..... 8763
874 ..... **40871, 46951**
901 ..... **45192**
902 ..... **42774**
904 ..... **41506, 48661**
913 ..... **63628, 63630, 68218**
914 6150
915 ..... **55025, 59627**
917 ..... **45430**
..... 816, 3670, 4604
920 ..... **50176**
924 ..... **44192**
926 ..... **66079**
931 ..... **66772, 66774**
934 ..... **50177**
935 ..... **53618**
..... 6005
936 ..... **55979, 65149**
938 ..... **40237, 45199, 45973, 51324, 59259**
943 ..... **53003**
..... 7145
944 ..... **36868**
946 ..... **71047, 71049**
948 ..... **39790, 68221**
950 ..... **40384, 70080**

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103 Technical correction **37777**
103.22 Revised **50156**

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

208 Revised **51502**
225 Revised 4763

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 31 Chapter II—Con.

285 Regulation at 62 FR 34179 confirmed **46140**
Authority citation revised **67756, 72094**
285.1 Regulation at 62 FR 36210 confirmed; (a) amended; (g), (m), (n) and (o) revised; (j)(5) added **46145**
285.3 Added **72094**
285.4 Added **44988**
Regulation at 63 FR 44988 confirmed **71204**
285.13 Added **67756**
317 Authority citation revised **38041, 64550**
317.0 Revised **38041**
317.1 (d) revised **38041**
Revised; interim **64550**
317.2 Revised; interim **64550**
317.3 (a) introductory text revised; (b) and (c) amended; interim **64550**
317.6 (b) revised; interim **64550**
317.8 Appendix amended **38041**
Appendix amended; interim **64550**
317.9 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended **38041**
321 Authority citation revised **38042**
321.0 (a) and (b) revised **38042**
321.1 (o) revised **38042**
321.3 (c) revised **38042**
321.6 Revised **38042**
321.7 (a) and (g) revised **38042**
321.9 (a) revised **38042**
321.12 Revised **38042**
321.25 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended **38042**
321 Appendix amended **38042, 38043**
330 Authority citation revised **38044**
330.1 (f) revised **38044**
330.5 (a) revised **38044**
330.6 (a) revised **38044**
330.7 Revised **38044**
330.8 Revised **38044**
330.9 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended **38044**
330.10 Revised **38044**
351.1 Revised; interim **64551**
351.5 Revised; interim **64551**
353 Authority citation revised **64551**
353.6 (b)(4) amended; interim **64551**
353.13 (c)(3) amended; interim **64551**
353.21 (a) revised; interim **64551**
353.27 Revised; interim **64551**
356.2 Amended 3634
356.20 (b) revised 3634
356.21 (a) amended 3634
356.23 Revised 3634
356 Appendix B and Exhibit A amended 3634
357 Determination **35807, 50159**
357.22 (a) introductory text revised 6527
357 Appendix B amended **69191**
359 Added **38044**
359.2 (e)(1)(i) through (v) revised **45946**
359.3 (b)(1) revised **45947**
360 Added **38049**
370 Authority citation revised **64552**
Heading revised; interim **64552**
370.0—370.1 (Subpart A) Revised; interim **64552**
370.20—370.25 (Subpart C) Heading revised; interim **64553**
370.30—370.31 (Subpart D) Redesignated as 370.60—370.61 (Subpart F); interim **64553**
370.30—370.38 (Subpart D) Added; interim **64553**
370.50—370.57 (Subpart E) Added; interim **64554**

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

501.803 Correctly revised **35809**
501.807 Revised 5614
515.560 Corrected **35808**
538 Added **35810**
539 Added 8716
560 Authority citation revised **62941**
560.525 Corrected **35808**
560.603 Revised **62941**
575 Authority citation revised **62942**
575.522 (a)(2) and (3) amended; (a)(4) added **62942**
585 Authority citation revised **59884**
585.528 Heading revised; (d) added **59884**
586 Added **54576**

Chapter VII—Federal Law Enforcement Training Center, Department of the Treasury (Parts 700--799)

700 Revised **39730**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

Proposed Rules:

1 71050
..... 1152
100 4063
103 37085
200—399 (Ch. II) 1149
212 54426
285 ..... 41688, 44991

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

41 Removed 56081
83 Removed 43624
84 Removed 43624
199.2 (b) amended 59232
(b) amended 7087
199.4 (g)(48) revised 59232
(e)(20) and (i) added 7087
199.6 (a)(11) removed; (a)(12) redesignated as (a)(11) 48445
199.8 (b)(3)(iii), (iv) and (v) revised 59232
199.9 (m) added 48445
199.14 (a)(1) introductory text, (i)(C)(*6*)(*iv*), (ii)(C)(*10*) and (iii)(D)(*1*) amended; (a)(1)(ii)(C)(*2*), (*3*), (*4*), (iii)(B), (D)(*5*), (E)(*1*)(*i*)(*A*), (*B*), (*ii*)(*A*), (*B*), (G)(*3*) introductory text, (d)(3)(iv) and (h) introductory text revised; (a)(1)(ii)(D)(*5*) through (*8*) redesignated as (a)(1)(ii)(D)(*6*) through (*9*); new (a)(1)(ii)(D)(*5*) and (h)(1)(iii)(D) added 48446
(h)(1)(i)(D) added 56082
199.15 (b)(4)(iii)(B), (c)(2), (d)(2)(iii), (e)(3)(i) and (ii) revised 48447
199.18 (d)(3)(v) introductory text revised 48448
204.4 (c)(1)(vii) thorugh (ix) corrected 36992
204.6 (a)(1), (4) and (b)(1)(v) corrected 36992
204.8 Corrected 36992
216 Revised 56821
234.1 Amended 49003
234.7 (e) amended 49003
234.13 (e) amended 49003
234.17 (b)(3)(i), (ii), (c)(1)(ii), (2), (3)(i), (ii), (4) introductory text and (ii) amended 49003
235 Added 6218
270.2 (c) through (k) redesignated as (e) through (m); new (c) and (d) added; interim 68194
270.6 (b)(2) amended; (b)(3) and (4) added; interim 68195
270.8 Amended 68195
270.11 Revised 68195
270 Appendix A amended 68195
286 Revised 65420
286.4 (d)(3)(ii)(B) correctly designated 67724
286.24 (f)(2) corrected 67724
290.4 Amended 1130
290.5 (a) amended 1130
290.6 (a)(1)(i), (2) introductory text, (3) introductory text, (iii) and (b)(2)(iii) amended; (a)(3)(vii) removed; (a)(3)(viii) redesignated as (vii) 1130
290.7 (b), (d), (e)(1), (3), (f)(4), (5)(i)(D), (ii) introductory text and (iv) amended 1131
290 Appendixes A and B amended 1131
311.7 (c)(7) removed 59718
318 Heading revised 60212
318.1 (b)(1), (c) and (d) amended 60212
318.2 Amended 60212, 60213
318.3 (a) through (d) amended 60212
(d) footnote 1 amended 60213
318.4 (a) amended 60212
(d) amended 60213
318.5 (a) amended 60212
318.6 (a) amended 60212
(b) amended 60213
318.8 (b) amended 60213
318.9 (a), (b) introductory text, (1) and (4) amended 60212
318.10 Amended 60212
318.11 (a), (b), (d) introductory text and (3)(i) amended 60212

Chapter V—Department of the Army (Parts 400—699)

588 Removed 37069
655 Revised 53810

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 32

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Tables One and Three amended **44785**
Table Four amended 2571
Tables One and Five amended 2572
Table Five amended 2573
Tables Four and Five amended 3424
888g Removed **68685**

Chapter XIX—Central Intelligence Agency (Parts 1900—1999)

1903 Revised **44786**

Proposed Rules:

44 ..... **45975**
199 ..... **36651**
299 ..... **52208**
581 ..... **51875**
655 ..... **37296**
775 9286

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

33—55 (Subchapter B) Heading amended 6528
55 Added 6528
66.05–100 (a) removed; (b) through (j) redesignated as (a) through (i); new (i) revised **55947**
100 Temporary regulations list **45171, 70015**
Regulation at 63 FR 33032 eff. date delayed to 1–2–00 ..... **71754**
100.35–T05–045 Added (temporary) **36850**
100.35–T05–47 Added (temporary) **36851**
100.35–T05–063 Added (temporary) **40653**
100.35–T05–093 Added (temporary) **59233**
100.35–T05–100 Added (temporary) **69000**
100.35–T05–106 Added (temporary) **71220**
100.35T–07–008 Added (temporary) **36182**
Revised (temporary) **50161**
100.35T–07–049 Added (temporary) **43322**
100.35T–07–059 Added (temporary) **53587**
100.35T07–068 Added (temporary) **63612**
100.35T–07–075 Added (temporary) **67401**
100.35–T08–040 Added (temporary) **38752**
100.35–T08–051 Added (temporary) **49004**
100.35–T08–054 Added (temporary) **47426**
100.35–T08–058 Added (temporary) **48579**
100.35–T08–060 Added (temporary) **50160**
100.01—100.50 (Subpart A) Regulation at 61 FR 33032 eff. date delayed to 1–2–00 ..... **71754**
100.01 Regulation at 61 FR 33032 eff. date delayed to 1–2–00 ..... **71754**
100.05 Regulation at 61 FR 33032 eff. date delayed to 1–2–00 ..... **71754**
100.15 Regulation at 61 FR 33032 eff. date delayed to 1–2–00 ..... **71754**
100.17 Regulation at 61 FR 33032 eff. date delayed to 1–2–00 ..... **71754**
100.18 Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.19 Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.25 Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.30 Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.35 Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.50 Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.100—100.1306 (Subpart B) Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.100 Regulation at 61 FR 33033 eff. date delayed to 1–2–00 ..... **71754**
100.109 Added **37492**
100.114 Implementation (temporary) **45395**
100.116 Added **37249**
100.120 Added 8000
100.201 Implementation (temporary) **36182, 36183**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

Removed **70654**
100.501 Implementation (temporary) **36849**
100.505 (b) revised **39236**
100.509 (a)(1), (b)(2) introductory text and (c) revised; Table 1 added **42580**
100.710 Revised **41719**
100.734 Added 3841
100.801 Table 1 revised **70654**
100.1101 Implementation (temporary) **38308**
100.1102 Table 1 amended **37491**
110.157 (b)(11) added; eff. 10–6–98 to 12–8–98 ..... **55028**
117 Temporary drawbridge operation regulations **37251, 39029, 40654, 40655, 41720, 43080, 45395, 47174, 49287, 53281, 54353, 63180, 64628, 64868, 68685, 69193, 70018, 71754**
Temporary drawbridge operation regulations 35, 3424, 4786, 5717, 6220, 7788, 8000
117.5–T–08–077 Added (temporary) **72190**
117.5–T–08–079 Added (temporary) 406
117.253 (a) suspended; (c) added; eff. 3–11–98 through 11–23–98 ..... **45397**
(a) suspended; (c) added; eff. 12–4–98 through 1–31–99 ..... **69192**
117.261 (u), (v) and (w) revised **60214**
117.268 Added **67402**
117.393 (c) suspended; (e) added; eff. 12–3–98 to 2–1–99 1517
117.434 Redesignated from 117.435 8722
117.435 Redesignated as 117.434; new 117.435 redesignated from 117.436 8722
117.436 Redesignated as 117.435; new 117.436 added 8722
117.451 (b) suspended; (f) added (temporary) **57251**
117.459 Revised **40654**
117.465 (g) added; eff. 10–5–98 through 11–6–98 ..... **47428**
(g) added (temporary) **51302**
(a) revised **55031**
117.467 (b) suspended; (c) added; eff. 7–6–98 through 11–10–98 ..... **35821**
(b) suspended; (c) added; eff. 12–14–98 through 3–20–99 ..... **69557**
117.478 (c) suspended; (d) added; eff. 3–8–99 through 8–31–99 9271
117.599 (a) designation and (b) removed **69001**
117.619 Revised **70662**
117.645 Removed 9272
117.675 (c) added; interim 6221
117.683 Redesignated as 117.682; new 117.683 redesignated from 117.684 ..... **49822**
117.684 Redesignated as 117.683; 117.684 added **49822**
117.685 Revised **49822**
117.721 Added **43323**
117.733 (k) added; eff. 10–19–98 through 5–14–99 ..... **54354**
117.739 (h) revised; (j) and (k) redesignated as (k) and (j); new (k) amended 4788
117.822 Revised **37251**
117.955 (a) revised; interim **55030**
Regulation at 63 FR 55030 confirmed 406
117.991 Removed **47427**
117.997 (a) through (h) redesignated as (b) through (i); new (a) added **55948**
117.1097 Revised **49288**
117.T408 Added (temporary) **64188**
120 Regulation at 61 FR 37652 confirmed **53590**
120.100 Heading revised **53590**
120.110 Amended **53590**
120.200 Revised **53590**
120.210 Revised **53590**
120.220 Revised **53590**
120.300 Revised **53590**
120.303 Added **53591**
120.305 Revised **53591**
120.307 Revised **53591**
120.309 Revised **53591**
128 Regulation at 61 FR 37654 confirmed **53590**
128.100 Heading revised **53591**
128.110 Revised **53591**
128.200 Revised **53591**
128.210 Revised **53592**
128.220 Revised **53592**
128.300 Revised **53592**
128.305 Redesignated as 128.307; new 128.305 added **53592**
128.307 Redesignated as 128.309; redesignated from 128.305; new 128.307 revised **53592**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 33 Chapter I—Con.

128.309 Redesignated as 128.311; new 128.309 redesignated from 128.307 ..... **53592**
Revised **53593**
128.311 Redesignated from 128.309 ..... **53592**
Heading revised **53593**
155 Authority citation revised **71763**
155.140 (b) introductory text amended **71763**
155.230 Revised; interim; eff. in part 12–11–00 ..... **71763**
155.710 (e) introductory text, (1), (2) and (3) revised **35826**
155.715 Added **35826**
160.207 (d) and (e) revised **44117**
165 Temporary regulations list **45171, 70015**
Authority citation revised **71770**
165.T01–001 Added (temporary) 7090
165.T01–002 Added (temporary) 4053
165.T01–004 Added (temporary) 8723
165.T01–008 Added (temporary) 9067
165.T01–080 Added (temporary) **40656**
165.T01–082 Added (temporary) **39238**
165.T01–083 Added (temporary) **39237**
165.T01–102 Added (temporary) **42234**
165.T01–113 Added (temporary) **45949**
165.T01–114 Added (temporary) **46178**
165.T01–115 Added (temporary) **45177**
165.T01–123 Added (temporary) **45948**
165.T01–130 Added (temporary) **46889**
165.T01–131 Added (temporary) **46890**
165.T01–140 Added (temporary) **55533**
165.T01–144 Added (temporary) **49823**
165.T01–157 Added (temporary) **59720**
165.T01–CGD1–171 Added (temporary **68686**
165.T01–CGD1–183 Added (temporary) 2432
Added (temporary) 5936
165.T01–184 Added (temporary) 4054
165.T05–084 Added (temporary) **55029**
165.T07–013 Heading and (a) revised (temporary) **38477**
165.T07–023 Added (temporary) **46176**
165.T07–053 Added (temporary) **47429**
165.T07–065 Added (temporary) **56083**
165.T08–024 Added (temporary) **36852**
165.T08–038 Added (Temporary) **37493**
165.T08–047 Added (temporary) **46891**
165.T11–061 Added (temporary) 8002
165.T11–089 Added (temporary) **46653**
165.T17–003 Added (temporary) **45950**
(b) corrected **53593**
165.100 Added **71770**
165.514 Added **58636**
165.906 Added 8006
165.1115 Added **38754**
165.1116 Added **38308**
Correctly designated **46889**
165.1310 Added; interim **52609**

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

334.155 Added **68140**

Chapter IV—Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

402.100 Corrected **36992**
402.210 Corrected **36992**
402.211 Corrected **36992**
402.320 Corrected **36992**
402.428 Corrected **36992**

Proposed Rules:

1—199 (Ch. I) **36384, 64937**
1—124 2868
55 ..... **51878**
100 ..... **36197, 46206, 50179, 63426, 65636** 66, 4812, 4814
110 ..... **37297, 39651** 3888, 3889
117 ..... **43126, 45978, 45980, 48453, 50821, 57963, 58676, 60226, 64022** 1155, 3464, 6290, 8033
126 ..... **57964** 1770
165 ..... **39256, 40583, 42304, 47455, 54639, 70707, 72219** 6006, 7147, 8764, 9107
173 4816
181 ..... **63638**

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

74 OMB circular applicability **36144**
80 OMB circular applicability **36144**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200.8 (c)(1) revised; (c)(3)(ii)(B)(3) added **54997**
200.28 (a)(2)(iii) removed **54997**
200.63 Revised **54997**

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.2 Amended **40622**
600.9 (b)(2)(ii) amended **40622**
600.40 (a)(1)(iv)(A) and (B) amended; (a)(1)(iv)(C) removed **40622**
600.41 (a)(1)(ii)(F) and (G) amended; (a)(1)(ii)(H) and (e)(3) removed **40623**
600.55 (a)(5)(i)(A) amended **40623**
650 Authority citation revised 3198
650.1 Authority citation revised; (a) authority citation removed 3198
(a) amended 3199
650.2 Authority citation revised; (a) amended; (d)(1)(iv) revised 3199
650.3 Authority citation revised 3198
650.4 Amended 3199
650.5 Authority citation revised 3199
650.10 Authority citation revised 3198
650.20 Authority citation revised; (c) amended 3199
650.30 Amended; authority citation revised 3199
650.31 Authority citation revised 3198
650.32 Authority citation revised 3199
650.33 Authority citation revised 3199
650.34 Authority citation revised 3199
650.35 Authority citation revised 3198
650.36 Authority citation revised 3199
650.37 Authority citation revised 3199
650.40 Authority citation revised 3199
650.41 Authority citation revised; (a) amended 3199
650.42 Authority citation revised 3199
650.43 Authority citation revised 3199
650.44 Authority citation revised 3199
655.1 (d) amended; (e) removed; (f) redesignated as (e) 7739
655.3 (c)(5) and (6) amended; (c)(7) removed 7739
655.4 (a) and (b) amended 7739
655.10 Amended 7739
655.30 Revised 7739
656.1 (a), (b) and (d) revised 7739
656.3 Revised 7739
656.5 (b) introductory text and (5) amended 7739
656.30 (a)(5) and (6) amended; (a)(7) and (8) added 7739
658.1 Revised 7739
658.2 (c) redesignated as (d); new (c) added 7739
658.10 (a), (b)(1) and (c) revised 7740
658.11 Revised 7740
658.41 (a) and (b) revised; (d) added 7740
660.1 (b), (e) and (f) amended; (g), (h) and (i) added 7740
660.10 (b)(1) amended; (h), (i) and (j) added 7740
662 Revised **46361**
663 Revised **46363**
664 Revised **46366**
668.1 (c)(3), (7) and (11) removed; (c)(4), (5), (6), (8), (9), (10) and (12) redesignated as (c)(3) through (8) and (10); new (c)(9) added **40623**
668.2 (b) amended **40623**
668.8 (d)(3) amended **40623**
668.13 (a)(4)(i) introductory text and (d)(2)(i) amended **40623**
668.14 (b)(4)(ii) removed; (b)(4)(iii) through (vi) redesignated as (b)(4)(ii) through (v); new (b)(4)(ii), (7), (15), (17) and (23) amended; (b)(8), (11) and (16) revised **40623**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 34 Chapter VI—Con.

668.16 (e)(2)(i) and (j)(1) amended; (m)(1) introductory text, (i) and authority citation revised **40624**
668.17 Heading, (h) and (i) revised **56759**
668.19 (a)(3)(iv), (v) and (vi) amended **40624**
668.20 (c) introductory text and (d)(2) revised **40624**
668.21 (a)(1) amended **40624**
668.22 (c)(2)(ii) revised; (f)(1)(ii), (2)(i), (g)(2)(ii)(B), (3)(ii) and (h)(1) introductory text, (iv), (v), (vi), (2)(ii) through (v) and (i) amended; **40624**
668.25 (c)(4) introductory text and (ii) amended **40624**
668.26 (b)(4), (6), (c)(2), (d)(2) introductory text, (3) introductory text and (i) amended **40624**
668.32 (c)(1) and (k)(5) amended **40624**
668.42 (b) introductory text revised **40625**
668.43 (c)(6) amended **40625**
668.46 (a)(1), (2)(ii), (5)(i) and (ii) amended **40625**
668.48 Note amended **40625**
668.49 (a)(1)(iii) and (b) amended; (a)(1)(vi) added; (d) revised **40625**
668.51 (a) amended **40625**
668.54 (a)(2)(i) amended **40625**
668.55 (c) introductory text, (1), (2) and (d)(2) amended **40625**
668.58 (a)(1)(i), (2)(ii)(A) and (iii) revised; (a)(1)(ii), (iii), (c), (d)(1) and (2) amended; (a)(1)(iv) added **40625**
668.59 (b)(1), (c) introductory text and (1)(ii) amended; (d)(1) revised **40625**
668.60 (b) introductory text, (1)(i)(A), (B), (D), (iii) and (d) amended; (b)(1)(i)(C), (ii) and (e)(2) revised **40625**
668.61 (a)(2)(ii)(B) and (b) amended; (b) redesignated as (b)(1); (b)(2) added **40626**
668.81 (e) removed **40626**
668.83 (c)(2)(i)(B), (iii)(D) and (d)(1)(iii) amended **40626**
668.94 (a) introductory text and (5) amended **40626**
668.130 (a) and (b) amended **40626**
668.131 Amended **40626**
668.132 (a)(2) and (b) amended **40626**
668.133 (a) introductory text and (1)(i) amended **40626**
668.134 (a) introductory text, (1), (3), (b)(1) and (2) amended **40626**
668.136 (a) and (b) introductory text amended **40626**
668.137 (a) and (b) amended **40626**
668.138 (a) and (b) revised **40626**
668.139 (b) and (d) revised **40626**
668.166 (a)(1) amended **40626**
668.167 (a)(3) revised **40626**
668.171 OMB number **40348**
668.172 (c)(5)(ii) amended; OMB number **40348**
668.173 (b) revised **40348**
668.174 OMB number **40348**
(c)(3)(i), (ii), (iii), (iv) introductory text and (B) amended **40349**
668.175 OMB number **40348**
(f), (2)(i), (3)(i), (ii), (g)(1)(i)(A) and (ii) amended **40349**
668 Appendix G amended **40349**
669.3 Revised **7741**
674.19 (b)(5) correctly removed; CFR correction **55948**
675.26 (d) revised **52855**
685 Appendix A revised **39010**

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

702 Added **57573**

Proposed Rules:

303 ..... **43866**
304 ..... **37466**
361 ..... **55292**
600—699 (Ch. VI) **59922, 71206**
668 ..... **37714**
674 ..... **49798**
682 ..... **49798**

TITLE 35—PANAMA CANAL

Proposed Rules:

117 ..... **56589**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

200.7 (a) revised 53811
200.8 Revised 53812
(a) corrected 60049
212.13 Added; interim 7304
223.118 Revised 411
242 Meetings 46394
242.1—242.9 (Subpart A) Revised 1286
242.10—242.20 (Subpart B) Revised 1289
242.22—242.24 (Subpart C) Revised 1293
242.25 (k)(9)(ii) table, (10)(ii) table and (23)(iii) table amended; eff. 7-1-98 through 6-30-99 46150
(k)(26)(iii) table amended; eff. 7-1-98 through 6-30-99 46151
242.26 Revised 1302
242.27 Revised 1311
251.51 Amended 65964
251.54 Revised 65964
251.56 (a) and (d)(2) revised 65967
251.57 (a) revised; (h) removed; (i) redesignated as (h) 65967
251.59 Revised 65967
251.60 (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i); (a)(2), (b), (e), (f) and new (g), (h) and (i) revised 65968
251.61 (c) revised 65968
251.64 (a) amended 65968
251.65 Revised 65968

Chapter III—Corps of Engineers, Department of the Army (Parts 300—399)

327.30 Appendixes A and C amended; eff. 8-17-98 35828

Chapter VIII—Advisory Council on Historic Preservation (Parts 800—899)

811 Revised 54355

Chapter X—Presidio Trust (Parts 1000—1099)

1007 Added 71774
1008 Added 71779
1009 Added 71784

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1152 Removed 70342
1191.2 Revised 64837, 64838
1192.31 (c) revised 51697, 51702
1192.153 (c) revised; (d) added 51698, 51702
1192.157 (b) revised 51698, 51702
1192.159 Revised 51698, 51702
1192.161 Added 51700, 51702
1192 Figures 1 and 2 added 51701, 51702
Appendix A amended 51702, 51702

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1202 Revised 70342
1220.40 Amended 35829
1220.54 Amended 35829
1222.20 (b)(3) amended 35829
1228.26 Amended 35829
1228.46 Amended 35829
1228.50 Amended 35829
1228.54 Amended 35829
1228.60 Amended 35829
1228.74 Amended 35829
1228.78 Amended 35829
1228.92 Amended 35829
1228.94 Amended 35829
1228.104 Amended 35829
1228.124 Amended 35829
1228.152 Amended 35829
1228.154 Amended 35829
1228.156 Amended 35829
1228.190 Amended 35829
1228.222 (a)(3) amended 35829
1228.224 Amended 35829
1230.7 Amended 35829
1230.50 Amended 35830
1234.10 (a) amended 35830
1238.2 Amended 35830

Proposed Rules:

1 49312
3 49312
13 68666

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 36 *Proposed Rules:—Con.*

.....1573
59.....67635
242.....40682, 43990
.....4604
1001.....50024, 64023
.....2870
1002.....50024, 64023
.....2870
1003.....50024, 64023
.....2870
1004.....50024, 64023
.....2870
1005.....50024, 64023
.....2870
1006.....50024, 64023
.....2870
1007.....50024
1008.....50024
1009.....50024
1190.....39542, 51881, 70359
1191.....39542, 51881, 70359
1202.....45433
1228.....4818
1254.....42776
1281.....45203

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.14 Regulation at 63 FR 29617 confirmed.....66041
1.16 (a) through (d) and (f) through (j) revised.....39733, 67579
Regulation at 63 FR 39733 eff. date delayed to 10–10–98.....52610
1.17 (a)(1) through (5), (b), (c), (d), (l), (m), (r) and (s) revised.....39733, 67580
Regulation at 63 FR 39733 eff. date delayed to 10–10–98.....52610
1.18 Revised.....39733, 67580
Regulation at 63 FR 39733 eff. date delayed to 10–10–98.....52610
1.20 (d) through (g) revised...39733, 67580
Regulation at 63 FR 39733 eff. date delayed to 10–10–98.....52610
1.21 (a)(6)(ii) revised.....39734, 67580
Regulation at 63 FR 39733 eff. date delayed to 10–10–98.....52610
1.53 Regulation at 63 FR 5734 confirmed.....36185
1.412 Regulation at 63 FR 29617 confirmed.....66041
1.416 Regulation at 63 FR 29617 confirmed.....66041
1.419 Regulation at 63 FR 29617 confirmed.....66041
1.431 Regulation at 63 FR 29618 confirmed.....66041
1.432 Regulation at 63 FR 29618 confirmed.....66041
1.435 Regulation at 63 FR 29618 confirmed.....66041
1.445 Regulation at 63 FR 29619 confirmed.....66041
1.451 Regulation at 63 FR 29619 confirmed.....66041
1.461 Regulation at 63 FR 29619 confirmed.....66041
1.465 Regulation at 63 FR 29619 confirmed.....66041
1.471 Regulation at 63 FR 29619 confirmed.....66041
1.480 Regulation at 63 FR 29619 confirmed.....66041
1.481 Regulation at 63 FR 29619 confirmed.....66041
1.484 Regulation at 63 FR 29619 confirmed.....66041
1.485 Regulation at 63 FR 29620 confirmed.....66041
1.492 (a) through (d) revised.....39734, 67580
(a)(5) corrected.....46892
Regulation at 63 FR 39733 eff. date delayed to 10–10–98.....52610
1.494 Regulation at 63 FR 29620 confirmed.....66041
1.495 Regulation at 63 FR 29620 confirmed.....66041
1.801—1.825 (Subpart G) Appendix B removed.....48448
2.76 (a), (g) and (h) revised.....48097
2.85 (e) revised.....48097
2.87 (c) revised.....48097
2.101 (d)(1) revised.....48097
2.102 (d) revised.....48097
2.111 (b) and (c)(1) revised.....48097
2.117 (a) and (b) revised.....48097
2.119 (d) revised.....48097
2.120 (e) and (h) redesignated as (e)(1) and (h)(1); (e)(2) and (h)(2) added; (a), new (e)(1), (g)(1) and new (h)(1) revised.....48098
(a) revised.....52159
2.121 (a)(1), (c) and (d) revised.....48099

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

2.122 (b)(1), (d)(1) and (2) revised 48099
2.123 (b) and (f) revised 48099
2.125 (c) revised 48099
2.127 (a), (b), (d), (e)(1) and (f) revised 48099
(a) revised 52159
2.134 (a) revised 48100
2.146 (e)(1) revised 48100
3 Heading revised 52159
3.41 Revised 48100, 52159

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.5 (b)(2)(ii) and (iii)(A) revised; interim 59236
(b)(2)(iii)(A) amended 66042
201.17 (h)(2)(iv) amended 39738
201.22 (e)(1) revised 66042
201.38 Added; interim 59234
201.39 Added; interim 71787
251.2 (b) through (g) redesignated as (c) through (h); new (b) added; new (c) revised 65556
251.58 (c) amended 65556
251.60 Amended 65556
251.61 (a) revised 65556
251.62 (a) amended 65557
253.3 Added 49836
253.5 (c)(1), (2) and (3) revised 66042
255.5 Revised 6223
255.6 Added 6223
255.7 Added 6223
255.8 Added 6223
256.2 (a)(1) and (c) amended 39739

Proposed Rules:

1 53498
201 ..... 47215, 65567, 69251
251 70080
..... 3055, 3746
285 71249

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

3.256 Revised; interim 53595
3.311 (b)(2)(xxi) and (xxii) amended; (b)(2)(xx)(iii) and (xxiv) added 50994
3.358 Heading and (a) revised 45006
Heading and (a) revised 1131
3.361 Added 45006
Removed 1132
3.362 Added 45007
Removed 1132
3.363 Added 45007
Removed 1132
3.800 Introductory text added 45007
Introductory text removed 1132
3.811 Heading, (a) heading and authority citation revised; (d) redesignated as (e); new (d) added 62943
4.104 Amended 37779
17.55 Introductory text amended; (h) removed; (i), (j) and (k) redesignated as (h), (i) and (j) 39515
17.56 Redesignated as 17.57; new 17.56 added 39515
17.57 Redesignated from 17.56 39515
17.84 Removed 48102
17.96 Introductory text amended; (a) authority citation removed; authority citation added 37780
17.128 Revised 39515
17.270—17.278 Undesignated center heading and sections added 48102
20.609 (c)(4) added 2138
20.1400—20.1411 (Subpart O) Added 2139
20.1405 (a) revised; interim 7091
21.3023 Heading, (c) introductory text and (1) revised; (c)(3) amended; OMB number 45718
21.3045 (h) revised 67778
21.3131 (a) revised 67778
21.3300 (c) amended 67779
21.3333 (a) and (b)(1) amended 67779
21.4000—21.4279 (Subpart D) Authority citation revised 35831
21.4008 Amended; eff. 7-31-98 35831
21.4133 Removed; eff. 7-31-98 35831
21.4134 Removed; eff. 7-31-98 35831
21.4135 (f), (j)(1), (k) heading and (1) revised; (j) introductory text and (k) introductory text added; eff. 7-31-98 35831
21.4146 (e) amended; eff. 7-31-98 35831
21.4152 (b)(2) amended; eff. 7-31-98 35831
21.4202 (a) and (b) removed; eff. 7-31-98 35831

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 38 Chapter I—Con.

21.4207 Removed; eff. 7–31–98 ..... **35831**
21.4208 Removed; eff. 7–31–98 ..... **35831**
21.4210 Added; eff. 7–31–98 ..... **35831**
21.4211 Added; eff. 7–31–98 ..... **35833**
21.4212 Added; eff. 7–31–98 ..... **35834**
21.4213 Added; eff. 7–31–98 ..... **35834**
21.4214 Added; eff. 7–31–98 ..... **35834**
21.4215 Added; eff. 7–31–98 ..... **35836**
21.4216 Added; eff. 7–31–98 ..... **35836**
21.5001—21.5296 (Subpart G) Authority citation revised **35836**
21.5130 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); eff. 7–31–98 ..... **35836**
21.5200 Introductory text amended; (h) removed; (i) revised; (j) redesignated as (h); new (j) through (o) added; eff. 7–31–98 ..... **35836**
21.7000—21.7320 (Subpart K) Authority citation revised **35837**
21.7042 Heading, (d)(2) and (3) revised; (d)(4) and authority citation added; OMB number **45718**
21.7133 Revised; eff. 7–31–98 ..... **35837**
21.7135 (i) introductory text, (1), (2), (j)(1) and (k)(1) amended; eff. 7–31–98 ..... **35837**
21.7158 Heading, (b)(2) and authority citation revised; eff. 7–31–98 ..... **35837**
21.7500—21.7807 (Subpart L) Authority citation revised **35837, 45718**
21.7540 (c) and (d) authority citation revised; OMB number **45718**
21.7624 (b) amended; eff. 7–31–98 ..... **35837**
21.7633 Revised; eff. 7–31–98 ..... **35837**
21.7635 (e) introductory text, (1), (2), (f)(1) and (g)(1) amended; eff. 7–31–98 ..... **35837**
21.7658 Heading, (b) heading and (2) revised; (b)(1) introductory text, (i) and (ii) amended; eff. 7–31–98 ..... **35837**

Proposed Rules:

1 ..... **48455**
2 ..... **48455**
3 ..... **58336**
14 ..... **59495**
17 ..... **37299, 54756, 58677, 60227**
21 ..... **63253**
51 ..... **60227**

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

6.4 Revised **57912**
20 IMM amended; incorporation by reference; interim **37252, 40181, 41427, 44789, 66043**
IMM stayed in part; incorporation by reference **38478**
IMM amended; incorporation by reference **40181, 41427**
IMM amended; incorporation by reference 2856
111 DMM amended; incorporation by reference **37254, 37967, 38084, 38310, 39239, 40828, 55475, 56567, 57598, 71374**
DMM amended; incorporation by reference 39, 2141, 6802
233 Authority citation revised **52159**
233.2 (b)(2) amended **52159**
241.4 Revised **46656**
491 Revised **67403**
501.29 Added **53812**
775—778 (Subchapter K) Heading revised **45719**
775 Heading and authority citation revised **45719**
775.1 Revised **45719**
775.3 Revised **45719**
775.4 (a) and (b) redesignated as 775.5 and 775.6; new 775.4 added **45719**
775.5 Redesignated as 775.8; new 775.5 redesignated from 775.4(a) and revised **45719**
775.6 Redesignated as 775.9; new 775.6 redesignated from 775.4(b) **45719**
Revised **45720**
775.7 Redesignated as 775.10 ..... **45719**
Added **45721**
775.8 Redesignated as 775.11 ..... **45719**
775.9 Redesignated as 775.12 ..... **45719**
(a)(1), (4), (b)(2), (3) introductory text and (i) revised; (b)(1) amended **45721**
775.10 Redesignated as 775.13 ..... **45719**
(a)(4) added **45722**
775.11 Redesignated as 775.14 ..... **45719**
(a)(1) amended; (b)(2)(ii), (c)(2), (4), (5) introductory text, (iv) and (d)(1) revised **45722**
775.13 (a)(4) revised **45722**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

775.14 (b) revised **45722**
777 Transfered to subchapter K **45722**
778 Transfered to subchapter K **45722**
952.4 Revised **66050**
952.8 (a) amended **66050**
952.14 Revised **66050**
952.15 (c) amended **66050**
953.2 Revised **66050**
953.8 Revised **66050**
953.9 (a)(3) amended **66050**
954.4 Revised **66050**
954.11 Revised **66050**
954.12 (c) amended **66050**
955.1 (b)(1) and (d)(5) revised **66050**
955.18 Amended **66050**
955.29 Amended **66050**
956.3 (c) revised **66051**
956.13 (a) revised **66051**
957.1 Amended **66051**
957.2 Amended **66051**
957.3 (a) and (g) revised; (b) and (f) amended; **66051**
957.4 (a), (c) and (d) amended **66051**
957.5 Amended **66051**
957.7 Amended **66051**
957.8 Amended **66051**
957.9 Amended **66051**
957.10 Amended **66051**
957.13 (a) revised; (b) introductory text and (3) amended **66051**
957.14 (e) amended **66051**
957.15 (f) and (h) amended **66051**
957.16 (e) amended **66051**
957.18 (a) amended **66051**
957.19 (a) and (b) amended **66051**
957.20 (a) amended **66051**
957.23 Amended **66051**
957.26 Amended **66051**
957.27 Amended **66051**
958.3 (a) amended **66052**
958.4 Amended **66052**
958.13 Amended **66052**
959.3 Revised **66052**
959.5 (a) amended **66052**
959.6 Amended **66052**
959.7 Amended **66052**
959.8 Amended **66052**
959.9 Amended **66052**
959.10 (a) amended **66052**
959.11 (a), (b) and (d) amended **66052**
959.13 Revised **66052**
959.14 Amended **66052**
959.16 (b)(6) and (8) amended **66052**
959.17 (e) amended **66052**
959.20 (a) amended **66052**
959.21 (a) and (b) amended **66052**
959.22 (a) and (b) amended **66052**
959.23 (a) and (c) amended **66052**
959.24 Amended **66052**
959.27 Amended **66052**
959.30 Amended **66052**
960.22 Amended **66052**
961.3 (g) revised **66053**
961.4 (a) amended **66053**
962.2 (j) revised **66053**
962.22 (b) amended **66053**
963 Heading revised **66053**
963.3 (a) amended **66053**
963.7 Revised **66053**
963.8 (c) amended **66053**
963.22 Amended **66053**
964.3 (a) amended **66053**
964.4 Amended **66053**
964.22 Amended **66053**
965.2 Amended **66053**
965.3 Amended **66053**
965.8 (b) revised **66053**
965.14 Amended **66053**
966.3 (i) amended **66053**
966.4 (b) amended **66053**

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.61—3001.69c (Subpart C) Appendix A amended **39030**
Appendix A amended 1392
Appendix A corrected 4493, 4494

Proposed Rules:

20 ..... **65153, 67017**
111 ..... **45440, 46719, 57970**
501 ..... **46728**
502 ..... **46719, 46728**
3001 ..... **46732, 47456, 71251**

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

Chapter I Product categories final listing **48792**
1.25 (e)(1) revised **67780**
9.1 Table amended (OMB numbers) **39739, 40657, 44132, 48815, 48831, 50326, 53995, 56995, 69463, 69515, 71374**
Table amended (OMB numbers) 3028, 7047

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

51.121 Added **57491**
(e)(4) introductory text and (f)(2)(ii) revised **71225**
51.122 Added **57496**
51.322 (a)(1) and (2) revised 7462
51.323 (a)(2) removed; (a)(1), (3) and (b) revised 7463
51 Appendixes M and P corrected; CFR correction 5188
52 State implementation plan determinations ... **39515, 49434, 63986, 69557, 69559**
Comment period extension **58637**
State implementation plan determinations 754
52.50 (c)(72) added **49006**
Redesignated as 52.69; new 52.50 added **70672**
52.69 Redesignated from 52.50; heading and (a) revised **70672**
52.70 (c)(28) added **63986**
52.76 Existing text designated as (a); (b) added **50764**
52.123 (h) added **41350**
52.124 (c) added **41350**
52.127 Added **41350**
52.128 Added **41350**
Appendix A corrected **43449**
52.170 Redesignated as 52.200; new 52.170 added **56827**
52.200 Redesignated from 52.170; heading and (a) revised **56827**
52.220 (c)(247)(i)(A)(*2*) added **39751**
(c)(239)(i)(E)(*4*) added **40829**
(c)(194)(i)(G) added **40831**
(c)(244)(i)(A)(*2*) added **42721**
(c)(187)(i)(C)(*2*) added **42723**
(c)(241)(i)(A)(*3*) added **42726**
(c)(188)(i)(C)(*2*) added **43629**
(c)(197)(i)(C)(*2*), (225)(i)(A)(*3*) and (231)(i)(B)(*3*) added **43884**
(c)(242)(i)(A)(*1*), (248)(i)(A)(*2*), (B)(*1*) and (254)(i)(A)(*2*) added **43887**
(c)(240)(i)(A)(*5*) and (244)(i)(C) added **44135**
(c)(29)(vi)(B) and (164)(i)(C)(*3*) added **44398**
(c)(207)(i)(C)(*6*), (241)(i)(C) and (244)(i)(D) added **44790**
(c)(169) added **46662**
(c)(199)(i)(E)(*1*) added **46891**
(c)(184)(i)(C)(*2*) and (254)(i)(F) added **47182**
(c)(256) added **51835**
(c)(255)(i)(A)(*2*) added **60216**
(c)(231)(i)(B)(*4*), (248)(i)(C), (254)(i)(A)(*3*), (C)(*2*) and (255) added **63414**
(c)(225)(i)(F) added **66760**
(c)(187)(i)(B)(*2*) and (256)(i)(B)(*1*) added **67422**
(c)(194)(i)(H), (248)(i)(A)(*3*), (B)(*2*) and (257) added **67787**
(c)(24)(vii)(E), (52)(i)(C), (67)(iii)(C), (75)(iii), (101)(ii)(F) and (140)(ii)(B) added **70350**
(c)(254)(i)(G)(*1*) added **72197**
(c)(254)(i)(E) added **72200**
(c)(6)(xv)(A) and (254)(i)(H)(*1*) added 1521
(c)(127)(vii)(E), (187)(i)(C)(*3*) and (215)(i)(A)(*5*) added 2144
(c)(254)(i)(A)(*4*) added 2575
(c)(198)(i)(J)(*3*) added 2577
(c)(232)(i)(A)(*2*) added 3216
(c)(182)(i)(B)(*6*) and (199)(i)(A)(*8*) added 3852
(c)(254)(i)(B)(*1*) added 6226
(c)(245)(i)(C)(*1*) added 6228
(c)(6)(xvi) and (31)(xviii)(E) added 6230
(c)(230)(i)(D)(*1*) and (255)(i)(A)(*4*) added 6806
52.222 (a)(5) added **50766**
(a)(4) and (b)(2) added **50769**
52.320 (c)(83) added 6234
52.348 Existing text designated as (a); (b) added **38089**
52.374 Revised **58643**
52.376 (a) and (b) revised; (d) added **53286**
(a) and (d) revised; (e) and (f) added **58643**
52.420 Redesignated as 52.465; new 52.420 added **67410**
(c) table amended 8725
52.465 Redesignated from 52.420; heading and (a) revised **67410**
52.470 Redesignated as 52.515; new 52.470 added **67417**
52.473 Existing text designated as (a); (b) added **36585**
(c) added 9277
52.474 (c) added **36858**
52.515 Redesignated from 52.470; heading and (a) revised **67417**
52.520 (c)(95) added **56573**
(c)(101) added 994
52.570 (c)(49) added **45176**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

Regulation at 63 FR 45176 withdrawn **52983**
52.582 (c) added 4570
52.719 (a) revised **47434**
52.720 (c)(144) added 2581
(c)(145) added 2584
(c)(146) added 7790
(c)(147) added 8523
52.725 (f) added **47434**
52.726 (s) added; eff. 8–31–98 ..... **35844**
(u) and (v) added 759
(m) removed 8523
52.770 (c)(123) added; eff. 8–31–98 ..... **35839**
52.777 (t) added **40044**
52.820 Redesignated as 52.824; new 52.820 added 7094
52.824 Redesignated from 52.820; heading and (a) revised 7094
52.870 Redesignated as 52.874 7097
Added 7098
52.874 Redesignated from 52.870; heading and (a) revised 7097
52.920 (c)(89) added **39741**
(c)(87) added **39743**
(c)(91) added **46898**
(c)(92) added **67591**
(c)(88) added 417
52.938 Added **40046**
52.970 (c)(77) added **47431**
Redesignated as 52.999; new 52.970 added **63183**
(c) table amended 415
52.999 Redesignated from 52.970; heading and (a) revised **63183**
52.1020 (c)(39) added **42728**
Regulation at 63 FR 42727 withdrawn **53596**
52.1031 Table amended **42728**
52.1070 (c)(130) added **45399**
(c)(131) and (132) added **46663**
(c)(133), (134) and (135) added **47179**
Regulation at 63 FR 45399 withdrawn **54355**
(c)(140) added **59722**
(c)(136) added **67784**
(c)(130) added **70669**
(c)(141) added 3855
52.1072 (d) added **47179**
52.1073 (e) added **47179**
52.1075 (f) added **36858**
52.1076 Heading revised; existing text designated as (a); (b) added **67782**
52.1174 (q) removed **40371**
(q) added 7793
52.1220 (c)(46) added **54587**
(c)(47) added 5939
52.1320 (c)(106) added **36854**
(c)(107) added **38756**
(c)(108) added **45727**
(c)(109) added **65560**
(c)(111) added **67594**
(c)(110) added **70667**
52.1340 Added 3859
52.1420 Redesignated as 52.1426; new 52.1420 added 7094
52.1426 Redesignated from 52.1420; heading and (a) revised 7094
52.1520 (c)(53) and (58) added **67407**
52.1570 (c)(64) added **55953**
(c)(65) added **62954**
Regulation at 63 FR 55953 withdrawn **69193**
52.1580 (b) revised **45401**
52.1581 Added **45401**
52.1582 (e) added **45402**
(f) added **45404**
52.1605 Table amended **62954**
52.1620 Redesignated as 52.1640; new 52.1620 added **37495**
(c) table amended **48109**
52.1623 Added **48109**
52.1640 Redesignated from 52.1620; heading and (a) revised **37495**
52.1670 (c)(94) added **46659**
52.1679 Table amended **65559**
52.1770 (c)(96) added **72193**
52.1820 (c)(30) added **45727**
52.1835 Added **45727**
52.1885 (a)(8) added **36587**
(a)(9) added **37258**
(a)(10) added **44400**
52.1970 (c)(126) added **39747**
52.2020 (c)(135) added **47436**
(c)(134) added **54052**
(c)(136) added **59887**
(c)(137) added **66758**
52.2026 (a)(1), (3), (4), (5), (b)(2), (3), (4), (6), (11), (12) and (13) removed **46667**
(a)(2) amended **46668**
Introductory text revised; (b)(1), (5), (7) through (10) and (14) removed **49441**
Regulation at 63 FR 49441 withdrawn **56086**
52.2059 (b) added **47436**
52.2070 (c)(50) revised **67600**
52.2084 (a)(2) removed **67600**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

Corrected....926
52.2086 (d) added....**67600**
52.2120 (c) table amended....**67586**
(e) added....**70022**
52.2170 (c)(17) added....**55807**
52.2220 (c)(162) added....**54055**
(c)(163) added....**70664**
(c)(164) added....**72195**
52.2270 (c)(111) added; eff. 8–31–98....**35841**
(c)(114) added....**56085**
Regulation at 63 FR 35841 eff. 11–4–98....**59471**
(c)(113) added....**62947**
(c)(105) added....3847
(c)(112) added....4298
52.2309 (e) added....**62947**
52.2320 (c)(40) added....**43627**
(c)(39) added....3224
52.2420 (c)(128) added....3427
52.2425 (d) added....**36858**
52.2470 (c)(78) added....**64188**
58.31 (a) revised....3034
58.34 (a) revised....3034
58.41 (b) revised....3035
58 Appendix D amended....3030, 3035
Appendixes E and G amended....3036
59 Added....**48815**
59.104 (a)(2) corrected....**64761**
59.201—59.214 (Subpart C) Added....**48831**
59.202 Corrected....**52319**
59.204 (c)(1) corrected....**52319**
59.208 (e)(1) corrected; (j) correctly designated....**52319**
59.400—59.413 (Subpart D) Added....**48877**
59.400—59.413 (Subpart D) Appendix D corrected....**55175**
60 Authority delegation notices....**50162, 50163, 70675**
Interpretation....**53288**
Authority citation revised....7463
60.4 (c) table amended....**45727**
(c) table corrected....**49382, 56707**
60.7 (a) introductory text and (c) introductory text revised; (a)(2) removed; (f) amended; (f)(1), (2) and (3) added....7463
60.8 (d) revised....7463
60.13 (h) amended....7463
60.19 (b) revised....7463
60.33c (a)(2) amended; (d) and (e) added....9261
60.35c (a) and (b) added....9262
60.40a (b) revised....**49453**
60.41a Amended....**49453**
60.44a (a) introductory text and (c) introductory text revised; (d) added....**49453**
60.45 (g) introductory text revised....7463
60.46a (i) added....**49454**
60.47a (c) revised; (k) and (l) added....**49454**
60.49a (i) amended; (j) added....**49454**
60.40b (h) and (i) added....**49454**
60.44b (a) introductory text, (b) introductory text, (c), and (e) introductory text revised; (l) added....**49454**
60.48b (b) revised....**49455**
60.49 (i) revised....7463
60.49b (v) added....**49455**
(d), (e), (h) introductory text, (i), (j), (k)(2), (3), (m) introductory text, (n) introductory text, (1), (2), (q) introductory text, (2), (3), (r) and (s) revised....7464
60.49c (c), (d), (e) introductory text, (2), (3) and (11) revised; (j) added....7465
60.59a (e), (f) and (g) revised....7465
60.107 (a), (c) introductory text, (d) and (e) revised....7465
60.108 (e) revised....7466
60.293 (c)(4), (5), (d)(3) introductory text and (3)(iii) revised....7466
60.403 (f) revised....7466
60.502 (e)(3) and (4) revised....7466
60.531 Amended....7466
60.533 (l)(1)(ii) revised....**64874**
60.536 (f)(3) revised....7466
60.538 (e) revised....**64874**
60.714 (a) revised....7467
60.717 (c) and (d) introductory text revised....7467
60.751 Amended....9262
60.759 (a)(3)(iii) amended....9262
61 Authority delegation notice....**70675**
Technical correction....7793
61.04 (a) amended; (b)(WW)(ii), (iii) and (vii) revised; (b)(WW)(viii) removed; (c) redesignated as (c)(8); (c) introductory text and (10) added....**66059**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

(b) introductory text revised 7467
61.139 (i)(1)(ii) and (j)(3) removed; (i)(1)(iv) and (v) redesignated as (i)(1)(ii) and (iv); new (i)(1)(ii), (j)(2) introductory text and (iv) revised 7467
61.142 (b)(6) revised 7467
61.144 (b)(8) revised 7467
61.147 (b)(8) revised 7467
61.163 (c)(3) revised 7467
61.204 Heading, introductory text, (c) and (d) revised; (e) added 5579
61.205 Heading, (a) and (b) added 5579
61.207 Revised 5579
62.02 (a) revised; (g) added **63201**
62.13 Added **63201**
(a) amended **66061**
62.100 (b)(3) and (c)(3) added **54058**
(b)(4) and (c)(4) added **63990**
62.103 Undesignated center heading and section added **54058**
62.104 Undesignated center heading and section added **63990**
62.1350—62.1352 Unesignated center heading and sections added **40373**
62.2600 (b)(5) and (c)(4) added **63416**
62.2607 Undesignated center heading and section added **63416**
62.3330—62.3332 Undesignated center heading and sections added **64632**
62.4845 (b)(4) and (c)(3) added **68397**
62.4975 Undesignated center heading and section added **68397**
62.5860—62.5862 Undesignated center heading and sections added **40052**
62.5870—62.5872 Undesignated center heading and sections added **43083**
62.6350 (b)(3) added **45727**
62.6600—62.6602 (Subpart BB) Added **36861**
62.8103 Undesignated center heading and section added **41429**
(c) added 6237
62.8870—62.8872 Undesignated center heading and sections added **42238**
62.9100 (b)(3) and (c)(3) added **59890**
62.9150 Undesignated center heading and section added **59890**
62.10100 (b)(3) and (c)(3) amended **40048**
62.10150 Undesignated center heading and section added **40049**
62.10626 Undesignated center heading and section added **70026**
62.10627 Undesignated center heading and section added **70026**
62.10628 Undesignated center heading and section added **70027**
62.11610 Added **47437**
(d) correctly removed **54058**
62.14100—62.14109 (Subpart FFF) Added **63202**
63 Authority delegation notices **64632, 70675**
Clarification 5188
Technical correction 7793
63.8 (g)(5) amended 7468
63.9 (b)(4)(iv) removed 7468
63.10 (b)(2)(vii)(A), (B) and (C) added; (e)(3)(i)(C) removed 7468
63.14 (b)(19) and (c)(3) added **50326**
(b) introductory text revised; (b)(20) and (e) added **53996**
(d)(1) revised 4300
63.99 (a)(3) added **38480**
(a)(3) revised **63993**
(a)(47) added **66061**
(a)(5)(ii) introductory text and (A) introductory text revised; (a)(5)(ii)(A)(*1*)(*i*) and (B)(*1*)(*i*) amended; (a)(5)(ii)(D) added 4300
63.111 Amended **67792**
63.145 (h) introductory text and (2) revised **67793**
63.110—63.152 (Subpart G) Appendix amended **67793**
63.360 (g)(1), (2) and (3) revised; (g)(4), (5) and (6) added **66994**
63.404 Introductory text and (b) revised; (c) and (d) added **39519**
63.440 (d)(3)(ii) introductory text and (B) revised **71389**
63.446 (i) correctly revised **42239**
(g) revised **49459**
63.447 (d)(1) correctly revised **42239**
63.460 (c) and (d) revised; (g) added **68400**
63.470 Removed **68400**
63.541 (c) added 4572
63.542 Amended **45011**
63.543 (g) revised **45011**
63.544 (g) redesignated as (h); new (g) added **45011**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

63.546 (a) revised **45011**
(a) revised 4572
63.547 (b) revised **45011**
63.548 (e) introductory text revised; (k) added **45011**
63.640 (k)(2)(vii), (n)(1), (3), (6) and (o)(2) revised; (n)(8), (9) and (r) added **44140**
63.641 Amended **44141**
63.644 (a) amended **44141**
63.645 (f)(4) amended; (f)(5) revised **44141**
63.648 (e) revised **44141**
63.654 (a) and (h)(6) amended; (d)(1), (f) introductory text and (1)(i)(A) revised; (f)(6) added **44141**
63.640—63.679 (Subpart CC) Appendix amended **44142, 44143**
63.741 (f) and (i) amended; (j) revised **46532**
63.742 Amended **46533**
63.744 (b)(3) amended; (c)(5) added; Table 1 revised **46533**
63.745 (c)(1) through (4) and (g)(2)(v) revised **46533**
63.746 (b)(4)(ii)(C) added **46533**
63.750 (b)(2) and (i)(2)(iv) amended **46534**
63.751 (b)(6)(iv) redesignated as (b)(6)(v); (b)(6)(iii)(D), (c)(2) and (d) revised; new (b)(6)(iv) revised **46534**
63.752 (c)(2) introductory text, (d)(2), (3) and (e)(7) revised **46534**
63.753 (c)(1)(vi) and (d)(1)(vii) revised **46535**
63.801 Amended **71380**
63.803 (c)(1), (d), (f), (i), (j) and (l)(6) revised **71380**
63.800—63.808 (Subpart J) Table 2 revised **71381**
Tables 4 and 5 revised **71382**
Table 6 revised **71383**
63.1250—63.1261 (Subpart GGG) Added **50326**
63.1290—63.1309 (Subpart III) Added **53996**
63 Appendix A amended **46535**
Appendix C amended **67794**
68 Delagation request **55954**
68.3 Amended 979
68.10 (d)(1) revised 979
68.42 (b)(3) revised; (b)(4) through (10) redesignated as (b)(5) through (11); new (b)(4) added 979
68.79 (a) revised 979
68.150 (e) added 979
68.151 Added 979
68.152 Added 980
68.160 (b)(1), (7) and (12) revised; (b)(14) through (18) added 980
68.165 (b) revised 980
68.170 (b) revised 980
68.175 (b) revised 980
68.180 (b) revised 980
69 Authority citation revised **49465**
69.51 (Subpart E) Added **49465**
70.5 (c) reinstated in part; CFR correction **64869**
70 Appendix A amended **40054, 50773**
Appendix A amended 8526
71.2 Amended 8262
71.3 (e) added 8262
71.4 (a) introductory text, (b), (f), (h) and (i) introductory text revised; (j) amended 8262
71.8 (a) and (d) revised 8263
71.9 (p) added 8263
71.11 (l)(7) added 8263
72.2 Amended **57498, 68404**
73.10 (b)(1) and (2) amended; (b) Table 2 and (3) revised; (c) and (d) removed **51714**
73.11 Removed **51765**
73.12 (b) removed **51765**
73.13 (b) removed **51765**
73.16 Removed **51765**
73.19 (a)(5) revised; (b) removed **51765**
73.21 (a), (b) and (c)(1) table amended; (a) table added; (c)(2) revised **51765**
73.27 (a)(3) removed; (a)(2), (b)(2) through (5) and (c)(2) through (5) revised **51765**
73.34 (c)(4) amended **68404**
73.50 (b)(2) redesignated as (b)(3); (b)(2) added **68404**
73.70 (b) revised **51766**
75.1 (a) revised **57498**
75.2 (a) revised; (c) added **57499**
75.4 (a) introductory text revised **57499**
75.6 (f) added **57499**
75.11 (d)(2) amended; (d)(3) added **57499**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

75.12 Heading revised; (d) redesignated as (e); new (d) added **57499**
75.13 (d) added **57499**
75.17 Introductory text added **57499**
75.19 Added **57500**
75.20 (h) added **57506**
75.24 (d) revised **57506**
75.70—75.75 (Subpart H) Added **57507**
Appendix A amended **57512**
Appendixes C, D and F amended **57513**
79.57 (e)(2)(iii)(C) and (v)(B) removed; (e)(2)(iv)(B) and (vi)(B) revised **63792**
79.62 (d)(1)(ii)(B) revised **63793**
79.66 (e)(5)(iii)(B) amended **63793**
80 Technical correction **54753**
80.29 (a)(1) introductory text revised **49465**
80.46 (f)(3) and (g)(9) revised **63793**
80.70 (m) amended **43049**
(k) revised **52104**
81 Attainment status determinations **64415**
81.305 Amended **37279, 39751**
81.307 Amended **53287, 58644**
81.310 Amended 995
81.313 Amended **59731**
81.315 Amended **39435**
81.318 Amended **39436, 44145**
Corrected **42489**
81.323 Amended **39436**
81.326 Amended 3859
81.333 Amended **39436**
81.336 Amended **39437**
81.345 Amended 3225
82 Determination **42728**
82.1 Revised **41642**
82.2 Removed **41642**
82.3 Amended **41642**
Regulation at 63 FR 41642 withdrawn in part **53290**
82.4 (d) and (e) revised; (f) through (k) and (l) through (s) redesignated as (g) through (l) and (n) through (u); (d), (e), new (j) and (t) revised; (f), (m), (l)(4), (t)(3) and (u)(3) added **41642**
Regulation at 63 FR 41642 withdrawn in part **53290**
(t)(2) table revised 1096
82.9 Heading, (a) and (c) revised; (g) added **41643**
Regulation at 63 FR 41643 withdrawn in part **53290**
82.12 (a)(3) added **41645**
Regulation at 63 FR 41643 withdrawn in part **53290**
82.13 (f)(2)(xvii), (g)(1)(xvii), (4)(xiv), (xv), (w), (x) and (z) added; (f)(3)(v) removed; (f)(3)(vi) through (xiii), second (g)(3), and (w) redesignated as (f)(3)(v) through (xii), (g)(4) and (y); (b), (f)(1)(iv), (2) introductory text, (xiv), new (3)(xi), (xii), (xiii), (g)(1)(vii), (xvi), (2), first (3), (h)(8), (i) introductory text, (m), (u) and (v) revised; **41646**
Regulation at 63 FR 41646 withdrawn in part **53290**
82.1—82.13 (Subpart A) Appendix C revised **41648**
Appendixes J and K added **41651**
Regulations at 63 FR 41648 and 41651 withdrawn in part **53290**
82.170—82.184 (Subpart G) Appendix E added; interim 3865
Appendix F added; interim 3868
86 Heading revised **56995**
86.1 (b)(2) table amended; (b)(5) added **70694**
86.094–21 (i) removed **70694**
86.095–35 (i) revised **70694**
86.098–17 (b)(2) through (i) and (j) revised **70694**
86.099–17 Added **70694**
86.099–30 Added **70697**
86.884–8 (c)(4) table amended **56995**
(c)(4) table corrected **63967**
89 Heading revised **56995**
Nomenclature change **56996**
89.1 (a) and (b)(4) revised; (b)(3) amended; (b)(5) added **56996**
89.2 Amended **56996**
89.3 Amended **56997**
89.4 Removed **56997**
89.6 (b)(1) introductory text amended; (b)(1) table revised **56997**
89.101–96 Redesignated as 89.101 ..... **56995**
89.101 Redesignated from 89.101–96 ..... **56995**
89.102–96 Redesignated as 89.102 ..... **56995**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

89.102 Redesignated from 89.102–96 ..... **56995**
Heading and (a) revised; (c) through (h) added **56997**
89.103–96 Redesignated as 89.103 ..... **56995**
89.103 Redesignated from 89.103–96 ..... **56995**
89.104–96 Redesignated as 89.104 ..... **56995**
89.104 Redesignated from 89.104–96 ..... **56995**
(a), (b) and (c) revised **56998**
89.105–96 Redesignated as 89.105 ..... **56995**
89.105 Redesignated from 89.105–96 ..... **56995**
89.106–96 Redesignated as 89.106 ..... **56995**
89.106 Redesignated from 89.106–96 ..... **56995**
89.107–96 Redesignated as 89.107 ..... **56995**
89.107 Redesignated from 89.101–97 ..... **56995**
89.108–96 Redesignated as 89.108 ..... **56995**
89.108 Redesignated from 89.108–96 ..... **56995**
89.109–96 Redesignated as 89.109 ..... **56995**
89.109 Redesignated from 89.109–96 ..... **56995**
Revised **56999**
89.110–96 Redesignated as 89.110 ..... **56995**
89.110 Redesignated from 89.110–96 ..... **56995**
(b)(9) and (10) amended; (b)(11) and (12) added **57000**
89.111–96 Redesignated as 89.111 ..... **56995**
89.111 Redesignated from 89.111–96 ..... **56995**
89.112–96 Redesignated as 89.112 ..... **56995**
89.112 Redesignated from 89.112–96 ..... **56995**
(a), (b) and (d) revised; (e) and (f) added **57000**
89.113–96 Redesignated as 89.113 ..... **56995**
89.113 Redesignated from 89.113–96 ..... **56995**
(b) revised; (c) added **57003**
89.114–96 Redesignated as 89.114 ..... **56995**
89.114 Redesignated from 89.114–96 ..... **56995**
Heading, (a) and (b) heading revised **57003**
89.115–96 Redesignated as 89.115 ..... **56995**
89.115 Redesignated from 89.115–96 ..... **56995**
89.116–96 Redesignated as 89.116 ..... **56995**
89.116 Redesignated from 89.116–96 ..... **56995**
(e) added **57003**
89.117–96 Redesignated as 89.117 ..... **56995**
89.117 Redesignated from 89.117–96 ..... **56995**
(a) revised; (d) added **57003**
89.118–96 Redesignated as 89.118 ..... **56995**
89.118 Redesignated from 89.118–96 ..... **56995**
Heading revised; introductory text and (e) added **57003**
89.119–96 Redesignated as 89.119 ..... **56995**
89.119 Redesignated from 89.119–96 ..... **56995**
(d) revised **57004**
89.120–96 Redesignated as 89.120 ..... **56995**
89.120 Redesignated from 89.120–96 ..... **56995**
(c) revised; (e) added **57004**
89.121–96 Redesignated as 89.121 ..... **56995**
89.121 Redesignated from 89.121–96 ..... **56995**
89.122–96 Redesignated as 89.122 ..... **56995**
89.122 Redesignated from 89.122–96 ..... **56995**
89.123–96 Redesignated as 89.123 ..... **56995**
89.123 Redesignated from 89.123–96 ..... **56995**
89.124–96 Redesignated as 89.124 ..... **56995**
89.124 Redesignated from 89.124–96 ..... **56995**
(a)(3) added **57005**
89.125–96 Redesignated as 89.125 ..... **56995**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

89.125 Redesignated from 89.125–96 56995
(b) revised 57005
89.126–96 Redesignated as 89.126 56995
89.126 Redesignated from 89.126–96 56995
(c) revised 57005
89.127–96 Redesignated as 89.127 56995
89.127 Redesignated from 89.127–96 56995
89.128–96 Redesignated as 89.128 56995
89.128 Redesignated from 89.128–96 56995
89.129–96 Redesignated as 89.129 56995
89.129 Redesignated from 89.129–96 56995
89.130 Added 57005
89.201–96 Redesignated as 89.201 56995
89.201 Redesignated from 89.201–96 56995
89.202–96 Redesignated as 89.202 56995
89.202 Redesignated from 89.202–96 56995
89.203–96 Redesignated as 89.203 56995
89.203 Redesignated from 89.203–96 56995
Revised 57006
89.204–96 Redesignated as 89.204 56995
89.204 Redesignated from 89.204–96 56995
Revised 57007
89.205–96 Redesignated as 89.205 56995
89.205 Redesignated from 89.205–96 56995
Revised 57008
89.206–96 Redesignated as 89.206 56995
89.206 Redesignated from 89.206–96 56995
Revised 57008
89.207–96 Redesignated as 89.207 56995
89.207 Redesignated from 89.207–96 56995
Revised 57008
89.208–96 Redesignated as 89.208 56995
89.208 Redesignated from 89.208–96 56995
Revised 57009
89.209–96 Redesignated as 89.209 56995
89.209 Redesignated from 89.209–96 56995
(a) revised 57009
89.210–96 Redesignated as 89.210 56995
89.210 Redesignated from 89.210–96 56995
(b) and (c) revised 57009
89.211–96 Redesignated as 89.211 56995
89.211 Redesignated from 89.211–96 56995
(a) and (c) revised 57009
89.212–96 Redesignated as 89.212 56995
89.212 Redesignated from 89.212–96 56995
Revised 57010
89.301–96 Redesignated as 89.301 56995
89.301 Redesignated from 89.301–96 56995
89.302–96 Redesignated as 89.302 56995
89.302 Redesignated from 89.302–96 56995
Revised 57010
89.303–96 Redesignated as 89.303 56995
89.303 Redesignated from 89.303–96 56995
89.304–96 Redesignated as 89.304 56995
89.304 Redesignated from 89.304–96 56995
(c) revised 57010
89.305–96 Redesignated as 89.305 56995
89.305 Redesignated from 89.305–96 56995
89.306–96 Redesignated as 89.306 56995
89.306 Redesignated from 89.306–96 56995
89.307–96 Redesignated as 89.307 56995
89.307 Redesignated from 89.307–96 56995
(b)(7) and (8) revised 57010
89.308–96 Redesignated as 89.308 56995

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

89.308 Redesignated from 89.308–9C **56995**
(b) revised **57010**
89.309–96 Redesignated as 89.309 ..... **56995**
89.309 Redesignated from 89.309–96 ..... **56995**
(a)(3) removed; (a)(4)(iii), (5)(i)(C) and (D) revised **57010**
89.310–96 Redesignated as 89.310 ..... **56995**
89.310 Redesignated from 89.310–96 ..... **56995**
(a)(1) and (c) revised **57010**
89.311–96 Redesignated as 89.311 ..... **56995**
89.311 Redesignated from 89.311–96 ..... **56995**
89.312–96 Redesignated as 89.312 ..... **56995**
89.312 Redesignated from 89.312–96 ..... **56995**
(b)(2) removed; (c)(2), (d) and (f) revised; (g) added **57010**
89.313–96 Redesignated as 89.313 ..... **56995**
89.313 Redesignated from 89.313–96 ..... **56995**
89.314–96 Redesignated as 89.314 ..... **56995**
89.314 Redesignated from 89.314–96 ..... **56995**
(a) and (b) revised **57011**
89.315–96 Redesignated as 89.315 ..... **56995**
89.315 Redesignated from 89.315–96 ..... **56995**
89.316–96 Redesignated as 89.316 ..... **56995**
89.316 Redesignated from 89.316–96 ..... **56995**
(b) removed **57011**
89.317–96 Redesignated as 89.317 ..... **56995**
89.317 Redesignated from 89.317–96 ..... **56995**
(g), (h) and (k) revised **57011**
89.318–96 Redesignated as 89.318 ..... **56995**
89.318 Redesignated from 89.318–96 ..... **56995**
(c)(2) heading, (i) and (iv) revised **57011**
(c)(2)(iv)(B) corrected **58101**
89.319–96 Redesignated as 89.319 ..... **56995**
89.319 Redesignated from 89.319–96 ..... **56995**
(b)(1), (2), (c), (d) heading, introductory text, (2) and (6) revised **57011**
89.320–96 Redesignated as 89.320 ..... **56995**
89.320 Redesignated from 89.320–96 ..... **56995**
(c) revised **57012**
89.321–96 Redesignated as 89.321 ..... **56995**
89.321 Redesignated from 89.321–96 ..... **56995**
(c) revised **57012**
89.322–96 Redesignated as 89.322 ..... **56995**
89.322 Redesignated from 89.322–96 ..... **56995**
(a) revised **57012**
89.323–96 Redesignated as 89.323 ..... **56995**
89.323 Redesignated from 89.323–96 ..... **56995**
89.324–96 Redesignated as 89.324 ..... **56995**
89.324 Redesignated from 89.324–96 ..... **56995**
Revised **57013**
89.325–96 Redesignated as 89.325 ..... **56995**
89.325 Redesignated from 89.325–96 ..... **56995**
89.326–96 Redesignated as 89.326 ..... **56995**
89.326 Redesignated from 89.326–96 ..... **56995**
89.327–96 Redesignated as 89.327 ..... **56995**
89.327 Redesignated from 89.327–96 ..... **56995**
89.328–96 Redesignated as 89.328 ..... **56995**
89.328 Redesignated from 89.328–96 ..... **56995**
(b)(1) and (2) revised **57013**
89.329–96 Redesignated as 89.329 ..... **56995**
89.329 Redesignated from 89.329–96 ..... **56995**
89.330–96 Redesignated as 89.330 ..... **56995**
89.330 Redesignated from 89.330–96 ..... **56995**
(b)(2) revised; (b)(3) added **57013**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

89.331–96 Redesignated as 89.331 ..... **56995**
89.331 Redesignated from 89.331–96 ..... **56995**
89.301—89.331 (Subpart D) Appendix A amended **57013**
89.401–96 Redesignated as 89.401 ..... **56995**
89.401 Redesignated from 89.401–96 ..... **56995**
(b) revised **57015**
89.402–96 Redesignated as 89.402 ..... **56995**
89.402 Redesignated from 89.402–96 ..... **56995**
Revised **57015**
89.403–96 Redesignated as 89.403 ..... **56995**
89.403 Redesignated from 89.403–96 ..... **56995**
89.404–96 Redesignated as 89.404 ..... **56995**
89.404 Redesignated from 89.404–96 ..... **56995**
(b) revised; (e) removed **57015**
89.405–96 Redesignated as 89.405 ..... **56995**
89.405 Redesignated from 89.405–96 ..... **56995**
(d), (e) and (f) revised **57015**
89.406–96 Redesignated as 89.406 ..... **56995**
89.406 Redesignated from 89.406–96 ..... **56995**
(b) and (c)(1) revised **57015**
89.407–96 Redesignated as 89.407 ..... **56996**
89.407 Redesignated from 89.407–96 ..... **56996**
(a), (c) and (d)(2) revised **57015**
89.408–96 Redesignated as 89.408 ..... **56996**
89.408 Redesignated from 89.408–96 ..... **56996**
(e) revised **57016**
89.409–96 Redesignated as 89.409 ..... **56996**
89.409 Redesignated from 89.409–96 ..... **56996**
89.410–96 Redesignated as 89.410 ..... **56996**
89.410 Redesignated from 89.410–96 ..... **56996**
(a), (b) and (c) revised **57016**
89.411–96 Redesignated as 89.411 ..... **56996**
89.411 Redesignated from 89.411–96 ..... **56996**
(d)(5) and (e)(5) revised **57016**
89.412–96 Redesignated as 89.412 ..... **56996**
89.412 Redesignated from 89.412–96 ..... **56996**
(c)(3) revised; (g)(1) removed **57016**
89.413–96 Redesignated as 89.413 ..... **56996**
89.413 Redesignated from 89.413–96 ..... **56996**
(d) revised; (e) removed **57016**
89.414–96 Redesignated as 89.414 ..... **56996**
89.414 Redesignated from 89.414–96 ..... **56996**
(a) revised **57017**
89.415–96 Redesignated as 89.415 ..... **56996**
89.415 Redesignated from 89.415–96 ..... **56996**
Revised **57017**
89.416–96 Redesignated as 89.416 ..... **56996**
89.416 Redesignated from 89.416–96 ..... **56996**
89.417–96 Redesignated as 89.417 ..... **56996**
89.417 Redesignated from 89.417–96 ..... **56996**
89.418–96 Redesignated as 89.418 ..... **56996**
89.418 Redesignated from 89.418–96 ..... **56996**
(b), (c), (d), (e) table, (f) introductory text, (1) and (g) revised **57017**
89.419–96 Redesignated as 89.419 ..... **56996**
89.419 Redesignated from 89.419–96 ..... **56996**
89.420–96 Redesignated as 89.420 ..... **56996**
89.420 Redesignated from 89.420–96 ..... **56996**
(a) introductory text revised **57018**
89.421–96 Redesignated as 89.421 ..... **56996**
89.421 Redesignated from 89.421–96 ..... **56996**
89.422–96 Redesignated as 89.422 ..... **56996**
89.422 Redesignated from 89.422–96 ..... **56996**
(d)(3) table amended **57016**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

89.423–96 Redesignated as 89.423 ..... **56996**
89.423 Redesignated from 89.423–96 ..... **56996**
Removed **57018**
89.424–96 Redesignated as 89.424 ..... **56996**
89.424 Redesignated from 89.424–96 ..... **56996**
(a), (d)(6) and (e) revised; (d)(3) amended **57018**
89.425–96 Redesignated as 89.425 ..... **56996**
89.425 Redesignated from 89.425–96 ..... **56996**
Removed **57019**
89.401—89.425 (Subpart E) Appendix B revised **57019**
89.501–96 Redesignated as 89.501 ..... **56996**
89.501 Redesignated from 89.501–96 ..... **56996**
89.502–96 Redesignated as 89.502 ..... **56996**
89.502 Redesignated from 89.502–96 ..... **56996**
89.503–96 Redesignated as 89.503 ..... **56996**
89.503 Redesignated from 89.503–96 ..... **56996**
89.504–96 Redesignated as 89.504 ..... **56996**
89.504 Redesignated from 89.504–96 ..... **56996**
89.505–96 Redesignated as 89.505 ..... **56996**
89.505 Redesignated from 89.505–96 ..... **56996**
(e) revised **57020**
89.506–96 Redesignated as 89.506 ..... **56996**
89.506 Redesignated from 89.506–96 ..... **56996**
(g) revised **57020**
89.507–96 Redesignated as 89.507 ..... **56996**
89.507 Redesignated from 89.507–96 ..... **56996**
89.508–96 Redesignated as 89.508 ..... **56996**
89.508 Redesignated from 89.508–96 ..... **56996**
89.509–96 Redesignated as 89.509 ..... **56996**
89.509 Redesignated from 89.509–96 ..... **56996**
(a) and (b) revised **57020**
89.510–96 Redesignated as 89.510 ..... **56996**
89.510 Redesignated from 89.510–96 ..... **56996**
89.511–96 Redesignated as 89.511 ..... **56996**
89.511 Redesignated from 89.511–96 ..... **56996**
89.512–96 Redesignated as 89.512 ..... **56996**
89.512 Redesignated from 89.512–96 ..... **56996**
(b) revised **57020**
89.513–96 Redesignated as 89.513 ..... **56996**
89.513 Redesignated from 89.513–96 ..... **56996**
(e)(2) revised **57020**
89.514–96 Redesignated as 89.514 ..... **56996**
89.514 Redesignated from 89.514–96 ..... **56996**
89.515–96 Redesignated as 89.515 ..... **56996**
89.515 Redesignated from 89.515–96 ..... **56996**
89.516–96 Redesignated as 89.516 ..... **56996**
89.516 Redesignated from 89.516–96 ..... **56996**
89.601–96 Redesignated as 89.601 ..... **56996**
89.601 Redesignated from 89.601–96 ..... **56996**
89.602–96 Redesignated as 89.602 ..... **56996**
89.602 Redesignated from 89.602–96 ..... **56996**
Amended **57020**
89.603–96 Redesignated as 89.603 ..... **56996**
89.603 Redesignated from 89.603–96 ..... **56996**
(d) revised **57021**
89.604–96 Redesignated as 89.604 ..... **56996**
89.604 Redesignated from 89.604–96 ..... **56996**
(c)(4) and (d) revised **57021**
89.605–96 Redesignated as 89.605 ..... **56996**
89.605 Redesignated from 89.605–96 ..... **56996**
(a)(2)(i), (3)(vi) and (c) revised **57021**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

89.606–96 Redesignated as 89.606 ..... **56996**
89.606 Redesignated from 89.606–96 ..... **56996**
89.607–96 Redesignated as 89.607 ..... **56996**
89.607 Redesignated from 89.607–96 ..... **56996**
89.608–96 Redesignated as 89.608 ..... **56996**
89.608 Redesignated from 89.608–96 ..... **56996**
89.609–96 Redesignated as 89.609 ..... **56996**
89.609 Redesignated from 89.609–96 ..... **56996**
(d) revised **57021**
89.610–96 Redesignated as 89.610 ..... **56996**
89.610 Redesignated from 89.610–96 ..... **56996**
(b)(1) revised **57021**
89.611–96 Redesignated as 89.611 ..... **56996**
89.611 Redesignated from 89.611–96 ..... **56996**
(g) revised **57022**
89.612–96 Redesignated as 89.612 ..... **56996**
89.612 Redesignated from 89.612–96 ..... **56996**
89.613–96 Redesignated as 89.613 ..... **56996**
89.613 Redesignated from 89.613–96 ..... **56996**
89.903 (b) revised **57022**
89.905 (f) revised **57022**
89.906 (a)(3) introductory text, (iii)(D) and (b) revised **57022**
89.911 Revised **57022**
89.1003 (a)(3), (5), (6), (b)(4) and (7) revised **57022**
89.1007 (c) revised **57023**
96 Added **57514**
96.42 (f) amended **71225**
123.1 (a) and (c) revised **45122**
123.2 Revised **45122**
123.22 (f) removed; (g) redesignated as (f) **45122**
123.24 (d)(8) removed **45122**
123.25 (a) introductory text and (37) revised **45122**
123.26 (e)(5) revised **45122**
123.42 Introductory text revised **45122**
123.44 (d)(1), (2), (e) and (j) revised **45122**
123.45 (e) removed **45123**
123.62 (b)(3) and (c) revised **45123**
123.63 (a) introductory text and (4) revised **45123**
123.64 (a) introductory text and (b)(1) revised **45123**
136.3 (e) corrected **38756**
Table 1C corrected; CFR correction **44146**
(a) introductory text and (b) introductory text revised; Table 1F and (b)(40) added **50423**
(b)(41) added; (e) Table II amended 4978
141 Authority citation revised **43846**, **44526**
141.2 Amended **69463**, **69515**
141.4 (a) revised **43846**
141.12 Revised **69463**
141.21 (f)(3) revised; (f)(5), (6)(i), (ii) and (8) amended **47107**
Regulation at 63 FR 47107 withdrawn **72200**
141.23 (a)(4)(iii), (k)(1) table, (2), (3)(i), (ii) introductory text revised **47107**
Regulation at 63 FR 47107 withdrawn **72200**
141.24 (e), (f)(14)(ii), (17)(i)(A), (B), (ii)(A), (h)(10)(ii), (13) introductory text, (i), (19)(i)(A) and (B) introductory text revised **47110**
Regulation at 63 FR 47110 withdrawn **72200**
141.30 (d) and (f) amended; (h) added **69464**
141.32 (a) heading, (1)(iii) introductory text and (c) amended; (a)(1)(iii)(E) and (e)(76) through (81) added **69464**
(e)(10) revised **69515**
141.40 (g) and (n)(11) introductory text revised; (n)(11) table amended **47112**
Regulation at 63 FR 47112 withdrawn **72200**
(l) amended 1498
141.50—141.54 (Subpart F) Heading revised **69465**
141.52 Table amended **69515**
141.53 Added **69465**
141.54 Added **69465**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

141.60—141.65 (Subpart G) Heading revised **69465**
141.64 Added **69465**
141.65 Added **69465**
141.70 (d) added **69516**
141.71 (b)(6) revised **69516**
141.73 (a)(3) added; (d) revised **69516**
141.74 (a) introductory text and (2) amended; (a)(1) table revised **47113**
Regulation at 63 FR 47113 withdrawn **72200**
141.89 (a)(1)(i) and (ii)(B) amended **47113**
Regulation at 63 FR 47113 withdrawn **72200**
141.130—141.135 (Subpart L) Added **69466**
141.151—141.155 (Subpart O) Added (OMB numbers pending) **44526**
141.153 (d)(4)(v)(C) amended **69516**
141.154 (e) added **69475**
141.170—141.175 (Subpart P) Added **69516**
142 Authority citation revised **44535**
142.10 (d) revised **43846**
(b)(6)(vii) added **44535**
142.14 (d)(12) through (16) added **69475**
(a)(3), (4)(i) and (ii) introductory text revised; (a)(7) added **69519**
142.15 (c)(5) added **69520**
142.16 (f) added **44535**
(h) added **69475**
(b)(1) redesignated as (b)(1)(i); (b)(1)(ii), (3) and (g) added **69520**
142.20 Revised **43847**
142.40—142.46 (Subpart E) Heading revised **43847**
142.42 (c) revised **43847**
142.50 Revised **43847**
142.53 (c)(1) revised **43848**
142.55 (b) revised; (c) removed **43848**
142.56 Revised **43848**
142.72 Introductory text revised **44535**
142.78 (b) revised **44536, 71374**
142.201—142.208 (Subpart J) Removed **48077**
142.301—142.313 (Subpart K) Added **43848**
143.4 (b) table revised **47113**
Regulation at 63 FR 47113 withdrawn **72200**
148.18 (i) added **42184**
Regulation at 63 FR 35149 eff. date corrected to 11–4–98 ..... **42581**
159.159 (a) introductory text revised **41193**
180.2 (a) revised **57066**
180.103 (a) table amended **57072**
180.106 (a) table amended **57072**
180.110 (a) table amended **57072**
180.114 Revised **57072**
180.115 Removed **57066**
180.118 Removed **57066**
180.121 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57073**
180.145 (a)(1) table amended **57073**
Regulation at 63 FR 57073 withdrawn in part 4311
180.148 Removed **57066**
180.158 Removed **57066**
180.159 Removed **57066**
180.162 Removed **57066**
180.170 Removed **57073**
180.171 Removed **57066**
180.173 (a) table revised **57073**
180.175 (b) table amended **53817**
180.176 Existing text designated as (a); (b) added **54369**
180.178 Revised **57073**
180.181 Existing text designated as (a); (a) heading added; table revised **57073**
180.183 (a) table amended **57073**
180.188 Removed **57073**
180.198 Heading and table revised **57073**
180.200 (a)(1) revised **57073**
180.204 Added **70030**
180.205 (b) table amended **54360**
180.206 (a) table amended **57074**
180.207 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.209 (a) table amended **57074**
180.211 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.213 (a)(1) table revised **57074**
180.214 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.215 Existing text designated as (a)(1) and (2); (a) heading added; (a)(1) table amended **57074**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

180.217 Existing text designated as (a) and revised **57074**
180.219 Removed **57066**
180.220 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.222 (a) table amended **57075**
180.227 (a) heading and (1) designation added; (b) and (c) redesignated as (a)(2) and (3); new (a)(1) and (2) amended; new (a)(3) revised 789
180.229 Existing text designated as (a); (a) heading added; (a) table amended **57075**
180.231 Existing text designated as (a); (a) heading added **57075**
180.235 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.239 Table amended **57066**
180.242 (a)(1) table amended **57075**
(b) table amended **66996**
180.254 (a) table amended **57075**
180.258 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.261 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.262 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.263 Table amended **57066**
Table corrected 3428
180.284 Revised **45182**
(b) table amended **67799**
180.292 Existing designated as (a); (a)(2) and (3) redesignated from 185.4850 and 186.4850; (d) added 425
180.293 (b) amended **42249**
180.297 Existing text designated as (a); (a) heading added; (a) table amended **57075**
180.298 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.306 Removed **57066**
180.314 Table amended **57075**
180.317 Heading and (a) introductory text revised; (b) redesignated as (c); (a) heading and new (b) added **49487**
(b) table amended 6532
180.319 Table amended **57066**
Revised **57076**
180.320 Removed **57076**
180.321 Removed **57066**
180.325 Table amended **57066**
180.326 Removed **57066**
180.330 (a) table amended **57076**
180.341 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.346 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.347 Removed **57066**
180.349 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57076**
180.350 (a) heading added; (a) table amended; (b) removed **57076**
180.353 (b) table revised **49472**
180.357 Removed **57066**
180.358 Removed **57076**
180.364 (a)(1) designation and (2) added **57066**
180.366 Removed **57076**
180.368 (b) table amended **48594, 66437**
180.370 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.374 Removed **57077**
180.384 Existing text designated as (a); (b) added **51847**
180.385 Existing text designated as (a); (a) heading added; (a) table amended **57077**
180.386 Removed **57077**
180.387 Removed **57077**
180.395 (b) table amended **65073**
180.410 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57077**
(a) table corrected 5191
180.412 (a) table and (c) table amended **54073**
180.414 (b) amended **54362**
180.416 Existing text designated as (a); (a) heading added; (a) table amended **57077**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

(a) table corrected 5191
180.417 (b) amended **45406**
180.418 (a)(1) table amended **48579**
180.434 (b) table amended 3002
180.435 (a) existing text designated as (a)(1); (a)(2) added **45414**
180.438 (b) table amended 4590
180.442 (b) table amended **37286, 53820, 69205**
180.443 (b) table amended **37295, 38483, 49479, 66999**
180.448 (b) table amended **54599**
(a) revised **55547**
180.449 (b) table amended **42248, 53837**
180.452 (b) table amended **66458**
180.459 (a) heading added; (b) table transferred to (a) table **44152**
(a) table amended **66449**
180.462 (a) table amended; (b) removed **53844**
180.463 Existing text designated as (a)(1); (b) added 6548
(a)(2) redesignated from 180.1860 6549
180.466 (b) revised **48116**
(b) table amended 3009
180.472 (a) table and (d) table amended **49852**
(b) amended **53829, 66447**
(a) table and (b) table corrected **66459**
(b) table amended 3044
180.474 (b)(1) table and (2) table amended **39034**
(b)(1) amended **53815**
(b)(1) table amended **66456**
(a)(1) designation and (2) added 1138
180.480 (b) table amended 4584
(a)(1) revised 7801
180.482 (b) table amended **52174, 65087, 70035**
(b) table amended 3431, 6542
180.484 (a) heading amended; (a) existing text designated as (a)(1); (a)(2) and (d) heading added **42256**
180.485 Revised **53835**
180.489 Revised **48607**
180.493 (a) revised **54593**
180.494 (b) revised **53301**
180.495 (a) revised **43637**
180.503 (b) table amended **66464**
(e) added 6539
180.507 (a)(1) designation and (2) added **55540**
(b) table amended **65084**
(b) table amended 4577
180.509 (b) table amended **48124**
180.511 (b) table amended **41727**
180.515 (a) table amended **42246**
Revised **52180**
(b) revised **65078**
180.516 (a) revised **53826**
180.517 (a) introductory text revised; (a) table amended **38495**
180.527 Amended **50791**
180.533 (a) table amended **48615**
180.534 Added **36372**
180.535 Added **41734**
Revised **52169**
180.536 Added **71026**
180.537 Amended **50784**
180.548 Added **69199**
180.549 Added 4308
180.1001 (d) table amended **43088, 53294**
(c) table and (e) table amended **48113, 51840**
(b)(1) revised; (b)(6) and (9) removed; (b)(7), (8) and (10) redesignated as (b)(6), (7) and (8); (d) table amended **57066**
(b)(1) amended **69208**
(b)(1) amended 44
180.1010 Removed **57067**
180.1018 Removed **57067**
180.1020 (b) table amended **35846**
180.1030 Removed **57067**
180.1031 Removed **57067**
180.1034 Removed **57067**
180.1055 Removed **57067**
180.1059 Removed **57067**
180.1061 Removed **57067**
180.1079 Removed **57067**
180.1081 Removed **57067**
180.1085 Removed **57067**
180.1156 Revised 7804
180.1164 (d) added **67001**
180.1165 Added **39521**
180.1178 Added 8526
180.1187 Amended **51303**
180.1193 Added **43085**
180.1198 Added **37288**
180.1200 Added **38498**
180.1201 Added **49469**
180.1202 Added **48597**
180.1860 Redsignated in part as 180.463(a)(2); removed 6549
185.1650 Removed **57067**
185.3385 (a) table redesignated in part as 180.484 (a)(1) table **42257**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

185.3600 Removed **57067**
185.4250 Removed **57067**
185.4300 Removed **57067**
185.4800 Removed **57067**
185.4850 Redesignated as 180.292(a)(2) 425
185.5000 Correctly revised; CFR correction 3045
185.5375 Removed **48607**
186.450 Removed **57067**
186.850 Removed **57067**
186.1650 Removed **57067**
186.2275 (a) table amended **51848**
186.2325 Removed **57077**
186.2450 Removed **57067**
186.3000 Removed **57077**
186.4850 Redesignated as 180.292(a)(2) 425
239 Added **57040**
239.13 (a), (b), (c), (f) and (g)(3) revised 4315
257.5 Amended **57044**
258.2 Amended **57044**
260.10 Amended **65937**
261 Identification and listing of hazardous waste solvents **64372**
261.3 (a)(2)(iv)(C) and (c)(2)(ii)(B) revised; (c)(2)(ii)(E) added **42184**
Regulation at 63 FR 42184 eff. date in part corrected to 12–8–98 ..... **54355**
261.4 (a)(12) revised; (a)(18) and (19) added **42184**
Regulation at 63 FR 42184 eff. date corrected to 12–8–98 ..... **54355**
(g) added **65937**
(b)(15) added 6814
261.5 (j) revised **37782**
261.6 (a)(3)(iv)(C) amended; (a)(3)(v) removed **42185**
Regulation at 63 FR 42185 eff. date in part corrected to 12–8–98 ..... **54355**
261.31 (a) table amended **42185**
261.32 Table amended **42185**
261 Appendix VII amended **42186**
Appendix IX amended ... 3872, 4594, 9443
262.34 (a)(1)(i) and (ii) revised 3388
264.1 (j) added **65938**
264.73 (b)(17) added **65938**
264.90 (e) and (f) added **56733**
264.101 (d) added **65938**
264.110 (c) added **56733**
264.112 (b)(8) and (c)(2)(iv) added **56733**
264.118 (b)(4) and (d)(2)(iv) added **56733**
264.140 (d) added **56733**
264.552 (a) revised **65939**
264.553 (a) revised **65939**
264.554 Added **65939**
264.1031 Amended 3389
264.1080 (f) and (g) added **49392**
(f)(2)(ii)(B)(*1*) revised **53847**
264.1080 (b)(5) revised 3389
264.1083 (a)(1)(i), (ii), (b)(1)(i) and (ii) added 3389
264.1084 (h)(3) revised 3389
264.1086 (e)(6) added 3389
265.1 (b) amended **65940**
265.90 (f) added **56734**
265.110 (c) and (d) added **56734**
265.112 (b)(8) and (d)(1)(iv) added **56734**
265.118 (c)(4), (5) and (d)(1)(iii) added **56734**
265.121 Added **56734**
265.140 (d) added **56734**
265.1080 (f) and (g) added **49399**
(f)(2)(ii)(B)(*1*) revised **53847**
(b)(5) revised 3390
265.1084 (a)(1)(i), (ii), (3)(ii)(D), (b)(1)(i), (ii) and (3)(ii)(D) added; (a)(3)(ii)(B), (iii) introductory text, (b)(3)(ii)(B) and (iii) introductory text revised 3390
265.1085 (h)(3) revised 3391
265.1087 (e)(6) added 3391
266 Authority citation revised **42186**
266.80 Revised **71229**
266.100 (b)(3) revised **42186**
Regulation at 63 FR 42186 eff. date corrected to 12–8–98 ..... **54355**
261 Appendix IX amended 4594
268.2 (c) revised **65940**
268.33 Regulation at 63 FR 35149 eff. date corrected to 11–4–98 ..... **42581**
268.34 (b) through (e) redesignated as (c) through (f); new (b) added **48127**
268.35 Added **42186**
268.39 (c) revised **51264**
268.40 Table amended **42187, 51265**
Regulation at 63 FR 24625 and 35149 withdrawn; regulation at 63 FR 28641 eff. date corrected to 11–4–98 ..... **42582**
(i) added **46334**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

(g) and table amended; (i) added **47415**
268.48 Regulation at 63 FR 24626 withdrawn; regulation at 63 FR 28739 eff. date corrected to 11–4–98 ..... **42582**
(a) table amended **47417**
268.50 (g) added **65940**
270.1 (c) introductory text revised; (c)(7) added **56735**
270.2 Amended **65941**
270.11 (d) revised **65941**
270.14 (a) amended **56735**
270.28 Added **56735**
270.42 Appendix I amended **65941**
270.68 Added **65941**
270.73 (a) revised **65941**
270.79—270.230 (Subpart H) Added **65941**
271 State hazardous waste management program authorizations **36587, 44152, 44795, 49852, 50528, 50531, 52180, 56086, 56830, 56834, 57353, 57605, 57912, 67800**
State hazardous waste management program authorizations 4596, 9278
271.1 (j) Tables 1 and 2 amended **42188, 51267**
Regulation at 63 FR 35150 eff. date corrected to 11–4–98 ..... **42582**
(j) Table 1 amended **47418, 65947**
271.16 (e) added **56735**
271.21 (h) added **65947**
272 State hazardous waste management program authorizations 2144
273.6 Amended **71229**
279.10 (i) revised **37782**
279.74 (b) revised **37782**
281 Underground storage tank program authorizations **51528, 53793**
282.78 Added **38500**
282 Appendix A amended **38500**
300 Appendix B amended ..... **36862, 37069, 37782, 40188, 48449, 49860, 51530, 51853, 53848, 57608, 71597—71599**
Appendix B amended 2948, 6814
302.4 Table amended **42189, 69168**
302.6 (b)(1)(i) and (ii) revised; (b)(1)(iii) added **42189**
370.20 Revised 7047
372 Clarification **52183**
406.22 Correctly revised; CFR correction **64417**
430.01 (i) corrected; (p) correctly revised **42239**
430.24 (b)(4)(i) and (d) corrected; (b)(4)(ii)(A) correctly revised **42239**
430.25 (b) table corrected **42239**
430.26 Introductory text corrected; (a)(2) introductory text correctly revised **42239**
430.27 Introductory text and (a)(2) correctly revised **42239**
430.56 Introductory text corrected **42239**
(a)(1) table, (2)(ii) table and (3)(ii) corrected **42240**
430.57 (a)(2)(ii) and (3)(ii) introductory text correctly revised **42240**
439 Authority citation revised **50424**
439.0—439.2 Undesignated center heading revised **50424**
439.0 Revised **50424**
439.1 Revised **50425**
439.3 Added **50425**
439.4 Added **50425**
439.10 Revised **50426**
439.11 Revised **50426**
439.12 Revised **50426**
439.13 Revised **50426**
439.14 Revised **50426**
439.15 Revised **50427**
439.16 Revised **50428**
439.17 Revised **50429**
439.20 Revised **50430**
439.21 Revised **50430**
439.22 Revised **50430**
439.23 Revised **50430**
439.24 Revised **50431**
439.25 Revised **50431**
439.26 Revised **50431**
439.27 Revised **50431**
439.30 Revised **50431**
439.31 Revised **50431**
439.32 Revised **50431**
439.33 Revised **50432**
439.34 Revised **50432**
439.35 Revised **50433**
439.36 Revised **50434**
439.37 Revised **50434**
439.40 Revised **50435**
439.41 Revised **50435**
439.42 Revised **50435**
439.43 Revised **50436**
439.44 Revised **50436**
439.45 Revised **50436**
439.46 Revised **50436**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

439.47 Revised 50436
439.50 Revised 50436
439.51 Revised 50436
439.52 Revised 50436
439.53 Removed 50437
439.54 Removed 50437
439.55 Removed 50437
439.56 Removed 50437
439.57 Removed 50437
439 Appendix A added 50437
455 Tables 2 and 3 amended 39443
501.1 (b) and (d) revised; (m) added 45123
501.2 Amended 45124
501.12 (b), (d), (f)(1) introductory text, (iv), (v) and (2) revised; (f)(3) removed 45124
501.14 (a), (b)(1)(i), (2), (3) and (c) revised 45124
501.15 (a), (b) introductory text, (10)(i), (13), (14), (d) introductory text, (1) and (4) through (8) revised; new (d)(1)(i)(B) stayed 45125
501.17 (a)(3)(i), (ii), (iii) and (b)(1) revised 45127
501.21 Revised 45127
501.32 (a) revised 45127
710.33 (b) revised; (c) added 71600
710.39 Revised 45953
721.176 (a)(2)(i) amd (ii) revised 45955
721.305 Added 44574
721.435 Added 44574
721.450 Added 44574
721.526 Removed 48129
721.528 Removed 48129
721.555 Added 65709
721.558 Added 44575
721.567 Removed 48129
721.630 Added 44575
721.637 Removed 48129
721.658 Removed 48129
721.723 Removed 64876
721.987 Added 44575
721.988 Added 44575
721.1525 Removed 64876
721.1580 Added 44575
721.1710 Added 44575
721.1734 Added 44576
721.1737 Removed 64876
721.1740 Removed 64876
721.1790 Revised 45955
721.2077 Added 65710
721.2078 Added 44576
721.2079 Added 44576
721.2081 Added 44576
721.2082 Removed 48129
721.2083 Added 44576
721.2480 Added 44577
721.2485 Added 44577
721.2532 Added 44577
721.2570 Added 44577
721.2580 Added 44577
721.2585 Added 44577
721.3031 Added 44578
721.3032 Added 44578
721.3635 Added 44578
721.4097 Added 44578
721.4098 Added 44578
721.5290 Added 44578
721.5356 Added 44579
721.5360 Added 44579
721.5460 Added 65710
721.5548 Added 44579
721.5560 Added 44579
721.5725 Removed 48129
721.5740 (a) and (b)(1) revised 45956
721.5775 Added 44579
721.5965 Added 44580
721.6175 Added 44580
721.6176 Added 44580
721.6197 Removed 48129
721.6498 Added 44580
721.7285 Added 44581
721.7286 Added 44581
721.7360 Removed 64876
721.7785 Added 44581
721.8153 Added 44581
721.8450 (a)(2)(i) and (ii) revised 45956
721.8660 Added 44581
721.9490 Added 44581
721.9516 Added 44581
721.9517 Added 44581
721.9595 Added 44581
721.9661 Added 44581
721.9663 Added 44581
721.9685 Added 44581
721.9719 Added 44581
(a)(2)(i) corrected 62956
721.9800 (a)(2)(i) revised 45956
721.9969 Added 44581
721.9973 Added 44581
745.223 Amended 46674
Regulation at 63 FR 46674 confirmed 55547
745.225 (b)(4) added 46674
Regulation at 63 FR 46674 confirmed 55547
745.226 (a)(6) added 46674
Regulation at 63 FR 46674 confirmed 55547

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 40 Chapter I—Con.

745.238 Added **46674**
Regulation at 63 FR 46674 confirmed **55547**
745.330 Revised **41432**
763 Waiver **57251**

Proposed Rules:

1—799 (Ch. I) **40683**
9 ..... **66081**
51 ..... **45032, 46952**
..... 3890
52 ..... **35895, 35896, 36652, 36870, 37307, 38139, 39258, 39791—39793, 40073, 40872, 41220, 41221, 41756, 42308, 42782, 42783, 42784, 42786, 43654, 43897, 44192, 44208, 44211, 44213, 44417, 44820, 44822, 45032, 45443, 45779, 46209, 46732, 46733, 46953, 46954, 47216, 47217, 47458, 47459, 49053, 49056, 49058, 49517, 50180, 50823, 50824, 51325, 51882, 52213, 53350, 54089, 54645, 55812, 55983, 56127, 56292, 56394, 56590, 56881, 57086, 58678, 59754, 59923, 59924, 60256, 63428, 64228, 65567, 66776, 67439, 67638, 67639, 67817, 67818, 68415, 69589, 69594, 70086, 70359, 70709, 71807, 71815, 72222, 72223** 67, 464, 465, 818, 820, 1003, 1573, 1770, 2165, 2416, 2455, 2610, 2611, 3263, 3271, 3272, 3465, 3890, 3891, 3896, 3901, 3906, 3908, 4379, 4605, 5015, 6008, 6292, 6293, 6827, 7308, 7840, 8034, 8532, 8765, 9289, 9290, 9460
55 ..... **41991**
58 ..... **67818**
..... 3056
60 ..... **45779, 50824, 57748, 67988**
..... 2460, 5728
61 ..... **57748, 66083**
..... 2460
62 ..... **36871, 40073, 40074, 40386, 41508, 42310, 43127, 45208, 47459, 54090, 59928, 63429, 64023, 64667, 68418, 69364, 70086**
..... 6294
63 ..... **38544, 39543, 41508, 45036, 48890, 54646, 55178, 55812, 56707, 57748, 64024, 64668, 65725, 66083, 66084, 68833, 69251, 71408**
.....1780, 1880, 2460, 2611, 4379, 5251, 6946, 7149
65 ..... **57748**
..... 2460
68 ..... **55983**
70 ..... **40053, 40951**
..... 8533
72 ..... **41358, 45037**
73 ..... **41358, 45037**
76 ..... **45032**
79 ..... **63807**
..... 6294
80 ..... **49317, 63807**
81 ..... **39258, 39793, 44214, 53350, 57086, 58678, 64437, 69598**
..... 1003, 3272, 3908
82 ..... **41652, 42791, 64437**
..... 3272, 8038, 8043, 9290
83 6008
86 ..... **38767, 39654, 48464, 48664**
90 ..... **66081**
..... 5251
91 5251
94 ..... **68508**
96 ..... **45032**
97 ..... **52213, 56292**
..... 2416
98 ..... **52213, 56394**
..... 2416
131 ..... **36742**
135 ..... **48078**
136 ..... **36810**
141 ..... **37797, 41134, 44214, 47115, 69256**
..... 1499, 2538
142 ..... **37797, 47115, 69256**
144 ..... **40586, 51882**
145 ..... **40586, 51882**
146 ..... **40586, 51882**
152 ..... **67834**
156 ..... **67834**
165 6588
180 ..... **37307, 40239, 48664, 55565, 56882**
..... 1157, 8273
185 ..... **55565**
239 4379
247 ..... **45558**
260 ..... **66101, 70233**
..... 7158
261 ..... **37797, 38139, 42190, 66101, 70233, 70360**
..... 7158, 8278
262 ..... **66101, 67562, 71411**
..... 4818
264 ..... **37309, 66101, 67562, 71411**
265 ..... **37309, 67562, 71411**
268 ..... **41536, 56886, 66101**
269 ..... **66101**
270 ..... **67562, 71411**
271 ..... **36652, 44218, 49884, 50545, 52214, 56128, 56891, 57996, 66101**
..... 4605, 9110, 9295
272 2166

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

281 ..... **37309, 40683**
300 ..... **37085, 39545, 40247, 40685, 40687, 43898, 43900, 44218, 45780, 49321, 51882, 53005, 55985, 55986, 64668, 65161, 67834, 68712, 69032, 69601, 71052**
..... 2950, 7564
302 ..... **69169**
..... 1780
372 ..... 688, 8766, 8769, 8774
435 5488
437 2280
441 ..... **71054**
442 ..... **50545**
455 ..... **39444**
721 ..... **48157, 49518, 57089**
..... 4605
745 ..... **39262, 46734, 52662, 57636, 59754, 64670, 70087, 70190**
..... 2460, 5258, 7159
799 ..... **54646, 54649**
1700 (Ch. VII) **45298**

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-999)

60-30 Regulation at 45 FR 86251 withdrawn in part **59642**
60-250 Regulation at 45 FR 86259 withdrawn; revised **59642**
60-741 Appendix C amended **59659**

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101-11 Regulation at 61 FR 41001 eff. date extended to 12-31-99 2858
101-20.105-3 Revised **35846**
101-37.1100—101-37.1109 (Subpart 101-37.11) Revised **43638**
101-43.000 Revised **41433**
101-43.600—101-43.603 (Subpart 101-43.6) Removed **41433**
101-43.4801 (d) revised; (e) amended **40058**
(c) removed; (d) and (e) redesignated as (c) and (d); new (c) table amended **41433**
Regulation at 63 FR 40058 withdrawn **65710**
101-44.400—101-44.403 (Subpart 101-44.4) Revised **56090**
101-47.103-4 Removed 5615
101-47.203-5 (b) and (c) revised 5615
101-47.204-1 (a) amended; (b) and (c) revised 5616
101-47.303-2 (e), (f) and (g) revised 5616
101-47.308-5 Removed 5617
101-47.308-6 Revised 5617
101-47.308-9 Heading, (a) through (g), (j) and (k) revised 5618
101-47.4905 Amended 5619
101-47.4906 Amended 5619
101-42—101-49 (Subchapter H Appendix) Temporary Reg. H-29 eff. date extended to 1-15-00 1139
105-60 Revised **56839**

Chapter 300—General (Parts 300-1—300-70)

300-2.22 Table revised 2433
300-3.1 Amended **66474**
Amended 2434

Chapter 301—Travel Allowances (Parts 301-1—301-99)

301-3 Removed **63419**
301-10.131—301-10.143 Undesignated center heading and sections added **63419**
301-10.303 Amended **47438**
301-11.18 Table revised **66475**
301-11.27 Revised **66475**
301-11.30 Revised **66475**
301-11.31 Added **66475**
301-12.1 Revised **66475**
Chapter 301 Appendix A revised **66475**
Appendix A amended 6549
Appendix A correctly revised 6550

Chapter 303—Payment of Expenses Connected with the Death of Certain Employees (Parts 303-1—303-2)

303-1 Removed 2434
303-2 Removed 2434
303-70 Added 2434

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 41

Proposed Rules:

101–25 6589
101–31 6589
101–35 ..... **66102**
101–38 6589
101–42 ..... **68136**
101–43 ..... **68136, 71686**
101–44 ..... **42310**
101–47 ..... **42792**
Ch. 300 ..... **45781**
300–80 6589
Ch. 303 ..... **45781**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

50.401 Revised 66062
50.402 Revised 66062
50.403 Amended 66062
50.404 (a) introductory text revised; (b) amended 66062
50.405 Amended 66063
50.406 (a), (c), (d) and (g) revised; (e) amended 66063
68a Added 58312

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

400.200 Corrected 52611
Amended 68690
402 Added 68690
403 Technical correction 52610
405 Technical correction 52614
405.400—405.455 (Subpart D) Added 58901
405.517 Revised 58905
405.520 Added 58905
409 Comment period reopening 65560
409.10 (a)(1) through (6) amended; (a)(8) added 3648
409.20 (a) introductory text and (1) through (6) amended; (a)(8) added 3648
410 Technical correction 52610
Comment period reopening 65560
410.1 (a) amended 58905
410.32 (d)(7) correctly designated 53307
(a)(3) amended 58906
410.40 Revised 3648
410.41 Added 3649
410.59 Added 58906
410.60 Revised 58906
410.61 Heading and (a) through (d) revised 58907
410.62 Heading and (a)(3) revised; (d) added 58907
410.74 Added 58907
410.75 Added 58908
410.76 Added 58908
410.77 Added 58909
410.78 Added 58909
410.150 (b)(15) and (16) added 58910
410.152 (a)(1)(v) revised 58910
411 Technical correction 52610
Comment period reopening 65560
412 Technical correction 52614
Hospital wage data revisions 64191
Notice 9378
413 Technical correction 52614
Comment period reopening 65560
413.125 Existing text designated as (a); (b) added 58910
413.333 Corrected 53307
414.1 Amended 58910
414.20—414.62 Designated as Subpart B and heading added 58910
414.22 Introductory text revised; (b)(5) added 58910
414.32 Heading and (b) revised 58911
414.34 Heading revised; (a)(2)(iii) added 58911
414.52 Heading and introductory text revised; (d) added 58911
414.56 Revised 58911
414.65 Added 58911
415.110 Revised 58912
417.600 Revised 52611
417.602 Reinstated 52611
417.604 Reinstated 52611
417.605 Reinstated 52611
417.606 Reinstated 52611
417.608 Reinstated 52611
417.609 Reinstated 52611
417.610 Reinstated 52611
417.612 Reinstated 52611
417.614 Reinstated 52611
417.616 Reinstated 52611
417.617 Reinstated 52611
417.618 Reinstated 52611
417.620 Reinstated 52611
417.622 Reinstated 52611
417.624 Reinstated 52611
417.626 Reinstated 52611
417.630 Reinstated 52611
417.632 Reinstated 52611
417.634 Reinstated 52611
417.636 Reinstated 52611
417.638 Reinstated 52611
417.800 Corrected 52611
422.50—422.80 (Subpart B) Heading corrected 52611
422.50 (a) introductory text and (1) corrected 52611
422.54 (d)(2)(i) corrected 52611
422.56 (d) corrected 52612
422.60 (a)(1), (b)(1), (c)(1) and (e)(4)(i) corrected; (f) correctly added 52612

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 42 Chapter IV—Con.

(e)(4)(i) corrected **54526**
(a)(1) revised 7980
422.62 (b) introductory text, (c), (d) heading, (1) and (2) introductory text corrected **52612**
422.66 (f) correctly added **52612**
422.74 (b)(3) corrected **52612**
422.80 (c)(3), (d), (e)(1)(iv), (3)(i) and (f) corrected **52612**
422.110 (c) corrected **52612**
(c) revised 7980
422.111 (d) revised 7980
422.112 Correctly revised **52612**
Revised 7980
422.202 Revised 7981
422.204 (c) revised 7982
422.250 (b) correctly revised **52612**
422.268 (b) corrected **52613**
422.308 (b) correctly designated as (b)(1); (b)(2) correctly added **52613**
422.310 (c)(4) corrected **52614**
422.502 (a)(2), (3)(i) and (4) corrected; (m) correctly designated as (l)(4) **52614**
(b)(1) revised 7982
422.550 (b)(1) corrected **52614**
422.608 Heading corrected **52614**
422.612 (a)(1), (b) heading and introductory text corrected **52614**
422.616 (a) corrected **52614**
422.620 (a) corrected **52614**
422.622 (c)(1)(i) corrected **52614**
422.752 (a)(6) corrected **52614**
424 Comment period reopening **65560**
424.20 Corrected **53307**
424.24 (a)(2) correctly revised **53307**
(c) introductory text, (1)(ii), (iii), (3)(i), (ii), (4), (f)(2) and (3) revised **58912**
424.124 (c)(2) amended 3649
440.160 Revised **64198**
441.151 (b) and (c) revised; (d) added **64198**
483 Comment period reopening **65560**
483.20 (b)(2) introductory text revised **53307**
484.11 Added; interim 3763
484.18 (c) revised 3784
484.20 Added; interim 3763
484.55 Added 3784
485.705 Revised **58912**
485.711 (b)(3) revised **58913**
488 Authority citation revised 3763
488.68 Added; interim 3763
489 Comment period reopening **65560**
493.1202 Heading amended **55034**
493.1203 Heading amended **55034**
493.1443 (b)(3)(ii) introductory text and (C) amended **55034**

Chapter V—Office of Inspector General–Health Care, Department of Health and Human Services (Parts 1000—1999)

1001.102 (b)(4) revised **57918**
1001.2001 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added **57918**

Proposed Rules:

5 ..... **58679**
51c **58679**
63 ..... **58336**
400—499 (Ch. IV) 69
405 3474
409 ..... **63429**
..... 1784
410 ..... **63429**
..... 1784, 6827
411 ..... **63429**
..... 1784
412 ..... **63429**
..... 1784
413 ..... **63429**
..... 1784
414 6827
416 ..... **52663, 63430**
..... 1785
419 ..... **63429**
..... 1784
424 6827
476 6827
488 ..... **52663, 63430**
..... 1785
489 ..... **63429**
..... 1784
498 ..... **63429**
..... 1784, 6827
1001 ..... **68223**
1003 ..... **63429**
..... 1784

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2200.0–7 (b) revised; eff. 11–2–98 ..... **52617**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

2210 Removed; eff. 11-2-98 ..... **52617**
2240 Removed; eff. 11-2-98 ..... **52617**
2250 Removed; eff. 11-2-98 ..... **52617**
2270 Removed; eff. 11-2-98 ..... **52617**
3100 Authority citation revised **52952**
3100.4 Added; eff. 11-2-98 ..... **52952**
3150 Authority citation revised **52952**
3152.6 (b) revised **52952**
3160 Authority citation revised **52952**
3162.8 Removed; eff. 11-2-98 ..... **52952**
3180 Authority citation revised **52952**
3181.2 Amended; eff. 11-2-98 ..... **52953**
3195 Regulation at 63 FR 40178 confirmed **66762**
3200 Authority citation revised **52953**
3255.13 Added; eff. 11-2-98 ..... **52953**
3255.14 Added; eff. 11-2-98 ..... **52953**
3255.15 Added; eff. 11-2-98 ..... **52953**
3500 Authority citation revised **52953**
3500.5 Revised; eff. 11-2-98 ..... **52953**
3500.5-1 Added; eff. 11-2-98 ..... **52953**
3500.5-2 Added; eff. 11-2-98 ..... **52953**
3510 Authority citation revised **52954**
3514.5 Revised; eff. 11-2-98 ..... **52954**
3520 Authority citation revised **52954**
3524.5 Revised; eff. 11-2-98 ..... **52954**
3530 Authority citation revised **52954**
3534.5 Revised; eff. 11-2-98 ..... **52954**
3540 Authority citation revised **52954**
3544.5 Revised; eff. 11-2-98 ..... **52954**
3550 Authority citation revised **52954**
3554.5 Revised; eff. 11-2-98 ..... **52954**
3580 Authority citation revised **52954**
3585.5-9 Revised; eff. 11-2-98 ..... **52954**
3590 Authority citation revised **52954**
3590.1 Removed; eff. 11-2-98 ..... **52954**
3600 Authority citation added **52954**
3600.0-8 Added; eff. 11-2-98 ..... **52954**
3602.2 (a) amended; eff. 11-2-98 ..... **52954**
3800 Authority citation revised **52954**
3802.6 Revised; eff. 11-2-98 ..... **52954**
3860 Authority citation revised **52955**
3862.9 Added; eff. 11-2-98 ..... **52955**
4300 Revised **55550**

Proposed Rules:

4 ..... 1930, 3262
39 ..... **67834**
428 ..... **64154**
..... 2870
3100 ..... **66776, 66840**
..... 2166
3106 ..... **66776**
..... 2166
3130 ..... **66776, 66840**
3160 ..... **66776, 66840**
3110 ..... **66840**
3120 ..... **66840**
3130 2166
3140 ..... **66840**
3150 ..... **66840**
3160 2166
3170 ..... **66840**
3180 ..... **66840**
3800 6422

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

64.6 Table amended ... **54370, 54372, 55957, 59236, 63797, 70036, 70038**
Table amended 4979, 7505
65.4 Flood elevation determinations **54374, 54377, 55035, 58316, 58319, 64418, 64419, 67002, 67004**
Flood elevation determinations 1522, 3045, 7107, 7109, 7506
67.11 Flood elevation determinations **54378, 55038, 58322, 64421, 67005**
Flood elevation determinations 1523, 3045, 3047, 7110
206.200 (b) revised; interim **64425**
206.201 (i) and (j) revised; interim **64425**
206.202 Revised; interim **64425**
206.207 Reinstated; CFR correction **71026**
206.228 (a)(2)(i) revised; interim **64426**
354 Revised; interim **69003**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 44

Proposed Rules:

61.....3909
62.....**63431, 63432**
67.....**54427, 55072, 58338, 64441, 67026**
.....1573, 3056
77.....8048
80.....8048
81.....8048
82.....8048
83.....8048
152.....8048
206.....3910
207.....8048
220.....8048
221.....8048
222.....8048
301.....8048
303.....8048
306.....8048
308.....8048
320.....8048
324.....8048
325.....8048
328.....8048
333.....8048
336.....8048

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Service (Parts 1—199)

144.101 Revised; interim.....**57558**
144.102 (b) revised; interim.....**57558**
146.101 (a) revised; (b)(2), (3) and (4) redesignated as (b)(3), (4) and (5); new (b)(2) added; interim.....**57559**
146.130 Added; interim.....**57559**
148.101 Revised; interim.....**57561**
148.102 (a) heading, (2) and (b) revised; interim.....**57562**
148.170 (Subpart C) Added; interim.....**57562**

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

276 Added; interim.....**57926**

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)

301.1 Amended; interim.....6247
302 Nomenclature change; interim.....6247
302.12 (a)(1)(i) removed; (a)(1)(ii) and (iii) redesignated as (a)(1)(i) and (ii); interim.....6247
302.31 (a)(2), (b) and (c) amended; (a)(3) removed; interim.....6247
302.32 Revised; interim.....6247
302.34 Amended; interim.....6248
302.35 (c)(1), (2) and (4) amended; (c)(5) and (d) added; interim.....6248
302.50 Revised; interim.....6248
302.51 Revised; interim.....6248
302.52 (b)(5) amended; interim.....6249
302.54 (a)(1) amended; interim.....6249
302.57 Removed; interim.....6249
302.70 (a) introductory text, (d)(1) and (2) amended; interim.....6249
302.75 (b)(4) amended; interim.....6249
302.80 (a) amended; interim.....6249
303 Nomenclature change; interim.....6249
303.3 (b)(1) amended; interim.....6249
303.5 (d)(1) and (e)(3) revised; (d)(2) and (e)(1) amended; interim.....6249
303.7 (a)(1), (b)(2), (3), (6), (c)(4), (7)(iii), (iv) and (v) amended; (d)(3) revised; interim.....6250
303.8 Revised; interim.....6250
303.15 (a)(1)(i), (ii), (2), (b) introductory text, (2) and (c)(1) amended; interim.....6250
303.20 (b)(3) amended; interim.....6250
303.21 Removed; interim.....6250
303.30 (b) removed; (c) redesignated as (b); new (b) amended; interim.....6250
303.31 (c) introductory text amended; (c)(1) and (2) removed; interim.....6250
303.70 (c)(1), (2), (d)(1) and (2) amended; interim.....6250

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

(e)(1)(i), (ii), (2)(i), (3) and (4)(i) amended; (e)(1)(iii) added; interim....6251
303.71 (b), (f) and (g) amended; interim....6251
303.72 (a)(1), (2), (h)(1), (3) and (4) amended; interim....6251
303.80 Removed; interim....6251
303.100 (a)(9), (c)(2), (d)(1)(iv), (v), (2), (e), (g) removed; (a)(10), (c)(3), (d)(1)(i), (ii), (iii), (f), (h) redesignated as (a)(9), (c)(2), (d)(2), (3), (4), (e), (f); heading, (a)(1), (b)(1), (2)(i), (c) introductory text, (1) introductory text and new (e)(1) introductory text, (i), (ii), (vi), (vii), (viii) and (2) amended; (d) introductory text, (1), new (e)(1)(ix) and (3) revised; (d)(5) added; interim....6251
(i) redesignated as (g); new (g) amended; interim....6252
303.101 (a) revised; (c)(4) and (5) removed; (c)(6) redesignated as (c)(4); (b)(1) and new (c)(4) amended; interim....6252
303.102 (g)(1)(i), (ii), (iii) removed; (c), (d), (e), (g)(1) introductory text and (iv) redesignated as (d), (e), (c), (g)(1)(i) and (ii); new (d)(1) designation and (2) removed; (a)(1) and new (d), (g)(1)(i) and (ii) amended; interim....6252
303.103 Removed; interim....6252
303.105 Removed; interim....6252
304 Nomenclature change; interim....6252
304.12 (a) amended; interim....6252
304.20 (b)(1)(viii)(C) and (ix)(D) removed; (b)(1)(viii)(D) and (ix)(D) redesignated as (b)(1)(viii)(C) and (ix)(D); (b)(1)(ix)(C) and (3)(iv) amended; interim....6252
304.21 (a) introductory text amended; interim....6252
304.26 Revised; interim....6252
304.29 Amended; interim....6253
304.40 (a)(2) and (b)(2) amended; interim....6253
305 Removed; interim....6253

Chapter XII—Corporation for National and Community Service (Parts 1200—1299)

1201 Authority citation revised....64199
1201.2 (b) and (c) added....64199

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1309 Added....5945
1309.10 OMB number pending....5946
1309.40 OMB number pending....5949
1309.41 OMB number pending....5949

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1606 Revised....64643
1623 Revised....64648
1625 Removed....64646

Chapter XXV—Corporation for National and Community Service (Parts 2500—2599)

2500 Removed....66063
2501 Removed....66063
2502 Removed....66063
2503 Removed....66063
2504 Removed....66063
2505 Removed....66063
2506 Removed....66063
Added; interim....4316

Proposed Rules:

60....71255
61....58341, 71819
400....1159
401....1159
1309....6013
1628....56591
1635....56594
1641....5728

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.03–15 (h)(3) revised....4984
1.03–45 Revised....4984

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 46 Chapter I—Con.

2.10–1 Regulation at 62 FR 19232 confirmed **59474**
2.10–5 Regulation at 62 FR 19232 confirmed; (c)(2) revised **59474**
2.10–25 Regulation at 62 FR 19232 confirmed; amended **59474**
2.10–101 Regulation at 62 FR 19232 confirmed **59474**
10.302 (a) introductory text revised; (c) and (d) amended; (e), (f) and (g) added 4984
10.303 (e) revised 4984
15.1050 Added **57255**
28.130 (d) amended; eff. 11–2–98 ..... **52813**
30.01–5 Regulation at 61 FR 25286 confirmed **52813**
30.01–6 Regulation at 61 FR 25286 confirmed **52813**
31.01–1 Regulation at 61 FR 25286 confirmed **52813**
31.05–1 Regulation at 61 FR 25286 confirmed **52813**
31.36–1 (Subpart 31.36) Regulation at 61 FR 25286 confirmed **52813**
32 Authority citation revised **71764**
32.15–15 (a) and (d) revised; (e) and (f) added; interim; eff. 12–11–00 ..... **71764**
33 Regulation at 61 FR 25286 confirmed **52813**
35.07–10 Regulation at 61 FR 25286 confirmed **52813**
35.10–1 Regulation at 61 FR 25286 confirmed **52813**
35.10–5 Regulation at 61 FR 25287 confirmed **52813**
35.10–6 Regulation at 61 FR 25287 confirmed **52813**
35.10–7 Regulation at 61 FR 25287 confirmed **52813**
35.10–9 Regulation at 61 FR 25287 confirmed **52813**
35.10–20 Regulation at 61 FR 25287 confirmed **52813**
35.10–25 Regulation at 61 FR 25287 confirmed **52813**
35.10–30 Regulation at 61 FR 25287 confirmed **52813**
35.30–50 Regulation at 61 FR 25287 confirmed **52813**
35.30–55 Regulation at 61 FR 25287 confirmed **52813**
35.40–1—35.40–40 (Subpart 35.40) Regulation at 61 FR 25287 confirmed **52813**
35.40–40 Regulation at 61 FR 25287 confirmed **52813**
70.05–10 Regulation at 61 FR 25287 confirmed **52813**
70.10–3 Regulation at 61 FR 25287 confirmed **52813**
70.10–34 Regulation at 61 FR 25287 confirmed **52813**
70.10–35 Regulation at 61 FR 25287 confirmed **52813**
70.10–43 Regulation at 61 FR 25287 confirmed **52813**
70.28–1 (Subpart 70.28) Regulation at 61 FR 25287 confirmed **52813**
71.15–1 Regulation at 61 FR 25287 confirmed **52813**
71.20–20 Regulation at 61 FR 25287 confirmed **52813**
71.25–15 Regulation at 61 FR 25287 confirmed **52813**
75 Regulation at 61 FR 25288 confirmed **52813**
77.06–1 (Subpart 77.06) Regulation at 61 FR 25288 confirmed **52813**
78.13–1 Regulation at 61 FR 25288 confirmed **52813**
78.13–5 Regulation at 61 FR 25288 confirmed **52813**
78.13–10 Regulation at 61 FR 25288 confirmed **52813**
78.13–15 Regulation at 61 FR 25288 confirmed **52813**
78.13–20 Regulation at 61 FR 25288 confirmed **52813**
78.14–1—78.14–20 (Subpart 78.14) Regulation at 61 FR 25288 confirmed **52813**
78.17–40 Regulation at 61 FR 25288 confirmed **52813**
78.17–50 Regulation at 61 FR 25288 confirmed **52813**
78.17–52 Regulation at 61 FR 25288 confirmed **52813**
78.17–55 Regulation at 61 FR 25288 confirmed **52813**
78.17–60 Regulation at 61 FR 25288 confirmed **52813**
78.17–70 Regulation at 61 FR 25288 confirmed **52813**
78.17–85 Regulation at 61 FR 25288 confirmed **52813**
78.17–90 Regulation at 61 FR 25288 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

78.37–5 Regulation at 61 FR 25288 confirmed 52813
78.47–43 Regulation at 61 FR 25288 confirmed 52813
78.47–45 Regulation at 61 FR 25288 confirmed 52813
78.47–47 Regulation at 61 FR 25288 confirmed 52813
78.47–50 Regulation at 61 FR 25288 confirmed 52813
78.47–51 Regulation at 61 FR 25288 confirmed 52813
78.47–60 Regulation at 61 FR 25288 confirmed 52813
78.47–63 Regulation at 61 FR 25288 confirmed 52813
78.47–65 Regulation at 61 FR 25288 confirmed 52813
78.47–72 Regulation at 61 FR 25288 confirmed 52813
78.49–1 (Subpart 78.49) Regulation at 61 FR 25288 confirmed 52813
78.87–1—78.87–20 (Subpart 78.87) Regulation at 61 FR 25288 confirmed 52813
90.05–10 Regulation at 61 FR 25288 confirmed 52813
90.10–3 Regulation at 61 FR 25288 confirmed 52813
90.10–29 Regulation at 61 FR 25288 confirmed 52813
90.27–1 (Subpart 90.27) Regulation at 61 FR 25288 confirmed 52813
91.15–1 Regulation at 61 FR 25289 confirmed 52813
91.20–20 Regulation at 61 FR 25289 confirmed 52813
91.25–15 Regulation at 61 FR 25289 confirmed 52813
94 Regulation at 61 FR 25289 confirmed 52813
96.06–1 (Subpart 90.06) Regulation at 61 FR 25289 confirmed 52813
97.13–1 Regulation at 61 FR 25289 confirmed 52813
97.13–5 Regulation at 61 FR 25289 confirmed 52813
97.13–10 Regulation at 61 FR 25289 confirmed 52813
97.13–15 Regulation at 61 FR 25289 confirmed 52813
97.13–20 Regulation at 61 FR 25289 confirmed 52813
97.14–1—97.14–20 (Subpart 97.14) Regulation at 61 FR 25289 confirmed 52813
97.15–25 Regulation at 61 FR 25289 confirmed 52813
97.15–35 Regulation at 61 FR 25289 confirmed 52813
97.15–37 Regulation at 61 FR 25289 confirmed 52813
97.15–40 Regulation at 61 FR 25289 confirmed 52813
97.15–45 Regulation at 61 FR 25289 confirmed 52813
97.15–50 Regulation at 61 FR 25289 confirmed 52813
97.15–65 Regulation at 61 FR 25289 confirmed 52813
97.15–70 Regulation at 61 FR 25289 confirmed 52813
97.35–5 Regulation at 61 FR 25289 confirmed 52813
97.37–37 Regulation at 61 FR 25289 confirmed 52813
97.37–40 Regulation at 61 FR 25289 confirmed 52813
97.37–42 Regulation at 61 FR 25289 confirmed 52813
97.37–43 Regulation at 61 FR 25289 confirmed 52813
97.37–55 Regulation at 61 FR 25289 confirmed 52813
97.39–1 (Supbart 97.39) Regulation at 61 FR 25289 confirmed 52813
97.85–1—97.85–10 (Subpart 97.85) Regulation at 61 FR 25289 confirmed 52813
107 Authority citation revised 52813
107.111 Regulation at 61 FR 25289 confirmed 52813
Amended; eff. 11–2–98 52814
107.231 Regulation at 61 FR 25290 confirmed 52813
(w) removed; eff. 11–2–98 52814
107.239 Regulation at 61 FR 25290 confirmed 52813
107.243 Regulation at 61 FR 25290 confirmed 52813
107.305 Regulation at 61 FR 25290 confirmed 52813
(cc) revised; eff. 11–2–98 52814
108.101 Regulation at 61 FR 25290 confirmed 52813
108.103 Regulation at 61 FR 25291 confirmed 52813

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 46 Chapter I—Con.

108.105 Regulation at 61 FR 25291 confirmed **52813**
108.500—108.597 (Subpart E) Regulation at 61 FR 25291 confirmed **52813**
108.500 (a) and (b) revised; eff. 11–2–98 ..... **52814**
108.540 (h)(3) and (4) revised; eff. 11–2–98 ..... **52814**
108.565 (a)(3) revised; eff. 11–2–98 ..... **52814**
108.570 (c)(1) amended; eff. 11–2–98 ..... **52814**
108.575 Table amended; eff. 11–2–98 ..... **52814**
108.580 (b)(3)(i) and (c)(2)(i) revised; eff. 11–2–98 ..... **52814**
108.645 Regulation at 61 FR 25298 confirmed **52813**
(a)(1)(ii), (2) and (b)(2) revised; eff. 11–2–98 ..... **52815**
108.646 Regulation at 61 FR 25298 confirmed **52813**
(c) revised; eff. 11–2–98 ..... **52815**
108.647 Regulation at 61 FR 25298 confirmed **52813**
108.649 Regulation at 61 FR 25298 confirmed **52813**
(b), (c), (e)(1) and (g) revised; eff. 11–2–98 ..... **52815**
108.650 Regulation at 61 FR 25299 confirmed **52813**
108.655 Regulation at 61 FR 25298 confirmed **52813**
108.901 (Subpart J) Regulation at 61 FR 25298 confirmed **52813**
(b) introductory text, (6) introductory text, (ix), (x), (7) introductory text and (c) introductory text; eff. 11–2–98 ..... **52815**
109.207 Regulation at 61 FR 25298 confirmed **52813**
109.208 Regulation at 61 FR 25298 confirmed **52813**
109.213 Regulation at 61 FR 25298 confirmed **52813**
(a)(2)(vi), (ix), (b), (c)(2), (d)(5), (7), (f)(2)(vii), (g)(7)(v)(G) and (h)(1)(iv) revised; eff. 11–2–98 ..... **52815**
109.215 Regulation at 61 FR 25301 confirmed **52813**
109.217 Regulation at 61 FR 25301 confirmed **52813**
109.219 Regulation at 61 FR 25301 confirmed **52813**
109.221 Regulation at 61 FR 25301 confirmed **52813**
109.225 Regulation at 61 FR 25301 confirmed **52813**
109.301 Regulation at 61 FR 25301 confirmed **52813**
(d)(2) and (g)(4) revised; eff. 11–2–98 ..... **52816**
109.305 Regulation at 61 FR 25302 confirmed **52813**
109.307 Regulation at 61 FR 25302 confirmed **52813**
109.313 Regulation at 61 FR 25302 confirmed **52813**
109.314 Regulation at 61 FR 25302 confirmed **52813**
109.317 Regulation at 61 FR 25302 confirmed **52813**
109.320 Regulation at 61 FR 25302 confirmed **52813**
109.321 Regulation at 61 FR 25302 confirmed **52813**
109.323 Regulation at 61 FR 25302 confirmed **52813**
109.325 Regulation at 61 FR 25303 confirmed **52813**
109.341 Regulation at 61 FR 25303 confirmed **52813**
109.425 Regulation at 61 FR 25303 confirmed **52813**
Revised; eff. 11–2–98 ..... **52816**
109.433 Regulation at 61 FR 25303 confirmed **52813**
109.501 Regulation at 61 FR 25303 confirmed **52813**
109.503 (Subpart E) Regulation at 61 FR 25303 confirmed **52813**
109.505 Regulation at 61 FR 25303 confirmed **52813**
125.160 Regulation at 61 FR 25303 confirmed **52813**
133 Regulation at 61 FR 25304 confirmed **52813**
133.70 (a)(3)(ii), (b)(4), (c)(3) and (4) revised; eff. 11–2–98 ..... **52816**
133.130 (a)(2) revised; eff. 11–2–98 ..... **52816**
133.150 (c)(6) revised; eff. 11–2–98 ..... **52816**
133.160 (a) revised; eff. 11–2–98 ..... **52816**
167.05–25 Regulation at 61 FR 25311 confirmed **52813**
167.05–35 Regulation at 61 FR 25311 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

167.15–28 Regulation at 61 FR 25311 confirmed....52813
167.35–1 Regulation at 61 FR 25311 confirmed....52813
167.35–2 Regulation at 61 FR 25311 confirmed....52813
167.35–3 Regulation at 61 FR 25311 confirmed....52813
167.35–5 Regulation at 61 FR 25311 confirmed....52813
167.35–10 Regulation at 61 FR 25311 confirmed....52813
167.35–15 Regulation at 61 FR 25311 confirmed....52813
167.35–20 Regulation at 61 FR 25311 confirmed....52813
167.35–25 Regulation at 61 FR 25311 confirmed....52813
167.35–30 Regulation at 61 FR 25311 confirmed....52813
167.35–35 Regulation at 61 FR 25311 confirmed....52813
167.35–40 Regulation at 61 FR 25311 confirmed....52813
167.35–45 Regulation at 61 FR 25311 confirmed....52813
167.35–50 Regulation at 61 FR 25311 confirmed....52813
167.35–60 Regulation at 61 FR 25311 confirmed....52813
167.35–65 Regulation at 61 FR 25311 confirmed....52813
167.35–70 Regulation at 61 FR 25311 confirmed....52813
167.35–72 Regulation at 61 FR 25311 confirmed....52813
167.35–75 Regulation at 61 FR 25311 confirmed....52813
167.35–80 Regulation at 61 FR 25311 confirmed....52813
167.35–85 Regulation at 61 FR 25311 confirmed....52813
167.35–90 Regulation at 61 FR 25311 confirmed....52813
167.55–5 Regulation at 61 FR 25311 confirmed....52813
167.65–1 Regulation at 61 FR 25311 confirmed....52813
167.65–55 Regulation at 61 FR 25311 confirmed....52813
168.05–5 Regulation at 61 FR 25312 confirmed....52813
Amended; eff. 11–2–98....52816
168.10–1 Regulation at 61 FR 25312 confirmed....52813
168.10–5 Regulation at 61 FR 25312 confirmed....52813
188.10–5 Regulation at 61 FR 25312 confirmed....52813
188.10–52 Regulation at 61 FR 25312 confirmed....52813
188.10–53 Regulation at 61 FR 25312 confirmed....52813
188.27–1 (Subpart 188.27) Regulation at 61 FR 25312 confirmed....52813
189.15–1 Regulation at 61 FR 25312 confirmed....52813
189.20–20 Regulation at 61 FR 25312 confirmed....52813
189.25–15 Regulation at 61 FR 25312 confirmed....52813
192 Regulation at 61 FR 25312 confirmed....52813
195.06–1 (Subpart 195.06) Regulation at 61 FR 25312 confirmed....52813
196.13–1 Regulation at 61 FR 25313 confirmed....52813
196.13–5 Regulation at 61 FR 25313 confirmed....52813
196.13–10 Regulation at 61 FR 25313 confirmed....52813
196.13–15 Regulation at 61 FR 25313 confirmed....52813
196.13–20 Regulation at 61 FR 25313 confirmed....52813
196.14–1—196.14–20 (Subpart 196.14) Regulation at 61 FR 25313 confirmed....52813
196.15–25 Regulation at 61 FR 25313 confirmed....52813
196.15–35 Regulation at 61 FR 25313 confirmed....52813
196.15–37 Regulation at 61 FR 25313 confirmed....52813
196.15–40 Regulation at 61 FR 25313 confirmed....52813
196.15–45 Regulation at 61 FR 25313 confirmed....52813
196.15–50 Regulation at 61 FR 25313 confirmed....52813
196.15–65 Regulation at 61 FR 25313 confirmed....52813
196.15–70 Regulation at 61 FR 25313 confirmed....52813
196.35–5 Regulation at 61 FR 25313 confirmed....52813
196.37–37 Regulation at 61 FR 25313 confirmed....52813

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 46 Chapter I—Con.

196.37–40 Regulation at 61 FR 25313 confirmed....52813
196.37–43 Regulation at 61 FR 25313 confirmed....52813
196.37–49 Regulation at 61 FR 25313 confirmed....52813
196.39–1 (Subpart 196.39) Regulation at 61 FR 25313 confirmed....52813
196.90–1—196.90–10 (Subpart 196.90) Regulation at 61 FR 25313 confirmed....52813
199 Regulation at 61 FR 25313 confirmed....52813
199.03 (b)(9) and (10) revised; eff. 11–2–98....52816
199.10 Revised; eff. 11–2–98....52817
Table correctly revised....56066
(a) table amended....63798
199.70 (b)(2)(ii) removed; (a)(2) and (c)(3) revised; eff. 11–2–98....52818
(a)(2) corrected....56066
199.80 (b)(4) revised; eff. 11–2–98....52818
199.100 (f) revised; eff. 11–2–98....52819
199.110 (f)(4) amended; eff. 11–2–98....52819
199.140 (a)(1) revised; eff. 11–2–98....52819
199.153 (f) revised; (h)(1), (2) and (i) amended; eff. 11–2–98....52819
199.175 (b)(21)(i)(B) revised; eff. 11–2–98....52819
199.176 (a)(1)(ii), (2) and (b)(2) revised; eff. 11–2–98....52819
199.180 (a)(2)(vi), (ix), (d)(11) and (f)(2)(i) revised; eff. 11–2–98....52819
199.190 (d)(2) and (g)(4) revised; eff. 11–2–98....52819
199.610 (a) revised; eff. 11–2–98....52819
199.620 (a) table and (e) revised; (k)(2)(1) redesignated as (l); (o) and (p) added....52820
Table corrected....56066
199.630 (a) table, (c), (d)(2), (f) introductory text, (2)(iv) and (g) revised; (l) and (m) added....52821
Table corrected....56067
(a) table amended....63798
199.640 (h)(2) revised; (i)(2) table amended; eff. 11–2–98....52821

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

351 Authority citation amended....55039
351.1 Authority citation removed....55039
351.2 (a) revised; authority citation removed....55039

Chapter III—Saint Lawrence Seaway Development Corporation (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

401 Annual review findings....68697

Chapter IV—Federal Maritime Commission (Parts 500—599)

502 Authority citation revised....7807
502.1 Amended....7807
502.2 (c) and (d) amended; (e) added....7807
502.11 Heading revised; (a) and (b) heading removed; (b)(1) through (7) redesignated as (a) through (g)....7807
502.12 Amended....7807
502.21 (c) heading revised....7807
502.23 Revised....7807
502.24 (b) revised....7807
502.26 Revised....7807
502.27 (a)(1) amended....7807
502.21—502.31 (Subpart B) Exhibit No. 1 amended....7807
502.42 Revised....7807
502.51 Revised....7808
502.56 Amended....7808
502.61 (d) amended....7808
502.62 (g) redesignated as (h); new (g) added; new (h) revised....7808
502.63 Heading revised; (a) removed; (b) through (e) redesignated as (a) through (d)....7808
502.64 (a) and (d) amended....7808
502.67 Added....7808
502.71 Amended....7808
502.75 (a) revised....7808
502.61—502.76 (Subpart E) Exhibit 1 amended....7808
502.91 (d) amended....7808
502.92 Removed....7808

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

502.91—502.95 (Subpart F) Exhibit 1 removed 7808
502.94 (c) amended 7808
502.102 Revised 7808
502.104 Amended 7809
502.105 Revised 7809
502.111 Revised 7809
501.112 Heading revised; (c)(2) amended 7809
502.113 Revised 7809
502.114 Heading and (a) revised; (b) amended 7809
502.116 Revised 7809
502.118 (b)(2) revised 7809
502.119 (a) and (b) revised 7809
502.133 Revised 7809
502.143 Amended 7810
502.144 Heading revised; existing text designated as (a); new (a) amended; (b) added 7810
502.146 (a) and (c) revised 7810
502.147 (a) amended; (b) revised 7810
502.201 (a), (d) heading and (f) heading revised 7810
502.221 (f) revised 7810
502.223 Revised 7810
502.225 Revised 7810
502.227 Heading revised; (a)(4), (5) and (6) redesignated as (a)(5), (6) and (7); new (a)(4) and (e) added; (d) amended 7810
502.253 Revised 7810
502.254 (a) amended; (c)(1)(i) revised 7811
502.271 (Subpart Q) Revised 7811
502.301 (b) removed; (c) and (d) redesignated as (b) and (c) 7812
502.302 (b) removed; (c) redesignated as (b) 7812
502.305 Revised 7812
502.301—502.305 (Subpart S) Exhibit 1 amended 7812
502.321 Revised 7812
502.401 (b) amended; (d) removed; (e) redesignated as (d) 7812
502.501 (d)(2)(vi) and (e)(3) added; (f)(2) and (g) amended 7812
502.502 (d)(3) amended 7812
502.503 (j)(2) amended 7812
502.601 Revised 7812
502.602 (h) revised; (i) amended 7812
502.603 (c) amended 7812
502.604 (b) amended 7812
502.604 (g) amended 7813
502.605 (a) revised; (c) amended 7813
503 Authority citation revised **53308**
503.21—503.24 (Subpart C) Revised **53308**
503.31—503.34 (Subpart D) Revised **53310**
510 Waiver **64876**
514 Waiver **64876**
525 Added 9283
545 Redesignated from 571 7813
545.1 (a) revised 7813
550—565 (Subchapter C) Heading revised 8008
550 Redesignated from 585; authority citation revised 8008
550 Note added 8009
550.102 Added 8009
550.103 (a) and (b) revised 8009
550.201 (a) revised 8009
550.202 (b) introductory text and (3) revised 8009
550.301 Introductory text and (d) revised 8009
550.601 (c) revised 8009
550.602 Revised 8009
551 Redesignated from 586; authority citation revised; note added 8009
551.3 Removed 8009
555 Redesignated from 588; authority citation revised; note added 8010
555.1 Revised 8010
555.2 (a), (c) and (d) revised 8010
555.4 (a) and (c) revised 8010
555.8 (a)(2) revised 8010
560 Redesignated from 587; authority citation revised 8009
560.1 (a) revised 8009
560.2 (c) revised 8010
560.5 (a) introductory text amended 8010
560.7 (b)(3)(i) revised 8010
565 Added 8010
571 Redesignated as 545 7813
582 Waiver **64876**
585 Redesignated as 550 8008
586 Redesignated as 551 8009
587 Redesignated as 560 8009
588 Redesignated as 555 8010

Proposed Rules:

16 ..... **71257**
45 ..... **58679, 71411**
249 1175

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 46 *Proposed Rules:—Con.*

381 4382
401 1585
502 ..... **66512**
510 ..... **70710**
514 ..... **70368, 71062**
515 ..... **70710**
520 ..... **70368**
..... 2615
525 ..... **69603**
530 ..... **71062**
535 ..... **69034**
545 ..... **66512**
550 ..... **67030**
551 ..... **67030**
555 ..... **67030**
560 ..... **67030**
565 ..... **67030**
571 ..... **66512**
572 ..... **69034**
583 ..... **70710**
585 ..... **67030**
586 ..... **67030**
587 ..... **67030**
588 ..... **67030**

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.21 (j) added 5950
0.41 (g) removed; (h) through (o) redesignated as (g) through (n) 5950
0.121 (b) revised **68918**
0.241 (g) added 4995
0.251 (g) removed; (h) and (i) redesignated as (g) and (h) 5950
0.291 (i) added 4995
0.304 Added 5950
0.401 (b)(3) added **68919**
0.408 Revised (OMB numbers) **52618**
(b) table revised (OMB numbers) **68919**
0.453 (g)(1) removed; (h) introductory text and (1) revised **68919**
0.482 Revised **68919**
0.491 Revised **68919**
0.601 (b) amended 2149
0.605 (e) amended 2150
1 Nomenclature change **54077**
Order **63612**
Authority citation revised **67429, 71036**
1.4 (f) amended **68919, 70047**
1.41 Amended **68919**
1.45 Introductory text amended; (a), (b) and (c) revised **68919**
1.49 (e) amended **68920**
1.50 Revised **68920**
1.51 (f), (g) and (h) added **68920**
1.52 Amended **68920**
1.83 (b) amended **68920**
1.84 Removed **68920**
1.85 Revised **68920**
1.106 (o) added **68920**
1.115 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.419 (e) revised **56091**
1.720 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.721 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.724 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.726 Regulation at 63 FR 41447 eff. 10–5–98 ..... **52983**
1.727 Regulation at 63 FR 41447 eff. 10–5–98 ..... **52983**
1.729 Regulation at 63 FR 41447 eff. 10–5–98 ..... **52983**
1.730 Regulation at 63 FR 41448 eff. 10–5–98 ..... **52983**
1.733 Regulation at 63 FR 41449 eff. 10–5–98 ..... **52983**
1.821 Revised **68920**
1.823 Removed **68920**
1.825 Removed **68920**
1.901 Revised **68921**
1.902 Added **68921**
1.903 Added **68921**
1.907 Added **68921**
1.911 Revised **68922**
1.912 Removed **68922**
1.913 Revised **68922**
1.914 Removed **68923**
1.915 Added **68923**
1.916 Removed **68923**
1.917 Added **68923**
1.918 Removed **68923**
1.919 Added **68923**
1.921 Removed **68924**
1.922 Removed **68924**
1.923 Revised **68924**
1.924 Revised **68924**
1.925 Revised **68926**
1.926 Revised **68927**
1.927 Added **68927**
1.929 Added **68927**
1.931 Revised **68928**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

1.933 Revised **68929**
1.934 Revised **68930**
1.935 Added **68931**
1.937 Added **68931**
1.939 Added **68931**
1.945 Added **68932**
1.946 Added **68933**
1.947 Added **68933**
1.948 Added **68933**
1.949 Added **68934**
1.951 Revised **68934**
1.952 Removed **68934**
1.953 Removed **68934**
1.955 Revised **68934**
1.956 Added **68935**
1.957 Added **68935**
1.958 Removed **68935**
1.959 Removed **68935**
1.961 Removed **68935**
1.962 Removed **68935**
1.971 Removed **68935**
1.972 Removed **68935**
1.973 Removed **68935**
1.981 Revised **68935**
1.1102 Revised **68935**
1.1111 (b) amended; (c) added **68941**
1.1152 Revised **68941**
1.1307 (b)(1) Table 1 amended (OMB number pending) **65099**
Regulation at 63 FR 65099 eff. date corrected to 2-8-99 4054
1.2003 Amended **68942**
1.2107 (e) added **68942**
1.2111 (a) amended **68942**
1.4000 Revised (effective date pending) **67429**
Revised **71036**
2 Nomenclature change **54077**
Authority citation revised **58650**
Order **63798**
Rule confirmation **69562**
2.103 Revised **58650**
2.106 Table amended 2587, 2591
Table corrected 6138
2.960 Added 4995
2.962 Added 4996
5 Revised **64202**
11 Order 5950
13.5 Revised **68942**
13.9 (d), (e) and (f) redesignated as (e), (f) and (g); (b), (c) and new (f) introductory text revised; new (d) added **68942**
13.13 (d), (e) and (f) removed; **68942**
13.17 (b), (c) and (d) revised **68943**
15.101 (a) revised 4997
20 Nomenclature change **54077**
21.2 Amended **65100**
Regulation at 63 FR 65100 eff. date corrected to 2-8-99 4054
21.11 (f) and (g) redesignated as (e) and (f); heading, (a), (d) and new (e) revised **65100**
Regulation at 63 FR 65100 eff. date corrected to 2-8-99 4054
21.27 (d) added (OMB number pending) **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.30 (a)(4) revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.31 (e)(6)(iv) revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.42 (b)(3) revised; (c)(8) added (OMB number pending) **6510**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.101 (a) Footnote 2 revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.118 (c) revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.201 Revised (OMB number pending) **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.304 Revised (OMB number pending) **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.900 Revised (OMB number pending) **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.901 (a), (b), (d) and Note 1 revised; (g) added (OMB number pending) **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.902 Heading, (b)(3), (4), (5)(i), (f)(1) and (2) revised; (b)(7) and (l) added **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.903 (a) and (b)(1) revised; (d) added (OMB number pending) **65103**
Regulation at 63 FR 65103 eff. date corrected to 2-8-99 4054

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 47 Chapter I—Con.

21.904 Revised **65103**
Regulation at 63 FR 65103 eff. date corrected to 2-8-99 4054
21.905 (b) revised; (d) added (OMB number pending) **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.906 (a) and (d) revised (OMB number pending) **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.907 Removed **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.908 (b) redesignated as (a); heading and new (a) revised; (c), (d) and (e) removed; new (b) through (e) added **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.909 Revised (OMB number pending) **65105**
Regulation at 63 FR 65105 eff. date corrected to 2-8-99 4054
21.910 Heading, introductory text, (a) and (b) introductory text revised; (d) added **65109**
Regulation at 63 FR 65109 eff. date corrected to 2-8-99 4054
21.913 Revised (OMB number pending) **65109**
Regulation at 63 FR 65109 eff. date corrected to 2-8-99 4054
21.925 (b) revised **65112**
Regulation at 63 FR 65112 eff. date corrected to 2-8-99 4054
21.938 (b) introductory text, (c)(4), (e) and (f) revised **65112**
Regulation at 63 FR 65112 eff. date corrected to 2-8-99 4054
21.940 Added (OMB number pending) **65112**
Second 21.940 correctly redesignated as 21.949 4055
21.949 Correctly redesignated from second 21.940 4055
22.99 Amended **68943**
22.101 Removed **68943**
22.103 Removed **68943**
22.105 Removed **68943**
22.106 Removed **68943**
22.108 Removed **68943**
22.115 Removed **68943**
22.117 Removed **68943**
22.119 Removed **68943**
22.120 Removed **68943**
22.121 Removed **68943**
22.122 Removed **68943**
22.123 Removed **68943**
22.124 Removed **68943**
22.125 Removed **68943**
22.127 Removed **68943**
22.128 Removed **68943**
22.129 Removed **68943**
22.130 Removed **68943**
22.131 (b) introductory text, (1), (c) introductory text, (1) and (2) revised; (d)(3) removed **68943**
22.132 Removed **68943**
22.135 Removed **68943**
22.137 Removed **68943**
22.139 Removed **68943**
22.142 Removed **68943**
22.144 Removed **68943**
22.145 Removed **68943**
22.150 (d) introductory text amended **68944**
22.163 Removed **68944**
22.165 (b) and (e) revised **68944**
22.213 Removed **68944**
22.221 (b) revised **68944**
22.315 Removed **68944**
22.317 Amended **68944**
22.323 (d) revised **68944**
22.352 (c)(6) revised **68944**
22.369 Removed **68944**
22.411 (d)(1) revised **68944**
22.413 (b)(1) revised **68944**
22.415 (b)(1) revised **68944**
22.417 (b)(1) revised **68944**
22.503 (k) revised **68945**
22.507 (c) revised **68945**
22.529 (a) and (b) introductory text amended; (b)(1), (3) introductory text, (i) and (iii) revised **68945**
22.531 (c) revised **68945**
22.539 Introductory text revised **68945**
22.577 (b) amended; (d) revised **68945**
22.625 (b)(1) revised **68946**
22.627 (b)(1)(i) and (2) revised **68946**
22.657 (a), (d), (e)(1) and (f) revised **68947**
22.659 (b)(1) and (c)(1) revised **68947**
22.709 Introductory text, (b) introductory text, (1) and (2) revised (effective date pending in part) **68948**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

22.803 Introductory text, (a) introductory text, (b) introductory text, (1) and (2) revised (effective date pending in part) **68948**
22.821 Removed **68948**
22.859 Introductory text and table revised **68948**
22.873 (a) and (b) revised **68950**
22.875 (d)(7) removed (effective date pending in part) **68951**
22.907 (b) revised **68951**
22.911 (b) amended **68951**
22.929 Revised (effective date pending in part) **68951**
22.935 (a) amended **68951**
22.936 (a) amended **68951**
22.941 (b) amended; (c) revised **68951**
22.944 Removed **68951**
22.946 Introductory text and (b) removed; (a) introductory text revised; (a)(1) redesignated as (b) **68951**
22.947 (b) introductory text amended **68951**
22.953 (a) and (b) revised; (c) added **68951**
22.966 Removed **68952**
24 Order **63612**
24.2 (b) amended **68952**
24.5 Amended **68952**
24.11 (a) revised **68952**
24.18 Removed **68952**
24.202 Introductory text amended **68952**
24.307 Revised **68952**
24.405 Removed **68952**
24.406 Removed **68952**
24.409 Removed **68952**
24.411 Removed **68952**
24.413 Removed **68952**
24.419 Removed **68952**
24.420 Removed **68952**
24.421 Removed **68952**
24.422 Removed **68953**
24.423 Removed **68953**
24.425 Removed **68953**
24.426 Removed **68953**
24.427 Removed **68953**
24.428 Removed **68953**
24.429 Removed **68953**
24.432 Removed **68953**
24.439 Removed **68953**
24.443 Removed **68953**
24.444 Removed **68953**
24.714 (b)(1) revised **68953**
24.803 Removed **68953**
24.805 Removed **68953**
24.806 Removed **68953**
24.809 Removed **68953**
24.811 Removed **68953**
24.813 Removed **68953**
24.819 Removed **68953**
24.820 Removed **68953**
24.821 Removed **68953**
24.822 Removed **68953**
24.823 Removed **68953**
24.825 Removed **68953**
24.826 Removed **68953**
24.827 Removed **68953**
24.828 Removed **68953**
24.829 Removed **68953**
24.832 Removed **68953**
24.839 (a), (b) and (c) removed; (d) and (e) redesignated as (a) and (b) **68953**
24.844 Removed **68953**
25.200 Added 4997
25.202 (a)(1) table revised 2591
(a)(1) corrected 6565
26.2 (b) amended **68953**
26.4 Amended **56577, 68953**
26.11 (a) revised **68953**
26.56 Added **71041**
26.104 (e) revised **68953**
26.203 Revised **56578**
26.204 Removed **56578**
26.205 Revised **56578**
26.206 Revised **56578**
26.207 Revised **56578, 68954**
26.208 Revised **56578**
26.209 (b)(2) revised **68954**
26.210 Revised **56578**
26.303 Removed **68954**
26.304 Removed **68954**
26.305 Removed **68954**
26.306 Removed **68954**
26.307 (a) revised **56578**
Removed **68954**
26.309 Removed **71041**
26.310 Removed **68954**
26.311 Removed **68954**
26.312 Removed **68954**
26.313 Removed **56578**
Removed **68954**
26.314 Removed **68954**
26.315 Removed **68954**
26.316 Removed **68954**
26.317 Revised **56578**
Removed **68954**
26.318 Removed **68954**
26.319 Removed **68954**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 47 Chapter I—Con.

26.320 Revised **56578**
Removed **68954**
26.322 Removed **68954**
26.323 (a) revised **68954**
26.324 Removed **68954**
26.325 Removed **68954**
26.326 Removed **68954**
27.3 (b) amended **68954**
27.4 Amended **68954**
27.11 (a) revised **68954**
27.15 (b)(1) revised **68954**
27.59 Removed **68954**
27.61 Removed **68954**
27.62 Removed **68954**
27.207 Removed **68954**
27.301 Removed **68954**
27.303 Removed **68954**
27.304 Removed **68954**
27.306 Removed **68954**
27.307 Removed **68954**
27.310 Removed **68955**
27.311 Removed **68955**
27.312 Removed **68955**
27.313 Removed **68955**
27.314 Removed **68955**
27.315 Removed **68955**
27.316 Removed **68955**
27.317 Removed **68955**
27.319 Removed **68955**
27.320 Removed **68955**
27.322 Removed **68955**
27.324 Removed **68955**
27.325 Removed **68955**
36 Order **63993**
36.601 Amended **64651**
52.19 (a) revised **63617**
52.21 (c) and (q) revised **68203**
52.27 Revised **68203**
52.31 (a), (b) and (e) revised **68204**
54 Order **63993**
Guidelines **68208**
54.5 Amended **70571**
54.504 (b)(1), (2)(vii), (3) and (c) amended; (b)(4) revised **70572**
54.505 (b)(3) and (c) amended **70572**
54.507 (e), (f), (g) introductory text and (1) amended; (c), (g)(2)(i) and (iv) revised **70572**
54.509 (b) amended; (c) revised **70572**
54.511 (c)(3) amended **70572**
54.515 (a) and (b) revised; (c) and (d) removed **67009**
54.516 (b) amended **70572**
54.603 (a)(1) through (5) amended **70572**
54.604 (c) amended **70572**
(d) revised 2594
54.605 (e) amended **70572**
54.609 (b) amended **70572**
54.619 (b) and (d) amended **70572**
54.623 (c), (e) and (f) amended **70572**
(b) and (c) revised 2594
54.625 (a) amended **70572**
54.701 Revised **70572**
54.702 Added **70573**
54.703 Revised (effective date pending in part) **70573**
54.704 Added **70574**
54.705 Revised **70574**
54.706 Added **70575**
54.708 Added **70576**
54.709 (a)(2) amended; (a)(3) revised **70576**
54.711 (a) and (b) revised **67009**
(b) amended **70576**
54.715 Revised **70576**
54.717 Added **70576**
54.719—54.725 (Subpart I) Added **70577**
54.719 Added **70577**
54.721 Added (effective date pending) **70578**
54.722 Added **70578**
54.723 Added **70578**
54.724 Added **70578**
64 Order **54379**
Petitions 4999
64.604 (c)(4)(iii)(l) revised **67010**
64.1100 Revised (effective date pending in part) 7759
Regulation at 64 FR 7759 eff. date corrected to 8-27-99 9219
64.1150 Revised 7760
Regulation at 64 FR 7760 eff. date corrected to 8-27-99 9219
64.1160 Added 7760
Regulation at 64 FR 7760 eff. date corrected to 8-27-99 9219
64.1170 Added (effective date pending) 7761
64.1180 Added (effective date pending) 7761
64.1190 Added 7762
Regulation at 64 FR 7762 eff. date corrected to 8-27-99 9219
68.160 Added 4997
68.162 Added 4998
68.300 (c) added 3048
69 Order **63993**
69.153 (c) introductory text, (2), (d)(1) introductory text, (ii),

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

(2) introductory text, (ii) and (e) revised **55335**
69.600 Removed **70578**
69.603 (c), (d) and (e) removed **70578**
69.613 Removed **70578**
69.614 Removed **70578**
69.615 Removed **70578**
69.616 (e) added **67010**
Removed **70578**
69.617 Removed **70578**
69.618 Removed **70578**
69.619 Removed **70578**
69.620 Removed **70578**
69.621 Removed **70578**
69.622 Removed **70578**
69.623 Removed **70578**
73 Actions on petitions **54380, 71389**
Order **65710**
Actions on petitions 3650
73.202 (b) table amended ..... **52984, 54379, 54600, 55807—55809, 55958, 55959, 57609, 57610, 59238, 59239, 62956, 62957, 63617—63619, 64877, 67430**
(b) table amended ..... 995, 2858, 3874, 3875, 5718—5720, 7813, 8725
73.316 (c) revised **70047**
73.622 (b) amended 4326
(e) revised 4327
73.623 (f) redesignated as (g); new (f) added 4327
73.624 (g) added **69216**
(b) revised 4327
73.686 (d) added 7127
73.1030 (a) revised **70048**
73.1125 Regulation at 63 FR 49497 eff. 10–30–98 ..... **56578**
73.1675 (a) revised **70049**
73.3500 Existing text designated as (a); (b) added **70049**
73.3526 Regulation at 63 FR 49497 eff. 10–30–98 ..... **56578**
(e)(11)(iii) revised **70049**
Regulation at 63 FR 70049 eff. 12–31–98 ..... **71789**
73.3527 Regulation at 63 FR 49499 eff. 10–30–98 ..... **56578**
73.3534 Revised **70049**
73.3535 Removed **70049**
73.3550 Revised **71603**
73.3597 (c)(1)(iii) added **70050**
73.3598 Revised **70050**
73.3599 Removed **70050**
73.3613 (b)(7) added **70050**
73.3615 (a) introductory text, (1), (3)(i)(A), (c), (d) introductory text, (e) and (f) revised; (a)(2) amended **70050**
Regulation at 63 FR 70050 eff. in part 12–31–98 ..... **71789**
74 Rule confirmation **69562**
74.406 (d)(1) revised 4327
74.725 Added **70578**
74.783 (e) revised **71604**
74.901 Amended **65113**
Regulation at 63 FR 65113 eff. date corrected to 2-8-99 4054
74.902 (f) through (j) redesignated as (g) through (k); (c), (d) and (e) revised; new (f) added (OMB number pending) **65113**
74.903 (a)(1), (2), (3), (b) introductory text, (1), (2), (4), (5), (c) and (d) revised; (a)(6) added; (e) and (f) removed **65114**
Regulation at 63 FR 65114 eff. date corrected to 2-8-99 4054
74.911 (a)(1) revised; (d) added (OMB number pending) **65115**
Regulation at 63 FR 65115 eff. date corrected to 2-8-99 4054
74.912 Added **65115**
Regulation at 63 FR 65115 eff. date corrected to 2-8-99 4054
74.931 (d), (e), (f) through (k) redesignated as (b), (c) and (e) through (j); new (b) and new (c) revised; new (d) added (OMB number pending) **65116**
Regulation at 63 FR 65116 eff. date corrected to 2-8-99 4054
74.935 (a) and (b) revised **65117**
Regulation at 63 FR 65117 eff. date corrected to 2-8-99 4054
74.936 Revised (OMB number pending) **65117**
Regulation at 63 FR 65117 eff. date corrected to 2-8-99 4054
74.937 (a) amended; (b) revised **65118**
Regulation at 63 FR 65118 eff. date corrected to 2-8-99 4054
74.938 Revised **65119**
Regulation at 63 FR 65119 eff. date corrected to 2-8-99 4054
74.939 Revised (OMB number pending) **65119**
Regulation at 63 FR 65119 eff. date corrected to 2-8-99 4054
74.940 Added (OMB number pending) **65124**
Second 74.940 correctly redesignated as 74.949 4055

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 47 Chapter I—Con.

74.949 Correctly redesignated from second 74.940 4055
74.950 Removed **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.951 (b) revised (OMB number pending) **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.952 Revised **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.961 (a) revised **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.965 Revised (OMB number pending) **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.982 (b) revised; (g) added **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.985 Revised (OMB number pending) **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.986 (a) introductory text revised; (a)(8) added **65127**
Regulation at 63 FR 65127 eff. date corrected to 2-8-99 4054
74 Index amended **65127**
Regulation at 63 FR 65127 eff. date corrected to 2-8-99 4054
76 Order 5950
Authority citation and heading revised 6569
76.6 Added 6569
76.7 Revised 6569
76.8 Revised 6569
76.9 Revised 6569
76.10 Revised 6569
76.61 (a)(3), (4) and (b) revised; (a)(5) added 6572
76.914 (c) revised 6572
76.1003 Regulation at 63 FR 45739 eff. 12-23-98 2595
Revised 6572
76.1302 Revised 6574
76.1513 Heading, (a) and (d) through (h) revised; (f) through (u) removed 6575
78 Rule confirmation **69562**
79.1 (b), (d)(3), (7), (8), (9) and (e)(3) revised; (d)(13) and (e)(10) added **55962**
80.3 (k) revised **68955**
80.19 Removed **68955**
80.21 (a), (b) and (f) removed; (c), (d) and (e) redesignated as (a), (b) and (c); introductory text and new (c) revised (effective date pending) **68955**
80.23 Removed **68955**
80.25 (a) and (b) revised **68955**
80.29 Removed **68955**
80.31 Revised **68955**
80.33 (b) introductory text and (c) introductory text revised (effective date pending) **68955**
80.45 Revised **68955**
80.49 Revised **68955**
80.51 (a) removed **68955**
80.53 Revised (effective date pending) **68956**
80.56 Removed **68956**
80.57 (b)(6) revised; (c)(6) amended **68956**
80.59 (c) revised **68956**
80.383 (a) table amended **53313**
80.469 (c) revised (effective date pending) **68956**
80.511 (c) revised (effective date pending) **68956**
80.513 (c)(1) amended (effective date pending) **68956**
80.514 Introductory text revised **68956**
80.553 Introductory text revised **68956**
80.605 (a) and (c)(9) revised; (d) amended (effective date pending) **68956**
87.17 Revised **68957**
87.21 Removed **68957**
87.23 Removed **68957**
87.25 Introductory text removed; (b) revised **68957**
87.27 (a) and (b) revised **68957**
87.31 Removed **68957**
87.33 Removed **68957**
87.35 Revised **68957**
87.37 (a) introductory text revised **68957**
87.45 Revised **68957**
87.51 (a) removed **68957**
87.79 Removed **68957**
87.137 (d) removed **68957**
87.187 (bb) and (cc) revised **68957**
87.215 (d) amended (effective date pending) **68957**
87.239 Revised **68957**
87.301 (b) revised **68957**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

87.307 (d) introductory text revised **68958**
87.321 Revised **68958**
87.323 (b) amended **68958**
87.347 (b)(1), (2), (3) and (c) revised (effective date pending) **68958**
87.419 (b) revised **68958**
87.421 (b) revised **68958**
87.423 Revised **68958**
87.447 Introductory text revised **68958**
87.473 (a) removed; (b) and (c) redesignated as (a) and (b) **68958**
87.475 (a) amended **68958**
87.481 (a) introductory text and (4) revised **68958**
87.527 (b) revised **68958**
90 Authority citation revised **58651**
Waiver 6253
90.5 (b), (i)(1) and (m) revised **68958**
90.7 Amended **68958**
90.20 (c)(3) table amended; (d)(77) added **58651**
90.22 Revised **68958**
90.35 (c)(61)(iv) revised **68959**
90.111 Revised **68963**
90.113 Removed **68963**
90.117 Removed **68963**
90.119 Revised **68963**
90.123 Removed **68963**
90.125 Removed **68963**
90.127 Revised **68963**
90.129 Introductory text revised; (c) and (e) removed **68963**
90.131 Removed **68963**
90.135 Revised **68963**
90.137 (a) introductory text revised **68963**
90.139 Removed **68963**
90.141 Removed **68964**
90.143 Removed **68964**
90.145 Removed **68964**
90.147 Removed **68964**
90.149 (a) revised; (b) removed **68964**
90.151 Removed **68964**
90.153 Removed **68964**
90.155 (d) revised **68964**
90.157 Revised **68964**
90.159 (a), (b) introductory text, (c), (d) and note revised **68964**
90.160 Removed **68965**
90.161 Removed **68965**
90.162 Removed **68965**
90.163 Removed **68965**
90.164 Removed **68965**
90.165 Introductory text, (b) introductory text, (1), (c) introductory text and (1) revised; (d)(3) removed **68965**
90.166 Removed **68965**
90.167 Revised **68965**
90.175 Introductory text, (b), (e) and (f) revised **68965**
90.177 Removed **68965**
90.187 (a) revised **68965**
90.203 (a) introductory text revised; (l) added **64208**
90.205 (i) revised **58651**
90.237 (b) removed **68965**
90.241 (c)(7) revised **68965**
90.248 Added **64208**
90.259 Revised **64209**
90.273 (c) revised **68965**
90.303 Revised **68965**
90.350 Revised **68965**
90.365 (a)(1), (b) and (d)(2) revised; (d)(1)(ii) removed; (d)(1)(iii) redesignated as (d)(1)(ii) **68966**
90.437 (c) revised; (d) removed **68966**
90.477 (a) introductory text and (d)(3) revised **68966**
90.501 Revised **68967**
90.521—90.551 (Subpart R) Added **58651**
90.523 Regulation at 63 FR 58651 eff. 1-20-98 3048
90.527 Regulation at 63 FR 58652 eff. 1-20-98 3048
90.545 Regulation at 63 FR 58656 eff. 1-20-98 3048
90.551 Regulation at 63 FR 58658 eff. 1-20-98 3048
90.601 Revised **68967**
90.605 Revised **68967**
90.607 (b)(1) and (c)(1) revised; (d) removed **68967**
90.609 (a) removed **68967**
90.611 Removed **68967**
90.619 (d)(5) amended **68968**
90.621 Table 1 amended; (b)(3), (e)(5) and (f)(1) revised **68968**
90.625 (a) amended (effective date pending) **68969**
90.629 (c) amended **68969**
90.631 (d) amended; (f) revised **68969**
90.635 Table 1 revised **68969**
90.645 (g) and (h) amended **68970**
90.651 Revised **68970**
90.655 Amended **68970**
90.657 Removed **68970**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 47 Chapter I—Con.

90.658 (a) revised **68970**
90.659 Removed **68970**
90.683 (a)(4) revised; (a)(5) removed (effective date pending) **68970**
90.687 Amended **68970**
90.693 (b) and (c) revised **68970**
90.701 (a) revised **68971**
90.705 Revised **68971**
90.711 (a) introductory text revised; (a)(5) removed **68971**
90.733 (h)(2) revised **68971**
90.737 (d) and (e) revised **68971**
90.741 Revised **68971**
90.751 Revised **68973**
90.753 (d) and (e) revised **68973**
90.755 Removed **68973**
90.763 (b)(4) revised (effective date pending) **68973**
90.767 (c) revised **68973**
90.769 (c) revised **68973**
90.911 (b)(1) amended **68973**
90.1013 Revised **68973**
90.1019 (d) removed; (e) redesignated as (d); heading, (a), (b), (c) and new (d) revised **68973**
90.1023 (b) introductory text revised **68974**
95 Nomenclature change **54077**
95.1—95.7 Undesignated center heading removed **68974**
95.5 Revised **68974**
95.7 (b) amended **68974**
95.21—95.61 Undesignated center heading removed **68974**
95.71—95.89 Undesignated center heading removed **68974**
95.101—95.143 Undesignated center heading removed **68974**
95.171—95.181 Undesignated center heading removed **68974**
95.21 Revised **68974**
95.23 (b) revised; (d) removed **68974**
95.25 (a) introductory text, (d)(2)(i) and (f) revised; (c) removed **68974**
95.29 (a), (b), (e) introductory text and (2) revised; (c) and (d) removed **68974**
95.31 Removed **68975**
95.33 (b) removed **68975**
95.35 Removed **68975**
95.37 Removed **68975**
95.39 Removed **68975**
95.41 Removed **68975**
95.42 Removed **68975**
95.43 Removed **68975**
95.45 Revised **68975**
95.47 Removed **68975**
95.49 Removed **68975**
95.51 Revised **68975**
95.53 Removed **68975**
95.55 Removed **68975**
95.57 Removed **68975**
95.59 Removed **68975**
95.61 Removed **68975**
95.71 Removed **68975**
95.72 Removed **68975**
95.73 Removed **68975**
95.75 Removed **68975**
95.77 Removed **68975**
95.79 Removed **68975**
95.83 Removed **68975**
95.85 Removed **68975**
95.87 Removed **68975**
95.89 Removed **68975**
95.101 (a) revised **68975**
95.103 Revised **68975**
95.105 Revised **68975**
95.107 Removed **68975**
95.109 Removed **68975**
95.111 Removed **68975**
95.113 Removed **68975**
95.115 Amended **68975**
95.117 Revised **68975**
95.119 (a) introductory text, (b) and (d) revised **68975**
95.121 Removed **68975**
95.123 Removed **68975**
95.125 Removed **68975**
95.127 Removed **68975**
95.129 Revised **68975**
95.131 Removed **68975**
95.133 Removed **68975**
95.135 (b) removed; (d) revised **68976**
95.137 Removed **68976**
95.139 (b) removed; (c) redesignated as (b) **68976**
95.171 Revised **68976**
95.173 Removed **68976**
95.175 Removed **68976**
95.177 Removed **68976**
95.179 (a) introductory text, (b) introductory text and (1) revised; (f) removed **68976**
95.181 (f) revised; (i) and (j) removed **68976**
95.183 Added **68976**
95.1—95.181 (Subpart A) Appendix A amended; Appendix B removed **68976**
95.192 (b) and (c) removed **68976**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

95.217 (b) revised **68976**
95.225 Revised **68976**
95.419 (b) revised **68976**
95.428 Revised **68976**
95.801 Revised **68977**
95.811 (a) revised; (b) amended **68977**
95.815 Revised **68977**
95.816 (c)(2)(ii) revised **68977**
95.817 Removed **68977**
95.819 (c) amended **68977**
95.821 Removed **68977**
95.833 (b) introductory text amended **68977**
95.839 Removed **68977**
95.840 Removed **68977**
95.841 Removed **68977**
97 Nomenclature change **54077**
97.3 Amended **68977**
97.5 (a) introductory text, (b), (c) and (d) revised; (e) added **68977**
97.7 Revised **68978**
97.9 Revised **68978**
97.13 (a) revised; (b) and (c)(2) amended **68978**
97.15 Revised **68978**
97.17 Revised **68978**
97.19 (a), (b), (c) and (d)(1) revised **68978**
97.21 Revised **68979**
97.23 Revised **68979**
97.25 Revised **68979**
97.27 Heading and (a) introductory text revised **68979**
97.29 Revised **68979**
97.107 Revised **68979**
97.119 (g) revised **68980**
97.201 (a) revised **68980**
97.203 (a) revised **68980**
97.205 (f) and (h) removed **68980**
97.207 (g) introductory text, (h) and (i) revised **68980**
97.301 (a) introductory text and (b) introductory text revised **68980**
97.505 (a)(10) revised **68980**
97.509 (i) revised **68980**
97.519 (b) introductory text, (1), (2) and (3) revised **68981**
100 Authority citation revised 5956
100.5 Added 5956
101 Rule confirmation **69562**
101.1 (a) and (b) redesignated as (b) and (c); new (a) added **68981**
101.3 Amended **68981**
101.5 (a) and (c) removed; (b) revised **68981**
101.9 Removed **68981**
101.11 Removed **68981**
101.13 Removed **68981**
101.15 Removed **68981**
101.19 Removed **68981**
101.21 (a), (c) and (d) removed; (b), (e) and (g) revised **68981**
101.23 Revised **68981**
101.25 Removed **68981**
101.27 Removed **68981**
101.29 Removed **68981**
101.31 (a), (c), (d) removed; (b) and (e) redesignated as (a) and (b); heading and new (a)(1)(i), (2), (3) introductory text, (vii), (6) and (b)(1)(v) revised; new (b)(1)(vi) and (3) amended **68981**
101.33 Removed **68982**
101.35 Removed **68982**
101.37 Removed **68982**
101.39 Removed **68982**
101.41 Removed **68982**
101.43 Removed **68982**
101.45 (b) introductory text, (d), (f) introductory text, (1), (2) and (4) revised; (h) removed **68982**
101.47 Removed **68982**
101.51 (a)(3) revised **68982**
101.53 Removed **68982**
101.55 (b) removed **68982**
101.56 (a)(2)(ii) amended; (a)(3) removed **68982**
101.57 Removed **68982**
101.59 Removed **68982**
101.61 Revised (effective date pending) **68982**
101.63 (b), (d) and (e) revised **68983**
101.65 Revised **68983**
101.103 (d)(1) amended **68983**
101.105 (c)(3) introductory text amended **68983**
101.121 Removed **68983**
101.123 Removed **68983**
101.127 Removed **68983**
101.129 (b) removed **68983**
101.205 (a) and (c) revised **68983**
101.305 (a), (b), (c) and (d)(1) revised **68983**
101.413 (a) introductory text revised **68983**
101.503 Amended **68983**
101.701 (c) revised (effective date pending) **68983**
101.705 Revised **68984**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 47 Chapter I—Con.

101.815 (a)(2) and (b) revised **68984**
101.817 (a) introductory text revised **68984**
101.1009 (a)(1)(iii) and (b) revised **68984**
101.1015 Removed **68984**
101.1017 (a), (b)(2) and (c)(2) revised **68984**
101.1106 Removed **68984**

Proposed Rules:

0—199 (Ch. I) **56892, 59755, 70089**
0 ..... **53619, 66104** 2461, 8779
1 ..... **53350, 54090, 70090** 204
2 ..... **65726, 69606** 1786, 2462, 7577
20 ..... **52665, 70727** 3478
22 ..... **53350, 70727**
25 ..... **54100, 63258** 1786, 7577
32 ..... **56900**
36 ..... **67837**
43 ..... **54090, 56900**
52 ..... **54090**
54 ..... **54090, 58685, 67837, 68224**
61 ..... **54430**
62 ..... **68714**
64 ..... **54090, 55077, 63639** 7763
65 ..... **55988, 68418**
69 ..... **54430**
73 ..... **53008, 53009, 54431, 55831, 57637, 58358, 59262, 59263, 59928, 63016, 64941, 66104, 67036, 67439, 67449, 68424, 68425, 68718—68722, 68729, 69607—69609, 71412—71415** ..... 2461, 3913, 5623—5626, 5736—5740, 6020, 6296, 6591, 6852, 7577, 7841—7848, 8779—8788
74 ..... **58358, 66104, 68729, 69606** 6296
76 ..... 2461, 8779
78 ..... **69606**
87 ..... **65726**
90 ..... **58685, 65568** 1003, 3480
101 ..... **53350, 69606**

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Federal Acquisition Circular No. 97-08 ..... **58586**
Small entity compliance guide **58608, 70306**
Federal Acquisition Circular No. 97-10 ..... **70264**
1.106 Table amended (OMB numbers); interim **58588**
Table amended (OMB numbers) **58602, 70292**
2.101 Amended; interim **58591**
4.203 Revised; interim **58588**
4.500—4.502 (Subpart 4.5) Revised; interim **58592**
4.900—4.905 (Subpart 4.9) Revised; interim **58589**
5.101 (a)(2)(ii) revised; (a)(2)(iv) amended; interim **58592**
5.102 (a)(2) and (7) revised; interim **58592**
5.202 (a)(13) revised; (a)(14) removed; (a)(15) redesignated as (a)(14); interim **58592**
(a)(2) through (12) and (14) amended; interim **58593**
5.203 (b) revised; interim **58592**
Introductory text, (a) introductory text, (c), (d), (e) and (g) amended; interim **58593**
5.205 (d)(2) amended; interim **58593**
5.207 (c)(2)(xi), (e)(3) and (h) amended; interim **58593**
(d) revised; interim **70266**
5.301 (b)(7) revised; interim **58593**
5.503 (a)(2) revised; interim **58593**
6.205 Added; interim **70267**
6.302-3 (a)(2)(iii) revised **58594**
(a)(2) introductory text, (i) and (ii) amended **58602**
6.302-5 (b)(6) added; interim **70267**
7.105 (b)(1) amended; interim **70267**
8.404 (a) amended; interim **70267**
9.104-3 (b) amended; interim **70267**
12.301 (b)(2) amended; interim **70267**
13.003 (c) removed; (d) through (i) redesignated as (c) through (h); new (f) and new (h)(3) revised; interim **58593**
(b)(2) redesignated as (b)(3); new (b)(2) added; interim **70267**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

13.005 (a)(9) added; interim 70267
13.102 (a) introductory text revised; interim 58593
13.104 (b) amended; interim 58593
13.105 (a)(1) revised; interim 58593
13.106–1 (c)(1)(ii) and (f) revised; interim 58593
13.106–2 (b)(3) introductory text revised; interim 58593
13.106–3 (e) added; interim 58589
(c) revised; interim 58593
13.307 (b)(1) amended; interim 58593
14.201–6 (b)(2) removed; interim 58589
14.205–1 (a) amended; interim 58594
14.206 Removed; interim 70267
14.400 Amended; interim 58594
14.407–4 (a) amended 58602
14.502 (b)(5) redesignated as (b)(6); new (b)(5) added; interim 70267
15.209 (d) removed; interim 58589
15.404–1 (a)(7) amended 58602
15.408 (g) revised 58596
15.503 (a)(2) revised; interim 70267
16.504 (a) introductory text and (1) amended; (a)(4)(ii) revised 70282
19.000 (a)(3) and (8) revised; interim 70268
19.001 Amended; interim 70268, 71723
19.102 (f)(4) amended 58602
(g) amended 70292
19.201 (b) amended 56738
(a) and (c) amended; (d)(4), (6), (7)(ii), (8) and (9) revised; interim 70268
19.202 Amended; interim 70268
19.202–2 Introductory text revised; (a) amended; interim 70268
19.202–4 Introductory text revised; interim 70268
19.202–5 (a) and (b) revised; interim 70268
19.202–6 Introductory text removed; (a) revised; interim 70268
19.301—19.306 (Subpart 19.3) Heading revised; interim 70268
19.301 (d) amended; interim 70268
19.306 (b) amended 56738
Redesignated as 19.307; new 19.306 added; interim 70269
19.307 Redesignated from 19.306; heading and (a) revised; interim 70269
19.402 (c)(1) revised; interim 70269
19.501 (a) and (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and new (h) revised; interim 70269
19.502–1 Revised; interim 70270
19.502–2 Heading revised; (a), (c) and (d) amended; interim 70270
19.502–4 (a) amended; interim 70270
19.502–5 (b), (c) and (g) amended; interim 70270
(e) amended 70292
19.503 Heading revised; (a), (b), (c) introductory text and (d) amended; interim 70270
19.507 Heading revised; (a) amended; interim 70270
19.701—19.708 (Subpart 19.7) Heading revised; interim 70270
19.702 Introductory text and (b)(4) revised; interim 70270
19.703 (a) introductory text and (1) revised; (b) amended; interim 70270
(b) revised; interim 71723
19.704 (a)(1), (2), (3), (6), (8), (9) and (11) revised; (b) amended; interim 70271
19.705–2 (d) amended; interim 70271
19.705–4 (b), (c), (d)(1) and (6) amended; (d)(5) revised; interim 70271
19.705–6 (a) and (b) revised; interim 70271
19.705–7 (a) and (f) introductory text revised; (d) amended; interim 70272
19.706 (b) and (c) revised; interim 70272
19.708 Heading revised; (a) introductory text, (c)(1), (2) and (3) amended; (b) revised; interim 70272
19.800 (d) added; interim 70272
19.803 (c) amended; interim 70272
19.804–2 (a)(12) revised; interim 70272
19.1004 Amended 58602
19.1006 (b)(1) amended; interim 70272
19.1102 (b) revised; interim 70272
19.1202–2 (b)(1) revised; interim 70272
19.1202–4 (c) added; interim 71723

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 48 Chapter 1—Con.

19.1301—19.1308 (Subpart 19.13) Added; interim **70272**
22.800 Amended **70283**
22.801 Revised **70283**
22.802 (a) and (b) amended **70283**
(b) and (c) amended **70285**
22.803 (b) amended; (d) revised **70283**
(a)(1), (2) and (b) amended **70285**
22.804–1 Revised **70284**
22.804–2 (b) amended **70284**
22.805 (a)(4) through (8) redesignated as (a)(5) through (9); (a) introductory text, (1), (2), (3) and new (5) introductory text, (ii), (v) and (6) through (9) revised; new (a)(4) added; (b) amended **70284**
22.806 Revised **70284**
22.807 (a)(1), (b)(1), (3) and (6) amended; (a)(2), (b)(5), (c) and (d) introductory text revised; (d)(2) removed **70284**
(a) introductory text, (b)(2), (3) and (4) amended **70285**
22.808 Amended **70285**
22.809 Introductory text, (a) and (d) amended **70285**
Introductory text, (c) and (d) amended **70285**
22.810 (a), (c) and (e) revised; (b) and (f) amended; (g) removed; (h) redesignated as (g) **70285**
22.1400—22.1408 (Subpart 22.14) Regulation at 63 FR 34074 confirmed **58599**
22.1400 Regulation at 63 FR 34074 confirmed **58599**
22.1401 Regulation at 63 FR 34074 confirmed **58599**
22.1402 Regulation at 63 FR 34074 confirmed **58599**
22.1403 Regulation at 63 FR 34074 confirmed **58599**
22.1404 Regulation at 63 FR 34074 confirmed **58599**
22.1405 Regulation at 63 FR 34074 confirmed **58599**
22.1406 Regulation at 63 FR 34074 confirmed **58599**
22.1407 Regulation at 63 FR 34074 confirmed **58599**
22.1408 Regulation at 63 FR 34074 confirmed **58599**
24.202 (c) added **58594**
26.104 (a) amended; interim **70274**
31.001 Amended **58596**
31.201–5 Amended **58596**
31.201–6 (j)(1) through (6) revised **58597**
31.205–5 Removed **58599**
31.205–6 Regulation at 63 FR 9067 confirmed; (k) heading and (p)(2)(ii) revised; (p)(2)(iv) added **70287**
31.205–47 (b) introductory text and (e)(3) revised; (c) redesignated as (c)(1); (c)(2) added **58600**
31.1103 (a) amended; interim **58594**
32.703–3 Revised **58601**
32.705–1 (b) revised **58603**
32.905 (a) introductory text revised **58602**
32.908 (a)(3) and (c)(3) added **58602**
(a)(3) and (c)(3) amended **70292**
33.104 (e) amended **58603**
33.201 Amended **58594**
33.204 Amended **58595**
33.207 (a) revised **58595**
33.214 (a)(3) and (4) amended; (a)(5) removed; (b) revised; (f) and (g) added **58595**
36.601–4 (a)(4) amended **58603**
37.106 (b) revised **58601**
37.602–3 Amended **70292**
41.103 (a)(2) and (3) amended **58603**
42.203 Amended **70292**
44.302 Revised **70288**
44.303 Introductory text revised **70288**
46.202–4 Revised **70289**
46.311 Revised **70289**
46.402 (e) and (g) removed; (f) and (h) redesignated as (e) and (f); new (e) amended **70290**
48.104–3 Regulation at 63 FR 34079 confirmed **70291**
52.204–3 Revised; interim **58589**
52.212–3 Amended; interim **58590**, **70274**
Amended **70285**
52.212–5 Regulation at 63 FR 34075 confirmed **58599**
Amended **58603**, **70292**
Amended; interim **70274**
52.213–4 Regulation at 63 FR 34075 confirmed **58599**
52.214–2 Removed; interim **58590**
52.215–4 Removed; interim **58590**
52.215–15 Revised **58598**
52.219–1 Amended; interim **70274**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

52.219–2 Introductory text amended; interim **70274**
52.219–3 Added; interim **70274**
52.219–4 Added; interim **70275**
52.219–8 Revised; interim **70275**
Amended; interim **71723**
Amended; interim 3196
52.219–9 Amended; interim **70276**
Amended **70293**
52.219–10 Amended; interim **70277**
52.219–16 Amended; interim **70277**
52.219–22 Introductory text amended; interim **70277**
52.219–25 Amended; interim **71723**
52.222–21 Revised **70285**
52.222–22 Amended; introductory text revised **70286**
52.222–23 Amended; heading and introductory text revised **70286**
52.222–24 Revised **70286**
52.222–25 Introductory text revised **70286**
52.222–26 Amended; introductory text revised **70286**
52.222–27 Amended; introductory text revised **70286**
52.222–28 Removed **70286**
52.222–29 Revised **70286**
52.222–36 Regulation at 63 FR 34075 confirmed **58599**
52.222–37 Amended **70293**
52.226–1 Amended; interim **70277**
52.233–1 Amended **58595**
52.244–6 Amended **58603**
52.246–11 Revised **70289**
52.247–48 Revised **70292**
53.219 (a) revised; (b) amended; interim **70277**
53.228 (h) and (i) revised **58603**
(a), (b), (c), (e), (j) and (m) revised **70293**
53.301–24 Revised **70293**
53.301–25 Revised **70296**
53.301–25A Revised **70298**
53.301–28 Revised **70300**
53.301–273 Revised **58603**
53.301–274 Revised **58605**
53.301–275 Revised **70302**
53.301–294 Revised; interim **70277**
53.301–295 Revised; interim **70280**
53.301–1416 Revised **70304**

Chapter 2—Department of Defense (Parts 200—299)

201.402 (1) introductory text and (i) revised; (3)(iii) amended 8727
204.101 (a)(i) revised **69006**
204.670–2 (c) revised 2595
204.804–1 Amended 2596
206.302–4 Revised **67803**
208.405–2 Revised 2596
208.7204 (a) revised 2596
208.7305 (a)(3) revised 2596
209.104–1 Regulation at 63 FR 14837 confirmed **64427**
209.104–70 Regulation at 63 FR 14837 confirmed **64427**
209.405–2 Regulation at 63 FR 14837 confirmed **64427**
209.409 Regulation at 63 FR 14837 confirmed **64427**
211.201 (b) amended; (d) introductory text revised 8727
212.301 (f)(ii) amended; (f)(v) added; interim 8728
212.503 (c)(ii) amended **55040**
213 Regulation at 63 FR 33587 confirmed **64427**
Revised 2596
215 Revised **55041**
215.304 Revised; interim **64428**
215.404–4 (b)(1) introductory text, (c)(2) introductory text, (A) and (B) revised **63799**
215.404–72 Revised **63799**
215.404–75 Redesignated as 215.404–76; new 215.404–75 added **63800**
215.404–76 Redesignated from 215.404–75 ..... **63800**
216.203–4 (a) introductory text amended; (a)(i) and (b)(i) revised 2597
217.401 Revised; interim **64429**
217.7103–3 (b) revised **55052**
(b) correctly revised **56290**
217.7103–4 Revised **55052**
217.7302 (b) revised 2597
217.7404–3 (a) introductory text and (1) revised **67803**
217.7404–5 (b) revised **67804**
217.7406 (b) amended **55052**
217.7504 (a)(2) revised 2598
219.001 Revised; interim **64429**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 48 Chapter 2—Con.

219.201 (c) and (d) redesignated as (d) and (e); new (d)(9)(A) revised 2598
219.702 Regulation at 63 FR 14640 confirmed **64427**
219.708 (c)(1) revised; (c)(2) removed; interim **64429**
219.800 Regulation at 63 FR 33587 confirmed **64427**
219.804–2 Regulation at 63 FR 33587 confirmed **64427**
219.804–3 Regulation at 63 FR 33587 confirmed **64427**
219.805 Regulation at 63 FR 33588 confirmed **64427**
219.805–2 Regulation at 63 FR 33588 confirmed **64427**
219.806 Regulation at 63 FR 33588 confirmed **64427**
219.808 Regulation at 63 FR 33588 confirmed **64427**
219.808–1 Regulation at 63 FR 33588 confirmed **64427**
219.811 Regulation at 63 FR 33588 confirmed **64427**
219.811–1 Regulation at 63 FR 33588 confirmed **64427**
219.811–2 Regulation at 63 FR 33588 confirmed **64427**
219.811–3 Regulation at 63 FR 33588 confirmed **64427**
219.812 Regulation at 63 FR 33588 confirmed **64427**
219.1203—219.1204 (Subpart 219.12) Added; interim **64429**
223.570–4 (b) revised 2598
223.7000—223.7002 (Subpart 223.70) Removed **67804**
225.105 (5)(ii)(B) revised 2598
225.408 (a)(ii) and (iv) amended 8730
225.770–3 (a) revised 2598
225.771 Added; interim 8728
225.771–1 Added; interim 8728
225.771–2 Added; interim 8728
225.771–3 Added; interim 8728
225.771–4 Added; interim 8728
225.872–3 (g) amended **55052**
225.872–6 (c) introductory text amended **55052**
225.7002–2 (k) added; interim 2599
225.7005 Regulation at 63 FR 43888 confirmed **64427**
225.7007–4 Regulation at 63 FR 43888 confirmed **64427**
225.7010–3 Regulation at 63 FR 43888 confirmed **64427**
225.7016–1 Regulation at 63 FR 43888 confirmed **64427**
225.7016–2 Regulation at 63 FR 43888 confirmed **64427**
225.7016–3 Regulation at 63 FR 43888 confirmed **64427**
225.7019–1 Regulation at 63 FR 43888 confirmed **64427**
225.7019–3 Regulation at 63 FR 43888 confirmed **64427**
225.7022–1 Regulation at 63 FR 43888 confirmed **64427**
225.7022–2 Regulation at 63 FR 43888 confirmed **64427**
225.7022–3 Regulation at 63 FR 43888 confirmed **64427**
225.7303–2 (c) introductory text amended 8729
226.7007 (b) revised; interim **64429**
227.7203–10 (a)(1) amended **55052**
228.370 (f) revised **69006**
230 Heading revised 8727
230.7002 (b) amended **55052**
230.7004–1 Heading and (a) amended **55052**
230.7103 Amended **55052**
231.205–6 Regulation at 63 FR 63036 confirmed **64427**
231.205–18 Revised 8729
231.205–70 Regulation at 63 FR 7309 confirmed **64427**
232.501 Revised 8731
232.501–1 (a)(iii) removed 8731
232.501–2 Amended 8731
232.502–1–71 Removed 8731
232.502–4–70 (b) removed; (c) redesignated as (b) 8731
232.905 (f)(6) revised **69007**
235.015–71 Removed **69007**
235.7000—235.7003–4 (Subpart 235.70) Regulation at 63 FR 34605 confirmed **64427**
237.7302 Amended 2598
236.102 Regulation at 63 FR 11538 confirmed **64427**
236.274 Regulation at 63 FR 11538 confirmed **64427**
236.570 Regulation at 63 FR 11538 confirmed **64427**
236.601 (1)(ii) amended **69008**
236.602–1 (a)(i)(6)(C) revised; interim **64430**
237.106 Revised **67805**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

237.270 Correctly removed; CFR correction **54078**
237.270–1 Correctly removed; CFR correction **54078**
237.270–2 Correctly removed; CFR correction **54078**
237.270–3 Correctly removed; CFR correction **54078**
237.270–4 Correctly removed; CFR correction **54078**
237.7204 Amended **55052**
242.203 (a)(ii)(P) and (Q) amended; (a)(i)(R) removed 2598
242.771 Revised; interim 8729
242.771–1 Revised; interim 8729
242.771–2 Revised; interim 8729
242.771–3 Revised; interim 8729
242.7205 (b)(4)(iv) amended **55052**
246.370 (b)(1) revised 2598
247.271–3 (b)(1) and (2)(iv)(B) revised 2598
247.572–2 (f)(3)(i) amended; (f)(3)(ii) revised **55052**
247.573 (a), (b) and (c) revised 2598
252.209–7001 Regulation at 63 FR 14837 confirmed **64427**
252.209.7004 Regulation at 63 FR 14837 confirmed **64427**
252.212–7001 Amended; interim **64430**
252.215–7000 Introductory text amended **55052**
252.215–7002 Amended; introductory text revised **55052**
252.217–7027 Amended **55052**
252.219–7005 Amended **55052**
Removed; interim **64430**
252.219–7009 Regulation at 63 FR 33588 confirmed **64427**
252.219–7010 Regulation at 63 FR 33588 confirmed **64427**
252.219–7011 Regulation at 63 FR 33588 confirmed **64427**
252.223–7005 Removed **67804**
252.225–7007 Amended 8730
252.225–7012 Amended; interim 2599
252.225–7016 Regulation at 63 FR 43889 confirmed **64427**
252.225–7017 Added; interim 8728
252.225–7021 Amended 8730
252.225–7029 Regulation at 63 FR 43889 confirmed **64427**
252.228–7006 Amended **69006**
252.232–7003 Removed 8731
252.232–7004 Introductory text revised 8731
252.236–7010 Regulation at 63 FR 11544 confirmed **64427**
252.236–7012 Regulation at 63 FR 11544 confirmed **64427**
252.243–7000 Amended **55052**
253 Note removed **69007**
Amended 8727
253.204–70 (b)(6)(i) introductory text amended **55052**
(b)(5)(ii)(A), (B)(*1*), (13)(i)(A), (B) introductory text, (C), (E), (G), (iv)(I), (14)(iii), (iv), (d)(5)(vi), (e)(1), (2) and (3) amended **60217**
Regulation at 63 FR 33589 confirmed **64427**
(d)(5)(iv)(A)(*2*) amended 2598
253.204–71 Regulation at 63 FR 33589 confirmed **64427**
(a)(3) introductory text, (g)(2)(ii)(C) and (i)(1) revised 2598
253.213 (e) redesignated as (f); heading and new (f) introductory text and (1) revised 2599
253.213–70 (e) amended 2600
253.215–70 (a), (b)(4), (c)(12) and (14) revised; (b)(7) removed; (b)(8) and (9) redesignated as (b)(7) and (8); (c)(15) and (16) amended **55052**
(b)(4) amended **63800**
Chapter 2 Appendix I amended; interim **64430**
Appendix G amended **71231**
Appendix B amended 8726

Chapter 5—General Services Administration (Parts 500—599)

511.204 (c) revised; interim 4789
516.505 (a) revised; interim 4789
542.302 (b)(5) revised; interim 4789
552.216–73 Amended; interim 4789
552.238–72 Amended; interim 4789
552.238–76 Amended; interim 4789
552.243–72 Amended; interim 4789

Chapter 7—Agency for International Development (Parts 700—799)

705.502 Added 5006
706.501 Amended 5006
709.503 Amended 5006
709.507–2 (c) revised 5006

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 48 Chapter 7—Con.

716.406 Added 5007
722.805–70 (Subpart 722.8) Revised 5007
731.205–6 (b) added; (d) removed 5008
731.371 (b)(1) revised 5008
732.402 (e)(1) revised 5008
732.406–73 Existing text designated as (a); (b) added 5008
745 Added 5008
747 Added 5008
752.204–2 Amended 5008
752.209–71 Introductory text revised 5008
752.216–70 Added 5008
752.245–71 Amended 5009
752.247–70 Added 5009
752.7003 Amended 5009
752.7005 Added 5010
752.7018 Revised 5010
752.7019 Revised 5011

Chapter 8—Department of Veterans Affairs (Parts 800—899)

801.000 Amended **69217**
801.101 (a) amended **69217**
801.102 Redesignated as 801.103 ..... **69217**
801.103 Redesignated as 801.104; new 801.103 redesignated from 801.102 and amended **69217**
801.104 Redesignated from 801.103; (a) amended **69217**
801.301–70 (b)(2) amended **69217**
801.303 Heading revised **69217**
801.601—801.690–6 (Subpart 801.6) Heading revised **69217**
801.602–3 (a)(2) and (b)(2) amended **69217**
801.603–71 (b) amended; (c), (d) and (e) removed **69217**
801.670–1 Amended **69217**
801.670–2 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2) **69217**
801.670–3 (a) amended **69217**
801.670–4 (a)(1), (2), (b)(1), (2) and (c) amended **69217**
801.670–5 (a)(3) through (6), (8), (9) and (b) amended **69218**
801.680 (c) and (d) amended **69218**
801.690–3 (c) introductory text, (1) and (2) amended **69218**
801.690–4 (c)(1)(i) amended; (c)(3)(ii) revised **69218**
801.690–6 (b) amended **69218**
803.101–3 (b) amended **69218**
803.405 Redesignated from 803.409 ..... **69218**
803.409 Redesignated as 803.405 ..... **69218**
803.7000 Introductory text amended **69218**
805.205 Amended **69218**
806.302–3 Amended **69218**
806.302–5 (a), (b), (c) introductory text, (1), (2), (4), (5) and (6) amended; (c)(3) revised **69218**
806.304 (a)(1)(i) and (2)(i) amended **69218**
806.501 (b) amended **69218**
806.570 Heading revised; introductory text amended **69218**
808.001 (a)(4) amended **69219**
808.401 Amended **69219**
808.404–1 (a) and (b) amended **69219**
808.404–3 Amended **69219**
814.201 (a) amended **69219**
814.304–4 Amended **69219**
814.403 Amended **69219**
814.404–1 (b) amended **69219**
814.404–70 Amended **69219**
814.406 Redesignated as 814.407 ..... **69219**
814.406–3 (a), (b) and (c) amended **69219**
814.406–4 (a), (b) and (c) amended **69219**
814.407 Redesignated as 814.408; new 814.407 redesignated from 814.406 ..... **69219**
814.407–70 Redesignated as 814.408–70 ..... **69219**
814.407–71 Redesignated as 814.408–71 ..... **69219**
814.408 Redesignated as 814.409; new 814.408 redesignated from 814.407 ..... **69219**
814.408–70 Redesignated from 814.407–70 ..... **69219**
814.408–71 Redesignated from 814.407–71 ..... **69219**
814.409 Redesignated from 814.408 ..... **69219**
817.102 Redesignated as 817.105 ..... **69219**
817.102–1 Redesignated as 817.105–1 ..... **69219**
817.105 Redesignated from 817.105 ..... **69219**
817.105–1 Redesignated from 817.105–1; (b)(2) and (c) amended **69219**
819 Authority citation revised **69219**
819.201 (a), (b) and (d) amended **69219**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

819.202–5 (c) introductory text, (g) and (h) amended; (c)(6) removed; (c)(7) through (12) redesignated as (c)(6) through (11) **69219**
819.202–70 Introductory text, (a), (c), (j) and (k) amended **69220**
819.502–2 (b) removed; (c) and (d) redesignated as (b) and (c) **69220**
819.502–3 Revised **69220**
819.602–3 (a) through (d) amended **69220**
819.801 (b) and (d) amended **69220**
819.804 Amended; heading revised **69220**
819.806 Redesignated from 819.806–3 and heading revised **69220**
819.806–3 Redesignated as 819.806 ..... **69220**
819.807–70 Amended; heading revised **69220**
819.7004 Amended **69220**
822.478 (a), (b) and (c) amended **69220**
825 Authority citation revised **69220**
825.102–70 (b) and (c) amended **69220**
825.105 Amended **69220**
825.202–70 (b) and (c) amended **69220**
825.203 Amended **69220**
825.302–70 Amended **69220**
825.701 Removed **69220**
825.703 Amended **69220**
825.870 Amended **69220**
825.901 Redesignated from 825.902; heading revised; existing text designated as (a) and amended; (b) added **69220**
825.902 Redesignated as 825.901 ..... **69220**
825.904 Removed **69221**
828.106–6 Amended **69221**
828.7100 (a) and (c) amended **69221**
828.7101 (b) amended **69221**
828.7102 (a) introductory text, (1) and (b) introductory text amended **69221**
831 Authority citation revised **69221**
831.7001–4 (a) and (b)(2) amended **69221**
831.7001–5 (b) amended **69221**
832 Authority citation revised **69221**
832.502–2 Amended **69221**
832.805–70 (b) amended **69221**
833.104 (a)(1), (2), (b) and (c) amended **69221**
833.212 (a) and (b)(4) amended **69221**
836.208 Amended **69221**
836.209 Amended **69221**
836.602–2 (a) and (b) amended **69221**
838.606–72 Amended **69221**
837.203—873.271–4 (Subpart 837.2) Heading revised **69221**
837.203 Revised **69221**
837.270 (a) introductory text, (1), (3), (c) and (d) amended; (e) revised **69221**
837.271 Removed **69222**
837.271–1 Removed **69222**
837.271–2 Removed **69222**
837.271–3 Removed **69222**
837.271–4 Removed **69222**
837.403 Amended **69222**
837.7001 Amended **69222**
837.7002 Amended **69222**
837.7003 (a), (b) introductory text, (5), (c) and (d) amended; (e) revised **69222**
842 Authority citation revised **69222**
842.102 (b) amended **69222**
842.202 Amended **69222**
842.705 (b) amended **69222**
842.801–70 Amended **69222**
842.1203 Amended **69222**
846.408–70 (b) introductory text amended **69222**
846.408–71 (a) amended **69222**
846.471 (a) and (b) amended **69222**
847 Authority citation revised **69222**
847.303–1 (b) amended **69222**
847.305–70 Amended **69222**
849 Authority citation revised **69222**
849.106 Amended **69222**
849.107 Amended **69223**
849.111–70 Amended **69223**
849.111–72 (c) amended **69223**
852.203–71 Amended **69223**
852.211–70 (d) amended **69223**
852.216–70 (a) amended **69223**
852.222–70 Amended **69223**
852.236–88 Introductory text, (a) and (b) amended **69223**
852.236–89 Amended **69223**
852.247–70 Amended **69223**
852.270–3 Heading revised **69223**
852.271–73 Amended **69223**
853 Authority citation revised **69223**
853.107 Amended **69223**
870 Authority citation revised **69223**
870.114–3 Introductory text amended **69223**
870.114–4 Amended **69223**
870.115 (a) amended **69223**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 48 Chapter 8—Con.

871.102 (a) amended **69223**

Chapter 9—Department of Energy (Parts 900—999)

903.104–3 Added **56851**
915 Revised **56851**
916.504—916.505 Designated as Subpart 916.5 and heading added **56860**
919.602–1 (a)(2) amended **56860**
919.805–2 Revised **56860**
935.016 Removed **56860**
935.016–1 Removed **56860**
935.016–2 Removed **56860**
935.016–8 Removed **56860**
970.15404–4—970.15407–2–3 (Subpart 970.15) Revised **56861**
970.3102–1 (c) amended **56867**
970.3102–15 (b)(1) and (2) amended **56867**
970.5202 Revised **56867**
970.5204–9 Amended **56867**
970.5204–15 Amended **56867**
970.5204–22 Amended **56867**
970.5204–44 Amended **56867**
970.5204–54 Amended **56867**
970.5204–76 Amended **56867**

Chapter 12—Department of Transportation (Parts 1200—1299)

1201.103 Removed 2436
1201.201–1 (d) removed 2436
1201.301 (a)(2) and (b) added 2436
1205.9000 (Subpart 1205.90) Revised 2436
1206.9000 (Subpart 1206.90) Revised 2436
1211.204–90 Revised 2437
1213.106—1213.106–190 (Subpart 1203.1) Revised 2437
1213.302—1213.302–590 (Subpart 1213.3) Added 2437
1215 Revised 2437
1237.104 Revised 2438
1237.104–90 Revised 2438
1237.104–91 Revised 2438
1237.9000 (Subpart 1237.90) Revised 2438
1252.211–71 Amended 2439
1252.215–70 Amended 2439
1252.216–71 Amended 2439
1252.216–72 Amended 2439
1252.216–73 Amended 2439
1252.211–90 Added 2439
1252.213–90 Revised 2439
1252.220–90 Revised 2439
1252.228–90 Revised 2439
1252.237–90 Revised 2439
1252.237–91 Revised 2440
1252.237–92 Revised 2440
1252.237–93 Revised 2440
1252.237–94 Revised 2440
1252.237–95 Revised 2440
1252.237–96 Revised 2440
1252.237–97 Revised 2440
1252.237–98 Revised 2440
1252.237–99 Revised 2440
1252 Appendix redesignated from 1253 appendix in part; new appendix revised 2442
1253.215 Removed 2441
1253.215–270 Removed 2441
1253.3 Appendix redesignated in part as 1253 appendix 2442

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

1516.405 (b) amended 3876
1552.216–75 Revised 3876
1552.242–70 Amended 3876

Chapter 16—Office of Personnel Management Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)

1609.7101—1609.7101–2 (Subpart 1609.71) Added **55337**
1632.170 (a) and (b)(1) revised **55338**
1652.232–70 Amended **55339**
1652.232–71 Amended **55339**
1652.244–70 Amended **55339**
1652.370 Table amended **55339**

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1804.203 Added 1528
1804.805 (a) revised 5620
1804.805–70 (b)(2) amended 5620
1804.904 (Subpart 1804.9) Added 1528
1807.7203 Revised 5620
1808.002–70 Revised 5620
1813.003 (h) redesignated as (g) 5620
1816.203–4 (d)(2) amended 5620
1817.7300—1817.7302 (Subpart 1873.73) Added **56091**
1819.302 (Subpart 1819.3) Heading revised 5620

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

1819.506 Heading revised 5620
1819.705–2—1819.708–70 (Subpart 1819.7) Heading revised 5620
1819.708 Heading revised 5621
1827.301 Amended **63209**
1827.406–70 (c) revised 5621
1832.908 Revised 5621
1832.970 Removed 5621
1833.104 (c)(2) revised 5621
1834.003 (a) revised **56093**
1834.7001—1834.7004 (Subpart 1834.70) Removed **56093**
1836.213–70 Redesignated as 1836.213–370 5621
1836.213–370 Redesignated from 1836.213–70 5621
1844.201–1 (a)(iii) revised 5621
1852.217–71 Added **56093**
1852.217–72 Added **56093**
1852.227–70 Amended **63209**
1852.234–70 Removed **56094**
1852.234–71 Removed **56094**
1852.235–70 Introductory text amended 5621
1853.208–70 Heading and (c) revised 5621
1871.204 Revised **71604**
1871.401–6 (a)(2) amended **71604**
(a)(2) correctly revised; (a)(3) correctly added; CFR correction 1529

Chapter 53—Department of the Air Force Federal Acquisition Regulation Supplement (Parts 5300—5399)

5315 Removed 995
5316 Removed **67600**
5350 Removed **71390**

Proposed Rules:

8 ..... **57568**
11 ..... **63778, 68344**
14 4248
15 4248
17 3618
28 ..... **71710**
31 ..... 3380, 4760
32 6758
36 ..... **71710**
42 ..... **57568**
44 ..... **71710**
46 ..... **57878**
47 7736
49 ..... **71710**
52 ..... **63778, 68344, 71710, 71711** 3618, 3786, 4248, 6758, 7736
204 2617
212 2617
213 2617
231 ..... **65727**
252 2617
253 2617
300—399 (Ch. III) 1344
601 ..... **65728**
602 ..... **65728**
603 ..... **65728**
604 ..... **65728**
605 ..... **65728**
606 ..... **65728**
608 ..... **65728**
609 ..... **65728**
610 ..... **65728**
611 ..... **65728**
613 ..... **65728**
614 ..... **65728**
615 ..... **65728**
616 ..... **65728**
617 ..... **65728**
619 ..... **65728**
622 ..... **65728**
623 ..... **65728**
625 ..... **65728**
626 ..... **65728**
628 ..... **65728**
629 ..... **65728**
630 ..... **65728**
631 ..... **65728**
632 ..... **65728**
633 ..... **65728**
634 ..... **65728**
636 ..... **65728**
637 ..... **65728**
639 ..... **65728**
641 ..... **65728**
642 ..... **65728**
643 ..... **65728**
644 ..... **65728**
645 ..... **65728**
646 ..... **65728**
647 ..... **65728**
649 ..... **65728**
652 ..... **65728**
653 ..... **65728**
700—799 (Ch. VII) **59501**
712 ..... **59501**
727 ..... **59501**
742 ..... **59501, 64539**
752 ..... **59501**
801 ..... **60256**
806 ..... **60256**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 48 *Proposed Rules:—Con.*

812 ..... **60256**
829 4607
837 ..... **60256**
852 ..... **60256**
873 ..... **60256**
909 ..... **60268**
970 ..... **60268, 64024**
1201 ..... **52666**
1205 ..... **52666**
1206 ..... **52666**
1211 ..... **52666**
1213 ..... **52666**
1215 ..... **52666**
1237 ..... **52666**
1252 ..... **52666**
1253 ..... **52666**
1503 ..... **71415**
1515 ..... **71415**
1526 ..... **67845**
1537 3060
1552 ..... **67845, 71415**
..... 3060
1842 ..... **63654**
1852 ..... **63654**
2000—2099 (Ch. 20) **67726**

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.46 (ppp) added **59475**
(ppp) correctly designated 3876
(qqq) added 7814
1.48 (ll) added 7814
1.49 (kk) added **57610**
(ll) added 7814
1.66 (bb) added 2150
23 Heading and authority citation revised 5126
23.1—23.7 (Subpart A) Removed 5126
23.41—23.55 (Subpart C) Removed 5126
23.61—23.69 (Subpart D) Removed 5126
23.73—23.87 (Subpart E) Removed 5126
23.89 Amended 5126
23.93 (a) introductory text amended 5126
23.95 (a)(1), (f)(1), (2) and (g)(1) amended; (f)(5) removed 5126
23.97 Amended 5126
23.111 Removed 5126
24.2 Amended 7131
24.102 (k) amended 7132
24.103 (c) amended 7132
24.105 (c) amended 7132
24.202 Amended 7132
24.203 (a)(4) redesignated as (a)(5); new (a)(4) added; (b) amended 7132
24.204 (a) amended 7132
24.205 (c)(2)(ii)(B) amended 7132
24.208 Redesignated as 24.209; new 24.208 added 7132
24.209 Redesignated from 24.208 7132
24.301 Introductory text amended 7132
24.303 (a) amended 7132
24.304 Introductory text amended 7132
24.306 (a)(6) and (c) amended 7132
24.307 (a) amended 7132
24.401 (c)(4)(ii) amended 7132
24.403 (a) and (b) amended 7132
24.404 (c)(2) amended 7132
24 Appendix A amended 7132
26 Added 5126
37.15 Revised **64837, 64838**
40.29 (e)(1) table and (f)(1) table amended **65129**

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.503 (a)(3) amended **52846**
107.606 (a)(5) amended **52847**
171.7 (a)(3) table amended **52847, 57930**
171.8 Amended **52847**
171.11 (d)(4)(ii) revised **57930**
171.14 (c)(1) revised **52847**
172.101 (c)(11) introductory text, (f) and table amended **52847**
172.101 Table amended **52849**
172.102 (c)(1) amended **52849**
172.203 (m)(1) amended **52849**
172.400a (a)(7) amended **52849**
172.504 Table amended **52849**
173.6 (c)(2) amended **52849**
173.33 (a)(3) amended **52849**
173.34 (e)(18)(i) table amended **52849**
173.58 (a) introductory text amended **52849**
173.62 (c) table amended **52849**
173.247 (a) amended **52849**
173.403 Amended **52849**
173.416 (f) amended **52849**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

173.422 (b)(1) amended **52849**
173.425 Table 7 amended **52849**
173.427 (a)(3) amended **52849**
173.433 (g) table amended **52849**
173.461 (a) introductory text and (b) amended **52850**
175.700 (b) amended **52850**
176.704 (e)(1) and (f) table amended **52850**
177 Response to petitions **58323**
177.835 (g) introductory text amended **52850**
177.842 (a) amended **52850**
177.843 (c) amended **52850**
177.854 Introductory text removed **52850**
178.338 Heading amended **52850**
179 Authority citation revised **52850**
179.2 (a)(2) revised **52850**
179.3 (a) revised **52850**
179.4 (a) amended; (b) revised **52850**
179.5 (a) and (b) revised **52850**
179.100—179.103-5 (Subpart C) Heading revised **52850**
180.403 Introductory text amended **52850**
180.417 (a)(3)(ii) amended **52850**
180.509 (c)(3)(ii) amended **52851**
180.515 (b) amended **52851**
195 Response to petitions **63210**
195.302 (b)(4) added; (a) amended; (c) introductory text revised **59479**
195.303 Redesignated as 195.304; new 195.303 added **59480**
195.304 Redesignated as 195.305; new 195.304 redesignated from 195.303 ..... **59480**
195.305 Redesignated from 195.304 ..... **59480**
195.406 (a)(4) amended **59480**
195 Appendix B added **59480**
Appendix B corrected 6815
199 Announcement **58324**

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

213.57 (g)(4) corrected **54078**
213.345 (d) corrected **54078**
219 Determination **71789**
219.5 Amended; interim **71791**
219.201 (a)(1) introductory text, (2) and (4) revised; interim **71791**
225.19 (c) amended; interim **71791**
225 Appendix B amended; interim **71791**
268 Added; interim **54606**
268.3 (b) through (f) revised; interim 7134
268.13 Revised; interim 7134

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

360 Added 7137
381 Added; interim **67608**
383.7 Removed; interim **67612**
385 Appendix B amended **62959**
395 Deadline extension **71791**

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

538.5 (b) added **66068**
538.6 Revised **66069**
538.7 Added **66069**
544.5 (a) revised **70053**
544 Appendixes A, B and C revised **70053**
555 Heading and authority citation revised 2861
555.1 Revised 2861
555.2 Existing text designated as (a); (b) added 2861
555.3 Revised 2861
555.4 Amended 2861
555.5 Heading, (b) introductory text and (5) amended; (a) and (b)(7) revised 2861
555.6 Heading, (a) introductory text, (1)(v), (2)(iv), (b)(5), (c)(5) and (d)(4) amended; (b) introductory text, (1), (2) introductory text, (i), (iii), (4), (c) introductory text, (1), (2) introductory text, (iv), (d) introductory text, (1) introductory text, (ii), (iv) and (v) revised 2861
Corrected 5866
555.7 (b), (c), (d) introductory text and (e) amended 2861
Heading and (a) revised 2862
555.8 (e) and (f)(1) amended 2861
555.10 (a) amended 2862
567 Authority citation revised 6816
Technical correction 9445
567.4 (g)(5)(iii) added 6817

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 49 Chapter V—Con.

571 Policy statement **59482**
571.105 Amended; interim 9449
571.108 Amended **63801**
571.208 Amended **53851, 71394**
Amended 2448, 7140
571.213 Regulations at 62 FR 18724 and 30466 confirmed **52629**
Amended; eff. 3-30-99 ..... **52630**
571.221 Amended; eff. 5-5-00 ..... **59740**
571.304 Amended **66765**
571 Figure 6 revised **71395**
572.31 (a)(1), (3) and (4) revised; (b) removed **53851**
572.34 (b) revised **53851**
580 Authority citation revised **52632**
580.16 Regulation at 62 FR 47765 confirmed **52632**
580.17 Regulation at 62 FR 47765 confirmed; (a)(3) revised **52632**
581 Authority citation revised 2862
581.4 Amended 2862
581.8 Added 2862

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

639 Authority citation revised **68366**
639.1 Revised **68366**
639.3 Revised **68367**
639.5 Revised **68367**
639.13 (a) revised **68367**
653.7 Amended 426
653.45 (d) added **67613**
654.7 Amended 426
654.33 (d) added **67613**

Chapter VIII—National Transportation Safety Board (Parts 800—899)

800.2 Introductory text and (b) through (j) revised; (k) added **71605**
(b), (d) and (j) corrected 5621
800.24 (j) added **71606**
800.25 Heading and introductory text revised **71606**
800.26 Revised **71606**
800.28 Added **71606**
800 Appendix amended **71606**
831.3 Revised **71606**
831.11 (a)(2) revised **71606**
835 Authority citation revised **71607**
835.1 Revised **71607**
835.2 Revised **71607**
Corrected 5622
835.3 (c) through (f) added **71607**
(c) corrected 5622
835.4 (a) revised **71607**
835.5 Heading, (a), (c) and (d) revised **71607**
835.6 Revised **71607**
835.7 Revised **71608**
835.8 Revised **71608**
835.9 Revised **71608**
835.10 Added **71608**
835.11 Added **71608**

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1002.1 (b), (c), (d), (e)(1) and (f)(6) table revised 5192
1002.2 (f) revised 5192
1146 Added **71401**
1147 Added **71402**
1312.1 (c) amended 5195
1312.6 (c) revised 5195
1312.17 Removed 5195

Proposed Rules:

105 ..... **68624**
106 ..... **68624**
107 ..... **58358, 68624, 72224**
..... 9114
171 ..... **58358, 59505, 72224**
..... 70, 1789, 9114, 9115
172 ..... **58358, 72224**
..... 9114
173 ..... **58358, 72224**
..... 9114
177 ..... **58358, 59505, 72224**
..... 70, 9114, 9115
178 ..... **58358, 59505, 72224**
..... 70, 9114, 9115
180 ..... **58358, 59505, 72224**
..... 70, 9114, 9115
192 ..... **57269**
..... 5018
193 ..... **70735**
195 ..... **57269**
..... 5018
229 ..... **54104**
..... 3273
230 1791
231 ..... **54104**
..... 3273
232 ..... **54104**
..... 3273
243 ..... **59928**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

244 ..... **72225**
..... 4833
261 5996
390 7849
395 ..... **54432, 68729**
396 ..... **54432**
..... 7849
567 6852
571 ..... **54652, 57089, 57091, 57638, 60270, 63258, 68233, 68729, 70380**
..... 4834, 5259, 6021, 6591, 9115, 9118
572 4385
574 ..... **55832**
583 6021
585 ..... **57091**
587 ..... **57091**
595 ..... **57091**
640 5996
661 8051
1106 ..... **72225**
1146 ..... **55996, 58358**
1312 ..... **66521**
1420 ..... **59263, 65163**

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

2.2 (a), (c), (d) and (e) revised **52633**
10.21 (b) revised **52633**
13.5 Revised **52634**
14.3 Revised **52634**
15.4 Added **52634**
15.21 (c) revised **52634**
16.22 (a) and (d) revised **52634**
17 Petition finding **67613, 67618**
Determination 5957
17.8 Added **52635**
17.11 (h) table amended **52837, 57619, 64799, 69021, 70062**
(h) table amended 5981
17.12 (h) table amended **53615, 54956, 54970, 54994, 59244**
17.22 (a)(1) introductory text and (b)(1) introductory text revised; (a)(1)(ix) and (b)(1)(iv) removed **52635**
17.32 (a)(1)(ix) and (b)(1)(iv) removed; (a)(1) introductory text and (b)(1)(i) revised **52635**
17.44 (v) correctly added; CFR correction **63421**
17.62 (a)(3)(iii) removed; (a) introductory text and (4) revised **52635**
17.72 (a) introductory text and (4) revised; (a)(3)(iii) removed **52636**
17.84 (g) revised **52837**
17.108 (a)(7) and figure revised **55556**
18.30 (i)(1) introductory text revised 1539
18.121—18.129 (Subpart J) Revised; eff. 1-28-99 through 1-30-00 4334
20.21 (j)(2) revised **54019**
(j) introductory text revised; (j)(3) added **54026**
(j) introductory text revised; (j)(4) added **67624**
(b) and (g) revised 7516
20.22 Amended 7527
20.104 Seasonal hunting adjustments **63584**
20.105 Seasonal hunting adjustments **63584**
21.4 Revised **52637**
21.23 (b) introductory text revised **52637**
21.24 (b) introductory text revised **52637**
21.25 (b) introductory text revised **52637**
21.27 (b) introductory text revised **52637**
21.30 (b) introductory text revised **52637**
21.41 (b) introductory text revised **52637**
21.60 Added 7527
22.4 Added **52637**
22.21 (a) introductory text revised **52638**
22.22 (a) introductory text revised **52638**
22.23 (a) introductory text revised **52638**
22.24 (a) introductory text revised **52638**
22.25 (a) introductory text revised **52638**
23.15 (c) introductory text revised and (g) added **52638**
23.23 (f) table amended **58327, 63214**
(d) revised; (f) table amended **63212**
23.53 Revised 774

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 50 Chapter I—Con.

100.1—100.9 (Subpart A) Revised 1286
100.10—100.20 (Subpart B) Revised 1289
100.22—100.24 (Subpart C) Revised 1293
100.26 Revised 1302
100.27 Revised 1311

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

216 Workshop **52984, 56094, 67624**
216.3 Amended (temporary) **66076**
216.161—216.166 (Subpart O) Added (temporary) **66076**
217 Temporary regulations **55053, 62959, 66766**
Exemption **57620**
227 Workshop **52984, 56094, 67624**
Temporary regulations **55053, 62959, 66766**
Exemption **57620**
229.1 (f) revised 9086
229.2 Amended **66487**
Amended 7551, 9086
229.3 (k) through (p) added **66487**
(g) through (j) revised 7552
(c) amended; (e) through (p) redesignated as (f) through (q); new (e) added 9086
229.4 (b)(2)(v) removed; (b)(2)(vi), (c) and (d) through (m) redesignated as (b)(2)(v), (vi) and (c) through (l); new (b)(2)(vi), (d)(3), (e)(1), (3), (g) and (l) amended; new (c) introductory text, (3), (4), (5), (d)(1) and (2) amended 9086
229.5 (c) and (e) amended; (d) revised 9087
229.6 (a) amended; (b) revised 9087
229.7 (c)(4)(vi) and (6) removed; (c)(4)(vii) through (x) redesignated as (c)(4)(vi) through (ix); (b) introductory text, (c) heading, (1), (2), (4) introductory text, (i), new (v), (5) and (d)(4) revised 9087
229.8 (b)(2) revised; (c) redesignated in part as (d) 9087
229.9 (a)(3)(ii) revised 9087
229.10 (d) revised; (g)(1) amended 9087
229.11 (b) amended 9088
229.20 (f) amended 9088
229.30 Added 9088
229.31 (c)(2) and (3) revised; (c)(4) and (5) redesignated as (c)(7) and (8); new (c)(4), (5) and (6) added; interim 3432
229.32 Revised 7552
229.33 Added **66487**
(a)(2) and (5) corrected **71042**
229.34 Added **66489**
229 Figure 1 revised; interim 3434
230 Quotas **65129**
260 Inspection fees **69021**
285 Temporary regulations **54078, 55339**
Catch limit adjustment **71792**

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

300 Inseason adjustment **64005**
300.13 (a)(1) introductory text revised 15
300.14 Added 15
300.15 (c) added 15
300.16 Revised 15
300.17 Added 15

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Workshop **52984, 56094, 67624**
Temporary regulations **53313**
Fishing restrictions **64209**
Specifications 1316
Technical correction 5093, 6943
600.10 Amended 4036
600.215 Revised 4600
600.225 (b)(4) amended; (b)(8) revised **64185**
600.235 Revised **64185**
600.725 (v) added 4037
600.747 Added 4043
622 Temporary regulations **58327**
Regulation at 63 FR 27500 eff. date extended to 5–15–99 ..... **64430**
Temporary regulations 3650, 5195
Trip limit reduction 7556
622.4 (a)(2)(x) added **57590**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

622.5 (a)(1)(v) amended **57590**
622.6 (a)(1)(i) introductory text amended **57590**
622.7 (a), (b), (c) and (z) amended **57590**
622.8 (a) amended **57590**
622.17 Revised **57590**
622.30 (d) added 3627
622.31 (a) amended **57590**
622.34 (l) suspended; (m) added; interim; eff. 1-1-99 through 6-29-99 ..... **72203**
622.35 (f) amended **57590**
(e)(1)(xxx) through (xxxix) added; (e)(2)(i) revised; (e)(2)(iv) amended **71794**
622.36 (a) heading added; (b) revised 3627
622.37 (e) revised 3628
622.38 (a) revised; (e) removed; (f) through (i) redesignated as (e) through (h) 3628
622.39 (b)(1)(iii) suspended; (b)(1)(vi) added; eff. 1-1-99 through 6-29-99 ..... **72203**
(a)(1) amended; (d)(1)(i) and (ii) revised; (d)(1)(vi), (vii) and (viii) added 3628
622.40 (c)(3)(ii) amended; (d)(2)(ii) revised **57590**
(b)(3)(i) revised 3628
622.41 Regulation at 63 FR 27500 eff. date extended to 5-15-99 ..... **64430**
(d)(6) added 3628
622.42 (e)(3) added 3629
622.43 (a)(5) and (b)(1) revised 3629
622.45 (f)(2) amended **57590**
(d)(5) and (6) revised 3629
622 Appendix D amended and suspended in part; interim; eff. 11-27-98 through 5-15-99 ..... **64431, 64432**
Appendix C amended 3630
630 Quotas **66490**
630.3 (b) amended 4059
630.22 Revised 4059
630.24 (a)(1), (b)(2) and (e)(1) revised; (a)(3) and (f) removed 4059
630.25 Heading, (a)(1) and (c) added; (d) introductory text revised 4059
644.26 (b) removed; interim **63422**
648 Quotas **56867, 57622, 59492, 64006, 68404, 70351, 71794**
Deferral of IVR system reporting requirements **57931**
Temporary regulations **64433**
Temporary regulations 427
Specifications 1139
Quotas 2600, 5196, 9088
648.2 Amended; eff. 11-1-98 ..... **52640**
Amended **58329**
648.4 (c)(2)(iii)(A), (iv)(B) and (e)(1)(iv) amended **58329**
(a)(1)(i)(A), (B), (C), (E), (F), (H), (I)(*2*), (J), (K), (L), (2)(i)(A), (B), (H), (I), (3)(i) heading, (A), (B), (C), (4)(i), (5)(i), (6)(i) and (7)(i) revised; (a)(1)(i)(M), (2)(i)(L), (M) and (3)(i)(D) through (L) added; (a)(5)(ii) removed; (a)(5)(iii), (iv) and (v) redesignated as (a)(5)(ii), (iii) and (iv) 8265
648.7 (a)(1) heading, (i), (3)(i), (ii), (b)(1)(i) and (f)(1) revised; (a)(1) introductory text amended; (a)(2) redesignated as (a)(3); (a)(2) and (g) revised; (b)(1)(iii) removed; eff. 11-1-98 ..... **52640**
(b)(1)(i) and (iii) amended **58329**
648.9 Heading, (a) (b) introductory text, (1), (3) through (6), (8), (9) and (d) through (g) amended; (b)(2), (7) and (c) revised; **58329**
648.10 (a), (b) introductory text, (1), (2), (4), (5), (c) introductory text, (e) introductory text, (1) introductory text, (ii) and (f)(1) amended **58329**
648.14 (a)(8) revised; eff. 11-1-98 ..... **52641**
(a)(7), (c)(2) introductory text, (i), (ii), (h)(3) and (4) amended **58329**
(a)(52), (101) and (104) revised 2603
(a)(114) and (115) added 8268
648.80 (a)(8)(iii) and (10)(i)(C) revised 2603
648.81 (d) and (g)(1) introductory text revised; (o) added 2603
Corrected 4060
648.123 (a)(1) revised **72203**
649.4 (b)(2)(i) revised; (b)(3)(iii), (iv) and (v) added 8268
660 Temporary regulations **53313, 53317, 55558**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

TITLE 50 Chapter VI—Con.

Fishing restrictions....**64209**
Specifications....1316
Technical correction....5093, 6943
660.89 Added....**55810**
660.306 Regulation at 63 FR 36617 eff. date extended to 7-2-99....45
660.350 Regulation at 63 FR 36617 eff. date extended to 7-2-99....45
679 Temporary regulations....**52658, 52659, 52985, 52986, 53317, 53318, 53340—53342, 56095, 57255, 58658, 59244, 63221, 64652, 65129, 66768, 68210**
Reallocation....**54381, 63801**
Specifications and fishery management measures....46, 50
Temporary regulations...427, 428, 3658, 4602, 4790, 5198, 5720, 7557, 7815, 8013, 8269, 8529
Multispecies community development plan....1539
Inseason adjustments....8731
679.1 (j) added; eff. 1-1-00....**52652**
(c) heading revised....3652
679.2 Amended; eff. 1-1-99....**52652**
Corrected and amended....**64878**
Amended; interim; eff. 1-20-99 through 7-19-99....3437
Corrected; CFR correction....3453
Amended....3652, 3657
Amended; interim; eff. in part 1-21-99 through 7-20-99....3881
679.4 (a)(6) and (k) added; eff. in part 1-1-99 and in part 1-1-00....**52654**
(k) correctly designated....**54753**
(k)(1)(i), (ii), (2) introductory text, (3)(ii)(A)(*1*), (*2*), (*3*), (B), (4) introductory text, (i)(A) introductory text, (B) introductory text, (ii) introductory text, (iii), (iv) introductory text, (v) introductory text, (5) introductory text and (i) introductory text amended....**64878**
(k)(5)(ii) introductory text and (8)(iv) introductory text amended....**64879**
(c) heading, (1)(ii), (iii)(E), (6) and (7) revised....3652
679.7 (i) added; eff. 1-1-99....**52657**
(i) correctly designated....**54753**
(i)(1)(i), (ii), (iii) and (2) amended....**64879**
(b) suspended; (i) added; interim; eff. 1-20-99 through 7-19-99....3442
(a)(7) revised....3657
(d)(24) removed; (d)(25) through (28) redesignated as (d)(24) through (27); interim....3882
679.20 (g)(3) corrected....**54610**
(d)(1)(iv) added; interim; eff. 1-20-99 through 7-19-99....3437
(a)(5)(i)(A) and (ii)(B) suspended; (a)(5)(i)(C) and (ii)(C) added; interim; eff. 1-20-99 through 7-19-99....3442
(a)(8) and (c)(2)(ii)(A) revised....3451
(a)(6), (b)(2) and (c)(4) revised....3658
(b)(1)(iii)(A) suspended; (b)(1)(iii)(D) added; interim; eff. 1-21-99 through 7-20-99....3882
(a)(5)(i)(C)(*2*) and (*3*) corrected....7815
679.21 (e)(3)(v) and (7)(ix) added; interim; eff. 1-20-99 through 7-19-99....3437
679.22 (a)(7) and (b)(2) suspended; (a)(8)(iv), (11) and (b)(3) added; interim; eff. 1-20-99 through 7-19-99....3443
(a)(7) and (8) revised....3451
(a)(5) revised....3658
(a)(11)(iv)(A), (C)(*1*), (*2*) and (b)(3)(iii) corrected....7815
(a)(11)(iv)(C)(*1*) table correctly revised....9376
679.23 (d)(2) and (e)(2) suspended; (d)(3) and (e)(5) added; interim; eff. 1-20-99 through 7-19-99....3444
(e)(3) redesignated as (e)(4); new (e)(3) added....3452
(e)(2) revised....3658
(e)(5) correctly designated....7815
679.30 (a)(4) revised; interim....3882
679.31 (a) amended; interim....3882
679.32 (a)(1) revised; (a)(2), (3) and (e) suspended; (a)(4) and (g) added; interim; eff. in part 1-21-99 through 7-20-99....3882
679.42 (c)(2) introductory text corrected; (c)(2)(ii) correctly removed....**54611**
679.43 (p) added; eff. 1-1-99....**52657**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH FEBRUARY 26, 1999

(p) amended **64879**
679.50 Heading, (i)(1)(i) and (iii) revised **69025**
(c)(5) added; interim; eff. 1–20–99 through 7–19–99 3437
(c)(4) revised; interim 3882
679 Table 1 correctly revised **54612**
Tables 3 and 10 corrected **54613**
Table 12 correctly revised **54614**
Tables 4 and 6 suspended; Tables 12 and 13 added; interim; eff. 1–20–99 through 7–19–99 3444
Table 5 revised 3452
697.2 Amended 9450
697.7 (d) added 9451

Proposed Rules:

17 ..... **53010, 53620, 53623, 56361, 54660, 54972, 55839, 56128, 56134, 57640, 57642, 58692, 63657, 63659, 63661, 64449, 65164, 65165, 66777, 67640, 70745, 71424, 71820, 71838, 71855** 821, 2167, 3913, 3915, 3923, 4607, 7587, 8533, 9119
18 ..... **63812**
20 ..... **53635, 54753, 55840, 60271, 60278, 67037** 821, 822
21 ..... **60278** 822
100 4604
216 ..... **64228**
222 ..... **53635, 58701**
226 5740
227 ..... **53635, 56596, 58701** 465
253 6854
285 ..... **57093** 3154
300 ..... **64031** 6869, 9296
600 ..... **52676** 3154
622 ..... **60287, 63276, 64031, 66522, 70093** 2620, 8052
630 ..... **54661, 55572, 55998, 57093** 3154
635 ..... 3154, 9298
644 ..... **54433** 3154
648 ..... **52676, 55355, 55357, 56135, 63434, 63436, 63819, 64032, 64539, 65571, 66110, 66524, 67450, 70093** 471, 823, 2466, 3480, 4065, 5754, 6595, 7601, 8788
649 ..... **55357, 63436** 2708, 6596
660 ..... **53636, 58359, 59758, 64033, 66111, 69134** 823, 1341, 2467, 4065, 6597
678 ..... **57093** 3154
679 ..... **56601, 57094, 57996, 60288, 63442, 64033, 66112, 69256, 71867, 71876** 2870, 5868, 6025
697 2708

NOTE: **Boldface page numbers indicate 1998 changes.**

1998

63 FR Page

15739–16084	Apr. 1
16085–16386	2
16387–16668	3
16669–16876	6
16877–17047	7
17049–17305	8
17307–17665	9
17667–17930	10
17931–18115	13
18117–18306	14
18307–18815	15
18817–19166	16
19167–19378	17
19379–19650	20
19651–19793	21
19795–20052	22
20053–20294	23
20295–20512	24
20513–20684	27
23195–23368	28
23369–23642	29
23643–24096	30
24097–24381	May 1
24383–24737	4
24739–24910	5
24911–25152	6
25153–25386	7
25387–25746	8
25747–26061	11
26063–26419	12
26421–26709	13
26711–26954	14
26955–27192	15
27193–27437	18
27439–27661	19
27663–27814	20
27815–28215	21
28217–28473	22
28475–28888	26
28889–29088	27
29089–29337	28
29339–29528	29
29529–29932	June 1
29933–30097	2
30099–30364	3
30365–30576	4
30577–31096	5
31097–31329	8
31331–31589	9
31591–31886	10
31887–32107	11
32109–32592	12
32593–32699	15
32701–32963	16
32965–33230	17
33231–33522	18
33523–33832	19
33833–34117	22
34119–34254	23
34255–34547	24
34549–34775	25
34777–35116	26
35117–35498	27
35499–35785	30
35787–36149	July 1
36151–36338	2
36339–36539	6
36541–36829	7
36831–37057	8
37059–37242	9
37243–37474	10
37475–37754	13
37755–38071	14
38073–38275	15
38277–38549	16
38461–38735	17
38737–39013	20
39015–39207	21
39209–39474	22
39475–39695	23
39697–40006	24
40007–40166	27
40167–40356	28
40357–40626	29
40631–40807	30
40805–41175	31
41177–41385	Aug. 3
41387–41706	4
41707–41955	5
41957–42199	6
42201–42565	7
42567–42679	10
42681–43065	11
43067–43285	12
43287–43602	13
43603–43866	14
43867–44121	17
44123–44361	18
44363–44536	19
44537–44772	20
44773–44991	21
44993–45166	24
45167–45389	25
45391–45659	26
45661–45931	27
45933–46155	28
46157–46383	31
46385–46627	Sept. 1
46629–46859	2
46861–47126	3
47127–47418	4
47419–48080	8
48081–48416	9
48417–48569	10
48571–48994	11
48995–49262	14
49263–49410	15

49411–49651	16
49653–49818	17
49819–50125	18
50127–50460	21
50461–50741	22
50743–50964	23
50965–51267	24
51269–51509	25
51511–51776	28
51777–52130	29
52131–52577	30
52579–52955	Oct. 1
52957–53269	2
53271–53542	5
53543–53778	6
53779–54026	7
54027–54339	8
54341–54552	9
54553–55003	13
55005–55320	14
55321–55496	15
55497–55778	16
55779–55933	19
55935–56079	20
56081–56534	21
56535–56780	22
56781–57044	23
57045–57231	26
57233–57575	27
57577–57890	28
57891–58281	29
58283–58617	30
58619–59201	Nov. 2
59203–59455	3
59457–59689	4
59691–59874	5
59875–60201	6
60203–60448	9
62919–63119	10
63121–63383	12
63385–63589	13
63591–63779	16
63781–63967	17
63969–64168	18
64169–64408	19
64409–64588	20
64589–64838	23
64839–65042	24
65043–65516	25
65517–65636	27
65637–65993	30
65995–66403	Dec. 1
66405–66703	2
66705–66975	3
66977–67398	4
67399–67571	7
67573–67763	8
67765–68160	9
68161–68390	10
68391–68668	11
68669–68988	14
68989–69175	15
69177–69537	16
69539–69989	17
69991–70307	18
70309–70628	21
70629–70987	22
70989–71208	23
71209–71367	24
71369–71570	28
71571–71724	29
71725–72096	30
72097–72356	31

1999

64 FR Page	
1–383	Jan. 4
385–729	5
731–983	6
985–1096	7
1097–1499	8
1501–1713	11
1715–2114	12
2115–2418	13
2419–2544	14
2545–2797	15
2799–2988	19
2989–3200	20
3201–3391	21
3393–3619	22
3621–3805	25
3807–4027	26
4029–4284	27
4285–4516	28
4517–4776	29
4777–4955	Feb. 1
4957–5148	2
5149–5584	3
5585–5707	4
5709–5925	5
5927–6185	8
6187–6493	9
6495–6777	10
6779–7055	11
7057–7488	12
7489–7770	16
7771–7987	17
7989–8224	18
8225–8498	19
8499–8709	22
8711–9051	23
9053–9262	24
9263–9434	25
9435–9903	26

code of

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

code of federal regulations

LSA

List of CFR Sections Affected

March 1999

Save this issue for Titles 17—27 (Annual)

United States Government Printing Office
SUPERINTENDENT OF DOCUMENTS
Washington, DC 20402

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106



code of

code of federal regulations

LSA

List of CFR Sections Affected

March 1999

Title 1–16
Changes January 4, 1999
through March 31, 1999

Title 17–27
Changes April 1, 1998
through March 31, 1999

Title 28–41
Changes July 1, 1998
through March 31, 1999

Title 42–50
Changes October 1, 1998
through March 31, 1999

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (63 FR for 1998, 64 FR for 1999) and the page number. Example: 24727 in bold cite as 63 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1998
3 (1997 Compilation and Parts 100 and 101)	(869–034–00002–9)	19.00	[1] Jan. 1, 1998
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1998
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–034–00005–3)	26.00	Jan. 1, 1998
1200–End, 6 (6 Reserved)	(869–034–00006–1)	39.00	Jan. 1, 1998
7 Parts:			
1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–034–00010–0)	44.00	Jan. 1, 1998
300–399	(869–038–00011–3)	25.00	Jan. 1, 1999
400–699	(869–038–00012–1)	37.00	Jan. 1, 1999
700–899	(869–034–00013–4)	30.00	Jan. 1, 1998
900–999	(869–034–00014–2)	39.00	Jan. 1, 1998
1000–1199	(869–034–00015–1)	44.00	Jan. 1, 1998
1200–1599	(869–034–00016–9)	34.00	Jan. 1, 1998
1600–1899	(869–034–00017–7)	58.00	Jan. 1, 1998
1900–1939	(869–034–00018–5)	18.00	Jan. 1, 1998
1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–038–0002–6)	20.00	Jan. 1, 1999
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–038–00036–9)	25.00	Jan. 1, 1999
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
16 Parts:			
0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0–1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441–1.500	(869–034–00082–7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1998
28 Parts:			
0–42	(869–034–00098–3)	36.00	July 1, 1998
43–end	(869–034–00099–1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	18.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	29.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998
600–End	(869–034–00201–3)	33.00	Oct. 1, 1998
CFR Index and Findings Aids	(869–034–00049–6)	46.00	Jan. 1, 1998
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5]No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6]No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	607.00		
Yearly subscription (without FR Index and LSA)	555.00		
Individual copies	8.00		daily
LSA (List of CFR Sections Affected):			
Yearly subscription	27.00		
Federal Register Index:			
Yearly subscription	25.00		
CFR Index and Finding Aids	46.00		1998

C

TITLE 1–

No ame
published
since Jan

TI

There i
title.

TITL

Chapte
the Pr

100.1 Revi

Pre

Proclama

7162.....
7163.....
7164.....
7165.....
7166.....
7167.....
7168 .....
7169 .....
7170 .....
7171 .....
7172 .....
7173 .....
7174 .....
7175 .....
7176 .....

Executive

11348 *See*
11987 Rev
12170 *See*
.....
12543 *See*
.....
12544 *See*
.....
12852 Am
12947 *See*
.....
12957 *See*
.....
12959 *See*
.....
13035 Am
13059 *See*
.....

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

TITLE 1—GENERAL PROVISIONS

No amendments to 1 CFR have been published in the FEDERAL REGISTER since January 1, 1999.

TITLE 2—[RESERVED]

There is no regulatory text to this title.

TITLE 3—THE PRESIDENT

Chapter II—Executive Office of the President (Parts 100—199)

100.1 Revised 12881

Presidential Documents

Proclamations

7162 2989
7163 2991
7164 5583
7165 5585
7166 6181
7167 6777
7168 10101
7169 10381
7170 10383
7171 10385
7172 11373
7173 12879
7174 14353
7175 14807
7176 15123

Executive Orders

11348 *See* EO 13111 2793
11987 Revoked by EO 13112 6183
12170 *See* Notice of Mar. 10, 1999 12239
12543 *See* Notice of Dec. 30, 1998 383
12544 *See* Notice of Dec. 30, 1998 383
12852 Amended by EO 13114 10099
12947 *See* Notice of Jan. 20, 1999 3393
12957 *See* Notice of Mar. 10, 1999 12239
12959 *See* Notice of Mar. 10, 1999 12239
13035 Amended by EO 13113 7489
13059 *See* Notice of Mar. 10, 1999 12239
13099 *See* Notice of Jan. 20, 1999 3393
13110 2419
13111 2793
13112 6183
13113 7489
13114 10099
13115 15283

Administrative Orders

Memorandums:

Mar. 23, 1999 14809

Notices:

Dec. 30, 1998 383
Jan. 20, 1999 3393
Feb. 24, 1999 9903
Mar. 10, 1999 12239

Presidential Determinations:

No. 99–9 of Dec. 24, 1998 983
No. 99–10 of Jan. 25, 1999 5925
No. 99–11 of Jan. 28, 1999 6773
No. 99–12 of Feb. 3, 1999 6779
No. 99–13 of Feb. 4, 1999 6781
No. 99–14 of Feb. 16, 1999 9263
No. 99–15 of Feb. 26, 1999 11319
No. 99–16 of Mar. 4, 1999 13495

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office (Parts 1—99)

27.1 Revised; interim 15125
28.3 Amended; interim 15125

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

316.201 (b) revised 15286
532.201—532.285 (Subpart B) Regulation at 61 FR 47661 confirmed 9905
Regulations at 61 FR 49649 and 62 FR 66973 confirmed 9906
550.101—550.187 (Subpart A) Authority citation revised 4519
550.103 Amended; interim 4519
550.111 (f) revised; (h) added; interim 4520
550.181 Revised; interim 4520

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

TITLE 5 Chapter I—Con.

550.182 (b) through (f) redesignated as (c) through (g); new (b) added; (a) and new (d) revised; interim 4520
550.184 (e) revised; interim 4520
550.185 (a) revised; interim 4521
550.186 (b) revised; interim 4521
550.901—550.907 (Subpart I) Appendix A amended 1502
831 Authority citation revised 15287
831.201 (g)(3), (4) and (5) redesignated as (g)(4), (5) and (6); new (g)(3) and (i) added; new (g)(5) revised; interim 15288
837.101 (a)(2) revised; interim 15288
837.102 Amended; interim 15288
842 Authority citation revised 15288
842.104 (g) added; interim 15289
842.107 (c) revised; interim 15289
842.108 Added; interim 15289
846 Authority citation revised 15289
846.201 (d)(1) revised; interim 15289
870 Authority citation revised 15289
870.302 (a)(3) revised; interim 15289
890 Authority citation revised 15289
890.102 (c)(8) revised; interim 15289

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634.304 (f)(3)(iii) amended 2422
2634.904 (b) amended 2422
2635.207 (b)(7) note amended 2422
2635.601 Amended 13064
2635.602 Amended 13064
2635.603 (d) revised 13064
2635.604 (a) amended 13064
2635.605 (a) and (b) amended 13064
2635.606 (a) amended 13064
2635.902 (o) and (z) amended; (q) revised 2422
2636.303 (a) introductory text revised; (a)(4) amended 2422
2641 Appendix B amended 5710

Proposed Rules:

300 14842
731 4336
1620 13924
1650 13725
1651 6818

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.1—1.23 (Subpart A) Authority citation revised 3395
1.1—1.23 (Subpart A) Appendix A amended 3395
3.10 Amended 11755

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

51.882 (i)(1)(ii) amended 14576
51.884 (i)(1)(i) amended 14576
51.885 (h)(1)(i) amended 14576
51.888 (a)(2) amended 14577
59 Technical correction 3340

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

246.2 Amended 13322
246.4 (a)(14)(v) through (x) redesignated as (a)(14)(vi) through (xi); new (a)(14)(v) added 13322
246.12 (f)(2)(xviii), (3) and (k) revised; (f)(2)(xix) and (xx) redesignated as (f)(2)(xxiii) and (xxiv); new (f)(2)(xix), new (xx), (xxi) and (xxii) added 13322
246.15 (b) amended 13324
246.18 (a)(1) and (b)(1) revised; (a)(3) amended 13324
254.5 (b) amended 1098

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

301.45 Regulation at 63 FR 38280 confirmed 4286
301.45–3 Regulation at 63 FR 38280 confirmed 4286
301.50–3 (c) amended; (d) removed; interim 387
301.75–4 (a) revised; interim 4780
319.56–2 (h) revised 2994
353.1 Amended 1105
353.7 (a)(4), (b)(4) and (c)(4) amended 1105

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

353.8 Added 1105
360.200 (a) and (c) amended 12883
361.6 (a)(1) amended 12884

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

723.113 (f) added 15295
723.114 (f) added 15295
723.115 (f) added 15295
723.116 (f) added 15295
723.117 (f) added 15295
761 Added; interim 6496
762 Added 7378
782.2 Amended 12885
782.12 (a) introductory text revised; (a)(6) through (9) redesignated as (a)(8) through (11); new (a)(6) and (7) added 12885

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended 6783
800.86 (c)(2) Table 4 revised 6783
801.6 Regulation at 63 FR 34554 confirmed 731
868.91 Revised 7058

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.350 Regulation at 63 FR 51518 confirmed 3814
930 Marketing percentages 392
932.159 Revised; interim 4288
(a) revised; (f) removed; (d) and (e) redesignated as (e) and (f); new (d) added 9268
932.160 Removed; interim 4288
932.230 Revised 14813
956.15 Added 4933
956.16 Added 4933
956.20 (a) amended 4933
956.60 Added 4933
956.62 Revised 4933
956.64 Revised 4934
956.70 Undesignated center heading added 4934
982 Marketing percentages 2425
985 Marketing percentages 2802
989 Marketing percentages 10922
989.212 Regulation at 63 FR 56785 confirmed 2428
989.213 Regulation at 63 FR 56785 confirmed 2428
993.347 Revised 3623
Revised; interim 9056

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1065.2 (a) suspended in part 4959

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1260.141 (a) revised 3815

Chapter XIII—Northeast Dairy Compact Commission (Parts 1300—1399)

1381.4 (a) revised 11756

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1434 Added 10924
1439 Authority citation revised 13498
1439.1—1439.12 (Subpart) Revised 13498
1439.101—1439.104 (Subpart) Removed 13499
1439.201—1439.202 (Subpart) Removed 13499
1439.301—1439.302 (Subpart) Removed 13499
1439.401—1439.403 (Subpart) Removed 13499
1439.501—1439.504 (Subpart) Removed 13499
1439.601—1439.602 (Subpart) Removed 13499
1439.701—1439.702 (Subpart) Removed 13499

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

TITLE 7 Chapter XIV—Con.

1439.800—1439.810 (Subpart) Removed 13499
1439.101—1439.108 (Subpart) Added 13500
1464.13 (f) added 15295
1464.14 (f) added 15296
1464.15 (f) amended 15296
1464.16 (f) added 15296
1464.17 (f) added 15296
1469 Added 10930
1464.101 (b) amended 2803

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1530 Revised 7062

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1703 Authority citation revised 14356
1703.100—1703.112 (Subpart D) Revised 14357
1703.120—1703.129 (Subpart E) Added 14360
1703.130—1703.137 (Subpart F) Added 14366
1703.140—1703.147 (Subpart G) Added 14369
1703.300—1703.313 Redesignated as Subpart H 14356
1728 Bulletin 14813
1755.26 Added 6500
1755.27 Added 6500
1755.28 Added 6500
1755.29 Added 6500
1755.30 Added 6501
1755.93 Removed 6501
1755.217 Removed 6501
1755.525 Removed 6501
1788 Revised 2

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1951.951 Amended; interim 393
1951.952 Amended; interim 394
1951.953 (b) revised; interim 394
1951.954 (a)(1), (5), (7), (b)(2), (4) and (5) revised; interim 394
1980.1 Revised 7402
1980.6 (a) and (b) amended 7402
1980.11 Amended 7402
1980.13 (b) introductory text amended; (b)(4) introductory text revised 7402
1980.20 (a) introductory text amended 7402
1980.21 Revised 7402
1980.22 (a) revised; (b) introductory text and (3) amended 7402
1980.46 Removed 7402
1980.60 Heading, (a) introductory text, (1), (6), (7), (9) through (12), (b) and (c) amended 7402
1980.61 (a)(2) and (c) removed; (a)(3) and (d) through (h) redesignated as (a)(2) and (c) through (g); heading, (a)(1), new (2), (b)(1), (3), (4), new (c) and new (d) amended 7402
1980.61 (f) and (g) amended 7403
1980.62 Amended 7403
1980.63 (a) amended 7403
1980.64 (a) and (b) amended 7403
1980.65 Amended 7403
1980.66 Amended 7403
1980.67 (a) and (b) amended 7403
1980.68 Amended 7403
1980.83 Regulation at 56 FR 8259 confirmed 7378
(a) amended 7403
1980.84 Heading, (b)(1)(iv), (v) and (4) amended 7403
1980.100 Regulation at 56 FR 8260 confirmed 7378
1980.1—1980.100 (Subpart A) Regulations at 56 FR 8261 and 8263 confirmed 7378
Appendixes D through L removed 7403
1980.101 Regulation at 56 FR 8264 confirmed 7378
1980.110 Regulation at 56 FR 8264 confirmed 7378
1980.113 Regulation at 56 FR 8264 confirmed 7378
1980.115 Regulation at 56 FR 8264 confirmed 7378
1980.122 Regulation at 56 FR 8264 confirmed 7378
1980.124 Regulation at 56 FR 8264 confirmed 7378
1980.125 Regulation at 56 FR 8264 confirmed 7378

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

1980.145 Regulation at 56 FR 8264 confirmed....7378
1980.175 Regulation at 56 FR 8264 confirmed....7378
1980.200 Regulation at 56 FR 8264 confirmed....7378
1980.101—1980.200 (Subpart B) Regulations at 56 FR 8265, 8266 and 8271 confirmed....7378
1980.340 Regulation at 56 FR 8271 confirmed....7378
1980.354 Regulation at 56 FR 8271 confirmed....7378
1980.424 Regulation at 56 FR 8271 confirmed....7378
1980.451 Regulation at 56 FR 8271 confirmed....7378
1980.452 Regulation at 56 FR 8271 confirmed....7378
1980.628 Regulation at 56 FR 8271 confirmed....7378
1980.646 Regulation at 56 FR 8271 confirmed....7378
1980.648 Regulation at 56 FR 8271 confirmed....7378
1980.853 Regulation at 56 FR 8271 confirmed....7378

Proposed Rules:

27—209 (Ch. I)....8014
47....4342
274....8733
300....2151
301....11392
319....2151, 3049, 4347
457....8015
723....9452
782....2152
900—999 (Ch. IX)....8014
915....13123
916....11346
917....11346
932....4350
944....14642
981....430
993....3660
1000—1199 (Ch. X)....8014
1065....13125
1200—1299 (Ch. XI)....8014
1301....12769
1307....4353
1308....4353
1703....14401
1755....6577
1823....10235
1956....10235
3400....14348

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

3.23 Heading revised; (b)(4)(i) amended; interim....8487
3.42 (d) and (f) revised; interim....8487
3.43 (b)(4)(v), (vi) and (c)(2) revised; (c)(3) added....13666
103.12 (a)(5) revised; interim....8487
208.1 Revised; interim....8487
208.2 (a), (b)(1)(ii) and (3) revised; interim....8487
208.4 (a) introductory text and (b)(2) revised; interim....8488
(b)(2) corrected....13881
208.5 (b)(1) introductory text revised; interim....8488
208.11 (b)(2) revised; interim....8488
208.12 (a) revised; interim....8488
208.13 (c)(1) revised; interim....8488
208.16 (c) and (d) redesignated as (d) and (e); heading, (a), (b) introductory text and new (d) and (e) revised; new (c) and (f) added; interim....8488
208.17 Revised; interim....8489
208.18 Redesignated as 208.19; new 208.18 added; interim....8490
(b)(2) corrected....13881
208.19 Redesignated as 208.20; new 208.19 redesignated from 208.18; interim....8490
Revised; interim....8492
208.20 Redesignated as 208.21; new 208.20 redesignated from 208.19; interim....8490
208.21 Redesignated as 208.22; new 208.21 redesignated from 208.20; interim....8490
Revised; interim....8492
208.22 Redesignated as 208.23; new 208.22 redesignated from 208.21; interim....8490
208.23 Redesignated from 208.22; interim....8490
208.30 (b), (d), (e), (f)(1), (2) and (3) revised; interim....8492
208.31 Added; interim....8493
(e) and (g) corrected....13881

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

TITLE 8 Chapter I—Con.

212.1 (b) revised; interim 7990
235.1 (d)(4) revised; interim 8494
235.3 (b)(4) introductory text and (i)(D) revised; interim 8494
235.6 (a)(1)(ii), (iii) and (2)(i) revised; interim 8494
235.8 (b)(4) added; interim 8494
238.1 (b)(2)(i) and (c)(1) revised; (f)(3) added; interim 8494
240.1 (a) revised; interim 8495
241.8 (d) revised; interim 8495
241.11 (d)(1) revised; interim 8495
244.1 Amended; interim 4781
244.6 Revised; interim 4781
244.10 Heading, (a), (b), (d)(2), (f)(2)(iii) and (4)(ii) amended; interim 4782
244.12 (a) amended; interim 4782
244.15 (a) amended; interim 4782
244.18 (b) amended; interim 4782
253.1 (f) revised; interim 8495
274a.2 (b)(1)(vi)(B) and (C) revised; interim 6189
(b)(1)(vi)(B)(*2*) and (C)(*1*) corrected 11533
312.1 (b)(3) amended 7993
312.2 (b)(1) and (2) amended 7993
499.1 Table amended 7993
507 Added; interim 8496

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

50.1 Regulation at 63 FR 72122 eff. 2–1–99 3340
52 Added; interim 2549
52.4 Revised 13065
77.1—77.6 (Subpart A) Regulation at 63 FR 72122 eff. 2–1–99 3340
77.1 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.3 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.6 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.7 Regulation at 63 FR 72122 eff. 2–1–99 3340
77.8—77.18 (Subpart B) Regulation at 63 FR 72122 eff. 2–1–99 3340
78.1 Amended 15298
78.41 Regulation at 63 FR 44545 confirmed 395
Regulation at 63 FR 53781 confirmed 15298
78.43 Regulation at 63 FR 44777 confirmed 5
Regulation at 63 FR 53782 confirmed 5
91.1 Regulation at 63 FR 72129 eff. 2–1–99 3340
91.7 Regulation at 63 FR 72129 eff. 2–1–99 3340

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

Chapter III Policy statement 2803
Technical correction 3340
301 Authority citation revised 744
301.2 Amended 744
317.2 (l) introductory text revised 744
318.17 Revised 744
318.23 Revised 744
320 Authority citation revised 745
320.1 (b)(4) removed 745
320.4 Amended 745
381 Authority citation revised 745
381.1 (b) amended 745
381.125 (b) introductory text amended 746
381.150 Revised 746

Proposed Rules:

1 ..... 4356, 10400
3 ..... 4356, 8735, 10400
71 13726
80 13726
93 2449
94 ..... 7816, 8755
112 13365
113 ..... 10400, 14156
317 9089
318 9089
381 9089
391 10402

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

50.54 (a)(3) revised; (a)(4) added 9034

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

(p)(3) and (t) revised; (p)(4) added 14817
73.55 (g)(4) revised 14818
73 Appendix C amended 14818

Chapter II—Department of Energy (Parts 200—699)

600.27 (b)(2)(i)(B) amended 4029

Chapter III—Department of Energy (Parts 700—999)

708 Revised 12870

Proposed Rules:

2 ..... 8640, 9219
19 ..... 8640, 9219
20 ..... 8640, 9219
21 ..... 8640, 9219, 12117
30 ..... 3790, 8640, 9219
31 3052
32 3052
35 5721
40 ..... 3790, 8640, 9219
50 ..... 57, 432, 3790, 3791, 5623, 9035, 12117
51 ..... 8640, 9219, 9884
54 12117
60 ..... 8640, 9219
61 ..... 8640, 9219
63 ..... 8640, 9219, 10405
70 ..... 1542, 3790, 3791, 13368
72 1542
430 ..... 1272, 1545
707 11819

TITLE 11—FEDERAL ELECTIONS

Proposed Rules:

2 10405
4 10405
5 10405
100 ..... 5200, 8270
114 8270
9003 8270
9004 8270
9007 8270
9008 8270
9032 8270
9033 8270
9034 8270
9035 8270
9036 8270
9038 8270

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

3.6 (c) revised 10199
3 Appendix A amended 10199

Chapter II—Federal Reserve System (Parts 200—299)

208 Authority citation revised 10199
208 Appendix A amended 10199
Appendixes A and B amended 10200
220 OTC margin stock lists 8711
225 Appendix A amended 10203
229.19 (g) redesignated as (g)(1); new (g)(1) heading and (2) added 14577
229.40 Existing text designated as (a); (a) heading and (b) added 14577

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

325.3 (b)(2) revised 10200
325 Appendix A amended 10200

Chapter IV—Export-Import Bank of the United States (Parts 400—499)

404 Revised 14374
405 Removed 14381

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

561.13 Removed 6503
561.47 Removed 6503
561.48 Removed 6503
563 Authority citation revised 2809
563.134 Removed 2809
563.140—563.146 (Subpart E) Revised 2809
563b.3 (g)(2) amended 2810
567.1 Amended 10200
567.2 (a)(2)(ii) revised 10201
567.6 (a)(1)(vi) revised 10201
567.8 Revised 10201

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

TITLE 12

Chapter VI—Farm Credit Administration (Parts 600—699)

611.310—611.340 (Subpart C) Regulation at 63 FR 64843 eff. 2-11-99 6784
611.330 Regulation at 63 FR 64843 eff. 2-11-99 6784
611.340 Regulation at 63 FR 64843 eff. 2-11-99 6784
611.505 Regulation at 63 FR 64844 eff. 2-11-99 6784
611.1122 Regulation at 63 FR 64844 eff. 2-11-99 6784

Chapter VII—National Credit Union Administration (Parts 700—799)

701.21 (c)(7)(ii)(C) Revised 5929

Chapter IX—Federal Housing Finance Board (Parts 900—999)

904.9 (f)(2) revised 5930
960 Interpretation 12079
960.7 Corrected 2550

Proposed Rules:

21 15137
208 15310
211 15310
225 15310
229 9105
326 14845
563 14845
584 5982
602 10954
615 8018
701 ..... 57, 58, 776
713 58
715 776
741 ..... 58, 776
910 6819

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

120.10 Amended 2117
120.111 Amended 2117
120.131 Revised 2117
120.414 Undesignated center heading and section redesignated from 120.430; undesignated center heading revised 6509
120.420 Undesignated center heading and section revised 6507
120.421 Added 6508
120.422 Added 6508
120.423 Added 6508
120.424 Added 6508
120.425 Added 6508
120.426 Added 6509
120.427 Added 6509
120.428 Added 6509
120.430 Section and undesignated center heading redesignated as 120.414 6509
120.430—120.435 Undesignated center heading and sections added 6509
120.453 (a) and (b) revised; (c) removed 6510
120.801 (a) amended; (c)(3) revised 2118
120.802 Amended 2118
120.862 (b)(3) amended; (b)(7) revised 2118
120.870 (a)(1) revised; (c) added 2118
120.883 Revised 2118
120.884 (e) removed 2118
120.910 Revised 2118
120.920 Revised 2118
120.921 (d) and (e) redesignated as (e) and (f); new (d) added; new (e) and new (f) revised 2118
120.971 (a)(2) amended; (a)(3) and (d)(2) revised 2119
120.972 Redesignated as 120.973; new 120.973 added 2119
120.973 Redesignated from 120.972 2119
123.3 (a)(4) amended 13667

Chapter III—Economic Development Administration, Department of Commerce (Parts 300—399)

Chapter III Revised; interim 5352

Proposed Rules:

107 6256
121 2153
125 2153
134 3454

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

140 3454

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Technical correction 7066
21 Design standards availability 13501
23 Special FAA conditions 6510
25 Special FAA conditions 3201, 14818
25.145 (c)(3) concluding text designated as (d); (c) introductory text and new (d) revised 6164
(d) corrected 10740
34.1 Amended 5558
34.2 Amended 5559
34.31 (d) and (e)(3) revised 5559
34.60 (c) revised 5559
34.61 Revised 5559
34.62 (a)(2) revised 5559
34.64 Revised 5559
34.71 Revised 5559
34.82 Revised 5560
34.89 Revised 5560
39.13 ..... 7, 395, 750, 752, 986, 987, 990, 1107, 1109, 1111, 1114, 1115, 1117, 1119, 1503, 1716, 2014, 2036, 2059, 2081, 2552, 2554, 2556, 2557, 2559, 2560, 2562, 2811, 2815, 2816, 2818, 2820, 2822, 3203, 3205, 3816, 3818, 3820, 3823, 3825, 3827, 4030, 4289, 4291, 4293, 4522, 4524, 4526, 4964, 5150, 5588, 5589, 5591, 5593, 5711, 6190, 6513, 6515, 6517, 6520, 6524, 6785, 6787, 6790, 6792, 7492, 7493, 7496, 7499, 7772, 7774, 7776, 8226, 8229, 8231, 8232, 8500, 8501, 8713, 9057, 9908, 9909, 9911, 9912, 10207, 10208, 10210, 10212, 10215, 10217, 10556, 10559, 10560, 10937, 11375, 11758, 11760, 11763, 11765, 12242, 12243, 12245, 12248, 12251, 12253, 13226, 13227, 13330, 13332, 13504, 13668, 13671, 13883, 13885, 13887, 13890, 13891, 13893, 14097, 14579, 14582, 14584, 14586, 14589, 14822, 14824, 14825, 15126, 15300
Corrected 395, 2428, 5093, 7994, 8233, 8234, 11533, 12743
71.1 ..... 8—13, 1717, 2119, 2120, 2563—2566, 2824, 2825, 2826, 2828, 3010, 3011, 3207—3210, 3397, 3398, 3829—3833, 3835, 3836, 4530, 4782—4784, 5151, 5713, 5931, 6795, 6797—6800, 7500, 7995, 8234, 8502—8509, 8714, 9268—9270, 10387, 10563, 10564, 10938—10940, 10942, 12084, 12255, 12256, 13333, 13506, 13672, 14306, 14890—14603, 15300, 15301
Corrected 3590, 3591, 4785, 5151, 6138, 10740, 12404
73.25 ..... 3624, 12744
73.29 ..... 13506, 14604
73.48 7778
73.56 4534
73.57 14604
73.87 13334
91 Technical correction 7066
91.1 (a) revised; (c) added 1079
91.11 Heading revised 1079
91.701—91.715 (Subpart H) Heading revised 1079
91.701 Revised 1079
91.702 Added 1079
91 SFAR No. 84 added 15121
93 SFAR No. 50-2 amended 5154
93.51 Revised 14976
93.53 Revised 14976
93.55 Revised 14976
93.57 Revised 14977
93.59 Revised 14977
93.61 Revised 14977
93.63 Revised 14977
93.65 Revised 14977
93.67 Revised 14977
93.68 Revised 14978
93.69 Revised 14978
93.301 Regulation at 61 FR 69330 eff. date delayed to 1-31-00 5154
93.305 Regulation at 61 FR 69330 eff. date delayed to 1-31-00 5154
93.307 Regulation at 61 FR 69330 eff. date delayed to 1-31-00 5154
93 Appendix A removed 14978
95 8235
97.21—97.35 ..... 1718, 1725, 2829, 2831, 5155, 5595, 7779, 7780, 7782, 9913, 9915, 13335, 13337, 14827, 14829
121 SFAR No. 36 amended 960
Technical correction 3837, 7066
SFAR No. 50-2 amended 5154
121.306 Added 1080
121.580 Added 1080
125 Heading revised 1080

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

TITLE 14 Chapter I—Con.

Technical correction 7066
125.1 (a) revised; (d) added 1080
125.204 Added 1080
125.328 Added 1080
135 SFAR No. 36 amended 960
Heading revised 1080
Technical correction 3837, 7066
SFAR No. 50–2 amended 5154
135.120 Added 1080
135.144 Added 1080
145 SFAR No. 36 amended 960
Technical correction 3837

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

201.1 (b) amended 3212
204.2 (k)(2) revised 12085
212.10 (a) and (f)(1) amended 3213
255.12 Revised 15129
257 Added 12851
258 Added 12860
399 Authority citation revised 12852
399.88 Removed 12852

Proposed Rules:

23 14401
25 14408
39 ..... 435, 438, 441, 443, 445, 785, 787, 1545, 1549, 1552, 2157, 2161, 2863, 3052, 3054, 3226, 4061, 4367, 4370, 4372, 4791, 5985, 6259, 6577, 7822, 7827, 7829, 7830, 8020, 8022, 8024, 8026, 8027, 8029, 8530, 8762, 9453, 9939, 10113, 10114, 10116, 10237, 10578, 10959, 11401, 12770, 12772, 13530, 13732, 13932, 13934, 13936, 15137
71 ..... 60, 447, 1142, 1554, 1555, 1557—1565, 2449, 2450, 2452, 2453, 2605, 2864, 2866, 3228, 3664—3666, 4793—4800, 5093, 6579—6583, 6823, 7141—7143, 7558, 8031, 8167, 8271, 8272, 8445, 9940, 10238, 10239, 10241—10243, 10410, 10411, 10962, 11533, 11819, 11820, 12126, 13938, 14410, 15139, 15140, 15142
73 9455
93 ..... 2086, 3055
129 13880
234 3883
255 9457
382 7833
389 3229

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

734.2 (b)(1) and (4) amended 13339
734.4 (b) revised 13339
740 Authority citation revised 2430
740.2 (a)(5) amended 13339
740.7 (d)(4) redesignated as (d)(5); new (d)(4) and (5)(v)(A)(*8*) note added; new (d)(5)(iii), (v) introductory text and (A) introductory amended; new (d)(5)(v)(B) revised; interim 2430
742 Authority citation revised 2430
742.12 (b)(3)(i)(C) and (iv)(B) revised; interim 2431
742.14 Revised 13339
742.15 Second (b)(6)(v) redesignated as (b)(6)(vi) 3214
742 Supplement No. 4 amended 3214
743.1 (b) amended 3214
744 Authority citation revised 1121
744.10 Revised 14605
744.13 Added; interim 1121
744.14 Added; interim 1122
744 Supplement No. 4 amended 14606
748 Authority citation revised 2430
748.9 (b)(2)(i)(*1*) removed; (b)(2)(i)(*2*) and (*3*) redesignated as (b)(2)(i)(A) and (B); interim 2431
748.10 (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3) added; new (b)(4) introductory text revised; interim 2431
752.3 (a)(8) removed; (a)(9), (10) and (11) redesignated (a)(8), (9) and (10) 13339
772 Authority citation revised 1121, 5932
Amended; interim 1122, 5932
Amended 13339
774 Authority citation revised 5932
Supplement No. 1, Category 1 (ECCN 1B115, 1C111, 1C118, 1E001 and 1E101) amended; interim 5932

CHANGES JANUARY 4, 1999 THROUGH MARCH 31, 1999

Supplement No. 1, Category 0 (ECCN 0A982, 0D001 and 0E001) amended 10854
Supplement No. 1, Category 1 (ECCN 1A002, 1A005, 1C001, 1D390, 1D993, 1E994 and 1E001) amended 10854
Supplement No. 1, Category 2 (ECCN 2B001, 2B003, 2B004, 2B005, 2B104, 2B996 and 23003) amended 10855
Supplement No. 1, Category 3 (ECCN 3A001, 3A002, 3B001 and 3C002) amended 10857
Supplement No. 1, Category 4 (ECCN 4A003, 4D001 and 4E001) amended 10860
Supplement No. 1, Category 5 (ECCN 5A991, 5D001 and 5E001) amended 10861
Supplement No. 1, Category 6 (ECCN 6A001, 6A003, 6A005, 6A007, 6A008, 6D001, 6D003, 6E001 and 6E002) amended
Supplement No. 1, Category 7 (ECCN 7D003) amended 10867
Supplement No. 1, Category 8 (ECCN 8A002, 8A992, 8D001 and 8E001) amended 10867
Supplement No. 1, Category 9 (ECCN 9A018) 10869
Supplement No. 1, Category 4 (ECCN 4D001, 4E001) corrected 12745
Supplement No. 1, Category 9 (ECCN 9A004) amended 13340

Chapter VIII—Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

806.15 (i) amended 10389

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table amended (OMB numbers) 14, 3627, 4036, 14054

Proposed Rules:

30 7412
806 2454

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

4.1 (b)(1) introductory text, (iii) and (5)(vii) amended 14830
4.8 (b)(4) and (6) revised 3012
4.11 (a)(1)(i)(A), (B), (iii)(A), (2)(i)(A), (B) and (ii)(A) revised; (a)(1)(i)(E) and (iii)(D) redesignated as (a)(1)(i)(F) and (iii)(E); new (a)(1)(i)(E), new (iii)(D) and (h) added 3013
4.13 (c) and (i)(1) amended 3014
305.9 (a) revised 7785
305 Appendix H corrected 926

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1615.1 Introductory text, (o) introductory text, (1) and (3) revised 2838
1615.64 (d) introductory text revised 2832
1616.2 Introductory text, (m) introductory text, (1) and (3) revised 2841
1616.65 (d) introductory text revised 2833

Proposed Rules:

0—999 (Ch. I) 3668, 14156
241 13368
256 13369
308 61
1213 ..... 3456, 10245, 14158
1500 ..... 3456, 10245, 14158
1513 ..... 3456, 10245, 14158
1615 ..... 2867, 10963, 13126
1616 ..... 2867, 10963, 13126
1630 13132
1631 13132
1632 13137



TITLE 17
SECUR

Chapter
Trading
1—199)

1 Technical
1.3 (gg)(2)(iv
1.12 (b)(2) re
(a)(1) and
(2) redes
(2); (b)
through
(i)(2) am
.....
1.17 (c)(5)(iii
(a)(1)(i)(B
(h)(2)(vi
(B)(2),
and (v)(
1.35 (a–1)(1),
(a–1)(5)
(a–1)(5)(i)(
correcte
1.41 (k)(1) re
(f)(10) add
1.55 (a)(1) re
1.63 (a)(2) re
1.69 Added .
(a)(8) corr
3.11 (c)(1)(i)
(C) a
(c)(1)(i)(
moved;
nated a
3.12 (d)(1)(i
and (2)
(i)(1)(vi
redesig
3.13 Added;
3.14 Added;
3.40 (a) revi
3.44 (a)(2) a
4.24 (j)(1)(v
rection
(v)(3) in
vised; e
4.25 (c)(5)
vised; e
10 Technica
10.1 (d) am
redesig
(i); new
10.9 (b) revi
10.12 (a)(2)

NOTE: Boldfac

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Technical correction **51124**
1.3 (gg)(2)(iv) revised **32730**
1.12 (b)(2) revised **32731**
(a)(1) and (e) revised; (h)(1) and (2) redesignated as (i)(1) and (2); (b)(4), (c), (d), (f)(1) through (5), (g)(2) and new (i)(2) amended; new (h) added **45715**
1.17 (c)(5)(iii) removed **32726**
(a)(1)(i)(B), (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) revised **32731**
1.35 (a–1)(1), (2)(i) and (4) revised; (a–1)(5) added **45709**
(a–1)(5)(i)(D), (ii)(H) and (I) corrected **49955**
1.41 (k)(1) revised **33848**
(f)(10) added 22
1.55 (a)(1) revised **52157**
1.63 (a)(2) revised 23
1.69 Added 23
(a)(8) corrected 3340
3.11 (c)(1)(i)(A), (B), (ii)(A), (B), (C) and (2)(ii) revised; (c)(1)(i)(C) and (ii)(D) removed; (c)(1)(ii)(E) redesignated as (c)(1)(ii)(D) 1727
3.12 (d)(1)(iv), (v), (d)(3), (i)(1)(v) and (2) revised; (d)(1)(vi) and (i)(1)(vi) removed; (i)(1)(vii) redesignated as (i)(1)(vi) 1727
3.13 Added; interim **18830**
3.14 Added; interim **18831**
3.40 (a) revised 1728
3.44 (a)(2) and (3) revised 1728
4.24 (j)(1)(v) corrected; CFR correction **24390**
(v)(3) introductory text revised; eff. 4–30–99 ..... **58303**
4.25 (c)(5) introductory text revised; eff. 4–30–99 ..... **58303**
10 Technical correction **68829**
10.1 (d) amended; (e) through (h) redesignated as (f) through (i); new (e) added **55791**
10.9 (b) revised **55791**
10.12 (a)(2) revised **55791**
10.21 Revised **55791**
Corrected **68829**
10.22 (b) introductory text amended; (b)(1) and (2) added **55791**
10.24 (a), (b) and (c) revised **55791**
10.26 (b) amended **55791**
10.41 (f) and (g) redesignated as (g) and (h); new (f) added **55791**
10.42 (b) and (c) redesignated as (c) and (e); (a), new (c) and new (e)(1) revised; new (b), (d) and (f) added **55792**
(b)(7) and (c)(1)(iii) corrected **68829**
10.66 (b) revised **55793**
(b) corrected **68829**
10.68 (a)(1), (2), (b)(3), (c) heading and (1) revised; (c)(2), (e)(1) and (f) amended **55794**
(c)(2) heading and (f) corrected **68829**
10.84 (b) revised **55794**
Heading corrected **68829**
10.101 (b)(1) revised **55794**
10.102 (b)(3) redesignated as (b)(4); (a), new (b)(4) and (d)(2) revised; new (b)(3) and (5) added; (e)(1) and (2) amended **55794**
(e) correctly designated **58811**
(a)(1), (2) and (b)(3) corrected **68829**
10.106 Heading revised; existing text designated as (a); (a) heading, (b) and (c) added **55795**
(c) corrected **68829**
10.110—10.113 (Subpart I) Added **55795**
Correctly designated **58811**
10.111 Heading corrected **68829**
10 Appendix A added **55796**
Appendix A corrected **68829**
32.2 Revised; interim **18832**
32.13 Added; interim **18832**
33.4 Introductory text amended; interim **18834**
(a)(2) removed **32732**
33.7 (b) amended **32732**
140.99 Added **68181**
140.735–4 (b)(3) and (c)(5) introductory text revised **32733**
145 Authority citation revised 25
145.5 Introductory text, (d)(1)(i)(B) through (F) and

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 17 Chapter I—Con.

(H) amended; (d)(1) introductory text removed; (g) revised 25
145.6 (a) amended 26
145.9 (d)(1) and (e)(1) amended; (d)(4), (6), (7) and (8) revised; (d)(10) removed; (d)(11) redesignated as (d)(10) 26
145 Appendixes A and B amended 27
147.3 (b)(4)(i) introductory text removed; (b)(4)(i)(A)(*2*) through (*6*) and (*8*) amended 27

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.30–3 (a)(7)(iv) amended; (a)(7)(v), (64), (65) and (66) added **59394**
201.102 (e)(1)(iv) added **57172**
201.210 (a)(1) and (c) introductory text revised; (c)(3) added **63405**
201.221 Heading, (a) and (d) revised **63405**
202.3 (b) revised; eff. 4–21–99 ....**70916**
210.3–03 (e) amended 1734
210.12–16 Table amended 1734
228.402 (b)(2)(iv)(B) and (c)(1) introductory text revised; eff. 4–7–99 11115
229.101 (b) introductory text, (1) and (d) revised; (c)(1) introductory text, (i), (ii), (iv), (v) and instructions amended 1734
229.102 Amended 1735
229.402 (b)(2)(iv)(B) and (c)(1) introductory text revised; eff. 4–7–99 11115
230.157 Heading and (b) revised **35514**
230.401 (g) revised; eff. 4–7–99 11116
230.405 Amended; eff. 4–7–99 11116
230.497 (k)(2)(ii) corrected **19286**
230.498 (b) and (c)(3) corrected **19286**
230.504 (b)(1) revised; eff. 4–7–99 11094
230.701 Revised; eff. 4–7–99 11101
231 Interpretive releases **41404**
232.101 (a)(1)(iii) revised; (b)(7) removed; (b)(8) redesignated as (b)(7) 2849
232.301 Revised **29105**
239.13 (b)(4) revised; Form S–3 amended; eff. 4–7–99 11116
239.16 Form S–8 amended; eff. 4–7–99 11117
239.15A Form N–1A corrected **19286**
240.0–10 Heading, (a), (b), (e), (g)(2), (3) and (i) revised; (h)(2) and (3) redesignated as (h)(3) and (4); (h)(2), (j) and (k) added **35514**
240.3a1–1 Added; eff. 4–21–99 ....**70917**
240.3a12–8 (a)(1)(xviii) and (xix) amended; (a)(1)(xx) added 10567
240.3b–12 Added **59394**
240.3b–13 Added **59395**
240.3b–14 Added **59395**
240.3b–15 Added **59395**
240.3b–16 Added; eff. 4–21–99 ....**70918**
240.6a–1 Heading, (a) and (b) revised; eff. 4–21–99 ....**70918**
240.6a–2 Revised; eff. 4–21–99 ....**70918**
240.6a–3 Revised; eff. 4–21–99 ....**70919**
240.8c–1 (b)(1) revised **59395**
240.11a1–6 Added **59396**
240.11Ac1–1 (c)(5)(ii)(A), (B) introductory text, (*1*) and (*2*) redesignated as (c)(5)(ii)(A)(*1*), (*2*) introductory text, (*i*) and (*ii*); new (c)(5)(ii)(A)(*2*)(*ii*) amended; new (c)(5)(ii)(B) added; eff. 4–21–99 ....**70919**
240.14a–4 (c) introductory text and (1) revised; (c)(2) through (5) redesignated as (c)(4) through (7); new (c)(2) and (3) added **29118**
(c)(2)(iii) corrected **50622**
240.13f–1 (a) redesignated as (a)(1); (a)(2) added 2849
240.13f–2 Removed 2849
240.14a–5 (e) revised; (f) added **29118**
(d) corrected **46881**
240.14a–8 Revised **29119**
(c), (h)(2), (i)(2) note, (5) and (9) corrected **50622**
(m)(2) corrected **50623**
240.14a–101 Amended 1735
240.15a–1 Added **59396**
240.15b1–1 (a) revised **59397**
240.15b9–2 Added **59397**
240.15c2–1 (b)(1) revised **59397**
240.15c2–5 (d) added **59397**
240.15c3–1 (a) introductory text amended; (a)(5) and (c)(15) added **59397**
240.15c3–1f Added **59398**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

240.15c3-3 (a)(1) revised; (h) amended **59400**
240.15c3-4 Added **59400**
240.17a-3 (a)(4)(vi) and (10) amended **59401**
(a)(16) added; eff. 4-21-99 70919
240.17a-4 (b)(8) introductory text and (xv) amended; (b)(10) added **59401**
(b)(1) revised; (b)(11) added; eff. 4-21-99 ..... **70919**
(b)(11) correctly designated and corrected 13066
240.17a-5 (e)(5) added **37673**
(e)(5)(vi) added **59213**
(o) added **59401**
240.17a-11 (b) redesignated as (b)(1); (b)(2) and (c)(4) added; (c) introductory text, (e) introductory text and (h) amended; (c)(3) revised **59401**
240.17a-12 Added **59401**
240.17Ad-18 Added **37693**
(f) added **58635**
240.17a-23 Removed; eff. 4-21-99 ..... **70920**
240.19b-4 (e) through (h) redesignated as (f) through (i); new (e) added **70967**
240.19b-5 Added; eff. 4-21-99 ..... **70920**
240.36a1-1 Added **59404**
240.36a1-2 Added **59404**
241 Interpretative releases **17943, 41404**
242 Authority citation revised **70921**
Heading revised; eff. 4-21-99 ..... **70921**
242.300—242.303 Undesignated center heading and sections added; eff. 4-21-99 ..... **70922**
242.301 Eff. in part 4-1-00 ..... **70922**
249 Technical correction **42229**
249.1 Revised; eff. 4-21-99 ..... **70925**
249.1a Removed; eff. 4-21-99 ..... **70933**
249.220f Form 20-F amended 1735
249.325 Form 13F revised 2849
Form 13F corrected 5865
249.326 Removed 2853
249.617 Amended **59404**
Form X-17A-5 corrected **63143**
249.618 Added **37674**
249.619 Added **37694**
249.636 Removed; eff. 4-21-99 ..... **70933**
249.637 Added; eff. 4-21-99 ..... **70933**
249.638 Added; eff. 4-21-99 ..... **70943**
249.819 Form 19b-4 amended **70967**
249.820 Added **70967**
249.821 Added; eff. 4-21-99 ..... **70946**
270 Compliance date extension **29345**
Compliance date extension 5156
270.0-10 Revised **35514**
271 Interpretive releases **41404**
274.11A Form N-1A corrected **19286**
274.24 Form 24F-2 amended **62937**
274 Appendix A corrected **19286**
275 Authority citation revised **39027**
275.0-7 Revised **35515**
275.202 (a)(1)-1 amended 2567
275.203A-1 (b)(2), (c) and (d) amended **39716**
275.203A-2 Introductory text, (b) introductory text, (1) and (3) revised; (e) added **39715**
(d)(2) and (3) amended **39716**
275.203A-3 Introductory text and (a) revised **39715**
275.203A-5 Removed **39716**
275.204-1 (c) added 2567
275.204-5 Added 54312
275.205-3 Revised **39027**
275.205-5 Added **54312**
275.206(4)-3 (a)(1)(ii)(D) amended **39716**
276 Interpretive releases **39508, 41404**
279.1 Form ADV amended **39716**
Form ADV amended 2121
279.3 Removed **39716**
279.9 Added **54312**

Chapter IV—Department of the Treasury (Parts 400—499)

405.2 (a)(11) and (12) redesignated as (a)(15) and (16); new (a)(11) through (14) added 1737

Proposed Rules:

1-199 (Ch. I) **33297, 41982**
1 ..... **24142, 30668, 38525, 42600, 49883** 14159
3 ..... **51048**
5 ..... **38537**
10 ..... **16453, 30675**
15 5200
17 ..... **38525, 49883** 5200
18 ..... **38525, 49883**
30 ..... **39779, 51051** 1566, 14159
34 ..... **26114, 34335, 49681**
35 ..... **26114, 34335, 49681**
150 ..... **38525, 49883**
200—299 (Ch. II) **72217**
200 ..... **67174, 67331, 69136**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 17 *Proposed Rules:—Con.*

15143
201 ..... **23504, 29301, 33305, 39054, 46716**
202 ..... **67174**
15143
210 ..... **35886, 67174**
6261, 10579, 15143
228 ..... **67174**
6261, 10579, 15143
229 ..... **35886, 67174, 67331**
6261, 15143
230 ..... **29168, 36136, 67174, 67331, 69136**
6261, 12908, 14648, 15143
232 ..... **67174, 67331, 69236**
12908
239 ..... **67174, 67331, 69136**
6261, 11118, 12908, 15143
240 ..... **19430, 19693, 23504, 23584, 29301, 32628, 35886, 36136, 37709, 37710, 47209, 54404, 59911, 63222, 67174, 67331, 69136**
6261, 9948, 10579, 11124, 12127, 12908, 14648, 15143, 15310
242 ..... **23504, 29301**
249 ..... **23504, 23584, 29301, 35886, 67174, 69136**
6261, 15143
249b 15310
260 ..... **69136**
6261
270 ..... **40231, 69236**
12908, 14648
274 ..... **69236**
12908
275 ..... **36632**
5722
279 ..... **36632**
5722
405 ..... **53326**

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

11 Appendix A revised **66004**
35 Order on rehearing **66011**
35.14 (a)(7) amended **53809**
37 Clarification **32611**
Order **38884, 54258**
Order 7995
46.6 (d)(1) revised; (d)(2) redesignated as (d)(3); new (d)(2) added **72169**
131.31 Revised **72169**
157.208 (d) Table I revised 8239
157.215 (d) Table II revised 8239
161.3 (l) added **43079**
284 Order **30127, 71014**
Order 5157
284.10 (a)(6) and (c) added; (b)(1) revised **20095**
(b)(1)(i) revised **39514**
(c)(3)(i)(B) revised **53576**
381.302 (a) amended **44995**
381.303 (a) amended **44995**
381.304 (a) amended **44996**
381.305 (a) amended **44996**
381.403 Amended **44996**
381.505 (a) amended **44996**
381.801 Amended **44996**

Chapter III—Delaware River Basin Commission (Parts 400—499)

401.0 Correctly designated; CFR correction **44777**
401.35 (b)(18) and (d) corrected; CFR correction **44777**
401.36 (c) corrected; CFR correction **44777**
401.71—401.78 (Subpart E) Heading revised **45943**
401.72 Amended **45943**
401.73 (b) corrected; CFR correction **44777**
401.74 (b)(6) revised **45943**
401.82 (a) corrected; CFR correction **44777**
401.106 Amended **45943**
401.112 (e) revised **45943**

Chapter VIII—Susquehanna River Basin Commission (Parts 800—899)

803.3 Amended **32124**

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.1—1301.10 (Subpart A) Revised 4044

Proposed Rules:

1—399 (Ch. I) **30675, 42974**
2 ..... **55682, 66772**
3 ..... **57081**
4 ..... **52853, 57086, 59916**
1b **41982**
33 ..... **20340**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

37 ..... **42296**
..... 5206
153 ..... **52853, 55682, 57086, 59916**
157 ..... **52853, 55682, 57086, 59916, 66772**
161 ..... **27526, 55562, 55563, 63425, 71806**
..... 789
181 ..... **51547**
250 ..... **51547, 55562, 55563, 63425, 71806**
..... 789
284 ..... **19861, 51547, 55562, 55563, 55682, 63425, 66772, 71043, 71806**
..... 789
292 ..... **51310**
341 ..... **57081**
342 ..... **57081**
343 ..... **41982, 57081**
346 ..... **57081**
357 ..... **57081**
362 ..... **57081**
375 ..... **52853, 55682, 57086, 59916, 66772**
380 ..... **55682, 55715, 66772**
381 ..... **66772**
385 ..... **27529, 41982, 51312, 55682, 57081, 66772**
430 1763
1301 ..... **47448**

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Authority citation amended **51287**
Authority citation amended 15302
4.6 (c) amended **51287**
4.7a (a) amended **51287**
4.14 (b)(2)(ii), (d)(1)(v) and (2)(iii) amended 13675
4.22 Amended **52968**
Amended 15302
4.36 (c) amended **51287**
4.37 Revised **51287**
4.41 (b) and (c) amended 13675
4.80a (d) amended 13675
4.80b (b) amended 13675
10 Authority citation amended **51292**
10.1 (a) introductory text and (b) amended **16416**
10.5 Heading revised; (d) through (g) amended **29954**
Heading amended 13675
10.6 Amended **29954**
10.37 Amended 13675
10.39 (d)(1), (e) introductory text, (1), (2), (3) and (f) amended 13675
10.172 Amended 13675
10.201—10.208 Undesignated center heading and sections added **51292**
12.8 (b) amended 13675
12.39 (b)(4) amended 13675
12.74 Revised **29122**
18 Authority citation amended **51288**
18.2 (a)(1) amended **51288**
18.8 (d) and (e)(2) amended 13675
18.11 (a) amended **51288**
18.12 (a) amended; (d) revised; (e) removed **51288**
18.21 (c) amended 13675
18.25 (b) amended **51288**
19.2 (a) amended 13675
19.3 (a) amended 13675
19.4 (b)(4)(i)(B) amended; (b)(5) revised **32944**
19.40 (b) amended 13675
24 Authority citation amended **55332**
24.4 (h)(2) and (3) amended 13675
24.22 (d)(5) and (g)(6) amended **32944**
24.24 (d)(3)(ii) and (e)(2) removed; (d)(3)(iii), (e)(3), (4) and (5) redesignated as (d)(3)(ii), (e)(2), (3) and (4); (g), (h)(1) and (i) amended **40823**
24.25 (a), (b)(2) and (c)(4) amended; interim **29125**
Regulation at 63 FR 29125 confirmed 7501
24.26 Added; interim **29125**
Regulation at 63 FR 29125 confirmed 7501
24.33 (c)(5) amended **71372**
24.36 (e)(2) amended 13675
101.0 Amended 13675
101.3 Regulation at 62 FR 37133 eff. date confirmed **23214**
(b)(1) amended **24746, 40824**
(b)(1) amended 7502, 13674
101.4 (d) amended 13674
(a) and (b) amended 13675
103.0 Amended 13675
103.1 Amended 13675
103.5 (d)(1) and (2) amended 13675
103.7 (a) amended 13675
103.9 (b) amended 13675
103.31 (d)(1)(iii), (iv) and (2)(iii) amended 13675

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 19 Chapter I—Con.

111.1 Amended **32944**
111.13 (b) amended 13675
111.19 (d) amended 13675
111.21 Existing text designated as (a); (a) amended; (b) and (c) added **32945**
111.22 Removed **32945**
111.23 (a)(1) revised; (b), (c), (d) and (f) removed; (e) redesignated as (b); new (b) amended **32945**
111.95 Amended 13675
111.96 (c) amended 13675
113.14 Amended 13675
113.15 Amended 13675
113.38 (c)(1) and (4) amended 13675
113.39 Introductory text, (a) introductory text, (5) and (b) amended 13675
113.62 (j) revised **32945**
115.11 (b) amended 13675
115.13 Introductory text amended 13675
115.30 Amended 13675
115.40 Amended 13675
115.51 Amended 13675
115.65 Amended 13675
118 Authority citation revised **16684**
118.1 Amended **16684**
118.4 (g) amended **16684**
118.11 (b) and (g) amended **16684**
122 Authority citation revised **51288**
122.2 Amended **51288**
122.14 (a)(1) amended 13675
122.15 Regulation at 62 FR 37133 eff. date confirmed **23214**
(b) amended 7502
122.49 (f) amended **51288**
122.50 Added **51288**
122.76 (c) and (d) amended 13675
122.117 (b)(1) amended **51289**
122.120 (d)(1) amended **51289**
122.161 Amended **51289**
122.165 (a) and (b) amended **51289**
(b) amended 13675
123 Authority citation amended **16416, 51289**
Authority citation amended 31
123.1 (a)(2) amended **51289**
123.4 (b) amended **16416**
123.10 Added **51289**
123.14 (c)(1) revised 7504
123.16 (b) revised 7504
123.71—123.72 (Subpart H) Redesignated as 123.81—123.82 (Subpart I) 31
123.71—123.76 (Subpart H) Added 31
123.81—123.82 (Subpart I) Redesignated from 123.71—123.72 (Subpart H) 31
125.42 Amended 13675
127.2 (b) amended **51290**
127.4 Amended **51290**
127.11 Amended **51290**
127.28 (d) amended **51290**
128.24 (a) amended **16417**
132.14 (a)(4)(i) introductory text, (A), (B), (C), (ii) introductory text, (A) and (B) amended 13674
(a)(4)(i)(D) and (ii)(C) amended 13675
133 Authority citation amended **51297**
Authority citation amended 9062
133.1 Authority citation removed 11376
133.2 (e) and (f) added 9062
Authority citation removed 11376
Introductory text amended 13675
133.3 Authority citation removed 11376
133.4 Authority citation removed 11376
133.5 Authority citation removed 11376
133.6 Authority citation removed 11376
133.7 Authority citation removed 11376
133.11 Authority citation removed 11376
133.12 Authority citation removed 11376
Introductory text amended 13675
133.13 Authority citation removed 11376
133.15 Authority citation removed 11376
133.21—133.27 (Subpart C) Revised 9062
133.25 Revised **51297**
133.32 Introductory text amended 13675
133.33 Authority citation removed 11376
133.35 Authority citation removed 11376
133.36 Authority citation removed 11376
133.46 Authority citation removed 11376

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

133.53 Authority citation removed 11376
134.54 (b) and (c) amended 13675
141.82 (d) amended **16417**
142.23 Amended **19399**
142.41 Amended 33
142.47 (b) amended 33
143.21 (a), (b), (c), (f) and (g) amended **16417**
143.22 Amended **16417**
143.23 (d) and (i) amended **16417**
143.26 (a) amended **16417**
143.32 (n) amended **32945**
143.35 Revised **32945**
143.36 (a) amended; (c) introductory text revised **32945**
143.37 (c) and (d) removed; (a) revised **32945**
143.38 Removed **32945**
143.39 Revised **32945**
144.41 (g) revised 15303
145.4 (c) amended **16417**
(b) and (d) amended 13675
145.12 (a)(2), (3), (b)(1) and (c) amended **16417**
145.35 Amended **16417**
145.41 Amended **16417**
146.1 (b) amended 13674
146.2 Amended 13676
146.4 (h) amended 13676
146.6 (a) amended 13676
146.40 (c)(3) correctly revised 6801
146.83 (a) amended 13676
148.23 (c)(1) and (2) heading and introductory text amended **16417**
148.67 (b) amended **51290**
162 Heading revised **32945**
Technical correction **36992**
162.0 Revised **32945**
162.1—162.8 (Subpart A) Heading revised **32946**
162.1a Removed **32946**
162.1b Removed **32946**
162.1c Removed **32946**
162.1d Removed **32946**
162.1e Removed **32946**
162.1f Removed **32946**
162.1g Removed **32946**
162.1h Removed **32946**
162.1i Removed **32946**
162.23 (a)(2) and (3) amended; (a)(4) added 1123
162.32 (a) and (c) amended 13676
162.42 Amended 13676
162.44 (a), (b)(1) introductory text, (ii), (2) and (c) amended 13676
162.45 (a)(3), (4), (b)(1), (2) and (c) amended 13676
162.45a Amended 13676
162.46 (c)(1) and (d) amended 13676
162.47 (a), (d) and (e) amended 13676
162.48 (a) amended 13676
162.49 (a) amended 13676
162.50 (a) and (b) amended 13676
162.52 (b)(2) and (4) amended 13676
162.64 Amended 13676
162.65 (c), (d), (e) introductory text and (1) amended 13676
162.71 (e) removed **29131**
(e)(4) amended 13676
162.72 (a) amended 13676
162.74 Revised **29131**
(a)(1), (c) and (f) corrected **35798**
(a)(2), (b), (c), (e) and (f) amended 13676
162.75 (c), (d)(1), (2) introductory text, (i) and (3) amended 13676
162.76 (a) amended 13676
162.77 (a) amended 13676
162.78 (a), (b) and (d) amended 13676
162.79 (a) and (b)(1) amended 13676
162.79b Amended 13676
163 Added **32946**
163.6 (b)(2)(ii) corrected **34808**
171.12 (a) and (e) amended 13676
171.15 (a) introductory text, (4) and (7) amended 13676
171.21 Amended 13676
171.22 Amended 13676
171.23 Amended 13676
171.31 Amended 13676
171.33 (a) introductory text, (b)(1), (2) and (c) amended 13676
171.52 (d) amended 13676
171 Appendixes A, B and C amended 13676
172.2 Amended 13676
172.12 (a) and (b)(1) amended 13676
172.21 Amended 13676
172.22 Heading, (a), (b)(3) introductory text, (ii), (d)(2) and (4) amended 13676
172.31 (a) amended 13677
172.33 (a) introductory text, (b)(1) heading and introductory text, (ii), (2) and (c)(1) amended 13677
175.25 (c) amended 13677
177.2 (b)(2)(ii)(C) amended 13677
177.26 Amended 13677
178 Technical correction **36992**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 19 Chapter I—Con.

178.2 Table amended (OMB numbers) **29133, 32955, 51290, 51295**
Table amended (OMB numbers) 34, 7501
181.12 (a)(1) introductory text and (b)(1) amended **32955**
181.13 Amended **32955**
181.22 (a) amended **32955**
191.3 (a)(3) amended **27489**
191.6 (c)(3) amended **27489**
191.14 (c)(3)(iii)(D) and (iv)(C) amended **27489**
191.92 (g) amended **27489**
191 Appendix A amended **65060**
192.4 Amended **51290**

Chapter II—United States International Trade Commission (Parts 200—299)

201.7 (b) amended **29351**
201.10 Revised **29347**
201.11 (b)(4) and (5) added **30607**
201.17 Revised **29347**
201.18 (b) and (c) revised **29348**
201.20 (b)(1)(ii), (iii) and (3)(i) revised **29348**
201.22—201.33 (Subpart D) Revised **29348**
205.3 (a)(1), (2), (b) and (d) amended **29351**
207.3 (b) revised **30607**
207.45 (a) revised **30607**
207.46 (g) revised **30607**
207.60—207.69 (Subpart F) Added **30608**

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

351.102 Amended **65407**
351.103 Revised **24401**
351.301 (d)(6) and (7) added **65417**
351.304 Added **24401**
351.305 Added **24402**
351.306 Added **24403**
351.501—351.527 (Subpart E) Added **65407**
351.702 Added **65417**
354 Authority citation revised **24403**
354 Nomenclature change **24403**
354.1 Amended **24403**
354.2 Revised **24403**
354.3 (a)(3) and (4) revised; (a)(5) added **24404**
354.5 (a), (b), (c), (d)(1), (2) and (7) revised; (d)(8) removed; (d)(9) redesignated as (d)(8) **24404**
354.6 Revised **24404**
354.7 (b) revised **24405**
354.9 (b) revised **24405**
354.15 (e) removed **24405**
354.17 (b) amended **24405**
354.18 Added **24405**
354.19 Added **24405**

Proposed Rules:

4 ..... **36379**
..... 7422, 13370
24 13141
101 7422
113 ..... **31385**
123 ..... **27533**
146 13142
151 ..... **31385**
162 ..... **51868**
171 ..... **51868, 57628**
191 ..... **51868**
192 7422

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

10 Authority citation revised **56754**
Revised **65306**
10.7 (a) corrected **71202**
10.12 Revised **56754**
10.102 (a), (b)(1), (2) and (3) corrected **71202**
10.112 (a) and (b) corrected **71202**
10.215 (b) corrected **71202**
10.216 (b)(3) corrected **71202**
10.331 (a) corrected **71202**
25 Revised **65340**

Chapter II—Railroad Retirement Board (Parts 200—399)

200.3 Revised **17326**
Redesignated as 209.5; new 209.3 added **32613**
209.4 Redesignated as 209.6; new 209.4 added **32613**
209.5 Redesignated as 209.7; new 209.5 redesignated from 209.3 ..... **32613**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

209.6 Redesignated as 209.8; new 209.6 redesignated from 209.4 and revised **32613**
209.7 Redesignated as 209.9; new 209.7 redesignated from 209.5 and revised **32613**
209.8 Removed; new 209.8 redesignated from 209.6 and revised **32613**
209.9 Redesignated as 209.10; new 209.9 redesignated from 209.7; (c) revised **32613**
209.10 Redesignated as 209.11; new 209.10 redesignated from 209.9 and amended **32613**
209.11 Redesignated as 209.12; new 209.11 redesignated from 209.10 and revised **32613**
209.12 Redesignated as 209.13; new 209.12 redesignated from 209.11 and revised **32613**
209.13 Removed; new 209.13 redesignated from 209.12 ..... **32613**
(b) revised **32614**
209.14 Revised **32614**
209.15 Amended **32614**
216.74 Revised **17326**
255.8 Revised **29548**

Chapter III—Social Security Administration (Parts 400—499)

404.2 (b)(1) correctly revised; CFR correction 10103
402.30 Amended **35132**
402.35 (d) added **35132**
402.40 (h) added **35132**
402.45 (d) added **35132**
402.100 Heading and (b) revised **35132**
402.105 Redesignated from first 402.110 ..... **35132**
402.110 First 402.110 redesignated as 402.105 ..... **35132**
402.115 Removed **35132**
402.120 Removed **35132**
402.130 Revised **35132**
402.140 Revised **35133**
402.145 Revised **35133**
402.150 (a) revised; (b) removed; (c) redesignated as (b) **35133**
402.160 (b) and (c) revised **35134**
404.332 (b)(4) revised; eff. 4–26–99 14608
404.341 (b)(2) revised; eff. 4–26–99 14608
404.354 Revised **57593**
404.355 Revised **57593**
404.356 Amended **57594**
404.357 Amended; eff. 4–26–99 14608
404.361 Revised; eff. 4–26–99 14608
404.366 (b) introductory text amended; eff. 4–26–99 14608
404.406 Amended; eff. 4–26–99 14608
404.942 (g) revised **35516**
(g) revised 13678
404.969 Revised **36570**
404.985 Revised **24932**
404.1501—404.1599 (Subpart P) Appendix 1 amended **30411**
404.1740 Revised **41416**
404.1745 Revised **41416**
404.1750 (a) and (d) revised **41417**
404.1765 (a) and (g)(3) revised; (e) amended **41417**
404.1770 (a)(3) amended; (b)(3) revised **41417**
404.1799 (c) and (e) amended **41417**
416.420 (a) revised **33546**
416.1130 (a) revised **33546**
416.1442 (g) revised **35516**
(g) revised 13678
416.1469 Revised **36571**
416.1485 Revised **24933**
416.1540 Revised **41417**
416.1545 Revised **41418**
416.1550 (a) and (d) revised **41418**
416.1565 (a) and (g)(3) revised; (e) amended **41418**
416.1599 (c) and (e) amended **41418**
416.2010 (b)(1)(iii) amended; (b)(1)(iv) revised; (b)(1)(v) through (x) added **33849**
422.103 (b)(3) and (c)(3) added; (e) revised **56554**
422.104 (a)(3) and (b) revised **56554**
422.105 Revised **56554**
422.106 (a) revised; (b) removed; (c) redesignated as (b) **56555**
422.107 (a) revised; (e) amended **56555**
422.110 Revised **56555**
422.701—422.710 (Subpart H) Added **57058**

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

646 Added; interim **15988**

Proposed Rules:

404 ..... **31680, 54417, 71237**
..... 6824, 7559

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 20 *Proposed Rules:—Con.*

416 ..... **32161, 42601, 54417**
..... 7559
422 ..... **71237**
654 ..... **53244**
655 ..... **53244**
..... 628, 5725
656 ..... 628, 5725

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

2 Authority citation revised 398
2.10 (b)(2) revised **51299**
3 Authority citation revised **26697**
Authority citation revised 398
3.2 (k) amended; eff. 5–20–99 398
5 Effective date confirmation **48576**
5.20 (h) revised **41960**
5.22 (a)(10)(v) revised; (a)(10)(vi) added 4965
5.23 (c)(5) added 4965
5.31 (f)(2)(iii) and (iv) removed **26697**
(f)(2)(v), (vi) and (vii) amended; eff. 5–20–99 398
5.33 (c) reinstated; CFR correction **51299**
5.37 (a)(2)(iv) and (b)(4) added 4965
5.53 (a)(1) and (b)(1)(i) revised **27207**
5.60 (b)(8) correctly revised; CFR correction 14098
5.70 Amended; eff. 5–20–99 398
5.73 Removed **26697**
5.74 Removed **26697**
5.75 Removed; eff. 5–20–99 398
5.76 Removed; eff. 5–20–99 398
5.78 Removed; eff. 5–20–99 398
5.83 Heading, (c)(1), (2) and (d) revised **70650**
5.84 Heading, (a)(1) and (3) revised **70650**
5.98 Revised 4965
5.200 Revised **18314**
5.210 Revised **18317**
5.215 Revised **18317**
10 Authority citation revised **32735**
Effective date confirmation **48576**
10.50 (c)(10) removed **26697**
(a)(2) amended; (c)(11) removed; eff. 5–20–99 398
10.55 (dc) amended; eff. 5–20–99 398
10.75 (b) amended **32735**
Regulation at 63 FR 32735 withdrawn **50757**
(b) redesignated as (b)(1); new (b)(2) added **63982**
10.80 (g) amended; eff. 5–20–99 398
12 Authority citation revised 399
12.20 (a) introductory text and (2)(i) amended; (c) removed; eff. 5–20–99 399
12.24 (b)(6) and (c) amended; eff. 5–20–99 399
12.87 (d) amended; eff. 5–20–99 399
16 Effective date confirmation **48576**
Authority citation revised **64581**
16.1 (b)(2) amended **26697**
(b)(2) amended; interim **64581**
(b)(2) amended; eff. 5–20–99 399
20 Authority citation revised 399
20.100 (c)(20) and (21) removed; eff. 5–20–99 399
20.117 (a)(3) amended; eff. 5–20–99 399
25 Effective date confirmation **48576**
25.5 (b)(1) amended; eff. 5–20–99 399
25.31 (f) amended **26697**
(f) and (h) removed; (g) and (i) through (l) redesignated as (f) and (g) through (j); eff. 5–20–99 399
26 Added **60141**
Docket establishment 11376
50 Authority citation revised **26697**
Effective date confirmation **48576**
Authority citation revised 399, 10942
50.1 (a) amended **26697**
(a) amended; eff. 5–20–99 399
50.3 (b)(11) removed; (c) amended; eff. 5–20–99 399
50.20 Amended 10942
50.23 (d)(1) amended; eff. 5–20–99 399
54 Effective date confirmation **48576**
Authority citation revised 399
54.2 (d) and (e) revised **72181**
54.4 (a) corrected **35134**
(a) amended; eff. 5–20–99 399
56 Authority citation revised **26698**
Authority citation revised 399
56.101 (a) amended; eff. 5–20–99 399
56.102 (b)(10) removed; (b)(11) through (21) redesignated as (b)(10) through (20); (c) amended; eff. 5–20–99 399
58 Authority citation revised **26698**
Authority citation revised 399

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

58.1 (a) amended; eff. 5–20–99 399
58.3 (e)(9) removed; eff. 5–20–99 399
60 Authority citation revised 399
60.3 (b)(5), (10), (11)(i) and (12)(i) amended; eff. 5–20–99 399
60.22 (a)(1) and (2) revised; eff. 5–20–99 400
70.10 Heading and (b) heading revised; (b)(1), (2) and (3) amended; eff. 5–20–99 400
71 Authority citation revised **26698**
Authority citation revised 400
71.2 (a) amended; eff. 5–20–99 400
73 Technical correction **51299**
73.75 Regulation at 63 FR 14817 confirmed **51299**
74.3602 (b)(2)(v) added **20098**
Regulation at 63 FR 20098 confirmed **45943**
99 Added **64581**
101 Technical correction **17327**
Food labeling prohibitions **34084, 34092, 34097, 34101, 34104, 34107, 34110, 34112, 34115**
Comment periods reopened **48428**
Workshop **57594**
Uniform compliance date establishment **71015**
101.9 (b)(5)(i) revised; eff. 1–1–02 12889
101.12 (b) Table 2 amended; eff. 1–1–02 12890
101.13 (g) introductory text and (h) introductory text removed; (g)(1), (2) and (3) redesignated as (h)(4)(i), (ii) and (iii); (h)(1) and new (4)(i), (ii) and (iii) revised; (j)(2)(ii), (p)(2), (q)(2), (3)(ii) introductory text, (5)(i) and (6) amended **26980**
101.14 (e)(3) amended **26980**
101.17 (g) added **37055**
(g)(7)(i)(B) corrected **63982**
101.36 (b)(3)(ii)(B), (C) and (iii) revised **30620**
101.54 (d)(2) revised **26980**
101.62 (d)(1)(ii)(D), (2)(iii)(C), (iv)(C), (4)(ii)(C) and (5)(ii)(C) amended **26980**
101.65 (d)(2)(ii)(C), (3)(ii)(C) and (4)(ii)(B) stayed; eff. 3–16–99 through 1–1–03 12887
101.69 (c), (d), (l), (m)(4) introductory text, (ii), (n)(3), (4), (o)(3), (4) introductory text and (ii) amended; (m)(3) revised; (m)(4)(iii) and (5) added **26719**
(m)(3) and (4)(iii) corrected **40024**
101.70 (j)(2) and (4)(ii) revised; (j)(3)(iii) added **26719**
(j)(3)(iii) corrected **40024**
165 Effective date confirmation **42198**
165.110 (b)(4)(iii)(A) table and (C) table amended; (b)(4)(iii)(G)(*3*)(*iv*) note removed **25769**
Regulation at 63 FR 25769 eff. date corrected to 2–2–98 ..... **30621**
172.155 (c)(1) revised **66015**
172.345 (b) revised 1758
172.665 (d)(2) revised 1758
172.723 (b)(3) revised 1759
172.800 Regulation at 60 FR 21702 eff. date confirmed; (c)(13) added **36362**
172.831 Added **16433**
172.841 (a)(2) and (b) revised **57597**
172.878 (c) table amended **66014**
173.25 (b)(5) and (d)(2) revised 14609
173.300 (b) revised **38747**
173.310 (c) table amended 1759
173.340 (a)(4) introductory text revised; (a)(4) table amended **29134**
175.105 (c)(5) table amended **37248, 51527, 56788**
175.125 (a)(8) added; (b)(1) revised **51528**
175.300 (b)(3)(vii)(*a*) amended **59707**
(b)(3)(xxviii)(*a*) **71017**
(b)(3)(vii)(*a*) corrected; CFR correction 4535
175.320 (b)(3) table amended **71017**
(b)(3) table amended 2568
176.170 (b)(2) table amended **69551**
176.180 (b)(2) table amended **59709, 63408**
177.1390 (c)(2)(vii) added; (c)(3)(i)(*a*)(*1*) revised **55943**
(c)(1)(i)(*e*) redesignated as (c)(1)(i)(*f*); new (c)(1)(i)(*e*) added 4785
177.1430 (b) table amended **36175**
177.1500 (b) table amended 4786
177.1520 (c) table amended 10944
177.2415 Added **20315**
178.2010 (b) table amended **27836, 29136, 35135, 36177, 36178, 43875, 45716, 55945**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 21 Chapter I—Con.

(b) table corrected; CFR correction **49285**
(b) table amended 34, 2854, 13507
178.3130 (b) table amended **38748**
(b) corrected; CFR correction 4535
178.3295 Table amended **56789, 68392**
178.3297 (e) table amended **43874, 55946, 59215, 59710**
178.3400 (c) table amended **29551**
178.3620 (c)(3) corrected; CFR correction 4535
178.3725 Table amended **35799**
178.3910 (a)(2) table corrected; CFR correction 4535
179 Technical correction **46388**
179.26 (c)(1) amended **43876**
184.1007 (b)(1), (6) and (7) revised 1759
184.1257 (b) introductory text and (1) revised 1759
184.1259 (b)(3) revised 1760
184.1282 (b) revised 1760
184.1293 (b) revised 1760
184.1420 Added **24419**
184.1428 (a) amended 405
184.1530 (b) revised 1760
184.1699 (b) revised 1760
184.1702 Added **28895**
184.1979 (b)(1) introductory text and (2) revised 1760
184.1979a (b)(1) introductory text and (2) revised 1761
184.1979b (b)(1) introductory text and (2) revised 1761
Corrected 7066
184.1979c (b)(1) introductory text and (2) revised 1761
200 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 400
200.15 Revised **26698**
201 Authority citation revised **26698**
Effective date confirmation **48576**
Stay of compliance **67399**
Authority citation revised 400
Compliance date 13066
201.23 Added **66668**
201.50 (b) amended **26698**
201.57 (f)(2) revised; eff. 6-1-99 ..... **66396**
201.59 (a)(1) revised; eff. 5-20-99 400
201.63 Heading and (e) revised; (a) amended; eff. 4-16-99 13286
201.64 (b) amended; eff. 4-16-99 13286
201.66 Added; eff. 4-16-99 13286
201.100 (c)(2) amended **26698**
(c)(2) and (d)(1) amended; eff. 5-20-99 400
201.150 (e) through (h) removed; eff. 5-20-99 400
201.307 Added **27843**
201.314 (a) amended; (g)(1) and (h)(1) revised; eff. 4-16-99 13291
201.319 (b) revised; eff. 4-16-99 13292
201.322 Added; eff. 4-23-99 ..... **56801**
201 Appendix A added; eff. 4-16-99 13292
202 Authority citation revised 400
202.1 (e)(4)(ii) removed; (e)(4)(iii) redesignated as (e)(4)(ii); new (e)(4)(ii), (6)(i), (ii)(*a*), (*b*) and (xvii) amended; eff. 5-20-99 400
206 Authority citation revised 400
207 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 400
207.20 (c) amended; eff. 5-20-99 400
207.21 (a) amended; eff. 5-20-99 400
207.25 (b)(2), (4), (5) and (6) amended **26698**
(b)(2), (4), (5) and (6) amended; eff. 5-20-99 400
207.31 (a)(1), (2), (3) and (c) amended **26698**
(a)(1), (2), (3) and (c) amended; eff. 5-20-99 400
207.37 (a)(2)(i) amended; eff. 5-20-99 400
208 Added; eff. 6-1-99 ..... **66396**
210 Authority citation revised **26698**
Authority citation revised 401
211 Authority citation revised **26698**
Authority citation revised 401
211.132 Heading revised; (a), (d) introductory text and (2) amended; (b) and (c) revised **59470**
216 Added; eff. 4-17-99 10947
299.4 (d) amended; eff. 5-20-99 401
300 Authority citation revised 401
300.50 (b) amended; eff. 5-20-99 401
310 Authority citation revised **26698**
Authority citation revised 401
310.502 (a) introductory text revised; (b) removed; eff. 5-20-99 401
310.545 (a)(27), (28) and (d)(28) added; (d) introductory text revised **19802**
(a)(6)(ii)(B) amended **40649**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

(a)(23) and (24) redesignated as (a)(23)(i) and (24)(i); (a)(23)(i) heading, (ii), (24)(i) heading, (ii) and (d)(26) added; (d)(11) revised **44998**
(a)(12)(iv) redesignated as (a)(12)(iv)(A); (a)(12)(iv)(A) heading, (d) introductory text and (1) revised; (a)(12)(iv)(B) and (d)(29) added 4540
312 Authority citation revised **26698**, **68678**
Authority citation revised 401
312.2 (a) and (d) amended; eff. 5-20-99 401
312.3 Amended; eff. 5-20-99 401
312.23 (a)(10)(iii) redesignated as (a)(10)(iv); new (a)(10)(iii) added **66669**
312.42 (e) revised; eff. 4-28-99 ..... **68678**
312.47 (b)(1)(i) and (2) heading revised; (b)(1)(iv), (v) and (2) introductory text amended; (b)(2)(iii) redesignated as (b)(2)(iv); new (b)(2)(iii) added **66669**
312.80—312.88 (Subpart E) Authority citation revised 401
312.81 Introductory text amended; eff. 5-20-99 401
312.82 (a) and (b) amended **66669**
312.110 (b)(4) revised; (b)(5) removed; eff. 5-20-99 401
312.120 (a) amended; eff. 5-20-99 401
312.130 (b) amended; eff. 5-20-99 401
312.500—310.546 (Subpart E) Authority citation revised **26698**
314 Authority citation revised **26698**, **59712**
Effective date confirmation **48576**
Authority citation revised 401
Heading revised; eff. 5-20-99 401
314.1 (a) revised; eff. 5-20-99 401
314.50 Introductory text, (d)(5)(vi)(*b*) and (l)(1) amended; (c)(2)(i) and (e)(2)(ii) revised; eff. 6-1-99 ..... **66398**
(d)(7) added **66670**
(d) introductory text amended; eff. 5-20-99 401
314.55 Added **66670**
314.70 (b)(3) revised; eff. 6-1-99 ..... **66399**
314.81 (b)(2)(i) and (vii) revised; (b)(2)(vi)(*c*) added **66670**
(a) amended; eff. 5-20-99 401
314.92 (a)(2) removed; eff. 5-20-99 401
314.94 (a)(8) revised; eff. 6-1-99 ..... **66399**
(c) and (d)(3) removed; eff. 5-20-99 401
314.96 (c) removed; eff. 5-20-99 401
314.98 (a) and (c) amended; eff. 5-20-99 401
314.100 (a) amended; eff. 5-20-99 402
314.101 Heading revised; (a)(2) amended; eff. 5-20-99 402
314.105 (a) and (b) amended; eff. 5-20-99 402
314.107 (c)(1) and (4) amended; interim **59712**
314.110 (a)(2), (4) and (5) amended; eff. 5-20-99 402
314.120 (a) introductory text, (3) and (5) amended; (a)(4) removed; eff. 5-20-99 402
314.125 Heading revised; (a) introductory text, (2) and (b)(2) amended; eff. 5-20-99 402
314.126 (a) amended; eff. 5-20-99 402
314.150 (a) introductory text and (b) introductory text amended; eff. 5-20-99 402
314.170 Amended **26698**
Amended; eff. 5-20-99 402
314.300 (Subpart F) Removed; eff. 5-20-99 402
314.410 Heading revised; (a)(1) introductory text, (i) and (b)(1) amended; (b)(3) revised; eff. 5-20-99 402
314.430 (f)(6) amended **26698**
(e)(8) removed; (f)(6) amended; eff. 5-20-99 402
314.500 Amended; eff. 5-20-99 402
314.530 (a) amended; eff. 5-20-99 402
316.3 (b)(9) amended; eff. 5-20-99 402
320 Authority citation revised 402
320.38 (a) amended; eff. 5-20-99 402
320.63 Amended; eff. 5-20-99 402
330.1 (c)(1), (2), (i) and (j) revised; (g) amended; eff. 4-16-99 13294
331.30 (d) revised; eff. 4-16-99 13295
333.103 (a) and (b) designation removed; eff. 5-20-99 403

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 21 Chapter I—Con.

333.110 (a) through (f) amended; eff. 5–20–99 403
333.120 (a)(1) through (12) and (b)(1) through (6) amended; eff. 5–20–99 403
341.20 (b)(1) revised **40650**
341.74 (c)(4)(v) and (vi) revised; eff. 4–16–99 13295
341.76 (c)(4) revised; eff. 4–16–99 13295
341.80 (c)(2)(ii), (vii), (d)(2)(i) and (viii) heading revised **40650**
(c)(1)(i)(D) and (ii)(D) revised; eff. 4–16–99 13295
343 Added; eff. 10–25–99 ....**56814**
343.80 (a)(1) corrected **66015**
(a)(2) corrected **66016**
346.50 (c)(7)(ii) revised; eff. 4–16–99 13295
355.50 (c)(1) and (2) revised; eff. 4–16–99 13296
358 Technical correction **46389**
358.610 Revised **43303**
358.650 (d)(1) amended; eff. 4–16–99 13296
369 Authority citation revised **26698**
Effective date confirmation **48576**
Authority citation revised 403
369.5 Removed **26698**
369.9 Revised; eff. 4–16–99 13296
369.20 Amended; eff. 4–16–99 13296
369.21 Amended **26698**
Amended; eff. 4–16–99 13296
429 Removed **26698**
Effective date confirmation **48576**
430 Removed **26068**
Effective date confirmation **48576**
431 Removed **26068**
Effective date confirmation **48576**
432 Removed **26068**
Effective date confirmation **48576**
433 Removed **26068**
Effective date confirmation **48576**
436 Removed **26068**
Effective date confirmation **48576**
440 Removed **26068**
Effective date confirmation **48576**
441 Removed **26068**
Effective date confirmation **48576**
442 Removed **26068**
Effective date confirmation **48576**
443 Removed **26068**
Effective date confirmation **48576**
444 Removed **26068**
Effective date confirmation **48576**
446 Removed **26068**
Effective date confirmation **48576**
448 Removed **26068**
Effective date confirmation **48576**
449 Removed **26068**
Effective date confirmation **48576**
450 Removed **26068**
Effective date confirmation **48576**
452 Removed **26069**
Effective date confirmation **48576**
453 Removed **26069**
Effective date confirmation **48576**
455 Removed **26069**
Effective date confirmation **48576**
460 Removed **26069**
Effective date confirmation **48576**
510.45 Removed; eff. 5–20–99 403
510.105 (c)(2) revised **32980**
510.106 Revised **32980**
510.110 (e) and (f) amended; eff. 5–20–99 403
510.600 (c)(1) table and (2) table amended **24106, 25164, 26981, 27845, 29551, 31624, 31931, 36178, 41188, 44381, 44383, 51822, 59216, 65553**
514.10 Removed; eff. 5–20–99 403
520 Technical correction **46652**
520.45a (a)(4)(i)(*1*) designation and (*2*) removed; (b)(1) revised 1504
520.154a (a) amended; (d)(4) added **38474**
(a) and (d)(2) amended 13068
520.452 Added **41419**
520.455 Added 1762
520.534 Added 10103
520.580 (b)(1) amended **26981**
520.870 Added **51300**
520.905a (a) removed; (b), (c) and (d)(3) redesignated as (a), (b) and (d)(4); (d)(2) heading revised; (d)(2)(i)(A), (B), (ii) introductory text, (A) and (B) redesignated as (d)(2)(ii), (iii), (3)(i), (ii) and (iii); new (c) and new (d)(3) heading added **63983**
520.905c (d)(1)(iii) added **31624**
520.1195 (b) amended **38474**
520.1204 (a) amended; eff. 5–20–99 403
520.1242a (a) and (d) removed; (b), (c), (e) and (f) redesignated as (a) through (d); new (a), (b), (c), (d)(1)(i), (iii) and (2)(i) revised; new (d)(2)(iii) added **59713**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

520.1263a (a) revised; eff. 5–20–99 403
520.1263b (a) amended; eff. 5–20–99 403
520.1263c (d)(1)(i)(C) amended 13341
(a) amended; (b) revised 13508
520.1288 Revised **52968**
520.1445 (a) and (c) heading revised; (d) added **29352**
(c) removed; (d) revised **41189**
520.1446 (c) redesignated as (d); new (d) revised **41190**
520.1484 (b) revised; (c)(3) amended **17329**
520.1485 (d)(3) amended **45944**
520.1660c Heading, (a) and (b) revised; (c) removed; (d) and (e) redesignated as (c) and (d); new (d)(3) amended **70334**
520.1660d (a)(3) revised **44384**
(a)(9) and (b)(7) added; (b)(2) revised 10389
(a)(7) revised; (c) removed; (d) and (e) redesignated as (c) and (d) 13341
(a)(8), (d)(1)(ii)(A)(*3*), (B)(*3*) and (C)(*3*) amended 13678
520.1720a (b)(3) amended **36178**
520.2043 (a)(2) revised **39727**
(b)(2) amended **45945**
520.2098 (b) amended **29551**
(d)(2) and (d)(3) redesignated as (d)(1)(i) and (ii); new (d)(2) added 2122
520.2158a (b) amended **51821**
520.2158b (d) correctly added; CFR correction 4540
520.2220a (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) **59714**
522 Technical correction **46652**
522.84 Added **44382**
522.90b (b) revised **41420**
522.246 (b) revised **66432**
522.314 (d)(2) added **53578**
522.533 Added **44383**
522.770 (d)(1)(ii) revised **68183**
(d)(1)(ii) amended 13509
522.812 (a) revised; (d)(1), (2) and (3) redesignated as (d)(1)(i), (ii) and (iii); (c), new (d)(1) heading and new (2) added **49003**
522.955 (d)(1)(iii) amended **26981**
(d)(1)(i) revised; (d)(1)(iii) amended **41191**
(d)(1)(i) revised; (d)(1)(ii) redesignated as (d)(1)(i)(B); (d)(1)(ii)(A) and (B) added 5596
(d)(1)(i)(B) revised 9435
522.970 (c) redesignated as (d); new (c) added; (b) and new (d) revised **38749**
522.1044 (b)(3) amended **59714**
(b)(4) revised **68182**
522.1081 (a)(2)(ii) amended **51822**
522.1086 (b) amended; (c) redesignated as (d) **29352**
522.1145 (a)(2) revised; (f) added **59216**
522.1182 (b)(2)(i) amended **53578**
522.1183 (b) removed; (e)(1) amended **44384**
522.1204 (a) revised; eff. 5–20–99 403
522.1222a (c) amended **51822, 65553**
522.1289 Added **29552**
522.1484 (a) amended; eff. 5–20–99 403
522.1660 (c) added; (d)(1) heading revised; (d)(1)(iii) amended **52158**
522.1940 (d)(3) added **45945**
522.2005 (b) amended **24420**
(b) revised; (c)(2) added 13510
522.2120 Amended **24107**
522.2121 Added **24107**
522.2478 (c)(2) added **63789**
524.770 (d)(2) revised **68183**
524.814 (d)(2) revised **59715**
524.1044g (b) amended **31932**
524.1193 (b) and (d)(2) revised **44385**
524.1200a (a)(1) and (2) designation removed; eff. 5–20–99 404
524.1200b (a) revised; eff. 5–20–99 404
524.1204 (a)(1) removed; (a)(2)(i), (ii), (iii) and (3) redesignated as (a)(1)(i), (ii), (iii) and (2); eff. 5–20–99 404
524.2101 (c) amended **26981**
529.360 (a) amended; eff. 5–20–99 404
529.469 Added **25164**
529.1030 (c) redesignated as (d); (b)(1), (2), new (d) introductory text, (1) and (2)(i) revised; (d)(2)(iv) and (v) added **38304**
529.1186 (b) revised **24106**
556.34 Revised 1504
556.113 Revised **53579**
556.150 Revised **52158**
(b) revised **57246**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 21 Chapter I—Con.

556.170 Revised 10103
556.225 Revised **68184**
556.227 Revised **59715**
556.228 Undesignated text designated as (a); new introductory text, (a) heading and (b) added **49003**
556.283 Revised **41191**
556.286 Added **38750**
556.344 Revised **54352**
556.347 Revised 13069
556.420 Revised 5159
556.500 Revised **52158, 57246**
556.600 Revised **24107**
(c) corrected **38304**
556.720 Revised **52158, 57246**
556.735 Revised 13679
558 Technical correction **46389**
558.15 (g)(1) table and (2) table amended 992
558.58 (d)(1)(iii) table amended **27845**
558.76 (d)(3)(xv) added **38475**
(d)(3)(xv) added **38750**
(d)(3)(xvi) added **39028**
(d)(1) table amended **40825, 44385**
(d)(3)(xvii) correctly designated **48576**
(d)(3)(xviii) added **51824**
(d)(3)(xix) added 4966
(d)(3)(xx) added 13342
558.78 (d)(3) revised **19185**
(a)(2), (d)(1) table and (2)(ii) amended **27845**
558.95 (d)(4)(iv) added **18836**
(d)(1)(xi)(*b*) and (xii)(*b*) amended **27845**
(d)(4)(i)(*b*), (ii)(*b*), (iii) introductory text, (*d*), (iv) introductory text and (*c*) amended **44386**
558.115 (d)(1)(ii) and (2)(ii) revised **59216**
558.120 (d)(1)(iii)(*b*) amended **27845**
558.128 (a)(1) and (d)(1) table amended **27845**
(d)(1) table amended **57246, 65554**
558.145 (a)(1) and (2) amended **27845**
558.175 (d)(1)(iii)(*b*) and (iv)(*b*) amended **17948, 27845**
558.195 (d) table amended **17948, 27845, 38475, 51824**
558.300 (c) redesignated as (d); new (d) introductory text added; new (d)(1) revised **54353**
(d)(1)(ii), (2)(ii), (3)(ii), (4)(ii) and (5)(ii) amended; (d)(6) added 13342
558.305 (a) amended **27845**
558.311 (e)(1)(ii) table amended **17948**
(b)(2) through (7), (e)(1)(v) table, (2)(v) and (3)(v) amended **27845**
(b)(4) revised 13069
558.325 (c)(3)(xii) revised **57248**
(c) redesignated as (d); (d)(2)(ii)(*b*), (iii)(*b*) and (iv)(*b*) amended 13342
558.340 (a) amended **27845**
558.342 (d)(3)(ii) and (6)(ii) amended **27845**
(d)(8) added **41191**
(c) and (d)(3)(ii) amended **66018**
558.355 (a) amended **24420**
(b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*) and (xvi)(*b*) amended **27845**
(f)(2)(iii) added **52969**
(b)(11) and (f)(1)(xiv)(*b*) amended **70335**
(f)(3)(ii)(*b*) amended 2855
(d)(7)(ii), (f)(3)(iii)(*a*), (*b*), (vi)(*a*), (*b*), (vii)(*a*) and (*b*) revised; (f)(3)(xi) added 5159
(b)(11) amended; (f)(1)(xxvi) and (xxvii) added 5597
(f)(2)(iv) added 13069
558.360 Revised 13342
558.363 (a)(6), (d)(1)(viii) and (ix) added **51823**
(d)(2) revised **57248**
(d)(2)(ii) added 4966
558.366 (c) table amended **57248**
(c) table amended 4966
558.369 (c) removed; (d) introductory text revised; (d)(1), (2) and (3) redesignated as (d)(1)(i), (ii) and (iii); (d)(1) heading and (2) added **39028**
558.450 (d)(3)(iii) added **41192**
558.460 (b) and (c) redesignated as (c) and (d); new (b) added; (d)(1) table revised **36179**
558.515 (d)(1)(iv)(*b*) amended **17948**
(a) and (d)(1)(vi)(*b*) amended **27845**
558.530 (c) removed; (d)(5)(x) revised **38476**
558.550 (a)(1), (d)(1)(vii)(*c*), (ix)(*c*), (xv)(*c*) and (xvi)(*c*) amended **27846**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

(a) revised; (d)(1)(xv)(c) amended **65554**
(a)(3) revised **66432**
558.575 (a)(1) and (2) amended **27846**
558.582 (a) amended **27846**
558.600 (c)(4)(ii) amended **27846, 52969**
558.618 (d)(3) amended 13679
558.680 (c)(1) table amended **38750**
564 Removed 4294
Technical correction 6801
573.460 (b)(1), (2)(ii), (iii) and (3)(iv) revised; (b)(2)(iv) added **53580**
601 Authority citation revised **66671**
601.2 (a) introductory text amended; (c)(1)(viii) revised; eff. 6–1–99 ..... **66399**
601.12 (f)(1) amended; (f)(3)(i) revised; eff. 6–1–99 ..... **66399**
601.27 Added **66671**
601.37 Added **66671**
606.121 (e)(1)(ii) amended **16685**
610.11 (g) revised **19403**
Regulation at 63 FR 19403 withdrawn in part **41718**
610.30 Amended **16685**
610.60 (a)(7) added; eff. 6–1–99 ..... **66400**
640.2 (e)(3) amended **16685**
640.17 Amended **16685**
640.24 (b) amended **16685**
640.64 (c)(2) amended **16685**
640.69 (b) amended **16685**
640.70 (a)(3) amended **16685**
640.74 (b)(2) amended **16685**
640.101 (a) amended **16685**
640.102 (c) and (e) amended **16685**
640.104 (a) amended **16685**
701.3 (d) revised; eff. 4–16–99 13297
800 Authority citation revised **26699**
Authority citation revised 404
801 Interpretation **24934**
Economic analysis statement **29552, 46171, 50660**
Authority citation revised 404
801.437 Note added; eff. 9–30–99 through 6–27–99 ..... **46175**
803.1 (a) revised **26074**
Regulation at 63 FR 26074 withdrawn **45717**
803.3 (c) introductory text amended; (m) through (ee) redesignated as (n) through (ff); (c)(1), new (p) introductory text, (1) and (r)(2) revised; (g) and new (m) added **26074**
Regulation at 63 FR 26074 withdrawn **45717**
803.9 (c)(2) amended; (c)(3) removed; (c)(4) redesignated as (c)(3) **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.10 Heading, (a)(2) and (c)(5) revised; (b) added **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.11 Amended **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.12 (b) revised **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.17 Introductory text amended **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.18 Heading, (b)(1)(ii) and (2) revised; (a), (b)(1) introductory text and (c) amended; (d) added **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.19 (b) and (c) amended **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.20 (a) introductory text and (2) amended; (a)(1) revised; (b)(2) added **26075**
Regulation at 63 FR 26075 withdrawn **45717**
803.22 (a) and (b)(1) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.33 Heading revised; (a) introductory text, (2), (5), (7) introductory text, (vi) and (c) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.40—803.43 (Subpart D) Added **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.56 Introductory text, (a) and (b) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**
803.57 (a), (b), (c)(1) and (d) amended **26076**
Regulation at 63 FR 26076 withdrawn **45717**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 21 Chapter I—Con.

804 Heading revised **26077**
Regulation at 63 FR 26077 withdrawn **45717**
804.1 (a) revised **26077**
Regulation at 63 FR 26077 withdrawn **45717**
804.3 (d) revised; (m)(1) and (2) amended **26077**
Regulation at 63 FR 26077 withdrawn **45717**
804.25 (a)(1) and (2) amended; (c) removed **26077**
Regulation at 63 FR 26077 withdrawn **45717**
806 Heading revised **42232**
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 ..... **63983**
Authority citation correctly revised; CFR correction 14098
806.1 (a) and (b)(1) revised **42232**
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 ..... **63983**
806.2 (f) revised **42232**
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 ..... **63983**
806.10 Regulation at 62 FR 27191 eff. 5-18-98 ..... **18836**
(a), (b), (c) introductory text and (2) revised; (c)(4), (d) and (e) amended **42232**
Regulation at 63 FR 42232 eff. date delayed to 2-22-99 ..... **63983**
806.20 Regulation at 62 FR 27191 eff. 5-18-98 ..... **18836**
(a) and (c) revised **42233**
Regulation at 63 FR 42233 eff. date delayed to 2-22-99 ..... **63983**
806.30 Revised **42233**
Regulation at 63 FR 42233 eff. date delayed to 2-22-99 ..... **63983**
807 Heading revised **51826**
Effective date confirmation 1762
807.3 (d)(2) and (g) revised; (s) added **51826**
807.20 (a)(4) revised; (c) removed; (d) redesignated as (c); (c)(3) added **51826**
Corrected **65555**
807.22 (c) amended **51826**
807.25 (f)(3) amended; eff. 5-20-99 404
809 Authority citation revised 404
809.5 Removed; eff. 5-20-99 404
809.6 Removed; eff. 5-20-99 404
812 Authority citation revised **26699**
Authority citation revised 404, 10942
812.20 (a)(4)(i) amended 10942
812.35 (a) revised **64625**
814.39 (a) introductory text and (4) revised; (f) added **20533**
Regulation at 63 FR 20533 withdrawn **42699**
(a) introductory text revised; (a)(4) removed; (a)(5) through (8) redesignated as (a)(4) through (7); (f) added **54044**
812.47 (b) amended 10943
814.100 (a)(2) and (d) revised; (e) added **19188**
Regulation at 63 FR 19188 withdrawn **40825**
(a)(2) and (d) revised; (e) added **59220**
814.104 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b)(5) and new (d) revised; new (c) amended **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b)(5) and new (d) revised; new (c) amended **59220**
814.106 Revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
Revised **59220**
814.108 Revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
Revised **59220**
814.112 (a) introductory text and (b) revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(a) introductory text, (1) and (b) revised **59221**
814.114 Revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
Revised **59221**
814.116 (a) and (d) amended; (e) added **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(a) and (d) amended; (e) added **59221**
814.118 (e) revised **19189**
Regulation at 63 FR 19189 withdrawn **40825**
(a)(8) revised; (e) removed **59221**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

814.120 Revised 19189
Regulation at 63 FR 19189 withdrawn 40825
Revised 59221
814.124 (a) amended 19190
Regulation at 63 FR 19190 withdrawn 40825
(a) amended 59221
814.126 (a) amended; (b) revised 19190
Regulation at 63 FR 19190 withdrawn 40825
(a) amended; (b) revised 59221
860.84 (a) amended; eff. 5-20-99 404
862.9 Heading revised; introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59224
862.1440 (b) revised 59225
862.1635 (b) revised 59225
862.1715 (b) revised 1124
862.1825 Added 40366
864.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59225
864.1860 Added 30142
864.6100 (b) revised 59225
864.6400 (b) revised 59225
864.9160 (b) revised 59225
864.9550 (b) revised 59226
864.9575 (b) revised 59226
864.9600 (b) revised 59226
864.9700 (b) revised 59226
866.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59226
866.3060 (b) revised 59226
866.3085 (b) revised 59226
866.3135 (b) revised 59226
866.3165 (b) revised 59226
866.3220 (b) revised 59226
866.3280 (b) revised 59226
866.3300 (b) revised 59226
866.3320 (b) revised 59227
866.3350 (b) revised 59227
866.3415 (b) revised 59227
866.3550 (b) revised 59227
866.3660 (b) revised 59227
866.3930 (b) revised 59227
866.5040 (b) revised 59227
866.5320 (b) revised 59227
866.5380 (b) revised 59227
866.5460 (b) revised 59227
866.5490 (b) revised 59227
868 Preamendment device retention 35516
872.1870 Added 59717
872.3940 (c) revised 71746
872.3950 (c) revised 71746
872.3960 (c) revised 71746
872.3970 (c) revised 71746
874.1050 (b) revised 14831
874.3900 Added; eff. 4-17-99 10949
874.4780 Added; eff. 4-17-99 10949
874.4800 Added; eff. 4-17-99 10949
876.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59227
876.1620 (b) revised 59228
876.1800 (b) revised 59228
876.2040 (b) revised 59228
876.4370 (b)(1) revised 59228
876.4650 (b) revised 59228
876.4680 (b) revised 59228
876.4890 (b)(1) revised 59228
876.5250 (b)(1) revised 59228
878.5360 Revised 57060
880.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59228
880.2200 (b) revised 59228
880.2920 (b) revised 59228
880.2930 Added 59718
880.5100 (b) revised 59229
880.5140 (b) revised 59229
880.5475 (b) revised 59229
880.5500 (b) revised 59229
880.5550 (b) revised 59229
880.5960 Added 59718
880.6740 (b) revised 59229
880.6775 (b) revised 59229
880.6910 (b) revised 59229
880.6990 Added 59718
882.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added 59229
882.5050 (b) revised 59229
882.5970 Added 40651
884 Preamendment device retention 35516
884.6100—884.6190 (Subpart G) Added 48436
886.9 Heading revised; introductory text designated as (a);

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 21 Chapter I—Con.

(a) and (b) redesignated as (a)(1) and (2); new (b) added **59229**
886.3100 (b) revised **59230**
886.3130 (b) revised **59230**
886.3800 (b) revised **59230**
888.3070 Added **40040**
890 Preamendment device retention **35516**
890.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59230**
890.1925 (b) revised **59230**
890.3500 (b) revised **59231**
890.3710 (b) revised **59231**
890.3725 (b) revised **59231**
890.5160 (b) revised **59231**
890.5170 (b) revised **59231**
890.5225 (b) revised **59231**
890.5720 (b) revised **59231**
890.5740 (b) revised **59231**
892.9 Introductory text designated as (a); (a) and (b) redesignated as (a)(1) and (2); new (b) added **59231**
892.1980 (b) revised **59231**
892.2010 Added **23387**
(a) and (b) corrected **44998**
892.2020 Added **23387**
(a) and (b) corrected **44998**
892.2030 Added **23387**
892.2040 Added **23387**
892.2050 Added **23387**
892.5050 (b) revised 1125
900.2 (d) revised; eff. 4–28–99 ..... **56558**
900.12 (a)(2)(ii), (c)(4)(i), (d)(2) and (e)(10) amended; (a)(2)(iv)(A), (3)(iii)(B), (c)(4)(ii), (e)(1) introductory text, (8)(ii)(A) and (f)(3) revised; eff. 4–28–99; (e)(4)(iii)(B) revised; eff. 10–28–02 ..... **56558**
1240 Technical correction **29591**
1240.70 Removed **26078**
1270.33 (b)(1) amended **16685**

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1308.4 (e)(7) through (11) redesignated as (e)(8) through (12); new (e)(7) added 4052

Proposed Rules:

1 ..... **64930**
2 ..... **51322**, 448
3 ..... **26690, 40858, 42773, 46718**, 448
5 ..... **26690, 40858, 42773, 46718**, 448
10 ..... **26690, 32772, 40858, 42773, 46718, 50815, 69575**, 448
12 448
14 ..... **69575**
16 ..... **26690, 31143, 35551, 69575**, 448
20 ..... **40069, 40858, 42773, 46718**, 448
25 ..... **26690**, 448
26 ..... **17744**
50 ..... **26690**, 448
54 448
56 ..... **26690**, 448
58 ..... **26690**, 448
60 448
70 ..... **30150**, 448
71 ..... **26690**, 448
73 ..... **30150**
74 ..... **30150**
80 ..... **30150**
81 ..... **30150**
82 ..... **30150**
99 ..... **31143, 35551**
100 ..... **27502**
101 ..... **20486, 23624, 24254, 24593, 27016, 30150, 45427, 62977**, 1765, 3250, 14178
102 ..... **20148**
120 ..... **20450, 24254, 37057, 40072, 69579**
165 ..... **25789**
178 ..... **30150**
179 7834
200 ..... **26690**, 448
201 ..... **26690, 30150**, 448
202 448
206 448
207 ..... **26690, 26744, 40858, 42773, 46718, 68212**, 448

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

210 **26690**
448
211 **26690**
448
216 **54082, 55564**
996
299 448
300 448
310 **26690, 33592, 40858, 42773, 46718, 59746**
448
312 **26690, 40858, 42773, 46718, 68710**
448
314 **26690, 59746, 64222**
448
315 **28301, 41219, 55067**
457, 7561
316 **40858, 42773, 46718**
448
320 **64222**
448
333 448
334 **27886, 33592, 67817**
341 **38762**
352 **56584**
369 **26690**
448
429 **26690**
430 **26127**
431 **26127**
432 **26127**
433 **26127**
436 **26127**
440 **26127**
441 **26127**
442 **26127**
443 **26127**
444 **26127**
446 **26127**
448 **26127**
449 **26127**
450 **26127**
452 **26127**
453 **26127**
455 **26127**
460 **26127**
510 448
514 448
520 448
522 448
524 448
529 448
600 **40858, 42773, 46718, 59746**
601 **28301, 40858, 41219, 42773, 46718, 55067**
457, 7561
607 **40858, 42773, 46718**
610 **19431, 40858, 42773, 46718**
640 **40858, 42773, 46718**
660 **40858, 42773, 46718**
701 **30160**
800 **26690**
448
801 448, 3255
803 **26129**
804 **26129**
806 **42300**
807 **26744, 51874, 65566, 68212**
448
808 **39789**
809 **29174**
448
812 **26690, 38131**
448
814 **19196, 20558**
820 **29364**
860 448
862 **63222**
864 **29174, 63222**
12774
866 12774
868 **44177, 63222**
12774
870 **63222**
12774
872 **53859, 63222**
12774
874 **25794, 40673, 63222**
12774
876 **63222**
62, 5987, 12774
878 **63222**
880 **59917, 63222**
882 **40673, 63222**
884 **44177, 63222**
12774
886 **63222**
12774
888 **63222**
12774
890 **40677, 44177, 63222**
892 **63222**
900 **59750**
1010 14180
1020 **57957**
6288
1040 14180
1271 **26744, 68212**
1300 **49506**
7144
1308 **18170, 59751**
1310 **49506, 55811, 63253**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 21 *Proposed Rules:—Con.*

.....7144
1312.....59751

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

40.11 Regulation at 62 FR 67567 confirmed.....64626
40.22 Regulation at 62 FR 67567 confirmed.....64626
40.52 Regulation at 62 FR 67567 confirmed.....64626
40.61 Regulation at 62 FR 67567 confirmed.....64626
40.62 Regulation at 62 FR 67567 confirmed.....64626
40.66 Regulation at 62 FR 67567 confirmed.....64626
40.67 Regulation at 62 FR 67567 confirmed.....64626
40.68 Regulation at 63 FR 670 confirmed.....36366
40.91 Regulation at 62 FR 67567 confirmed; (a) revised.....64626
40.92 Regulation at 62 FR 67567 confirmed.....64626
40.93 Regulation at 62 FR 67567 confirmed.....64626
40.104 Regulation at 62 FR 67567 confirmed.....64626
40.105 Regulation at 62 FR 67567 confirmed.....64626
40.204 Removed.....16686
41 Authority citation revised.....48577
41.2 (g)(3) and (4) redesignated as (g)(5) and (6); new (g)(3) and (4) added.....16893
Regulation at 62 FR 51031 confirmed.....35
(f) revised; interim.....7999
41.3 (e) amended.....48577
41.12 Table amended.....48578
41.21 Heading revised.....48578
41.32 Revised.....16893
41.33 Revised.....16894
41.101 Regulation at 63 FR 671 confirmed; (c)(1) amended.....36366
41.105 Amended; (a)(3) revised.....13510
41.107 (c) redesignated as (c)(1); (c)(2) added; interim.....24108
(c)(2)(i) revised.....52969
41.121 Regulation at 63 FR 671 confirmed.....36366
41.122 (a)(4) and (h)(9) added.....16895
42.22 (c) removed; (d) redesignated as (c).....48578
42.32 (d)(5) revised.....68393
42.51 (a)(2) and (d) removed; (a)(1) introductory text, (i), and (ii) redesignated as (a) introductory text, (1) and (2).....48578
42.54 (a)(2) amended.....48578
42.64 (b) amended.....48578
50 Authority citation revised.....20315
50.40 (a) amended.....20315
51.70 Regulation at 62 FR 62695 confirmed.....44777
51.80 Regulation at 62 FR 62695 confirmed.....44777
93 Authority citation revised.....16687
93.1 (a), (b), (c) and (e) amended.....16687
95 Added.....9437
121 Authority citation revised.....13680
121.1 Amended.....17330
Amended.....13680
124 Authority citation revised.....13681
124.15 Revised.....13681
140 Added.....36574
171.32 (j)(2) amended; eff. 4-17-99.....10949

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

228.11 (e) revised.....38751
228.13 (b) amended.....72181
228.21 (a) amended; (c)(4) revised.....38751
228.51 (a) introductory text and (1) revised.....38751
228.53 Introductory text and (a) revised.....38752

Chapter V—United States Information Agency (Parts 500—599)

503 Authority citation revised.....67576
503.1 (b) amended.....67576
503.2 Amended; (b) and (e)(2) revised.....67576
503.3 (d) amended.....67577
503.4 (b)(1) revised; (b)(3) redesignated as (b)(3)(i); (b)(3)(ii) and (iii) added.....67577
503.7 (c)(2) and (e)(3) revised.....67577
503.8 (d)(5)(vi) amended; (d)(5)(vii) added.....67577

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

503.9 Added 71587
514 Suspension of applicability 34276
Policy statement 42233
514.90 (Subpart H) Added; interim 34810
Regulation at 63 FR 34810 confirmed 6191

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

706 Authority citation revised 8239
706.22 Introductory text and (a) through (f) redesignated as (a) introductory text and (1) through (6); new (b) added 8241
713 Added 8241

Proposed Rules:

22 6585
50 5725
51 5725
171 789
201 49682
503 15800
706 68213
713 68213

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

23 Comment period reopening 8714
655.601 (a) revised 33549
658 Authority citation revised 70652, 71747
658.5 Amended 70652
658.13 (b)(3) revised 70653
658.17 (i) and (k) revised 70653
658 Appendixes A and C amended 70653
Appendix A amended 71748

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1225 Added; interim 46886
1240 Added; interim 57909
1270 (Subchapter D) Added; interim 53585
1275 Added; interim 55802

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1313 Revised; interim 71587
1335 Added; interim 54048
1340 Added 46392
1345 Added; interim 52597

Proposed Rules:

1—199 (Ch. I) 52206
180 5996
655 ..... 31950, 31957
658 ..... 27228, 64434
710 71238
712 71238
713 71238
1331 ..... 33220, 44415

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended 23853
5.214 Amended 23853
5.403 (a) revised; (b) amended 23853
5.520 (c)(1)(ii) and (2)(i) revised 23853
(c)(1) introductory text, (ii), (2) introductory text, (i) and (iv) revised 13056
5.701—5.705 (Subpart G) Added 46577
5.801 (Subpart H) Added 46591
5.801 (c) revised 1505
6 Added 3797
8.28 (a)(5) revised 23853
35.88 OMB number 14382
35.90 OMB number 14382
35.92 OMB number 14382
35.94 OMB number 14382
50.19 (b)(17) revised; interim 48990

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 24

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

180 Heading revised 3801
180.100 (c) amended 3801
180.105 (a)(3) and (4) amended; (a)(5) added 3801
180.310 (a) revised 3801
180.415 Heading and (a) revised 3802
180.670 (b)(3)(iii) introductory text revised 6754
180.671 Added 6754

Chapter II—Office of Assistant Secretary for Housing–Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.3—200.106 (Subpart A) Heading revised **46592**
200.36 Added **46592**
200.120—200.121 (Subpart B) Added 4769
201.20 Regulation at 62 FR 65181 confirmed **44361**
201.26 Regulation at 62 FR 65181 confirmed **44361**
202.2 Regulation at 62 FR 65181 confirmed **44361**
202.3 Regulation at 62 FR 65181 confirmed **44361**
202.5 Regulation at 62 FR 65181 confirmed **44361**
202.7 Regulation at 62 FR 65182 confirmed; (a) amended **44361**
203 Technical correction 15303
203.3 Regulation at 62 FR 65182 confirmed **44361**
203.4 Regulation at 62 FR 65182 confirmed **44361**
203.14 Revised; interim; eff. 4–26–99 14574
203.18 (a), (b) introductory text, (d)(1)(i) and (f)(4)(ii) revised; eff. 4–26–99 14569
(a)(3) revised; interim; eff. 4–26–99 14574
203.29 (a) revised; eff. 4–26–99 14569
203.200 Removed; interim; eff. 4–26–99 14574
203.201 Removed; interim; eff. 4–26–99 14574
203.202 Removed; interim; eff. 4–26–99 14574
203.203 Removed; interim; eff. 4–26–99 14574
203.204 Removed; interim; eff. 4–26–99 14574
203.205 Removed; interim; eff. 4–26–99 14574
203.206 Removed; interim; eff. 4–26–99 14574
203.207 Removed; interim; eff. 4–26–99 14574
203.208 Removed; interim; eff. 4–26–99 14574
203.209 Removed; interim; eff. 4–26–99 14574
203.255 (b)(5) revised; interim **29507**
204 Technical correction 15303
206.3 Amended 2987
206.29 Added 2987
206.32 Added 2988
206.41 (b) revised 2988
206.43 Added 2988
206.45 (e) revised; interim **17656**
207.256 Revised 4769
207.256a Revised 4770
207.258 (a) and (b)(1) revised 4770
207.260 Added **46578**
234 Authority citation revised 14574
234.1 (a) revised; interim; eff. 4–26–99 14574
236.1 Heading revised; (b) redesignated as (c); new (b) added **46592**
246.20 Revised **64803**
266.505 (b)(6) removed **46578**
(b)(7) revised **46593**
266.507 Added **46578**
266.510 (a) revised **46578**
291 Authority citation revised 6479
291.1—291.10 (Subpart A) Revised 6479
291.90—291.100 (Subpart B) Revised 6480
291.200—291.210 (Subpart C) Revised 6481
291.405 Added 6482

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

320.5 (a) amended; (e) and (f) added (OMB number); interim **51251**
320.13 Revised; interim **51251**

Chapter IV—Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)

Chapter IV Established; interim **48943**
401 Forums **50527**
Technical correction **55333**
401.99 (b) introductory text corrected **71373**
401.100 Heading corrected **71373**
401.201 (b) corrected **71373**
401.300 Corrected **71373**
401.400 (b) corrected **71373**
401.403 (b)(2) corrected **71373**
401.411 (a) corrected **71373**
401.461 (b)(4) corrected **71373**
401.472 (a)(1) corrected **71374**
401.552 Corrected **71374**
402 Forums **50527**
Technical correction **55333**
402.1 Corrected **71374**
402.5 (c)(3) corrected **71374**
402.6 (b) corrected **71374**

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

Chapter V Clarification **35135**
570.415 (k)(3)(ii) revised **31869**
570.416 Regulation at 63 FR 9683 confirmed **48438**
570.602 Revised 3802
570.913 (a) heading added; (a) introductory text revised 3802
598 Added; interim **19155**
Regulation at 63 FR 19155 confirmed **52962**
598.200 OMB number **53262**
598.205 OMB number **53262**
598.210 OMB number **53262**
598.215 OMB number **53262**
598.415 OMB number **53262**
598.430 OMB number **53262**

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

Chapter VIII Heading revised **64803**
880.201 Amended **46578**
880.207 (a) removed **46578**
880.601 (d)(1) revised **46593**
881.201 Amended **46578**
881.207 (a) removed **46578**
882 Heading and authority citation revised **23853**
882.101 Revised **23853**
882.102 Revised **23853**
(b) amended **46578**
882.106 Removed **23854**
882.108 Removed **23854**
882.109 Removed **23854**
882.110 Removed **23854**
882.111 Removed **23854**
882.112 Redesignated as 882.414 ..... **23854**
882.118 Removed **23854**
882.201—882.219 (Subpart B) Removed **23854**
882.217 Redesignated as 882.517 ..... **23854**
882.301—882.335 (Subpart C) Removed **23854**
882.401 Revised **23854**
(a) amended 14832
882.402 Removed **23854**
882.404 Revised **23854, 46579**
882.406 Redesignated as 882.810 ..... **23857**
882.407 Revised **23855**
882.411 (c) amended **23855**
882.413 (c) removed **23855**
882.414 Redesignated from 882.112 ..... **23854**
882.501 Removed **23855**
882.502 Removed **23855**
882.503 Removed **23855**
882.504 Removed **23855**
882.505 Removed **23855**
882.506 Removed **23855**
882.508 Removed **23855**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 24 Chapter VIII—Con.

882.511 Heading revised; (a) through (e) redesignated as (b) through (f); new (a) added **23855**
882.514 (a)(1), (d)(1) introductory text, (iv) and (v) amended; (d)(2)(vi) redesignated as (d)(1)(vi); (e) revised **23855**
882.515 (b) amended; (c) redesignated as (d); new (c) added **23855**
882.517 Redesignated from 882.217 ..... **23854**
882.601—882.606 (Subpart F) Removed **23854**
882.701—882.759 (Subpart G) Removed **23854**
882.802 Amended **23855**
882.803 (b) revised **23855, 46579**
882.805 (d)(1)(i)(B) amended; (c) revised **23855**
882.806 Heading, (a)(3) and (4) revised; (a)(2) amended; (a)(2) undesignated text designated as (a)(2)(ii); (a)(2)(i) added **23856**
882.807 (a) and (d) revised **23856**
882.808 (d), (i)(1), (3) and (o) amended; (b)(4), (c) and (i)(2) revised **23857**
882.810 Removed; new 882.810 redesignated from 882.406; new (g)(1)(iii)(C) amended **23857**
883.302 Amended **46579**
883.310 (a)(1) and (b)(1) removed **46579**
884.102 Amended **46579**
884.110 (b) revised **46579**
886.102 Amended **46579**
886.113 Heading, (a), (b) and (n) introductory text revised; introductory text, (c) through (h) and (j) through (m) removed **46579**
886.302 Amended **46580**
886.307 Heading, (a), (b), (m) introductory text and (n) introductory text revised; introductory text, (c) through (h), (j) through (l), (o) and (p) removed **46580**
886.318 (d)(1) revised **46593**
887 Removed 13057
888 Fair market rent schedules **51224, 52858**
891.180 Added **46580**
891.185 Added **64803**

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1099)

901.1 (c)(1) existing text designated as (c)(1)(ii); (c)(1)(i) added **46617**
902 Added **46617**
903 Added 8181
941.101 (c) table amended; eff. 4-19-99 13511
965.601 (Subpart F) Added **46580**
968.103 (e)(3) and (4) redesignated as (e)(4) and (5); new (e)(3) and (f)(4) added **46107**
968.112 (f)(4) amended **46108**
982 Authority citation revised **23857**
982.4 Revised **23857**
Corrected **31625**
982.53 (a) revised **23859**
982.54 (d)(7) revised; (d)(15) through (19) redesignated as (d)(18) through (22); new (d)(15), (16) and (17) added **23859**
982.102 (d) removed **23895**
982.152 (a)(3) added; (c)(1) revised **23860**
982.153 (a) designation and (b) removed **23860**
982.158 (f)(6) amended; (f)(7) redesignated as (f)(8); new (f)(7) added **23860**
(a) amended **46593**
982.204 (c) revised **23860**
982.205 Heading and (c) revised **23860**
982.206 (b)(1) amended; (a)(2) revised **23860**
982.207 (c) redesignated as (d); new (c) added **23860**
982.302 (a) revised **23860**
982.303 (b)(1) amended; (b)(2) revised **23860**
982.306 (d) and (e) redesignated as (e) and (f); new (d) added **27437**
982.316 Added **23860**
Corrected **31625**
982.352 (c)(7) revised; (c)(8) amended; (c)(9) redesignated as (c)(12); new (c)(9), (10) and (11) added **23860**
(a)(6) revised 13057
982.401 (a)(1) amended **23861**
982.402 (c) revised **23861**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

982.451 (a) removed; (b) and (c) redesignated as (a) and (b) **23861**
982.452 (b)(2) revised **23861**
982.501—982.517 (Subpart K) Added **23861**
982.505 (d)(5) revised 13057
982.509 (b)(5)(i) revised 13057
982.516 (d)(2) revised; (e) amended 13057
982.552 (a)(1) revised **23865**
982.601—982.624 (Subpart M) Added **23865**
982.623 (b)(2)(i) corrected **31625**
(c)(2)(ii) and (3)(ii) amended 13057
983.1 Revised **23870**
983.2 Introductory text amended **23870**
983.3 (d) added **23870**
983.5 Revised **23870, 46580**
983.7 (b) introductory text and (7) revised; (b)(5) amended; (d) and (f) removed; (b)(8) and (c) added; (c) and (g) redesignated as (d) and (f) **23870**
983.10 (g)(1)(iii)(B) amended **23871**
983.12 Revised **23871**
983.13 Revised **23871**
983.14 Removed **23871**
983.51 (d) introductory text revised **23871**
983.52 (a) and (c) amended **23871**
983.55 (a) and (b) amended **23871**
983.101 (b)(3) amended **23871**
983.103 (d) amended **23871**
983.151 (b)(3) amended **23871**
983.201 Revised **23871**
983.202 Amended **23871**
983.203 (a)(1), (b), (d)(6) and (g)(1) amended **23871**
983.204 (e) added **23871**
983.205 Removed; new 983.205 redesignated from 983.206 ..... **23871**
983.206 Redesignated as 983.205; new 983.206 redesignated from 983.207 ..... **23871**
983.207 Redesignated as 983.206; new 983.207 redesignated from 983.208 and revised **23871**
983.208 Redesignated as 983.207 ..... **23871**
983.251—983.262 (Subpart F) Added **23871**
984.304 (a)(2) amended 13057
984.305 (b)(1) amended 13057
985 Added **48555**
985.102 Stayed **48560**
985.103 Stayed **48560**
985.105 (a), (b), (d) and (e) stayed **48560**
985.107 Stayed **48560**
1000.516 Revised 3015
1005.101 Revised; interim **48990**
1005.103 Amended; interim **48990**
1005.104 (d) and (e) revised; interim **48990**
1005.105 (d)(2), (3), (4), (e) and (f) revised; interim **48990**
1005.106 Revised; interim **48990**
1005.107 (a)(1) and (b) introductory text revised; (b)(2) amended; interim **48991**
1005.111 Revised; interim **48991**
1005.112 Amended; interim **48991**

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1710.20 (a) amended **54332**
1710.35 (a) revised **54332**

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3280 Interpretive Bulletin **26386**
3500 Policy statement 10080

Proposed Rules:

5 ..... **35650, 35662, 41754, 58675**
6 ..... **26022a**
35 ..... **54422**
36 ..... **54422**
37 ..... **54422**
50 ..... **30046**
55 ..... **30046**
58 ..... **30046**
91 ..... **57882, 71405**
180 ..... **26022**
200 ..... **26702, 32958, 35662, 41754**
203 ..... **24736**
..... 7726, 8532
207 ..... **26702, 35650, 41754**
236 ..... **35662, 41754**
266 ..... **35650, 35662, 41754**
291 ..... **29496, 35650**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 24 *Proposed Rules:—Con.*

570 ..... **26022, 57882, 71405**
761 8210
880 ..... **35650, 35662, 41754**
881 ..... **35650, 41754**
882 ..... **35650, 41754**
883 ..... **35650, 41754**
884 ..... **35650, 41754**
886 ..... **35650, 35662**
888 ..... **24846**
891 ..... **41754**
900—999 (Ch. IX) 13531, 13533
901 ..... **35672, 40682**
965 ..... **35650, 41754**
982 ..... **35662, 41754**
983 ..... **35650, 41754**
990 ..... 5570, 6138, 12920
3280 ..... **26392, 58570**
3282 ..... **54528**

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

31.4 Amended 13895
39.22 (b) amended 13895
39.31 (b) amended 13895
39.53 (b) amended 13895
39.54 (b) amended 13895
111.1 Amended 13895
112 Note amended 13895
115.9 Amended 13895
140.25 Amended 13895
151 Note amended 13895
151.15 (a) amended 13895
152 Note amended 13895
160.1 Amended 13895
162.13 (a) amended 13896
226.61 (f) amended 13896
226.25 (b) revised 13896
256.2 Amended 13896
256.6 (e) revised 13896
273.1 (c) amended 13896
275.3 (b) amended 13896
276.11 (b) introductory text, (1) and (c) introductory text amended 13897

Chapter III—National Indian Gaming Commission (Parts 500—599)

514 Technical correction **17489**
518 Added **41969**
542 Added 596
Technical correction 4966

Proposed Rules:

1—299 (Ch. I) **69580**
11 ..... **32631**
61 ..... **36866**
170 6825
291 ..... **19693**
542 ..... **42940**

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1--799)

1 Authority citation amended **16898, 30623, 33555, 36180, 41421, 44389, 47173, 50144, 52600, 55023, 56562, 68680, 70337, 70340, 71594, 72182**
Technical correction **58811**
Authority citation amended 1509, 5601, 5715
Technical correction 10218
1.32–3T Added **34596**
1.62–2 (m) amended **52600**
1.62–2T Added **52600**
1.108–4 Added **56562**
1.108–5 Redesignated from 1.108(c)–1 ..... **56563**
1.108–6 Added **56563**
1.108(a)–1 Removed **56563**
1.108(a)–2 Removed **56563**
1.108(b)–1 Removed **56563**
1.108(c)–1 Redesignated as 1.108–5 ..... **56563**
1.148–5 (d)(6)(iii) revised; (e)(2)(iv) added **71751**
1.163–5 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.165–12 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.195–1 Added **69555**
1.274(d)–1 (b) added **52601**
Corrected **58811**
1.274(d)–1T Added **52601**
(a)(1) and (2) corrected **64187**
1.337(d)–4 Added **71594**
1.367(a)–1T (a), (c)(1) and (3)(ii)(C) concluding text amended; (b)(2)(i) and concluding text removed; (c)(2) revised **33555**
1.367(a)–3 (a), (b) and (d) revised; (c)(1)(iii)(B) amended; (e)

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

through (h) removed; new (e), (f) and (g) added **33556**
1.367(a)–3T Removed **33561**
1.367(a)–8 Added **33562**
1.367(b)–1 Added **33566**
1.367(b)–4 Added **33567**
1.367(b)–7 (a) and (b) added **33568**
1.367(d)–1T (a) amended **33568**
1.368–1 (e)(6) Example 2 revised **50758**
1.401(a)–20 Amended **70338**
1.401(a)(4)–4 (b)(2)(ii)(C) amended **70338**
1.401(a)(26)–4 (d)(2) amended **70338**
1.401(a)(26)–6 (c)(4) amended **70338**
1.402(a)–1 (b)(2)(ii)(*d*) and (c) reinstated; CFR correction **43303**
1.408A–0 Added 5601
1.408A–1 Added 5601
1.408A–2 Added 5601
1.408A–3 Added 5601
1.408A–4 Added 5603
1.408A–5 Added 5605
1.408A–6 Added 5607
1.408A–7 Added 5610
1.408A–8 Added 5610
1.408A–9 Added 5611
1.411(a)–7 (d)(4)(i) amended **70337**
1.411(a)–7T Added **70337**
1.411(a)–11 (c)(2)(ii) revised; (c)(2)(iii), (iv), (v) and (8) added **70011**
(b), (c)(3) and (7) amended **70338**
1.411(a)–11T Removed **70011**
Added **70338**
1.411(d)–4 Amended **30623, 47173, 70338**
Amended 1126
1.411(d)–4T Added **47173**
1.411(d)–4T Removed 1127
1.411(d)–6 Added **68680**
1.411(d)–6T Removed **68680**
1.417(e)–1 (d) revised **16898**
(b)(3) revised; (b)(4) added **70011**
(b)(2)(i) amended **70338**
1.417(e)–1T (d) revised **16902**
(b)(3) and (4) removed **70012**
1.460–0 Amended **36181**
1.460–6 (j) added **36181**
1.460–6T Removed **36181**
1.465–27 Added **41421**
1.469–10 Revised **69553**
1.664–1 (a)(7) and (d)(1)(iii) added; (f)(4) added **68191**
1.664–2 (a)(1)(i) revised **68191**
1.664–3 (a)(1)(i)(*a*), (*b*)(*1*) and (*2*) revised; (a)(1)(i)(*b*)(*3*), (*4*), (*5*) and (*c*) through (*l*) added; (a)(1)(iv) amended **68192**
1.861–8 (e)(7)(iii) added; (e)(8) revised 1509
1.861–8T (e)(8) added; (h) amended 1509
1.861–18 Added **52977**
(i)(4) Examples 1 and 2 corrected **64868**
1.863–3 (f) revised; (h) amended **55023**
1.865–1T Added 1509
1.865–2 Added 1511
1.865–2T Added 1514
1.871–6 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.871–7 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
1.871–14 Regulation at 62 FR 53416 eff. date delayed to 1–1–00 ..... **72183**
(h) revised; eff. 1–1–00 ..... **72184**
(c)(2)(iii) and (3)(ii) Example amended; eff. 1–1–00 ..... **72187**
1.881–3 (a)(2)(ii)(B)(*3*) redesignated as (a)(3) **67578**
1.904–0 Amended 1515
1.904–4 (c)(1), (2) and (3)(iii) revised; (c)(3)(iv) and (8) Examples 11, 12 and 13 added 1515
1.927(e)–1T Removed **50144**
1.927(e)–1 Added **50144**
1.936–6 (a)(5) amended **55025**
1.936–11T Added **44389**
1.985–1 Corrected **15760**
(b)(2)(ii)(C)(*1*) heading and (*2*) correctly added **15761**
(c)(6) amended **40368**
1.985–4 (a) amended **40368**
1.985–7 (b)(3), (c)(5) and (d)(5) corrected **15761**
1.985–8T Added **40368**
(c)(3)(iv)(B) corrected **55333**
1.1001–5T Added **40369**
1.1016–7 Removed **56563**
1.1016–8 Removed **56563**
1.1017–1 Revised **56563**
1.1017–2 Removed **56565**
1.1441–0 Regulation at 62 FR 53421 eff. date delayed to 1–1–00 ..... **72183**
1.1441–1 Regulation at 62 FR 53424 eff. date delayed to 1–1–00 ..... **72183**
(f) revised; eff. 1–1–00 ..... **72184**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 26 Chapter I—Con.

(b)(2)(iii)(B), (iv)(E), (3)(iii)(B), (C), (x) Examples 1, 2 and 3, (4)(i), (xix), (5)(viii), (7)(v) Examples 1 and 2, (c)(6)(ii)(B), (e)(4)(ii)(A), (vi), (ix)(A)(*2*), (5)(i), (v)(A), (B) introductory text, (*1*) and (C) amended; eff. 1-1-00 ..... **72187**

1.1441-2 Regulation at 62 FR 53444 eff. date delayed to 1-1-00 ..... **72183**

(a), (b)(1)(ii), (3)(iv) and (f) amended; eff. 1-1-00 ..... **72187**

1.1441-3 Regulation at 62 FR 53446 eff. date delayed to 1-1-00 ..... **72183**

(h) amended; eff. 1-1-00 ..... **72187**

1.1441-4 Regulation at 62 FR 53450 eff. date delayed to 1-1-00 ..... **72183**

(g) revised; eff. 1-1-00 ..... **72184**

(a)(2)(i) amended; eff. 1-1-00 ..... **72188**

1.1441-4T Regulation at 62 FR 53452 eff. date delayed to 1-1-00 ..... **72183**

1.1441-5 Regulation at 62 FR 53452 eff. date delayed to 1-1-00 ..... **72183**

(g) revised; eff. 1-1-00 ..... **72185**

(a)(6), (c)(2)(ii)(B), (3)(iii)(D) and (d)(4) Example 2 amended; eff. 1-1-00 ..... **72188**

1.1441-6 Regulation at 62 FR 53458 eff. date delayed to 1-1-00 ..... **72183**

(g) revised; eff. 1-1-00 ..... **72185**

(b)(1), (c)(2)(ii) and (d) amended; eff. 1-1-00 ..... **72188**

1.1441-7 Regulation at 62 FR 53462 eff. date delayed to 1-1-00 ..... **72183**

(g) amended; eff. 1-1-00 ..... **72188**

1.1441-8 Regulation at 62 FR 53464 eff. date delayed to 1-1-00 ..... **72183**

(f) revised; eff. 1-1-00 ..... **72185**

1.1441-8T Regulation at 62 FR 53464 eff. date delayed to 1-1-00 ..... **72183**

1.1441-9 Regulation at 62 FR 53465 eff. date delayed to 1-1-00 ..... **72183**

(d) revised; eff. 1-1-00 ..... **72185**

1.1442-1 Regulation at 62 FR 53466 eff. date delayed to 1-1-00 ..... **72183**

1.1442-2 Regulation at 62 FR 53466 eff. date delayed to 1-1-00 ..... **72183**

1.1442-3 Regulation at 62 FR 53466 eff. date delayed to 1-1-00 ..... **72183**

1.1443-1 Regulation at 62 FR 53466 eff. date delayed to 1-1-00 ..... **72183**

(c) revised; eff. 1-1-00 ..... **72186**

1.1445-5 Regulation at 62 FR 53467 eff. date delayed to 1-1-00 ..... **72183**

1.1461-1 Regulation at 62 FR 53467 eff. date delayed to 1-1-00 ..... **72183**

(b)(2)(v), (vi) heading, (c)(4)(iv) and (i) amended; eff.1-1-00 ..... **72188**

1.1461-2 Regulation at 62 FR 53470 eff. date delayed to 1-1-00 ..... **72183**

(a)(1), (3), (4) Examples 1, 2 and 3 and (d) amended; eff. 1-1-00 ..... **72188**

1.1461-3 Regulation at 62 FR 53471 eff. date delayed to 1-1-00 ..... **72183**

1.1461-4 Regulation at 62 FR 53471 eff. date delayed to 1-1-00 ..... **72183**

1.1462-1 Regulation at 62 FR 53471 eff. date delayed to 1-1-00 ..... **72183**

(c) amended; eff. 1-1-00 ..... **72188**

1.1463-1 Regulation at 62 FR 53471 eff. date delayed to 1-1-00 ..... **72183**

(a) and (b) amended; eff. 1-1-00 ..... **72188**

1.1464-1 (b) amended; eff. 1-1-00 ..... **72188**

1.1502-3T (c)(4) amended **71590**

1.1502-9 (a) amended **71590**

1.1502-9T (b)(1)(v) revised; (b)(1)(vi) added **71590**

1.6038B-1 Added **33568**

Heading and (g) revised; (b)(1)(i) and (c) amended; (b)(3) added 5715

1.6038B-1T Heading, (a) through (b)(2), (c) introductory text and (f) revised; (b)(3) redesignated as (b)(4); new (b)(3), (c)(6) and (g) added **33570**

1.6038B-2 Added 5715

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

1.6041-1 Regulation at 62 FR 53471 eff. date delayed to 1-1-00 72183
(d)(5) corrected 11378
1.6041-2 Regulation at 62 FR 53472 eff. date delayed to 1-1-00 72183
(a)(1)(iii) corrected 11378
1.6041-3 Regulation at 62 FR 53472 eff. date delayed to 1-1-00 72183
Introductory text amended; eff. 1-1-00 72186
1.6041-4 Regulation at 62 FR 53473 eff. date delayed to 1-1-00 72183
(d) amended; eff. 1-1-00 72188
1.6041A-1 (d)(3)(i)(B), (iv) and (v) amended; eff. 1-1-00 72188
1.6041-7 Regulation at 62 FR 53473 eff. date delayed to 1-1-00 72183
1.6041-8 Regulation at 62 FR 53474 eff. date delayed to 1-1-00 72183
1.6041A-1 Regulation at 62 FR 53474 eff. date delayed to 1-1-00 72183
1.6042-2 Regulation at 62 FR 53474 eff. date delayed to 1-1-00 72183
1.6042-3 Regulation at 62 FR 53475 eff. date delayed to 1-1-00 72183
(b)(5) revised; eff. 1-1-00 72186
1.6042-4 Regulation at 62 FR 53476 eff. date delayed to 1-1-00 72183
1.6043-2 Regulation at 62 FR 53476 eff. date delayed to 1-1-00 72183
(a) amended; eff. 1-1-00 72188
1.6044-2 Regulation at 62 FR 53476 eff. date delayed to 1-1-00 72183
1.6044-3 Regulation at 62 FR 53476 eff. date delayed to 1-1-00 72183
1.6044-5 Regulation at 62 FR 53476 eff. date delayed to 1-1-00 72183
1.6045-1 (l) revised; (q) amended 35519
Regulation at 62 FR 53477 eff. date delayed to 1-1-00 72183
(g)(5) revised; eff. 1-1-00 72186
(d)(6)(ii)(B), (g)(3)(iv) and (4) Example 7 amended; eff. 1-1-00 72188
1.6045-1T Removed 35519
Regulation at 62 FR 53480 withdrawn 72183
1.6045-2 (g)(2) revised; (i) amended 35519
Regulation at 62 FR 53480 eff. date delayed to 1-1-00 72183
1.6045-2T Removed 35519
Regulation at 62 FR 53480 withdrawn 72183
1.6049-4 Regulation at 62 FR 53480 eff. date delayed to 1-1-00 72183
(c)(1)(ii)(A) and (d)(3)(ii)(B) amended; eff. 1-1-00 72188
1.6049-5 Regulation at 62 FR 53483 eff. date delayed to 1-1-00 72183
(g) revised; eff. 1-1-00 72186
(b)(12), (c)(4)(i), (ii), (v), (d)(2)(ii), (e)(1)(i) introductory text, (ii), (4), and (5) Examples 5 and 9 amended; eff. 1-1-00 72188
1.6049-6 Regulation at 62 FR 53491 eff. date delayed to 1-1-00 72183
1.6049-7 Regulation at 62 FR 53491 eff. date delayed to 1-1-00 72183
1.6049-8 Regulation at 62 FR 53491 eff. date delayed to 1-1-00 72183
1.6050A-1 Regulation at 62 FR 53492 eff. date delayed to 1-1-00 72183
1.6050H-1 Regulation at 62 FR 53492 eff. date delayed to 1-1-00 72183
1.6050N-1 Regulation at 62 FR 53492 eff. date delayed to 1-1-00 72183
(e) amended; eff. 1-1-00 72188
1.6071-1 Regulation at 62 FR 53492 eff. date delayed to 1-1-00 72183
1.6091-1 Regulation at 62 FR 53493 eff. date delayed to 1-1-00 72183
1.6662-0 Amended 66434
1.6662-2 (d)(1) and (2) amended; (d)(4) added 66434

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 26 Chapter I—Con.

1.6662–3 (b)(1) introductory text amended; (b)(3) revised **66434**
1.6662–4 (d)(2) amended; (e)(3) added **66435**
1.6662–7 (d) revised **66435**
1.6664–0 Amended **66435**
1.6664–4 (g) revised **66435**
1.6695–1 (b)(4)(i) revised **72182**
1.6695–1T Added **72182**
1.6695–2T Added **70340**
1.7702B–1 Added **68186**
1.7702B–2 Added **68187**
1.7704–3 Added **69553**
7.367(b)–1 (a) and (c)(1) revised; authority citation removed **33570**
7.367(b)–4 (a) and (b) revised; authority citation removed **33570**
7.367(b)–7 (a) revised; authority citation removed **33570**
20.2044–1 (e) Example 8 added **44393**
20.2044–1T Removed **44393**
20.2056(b)–(7) (d)(3) and (h) Example 6 revised **44393**
20.2056(b)–7T Removed **44393**
20.2056(b)–10 Revised **44393**
20.2056(b)–10T Removed **44393**
25.2702–1 (c)(3) revised **68194**
31 Authority citation amended **32735**
31.3121(b)(7)–2 (d)(2)(i) amended **70338**
31.3121(v)(2)–1 Added 4547
31.3121(v)(2)–2 Added 4567
31.3306(r)(2)–1 Added 4541
31.3401(a)(6)–1 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
(e) and (f) amended; eff. 1–1–00 ..... **72189**
31.3406–0 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
31.3406(d)–3 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
31.3406(g)–1 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
(e) and (d) amended; eff. 1–1–00 ..... **72189**
31.3406(h)–2 Regulation at 62 FR 53493 eff. date delayed to 1–1–00 ..... **72183**
(d) amended; eff. 1–1–00 ..... **72189**
31.6302–1 (f)(4) amended **32736**
31.6302–1T Added **32736**
31.6413(a)–3 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
31.9999–0 Removal at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
Amended; eff. 1–1–00 ..... **72189**
35a.9999–0 Removal at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–1 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–2 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–3 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–3A Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–4T Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
35a.9999–5 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
48 Authority citation amended **35801**
48.4081–1T Added **35801**
48.4082–6T Added **35801**
48.4082–7T Added **35801**
48.4082–8T Added **35801**
(e)(4) corrected **45910**
48.4082–9T Added **35802**
48.4082–10T Added **35802**
48.4091–3T Added **35802**
48.4101–2T Added **35803**
48.4101–3T Added **35803**
48.6427–10T Added **35804**
48.6427–11T Added **35804**
(c)(4) corrected **45910**
54 Authority citation amended **57553**
Authority citation amended 5173
54.4980B–0 Added 5173
54.4980B–1 Added 5173
(b) corrected 14382
54.4980B–2 Added 5174
54.4980B–3 Added 5176
54.4980B–4 Added 5178
54.4980B–5 Added 5180
54.4980B–6 Added 5182
54.4980B–7 Added 5184
54.4980B–8 Added 5186
54.9801–1T (a) revised; (c) amended; interim **57553**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

54.9801–2T Introductory text revised; interim **57554**
54.9811–1 Added; interim **57554**
54.9831–1T (b)(1) revised; interim **57556**
145.4052–1 (a)(2)(ii) redesignated as (a)(2)(ii)(A); new (a)(2)(ii)(A) amended; (a)(2)(ii)(B) added **35804**
301 Authority citation amended **70013**
Authority citation amended 2569, 3632
301.6011–2 (a)(1), (b)(1), (2), (c)(1) heading, (i), (iii), (2), (d), (f), (g) heading and (2) revised; (c)(1)(iv) added; (c)(3) and (4) removed; (e) amended **35519**
301.6011–2T Removed **35520**
301.6103(j)(1)–1 (b)(3) and (6)(i)(A) revised 3632
301.6103(j)(1)–1T Added 3632
301.6103(k)(9)–1T Added **68996**
301.6109–1 Regulation at 62 FR 53494 eff. date delayed to 1–1–00 ..... **72183**
301.6114–1 Regulation at 62 FR 53495 eff. date delayed to 1–1–00 ..... **72183**
(b)(4)(ii)(C) introductory text and (D) amended; eff. 1–1–00 ..... **72189**
301.6221–1T (c) redesignated as (e); new (c) and (d) added 3838
301.6223(c)–1T (c) amended 3838
301.6224(c)–3T Heading, (b), (c)(3)(ii) and (d) Example 1 revised 3839
301.6229(b)–2T Added 3839
301.6229(f)–1T Added 3839
301.6231(a)(1)–1T (a)(1) amended; (a)(3) removed; (a)(4) redesignated as (a)(3) 3839
301.6231(a)(6)–1T (a) revised; (c) removed 3840
301.6231(a)(7)–1 (p)(2) and (r)(1) amended 3840
301.6231(a)(7)–1T Added 3840
301.6311–2T Added **68996**
301.6320–1T Added 3399
301.6330–1T Amended 3407
301.6402–3 Regulation at 62 FR 53495 eff. date delayed to 1–1–00 ..... **72183**
301.6404–2 Added **70013**
301.6404–2T Removed **70015**
301.6721–0 Regulation at 62 FR 53496 eff. date delayed to 1–1–00 ..... **72183**
301.6724–1 Regulation at 62 FR 53496 eff. date delayed to 1–1–00 ..... **72183**
(g)(2) and (3) amended; eff. 1–1–00 ..... **72189**
301.7502–1 (d) and (e) redesignated as (e) and (f); new (d) added 2569
301.7502–1T Added 2569
301.7623–1 Revised **44778**
301.7623–1T Removed **44779**
301.7701–5 Amended 4970
301.7701–7 Added 4970
301.9100–13T Removed **56565**
502 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
503 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
509.1—509.10 (Subpart) Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
509.103 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
509.117 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
509.119 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
509.122 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
513.1 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
513.2 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
513.3 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 ..... **72183**
513.4 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**
513.5 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**
514.1—514.10 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**
514.20 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**
514.21 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**
514.22 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**
514.23 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**
514.24 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 ..... **72183**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 26 Chapter I—Con.

514.25 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.26 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.27 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.28 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.29 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.30 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.31 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.32 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
514.101—514.117 (Subpart) Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
516 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
517 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
520 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
521.1—521.8 (Subpart) Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
521.103 Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
602.101 (c) table amended (OMB numbers) **30624, 33570, 34596, 35804, 35805, 36181, 44393, 44779, 52982, 55025, 56565, 68194, 68684, 69555, 70012, 70341, 71596, 71752**
Regulation at 62 FR 53498 eff. date delayed to 1-1-00 ..... **72183**
(c) table amended (OMB numbers) 4568, 4975, 5188, 5611, 5717
(c) table corrected (OMB numbers) 10218

Proposed Rules:

1—799 (Ch. I) **44181**
1 ..... **17973, 19694, 19864, 20156, 24765, 25796, 27534, 28958, 29961, 32164, 33595, 34615, 34616, 37296, 38139, 40383, 41754, 43353, 43354, 44416, 45019, 46937, 47214, 47455, 48144, 48148, 48154, 50816, 52660, 55355, 55564, 55918, 56878, 57636, 58811, 63016, 65566, 66503, 67634, 69581, 69584, 70071, 70354, 70356, 70357, 71047, 71609, 72218**
..... 790, 794, 805, 1143, 1148, 1571, 2164, 3257, 3457, 4374, 4801, 5012, 5015, 10262, 13939, 13940, 14306, 14412, 14846
20 ..... **69248, 70701**
..... 10964, 13940
25 ..... **70701**
..... 13940
31 ..... **32774, 50819**
..... 13940
35 ..... **70071**
40 13940
48 ..... **35893**
49 ..... **69585**
53 ..... **41486, 53862**
..... 5727
54 ..... **57565**
..... 5237
261 ..... **43361**
301 ..... **37296, 41486, 43354, 46205, 56878, 69031, 70701**
..... 1148, 2606, 3461, 3462, 3669, 3886
801 457

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4 Compliance date postponment 753
4.21 (e)(5) amended **44782**
4.24 (b)(1) amended **44783**
4.40 (d) added 2128
4.50 (c) added 2128
5.46 (d) revised 2129
5.51 (e) added 2129
5.55 (d) added 2129
7.31 (d) added 2129
7.41 Revised 2129
9.75 (b)(17) amended; (c) introductory text and (2) through (13) revised; (b)(19) through (41) and new (c)(14), (15) and (16) added; (c)(14) through (40) redesignated as (c)(17) through (43) 3023
9.93 (c)(11), (17) and (18) revised; (c)(19) added **16904**
9.154 Added; eff. 4-19-99 7787
9.156 Added **33853**
9.157 Added 3024
9.159 Added **16904**
9.160 Added; eff. 5-18-99 13513
13 Added 2129

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

13.27 (a) corrected 10949
19.11 Amended **44783**
19.633 (c) added 2134
19.641 Revised 2134
24.3 Removed 13683
24.10 Amended **44783**
Amended 13683
24.19—24.22 Undesignated center heading amended 13683
24.19 Added 13683
24.20 (a) amended; (b) revised 13683
24.21 (a) introductory text, (b) and (c) amended 13683
24.22 (a) introductory text and (b) amended 13683
(b) and (c) amended 13684
24.25—24.32 Undesignated center heading removed 13683
24.25 Revised 13684
24.26 Amended 13683
24.27 Amended 13683
24.28 Amended 13683
24.29 Amended 13683
24.30 Amended 13683, 13684
24.31 Amended 13683, 13684
24.32 Amended 13683
24.35—24.37 Undesignated center heading removed 13683
24.35 Amended 13684
24.36 (b) amended 13684
24.37 Amended 13684
24.40 Amended 13684
24.41 Revised 13684
24.52 (a) amended 13683
(b) amended 13684
24.54 (c) amended 13684
24.60 Amended 13683
24.62 Amended 13683
24.65 (a) introductory text, (b) introductory text and (c) introductory text amended 13683
24.66 (a) amended 13683
24.69 (b) amended 13683
24.70 Amended 13683
24.76 Heading revised **44783**
24.77 (c), (d) and (e) amended 13683
(b) and (d) amended 13684
24.80 Amended 13684
24.81 Amended 13684
24.82 Amended 13684
24.87 Amended 13683
24.91 (c) amended 13683
Introductory text amended 13684
24.96 (a) amended 13683
24.100 (g) introductory text amended 13684
24.101 (a) amended 13684
24.103 Revised 13685
24.105 Amended 13683
24.106 Amended 13685
24.107 Amended 13683
24.108 Amended 13683
24.109 (k) amended 13685
24.110 (c)(1) amended 13683
(d) revised 13685
24.111 Amended 13683
24.114 Amended 13685
24.115 Amended 13683
24.116 Amended 13683, 13685
24.117 Amended 13684
24.120 Amended 13683
24.123 Amended 13683
24.124 Amended 13683
24.125 (c) amended 13683
24.127 Amended 13683
24.131 Amended 13685
24.135 (b)(4), (c), (d) and (e) amended 13683
(b) introductory text amended 13685
24.137 (a), (b)(3) and (c) amended 13683
(b) amended 13685
24.140 (a) and (b)(3) amended 13683
24.141 Amended 13683
24.145 Amended 13685
24.150 Amended 13683
24.154 Amended 13683
24.155 (a) introductory text and (b) amended 13683
24.157 Amended 13683
24.159 Amended 13683
24.165 Amended 13683
24.166 Amended 13683
24.167 (a) amended 13683
24.169 Amended 13683
24.170 (a) and (b) amended 13683
24.183 Amended 13683
24.191 Amended 13683
24.201 Amended 13685
24.211 Amended 13685
24.230 Amended 13684
24.231 Amended 13683
24.235 (b) amended 13684
24.236 Amended 13683
24.242 (a) introductory text, (b), (c)(1) introductory text and (2) amended 13683
24.245 Amended 13683
24.246 (a)(1) amended 13683
24.247 Amended 13683
24.248 Amended 13683

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

TITLE 27 Chapter I—Con.

24.249 (a) and (c) amended 13683
(b) revised 13685
24.250 (b)(9) amended 13683
(a) and (c) amended; (d) revised 13685
24.257 (a)(3)(iii) revised; (a)(3)(iv) and (c) added; OMB number **44783**
24.259 (c) amended 13684
24.260 Amended 13683
24.265 Amended 13683
24.267 Amended 13685
24.268 Revised 13685
24.272 (b)(3) and (e) amended 13683
(b)(1) amended 13685
24.273 (b) amended 13683
24.276 Amended 13683
24.278 (d) revised **44783**
24.278 (h) amended 13683
24.279 (a) amended 13683
24.291 (c) amended 13684
24.293 (b) amended 13684
24.294 (a) revised 13686
24.296 (a) and (b) amended 13683
24.300 (d) amended 13683
(b) and (e)(3) amended 13684
(a) introductory text and (c) amended; (g)(2) revised 13686
24.304 (a) amended 13684
24.313 Introductory text amended 13683
53.11 Amended **52603**
53.61 (b) revised **52603**
55.11 Amended **45001**
55.30 (a), (b) and (d) introductory text amended; (c)(4) and (d)(3) revised **45002**
55.41 (b)(2) revised **45002**
55.42 Revised **45002**
55.43 Revised **45002**
55.45 (b) amended **45002**
55.46 (b) revised **45002**
55.51 Revised **45002**
55.63 (d) heading revised **45002**
55.102 Revised **45002**
55.103 (a)(1) and (2) revised **45003**
55.105 (d) revised **45003**
55.122 (b)(4), (5), (c)(4) and (5) amended **45003**
55.123 (b)(3), (4), (c)(4), (5) and (d)(3) amended **45003**
55.124 (b)(4), (5), (c)(4) and (5) amended **45003**
55.125 (a)(1) and (4) amended; (b) removed; (c) through (f) redesignated as (b) through (e); heading, (a) introductory text, new (b)(4) and (5) revised **45003**
55.127 Amended **45003**
55.141 (a)(7) revised **45003**
55.163 Amended **45003**
55.201 (d) revised; (f) added; OMB number **45003**
55.202 (b) revised **45003**
55.206 (b) amended **45003**
55.218 Table amended **45003**
55.221 Heading, (a) and (d) revised **45004**
55.222 Table amended **45004**
55.223 Table amended **45004**
55.224 Table amended **45004**
178.1 (a) revised **35522**
178.11 Amended **35522, 58278**
178.32 (a)(7), (8)(iii)(B), (d)(7), (8)(ii)(B) amended; (a)(9) and (d)(9) added **35522**
178.50 (b) and (c) amended; (d) added **35523**
178.73 Revised **58278**
178.74 Revised **58278**
178.78 Revised **58278**
178.96 (b) amended; (c) revised **58278**
178.97 Revised **58278**
178.99 (c)(7) and (8)(ii)(B) amended; (c)(9) added **35523**
178.100 (a) existing text designated as (a)(1); (a)(2) added; (c) revised **35523**
178.102 Revised **58279**
178.103 Added **37742**
178.124 (c) revised; (d), (e) and (f) amended; OMB number **58279**
178.124a (e) introductory text amended **58280**
178.125a (a) introductory text amended **58280**
178.129 (b) revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; OMB number **58280**
178.130 (a)(1) amended **35523**
Removed **58280**
178.131 Revised **58280**
178.134 Added **35523**
178.141 Introductory text revised **35523**
178.144 (c)(6) and (7) amended; (c)(8) added **35523**
178.150 Revised **58280**
179.86 Amended **58281**
194 Authority citation revised **44783**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES APRIL 1, 1998 THROUGH MARCH 31, 1999

194.239—194.241 Undesignated center heading and sections removed **44784**
250.11 Amended **44784**
251.11 Amended **44784**

Proposed Rules:

4 ..... **27017, 44819, 49883, 59921**
..... 813, 6486
5 6486
7 6486
9 ..... **45427, 48658**
19 ..... **44819, 59921, 65720**
24 ..... **44819, 59921**
178 ..... **35551, 59921**
194 ..... **44819, 59921**
250 ..... **44819, 59921**
251 ..... **44819, 59921**

NOTE: Boldface page numbers indicate 1998 changes.

TI
A

Chapter

0.29—0.29j
0.29e (a)(1)
0.39c Remo
0.96 (f) a
throug
(f) thro
0.100 (b) ar
0.115 Revis
0.116 Amer
0.132 (b), (
remov
2.1—2.67 D
A; hea
2.20 Amen
2.62 Redes
part
nated
(c) added
2.63 Redes
2.63 re
interi
2.64 Redes
2.64 re
interi
2.65 Redes
2.65 re
interi
2.66 Redes
2.66 re
interi
2.67 Redes
.....
2.68 (Subp
from 2
2.70—2.89
terim
2.71 (b) rev
2.75 (a) rev
2.76 (c) ar
(d) and
terim.
2.77 (a) ar
vised;
2.78 (d) am
2.80 (f) tab
(f) table
(g) head
terim.
2.87 Revise
2.89 Amen

NOTE: Boldfa

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29—0.29j (Subpart E–4) Added **36847**
0.29e (a)(1) corrected **40788**
0.39c Removed; interim **62938**
0.96 (f) and (s) removed; (g) through (v) redesignated as (f) through (t) 4295
0.100 (b) amended 4295
0.115 Revised **51519**
0.116 Amended **51519**
0.132 (b), (c) and (d) revised; (e) removed 6526
2.1—2.67 Designated as Subpart A; heading added; interim **39176**
2.20 Amended; interim **39176**
2.62 Redesignated as 2.68 (Subpart B); new 2.62 redesignated from 2.63; interim **39176**
(c) added; interim 5613
2.63 Redesignated as 2.62; new 2.63 redesignated from 2.64; interim **39176**
2.64 Redesignated as 2.63; new 2.64 redesignated from 2.65; interim **39176**
2.65 Redesignated as 2.64; new 2.65 redesignated from 2.66; interim **39176**
2.66 Redesignated as 2.65; new 2.66 redesignated from 2.67; interim **39176**
2.67 Redesignated as 2.66; interim **39176**
2.68 (Subpart B) Redesignated from 2.62; interim **39176**
2.70—2.89 (Subpart C) Added; interim **39176**
2.71 (b) revised; interim 5613
2.75 (a) revised; interim 5613
2.76 (c) and (d) redesignated as (d) and (e); new (c) added; interim 5613
2.77 (a) and (e) amended; (c) revised; interim 5614
2.78 (d) amended; interim 5614
2.80 (f) table revised; interim **57061**
(f) table amended; interim 5613
(g) heading and (6) revised; interim 5614
2.87 Revised; interim 5613
2.89 Amended; interim 5614
16.2 (b)(9) corrected **51401**
16.3 (a) corrected; CFR correction **51300**
(a) corrected **51401**
16.8 (c) corrected **51401**
16.11 (b)(7) correctly revised **36295**
(e), (g), (i)(1) and (3) corrected **51401**
16.40 (a), (b)(1) and (2) corrected **51401**
16.41 (a) and (c) corrected; CFR correction **51300**
(a) and (d) corrected **51401**
16.42 (b) and (c) heading corrected **51401**
16.50 (a) corrected **51401**
16.54 (c)(4) corrected **51401**
16.96 (p) and (q) added **65062**
16 Appendix I corrected **51401**
23 Policy clarification **71752**
25 Added **58307**
27 Added; interim **62938**
33 Heading and authority citation revised **50761**
33.1—33.80 Designated as Subpart A **50761**
33.1—33.3 (Subpart A) Designation removed **50761**
33.1 Amended **50761**
33.3 Amended **50761**
33.10—33.12 (Subpart B) Designation removed **50761**
33.20—33.23 (Subpart C) Designation removed **50761**
33.30—33.32 (Subpart D) Designation removed **50761**
33.40—33.41 (Subpart E) Designation removed **50761**
33.40 Amended **50761**
33.50—33.52 (Subpart F) Designation removed **50761**
33.60—33.61 (Subpart G) Designation removed **50761**
33.70—33.71 (Subpart H) Designation removed **50761**
33.80 (Subpart I) Designation removed **50761**
33.100—33.103 (Subpart B) Added **50761**
36.407 Revised **64837, 64838**
68 Heading revised; interim 7073
68.1 Revised; interim 7073
68.2 Revised; interim 7073
68.3 Revised; interim 7074
68.6 Revised; interim 7074
68.7 Revised; interim 7074

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 28 Chapter I—Con.

68.9 Revised; interim 7075
68.10 Revised; interim 7075
68.14 Revised; interim 7075
68.22 Revised; interim 7076
68.23 Revised; interim 7076
68.24 Revised; interim 7077
68.27 Revised; interim 7077
68.33 Revised; interim 7077
68.38 Revised; interim 7078
68.42 Revised; interim 7079
68.52 Revised; interim 7079
68.53 Revised; interim 7081
68.54 Revised; interim 7082
68.55 Added; interim 7082
68.56 Added; interim 7083
68.57 Added; interim 7083
68.58 Added; interim 7083
79.4 (c)(3) and (4) redesignated as (c)(4) and (5); (c)(1), (2), new (4) and new (5) revised; new (c)(3) added 13690
79.5 (c) added 13690
79.21 (d) amended 13691
79.27 Heading, (a) and (b) revised; (c) redesignated as (e); new (c) and (d) added 13691
79.31 (e) and (f) revised; (h) amended 13691
79.36 (a) amended; (d)(1)(ii) revised; (e) added 13691
79.37 Heading, (a) and (b) revised; (c) and (d) added 13692
79.51 (j)(3) and (4) revised; (j)(5) added; concluding text amended 13692
79.55 (d)(1)(i) and (ii) revised 13692
79 Appendix A revised 13692
92 Heading and authority citation revised **50146**
92.1—92.6 Designated as Subpart A **50146**
92.7—92.13 (Subpart B) Added **50146**

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

500.1 (d) revised **55775**
503 Revised **55775**
545.26 (e) revised **67560**
551.22 Regulation at 59 FR 62968 confirmed 9430
551.23 Regulation at 59 FR 62968 confirmed 9430
551.24 Regulation at 59 FR 62968 confirmed 9430
551.90 (Subpart I) Revised **55774**
571.71—571.72 (Subpart H) Added; interim **69387**

Proposed Rules:

16 ..... **68217**
23 ..... **38765**
25 ..... **43893**
..... 7562, 10262
31 ..... **55069**
302 ..... 1082, 11821
511 9431
551 ..... **65502**
541 9432
549 10094
552 9431

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

44 Added **70261**
70a Redesignated as part 71 ..... **56741**
71 Redesignated from part 70a and revised **56741**
96 Revised 14539
99 Added 14541

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

406.10 OMB number **46888**
408.13 OMB number **46888**

Chapter X—National Mediation Board (Parts 1200—1299)

1208 Authority citation revised **44394**
1208.2 Revised **44394**
1208.6 Revised **44395**

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910 Meeting **39029**
Authority citation corrected 62
1910.1—1910.8 (Subpart A) Authority citation revised 13908
1910.6 (b)(1), (e)(50), (q) introductory text and (4) revised; (e)(51) through (70) and (q)(5)

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

through (q)(32) redesignated as (e)(53) through (72) and (q)(6) through (33); new (e)(51), new (52) and new (q)(5) added 13908
1910.16 (a)(2)(x) and (b)(2)(xiv) added; (b)(2)(xii) and (xiii)(D) amended 66270
1910.94—1910.98 (Subpart G) Authority citation revised 13909
1910.94 (d) removed 13909
1910.101—1910.120 (Subpart H) Authority citation revised 13909
1910.108 Removed 13909
1910.122—1910.126 Undesignated center heading and sections added 13909
1910.141—1910.147 (Subpart J) Authority citation revised 66038
1910.146 (c)(5)(i)(E), (ii)(C), (F), (H), (7)(iii), (e)(3), (k)(1), (2) and (3)(i) revised; (d)(3)(ii) through (v) redesignated as (d)(3)(iii) through (vi); new (d)(3)(ii), (5)(iv), (v), (vi) and (l) added 66038
Note amended; Appendix F added 66039
1910.176—1910.184 (Subpart N) Authority citation revised 66270
1910.178 (l) revised; Appendix A added 66270
1910.1052(d)(3), (j)(9)(i)(A), (B) and (n)(2) revised; (j)(10) through (14) added 50729
Second (g) correctly removed; CFR correction 13700
1915 Meeting 39029
Authority citation revised 66274
1915.120 Added 66274
1917.1 (a)(2)(xii) and (xiii)(D) amended; (a)(2)(xiv) added 66274
1918 Authority citation revised 66274
1918.1 (b)(8) and (9)(iv) amended; (b)(10) added 66274
1926 Meeting 39029
1926.600—1926.606 (Subpart O) Authority citation revised 66274
1926.602 (d) added 66274
1952.354 (b) revised 53281
1952.355 (b) amended 53281

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.120 (Subpart H) Added; eff. 2-19-99 through 2-22-00 8246

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520.102-3 (u) revised; interim 48375
2590 Authority citation revised 57556
2590.711 Revised; interim 57556

Chapter XXVII—Federal Mine Safety and Health Review Commission (Parts 2700—2799)

2704 Authority citation revised 63175
2704.100 Revised 63175
2704.102 Revised 63175
2704.104 (b) through (e) revised; (f) and (g) removed 63175
2704.105 Revised 63176
2704.106 Revised 63176
2704.107 (a) revised 63176
2704.108 Revised 63176
2704.201—2704.206 (Supart B) Revised 63176
2704.305 Revised 63177
2704.307 Revised 63177
2704.308 (c) revised 63178

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

4007.11 (a)(1) and (2)(ii) amended; (c)(1) revised 68685
4011 Appendix A amended 38306
Appendix B amended 63179
4022 Appendix amended 63179
4022.7 (b)(1) revised; (d) added 38306
4041A.43 (b)(1) amended 38306
4044.52 (b) introductory text revised 38306
4044.54 Amended 38306
4044 Appendix B amended 38083, 43623, 49286, 55334, 63409, 68999
Appendix B corrected 58101
Appendix D amended 63180
Appendix B amended 2570, 7084, 12746
4050.2 Amended 38306

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 29 Chapter XL—Con.

4050.5 (a)(2) amended **38306**
4050 Appendix A amended **38306**
4281.13 (a) introductory text amended; (b) removed; (a)(1) through (5) redesignated as (a) through (e) **38307**
4281.14 Heading and (a) amended **38307**
4281.15 Removed **38307**

Proposed Rules:

35 ..... **71714**
56 ..... **40800**
57 ..... **40800**
77 ..... **40800**
215 15276
578 ..... **71405**
579 ..... **71405**
1910 15402
1915 ..... **41755**
..... 15402
1917 15402
1918 15402
1926 ..... **43452**
..... 15402
2510 ..... **50542, 64667**
..... 3463, 15143
2520 ..... **48376, 58335, 68370**
..... 4506
2560 ..... **48390, 58335**
..... 65
4022 ..... **57228, 57229**
4044 ..... **57228, 57229**
4050 ..... **57229**

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

21 Removed **47119**
24 Removed **47119**
48 Authority citation revised **53759**
48.2 (a)(1) introductory text amended; (a)(1)(ii) removed; (a)(1)(iii) redesignated as (a)(1)(ii); (a)(2) and (b) revised **53759**
48.3 (a) introductory text amended **53759**
48.5 (d) revised **53760**
48.6 Heading, (a), (b) introductory text and (7) revised; (b)(8) and (9) redesignated as (b)(12) and (13); new (b)(8), new (9), (10), (11), (c), (d) and (e) added **53760**
48.8 (c) revised **53760**
48.22 (a)(1) introductory text amended **53759**
(a)(1)(ii) removed; (a)(1)(iii) redesignated as (a)(1)(ii); (a)(2) and (b) revised **53760**
48.23 (a) introductory text amended **53759**
48.25 (d) revised **53760**
48.26 Heading, (a), (b) introductory text, (5) and (7) revised; (b)(8) redesignated as (b)(12); new (b)(8), (9), (10), (11), (c), (d) and (e) added **53760**
48.28 (c) revised **53761**
75.161 Revised; eff. 10-6-99 ..... **53761**
75.506 (d) revised **47119**
75.1909 (c)(5) correctly revised; CFR correction **50993**
77 Authority citation revised **58613**
77.107-1 Revised; eff. 10-6-99 ..... **53761**
77.109 Removed **53761**
77.1713 (d)(3) and (4) revised; (d)(5) added **58613**

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

203.50—203.91 (Subpart B) Heading amended **57249**
203.50 (a) amended **57249**
203.84 (b) introductory text amended; (b)(7) and (c) revised **57249**
250.101 (e) Table 1 amended **37068**
250.204 (b)(1)(vii) amended 9065
250.413 (c) amended 9065
250.604 Amended 9065
250.806 (a)(3) revised **37068**
250.900 (b) amended 9065
250.901 (b)(3)(iv) amended 9065
250.911 (b)(4)(ii) amended 9065
250.1000 (c) revised **43880**
250.1001 Amended **43881**
250.1007 Heading and (a) introductory text revised; (a)(2) amended **43881**
250.1009 (b)(2) revised 9065
250.1403 Revised 9065
250.1404 (d) added **42711**
(b) revised 9066
250.1406 (b) revised 9066
253 Added (OMB numbers pending) **42711**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

Workshop **43624**
253.15 (f) corrected **48578**
256.52 (b) revised; (c) and (h)(2) amended 9066
256.56 (a)(1) amended 9066
256.70 Amended 9066
256.73 (a) and (b) amended 9066
256.76 (a)(3) amended 9066
256.77 (d)(3) amended 13343
270.6 Amended 9066
270.7 Amended 9066
282.28 (a) amended 9066

Chapter VI—Bureau of Mines, Department of the Interior (Parts 600—699)

602 Removed; interim **40178**
Regulation at 63 FR 40178 confirmed **66762**

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

707.5 Amended 7482
707.10 Revised 7482
874.10 Added 7482
874.17 Added 7483
901.15 Table amended **35807, 66987**
902.15 Table amended 8514
902.16 (b)(8) revised 8514
904.15 Table amended **49430, 65067**
913.15 Table amended 6200
913.16 Removed 6201
913.25 Table amended 3419
914.15 Table amended **39729, 51829**
Table amended 12896
914.16 (n), (p) and (gg) removed **51829**
914.17 Added 12896
917.15 Table amended **40827, 41427**
917.16 (b) removed **40827**
(n) added **41427**
917.17 (a) removed **40827**
Corrected **47091**
917.30 Added **53257**
918.15 Table corrected **38881**
924.10 (b) removed **43320**
924.15 Table amended **43321**
924.16 (a) and (e) removed; (f) through (n) added **43321**
926.10 (a) revised 3610
926.15 Table amended 3610, 3615
926.16 (f) through (j) removed; (k) added 3610
(l) added 3615
926.21 Added 3610
926.30 Revised **40794**
934.15 Table amended **49434**
Table amended 1130, 12900
934.16 (y) and (z) removed **49434**
(aa) and (bb) removed 1130
935.15 Table amended **51833, 66989**
936.15 Table amended **42579**
Table amended 3423
938.15 Table amended 14619
938.16 (cccc) through (ffff) added 14619
938.25 Table amended 14619
943.25 Table amended **65070**
944.15 Table amended **63611**
944.16 (f) removed **63611**
Correctly removed **66989**
944.25 Table amended 8517
948.15 Table amended **37777**
Table amended 6217
948.16 (nnn) and (ooo) revised; (ppp) removed **37777**
(www) through (hhhh) added 6217

Proposed Rules:

26 ..... **47120**
29 ..... **47120**
46 ..... **59258**
56 ..... **45973**
..... 15144
57 ..... **45973, 47120, 58104**
..... 7144, 14200, 15144
70 ..... **47123**
71 ..... **47123**
72 ..... **37796, 41755, 55811**
..... 7144
75 ..... **37796, 38066, 41755, 47120, 47122, 55811**
..... 7144
77 ..... **45973**
..... 15144
90 ..... **47123**
120 15144
204 ..... 3360, 13734
206 ..... **36868, 38355, 40073**
..... 12267
208 ..... 1930, 3262
227 6586
241 ..... 1930, 3262
242 ..... 1930, 3262
243 ..... 1930, 3262
250 ..... 1930, 3262, 7837, 13535
256 15320
290 ..... 1930, 3262
700 8464

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 30 *Proposed Rules:—Con.*

701 ..... **70580**
..... 8763, 15322
707 ..... **40871, 46951**
724 ..... **70580**
..... 8763, 15322
740 8464
746 8464
750 8464
773 ..... **70580**
..... 8763, 15322
774 ..... **70580**
..... 8763, 15322
778 ..... **70580**
..... 8763, 15322
842 ..... **70580**
..... 8763, 15322
843 ..... **70580**
..... 8763, 15322
846 ..... **70580**
..... 8763, 15322
874 ..... **40871, 46951**
901 ..... **45192**
902 ..... **42774**
904 ..... **41506, 48661**
913 ..... **63628, 63630, 68218**
914 ..... 6150, 14412
915 ..... **55025, 59627**
917 ..... **45430**
..... 816, 3670, 4604
920 ..... **50176**
924 ..... **44192**
926 ..... **66079**
931 ..... **66772, 66774**
934 ..... **50177**
935 ..... **53618**
..... 6005
936 ..... **55979, 65149**
938 ..... **40237, 45199, 45973, 51324, 59259**
..... 12269
943 ..... **53003**
..... 7145
944 ..... **36868**
946 ..... **71047, 71049**
948 ..... **39790, 68221**
950 ..... **40384, 70080**

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103 Technical correction **37777**
103.22 Revised **50156**

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

208 Revised **51502**
225 Revised **4763**
285 Regulation at 62 FR 34179 confirmed **46140**
Authority citation revised **67756, 72094**
285.1 Regulation at 62 FR 36210 confirmed; (a) amended; (g), (m), (n) and (o) revised; (j)(5) added **46145**
285.3 Added **72094**
285.4 Added **44988**
Regulation at 63 FR 44988 confirmed **71204**
285.13 Added **67756**
317 Authority citation revised **38041, 64550**
317.0 Revised **38041**
317.1 (d) revised **38041**
Revised; interim **64550**
317.2 Revised; interim **64550**
317.3 (a) introductory text revised; (b) and (c) amended; interim **64550**
317.6 (b) revised; interim **64550**
317.8 Appendix amended **38041**
Appendix amended; interim **64550**
317.9 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended **38041**
321 Authority citation revised **38042**
321.0 (a) and (b) revised **38042**
321.1 (o) revised **38042**
321.3 (c) revised **38042**
321.6 Revised **38042**
321.7 (a) and (g) revised **38042**
321.9 (a) revised **38042**
321.12 Revised **38042**
321.25 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended **38042**
321 Appendix amended **38042, 38043**
330 Authority citation revised **38044**
330.1 (f) revised **38044**
330.5 (a) revised **38044**
330.6 (a) revised **38044**
330.7 Revised **38044**
330.8 Revised **38044**
330.9 (b)(2) removed; (b)(1) redesignated as (b); new (b) table amended **38044**
330.10 Revised **38044**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

351.1 Revised; interim **64551**
351.5 Revised; interim **64551**
353 Authority citation revised **64551**
353.6 (b)(4) amended; interim **64551**
353.13 (c)(3) amended; interim **64551**
353.21 (a) revised; interim **64551**
353.27 Revised; interim **64551**
356.2 Amended 3634
356.20 (b) revised 3634
356.21 (a) amended 3634
356.23 Revised 3634
356 Appendix B and Exhibit A amended 3634
357 Determination **35807, 50159**
357.22 (a) introductory text revised 6527
357 Appendix B amended **69191**
359 Added **38044**
359.2 (e)(1)(i) through (v) revised **45946**
359.3 (b)(1) revised **45947**
360 Added **38049**
370 Authority citation revised **64552**
Heading revised; interim **64552**
370.0—370.1 (Subpart A) Revised; interim **64552**
370.20—370.25 (Subpart C) Heading revised; interim **64553**
370.30—370.31 (Subpart D) Redesignated as 370.60—370.61 (Subpart F); interim **64553**
370.30—370.38 (Subpart D) Added; interim **64553**
370.50—370.57 (Subpart E) Added; interim **64554**

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

501.803 Correctly revised **35809**
501.807 Revised 5614
515.560 Corrected **35808**
538 Added **35810**
539 Added 8716
560 Authority citation revised **62941**
560.525 Corrected **35808**
560.603 Revised **62941**
575 Authority citation revised **62942**
575.522 (a)(2) and (3) amended; (a)(4) added **62942**
585 Authority citation revised **59884**
585.528 Heading revised; (d) added **59884**
586 Added **54576**

Chapter VII—Federal Law Enforcement Training Center, Department of the Treasury (Parts 700--799)

700 Revised **39730**

Proposed Rules:

1 ..... **71050**
..... 1152
100 4063
103 ..... **37085**
200—399 (Ch. II) 1149
212 ..... **54426**
285 ..... **41688, 44991**

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

41 Removed **56081**
83 Removed **43624**
84 Removed **43624**
199.2 (b) amended **59232**
(b) amended 7087, 11768
199.4 (g)(48) revised **59232**
(e)(20) and (i) added 7087
(g)(70) and (71) removed 11769
199.6 (a)(11) removed; (a)(12) redesignated as (a)(11) **48445**
(a)(8), (c)(1) and (2) revised; (b)(1)(iii) removed; (f) and (g) redesignated as (a)(14) and (15); (a)(12), (13) and new (f) added 11769
199.8 (b)(3)(iii), (iv) and (v) revised **59232**
199.9 (m) added **48445**
199.14 (a)(1) introductory text, (i)(C)(*6*)(*iv*), (ii)(C)(*10*) and (iii)(D)(*1*) amended; (a)(1)(ii)(C)(*2*), (*3*), (*4*), (iii)(B), (D)(*5*), (E)(*1*)(*i*)(*A*), (*B*), (*ii*)(*A*), (*B*), (G)(*3*) introductory text, (d)(3)(iv) and (h) introductory text revised; (a)(1)(ii)(D)(*5*) through (*8*) redesignated as (a)(1)(ii)(D)(*6*) through (*9*); new (a)(1)(ii)(D)(*5*) and (h)(1)(iii)(D) added **48446**
(h)(1)(i)(D) added **56082**
199.15 (b)(4)(iii)(B), (c)(2), (d)(2)(iii), (e)(3)(i) and (ii) revised **48447**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 32 Chapter I—Con.

199.17 (o)(2) and (3) revised; (o)(4) and (5) redesignated as (o)(5) and (6); new (o)(4) added 13913
199.18 (d)(3)(v) introductory text revised **48448**
204.4 (c)(1)(vii) thorugh (ix) corrected **36992**
204.6 (a)(1), (4) and (b)(1)(v) corrected **36992**
204.8 Corrected **36992**
216 Revised **56821**
234.1 Amended **49003**
234.7 (e) amended **49003**
234.13 (e) amended **49003**
234.17 (b)(3)(i), (ii), (c)(1)(ii), (2), (3)(i), (ii), (4) introductory text and (ii) amended **49003**
235 Added 6218
270.2 (c) through (k) redesignated as (e) through (m); new (c) and (d) added; interim **68194**
270.6 (b)(2) amended; (b)(3) and (4) added; interim **68195**
270.8 Amended **68195**
270.11 Revised **68195**
270 Appendix A amended **68195**
286 Revised **65420**
286.4 (d)(3)(ii)(B) correctly designated **67724**
286.24 (f)(2) corrected **67724**
290.4 Amended 1130
290.5 (a) amended 1130
290.6 (a)(1)(i), (2) introductory text, (3) introductory text, (iii) and (b)(2)(iii) amended; (a)(3)(vii) removed; (a)(3)(viii) redesignated as (vii) 1130
290.7 (b), (d), (e)(1), (3), (f)(4), (5)(i)(D), (ii) introductory text and (iv) amended 1131
290 Appendixes A and B amended 1131
311.7 (c)(7) removed **59718**
318 Heading revised **60212**
318.1 (b)(1), (c) and (d) amended **60212**
318.2 Amended **60212, 60213**
318.3 (a) through (d) amended **60212**
(d) footnote 1 amended **60213**
318.4 (a) amended **60212**
(d) amended **60213**
318.5 (a) amended **60212**
318.6 (a) amended **60212**
(b) amended **60213**
318.8 (b) amended **60213**
318.9 (a), (b) introductory text, (1) and (4) amended **60212**
318.10 Amended **60212**
318.11 (a), (b), (d) introductory text and (3)(i) amended **60212**

Chapter V—Department of the Army (Parts 400—699)

556 Removed 14620
588 Removed **37069**
655 Revised **53810**

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Tables One and Three amended **44785**
Table Four amended 2571
Tables One and Five amended 2572
Table Five amended 2573
Tables Four and Five amended 3424

Chapter VII—Department of the Air Force (Parts 800—1099)

888g Removed **68685**

Chapter XIX—Central Intelligence Agency (Parts 1900—1999)

1903 Revised **44786**

Proposed Rules:

44 ..... **45975**
199 ..... **36651**
299 ..... **52208**
581 ..... **51875**
655 ..... **37296**
775 9286

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

33—55 (Subchapter B) Heading amended 6528
55 Added 6528
62 Implementation date 10104
66.05–100 (a) removed; (b) through (j) redesignated as (a) through (i); new (i) revised **55947**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

100 Temporary regulations list 45171, 70015
Regulation at 63 FR 33032 eff. date delayed to 1-2-00 71754
100.35-T05-010 Added (temporary) 13914
100.35-T05-012 Added (temporary) 14384
100.35-T05-013 Added (temporary) 14383
100.35-T05-045 Added (temporary) 36850
100.35-T05-47 Added (temporary) 36851
100.35-T05-063 Added (temporary) 40653
100.35-T05-093 Added (temporary) 59233
100.35-T05-100 Added (temporary) 69000
100.35-T05-106 Added (temporary) 71220
100.35T-07-008 Added (temporary) 36182
Revised (temporary) 50161
100.35T-07-049 Added (temporary) 43322
100.35T-07-059 Added (temporary) 53587
100.35T07-068 Added (temporary) 63612
100.35T-07-075 Added (temporary) 67401
100.35-T08-040 Added (temporary) 38752
100.35-T08-051 Added (temporary) 49004
100.35-T08-054 Added (temporary) 47426
100.35-T08-058 Added (temporary) 48579
100.35-T08-060 Added (temporary) 50160
100.01—100.50 (Subpart A) Regulation at 61 FR 33032 eff. date delayed to 1-2-00 71754
100.01 Regulation at 61 FR 33032 eff. date delayed to 1-2-00 71754
100.05 Regulation at 61 FR 33032 eff. date delayed to 1-2-00 71754
100.15 Regulation at 61 FR 33032 eff. date delayed to 1-2-00 71754
100.17 Regulation at 61 FR 33032 eff. date delayed to 1-2-00 71754
100.18 Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.19 Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.25 Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.30 Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.35 Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.50 Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.100—100.1306 (Subpart B) Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.100 Regulation at 61 FR 33033 eff. date delayed to 1-2-00 71754
100.109 Added 37492
100.114 Implementation (temporary) 45395
100.116 Added 37249
100.120 Added 8000
100.201 Implementation (temporary) 36182, 36183
Removed 70654
100.501 Implementation (temporary) 36849
100.505 (b) revised 39236
100.509 (a)(1), (b)(2) introductory text and (c) revised; Table 1 added 42580
100.511 Implementation (temporary) 13914
100.710 Revised 41719
100.734 Added 3841
100.801 Table 1 revised 70654
100.1101 Implementation (temporary) 38308
100.1102 Table 1 amended 37491
110.157 (b)(11) added; eff. 10-6-98 to 12-8-98 55028
117 Temporary drawbridge operation regulations 37251, 39029, 40654, 40655, 41720, 43080, 45395, 47174, 49287, 53281, 54353, 63180, 64628, 64868, 68685, 69193, 70018, 71754
Temporary drawbridge operation regulations 35, 3424, 4786, 5717, 6220, 7788, 8000, 13514
117.5-T-08-077 Added (temporary) 72190
117.5-T-08-079 Added (temporary) 406
117.253 (a) suspended; (c) added; eff. 3-11-98 through 11-23-98 45397

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 33 Chapter I—Con.

(a) suspended; (c) added; eff. 12–4–98 through 1–31–99 ..... **69192**
117.261 (u), (v) and (w) revised **60214**
117.265 Removed 10105
117.268 Added **67402**
117.393 (c) suspended; (e) added; eff. 12–3–98 to 2–1–99 1517
117.434 Redesignated from 117.435 8722
117.435 Redesignated as 117.434; new 117.435 redesignated from 117.436 8722
117.436 Redesignated as 117.435; new 117.436 added 8722
117.451 (b) suspended; (f) added (temporary) **57251**
117.459 Revised **40654**
117.465 (g) added; eff. 10–5–98 through 11–6–98 ..... **47428**
(g) added (temporary) **51302**
(a) revised **55031**
117.467 (b) suspended; (c) added; eff. 7–6–98 through 11–10–98 ..... **35821**
(b) suspended; (c) added; eff. 12–14–98 through 3–20–99 ..... **69557**
117.478 (c) suspended; (d) added; eff. 3–8–99 through 8–31–99 9271
117.599 (a) designation and (b) removed **69001**
117.619 Revised **70662**
117.645 Removed 9272
117.675 (c) added; interim 6221
117.683 Redesignated as 117.682; new 117.683 redesignated from 117.684 ..... **49822**
117.684 Redesignated as 117.683; 117.684 added **49822**
117.685 Revised **49822**
117.721 Added **43323**
117.733 (k) added; eff. 10–19–98 through 5–14–99 ..... **54354**
117.739 (h) revised; (j) and (k) redesignated as (k) and (j); new (k) amended 4788
117.822 Revised **37251**
117.955 (a) revised; interim **55030**
Regulation at 63 FR 55030 confirmed 406
117.991 Removed **47427**
117.997 (a) through (h) redesignated as (b) through (i); new (a) added **55948**
117.1097 Revised **49288**
117.T408 Added (temporary) **64188**
120 Regulation at 61 FR 37652 confirmed **53590**
120.100 Heading revised **53590**
120.110 Amended **53590**
120.200 Revised **53590**
120.210 Revised **53590**
120.220 Revised **53590**
120.300 Revised **53590**
120.303 Added **53591**
120.305 Revised **53591**
120.307 Revised **53591**
120.309 Revised **53591**
128 Regulation at 61 FR 37654 confirmed **53590**
128.100 Heading revised **53591**
128.110 Revised **53591**
128.200 Revised **53591**
128.210 Revised **53592**
128.220 Revised **53592**
128.300 Revised **53592**
128.305 Redesignated as 128.307; new 128.305 added **53592**
128.307 Redesignated as 128.309; redesignated from 128.305; new 128.307 revised **53592**
128.309 Redesignated as 128.311; new 128.309 redesignated from 128.307 ..... **53592**
Revised **53593**
128.311 Redesignated from 128.309 ..... **53592**
Heading revised **53593**
155 Authority citation revised **71763**
155.140 (b) introductory text amended **71763**
155.230 Revised; interim; eff. in part 12–11–00 ..... **71763**
155.710 (e) introductory text, (1), (2) and (3) revised **35826**
155.715 Added **35826**
160.207 (d) and (e) revised **44117**
165 Temporary regulations list **45171, 70015**
Authority citation revised **71770**
Authority citation revised 12749
Technical correction 15399
165.T01–001 Added (temporary) 7090
165.T01–002 Added (temporary) 4053
165.T01–004 Added (temporary) 8723
165.T01–008 Added (temporary) 9067
165.T01–015 Added (temporary) 11772
Correctly designated 14306
165.T01–080 Added (temporary) **40656**
165.T01–082 Added (temporary) **39238**
165.T01–083 Added (temporary) **39237**
165.T01–102 Added (temporary) **42234**
165.T01–113 Added (temporary) **45949**
165.T01–114 Added (temporary) **46178**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

165.T01–115 Added (temporary).....**45177**
165.T01–123 Added (temporary).....**45948**
165.T01–130 Added (temporary).....**46889**
165.T01–131 Added (temporary).....**46890**
165.T01–140 Added (temporary).....**55533**
165.T01–144 Added (temporary).....**49823**
165.T01–157 Added (temporary).....**59720**
165.T01–CGD1–171 Added (temporary **68686**
165.T01–CGD1–183 Added (temporary).....2432
Added (temporary).....5936
165.T01–184 Added (temporary).....4054
165.T05–009 Added (temporary) 13915
165.T05–084 Added (temporary).....**55029**
165.T07–013 Heading and (a) revised (temporary).....**38477**
165.T07–023 Added (temporary).....**46176**
165.T07–053 Added (temporary).....**47429**
165.T07–065 Added (temporary).....**56083**
165.T08–024 Added (temporary).....**36852**
165.T08–038 Added (Temporary).....**37493**
165.T08–047 Added (temporary).....**46891**
165.T11–061 Added (temporary).....8002
165.T11–089 Added (temporary).....**46653**
165.T17–003 Added (temporary).....**45950**
(b) corrected **53593**
165.100 Added **71770**
(d)(1)(iii) revised; interim.....12749
165.514 Added **58636**
165.906 Added 8006
165.1115 Added **38754**
165.1116 Added.....**38308**
Correctly designated.....**46889**
165.1310 Added; interim.....**52609**

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

320.1 (a)(2) amended; eff. 8–6–99 11714
326.3 (e)(1)(v) added; eff. 8–6–99.....11714
331 Added; eff. 8–6–99.....11714
334.155 Added **68140**

Chapter IV—Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

402.100 Corrected **36992**
402.210 Corrected **36992**
402.211 Corrected **36992**
402.320 Corrected **36992**
402.428 Corrected **36992**

Proposed Rules:

1—199 (Ch. I).....**36384, 64937**
1—124.....2868
55.....**51878**
100.....**36197, 46206, 50179, 63426, 65636** 66, 4812, 4814
110 .....**37297, 39651** 3888, 3889, 14414, 15322
117.....**43126, 45978, 45980, 48453, 50821, 57963, 58676, 60226, 64022** 1155, 3464, 6290, 8033, 12795, 12797
126.....**57964** 1770
155.....13734
162.....14414
165.....**39256, 40583, 42304, 47455, 54639, 70707, 72219** 6006, 7147, 8764, 9107, 14414
167.....12139
173 4816
181 .....**63638**

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

74 OMB circular applicability **36144**
80 OMB circular applicability **36144**

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200.8 (c)(1) revised; (c)(3)(ii)(B)(*3*) added.....**54997**
200.28 (a)(2)(iii) removed.....**54997**
200.63 Revised.....**54997**

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

300 Revised 12418
303.1 (a) amended.....12535
303.4 Authority citation revised 12535
303.5 (a)(1)(vi) amended; (a)(3) and authority citation revised.....12535
303.6 Amended 12535
303.10 Revised 12535

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 34 Chapter III—Con.

303.12 (d)(11) amended 12535
303.19 Revised 12535
303.100 (d)(2) revised 12535
303.140 (b) amended 12535
303.145 (c) heading revised; (c)(1) amended 12536
303.344 (d)(1)(ii) amended; (h)(1) revised 12526
303.403 (b)(2) and (3) amended; (b)(4) revised 12536
303.510 Revised 12536
303.511 Revised 12536
303.512 Revised 12536
303.520 (d) added; authority citation revised 12536

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.2 Amended **40622**
600.9 (b)(2)(ii) amended **40622**
600.40 (a)(1)(iv)(A) and (B) amended; (a)(1)(iv)(C) removed **40622**
600.41 (a)(1)(ii)(F) and (G) amended; (a)(1)(ii)(H) and (e)(3) removed **40623**
600.55 (a)(5)(i)(A) amended **40623**
648 Authority citation revised 13486
648.1 Authority citation revised 13486
Amended 13487
648.2 Authority citation revised 13486
648.3 Authority citation revised 13486
648.4 Authority citation revised 13487
648.5 Authority citation revised 13487
648.6 Authority citation revised 13487
648.7 Authority citation revised 13487
648.8 Authority citation revised 13487
648.9 Authority citation revised 13487
648.20 (b)(7) amended; authority citation revised 13487
648.30 Authority citation revised 13487
648.31 Authority citation revised 13487
648.32 Authority citation revised 13487
648.33 Authority citation revised 13486
648.40 (a)(8)(iii) and (iv) revised; authority citation revised 13487
648.41 Authority citation revised 13487
648.50 Authority citation revised 13487
648.51 (b) amended; authority citation revised 13487
648.52 Existing text designated as (a) and amended; (b) added; authority citation revised 13487
648.60 Authority citation revised 13487
648.61 Authority citation revised 13487
648.62 Authority citation revised 13487
648.63 Authority citation revised 13487
648.64 Authority citation revised 13487
648.65 Authority citation revised 13487
648.66 Authority citation revised 13487
648.70 Authority citation revised 13487
650 Authority citation revised 3198
650.1 Authority citation revised; (a) authority citation removed 3198
(a) amended 3199
650.2 Authority citation revised; (a) amended; (d)(1)(iv) revised 3199
650.3 Authority citation revised 3198
650.4 Amended 3199
650.5 Authority citation revised 3199
650.10 Authority citation revised 3198
650.20 Authority citation revised; (c) amended 3199
650.30 Amended; authority citation revised 3199
650.31 Authority citation revised 3198
650.32 Authority citation revised 3199
650.33 Authority citation revised 3199

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

650.34 Authority citation revised 3199
650.35 Authority citation revised 3198
650.36 Authority citation revised 3199
650.37 Authority citation revised 3199
650.40 Authority citation revised 3199
650.41 Authority citation revised; (a) amended 3199
650.42 Authority citation revised 3199
650.43 Authority citation revised 3199
650.44 Authority citation revised 3199
655.1 (d) amended; (e) removed; (f) redesignated as (e) 7739
655.3 (c)(5) and (6) amended; (c)(7) removed 7739
655.4 (a) and (b) amended 7739
655.10 Amended 7739
655.30 Revised 7739
656.1 (a), (b) and (d) revised 7739
656.3 Revised 7739
656.5 (b) introductory text and (5) amended 7739
656.30 (a)(5) and (6) amended; (a)(7) and (8) added 7739
658.1 Revised 7739
658.2 (c) redesignated as (d); new (c) added 7739
658.10 (a), (b)(1) and (c) revised 7740
658.11 Revised 7740
658.41 (a) and (b) revised; (d) added 7740
660.1 (b), (e) and (f) amended; (g), (h) and (i) added 7740
660.10 (b)(1) amended; (h), (i) and (j) added 7740
662 Revised **46361**
663 Revised **46363**
664 Revised **46366**
668.1 (c)(3), (7) and (11) removed; (c)(4), (5), (6), (8), (9), (10) and (12) redesignated as (c)(3) through (8) and (10); new (c)(9) added **40623**
668.2 (b) amended **40623**
668.8 (d)(3) amended **40623**
668.13 (a)(4)(i) introductory text and (d)(2)(i) amended **40623**
668.14 (b)(4)(ii) removed; (b)(4)(iii) through (vi) redesignated as (b)(4)(ii) through (v); new (b)(4)(ii), (7), (15), (17) and (23) amended; (b)(8), (11) and (16) revised **40623**
668.16 (e)(2)(i) and (j)(1) amended; (m)(1) introductory text, (i) and authority citation revised **40624**
668.17 Heading, (h) and (i) revised **56759**
668.19 (a)(3)(iv), (v) and (vi) amended **40624**
668.20 (c) introductory text and (d)(2) revised **40624**
668.21 (a)(1) amended **40624**
668.22 (c)(2)(ii) revised; (f)(1)(ii), (2)(i), (g)(2)(ii)(B), (3)(ii) and (h)(1) introductory text, (iv), (v), (vi), (2)(ii) through (v) and (i) amended; **40624**
668.25 (c)(4) introductory text and (ii) amended **40624**
668.26 (b)(4), (6), (c)(2), (d)(2) introductory text, (3) introductory text and (i) amended **40624**
668.32 (c)(1) and (k)(5) amended **40624**
668.42 (b) introductory text revised **40625**
668.43 (c)(6) amended **40625**
668.46 (a)(1), (2)(ii), (5)(i) and (ii) amended **40625**
668.48 Note amended **40625**
668.49 (a)(1)(iii) and (b) amended; (a)(1)(vi) added; (d) revised **40625**
668.51 (a) amended **40625**
668.54 (a)(2)(i) amended **40625**
668.55 (c) introductory text, (1), (2) and (d)(2) amended **40625**
668.58 (a)(1)(i), (2)(ii)(A) and (iii) revised; (a)(1)(ii), (iii), (c), (d)(1) and (2) amended; (a)(1)(iv) added **40625**
668.59 (b)(1), (c) introductory text and (1)(ii) amended; (d)(1) revised **40625**
668.60 (b) introductory text, (1)(i)(A), (B), (D), (iii) and (d) amended; (b)(1)(i)(C), (ii) and (e)(2) revised **40625**
668.61 (a)(2)(ii)(B) and (b) amended; (b) redesignated as (b)(1); (b)(2) added **40626**
668.81 (e) removed **40626**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 34 Chapter VI—Con.

668.83 (c)(2)(i)(B), (iii)(D) and (d)(1)(iii) amended **40626**
668.94 (a) introductory text and (5) amended **40626**
668.130 (a) and (b) amended **40626**
668.131 Amended **40626**
668.132 (a)(2) and (b) amended **40626**
668.133 (a) introductory text and (1)(i) amended **40626**
668.134 (a) introductory text, (1), (3), (b)(1) and (2) amended **40626**
668.136 (a) and (b) introductory text amended **40626**
668.137 (a) and (b) amended **40626**
668.138 (a) and (b) revised **40626**
668.139 (b) and (d) revised **40626**
668.166 (a)(1) amended **40626**
668.167 (a)(3) revised **40626**
668.171 OMB number **40348**
668.172 (c)(5)(ii) amended; OMB number **40348**
668.173 (b) revised **40348**
668.174 OMB number **40348**
(c)(3)(i), (ii), (iii), (iv) introductory text and (B) amended **40349**
668.175 OMB number **40348**
(f), (2)(i), (3)(i), (ii), (g)(1)(i)(A) and (ii) amended **40349**
668 Appendix G amended **40349**
669.3 Revised 7741
674.19 (b)(5) correctly removed; CFR correction **55948**
675.26 (d) revised **52855**
685 Appendix A revised **39010**
694 Added 10187

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

702 Added **57573**

Proposed Rules:

303 ..... **43866**
304 ..... **37466**
361 ..... **55292**
600—699 (Ch. VI) **59922, 71206**
668 ..... **37714**
674 ..... **49798**
682 ..... **49798**

TITLE 35—PANAMA CANAL

Proposed Rules:

117 ..... **56589**

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

61 Revised 11742

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

200.7 (a) revised **53811**
200.8 Revised **53812**
(a) corrected **60049**
212.13 Added; interim 7304
223.118 Revised 411
242 Meetings **46394**
242.1—242.9 (Subpart A) Revised 1286
242.10—242.20 (Subpart B) Revised 1289
242.22—242.24 (Subpart C) Revised 1293
242.25 (k)(9)(ii) table, (10)(ii) table and (23)(iii) table amended; eff. 7-1-98 through 6-30-99 ..... **46150**
(k)(26)(iii) table amended; eff. 7-1-98 through 6-30-99 ..... **46151**
242.26 Revised 1302
242.27 Revised 1311
251.51 Amended **65964**
251.54 Revised **65964**
251.56 (a) and (d)(2) revised **65967**
251.57 (a) revised; (h) removed; (i) redesignated as (h) **65967**
251.59 Revised **65967**
251.60 (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i); (a)(2), (b), (e), (f) and new (g), (h) and (i) revised **65968**
251.61 (c) revised **65968**
251.64 (a) amended **65968**
251.65 Revised **65968**

Chapter III—Corps of Engineers, Department of the Army (Parts 300—399)

327.30 Appendixes A and C amended; eff. 8-17-98 ..... **35828**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

Chapter VIII—Advisory Council on Historic Preservation (Parts 800—899)

811 Revised 54355

Chapter X—Presidio Trust (Parts 1000—1099)

1007 Added 71774
1008 Added 71779
1009 Added 71784

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1152 Removed 70342
1191.2 Revised 64837, 64838
1192.31 (c) revised 51697, 51702
1192.153 (c) revised; (d) added 51698, 51702
1192.157 (b) revised 51698, 51702
1192.159 Revised 51698, 51702
1192.161 Added 51700, 51702
1192 Figures 1 and 2 added 51701, 51702
Appendix A amended 51702, 51702

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1202 Revised 70342
1220.40 Amended 35829
1220.54 Amended 35829
1222.20 (b)(3) amended 35829
1228.26 Amended 35829
1228.46 Amended 35829
1228.50 Amended 35829
1228.54 Amended 35829
1228.60 Amended 35829
1228.74 Amended 35829
1228.78 Amended 35829
1228.92 Amended 35829
1228.94 Amended 35829
1228.104 Amended 35829
1228.124 Amended 35829
1228.152 Amended 35829
1228.154 Amended 35829
1228.156 Amended 35829
1228.190 Amended 35829
1228.222 (a)(3) amended 35829
1228.224 Amended 35829
1230.7 Amended 35829
1230.50 Amended 35830
1234.10 (a) amended 35830
1238.2 Amended 35830

Proposed Rules:

1 49312
3 49312
13 68666
..... 1573
59 67635
242 ..... 40682, 43990
..... 4604
1001 ..... 50024, 64023
..... 2870
1002 ..... 50024, 64023
..... 2870
1003 ..... 50024, 64023
..... 2870
1004 ..... 50024, 64023
..... 2870
1005 ..... 50024, 64023
..... 2870
1006 ..... 50024, 64023
..... 2870
1007 50024
1008 50024
1009 50024
1190 ..... 39542, 51881, 70359
..... 13752
1191 ..... 39542, 51881, 70359
..... 13752
1202 45433
1228 4818
1254 42776
1281 45203

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.14 Regulation at 63 FR 29617 confirmed 66041
1.16 (a) through (d) and (f) through (j) revised 39733, 67579
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 52610
1.17 (a)(1) through (5), (b), (c), (d), (l), (m), (r) and (s) revised 39733, 67580
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 52610
1.18 Revised 39733, 67580
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 52610
1.20 (d) through (g) revised 39733, 67580

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 37 Chapter I—Con.

Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.21 (a)(6)(ii) revised **39734, 67580**
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.53 Regulation at 63 FR 5734 confirmed **36185**
1.412 Regulation at 63 FR 29617 confirmed **66041**
1.416 Regulation at 63 FR 29617 confirmed **66041**
1.419 Regulation at 63 FR 29617 confirmed **66041**
1.431 Regulation at 63 FR 29618 confirmed **66041**
1.432 Regulation at 63 FR 29618 confirmed **66041**
1.435 Regulation at 63 FR 29618 confirmed **66041**
1.445 Regulation at 63 FR 29619 confirmed **66041**
1.451 Regulation at 63 FR 29619 confirmed **66041**
1.461 Regulation at 63 FR 29619 confirmed **66041**
1.465 Regulation at 63 FR 29619 confirmed **66041**
1.471 Regulation at 63 FR 29619 confirmed **66041**
1.480 Regulation at 63 FR 29619 confirmed **66041**
1.481 Regulation at 63 FR 29619 confirmed **66041**
1.484 Regulation at 63 FR 29619 confirmed **66041**
1.485 Regulation at 63 FR 29620 confirmed **66041**
1.492 (a) through (d) revised **39734, 67580**
(a)(5) corrected **46892**
Regulation at 63 FR 39733 eff. date delayed to 10–10–98 ..... **52610**
1.494 Regulation at 63 FR 29620 confirmed **66041**
1.495 Regulation at 63 FR 29620 confirmed **66041**
1.655 (a) revised; interim 12901
1.801—1.825 (Subpart G) Appendix B removed **48448**
2.76 (a), (g) and (h) revised **48097**
2.85 (e) revised **48097**
2.87 (c) revised **48097**
2.101 (d)(1) revised **48097**
2.102 (d) revised **48097**
2.111 (b) and (c)(1) revised **48097**
2.117 (a) and (b) revised **48097**
2.119 (d) revised **48097**
2.120 (e) and (h) redesignated as (e)(1) and (h)(1); (e)(2) and (h)(2) added; (a), new (e)(1), (g)(1) and new (h)(1) revised **48098**
(a) revised **52159**
2.121 (a)(1), (c) and (d) revised **48099**
2.122 (b)(1), (d)(1) and (2) revised **48099**
2.123 (b) and (f) revised **48099**
2.125 (c) revised **48099**
2.127 (a), (b), (d), (e)(1) and (f) revised **48099**
(a) revised **52159**
2.134 (a) revised **48100**
2.146 (e)(1) revised **48100**
3 Heading revised **52159**
3.41 Revised **48100, 52159**

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.5 (b)(2)(ii) and (iii)(A) revised; interim **59236**
(b)(2)(iii)(A) amended **66042**
201.17 (h)(2)(iv) amended **39738**
201.22 (e)(1) revised **66042**
201.33 (d)(1) revised 12902
201.38 Added; interim **59234**
201.39 Added; interim **71787**
202.12 (c)(1) amended 12902
251.2 (b) through (g) redesignated as (c) through (h); new (b) added; new (c) revised **65556**
251.58 (c) amended **65556**
251.60 Amended **65556**
251.61 (a) revised **65556**
251.62 (a) amended **65557**
253.3 Added **49836**
253.5 (c)(1), (2) and (3) revised **66042**
255.5 Revised 6223
255.6 Added 6223
255.7 Added 6223
255.8 Added 6223
256.2 (a)(1) and (c) amended **39739**

Proposed Rules:

1 ..... **53498**
201 ..... **47215, 65567, 69251**
251 ..... **70080**
..... 3055, 3746
285 ..... **71249**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

3.256 Revised; interim **53595**
3.311 (b)(2)(xxi) and (xxii) amended; (b)(2)(xx)(iii) and (xxiv) added **50994**
3.358 Heading and (a) revised **45006**
Heading and (a) revised 1131
3.361 Added **45006**
Removed 1132
3.362 Added **45007**
Removed 1132
3.363 Added **45007**
Removed 1132
3.800 Introductory text added **45007**
Introductory text removed 1132
3.811 Heading, (a) heading and authority citation revised; (d) redesignated as (e); new (d) added **62943**
4.104 Amended **37779**
17.55 Introductory text amended; (h) removed; (i), (j) and (k) redesignated as (h), (i) and (j) **39515**
17.56 Redesignated as 17.57; new 17.56 added **39515**
17.57 Redesignated from 17.56 ..... **39515**
17.84 Removed **48102**
17.96 Introductory text amended; (a) authority citation removed; authority citation added **37780**
17.128 Revised **39515**
17.270—17.278 Undesignated center heading and sections added **48102**
20.609 (c)(4) added 2138
20.1400—20.1411 (Subpart O) Added 2139
20.1405 (a) revised; interim 7091
21.3023 Heading, (c) introductory text and (1) revised; (c)(3) amended; OMB number **45718**
21.3045 (h) revised **67778**
21.3131 (a) revised **67778**
21.3300 (c) amended **67779**
21.3333 (a) and (b)(1) amended **67779**
21.4000—21.4279 (Subpart D) Authority citation revised **35831**
21.4008 Amended; eff. 7-31-98 ..... **35831**
21.4133 Removed; eff. 7-31-98 ..... **35831**
21.4134 Removed; eff. 7-31-98 ..... **35831**
21.4135 (f), (j)(1), (k) heading and (1) revised; (j) introductory text and (k) introductory text added; eff. 7-31-98 ..... **35831**
21.4146 (e) amended; eff. 7-31-98 ..... **35831**
21.4152 (b)(2) amended; eff. 7-31-98 ..... **35831**
21.4202 (a) and (b) removed; eff. 7-31-98 ..... **35831**
21.4207 Removed; eff. 7-31-98 ..... **35831**
21.4208 Removed; eff. 7-31-98 ..... **35831**
21.4210 Added; eff. 7-31-98 ..... **35831**
21.4211 Added; eff. 7-31-98 ..... **35833**
21.4212 Added; eff. 7-31-98 ..... **35834**
21.4213 Added; eff. 7-31-98 ..... **35834**
21.4214 Added; eff. 7-31-98 ..... **35834**
21.4215 Added; eff. 7-31-98 ..... **35836**
21.4216 Added; eff. 7-31-98 ..... **35836**
21.5001—21.5296 (Subpart G) Authority citation revised **35836**
21.5130 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); eff. 7-31-98 ..... **35836**
21.5200 Introductory text amended; (h) removed; (i) revised; (j) redesignated as (h); new (j) through (o) added; eff. 7-31-98 ..... **35836**
21.7000—21.7320 (Subpart K) Authority citation revised **35837**
21.7042 Heading, (d)(2) and (3) revised; (d)(4) and authority citation added; OMB number **45718**
21.7133 Revised; eff. 7-31-98 ..... **35837**
21.7135 (i) introductory text, (1), (2), (j)(1) and (k)(1) amended; eff. 7-31-98 ..... **35837**
21.7158 Heading, (b)(2) and authority citation revised; eff. 7-31-98 ..... **35837**
21.7500—21.7807 (Subpart L) Authority citation revised **35837, 45718**
21.7540 (c) and (d) authority citation revised; OMB number **45718**
21.7624 (b) amended; eff. 7-31-98 ..... **35837**
21.7633 Revised; eff. 7-31-98 ..... **35837**
21.7635 (e) introductory text, (1), (2), (f)(1) and (g)(1) amended; eff. 7-31-98 ..... **35837**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 38 Chapter I—Con.

21.7658 Heading, (b) heading and (2) revised; (b)(1) introductory text, (i) and (ii) amended; eff. 7–31–98 ..... **35837**

Proposed Rules:

1 ..... **48455**
2 ..... **48455**
3 ..... **58336**
14 ..... **59495**
17 ..... **37299, 54756, 58677, 60227**
21 ..... **63253**
51 ..... **60227**

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

6.4 Revised **57912**
20 IMM amended; incorporation by reference; interim **37252, 40181, 41427, 44789, 66043**
IMM stayed in part; incorporation by reference **38478**
IMM amended; incorporation by reference **40181, 41427**
IMM amended; incorporation by reference 2856, 9916, 10219
111 DMM amended; incorporation by reference **37254, 37967, 38084, 38310, 39239, 40828, 55475, 56567, 57598, 71374**
DMM amended; incorporation by reference 39, 2141, 6802, 10951, 12074, 14389
233 Authority citation revised **52159**
233.2 (b)(2) amended **52159**
241.4 Revised **46656**
491 Revised **67403**
501.29 Added **53812**
775—778 (Subchapter K) Heading revised **45719**
775 Heading and authority citation revised **45719**
775.1 Revised **45719**
775.3 Revised **45719**
775.4 (a) and (b) redesignated as 775.5 and 775.6; new 775.4 added **45719**
775.5 Redesignated as 775.8; new 775.5 redesignated from 775.4(a) and revised **45719**
775.6 Redesignated as 775.9; new 775.6 redesignated from 775.4(b) **45719**
Revised **45720**
775.7 Redesignated as 775.10 ..... **45719**
Added **45721**
775.8 Redesignated as 775.11 ..... **45719**
775.9 Redesignated as 775.12 ..... **45719**
(a)(1), (4), (b)(2), (3) introductory text and (i) revised; (b)(1) amended **45721**
775.10 Redesignated as 775.13 ..... **45719**
(a)(4) added **45722**
775.11 Redesignated as 775.14 ..... **45719**
(a)(1) amended; (b)(2)(ii), (c)(2), (4), (5) introductory text, (iv) and (d)(1) revised **45722**
775.13 (a)(4) revised **45722**
775.14 (b) revised **45722**
777 Transfered to subchapter K **45722**
778 Transfered to subchapter K **45722**
952.4 Revised **66050**
952.8 (a) amended **66050**
952.14 Revised **66050**
952.15 (c) amended **66050**
953.2 Revised **66050**
953.8 Revised **66050**
953.9 (a)(3) amended **66050**
954.4 Revised **66050**
954.11 Revised **66050**
954.12 (c) amended **66050**
955.1 (b)(1) and (d)(5) revised **66050**
955.18 Amended **66050**
955.29 Amended **66050**
956.3 (c) revised **66051**
956.13 (a) revised **66051**
957.1 Amended **66051**
957.2 Amended **66051**
957.3 (a) and (g) revised; (b) and (f) amended; **66051**
957.4 (a), (c) and (d) amended **66051**
957.5 Amended **66051**
957.7 Amended **66051**
957.8 Amended **66051**
957.9 Amended **66051**
957.10 Amended **66051**
957.13 (a) revised; (b) introductory text and (3) amended **66051**
957.14 (e) amended **66051**
957.15 (f) and (h) amended **66051**
957.16 (e) amended **66051**
957.18 (a) amended **66051**
957.19 (a) and (b) amended **66051**
957.20 (a) amended **66051**
957.23 Amended **66051**
957.26 Amended **66051**
957.27 Amended **66051**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

958.3 (a) amended 66052
958.4 Amended 66052
958.13 Amended 66052
959.3 Revised 66052
959.5 (a) amended 66052
959.6 Amended 66052
959.7 Amended 66052
959.8 Amended 66052
959.9 Amended 66052
959.10 (a) amended 66052
959.11 (a), (b) and (d) amended 66052
959.13 Revised 66052
959.14 Amended 66052
959.16 (b)(6) and (8) amended 66052
959.17 (e) amended 66052
959.20 (a) amended 66052
959.21 (a) and (b) amended 66052
959.22 (a) and (b) amended 66052
959.23 (a) and (c) amended 66052
959.24 Amended 66052
959.27 Amended 66052
959.30 Amended 66052
960.22 Amended 66052
961.3 (g) revised 66053
961.4 (a) amended 66053
962.2 (j) revised 66053
962.22 (b) amended 66053
963 Heading revised 66053
963.3 (a) amended 66053
963.7 Revised 66053
963.8 (c) amended 66053
963.22 Amended 66053
964.3 (a) amended 66053
964.4 Amended 66053
964.22 Amended 66053
965.2 Amended 66053
965.3 Amended 66053
965.8 (b) revised 66053
965.14 Amended 66053
966.3 (i) amended 66053
966.4 (b) amended 66053

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.61—3001.69c (Subpart C) Appendix A amended 39030
Appendix A amended 1392
Appendix A corrected 4493, 4494

Proposed Rules:

20 ..... 65153, 67017
111 ..... 45440, 46719, 57970
..... 11402
501 46728
502 ..... 46719, 46728
3001 ..... 46732, 47456, 71251

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

Chapter I Product categories final listing 48792
1.25 (e)(1) revised 67780
9.1 Table amended (OMB numbers) 39739, 40657, 44132, 48815, 48831, 50326, 53995, 56995, 69463, 69515, 71374
Table amended (OMB numbers) 3028, 7047
51.121 Added 57491
(e)(4) introductory text and (f)(2)(ii) revised 71225
51.122 Added 57496
51.322 (a)(1) and (2) revised 7462
51.323 (a)(2) removed; (a)(1), (3) and (b) revised 7463
51 Appendixes M and P corrected; CFR correction 5188
52 State implementation plan determinations 39515, 49434, 63986, 69557, 69559
Comment period extension 58637
State implementation plan determinations 754
52.50 (c)(72) added 49006
Redesignated as 52.69; new 52.50 added 70672
(c) table amended 9918
52.69 Redesignated from 52.50; heading and (a) revised 70672
52.70 (c)(28) added 63986
52.76 Existing text designated as (a); (b) added 50764
52.120 (c)(67)(i)(C) added 13353
52.123 (h) added 41350
52.124 (c) added 41350
52.127 Added 41350
52.128 Added 41350
Appendix A corrected 43449
52.170 Redesignated as 52.200; new 52.170 added 56827
52.200 Redesignated from 52.170; heading and (a) revised 56827
52.220 (c)(247)(i)(A)(*2*) added 39751
(c)(239)(i)(E)(*4*) added 40829
(c)(194)(i)(G) added 40831
(c)(244)(i)(A)(*2*) added 42721
(c)(187)(i)(C)(*2*) added 42723

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

(c)(241)(i)(A)(*3*) added **42726**
(c)(188)(i)(C)(*2*) added **43629**
(c)(197)(i)(C)(*2*), (225)(i)(A)(*3*) and (231)(i)(B)(*3*) added **43884**
(c)(242)(i)(A)(*1*), (248)(i)(A)(*2*), (B)(*1*) and (254)(i)(A)(*2*) added **43887**
(c)(240)(i)(A)(*5*) and (244)(i)(C) added **44135**
(c)(29)(vi)(B) and (164)(i)(C)(*3*) added **44398**
(c)(207)(i)(C)(*6*), (241)(i)(C) and (244)(i)(D) added **44790**
(c)(169) added **46662**
(c)(199)(i)(E)(*1*) added **46891**
(c)(184)(i)(C)(*2*) and (254)(i)(F) added **47182**
(c)(256) added **51835**
(c)(255)(i)(A)(*2*) added **60216**
(c)(231)(i)(B)(*4*), (248)(i)(C), (254)(i)(A)(*3*), (C)(*2*) and (255) added **63414**
(c)(225)(i)(F) added **66760**
(c)(187)(i)(B)(*2*) and (256)(i)(B)(*1*) added **67422**
(c)(194)(i)(H), (248)(i)(A)(*3*), (B)(*2*) and (257) added **67787**
(c)(24)(vii)(E), (52)(i)(C), (67)(iii)(C), (75)(iii), (101)(ii)(F) and (140)(ii)(B) added **70350**
(c)(254)(i)(G)(*1*) added **72197**
(c)(254)(i)(E) added **72200**
(c)(6)(xv)(A) and (254)(i)(H)(*1*) added 1521
(c)(127)(vii)(E), (187)(i)(C)(*3*) and (215)(i)(A)(*5*) added 2144
(c)(254)(i)(A)(*4*) added 2575
(c)(198)(i)(J)(*3*) added 2577
(c)(232)(i)(A)(*2*) added 3216
(c)(182)(i)(B)(*6*) and (199)(i)(A)(*8*) added 3852
(c)(254)(i)(B)(*1*) added 6226
(c)(245)(i)(C)(*1*) added 6228
(c)(6)(xvi) and (31)(xviii)(E) added 6230
(c)(230)(i)(D)(*1*) and (255)(i)(A)(*4*) added 6806
(c)(47)(i)(C), (65)(iii) and (137)(vii)(D) added; (c)(65) introductory text revised 11772
(c)(24)(vii)(E), (52)(i)(C), (67)(iii)(C), (75)(iii), (101)(ii)(F) and (140)(ii)(B) added 12257
(c)(187)(i)(B)(*3*), (D), (199)(i)(D)(*3*), (244)(i)(E) and (256)(i)(D) added 13353
(c)(254)(i)(D)(*3*), (255)(i)(C) and (260)(i)(A) added 13517
(c)(21)(vi)(B) correctly added; CFR correction 13916
(c)(249)(i)(A)(*2*) added 14393
(c)(254)(i)(C) and (D) added 14626
(c)(256)(D)(i)(D) added 15132
52.222 (a)(5) added **50766**
(a)(4) and (b)(2) added **50769**
52.320 (c)(83) added 6234
52.348 Existing text designated as (a); (b) added **38089**
(c) added 11782
52.349 Added 11782
52.369 Added 12013
(c) added 12023
52.370 (c)(78) added 12013
(c)(77) added 12018
(c)(75) and (76) added 12023
52.374 Revised **58643**
Table revised 12003, 12013
52.376 (a) and (b) revised; (d) added **53286**
(a) and (d) revised; (e) and (f) added **58643**
(a) and (d) revised; (e) and (f) removed 12003
(a) and (d) revised; (e) and (f) added 12014
52.385 Table amended 12024
52.420 Redesignated as 52.465; new 52.420 added **67410**
(c) table amended 8725, 12087
52.465 Redesignated from 52.420; heading and (a) revised **67410**
52.470 Redesignated as 52.515; new 52.470 added **67417**
52.473 Existing text designated as (a); (b) added **36585**
(c) added 9277
52.474 (c) added **36858**
52.515 Redesignated from 52.470; heading and (a) revised **67417**
52.520 (c)(95) added **56573**
(c)(101) added 994
52.570 (c)(49) added **45176**
Regulation at 63 FR 45176 withdrawn **52983**
(c)(49) added 13350
52.582 (c) added 4570
52.676 Added 12263
52.719 (a) revised **47434**
52.720 (c)(144) added 2581

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

(c)(145) added 2584
(c)(146) added 7790
(c)(147) added 8523
(c)(148) added 13348
52.725 (f) added **47434**
52.726 (s) added; eff. 8–31–98 ..... **35844**
(u) and (v) added 759
(m) removed 8523
52.770 (c)(123) added; eff. 8–31–98 ..... **35839**
52.777 (t) added **40044**
52.820 Redesignated as 52.824; new 52.820 added 7094
(d) table amended 12090, 13345
52.824 Redesignated from 52.820; heading and (a) revised 7094
52.870 Redesignated as 52.874 7097
Added 7098
52.874 Redesignated from 52.870; heading and (a) revised 7097
52.920 (c)(89) added **39741**
(c)(87) added **39743**
(c)(91) added **46898**
(c)(92) added **67591**
(c)(88) added 417
(c)(93) added 12751
52.938 Added **40046**
52.970 (c)(77) added **47431**
Redesignated as 52.999; new 52.970 added **63183**
(c) table amended 415
52.999 Redesignated from 52.970; heading and (a) revised **63183**
52.1020 (c)(39) added **42728**
Regulation at 63 FR 42727 withdrawn **53596**
52.1031 Table amended **42728**
52.1070 (c)(130) added **45399**
(c)(131) and (132) added **46663**
(c)(133), (134) and (135) added **47179**
Regulation at 63 FR 45399 withdrawn **54355**
(c)(140) added **59722**
(c)(136) added **67784**
(c)(130) added **70669**
(c)(141) added 3855
52.1072 (d) added **47179**
52.1073 (e) added **47179**
52.1075 (f) added **36858**
52.1076 Heading revised; existing text designated as (a); (b) added **67782**
52.1174 (q) removed **40371**
(q) added 7793
52.1220 (c)(46) added **54587**
(c)(47) added 5939
52.1320 (c)(106) added **36854**
(c)(107) added **38756**
(c)(108) added **45727**
(c)(109) added **65560**
(c)(111) added **67594**
(c)(110) added **70667**
52.1340 Added 3859
52.1420 Redesignated as 52.1426; new 52.1420 added 7094
52.1426 Redesignated from 52.1420; heading and (a) revised 7094
52.1520 (c)(53) and (58) added **67407**
52.1570 (c)(64) added **55953**
(c)(65) added **62954**
Regulation at 63 FR 55953 withdrawn **69193**
(c)(66) added 14833
52.1580 (b) revised **45401**
52.1581 Added **45401**
52.1582 (e) added **45402**
(f) added **45404**
52.1605 Table amended **62954**
Table amended 14834
52.1620 Redesignated as 52.1640; new 52.1620 added **37495**
(c) table amended **48109**
52.1623 Added **48109**
52.1640 Redesignated from 52.1620; heading and (a) revised **37495**
52.1670 (c)(94) added **46659**
52.1679 Table amended **65559**
52.1770 (c)(96) added **72193**
52.1820 (c)(30) added **45727**
52.1835 Added **45727**
52.1870 (c)(118) added 13073
52.1881 (a)(4) and (8) revised; (a)(13) added 13073
52.1885 (a)(8) added **36587**
(a)(9) added **37258**
(a)(10) added **44400**
52.1970 (c)(126) added **39747**
(c)(127) added 12759
52.2020 (c)(135) added **47436**
(c)(134) added **54052**
(c)(136) added **59887**
(c)(137) added **66758**
52.2026 (a)(1), (3), (4), (5), (b)(2), (3), (4), (6), (11), (12) and (13) removed **46667**
(a)(2) amended **46668**
Introductory text revised; (b)(1), (5), (7) through (10) and (14) removed **49441**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

Regulation at 63 FR 49441 withdrawn **56086**
52.2059 (b) added **47436**
52.2070 (c)(50) revised **67600**
52.2084 (a)(2) removed **67600**
Corrected 926
52.2086 (d) added **67600**
52.2120 (c) table amended **67586**
(e) added **70022**
52.2170 (c)(17) added **55807**
52.2220 (c)(162) added **54055**
(c)(163) added **70664**
(c)(164) added **72195**
52.2270 (c)(111) added; eff. 8-31-98 ..... **35841**
(c)(114) added **56085**
Regulation at 63 FR 35841 eff. 11-4-98 ..... **59471**
(c)(113) added **62947**
(c)(105) added 3847
(c)(112) added 4298
(c)(117) added 12762
52.2309 (e) added **62947**
52.2320 (c)(40) added **43627**
(c)(39) added 3224
(c)(41) added 14623
52.2420 (c)(128) added 3427
52.2425 (d) added **36858**
52.2470 (c)(78) added **64188**
58.31 (a) revised 3034
58.34 (a) revised 3034
58.41 (b) revised 3035
58 Appendix D amended 3030, 3035, 10391
Appendixes E and G amended 3036
59 Added **48815**
59.104 (a)(2) corrected **64761**
59.201—59.214 (Subpart C) Added **48831**
59.202 Corrected **52319**
59.204 (c)(1) corrected **52319**
59.208 (e)(1) corrected; (j) correctly designated **52319**
59.400—59.413 (Subpart D) Added **48877**
59.400—59.413 (Subpart D) Appendix D corrected **55175**
60 Authority delegation notices **50162, 50163, 70675**
Interpretation **53288**
Authority citation revised 7463
Authority citation delegation 14393
60.4 (c) table amended **45727**
(c) table corrected **49382, 56707**
60.7 (a) introductory text and (c) introductory text revised; (a)(2) removed; (f) amended; (f)(1), (2) and (3) added 7463
60.8 (d) revised 7463
60.13 (h) amended 7463
60.19 (b) revised 7463
60.33c (a)(2) amended; (d) and (e) added 9261
60.35c (a) and (b) added 9262
60.40a (b) revised **49453**
60.41a Amended **49453**
60.44a (a) introductory text and (c) introductory text revised; (d) added **49453**
60.45 (g) introductory text revised 7463
60.46a (i) added **49454**
60.47a (c) revised; (k) and (l) added **49454**
60.49a (i) amended; (j) added **49454**
60.40b (h) and (i) added **49454**
60.44b (a) introductory text, (b) introductory text, (c), and (e) introductory text revised; (l) added **49454**
60.48b (b) revised **49455**
60.49 (i) revised 7463
60.49b (v) added **49455**
(d), (e), (h) introductory text, (i), (j), (k)(2), (3), (m) introductory text, (n) introductory text, (1), (2), (q) introductory text, (2), (3), (r) and (s) revised 7464
60.49c (c), (d), (e) introductory text, (2), (3) and (11) revised; (j) added 7465
60.59a (e), (f) and (g) revised 7465
60.107 (a), (c) introductory text, (d) and (e) revised 7465
60.108 (e) revised 7466
60.271 (h) and (j) revised 10109
60.272 (a)(3)(iii) revised 10109
60.273 (b) revised; (d) added 10110
60.274 (b), (c), (f) and (g) revised 10110
60.276 (d) added 10110
60.270a—60.276a (Subpart AAa) Heading revised 10110
60.271a Amended 10110
60.273a (d) added 10111
60.274a (b), (c), (f) and (g) revised 10111
60.276a (g) added 10111

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

60.293 (c)(4), (5), (d)(3) introductory text and (3)(iii) revised 7466
60.403 (f) revised 7466
60.502 (e)(3) and (4) revised 7466
60.531 Amended 7466
60.533 (l)(1)(ii) revised **64874**
60.536 (f)(3) revised 7466
60.538 (e) revised **64874**
60.564 (h) introductory text revised 11541
60.714 (a) revised 7467
60.717 (c) and (d) introductory text revised 7467
60.751 Amended 9262
60.759 (a)(3)(iii) amended 9262
61 Authority delegation notice **70675**
Technical correction 7793
61.04 (a) amended; (b)(WW)(ii), (iii) and (vii) revised; (b)(WW)(viii) removed; (c) redesignated as (c)(8); (c) introductory text and (10) added **66059**
(b) introductory text revised 7467
61.139 (i)(1)(ii) and (j)(3) removed; (i)(1)(iv) and (v) redesignated as (i)(1)(ii) and (iv); new (i)(1)(ii), (j)(2) introductory text and (iv) revised 7467
61.142 (b)(6) revised 7467
61.144 (b)(8) revised 7467
61.147 (b)(8) revised 7467
61.163 (c)(3) revised 7467
61.204 Heading, introductory text, (c) and (d) revised; (e) added 5579
61.205 Heading, (a) and (b) added 5579
61.207 Revised 5579
62.02 (a) revised; (g) added **63201**
62.13 Added **63201**
(a) amended **66061**
62.100 (b)(3) and (c)(3) added **54058**
(b)(4) and (c)(4) added **63990**
62.103 Undesignated center heading and section added **54058**
62.104 Undesignated center heading and section added **63990**
62.1350—62.1352 Unesignated center heading and sections added **40373**
62.2600 (b)(5) and (c)(4) added **63416**
62.2607 Undesignated center heading and section added **63416**
62.3330—62.3332 Undesignated center heading and sections added **64632**
62.4845 (b)(4) and (c)(3) added **68397**
62.4975 Undesignated center heading and section added **68397**
62.5860—62.5862 Undesignated center heading and sections added **40052**
62.5870—62.5872 Undesignated center heading and sections added **43083**
62.6350 (b)(3) added **45727**
62.6600—62.6602 (Subpart BB) Added **36861**
62.8103 Undesignated center heading and section added **41429**
(c) added 6237
62.8870—62.8872 Undesignated center heading and sections added **42238**
62.9100 (b)(3) and (c)(3) added **59890**
(b)(4) added 13519
62.9150 Undesignated center heading and section added **59890**
62.9160 Undesignated center heading and section added 13519
62.9630—62.9632 Undesignated center heading and sections added 13077
62.10100 (b)(3) and (c)(3) amended **40048**
62.10150 Undesignated center heading and section added **40049**
62.10626 Undesignated center heading and section added **70026**
62.10627 Undesignated center heading and section added **70026**
62.10628 Undesignated center heading and section added **70027**
62.11610 Added **47437**
(d) correctly removed **54058**
62.14100—62.14109 (Subpart FFF) Added **63202**
63 Authority delegation notices **64632, 70675**
Clarification 5188
Technical correction 7793
63.8 (g)(5) amended 7468
63.9 (b)(4)(iv) removed 7468
63.10 (b)(2)(vii)(A), (B) and (C) added; (e)(3)(i)(C) removed 7468
63.14 (b)(19) and (c)(3) added **50326**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

(b) introductory text revised; (b)(20) and (e) added **53996**
(d)(1) revised 4300
63.99 (a)(3) added **38480**
(a)(3) revised **63993**
(a)(47) added **66061**
(a)(5)(ii) introductory text and (A) introductory text revised; (a)(5)(ii)(A)(*1*)(*i*) and (B)(*1*)(*i*) amended; (a)(5)(ii)(D) added 4300
(a)(5)(ii)(E) added 12766
63.111 Amended **67792**
63.145 (h) introductory text and (2) revised **67793**
63.110—63.152 (Subpart G) Appendix amended **67793**
63.360 (g)(1), (2) and (3) revised; (g)(4), (5) and (6) added **66994**
63.404 Introductory text and (b) revised; (c) and (d) added **39519**
63.440 (d)(3)(ii) introductory text and (B) revised **71389**
63.446 (i) correctly revised **42239**
(g) revised **49459**
63.447 (d)(1) correctly revised **42239**
63.460 (c) and (d) revised; (g) added **68400**
63.470 Removed **68400**
63.481 (d)(1)(ii) and (iii) revised; (d)(1)(iv) added 11542
63.482 (b) amended 11542
63.485 (a) revised; (v) added 11542
63.487 (b)(2) revised 11542
63.488 (a)(2) revised 11542
63.490 (e) introductory text revised; (e)(3) added 11542
63.491 (b)(4) introductory text revised; (b)(5) added 11542
63.495 (b)(3) revised; (e) added 11543
63.503 (a) introductory text, (2), (3), (c) introductory text, (2), (5)(i), (ii), (d)(5), (e)(3)(ii), (5), (g)(1), (2)(ii)(A), (iii)(B)(*1*), (*2*), (3), (5), (7)(ii)(A), (h)(1) introductory text, (3), (5), (6)(ii) introductory text, (7)(ii) introductory text, (i) introductory text, (1) introductory text, (iii), (2), (3), (5) introductory text, (i), (j)(2) introductory text, (ii)(B), (D), (E), (iv), (v), (k) introductory text, (4) introductory text, (m)(1)(i), (ii), (iii), (2)(i), (ii), (3)(i), (ii), (iii), (4)(ii) and (5)(i) through (iv) revised 11543
63.505 (e)(1)(ii) revised 11547
63.506 (e)(4)(ii)(H)(*1*) revised 11547
63.541 (c) added 4572
63.542 Amended **45011**
63.543 (g) revised **45011**
63.544 (g) redesignated as (h); new (g) added **45011**
63.546 (a) revised **45011**
(a) revised 4572
63.547 (b) revised **45011**
63.548 (e) introductory text revised; (k) added **45011**
63.640 (k)(2)(vii), (n)(1), (3), (6) and (o)(2) revised; (n)(8), (9) and (r) added **44140**
63.641 Amended **44141**
63.644 (a) amended **44141**
63.645 (f)(4) amended; (f)(5) revised **44141**
63.648 (e) revised **44141**
63.654 (a) and (h)(6) amended; (d)(1), (f) introductory text and (1)(i)(A) revised; (f)(6) added **44141**
63.640—63.679 (Subpart CC) Appendix amended **44142, 44143**
63.741 (f) and (i) amended; (j) revised **46532**
63.742 Amended **46533**
63.744 (b)(3) amended; (c)(5) added; Table 1 revised **46533**
63.745 (c)(1) through (4) and (g)(2)(v) revised **46533**
63.746 (b)(4)(ii)(C) added **46533**
63.750 (b)(2) and (i)(2)(iv) amended **46534**
63.751 (b)(6)(iv) redesignated as (b)(6)(v); (b)(6)(iii)(D), (c)(2) and (d) revised; new (b)(6)(iv) revised **46534**
63.752 (c)(2) introductory text, (d)(2), (3) and (e)(7) revised **46534**
63.753 (c)(1)(vi) and (d)(1)(vii) revised **46535**
63.801 Amended **71380**
63.803 (c)(1), (d), (f), (i), (j) and (l)(6) revised **71380**
63.800—63.808 (Subpart J) Table 2 revised **71381**
Tables 4 and 5 revised **71382**
Table 6 revised **71383**
63.1250—63.1261 (Subpart GGG) Added **50326**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

63.1290—63.1309 (Subpart III) Added **53996**
63.1311 (d)(1)(ii), (iii) and (4) revised; (d)(1)(iv) added 11547
63.1312 (b) amended 11547
63.1314 (b)(3) added 11547
63.1315 (a) introductory text revised; (a)(18) and (e) added 11547
63.1316 Heading, (b)(1)(i), (2)(i) and (ii) revised; (b)(1)(v) and (2)(v) added 11548
63.1321 (d) added 11549
63.1322 (b)(2) revised 11549
63.1323 (a)(2) revised 11549
63.1325 (e) introductory text revised; (e)(3) added 11549
63.1326 (b)(4) introductory text revised; (b)(5) added 11549
63.1330 (d) and (e) added 11549
63.1332 (a)(2), (3) introductory text, (c) introductory text, (3), (d)(5), (e)(3)(ii), (5), (g)(1), (2)(ii)(A), (7)(ii)(A), (h)(1) introductory text, (6)(ii) introductory text, (7)(ii) introductory text, (i)(1) introductory text, (iii), (2), (3), (5) introductory text, (i), (j)(2) introductory text, (ii)(B), (iv), (v), (k) introductory text, (4) introductory text and (l) introductory text revised 11549
63.1335 (e)(4)(ii)(L)(*1*) revised 11553
63 Appendix A amended **46535**
Appendix C amended **67794**
68 Delagation request **55954**
68.3 Amended 979
68.10 (d)(1) revised 979
68.42 (b)(3) revised; (b)(4) through (10) redesignated as (b)(5) through (11); new (b)(4) added 979
68.79 (a) revised 979
68.150 (e) added 979
68.151 Added 979
68.152 Added 980
68.160 (b)(1), (7) and (12) revised; (b)(14) through (18) added 980
68.165 (b) revised 980
68.170 (b) revised 980
68.175 (b) revised 980
68.180 (b) revised 980
69 Authority citation revised **49465**
69.51 (Subpart E) Added **49465**
70.5 (c) reinstated in part; CFR correction **64869**
70 Appendix A amended **40054, 50773**
Appendix A amended 8526
71.2 Amended 8262
71.3 (e) added 8262
71.4 (a) introductory text, (b), (f), (h) and (i) introductory text revised; (j) amended 8262
71.8 (a) and (d) revised 8263
71.9 (p) added 8263
71.11 (l)(7) added 8263
72.2 Amended **57498, 68404**
73.10 (b)(1) and (2) amended; (b) Table 2 and (3) revised; (c) and (d) removed **51714**
73.11 Removed **51765**
73.12 (b) removed **51765**
73.13 (b) removed **51765**
73.16 Removed **51765**
73.19 (a)(5) revised; (b) removed **51765**
73.21 (a), (b) and (c)(1) table amended; (a) table added; (c)(2) revised **51765**
73.27 (a)(3) removed; (a)(2), (b)(2) through (5) and (c)(2) through (5) revised **51765**
73.34 (c)(4) amended **68404**
73.50 (b)(2) redesignated as (b)(3); (b)(2) added **68404**
73.70 (b) revised **51766**
75.1 (a) revised **57498**
75.2 (a) revised; (c) added **57499**
75.4 (a) introductory text revised **57499**
75.6 (f) added **57499**
75.11 (d)(2) amended; (d)(3) added **57499**
75.12 Heading revised; (d) redesignated as (e); new (d) added **57499**
75.13 (d) added **57499**
75.17 Introductory text added **57499**
75.19 Added **57500**
75.20 (h) added **57506**
75.24 (d) revised **57506**
75.70—75.75 (Subpart H) Added **57507**
Appendix A amended **57512**
Appendixes C, D and F amended **57513**
79.57 (e)(2)(iii)(C) and (v)(B) removed; (e)(2)(iv)(B) and (vi)(B) revised **63792**
79.62 (d)(1)(ii)(B) revised **63793**
79.66 (e)(5)(iii)(B) amended **63793**
80 Technical correction **54753**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

80.29 (a)(1) introductory text revised **49465**
80.46 (f)(3) and (g)(9) revised **63793**
80.70 (m) amended **43049**
(k) revised **52104**
(n) added 10371
81 Attainment status determinations **64415**
81.305 Amended **37279, 39751**
81.306 Amended 11782
81.307 Amended **53287, 58644**
Amended 12004, 12014
81.310 Amended 995
81.313 Amended **59731**
Amended 12264
81.315 Amended **39435**
81.318 Amended **39436, 44145**
Corrected **42489**
81.323 Amended **39436**
81.326 Amended 3859
81.333 Amended **39436**
81.336 Amended **39437**
Amended 13074
81.345 Amended 3225
82 Determination **42728**
82.1 Revised **41642**
82.2 Removed **41642**
82.3 Amended **41642**
Regulation at 63 FR 41642 withdrawn in part **53290**
82.4 (d) and (e) revised; (f) through (k) and (l) through (s) redesignated as (g) through (l) and (n) through (u); (d), (e), new (j) and (t) revised; (f), (m), (l)(4), (t)(3) and (u)(3) added **41642**
Regulation at 63 FR 41642 withdrawn in part **53290**
(t)(2) table revised 1096
82.9 Heading, (a) and (c) revised; (g) added **41643**
Regulation at 63 FR 41643 withdrawn in part **53290**
82.12 (a)(3) added **41645**
Regulation at 63 FR 41643 withdrawn in part **53290**
82.13 (f)(2)(xvii), (g)(1)(xvii), (4)(xiv), (xv), (w), (x) and (z) added; (f)(3)(v) removed; (f)(3)(vi) through (xiii), second (g)(3), and (w) redesignated as (f)(3)(v) through (xii), (g)(4) and (y); (b), (f)(1)(iv), (2) introductory text, (xiv), new (3)(xi), (xii), (xiii), (g)(1)(vii), (xvi), (2), first (3), (h)(8), (i) introductory text, (m), (u) and (v) revised; **41646**
Regulation at 63 FR 41646 withdrawn in part **53290**
82.1—82.13 (Subpart A) Appendix C revised **41648**
Appendixes J and K added **41651**
Regulations at 63 FR 41648 and 41651 withdrawn in part **53290**
82.170—82.184 (Subpart G) Appendix E added; interim 3865
Appendix F added; interim 3868
Appendix G amended 10378
86 Heading revised **56995**
86.1 (b)(2) table amended; (b)(5) added **70694**
86.094–21 (i) removed **70694**
86.095–35 (i) revised **70694**
86.098–17 (b)(2) through (i) and (j) revised **70694**
86.099–17 Added **70694**
86.099–30 Added **70697**
86.884–8 (c)(4) table amended **56995**
(c)(4) table corrected **63967**
89 Heading revised **56995**
Nomenclature change **56996**
89.1 (a) and (b)(4) revised; (b)(3) amended; (b)(5) added **56996**
89.2 Amended **56996**
89.3 Amended **56997**
89.4 Removed **56997**
89.6 (b)(1) introductory text amended; (b)(1) table revised **56997**
89.101–96 Redesignated as 89.101 ..... **56995**
89.101 Redesignated from 89.101–96 ..... **56995**
89.102–96 Redesignated as 89.102 ..... **56995**
89.102 Redesignated from 89.102–96 ..... **56995**
Heading and (a) revised; (c) through (h) added **56997**
89.103–96 Redesignated as 89.103 ..... **56995**
89.103 Redesignated from 89.103–96 ..... **56995**
89.104–96 Redesignated as 89.104 ..... **56995**
89.104 Redesignated from 89.104–96 ..... **56995**
(a), (b) and (c) revised **56998**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

89.105–96 Redesignated as 89.105 56995
89.105 Redesignated from 89.105–96 56995
89.106–96 Redesignated as 89.106 56995
89.106 Redesignated from 89.106–96 56995
89.107–96 Redesignated as 89.107 56995
89.107 Redesignated from 89.101–97 56995
89.108–96 Redesignated as 89.108 56995
89.108 Redesignated from 89.108–96 56995
89.109–96 Redesignated as 89.109 56995
89.109 Redesignated from 89.109–96 56995
Revised 56999
89.110–96 Redesignated as 89.110 56995
89.110 Redesignated from 89.110–96 56995
(b)(9) and (10) amended; (b)(11) and (12) added 57000
89.111–96 Redesignated as 89.111 56995
89.111 Redesignated from 89.111–96 56995
89.112–96 Redesignated as 89.112 56995
89.112 Redesignated from 89.112–96 56995
(a), (b) and (d) revised; (e) and (f) added 57000
89.113–96 Redesignated as 89.113 56995
89.113 Redesignated from 89.113–96 56995
(b) revised; (c) added 57003
89.114–96 Redesignated as 89.114 56995
89.114 Redesignated from 89.114–96 56995
Heading, (a) and (b) heading revised 57003
89.115–96 Redesignated as 89.115 56995
89.115 Redesignated from 89.115–96 56995
89.116–96 Redesignated as 89.116 56995
89.116 Redesignated from 89.116–96 56995
(e) added 57003
89.117–96 Redesignated as 89.117 56995
89.117 Redesignated from 89.117–96 56995
(a) revised; (d) added 57003
89.118–96 Redesignated as 89.118 56995
89.118 Redesignated from 89.118–96 56995
Heading revised; introductory text and (e) added 57003
89.119–96 Redesignated as 89.119 56995
89.119 Redesignated from 89.119–96 56995
(d) revised 57004
89.120–96 Redesignated as 89.120 56995
89.120 Redesignated from 89.120–96 56995
(c) revised; (e) added 57004
89.121–96 Redesignated as 89.121 56995
89.121 Redesignated from 89.121–96 56995
89.122–96 Redesignated as 89.122 56995
89.122 Redesignated from 89.122–96 56995
89.123–96 Redesignated as 89.123 56995
89.123 Redesignated from 89.123–96 56995
89.124–96 Redesignated as 89.124 56995
89.124 Redesignated from 89.124–96 56995
(a)(3) added 57005
89.125–96 Redesignated as 89.125 56995
89.125 Redesignated from 89.125–96 56995
(b) revised 57005
89.126–96 Redesignated as 89.126 56995
89.126 Redesignated from 89.126–96 56995
(c) revised 57005
89.127–96 Redesignated as 89.127 56995
89.127 Redesignated from 89.127–96 56995
89.128–96 Redesignated as 89.128 56995

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

89.128 Redesignated from 89.128–96 ..... **56995**
89.129–96 Redesignated as 89.129 ..... **56995**
89.129 Redesignated from 89.129–96 ..... **56995**
89.130 Added **57005**
89.201–96 Redesignated as 89.201 ..... **56995**
89.201 Redesignated from 89.201–96 ..... **56995**
89.202–96 Redesignated as 89.202 ..... **56995**
89.202 Redesignated from 89.202–96 ..... **56995**
89.203–96 Redesignated as 89.203 ..... **56995**
89.203 Redesignated from 89.203–96 ..... **56995**
Revised **57006**
89.204–96 Redesignated as 89.204 ..... **56995**
89.204 Redesignated from 89.204–96 ..... **56995**
Revised **57007**
89.205–96 Redesignated as 89.205 ..... **56995**
89.205 Redesignated from 89.205–96 ..... **56995**
Revised **57008**
89.206–96 Redesignated as 89.206 ..... **56995**
89.206 Redesignated from 89.206–96 ..... **56995**
Revised **57008**
89.207–96 Redesignated as 89.207 ..... **56995**
89.207 Redesignated from 89.207–96 ..... **56995**
Revised **57008**
89.208–96 Redesignated as 89.208 ..... **56995**
89.208 Redesignated from 89.208–96 ..... **56995**
Revised **57009**
89.209–96 Redesignated as 89.209 ..... **56995**
89.209 Redesignated from 89.209–96 ..... **56995**
(a) revised **57009**
89.210–96 Redesignated as 89.210 ..... **56995**
89.210 Redesignated from 89.210–96 ..... **56995**
(b) and (c) revised **57009**
89.211–96 Redesignated as 89.211 ..... **56995**
89.211 Redesignated from 89.211–96 ..... **56995**
(a) and (c) revised **57009**
89.212–96 Redesignated as 89.212 ..... **56995**
89.212 Redesignated from 89.212–96 ..... **56995**
Revised **57010**
89.301–96 Redesignated as 89.301 ..... **56995**
89.301 Redesignated from 89.301–96 ..... **56995**
89.302–96 Redesignated as 89.302 ..... **56995**
89.302 Redesignated from 89.302–96 ..... **56995**
Revised **57010**
89.303–96 Redesignated as 89.303 ..... **56995**
89.303 Redesignated from 89.303–96 ..... **56995**
89.304–96 Redesignated as 89.304 ..... **56995**
89.304 Redesignated from 89.304–96 ..... **56995**
(c) revised **57010**
89.305–96 Redesignated as 89.305 ..... **56995**
89.305 Redesignated from 89.305–96 ..... **56995**
89.306–96 Redesignated as 89.306 ..... **56995**
89.306 Redesignated from 89.306–96 ..... **56995**
89.307–96 Redesignated as 89.307 ..... **56995**
89.307 Redesignated from 89.307–96 ..... **56995**
(b)(7) and (8) revised **57010**
89.308–96 Redesignated as 89.308 ..... **56995**
89.308 Redesignated from 89.308–96 ..... **56995**
(b) revised **57010**
89.309–96 Redesignated as 89.309 ..... **56995**
89.309 Redesignated from 89.309–96 ..... **56995**
(a)(3) removed; (a)(4)(iii), (5)(i)(C) and (D) revised **57010**
89.310–96 Redesignated as 89.310 ..... **56995**
89.310 Redesignated from 89.310–96 ..... **56995**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

(a)(1) and (c) revised 57010
89.311–96 Redesignated as 89.311 56995
89.311 Redesignated from 89.311–96 56995
89.312–96 Redesignated as 89.312 56995
89.312 Redesignated from 89.312–96 56995
(b)(2) removed; (c)(2), (d) and (f) revised; (g) added 57010
89.313–96 Redesignated as 89.313 56995
89.313 Redesignated from 89.313–96 56995
89.314–96 Redesignated as 89.314 56995
89.314 Redesignated from 89.314–96 56995
(a) and (b) revised 57011
89.315–96 Redesignated as 89.315 56995
89.315 Redesignated from 89.315–96 56995
89.316–96 Redesignated as 89.316 56995
89.316 Redesignated from 89.316–96 56995
(b) removed 57011
89.317–96 Redesignated as 89.317 56995
89.317 Redesignated from 89.317–96 56995
(g), (h) and (k) revised 57011
89.318–96 Redesignated as 89.318 56995
89.318 Redesignated from 89.318–96 56995
(c)(2) heading, (i) and (iv) revised 57011
(c)(2)(iv)(B) corrected 58101
89.319–96 Redesignated as 89.319 56995
89.319 Redesignated from 89.319–96 56995
(b)(1), (2), (c), (d) heading, introductory text, (2) and (6) revised 57011
89.320–96 Redesignated as 89.320 56995
89.320 Redesignated from 89.320–96 56995
(c) revised 57012
89.321–96 Redesignated as 89.321 56995
89.321 Redesignated from 89.321–96 56995
(c) revised 57012
89.322–96 Redesignated as 89.322 56995
89.322 Redesignated from 89.322–96 56995
(a) revised 57012
89.323–96 Redesignated as 89.323 56995
89.323 Redesignated from 89.323–96 56995
89.324–96 Redesignated as 89.324 56995
89.324 Redesignated from 89.324–96 56995
Revised 57013
89.325–96 Redesignated as 89.325 56995
89.325 Redesignated from 89.325–96 56995
89.326–96 Redesignated as 89.326 56995
89.326 Redesignated from 89.326–96 56995
89.327–96 Redesignated as 89.327 56995
89.327 Redesignated from 89.327–96 56995
89.328–96 Redesignated as 89.328 56995
89.328 Redesignated from 89.328–96 56995
(b)(1) and (2) revised 57013
89.329–96 Redesignated as 89.329 56995
89.329 Redesignated from 89.329–96 56995
89.330–96 Redesignated as 89.330 56995
89.330 Redesignated from 89.330–96 56995
(b)(2) revised; (b)(3) added 57013
89.331–96 Redesignated as 89.331 56995
89.331 Redesignated from 89.331–96 56995
89.301—89.331 (Subpart D) Appendix A amended 57013
89.401–96 Redesignated as 89.401 56995
89.401 Redesignated from 89.401–96 56995
(b) revised 57015
89.402–96 Redesignated as 89.402 56995

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

89.402 Redesignated from 89.402–96 ..... **56995**
Revised **57015**
89.403–96 Redesignated as 89.403 ..... **56995**
89.403 Redesignated from 89.403–96 ..... **56995**
89.404–96 Redesignated as 89.404 ..... **56995**
89.404 Redesignated from 89.404–96 ..... **56995**
(b) revised; (e) removed **57015**
89.405–96 Redesignated as 89.405 ..... **56995**
89.405 Redesignated from 89.405–96 ..... **56995**
(d), (e) and (f) revised **57015**
89.406–96 Redesignated as 89.406 ..... **56995**
89.406 Redesignated from 89.406–96 ..... **56995**
(b) and (c)(1) revised **57015**
89.407–96 Redesignated as 89.407 ..... **56996**
89.407 Redesignated from 89.407–96 ..... **56996**
(a), (c) and (d)(2) revised **57015**
89.408–96 Redesignated as 89.408 ..... **56996**
89.408 Redesignated from 89.408–96 ..... **56996**
(e) revised **57016**
89.409–96 Redesignated as 89.409 ..... **56996**
89.409 Redesignated from 89.409–96 ..... **56996**
89.410–96 Redesignated as 89.410 ..... **56996**
89.410 Redesignated from 89.410–96 ..... **56996**
(a), (b) and (c) revised **57016**
89.411–96 Redesignated as 89.411 ..... **56996**
89.411 Redesignated from 89.411–96 ..... **56996**
(d)(5) and (e)(5) revised **57016**
89.412–96 Redesignated as 89.412 ..... **56996**
89.412 Redesignated from 89.412–96 ..... **56996**
(c)(3) revised; (g)(1) removed **57016**
89.413–96 Redesignated as 89.413 ..... **56996**
89.413 Redesignated from 89.413–96 ..... **56996**
(d) revised; (e) removed **57016**
89.414–96 Redesignated as 89.414 ..... **56996**
89.414 Redesignated from 89.414–96 ..... **56996**
(a) revised **57017**
89.415–96 Redesignated as 89.415 ..... **56996**
89.415 Redesignated from 89.415–96 ..... **56996**
Revised **57017**
89.416–96 Redesignated as 89.416 ..... **56996**
89.416 Redesignated from 89.416–96 ..... **56996**
89.417–96 Redesignated as 89.417 ..... **56996**
89.417 Redesignated from 89.417–96 ..... **56996**
89.418–96 Redesignated as 89.418 ..... **56996**
89.418 Redesignated from 89.418–96 ..... **56996**
(b), (c), (d), (e) table, (f) introductory text, (1) and (g) revised **57017**
89.419–96 Redesignated as 89.419 ..... **56996**
89.419 Redesignated from 89.419–96 ..... **56996**
89.420–96 Redesignated as 89.420 ..... **56996**
89.420 Redesignated from 89.420–96 ..... **56996**
(a) introductory text revised **57018**
89.421–96 Redesignated as 89.421 ..... **56996**
89.421 Redesignated from 89.421–96 ..... **56996**
89.422–96 Redesignated as 89.422 ..... **56996**
89.422 Redesignated from 89.422–96 ..... **56996**
(d)(3) table amended **57016**
89.423–96 Redesignated as 89.423 ..... **56996**
89.423 Redesignated from 89.423–96 ..... **56996**
Removed **57018**
89.424–96 Redesignated as 89.424 ..... **56996**
89.424 Redesignated from 89.424–96 ..... **56996**
(a), (d)(6) and (e) revised; (d)(3) amended **57018**
89.425–96 Redesignated as 89.425 ..... **56996**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

89.425 Redesignated from 89.425–96 56996
Removed 57019
89.401—89.425 (Subpart E) Appendix B revised 57019
89.501–96 Redesignated as 89.501 56996
89.501 Redesignated from 89.501–96 56996
89.502–96 Redesignated as 89.502 56996
89.502 Redesignated from 89.502–96 56996
89.503–96 Redesignated as 89.503 56996
89.503 Redesignated from 89.503–96 56996
89.504–96 Redesignated as 89.504 56996
89.504 Redesignated from 89.504–96 56996
89.505–96 Redesignated as 89.505 56996
89.505 Redesignated from 89.505–96 56996
(e) revised 57020
89.506–96 Redesignated as 89.506 56996
89.506 Redesignated from 89.506–96 56996
(g) revised 57020
89.507–96 Redesignated as 89.507 56996
89.507 Redesignated from 89.507–96 56996
89.508–96 Redesignated as 89.508 56996
89.508 Redesignated from 89.508–96 56996
89.509–96 Redesignated as 89.509 56996
89.509 Redesignated from 89.509–96 56996
(a) and (b) revised 57020
89.510–96 Redesignated as 89.510 56996
89.510 Redesignated from 89.510–96 56996
89.511–96 Redesignated as 89.511 56996
89.511 Redesignated from 89.511–96 56996
89.512–96 Redesignated as 89.512 56996
89.512 Redesignated from 89.512–96 56996
(b) revised 57020
89.513–96 Redesignated as 89.513 56996
89.513 Redesignated from 89.513–96 56996
(e)(2) revised 57020
89.514–96 Redesignated as 89.514 56996
89.514 Redesignated from 89.514–96 56996
89.515–96 Redesignated as 89.515 56996
89.515 Redesignated from 89.515–96 56996
89.516–96 Redesignated as 89.516 56996
89.516 Redesignated from 89.516–96 56996
89.601–96 Redesignated as 89.601 56996
89.601 Redesignated from 89.601–96 56996
89.602–96 Redesignated as 89.602 56996
89.602 Redesignated from 89.602–96 56996
Amended 57020
89.603–96 Redesignated as 89.603 56996
89.603 Redesignated from 89.603–96 56996
(d) revised 57021
89.604–96 Redesignated as 89.604 56996
89.604 Redesignated from 89.604–96 56996
(c)(4) and (d) revised 57021
89.605–96 Redesignated as 89.605 56996
89.605 Redesignated from 89.605–96 56996
(a)(2)(i), (3)(vi) and (c) revised 57021
89.606–96 Redesignated as 89.606 56996
89.606 Redesignated from 89.606–96 56996
89.607–96 Redesignated as 89.607 56996
89.607 Redesignated from 39.607–96 56996
89.608–96 Redesignated as 89.608 56996
89.608 Redesignated from 89.608–96 56996

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

89.609–96 Redesignated as 89.609 ..... **56996**
89.609 Redesignated from 89.609–96 ..... **56996**
(d) revised **57021**
89.610–96 Redesignated as 89.610 ..... **56996**
89.610 Redesignated from 89.610–96 ..... **56996**
(b)(1) revised **57021**
89.611–96 Redesignated as 89.611 ..... **56996**
89.611 Redesignated from 89.611–96 ..... **56996**
(g) revised **57022**
89.612–96 Redesignated as 89.612 ..... **56996**
89.612 Redesignated from 89.612–96 ..... **56996**
89.613–96 Redesignated as 89.613 ..... **56996**
89.613 Redesignated from 89.613–96 ..... **56996**
89.903 (b) revised **57022**
89.905 (f) revised **57022**
89.906 (a)(3) introductory text, (iii)(D) and (b) revised **57022**
89.911 Revised **57022**
89.1003 (a)(3), (5), (6), (b)(4) and (7) revised **57022**
89.1007 (c) revised **57023**
90.1 (b)(5)(iv) amended; (b)(6) and (d) added; (c) revised 15235
90.3 Amended 15235
90.103 (a) introductory text, (3) and (5) revised; (a)(6), (7) and (8) added 15236
90.104 Introductory text and (d) through (h) added 15237
90.105 Revised 15238
90.106 (a) revised; (b)(3) added 15238
90.107 (d)(5), (9) and (10) amended; (d)(11) added 15238
90.108 (c) and (d) added 15238
90.113 Heading revised; (a) amended 15239
90.114 (c)(9) and (10) amended; (c)(11) and (f) added 15239
90.116 (d)(6) and (7) revised; (d)(8), (9) and (10) added 15239
90.117 (a) revised 15239
90.118 Heading revised; (e) added 15239
90.120 (c) added 15239
90.122 (a) amended; (d)(4) added 15239
90.201—90.211 (Subpart C) Added 15239
90.301 (a) revised; (d) added 15243
90.302 Revised 15243
90.308 (c) revised 15243
90.329 (c) added 15243
90.401 (c) and (d) added 15244
90.404 (b) amended 15244
90.409 (a)(3) revised 15244
90.410 (b) revised 15244
90.427 (a) revised 15244
90.503 (f)(3) and (4) revised 15244
90.509 (b) revised 15244
90.510 (b) revised 15244
90.512 (b) revised 15245
90.612 (g) revised 15245
90.701—90.713 (Subpart H) Added 15245
90.801—90.807 (Subpart I) Heading revised 15251
90.801 Existing text designated as (a); (b) through (g) added 15251
90.802 Introductory text amended 15251
90.803 (c) revised 15251
90.805 (a) revised 15251
90.808 Added 15251
90.905 (f) revised 15252
90.906 (a) introductory text and (3) introductory text revised 15252
90.909 (c) revised 15252
90.911 Revised 15252
90.1003 (a)(2), (4)(i), (b)(4) and (5) revised; (a)(4)(iii) and (iv) redesignated as (a)(4)(iv) and (v); new (a)(4)(iii) and (b)(6) added 15252
90.1103 (a) and (b) revised 15253
90.1104 (e) added 15253
90.1201—90.1207 (Subpart M) Added 15254
93.129 Added 13483
96 Added **57514**
96.42 (f) amended **71225**
123.1 (a) and (c) revised **45122**
123.2 Revised **45122**
123.22 (f) removed; (g) redesignated as (f) **45122**
123.24 (d)(8) removed **45122**
123.25 (a) introductory text and (37) revised **45122**
123.26 (e)(5) revised **45122**
123.42 Introductory text revised **45122**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

123.44 (d)(1), (2), (e) and (j) revised **45122**
123.45 (e) removed **45123**
123.62 (b)(3) and (c) revised **45123**
123.63 (a) introductory text and (4) revised **45123**
123.64 (a) introductory text and (b)(1) revised **45123**
136 Technical correction 13053
136.3 (e) corrected **38756**
Table 1C corrected; CFR correction **44146**
(a) introductory text and (b) introductory text revised; Table 1F and (b)(40) added **50423**
(b)(41) added; (e) Table II amended 4978
(a) introductory text corrected 10393
141 Authority citation revised **43846, 44526**
141.2 Amended **69463, 69515**
141.4 (a) revised **43846**
141.12 Revised **69463**
141.21 (f)(3) revised; (f)(5), (6)(i), (ii) and (8) amended **47107**
Regulation at 63 FR 47107 withdrawn **72200**
141.23 (a)(4)(iii), (k)(1) table, (2), (3)(i), (ii) introductory text revised **47107**
Regulation at 63 FR 47107 withdrawn **72200**
141.24 (e), (f)(14)(ii), (17)(i)(A), (B), (ii)(A), (h)(10)(ii), (13) introductory text, (i), (19)(i)(A) and (B) introductory text revised **47110**
Regulation at 63 FR 47110 withdrawn **72200**
141.30 (d) and (f) amended; (h) added **69464**
141.32 (a) heading, (1)(iii) introductory text and (c) amended; (a)(1)(iii)(E) and (e)(76) through (81) added **69464**
(e)(10) revised **69515**
141.40 (g) and (n)(11) introductory text revised; (n)(11) table amended **47112**
Regulation at 63 FR 47112 withdrawn **72200**
(l) amended 1498
141.50—141.54 (Subpart F) Heading revised **69465**
141.52 Table amended **69515**
141.53 Added **69465**
141.54 Added **69465**
141.60—141.65 (Subpart G) Heading revised **69465**
141.64 Added **69465**
141.65 Added **69465**
141.70 (d) added **69516**
141.71 (b)(6) revised **69516**
141.73 (a)(3) added; (d) revised **69516**
141.74 (a) introductory text and (2) amended; (a)(1) table revised **47113**
Regulation at 63 FR 47113 withdrawn **72200**
141.89 (a)(1)(i) and (ii)(B) amended **47113**
Regulation at 63 FR 47113 withdrawn **72200**
141.130—141.135 (Subpart L) Added **69466**
141.151—141.155 (Subpart O) Added (OMB numbers pending) **44526**
141.153 (d)(4)(v)(C) amended **69516**
141.154 (e) added **69475**
141.170—141.175 (Subpart P) Added **69516**
142 Authority citation revised **44535**
142.10 (d) revised **43846**
(b)(6)(vii) added **44535**
142.14 (d)(12) through (16) added **69475**
(a)(3), (4)(i) and (ii) introductory text revised; (a)(7) added **69519**
142.15 (c)(5) added **69520**
142.16 (f) added **44535**
(h) added **69475**
(b)(1) redesignated as (b)(1)(i); (b)(1)(ii), (3) and (g) added **69520**
142.20 Revised **43847**
142.40—142.46 (Subpart E) Heading revised **43847**
142.42 (c) revised **43847**
142.50 Revised **43847**
142.53 (c)(1) revised **43848**
142.55 (b) revised; (c) removed **43848**
142.56 Revised **43848**
142.72 Introductory text revised **44535**
142.78 (b) revised **44536, 71374**
142.201—142.208 (Subpart J) Removed **48077**
142.301—142.313 (Subpart K) Added **43848**
143.4 (b) table revised **47113**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

Regulation at 63 FR 47113 withdrawn **72200**
147.2555 Added 14803
148.18 (i) added **42184**
Regulation at 63 FR 35149 eff. date corrected to 11–4–98 ..... **42581**
159.159 (a) introductory text revised **41193**
180.2 (a) revised **57066**
180.103 (a) table amended **57072**
180.106 (a) table amended **57072**
180.110 (a) table amended **57072**
(b) revised 13103
180.114 Revised **57072**
180.115 Removed **57066**
180.118 Removed **57066**
180.121 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57073**
180.142 (a)(11) revised 11799
180.145 (a)(1) table amended **57073**
Regulation at 63 FR 57073 withdrawn in part 4311
180.148 Removed **57066**
180.158 Removed **57066**
180.159 Removed **57066**
180.162 Removed **57066**
180.170 Removed **57073**
180.171 Removed **57066**
180.173 (a) table revised **57073**
180.175 (b) table amended **53817**
(b) table amended 11792
180.176 Existing text designated as (a); (b) added **54369**
180.178 Revised **57073**
180.181 Existing text designated as (a); (a) heading added; table revised **57073**
180.183 (a) table amended **57073**
180.188 Removed **57073**
180.198 Heading and table revised **57073**
180.200 (a)(1) revised **57073**
(b) table amended 13096
180.204 Added **70030**
180.205 (b) table amended **54360**
180.206 (a) table amended **57074**
180.207 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.209 (a) table amended **57074**
180.211 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.213 (a)(1) table revised **57074**
180.214 Existing text designated as (a); (a) heading added; (a) table amended **57074**
180.215 Existing text designated as (a)(1) and (2); (a) heading added; (a)(1) table amended **57074**
180.217 Existing text designated as (a) and revised **57074**
180.219 Removed **57066**
180.220 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.222 (a) table amended **57075**
180.227 (a) heading and (1) designation added; (b) and (c) redesignated as (a)(2) and (3); new (a)(1) and (2) amended; new (a)(3) revised 789
(a)(1) table corrected 10234
180.229 Existing text designated as (a); (a) heading added; (a) table amended **57075**
180.231 Existing text designated as (a); (a) heading added **57075**
180.235 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.239 Table amended **57066**
180.242 (a)(1) table amended **57075**
(b) table amended **66996**
180.254 (a) table amended **57075**
180.258 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.261 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.262 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57075**
180.263 Table amended **57066**
Table corrected 3428
180.284 Revised **45182**
(b) table amended **67799**
180.292 Existing designated as (a); (a)(2) and (3) redesignated from 185.4850 and 186.4850; (d) added 425
180.293 (b) amended **42249**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

180.297 Existing text designated as (a); (a) heading added; (a) table amended **57075**
180.298 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57075**
180.301 (b) amended 11801
180.306 Removed **57066**
180.314 Table amended **57075**
180.317 Heading and (a) introductory text revised; (b) redesignated as (c); (a) heading and new (b) added **49487**
(b) table amended 6532
180.319 Table amended **57066**
Revised **57076**
180.320 Removed **57076**
180.321 Removed **57066**
180.325 Table amended **57066**
180.326 Removed **57066**
180.330 (a) table amended **57076**
180.341 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.346 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.347 Removed **57066**
180.349 (a) heading and (1) designation added; (a)(1) table amended; (b) redesignated as (a)(2) **57076**
180.350 (a) heading added; (a) table amended; (b) removed **57076**
180.353 (b) table revised **49472**
180.356 (b) table amended 14101
180.357 Removed **57066**
180.358 Removed **57076**
180.361 (b) table amended 13088
180.364 (a)(1) designation and (2) added **54066**
180.366 Removed **57076**
180.368 (b) table amended **48594, 66437**
(b) table amended 11789
180.370 Existing text designated as (a); (a) heading added; (a) table amended **57076**
180.374 Removed **57077**
180.384 Existing text designated as (a); (b) added **51847**
180.385 Existing text designated as (a); (a) heading added; (a) table amended **57077**
180.386 Removed **57077**
180.387 Removed **57077**
180.395 (b) table amended **65073**
180.410 (a) heading added; (a) table amended; (b) redesignated as (c); new (c) heading added **57077**
(a) table corrected 5191
180.412 (a) table and (c) table amended **54073**
180.414 (b) amended **54362**
180.416 Existing text designated as (a); (a) heading added; (a) table amended **57077**
(a) table corrected 5191
180.417 (b) amended **45406**
180.418 (a)(1) table amended **48579**
180.431 (b) table amended 14104
180.434 (b) table amended 3002, 13105
(a) table amended 13086
180.435 (a) existing text designated as (a)(1); (a)(2) added **45414**
180.438 (b) table amended 4590
180.442 (b) table amended **37286, 53820, 69205**
180.443 (b) table amended **37295, 38483, 49479, 66999**
180.448 (b) table amended **54599**
(a) revised **55547**
180.449 (b) table amended **42248, 53837**
180.452 (b) table amended **66458**
180.459 (a) heading added; (b) table transferred to (a) table **44152**
(a) table amended **66449**
180.462 (a) table amended; (b) removed **53844**
180.463 Existing text designated as (a)(1); (b) added 6548
(a)(2) redesignated from 180.1860 6549
Heading revised; (a)(1) table amended 14632
180.466 (b) revised **48116**
(b) table amended 3009
180.472 (a) table and (d) table amended **49852**
(b) amended **53829, 66447**
(a) table and (b) table corrected **66459**
(b) table amended 3044, 14106
180.474 (b)(1) table and (2) table amended **39034**
(b)(1) amended **53815**
(b)(1) table amended **66456**

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

(a)(1) designation and (2) added 1138
180.480 (b) table amended 4584
(a)(1) revised 7801
(b) table amended 15306
180.482 (b) table amended **52174, 65087, 70035**
(b) table amended 3431, 6542, 13094
180.484 (a) heading amended; (a) existing text designated as (a)(1); (a)(2) and (d) heading added **42256**
180.485 Revised **53835**
180.489 Revised **48607**
180.493 (a) revised **54593**
180.494 (b) revised **53301**
180.495 (a) revised **43637**
180.503 (b) table amended **66464**
(e) added 6539
180.507 (a)(1) designation and (2) added **55540**
(b) table amended **65084**
(b) table amended 4577, 14112
(a)(1) introductory text and table amended; (a)(2) redesignated as (a)(3) 13105
180.509 (b) table amended **48124**
180.510 Revised 10233
180.511 (b) table amended **41727**
180.515 (a) table amended **42246**
Revised **52180**
(b) revised **65078**
180.516 (a) revised **53826**
180.517 (a) introductory text revised; (a) table amended **38495**
180.527 Amended **50791**
180.533 (a) table amended **48615**
180.534 Added **36372**
Removed 10233
180.535 Added **41734**
Revised **52169**
180.536 Added **71026**
180.537 Amended **50784**
180.548 Added **69199**
180.549 Added 4308
180.550 Added 14639
180.1001 (d) table amended **43088, 53294**
(c) table and (e) table amended **48113, 51840**
(b)(1) revised; (b)(6) and (9) removed; (b)(7), (8) and (10) redesignated as (b)(6), (7) and (8); (d) table amended **57066**
(b)(1) amended **69208**
(b)(1) amended 44
(c) table and (e) table amended 10570
180.1010 Removed **57067**
180.1018 Removed **57067**
180.1020 (b) table amended **35846**
180.1030 Removed **57067**
180.1031 Removed **57067**
180.1034 Removed **57067**
180.1055 Removed **57067**
180.1059 Removed **57067**
180.1061 Removed **57067**
180.1079 Removed **57067**
180.1081 Removed **57067**
180.1085 Removed **57067**
180.1156 Revised 7804
Corrected 14099
180.1164 (d) added **67001**
180.1165 Added **39521**
180.1178 Added 8526
180.1183 Revised 13080
180.1187 Amended **51303**
180.1193 Added **43085**
180.1198 Added **37288**
180.1200 Added **38498**
180.1201 Added **49469**
180.1202 Added **48597**
180.1860 Redsignated in part as 180.463(a)(2); removed 6549
185.1650 Removed **57067**
185.3385 (a) table redesignated in part as 180.484 (a)(1) table **42257**
185.3600 Removed **57067**
185.4250 Removed **57067**
185.4300 Removed **57067**
185.4800 Removed **57067**
185.4850 Redesignated as 180.292(a)(2) 425
185.5000 Correctly revised; CFR correction 3045
185.5375 Removed **48607**
186.450 Removed **57067**
186.850 Removed **57067**
186.1650 Removed **57067**
186.2275 (a) table amended **51848**
186.2325 Removed **57077**
186.2450 Removed **57067**
186.3000 Removed **57077**
186.4850 Redesignated as 180.292(a)(2) 425
239 Added **57040**
239.13 (a), (b), (c), (f) and (g)(3) revised 4315
257.5 Amended **57044**
258.2 Amended **57044**
260.10 Amended **65937**
261 Identification and listing of hazardous waste solvents **64372**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

261.3 (a)(2)(iv)(C) and (c)(2)(ii)(B) revised; (c)(2)(ii)(E) added **42184**
Regulation at 63 FR 42184 eff. date in part corrected to 12–8–98 ..... **54355**
261.4 (a)(12) revised; (a)(18) and (19) added **42184**
Regulation at 63 FR 42184 eff. date corrected to 12–8–98 ..... **54355**
(g) added **65937**
(b)(15) added 6814
261.5 (j) revised **37782**
261.6 (a)(3)(iv)(C) amended; (a)(3)(v) removed **42185**
Regulation at 63 FR 42185 eff. date in part corrected to 12–8–98 ..... **54355**
261.31 (a) table amended **42185**
261.32 Table amended **42185**
261 Appendix VII amended **42186**
Appendix IX amended ...3872, 4594, 9443
262.34 (a)(1)(i) and (ii) revised 3388
264.1 (j) added **65938**
264.73 (b)(17) added **65938**
264.90 (e) and (f) added **56733**
264.101 (d) added **65938**
264.110 (c) added **56733**
264.112 (b)(8) and (c)(2)(iv) added **56733**
264.118 (b)(4) and (d)(2)(iv) added **56733**
264.140 (d) added **56733**
264.552 (a) revised **65939**
264.553 (a) revised **65939**
264.554 Added **65939**
264.1031 Amended 3389
264.1080 (f) and (g) added **49392**
(f)(2)(ii)(B)(*1*) revised **53847**
264.1080 (b)(5) revised 3389
264.1083 (a)(1)(i), (ii), (b)(1)(i) and (ii) added 3389
264.1084 (h)(3) revised 3389
264.1086 (e)(6) added 3389
265.1 (b) amended **65940**
265.90 (f) added **56734**
265.110 (c) and (d) added **56734**
265.112 (b)(8) and (d)(1)(iv) added **56734**
265.118 (c)(4), (5) and (d)(1)(iii) added **56734**
265.121 Added **56734**
265.140 (d) added **56734**
265.1080 (f) and (g) added **49399**
(f)(2)(ii)(B)(*1*) revised **53847**
(b)(5) revised 3390
265.1084 (a)(1)(i), (ii), (3)(ii)(D), (b)(1)(i), (ii) and (3)(ii)(D) added; (a)(3)(ii)(B), (iii) introductory text, (b)(3)(ii)(B) and (iii) introductory text revised 3390
265.1085 (h)(3) revised 3391
265.1087 (e)(6) added 3391
266 Authority citation revised **42186**
266.80 Revised **71229**
266.100 (b)(3) revised **42186**
Regulation at 63 FR 42186 eff. date corrected to 12–8–98 ..... **54355**
261 Appendix IX amended 4594
268.2 (c) revised **65940**
268.33 Regulation at 63 FR 35149 eff. date corrected to 11–4–98 ..... **42581**
268.34 (b) through (e) redesignated as (c) through (f); new (b) added **48127**
268.35 Added **42186**
268.39 (c) revised **51264**
268.40 Table amended **42187, 51265**
Regulation at 63 FR 24625 and 35149 withdrawn; regulation at 63 FR 28641 eff. date corrected to 11–4–98 ..... **42582**
(i) added **46334**
(g) and table amended; (i) added **47415**
268.48 Regulation at 63 FR 24626 withdrawn; regulation at 63 FR 28739 eff. date corrected to 11–4–98 ..... **42582**
(a) table amended **47417**
268.50 (g) added **65940**
270.1 (c) introductory text revised; (c)(7) added **56735**
270.2 Amended **65941**
270.11 (d) revised **65941**
270.14 (a) amended **56735**
270.28 Added **56735**
270.42 Appendix I amended **65941**
270.68 Added **65941**
270.73 (a) revised **65941**
270.79—270.230 (Subpart H) Added **65941**
271 State hazardous waste management program authorizations **36587, 44152, 44795, 49852, 50528, 50531, 52180, 56086, 56830, 56834, 57353, 57605, 57912, 67800**
State hazardous waste management program authorizations 4596, 9278, 10111

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 Chapter I—Con.

271.1 (j) Tables 1 and 2 amended **42188, 51267**
Regulation at 63 FR 35150 eff. date corrected to 11–4–98 ..... **42582**
(j) Table 1 amended **47418, 65947**
271.16 (e) added **56735**
271.21 (h) added **65947**
272 State hazardous waste management program authorizations 2144
273.6 Amended **71229**
279.10 (i) revised **37782**
279.74 (b) revised **37782**
281 Underground storage tank program authorizations **51528, 63793**
282.78 Added **38500**
282 Appendix A amended **38500**
300 Appendix B amended ..... **36862, 37069, 37782, 40188, 48449, 49860, 51530, 51853, 53848, 57608, 71597—71599**
Appendix B amended ... 2948, 6814, 11802
302.4 Table amended **42189, 69168**
302.6 (b)(1)(i) and (ii) revised; (b)(1)(iii) added **42189**
(c)(2) revised 13114
355.40 (a)(2)(vi)(B) revised 13115
370.20 Revised 7047
372 Clarification **52183**
406.22 Correctly revised; CFR correction **64417**
430.01 (i) corrected; (p) correctly revised **42239**
430.24 (b)(4)(i) and (d) corrected; (b)(4)(ii)(A) correctly revised **42239**
430.25 (b) table corrected **42239**
430.26 Introductory text corrected; (a)(2) introductory text correctly revised **42239**
430.27 Introductory text and (a)(2) correctly revised **42239**
430.56 Introductory text corrected **42239**
(a)(1) table, (2)(ii) table and (3)(ii) corrected **42240**
430.57 (a)(2)(ii) and (3)(ii) introductory text correctly revised **42240**
439 Authority citation revised **50424**
Technical correction 13053
439.0—439.2 Undesignated center heading revised **50424**
439.0 Revised **50424**
439.1 Revised **50425**
439.3 Added **50425**
439.4 Added **50425**
Corrected 10393
439.10 Revised **50426**
439.11 Revised **50426**
439.12 Revised **50426**
439.13 Revised **50426**
439.14 Revised **50426**
Table corrected 10392
439.15 Revised **50427**
Table corrected 10392, 10393
439.16 Revised **50428**
Table corrected 10393
439.17 Revised **50429**
Table corrected 10393
439.20 Revised **50430**
439.21 Revised **50430**
439.22 Revised **50430**
439.23 Revised **50430**
439.24 Revised **50431**
439.25 Revised **50431**
439.26 Revised **50431**
Table corrected 10393
439.27 Revised **50431**
439.30 Revised **50431**
439.31 Revised **50431**
439.32 Revised **50431**
439.33 Revised **50432**
439.34 Revised **50432**
Table corrected 10393
439.35 Revised **50433**
Table corrected 10393
439.36 Revised **50434**
Table corrected 10393
439.37 Revised **50434**
Table corrected 10393
439.40 Revised **50435**
439.41 Revised **50435**
439.42 Revised **50435**
439.43 Revised **50436**
439.44 Revised **50436**
439.45 Revised **50436**
439.46 Revised **50436**
439.47 Revised **50436**
439.50 Revised **50436**
439.51 Revised **50436**
439.52 Revised **50436**
439.53 Removed **50437**
439.54 Removed **50437**
439.55 Removed **50437**
439.56 Removed **50437**
439.57 Removed **50437**
439 Appendix A added **50437**
Appendix A corrected 10393
455 Tables 2 and 3 amended **39443**
501.1 (b) and (d) revised; (m) added **45123**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

501.2 Amended **45124**
501.12 (b), (d), (f)(1) introductory text, (iv), (v) and (2) revised; (f)(3) removed **45124**
501.14 (a), (b)(1)(i), (2), (3) and (c) revised **45124**
501.15 (a), (b) introductory text, (10)(i), (13), (14), (d) introductory text, (1) and (4) through (8) revised; new (d)(1)(i)(B) stayed **45125**
501.17 (a)(3)(i), (ii), (iii) and (b)(1) revised **45127**
501.21 Revised **45127**
501.32 (a) revised **45127**
710.33 (b) revised; (c) added **71600**
710.39 Revised **45953**
721.176 (a)(2)(i) amd (ii) revised **45955**
721.305 Added **44574**
721.435 Added **44574**
721.450 Added **44574**
721.526 Removed **48129**
721.528 Removed **48129**
721.555 Added **65709**
721.558 Added **44575**
721.567 Removed **48129**
721.630 Added **44575**
721.637 Removed **48129**
721.658 Removed **48129**
721.723 Removed **64876**
721.987 Added **44575**
721.988 Added **44575**
721.1525 Removed **64876**
721.1580 Added **44575**
721.1710 Added **44575**
721.1734 Added **44576**
721.1737 Removed **64876**
721.1740 Removed **64876**
721.1790 Revised **45955**
721.2077 Added **65710**
721.2078 Added **44576**
721.2079 Added **44576**
721.2081 Added **44576**
721.2082 Removed **48129**
721.2083 Added **44576**
721.2480 Added **44577**
721.2485 Added **44577**
721.2532 Added **44577**
721.2570 Added **44577**
721.2580 Added **44577**
721.2585 Added **44577**
721.3031 Added **44578**
721.3032 Added **44578**
721.3635 Added **44578**
721.4097 Added **44578**
721.4098 Added **44578**
721.5290 Added **44578**
721.5356 Added **44579**
721.5360 Added **44579**
721.5460 Added **65710**
721.5548 Added **44579**
721.5560 Added **44579**
721.5725 Removed **48129**
721.5740 (a) and (b)(1) revised **45956**
721.5775 Added **44579**
721.5965 Added **44580**
721.6175 Added **44580**
721.6176 Added **44580**
721.6197 Removed **48129**
721.6498 Added **44580**
721.7285 Added **44581**
721.7286 Added **44581**
721.7360 Removed **64876**
721.7785 Added **44581**
721.8153 Added **44581**
721.8450 (a)(2)(i) and (ii) revised **45956**
721.8660 Added **44581**
721.9490 Added **44581**
721.9516 Added **44581**
721.9517 Added **44581**
721.9595 Added **44581**
721.9661 Added **44581**
721.9663 Added **44581**
721.9685 Added **44581**
721.9719 Added **44581**
(a)(2)(i) corrected **62956**
721.9800 (a)(2)(i) revised **45956**
721.9969 Added **44581**
721.9973 Added **44581**
745.223 Amended **46674**
Regulation at 63 FR 46674 confirmed **55547**
745.225 (b)(4) added **46674**
Regulation at 63 FR 46674 confirmed **55547**
745.226 (a)(6) added **46674**
Regulation at 63 FR 46674 confirmed **55547**
745.238 Added **46674**
Regulation at 63 FR 46674 confirmed **55547**
745.330 Revised **41432**
763 Waiver **57251**

Proposed Rules:

1—799 (Ch. I) **40683**, 10064
9 ..... **66081**
51 ..... **45032, 46952**, 3890

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 40 *Proposed Rules:—Con.*

52 .....**35895, 35896, 36652, 36870, 37307, 38139, 39258, 39791—39793, 40073, 40872, 41220, 41221, 41756, 42308, 42782, 42783, 42784, 42786, 43654, 43897, 44192, 44208, 44211, 44213, 44417, 44820, 44822, 45032, 45443, 45779, 46209, 46732, 46733, 46953, 46954, 47216, 47217, 47458, 47459, 49053, 49056, 49058, 49517, 50180, 50823, 50824, 51325, 51882, 52213, 53350, 54089, 54645, 55812, 55983, 56127, 56292, 56394, 56590, 56881, 57086, 58678, 59754, 59923, 59924, 60256, 63428, 64228, 65567, 66776, 67439, 67638, 67639, 67817, 67818, 68415, 69589, 69594, 70086, 70359, 70709, 71807, 71815, 72222, 72223**
.....67, 464, 465, 818, 820, 1003, 1573, 1770, 2165, 2416, 2455, 2610, 2611, 3263, 3271, 3272, 3465, 3890, 3891, 3896, 3901, 3906, 3908, 4379, 4605, 5015, 6008, 6292, 6293, 6827, 7308, 7840, 8034, 8532, 8765, 9289, 9290, 9460, 9951, 9952, 10118, 10265, 10342, 11822, 12025, 12141, 12798, 12799, 13143, 13146, 13372, 13375, 13378, 13379, 13382, 13538, 13753, 14416, 14659, 14665, 15148

55.....**41991**

58.....**67818**
.....3056

60.....**45779, 50824, 57748, 67988**
.....2460, 5728, 10119, 11555

61 .....**57748, 66083**
.....2460

62 .....**36871, 40073, 40074, 40386, 41508, 42310, 43127, 45208, 47459, 54090, 59928, 63429, 64023, 64667, 68418, 69364, 70086**
..... 6294, 13539

63 .....**38544, 39543, 41508, 45036, 48890, 54646, 55178, 55812, 56707, 57748, 64024, 64668, 65725, 66083, 66084, 68833, 69251, 71408**
.....1780, 1880, 2460, 2611, 4379, 5251, 6946, 7149, 11555, 11560

65.....**57748**
.....2460

68.....**55983**

70 .....**40053, 40951**
.....8533

72 .....**41358, 45037**

73 .....**41358, 45037**

76.....**45032**

79.....**63807**
.....6294

80 .....**49317, 63807**

81 .....**39258, 39793, 44214, 53350, 57086, 58678, 64437, 69598**
..... 1003, 3272, 3908, 11822, 12025, 13146, 13383, 13384

82.....**41652, 42791, 64437**
..... 3272, 8038, 8043, 9290, 14417

83.....6008

86.....**38767, 39654, 48464, 48664**

90.....**66081**
.....5251

91.....5251

94.....**68508**
..... 10596

96.....**45032**

97 .....**52213, 56292**
..... 2416, 10118

98 .....**52213, 56394**
.....2416

131.....**36742**

135.....**48078**

136.....**36810**
..... 10596

141.....**37797, 41134, 44214, 47115, 69256**
.....1499, 2538

142 .....**37797, 47115, 69256**

144 .....**40586, 51882**

145 .....**40586, 51882**

146 .....**40586, 51882**

152.....**67834**

156.....**67834**

165 6588

180.....**37307, 40239, 48664, 55565, 56882**
.....1157, 8273

185.....**55565**

194.....14418

239 4379

247.....**45558**

260 .....**66101, 70233**
.....7158

261.....**37797, 38139, 42190, 66101, 70233, 70360**
.....7158, 8278

262 .....**66101, 67562, 71411**
.....4818

264.....**37309, 66101, 67562, 71411**

265 .....**37309, 67562, 71411**

268 .....**41536, 56886, 66101**

269.....**66101**

270 .....**67562, 71411**

271.....**36652, 44218, 49884, 50545, 52214, 56128, 56891, 57996, 66101**
.....4605, 9110, 9295, 10121, 14201

272 2166

281 .....**37309, 40683**

300.....**37085, 39545, 40247, 40685, 40687, 43898, 43900, 44218, 45780, 49321,**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

51882, 53005, 55985, 55986, 64668, 65161, 67834, 68712, 69032, 69601, 71052
2950, 7564
302 **69169**
1780
372 688, 8766, 8769, 8774
9957, 10597, 15324
435 5488, 10266
437 2280
441 **71054**
442 **50545**
455 **39444**
721 **48157, 49518, 57089**
4605
745 **39262, 46734, 52662, 57636, 59754, 64670, 70087, 70190**
2460, 5258, 7159
799 **54646, 54649**
1700 (Ch. VII) **45298**

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-999)

60-30 Regulation at 45 FR 86251 withdrawn in part **59642**
60-250 Regulation at 45 FR 86259 withdrawn; revised **59642**
60-741 Appendix C amended **59659**

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101-11 Regulation at 61 FR 41001 eff. date extended to 12-31-99 2858
101-20.105-3 Revised **35846**
101-37.1100—101-37.1109 (Subpart 101-37.11) Revised **43638**
101-43.000 Revised **41433**
101-43.600—101-43.603 (Subpart 101-43.6) Removed **41433**
101-43.4801 (d) revised; (e) amended **40058**
(c) removed; (d) and (e) redesignated as (c) and (d); new (c) table amended **41433**
Regulation at 63 FR 40058 withdrawn **65710**
101-44.400—101-44.403 (Subpart 101-44.4) Revised **56090**
101-47.103-4 Removed 5615
101-47.203-5 (b) and (c) revised 5615
101-47.204-1 (a) amended; (b) and (c) revised 5616
101-47.303-2 (e), (f) and (g) revised 5616
101-47.308-5 Removed 5617
101-47.308-6 Revised 5617
101-47.308-9 Heading, (a) through (g), (j) and (k) revised 5618
101-47.4905 Amended 5619
101-47.4906 Amended 5619
101-49.001-5 Introductory text revised 13701
101-42—101-49 (Subchapter H Appendix) Temporary Reg. H-29 eff. date extended to 1-15-00 1139

Chapter 105—General Services Administration (Parts 105-1—105-999)

105-60 Revised **56839**

Chapter 300—General (Parts 300-1—300-70)

300-2.22 Table revised 2433
300-3.1 Amended **66474**
Amended 2434

Chapter 301—Travel Allowances (Parts 301-1—301-99)

301-3 Removed **63419**
301-10.131—301-10.143 Undesignated center heading and sections added **63419**
301-10.303 Amended **47438**
Table amended 15324
301-11.18 Table revised **66475**
301-11.27 Revised **66475**
301-11.30 Revised **66475**
301-11.31 Added **66475**
301-12.1 Revised **66475**
Chapter 301 Appendix A revised **66475**
Appendix A amended 6549
Appendix A correctly revised 6550

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES JULY 1, 1998 THROUGH MARCH 31, 1999

TITLE 41

Chapter 303—Payment of Expenses Connected with the Death of Certain Employees (Parts 303–1—303–2)

303–1 Removed 2434
303–2 Removed 2434
303–70 Added 2434

Proposed Rules:

101–25 6589
101–31 6589
101–35 ..... **66102**
101–38 6589
101–42 ..... **68136**
101–43 ..... **68136, 71686**
101–44 ..... **42310**
101–47 ..... **42792**
Ch. 300 ..... **45781**
300–80 6589
Ch. 303 ..... **45781**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

50.401 Revised **66062**
50.402 Revised **66062**
50.403 Amended **66062**
50.404 (a) introductory text revised; (b) amended **66062**
50.405 Amended **66063**
50.406 (a), (c), (d) and (g) revised; (e) amended **66063**
68a Added **58312**

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

400.200 Corrected **52611**
Amended **68690**
402 Added **68690**
403 Technical correction **52610**
405 Technical correction **52614**
405.400—405.455 (Subpart D) Added **58901**
405.517 Revised **58905**
405.520 Added **58905**
409 Comment period reopening **65560**
409.10 (a)(1) through (6) amended; (a)(8) added 3648
409.20 (a) introductory text and (1) through (6) amended; (a)(8) added 3648
410 Technical correction **52610**
Comment period reopening **65560**
410.1 (a) amended **58905**
410.32 (d)(7) correctly designated **53307**
(a)(3) amended **58906**
410.40 Revised 3648
410.41 Added 3649
410.59 Added **58906**
410.60 Revised **58906**
410.61 Heading and (a) through (d) revised **58907**
410.62 Heading and (a)(3) revised; (d) added **58907**
410.74 Added **58907**
410.75 Added **58908**
410.76 Added **58908**
410.77 Added **58909**
410.78 Added **58909**
410.150 (b)(15) and (16) added **58910**
410.152 (a)(1)(v) revised **58910**
411 Technical correction **52610**
Comment period reopening **65560**
412 Technical correction **52614**
Hospital wage data revisions **64191**
Notice 9378
413 Technical correction **52614**
Comment period reopening **65560**
413.125 Existing text designated as (a); (b) added **58910**
413.333 Corrected **53307**
414.1 Amended **58910**
414.20—414.62 Designated as Subpart B and heading added **58910**
414.22 Introductory text revised; (b)(5) added **58910**
414.32 Heading and (b) revised **58911**
414.34 Heading revised; (a)(2)(iii) added **58911**
414.52 Heading and introductory text revised; (d) added **58911**
414.56 Revised **58911**
414.65 Added **58911**
415.110 Revised **58912**
417.600 Revised **52611**
417.602 Reinstated **52611**
417.604 Reinstated **52611**
417.605 Reinstated **52611**
417.606 Reinstated **52611**
417.608 Reinstated **52611**
417.609 Reinstated **52611**
417.610 Reinstated **52611**
417.612 Reinstated **52611**
417.614 Reinstated **52611**
417.616 Reinstated **52611**
417.617 Reinstated **52611**
417.618 Reinstated **52611**
417.620 Reinstated **52611**
417.622 Reinstated **52611**
417.624 Reinstated **52611**
417.626 Reinstated **52611**
417.630 Reinstated **52611**
417.632 Reinstated **52611**
417.634 Reinstated **52611**
417.636 Reinstated **52611**
417.638 Reinstated **52611**
417.800 Corrected **52611**
422.50—422.80 (Subpart B) Heading corrected **52611**
422.50 (a) introductory text and (1) corrected **52611**
422.54 (d)(2)(i) corrected **52611**
422.56 (d) corrected **52612**
422.60 (a)(1), (b)(1), (c)(1) and (e)(4)(i) corrected; (f) correctly added **52612**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 42 Chapter IV—Con.

(e)(4)(i) corrected **54526**
(a)(1) revised 7980
422.62 (b) introductory text, (c), (d) heading, (1) and (2) introductory text corrected **52612**
422.66 (f) correctly added **52612**
422.74 (b)(3) corrected **52612**
422.80 (c)(3), (d), (e)(1)(iv), (3)(i) and (f) corrected **52612**
422.110 (c) corrected **52612**
(c) revised 7980
422.111 (d) revised 7980
422.112 Correctly revised **52612**
Revised 7980
422.202 Revised 7981
422.204 (c) revised 7982
422.250 (b) correctly revised **52612**
422.268 (b) corrected **52613**
422.308 (b) correctly designated as (b)(1); (b)(2) correctly added **52613**
422.310 (c)(4) corrected **52614**
422.502 (a)(2), (3)(i) and (4) corrected; (m) correctly designated as (l)(4) **52614**
(b)(1) revised 7982
422.550 (b)(1) corrected **52614**
422.608 Heading corrected **52614**
422.612 (a)(1), (b) heading and introductory text corrected **52614**
422.616 (a) corrected **52614**
422.620 (a) corrected **52614**
422.622 (c)(1)(i) corrected **52614**
422.752 (a)(6) corrected **52614**
424 Comment period reopening **65560**
424.20 Corrected **53307**
424.24 (a)(2) correctly revised **53307**
(c) introductory text, (1)(ii), (iii), (3)(i), (ii), (4), (f)(2) and (3) revised **58912**
424.124 (c)(2) amended 3649
440.160 Revised **64198**
441.151 (b) and (c) revised; (d) added **64198**
483 Comment period reopening **65560**
483.20 (b)(2) introductory text revised **53307**
484.11 Added; interim 3763
484.18 (c) revised 3784
484.20 Added; interim 3763
484.55 Added 3784
485.705 Revised **58912**
485.711 (b)(3) revised **58913**
488 Authority citation revised 3763
488.68 Added; interim 3763
488.402 (f)(5) revised 13353
488.408 (d)(1)(iv), (e)(1)(iv) and (2)(ii) revised 13360
488.430 (a) revised 13360
488.432 Heading, (a)(2), (b) and (c) revised 13360
488.434 (a)(2)(iii), (v) and (vi) revised 13360
488.438 (a) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (i) and (ii); new (a)(2) added; (c) and (d) revised 13360
488.440 (a), (b) introductory text, (c), (d), (e) introductory text, and (f)(1), (g), (h) revised 13361
448.442 (a) heading revised; (b) through (f) redesignated as (c) through (g); new (b) added 13361
488.454 (a) introductory text revised; (d) redesignated as (e); new (d) added 13361
489 Comment period reopening **65560**
493.1202 Heading amended **55034**
493.1203 Heading amended **55034**
493.1443 (b)(3)(ii) introductory text and (C) amended **55034**

Chapter V—Office of Inspector General–Health Care, Department of Health and Human Services (Parts 1000—1999)

1001.102 (b)(4) revised **57918**
1001.2001 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added **57918**

Proposed Rules:

5 ..... **58679**
36 14560
51c **58679**
63 ..... **58336**
400—499 (Ch. IV) 69
405 ..... 3474, 14666
409 ..... **63429**
..... 1784, 12277
410 ..... **63429**
..... 1784, 6827, 12277
411 ..... **63429**
..... 1784, 12277
412 ..... **63429**
..... 1784, 12277
413 ..... **63429**
..... 1784, 12277
414 6827

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

416 ..... **52663, 63430**
..... 1785, 12278
419 ..... **63429**
..... 1784, 12277
424 6827
447 10412
457 10412
476 6827
488 ..... **52663, 63430**
..... 1785, 12278
489 ..... **63429**
..... 1784, 12277
498 ..... **63429**
..... 1784, 6827, 12277
1001 ..... **68223**
1003 ..... **63429**
..... 1784, 12277

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4.350 (b), (c)(3) and (6) revised 13363
4.352 (b)(2) amended 13363

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2200.0–7 (b) revised; eff. 11–2–98 ..... **52617**
2210 Removed; eff. 11–2–98 ..... **52617**
2240 Removed; eff. 11–2–98 ..... **52617**
2250 Removed; eff. 11–2–98 ..... **52617**
2270 Removed; eff. 11–2–98 ..... **52617**
3100 Authority citation revised **52952**
3100.4 Added; eff. 11–2–98 ..... **52952**
3150 Authority citation revised **52952**
3152.6 (b) revised **52952**
3160 Authority citation revised **52952**
3162.8 Removed; eff. 11–2–98 ..... **52952**
3180 Authority citation revised **52952**
3181.2 Amended; eff. 11–2–98 ..... **52953**
3195 Regulation at 63 FR 40178 confirmed **66762**
3200 Authority citation revised **52953**
3255.13 Added; eff. 11–2–98 ..... **52953**
3255.14 Added; eff. 11–2–98 ..... **52953**
3255.15 Added; eff. 11–2–98 ..... **52953**
3500 Authority citation revised **52953**
3500.5 Revised; eff. 11–2–98 ..... **52953**
3500.5–1 Added; eff. 11–2–98 ..... **52953**
3500.5–2 Added; eff. 11–2–98 ..... **52953**
3510 Authority citation revised **52954**
3514.5 Revised; eff. 11–2–98 ..... **52954**
3520 Authority citation revised **52954**
3524.5 Revised; eff. 11–2–98 ..... **52954**
3530 Authority citation revised **52954**
3534.5 Revised; eff. 11–2–98 ..... **52954**
3540 Authority citation revised **52954**
3544.5 Revised; eff. 11–2–98 ..... **52954**
3550 Authority citation revised **52954**
3554.5 Revised; eff. 11–2–98 ..... **52954**
3580 Authority citation revised **52954**
3585.5–9 Revised; eff. 11–2–98 ..... **52954**
3590 Authority citation revised **52954**
3590.1 Removed; eff. 11–2–98 ..... **52954**
3600 Authority citation added **52954**
3600.0–8 Added; eff. 11–2–98 ..... **52954**
3602.2 (a) amended; eff. 11–2–98 ..... **52954**
3800 Authority citation revised **52954**
3802.6 Revised; eff. 11–2–98 ..... **52954**
3860 Authority citation revised **52955**
3862.9 Added; eff. 11–2–98 ..... **52955**
4300 Revised **55550**

Proposed Rules:

4 ..... 1930, 3262
39 ..... **67834**
428 ..... **64154**
..... 2870, 12141
3100 ..... **66776, 66840**
..... 2166, 14666
3106 ..... **66776**
..... 2166
3110 14666
3120 14666
3130 ..... **66776, 66840**
..... 14666
3140 14666
3150 14666
3160 ..... **66776, 66840**
..... 14666
3170 14666
3180 14666
3110 ..... **66840**
3120 ..... **66840**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 43 *Proposed Rules:—Con.*

3130.....2166
3140.....**66840**
3150.....**66840**
3160.....2166
3170.....**66840**
3180.....**66840**
3400.....12142
3420.....12142
3800.....6422, 9960

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

61.9 Revised.....13116
64.6 Table amended...**54370, 54372, 55957, 59236, 63797, 70036, 70038**
Table amended.....4979, 7505, 9919
65.4 Flood elevation determinations.....**54374, 54377, 55035, 58316, 58319, 64418, 64419, 67002, 67004**
Flood elevation determinations.....1522, 3045, 7107, 7109, 7506, 11379, 11381, 11383, 11385
67.11 Flood elevation determinations.....**54378, 55038, 58322, 64421, 67005**
Flood elevation determinations.....1523, 3045, 3047, 7110, 11386, 11388
206.200 (b) revised; interim.....**64425**
206.201 (i) and (j) revised; interim.....**64425**
206.202 Revised; interim.....**64425**
206.207 Reinstated; CFR correction.....**71026**
206.228 (a)(2)(i) revised; interim.....**64426**
354 Revised; interim.....**69003**

Proposed Rules:

61.....3909
62.....**63431, 63432**
67.....**54427, 55072, 58338, 64441, 67026**.....1573, 3056, 11403, 11409
77.....8048, 10181
80.....8048, 10181
81.....8048, 10181
82.....8048, 10181
83.....8048, 10181
152.....8048, 10181
206.....3910
207.....8048, 10181
220.....8048, 10181
221.....8048, 10181
222.....8048, 10181
301.....8048, 10181
303.....8048, 10181
306.....8048, 10181
308.....8048, 10181
320.....8048, 10181
324.....8048, 10181
325.....8048, 10181
328.....8048, 10181
333.....8048, 10181
336.....8048, 10181

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Service (Parts 1—199)

60.12 (a) amended.....9922
144.101 Revised; interim.....**57558**
144.102 (b) revised; interim.....**57558**
146.101 (a) revised; (b)(2), (3) and (4) redesignated as (b)(3), (4) and (5); new (b)(2) added; interim.....**57559**
146.130 Added; interim.....**57559**
148.101 Revised; interim.....**57561**
148.102 (a) heading, (2) and (b) revised; interim.....**57562**
148.170 (Subpart C) Added; interim.....**57562**

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

276 Added; interim.....**57926**

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)

301.1 Amended; interim.....6247
302 Nomenclature change; interim.....6247

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

302.12 (a)(1)(i) removed; (a)(1)(ii) and (iii) redesignated as (a)(1)(i) and (ii); interim 6247
302.31 (a)(2), (b) and (c) amended; (a)(3) removed; interim 6247
302.32 Revised; interim 6247
302.34 Amended; interim 6248
302.35 (c)(1), (2) and (4) amended; (c)(5) and (d) added; interim 6248
302.50 Revised; interim 6248
302.51 Revised; interim 6248
302.52 (b)(5) amended; interim 6249
302.54 (a)(1) amended; interim 6249
302.57 Removed; interim 6249
302.70 (a) introductory text, (d)(1) and (2) amended; interim 6249
(a)(5)(iii) introductory text and (B) revised; (a)(5)(iii)(C) added 11809
302.75 (b)(4) amended; interim 6249
302.80 (a) amended; interim 6249
303 Nomenclature change; interim 6249
303.3 (b)(1) amended; interim 6249
303.5 (d)(1) and (e)(3) revised; (d)(2) and (e)(1) amended; interim 6249
(g) revised 11809
303.7 (a)(1), (b)(2), (3), (6), (c)(4), (7)(iii), (iv) and (v) amended; (d)(3) revised; interim 6250
303.8 Revised; interim 6250
303.11 (b)(1) revised; (b)(2) removed; (b)(3) and (4) redesignated as (b)(2) and (3); (b)(3)(iv) added 11817
(b)(5) through (12) redesignated as (b)(4) through (11); (b)(2), (4), (5), new (b)(4), new (9), new (10), (c) and (d) revised; new (b)(12) added; 11818
303.15 (a)(1)(i), (ii), (2), (b) introductory text, (2) and (c)(1) amended; interim 6250
303.20 (b)(3) amended; interim 6250
303.21 Removed; interim 6250
303.30 (b) removed; (c) redesignated as (b); new (b) amended; interim 6250
303.31 (c) introductory text amended; (c)(1) and (2) removed; interim 6250
303.70 (c)(1), (2), (d)(1) and (2) amended; interim 6250
(e)(1)(i), (ii), (2)(i), (3) and (4)(i) amended; (e)(1)(iii) added; interim 6251
303.71 (b), (f) and (g) amended; interim 6251
303.72 (a)(1), (2), (h)(1), (3) and (4) amended; interim 6251
303.80 Removed; interim 6251
303.100 (a)(9), (c)(2), (d)(1)(iv), (v), (2), (e), (g) removed; (a)(10), (c)(3), (d)(1)(i), (ii), (iii), (f), (h) redesignated as (a)(9), (c)(2), (d)(2), (3), (4), (e), (f); heading, (a)(1), (b)(1), (2)(i), (c) introductory text, (1) introductory text and new (e)(1) introductory text, (i), (ii), (vi), (vii), (viii) and (2) amended; (d) introductory text, (1), new (e)(1)(ix) and (3) revised; (d)(5) added; interim 6251
(i) redesignated as (g); new (g) amended; interim 6252
303.101 (a) revised; (c)(4) and (5) removed; (c)(6) redesignated as (c)(4); (b)(1) and new (c)(4) amended; interim 6252
303.102 (g)(1)(i), (ii), (iii) removed; (c), (d), (e), (g)(1) introductory text and (iv) redesignated as (d), (e), (c), (g)(1)(i) and (ii); new (d)(1) designation and (2) removed; (a)(1) and new (d), (g)(1)(i) and (ii) amended; interim 6252
303.103 Removed; interim 6252
303.105 Removed; interim 6252
303.109 Added 15136
304 Nomenclature change; interim 6252
304.12 (a) amended; interim 6252
304.20 (b)(1)(viii)(C) and (ix)(D) removed; (b)(1)(viii)(D) and (ix)(D) redesignated as (b)(1)(viii)(C) and (ix)(D); (b)(1)(ix)(C) and (3)(iv) amended; interim 6252
(b)(2)(vi), (vii) and (viii) revised 11810
304.21 (a) introductory text amended; interim 6252
304.26 Revised; interim 6252
304.29 Amended; interim 6253
304.40 (a)(2) and (b)(2) amended; interim 6253

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 45 Chapter III—Con.

305 Removed; interim 6253

Chapter XII—Corporation for National and Community Service (Parts 1200—1299)

1201 Authority citation revised **64199**
1201.2 (b) and (c) added **64199**
1207 Redesignated as Part 2551 14115
1208 Redesignated as Part 2552 14126
1209 Redesignated as Part 2553 14135

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1309 Added 5945
1309.10 OMB number pending 5946
1309.40 OMB number pending 5949
1309.41 OMB number pending 5949

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1606 Revised **64643**
1623 Revised **64648**
1625 Removed **64646**

Chapter XXV—Corporation for National and Community Service (Parts 2500—2599)

2500 Removed **66063**
2501 Removed **66063**
2502 Removed **66063**
2503 Removed **66063**
2504 Removed **66063**
2505 Removed **66063**
2506 Removed **66063**
2551 Redesignated from Part 1207 and revised 14115
2552 Redesignated from Part 1208 and revised 14126
2553 Redesignated from Part 1209 and revised 14135
Added; interim 4316

Proposed Rules:

5 14668
60 ..... **71255**
61 ..... **58341, 71819**
92 10412
95 10412
400 1159
401 1159
1224 10872
1302 14202
1309 6013
1628 ..... **56591**
1635 ..... **56594**
1641 5728
2508 10872

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.03–15 (h)(3) revised 4984
1.03–45 Revised 4984
2.10–1 Regulation at 62 FR 19232 confirmed **59474**
2.10–5 Regulation at 62 FR 19232 confirmed; (c)(2) revised **59474**
2.10–25 Regulation at 62 FR 19232 confirmed; amended **59474**
2.10–101 Regulation at 62 FR 19232 confirmed **59474**
10.302 (a) introductory text revised; (c) and (d) amended; (e), (f) and (g) added 4984
10.303 (e) revised 4984
15.1050 Added **57255**
28.130 (d) amended; eff. 11–2–98 ..... **52813**
30.01–5 Regulation at 61 FR 25286 confirmed **52813**
30.01–6 Regulation at 61 FR 25286 confirmed **52813**
31.01–1 Regulation at 61 FR 25286 confirmed **52813**
31.05–1 Regulation at 61 FR 25286 confirmed **52813**
31.36–1 (Subpart 31.36) Regulation at 61 FR 25286 confirmed **52813**
32 Authority citation revised **71764**
32.15–15 (a) and (d) revised; (e) and (f) added; interim; eff. 12–11–00 ..... **71764**
33 Regulation at 61 FR 25286 confirmed **52813**
35.07–10 Regulation at 61 FR 25286 confirmed **52813**
35.10–1 Regulation at 61 FR 25286 confirmed **52813**
35.10–5 Regulation at 61 FR 25287 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

35.10–6 Regulation at 61 FR 25287 confirmed **52813**
35.10–7 Regulation at 61 FR 25287 confirmed **52813**
35.10–9 Regulation at 61 FR 25287 confirmed **52813**
35.10–20 Regulation at 61 FR 25287 confirmed **52813**
35.10–25 Regulation at 61 FR 25287 confirmed **52813**
35.10–30 Regulation at 61 FR 25287 confirmed **52813**
35.30–50 Regulation at 61 FR 25287 confirmed **52813**
35.30–55 Regulation at 61 FR 25287 confirmed **52813**
35.40–1—35.40–40 (Subpart 35.40) Regulation at 61 FR 25287 confirmed **52813**
35.40–40 Regulation at 61 FR 25287 confirmed **52813**
70.05–10 Regulation at 61 FR 25287 confirmed **52813**
70.10–3 Regulation at 61 FR 25287 confirmed **52813**
70.10–34 Regulation at 61 FR 25287 confirmed **52813**
70.10–35 Regulation at 61 FR 25287 confirmed **52813**
70.10–43 Regulation at 61 FR 25287 confirmed **52813**
70.28–1 (Subpart 70.28) Regulation at 61 FR 25287 confirmed **52813**
71.15–1 Regulation at 61 FR 25287 confirmed **52813**
71.20–20 Regulation at 61 FR 25287 confirmed **52813**
71.25–15 Regulation at 61 FR 25287 confirmed **52813**
75 Regulation at 61 FR 25288 confirmed **52813**
77.06–1 (Subpart 77.06) Regulation at 61 FR 25288 confirmed **52813**
78.13–1 Regulation at 61 FR 25288 confirmed **52813**
78.13–5 Regulation at 61 FR 25288 confirmed **52813**
78.13–10 Regulation at 61 FR 25288 confirmed **52813**
78.13–15 Regulation at 61 FR 25288 confirmed **52813**
78.13–20 Regulation at 61 FR 25288 confirmed **52813**
78.14–1—78.14–20 (Subpart 78.14) Regulation at 61 FR 25288 confirmed **52813**
78.17–40 Regulation at 61 FR 25288 confirmed **52813**
78.17–50 Regulation at 61 FR 25288 confirmed **52813**
78.17–52 Regulation at 61 FR 25288 confirmed **52813**
78.17–55 Regulation at 61 FR 25288 confirmed **52813**
78.17–60 Regulation at 61 FR 25288 confirmed **52813**
78.17–70 Regulation at 61 FR 25288 confirmed **52813**
78.17–85 Regulation at 61 FR 25288 confirmed **52813**
78.17–90 Regulation at 61 FR 25288 confirmed **52813**
78.37–5 Regulation at 61 FR 25288 confirmed **52813**
78.47–43 Regulation at 61 FR 25288 confirmed **52813**
78.47–45 Regulation at 61 FR 25288 confirmed **52813**
78.47–47 Regulation at 61 FR 25288 confirmed **52813**
78.47–50 Regulation at 61 FR 25288 confirmed **52813**
78.47–51 Regulation at 61 FR 25288 confirmed **52813**
78.47–60 Regulation at 61 FR 25288 confirmed **52813**
78.47–63 Regulation at 61 FR 25288 confirmed **52813**
78.47–65 Regulation at 61 FR 25288 confirmed **52813**
78.47–72 Regulation at 61 FR 25288 confirmed **52813**
78.49–1 (Subpart 78.49) Regulation at 61 FR 25288 confirmed **52813**
78.87–1—78.87–20 (Subpart 78.87) Regulation at 61 FR 25288 confirmed **52813**
90.05–10 Regulation at 61 FR 25288 confirmed **52813**
90.10–3 Regulation at 61 FR 25288 confirmed **52813**
90.10–29 Regulation at 61 FR 25288 confirmed **52813**
90.27–1 (Subpart 90.27) Regulation at 61 FR 25288 confirmed **52813**
91.15–1 Regulation at 61 FR 25289 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 46 Chapter I—Con.

91.20–20 Regulation at 61 FR 25289 confirmed **52813**
91.25–15 Regulation at 61 FR 25289 confirmed **52813**
94 Regulation at 61 FR 25289 confirmed **52813**
96.06–1 (Subpart 90.06) Regulation at 61 FR 25289 confirmed **52813**
97.13–1 Regulation at 61 FR 25289 confirmed **52813**
97.13–5 Regulation at 61 FR 25289 confirmed **52813**
97.13–10 Regulation at 61 FR 25289 confirmed **52813**
97.13–15 Regulation at 61 FR 25289 confirmed **52813**
97.13–20 Regulation at 61 FR 25289 confirmed **52813**
97.14–1—97.14–20 (Subpart 97.14) Regulation at 61 FR 25289 confirmed **52813**
97.15–25 Regulation at 61 FR 25289 confirmed **52813**
97.15–35 Regulation at 61 FR 25289 confirmed **52813**
97.15–37 Regulation at 61 FR 25289 confirmed **52813**
97.15–40 Regulation at 61 FR 25289 confirmed **52813**
97.15–45 Regulation at 61 FR 25289 confirmed **52813**
97.15–50 Regulation at 61 FR 25289 confirmed **52813**
97.15–65 Regulation at 61 FR 25289 confirmed **52813**
97.15–70 Regulation at 61 FR 25289 confirmed **52813**
97.35–5 Regulation at 61 FR 25289 confirmed **52813**
97.37–37 Regulation at 61 FR 25289 confirmed **52813**
97.37–40 Regulation at 61 FR 25289 confirmed **52813**
97.37–42 Regulation at 61 FR 25289 confirmed **52813**
97.37–43 Regulation at 61 FR 25289 confirmed **52813**
97.37–55 Regulation at 61 FR 25289 confirmed **52813**
97.39–1 (Supbart 97.39) Regulation at 61 FR 25289 confirmed **52813**
97.85–1—97.85–10 (Subpart 97.85) Regulation at 61 FR 25289 confirmed **52813**
107 Authority citation revised **52813**
107.111 Regulation at 61 FR 25289 confirmed **52813**
Amended; eff. 11–2–98 ..... **52814**
107.231 Regulation at 61 FR 25290 confirmed **52813**
(w) removed; eff. 11–2–98 ..... **52814**
107.239 Regulation at 61 FR 25290 confirmed **52813**
107.243 Regulation at 61 FR 25290 confirmed **52813**
107.305 Regulation at 61 FR 25290 confirmed **52813**
(cc) revised; eff. 11–2–98 ..... **52814**
108.101 Regulation at 61 FR 25290 confirmed **52813**
108.103 Regulation at 61 FR 25291 confirmed **52813**
108.105 Regulation at 61 FR 25291 confirmed **52813**
108.500—108.597 (Subpart E) Regulation at 61 FR 25291 confirmed **52813**
108.500 (a) and (b) revised; eff. 11–2–98 ..... **52814**
108.540 (h)(3) and (4) revised; eff. 11–2–98 ..... **52814**
108.565 (a)(3) revised; eff. 11–2–98 ..... **52814**
108.570 (c)(1) amended; eff. 11–2–98 ..... **52814**
108.575 Table amended; eff. 11–2–98 ..... **52814**
108.580 (b)(3)(i) and (c)(2)(i) revised; eff. 11–2–98 ..... **52814**
108.645 Regulation at 61 FR 25298 confirmed **52813**
(a)(1)(ii), (2) and (b)(2) revised; eff. 11–2–98 ..... **52815**
108.646 Regulation at 61 FR 25298 confirmed **52813**
(c) revised; eff. 11–2–98 ..... **52815**
108.647 Regulation at 61 FR 25298 confirmed **52813**
108.649 Regulation at 61 FR 25298 confirmed **52813**
(b), (c), (e)(1) and (g) revised; eff. 11–2–98 ..... **52815**
108.650 Regulation at 61 FR 25299 confirmed **52813**
108.655 Regulation at 61 FR 25298 confirmed **52813**
108.901 (Subpart J) Regulation at 61 FR 25298 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

(b) introductory text, (6) introductory text, (ix), (x), (7) introductory text and (c) introductory text; eff. 11-2-98 ..... **52815**
109.207 Regulation at 61 FR 25298 confirmed **52813**
109.208 Regulation at 61 FR 25298 confirmed **52813**
109.213 Regulation at 61 FR 25298 confirmed **52813**
(a)(2)(vi), (ix), (b), (c)(2), (d)(5), (7), (f)(2)(vii), (g)(7)(v)(G) and (h)(1)(iv) revised; eff. 11-2-98 ..... **52815**
109.215 Regulation at 61 FR 25301 confirmed **52813**
109.217 Regulation at 6i FR 25301 confirmed **52813**
109.219 Regulation at 61 FR 25301 confirmed **52813**
109.221 Regulation at 61 FR 25301 confirmed **52813**
109.225 Regulation at 61 FR 25301 confirmed **52813**
109.301 Regulation at 61 FR 25301 confirmed **52813**
(d)(2) and (g)(4) revised; eff. 11-2-98 ..... **52816**
109.305 Regulation at 61 FR 25302 confirmed **52813**
109.307 Regulation at 61 FR 25302 confirmed **52813**
109.313 Regulation at 61 FR 25302 confirmed **52813**
109.314 Regulation at 61 FR 25302 confirmed **52813**
109.317 Regulation at 61 FR 25302 confirmed **52813**
109.320 Regulation at 61 FR 25302 confirmed **52813**
109.321 Regulation at 61 FR 25302 confirmed **52813**
109.323 Regulation at 61 FR 25302 confirmed **52813**
109.325 Regulation at 61 FR 25303 confirmed **52813**
109.341 Regulation at 61 FR 25303 confirmed **52813**
109.425 Regulation at 61 FR 25303 confirmed **52813**
Revised; eff. 11-2-98 ..... **52816**
109.433 Regulation at 61 FR 25303 confirmed **52813**
109.501 Regulation at 61 FR 25303 confirmed **52813**
109.503 (Subpart E) Regulation at 61 FR 25303 confirmed **52813**
109.505 Regulation at 61 FR 25303 confirmed **52813**
125.160 Regulation at 61 FR 25303 confirmed **52813**
133 Regulation at 61 FR 25304 confirmed **52813**
133.70 (a)(3)(ii), (b)(4), (c)(3) and (4) revised; eff. 11-2-98 ..... **52816**
133.130 (a)(2) revised; eff. 11-2-98 ..... **52816**
133.150 (c)(6) revised; eff. 11-2-98 ..... **52816**
133.160 (a) revised; eff. 11-2-98 ..... **52816**
167.05-25 Regulation at 61 FR 25311 confirmed **52813**
167.05-35 Regulation at 61 FR 25311 confirmed **52813**
167.15-28 Regulation at 61 FR 25311 confirmed **52813**
167.35-1 Regulation at 61 FR 25311 confirmed **52813**
167.35-2 Regulation at 61 FR 25311 confirmed **52813**
167.35-3 Regulation at 61 FR 25311 confirmed **52813**
167.35-5 Regulation at 61 FR 25311 confirmed **52813**
167.35-10 Regulation at 61 FR 25311 confirmed **52813**
167.35-15 Regulation at 61 FR 25311 confirmed **52813**
167.35-20 Regulation at 61 FR 25311 confirmed **52813**
167.35-25 Regulation at 61 FR 25311 confirmed **52813**
167.35-30 Regulation at 61 FR 25311 confirmed **52813**
167.35-35 Regulation at 61 FR 25311 confirmed **52813**
167.35-40 Regulation at 61 FR 25311 confirmed **52813**
167.35-45 Regulation at 61 FR 25311 confirmed **52813**
167.35-50 Regulation at 61 FR 25311 confirmed **52813**
167.35-60 Regulation at 61 FR 25311 confirmed **52813**
167.35-65 Regulation at 61 FR 25311 confirmed **52813**
167.35-70 Regulation at 61 FR 25311 confirmed **52813**
167.35-72 Regulation at 61 FR 25311 confirmed **52813**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 46 Chapter I—Con.

167.35–75 Regulation at 61 FR 25311 confirmed **52813**
167.35–80 Regulation at 61 FR 25311 confirmed **52813**
167.35–85 Regulation at 61 FR 25311 confirmed **52813**
167.35–90 Regulation at 61 FR 25311 confirmed **52813**
167.55–5 Regulation at 61 FR 25311 confirmed **52813**
167.65–1 Regulation at 61 FR 25311 confirmed **52813**
167.65–55 Regulation at 61 FR 25311 confirmed **52813**
168.05–5 Regulation at 61 FR 25312 confirmed **52813**
Amended; eff. 11–2–98 ..... **52816**
168.10–1 Regulation at 61 FR 25312 confirmed **52813**
168.10–5 Regulation at 61 FR 25312 confirmed **52813**
188.10–5 Regulation at 61 FR 25312 confirmed **52813**
188.10–52 Regulation at 61 FR 25312 confirmed **52813**
188.10–53 Regulation at 61 FR 25312 confirmed **52813**
188.27–1 (Subpart 188.27) Regulation at 61 FR 25312 confirmed **52813**
189.15–1 Regulation at 61 FR 25312 confirmed **52813**
189.20–20 Regulation at 61 FR 25312 confirmed **52813**
189.25–15 Regulation at 61 FR 25312 confirmed **52813**
192 Regulation at 61 FR 25312 confirmed **52813**
195.06–1 (Subpart 195.06) Regulation at 61 FR 25312 confirmed **52813**
196.13–1 Regulation at 61 FR 25313 confirmed **52813**
196.13–5 Regulation at 61 FR 25313 confirmed **52813**
196.13–10 Regulation at 61 FR 25313 confirmed **52813**
196.13–15 Regulation at 61 FR 25313 confirmed **52813**
196.13–20 Regulation at 61 FR 25313 confirmed **52813**
196.14–1—196.14–20 (Subpart 196.14) Regulation at 61 FR 25313 confirmed **52813**
196.15–25 Regulation at 61 FR 25313 confirmed **52813**
196.15–35 Regulation at 61 FR 25313 confirmed **52813**
196.15–37 Regulation at 61 FR 25313 confirmed **52813**
196.15–40 Regulation at 61 FR 25313 confirmed **52813**
196.15–45 Regulation at 61 FR 25313 confirmed **52813**
196.15–50 Regulation at 61 FR 25313 confirmed **52813**
196.15–65 Regulation at 61 FR 25313 confirmed **52813**
196.15–70 Regulation at 61 FR 25313 confirmed **52813**
196.35–5 Regulation at 61 FR 25313 confirmed **52813**
196.37–37 Regulation at 61 FR 25313 confirmed **52813**
196.37–40 Regulation at 61 FR 25313 confirmed **52813**
196.37–43 Regulation at 61 FR 25313 confirmed **52813**
196.37–49 Regulation at 61 FR 25313 confirmed **52813**
196.39–1 (Subpart 196.39) Regulation at 61 FR 25313 confirmed **52813**
196.90–1—196.90–10 (Subpart 196.90) Regulation at 61 FR 25313 confirmed **52813**
199 Regulation at 61 FR 25313 confirmed **52813**
199.03 (b)(9) and (10) revised; eff. 11–2–98 ..... **52816**
199.10 Revised; eff. 11–2–98 ..... **52817**
Table correctly revised **56066**
(a) table amended **63798**
199.70 (b)(2)(ii) removed; (a)(2) and (c)(3) revised; eff. 11–2–98 ..... **52818**
(a)(2) corrected **56066**
199.80 (b)(4) revised; eff. 11–2–98 ..... **52818**
199.100 (f) revised; eff. 11–2–98 ..... **52819**
199.110 (f)(4) amended; eff. 11–2–98 ..... **52819**
199.140 (a)(1) revised; eff. 11–2–98 ..... **52819**
199.153 (f) revised; (h)(1), (2) and (i) amended; eff. 11–2–98 ..... **52819**
199.175 (b)(21)(i)(B) revised; eff. 11–2–98 ..... **52819**
199.176 (a)(1)(ii), (2) and (b)(2) revised; eff. 11–2–98 ..... **52819**
199.180 (a)(2)(vi), (ix), (d)(11) and (f)(2)(i) revised; eff. 11–2–98 ..... **52819**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

199.190 (d)(2) and (g)(4) revised; eff. 11-2-98 ..... **52819**
199.610 (a) revised; eff. 11-2-98 ..... **52819**
199.620 (a) table and (e) revised; (k)(2)(1) redesignated as (l); (o) and (p) added **52820**
Table corrected **56066**
199.630 (a) table, (c), (d)(2), (f) introductory text, (2)(iv) and (g) revised; (l) and (m) added **52821**
Table corrected **56067**
(a) table amended **63798**
199.640 (h)(2) revised; (i)(2) table amended; eff. 11-2-98 ..... **52821**

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

351 Authority citation amended **55039**
351.1 Authority citation removed **55039**
351.2 (a) revised; authority citation removed **55039**

Chapter III—Saint Lawrence Seaway Development Corporation (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

401 Annual review findings **68697**

Chapter IV—Federal Maritime Commission (Parts 500—599)

502 Authority citation revised 7807
502.1 Amended 7807
502.2 (c) and (d) amended; (e) added 7807
502.11 Heading revised; (a) and (b) heading removed; (b)(1) through (7) redesignated as (a) through (g) 7807
502.12 Amended 7807
502.21 (c) heading revised 7807
502.23 Revised 7807
502.24 (b) revised 7807
502.26 Revised 7807
502.27 (a)(1) amended 7807
502.21—502.31 (Subpart B) Exhibit No. 1 amended 7807
502.42 Revised 7807
502.51 Revised 7808
502.56 Amended 7808
502.61 (d) amended 7808
502.62 (g) redesignated as (h); new (g) added; new (h) revised 7808
502.63 Heading revised; (a) removed; (b) through (e) redesignated as (a) through (d) 7808
502.64 (a) and (d) amended 7808
502.67 Added 7808
502.71 Amended 7808
502.75 (a) revised 7808
502.61—502.76 (Subpart E) Exhibit 1 amended 7808
502.91 (d) amended 7808
502.92 Removed 7808
502.91—502.95 (Subpart F) Exhibit 1 removed 7808
502.94 (c) amended 7808
502.102 Revised 7808
502.104 Amended 7809
502.105 Revised 7809
502.111 Revised 7809
501.112 Heading revised; (c)(2) amended 7809
502.113 Revised 7809
502.114 Heading and (a) revised; (b) amended 7809
502.116 Revised 7809
502.118 (b)(2) revised 7809
502.119 (a) and (b) revised 7809
502.133 Revised 7809
502.143 Amended 7810
502.144 Heading revised; existing text designated as (a); new (a) amended; (b) added 7810
502.146 (a) and (c) revised 7810
502.147 (a) amended; (b) revised 7810
502.201 (a), (d) heading and (f) heading revised 7810
502.221 (f) revised 7810
502.223 Revised 7810
502.225 Revised 7810
502.227 Heading revised; (a)(4), (5) and (6) redesignated as (a)(5), (6) and (7); new (a)(4) and (e) added; (d) amended 7810
502.253 Revised 7810
502.254 (a) amended; (c)(1)(i) revised 7811
502.271 (Subpart Q) Revised 7811
502.301 (b) removed; (c) and (d) redesignated as (b) and (c) 7812
502.302 (b) removed; (c) redesignated as (b) 7812
502.305 Revised 7812

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 46 Chapter IV—Con.

502.301—502.305 (Subpart S) Exhibit 1 amended 7812
502.321 Revised 7812
502.401 (b) amended; (d) removed; (e) redesignated as (d) 7812
502.501 (d)(2)(vi) and (e)(3) added; (f)(2) and (g) amended 7812
502.502 (d)(3) amended 7812
502.503 (j)(2) amended 7812
502.601 Revised 7812
502.602 (h) revised; (i) amended 7812
502.603 (c) amended 7812
502.604 (b) amended 7812
502.604 (g) amended 7813
502.605 (a) revised; (c) amended 7813
503 Authority citation revised **53308**
503.21—503.24 (Subpart C) Revised **53308**
503.31—503.34 (Subpart D) Revised **53310**
510—540 (Subchapter B) Heading revised 11171
510 Waiver **64876**
Revised 11171
514 Waiver **64876**
Removed; interim 11206
515 Added 11171
520 Added 11225
525 Added 9283
530 Added; interim 11206
535 Redesignated from 572; authority citation revised 11240
535.101 Revised 11241
535.102 Amended 11241
535.103 (h) added 11241
535.104 (u) removed; (v) through (kk) redesignated as (u) through (jj); (f), (g), (j), (m), (q) and new (cc) and (dd) revised 11241
535.201 (a)(5), (6), (7) and (b) revised 11241
535.202 (d) and (e) revised; (f) and (g) removed 11241
535.301 (a) and (c) revised; (d) and (e) removed; (f) redesignated as (d) 11241
535.307 (b) revised 11242
535.309 (a)(2) revised 11242
535.310 (a) revised 11242
535.402 (a), (b) introductory text, (d) and (e) revised; (f) and (g) removed 11242
535.403 Revised 11242
535.404 Revised 11242
535.405 (a) through (e) revised; (f) and (g) removed 11243
535.501 (a) revised 11243
535.502 (a)(1), (3), (4), (5), (b)(1) and (2) revised 11243
535.503 Existing text designated as (a); (b) added 11243
535.706 (c)(1) revised 11243
535.801—535.802 (Subpart H) Heading revised 11243
535.801 (a), (b)(1), (d) and (e) revised; (f)(1) and (2) amended; (j) and (k) redesignated as (i) and (j) 11243
535.802 Revised 11244
545 Redesignated from 571 7813
545.1 (a) revised 7813
(a) corrected 9922
550—565 (Subchapter C) Heading revised 8008
550 Redesignated from 585; authority citation revised 8008
550 Note added 8009
550.102 Added 8009
550.103 (a) and (b) revised 8009
550.201 (a) revised 8009
550.202 (b) introductory text and (3) revised 8009
550.301 Introductory text and (d) revised 8009
550.601 (c) revised 8009
550.602 Revised 8009
551 Redesignated from 586; authority citation revised; note added 8009
551.3 Removed 8009
555 Redesignated from 588; authority citation revised; note added 8010
555.1 Revised 8010
555.2 (a), (c) and (d) revised 8010
555.4 (a) and (c) revised 8010
555.8 (a)(2) revised 8010
560 Redesignated from 587; authority citation revised 8009
560.1 (a) revised 8009
560.2 (c) revised 8010
560.5 (a) introductory text amended 8010
560.7 (b)(3)(i) revised 8010
565 Added 8010
565.10 Heading correctly revised 10395
571 Redesignated as 545 7813
572 Redesignated as 535 11240

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

582 Waiver **64876**
583 Removed 11171
585 Redesignated as 550 8008
586 Redesignated as 551 8009
587 Redesignated as 560 8009
588 Redesignated as 555 8010

Proposed Rules:

16 ..... **71257**
45 ..... **58679, 71411**
249 1175
381 ..... 4382, 14676
401 1585
502 ..... **66512**
510 ..... **70710**
514 ..... **70368, 71062**
515 ..... **70710**
520 ..... **70368**
..... 2615
525 ..... **69603**
530 ..... **71062**
535 ..... **69034**
545 ..... **66512**
550 ..... **67030**
551 ..... **67030**
555 ..... **67030**
560 ..... **67030**
565 ..... **67030**
571 ..... **66512**
572 ..... **69034**
583 ..... **70710**
585 ..... **67030**
586 ..... **67030**
587 ..... **67030**
588 ..... **67030**

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0 Order 14834
0.21 (j) added 5950
0.41 (g) removed; (h) through (o) redesignated as (g) through (n) 5950
0.121 (b) revised **68918**
0.241 (g) added 4995
0.251 (g) removed; (h) and (i) redesignated as (g) and (h) 5950
0.291 (i) added 4995
0.304 Added 5950
0.401 (b)(3) added **68919**
0.408 Revised (OMB numbers) **52618**
(b) table revised (OMB numbers) **68919**
0.453 (g)(1) removed; (h) introductory text and (1) revised **68919**
0.482 Revised **68919**
0.491 Revised **68919**
0.601 (b) amended 2149
0.605 (e) amended 2150
1 Nomenclature change **54077**
Order **63612**
Authority citation revised **67429, 71036**
1.4 (f) amended **68919, 70047**
1.41 Amended **68919**
1.45 Introductory text amended; (a), (b) and (c) revised **68919**
1.49 (e) amended **68920**
1.50 Revised **68920**
1.51 (f), (g) and (h) added **68920**
1.52 Amended **68920**
1.83 (b) amended **68920**
1.84 Removed **68920**
1.85 Revised **68920**
1.106 (o) added **68920**
1.115 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.419 (e) revised **56091**
1.720 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.721 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.724 Regulation at 63 FR 41446 eff. 10–5–98 ..... **52983**
1.726 Regulation at 63 FR 41447 eff. 10–5–98 ..... **52983**
1.727 Regulation at 63 FR 41447 eff. 10–5–98 ..... **52983**
1.729 Regulation at 63 FR 41447 eff. 10–5–98 ..... **52983**
1.730 Regulation at 63 FR 41448 eff. 10–5–98 ..... **52983**
1.733 Regulation at 63 FR 41449 eff. 10–5–98 ..... **52983**
1.821 Revised **68920**
1.823 Removed **68920**
1.825 Removed **68920**
1.901 Revised **68921**
1.902 Added **68921**
1.903 Added **68921**
1.907 Added **68921**
1.911 Revised **68922**
1.912 Removed **68922**
1.913 Revised **68922**
1.914 Removed **68923**
1.915 Added **68923**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 47 Chapter I—Con.

1.916 Removed **68923**
1.917 Added **68923**
1.918 Removed **68923**
1.919 Added **68923**
1.921 Removed **68924**
1.922 Removed **68924**
1.923 Revised **68924**
1.924 Revised **68924**
1.925 Revised **68926**
1.926 Revised **68927**
1.927 Added **68927**
1.929 Added **68927**
1.931 Revised **68928**
1.933 Revised **68929**
1.934 Revised **68930**
1.935 Added **68931**
1.937 Added **68931**
1.939 Added **68931**
1.945 Added **68932**
1.946 Added **68933**
1.947 Added **68933**
1.948 Added **68933**
1.949 Added **68934**
1.951 Revised **68934**
1.952 Removed **68934**
1.953 Removed **68934**
1.955 Revised **68934**
1.956 Added **68935**
1.957 Added **68935**
1.958 Removed **68935**
1.959 Removed **68935**
1.961 Removed **68935**
1.962 Removed **68935**
1.971 Removed **68935**
1.972 Removed **68935**
1.973 Removed **68935**
1.981 Revised **68935**
1.1102 Revised **68935**
1.1111 (b) amended; (c) added **68941**
1.1152 Revised **68941**
1.1307 (b)(1) Table 1 amended (OMB number pending) **65099**
Regulation at 63 FR 65099 eff. date corrected to 2-8-99 4054
1.2003 Amended **68942**
1.2107 (e) added **68942**
1.2111 (a) amended **68942**
1.4000 Revised (effective date pending) **67429**
Revised **71036**
2 Nomenclature change **54077**
Authority citation revised **58650**
Order **63798**
Rule confirmation **69562**
2.103 Revised **58650**
2.106 Table amended 2587, 2591
Table corrected 6138
2.960 Added 4995
2.962 Added 4996
5 Revised **64202**
11 Order 5950
13.5 Revised **68942**
13.9 (d), (e) and (f) redesignated as (e), (f) and (g); (b), (c) and new (f) introductory text revised; new (d) added **68942**
13.13 (d), (e) and (f) removed; **68942**
13.17 (b), (c) and (d) revised **68943**
15.101 (a) revised 4997
20 Nomenclature change **54077**
21.2 Amended **65100**
Regulation at 63 FR 65100 eff. date corrected to 2-8-99 4054
21.11 (f) and (g) redesignated as (e) and (f); heading, (a), (d) and new (e) revised **65100**
Regulation at 63 FR 65100 eff. date corrected to 2-8-99 4054
21.27 (d) added (OMB number pending) **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.30 (a)(4) revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.31 (e)(6)(iv) revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.42 (b)(3) revised; (c)(8) added (OMB number pending) **6510**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.101 (a) Footnote 2 revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.118 (c) revised **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.201 Revised (OMB number pending) **65101**
Regulation at 63 FR 65101 eff. date corrected to 2-8-99 4054
21.304 Revised (OMB number pending) **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.900 Revised (OMB number pending) **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

21.901 (a), (b), (d) and Note 1 revised; (g) added (OMB number pending) **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.902 Heading, (b)(3), (4), (5)(i), (f)(1) and (2) revised; (b)(7) and (l) added **65102**
Regulation at 63 FR 65102 eff. date corrected to 2-8-99 4054
21.903 (a) and (b)(1) revised; (d) added (OMB number pending) **65103**
Regulation at 63 FR 65103 eff. date corrected to 2-8-99 4054
21.904 Revised **65103**
Regulation at 63 FR 65103 eff. date corrected to 2-8-99 4054
21.905 (b) revised; (d) added (OMB number pending) **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.906 (a) and (d) revised (OMB number pending) **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.907 Removed **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.908 (b) redesignated as (a); heading and new (a) revised; (c), (d) and (e) removed; new (b) through (e) added **65104**
Regulation at 63 FR 65104 eff. date corrected to 2-8-99 4054
21.909 Revised (OMB number pending) **65105**
Regulation at 63 FR 65105 eff. date corrected to 2-8-99 4054
21.910 Heading, introductory text, (a) and (b) introductory text revised; (d) added **65109**
Regulation at 63 FR 65109 eff. date corrected to 2-8-99 4054
21.913 Revised (OMB number pending) **65109**
Regulation at 63 FR 65109 eff. date corrected to 2-8-99 4054
21.925 (b) revised **65112**
Regulation at 63 FR 65112 eff. date corrected to 2-8-99 4054
21.938 (b) introductory text, (c)(4), (e) and (f) revised **65112**
Regulation at 63 FR 65112 eff. date corrected to 2-8-99 4054
21.940 Added (OMB number pending) **65112**
Second 21.940 correctly redesignated as 21.949 4055
21.949 Correctly redesignated from second 21.940 4055
22.99 Amended **68943**
22.101 Removed **68943**
22.103 Removed **68943**
22.105 Removed **68943**
22.106 Removed **68943**
22.108 Removed **68943**
22.115 Removed **68943**
22.117 Removed **68943**
22.119 Removed **68943**
22.120 Removed **68943**
22.121 Removed **68943**
22.122 Removed **68943**
22.123 Removed **68943**
22.124 Removed **68943**
22.125 Removed **68943**
22.127 Removed **68943**
22.128 Removed **68943**
22.129 Removed **68943**
22.130 Removed **68943**
22.131 (b) introductory text, (1), (c) introductory text, (1) and (2) revised; (d)(3) removed **68943**
22.132 Removed **68943**
22.135 Removed **68943**
22.137 Removed **68943**
22.139 Removed **68943**
22.142 Removed **68943**
22.144 Removed **68943**
22.145 Removed **68943**
22.150 (d) introductory text amended **68944**
22.163 Removed **68944**
22.165 (b) and (e) revised **68944**
22.213 Removed **68944**
22.221 (b) revised **68944**
22.315 Removed **68944**
22.317 Amended **68944**
22.323 (d) revised **68944**
22.352 (c)(6) revised **68944**
22.369 Removed **68944**
22.411 (d)(1) revised **68944**
22.413 (b)(1) revised **68944**
22.415 (b)(1) revised **68944**
22.417 (b)(1) revised **68944**
22.503 (k) revised **68945**
22.507 (c) revised **68945**
22.529 (a) and (b) introductory text amended; (b)(1), (3) introductory text, (i) and (iii) revised **68945**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 47 Chapter I—Con.

22.531 (c) revised **68945**
22.539 Introductory text revised **68945**
22.577 (b) amended; (d) revised **68945**
22.625 (b)(1) revised **68946**
22.627 (b)(1)(i) and (2) revised **68946**
22.657 (a), (d), (e)(1) and (f) revised **68947**
22.659 (b)(1) and (c)(1) revised **68947**
22.709 Introductory text, (b) introductory text, (1) and (2) revised (effective date pending in part) **68948**
22.803 Introductory text, (a) introductory text, (b) introductory text, (1) and (2) revised (effective date pending in part) **68948**
22.821 Removed **68948**
22.859 Introductory text and table revised **68948**
22.873 (a) and (b) revised **68950**
22.875 (d)(7) removed (effective date pending in part) **68951**
22.907 (b) revised **68951**
22.911 (b) amended **68951**
22.929 Revised (effective date pending in part) **68951**
22.935 (a) amended **68951**
22.936 (a) amended **68951**
22.941 (b) amended; (c) revised **68951**
22.944 Removed **68951**
22.946 Introductory text and (b) removed; (a) introductory text revised; (a)(1) redesignated as (b) **68951**
22.947 (b) introductory text amended **68951**
22.953 (a) and (b) revised; (c) added **68951**
22.966 Removed **68952**
24 Order **63612**
24.2 (b) amended **68952**
24.5 Amended **68952**
24.11 (a) revised **68952**
24.18 Removed **68952**
24.202 Introductory text amended **68952**
24.307 Revised **68952**
24.405 Removed **68952**
24.406 Removed **68952**
24.409 Removed **68952**
24.411 Removed **68952**
24.413 Removed **68952**
24.419 Removed **68952**
24.420 Removed **68952**
24.421 Removed **68952**
24.422 Removed **68953**
24.423 Removed **68953**
24.425 Removed **68953**
24.426 Removed **68953**
24.427 Removed **68953**
24.428 Removed **68953**
24.429 Removed **68953**
24.432 Removed **68953**
24.439 Removed **68953**
24.443 Removed **68953**
24.444 Removed **68953**
24.714 (b)(1) revised **68953**
24.803 Removed **68953**
24.805 Removed **68953**
24.806 Removed **68953**
24.809 Removed **68953**
24.811 Removed **68953**
24.813 Removed **68953**
24.819 Removed **68953**
24.820 Removed **68953**
24.821 Removed **68953**
24.822 Removed **68953**
24.823 Removed **68953**
24.825 Removed **68953**
24.826 Removed **68953**
24.827 Removed **68953**
24.828 Removed **68953**
24.829 Removed **68953**
24.832 Removed **68953**
24.839 (a), (b) and (c) removed; (d) and (e) redesignated as (a) and (b) **68953**
24.844 Removed **68953**
25 Orders 14394
25.200 Added 4997
25.202 (a)(1) table revised 2591
(a)(1) corrected 6565
26.2 (b) amended **68953**
26.4 Amended **56577, 68953**
26.11 (a) revised **68953**
26.56 Added **71041**
26.104 (e) revised **68953**
26.203 Revised **56578**
26.204 Removed **56578**
26.205 Revised **56578**
26.206 Revised **56578**
26.207 Revised **56578, 68954**
26.208 Revised **56578**
26.209 (b)(2) revised **68954**
26.210 Revised **56578**
26.303 Removed **68954**
26.304 Removed **68954**
26.305 Removed **68954**
26.306 Removed **68954**
26.307 (a) revised **56578**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

Removed 68954
26.309 Removed 71041
26.310 Removed 68954
26.311 Removed 68954
26.312 Removed 68954
26.313 Removed 56578
Removed 68954
26.314 Removed 68954
26.315 Removed 68954
26.316 Removed 68954
26.317 Revised 56578
Removed 68954
26.318 Removed 68954
26.319 Removed 68954
26.320 Revised 56578
Removed 68954
26.322 Removed 68954
26.323 (a) revised 68954
26.324 Removed 68954
26.325 Removed 68954
26.326 Removed 68954
27.3 (b) amended 68954
27.4 Amended 68954
27.11 (a) revised 68954
27.15 (b)(1) revised 68954
27.59 Removed 68954
27.61 Removed 68954
27.62 Removed 68954
27.207 Removed 68954
27.301 Removed 68954
27.303 Removed 68954
27.304 Removed 68954
27.306 Removed 68954
27.307 Removed 68954
27.310 Removed 68955
27.311 Removed 68955
27.312 Removed 68955
27.313 Removed 68955
27.314 Removed 68955
27.315 Removed 68955
27.316 Removed 68955
27.317 Removed 68955
27.319 Removed 68955
27.320 Removed 68955
27.322 Removed 68955
27.324 Removed 68955
27.325 Removed 68955
36 Order 63993
36.601 Amended 64651
41 Removed 13916
51.325 (a)(1) and (2) revised; (a)(3) added (effective date pending) 14148
52.19 (a) revised 63617
52.21 (c) and (q) revised 68203
52.27 Revised 68203
52.31 (a), (b) and (e) revised 68204
54 Order 63993
Guidelines 68208
54.5 Amended 70571
54.504 (b)(1), (2)(vii), (3) and (c) amended; (b)(4) revised 70572
54.505 (b)(3) and (c) amended 70572
54.507 (e), (f), (g) introductory text and (1) amended; (c), (g)(2)(i) and (iv) revised 70572
54.509 (b) amended; (c) revised 70572
54.511 (c)(3) amended 70572
54.515 (a) and (b) revised; (c) and (d) removed 67009
54.516 (b) amended 70572
54.603 (a)(1) through (5) amended 70572
54.604 (c) amended 70572
(d) revised 2594
54.605 (e) amended 70572
54.609 (b) amended 70572
54.619 (b) and (d) amended 70572
54.623 (c), (e) and (f) amended 70572
(b) and (c) revised 2594
54.625 (a) amended 70572
54.701 Revised 70572
54.702 Added 70573
54.703 Revised (effective date pending in part) 70573
54.704 Added 70574
54.705 Revised 70574
54.706 Added 70575
54.708 Added 70576
54.709 (a)(2) amended; (a)(3) revised 70576
54.711 (a) and (b) revised 67009
(b) amended 70576
54.715 Revised 70576
54.717 Added 70576
54.719—54.725 (Subpart I) Added 70577
54.719 Added 70577
54.721 Added (effective date pending) 70578
54.722 Added 70578
54.723 Added 70578
54.724 Added 70578
61 Orders 14394
64 Order 54379
Petitions 4999
64.604 (c)(4)(iii)(I) revised 67010
64.702—64.710 (Subpart G) Heading amended (effective date pending) 14148
64.702 (b), (c) and (d)(2) amended; (effective date pending) 14148

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 47 Chapter I—Con.

64.1100 Revised (effective date pending in part) 7759
Regulation at 64 FR 7759 eff. date corrected to 8-27-99 9219
64.1150 Revised 7760
Regulation at 64 FR 7760 eff. date corrected to 8-27-99 9219
64.1160 Added 7760
Regulation at 64 FR 7760 eff. date corrected to 8-27-99 9219
64.1170 Added (effective date pending) 7761
64.1180 Added (effective date pending) 7761
64.1190 Added 7762
Regulation at 64 FR 7762 eff. date corrected to 8-27-99 9219
64.1300 (c) revised; (d) removed 13719
68.160 Added 4997
68.162 Added 4998
68.300 (c) added 3048
69 Order **63993**
69.153 (c) introductory text, (2), (d)(1) introductory text, (ii), (2) introductory text, (ii) and (e) revised **55335**
69.600 Removed **70578**
69.603 (c), (d) and (e) removed **70578**
69.613 Removed **70578**
69.614 Removed **70578**
69.615 Removed **70578**
69.616 (e) added **67010**
Removed **70578**
69.617 Removed **70578**
69.618 Removed **70578**
69.619 Removed **70578**
69.620 Removed **70578**
69.621 Removed **70578**
69.622 Removed **70578**
69.623 Removed **70578**
73 Actions on petitions **54380, 71389**
Order **65710**
Actions on petitions 3650, 9923, 14397
73.202 (b) table amended ..... **52984, 54379, 54600, 55807—55809, 55958, 55959, 57609, 57610, 59238, 59239, 62956, 62957, 63617—63619, 64877, 67430**
(b) table amended ..... 995, 2858, 3874, 3875, 5718—5720, 7813, 8725, 9923, 12903, 13720—13723
73.316 (c) revised **70047**
73.606 (b) table amended 12767
73.622 (b) amended 4326
(e) revised 4327
73.623 (f) redesignated as (g); new (f) added 4327
73.624 (g) added **69216**
(b) revised 4327
73.686 (d) added 7127
73.1030 (a) revised **70048**
73.1125 Regulation at 63 FR 49497 eff. 10-30-98 ..... **56578**
73.1675 (a) revised **70049**
73.3500 Existing text designated as (a); (b) added **70049**
73.3526 Regulation at 63 FR 49497 eff. 10-30-98 ..... **56578**
(e)(11)(iii) revised **70049**
Regulation at 63 FR 70049 eff. 12-31-98 ..... **71789**
73.3527 Regulation at 63 FR 49499 eff. 10-30-98 ..... **56578**
73.3534 Revised **70049**
73.3535 Removed **70049**
73.3550 Revised **71603**
73.3597 (c)(1)(iii) added **70050**
73.3598 Revised **70050**
73.3599 Removed **70050**
73.3613 (b)(7) added **70050**
73.3615 (a) introductory text, (1), (3)(i)(A), (c), (d) introductory text, (e) and (f) revised; (a)(2) amended **70050**
Regulation at 63 FR 70050 eff. in part 12-31-98 ..... **71789**
74 Rule confirmation **69562**
74.406 (d)(1) revised 4327
74.725 Added **70578**
74.783 (e) revised **71604**
74.901 Amended **65113**
Regulation at 63 FR 65113 eff. date corrected to 2-8-99 4054
74.902 (f) through (j) redesignated as (g) through (k); (c), (d) and (e) revised; new (f) added (OMB number pending) **65113**
74.903 (a)(1), (2), (3), (b) introductory text, (1), (2), (4), (5), (c) and (d) revised; (a)(6) added; (e) and (f) removed **65114**
Regulation at 63 FR 65114 eff. date corrected to 2-8-99 4054
74.911 (a)(1) revised; (d) added (OMB number pending) **65115**
Regulation at 63 FR 65115 eff. date corrected to 2-8-99 4054
74.912 Added **65115**
Regulation at 63 FR 65115 eff. date corrected to 2-8-99 4054

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

74.931 (d), (e), (f) through (k) redesignated as (b), (c) and (e) through (j); new (b) and new (c) revised; new (d) added (OMB number pending) **65116**
Regulation at 63 FR 65116 eff. date corrected to 2-8-99 4054
74.935 (a) and (b) revised **65117**
Regulation at 63 FR 65117 eff. date corrected to 2-8-99 4054
74.936 Revised (OMB number pending) **65117**
Regulation at 63 FR 65117 eff. date corrected to 2-8-99 4054
74.937 (a) amended; (b) revised **65118**
Regulation at 63 FR 65118 eff. date corrected to 2-8-99 4054
74.938 Revised **65119**
Regulation at 63 FR 65119 eff. date corrected to 2-8-99 4054
74.939 Revised (OMB number pending) **65119**
Regulation at 63 FR 65119 eff. date corrected to 2-8-99 4054
74.940 Added (OMB number pending) **65124**
Second 74.940 correctly redesignated as 74.949 4055
74.949 Correctly redesignated from second 74.940 4055
74.950 Removed **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.951 (b) revised (OMB number pending) **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.952 Revised **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.961 (a) revised **65124**
Regulation at 63 FR 65124 eff. date corrected to 2-8-99 4054
74.965 Revised (OMB number pending) **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.982 (b) revised; (g) added **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.985 Revised (OMB number pending) **65125**
Regulation at 63 FR 65125 eff. date corrected to 2-8-99 4054
74.986 (a) introductory text revised; (a)(8) added **65127**
Regulation at 63 FR 65127 eff. date corrected to 2-8-99 4054
74 Index amended **65127**
Regulation at 63 FR 65127 eff. date corrected to 2-8-99 4054
76 Order 5950
Authority citation and heading revised 6569
76.6 Added 6569
76.7 Revised 6569
76.8 Revised 6569
76.9 Revised 6569
76.10 Revised 6569
76.61 (a)(3), (4) and (b) revised; (a)(5) added 6572
76.914 (c) revised 6572
76.1003 Regulation at 63 FR 45739 eff. 12-23-98 2595
Revised 6572
76.1302 Revised 6574
76.1513 Heading, (a) and (d) through (h) revised; (i) through (u) removed 6575
78 Rule confirmation **69562**
79.1 (b), (d)(3), (7), (8), (9) and (e)(3) revised; (d)(13) and (e)(10) added **55962**
80.3 (k) revised **68955**
80.19 Removed **68955**
80.21 (a), (b) and (f) removed; (c), (d) and (e) redesignated as (a), (b) and (c); introductory text and new (c) revised (effective date pending) **68955**
80.23 Removed **68955**
80.25 (a) and (b) revised **68955**
80.29 Removed **68955**
80.31 Revised **68955**
80.33 (b) introductory text and (c) introductory text revised (effective date pending) **68955**
80.45 Revised **68955**
80.49 Revised **68955**
80.51 (a) removed **68955**
80.53 Revised (effective date pending) **68956**
80.56 Removed **68956**
80.57 (b)(6) revised; (c)(6) amended **68956**
80.59 (c) revised **68956**
80.383 (a) table amended **53313**
80.469 (c) revised (effective date pending) **68956**
80.511 (c) revised (effective date pending) **68956**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 47 Chapter I—Con.

80.513 (c)(1) amended (effective date pending) 68956
80.514 Introductory text revised 68956
80.553 Introductory text revised 68956
80.605 (a) and (c)(9) revised; (d) amended (effective date pending) 68956
87.17 Revised 68957
87.21 Removed 68957
87.23 Removed 68957
87.25 Introductory text removed; (b) revised 68957
87.27 (a) and (b) revised 68957
87.31 Removed 68957
87.33 Removed 68957
87.35 Revised 68957
87.37 (a) introductory text revised 68957
87.45 Revised 68957
87.51 (a) removed 68957
87.79 Removed 68957
87.137 (d) removed 68957
87.187 (bb) and (cc) revised 68957
87.215 (d) amended (effective date pending) 68957
87.239 Revised 68957
87.301 (b) revised 68957
87.307 (d) introductory text revised 68958
87.321 Revised 68958
87.323 (b) amended 68958
87.347 (b)(1), (2), (3) and (c) revised (effective date pending) 68958
87.419 (b) revised 68958
87.421 (b) revised 68958
87.423 Revised 68958
87.447 Introductory text revised 68958
87.473 (a) removed; (b) and (c) redesignated as (a) and (b) 68958
87.475 (a) amended 68958
87.481 (a) introductory text and (4) revised 68958
87.527 (b) revised 68958
90 Authority citation revised 58651
Waiver 6253
90.5 (b), (i)(1) and (m) revised 68958
90.7 Amended 68958
90.20 (c)(3) table amended; (d)(77) added 58651
(f)(4) revised 10397
90.22 Revised 68958
90.35 (c)(61)(iv) revised 68959
(d)(7) added 10397
90.103 (c)(22) revised 10397
90.111 Revised 68963
90.113 Removed 68963
90.117 Removed 68963
90.119 Revised 68963
90.123 Removed 68963
90.125 Removed 68963
90.127 Revised 68963
90.129 Introductory text revised; (c) and (e) removed 68963
90.131 Removed 68963
90.135 Revised 68963
90.137 (a) introductory text revised 68963
90.139 Removed 68963
90.141 Removed 68964
90.143 Removed 68964
90.145 Removed 68964
90.147 Removed 68964
90.149 (a) revised; (b) removed 68964
90.151 Removed 68964
90.153 Removed 68964
90.155 (d) revised 68964
90.157 Revised 68964
90.159 (a), (b) introductory text, (c), (d) and note revised 68964
90.160 Removed 68965
90.161 Removed 68965
90.162 Removed 68965
90.163 Removed 68965
90.164 Removed 68965
90.165 Introductory text, (b) introductory text, (1), (c) introductory text and (1) revised; (d)(3) removed 68965
90.166 Removed 68965
90.167 Revised 68965
90.175 Introductory text, (b), (e) and (f) revised 68965
(i)(5) revised 10397
90.177 Removed 68965
90.187 (a) revised 68965
90.203 (a) introductory text revised; (l) added 64208
90.205 (i) revised 58651
90.237 (b) removed 68965
90.241 (c)(7) revised 68965
90.248 Added 64208
90.259 Revised 64209
90.273 (c) revised 68965
90.303 Revised 68965
90.350 Revised 68965
90.365 (a)(1), (b) and (d)(2) revised; (d)(1)(ii) removed; (d)(1)(iii) redesignated as (d)(1)(ii) 68966

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

90.437 (c) revised; (d) removed **68966**
90.477 (a) introductory text and (d)(3) revised **68966**
90.501 Revised **68967**
90.521—90.551 (Subpart R) Added **58651**
90.523 Regulation at 63 FR 58651 eff. 1-20-98 3048
90.527 Regulation at 63 FR 58652 eff. 1-20-98 3048
90.545 Regulation at 63 FR 58656 eff. 1-20-98 3048
90.551 Regulation at 63 FR 58658 eff. 1-20-98 3048
90.601 Revised **68967**
90.605 Revised **68967**
90.607 (b)(1) and (c)(1) revised; (d) removed **68967**
90.609 (a) removed **68967**
90.611 Removed **68967**
90.619 (d)(5) amended **68968**
90.621 Table 1 amended; (b)(3), (e)(5) and (f)(1) revised **68968**
90.625 (a) amended (effective date pending) **68969**
90.629 (c) amended **68969**
90.631 (d) amended; (f) revised **68969**
90.633 (c) and (d) revised 10397
90.635 Table 1 revised **68969**
90.645 (g) and (h) amended **68970**
90.651 Revised **68970**
(c) revised 10397
90.655 Amended **68970**
90.657 Removed **68970**
90.658 (a) revised **68970**
90.659 Removed **68970**
90.683 (a)(4) revised; (a)(5) removed (effective date pending) **68970**
90.687 Amended **68970**
90.693 (b) and (c) revised **68970**
90.701 (a) revised **68971**
90.705 Revised **68971**
90.711 (a) introductory text revised; (a)(5) removed **68971**
90.733 (h)(2) revised **68971**
90.737 (d) and (e) revised **68971**
90.741 Revised **68971**
90.751 Revised **68973**
90.753 (d) and (e) revised **68973**
90.755 Removed **68973**
90.763 (b)(4) revised (effective date pending) **68973**
90.767 (c) revised **68973**
90.769 (c) revised **68973**
90.911 (b)(1) amended **68973**
90.1013 Revised **68973**
90.1019 (d) removed; (e) redesignated as (d); heading, (a), (b), (c) and new (d) revised **68973**
90.1023 (b) introductory text revised **68974**
95 Nomenclature change 54077
Actions on petitions 14639
95.1—95.7 Undesignated center heading removed **68974**
95.5 Revised **68974**
95.7 (b) amended **68974**
95.21—95.61 Undesignated center heading removed **68974**
95.71—95.89 Undesignated center heading removed **68974**
95.101—95.143 Undesignated center heading removed **68974**
95.171—95.181 Undesignated center heading removed **68974**
95.21 Revised **68974**
95.23 (b) revised; (d) removed **68974**
95.25 (a) introductory text, (d)(2)(i) and (f) revised; (c) removed **68974**
95.29 (a), (b), (e) introductory text and (2) revised; (c) and (d) removed **68974**
95.31 Removed **68975**
95.33 (b) removed **68975**
95.35 Removed **68975**
95.37 Removed **68975**
95.39 Removed **68975**
95.41 Removed **68975**
95.42 Removed **68975**
95.43 Removed **68975**
95.45 Revised **68975**
95.47 Removed **68975**
95.49 Removed **68975**
95.51 Revised **68975**
95.53 Removed **68975**
95.55 Removed **68975**
95.57 Removed **68975**
95.59 Removed **68975**
95.61 Removed **68975**
95.71 Removed **68975**
95.72 Removed **68975**
95.73 Removed **68975**
95.75 Removed **68975**
95.77 Removed **68975**
95.79 Removed **68975**
95.83 Removed **68975**
95.85 Removed **68975**
95.87 Removed **68975**
95.89 Removed **68975**
95.101 (a) revised **68975**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 47 Chapter I—Con.

95.103 Revised 68975
95.105 Revised 68975
95.107 Removed 68975
95.109 Removed 68975
95.111 Removed 68975
95.113 Removed 68975
95.115 Amended 68975
95.117 Revised 68975
95.119 (a) introductory text, (b) and (d) revised 68975
95.121 Removed 68975
95.123 Removed 68975
95.125 Removed 68975
95.127 Removed 68975
95.129 Revised 68975
95.131 Removed 68975
95.133 Removed 68975
95.135 (b) removed; (d) revised 68976
95.137 Removed 68976
95.139 (b) removed; (c) redesignated as (b) 68976
95.171 Revised 68976
95.173 Removed 68976
95.175 Removed 68976
95.177 Removed 68976
95.179 (a) introductory text, (b) introductory text and (1) revised; (f) removed 68976
95.181 (f) revised; (i) and (j) removed 68976
95.183 Added 68976
95.1—95.181 (Subpart A) Appendix A amended; Appendix B removed 68976
95.192 (b) and (c) removed 68976
95.217 (b) revised 68976
95.225 Revised 68976
95.419 (b) revised 68976
95.428 Revised 68976
95.801 Revised 68977
95.811 (a) revised; (b) amended 68977
95.815 Revised 68977
95.816 (c)(2)(ii) revised 68977
95.817 Removed 68977
95.819 (c) amended 68977
95.821 Removed 68977
95.833 (b) introductory text amended 68977
95.839 Removed 68977
95.840 Removed 68977
95.841 Removed 68977
97 Nomenclature change 54077
97.3 Amended 68977
97.5 (a) introductory text, (b), (c) and (d) revised; (e) added 68977
97.7 Revised 68978
97.9 Revised 68978
97.13 (a) revised; (b) and (c)(2) amended 68978
97.15 Revised 68978
97.17 Revised 68978
97.19 (a), (b), (c) and (d)(1) revised 68978
97.21 Revised 68979
97.23 Revised 68979
97.25 Revised 68979
97.27 Heading and (a) introductory text revised 68979
97.29 Revised 68979
97.107 Revised 68979
97.119 (g) revised 68980
97.201 (a) revised 68980
97.203 (a) revised 68980
97.205 (f) and (h) removed 68980
97.207 (g) introductory text, (h) and (i) revised 68980
97.301 (a) introductory text and (b) introductory text revised 68980
97.505 (a)(10) revised 68980
97.509 (i) revised 68980
97.519 (b) introductory text, (1), (2) and (3) revised 68981
100 Authority citation revised 5956
100.5 Added 5956
101 Rule confirmation 69562
101.1 (a) and (b) redesignated as (b) and (c); new (a) added 68981
101.3 Amended 68981
101.5 (a) and (c) removed; (b) revised 68981
101.9 Removed 68981
101.11 Removed 68981
101.13 Removed 68981
101.15 Removed 68981
101.19 Removed 68981
101.21 (a), (c) and (d) removed; (b), (e) and (g) revised 68981
101.23 Revised 68981
101.25 Removed 68981
101.27 Removed 68981
101.29 Removed 68981
101.31 (a), (c), (d) removed; (b) and (e) redesignated as (a) and (b); heading and new (a)(1)(i), (2), (3) introductory text, (vii), (6) and (b)(1)(v) revised; new (b)(1)(vi) and (3) amended 68981
101.33 Removed 68982
101.35 Removed 68982
101.37 Removed 68982

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

101.39 Removed **68982**
101.41 Removed **68982**
101.43 Removed **68982**
101.45 (b) introductory text, (d), (f) introductory text, (1), (2) and (4) revised; (h) removed **68982**
101.47 Removed **68982**
101.51 (a)(3) revised **68982**
101.53 Removed **68982**
101.55 (b) removed **68982**
101.56 (a)(2)(ii) amended; (a)(3) removed **68982**
101.57 Removed **68982**
101.59 Removed **68982**
101.61 Revised (effective date pending) **68982**
101.63 (b), (d) and (e) revised **68983**
101.65 Revised **68983**
101.103 (d)(1) amended **68983**
101.105 (c)(3) introductory text amended **68983**
101.121 Removed **68983**
101.123 Removed **68983**
101.127 Removed **68983**
101.129 (b) removed **68983**
101.205 (a) and (c) revised **68983**
101.305 (a), (b), (c) and (d)(1) revised **68983**
101.413 (a) introductory text revised **68983**
101.503 Amended **68983**
101.701 (c) revised (effective date pending) **68983**
101.705 Revised **68984**
101.815 (a)(2) and (b) revised **68984**
101.817 (a) introductory text revised **68984**
101.1009 (a)(1)(iii) and (b) revised **68984**
101.1015 Removed **68984**
101.1017 (a), (b)(2) and (c)(2) revised **68984**
101.1106 Removed **68984**

Proposed Rules:

0—199 (Ch. I) **56892, 59755, 70089**
0 ..... **53619, 66104** 2461, 8779
1 ..... **53350, 54090, 70090** 204, 9960
2 ..... **65726, 69606** 1786, 2462, 7577, 10266
20 ..... **52665, 70727** 3478
22 ..... **53350, 70727**
25 ..... **54100, 63258** 1786, 7577
32 ..... **56900**
36 ..... **67837**
43 ..... **54090, 56900**
51 14203
52 ..... **54090**
54 ..... **54090, 58685, 67837, 68224**
61 ..... **54430**
62 ..... **68714**
64 ..... **54090, 55077, 63639** 7763
65 ..... **55988, 68418**
69 ..... **54430**
73 ..... **53008, 53009, 54431, 55831, 57637, 58358, 59262, 59263, 59928, 63016, 64941, 66104, 67036, 67439, 67449, 68424, 68425, 68718—68722, 68729, 69607—69609, 71412—71415** ...2461, 3913, 5623—5626, 5736—5740, 6020, 6296, 6591, 6852, 7577, 7841—7848, 8779—8788, 12922—12924, 13756, 13757, 14419—14423
74 ..... **58358, 66104, 68729, 69606** 6296
76 ..... 2461, 8779
78 ..... **69606**
87 ..... **65726**
90 ..... **58685, 65568** 1003, 3480
95 10266
101 ..... **53350, 69606**

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Federal Acquisition Circular No. 97-08 ..... **58586**
Small entity compliance guide **58608, 70306**
Federal Acquisition Circular No. 97-10 ..... **70264**
Federal Acquisition Circular No. 97-11 10530
Small entity compliance guide 10552
1.106 Table amended (OMB numbers); interim **58588**
Table amended (OMB numbers) **58602, 70292**
Table amended (OMB numbers) 10532, 10549
2.101 Amended; interim **58591**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 48 Chapter 1—Con.

4.203 Revised; interim **58588**
4.500—4.502 (Subpart 4.5) Revised; interim **58592**
4.603 (b) revised 10532
4.900—4.905 (Subpart 4.9) Revised; interim **58589**
5.101 (a)(2)(ii) revised; (a)(2)(iv) amended; interim **58592**
5.102 (a)(2) and (7) revised; interim **58592**
5.202 (a)(13) revised; (a)(14) removed; (a)(15) redesignated as (a)(14); interim **58592**
(a)(2) through (12) and (14) amended; interim **58593**
5.203 (b) revised; interim **58592**
Introductory text, (a) introductory text, (c), (d), (e) and (g) amended; interim **58593**
5.205 (d)(2) amended; interim **58593**
5.207 (c)(2)(xi), (e)(3) and (h) amended; interim **58593**
(d) revised; interim **70266**
(c)(2)(xviii) added; (d) revised; interim 10536
5.301 (b)(7) revised; interim **58593**
5.503 (a)(2) revised; interim **58593**
6.205 Added; interim **70267**
6.302–3 (a)(2)(iii) revised **58594**
(a)(2) introductory text, (i) and (ii) amended **58602**
6.302–5 (b)(6) added; interim **70267**
7.105 (b)(1) amended; interim **70267**
8.404 (a) amended; interim **70267**
(a) revised; interim 10536
9.104–3 (b) amended; interim **70267**
11.703 (a) revised 10538
12.301 (b)(2) amended; interim **70267**
12.303 (b)(1) amended; interim 10536
12.503 (b)(3) revised 10532
13.003 (c) removed; (d) through (i) redesignated as (c) through (h); new (f) and new (h)(3) revised; interim **58593**
(b)(2) redesignated as (b)(3); new (b)(2) added; interim **70267**
13.005 (a)(9) added; interim **70267**
13.102 (a) introductory text revised; interim **58593**
13.104 (b) amended; interim **58593**
13.105 (a)(1) revised; interim **58593**
13.106–1 (c)(1)(ii) and (f) revised; interim **58593**
13.106–2 (b)(3) introductory text revised; interim **58593**
13.106–3 (e) added; interim **58589**
(c) revised; interim **58593**
13.201 (d) amended 10539
13.301 (b) amended 10539
13.302–1 (e) revised 10540
13.307 (b)(1) amended; interim **58593**
14.201–6 (b)(2) removed; interim **58589**
(k) removed 10532
14.205–1 (a) amended; interim **58594**
14.206 Removed; interim **70267**
14.400 Amended; interim **58594**
14.405 (d)(2) amended; (e) removed; (f) redesignated as (e) 10532
14.407–4 (a) amended **58602**
14.502 (b)(5) redesignated as (b)(6); new (b)(5) added; interim **70267**
15.209 (d) removed; interim **58589**
15.403–1 (c)(4) revised 10545
15.404–1 (a)(7) amended **58602**
15.408 (g) revised **58596**
15.503 (a)(2) revised; interim **70267**
16.504 (a) introductory text and (1) amended; (a)(4)(ii) revised **70282**
16.505 (a)(6)(viii) redesignated as (a)(6)(ix); new (a)(6)(viii) added 10540
19.000 (a)(3) and (8) revised; interim **70268**
(a)(8) and (9) amended; (a)(10) added; interim 10536
19.001 Amended; interim **70268, 71723**
Amended; interim 10536
19.102 (f)(4) amended **58602**
(g) amended **70292**
(g) redesignated as (h); new (g) added; interim 10536
19.201 (b) amended **56738**
(a) and (c) amended; (d)(4), (6), (7)(ii), (8) and (9) revised; interim **70268**
19.202 Amended; interim **70268**
19.202–2 Introductory text revised; (a) amended; interim **70268**
19.202–4 Introductory text revised; interim **70268**
19.202–5 (a) and (b) revised; interim **70268**
19.202–6 Introductory text removed; (a) revised; interim **70268**
19.301—19.306 (Subpart 19.3) Heading revised; interim **70268**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

19.301 (d) amended; interim **70268**
19.306 (b) amended **56738**
Redesignated as 19.307; new 19.306 added; interim **70269**
19.307 Redesignated from 19.306; heading and (a) revised; interim **70269**
19.402 (c)(1) revised; interim **70269**
19.501 (a) and (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and new (h) revised; interim **70269**
19.502–1 Revised; interim **70270**
19.502–2 Heading revised; (a), (c) and (d) amended; interim **70270**
(a) amended; interim 10536
19.502–4 (a) amended; interim **70270**
19.502–5 (b), (c) and (g) amended; interim **70270**
(e) amended **70292**
19.503 Heading revised; (a), (b), (c) introductory text and (d) amended; interim **70270**
19.507 Heading revised; (a) amended; interim **70270**
19.701—19.708 (Subpart 19.7) Heading revised; interim **70270**
19.702 Introductory text and (b)(4) revised; interim **70270**
19.703 (a) introductory text and (1) revised; (b) amended; interim **70270**
(b) revised; interim **71723**
19.704 (a)(1), (2), (3), (6), (8), (9) and (11) revised; (b) amended; interim **70271**
19.705–2 (d) amended; interim **70271**
19.705–4 (b), (c), (d)(1) and (6) amended; (d)(5) revised; interim **70271**
19.705–6 (a) and (b) revised; interim **70271**
19.705–7 (a) and (f) introductory text revised; (d) amended; interim **70272**
19.706 (b) and (c) revised; interim **70272**
19.708 Heading revised; (a) introductory text, (c)(1), (2) and (3) amended; (b) revised; interim **70272**
19.800 (d) added; interim **70272**
19.803 (c) amended; interim **70272**
19.804–2 (a)(12) revised; interim **70272**
19.901—19.905 (Subpart 19.9) Added; interim 10536
19.1004 Amended **58602**
19.1006 (b)(1) amended; interim **70272**
19.1102 (b) revised; interim **70272**
19.1202–2 (b)(1) revised; interim **70272**
19.1202–4 (c) added; interim **71723**
19.1301—19.1308 (Subpart 19.13) Added; interim **70272**
22.800 Amended **70283**
22.801 Revised **70283**
22.802 (a) and (b) amended **70283**
(b) and (c) amended **70285**
22.803 (b) amended; (d) revised **70283**
(a)(1), (2) and (b) amended **70285**
22.804–1 Revised **70284**
22.804–2 (b) amended **70284**
22.805 (a)(4) through (8) redesignated as (a)(5) through (9); (a) introductory text, (1), (2), (3) and new (5) introductory text, (ii), (v) and (6) through (9) revised; new (a)(4) added; (b) amended **70284**
22.806 Revised **70284**
22.807 (a)(1), (b)(1), (3) and (6) amended; (a)(2), (b)(5), (c) and (d) introductory text revised; (d)(2) removed **70284**
(a) introductory text, (b)(2), (3) and (4) amended **70285**
22.808 Amended **70285**
22.809 Introductory text, (a) and (d) amended **70285**
Introductory text, (c) and (d) amended **70285**
22.810 (a), (c) and (e) revised; (b) and (f) amended; (g) removed; (h) redesignated as (g) **70285**
22.1200 Amended 10546
22.1201 Amended 10546
22.1202 Amended 10546
22.1203–1 (b)(1) amended 10546
22.1400—22.1408 (Subpart 22.14) Regulation at 63 FR 34074 confirmed **58599**
22.1400 Regulation at 63 FR 34074 confirmed **58599**
22.1401 Regulation at 63 FR 34074 confirmed **58599**
22.1402 Regulation at 63 FR 34074 confirmed **58599**
22.1403 Regulation at 63 FR 34074 confirmed **58599**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 48 Chapter 1—Con.

22.1404 Regulation at 63 FR 34074 confirmed **58599**
22.1405 Regulation at 63 FR 34074 confirmed **58599**
22.1406 Regulation at 63 FR 34074 confirmed **58599**
22.1407 Regulation at 63 FR 34074 confirmed **58599**
22.1408 Regulation at 63 FR 34074 confirmed **58599**
24.202 (c) added **58594**
25.402 (b) amended 10549
26.103 (a), (b) and (e) amended 10532
26.104 (a) amended; interim **70274**
27.404 (d)(2) and (e)(3) amended 10532
27.409 (g) amended 10532
31.001 Amended **58596**
31.201–5 Amended **58596**
31.201–6 (j)(1) through (6) revised **58597**
31.205–1 (d) revised 10547
31.205–5 Removed **58599**
31.205–6 Regulation at 63 FR 9067 confirmed; (k) heading and (p)(2)(ii) revised; (p)(2)(iv) added **70287**
(p) introductory text amended; (p)(2)(ii)(A), (B) and (C) redesignated as (p)(2)(ii)(A)(*1*), (*2*) and (*3*); new (p)(2)(ii)(A) introductory text and (B) added 10548
31.205–34 (a) introductory text and (b) revised; (c) removed 10547
31.205–47 (b) introductory text and (e)(3) revised; (c) redesignated as (c)(1); (c)(2) added **58600**
31.1103 (a) amended; interim **58594**
32.703–3 Revised **58601**
32.705–1 (b) revised **58603**
32.805 (a) revised 10533
32.905 (a) introductory text revised **58602**
32.908 (a)(3) and (c)(3) added **58602**
(a)(3) and (c)(3) amended **70292**
32.1100—32.1110 (Subpart 32.11) Revised 10540
33.104 (e) amended **58603**
33.201 Amended **58594**
33.204 Amended **58595**
33.207 (a) revised **58595**
33.214 (a)(3) and (4) amended; (a)(5) removed; (b) revised; (f) and (g) added **58595**
36.601–4 (a)(4) amended **58603**
37.106 (b) revised **58601**
37.602–3 Amended **70292**
41.103 (a)(2) and (3) amended **58603**
41.201 (e) amended 10533
42.203 Amended **70292**
44.302 Revised **70288**
44.303 Introductory text revised **70288**
46.202–4 Revised **70289**
46.311 Revised **70289**
46.402 (e) and (g) removed; (f) and (h) redesignated as (e) and (f); new (e) amended **70290**
48.104–3 Regulation at 63 FR 34079 confirmed **70291**
52.204–3 Revised; interim **58589**
52.204–5 Revised 10533
52.211–16 Introductory text revised 10538
52.212–3 Amended; interim **58590, 70274**
Amended **70285**
Amended 10533
52.212–4 Amended 10542
52.212–5 Regulation at 63 FR 34075 confirmed **58599**
Amended **58603, 70292**
Amended; interim **70274**
Amended; interim 10537
Amended 10542
52.213–4 Regulation at 63 FR 34075 confirmed **58599**
Amended 10542
52.214–2 Removed; interim **58590**
52.214–17 Removed 10533
52.214–21 Amended; introductory text revised 10533
52.215–4 Removed; interim **58590**
52.215–15 Revised **58598**
52.219–1 Amended; interim **70274**
Amended 10533
52.219–2 Introductory text amended; interim **70274**
52.219–3 Added; interim **70274**
52.219–4 Added; interim **70275**
52.219–5 Amended; interim 10537
52.219–8 Revised; interim **70275**
Amended; interim **71723**
Amended; interim 3196, 10549
52.219–9 Amended; interim **70276**
Amended **70293**
52.219–10 Amended; interim **70277**
52.219–16 Amended; interim **70277**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

52.219–21 Amended 10533
52.219–22 Introductory text amended; interim 70277
52.219–25 Amended; interim 71723
52.222–21 Revised 70285
52.222–22 Amended; introductory text revised 70286
52.222–23 Amended; heading and introductory text revised 70286
52.222–24 Revised 70286
52.222–25 Introductory text revised 70286
52.222–26 Amended; introductory text revised 70286
52.222–27 Amended; introductory text revised 70286
52.222–28 Removed 70286
52.222–29 Revised 70286
52.222–36 Regulation at 63 FR 34075 confirmed 58599
52.222–37 Amended 70293
52.222–50 Amended 10546
52.226–1 Amended; interim 70277
Amended 10533
52.227–15 Revised 10533
52.228 (n) revised 10549
52.228–8 Amended; introductory text revised 10534
52.228–9 Revised 10534
52.232–12 Amended; introductory text revised 10534
52.232–33 Revised 10542
52.232–34 Revised 10543
52.232–35 Added 10544
52.232–36 Added 10544
52.232–37 Added 10544
52.232–38 Added 10544
52.233–1 Amended 58595
52.241–1 Revised 10534
52.244–6 Amended 58603
52.246–11 Revised 70289
52.247–48 Revised 70292
53.219 (a) revised; (b) amended; interim 70277
53.228 (h) and (i) revised 58603
(a), (b), (c), (e), (j) and (m) revised 70293
53.301–24 Revised 70293
53.301–25 Revised 70296
53.301–25A Revised 70298
53.301–28 Revised 70300
53.301–273 Revised 58603
53.301–274 Revised 58605
53.301–275 Revised 70302
53.301–294 Revised; interim 70277
53.301–295 Revised; interim 70280
53.301–1416 Revised 70304
53.301–1418 Revised 10549

Chapter 2—Department of Defense (Parts 200—299)

201.402 (1) introductory text and (i) revised; (3)(iii) amended 8727
203.570 Revised 14398
203.570–5 Revised 14398
204.101 (a)(i) revised 69006
204.670–2 (c) revised 2595
204.804–1 Amended 2596
206.302–4 Revised 67803
208.405–2 Revised 2596
208.7204 (a) revised 2596
208.7305 (a)(3) revised 2596
209.104–1 Regulation at 63 FR 14837 confirmed 64427
209.104–70 Regulation at 63 FR 14837 confirmed 64427
209.405–2 Regulation at 63 FR 14837 confirmed 64427
209.409 Regulation at 63 FR 14837 confirmed 64427
211.201 (b) amended; (d) introductory text revised 8727
211.273–2 (b) revised 14399
211.273–3 Revised 14399
212.301 (f)(ii) amended; (f)(v) added; interim 8728
212.503 (c)(ii) amended 55040
213 Regulation at 63 FR 33587 confirmed 64427
Revised 2596
215 Revised 55041
215.304 Revised; interim 64428
215.404–4 (b)(1) introductory text, (c)(2) introductory text, (A) and (B) revised 63799
215.404–72 Revised 63799
215.404–75 Redesignated as 215.404–76; new 215.404–75 added 63800
215.404–76 Redesignated from 215.404–75 63800
216.203–4 (a) introductory text amended; (a)(i) and (b)(i) revised 2597
217.401 Revised; interim 64429
217.500 Added 14400
217.7103–3 (b) revised 55052
(b) correctly revised 56290
217.7103–4 Revised 55052
217.7302 (b) revised 2597

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 48 Chapter 2—Con.

217.7404–3 (a) introductory text and (1) revised **67803**
217.7404–5 (b) revised **67804**
217.7406 (b) amended **55052**
217.7504 (a)(2) revised 2598
219.001 Revised; interim **64429**
219.201 (c) and (d) redesignated as (d) and (e); new (d)(9)(A) revised 2598
219.702 Regulation at 63 FR 14640 confirmed **64427**
219.708 (c)(1) revised; (c)(2) removed; interim **64429**
219.800 Regulation at 63 FR 33587 confirmed **64427**
219.804–2 Regulation at 63 FR 33587 confirmed **64427**
219.804–3 Regulation at 63 FR 33587 confirmed **64427**
219.805 Regulation at 63 FR 33588 confirmed **64427**
219.805–2 Regulation at 63 FR 33588 confirmed **64427**
219.806 Regulation at 63 FR 33588 confirmed **64427**
219.808 Regulation at 63 FR 33588 confirmed **64427**
219.808–1 Regulation at 63 FR 33588 confirmed **64427**
219.811 Regulation at 63 FR 33588 confirmed **64427**
219.811–1 Regulation at 63 FR 33588 confirmed **64427**
219.811–2 Regulation at 63 FR 33588 confirmed **64427**
219.811–3 Regulation at 63 FR 33588 confirmed **64427**
219.812 Regulation at 63 FR 33588 confirmed **64427**
219.1203—219.1204 (Subpart 219.12) Added; interim **64429**
223.570–4 (b) revised 2598
223.7000—223.7002 (Subpart 223.70) Removed **67804**
225.105 (5)(ii)(B) revised 2598
225.408 (a)(ii) and (iv) amended 8730
225.770–3 (a) revised 2598
225.771 Added; interim 8728
225.771–1 Added; interim 8728
225.771–2 Added; interim 8728
225.771–3 Added; interim 8728
225.771–4 Added; interim 8728
225.872–3 (g) amended **55052**
225.872–6 (c) introductory text amended **55052**
225.7002–2 (k) added; interim 2599
225.7005 Regulation at 63 FR 43888 confirmed **64427**
225.7007–4 Regulation at 63 FR 43888 confirmed **64427**
225.7010–3 Regulation at 63 FR 43888 confirmed **64427**
225.7016–1 Regulation at 63 FR 43888 confirmed **64427**
225.7016–2 Regulation at 63 FR 43888 confirmed **64427**
225.7016–3 Regulation at 63 FR 43888 confirmed **64427**
225.7019–1 Regulation at 63 FR 43888 confirmed **64427**
225.7019–3 Regulation at 63 FR 43888 confirmed **64427**
225.7022–1 Regulation at 63 FR 43888 confirmed **64427**
225.7022–2 Regulation at 63 FR 43888 confirmed **64427**
225.7022–3 Regulation at 63 FR 43888 confirmed **64427**
225.7303–2 (c) introductory text amended 8729
226.7007 (b) revised; interim **64429**
227.7203–10 (a)(1) amended **55052**
228.370 (f) revised **69006**
230 Heading revised 8727
230.7002 (b) amended **55052**
230.7004–1 Heading and (a) amended **55052**
230.7103 Amended **55052**
231.205–6 Regulation at 63 FR 63036 confirmed **64427**
231.205–18 Revised 8729
231.205–70 Regulation at 63 FR 7309 confirmed **64427**
232.501 Revised 8731
232.501–1 (a)(iii) removed 8731
232.501–2 Amended 8731
232.502–1–71 Removed 8731
232.502–4–70 (b) removed; (c) redesignated as (b) 8731
232.905 (f)(6) revised **69007**
235.015–71 Removed **69007**
235.7000—235.7003–4 (Subpart 235.70) Regulation at 63 FR 34605 confirmed **64427**
237.7302 Amended 2598
236.102 Regulation at 63 FR 11538 confirmed **64427**
236.274 Regulation at 63 FR 11538 confirmed **64427**
236.570 Regulation at 63 FR 11538 confirmed **64427**

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

236.601 (1)(ii) amended **69006**
236.602–1 (a)(i)(6)(C) revised; interim **64430**
237.106 Revised **67805**
237.270 Correctly removed; CFR correction **54078**
237.270–1 Correctly removed; CFR correction **54078**
237.270–2 Correctly removed; CFR correction **54078**
237.270–3 Correctly removed; CFR correction **54078**
237.270–4 Correctly removed; CFR correction **54078**
237.7204 Amended **55052**
242.203 (a)(ii)(P) and (Q) amended; (a)(i)(R) removed 2598
242.771 Revised; interim 8729
242.771–1 Revised; interim 8729
242.771–2 Revised; interim 8729
242.771–3 Revised; interim 8729
242.7205 (b)(4)(iv) amended **55052**
246.370 (b)(1) revised 2598
247.271–3 (b)(1) and (2)(iv)(B) revised 2598
247.572–2 (f)(3)(i) amended; (f)(3)(ii) revised **55052**
247.573 (a), (b) and (c) revised 2598
252.203–7001 Amended; heading revised 14398
252.209–7001 Regulation at 63 FR 14837 confirmed **64427**
252.209.7004 Regulation at 63 FR 14837 confirmed **64427**
252.211–7005 Revised 14399
252.212–7001 Amended; interim **64430**
252.215–7000 Introductory text amended **55052**
252.215–7002 Amended; introductory text revised **55052**
252.217–7027 Amended **55052**
252.219–7005 Amended **55052**
Removed; interim **64430**
252.219–7009 Regulation at 63 FR 33588 confirmed **64427**
252.219–7010 Regulation at 63 FR 33588 confirmed **64427**
252.219–7011 Regulation at 63 FR 33588 confirmed **64427**
252.223–7005 Removed **67804**
252.225–7007 Amended 8730
252.225–7012 Amended; interim 2599
252.225–7016 Regulation at 63 FR 43889 confirmed **64427**
252.225–7017 Added; interim 8728
252.225–7021 Amended 8730
252.225–7029 Regulation at 63 FR 43889 confirmed **64427**
252.228–7006 Amended **69006**
252.232–7003 Removed 8731
252.232–7004 Introductory text revised 8731
252.236–7010 Regulation at 63 FR 11544 confirmed **64427**
252.236–7012 Regulation at 63 FR 11544 confirmed **64427**
252.243–7000 Amended **55052**
253 Note removed **69007**
Amended 8727
253.204–70 (b)(6)(i) introductory text amended **55052**
(b)(5)(ii)(A), (B)(*1*), (13)(i)(A), (B) introductory text, (C), (E), (G), (iv)(I), (14)(iii), (iv), (d)(5)(vi), (e)(1), (2) and (3) amended **60217**
Regulation at 63 FR 33589 confirmed **64427**
(d)(5)(iv)(A)(*2*) amended 2598
253.204–71 Regulation at 63 FR 33589 confirmed **64427**
(a)(3) introductory text, (g)(2)(ii)(C) and (i)(1) revised 2598
253.213 (e) redesignated as (f); heading and new (f) introductory text and (1) revised 2599
253.213–70 (e) amended 2600
253.215–70 (a), (b)(4), (c)(12) and (14) revised; (b)(7) removed; (b)(8) and (9) redesignated as (b)(7) and (8); (c)(15) and (16) amended **55052**
(b)(4) amended **63800**
Chapter 2 Appendix I amended; interim **64430**
Appendix G amended **71231**
Appendix B amended 8726

Chapter 5—General Services Administration (Parts 500—599)

511.204 (c) revised; interim 4789
516.505 (a) revised; interim 4789
542.302 (b)(5) revised; interim 4789
552.216–73 Amended; interim 4789
552.219–72 Revised 15306
552.219–73 Revised 15306
552.219–74 Revised 15307
552.238–72 Amended; interim 4789
552.238–76 Amended; interim 4789
552.243–72 Amended; interim 4789

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 48

Chapter 7—Agency for International Development (Parts 700—799)

705.502 Added 5006
706.501 Amended 5006
709.503 Amended 5006
709.507–2 (c) revised 5006
716.406 Added 5007
722.805–70 (Subpart 722.8) Revised 5007
731.205–6 (b) added; (d) removed 5008
731.371 (b)(1) revised 5008
732.402 (e)(1) revised 5008
732.406–73 Existing text designated as (a); (b) added 5008
745 Added 5008
747 Added 5008
752.204–2 Amended 5008
752.209–71 Introductory text revised 5008
752.216–70 Added 5008
752.245–71 Amended 5009
752.247–70 Added 5009
752.7003 Amended 5009
752.7005 Added 5010
752.7018 Revised 5010
752.7019 Revised 5011

Chapter 8—Department of Veterans Affairs (Parts 800—899)

801.000 Amended **69217**
801.101 (a) amended **69217**
801.102 Redesignated as 801.103 ..... **69217**
801.103 Redesignated as 801.104; new 801.103 redesignated from 801.102 and amended **69217**
801.104 Redesignated from 801.103; (a) amended **69217**
801.301–70 (b)(2) amended **69217**
801.303 Heading revised **69217**
801.601—801.690–6 (Subpart 801.6) Heading revised **69217**
801.602–3 (a)(2) and (b)(2) amended **69217**
801.603–71 (b) amended; (c), (d) and (e) removed **69217**
801.670–1 Amended **69217**
801.670–2 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2) **69217**
801.670–3 (a) amended **69217**
801.670–4 (a)(1), (2), (b)(1), (2) and (c) amended **69217**
801.670–5 (a)(3) through (6), (8), (9) and (b) amended **69218**
801.680 (c) and (d) amended **69218**
801.690–3 (c) introductory text, (1) and (2) amended **69218**
801.690–4 (c)(1)(i) amended; (c)(3)(ii) revised **69218**
801.690–6 (b) amended **69218**
803.101–3 (b) amended **69218**
803.405 Redesignated from 803.409 ..... **69218**
803.409 Redesignated as 803.405 ..... **69218**
803.7000 Introductory text amended **69218**
805.205 Amended **69218**
806.302–3 Amended **69218**
806.302–5 (a), (b), (c) introductory text, (1), (2), (4), (5) and (6) amended; (c)(3) revised **69218**
806.304 (a)(1)(i) and (2)(i) amended **69218**
806.501 (b) amended **69218**
806.570 Heading revised; introductory text amended **69218**
808.001 (a)(4) amended **69219**
808.401 Amended **69219**
808.404–1 (a) and (b) amended **69219**
808.404–3 Amended **69219**
814.201 (a) amended **69219**
814.304–4 Amended **69219**
814.403 Amended **69219**
814.404–1 (b) amended **69219**
814.404–70 Amended **69219**
814.406 Redesignated as 814.407 ..... **69219**
814.406–3 (a), (b) and (c) amended **69219**
814.406–4 (a), (b) and (c) amended **69219**
814.407 Redesignated as 814.408; new 814.407 redesignated from 814.406 ..... **69219**
814.407–70 Redesignated as 814.408–70 ..... **69219**
814.407–71 Redesignated as 814.408–71 ..... **69219**
814.408 Redesignated as 814.409; new 814.408 redesignated from 814.407 ..... **69219**
814.408–70 Redesignated from 814.407–70 ..... **69219**
814.408–71 Redesignated from 814.407–71 ..... **69219**
814.409 Redesignated from 814.408 ..... **69219**
817.102 Redesignated as 817.105 ..... **69219**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

817.102–1 Redesignated as 817.105–1 69219
817.105 Redesignated from 817.105 69219
817.105–1 Redesignated from 817.105–1; (b)(2) and (c) amended 69219
819 Authority citation revised 69219
819.201 (a), (b) and (d) amended 69219
819.202–5 (c) introductory text, (g) and (h) amended; (c)(6) removed; (c)(7) through (12) redesignated as (c)(6) through (11) 69219
819.202–70 Introductory text, (a), (c), (j) and (k) amended 69220
819.502–2 (b) removed; (c) and (d) redesignated as (b) and (c) 69220
819.502–3 Revised 69220
819.602–3 (a) through (d) amended 69220
819.801 (b) and (d) amended 69220
819.804 Amended; heading revised 69220
819.806 Redesignated from 819.806–3 and heading revised 69220
819.806–3 Redesignated as 819.806 69220
819.807–70 Amended; heading revised 69220
819.7004 Amended 69220
822.478 (a), (b) and (c) amended 69220
825 Authority citation revised 69220
825.102–70 (b) and (c) amended 69220
825.105 Amended 69220
825.202–70 (b) and (c) amended 69220
825.203 Amended 69220
825.302–70 Amended 69220
825.701 Removed 69220
825.703 Amended 69220
825.870 Amended 69220
825.901 Redesignated from 825.902; heading revised; existing text designated as (a) and amended; (b) added 69220
825.902 Redesignated as 825.901 69220
825.904 Removed 69221
828.106–6 Amended 69221
828.7100 (a) and (c) amended 69221
828.7101 (b) amended 69221
828.7102 (a) introductory text, (1) and (b) introductory text amended 69221
831 Authority citation revised 69221
831.7001–4 (a) and (b)(2) amended 69221
831.7001–5 (b) amended 69221
832 Authority citation revised 69221
832.502–2 Amended 69221
832.805–70 (b) amended 69221
833.104 (a)(1), (2), (b) and (c) amended 69221
833.212 (a) and (b)(4) amended 69221
836.208 Amended 69221
836.209 Amended 69221
836.602–2 (a) and (b) amended 69221
838.606–72 Amended 69221
837.203—873.271–4 (Subpart 837.2) Heading revised 69221
837.203 Revised 69221
837.270 (a) introductory text, (1), (3), (c) and (d) amended; (e) revised 69221
837.271 Removed 69222
837.271–1 Removed 69222
837.271–2 Removed 69222
837.271–3 Removed 69222
837.271–4 Removed 69222
837.403 Amended 69222
837.7001 Amended 69222
837.7002 Amended 69222
837.7003 (a), (b) introductory text, (5), (c) and (d) amended; (e) revised 69222
842 Authority citation revised 69222
842.102 (b) amended 69222
842.202 Amended 69222
842.705 (b) amended 69222
842.801–70 Amended 69222
842.1203 Amended 69222
846.408–70 (b) introductory text amended 69222
846.408–71 (a) amended 69222
846.471 (a) and (b) amended 69222
847 Authority citation revised 69222
847.303–1 (b) amended 69222
847.305–70 Amended 69222
849 Authority citation revised 69222
849.106 Amended 69222
849.107 Amended 69223
849.111–70 Amended 69223
849.111–72 (c) amended 69223
852.203–71 Amended 69223
852.211–70 (d) amended 69223
852.216–70 (a) amended 69223
852.222–70 Amended 69223
852.236–88 Introductory text, (a) and (b) amended 69223
852.236–89 Amended 69223

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 48 Chapter 8—Con.

852.247–70 Amended **69223**
852.270–3 Heading revised **69223**
852.271–73 Amended **69223**
853 Authority citation revised **69223**
853.107 Amended **69223**
870 Authority citation revised **69223**
870.114–3 Introductory text amended **69223**
870.114–4 Amended **69223**
870.115 (a) amended **69223**
871.102 (a) amended **69223**

Chapter 9—Department of Energy (Parts 900—999)

903.104–3 Added **56851**
913.507 Removed 12876
915 Revised **56851**
915.404–4–71–5 (d), (f) and (h) revised 12227
915.404–4–72 (a) introductory text revised 12229
916.504—916.505 Designated as Subpart 916.5 and heading added **56860**
919.602–1 (a)(2) amended **56860**
919.805–2 Revised **56860**
922.7101 Revised 12876
935.016 Removed **56860**
935.016–1 Removed **56860**
935.016–2 Removed **56860**
935.016–8 Removed **56860**
970.15404–4—970.15407–2–3 (Subpart 970.15) Revised **56861**
970.1504–4 Revised 12229
970.1504–4–1 Revised 12229
970.1504–4–2 Revised 12229
970.1504–4–3 Revised 12230
970.1504–4–4 Revised 12231
970.1504–4–5 Revised 12231
970.1504–4–6 Revised 12233
970.1504–4–7 Revised 12233
970.1504–4–8 Revised 12233
970.1504–4–9 Added 12234
970.1504–4–10 Added 12234
970.1504–4–11 Added 12234
970.2274–1 (a) introductory text and (d) amended; (a)(1), (2) and (3) removed; (b) and (c) revised 12876
970.3102–1 (c) amended **56867**
970.3102–15 (b)(1) and (2) amended **56867**
970.5202 Revised **56867**
970.5204–9 Amended **56867**
970.5204–15 Amended **56867**
970.5204–22 Amended **56867**
970.5204–44 Amended **56867**
970.5204–54 Amended **56867**
Revised 12335
970.5204–59 Revised 12876
970.5204–76 Amended **56867**
970.5204–86 Added 12336
970.5204–87 Added 12336
970.5204–88 Added 12337

Chapter 12—Department of Transportation (Parts 1200—1299)

1201.103 Removed 2436
1201.201–1 (d) removed 2436
1201.301 (a)(2) and (b) added 2436
1205.9000 (Subpart 1205.90) Revised 2436
1206.9000 (Subpart 1206.90) Revised 2436
1211.204–90 Revised 2437
1213.106—1213.106–190 (Subpart 1203.1) Revised 2437
1213.302—1213.302–590 (Subpart 1213.3) Added 2437
1215 Revised 2437
1237.104 Revised 2438
1237.104–90 Revised 2438
1237.104–91 Revised 2438
1237.9000 (Subpart 1237.90) Revised 2438
1252.211–71 Amended 2439
1252.215–70 Amended 2439
1252.216–71 Amended 2439
1252.216–72 Amended 2439
1252.216–73 Amended 2439
1252.211–90 Added 2439
1252.213–90 Revised 2439
1252.220–90 Revised 2439
1252.228–90 Revised 2439
1252.237–90 Revised 2439
1252.237–91 Revised 2440
1252.237–92 Revised 2440
1252.237–93 Revised 2440
1252.237–94 Revised 2440
1252.237–95 Revised 2440
1252.237–96 Revised 2440
1252.237–97 Revised 2440
1252.237–98 Revised 2440
1252.237–99 Revised 2440
1252 Appendix redesignated from 1253 appendix in part; new appendix revised 2442
1253.215 Removed 2441
1253.215–270 Removed 2441
1253.3 Appendix redesignated in part as 1253 appendix 2442

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

1516.405 (b) amended 3876
1552.216–75 Revised 3876
1552.242–70 Amended 3876

Chapter 16—Office of Personnel Management Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)

1609.7101—1609.7101–2 (Subpart 1609.71) Added **55337**
1632.170 (a) and (b)(1) revised **55338**
1652.232–70 Amended **55339**
1652.232–71 Amended **55339**
1652.244–70 Amended **55339**
1652.370 Table amended **55339**

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1804.203 Added 1528
1804.805 (a) revised 5620
1804.805–70 (b)(2) amended 5620
1804.904 (Subpart 1804.9) Added 1528
1804.7301 Revised 14640
1806.501 (3) revised 10571
1807.105 (a)(2) added 14641
1807.7203 Revised 5620
1808.002–70 Revised 5620
1813.003 (h) redesignated as (g) 5620
1815.403–170 Revised 10572
1816.203–4 (d)(2) amended 5620
1817.7300—1817.7302 (Subpart 1873.73) Added **56091**
1819.302 (Subpart 1819.3) Heading revised 5620
1819.506 Heading revised 5620
1819.705–2—1819.708–70 (Subpart 1819.7) Heading revised 5620
1819.708 Heading revised 5621
1819.7201 Revised 10571
1819.7205 (b) revised; (c) and (d) removed 10571
1819.7206 Revised 10571
1819.7209 (a)(1) and (b) revised 10571
1819.7210 (c) revised; (d) removed 10572
1819.7214 (i) removed; (e), (g) and (h) revised 10572
1819.7215 (b) revised 10572
1819.7216 (a)(2), (3) and (b) revised 10572
1819.7217 (c) revised 10572
1819.7219 (a) revised 10572
1822.101–1 (e) added 14148
1822.103–5 Added 14148
1827.301 Amended **63209**
1827.406–70 (c) revised 5621
1832.908 Revised 5621
1832.970 Removed 5621
1833.104 (c)(2) revised 5621
1834.003 (a) revised **56093**
1834.7001—1834.7004 (Subpart 1834.70) Removed **56093**
1835.016 (a)(iii) added 14641
1836.213–70 Redesignated as 1836.213–370 5621
1836.213–370 Redesignated from 1836.213–70 5621
1842.302 (Subpart 1842.3) Added 10574
1842.7401—1842.7402 (Subpart 1842.74) Added 10574
1842.242–74 Added 10574
1842.242–75 Added 10575
1842.242–76 Added 10575
1842.242–77 Added 10575
1844.201–1 (a)(iii) revised 5621
1852.217–71 Added **56093**
1852.217–72 Added **56093**
1852.219–77 Amended 10572
1852.219–79 (b) introductory text, (e) and (f) revised 10572
1852.227–70 Amended **63209**
1852.234–70 Removed **56094**
1852.234–71 Removed **56094**
1852.235–70 Introductory text amended 5621
1853.208–70 Heading and (c) revised 5621
1871.204 Revised **71604**
1871.401–6 (a)(2) amended **71604**
(a)(2) correctly revised; (a)(3) correctly added; CFR correction 1529
1872.102 (a)(1) revised 14641

Chapter 53—Department of the Air Force Federal Acquisition Regulation Supplement (Parts 5300—5399)

5315 Removed 995
5316 Removed **67600**
5350 Removed **71390**

Proposed Rules:

8 ..... **57568**
11 ..... **63778, 68344**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 48 *Proposed Rules:—Con.*

14....4248
15....4248
17....3618
28....**71710**
31....3380, 4760
32....6758
36....**71710**
42....**57568**
44....**71710**
46....**57878**
47....7736
49....**71710**
52....**63778, 68344, 71710, 71711**
....3618, 3786, 4248, 6758, 7736
204....2617, 14424
212....2617
213....2617
231....**65727**
252....2617, 14424
253....2617
300—399 (Ch. III)....1344
601....**65728**
602....**65728**
603....**65728**
604....**65728**
605....**65728**
606....**65728**
608....**65728**
609....**65728**
610....**65728**
611....**65728**
613....**65728**
614....**65728**
615....**65728**
616....**65728**
617....**65728**
619....**65728**
622....**65728**
623....**65728**
625....**65728**
626....**65728**
628....**65728**
629....**65728**
630....**65728**
631....**65728**
632....**65728**
633....**65728**
634....**65728**
636....**65728**
637....**65728**
639....**65728**
641....**65728**
642....**65728**
643....**65728**
644....**65728**
645....**65728**
646....**65728**
647....**65728**
649....**65728**
652....**65728**
653....**65728**
700—799 (Ch. VII)....**59501**
712....**59501**
727....**59501**
742....**59501, 64539**
752....**59501**
801....**60256**
806....**60256**
812....**60256**
829....4607
837....**60256**
852....**60256**
873....**60256**
909....**60268**
970....**60268, 64024**
....14206
1201....**52666**
1205....**52666**
1206....**52666**
1211....**52666**
1213....**52666**
1215....**52666**
1237....**52666**
1252....**52666**
1253....**52666**
1503....**71415**
1515....**71415**
1526....**67845**
1537....3060
1552....**67845, 71415**
....3060
1842....**63654**
1852....**63654**
2000—2099 (Ch. 20)....**67726**

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.46 (ppp) added....**59475**
(ppp) correctly designated....3876
(qqq) added....7814
1.48 (ll) added....7814
1.49 (kk) added....**57610**
(ll) added....7814
1.66 (bb) added....2150
23 Heading and authority citation revised....5126
23.1—23.7 (Subpart A) Removed....5126
23.41—23.55 (Subpart C) Removed....5126

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

23.61—23.69 (Subpart D) Removed 5126
23.73—23.87 (Subpart E) Removed 5126
23.89 Amended 5126
23.93 (a) introductory text amended 5126
23.95 (a)(1), (f)(1), (2) and (g)(1) amended; (f)(5) removed 5126
23.97 Amended 5126
23.111 Removed 5126
24.2 Amended 7131
24.102 (k) amended 7132
24.103 (c) amended 7132
24.105 (c) amended 7132
24.202 Amended 7132
24.203 (a)(4) redesignated as (a)(5); new (a)(4) added; (b) amended 7132
24.204 (a) amended 7132
24.205 (c)(2)(ii)(B) amended 7132
24.208 Redesignated as 24.209; new 24.208 added 7132
24.209 Redesignated from 24.208 7132
24.301 Introductory text amended 7132
24.303 (a) amended 7132
24.304 Introductory text amended 7132
24.306 (a)(6) and (c) amended 7132
24.307 (a) amended 7132
24.401 (c)(4)(ii) amended 7132
24.403 (a) and (b) amended 7132
24.404 (c)(2) amended 7132
24 Appendix A amended 7132
26 Added 5126
37.15 Revised **64837, 64838**
40.29 (e)(1) table and (f)(1) table amended **65129**

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.503 (a)(3) amended **52846**
107.606 (a)(5) amended **52847**
171.2 (d)(1) amended 10752
171.5 (a)(3) amended 9925
171.7 (a)(3) table amended **52847, 57930**
(a)(3) table amended 10752, 10753
171.8 Amended **52847**
Amended 10753
171.11 (d)(4)(ii) revised **57930**
(d)(14) amended 10753
171.12 (b)(17) amended 10753
171.12a (b)(16) amended 10753
171.14 (c)(1) revised **52847**
(b) table and (d)(2) amended; (d) introductory text and (1) revised; (d)(3) added 10753
172.101 (c)(11) introductory text, (f) and table amended **52847**
Table amended **52849**
Table amended 10754, 10772
Table and Appendix B amended 10773
Appendix B amended 10774, 10775
172.102 (c)(1) amended **52849**
(c)(1), (2), (3) and (5) amended 10775
172.203 (m)(1) amended **52849**
(k) introductory text and (1) amended 10775
(k)(3) removed; (k)(4) redesignated as (k)(3) 10776
172.313 (d) added 10776
172.400 (b) amended 10776
172.400a (a)(7) amended **52849**
(d) removed 10776
172.405 (c) added 10776
172.407 (c)(4) revised 10776
172.431 Removed 10776
172.504 Table amended **52849**
(e) Table 2 amended; (f)(10) revised 10776
172.553 Removed 10776
173.1 (d) amended 10776
173.2a (b) table amended 10776
173.6 (c)(2) amended **52849**
173.25 Heading and (b) revised 10776
173.28 (c)(2) revised; (c)(5) added 10776
173.29 (b)(2)(iv)(B) revised 10776
173.32b (b)(1) and (2) amended 10776
173.32c (j) revised 10777
173.33 (a)(3) amended **52849**
173.34 (e)(18)(i) table amended **52849**
(e) table amended 10777
173.35 Heading and (b) revised 10777
173.56 (b)(2)(i) and (3)(i) amended 10777
173.58 (a) introductory text amended **52849**
173.59 Amended 10777
173.62 (c) table amended **52849**
173.121 (b)(1)(ii) revised 10777
173.159 (g)(2) amended 10777
173.162 Revised 10777
173.164 (a)(1), (2) and (3) revised; (a)(4) added 10777

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 49 Chapter I—Con.

(c) introductory text amended 10778
173.166 (a), (b) introductory text, (2), (3)(ii), (c) and (f) amended 10778
173.196 (a)(1)(iii) amended 10778
173.220 Revised 10778
173.221 Revised 10779
173.222 Revised 10779
173.224 (c)(3) introductory text amended 10779
173.225 (b) table amended 10779
(b) table and (c)(2) amended 10780
173.243 (e)(2) amended; (e)(3) added 10780
173.247 (a) amended **52849**
173.301 (i) revised 10780
173.306 (d) removed; (f)(4) and (5) added 10781
173.403 Amended **52849**
173.416 (f) amended **52849**
173.422 (b)(1) amended **52849**
173.425 Table 7 amended **52849**
173.427 (a)(3) amended **52849**
173.433 (g) table amended **52849**
173.461 (a) introductory text and (b) amended **52850**
174.81 (f) table amended; (g)(3)(vi) added 10781
174.680 Revised 10781
175.630 (a) amended 10781
175.700 (b) amended **52850**
176.76 (i) added 10781
176.83 (a)(1), (3) and (8) revised; (a)(10) added 10781
176.83 (g)(3) table amended 10782
176.600 Heading, (a) and (c) revised 10782
176.704 (e)(1) and (f) table amended **52850**
177 Response to petitions **58323**
177.835 (g) introductory text amended **52850**
177.841 (e)(1) amended; (e)(3) revised 10782
177.842 (a) amended **52850**
177.843 (c) amended **52850**
177.848 (f) table amended; (g)(3)(vi) added 10782
177.854 Introductory text removed **52850**
178.270–3 (e) amended 10782
178.338 Heading amended **52850**
178.509 (b)(1) amended 10782
178.703 (b)(6)(ii) revised 10782
178.813 (b) amended 10782
179 Authority citation revised **52850**
179.2 (a)(2) revised **52850**
179.3 (a) revised **52850**
179.4 (a) amended; (b) revised **52850**
179.5 (a) and (b) revised **52850**
179.100—179.103–5 (Subpart C) Heading revised **52850**
180.352 Heading, (b)(1), (2), (3) introductory text, (c) heading and introductory text revised; (d) and (e) redesignated as (e) and (f); new (d) added 10782
180.403 Introductory text amended **52850**
180.417 (a)(3)(ii) amended **52850**
180.509 (c)(3)(ii) amended **52851**
180.515 (b) amended **52851**
195 Response to petitions **63210**
195.302 (b)(4) added; (a) amended; (c) introductory text revised **59479**
195.303 Redesignated as 195.304; new 195.303 added **59480**
195.304 Redesignated as 195.305; new 195.304 redesignated from 195.303 ..... **59480**
195.305 Redesignated from 195.304 ..... **59480**
195.406 (a)(4) amended **59480**
195 Appendix B added **59480**
Appendix B corrected 6815
199 Announcement **58324**

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

213.57 (g)(4) corrected **54078**
213.345 (d) corrected **54078**
219 Determination **71789**
219.5 Amended; interim **71791**
219.201 (a)(1) introductory text, (2) and (4) revised; interim **71791**
225.19 (c) amended; interim **71791**
225 Appendix B amended; interim **71791**
268 Added; interim **54606**
268.3 (b) through (f) revised; interim 7134
268.13 Revised; interim 7134

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

360 Added 7137

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

381 Added; interim **67608**
383.7 Removed; interim **67612**
385 Appendix B amended **62959**
393.13 Added 15605
395 Deadline extension **71791**

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

531.5 (b)(13) added 12092
538.5 (b) added **66068**
538.6 Revised **66069**
538.7 Added **66069**
544.5 (a) revised **70053**
544 Appendixes A, B and C revised **70053**
555 Heading and authority citation revised 2861
555.1 Revised 2861
555.2 Existing text designated as (a); (b) added 2861
555.3 Revised 2861
555.4 Amended 2861
555.5 Heading, (b) introductory text and (5) amended; (a) and (b)(7) revised 2861
555.6 Heading, (a) introductory text, (1)(v), (2)(iv), (b)(5), (c)(5) and (d)(4) amended; (b) introductory text, (1), (2) introductory text, (i), (iii), (4), (c) introductory text, (1), (2) introductory text, (iv), (d) introductory text, (1) introductory text, (ii), (iv) and (v) revised 2861
Corrected 5866
555.7 (b), (c), (d) introductory text and (e) amended 2861
Heading and (a) revised 2862
555.8 (e) and (f)(1) amended 2861
555.10 (a) amended 2862
567 Authority citation revised 6816
Technical correction 9445
567.4 (g)(5)(iii) added 6817
571 Policy statement **59482**
Authority citation revised 10815
571.105 Amended; interim 9449
571.108 Amended **63801**
571.208 Amended **53851, 71394**
Amended 2448, 7140, 10815, 11733
571.213 Regulations at 62 FR 18724 and 30466 confirmed **52629**
Amended; eff. 3–30–99 ..... **52630**
Amended 10815
571.221 Amended; eff. 5–5–00 ..... **59740**
571.225 Added 10823
571.304 Amended **66765**
571 Figure 6 revised **71395**
572.31 (a)(1), (3) and (4) revised; (b) removed **53851**
572.34 (b) revised **53851**
575.105 Revised 11733
580 Authority citation revised **52632**
580.16 Regulation at 62 FR 47765 confirmed **52632**
580.17 Regulation at 62 FR 47765 confirmed; (a)(3) revised **52632**
581 Authority citation revised 2862
581.4 Amended 2862
581.8 Added 2862
596 Added 10847

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

639 Authority citation revised **68366**
639.1 Revised **68366**
639.3 Revised **68367**
639.5 Revised **68367**
639.13 (a) revised **68367**
653.7 Amended 426
653.45 (d) added **67613**
654.7 Amended 426
654.33 (d) added **67613**

Chapter VIII—National Transportation Safety Board (Parts 800—899)

800.2 Introductory text and (b) through (j) revised; (k) added **71605**
(b), (d) and (j) corrected 5621
800.24 (j) added **71606**
800.25 Heading and introductory text revised **71606**
800.26 Revised **71606**
800.28 Added **71606**
800 Appendix amended **71606**
831.3 Revised **71606**
831.11 (a)(2) revised **71606**
835 Authority citation revised **71607**
835.1 Revised **71607**
835.2 Revised **71607**
Corrected 5622
835.3 (c) through (f) added **71607**
(c) corrected 5622
835.4 (a) revised **71607**

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 49 Chapter VIII—Con.

835.5 Heading, (a), (c) and (d) revised **71607**
835.6 Revised **71607**
835.7 Revised **71608**
835.8 Revised **71608**
835.9 Revised **71608**
835.10 Added **71608**
835.11 Added **71608**

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1002.1 (b), (c), (d), (e)(1) and (f)(6) table revised 5192
1002.2 (f) revised 5192
1146 Added **71401**
1147 Added **71402**
1180.1 (f) corrected; (g) and (h) reinstated; CFR correction 10234
1180.2 Introductory text through (d)(2) reinstated; CFR correction 10234
1312.1 (c) amended 5195
1312.6 (c) revised 5195
1312.17 Removed 5195

Chapter XI—Bureau of Transportation Statistics, Department of Transportation (Parts 1400—1499)

1420 Authority citation revised 13921
1420.1 Revised 13921
1420.2 (a) amended; (b)(4) revised 13921
1420.2 (b)(5) and (c) amended 13922
1420.8 Added 13922
1420.9 Added 13922
1420.10 Added 13923
1420.6 Added 13923

Proposed Rules:

105 ..... **68624**
106 ..... **68624**
107 ..... **58358, 68624, 72224**
..... 9114
171 ..... **58358, 59505, 72224**
..... 70, 1789, 9114, 9115, 13856, 13943
172 ..... **58358, 72224**
..... 9114
173 ..... **58358, 72224**
..... 9114, 13856
177 ..... **58358, 59505, 72224**
..... 70, 9114, 9115, 13856
178 ..... **58358, 59505, 72224**
..... 70, 9114, 9115, 13856
180 ..... **58358, 59505, 72224**
..... 70, 9114, 9115, 13856
192 ..... **57269**
..... 5018, 12147
193 ..... **70735**
195 ..... **57269**
..... 5018
229 ..... **54104**
..... 3273
230 1791
231 ..... **54104**
..... 3273
232 ..... **54104**
..... 3273
243 ..... **59928**
244 ..... **72225**
..... 4833
261 5996
350 11414
390 7849
395 ..... **54432, 63729**
396 ..... **54432**
..... 7849
567 6852
571 ..... **54652, 57089, 57091, 57638, 60270, 63258, 68233, 68729, 70380**
..... 4834, 5259, 6021, 6591, 9115, 9118, 9961, 10604, 13947, 14207
572 ..... 4385, 10965
574 ..... **55832**
583 6021
585 ..... **57091**
..... 13947
587 ..... **57091**
..... 13947
591 13757
595 ..... **57091**
..... 13947
640 5996
661 8051
1106 ..... **72225**
1146 ..... **55996, 58358**
1312 ..... **66521**
1420 ..... **59263, 65163**
..... 13948

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

2.2 (a), (c), (d) and (e) revised....52633
10.21 (b) revised....52633
13.5 Revised....52634
14.3 Revised....52634
15.4 Added....52634
15.21 (c) revised....52634
16.22 (a) and (d) revised....52634
17 Petition finding....67613, 67618
Determination....5957
17.8 Added....52635
17.11 (h) table amended....52837, 57619, 64799, 69021, 70062
(h) table amended....5981
17.12 (h) table amended....53615, 54956, 54970, 54994, 59244
(h) table amended....13120
17.22 (a)(1) introductory text and (b)(1) introductory text revised; (a)(1)(ix) and (b)(1)(iv) removed....52635
17.32 (a)(1)(ix) and (b)(1)(iv) removed; (a)(1) introductory text and (b)(1)(i) revised....52635
17.44 (v) correctly added; CFR correction....63421
17.62 (a)(3)(iii) removed; (a) introductory text and (4) revised....52635
17.72 (a) introductory text and (4) revised; (a)(3)(iii) removed....52636
17.84 (g) revised....52837
17.108 (a)(7) and figure revised....55556
18.30 (i)(1) introductory text revised....1539
18.121—18.129 (Subpart J) Revised; eff. 1-28-99 through 1-30-00....4334
20.21 (j)(2) revised....54019
(j) introductory text revised; (j)(3) added....54026
(j) introductory text revised; (j)(4) added....67624
(b) and (g) revised....7516
20.22 Amended....7527
20.104 Seasonal hunting adjustments....63584
20.105 Seasonal hunting adjustments....63584
21.4 Revised....52637
21.23 (b) introductory text revised....52637
21.24 (b) introductory text revised....52637
21.25 (b) introductory text revised....52637
21.27 (b) introductory text revised....52637
21.30 (b) introductory text revised....52637
21.41 (b) introductory text revised....52637
21.60 Added....7527
22.4 Added....52637
22.21 (a) introductory text revised....52638
22.22 (a) introductory text revised....52638
22.23 (a) introductory text revised....52638
22.24 (a) introductory text revised....52638
22.25 (a) introductory text revised....52638
23.15 (c) introductory text revised and (g) added....52638
23.23 (f) table amended....58327, 63214
(d) revised; (f) table amended....63212
23.53 Revised....774
25.12 Amended; heading revised....14150
36 Authority citation revised....14151
36.1 Heading and (b) revised; (c) added....14151
36.2 Amended; heading revised....14151
36.33 Heading revised; (a) amended....14151
36.39 (i)(7) revised....14154
100.1—100.9 (Subpart A) Revised....1286
100.10—100.20 (Subpart B) Revised....1289
100.22—100.24 (Subpart C) Revised....1293
100.26 Revised....1302
100.27 Revised....1311

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

216 Workshop....52984, 56094, 67624

NOTE: Boldface page numbers indicate 1998 changes.

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 50 Chapter II—Con.

216.3 Amended (temporary) **66076**
216.120—216.128 (Subpart K) Added; eff. 3–1–99 through 12–31–03 9930
216.161—216.166 (Subpart O) Added (temporary) **66076**
217 Temporary regulations **55053, 62959, 66766**
Exemption **57620**
Removed 14054
220 Removed 14054
221 Removed 14054
222 Revised 14054
222.205 (c)(1) and (2) (effective date pending) 14060
222.305 (a) (effective date pending) 14062
223 Redesignated from 227; heading and authority citation revised 14068
223.1 Removed 14068
223.2 Removed 14068
223.3 Removed 14068
223.4 Removed 14068
223.11 Redesignated as 223.201 14068
223.12 Redesignated as 223.202 14068
223.21—223.22 (Subpart C) Heading removed 14068
223.21 Redesignated as 223.203 14068
223.22 Redesignated as 223.204 14068
223.71—223.72 (Subpart D) Heading removed 14068
223.71 Redesignated as 223.205 14068
223.72 Redesignated as 223.206 14068
223.101 Added 14068
223.102 Added 14068
(a)(16), (17) and (18) added 14328
(a)(14) and (15) added 14528
(a)(19) added 14536
223.201—223.206 (Subpart B) Heading revised 14068
223.201 Redesignated from 223.11; (b)(1) and (2)(iv) amended 14068
223.202 Redesignated from 223.12 14068
(b)(1) and Table amended 14069
223.203 Redesignated from 223.21; heading revised 14068
(a), (b)(1), (2) and (3) amended 14069
223.204 Redesignated from 223.22; heading revised 14068
Revised 14069
223.205 Redesignated from 223.71; heading revised 14068
Revised 14069
223.206 Redesignated from 223.72 14068
Revised 14070
223.207 Added 14073
224 Added 14066
224.101 (a) revised 14328
225 Removed 14054
226.1—226.2 (Subpart A) Removed 14067
226.11—226.13 (Subpart B) Heading removed 14067
226.11 Redesignated as 226.201 14067
226.12 Redesignated as 226.202 14067
226.13 Redesignated as 226.203 14067
226.21—226.23 (Subpart C) Heading removed 14067
226.21 Redesignated as 226.204 14067
226.22 Redesignated as 226.205 14067
226.23 Redesignated as 226.206 14067
226.71—226.73 (Subpart D) Heading removed 14067
226.71 Redesignated as 226.207 14067
226.72 Redesignated as 226.208 14067
226.73 Redesignated as 226.209 14067
226.101 Added 14067
226.201 Redesignated from 226.11; heading revised 14067
226.202 Redesignated from 226.12; heading revised; (c)(1), (2) and (3) amended 14067
226.203 Redesignated from 226.13; heading revised; (a) and (b) amended 14067
226.204 Redesignated from 226.21; heading revised 14067
226.205 Redesignated from 226.22; heading revised; introductory text amended 14067
226.206 Redesignated from 226.23; heading revised 14067
226.206 (a) amended 14068
226.207 Redesignated from 226.71; heading revised 14067
226.208 Redesignated from 226.72; heading revised 14067
226.209 Redesignated from 226.73; heading revised 14067
226 Figures 1 through 9 removed; Tables 1 through 4 amended 14067
227 Workshop **52984, 56094, 67624**
Temporary regulations **55053, 62959, 66766**
Exemption **57620**
Redesignated as 223 14068
229.1 (f) revised 9086

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

229.2 Amended **66487**
Amended 7551, 9086
229.3 (k) through (p) added **66487**
(g) through (j) revised 7552
(c) amended; (e) through (p) redesignated as (f) through (q); new (e) added 9086
229.4 (b)(2)(v) removed; (b)(2)(vi), (c) and (d) through (m) redesignated as (b)(2)(v), (vi) and (c) through (l); new (b)(2)(vi), (d)(3), (e)(1), (3), (g) and (l) amended; new (c) introductory text, (3), (4), (5), (d)(1) and (2) amended 9086
229.5 (c) and (e) amended; (d) revised 9087
229.6 (a) amended; (b) revised 9087
229.7 (c)(4)(vi) and (6) removed; (c)(4)(vii) through (x) redesignated as (c)(4)(vi) through (ix); (b) introductory text, (c) heading, (1), (2), (4) introductory text, (i), new (v), (5) and (d)(4) revised 9087
229.8 (b)(2) revised; (c) redesignated in part as (d) 9087
229.9 (a)(3)(ii) revised 9087
229.10 (d) revised; (g)(1) amended 9087
229.11 (b) amended 9088
229.20 (f) amended 9088
229.30 Added 9088
229.31 (c)(2) and (3) revised; (c)(4) and (5) redesignated as (c)(7) and (8); new (c)(4), (5) and (6) added; interim 3432
229.32 Revised 7552
229.33 Added **66487**
(a)(2) and (5) corrected **71042**
229.34 Added **66489**
229 Figure 1 revised; interim 3434
230 Quotas **65129**
260 Inspection fees **69021**
285 Temporary regulations **54078, 55339**
Catch limit adjustment **71792**
Catch limit adjustment 10576

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

300 Inseason adjustment **64005**
Fisheries management measures 13519
300.13 (a)(1) introductory text revised 15
300.14 Added 15
300.15 (c) added 15
300.16 Revised 15
300.17 Added 15

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Workshop **52984, 56094, 67624**
Temporary regulations **53313**
Fishing restrictions **64209**
Specifications 1316, 9932
Technical correction 5093, 6943
600.10 Amended 4036
600.215 Revised 4600
600.225 (b)(4) amended; (b)(8) revised **64185**
600.235 Revised **64185**
600.725 (v) added 4037
600.747 Added 4043
622 Temporary regulations **58327**
Regulation at 63 FR 27500 eff. date extended to 5-15-99 ..... **64430**
Temporary regulations 3650, 5195, 13528
Trip limit reduction 7556
Decision 13363
622.4 (a)(2)(x) added **57590**
622.5 (a)(1)(v) amended **57590**
622.6 (a)(1)(i) introductory text amended **57590**
622.7 (a), (b), (c) and (z) amended **57590**
622.8 (a) amended **57590**
622.17 Revised **57590**
622.30 (d) added 3627
622.31 (a) amended **57590**
622.34 (l) suspended; (m) added; interim; eff. 1-1-99 through 6-29-99 ..... **72203**
622.35 (f) amended **57590**
(e)(1)(xxx) through (xxxix) added; (e)(2)(i) revised; (e)(2)(iv) amended **71794**
622.36 (a) heading added; (b) revised 3627
622.37 (e) revised 3628
622.38 (a) revised; (e) removed; (f) through (i) redesignated as (e) through (h) 3628

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 50 Chapter VI—Con.

622.39 (b)(1)(iii) suspended; (b)(1)(vi) added; eff. 1-1-99 through 6-29-99 ..... **72203**
(a)(1) amended; (d)(1)(i) and (ii) revised; (d)(1)(vi), (vii) and (viii) added 3628
622.40 (c)(3)(ii) amended; (d)(2)(ii) revised **57590**
(b)(3)(i) revised 3628
622.41 Regulation at 63 FR 27500 eff. date extended to 5-15-99 ..... **64430**
(d)(6) added 3628
622.42 (e)(3) added 3629
622.43 (a)(5) and (b)(1) revised 3629
622.45 (f)(2) amended **57590**
(d)(5) and (6) revised 3629
622 Appendix D amended and suspended in part; interim; eff. 11-27-98 through 5-15-99 ..... **64431, 64432**
Appendix C amended 3630
630 Quotas **66490**
630.2 Amended 12905
630.3 (b) amended 4059
630.4 (a)(2) revised 12906
630.5 (b)(1)(ii) revised (effective date pending) 12906
(b)(1)(iii) revised 12906
630.7 (d) and (g) revised 12906
630.22 Revised 4059
630.24 (a)(1), (b)(2) and (e)(1) revised; (a)(3) and (f) removed 4059
630.25 Heading, (a)(1) and (c) added; (d) introductory text revised 4059
630.26 Redesignated as 630.27; new 630.26 added 12906
630.27 Redesignated from 630.27 12906
630.40 Revised 12906
630.41 Added 12906
630.42 Added 12906
644.26 (b) removed; interim **63422**
648 Quotas **56867, 57622, 59492, 64006, 68404, 70351, 71794**
Deferral of IVR system reporting requirements **57931**
Temporary regulations **64433**
Temporary regulations 427
Specifications 1139
Quotas 2600, 5196, 9088
648.2 Amended; eff. 11-1-98 ..... **52640**
Amended **58329**
648.4 (c)(2)(iii)(A), (iv)(B) and (e)(1)(iv) amended **58329**
(a)(1)(i)(A), (B), (C), (E), (F), (H), (I)(2), (J), (K), (L), (2)(i)(A), (B), (H), (I), (3)(i) heading, (A), (B), (C), (4)(i), (5)(i), (6)(i) and (7)(i) revised; (a)(1)(i)(M), (2)(i)(L), (M) and (3)(i)(D) through (L) added; (a)(5)(ii) removed; (a)(5)(iii), (iv) and (v) redesignated as (a)(5)(ii), (iii) and (iv) 8265
648.7 (a)(1) heading, (i), (3)(i), (ii), (b)(1)(i) and (f)(1) revised; (a)(1) introductory text amended; (a)(2) redesignated as (a)(3); (a)(2) and (g) revised; (b)(1)(iii) removed; eff. 11-1-98 ..... **52640**
(b)(1)(i) and (iii) amended **58329**
648.9 Heading, (a) (b) introductory text, (1), (3) through (6), (8), (9) and (d) through (g) amended; (b)(2), (7) and (c) revised; **58329**
648.10 (a), (b) introductory text, (1), (2), (4), (5), (c) introductory text, (e) introductory text, (1) introductory text, (ii) and (f)(1) amended **58329**
648.14 (a)(8) revised; eff. 11-1-98 ..... **52641**
(a)(7), (c)(2) introductory text, (i), (ii), (h)(3) and (4) amended **58329**
(a)(52), (101) and (104) revised 2603
(a)(114) and (115) added 8268
(a)(110) and (111) added; eff. 3-27-99 through 3-1-01 14839
648.53 (b) amended 14839
648.55 (a) revised; (b) amended; (c) through (g) and (h) redesignated as (d) through (h) and (j); new (d)(12) redesignated as (d)(21); new (c), new (d)(12), (13) through (20) and (i) added 14839
648.57 Added; eff. 3-27-99 through 3-1-01 14840
648.80 (a)(8)(iii) and (10)(i)(C) revised 2603
648.81 (d) and (g)(1) introductory text revised; (o) added 2603
Corrected 4060

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

648.106 Introductory text, (a) and (c) amended 14077
648.123 (a)(1) revised **72203**
648.126 Amended 14077
649.4 (b)(2)(i) revised; (b)(3)(iii), (iv) and (v) added 8268
660 Temporary regulations **53313, 53317, 55558**
Fishing restrictions **64209**
Specifications 1316, 9932
Technical correction 5093, 6943
Harvest guidelines 12092
Exempted fishing permit renewals 15308
660.89 Added **55810**
660.306 Regulation at 63 FR 36617 eff. date extended to 7-2-99 45
660.350 Regulation at 63 FR 36617 eff. date extended to 7-2-99 45
678 Temporary regulations 14154
679 Temporary regulations ..... **52658, 52659, 52985, 52986, 53317, 53318, 53340—53342, 56095, 57255, 58658, 59244, 63221, 64652, 65129, 66768, 68210**
Reallocation **54381, 63801**
Specifications and fishery management measures 46, 50, 12094, 12103
Temporary regulations ... 427, 428, 3658, 4602, 4790, 5198, 5720, 7557, 7815, 8013, 8269, 8529, 10397, 12093, 12265, 12767, 12768, 14155, 14840, 13121, 13122
Multispecies community development plan 1539
Inseason adjustments 8731, 10399
Fishery management plan amendments 10952, 11390
Fishery cooperative contracts availabity 13723
Notice 15308
679.1 (j) added; eff. 1-1-00 ..... **52652**
(c) heading revised 3652
679.2 Amended; eff. 1-1-99 ..... **52652**
Corrected and amended **64878**
Amended; interim; eff. 1-20-99 through 7-19-99 3437
Corrected; CFR correction 3453
Amended 3652, 3657, 14077
Amended; interim; eff. in part 1-21-99 through 7-20-99 3881
679.4 (a)(6) and (k) added; eff. in part 1-1-99 and in part 1-1-00 ..... **52654**
(k) correctly designated **54753**
(k)(1)(i), (ii), (2) introductory text, (3)(ii)(A)(*1*), (*2*), (*3*), (B), (4) introductory text, (i)(A) introductory text, (B) introductory text, (ii) introductory text, (iii), (iv) introductory text, (v) introductory text, (5) introductory text and (i) introductory text amended **64878**
(k)(5)(ii) introductory text and (8)(iv) introductory text amended **64879**
(c) heading, (1)(ii), (iii)(E), (6) and (7) revised 3652
679.7 (i) added; eff. 1-1-99 ..... **52657**
(i) correctly designated **54753**
(i)(1)(i), (ii), (iii) and (2) amended **64879**
(b) suspended; (i) added; interim; eff. 1-20-99 through 7-19-99 3442
(a)(7) revised 3657
(d)(24) removed; (d)(25) through (28) redesignated as (d)(24) through (27); interim 3882
679.20 (g)(3) corrected **54610**
(d)(1)(iv) added; interim; eff. 1-20-99 through 7-19-99 3437
(a)(5)(i)(A) and (ii)(B) suspended; (a)(5)(i)(C) and (ii)(C) added; interim; eff. 1-20-99 through 7-19-99 3442
(a)(8) and (c)(2)(ii)(A) revised 3451
(a)(6), (b)(2) and (c)(4) revised 3658
(b)(1)(iii)(A) suspended; (b)(1)(iii)(D) added; interim; eff. 1-21-99 through 7-20-99 3882
(a)(5)(i)(C)(*2*) and (*3*) corrected 7815
679.21 (e)(3)(v) and (7)(ix) added; interim; eff. 1-20-99 through 7-19-99 3437
679.22 (a)(7) and (b)(2) suspended; (a)(8)(iv), (11) and (b)(3) added; interim; eff. 1-20-99 through 7-19-99 3443
(a)(7) and (8) revised 3451
(a)(5) revised 3658

NOTE: **Boldface page numbers indicate 1998 changes.**

CHANGES OCTOBER 1, 1998 THROUGH MARCH 31, 1999

TITLE 50 Chapter VI—Con.

(a)(11)(iv)(A), (C)(*1*), (*2*) and (b)(3)(iii) corrected....7815
(a)(11)(iv)(C)(*1*) table correctly revised....9376
Tables 4, 5 and 6 amended....14077
679.23 (d)(2) and (e)(2) suspended; (d)(3) and (e)(5) added; interim; eff. 1–20–99 through 7–19–99....3444
(e)(3) redesignated as (e)(4); new (e)(3) added....3452
(e)(2) revised....3658
(e)(5) correctly designated....7815
679.30 (a)(4) revised; interim....3882
679.31 (a) amended; interim....3882
679.32 (a)(1) revised; (a)(2), (3) and (e) suspended; (a)(4) and (g) added; interim; eff. in part 1–21–99 through 7–20–99....3882
679.42 (c)(2) introductory text corrected; (c)(2)(ii) correctly removed....**54611**
679.43 (p) added; eff. 1–1–99....**52657**
(p) amended....**64879**
679.50 Heading, (i)(1)(i) and (iii) revised....**69025**
(c)(5) added; interim; eff. 1–20–99 through 7–19–99....3437
(c)(4) revised; interim....3882
679 Table 1 correctly revised....**54612**
Tables 3 and 10 corrected....**54613**
Table 12 correctly revised....**54614**
Tables 4 and 6 suspended; Tables 12 and 13 added; interim; eff. 1–20–99 through 7–19–99....3444
Table 5 revised....3452
697.2 Amended....9450, 14077
697.7 (d) added....9451

Proposed Rules:

17....**53010, 53620, 53623, 56361, 54660, 54972, 55839, 56128, 56134, 57640, 57642, 58692, 63657, 63659, 63661, 64449, 65164, 65165, 66777, 67640, 70745, 71424, 71820, 71838, 71855**....821, 2167, 3913, 3915, 3923, 4607, 7587, 8533, 9119, 12924, 14209, 14424, 14676
18....**63812**
20....**53635, 54753, 55840, 60271, 60278, 67037**....821, 822
21....**60278**....822
100....4604
216....**64228**....9965
222....**53635, 58701**
223....14329
224....14329
226....5740
227....**53635, 56596, 58701**....465
253....6854
285....**57093**....3154, 10438
300....**64031**....6869, 9296
600....**52676**....3154, 10438, 12925
622....**60287, 63276, 64031, 66522, 70093**....2620, 8052, 10612, 10613, 13120
630....**54661, 55572, 55998, 57093**....3154, 10438
635....3154, 9298, 10438
644....**54433**....3154, 10438
648....**52676, 55355, 55357, 56135, 63434, 63436, 63819, 64032, 64539, 65571, 66110, 66524, 67450, 70093**....471, 823, 2466, 3480, 4065, 5754, 6595, 7601, 8788, 11431, 13392, 13952, 14846, 15334
649....**55357, 63436**....2708, 6596
660....**53636, 58359, 59758, 64033, 66111, 69134**....823, 1341, 2467, 4065, 6597, 10439, 12279, 14211
678....**57093**....3154, 10438
679....**56601, 57094, 57996, 60288, 63442, 64033, 66112, 69256, 71867, 71876**....2870, 5868, 6025, 9937
697....2708

NOTE: **Boldface page numbers indicate 1998 changes.**

1998

63 FR Page

15739–16084	Apr. 1
16085–16386	2
16387–16668	3
16669–16876	6
16877–17047	7
17049–17305	8
17307–17665	9
17667–17930	10
17931–18115	13
18117–18306	14
18307–18815	15
18817–19166	16
19167–19378	17
19379–19650	20
19651–19793	21
19795–20052	22
20053–20294	23
20295–20512	24
20513–20684	27
23195–23368	28
23369–23642	29
23643–24096	30
24097–24381	May 1
24383–24737	4
24739–24910	5
24911–25152	6
25153–25386	7
25387–25746	8
25747–26061	11
26063–26419	12
26421–26709	13
26711–26954	14
26955–27192	15
27193–27437	18
27439–27661	19
27663–27814	20
27815–28215	21
28217–28473	22
28475–28888	26
28889–29088	27
29089–29337	28
29339–29528	29
29529–29932	June 1
29933–30097	2
30099–30364	3
30365–30576	4
30577–31096	5
31097–31329	8
31331–31589	9
31591–31886	10
31887–32107	11
32109–32592	12
32593–32699	15
32701–32963	16
32965–33230	17
33231–33522	18
33523–33832	19
33833–34117	22
34119–34254	23
34255–34547	24
34549–34775	25
34777–35116	26
35117–35498	27
35499–35785	30
35787–36149	July 1
36151–36338	2
36339–36539	6
36541–36829	7
36831–37057	8
37059–37242	9
37243–37474	10
37475–37754	13
37755–38071	14
38073–38275	15
38277–38549	16
38461–38735	17
38737–39013	20
39015–39207	21
39209–39474	22
39475–39695	23
39697–40006	24
40007–40166	27
40167–40356	28
40357–40626	29
40631–40807	30
40805–41175	31
41177–41385	Aug. 3
41387–41706	4
41707–41955	5
41957–42199	6
42201–42565	7
42567–42679	10
42681–43065	11
43067–43285	12
43287–43602	13
43603–43866	14
43867–44121	17
44123–44361	18
44363–44536	19
44537–44772	20
44773–44991	21
44993–45166	24
45167–45389	25
45391–45659	26
45661–45931	27
45933–46155	28
46157–46383	31
46385–46627	Sept. 1
46629–46859	2
46861–47126	3
47127–47418	4
47419–48080	8
48081–48416	9
48417–48569	10
48571–48994	11
48995–49262	14
49263–49410	15

49411–49651	16
49653–49818	17
49819–50125	18
50127–50460	21
50461–50741	22
50743–50964	23
50965–51267	24
51269–51509	25
51511–51776	28
51777–52130	29
52131–52577	30
52579–52955	Oct. 1
52957–53269	2
53271–53542	5
53543–53778	6
53779–54026	7
54027–54339	8
54341–54552	9
54553–55003	13
55005–55320	14
55321–55496	15
55497–55778	16
55779–55933	19
55935–56079	20
56081–56534	21
56535–56780	22
56781–57044	23
57045–57231	26
57233–57575	27
57577–57890	28
57891–58281	29
58283–58617	30
58619–59201	Nov. 2
59203–59455	3
59457–59689	4
59691–59874	5
59875–60201	6
60203–60448	9
62919–63119	10
63121–63383	12
63385–63589	13
63591–63779	16
63781–63967	17
63969–64168	18
64169–64408	19
64409–64588	20
64589–64838	23
64839–65042	24
65043–65516	25
65517–65636	27
65637–65993	30
65995–66403	Dec. 1
66405–66703	2
66705–66975	3
66977–67398	4
67399–67571	7
67573–67763	8
67765–68160	9
68161–68390	10
68391–68668	11
68669–68988	14
68989–69175	15
69177–69537	16
69539–69989	17
69991–70307	18
70309–70628	21
70629–70987	22
70989–71208	23
71209–71367	24
71369–71570	28
71571–71724	29
71725–72096	30
72097–72356	31

1999

64 FR Page	
1–383	Jan. 4
385–729	5
731–983	6
985–1096	7
1097–1499	8
1501–1713	11
1715–2114	12
2115–2418	13
2419–2544	14
2545–2797	15
2799–2988	19
2989–3200	20
3201–3391	21
3393–3619	22
3621–3805	25
3807–4027	26
4029–4284	27
4285–4516	28
4517–4776	29
4777–4955	Feb. 1
4957–5148	2
5149–5584	3
5585–5707	4
5709–5925	5
5927–6185	8
6187–6493	9
6495–6777	10
6779–7055	11
7057–7488	12
7489–7770	16
7771–7987	17
7989–8224	18
8225–8498	19
8499–8709	22
8711–9051	23
9053–9262	24
9263–9434	25
9435–9903	26
9905–10099	Mar. 1
10101–10204	2
10205–10386	3
10387–10553	4
10555–10918	5
10919–11372	8

11373–11754	9
11375–12078	10
12079–12237	11
12239–12742	12
12743–12880	15
12881–13062	16
13063–13310	17
13311–13495	18
13497–13661	19
13663–13880	22
13881–14096	23
14097–14354	24
14355–14574	25
14575–14808	26
14809–15121	29
15123–15284	30
15285–15631	31

END